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federal register

TUESDAY, SEPTEMBER 12, 1978

highlights

SUNSHINE ACT MEETINGS 40599

NATIONAL SCHOOL LUNCH WEEK
Presidential proclamation 40451

TRADING WITH THE ENEMY ACT
Presidential memorandum 40449

TAX PREFERENCES
Treasury/IRS promulgates final regulations on the imposition of a minimum tax for both individuals and corporations 40459

COAL MINE SAFETY
Labor/MSHA rules to permit use of personal noise dosimeters to determine noise exposure; effective 10-1-78 (Part VII of this issue) 40760

MANPOWER PROGRAMS
Labor/ETA issues guidelines to review prime sponsors' planned performance for FY 1979 (Part II of this issue) 40650

CLEAN WATER ACT
EPA proposes to amend regulations relating to quality planning, management, and implementation; hearing 10-24-78; comments by 11-13-78 40742

INDIAN AND NATIVE AMERICAN PROGRAMS
Labor/ETA designates prime sponsors of employment and training programs funded under the Comprehensive Employment and Training Act (CETA) 40556

PHONORECORD PLAYER (JUKEBOX) ROYALTY
Copyright Royalty Tribunal prescribes requirements for recording and filing claims; effective 10-10-78 (2 documents) 40498, 40501

RECREATION PROGRAMS
Interior/BLM recodifies regulations; effective 10-12-78 (Part V of this issue) 40734

FREEDOM OF INFORMATION
DOE/Secy proposes regulations that would prescribe procedures and principles applied in processing requests; comments by 10-12-78 40530

CRUDE OIL
DOE/ERA regulates adjustments to lower and upper tier price ceilings to reflect the impact of inflation; effective 9-1-78 40682

OIL AND GAS
SEC adopts requirements for financial accounting and reporting practices (Part IV of this issue) 40688
SEC proposes to amend its disclosure requirements relating to reserves; comments by 10-15-78 (Part IV of this issue) 40720

CONTINUED INSIDE

V 43 / 177

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

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NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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S E P 1 2 7 8 UMI

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Finding Aids	523-5227
Public Briefings: "How To Use the Federal Register."	523-3517
Code of Federal Regulations (CFR)	523-3419 523-3517
Finding Aids	523-5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523-5233
Weekly Compilation of Presidential Documents.	523-5235
Public Papers of the Presidents	523-5235
Index	523-5235
PUBLIC LAWS:	
Public Law dates and numbers	523-5266 523-5282
Slip Laws	523-5266 523-5282
U.S. Statutes at Large	523-5266 523-5282
Index	523-5266 523-5282
U.S. Government Manual	523-5230
Automation	523-3408
Special Projects	523-4534

HIGHLIGHTS—Continued

SEC proposes development of uniform method of full cost accounting practices based on valuation of proved reserves; comments by 10-31-78 (Part IV of this issue) 40724
SEC issues proposal requiring presentation of a supplemental earnings summary for production activities; comments by 4-30-79 (Part IV of this issue) 40726
SEC issues rule for interpretation of releases relating to disclosure and accounting matters (Part IV of this issue) 40730

CANCER TESTING

HEW/NIH issues notices on the availability of reports on bioassay of various chemicals for possible carcinogenicity (2 documents) 40548

METAL AND NONMETAL MINES AND MILLS

Labor/MSHA proposes rule to revoke or revise and make mandatory existing advisory health and safety standards; comments by 10-9-78 40766

MEETINGS—

Architectural and Transportation Barriers Compliance Board: National Advisory Committee on an Accessible Environment, 9-23 and 9-24-78 40542
Commerce/NOAA: New England Fishery Management Council, 9-26-78 40544
CRC: Kentucky Advisory Committee, 9-15-78 40544
DOD/AF: USAF Scientific Advisory Board Aeronautics Panel, Subcommittee on Turbine Engine Health Monitoring Systems, 9-28 and 9-29-78 40544
HEW/CDC: Immunization Practices Advisory Committee, 10-3 and 10-4-78 40546
HSA: Maternal and Child Health Research Grants Review Committee; 10-4 through 10-6-78 40548
NFAH: Humanities Panel Advisory Committee, 9-27, 9-28, 10-5, 10-6, and 10-13-78 40577
Humanities Panel Advisory Committee, 10-3, 10-4, and 10-10-78 (2 documents) 40577
NRC: ACRS Subcommittee on Radiological Effects and Site Evaluation, 9-27 and 9-28-78 40579
ACRS Subcommittee on Advanced Reactors, 9-27-78 40579
NSF: Advisory Committee for Science Education, 9-28 and 9-29-78 40577
Advisory Committee on Science and Society, 10-5 and 10-6-78 40578
DOE/NSF Nuclear Science Advisory Committee, 11-3 and 11-4-78 40578
Subcommittee on Developmental Biology, 11-2 through 11-4-78 40578
Subcommittee on Linguistics, 11-2 and 11-3-78 40578
VA: Administration Wage Committee, 10-5, 10-19, 11-2, 11-16, 11-30, 12-14, and 12-28-78 40578

CHANGED MEETINGS—

HEW/NIH: Sickle Cell Disease Advisory Committee, 9-14 and 9-15-78 changed to 11-2 and 11-3-78 40549
OE: National Advisory Council on the Education of Disadvantaged Children, 9-16-78 40549

HEARINGS—

HEW/HCFA: Maximum Allowable Cost (MAC) limits on certain drugs, 11-1 and 11-2-78 40547

SEPARATE PARTS OF THIS ISSUE

Part II, Labor/ETA 40650
Part III, DOE/ERA 40682
Part IV, SEC 40688
Part V, Interior/BLM 40734
Part VI, EPA 40742
Part VII, Labor/MSHA 40760
Part VIII, Labor/MSHA 40766

contents

THE PRESIDENT

Memorandums

Trading with the Enemy Act, extending certain authorities 40449

Proclamations

School Lunch Week, National ... 40451

EXECUTIVE AGENCIES

AGRICULTURE DEPARTMENT

See Animal and Plant Health Inspection Service; Farmers Home Administration; Foreign Agricultural Service; Rural Electrification Administration.

AIR FORCE DEPARTMENT

Notices

Meetings:
Scientific Advisory Board 40544

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Rules

Domestic quarantine notices; Japanese beetle quarantine 40528

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Notices

Meetings:
Accessible Environment National Advisory Committee .. 40542

ARMY DEPARTMENT

Rules

Personnel; review boards:
Discharge Review Board; procedures and standards 40498

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Notices

Meetings:
Humanities Panel (3 documents) 40577

CIVIL AERONAUTICS BOARD

Rules

Accounts and reports for certificated air carriers; uniform system:
Route air carrier reporting entities 40453

Notices

Hearings, etc.:
Arizona service investigation . 40543
Foreign air carriers 40544
U.S.-Benelux low-fare proceeding 40544

CIVIL RIGHTS COMMISSION

Notices

Meetings, State advisory committee:
Kentucky 40544

CIVIL SERVICE COMMISSION

Rules

Excepted service:
Agriculture Department 40453

COMMERCE DEPARTMENT

See National Oceanic and Atmospheric Administration.

COPYRIGHT ROYALTY TRIBUNAL

Rules

Phonorecord players (jukebox):
Copyright owner access 40498
Royalty fee claims filing 40501

DEFENSE DEPARTMENT

See Air Force Department; Army Department.

DISEASE CONTROL CENTER

Notices

Meetings:
Immunization Practices Advisory Committee 40546

ECONOMIC REGULATORY ADMINISTRATION

Rules

Petroleum price regulations, mandatory:
Crude oil price ceilings, adjustments to lower and upper tier 40682

EDUCATION OFFICE

Notices

Meetings:
Education of Disadvantaged Children National Advisory Council 40549

EMPLOYMENT AND TRAINING ADMINISTRATION

Notices

Comprehensive Employment and Training Act programs:
Planned performance review, guidelines 40649
Indian and Native American programs:
Fund allocations, fiscal year 1979 40556

ENERGY DEPARTMENT

See also Economic Regulatory Administration.

Proposed Rules

Freedom of information 40530

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air quality control regions; criteria and control techniques:
Attainment status designations 40502
Pesticide tolerances in animal feeds:
N,N-Dimethylpiperidinium chloride 40456

Proposed Rules

Air quality implementation plans; enforcement by State and Federal Governments after statutory deadlines:
Illinois 40539
Grants, State and local assistance:
Water quality planning, management, and implementation 40742

Notices

Pesticides; tolerances, registration, etc.:
N,N-Dimethylpiperidinium chloride 40545

FARMERS HOME ADMINISTRATION

Notices

Mailing list for program regulations, establishment 40542

FEDERAL COMMUNICATIONS COMMISSION

Proposed Rules

Telephone companies; extension of lines and discontinuance of service:
Spanish International Network; authorized user status request; extension of time ... 40541

FEDERAL HIGHWAY ADMINISTRATION

Proposed Rules

Engineering and traffic operations:
Design standards, highway; geometric design standards; correction 40539

FEDERAL MARITIME COMMISSION

Rules

Financial reports by carriers in domestic offshore trade:
Reporting requirements 40524
Licensing of independent ocean freight forwarders:
Reporting requirements 40524

Notices

Agreements filed, etc. (2 documents) 40545
Rate increases, etc.; investigations and hearings, etc.:
Trans-Pacific Freight Conference of Japan/Korea; treatment of overland/overland common point cargo 40546

FEDERAL TRADE COMMISSION

Rules

Prohibited trade practices:
Rubbermaid Inc 40454

Proposed Rules

Consent orders:
Kaufman & Broad, Inc., et al.; extension of time 40536
Zayre Corp 40537

FISH AND WILDLIFE SERVICE

Rules

Hunting:
Arrowwood National Wildlife Refuge, N. Dak. (4 documents) 40525, 40526, 40527
Chase Lake National Wildlife Refuge, N. Dak (2 documents) 40525, 40527
Long Lake National Wildlife Refuge, N. Dak 40526
Ouray National Wildlife Refuge, Utah 40524
Slade National Wildlife Refuge, N. Dak 40526

Notices

Endangered and threatened species permits; applications (2 documents) 40549, 40550
Marine mammal applications, etc.:
Bengston, John L. 40549

FOOD AND DRUG ADMINISTRATION

Rules

Animal drugs, feeds, and related products:
Imidocarb dipropionate 40455
Neomycin sulfate, hydrocortisone acetate, sterile ointment 40455

Notices

Animal drugs, feeds, and related products:
Sulfathalidine boluses; approval withdrawn 40547
Food additives, petitions filed or withdrawn:
Abbott Laboratories 40547

FOREIGN AGRICULTURAL SERVICE

Proposed Rules

Import quotas and fees:
Licensing system; correction ... 40530

HEALTH CARE FINANCING ADMINISTRATION

Notices

Drugs, limitations on payment or reimbursement; maximum allowable cost:
Acetaminophen w/codeine tablets, etc.; hearing 40547

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Disease Control Center; Education Office; Food and Drug Administration; Health Care Financing Administration; Health Services Administration; National Institutes of Health; Social Security Administration.

HEALTH SERVICES ADMINISTRATION

Notices

Meetings:
Maternal and Child Health Research Grants Review Committee 40548

HERITAGE CONSERVATION AND RECREATION SERVICE

Notices

Historic Places National Register; additions, deletions, etc.:
Alabama et al 40554

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Proposed Rules

Real estate settlement procedures; advance notice; correction 40539

INDIAN AFFAIRS BUREAU

Rules

Enrollment:
Preparation of rolls for various tribes; revocations; correction 40457
Mining:
Ute Indian Tribe, Utah; management of tribal assets 40458

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Heritage Conservation and Recreation Service; Indian Affairs Bureau; Land Management Bureau.

Notices

Environmental statements; availability, etc.:
Challis Planning Unit; livestock grazing 40550
Truckee and Carson River basins, Calif. and Nev.; Newlands, Truckee Storage, and Washoe projects; operating criteria and procedures 40551

INTERNAL REVENUE SERVICE

Rules

Income taxes, etc.:
Minimum tax for tax preferences 40459

INTERNATIONAL TRADE COMMISSION

Notices

Import investigations:
Synthetic gemstones, postponed 40555
High-carbon ferrochromium ... 40555

INTERSTATE COMMERCE COMMISSION

Notices

Motor carriers:
Lease and interchange of vehicles 40596
Permanent authority applications 40584
Transfer proceedings 40597
Railroad car service orders; various companies:
Denver & Rio Grande Western Railroad Co 40596
Railroad freight rates and charges; various States, etc.:
Nationwide 40596
Rerouting of traffic:
Carolina, Clinchfield & Ohio Railway Co 40597
Chesapeake Western Railway 40597

LABOR DEPARTMENT

See also Employment and Training Administration; Mine Safety and Health Administration.

Notices

Adjustment assistance:
Alvin Coat, Inc 40564
Aronson Textile Co. et al 40576
Bliss & Laughlin Steel Co. (2 documents) 40564
Boyn-Tan Leathers, Inc 40565
City Shirt Co 40565
General Instrument Corp 40572
Gulant & Maslin, Inc 40566
Interlake, Inc 40566
Interpace Corp 40566
Lawrence Clothes, Inc 40567
Lawrence, Robert, Inc 40571
Maurice II Knitting Mills, Inc 40567
Mighty Mac, Inc. (2 documents) 40567, 40568
North Terminal, Inc 40568
Phelps Dodge Corp. (4 documents) 40569-40571, 40574
Rosalba Fashion Co., Inc 40572
Style Sportswear 40573
Sussex Clothes, Ltd. 40573
Tag-a-long Handbags & Accessories, Inc 40574
Westinghouse Electric Corp ... 40575

LAND MANAGEMENT BUREAU

Rules

Recreation management:
Recodification and revision of subchapter 40734

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; list of requests 40581

MINE SAFETY AND HEALTH ADMINISTRATION

Rules

Coal mine health and safety:
Noise dosimeter 40760

Proposed Rules

Metal and nonmetallic mine safety:
Open pit mines, underground mines, etc.; health and safety standards 40766

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notices

Committees; establishment, terminations, renewals, etc.:
Space Science Steering Committee; Out-of-Ecliptic Mission Ad Hoc Advisory Subcommittee 40576

NATIONAL INSTITUTES OF HEALTH

Notices

Carcinogenesis bioassay reports; availability:
Hydrazobenzene 40548
L-Tryptophan 40548

V 43/177

CONTENTS

Meetings:
Sickle Cell Disease Advisory Committee; time change 40549

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rules

Fishery conservation and management:
Surf clam and ocean quahog fisheries, Atlantic; catch quota adjustment 40527

Notices

Meetings:
New England Fishery Management Council 40544

NATIONAL SCIENCE FOUNDATION

Notices

Meetings:
Behavioral and Neural Sciences Advisory Committee... 40578
Nuclear Science Advisory Committee, DOE/NSF 40578
Physiology, Cellular and Molecular Biology Advisory Committee 40578
Science and Society Advisory Committee 40578
Science Education Advisory Committee 40577

NUCLEAR REGULATORY COMMISSION

Notices

Applications, etc.:
Arkansas Power & Light Co ... 40580
Dairyland Power Cooperative 40580
Detroit Edison Co 40580
Power Authority of State of New York 40580
Public Service Co. of New Hampshire et al.; republication 40581
Meetings:
Reactor Safeguards Advisory Committee (2 documents).... 40579

RURAL ELECTRIFICATION ADMINISTRATION

Notices

Loan guarantees proposed:
Copper Valley Rural Electric Association, Inc 40542

SECURITIES AND EXCHANGE COMMISSION

Rules

Financial statements:
Oil and gas producing companies; financial accounting and reporting 40688
Interpretative releases:
Accounting matters, oil and gas industry; replacement cost data disclosure 40730

Proposed Rules

Securities Act and Securities Exchange Act:
Oil and gas reserves and operations; registration statements disclosure 40720
Financial statements:
Oil and gas producing companies; cost accounting practices 40726
Oil and gas producing companies; supplemental earnings summary 40726

SMALL BUSINESS ADMINISTRATION

Notices

Applications, etc.:
Venture Opportunities Corp... 40583
Disaster areas:
California 40582
Florida 40583
North Carolina 40583
Texas (2 documents) 40583

SOCIAL SECURITY ADMINISTRATION

Notices

Organization, functions, and authority delegations:
Deputy Commissioner, et al.... 40549

STATE DEPARTMENT

Notices

Privacy Act; systems of records; correction 40584

TRADE NEGOTIATIONS, OFFICE OF SPECIAL REPRESENTATIVE

Notices

Import relief investigations, determinations:
High carbon ferrochromium; inquiry 40582

TRANSPORTATION DEPARTMENT

See Federal Highway Administration.

TREASURY DEPARTMENT

See Internal Revenue Service.

VETERANS ADMINISTRATION

Notices

Meetings:
Wage Committee..... 40584

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.

1 CFR

Ch. I 39069

3 CFR

EXECUTIVE ORDERS:
12024 (See EO 12078) 39741
12078 39741

MEMORANDUMS:
September 8, 1978 40449

PROCLAMATIONS:
4591 39561
4592 39739
4593 40197
4594 40451

5 CFR

213 ... 39069, 39070, 39951-39953, 40453

7 CFR

2 39953
245 39070
250 39070
282 ..... 39074, 39075
301 40528
330 39953
908 39743
910 ..... 39080, 39319, 39954
911 39319
915 39321
927 39323
931 39323
932 39743
993 40199
1004 ..... 39744, 39745
1071 39325
1073 39326
1097 39328
1102 39328
1104 39329
1106 39331
1108 39333
1120 39334
1126 39335
1132 39337
1133 39955
1138 39338
1435 39563
1823 ..... 39746, 40199

PROPOSED RULES:
6 ..... 39110, 40530
722 39117
918 40027
948 40027
965 40028
981 39393
1079 40028
1126 40030
1427 39118
1701 40036

9 CFR

91 39080
94 39956
355 39340

PROPOSED RULES:
92 40037
317 39394
318 ..... 39119, 39394
319 39394

10 CFR

35 39747
205 ..... 39080, 40200
212 40682

PROPOSED RULES:
51 39801
211 40233
212 40233
430 40192
1004 40530

12 CFR

202 39341
226 40210

13 CFR

107 39563

PROPOSED RULES:
130 39394

14 CFR

39 ..... 39346-39348, 39748, 39750
71 ..... 39439, 39750-39753, 40211-40213
73 ..... 40214, 40215
75 39753-39755
221 39536
241 40454
302 39536
399 39522

PROPOSED RULES:
39 40233
71 ..... 39803, 40237
73 ..... 39803, 39804
223 39805
250 39806
298 39587
380 39807

16 CFR

1 39083
13 ..... 39350, 40454
1209 39564

PROPOSED RULES:
13 ..... 39120, 40536, 40537
1209 39564

17 CFR

1 39956
210 40688
211 40730
239 39554
249 39554
270 39553
274 39553

PROPOSED RULES:
210 ..... 40724, 40726
229 40720
270 39396

18 CFR

1 39982
3 40217
4 40217
16 40217
131 40217

PROPOSED RULES:
1 ..... 39122, 40037

19 CFR

PROPOSED RULES:
6 40238

20 CFR

416 39564
901 39756

PROPOSED RULES:
404 39266
620 39124
653 39124

21 CFR

510 39086
520 ..... 39084, 39085
522 40455
524 40455
558 ..... 39086, 39350
561 40456

PROPOSED RULES:
145 39126
310 39126
314 39126
337 39544
436 40038
469 40038

23 CFR

PROPOSED RULES:
625 40539

24 CFR

221 39570
886 40402
1916 39572
1917 ..... 39351-39360, 39573-39582, 39761-39771, 39983-39987
1920 39771-39774

PROPOSED RULES:
201 39593
1917 39129-39141
3500 ..... 39701, 40539

25 CFR

43k 40457
54 39361
178 40458
258 39086

26 CFR

1 ..... 40219, 40459
301 ..... 40219, 40459

PROPOSED RULES:
1 ..... 39142, 39822
31 ..... 39142, 39149
301 39142

29 CFR

1601 39775
1610 40222
1910 39087

PROPOSED RULES:
1601 39831

30 CFR

41 39988

SE 12 78 UMI

30 CFR—Continued
70 40760
71 40760
PROPOSED RULES:
55 40766
56 40766
57 40766
31 CFR
51 40223
223 39088
32 CFR
42 39988
581 40498
902 39089
931 39101
1804 39776
33 CFR
3 40224
117 39777
161 ..... 39994, 40224
PROPOSED RULES:
89 39946
126 39832
37 CFR
302 40225
303 40498
305 40501
38 CFR
2 39364
14 39365
PROPOSED RULES:
3 40239
21 39832
36 ..... 39150, 39833
39 CFR
111 ..... 39583, 39995
PROPOSED RULES:
111 39593
40 CFR
2 39997
51 40009
52 ..... 39366, 40009–40011
65 ..... 40015, 40226
81 ..... 39101, 40412, 40502
600 39367
PROPOSED RULES:
35 40742
52 ..... 39151, 39152, 40009–40011, 40240, 40245
65 ..... 40015, 39153, 39397, 39834, 40015, 40247, 40248, 40539

40 CFR—Continued
PROPOSED RULES—Continued
81 40412
125 39282
130 40742
131 40742
151 39276
162 39644
180 40249
233 39398
41 CFR
Ch. I 40015
Ch. 18 40018
Ch. 101 40019
3–56 39778
5B–2 40227
14–1 ..... 39377, 39787
14–2 ..... 39378, 39788
14–3 39788
14–4 39378
14–7 39379
14–12 39379
14–18 39379
14–30 39380
14–55 39380
101–37 40228
PROPOSED RULES:
101–20 40250
42 CFR
54a 40386
57 39380
58 39384
PROPOSED RULES:
110 40376
405 39155
449 39155
43 CFR
6000 40734
6010 40734
6200 40734
6220 40734
6250 40734
6260 40734
6270 40734
6290 40734
8000 40734
8200 40734
8300 40734
8340 40734
8350 40734
8360 40734
8370 40735
45 CFR
5b 40229
801 39387
PROPOSED RULES:
1340 39593

46 CFR
510 40524
512 40524
542 39102
PROPOSED RULES:
151 40250
153 40250
531 39399
536 39399
47 CFR
73 ..... 39388, 39584, 39704, 40250, 40251
74 39704
PROPOSED RULES:
31 39385
33 39385
42 39385
43 39385
63 40541
73 ..... 39400, 39593, 39594, 40250, 40251
49 CFR
172 39789
173 39791
175 39792
176 39792
179 39792
192 39389
571 39390
581 40229
1033 ..... 39103, 39104, 39794–39796
1056 39798
PROPOSED RULES:
Ch. X 39157
172 39835
173 39835
192 39401
195 39402
571 39835
1307 39157
1309 39157
1310 39157
1320 39404
1322 39404
50 CFR
20 39186
26 39798
32 ..... 39105–39107, 39584, 39585, 39799, 39800, 40021–40024, 40232, 40524
216 40025
285 39107
611 39586
651 39108
652 40527
810 39306
PROPOSED RULES:
230 40045
652 39161

FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

Pages	Date
39069–39317	Sept. 1
39319–39560	5
39561–39738	6
39739–39950	7
39951–40195	8
40197–40448	11
40449–40799	12

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.
A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR
MEMORANDUMS:
September 8, 1978 40449
PROCLAMATIONS:
4594 40451
5 CFR
213 40453
7 CFR
301 40528
PROPOSED RULES:
6 40530
10 CFR
212 40682
PROPOSED RULES:
1004 40530
14 CFR
241 40453
16 CFR
13 40454
PROPOSED RULES:
13 (2 documents) 40536, 40537
17 CFR
210 40688
211 40730
PROPOSED RULES:
210 (2 documents) 40724, 40726
229 40720
21 CFR
522 40455
524 40455
561 40456
23 CFR
PROPOSED RULES:
625 40539
24 CFR
PROPOSED RULES:
3500 40539
25 CFR
43k 40457
178 40458
26 CFR
1 40459
301 40459
30 CFR
70 40760
71 40760
PROPOSED RULES:
55 40766
56 40766
57 40766
32 CFR
581 40498
37 CFR
303 40498
305 40501
40 CFR
81 40502
PROPOSED RULES:
35 40742
65 40539
130 40742
131 40742
43 CFR
6000 40734
6010 40734
6200 40734
6220 40734
6250 40734
6260 40734
6270 40734
6290 40734
8000 40734
8200 40734
8300 40734
8340 40734
8350 40734
8360 40734
8370 40735
46 CFR
510 40524
512 40524
47 CFR
PROPOSED RULES:
63 40541
50 CFR
32 (9 documents) 40524
652 40527

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing: August 31, 1978]

H.R. 13467 ..... Pub. L. 95–355
Second Supplemental Appropriation Act, 1978. (Sep. 8, 1978; 92 Stat. 523) Price: $1.50

H.R. 12602 ..... Pub. L. 95–356
"Military Construction Authorization Act, 1979". (Sep. 8, 1978; 92 Stat. 565) Price: $1.10

H.R. 3532 ..... Pub. L. 95–357
To amend chapter 639 of title 10, United States Code, to enable the Secretary of the Navy to change the name of a publication of the Naval Observatory providing data for navigators and astronomers. (Sep. 8, 1978; 92 Stat. 591) Price: $.50

H.R. 7161 ..... Pub. L. 95–358
To amend title 10, United States Code, to allow nationals, as well as citizens, of the United States to participate in the Junior Reserve Officers' Training Corps program. (Sep. 8, 1978; 92 Stat. 592) Price: $.50

H.R. 8471 ..... Pub. L. 95–359
To authorize the Governor of the State of Wyoming to exhibit the nameplate, ship's bell and silver service of the United States Ship Wyoming without restriction as to the place of such exhibition. (Sep. 8, 1978; 92 Stat. 593) Price: $.50

V 43 / 177

presidential documents

[3195-01]

Title 3—The President

Memorandum of September 8, 1978

Determination Extending the Exercise of Certain Authorities Under the Trading With the Enemy Act

Membrandum for the Secretary of State, the Secretary of the Treasury

THE WHITE HOUSE,
Washington, September 8, 1978.

Under Section 101(b) of Public Law 95-223 (91 Stat. 1625; 50 U.S.C. App. 5 note), the exercise of certain authorities under the Trading With the Enemy Act is scheduled to terminate on September 14, 1978.

I hereby determine that the extension for one year of the exercise of those authorities with respect to the applicable countries is in the national interest of the United States.

Therefore, pursuant to the authority vested in me by Section 101(b) of Public Law 95-223, I extend for one year, until September 14, 1979, the exercise of those authorities with respect to those countries presently affected by: (1) the Foreign Assets Control Regulations, 31 CFR Part 500, (2) the Transaction Control Regulations, 31 CFR Part 505, (3) the Cuban Assets Control Regulations, 31 CFR Part 515, and (4) the Foreign Funds Control Regulations, 31 CFR Part 520.

This determination shall be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc. 78-25794 Filed 9-8-78; 4:55 pm]

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[3195-01]

The President

PROCLAMATION 4594

National School Lunch Week, 1978

By the President of the United States of America

A Proclamation

Every child needs wholesome food. The National School Lunch Program was created in 1946 to help our nation achieve that goal. It now provides nutritious lunches to 26 million children every school day.

I am proud of the success of the National School Lunch Program and of the two other nutrition-related school activities that complement its success.

One is the School Breakfast Program that now serves 2.8 million children daily. It gives all children, not just the needy, the chance to eat breakfast at school if they cannot eat at home.

The other is the Nutrition Education and Training Program that will instruct children, teachers, and school food service workers on the relationship between food, nutrition, and health.

In recognition of the National School Lunch Program's contribution to America's youth, the Congress, by a joint resolution of October 9, 1962 (76 Stat. 779; 36 U.S.C. 168), has designated the week beginning the second Sunday of October of each year as National School Lunch Week, and has requested the President to issue annually a proclamation calling for its appropriate observance.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby urge the people of the United States to observe the week of October 8, 1978, as National School Lunch Week and to give special recognition to the role of good nutrition in building a stronger America through its youth.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of September, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 78-25823 Filed 9-11-78; 10:49 am]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment shows that positions concerned with an economic emergency loan program in the Farmers Home Administration (FmHA) are excepted under schedule A because examination for these positions is impracticable. This amendment also shows that the existing FmHA Schedule A authority for emergency loans is to be used for natural disaster emergency loans, to distinguish between the two authorities.

EFFECTIVE DATE: August 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael D. Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3113(e)(3) is amended and (e)(7) is added, as follows:

§ 213.3113 Department of Agriculture.

• • • • • •

(e) *Farmers Home Administration.*

• • •

(3) Temporary positions whose principal duties involve the making and servicing of natural disaster emergency loans pursuant to current statutes authorizing natural disaster emergency loans. Appointments under this provision shall not exceed 1 year unless extended with the prior approval of the Commission for additional periods not to exceed 1 year each.

• • • • • •

(7) Positions concerned with an economic emergency loan program authorized by the Agricultural Credit Act of 1978, for seasonal employment not to exceed August 31, 1982.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-25642 Filed 9-11-78; 8:45 am]

[6320-01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

[Reg. ER-1073, Amdt. 32]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Revision of Route Air Carrier Reporting Entities

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule revises the listing of geographic reporting entities included in the Board's economic regulations for three route air carriers which were recently granted authority to conduct transatlantic flights.

DATES: Adopted: August 31, 1978. Effective: August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

SUPPLEMENTARY INFORMATION: Section 21 of part 241 of the Board's economic regulations lists the operating authority of each air carrier according to geographical area ("entity") for purposes of reporting financial and statistical data. On January 26, 1978, the Board granted transatlantic operating authority to Braniff Airways, Delta Air Lines, and Northwest Airlines, order 78-1-118. Section 21 of part 241 is therefore amended to reflect the addition of these routes.

Because this amendment reflects a grant of authority that has already been made, the Board finds that notice and public procedure are unnecessary and that an immediate effective date is in the public interest.

Accordingly, part 241 of the economic regulations (14 CFR Part 241) is amended as follows:

1. Amend section 21, "Introduction to System of Reports," revising the list of route air carrier reporting entities contained in paragraph (i) to read in pertinent part as follows:

§ 21 Introduction to system of reports.

• • • • • •

(i) • • •

Route Air Carrier Reporting Entities

Air carriers	Entities
Airlift International, Inc.	Domestic, Latin America.
Air Micronesia, Inc.	Pacific.
Air Midwest, Inc.	Domestic.
Air New England, Inc.	Do.
Alaska Airlines, Inc.	Do.
Allegheny Airlines, Inc.	Do.
Aloha Airlines, Inc.	Do.
American Airlines, Inc.	Domestic, Latin America.
Aspen Airways, Inc.	Domestic.
Braniff Airways, Inc.	Domestic, Atlantic, Latin America.
Chicago Helicopter Airways, Inc.	Domestic.
Continental Air Lines, Inc.	Domestic, Pacific.
Delta Air Lines, Inc.	Domestic, Atlantic, Latin America.
Eastern Air Lines, Inc.	Domestic, Latin America.
The Flying Tiger Line Inc.	Domestic, Pacific.
Frontier Airlines, Inc.	Domestic.
Hawaiian Airlines, Inc.	Do.
Hughes Air Corp., d.b.a. Hughes Airwest	Do.
Kodiak-Western Alaska Airlines, Inc.	Do.
Munz NorthernAirlines, Inc.	Do.

Route Air Carrier Reporting Entities

Air carriers	Entities
National Airlines, Inc.	Domestic, Atlantic, Latin America.
New York Airways, Inc.	Domestic.
North Central Airlines, Inc.	Do.
Northwest Airlines, Inc.	Domestic, Atlantic, Pacific.
Ozark Air Lines, Inc.	Domestic.
Pan American World Airways, Inc.	Domestic, Atlantic, Latin America, Pacific.
Piedmont Aviation, Inc.	Domestic.
Reeve Aleutian Airways, Inc.	Do.
Seaboard World Airlines, Inc.	Atlantic.
Southern Airways, Inc.	Domestic.
Texas International Airlines, Inc.	Do.
Trans World Airlines, Inc.	Domestic, Atlantic, Pacific.
United Air Lines, Inc.	Domestic.
Western Air Lines, Inc.	Domestic, Latin America.
Wien Air Alaska, Inc.	Domestic.
Wright Air Lines, Inc.	Do.

(Secs. 204(a), 407 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 766, as amended, 49 U.S.C. 1324(a) and 1377).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-25665 Filed 9-11-78 8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 8939]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Rubbermaid, Inc.

AGENCY: Federal Trade Commission.

ACTION: Modification of order to cease-and-desist.

SUMMARY: This order reopens proceedings and modifies the cease and desist order issued on April 13, 1976, by replacing sections III and IV of the original order. The modification eliminates the requirement to send copies of the order to resellers of firm's products; provides a description of the required notice to be sent to resellers; and places the responsibility of sending such notice to indirect resellers on company's distributors.

DATES: Complaint issued September 5, 1973; modifying order issued August 17, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Ronald A. Bloch, Bureau of Competition, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580, 202-523-3552.

SUPPLEMENTARY INFORMATION: In the matter of Rubbermaid, Inc. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, appears at 41 FR 20161, and remains unchanged.

The order modifying order to cease and desist, is as follows:

ORDER MODIFYING ORDER TO CEASE AND DESIST

ORDER

On August 7, 1978, respondent and complaint counsel jointly petitioned the Commission to reopen this proceeding to modify sections III and IV of the order to cease and desist which issued on April 13, 1976, and became final on August 7, 1978.[2]

Section III of the order requires that respondent provide its direct and indirect resellers a copy of the order and a notice describing generally respondent's policy relating to resale prices. Section III further provides that those customers terminated because they failed to comply with any refusal-to-deal provision, will be extended an offer to be reinstated. Finally, section III provides for the treatment of complaints relating to the provisions of the notice.

Section IV requires respondents, for a period of 5 years, to send a copy of the order to new resellers to whom it directly sells.

By the proposed modification the order would describe the content of the notice to be sent to resellers and would relieve respondent of the requirement that it send a copy of the order to resellers. The proposed modification would further provide that respondent's distributors, rather than respondent, send notices to indirect resellers.

Because of the repeal of the McGuire Act and the consequent end of State-sanctioned resale price maintenance, several of the provisions in the order and the notice to be sent resellers are no longer relevant and would likely be misunderstood by resellers of respondent's products. As a further result of the abandonment of State-sanctioned resale price maintenance, respondent no longer is required to, nor does it, retain the names of indirect purchasers. These changed conditions of fact and law warrant the modifications requested by respondent and complaint counsel.

Accordingly, *It is ordered*, That the proceeding be, and it hereby is, reopened.

It is further ordered, That the order to cease and desist be, and it hereby is, modified by substituting for sections III and IV of the order, the following:

III

It is further ordered, That respondent shall:

1. Within sixty (60) days from the date upon which this order becomes final:

(a) Mail or deliver to all resellers which purchase directly from respondent a copy of the notice attached as exhibit A, and execute an affidavit so stating; and

(b) Mail or deliver to each of respondent's wholesalers; sufficient additional copies of the notice attached hereto as exhibit A and request such wholesalers

(i) To mail or deliver these notices to each reseller of respondent's goods with whom they deal; and

(ii) To affirm to respondent in writing that they have made the distribution of these notices as requested.

2. Within sixty (60) days from the date upon which this order becomes final, mail or deliver, and obtain a signed receipt for a copy of the notice attached as exhibit A and a written offer of reinstatement, to every reseller who has been terminated by, at the request of, or with the participation of respondent since January 1, 1966, for failure to comply with any refusal to deal provision of his contract, and reinstate forthwith any such reseller who within thirty (30) days thereafter requests reinstatement.

3. Immediately upon receipt, take such action as may be proper to insure correction of any complaints concerning the unavailability of Rubbermaid products to any reseller as a result of such reseller's pricing or customer selection policies or practices and retain such complaints and records of corrective action taken thereon for a period of five (5) years from the date on which each complaint is received. Reports of said complaints and of corrective action taken shall be included in reports to the Commission required by paragraph V. 1. of this order.

IV

It is further ordered, That respondent shall:

1. Fully acquaint all appropriate present and future personnel with the provisions and the requirements of this order.

2. For a period of five (5) years from the date of this order, mail or deliver a copy of the notice attached as exhibit B to all new resellers to whom respondent directly sells.

By the Commission. Commissioner Pitofsky did not participate.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-25632 Filed 9-11-78; 8:45 am]

[1] Copies of the modifying order filed with original document.

[2] Petitioners also filed on Aug. 8, 1978, a joint motion for suspension of compliance. This order obviates the necessity for the requested suspension of compliance and therefore the motion is rejected.

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Imidocarb Dipropionate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations to reflect approval of a new animal drug application (NADA) filed by Burroughs Wellcome Co. providing for the safe and effective use of a drug for intramuscular injection in horses and zebras for the treatment of babesiosis.

EFFECTIVE DATE: September 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Burroughs Wellcome Co., 3030 Cornwallis Road, Research Triangle Park, N.C. 27709, filed an NADA (97-288V) providing for the use of imidocarb dipropionate for injection intramuscularly in certain equines (horses and zebras) for the treatment of infections caused by *Babesia caballi* and *Babesia equi*. Treatment is limited to nonfood animals, is not recommended for other equidae, not for animals younger than 1 year old, and not for animals in near-term pregnancies. Product is to be sold under permit issued by the Director, National Program Planning Staff, Veterinary Services, APHIS, USDA, to licensed full-time State, Federal, or military veterinarians.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (section 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), part 522 is amended by adding new § 522.1155 to read as follows:

§ 522.1155 **Imidocarb dipropionate sterile powder.**

(a) *Specifications.* Imidocarb dipropionate powder is reconstituted with sterile water. Each milliliter of solution contains 100 milligrams of imidocarb base.

(b) *Sponsor.* No. 000081 in § 510.600(c) of this chapter.

(c) *Conditions of use.* The drug is used in horses and zebras as follows:

(1) *Amount.* For *Babesia caballi* infections, use intramuscularly 2 milligrams of imidocarb base per kilogram of body weight, repeating dosage once after 24 hours. For *Babesia equi* infections, use 4 milligrams of imidocarb base per kilogram of body weight, repeating dosage four times at 72-hour intervals.

(2) *Indications for use.* For the treatment of babesiosis (piroplasmosis) caused by *Babesia caballi* and *Babesia equi*.

(3) *Limitations.* Administer intramuscularly in the neck region. Do not inject intravenously. Do not use for other equidae or for animals of other species. Do not use in horses less than 1 year old. Do not use for animals in near-term pregnancies. Imidocarb dipropionate is a cholinesterase inhibitor. Do not use this product simultaneously with or a few days before or after treatment with or exposure to cholinesterase-inhibiting drugs, pesticides, or chemicals. Do not use in horses intended for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian. Imidocarb dipropionate is sold only under permit issued by the Director of the National Program Planning Staff, Veterinary Services, APHIS, USDA, to licensed or full-time State, Federal, or military veterinarians.

Effective date. The regulation is effective September 12, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: September 6, 1978.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-25565 Filed 9-11-78; 8:45 am]

[4110-03]

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Neomycin Sulfate, Hydrocortisone Acetate, Sterile Ointment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by the Upjohn Co., providing for use of a combination drug for treating certain eye and ear conditions in cats and dogs. This application reflects the National Academy of Sciences/National Research Council (NAS/NRC) evaluation of a similar product.

EFFECTIVE DATE: September 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, Mich. 49001, filed an NADA (93-514V) providing for use of an ointment containing neomycin sulfate and hydrocortisone acetate for treating infectious, allergic, and traumatic keratitis, conjunctivitis, acute otitis externa and, to a lesser degree, chronic otitis externa in cats and dogs.

Upjohn's combination of neomycin sulfate, hydrocortisone acetate, and tetracaine hydrochloride was evaluated by the (NAS/NRC) drug efficacy study group. The results of this evaluation were published in the FEDERAL REGISTER of August 22, 1970 (35 FR

13490). The NAS/NRC concluded, and the agency concurred, that the combination product is probably effective for treatment of certain ear conditions and probably not effective for treatment of eye conditions in domestic animals. The NAS/NRC evaluation recommended removal of tetracaine hydrochloride, deletion of certain claims, and addition of warnings.

The 1970 announcement was published to inform the holders of NADA's as to the findings of the NAS/NRC and the agency and to inform all interested persons that such articles may be marketed providing they are the subject of an approved NADA and otherwise comply with the requirements of the Federal Food, Drug, and Costmetic Act. Holders of applications were required to submit adequate documentation in support of the labeling used. Upjohn responded by filing an NADA that removed tetracaine from the product and revised the labeling to comply with the NAS/NRC evaluation. No new efficacy data were required. Submission of applications for identical products having the same conditions of use that are identified by a footnote in the regulation do not need to include certain types of efficacy data as required for approval in § 514.111 (21 CFR 514.111). In lieu of that data, approval may require bioequivalency and safety data as suggested in the guideline for submitting NADA's for NAS/NRC reviewed generic drugs, available from the hearing clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the hearing clerk (address noted above), from 9 a.m. to 4 p.m., Monday through Friday, except on Federal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 524 is amended by adding new § 524.1484i to read as follows:

§ 524.1484i Neomycin sulfate, hydrocortisone acetate, sterile ointment.

(a) *Specifications.* The drug contains 5 milligrams of neomycin sulfate, equivalent to 3.5 milligrams of neomycin base, and 5 milligrams of hydrocortisone acetate in each gram of ointment.[1]

(b) *Sponsor.* No. 000009 in § 510.600(c) of this chapter.

(c) *Conditions of use.* (1) *Amount.* Apply three or four times daily into the conjunctival sac. With improvement, frequency may be reduced to two or three times daily. For treatment of ear canker and other inflammatory conditions of the external ear canal, fill external ear canal one to three times daily.[1]

9(2) *Indications for use.* For treating infections, allergic, and traumatic keratitis, conjunctivitis, acute otitis externa and, to a lesser degree, chronic otitis externa in dogs and cats.[1]

(3) *Limitations.* All topical ophthalmic preparations containing corticosteroids, with or without an antimicrobial agent, are contraindicated in the initial treatment of corneal ulcers. They should not be used until infection is under control and corneal regeneration is well underway. Incomplete response or exacerbation of corticosteroid responsive lesions may be due to the presence of nonsusceptible organisms or to prolonged use on antibiotic-containing preparations resulting in overgrowth of nonsusceptible organisms, particularly *Monilia.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.[1]

Effective date. This regulation is effective September 12, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: September 5, 1978.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-25564 Filed 9-11-78; 8:45 am]

[1] These conditions are NAS/NRC reviewed and are deemed effective. Applications for these uses need not include the effectiveness data specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

[6560-01]

SUBCHAPTER E—ANIMAL FEEDS, DRUGS, AND RELATED PRODUCTS

[FRL 964-1; FAP 8H5186/T38]

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

N,N-Dimethylpiperidinium Chloride

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation related to the experimental use of the plant growth regulator *N,N*-dimethylpiperidinium chloride. The regulation was requested by BASF Wyandotte Corp. This rule will permit the marketing of cottonseed meal while further data is collected on the subject pesticide.

EFFECTIVE DATE: Effective on September 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager 25, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-426-2632.

SUPPLEMENTARY INFORMATION: On June 2, 1978, the EPA announced (43 FR 24130) that BASF Wyandotte Corp., Agricultural Chemical Division, 100 Cherry Hill Road, Parsippany, N.J. 07054, had filed a food additive petition (FAP 8H5182, now changed to FAP 8H5186). This petition proposed that 21 CFR Part 193 (herewith corrected to 21 CFR Part 561) be amended to permit the experimental use of the plant growth regulator *N,N*-dimethylpiperidinium chloride involving application of the plant growth regulator to growing cotton with a tolerance limitation of 2 parts per million (ppm) in cottonseed meal in accordance with an experimental use permit that is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 761; 7 U.S.C. 136(a) et seq.). No comments were received by the Agency in response to this notice of filing.

The scientific data reported and other relevant material have been evaluated, and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit which is being issued concurrently under FIFRA. It has further been determined that since residues of the pesticide may result in cottonseed meal from the agricultural uses provided for in the experimental use permit, the feed additive regulation should be established and should include a tolerance limitation. The toxicological data considered in support of the proposed tolerance included rat and rabbit acute oral lethal dose (LD_{50}) studies, a teratology study in rats with a no-observable-effect level (NOEL) of 3,000 ppm, a dominant lethal mutagenicity assay in mice which was negative, and 90-day dog and rat subchronic feeding studies with an NOEL of 1,000 ppm. Using a safety factor of 2,000 for systemic effects, the provisional acceptable daily intake (PADI) is 0.0125 milligram (mg)/kilogram (kg) body weight (bw)/day, or a provisional maximal permissible intake (PMPI) of 0.75 mg/day for a 60-kg man. Since this is an animal feed tolerance, the direct human exposure to the pesticide is zero. An evaluation of human exposure is presented in the notice of establishment of temporary tolerances elsewhere in today's FEDERAL REGISTER.

Other studies included radiotracer metabolism studies in cotton plants, rats, and lactating goats; storage stability tests; and residue studies in cotton forage, cottonseed, process fractions, meat, milk, poultry, and eggs. An adequate analytical method (gas chromatography using a flame ionization detector) is available for enforcement purposes.

No tolerances have previously been established for residues of the pesticide. Its metabolism is adequately understood. The pesticide has not been previously registered and there are no other considerations involved in establishing the feed additive tolerance. (A related document concerning the establishment of temporary tolerances for residues of the pesticide in or on cotton forage at 1.5 ppm, cottonseed at 1 ppm; and meat and poultry at 0.1 ppm and in milk and eggs at 0.05 ppm appears elsewhere in today's FEDERAL REGISTER. The tolerances for residues in meat, milk, eggs, and poultry are adequate to cover secondary residues resulting from the animal feed uses, as delineated in 40 CFR 180.6(a)(2)).

Accordingly, a feed additive regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before October 12, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on September 12, 1978, 21 CFR Part 561 is amended as set forth below.

(Sec. 409(c)(1), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)).)

Dated: September 5, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 561 is amended by adding the new § 561.197 to read as follows:

§ 561.197 *N,N*-Dimethylpiperidinium chloride.

(a) A tolerance of 2 parts per million is established for residues of the plant growth regulator *N,N*-dimethylpiperidinium chloride in cottonseed meal resulting from application of the plant growth regulator in accordance with the provisions of an experimental use permit that expires September 5, 1979.

(b) Residues in cottonseed meal not in excess of 2 parts per million resulting from the use described in paragraph (a) of this section remaining after expiration of the experimental program will not be considered to be actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and feed additive tolerance.

(c) BASF Wyandotte Corp. shall immediately notify the Environmental Protection Agency of any findings from the experimental use that have a bearing on safety. The firm shall also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the Environmental Protection Agency or the Food and Drug Administration.

[FR Doc. 78-25551 Filed 9-11-78; 8:45 am]

[4310-02]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER F—ENROLLMENT

PART 43k—REVISION OF THE FINAL ROLL OF THE MENOMINEE TRIBE OF WISCONSIN

Current Membership Roll; Correction

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule correction.

SUMMARY: The Bureau of Indian Affairs is correcting the erroneous revocation of a paragraph of its regulations governing the revision of the Menominee membership roll. This document rescinds a final rule that was published on May 8, 1978 which deleted part 43k from the regulations (43 FR 19649). The revocation of that rule is necessary because § 43k.14 of part 43k provides for the maintenance of membership rolls until the Menominee Tribe assumes responsibility for the rolls. The tribe has not yet assumed that responsibility and therefore it is necessary to rescind the revocation of 43k.14.

FOR FURTHER INFORMATION CONTACT:

Janet L. Parks, Chief, Branch of Tribal Enrollment Services, Bureau of Indian Affairs, 1951 Constitution Avenue NW., Washington, D.C. 20245, telephone 202-343-6921.

EFFECTIVE DATE: This correction shall become effective September 12, 1978.

SUPPLEMENTARY INFORMATION: A notice revoking certain regulations governing preparation of rolls of Indians was published in the FEDERAL REGISTER, Vol. 43, No. 89, at 19649 on May 8, 1978. One of the regulations revoked was part 43k-revision of the final roll of the Menominee Tribe of Wisconsin. Section 43k.14 provides for the maintenance of the membership roll until the tribe assumes responsibility for the roll. The tribe has not yet assumed that responsibility, and therefore, it is necessary to rescind the revocation of § 43k.14.

It is generally the policy of the Department of the Interior to allow time for interested persons to take part in the rulemaking process. However, since this correction is of an administrative nature, the public rulemaking process is dispensed with under the exception provided in 5 U.S.C. 553(b)(B)(1970).

The revocation of part 43k and 43k.14 of subchapter F, chapter I, of title 25 of the Code of Federal Regulations is rescinded. Section 43k.14, which reads as follows will remain in effect:

§ 43k.14 Current membership roll.

The membership roll of the tribe shall be kept current until such time as the tribe assumes responsibility for the roll by striking therefrom the names of persons who have relinquished in writing their membership in the tribe and of deceased persons upon receipt of a death certificate or other evidence of death acceptable to the staff, and by adding thereto the names of children who meet the qualifications for membership in the tribe set forth in this part.

No further changes are made in the text of subchapter F.

Since this amendment is of an administrative nature, the 30-day deferred effective date is dispensed with under the exception provided in subsection (d)(3) of 5 U.S.C. 553 (1970).

NOTE.—The Bureau of Indian Affairs has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

The principal author of this notice is Janet L. Parks, Chief, Branch of

Tribal Enrollment Services, Bureau of Indian Affairs.

FORREST J. GERARD,
Assistant Secretary,
Indian Affairs.

[FR Doc. 78-25678 Filed 9-11-78; 8:45 am]

[4310-02]

SUBCHAPTER P—MINING

PART 178—MANAGEMENT OF TRIBAL ASSETS OF UTE INDIAN TRIBE, UINTAH AND OURAY RESERVATION, UTAH, BY THE TRIBE AND THE UTE DISTRIBUTION CORP.

AUGUST 23, 1978.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: This document provides final regulations for the joint management of the assets of the Ute Indian Tribe not susceptible to equitable and practicable distribution under the Ute Partition Act. The intended effect of the regulation is to insure that the Ute Indian Tribe and the Ute Distribution Corp. will have a voice in the management of the assets in the same proportion that the groups are entitled, respectively, to share in the benefits from those assets.

EFFECTIVE DATE: The regulations are effective October 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Ray Jackson, Realty Officer, Phoenix Area Office, Bureau of Indian Affairs, 3030 North Central Avenue, Phoenix, Ariz. 85011, 602-261-4195, not a toll-free call.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Indian Affairs' authority to issue these final regulations is sections 27 and 28 of the Act of August 27, 1954 (68 Stat. 868, 25 U.S.C. 677-677aa), 5 U.S.C. 301, sections 463 and 465 of the revised statutes (25 U.S.C. 2 and 9) and 230 DM 1 and 2.

On page 57694 of the December 11, 1975, FEDERAL REGISTER (40 FR 57694), there was published a notice of proposed rulemaking to add a new part 178 to subchapter P of chapter 1 of title 25 of the Code of Federal Regulations. The purpose of those proposed regulations was to provide for a voice in the management of the undistributed assets of the Ute Indian Tribe by the Ute Indian Tribe and by the Ute Distribution Corp. (UDC) in the same proportion that these groups are entitled, respectively, to share in the benefits from those assets. This was to be accomplished by the creation of a committee which would assume all management functions. The management committee was to be composed of seven members; two to be elected by the board of directors of the UDC and five to be members of the Ute Indian Tribe of the Uintah and Ouray Reservation elected by the Tribal Business Committee.

The notice of proposed rulemaking solicited written comments, suggestions, or objections to the proposed regulations. A substantial number of letters and other communications containing objections to the regulations were received. A request was made that a hearing be held in Salt Lake City, Utah, to afford all interested persons an adequate chance to present their views. In response, an informal hearing was held on February 6, 1976, in room 7102 of the Federal Building, Salt Lake City, Utah. All persons who desired to do so were afforded an opportunity to present their views.

A substantial number of communications were received which repeated the same basic objections. A summarization of these issues and our responses thereto is as follows:

1. *Comment:* Section 28 of the Ute Partition Act, which gave the Secretary power to proceed in the best interests of both groups in cases where agreement by both was required by the act but wasn't reached, clearly shows that each group was to have an equal voice. The joint management of the undistributed assets is the only part of the act requiring such joint management.

Response: Section 28 is a general authorization for the Secretary to effectuate the purposes of the act in the best interests of both groups. If it was intended that this authority only pertain to section 10, the language would more logically have been a part of that section, or section 28 would have specifically referred to section 10.

2. *Comment:* The undistributed assets are still held in trust by the Secretary for both groups, and he must protect the interests of both.

Response: The proposed regulations would not prevent the performance of any such responsibility.

3. *Comment:* In the Area Director's proposal, the term, "joint managers," should mean the business committee "and" the board of directors; not "either" one "or" the other.

Response: This largely overlooks the use of this definition in the proposed regulations; however, there is validity in the suggestion in certain contexts. Therefore, the definition has been revised to state that the term may mean both, collectively, or either, individually, as is appropriate within the context where the term is used.

4. *Comment:* In the first sentence of the Area Director's proposed section 178.4, the word, "may," should be "must."

Response: There is no objection to this proposal, and it has been adopted.

5. *Comment:* The term, "board of directors," should be redefined.

Response: The Area Director's definition is adequate to identify the entity in question. The proposed definition is unnecessarily long and is argumentative.

After fully considering all of the comments and objections, a decision has been made that the Area Director's proposed regulations will be adopted with the changes mentioned above.

I have determined that these proposed regulations are not a major Federal action within the scope of the National Environmental Policy Act of 1969, 42 U.S.C. 4223(2)(c).

The following regulations will be effective October 12, 1978.

A new Part 178 is hereby added to subchapter P of title 25, Code of Federal Regulations, as follows:

Sec.
178.1 Definitions.
178.2 Authority and purpose.
178.3 Referral of questions by superintendent.
178.4 Referral of questions by the joint managers.
178.5 Management decisions.
178.6 Method of casting votes.
178.7 Implementation of decision.

AUTHORITY: Secs. 27 and 28 of the Act of August 27, 1954, 68 Stat. 868 (25 U.S.C. 677-677aa); 5 U.S.C. 301; secs. 463, 465 of the Revised Statutes (25 U.S.C. 2 and 9) and 230 DM 1 and 2.

§ 178.1 Definitions.

As used in this part:

"Assets" means all unadjudicated or unliquidated claims against the United States, all gas, oil, and mineral rights of every kind, and all other assets of the Ute Tribe of Uintah and Ouray Reservation as constituted on August 27, 1954, not distributed in accordance with the terms of the Ute Partition Act.

"Business Committee" means the Uintah and Ouray Tribal Business Committee, created pursuant to the provisions of the constitution and bylaws of the Ute Indian Tribe of the Uintah and Ouray Reservation.

"Board of directors" means the board of directors of the Ute Distribution Corp., a corporation organized and existing under the laws of the State of Utah.

"Joint manager" or "joint managers" means the business committee and the board of directors, or either of them, as is appropriate, within the context where one of those terms is used.

"Superintendent" means the superintendent of the Uintah and Ouray Agency, Bureau of Indian Affairs.

"Secretary" means the Secretary of the Interior or a subordinate official acting pursuant to authority delegated by said Secretary.

§ 178.2 Authority and purpose.

In accordance with the Ute Partition Act approved August 27, 1954 (68 Stat. 868; 25 U.S.C. 677-677aa), as amended by the Act of August 2, 1956 (70 Stat. 936), and the Act of September 25, 1962 (76 Stat. 597), assets shall be managed jointly by the business committee and the board of directors. These regulations set out the procedures for exercising such joint management.

§ 178.3 Referral of questions by superintendent.

The superintendent shall refer all questions and problems related to the management of the assets as they come to his attention, together with his analysis of alternative solutions to each question or problem, to the business committee and to the board of directors for resolution. Such referrals shall be in writing and shall be addressed to the joint managers at such addresses as they furnish to the superintendent and to each other from time to time.

§ 178.4 Referral of questions by the joint managers.

The business committee and the board of directors must refer to each other for resolution any questions or problems related to joint management of the assets which they from time to time determine need to be resolved together with the submitting party's proposal, if any, for solution. Such referrals shall be in writing, addressed to the other joint manager at the address furnished in accordance with section 178.3 of this part. Copies of all such referrals shall also be furnished to the superintendent. Either of the parties may request an analysis of alternative solutions to each question or problem referred pursuant to this section, and the superintendent will furnish such analysis within ten working days, or within such longer period as he may notify the parties is required to prepare such analysis.

§ 178.5 Management decisions.

In arriving at management decisions concerning the assets, the business committee shall be entitled to cast 72.83814 votes and the board of directors shall be entitled to cast 27.16186 votes. Any total number of votes cast exceeding 50 shall be sufficient to determine an issue submitted to the joint managers for resolution. A majority of votes cast will decide an issue.

§ 178.6 Method of casting votes.

Within 30 days after an issue and any analysis provided for in §§ 178.4 and 178.5 have been submitted to the joint managers for resolution, they shall each notify the superintendent in writing of the number of votes cast for and against the proposed or alternative solutions. If either of the joint managers fails or refuses to cast his votes and to notify the superintendent thereof within the time specified, the superintendent may conclude that such joint managers' votes have been cast against the proposed solution or solutions; or, if no solutions have been proposed, for the maintenance of the status quo. At the time they notify the superintendent of the votes cast on an issue, each joint manager shall furnish to the superintendent a certified copy of a resolution of the business committee or the board of directors, as the case may be, authorizing such vote.

§ 178.7 Implementation of decision.

The Secretary shall issue such documents as are necessary or expedient to implement the decisions of the joint managers, insofar as such issuance is authorized by law, and he shall execute and/or approve such documents for and on behalf of the joint managers, or either of them, and on behalf of the United States, as necessary. If it becomes necessary for the Secretary to execute an instrument on behalf of one or both of the joint managers and to approve the same instrument as trustee, two different officials having delegated authority from the Secretary shall serve as executing and approving officers, respectively.

NOTE.—The Bureau of Indian Affairs has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

RICK LAVIS,
Deputy Assistant Secretary,
Indian Affairs.

[FR Doc. 78-25714 Filed 9-11-78; 8:45 am]

[4830-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7564]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

PART 301—PROCEDURE AND ADMINISTRATION

Minimum Tax for Tax Preferences

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the imposition of a minimum tax on tax preferences of both individuals and corporations. Changes to the applicable tax law were made by the Tax Reform Act of 1969 and the Excise, Estate, and Gift Tax Adjustment Act of 1970. These regulations provide necessary guidance to the public for compliance with the law and affect all taxpayers who may have any items of tax preference.

DATE: The regulations are generally effective for taxable years ending after December 31, 1969.

FOR FURTHER INFORMATION CONTACT:

Robert Coplan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 30, 1970, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 56 through 58 of the Internal Revenue Code of 1954 (35 FR 19757). The amendments were proposed to conform the regulations to section 301 of the Tax Reform Act of 1969 (83 Stat. 580). On June 24, 1971, the FEDERAL REGISTER published a notice of proposed rulemaking which withdrew portions of the previously proposed regulations (36 FR 12020). Revised provisions were proposed at that time. In addition, a new section of the regulations (§ 1.56-5) was proposed to reflect the amendment made to section 56 of the Code by section 501 of the Excise, Estate, and Gift Tax Adjustment Act of 1970 (84 Stat. 1846). A public hearing was held on August 10, 1971. After consideration of all comments regarding the proposed amendments, those

V 43 / 177 SE 12 78

amendments are adopted as revised by this Treasury decision.

LEGISLATIVE CHANGES REFLECTED IN REGULATIONS

These amendments only reflect changes made by the Tax Reform Act of 1969 and the Excise, Estate, and Gift Tax Adjustment Act of 1970. In addition, changes have been made in § 1.56-1(b) and § 1.56-5(b) to reflect the addition of certain credits by the Revenue Act of 1971 (85 Stat. 497). Amendments to conform the regulations to changes made by other legislation, including the Tax Reform Act of 1976, will be contained in separate documents.

NATURE OF MINIMUM TAX

The minimum tax for tax preferences is in addition to the regular income tax and is imposed with respect to specified items of tax preference. These items of tax preference represent income which is either (a) not subject to current taxation by reason of temporary exclusion or an acceleration of deductions or (b) not subject to full taxation by reason of certain deductions or a special rate of tax.

IMPOSITION AND COMPUTATION OF MINIMUM TAX

Section 1.56-1 of the regulations sets forth the general rules for the imposition and computation of the minimum tax for tax preferences. The rate of the minimum tax is 10 percent. The base of the tax for a taxable year is the sum of a taxpayer's items of tax preference (to the extent they exceed $30,000), reduced by his liability for the year for income tax and certain special taxes.

DEFERRAL OF MINIMUM TAX

Section 1.56-2 of the regulations sets forth rules for the deferral of minimum tax liability in the case of certain net operating losses. Under these rules (which implement section 56(b) of the Code), if a taxpayer has a net operating loss for a taxable year, his liability for minimum tax is deferred to the year (or years) in which the net operating loss is applied to reduce taxable income.

EFFECTIVE DATE AND CROSS-REFERENCES

Section 1.56-3 of the regulations sets forth the effective date of the minimum tax provisions. In general, the minimum tax is applicable to taxable years ending after December 31, 1969. Section 1.56-4 cross-refers to § 1.58-2 through § 1.58-6 for rules relating to certain "conduit" entities (estates, trusts, partnerships, and the like).

CARRYOVER OF MINIMUM TAX

Under sections 56(c) and 1,56-5, a taxpayer may carry forward the excess of its income tax liability for a taxable year (except taxes imposed by sections 56, 72(m)(5)(B), 402(e), 408(f), 531 and 541 over the amount by which its items of tax preference exceed the $30,000 exemption. This excess tax liability may be carried forward for up to 7 years to reduce the taxpayer's minimum tax base for those subsequent years.

REGULATIONS UNDER SECTION 56 UNCHANGED

No material change has been made in the final regulations under section 56 from the provisions proposed in 1970 and 1971.

ITEMS OF TAX PREFERENCE

Section 1.57-1 of the regulations gives detailed definitions for 8 of the 9 items of tax preference listed in section 57(a) as originally enacted. These 8 items are: Accelerated depreciation on real property; accelerated depreciation on personal property subject to a net lease; amortization of certified pollution control facilities; amortization of railroad rolling stock; stock options; additions to reserves for losses on bad debts of financial institutions; depletion; and capital gains. The ninth item, excess investment interest, was repealed by the Tax Reform Act of 1976. Proposed § 1.57-2 deals with that item, but is not being adopted at this time for reasons discussed later in this preamble.

CHANGES MADE IN § 1.57-1 IN RESPONSE TO COMMENTS

Comments were received from the public suggesting that various changes be made to proposed § 1.57-1. The most significant changes made in § 1.57-1 of the final regulations in response to these comments are as follows:

1. Under the proposed regulations, the determination of the depreciation items of tax preference under section 57(a) (2) and (3) is made with respect to each item of section 1250 property or section 1245 property. The final regulations now provide that a taxpayer who uses group, classified, or composite depreciation accounts will determine the amount of this tax preference in the aggregate with respect to all property in the account, provided that the account contains only property placed in service during a single year.

2. For several tax preference items, it is necessary to determine the amount of depreciation which would have been allowable if only the straight line method had been used. The final regulations add rules specifying the useful life to be used in determining the amount of this hypothetical depreciation where the taxpayer elects to apply an asset depreciation period or an asset guideline period to eligible property.

3. The final regulations provide that, where a qualified or restricted stock option is exercised by an estate or heir, the option price of the stock for minimum tax purposes includes all or part of the basis of the option. The rule in § 1.57-1(f)(5)(i) has been expanded to provide that no stock option preference item arises if there is a disposition of the stock in the same taxable year the option is exercised.

4. The preference item in section 57(a)(7) is the amount by which the deduction allowed to financial institutions under section 585 or 593 for a reasonable addition to a reserve for bad debts exceeds the amount that would have been allowable had the institution maintained its bad debt reserve for all taxable years on the basis of actual experience. The last sentence of proposed § 1.57-1(g)(4)(i) did not allow a bank to claim a deduction smaller than that permitted by section 585(b)(3)(A), and then recoup the unclaimed amount in a later year. If a bank in a subsequent year claimed all or part of such an unclaimed deduction, a tax preference item would have been imposed equal to the recouped amount. The final regulations have been changed to permit such a recoupment. The minimum addition to the reserve for bad debts imposed by the regulations under section 585 reduce the effect of this change for taxable years beginning after December 31, 1976. An example has been added to § 1.57-1(g)(4)(i) which generally illustrates the computation of this preference item.

RECOMMENDATIONS NOT ADOPTED

Several recommendations made in the public comments were not adopted in the final regulations. These recommendations were not followed primarily because of conflicts with the statutory language of section 57 and other sections of the Code or administrative problems raised by the application of these recommendations. The more significant suggestions were as follows:

1. Under § 1.57-1(f)(3), stock received pursuant to the exercise of a qualified or restricted stock option is valued in a manner consistent with the principles applicable under section 83(a)(1). Section 83(a)(1) requires that the stock be valued without regard to restrictions (other than restrictions which by their terms will never lapse). One comment urged that the stock should be valued with regard to restrictions or that the taxpayer be allowed an option to defer minimum tax liability until the restrictions lapse. This recommendation was not adopted. The use of section 83 is proper for valuation purposes since it measures the amount of income that would be subject to immediate tax, and therefore the amount that is subject to preferential deferral, but for the benefit provided by section 421. Clarifying language was added to § 1.57-1(f)(3) to indicate that the timing rule of section 83(a)(1) is not being used. For purposes of section 57(a)(6), the fair market value of the stock is determined as of the time the option is exercised.

2. Comments were received recommending that if a taxpayer claims a deduction for depletion smaller than the deduction allowable under section 611, the amount treated as an item of tax preference should be determined on the basis of the deduction claimed, rather than the maximum deduction allowable. This suggestion has not been adopted since section 57(a)(8) defines the depletion item of tax preference as "* * * the excess of the deduction for depletion allowable under section 611 for the taxable year over the adjusted basis of the property at the end of the taxable year * * *" (emphasis added).

EXCESS INVESTMENT INTEREST AND NET LEASE PROVISIONS NOT ADOPTED

Sections 1.57-2 and 1.57-3 relating to excess investment interest and net leases, respectively, are not being adopted at this time. These sections have been left outstanding because amendments made to sections 57 (b) and (c) by the Revenue Act of 1971 were made effective for taxable years beginning after December 31, 1969, the effective date of the Tax Reform Act of 1969. In view of the retroactive nature of these amendments, any necessary changes in §§ 1.57-2 and 1.57-3 will be made in a notice of proposed rulemaking. Because of the similarity of the subject matter, such changes may be incorporated in a notice of proposed rulemaking which will be issued containing proposed regulations under section 163(d).

TAX BENEFIT RULE ADOPTED FOR TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1976

Section 1.57-4 of the proposed regulations, relating to a limitation on amounts treated as items of tax preference, is being adopted, but will only be effective for taxable years beginning before January 1, 1976, the effective date of the Tax Reform Act of 1976. For taxable years beginning after this date, new regulations will be proposed in a separate document which will implement the tax benefit rule of section 58(h), added by section 301 of the Tax Reform Act of 1976. These new regulations will not necessarily follow all the provisions in § 1.57-4.

RECORDS TO BE RETAINED BY TAXPAYER

Section 1.57-5 of the regulations prescribes the records which are to be maintained and retained to permit a determination of a taxpayer's minimum tax base.

MINIMUM TAX EXEMPTION

Section 1.58-1 of the regulations sets forth rules concerning the minimum tax exemption. In general, a taxpayer's first $30,000 of items of tax preference is exempt from the minimum tax. A married person filing a separate return is entitled to a minimum tax exemption of only $15,000. In the case of a controlled group of corporations, the $30,000 exemption is divided equally among the component members unless they consent to an unequal allocation of the $30,000 exemption.

APPLICATION OF MINIMUM TAX TO CONDUIT ENTITIES

Section 1.58-2 of the regulations contains general rules for conduit entities and special rules for partnerships and partners. Since a partnership as such is not subject to the income tax, it is not itself subject to the minimum tax for tax preferences. However, each partner in computing his items of tax preference, must take into account separately his allocable share of those items of income and deduction of the partnership that enter into the computation of his items of tax preference.

Section 1.58-3 of the regulations, which implements section 58(c)(1) of the Code, contains rules relating to estates and trusts. Code section 58(c)(1) provides that the sum of the items of tax preference of an estate or trust is to be apportioned between the estate or trust and its beneficiaries on the basis of the income of the estate or trust allocable to each. The regulations provide that, for this purpose, "income" is the income received or accrued by the trust or estate which is not subject to current taxation in the hands of the trust or estate or the beneficiary by reason of an item of tax preference.

In response to a comment § 1.58-3(a)(4) has been revised in the final regulations. This section establishes the year in which a beneficiary is to take into account items of tax preference of a trust that are apportioned to him. As proposed, this provision would have required the beneficiary to report his allocable share of tax preference items in the same taxable year in which he receives the income upon which the apportionment of tax preferences is based. The final regulations provide that items of tax preference apportioned to a beneficiary are to be taken into account by him in his taxable year within or with which ends the taxable year of the estate or trust during which it has such items of tax preference. This revision conforms these regulations to the rules set forth in section 652(c) and 662(c) for the reporting of income by a beneficiary.

Section 1.58-4 contains rules for the apportionment of the items of tax preference of an electing small business corporation (sometimes referred to as a "tax-option corporation" or a "subchapter S corporation"). With one exception, the items of tax preference of the corporation are not subject to minimum tax at the level of the corporation. The exception to the general rule pertains to certain capital gains, which are subject to tax at the corporate level under Code section 1378. The corporation is subject to the minimum tax with respect to such capital gains. The items of tax preference not subject to minimum tax at the corporate level are apportioned pro rata among the shareholders. In addition, each shareholder must treat as a capital gain preference item, his distributive share of the corporation's net section 1201 gain less the taxes paid by the corporation under sections 56 and 1378.

A minor clarifying change has been made to the formula contained in § 1.58-4(c)(2) for computing a subchapter S corporation's capital gain preference item. The final regulations indicate that only one of the two exclusions in § 1.58-4(c)(2)(i) could apply to a given computation because of the limitation imposed by section 1378(c), relating to capital gain attributable to property with a substituted basis.

Section 1.58-5 of the regulations provides that participants in a common trust fund are to take into account their proportionate shares of the items of tax preference of the fund. The items of tax preference to be so apportioned are to be determined as if the fund itself were subject to the minimum tax. The participant's proportionate share of such item of tax preference is determined in a manner consistent with § 1.584-2(c) (relating to income of participants in a common trust fund).

Section 1.58-6 provides rules for the apportionment of items of tax preference of a regulated investment company or real estate investment trust to their shareholders or holders of beneficial interest. In general, the items of tax preference are computed at the entity level and apportioned to the shareholders or holders of beneficial interest in the same proportion as the dividends (other than capital gains dividends and, in the case of a real estate investment trust, accelerated depreciation on section 1250 property) paid to each such shareholder or

V 4 3 / 1 7 7

SE 12 78

holder of beneficial interest bear to the taxable income of the company or trust, determined without regard to the dividends paid deduction.

PREFERENCE ITEMS ATTRIBUTABLE TO FOREIGN SOURCES

Sections 1.58-7 and 1.58-8 of the regulations contain special rules concerning items of tax preference attributable to foreign sources. Section 1.58-7 relates to foreign source items of tax preference (other than capital gains and stock options). Such items of tax preference are taken into account for minimum tax purposes only to the extent that they reduce the taxpayer's income tax on income derived from sources within the United States. Under the regulations, foreign-source items of tax preference are considered to reduce the taxpayer's income tax on income from sources within the United States to the extent that the deductions relating to such preferences, in combination with other foreign deductions, exceed the income from such foreign sources and, in effect, offset income from sources within the United States. Under the Code and regulations, items of tax preference are treated as reducing United States income tax before items which are not items of tax preference.

Section 1.58-8 contains rules relating to foreign-source capital gains and stock options. Such items are subject to the minimum tax for tax preferences only if they are accorded preferential treatment under the tax laws of the foreign country (or possession of the United States) to which they are attributable. In prescribing rules for determining whether a foreign country accords preferential treatment of such items, the final regulations follow the rules proposed on June 24, 1971, rather than the rules originally proposed on December 30, 1970.

Several comments objected to the change of position in § 1.58-8 of the proposed regulations published on June 24, 1971. These provisions concern the applicability of the minimum tax to capital gains whose source was a country which imposes no income tax. The amendment of section 58(g) with retroactive application by the Revenue Act of 1971 has statutorily ratified the position taken in the final regulations.

MINOR COMMENTS SUGGESTING CLARIFICATIONS

A number of changes of a clarifying nature were made in the final regulations in response to public comments received which identified particular sections in need of clarification.

REGULATIONS LEFT OUTSTANDING

For the convenience of the reader, the sections of the proposed regulations being left outstanding are listed below:

§ 1.57-2 and § 1.57-3.

DELETION OF SECTIONS MERELY REPRODUCING STATUTORY MATERIAL

As part of the effort to reduce the bulk of the Code of Federal Regulations, these sections of the proposed regulations which merely reproduced various provisions of the Internal Revenue Code are deleted.

For the same reason, several such sections are deleted from the Code of Federal Regulations by this document.

DRAFTING INFORMATION

The principal author of these proposed regulations was Robert B. Coplan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, 26 CFR Part 1 is amended by adopting the regulations proposed in the notice of proposed rulemaking published in the FEDERAL REGISTER on December 30, 1970 (35 FR 19757), as amended by the notice of proposed rulemaking published on June 24, 1971 (36 FR 12020), subject to the following changes:

PARAGRAPH 1. Paragraph 1 of the appendix to the notice of proposed rulemaking of December 30, 1970, is revised to read as follows:

Section 1.5 is deleted.

PAR. 2. Paragraph 2 of the appendix to the notice of proposed rulemaking of December 30, 1970, is revised to read as follows:

Section 1.12 is deleted.

PAR. 3. Paragraph 3 of the appendix to the notice of proposed rulemaking of December 30, 1970, is revised to read as follows:

Section 1.46 is deleted.

PAR. 4. Paragraph (c) of of § 1.46-1, as set forth in the appendix to the notice of proposed rulemaking of December 30, 1970, is revised to read as follows:

§ 1.46-1 Determination of amount.

* * * * *

(c) *Liability for tax.* For the purpose of computing the limitation based on the amount of tax, section 46(a) defines the liability for tax as the income tax imposed for the taxable year by chapter 1, reduced by the sum of certain credits listed in section 46(a). In addition, an increase in tax resulting from the application of section 47 (relating to certain dispositions, etc., of section 38 property) shall not be treated as tax imposed by chapter 1 for purposes of computing the liability for tax. See section 47(c).

* * * * *

PAR. 5. Paragraph 5 of the appendix to the notice of proposed rulemaking of December 30, 1970, is revised to read as follows:

Section 1.51 is deleted.

PAR. 6. Section 1.56, as set forth in paragraph 6 of the appendix to the notice of proposed rulemaking of December 30, 1970, is deleted.

PAR. 7. Paragraph (b)(2)(i) of § 1.56-1, as set forth in the notice of proposed rulemaking of June 24, 1971, is changed by deleting the word "and" at the end of subdivisions (*b*) and (*c*) and by adding subdivisions (*d*) and (*e*). The revised and added provisions read as follows:

§ 1.56-1 Imposition of tax.

* * * * *

(b) *Computation of tax.* * * *

(2) * * *

(i) * * *

(*b*) Section 37 (relating to retirement income),

(*c*) Section 38 (relating to investment credit),

(*d*) Section 40 (relating to expenses of work incentive programs), and

(*e*) Section 41 (relating to contributions to candidates for public office), and

* * * * *

PAR. 8. Section 1.56-1 is amended as follows:

1. Paragraph (c), as set forth in paragraph 6 of the appendix to the notice of proposed rulemaking of December 30, 1970, and redesignated as paragraph (d) in the notice of proposed rulemaking of June 24, 1971, is deleted.

2. The term "section 668" is replaced by the term "section 667" every place that it appears.

PAR. 9. Paragraph (b) of § 1.56-3, as set forth in paragraph 6 of the appendix to the notice of proposed rulemaking of December 30, 1970, is changed by revising the last two sentences in the example to read as follows

§ 1.56-3 Effective date.

* * * * *

(b) *Taxable year beginning in 1969 and ending in 1970.* * * *

Example. * * * Thus, without regard to the proration rules applicable under this section, the taxpayer's minimum tax liability for items of tax preference arising in 1969-70 is $15,000, i.e., 10 percent x ($180,000-$30,000), of which $5,000, i.e., 10 percent × $50,000, is deferred until 1970-71 under the principles of section 56(b) and section 1.56-2. By application of the above formula the taxpayer's actual minimum tax liability is $4,958.90 in 1969-70 and $2,479.45 in 1970-71 determined as follows:

1969-70: 181/365 x $10,000

1970-71: 181/365 x $5,000

PAR. 10. Paragraph (b)(1) of § 1.56-5, as set forth in the notice of proposed rulemaking of June 24, 1971, is changed by deleting the word "and" at the end of subdivision (ii), by deleting the word "over" at the end of subdivision (iii), and by adding subdivisions (iv) and (v). The revised and added provisions read as follows:

§ 1.56-5 Tax carryovers.

* * * * *

(b) *Computation of amount of carryover.* * * *

(1) * * *

(ii) Section 37 (relating to retirement income),

(iii) Section 38 (relating to investment credit),

(iv) Section 40 (relating to expenses of work incentive programs), and

(v) Section 41 (relating to contributions to candidates for public office), over

* * * * *

PAR. 11. Section 1.57, as set forth in paragraph 6 of the appendix to the notice of proposed rulemaking of December 30, 1970, is deleted.

PAR. 12. Section 1.57-1, as set forth in paragraph 6 of the appendix to the notice of proposed rulemaking of December 30, 1970, is changed as follows:

1. Paragraph (a) is reserved.

2. Paragraph (b)(2) is revised by changing the second sentence, by changing so much of the third sentence as precedes the colon, and by inserting, between these two sentences a new sentence.

3. Paragraph (b)(3) is revised by changing the second sentence and deleting the third sentence.

4. Paragraph (b)(4) is revised by adding flush material at the end of subdivision (i) and by revising subdivision (ii).

5. Paragraph (c)(1) is revised by changing the second sentence.

6. Paragraph (c)(3) is revised by changing the second sentence and deleting the third sentence.

7. Paragraph (d)(3) is revised by changing the second sentence and deleting the third sentence.

8. Paragraph (d)(4)(i) is revised.

9. Paragraph (e)(3) is revised by deleting "and the regulations thereunder" and by changing the second sentence and deleting the third sentence.

10. Paragraph (f) is changed by revising the first sentence of subparagraph (2) and by revising subparagraphs (3) and (5)(i).

11. Paragraph (g)(4)(i) is revised by changing the third and seventh sentences and adding an example at the end thereof.

12. Paragraph (i)(1) is revised by inserting a new sentence following the second sentence.

These revised and added provisions read as follows:

§ 1.57-1 Items of tax preference defined.

* * * * *

(a) [Reserved]

(b) *Accelerated depreciation on section 1250 property—* * * *

(2) *Separate items of section 1250 property.* * * * In general, each building (or component thereof, if the taxpayer uses the component method of computing depreciation) is a separate item of section 1250 property. However, for purposes of this section, assets placed in a group, classified, or composite account are to be treated as a single item by a taxpayer, provided that such account contains only property placed in service during a single taxable year. In addition, two or more items may be treated as one item of section 1250 property for purposes of this paragraph where, with respect to each such item: * * *

(3) *Allowable depreciation or amortization.* * * * Such phrase does not include depreciation allowable in the year in which the section 1250 property is disposed of. * * *

(4) *Straight line depreciation.* (i) * * * If an election under § 1.167(a)-11(f), § 1.167(a)-12(e), or § 1.167(a)-12(f) is applicable to the property, the salvage value of the property shall be determined in accordance with such election, and the asset depreciation period (or asset guideline period) applicable to the property pursuant to such election shall be considered to be the useful life of the property for the purposes of this section.

(ii) Where the taxpayer acquires property in a transaction to which section 381(a) applies or from another member of an affiliated group during a consolidated return year and an "accelerated" method of depreciation as described in section 167(b) (2), (3), or (4) or section 167(j)(1) (B) or (C) is permitted (see § 1.381(c)(6)-1 and § 1.1502-12(g)), the depreciation which would have been allowable under the straight line method is determined as if the property had been depreciated under the straight line method since depreciation was first taken on the property by the transferor of such property. In such cases, references in this paragraph to the period for which the property is held or useful life of the property are treated as including the period beginning with the commencement of the original use of the property.

* * * * *

(c) *Accelerated depreciation on section 1245 property subject to a net lease—*(1) *In general.* * * * Except as provided in paragraph (b)(1)(ii) of this section the determination of the excess under section 57(a)(3) is made with respect to each separate item of section 1245 property. * * *

(3) * * * Such phrase does not include depreciation allowable in the year in which the section 1245 property is disposed of. * * *

* * * * *

(d) *Amortization of certified pollution control facilities.* * * *

(3) * * * Such amount, however, does not include amortization allowable in the year in which the pollution control facility is disposed of.

(4) *Otherwise allowable deduction.* (i) The determination of the amount of the depreciation deduction otherwise allowable under section 167 is made as if the taxpayer had depreciated the property under section 167 for each year of its useful life for which the property has been held. This amount may be determined under § 1.167(a)-11(c) if the property is eligible property (as defined in § 1.167(a)-11(b)(2)) and, during the taxable year in which the property was first placed in service, the taxpayer—

(*a*) Has made an election under § 1.167(a)-11(f) with respect to eligible property first placed in service in such taxable year, or

(*b*) Has placed no eligible property in service other than property described in § 1.167(a)-11(b)(5) (iii), (iv), or (v).

The amount determined pursuant to the preceding sentence shall be determined as if the taxpayer had depreciated the property in accordance with § 1.167(a)-11 for all years to which such section applies and during which the taxpayer held the property. This amount may be determined under § 1.167(a)-12(a)(5) if the property is qualified property (as defined in § 1.167(a)-12(a)(3)) and the taxpayer has made an election with respect to such property under § 1.167(a)-12(e). If the taxpayer has made an election under § 1.167(a)-12(f)(1) for a taxable year ending before January 1, 1971, this amount shall be determined for such year in accordance with such election. For purposes of this determination, any method selected by the

V 4 3 / 1 7 7 S E 1 2 7 8

taxpayer which would have been permissible under section 167 for such taxable year, including accelerated methods, may be used. Any additional amount which would have been allowable by reason of section 179 (relating to additional first-year depreciation for small business) may be included provided such amount is reflected in the determination made under this paragraph in subsequent years.

• • • • • •

(e) *Amortization of railroad rolling stock.* • • •

(3) • • • Such amount, however, does not include amortization allowable in the year in which the rolling stock is disposed of.

• • • • • •

(f) *Stock options.* • • •

(2) *Definitions.* See generally § 1.421-7 (e), (f), and (g) for the definitions of "option price," "exercise," and "transfer," respectively; however, in the case of a transfer of a share of stock pursuant to the exercise of a qualified stock option or a restricted stock option after the death of an employee by the estate of the decedent (or by a person who acquired the right to exercise such option by bequest or inheritance or by reason of the death of the decedent), the term "option price" shall, for purposes of this paragraph, include both the consideration paid by the estate (or such person) for such share of stock and so much of the basis of the option as is attributable to such share of stock. • • •

(3) *Fair market value.* In accordance with the principles of section 83(a)(1), the fair market value of a share of stock received pursuant to the exercise of a qualified or restricted stock option is to be determined without regard to restrictions (other than nonlapse restrictions within the meaning of § 1.83-3(h)). Notwithstanding any valuation date given in section 83(a)(1), for purposes of this section, fair market value is determined as of the date the option is exercised.

• • • • • •

(5) *Inapplicability in certain cases.* (i) Section 57(a)(6) is inapplicable if during the same taxable year in which stock is transferred pursuant to the exercise of an option, the transferee makes a disposition (within the meaning of section 425(c)) of such stock. In the case of a nonresident alien, section 57(a)(6) is inapplicable to the extent the stock option is attributable (in accordance with the principles of sections 861 through 863 and the regulations thereunder) to sources without the United States.

• • • • • •

(g) *Reserves for losses on bad debts of financial institutions.* • • •

(4) *Actual experience.* (i) • • • The taxpayer may, however, select a more appropriate balance based on its actual experience during a shorter period subject to the approval of the district director upon examination of the return provided there are unusual circumstances which indicate that such period is more indicative of the taxpayer's actual loss experience. • • • The beginning balance for any subsequent taxable year is the amount of the beginning balance of the preceding taxable year, decreased by bad debt losses during such year, increased by recoveries of bad debts during such year and increased by the lower of the maximum amount determined under section 585(b)(3)(A) for such year or the amount of the deduction allowed for such year. The application of this subdivision (i) may be illustrated by the following example:

Example. The Y Bank, a calendar year taxpayer, uses the reserve method of accounting for bad debts. On December 31, 1969, Y determines the balance of its reserve for bad debts to be $70,000 under the percentage method. On the same date Y's 5-year moving average is $52,000. Y incurs net bad debt losses (bad debt losses less recoveries of bad debts) of $3,000 for each of the years 1970, 1971, and 1972, which it charges to its reserve for bad debts. Y's 6-year moving averages computed under section 585(b)(3)(A) at the close of 1970, 1971, and 1972 are $50,000, $49,000, and $51,000, respectively. Y's preference items are computed as follows based upon additional facts assumed:

	1970	1971	1972
1. Bad debt reserve—percentage method:			
(a) Balance beginning of year (closing balance prior year)	$70,000	$70,000	$66,000
(b) Net bad debts charged to reserve	3,000	3,000	3,000
(c) Subtotal	67,000	67,000	65,000
(d) Deduction allowed	3,000	1,000	4,000
(e) Balance end of year	70,000	68,000	69,000
2. Bad debt reserve—"actual experience":			
(a) Beginning balance (for 1970, 5-year moving average; for other years, closing balance prior year)	52,000	50,000	48,000
(b) Net bad debts charged to reserve	3,000	3,000	3,000
(c) Subtotal	49,000	47,000	45,000
(d) Maximum amount under section 585(b)(3)(A) (6-year moving average minus (c))	1,000	2,000	6,000
(e) Deduction allowed (line 1(d))	3,000	1,000	4,000
(f) Lower of (d) or (e)	1,000	1,000	4,000
(g) Closing balance (line (c) + (f))	50,000	48,000	49,000
3. Preference item under section 57(a)(7):			
(a) Deduction allowed	3,000	1,000	4,000
(b) Maximum amount under section 585(b)(3)(A)	1,000	2,000	6,000
(c) Preference item (excess of (a) over (b))	2,000	0	0

• • • • • •

(i) *Capital gains—(1) Taxpayers other than corporations.* • • • Furthermore, the net long-term capital gain of an estate or trust does not include capital gains described in section 642(c)(4). • • •

PAR. 13. Sections 1.57-2 and 1.57-3, as set forth in paragraph 6 of the appendix to the notice of proposed rulemaking of December 30, 1970, are deleted and the sections are reserved.

PAR. 14. Section 1.57-4, as set forth in the notice of proposed rulemaking of December 30, 1970, is amended as follows:

1. The heading is revised to read, "§ 1.57-4 Limitations on amounts treated as items of tax preference for taxable years beginning before January 1, 1976."

2. Paragraph (a) is revised by inserting "beginning before January 1, 1976" after "If in any taxable year".

PAR. 15. Section 1.58, as set forth in paragraph 6 of the appendix to the notice of proposed rulemaking of December 30, 1970, is deleted.

PAR. 16. Section 1.58-2, as set forth in paragraph 6 of the appendix to the notice of proposed rulemaking of December 30, 1970, is changed by deleting the last two sentences of paragraph (b)(1) and inserting the following in lieu thereof:

§ 1.58-2 General rules for conduit entities; partnerships and partners.

• • • • • •

(b) *Partnerships and partners.* (1) • • • Accordingly, each partner, in computing his items of tax preference, must take into account separately those items of income and deduction of the partnership which enter into the computation of the items of tax preference in accordance with subparagraph (2) of this paragraph.

• • • • • •

PAR. 17. Paragraph (b)(2) of § 1.58-2, as set forth in paragraph 6 of the appendix to the notice of proposed rulemaking of December 30, 1970, is amended as follows:

1. Subdivision (i) is revised by deleting "and § 1.57-2(b)(1)".

2. Subdivision (ii) is revised by deleting "and § 1.57-2(b)(4)".

3. Subdivision (iii) is revised by deleting "and § 1.57-2(b)(5)".

PAR. 18. Section 1.58-3, as set forth in paragraph 6 of the appendix to the notice of proposed rulemaking of December 30, 1970, is changed by revising paragraphs (a) (3) and (4) to read as follows:

§ 1.58-3 Estates and trusts.

• • • • • •

(a) *In general.* • • •

(3) In the case of a charitable remainder annuity trust (as defined in section 664(d)(1) and § 1.664-2) or a charitable remainder unitrust (as defined in section 664(d)(2) and § 1.664-3), the determination of the income not subject to current taxation by reason of an item of tax preference is to be made as if such trust were generally subject to taxation. Where income of such a trust is not subject to current taxation in accordance with this section and is distributed to a beneficiary in a taxable year subsequent to the taxable year is which the trust received or accrued such income, the items of tax preference relating to such income are apportioned to the beneficiary in such subsequent year (without credit for minimum tax paid by the trust with respect to items of tax preference which are subject to the minimum tax by reason of section 664(c)).

(4) Items of tax preference apportioned to a beneficiary pursuant to this section are to be taken into account by the beneficiary in his taxable year within or with which ends the taxable year of the estate or trust during which it has such items of tax preference.

• • • • • •

PAR. 19. Section 1.58-3, as set forth in paragraph 6 of the appendix to the notice of proposed rulemaking of December 30, 1970, is amended as follows:

1. Paragraph (a)(5) is revised by deleting "(as described in § 1.57-2)".

2. Example (1) of paragraph (b) is revised by deleting "(see § 1.57-2)".

3. The fourth sentence of Example (3) in paragraph (b) is revised by deleting "(and § 1.57(b))".

PAR. 20. Paragraph (c) of § 1.58-4, as set forth in paragraph 6 of the appendix to the notice of proposed rulemaking of December 30, 1970, is changed by revising subparagraph (2)(i) and by revising the last sentence of the example set forth in subparagraph (3):

§ 1.58-4 Electing small business corporations.

• • • • • •

(c) *Capital gains.* • • •

(2) • • •

(i) The amount of tax that would be computed under section 1378(b)(2) if the following amount were excluded:

(*a*) That portion of the net section 1201 gain of the corporation described in section 1378(b)(1), or

(*b*) If section 1378(c)(3) applies, that portion of the net section 1201 gain attributable to the property described in section 1378(c)(3), and

• • • • • •

(3) • • •

In addition, each shareholder of X will take into account his distributive share of the $650,000 of net section 1201 gain of X less the taxes paid by X under sections 56 and 1378 on the gain.

PAR. 21. Paragraph (a) of § 1.58-6, as set forth in paragraph 6 of the appendix to the notice of proposed rulemaking of December 30, 1970, is revised by adding the following new sentence at the end thereof:

§ 1.58-6 Regulated investment companies; real estate investment trusts.

(a) *In general.* • • • The minimum tax exemption of the trust or company shall not be reduced because a portion of the trust's or company's items of tax preference are allocated to the shareholders or holders of beneficial interests.

• • • • • •

PAR. 22. Paragraph (a) of § 1.58-7, as set forth in paragraph 6 of the appendix to the notice of proposed rulemaking of December 30, 1970, is revised by adding the following new sentence at the end thereof:

§ 1.58-7 Tax preferences attributable to foreign sources; preferences other than capital gains and stock options.

(a) *In general.* • • • In the case of a taxpayer who deducted foreign taxes under section 164 for a taxable year, the provisions of this section shall be applied (without regard to section 275(a)(4)) as if he had elected the overall foreign tax credit limitation under section 904(a)(2) for such year.

• • • • • •

PAR. 23. Paragraphs (b)(2)(i)(*a*) and (b)(2)(ii) of § 1.58-7, as set forth in paragraph 6 of the appendix to the notice of proposed rulemaking of December 30, 1970, are revised by deleting the following: "and § 1.57-2(a)", "and § 1.57-2(b)(4)", "and § 1.57-2(b)(2)", and "and § 1.57-2(b)(3)".

PAR. 24. Paragraph 9 of the appendix to the notice of proposed rulemaking of December 30, 1970, is revised to read as follows:

Section 1.443 is deleted.

PAR. 25. Paragraph 11 of the appendix to the notice of proposed rulemaking of December 30, 1970, is revised to read as follows:

Section 1.453 is deleted.

PAR. 26. Paragraph 13 of the appendix to the notice of proposed rulemaking of December 30, 1970, is revised to read as follows:

Section 1.511 is deleted.

PAR. 27. Paragraph 20 of the appendix to the notice of proposed rulemaking of December 30, 1970, is revised to read as follows:

Section 1.901 is deleted.

PAR. 28. Paragraph (f) of § 1.901-1, as set forth in paragraph 21 of the appendix to the notice of proposed rulemaking of December 30, 1970, is revised to read as follows:

§ 1.901-1 Allowance of credit for taxes.

• • • • • •

(f) *Taxes against which credit not allowed.* The credit for taxes shall be allowed only against the tax imposed by chapter 1 of the code, but it shall not be allowed against the taxes imposed for the taxable year under the sections listed in section 901(a).

• • • • • •

PAR. 29. Paragraph 22 of the notice of proposed rulemaking of December 30, 1970, is revised to read as follows:

Section 1.1245-2 is amended by inserting after the third sentence of paragraph (a)(7) the following new sentence:

§ 1.1245-2 Definition of recomputed basis.

(a) *General rule.* • • •

(7) *Depreciation or amortization allowed or allowable.* • • • No adjustment is to be made on account of the tax imposed by section 56 (relating to the minimum tax for tax preferences). • • •

• • • • • •

V 43 / 177 SE 12 78

PAR. 30. Paragraph 25 of the appendix to the notice of proposed rulemaking of December 30, 1970, is revised to read as follows:

Section 1.1373 is deleted.

PAR. 31. Paragraph 27 of the appendix to the notice of proposed rulemaking of December 30, 1970, is revised to read as follows:

Section 1.1375 is deleted.

PAR. 32. Paragraph 28 of the appendix to the notice of proposed rulemaking of December 30, 1970, is changed by revising the first sentence to read as follows:

Section 1.1375-1 is amended by revising paragraph (a) and subparagraph (1) of paragraph (b).

PAR. 33. Paragraph (a)(9) of § 1.6012-1, as set forth in paragraph 29 of the appendix to the notice of proposed rulemaking of December 30, 1970, is revised to read as follows:

§ 1.6012-1 Individuals required to make returns of income.

(a) *Individual citizen or resident.* * * *

(9) *Items of tax preference.* For a taxable year ending after December 31, 1969, an individual shall attach form 4625 to the return required by this paragraph if during the year the individual—

(i) Has items of tax preference (described in section 57) in excess of its minimum tax exemption (determined under § 1.58-1) or

(ii) Uses a net operating loss carryover from a prior taxable year in which it deferred minimum tax under section 56(b).

* * * * *

PAR. 34. So much of paragraph (a)(1) of § 1.6012-3 as was set forth in paragraph 31 of the appendix of the notice of proposed rulemaking of December 30, 1970, is revised to read as follows:

§ 1.6012-3 Returns of fiduciaries.

(a) *For estates and trusts.*—(1) *In general.* Every fiduciary, or at least one of the joint fiduciaries, must make a return of income on Form 1041 (or by use of a composite return pursuant to § 1.6012-5) and attach the required form if the estate or trust has items of tax preference (as defined in section 57 and the regulations thereunder) in any amount—

* * * * *

PAR. 35. Paragraph 32 of the appendix to the notice of proposed rulemaking of December 30, 1970, is revised to read as follows:

Section 1.6015(c) is deleted.

PAR. 36. Paragraph 33 of the appendix to the notice of proposed rulemaking of December 30, 1970, is deleted.

PAR. 37. Paragraph (a) of § 1.6031-1, as set forth in paragraph 34 of the appendix to the notice of proposed rulemaking of December 30, 1970, is changed by adding a subparagraph heading to read as follows:

§ 1.6031-1 Return of partnership income.

(a) *In general.*—(1) *General rule.* * * *

PAR. 38. Paragraph 36 of the appendix to the notice of proposed rulemaking of December 30, 1970, is revised to read as follows:

Section 1.6411-1 is amended by adding at the end of paragraph (a) the following new sentence:

§ 1.6411-1 Tentative carryback adjustments.

(a) *In general.* * * * In determining any decrease in tax under §§ 1.6411-1 through 1.6411-4, the decrease in tax is determined net of any increase in the tax imposed by section 56 (relating to the minimum tax for tax preferences).

PAR. 39. Paragraph 37 of the appendix to the notice of proposed rulemaking of December 30, 1970, is revised to read as follows:

Section 1.6654 is deleted.

PAR. 40. Paragraph 38 of the appendix to the notice of proposed rulemaking of December 30, 1970, is deleted.

PAR. 41. Paragraph 39 of the appendix to the notice of proposed rulemaking of December 30, 1970, is deleted.

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

PART 301—PROCEDURE AND ADMINISTRATION

PAR. 42. Paragraph 40 of the appendix to the notice of proposed rulemaking of December 30, 1970, is revised to read as follows:

Section 301.6015 is deleted.

PAR. 43. Paragraph 41 of the appendix to the notice of proposed rulemaking of December 30, 1970, is revised to read as follows:

Section 301.6654 is deleted.

* * * * *

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: August 22, 1978.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

PARAGRAPH 1. Section 1.5 is deleted.

PAR. 2. Section 1.12 is deleted.

PAR. 3. Section 1.46 is deleted.

PAR. 4. Section 1.46-1 is amended by revising paragraph (c) to read as follows:

§ 1.46-1 Determination of amount.

* * * * *

(c) *Liability for tax.* For the purpose of computing the limitation based on the amount of tax, section 46(a) defines the liability for tax as the income tax imposed for the taxable year by chapter 1, reduced by the sum of certain credits listed in section 46(a). In addition, an increase in tax resulting from the application of section 47 (relating to certain dispositions, etc., of section 38 property) shall not be treated as tax imposed by chapter 1 for purposes of computing the liability for tax. See section 47(c).

PAR. 5. Section 1.51 is deleted.

§ 1.56-1 Imposition of tax.

(a) *In general.* Section 56(a) imposes an income tax on the items of tax preference (as defined in § 1.57-1) of all persons other than persons specifically exempt from the taxes imposed by chapter 1. The items of tax preference represent income of a person which either is not subject to current taxation by reason of temporary exclusion (such as stock options) or by reason of an acceleration of deductions (such as accelerated depreciation) or is sheltered from full taxation by reason of certain deductions (such as percentage depletion) or by reason of a special rate of tax (such as the rate of tax on corporate capital gains). The tax imposed by section 56 is in addition to the other taxes imposed by chapter 1.

(b) *Computation of tax.* The amount of such tax is 10 percent of the excess (referred to herein as "the minimum tax base") of—

(1) The sum of the taxpayer's items of tax preference for such year in excess of the taxpayer's minimum tax exemption (determined under § 1.58-1) for such year, over

(2) The sum of:

(i) The taxes imposed for such year under chapter 1 other than the taxes imposed by section 56 (relating to minimum tax for tax preferences), by section 531 (relating to accumulated earnings tax), or by section 541 (relating to personal holding company tax), reduced by the sum of the credits allowable under—

(*a*) Section 33 (relating to taxes of foreign countries and possessions of the United States),

(*b*) Section 37 (relating to retirement income),

(c) Section 38 (relating to investment credit),

(*d*) Section 40 (relating to expenses of work incentive programs), and

(*e*) Section 41 (relating to contributions to candidates for public office, and

(ii) The tax carryovers to such taxable year (as described in § 1.58-5).

(c) *Special rule.* For purposes of paragraph (b) of this section where for any taxable year in which a tax is imposed under section 667 (relating to treatment of amounts deemed distributed by a trust in preceding years), that portion of the section 667 tax representing an increase in an earlier year's chapter 1 taxes (as recomputed), which taxes are allowed as a reduction in any such earlier year's minimum tax base, is not allowable as a reduction in the minimum tax base for the current taxable year. The remaining portion of the section 667 tax, representing the taxes imposed by section 56, section 531, and section 541, is not allowable as a reduction in the minimum tax base for any taxable year. Similarly, taxes imposed under section 614(c)(4) (relating to increase in tax with respect to aggregation of certain mineral interests) or under section 1351(d) (relating to recoveries of foreign expropriation losses) for any taxable year are not allowed as a reduction in the minimum tax base for such taxable year to the extent they represent chapter 1 taxes which are allowed as a reduction in a minimum tax base for an earlier taxable year for purposes of the computations under section 614(c)(4) or section 1351(d) or to the extent they represent an increase in the tax imposed by section 56, section 531, or section 541 in an earlier taxable year.

§ 1.56-2 Deferral of tax liability in case of certain net operating losses.

(a) *In general.* Section 56(b) provides for the deferral of liability for the minimum tax where, for the taxable year, the taxpayer has—

(1) A net operating loss for such taxable year any portion of which (under sec. 172) remains as a net operating loss carryover to a succeeding taxable year, and

(2) Items of tax preference in excess of the minimum tax exemptions (hereinafter referred to as "excess tax preferences").

In such a case, an amount of tax equal to the lesser of the tax imposed under section 56(a) (after allowance of the retirement income credit to the extent that such credit cannot be used against the other taxes imposed by chapter 1) or 10 percent of the amount of the net operating loss carryover described in subparagraph (1) of this paragraph is deferred. Such amount is not treated as tax imposed in such taxable year, but is treated as tax imposed in the succeeding taxable year or years in which the net operating loss is used as provided in paragraphs (b) and (c) of this section. Deferral will result in the above case regardless of the character of the tax preference items. Thus, for example, if the taxpayer has $1,030,000 of items of tax preference, including the stock option item of tax preference, and a $750,000 net operating loss available for carryover to subsequent taxable years, the amount of tax imposed for the taxable year under section 56(a) is $100,000 and $75,000 is deferred by application of section 56(b). Therefore, only $25,000 is treated as tax imposed for the taxable year. The provisions of this section are applicable in the case of a net operating loss or comparable item such as an operations loss under section 812 and an unused loss as defined in section 825(b).

(b) *Year of liability.* In any taxable year in which any portion of a net operating loss carryover attributable to the amount of excess tax preferences reduces taxable imcome (in the form of a net operating loss deduction), section 56(b)(2) treats as tax liability imposed in such taxable year an amount equal to 10 percent of such reduction. For this purpose, the portion of such net operating loss which is considered attributable to the amount of excess tax preferences is an amount equal to the lesser of such excess or the amount of the net operating loss carryover described in paragraph (a)(1) of this section. In no case, however, shall the total amount of tax imposed by reason of section 56(b) in subsequent years exceed the amount of the tax that was deferred in the loss year.

(c) *Priority of reduction.* (1) If a portion of a net operating loss is attributable to an amount of excess tax preferences, such portion is considered to reduce taxable income in succeeding taxable years only after the other portion (if any) of such net operating loss is used to reduce taxable income. Accordingly, if the amount of a net operating loss which may be carried to succeeding taxable years is reduced because of a modification required to be made pursuant to section 172(b)(2), such reduction is to be considered to be first from that portion of the net operating loss that is attributable to excess tax preferences. If a portion of a net operating loss carryover which is attributable to an amount of excess tax preferences is not used to reduce taxable income in any succeeding taxable year, no minimum tax will be imposed with respect to such portion.

(2) In the case of taxpayers with deductions attributable to foreign sources which are suspense preferences (as defined in paragraphs (c)(1)(ii) and (2)(ii) of sec. 1.58-7), the amount of such deductions is not included in the portion of the net operating loss not attributable to excess tax preferences. The portion of the net operating loss attributable to excess tax preferences is increased by the amount of suspense preferences which are, in accordance with the provisions of section 1.58-7(c), converted to actual items of tax preference (and not used against the minimum tax exemption of the loss year) in subsequent taxable years. The other portion of the net operating loss is increased by the amount of suspense preferences which reduce taxable income in subsequent taxable years but are not converted to actual items of tax preference (or are so converted but used against the minimum tax exemption of the loss year). See section 1.58-7(c)(1)(iii) example (4).

(d) *Multiple net operating loss carryovers.* In determining whether a net operating loss is used to reduce taxable income in a taxable year to which two or more net operating losses are carried, the ordering rules of section 172(b) and the regulations thereunder are to be applied. Thus, for example, the portion of a net operating loss carried over from an earlier taxable year which is attributable to an amount of excess tax preference is used to reduce taxable income in the carryover year before any portion of any other net operating loss carried over or back from a taxable year subsequent to the earlier taxable year.

(e) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). In 1970, A, a calendar year taxpayer, who is a single individual, has $180,000 of items of tax preference, a $150,000 net operating loss of which $100,000 may be carried forward, and no tax liability under chapter 1 without regard to the minimum tax. His minimum tax computed under section 56(a) is $15,000 (10 percent times ($180,000 minus $30,000)). Under section 56(b)(1) an amount equal to the lesser of the amount determined under section 56(a) ($15,000) or 10 percent of the net operating loss which may be carried forward ($10,000) is treated as a deferred liability. Thus, his minimum tax liability for 1970 is $5,000 ($15,000 minimum tax under section 56(a) minus $10,000 deferred tax liability under section 56(b)). If, in 1971, he has $80,000 of taxable income before the deduction for the 1970 net operating loss, his minimum tax liability is $8,000 (10 percent of the amount by which the net operating loss carryforward from 1970 reduces taxable income) plus any minimum tax liability resulting from items of tax preference arising in 1971. If, by reason of the modifications provided by section 172(b)(2), no portion of the 1970 net operating loss remains as a carryover from 1971, no further minimum tax liability will result from the items of tax preference arising in 1970.

Example (2). In 1970, A, a calendar year taxpayer who is a single individual, has $90,000 of items of tax preference, a $100,000 net operating loss available for car-

ryover to future taxable years, no net operating loss carryovers from prior taxable years, and no tax liability under chapter 1 without regard to the minimum tax. His minimum tax computed under section 56(a) is $6,000 (10 percent times ($90,000 minus $30,000)). Under section 56(b)(1) an amount equal to the lesser of the amount determined under section 56(a) ($6,000) or 10 percent of the net operating loss subject to carryforward ($10,000) is treated as a deferred liability. Thus, A owes no minimum tax in 1970 and the entire $6,000 of minimum tax liability is deferred. Under section 56(b)(2), the portion of the net operating loss attributable to the excess tax preferences described in section 56(b)(1)(B) is $60,000.

(a) In 1971, A has $25,000 of taxable income before the deduction for the 1970 net operating loss. Thus, in 1971, A has no minimum tax liability attributable to the items of tax preference arising in 1970 since, by application of section 56(b)(3), the portion of the 1970 net operating loss carryforward not attributable to the excess described in section 56(b)(1)(B), or $40,000, is considered applied against taxable income before the remaining portion.

(b) In 1972, A has $50,000 of taxable income before the deduction for the remaining 1970 net operating loss. Thus, the first $15,000 of reduction in taxable income is considered as from the portion of the 1970 net operating loss carryforward not attributable to the excess tax preferences described in section 56(b)(1)(B) and the remaining $35,000 of reduction in taxable income is considered attributable to such excess. A's 1972 minimum tax attributable to items of tax preference arising in 1970 is, therefore, $3,500 (10 percent times $35,000).

(c) In 1973, A has $80,000 of taxable income before the deduction for the 1970 net operating loss. The remaining $25,000 of the 1970 net operating loss carryforward is used to reduce taxable income in 1973. Thus, A's 1973 minimum tax liability attributable to items of tax preference arising in 1970 is $2,500 (10 percent times $25,000).

Example (3). In 1971, M Corporation, a Western Hemisphere trade corporation (as defined in sec. 921), reporting on a calendar year basis has $20,000 of taxable income after all deductions including the Western Hemisphere trade deduction allowable under section 922 in the amount of $30,000. In 1970, M Corporation had a net operating loss of $100,000 all of which was available for carryover to 1971 and $60,000 of which was attributable to excess tax preferences. In computing the amount of the 1970 net operating loss carried over to 1972 pursuant to section 172(b), the 1971 Western Hemisphere trade corporation deduction is not taken into account. Thus, M Corporation's recomputed income under section 172(b) is $50,000 ($20,000 taxable income plus $30,000 Western Hemisphere trade corporation deduction). Pursuant to paragraph (c)(1) of this section, $20,000 of the $40,000 portion of the 1970 net operating loss not attributable to excess tax preferences is considered to reduce taxable income in 1971 and $30,000 of the $60,000 portion of the 1970 net operating loss attributable to excess tax preferences is considered reduced pursuant to section 172(b)(2). Thus, M Corporation has no 1971 minimum tax attributable to items of tax preference arising in 1970. Of the $50,000 remaining of the 1970 net operating loss, $30,000 is attributable to excess tax preference.

Example (4). In 1972, A, a calendar year taxpayer who is a single individual, has $25,000 of taxable income resulting from $50,000 of net long-term capital gains. In 1971, A had a net operating loss of $100,000 all of which is available to carryover to 1972 and $60,000 of which is attributable to excess tax preferences. By application of section 172(b) only $50,000 of the 1971 net operating loss is carried over to 1973. Pursuant to paragraph (c) of this section, $25,000 of the $40,000 portion of the 1971 net operating loss not attributable to excess tax preferences is considered to reduce taxable income in 1972. Of the $50,000 remaining of the 1971 net operating loss, $15,000 is not attributable to excess tax preferences and $35,000 is attributable to excess tax preferences. Thus, the $25,000 section 1202 deduction, in effect, reduces the portion of the 1971 net operating loss attributable to excess tax preferences. Because a net operating loss carryover is reduced to the extent of any section 1202 deduction, section 1202 deductions do not normally produce a tax benefit in such circumstances and, pursuant to § 1.57-4, would not be treated as items of tax preference. However, in this case, to the extent the portion of the 1971 net operating loss carryover attributable to excess tax preferences is reduced by reason of the section 1202 deduction, such deduction does result in a tax benefit to the taxpayer and is, therefore, treated as an item of tax preference in 1971. See § 1.57-4(b)(2).

§ 1.56-3 Effective date.

(a) *In general.* The minimum tax is effective for taxable years ending after December 31, 1969.

(b) *Taxable year beginning in 1969 and ending in 1970.* In the case of a taxable year beginning in 1969 and ending in 1970, the amount of the minimum tax shall be an amount equal to the amount determined under section 56 multiplied by the following fraction:

Number of days in the taxable year ending after December 31, 1969 ÷ Number of days in the entire taxable year.

Where, by reason of section 56(b) and § 1.56-2, tax initially imposed in a 1969-70 fiscal year is deferred until a subsequent taxable year or years, the amount of such tax liability in any subsequent taxable year is determined by application of the above fraction. Section 21, relating to computation of tax in years where there is a change in rates, is not applicable to the initial imposition of the minimum tax for tax preferences. The applications of this paragraph may be illustrated by the following example:

Example. The taxpayer uses a June 30 fiscal year. For fiscal 1969-70 the taxpayer has $180,000 of items of tax preference and a $50,000 net operating loss. In fiscal year 1970-71, the taxpayer uses the full net operating loss carryover from 1969-70 to reduce his taxable income by $50,000. Thus, without regard to the proration rules applicable under this section, the taxpayer's minimum tax liability for items of tax preference arising in 1969-70 is $15,000, i.e., 10 percent×($180,000−$30,000), of which $5,000, i.e., 10 percent×$50,000, is deferred until 1970-71 under the principles of section 56(b) and section 1.56-2. By application of the above formula the taxpayer's actual minimum tax liability is $4,958.90 in 1969-70 and $2,479.45 in 1970-71 determined as follows:

1969-70: 181/365×$10,000
1970-71: 181/365×$5,000

§ 1.56-4 Certain taxpayers.

For application of the minimum tax in the case of estates and trusts, electing small business corporations, common trust funds, regulated investment companies, real estate investment trusts, and partnerships, see §§ 1.58-2 through 1.58-6.

§ 1.56-5 Tax carryovers.

(a) *In general.* Section 56(c) provides a 7-year carryover of the excess of the taxes described in paragraph (1) of such section imposed during the taxable year over the items of tax preference described in paragraph (2) of such section for such taxable year for the purpose of reducing the amount subject to tax under section 56(a) in subsequent taxable years.

(b) *Computation of amount of carryover.* The amount of tax carryover described in section 50(c) is the excess (if any) of—

(1) The taxes imposed for the taxable year under chapter 1 other than taxes imposed by section 56 (relating to minimum tax for tax preferences), by section 531 (relating to accumulated earnings tax), or by section 541 (relating to personal holding company tax), reduced by the sum of the credits allowable under—

(i) Section 33 (relating to taxes of foreign countries and possessions of the United States),

(ii) Section 37 (relating to retirement income,

(iii) Section 38 (relating to investment credit),

(iv) Section 40 (relating to expenses of work incentive programs), and

(v) Section 41 (relating to contributions to candidates for public office), over

(2) The sum of the taxpayer's items of tax preference for such year in excess of the taxpayer's minimum tax exemption (determined under § 1.58-1) for such year.

For purposes of section 56(c) and this section, taxes imposed in a taxable year ending on or before December 31, 1969, are not included in the taxes described in subparagraph (1) of this paragraph. In addition, the rules of paragraph (c) of § 1.56-1 are applicable in determining the taxable year for which taxes are imposed under chapter 1 for purposes of paragraph (a)(1) of this section.

(c) *Operation of carryover.* Tax carryovers attributable to the taxable year shall be carried over to each of the 7 succeeding taxable years as follows:

(1) To the first such succeeding taxable year to reduce in the manner described in paragraph (d) of this section the amount subject to tax under section 56(a) for such first succeeding taxable year and

(2) To the extent such amount is not used as a reduction in the amount subject to tax under section 56(a) for such taxable year, such amount (if any) is carried over to each of the succeeding 6 taxable years but only to the extent such amount is not used to reduce the amount subject to tax under section 56(a) in taxable years intervening between the taxable year to which such amount is attributable and the taxable year to which such amount may otherwise be carried over.

(d) *Priority of reduction.* Where tax carryovers attributable to two or more taxable years are carried over to a subsequent taxable year such amounts attributable to the earliest taxable year shall be used to reduce the amount subject to tax under section 56(a) for such subsequent taxable year before any such amounts attributable to a later taxable year.

(e) *Special rules*—(1) *Periods of less than 12 months.* A fractional part of a year which is a taxable year under section 441(b) or 7701(a)(23) is a taxable year for purposes of section 56(c) and this section.

(2) *Electing small business corporations.* A taxable year for which a corporation is an electing small business corporation (as defined in section 1371(b)) shall be counted as a taxable year for purposes of determining the taxable years to which amounts which are available as a carryover under paragraph (a) of this section may be carried whether or not such carryovers arose in a year in which an election was in effect.

(3) *Husband and wife*—(i) *From joint to separate return.* If a joint return is filed by a husband and wife in a taxable year or years to which a tax carryover is attributable but separate returns are filed in any subsequent taxable year to which such carryover may be carried over to reduce the amount subject to tax under section 56(a), such carryover described in paragraph (b) of this section shall be allocated between husband and wife for purposes of reducing the amount subject to tax under section 56(a) for such subsequent taxable year in accordance with the principles of § 1.172-7(d).

(ii) *From separate to joint return.* If separate returns are filed by a husband and wife in a taxable year or years in which a tax carryover is attributable but a joint return is filed in any subsequent taxable year to which such carryover may be carried over to reduce the amount subject to tax under section 56(a), such carryover shall be aggregated for purposes of reducing the amount subject to tax under section 56(a), for such subsequent taxable year.

(4) *Estates and trusts.* In the case of the termination of an estate or trust, tax carryovers attributable to the estate or trust shall not be allowed to the beneficiaries succeeding to the property of the estate or trust.

(5) *Corporate acquisitions.* In the case of a transaction to which section 381(a) applies, the acquiring corporation shall succeed to and take into account, as of the close of the date transfer the tax carryovers attributable to the distributor or distribution or transferor corporation. The portion of such carryovers which may be taken into account under paragraph (b)(2)(ii) of § 1.56-1 for any taxable year shall not exceed the excess of (i) the sum of the items of tax preference for such year resulting from the continuation of the business in which the distributor or transferor corporation was engaged at the time of such transaction and the items of tax preference not related to the continuation of such business which are directly attributable to the assets acquired from the distributor or transferor corporation over (ii) an amount which bears the same ratio to the acquiring corporation's minimum tax exemption for such year as the items of tax preference described in subdivision (i) of this subparagraph bears to all of the acquiring corporation's items of tax preference for such year. This item shall be taken into account by the acquiring corporation subject to the rules in section 381(b) and the regulations thereunder.

(f) *Suspense preferences.* Where an item of tax preference which is a suspense preference (as defined in § 1.58-7) arises in a taxable year in which tax carryovers may be used to reduce the minimum tax base (or in which such carryovers arise the minimum tax liability for that year and the tax carryovers to subsequent taxable years shall be recomputed upon the conversion of the suspense preference in a subsequent year. In lieu of the above, in all cases, since there is no difference in tax consequence, the recomputation may be accomplished by recomputing the minimum tax liability of the taxable year in which the suspense preference arose without reduction of the minimum tax base for the tax carryovers which have been used as a reduction in the minimum tax base in intervening taxable years. If such method is used, the minimum tax liability of the intervening year is not recomputed and any tax carryovers carried from the taxable year in which the suspense preference arose which remain as a carryover in the year of conversion are reduced, in the priority provided in paragraph (d) of this section, to the extent used to reduce an increase in the minimum tax base for the earlier year resulting from the conversion of the suspense preference.

(g) *Taxes imposed in a taxable year beginning in 1969 and ending in 1970.* In the case of a taxable year beginning in 1969 and ending in 1970 the amount of the carryover determined under paragraph (b) of this section is reduced to an amount equal to the amount of such carryover (without regard to this paragraph) multiplied by the following fraction:

Number of days in taxable year ending after December 31, 1969 ÷ Number of days in the entire taxable year.

(h) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). A is a single individual who uses a June 30 fiscal year. For fiscal 1968-1969, A had income tax liability under chapter 1 in the amount of $100,000. For fiscal 1969-1970, A had items of tax preference in the amount of $212,500 and income tax liability under chapter 1 (other than taxes imposed under sections 56, 531, and 541) of $365,000.

(a) The chapter 1 tax attributable to fiscal 1968-1969 is not available as a carryover under section 56(c) to reduce the amount subject to tax under section 56(a) since this tax arose in a taxable year ending on or before December 31, 1969.

(b) A portion of the excess of chapter 1 tax over the amount subject to tax under section 56(a) attributable to fiscal year 1969-1970 is available as a carryover as provided in section 56(c) to reduce the amount subject to tax under section 56(a). The amount of this carryover is $91,000 computed as follows:

1. Carryover under paragraph (b) of this section:

Chapter 1 taxes	$365,000
Items of tax preference in excess of exemption	182,500
Total	182,500

2. Reduction pursuant to paragraph (g) of this section:

182/365×$182,500=$91,000

Example (2). A is a calendar year taxpayer who is a single individual. In 1972, A had chapter 1 income tax liability (other than taxes imposed under sections 56, 531, and 541) of $200,000 and $50,000 of items of tax preference. In 1973, A had chapter 1 income tax liability (other than taxes imposed under sections 56, 531, and 541) of $120,000 and $40,000 of items of tax preference. In 1974, A had $400,000 of items of tax preference and no liability for tax under chapter 1 other than under section 56(a). Under section 56(c), the excess of the taxes described in paragraph (1) of that section arising in an earlier taxable year not used to reduce the amount subject to tax under section 56(a) for such taxable year can be carried over as provided in section 56(c) to reduce the amount subject to tax under section 56(a).

(a) The amount of the carryover from 1972 is $180,000 computed as follows:

Carryover under paragraph (b) of this section:	
Chapter 1 taxes	$200,000
Items of tax preference in excess of exemption	20,000
Total	180,000

(b) The amount of the carryover from 1973 is $110,000 computed as follows:

Carryover under paragraph (b) of this section:	
Chapter 1 taxes	$120,000
Items of tax preference in excess of exemption	10,000
Total	110,000

(c) For 1974, the excess of taxes in the preceding taxable years is used to reduce the amount subject to tax under section 56(a). The amount of carryover attributable to excess taxes arising in 1972 is used before such excess arising in 1973. The amount of tax under section 56(a) is $8,000 computed as follows:

1974 tax preferences	$400,000
Less exemption	30,000
	370,000
Less 1972 carryover	180,000
	190,000
Less 1973 carryover	110,000
1974 minimum tax base	80,000
1974 minimum tax ($80,000×10%)	8,000

Example (3). The facts are the same as in example (2) except that in 1974 A had $300,000 of items of tax preference. The amount of the carryover for taxable years after 1974 is computed as follows:

1974 tax preferences	$300,000
Less exemption	30,000
	270,000
Less 1972 carryover	180,000
	90,000
Less 1973 carryover	90,000
Minimum tax base	0
1973 carryover	110,000
Amount used in 1974	90,000
Amount available for taxable years after 1974	20,000

The $20,000 remaining of the 1973 carryover is available to reduce the amount subject to tax under section 56(a) in 1975 or other future taxable years as provided in section 56(c).

Example (4). M Corporation is a calendar year taxpayer. N Corporation uses a June 30 fiscal year. For the fiscal year 1970–1971, N Corporation had excess chapter 1 tax liability as described in paragraph (a) of this section in the amount of $75,000. On January 1, 1972, M Corporation acquired N Corporation in a reorganization described in section 368(a)(1)(A). N Corporation does not use any of such excess chapter 1 tax liability to reduce the amount subject to tax under section 56(a) for the short taxable year beginning on July 1, 1971, and ending on December 31, 1971. Thus, the excess chapter 1 tax liability is available to M Corporation as a carryover under paragraph (a) of this section to reduce the amount subject to tax for the next 6 succeeding taxable years beginning with taxable year 1972 as provided in this section. In applying the carryover to 1972 and succeeding taxable years, the carryover of N Corporation subject to the limitation of § 1.56-5(e)(4) is combined with any carryovers originating with M Corporation in 1970.

§ 1.57-0 Scope.

For purposes of the minimum tax for tax preferences (subtitle A, ch. I, pt. VI), the items of tax preference are:

(a) Excess investment interest,

(b) The excess of accelerated depreciation on section 1250 property over straight line depreciation,

(c) The excess of accelerated depreciation on section 1245 property subject to a net lease over straight line depreciation,

(d) The excess of the amortization deduction for certified pollution control facilities over the depreciation otherwise allowable,

(e) The excess of the amortization deduction for railroad rolling stock over the depreciation otherwise allowable,

(f) The excess of the fair market value of a share of stock received pursuant to a qualified or restricted stock option over the exercise price,

(g) The excess of the addition to the reserve for losses on bad debts of financial institutions over the amount which have been allowable based on actual experience,

(h) The excess of the percentage depletion deduction over the adjusted basis of the property, and

(i) The capital gains deduction allowable under section 1202 or an equivalent amount in the case of corporations.

Accelerated depreciation on section 1245 property subject to a net lease and excess investment interest are not items of tax preference in the case of a corporation, other than a personal holding company (as defined in section 542) and an electing small business corporation (as defined in section 1371(b)). In addition, excess investment interest is an item of tax preference only for taxable years beginning before January 1, 1972. Rules for the determination of the items of tax preference are contained in §§ 1.57-1 through 1.57-5. Generally, in the case of a nonresident alien or foreign corporation, the application of §§ 1.57-1 through 1.57-5 will be limited to cases in which the taxpayer has income effectively connected with the conduct of a trade or business within the United States. Special rules for the treatment of items of tax preference in the case of certain entities and the treatment of items of tax preference relating to income from sources outside the United States are provided in section 58 and in §§ 1.58-1 through 1.58-8.

§ 1.57-1 Items of tax preference defined.

(a) [Reserved.]

(b) *Accelerated depreciation on section 1250 property—(1) In general.* Section 57(a)(2) provides that, with respect to each item of section 1250 property (as defined in section 1250(c)), there is to be included as an item of tax preference the amount by which the deduction allowable for the taxable year for depreciation or amortization exceeds the deduction which would have been allowable for the taxable year if the taxpayer had depreciated the property under the straight line method for each year of its useful life for which the taxpayer has held the property. The determination of the excess under section 57(a)(2) is made with respect to each separate item of section 1250 property. Accordingly, where the amount of depreciation which would have been allowable with respect to one item of section 1250 property if the taxpayer had originally used the straight line method exceeds the allowable depreciation or amortization with respect to such property, such excess may not be used to reduce the amount of the item of tax preference resulting from another item of section 1250 property.

(2) *Separate items of section 1250 property.* The determination of what constitutes a separate item of section 1250 property is to be made on the facts and circumstances of each individual case. In general, each building (or component thereof, if the taxpayer uses the component method of computing depreciation) is a separate item of section 1250 property. However, for purposes of this section, assets placed in a group, classified, or composite account are to be treated as a single item by a taxpayer, provided that such account contains only property placed in service during a single taxable year. In addition, two or more items may be treated as one item of section 1250 property for purposes of this paragraph where, with respect to each such item: (i) The period for which depreciation is taken begins on the same date, (ii) the same estimated useful life has continually been used for purposes of taking depreciation or amortization, and (iii) the same method (and rate) of depreciation or amortization has continually been used. For example, assume a taxpayer constructed a 40-unit rental townhouse development and began taking declining balance depreciation on all 40 units as of January 1, 1970, at a uniform rate and has consistently taken depreciation on all 40 units on this same basis. Although each townhouse is a separate item of section 1250 property, all 40 townhouses may be treated as one item of section 1250 property for purposes of the minimum tax since the conditions of subdivisions (i), (ii), and (iii) of this subparagraph are met. This would be true even if the 40 townhouses comprised two 20-unit developments located apart from each other. However, if the taxpayer constructed an additional development or new section on the existing development for which he began taking depreciation on July 1, 1970, at a uniform rate for all the additional units, the additional units and the original units may not be treated as one item of section 1250 property since the condition of subdivision (i) of this subparagraph is not met. Where a portion of an item of section 1250 property has been depreciated or amortized under a method (or rate) which is different from the method (or rate) under which the other portion or portions of such item have been depreciated or amortized, such portion is considered a separate item of section 1250 property for purposes of this paragraph.

(3) *Allowable depreciation or amortization.* The phrase "deduction allowable for the taxable year for exhaustion, wear and tear, obsolescence, or amortization" and references in this paragraph to "allowable depreciation or amortization" include deductions allowable for the taxable year under sections 162, 167, 212, or 611 for the depreciation or amortization of section 1250 property. Such phrase does not include depreciation allowable in the year in which the section 1250 property is disposed of. For the determination of "allowable depreciation or amortization" for taxable years in which the taxpayer has taken no deduction, see § 1.1016-3(a)(2).

(4) *Straight line depreciation.* (i) For purposes of computing the depreciation which would have been allowable for the taxable year if the taxpayer had depreciated the property under the straight line method for each taxable year of its useful life, the taxpayer must use the same useful life and salvage value as was used for the first taxable year in which the taxpayer depreciated or amortized the property (subject to redeterminations made pursuant to § 1.167(a)-1 (b) and (c)). If, however, for any taxable year, no useful life was used under the method of depreciation or amortization used or an artificial period was used, such as, for example, by application of section 167(k), or salvage value was not taken into account in determining the annual allowances, such as, for example, under the declining balance method, then, for purposes of computing the depreciation which would have been allowable under the straight line method for the taxable year—

(*a*) There is to be used the useful life and salvage value which would have been proper if depreciation had actually been determined under the straight line method (without reference to an artificial life) throughout the period the property was held, and

(*b*) Such useful life and such salvage value is to be determined by taking into account for each taxable year the same facts and circumstances as would have been taken into account if the taxpayer had used such method throughout the period the property was held.

If an election under § 1.167(a)-11(f), § 1.167(a)-12(e), or § 1.167(a)-12(f) is applicable to the property, the salvage value of the property shall be determined in accordance with such election, and the asset depreciation period (or asset guideline period) applicable to the property pursuant to such election shall be considered to be the useful life of the property for the purposes of this section.

(ii) Where the taxpayer acquires property in a transaction to which section 381(a) applies or from another member of an affiliated group during a consolidated return year and an "accelerated" method of depreciation as described in section 167(b) (2), (3), or (4) or section 167(j)(1) (B) or (C) is permitted (see § 1.381(c)(6)-1 and § 1.1502-12(g)), the depreciation which would have been allowable under the straight line method is determined as if the property had been depreciated under the straight line method since depreciation was first taken on the property by the transferor of such property. In such cases, references in this paragraph to the period for which the property is held or useful life of the property are treated as including the period beginning with the commencement of the original use of the property.

(iii) For purposes of section 57(a)(2), the straight line method includes the method of depreciation described in § 1.167(b)-1 or any other method which provides for a uniform proration of the cost or other basis (less salvage value) of the property over the estimated useful life of the property to the taxpayer (in terms of years, hours of use, or other similar time units) or estimated number of units to be produced over the life of the property to the taxpayer. If a method other than the method described in § 1.167(b)-1 is used, the estimated useful life or estimated units of production shall be determined in a manner consistent with subdivision (i) of this subparagraph.

(iv) In the case of property constructed by or improvements made by a lessee, the useful life is to be determined in accordance with § 1.167(a)-4.

(5) *Application for partial period.* If an item is section 1250 property for less than the entire taxable year, the allowable depreciation or amortization includes only the depreciation or amortization for that portion of the taxable year during which the item is section 1250 property and the amount of the depreciation which would have been allowable under the straight line method is determined only with regard to such portion of the taxable year.

(6) *No section 1250 and basis adjustment.* No adjustment is to be made as a result of the minimum tax either to the basis of section 1250 property or with respect to computations under section 1250.

(7) *Example.* The principles of this paragraph may be illustrated by the following example:

Example. The taxpayer's only item of section 1250 property is an office building with respect to which operations were commenced on January 1, 1971. The taxpayer depreciates the component parts of the building on the declining balance method. The useful life and costs of the component parts for depreciation purposes are as follows:

Asset	Useful life	Cost	Salvage value
Building shell	50	$100,000	$50,000
Partitions and walls	10	40,000	
Ceilings	10	20,000	
Electrical system	25	40,000	2,500
Heating and air-conditioning system	25	60,000	2,500

For purposes of computing the item of tax preference under this paragraph for the taxpayer, the partitions, walls, and ceilings may be grouped together and the electrical, heating, and air-conditioning systems may be grouped together since the period for which depreciation is taken began with respect to the assets within these two groups on the same date and the assets within each group have continually had the same useful life and have continually been depreciated under the same method (and rate).

(a) The taxpayer's 1971 item of tax preference under this paragraph would be determined as follows:

(1) Item of 1250 property	(2) Declining balance depreciation	(3) Straight line depreciation	(4) Excess of (2) over (3)
1. Shell	$12,000	$7,000	$5,000
2. Partitions, walls, ceilings	9,000	6,000	3,000
3. Electrical, heating and air-conditioning systems	6,000	3,800	2,200
1971 preference			10,200

(b) Assuming the above facts are the same for 1974, the taxpayer's 1974 item of tax preference under this paragraph would be determined as follows:

(1) Item of 1250 property	(2) Declining balance depreciation	(3) Straight line depreciation	(4) Excess of (2) over (3)
1. Shell	$10,952	$7,000	$3,952
2. Partitions, walls, ceilings	5,529	8,000	None
3. Electrical, heating and air-conditioning systems	4,983	3,800	1,183
1974 preference			5,135

(c) *Accelerated depreciation on section 1245 property subject to a net lease*—(1) *In general.* Section 57(a)(3) provides that, with respect to each item of section 1245 property (as defined in section 1245(a)(3)) which is the subject of a net lease for the taxable year, there is to be included as an item of tax preference the amount by which the deduction allowable for the taxable year for depreciation or amortization exceeds the deduction which would have been allowable for the taxable year if the taxpayer had depreciated the property under the straight line method for each year of its useful life for which the taxpayer has held the property. Except as provided in paragraph (b)(1)(ii) of this section, the determination of the excess under section 57(a)(3) is made with respect to each separate item of section 1245 property. Accordingly, where the amount of depreciation which would have been allowable with respect to one item of section 1245 property if the taxpayer had originally used the straight line method exceeds the allowable depreciation or amortization with respect to such property, such excess may not be used to reduce the amount of the item of tax preference resulting from another item of section 1245 property.

(2) *Separate items of property.* The determination of what constitutes a separate item of section 1245 property must be made on the facts and circumstances of each individual case. Such determination shall be made in a manner consistent with the principles expressed in paragraph (b)(2) of this section.

(3) *Allowable depreciation or amortization.* The phrase "deduction allowable for the taxable year for exhaustion, wear and tear, obsolescence, or amortization" and references in this paragraph to "allowable depreciation or amortization" include deductions allowable for the taxable year under sections 162, 167 (including depreciation allowable under section 167 by reason of section 179), 169, 184, 185, 212, or 611 for the depreciation or amortization of section 1245 property. Such phrase does not include depreciation allowable in the year in which the section 1245 property is disposed of. Amortization of certified pollution control facilities under section 169, and amortization of railroad rolling stock under section 184 are not to be treated as amortization for purposes of section 57(a)(3) to the extent such amounts are treated as an item of tax preference under section 57(a) (4) or (5) (see paragraphs (d) and (e) of this section). For the determination of "allowable depreciation or amortization" for taxable years in which the taxpayer has taken no deduction, see § 1.1016-3(a)(2).

(4) *Straight line method of depreciation.* The determination of the depreciation which would have been allowable under the straight line method shall be made in a manner consistent with paragraph (b)(4) of this section. Such amount shall include any amount allowable under section 167 by reason of section 179 (relating to additional first-year depreciation for small business).

(5) *Application for partial period.* If an item is section 1245 property for less than the entire taxable year or subject to a net lease for less than the entire taxable year the allowable depreciation or amortization includes only the depreciation or amortization for that portion of the taxable year during which the item was both section 1245 property and subject to a net lease and the amount of the depreciation which would have been allowable under the straight line method is to be determined only with regard to such portion of the taxable year.

(6) *Net lease.* Section 57(a)(3) applies only if the section 1245 property is the subject of a net lease for all or part of the taxable year. See § 1.57-3 for the determination of when an item is considered the subject of a net lease.

(7) *No section 1245 and basis adjustment.* No adjustment is to be made as a result of the minimum tax either to the basis of section 1245 property or with respect to computations under section 1245.

(8) *Nonapplicability to corporations.* Section 57(a)(3) does not apply to a corporation other than an electing small business corporation (as defined in section 1371(b)) and a personal holding company (as defined in section 542).

(d) *Amortization of certified pollution control facilities*—(1) *In general.* Section 57(a)(4) provides that, with respect to each certified pollution control facility for which an election is in effect under section 169, there is to be included as an item of tax preference the amount by which the deduction allowable for the taxable year under such section exceeds the depreciation deduction which would otherwise be allowable under section 167. The determination under section 57(a)(4) is made with respect to each separate certified pollution control facility. Accordingly, where the amount of the depreciation deduction which would otherwise be allowable under section 167 with respect to one facility exceeds the allowable amortization deduction under section 169 with respect to such facility, such excess may not be used to offset an item of tax preference resulting from another facility.

(2) *Separate facilities.* The determination of what constitutes a separate facility must be made on the facts and circumstances of each individual case. Generally, each facility with respect to which a separate election is in effect under section 169 shall be treated as a separate facility for purposes of this paragraph. However, if the depreciation or amortization which would have been allowable without regard to section 169 with respect to any part of a facility is based on a different useful life, date placed in service, or method of depreciation or amortization from the other part or parts of such facility, such part is considered a separate facility for purposes of this paragraph. For example, if a building constitutes a certified pollution control facility and various component parts of the building have different useful lives, each group of component parts with the same useful life would be treated as a separate facility for purposes of this paragraph. Two or more facilities may be treated as one facility for purposes of this paragraph where, with respect to each such facility: (i) the initial amortization under section 169 commences on the same date, (ii) the facility is placed in service on the same date, (iii) the estimated useful life which would be the basis for depreciation or amortization other than under section 169 has continually been the same, and (iv) the method of depreciation or amortization which could have been used without regard to section 169 could have continually been the same.

(3) *Amount allowable under section 169.* For purposes of the determination of the amount of the deduction allowable under section 169, see section 169 and the regulations thereunder. Such amount, however, does not include amortization allowable in the year in which the pollution control facility is disposed of.

(4) *Otherwise allowable deduction.* (i) The determination of the amount of the depreciation deduction otherwise allowable under section 167 is made as if the taxpayer had depreciated the property under section 167 for each year of its useful life for which the property has been held. This amount may be determined under § 1.167(a)-(11)(c) if the property is eligible property (as defined in § 1.167(a)-11(b)(2)) and, during the taxable year in which the property was first placed in service, the taxpayer—

(*a*) Has made an election under § 1.167(a)-11(f) with respect to eligible property first placed in service in such taxable year, or

(*b*) Has placed no eligible property in service other than property described in § 1.167(a)-11(b)(5) (iii), (iv), or (v).

The amount determined pursuant to the preceding sentence shall be determined as if the taxpayer had depreciated the property in accordance with § 1.167(a)-11 for all years to which such section applies and during which the taxpayer held the property. This amount may be determined under § 1.167(a)-12(a)(5) if the property is qualified property (as defined in § 1.167(a)-12 (a)(3)) and the taxpayer has made an election with respect to such property under § 1.167(a)-12(e). If the taxpayer has made an election under § 1.167(a)-12(f)(1) for a taxable year ending before January 1, 1971, this amount shall be determined for such year in accordance with such election. For purposes of this determination, any method selected by the taxpayer which would have been permissible under section 167 for such taxable year, including accelerated methods, may be used. Any additional amount which would have been allowable by reason of section 179 (relating to additional first-year depreciation for small business) may be included provided such amount is reflected in the determination made under this paragraph in subsequent years.

(ii) If a deduction for depreciation has not been taken by the taxpayer in any taxable year under section 167 with respect to the facility—

(*a*) There is to be used the useful life and salvage value which would have been proper under section 167.

(*b*) Such useful life and salvage value is determined by taking into account for each taxable year the same facts and circumstances as would have been taken into account if the taxpayer had used such method throughout the period the property has been held, and

(c) The date the property is placed in service is, for purposes of this section, deemed to be the first day of the first month for which the amortization deduction is taken with respect to the facility under section 169.

If, prior to the date amortization begins under section 169, a deduction for depreciation has been taken by the taxpayer in any taxable year under section 167 with respect to the facility, the useful life, salvage value, etc., used for that purpose is deemed to be the appropriate useful life, salvage value, etc., for purposes of this paragraph, with such adjustments as are appropriate in light of the facts and circumstances which would have been taken into account since the time the last such depreciation deduction was taken, unless it is established by clear and convincing evidence that some other useful life, salvage value, or date the property is placed in service is more appropriate.

(iii) For purposes of section 57(a)(4) and this paragraph, if the deduction for amortization or depreciation which would have been allowable had no election been made under section 169 would have been—

(*a*) An amortization deduction based on the term of a leasehold or

(*b*) A depreciation deduction determined by reference to section 611,

such deduction is to be deemed to be a deduction allowable under section 167.

(iv) If a facility is subject to amortization under section 169 for less than the entire taxable year, the otherwise allowable depreciation deduction under section 167 shall be determined only with regard to that portion of the taxable year during which the election under section 169 is in effect.

(v) If less than the entire adjusted basis of a facility is subject to amortization under section 169, the otherwise allowable depreciation deduction under section 167 shall be determined only with regard to that portion of the adjusted basis subject to amortization under section 169.

(5) *No section 1245 and basis adjustment.* No adjustment is to be made as a result of the minimum tax either to the basis of a certified pollution control facility or with respect to computation under sections 1245.

(6) *Relationship to section 57(a)(3).* See paragraph (c)(3) with respect to an adjustment in the amount treated as amortization under that provision where both paragraphs (3) and (4) of section 57(a) are applicable to the same item of property.

(7) *Example.* The principles of this paragraph may be illustrated by the following example:

Example. A calendar year taxpayer has a certified pollution control facility on which an election is in effect under section 169 commencing with January 1, 1971. No part of the facility is section 1250 property. The original basis of the facility is $100,000 of which $75,000 constitutes amortizable basis. The useful life of the facility is 20 years. The taxpayer depreciates the $25,000 portion of the facility which is not amortizable basis under the double declining method and began taking depreciation on January 1, 1971.

(a) The taxpayer's 1971 item of tax preference under this paragraph would be determined as follows:

1. Amortization deduction	$15,000
2. Depreciation deduction on amortizable basis (double declining method)	7,500
1971 preference (excess of 1 over 2)	7,500

(b) If the taxpayer terminated his election under section 169 in 1972 effective as of July 1, 1972, the taxpayer's 1972 item of tax preference would be determined as follows:

1. Amortization deduction	$7,500
2. Depreciation deduction on amortizable basis:	
Full year ($75,000 (original basis) less $7,500 ("depreciation" to 1-1-72) equals adjusted basis of $67,500; multiplied by 0.10 (double declining rate))	6,750
Portion of full year's depreciation attributable to amortization period (one-half)	3,375
1972 preference (excess of 1 over 2)	4.125

(e) *Amortization of railroad rolling stock*—(1) *In general.* Section 57(a)(5) provides that, with respect to each unit of railroad rolling stock for which an election is in effect under section 184, there is to be included as an item of tax preference the amount by which the deduction allowable for the taxable year under such section exceeds the depreciation deduction which would otherwise be allowable under section 167. The determination under section 57(a)(5) is made with respect to each separate unit of rolling stock. Accordingly, where the amount of the depreciation deduction which would otherwise be allowable under section 167 with respect to one unit exceeds the allowable amortization deduction under section 184 with respect to such unit, such excess may not be used to offset an item of tax preference resulting from another unit.

(2) *Separate units of rolling stock.* The determination of what constitutes a separate unit of rolling stock must be made on the facts and circumstances of each individual case. Such determination shall be made in a manner consistent with the manner in which the comparable determination is made with respect to separate certified pollution control facilities under paragraph (d) (2) of this section.

(3) *Amount allowable under section 184.* For purposes of the determination of the amount of the deduction allowable under section 184, see section 184. Such amount, however, does not include amortization allowable in

the year in which the rolling stock is disposed of.

(4) *Otherwise allowable deduction.* The determination of the amount of the depreciation deduction otherwise allowable under section 167 is to be made in a manner consistent with the manner in which the comparable deduction with respect to certified pollution control facilities is determined under paragraph (d)(4) of this section.

(5) *No section 1245 or basis adjustment.* No adjustment is to be made as a result of the minimum tax either to the basis of a unit of railroad rolling stock or with respect to computations under section 1245.

(6) *Relationship to section 57(a)(3).* See paragraph (c)(3) of this section with respect to an adjustment in the amount treated as amortization under that provision where both paragraphs (3) and (5) of section 57(a) are applicable to the same item.

(f) *Stock options*—(1) *In general.* Section 57(a)(6) provides that with respect to each transfer of a share of stock pursuant to the exercise of a qualified stock option or a restricted stock option, there shall be included by the transferee as an item of tax preference the amount by which the fair market value of the share at the time of exercise exceeds the option price. The stock option item of tax preference is subject to tax under section 56(a) in the taxable year of the transferee in which the transfer is made.

(2) *Definitions.* See generally § 1.421–7 (e), (f), and (g) for the definitions of "option price," "exercise," and "transfer," respectively; however, in the case of a transfer of a share of stock pursuant to the exercise of a qualified stock option or a restricted stock option after the death of an employee by the estate of the decedent (or by a person who acquired the right to exercise such option by bequest or inheritance or by reason of the death of the decedent), the term "option price" shall, for purposes of this paragraph, include both the consideration paid by the estate (or such person) for such share of stock and so much of the basis of the option as is attributable to such share of stock. For the definition of a qualified stock option see section 422(b) and § 1.422–2. For the definition of a restricted stock option see section 424(b) and § 1.424–2. The definitions and special rules contained in section 425 and the regulations thereunder are applicable to this paragraph.

(3) *Fair market value.* In accordance with the principles of section 83(a)(1), the fair market value of a share of stock received pursuant to he exercise of a qualified or restricted stock option is to be determined without regard to restrictions (other than nonlapse restrictions within the meaning of § 1.83-3(h)). Notwithstanding any valuation date given in section 83(a)(1), for purposes of this section, fair market value is determined as of the date the option is exercised.

(4) *Foreign source options.* In the case of an option attributable to sources within any foreign country or possession, see section 58(g) and § 1.58–8.

(5) *Inapplicability in certain cases.* (i) Section 57(a)(6) is inapplicable if during the same taxable year in which stock is transferred pursuant to the exercise of an option, the transferee makes a disposition (within the meaning of section 425(c)) of such stock. In the case of a nonresident alien, section 57(a)(6) is inapplicable to the extent the stock option is attributable (in accordance with the principles of sections 861 through 863 and the regulations thereunder) to sources without the United States.

(ii) Section 57(a)(6) is inapplicable if section 421(a) does not apply to the transfer because of employment requirements of section 422(a)(2) or section 424(a)(2).

(6) *Proportionate applicability.* Where, by reason of section 422 (b)(7) and (c)(3) (relating to percentage ownership limitations), only a portion of a transfer qualifies for application of section 421, the fair market value and option price shall be determined only with regard to that portion of the transfer which so qualifies.

(7) *No basis adjustment.* No adjustment shall be made to the basis of the stock received pursuant to the exercise of a qualified or restricted stock option as a result of the minimum tax.

(g) *Reserves for losses on bad debts of financial institutions*—(1) *In general.* Section 57(a)(7) provides that, in the case of a financial institution to which sections 585 or 593 (both relating to reserves for losses on loans) applies, there shall be included as an item of tax preference the amount by which the deduction allowable for the taxable year for a reasonable addition to a reserve for bad debts exceeds the amount that would have been allowable had the institution maintained its bad debt reserve for all taxable years on the basis of the institution's actual experience.

(2) *Taxpayers covered.* Section 57(a)(7) applies only to an institution (or organization) to which section 585 or 593 applies. See sections 585(a) and 593(a) and the regulations thereunder for a description of those institutions.

(3) *Allowable deduction.* For purposes of this paragraph, the amount of the deduction allowable for the taxable year for a reasonable addition to a reserve for bad debts is the amount of the deduction allowed under section 166(c) by reference to sections 585 or 593.

(4) *Actual experience.* (i) For purposes of this paragraph, the determination of the amount which would have been allowable had the institution maintained its reserve for bad debts on the basis of actual experience is the amount determined under section 585(b)(3)(A) and the regulations thereunder. For this purpose, the beginning balance for the first taxable year ending in 1970 is the amount which bears the same ratio to loans outstanding at the beginning of the taxable year as (*a*) the total bad debts sustained during the 5 preceding taxable years, adjusted for recoveries of bad debts during such period, bears to (*b*) the sum of the loans outstanding at the close of such 5 taxable years. The taxpayer may, however, select a more appropriate balance based on its actual experience during a shorter period subject to the approval of the district director upon examination of the return provided there are unusual circumstances which indicate that such period is more indicative of the taxpayer's actual loss experience. Any such selection and approval shall be made in a manner consistent with the selection and approval of a bad debt reserve method under § 1.166–1(b). In the case of an institution which has been in existence for less than 5 taxable years as of the beginning of the first taxable year ending in 1970, the above formula for determining the beginning balance is applied by substituting the number of taxable years for which the institution has been in existence as of the beginning of the taxable year for "5" each time it appears. If any taxable year utilized in the above formula for determining the beginning balance is a short taxable year the amount of the bad debts, adjusted for recoveries, for such taxable year is modified by dividing such amount by the number of days in the taxable year and multiplying the resulting amount by 365. The beginning balance for any subsequent taxable year is the amount of the beginning balance of the preceding taxable year, decreased by bad debt losses during such year, increased by recoveries of bad debts during such year and increased by the lower of the maximum amount determined under section 585(b)(3)(A) for such year or the amount of the deduction allowed for such year. The application of this subdivision (i) may be illustrated by the following example:

Example. The Y Bank, a calendar year taxpayer, uses the reserve method of accounting for bad debts. On December 31, 1969, Y determines the balance of its reserve for bad debts to be $70,000 under the percentage method. On the same date Y's 5-year moving average is $52,000. Y incurs net bad debt losses (bad debt losses less recoveries of bad debts) of $3,000 for each of the years 1970, 1971, and 1972, which it charges to its reserve for bad debts. Y's 6-year moving averages computed under section 585(b)(3)(A) at the close of 1970, 1971, and 1972 are $50,000, $49,000, and $51,000, respectively. Y's preference items are computed as follows based upon additional facts assumed:

	1970	1971	1972
1. Bad debt reserve—percentage method:			
(a) Balance beginning of year (closing balance prior year)	$70,000	$70,000	$68,000
(b) Net bad debts charged to reserve	3,000	3,000	3,000
(c) Subtotal	67,000	67,000	65,000
(d) Deduction allowed	3,000	1,000	4,000
(e) Balance end of year	70,000	68,000	69,000
2. Bad debt reserve—"actual experience":			
(a) Beginning balance (for 1970, 5-year moving average; for other years, closing balance prior year)	52,000	50,000	48,000
(b) Net bad debts charged to reserve	3,000	3,000	3,000
(c) Subtotal	49,000	47,000	45,000
(d) Maximum amount under section 585 (b)(3)(A) (6-year moving average minus (c))	1,000	2,000	6,000
(e) Deduction allowed (line 1(d))	3,000	1,000	4,000
(f) Lower of (d) or (e)	1,000	1,000	4,000
(g) Closing balance (line (c) + (f))	50,000	48,000	49,000
3. Preference item under section 57(a)(7):			
(a) Deduction allowed	3,000	1,000	4,000
(b) Maximum amount under section 585(b)(3)(A)	1,000	2,000	6,000
(c) Preference item (excess of (a) over (b))	2,000	0	0

(ii) In the case of a new institution whose first taxable year ends after 1969, its beginning balance for its reserve for bad debts, for purposes of this paragraph, is zero and its reasonable addition to the reserve for such taxable year is determined on the basis of the actual experience of similar institutions located in the area served by the taxpayer.

(h) *Depletion*—(1) *In general.* Section 57(a)(8) provides that with respect to each property (as defined in section 614), there is to be included as an item of tax preference the amount by which the deduction allowable for the taxable year under section 611 for depletion for the property exceeds the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for that taxable year). The determination under section 57(a)(8) is made with respect to each separate property. Thus, for example, if one mineral property has an adjusted basis remaining at the end of the taxable year, such basis may not be used to reduce the amount of an item of tax preference resulting from another mineral property.

(2) *Allowable depletion.* For the determination of the amount of the deduction for depletion allowable for the taxable year see section 611 and the regulations thereunder.

(3) *Adjusted basis.* For the determination of the adjusted basis of the property at the end of the taxable year see section 1016 and the regulations thereunder.

(4) *No basis adjustment.* No adjustment is to be made to the basis of property subject to depletion as a result of the minimum tax.

(i) *Capital gains*—(1) *Taxpayers other than corporations.* Section 57(a)(9)(A) provides that, in the case of a taxpayer other than a corporation, there is to be included as an item of tax preference one-half of the amount by which the taxpayer's net long-term capital gain for the taxable year exceeds the taxpayer's net short-term capital loss for the taxable year. For this purpose, for taxable years beginning after December 31, 1971, the taxpayer's net long-term capital gain does not include an amount equal to the deduction allowable under section 163 (relating to interest expense) by reason of subsection (d)(1)(C) of that section, and the excess described in the preceding sentence is reduced by an amount equal to the reduction of disallowed interest expense by reason of section 163(d)(2)(B). Furthermore, the net long-term capital gain of an estate or trust does not include capital gains described in section 642(c)(4). Included in the computation of the taxpayer's capital gains item of tax preference are amounts reportable by the taxpayer as distributive shares of gain or loss from partnerships, estates or trusts, electing small business corporations, common trust funds, etc. See section 58 and the regulations thereunder with respect to the above entities.

Example. For 1971, A, a calendar year individual taxpayer, recognized $50,000 from the sale of securities held for more than 6 months. In addition, A received a $15,000 dividend from X Fund, a regulated investment company, $12,000 of which was designated as a capital gain dividend by the company pursuant to section 852(b)(3)(C). The AB partnership recognized a gain of $20,000 from the sale of section 1231 property held by the partnership. The AB partnership agreement provides that A is entitled to 50 percent of the income and gains of the partnership. A had net short-term capital loss for the year of $10,000. A's 1971 capital gains item of tax preference is computed as follows:

Capital gain recognized from securities	$50,000
Capital gain dividend from regulated investment company	12,000
Distributive share of partnership capital gain	10,000
Total net long-term capital gain	72,000
Less: net short-term capital loss	(10,000)
Excess of net long-term capital gain over net short-term capital loss	62,000
One-half of above excess	31,000

(2) *Corporations.* (i) Section 57(a)(9)(B) provides that in the case of corporations there is to be included as an item of tax preference with respect to a corporation's net section 1201 gain an amount equal to the product obtained by multiplying the excess of the net long-term capital gain over the net short-term capital loss by a fraction. The numerator of this fraction is the sum of the normal tax rate and the surtax rate under section 11 minus the alternative tax rate under section 1201(a) for the taxable year, and the denominator of the fraction is the sum of the normal tax rate and the surtax rate under section 11 for the taxable year. Included in the above computation are amounts reportable by the taxpayer as distributive shares of gain or loss from partnerships, estates or trusts, common trust funds, etc. In certain cases the amount of the net section 1201 gain which results in preferential treatment will be less than the amount determined by application of the statutory formula. Therefore, in lieu of the statutory formula, the capital gains item of tax preference for corporations may in all cases be determined by dividing—

(*a*) The amount of tax which would have been imposed under section 11 if section 1201(a) did not apply minus—

(*b*) The amount of the taxes actually imposed

by the sum of the normal tax rate plus the surtax rate under section 11. In case of foreign source capital gains and losses which are not taken into ac-

count pursuant to sections 58(g)(2)(B) and 1.58-8, the amount determined in the preceding sentence shall be multiplied by a fraction the numerator of which is the corporation's net section 1201 gain without regard to such gains and losses which are not taken into account and the denominator of which is the corporation's net section 1201 gain. The computation of the corporate capital gains item of tax preference may be illustrated by the following examples:

Example (1). For 1971, A, a calendar year corporate taxpayer, has ordinary income of $10,000 and net section 1201 gain of $50,000, none of which is subsection (d) gain (as defined in sec. 1201(d)) and none of which is attributable to foreign sources. A's 1971 capital gain item of tax preference may be computed as follows:

1. Tax under section 11:		
Normal tax (0.22×$60,000)		$13,200
Surtax (0.26×$35,000)		9,100
		22,300
2. Tax under section 1201(a) Normal tax on ordinary income (0.22×$10,000	$2,200	
Tax on net section 1201 gain (0.30×$50,000)	15,000	17,200
3. Excess		5,100
4. Normal tax rate plus surtax rate		.48
5. Capital gains preference (line 3 divided by line 4)		10,625

Example (2). For 1971, A, a calendar year corporate taxpayer, has a loss from operations of $30,000 and net section 1201 gain of $150,000, none of which is subsection (d) gain (as defined in sec. 1201(d)) and none of which is attributable to foreign sources. A's 1971 capital gain item of tax preference may be computed as follows:

1. Tax under section 11:		
Normal tax (0.22×$120,000)		$26,400
Surtax (0.26×$95,000)		24,700
		51,100
2. Tax under section 1201(a) Normal tax on ordinary income	None	
Tax on net section 1201 gain (0.30×$150,000)	45,000	45,000
3. Excess		6,100
4. Normal tax rate plus surtax rate		.48
5. Capital gain preference (line 3 divided by line 4)		12,708

(ii) In the case of organizations subject to the tax imposed by section 511(a), mutual savings banks conducting a life insurance business (see sec. 594), life insurance companies (as defined in sec. 801), mutual insurance companies to which part II of subchapter L applies, insurance companies to which part III of subchapter L applies, regulated investment companies subject to tax under part I of subchapter M, real estate investment trusts subject to tax under part II of subchapter M, or any other corporation not subject to the taxes imposed by sections 11 and 1201(a), the capital gains item of tax preference may be computed in accordance with subdivision (i) of this subparagraph except that, in lieu of references to section 11, there is to be substituted the section which imposes the tax comparable to the tax imposed by section 11 and, in lieu of references to section 1201(a), there is to be substituted the section which imposes the alternative or special tax applicable to the capital gains of such corporation.

(iii) For purposes of this paragraph, where the net section 1201 gain is not in any event subject to the tax comparable to the normal tax and the surtax under section 11, such as in the case of regulated investment companies subject to tax under subchapter M, such comparable tax shall be computed as if it were applicable to net section 1201 gain to the extent such gain is subject to the tax comparable to the alternative tax under section 1201(a). Thus, in the case of a regulated investment company subject to tax under subchapter M, the tax comparable to the normal tax and the surtax would be the tax computed under section 852(b)(1) determined as if the amount subject to tax under section 852(b)(3) were included in investment company taxable income. The principles of this subdivision (iii) may be illustrated by the following example:

Example. M, a calendar year regulated investment company, in 1971, has investment company taxable income (subject to tax under sec. 852(b)(1)) of $125,000 and net long-term capital gain of $800,000. M company has no net short-term capital loss but has a deduction for dividends paid (determined with reference to capital gains only) of $700,000. M's 1971 capital gains item of tax preference is computed as follows:

1. Section 852(b)(1) tax computed as if it were applicable to all income including capital gains:			
Amount subject to section 852(b)(1)		$125,000	
Net section 1201 gain	$800,000		
Less: Dividends paid deduction	700,000		
Net section 1201 gain subject to tax at the company level		100,000	
		225,000	
Normal tax (0.22×$225,000)			$49,500
Surtax (0.26×200,000)			52,000
			101,500
2. Tax comparable to section 1201(a) tax section 852(b)(1) tax:			
Normal tax (0.22×125,000)	$27,500		
Surtax (0.26×100,000)	26,000	$53,500	
Section 852(b)(3) tax (0.30×100,000)		30,000	
			$83,500
3. Excess			18,000
4. Normal tax rate plus surtax rate			.48
5. Capital gains preference (line 3 divided by line 4)			37,500

(iv) For the computation of the capital gains item of tax preference in the case of an electing small business corporation (as defined in sec. 1371(b)), see section 1.58-4(c).

(3) *Nonresident aliens, foreign corporations.* In the case of a nonresident alien individual or foreign corporation, there shall be included in computing the capital gains item of tax preference under section 57(a)(9) only those capital gains and losses included in the computation of income effectively connected with the conduct of a trade or business within the United States as provided in section 871(b) or 882.

§ 1.57-2 [Reserved]

§ 1.57-3 [Reserved]

§ 1.57-4 Limitation on amounts treated as items of tax preference for taxable years beginning before January 1, 1976.

(a) *In general.* If in any taxable year beginning before January 1, 1976, a taxpayer has deductions in excess of gross income and all or a part of any item of tax preference described in § 1.57-1 results in no tax benefit due to modifications required under section 172(c) or section 172(b)(2) in computing the amount of the net operating loss or the net operating loss to be carried to a succeeding taxable year, then, for purposes of section 56(a)(1), the sum of the items of tax preference determined under section 57(a) (and § 1.57-1) is to be limited as provided in paragraph (b) of this section.

(b) *Limitation.* The sum of the items of tax preference, for purposes of section 56(a)(1) and § 1.56-1(a), is limited to an amount determined under subparagraphs (1) and (2) of this paragraph.

(1) *Loss year.* If the taxpayer has no taxable income for the taxable year without regard to the net operating loss deduction, the amount of the limitation is equal to—

(i) In cases where the taxpayer does not have a net operating loss for the taxable year, the amount of the recomputed income (as defined in paragraph (c) of this section) or

(ii) In cases where the taxpayer has a net operating loss for the taxable year, the amount of the net operating loss (expressed as a positive amount) increased by the recomputed income or decreased by the recomputed loss for the taxable year (as defined in paragraph (c) of this section,

plus the amount of the taxpayer's stock option item of tax preference (as described in § 1.57-1(f)).

(2) *Loss carryover and carryback years.* Except in cases to which subparagraph (1)(ii) of this paragraph applies, if, in any taxable year to which a net operating loss is carried, a capital gains deduction is disallowed under section 172(b)(2) in computing the amount of such net operating loss, which may be carried to succeeding taxable years, the amount of the limitation is equal to the amount, if any, by which the sum of the items of tax preference (computed with regard to subparagraph (1)(i) of this paragraph) exceeds the lesser of—

(i) The amount by which such loss is reduced because of a disallowance of the capital gains deduction in such taxable year, or

(ii) The capital gains deduction.

The amount determined pursuant to the preceding sentence shall be increased by the amount, if any, that such reduction is attributable to that portion of such a net operating loss described in section 56(b)(1)(B) and § 1.56-2(a)(2) (relating to excess tax preferences).

(c) *Recomputed income or loss.* For purposes of this section, the phrase "recomputed income or loss" means the taxable income or net operating loss for the taxable year computed without regard to the amounts described in § 1.57-1 except paragraph (i)(2) of that section (relating to corporate capital gains) and without regard to the net operating loss deduction. For this purpose, the reference to the amounts described in § 1.57-1 is a reference to that portion of the deduction allowable in computing taxable income under the appropriate section equal to the amount which is determined in each paragraph of § 1.57-1. For example, the amount described in § 1.57-1(h) (relating to excess of percentage depletion over basis) is that portion of the deduction allowable for depletion under section 611 which is equal to the amount determined under § 1.57-1(h). For purposes of this paragraph, the amount described in § 1.57-1(i)(1) (relating to capital gains) is to be considered as the amount of the deduction allowable for the taxable year under section 1202.

(d) *Determination of preferences reduced.* When, pursuant to paragraph (b)(1) of this section, the sum of the items of tax preference (determined without regard to this section) are reduced, such reduction is first considered to be from the capital gains item of tax preference (described in § 1.57-1(i)(1)) and each item of tax preference relating to a deduction disallowed in computing the net operating loss pursuant to section 172(d), pro rata. The balance of the reduction, if any, is considered to be from the remaining items of tax preference, pro rata. For purposes of this subparagraph, deductions not attributable to the taxpayer's trade or business which do not relate to items of tax preference are considered as being applied in reducing gross income not derived from such trade or business before such deductions which do relate to items of tax preferences.

(e) *Examples.* The principles of this section may be illustrated by the following examples in each of which the deduction for the personal exemption is disregarded and the taxpayer is an individual who is a calendar year taxpayer.

Example (1). The taxpayer has the following items of income and deduction for 1970:

Gross income (all business income)	$120,000
Deductions:	
Nonbusiness deductions	30,000
Items of tax preference (excess accelerated depreciation on real property held in taxpayer's business)	80,000
Other business deductions	50,000

Based on the above figures, the taxpayer has a net operating loss of $10,000 (business deductions of $130,000 less business income of $120,000, the nonbusiness deductions having been disallowed by reason of section 172(d)(4)). The limitation on the amount treated as items of tax preference is computed as follows:

Tax preferences			$80,000
Net operating loss		$10,000	
Recomputed income or loss:			
Gross income	$120,000		
Deductions other than tax preference items	80,000		
Recomputed income		40,000	
Sum of net operating loss and recomputed income		50,000	
Stock options preference		0	
Limitation			50,000

Thus, the minimum tax computed under section 56(a) would be 10 percent of $20,000 (items of tax preference of $50,000 less the minimum tax exemption of $30,000), $1,000 of which would be deferred tax liability pursuant to section 56(b).

Example (2). Assume the same facts as in example (1) except that the other business deductions are $130,000, resulting in a net operating loss of $90,000. The limitation on the amount treated as items of tax preference is computed as follows:

Tax preferences			$80,000
Net operating loss		$90,000	
Recomputed income or loss:			
Gross income	$120,000		
Deductions other than tax preference items	160,000		
	(40,000)		
Disallowance of nonbusiness deductions under sec. 172(d)	30,000		
Recomputed loss		10,000	
Net operating loss less recomputed loss		80,000	
Stock options preference		0	
Limitation			80,000

Thus, the minimum tax computed under section 56(a) would be 10 percent of $50,000 (items of tax preference of $80,000 less the minimum tax exemption of $30,000), all of which will be deferred tax liability pursuant to section 56(b).

Example (3). The taxpayer has the following items of income and deduction for 1970:

Gross income (all from business):			
Ordinary			$50,000
Net section 1201 gains			120,000
Deductions:			
Items of tax preference:			
Excess amortization of certified pollution control facilities		$45,000	
Capital gains deduction		60,000	105,000
Other business deductions			75,000

In addition, the taxpayer has a $55,000 item of tax preference resulting from qualified stock options. Based on the above figures, the taxpayer has no taxable income and no net operating loss as the capital gains deduction is dissallowed in determining the net operating loss pursuant to section 172(d). The limitation on the amount treated as items of tax preference is computed as follows:

Tax preferences		$160,000
Net operating loss		0
Recomputed income or loss:		
Gross income	$170,000	
Deductions other than tax preference items	75,000	
Recomputed income	$95,000	
Plus: Stock options preference	55,000	
Limitation		150,000

Thus, the minimum tax computed under section 56 would be 10 percent of $120,000 (items of tax preference of $150,000 less the minimum tax exemption of $30,000).

Example (4). Assume the same facts as in example (3) except that the taxpayer has a net operating loss carryover from 1969 of $80,000. The taxpayer has $160,000 of tax preferences which are limited to $150,000 pursuant to § 1.57-4(b)(1). In order to determine the amount of the 1969 net operating loss which remains as a carryover to 1971, the 1970 taxable income is redetermined in accordance with section 172(b)(2) and the regulations thereunder, as follows:

Gross income—1970		$170,000
Deductions:		
Capital gains deduction disallowed Business deductions	$120,000	120,000
Taxable income for section 172(b)(2)		50,000

Thus, the 1969 net operating loss which remains as a carryover to 1971 is $30,000. Pursuant to paragraph (b)(2) of this section, the limitation on the amount treated as items of tax preference is computed as follows:

Items of tax preference computed with regard to § 1.57-4(b)(1) (per example (3))		$150,000
Less: Lesser of capital gains deduction ($60,000) or amount of reduction in carryover due to its disallowance ($50,000)		50,000
Limitation		100,000

Thus, the minimum tax computed under section 56 would be 10 percent of $70,000 (items of tax preference of $100,000 less the minimum tax exemption of $30,000).

Example (5). The taxpayer has the following items of income and deduction for the taxable year 1970 without regard to any net operating loss deduction:

Gross income (all from business)		
Ordinary	$50,000	
Net section 1201 gain	40,000	$90,000
Deductions:		
Capital gains deduction	20,000	
Medical expenses ($4,100 actually paid but allowable only to the extent in excess of 3 percent of adjusted gross income of $70,000).	2,000	
Other itemized deductions	40,000	62,000
Taxable income (before net operating loss deduction)		28,000

In addition, the taxpayer has an item of tax preference of $35,000 resulting from qualified stock options. In 1973, the taxpayer has a net operating loss of $60,000 (no portion of which is attributable to excess tax preferences pursuant to § 1.56-2) which is carried back to 1970 resulting in no taxable income in 1970. In order to determine the amount of the 1973 net operating loss which remains as a carryover to 1971, the 1970 taxable income is redetermined, in accordance with section 172(b)(2) and the regulations thereunder, as follows:

Gross income		$90,000
Deductions:		
Capital gains deduction disallowed		
Medical expenses ($4,100 actually paid but allowable only to the extent in excess of 3 percent of adjusted gross income of $90,000).	$1,400	
Other itemized deductions	40,000	$41,400
Taxable income for section 172(b)(2)		48,600

The limitation on the amount treated as items of tax preference is computed as follows:

Items of tax preference:		
Capital gains	$20,000	
Stock options	35,000	55,000
Less:		
Lesser of capital gains deduction ($20,000) or amount of reduction in carryover due to its disallowance ($20,600)		(20,000)
Limitation		35,000

Thus, the minimum tax for 1970 under section 56 would be 10 percent of $5,000 (items of tax preference of $35,000 less the minimum tax exemption of $30,000).

Example (6). Assume the same facts as in example (5) except that the 1973 net operating loss was $45,000. In this case, the $20,600 increase in the 1970 taxable income as redetermined, results in a decrease of $17,000 (i.e., the remaining 1973 net operating loss after an initial decrease of $28,000 resulting from the 1970 taxable income before redetermination). The limitation on the amount treated as items of tax preference is computed as follows:

Items of tax preference computed without regard to this section		$55,000
Less: Lesser of capital gains deduction ($20,000) or amount of reduction in carryover due to its disallowance ($17,000)		(17,000)
Limitation		38,000

Thus, the minimum tax for 1970 under section 56 would be 10 percent of $8,000 (items of tax preference of $38,000 less the minimum tax exemption of $30,000).

Example (7). The taxpayer has the following items of income and deduction for 1973 without regard to any net operating loss deduction:

Gross income (all from business):		
Ordinary	$100,000	
Net section 1201 gains	120,000	$220,000
Deductions:		
Items of tax preference:		
Excess amortization of certified pollution control facilities	45,000	
Capital gains deduction	60,000	
	105,000	
Other business deductions	75,000	$180,000
Taxable income (before net operating loss deduction)		40,000

In 1972, the taxpayer had a net operating loss of $70,000 which is carried forward to 1973; $20,000 of this net operating loss is attributable to excess tax preferences. In order to determine the amount of the 1972 net operating loss which remains as a carryover to 1974, the 1973 taxable income is redetermined, in accordance with section 172(b)(2) and the regulations thereunder, as follows:

Gross income	$220,000
Deductions:	
Capital gains deduction	disallowed
Business deductions	120,000
Taxable income per sec. 172(b)(2)	100,000

In this case, the $60,000 increase in the 1972 taxable income as redetermined and the $30,000 decrease in the amount of the 1973 net operating loss remaining as a carryover to 1974 (i.e., the remaining 1972 net operating loss after an initial decrease of $40,000 resulting from the 1973 taxable income before redetermination) is entirely attributable to the disallowance of the capital gains deduction. The limitation on the amount treated as items of tax preference is computed as follows:

Items of tax preference computed without regard to this section:		
Capital gains	$60,000	
Excess amortization of certified pollution control facilities	45,000	
	105,000	
Less: Lesser of capital gains deduction (60,000) or amount of reduction in carryover due to its disallowance ($30,000)		(30,000)
		75,000
Plus: Amount of reduction of carryover (due to disallowance of capital gains deduction) attributable to excess tax preferences		20,000
Limitation		95,000

§ 1.57-5 Records to be kept.

(a) *In general.* The taxpayer shall have available permanent records of all the facts necessary to determine with reasonable accuracy the amounts described in § 1.57-1. Such records shall include:

(1) In the case of amounts described in paragraph (a) of § 1.57-1: the amount and nature of indebtedness outstanding for the taxable year and the date or dates on which each such indebtedness was incurred or renewed in any form; the amount expended for property held for investment during any taxable year during which such indebtedness was incurred or renewed; and the manner in which it was determined that property was or was not held for investment.

(2) In the case of amounts described in paragraphs (b), (c), (d), (e), and (h) of § 1.57-1:

(i) The dates, and manner in which, the property was acquired and placed in service,

(ii) The taxpayer's basis on the date the property was acquired and the manner in which the basis was determined,

(iii) An estimate of the useful life (in terms of months, hours of use, etc., whichever is appropriate) of the property on the date placed in service or an estimate of the number of units to be produced by the property on the date the property is placed in service, whichever is appropriate, and the manner in which such estimate was determined,

(iv) The amount and date of all adjustments by the taxpayer to the basis of the property and an explanation of the nature of such adjustments, and

(v) In the case of property which has an adjusted basis reflecting adjustments taken by another taxpayer with respect to the property or taken by the taxpayer with respect to other property, the information described in subdivisions (i) through (iv) above, with respect to such other property or other taxpayer.

(3) In the case of amounts described in paragraph (f) of § 1.57-1, the fair market value of the shares of stock at the date of exercise of the option and the option price and the manner in which each was determined.

(4) In the case of amounts described in paragraph (g) of § 1.57-1, the amount of debts written off and the amount of the loans outstanding for the taxable year and the 5 preceding taxable years or such shorter or longer period as is appropriate.

(b) *Net operating losses.* The taxpayer shall have available permanent records for the first taxable year in which a portion of a net operating loss was attributable to items of tax preference (within the meaning of § 1.56-2 (b)) and each succeeding taxable year in which there is a net operating loss or a net operating loss carryover a portion of which is so attributable. Such records shall include all the facts necessary to determine with reasonable accuracy the amount of deferred tax liability under section 56, including the amount of the net operating loss in each taxable year in which there are items of tax preference in excess of the minimum tax exemption (as determined under § 1.58-1), the amount of the items of tax preference for each such taxable year, the amount by which each such net operating loss reduces taxable income in any taxable year, and the amount by which each such net operating loss is reduced in any taxable year.

§ 1.58-1 Minimum tax exemption.

(a) *In general.* For purposes of the minimum tax for tax preferences (subtitle A, chapter 1A, part VI), the minimum tax exemption is $30,000 except as otherwise provided in this section.

(b) *Husband and wife.* In the case of a married individual filing a separate return, section 58(a) provides that the minimum tax exemption is $15,000. This rule applies without regard to whether the married individual is living together with or apart from his spouse and without regard to whether or not his spouse has any items of tax preference.

(c) *Members of controlled groups*—(1) *Amount of exemption*—(i) *General rule.* Under section 58(b), if a corporation is a component member of a controlled group of corporations on December 31 (as defined in section 1563 (a) and (b) and the regulations thereunder), the minimum tax exemption for such taxable year which includes such December 31 is an amount equal to—

(*a*) $30,000 divided by the number of corporations which are component members of such group on December 31, or

(*b*) If an apportionment plan is adopted under subparagraph (3) of this paragraph, such portion of the $30,000 as is apportioned to such member in accordance with such plan.

(ii) *Consolidated returns.* The minimum tax exemption of a controlled group all of whose component members join in the filing of a consolidated return is $30,000. If there are component members of the controlled group which do not join in the filing of a consolidated return, and there is no apportionment plan effective under subparagraph (3) of this paragraph apportioning the $30,000 amoung the component members filing the consolidated return and the other component members of the controlled group, each component member of the controlled group (including each component member which joins in filing the consolidated return) is treated as a separate corporation for purposes of equally apportioning the $30,000 amount under subdivision (i)(*a*) of this subparagraph. In such case, the minimum tax exemption of the corporations filing the consolidated return is the sum of the amounts apportioned to each component member which joins in the filing of the consolidated return.

(2) *Certain short taxable years.* If the return of a corporation is for a short period which does not include a December 31, and such corporation is a component member of a controlled group of corporations with respect to such short period, the minimum tax exemption of such corporation for such short period is an amount equal to $30,000 divided by the number of corporations which are component members of such group on the last day of such short period. The minimum tax exemption so determined is also subject to the rules of section 443(d) (relating to reduction in the amount of the exemption for short periods) and the regulations thereunder. For purposes of this subparagraph, the term "short period" does not include any period if the income for such period is required to be included in a consolidated return under § 1.1502-76(b). The determination of whether a corporation is a component member of a controlled group of corporations on the last day of a short period is made by applying the definition of "component member" contained in section 1563(b) and § 1.1563-1 as if the last day of such short period were a December 31.

(3) *Apportionment of minimum tax exemption*—(i) *Apportionment plan.* (*a*) (In general.) In the case of corporations which are component members of a controlled group of corporations on a December 31, a single minimum tax exemption may be apportioned among such members if all such members consent, in the manner provided in subdivision (ii) of this subparagraph, to an apportionment plan with respect to such December 31. Such plan must provide for the apportionment of a fixed dollar amount to one or more of such members, but in no event may the sum of the amount so apportioned exceed $30,000. An apportionment plan is not considered as adopted with respect to a particular December 31 until each component member which is required to consent to the plan under subdivision (ii)(*a*) of this subparagraph files the original of a statement described in such subdivision (or, the original of a statement incorporating its consent is filed on its behalf). In the case of a return filed before a plan is adopted, the minimum tax exemption for purposes of such return is to be equally apportioned in

V 43 177

accordance with subparagraph (1) of this paragraph. If a valid apportionment plan is adopted after the return is filed and within the time prescribed in (*b*) of this subdivision (i), such return must be amended (or a claim for refund should be made) to reflect the change from equal apportionment.

(*b*) (Time for adopting plan.) A controlled group may adopt an apportionment plan with respect to a particular December 31 only if, at the time such plan is sought to be adopted, there is at least 1 year remaining in the statutory period (including any extensions thereof) for the assessment of the deficiency against any corporation the tax liability of which would be increased by the adoption of such plan. If there is less than 1 year remaining with respect to any such corporation, the district director or the director of the service center with whom such corporation files its income tax return will ordinarily, upon request, enter into an agreement to extend such statutory period for the limited purpose of assessing any deficiency against such corporation attributable to the adoption of such apportionment plan.

(c) (Years for which effective.) (*1*) The amount apportioned to a component member of a controlled group of corporations in an apportionment plan adopted with respect to a particular December 31 constitutes such member's minimum tax exemption for its taxable year including the particular December 31, and for all taxable years including succeeding December 31's, unless the apportionment plan is amended in accordance with subdivision (iii) of this subparagraph or is terminated under (c)(*2*) of this subdivision (i). Thus, the apportionment plan (including any amendments thereof) has a continuing effect and need not be renewed annually.

(*2*) If an apportionment plan is adopted with respect to a particular December 31, such plan terminates with respect to a succeeding December 31, if: the controlled group goes out of existence with respect to such succeeding December 31 within the meaning of paragraph (b) of § 1.1562-5, any corporation which was a component member of such group on the particular December 31 is not a component member of such group on such succeeding December 31, or any corporation which was not a component member of such group on the particular December 31 is a component member of such group on such succeeding December 31. An apportionment plan, once terminated with respect to a December 31, is no longer effective. Accordingly, unless a new apportionment plan is adopted, the minimum tax exemption of the component members of the controlled group for their taxable years which include such December 31 and all December 31's thereafter will be determined under subparagraph (1) of this paragraph.

(*3*) If an apportionment plan is terminated with respect to a particular December 31 by reason of the addition or withdrawal of a component member, each corporation which is a component member of the controlled group on such particular December 31 must, on or before the date it files its income tax return for the taxable year which includes such particular December 31, notify the district director or the director of the service center with whom it files such return to such termination. If an apportionment plan is terminated with respect to a particular December 31 by reason of the controlled group going out of existence, each corporation which was a component member of the controlled group on the preceding December 31 must, on or before the date it files its income tax return for the taxable year which includes such particular December 31, notify the district director or the director of the service center with whom it files such return to such termination.

(ii) *Consents to plan—(a) General rule.* (*1*) The consent of a component member (other than a wholly-owned subsidiary) to an apportionment plan with respect to a particular December 31 is to be made by means of a statement, signed by any person who is duly authorized to act on behalf of the consenting member, stating that such member consents to the apportionment plan with respect to such December 31. The statement must set forth the name, address, taxpayer identification number, and taxable year of the consenting component member, the amount apportioned to such member under the plan, and the internal revenue district or service center where the original of the statement is to be filed. The consent of more than one component member may be incorporated in a single statment. The original of a statement of consent is to be filed with he district director or the director of the service center with whom the component member of the group on such December 31 which has the taxable year ending first on or after such date filed its return for such taxable year. If two or more component members have the same such taxable year, a statement of consent may be filed with the district director or the director of the service center with whom the return for any such taxable year is filed. The original of a statement of consent is to have attached thereto information (referred to in this subdivision as "group identification") setting forth the name, address, taxpayer identification number, and taxable year of each component member of the controlled group on such December 31 (including wholly-owned subsidiaries) and the amount apportioned to each such member under the plan. If more than one original statement is filed, a statement may incorporate the group identification by reference to the name, address, taxpayer identification number, and taxable year of the component member of the group which has attached such group identification to the original of its statement.

(*2*) Each component member of the group on such December 31 (other than wholly-owned subsidiaries) must attach a copy of its consent (or a copy of the statement incorporating its consent) to the income tax return, amended return, or claim for refund filed with its district director or director of the service center for the taxable year including such date. Such copy must either have attached thereto information on group identification or must incorporate such information by reference to the name, address, taxpayer identification number, and taxable year of the component member of the group which has attached such information to its income tax return, amended return, or claim for refund filed with the same district director or director of the service center for the taxable year including such date.

(*b*) *Wholly-owned subsidiaries.* (*1*) Each component member of a controlled group which is a wholly-owned subsidiary of such group with respect to a December 31 is deemed to consent to an apportionment plan with respect to such December 31, provided each component member of the group which is not a wholly-owned subsidiary consents to the plan. For purposes of this paragraph, a component member of a controlled group is considered to be a wholly-owned subsidiary of the group with respect to a December 31, if, on each day preceding such date and during its taxable year which includes such date, all of its stock is owned directly by one or more corporations which are component members of the group on such December 31.

(*2*) Each wholly-owned subsidiary of a controlled group with respect to a December 31 must attach a statement containing the information which is required to be set forth in a statement of consent to an apportionment plan with respect to such December 31 to the income tax return, amended return, or claim for refund filed with its district director or director of the service center for the taxable year which includes such date. Such statement must either have attached thereto information on group identification or incorporate such information by reference to the name, address, taxpayer identification number, and tax-

able year of a component member of the group which has attached such information to its income tax return, amended return, or claim for refund filed with the same district director or director of the service center for the taxable year including such date.

(iii) *Amendment of plan.* An apportionment plan adopted with respect to a December 31 by a controlled group of corporations may be amended with respect to such December 31 or with respect to any succeeding December 31 for which the plan is effective under subdivision (i)(c) of this subparagraph. An apportionment plan must be amended with respect to a particular December 31 and the amendments to the plan are effective only if adopted in accordance with the rules prescribed in this paragraph for the adoption of an original plan with respect to such December 31.

(iv) *Component members filing consolidated return.* If the component members of a controlled group of corporations on a December 31 include corporations which join the filing of a consolidated return, the corporations filing the consolidated return are treated as a single component member for purposes of this subparagraph. Thus, for example, only one consent executed by the common parent to an apportionment plan filed pursuant to this section is required on behalf of the component members filing the consolidated return.

(d) *Estates and trusts.* Section 58(c)(2) provides that, in the case of an estate or trust, the minimum tax exemption applicable to such estate or trust is an amount which bears the same ratio to $30,000 as the portion of the sum of the items of tax preference apportioned to the estate or trust bears to the full sum before apportionment. For example, if one-third of the sum of the items of tax preference of a trust are subject to tax at the trust level after apportionment under section 58(c)(1) and § 1.58-3, the trust's minimum tax exemption is $10,000. See § 1.58-3 for rules with respect to the apportionment of items of tax preference of an estate or trust.

(e) *Short taxable year.* See section 443(d) and § 1.443-1(d) with respect to reduction in the amount of the minimum tax exemption in the case of a short taxable year.

§ 1.58-2 General rules for conduit entities; partnerships and partners.

(a) *General rules for conduit entities.* Sections 1.58-3 through 1.58-6 provide rules under which items of tax preference of an estate, trust, electing small business corporation, common trust fund, regulated investment company, or real estate investment trust (referred to in this paragraph as the "conduit entity") are treated as items of tax preference of the beneficiaries, shareholders, participants, etc. (referred to in this paragraph as the "distributees"). Where an item of tax preference of a conduit entity is so apportioned to a distributee, the item of tax preference retains its character in the hands of the distributee and is adjusted to reflect: (1) The separate items of income and deduction of the distributee and (2) the tax status of the distributee as an individual, corporation, etc. For example, if a trust has $100,000 of capital gains for the taxable year, all of which are distributed to A, an individual, the item of tax preference apportioned to A under section 57(a)(9) (and § 1.57-1(i)(1) is $50,000. If, however, A had a net capital loss for the taxable year of $60,000 without regard to the distribution from the trust, the trust tax preference would be adjusted in the hands of A to reflect the separate items of income and deduction passed through to the distributee, or, in this case, to reflect the net section 1201 gain to A of $40,000. Thus, A's capital gains items of tax preference would be $20,000. By application of this rule, A, in effect, treats capital gains distributed to him from the trust the same as his other capital gains in computing his capital gains item of tax preference. If A had been a corporation, the trust tax preference would be adjusted both to reflect the capital loss and to reflect A's tax status by recomputing the capital gains item of tax preference (after adjustment for the capital loss) under section 57(a)(9)(B) and § 1.57-1(i)(2). Similarly, if depreciation on section 1245 property subject to a net lease (as defined in section 57(a)(3) and § 1.57-1(c)) is apportioned from a conduit entity to a corporation (other than a personal holding company or electing small business corporation), the amount so apportioned to the corporation is not treated as an item of tax preference to such corporation since such item is not an item of tax preference in the case of a corporation (other than a personal holding company or an electing small business corporation).

(b) *Partnerships and partners.* (1) Section 701 provides that a partnership as such is not subject to the income tax imposed by chapter 1. Thus, a partnership as such is not subject to the minimum tax for tax preferences. Section 702 provides that, in determining his income tax, each partner is to take into account separately his distributive share of certain items of income, deductions, etc. of the partnership and other items of income, gain, loss, deduction, or credit of the partnership to the extent provided by regulations prescribed by the Secretary or his delegate. Accordingly, each partner, in computing his items of tax preference, must take into account separately those items of income and deduction of the partnership which enter into the computation of the items of tax preference in accordance with subparagraph (2) of this paragraph.

(2) Pursuant to section 702, each partner must, solely for purposes of the minimum tax for tax preferences (to the extent not otherwise required to be taken into account separately under section 702 and the regulations thereunder), take into account separately in the manner provided in subchapter K and the regulations thereunder those items of income and deduction of the partnership which enter into the computation of the items of tax preference specified in section 57 and the regulations thereunder. A partner must, for this purpose, take into account separately his distributive share of:

(i) Investment interest expense (as defined in section 57(b)(2)(D) determined at the partnership level;

(ii) Investment income (as defined in section 57(b)(2)(B) determined at the partnership level;

(iii) Investment expenses (as defined in section 57(b)(2)(C)) determined at the partnership level;

(iv) With respect to each section 1250 property (as defined in section 1250(c)), the amount of the deduction allowable for the taxable year for exhaustion, wear and tear, obsolescence, or amortization and the deduction which would have been allowable for the taxable year had the property been depreciated under the straight line method each taxable year of its useful life (determined without regard to section 167(k)) for which the partnership has held the property;

(v) With respect to each item of section 1245 property (as defined in section 1245(a)(3)) which is subject to a net lease, the amount of the deduction allowable for exhaustion, wear and tear, obsolescence, or amortization and the deduction which would have been allowable for the taxable year had the property been depreciated under the straight line method for each taxable year of its useful life for which the partnership has held the property;

(vi) With respect to each certified pollution control facility for which an election is in effect under section 169, the amount of the deduction allowable for the taxable year under such section and the deduction which would have been allowable under section 167 had no election been in effect under section 169;

(vii) With respect to each unit of railroad rolling stock for which an election is in effect under section 184, the amount of the deduction allowable for the taxable year under such section and the deduction which would

SEP 12 78

V 43 / 177 SE 12 78

have been allowable under section 167 had no election been in effect under section 184;

(viii) In the case of a partnership which is a financial institution to which section 585 or 593 applies, the amount of the deduction allowable for the taxable year for a reasonable addition to a reserve for bad debts and the amount of the deduction that would have been allowable for the taxable year had the institution maintained its bad debt reserve for all taxable years on the basis of actual experience; and

(ix) With respect to each mineral property, the deduction for depletion allowable under section 611 for the taxable year and the adjusted basis of the property at the end of the taxable year (determined without regard to the depreciation deduction for the taxable year).

If, pursuant to section 743 (relating to optional adjustment to basis), the basis of partnership property is adjusted with respect to a transferee partner due to an election being in effect under section 754 (relating to manner of electing optional adjustment), items representing amortization, depreciation, depletion, gain or loss, and the adjusted basis of property subject to depletion, described above, shall be adjusted to reflect the basis adjustment under section 743.

(3) The minimum tax is effective for taxable years ending after December 31, 1969. Thus, subparagraph (2) of this paragraph is inapplicable in the case of items of income or deduction paid or accrued in a partnership's taxable year ending on or before December 31, 1969.

§ 1.58–3 Estates and trusts.

(a) *In general.* (1) Section 58(c)(1) provides that the sum of the items of tax preference of an estate or trust shall be apportioned between the estate or trust and the beneficiary on the basis of the income of the estate or trust allocable to each. Income for this purpose is the income received or accrued by the trust or estate which is not subject to current taxation either in the hands of the trust or estate or the beneficiary by reason of an item of tax preference. The character of the amounts distributed is determined under section 652(b) or 662(b) and the regulations thereunder.

(2) Additional computations required by reason of excess distributions are to be made in accordance with the principles of sections 665–669 and the regulations thereunder.

(3) In the case of a charitable remainder annuity trust (as defined in section 664(d)(1) and § 1.664-2) or a charitable remainder unitrust (as defined in section 664(d)(2) and § 1.664-3), the determination of the income not subject to current taxation by reason of an item of tax preference is to be made as if such trust were generally subject to taxation. Where income of such a trust is not subject to current taxation in accordance with this section and is distributed to a beneficiary in a taxable year subsequent to the taxable year in which the trust received or accrued such income, the items of tax preference relating to such income are apportioned to the beneficiary in such subsequent year (without credit for minimum tax paid by the trust with respect to items of tax preference which are subject to the minimum tax by reason of section 664(c)).

(4) Items of tax preference apportioned to a beneficiary pursuant to this section are to be taken into account by the beneficiary in his taxable year within or with which ends the taxable year of the estate or trust during which it has such items of tax preference.

(5) Where a trust or estate has items of income or deduction which enter into the computation of the excess investment interest item of tax preference, but such items do not result in an item of tax preference at the trust or estate level, each beneficiary must take into account, in computing his excess investment interest, the portion of such items distributed to him. The determination of the portion of such items distributed to each beneficiary is made in accordance with the character rules of section 652(b) or section 662(b) and the regulations thereunder.

(6) Where, pursuant to subpart E of part 1 of subchapter J (sections 671–678), the grantor of a trust or another person is treated as the owner of any portion of the trust, there shall be included in computing the items of tax preference of such person those items of income, deductions, and credits against tax of the trust which are attributable to that portion of the trust to the extent such items are taken into account under section 671 and the regulations thereunder. Any remaining portion of the trust is subject to the provisions of this section.

(b) *Examples.* The principles of this section may be illustrated by the following examples in each of which it is assumed that none of the distributions are accumulation distributions (see sections 665–669 and the regulations thereunder):

Example (1). Trust A, with one income beneficiary, has the following items of income and deduction without regard to the deduction for distributions:

Income:	
Business income	$200,000
Investment income	20,000
	220,000
Deductions:	
Business deductions (nonpreference)	100,000
Investment interest expense	80,000
	180,000

Based on the above figures, the trust has $100,000 of taxable income without regard to items which enter into the computation of excess investment interest and the deduction for distributions. The trust also has $60,000 of excess investment interests, resulting in $40,000 of distributable net income. Thus, $60,000 of the $100,000 of noninvestment income is not subject to current taxation by reason of the excess investment interest.

(*a*) If $40,000 is distributed to the beneficiary, the beneficiary will normally be subject to tax on the full amount received and the "sheltered" portion of the income will remain at the trust level. Thus, none of the excess investment interest item of tax preference is apportioned to the beneficiary.

(*b*) If the beneficiary receives $65,000 from the trust, the beneficiary is still subject to tax on only $40,000 (the amount of the distributable net income) and thus, is considered to have received $25,000 of business income "sheltered" by excess investment interest. Thus, $25,000 of the $60,000 of excess investment interest of the trust is apportioned to the beneficiary.

Example (2). Trust B has $150,000 of net section 1201 gain.

(*a*) If none of the gain is distributed to the beneficiaries, none of the capital gains item of tax preference is apportioned to the beneficiaries.

(*b*) If all or a part of the gain is distributed to the beneficiaries, a proportionate part of the capital gains item of tax preference is apportioned to the beneficiaries. If any of the beneficiaries are corporations the capital gains item of tax preference is adjusted in the hands of the corporations as provided in § 1.58–2(a).

Example (3). Trust C has taxable income of $200,000 computed without regard to depreciation on section 1250 property and the deduction for distributions. The depreciation on section 1250 property held by the trust is $160,000. The trust instrument provides for income to be retained by the trust in an amount equal to the depreciation on the property determined under the straight line method (which method has been used for this purpose for the entire period the trust has held the property) which, in this case is equal to $100,000. The $60,000 excess of the accelerated depreciation of $160,000 over the straight line amount which would have resulted had the property been depreciated under that method for the entire period for which the trust has held the property is an item of tax preference pursuant to section 57(a)(2). Of the remaining $100,000 of net income of the trust (after the reserve for depreciation), 80 percent is distributed to the beneficiaries. Pursuant to sections 167(h) and 642(e), 80 percent of the remaining $60,000 of depreciation deduction (or $48,000) is taken as a deduction directly by the beneficiaries and "shelters" the income received by the beneficiaries. Thus, the full $48,000 deduction taken by the beneficiaries is "excess accelerated depreciation" on section 1250 property and is an item of tax preference in the hands of the beneficiaries. None of the remaining $12,000 of "excess accelerated depreciation" is apportioned to the beneficiaries since this amount "shelters" income retained at the trust level.

Example (4). G creates a trust the ordinary income of which is payable to his adult son. Ten years from the date of the transfer, corpus is to revert to G. G retains no other right or power which would cause him to be treated as an owner under subpart E of part 1 of subchapter J (section 671 and following). Under the terms of the trust instrument and applicable local law capital gains must be applied to corpus. During the taxable year 1970 the trust has $200,000 income from dividends and interest and a net long-term capital gain of $100,000. Since the capital gain is held or accumulated for future distribution to G, he is treated under section 677(a)(2) as an owner of a portion of the trust to which the gain is attributable. Therefore, he must include the capital gain in the computation of his taxable income in 1970 and the capital gain item of tax preference is treated as being directly received by G. Accordingly, no adjustment is made to the trust's minimum tax exemption by reason of the capital gain.

Example (5). For its taxable year 1971 the trust referred to in example (4) has taxable income of $200,000 computed without regard to depreciation on section 1250 property and the deduction for distributions. The depreciation on section 1250 property held by the trust is $160,000. The trust instrument provides for income to be retained by the trust in an amount equal to the depreciation on the property determined for purposes of the Federal income tax. If the property had been depreciated under the straight line method for the entire period for which the trust held the property the resulting depreciation deduction would have been $100,000. The $60,000 excess is, therefore, an item of tax preference pursuant to section 57(a)(2) and § 1.57–1(d). Since this amount of "income" is held or accumulated for future distributions to G, he is treated under section 677(a)(2) as an owner of a portion of the trust to which such income is attributable. Therefore, section 671 requires that in computing the tax liability of the grantor the income, deductions, and credits against tax of the trust which are attributable to such portion shall be taken into account. Thus, the grantor has received $160,000 of income and is entitled to a depreciation deduction in the same amount. The $60,000 item of tax preference resulting from the excess depreciation is treated as being directly received by G as he has directly received the income sheltered by that preference. Accordingly, no adjustment is made to the trust's minimum tax exemption by reason of such depreciation.

§ 1.58–4 Electing small business corporations.

(a) *In general.* Section 58(d)(1) provides rules for the apportionment of the items of tax preference of an electing small business corporation among the shareholders of such corporation. Section 58(d)(2) provides rules for the imposition of the minimum tax on an electing small business corporation with respect to certain capital gains. For purposes of section 58(d) and this section, the items of tax preference are computed at the corporate level as if section 57 generally applied to the corporation. However, the items of tax preference so computed are treated as items of tax preference of the shareholders of such corporation and not as items of tax preference of such corporation (except as provided in paragraph (c) of this section). The items of tax preference specified in section 57(a)(1) and § 1.57–1(a) (excess investment interest) and section 57(a)(3) and § 1.57–1(c) (accelerated depreciation on section 1245 property subject to a net lease), while generally inapplicable to corporations, are included as items of tax preference in the case of an electing small business corporation.

(b) *Apportionment to shareholders.* (1) The items of tax preference of an electing small business corporation, other than the capital gains item of tax preference described in paragraph (c) of this section, are apportioned pro rata among the shareholders of such corporation in a manner consistent with section 1374(c)(1). Thus, with respect to the items of tax preference of the electing small business corporation, there is to be treated as items of tax preference of each shareholder a pro rata share of such items computed as follows:

(i) Divide the total amount of such items of tax preference of the corporation by the number of days in the taxable year of the corporation, thus determining the daily amount of such items of tax preference.

(ii) Determine for each day the shareholder's portion of the daily amount of each such item of tax preference by applying to such amount the ratio which the stock owned by the shareholder on that day bears to the total stock outstanding on that day.

(iii) Total the shareholder's daily portions of each such item of tax preference of the corporation for it taxable year.

Amounts taken into account by shareholders in accordance with this paragraph are considered to consist of a pro rata share of each item of tax preference of the corporation. Thus, for example, if the corporation has $50,000 of excess investment interest and $150,000 of excess accelerated depreciation on section 1250 property and a shareholder, in accordance with this paragraph, takes into account $60,000 of the total $200,000 of tax preference items of the corporation, one-fourth ($50,000÷$200,000) of the $60,000, or $15,000, taken into account by the shareholder is considered excess investment interest and three-fourths of the $60,000, or $45,000, is considered excess accelerated depreciation on section 1250 property.

(2) Items of tax preference apportioned to a shareholder pursuant to subparagraph (1) of this paragraph are taken into account by the shareholder for the shareholder's taxable year in which or with which the taxable year of the corporation ends, except that, in the case of the death of a shareholder during any taxable year of the corporation (during which the corporation is an electing small business corporation), the items of tax preference of the corporation for such taxable year are taken into account for the final taxable year of the shareholder.

(c) *Capital gains.* (1) Capital gains of an electing small business corporation, other than those capital gains subject to tax under section 1378, do not result in an item of tax preference at the corporate level since, in applying the formula specified in sections 57(a)(9)(B) and 1.57–1(i)(2), the rate of tax on capital gains (and the resulting tax) at the corporate level is zero. Under section 1375 (a) shareholders of an electing small business corporation take into account the capital gains of the corporation (including capital gains subject to tax under sec. 1378). Therefore, the computation of the capital gains item of tax preference at the shareholder level, with respect to such capital gains, is taken into account automatically by operation of sections 57(a)(9) and 1.57–1(i). To avoid double inclusion of the capital gains item of tax preference by a shareholder with respect to capital gains subject to tax under section 1378, the capital gains item of tax preference which results at the corporate level by reason of section 58 (d)(2) is not treated under section 58 (d)(1) as an item of tax preference of the shareholders of the corporation.

(2) The capital gains item of tax preference of an electing small business corporation subject to the tax imposed by section 1378 is the excess of the amount of tax computed under section 1378(b)(2) over the sum of—

(i) The amount of tax that would be computed under section 1378(b)(2) if the following amount were excluded:

(*a*) That portion of the net section 1201 gain of the corporation described in section 1378(b)(1), or

(*b*) If section 1378(c)(3) applies, that portion of the net section 1201 gain attributable to the property described in section 1378(c)(3), and

(ii) The amount of tax imposed under section 1378

divided by the sum of the normal tax rate and the surtax rate under section 11 for the taxable year.

(3) The principles of this paragraph may be illustrated by the following example.

Example. Corporation X is a calendar year taxpayer and an electing small business corporation. For its taxable year 1971 the corporation has net section 1201 gain of $650,000 and taxable income of $800,000 (including the net section 1201 gain). Although X's election under section 1372(a) has been in effect for its three immediately preceding taxable years, X is subject to the tax im-

posed by section 1378 for 1971 since it has net section 1201 gain (in the amount of $200,000) attributable to property with a substituted basis. The tax computed under section 1378(b)(1) is $187,500 (30 percent of ($650,000 minus $25,000)) and under section 1378(b)(2) is $377,500 (22 percent of $800,000 plus 26 percent of $775,000). By reason of the limitation imposed by section 1378(c) the tax actually imposed by section 1378 is $60,000 (30 percent of $200,000, the net section 1201 gain). The tax computed under section 1378(b)(2) with the modification required under subparagraph (2)(i) of this paragraph is $281,500 (22 percent of $600,000 plus 26 percent of $576,000). Thus, the 1971 capital gains item of tax preference X is $75,000 computed as follows:

1. Tax computed under 1378(b) (2)	$377,500
2. Tax computed under 1378(b) (2) with modification	281,500
3. Excess	96,000
4. Tax actually imposed under 1378	60,000
5. Difference	36,000
6. Normal tax rate plus surtax rate	.48
7. Tax preference (line 5 divided by line 6)	$75,000

In addition each shareholder of X will take into account his distributive share of the $650,000 of net section 1201 gain of X less the taxes paid by X under sections 56 and 1378 on the gain.

§ 1.58–5 Common trust funds.

Section 58(e) provides that each participant in a common trust fund (as defined in sec. 584 and the regulations thereunder) is to treat as items of tax preference his proportionate share of the items of tax preference of the fund computed as if the fund were an individual subject to the minimum tax. The participant's proportionate share of the items of tax preference of the fund is determined as if the participant has realized, or incurred, his pro rata share of items of income, gain, loss, or deduction of the fund directly from the source from which realized or incurred by the fund. The participant's pro rata share of such items is determined in a manner consistent with section 1.584-2(c). Items of tax preference apportioned to a participant pursuant to this paragraph are taken into account by the participant for the participant's taxable year in which or with which the taxable year of the trust ends.

§ 1.58–6 Regulated investment companies; real estate investment trusts.

(a) *In general.* Section 58(f) provides rules with respect to the determination of the items of tax preference of regulated investment companies (as defined in sec. 851) and their shareholders and real estate investment trusts (as defined in sec. 856) and their shareholders, or holders of beneficial interest. In general, the items of tax preference of such companies and such trusts are determined at the company or trust level and the items of tax preference so determined (other than the capital gains item of tax preference (secs. 57(a)(9) and 1.57-1(l)) and, in the case of a real estate investment trust, accelerated depreciation on section 1250 property (secs. 57(a)(2) and 1.57-1(b)) are treated as items of tax preference of the shareholders, or holders of beneficial interest, in the same proportion that the dividends (other than capital gains dividends) paid to each such shareholder, or holder of beneficial interest, bear to the taxable income of such company or such trust determined without regard to the deduction for dividends paid. In no case, however, is such proportion to be considered in excess of 100 percent. For example, if a regulated investment company has items of tax preference of $500,000 for the taxable year, none of which resulted from capital gains, and distributes dividends in an amount equal to 90 percent of its taxable income, each shareholder treats his share of 90 percent of the company's items of tax preference, or (a proportionate share of) $450,000, as items of tax preference of the shareholder. The remaining $50,000 constitutes items of tax preference of the company. Amounts treated under this paragraph as items of tax preference of the shareholders, or holders of beneficial interest, are deemed to be derived proportionately from each item of tax preference of the company or trust, other than the capital gains item of tax preference and, in the case of a real estate investment trust, accelerated depreciation on section 1250 property. Such amounts are taken into account by the shareholders, or holders of beneficial interest, in the same taxable year in which the dividends on which the apportionment is based are includible in income. The minimum tax exemption of the trust or company shall not be reduced because a portion of the trust's or company's items of tax preference are allocated to the shareholders or holders of beneficial interests.

(b) *Capital gains.* Section 58(g)(1) provides that a regulated investment company or real estate investment trust does not treat as an item of tax preference the capital gains item of tax preference under section 57(a)(9) (and sec. 1.57-1(i)) to the extent that such item is attributable to amounts taken into income by the shareholders of such company under section 852(b)(3) or by the shareholders or holders of beneficial interest of such trust under section 857(b)(3). Thus, such a company or trust computes its capital gains item of tax preference on the basis of its net section 1201 gain less the sum of (1) the capital gains dividend (as defined in sec. 852(b)(3)(C) or sec. 857(b)(3)(C)) for the taxable year of the company or trust plus (2), in the case of a regulated investment company, that portion of the undistributed capital gains designated, pursuant to section 852(b)(3)(D), and the regulations thereunder, by the company to be includible in the shareholder's return as long-term capital gains for the shareholders's taxable year in which the last day of the company's taxable years falls. Amounts treated under section 852(b)(3) or 857(b)(3) as long-term capital gains of shareholders, or holders of beneficial interest, are automatically included, pursuant to sections 57(a)(9) and 1.57-1(i), in the computation of the capital gains item of tax preference of the shareholders, or holders of beneficial interest.

(c) *Accelerated depreciation on section 1250 property.* In the case of a real estate investment trust, all of the items of tax preference resulting from accelerated depreciation on section 1250 property held by the trust (section 57(a)(2) and § 1.57-1(b)) are treated as items of tax preference of the trust, and, thus, none are treated as items of tax preference of the shareholder, or holder of beneficial interest.

§ 1.58–7 Tax preferences attributable to foreign sources; preferences other than capital gains and stock options.

(a) *In general.* Section 58(g)(1) provides that except in the case of the stock options item of tax preference (section 57(a)(6) and § 1.57-1(f)) and the capital gains item of tax preference (section 57(a)(9) and § 1.57-1(i)), items of tax preference which are attributable to sources within any foreign country or possession of the United States shall, for purposes of section 56, be taken into account only to the extent that such items reduce the tax imposed by chapter 1 (other than the minimum tax under section 56) on income derived from sources within the United States. Items of tax preference from sources within any foreign country or possession of the United States reduce the chapter 1 tax on income from sources within the United States to the extent the deduction relating to such preferences, in combination with other foreign deductions, exceed the income from such sources and, in effect, offset income from sources within the United States. Items of tax preference, for this purpose, are determined after application of § 1.57-4 (relating to limitation on amounts treated as items of tax preference). In the case of a taxpayer who deducted foreign taxes under section 164 for a taxable year, the provisions of this section shall be applied) without regard to section 275(a)(4)) as if he had elected the overall foreign tax credit limitation under section 904(a)(2) for such year.

(b) *Preferences attributable to foreign sources—(1) Preferences other than excess investment interest.* Except in the case of excess investment interest (see subparagraph (2) of this paragraph), an item tax preference to which this section applies is attributable to sources within a foreign country or possession of the United States to the extent such item is attributable to a deduction properly allocable or apportionable to an item or class of gross income from sources within a foreign country or possession of the United States under the principles of section 862(b), or section 863, and the regulations thereunder. Where, in the case of income partly from sources within the United States and partly from sources within a foreign country or possession of the United States, taxable income is computed before apportionment to domestic and foreign sources, and is then apportioned by processes or formulas of general apportionment (pursuant to section 863(b) and the regulations thereunder), deductions attributable to such taxable income are considered to be proportionately from sources within the United States and within the foreign country or possession of the United States on the same basis as taxable income.

(2) *Excess investment interest—(i) Per-country limitation.* (*a*) In the case of a taxpayer on the per-country foreign tax credit limitation under section 904(a) for the taxable year, excess investment interest (as defined in section 57(b)(1)), and the resulting item of tax preference, is attributable to sources within a foreign country or a possession of the United States to the extent that investment interest expense attributable to income from sources within such foreign country or possession of the United States exceeds the net investment income from sources within such foreign country or such possession. For this purpose, net investment income from within a foreign country or possession of the United States is the excess (if any) of the investment income from sources within such country or possession over the investment expenses attributable to income from sources within such country or such possession. For the definition of investment interest expense see section 57(b)(2)(D); for the definition of investment income see section 57(b)(2)(B); for the definition of investment expense see section 57(b)(2)(C).

(*b*) If the taxpayer's excess investment interest computed on a worldwide basis is less than the taxpayer's total separately determined excess investment interest (as defined in this subdivision (*b*)), the amount of the taxpayer's excess investment interest from each foreign country or possession is the amount which bears the same relationship to the taxpayer's excess investment interest from each such country or possession, determined without regard to this subdivision (*b*), as the taxpayer's worldwide excess investment interest bears to the taxpayer's total separately determined excess investment interest. For purposes of this subdivision (*b*), the taxpayer's total separately determined excess investment interest is the sum of the total excess investment interest determined without regard to this subdivision (*b*) plus the taxpayer's excess investment interest from sources within the United States determined in a manner consistent with (*a*) of this subdivision (i).

(ii) *Overall limitation.* In the case of a taxpayer who has elected the overall foreign tax credit limitation under section 904(a)(2) for the taxable year, excess investment interest (as defined in section 57(b)(1)), and the resulting item of tax preference, is attributable to sources within any foreign country or possession of the United States to the extent that investment interest expense attributable to income from such sources exceeds the sum of (*a*) the net investment income from such sources plus (*b*) the excess, if any, of net investment income from sources within the United States over investment interest expense attributable to sources within the United States. For this purpose, net investment income from sources within any foreign country or possession of the United States is the excess (if any) of the investment income from all such sources over the investment expenses attributable to income from such sources. For the definition of investment interest expense see section 57(b)(2)(D) for the definition of investment income see section 57(b)(2)(B); for the definition of investment expense see section 57(b)(2)(C).

(iii) *Allocation of expenses.* The determination of the investment interest expense and investment expenses attributable to a foreign country or possession of the United States is made in a manner consistent with subparagraph (1) of this paragraph.

(iv) *Attribution of certain interest deductions to foreign sources.* Where net investment income from sources within any foreign country or possession has the effect of offsetting investment interest expense attributable to income from sources within the United States, the deductions for the investment interest expense so offset are, for purposes of § 1.58-7(c) (relating to reduction in taxes on United States source income), treated as deductions attributable to income from sources within the foreign country or possession from which such net investment income is derived. Such an offset will occur where there is an excess of investment interest expense attributable to income from sources within the United States over net investment income from such sources and (*a*) in the case of a taxpayer on the per-country foreign tax credit limitation, an excess of net investment income from sources within a foreign country or possession of the United States over investment interest expense from within such foreign country or possession, or (*b*) in the case of a taxpayer who has elected the overall foreign tax credit limitation, there is an excess of net investment income from sources within foreign countries or possessions of the United States over investment interest expense attributable to income from within such sources.

(v) *Separate limitation on interest income.* Where a taxpayer has income described in section 904(f)(2) (relating to interest income subject to the separate foreign tax credit limitation) or expenses attributable to such income, the determination of the excess investment interest resulting therefrom must be determined separately with respect to such income and the expenses properly allocable or apportionable thereto in the same manner as such determination is made in the case of a taxpayer on the per-country foreign tax credit limitation for the taxable year (see subdivision (i) of this subparagraph).

(vi) *Examples.* The principles of this subparagraph may be illustrated by the following examples in each of which the taxpayer is an individual and a citizen of the United States:

Example (1). The taxpayer's only items of income and deduction relating to excess investment interest are as follows:

	United States	France	Germany	Total
Investment income from sources within	$150,000	$120,000	$180,000	$450,000
Investment expenses relating to income from sources within	(100,000)	(90,000)	(120,000)	(310,000)
Net investment income	50,000	30,000	60,000	140,000
Investment interest expense relating to income from sources within	(110,000)	(70,000)	(50,000)	(230,000)
(Excess) of investment interest expense over net investment income	(60,000)	(40,000)	*10,000	(90,000)

*Excess of net investment income over investment interest expense.

(a) If the taxpayer has elected the overall foreign tax credit limitation, his excess investment interest from sources within any foreign countries or possessions of the United States determined under subdivision (ii) of this subparagraph is computed as follows:

Investment interest:			
French	($70,000)		
German	(50,000)		($120,000)
Net investment income:			
Investment income:			
French	120,000		
German	180,000	$300,000	
Less:			
Investment expenses:			
French	(90,000)		
German	(120,000)	(210,000)	90,000
Excess of U.S. net income over investment interest expenses:			
Total foreign excess investment interest			(30,000)

(b) If the taxpayer is on the per-country foreign tax credit limitation, his excess investment interest from France and Germany determined under subdivision (i)(*a*) of this subparagraph is $40,000 and zero, respectively. Since the taxpayer's worldwide excess investment interest ($90,000) is less than his total separately determined excess investment interest ($60,000 (United States) plus $40,000 (French) plus zero (German), or $100,000), the limitation in subdivision (i)(*b*) of this subparagraph applies and the excess investment interest attributable to France is limited as follows:

Total worldwide excess ($90,000)/Total separately determined excess ($100,000) × French excess ($40,000)=$36,000

The taxpayer's total excess investment interest attributable to sources within any foreign country or possession of the United States is, thus, $36,000 ($36,000 (French) plus zero (German)). The taxpayer's excess investment interest attributable to sources within the United States is $54,000

($90,000/$100,000×$60,000).

Since, in making the latter determination, $6,000 of the $60,000 of U.S. investment interest expense in excess of U.S. net investment income is, in effect, offset by German net investment income, for purposes of § 1.58-7(c), $6,000 of interest deductions attributable to income from sources within the United States are, pursuant to subdivision (iv) of this subparagraph, treated as deductions attributable to income from sources within Germany.

Example (2). Assume the same facts as in example (1) except that the items of income and deduction in Germany and the United States are reversed. The worldwide excess investment interest, thus, remains $90,000 and the items of income and deduction relating to excess investment interest are as follows:

	United States	France	Germany	Total
Investment income from sources within	$180,000	$120,000	$150,000	$450,000
Investment expenses relating to income from sources within	(120,000)	(90,000)	(100,000)	(310,000)
Net investment income	60,000	30,000	50,000	140,000
Investment interest expense relating to income from sources within	(50,000)	(70,000)	(110,000)	(230,000)
(Excess) of investment interest expense over net investment income	10,000	(40,000)	(60,000)	(90,000)

(a) If the taxpayer has elected the overall limitation, his excess investment interest from sources within any foreign countries or possessions of the United States determined under subdivision (ii) of this subparagraph is determined as follows:

Foreign investment interest:			
French	($70,000)		
German	(110,000)		($180,000)
Foreign net investment income:			
French	120,000		
German	150,000	$270,000	
Less:			
Investment expenses:			
French	(90,000)		
German	(100,000)	(190,000)	80,000
Excess of U.S. net investment income over U.S. investment interest expense			10,000
Excess investment interest attributable to foreign sources			(90,000)

(b) If the taxpayer has not elected the overall foreign tax credit limitation, his excess investment interest from France and Germany determined under subdivision (i) of this subparagraph (without regard to the limitation to worldwide excess investment interest) is $40,000 and $60,000 respectively, and his total separately determined excess investment interest is, thus, $10,000. Since the total separately determined excess would exceed the worldwide excess, the limitation to the worldwide excess in subdivision (i) applies and the excess investment interest is determined as follows:

France:

$90,000/$100,000×$40,000=$36,000

Germany:

$90,000/$100,000×$60,000=$54,000

Total excess investment interest attributable to sources within any foreign countries and possessions—$90,000.

Example (3). Assume the same facts as in example (1) except that the taxpayer, in addition has investment income, investment expenses, and investment interest subject to the separate limitation under section 904(f).

(a) If the taxpayer has elected the overall foreign tax credit limitation, his excess investment interest from sources within any foreign countries or possessions of the United States determined under subdivision (ii) of this subparagraph is the same as in (a) of example (1) of this subdivision (vi). He then treats such amounts as separately determined excess investment interest attributable to a single foreign country as determined under subdivision (i) of this subparagraph and proceeds as in (b) of example (1) of this subdivision (vi) treating items of income and deduction subject to section 904(f) and from each separate foreign country or possession separately in making the additional determinations under subdivisions (i) and (iv) of this subparagraph.

(b) If the taxpayer has not elected the overall foreign tax credit limitation, his excess investment interest from sources within any foreign country or possession of the United States would be determined in the same manner as in (b) of example (1) treating items of income and deduction which are subject to section 904(f) and from each separate foreign country or possession separately in making the determinations under subdivisions (i) and (iv) of this subparagraph.

(c) *Reduction in taxes on United States source income*—(1) *Overall limitation*—(i) *In general.* If a taxpayer is on the overall foreign tax credit limitation under section 904(a)(2), the items of tax preference determined to be attributable to foreign sources under paragraph (b) of this section reduce the tax imposed by chapter 1 (other than the minimum tax imposed under section 56) on income from sources within the United States for the taxable year to the extent of the smallest of the following three amounts:

(*a*) Items of tax preference (other than stock options and capital gains) attributable to sources within a foreign country or possession of the United States,

(*b*) The excess (if any) of the total deductions properly allocable or apportionable to items or classes of gross income from sources within foreign countries and possessions of the United States over the gross income from such sources, or

(*c*) Taxable income from sources within the United States.

See § 1.58-7(b)(2)(iv) with respect to the attribution of certain interest deductions to foreign sources in cases involving the excess investment interest item of tax preference.

(ii) *Net operating loss.* Where there is an overall net operating loss for the taxable year, to the extent that the lesser of the amounts determined under (*a*) or (*b*) of subdivision (i) of this subparagraph exceeds the taxpayer's taxable income from sources within the United States (and, therefore do not offset taxable income from sources within the United States for the taxable year) the amount of such excess is treated as "suspense preferences." Suspense preferences are converted to actual items of tax preference, arising in the loss year and subject to the provisions of section 56, as the net operating loss is used in other taxable years, in the form of a net operating loss deduction under section 172, to offset taxable income from sources within the United States. Suspense preferences which, in other taxable years, reduce taxable income from sources within any foreign country or possession of the United States lose their character as suspense preferences and, thus, are never converted into actual items of tax preference. The amount of the suspense preferences which are converted into actual items of tax preference is equal to that portion of the net operating loss attributable to the suspense preferences which offset taxable income from sources within the United States in taxable years other than the loss year. The determination of the component parts of the net operating loss and the determination of the amount by which the portion of the net operating loss attributable to suspense preferences offsets taxable income from sources within the United States is made on a year-by-year basis in the same order a the net operating loss is used in accordance with section 172(b). Such determination is made by applying deductions attributable to U.S. source income first against such income and deductions attributable to foreign source income first against such foreign source income and in accordance with the following principles:

(*a*) Deductions attributable to items or classes of gross income from sources within the United States offset taxable income from sources within the United States before any remaining portion of the net operating loss;

(*b*) Deductions attributable to items or classes of gross income from sources within foreign countries or possessions of the United States offset taxable income from such sources before any remaining portion of the net operating loss;

(*c*) Deductions described in (*b*) of the subdivision (ii) which are not suspense preferences (referred to in this subparagraph as "other foreign deductions") offset taxable income from sources within foreign countries and possessions of the United States before suspense preferences; and

(*d*) Suspense preferences offset taxable income from sources within the United States before other foreign deductions.

For purposes of the above computations, taxable income is computed with the modifications specified in section 172(b)(2) or section 172(c), whichever is applicable. However, the amount of suspense preferences which are converted into actual items of tax preference in accordance with the above principles is reduced to the extent suspense preferences offset increases in taxable income from sources within the United States due to the modifications specified in section 172(b)(2) or section 172(c). For this purpose, suspense preferences are considered to offset an increase in taxable income due to the section 172(b)(2) modifications only after reducing taxable income computed before the section 172(b)(2) or section 172(c) modifications.

(iii) *Examples.* The principles of this subparagraph may be illustrated by the following examples. In each example the taxpayer is an individual citizen of the United States and has elected the overall foreign tax credit limitation. Personal deductions and exemptions are disregarded for purposes of these examples.

Example (1). In 1974, the taxpayer has the following items of income and deduction:

United States taxable income:			
Gross income		$750,000	
Deductions		(250,000)	$500,000
Foreign source loss:			
Gross income		200,000	
Deductions:			
Preference items (excess of percentage depletion over basis)	$550,000		
Other	50,000	(600,000)	(400,000)
Overall taxable income			100,000

Pursuant to subdivision (i) of this subparagraph the smallest of (a) the items of tax preference attributable to the foreign sources ($550,000), (b) the foreign source loss ($400,000), or (c) the taxable income from sources within the United States ($500,000) reduces the tax imposed by chapter 1 (other than the minimum tax) on income from sources within the United States. Thus, $400,000 of the $550,000 of excess depletion is treated as an item of tax preference in 1974 subject to the minimum tax.

Example (2). Assume the same facts as in example (1) except that the gross income from sources within the United States is $350,000 resulting in U.S. taxable income of $100,000 and an overall net operating loss of $300,000. Pursuant to subdivision (i) of this subparagraph, $100,000 of the $550,000 excess depletion would be treated as an item of tax preference in 1974 subject to the minimum tax. In addition, pursuant to subdivision (ii) of this subparagraph, the excess of the items of tax preference from foreign sources ($550,000) or the foreign source loss ($400,000), whichever is less, over the U.S. taxable income ($100,000), or, in this example, $300,000, is treated as suspense preferences.

(a) If, in 1971, the taxpayer's total items of income and deduction result in $350,000 of taxable income all of which is from sources within the United States, the entire $300,000 net operating loss, all of which is attributable to suspense preferences, is used to offset U.S. taxable income. Accordingly, the full $300,000 of suspense preferences are converted into actual items of tax preference arising in 1974 and are subject to tax under section 56.

(b) If the $350,000 in 1971 is modified taxable income resulting from the denial of a section 1202 capital gains deduction of $175,000 by reason of section 172(b)(2), the $300,000, otherwise treated as actual items of tax preference, is reduced by $125,000, i.e., the extent to which the suspense preferences offset U.S. taxable income attributable to the increase in taxable income resulting from the denial of the section 1202 deduction.

Example (3). In 1974, the taxpayer has the following items of income and deduction:

United States loss:			
Gross income		$75,000	
Deductions		(225,000)	
			($150,000)
Foreign loss:			
Gross income		400,000	
Deductions:			
Preference items (excess of accelerated depreciation on sec. 1250 property over straight-line amount)	$200,000		
Other	550,000	(750,000)	
			(350,000)
Overall net operating loss			(500,000)

Since the nonpreference deductions reduce the foreign source income before the preference portion, the $350,000 foreign source loss consists of $200,000 of suspense preferences and $150,000 of other deductions. In 1971, 1972, and 1973 the taxpayer had taxable income from sources within the United States of $100,000, $200,000, and $300,000, respectively and taxable income from sources within foreign countries of $80,000 each year. Of the $200,000 of suspense preferences, $150,000 are converted into actual items of tax preference, subject to the minimum tax in 1974, determined as follows:

[In thousands of dollars]

Year—Explanation	Taxable income		U.S. deductions	Foreign deductions	
	U.S. source	Foreign source		Suspense preferences	Other
1971 End of year balance before section 58(g) computations	100	80	150	200	150
1. U.S. deductions against U.S. income	(100)		(100)		
2. Other foreign deductions against foreign income			(80)		(80)
1972 End of year balance before section 58(g) computations	200	80	50	200	70
1. U.S. deductions against U.S. income	(50)		(50)		
2. Other foreign deductions against foreign income			(70)		(70)
3. Suspense preferences against foreign income			(10)	(10)	
4. Suspense preferences against U.S. income	*(150)			*(150)	
1973 End of year balance before section 58(g) computations	300	80		40	
1. U.S. deductions against U.S. income		Not applicable.			
2. Other foreign deductions against foreign income			Not applicable.		
3. Suspense preference against foreign income			(40)	(40)	
4. Suspense preferences against U.S. income			Not applicable.		
Balances	300		40		

*Suspense preferences converted to actual items of tax preference.

Example (4). In 1970, the taxpayer's total items of income and deduction, all of which are attributable to foreign sources, are as follows:

Foreign loss:		
Gross income		$400,000
Deductions:		
Preferences (excess of accelerated depreciation on section 1250 property over straight-line)	$200,000	
Net operating loss		350,000

Pursuant to subdivision (i) of this subparagraph, none of the preferences attributable to foreign sources reduce the tax imposed by chapter 1 (other than the minimum tax) on taxable income from sources within the United States. Pursuant to subdivision (ii) of this subparagraph, the $200,000 portion of the net operating loss resulting from the excess accelerated depreciation constitutes suspense preferences. No part of the net operating loss that is carried back to previous years is reduced in such previous years. In 1971 and 1972, the taxpayer's income (before the net operating loss deduction) consists of the following:

1971 taxable income:	
United States	$180,000
Foreign	70,000
Total	230,000
1972 taxable income:	
United States	25,000
Foreign	105,000
Total	130,000

(a) In 1971, the conversion of suspense preferences into actual items of tax preference under section 58(g) (and this paragraph) and the imposition of the minimum tax on 1970 items of tax preference under section 56(b) and ($ 1.56-2) are determined as follows:

Conversion of suspense preferences:

1970 NET OPERATING LOSS

[In thousands of dollars]

	U.S. taxable income	Foreign taxable income	U.S. deductions	Suspense preferences	Other foreign deductions
Total	$160	$70		$200	$150
1. U.S. deductions against U.S. income	Not applicable				
2. Other foreign deductions against foreign income		70			(70)
3. Suspense preference against foreign income	Not applicable				
4. Suspense preference against U.S. income	*(160)			(160)	
Balance to 1972				40	80

*Suspense preferences converted into actual items of tax preference.

Imposition of minimum tax on 1970 items of tax preference:

1970 NET OPERATING LOSS

[In thousands of dollars]

	1971 taxable income	Nonpreference portion	Preference portion	Suspense portion
Total	$230	$150		$200
1. 1971 conversion of suspense preferences pursuant to sec. 58(g)		[1]30	$130	(160)
Adjusted NOL		180	130	40
2. Nonpreference portion against taxable income	(180)	(180)		
3. Preference portion against taxable income	[2](50)		(50)	
Balance to 1972			80	40

[1]Represents the 1970 minimum tax exemption.
[2]Imposition of 1970 minimum tax (10 pct.×$50,000=$5,000).

(b) In 1972, the conversion of suspense preferences into actual items of tax preferences under section 58(g) (and this paragraph) and the imposition of the minimum tax on 1970 items of tax preference under section 56(b) (and § 1.56-2) are determined as follows:

Conversion of suspense preferences:

1970 NET OPERATING LOSS

[In thousands of dollars]

	U.S. taxable income	Foreign taxable income	U.S. deductions	Suspense preferences	Other foreign deduction
Total	$25	$105		$40	$80
1. U.S. deduction against U.S. income			Not applicable		
2. Other foreign deductions against foreign income		(80)		(25)	(80)
3. Suspense preferences against foreign income		(25)		(15)	
4. Suspense preference against U.S. income	[1](15)				
Balance	10				

[1]Suspense preferences converted into actual items of tax preference.

Imposition of minimum tax on 1970 items of tax preference:

1970 NET OPERATING LOSS

[In thousands of dollars]

	[2]1972 taxable income	Nonpreference portion	Preference portion	Suspense portion
Total	$130	$80		$40
1. 1972conversion of suspense preferences pursuant to sec. 58(g)		$25	15	(40)
Adjusted NOL		25	95	
2. Nonpreference portion against taxable income	(25)	(25)		
3. Preference portion against taxable income	[3](95)		(95)	
Balance	10			

[1]Imposition of 1970 minimum tax (10 pct.×$95,000=$9,500).

(2) *Per-country limitation.*—(i) *In general.* If a taxpayer is on the per-country foreign tax credit limitation for the taxable year, the amount by which the items of tax preference to which this section applies reduce the tax imposed by chapter 1 (other than the minimum tax under section 56) on income from sources within the United States is determined separately with respect to each foreign country or possession of the United States. Such determination is made in a manner consistent with subparagraph (1) of this paragraph as modified in subdivision (ii) of this subparagraph. In applying subparagraph (1)(i) of this paragraph to a taxpayer on the per-country limitation, if the total potential preference amounts (as defined in this subdivision (i)) exceed the taxpayer's taxable income from sources within the United States, then, for

purposes of subparagraph (1)(i)(c) of this paragraph (relating to the U.S. taxable income limitation on the amount treated as a reduction of U.S. taxable income), the taxable income from sources within the United States which is reduced by potential preference amounts with respect to each foreign country or possession is an amount which bears the same relationship to such income as the potential preference amount with respect to such foreign country or possession bears to the total of the potential preference amounts with respect to all foreign countries and possessions. For purposes of this subparagraph, the potential preference amount with respect to a foreign country or possession is the lesser of the amount of foreign source preference (described in subparagraph (1)(i)(*a*) of this paragraph) attributable to such country or possession or the amount of foreign source loss (described in subparagraph (1)(i)(*b*) of this paragraph) attributable to such country or possession.

(ii) *Net operating loss.* Where there is an overall net operating loss for the taxable year and the total of the potential preference amounts with respect to all foreign countries and possessions exceeds the taxpayer's taxable income from sources within the United States, the amount of such excess is treated as "suspense preferences". The suspense preferences are converted into actual items of tax preference, arising in the loss year and subject to the provisions of section 56, as the net operating loss is used in other taxable years, in the form of a net operating loss deduction under section 172, to offset taxable income from sources within the United States. Suspense preferences attributable to a foreign country or possession which, in other taxable years, reduce taxable income from sources within such country or possession or offset taxable income from sources within any other foreign country or possession loose their character as suspense preferences and, thus, are never converted into actual items of tax preference. The amount of the suspense preferences which are converted into actual items of tax preference is equal to that portion of the net operating loss attributable to the suspense preferences which offsets taxable income from sources within the United States in taxable years other than the loss year. The determination of the component parts of the net operating loss and the determination of the amount by which the portion of the net operating loss attributable to the suspense preferences offsets taxable income from sources within the United States is made on a year-by-year basis in the same order as the net operating loss is used in accordance with section 172(b). Such determination is made by applying deductions attributable to United States source income first against such income and applying deductions attributable to income from sources within a foreign country or possession of the United States first against income from sources within such country or possession and in accordance with the following principles:

(*a*) Deductions attributable to items or classes of gross income from sources within the United States offset taxable income from sources within the United States before any remaining deductions;

(*b*) Deductions attributable to items or classes of gross income from sources within any foreign country or possession of the United States which are not suspense preferences (referred to in this paragraph as "other foreign deductions") offset taxable income from sources within such country or possession before any remaining deductions;

(*c*) Suspense preferences attributable to items or classes of gross income from sources within a foreign country or possession offset any remaining taxable income from sources within such foreign country or possession after application of (*b*) of this subdivision (ii) before any remaining deductions;

(*d*) Suspense preferences from each foreign country and possession (remaining after application of (c) of this subdivision (ii)) offset taxable income from sources within the Unted States (remaining after application of (*a*) of this subdivision (ii)) before other foreign deductions pro rata on the basis of the total of such suspense preferences;

(*e*) Other foreign deductions from each foreign country and possession (remaining after application of (*b*) of this subdivision (ii)) offset taxable income from sources within the United States (remaining after application (*a*) and (*b*) of this subdivision (ii)) pro rata on the basis of the total of such other foreign deductions;

(*f*) Deductions attributable to income from sources within the United States (remaining after application of (*a*) of this subdivision (ii)) offset taxable income from sources within any foreign country or possession before any foreign deductions;

(*g*) Other foreign deductions from each foreign country and possession (remaining after application of (*b*) and (*e*) of this subdivision (ii)) offset taxable income from sources within any other foreign countries or possessions (remaining after application of (*f*) of this subdivision (ii)) pro rata on the basis of the total of such other foreign deductions; and

(*h*) Suspense preferences (remaining after the application of (*c*) and (*d*) of this subdivision (ii)) offset taxable income from sources within any foreign country or possession (remaining after the application of (*f*) and (*g*) of this subdivision (ii)) pro rata on the basis of the total of such suspense preferences.

For purposes of the above computations, taxable income is computed with the modifications specifed in section 172(b)(2) or section 172(c), whichever is applicable. However, the amount of suspense preferences which are converted into actual items of tax preference in accordance with the above principles is reduced to the extent the suspense preferences offset increases in taxable income from sources within the United States due to the modifications specified in section 172(b)(2) or section 172(c). For this purpose, suspense preferences are considered to offset an increase in taxable income due to section 172(b)(2) or section 172(c) modifications only after reducing taxable income computed before such modifications.

(iii) *Examples.* The principles of this subparagraph may be illustrated by the following examples in each of which the per-country foreign tax credit limitation is applicable. For purposes of these examples, personal deductions and exemptions are disregarded.

Example (1). The taxpayer has the following items of income and deduction for the taxable year 1971:

	United States	France	Germany	United Kingdom
Gross income	$180,000	$165,000	$50,000	$75,000
Deductions:				
Preference				(45,000)
Other	(120,000)	(125,000)	(80,000)	(100,000)
Taxable income (or loss)	60,000	40,000	(30,000)	(70,000)

(a) Pursuant to subdivision (i) of this subparagraph, the potential preference amount in the case of the United Kingdom is the lesser of the preferences attributable to the United Kingdom ($45,000) or the excess of deductions over gross income from sources within the United Kingdom ($70,000) and the potential preference amounts in the case of France and Germany are zero in both cases since the preferences attributable to both countries are zero. Since the total potential preference amounts ($45,000) is less than the taxable income from sources within the United States ($60,000), no modification of U.S. taxable income is required. Thus, the amount by which the U.K. preferences reduce the tax on taxable income from sources within the United States, determined in a manner consistent with subparagraph (1)(i) of this paragraph, is the smallest of (1) the items of tax preference attributable to the United Kingdom ($45,000), (2) the excess of deductions over gross income attributable to the United Kingdom ($70,000), or (3) taxable income from sources within the United States ($60,000). The full $45,000 of U.K. preference items are, therefore, taken into account as items of tax preference in 1971 and subject to the minimum tax. Since there is no net operating loss, subdivision (ii) of this subparagraph does not apply.

(b) If the French taxable income is $15,000 instead of $40,000, a $25,000 net operating loss (on a worldwide basis) results. The determination of the foreign preference items taken into account pursuant to subdivision (i) of this subparagraph is the same as in (a) of this example. Subdivision (ii) of this subparagraph again does not apply since the total potential preference amounts ($45,000) is less than the U.S. taxable income ($60,000).

Example (2). For the taxable year 1972, the taxpayer has a net operating loss of $35,000 consisting of the following items of income and deduction:

	United States	France	Germany	United Kingdom	Belgium
Gross income	$250,000	$50,000	$60,000	$5,000	$45,000
Deductions:					
Preferences		(35,000)	(70,000)	(95,000)	
Other	(100,000)	(75,000)	(30,000)		(40,000)
Taxable income (or loss)	150,000	(60,000)	(40,000)	(90,000)	5,000

(a) Pursuant to subdivision (i) of this subparagraph the potential preference amount with respect to each country is the lesser of the amount shown as preferences with respect to such country or the amount of the loss from such country. Thus, the potential preference amounts in this case are:

France	$35,000
Germany	40,000
United Kingdom	90,000
Belgium	0
Total	165,000

Since the total of the potential preference amounts exceeds the U.S. taxable income, in applying the principles of subparagraph (1)(i) of this paragraph, U.S. taxable income which is reduced by potential preference amounts with respect to each country is a pro-rata amount based on the total potential preference amounts as follows:

	(a) Preferences	(b) Loss	(c) U.S. taxable income	(d) Smallest of (a), (b), or (c)
France	$35,000	$60,000	$81,818	$31,818
Germany	70,000	40,000	36,364	36,364
United Kingdom	95,000	90,000	81,818	81,818
Belgium				
Total				150,000

France (35,000/165,000×$150,000)—$31,818
Germany (40,000/165,000×$150,000)—$36,364
United Kingdom (90,000/165,000×$150,000)— $81,818
Belgium (0/165,000×$150,000)—$0
Total—$150,000.

The amount by which the foreign preference items offset U.S. taxable income pursuant to subdivision (i) of this subparagraph is then determined as follows:

Thus, $150,000 of the total foreign preference items will be taken into account pursuant to subdivision (i) of this subparagraph as items of tax preference in 1972 and subject to the provisions of section 56.

(b) Pursuant to subdivision (ii) of this subparagraph, the 1972 net operating loss of $35,000 will consist of suspense preferences of $15,000 and other foreign deductions of $20,000 attributable to each foreign country as shown below and determined as follows:

Explanation	United States	Deductions: France Preferences	France Other	Germany Preferences	Germany Other	United Kingdom preferences	Belgium other
	$100,000	$35,000	$75,000	$70,000	$30,000	$95,000	$40,000
1. U.S. deductions against U.S. income ($250,000)	(100,000)						
2. Other foreign deductions against foreign income (per-country) [1]			(50,000)		(30,000)		(40,000)
3. Suspense preferences against remaining foreign income (per-country)					(30,000)		(5,000)
4. Suspense preferences against remaining U.S. income:							
France (35,000/165,000×$150,000)		(31,818)					
Germany (40,000/165,000×$150,000)					(36,364)		
U.K. (90,000/165,000×$150,000)						(81,818)	
5. Other foreign deductions against remaining U.S. income (0)			Not applicable.				
6. U.S. deductions against other foreign income			Not applicable.				
7. Other foreign deductions against remaining foreign income ($5,000)			(5,000)				
8. Suspense preferences against remaining foreign income (0):			Not applicable.				
Balance (components of NOL)		3,182	20,000	3,636		8,182	

[1] Foreign income amounts before step 2 are: France—$50,000; Germany—$60,000; United Kingdom—$5,000; Belgium—$45,000.

Example (3). In 1973, the taxpayer has taxable income (computed without regard to the net operating loss deduction) from the following sources and in the following amounts:

United States	France	Germany	United Kingdom
$100,000	$60,000	$20,000	$30,000

In addition, the taxpayer has a net operating loss deduction of $235,000 resulting from a 1972 net operating loss consisting of the following amounts:

Deductions attributable to income from sources within the United States	$25,000
Suspense preferences attributable to income from sources within France	$75,000
Deductions other than suspense preferences attributable to income from sources within France	$85,000
Deductions other than suspense preferences attributable to sources within the Netherlands	$50,000

(*a*) Pursuant to subdivision (ii) of this subparagraph, the converted suspense preferences and the remaining portions of the 1972 net operating loss carried over to 1974 are computed as follows:

[In thousands of dollars]

	1973 income				1972 net operating loss			
	United States	France	Germany	United Kingdom	United States	French suspense preferences	French other deductions	Dutch other deductions
	100	60	20	30	25	75	85	50
U.S. deductions against U.S. income	(25)				(25)			
Other foreign deductions against foreign income (per-country)		(60)					(60)	
Suspense preferences against remaining foreign income (per-country)				Not applicable.				
Suspense preferences against remaining U.S. income	(75)					(75)		
Other foreign deductions against remaining U.S. income				Not applicable.				
U.S. deductions against remaining foreign income				Not applicable.				
Other foreign deductions against remaining foreign income:								
French ($25,000/75,000 × $50,000)			(16.7)				(16.7)	
Dutch ($50,000/75,000 × $50,000)			(33.3)				(33.3)	
Suspense preferences against remaining foreign income				Not applicable.				
Balance (1972 carryover to 1974)					8.3			16.7

[1] Suspense preferences converted to actual items of tax preference.

(*b*) If, in 1972, there had been no items of tax preference without regard to the suspense preferences, the conversion of the suspense preferences in 1973 would result in a 1972 minimum tax liability under section 56(a) of $4,500 (10 percent × ($75,000−$30,000)), all of which would have been deferred by reason of section 56(b). Further, by application of section 56(b) and § 1.56-2, $20,000 of the $45,000 preference portion of the 1972 net operating loss would be treated as having reduced taxable income in 1973 resulting in the imposition in 1973 of $2,000 of the deferred 1972 minimum tax liability.

(3) *Separate limitation under section 904(f).* In the case of a taxpayer subject to the separate limitation on interest income under section 904(f), the provisions of this paragraph shall be applied in the same manner as in subparagraph (2) of this paragraph. If the taxpayer has elected the overall foreign tax credit limitation, subparagraph (2) of this paragraph shall be applied as if all income from sources within any foreign countries or possessions of the United States and deductions relating to income from such sources other than income or deductions subject to the separate limitation under section 904(f) were from a single foreign country.

(4) *Carryover of excess taxes.* For rules relating to carryover of excess taxes described in paragraph (1) of section 56(c) when suspense preferences are converted to actual items of tax preference, see § 1.56-5(f).

(5) *Character of amounts.* Where the amounts from sources within a foreign country or possession of the United States (or all such countries or possessions in the case of a taxpayer who has elected the overall foreign tax credit limitation) which are treated as reducing chapter 1 tax on income from sources within the United States or as suspense preferences are less than the total items of tax preference described in subparagraph (1)(i)(*a*) of this paragraph attributable to such sources, the amounts so treated are considered derived proportionately from each such item of tax preference.

§ 1.58-8 Capital gains and stock options.

(a) *In general.* Section 58(g)(2) provides that the items of tax preference specified in section 57(a)(6), and § 1.57-1(b) (stock options), and section 57(a)(9), and § 1.57-1(i) (capital gains), which are attributable to sources within any foreign country or possession of the United States shall not be taken into account as items of tax preference if, under the tax laws of such country or possession, preferential treatment is not accorded:

(1) In the case of stock options, to the gain, profit, or other income realized from the transfer of shares of stock pursuant to the exercise of an option which is under United States tax law a qualified or restricted stock option (under section 422 or section 424); and

(2) In the case of capital gains, to gain from the sale or exchange of capital assets (or property treated as capital assets under United States tax law).

Where capital gains are not accorded preferential treatment within a foreign country, capital losses as well as capital gains from such country are not taken into account for purposes of the minimum tax.

(b) *Source of capital gains and stock options.* Generally, in determining whether the capital gain or stock option item of tax preference is attributable to sources within any foreign country or possession of the United States, the principles of sections 861-863 and the regulations thereunder are applied. Thus, the stock option item of tax preference, representing compensation for personal services, is attributable, in accordance with § 1.861-4, to sources within the country in which the personal services were performed. Where the capital gain item of tax preference represents gain from the purchase and sale of personal property, such gain is attributable, in accordance with § 1.861-7, entirely to sources within the country in which the property is sold. In accordance with paragraph (c) of § 1.861-7, in any case in which the sales transaction is arranged in a particular manner for the primary purpose of tax avoidance, all factors of the transaction, such as negotiations, the execution of the agreement, the location of the property, and the place of payment, will be considered, and the sale will be treated as having been consummated at the place where the substance of the sale occurred.

(c) *Preferential treatment.* For purposes of this section, gain, profit, or other income is accorded preferential treatment by a foreign country or possession of the United States if (1) recognition of the income, for foreign tax purposes, is deferred beyond the taxpayer's taxable year or comparable period for foreign tax purposes which coincides with the taxpayer's U.S. taxable year in cases where other items of profit, gain, or other income may not be deferred; (2) it is subject to tax at a lower effective rate (including no rate of tax) than other items of profit, gain, or other income, by means of a special rate of tax, artifical deductions, exemptions, exclusions, or similar reductions in the amount subject to tax; (3) it is subject to no significant amount of tax; or (4) the laws of the foreign country or possession by any other method provide tax treatment for such profit, gain, or other income more beneficial than the tax treatment otherwise accorded income by such country or possession. For the purpose of the preceding sentence, gain, profit, or other income is subject to no significant amount of tax if the amount of taxes imposed by the foreign country or possession of the United States is equal to less than 2.5 percent of the gross amount of such income.

(d) *Examples.* The principles of this section may be illustrated by the following examples:

Example (1). The Bahamas imposes no income tax on individuals or corporations, whether resident or nonresident. Since capital gains are subject to no tax in the Bahamas, capital gains are considered to be accorded preferential treatment and will be taken into account for purposes of the minimum tax.

Example (2). In France, except in certain cases involving the sale of large blocks of stock, a nonresident individual is not subject to tax on isolated capital gains transactions. Since such capital gains are not subject to tax in France, they are considered to be accorded preferential treatment irrespective of the treatment accorded other capital gains in France and such gains will be taken into account for purposes of the minimum tax.

Example (3). In Germany, in the case of the sale within 1 taxable year of 1 percent or more of the shares of a corporation in which an individual taxpayer is regarded as holding a substanital interest, the gains on the sale of the large block of stock will be taxed as extraordinary income at one-half the ordinary income tax rate. Since these gains are taxed as a reduced rate of tax in comparison to other income, they are considered to be accorded preferential treatment and will be taken into account for purposes of the minimum tax.

Example (4). In Belgium, gains derived by an individual in the course of regular speculative transactions are taxed as ordinary income, but with an upper limit of 30 percent. Rates of tax on individuals in Belgium range from approximately 30 percent to approximately 60 percent. Since the gains on speculative transactions are taxed at a maximum rate which is more beneficial then the rates accorded to other income, such gains are considered to be accorded preferential treatment and will be taken into account for purposes of the minimum tax.

Example (5). In France, gains derived by a company on the sale of fixed assets held for less than 2 years are treated as short-term gains. The excess of short-term gains in any fiscal year is taxed at the full company tax rate of 50 percent. However, this tax may be paid in equal portions over the 5 years immediately following the realization of such short-term gains. Since recognition of the short-term gains for tax purposes is subject to deferral over a 5-year period, such gains are considered to be accorded preferential treatment and will be taken into account for purposes of the minimum tax.

Example (6). Also in France, in the case of the sale or exchange by a company of depreciable assets and nondepreciable asset owned for at least 2 years, the excess of long-term capital gains over long-term capital losses in a fiscal year is subject to an immediate tax at the reduced rate of 10 percent. Such excess, reduced by the 10-percent tax, is carried in a special reserve account on the taxpayer's books. If the excess is reinvested in other fixed asset within a stated period, no further tax is due. If the amounts in the special reserve are distributed, they will be treated as ordinary income for the fiscal year in which the distribution is made. Since such gains (other than those distributed in the same fiscal year they are realized) are subject to deferral or a reduced rate of tax, they are (except to the extent distributed in the year of realization) considered to be accorded preferential treatment and are taken into account for purposes of the minimum tax.

Example (7). In Sweden, in the case of gains derived by an individual on the sale of shares or bonds held for 5 years or less, 25 percent of the gains are taxed if the holding period is 4 to 5 years, 50 percent of the gain is taxed if the holding period is 3 to 4 years, and 75 percent of the gain is taxed if the holding period is 2 to 3 years. The gain is fully taxable at ordinary income rates if held for less than 2 years. Thus, gains on shares or bonds held for 2 years or more are considered accorded preferential treatment in Sweden since they are either subject to exemption or treatment comparable to the U.S. capital gains deduction and are taxed at a reduced rate. Thus, such gains are taken into account for purposes of the minimum tax.

Example (8). Pursuant to Article XIV of the United States-United Kingdom Income Tax Convention, a resident of the United States is exempt from United Kingdom tax on most capital gains. Since such capital gains are exempt from United Kingdom taxation, they are considered to be accorded preferential treatment and are taken into account for purposes of the minimum tax.

Example (9). An individual resident of the United States, is desirous of selling his stock in a corporation listed on the New York Stock Exchange. He requests the stock certificates from his broker in the United States, travels to a foreign country, delivers the certificates to a broker in that country, and has the foreign broker execute the sale which takes place on the New York Stock Exchange. Since the sale was consummated in the United States, pursuant to paragraph (b) of this section and § 1.861-7, the resulting capital gain item of tax preference is attributable to sources within the United States.

Example (10). Two individuals, both residing in the United States, negotiate and reach agreement in New York City for the sale of stock of a closed corporation. Prior to the transfer of the stock, in order to avoid imposition of the minimum tax, both individuals travel to a foreign country which does not accord preferential treatment to capital gains, but imposes a 5-percent rate of income tax which would be fully creditable against U.S. tax under sections 901 and 904 if the capital gains were sourced in that country. The stock is actually transferred and consideration paid in the foreign country. Since the primary purpose of consummating the sale in the foreign country was the avoidance of tax, pursuant to paragraph (b) of this section, and § 1.861-7(c), the resulting capital gain item of tax preference will be considered attributable to sources within the country in which the substance of sale took place or, in this case, the United States.

PAR. 7. Section 1.381(c)(1)-1(a) is amended by adding new subparagraph (3) immediately after subparagraph (2) of that section. The amended provision reads as follows:

§ 1.381(c)(1)-1 Net operating loss carryovers in certa incorporate acquisitions.

(a) *Carryover requirement.* • • •

(3) For purposes of the tax imposed under section 56, the acquiring corporation succeeding to and taking into account any net operating loss carryovers of the distributor or transferor corporation shall also succeed to and take into account along with such net operating loss carryforward any deferred tax liability under section 56(b) and the regulations thereunder attributable to such net operating loss carryover.

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PAR. 8. Section 1.382(b)-1 is amended by adding new paragraph (h) immediately after paragraph (g). The amended provision reads as follows:

§ 1.382(b)-1 Change in ownership as the result of a reorganization.

• • • • •

(h) *Minimum tax for tax preferences.* For purposes of the tax imposed under section 56, the acquiring corporation succeeding to and taking into account any net operating loss carryovers of the transferor corporation shall also succeed to and take into account along with such net operating loss carryover any deferred tax liability under section 56(b) and the regulations thereunder attributable to such net operating loss carryover. Any reduction of net operating loss effected pursuant to section 382 and the regulations thereunder shall, for purposes of section 56(b) and the regulations thereunder and section 1.58-7, be deemed to reduce the portions of such net operating loss described in such provisions proportionately.

Par. 9. Section 1. 443 is deleted.

PAR. 10. Section 1.443-1 is amended by redesignating paragraph (d) as paragraph (e) and by adding new paragraph (d) immediately after paragraph (c). These amended provisions read as follows:

V 43 / 177 SE 12 78

§ 1.443-1 Returns for period of less than 12 months.

• • • • • •

(d) *Adjustment in exclusion for computing minimum tax for tax preferences.* (1) If a return is made for a short period on account of any of the reasons specified in subsection (a) of section 443, the $30,000 amount specified in section 56 (relating to minimum tax for tax preferences), modified as provided by section 58 and the regulations thereunder, shall be reduced to the amount which bears the same ratio to such specified amount as the number of days in the short period bears to 365.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. A taxpayer who is an unmarried individual has been granted permission under section 442 to change his annual accounting period files a return for the short period of 4 months ending April 30, 1970. The $30,000 amount specified in section 56 is reduced as follows:

$120/365 \times \$30,000 = \$9,835.89$.

(e) *Cross references.* • • •

PAR. 11. Section 1.453 is deleted.

PAR. 12. Section 1.453-7 is amended by revising subparagraphs (2) and (3) of paragraph (b). These amended provisions read as follows:

§ 1.453-7 Change from accrual to installment method by dealers.

• • • • • •

(b) *Adjustment to tax.* • • •

(2) The tax determined in any of the steps provided in subparagraph (1) of this paragraph shall be the tax imposed by chapter 1, subtitle A of the Internal Revenue Code of 1954 other than the tax imposed by section 56 (relating to the minimum tax for tax preferences); or chapter 1, not including subchapter D, relating to excess profits, nor subchapter E, relating to tax on self-employment income, of the Internal Revenue Code of 1939.

(3) The computation of the adjustment provided in section 453(c)(2) may be illustrated by the following example, the principles of which are equally applicable to sales under a revolving credit plan which are reported on the installment method:

ADJUSTMENTS IN TAX ON CHANGE TO INSTALLMENT METHOD

	Taxable years (prior to change)		Adjustment years (after change)	
	Year 1	Year 2	Year 3	Year 4
Gross profit from installment sales (receivable in periodic payments over 5 yr)	$100,000	$50,000	[1]$20,000 [2]10,000 [3]80,000	[4]$12,000 [5]8,000 [6]40,000 [7]90,000
Other income	80,000	200,000	90,000	90,000
Gross income	180,000	250,000	200,000	240,000
Deductions	60,000	50,000	50,000	80,000
Taxable income	120,000	200,000	150,000	180,000
Tax rate assumed (percentage of tax, other than tax imposed by sec. 56)	30	50	40	40
Tax would be	36,000	100,000	60,000	72,000

Computation of adjustment in year 3		Lesser tax portions
Year 1 items		
In year 3 (portion of tax)	20,000/200,000×60,000=$6,000	
In year 1 (portion of tax)	20,000/180,000×36,000=$4,000	$4,000
Year 2 items		
In year 3 (portion of tax)	10,000/200,000×60,000=$3,000	
In year 2 (portion of tax)	10,000/250,000×100,000=$4,000	3,000
Adjustment to tax of year 3		7,000

Computation of adjustment in year 4		
Year 1 items		
In year 4 (portion of tax)	12,000/240,000×72,000=$3,600	
In year 1 (portion of tax)	12,000/180,000×36,000=$2,400	$2,400
Year 2 items		
In year 4 (portion of tax)	8,000/240,000×72,000=$2,400	2,400
In year 2 (portion of tax)	8,000/250,000×100,000=$3,200	
Adjustment to tax of year 4		4,800

[1] From year 1 sales.
[2] From year 2 sales.
[3] From year 3 sales.
[4] From year 1 sales.
[5] From year 2 sales.
[6] From year 3 sales.
[7] From year 4 sales.

• • • • • •

PAR. 13. Section 1.511 is deleted.

PAR. 14. There is inserted immediately after § 1.511-3 the following new section:

§ 1.511-4 Minimum tax for tax preferences.

The tax imposed by section 56 applies to an organization subject to tax under section 511 with respect to items of tax preference which enter into the computation of unrelated business taxable income. For this purpose, only those items of income and those deductions entering into the determination of the tax imposed by this section are considered in the determination of the items of tax preference under section 57. For rules relating to the minimum tax for tax preferences, see sections 56 through 58 and the regulations thereunder.

PAR. 15. Section 1.614-3 is amended by revising subdivisions (iii), (iv), and (v) of subparagraph (3) of paragraph (g) to read as follows:

§ 1.614-3 Rules relating to separate operating mineral interests in the case of mines.

• • • • • •

(g) *Special rule as to deductions under section 615(a) prior to aggregation.* • • •

(3) *Recomputation of tax.* • • •

(iii) *Effect of recomputation with respect to items based on amount of income.* In making the recomputation of tax under this subparagraph for any taxable year, any deduction, credit, or other allowance which is based upon the adjusted gross income or taxable income of the taxpayer for such year shall be recomputed taking into account the adjustment required under subdivision (ii) of this subparagraph. For example, if a corporate taxpayer's taxable income is increased under the provisions of such subdivision, then the amount of charitable contributions which may be deducted under the limitation contained in section 170(b)(2) shall be correspondingly increased for purposes of the recomputation. Moreover, the effect that the recomputation of any deduction, credit, or other allowance for a taxable year has on the tax imposed for any other taxable year shall also be taken into account for purposes of the recomputation of tax under this subparagraph. Any change in items of tax preferences (as defined in section 57 and the regulations thereunder) must also be taken into account for purposes of the recomputation under this subparagraph.

(iv) *Effect of recomputation with respect to a net operating loss and a net operating loss deduction.* If the recomputation of tax under this subparagraph for the taxable year for which the recomputation is required to be made results in a reduction of a net operating loss for such year, then the taxpayer shall take into account the effect of such reduction on the tax imposed by chapter 1 of the Internal Revenue Code of 1954 (or by corresponding provisions of the Internal Revenue Code of 1939) for any taxable year affected by such reduction. If the recomputation of tax for the taxable year for which the recomputation is required to be made results in an increase in taxable income as defined in section 172(b)(2) for such year, then the taxpayer shall take into account the effect of such increase on the tax imposed by chapter 1 of the Internal Revenue Code of 1954 (or by corresponding provisions of the Internal Revenue Code of 1939) for any taxable year affected by such increase. Furthermore, in making the recomputation of tax for any taxable year for which the recomputation is required to be made, the taxpayer shall take into account any change in the net operating loss deduction for such year resulting from the recomputation of tax for any other taxable year for which a recomputation is required to be made. For provisions relating to the net operating loss deduction, see section 172 and the regulations thereunder. For rules relating to the effect of the net operating loss deduction on the minimum tax for tax preferences see section 56 and the regulations thereunder and § 1.58-7.

(v) *Determination of increase in tax.* If the taxpayer elects to form an aggregation or aggregations for a taxable year under section 614(c)(1) and if a recomputation of tax is required to be made under this paragraph for any prior taxable year or years, then the taxpayer shall compute the difference between the tax, including the tax imposed by section 56 (relating to the minimum tax for tax preferences), as recomputed under this subparagraph for such prior taxable year or years (and other taxable years affected by the recomputation) and the tax liability previously determined (computed without regard to section 614(c)(4)) with respect to such prior taxable year or years (and other taxable years affected by the recomputation). If the taxpayer is subsequently required to make a recomputation with respect to any taxable year or years for which he has previously made a recomputation, then the taxpayer shall compute the difference between the tax as subsequently recomputed for such taxable year or years (and other taxable years affected by the subsequent recomputation) and the tax as previously recomputed for such taxable year or years (and other taxable years affected by the subsequent recomputation). For treatment of the increase in tax resulted from the recomputation of tax under this subparagraph, see subparagraph (4) of this paragraph.

• • • • • •

PAR. 16. Section 1.642(h)-1 is amended by revising paragraph (b) to read as follows:

§ 1.642(h)-1 Unused loss carryovers on termination of an estate or trust.

• • • • • •

(b) The net operating loss carryover and the capital loss carryover are the same in the hands of a beneficiary as in the estate or trust, except that the capital loss carryover in the hands of a beneficiary which is a corporation is a short-term loss irrespective of whether it would have been a long-term or short-term capital loss in the hands of the estate or trust. The net operating loss carryover and the capital loss carryover are taken into account in computing taxable income, adjusted gross income, and the tax imposed by section 56 (relating to the minimum tax for tax preferences). The first taxable year of the beneficiary to which the loss shall be carried over is the taxable year of the beneficiary in which or with which the estate or trust terminates. However, for purposes of determining the number of years to which a net operating loss, or a capital loss under paragraph (a) of § 1.1212-1, may be carried over by a beneficiary, the last taxable year of the estate or trust (whether or not a short taxable year) and the first taxable year of the beneficiary to which a loss is carried over each constitute a taxable year, and, in the case of a beneficiary of an estate or trust that is a corporation, capital losses carried over by the estate or trust to any taxable year of the estate or trust beginning after December 31, 1963, shall be treated as if they were incurred in the last taxable year of the estate or trust (whether or not a short taxable year). For the treatment of the net operating loss carryover when the last taxable year of the estate or trust is the last taxable year to which such loss can be carried over, see § 1.642(h)-2.

• • • • • •

PAR. 17. Section 1.642(h)-2 is amended by revising paragraph (a) to read as follows:

§ 1.642(h)-2 Excess deductions on termination of an estate or trust.

(a) If, on the termination of an estate or trust, the estate or trust has for its last taxable year deductions (other than the deductions allowed under section 642(b) (relating to personal exemption) or section 642(c) (relating to charitable contributions)) in excess of gross income, the excess is allowed under section 642(h)(2) as a deduction to the beneficiaries succeeding to the property of the estate or trust. The deduction is allowed only in computing taxable income and must be taken into account in computing the items of tax preference of the beneficiary; it is not allowed in computing adjusted gross income. The deduction is allowable only in the taxable year of the beneficiary in which or with which the estate or trust terminates, whether the year of termination of the estate or trust is of normal duration or is a short taxable year. For example: Assume that a trust distributes all of its assets to B and terminates on December 31, 1954. As of that date it has excess deductions, for example, because of corpus commissions on termination, of $18,000. B, who reported on the calendar year basis, could claim the $18,000 as a deduction for the taxable year 1954. However, if the deductions (when added to his other deductions) exceeds his gross income, the excess may not be carried over to the year 1955 or subsequent years.

• • • • • •

PAR. 18. Section 1.682(b)-1 is amended by revising paragraph (a) to read as follows:

§ 1.682(b)-1 Application of trust rules to alimony payments.

(a) For the purpose of the application of subparts A through D (section 641 and following), part I, subchapter J, chapter 1 of the Code, the wife described in section 682 or section 71 who is entitled to receive payments attributable to property in trust is considered a beneficiary of the trust, whether or not the payments are made for the benefit of the husband

V 43 / 177 SEP 12 78

in discharge of his obligations. A wife treated as a beneficiary of a trust under this section is also treated as the beneficiary of such trust for purposes of the tax imposed by section 56 (relating to the minimum tax for tax preferences). For rules relating to the treatment of items of tax preference with respect to a beneficiary of a trust, see § 1.58-3.

* * * * * *

PAR. 19. Section 1.702-1 is amended by adding new paragraph (e) immediately after paragraph (d). As amended this provision reads as follows:

§ 1.702-1 Income and credits of partner.

* * * * * *

(e) *Cross reference.* For special rules in accordance with the principles of section 702 applicable solely for the purpose of the tax imposed by section 56 (relating to the minimum tax for tax preferences) see § 1.58-2(a).

PAR. 20. Section 1.901 is deleted.

PAR. 21. Section 1.901-1 is amended by revising paragraph (f) to read as follows:

§ 1.901-1 Allowance of credit for taxes.

* * * * * *

(f) *Taxes against which credit not allowed.* The credit for taxes shall be allowed only against the tax imposed by chapter 1 of the Code, but it shall not be allowed against the taxes imposed for the taxable year under the sections listed in section 901(a).

* * * * * *

PAR. 22. Section 1.1245-2 is amended by inserting after the third sentence of paragraph (a)(7) the following new sentence:

§ 1.1245-2 Definition of recomputed basis.

(a) *General rule.* * * *

(7) *Depreciation or amortization allowed or allowable.* * * * No adjustment is to be made on account of the tax imposed by section 56 (relating to the minimum tax for tax preferences). * * *

* * * * * *

PAR. 23. Section 1.1341-1(b) is amended by revising subdivision (ii) of subparagraph (1) to read as follows:

§ 1.1341-1 Restoration of amounts received or accrued under claim of right.

* * * * * *

(b) *Determination of tax.* (1) * * *

(ii) The tax for the taxable year computed under section 1341(a)(5), that is, without taking such deduction into account, minus the decrease in tax (net of any increase in tax imposed by section 56, relating to the minimum tax for tax preferences) (under chapter 1 of the Internal Revenue Code of 1954, under chapter 1 (other than subchapter E) and subchapter E of chapter 2 of the Internal Revenue Code of 1939, or under the corresponding provisions of prior revenue laws) for the prior taxable year (or years) which would result solely from the exclusion from gross income of all or that portion of the income included under a claim of right to which the deduction is attributable. For the purpose of this subdivision, the amount of the decrease in tax is not limited to the amount of the tax for the taxable year. See paragraph (i) of this section where the decrease in tax for the prior taxable year (or years) exceeds the tax for the taxable year.

* * * * * *

PAR. 24. Section 1.1372-1 is amended by revising paragraph (a) and subparagraph (1) of paragraph (b). These amended provisions read as follows:

§ 1.1372-1 Election by small business corporation.

(a) *Eligibility.* Under section 1372, an eligible small business corporation may elect not to be subject to the taxes imposed by chapter 1 of the Code (other than the tax imposed by section 1378 for taxable years beginning after April 14, 1966, and the tax imposed by section 56 for taxable years ending after December 31, 1969). The qualifications of a small business corporation must be met as of the first day of the first taxable year of the corporation for which the election is to be effective and on the date of election, unless the election is made after such first day, in which case the qualifications need not exist prior to the date of election. For example, the existence of a corporate shareholder or a nonresident alien as a shareholder prior to the date of election does not preclude qualification. However, if the election is made for a taxable year beginning before September 3, 1958, the qualifications must be met on such date and on each day after such date and before the date of the election. The election by a small business corporation is valid only if all the shareholders in the corporation on the first day of the first taxable year for which the election is to be effective, or on the day of election, whichever is later, consent to such election. See § 1.1372-3, relating to shareholders' consent.

(b) *Effect of election—(1) Effect on corporation.* The effect on a small business corporation of a valid election under section 1372 is to exempt such corporation from the taxes imposed by chapter 1 of the Code (other than the tax imposed by section 1378 for taxable years beginning after April 14, 1966, and the tax imposed by section 56 for taxable years ending after December 31, 1969) with respect to taxable years of the corporation for which the election is in effect and to subject the corporation with respect to such taxable years and all of its subsequent taxable years to section 1377, relating to special rules for computing the earnings and profits of an election small business corporation.

* * * * * *

PAR. 25. Section 1.1373 is deleted.

PAR. 26. Section 1.1373-1 is amended by revising paragraph (b) to read as follows:

§ 1.1373-1 Corporation undistributed taxable income taxed to shareholders.

* * * * * *

(b) *Determination of amount included by shareholders.* To determine the amount each shareholder must include in his gross income as provided in paragraph (a) of this section it is necessary to—

(1) Compute the taxable income of the electing small business corporation for its taxable year in accordance with the provisions of paragraph (c) of this section.

(2) Determine in accordance with paragraph (d) of this section the amount of money distributed as dividends during the taxable year out of earnings and profits of such year.

(3) Determine in accordance with §§ 1.56-1 through 1.56-4 the amount of tax imposed by section 56 for the taxable year.

(4) Determine in accordance with §§ 1.1378-1 through 1.1378-3 the amount of tax imposed by section 1378 for the taxable year.

(5) Subtract the sum of the amounts determined in subparagraphs (2), (3), and (4) of this paragraph from the amount computed in subparagraph (1) of this paragraph. The result is the undistributed taxable income for the taxable year.

(6) Determine in accordance with paragraph (e) of this section the amount that would be treated as a dividend to such shareholder if an amount of money equal to such undistributed taxable income were distributed pro rata to the shareholders of the corporation on the last day of the taxable year of the corporation in a distribution which is not in exchange for stock.

* * * * * *

PAR. 27. Section 1.1375 is deleted.

PAR. 28. Section 1.1375-1 is amended by revising paragraph (a) and subparagraph (1) of paragraph (b). These amended provisions read as follows:

§ 1.1375-1 Special rules applicable to capital gains.

(a) *In general.* The amount includable by a shareholder in gross income as dividends received from an electing small business corporation during any taxable year of such coprporation shall be treated as long-term capital gain to the extent, if any, of such shareholder's pro rata share of the excess of the corporation's net long-term capital gain over its net short-term capital loss for such taxable year. For this purpose, such excess shall be reduced by the amount of the taxes imposed by sections 56 and 1378 on the income of the corporation for the taxable year, and the amount of such excess so reduced shall not exceed the taxable income (as defined in section 1373(d) of the corporation for the taxable year. This capital gain treatment applies both to actual distributions of dividends and to amounts treated as dividends pursuant to section 1373(b); however, it applies only to the extent that a dividend is out of earnings and profits of the current taxable year of the corporation. Furthermore, this capital gain treatment applies whether or not the shareholder held any stock in the corporation at the close of the taxable year of the corporation.

(b) *Determination of pro rata share.* * * *

(1) The excess of the corporation's net long-term capital gain over its net short-term capital loss for the taxable year, reduced by the amount of tax, if any, imposed by sections 56 and 1378 on the income of the corporation for such year;

* * * * * *

PAR. 29. Section 1.6012-1 is amended by adding new subparagraph (9) immediately after subparagraph (8) of paragraph (a). The amended provisions read as follows:

§ 1.6012-1 Individuals required to make returns of income.

(a) *Individual citizen or resident.* * * *

(9) *Items of tax preference.* For a taxable year ending after December 31, 1969, an individual shall attach Form 4625 to the return required by this paragraph if during the year the individual—

(i) Has items of tax preference (described in section 57) in excess of its minimum tax exemption (determined under § 1.58-1) or

(ii) Uses a net operating loss carryover from prior taxable year in which it deferred minimum tax under section 56(b).

* * * * * *

PAR. 30. Section 1.6012-2 is amended by redesignating paragraph (i) as paragraph (j) and by adding new paragraph (i) immediately after paragraph (h). The amended provision reads as follows:

§ 1.6012-2 Corporations required to make returns of income.

* * * * * *

(i) *Items of tax preference—(1) In general.* Every corporation required to make a return under this section and having items of tax preference (described in section 57 and the regulations thereunder) in any amount shall file the required form relating to such items as part of such return.

(2) *Organizations with unrelated business income and foreign corporations.* Regardless of the provisions of paragraphs (e) and (g) of this section, any organization described in either such paragraph having items of tax preference (described in section 57 and the regulations thereunder) in any amount entering into the computation of unrelated business income is required to make a return on form 990-T or form 1120F, respectively, and to attach the required form as part of such return.

(j) *Other provisions.* * * *

PAR. 31. Section 1.6012-3 is amended by revising subparagraph (1) of paragraph (a) to read as follows:

§ 1.6012-3 Returns of fiduciaries.

(a) *For estates and trusts—(1) In general.* Every fiduciary, or at least one of joint fiduciaries, must make a return of income on form 1041 (or by use of a composite return pursuant to § 1.6012-5) and attach the required form if the estate or trust has items of tax preference (as defined in section 57 and the regulations thereunder) in any amount—

* * * * * *

PAR. 32. Section 1.6015(c) is deleted.

Par. 34. Section 106031-1 is amended by revising paragraph (a) to read as follows:

§ 1.6031-1 Return of partnership income.

(1) *General rule.* Except as provided in paragraphs (b) and (d) of this section with respect to certain organizations excluded from the application of subchapter K, chapter 1 of the Code, and certain partnerships having no U.S. business, an unincorporated organization defined as a partnership in section 761(a), through or by means of which any business, financial operation, or venture is carried on, shall make a return for each taxable year on form 1065. For purposes of filing a partnership return, an unincorporated organization will not be considered, within the meaning of section 761 (a), to carry on a business, financial operation, or venture as a partnership before the first taxable year in which such organization receives income or incurs any expenditures treated as deductions for Federal income tax purposes. Such return shall state specifically the items of partnership gross income and the deductions allowable by subtitle A of the Code and shall include the names and addresses of all the partners and the amount of the distributive shares of income, gains, loss, deduction, or credit (including any items which enter into the determination of the tax imposed by section 56) allocated to each partner. Such return shall be made for the taxable year of the partnership, irrespective of the taxable years of the partners. For taxable years of a partnership and of a partner, see section 706 and § 1.706-1. For signing of a partnership return, see § 1.6063-1.

* * * * * *

PAR. 35. Section 1.6032-1 is amended by revising such section to read as follows:

§ 1.6032-1 Returns of banks with respect to common trust funds.

Every bank (as defined in section 581) maintaining a common trust fund shall make a return of income of the common trust fund, regardless of the amount of its taxable income. If a bank maintains more than one common trust fund, a separate return shall be made for each. No particular fund is prescribed for making the return under this section, but form 1065 may be used if it is designated by the bank as the return or common trust fund. The return shall be made for the taxable year of the common trust fund and shall be filed on or before the 15th day of the fourth month following the close of such taxable year with the district director for the district in which in which the income tax return of the bank is filed. Such return shall state specifically with respect to the fund the items of gross income and the deductions allowed by subtitle A of the Code, shall include each participant's name and address, the participant's proportionate share of taxable income or net loss (exclusive of gains and losses from sales of exchanges of capital assets), the participant's proportionate share of gains and losses from sales or exchanges of capital assets, and the participant's share of items which enter into the determination of the tax imposed by section 56. See § 1.584-2 and § 1.58-5. A copy of the plan of the common trust fund must be filed with the return. If, however, a copy of such plan has once been filed with a return, it need not again be filed if the return contains a statement showing when and where it was filed. If the plan is

V 4 3 / 1 7 7

amended in any way after such copy has been filed, a copy of the amendment must be filed with the return for the taxable year in which the amendment was made. For the signing of a return of a bank with respect to common trust funds, see § 1.6062-1, relating to the manner prescribed for the signing of a return of a corporation.

PAR. 36. Section 1.6411-1 is amended by adding at the end of paragraph (a) the following new sentence:

§ 1.6411-1 Tentative carryback adjustments.

(a) *In general.* * * * In determining any decrease in tax under §§ 1.6411-1 through 1.6411-4, the decrease in tax is determined net of any increase in the tax imposed by section 56 (relating to the minimum tax for tax preferences).

* * * * * *

PAR. 37. Section 1.6654 is deleted.

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PAR. 40. Section 301.6015 is deleted.
SEC. 41. Section 301.6654 is deleted.

[FR Doc. 78-25349 Filed 9-11-78; 8:45 am]

[3710-08]

Title 32—National Defense

CHAPTER V—DEPARTMENT OF THE ARMY

PART 581—PERSONNEL REVIEW BOARDS

Procedures and Standards of the Army Discharge Review Board

AGENCY: Army Discharge Review Board.

ACTION: Final rule.

SUMMARY: Revised rules of procedure of the Army Discharge Review Board in implementation of Department of Defense Directive 1332.28 were published in the FEDERAL REGISTER on April 13, 1978 (43 FR 15572). The following specific modifications are made in further compliance with Department of Defense Directive 1332.28 as directed by the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics).

EFFECTIVE DATE: September 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Col. Albert A. Covington, 202-697-3166.

WILLIAM E. WEBER,
Colonel, IN, President, Army Discharge Review Board.

Accordingly, the rules of procedure of the Army Discharge Review Board are amended as follows:

(a) In paragraph (d)(2)(ii), delete last sentence.

(b) In paragraph (i)(1)(ii), delete last phrase starting with "when" and place a period after "question".

(c) In paragraph (i)(5), delete in the second sentence, "The record of the votes of board members, and minority opinions, if any," and substitute, "The decisional document (see Appendix E)".

(d) In paragraph (i)(6), add the following at the end of the paragraph: Any other privileged or classified material contained in or appended to any documents required by this agreement to be furnished the applicant and counsel/representative or made available for public inspection and copying may be deleted therefrom, only if a written statement of the basis for the deletions is provided the applicant and counsel/representative and made available for public inspection. It is not intended that the statement be so detailed as to reveal the nature of the withheld material.

(e) In paragraph 3m of Appendix B, change the period to a comma, and add the following at the end of the second sentence: "subject to reasonable limitations based upon available space."

(f) In paragraph 3n(5) of Appendix B, in the first sentence after "Applicants" add "who present sworn or unsworn statements".

(g) In paragraph 3o(1) of Appendix B, add the following sentence at the end: "A DD Form 293 provided for this purpose must be completed or amended prior to the ADRB's decision."

(h) In paragraph 4 of Appendix B, add the following paragraph:

"k. As a general matter, like cases should receive like treatment. However, the existence of certain similarities between a particular case and a past case decided by a Board does not necessarily require that the two be decided identically because there may be differences that require differing results. For example, differing results may be compelled by factual distinctions, differing equities, changes in policy, the credibility of witnesses and other evidence."

(i) In paragraph 3c(2)(c) of Appendix C, add a comma and "although not amounting to prejudicial error, may have" after the second "which" in the first sentence.

(j) In paragraph 2d of Appendix D, place a period after the word "them" in the last sentence and delete the final words contained in the parenthesis.

(k) In paragraph 2n of Appendix D, delete the last sentence.

[FR Doc. 78-25585 Filed 9-11-78; 8:45 am]

[1410-1]

Title 37—Patents, Trademarks and Copyrights

CHAPTER III—COPYRIGHT ROYALTY TRIBUNAL

PART 303—ACCESS TO PHONORECORD PLAYERS (JUKEBOXES)

Regulations for Copyright Owner Access to Phonorecord Players (Jukeboxes) and Certain Establishments

AGENCY: Copyright Royalty Tribunal (CRT).

ACTION: Final rule.

SUMMARY: Copyright Royalty Tribunal adopts rule whereby persons who may reasonably be expected to have claims resulting from public performance of nondramatic musical works by coin-operated phonorecord players may have access to such establishments and to the phonorecord players to determine the proportion of contribution of the musical works of such person to the earnings of the phonorecord players for which fees have been deposited. The rule requires the recording in the offices of the Copyright Royalty Tribunal of current listings of locations where licensed phonorecord players are placed, and the number of players at such locations. The rule establishes the regulations required by 17 U.S.C. 116(c)(5) to assist the functions of the Copyright Royalty Tribunal, as provided in 17 U.S.C. 801(b).

EFFECTIVE DATE: October 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas C. Brennan, Chairman, Copyright Royalty Tribunal, 202-653-5175.

SUPPLEMENTARY INFORMATION: 17 U.S.C. 116(c)(5) requires the CRT to promulgate regulations "under which persons who can reasonably be expected to have claims may, during the year in which performances take place, without expense to or harassment of operators or proprietors of establishments in which phonorecord players are located, have such access to such establishments and to the phonorecord players located therein and such opportunity to obtain information with respect thereto as may be

reasonably necessary to determine, by sampling procedures or otherwise, the proportion of contribution of the musical works of each such person to the earnings of the phonorecord players for which fees shall have been deposited."

On December 8, 1977 the CRT issued an advance notice of proposed rulemaking concerning access to phonorecord (jukebox) players (42 FR 62019). On May 12, 1978 the CRT published a proposed rule on this subject (43 FR 20513). A public hearing on the proposed rule was conducted on June 21, 1978. Under the rules of the CRT, interested persons were permitted to make formal statements, present witnesses, and cross-examine witnesses. Additional written materials were received by the CRT prior to the closing of the hearing record. Both the hearing and the comment period afforded interested persons a full opportunity to present all relevant jurisdictional and policy issues.

Enforcement of the Copyright Act—The proceedings of the CRT and the public records of the Copyright Office of the Library of Congress establish that the number of jukeboxes licensed in accordance with the provisions of section 116 of the Copyright Act and the regulations of the Copyright Office is substantially less than the number of jukeboxes estimated to be in operation at the time of the proceedings in the Congress on the Copyright Act. While there are no accurate statistics as to the number of jukeboxes currently performing copyrighted musical compositions, the record suggests that a number of jukeboxes have not been licensed. The CRT has determined that this situation is not relevant to the proceedings of the CRT. While the failure of jukebox operators to pay the required royalty fees will reduce the total royalty fees to be distributed by the CRT, the Congress has not granted any authority to the CRT to enforce those provisions of the Copyright Act applying to the licensing of jukeboxes. If jukebox operators are not in compliance with the Copyright Act, the Copyright Act provides a remedy for injured copyright owners. If the remedy is not adequate or effective, relief should be sought in the Congress.

Legislative history—Since the representatives of jukebox operators and the manufacturers of jukeboxes have raised jurisdictional issues, as to a portion of the proposed rule, the CRT has carefully reviewed the protracted proceedings in the Congress which resulted in section 116. It is clear from these proceedings and the specific language in 17 U.S.C. 116(c)(5) that the Congress did not intend—in fact undertook to preclude—the imposition on jukebox operators of burdensome record-keeping requirements. The Congress however, did not bar the CRT from requiring any information of licensed jukebox operators.

Section 303.3 of the rule requires licensed jukebox operators to record with the CRT the location of establishments in which they have placed jukeboxes, and the number of such boxes. The value of such listings for distribution purposes was not unknown to the Congress. Certain versions of the copyright revision legislation included specific language providing that licensed jukebox operators list the locations of establishments. It has been suggested that the absence of this language from the enacted legislation indicates that Congress has determined that such listings are not useful for distribution purposes, and that such a requirement was excluded from the rulemaking power granted to the CRT. We do not so read the legislative history. The Senate and House committee reports accompanying the copyright revision legislation are detailed and clearly reflect the legislative intent when the Congress had so resolved. The Congress in the reports (Senate Rept. 94-473 p. 99 and House Rept. 94-1476 p. 115) has directly stated what it intended to exclude from the scope of the CRT's rulemaking jurisdiction. We conclude that the legislative history establishes only that the Congress intended to preclude the CRT from requiring jukebox operators to maintain records as to the copyrighted musical compositions being peformed, or to require the installation in jukeboxes of metering devices for counting the play of particular recordings.

Chapter 8 of title 17 establishes the CRT and enumerates the purposes for which this agency has been constituted. One of these purposes is "To afford the copyright owner a fair return for his creative work." The Congress contemplated that controversy may exist as to the distribution of royalty fees. Having constituted the CRT to resolve such disputes, it is not plausible that the Congress determined to deny copyright owners and the CRT every practical and effective means of obtaining information as to musical works actually being performed by jukeboxes. There can be no right of access to an establishment if one does not know where the establishment is located.

In resolving disputes, the CRT may well find it necessary to conduct an independent review of data submitted by claimants to establish the shares of copyright owners. The Congress surely did not intend that Commissioners walk the streets of New York or Chicago looking for establishments with licensed jukeboxes. How could private establishments with licensed jukeboxes be located? We conclude that the rule is within the grant of our rulemaking authority under the Copyright Act.

Impact of rule upon jukebox operators.—The testimony presented by jukebox operators and other representatives of the jukebox industry alleged that the proposed rule will require some operators "to add one full-time employee to their staff just to handle this extra work." The testimony of a witness claimed that "every operator I have talked to says he cannot live with these requirements." Another witness testified that the published rule would require an employee's full time for one and a half days each week.

We do not find this testimony creditable. The proposed rule should not have required any jukebox operator to hire a single employee or have consumed any significant work time of an employee. The CRT has determined that the objectives of the rule can be accomplished by further reducing the reporting requirements. As adopted, the rule will require a jukebox operator to file once a year a report if the operator has placed a jukebox in a previously unreported location, or altered the number of jukeboxes at a location.

Access to the interior of a jukebox.—The proposed rule as published provided for certain access to the interior of a jukebox if it was "essential to obtain accurate information concerning the performance of musical works." The testimony reflected that this section of the proposed rule may be burdensome to jukebox operators while of doubtful value at the present time to the CRT and copyright owners. Without prejudice to any future action on the issue, this section of the proposed rule has been deleted.

The rule and the Freedom of Information Act.—The Amusement and Music Operators Association and the manufacturers of jukeboxes assert that the location of establishments in which licensed jukeboxes are placed is confidential "commercial" information to be regarded as a listing of customers. It is further claimed that even if the information is required by the CRT it could not be made available to copyright owners, or otherwise publicly disclosed because of the Freedom of Information Act. The fourth exemption to the Freedom of Information Act embraces "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

We have not found these arguments convincing, especially in the particular situation before us. We are not imposing a regulation on an industry that is operating according to the economic laws of the marketplace. The Congress

SEP 12 78

V 43 / 177 SE 12 78

determined that the performance of copyrighted musical compositions by jukeboxes should require the payment of a royalty fee. As an accommodation to the jukebox industry, the Congress enacted a statutory compulsory license, and further provided that the operators of jukeboxes would not be required to pay fees to individual copyright owners, but would merely be required to deposit the royalty fee with the Register of Copyrights. No jukebox operator is required to obtain a certificate from the Copyright Office. A jukebox operator may elect to obtain licenses from the performing rights societies and other copyright owners, or refrain from the performance of copyrighted musical compositions. Having chosen to avail itself of the statutory compulsory license, a jukebox operator cannot be said to be transacting a private commercial venture, at least as it relates to the payment and distribution of royalty fees under the provisions of the Copyright Act.

Moreover, independent of the obligations assumed by a jukebox operator who seeks a section 116 license, we find that the location of jukeboxes is not confidential "commercial" information. If another person, including a competitor, devoted the time and effort necessary, a location listing could be prepared for a particular area. We conclude on the record before us that the disclosure of the location listings to certain copyright owners will not cause substantial harm to the competitive position of a jukebox operator. We hold that the disclosure of such listings to performing rights societies as defined in 17 U.S.C. 116(e)(3) and the copyright owner of a musical composition whose work may be performed by a jukebox operator under the compulsory license is not precluded by any Federal statute, and promotes the purposes of the Congress in enacting section 116 of the Copyright Act.

Even assuming that the location listings come within the scope of exemption (4) of the Freedom of Information Act, the CRT is not barred from the disclosure of such information, at least to performing rights societies and other copyright owners. While the law in this area is evolving, the better view, as reflected in judicial decisions, legislative materials and academic commentary is that the agency has discretion as to whether exempt information should be disclosed. The courts have identified several factors which may be considered by the agency in balancing the benefits of disclosure against the possible damage to the submitter of the information. We find in this situation that the application of these factors would support the disclosure of location listings to copyright owners of musical compositions. The location lists would be filed with the CRT to assist in the execution of a specific governmental function, no promises of total confidentiality have been made by the agency, and the persons to whom the information would be disclosed have a direct and valid interest in the information, namely, to use the information to meet the requirements of the Copyright Act for the filing of claims to jukebox royalty fees.

It was not within the scope of this proceeding to consider whether the disclosure of location listings to appropriate copyright owners should be subject to any conditions or protective safeguards. Such issues may be explored in a future proceeding.

We express no opinion at this time as to whether the disclosure of location listings may, or should be, restricted to the copyright owners of musical compositions. We observe, however, that the CRT presently is not aware that any person, other than performing rights societies and other copyright owners of musical compositions, would have a valid claim to such information. This subject may be further considered in an appropriate future rulemaking proceeding.

The Privacy Act.—It has been argued that the Privacy Act (5 U.S.C. 552(b)(5)) prohibits the disclosure, even to copyright owners, of location listings of jukeboxes. Nothing in the Privacy Act or its legislative history supports such a conclusion. The concern of the Congress in enacting that legislation was to protect an individual from the "dissemination of personal information by Federal agencies" and "to provide certain safeguards for an individual against an invasion of personal privacy."

The Federal Reports Act.—It has been argued that "nothing in the Tribunal's enabling statute gives it the authority to deviate from the letter and spirit of * * * the Federal Reports Act." The Federal Reports Act provides that "Information needed by Federal agencies shall be obtained with a minimum burden upon business enterprises, especially small business enterprises, and other persons required to furnish the information, at a minimum cost to the Government." (44 U.S.C. 3501.)

It has not been held that the Federal Reports Act applies to independent agencies of the legislative branch. However, the rule as adopted is consistent with the objectives of that statute. The information required to be furnished is not otherwise available to the Federal Government, and is to be obtained "with a minimum burden upon business enterprises."

Use of trade charts.—Certain testimony and statements presented during this proceeding advocated the use of trade charts as a fair and expeditious means for determining the respective shares of copyright owners. In determining that location listings are necessary to provide effective access by copyright owners to establishments in which jukeboxes are located, the CRT at this time refrains from any judgment as to the value of trade charts for distribution purposes.

Denial of right of access.—Section 116(c)(5) provides that any person who alleges that "he or she has been denied the access permitted under the regulations prescribed by the Copyright Royalty Tribunal may bring an action in the U.S. District Court for the District of Columbia for the cancellation of the compulsory license of the phonorecord player to which such access has been denied." We hold that a licensed jukebox operator who does not comply with all the provisions of this rule is denying copyright owners the access granted by the Copyright Act and the regulations of the CRT, and that such operator is not complying with the requirements of the statutory compulsory license.

Since the matter is not before us, we did not consider if there are judicial means, other than a suit brought by a copyright owner under section 116(c)(5), to enforce this regulation of the CRT.

Accordingly, pursuant to 17 U.S.C. 116(c)(5), the purposes of the Copyright Royalty Tribunal set forth in 17 U.S.C. 801(b), and the phonorecord player royalty distribution jurisdiction provided in 17 U.S.C. 801(b)(3), 37 CFR chapter III is amended by adding a new part 303, reading as follows:

Sec.
303.1 General.
303.2 Access to establishments and phonorecord players.
303.3 Recording of location listing in Copyright Royalty Tribunal.

Authority: (17 U.S.C. 116(c)(5); 17 U.S.C. 801(b).)

§ 303.1 General.

This regulation prescribes the procedures pursuant to 17 U.S.C. 116 by which persons who can reasonably be expected to have claims to royalty fees paid by the operators of coin-operated phonorecord players under the compulsory license established by 17 U.S.C. 116 may have access to the establishments in which such phonorecord players are located and to the phonorecord players located therein to obtain information which may be reasonably necessary to determine the proportion of contribution of the musical works of each such person to the earnings of the phonorecord players for which fees shall have been deposited. The terms "operator" and "coin-operated phonorecord player" have the meanings given to them by paragraph (3) of section 116 of title 17.

§ 303.2 Access to establishments and phonorecord players.

A person, or authorized representatives of such person, who can reasonably be expected to have claims to royalty fees paid by the operators of phonorecord players shall have access to the establishments in which such phonorecord players are located during customary business hours on regular business days. Such access shall be only for the purpose of obtaining information concerning the performance of musical works by the phonorecord players. The right of access shall be exercised in such a manner as not to cause any significant interference with the normal functioning of an establishment.

§ 303.3 Recording of location listings in Copyright Royalty Tribunal.

(a) Not later than November 1, 1978, every operator of a phonorecord player who has filed in the Copyright Office an application for a phonorecord player compulsory license according to the requirements of 17 U.S.C. 116 and the regulations of the Copyright Office and been issued prior to October 1, 1978 a Copyright Office phonorecord player certificate, shall record in the offices of the Copyright Royalty Tribunal a list identifying the location or locations where licensed phonorecord players of the operator are placed, and the number of phonorecord players at any location with more than one such player.

(b) Every operator of a phonorecord player who subsequent to October 1, 1978, obtains his initial Copyright Office phonorecord certificate shall record in the office of the Copyright Royalty Tribunal within thirty days after the issuance of the initial certificate a list identifying the location or locations where licensed phonorecord players of the operator are placed, and the number of phonorecord players at any location with more than one such player.

(c) On October 1 of each year every operator of a phonorecord player who alters the number of licensed phonorecord players at a location reported under paragraph (a) or (b) of this section, or who has provided a licensed phonorecord player or players to a location not previously reported to the Copyright Royalty Tribunal shall report to the Copyright Royalty Tribunal the revised number of phonorecord players or that new location and the number of licensed phonorecord players at the location.

(d) The location listing required under this section shall include the full address of the location, including a specific number and street name or rural route.

Approved: September 6, 1978.

THOMAS C. BRENNAN,
Chairman,
Copyright Royalty Tribunal.

[FR Doc. 78-25559 Filed 9-11-78; 8:45 am]

[1410-1]

PART 305—CLAIMS TO PHONORECORD PLAYER (JUKEBOX) ROYALTY FEES

Regulations for Copyright Owners Filing Claims to Phonorecord Player (Jukebox) Royalty Fees

AGENCY: Copyright Royalty Tribunal (CRT).

ACTION: Final rule.

SUMMARY: Copyright Royalty Tribunal adopts rule prescribing procedures whereby persons claiming to be entitled to compulsory license fees for public performances of nondramatic musical works by coin-operated phonorecord players (jukeboxes) shall file claims with the Copyright Royalty Tribunal. The rule prescribes the content and time of filing of such claims. The rule is necessary to implement section 116(c)(2) of the Act for the General Revision of the Copyright Law.

EFFECTIVE DATE: October 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas C. Brennan, Chairman, Copyright Royalty Tribunal, 202-653-5175.

SUPPLEMENTARY INFORMATION: Section 116(c)(2) of the Act for the General Revision of the Copyright Law requires the Copyright Royalty Tribunal to adopt regulations whereby persons claiming to be entitled to compulsory license fees for the performance of nondramatic musical works by coin-operated phonorecord players may file claims to such fees. The Tribunal in the FEDERAL REGISTER of February 14, 1978 (43 FR 6262) published an advance notice of progposed rulemaking. A proposed rule was published in the FEDERAL REGISTER of July 28, 1978 (43 FR 32826). Comments on the proposed rule were requested not later than August 21, 1978.

No objection to the proposed rule has been received. The American Society of Composers, Authors and Publishers proposed a technical amendment, which has been adopted. The amendment revises §§ 305.2 and 305.3(a) to clarify the application of that language to the membership structure of the American Society of Composers, Authors and Publishers.

Certain comments submitted during this rulemaking proceeding discussed the use of trade charts as a means for determining the respective shares of copyright owners to the jukebox royalty fees. In adopting this rule as to the content of claims to jukebox royalty fees, the Tribunal expresses no opinion as to the value of any method of resolving disputes concerning the distribution of jukebox royalties. Such determinations should be made, if necessary, in a jukebox distribution proceeding.

Accordingly, pursuant to 17 U.S.C. 116(c)(2), 37 CFR chapter III is amended by adding a new part 305, reading as follows:

Sec.
305.1 General.
305.2 Time of filing.
305.3 Content of claims.
305.4 Justification of claims.
305.5 Forms.

AUTHORITY: 17 U.S.C. 116(c)(2).

§ 305.1 General.

This regulation prescribes procedures pursuant to 17 U.S.C. 116(c)(2), whereby persons claiming to be entitled to compulsory license fees for public performances of nondramatic musical works by means of coin-operated phonorecord players shall file claims with the Copyright Royalty Tribunal.

§ 305.2 Time of filing.

During the month of January in each year every person claiming to be entitled to phonorecord player fees for performances of nondramatic musical works during the preceding calendar year shall file a claim with the Copyright Royalty Tribunal. Claimants may file jointly or as a single claim. A performing rights society shall not be required to obtain from its members or affiliates separate authorizations, apart from their standard membership or affiliation agreements, for purposes of this filing and fee distribution.

§ 305.3 Content of claims.

The claims filed shall include the following information:

(a) The full legal name of the person or entity claiming compulsory license fees. Performing rights societies are not required to include lists of members or affiliates to whom distributions would be made by such societies.

(b) The full address, including a specific number and street name or rural route, of the place of business of the person or entity.

(c) A specific agreement to accept as final the determination of the Copyright Royalty Tribunal in any controversy concerning the distribution of

royalty fees, except for the judicial review provided in 17 U.S.C. 116.

§ 305.4 Justification of claims.

(a) Not later than the first day of November of each year, every person or entity which has filed a claim pursuant to § 305.2 shall file with the Copyright Royalty Tribunal a statement claiming the proportionate share of compulsory license fees to which such person or entity believes it is entitled. The statement shall include a detailed justification for the requested entitlement and shall also include such specific information as the Copyright Royalty Tribunal may require by regulation or order.

(b) The entitlement justification statement required by subsection (a) need not be filed with the Copyright Royalty Tribunal if it has been determined by the Tribunal that there is no controversy as to the distribution of royalty fees.

§ 305.5 Forms.

The Copyright Royalty Tribunal does not provide printed forms for the filing of claims.

Approved: September 6, 1978.

THOMAS C. BRENNAN,
Chairman, Copyright Tribunal Royalty.

[FR Doc. 78-25560 Filed 9-11-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 963-1]

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA AND CONTROL TECHNIQUES

Section 107—Attainment Status Designations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) was required under the Clean Air Act Amendments of 1977, to publish on a State-by-State, pollutant-by-pollutant basis the attainment status of all areas within the States in relation to the national ambient air quality standards (NAAQS). Both the States and EPA can initiate changes to these designations, but any State redesignation must be submitted to EPA for concurrence. This rulemaking discusses comments received in response to the Administrator's determination of the attainment status of EPA Region III States in relation to the national ambient air quality standards (Mar. 3, 1978, 43 FR 8962). This rulemaking also corrects typographical errors that appeared in the March 3, 1978 final rulemaking; announces designation changes with respect to total suspended particulates (TSP), sulfur dioxide (SO_2), carbon monoxide (CO_2), and photochemical oxidants; and reaffirms the Administrator's designation of attainment status for those areas for which redesignation is not necessary. EPA will accept comments whenever information not previously considered is submitted.

EFFECTIVE DATE: September 12, 1978.

ADDRESS: Comments on these designations should be addressed to: Mr. Howard R. Heim, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, 10th Floor, Sixth and Walnut Streets, Philadelphia, Pa. 19106.

Copies of the associated support material are available for public inspection during normal business hours at the following locations: U.S. Environmental Protection Agency, Region III, Curtis Building, 10th Floor, Sixth and Walnut Streets, Philadelphia, Pa. 19106, or Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold A. Frankford (3AH12), U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106, phone 215-597-8392.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (49 FR 8962), the Administrator of the Environmental Protection Agency published designations of attainment and nonattainment in each State for the following air pollutants: total suspended particulates (TSP), sulfur dioxide (SO_2), carbon monoxide, photochemical oxidants, and oxides of nitrogen (NO_2). These designations of attainment and nonattainment are required under section 107(d) of the Clean Air Act as amended. The public was invited to comment on the Administrator's designations, with comments due by May 2, 1978.

During the public comment period, EPA Region III received comments concerning both general and specific issues relating to the designation process.

COMMENTS RELATING TO TYPOGRAPHICAL ERRORS

The District of Columbia, Pennsylvania, and West Virginia submitted comments pointing out typographical errors with respect to designation of attainment and nonattainment areas for TSP. For the District of Columbia, the boundaries for the areas considered attainment and nonattainment for primary standards are redefined in this notice to correct the typographical error. For Pennsylvania, the remainder of the south-central Pennsylvania intrastate air quality control region (AQCR) should be designated as attainment for TSP. In addition, that portion of the Beaver Valley air basin which is located in the northwest Pennsylvania interstate AQCR was inadvertently designated as an attainment area. The correct designation is nonattainment for primary standards. The change for West Virginia corrects the name of the Falls and Kanawha Magisterial Districts to the Valley Magisterial District.

COMMENTS RELATING TO CARBON MONOXIDE

Comments with respect to the designations for carbon monoxide for the National Capital interstate AQCR were submitted by the State of Maryland, Commonwealth of Virginia, and the Metropolitan Washington Council of Governments (MWCOG). The State of Maryland requested that only "areas of high traffic density" in the Maryland portion of the National Capital interstate AQCR be designated nonattainment while the remaining areas in the Maryland portion of the National Capital interstate AQCR be designated "unclassifiable or attainment." The comments submitted by MWCOG recommended that only the portion of Fairfax County inside the Capital Beltway (I-495) be designated nonattainment while the portion of Fairfax County outside of the Capital Beltway be designated "unclassifiable or attainment." The Commonwealth of Virginia requested that Arlington County be designated as a nonattainment area.

Because of the nature of carbon monoxide, violations of the national standards are likely to occur at areas of high traffic density. However, EPA does not at the present time have enough information to delineate specific boundaries of nonattainment for CO in the Maryland and the Fairfax County, VA. portions of the National Capital interstate AQCR. Therefore, the Administrator deems it appropriate to designate a general "area of high traffic density" as nonattainment for carbon monoxide without designating specific boundaries. However, in the attainment plans to be submitted by the States on January 1, 1979, the States are encouraged to address in more specific detail the nonattainment areas for carbon monoxide and the type of measures required to meet the

national ambient air quality standards.

COMMENTS RELATING TO PHOTOCHEMICAL OXIDANTS

At the time of the March 3, 1978 designations, EPA Region III followed a policy of designating an entire AQCR as exceeding the primary standard (nonattainment) for photochemical oxidants if there was at least one monitor in the AQCR showing nonattainment. This policy is consistent with national guidance issued by EPA. Comments in support of statewide or AQCR-wide nonattainment designations were received from the city of Philadelphia, the State of New Jersey, and the State of Maryland. Comments in support of designation of smaller areas around a nonattainment monitor (such as the county or urbanized area) were received from the Commonwealth of Virginia; Carroll County, Md.; and the Bethlehem Steel Corp. Although EPA strongly encourages statewide or AQCR-wide designation of nonattainment for oxidants, there is sufficient flexibility in the national guidance to allow the following policy regarding the minimum geographical areas necessary to be designated as nonattainment for oxidants:

1. Where a nonattainment monitor exists in an urbanized area with a 1970 census population greater than 200,000, the entire urbanized area is to be designated as nonattainment.

2. In all other areas with a nonattainment monitor, the minimum area to be designated as nonattainment is the county containing the nonattainment monitor.

The Commonwealth of Virginia formally requested that oxidant nonattainment designations for Virginia be revised in accordance with this policy. The designations published today reflect the changes requested by Virginia.

Although there are areas of EPA Region III formally designated as "unclassifiable or attainment," the Administrator believes that most of these areas will be nonattainment for photochemical oxidants when monitoring data become available. Monitoring data required to be submitted with applications of new sources for prevention of significant deterioration (PSD) permits (sec. 165) will be used by the Administrator to make future determinations of the attainment status for photochemical oxidants. Should an area be determined to be nonattainment in the future, the State would then be required to develop an attainment plan.

COMMENTS RELATING TO SULFUR DIOXIDE

EPA's policy relating to designations for sulfur dioxide permit the use of either modeling or monitoring to determine the attainment status. Comments opposed to the use of modeling to make attainment status determinations were received from Allegheny Power Service Corp., Pennsylvania Power & Light Co., and Westvaco Corp. Other recommendations of designation changes were received as follows:

1. The Pennsylvania Department of Environmental Resources requested the following changes:

a. The status of the Beaver Valley air basin in the southwest Pennsylvania intrastate air quality control region should be changed from attainment to unclassifiable.

b. The status of the Beaver Valley air basin in the northwest Pennsylvania interstate air quality control region should be changed from attainment to unclassifiable.

2. The Westvaco Corp. has requested that the unclassifiable designation for election district No. 8, Luke, Md, and the Piedmont Magisterial District in West Virginia be revised to attainment.

The Administrator concurs with the request of the Pennsylvania Department of Environmental Resources and today's publication reflects the changes in the Beaver Valley air basin. However, the Administrator has not changed the status of election district No. 8 in Luke, Md., and the Piedmont Magisterial District in West Virginia pending a final decision on a request which is presently under consideration to revise the Maryland State implementation plan (SIP). The State of Maryland originally submitted this request on July 16, 1975, seeking an exception for the Westvaco Corp. from the Maryland sulfur-in-fuel regulations. At that time, the effective State regulation which was part of the federally enforceable SIP required the use of fuel containing a maximum of 1 percent sulfur by weight. Maryland's request for an exception would have allowed Westvaco Corp. to burn coal with a higher sulfur content at its Luke, Md. mill. At the same time, Westvaco Corp. would have been allowed to emit a maximum of 58 tons per day of sulfur dioxide (SO_2) from all fuel burning equipment at the Luke facility. The State of Maryland, on behalf of Westvaco Corp., submitted a modeling analysis intended to demonstrate that the requested exception would not result in violations of the national ambient air quality standards (NAAQS) for SO_2. Upon review of the analysis, EPA determined that it underpredicted the impact of SO_2 emissions on the area surrounding the Luke mill. Therefore, EPA concluded that the analysis did not provide a demonstration that air quality standards would be attained or maintained if the exception were to be approved as a SIP revision. Subsequent meetings were held with the State of Maryland and Westvaco Corp. in an attempt to resolve differences between Westvaco Corp.'s modeling approach submitted in support of the requested exception and the technical approach which EPA believed to be appropriate. Although these discussions resulted in the resolution of some minor differences, the more significant technical issues remained in dispute. Therefore, on February 28, 1977, EPA notified the State of Maryland that the request for an exception was not approvable as a revision of the Maryland SIP.

On November 18, 1977, the State of Maryland submitted an amended request for an exception on behalf of Westvaco Corp. The amended submission would grant an exception to Westvaco Corp. to emit a maximum 49 tons per day of SO_2 from all fuel burning equipment at the Luke mill instead of the 58 tons per day previously requested. After evaluating the revised submission, EPA continued to believe that the modeling analysis submitted on behalf of Westvaco Corp. did not demonstrate that the 49 tons per day limitation would not violate the NAAQS for SO_2. Accordingly, on March 6, 1978 (43 FR 9162) the Regional Administrator published notice of a proposed disapproval of the State of Maryland's request for an exception for Westvaco Corp.'s Luke mill as a revision of the Maryland SIP. The notice of proposed rulemaking afforded all interested parties 30 days from the date of publication in which to comment upon the proposal. Subsequently, Westvaco Corp. has sought five separate extensions of the public comment period on the grounds that more time was needed to prepare its comments. In each case EPA has extended the public comment period to accommodate Westvaco Corp. Most recently, the public comment period has been extended to September 8, 1978.

During this lengthly public comment period EPA has received information from numerous interested parties, including Westvaco Corp.; moreover, additional information may yet be submitted. Until conclusion of the public comment period on September 8, 1978, and exhaustive review of the information submitted, the Administrator will not finally determine whether the exception for Westvaco Corp.'s Luke mill is approvable as a revision of the Maryland SIP. Likewise, until completion of the review of all of the technical information generated by this rulemaking proceeding and the making of a final decision, the Admin-

istrator believes it would be appropriate to defer any further action regarding the classification of the Luke, Md. Piedmont Magisterial District, West Virginia area. Therefore, the Administrator intends to retain the unclassified status for this area as promulgated in the March 3, 1978 FEDERAL REGISTER pending a final decision on the proposed revision of the Maryland SIP. Retention of the designation as unclassified will have no impact on the final decision concerning the proposed SIP revision. However, the final decision on the SIP revision will serve to resolve any dispute concerning the area's designation, and redesignation will then be appropriate.

COMMENTS RELATING TO TOTAL SUSPENDED PARTICULATES

EPA policy regarding the designation of attainment status for total suspended particulates (TSP) permits the use of either monitoring or modeling. The most current four calendar quarters of data can be utilized. However, if the current four quarters show attainment, then the previous four quarters must also be evaluated. If the previous four quarters show nonattainment, then the area must be designated as nonattainment. EPA policy also allows the disqualification of monitors that may be unduly influenced by fugitive dust, including urban street dust.

The Bethlehem Steel Corp. submitted comments objecting to designations for the following areas:

1. Allentown, Bethlehem, Easton air basin in the northeast Pennsylvania interstate AQCR: The Company requested that the designation of nonattainment for primary standards be revised to attainment.

2. Harrisburg air basin in the south-central intrastate AQCR: The Company requested that the designation of nonattainment for primary standards be revised to attainment.

3. Zone 472 of regional planning district (RPD) 331 in the Metropolitan Baltimore intrastate AQCR: The Company requested that the designation of nonattainment for primary standards be revised to nonattainment for secondary standards. The FEDERAL REGISTER notice which appeared on March 3, 1978 incorrectly listed this zone twice, once as nonattainment for secondary standards and again as nonattainment for primary standards.

4. Zones 470 and 471 of RPD 331 in the Metropolitan Baltimore intrastate AQCR: The Company requested that the designation of nonattainment for secondary standards be revised to attainment.

The State of Maryland submitted revised designations for the Metropolitan Baltimore intrastate AQCR. These revisions are based on a review of more current data and a review of monitor locations.

West Virginia submitted additional information and requested that the designation of nonattainment for primary standards for the Kanawha Valley intrastate AQCR be revised to attainment.

The Metropolitan Washington Council of Governments recommended that:

1. The unclassifiable designation for the city of Fairfax and county of Fairfax be revised to attainment.

2. The unclassifiable designation for the city of Alexandria be revised to nonattainment for secondary standards.

In consultation with the Pennsylvania Department of Environmental Resources, the Administrator has determined that it is not appropriate to revise the nonattainment designations for the Allentown, Bethlehem, Easton air basin and the Harrisburg air basin. A review of the monitoring sites in the Allentown, Bethlehem, Easton air basin has resulted in a determination that at least one monitor in that air basin shows nonattainment. Although there is some question about the adequacy of the monitoring site in the Harrisburg air basin, Pennsylvania is conducting additional studies and, if appropriate, will request a revision to the nonattainment status at a later date.

The Administrator concurs with the changes requested by the State of Maryland. The notice published today reflects those changes. In consultation with the State of Maryland, the Administrator has determined that zones 470, 471, and 472 should remain as nonattainment for secondary standards.

EPA has carefully reviewed the information submitted by West Virginia. It is the Administrator's determination that the Kanawha Valley intrastate AQCR should remain as nonattainment for primary standards. This decision is based on the fact that, although the current four quarters of data indicate that the standard is being attained, the previous four quarters show violations of the annual standard.

In response to the comments from the Metropolitan Washington Council of Governments, the Administrator believes that it is appropriate to retain the unclassifiable designation for the cities of Fairfax and Alexandria and the county of Fairfax due to unresolved questions about the adequacy of Virginia's particulate monitoring network.

FUTURE EPA ACTIONS

Although this action is being taken as a final rule, EPA will consider comments at any time and make appropriate changes in attainment designations. Comments should be sent to Mr. Howard R. Heim, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, 10th Floor, Sixth and Walnut Streets, Philadelphia, Pa. 19106.

Dated: September 1, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 81 of chapter I, title 40 of the Code of Federal Regulations is amended to read as follows:

Subpart C—Section 107 Attainment Status Designations

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Sec.
81.308 Delaware.
81.309 District of Columbia.

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81.321 Maryland.

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81.339 Pennsylvania.

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81.347 Virginia.

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81.349 West Virginia.

AUTHORITY: Secs. 107, 301 of the Clean Air Act, as amended (42 U.S.C. 7407, 7601).

Subpart C—Section 107 Attainment Status Designations

* * * * *

§ 81.308 Delaware.

Delaware - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot be Classified	Better than National Standards
City of Wilmington			X	
Section within City of Newark bounded by: College Avenue, CONRAIL tracks, South Chapel Street and Chestnut Hill Road			X	
Remainder of New Castle County				X
Kent County				X
Sussex County				X

Delaware - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot be Classified	Better than National Standards
New Castle County				X
Kent County				X
Sussex County				X

Delaware - CO

Designated Area	Does Not Meet Primary Standards	Cannot be Classified or Better than National Standards
New Castle County		X
Kent County		X
Sussex County		X

Delaware - Ox

Designated Area	Does Not Meet Primary Standards	Cannot be Classified or Better than National Standards
New Castle County	X	
Kent County		X
Sussex County		X

§ 81.309 District of Columbia.

Delaware - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot be Classified or Better than National Standards
New Castle County		X
Kent County		X
Sussex County		X

District of Columbia - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot be Classified	Better than National Standards
1. Area bounded by: East Capitol Street S.E., District Line (Southern Avenue S.E.), Eastern Shore of Potomac River and Eastern Short of Anacostia River				X
2. Area bounded by: Francis Scott Key Bridge, M Street, NW, 23rd Street N.W., Florida Avenue N.W., U Street N.W., Florida Avenue N.W.-N.E., 4th Street N.E.-S.E. Southeast-Southwest Freeway (I29S,39S), 15th Street S.W.-N.W., Constitution Avenue N.W., Theodore Roosevelt Memorial Bridge, Potomac River	X			
3. Remainder of the District of Columbia portion of the National Capital Interstate AQCR		X		

District of Columbia - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot be Classified	Better than National Standards
National Capital Interstate AQCR - District of Columbia Portion				X

District of Columbia - Ox

Designated Area	Does Not Meet Primary Standards	Cannot be Classified or Better than National Standards
National Capital Interstate AQCR - District of Columbia Portion	X	

District of Columbia - CO

Designated Area	Does Not Meet Primary Standards	Cannot be Classified or Better than National Standards
National Capital Interstate AQCR - District of Columbia Portion	X	

District of Columbia - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot be Classified or Better than National Standards
National Capital Interstate AQCR - District of Columbia Portion		X

§ 81.321 Maryland.

Maryland-TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot be Classified	Better than National Standards
Metropolitan Baltimore Intrastate AQCR				
a) Baltimore City				
#111*Zones 61,65-68		X		
#112 Zone 72		X		
#113 Zones 76-80		X		
#117 Zones 94-100,102, 103,105-11		X		
#118 Zones 114-137		X		
#119 Zones 138,140,144, 146,149	X			
Zones 139,141-43, 145,147,150-56		X		
#120 Zones 157-66	X			
#121 Zones 168-70,172, 176-78,180,181	X			
Zones 167,171,173-75,179,182		X		
#123 Zones 187-90		X		
#124 Zones 193-98	X			
Zones 191,192		X		
#125 Zones 199-203		X		
#126 Zones 207	X			
Zones 204-06		X		

Maryland-TSP cont'd

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot be Classified	Better than National Standards
b) Baltimore County				
#325 Zones 417,418,420, 421		X		
#326 Zones 428,431		X		
#328 Zone 446		X		
#329 Zones 449,453-58	X			
Zones 450-52,459		X		
#330 Zones 461,462	X			
Zones 460, 463-68		X		
#331 Zones 469-72		X		
c) Anne Arundel County				
#201 Zones 208,209		X		
#203 Zones 221-28		X		
#204 Zone 230		X		
d) Remainder of AQCR				X
Cumberland-Keyser Interstate AQCR				
a) Election District No. 8, Luke, Md.	X			
b) Remainder AQCR				X
Central Maryland Interstate AQCR				X
National Capital Interstate AQCR				X

Maryland-TSP cont'd

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot be Classified	Better than National Standards
Southern Maryland Intrastate AQCR				X
Eastern Shore Intrastate AQCR				X

*Regional Planning Districts - defined by the Baltimore Regional Planning Council, Maps showing Districts and non-attainment areas available for inspection at the offices of:

EPA, Region III
6th & Walnut Streets
Phila., Pa. 19106

Md. Bureau of Air Quality & Noise Control
201 West Preston Street
Baltimore, Md.

Maryland - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot be Classified	Better than National Standards
Cumberland-Keyser Interstate AQCR, Election District No. 8, Luke, Maryland			X	
Remainder of State				X

Maryland - O_x

Designated Area	Does Not Meet Primary Standards	Cannot be Classified or Better than National Standards
Cumberland-Keyser Interstate AQCR	X	
Central Maryland Intrastate AQCR		X
Metropolitan Baltimore Intrastate AQCR	X	
National Capital Interstate AQCR - Maryland Portion	X	
Southern Maryland Intrastate AQCR		X
Eastern Shore Intrastate AQCR		X

Maryland - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot be Classified or Better than National Standards
State of Maryland		X

§ 81.339 Pennsylvania.

Maryland - CO

Designated Area	Does not Meet Primary Standards	Cannot be Classified or Better than National Standards
Cumberland-Keyser Interstate AQCR		
a) City of Cumberland	X	
b) City of Hagerstown (those areas of high traffic density)	X	
c) Remainder of AQCR		X
Central Maryland Intrastate AQCR		X
Metropolitan Baltimore Intrastate AQCR		
a) City of Baltimore (those areas of high traffic density)	X	
b) Remainder of AQCR		X
National Capital Interstate AQCR - Maryland Portion		
a) Areas of High Traffic Density	X	
b) Remainder of AQCR		X
Southern Maryland Intrastate AQCR		X
Eastern Shore Intrastate AQCR		X

Pennsylvania - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot be Classified	Better than National Standards
I. Metropolitan Philadelphia Interstate AQCR				
A) City of Philadelphia				
- Census tracts 1-12, 125-142, 144-157, 162-177, 190-205, 293, 294, 298-302, 315-321, 323, 325, 326, 329-332.		X		
- Census tracts 13-75, 143, 158-161, 178-189, 295-297, 322, 324, 327.			X	
- Balance of City				X
B) Montgomery County				
Conshohocken Boro		X		
West Conshohocken Boro			X	
Lower Merion Boro			X	
Narberth Boro			X	
Upper Merion Twp.			X	
Bridgeport Boro			X	
Norristown Boro			X	
Plymouth Twp.			X	
Whitemarsh Twp.			X	
Lansdale Boro		X		
Montgomery Twp.			X	
Upper Gwynedd Twp.			X	
North Wales Boro			X	
Towamencin Twp.			X	
Hatfield Twp.			X	
Hatfield Boro			X	
Pottstown Boro	X			
West Pottsgrove Twp.			X	
Upper Pottsgrove Twp.			X	

Pennsylvania - TSP cont'd

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot be Classified	Better than National Standards
B) Montgomery County cont'd				
Lower Pottsgrove Twp.			X	
Upper Providence Twp.			X	
C) Chester County				
South Coatesville Boro	X			
City of Coatesville			X	
Caln Twp.			X	
East Fallowfield Twp.			X	
Modena Boro			X	
Valley Twp.			X	
North Coventry Twp.			X	
East Coventry Twp.			X	
Phoenixville Boro		X		
Schuylkill Twp.			X	
D) Remaining Pennsylvania Portion of AQCR				X
II. Northeast Pennsylvania Interstate AQCR				
A) Allentown, Bethlehem, Easton Air Basin	X			
B) Reading Air Basin	X			
C) Scranton, Wilkes-Barre Air Basin	X			

Pennsylvania - TSP cont'd

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot be Classified	Better than National Standards
D) Remaining Pennsylvania Portion of AQCR				X
III. South Central Pennsylvania Intrastate AQCR				
A) Lancaster Air Basin	X			
B) Harrisburg Air Basin	X			
C) York Air Basin	X			
D) Remainder of AQCR				X
IV. Central Pennsylvania Intrastate AQCR				
A) Johnstown Air Basin	X			
B) Lycoming County				
City of Williamsport	X			
South Williamsport Boro			X	
Duboistown Boro			X	
Armstrong Twp.			X	
Susquehanna Twp.			X	
Woodward Twp.			X	
Old Lycoming Twp.			X	
Loyalsock Twp.			X	
Montoursville Boro.			X	
C) Blair County				
City of Altoona	X			
Logan Twp.			X	
Allegheny Twp.			X	

Pennsylvania - TSP cont'd

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot be Classified	Better than National Standards
D) Remainder of AQCR				X
V. Southwest Pennsylvania Intrastate AQCR				
A) Monongahela Valley Air Basin	X			
B) Allegheny County Air Basin	X			
C) Beaver Valley Air Basin	X			
D) Remainder of AQCR				X
VI. Northwest Pennsylvania Interstate AQCR				
A) Erie Air Basin	X			
B) Mercer County				
City of Sharon	X			
City of Farrell	X			
Hickory Twp.			X	
Sharpsville Boro			X	
Wheatland Boro			X	
C) Beaver Valley Air Basin	X			
D) Remaining Pennsylvania Portion of AQCR				X

Pennsylvania - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot be Classified	Better than National Standards
I. Metropolitan Philadelphia Interstate AQCR				
A) City of Philadelphia				
- Census tracts 2, 3, 4, 5, 6, 7, 8, 9, 11, 12.	X			
- Balance of City				X
B) Delaware County			X	
C) Remaining Pennsylvania Portion of AQCR				X
II. Northeast Pennsylvania Intrastate AQCR				X
III. South Central Pennsylvania Intrastate AQCR				X
IV. Central Pennsylvania Intrastate AQCR				
A) Northumberland County				
Lower Augusta Twp.	X			
Point Twp.	X			
Little Mahanoy Twp.		X		
Rockefeller Twp.		X		
Shamokin Twp.		X		
Upper Augusta Twp.			X	
Sunbury Boro			X	
Northumberland Boro			X	

Pennsylvania - SO_2 cont'd

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot be Classified	Better than National Standards
B) Snyder County				
Shamokin Dam	X		X	
Monroe Twp.				
C) Remainder of AQCR				X
V. Southwest Pennsylvania Intrastate AQCR				
A) Monongahela Valley Air Basin	X			
B) Allegheny County Air Basin	X			
C) Beaver Valley Air Basin			X	
D) Armstrong County				
Madison Twp.	X			
Mahoning Twp.	X			
Boggs Twp.	X			
Washington Twp.	X			
Pine Twp.	X			
E) Remainder of AQCR				X
VI. Northwest Pennsylvania Interstate AQCR				
A) Warren County				
Conewago Twp.	X			
Warren Boro			X	
Mead Twp.			X	
Clarendon Boro			X	
Pleasant Twp.			X	
B) Beaver Valley Air Basin			X	
C) Remaining Pennsylvania Portion of the AQCR				X

Pennsylvania - Ox

Designated Area	Does Not Meet Primary Standards	Cannot be Classified or Better than National Standards
Entire State	X	

Pennsylvania - CO

Designated Area	Does Not Meet Primary Standards	Cannot be Classified or Better than National Standards
City of Philadelphia - high traffic density areas within the CBD and certain other high traffic density areas	X	
Allegheny County Air Basin - high traffic density areas within the CBD and certain other high traffic density areas	X	
Remainder of State		X

Pennsylvania - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot be Classified or Better than National Standards
Entire State		X

§ 81.347 Virginia.

Virginia - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot be Classified	Better than National Standards
Buchanan County			X	
City of Galax			X	
City of Norton			X	
Tazewell County			X	
Washington County			X	
Remainder of the Virginia Portion of Southwest Virginia-Eastern Tennessee Interstate AQCR				X
Frederick County			X	
Pulaski County			X	
Roanoke County			X	
Warren County			X	
City of Waynesboro			X	
Remainder of the Valley of Virginia AQCR				X
City of Bedford			X	
Henry County			X	
Lynchburg			X	
Patrick County			X	
Pittsylvania County			X	
*EPA designation replaces state designation				

Virginia - TSP cont'd

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot be Classified	Better than National Standards
Prince Edward County			X	
Remainder of the Central Virginia AQCR				X
Northeastern Virginia AQCR				X
City of Hopewell			X	
City of Richmond			X	
Sussex County			X	
Remainder of the State Capital AQCR				X
City of Chesapeake			X	
Remainder of the Hampton Roads AQCR				X
City of Alexandria			X	
Arlington County			X	
City of Fairfax			X	
Fairfax County			X	
Prince William			X	
Remainder of the Virginia Portion of the National Capital Interstate AQCR				X
*EPA designation replaces state designation				

Virginia - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot be Classified	Better than National Standards
Virginia Portion of Southwest Virginia-Eastern Tennessee Interstate AQCR				X
Valley of Virginia AQCR				X
Central Virginia AQCR				X
Northeastern Virginia AQCR				X
State Capital AQCR				X
Hampton Roads AQCR				X
Virginia Portion of National Capital Interstate AQCR				X

Virginia - O_x

Designated Area	Does Not Meet Primary Standards	Cannot be Classified or Better than National Standards
I. Southwest Virginia-Eastern Tennessee Interstate AQCR		
Smyth County	X	
Remaining Virginia Portion of AQCR		X
II. Valley of Virginia Intrastate AQCR		
Roanoke County	X	
Roanoke City	X	
Salem City	X	
Remainder of AQCR		X
III. Central Virginia Intrastate AQCR		X
IV. Northeastern Virginia Interstate AQCR		
Stafford County	X	
Remainder of AQCR		X
V. State Capital Intrastate AQCR		
Richmond City	X	
Henrico County	X	
Chesterfield County	X	
Remainder of AQCR		X
VI. Hampton Roads Intrastate AQCR		
Chesapeake City	X	
Norfolk City	X	
Portsmouth City	X	
Suffolk City	X	
Virginia Beach City	X	
Newport News City	X	
Hampton City	X	
Remainder of AQCR		X
VII. National Capital Interstate AQCR	X	

Virginia - CO

Designated Area	Does Not Meet Primary Standards	Cannot be Classified or Better than National Standards
Virginia Portion of Southwest Virginia-Eastern Tennessee Interstate AQCR		X
Valley of Virginia AQCR		X
Central Virginia AQCR		X
Northeastern Virginia AQCR		X
City of Richmond		X
Remainder of State Capital AQCR		X
Norfolk		X
Hampton		X
Remainder of Hampton Roads AQCR		X
Alexandria	X	
Arlington County	X	
Fairfax County-Areas of high traffic density	X	
Remainder of the Virginia Portion of National Capital Interstate AQCR		X

Virginia - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot be Classified or Better than National Standards
Virginia Portion of Southwest Virginia-Eastern Tennessee Interstate AQCR		X
Valley of Virginia AQCR		X
Central Virginia AQCR		X
Northeastern Virginia AQCR		X
State Capital AQCR		X
Hampton Roads AQCR		X
Virginia Portion of National Capital Interstate AQCR		X

§ 81.349 West Virginia.

West Virginia - TSP

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot be Classified	Better than National Standards
Steubenville-Weirton Wheeling Interstate AQCR	X			
Parkersburg--Tygart Magisterial District in Wood County		X		
Kanawha County, and Valley Magisterial District in Fayette County	X			
In Marion County, all portions of Union and Winfield Magisterial Districts west of Interstate Highway I-79	X			
Arden Magisterial District in Berkeley County			X	
Remainder of State				X

West Virginia - SO_2

Designated Area	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Cannot be Classified	Better than National Standards
New Manchester— Grant Magisterial District in Hancock County	X			
Wellsburg Magisterial District in Brooke County	X			
Piedmont Magisterial District in Mineral County			X	
Remainder of State				X

West Virginia - Ox

Designated Area	Does Not Meet Primary Standards	Cannot be Classified or Better than National Standards
Kanawha Valley Intrastate AQCR	X	
Remainder of State		X

West Virginia - CO

Designated Area	Does Not Meet Primary Standards	Cannot be Classified or Better than National Standards
State of West Virginia		X

West Virginia - NO_2

Designated Area	Does Not Meet Primary Standards	Cannot be Classified or Better than National Standards
State of West Virginia		X

[FR Doc. 78-25424 Filed 9-11-78; 8:45 am]

[6730-01]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[General Order 4, Amdt. 4]

PART 510—LICENSING OF INDEPENDENT OCEAN FREIGHT FORWARDERS

Approval of Reporting Requirements

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: Rules providing for the licensing of persons including individuals, corporations, partnerships, and associations as independent ocean freight forwarders are amended to reflect an extension of existing General Accounting Office clearance for the reporting and recordkeeping requirements contained therein. The amendment is necessary to comply with GAO regulations.

EFFECTIVE DATE: September 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, 202-523-5725.

SUPPLEMENTARY INFORMATION: 44 U.S.C. 3512 requires the General Accounting Office to review certain collections of information from 10 or more persons undertaken by independent Federal regulatory agencies.

This Commission has received clearance from the U.S. General Accounting Office for the reporting and recordkeeping requirements contained in 46 CFR Part 510 (General Order 4). Title 4 CFR, § 10.12, Notification of General Accounting Office Action, requires that notice of such clearance appear in the agency's regulations.

The clearance information is presently included in General Order 4; however, it must be amended to reflect the more specific wording of GAO's latest clearance approval. Accordingly, the clearance information statements presently appearing as the last sentence of the authority citations in subparts A and B are hereby deleted and replaced within the following statement:

The reporting requirements contained in §§ 510.5(a)(4), 510.5(c), 510.5(f), and 510.26 and the recordkeeping requirements contained in §§ 510.23(k), 510.24(e), and 510.25 of General Order 4 have been approved by the U.S. General Accounting Office under No. B-180233 (RO543).

Effective date: Notice, public procedure, and delayed effective date are not necessary for the promulgation of this amendment because of its nonsubstantive nature. Accordingly, this amendment shall be effective September 12, 1978.

By the Commission, August 30, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-25639 Filed 9-11-78; 8:45 am]

[6730-01]

[General Order 11, Amdt. 3]

PART 512—FINANCIAL REPORTS BY COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES

Approval of Reporting Requirements

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: Rules for financial reports submitted by vessel operating common carriers and nonvessel operating common carriers engaged in the operation of cargo vessels or in the common carriage of property in the domestic offshore trades are amended to reflect an extension of existing General Accounting Office clearance for the reporting requirements contained therein. The amendment is necessary to comply with GAO regulations.

EFFECTIVE DATE: September 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, 202-523-5725.

SUPPLEMENTARY INFORMATION: 44 U.S.C. 3512 requires the General Accounting Office to review certain collections of information from 10 or more persons undertaken by independent Federal regulatory agencies.

This Commission has received clearance from the U.S. General Accounting Office for the reporting requirements contained in 46 CFR Part 512, Subparts A and B, Title 4 CFR, § 10.12, Notification of General Accounting Office Action, requires that notice of such clearance appear in the agency's regulations. GAO rules have been amended to eliminate the requirement that expiration dates appear in the clearance statement. To reflect this change, and also to effectuate a change in wording of GAO's previous clearance statement, the following amendment is made to part 512. The clearance information sentence immediately following 46 CFR 512.25 "Forms and Reports," is hereby deleted. In lieu thereof, the following clearance statement will be placed at the end of the authority citation at the beginning of part 512:

The reporting requirements contained in subparts A and B, General Order 11 have been approved by the U.S. General Accounting Office under No. B-180233(R0191).

Effective date: Notice, public procedure, and delayed effective date are not necessary for the promulgation of this amendment because of its nonsubstantive nature. Accordingly, this amendment shall be effective September 12, 1978.

By the Commission, August 30, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-25638 Filed 9-11-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Ouray National Wildlife Refuge, Utah, to Migratory Game Bird Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to migratory game bird hunting of Ouray National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional opportunity to the public.

DATES: October 7, 1978 through January 7, 1979.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Ouray National Wildlife Refuge, 447 East Main Street, Suite 4, Vernal, Utah 84078, telephone 801-789-0351.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Migratory game bird hunting is permitted on the Ouray National Wildlife Refuge, Utah, only on the areas designated by signs as being open to hunting. These areas, comprising 1,375 acres, are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 134 Union Boulevard, P.O. Box 25486, Denver, Colo. 80215. Migratory game bird hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Ducks, mergansers and coots only may be hunted. Goose hunting is not permitted.

2. Vehicle travel within the refuge will be restricted to designated routes and parking areas.

The provisions of this special regulation supplement the regulations which govern migratory game bird hunting on wildlife refuge areas generally which are set forth in title 50 Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

HERBERT G. TROESTER,
Refuge Manager, Ouray National Wildlife Refuge, Vernal, Utah.

SEPTEMBER 5, 1978.

[FR Doc. 78-25624 Filed 9-11-78; 8:45 am]

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Hunting of fox shall be in accordance with all applicable State regulations subject to the following conditions: (1) Hunting is permitted from 12:00 noon to sunset November 17, 1978 and from one-half hour before sunrise to sunset November 18, 1978 through the closing date of the state season.

(2) During the deer gun season red fox may be taken only by those hunters possessing a valid deer hunting license for the refuge and only on that part of the refuge open to deer hunting.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50 Code of Federal regulations, part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

JOHN R. FOSTER,
Refuge Manager.

AUGUST 23, 1978.

[FR Doc. 78-25631 Filed 9-11-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Arrowwood National Wildlife Refuge, North Dakota, to Upland Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to upland game hunting of Arrowwood National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Season dates November 17, 1978 through the closing of the state season.

FOR FURTHER INFORMATION CONTACT:

John R. Foster, Refuge Manager, Arrowwood National Wildlife Refuge, Pingree, N. Dak. 58476. Phone, 701-285-3341.

SUPPLEMENTARY INFORMATION:

[4310-55]

PART 32—HUNTING

Opening of Arrowwood National Wildlife Refuge, N. Dak., to Upland Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Arrowwood National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Season dates November 27, 1978 through the closing of State seasons.

FOR FURTHER INFORMATION CONTACT:

John R. Foster, Refuge Manager, Arrowwood National Wildlife Refuge, Pingree, N. Dak. 58476. Phone, 701-285-3341.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Upland bird hunting is permitted on the Arrowwood National Wildlife Refuge, N. Dak. for sharptail grouse, Hungarian partridge and ring-necked pheasant. Hunting shall be in accordance with all applicable State regulations subject to the following condition:

(1) Hunting is permitted from sunrise to sunset November 27, 1978 through the closing date of the State seasons.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50 Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

JOHN R. FOSTER,
Refuge Manager.

AUGUST 23, 1978.

[FR Doc. 78-25623 Filed 9-11-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Chase Lake National Wildlife Refuge, N. Dak., to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to deer hunting of Chase Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Season dates September 1, 1978, through September 29, 1978.

FOR FURTHER INFORMATION CONTACT:

John R. Foster, Refuge Manager, Arrowwood National Wildlife Refuge, Pingree, N. Dak. 58476, phone 701-285-3341.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations: Big game; for individual wildlife refuge areas.

Bow deer hunting at Chase Lake National Wildlife Refuge, N. Dak., shall be in accordance with all applicable State regulations subject to the following condition:

(1) Hunting is permitted from 12 noon to sunset September 1, 1978, and one-half hour before sunrise to sunset daily through September 29, 1978.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

JOHN R. FOSTER,
Manager.

AUGUST 28, 1978.

[FR Doc. 78-25625 Filed 9-11-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Long Lake National Wildlife Refuge, N. Dak., to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to deer hunting of Long Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreation opportunity to the public.

DATES: Season dates November 17, 1978, through November 26, 1978.

FOR FURTHER INFORMATION CONTACT:

John R. Foster, Refuge Manager, Arrowwood National Wildlife Refuge, Pingree, N. Dak. 58476, phone 701-285-3341.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations: Big game; for individual wildlife refuge areas.

Deer hunting is permitted on the Long Lake National Wildlife Refuge, N. Dak., only on the areas designated by signs as being open to deer hunting. These areas comprising 19,500 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225. Hunting shall be in accordance with all applicable State regulations subject to the following condition:

(1) Hunting is permitted from 12 noon to sunset November 17, 1978, and from sunrise to sunset November 18, 1978, through November 26, 1978.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

JOHN R. FOSTER,
Refuge Manager.

AUGUST 23, 1978.

[FR Doc. 78-25626 Filed 9-11-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Slade National Wildlife Refuge, N. Dak., to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to big game hunting of Slade National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Season dates November 17, 1978, through November 26, 1978.

FOR FURTHER INFORMATION CONTACT:

John R. Foster, Refuge Manager, Arrowwood National Wildlife Refuge, Pingree, N. Dak. 58476, phone 701-285-3341.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations: big game; for individual wildlife refuge areas.

Deer hunting is permitted on Slade National Wildlife Refuge, N. Dak., only on the areas designated by signs as being open to deer hunting. These areas comprising 2,840 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, P.O. Box 25486, Denver, Colo. 80225. Hunting shall be in accordance with all applicable State regulations subject to the following condition:

(1) Hunting is permitted from 12 noon to sunset November 17, 1978, and from sunrise to sunset November 18, 1978, through November 26, 1978.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

JOHN R. FOSTER,
Refuge Manager.

AUGUST 23, 1978.

[FR Doc. 78-25627 Filed 9-11-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Arrowwood National Wildlife Refuge, N. Dak., to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to deer hunting of Arrowwood National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Season dates November 17, 1978, through November 26, 1978.

FOR FURTHER INFORMATION CONTACT:

John R. Foster, Refuge Manager, Arrowwood National Wildlife Refuge, Pingree, N. Dak. 58476, phone 701-285-3341.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations: big game; for individual wildlife refuge areas.

Deer hunting is permitted on the Arrowwood National Wildlife Refuge, N. Dak., only on the areas designated by signs as being open to deer hunting. These areas comprising 14,814 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Hunting is permitted from 12 noon to sunset November 17, 1978, and from sunrise to sunset November 18, 1978, through November 26, 1978.

(2) From 12 noon November 17, 1978, through sunset November 19, 1978, hunting is permitted by special refuge permit only, thereafter hunting is permitted to anyone possessing a valid State license for the unit encompassing the refuge.

(3) That part of the refuge lying north of the gravel road, known as the Kensal-Edmunds Road, will be closed to deer hunting.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

JOHN R. FOSTER,
Refuge Manager.

AUGUST 23, 1978.

[FR Doc. 78-25628 Filed 9-11-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Arrowwood National Wildlife Refuge, N. Dak., to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to bow deer hunting of Arrowwood National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Season dates September 1, 1978, through November 12, 1978, and November 27, 1978, through December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

John R. Foster, Refuge Manager, Arrowwood National Wildlife Refuge, Pingree, N. Dak. 58476, phone 701-285-3341.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations: Big game; for individual wildlife refuge areas.

Bow deer hunting at Arrowwood National Wildlife Refuge, N. Dak., shall be in accordance with all applicable State regulations subject to the following condition:

(1) Hunting is permitted from 12 noon to sunset September 1, 1978, and one-half hour before sunrise to sunset daily through November 12, 1978, and from 12 noon to sunset November 27, 1978, and one-half hour before sunrise to sunset daily through December 31, 1978.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

JOHN R. FOSTER,
Refuge Manager.

AUGUST 23, 1978.

[FR Doc. 78-25629 Filed 9-11-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Chase Lake National Wildlife Refuge to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to deer hunting of Chase Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreation opportunity to the public.

DATES: Season dates November 17, 1978, through November 26, 1978.

FOR FURTHER INFORMATION CONTACT:

John R. Foster, Refuge Manager, Arrowwood National Wildlife Refuge, Pingree, N. Dak. 58476, phone 701-285-3341.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations: Big game; for individual wildlife refuge areas.

Gun deer hunting at Chase Lake National Wildlife Refuge, N. Dak., shall be in accordance with all applicable State regulations subject to the following condition:

(1) Hunting is permitted from 12 noon to sunset November 17, 1978, and from sunrise to sunset November 18, 1978, through November 26, 1978.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

JOHN R. FOSTER,
Refuge Manager.

AUGUST 23, 1978.

[FR Doc. 78-25630 Filed 9-11-78; 8:45 am]

[3510-22]

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 652—ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Amendment

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Amendment.

SUMMARY: This amendment adjusts downward the catch quota for surf clams for the third quarter of 1978. The amount of surf clams taken in excess of the quota for the second quarter of 1978 (26,606 bushels) is subtracted from the quota for the third quarter of 1978 (550,000 bushels), resulting in a new third quarter surf clam quota of 523,394 bushels.

EFFECTIVE DATE: September 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: Section 652.6(1) of the surf clam and ocean quahog fishery management plan published on February 17, 1978 (43 FR 6952), provides that when the surf clam quota for any particular quarter is exceeded the Regional Director shall subtract that excess amount from the next succeeding quarter.

Catch statistics through June 30, 1978, indicate that the amended quota of 529,107 bushels of surf clams for the second quarter was exceeded by 26,606 bushels. Consequently, the Regional Director has determined that 26,606 bushels is subtracted from the third quarter quota of 550,000 bushels.

The new third quarter quota of surf clams is 523,394 bushels.

Pursuant to § 652.6(2), the Assistant Administrator for Fisheries is publishing this adjustment of the third quarterly quota.

Signed at Washington, D.C., this 7th day of September 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-25604 Filed 9-11-78; 8:45 am]

[3410-10]

Title 7—Agriculture

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Japanese Beetle Quarantine and Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This action is being taken to finalize amendments to the Japanese beetle quarantine and regulations. The intended effect of this action is to delete all references to regulated articles, other than means of conveyance, from the regulations. This action is being taken because the Department believes that the States have sufficient capability to control the spread of Japanese beetles by means of the articles which are being deleted.

EFFECTIVE DATE: September 12, 1978.

FOR FURTHER INFORMATION CONTACT:

E. E. Crooks, 301-436-8249.

SUPPLEMENTARY INFORMATION: On April 21, 1978, the Department proposed to delete all references to presently regulated articles and to regulate only the interstate movement of aircraft which posed a threat to spread the Japanese beetle into certain States (43 FR 16984). Also, a notice of the Department's intent to prepare a draft environmental impact statement (DEIS) on the Japanese beetle program at airports was published in the FEDERAL REGISTER on April 21, 1978.

The comments which were received regarding the proposal primarily concerned the treatment of aircraft with insecticides. However, a number of the comments did address the deletion of presently regulated articles. One comment questioned if all States have the current capability to prevent the spread of the Japanese beetle by means other than regulated aircraft. As was maintained in the preamble of the proposal, it it believed the States have this capability.

Four of the comments recommended delay of the proposed revision until this fall when the current shipping season for plant material is over in order to allow for a more orderly change in the regulation of the nursery industry. It has been determined that the revisions in the regulations will be made effective upon publication, since it is not anticipated that any State regulation will be any more stringent than the Federal regulations. Also, nurserymen are as capable of meeting State regulations as they are Federal regulations pertaining to nursery stock, and the Department does not anticipate that the mechanics of complying with this change in the regulatory structure will constitute a substantial burden upon the nursery industry. Further, the removal of the quarantine requirements with respect to the regulated articles which are being deleted would aid the nursery industry because the Federal requirements for treatement or inspection of nursery stock will not have to be complied with, and it is anticipated that only a limited number of States will impose regulations on commodities which can spread the Japanese beetle. Consequently, the elimination of the Federal quarantine with respect to the regulated articles being deleted should reduce cost to the shipper.

One of the comments recommended retention of the current Japanese beetle quarantine and regulations so there would not be piecemeal State regulations with which to comply. However, as noted previously, such regulation will be imposed in a limited number of States, and variations in these regulations should not be extensive. To further avoid any problems in this regard, the Department has written a "model" State Japanese beetle quarantine which has been provided to State plant regulatory officials. The adoption of this "model" will further serve to create uniformity in this area.

Another comment requested that the final regulations establish additional authority for individual States to enact Japanese beetle quarantines for articles other than aircraft. The individual States retain the authority to enact Japanese beetle quarantines so long as the State quarantines do not regulate the same products or articles covered by the Federal quarantine and regulations. Since the Federal quarantine and regulations with respect to the Japanese beetle would only pertain to means of conveyance, the States would therefore be free to exercise their own authority with regard to the regulation of other articles for the purposes of Japanese beetle control.

Due to the fact that the environmental impact statement (EIS) regarding the treatment of aircraft and airports under the Japanese beetle quarantine program has not yet been finalized, the provisions of the present regulations concerning the movement and, when appropriate, the treatment, of means of conveyance are not being amended at this time. Consequently, the comments which concerned the treatment of aircraft under the proposed program have not been addressed in this final rule. However, the Department will address the comments regarding the treatment of aircraft in any final rule altering those provisions of the regulations concerning means of conveyance. Such final rule will not be published until the final EIS is issued.

Nursery stock generally moves interstate in the spring and fall, and the current Japanese beetle quarantine and regulations have imposed certain restrictions on the interstate movement of nursery stock. As indicated in the proposal, the Department believes such regulations to be unnecessary because the States have the capabilility to prevent the spread of the Japanese beetle by the regulated articles that are being deleted. Therefore, in order to remove such unnecessary regulations and thereby avoid unnecessary expense to the nursery industry, those parts of the regulations which concern regulated articles other than means of conveyance are deleted.

Accordingly, the Japanese beetle quarantine and regulations (7 CFR 301.48 et seq.) are revised as follows:

1. Section 301.48(b) is amended to read as follows:

§ 301.48 Quarantine; restriction on interstate movement of specified regulated articles.

* * * * * *

(b) *Quarantine restrictions on interstate movement of specified regulated articles.* No common carrier or other person shall move interstate from any quarantined State any of the following articles (defined in § 301.48-1(n) as regulated articles), except in acccordance with the conditions prescribed in this subpart:

(1) When moved from any generally infested area, or any area outside the regulated areas, in a quarantined State:

(i) Any means of conveyance of any character whatsoever, when it is determined by an inspector that they present a hazard of spread of the Japanese beetle, and the person in possession thereof has been so notified.

(2) When moved from any suppressive area in a quarantined State:

(i) Any means of conveyance of any character whatsoever, when it is determined by an inspector that they present a hazard of spread of the Japanese beetle, and the person in possession thereof has been so notified.

§ 301.48-2 [Amended]

2. In § 301.48-1, paragraphs (b), (k), and (s) are deleted and the paragraphs of the section are relettered accordingly. Existing paragraphs (c) through (j) are relettered (b) through (i), (l) through (r) is relettered (j) through (p), and (t) through (v) is relettered (q) through (s).

§ 301.48-31 [Amended]

3. In § 301.48-3, paragraph (b) is deleted and the introductory paragraph of paragraph (a) is amended to read as follows:

(a) Any regulated articles may be moved interstate from any quarantined State under the following conditions:

4. In § 301.48-3, footnotes 5 and 6 are deleted.

These amendments relieve certain restrictions previously imposed and therefore should be made effective promptly in order to be of maximum benefit to the persons subject to the restrictions that are being relieved. Accordingly, it is found, under the administrative procedure provisions of 5 U.S.C. 553, that further notice and other public procedure with respect to this amendment are unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—The plant protection and quarantine programs, Animal and Plant Health Inspection Service, has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Done at Washington, D.C., this 11th day of September 1978.

T. G. DARLING,
Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 78-25809 Filed 9-11-78; 10:02 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-10]

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

[7 CFR Part 6]

SECTION 22 IMPORT QUOTAS

Proposed Revision of Regulations; Correction

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Proposed rulemaking: correction.

SUMMARY: This document corrects a notice of proposed rulemaking issued in FEDERAL REGISTER Volume 43, No. 171, page 39110, issued September 1, 1978, relating to the proposed revision of the regulations governing Section 22 Import Quotas.

DATES: Not applicable.

FOR FURTHER INFORMATION CONTACT:

Bryant H. Wadsworth, Head, Dairy and Import Group, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, Room 6621 South Agricultural Building, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-5270.

SUPPLEMENTARY INFORMATION: Section 6.30 Delegation of Authority was inadvertently omitted from page 39115 of Volume 43, No. 171 of the FEDERAL REGISTER issued September 1, 1978.

The Section is hereby added as follows:

§ 6.30 Delegation of Authority.

The powers vested in the Administrator, FAS, insofar as such powers relate to the functions vested in the Licensing Authority by the regulation are hereby delegated to the Licensing Authority.

Signed this 6th day of September 1978.

THOMAS R. HUGHES,
Administrator, FAS.

[FR Doc. 78-25571 Filed 9-11-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

[10 CFR Part 1004]

FREEDOM OF INFORMATION

Proposed Rules

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: These regulations would prescribe the procedures to be followed and the substantive principles to be applied by the Department of Energy in the processing of freedom of Information Act requests. They represent the Department's implementation of its responsibilities under the Freedom of Information Act, 5 U.S.C. 552.

DATE: Comments by October 12, 1978.

ADDRESS: Written comments should be directed to the following address: U.S. Department of Energy, Public Hearing Management, 2000 M Street NW., Room 2313, Box VP, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Milton Jordan, Office of Administrative Services, Room 2109, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-6964.

William D. Luck, Office of General Counsel, Room 6144, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9296.

John Treanor, Office of Administrative Services, Room 2121, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9840.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Discussion.
III. Revocations.
IV. Other procedural considerations.
V. Comments.

I. BACKGROUND

The Department of Energy (DOE) was established by the Department of Energy Organization Act (Pub. L. 95-91) (the Act), which became effective on October 1, 1977, pursuant to Executive Order 12009, dated September 13, 1977 (42 FR 46267, Sept. 15, 1977). The Act transfers to and vests in the DOE the functions of the former Federal Energy Administration (FEA), the former Energy Research and Development Administration (ERDA), the former Federal Power Commission (FPC), and specified functions of several other agencies. These proposed regulations represent a consolidation, with some procedural adaptation, of the Freedom of Information Act (FOIA) regulations previously followed by the FEA and ERDA. These regulations would apply to all Freedom of Information requests addressed to the Department except they would specifically exclude the Federal Energy Regulatory Commission (FERC). The FERC will establish and publish separate regulations to apply to that independent collegial body.

II. DISCUSSION

These regulations would establish policies and procedures that decentralize the administration of the Department's FOIA program, and vest certain threshold decisions and administrative responsibilities in the Director of Administration. The Director of Administration, through designated freedom of information officers, would be responsible for the initial processing of requests, including the identification of the office or offices within the Department that have custody of records likely to be responsive to the request. The freedom of information officer would do the following: Make decisions pertaining to the validity of the requests under these regulations, as well as decisions pertaining to the payment of fees. Identification, collection, and review of records to determine releasability, as well as preparation of responses to requests, are placed within the responsibility and authority of the authorizing official in the programamtic office or offices having the record.

Appeals of initial decisions, whether from the headquarters or any field office, would continue to be directed only to the Department headquarters (to the division of FOI and Privacy Acts Activities). Authority to make determinations on appeals would be vested in the Office of Hearings and Appeals.

The Freedom of Information Act defines the substantive limits within which Federal agencies administer their FOIA programs. These substantive provisions (pertaining, for example, to time limitations for response, the elements of a proper request, the provision for fees and fee waivers, and provisions exempting information from disclosure) are reflected in these proposed regulations and, in most practical respects, represent a continuation of parallel provisions appearing in the regulations of the Department's predecessor agencies. The proposed regulations, however, include additional guidance pertaining to several aspects of the FOIA program. First: Since the functions transferred to the Department from the former ERDA include security and classification responsibilities under the Atomic Energy Act of 1954, the proposed regulations include detailed provisions for the processing of requests involving classified information. Responses to all such requests would be processed only with the consultation and concurrence of the Director of the Office of Classification.

Second: The proposed regulations address in some detail the Department's policy pertaining to the waiver of fees. Section 1004.9 would provide for waiver of fees where the service to be performed will be of benefit primarily to the public as opposed to the requester, and lists several possible factors that may be considered by the Freedom of Information Officer in making this determination.

Third: The proposed regulations address the matter of the Department's handling of private business and foreign government proprietary information. Section 1004.11 would provide that documents submitted to the Department in connection with identified regulatory matters are to be handled in a manner consistent with procedures followed by the former FEA in administering these programs. This includes prior notice to the submitting party of the DOE intention to release material determined to be nonexempt. For other records submitted to the Department that may be considered as protected from disclosure as private business records, these proposed regulations also provide for notification, prior to any intended disclosure, to the person who submitted the information. Section 1004.11 also sets forth several criteria to be followed by the Department in evaluating private business and foreign government information to determine whether it is exempt from disclosure pursuant to the FOIA.

III. REVOCATIONS

These regulations would supersede Freedom of Information regulations for the former ERDA (10 CFR Part 709) and the former FEA (10 CFR Part 202). Therefore, pursuant to the authority vested in the Secretary of the DOE by sections 644 and 705 of the DOE Organization Act (42 U.S.C. 7254 and 7295), the above cited regulations are to be revoked.

IV. OTHER PROCEDURAL CONSIDERATIONS

As these proposed regulations do not affect the quality of the environment, the provisions of section 7(c)(1) of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), as amended, have been determined to be inapplicable. Additionally, the DOE has determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under Executive Order 12044.

V. COMMENTS

To the extent that section 501 of the DOE Organization Act (42 U.S.C. 7191) is applicable to these regulations, it has been determined that no substantial issue of fact or law exists and that these regulations are unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Therefore, these regulations are to be promulgated in accordance with section 553 of Title 5, United States Code. Written comments should be directed to: U.S. Department of Energy, Public Hearing Management, 2000 M Street NW., Room 2313, Box VP, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on the documents with the designation "Freedom of Information Act Regulations." Ten copies should be submitted. Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination. Comments should be provided by October 12, 1978. Comments received will be available for public inspection in the DOE Reading Room, 20 Massachusetts Avenue NW., between the hours of 8:30 a.m. and 5 p.m., Monday through Friday.

(Department of Energy Organization Act, Pub. L. 95-91, Executive Order 12009, 42 FR 46267, Freedom of Information Act, Pub. L. 89-487, as amended by Pub. L. 93-502 and Pub. L. 94-409)

Issued in Washington, D.C., on September 6, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

In consideration of the foregoing, it is proposed to amend 10 CFR to add a new part 1004 to read as set forth below.

PART 1004—FREEDOM OF INFORMATION

Sec.
1004.1 Purpose and scope.
1004.2 Definitions.
1004.3 Public reading facilities.
1004.4 Elements of a request.
1004.5 Processing requests for records.
1004.6 Requests for classified records.
1004.7 Responses by authorizing officials: Form and content.
1004.8 Appeals from initial denials.
1004.9 Fees for provision of records.
1004.10 Exemptions.
1004.11 Handling of proprietary information of a private business, foreign government, or an international organization.
1004.12 Computation of time.

AUTHORITY: Department of Energy Organization Act, Pub. L. 95-91, E.O. 12009, 42 FR 46267; Freedom of Information Act, Pub. L. 89-487 as amended by Pub. L. 93-502 and Pub. L. 94-409.

§ 1004.1 Purpose and scope.

This part contains the regulations of the Department of Energy (DOE) implementing 5 U.S.C. 552, Pub. L. 89-487, as amended by Pub. L. 93-502, 88 Stat. 1561, and by Pub. L. 94-409, 90 Stat. 1241. The regulations of this part provide information concerning the procedures by which records may be obtained from all offices within the DOE, excluding the Federal Energy Regulatory Commission (FERC). Records of the DOE made available pursuant to the requirements of 5 U.S.C. 552 shall be furnished to members of the public as prescribed by this part. Officers and employees of the DOE may furnish to the public, informally and without compliance with procedures prescribed herein, information and records of types which were furnished customarily in the regular performance of their duties to the public by the predecessor agencies to the DOE. Persons seeking information or records of the DOE may find it useful to consult with a DOE freedom of information officer before invoking the formal procedures set out below. To the extent permitted by other laws, the DOE will make available records which it is authorized to withhold under 5 U.S.C. 552 unless it determines that such disclosure is not in the public interest.

§ 1004.2 Definitions.

As used in this part:

(a) "Appeal Authority" means the Office of Hearings and Appeals.

(b) "Authorizing or Denying Official" means that DOE officer or employee, as identified by the Directorate of Administration by separate directive, having custody of or responsibility for records requested under 5 U.S.C. 552. The term refers in DOE headquarters to officials who report directly to a secretarial officer. In the field, the term refers to the head of a field location identified in § 1004.2(d) or the head of a field office which reports through one of these locations.

(c) "Department" or "Department of Energy (DOE)" means all organizational entities which are a part of the executive department created by Title II of the DOE Organization Act, Pub. L. 95-91. This specifically excludes the

Federal Energy Regulatory Commission (FERC).

(d) "Field Offices" means each of the following DOE components:

(1) Regional enforcement offices of the Economic Regulatory Administration;

(2) Regional representatives of the Secretary;

(3) Operations offices;

(4) Power marketing administrations;

(5) Energy research centers; and

(6) Any other operational component of the DOE not physically located at the DOE headquarters as defined in paragraph (g) of this section.

(e) "Freedom of Information Officer" means the person designated to administer the Freedom of Information Act at the following DOE locations:

(1) Alaska Power Administration, P.O. Box 50, Juneau, Alaska 88801.
(2) Albuquerque Operations Office, P.O. Box 5400, Albuquerque, N.Mex 87115.
(3) Bartlesville Energy Research Center, P.O. Box 1398, Bartlesville, Okla. 74003.
(4) Bonneville Power Administration, P.O. Box 3621, Portland, Oreg. 97208.
(5) Chicago Operations Office, 9800 South Cass Avenue, Argonne, Ill. 60439.
(6) Grand Forks Energy Research Center, P.O. Box 8213, University Station, Grand Forks, N. Dak. 58201.
(7) Headquarters, Department of Energy, Washington, D.C. 20545.
(8) Idaho Operations Office, 550 2d Street, Idaho Falls, Idaho 83401.
(9) Laramie Energy Research Center, P.O. Box 3395, University Station, Laramie, Wyo. 82070.
(10) Morgantown Energy Research Center, P.O. Box 880, Morgantown, W. Va. 26505.
(11) Nevada Operations Office, P.O. Box 14100, Las Vegas, Nev. 89114.
(12) Oak Ridge Operations Office, P.O. Box E, Oak Ridge, Tenn. 37830.
(13) Pittsburgh Energy Research Center, 4800 Forbes Avenue, Pittsburgh, Pa. 15213.
(14) Region I, Analex Building, Room 700, 150 Causeway Street, Boston, Mass. 02114.
(15) Region II, 26 Federal Plaza, Room 3206, New York, N.Y. 10007.
(16) Region III, 1421 Cherry Street, 10th Floor, Philadelphia, Pa. 19102.
(17) Region IV, 1655 Peachtree Street NE., 8th floor, Atlanta, Ga. 30309.
(18) Region V, 175 West Jackson Boulevard, Room A-333, Chicago, Ill. 60604.
(19) Region VI, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, Tex. 75235.
(20) Region VII, Twelve Grand Building, 1150 Grand Avenue, Kansas City, Mo. 64106.
(21) Region VIII, P.O. Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colo. 80226.
(22) Region IX, 111 Pine Street, 3d floor, San Francisco, Calif. 94111.
(23) Region X, 1992 Federal Building, 915 Second Avenue, Seattle, Wash. 98174.
(24) Richland Operations Office, P.O. Box 550, Richland, Wash. 99352.
(25) San Francisco Operations Office, 1333 Broadway, Wells Fargo Building, Oakland, Calif. 94616.
(26) Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29801.
(27) Southeastern Power Administration, Elberton, Ga. 30635.
(28) Southwestern Power Administration, P.O. Drawer 619, Tulsa, Okla. 74101.
(29) Western Area Power Administration, P.O. Box 3402, Golden, Colo. 80401.

(f) "General Counsel" means the General Counsel provided for in section 202(b) of the DOE Organization Act, or any DOE attorney designated as having responsibility for counseling the Department on Freedom of Information Act matters.

(g) "Headquarters" means all DOE facilities functioning within the Washington metropolitan area except FERC.

(h) "Office" means any administrative or operating unit of the DOE, including those in field offices.

(i) "Secretarial Officer" means the DOE Secretary; the Deputy Secretary; the Under Secretary; Assistant Secretaries; the Administrators of the Energy Information Administration and the Economic Regulatory Administration; the Inspector General; the General Counsel; the Director, Office of Hearings and Appeals; the Director, Office of Energy Research; the Director of Administration; the Director of Procurement and Contracts Management; and the Controller.

§ 1004.3 Public reading facilities.

(a) The DOE headquarters will maintain, in public reading facilities, the materials which are required by 5 U.S.C. 552(a)(2) to be made available for public inspection and copying. The principal public reading facility will be located at the DOE Energy Library, 1000 Independence Avenue SW., Washington, D.C.

(b) Each of the designated field offices will maintain in public reading facilities certain materials maintained in the headquarters facility and other materials associated with the particular field offices.

(c) Each of these public reading facilities will maintain and make available for public inspections and copying current indices of the materials at that facility which are required to be indexed by 5 U.S.C. 552(a)(2).

§ 1004.4 Elements of a request.

(a) *Addressed to the freedom of information officer.* A request for a record of the DOE which is not customarily made available and which is not available in a public reading facility as described in § 1004.3 shall be addressed to the appropriate headquarters or field freedom of information officer, Department of Energy, at a location listed in § 1004.2(e) and both the envelope and the letter shall be clearly marked "Freedom of Information Request." Except as provided in § 1004.9(c), a request which is so addressed and marked will be considered to be received by the DOE for purposes of 5 U.S.C. 552(a)(6) upon receipt by the freedom of information officer. A request under 5 U.S.C. 552 which is not so addressed and marked also shall be considered to be received upon actual receipt by the appropriate freedom of information officer. Requests delivered after regular business hours of the freedom of information officer are deemed received on the next regular business day.

(b) *Request should be in writing and for reasonably described records.* A request for access to records should be submitted in writing and should reasonably describe the records requested to enable DOE personnel to locate them with a reasonable amount of effort. Where possible, specific information regarding dates, titles, file designations, and other information which may help identify the records should be supplied by the requester, including the names and titles of any DOE officers or employees who have been contacted regarding the request prior to filing a written request. If the request relates to a matter in pending litigation, the court and its location should be identified to aid in locating the documents. If the records are known to be in a field office of the DOE, the request should so state and should identify the field office concerned.

(c) *Categorical requests.*—(1) *Must meet reasonably described records requirement.* A request for all records falling within a reasonably specific category shall be regarded as conforming to the statutory requirement that records be reasonably described if it can reasonably be determined which particular records are sought in the request. The request must enable the DOE to identify and locate the records sought by a process that is not unreasonably burdensome or disruptive of DOE operations.

(2) *Assistance in reformulating nonconforming request.* If it is determined that a request does not reasonably describe the records sought, as specified in subparagraph (1) of this paragraph, the response shall specify the reasons why the request failed to meet the requirements of subparagraph (1) of this paragraph and shall extend to the requester an opportunity to confer with knowledgeable DOE personnel in an attempt to restate the request or reduce the request to manageable proportions by reformulation and by agreeing on an orderly procedure for the production of the records. If a response is given by DOE stating that additional information is needed from the requester to render records reasonably described, any reformulated request submitted by the requester shall

be treated as an initial request for purposes of time for DOE response.

(d) *Nonexistent records.* (1) 5 U.S.C. 552 does not require the compilation or creation of a record for the purpose of satisfying a request for records. If a requested record is known to have been destroyed or otherwise disposed of, or if no such record was ever known to exist, the requester shall be so notified.

(2) 5 U.S.C. 552 does not require the DOE to honor a request for a record not yet in existence, even where such a document may be expected to come into existence at a later time.

(e) *Assurance of willingness to pay fees.* A request shall include assurances to pay: (1) whatever fees will be assessed in accordance with § 1004.9 of this part, or (2) those fees not exceeding some specified dollar amount, or shall otherwise address the issue of fees in accordance with § 1004.9. No request shall be deemed to have been received until the DOE has received either a reasonable deposit or some other assurance of willingness to bear fees anticipated to be associated with the processing of the request.

(f) *Requests for records or information of other agencies.* (1) Some of the records in the files of the DOE have been obtained from other Federal agencies or contain information obtained from other Federal agencies.

(2) Where an entire document originated in another Federal agency, the authorizing official will refer the request to the originating agency and so inform the requester. A requester who does not object to the referral within 5 days will be deemed to have consented.

(3) Requests for DOE records containing information received from another agency, or records prepared jointly by DOE and other agencies, will be treated as requests for DOE records except that coordination will be effected by the authorizing official with the appropriate official of the other agency. Such coordination will be done on an expedited basis, for the purpose of determining whether the other agency official wishes to deny the request and obtaining the certification, signature, and identity of the other agency's responsible official. The notice of determination to the requester, in the event part of all of the record is recommended for denial by the other agency, shall cite the other agency denial official, as well as the appropriate DOE denying official is a denial by DOE is also involved.

(4) For purposes of this section and § 1004.5, the FERC shall be considered an agency other than the DOE.

§ 1004.5 Processing requests for records.

(a) Freedom of information officers shall be responsible for processing written requests for records submitted pursuant to this part. Upon receiving such a request, the freedom of information officer shall, except as provided in paragraph (c) of this section, ascertain which authorizing official or officials have responsibility for, custody of, or concern with the records requested. The freedom of information officer shall review the request, consulting with the authorizing official(s) where appropriate, to determine its compliance with § 1004.4. Where a request complies with § 1004.4, the freedom of information officer shall forward the request to the authorizing official for action and acknowledge receipt of the request to the requester.

(b) The authorizing official shall promptly identify and review the records encompassed by the request (or, where the requested material consists of multiple submissions of identical items, representative samples of such items). The authorizing official shall prepare a written response either: (1) granting the request, (2) denying the request, (3) granting it in part and denying it in part, or (4) replying with a response stating that the request has been referred to another agency under § 1004.4(f) or § 1004.6(e).

(c) Where a request involves records which are in the custody of or the concern or more than one authorizing official, the freedom of information officer shall identify all authorizing official and forward the request to the authorizing official that can reasonably be expected to have custody of the majority of the responsive records. This authorizing official shall prepare a DOE response to the request consistent with paragraph (b) of this section, which shall identify any other authorizing official or officials having responsibility for the denial of records.

(d) *Time for processing requests.* (1) Action pursuant to paragraph (b) of this section shall be taken within 10 working days of receipt of a request for DOE records ("receipt" is defined in § 1004.4(a)), except that if unusual circumstances require an extension of time before a decision on a request can be reached, and the person requesting records is promptly informed in writing by the authorizing official, setting forth the reasons for such extension and the date on which a determination is expected to be dispatched, then the authorizing official may take an extension not to exceed 10 working days.

(2) for purposes of this section and § 1004.8(b), the term "unusual circumstances" means:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the offices processing the request;

(ii) The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the department having substantial subject-matter interest therein.

(3) The requester must be promptly notified in writing of the extension, the reasons for the extension, and the date on which a determination is expected to be dispatched.

(4) If no determination has been dispatched at the end of the 10-day period, or the last extension thereof, the requester may deem to have exhausted his administrative remedies, giving rise to a right of review in a district court of the United States as specified in 5 U.S.C. 552(a)(4). When no determination can be dispatched within the applicable time limit, the responsible authorizing official shall nevertheless continue to process the request; on expiration of the time limit he shall inform the requester of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of his right to seek remedy through the courts; and he may ask the requester to forego such action until a determination is made.

(5) Nothing in this part shall preclude the authorizing official and a requester from agreeing to an extension of time for the initial determination on a request. Any such agreement shall be confirmed in writing and shall clearly specify the total time agreed upon for the initial determination.

§ 1004.6 Requests for classified records.

(a) All requests for classified records shall be subject to the provisions of this part with the special qualifications noted below.

(b) All requests for records made in accordance with this part, except those requests for access to classified records which are made specifically pursuant to the mandatory review provisions of Executive Order 11652 or any successor thereto, shall be automatically considered a Freedom of Information Act request under this part.

(c) Concurrence of the Director of Classification shall be required on all responses involving requests for classified records. The Director of Classification shall be informed of the request by the freedom of information officer and the authorizing official to whom the action is assigned and shall advise the office originating the records, or having cognizance or responsibility for the records, and consult with such

office or offices prior to making a determination under this section.

(d) The written notice of a determination to deny records, or portions of records, which contain both classified material and other exempt material, shall be concurred in by the Director of Classification who shall be the denying official for the classified portion of such records in accordance with §§ 1004.5(c) and 1004.7(b)(2). If other DOE officials or appropriate officials of other agencies are responsible for denying any portion of the record, their names and titles or positions shall be listed in the notice of denial in accordance with §§ 1004.5(c) and 1004.7(b)(2) and it shall be clearly indicated what portion or portions they were responsible for denying.

(e) Requests for DOE records containing classified information received from another agency, and requests for classified documents originating in another Federal agency, shall be coordinated with or referred to the other agency consistent with the provisions of § 1004.4(f). Coordination or referral of information or documents subject to this section shall be effected by the Director of Classification (in consultation with the authorizing official) with the appropriate official of the other agency.

§ 1004.7 Response by authorizing officials: Form and content.

(a) *Form of grant.* When a requested record has been identified and will be made available, and where applicable fees are $25 or less or where it has been determined that the payment of applicable fees should be waived, the records shall be made available promptly. Where the applicable fees are in excess of $25, the records shall not be made available until all charges are paid in full.

(b) *Form of denial.* A reply denying a request for a record shall be in writing and shall be sent certified or registered mail, return receipt requested. It shall be signed by the authorizing official pursuant to § 1004.5 (b) or (c) and shall include:

(1) *Reason for denial.* A statement of the reason for denial, containing as applicable:

(i) *Exemption category.* A reference to the specific exemption under the Freedom of Information Act authorizing the withholding of the record, and to the extent consistent with the purposes of the exemption, a brief explanation of how the exemption applies to the record withheld, and a statement of why a discretionary release is not appropriate.

(ii) *Notification that record cannot be located or does not exist.* If a requested record is known to have been destroyed or otherwise disposed of, or if no such record was ever known to exist, the requester shall be so notified.

(2) *Persons responsible for denial.* A statement setting forth the name and the title or position of each denying official and identifying the portion of the denial for which each denying official is responsible.

(3) *Segregation of nonexempt material.* A statement of notation addressing the issue of whether there is any segregable nonexempt material in the documents or portions thereof identified as being denied.

(4) *Administrative appeal and judicial review.* A statement that the denial may be appealed within 30 calendar days to the Office of Hearings and Appeals, and that judicial review will be thereafter available either in the district in which the requester resides or has a principal place of business or in which the records are situated or in the District of Columbia.

§ 1004.8 Appeals from initial denials.

(a) *Appeal to Office of Hearings and Appeals.* When the authorizing official has denied a request for records in whole or in part or has responded that there are no documents responsive to the request, consistent with § 1004.4(d)(1), or when the freedom of information officer has denied a request for waiver of fees consistent with § 1004.9, the requester may, within 30 calendar days of its receipt, appeal the determination to the Office of Hearings and Appeals.

(b) *Elements of appeals.* The appeal shall be in writing, addressed to the headquarters freedom of information officer, and both the envelope and letter shall be clearly marked "Freedom of Information Appeal." The appeal should contain a concise statement of grounds upon which it is brought and a description of the relief sought. It should also include a discussion of all relevant authorities, including, but not limited to, DOE (and predecessor agency) rulings, regulations, interpretations and decisions on appeals and any judicial determinations being relied upon to support the appeal. A copy of the letter that is the subject of the appeal shall be submitted with the appeal.

(c) *Receipt of appeal.* Upon receiving an appeal, the headquarters freedom of information officer shall forward the appeal to the appeal authority. An appeal will be considered to be received for purposes of 5 U.S.C. 552(a)(6) upon receipt by the appeal authority.

(d) *Action within 20 working days.* (1) The appeal authority shall act upon the appeal within 20 working days of its receipt, and more rapidly if practicable, except that if unusual circumstances (as defined in § 1004.5(d)(2) require an extension of time before a decision on a request can be reached, the appeal authority may extend the time for final action for an additional 10 working days less the number of days of any statutory extension which may have been taken by the authorizing official during the period of initial determination.

(2) The requester must be promptly notified in writing of the extension, setting forth the reasons for the extension, and the date on which a determination is expected to be dispatched.

(3) If no determination on the appeal has been dispatched at the end of the 20-day period or the last extension thereof, the requester is deemed to have exhausted his administrative remedies, giving rise to a right of review in a district court of the United States as specified in 5 U.S.C. 552(a)(4). When no determination can be dispatched within the applicable time limit, the appeal will nevertheless continue to be processed; on expiration of the time limit the requester shall be informed of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of his right to seek judicial review in the U.S. district court in the district in which he resides or has his principal place of business, the district in which the records are situated, or the District of Columbia. The requester may be asked to forego judicial review until determination of the appeal.

(4) Nothing in this part shall preclude the appeal authority and a requester from agreeing to an extension of time for the decision on an appeal. Any such agreement shall be confirmed in writing and shall clearly specify the total time agreed upon for the appeal decision.

(e) *Form of action on appeal.* The appeal authority's action on an appeal shall be in writing, and shall set forth his name and title. A denial in whole or in part of a request on appeal shall set forth the exemptions relied on, a brief explanation consistent with the purpose of the exemption of how the exemption applies to the records withheld, and the reasons for asserting it and a statement of why a discretionary release is not appropriate. It shall also contain a statement that it constitutes final agency action on the request and that judicial review will be available either in the district in which the requester resides or has a principal place of business or in which the records are situated or in the District of Columbia. Documents determined by the appeal authority to be documents subject to release shall be made promptly available to the requester upon payment of any applicable fees.

(f) *Classified records.* The Secretary of Energy or his designee will make the final determination concerning appeals involving classified records.

§ 1004.9 Fees for provision of records.

(a) *When charged.* User fees pursuant to 5 U.S.C. 552, as amended, and 31 U.S.C. 483a, shall be charged according to the schedule contained in paragraph (b) of this section for services rendered in responding to requests for DOE records under this subpart, unless the freedom of information officer determines, in conformity with the provisions of 5 U.S.C. 552, as amended, and 31 U.S.C. 483a, that waiver of payment of such charges, or a portion thereof, is in the public interest.

(1) Such a determination shall ordinarily not be made unless the service to be performed will be of benefit primarily to the public as opposed to the requester. In making this determination, the freedom of information officer, in consultation with the authorizing official, may consider several factors, including, but not necessarily limited to, the following:

(i) The current public interest in subject matter to which the documents pertain.

(ii) The status of the requester as a representative of the news media.

(iii) The status of the requester as a representative of a bona fide public interest group.

(iv) The status of the requester as an indigent person.

(v) The status of the requester as an historian or academician.

(vi) Whether the requester is engaged in administrative proceedings or litigation with the Government.

(vii) Whether the requester is making the request to further purely private commercial interests.

(2) Fees shall not be charged where they would amount, in the aggregate, for a request or series of related requests, to less than $25. Where fees in excess of $25 are to be charged, fees will be assessed for the full amount.

(3) Ordinarily, fees for search shall not be charged if the records requested are not found, or if all of the records located are withheld as exempt. However, if the time expended in processing the request is substantial, and if the requester has been notified of the estimated cost pursuant to paragraph (c) of this section and has been specifically advised that it cannot be determined in advance whether any records will be made available, fees for search may be charged.

(b) *Services charged for, and amount charged.* For the services listed below, expended in locating or making available records or copies thereof, the following charges shall be assessed:

(1) *Copies.* For copies of documents (maximum of five (5) copies of any one document will be supplied), $0.10 per copy of each page.

(2) *Certification.* For certification of true copies, each, $1.

(3) *Clerical searches.* Charges will be $2.25 for each quarter hour spent by clerical personnel in searching for and producing a requested record.

(4) *Nonclerical searches.* Where a search cannot be performed by clerical personnel (for example, where the task of determining which records fall within a request and collecting them requires the time of professional or managerial personnel), charges for the search may be made at a rate in excess of the clerical rate; specifically, when higher level personnel are required, charges will be $4.50 per each one quarter hour.

(5) *Examination and related tasks in screening records.* No charge shall be made for time spent in resolving legal or policy issues affecting access to records of known contents. In addition, no charge shall be made for the time involved in examining records to determine whether they are exempt from mandatory disclosure and should be withheld as a matter of policy.

(6) *Computerized records.* Fees for services in processing requests maintained in whole or in part in computerized form shall be in accordance with this section so far as practicable. Services of personnel in the nature of a search will be charged for at rates prescribed in paragraph (b)(4) of this section unless the level of personnel involved permits rates in accordance with paragaph (b)(3) of this section. A charge may be made for the computer time involved, based upon the actual cost to the Government. A charge may also be made for any substantial amounts of special supplies or materials used to contain, present, or make available the output of computers, based upon the actual cost to the Government. Nothing in this paragraph shall be construed to entitle any person, as of right, to any services in connection with computerized records, other than services to which such person may be entitled under 5 U.S.C. 552 and under the provisions, not including this paragraph (b), of this section.

(7) *Other nonpaper records.* Fees for services in processing requests where the records are maintained on microfiche, microfilm, recording tape, or in any other nonpaper form, shall be assessed at the actual cost to the Government.

(8) *Transcripts.* Transcripts by a reporting firm under contract with DOE may be purchased directly from the reporting firm or DOE at the cost of reproduction as provided for in the DOE contract with the reporting firm.

(9) *Copyrighted material.* Material which has been copyrighted will not be reproduced in violation of the copyright laws.

(c) *Notice of anticipated fees in excess of $25.* Unless the requester specifically states that he is willing to pay whatever fees are assessed by DOE for meeting the request, or, alternatively, specifies an amount in excess of $25 which he is willing to pay and which in fact covers the anticipated fees for meeting the request, a request that is expected to involve assessed fees in excess of $25 will not be deemed to have been received until the requester is advised of the anticipated cost, agrees to bear it, and makes any advance deposit required. Such notification shall be made by the freedom of information officer consistent with § 1004.4(e).

§ 1004.10 Exemptions.

(a) 5 U.S.C. 552 exempts from all of its publication and disclosure requirements nine categories of records which are described in Paragraph (b) of that section. These categories include such matters as national defense and foreign policy information; investigatory records; internal procedures and communications; materials exempted from disclosure by other statutes; confidential, commercial, and financial information; and matters involving personal privacy.

(b) Specifically, the exemptions in 5 U.S.C. 552(b) apply to matters that are—

(1) Specifically authorized under criteria established by an Executive order to be kept secret in the interests of the national defense or foreign policy and are in fact properly classified pursuant to such Executive order.

(2) Related solely to the internal personnel rules and practices of an agency;

(3) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552(b)): *Provided,* That such statute: (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld. Restricted data and formerly restricted data under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), are covered by this exemption;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intraagency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy;

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would: (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(c) Any re- nably segregable nonexempt portion of a record will be provided to a requester. The DOE will delete portions which are exempt under the exceptions listed above only if it is determined that such deletions are required by law or are in the public interest.

§ 1004.11 Handling of proprietary information of a private business, foreign government, or an international organization.

(a) *Documents submitted to the Department in connection with regulatory programs.* Regulatory documents pertaining to international voluntary agreements (pursuant to section 252 of the Energy Policy and Conservation Act), the mandatory petroleum allocation, mandatory petroleum pricing, oil imports, mandatory Canadian crude oil allocation, coal conversion, appliance labeling, and industrial programs shall be handled consistent with the following:

(1) If any person submitting a document with the DOE claims that some or all the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552), is information referred to in 18 U.S.C. 1905, or is otherwise exempt by law from public disclosure, and if such person requests the DOE not to disclose such information, such person shall submit together with the document a second copy of the document from which has been deleted the information for which such person wishes to claim confidential treatment. The person shall indicate in the original document that it is confidential or contains confidential information and should submit a statement specifying the justification for nondisclosure of the information for which confidential treatment is claimed. If the person states that the information comes within the exemption in 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information, such person shall include a statement specifying why such information is privileged or confidential. If the person submitting a document does not submit a second copy of the document with the confidential information deleted, DOE may assume that there is no objection to public disclosure of the document in its entirety.

(2) The DOE retains the right to make its own determination with regard to any claim of confidentiality. Notice of the decision by the DOE to deny such claim, in whole or in part, and an opportunity to respond shall ordinarily be given to a person claiming confidentiality of information no less than five (5) days prior to its intended public disclosure.

(b) *Notification.* Where documents submitted to DOE that are not covered by paragraph (a) of this section, come within or might come within exemption 4 of the Freedom of Information Act (§ 1004.10(b)(4)), the person who submitted the information shall be promptly notified and provided an opportunity to identify material that the person believes is exempt from disclosure pursuant to exemption 4. Notice of the decision by DOE to deny a claim of exemption, in whole or in part, and an opportunity to respond shall be given to a person claiming confidentiality of information no less than five (5) days prior to its intended public disclosure.

(c) *Criteria for withholding.* Except as otherwise provided in paragraph (a) of this section, criteria to be applied in determining whether information is exempt from disclosure pursuant to exemption 4 of the Freedom of Information Act (§ 1004.10(b)(4)) include:

(1) Whether the information has been held in confidence by the person to whom it pertains;

(2) Whether the information is of a type customarily held in confidence by the person to whom it pertains and whether there is a reasonable basis therefor;

(3) Whether the information was transmitted to and received by the Department in confidence;

(4) Whether the information is available in public sources;

(5) Whether disclosure of the information is likely to impair the Government's ability to obtain similar information in the future; or

(6) Whether disclosure of the information is likely to cause substantial harm to the competitive position of the person from whom the information was obtained.

§ 1004.12 Computation of time.

Except as otherwise noted, in computing any period of time prescribed or allowed by this part, the day of the event from which the designated period of time begins to run is not to be included; the last day of the period so computed is to be included; and Saturdays, Sundays, and legal public holidays are excepted.

[FR Doc. 78-25603 Filed 9-11-78; 8:45 am]

[6750-1]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

(File No. 7223348)

KAUFMAN AND BROAD, INC., ET AL

Consent Agreement: Extension of Time To File Public Comments

AGENCY: Federal Trade Commission.

ACTION: Extension of time to file public comments.

SUMMARY: On July 7, 1978 notice of the Federal Trade Commission's provisional acceptance of a consent agreement from Kaufman and Broad, Inc. was published in the FEDERAL REGISTER, 43 FR 29304. The final date on which comments on the agreement would be accepted was September 5, 1978. This notice extends the comment period to October 5, 1978.

DATE: Comments must be received on or before October 5, 1978.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Paul W. Turley, Director, Chicago Regional Office, 55 East Monroe Street, Suite 1437, Chicago, Ill. 60603, 312-353-4423.

SUPPLEMENTARY INFORMATION: Pursuant to rule 2.34 of the Commission's rules of practice 16 CFR 2.34, interested persons are afforded 60 days to comment on the proposed order. In this proceeding, the comment period was scheduled to end on September 5, 1978. The Commission has received a number of comments from consumers that require Privacy Act clearances before these comments may be placed on the public record.

The Commission has determined that an extension of 30 days is in the public interest. Accordingly, all comments pursuant to rule 2.34 must be filed no later than October 5, 1978.

By direction of the Commission dated September 5, 1978.

CAROL THOMAS,
Secretary.

[FR Doc. 78-25643 Filed 9-11-78; 8:45 am]

[6750-01]

[16 CFR Part 13]

[File No. 731 0044]

ZAYRE CORP.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Framingham, Mass., discount department store chain to cease inducing or receiving discriminatory promotional allowances, services or facilities from its suppliers; and would prohibit the firm from boycotting or decreasing its purchases from recalcitrant suppliers. The company would also be required to maintain specified records for a 5-year period; and bear all costs of any trade show it sponsors, organizes, or directs.

DATE: Comments must be received on or before November 9, 1978.

ADDRESS: Comments should be directed to Office of the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

William M. Gibson, Director, Boston Regional Office, Federal Trade Commission, 150 Causeway Street, Room 1301, Boston, Mass. 02114, 617-223-6621.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

ZAYRE CORP.

[File No. 731 0044]

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of Zayre Corp., a corporation, hereinafter sometimes referred to as proposed respondent, and it now appearing that Zayre Corp. is willing to enter into an agreement containing an order to cease an desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Zayre Corp., a corporation, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Zayre Corp. is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 770 Cochituate Road, Framingham, Mass.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Receipt of the complaint and decision containing the agreed-to order at proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order.

7. No agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. The proposed respondent has read the proposed complaint and order contemplated hereby and understands that once the order has been issued, it will be required to file one or more compliance reports, showing that it has fully complied with the order and that it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

I.

It is ordered, That Zayre Corp., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device in connection with the purchase in or affecting commerce, or receipt of merchandise on consignment in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, of products for resale by the respondent, or in connection with any other transaction between respondent and its various suppliers involving or pertaining to the regular business of the respondent in purchasing, promoting, advertising, distributing, and/or selling: Books, phonograph records, photo finishing, photo film, photo equipment, franchise cosmetics, candy, health and beauty aids, home and office stationery, greeting cards, gift wrap, paper goods, party goods, and candles in or affecting commerce, as "commerce" is

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defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Inducing and receiving, receiving, or contracting for the receipt of, any promotional allowance, payment, or other thing of value, solicited by respondent from any supplier, including any consignor or vendor, as compensation for or in consideration of any advertising or promotional service, furnished by or through respondent in connection with promotions originating with or sponsored by respondent, and involving the respondent's sale or offering for sale of the above-listed products, when respondent knows or should know that such compensation is not affirmatively offered or otherwise made available by such supplier, including any consignor or vendor, on proportionally equal terms to all of its customers competing with respondent, including any customer who purchases from any intermediary and competes with respondent in the resale of any such product of any such supplier.

2. Inducing and receiving, receiving, or contracting for the receipt of, the furnishing of any service or facility solicited by respondent from any supplier, including any consignor or vendor, in connection with promotions originating with or sponsored by respondent, and involving respondent's sale or offering for sale of the above-listed products, when respondent knows or should know that such service or facility is not affirmatively offered or otherwise made available by such supplier, including any consignor or vendor, on proportionally equal terms to all of its customers competing with respondent, including any customer who purchases from any intermediary and competes with respondent in the resale of any such product of any such supplier.

3. Eliminating or boycotting or decreasing purchases from any supplier or suppliers because of such suppliers' refusal to grant any allowance or payment in connection with the processing, handling, sale, or offering for sale of the above-listed products, or refusal to furnish any service or facility connected with respondent's sale or offering for sale of any such product, when respondent knows or should know that such allowance, payment, service, or facility is not affirmatively offered or otherwise made available by such supplier, including any consignor or vendor, on proportionally equal terms to all of its customers competing with respondent, including any customer who purchases from any intermediary and competes with respondent in the resale of any such product of any such supplier.

II.

It is further ordered, That respondent shall not organize, direct, or sponsor any trade show unless respondent bears the full cost of the operating expense of any such trade show.

III.

It is further ordered, That, for a period of five (5) years from the date of service upon it of this order, respondent shall establish and maintain at its general office in Framingham, Mass., a separate file containing each offered promotional allowance, payment, or other thing of value, induced and received within the meaning of paragraph I of this order. The file shall be maintained alphabetically, according to suppliers, with all offers and related materials pertaining to each supplier filed chronologically, within that supplier's portion of the file. the information shall be maintained for the effective period of this order. The file shall be made available to employees of the Federal trade Commission, for inspection and copying, upon written notice of ten (10) calendar days.

IV.

It is further ordered, That respondent, within thirty (30) days after the date of service upon it of this order, shall distribute a copy of this order to each of its officers and managers of each of its divisions and subsidiaries.

V.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment, or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation that may affect compliance obligations arising out of this order.

VI.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has compiled with this order.

ZAYRE CORP.

[File No. 731 0044]

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Zayre Corp. ("Zayre"). The proposed consent order and material submitted by Zayre to the Commission that is reasonably related to the merits of the order and is not exempt from disclosure under the Freedom of Information Act have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The proposed complaint alleges that Zayre has knowingly induced and received, or received, discriminatory allowances and services in connection with a trade show which was organized, directed, and conducted by Zayre and which was attended by Zayre's officials and employees. The trade show, held in Miami Beach, Fla., in July 1972, was not open to the public. The proposed complaint further alleges that Zayre has threatened to eliminate or boycott or decrease purchases from, or has eliminated or boycotted or decreased purchases from, suppliers which refused to participate in the aforementioned trade show.

The proposed complaint also alleges that Zayre has knowingly solicited and induced from a major supplier substantial sums as discriminatory payments for services in connection with the resale of certain products in the regular course of its business during the years 1972, 1973, and 1974.

The proposed consent order prohibits Zayre, in connection with the purchase of certain products, from inducing and receiving, receiving or contracting for the receipt of any discriminatory promotional allowance from any supplier when Zayre knows or should know that such compensation is not affirmatively offered by such supplier on proportionally equal terms to all competing customers. A similar proscription is imposed upon inducing and receiving discriminatory services or facilities solicited by Zayre from any supplier.

Further, Zayre is prohibited from boycotting or decreasing purchases from any supplier because the supplier refuses to grant any discriminatory allowance or payment in connection with the processing, handling, sale, or offering for sale of the covered products. Zayre also is barred from organizing, directing, or sponsoring any trade show unless it bears the full cost of the trade show.

The order requires proposed respondent to maintain, for a period of 5 years, a file containing each offered promotional allowance, payment or other thing of value, induced and received within the intent and meaning of the order, and to make this file available to Commission staff upon written request.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-25636 Filed 9-11-78; 8:45 am]

[4910-22]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Part 625]

[FHWA Docket No. 78-10]

DESIGN STANDARDS FOR HIGHWAYS

Corrections to Proposed Rule

AGENCY: Federal Highway Administration, DOT.

ACTION: Technical corrections to proposed rule.

SUMMARY: This document corrects a notice of proposed rulemaking relating to design standards for highways (geometric design standards for resurfacing, restoration, and rehabilitation (R-R-R) projects), because of in advertent omissions.

EFFECTIVE DATE: September 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Seppo I. Sillan, Highway Design Division, Office of Engineering, 202-426-0321; or Lee J. Burstyn, Office of the Chief Counsel, 202-426-0790, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590.

In FR Doc. 78-23353, appearing in the issue of Wednesday, August 23, 1978, the following changes should be made:

1. On page 37558, in the second column under "DEFINITIONS" the last sentence of the first paragraph is corrected to read: "R-R-R work may or may not include changes to geometric features, such as minor widening, flattening curves, or improving sight distances."

2. On page 37559, in the second column, the last paragraph under the heading "DESIGN SPEED" should read: "It is not intended that elaborate speed studies be conducted for R-R-R projects. A few simple representative measurements will be adequate."

3. On page 37460, in table I—"Roadway and surfacing widths," the word "narrow" in the footnote should read "narrower."

4. On page 37561, in the second column under the heading "SAFETY APPURTENANCES" the third and new fourth sentences should read: "The upgrading should be accomplished through a systematic program based on priorities. Implementation of a R-R-R project should not preempt such program priorities by requiring low priority improvements to be a part of the R-R-R project."

5. On page 37561, in the third column, under the heading "Appendix A" the terms "V" and "R" in the basic equation should be in lower case letters for consistency with the definitions. Also, change "h" to "r" in the definition of radius of curve in feet.

(Authority: 23 U.S.C. 315; 49 CFR 1.48(b).)

Issued on: August 31, 1978.

LORENZO CASANOVA,
Chief Counsel,
Federal Highway Administration.

[FR Doc. 78-25572 Filed 9-11-78; 8:45 am]

[1505-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

[24 CFR Part 3500]

[Docket No. R78-568]

REAL ESTATE SETTLEMENT PROCEDURES ACT

Advance Notice of Proposed Rulemaking

Correction

FR Doc. 78-24950, appearing at page 39701 in the issue of Wednesday, September 6, 1978, is corrected as follows:

1. Availability of RESPA materials: Single copies of RESPA, the current Regulations and Special Information Booklet, are available at no charge as long as the present supply lasts from Cynthia D. Lewis, Acting Director, or Richard H. Heidermann, Special Assistant, Real Estate Practices Staff, Office of the Deputy Assistant Secretary for Regulatory Functions, Room 4108, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, telephone 202-755-5860 or 202-755-7038.

2. Send public comments making reference to the correct docket No. R78-568 to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 963-5]

[40 CFR Part 65]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for U.S. Air Force, 928th Tactical Airlift Group, Chicago, Ill.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an administrative order to the U.S. Air Force (Air Force), 928th, Tactical Airlift Group. The order requires the Air Force to bring air emissions from its building 1 heating plant in Chicago, Ill., into compliance with certain regulations contained in the federally approved Illionis State implementation plan (SIP). Because the Air Force is unable to comply with these regulations at this time, the proposed order would establish an expeditious schedule requiring final compliance by July 1, 1979. Source compliance with the order would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act for violation of the SIP regulations covered by the order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the order.

DATES: Written comments must be received on or before October 12, 1978, and requests for a public hearing must be received on or before September 27, 1978. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after 21 days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSEES: Comments and requests for a public hearing should be submitted to James O. McDonald, Director, Enforcement Division, EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604. Material supporting the order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Louise Gross, Enforcement Attor-

ney, at the above address, telephone 312-353-2082.

SUPPLEMENTARY INFORMATION: The Air Force operates a heating plant in Chicago, Ill. The proposed order addresses emissions from its two boilers at this facility, which are subject to Illinois Pollution Control Board rule 203. The regulation limits the emissions of particulate matter and is part of the federally approved Illinois State implementation plan. The order requires final compliance with the regulation by July 1, 1979, and the source has consented to its terms. The source has agreed to meet the order's increments during the period of this informal rulemaking and has already satisfied particular increments contained in the order.

The proposed order satisfies the applicable requirements of section 113(d) of the Clean Air Act (the Act). If the order is issued, source compliance with its terms would preclude further EPA enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provisions of the Act (section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the order. Testimony given at any public hearing concerning the order will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of an order under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (Apr. 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: August 30, 1978.

VALDAS V. ADAMKUS,
Acting Regional Administrator, Region V.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter 1, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding § 65.180 to read as follows:

§ 65.180 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the act.

[Order No. EPA-5-78-A]

U.S. ENVIRONMENTAL PROTECTION AGENCY

ORDER

In the matter of U.S. Air Force Reserve, 928th Tactical Airlift Group, Chicago, Ill., proceeding under section 113(d) of the Clean Air Act, as amended.

The following order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. section 7401 et seq. (hereinafter referred to as "the Act"). Public notice, opportunity for public hearing and 30 days notice to the State of Illinois have been provided pursuant to section 113(d)(1) of the Act. This order contains a schedule for compliance, interim control requirements, continuous emission monitoring requirements and reporting requirements. Final compliance is required as expeditiously as practicable, but no later than July 1, 1979.

On November 23, 1977, Dale S. Bryson, Acting Director, Enforcement Division, Region V, U.S. Environmental Protection Agency (hereinafter referred to as the "U.S. EPA"), pursuant to authority duly delegated to him by the Administrator of the U.S. EPA, issued a notice of violation, pursuant to section 113(a)(1) of the Act, to the U.S. Air Force Reserve (hereinafter referred to as "the Air Force"), 928th Tactical Airlift Group, Chicago, Ill., upon a finding that the heating plant in building I was found to be in violation of the applicable Illinois implementation plan, as defined in section 110(d) of the Act. The notice cited boilers 1 and 2 for violation of Illinois Rule 203 (hereinafter referred to as Rule 203), as demonstrated by the facility's air pollution emissions report, emission factor calculations and material contained in the Office of Federal Activities file. A copy of this notice was sent to the State of Illinois.

After a thorough Investigation of all relevant facts, It is determined that the Air Force is presently unable to comply with the Illinois implementation plan, that the schedule for compliance set forth in this order is as expeditious as practicable, and that the terms of this order comply with section 113(d) of the Act. Therefore, it is hereby ordered that:

1. The Air Force shall achieve compliance with Rule 203 at the 928th Tactical Airlift Group in accordance with the following schedule:

A. Award contract for construction of new oil-fired heating plant—has been commenced prior to the issuance of this order.

B. Begin construction of new plant—Has been commenced prior to the issuance of this order.

C. Complete construction of new plant—November 15, 1978.

D. Complete emission testing—June 1, 1979.

E. Demonstrate compliance with Illinois Rule 203—July 1, 1979.

II. The Air force shall achieve and demonstrate final compliance with Rule 203 at the 928th Tactical Airlift Group by July 1, 1979.

III. Pursuant to the authority granted in sections 113(d)(1)(C) and 114(a) of the Clean Air Act, the Air Force shall install a continuous monitoring system for the measurement of opacity on each effluent boiler stack following any control devices, at the new heating plant. The continuous monitoring system shall be installed, calibrated, maintained, and operated in accordance with the procedures set forth in 40 CFR section 60.13 and appendix B of 40 CFR Part 60, and shall be properly calibrated and operational upon achievement of final compliance with Rule 203.

The Air Force is required to submit a written report every calendar quarter giving the nature and cause of any emissions in violation of Illinois Rule 203 and corrective action taken. Negative reports will be submitted. The reports shall include the magnitude and duration of all violating emissions.

In addition, all data resulting from the operation of the continuous monitoring system shall be stored for a period of 2 years and made available for inspection by the U.S. EPA or its agent upon its request. Malfunctions or periods in which the continous monitoring system is not in operation shall be reported immediately, along with proposed corrective action.

IV. Pursuant to section 113(d)(7) of the Act, during the period in which this order is in effect, the Air Force shall minimize particulate emissions so that in no case shall the heating plant emissions exceed the present emission level of 1.44 pounds of particulate matter per million Btu of heat input. Such a limit is determined to be reasonable and is the best practicable interim system of emission reduction (taking into account the requirement with which the source must ultimately comply in section I, above) for the period during which this order is in effect.

V. The Air Force shall submit reports to the U.S. EPA detailing progress made with respect to each requirement of this order. Such reports shall be submitted within ten (10) days of the completion of such requirement. In addition, no later than July 1, 1979, the Air Force shall certify to the U.S. EPA that the 928th Tactical Airlift Group is in final compliance with Rule 203.

VI. All submissions and notifications to the U.S. EPA pursuant to this order shall be made to the Chief, Air Compliance Section, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604.

VII. Nothing in this order shall be construed so as to the affect the Air Force's responsibility to comply with any other Federal, State, or local regulations.

VIII. Nothing in this order shall be construed as a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, section 303 of the Act, 42 U.S.C. section 7603.

IX. The Air Force is hereby notified that its failure to achieve final compliance by July 1, 1979, may result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure the Air Force will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

X. Should events occur which cause or are likely to cause delays in the achievement of the actions called for in this order, the Air force shall have the right to request that this order be modified by the U.S. EPA. If and until such a modification is made, however, the Air force shall remain subject to this order.

XI. This order is effective upon FEDERAL REGISTER promulgation.

Dated: ——————,

——————,
Administrator or Delegate.

The Air Force has reviewed this order and believes it to be a reasonable means by which it can achieve final compliance with Illinois Rule 203. The Air force stipulates as to the correctness of all facts stated above and consents to the requirements and terms of this order.

Dated: ——————,

——————,
U.S. Air Force, 928th Tactical Airlift Group.

[FR Doc. 78-25593 Filed 9-11-78. 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 63]

[Docket No. 78-218]

SPANISH INTERNATIONAL NETWORK

AGENCY: Federal Communications Commission.

ACTION: Order extending time.

SUMMARY: Order extending time to file reply comments from September 11, 1978, to September 15, 1978, concerning FCC C.C. Docket No. 78-218.

DATE: Comments must be received by September 15, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Joel S. Winnik, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, 202-632-7265.

Request of Spanish International Network for authorized user status under the Communications Satellite Act of 1962 (43 FR 33942), C.C. Docket No. 78-218.

ORDER

Adopted: September 1, 1978.

Released: September 1, 1978.

By the Chief, Common Carrier Bureau:

The deadline for filing reply comments in this matter is hereby extended from September 11, 1978, until September 15, 1978.

JOSEPH A. MARINO,
Acting Chief, Common Carrier Bureau.

[FR Doc. 78-25726 Filed 9-11-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

PROGRAM REGULATIONS, ADMINISTRATIVE NOTICES AND FARMS

Mailing List

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration (FmHA) is establishing a mailing list for program regulations, administrative notices, and forms. The list is being established as a result of inquiries from interested individuals and groups. The intended effect of this action is to make FmHA Program regulations more readily available even though such regulations are also usually issued verbatim in the daily issue of the FEDERAL REGISTER.

EFFECTIVE DATE: September 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph H. Linsley, Chief, Directives Management Branch, Phone 202-447-4057.

SUPPLEMENTARY INFORMATION: On April 27, 1978, the Farmers Home Administration (FmHA) published a Notice in the FEDERAL REGISTER (43 FR 17988) indicating that we were considering establishing a mailing list on Program Issuances. Comments were invited on our proposal.

We have received 29 written comments all of which are favorable toward establishment of the mailing list. The major controversy was our proposed charges for the mailing list services. Several commenters thought that our charges should be reduced or eliminated for certain organizations such as nonprofit groups. These arguments were carefully evaluated and we have decided to reduce the charge for new regulations and forms, amendments to existing regulations and forms, and new Administrative Notices from $75.00 per year to $40.00 per year for public and nonprofit organizations. Therefore, the charges established are as follows:

1. $250.00 for the complete set of program regulations, Administrative Notices, and forms.

2. $40.00/yr. for public and nonprofit organizations to receive new regulations and forms, amendments to existing regulations and forms, and new Administrative Notices. This charge is for a calendar year or any part thereof. Payment of $40.00 in 1978 will cover services for the remainder of 1978 and 1979.

3. $75.00/yr. for individuals and groups other than public and nonprofit organizations to receive new regulations and forms, amendments to existing regulations and forms, and new Administrative Notices. This charge is for a calendar year or any part thereof. Payment of $75.00 in 1978 will cover services for the remainder of 1978 and 1979.

To receive mailing list services, please notify the Director, Finance Office, 1520 Market Street, St. Louis, Mo. 63103, Attention: RCMS, in writing. The letter should indicate the complete mailing address (including ZIP code) to which you wish the material sent. A check, bank draft, or money order for the full amount for the services desired made payable to the "Treasury of the United States" should accompany the request. Public and nonprofit organizations should include evidence of their status to qualify for the $40.00 annual charge. Please allow a minimum of 3 weeks for delivery.

To remain on the list after the initial subscription, please send the full payment for the next year's services to the above address not later than December 20.

One time requests for a copy of a specific regulation, Administrative Notice, or form should be directed to our Freedom of Information Officer, Mr. James Bryan, USDA, FmHA, 14th St. and Independence Avenue SW., Washington, D.C. 20250, telephone 202-447-2211. Charges for these requests will be based upon the Department's fee schedule as published in the FEDERAL REGISTER on April 4, 1978 (43 FR 14002).

Dated: September 1, 1978.

DENTON E. SPRAGUE,
Deputy Administrator,
Farmers Home Administration.

[FR Doc. 78-25602 Filed 9-11-78; 8:45 am]

[3410-15]

Rural Electrification Administration

COPPER VALLEY RURAL ELECTRIC ASSOCIATION, INC.

Solomon Gulch Project

Notice is hereby given that the Rural Electrification Administration (REA) proposes to provide financing to Copper Valley Rural Electric Association, Inc., for construction of the Solomon Gulch project. The Solomon Gulch project is a hydroelectric generating project located in the vicinity of Valdez, Alaska. The proposed project would consist of a rockfill dam at the site of an existing low dam at the outlet of Solomon Lake, two rockfill dikes, a reservoir with a surface area of 600 acres, a steel Penstock, a powerhouse containing two generating units with a capacity of 6,000 kW each, a 138-kV transmission line extending approximately 104 miles to Glennallen, a 25 kV-line approximately 5 miles in length to Valdez, and appurtenant facilities.

As a part of its licensing process, the Federal Energy Regulatory Commission (FERC), as lead agency, published a final environmental impact statement concerning this project on March 3, 1978. The Commission staff and REA staff consulted and cooperated in the preparation of both the draft and the final EIS. While REA participated in the preparation of the EIS with the intent of using it in complying with REA's responsibilities under NEPA, REA was not mentioned in the FERC FEDERAL REGISTER notices announcing the availability of the draft and final EIS's.

REA hereby provides formal notification that it intends to utilize the subject final environmental impact statement in its decisionmaking process regarding financing the Solomon Gulch project. In REA's judgment, the final EIS satisfactorily addresses its comments and suggestions and is responsive to all considerations thus far made known to REA.

The statement is available for public inspection at the Federal Energy Regulatory Commission, Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426, and its San Francisco regional office, 555 Battery Street, San Francisco, Calif. 94111. Copies may be ordered from the FERC, Office of Public Information.

Final REA action with respect to this matter may be taken after September 27, 1978, but only after Rea has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 5th day of September 1978.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc. 78-25445 Filed 9-11-78; 8:45 am]

[4112-92]

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

NATIONAL ADVISORY COMMITTEE ON AN ACCESSABLE ENVIRONMENT

Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) that the fourth and final 1978 meeting of the National Advisory Committee on an Accessible Environment will be held on September 23 and 24, 1978. The September 23 meeting, from 8:30 a.m. to 5 p.m., and the September 24 meeting, from 9 a.m. to 5 p.m., will be held at the Copley Plaza Hotel, Copley Square, Boston, Mass. The September 23 meeting, from 10 a.m. to 3 p.m., will feature a public awareness session.

The National Advisory Committee on an Accessible Environment is established under the 1974 amendments to the Rehabilitation Act (Pub. L. 93-516, 29 U.S.C. 792, et seq.). The Committee is established to provide advice, guidance, and recommendations to the Architectural and Transportation Barriers Compliance Board in carrying out its functions.

The meeting of the Committee shall be open to the public. On the first morning, the Committee will prepare for the public awareness session. The public awareness session will feature a presentation about the implications of new Rehabilitation legislation on the Architectural and Transportation Barriers Compliance Board status, function, and enforcement responsibilities. In addition, the NACAE will sponsor three concurrent sessions about mobility handicaps, communication barriers, and low visibility disabilities. Public comments and participation are invited. Following the public awareness session, the NACAE will evaluate the usefulness and intent of public awareness sessions held on this and previous occasions.

The primary focus of the September 24 meeting will be the preparation of the annual NACAE report on its activities. Members will discuss their accomplishments, goals which were not attained, and make recommendations for future participation.

Persons interested in attending the meeting should contact Ms. Laurinda Steele, Coordinator, Architectural and Transportation Barriers Compliance Board, Mary E. Switzer Building, Room 1010, 330 C Street SW., Washington, D.C. 20201, telephone 202-245-1801. TTY 202-245-1593.

ROBERT JOHNSON,
Executive Director, Architectural and Transportation Barriers Compliance Board.

[FR Doc. 78-25666 Filed 9-11-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 30635; Order 78-8-205]

ARIZONA SERVICE INVESTIGATION

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 31st day of August 1978.

In our principal decision in this case, we have decided to authorize Sky West Aviation to provide subsidized service at Page, Ariz. and Cochise Airlines to provide subsidized service at various Arizona and California communities. Our awards are part of a broader program to insure reliable small community service at a reasonable cost to the Federal taxpayer. As part of our plan we have made permissive certain authority now held by local service airlines and authorized Sky West and Cochise to continue to engage in separate commuter operations. It is our judgment that these actions, coupled with the award of Federal subsidy, will improve air service to the entire area.

We now believe that an award to Sky West to serve points authorized to Cochise, on a subsidy ineligible basis, will help insure that our expectation of improved service comes to pass. The possibility of such an award was not formally at issue in the *Arizona Service Investigation* so we propose such authority in this order.

To begin with, we believe that the grant of permissive subsidy ineligible certificate authority to each carrier in the markets authorized on a subsidy eligible basis to the other will serve as a competitive prod to the other to fulfill its certificate responsibilities. Second, the availability of a certificate potential replacement carrier should help minimize administrative delay in the event that the primary subsidized carrier falters—an eventuality which we do not expect but for which we should nonetheless provide. Finally, we see no detriment in the grant of such certificate authority since Sky West would in any event be authorized under section 416 of the Act to provide the service. In all these circumstances, we find that the public convenience and necessity require that Sky West Aviation be authorized on a subsidy ineligible basis to provide certificate service at Yuma, Kingman, Prescott, and Winslow, Ariz. and Blythe and El Centro, Calif. and between the Grand Canyon and Phoenix and Flagstaff and Phoenix and that the carrier is fit, willing, and able to provide the service.

Accordingly, *It is ordered*, That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments set forth here shall, within 30 days after the date of service of this order, file with the Board and serve on all persons listed in paragraph 5 below a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied on to support the stated objections; answers may be filed 15 days thereafter;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised in the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the case will be submitted to the Board for final action;

5. A copy of this order be served upon all the parties to the *Arizona Service Investigation*, Docket 30635.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[1]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-25657 Filed 9-11-78; 8:45 am]

[1] All members concurred except member O'Mella who concurred and dissented and attached his concurring and dissenting statement to the Opinion 78-8-195.

[6320-01]

[Docket 32953; Order 78-8-191]

CERTAIN FOREIGN AIR CARRIERS

Temporary Amendment to Permits; Order Vacating Findings

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 31st day of August 1978.

By Order 78-6-216, adopted June 30, 1978, the board directed all interested persons to show cause why it should not, subject to the approval of the President, amend on a temporary basis the foreign air carrier permits held by carriers listed in the attachment to that order by adding the following paragraph to each carrier's permit:

Effective upon the occurrence of a 1978 West Coast maritime work stoppage and continuing until five days after the end of such stoppage, no term, restriction, or condition of this permit shall preclude the holder from (1) operating charter flights of property where more than one person charters the capacity of an aircraft for air freight; (2) chartering excess freight capacity on charter flights of persons and their accompanying baggage for the carriage of air freight to one or more persons; (3) operating charters on behalf of authorized air freight forwarders as defined in Part 296 of the Economic Regulations; and (4) operating an unlimited number of planeload cargo charter flights and charter flights described in (1)-(3) above, *provided* that this paragraph shall be effective only for operations in markets affected by the work stoppage where one point is within the United States or its territories and the other point is outside of the U.S. or its territories.[1]

The possibility of a West Coast maritime work stoppage arose because at midnight, on June 30, the International Longshoremen's and Warehousemen's Union's (independent) contract with its employers on the West Coast expired. In the event a new contract was not reached and a work stoppage subsequently occurred, we concluded that the resultant disruption in the movement of cargo goods would be substantial, and that it warranted the proposed temporary emergency cargo air authority to help alleviate hardships on shippers and the public generally.

A new contract agreement now has been reached between the ILWU and its employers on the West Coast. Consequently, there is no longer a need for the temporary permit amendments proposed in Order 78-6-216.

Accordingly, *It is ordered*, That: The Board's tentative findings and conclusions in Order 78-6-216 be vacated.

This order will be published in the FEDERAL REGISTER.

[1] Order 78-6-216 directed interested persons to file statements in opposition to or in support of the proposed action within 15 days. No one filed an answer.

By the Civil Aeronautics Board: [2]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-25658 Filed 9-11-78; 8:45 am]

[6320-01]

[Docket 30790]

UNITED STATES-BENELUX LOW-FARE PROCEEDING

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on Tuesday, October 31, 1978, at 10 a.m. (local time) in Hearing Room 1003 D, Universal North Building, 1875 Connecticut Avenue, Washington, D.C., before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., September 6, 1978.

BURTON S. KOLKO,
Administrative Law Judge.

[FR Doc. 78-25656 Filed 9-11-78; 8:45 am]

[6335-01]

COMMISSION ON CIVIL RIGHTS

KENTUCKY ADVISORY COMMITTEE

Amendment

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a press conference of the Kentucky Advisory Committee (SAC) of the Commission scheduled for September 15, 1978, FR Doc. 78-24002 on page 38068 of the FEDERAL REGISTER be amended to include a planning meeting on the same date and at the same place, but will begin 2 hours earlier at 12 noon.

Dated at Washington, D.C., September 5, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-25570 Filed 9-11-78; 8:45 am]

[2] All members concurred.

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The Scientific and Statistical Committee of the New England Fishery Management Council, established under section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to discuss research and data needs for development of multispecies management plan. The meeting is open to the public.

DATES: The meeting will convene on Tuesday, September 26, 1978, at 9:30 a.m. and adjourn at approximately 4:30 p.m.

ADDRESS: The meeting will be held at the Redfield 304, Woods Hole Oceanographic Institution, Woods Hole, Massachusetts.

FOR FURTHER INFORMATION CONTACT:

Spencer Apollonio, Executive Director; New England Fishery Management Council, Peabody Office Building, 1 Newbury Street, Peabody, Mass. 01960, 617-535-5450.

SUPPLEMENTARY INFORMATION: For information on seating arrangements, changes to the agenda, and/or written comments, contact the Executive Director.

Dated September 7, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-25613 Filed 9-11-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

AUGUST 31, 1978.

The USAF Scientific Advisory Board Aeronautics Panel Subcommittee on Turbine Engine Health Monitoring Systems will meet on September 28 and 29, 1978 at Myrtle Beach AFB, S.C. The purpose of the meeting is to examine the flight test plans for the A-10 turbine engine monitoring systems tests. The Subcommittee will meet from 9 a.m. to 4:30 p.m. each day. This meeting will be open to the public. For further information contact the Scientific Advisory Board Secretariat at 202-697-8845.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer.

[FR Doc. 78-25569 Filed 9-11-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 964-2; PP 8G2022/T155]

Establishment of Temporary Tolerances

N,N-DIMETHYLPIPERIDINIUM CHLORIDE

BASF Wyandotte Corp., Agricultural Chemical Div., 100 Cherry Hill Road, Parsippany, N.J. 07054, has submitted a pesticide petition (PP 8G2022) to the Environmental Protection Agency (EPA). This petition requests that temporary tolerances be established for residues of the plant growth regulator *N,N*-dimethylpiperidinium chloride in or on the raw agricultural commodities cotton forage at 1.5 parts per million (ppm); cottonseed at 1 ppm; in the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.1 ppm; and in milk and eggs at 0.05 ppm.

Establishment of these temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit that is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

An evaluation of the scientific data reported and other relevant material has shown that the requested tolerances are adequate to cover residues resulting from the proposed experimental use, and it has been determined that the temporary tolerances will protect the public health. (A related document concerning the establishment of a feed additive regulation for residues of the subject pesticide in cottonseed meal appears elsewhere in today's FEDERAL REGISTER.) The temporary tolerances are established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. BASF Wyandotte Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire September 5, 1979. Residues not in excess of 1.5 ppm remaining in or on cotton forage: 1 ppm remaining in or on cottonseed; 0.1 ppm remaining in the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep; and 0.05 ppm remaining in milk and eggs after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Herbicide/Fungicide Branch, Registration Division (TS-767), Office of Pesticide Programs, Room 320, East Tower, 401 M Street SW., Washington, D.C. 20460, 202-426-2632.

(Sec. 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j).)

Dated: September 5, 1978.

HERBERT S. HARRISON,
Acting Director, Registration Division.

[FR Doc. 78-25552 Filed 9-11-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the field offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by October 2, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 10265-1. Filing party: Neal M. Mayer, Esq., Coles & Goertner, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Summary: Agreement No. 10265-1, between Companhia de Navegacao Lloyd Brasileiro and Companhia de Navegacao Maritime Nacional, modifies the basic cooperative working agreement to expand its geographic scope to the trades between Argentina and the United States and Uruguay and the United States.

Agreement No.: T-3699. Filing party: Leslie E. Still, Jr., Senior Deputy City Attorney, Office of the City Attorney of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, Calif. 90801. Summary: Agreement No. T-3699, between city of Long Beach, (City) and Madison Interseas (San Francisco), Inc., d.b.a. Mercantile & Marine Terminals (Madison), provides for the 10-year, exclusive terminal lease consisting of a transit shed and open paved area to be used as a public utility wharfinger business. Madison does not have the exclusive right to perform stevedoring services upon the leased premises or the sole and exclusive right to operate a public shipping terminal at the port. When the premises are not in use by Madison, City's general manager may, with Madison's consent, make temporary assignments to other persons as provided in the Port of Long Beach Tariff. Madison will receive credit in computing its minimum obligation from the collection of tariff charges pursuant to the temporary assignments. All charges assessed by Madison will be reasonable and conform as nearly as possible with the charges published in the Port of Long Beach Tariff and will be subject to review and control by City. As compensation, Madison will pay to City all revenues from dockage, wharfage, wharf demurrage and wharf storage and other applicable tariff charges from its operations up to a minimum obligation of $275,000 per annum after which City and Madison will divide the revenues. Upon approval, Agreement No. T-3699 will supersede Agreement No. T-1985, as amended.

Agreement No.: T-3701. Filing party: Eldered N. Bell, Jr., Sea-Land Service, Inc., 10 Parsonage Road, P.O. Box 900, Edison, N.J. 08817. Summary: Agreement No. T-3701, between the Port of Houston Authority (Port) and Sea-Land Service, Inc. (Sea-Land), provides for the Port's 20-year lease (with a 10-year renewal option) to Sea-Land of certain premises at the Port's Barbours Cut Terminal, to be used to con-

duct a proprietary or contract marine terminal. Sea-Land shall not conduct a public container terminal upon the leased premises. In addition, the Port grants Sea-Land preferential berthing rights to one of three assigned berths, at the Port's discretion. The Port retains secondary berthing rights to occupy portions of the berth not occupied by Sea-Land. Vessels of other carriers desiring to use the assigned berth as a lay berth shall be assigned by either the Port or Sea-Land and shall be liable for all applicable charges of the Port's tariff. Sea-Land grants to Port the right to grant another carrier the preferential right to utilize the assigned berth for 1 day a week and as compensation for this, Port shall pay Sea-Land 50 percent of dockage fees and 6 percent of wharfage fees collected by Port from the vessels of other carriers occupying the assigned berth. Container cranes to be utilized by vessels of other carriers at the assigned berth may be supplied by either the Port or Sea-Land at rental rates not lower than those established in the Port's tariff, and the revenues therefrom shall be retained by the respective crane owner. The Port or Sea-Land may contract with such other carrier to provide a reduced crane rental on the basis of a guaranteed annual minimum use of its cranes. As compensation for the use of the facilities, Sea-Land shall pay Port an annual rental amount, comprising a land rental and an improvement rental, subject to minimum and maximum payments, as described in the agreement.

By Order of the Federal Maritime Commission.

Dated: September 6, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-25622 Filed 9-11-78; 8:45 am]

[6730-01]

PETITIONS FILED

The Federal Maritime Commission hereby gives notice that the following petition(s) have been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 813a).

Interested parties may inspect and obtain a copy of the petition(s) and the justification(s) offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the petition(s) at the field offices located at New York, N.Y.; New Orleans, La; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on the petition(s), including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by October 2, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed petition(s). Comments shall discuss with particularity allegations that the petition is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the act.

A copy of any comments should also be forwarded to the party filing the petition(s) and the statement should indicate that this has been done.

Agreement No. 9982-DR-3. Filing party: Howard A. Levy, Esq., Suite 727, 17 Battery Place, New York, N.Y. 10004. Summary: Agreement No. 9982 DR-3 modifies the Scandinavia Baltic/U.S. North Atlantic Westbound Conference's Exclusive Patronage (Dual Rate) Contract System to extend the duration of its Dual Rate System for an indefinite term beyond December 19, 1978.

By Order of the Federal Maritime Commission.

Dated: September 6, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-25621 Filed 9-11-78; 8:45 am]

[6730-01]

[Fact Finding Investigation No. 10]

POSSIBLE UNLAWFUL ACTION OF CARRIERS AND CONFERENCES IN TREATMENT OF OVERLAND/COMMON POINT (OCP) CARGO

Extension of Investigation

By order of August 23, 1977, the Federal Maritime Commission instituted fact finding investigation No. 10. This non-adjudicatory proceeding was instituted to develop facts relating to the effects of a proposed phaseout of the Overland Common Point (OCP) rates by the Trans-Pacific Freight Conference of Japan/Korea (TPFC-J/K) and to determine how the legitimate needs of the public might be protected.

The TPFC-J/K notified the Commission through normal tariff filing procedures of its intention to eliminate the publication of OCP rates over a period of time relating to three future general rate increase actions. This decision raised the question of possible violations of section 15, 16 First, and/or 17 of the Shipping Act, 1916, which prompted the Commission to institute a fact finding proceeding.

Fact Finding Investigation No. 10 was initially instituted for a period of one year ending August 23, 1978. The several public proceedings held under this investigation have produced an unforeseen volume of pertinent data and shipper/carrier testimony. This material requires an additional period of time for it to be fully considered and reflected in a report to this Commission.

Therefore, it is ordered, that pursuant to sections 22 and 27 of the Shipping Act, 1916, (46 U.S.C. 821 and 826) and section 214(a) of the Merchant Marine Act of 1936 (46 U.S.C. 1124(a)), fact finding investigation No. 10 is extended to October 31, 1978.

It is further ordered, that Notice of this Order be published in the FEDERAL REGISTER.

By the Commission.

Dated: September 7, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-25620 Filed 9-11-78; 8:45 am]

[4110-86]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

IMMUNIZATION PRACTICES ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Center for Disease Control announces the following Committee meeting:

Name: Immunization Practices Advisory Committee.
Dates: October 3-4, 1978.
Place: Room 207, Building 1, Center for Disease Control 1600 Clifton Road NE., Atlanta, Ga. 30333.
Time: 8:30 a.m.
Type of meeting: Open.
Contact person: H. Bruce Dull, M.D.; Executive Secretary of Committee, Building 1, Room 2118, Center for Disease Control, 1600 Clifton Road NE., Atlanta, Ga. 30333, phone 404-633-3311, extension 3701. FTS 236-3701.
Purpose: The Committee is charged with advising on the appropriate uses of immunizing agents for public health practice.
Agenda: The Committee will review existing recommendations on measles and rubella vaccines and proceed with their updating.

Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: September 5, 1978.

WILLIAM H. FOEGE,
Director,
Center for Disease Control.

[FR Doc. 78-25748 Filed 9-11-78; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 78F-0243]

ABBOTT LABORATORIES

Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Abbott Laboratories has filed a petition (FAP 7B3321) proposing to amend the food additive regulations to provide for the safe use of 4-(diiodomethylsulfonyl) toluene as a componeht in rubber articles intended for repeated use in contact with food.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (section 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 7B3321) has been filed by Abbott Laboratories, North Chicago, Ill. 60064, proposing that § 177.2600 *Rubber articles intended for repeated use* (21 CFR 177.2600) be amended for the safe use of 4-(diiodomethylsulfonyl) toluene as a component in rubber articles intended for repeated use in contact with food.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 1, 1978.

SANFORD A. MILLER,
Director, Bureau of Foods.

[FR Doc. 78-25343 Filed 9-11-78; 8:45 am]

[4110-03]

Food and Drug Administration

MERCK SHARP & DOHME

Sulfathalidine Boluses; Withdrawal of Approval of New Animal Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document withdraws approval of new animal drug application (NADA) 5-456 providing for use of sulfathalidine boluses that contain 4 grams of phthalylsulfathiazole in each bolus for the treatment of scours, infectious diarrhea, and enteritis in cattle and white scours in swine. The manufacturer has requested this action.

EFFECTIVE DATE: September 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald A. Gable, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), the following notice is issued:

In a notice published in the FEDERAL REGISTER of July 22, 1970 (35 FR 11713), the Food and Drug Administration, after evaluating a report received from the National Academy of Science/National Research Council Drug Efficacy Study Group, concluded that sulfathalidine boluses were probably effective for the treatment of certain bacterial intestinal infections, such as calf scours and infectious enteritis of pigs. The announcement further stated that: (1) Additional data were necessary to support claims made for use of the drug in horses, (2) label changes were necessary, (3) the disease claims for the preparation must be restricted to diseases involving the gastrointestinal tract, (4) disease claims should be properly qualified, and (5) data should demonstrate that the bolus disintegrates in the gastrointestinal tract of the medicated species to produce the desired effect.

In response to the notice, the firm Merck Sharp & Dohme research Laboratories, Division of Merck & Co., Inc., P.O. Box 2000, Rahway, N.J. 07065, filed additional data which were evaluated and found to be incomplete, and additional data were requested. However, in a May 19, 1978, letter, the firm advised that it had evaluated the requirements necessary for approval of the product and had decided to discontinue distribution. In the letter, Merck Sharp & Dohme Research Laboratories requested that approval of the NADA be withdrawn and waived an opportunity for hearing.

In accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 5-456 and all supplements thereto is hereby withdrawn, effective September 12, 1978.

Dated: September 5, 1978.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-25566 Filed 9-11-78; 8:45 am]

[4110-35]

Health Care Financing Administration

PHARMACEUTICAL REIMBURSEMENT BOARD

Proposed MAC's and Announcement of Public Hearing

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice.

SUMMARY: In accordance with 45 CFR S19.5 (as amended at 43 FR 35310-11, Aug. 9, 1978), the Pharmaceutical Reimbursement Board proposes maximum allowable cost (MAC) limits on the drugs specified below and announces a public hearing with regard to these proposed MAC's.

DATES: Hearing—November 1, 1978 (9 a.m. to 5 p.m.) and November 2, 1978 (9 a.m. to 5 p.m.) and November 2, 1978 (9 a.m. to 5 p.m.). End of comment period—October 12, 1978. End of period for submission of requests to appear at the hearing—October 17, 1978.

PLACE OF HEARING: Auditorium, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Peter Rodler, Executive Secretary, Pharmaceutical Reimbursement Board, 3076 Switzer Building, 330 C Street SW., Washington, D.C. 20201, 202-472-3821.

SUPPLEMENTARY INFORMATION: The Pharmaceutical Reimbursement Board has been established within the Health Care Financing Administration for the purpose of setting a MAC for multiple-source drugs for which reimbursement is provided under medicaid, medicare, and other programs administered by the Department. Pursuant

V 43 / 177 SEP 12 78 UMI

to 45 CFR S19.5 (as amended at 43 FR 35310-11, Aug. 9, 1978), the Pharmaceutical Reimbursement Board proposes the following MAC limits:

Acetaminophen with codeine tablets, 30 mg, $0.0780 per tablet.
Acetaminophen with codeine tablets, 60 mg, $0.1545 per tablet.
Hydrochlorothiazide tablets, 25 mg, $0.0250 per tablet.
Hydrochlorothiazide tablets, 50 mg, $0.0306 per tablet.
Probenecid tablets, 0.5 g, $0.0644 per tablet.

The Board originally identified these multiple-source drugs as drugs for which significant amounts of Federal funds are expended and for which there are significantly different prices. The Food and Drug Administration has advised the Board that there is no regulatory action, either pending or under consideration, that would be a reason for delaying or withholding the establishment of MAC's on the drugs listed above. In making the initial determination of the lowest unit price at which each of the drugs is widely and consistently available from any formulator or labeler, the Board made use of a HCFA-sponsored survey of drugstore sales by IMS America, offers to sell as found in the Red Book, several comments from manufactures, and State MAC limits on these drugs already in effect in certain States. The FDA advice and the economic data listed above are available for inspection at the Office of Pharmaceutical Reimbursement and a limited number of copies are available upon request.

Interested persons and organizations are invited to submit in writing comments on the proposed MAC's. All comments received on or before October 12, 1978, will be considered and will be maintained for public inspection at the Office of Pharmaceutical Reimbursement.

A public hearing on the proposed MAC's will be held November 1 and 2, 1978. Persons or organizations wishing to make presentations must submit to the Board's executive secretary by October 17, 1978, at least 20 copies of the proposed oral presentation in its entirety, together with all supporting studies and materials and the names and addresses of proposed participants. The Board will grant every request to appear when the presentation is relevant to the proposed MAC.

Dated: September 6, 1978

PETER RODLER,
Executive Secretary,
Pharmaceutical Reimbursement Board.

[FR Doc. 78-25594 Filed 9-11-78; 8:45 am]

[4110-84]

Health Services Administration

MATERNAL AND CHILD HEALTH RESEARCH GRANTS REVIEW COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of October 1978:

Name: Maternal and child health research grants review committee.
Date and Time: October 4-6, 1978, 9 a.m.
Place: Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.
Open October 4, 9 a.m. to 10 a.m.
Closed for remainder of meeting.
Purpose: The Committee is charged with the review of all research grant applications in the program areas of maternal and child health administered by the Bureau of Community Health Services.

Agenda: The Committee will be performing the review of grant applications for Federal assistance. This meeting will be open to the public from 9 to 10 a.m., October 4 for the Opening Remarks. The remainder of the meeting will be closed to the public for the review of grant applications, in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and the Determination by the Administrator, Health Services Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of the members, minutes of meeting, or other relevant information should contact Gontran Lamberty, Dr. P.H., Bureau of Community Health Services, Room 7-15, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, Telephone 301-443-2190.

Agenda items are subject to change as priorities dictate.

Dated: September 1, 1978.

WILLIAM H. ASPDEN, JR.,
Associate Administrator for Management.

[FR Doc. 78-25504 Filed 9-11-78; 8:45 am]

[4110-08]

National Institutes of Health

REPORT ON BIOASSAY OF HYDRAZOBENZENE FOR POSSIBLE CARCINOGENICITY

Availability

Hydrazobenzene (CAS 530-50-7) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of technical-grade hydrazobenzene for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. Hydrazobenzene was administered in the feed, at either of two concentrations, to groups of 50 male and 47 to 50 female animals of each species. The time-weighted average dietary concentrations used in the rat bioassay were 0.008, 0.004, and 0.01 percent for low-dose males, high-dose males, low-dose females, and high-dose females, respectively. The time-weighted average dietary concentrations used in the mouse bioassay were 0.008, 0.04, 0.004, and 0.04 percent for low-dose males, high dose males, low-dose females, and high-dose females, respectively. After a 78-week period of compound administration, observation of the rats continued for an additional 17 or 18 weeks. For each species, 47 to 50 animals of each sex were placed on test as controls.

In both species, adequate numbers of animals in all groups survived sufficiently long to be at risk from late-appearing tumors.

Under the conditions of this bioassay, hydrazobenzene was carcinogenic to Fischer 344 rats of both sexes, causing increased incidences of hepatocellular carcinoma and Zymbal's gland squamous-cell neoplasms in male rats, neoplastic nodules of the liver in female rats, and mammary adenocarcinomas in female rats. Hydrazobenzene was also carcinogenic to female B6C3F1 mice, causing an increased incidence of hepatocellular carcinomas. The compound was not carcinogenic to male B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: August 31, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-25215 Filed 9-11-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF L-TRYPTOPHAN FOR POSSIBLE CARCINOGENICITY

Availability

L-tryptophan (CAS 73-22-3) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of the amino acid L-tryptophan for possible carcinogenicity was conducted by administering the test chemical in feed to Fischer 344 rats and B6C3F1 mice.

Groups of 35 rats and 35 mice of each sex were administered L-tryptophan at one of two doses, either 25,000 or 50,000 p.p.m., 5 days per week for 78 weeks, and then observed for 26 or 27 weeks. Matched controls consisted of groups of 15 rats or 15 mice of each sex. All surviving rats and mice were killed at 104 or 105 weeks.

L-tryptophan had little toxic effect on the rats; mean body weight loss was minimal and survival of dosed groups of both sexes was high. In the mice, mean body weights of dosed animals were lower than those of controls throughout most of the bioassay, particularly in the females. Sufficient numbers of rats were at risk to termination of the study for development of late-appearing tumors, and sufficient numbers of mice were at risk beyond 52 weeks of the study for development of tumors.

It is concluded that under the conditions of this bioassay, L-tryptophan was not carcinogenic for Fischer 344 rats or B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: August 18, 1978.

THOMAS E. MALONE,
Acting Director, National Institutes of Health.

[FR Doc. 78-25214 Filed 9-11-78; 8:45 am]

[4110-08]

National Institutes of Health

SICKLE CELL DISEASE ADVISORY COMMITTEE

Amended Meeting

Notice is hereby given of a change in meeting dates and room assignment of the Sickle Cell Disease Advisory Committee, National Heart, Lung, and Blood Institute, which was published in the FEDERAL REGISTER on July 25, 1978, 43 FR 32190.

This committee was to have convened at 8:30 a.m. on September 14 and 15, 1978 in Conference Room 7, Building 31. This has been changed to November 2 and 3, 1978, Conference Room 10, C-Wing, Building 31, National Institutes of Health, Bethesda, Md.

The entire meeting will be open to the public from 8:30 a.m. to 5 p.m. on both days. All other items remain the same.

Dated: September 6, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-25679 Filed 9-11-78; 8:45 am]

[4110-02]

Office of Education

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Amendment

This notice is to amend the first paragraph of the notice of the meeting of the National Advisory Council on the Education of Disadvantaged Children which appeared in the FEDERAL REGISTER on Friday, August 25, 1978, page 38115. The Council meeting scheduled for September 16, 1978, from 8:30 a.m.-1:30 p.m., will be held in the Colony Room of the Ramada Inn located at 7621 Kingston Pike, Knoxville, Tenn. 37919, 615-693-8111.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

Signed at Washington, D.C., on September 6, 1978.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc. 78-25595 Filed 9-11-78; 8:45 am]

[4110-07]

Social Security Administration

REDELEGATIONS OF AUTHORITY TO IMPLEMENT THE PROVISIONS OF SECTION 405 OF PUB. L. 95-216

Section 405 of Pub. L. 95-216, enacted on December 20, 1977, authorizes and directs the Secretary of Health, Education, and Welfare (the Secretary) to pay States amounts equal to the amounts expended by States for erroneous State-administered State supplementary payments made to aged, blind, or disabled individuals where it has been determined by the Secretary, through an audit by the Department of Health, Education, and Welfare, which has been reviewed and concurred in by the Department's Inspector General, that: Such erroneous State payments were paid during calendar year 1974, pursuant to an agreement with the particular State under section 212(a) of Pub. L. 93-66, or paid by that State as an optional State supplementation, as defined in section 1616 of the Social Security Act; such erroneous payments were made as a result of the State's good faith reliance on erroneous or incomplete information supplied by the Department of Health, Education, and Welfare through the State data exchange, or good faith reliance on incorrect supplemental security income benefit payments made by the Department of Health, Education, and Welfare; and recovery of such State payments would be impossible or unreasonable.

Authority to perform the functions vested in the Secretary by section 405 of Pub. L. 95-216 has been delegated to the Commissioner of Social Security (the Commissioner), with authority to redelegate (43 FR 25385-6, dated June 12, 1978). Accordingly, notice is hereby given that the Acting Commissioner has redelegated the subject authority to the Deputy Commissioner of Social Security and the Social Security Administration's Associate Commissioner for Program Operations, without authority to further redelegate. These redelegations are effective as of the date that this general notice thereof is published in the FEDERAL REGISTER. Any actions taken by the Deputy Commissioner of Social Security or the Associate Commissioner for Program Operations prior to the date that notice of these redelegations is published in the FEDERAL REGISTER which, in effect, involve the exercise of authority formally redelegated by this document, are hereby affirmed and ratified.

Dated: August 31, 1978.

ROBERT P. BYNUM,
Acting Commissioner of Social Security.

[FR Doc. 25612 Filed 9-11-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

RECEIPT OF APPLICATION FOR PERMIT

Notice is hereby given that an applicant has applied in due form for a permit to take sea otters as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the regulations governing the taking and importing of marine mammals (50 CFR Part 18), and section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

1. Applicant: a. Name—John L. Bengston. b. Address—Department of Ecology and Behavioral Biology, University of Minnesota, 108 Zoology Building, Minneapolis, Minn. 55455.

2. Type of permit: Marine mammal/scientific research—Endangered species/scientific research.

3. Name and number of animals: West Indian manatee (*Trichechus Manatus*), 15.

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4. Type of activity: Capture, tag with radio transmitter, and paint mark, collect blood and urine specimens, and release.

5. Location of activity: St. John's River drainage in Florida.

6. Period of activity: December 15, 1978, to December 15, 1980. history which is critical to understanding the ecology of manatees.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisers.

The application has been assigned file No. PRT 2-3167. Written data or views, or requests for copies of the complete application or for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this application are summaries of those of the applicant and do not necessarily reflect the views of the U.S. Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in room 534, 1717 H Street NW., Washington, D.C.

Dated: September 6, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-25607 Filed 9-11-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Philadelphia Zoological Garden, 34th Street and Girard Avenue, Philadelphia, Pa. 19104.

The applicant requests a permit to import two male and two female Komodo Island monitors (*Varanus komodensis*) for propagation purposes. The monitors will be taken from the wild in Indonesia. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file No. PRT 2-3156. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: September 7, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-25606 Filed 9-11-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Receipt of Application

Applicant: School of Pharmacy, University of Mississippi, University, Miss. 38677.

Applications for threatened species permits are not normally published in the FEDERAL REGISTER and the public is given a 30-day period during which they may submit comments. However, due to the concern of numerous organizations and agencies over the welfare of nonhuman primates and the international traffic in these species, it has been determined that this application should be published in the FEDERAL REGISTER.

The applicant requests a permit to import four stumptailed macaques (*Macaca arctoides*) for the purpose of research to ascertain the effects of the adminstration of d-amphetamine on the social interactions of a colony of captive nonhuman primates. These animals are to be obtained from a captive population held by the Primate Center TNO, the Netherlands.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file No. PRT 2-3156. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: September 7, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-25605 Filed 9-11-78; 8:45 am]

[4310-10]

Office of the Secretary

[Civil No. 1983-73]

NATURAL RESOURCES DEFENSE COUNCIL, INC., ET AL.

Proposed Deviation From Scheduled Preparation of Environmental Impact Statements on Livestock Grazing

In the matter of the *Natural Resources Defense Council, Inc., et al.*, plaintiffs, v. *Cecil Andrus, Secretary of the Interior, et al.*, defendants.

The amended final judgment of April 14, 1978, in the above-entitled case, requires the preparation of a series of environmental impact statements (EIS's) by the Bureau of Land Management (BLM), Department of the Interior, on the grazing of livestock in the Western States, pursuant to the National Environmental Policy Act (NEPA) 42 U.S.C. 4321 et seq. Paragraph 9 of the judgment contemplates the possibility of material deviations from the judgment and provided for notice as follows:

9. If the Federal Defendants believe, in good faith, that circumstances dictate that any material deviations must be made, then in that event, the Federal Defendants shall give Notice to this Court wherein a detailed explanation shall be made of the deviation which is anticipated to occur together with the reason(s) therefor. This Notice shall be filed prior to the anticipated implementation of such deviation, and contemporaneously a copy of such Notice shall be sent by registered mail to all parties to this action (No. 1983-73) and such Notice shall be published in the FEDERAL REGISTER. Thereafter, if objections are filed with the court within 30 days from the date of publication in the FEDERAL REGISTER, the Federal Defendants and the objecting parties may make such motions and present evidence to the court as to them seems proper, and the court shall determine if such deviations shall be allowed to occur or make any other appropriate order; provided, however, that if no objections are filed with the court within such 30-day period, BLM shall be authorized to implement such deviation.

Paragraph 4 of the amended final judgment provides that a supplement to the final EIS for the Challis Planning Unit shall be completed by the end of fiscal year 1978. A draft supplemental EIS has been prepared, and was filed with the Environmental Protection Agency (EPA) on August 11, 1978, and circulated among governmental agencies and citizens and citizen groups for comment. The Federal Defendants now give notice that they propose to extend the completion time for the final EIS to November 30, 1978. The need for this additional time can be briefly stated as follows:

1. In its *Notice of Proposed Deviation From Scheduled Preparation of Environmental Impact Statements on Livestock Grazing* published in the FEDERAL REGISTER on September 1, 1977, the Department of the Interior requested a due date of December 1, 1979, for the filing of a Supplement to the Challis EIS. This date was requested because of serious data gaps and planning deficiencies identified during preparation of the Challis EIS, which had to be remedied prior to preparation of the Supplement.

2. In paragraph 4 of its April 14, 1978, amended final judgment, this Court set the end of fiscal year 1978, September 30, 1978, as the deadline for the completion of the Challis Supplement.

3. Since the filing of the final EIS on the Challis Planning Unit on January 10, 1977, BLM has worked with the Soil Conservation Service (SCS) and the U.S. Geological Survey (USGS) to update and supplement existing inventory data for Challis as quickly as possible. This work had not been completed when this Court issued its April 14, 1978, Order.

4. In response to the April 14th Order, BLM has expended truly extraordinary efforts to complete the Challis Supplement in the time allowed by the Court. Field employees worked double shifts and weekends to try to meet the deadline. Correlation of soils data provided by SCS with vegetation data obtained by BLM was completed in mid-May. Slope maps also became available from USGS during May. After compilation of data was completed, the management framework plan (MFP) for Challis was reviewed and updated. A first draft of the Supplement to the Challis EIS was completed on July 17, and the Draft Supplement, a copy of which is attached, was filed with EPA on August 11.

5. The public comment period for the Draft Supplement closes on October 22, 1978. We received approximately 1,000 separate comments on the Draft of the original Challis EIS, and expect a similar level of public interest in the Draft Supplement. All comments must be analyzed, appropriate text changes made, and responses prepared prior to completion of the Final Supplemental EIS. The additional time Federal Defendants have requested in our Notice of Proposed Deviation is essential to permit effective public participation in the EIS process as mandated by NEPA.

Dated: September 7, 1978.

GUY MARTIN,
Assistant Secretary,
Land and Water Resources.

This document is presented to the Court in compliance with paragraph 9 of the judgment as a material deviation from the schedule.

Respectfully submitted,

WILLIAM M. COHEN,
Land and Natural Resources Division, U.S. Department of Justice.

[FR Doc. 78-25615 Filed 9-11-78; 8:45 am]

[4310-09]

Office of the Secretary

TRUCKEE AND CARSON RIVER BASINS OF CALIFORNIA AND NEVADA—NEWLANDS, TRUCKEE STORAGE, AND WASHOE PROJECTS

Operating Criteria and Procedures for Coordinated Operation and Control of the Truckee and Carson Rivers for Service to Newlands Project

The water supply diversions of the Truckee-Carson Irrigation District from both the Truckee and Carson Rivers shall be limited to the amount needed for agricultural purposes, not exceeding 288,129 acre-feet, if available, for the 12 months ending October 31, 1978. The water supply diversions shall be measured at the gaging station below Lahontan Dam and at diversion points along the Truckee Canal. All use of water for power generation shall be incidental to either agricultural use or precautionary drawdown or spill. In satisfying the diversion for agricultural purposes, maximum use will be made of Carson River water and diversions through the Truckee Canal will be minimized.

Stampede Reservoir shall be operated by the United States to provide flood control, fish and wildlife and recreation benefits, and to store water for possible agricultural use by the Truckee-Carson Irrigation District. The operation of Stampede Reservoir will be coordinated with the operation of Lake Tahoe, Prosser Creek Reservoir, and Boca Reservoir to avoid infringing upon the floristan rates or water rights established by existing degrees and agreements.

In all of the operations, Truckee Canal will be operated to the maximum extent practical with the objective of maintaining minimum terminal flow to Lahontan Reservoir or Carson River during all periods except when criteria herein specifically permits such deliveries. In order to minimize the rates of fluctuation in the Truckee River below Derby Dam, the change of flow in Truckee Canal within any 24-hour period shall not exceed 50 cubic feet per second or 20 percent of the flow in the Truckee River below Derby Dam, whichever is greater.

During periods of spill or precautionary drawdown of Lahontan Reservoir, the district will be charged only with the predetermined schedule of irrigation releases to be passed at the gaging station below Lahontan Reservoir plus measured diversions from the Truckee Canal and Rock Dam Ditch.

The operation of Stampede Reservoir, Derby Diversion Dam, Truckee Canal, and Lahontan Reservoir will be conducted in accordance with the following criteria in order to minimize diversions from the Truckee River through the Truckee Canal.

SECTION A—TRUCKEE DIVERSION CRITERIA

Subject to conditions specified in section B (Storage Credit at Stampede), the diversions of water from the Truckee River into and through the Truckee Canal will be governed by the following criteria:

(1) If available, sufficient water will be diverted into Truckee Canal to meet direct agricultural requirements along the Truckee Canal.

(2) Diversions through the Truckee Canal into Lahontan Reservoir will be made in accordance with the following tabulation:

FEDERAL REGISTER, VOL. 43, NO. 177—TUESDAY, SEPTEMBER 12, 1978

Operating Month	If accumulated precipitation from October 1 to date at Tahoe City, California, is:	Inches	Continue Truckee Canal Diversion to Lahontan Reservoir if storage is less than upper limit. Lower Limit[1] Elev.	Ac. Ft.	Upper Limit Elev.	Ac. Ft.
February-March						
February 1	less than	16.80	4145.8	160,000	4146.3	163,000
	between	16.80 & 22.10	4138.5	120,000	4139.1	123,000
	greater than	22.10	4129.3	80,000	4130.1	83,000
March 1	less than	22.10	4151.8	200,000	4152.2	203,000
	between	22.10 & 26.10	4144.1	150,000	4144.6	153,000
	greater than	26.10	4134.2	100,000	4134.9	103,000
	If forecasted runoff plus existing storage on April 1 is:					
April-October		Ac. Ft.	Elev.	Ac. Ft.	Elev.	Ac. Ft.
April 1	greater than	350,000	No diversion to Lahontan through October.			
	between	250,000 & 350,000	4154.3	220,000	4154.7	223,000
	less than	250,000	4159.8	270,000	4160.1	273,000
May 1	between	250,000 & 350,000	4151.8	200,000	4152.2	203,000
	less than	250,000	4162.4	300,000	4162.6	303,000
June 1	between	250,000 & 350,000	4144.1	150,000	4144.6	153,000
	less than	250,000	4157.7	250,000	4158.1	253,000
July 1	between	250,000 & 350,000	4134.2	100,000	4134.9	103,000
	less than	250,000	4145.8	160,000	4146.3	163,000
August 1	between	250,000 & 350,000	4129.3	80,000	4130.1	83,000
	less than	250,000	4131.8	90,000	4132.6	93,000
September 1	less than	350,000	4119.5	50,000	4120.8	53,000
October 1	less than	350,000	4115.4	40,000	4116.8	43,000

[1]Truckee Canal Diversion to Lahontan Reservoir should be started only when storage recedes below lower limit.

SECTION B—STORAGE CREDIT AT STAMPEDE

As a means of minimizing the diversions of Truckee River water for use on the Carson Division of the Truckee-Carson Irrigation District or for storage in Lahontan Reservoir and at the same time insuring that the district will receive exactly the same total amount of water for its beneficial use as otherwise, the following modifications shall be applied to the criteria in section A (Truckee Diversion Criteria):

(1) The storage levels in Lahontan Reservoir specified as limits for starting and stopping diversions of water for storage in Lahontan or use on the Carson Division shall be converted to acre-feet and applied to the sum of water in storage at Lahontan Reservoir and water in Stampede Reservoir credited to the Truckee-Carson Irrigation District using the most up-to-date area-capacity curve for each reservoir.

(2) The combined storage facilities on the upper Truckee River will be operated in a manner consistent with the applicable decrees and so as to maintain the floristan rates with the objective of maximizing the accumulation of storage in Stampede Reservoir.

(3) Whenever there is uncommitted water in Stampede Reservoir, the Truckee-Carson Irrigation District shall forego the diversion of water into the Truckee Canal for storage in Lahontan Reservoir or for use on the Carson Division and shall accept credit in Stampede Reservoir for the amount of water it otherwise would have diverted.

(4) The sum of the amount of water stored in Lahontan Reservoir plus the amount of water stored in Stampede Reservoir and credited to the Truckee-Carson Irrigation District shall not be allowed to exceed the storage capacity of Lahontan (317,300 acre-feet), and this limit shall be preserved, if necessary, by the reduction of credit in Stampede Reservoir. When the amount of water credited to the Truckee-Carson Irrigation District is so reduced, the amount of that reduction shall be credited for the purpose of maintaining the minimum rates of flow below Derby Dam provided in section B(6) of these operating criteria and procedures.

(5) Whenever the water surface elevation of Lahontan Reservoir is at or below elevation 4,129.28 feet (80,000 acre-feet) above mean sea level during the irrigation season, water will be released from Stampede Reservoir to be diverted into and through the Truckee Canal for agricultural use by the Truckee-Carson Divisions. The total amount of the release shall be limited to the lesser of the amount credited to the Truckee-Carson Irrigation District or the amount needed to supplement the 80,000 acre-feet of water in Lahontan Reservoir to meet the remaining seasonal agricultural requirements of the Truckee-Carson Irrigation District.

(6) Insofar as possible consistent with existing decrees and with maintaining the floristan rates and with operating criteria and procedures sections B(1) through B(5), Stampede Reservoir (as well as the other storage facilities on the upper Truckee River) shall be operated with the objective of maintaining optimum rates of flow for fish, wildlife, and recreational purposes in the Truckee River below Derby Dam as determined by the Bureau of Reclamation in consultation with the Fish and Wildlife Service and the Pyramid Lake Paiute Tribe of Indians.

(7) At the conclusion of the water year, October 31, 1978, the Secretary of the Interior, in consultation with the Pyramid Lake Paiute Tribe of Indians and the Fish and Wildlife Service with respect to the requirements of the Pyramid Lake fishery, will determine: (1) The portion of the remaining storage in Stampede Lake allocated for releases to Pyramid Lake, and (2) the portion of the remaining storage in Stampede Reservoir to be allocated to the district as additional carryover storage credit for the 1979 water year.

(8) Nothing in sections B(1) through B(7) of these operating criteria and procedures shall in any way infringe on or interfere with the flood control function of Stampede Reservoir.

SECTION C

As a means of ensuring that the amount of water diverted is limited to that prescribed for beneficial agricultural use, the Truckee-Carson Irrigation District shall:

(1) Deliver water only to lands for which the district has in advance established to the satisfaction of the Secretary, or his designee, that a current valid water right exists.

(2) Establish a single water operations center which will coordinate all orders for delivery of water to individual turnouts, and which then will dispatch flows in the distribution systems to meet the water orders with minimum spill from the distribution system.

(3) Permit only authorized district employees to open and close individual turnouts and operate the distribution system facilities.

(4) Establish and operate sufficient stations for the measurement of all surface waters flowing out of the Truckee, North Carson, and South Carson Divisions.

(5) Initiate immediately a program for improving the measurement of the amount of water delivered to individual turnouts. The program shall include the installation of measuring devices on at least 10 percent of the total turnouts in 1973; the program shall concentrate first on the combinations of large users and currently poor measurements; and the installed devices must be approved by the Geological Survey and the Bureau of Reclamation.

(6) Submit to the Project Office of the Bureau of Reclamation a monthly report by the 15th of the following month for each of the three divisions, showing the total water delivery in acre-feet and the maximum, minimum, and mean daily outflow in cubic feet per second. Reports showing the amount of water in acre-feed delivered to each farm each month during the water year shall be made at least twice during the calendar year. These reports shall be circulated to the tribe and the members of the Truckee-Carson Operating Criteria and Procedures Committee.

(7) Establish a system for charging water users for the quantity of water delivered to their turnouts. The system shall be designed: (a) To provide a reasonable financial incentive for economical and efficient use of water; and (b) To produce revenue against the district's operation and maintenance expenses and to assist the discharge of its debt to the United States.

SECTION D

(1) Article 32 of the December 18, 1926, contract between the United States and the district will be invoked by the Secretary for substantial violations of these Operating Criteria and Procedures, and the Secretary reserves all other rights and options to enforce these criteria.

(2) If the Secretary determines that waste has occurred through negligence or inattention, after written notice the amount of such waste shall be deducted from the district's allowable maximum total diversion.

(3) The district shall not deliver water to users who do not comply with all of the terms and provisions of these Operating Criteria and Procedures. Such deliveries shall not resume without the prior approval of the Secretary or his designee.

(4) The Secretary shall not approve any applications for transfers of water rights within the Newlands Project pursuant to 43 U.S.C. 389 unless he finds that the district is in compliance with all of the terms and provisions of these Operating Criteria and Procedures, and that the applicants for such transfers are in compliance with these Operating Criteria and Procedures and with the applicable decrees. Transfers of water rights shall be restricted to the extent that there shall be no enlarged comsumptive use of

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water within the lands of the Newlands Project.

(5) All of the water delivery operations of the Truckee-Carson irrigation District shall be monitored closely by the Bureau of Reclamation. Any and all violations of the terms and provisions of these Operating Criteria and Procedures shall be reported immediately by the district to the Project Office of the Bureau of Reclamation.

Dated: September 7, 1978.

JAMES A. JOSEPH,
Acting Secretary of the Interior.

[FR Doc. 78-25597 Filed 9-11-78; 8:45 am]

[4310-03]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before September 1, 1978. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by September 22, 1978.

WILLIAM J. MURTAGH,
Keeper of the National Register.

ALABAMA

Madison County

Huntsville, *Withers-Chapman House*, 2409 Gaboury Lane, NE.

Marengo County

Demopolis, *Ashe Cottage*, 307 N. Commissioners.

ARIZONA

Cochise County

Bisbee, *Bisbee Historic Resources*, U.S. 80.

ARKANSAS

Crawford County

Van Buren, *Southmayd, L. C., House*, 421 S. 6th St.

Drew County

Monticello, *Monticello North Main Street Historic District*, irregular pattern along Westwood Ave., and N. Main St.

Marion County

Yellville vicinity, *Buffalo River State Park*, E of Yellville on Buffalo National River.

Pulaski County

Little Rock, *Bechle Apartment Building*, 1000 E. 9th St.

CONNECTICUT

Fairfield County

Bridgeport, *Berkshire No. 7*, Bridgeport Harbor.
Bridgeport, *Elmer S. Dailey*, Bridgeport Harbor.
Bridgeport, *Priscilla Dailey*, Bridgeport Harbor.

Hartford County

Hartford, *Day, Calvin, House*, 105 Spring St.
Hartford, *Temple Beth Israel*, 21 Charter Oak Ave.

GEORGIA

Camden County

Cumberland Island, *High Point-Half Moon Bluff Historic District*, Cumberland Island National Seashore.

Catoosa County

Ringgold, *Ringgold Depot*, U.S. 41.

Columbia County

Appling, *Kiokee Baptist Church*, Kiokee Rd.

Monroe County

Forsyth, *Sharp-Hardin-Wright House*, 212 S. Lee St.

HAWAII

Kauai County

Lihue vicinity, *Grove Farm*, 1 mi. SE of Lihue on HI 501, (boundary increase).

IDAHO

Adams County

Cuprum vicinity, *Huntley, A. O., Barn*, W of Cuprum.

Kootenai County

Clarksville, *Clark House*, On Hayden Lake.

Latah County

Moscow, *Hotel Moscow*, 4th and Main Sts.

ILLINOIS

Pike County

Barry, *Barry Historic District*, U.S. 36.

IOWA

Black Hawk County

Raymond, *Waterfield, William, House*, 308 3rd St. S.

Jackson County

Andrew, *Jackson County Jail*, emmet St.

Jasper County

Newton vicinity, *German Evangelical Reformed Church*, N of Newton.

Johnson County

Iowa City, *Opera House Block*, 210-212 S. Clinton St.

Linn County

Cedar Rapids, *Averill, A. T., House*, 1120 2nd Ave. SE.

Mitchell County

Mitchell, *Mitchell Powerhouse and Dam*, Red Cedar River.

Winneshiek County

Spillville, *Taylor, Wenzil, Building*, Main St.

Woodbury County

Sioux City, *Peirce, John, House*, 2901 Jackson St.

KANSAS

Harper County

Anthony, *Harper County Courthouse*, 200 N. Jennings Ave.

MISSISSIPPI

Quitman County

Denton vicinity, *Denton Site*, NW of Denton.

MISSOURI

Greene County

Springfield vicinity, *Pearson Creek Archaeological District*, SE of Springfield.

Jackson County

Kansas City, *St. Mary's Episcopal Church*, 1307 Homes St.

MONTANA

Gallatin County

Bozeman, *South Willson Historic District*, S. Willson Ave. between Curtiss and Arthur Sts.

NEW JERSEY

Ocean County

Lakewood, *Georgian Court (George Jay Gould Estate)*, Lakewood Ave.

NEW YORK

Livingston County

Moun Morris, *Mills, Gen. William A., House*, 14 Main St.

New York County

New York City, *Fort Washington Site*, Manhattan.

NORTH DAKOTA

Billings County

Medora vicinity, *East Entrance Station*, E of Medora in Theodore Roosevelt NMP.
Medora vicinity, *Elkhorn Ranch Site and Maltese Cross Cabin*, N of Medora in Theodore Roosevelt NMP.
Medora vicinity, *Longhorn Ranch*, NE of Medora in Theodore Roosevelt NMP.

McKenzie County

Watford City vicinity, *CCC Structures, North Unit*, S of Watford City in Theodore Roosevelt NMP.

S E 1 2 7 8

OREGON

Deschutes County

Bend, *Shelvin-Hixon Mill Buildings*, Foot of Riverside Blvd.

Marion County

Salem, *Adolph, Samuel, House*, 2943 State St.
Salem, *Port-Manning House*, 4922 Halls Ferry Rd. S.

Multnomah County

Portland, *Bay E, West Ankeny Car Barns*, 2706 NE Couch St.
Portland, *Day Building*, 2068 NW Flanders St.
Portland, *Dosch, Henry E., House*, 5298 SW Dosch Rd.
Portland, *First Church of Christ, Scientist*, 1813 NW Everett St.
Portland, *Holt-Saylor-Liberto House*, 3625 SW Condor

Washington County

Beaverton vicinity, *Jenkins, Belle Ainsworth, Estate*, 20950 SW. Farmington Rd.

RHODE ISLAND

Washington County

North Kingstown, *Camp Endicott*, Between 7th, 10th and B Sts.

SOUTH CAROLINA

Richland County

Columbia, *Confederate Printing Plant*, 501 Gervais St.

TENNESSEE

Claiborne County

Harrogate, *Grant-Lee Hall*, Lincoln Memorial University campus.

TEXAS

Bexar County

San Antonio, *Southern Pacific Depot Historic District*, Roughly bounded by Crockett, Chestnut, Galveston and Cherry Sts.

Brazoria County

Angleton, *Old Brazoria County Courthouse*, Public Sq.

Jefferson County

Beaumont, *Mildred Buildings*, 1400 block of Calder Ave.

Lampasas County

Evant vicinity, *Gholson House*, 2 mi. S of Evant, W of hwy. 281.

[FR Doc. 78-25345 Filed 9-11-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-50]

CERTAIN SYNTHETIC GEMSTONES

Notice Postponing Prehearing Conference and Hearing

The Prehearing Conference, Prehearing Statement, and Hearing dates for this investigation previously published on July 7, 1978 (43 FR 29362), are all postponed indefinitely.

The Secretary shall serve a copy of this notice on all parties of record and shall have it published in the FEDERAL REGISTER.

Issued September 6, 1978.

JANET D. SAXON,
Administrative Law Judge.

[FR Doc. 78-25654 Filed 9-11-78; 8:45 am]

[7020-02]

HIGH-CARBON FERROCHROMIUM

[Inv. TA-201-35]

Report to the President

SEPTEMBER 5, 1978.

To the President:

In accordance with section 201(d)(1) of the Trade Act of 1974 (19 U.S.C. 2251(d)(1)), the United States International Trade Commission herein reports the results of an investigation relating to high-carbon ferrochromium.

The investigation (No. TA-201-35) was undertaken to determine whether ferrochromium, containing over 3 percent by weight of carbon, provided for in item 607.31 of the Tariff Schedules of the United States (TSUS), is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

The Commission received a letter from the Committee of Producers of High-Carbon Ferrochromium on June 9, 1978, requesting the investigation, and on June 13, 1978, it received a resolution of the Committee on Ways and Means of the House of Representatives that—

(a) Pursuant to section 201(b)(1) of the Trade Act of 1974, the United States International Trade Commission shall promptly make an investigation to determine whether ferrochromium, containing over 3 percent by weight of carbon, is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. For purposes of this resolution, the term "ferrochromium, containing over 3 percent by weight of carbon" means articles classified under item 607.31 of the Tariff Schedules of the United States (19 U.S.C. 1202).

(b) The Commission shall conclude its new investigation and report its determinations to the President by no later than 90 calendar days from the date of this resolution.

The Commission instituted the investigation on June 21, 1978, after determining that good cause exists, within the meaning of section 201(e) of the Trade Act of 1974 (19 U.S.C. 2251(e)), for a reinvestigation on high-carbon ferrochromium less than 1 year from the date the Commission reported to the President the results of its previous investigation (No. TA-201-28) on the same subject. Notice of this determination was published in the FEDERAL REGISTER of June 27, 1978 (43 FR 27907).

Notice of the institution of the investigation and of the public hearing to be held in connection therewith was issued on June 22, 1978, and published in the FEDERAL REGISTER of June 27, 1978 (43 FR 27907). The public hearing was held on August 8, 1978, in Washington, D.C. A transcript of the hearing and copies of briefs submitted by interested parties are attached.[1]

The information for this report was obtained from fieldwork and interviews by members of the Commission's staff, from other Federal agencies, from responses to the Commission's questionnaires, from information presented at the public hearing, from briefs submitted by interested parties, and from the Commission's files.

There were no imports of ferrochromium, containing over 3 percent by weight of carbon, from countries whose imports are presently subject to the rates of duty set forth in column 2 of the TSUS. The import relief recommended herein, therefore, is not addressed to imports from such countries. Certain recommended relief measures would involve the imposition of rates of duty on imports from countries whose imports are currently subject to rates of duty in column 1 which are higher than the rates set forth in column 2. Should such recommended, or any other, rates of duty higher than the column 2 rates be proclaimed by the President, it would be necessary for him to conform column 2 by proclaiming rates therefor that are not less than those proclaimed for column 1.[2]

[1] Attached to the original report sent to the President. These materials are available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.

[2] See art. I, General Agreement on Tariffs and Trade (*Basic Instruments and Selected Documents*, vol. IV, March 1969), and General Headnote 4, Tariff Schedules of the United States (19 U.S.C. 1202).

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DETERMINATION, FINDINGS, AND RECOMMENDATIONS OF THE COMMISSION

DETERMINATION

On the basis of its investigation, the Commission determines[3] that ferrochromium, containing over 3 percent by weight of carbon, provided for in item 607.31 of the Tariff Schedules of the United States, is being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing an article like or directly competitive with the imported article.

FINDINGS AND RECOMMENDATIONS

Commissioners Moore, Bedell, and Minchew[4] find and recommend that the imposition of rates of duty as follows, in addition to the existing column one rate of duty, is necessary to remedy the serious injury:

Ferrochromium, containing over 3 percent by weight of carbon, classifiable under item 607.31 of the TSUS:
1st year: 30% ad val. 2d year: 30% ad val. 3d year: 25% ad val. 4th year: 20% ad val. 5th year: 20% ad val.

Commissioner Ablondi finds and recommends that the imposition of rates of duty as follows, in addition to the existing column one rate of duty, is necessary to remedy the serious injury:

Ferrochromium, containing over 3 percent by weight of carbon, classifiable under item 607.31 of the TSUS:
1st year: 8% ad val. 2d year: 8% ad val. 3d year: 8% ad val.

Vice Chairman Alberger finds and recommends that the imposition of quotas[5] as follows is necessary to remedy the serious injury (in short tons, chromium content):

	1978[1]	1979	1980	1981	1982
South Africa	35,150	35,150	36,908	38,754	40,692
All other countries	59,850	59,850	62,842	65,984	69,283
Total	95,000	95,000	99,750	104,738	109,975
Rhodesia[2]	27,550	27,550	28,928	30,375	31,894
All other countries[2]	32,300	32,300	33,914	35,609	37,389

[1] Quotas are to be retroactive to Jan. 1, 1978.
[2] The quota for Rhodesia is stand-by in nature, and is to be implemented in the event that the embargo currently in effect with regard to imports from that country is lifted. As long as the embargo remains in effect, Rhodesia's share of the quota is to be added to the "all other countries" category.

Quotas are to be applied quarterly, both to prevent the flooding of the market and to allow Rhodesia's share to be reached in the "all other countries" category if the embargo is lifted. Quota levels are raised by 5 percent each year after 1979 in order to account for projected growth in U.S. high-carbon ferrochromium consumption, and yearend variances from quota levels are not to be carried forward into succeeding years (i.e., imports from South Africa in 1978 in excess of 35,150 tons would not be subtracted from that country's allocation for 1979).

By order of the Commission.

Issued: September 7, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-25655 Filed 9-11-78; 8:45 am]

[3] Vice Chairman Alberger and Commissioners Moore, Bedell, and Ablonde determine in the affirmative. Chairman Parker did not participate in this investigation and Commissioner Minchew did not participate in the vote on injury.

[4] Commissioner Minchew, noting that the Commission has made an affirmative determination, has made a recommendation of remedy.

[5] Quota levels were calculated on the basis of average annual imports during 1972-77. As South Africa and Rhodesia were the primary sources of imports during this period (accounting for well over 50 percent of total imports each year), only those countries are given specific allocations of the total quota. These allocations are based on average share of total imports accounted for by these countries during 1972-77.

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

INDIAN AND NATIVE AMERICAN PROGRAMS

Prime Sponsors Under Sections 302 and 304 of the Comprehensive Employment and Training Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public of the designation of fiscal year 1979 Indian and native American prime sponsors of employment and training programs funded under the Comprehensive Employment and Training Act (CETA) of 1973, as amended.

FOR FURTHER INFORMATION CONTACT:

Herman E. Narcho, Chief, Policy, Program Design, and Administration, Division of Indian and Native American Programs, Office of National Programs, 601 D Street NW., Room 6414, Washington, D.C. 20213, telephone 202-376-7279.

SUPPLEMENTARY INFORMATION: Indian and native American programs under the Comprehensive Employment and Training Act of 1973, as amended, are administered nationally by the Division of Indian and Native American Programs (DINAP), Office of National Programs, Employment and Training Administration, Department of Labor, 601 D Street NW., Room 6402, Washington, D.C. 20213, telephone 202-376-6102. Mr. Alexander S. MacNabb is the Director, DINAP.

Attached is a listing of prime sponsors. Their allocations will be announced later, when Congress makes funds available.

Signed at Washington, D.C., 18th day of August 1978.

ALEXANDER S. MACNABB,
Director, Division of Indian and Native American Programs, Office of National Programs.

CONTRACTOR'S/GRANTEE'S NAME AND ADDRESS	CITY	STATE	EMPLOYER'S ID NUMBER	FAR FUNDING (Form 414 3 41 PR Funding Code)	TYPE OF CONTRACT (FP, CR, ...)	TOTAL DOL AMO
2	3	4	5	6	7	8
Salt River Pima-Maricopa Indian Community Route 1, Box 216	Scottsdale	Arizona 85256				
San Carlos Apache Tribe Post Office Box "O"	San Carlos	Arizona 85550				
White Mountain Apache Tribe Post Office Box 700	White River	Arizona 85941				
American Indian Center of Arkansas, Inc. 1410 Barber Street	Little Rock	Arkansas 72202				
Americans for Indians Future and Traditions, Inc. 1430 Seventh Avenue	San Diego	California 92101				
California Indian Manpower Consortium 4441 Auburn Boulevard, Suite J	Sacramento	California 95841				
Candelaria American Indian Council 2739 Buckaroo Avenue	Oxnard	California 93030				
Fresno American Indian Council 1356 P Street	Fresno	California 93721				
Hoopa Valley Business Council Post Office Box 815	Hoopa	California 95546				
Indian Center of San Jose, Inc. 1485 East Hills Drive	San Jose	California 95131				
Orange County Indian Center, Inc. 12511 Brookhurst Street, Suite 41	Garden Grove	California 92640				
Region IX American Indian Council 330 Ellis Street, Room 518	San Francisco	California 94102				
Sacramento Indian Center, Inc. 1929 V Street	Sacramento	California 95818				
San Bernadino Indian Center 441 E. 8th Street	San Bernadino	California 92401				
Tribal American Consulting Corporation 6155 S. Eastern Avenue	Commerce	California 90040				
Tri-County Indian Development Council, Inc. 2720 Central Avenue	McKinleyville	California 95521				
Ya-Ka-Ama Indian Education and Development, Inc. 6215 Eastside Road	Healdsburg	California 95448				
Colorado Division of Labor & Employment Trng. Services 251 E. 12th Avenue	Denver	Colorado 80203				
Denver Native American United 1525 Josephine	Denver	Colorado 80206				
Ute Mountain Indian Tribe General Delivery	Towaoc	Colorado 81334				
American Indians for Development, Inc. 162 Deckmans Street, Post Office Box 117	Meriden	Connecticut 06450				
Office of CETA Planning & Adm., Department of Labor State of Delaware, 201 Loockerman Street	Dlimington	Delaware 19901				
Florida Government Council on Indian Affairs 105 1/2 E. Colfax Avenue	Tallahassee	Florida 32301				
Miccosukee Corporation Post Office Box 440021	Miami	Florida 33144				
Seminole Tribe of Florida 6073 Stirling Road	Hollywood	Florida 33024				

CONTRACTOR'S/GRANTOR'S NAME AND ADDRESS	CITY	STATE	EMPLOYER'S ID NUMBER	PAR FUNDING (Form MA 381) PR FUNDING (JC 160)	TYPE OF CONTRACT FP	TYPE OF CONTRACT CR	TOT DOLL AMOU
2	3	4	5	6	7		8
State Commission of Indian Affairs Fulton Federal Bldg., Suite 626, 11 Pryor St., S.W.	Atlanta	Georgia 30303					
Alu Like, Inc. 2028 Pua Street, Suite 3035	Honolulu	Hawaii					
Hawaii Council of Amer. Indian Nations, Amer. Indian Service Center, 677 Ala Moana Blvd., Suite 718	Honolulu	Hawaii 96813					
Idaho Inter-Tribal Policy Board 910 Main Street, Suite 214	Boise	Idaho					
Nez Perce Tribe Post Office Box 305	Lapwai	Idaho 83540					
Shoshone-Bannock Tribes, Fort Hall Indian Reservation, Post Office Box 306	Fort Hall	Idaho 83203					
American Indian Business Association Trng.& Employ. Program, 1124 West Granville Street	Chicago	Illinois 60660					
Indian Brotherhood Council 119 State Street	Hammond	Indiana 46320					
Mid America All Indian Center 650 N. Seneca	Wichita	Kansas 67203					
United Tribes of Kansas & Southeast Nebraska Post Office Box 147	Horton	Kansas 66439					
Inter-Tribal Council of Louisiana, Inc. 263 Riverside Mall, Suite 208	Baton Rouge	Louisiana 70801					
Tribal Governors, Inc. 93 Main Street	Orono	Maine 04473					
Mayor's Office of Manpower Resources, City of Baltimore 701 St. Paul Street	Baltimore	Maryland 21202					
Boston Indian Council, Inc. 105 S. Huntington Avenue	Jamaica Plains	Massachusetts					
Indian Tribal Council RFD #2	Mashpee	Mass. 02649					
Grand Rapids Inter-Tribal Council 756 Bridge, N.W.	Grand Rapids	Michigan 49504					
Inter-Tribal Council of Michigan, Inc. 405 East Easterday Avenue	Sault Ste. Marie	Michigan 49783					
Michigan Indian Manpower Consortium 1427 E. Michigan Avenue	Lansing	Michigan 48912					
North American Indian Association of Detroit 360 John R	Detroit	Michigan 48226					
Sault Ste. Marie Tribe of Chippewa Indians 206 Greenough Street	Sault Ste. Marie	Michigan 49783					
American Indian Fellowship Assn. 2 E. Second Street	Duluth	MN. 55802					
Bois Forte R. B. C. Post Office Box 698	Nett Lake	MN. 55772					
Fond du Lac R. B. C. 105 University Rd.	Cloquet	MN. 55720					
Leech Lake R. B. C. Box 308	Cass Lake	MN. 56633					
Mille Lacs R. B. C. Star Route	Onamia	MN. 56359					

CONTRACTOR'S/GRANTOR'S NAME AND ADDRESS	CITY	STATE	EMPLOYER'S ID NUMBER	PAR FUNDING (Form MA 381) PR FUNDING (JC 160)	TYPE OF CONTRACT FP	TYPE OF CONTRACT CR	TOT DOLL AMOU
2	3	4	5	6	7		8
Minneapolis Regional Native American Center 1530 East Franklin Avenue	Minneapolis	MN. 55404					
Red Lake Tribal Council	Red Lake	MN. 56671					
White Earth R. B. C. Box 274, c/o White Earth CAP	White Earth	MN. 56591					
Mississippi Band of Choctaw Indians Route 7, Box 21	Philadelphia	Mississippi 39350					
Region VII American Indian Council, Inc. 310 Armour Road, Suite 212	Kansas City	Missouri 64116					
Assiniboine & Sioux Tribes, Fort Peck Indian Reservation, Post Office Box 37	Poplar	Montana 59255					
Blackfeet Tribal Business Council Blackfeet Indian Reservation	Browning	Montana 59417					
Chippewa Cree Tribe, Rocky Boy's Reservation Rocky Boy Route	Box Elder	Montana 59521					
Confederated Salish & Kootenai Tribes Post Office Box 278	Pablo	Montana 59855					
Crow Indian Tribe, Crow Tribal Council Post Office Box 371	Crow Agency	Montana 59022					
Fort Belknap Community Council Fort Belknap Agency	Harlem	Montana 59526					
Montana United Indian Association 1622 Custer Avenue East	Helena	Montana 59601					
Northern Cheyenne Tribe Post Office Box 129	Lame Deer	Montana 59043					
Nebraska Indian Inter-Tribal Development Corporation Post Office Box 682	Winnebago	Nebraska 68071					
Santee Sioux Tribe of Nebraska Route 2 Santee	Niobrara	Nebraska 68760					
United Indians of Nebraska 1270 South 119th Court	Omaha	Nebraska 68144					
Inter-Tribal Council of Nevada 650 South Rock Boulevard	Reno	Nevada 89502					
Las Vegas Indian Center 215 East Bonanza Road	Las Vegas	Nevada 89158					
New Jersey Department of Labor & Industry John Fitch Plaza	Trenton	New Jersey 08620					
All Indian Pueblo Council, P. O. Box 6507 1015 Indian School Road, N.W.	Albuquerque	New Mexico 97107					
National Indian Youth Council 201 Hermosa, N.E.	Albuquerque	New Mexico 87107					
Pueblo of Laguna Post Office Box 194	Laguna	New Mexico 87026					
Pueblo of Zuni, Zuni Tribal Council Post Office Box 339	Zuni	New Mexico 87327					
Ramah Navajo School Board, Inc. Post Office Box 248	Ramah	New Mexico 87321					
Santo Domingo Tribe	Santo Domingo	New Mexico 87052					

CONTRACTOR'S/GRANTOR'S NAME AND ADDRESS	CITY	STATE	EMPLOYER'S ID NUMBER	PAR FUNDING (Form MA 5-81) PR FUNDING (JC 160)	TYPE OF CONTRACT FP	TYPE OF CONTRACT CR	TOT DOL AMO
2	3	4	5	6	7		8
American Indian Community House, Inc. 10 E. 38th Street	New York	New York 10016					
Native American Manpower, Inc. 250 Summer Street	Buffalo	New York 14222					
St. Regis Mohawk Tribe	Hogansburg	New York 13655					
Seneca Nation of Indians Manpower Office, Box #344	Salamanca	New York 14779					
Cumberland County Assoc. For Indian People Route 2 Box 2-B, Downing Road	Fayetteville	N.C. 28301					
Eastern Band of Cherokee Indians Cherokee CETA, P.O. Box 481	Cherokee	N.C. 28719					
Lumbee Regional Development Association Post Office Box 68	Pembroke	N.C. 28372					
North Carolina Commission of Indian Affairs Post Office Box 27228	Raleigh	N.C. 27611					
Devil's Lake Sioux Tribe Manpower Programs	Fort Totten	N.D. 58335					
Standing Rock Sioux Tribe	Fort Yates	N.D. 58538					
Three Affiliated Tribes - Fort Berthold Manpower Programs, Post Office Box 202	New Town	N.D. 58763					
Turtle Mountain Tribal Council Turtle Mountain Band of Chippewa Indians	Belcourt	N.D. 58316					
United Tribes - Educational Technical Center 3315 S. Airport Road	Bismarck	N.D. 58501					
Office of Manpower Development 30 E. Broad Street, 27th Floor	Columbus	Ohio 43215					
American Indian Training and Employment Program 1212 N. Hudson	Oklahoma City	Oklahoma 73102					
Caddo Tribe 115 Northeast First	Anadarko	Oklahoma 73005					
Central Tribes of the Shawnee Area, Inc. Post Office Box 2427	Shawnee	Oklahoma 74802					
Cherokee Nation of Oklahoma Post Office Box 948	Tahlequah	Oklahoma 74464					
Cheyenne-Arapaho Tribes Post Office Box 38	Concho	Oklahoma 73022					
Chickasaw Nation of Oklahoma Post Office Box 1548	Ada	Oklahoma 74820					
Choctaw Nation of Oklahoma Drawer 1201	Durant	Oklahoma 74701					
Comanche Tribe of Oklahoma, Comanche Tribal Office Fort Sill Indian School Building, Room 382	Lawton	Oklahoma 73502					
Inter-Tribal Council of Northeast Oklahoma Post Office Box 1308	Miami	Oklahoma 74354					
Kiowa Tribe of Oklahoma Post Office Box 1028	Anadarko	Oklahoma 73005					

CONTRACTOR'S/GRANTOR'S NAME AND ADDRESS	CITY	STATE	EMPLOYER'S ID NUMBER	PAR FUNDING (Form MA 5-81) PR FUNDING (JC 160)	TYPE OF CONTRACT FP	TYPE OF CONTRACT CR	TOT DOL AMO
2	3	4	5	6	7		8
Osage Tribal Council Post Office Box 178	Pawhuska	Oklahoma 74056					
Pawnee Indian Tribal Business Community Pawnee Tribal Business Building	Pawnee	Oklahoma 74058					
Ponca Tribe of Indians Post Office Box 11, White Eagle	Ponca City	Oklahoma 74601					
Seminole Nation of Oklahoma Post Office Box 745	Wewoka	Oklahoma 74884					
Tonkawa Tribe of Oklahoma Post Office Box 86	Tonkawa	Oklahoma 76453					
Confederated Tribes of Warm Springs	Warm Springs	Oregon 97761					
Organization of Forgotten Americans 3949 So. 6th Street, Post Office Box 1257	Klamath Falls	Oregon 97601					
Urban Indian Council 2326 N.W. Westover Road	Portland	Oregon 97210					
Council of Three Rivers 200 Charles Street	Dorseyville	Penn. 15238					
United American Indians of the Delaware Valley 225 Chestnut Street	Philadelphia	Penn. 19106					
Rhode Island Indian Council 56 Washington Street, Room 300	Providence	R.I. 02903					
Office of the Governor, Manpower Division 1000 St. Julian Place	Columbia	S.C. 29204					
Cheyenne River Sioux Tribe	Eagle Butte	S.D. 57625					
Crow Creek Sioux Tribe Post Office Box 658	Fort Thompson	S.D. 57339					
Lower Brule Sioux Tribe Post Office Box G	Pine Ridge	S.D. 57548					
Oglala Sioux Tribe Post Office Box G	Pine Ridge	S.D. 57770					
Rosebud Sioux Tribe Box 38	Rosebud	S.D. 57570					
Sisseton-Wahpeton Sioux Tribe Post Office Box 262	Sisseton	S.D 57262					
United Sioux Tribes of South Dakota Development Corporation, Post Office Box 1193	Pierre	S.D. 57501					
Yankton Sioux Tribe Route 3	Wagner	S.D. 57380					
State of Tenn., Dept. of Employment Security 528 Cordell-Hull Building	Nashville	Tenn. 37219					
USET Incorporated 1101 Kermit Drive, Suite 800	Nashville	Tenn. 37217					
Dallas Inter-Tribal Center Carter Plaza, 334 Centre Street	Dallas	Texas 75201					
Indian Employment and Training Service 505 N. Belt, Suite 430	Houston	Texas 77060					

CONTRACTOR'S/GRANTOR'S NAME AND ADDRESS	CITY	STATE	EMPLOYER'S ID NUMBER	PAR FUNDING (Form MA 3811 PR FUNDING (JC 1601	TYPE OF CONTRACT FP	CR	TOT DOL AMO
2	3	4	5	6	7		8
Creek Nation East of Mississippi Incorporated Route 3, Box 243A	Atmore	Alabama 36502					
Alaska Federation of Natives, Inc. 550 W. Eighth Avenue	Anchorage	Alaska 99501					
Aleutian/Pribilof Islands Association 1689 C Street	Anchorage	Alaska 99501					
Bristol Bay Native Association Post Office Box 179	Dillingham	Alaska 99576					
Cook Inlet Native Association 1057 West Firewood Lane	Anchorage	Alaska 99503					
Copper River Native Association Drawer H	Copper Center	Alaska 99573					
Dena Aka Corporation 200 N. Cushman Street	Fairbanks	Alaska 99701					
Kawerak Incorporated Post Office Box 505	Nome	Alaska 99762					
Kodiak Area Native Association Post Office Box 172	Kodiak	Alaska 99615					
Mauneluk Association Post Office Box 256	Kotzebue	Alaska 99752					
Metlakatla Indian Community Post Office Box 8	Metlakatla	Alaska 99926					
North Pacific Rim 433 W. 9th Avenue, Suite 200	Anchorage	Alaska 99501					
Sitka Community Association 132 Lincoln Street	Mt. Edgecombe	Alaska 99835					
Tlingit and Haida Council One Sealaska Plaza, Suite 200	Juneau	Alaska 99801					
Yupiktak Bista, Inc. Post Office Box 848	Bethel	Alaska 99559					
American Indian Association of Tucson, Inc. 375 S. Stone Avenue	Tucson	Arizona 85701					
Arizona Indian Centers, Inc. 2721 N. Central Avenue, Suite 914	Phoenix	Arizona 85713					
Colorado River Indian Tribes Route 1, Box 23-B	Parker	Arizona 85344					
Gila River Indian Community Box 97	Sacaton	Arizona 85247					
Hopi Tribal Council Box 123	Oraibi	Arizona 86039					
Indian Development District of Arizona, Inc. 1777 W. Camelback Road, Suite A-108	Phoenix	Arizona 85015					
Native Americans for Community Action 15 North San Francisco, Post Office Box 572	Flagstaff	Arizona 86002					
Navajo Nation	Window Rock	Arizona 86515					
The Papago Tribe of Arizona Post Office Box 837	Sells	Arizona 85634					
Phoenix Indian Center, Inc. 4025 N. 2nd Street	Phoenix	Arizona 80512					

CONTRACTOR'S/GRANTOR'S NAME AND ADDRESS	CITY	STATE	EMPLOYER'S ID NUMBER	PAR FUNDING (Form MA 3811 PR FUNDING (JC 1601	TYPE OF CONTRACT FP	CR	TO DOL AMO
2	3	4	5	6	7		
UTE Indian Tribe Post Office Box 190	Fort Duchesne	Utah 84026					
Utah Native American Consortium, Inc. Post Office Box 15	Salt Lake City	Utah 84137					
Governor of Virginia Manpower Services Council, Post Office Box 1314	Richmond	Virginia 23210					
American Indian Community Center 1007 N. Columbus Street	Spokane	Washington 99202					
CHE-HO-QUI-SHO Post Office Box 1228	Taholah	Washington 98587					
Colville Confederated Tribes Post Office Box 150	Nespelem	Washington 99155					
Eastern Washington Indian Consortium Post Office Box 223	Wellpinit	Washington 99040					
Northwest Inter-Tribal Council 2731 10th Street	Everett	Washington 98201					
Puyallup Tribe 2214 East 32nd	Tacoma	Washington 98404					
Seattle Indian Center 121 2nd and Stewart Streets	Seattle	Washington 98101					
Western Washington Indian Emp. & Trng. Program 11006 Pacific Ave., Suite 1&2 Heller Professional Bldg.	Tacoma	Washington 98444					
Great Lakes Inter-Tribal Council, Inc. Manpower Consortium, Box 636	Ashland	Wisconsin 54806					
Lac Courte Orielles Band of Lake Superior Chippewa Indians, Route 2	Hayward	Wisconsin 54843					
Lac Du Flambeau Consortium Post Office Box 24	Lac Du Flambeau	Wisconsin 54538					
Menominee Restoration Committee Post Office Box 397	Keshena	Wisconsin 54135					
Milwaukee Area American Indian Manpower Council 3701 Lisbon Avenue	Milwaukee	Wisconsin 53208					
Oneida Tribe of Indians of Wisconsin, Inc. Route 4	Oneida	Wisconsin 54155					
St. Croix Tribal Council Star Route	Webster	Wisconsin 54893					
Stockbridge-Munsee Community Route 1	Bowler	Wisconsin 54416					
Superior Indian Organization 1004 N. 6th Street	Superior	Wisconsin 54880					
Wisconsin Winnebago Bus. Committee, Old Main Rm. 041A, University of Wisconsin, Stevens Point	Stevens Point	Wisconsin 54481					
Shoshone and Arapahoe Joint Business Council Post Office Box 217	Fort Washakie	Wyoming 82514					

[FR Doc. 78-25283 Filed 9-11-78; 8:45 am]

[4510-28]

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-3582]

ALVIN COAT INC., PATERSON, N.J.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3582: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Alvin Coat, Inc., Paterson, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Alvin Coat, Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2252 thousand dozen in 1976 to 2723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

A survey of Alvin Coat, Inc.'s sole manufacturer indicated that the manufacturer imported ladies' coats in 1977 and 1978 with an absolute increase in imports in the first quarter 1978 compared with the first quarter 1977. The manufacturer's contracts with Alvin Coat, Inc. decreased in 1977 compared to 1976 as well as in the first quarter 1978 compared to the same period in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at Alvin Coat, Inc., Paterson, N.J. contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of Alvin Coat, Inc., Paterson, N.J. who became totally or partially separated from employment on or after October 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-25509 Filed 9-11-78; 8:45 am]

[4510-28]

DEPARTMENT OF LABOR

[TA-W-2896]

BLISS & LAUGHLIN STEEL CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2896: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 11, 1978, in response to a worker petition received on December 19, 1977, which was filed by the United Steelworkers of America on behalf of all workers producing cold-rolled finished steel bars at the Detroit, Mich., plant of Bliss & Laughlin Steel Co. The investigation was expanded to include the Harvey, Ill., plant (see TA-W-2896A).

The notice of investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3776). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bliss & Laughlin Steel Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

Production of cold finished steel bars at the Detroit plant increased in quantity in 1977 from 1976 and in the first 2 months of 1978 compared to the like period of 1977. Employment increased in 1977 from 1976 and in the first 2 months of 1978 compared to the like period in 1977.

A survey of some customers of the Detroit plant revealed that none of the respondents purchased imported steel bars in 1977 or in the first quarter of 1978.

CONCLUSION

After careful review I determine that all workers of the Detroit, Mich., plant of Bliss & Laughlin Steel Co. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-25634 Filed 9-11-78; 8:45 am]

[4510-28]

DEPARTMENT OF LABOR

[TA-W-2896A]

BLISS & LAUGHLIN STEEL CO.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2896A: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 11, 1978, in response to a worker petition received on December 19, 1977 which was filed by the United Steelworkers of America on behalf of all workers producing cold-rolled finished steel bars at the Detroit, Mich. and Harvey, Ill. plants of Bliss & Laughlin Steel Co. A separate investigation of the Detroit, Mich., plant was conducted under TA-W-2896.

The Notice of Investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3776). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bliss & Laughlin Steel Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation revealed that all of the criteria have been met.

Imports of cold-finished carbon steel bars increased from 70.3 thousand tons in 1976 to 117.3 thousand tons in 1977. The ratio of imports to domestic shipments increased from 5.3 percent in 1976 to 8.1 percent in 1977.

Imports of alloy steel bars increased from 81.2 thousand tons in 1976 to 140.9 thousand tons in 1977. The ratio of imports to domestic shipments increased from 3.3 percent in 1976 to 5.6 percent in 1977.

A survey of some of the customers of the Harvey plant revealed that several customers reduced purchases from the Harvey plant in 1977 and in the first quarter of 1978 and increased purchases of imports.

Employment at the Harvey plant increased in 1977 compared to 1976. Significant unemployment at the plant began in February 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the cold-finished carbon and alloy steel bars produced at the Harvey, Ill. plant of Bliss & Laughlin Steel Co. contributed importantly to the sales or production declines and to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Harvey, Ill. plant of Bliss & Laughlin Steel Co. who became totally or partially separated from employment on or after February 1, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-25635 Filed 9-11-78; 8:45 am]

[4510-28]

DEPARTMENT OF LABOR

[TA-W-3520]

BOYN-TAN LEATHERS, INC., MILTON MILLS, N.H.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3520: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 18, 1978, in response to a worker petition received on April 10, 1978, which was filed on behalf of workers formerly producing tanned and finished sheepskins and lambskins at Boyn-Tan Leathers, Inc., of Milton Mills, N.H.

The notice of investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18789). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Boyn-Tan Leathers, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of tanned and finished sheepskins increased from 12,690,000 square feet in 1975 to 18,744,000 square feet in 1976 and decreased from 15,322,000 square feet in the January-September period of 1976 to 12,946,000 square feet in the same period of 1977. The imports to domestic production ratio for tanned and finished sheepskins increased from 15.5 percent in 1975 to 23.4 percent in 1976 and decreased from 24.6 percent in the January-September period of 1976 to 23.1 percent in the same period of 1977.

A sample survey of customers who purchased tanned and finished sheepskins from Boyn-Tan Leathers, Inc., indicated that some customers decreased purchases from the subject firm while increasing purchases of imports in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with tanned and finished sheepskins produced at Boyn-Tan Leathers, Inc., contributed importantly to the decrease in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Boyn-Tan Leathers, Inc., of Milton Mills, N.H., who became totally or partially separated from employment on or after September 18, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of August 1978.

BRIAN TURNER,
Executive Assistant to the Deputy Under Secretary for International Affairs.

[FR Doc. 78-25510 Filed 9-11-78; 8:45 am]

[4510-28]

DEPARTMENT OF LABOR

[TA-W-3321]

CITY SHIRT CO., DIVISION OF WIDE AWAKE SHIRT CO. MAHANOY CITY, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3321: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 9, 1978, in response to a worker petition received on February 28, 1978, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing uniform shirts at the Mahanoy City, Pa., plant of the City Shirt Co., a Division of Wide Awake Shirt Co.

The Notice of Investigation was published in the FEDERAL REGISTER on March 24, 1978 (43 FR 12401). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Wide Awake Shirt Co., its customers, the Amalgamated Clothing and Textile Workers' Union, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that there are no separately identifiable U.S. imports of uniform shirts. The product is not listed as a separate item of any U.S. Tariff Schedule grouping. However, industry sources have indicated that there are

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negligible imports of civilian uniform shirts. There are no imports of U.S. Military uniforms due to Armed Service Procurement regulations.

A Department survey was conducted with customers of Wide Awake Shirt Co., the parent firm of City Shirt Co. None of the surveyed customers purchased imported uniform shirts during the period of 1975 through 1977. Customers confirmed that the import influence in the uniform shirt industry is negligible and that uniform shirts are not competitive with other shirt styles.

CONCLUSION

After careful review I determine that all workers at the Mahanoy City, Pa., plant of the City Shirt Co., a Division of Wide Awake Shirt Co., are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of August 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-25511 Filed 9-11-78; 8:45 am]

[4510-28]

[TA-W-3304]

GULANT AND MASLIN, INC., BROOKLYN, N.Y.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 7, 1978, in response to a petition dated February 6, 1978, which was filed by the Amalgamated Clothing and Textile Workers on behalf of workers and former workers producing men's and boys' tailored clothing at Gulant and Maslin, Inc., Brooklyn, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on March 17, 1978 (43 FR 11277). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers of Gulant and Maslin, Inc., Brooklyn, N.Y., were previously certified eligible to apply for adjustment assistance on February 19, 1976 (TA-W-361). That certification expired on February 19, 1978. All workers of Gulant and Maslin, Inc., were laid off and the company closed in October, 1977.

Since all workers covered by the present petition were included in the previous certification, a new investigation would serve no purpose. Therefore, the investigation is terminated.

Signed at Washington, D.C., this 29th day of August 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-25512 Filed 9-11-78; 8:45 am]

[4510-28]

[TA-W-2934]

INTERLAKE, INC., NEWPORT WORKS, NEWPORT AND WILDER, KY.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2934: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 17, 1978, in response to a worker petition received on December 19, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing flat rolled products and all steel products at the Newport-Wilder, Ky., plant of Interlake, Inc. During the course of the investigation it was revealed that the plant produces hot and cold rolled steel sheet and strip, steel plate, and steel tubular products.

On September 27, 1977, the Department certified workers engaged in employment related to the production of tubular products at the Newport, Ky., Works of Interlake, Inc., eligible to apply for adjustment assistance, and denied workers engaged in employment related to the production of flat rolled products which include hot and cold rolled steel sheet and strip and steel plate TA-W-1476.

The notice of investigation was published in the FEDERAL REGISTER on February 3, 1978 (43 FR 4696). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Interlake, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The Department's investigation revealed that the average number of production workers employed at Interlake's Newport, Ky., Works increased in each quarter compared to the same quarter of the previous year during the period from October 1976 through March 1978.

CONCLUSION

After careful review I determine that all workers engaged in the production of flat rolled products which include hot and cold rolled steel sheet and strip and steel plate at the Newport, Ky., Works of Interlake, Inc., Newport and Wilder, Ky., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-25513 Filed 9-11-78; 8:45 am]

[4510-28]

[TA-W-3969]

INTERPACE CORP., LOCK JOINT PIPE DIVISION, SOMERVILLE, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 13, 1978, in response to a worker petition received on July 7, 1978, which was filed by the International Brotherhood of Teamsters on July 5, 1978, on behalf of workers and former workers producing steel high pressure sewer pipe, at the Interpace Corp., Lock Joint Division, Somerville, N.J.

Notice of the investigation was published in the FEDERAL REGISTER on July 28, 1978 (43 FR 32885). No public hearing was requested and none was held.

The petitioner, International Brotherhood of Teamsters requested withdrawal of this petition. A union representative cited no adverse impact of imports on workers at the Somerville plant of the Interpace Corp., Lock Joint Pipe Division as the reason for withdrawal. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 28th day of August 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-25514 Filed 9-11-78; 8:45 am]

[4510-28]

[TA-W-3367]

LAWRENCE CLOTHES, INC., PHILADELPHIA, PENNSYLVANIA

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3367: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 20, 1978 in response to a worker petition received on February 21, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of all workers producing tailored clothing at the Philadelphia, Pa., plant of Lawrence Clothes, Inc.

The notice of investigation was published in the FEDERAL REGISTER on April 7, 1978 (43 FR 14776). No public hearing was requested and none was held.

Following a previous petition and subsequent investigation on behalf of all workers at Lawrence Clothes, Inc., the Department certified all workers as eligible to apply for trade adjustment assistance on February 10, 1976 (TA-W-346). That certification expired on February 10, 1978.

The information upon which the determination was made was obtained principally from officials of Lawrence Clothes, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored suits increased to 4,091,000 units in 1977 from 3,562,000 units in 1976. The ratio of imports of men's and boys' tailored suits increased to 20.0 percent in 1977 from 19.0 pecent in 1976.

The Department conducted a survey of Lawrence Clothes' major customers. One of these purchased imports and increased its imports in 1977 compared to 1976. Another customer, one that had accounted for a significant portion of sales for Lawrence Clothes, went out of business. The Department has subsequently determined that imports contributed importantly to the loss of sales and separation of workers at that firm.

CONCLUSION

After careful review of the facts obtained in the investigation, I concluded that increases of imports of articles like or directly competitive with the tailored clothing produced by Lawrence Clothes, Inc., Philadelphia, Pa., contributed importantly to the decline in sales or production and to the total or partial separation of workers at the plant as required for certification. In accordance with the provisions of the Act, I make the following certification:

All workers of Lawrence Clothes, Incorporated, Philadelphia, Pennsylvania who became totally or partially separated from employment on or after February 10, 1978, are certified eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of August 1978.

BRIAN TURNER,
Executive Assistant to the Deputy Under Secretary for International Affairs.

[FR Doc. 78-25515 Filed 9-11-78; 8:45 am]

[4510-28]

[TA-W-3440]

MAURICE II KNITTING MILLS, INC., RED SPRINGS, N.C.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3440: Investigation regarding eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 28, 1978, in response to a worker petition received on March 13, 1978, which was filed on behalf of workers and former workers producing finished knit fabrics at Maurice II Knitting Mills, Incorporated of Red Springs, North Carolina.

The notice of investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15205). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Maurice II Knitting Mills, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of finished fabric increased from 408 million square yards in 1975 to 464 million square yards in 1976 and decreased to 453 million square yards in 1977. Imports increased from 90 million square yards during the January-March period of 1977 to 129 million square yards during the same period of 1978. The ratio of imports to domestic production of finished fabric has remained under 2.0 percent for 1974 through 1976. Ratios for 1977 and 1978 are not currently available.

A sample survey of the major customers of Maurice II Knitting Mills, Inc. who purchased finished fabric indicated that these customers did not import finished fabrics in 1976, 1977 or the first quarter of 1978.

CONCLUSION

After careful review I determine that all workers at Maurice II Knitting Mills, Inc. of Red Springs, N.C. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of August 1978.

BRIAN TURNER,
Executive Assistant to the Deputy Under Secretary for International Affairs.

[FR Doc. 78-25516 Filed 9-11-78; 8:45 am]

[4510-28]

[TA-W-3394]

MIGHTY MAC, INC., GLOUCESTER, MASS.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3394: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 29, 1978 in response to a worker petition received on March 13, 1978, which was filed on behalf of all workers producing men's and boys' outerwear at the Gloucester, Mass., plant of Mighty Mac, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15207). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Mighty Mac, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' outer coats and jackets increased both absoultely and relative to domestic production from 1976 to 1977. Imports increased in quantity from 22,060 thousands of units in 1976 to 27,432 thousands of units in 1977. The import to production ratio increased from 29.6 percent in 1976 to 35.3 percent in 1977.

Many of the customers of Mighty Mac, Inc. that were surveyed by the Department indicated that they have decreased purchases from the firm and increased purchases of imported men's and boys' outer coats and jackets in 1976 and 1977.

Conclusion

After careful review, I conclude that increases of imports of articles like or directly competitive with outerwear produced at the Gloucester, Mass., plant of Mighty Mac, Inc. contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Gloucester, Massachusetts plant of Mighty Mac, Inc. who became totally or partially separated from employment on or after October 22, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-25517 Filed 9-11-78; 8:45 am]

[4510-28]

[TA-W-3395]

MIGHTY MAC, INC., MANCHESTER, N.H.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3395: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 29, 1978, in response to a worker petition received on March 13, 1978, which was filed on behalf of all workers producing men's and boys' outerwear at the Manchester, N.H., plant of Mighty Mac, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15207). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Mighty Mac, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' outer coats and jackets increased both absolutely and relative to domestic production from 1976 to 1977. Imports increased in quantity from 22,060 thousand of units in 1976 to 27,432 thousands of units in 1977. The import to production ratio increased from 29.6 percent in 1976 to 35.3 percent in 1977.

Many of the customers of Mighty Mac, Inc., that were surveyed by the Department indicated that they have decreased purchases from the firm and increased purchases of imported men's and boys' outer coats and jackets in 1976 and 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men's and boys' outerwear produced at the Manchester, N.H., plant of Mighty Mac, Inc., contributed importantly to the sales and production declines and to the total or partial separation of the workers of that plant. In accordance with provisions of the Act, I make the following certification:

All workers of the Manchester, N.H., plant of Mighty Mac, Inc., who become totally or partially separated from employment on or after March 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-25518 Filed 9-11-78; 8:45 am]

[4510-28]

[TA-W-3121]

NORTH TERMINAL, INC., HINGHAM, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3121: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 13, 1978, in response to a worker petition received on January 26, 1978, which was filed on behalf of workers and former workers producing steel parts for guns at North Terminal, Inc., Hingham, Mass.

During the course of the Department's investigation it was revealed that North Terminal produces parts for guns from aluminum as well as steel.

The notice of investigation was published in the FEDERAL REGISTER on February 28, 1978 (43 FR 8207). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of North Terminal, Inc. and the Winchester Group of Olin Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

Total production of receivers at North Terminal declined 10 percent in 1977 compared to 1976, production of receivers for Winchester, North Terminal's parent company, increased 32 percent during this period while production under contract for military rifles declined 57 percent. All employment declines at North Terminal occurred on the line producing receivers for military rifles while employment increased on the Winchester production line.

Neither the military contracting firm nor the U.S. Army can or do import any rifles or component parts.

CONCLUSION

After careful review, I determine that all workers of North Terminal, Inc., Hingham, Mass., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1978.

BRIAN TURNER,
Executive Assistant to the Deputy Under Secretary for International Affairs.

[FR Doc. 78-25519 Filed 9-11-78; 8:45 am]

[4510-28]

[TA-W-3109]

PHELPS DODGE CORP. WESTERN EXPLORATION DEPARTMENT, DOUGLAS, ARIZ.

Certificotion Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3109: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 9, 1978, in response to a worker petition received on January 23, 1978, which was filed on behalf of workers and former workers engaged in exploration for new copper ore bodies at the Douglas, Ariz., facility of the Western Exploration Department of Phelps Dodge Corp.

The notice of investigation was published in the FEDERAL REGISTER on February 24, 1978 (43 FR 7743). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Phelps Dodge Corp., Metals Week, Metal Bulletin, American Metal Market, the U.S. Department of the Interior, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that the Western Exploration Department provides the function of surveying for new ore bodies for Phelps Dodge Corp. Exploration work is integrated into the company's production of copper. Exploration for copper has been the primary function of this department, comprising a major proportion of total exploration work in 1975, 1976, and 1977.

The Western Exploration Department performs its activities for the entire corporation and is not specific to the Western operations of Phelps Dodge. Workers at three facilities of Phelps Dodge Corp. producing refined copper have been certified eligible to apply for adjustment assistance: The Morenci, Ariz., Branch (TA-W-2423), the New Cornelia Branch, Ajo, Ariz. (TA-W-2421), and the Douglas Reduction Works, Douglas, Ariz. (TA-W-2420). Production of copper at these certified facilities comprised a substantial percentage of total company copper production in 1976 and 1977.

U.S. imports of refined copper increased from 147,000 short tons in 1975 to 384,000 short tons in 1976 and to 391,000 short tons in 1977. Imports increased from 66,000 short tons in the first quarter of 1977 to 150,000 short tons in the first quarter of 1978.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1975 to 21.0 percent and 22.2 percent, respectively, in 1976 and 1977. The ratio increased from 13.1 percent in the first quarter of 1977 to 34.1 percent in the first quarter of 1978.

While imports of refined copper had increased by 161 percent in 1976 compated to 1975 and 2 percent in 1977 compared to 1976, domestic demand increased at only a fraction of those rates. Inventory levels of domestic and imported copper on consignment at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and 143.2 percent above December 1974 levels. In each month in the period January-November 1977, inventories were higher than the same month in 1976. In December 1977 inventories were only slightly lower than inventories in December 1976. Phelps Dodge and other domestic producers of refined copper lost substantial sales in 1977 because of the excessive inventories of domestic and imported refined copper.

Imports of copper are affected by the differential between the domestic producers' price for copper and the world price established by the LME (London Metal Exchange). When the LME price drops more than the estimated transportation costs of 5 to 8 cents per pound below the domestic producers' price, the demand for imported copper increases. The yearly average LME price for copper in 1977 was 10 cents below the yearly average domestic producers' price. During May and June 1977 the LME price was almost 11 cents per pound below the domestic producers' price and in July and August 1977 the LME price was almost 12 cents per pound below the domestic producers' price. At the same time, the abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in 1977, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased.

Price pressure from imported copper has reduced the ability of domestic producers to profitably mine domestic ore and convert it to copper concentrate and refined copper. Industry sources state that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound. The weighted average costs for the highest cost domestic copper mines are $1.05 per pound. Thus, with a domestic market price of 60 cents per pound, domestic producers lose on the average 3 to 45 cents on each pound of copper they choose to sell.

The depressed market price for copper caused by increased imports of copper negatively affected Phelps Dodge Corp.'s level of profits. Net income recorded by Phelps Dodge Corp. has declined in each year during the period 1974 to 1977. Net income fell 57 percent from 1976 to 1977. As a result of the market conditions for copper, Phelps Dodge instituted certain budget cuts in late 1977. These budget cuts included reducing activities in the Western Exploration Department resulting in layoffs of workers in that department of the firm. Exploration activities at eight Phelps Dodge sites were either halted or severely curtailed in the first quater of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with refined copper produced by Phelps Dodge Corp. contributed importantly to the decline in production and to the total or partial separation of workers of the Western Exploration Department of the firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Douglas, Ariz., facility of the Western Exploration Department of Phelps Dodge Corp., who became totally or partially separated from employment on or after December 3, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

V 43 / 177

Signed at Washington, D.C., this 31st day of August 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-25520 Filed 9-11-78; 8:45 am]

[4510-28]

[TA-W-3543]

PHELPS DODGE CORP. WESTERN EXPLORATION DEPARTMENT, RENO, NEV.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3543: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 25, 1978, in response to a worker petition received on April 14, 1978, which was filed on behalf of workers and former workers engaged in exploration for copper ore at the Reno, Nev., facility of the Western Exploration Department of Phelps Dodge Corp.

The notice of investigation was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19478-79). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Phelps Dodge Corp., Metals Week, Metal Bulletin, American Metal Market, the U.S. Department of the Interior, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that the Western Exploration Department provides the function of surveying for new ore bodies for Phelps Dodge Corp. Exploration work is integrated into the company's production of copper. Exploration for copper has been the primary function of this department, comprising a major proportion of total exploration work in 1975, 1976, and 1977.

The Western Exploration Department performs its activities for the entire corporation and is not specific to the Western operations of the Phelps Dodge. Workers at three facilities of Phelps Dodge Corp. producing refined copper have been certified eligible to apply for adjustment assistance: The Morenci, Ariz., Branch (TA-W-2423), the New Cornelia Branch, Ajo, Ariz. (TA-W-2421), and the Douglas Reduction Works, Douglas, Ariz, (TA-W-2420). Production of copper at these certified facilities comprised a substantial percentage of total company copper production in 1976 and 1977.

U.S. imports of refined copper increased from 147,000 short tons in 1975 to 384,000 short tons in 1976 and to 391,000 short tons in 1977. Imports increased from 66,000 short tons in the first quarter of 1977 to 150,000 short tons in the first quarter of 1978.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1975 to 21.0 percent and 22.2 percent, respectively, in 1976 and 1977. The ratio increased from 13.1 percent in the first quarter of 1977 to 34.1 percent in the first quarter of 1978.

While imports of refined copper had increased by 161 percent in 1976 compared to 1975 and by 2 percent in 1977 compared to 1976, domestic demand increased at only a fraction of those rates. Inventory levels of domestic and imported copper on consignment at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and 143.2 percent above December 1974 levels. In each month in the period January-November 1977, inventories were higher than the same month in 1976. In December 1977 inventories were only slightly lower than inventories in December 1976. Phelps Dodge and other domestic producers of refined copper lost substantial sales in 1977 because of the excessive inventories of domestic and imported refined copper.

Imports of copper are affected by the differential between the domestic producers' price for copper and the world price established by the LME (London Metal Exchange). When the LME price drops more than the estimated transportation costs of 5 to 8 cents per pound below the domestic producers' price, the demand for imported copper increases. The yearly average LME price for copper in 1977 was 10 cents below the yearly average domestic produceres' price. During May and June 1977 the LME price was almost 11 cents per pound below the domestic produceres' price and in July and August 1977 the LME price was almost 12 cents per pound below the domestic producers' price. At the same time, the abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in 1977, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased.

Price pressure from imported copper has reduced the ability of domestic producers to profitably mine domestic ore and convert it to copper concentrate and refined copper. Industry sources state that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound. The weighted average costs for the highest cost domestic copper mines are $1.05 per pound. Thus, with a domestic market price of 60 cents per pound, domestic producers lose on the average 3 to 45 cents on each pound of copper they choose to sell.

The depressed market price for copper caused by increased imports of copper negatively affected Phelps Dodge Corp's. level of profits. Net income recorded by Phelps Dodge Corp. has declined in each year during the period 1974 to 1977. Net income fell 57 percent from 1976 to 1977. As a result of the market conditions for copper, Phelps Dodge instituted certain budget cuts in late 1977. These budget cuts included reducing activities in the Western Exploration Department resulting in layoffs of workers in that department of the firm: Exploration activities at eight Phelps Dodge sites were either halted or severely curtailed in the first quarter of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with refined copper produced by Phelps Dodge Corp. contribution importantly to the decline in production and to the total or partial separation of workers of the Western Exploration Department of the firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Reno, Nev., facility of the Western Exploration Department of Phelps Dodge Corp., who become totally or partially separated from employment on or after December 3, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of August 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-25524 Filed 9-11-78; 8:45 am]

[4510-28]

[TA-W-3542]

PHELPS DODGE CORP., WESTERN EXPORTATION DEPARTMENT, SALT LAKE CITY, UTAH

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3542: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 25, 1978, in response to a worker petition received on April 14, 1978, which was filed on behalf of workers and former workers engaged in exploration for copper ore at the Salt Lake City, Utah facility of the Western Exploration Department of Phelps Dodge Corp.

The notice of investigation was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19478-79). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Phelps Dodge Corp., Metals Week, Metal Bulletin, American Metal Market, the U.S. Department of Interior, the U.S Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that the Western Exploration Department provides the function of surveying for new ore bodies for Phelps Dodge Corp. Exploration work is integrated into the company's production of copper. Exploration for copper has been the primary function of this department, comprising a major proportion of total exploration work in 1975, 1976, and 1977.

The Western Exploration Department performs its activities for the entire corporation and is not specific to the Western operations of Phelps Dodge. Workers at three facilities of Phelps Dodge Corp. producing refined copper have been certified eligible to apply for adjustment assistance: the Morenci, Ariz., Branch (TA-W-2423), the New Cornelia Branch, Ajo, Ariz., (TA-W-2421) and the Douglas Reduction Works, Douglas, Ariz., (TA-W-2420). Production of copper at these certified facilities comprised a substantial percentage of total company copper production in 1976 and 1977.

U.S. imports of refined copper increased 147 thousand short tons in 1975 to 384 thousand short tons in 1976 and to 391 thousand short tons in 1977. Imports increased from 66 thousand short tons in the first quarter of 1978.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1975 to 21.0 percent and 22.2 percent, respectively, in 1976 and 1977. The ratio increased from 13.1 percent in the first quarter of 1977 to 34.1 percent in the first quarter of 1978.

While imports of refined copper had increased by 161 percent in 1976 compared to 1975 and by 2 percent in 1977 compared to 1976, domestic demand increased at only a fraction of those rates. Inventory levels of domestic and imported copper on consignment at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and 143.2 percent above December 1974 levels. In each month in the period January-November 1977, inventories were higher than the same month in 1976. In December 1977 inventories were only slightly lower than inventories in December 1976. Phelps Dodge and other domestic producers of refined copper lost substantial sales in 1977 because of the excessive inventories of domestic and imported refined copper.

Imports of copper are affected by the differential between the domestic producers' price for copper and the world price established by the LME (London Metal Exchange). When the LME price drops more than the estimated transportation costs of 5-8 cents per pound below the domestic producers' price, the demand for imported copper increases. The yearly average LME price for copper in 1977 was 10 cents below the yearly average domestic producers' price. During May and June 1977 the LME price was almost 11 cents per pound below the domestic producers' price and in July and August 1977 the LME price was almost 12 cents per pound below the domestic producers' price. At the same time, the abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in 1977, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased.

Price pressure from imported copper has reduced the ability of domestic producers to profitably mine domestic ore and convert it to copper concentrate and refined copper. Industry sources state that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound. The weighted average costs for the highest cost domestic copper mines are $1.05 per pound. Thus, with a domestic market price of 60 cents per pound, domestic producers lose on the average 3 to 45 cents on each pound of copper they choose to sell.

The depressed market price for copper caused by increased imports of copper negatively affected Phelps Dodge Corporation's level of profits. Net income recorded by Phelps Dodge Corporation has declined in each year during the period 1974 to 1977. Net income fell 57 percent from 1976 to 1977. As a result of the market conditions for copper, Phelps Dodge instituted certain budget cuts in late 1977. These budget cuts included reducing activities in the Western Exploration Department resulting in layoffs of workers in that department of the firm. Exploration activities at 8 Phelps Dodge sites were either halted or severely curtailed in the first quarter of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with refined copper produced by Phelps Dodge Corporation contributed importantly to the decline in production and to the total or partial separation of workers of the Western Exploration Department of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Salt Lake City, Utah facility of the Western Exploration Department of Phelps Dodge Corp., who became totally or partially separated from employment on or after December 3, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-25521 Filed 9-11-78; 8:45 am]

[4510-28]

[TA-W-2738]

ROBERT LAWRENCE, INC., BOSTON, MASS.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2738: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 7, 1977, in response to a

V 43 / 177 SEP 12 78

worker petition received on November 28, 1977, which was filed on behalf of workers and former workers producing men's coats at Robert Lawrence, Inc., Boston, Mass.

The notice of investigation was published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65308). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Robert Lawrence, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group of eligibility requirements of section 222 of the Trade Act of 1974 must be met. With respect to workers producing men's sportcoats, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of men's and boys' tailored dress coats and sportcoats increased from 5,465 thousand units in 1975 to 6,965 thousand units in 1976. The ration of imports to domestic production decreased from 28.2 percent in 1975 to 25.3 percent in 1976. Imports decreased from 6,965 thousand units in 1976 to 6,269 thousand units in 1977.

Robert Lawrence produced sportcoats on a contract basis for apparel manufacturers. A Departmental survey revealed that each of Robert Lawrence's manufacturers had experienced increased sales in 1977 compared to 1976. Robert Lawrence's largest manufacturer indicated that it had decreased the amount of work given to Lawrence because it had increased its own manufacturing capacity.

With respect to workers producing men's outer coats, all of the group eligibility requirements of section 222 of the Act have been met.

U.S. import of men's and boys' outer coats and jackets increased from 20,034 thousand units in 1975 to 22,060 thousand units in 1976. The ratio of imports to domestic production increased from 28.1 percent in 1975 to 31.3 percent in 1976. Imports increased from 22,060 thousand units in 1976 to 27,432 thousand units in 1977.

A Departmental survey revealed that Robert Lawrence's largest outer coat customer decreased purchases from Lawrence while increasing its purchases of imported outer coats in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's outer coats produced at Robert Lawrence, Inc., Boston, Mass., contributed importantly to the decrease in sales and production and to the separations of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Robert Lawrence, Inc., Boston, Mass., engaged in employment related to the production of men's outer coats who became totally or partially separated from employment on or after November 23, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that workers engaged in employment related to the production of men's sportcoats are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 31st day of August 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-25525 Filed 9-11-78; 8:45 am]

[4510-28]

[TA-W-3627]

ROSALBA FASHION CO., INC., HOBOKEN, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3627: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats at Rosalba Fashion Co., Inc., Hoboken, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Rosalba Fashion Co., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department's investigation revealed that all of the criteria have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590,000 dozen in the first quarter of 1977 to 572,000 dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturer for whom Rosalba Fashion Co., Inc. worked in 1976 and 1977. The manufacturer, who accounted for 100 percent of sales in 1976, reduced purchases from Rosalba Fashion Co., Inc., and increased purchases of imported ladies' coats in 1977 compared to 1976 and in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the ladies' coats produced at Rosalba Fashion Co., Inc., Hoboken, N.J., contributed importantly to the decline in sales or production and to the separations of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Rosalba Fashion Co., Inc., Hoboken, N.J., who became totally or partially separated from employment on or after October 1, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of August 1978.

BRIAN TURNER,
Executive Assistant to the Deputy Under Secretary for International Affairs.

[FR Doc. 78-25526 Filed 9-11-78; 8:45 am]

[4510-28]

[TA-W-3442]

SIGNALITE DIVISION, GENERAL INSTRUMENT CORP., NEPTUNE, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3442: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 28, 1978, in response to a worker petition received on March 13, 1978, which was filed on behalf of workers and former workers producing neon indicator lamps and lighted devices at Signalite Division, General Instrument Corp., Neptune, N.J. The investigation revealed that the Signalite Division produces only neon indicator lamps.

The notice of investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15205). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Signalite, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation revealed that all of the requirements have been met.

Imports of neon indicator lamps increased absolutely in 1977 compared to 1976 from 7,620 thousand units to 17,900 thousand units. Imports as a percentage of U.S. production increased from 4.3 percent in 1976 to 9.7 percent in 1977.

Signalite began importing neon indicator lamps manufactured in a General Instrument offshore facility in February 1977. Signalite's sales of imported neon lamps as a percentage of total division sales amounted to 12.9 percent in 1977, increasing to 29.2 percent in the first 3 months of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with neon indicator lamps produced at Signalite Division, General Instrument Corp., Neptune, N.J., contributed importantly to the total or partial separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Signalite Division, General Instrument Corp., Neptune, N.J., engaged in employment related to the production of neon indicator lamps who became totally or partially separated from employment on or after March 10, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of August 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-25527 Filed 9-11-78; 8:45 am]

[4510-28]

[TA-W-3610]

STYLE SPORTSWEAR, PATERSON, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3610: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and raincoats at Style Sportswear, Paterson, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Style Sportswear, its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590,000 dozen in the first quarter of 1977 to 572,000 dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

U.S. imports of women's, misses', and children's raincoats decreased from 261,000 dozen in 1976 to 242,000 dozen in 1977. Imports increased from 84,000 dozen in the first quarter of 1977 to 129,000 dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 45.0 percent in 1976 to 40.3 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Style Sportswear worked in 1976 and 1977. Manufacturers that accounted for 100 percent of sales in 1976 reported that they reduced purchases from Style Sportswear and increased purchases of imported ladies' coats and raincoats in 1977 compared to 1976. Manufacturers that accounted for 100 percent of sales in 1977 reported that the reduced purchases from Style Sportswear and increased purchases of imports in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats and raincoats produced at Style Sportswear, Paterson, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of Style Sportswear, Paterson, N.J., who became totally or partially separated from employment on or after March 28, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of August 1978.

BRIAN TURNER,
Executive Assistant to the Deputy Under Secretary for International Affairs.

[FR Doc. 78-25528 Filed 9-11-78; 8:45 am]

[4510-28]

[TA-W-3204]

SUSSEX CLOTHES, LTD., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3204: Investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 22, 1978, in response to a worker petition received on February 6, 1978, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's suitcoats, sportcoats, and pants at Sussex Clothes, Ltd., New York, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8863). No public hearing was requested and none was held.

The information upon which the determination was made was obtained

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principally from officials of Sussex Clothes, Ltd., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored dress coats and sportcoats increased from 5,465 thousand units in 1975 to 6,965 thousand units in 1976 and then decreased to 6,269 thousand units in 1977. Imports in absolute terms in 1977 were above those in the years 1973-75. The imports to domestic production ratio decreased from 28.2 percent in 1975 to 25.3 percent in 1976.

U.S. imports of men's and boys' tailored suits increased from 3,105 thousand units in 1975 to 3,562 thousand units in 1976. Imports then increased to 4,091 thousand units in 1977. The imports to domestic production ratio increased from 18.3 percent in 1975 to 20.0 percent in 1976.

U.S. imports of men's and boys' dress and sport trousers and shorts increased from 55,508 thousand units in 1975 to 73,209 thousand units in 1976. Imports then increased to 76,419 thousand units in 1977. The imports to domestic production ratio increased from 34.1 percent in 1975 to 41.9 percent in 1976.

A survey of customers of Sussex Clothes, Ltd. revealed that some had increased purchases of imported men's suits, sportcoats, and pants while reducing purchases from Sussex Clothes in 1977 compared to 1976 and in the first quarter of 1977.

A certification applicable to the petitioning group of workers was issued on March 15, 1976 (TA-W-548) and expired on March 15, 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men's suitcoats, sportcoats, and pants produced by Sussex Clothes, Ltd., New York, N.Y., contributed importantly to the decline in sales and production and to the total or partial separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Sussex Clothes, Ltd., New York, N.Y., who became totally or partially separated from employment on or after March 15, 1978, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of August 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-25539 Filed 9-11-78; 8:45 am]

[4510-28]

[TA-W-3782]

TAG-A-LONG HANDBAGS & ACCESSORIES, INC., EAST HAVEN, CONN.; NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3782: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 25, 1978, in response to a worker petition received on May 22, 1978, which was filed on behalf of workers and former workers producing handbags at Tag-A-Long Handbags & Accessories, Inc., East Haven, Conn. The investigation was expanded to include the New York, N.Y., sales office.

The notice of investigation was published in the FEDERAL REGISTER on June 9, 1978 (43 FR 25197). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Tag-A-Long, its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation revealed that all of the criteria have been met.

Imports of handbags increased from 90.2 million units in 1976 to 92.8 million units in 1977. Imports continued to increase from 22.1 million units during the first quarter of 1977 to 34.0 million units during the first quarter of 1978. The ratio of imports of handbags to domestic production increased from 111.1 percent in 1976 to 116.6 percent in 1977.

Many of the customers who were surveyed either imported handbags directly or purchased, from domestic sources, handbags that were manufactured offshore. The customers reduced purchases from Tag-A-Long while increasing, either directly or indirectly, purchases of imported handbags.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with handbags produced by Tag-A-Long Handbags & Accessories, Inc., East Haven, Conn., contributed importantly to the total or partial separations of the workers of that plant and at the firm's New York sales office. In accordance with the provisions of the Act, I make the following certification:

All workers of Tag-A-Long Handbags & Accessories, Inc., East Haven, Conn., and New York, N.Y., who became totally or partially separated from employment on or after October 29, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of August 1978.

BRIAN TURNER,
Executive Assistant to the Deputy Under Secretary for International Affairs.

[FR Doc. 78-25530 Filed 9-11-78; 8:45 am]

[4510-28]

[TA-W-3108]

WESTERN GENERAL OFFICES, PHELPS DODGE CORP., DOUGLAS, ARIZ.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3108: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 9, 1978, in response to a worker petition received on January 23, 1978, which was filed on behalf of workers and former workers of the Western Engineering Department of Phelps Dodge Corp. engaged in providing engineering and support functions to its Western operations. The investigation was expanded to include workers in the rest of the Western General Offices who provide accounting, purchasing and administrative support to the Western operations.

The notice of investigation was published in the FEDERAL REGISTER on February 24, 1978 (43 FR 7743). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Phelps Dodge Corp. Metals Week, Metal Bulletin, American Metal Market, the U.S. Department of Interior, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. it is concluded that all of the requirements have been met.

The Department's investigation revealed that the Western General Offices perform support functions such as engineering, accounting, purchasing and administration for the Western operations of Phelps Dodge Corp. These support functions are integral to the production of refined copper by the Western operations of Phelps Dodge Corp.

The Western operations consist of mining facilities at Morenci, Ariz., Ajo, Ariz. (New Cornelia mine), Tyrone, N. Mex., Bisbee, Ariz., and a smelter at Douglas, Ariz. Workers at the Morenci, Ariz., Ajo, Ariz., and Douglas, Ariz. production facilities of the Western operations have been certified eligible to apply for adjustment assistance by the Department in January 1978 (TA-W-2423, 2421, and 2420, respectively). Copper production at the facilities certified by the Department constituted a major proportion of total copper production by the Western operations in 1976 and 1977.

U.S. imports of refined copper increased from 147 thousand short tons in 1975 to 384 thousand short tons in 1976 and to 391 thousand short tons in 1977. Imports increased from 66 thousand short tons in the first quarter of 1977 to 150 thousand short tons in the first quarter of 1978.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1975 to 21.0 percent and 22.2 percent, respectively, in 1976 and 1977. The ratio increased from 13.1 percent in the first quarter of 1977 to 34.1 percent in the first quarter of 1978.

While imports of refined copper had increased by 161 percent in 1976 compared to 1975 and by 2 percent in 1977 compared to 1976, domestic demand increased at only a fraction of those rates. Inventory levels of domestic and imported copper on consignment at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and 143.2 percent above December 1974 levels. In each month in the period January-November 1977, inventories were higher than the same month in 1976. In December 1977 inventories were only slightly lower than inventories in December 1976. Phelps Dodge and other domestic producers of refined copper lost substantial sales in 1977 because of the excessive inventories of domestic and imported refined copper.

Imports of copper are affected by the differential between the domestic producers' price for copper and the world price established by the LME (London Metal Exchange). When the LME price drops more than the estimated transportation costs of 5-8 cents per pound below the domestic producers' price, the demand for imported copper increases. The yearly average LME price for copper in 1977 was 10 cents below the yearly average domestic producers' price. During May and June 1977 the LME price was almost 11 cents per pound below the domestic producers' price and in July and August 1977 the LME price was almost 12 cents per pound below the domestic producers' price. At the same time; the abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in 1977, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased.

Price pressure from imported copper has reduced the ability of domestic producers to profitably mine domestic ore and convert it to copper concentrate and refined copper. Industry sources state that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound. The weighted average costs for the highest cost domestic copper mines are $1.05 per pound. Thus, with a domestic market price of 60 cents per pound, domestic producers lose on the average of 3 to 45 cents on each pound of copper they choose to sell.

The depressed market price for copper caused by increased imports of copper negatively affected Phelps Dodge Corp. level of profits. Net income recorded by Phelps Dodge Corp. has declined in each year during the period 1974 to 1977. Net income fell 57 percent from 1976 to 1977. As a result of the market conditions for copper, Phelps Dodge instituted certain budget cuts in late 1977. These budget cuts included reducing activities in the Western General Offices, resulting in layoffs of workers in that department of the firm.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with refined copper produced by Phelps Dodge Corp. contributed importantly to the decline in production and to the total or partial separation of workers of the Western General Offices of that firm. In accordance with the provisions of the Act, I make the following certifications:

All workers of the Western General Offices of Phelps Dodge Corp., Douglas, Ariz., who became totally or partially separated from employment on or after December 3, 1977 are eligible to apply for adjudtment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of August 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-25531 Filed 9-11-78; 8:45 am]

[4510-28]

[TA-W-3266]

WESTINGHOUSE ELECTRIC CORP., LAMP DIVISION, BELLEVILLE, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3266: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 27, 1978, in response to a worker petition received on February 13, 1978, which was filed by the International Union of Electrical, Radio and Machine Workers on behalf of former workers producing lamp bases at the Belleville, N.J., plant of the Lamp Division, Westinghouse Electric Corp.

The notice of investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10648). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from information and publications provided by officials of the Westinghouse Electric Corp., its customers, the U.S. Department of Commerce, U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. The investigation revealed that without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

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On January 7, 1977, the Lamp Division announced its decision to close the Belleville plant. The Belleville plant produced lamp bases for fluorescent and miniature incandescent lamps. Westinghouse found that there was available capacity at the lamp making plants to manufacture lamp bases and that consolidating production into the lamp making plants would increase production efficiency. The Belleville plant closed April 1, 1977.

The Department's investigation revealed that production of both fluorescent and miniature incandescent lamps increased in 1977 compared to 1976. The ratio of imports to domestic production of fluorescent lamps was less than 2 percent in 1976 and 1977. None of the customers of Westinghouse that were surveyed decreased purchases of fluorescent lamps from Westinghouse and increased purchases of imports. Most of the surveyed customers of Westinghouse who purchased miniature incandescent lamps did not purchase imports.

CONCLUSION

After careful review, I determine that workers of the Belleville, N.J., plant of the Lamp Division, Westinghouse Electric Corp. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of August 1978.

GLORIA G. PRATT,
Director, Office of Foreign Economic Policy.

[FR Doc. 78-25532 Filed 9-11-78; 8:45 am]

[4510-28]

Office of the Secretary

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under title II, chapter 2, of the act in accordance with the provisions of subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 22, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 22, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 31st day of August 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Aronson Textile Co. (Distributive Workers of America).	New York, N.Y.	Aug. 24, 1978	Aug. 9, 1978	TA-W-4,122	Converters of acetate/nylon piece goods.
Bethlehem Steel Corp., Vernon Plant (workers).	Los Angeles, Calif.	Aug. 14, 1978	do	TA-W-4,123	Wire rope, wire rods, alloy bars, or structural shapes, carbon steel bars and bolts and nuts.
Cleardon Manufacturing (ACTWU)	Coalport, Pa.	Aug. 28, 1978	Aug. 23, 1978	TA-W-4,124	Heavy weight and lightweight outerwear jackets for men.
Colorado & Wyoming Railway Co. Southern Division (Brotherhood of Maintenance of Way Employees Mountain & Plains Federation).	Pueblo, Colo.	Aug. 9, 1978	July 18, 1978	TA-W-4,125	Transports coal from C.F. & I. Steel Corp. to an interchange.
Colorado & Wyoming Railway Co. Middle Division (Brotherhood of Maintenance of Way Employees Mountain & Plains Federation).	do	do	do	TA-W-4,126	Transports raw material from the interchanges to the plant (C.F. & I. Steel) and transports finished products to commercial interchange.
Dynaco, Inc. (workers)	Blackwood, N.J.	Aug. 29, 1978	Aug. 11, 1978	TA-W-4,127	Tuners, preamplifiers, power amplifiers, integrated amplifiers, and speakers.
Oakhall Sportswear, Inc. (workers)	Farmingdale, Long Island City, N.Y.	Aug. 22, 1978	Aug. 2, 1978	TA-W-4,128	Women's knitted apparel.
Serafina II, Inc. (company)	Gloucester, Mass.	Aug. 28, 1978	Aug. 24, 1978	TA-W-4,129	Catching and selling fish.
The Lee's Co. (workers)	Stevenson, Ala.	do	Aug. 23, 1978	TA-W-4,130	Denim blue jeans and hunting jackets for men.
U.S. Plastic & Chemical Corp. (URW)	Danielson, Conn.	do	Aug. 20, 1978	TA-W-4,131	Buttons, polishing and finishing.

[FR Doc. 78-25633 Filed 9-11-78; 8:45 am]

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[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[78-39]

SPACE SCIENCE STEERING COMMITTEE, OUT-OF-ECLIPTIC (OOE) MISSION AD HOC ADVISORY SUBCOMMITTEE

Renewal

Pursuant to section 14a of the Federal Advisory Committee Act (Pub. L. 92-463) and after consultation with the General Services Administration, NASA has determined that renewal of the above-named advisory subcommittee is in the public interest in connection with the performance of duties imposed upon NASA by law. The Space Science Steering Committee, under which the subcommittee operates, is a NASA internal committee, composed wholly of Government employees.

The function of this subcommittee is to obtain the advice of the scientific community on proposals in the specialized areas identified by the name of the Subcommittee.

ARNOLD W. FRUTKIN,
Acting Associate Administrator, External Relations.

SEPTEMBER 7, 1978.

[FR Doc. 78-25608 Filed 9-11-78; 8:45 am]

[7536-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

HUMANITIES PANEL

Meeting

SEPTEMBER 7, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is hereby given that meetings of the Humanities Panel will be held at the National Endowment for the Humanities, Washington, D.C., from 9 a.m. to 5:30 p.m. on the following dates:

September 27th and 28th (room 807).

October 5th and 6th (first floor conference room).

October 13th (first floor conference room).

The purpose of these meetings is to review NEH museums and historical organizations program applications submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

Because the proposed meetings will consider financial information and disclosure information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the chairman's delegation of authority to close advisory committee meetings, dated January 15, 1978, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meetings to protect the free exchange of internal views and to avoid interference with operation of the committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen McCleary, 806 15th Street NW., Washington, D.C. 20506 or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer, Museums and Historical Organizations Program, Division of Public Programs.

[FR Doc. 78-25617 Filed 9-11-78; 8:45 am]

[7536-01]

HUMANITIES PANEL

Meeting

SEPTEMBER 6. 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in the first floor conference room, from 8 a.m. to 6 p.m. on October 3 and 4, 1978.

The purpose of the meeting is to review public media applications in all of the fields of the humanities submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the chairman's delegation of authority to close advisory committee meetings, dated January 15, 1978, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 78-25618 Filed 9-11-78; 8:45 am]

[7536-01]

HUMANITIES PANEL

Meeting

AUGUST 30, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in Room 807, from 9 a.m. to 5:30 p.m. on October 10, 1978.

The purpose of the meeting is to review NEH summer seminar applications in religion submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the chairman's delegation of authority to close advisory committee meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 78-25619 Filed 9-11-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR SCIENCE EDUCATION

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Science Education.
Date and time: September 28 and 29, 1978, 9 a.m. each day.
Place: Room 651, 5225 Wisconsin Avenue NW., Washington, D.C.
Type of meeting: Open.
Contact person: Mrs. Frances Watts, Staff Assistant, Science Education Directorate, National Science Foundation, Room W-600, Washington, D.C. 20550, telephone 202-282-7930.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative

Management, National Science Foundation, Room 248, Washington, D.C. 20550.
Purpose of committee: To provide advice and recommendations concerning the impact of all Foundation activities (including research, scientific information, and international programs, as well as, specifically, "education" programs) relating to education in the sciences in U.S. schools, colleges, and universities.
Agenda:

THURSDAY, SEPTEMBER 28

Update on fiscal year 1979 budget; introduction of general topic of meeting—Early Adolescence; Overview of Early Adolescence, Discussion and Recommendations for Action; oversight activities by the Undergraduate Subcommittee.

FRIDAY, SEPTEMBER 29

Remarks by Deputy Director, NSF; SE Advisory Committee structure and relationships to other advisory committees in directorate; issues initiated by the Advisory Committee.

M. REBECCA WINKLER,
Committee Management Coordinator.

SEPTEMBER 6, 1978.

[FR Doc. 78-25587 Filed 9-11-78; 8:45 am]

[7555-01]

DOE/NSF NUCLEAR SCIENCE ADVISORY COMMITTEE (NUSAC)

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: DOE/NSF Nuclear Science Advisory Committee (NUSAC).
Date and time: November 3, 1978, 2:30 p.m.-6 p.m. November 4, 1978, 9 a.m.-6 p.m.
Place: Meyer Memorial Library, Room 124, Stanford University, Stanford, Calif. 94305.
Type of meeting: November 3, 1978—Open. November 4, 1978—Open.
Contact person: Dr. Howel G. Pugh, Head, Nuclear Science Section, Room 341, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4318.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of committee: To provide advice on a continuing basis to both DOE and NSF on support for basic nuclear science in the United States.
Agenda:

NOVEMBER 3, 1978

2:30 p.m.—Discussion of agenda and procedures.
3 p.m.—Remarks of DOE representative.
3:30 p.m.—Remarks of NSF representative.
4 p.m.—Remarks and discussion on activities of the 1979 NUSAC Facilities Subcommittee.
6 p.m.—Adjournment.

NOVEMBER 4, 1978

9 a.m.—Remarks and discussion on activities of the 1978-79 Manpower Subcommittee.
9:45 a.m.—Remarks and discussion on activities of the 1978-79 Instrumentation Subcommittee.
11 a.m.—Remarks and discussion on activities of the working group on user-type research.
11:45 a.m.—Remarks and discussion on activities of the working group on ongoing programs and laboratory operations.
2 p.m.—Discussion of possible comments to the Advisory Committee for Physics of the NSF.
2:30 p.m.—Remarks and discussion on activities of the working group on long-range planning and scientific priorities.
6 p.m.—Adjournment.

M. REBECCA WINKLER,
Committee Management Coordinator.

SEPTEMBER 6, 1978.

[FR Doc. 78-25589 Filed 9-11-78; 8:45 am]

[7555-01]

SUBCOMMITTEE ON DEVELOPMENTAL BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Developmental Biology of the Advisory Committee for Physiology, Cellular, and Molecular Biology.
Date and time: November 2, 3, and 4, 1978, 9 a.m.
Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Mary E. Clutter, Program Director, Developmental Biology Program, Room 326, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4314.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in developmental biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

SEPTEMBER 6, 1978.

[FR Doc. 78-25588 Filed 9-11-78; 8:45 am]

[7555-01]

SUBCOMMITTEE ON LINGUISTICS

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Linguistics of the Advisory Committee for Behavioral and Neural Sciences.
Date and time: November 2 and 3, 1978, 9 a.m. to 5 p.m. each day.
Place: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Paul G. Chapin, Program Director, Linguistics Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202-254-6326.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in linguistics.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

SEPTEMBER 6, 1978.

[FR Doc. 78-25586 Filed 9-11-78; 8:45 am]

[7555-01]

SUBCOMMITTEE ON PUBLIC UNDERSTANDING OF SCIENCE OF THE ADVISORY COMMITTEE ON SCIENCE AND SOCIETY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Public Understanding of Science of the Advisory Committee on Science and Society.
Date and time: October 5 and 6, 1978, 9 a.m. to 5 p.m. each day.
Place: Room 651, National Science Foundation, 5225 Wisconsin Avenue NW., Washington, D.C.
Type of meeting: Part open—October 5—Open 9 a.m. to 12 noon; closed 1 p.m. to 5 p.m. October 6—Closed 9 a.m. to 5 p.m.
Contact person: Mr. George W. Tressel, Program Director, Public Understanding of Science, Office of Science and Society, National Science Foundation, Washington, D.C. 20550, telephone 202-282-7770.
Purpose of subcommittee: To provide advice and recommendations concerning direction and priorities and support for projects in the public understanding of science program.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Agenda:

OCTOBER 5—9 A.M. TO 12 NOON—OPEN SESSION

Open discussion. Review of the grants and funding pattern of the last fiscal year and discuss trends and questions related to PUOS' long-range funding policies.

OCTOBER 5—1 P.M. TO 5 P.M. AND OCTOBER 6—9 A.M. TO 5 P.M.—CLOSED SESSIONS

To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

SEPTEMBER 6, 1978.

[FR Doc. 78-25591 Filed 9-11-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON ADVANCED REACTORS

Meeting

The ACRS Subcommittee on Advanced Reactors will hold an open meeting on September 27, 1978, in room 1046, 1717 H Street NW., Washington, D.C. 20555, to continue its review of matters related to the NRC-sponsored research on the safety of advanced reactor designs. This meeting was rescheduled from September 25, 1978, as announced at 43 FR 36152, August 15, 1978.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977 (42 FR 56972), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

WEDNESDAY, SEPTEMBER 27, 1978

8:30 A.M. UNTIL THE CONCLUSION OF BUSINESS

The Subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the executive session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, and their consultants, pertinent to the above topics. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Dr. Richard P. Savio, telephone 202-634-3267, between 8:15 a.m. and 5 p.m., e.d.t.

Dated: Sept. 6, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-25580 Filed 9-11-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON RADIOLOGICAL EFFECTS AND SITE EVALUATION

Meeting

The ACRS Subcommittee on Radiological Effects and Site Evaluation will hold an open meeting on September 27-28, 1978, at 1717 H Street NW., Washington, D.C. 20555, to review: (1) A draft of regulatory guide 8.JB, "Radiation Safety Training at Nuclear Power Plants," (2) certain aspects of emergency planning, and (3) the NRC research program on radiological effects for the annual ACRS report to Congress.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977 (42 FR 56972), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: Room 1167 at 1 p.m., Wednesday, September 27, 1978, until conclusion of business. Room 1046 at 8:30 a.m., Thursday, September 28, 1978, until conclusion of business.

The Subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the executive session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, and their consultants, pertinent to this review. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Mr. Ragnwald Muller, telephone 202-634-1413 between 8:15 a.m. and 5 p.m., e.d.t.

Dated: September 6, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-25574 Filed 9-11-78; 8:45 am]

V 4 3 / 1 7 7

S E 1 2 7 8

[7590-01]

[Docket No. 50-368]

ARKANSAS POWER & LIGHT CO.

Availability of Safety Evaluation Report

Notice is hereby given that the Office of Nuclear Reactor Regulation has published its safety evaulation report regarding the review of the fire protection program for the Arkansas Nuclear One—Unit 2 plant located in Pope County, Ark. The review of the fire protection program is in connection with the review of the application for an operating license for the Arkansas Nuclear One—Unit 2 plant. Notice of receipt of the Arkansas Power & Light Co.'s application for a facility operating license was published in the FEDERAL REGISTER on April 23, 1974 (39 FR 14371).

The report is being made available at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Arkansas Polytechnic College, Russellville, Ark. 72801 for inspection and copying. The report (Document No. NUREG-0223 dated August 1978) can also be purchased, at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Va. 22161.

Dated at Bethesda, Md., this 30th day of August 1978.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc. 78-25583 Filed 9-11-78; 8:45 am]

[7590-01]

[Docket No. 50-409]

DAIRYLAND POWER COOPERATIVE (LA CROSSE BOILING WATER REACTOR) (SPENT FUEL AND FULL-TERM OPERATING LICENSE)

Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR § 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for these proceedings:

Alan S. Rosenthal, Chairman.
Michael C. Farrar.
Dr. W. Reed Johnson.

Dated: September 6, 1978.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 78-25581 Filed 9-11-78; 8:45 am]

[7590-01]

[Docket Nos. 50-452; 50-453]

DETROIT EDISON CO. (GREENWOOD ENERGY CENTER, UNITS 2 AND 3)

Order Canceling Prehearing Conference Scheduled for September 19-21, 1978

The Board was aware that the applicant planned to update and revise the application, but we were not aware of the extent of the revision until we received the NRC staff's filing of August 31, 1978. The staff estimates that it will be more than 2 years before its review of the revised application is completed. The staff also stated that after the revised application was received, "this application must be renoticed in the FEDERAL REGISTER to give interested persons, other than those who have already intervened, an opportunity to file intervention petitions."

The Board determined that the scheduled prehearing conference would be canceled since it was not possible that it could be productive. All parties (except DACE who cannot be contacted by phone) were notified on September 1, 1978, of the Board's decision. Applicant and staff were also informed that their responses to the contentions in the petition of CEE due this week are no longer required. The prehearing conference is indefinitely postponed.

The staff's statement relative to the renotice of the proceeding is not explicit. Does the staff anticipate that it will recommend to the Commission that a renotice is appropriate or is it putting the Board on notice that it will request the Licensing Board to take this action? The Board expects a clarification on this point.

It is so ordered.

Dated at Bethesda, Md., this 6th day of September 1978.

For the Atomic Safety and Licensing Board.

ELIZABETH S. BOWERS,
Chairman.

[FR Doc. 78-25582 Filed 9-11-78; 8:45 am]

[7590-01]

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK

Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-59 issued to Power Authority of the State of New York (the licensee), for operation of the James A. FitzPatrick Nuclear Power Plant (the facility), located in Oswego County, N.Y.

The amendment would authorize an increase in spent fuel storage capacity from 760 to 2244 fuel assemblies. The amendment would also revise design features and associated operating limits, as necessary, to accommodate the increased storage capacity in accordance with the licensee's application dated July 26, 1978.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By October 12, 1978, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding, and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) or the subject matter of the proceeding as to which petitioner wishes to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to his petition to intervene which must include a list of the contentions which he seeks to have litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by the above date. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Lewis R. Bennett, Assistant General Manager/General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, N.Y. 10019, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)–(v) and § 2.714(d).

For further details with respect to this action, see the application for amendment, dated July 26, 1978, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Oswego County Office Building, 46 East Bridge Street, Oswego, N.Y.

Dated at Bethesda, Md., this 1st day of September, 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-25404 Filed 9-11-78; 8:45 am]

[7590-01]

[Docket Nos. 50-443-A and 50-444-A]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE, ET AL, SEABROOK STATION, UNITS 1 AND 2

Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Public Service Co. of New Hampshire, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed on May 15, 1978, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information adds Massachusetts Municipal Wholesale Electric Co., Vermont Electric Cooperative, Inc., Maine Public Service Co., Taunton Municipal Lighting Plant Commission, and Bangor Hydro-Electric Co., as possible co-owners of the Seabrook Station, Units 1 and 2.

The information was filed by Public Service Co. of New Hampshire, The United Illuminating Co., Central Maine Power Co., Central Vermont Public Service Corp., The Connecticut Light & Power Co., Fitchburg Gas & Electric Light Co., Montaup Electric Co., New Bedford Gas & Edison Light Co., New England Power Co., Vermont Electric Power Co., Inc., Massachusetts Municipal Wholesale Electric Co., Vermont Electric Cooperative, Inc., Maine Public Service Co., Taunton Municipal Lighting Plant Commission, Bangor Hydro-Electric Co., and Town of Hudson, Mass., Light & Power Department in connection with their application for construction permits and operating licenses for the Seabrook Station, Units 1 and 2. The site for this plant is located in Rockingham County, N.H.

The original antitrust portion of the application was submitted on July 9, 1973, and Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters, was published in the FEDERAL REGISTER on August 9, 1973 (38 FR 21522). The Notice of Hearing was published in the FEDERAL REGISTER on August 9, 1973 (38 FR 21519).

Copies of the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Exeter Public Library, Front Street, Exeter, N.H.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the Massachusetts Municipal Wholesale Electric Co., Vermont Electric Cooperative, Inc., Maine Public Service Co., Taunton Municipal Lighting Plant Commission, and Bangor Hydro-Electric Co. presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before November 6, 1978.

Dated at Bethesda, Md., this 21st day of August 1978.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch No. 4, Division of Project Management.

[FR Doc. 78-24769 Filed 9-1-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 6, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Man-

agement and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF ENERGY

Boiler Manufacturers Report, EIA-97, on occasion, boiler manufacturers, 238 responses, 119 hours, C. Louis Kincannon, 395-3211.

DEPARTMENT OF DEFENSE

Departmental and Other, Report of Profit, on occasion, business firms contracting with DOD, 495,000 responses, 3,960,000 hours, Office of Federal Statistical Policy and Standards, Caywood, D. P., 395-3443.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration (Medicare), Instructions for Completion of Federal Assistance Reports—Medicaid Fraud, HCFA-71, quarterly, State medicaid fraud control units, 200 responses, 5,440 hours, Budget Review Division, Human Resources Division, 395-4775.

Social Security Administration, Social Security Bulletin Readership Survey, SSA-3949, single time, individuals and institutions who regularly receive the SS bulletin, 1,800 responses, 300 hours, Human Resources Division, 395-3532.

Alcohol, Drug Abuse and Mental Health Administration, The Prevalence of Hearing Impairment in the State and County Mental Hospital Resident Population, single time, State and county mental hospitals, 1,695 responses, 1,695 hours, Office of Federal Statistical Policy and Standard, 673-7956.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse and Mental Health Administration, Treatment Outcome Prospective Study (TOPS), other (see SF-83), clients in drug abuse treatment programs, Human Resources Division, Richard Eisinger, 395-3214.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration, Monthly Billing and Reconciliation for Section 236, Tax and Utility Subsidy, HUD-9816, on occassion, managers of section 236 housing projects, 5,000 responses, 2,400 hours, Caywood, D. P., 395-3443.

EXTENSIONS

DEPARTMENT OF THE INTERIOR

Bureau of Mines, Industrial Explosives and Blasting Agents Sold by Manufacturers for Consumption in the United States, 6-1439-A, annually, producers of industrial explosives and blasting agent, 19 responses, 19 hours, Office of Federal Statistical Policy and Standard, 673-7956.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-25779 Filed 9-11-78; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Solicitation of Public Views

Pursuant to section 201 of the Trade Act of 1974, on September 5, 1978, the President received a report from the U.S. International Trade Commission (USITC) on the case of High-Carbon Ferrochromium (Investigation No. TA-201-35). The Commission submitted a report containing an affirmative determination that ferrochromium, containing over 3 percent by weight of carbon, provided for in item 607.31 of the Tariff Schedules of the United States (TSUS), is being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing an article like or directly competitive with the imported article.

The Commission finds and recommends that the imposition of rates of duty as follows, in addition to the existing column 1 rate of duty, is necessary to remedy the serious injury:

Ferrochromium, containing over 3 percent by weight of carbon, classifiable under item 607.31 of the TSUS:
1st year—30% ad valorem
2d year—30% ad valorem
3d year—25% ad valorem
4th year—20% ad valorem
5th year—20% ad valorem

Within 60 days of receiving a report from the Commission containing an affirmative determination, the President must determine what method and amount of import relief he will provide or determine that the provision of relief is not in the national economic interest, and whether he will direct expeditious consideration of adjustment assistance petitions.

In determining whether to provide import relief and what method and amount of import relief he will provide, the President must take into account, in addition to other considerations he may deem relevant, the following factors:

(1) The probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the Nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic markets for such articles;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on U.S. industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) The geographic concentration of imported products marketed in the United States;

(6) The extent to which the United States market is a focal point for exports of such article by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities, and workers if import relief were or were not provided.

The Office of the Special Representative for Trade Negotiations chairs the interagency Trade Policy Committee structure that makes recommendations to the President as to what action, if any, he should take on reports submitted by the USITC under section 201(d). In order to assist the Trade Policy Staff Committee in developing recommendations to the President as to what action to take under sections 202 and 203 of the Trade Act of 1974, the Committee welcomes briefs from interested parties on the above listed subjects. (Additional information on this case is available in USITC report 201-35).

Briefs should be submitted in twenty (20) copies to: Chairman, Trade Policy Staff Committee, Room 729, Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C. 20506.

To be considered by the Trade Policy Staff Committee, submissions should be received in the Office of the Special Representative for Trade Negotiations no later than the close of business Friday, September 29, 1978.

WILLIAM B. KELLY,
Chairman, Trade Policy Staff Committee.

[FR Doc. 78-25660 Filed 9-11-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1520]

CALIFORNIA

Declaration of Disaster Loan Area

Santa Barbara County and adjacent counties within the State of California constitute a disaster area as a result of damage caused by earthquake which occurred on August 13, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on October 30, 1978, and for economic injury until the close of business on May 30, 1979, at:

Small Business Administration, District Office, 211 Main Street, 4th floor, San Francisco, Calif. 94105

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 30, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-25610 Filed 9-11-78; 8:45 am]

[8025-01]

[Designation of Disaster Loan Area No. 6003]

FLORIDA

Designation of Disaster Loan Area

Nassau County in the State of Florida constitutes a disaster area because of a decrease in shrimp harvested this year. The reduction in the harvest is the direct result of the coldness of the water which prevented the normal movement of shrimp and the egg laying which usually takes place in May and June of 1978. Eligible persons, firms, and organizations may file applications for loans for economic injury until the close of business on June 6, 1979, at:

Small Business Administration, District Office, 400 West Bay Street, Jacksonville, Fla. 32202.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 6, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-25663 Filed 9-11-78; 8:45 am]

[8025-01]

[Designation of Disaster Loan Area No. 6004]

NORTH CAROLINA

Designation of Disaster Loan Area

Beaufort, Brunswick, Carteret, Dare, Hyde, New Hanover, Onslow, Pamlico, and Pender Counties within the State of North Carolina constitute a disaster area because of a decrease in the shrimp harvested this year. The reduction in the harvest is the direct result of cold water temperature and heavy rainfall this winter and spring of 1977-78. Eligible persons, firms, and organizations may file applications for loans for economic injury until the close of business on June 6, 1979, at:

Small Business Administration, District Office, 230 South Tryon Street, Suite 700, Charlotte, N.C. 28202

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Date: September 6, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-25662 Filed 9-4-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1521]

TEXAS

Declaration of Disaster Loan Area

The following 21 counties and adjacent counties within the State of Texas constitute a disaster areas as a result of natural disasters as indicated:

County	Natural disaster(s)	Date(s)
Andrews	Drought	January 1, 1978 to July 18, 1978.
Archer	do	January 1, 1978 to July 20, 1978.
Camp	do	April 1, 1978 to July 17, 1978.
Cass	do	January 1, 1978 to July 21, 1978.
Cherokee	do	April 1, 1978 to August 1, 1978.
Delta	do	April 1, 1978 to July 28, 1978.
Franklin	do	April 1, 1978 to July 27, 1978.
Grayson	do	June 1, 1978 to July 26, 1978.
Haskell	do	March 21, 1978 to August 2, 1978.
Hopkins	do	April 1, 1978 to August 4, 1978.
Jim Wells	do	October 1, 1977 to July 28, 1978.
Morris	do	June 1, 1978 to July 28, 1978.
Panola	do	January 1, 1978 to July 15, 1978.
Rains	do	March 6, 1978 to July 19, 1978.
Reagan	do	January 1, 1978 to July 24, 1978.
Red River	do	June 7, 1978 to July 31, 1978.
Throckmorton	do	January 1, 1978 to August 3, 1978.
Wheeler	do	January 1, 1978 to July 21, 1978.
Wichita	do	January 1, 1978 to August 25, 1978.
Young	do	January 1, 1978 to July 19, 1978.
Mitchell	do	October 1, 1977 to August 24, 1978.

Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on March 6, 1979, and for economic injury until the close of business on June 6, 1979, at:

Small Business Administration, District Office, 1100 Commerce Street, Dallas, Tex. 75242,

Small Business Administration, District Office, 222 East Van Buren, Suite 500, Harlingen, Tex. 78550

Small Business Administration, District Office, 712 Federal Office Building and U.S. Courthouse, Lubbock, Tex. 79401

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 6, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-25664 Filed 9-11-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1457; Amendment No. 9]

TEXAS

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 16584), Amendment No. 1 (see 43 FR 20070), Amendment No. 2 (see 43 FR 24641), Amendment No. 3 (see 43 FR 26511), Amendment No. 4 (see 43 FR 29205), Amendment No. 5 (see 43 FR 30634), Amendment No. 6 (see 43 FR 33984), Amendment No. 7 (see 43 FR 35777), Amendment No. 8 (see 43 FR 37294) are amended by a change in the incidence period for Upton County, Tex., from January 1, 1978-May 7, 1978 to May 1, 1977-August 1, 1978 for drought. All other information remains the same, i.e., the termination date for filing applications for physical damage is close of business on October 11, 1978, and for economic injury until the close of business on December 11, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 30, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-25611 Filed 9-11-78; 8:45 am]

[8025-01]

[Application No. 04/04-5151]

VENTURE OPPORTUNITIES CORPORATION

Application for a license to Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of the

Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Venture Opportunities Corp. (applicant) with the Small Business Administration pursuant to 13 CFR 107.102 (1978).

The officers and directors are as follows:
A. Fred March, President and Director, 759 NE. 166th Street, Apartment No. 3, North Miami Beach, Fla. 33162.
Flora March, Vice President and Director, 759 NE. 166th Street, Apartment No. 3, North Miami Beach, Fla. 33162.
Robert E. Dady, Secretary and director, 1438 Brickell Avenue, Miami, Fla. 33131.

The applicant will maintain its principal place of business at 1438 Brickell Avenue, Miami, Fla. 33131. It will begin operations with $500,000 of private capital derived from the sale of 1,000 shares of common stock to A. Fred March.

The applicant will conduct its operations in the Miami Dade County areas which are going through stress.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantaged.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA rules and regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Duputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Miami, Fla.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 7, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-25661 Filed 9-11-78; 8:45 am]

[4710-05]

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 626]

PRIVACY ACT OF 1974

Proposed Change to a System of Records; Correction

In FR Doc. 78-23690 appearing at page 37506 in the issue for Wednesday, August 23, 1978, the comment period (Column 3) was inadvertently omitted. The comment period for proposed changes to the Security Records, STATE-36, is "September 22, 1978."

Dated: September 5, 1978.

GLADYS I. POTICHER,
Liaison Officer.

[FR Doc. 78-25644 Filed 9-11-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

VETERANS ADMINISTRATION WAGE COMMITTEE

Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, notice is hereby given that meetings of the Veterans Administration Wage Committee will be held on:

Thursday, October 5, 1978.
Thursday, October 19, 1978.
Thursday, November 2, 1978.
Thursday, November 16, 1978.
Thursday, November 30, 1978.
Thursday, December 14, 1978.
Thursday, December 28, 1978.

The meetings will convene at 2:30 p.m. and will be held in Room 1175A, Veterans Administration Central Office, 810 Vermont avenue NW., Washington, D.C.

The Committee's primary responsibility is to consider and make recommendations to the Chief Medical Director, department of Medicine and Surgery on all matters involved in the development and authorization of wage rate schedules for Federal Wage System (blue-collar) employees.

At these scheduled meetings, the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, as amended by Pub. L. 94-409, meetings may be closed to the public when they are concerned with matters listed under section 552b, Title 5, United States Code. Two of the matters so listed are those related solely to the internal personnel rules and practices of an agency (5 U.S.C. 552b(c)(2)), and those involving trade secrets and commercial or financial information obtained from a person and privileged or confidential (5 U.S.C. 552b(c)(4)).

Accordingly, I hereby determine that all portions of the meetings cited above will be closed to the public because the matters considered are related to the internal rules and practices of the Veterans Administration (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who wish to do so are invited to submit material in writing to the Chairman regarding matters believed to be deserving of the Committee's attention.

Additional information concerning these meetings may be obtained by contacting the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue NW., Washington, D.C. 20420.

Dated: September 5, 1978.

MAX CLELAND,
Administrator.

[FR Doc. 78-25614 Filed 9-11-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Decisions Volume No. 24]

DECISION-NOTICE

AUGUST 21, 1978.

The following applications are governed by special rule 247 of the Commission's rules of practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission on or before October 12, 1978. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall

specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is not a major Federal action significantly affecting the quality of the human environment.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, Review Board No. 3, members Parker, Fortier, and Hill (Review Board member Fortier not participating).

H. G. HOMME, JR.,
Acting Secretary.

MC 200 (Sub-308F), filed June 28, 1978. Applicant: RISS INTERNATIONAL CORP. (a Delaware corporation), 903 Grand Avenue, Kansas City, MO 64106. Representative: Rodger J. Walsh, 903 Grand Avenue, Kansas City, MO 64106. To operate as a *common carrier*, by motor vehicle, transporting: *Electronic devices, radios, and televisions*, serving Bloomington, IN, as an off-route point in connection with carrier's presently authorized regular-route operations. (Hearing site: Kansas City, MO, or Indianapolis, IN.)

MC 263 (Sub-226F), filed July 3, 1978. Applicant: GARRETT FREIGHTLINES, INC., 2055 Garrett Way, Pocatello, ID 83201. Representative: Wayne S. Green (same address as applicant). To operate as a *common carrier*, by motor vehicle, over (A) regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Albuquerque, NM, and New Orleans, LA, (1) from Albuquerque over Interstate Hwy 40 to junction U.S. Hwy 287, then over U.S. Hwy 287 to junction Interstate Hwy 20 at Fort Worth, then over Interstate Hwy 20 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction U.S. Hwy 190, then over U.S. Hwy 190 to junction Interstate Hwy 10, then over Interstate Hwy 10 to New Orleans, and return over the same route, (2) from Albuquerque to Fort Worth as described in (1) above, then over Interstate Hwy 20 to junction Interstate Hwy 45, then over Interstate Hwy 45 to junction Interstate Hwy 10, then over Interstate Hwy 10 to New Orleans, and return over the same route, and (3) from Albuquerque over Interstate Hwy 40 to junction U.S Hwy 84, then over U.S. Hwy 84 to junction Interstate Hwy 20, then over Interstate Hwy 20 to Fort Worth, then over the routes described in (1) and (2) above to New Orleans, and return over the same route, serving the intermediate and off-route points of Dallas, Fort Worth, Tyler, Longview, Houston, and Beaumont, TX, and Shreveport and Baton Rouge, LA, (B) irregular routes, transporting: *Frozen foods and potato products*, from those points in ID south of the southern boundary of Idaho County, ID, to points in TX and LA. (Hearing site: Pocatello, ID, or Spokane, WA.)

NOTE.—Certificate shall be limited, in point of time, to a period expiring 5 years from the date of issuance of the certificate.

MC 1263 (Sub-30F), filed July 17, 1978. Applicant: McCARTY TRUCK LINES, INC., 17th and Harris, Trenton, MO 64683. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *metal cans and can ends*, from Mount Vernon and Carthage, MO, to Kansas City, KS. (Hearing site: Kansas City, MO.)

MC 3062 (Sub-42F), filed June 19, 1978. Applicant: INMAN FREIGHT SYSTEM, INC., 321 North Spring Avenue, Cape Girardeau, MO 63701. Representative: Joel H. Steiner, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lead, lead alloys, and zinc*, and (2) *materials, equipment, and supplies* used in the manufacture, production, sale, or distribution of the commodities named in (1) above (except commodities in bulk, commodities in dump vehicles, and commodities which because of their size or weight require the use of special equipment), between Herculaneum, MO, on the one hand, and, on the other, points in AL, IL, and IN. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 5227 (Sub-40F), Filed July 5, 1978. Applicant: ECKLEY TRUCKING, INC.,P.O. Box 201, Mead, NE 68041. Representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement in containers, and lumber and lumber products*, from points in WA, OR, CA, ID, and MT, to points in AZ, AR, CO, ID, IL, IN, IA, KS, MN, MS, MT, NE, ND, NM, SD, UT, WI, and WY, restricted to the transportation of traffic originating at the indicated origins and destined to the indicated destinations. (Hearing site: Portland, OR, or Lincoln, NE.)

MC 11220 (Sub-155F), filed June 28, 1978. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. To operate as a *common carrier*, by motor vehicle,

transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of National Starch & Chemical Corp., at or near Meredosia, IL, as an off-route point in connection with carrier's presently authorized regular-route operations. (Hearing site: Washington, DC.)

MC 14702 (Sub-75F), filed June 19, 1978. Applicant: OHIO FAST FREIGHT, INC., 3893 Market Street NW., Warren OH 44484. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Georgetown Steel Co., at or near Georgetown, SC, to points in PA, NY, NJ, OH, IN, IL, MD, MI, VA, WV, and WI. The person or persons who may be engaged in common control with Bellevue Trucking Co. must either file an application under section 5(a) of the Interstate Commerce Act or submit an affidavit explaining why such approval is unnecessary. (Hearing site; Columbus, OH.)

MC 23618 (Sub-33F), filed July 28, 1978. Applicant: McALISTER TRUCKING CO., a corporation, d.b.a. MATCO, P.O. Box 2377, 2041 South Treadaway Boulevard, Abilene, TX 79604. Representative: E. Larry Wells, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Trash and refuse collection bins, collection boxes for reusable commodities, stoves, fireplaces, chimney assemblies, spark arresters, and hearths*, and (b) *equipment and supplies* used in the installation of the commodities named in (a) above, in containers or on pallets, from Santa Cruz, CA, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and application of the commodities named in (1) above (except liquids in bulk), between points in the United States (except AK and HI), on the one hand, and, on the other, Santa Cruz, CA. Hearing site: San Francisco or Los Angeles, CA.)

MC 29934 (Sub-18F), filed June 25, 1978. Applicant: LO BIONDO BROS. MOTOR EXPRESS, INC., P.O. Box 160, Bridgeton, NJ 08302. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, not exceeding 1-gallon capacity*, from Knox, Marienville, Parker, Elk City, and Paint, PA, to Dayton, NJ. Hearing site: New York, NY.

MC 38320 (Sub-19F), filed June 23, 1978. Applicant: CENTRAL MOTOR EXPRESS, INC., P.O. Drawer C, Campbellsville, KY 42718. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. To operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, and *malt beverage containers*, from the facilities of Pabst Brewery, at or near Perry, GA, to points in KY, OH, IN, and IL. (Hearing site: Atlanta, GA.)

MC 47583 (Sub-73F), filed July 17, 1978. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen foodstuffs, meats, meat byproducts, dairy products, and articles distributed by meat packinghouses), in containers, from the facilities of Ackley Food Processors. Inc., at or near Ackley, IA, to points in AR, KS, MO, NM, OK, and TX, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Kansas City, MO.)

MC 59655 (Sub-15F), filed July 10, 1978. Applicant: SHEEHAN CARRIERS, INC., 62 Lime Kiln Road, Suffern, NY 10901. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs and pet foods*, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of Nabisco, Inc., at or near Buffalo, Geneva, and Niagara Falls, NY, on the one hand, and, on the other, points in CT, DE, MD, NJ, NY, PA, VA, MA, OH, WV, ME, RI, VT, MI, IN, NH, and DC. (Hearing site: New York, NY, or Washington, DC.)

MC 61592 (Sub-421F), filed June 12, 1978. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: E. A. DeVine, P.O. Box 737, Moline, IL 61265. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural machinery, implements, and equipment*, (2) *industrial and construction machinery and equipment*, (3) *irrigation equipment*, (4) *drainage systems*, (5) *stump cutters, log splitters, and log chippers*, (6) *tree spades*, (7) *parts, attachments, and accessories* for the commodities in (1) through (6) above (except commodities in bulk), (1) from Pella, IA, to points in AR, LA, MS, TX, TN, GA, OK, KY, AL, MO, KS, and NE, and (2) from points in the United States (except AK and HI), to Pella, IA. (Hearing site: Chicago, IL.)

MC 67224 (Sub-4F), filed June 22, 1978. Applicant: DALBY TRANSFER & STORAGE CO., INC., 401 North Arthur (P.O. Box 1188), Amarillo, TX 79105. Representative: Mae Bledsoe (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Parmer, Bailey, Deaf Smith, Randall, Armstrong, Oldham, Potter, Carson, Hartley, Moore, Hutchinson, Dallam, Sherman, and Hansford Counties, TX, and Cimarron and Texas Counties, OK, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. (Hearing site: Amarillo, TX, or Oklahoma City, OK.)

MC 70083 (Sub-31F), filed July 17, 1978. applicant: DRAKE MOTOR LINES, INC., 20 Olney Avenue, Cherry Hill, NJ 08002. Representative: Richard Rueda (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ladies apparel wear and store supplies* (except commodities in bulk), from the facilities of Petrie Stores Corp., at or near Secaucus, NJ, to the facilities of Petrie Stores Corp., at or near Dallas, TX, and Chicago, IL. Condition: The person or persons it appears may be engaged in common control with a freight forwarder must submit an affidavit indicating if control of the freight forwarder came before of after control motor carrier. (Hearing site: Camden, NJ, or Philadelphia, PA.)

MC 78228 (Sub-88F), filed July 21, 1978. Applicant: J MILLER EXPRESS, INC., an Ohio corporation, 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Zinc alloys, zinc concentrates, coke, coal, and slag*, in dump vehicles, from the facilities of St. Joe Zinc Co., division of St. Joe Minerals Corp., at or near (a) Josephtown, PA, and (b) Balmat, NY, to points in the United States (except AK and HI), and (2) (a) *recyclable zinc products*, and (b) *materials, equipment, and supplies* used in the manufacture of zinc, zinc alloys, and zinc oxide, in the reverse direction. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 82063 (Sub-90F), filed July 10, 1978. Applicant: KLIPSCH HAULING CO., a corporation, 10795 Watson Road, Sunset Hills, MO 63127. Representative: W. E. Klipsch (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except liquid bromine), in bulk, in tank vehicles, from points in Columbia County, AR, to Houston, TX, and points within 50 miles thereof. (Hearing site: Little Rock, AR, or Washington, DC.)

MC 82492 (Sub-199F), filed July 5, 1978. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Representative: William C. Harris (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk), from the facilities of General Foods Corp., in MN, to points in IL, IA, and NY, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 103798 (Sub-17F), filed July 28, 1978. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Foodstuffs*, from the facilities of Faribault Canning Co., at or near Faribault and Cokato, MN, to points in AL, AZ, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MS, MO, MT, NE, NM, NC, ND, OH, OK, SC, SD, TN, TX, VA, and WI, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: St. Paul, MN.)

NOTE.—Dual operations are involved in this proceeding.

MC 105813 (Sub-242F), filed July 17, 1978. Applicant: BELFORD TRUCKING CO., INC., 1759 Southwest 12th Street, P.O. Box 2009, Ocala, FL 32670. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, Il 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery*, (1) from the facilities of E. J. Brach & Sons, at or near Chicago, IL, to Morrow, GA, and (2) from Morrow, GA, to points in FL. (Hearing site: Chicago, IL.)

MC 106373 (Sub-36F), filed July 17, 1978. Applicant: THE SERVICE TRANSPORT CO., a corporation, 114½ East Main Street, Ravenna, OH 44310. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from Steubenville, OH, and Weirton, WV, to points in NC, SC, GA, and FL, and (2) *Materials, equipment, and supplies* used in the manufacture and distribution of iron and steel articles, in the reverse direction. (Hearing site: Akron, OH, or Washington, DC.)

MC 107515 (Sub-1159F), filed July 3, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers South, 3390 Peachtree Road NE., Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared dough*, in vehicles equipped with mechanical refrigeration, from Atlanta, GA, to points in CT, DE, MD, ME, MA, NJ, NY, NH, PA, RI VT, and DC. (Hearing site: Atlanta, GA.)

NOTE.—Dual operations are involved in this proceeding.

MC 107515 (Sub-1161F), filed July 12, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road, Atlanta, GA 30050. Representative: Alan E. Serby Fifth Floor, Lenox Towers South, 3390 Peachtree Road NE., Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale, retail, and discount department stores (except commodfities in bulk, foodstuffs, and commodities which because of size or weight require special equipment), from points in AL, AR, FL, GA, KY, LA, MS, OK, NC, SC, TN, and TX, to the facilities of Worldwide, Inc., at or near Minneapolis, MN, restricted to the transportation of traffic destined to the named destination. (Hearing site: Minneapolis, MN.)

NOTE.—Dual operations may be involved in this proceeding.

MC 107515 (Sub-1162F), filed July 12, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, Fifth Floor Lenox Towers South, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery products*, from the facilities of Charms Co., at/or near Covington, TN, to points in AL, GA, FL, NC, and SC. (Hearing site: New York, NY.)

NOTE.—Dual operations are involved in this proceeding.

MC 111594 (Sub-78F), filed June 21, 1978. Applicant: CW TRANSPORT, INC., 610 High Street, Wisconsin Rapids, WI 54494. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B exposives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between St. Louis, MO, and junction U.S. Hwys 25W and 25E, serving junction U.S. Hwys 25W and 25E for joinder only, from St. Louis, MO, over U.S. Hwy 40 to junction IL Hwy 15, then over IL Hwy 15 to junction Interstate Hwy 64, then over Interstate Hwy 64 to junction IN Hwy 65, then over IN Hwy 65 to junction IN Hwy 66, then over IN Hwy 66 to junction U.S. Hwy 231, then over U.S. Hwy 231 to junction of Interstate Hwy 65, then over Interstate Hwy 65 to junction U.S. Hwy 68, then over U.S. Hwy 68 to Glasgow, KY, then over KY Hwy 90 to junction U.S. Hwy 127, then over U.S. Hwy 127 to junction TN Hwy 52, then over TN Hwy 52 to junction U.S. Hwy 27, then over U.S. Hwy 27 to junction TN Hwy 62, then over TN Hwy 62 to Knoxville, TN, then over U.S. Hwy 25W to junction U.S. Hwy 25E, and return over the same route; (2) between Vincennes, and Evansville, IN, over U.S. Hwy 41, and return over the same route; (3) between Terre Haute, IN, and Louisville, KY, from Terre Haute, IN, over IN Hwy 46 to junction IN Hwy 159, then over IN Hwy 159 to junction IN Hwy 246, then over IN Hwy 246 to junction IN Hwy 157, then over IN Hwy 157 to junction IN Hwy 54, then over IN Hwy 54 to Bedford, IN, then over IN Hwy 37 to junction IN Hwy 60, then over IN Hwy 60 to junction IN Hwy 111, then over IN Hwy 111 to Louisville, KY, and return

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over the same route; (4) between Chicago, IL, and junction of Interstate Hwy 75 and U.S. Hwy 421, serving junction Interstate Hwy 75 and U.S. Hwy 421 for joinder only, from Chicago, IL, over U.S. Hwy 41 to junction U.S. Hwy 30, then over U.S. Hwy 30 to junction Interstate Hwy 65, then over Interstate Hwy 65 to Columbus, IN, then over IN Hwy 7 to Madison, IN, then over U.S. Hwy 421 to the junction Interstate Hwy 75, and return over the same route; (5) between South Bend, IN, and Louisville, KY, from South Bend, IN, over U.S. Hwy 31 to Indianapolis, IN, then over Interstate Hwy 65 to Louisville, KY, and return over the same route; (6) between Indianapolis, IN, and Cincinnati, OH, serving Cincinnati, OH, for joinder only, over Interstate Hwy 74; (7) between Elkhart and Richmond, IN, from Elkhart, IN, over U.S. Hwy 33 to Goshen, IN, then over IN Hwy 15 to Gas City, In, then over U.S. Hwy 35 to Richmond, IN, and return over the same route; (8) between Fort Wayne, IN, and junction U.S. Hwy 52 and Interstate Highway 74, from Fort Wayne, IN, over U.S. Hwy 27 to junction of IN Hwy 101, then over IN Hwy 101 to junction of Interstate Hwy 74, and return over the same route; (9) between Louisville, KY, and junction U.S. Hwy 150 and Interstate Hwy 75 serving junction of U.S. Hwy 150 and Interstate Hwy 75, for joinder only, from Louisville, KY, over Interstate Hwy 65 to junction KY Hwy 245, then over KY Hwy 245 to junction U.S. Hwy 150, then over U.S. Hwy 150 to junction Interstate Hwy 75, and return over the same route; (10) between Cincinnati, OH, and Asheville, NC, serving Cincinnati, OH, for joinder only, from Cincinnati, OH, over Interstate Hwy 75 to junction KY Hwy 80, then over KY Hwy 80 to London, KY, then over KY Hwy 229 to junction U.S. Hwy 25E, then over U.S. Hwy 25E to junction TN Hwy 32, then over TN Hwy 32 to junction U.S. Hwy 25E, then over U.S. Hwy 25E to junction U.S. Hwy 25, then over U.S. Hwy 25 to Asheville, NC, and return over the same route.

(11) Between Cincinnati, OH, and junction Interstate Hwy 64 and Interstate Hwy 77 at or near Charleston, WV, serving both Cincinnati, OH, and junction Interstate Hwy 64 and Interstate Hwy 77, for joinder only, from Cincinnati, OH, over OH Hwy 125 to junction U.S. Hwy 68, then over U.S. Hwy 68 to junction U.S. Hwy 52, then over U.S. Hwy 52 to junction OH Hwy 527, then over U.S. Hwy 527 to junction WV Hwy 94, then over WV Hwy 94 to junction Interstate Hwy 64, then over Interstate Hwy 64 to junction Interstate Hwy 77 at or near Charleston, WV, and return over the same route; (12) between junction Interstate Hwy 64 and Interstate Hwy 77 at or near Charleston, WV, and junction U.S. Hwy 21 and Interstate Hwy 26 at or near Columbia, SC, serving junction Interstate Hwy 64 and Interstate Hwy 77, for joinder only, from junction Interstate Hwy 64 and Interstate Hwy 77 over Interstate Hwy 77 to junction of U.S. Hwy 52, then over U.S. Hwy 52 to junction Interstate Hwy 77, then over Interstate Hwy 77 to junction U.S. Hwy 21, then over U.S. Hwy 21 to junction Interstate Hwy 26, at or near Columbia, SC, and return over the same route; (13) between Asheville, NC, and junction Interstate Hwy 77 and U.S. Hwy 460 serving junction Interstate Hwy 77 and U.S. Hwy 460, for joinder only, from junction Interstate Hwy 77 and U.S. Hwy 460 over U.S. Hwy 460 to junction U.S. Hwy 19, then over U.S. Hwy 19 to junction U.S. Hwy 11E, then over U.S. Hwy 11E to Johnson City, TN, then over U.S. Hwy 23 to junction U.S. Hwy 25, then over U.S. Hwy 25 to Asheville, NC, and return over the same route; (14) between Asheville, NC, and Charleston, SC, from Asheville, NC, over U.S. Hwy 25 to Greenville, SC, then over U.S. Hwy 276 to junction Interstate Hwy 26, then over Interstate Hwy 26 to Charleston, SC, and return over the same route; (15) between Asheville, and Wilmington, NC, over U.S. Hwy 74; (16) between Greenville, SC, and Durham, NC, from Greenville, SC, over Interstate Hwy 385 to junction Interstate Hwy 85, then over Interstate Hwy 85 to Charlotte, NC, then over NC Hwy 49 to Asheboro, NC, then over U.S. Hwy 64 to Pittsboro, NC, then over U.S. Hwy 15 to Durham, NC, and return over the same route; (17) between Asheville, and Elizabeth City, NC, from Asheville, NC, over U.S. Hwy 70 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Greensboro, NC, then over Interstate Hwy 85 to Durham, NC, then over NC Hwy 98 to junction U.S. Hwy 64, then over U.S. Hwy 64 to junction U.S. Hwy 17, then over U.S. Hwy 17 to Elizabeth City, NC, and return over the same route; (18) between Durham, NC, and North Augusta, SC, from Durham, NC, over NC Hwy 55 to junction U.S. Hwy 401, then over U.S. Hwy 401 to Fayetteville, NC, then over Interstate Hwy 95 to junction Interstate Hwy 20, then over Interstate Hwy 20 to junction U.S. Hwy 25, then over U.S. Hwy 25 to North Augusta, SC, and return over the same route; (19) between Charlotte, NC, and junction U.S. Hwy 52, and Interstate Hwy 77 near Wytheville, VA, serving junction U.S. Hwy 52 and Interstate Hwy 77, for joinder only, from Charlotte, NC, over Interstate Hwy 85 to junction U.S. Hwy 52, then over U.S. Hwy 52 to junction Interstate Hwy 77, near Wytheville, VA, and return over the same route; (20) between Charleston, SC, and Charlotte, NC, from Charleston, SC over U.S. Hwy 52 to junction U.S. Hwy 176, then over U.S. Hwy 176 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction U.S. Hwy 15, then over U.S. Hwy 15 to junction SC Hwy 261, then over SC Hwy 261 to junction U.S. Hwy 521, then over U.S. Hwy 521 to Charlotte, NC, and return over the same route; (21) between Charleston, SC, and Salisbury, NC, over U.S. Hwy 52; (22) between Durham, and New Bern, NC, over U.S. Hwy 70; and (23) between Lumberton, and Lexington, NC, from Lumberton, NC, over NC Hwy 211 to Candor, NC, then over U.S. Hwy 220 to Asheboro, NC, then over U.S. Hwy 64 to junction U.S. Hwy 29, then over U.S. Hwy 29 to Lexington, NC, and return over the same route. Serving in connection with the above routes, all points in IN, NC, and SC as intermediate and off-route points. Restriction: The above routes are restricted as follows: (a) Service at Chicago, IL is restricted against the transportation of traffic destined to points in NC west of a line beginning at the junction of U.S. Hwy 25 and the NC-SC State line, then north over U.S. Hwy 25 to Asheville, then north over U.S. Hwy 23 to the NC-TN State line, and those in SC west of line beginning at the junction of U.S. Hwy 29 and the SC-GA State line, then north and east over U.S. Hwy 29 to the NC-SC State line. (b) Service at St. Louis, MO, Louisville, KY, and all points in IN is restricted against the transportation of traffic destined to points in NC west of a line beginning at the junction of U.S. Hwy 321 and the NC—SC State line, then north over U.S. Hwy 321 to the junction of NC Hwy 16 at or near Conover, then north over NC Hwy 16 to the junction of NC Hwy 18 at or near Wilkesboro, then north over NC Hwy 18 to the NC-VA State line; and those in SC west of a line beginning at the junction of U.S. Hwy 29 and the SC-GA State line, then north and east over U.S. Hwy 29 to the NC-SC State line. (c) Service at Louisville, KY is restricted against the transportation of traffic originating at points in NC west of a line beginning at the junction of U.S. Hwy 321 and the NC-SC State line, then north over U.S. Hwy 321 to the junction of NC Hwy 16 at or near Conover, NC, then north over NC Hwy 16 to the junction of NC Hwy 18 at or near Wilkesboro, then north over NC Hwy 18 to the NC-VA State line, or originating at points in SC west of a line beginning at the junction of U.S. Hwy 29 and the SC-GA State line, then north and east over U.S. Hwy 29 to the NC-SC State line. (d) Routes 14 through 23 may not be tacked or joined with carrier's present authority to provide service between points in

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OH, on the one hand, and, on the other, points in NC and SC. (e) Service is not authorized for the transportation of traffic moving locally between points in IN, between points in OH, between points in IN and points in OH, between points in NC, between points in SC nor between points in NC and points in SC.

NOTE.—The purpose of this application is to convert a portion of applicant's existing irregular route authority to regular route authority.

MC 111812 (Sub-580F), filed June 30, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Ralph H. Jinks (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery, chocolate, cocoa, and finish or glaze coating* (except commodities in bulk, in tank vehicles), from the facilities of Ambrosia Chocolate Co., at or near Milwaukee, WI, to points in AZ, CA, ID, MT, NV, OR, UT, and WA, restricted to the transportation of traffic originating at the named origin. (Hearing site: Milwaukee, WI.)

MC 113362 (Sub-333F), filed June 26, 1978. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, 1105½ Eighth Avenue NE. P.O. Box 429, Austin, MN 55912. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products* (except commodities in bulk), from the facilities of International Paper Co., at or near (a) Mobile, AL, and (b) Moss Point, MS, to points in MN, IA, MO, KY, VA, WI, IL, IN, MI, OH, WV, PA, MD, DE, NJ, NY, CT, RI, MA, NH, VT, ME, and DC. (2) *Equipment, materials, and supplies* used in the manufacture, sale, and distribution of the commodities named in (1) above (except commodities in bulk) in the reverse direction, restricted in (1) and (2) to the transportation of traffic originating at the named origins and destined to the indicated destination. (Hearing site: Mobile, AL; Washington, DC or Chicago, IL.)

MC 113855 (Sub-442F), filed July 13, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., a ND corp., 2450 Marion Road SE., Rochester, MN 55901. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1)(a) *Agricultural implements and adapter kits*, (b) *canopies and cabs*, (c) *agricultural implements and contractors' equipment safety guards*, (d) *logging, forestry and construction equipment*, (e) *airconditioners*, (f) *attachments* for the commodities in (a) through (e) above, and (g) *parts* for the commodities in (a) through (f) above, from Portland, OR, to points in the United States (including AK but excluding HI), and (2) *materials and equipment* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. Condition: Prior receipt from applicant of an affidavit setting forth its appropriate complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Portland, OR.)

NOTE:—Traffic to the ports of entry on the international boundary line between the United States and Canada is destined to or originates at all points in Canada. The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled notice to interested parties of new requirements concerning applications for operating authority to handle traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials in Canada regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 114323 (Sub-23F), filed July 17, 1978. Applicant: PAUL MARCKESANO AND SONS CO., INC., 36 Ferris Street, Brooklyn, NY 11231. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Evansville, PA, to points in NJ and NY. (Hearing site; New York, NY.)

MC 114457 (Sub-408F), filed July 5, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities as are dealt in by manufacturers of sporting goods and recreational equipment*, from the facilities of Frabill Manufacturing Co., at or near Milwaukee, WI, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies used in the manufacture of sporting goods and recreational equipment*, (except commodities in bulk), from Seattle, WA, Chicago, IL, and Detroit, MI, to the facilities of Frabill Manufacturing Co., at or near Milwaukee, WI. (Hearing site: Milwaukee, WI, or St. Paul, MN.)

MC 114457 (Sub-409F), filed July 5, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: JAMES H. WILLS (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulating materials and high temperature bonding cement*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), between the facilities of (a) Forty-Eight Insulations, Inc., at or near (I) Aurora, IL, and (II) Alliance, OH, (b) Keene Corp., at or near Kalamazoo, MI, and (c) United States Gypsum, at or near Wabash, IN, on the one hand, and on the other, those points in the United States in and east of MT, WY, CO, and NM, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Chicago, IL, or St. Paul, MN.)

MC 114457 (Sub-411F), filed July 5, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Water heaters*, and (2) *materials* used in the manufacture of water heaters, between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Bradford-White Corp. (Hearing site: St. Paul, MN, or Philadelphia, PA.)

MC 114457 (Sub-412F), filed July 5, 1978. Applicant; DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *paper, paper products, and woodpulp*, from (a) Mobile, AL, to points in CT, DE, IL, IN, MA, MD, ME, MI MN, NH, NJ, NY, OH, PA, RI, VA, VT, WI, WV, and DC, (b) Fort Edward and Albany, NY, to points in AL, FL, GA, IL, IN, KY, MD, MI, NC, OH, PA, SC, TN, VA, WI, and DC, (c) Columbus, OH, to points in IL, IN, KY, KS, and MO, (d) Philadelphia, PA, to points in AL, FL, GA, IL, IN, KY, MI, NC, OH, SC, TN, and WI, and (e) Marinette, WI, to points in IL, IN, KS, MI, MO, OH, and PA. (Hearing site: Philadelphia PA, or St. Paul, MN.)

MC 114569 (Sub-236F), filed July 24, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: Duane W. Acklie, P.O. Box 81228, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

Such commodities as are dealt in or used by manufacturers and distributors of foodstuffs, between the facilities of Tropicana Products, Inc., at or near Bradenton and Fort Pierce, FL, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NC, ND, OH, OK, PA, SC, SD, TN, TX, VA, WV, WI, and DC. Dual operations may be involved. (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 114632 (Sub-169F), filed June 16, 1978. Applicant: APPLE LINES, INC., P.O. Box 287 Madison, SD 57042. Representative: Michael L. Carter (Same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, foodstuffs, and those requiring special equipment), from Berlin, CT, to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, VA, WA, WV, WI, and WY. (Hearing site: Minneapolis, MN, or Omaha, NE.)

NOTE.—Dual operations are involved in this proceeding.

MC 114632 (Sub-170F), filed June 16, 1978. Applicant: APPLE LINES, INC., P.O. Box 287 Madison, SD 57042. Representative: Michael L. Carter (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe and fittings, and materials* used in the installation of plastic pipe, from the facilities of Johns-Mansville Sales Corp., at or near Wilton, IA, to points in CO, NE, ND, SD, and WY; (2) *Building materials*, from the facilities of Johns-Mansville Sales Corp., at or near Waukegan, IL, to points in CO, NE, ND, SD, and WY; (3) *pipe*, from the facilities of Johns-Manville Sales Corp., at or near Waukegan, IL, to points in NE, ND, and SD; and (4) *Insulation board*, from the facilities of Johns-Mansville Perlite Corp., at or near Rockdale, IL, to points in CO, NE, ND, SD, and WY. (Hearing Site: Chicago, IL, or Minneapolis, MN.)

NOTE.—Dual operations are involved in this proceeding.

MC 115322 (Sub-143F), filed July 5, 1978. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177 Taft, FL 32809. Representative: L. W. Fincher, P.O. Box 426, Tampa, Fl 33601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk), from the facilities of General Foods Corp. at or near Avon, NY, to Dedham, MA, and Landover, MD, restricted to the transportation of traffic originating at the named origin facilities and destined to the named destinations. (Hearing Site: Washington, DC.)

MC 115322 (Sub-144F), filed July 5, 1978. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, FL 32809. Representative: L. W. Fincher, P.O. Box 426, Tampa, FL 33601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper articles, polyethylene articles, and packaging and bagging materials and supplies*, from the facilities of Jemco, Inc., at or near Jackson, TN, to points in FL, GA, SC, NC, VA, MD, DC, DE, NJ, PA, NY, RI, CT, MA, VT, NH, ME, AL, and WV, and (2) *Materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities named in (1), in the reverse direction, restricted in (1) and (2) to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing Site: Nashville, TN, or DC.)

MC 115904 (Sub-106F), filed June 22, 1978. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, ID 83401. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fencing and fencing materials*, and *materials, equipment, and supplies used in the manufacture, sale and distribution of fencing and fencing materials*, between points in Salt Lake County, UT, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY. (Hearing site: Salt Lake City, UT, or Boise, ID.)

MC 116763 (Sub-421F), filed July 17, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile and truck bodies*, and *parts and accessories* for automobile and truck bodies, from the facilities of Rockwell International, at or near Ashtubula, OH, and the facilities of McLaughlin Body Co., at or near Moline, IL, to the facilities of Mack Trucks, Inc., at or near Allentown and Macungie, PA, restricted to the transportation of traffic originating at and destined to the named facilities. (Hearing site: Philadelphia, PA.)

MC 116763 (Sub-422F), filed July 17, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (Same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, (1) between Russellville and Searcy, AR, on the one hand, and, on the other, Crozet, VA, and (2) from Crozet, VA, to points in ME, NH, VT, CT, MA, RI, NY, and OH, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 116763 (Sub-424F), filed July 17, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (Same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in or manufactured by manufacturers of building materials, chemicals, and paper and paper products*, (except commodities in bulk), between the facilities of Georgia-Pacific Corp., at or near (1) Crossett and Pine Bluff, AR, (2) Monroe, LA, and (3) Jackson, MS, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Little Rock, AR.)

MC 117758 (Sub-9F), filed August 2, 1978. Applicant: GRINGERI BROTHERS TRANSPORTATION CO., INC., Ayer Road, Harvard, MA 01451. Representative: James F. Martin, Jr., 8 West Morse Road, Bellingham, MA 02019. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by grocery and food business houses, from the facilities of General Foods Corp., at or near Dedham, MA, to South Portland, ME, Manchester and Keene, NH, and Hartford, VT, restricted to the transportation of traffic originating at the named origin facilities and destined to the named destinations. (Hearing site: Boston, MA.)

MC 117823 (Sub-56F), filed July 17, 1978. Applicant: DUNKLEY REFRIGERATED TRANSPORT, INC., 1915 South 900 West, Salt Lake City, UT 84104. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, as described in section B of Appendix I to the report in Descriptions in Motor Certificates, 61 M.C.C. 209, and 766, (1) from Delta, UT, and points within 5 miles of Delta, UT, to points in AZ, CA, ID, NV, OR, and WA, and (2) from the facilities of Old Capital Valley Cheese, Inc., d.b.a. Delta Valley Farms, Inc., at or near Salt Lake City, UT, to points in AZ, OR, and WA. (Hearing site: Salt Lake City, UT, or Las Vegas, NV.)

MC 118130 (Sub-88F), filed June 23, 1978. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, TX 76115. Representative: Billy R. Reid, P.O. Box 9093, Fort Worth, TX 76107. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods* (except frozen), from Valdosta, GA, to points in NM, OK, and TX. (Hearing site: Dallas or Fort Worth, TX.)

MC 119493 (Sub-221F), filed July 17, 1978. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in AL, AR, GA, IL, LA, MS, and TN, to points in CO, IA, KS, MN, MO, NE, ND, SD, and WI. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 119493 (Sub-222F), filed July 17, 1978. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverages and such commodities* as are delat in by wholesale and retail food business houses, and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above, between points in AR, GA, IA, KS, MO, NE, OK, SD, and TX. (Hearing site: Kansas City or Joplin, MO.)

MC 119700 (sub-37F), filed June 23, 1978. Applicant: STEEL HAULERS, INC. (a Kansas corporation), 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Jones & Laughlin Steel Corp., in Putnam County, IL, to points in CO. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 123075 (Sub-29F), filed June 19, 1978. Applicant: SHUPE & YOST, INC., North U.S. 85 Bypass, P.O. Box 1123, Greeley, CO 80631. Representative: Stuart L. Poelman, 700 Continental Bank Building, Salt Lake City, UT 84101. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Salt and salt products*, from the facilities of the American Salt Co., in Tooele County, UT, and of Great Salt Lake Mineral & Chemicals Corp., at or near Little Mountain, UT, to points in CO, WY, KS, NE, ND, and SD, restricted against the transportation of salt, in bulk, to points in CO west of the Continental Divide and points in WY west of a line beginning at the MT-WY State line and extending south along U.S. Hwy 87 to Casper, WY, then along WY State Hwy 220 to Muddy Gap, then along U.S. Hwy 287 to the Continental Divide north of Sinclair and then along the Continental Divide to the WY-CO State line, under a continuing contract or contracts with Hardy Salt Co., of St. Louis, MO, and (2) *Salt and salt products*, from the facilities of Great Salt Lake Minerals & Chemicals Corp., at or near Little Mountain, UT, to points in KS, NE, SD, ND, and those in CO east of the Continental Divide and those in WY on and east of a line beginning at the MT-WY State line and extending south along U.S. Hwy 87, to Casper, WY, then along WY State Hwy 220 to Muddy Gap, then along U.S. Hwy 287 to the Continental Divide north of Sinclair and then along the Continental Divide to the Wy-CO State line, under continuing contract(s) with Great Salt Lake Minerals & Chemicals Corp., of Ogden, UT. (Hearing site: Salt Lake City, UT.)

MC 123615 (Sub-8F), filed July 12, 1978. Applicant: TRANSPET, INC., 700 South Fourth Street, Harrison, NJ 07029. Representative: A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Floor and floor covering conditioning machines*, and (2) *materials, supplies, and equipment* used in the manufacture and operation of the commodities in (1) above (except commodities in bulk), between Bloomfield, Harrison, and Jersey City, NJ, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract with Hartz Mountain Corp., of Harrison, NJ. (Hearing site: Newark, NJ, or New York, NY.)

MC 123640 (Sub-28F), filed June 21, 1978. Applicant: SUMMIT CITY ENTERPRISES, INC., 3200 Maumee Avenue, Fort Wayne, IN 46803. Representative: Irving Klein, 371 Seventh Avenue, New York, NY 10001. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by wholesale hardware stores*, between Cape Girardeau, MO, on the one hand, and, on the other, points in GA, under a continuing contract with Hardware Wholesalers, Inc., of Cape Girardeau, MO. (Hearing site: Washington, DC.)

MC 124078 (Sub-845F), filed July 28, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, in bulk (except classes A and B explosives), between Cincinnati, OH, on the one hand, and, on the other, points in IL, IN, KY, MI, NY, OH, PA, TN, VA, and WV. (Hearing site: Cleveland or Columbus, OH.)

MC 124078 (Sub-846F), filed July 28, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Evansville, PA, to points in CT, DE, MD, NJ, NY, VA, WV, and DC. (Hearing site: Chicago, IL.)

MC 124078 (Sub-847F), filed July 28, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay and clay slurry*, in bulk, from points in Jefferson and Twigs Counties, GA, and Aiken County, SC, to points in MA and ME. (Hearing site: Washington, DC.)

MC 124170 (Sub-96F), filed June 30, 1978. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by producers and distributors of alcoholic beverages, liquors, and wines (except commodities in bulk, in tank vehicles), between the facilities of Heublein, Inc., at or near Paducah, KY, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: New York, NY, or Washington, DC.)

MC 125335 (Sub-28F), filed July 18, 1978. Applicant: GOOD-WAY, INC., a Maryland corporation, P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, between the facilities of Louisville Freezer Center, at or near Louisville, KY, on the one hand, and, on the other, those points in the United States in and east of CO, NM, WY, and MT, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Louisville, KY, or Harrisburg, PA.)

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MC 126539 (Sub-39F), filed July 24, 1978. Applicant: KATUIN BROS. INC., P.O. Box 311, Fort Madison, IA 52627. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), from the facilities of Termicold Corp., at or near Plover, WI, to points in AR, IL, IN, IA, KS, KY, LA, MI, MN, MS, NE, OH, PA, SD, TN, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are involved in this proceeding.

MC 126822 (Sub-48F), filed June 23, 1978. Applicant: WESTPORT TRUCKING CO., a corporation, 812 South Silver, P.O. Box 401, Paola, KS 66071. Representative: Kenneth E. Smith, 6405 Metcalf Avenue, Suite 322, Shawnee Mission, KS 66202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides and pelts*, between points in GA, IL, IN, IA, KS, KY, MA, ME, MD, MI, MN, MO, MS, ND, NE, NH, NJ, NY, NC, OH, PA, SC, SD, TN, VA, VT, WV, and WI. (Hearing site: Indianapolis, IN, or Washington, DC.)

MC 126822 (Sub-49F), filed July 3, 1978. Applicant: WESTPORT TRUCKING CO., a corporation, 812 South Silver, P.O. Box 401, Paola, KS 66071. Representative: Kenneth E. Smith, 6405 Metcalf Avenue, Suite 322, Shawnee Mission, KS 66202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Sterling and Rock Falls, IL, to points in AR, CO, IA, KS, MN, MO, NE, ND, OK, SD, and TX. (Hearing site: Chicago, IL.)

MC 128273 (Sub-312F), filed July 17, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Perlite, vermiculite, vermiculite products, plant and soil media mix, and peat moss* (except commodities in bulk, in tank vehicles), from Tampa, FL, to points in the United States (except AK, FL, and HI). (Hearing site: Tampa, FL, or Washington, DC.)

MC 129625 (Sub-11F), filed June 14, 1978. Applicant: ROBERT COLE TRUCKING CO., a corporation, P.O. Box M, Falls Creek, PA 15840. Representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Coal*, in bulk, in dump vehicles, from points in Clearfield County, PA, to points in NY, (2) *coal*, in bulk, in dump vehicles, from points in Clarion, Cambria, Clearfield, Elk, Indiana, and Jefferson Counties, PA, to points in MD, (3) *salt*, in bulk, in dump vehicles, from points in Erie County, NY, to points in Clarion, Clearfield, Elk, Forest, Jefferson, McKean, and Warren Counties, PA, and (4) *sand, gravel, aggregates, and limestone*, in bulk, in dump vehicles, from points in NY, to points in Jefferson County, PA. (Hearing site: Pittsburgh, PA.)

MC 133805 (Sub-14F), filed July 17, 1978. Applicant: LONE STAR CARRIERS, INC., P.O. Box 48, Tolar, TX 76476. Representative: Charles W. Beinhauer, Suite 4959, One World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel shot*, from the facilities of Ervin Industries, at or near Adrian, MI, and Butler, PA, to points in AL, CO, GA, KS, LA, MS, MO, OK, and TX, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Detroit, MI, or Chicago, IL.)

MC 134645 (Sub-24F), filed July 13, 1978. Applicant: LIVESTOCK SERVICE, INC., 1420 Second Avenue South, St. Cloud, MN 56301. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Skeet and trap targets*, from Richmond, IN, to points in WI, MN, IA, ND, and SD. (Hearing site: St. Paul, MN.)

NOTE.—Dual operations are involved in this proceeding.

MC 136342 (Sub-13F), filed June 30, 1978. Applicant: JACKSON & JOHNSON, INC., P.O. Box 7, Route 31, Savannah, NY 13146. Representative: Roy D. Pinsky, 345 South Warren Street, Syracuse, NY 13202. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic articles* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), between the facilities used by Mobil Chemical Co., Plastics Division, in Wayne, Monroe, and Ontario Counties, NY, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract with Mobil Chemical Co., Plastics Division of Macedon, NY. (Hearing site: Buffalo or Syracuse, NY.)

NOTE.—Dual operations are involved in this proceeding.

MC 136343 (Sub-144F), filed July 17, 1978. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, between the facilities of Midland Glass Co., at or near Cliffwood, NJ, on the one hand, and, on the other, Williamsburg, VA, and the facilities of Midland Glass Co., at or near Newport News and Suffolk, VA. (Hearing site: New York, NY, or Washington, DC.)

MC 136343 (Sub-145F), filed July 17, 1978. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper bags*, from Toledo, OH, to points in CT, MA, NJ, NY, PA, VT, VA, DE, RI, WV, MD, NH, and ME, and (2) *paper bags, plastic bags, burlap bags, and burlap bagging and wrapping paper*, from Newport News, VA, to points in CT, DE, IL, IN, KY, ME, MD, MA, NH, NJ, NY, OH, PA, RI, TX, VT, and MO. (Hearing site: Chicago, IL, or Washington, D.C.)

MC 136644 (Sub-4F), filed June 23, 1978. Applicant: WESTERN DRYWALL TRANSPORT, INC., 2001 Broadway, Vallejo, CA 94590. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *compressed wood fiberboard*, from the facilities used by Kaiser Cement & Gypsum Corp., at or near St. Helens, OR, to points in CA, under a continuing contract with Kaiser Cement & Gypsum Corp., of Oakland, CA. (Hearing site: San Francisco, CA.)

MC 138328 (Sub-72F), filed July 28, 1978. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I-80 and Hwy 50, P.O. Box 37308, Omaha, NE 68137. Representative: Donna Ehrlich (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed and feed ingredients* (except commodities in bulk, in tank vehicles), (1) between the facilities of Kal Kan Foods, Inc., at or near Mattoon, IL, on the one hand, and, on the other, those points in the United States in and east of MT, WY, CO, and NM, and (2) between the facilities of Kal Kan Foods, Inc., at or near Columbus, OH, on the one hand, and, on the other, points in the United States (except AK and HI),

restricted in (1) and (2) above to the transportation of traffic originating at or destined to the above-named facilities. (Hearing site: Los Angeles, CA.)

NOTE.—Dual operations are involved in this proceeding.

MC 138438 (Sub-29F), filed August 3, 1978. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bricks*, from East Windsor Hill, CT, and Middleboro, MA, to points in DE, MD, NY, NJ, OH, PA, VA, WV, and DC. (Hearing site: Hartford, CT.)

NOTE.—Dual operations are involved in this proceeding.

MC 138627 (Sub-39F), filed July 5, 1978. Applicant: SMITHWAY MOTORS XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Russel J. Hilken, P.O. Box 404 Fort Dodge, IA 50501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Bethlehem Steel Corp., at or near Burns Harbor, IN, to points in IA, NE, and MO. (Hearing site: Omaha, NE, or Chicago, IL.)

NOTE.—Dual operations are involved in this proceeding.

MC 138875 (Sub-91F), filed June 19, 1978. Applicant: SHOEMAKER TRUCKING CO., a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, toilet preparations, health care products, magnesium hydroxide, and alumina calcined*, (except in bulk), in vehicles equipped with mechanical refrigeration, from Lewes, DE, Friendship, NC, Lakewood, NJ, and Philadelphia, PA, to points in AZ, CA, ID, NV, OR, WA, and UT, restricted to the transportation of traffic originating at the named origins. (Hearing site: Philadelphia, PA.)

MC 138875 (Sub-96F), filed July 17, 1978. Applicant: SHOEMAKER TRUCKING CO., a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Concrete joints, joint fillers, curing compounds and coatings, and asphalt sheathings*, and (2) *accessories* for the commodities in (1) above (except in bulk), from points in Cedarhill and Dallas, TX, and Lewisville, AR, to points in AZ, CA, CT, DE, MA, MD, MT, NJ, NV, NY, OH, OR, PA, RI, UT, VA, WV, WY, and DC. (Hearing site: Washington, DC, or Dallas, TX.)

MC 138882 (Sub-101F), filed June 26, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Charcoal, wood chips, vermiculite, lighter fluid, and wax impregnated and compressed-sawdust fireplace logs*, from St. Louis and Belle, MO, and the facilities of the National City Cold Storage Warehouse, at or near National City IL, to points in AZ, AR, CA, CO, ID, IA, KS, KY, LA, MN, MT, NE, NV, NM, ND, OK, SD, TX, OR, UT, WA, and WY; and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, in the reverse direction. (Hearing site: Louisville, KY, or Montgomery, AL.)

MC 138882 (Sub-103F), filed June 29, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing and building materials* (except commodities in bulk), from Charleston Heights, SC, to points in AL, FL, GA, KY, TN, and VA; (2) *materials, equipment, and supplies* used in the manufacture, installation, or application of the commodities named in (1) above, in the reverse direction. (Hearing site: Boston, MA, or Montgomery, AL.)

MC 139843 (Sub-3F), filed June 26, 1978. Applicant: VERNON G. SAWYER, P.O. Box 847, Bastrop, LA 71220. Representative: Harry E. Dixon, Jr., P.O. Box 4319, Monroe, LA 71203. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper, paper products, and pulpboard*, and (b) *such commodities* used in the manufacturing, packaging, and distribution of the commodities named in (1) above (except liquid commodities in bulk), between the facilities of Georgia Pacific Corp., at or near (i) Crossett and Pine Bluff, AR, (ii) Monroe, LA, and (iii) Jackson, MS, on the one hand, and, on the other, points in AR, AL, FL, GA, IL, KS, LA, MS, MO, OK, and TX; and (2) *papermill machinery*, between Crossett, AR, Ruston, LA, and Columbus, MS. (Hearing site: Monroe, LA, or Little Rock, AR.)

MC 140273 (Sub-5F), filed July 17, 1978. Applicant: BUESING BROS. TRUCKING, INC., North 520 Tamarac Avenue, Long Lake, MN 55356. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Stone*, from (a) Fort Dodge and Webster City, IA, to points in MN; and (b) from Minneapolis, MN, to points in IA, ND, SD, and WI; and (2) *crushed rock*, (a) from St. Cloud, MN, to points in IA, ND, SD, and WI, (b) from New Ulm, MN, to points in IA, SD, and WI, and (c) from Granite Falls, MN, to points in IA, ND, and SD. (Hearing site: Minneapolis, MN.)

MC 140755 (Sub-54F), filed July 17, 1978. Applicant: BRAY TRANSPORTS, INC., a Colorado corporation, 1401 North Little Street, P.O. Box 270, Cushing, OK 74023. Representative: Charles D. Midkiff (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid waste materials*, in bulk, in tank vehicles, from Helena, AR to Tulsa, OK. (Hearing site: Little Rock, AR.)

MC 140829 (Sub-126F), filed July 20, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Polishing and cleaning compounds, buffing pads, cleaning cloths, putty*, and *paint* (except commodities in bulk); (2) *tools* used in repairing automobiles; and (3) *parts and accessories* for the commodities in (2) above, from the facilities of U.S. Chemicals & Plastics, at Canton, OH, to points in IL, KS, MN, MO, TX, and WI, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 140943 (Sub-5F), filed July 13, 1978. Applicant: CHEYENNE ROAD TRANSPORT, LTD., Box 968, Cochrane, AB, Canada TOLOWO. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean meal*, from Lincoln, NE, and points in IA and MN, to the ports of entry on the international boundary line between the United States and Canada at (1) Portal, ND, (2) Sweetgrass, MT, (3) Eastport, ID, and (4) Sumas and Oroville, WA, restricted to the transportation of traffic moving in foreign commerce to points in british Columbia. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Seattle or Spokane, WA.)

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NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled notice to interested parties of new requirements concerning applications for operating authority to handle traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the Provinces of AB, SK, and MB regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 141532 (Sub-25F), filed June 26, 1978. Applicant: PACIFIC STATES TRANSPORT, INC., 35433 16th Avenue South, Federal Way, WA 98002. Representative: Henry C. Winters, 235 Evergreen Building, Renton, WA 98055. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Titanium* and *titanium products*, and (2) *materials* used in the production of the commodities in (1) above, between Las Vegas, NV, on the one hand, and, on the other, points in CA, OR, UT, and WA. (Hearing site: Las Vegas, NV or Seattle, WA.)

NOTE.—The person or persons it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 141532 (Sub-26F), filed June 26, 1978. Applicant: PACIFIC STATES TRANSPORT, INC., 35433 16th Avenue South, Federal Way, WA 98002. Representative: Henry C. Winters, 235 Evergreen Building, Renton, WA 98055. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, from the facilities of Guardian Industries Corp., at or near Kingsburg, CA, to points in AZ, CO, ID, KS, MT, NE, NV, NM, ND, OK, SD, TX, UT, and WY. (Hearing site: Fresco or San Francisco, CA.)

NOTE.—The person or persons it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 141532 (Sub-27F), filed June 26, 1978. Applicant: PACIFIC STATES TRANSPORT, INC., 35433 16th Avenue South, Federal Way, WA 98003. Representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractories and refractory products* (except commodities in bulk), from Moss Landing, CA, to points in OR, WA, NV, and AZ. (Hearing site: Oakland or San Francisco, CA.)

NOTE.—The person or persons it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 141532 (Sub-28F), filed June 28, 1978. Applicant: PACIFIC STATES TRANSPORT, INC., 35433 16th Avenue South, Federal Way, WA 98003. Representative: Harry F. Horak, Room 109, 5001 Brentwood Stair Road, Fort Worth, TX 76112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Draft gear and rigging for railway cars and locomotives*, from Fort Worth, TX to Portland, OR. (Hearing site: Fort Worth or Dalls, TX.)

NOTE.—The person or persons it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

Mc 142062 (Sub-14F), filed June 29, 1978. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box 62, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cleaning, scouring, washing, and buffing compounds*, and (2) *such commodities* as are dealt in by manufacturers of the commodities named in (1) above, from the facilities of Rochester Germicide Co., Inc., at or near Montgomery, IL, to Memphis, TN, Atlanta, GA, New Orleans, LA, Dallas, TX, Tampa, FL, San Diego, Los Angeles, and San Francisco, CA, St. Paul, MN, Des Moines, IA, St. Louis, MO, and Indianapolis, IN, under a continuing contract with Rochester Germicide Co., Inc., of Rochester, NY. (Hearing site: Louisville, KY.)

MC 142559 (Sub-31F), filed July 24, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Water heaters* and (2) *water heater parts and water heater accessories*, from Chicago, IL, to points in AL, GA, KY, NC, OH, SC, and TN. (Hearing site: Columbus, OH or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 142693 (Sub-2F), filed July 17, 1978. Applicant: CUSTOM DELIVERIES, INC., 24680 Mound Road, Warren, MI 48091. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor vehicle parts, motor vehicle components, motor vehicle equipment*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, (except commodities in bulk), between the facilities used by Chrysler Corp., Service & Parts Division, in AZ, AR, CA, CO, ID, IN, KS, LA, MN, MS, MO, MT, NV, OK, OR, TN, TX, UT, WA, and WY, under a continuing contract with Chrysler Corp., of Center Line, MI. (Hearing site: Washington, DC.)

MC 143540 (Sub-5F), filed June 28, 1978. Applicant: MARINE TRANSPORT CO., a corporation, 2321 Burnette Boulevard, Wilmington, NC 28401. Representative: Robert L. McGeorge, 1054 31st Street NW., Washington, DC 20007. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper articles, and wood pulp*, (1) between the facilities of Federal Paper Board Co., Inc., at or near Riegelwood, NC, and the facilities of Weyerhaeuser Co., at or near New Bern and Greenville, NC, on the one hand, and, on the other, (a) Charleston, SC, (b) Savannah, GA, (c) Norfolk and Newport News, VA, and (d) Wilmington and Morehead City, NC, and (2) between the facilities of Weyerhaeuser Co., at or near Greenville, NC, and the facilities of Weyerhaeuser Co., at or near New Bern, NC, under continuing contracts with (1) Federal Paper Board Co., of Montvale, NJ, and (2) Weyerhaeuser Co., of Tacoma, WA. (Hearing site: Washington, DC or Raleigh, NC.)

MC 143775 (Sub-8F), filed July 13, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Garage door operators* and (2) *machinery, electrical switches, and products* used in the manufacture and installation of garage door operators (except commodities in bulk), from Covington, OH, and Detroit, MI, to points in CA, CO, CT, and WA. (Hearing site: Dayton, OH or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 143775 (Sub-9F), filed July 17, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, toilet preparations, health care products, alumina calcined* and *magnesium hydroxide* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, (1) from Philadelphia, PA, Lakewood, NJ, and Lewes, DE, to points in the United States, (except ME, NH, VT, NY, PA, VA, NJ, MD, MA, RI, CT, DE, WV, AK, HI, and DC), (2) from Friendship, NC, to points in the United States, (except AK, HI, VA, NC, and SC), (3) from Reno, NV, to points in PA, and (4) from San Leandro, CA, to points in IN, GA, and PA, restricted in (4) above to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Phoenix, AZ.)

NOTE.—Dual operations are involved in this proceeding.

MC 143775 (Sub-12F), filed July 17, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in section A and C of appendix I to the report in Description in Motor Carrier Certificates 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of or used by (1) Armour and Company, at or near Sioux City, IA, and (2) Madison Foods Co. and Armour and Company, at or near Madison, NE, to points in VA, WV, MD, DE, PA, NJ, CT, MA, NY, VT, NH, ME, RI, and DC, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Phoenix, AZ.)

NOTE.—Dual operations are involved in this proceeding.

MC 143952 (Sub-1F), filed June 19, 1978. Applicant: LEO CRADER, d.b.a., BLUE LIGHT MESSENGER SERVICE, 405 Second Avenue, Stratford, CT 06497. Representative: Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Bridgeport, Shelton, Ansonia, Derby, Milford, and Stratford, CT, on the one hand, and, on the other, Newark International Airport, Newark, NJ, and points in New York, NY, restricted against the transportation of packages or articles weighing in the aggregate more than (500) pounds from one consignor to one consignee on any one day. (Hearing site: New Haven or Hartford, CT.)

MC 144683 (Sub-1F), filed June 5, 1978. Applicant: DAVE JONES WRECKER SERVICE, INC., 501 Highway 17-92, Fern Park, FL 32730. Representative: John A. Sutton, P.O. Box 367, Orlando, FL 32802. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wrecked, disabled, and repossessed motor vehicles, trailers, motor homes, and replacement vehicles*, and (2) *parts* for the commodities named in (1) above, between points in FL, GA, NC, SC, TN, KY, AL, LA, IN, OH, MI, IL, and MS. (Hearing site: Orlando or Jacksonville, FL.)

MC 144704 (Sub-1F), filed June 23, 1978. Applicant: CHERNICKY TRUCKING, INC., P.O. Box 215, Route 66, Shippenville, PA 16254. Representative: John A. Pillar, 205 Ross Street, Pittsburgh, PA 15219. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in dump vehicles, from points in Clarion County, PA, to points in NY, under continuing contract with Chernicky Coal Co., Inc., and Kann Coal Co., Inc., of Shippenville, PA. (Hearing site: Pittsburgh, PA or Washington, DC.)

MC 144863 (Sub-1F), filed July 5, 1978. Applicant: LONNIE WHITE d.b.a. LUBBOCK WRECKER SERVICE, 2327 Erskine Road, Lubbock, TX 79407. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled cars, wrecked or disabled trucks, wrecked or disabled tractors*, and *wrecked or disabled trailers* (except mobile homes), and *replacement vehicles*, in wrecker service, between points in Lubbock County, TX, and NM. (Hearing site: Lubbock or Dallas, TX.)

MC 144969F, filed July 7, 1978. Applicant: WHEATON CARTAGE CO., a corporation, Millville, NJ 08332. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW, Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Synthetic plastics, synthetic latex, battery insulating partitions, and cleaning compounds* (except commodities in bulk, in tank vehicles), from Acton, MA, to points in CT, DE, MD, NJ, NY, PA, and RI; (2) *cleaning compounds* (except in bulk, in tank vehicles), from Cambridge, MA, to points in CT, DE, MD, NJ, NY, PA, and RI; (3)(a) *synthetic plastics, adhesives, sealants, cements, chemicals, chemical compounds, gas absorbing compounds, rubber, rubber compounds, soldering flux, coatings, lubricants, and* (b) *materials, equipment, and supplies used in the manufacture and distribution* of the commodities in (3)(a) above, (except commodities in bulk, in tank vehicles), from those points in the United States in and east of WI, IL, KY, TN, and MS, to Woodbury, NJ; and (4) *cleaning compounds, chemicals, chemical compounds, and fertilizer compounds*, from Nashua, NH, to points in CT, DE, MD, NJ, NY, PA, and RI, restricted in (1), (2), (3), and (4) above against the transportation of commodities requiring the use of special equipment, and restricted to the transportation of traffic originating at or destined to the facilities of W. R. Grace & Co. (Hearing site: Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 144982F, filed June 30, 1978. Applicant: OHIO PACIFIC EXPRESS, INC., 2385 South High Street, Columbus, OH 43207. Representative: Thomas F. Kilroy, Suite 406, 6901 Old Keene Mill Road, Springfield, VA 22150. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paperboard boxes*, knocked down, from the facilities of J. G. Clark Co., in Morrow County, OH, to points in AZ, CA, CO, NM, NV, OK, TX, and UT. (Hearing site: Columbus, OH.)

NOTE.—Dual operations are involved in this proceeding.

MC 145085F, filed July 17, 1978. Applicant: SID'S, INC., P.O. Box D, Jonesport, ME 04649. Representative: James E. Mahoney, 84 State Street, Boston, MA 02109. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and materials, supplies, and equipment* used in the manufacture and distribution of foodstuffs, (except commodities in bulk, in tank vehicles), (1) between points in ME, on the one hand, and, on the other, points in the United States (except AK and HI). Condition: Prior receipt from applicant of an affidavit setting forth its appropriate complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Bangor or Portland, ME.)

NOTE.—Applicant states that some traffic is destined to Nova Scotia, Canada. The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled notice to interested parties of new requirements concerning applications for operating authority to handle traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and

SE 12 78

supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the Provinces of Alberta, Saskatchewan, and Manitoba regarding this issue. It the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 145118F, filed July 25, 1978. Applicant: DENNIS W. BOKNECHT, R. R. 5, Seymour, IN 47274. Representative: Edwin J. Simcox, Suite 800, 5 East Market Street, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bean meal*, from the facilities of Ralston Purina, at or near Louisville, KY, and the facilities of Lauhoff Grain, at or near Danville, IL, to the facilities of Rose Acre Farms Inc., in Jackson and Jennings Counties, IN. (Hearing site: Cincinnati, OH, or Indianapolis, IN.)

MC 145128F, filed August 4, 1978. Applicant: MARKET SUPPORT SERVICES, INC., 4653 Hollins Ferry Road, Baltimore, MD 21227. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, NW., Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of John-Jeffrey (Baltimore) Corp., at or near Baltimore, MD, and the facilities of John-Jeffrey Corp., at or near Gloucester City and Bellmawr, NJ, on the one hand, and, on the other, points in DE, MD, NJ, MY, PA, VA, and DC, under continuing contracts with John-Jeffrey (Baltimore) Corp. and John-Jeffrey Corp., of Gloucester City, NJ. (Hearing site: Washington, DC.)

PASSENGER AUTHORITY

MC 139673 (Sub-4F), filed July 17, 1978. Applicant: JAMES H. STEGER d.b.a. STEGER BUS LINES, 4150 Aldebaran Way, Mobile, AL 36609. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special and charter operations, beginning and ending at Mobile, AL., and extending to points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Mobile or Birmingham, AL.)

[FR Doc. 78-25534 Filed 9-11-78; 8:45 am]

[7035-01]

[Exception No. 1 Under Section (a), Paragraph (1), Part (v), Revised Service Order No. 1332]

DENVER & RIO GRANDE WESTERN RAILROAD CO.

AUGUST 31, 1978.

By the Board: There is a shipment of rail for Southern Pacific Transportation Co. to be loaded at Pueblo, Colo. Delay in production of the rail means the rail will not begin loading until the week of September 4, 1978. The specifications for the cars required to transport this traffic make it essential that the Denver & Rio Grande Western Railroad Co. commence immediate assembly of these cars.

Order. Pursuant to the authority vested in the Railroad Service Board by section (a)(1)(v) of the Revised Service Order No. 1332, the Denver & Rio Grande Western Railroad Co. is authorized to assemble and hold Southern Pacific Transportation Co. and St. Louis Southwestern Railway Co. drop end gondolas and flatcars for loading rail at Pueblo, Colo., destined to Southern Pacific Transportaion Co., regardless of the provisions of section (a)(2)(ii).

These cars shall become fully subject to all provisions of Revised Service Order No. 1332 when loading is completed and instructions for forwarding are received from the shipper.

Effective August 31, 1978.

Expires September 30, 1978.

JOEL E. BURNS,
Chairman,
Railroad Service Board.[1]

[FR Doc. 78-25652 Filed 9-11-78; 8:45 am]

[7035-01]

[Ex Parte No. 349F]

INCREASED FREIGHT RATES AND CHARGES, 1978, NATIONWIDE

SEPTEMBER 5, 1978.

As part of the decision served June 7, 1978, in the above-entitled proceeding, the Commission ordered the investigation into the lawfulness of the rates, charges, and regulations, as set forth in the Tariff of Increased Rates and Charges X-349, as supplemented, of the following commodities:

	SPC No.
1. Newsprint paper	57
2. Sodium alkalies	69
3. Industrial gases	71
4. Sulphuric acid	73
5. Rubber, natural or synthetic	78
6. Manufactured iron or steel	100
7. Recyclables	NA
8. Soda ash	70
9. Plastic materials	77
10. Iron and steel pipe—western territory only	101

By further decision served July 27, 1978 (published in the FEDERAL REGISTER at 43 FR 33871, August 1, 1978), as amended by decision served August 7, 1978, the substance of the investigation, and the procedural time schedule was established. Opening statements of facts and arguments may be submitted by railroad respondents no later than September 8, 1978. Statements by shippers and other parties may be submitted no later than October 9, 1978, with railroad replies due no later than October 30, 1978.

Respondents, and other parties interested in presenting their views and evidence, or in otherwise participating in this proceeding, shall be required by this notice to notify the Commission by filing with the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before September 15, 1978, the original and one copy of a declaration of intent to participate. The Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties to this proceeding, upon whom copies of all statements must be filed. Notice will be given to the general public by delivering a copy of this notice to the Director, Office of the Federal Register, for publication.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-25649 Filed 9-11-78; 8:45 am]

[7035-01]

[Ex Parte No. MC-43]

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

Decided: August 23, 1978.

Charles Zumstein d.b.a. C. E. Zumstein Co. (MC-134183 and two subs), has filed an application for approval of contract carrier rental contract No. 2-3050 with Lewisburg Container Co. of Lewisburg, Ohio, lessee, under paragraph (b) of section 1057.6 of the Lease and Interchange of Vehicles Regulations (49 C.F.R. 1057).

Findings: 1. The contract does not contain any guaranteed minimum annual rental agreement.

It is ordered: 1. Applicant's request for approval of the contract carrier rental contract No. 2-3050 is denied.

By the Commission, Motor Carrier Leasing Board, Board Members Joel E. Burns, Robert S. Turkington, and W. F. Sibbald, Jr. Board Member Turkington not participating.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-25650 Filed 9-11-78; 8:45 am]

[1] Railroad Service Board: Members Joel E. Burns, Robert S. Turkington, and John R. Michael.

[7035-01]

[Notice No. 105]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 12, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132.

MC-FC 77822. By Application filed August 15, 1978, MOLERWAY FREIGHT LINES, INC., 2707 Beartooth Drive, Billings, MT 59102, seeks temporary authority to transfer a portion of the operating rights of Bill G. Carr and Phyllis R. Carr, d.b.a. Arrowhead Transportation, a partnership, 103 Moore Lane, Billings, MT 59102, under section 210a(b). The transfer to Molerway Freight Lines, Inc., of a portion of the operating rights of Bill G. Carr and Phyllis R. Carr, d.b.a. Arrowhead Transportation, a partnership, is presently pending.

MC-FC 77827. By application filed August 29, 1978, HOWARD DULLUM, Gardner, ND 58036, seeks temporary authority to transfer a portion of the operating rights of Fillipi Truck Lines, Inc., Warren, MN 56762, under section 210a(b). The transfer to Howard Dullum, of a portion of the operating rights of Fillipi Truck Lines, Inc., is presently pending.

MC-FC 77832. By application filed August 28, 1978, JOHN F. MOWRY, JR. and DEAN E. STILES, a partnership, d.b.a. ESCORT MOVING & STORAGE, 525 Harvester Drive, Windber, PA 15963, seeks temporary authority to transfer the operating rights of Robert W. Weaver, an individual, d.b.a. Morrellville Transit Co., P.O. Box 215, Windber, PA 15963, under section 210a(b). The transfer to John F. Mowry, Jr., and Dean E. Stiles, a partnership, d.b.a. Escort Moving & Storage, of the operating rights of Morrellville Transit Co., is presently pending.

By the Commission.

H.G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-25651 Filed 9-11-78; 8:45 am]

[7035-01]

REROUTING TRAFFIC

[I.C.C. Order No. 71 Under Revised Service Order No. 1252]

To Chesapeake Western Railway: In the opinion of Joel E. Burns, Agent, Chesapeake Western Railway is unable to transport traffic over its line between Elkton, Va., and Harrisonburg, Va., because of bridge damage.

It is ordered:

(a) *Rerouting traffic.* Chesapeake Western Railway, being unable to transport traffic over its line between Elkton, Va., and Harrisonburg, Va., because of bridge damage, is authorized to divert or reroute such traffic over any available route to expedite the movement.

(b) *Concurrence of receiving road to be obtained.* Chesapeake Western Railway, in rerouting cars in accordance with this order, shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Chesapeake Western Railway, when rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 4 p.m., August 29, 1978.

(g) *Expiration date.* This order shall expire at 11:59 p.m., September 6, 1978, unless otherwise modified, changed, or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 29, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-25648 Filed 9-11-78; 8:45 am]

[7035-01]

[I.C.C. Order No. 72 Under Revised Service Order No. 1252]

REROUTING TRAFFIC

To all railroads: In the opinion of Joel E. Burns, Agent, the Carolina, Clinchfield & Ohio Railway Co. is unable to transport promptly all traffic offered for movement over its lines between Elkhorn City, Ky., and Kingsport, Tenn., because of a derailment and bridge damage.

It is ordered:

(a) *Rerouting traffic.* The Carolina, Clinchfield & Ohio Railway Co. being unable to transport promptly all traffic offered for movement over its lines between Elkhorn City, Ky., and Kingsport, Tenn., because of a derailment and bridge damage, that line is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be during the time this order remains in force,

V 43 / 177

those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 2 p.m., August 31, 1978.

(g) *Expiration date.* This order shall expire at 11:59 p.m., September 6, 1978, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads of subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 31, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-25653 Filed 9-11-78 8:45 am]

SEP 12 1978

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Civil Aeronautics Board	1, 2, 3, 4, 5
Consumer Product Safety Commission	6, 7
Equal Employment Opportunity Commission	8
Federal Election Commission	9
Federal Energy Regulatory Commission	10
Federal Reserve System	11
International Trade Commission	12
National Transportation Safety Board	13
Nuclear Regulatory Commission	14

[6320-01]

1

CIVIL AERONAUTICS BOARD.

TIME AND DATE: September 7, 1978 (This item will be discussed in closed session immediately following conclusion of the open session which begins at 10 a.m.)

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C.

SUBJECT: Recommended position for negotiations with Korea.

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Negotiations with Korea are scheduled to begin in Washington, September 18, 1978. There is an interagency meeting to prepare for the U.S. position for these negotiations on Friday, September 8, 1978. Accordingly, the following Board members have voted that agency business requires that the Board meet on this item on less than 7 days' notice and that no earlier announcement of the meeting was possible;

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

This memo contains possible strategy and positions to be taken by the United States in its negotiations with Korea. Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies relating to the issues could seriously compromise the ability of the U.S. Delegation to achieve an agreement which would be in the best interests of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 410b.5(9)(B) and that the meeting on this item should be closed:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

PERSONS EXPECTED TO ATTEND

Board Members.—Chairman, Alfred E. Kahn; Member, Richard J. O'Melia; and Member, Elizabeth E. Bailey.

Assistants to Board Members.—Mr. Mike Roach, Mr. Elias Rodriguez, and Mr. David M. Kirstein.

Office of the Managing Director.—Mr. Dennis Rapp and Mr. John Hancock.

Bureau of Pricing and Domestic Aviation.—Mr. Michael E. Levine, Ms. Barbara Clark, Mr. James L. Deegan, Mr. Herbert Aswall, Mr. Doug Leister, and Mr. John Kiser.

Bureau of International Aviation.—Mr. Donald A. Farmer, Jr., Mr. James Horneman, Mr. Ed Wilbur, Mr. Willard Demory, and Mr. Parlen McKenna.

Office of Economic Analysis.—Mr. Robert Frank and Mr. Richard Klem.

Bureau of Consumer Protection.—Ms. Pat Kennedy.

Office of the General Counsel.—Mr. Philip J. Bakes, Jr. and Mr. Gary J. Edles.

Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

Reporter.—North American Reporting.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B).

PHILIP BAKES,
General Counsel.

[S-1824-78 Filed 9-8-78; 8:45 am]

[6320-01]

2

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the September 7, 1978, agenda.

TIME AND DATE: 10 a.m., September 7, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 9. Docket 31496, Piedmont's motion for hearing on Miami Entry Authority (Memo 8160, BPDA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The Bureau of Pricing and Domestic Aviation requests that Item 9 be deleted from the meeting calendar of September 7, 1978. The deletion is made necessary by the staff's desire to take account of additional, related pleadings. Accordingly, the following Members have voted that agency business requires the deletion of Item 9 and that no earlier announcement of this deletion was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the Federal Register for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-1825-78 Filed 9-8-78; 8:45 am].

[6320-01]

3

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., September 11, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Touche Ross and Co. to make a presentation regarding the Joint Travel Agent/Airline Economic and Value Study.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Due to a clerical error, this notice was not available 7 days in advance. So that the Board can meet to hear this presentation at the scheduled time, the following Members have voted that agency business requires that the Board meet on less than 7 days' notice

and that no earlier announcement of this meeting was possible.

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the Federal Register for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-1826-78 Filed 9-8-78; 8:45 am]

[6320-01]

4

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 2:30 p.m., September 14, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: The Commonwealth of Puerto Rico to make a presentation regarding its current tourism and industrial development activities, its relationship with the United States, and the relationship of air transportation to the economy of the island.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5078.

[S-1827-78 Filed 9-8-78; 8:45 am]

[6320-01]

5

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., September 13, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 33279, Application of Reeve Aleutian Airways, Inc., for an exemption to carry military passengers on scheduled flights pursuant to a contract with the Military Airlift Command (Memo 5333-E, BPDA).
3. Docket 32867, Petition of Reeve Aleutian Airways, Inc., to establish increased final service mail rates (Memo 8169, BPDA).
4. Docket 30332, IATA agreements proposing varying increases in North Atlantic cargo rates through September 30, 1979, to compensate for cost increases. Pan American and TWA support the agreements in their entirety while Seaboard supports the increases with some exceptions. Both the Air Freight Forwarders Association and the Ad Hoc Committee for the Development of Air Freight oppose some of the structural aspects of the agreements (BPDA, BIA).
5. Docket 26291, Petition for immediate restoration of adequate air service for American Samoa, (Memo 7651-C, BPDA, OCCR, BIA, OGC).
6. Dockets 29449, and 30132, Applications of Northwest for realignment and restriction removal (Memo 8171, BPDA).
7. Docket 31447, Piedmont's application to amend its certificate for Route 87 to extend its system from the terminal points Greensboro/High Point and Raleigh/Durham to the new terminal point Dallas/Ft. Worth. Piedmont moved for an expedited hearing and also suggested that we follow show cause procedures in this case (Memo 8159, 8159-A, BPDA, OGC).
8. Dockets 32770, 32719, 32721, 32753, 32813, 32836, 32837, and 33003; Eastern's application for temporary suspension of service at Memphis, Tenn.; Southern's application for removal of certificate restriction prohibiting nonstop service between Atlanta and Memphis and petition for order to show cause; Southern's application for exemption to permit nonstop service between Atlanta and Memphis with two round trips; Braniff's application for amendment of its certificate to permit service between Atlanta and Memphis on a permissive basis; Frontier's application for amendment of its certificate to permit service between Atlanta and Memphis on a permissive basis; Piedmont's application for removal of certificate restriction prohibiting nonstop service between Atlanta and Memphis and petition for order to show cause; Piedmont's application for exemption to permit nonstop service between Atlanta and Memphis with two round trips; Texas International's application for amendment of its certificate to permit service between Atlanta and Memphis (BPDA, ALJ, OGC).
9. Docket 32260, TWA's motion for expedited hearing on St. Louis/Kansas City-Los Angeles-Honolulu authority; Docket 32384, Northwest's application for removal of Los Angeles/San Francisco/Honolulu long-haul restriction; Docket 32291, American's application for Los Angeles/San Francisco-Honolulu athority with St. Louis long-haul requirement (Memo 8161, BPDA, ALJ, OGC).
10. Amendment of the Off-Route Charter Rules (OGC, BPDA, BIA).
11. Docket 27631, *Foremost International Tours* v. *Qantas Airways*, Enforcement Proceeding. Petitions for review of an initial decision holding that Qantas' inclusive tour operation was not unlawful (Memo 8131, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-1828-78 Filed 9-8-78; 8:45 am]

[6355-01]

6

CONSUMER PRODUCT SAFETY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: September 8, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME: September 13, 1978, 9:30 a.m.

CHANGES IN THE MEETING: Delete previous item 2: Briefing on Chronic Hazard Priorities. This item will be rescheduled at a future briefing.

[S-1832-78 Filed 9-8-78; 11:16 am]

[6355-01]

7

CONSUMER PRODUCT SAFETY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: September 8, 1978.

PREVIOUSLY-ANNOUNCED DATE AND TIME: September 14, 1978, 9:30 a.m.

CHANGES IN THE MEETING: Delete previous item 12: Possible Substantial Product Hazard Enforcement Case. This item will be rescheduled at a future meeting.

[S-1833-78 Filed 9-8-78; 11:16 am]

[6570-06]

8

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1785-78 and S-1805-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:30 p.m. (eastern time), Friday, September 8, 1978.

CHANGE IN THE MEETING: The following item is added to the portion open to the public:

EEOC Employment Goals.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of change—Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; and Ethel Bent Walsh, Commissioner.
Opposed.—None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued September 7, 1978.

[S-1830-78 Filed 9-8-78; 10:26 am]

[6715-01]

9

FEDERAL ELECTION COMMISSION.

FEDERAL REGISTER NO. FR-S-1808.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, September 14, 1978, at 10 a.m.

CHANGE IN MEETING: The following item has been added to the open portion of the meeting:

Presidential Campaign Disclosure Form.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-1834-78 Filed 9-8-78; 3:36 pm]

[6740-02]

10

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published September 11, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., September 13, 1978.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

P-4. E-9555, The Metropolitan Water District of Southern California.

KENNETH F. PLUMB,
Secretary.

[S-1831-78 Filed 9-8-78; 10:26 am]

[6210-01]

11

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

TIME AND DATE: 10 a.m., Friday, September 15, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20552.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: September 7, 1978.

GRIFFITH GARWOOD,
Deputy Secretary of the Board.

[S-1829-78 Filed 9-8-78; 8:45 am]

[7020-02]

12

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, September 19, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public.

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
5. Fish from Canada (Inv. 303-TA-3)—Briefing and vote.
6. Portland hydraulic cement from Canada (Inv. AA1921-184)—Briefing and vote.
7. Quarterly report on East-West Trade (if not already approved by action jacket).
8. Any items left over from previous agenda.

Portions closed to the public:

9. Status report on the MTN study.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1836-78 Filed 9-8-78; 3:52 pm]

[4910-58]

13

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 39924, September 7, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Thursday, September 14, 1978, 9 a.m. [NM-78-33].

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

STATUS: The first eight items on the agenda will be open to the public; the last item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*—Southern Co. Services, Inc., beech-Hawker 125-600A, N40PL, McLean, Va., April 28, 1977.
2. *Highway Accident Report*—Cates Trucking, Inc., tractor-semi-trailer/multiple vehicle collision and override, I-285, Atlanta, Ga., June 20, 1977.
3. *Marine Accident Report*—MV *Chester A. Poling* sinking near Cape Ann, Mass., January 10, 1977.
4. *Letter* to Lake Carriers' Association re reconsideration of probable cause, SS *Edmund Fitzgerald*, November 10, 1975.
5. *Letter* to Federal Railroad Administration re their response to safety recommendation R-73-5.
6. *Closeout* of safety recommendations A-78-4, R-74-33, R-77-18, R-75-32, and R-75-37.
7. *Closeout* of safety recommendations H-77-9, H-77-43, and R-76-8.
8. *Discussion*—Determination of probable cause.
9. *Opinion and Order*—Petition of Jolls, Dkt. SM-1953; disposition of petitioner's appeal.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-1835-78 Filed 9-8-78; 3:52 pm]

[7590-01]

14

NUCLEAR REGULATORY COMMISSION.

Time and date: Friday, September 15, 1978.
Place: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.
Status: Open and closed.
Matters to be considered:

FRIDAY, SEPTEMBER 15—9 A.M.

1. Discussion of employee allegations (approximately 1 hour) (closed-Exemption 1).
2. Briefing on licensing procedures for geologic repositories for high level waste (approximately 45 minutes) (public meeting).
3. Affirmation items (approximately 10 minutes) (public meeting).
a. FOIA appeal of A. Kranish (postponed from September 6, 1978).
b. Amendments of parts 2 and 51.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

SEPTEMBER 8, 1978.

[S-1837-78 Filed 9-11-78; 10:04 am]

V 43 / 177
SE 12 78

federal register

TUESDAY, SEPTEMBER 12, 1978
PART II

DEPARTMENT OF LABOR

Employment and Training Administration

■

GUIDELINES FOR REVIEW OF PLANNED PERFORMANCE IN COMPREHENSIVE MANPOWER PROGRAMS

V 43 / 177 SEP 12 78

[FR 4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

[Field Memorandum 390-78]

GUIDELINES FOR REVIEW OF PLANNED PERFORMANCE IN COMPREHENSIVE MANPOWER PROGRAMS

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: In order to provide a common framework of national and regional experience against which to compare performance goals and to identify potential problems with program design and delivery, the Department of Labor has developed guidelines to review prime sponsors planned performance for fiscal year 1979 under Title I of the Comprehensive Employment and Training Act (CETA) of 1973, as amended.

The entire text of Field Memorandum No. 390-78, which was issued on July 26, 1978, is published here to inform all interested parties of the Department's review procedures.

For further information contact:

Robert Colombo, Employment and Training Administration, U.S. Department of Labor, Patrick Henry Building, Room 5006, 601 D Street NW., Washington, D.C. 20213, telephone, 202-376-6560.

FIELD MEMORANDUM NO. 390-78—ALL REGIONAL ADMINISTRATORS

Lawrence W. Rogers, Administrator, Field Operations.

CETA Title I Reviw Guidelines for Fiscal Year 1979

1. *Purpose.* To transmit guidelines for the review of CETA title I annual plans for fiscal year 1979.

2. *References.* FM 209-77; FM 347-77.

3. *Background.* Grant review guidelines were implemented for the first time to review fiscal year 1977 CETA title I grant applications. There was some criticism of this initial effort, mainly concerning the technical adequacy of the indicators themselves and the fact that participation in the development of the indicators was limited. In response to this, a work group, consisting of one prime sponsor representative from each region and one representative from each regional office, was created to identify the best indicators to measure performance and to define methods of computation, given the constraints of the existing data system. The group produced a final document (FM 209-77) setting forth 13 performance indicators, grouped into four clusters and related interpretive factors. The cluster approach was used since CETA represents a multiplicity of goals and objectives for which no single performance indicator can adequately measure the effectiveness of a local program.

A subgroup consisting of three prime sponsor representatives, three regional office representatives, and two national office representatives analyzed fiscal year 1976 data and develoed a mechanism to assist in the review of fiscal year 1978 annual plans. The resulting grant review guidelines include three of the original four clusters. The earnings cluster was incorporated into the interpretive factors section of the grant review guidelines because there is no formal mechanism in the planning process that considers planned earnings outcomes. (See FM 347-77.)

4. *Changes Proposed for fiscal year 1979.* In preparation for reviewing fiscal year 1979 grants, the work group again convened to propose grant review guidelines more appropriate for fiscal year 1979. The work group was generally satisfied with the fiscal year 1978 process, but proposed the following refinements.

a. Raise the "point of critical inspection," below which prime sponsors must explain low planned performance, from the quartile to the third.

b. Emphasize that prime sponsors must explain planned performance below their actual performance of the prior year. (Throughout this field memorandum, "prior year" or "previous year" shall mean fiscal year 1977. The "current year" is fiscal year 1978, and fiscal year 1979 grants are those being reviewed.)

c. Provide additional supporting data to aid prime sponsors with their planning and to assist Federal representatives to understand explanations in terms of local conditions.

d. Clarify and expand the concept of incremental improvement from that provided for the fiscal year 1978 review.

e. Publish the grant review guidelines early enough so that they may be more useful in the planning process.

5. *Responsibilities.* It will be the responsibility of the Federal representative to fill out the worksheets and determine when an explanation will be required from a prime sponsor. The prime sponsor will have the responsibility to provide explanations when required.

It was the specific intent of the work group that explanations should be based on clusters rather than individual indicators. That is, if only one or two indicators within a cluster fall into the area requiring explanation by a small amount, no explanation may be required, especially if the other indicators are well inside the two-thirds requiring no explanation. Only good judgment by the Federal representative in determining which clusters need explanation can maintain flexibility and prevent needless redtape and delays.

Throughout this memorandum the Federal representative is designated as the reviewer of the prime sponsor's annual plan. However, some regions may prefer to use committees or other processes in the review. This is the prerogative of the RA, and although the term Federal Representative will be designated, it is not intended to limit the RAs in their choice of review staff.

6. *Objectives and mechanism of review guidelines.* The primary objective of such a tool is to provide a common framework against which prime sponsors and regional offices can compare fiscal year 1979 annual plans and performance goals to actual national and regional experience.

Data for each indicator are displayed by reference points of lowest and highest performance and low and high thirds on both a national and regional level. Planned performance in relationship to the regional low or high third will be emphasized in the plan review. Each indicator cluster will include a list of factors the presence or absence of which may affect performance. Such a list is not intended to be all inclusive nor is it intended to substitute for the knowledge of a Federal representative and prime sponsor staff about the appropriateness of a plan. The data are intended to provide a good starting point from which to identify potential problems with program design and delivery before they are reflected in poor performance. The review guidelines are not to be considered as performance standards, since there is no requirement that prime sponsors perform at any standardized level. The reference points of regional and national experience serve only as convenient benchmarks against which prime sponsors plans can be reviewed and analyzed, and to identify where further explanation would help the RA to understand local goals and where additional technical assistance may be needed.

Some users may wish to understand the distribution of performance more precisely than thirds are able to show. For these users, optional scattergrams plotting each prime sponsor, by region, have been provided in attachment II. To aid in comparison, the scattergrams have been divided into the same thirds as shown on the guideline worksheets.

7. *Indicators.* The indicators to be used as the basis for the review of fiscal year 1979 title I annual plans are those developed by the performance indicators work group and issued in FM 209-77, as revised by the work group for fiscal year 1979. However, several indicators have been excluded from this exercise; these are in the earnings cluster, for which no information is generally available in the planning documents, and the expenditure rate in the fund utilization cluster, because it is the complement of the carryout rate included in these review guidelines. The following indicators have been included.

a. *Termination cluster.*

(1) Positive termination rate:
Total positive terminations/total terminations times 100.

(2) Entered employment rate, as percent of total terminations:
Entered employment/total terminations times 100.

(3) entered employment rate, as percent of positive terminations:
Entered employment/total positive terminations times 100.

(4) Nondirect placement rate, as a percent of total terminations:
Nondirect placements/total terminations times 100.

(5) Nondirect placement rate, as a percent of entered employment:
Nondirect placements/entered employment times 100.

b. *Cost cluster,* where total accured expenditures refer to prime sponsor CETA funds.

(1) Cost per positive termination:
Total accrued expenditures/positive terminations.

(2) Cost per entered employment:
Total accured expenditures/entered employment.

(3) Cost per nondirect placement:
Total accrued expenditures/Nondirect placements

c. *Fund Utilization Cluster*

(1) Carryout rate:
Funds available—Accrued expenditures/Funds available × 100

(2) Administrative cost rate:
Administrative expenditures/Total accrued expenditures × 100

8. *Description of data:*

a. *Data base.* Data covering fiscal year 1977 for 438 prime sponsors were used to compute the 10 indicators and to determine national and regional thirds against which the prime sponsor's planned performance will be compared. The data were obtained from the CETA program status summary (PSS), financial status report (FSR) and obligations contained in the grant signature sheet and modifications. Data from these documents are received in the national office through the regional automated system (RAS). The RAS data were, in turn, processed by statistical package for the social sciences (SPSS) which provided most of the computations. The data were taken from RAS as of mid-February 1978. The data are not perfect; about 2 percent of it is missing or incorrect. Cost data in these worksheets have been corrected from the draft version. To help identify any additional data errors, attachment III.b. provided the raw data, reported by prime sponsors, from which the indicators are calculated. Please notify the national office immediately, Attention: TDCR, if any major data or computation errors are noted.

b. *Computation of thirds.* The performance of each prime sponsor was computed for each of the 10 indicators. The results, expressed as a percentage or dollar cost, were then arrayed in ascending order from the lowest computed value to the highest. This array was divided into three equal parts, each part containing the performance of 33⅓ percent of all prime sponsors.

c. *Interpretive factors.* Data for interpretive factors preprinted on the interpretive factor worksheet (see attachment I) include selected client characteristics, pre-CETA and post-CETA median wages, percent of cumulative enrollment by activity, percent of accrued expenditures by activity and the local unemployment rate. Data, except for the local unemployment rate, were obtained from the PSS for enrollment, the FSR for accrued expenditures and the quarterly summary of participant characteristics (QSPC) for characteristics and wage data. The unemployment rates were developed by BLS as the basis for fiscal year 1978 allocations. They represent fiscal year 1977 annual averages and thus correspond to prime sponsor performance for the same period. Prime sponsor fiscal year 1979 plan data will be compared against the national and regional totals from the RAS printout for fiscal year 1977 dated December 23, 1977. For comparison, the Federal representative should fill in the appropriate data in the interpretive factor worksheet for the prime sponsor under review to explain program performance. Two columns are provided for prime sponsors. In the first column the Federal representative will include planned fiscal year 1979 data, where available. If planning data for chacacteristics and wages can be extracted from the narrative or the significant segments portion of the PPS, it should be included. In the second prime sponsor column, the Federal representative should copy fiscal year 1977 performance data. Instructions for completing "sponsor" columns are in attachment I.

9. *Application of review guidelines.* There are separate worksheets for each of the indicator clusters and a worksheet for the interpretive factors to be utilized in annual plan reviews. See attachment I for an explanation of the four reference points (the high, the low, and the first and second thirds) and instructions for the use of the worksheets.

In reviewing prime sponsor planning goals, the following procedures should apply:

a. *Computation of planning goals.* The Federal representative should first compute the fiscal year 1979 performance goals for each of the indicators in the three performance clusters by substituting cumulative planning data *through the fourth quarter* from the PPS and BIS of the fiscal year 1979 annual plan for the data elements of the formulas in the worksheets. The computed values should be placed in the "planned for fiscal year 1979" column of the worksheets.

b. *Comparison to regional thirds.* Planned performance in relation to the *regional* thirds will be emphasized in the review process for each indicator in the performance clusters to determine if local planning goals require an explanation. The national reference points provide additional reference points. Use of regional comparative data as the reference points against which prime sponsor plans are to be compared takes into account programmatic, labor market, and other factors unique to a particular region, thereby insuring equitable treatment for as many prime sponsors as possible.

c. *Planned performance requiring explanation.* In general, planned performance that is (1) not less than the prior year's performance, and (2) in the acceptable two-thirds need not be explained. Planned performance falling *above* the region's lowest third for the "termination cluster" and *below* the region's highest third for the "cost cluster" and the carryout rate in the "fund utilization cluster" will not normally need explanation. Higher positive outcome rates and lower costs for positive outcomes and carryout rates generally indicate desirable performance and should not require explanation unless there are programmatic or other reasons for doing so. Because the carryout rate of the "fund utilization cluster" is high for many regions, the RA may require an explanation for planned carryout rates above some fixed level (to be determined by the RA) even though planned carryout may be below the highest third. Whatever point is selected must be realistic and achievable by the majority of prime sponsors (the national median for carryout rate was 20 percent).

Any planned administrative rates that exceed the limits specified in the regulations (95.17(b)(8)) must be explained to the complete satisfaction of the RA.

RA's may, in addition, request an explanation of planned performance in the two-thirds which normally requires no explanation when the re-

V 43 / 177 SEP 12 78 IMI

viewer believes the planning goals are unrealistic or serious programmatic problems are evident. This may include planned performance which differs substantially from previous performance without a significant change occurring in program operations, or planned performance which may not be achievable because of serious administrative, managerial or fiscal problems. The RA may determine appropriate situations and the amount of detail required for any explanation.

Explanations must be as *complete* as possible. They should take into account the absence or presence of labor market, programmatic and other locally relevant situations which may influence performance.

These factors will be discussed in item 10 of this FM. To the extent that an explanation relates to a local *problem* (such as a management problem) under the control of the prime sponsor, it should include a brief discussion of the steps being taken to correct the problem. (Note that an indicator in the low or high third may result from program mix or labor market conditions and may not reflect a "problem.")

d. *Incremental improvement.* In evaluating plans for fiscal year 1979, an additional key element to be considered is each sponsor's previous performance. The concept of incremental improvement is critical to reviewing a sponsor's plan. To determine the extent of improvement over previous performance, Federal representatives should compute (or copy from the lists provided) the sponsor's actual achievement for each of the indicators, using the fiscal year 1977 data. The results should be placed in the column headed "Actual fiscal year 1977" of the performance indicator worksheets. If planned performance continues to be in the third requiring explanation, but reasonable improvement over previous performance is planned, such improvement may serve as adequate explanation. The knowledge and *judgment* of the reviewer must play a large role in these situations, particularly where the prime sponsor has a history of achieving below plan. A prime sponsor, even though planning to perform in the two-thirds of all clusters requiring no explanation, should not plan lower performance than it achieved the prior year without explaining why unless there has been a drastic change in local conditions. Although all sponsors may be expected to improve their performance, reviewers must use judgment; improvement—like growth—has limits.

e. *Use of current data.* The structure of the grant review guidelines has made no formal provision for using current, mid-year data, because mid-year data are not always comparable to end-of-year data. However, if questions arise concerning the need to explain, or the adequacy of the explanation provided, the most recent data available should be taken into account. Current data should be especially helpful in helping to decide questions concerning incremental improvement.

10. *Interpretive descriptions and interpretive factors.* Each performance cluster worksheet (see attachment I to this FM) contains a preprinted list of programmatic and environmental factors which may be of assistance in explaining, or raising questions about prime sponsor planned performance. The list, located in the lower left side of each worksheet, is *not* intended to be all inclusive. The Federal representative may be aware of other factors unique to the region or prime sponsor area that could explain planned performance. Among the influential factors (whether or not listed) are those dealing with the prime sponsor's program mix, enrollee characteristics, enrollee pre-CETA and post-CETA wages, and the local unemployment rate.

These factors are all quantifiable and are designated as *interpretive factors.* They are contained on a separate worksheet in Attachment I for convenience of comparing these factors and using them in combination to explain planned performance. Since these factors, except for enrollee wages and the local unemployment rate, can be broken down by their proportion of the prime sponsor's total program, each factor can be compared with other elements of the sponsor's program and regional experience data.

The interpretive factors worksheet will contain regional and national experience data for fiscal year 1977 which has been preprinted on the worksheets. Prime sponsor data to be compared within the program and with regional totals will be filled in by the Federal Representative in the blank columns (see Attachment I, section II, for additional instructions).

Page 5 of Attachment I contains a short description of the use of each of the interpretive factor groups. The description is limited but should help the Federal Representative to understand how the various interpretive factors may be used. The following examples provide the Federal Representative with a fuller range of implications that these factors may have on planned performance:

a *Enrollee Characteristics.* The Federal Representative should pay particular attention to the types of participants to be enrolled in the program and the possible correlations to the percent of expenditures, cumulative enrollments by program activity, planned performance goals, and program objectives. Prime sponsors may develop and operate programs designed to increase the employability of particular groups of enrollees, with placement in unsubsidized employment not being a program objective. A prime sponsor proposing to serve a significant number of youth and full-time students may be expected to allocate a sizable portion of funds for work experience activities and have a sizable percentage of enrollments in work experience activities, accompanied by a relatively low planned "entered employment rate," a relatively high planned "cost per entered employment," and a relatively high planned "positive termination rate." The Federal Representative should then compare planned performance goals for the affected indicators against regional comparative data for the interpretive factors. This comparison should help to assess planned performance.

Prime sponsors operating programs or activities stressing service to other "hard-to-place" groups, e.g., minorities, persons with limited English-speaking ability, older workers and handicapped, may reasonably be expected to propose relatively low positive termination rates through frequent tunover, low entered employment rates, high costs per positive termination and high costs per entered employment.

b. *Program Mix.* Prime sponsors may plan to allocate a sizable portion of funds to classroom training and OJT. These are placement-related activities and planned performance should reflect this, unless the classroom training includes much remedial education. Planned goals for other indicators may be similarly affected by such a distribution of funds. The Federal Representative should review regional data for the affected indicators and the interpretive factors for possible explanation of the sponsor's planned performance.

The interpretive factors and other environmental and programmatic influences must be used with care. Although there may be an established correlation (see page 5 of Attachment I) among some of these with the planning goals, there are many nonmeasurable factors which can completely outweigh the correlations, many of which are weak. Initial multiple regression equations show that the 10 best factors were "able to explain" an average of about 40 percent of the variation between prime sponsors for the performance indicators. This means that the majority (about 60 percent) of the variation in prime sponsor performance is not predictable by the data available. It will be incumbent on the Federal Representative, who is knowledgeable concerning the environmental and programmatic aspects of the prime sponsor, to make *judgments* as to the factors and the strength of the factors considered to be operating to determine if they are adequate to explain planned performance.

11. *Additional Information.* The national office is currently preparing a statistical analysis of a variety of factors affecting performance. The Performance Indicators Work Group recommended that this study, with updates, be published quarterly.

12. *Training.*

a. *Federal Staff.* In order to insure a uniform understanding of how to apply the guidelines in your region, it is recommended that regional staff be trained *as early as possible.* Regional offices may request training from the national office. Arrangements will be made for national staff or members of the Performance Indicators Work Group to assist in training in the regions.

Although the fiscal year 1979 grant narratives will be abbreviated because of uncertainty relating to CETA reauthorization, these review guidelines were designed to aid in the review of the PPS and BIS. Since these forms are not expected to change during fiscal year 1979, it seems most reasonable to review proposed performance on a full year basis. RA's, of course, must determine what level of detail is appropriate for their fiscal year 1979 grant reviews.

13. *Action Required.* RA's should distribute this FM as soon as possible to regional staff, prime sponsors and any other person requiring this information. They should also inform prime sponsors and others that these guidelines will be published in the FEDERAL REGISTER.

14. *Inquiries.* Questions should be directed to John Weigant or Henry Rosenbloom on 376-6580 or Nan Beckley on 376-6575.

15. *Attachments.*

I. Worksheets and Instructions (RA's only).

II. Performance Indicator Scattergrams.

III. Prime sponsor lists by region, of performance indicators based on fiscal year 1977 performance (RA's are authorized to substitute RAS data where it is more current or convenient.) (RA's only).

NOTE. For presentation in the FEDERAL REGISTER, only Attachments I and II of this field memorandum will be reproduced. However, performance data contained in Attachment III, which will not be reproduced, are also contained in the Performance Indicator Scattergrams of Attachment II, although prime sponsors are not identified.

WORKSHEETS

I. *Performance Cluster Worksheets.* Separate worksheets have been developed for each of the indicator clusters which include a list of interpretive environmental and programmatic factors to be used in plan reviews. The following will describe the format of the cluster worksheets and general procedure for review.

A. The *upper part of each worksheet* lists the component parts of the cluster, the computation formula, and a space for entering planned outcomes for the prime sponsor being reviewed. Next to the planned result insert the prime sponsor's actual performance during the prior year. Comparative data, to be used as reference points in either percents or dollars, are preprinted. The comparative data will be displayed for both *national* and for *individual regions.* Four reference points are included:

1. Lowest performance in the region/Nation (low).

2. First third in the region/Nation (33 percent).

3. Second third in the region/Nation (67 percent).

4. Highest performance in the region/Nation (high).

The low third refers to the point where 33⅓ percent of the prime sponsors fall *below* in performance.

The high third refers to the point in performance which 33⅓ percent of the sponsors fall above.

The middle third includers scores between the 33⅓-percent value and the 66⅔-percent value.

B. The bottom left hand side of the worksheets contains a list of interpretive descriptions. These environmental and progammatic factors may influence performance and may be used as a basis for explaining deviations of planning goals. The list is not all-inclusive; Federal Representatives should be aware of other factors unique to the region of sponsor. In any event, is will be incumbent upon the Federal Representative (working with the prime sponsors) to document the absence or presence of influential factors. Important factors that can be helpful in explaining planned performance are those dealing with program mix, enrollee characteristics, pre-CETA and post-CETA wages and the local unemployment rate. These interpretive factors are listed on a separate worksheet of the review guideline package. This worksheet will be discussed in section II of this attachment.

C. The bottom right hand side of the worksheets provides space for explanation of planned performance. Explanation is required as described in 9.c. of this FM.

II. *Interpretive Factors.* An additional worksheet, assisting Federal Representatives in displaying performance in terms of various interpretive factors, is contained in the worksheet package. These factors should be used in conjunction with the influential factors listed on the indicator cluster worksheets as a basis to explain prime sponsor performance. The interpretive factors include categories of program mix, selected enrollee characteristics, pre-CETA and post-CETA wages and local unemployment rates. Page 5 of this Attachment contains a short description on the use of each section of the interpretive factors.

The worksheet contains four columns of data. In the first column, the Federal Representative should insert the planned data for the grant year being reviewed, as available. In the second column, the Federal Representative should insert the prime sponsor's performance for the previous year. In the final two columns corresponding regional and national data have been preprinted. The prime sponsor data should be filled in as follows.

A. PRIME SPONSOR PLANNING DATA

1. *Program Mix—Percent of Expenditures by Program Activity.* Obtain data from section F. of the BIS of the fiscal year 1979 annual plan. Cumulative fourth quarter expenditure data for each activity from F.2.A. through F.2.f. should be divided by cumulative fourth quarter total projected expenditures by program. F.2. The result should be multiplied by 100 and placed in the "sponsor" column beside the appropriate activity.

2. *Program Mix—Pecent of Camulative Enrollment by Program Activity.* First determine combined cumulative fourth quarter enrollment by adding the cumulative (total) fourth quarter enrollment in each program activity listed in section II of the PPS except Classroom Training-Voc. Ed. (Voc. Ed. enrollment is excluded because the data are too variable to be a useful indicator, and are often reported under classroom training—prime sponsor.) Then divide the fourth quarter cumulative enrollment for each of the program activities by the combined cumulative enrollment. Multiply by 100 to give the percent and record in the appropriate space. Example: Percent enrollment in classroom training equals:

$$\frac{\text{PPS: II.A (4th Q)(a) X 100}}{\text{PPS (4th Q)(a): II.A + II.C + II.D + II.E}}$$

3. *Enrollee Characteristics.* Planned enrollment by age, sex, and race should be available in a table located in the grant narrative under the section "Population To Be Served" (Section III.B.A.1. of the "Forms Prepara-

tion Handbook"). Corresponding percentages should be recorded on the interpretive factors worksheet. Enrollment for the other characteristics is not routinely planned, so it is not necessary to insert planning data where none exists. However, if the prime sponsor happens to plan for Significant Segments of the Population that exactly correspond to any of the listed categories, the planning data may be inserted. Leave blank all categories for which there is no data; it will be assumed that last year's performance will be repeated. Considerable judgment must be exercised by Federal Representatives in interpreting the impact of these factors and their changes over time.

4. *Median Wages, Unemployment Rates.* As with planned enrollee characteristics, this data should be included only if there is documentation in the grant narrative that exactly corresponds. In the great majority of cases, these spaces should be left blank.

B. *Prime Sponsor Previous Performance.* Performance data as of fourth quarter fiscal year 1977 should be inserted as appropriate. Federal Representatives may use two sources for the data: the prime sponsor's Quarterly Reports, or the RAS reports which were generated from the original Quarterly Reports.

1. *Program Mix—Percentage of Expenditures by Program Activity.* Use column B of the FSR for fourth quarter fiscal year 1977 to determine percentages. For example, percent of expenditures for PSE equals:

$$\frac{\text{FSR 7.B.3 (Wages + Fringes + Other) X 100}}{\text{FSR 7.B.7}}$$

2. *Program Mix—Percentage of Cumulative Enrollment by Program Activity.* Use section II of PSS using procedures similar to those described in paragraph A.2. above. Do not include classroom training—vocational education in any calculations.

3. *Enrollee Characteristics.* Compute percentages from the fiscal year 1977 fourth quarter QSPC or RAS printouts. Use data for total participants (column B of the QSPC).

4. *Median Wages.* Median wages have been estimated using standard methods for grouped data. (See a "Forms Preparation Handbook," May 1974.) Originally, all wage categories were included, but it was discovered that for some prime sponsors a majority of their placements had no previous wage. This caused the pre-CETA median wage to be a zero and the resultant increase in median wage was unrealistically high. The problem was resolved by excluding those without previous wages from the computation. However, eliminating those without previous wages skews actual performance in the other direction. Recognizing the merits of both positions, and that more complete data should be helpful in explaining performance, both computations have been made. Wherever the pre-CETA median wage would be zero, the percentage of participants with no previous wage is printed.

The "official" pre-CETA median wage excludes those with no previous earnings and is the preferred interpretive factor to explain performance related to wage increases. However, the other pre-CETA median wage may be included in explanations where it adds meaning. The "official" figure is contained on the prime sponsor lists under the column headed "Pre-CETA, w/o O's." It is followed by the figure including zero pre-CETA wages. Post-CETA median wages are not affected by either choice.

5. *Unemployment Rates.* Unemployment rate data are drawn from BLS annual averages for 1977 that were used to allocate funds for FY '78. They are printed on the data sheets of prime sponsor data, The regional and national unemployment rates shown on the Interpretive Factors Worksheets were aggregated from the prime sponsor data. The displayed rates should be compared with unemployment rates of recent periods noting trends that may assist in explaining differences.

Use of Interpretive Factors—General Observations

1. *Program Mix.* The size of a youth work experience program explains more of the variation in placement rates and "costs per" than any other sinlge set of factors. Youth work experience programs generally lower placement rates, raise positive termination rates, raise costs per placement, and lower costs per positive termination. A large youth work experience program is characterized by large percentages of fulltime students, youth age 18 and under, "other labor force," and a high proportion of cumulative enrollment in the work experience program activity. A relatively low cost per enrollment in work experience (cumulative) also suggests an in-school type program. (Note.—"Other labor force" participants may no longer correlate with a youth work experience program due to changes in instructions for intertitle transfers between title I and title III summer programs.)

High proportions of classroom training and OJT expenditures and enrollments often lead to higher nondirect placement rates and costs. High PSE and work experience expenditures and enrollments usually lead to low placement rates and high "costs per," especially if cost per enrollee is high, as in prevailing-wage work experience. Significant direct placement activity may be indicated by relatively high expenditures for services to participants. Direct placements will also generally lower "costs per" and raise the positive termination and entered employment rates.

2. *Enrollee Characteristics.* All enrollee characteristics listed among the interpretive factor have, on the average, lower entered employment rates than their counterparts. Prime sponsors who serve relatively large proportions of these difficult-to-place groups can be expected to have lower rates and higher cost per.

3. *Median Wages.* Higher post-CETA wages and increased wages from pre-to post-CETA may provide evidence for an emphasis on higher quality., longer tern (more expensive) training in higher skilled jobs. Large increases which result from low pre-CETA wages may also indicate a high proportion of participants without prior work experience, or with limited or old work experience.

4. *Unemployment Rates.* Local unemployment rates are negatively corrlated with all of the placement rates and are positively correlated with the costs per placement. That is, prime sponsors with higher than average unemployment rates can expect proportionately more costly programs with lower placement rates.

Displaying Worksheets in the "Federal Register"

For purposes of publication in the Federal Register, the complete set of worksheets for Region I, only, will be displayed. For the other regions (II through X), only the regional numerical data will be provided. These data can be substituted for regional data in Region I worksheets for the appropriate performance indicator clusters and interpretive factors to obtain the worksheets for any other region. National data are the same for all regions and are contained in the worksheets for Region I.

REGION I

WORKSHEETS

GRANT REVIEW GUIDELINES WITH KEY PERFORMANCE INDICATORS

PRIME SPONSOR_____

FEDERAL REPRESENTATIVE_____

DATE REVIEWED_____

V 43 / 177 SEP 12 78

PRIME SPONSOR _____

Federal Representative _____

TERMINATION CLUSTER	Formula (planned performance)	Planned for FY79	Actual FY77	COMPARATIVE DATA, 4th Quarter, FY77 Region I, percent Low	33%	67%	High	National, percent Low	33%	67%	High
Total Positive as a % of Total Terminations	PPS I.B.1 + I.B.2 / PPS I.B x 100			59	66	73½	85	31	67	75	95
Entered Employment as a % of Total Terminations	PPS I.B.1 / PPS I.B x 100			22	34½	46½	59	2	33	47	79
Non-Direct Placements as a % of Total Terminations	PPS I.B.1.b + I.B.1.c / PPS I.B x 100			17	31	38½	57	2	28	41	73
Entered Employment as a % of Total Positive	PPS I.B.1 / PPS I.B.1 + I.B.2 x 100			26	52½	66½	79	2	50	67	98
Non-Direct Placements as a % of Entered Employment	PPS I.B.1.b + I.B.1.c / PPS I.B.1 x 100			37	86	99½	100	19	87	99	100

EXPLANATION/ JUSTIFICATION: Explanation Third

EXPLAIN OR JUSTIFY IF PLANNED PERFORMANCE FOR THE CLUSTER IS BELOW PREVIOUS PERFORMANCE OR THE LOWEST REGIONAL THIRD.

Lower total positive termination rates (or high non-positive rates) may be due to:

- High enrollment of hard-to-place groups;
- High local unemployment rates;
- Inadequacies in program operation (e.g., assessment, counseling, job development, subcontractor management, or internal management) or in program design (e.g., long "holding" periods before placement, poor coordination between components, classifying applicants as participants prior to actual enrollment in program activities, etc.)

Lower entered employment rates: Any of the above plus local emphasis on program activities whose goal is not placement--work experience for youth, remedial education, intertitle transfers, etc.

Lower nondirect placement rates: Any of the above plus inclusion of significant direct placement activities.

Continue explanations on additional sheets if needed. When explaining low termination rates, refer to Interpretive Factors Worksheets to compare local factors with Regional (and national) averages.

C

PRIME SPONSOR _____

Federal Representative _____

COST CLUSTER	Formula	Planned for FY79	Actual FY77	COMPARATIVE DATA, 4th Quarter, FY77 Region I, Dollars Low	33%	67%	High	National, Dollars Low	33%	67%	High
Cost per Positive Termination	BIS F.2 / PPS I.B.1 + I.B.2			775	2220	2862	5487	580*	1790	2580	8290
Cost per Entered Employment	BIS F.2 / PPS I.B.1			1211	3342	5722	10699	710*	3140	4950	26150
Cost per Non-Direct Placement	BIS F.2 / PPS I.B.1.b + I.B.1.c			1584	3533	6984	12939	790*	3640	5760	33580

EXPLANATION/ JUSTIFICATION: Explanation Third

EXPLAIN OR JUSTIFY IF PLANNED PERFORMANCE FOR THE CLUSTER IS ABOVE PREVIOUS PERFORMANCE OR THE HIGHEST REGIONAL THIRD.

Higher Costs per Positive Termination may be due to any of the factors leading to lowered positive termination rates (see termination cluster worksheet) plus:

- High local cost structures for standard items (e.g., wage rates, rental costs, etc.);
- Use of more costly resources (e.g., proprietary schools, computers, special equipment, etc.);
- Emphasis on supportive services (transportation, day care, etc.), classroom training, employability development, etc.;
- Higher than minimum rates for participant stipends or wages;
- Stress on longer term training for higher skill jobs;
- Use of PSE

Higher Costs per Entered Employment may be due to any of the factors contributing to higher positive termination costs indicated above plus those leading to lowered Entered Employment Rates (see termination cluster worksheet).

Higher Costs per Non-Direct Placement may be due to any of the factors contributing to higher positive termination costs indicated above plus the inclusion of direct job placement activities.

*5 prime sponsors reported extremely low values. These are probably due to data problems so were excluded.

Continue Explanations of additional sheets if needed. When explaining high "costs per", refer to Interpretive Factors Worksheets to compare local factors with Regional (& national) averages.

PRIME SPONSOR _____

Federal Representative _____

FUND UTILIZATION CLUSTER	Formula	Planned for FY79	Actual FY77
Carryout:	BIS E.7.b		
% of Available Funds	BIS E.7.f x 100		
Administrative Cost Rate	BIS E.1.d x 100		
	BIS E.7.d		

EXPLAIN OR JUSTIFY IF PLANNED PERFORMANCE FOR THE CLUSTER IS ABOVE PREVIOUS PERFORMANCE OR THE HIGHEST REGIONAL THIRD.

EXPLANATION/JUSTIFICATION:

Higher Carryout Rates may be caused by:

- Slow startup of new activities;
- Supplemental appropriations received late in the fiscal year;
- Internal administrative, management, processing or contracting problems;
- Unplanned-for events, since original grant approval;
- Unusually high carryin rates.

Higher Administrative Cost Rates (over 20%) may be caused by:

- High local cost structure, especially salaries, rent;
- Stress on activities requiring proportionally more administration (e.g., classroom training vs work experience);
- Stress on non-stipended activities (e.g., services, direct placements);
- Heavy reliance on contractors, subgrants;
- Unplanned carryout of non-administrative costs;
- Heavy use of computers or other hardware;
- High indirect cost rates.

Prime sponsors showing improbable Carryout Rates (less than 0% or greater than 100%) are excluded:
*National: 14 **This Region: 1

Continue explanation on additional sheets if needed. When explaining high planned Carryout and Administrative Rates, refer to Interpretive Factors Worksheets to compare local factors with Regional (and national) averages.

COMPARATIVE DATA, 4th Quarter, FY 77								
	** Region I, percent			*National, percent				
	Low	33%	67%	High	Low	33%	67%	High
	0	4	22	32	0	12	26	59

Percent of Prime Sponsors above 20%: Region: 20.8 % National: 10.0%

Explain

PRIME SPONSOR _____

FEDERAL REPRESENTATIVE _____

INTERPRETIVE FACTORS

	Prime Sponsor Data** Planned, FY 1979	Actual, FY 1977	FY 1977 Averages Region I	National
A. Program Mix				
1. Percent of Expenditures				
Classroom Training	_____	_____	33.4	35.7
On-the-Job Training	_____	_____	10.4	11.2
Public Service Employment	_____	_____	5.5	6.0
Work Experience	_____	_____	39.2	36.8
Services to Participants	_____	_____	11.1	9.4
Other Activities	_____	_____	.4	0.7
	100%	100%	100%	100%
2. Percent of Cumulative Enrollments				
Classroom--Prime Sponsor	_____	_____	35.0	34.9
On-the-Job Training	_____	_____	11.7	14.4
Public Service Employment	_____	_____	4.9	2.6
Work Experience	_____	_____	48.5	48.1
	100%	100%	100%	100%
B. Enrollee Characteristics				
1. Females	_____	_____	44.1	48.5
2. Youth: 18 and under	_____	_____	30.2	30.6
19 - 21	_____	_____	20.8	21.1
3. Education: 8 and under	*	_____	13.3	10.0
9 - 11	*	_____	42.0	39.8
4. Income: AFDC	*	_____	22.2	16.1
Other Welfare	*	_____	28.1	10.4
Economically Disadvantaged	*	_____	85.1	78.3
5. Ethnic: Black	_____	_____	19.0	34.7
6. Spanish American	*	_____	10.0	13.7
7. Handicapped	*	_____	6.6	4.4
8. Full-time Student	*	_____	20.8	24.6
9. Offender	*	_____	8.8	6.7
10. Other Labor Force	*	_____	25.1	20.7
C. Median Wage				
1. Post-CETA	$ *	$ _____	$ 3.29	3.10
2. Pre-CETA (excluding no previous wage)	$ *	$ _____	$ 2.78	2.73
3. Increase (Decrease)	$ *	$ _____	$ .51	.37
4. Pre-CETA (including no previous wage)	$ _____	$ _____	$ 2.52	$ 2.51
5. Increase (Decrease) from Post-CETA	_____	_____	.77	.59
D. Unemployment Rate	%*	% _____	9.11%	7.79%

* Optional Data--Insert as available
** To be filled in by Federal Representative

V 43 / 177 SEP 12 78

REGION II - PERFORMANCE INDICATOR CLUSTERS AND INTERPRETIVE FACTORS DISPLAYING REGIONAL DATA

PERFORMANCE INDICATOR CLUSTERS

TERMINATION CLUSTER	COMPARATIVE DATA Region II, percent Low	33%	67%	High
Total Positive as a % of Total Terminations	41	67	75	92
Entered Employment as a % of Total Terminations	2	34.5	52	79
Non-Direct Placements as a % of Total Terminations	2	30	42.5	60
Entered Employment as a % of Total Positive	2	50	76	95
Non-Direct Placements as a % of Entered Employment	51	81	99	100
	Explanation Third			

COST CLUSTER	COMPARATIVE DATA Region II, Dollars Low	33%	67%	High
Cost per Positive Termination	769	2311	3113	5299
Cost per Entered Employment	1281	4111	5867	26154
Cost per Non-Direct Placement	1824	4505	6236	26154
			Explanation Third	

FUND UTILIZATION CLUSTER	COMPARATIVE DATA ** Region II, percent Low	33%	67%	High
Carryout: % of Available Funds	0	14	25	45
Administrative Cost Rate	Percent of Prime Sponsors above 20%:			Region: 8.8 %
			Explain	

Prime sponsors showing improbable Carryout Rates (less than 0% or greater than 100%) are excluded:
**This Region: 0

INTERPRETIVE FACTORS

	Region II
A. Program Mix	
1. Percent of Expenditures	
Classroom Training	28.9
On-the-Job Training	15.9
Public Service Employment	6.4
Work Experience	38.5
Services to Participants	8.4
Other Activities	0.8
	100%
2. Percent of Cumulative Enrollments	
Classroom--Prime Sponsor	27.7
On-the-Job Training	18.7
Public Service Employment	3.8
Work Experience	49.8
	100%
B. Enrollee Characteristics	
1. Females	49.2
2. Youth: 18 and under	28.7
19 - 21	21.1
3. Education: 8 and under	11.2
9 - 11	37.8
4. Income: AFDC	14.2
Other Welfare	10.6
Economically Disadvantaged	78.4
5. Ethnic: Black	33.6
6. Spanish American	28.2
7. Handicapped	3.0
8. Full-time Student	23.2
9. Offender	5.1
10. Other Labor Force	18.4
C. Median Wage	
1. Post-CETA	$ 3.30
2. Pre-CETA (excluding no previous wage)	$ 2.87
3. Increase (Decrease)	$ .43
4. Pre-CETA (including no previous wage)	$ 2.58
5. Increase (Decrease) from Post-CETA	.72
D. Unemployment Rate	11.02%

REGION III - PERFORMANCE INDICATOR CLUSTERS AND INTERPRETIVE FACTORS DISPLAYING REGIONAL DATA

PERFORMANCE INDICATOR CLUSTERS

TERMINATION CLUSTER	COMPARATIVE DATA Region III, percent Low	33%	67%	High
Total Positive as a % of Total Terminations	38	68.5	76.5	90
Entered Employment as a % of Total Terminations	6	29	41	71
Non-Direct Placements as a % of Total Terminations	6	25	35	71
Entered Employment as a % of Total Positive	7	40	60	90
Non-Direct Placements as a % of Entered Employment	19	93	100	100
	Explanation Third			

COST CLUSTER	COMPARATIVE DATA Region III, Dollars Low	33%	67%	High
Cost per Positive Termination	622**	1819	2517	8293
Cost per Entered Employment	707**	3320	6413	24492
Cost per Non-Direct Placement	1167**	4157	6519	24492
			Explanation Third	

** 1 prime sponsor reported extremely low values. These are probably due to data problems so were excluded.

FUND UTILIZATION CLUSTER	COMPARATIVE DATA ** Region III, percent Low	33%	67%	High
Carryout: % of Available Funds	0	14	26	44
Administrative Cost Rate	Percent of Prime Sponsors above 20%:			Region: 10.0%
			Explain	

Prime sponsors showing improbable Carryout Rates (less than 0% or greater than 100%) are excluded:
**This Region: 0

INTERPRETIVE FACTORS

	Region III
A. Program Mix	
1. Percent of Expenditures	
Classroom Training	35.6
On-the-Job Training	7.1
Public Service Employment	11.2
Work Experience	35.7
Services to Participants	9.8
Other Activities	0.5
	100%
2. Percent of Cumulative Enrollments	
Classroom--Prime Sponsor	35.7
On-the-Job Training	10.3
Public Service Employment	3.5
Work Experience	50.5
	100%
B. Enrollee Characteristics	
1. Females	46.0
2. Youth: 18 and under	34.2
19 - 21	21.8
3. Education: 8 and under	9.6
9 - 11	40.2
4. Income: AFDC	17.3
Other Welfare	10.9
Economically Disadvantaged	69.3
5. Ethnic: Black	45.0
6. Spanish American	3.0
7. Handicapped	4.0
8. Full-time Student	26.2
9. Offender	6.9
10. Other Labor Force	17.6
C. Median Wage	
1. Post-CETA	$ 3.09
2. Pre-CETA (excluding no previous wage)	$ 2.64
3. Increase (Decrease)	$ .45
4. Pre-CETA (including no previous wage)	$ 2.41
5. Increase (Decrease) from Post-CETA	.68
D. Unemployment Rate	7.3 %

REGION IV - PERFORMANCE INDICATOR CLUSTERS AND INTERPRETIVE FACTORS DISPLAYING REGIONAL DATA

PERFORMANCE INDICATOR CLUSTERS

TERMINATION CLUSTER	COMPARATIVE DATA Region IV, percent			
	Low	33%	67%	High
Total Positive as a % of Total Terminations	43	63	75	95
Entered Employment as a % of Total Terminations	9	27½	37½	73
Non-Direct Placements as a % of Total Terminations	9	26	34	70
Entered Employment as a % of Total Positive	12	42	60	90
Non-Direct Placements as a % of Entered Employment	37	95	100	100
Explanation Third				

COST CLUSTER	COMPARATIVE DATA Region IV, Dollars			
	Low	33%	67%	High
Cost per Positive Termination	873	1843	2606	6339
Cost per Entered Employment	1057	4327	6478	11041
Cost per Non-Direct Placement	1387	4335	6594	11384
Explanation Third				

FUND UTILIZATION CLUSTER	COMPARATIVE DATA ** Region IV, percent			
	Low	33%	67%	High
Carryout: % of Available Funds	4	11	23	43
Administrative Cost Rate	Percent of Prime Sponsors above 20%: Region: 9.4%			
Explain				

Prime sponsors showing improbable Carryout Rates (less than 0% or greater than 100%) are excluded:
**This Region: 1

INTERPRETIVE FACTORS

A. Program Mix

	Region IV
1. Percent of Expenditures	
Classroom Training	38.3
On-the-Job Training	8.3
Public Service Employment	8.6
Work Experience	34.3
Services to Participants	10.3
Other Activities	0.2
	100%
2. Percent of Cumulative Enrollments	
Classroom--Prime Sponsor	35.1
On-the-Job Training	12.5
Public Service Employment	3.6
Work Experience	48.8
	100%

B. Enrollee Characteristics

1. Females	50.1
2. Youth: 18 and under	32.5
19 - 21	20.6
3. Education: 8 and under	11.9
9 - 11	41.0
4. Income: AFDC	12.1
Other Welfare	9.0
Economically Disadvantaged	77.3
5. Ethnic: Black	48.7
6. Spanish American	6.7
7. Handicapped	3.5
8. Full-time Student	27.5
9. Offender	4.9
10. Other Labor Force	23.9

C. Median Wage

1. Post-CETA	$ 2.80
2. Pre-CETA (excluding no previous wage)	$ 2.65
3. Increase (Decrease)	$ .15
4. Pre-CETA (including no previous wage)	$ 2.51
5. Increase (Decrease) from Post-CETA	.29

D. Unemployment Rate 7.16%

REGION V - PERFORMANCE INDICATOR CLUSTERS AND INTERPRETIVE FACTORS DISPLAYING REGIONAL DATA

PERFORMANCE INDICATOR CLUSTERS

TERMINATION CLUSTER	COMPARATIVE DATA Region V, percent			
	Low	33%	67%	High
Total Positive as a % of Total Terminations	31	65	74	91
Entered Employment as a % of Total Terminations	4	32½	42½	68
Non-Direct Placements as a % of Total Terminations	2	26	39	67
Entered Employment as a % of Total Positive	12	49	64½	93
Non-Direct Placements as a % of Entered Employment	23	79½	95	100
Explanation Third				

COST CLUSTER	COMPARATIVE DATA Region V, Dollars			
	Low	33%	67%	High
Cost per Positive Termination	758**	1735	2542	5794
Cost per Entered Employment	1027**	3216	4881	17871
Cost per Non-Direct Placement	1161**	3783	5944	31579
Explanation Third				

**1 prime sponsor reported extremely low values. These are probably due to data problems so were excluded.

FUND UTILIZATION CLUSTER	COMPARATIVE DATA ** Region V, percent			
	Low	33%	67%	High
Carryout: % of Available Funds	0	10	23	59
Administrative Cost Rate	Percent of Prime Sponsors above 20%: Region: 5.3%			
Explain				

Prime Sponsors showing improbable Carryout Rates (less than 0% or greater than 100%) are excluded:
**This Region: 11

INTERPRETIVE FACTORS

A. Program Mix

	Region V
1. Percent of Expenditures	
Classroom Training	37.1
On-the-Job Training	9.4
Public Service Employment	5.1
Work Experience	38.6
Services to Participants	8.3
Other Activities	1.6
	100%
2. Percent of Cumulative Enrollments	
Classroom--Prime Sponsor	37.4
On-the-Job Training	10.8
Public Service Employment	1.4
Work Experience	50.3
	100%

B. Enrollee Characteristics

1. Females	47.1
2. Youth: 18 and under	29.7
19 - 21	21.1
3. Education: 8 and under	9.3
9 - 11	40.2
4. Income: AFDC	21.1
Other Welfare	9.1
Economically Disadvantaged	78.8
5. Ethnic: Black	38.0
6. Spanish American	7.1
7. Handicapped	4.7
8. Full-time Student	24.2
9. Offender	7.7
10. Other Labor Force	20.1

C. Median Wage

1. Post-CETA	$ 3.26
2. Pre-CETA (excluding no previous wage)	$ 2.82
3. Increase (Decrease)	$ .44
4. Pre-CETA (including no previous wage)	$ 2.55
5. Increase (Decrease) from Post-CETA	.71

D. Unemployment Rate 7.12%

REGION VI - PERFORMANCE INDICATOR CLUSTERS AND INTERPRETIVE FACTORS DISPLAYING REGIONAL DATA

PERFORMANCE INDICATOR CLUSTERS

TERMINATION CLUSTER	COMPARATIVE DATA Region VI, percent Low	33%	67%	High
Total Positive as a % of Total Terminations	60	72	82	95
Entered Employment as a % of Total Terminations	22	45½	58	77
Non-Direct Placements as a % of Total Terminations	14	40	48	73
Entered Employment as a % of Total Positive	33	62	73	91
Non-Direct Placements as a % of Entered Employment	22	82	93	100
	Explanation Third			

COST CLUSTER	COMPARATIVE DATA RegionVI, Dollars Low	33%	67%	High
Cost per Positive Termination	619	1330	1941	4291
Cost per Entered Employment	734	2076	2959	9143
Cost per Non-Direct Placement	794	2515	3641	9917
			Explanation Third	

FUND UTILIZATION CLUSTER	COMPARATIVE DATA ** Region VI, percent Low	33%	67%	High
Carryout: % of Available Funds	0	5	12	33
Administrative Cost Rate	Percent of Prime Sponsors above 20%:		Region: 4.5%	
			Explain	

Prime sponsors showing improbable Carryout Rates (less than 0% or greater than 100%) are excluded:
**This Region: 0

INTERPRETIVE FACTORS

A. Program Mix	Region VI
1. Percent of Expenditures	
Classroom Training	34.5
On-the-Job Training	11.5
Public Service Employment	3.9
Work Experience	41.7
Services to Participants	7.6
Other Activities	0.7
	100%
2. Percent of Cumulative Enrollments	
Classroom--Prime Sponsor	30.1
On-the-Job Training	17.7
Public Service Employment	1.6
Work Experience	50.6
	100%

B. Enrollee Characteristics	
1. Females	49.4
2. Youth: 18 and under	30.5
19 - 21	21.9
3. Education: 8 and under	11.3
9 - 11	37.5
4. Income: AFDC	8.7
Other Welfare	7.7
Economically Disadvantaged	73.1
5. Ethnic: Black	33.1
6. Spanish American	22.5
7. Handicapped	3.3
8. Full-time Student	23.5
9. Offender	4.2
10. Other Labor Force	19.1

C. Median Wage	
1. Post-CETA	$ 2.78
2. Pre-CETA (excluding no previous wage)	$ 2.63
3. Increase (Decrease)	$ .15
4. Pre-CETA (including no previous wage)	$ 2.42
5. Increase (Decrease) from Post-CETA	.36

D. Unemployment Rate	6.18%

REGION VII - PERFORMANCE INDICATOR CLUSTERS AND INTERPRETIVE FACTORS DISPLAYING REGIONAL DATA

PERFORMANCE INDICATOR CLUSTERS

TERMINATION CLUSTER	COMPARATIVE DATA Region VII, percent Low	33%	67%	High
Total Positive as a % of Total Terminations	55	66	74	89
Entered Employment as a % of Total Terminations	27	39	54	75
Non-Direct Placements as a % of Total Terminations	24	37	49	73
Entered Employment as a % of Total Positive	42	59	75	98
Non-Direct Placements as a % of Entered Employment	56	97	100	100
	Explanation Third			

COST CLUSTER	COMPARATIVE DATA RegionVII, Dollars Low	33%	67%	High
Cost per Positive Termination	1062	1702	2375	5517
Cost per Entered Employment	1206	2974	3952	8323
Cost per Non-Direct Placement	1206	3053	4643	8323
			Explanation Third	

FUND UTILIZATION CLUSTER	COMPARATIVE DATA ** Region VII, percent Low	33%	67%	High
Carryout: % of Available Funds	0	10	30	40
Administrative Cost Rate	Percent of Prime Sponsors above 20%:		Region: 17.4%	
			Explain	

Prime sponsors showing improbable Carryout Rates (less than 0% or greater than 100%) are excluded:
**This Region: 0

INTERPRETIVE FACTORS

A. Program Mix	Region VII
1. Percent of Expenditures	
Classroom Training	37.7
On-the-Job Training	14.0
Public Service Employment	10.4
Work Experience	24.1
Services to Participants	13.6
Other Activities	0.1
	100%
2. Percent of Cumulative Enrollments	
Classroom--Prime Sponsor	36.3
On-the-Job Training	19.0
Public Service Employment	3.7
Work Experience	41.1
	100%

B. Enrollee Characteristics	
1. Females	49.0
2. Youth: 18 and under	27.4
19 - 21	24.2
3. Education: 8 and under	8.7
9 - 11	40.9
4. Income: AFDC	19.2
Other Welfare	8.0
Economically Disadvantaged	80.0
5. Ethnic: Black	30.8
6. Spanish American	2.9
7. Handicapped	5.0
8. Full-time Student	22.9
9. Offender	8.5
10. Other Labor Force	20.5

C. Median Wage	
1. Post-CETA	$3.06
2. Pre-CETA (excluding no previous wage)	$2.69
3. Increase (Decrease)	$ .37
4. Pre-CETA (including no previous wage)	$2.55
5. Increase (Decrease) from Post-CETA	.51

D. Unemployment Rate	4.86 %

REGION VIII - PERFORMANCE INDICATOR CLUSTERS AND INTERPRETIVE FACTORS DISPLAYING REGIONAL DATA

PERFORMANCE INDICATOR CLUSTERS

TERMINATION CLUSTER	COMPARATIVE DATA Region VIII, percent Low	33%	67%	High
Total Positive as a % of Total Terminations	66	75	84	89
Entered Employment as a % of Total Terminations	30	44	53½	70
Non-Direct Placements as a % of Total Terminations	30	42	50	63
Entered Employment as a % of Total Positive	35	56	67	92
Non-Direct Placements as a % of Entered Employment	75	91	98	100
	Explanation Third			

COST CLUSTER	COMPARATIVE DATA RegionVIII,Dollars Low	33%	67%	High
Cost per Positive Termination	689	1308	1728	2562
Cost per Entered Employment	1033	1995	2938	4545
Cost per Non-Direct Placement	1213	1955	3138	4557
			Explanation Third	

FUND UTILIZATION CLUSTER	COMPARATIVE DATA **Region VIII, percent Low	33%	67%	High
Carryout: % of Available Funds	8	24	34	51
Administrative Cost Rate	Percent of Prime Sponsors above 20%:		Region: 25.0%	
			Explain	

Prime sponsors showing improbable Carryout Rates (less than 0% or greater than 100%) are excluded:
**This Region: 0

INTERPRETIVE FACTORS

A. Program Mix

	Region VII
1. Percent of Expenditures	
Classroom Training	34.0
On-the-Job Training	16.3
Public Service Employment	3.0
Work Experience	26.0
Services to Participants	20.0
Other Activities	0.7
	100%
2. Percent of Cumulative Enrollments	
Classroom--Prime Sponsor	42.6
On-the-Job Training	20.6
Public Service Employment	1.7
Work Experience	35.0
	100%

B. Enrollee Characteristics

1. Females	47.0
2. Youth: 18 and under	27.4
19 - 21	21.4
3. Education: 8 and under	8.2
9 - 11	37.1
4. Income: AFDC	11.0
Other Welfare	8.4
Economically Disadvantaged	85.3
5. Ethnic: Black	7.5
6. Spanish American	20.0
7. Handicapped	10.8
8. Full-time Student	19.3
9. Offender	6.6
10. Other Labor Force	17.4

C. Median Wage

1. Post-CETA	$ 3.00
2. Pre-CETA (excluding no previous wage)	$ 2.68
3. Increase (Decrease)	$ .32
4. Pre-CETA (including no previous wage)	$ 2.47
5. Increase (Decrease) from Post-CETA	.53

D. Unemployment Rate 5.23 %

REGION IX - PERFORMANCE INDICATOR CLUSTERS AND INTERPRETIVE FACTORS DISPLAYING REGIONAL DATA

PERFORMANCE INDICATOR CLUSTERS

TERMINATION CLUSTER	COMPARATIVE DATA Region IX, percent Low	33%	67%	High
Total Positive as a % of Total Terminations	51	72	78	88
Entered Employment as a % of Total Terminations	17	40½	50½	77
Non-Direct Placements as a % of Total Terminations	17	35	49	63
Entered Employment as a % of Total Positive	25	54½	68	90
Non-Direct Placements as a % of Entered Employment	42	92	100	100
	Explanation Third			

COST CLUSTER	COMPARATIVE DATA Region IX, Dollars Low	33%	67%	High
Cost per Positive Termination	725	1783	2542	3908
Cost per Entered Employment	841	3042	3956	9970
Cost per Non-Direct Placement	873	3500	4613	10281
			Explanation Third	

FUND UTILIZATION CLUSTER	COMPARATIVE DATA **Region IX, percent Low	33%	67%	High
Carryout: % of Available Funds	0	24½	33	56
Administrative Cost Rate	Percent of Prime Sponsors above 20%:		Region: 10.4%	
			Explain	

Prime sponsors showing improbable Carryout Rates (less than 0% or greater than 100%) are excluded:
**This Region: 1

INTERPRETIVE FACTORS

A. Program Mix

	Region IX
1. Percent of Expenditures	
Classroom Training	38.6
On-the-Job Training	12.7
Public Service Employment	1.9
Work Experience	37.5
Services to Participants	8.4
Other Activities	0.8
	100%
2. Percent of Cumulative Enrollments	
Classroom--Prime Sponsor	39.0
On-the-Job Training	15.0
Public Service Employment	0.9
Work Experience	45.1
	100%

B. Enrollee Characteristics

1. Females	49.8
2. Youth: 18 and under	30.9
19 - 21	19.9
3. Education: 8 and under	6.1
9 - 11	41.2
4. Income: AFDC	10.4
Other Welfare	10.1
Economically Disadvantaged	85.2
5. Ethnic: Black	21.0
6. Spanish American	30.3
7. Handicapped	4.5
8. Full-time Student	26.7
9. Offender	9.5
10. Other Labor Force	24.1

C. Median Wage

1. Post-CETA	$ 3.41
2. Pre-CETA (excluding no previous wage)	$ 2.82
3. Increase (Decrease)	$ .59
4. Pre-CETA (including no previous wage)	$ 2.60
5. Increase (Decrease) from Post-CETA	.81

D. Unemployment Rate 9.23%

REGION X - PERFORMANCE INDICATOR CLUSTERS AND INTERPRETIVE FACTORS DISPLAYING REGIONAL DATA

PERFORMANCE INDICATOR CLUSTERS

TERMINATION CLUSTER	COMPARATIVE DATA Region X, percent			
	Low	33%	67%	High
Total Positive as a % of Total Terminations	31	60%	72%	86
Entered Employment as a % of Total Terminations	21	32%	44	72
Non-Direct Placements as a % of Total Terminations	14	25	43	68
Entered Employment as a % of Total Positive	39	50%	65%	83
Non-Direct Placements as a % of Entered Employment	48	90%	98	100
	Explanation Third			

COST CLUSTER	COMPARATIVE DATA Region X, Dollars			
	Low	33%	67%	High
Cost per Positive Termination	583	2095	2437	6972
Cost per Entered Employment	1008	3561	4872	10192
Cost per Non-Direct Placement	1950	4221	6554	10192
			Explanation Third	

FUND UTILIZATION CLUSTER	COMPARATIVE DATA **Region X, percent			
	Low	33%	67%	High
Carryout: % of Available Funds	15	24%	36	57
Administrative Cost Rate	Percent of Prime Sponsors above 20%:			Region: 0%
			Explain	

Prime sponsors showing improbable Carryout Rates (less than 0% or greater than 100%) are excluded:
**This Region: 0

INTERPRETIVE FACTORS

	Region X
A. Program Mix	
1. Percent of Expenditures	
Classroom Training	19.4
On-the-Job Training	14.5
Public Service Employment	1.6
Work Experience	14.1
Services to Participants	9.3
Other Activities	1.0
	100%
2. Percent of Cumulative Enrollments	
Classroom--Prime Sponsor	37.8
On-the-Job Training	16.8
Public Service Employment	0.6
Work Experience	44.9
	100%
B. Enrollee Characteristics	
1. Females	49.3
2. Youth: 18 and under	30.5
19 - 21	18.6
3. Education: 8 and under	7.4
9 - 11	37.8
4. Income: AFDC	16.0
Other Welfare	12.4
Economically Disadvantaged	82.5
5. Ethnic: Black	9.5
6. Spanish American	5.6
7. Handicapped	8.6
8. Full-time Student	23.9
9. Offender	10.4
10. Other Labor Force	17.8
C. Median Wage	
1. Post-CETA	$3.50
2. Pre-CETA (excluding no previous wage)	$2.92
3. Increase (Decrease)	$ .58
4. Pre-CETA (including no previous wage)	$2.69
5. Increase (Decrease) from Post-CETA	.81
D. Unemployment Rate	8.58 %

ATTACHMENT II TO FM NO. 390-78

SCATTERGRAMS OF KEY PERFORMANCE INDICATORS

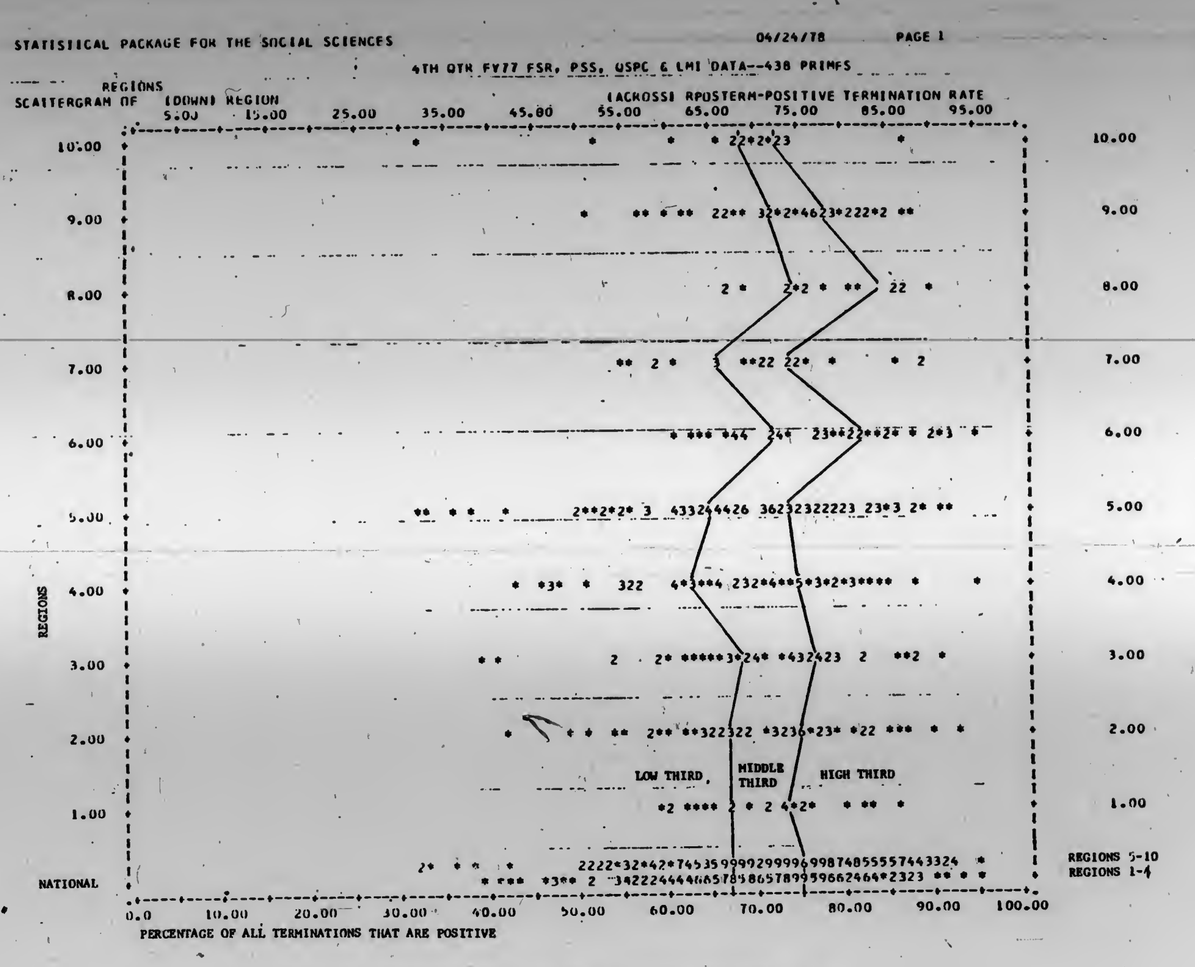
Scattergrams prepared by the SPSS computer program have been included so that users can graphically see the variation in the indicators. Regions are plotted on the vertical axis with one line for each region. The value for the performance indicator is shown on the horizontal axis. The national distribution is plotted on two lines at the bottom of the graph, repeating the regional picks above it. Each asterisk(*) indicates a single occurrence. Multiple occurrences are shown by a one-digit number from 2 to 8. Nine or more occurences are shown by a "9".

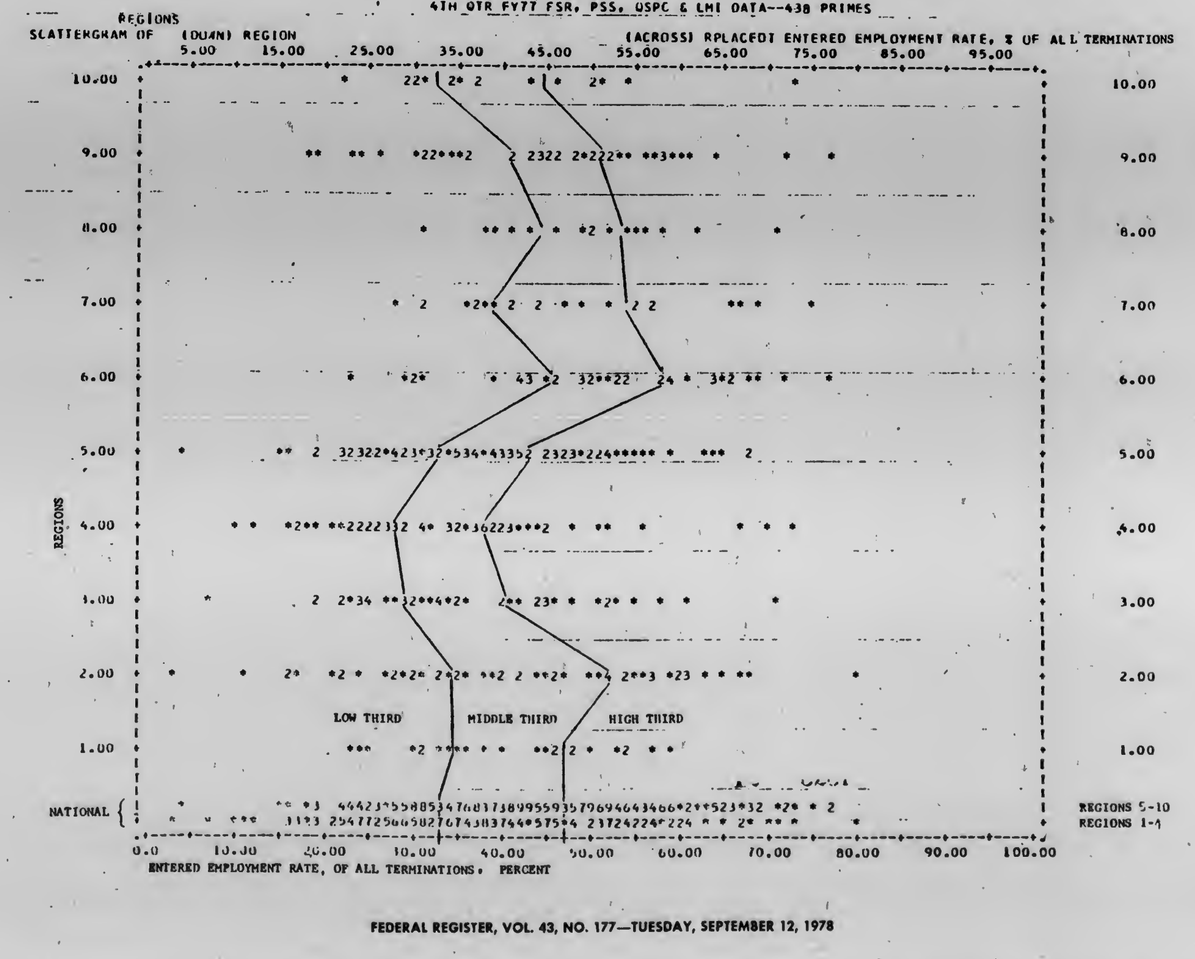
How to Read Scattergrams. Scattergrams can be used in several different ways. The easiest is simple inspection to see how the data are distributed, and what are the lows, the highs, and the median. To aid in visual understanding, the data hve been divided into low, middle, and high thirds. Such a division also makes it easier to see differences between regions.

Some users will what to know the exact value of a particular occurrence or plotted point. To determine the value of any particular occurrence for an indicator, place a ruler vertically so that it intersects the point (a digit or "*"), and read the value from the scale at the top or bottom of the page. The top and bottom scales are the same, although different reference values are printed. Use whichever reference value is most convenient. The region to which the point belongs can be read from either side scale. Once the value has been determined, it is then possible to search the lists of prime sponsors to see which one is represented by the particular plotted point.*

This process can be reversed. To find which point on the scattergram represents a given prime sponsor first find the value of the desired indicator for that prime sponsor from the prime sponsor lists (Attachment III).[1] Then locate that value on the top and bottom scales of the scattergram for the desired indicator. A ruler place through the value located on the top and bottom scales should intersect the prime sponsor's plotted point for his region.

[1]Attachment III of this field memorandum, containing a listing of performance by prime sponsor, is not being provided for the FEDERAL REGISTER. Therefore, it will not be possible to identify the performance of specific prime sponsors by using the scattergrams.

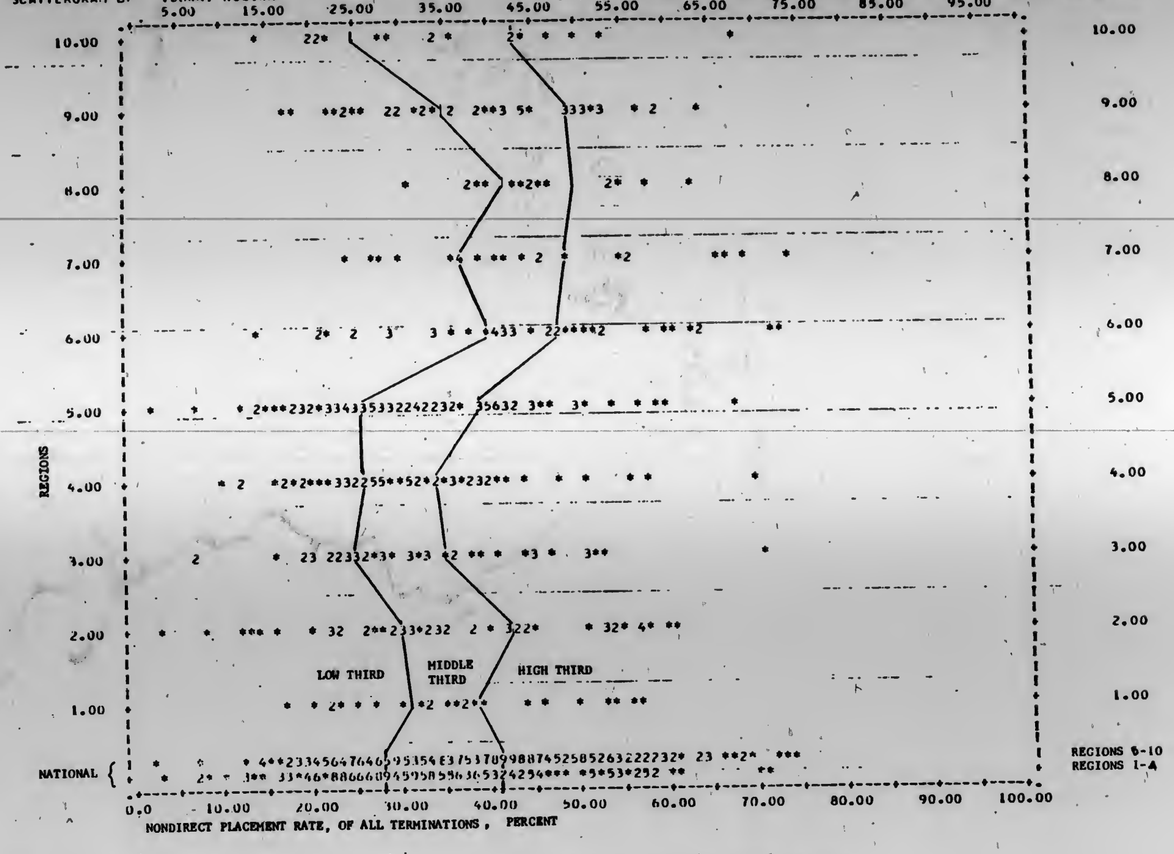

STATISTICAL PACKAGE FOR THE SOCIAL SCIENCES
04/24/78 PAGE 1
4TH QTR FY77 FSR, PSS, USPC & LMI DATA--438 PRIMES
REGIONS
SCATTERGRAM OF (DOWN) REGION
(ACROSS) RPOSTERM-POSITIVE TERMINATION RATE
5.00 15.00 25.00 35.00 45.00 55.00 65.00 75.00 85.00 95.00
10.00
9.00
8.00
7.00
6.00
5.00
4.00
3.00
2.00
1.00
NATIONAL
REGIONS
LOW THIRD
MIDDLE THIRD
HIGH THIRD
REGIONS 5-10
REGIONS 1-4
0.0 10.00 20.00 30.00 40.00 50.00 60.00 70.00 80.00 90.00 100.00
PERCENTAGE OF ALL TERMINATIONS THAT ARE POSITIVE


STATISTICAL PACKAGE FOR THE SOCIAL SCIENCES
04/24/78 PAGE 2
4TH QTR FY77 FSR, PSS, USPC & LMI DATA--438 PRIMES
REGIONS
SCATTERGRAM OF (DOWN) REGION
(ACROSS) RPLACEDT ENTERED EMPLOYMENT RATE, % OF ALL TERMINATIONS
5.00 15.00 25.00 35.00 45.00 55.00 65.00 75.00 85.00 95.00
10.00
9.00
8.00
7.00
6.00
5.00
4.00
3.00
2.00
1.00
NATIONAL
REGIONS
LOW THIRD
MIDDLE THIRD
HIGH THIRD
REGIONS 5-10
REGIONS 1-4
0.0 10.00 20.00 30.00 40.00 50.00 60.00 70.00 80.00 90.00 100.00
ENTERED EMPLOYMENT RATE, OF ALL TERMINATIONS, PERCENT

STATISTICAL PACKAGE FOR THE SOCIAL SCIENCES 04/24/78 PAGE 3

4TH QTR FY77 FSR, PSS, OSPC & LMI DATA--438 PRIMES

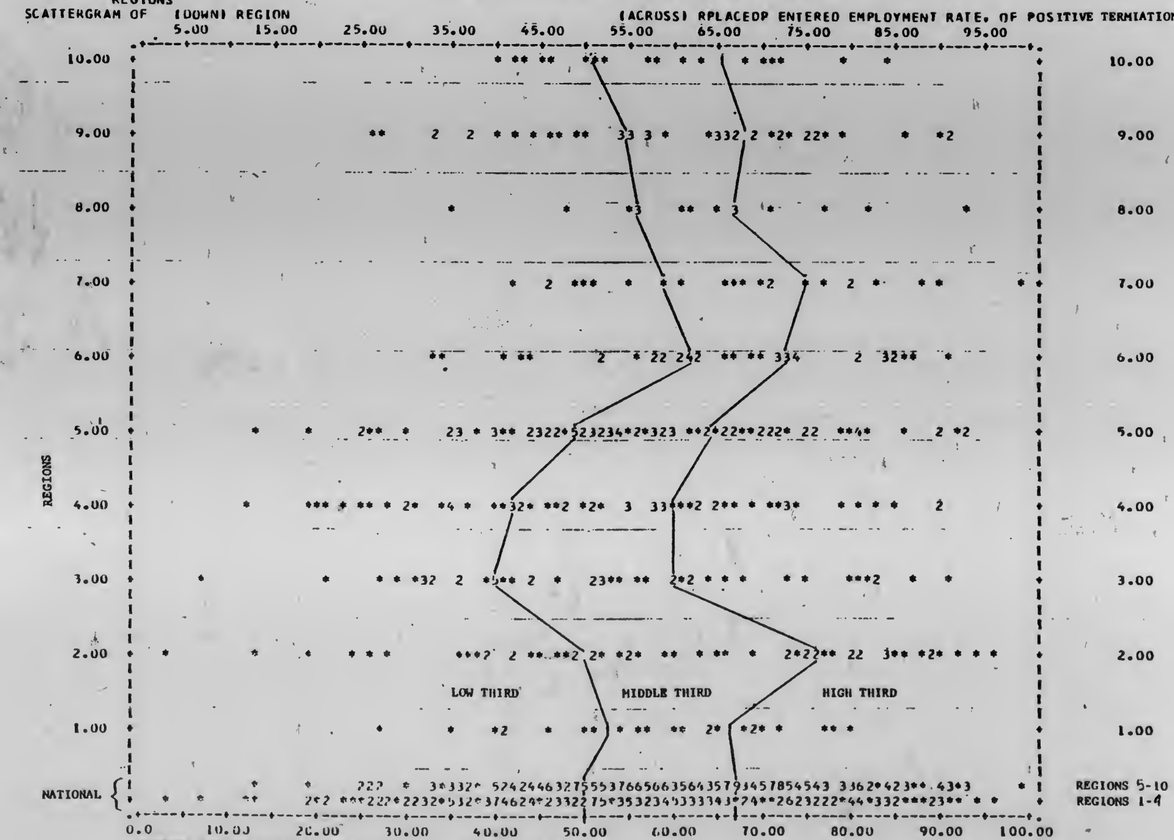
SCATTERGRAM OF REGIONS (DOWN) REGION (ACROSS) NONDIRT NONDIRECT PLACEMENT RATE, OF ALL TERMINATIONS



STATISTICAL PACKAGE FOR THE SOCIAL SCIENCES 04/24/78 PAGE 4

4TH QTR FY77 FSR, PSS, OSPC & LMI DATA--438 PRIMES

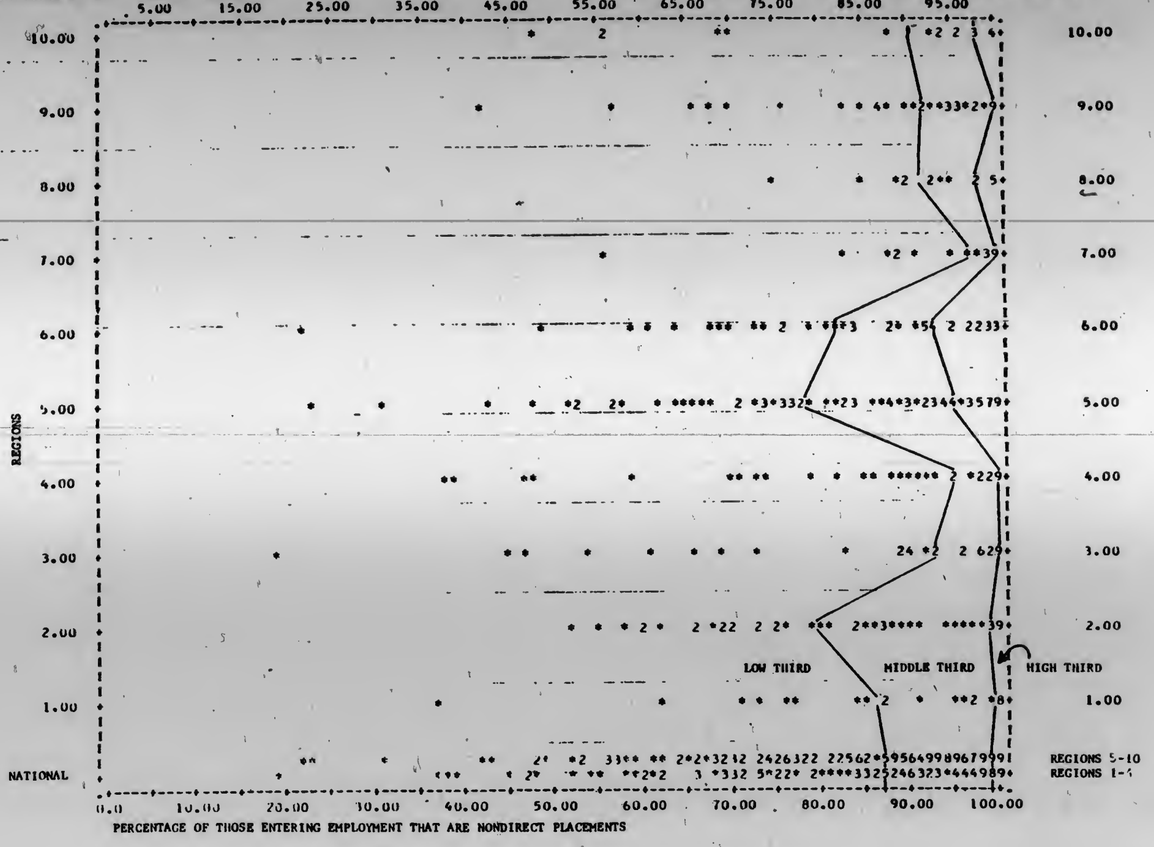
SCATTERGRAM OF REGIONS (DOWN) REGION (ACROSS) RPLACEDP ENTERED EMPLOYMENT RATE, OF POSITIVE TERMIATIONS



STATISTICAL PACKAGE FOR THE SOCIAL SCIENCES 04/24/78 PAGE 5

4TH QTR FY77 FSR, PSS, OSPC & LMI DATA--438 PRIMES

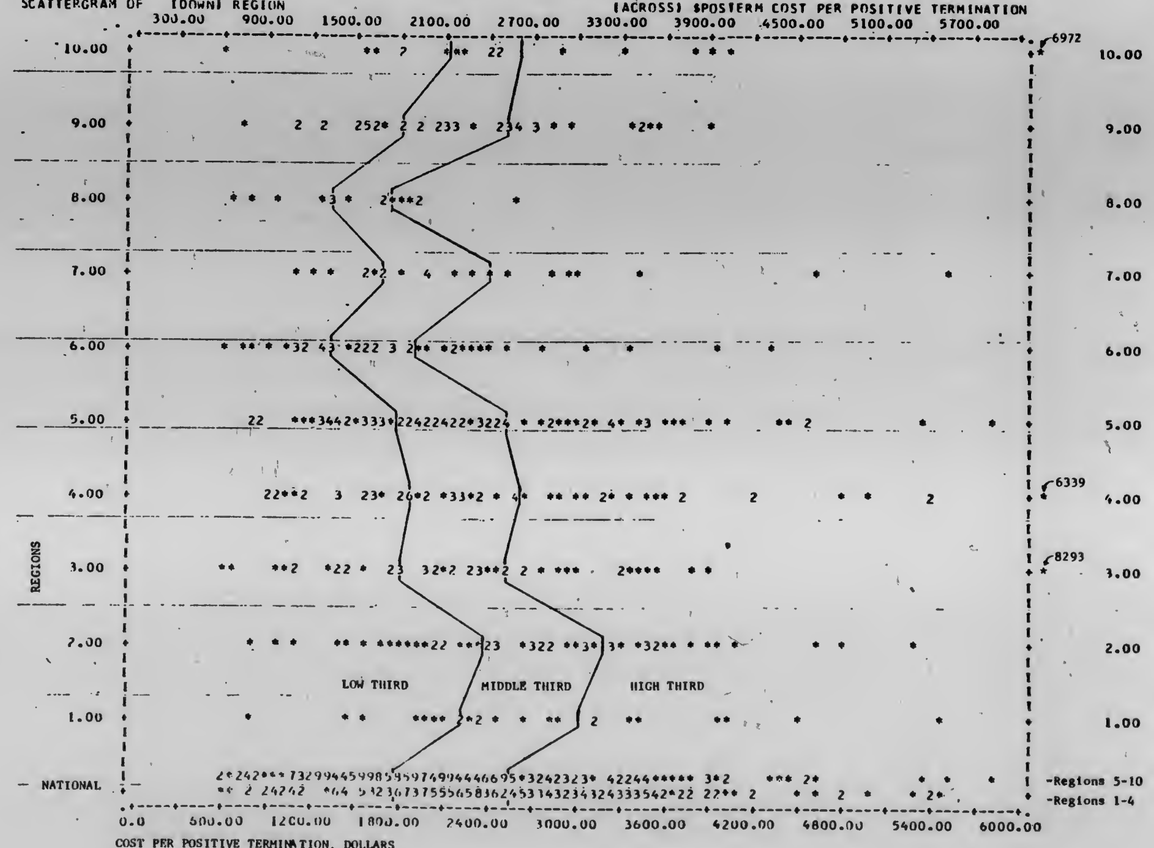
SCATTERGRAM OF (DOWN) REGION (ACROSS) RNONDIRE-NONDIRECT PLACEMENT RATE, OF PLACEMENTS



REGIONAL DISPLAYS USING CORRECTED DATA 07/18/78 PAGE 6

4TH QTR FY77 QPR DATA WITH LMI & 1970 CENSUS

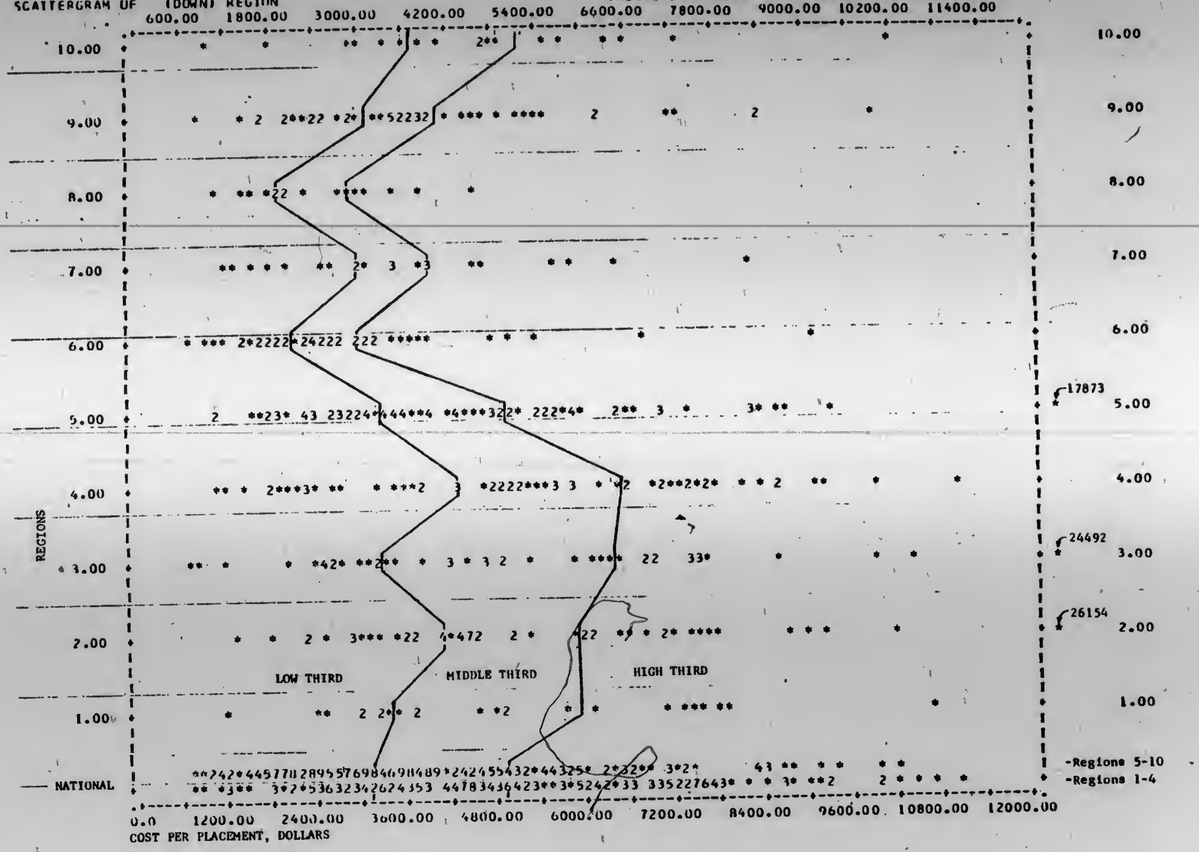
SCATTERGRAM OF (DOWN) REGION (ACROSS) $POSTERM COST PER POSITIVE TERMINATION



REGIONAL DISPLAYS USING CORRECTED DATA 07/18/78 PAGE 7

4TH QTR FY77 OPR DATA WITH LMI & 1970 CENSUS

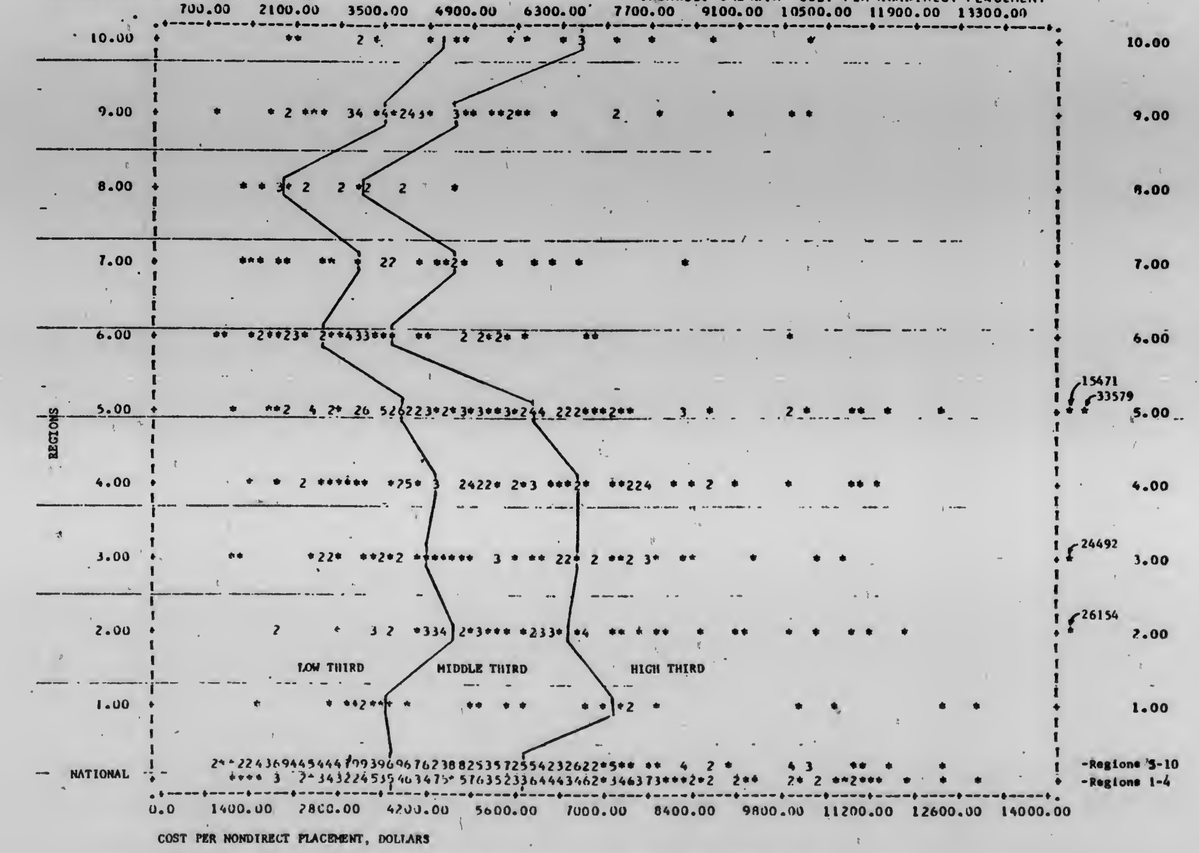
SCATTERGRAM OF (DOWN) REGION (ACROSS) $PLACED COST PER ENTERED EMPLOYMENT



REGIONAL DISPLAYS USING CORRECTED DATA 07/19/78 PAGE 8

4TH QTR FY77 OPR DATA WITH LMI & 1970 CENSUS

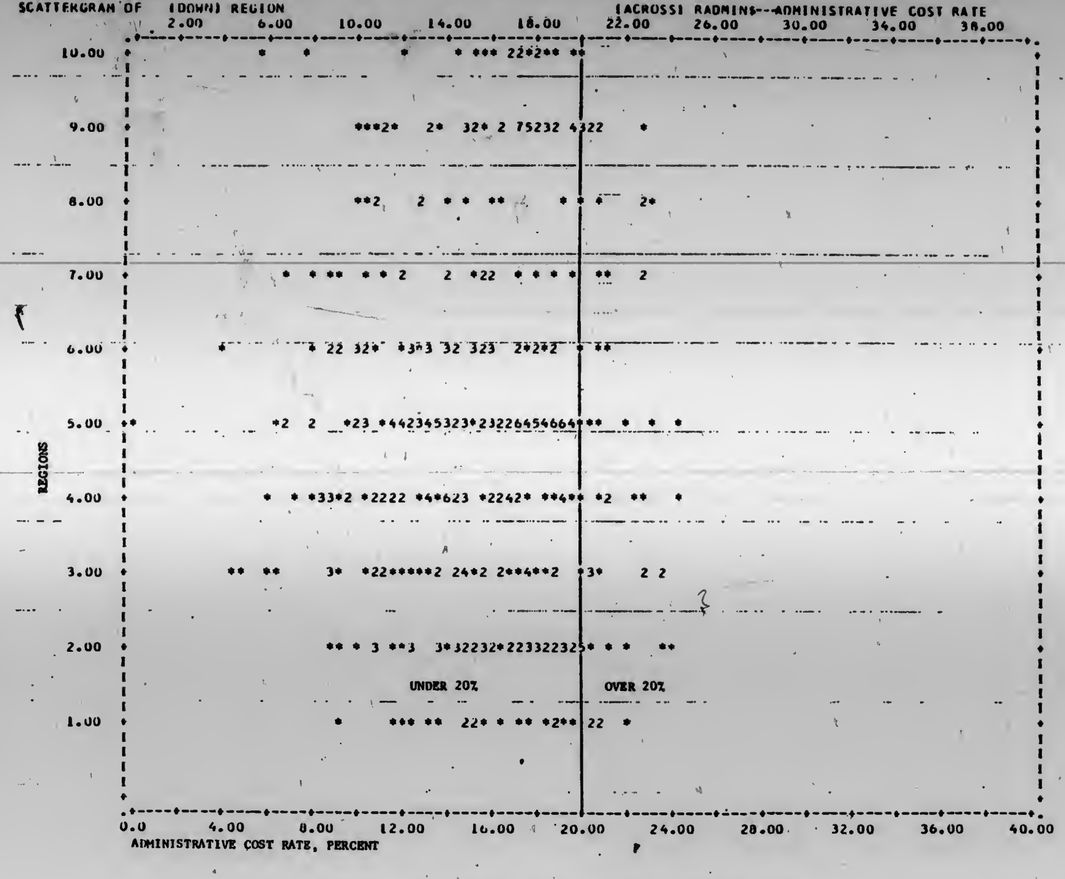
SCATTERGRAM OF (DOWN) REGION (ACROSS) $NONDIR COST PER NONDIRECT PLACEMENT



STATISTICAL PACKAGE FOR THE SOCIAL SCIENCES 04/24/78 PAGE 9

4TH QTR FY77 FSR, PSS, OSPC & LMI DATA--438 PRIMES

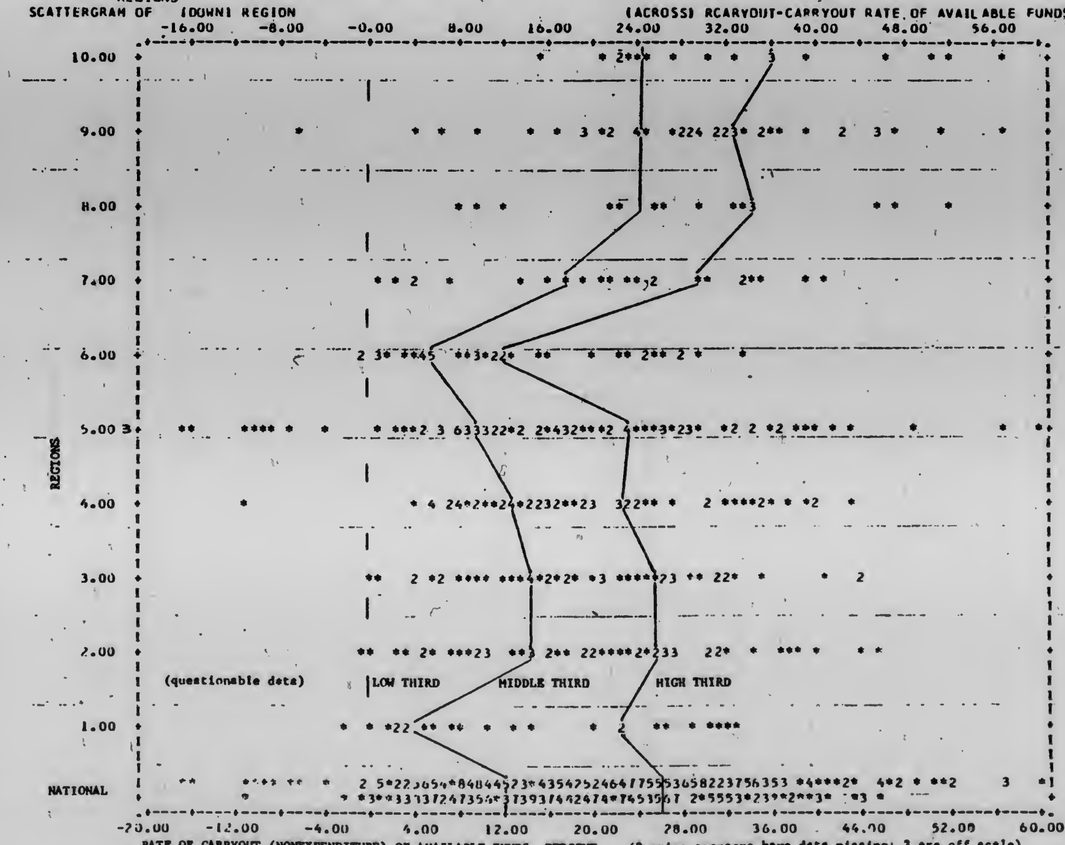
REGIONS
SCATTERGRAM OF (DOWN) REGION (ACROSS) RADMINS--ADMINISTRATIVE COST RATE



STATISTICAL PACKAGE FOR THE SOCIAL SCIENCES 04/24/78 PAGE 10

FILE OPR77F1 (CREATION DATE = 04/14/78) 4TH QTR FY77 FSR, PSS, OSPC & LMI DATA--438 PRIMES

REGIONS
SCATTERGRAM OF (DOWN) REGION (ACROSS) RCARYOUT-CARRYOUT RATE OF AVAILABLE FUNDS



V 43 / 177

The data from which the scattergram were plotted were derived from the Regional Automated System (RAS) during mid-February 1978. Since then, it is possible that some missing data have been added and some incorrect data have been updated. In any case, please review the data to insure that our data and computations agree with your data and computations and advise the national office (Attn: TDCR) of any needed corrections.

Signed at Washington, D.C., this 31st day of August 1978.

ROBERT J. MCCONNON,
Deputy Assistant Secretary for Employment and Training Administration.

[FR Doc. 78-25282 Filed 9-11-78; 8:45 am]

SE 12 78

federal register

TUESDAY, SEPTEMBER 12, 1978
PART III

DEPARTMENT OF ENERGY

Economic Regulatory Administration

OIL PRICE CEILINGS TO REFLECT IMPACT OF INFLATION

Adjustments to Lower and Upper Tier Crude

[3128-01]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION [1]

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Adjustments to Lower and Upper Tier Crude Oil Price Ceilings To Reflect Impact of Inflation

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA), of the Department of Energy (DOE), by this action issues Crude Oil Price Schedule No. 12, effective September 1, 1978, for the months of September, October, and November 1978. The Schedule provides monthly crude oil price increases to take into account the impact of inflation, as permitted under the Emergency Petroleum Allocation Act of 1973, as amended (EPAA, Pub. L. 93-159).

Beginning in September 1978, inflation adjustments will be applied to the projected August 1978 lower tier and upper tier prices (approximately $5.50 per barrel and $12.29 per barrel respectively), resulting in lower tier and upper tier prices for the months of September, October, and November 1978 of approximately $5.55, $5.60, and $5.65 per barrel (lower tier) and $12.39, $12.50, and $12.61 (upper tier), respectively.

EFFECTIVE DATE: September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street NW., Room B110, Washington, D.C. 20461, 202-634-2170.

Charles P. Little (Crude Oil Pricing Branch), Economic Regulatory Administration, 2000 M Street NW., Room 6128, Washington, D.C. 20461, 202-254-6296.

Alan Hechtkopf (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue NW., Room 5140, Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION:

A. *Introduction.*
B. *Crude Oil Price Schedule No. 12.*

[1] Editorial Note: Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

A. *Introduction.*

Under the EPAA, Congress provided flexibility to control first sale prices of domestic crude oil as long as the national weighted average first sale price ("actual composite price") did not exceed $7.66 per barrel ("statutory composite price") for all domestic crude oil produced and sold in February 1976. Beginning in March 1976, the EPAA authorized increases in the statutory composite price to reflect the effects of inflation and to provide production incentives. Under present authority, the statutory composite price is adjusted upward at a rate not to exceed 10 percent annually.

With the issuance of Crude Oil Price Schedule No. 9 (42 FR 62125, Dec. 9, 1977), the ERA undertook to continue the policy, announced by the President in the National Energy Plan (NEP) and implemented by the Federal Energy Administration (FEA) in Crude Oil Price Schedule No. 8 (42 FR 45284, Sept. 9, 1977), to adjust both lower tier and upper tier ceiling prices to reflect only the rate of inflation as measured by the GNP deflator. Reference should be made to the Notice which accompanied Crude Oil Price Schedule No. 8 for a description of prior actions taken by FEA to achieve compliance with the composite price constraints of the EPAA and for a discussion of the domestic crude oil pricing policy set forth in the NEP.

B. *Crude Oil Price Schedule No. 12.*

This price schedule continues the policy as described in the Notice which accompanied Crude Oil Price Schedule No. 8. Accordingly, under Crude Oil Price Schedule No. 12, effective September 1, 1978, the August 1978 lower tier ceiling price (the May 15, 1973 posted price plus $1.81 per barrel, resulting in an average first sale price of approximately $5.50 per barrel), and the August 1978 upper tier price (the September 30, 1975 posted price less $0.38, resulting in an average first sale price of approximately $12.29 per barrel), are adjusted for inflation for September, October, and November 1978, based on the first revision of the GNP deflator published on August 21, 1978, which reflects an annual rate of inflation of 10.7 percent. (Although ceiling prices are being increased for the months of September, October, and November at an effective annual rate of 10.7 percent, we have determined that these monthly increases are not in excess of those permitted under the EPAA, because these increases will not in any of these months result in an actual composite price in excess of the statutory composite price.)

1. *Lower tier ceiling prices.*

Adjustments to ceiling prices for lower tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in September, October, and November 1978, are determined pursuant to the following methodology:

A. ERA has computed a monthly adjustment factor of 0.00851 which when applied over a 12-month period yields an effective annual rate of adjustment of 10.7 percent.

B. September adjustment equals ($5.50) (0.00851) per barrel equals $0.046 per barrel rounded to $0.05 per barrel.

C. October adjustment equals ($5.50 plus 0.05) (0.00851) per barrel equals $0.047 per barrel rounded to $0.05 per barrel.

D. November adjustment equals ($5.50 plus 0.05 plus 0.05) (0.00851) per barrel equals $0.048 per barrel rounded to $0.05 per barrel.

Based upon the monthly adjustments computed above, average lower tier ceiling prices for the months of September, October, and November 1978 are computed as follows:

September equals $5.50 plus $0.05 equals $5.55.

October equals $5.55 plus $0.05 equals $5.60.

November equals $5.60 plus $0.05 equals $5.65.

Using an average highest posted field price on May 15, 1973 of $3.69 per barrel and the monthly adjustments as computed above, lower tier prices for the next 3 months have been determined as follows:

Month	Ceiling price	Price [1]
September	May 15, 1973 highest posted field price plus $1.86.	$5.55
October	May 15, 1973 highest posted field price plus $1.91.	5.60
November	May 15, 1973 highest posted field price plus $1.96.	5.65

[1] Estimated average first sale price.

2. *Upper tier ceiling prices.*

Adjustments to ceiling prices for upper tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in September, October, and November 1978 are determined pursuant to the following methodology:

A. Adjustment factor (explained above) equals 0.00851.

B. September adjustment equals ($12.29) (0.00851) per barrel equals $0.104 per barrel rounded to $0.10 per barrel.

C. October adjustment equals ($12.29 plus 0.10) (0.00851) per barrel equals $0.105 per barrel rounded to $0.11 per barrel.

D. November adjustment equals ($12.29 plus 0.10 plus 0.11) (0.00851) per barrel equals $0.106 per barrel rounded to $0.11 per barrel.

Based upon the monthly adjustments computed above, average upper tier ceiling prices for the months of September, October, and November 1978 are computed as follows:

September equals $12.29 plus $0.10 equals $12.39.

October equals $12.39 plus $0.11 equals $12.50.

November equals $12.50 plus $0.11 equals $12.61.

Using an average highest posted field price on September 30, 1975, of $12.67 per barrel and the monthly adjustments as computed above, upper tier prices for the next 3 months have been determined as follows:

Month	Ceiling price	Price [1]
September	September 30, 1975 highest posted field price less $0.28.	$12.39
October	September 30, 1975 highest posted field price less $0.17.	12.50
November	September 30, 1975 highest posted field price less $0.06.	12.61

[1] Estimated average first sale price.

On or before December 1, 1978, the ERA will issue Crude Oil Price Schedule No. 13, setting forth lower tier and upper tier ceiling prices for the months of December 1978 and January and February 1979.

The following table summarizes first sale price data for the months February 1976 through November 1978.

Month	Estimated Average Lower Tier Ceiling Price	Actual Lower Tier Price	Estimated Average Upper Tier Ceiling Price	Actual Upper Tier Price 4/	Statutory Composite Price	Actual Composite Price 1/	Cumulative Excess Receipts (Millions
1976 Feb	$5.04	$5.05	$11.35	$11.48	$7.66	$7.87	$49
Mar	5.07	5.07	11.42	11.39	7.72	7.79	67
Apr	5.10	5.07	11.49	11.52	7.78	7.86	86
May	5.14	5.13	11.56	11.55	7.84	7.89	97
June	5.17	5.15	11.62	11.60	7.88	7.99	123
July	5.17	5.19	11.62	11.69	7.93	8.04	152
Aug	5.17	5.18	11.62	11.62	7.98	8.03	164
Sept	5.17	5.17	11.62	11.65	8.04	8.19	198
Oct	5.17	5.15	11.62	11.62	8.11	8.23	228
Nov	5.17	5.17	11.62	11.62	8.17	8.40	282
Dec	5.17	5.17	11.62	11.64	8.24	8.40	322
1977 Jan	5.17	5.17	11.62	11.44	8.30	8.28	316
Feb	5.17	5.18	11.62	11.39	8.37	8.33	308
Mar	5.17	5.15	10.97	11.03	8.44	8.19	246
Apr	5.17	5.15	10.97	10.97	8.50	8.14	161
May	5.17	5.18	10.97	10.98	8.57	8.23	76
June	5.17	5.16	10.97	10.92	8.64	8.17	-36
July	5.17	5.16	10.97	10.99	8.71	8.21	-159
Aug	5.17	5.18	10.97	10.93	8.78	8.25	-295
Sept	5.20	5.20	11.23	11.21	8.85	8.26	-446
Oct	5.23	5.23	11.49	11.42	8.92	8.36	-595
Nov	5.26	5.24	11.75	11.63	8.99	8.35	-761
Dec	5.28	5.25	11.80	11.76	9.06	8.40	-937
1978 Jan	5.30	5.28	11.85	11.78	9.13	8.34	-1,137
Feb	5.32	5.29	11.90	11.81	9.21	8.48	-1,306
Mar	5.35	5.34	11.96	11.87	9.28	8.41	-1,536
Apr	5.38	5.35	12.02	11.94 2/	9.35	8.44	-1,772
May	5.41	5.38 2/	12.08	11.98 2/	9.43	8.43	-2,040
June	5.44	5.45 2/	12.15	12.08 2/	9.50	8.68	-2,252
July 3/	5.47		12.22		9.58		
Aug 3/	5.50		12.29		9.66		
Sept 3/	5.55		12.39		9.73		
Oct 3/	5.60		12.50		9.81		
Nov 3/	5.65		12.61		9.89		

1/Beginning with the month of September 1976, includes prices for stripper well crude oil production at values imputed in accordance with sec. 121 of the ECPA. Effects of ANS crude oil production, which commenced June 20, 1977, are included.

2/Preliminary

3/ Projected on the basis of Crude Oil Price Schedule Nos. 11 and 12.

4/Does not include effects of Alaska North Slope crude oil Production.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective September 1, 1978.

Issued in Washington, D.C., September 1, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

Section 212.77 is amended in the Appendix to add Schedule No. 12 of Monthly Price Adjustments, as follows:

§ 212.77 Adjustments to ceiling prices.

* * * * *

APPENDIX.—*Schedule No. 12 of Monthly Price Adjustments, Effective Sept. 1, 1978*

Month	Lower tier, May 15, 1973, posted price [1] (plus)	Upper tier, Sept. 30, 1975, posted price [2] (less)
1976:		
February	1.35	1.32
March	1.38	1.25
April	1.41	1.18
May	1.45	1.11
June	1.48	1.05
July	1.48	1.05
August	1.48	1.05
September	1.48	1.05
October	1.48	1.05
November	1.48	1.05
December	1.48	1.05
1977:		
January	1.48	1.25
February	1.48	1.25
March	1.48	1.70
April	1.48	1.70
May	1.48	1.70
June	1.48	1.70
July	1.48	1.70
August	1.48	1.70
September	1.48	1.70
October	1.48	1.70
November	1.48	1.70
December	1.48	1.70
1978:		
January	1.48	1.70
February	1.48	1.70
March	1.48	1.70
April	1.48	1.70
May	1.48	1.70
June	1.48	1.70
July	1.48	1.70
August	1.48	1.70
September	1.51	1.44
October	1.54	1.18
November	1.57	.92
December	1.59	.87
1978:		
January	1.61	.82
February	1.63	.77
March	1.66	.71
April	1.69	.65
May	1.72	.59
June	1.75	.52
July	1.78	.45
August	1.81	.38
September	1.86	.28
October	1.91	.17
November	1.96	.06

tember 1, 1978 pursuant to 10 CFR 212.77. It restates without change the lower and upper tier price ceilings applicable to crude oil produced and sold in the months of February 1976 through August 1978, as determined under 10 CFR 212.73, 212.74, and 212.77. Both lower tier and upper tier ceiling prices, which were increased under Schedule No. 11 effective June 1, 1978, are further increased as indicated in this schedule, effective September 1, 1978.

This schedule is effective only through November 30, 1978. Price ceilings for subsequent months will be provided by Schedule No. 13, to be issued on or about December 1, 1978. This schedule may, however, be superseded prior to December 1, 1978, by early issuance of Schedule No. 13 to reflect further ceiling price adjustments based on presently unanticipated trends in actual composite price levels.

[FR Doc. 78-25344 Filed 9-11-78; 8:45 am]

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federal register

TUESDAY, SEPTEMBER 12, 1978
PART IV

SECURITIES AND EXCHANGE COMMISSION

■

OIL AND GAS PRODUCING ACTIVITIES

Financial Accounting and Reporting Practices; Final Rules and Proposed Rules

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[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5966; 34-15108; 35-20688; IC-10382; AS-253]

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

Adoption of Requirements for Financial Accounting and Reporting Practices for Oil and Gas Producing Activities

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission has reached the following conclusions regarding oil and gas accounting: (1) Traditional accounting methods fail to provide sufficient information on financial position and operating results of oil and gas producers; (2) information supplemental to primary financial statements is required to permit assessment of the financial position and operating results of a company and to permit comparison of companies engaged in oil and gas producing activities; (3) development of an accounting method based on a valuation of proved oil and gas reserves would provide significant useful information, and steps should be taken to develop such a method; and (4) in these circumstances, requiring either successful efforts or full cost as a uniform method of accounting is unwarranted. Accordingly, the Commission is adopting rules that require disclosure in financial statements of supplemental financial and operating data (including information on future net revenues from production of proved oil and gas reserves) that apply regardless of the accounting method followed. The rules also specify the form of successful efforts method of accounting that oil and gas producers may follow. Alternatively, oil and gas producers may follow the full cost method, pursuant to rules that the Commission is proposing separately for public comment. Two other releases contain related proposals that would (1) conform the Commission's existing oil and gas disclosure requirements to the new financial statement rules and (2) require a supplemental earnings summary based on a valuation of proved oil and gas reserves. The rules published in this release apply in filings with the Commission pursuant to the Federal securities laws and in the preparation of accounts by persons engaged, in whole or in part, in the production of crude oil or natural gas in the United States for purposes of filing with the Department of Energy reports of energy information that are subject to the requirements of the Energy Policy and Conservation Act of 1975.

EFFECTIVE DATE: The rules published in this release shall be effective initially for full fiscal years ending after December 25, 1979.

FOR FURTHER INFORMATION CONTACT:

Richard C. Adkerson or James L. Russell 202-755-0222, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Summary of Conclusions

The Commission has concluded that significant improvements in the communication of financial position and operating results of oil and gas producers can be achieved through (1) adopting requirements for disclosure of specified historical information relating to oil and and gas producing activities; (2) adopting requirements for disclosure of information relating to future net revenues from estimated production of proved oil and gas reserves; and (3) developing a method of accounting that provides for recognition in financial statements of proved oil and gas reserves as assets and changes in proved oil and gas reserves in earnings.

DEVELOPMENT OF A NEW METHOD OF ACCOUNTING

The Commission has determined that development of new financial accounting measurement standards will be necessary to achieve meaningful reporting of earnings and financial position for oil and gas producing companies. Financial statements should seek to provide decisionmakers with information that is both relevant and reliable. The Commission assessed the various alternative methods of accounting considered during its proceeding on accounting for oil and gas producing activities on this basis.

The Commission has concluded that significant improvement in the measurement of assets and earnings in the primary financial statements of oil and gas producing companies can be achieved only through the development and implementation of an accounting method that reflects:

(1) Proved oil and gas reserves as assets in the balance sheet;

(2) Additions to proved reserves and changes in valuations of proved reserves in the income statement; and

(3) All costs associated with finding and developing additions to proved oil and gas reserves, together with all costs determined to be nonproductive during the current period, in the income statement.

The Commission is calling the accounting method to be developed on this basis "reserve recognition accounting" or "RRA."

The feasibility of developing RRA, however, is not assured at the present time because of the inherent imprecision of estimates of proved oil and gas reserves and the need to establish standards for valuations of these reserves in order to achieve an acceptable degree of reliability. Nevertheless, the Commission has concluded that efforts should be directed toward the development and implementation of RRA so that the goal of obtaining relevant and reliable financial statements of oil and gas producers can be realized, a goal that appears attainable on the basis of information now available to the Commission, notwithstanding the admittedly difficult problems to be resolved.

Accordingly, the Commission is initiating a series of steps seeking the development of RRA. Actions will be taken to gain experience with the public reporting of valuations of proved oil and gas reserves so that implementation problems can be identified and addressed on a timely basis. The approach will also allow flexibility for the Commission to revise its direction should circumstances indicate that revisions are necessary. The initial step in attempting to develop RRA is the adoption of a requirement for the disclosure in financial statements of the present value of future net revenue from the estimated production of proved oil and gas reserves, beginning in filings with the Commission that include fiscal years ending after December 25, 1979, as previously proposed in Release Nos. 33-5878 dated October 26, 1977 (42 FR 57651) and 33-5916 dated March 17, 1978 (43 FR 12334). (However, in Release No. 33-5967, published concurrently, the Commission proposes that these data be disclosed outside financial statements for years ending after December 25, 1978.) The required data are to be compiled using a prescribed methodology, *i.e.*, developing future net revenue information on the basis of present economic conditions and using a specified discount rate. Registrants will be permitted to disclose additional data on other bases to supplement the required data.

Concurrently, the Commission is publishing for comment proposed rules that require the presentation of a supplemental earnings summary relating to oil and gas producing activities prepared on the basis of RRA, beginning with filings with the Commission covering fiscal years ending after December 25, 1979 (*see* Release No. 33-5969, Aug. 31, 1978). The information generated and the experience gained in developing and disclosing valuation information on proved oil and gas reserves, resulting from the disclosure requirements described in this release and from the presentation of the supplemental RRA earnings summary, will provide the basis for the Commission to decide whether and, if so when RRA should be proposed as the required accounting method for the preparation of primary financial statements of oil and gas producing companies.

The Commission presently anticipates that this process of assessing the feasibility of RRA will continue for at least 3 years and could extend further. During the period that RRA is being developed and its feasibility assessed, the Commission has concluded that the disclosures of financial and operating data required by the rules published in this release will enable investors and government policymakers (a) to gain an understanding of the financial position and operating results of a company and (b) to compare the financial position and operating results of different companies. In view of its efforts to develop RRA, the Commission has concluded, as discussed in section V, "Traditional Oil and Gas Accounting Methods," that the benefits of requiring that all companies adopt one of the methods of accounting presently used in the petroleum industry do not justify the costs and confusion that would be attendant to such a requirement.

The traditional methods of accounting are inherently limited because of their failure to provide timely recognition of oil and gas reserves in assets and earnings reported in the financial statements. This limitation so severely affects the ability of primary historical cost financial statements to communicate relevant information on the assets and earning activities of oil and gas producers that requiring uniformity of accounting methods in this instance would not enhance significantly the ability of investors or government policymakers to gain an understanding of the operations of individual companies or to compare the operations of different companies. Meaningful analyses would focus almost exclusively on the supplemental data to be disclosed pursuant to the rules published in this release, even if uniform accounting methods were required.

The Commission, therefore, has determined that during this interim period companies may follow either the successful efforts method of accounting, as defined by Statement of Financial Accounting Standards No. 19, "Financial Accounting and Reporting by Oil and Gas Producing Companies" ("FAS 19"), published in December 1977 by the Financial Accounting Standards Board ("FASB"), or a prescribed form of the full cost method. The Commission is publishing in this release rules relating to the application of successful efforts accounting, which conform to the provisions of FAS 19, and is publishing in Release No. 33-5968 (Aug. 31, 1978) proposed rules that would govern the application of the full cost method for companies electing to follow that method. The rules specifying the application of the successful efforts and the full cost methods will become effective for full fiscal years ending after December 25, 1979.[1]

DISCLOSURE RULES

The Commission has concluded that data supplemental to financial statements are necessary for an adequate understanding of operating results and financial position, regardless of the method of accounting used to prepare and present financial statements of oil and gas producers. Thus, the Commission has adopted rules that require disclosure of the information summarized below:

(a) Quantities and annual changes in quantities of proved oil and gas reserves;

(b) Costs incurred in exploration, development, and production activities;

(c) Capitalized costs relating to oil and gas producing activities;

(d) Historical information on cash flow and value of transfers from producing oil and gas;[2]

(e) Cash flow and value of transfers ("net revenue") from estimated future production of proved oil and gas reserves, calculated on the basis of current economic conditions; and

(f) Present value of net revenue from estimated future production of proved oil and gas reserves using a ten percent discount rate.[3]

[1] The Commission had proposed that its financial statement rules become effective for fiscal years beginning after June 15, 1978. The rules adopted by the Commission in this release, however, become effective for fiscal years ending after Dec. 25, 1979. Thus, a company with a calendar fiscal year is required to adhere to these rules initially in its year-end 1979 financial statements.

[2] The term "value of transfers from producing oil and gas" refers to production sold or transferred to other operations (such as refining, transportation, chemical plants, or gas processing operations) of the producers. Such transfers are to be valued at estimated market prices. *See* newly adopted § 210.3-18(k)(4).

[3] In addition, Item 2 of Regulation S-K (§ 229.20) requires the disclosure of statistical data on oil and gas properties, including information on acreage owned, drilling activities, and production activities. *See* Release 33-5967, published concurrently, that proposes to revise the existing disclosures relating to oil and gas properties.

Although some of this information is prescribed by FAS 19, and certain of the information has been required under previous disclosure rules of the Commission, the disclosure requirements adopted by the Commission in this proceeding extend beyond prior requirements.

II. Background

The Commission's determinations published in this release, and the lengthy and extensive proceeding upon which they are based, are unique in many respects. They reflect the requirements of the Energy Policy and Conservation Act of 1975, 89 Stat 871 ("EPCA"), which directs the Commission to assure the development and observance of accounting practices to be followed in the preparation of accounts by oil and gas producers, as well as characteristics peculiar to the oil and gas industry.

Diversity in financial accounting practices of oil and gas producers has been a matter of controversy for many years.[4] Two primary accounting methods (along with variations of each) have been followed by oil and gas producers for public financial reporting: The successful efforts method, which is characterized by capitalizing only the costs directly related to productive properties; and the full cost method, under which all costs incurred in finding and developing oil and gas reserves within broad cost centers are capitalized.

Reflecting the interest of Congress in obtaining meaningful and reliable energy information, EPCA directs the Commision to assure the development and observance of accounting practices to be followed by oil and gas producers in the preparation of accounts as the basis for reports to be required by the Department of Energy ("DOE") in developing a reliable energy data base. EPCA further provides that, under certain circumstances, the Commission may rely on the accounting determinations of the FASB, the private sector organization to which the Commission looks for the initiative in establishing financial accounting standards, in lieu of promulgating rules on oil and gas accounting practices. In 1975, the FASB undertook to establish financial accounting and reporting standards for oil and gas producing activities.

EPCA required that such practices be developed by December 22, 1977,

[4] The history of past efforts by the Commission, the accounting profession, and the industry to address this issue is discussed in Release No. 33-5877 (42 FR 57661), Oct. 26, 1977.

V 43 / 177 SE 12 78

but the Commission was authorized to extend this deadline to afford the opportunity for interested persons to submit written comment on whether the Commission should recognize or rely on accounting practices established by the FASB. In recognition of this deadline, the Commission published for public comment proposed rules relating to financial accounting measurement standards in Release No. 33-5861 dated August 31, 1977 (42 FR 44972), and related disclosure standards in Release No. 33-5877 dated October 26, 1977 (42 FR 57661). The proposed rules, so as not to confuse or conflict with the then ongoing FASB project, reflected in substance the Exposure Draft of a Proposed Statement of Financial Accounting Standards, "Financial Accounting and Reporting by Oil and Gas Producing Companies," published by the FASB in July 1977. This Exposure Draft proposed a form of the successful efforts methods of accounting as the uniform method for all enterprises engaged in oil and gas producing activities.

On December 5, 1977, the FASB issued FAS 19, effective initially for fiscal years beginning after December 15, 1978. The provisions of FAS 19 are essentially the same as those contained in the Exposure Draft. The Commission, in Release No. 33-5892 dated December 22, 1977 (43 FR 877), requested public comment on whether it should rely on the determinations of the FASB or adopt other rules to establish oil and gas accounting practices pursuant to the Federal securities laws and to EPCA. As authorized by EPCA, the Commission extended the deadline for the development of these accounting practices. Previously, in response to a large number of requests, the Commission had indicated its intention to conduct a public hearing in connection with its review to determine the appropriate accounting and disclosure standards for oil and gas producers.

The Commission's proceeding was marked by intense interest and extensive participation by advocates of particular points of view relating to oil and gas accounting standards. The Commission has received a large number of written submissions, including many comprehensive analyses of issues under consideration. It has also included in its public file (No. S7-715) for this proceeding the public record developed by the FASB during its proceeding leading to FAS 19, the public record submitted by DOE in connection with its inquiry into this matter, and the public files of previous proceedings on oil and gas accounting of the Commission,[5] the Accounting Principles Board ("APB") of the American Institute of Certified Public Accountants, and the Federal Power Commission. Members of the Commission and its staff heard testimony from 97 witnesses, compiling over 2,700 pages of transcript, during 12 days of the public hearing, which was conducted both in Washington, D.C. and Houston, Tex. Included among those participating in the proceeding were managers of oil and gas producing companies, academics, research consultants, representatives of the investment community, public accountants, and the FASB.

EPCA requires that the Commission consult with DOE, the Federal Energy Regulatory Commission, and the General Accounting Office ("GAO") with respect to accounting practices to be developed. Pursuant to this directive, an "EPCA Consultation Group" was formed which met periodically from 1976 through early 1978. Both DOE, after independently soliciting written comment and conducting a 2-day hearing, and GAO subsequently submitted formal comments in connection with the Commission's rulemaking proceeding.

The Commission's determinations in this matter, as described in this release, reflect its independent conclusions that resulted from this extensive deliberative process. They represent, in the Commission's view, the most effective and appropriate means of providing information for informed investment decisions relating to the oil and gas producing industry and for informed decisions by Government policymakers. Thus, these determinations are in keeping with the goals and requirements of both the Federal securities laws and the applicable Federal energy laws.

The Commission has long been concerned about the diversity of accounting practices in the petroleum industry and the availability of relevant financial information to investors in securities of companies engaged in oil and gas producing activities. The primary impetus for initially undertaking this proceeding, however, was the mandate of EPCA that the Commission, for purposes of establishing a reliable energy data base, assure the development of accounting practices to be followed by oil and gas producers. The statutory requirements of EPCA distinguish this proceeding from the usual role of the Commission in the process of establishing financial accounting standards.

The Federal securities laws authorize the Commission to prescribe accounting practices to be applied in the preparation and presentation of financial statements and other financial data to be included in filings with the Commission pursuant to such laws. In 1938, the Commission, in accounting series release ("ASR") No. 4 (11 FR 10913), stated its administrative policy with respect to financial statements included in these filings. ASR No. 4 provides that the Commission presumes that financial statements prepared in accordance with accounting principles for which there is no substantial authoritative support are misleading, notwithstanding disclosure of those principles. If there is a difference of view between a registrant and the Commission, the Commission will accept disclosure in lieu of a change in the financial statements only if there is substantial authoritative support for the proposed accounting principle and the Commission has not expressed a contrary view in an official release. Thus, rather than exercise its extensive authority to adopt specific accounting principles and methods, the Commission elected in large part to accept, in the first instance, principles already having substantial precedent—accounting principles that are generally accepted in the private sector.

The FASB was created in 1973 as the first independent, full-time body designated by the accounting profession to formulate and issue financial accounting and reporting standards. Previously, accounting principles were established by standard-setting bodies within the American Institute of Certified Public Accountants. On December 20, 1973, the Commission published ASR No. 150 (39 FR 1260), in which it reaffirmed its policy of relying, in the first instance, on the private sector for the establishment of accounting principles and recognized the then newly established FASB as the entity designated by the private sector to have that responsibility. That release states in part:

> For purposes of this policy, principles, standards and practices promulgated by the FASB in its statements and interpretations will be considered by the Commission as having substantial authoritative support, and those contrary to such FASB promulgations will be considered to have no such support (footnotes omitted).

The Commission's policy recognizes that the FASB operates to establish accounting standards, but it does not involve a delegation of the Commission's substantive rulemaking authority to the FASB. While the Commission recognizes that, in general, it is most desirable for the private sector rather than the Government to develop accounting standards, the Commission retains the final authority under the Federal securities laws to promulgate rules, including financial accounting standards, that govern the preparation and presentation of financial statements issued by publicly owned companies, regardless of the FASB's determinations.

[5] See Release Nos. 33-5343 (38 FR 1747), Dec. 18, 1972, and 33-5427 (38 FR 28948), Oct. 4, 1973.

The provisions of EPCA, as discussed in section VI of this release, "Reporting to the Department of Energy," altered the Commission's traditional relationship with the FASB. In contrast to the discretionary authority to prescribe financial accounting practices vested in the Commission by the Federal securities laws, EPCA requires that the Commission assure the development and observance of accounting practices for the oil and gas producing industry. The inseparable nature of the issues involving oil and gas accounting practices in terms of reporting to DOE and to investors resulted in the Commission's Determination that it should proceed to adopt rules under the Federal securities laws as well as under EPCA.

Although EPCA permits the Commission to rely, under certain circumstances, on accounting practices developed by the FASB, the Commission can do so (1) only if it is assured that the accounting practices would be observed by oil and gas producers to the same extent as would result if the Commission had prescribed rules and (2) after the Commission had provided an opportunity for public comment on the FASB's conclusions. Thus, under EPCA the Commission was required to conduct a review of FAS 19 that is unique with respect to the Commission's traditional role in the process of establishing financial accounting standards.

Several commentators in this proceeding took a position that the question of whether the Commission should support the conclusions of the FASB on oil and gas accounting ought to be governed by the Commission's assessment of the adequacy of the process followed by the FASB, i.e., the Commission should seek to satisfy itself that the FASB was exposed to all relevant background information and evidence and, in reaching its conclusions, all points of view were heard and considered. As in all cases in which it determines to promulgate rules, however, the Commission has been required in this matter to reach independent conclusions on the substantive issues before it.

The Commission's conclusions in this proceeding, therefore, should not be considered an expression of dissatisfaction with the FASB's standard-setting procedures or with its deliberations on this subject. Even though the Commission's judgment differs from that of the FASB in certain respects in this instance, the Commission views neither the proceeding it undertook involving oil and gas accounting nor the outcome as evidencing any change in the Commission's basic policy of looking to the FASB for the initiative in establishing and improving accounting standards.

The Commission has recently reaffirmed its belief that this initiative belongs in the private sector, subject to oversight by the Commission, and its support of the FASB as the body in the private sector primarily responsible for undertaking such initiative.[6] The Commission intends to maintain its support of the activities of the FASB and encourages it to continue the aggressive pursuit and resolution of complex financial accounting and reporting issues. As in the past, the Commission will continue to participate in the standard-setting process in its traditional active oversight capacity in accordance with its policy of looking to the FASB for the initiative in addressing financial accounting issues.

III. Basis of Conclusions

The discovery of oil and gas is the most significant event in exploration, development, and production activities. Traditional accounting methods do not provide for recognition of this event in recording the assets or earnings of companies engaged in this industry, and, as a result, do not provide for a meaningful presentation of operating results or financial position. The Commission is seeking to remedy this limitation, which applies equally to the successful efforts and the full cost methods, by striving to develop an accounting method (reserve recognition accounting) that would recognize proved oil and gas reserves as assets and that would recognize changes in proved oil and gas reserves in earnings as the changes occur.

A fundamental consideration of the Commission in this proceeding has been to assure that information is communicated about the assets of an oil and gas producing company. The FASB, in connection with its project on the "Conceptual Framework for Financial Accounting and Reporting," has proposed the following definition of "assets" for financial accounting purposes:

> Assets are financial representations of economic resources—cash and future economic benefits—the beneficial interest in which is legally or equitably secured to a particular enterprise as a result of a past transaction or event affecting the enterprise (footnote omitted). Economic resources benefit a business enterprise by increasing, directly or through use in earning activities, future net cash inflows to the enterprise. A resource other than cash must have three characteristics to be represented as an asset in the financial statements of an enterprise: (a) The resource must, singly or in combination with other resources, contribute directly or indirectly to future cash inflows (or to obviating future cash outflows), (b) the enterprise must be able to obtain the benefit from it, and (c) the transaction or event giving rise to the enterprise's right to or interest in the benefit must already have occurred.[7]

Proved oil and gas reserves constitute the most important asset for most companies in the oil and gas producing industry.[8] An investor or a government policymaker making decisions based on past activities and expectations of future prospects of companies engaged in oil and gas producing activities requires information on proved oil and gas reserves. This information, accordingly, must be emphasized prominently in financial reporting.

The primary focus of financial reporting is information relating to earning activities.[9] Although participants in the securities markets and government policymakers base decisions on various types of information, including but certainly not limited to publicly reported financial information, meaningful presentation of earnings is a primary goal of financial reporting.

Several adverse consequences occur if reported earnings are not regarded as meaningful. In the first place, the confidence of investors and government policymakers in the information conveyed by financial reporting is eroded to the extent that reported earnings are regarded as not relevant. This may affect confidence in the securities markets and the willingness of investors to hold or acquire equity securities. Government policymakers may seek to require needed information through more burdensome reporting requirements.

Further, reported assets and earnings have significance in other respects. Financial accounting data are often used as the basis for debt and other contractual arrangements. Managers of companies for various reasons place importance on reported financial

[6] "Securities and Exchange Commission Report to Congress on the Accounting Profession and the Commission's Oversight Role" (Washington, D.C.: U.S. Government Printing Office, 1978), pp. 29-31.

[7] Exposure Draft of Proposed Statement of Financial Accounting Concepts: "Objectives of Financial Reporting and Elements of Financial Statements of Business Enterprises" (Stamford, Conn.: FASB, December 1977), paragraphs 47-48.

[8] The FASB indicated that oil and gas reserves qualify as assets under its proposed definition of assets discussed above; however, the FASB noted that defining reserves as assets does not necessarily determine that reserves should be included in financial statements or how reserves should be measured if they are included in financial statements. As discussed below, the FASB commented that value accounting, in its view, was not a realistic alternative at this time for measuring earnings of an oil and gas producing company. (Comments of the FASB, May 31, 1978, pp. 50-54 in File S7-715.)

[9] FASB Exposure Draft: "Objectives of Financial Reporting and Elements of Financial Statements of Business Enterprises," paragraph 14.

results, which frequently are the basis for evaluation of their performance and for their compensation. If financial accounting fails to provide reported earnings that convey material information, managers may be under further temptation to take actions to maximize reported financial results even if these actions are not economically justified or in the interests of shareholders.[10]

Financial accounting has inherent limitations and, consequently, undue emphasis on a single net income amount by investors and by government policymakers should be avoided. The Commission, nevertheless, believes that it is essential to make reported earnings as meaningful as possible in communicating economic information to decisionmakers.

The relevance of reported assets and earnings of companies engaged in this industry would be vastly enhanced if oil and gas reserves were recognized as assets and changes in reserves were included in earnings. An acceptable level of reliability, however, is necessary before data should be required in public reports, and an even higher degree of reliability is necessary before it should be incorporated into the primary financial statements.

Oil and gas reserves cannot be measured directly—they can only be estimated—and such estimates cannot achieve high precision in many cases. Furthermore, placing a valuation on estimated quantities of oil and gas reserves involves additional estimates that are also imprecise. The Commission has concluded that supplemental disclosure of valuation information on oil and gas reserves in accordance with its newly adopted rules is appropriate even though the information cannot be precisely determined, as discussed in section VII, "Description of the Rules."

Although valuations of proved oil and gas reserves are commonly developed and used in financing arrangements, in transactions involving purchases and sales of proved properties, and for internal managerial purposes, few public disclosures of these data have been made previously. The Commission does not, consequently, have adequate information now available to support a conclusion that the data are sufficiently reliable to be used as the basis of primary financial statements at this time. Because of the potential to enhance significantly the usefulness of financial data of oil and gas producers through incorporating valuations of reserves in financial statements, the Commission believes that efforts should be directed toward (a) obtaining public disclosure of these data so that their reliability can be ascertained, and (b) striving aggressively to develop a workable method of accounting based on the data.

The actions taken by the Commission as described in this release are the first in a process that must be flexible in order to provide an opportunity to address problems as development of a valuation system of accounting for oil and gas producing activities proceeds. Progress must be timely because of the continuing need for relevant financial statements in this industry.

REVENUE RECOGNITION

Traditional accounting methods in the oil and gas producing industry are based on a revenue-recognition convention known as the "realization" principle, a principle that is embodied substantially throughout generally accepted accounting principles. APB Statement No. 4 contains the following discussion of the realization principle:

> Most types of revenue are the joint result of many profit-directed activities of an enterprise and revenue is often described as being "earned" gradually and continuously by the whole of enterprise activities * * *. All of the profit-directed activities of an enterprise that comprise the process in which revenue is earned may be called the *earning process.*
>
> Revenue is conventionally recognized at a specific point in the earning process of a business enterprise, usually when assets are sold or services are rendered. This conventional recognition is the basis of the pervasive measurement principle known as realization * * *. Revenue is generally recognized when both of the following conditions are met: (1) The earning process is complete or virtually complete, and (2) an exchange has taken place.[11]

The Commission has concluded that the earning process in exploring for and then producing oil and gas differs significantly from that of most other industries and that this justifies different treatment within the existing accounting framework.[12] In most industries the cost of producing or acquiring an asset or product is normally related directly to the revenue that may be expected to be derived from the product or asset. Consequently, the cost of an asset when it is acquired may be expected to provide a reasonable reflection of its value, at least under normal conditions. On the other hand, in oil and gas exploration, a great deal may be spent on a property that has no value at all or, conversely, relatively small expenditures may result in the discovery of very valuable oil and gas reserves. Thus, the cost of exploring for and developing oil and gas reserves has no necessary relationship to the value of these reserves, except perhaps on an industrywide basis in the long run. In other words, in most industries the value to the business at the time of making an investment is appropriately represented by costs incurred, even though values of assets in all industries obviously change over time.[13] This condition does not exist in the oil and gas producing industry.

Besides the fundamental difference in the nature of the earning process, another distinguishing characteristic of the petroleum industry is that the marketability of oil and gas at prices above a minimum level appears reasonably assured for the present and, absent a radical technological innovation, for the foreseeable future. As commodities, oil and gas are each relatively homogeneous and the supply of each, while unknown, is limited. These two factors are likely to continue to cause upward pressure on prices (again, as long as no developments reduce demand significantly).

Thus, because (1) the earning process in this industry has discrete movements, based on information gained at the point of discovery of reserves attributable to a particular property, or at the point of impairment of the value of the property as a result of gaining information through drilling or otherwise, and (2) the marketability of oil and gas appears relatively assured under existing economic conditions, the Commission believes that an exception to the principle of recognizing revenue only upon realization is justified and, moreover, is required to achieve meaningful reporting of assets and earnings.

[10] However, as discussed in section V, "Traditional Oil and Gas Accounting Methods," the Commission believes the focus of the objectives of financial reporting should be the information requirements of users of financial data.

[11] "Statement No. 4—Basic Concepts and Accounting Principles" (New York, N.Y.: American Institute of Certified Public Accountants, Inc., 1971), paragraphs 148-153 (emphasis in the original). The APB, the predecessor to the FASB as the private sector body involved in establishing financial accounting standards, issued "Statements" and "Opinions." APB Statements, unlike Opinions, do not establish authoritative standards but rather present the APB's conclusions on certain accounting issues.

[12] Revenue under existing generally accepted accounting principles is recognized in certain cases on a basis other than the realization convention. APB Statement No. 4 indicated: "For example, on long-term construction contracts revenue may be recognized as construction progresses. This exception to the realization principle is based on the availability of evidence of the ultimate proceeds and the consensus that a better measure of periodic income results. Sometimes revenue is recognized at the completion of production and before a sale is made. Examples include certain precious metals and farm products with assured sales prices. The assured price, the difficulty in some situations of determining costs of products on hand, and the characteristic of unit interchangeability are reasons given to support this exception." (Paragraph 153.)

[13] As discussed in section IV, "Scope of Conclusions," the Commission has required disclosure of replacement cost information in response to measuring the impact of changing prices on financial statements in general.

DEVELOPMENT OF RRA

The plans for attempting to develop RRA involve specific actions to take place sequentially. The first step will be an evaluation of the disclosures in response to the rules published in this release, including the present value information relating to estimated future production of proved oil and gas reserves (*see* section VII, "Description of the Rules").

Concurrently, the Commission is publishing in a separate release (Release No. 33-5969) proposed rules that would require registrants to prepare a supplemental earnings summary of oil and gas producing activities on the basis of RRA, thereby incorporating the present value information on oil and gas reserves into a summary income statement format. The RRA supplemental earnings summary would involve a presentation of the results of oil and gas producing activities separated into three elements:[14]

(a) *Results of current production activities* would reflect the proceeds of current sales and the value of transfers of oil and gas less current lifting costs and amortization on a unit-of-production basis of the aggregate valuation of proved oil and gas reserves.

(b) *Results of current exploration and development activities* would reflect the valuation of proved oil and gas reserves added during the current period as a result of exploration, development, and improved recovery programs less the exploration and development costs associated with the proved reserves added or determined to be nonproductive during the current period.

(c) *Revisions to valuations* would include changes in valuations of proved oil and gas reserves added in previous periods as a result of revisions in estimated quantities and production rates, revisions to reflect changes in the prices of oil and gas and in the costs of development and production, and increases in the valuations resulting from the passage of time as a result of applying the discounted cash flow method of valuation.

All other accounting principles would be applied in accordance with existing generally accepted accounting principles. The supplemental RRA earnings summary would, therefore, not be prepared on a full "current value" basis, because the valuation of assets other than proved oil and gas reserves (and those directly related to reserves, i.e., mineral resource assets[15]) and the valuation of liabilities would be unchanged from the primarily historical cost basis embodied in generally accepted accounting principles.

Furthermore, the valuation of proved oil and gas reserves, as noted above, would be required to conform to the methodology prescribed by the Commission. The valuation, consequently, would not result necessarily in a "best" estimate of the fair market value of a company's proved oil and gas reserves, which would require consideration of expected future economic conditions. But, in the Commission's view, a valuation on the prescribed basis will be representative of the market value of proved oil and gas reserves derived on a relatively objective and uniform basis.

A supplemental RRA earnings summary, if the proposed rules are adopted, would be required initially in filings with the Commission that include fiscal years ending after December 25, 1979. While the proposed rules provide a general format of the proposed presentation, the Commission views the proposals as establishing general rather than specific guidelines in this regard. An extended comment period, through April 30, 1979, is provided to permit registrants and users of financial information to consider their experiences with the initial public disclosure of valuations of proved oil and gas reserves.

If the Commission determines to require the supplemental RRA earnings summary, it will evaluate the usefulness of the presentation in terms of the relevance and reliability of information it conveys. The Commission will ultimately determine whether it should propose RRA as the basis of the primary financial statements of oil and gas producers. A prediction of the exact timing for these further considerations would be speculative at this point; however, it appears that implementation could not take place prior to 1981.

To assist the Commission and its staff in evaluating the experiences with disclosure of proved oil and gas reserve valuation data, the Commission will initiate steps toward the appointment of an advisory committee. This advisory committee would meet with the staff of the Commission to consider implementation problems, assess experiences in preparing and using the valuation information on oil and gas reserves, and assist in soliciting and evaluating public comments on the issues involved in this project. The advisory committee would be expected to include representatives of oil and gas producing companies, independent petroleum engineering firms, the investment community, academics, and public accounting firms. In addition, the FASB and Government agencies with an interest in this project would be invited to participate in or observe the work of the advisory committee.[16]

EXISTING ACCOUNTING PRACTICES

The Commission considered whether it should require that oil and gas producing companies adopt a uniform method of accounting while RRA is being developed. The form of the successful efforts method of accounting prescribed by FAS 19, the full cost method of accounting now followed by many companies, and variations of these methods were considered. The Commission evaluated the benefits of a uniform accounting method from the standpoint of providing useful information to investors and policymakers to assist them in gaining an understanding of the operations of a company and in comparing the operations of companies in the industry and of companies in the petroleum industry with companies in other industries. The Commission considers that, as a general rule, a uniform application of accounting methods is and should be required to enhance comparability. It has concluded otherwise in this situation because the traditional oil and gas accounting methods, none of which provide timely recognition of reserves in the primary financial statements, do not adequately communicate relevant information concerning assets and earnings.

Financial statements of oil and gas producing companies prepared under any of the traditional accounting methods fail to provide investors and Government policymakers sufficient relevant information to make informed decisions. Information presented to the Commission in this proceeding indicated that lenders base their decisions almost entirely on information other than that reported in the basic financial statements and that securities analysts also look primarily to such other information. Because historical costs do not furnish meaningful information concerning economic resources of oil and gas producing companies, the data presented in the balance sheet and income statement do not adequately assist investors in assessing prospective cash flows. Relevance, one of the critical qualitative characteristics of financial reporting, is clearly lacking in the presentation of assets and net income in financial statements of companies engaged in oil and gas exploration.

[14] Valuations of oil and gas reserves would be computed following the methodology reflected in the disclosure rules published in this release, i.e., using current prices of oil and gas, current costs of development and production, and a specified 10 percent discount rate (*see* new § 210.3-18(k)(6)).

[15] *See* Staff Accounting Bulletin ("SAB") No. 10 dated July 27, 1976 (41 FR 13596) for the Commission staff's definition of mineral resource assets for the oil and gas producing industry, as amended by SAB No. 23 dated August 31, 1978, and published concurrently with this release.

[16] The degree of the involvement of the Commission and of the FASB in those future efforts is discussed further in section IV, "Scope of Conclusions."

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A consequence of these limitations of traditional accounting is that application of a uniform presently accepted accounting method in the petroleum industry would not provide any appreciable improvement in the ability of investors or policymakers to compare companies. Meaningful comparisons must be based almost exclusively on data other than those reported in traditional primary financial statements, regardless of whether the same or different methods of accounting are used.

Similarly, even though the historical cost and revenue realization concepts reflected in traditional oil and gas accounting methods are consistent with financial accounting concepts used in other industries, adherence to a traditional method does not achieve interindustry comparability. The application of these accounting conventions to the oil and gas producing industry so significantly detracts from the relevence of information communicated by the accounting process that the primary financial statements are of little use in understanding the financial position and operating results of oil and gas producers. A uniform traditional accounting method, accordingly, would not enhance interindustry comparability, notwithstanding that the accounting conventions may be essentially the same as those used in other industries.

The Commission believes that the disclosures prescribed by its newly adopted rules encompass the relevant information on oil and gas producing activities for assessing the past activities and the future prospects of a company and for comparing different companies. The Commission has, therefore, concluded that little benefit in terms of disclosure of useful information would be achieved by requiring a uniform traditional method of accounting or a variation of a traditional method.

Any accounting change, moreover, has certain economic effects, including the costs of changing records and financial statements, the impact on management planning, the costs of communicating the new information to investors and analysts, and the costs of revising debt and other contractual agreements that contain provisions based on financial accounting data. Many commentators in this proceeding took a position that a change to the successful efforts method of accounting would, in addition to the matters discussed above, have an impact on the access to and cost of capital for companies that now follow the full cost method, thereby placing a burden on competition in the petroleum industry and reducing domestic exploration for new supplies of oil and gas.

The Commission believes that the potential competitive impact of adopting a uniform method of accounting for the petroleum industry is not likely to be so substantial as to preclude its mandating a uniform method if uniformity would enhance the ability of investors and policymakers to understand the financial results of a company and to compare companies. On balance, however, the Commission has concluded that selecting one of the traditional methods of accounting as a uniform method for the oil and gas producing industry is not appropriate. In addition to the costs of changing to a uniform method, the Commission has concluded there would be little, if any, benefit from uniformity in this case, as discussed previously. The information that will be provided to investors and to government policymakers as result of the disclosure rules adopted by the Commission will be sufficient to enable an analysis of the financial statements of a company and comparisons of the financial statements of different companies. Moreover, the Commission's efforts to develop the RRA method further signify the desirability of avoiding the costs and confusion that adoption of a uniform standard would entail at this time.

IV. Scope of Conclusions

Certain aspects of the Commission's decision on financial reporting and accounting by oil and gas producing companies may be incorrectly perceived as having broader implications for other areas of financial accounting. In this regard, the Commission:

(1) Affirms its long-standing view that uniform accounting principles should be applied by all companies to similar events and transactions; and

(2) Emphasizes that its conclusion to endeavor to establish an accounting method that will measure assets and earnings in financial statements on the basis of valuations of proved oil and gas reserves does not reflect a determination that the primarily historical cost basis of the present accounting model should be abandoned in favor of some form of current value accounting.

Uniformity of Accounting Methods

Financial accounting seeks to communicate the substance of events and transactions. When similar events and transactions are involved in the operations of different companies, the companies should employ the same accounting methods so that any differences in their reported results of operations and financial position reflect actual differences and not differences caused by applying different accounting methods.

Investment decisions involve an allocation of available capital among alternative investment opportunities. Inherent in this process is a comparison of the securities of different companies. A fundamental goal of financial reporting is the communication of information to assist investors in this comparison. The Commission has long believed that comparability of financial information can and should be enhanced by requiring that companies follow uniform accounting methods for similar events and transactions.

In addition, the Commission does not believe that the occurrence of adverse economic effects with respect to certain companies, such as effects on the ability of companies to raise capital or to compete with other companies, necessarily precludes a requirement of a uniform accounting method. To the contrary, if the uniform accounting method provides relevant information to investors, such economic effects would likely reflect a more efficient allocation of capital.

In this proceeding, the Commission has determined that efforts should be undertaken to seek development of a uniform method of accounting based on using valuations of proved oil and gas reserves. Until this method can be developed, the Commission has concluded that the supplemental disclosures it is prescribing will adequately serve the needs of investors and government policymakers for financial information on oil and gas producing activities. If complete incorporation of RRA into the primary financial statements is ultimately found not to be feasible, the Commission believes that further consideration of financial accounting standards for this industry will be required to augment the supplemental data because it views neither the successful efforts method nor the full cost method as acceptable for the long term. Speculation on these further considerations would not be appropriate in view of the rapidly evolving nature of financial accounting and reporting concepts.[17]

Current Economic Information in Financial Reporting

The Commission has been concerned in recent years about the ability of the existing accounting model to communicate meaningful information in the face of current economic conditions, which have included, in particular, rapid increases in the prices of specific goods and services. In an early statement on this matter, the Commission stated in part:

> While a continuation or acceleration of the rate of price-level change might require

[17] These considerations would have the benefit of the results of the FASB's deliberations on the conceptual framework project, discussed below.

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a fundamental change in the basic accounting measurement model used in preparing financial statements, it would be premature for the Commission to suggest such a change at this time. Careful consideration of the many implications of such a major step would be necessary both by the Financial Accounting Standards Board and by the Commission.[18]

At approximately the same time, the FASB issued a discussion memorandum on the objectives of financial statements in connection with a major, continuing project of developing a "Conceptual Framework for Financial Accounting and Reporting." This project, which is expected to "set the course for financial accounting and reporting for many years," [19] has been divided into parts that include (1) objectives of financial reporting by business enterprises; (2) elements of financial statements of business enterprises, such as assets, liabilities, revenue, expense, etc.; (3) qualitative characteristics of financial information, such as relevance, reliability, and comparability; (4) basis of measurement of the elements of financial statements; and (5) display of information in an earnings statement. In addition, the FASB has in progress two related efforts: a project to develop criteria for materiality decisions in financial reporting and a proposed project to develop criteria for accounting recognition in financial statements, e.g., to identify the time at which revenues and expenses of earning activities should be recognized.

The FASB has indicated its intent to introduce any major changes in measurement concepts that may result from its conceptual framework project by initially requiring supplementary disclosures rather than by changing the basic financial statements. The FASB noted that the supplementary disclosure approach would apply to any measurement it may determine is needed to show the effects of inflation on a business enterprise. The FASB stated:

> One reason for the Board's preference for the supplementary disclosure route to introduce new measurement concepts is that it provides an opportunity for preparers, auditors, and users of financial statements to gain experience under less rigid guidance than would be required if the changes were to be made immediately in the basic financial statements themselves. That experience may provide a basis for a subsequent Board decision to change the measurements in the basic statements, or it could suggest that no such change should be made.[20]

In August 1975, the Commission expressed its continuing concern about the impact on individual companies of changing prices attendant to the high rate of inflation. In publishing proposed rules to require disclosure of certain replacement cost information as a means of supplementing historical cost financial statements, the Commission stated in part:

> Under current conditions, the Commission is not prepared to conclude that the basic accounting model needs to be changed to reflect replacement cost or other current value data in lieu of historical cost data in the financial statements. In addition, it notes that this is one of the matters being investigated by the Financial Accounting Standards Board in connection with the Board's inquiry into the conceptual framework for financial statements. The Commission believes that such a fundamental change in the basic accounting model should only be made, if at all, after such a study. At the same time, it believes that the absence of any current cost or value information is a significant shortcoming for users of financial data about business activities. * * *[21]

After receiving public comment on the proposed rules, the Commission adopted a rule[22] that requires certain registrants to disclose in financial statements filed with the Commission current cost information concerning their inventories and productive capacity. The Commission indicated that these new requirements should not be considered a prejudgment of the FASB's conceptual framework project and that data disclosed in response to the disclosure rules should assist the FASB in its study. Although the Commission is now assessing the disclosures made in response to the replacement cost disclosure rule, it continues to believe that the disclosure of relevant current economic information, including the current costs of assets as well as the current costs of using assets, is essential to meaningful financial reporting in the existing business environment.

The Commission has not, however, determined that these concerns should necessarily lead to the general implementation of a form of current value accounting. The Commission has reservations about the kinds of subjective decisions that would be injected into financial statements by adopting a current value system.

Notwithstanding its views on current value accounting in general, the Commission considers the operations and economic environment of oil and gas producing companies to be sufficiently different from that of other industries to manifest the need for a departure from traditional concepts embodied in generally accepted accounting principles.[23] The petroleum industry has been faced with significant increases in the costs of its operations because of inflation and other current economic circumstances, but the Commission's conclusions concerning appropriate accounting standards for these activities were influenced primarily by other factors (even though RRA would provide more effective disclosure of the increasing costs of finding and developing oil and gas than do traditional accounting methods). The Commission believes that RRA would effectively portray the economic resources and the earning process of oil and gas producers during periods of stable or declining prices as well as during periods of rising prices.

The Commission's conclusions are therefore limited in scope to accounting for the oil and gas producing industry. Notwithstanding the limited nature of its conclusions, the Commission has been keenly aware that its deliberations in this proceeding have involved broader issues of financial reporting, many of which, such as judging the merits of particular accounting methods on the basis of the relevance and reliability of the information they provide to investors, are presently under study by the FASB in connection with the conceptual framework project. Its conclusions, accordingly, reflect its views on fundamental matters of significance to the conceptual framework of financial reporting. The Commission does not, however, view its actions as being inconsistent with the tentative conclusions of the FASB in this regard. The Commission will carefully consider in its future deliberations on oil and gas accounting, as well as on other financial reporting matters, the FASB's conclusions reached during the course of its conceptual framework project.

Since its deliberations on oil and gas accounting, the FASB has begun consideration of issues of financial reporting beyond those pertaining to financial statements. The FASB, in its comments to the Commission during this proceeding, stated in part:

> At the time that Statement No. 19 was being debated, the Board's principal focus was on financial statements; since that time, the Board has begun to focus on the broader area of financial reporting in general, and in its December 1977 exposure draft ("Objectives of Financial Reporting and Elements of Financial Statements of Business Enterprises") sets forth proposed objectives of financial reporting, not just financial statements. Information disclosed in a financial report outside of the financial statements is likely to be subject to a lesser standard of objectivity and verifiability than information presented in the financial statements themselves. Therefore, disclosure of estimated cash flows relating to oil and gas reserves is consistent with those objectives and may well be an appropriate matter for consideration by the FASB after

[18] ASR No. 151 (39 FR 2085), Jan. 3, 1974.

[19] "Scope and Implications of the Conceptual Framework Project" (Stamford, Conn.: FASB, December 1976) p. 1.

[20] Status Report, FASB, No. 64, April 13, 1978, p.3.

[21] Release No. 33-5608 (40 FR 40550), August 21, 1975.

[22] 17 CFR 210.3-17. See ASR No. 190 (41 FR 13596), March 23, 1976.

[23] As discussed in section III, "Basis of Conclusions."

its project on financial reporting is completed.[24]

The Commission supports this broader orientation of the FASB. It believes that the goal of providing useful financial information to investors requires that standards for preparing financial statements and supplementary information be closely coordinated. The standard-setting process should not distinguish between financial statements and other financial disclosures as in the past.

The Commission considers its conclusions in this proceeding to be consistent with the concept of providing a total package of useful financial information to investors (and to Government policymakers as well). The Commission's determinations, while seeking to improve the usefulness of primary financial statements, are premised on the ability of companies to convey meaningful information in the form of supplemental disclosures.

The Commission would welcome further initiatives or participation by the FASB in the continuing efforts relating to financial reporting for oil and gas producing activities. Because of the FASB's unique expertise in financial reporting matters, its views will be given careful consideration. If the FASB decides to take the initiative on future considerations of financial reporting by oil and gas producing companies, the degree of involvement required by the Commission will be correspondingly diminished.

V. Traditional Oil and Gas Accounting Methods

During its proceeding, the Commission considered a number of alternative approaches, including the financial accounting standards promulgated in FAS 19. The Commission also considered whether the purposes of the Federal securities laws and EPCA required or made appropriate a rule mandating that all oil and gas producing companies adopt a uniform method of accounting other than RRA during the period prior to its development.

The following are the primary alternative financial accounting measurement approaches suggested by commentators and considered by the Commission:

1. The successful efforts method of accounting ("SE"), as prescribed by FAS 19 as the uniform method of accounting for all oil and gas producing companies.
2. The full cost method of accounting ("FC") as it is now commonly practiced.
3. An approach using projects or areas-of-interest as cost centers, with the cost center being the determining factor in the decision of whether to capitalize costs incurred in exploration activities.

Successful efforts accounting

SE is the traditional accounting method in the petroleum industry. Except for the costs of acquiring properties, it requires a direct relationship between costs incurred and specific oil and gas reserves discovered before costs are identified with assets. Although many variations of SE have existed in practice, FAS 19 established a uniform SE method.[25]

Under this method the nature of the cost (rather than the nature of the cost center) is the determining factor in the capitalization/expense decision. Exploration expenditures, except for those that directly result in the acquisition of assets such as interests in properties and wells and related equipment, are charged to expense regardless of whether the property with which they can be ultimately associated is productive or nonproductive. In summary, FAS 19 requires that SE be applied in the following manner:

1. Exploratory costs other than acquisition of unproved properties and drilling productive wells are charged to expense as incurred. Such costs include nonproductive exploratory wells (exploratory "dry holes"), geological and geophysical expenditures, and delay rentals and similar expenditures to carry or maintain interests in oil and gas leases.
2. Costs of acquiring properties are capitalized initially; however, losses are recognized if the values of unproved properties are determined to be impaired on the basis of a required periodic assessment.
3. Capitalized acquisition costs are amortized on the unit-of-production method using total proved oil and gas reserves. Capitalized exploration and development costs are amortized using proved developed oil and gas reserves.
4. Production (lifting) costs together with amortization of the capitalized acquisition, exploration, and development costs become the cost of oil and gas produced.
5. Revenue is recognized only upon sales to outside parties. Sales may occur as oil and gas are produced in the field, after subsequent refining or other manufacturing processes, or after transmission to distributors or end-users.

Comments in support of SE

SE was supported by the FASB and a large number of other commentators during the Commission's proceeding. They asserted that SE, as prescribed by FAS 19, provides for the petroleum industry a uniform accounting method that is consistent with the present accounting framework for companies in other industries and with accounting in the other extractive industries. These commentators stated that SE more clearly reflects the economics of oil and gas producing activities by accounting for nonproductive exploration costs as losses rather than assets and that, therefore, SE results in reported earnings that reflect, to the extent possible within the present historical cost framework, the risks and returns resulting from current operations. The FASB said that an objective of earnings communication consistently reflected in its decisions is risk portrayal, and FAS 19 is thus consistent with its earlier pronouncements on research and development costs, contingency losses, development stage companies, and foreign currency translation.

Further, those supporting FAS 19 maintained that differences in accounting are appropriate only if significant differences in facts and circumstances exist, and that similar risks of failure and potential rewards of success prevail among all companies engaged in oil and gas producing activities, even though companies in the industry differ in the magnitude and number of projects undertaken. These and other differences, in their opinion, should not affect the principles underlying the recognition of assets and measurement of earnings in financial statements.

SE advocates noted that, under generally accepted accounting principles, costs not directly related to future benefits are usually charged against current revenues even though the costs may be vital to operations. Because SE embodies this concept, they felt that it communicates the risks and the rising costs of exploration caused by inflation and the necessity to explore for oil and gas in deeper and more remote locations. They said that SE, together with appropriate supplemental disclosures, will provide users of financial statements sufficient information about the successes and failures of oil and gas producing activities.

These commentators considered SE preferable to FC because FC results in the capitalization of loss projects as assets which, in their view, obscures risks and failures through an artificial smoothing of reported earnings. Furthermore, proponents of SE generally considered SE preferable to any accounting method that would incorporate valuations of oil and gas reserves directly into the financial statements (such as the proposed RRA method). Many of them commented that the development of valuation information on a meaningful basis is so highly subjective that public disclosure of this information should not be required and that consideration of a valuation accounting method would be inappropriate until further progress is made on the FASB's conceptual framework project. Introduction of these accounting concepts in the oil and gas producing industry would, in the view of these commentators, make accounting in this industry inconsistent with other industries and inconsistent for petroleum companies engaged in other activities, such as integrated companies and natural gas transmission companies.

Many commentators observed that the FASB undertook an extensive project to address the difficult and long-debated problems of accounting and financial reporting for oil and gas producing companies. It solicited and had the benefit of substantial public participation during the course of its project on oil and gas accounting. These commentators, pointing to the concern expressed by Members of Congress and others about diversity of accounting practices both in general and specifically in the petroleum industry, maintained that the conclusions of the FASB, as the private sector body responsible for establishing accounting standards, should be accepted by the Commission, because FAS 19 resolves the uniformity issue by selecting an accounting method that the commentators considered to be either appropriate or, at least, not unreasonable. These commentators also noted that the FASB received significant support to carry out its assigned functions and that the members of the FASB and its staff are independent and highly qualified. A decision by the Commission that did not accept the FASB's conclusions on this matter would, it was argued, seriously undermine the FASB's resolve and its effectiveness in the future.[26]

Comments in opposition to SE

The overriding issue in the debate over the traditional accounting methods in the petroleum industry is the treatment of nonproductive exploration costs. SE accounts for these costs as losses to be recognized currently, while FC accounts for nonproductive costs as elements of the capital expenditures required to obtain oil and gas reserves, on the basis that they are unavoidable in the search for oil and gas.

Some commentators disagreed with the view that SE is consistent with the existing accounting framework. Others said that, even if SE were considered consistent with accounting in other industries, this consistency was irrelevant because SE fails to recognize the capital nature of exploration costs. Commentators asserted that SE seriously distorts the portrayal of operations in oil and gas activities and that consequently, the information provided by SE is meaningless. They stated that financial accounting should highlight neither risks and failures nor successes; rather, it should seek to portray operations in a meaningful manner.

Many commentators said that the definition of the assets of an oil and gas producing company is fundamental to an assessment of the two traditional methods. They considered SE to be deficient because it focuses on individual expenditures and thus fails to recognize the decisionmaking process inherent in exploration activities. These commentators asserted that success is determined by comparing total investments with total discoveries of oil and gas reserves rather than by the outcome of individual wells, some of which are inevitably nonproductive. Other areas in which accounting was claimed to be similar to FC were said to include accounting for spoilage in inventories, accounting for marketable securities on a portfolio basis, and accounting for costs incurred in construction projects.

Certain commentators claimed that SE results in an unrealistically conservative presentation of oil and gas producing activities, particularly for aggressive explorers and new entrants in the industry. They stated that historical cost accounting is limited in its ability to portray risks because it does not reflect current economic conditions. They contended that, for this reason, SE cannot report risks in a meaningful manner. In their view, SE results in an artificial variability in reported earnings, reflecting the overall level of exploratory expenditures more than the economic results of those activities.

Nearly all commentators who expressed opposition to SE took a view that uniformity of accounting methods in the petroleum industry was either inappropriate because of differences among companies within the industry, unnecessary because comparability could be achieved through disclosure of supplemental information, or unjustified because of the possibility of potential adverse economic effects of requiring SE as a uniform method for all oil and gas producers.

Many commentators opposed to SE expressed general support of the FASB in its standard-setting activities. However, they criticized the FASB's judgment on the accounting issues and the potential economic impact attendant to requiring SE, stating that oil and gas accounting involves unique issues that require considerations apart from the general objectives of financial reporting.

Many, but not all, opponents of SE commented that an accounting method based on valuations of oil and gas should be developed and implemented in the near future. They stated that requiring adoption of SE prior to consideration of a form of value accounting for oil and gas producing activities would therefore be illogical and costly.

Economic impact of requiring SE

During the Commission's proceeding, significant attention was focused on whether the adoption of SE, as prescribed by FAS 19, would have an adverse impact on competition in the petroleum industry and, if so, the extent of the impact. Many commentators stated that the adverse effect on the financial statements of FC companies would limit their access to capital, cause a significant reduction in their exploration activities, and thus unnecessarily restrain competition in the domestic oil and gas producing industry.

These commentators asserted that aggressive independent producing companies following FC constitute a significant factor in the petroleum industry and that these companies are dependent upon access to new capital to finance their exploration activities. They stressed the importance placed on reported earnings and shareholders' equity by suppliers of capital. Any impairment of the access of FC companies to capital, according to this view, would unreasonably restrain competition in the oil and gas producing industry by creating a barrier to new entrants in the industry and by precipitating a reduction in future exploratory efforts of other companies.

Managers, whose compensation is frequently based on reported earnings, place great significance on reported financial results and these commentators said that FC managers would likely take actions not economically justified to offset the financial statement effects of SE. These expected actions, such as reducing the extent of oil and gas operations and directing expenditures toward low-risk rather than high-risk drilling prospects, were said to be contrary to the national policy of seeking to increase domestic supplies of energy.

In response, the FASB and other commentators asserted that SE applied as a uniform method of accounting is consistent with accounting in other industries and that it would therefore foster fair and effective competition in the capital markets (1) by providing investors, lenders, and other suppliers of capital with comparable financial data prepared objec-

[24] Comments of FASB, May 31, 1978, pp. 51-52, in File S7-715 (emphasis in original). This quotation was made in the context of the FASB's comment that the successful efforts method as prescribed by FAS 19 is consistent with its proposed objectives of financial reporting and full costing is not (p. 48) and that the measurement problems associated with valuations of oil and gas reserves "strongly suggested to the Board that the cash flow disclosures should not be required in financial statements" (p. 51) (emphasis in original).

[25] The provisions of FAS 19 pertaining to application of SE are the basis of the Commission's newly adopted rules published in this release that define SE for those oil and gas producers electing to follow that method. See sec. VII of this release for a further description of these rules.

[26] The Commission's disagreement with this point of view is discussed in sec. II, "Background."

tively and evenhandedly, permitting consistent analysis of risks and rewards; (2) by relieving the capital markets of the anticompetitive burdens of noncomparable, inconsistent financial data; and (3) by eliminating inequities affecting allocation of capital resources to and among oil and gas companies.

According to this latter view, an economically successful company will be able to attract capital regardless of the method of accounting it adopts. These commentators noted that many small oil and gas producing companies have followed SE for many years and have generally been able to obtain capital to finance their operations. They noted that the prospects of finding commercially recoverable oil and gas reserves, the prices at which those reserves would be sold, the costs incurred, and the income taxes paid are totally unaffected by the method of accounting for the costs incurred. They asserted that a decision not to undertake commercially attractive exploration projects simply because SE is required would thus seem unlikely for the vast majority of companies. Moreover, they felt that accounting standards should be established with the objective of providing useful information to users of financial statements rather than to foster or avoid any particular actions by managers of companies that are affected by the standards.

A number of research studies undertaken or sponsored by persons interested in this proceeding were submitted to the Commission. The following studies supported the position that adoption of SE as a uniform method would not have a significant and unwarranted adverse economic impact:

1. Consultants to the FASB interviewed 24 bank loan officers, bank trust officers, underwriters, securities analysts, and a bond rating officer, all with experience in the industry. The FASB concluded that the method of accounting followed by oil and gas producing companies would not significantly affect the majority of the investment or credit granting decisions of these interviewees.

2. A consultant to the FASB directed a telephone interview survey of senior executive officers of 27 small- and medium-sized SE companies. None of those surveyed felt that SE had hindered his company's ability to raise capital.

3. A consultant to the FASB directed studies using various statistical procedures to analyze the effect of the publication of the FASB's exposure draft and of FAS 19 on the market prices of common stocks of oil and gas producing companies. These studies led to a conclusion that the research did not provide sufficient evidence for concluding that the publication of the FASB's decision to require SE had a selective effect on prices of the common stocks of FC companies in relation to SE companies. This conclusion was considered by some commentators to be consistent with the findings of recent empirical research into the relationship between securities' prices and information reported in financial statements.[27]

4. An examination by academics of (1) the significance of external capital and exploration expenditures of petroleum companies and (2) the relationships between common stock prices and earnings, oil and gas reserves, and accounting methods indicated that the securities markets may not always consider adequately the accounting method used by a company. These researchers expressed concern that the risks in exploration may not be properly assessed if they are not clearly disclosed. They concluded that SE should be adopted as a uniform method, because they considered it to portray risks more clearly than FC.

5. A joint submission by an academic and a public accountant, based on an investigation of statistical and other data in the petroleum industry, concluded that (1) SE is the predominant method used in the industry; (2) the segment of the industry comprised of companies that might be required to record material adjustments to their financial statements if SE were required is relatively small; and (3) independent SE companies obtain capital in the public securities markets and undertake aggressive exploration activities.

6. An academic conducted a survey in 1975 of securities analysts that specialize in the oil and gas industry. His research indicated that a substantial majority (over 70 percent) of the 310 respondents expressed a preference for SE over FC.

7. The FASB submitted a staff analysis that identified 257 United States and 35 Canadian registrants with the Commission engaged in oil and gas producing activities. The FASB's staff found that:

(1) Approximately one-half of these registrants follow SE;

(2) Over 60 percent of these registrants with revenues of less than $10 million follow SE;

(3) Approximately one-half of these registrants with revenues of less than $100 million follow SE;

(4) More than one-half of the U.S. registrants that are engaged principally in exploration and production use SE; and

(5) Over half of these registrants that are engaged primarily in other lines of business follow SE.

8. The FASB also submitted a staff analysis of recent filings with the Commission by 294 registrants, including 140 following FC, that included disclosure of the potential impact of adopting SE.[28] This analysis found that (1) adoption of SE would have a relatively insignificant financial statement effect for a significant minority of FC companies, (2) only seven of the FC companies disclosed that adoption of SE might affect their future dividend policies (none disclosed that it would), and (3) only six disclosed that they would have to renegotiate their debt or other agreements.

The following research studies were submitted in support of the view that a requirement that FC companies adopt SE would have a significant adverse economic impact:

1. A research consultant engaged by a group of several FC companies described previous research that he had undertaken on the relationship between exploration costs and revenue from sales of oil and gas produced from a large number of offshore leases. This consultant concluded that FC results in reported assets that closely approximate oil and reserve values, less a normal return on investment.

2. Another research consultant engaged by these companies analyzed statistical and other data for the petroleum industry and concluded that FC companies comprise an important part of the independent producing segment of the industry and that FC companies are relatively aggressive in searching for oil and gas. His conclusions were presented as support for the position that the financial statement effects of a change to SE would hinder the ability of FC companies to continue aggressive exploration programs.

3. A representative of an investment banking firm engaged by these companies analyzed the financing activity of certain petroleum companies and concluded that FC companies depend significantly on external capital sources to finance their activities and that they are relatively more aggressive than SE companies in seeking such capital. His conclusions were presented as support for the position that the financial statement effects of a change to SE would hinder the ability of FC companies to obtain capital to finance their exploration activities.

4. A research firm engaged by these FC companies interviewed more than 100 industry participants and financing groups. The firm concluded that adoption of SE would cause a substantial ($1.3 billion) reduction in domestic exploration and development spending, which would not be offset by increased spending by other companies and would thus result in a substantial ($2.4 billion) annual increase in the U.S. balance of trade deficit.

5. This group of companies also engaged two academic research consultants to perform empirical studies on the impact on common stock prices of FC companies of publication in July 1977 of the FASB's proposal to require that all companies adopt SE. This study, although similar in some respects to the research of this nature sponsored by the FASB, used different statistical techniques and different samples of companies. The consultants concluded on the basis of their research that the publication of the FASB's proposal caused a relative downward shift in the prices of the common stocks of FC companies which was sustained over a 6-month period, with no evidence of recovery.

The submission of these research studies supporting different views concerning the potential economic impact of the adoption of SE generated substantial further comment challenging various aspects of the methodology employed or the conclusions drawn from the studies.

[27] *See, e.g.*, Thomas R. Dyckman, David H. Downes, and Robert P. McGee, "Efficient Capital Markets and Accounting: A Critical Analysis" (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1975) and William H. Beaver, "What Should be the Objectives of the FASB?" "The Journal of Accountancy," Aug. 1973, pp. 49-56.

[28] On Sept. 1, 1977, the staff of the Commission published an interpretive release, Staff Accounting Bulletin ("SAB") No. 16 (42 FR 44983), that described the staff's view of appropriate disclosure by registrants relating to the issuance of the July 15, 1977, FASB Exposure Draft. In SAB No 16, the Commission's staff indicated that registrants whose financial statements would be substantially affected if the FASB's proposal were required to be applied should disclose certain information about the relationship between their existing accounting policies and the FASB's proposal. The disclosures described in SAB No. 16 included an indication of the general magnitude of the potential impact on earnings and shareholders equity and a discussion of any significant implications that adoption of the FASB's proposed standards might have concerning the registrant's dividend policy and its ability to comply with covenants in its debt or other agreements. SAB No. 16 has been rescinded in SAB No. 23 (Aug. 31, 1978), published concurrently with this release.

COMMISSION'S ASSESSMENT OF SE

The Commission does not disagree with the view that SE is conceptually consistent in many respects with accounting in other industries. The Commission's decision that SE should not be the uniform method of accounting for oil and gas producing industry is based on its conclusions regarding the information on assets and earnings that is conveyed by applying the SE method. As does any other historical cost method of accounting for oil and gas producing activities, SE fails to portray effectively economic performance because it gives no recognition in the primary financial statements to discoveries of oil and gas.

Further, SE results in distinguishing costs incurred in exploration and development on a basis that does not provide useful information about a company's assets and earnings, even though the conceptual basis of SE may be consistent with traditional accounting concepts. SE accounts for certain costs incurred in finding oil and gas as assets and accounts for other finding costs as expenses on the basis generally of whether the costs directly relate to productive properties. Some of the costs related to productive properties (*e.g.*, lease bonuses, successful exploratory wells, and all development wells) are capitalized and other costs related either to productive properties (*e.g.*, geological and geophysical costs and delay rentals) or to nonproductive properties (*e.g.*, lease bonuses and exploratory wells) are charged immediately to expense. This differentiation among costs incurred in finding and developing oil and gas yields an income statement that associates a mixture of current and past costs with the proceeds from production of previously discovered oil and gas reserves—an association that cannot result in a meaningful portrayal either of the risks associated with exploration or of the results of current operations. Furthermore, accumulated past costs of exploration and development and their amortization are irrelevant in terms of reaching current decisions, whether they are made by investors, government policymakers, or management.

SE can therefore lead to misunderstandings of the nature of current operations and financial position. The source of relevant information on economic resources and on the prospects of future cash flows for companies following SE, or any other historical cost accounting method (including FC), would be the supplemental disclosure of operating costs and physical activities. This information communicated supplementally may frequently appear to be directly contrary to the results reported in the balance sheet and income statement.

The Commission is required to consider, among other factors, the potential impact on competition in adopting rules pursuant to the Securities Exchange Act of 1934 and "not adopt any such rule or regulation which would impose a burden on competition not necessary or appropriate in furtherance of the purposes of (the Act)" (section 23(a)(2), (15 U.S.C. 78w)). In adopting a rule on accounting standards for oil and gas producers, pursuant to this Act, the Commission must therefore balance potential anticompetitive effects of the rule against the purposes of the Securities Exchange Act. In reaching that balance, the Commission need not, however, choose the least anticompetitive alternative if any burden on competition is "necessary or appropriate" to further the purposes of the Act.[29] The burden of balancing the anticompetitive effects of the rule rests with the Commission and it must reach its own conclusions independently after taking into account public comments and other pertinent information.

The Commission assessed the potential economic impact of requiring a uniform SE method, including the potential impact on competition in the petroleum industry and the potential impact on domestic supplies of oil and gas. The Commission, in this regard, considered the extent to which FC companies have relied on equity capital in the past, the impact of an accounting change to SE on the financial statements of FC companies, and the potential resulting effects on access of FC companies to external capital.

The Commission believes that investors should have sufficient information available to permit an efficient allocation of capital. Demonstrating that equity capital has been a minor part of the funds obtained to finance operations or that other companies have achieved success without using FC does not obviate the need to examine whether proscribing FC would have a competitive impact. Conversely, the fact that FC companies have relied heavily on equity capital and that access to equity capital has been important to them in financing growth would not, in and of itself, demonstrate that FC should not be proscribed. The Commission has concluded in this regard that access to equity capital is important to oil and gas producing companies and that it should seek to obtain disclosure of information that would foster the flow of equity capital to deserving companies.

While the issue of whether a mandated change to SE would have competitive and other adverse economic effects has been contested heatedly, the question of the financial statement effect of such a change has not been a subject of debate. The disclosures in 1977 financial statements of potentially affected companies demonstrate that the effect of a change to SE would be a significant reduction in the net income and shareholders equity of many companies that now follow FC. The fundamental point of contention regarding access to capital is ultimately whether this adverse effect on financial statements would have a corresponding adverse impact either on the ability of FC companies to raise equity capital or on their cost of equity capital.

In addition to the studies described previously on the possible impact on common stock prices of the publication of the FASB's proposal to require that all oil and gas producing companies adopt SE, similar empirical studies were conducted by the Commission's staff.[30] These empirical studies were generally inconclusive as to the possible effect of the publication of the FASB's proposal on the prices of the common stocks of FC companies. The Commission, however, did not consider the findings of the empirical tests on market behavior to be critical to its decision on oil and gas accounting. Notwithstanding the inconclusive findings of the various studies, the in-

[29] The Report of the Senate Committee on Banking, Housing and Urban Affairs on the 1975 Amendments states: "This explicit obligation to balance, against other regulatory criteria and considerations, the competitive implications of self-regulatory and Commission action *should not be viewed as requiring the Commission to justify that such actions be the least anticompetitive manner of achieving a regulatory objective.* Rather the Commission's obligation is to weigh competitive impact in reaching regulatory conclusions." (S. Rept. No. 94-75 to accompany S. 249, 94th Cong., 1st sess., 13 (1975) (emphasis added).)

[30] The report of the Commission's staff has been placed in the public file (File No. S7-715) for this proceeding. In addition, the Commission engaged a research consultant to advise its staff on these empirical tests, and his report is also included in the public file.

V 43 / 177

ability to identify the specific causes of stock price reactions limits the usefulness of studies of this nature in reaching policy decisions. The Commission has concluded that its assessment of competitive impact as well as its decision on appropriate accounting standards must be based on its judgment of these issues derived from other information developed during its proceeding.

Since the accounting change would not affect the underlying economic circumstances of a company, it would appear that any effects on access to or cost of equity capital would likely be short-lived, as preparers and users become more accustomed to dealing with explanations of the substance of companies operations in terms of cash flows and oil and gas reserves rather than historical cost financial statements. The Commission believes that the ability of companies to communicate these data effectively by the use of valuation information on proved oil and gas reserves (which has not been commonly disclosed previously) and other information prescribed by its new rules would tend to preclude any long-term or severe impediments to access to equity capital.

In contrast to the controversy surrounding the issue of access to equity capital, the impact of requiring SE on access to debt financing did not appear to be of major concern. Substantially all commentators agreed that private debt suppliers look to oil and gas reserves and cash flow data rather than reported financial results in reaching lending decisions. Some concern was expressed about a possible impact on public debt offerings because of the use of financial statement data as the basis for restrictive covenants in debt agreements and the use of financial statements by institutions and rating agencies to evaluate creditworthiness. The debt covenant problem is faced whenever major accounting changes are made, but experience has indicated that accommodations among lenders and borrowers can be reached without major difficulty. Few companies disclosed in their 1977 financial statements that they would be in violation of loan agreements if SE were required. The sophistication of institutions and rating agencies would likely negate any undue impact on their analyses of the debt capacities of the companies. The Commission concluded that a change to SE would likely have an inconsequential, if any, impact on access to debt capital.

As discussed previously, many commentators, including high-level representatives of FC companies, stated their belief that managers of FC companies would alter their business decisions by seeking to mitigate the effects of SE on reported earnings through a reduction in their exploration expenditures. One research study, referred to previously, attempted to quantify an estimate of the expected reduction in the industry's exploratory spending if SE were required. This study was considered by the Commission to be questionable in several respects and, in any case, to be of little relevance because it reflected in large part behavioral reactions to a proposal that was being heatedly contested. The Commission found that the expected reactions of managers were reflected more accurately in the comments and testimony presented directly by company officials.

The Commission found merit in the view that managers will base their decisions more on economic factors rather than on financial reporting factors. Even if individual companies were to reduce their exploratory efforts, other companies, including independent petroleum companies, would likely undertake available exploration activities that are economically profitable. It is likely that any effect on management behavior in allocating funds to exploration could be expected to be inconsequential in relation to other economic conditions, such as the government's pricing and other regulatory policies, the increasing costs of finding oil and gas, and inflation in general. Thus, it seems unlikely that exploration efforts would be substantially affected on an industry-wide basis.

The Commission recognizes that the decisionmaking process at the individual company level could to some degree be affected in a dysfunctional manner by the imposition of a SE requirement because of the financial statement impact of applying this method. The Commission's belief that financial accounting should seek to portray financial position and operating results in a meaningful manner is based on its view that financial reporting on this basis would provide useful information to investors and other users of financial information. The Commission agrees strongly with the FASB's tentative conclusion that the objectives of financial reporting should be couched in terms of the needs of those for whom the information is intended.[31] While the potential economic impact of financial accounting standards should be assessed in the process of establishing new standards, the objective of providing useful information to investors should be overriding.[32] Some managers may take uneconomic actions even if this objective is achieved, but the Commission considers the actions in these cases to reflect on the judgment of the managers involved rather than on the standard-setting process.

In summary, the economic impact arguments presented by commentators opposed to the adoption of SE were considered by the Commission to be vastly overstated and oversimplified. They were based generally on either a presumption of a naive capital market or a presumption of large numbers of naive and misdirected managers in the petroleum industry. The Commission found during its proceeding, especially during the public hearing in which it had the opportunity to discuss these issues directly with corporate managers and representatives of the investment community, that these presumptions were invalid. The Commission ultimately concluded that the economic impact of requiring SE would be short-lived and much less severe than predicted by those commentators.

Nevertheless, the Commission recognizes that, if it were to require that all companies adopt SE, certain costs would be imposed on oil and gas producers whose financial statements would be materially affected by the accounting change. These costs would include: the costs of gathering the data to make the accounting change and revising accounting systems to generate the information needed to report under the new method; the costs and the confusion of explaining the accounting change to users, who would also incur costs in adjusting to the new information; and the costs that would be incurred by a few companies in revising debt and other con-

[31] FASB, Proposed Statement of Financial Accounting Concepts, "Objectives of Financial Reporting and Elements of Financial Statements of Business Enterprises," p. 1.

[32] A number of commentators stated that the Commission was required to consider for public financial reporting purposes the nation's current energy policies and the effect, if any, its actions would have on these policies. As described previously, the competition and energy supply issues involved in this proceeding are fundamentally inseparable and thus were taken into consideration by the Commission. The Commission wishes to make clear, however, its view that attempts to foster particular national economic policies, such as an increase in domestic petroleum production, are not appropriate considerations in formulating financial reporting standards. Financial reporting should seek to provide investors with useful information that is relevant, reliable, comparable, and unbiased. Otherwise, the capital allocation process would be distorted and ultimately the credibility of the information provided by financial reporting would be lost. Energy is clearly a vital asset and increased production is an important national goal, but it should not be obtained by influencing the financial accounting measurement system for the express purpose of encouraging investors to commit funds. To the extent that the capital market is efficient such an approach would not work; but, beyond this and more importantly, the social cost of the intent in terms of diminished credibility of the country's public disclosure system and capital markets would be disproportionately high.

SE 12 78

tractual arrangements that are based on financial accounting data. Imposing these costs on companies, together with the possibility that to some extent FC companies might encounter a degree of unwarranted difficulty in raising capital, was considered unjustified by the Commission in view of its conclusions that the SE method does not provide significant useful information on financial position and operating results.

FULL COST ACCOUNTING

The FC method, like SE, is not followed uniformly in practice. Typically, all costs (including nonproductive costs) incurred in the search for and development of oil and gas reserves within large cost centers (usually countries or continents) are capitalized, subject to a value limitation. The capitalized costs are amortized, usually on a composite unit-of-production basis, as oil and gas are produced. Some companies do not include certain costs, such as those associated with major offshore lease acquisitions, in the costs being amortized until the properties are evaluated through the drilling of exploratory wells, at which time the costs together with the related oil and gas reserves are included in the composite amortization computation for the cost center. Practice in applying FC also varies with regard to the treatment of costs incurred in a cost center prior to establishing production, for example, in a newly acquired foreign concession. Frequently, these preproduction costs are deferred without applying any value limitation as long as exploration is underway. Gains or losses from the sale of oil and gas reserves are usually not recognized by companies following FC unless an unusually large portion of the reserves are sold. Like SE, revenue under the FC method is recognized only upon sales to outside parties.

COMMENTS IN SUPPORT OF FC [33]

Supporters of FC asserted that FC better reflects the economic facts of exploration and thus provides financial statements that are more meaningful in measuring the performance of companies. They stated that companies entering the industry initially or companies increasing their capital expenditures, particularly smaller companies, would be burdened by adverse effects on their financial statements if SE were required regardless of the degree of success in finding oil and gas, because earnings reported under SE are affected more by the level of exploratory spending than by the results of the exploratory effort. Likewise, they noted that companies following SE can increase their earnings by reducing the level of their exploration effort and producing previously discovered oil and gas. FC, in their view, would avoid these consequences of SE.

In addition, these commentators asserted that, under FC, a company that is relatively more successful in discovering oil and gas typically reports higher earnings than would otherwise be the case, and that a company that incurs finding costs relatively higher than the value of its discoveries reports lower earnings. They claimed that FC thus provides financial statements that are more useful than SE in providing signals of current exploration activity and in predicting the future prospects of companies.

FC supporters maintained that the fundamental issue in oil and gas accounting is the definition of the asset to be accounted for. They asserted that SE inappropriately places emphasis on individual expenditures by reporting as assets only those costs of productive properties, successful exploratory wells, and facilities that constitute the oil and gas producing system. They claimed that this factor makes SE inconsistent with the primary objective of exploration activities, which is to find, develop, and produce oil and gas reserves. Oil and gas reserves rather than the costs of properties and equipment were said to be the assets of an oil and gas producing company. Under the historical cost framework, the objective should be, in their view, to account properly for the total costs of acquiring these assets.

Most FC advocates acknowledge that FC does not purport to represent current values of oil and gas reserves. Nevertheless, they believe that FC provides book values of assets that are closer to economic values than does SE and that FC thereby enables users of financial statements to gain a better understanding of the current value of reserves.

COMMENTS IN OPPOSITION TO FC [34]

The primary defect of FC, according to its critics, is that it relies on a "cover" concept whereby costs that are either unsuccessful or unrelated to specific oil and gas reserves are capitalized and amortized against revenues from productive properties. They commented that FC capitalizes nonproductive costs as assets and noted that a dry hole has no value and, consequently, should not be reported as an asset. They stated that, because nonproductive costs dissipate shareholders' investment, SE properly reflects such costs as current period expenses.

The opponents of FC argued that SE better portrays the economic realities of exploration. They noted that two important realities in the petroleum industry are the risks associated with exploration and the volatility of commercial successes and failures. They asserted that financial statements should reflect these risks and fluctuations in earnings and not obscure them. The opponents of FC also objected to the view that FC recognizes oil and gas reserves as assets, asserting that both FC and SE accumulate costs to be assigned to oil and gas produced and that the methods differ only in the amount of costs to be assigned. These commentators stated that only value accounting, which they considered impracticable at the present time, could perhaps better serve the needs of investors for information than SE combined with supplemental disclosure of operating data. While they acknowledged that nonproductive costs are necessary costs of operations, these costs were said to add no value to the company and thus should be reported as current operating expenses.

The issue was also raised that the existence of FC as an alternative to SE or as a uniform method of accounting for the oil and gas producing industry places anticompetitive burdens on companies because of the impact that noncomparable financial statements have on the securities markets. Commentators claimed that adoption of SE as a uniform method would enhance competition in the capital markets by providing intercompany and interindustry comparability of objectively prepared financial data so that consistent analyses of risks and rewards would be facilitated.

COMMISSION'S ASSESSMENT OF FC

The Commission has concluded that the FC method, like SE, is inherently defective in providing useful information on financial position and operating results for a number of reasons. In addition to the failure of FC to provide timely recognition of discoveries of oil and gas reserves in the primary financial statements as discussed below, the Commission was troubled by the ability of companies following FC, absent adequate disclosure, to conceal the effects of unprofitable current exploration programs. For example, a company could engage in unprofitable exploration programs and not reflect that fact in net income because it owned valuable reserves discovered many years in the past.

The Commission was also disturbed by the comments of corporate managers that their companies needed FC to report stable earnings because fluctu-

[33] Much of the previous discussion in "Comments in Opposition to SE" presents arguments by commentators in support of FC.

[34] Much of the previous discussion in "Comments in Support of SE" presents arguments by commentators in opposition to FC.

V 4 3 / 1 7 7

ating earnings are adversely regarded by their shareholders. This point of view was taken by, among others, several representatives of rate-regulated companies that have undertaken exploration programs in recent years on a non-rate-regulated basis. The Commission disagrees strongly with this viewpoint. If companies undertake business endeavors, such as oil and gas producing activities, that are characterized by intermittent success and failure, financial reporting should reflect clearly the fluctuating nature of these operations.

The Commission is taking steps in this proceeding to insure that investors and government policymakers have sufficient information to overcome this inherent deficiency of FC. Supplemental disclosure of information on costs incurred in oil and gas producing activities and on quantities and valuations of proved oil and gas reserves are being required. Also, the proposed supplemental RRA earnings summary would provide useful information on the variability of earning activities of oil and gas producers.

Moreover, as discussed further at the conclusion of section VII, "Description of the Rules," the Commission reminds registrants who follow FC of their responsibility to provide an explanation of their financial data in "Management's Discussion and Analysis of the Summary of Earnings or Summary of Operations" to enable investors to appraise the quality of earnings. The Commission and its staff examined many of these narrative presentations by FC companies in connection with the public hearing conducted as part of this proceeding and found them to be generally inadequate. For instance, several cases were noted in which substantial increases in depreciation, depletion, and amortization expense were explained in general terms rather than presenting the impact of factors such as changes in estimated reserves and higher finding costs. The Commission believes the narratives should include explanations that relate the financial statements and the supplemental disclosures, including reserve quantity and valuation information, in a meaningful, comprehensive analysis. The Commission's staff will be taking appropriate steps to insure that the explanations provided by registrants in the oil and gas producing industry are adequate in this regard.

In addition, the Commission is proposing separately, in Release No. 33-5968, rules that would establish a specified limitation on capitalized costs under the FC method and rules that would proscribe certain troublesome practices in applying FC, such as excluding undeveloped lease costs from the costs being amortized and not providing any limitations on preproduction costs capitalized in new cost centers.

In addition to these concerns, FC, like SE, is based on recording the historical costs of completed transactions, with revenue recognized only as sales are made to outside parties. Therefore, the Commission's criticisms of SE and traditional oil and gas accounting methods in general apply equally to FC.

Some commentators contended that FC yields reported assets that approximate or closely represent values of oil and gas reserves. The Commission acknowledges a long-run, theoretical equivalency for the industry as a whole between the total costs (including a return on funds invested) incurred in exploration and development activities and the value of oil and gas discovered. Various market imperfections, such as uncertainties inherent in exploration activities and the impact of Government regulation, raise questions, however, about the ability of this equivalency to exist even on an industrywide basis except in the long run. On an individual-firm basis, which is the focus of financial accounting, these considerations become irrelevant. Accumulated costs represent values in such cases only by coincidence because of many factors, including the stochastic nature of discoveries, the inability to estimate accurately total recoverable quantities of oil and gas (as opposed to proved reserves), and the effects of changing oil and gas prices and changing costs of finding and developing oil and gas. The Commission, therefore, considers the view that FC results in reported assets of an oil and gas producing company that approximate the values of its oil and gas properties to be without merit.

For similar reasons, the Commission also disagrees with the FC supporters who contended that it provides a meaningful portrayal of the total costs of oil and gas reserves. The development of a procedure to relate the costs of finding and developing oil and gas with reserves discovered is extremely complex. The industry is characterized by long periods between initial expenditures and the ultimate receipt of proceeds from production of oil and gas discovered.

A relationship of costs incurred and reserves discovered has meaning only if costs and discoveries are considered over a relevant period of time; however, FC results in averaging the total costs incurred by a company with its total discoveries, placing no time constraint on this averaging procedure. Costs incurred many years in the past would be related with current discoveries, and past discoveries related with current expenditures. A procedure to develop a valid relationship between costs and reserves would likely have to consider factors such as accumulating exploration expenditures over some relevant period of time (perhaps 5 to 10 years, varying by property), allocating prediscovery and nonproductive costs in an appropriate manner, estimating ultimate recoverable oil and gas reserves (which are much more subjective than estimates of proved reserves), and adjusting historical costs over the time span to a current cost basis. Such considerations are far beyond the scope of FC, or any financial accounting method. Yet, the necessity to consider these factors in developing a useful relationship between costs and discoveries refutes the argument that FC results in a meaningful measure of the total costs of oil and gas reserves or that it meaningfully relates costs and reserves in an income statement.

In summary, the Commission rejected FC as a uniform method because it does not reflect valuations of oil and gas reserves in reported assets and earnings, thus failing to provide useful information to investors and policymakers on the significant aspects of oil and gas producing activities, and because it fails to provide a meaningful portrayal of the costs of finding and developing oil and gas reserves.

AREA-OF-INTEREST APPROACH

A number of commentators suggested that an accounting method be developed that would define cost centers or projects on the basis of some criteria (an "area-of-interest") and that all costs related to the area-of-interest be capitalized to the extent that oil and gas reserves are discovered attributable to the area-of-interest. Some stated that an area-of-interest approach would be more consistent with the decisionmaking process of managers in the oil and gas producing industry.

Various criteria were suggested as the basis for defining an area-of-interest, such as the individual field, larger related geological structures, geographical areas, or total expenditures for a drilling program. Obviously, as the boundaries of the area-of-interest are narrowed, the financial statement impact of such an approach tends toward that of SE; and as the cost centers or projects are broadened, such an approach tends toward FC.

The area-of-interest method was appealing in concept to the Commission in certain respects. This approach would avoid certain of the more undesirable aspects of SE and FC. For instance, unlike SE, it would not require that exploration costs related to properties with proved reserves be recognized as current expenses. It would also place boundaries on cost centers to avoid to some extent the deferral of current exploration losses that can occur under FC when current exploration programs are unprofitable.

The practical problems of developing a method of accounting based on an area-of-interest are great. The development process itself would require a lengthy and costly major project. The financial statement impact of applying such a method would not be known until standards were developed. Defining the cost center and addressing the temporal issue discussed previously in connection with the FC method are difficult issues that would have to be resolved prior to implementing an approach of this nature. The feasibility of developing an area-of-interest approach within a reasonable period of time is, therefore, questionable, in the Commission's view.

Furthermore, the Commission questions the assertion of some commentators that the area-of-interest approach reflects the managerial decision process in the oil and gas producing industry. Information provided to the Commission during its proceeding indicated that the basis for management decisions varies from company to company and within companies. The most frequently stated basis for decisionmaking by company managers was that of an exploration program, i.e., allocating capital among available drilling prospects wherever located on the basis of risk-adjusted expected returns. Such an approach frequently results in related capital expenditures, in terms of the management decisionmaking process, being made in unrelated geological or geographical areas. The Commission doubts that a workable accounting approach could be developed on a "program" basis. Moreover, the relationship between management decisionmaking and appropriate financial accounting measures is unclear, at best.

In the final analysis, the Commission has concluded that the major problems related to the development of an area-of-interest approach make further considerations of it impractical at the present time. Like SE and FC, the method would not reflect discoveries of oil and gas in reported assets and earnings on a timely basis. This factor alone negates the ability of any of these accounting methods to measure economic activity in the oil and gas producing industry in a meaningful manner. The Commission believes that efforts should be directed toward developing a method of accounting, such as RRA, that would accomplish this objective rather than seeking to develop an area-of-interest approach.

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VI. REPORTING TO THE DEPARTMENT OF ENERGY

Section 503 of EPCA (42 U.S.C. 6383) requires that the Commission, "[f]or purposes of developing a reliable energy data base related to the production of crude oil and natural gas * * * shall take such steps as may be necessary to assure the development and observance of accounting practices to be followed in the preparation of accounts by persons engaged, in whole or in part, in the production of crude oil or natural gas in the United States." As discussed below, this section requires that these accounting practices permit, to the greatest extent practicable, the compilation of an energy data base.

REPORTING TO DOE PURSUANT TO EPCA

Section 11(c) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796), as amended by section 505 of EPCA and by the DOE Organization Act of 1977 (Pub. L. 95-91), states the following:

(3) In order to carry out (its) responsibilities under subsection (a) of (sec. 11) (DOE) shall require, pursuant to subsection (b)(1)(A) of (sec. 11), that persons engaged, in whole or in part, in the production of crude oil or natural gas—

(A) keep energy information in accordance with the accounting practices developed pursuant to section 503 of the Energy Policy and Conservation Act, and

(B) submit reports with respect to energy information kept in accordance with such practices.

(DOE) shall file quarterly reports with the President and the Congress compiled from accounts kept in accordance with such section 503 and submitted to (DOE) in accordance with this paragraph. Such reports shall present energy information in the categories specified in subsection (c) of such section 503 to the extent that such information may be compiled from such accounts. Such energy information shall be collected and such quarterly reports made for each calendar quarter which begins 6 months after the date on which the accounting practices developed pursuant to such section 503 are made effective.

Thus, DOE is required to: (1) Mandate that oil and gas producers keep energy information in accordance with these accounting practices developed by the Commission pursuant to EPCA; (2) collect reports of energy information from oil and gas producers compiled from accounts maintained in accordance with the accounting practices; and (3) submit reports to the President and the Congress based on the reports received from the producers.

DOE has indicated to the Commission that it plans to develop two reporting systems, an annual and a quarterly system, in implementing the requirements of EPCA. The annual reporting system will be incorporated into a broader reporting system, called the "Financial Reporting System" or "FRS," being developed by DOE. Section 205(h)(2) of the DOE Organization Act requires that DOE develop the format for an "energy-producing company financial report" to allow comparison among energy-producing companies on a uniform and standardized basis and to permit:

(A) An evaluation of company revenues, profits, cash flow, and investments in total, for the energy-related lines of commerce in which such company is engaged and for all significant energy-related functions within such company;

(B) An analysis of the competitive structure of sectors and functional groupings within the energy industry;

(C) The segregation of energy information, including financial information, describing company operations by energy source and geographic area;

(D) The determination of costs associated with exploration, development, production, processing, transportation, and marketing and other significant energy-related functions within such company; and

(E) Such other analyses or evaluations as (DOE) finds is necessary to achieve the purposes of this Act.

DOE is required by section 205(h) of this Act to consult with the Commission and to assure that the "energy-producing company financial report" is consistent (to the extent practicable and consistent with the purposes and provisions of the Act) with the accounting practices for oil and gas producers developed pursuant to EPCA.

DOE has informed the Commission that FRS is to be used to collect information annually in response to the requirements of EPCA. FRS was published on June 22, 1978, for public comment and hearing (Form EIA-28 (43 FR 27055)) in connection with the required review and clearance of the proposed form by the Office of Management and Budget. DOE stated that it plans to collect data using FRS initially from 29 large petroleum producers during 1978 and in 1979 from approximately 100 large companies and a sample of 150 smaller companies. DOE has not indicated its plans concerning EPCA's requirement that data be collected quarterly from all oil and gas producers.

FRS consists of a number of reporting schedules of financial information, which are tied to a company's publicly reported financial statements, together with schedules of statistical data. DOE has stated that its objectives in developing FRS include, where possible, conformance of its definitions and requirements to those used in related government and public reporting systems.

COMMISSION'S RESPONSIBILITIES UNDER EPCA

The Commission considers its responsibilities under EPCA to be divid-

ed between two related areas: (1) Accounting practices necessary to prepare financial statements to be filed with DOE; and (2) accounting practices necessary to compile the financial and operating information supplemental to financial statements, as required by EPCA in section 503(c)(3).

Provisions of EPCA describe an energy data base and require inclusion of specific data; however, its requirements are not restrictive. The language in EPCA describing the energy data base can be traced to the disclosure recommendations of "Accounting Research Study No. 11", "Financial Reporting in the Extractive Industries" ("ARS No. 11"), a research study published in 1969.[35] The disclosure recommendations of "ARS No. 11" stressed the importance of supplementing financial statements with information on reserves and operating activities "to compensate for the limited ability of conventional financial statements to portray the financial position and results of operations of companies in the extractive industries." [36] The goals of presenting data supplemental to financial statements were "• • • to facilitate evaluation of effort and result • • •," "• • • to facilitate correlation (of financial data) with mineral reserve and operating data • • •" and to provide "• • • a means of identifying the magnitude of effort with result, as expressed in both financial and statistical terms • • •." [37]

The Commission has concluded that information on oil and gas reserves and other statistical operating data together with reported earnings and financial position should be made available to investors to enable evaluations of the securities of individual companies engaged in oil and gas producing activities. Government officials, in formulating national energy policies, should also have access to these financial and operating data for individual oil and gas producers as well as aggregated data on an industrywide basis. The determination by the Commission to combine consideration of the issues involving reporting to DOE and to investors stems from the relationship between the requirements of EPCA and the needs of investors for useful information in assessing the securities of companies engaged in oil and gas producing activities.

The focus of EPCA is the reporting of energy data, including financial information, to DOE. The major controversy involved in the Commission's proceeding on oil and gas accounting, however, has not involved the reports to be filed with DOE, which are not expected to be distributed to the investing public, but rather the Commission's deliberations on public financial reporting issues.

While the primary impetus for the Commission's undertaking this proceeding was the mandate of EPCA, as noted previously, the Commission has long been concerned about public financial reporting by oil and gas producing companies. The Commission decided that its responsibilities under the Federal securities laws dictated that it consider public financial reporting issues in conjunction with its consideration of accounting issues from the standpoint of reporting to DOE.[38]

The joint undertaking to develop public financial reporting standards and to develop accounting practices for reporting to DOE resulted in expressions of concern by commentators that the Commission was not giving proper consideration to the issues in view of the different purposes of the Federal securities laws and of EPCA. The Commission has carefully assessed the rules it adopted in this proceeding separately in terms of public financial reporting and reporting to DOE. The Commission has concluded that the information needs of investors and government policymakers are fundamentally similar in this instance, even though the level of detail required by these groups of users may differ. The requirements adopted pursuant to the Federal securities laws and those under EPCA reflect, therefore, this similarity of needs for relevant and reliable information on oil and gas producing activities.

FINANCIAL STATEMENTS FILED WITH DOE

In its comments submitted in connection with the Commission's proceeding, DOE has advised the Commission that the "primary needs of the Financial Reporting System are full disclosure and uniform definitions of financial and operating data • • • (and that FRS) can be adapted to any accounting system adopted by the SEC which meets these requirements.[39]"

Further, DOE commented that:

> [T]he DOE concludes that historical cost accounting methods do not portray adequately the operating results of oil and gas producers, particularly with regard to oil and gas reserves. It is clear that neither the full cost nor the successful efforts method permits reliable evaluation of the profitability of oil and gas exploration investments • • •.
>
> The DOE does not advocate the adoption of any particular accounting method as most suitable for public reporting purposes. For purposes of the Financial Reporting System, the successful efforts and the full cost methods appear less suitable than a form of value accounting for reserves.[40]

DOE's comments are consistent with the Commission's decision to initiate efforts seeking the development of an accounting method that will incorporate valuations of proved oil and gas reserves in the financial statements. During the period that this method of accounting is being developed and its feasibility assessed, the Commission, for reasons discussed earlier in this release, is not requiring that oil and gas producers adhere to a uniform method in preparing financial statements to be reported either to investors or to DOE. The Commission reached this conclusion with respect to DOE reporting on the basis that the objectives of EPCA would not be fostered if such a requirement were adopted and that the maximum amount of useful information for an understanding and comparison of companies' operations would be made available through the reporting of supplemental financial and operating data pursuant to the rules published in the release.

ENERGY DATA BASE

Section 503(c) of EPCA requires the Commission to:

> • • • assure that accounting practices developed pursuant to [EPCA], to the greatest extent practicable, permit the compilation, treating domestic and foreign operations as separate categories, of an energy data base consisting of:
>
> (1) The separate calculation of capital, revenue, and operating cost information pertaining to—
>
> (A) prospecting,
> (B) acquisition,
> (C) exploration,
> (D) development, and
> (E) production,
>
> including geological and geophysical costs, carrying costs, unsuccessful exploratory drilling costs, intangible drilling and development costs on productive wells, the cost of unsuccessful development wells, and the cost of acquiring oil and gas reserves by means other than development. Any such calculation shall take into account disposition of capitalized costs, contractual arrangements involving special conveyance of rights and joint operations, differences between book and tax income, and prices used in the transfer of products or other assets from one person to any other person, including a person controlled by, controlling or under common control with such person.
>
> (2) The full presentation of the financial information of persons engaged in the production of crude oil or natural gas, including—
>
> (A) disclosure of reserves and operating activities, both domestic and foreign, to facilitate evaluation of financial effort and result; and
>
> (B) classification of financial information by function to facilitate correlation with reserve and operating statistics, both domestic and foreign.
>
> (3) Such other information, projections and relationships of collected data as shall be necessary to facilitate the compilation of such data base.

Based on this section, the Commission has determined that the following information relating to the operations of individual oil and gas producers must be included in the energy data base:

1. A tabulation of costs by function, including those charged to expense as incurred as well as those capitalized.
2. Disclosure of revenues from oil and gas production.
3. Disclosure of oil and gas reserves.
4. Disclosure of operating statistical information.
5. A classification of financial statement data by function—which involves reporting financial statement data according to exploration, development and production activities to facilitate interpreting the physical results shown by oil and gas reserves and other operating statistics.

The "prospecting" category specified by section 503(c)(1)(A) is not typically applied to oil and gas producing activities—it was taken from "ARS No. 11" which used the five functional classifications incorporated into EPCA to describe operations common to all extractive industries. If prospecting costs are considered to be costs incurred prior to the acquisition of a property, they would consist principally of preacquisition geological and geophysical expenditures, which the Commission's rules include in exploration costs. FRS requires that geological and geophysical costs be reported separately (the Commission has concluded that this level of detail is unnecessary for investor reporting purposes). In the Commission's view, this reporting requirement accomplishes the objectives of EPCA in specifying that "prospecting" costs be considered a separate functional category.[41]

EPCA provides for the separate reporting of capital and operating cost information on a functional basis. It also requires that costs incurred in operations be reported in substantial detail separately for costs capitalized and costs charged to expense. The objective of this requirement of EPCA, though, is to obtain the total current costs incurred in searching for, developing, and producing oil and gas.

Analyses to correlate current finding and developing costs with oil and gas reserve activity require these total costs, without regard to their treatment in financial statements. The reporting of total costs incurred in these activities facilitates such analyses, which require information over a number of years and consideration of complex relationships, as well as providing information on the magnitude of operations and the uses of cash.[42]

The Commission has considered various approaches of relating costs and reserves in some manner as a possible requirement for supplemental disclosure purposes and has concluded that such a requirment is not feasible at the present time.

EPCA also requires the separate reporting of revenue on a functional basis. Under the traditional financial accounting methods, revenue is recognized only upon production. Section 210.3-18(k)(4) of the rules published in this release specifies the accounting practices for reporting historical net revenue information, including the value of transfers for integrated companies.

Section 503(c)(2) requires the presentation of oil and gas reserve information and operating statistical data to facilitate evaluation of financial effort and result, and the presentation of functional financial statement data to correlate with reserve and operating statistics. Section 210.3-18(k)(5) of the rules published in this release provides for the disclosure of oil and gas reserve information and paragraph (k)(2) provides for the disclosure of costs capitalized in balance sheets. Further, as described below, the rules also require the reporting of valuation information relating to proved oil and gas reserves.

FRS requires the reporting of certain statistical information on oil and gas properties, drilling operations, and production activity.[43] The Commission concluded that it was not necessary to adopt rules pursuant to EPCA for the reporting of statistical information because the nature of this information (*i.e.*, acreage owned, wells drilled, quantities produced) does not require the development of accounting practices.

Section 503(c)(3) of EPCA indicated that the data base shall include "[s]uch other information, projections, and relationships of collected data as shall be necessary to facilitate the compilation of such data base." As noted above, the Commission's rules provide for the reporting of information, including present values, pertaining to estimated future production from proved oil and gas reserves. The Commission believes that this information is essential to an understanding of companies operations.

DOE'S DATA REQUIREMENTS

DOE has informed the Commission that the proposed FRS contains all information it has identified thus far as fulfilling its needs relating to oil and gas producing activities. The Commission believes that it has addressed the significant problems relating to accounting practices needed to compile and report these data. It can be expected, though, that DOE will identify data in the future relating to oil and gas producing activities that will be useful for its analyses, and further considerations of required accounting practices may be necessary.

The Commission believes that the proposed RRA method that it is seeking to develop would generate substantially more useful information to DOE than that provided by the primary financial statements prepared on the basis of traditional accounting methods. RRA is conceptually consistent with the requirements of EPCA. It would permit, for example, the separation of operating results between exploration and development activities and production activities.

DOE may have need for more forward-looking information than that reflected in the Commission's rules published in this release, including budgeted capital expenditures and other projections. The Commission is seeking means to encourage the public reporting of forward-looking information; however, many complexities are involved in developing approaches to foster such disclosures.

FRS requires separate reporting for individual phases of integrated operations (production, transportation, and regulated pipelines). This separation of activities is not required under generally accepted accounting principles specified by FASB Statement No. 14, "Financial Reporting for Segments of a Business Enterprise," or the Commission's industry segment disclosure rule (Item 1(b) of Regulation S-K, 17 CFR 229.20). FRS also requires allocations of certain items of income and expense, including income taxes, which are not required to be allocated among segments for public reporting purposes. The Commission did not address these matters in this proceeding in view of its on-going considerations involving segment disclosures for all industries. The Commission will monitor the efforts of DCE to obtain reporting of these data.

REPORTING BY NONPUBLIC PRODUCERS PURSUANT TO EPCA

A number of comments received by the Commission recommended that it, in some manner, exempt small or pri-

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[35] ARS No. 11 (New York, N.Y.: American Institute of Certified Public Accountants, 1969), ch. 8.
[36] Ibid.
[37] Ibid.
[38] See release No. 33-5877 (42 FR 57661), Oct. 26, 1977.
[39] Comments of DOE, Apr. 3, 1978, p. 6, in file S7-715.
[40] Ibid. pp. 7-8.
[41] For a further discussion of this matter, *see* release No. 33-5877.
[42] This relationship between costs and reserves was discussed in connection with the Commission's assessment of FC in section V, "Traditional Oil and Gas Accounting Methods." Information on costs incurred in oil and gas producing activities classified by functional categories is required by the newly adopted §210.3-18(k)(3). The Commission has determined not to require that costs incurred in these activities be separated into amounts capitalized and amounts charged to expense for purposes of investor reporting.
[43] The Commission in item 2 of Regulation S-K requires disclosure of information of this type in somewhat less detail for investors. These requirements are being revised as proposed in release No. 33-5967, published concurrently with this release.

vately owned oil and gas producers from the reporting requirements of EPCA. In this regard, section 523(a)(4) of EPCA (42 U.S.C. 6393) requires that rules adopted pursuant to EPCA establish procedures for requests to prevent special hardship, inequity or an unfair distribution of burdens relating to the application of any such rules.

As described previously, DOE, and not the Commission, is to collect the reports required by EPCA. Moreover, DOE will have to reach judgments concerning its needs for data in relation to the burden placed on particular oil and gas producers. Accordingly, the Commission has adopted an exemptive provision in its rules (only as they pertain to maintaining accounts pursuant to EPCA) that automatically exempts persons from compliance with particular requirements of the rules when DOE grants an exemption from its related recordkeeping and reporting requirements.

VII. Description of the Rules

The rules promulgated by the Commission reflect its determinations in this proceeding as described in the previous sections of this release. These financial accounting and reporting rules, contained in § 210.3-18 of Regulation S-X, apply: (1) To the preparation of financial statements included in filings with the Commission pursuant to the Federal securities laws; and (2) to the preparation of accounts by persons engaged, in whole or in part, in the production of crude oil or natural gas in the United States as prescribed by sections 503 and 505 of EPCA.

Section 210.3-18, as discussed at the conclusion of the preceding section VI, contains an exemptive provision to make it explicit that persons exempted from the recordkeeping and reporting requirements of DOE are similarly exempted from the requirements of this section in the preparation of accounts pursuant to EPCA. This exemptive provision, however, does not affect the applicability of the requirements of § 210.3-18 to filings pursuant to the Federal securities laws.

In addition, the rules published in this release adopt an amendment to § 210.3-17, the replacement cost disclosure rule of Regulation S-X (applicable only to registrants with the Commission). The amendment provides an exemption from this rule for mineral resource assets employed in oil and gas producing activities.

OPTION TO FOLLOW SE OR FC

In Release No. 33-5861 dated August 31, 1977 (42 FR 44972), the Commission proposed rules to adopt the financial measurement standards embodied in the FASB Exposure Draft, published in July 1977, that proposed to require that all oil and gas producing companies adopt a form of SE. Release No. 33-5861 stated in part that it was "* * * the intention of the Commission to propose rules which are the same as the provisions of the FASB Exposure Draft," [44]

The most significant change reflected in the rules adopted by the Commission from those proposed in Release No. 33-5861 is that oil and gas producers may elect to follow either of two methods of accounting, SE or FC. The application of the SE method is prescribed by the rules published in this release; the Commission is publishing concurrently proposed rules for the application of the FC method.[45] A reporting entity will be required to apply either the prescribed SE rules or the FC method ultimately adopted, on a uniform basis to all of its operations and to the operations of its subsidiaries and its investees accounted for by the equity method. The SE method promulgated by the Commission is intended to be identical to the financial accounting measurement standards prescribed in FAS 19.[46] The Commission's goal in proposing rules governing the application of FC is to establish a standard form of FC that is generally consistent with current practice while eliminating certain existing practices that the Commission has determined to be inconsistent with the conceptual basis of FC or to be otherwise inappropriate.

The Commission's conclusions on applying SE and FC are intended to achieve a degree of standardization of existing accounting practices, without requiring the costs that would be associated with adopting either SE or FC as a uniform method for all companies. Although it believes that both SE and FC are deficient in significant respects in reporting financial position and operating results, the Commission has concluded that proper application of the prescribed form of SE or FC in preparing financial statements that include supplemental disclosures of the information required by the rules published in this release will yield financial statements that, taken as a whole, result in a fair presentation of financial position, results of operations, and changes in financial position of oil and gas producing companies.

The Commission is not prepared to accept at the present time financial statements prepared on the basis of RRA as primary financial statements because of the absence of standards and experience in developing valuations of oil and gas reserves for financial accounting purposes. As discussed previously in this release, the Commission is proposing rules that would require the presentation of a supplemental earnings summary of oil and gas activities prepared on the basis of RRA, beginning in filings with the Commission that include fiscal years ending after December 25, 1979. (See Release No. 33-5969, published concurrently.) Registrants may, however, prepare and present supplemental financial statements or other supplemental data on the basis of RRA prior to this date voluntarily, provided that the basis of presentation is adequately disclosed.

SECTION 210.3-18

The newly adopted § 210.3-18 includes the following paragraphs:

Paragraph reference	Description
(a)	Definitions.
(b)-(h)	Application of the successful efforts method of accounting.
(i)	Application of the full cost method of accounting.[47]
(j)	Accounting for income taxes.
(k)	Disclosure requirements.

[47] Proposed rules for the application of full cost accounting are being published for comment in Release 33-5968, issued concurrently with this release.

Paragraph (a): Definitions. The definitions in paragraph (a) are applicable throughout § 210.3-18. Included are: (1) The definition of oil and gas producing activities to which these rules apply; (2) the definition of proved oil and gas reserves and criteria for classifying such reserves as developed or undeveloped; (3) the definitions of proved and unproved properties, and the proved area of properties; (4) the definition of field and reservoir; and (5) the classification of wells as exploratory, development, service, and stratigraphic test wells.

The definitions conform to those contained in FAS 19 except for the definition of proved oil and gas reserves. FAS 19 adopted the definition of proved oil and gas reserves reflected in the Commission's regulations at the time of its publication.[48] The Commission subsequently adopted a somewhat revised definition of proved oil and gas reserves in connection with the adoption of rules relating to industry segment reporting and the establishment of Regulation S-K.[49] That release (ASR No. 236) indicated that the revisions to the definition of proved oil and gas reserves were consistent with past interpretations by the Commission's staff, or were otherwise minor in nature. The Commission also stated in ASR No. 236 its belief that the change

[44] The primary reason for proposing these rules was the timing requirement imposed by EPCA, as discussed in section II, "Background," of this release.

[45] See Release No. 33-5968.

[46] Comments are solicited below on whether the rules accomplish this objective.

[48] See Release No. 33-5706 (41 FR 21764), May 28, 1976.

[49] See Release No. 33-5893 (42 FR 65554), December 23, 1977.

in definition should not result in any changes in the quantities that would have been reported using the previous definition.

The Commission agrees with the many commentators in this proceeding who expressed the need for consistent use of definitions of proved oil and gas reserves for reporting to the various Federal agencies that require such information and for public financial reporting. Use of different definitions raises questions about the credibility of the information that is reported and imposes an undue burden on oil and gas producers.

In furtherance of the objective of achieving consistent reporting of proved oil and gas reserves, the Commission is conforming its definition of proved oil and gas reserves to the definition that has been developed by DOE in connection with its project to establish an Oil and Gas Information System.[50] It is believed, however, that the definition adopted in the rules published in this release is consistent with the definition previously adopted in Regulation S-K.[51]

A critical element of the definition of proved oil and gas reserves is that the oil and gas must be recoverable commercially under existing economic and operating conditions. The Commission's rules require that the prices of oil and gas used in determining commercial recoverability must be currently existing prices with no escalations based upon anticipated future conditions. Currently existing prices include consideration of changes in existing prices provided by contractual arrangements (and escalation to present prices when gas contracts expire). Prospective price increases provided by law or Government regulation in the United States should not be considered, because of a number of past experiences in which similar increases have been modified or suspended.

Paragraphs (b)-(h): Application of SE. The rules in § 210.3-18 (b)-(h) specify the application of SE. They are intended to be identical to the financial accounting measurement standards of FAS 19. The application of SE, as defined by FAS 19, is described above in Section V, "Traditional Oil and Gas Accounting Methods."

The rules adopted by the Commission for the application of SE are generally the same as those proposed in Release No. 33-5861, which reflected the FASB's Exposure Draft. A description of the application of these standards and the changes from the provisions of the Exposure Draft, and thus reflected in paragraphs (b)-(h), are contained in paragraphs 189-232 of FAS 19. The changes reflect principally the treatment of stratigraphic test wells and the assessment of in-progress exploratory wells.

Most commentators in the Commission's proceeding who advocated SE stated that the Commission should adopt the form of SE set forth in FAS 19. A small number of the commentators favoring SE, however, expressed disagreement with several of the FASB's conclusions, including the charging of all geological and geophysical costs to expense, the required assessment of unproved properties, the capitalization of dry development wells, and various aspects of amortizing capitalized costs. Similar views had been presented by other commentators in the proceedings of the Commission and the FASB prior to the publication of FAS 19. These matters were considered by the FASB, as described in FAS 19. The Commission has concluded that, on balance, the form of SE defined by FAS 19 is the appropriate SE method to be adopted in its rules because it provides a uniform and consistent method of accounting for companies that choose to follow SE.

Paragraph (j): Accounting for Income Taxes. The Commission has concluded, that comprehensive interperiod income tax allocation by the deferred method, without considering any interaction for income tax statutory depletion, shall be applied retroactively for all oil and gas producing activities, regardless of whether the SE or FC method is adopted. The Commission believes that this method, which is the same as that prescribed by FAS 19, is required to achieve consistency in accounting for income taxes generally.

Paragraph (k): Disclosure Requirements. Subparagraphs (1) through (5) of this paragraph reflect the rules proposed in Release No. 33-5877, dated October 26, 1977 (42 FR 57661). The proposed rules included the disclosure provisions of the FASB's Exposure Draft, together with disclosure of certain other data.

Persons engaged, in whole or in part, in the production of crude oil or natural gas in the United States are required to maintain accounts so that these data may be compiled for reporting to DOE, as prescribed by EPCA.

The rules adopted by the Commission require the following:

(1) Disclosure on the face of the balance sheet of the accounting method followed (successful efforts or full cost) (§ 210.3-18 (k)(1)).

(2) Disclosure of capitalized costs (§ 210.3-18(k)(2)). This paragraph requires the separate disclosure by geographic area of capitalized costs and related depreciation, depletion, and amortization attributable (a) to proved properties and (b) to unproved properties as of the end of each period for which a balance sheet is required.

(3) Disclosure of costs incurred in oil and gas activities (§ 210.3-18(k)(3)). This paragraph requires, for each full fiscal year that an income statement is required, disclosure by geographic area of (a) aggregate costs incurred in the following activities: acquisition of properties (with separate disclosure of acquisitions of significant proved properties), exploration, development, and production; (b) the provisions for depreciation, depletion, and amortization, and valuation charges to expense; and (c) the entity's share of costs incurred by its investees accounted for by the equity method if the investees' reserves are required to be disclosed.

(4) Historical revenues from producing oil and gas (§ 210.3-18(k)(4)). Disclosure is required for each year that an income statement is required of the historical cash flow and value of transfers (at estimated market prices) from production of (a) proved reserves, (b) reserves applicable to long-term supply or similar agreements in which the entity acts as producer and (c) reserves of the entity's investees accounted for by the equity method.

(5) Disclosure of estimated quantities of proved oil and gas reserves (§ 210.3-18(k)(5)). This paragraph requires the following by major geographic area and for each year for which an income statement is required: (a) Net quantities of proved oil and gas reserves and proved developed reserves as of the beginning and end of each such year; (b) changes in the net quantities of proved reserves, with changes described by certain categories, for each such year; (c) quantities of oil and gas subject to long-term supply, purchase, or similar agreements with foreign governments if the reporting entity participates as a producer, as of the end of each such year, and the net quantities of oil and gas received during each such year attributable to these agreements; and (d) the entity's proportionate share of the net proved oil and gas reserves of its investees that are accounted for by the equity method. Explanations shall also be provided for any important economic factors or significant uncertainties that affect particular components of the disclosure of proved reserves.

The disclosures of capitalized costs required by the newly adopted § 210.3-18(k)(2) reflect a reduction of the detail proposed in Release No. 33-5877. The proposals would have required disclosure of capitalized costs by certain categories, which many commentators considered unnecessary and burdensome. The Commission has limited the segregation of capitalized costs to those related to proved properties and to unproved properties, a segregation it considers necessary to relate balance sheets to the disclosure of information on quantities and valuations of proved oil and gas.[52] In addi-

[50] This definition is contained in Form EIA-23, "Annual Survey of Domestic Oil and Gas Reserves" (43 FR 6993), which has been submitted by DOE to the Office of Management and Budget for review and clearance.

[51] Opportunity for public comment on the newly adopted definition of proved reserves is being provided as discussed below.

[52] Other disclosures of capitalized costs may also be appropriate. Paragraph 5 of APB Opinion No. 12, "Omnibus Opinion—1967," requires disclosure of "* * * balances of major classes of depreciable assets, by nature or function."

V 43 / 177

tion, the rules adopted by the Commission permit the capitalized costs of support equipment and facilities to be included with capitalized costs of either proved properties or unproved properties if they can be related to either category or, if significant, to be disclosed separately.

The proposed rules, consistent with the FASB's Exposure Draft, specified that certain information on capitalized costs be disclosed by entities subject to rate regulation. In explaining the deletion of these requirements from FAS 19, the FASB noted that it had initiated a project involving financial accounting and reporting by rate-regulated companies and that consideration of special disclosures such as those proposed in the Exposure Draft would be included as part of that project. The Commission has concluded that any decision on such disclosure requirements should await the outcome of the broader consideration of this matter by the FASB.

The disclosures of costs incurred in oil and gas producing activities (§ 210.3-18(k)(3)) have also been revised from the disclosures of this nature proposed in Release No. 33-5877. Specifically, the rules do not require (a) separation of costs incurred into amounts capitalized and amounts charged to expense or (b) estimates of costs required to complete development of proved reserves.

As discussed in section VI, "Reporting to the Department of Energy," the principal objective of disclosing costs incurred in oil and gas producing activities on a functional basis is to facilitate analyses that seek to relate costs with oil and gas reserves and to present information on the magnitude of current activities. Whether costs incurred are capitalized or charged to expense is irrelevant for purposes of these analyses and, accordingly, the proposed requirement has been deleted.

Many commentators expressed opposition to the proposal in Release No. 33-5877 that estimated future costs to develop proved reserves be disclosed. They expressed concern about the subjectivity of such estimates and questioned the meaningfulness of the disclosure. The Commission has concluded that this disclosure is not necessary because of the disclosure of information on future net revenue from estimated production of proved oil and gas reserves, as required by § 210.3-18(k)(6).

The remainder of the rules for disclosure of costs incurred are the same as the related provisions of FAS 19 except that separate disclosure is required of depreciation, depletion, and amortization expense; charges to expense resulting from assessments of properties, *i.e.*, valuation write-downs; and capitalized costs and costs incurred by investees accounted for by the equity method if information on the proved reserves of such investees is disclosed.

Costs incurred in oil and gas producing activities are required to be reported in four categories: Acquisition of properties; exploration; development; and production. The Commission intends that this reporting conform to the disclosures specified by FAS 19 and, in less detail, to those required by FRS (as discussed in section VI, "Reporting to the Department of Energy"). Accordingly, the following guidelines are provided for classifying costs into the four categories: [53]

1. Costs incurred in the acquisition of properties.[54] Costs incurred to purchase, lease or otherwise acquire a property, including costs of lease bonuses and options to purchase or lease properties, the portion of costs applicable to minerals when land including mineral rights is purchased in fee, brokers' fees, recording fees, legal costs, and other costs incurred in acquiring properties.

2. Exploration involves (a) identifying areas that may warrant examination and (b) examining specific areas that are considered to have prospects of containing oil and gas reserves, including drilling exploratory wells and exploratory-type stratigraphic test wells. Exploration costs may be incurred both before acquiring the related property (sometimes referred to in part as prospecting costs) and after acquiring the property. Principal types of exploration costs, which include depreciation and applicable operating costs of support equipment and facilities [55] and other costs of exploration activities, are:

(a) Costs of topographical, geographical, and geophysical studies, rights of access to properties to conduct those studies, and salaries and other expenses of geologists, geophysical crews, and others conducting those studies. Collectively, those are sometimes referred to as geological and geophysical or "G&G" costs.[56]

(b) Costs of carrying and retaining undeveloped properties, such as delay rentals, ad valorem taxes on properties, legal costs for title defense, and the maintenance of land and lease records.

(c) Dry hole contributions and bottom hole contributions.

(d) Costs of drilling and equipping exploratory wells.

(e) Costs of drilling exploratory-type stratigraphic test wells.

3. Development costs are incurred to obtain access to proved reserves and to provide facilities for extracting, treating, gathering and storing the oil and gas. More specifically, development costs, including depreciation and applicable operating costs of support equipment and facilities and other costs of development activities, are costs incurred to:

(a) Gain access to and prepare well locations for drilling, including surveying well locations for the purpose of determining specific development drilling sites, clearing ground, draining, road building, and relocating public roads, gas lines, and power lines, to the extent necessary in developing the proved reserves.

(b) Drill and equip development wells, development-type stratigraphic test wells, and service wells, including the costs of platforms and of well equipment such as casing, tubing, pumping equipment, and the wellhead assembly.

(c) Acquire, construct, and install production facilities such as lease flow lines, separators, treaters, heaters, manifolds, measuring devices, and production storage tanks, natural gas cycling and processing plants, and central utility and waste disposal systems.

(d) Provide improved recovery systems.

4. Production involves lifting the oil and gas to the surface and gathering, treating, field processing (as in the case of processing gas to extract liquid hydrocarbons), and field storage. The production function shall normally be regarded as terminating at the outlet valve on the lease or field production storage tank; if unusual physical or operational circumstances exist, it may be more appropriate to regard the production function as terminating at the first point at which oil, gas, or gas liquids are delivered to a main pipeline, a common carrier, a refinery, or a marine terminal.

Production costs are those costs incurred to operate and maintain wells and related equipment and facilities, including depreciation and applicable operating costs of support equipment and facilities and other costs of operating and maintaining those wells and related equipment and facilities. They become part of the cost of oil and gas produced. Examples of production costs (sometimes called lifting costs) are:

(a) Costs of labor to operate the wells and related equipment and facilities.

(b) Repairs and maintenance.

(c) Materials, supplies, and fuel consumed and supplies utilized in operating the wells and related equipment and facilities.

(d) Property taxes and insurance applicable to proved properties and wells and related equipment and facilities.

(e) Severance taxes.

Depreciation, depletion, and amortization of capitalized acquisition, exploration, and development costs are not production costs but also become part of the cost of oil and gas produced along with production (lifting) costs identified above.

5. Overhead, including general and administrative costs such as salaries and office expenses and depreciation charges for office buildings, applicable to oil and gas producing activities but not directly identified with a specific function should be allocated among the functions on a reasonable basis. Such overhead would be included in operating expenses as that term is defined in FASB Statement of Financial Accounting Standards No. 14, "Financial Reporting for Segments of a Business Enterprise." Statement No. 14 requires that operating expenses that are not directly traceable to an industry segment be allocated on a reasonable basis among those industry segments for whose benefits the expenses were incurred. Methods used to allocate operating expenses should be consistently applied from period to period (but, if changed, disclosure shall be made of the nature and the effect of the change in the period of change.)

The rules relating to the disclosure of quantities of proved oil and gas reserves in § 210.3-18(k)(5) have been revised slightly from the related rules proposed in Release No. 33-5877. They now conform to the provisions of FAS 19, as explained in paragraphs 238-244 of appendix B of FAS 19.

Many commentators disagreed with the conclusions of the Commission and the FASB that information on quantities of oil and gas reserves should be included in financial statements, primarily because the estimation of oil and gas reserves is inherently imprecise and is beyond the expertise of independent public accountants. The Commission has concluded that information on oil and gas reserves is needed to supplement financial statements, regardless of the method of accounting used, because of the importance of this information in gaining an understanding of the operations of oil and gas producers. The Auditing Standards Executive Committee of the American Institute of Certified Public Accountants is now engaged in a project to establish auditing procedures, including criteria for the auditor's use of specialists with expertise in estimating oil and gas reserves, that would apply to examinations involving financial statements that include information on oil and gas reserve quantities and valuations. The Commission recognizes that auditors would not be expected to have the expertise to develop or reach opinions on the accuracy of estimates of oil and gas reserves; however, auditors, by using specialists with expertise in estimating oil and gas reserves, should be able to perform sufficient audit procedures to enable them to reach opinions on financial statements that include information on oil and gas reserves.

The accompanying rules also require the disclosure of certain information regarding future net revenues from estimated production of proved oil and gas reserves (§ 210.3-18(k)(6)). These requirements were proposed in Release No. 33-5878 [57] dated November 3, 1977 (42 FR 5765) and revised in Release No. 33-5916 dated March 17, 1978 (43 FR 12334). In addition to letters of comment received in response to these releases, information pertinent to the Commission's consideration of these proposed rules was received in connection with its proceeding (in particular, the public hearing) involving financial accounting and reporting practices of oil and gas producers.

The rules adopted are substantially the same as those proposed except that the data are required to be disclosed in somewhat less detail and a safe-harbor provision has been added. The rules require:

(1) The presentation for each of the first 3 years and the remainder in a single amount of Estimated Future Net Revenues for the following categories: (a) Proved reserves; (b) proved developed reserves; (c) proved reserves applicable to long-term or similar agreements in which the entity acts as producer; and (d) the entity's share of the proved reserves of its investees accounted for by the equity method. The Estimated Future Net Revenues shall be computed by applying to estimated future production of proved reserves, assuming continuation of existing economic conditions, the current prices of oil and gas and current costs of development and production.

(2) The Present Value of the Estimated Future Net Revenues for the four categories presented above using a 10 percent discount rate.

(3) The Present Value of the Estimated Future Net Revenues, separately reported for (a) proved reserves added in prior years and (b) proved reserves added during the current year with separate presentation, if significant (specified to be generally more than 10 percent of current additions), of proved reserves resulting from application of improved recovery techniques or purchases of reserves in-place.

Most of the commentators expressing opposition to these disclosures indicated that developing the data involves estimates that are too dependent on subjective judgments to warrant public reporting. In addition to the significant uncertainties in estimating quantities of proved reserves, judgment would be needed in estimating rates of production, the timing of development expenditures, etc. in developing the future net revenue information. Such information could be misleading, it was argued, because the limitations on the data might not be understood by investors. Because of the subjective nature of the data, some commentators recommended that the disclosures not be required as part of the financial statements, or, at a minimum, be labeled as "unaudited." [58]

In addition to the need for estimates and judgments in developing the data, many commentators felt that the valuation methodology proposed by the Commission would not result in information that would be useful or meaningful. The use of current prices and costs may not be indicative of future economic relationships. Use of an arbitrary discount rate and the exclusion of income tax effects were also cited as factors that would limit the ability of the resulting computations to provide any meaningful indication of the current value of proved reserves.

The requirement for present value disclosures places significant burdens of time and expense on registrants, involving the efforts of geologists, petroleum engineers, and other specialists. Such costs and effort were considered by some commentators to be excessive in relation to the perceived value of the data. Accordingly, some suggested that any mandatory disclosures of this nature be deferred until the previously discussed disclosures of quantities of oil and gas reserves and supplemental historical financial information could be assessed in practice. As an interim measure, some suggested that voluntary disclosures in accordance with guidelines established by the Commission should be permitted.

Many of the letters expressed a belief that the proposed disclosures would be, in essence, a forecast of future economic conditions, and that such forward-looking information represents a significant departure from current financial reporting practice. Individual firms in the oil and gas industry, as well as other industries, should be left discretion as to whether forecasts should be published, according to these commentators. Others argued that present value disclosures would represent a move away from historical cost accounting, and they felt that experimentation with new accounting methods of this nature should not be initiated while the FASB's conceptual framework project is in its initial phases.

In contrast to the above criticisms, a substantial number of letters indicated

[53] All costs reported should be costs relating to net working interests in all properties owned by reporting persons, whether operated by the person or by other persons.

[54] FRS provides that acquisition of unproved properties be separately reported as a component of exploration costs and that acquisition of proved properties be separately reported as a component of development costs.

[55] Support equipment and facilities used in oil and gas producing activities include seismic equipment, drilling equipment, construction and grading equipment, vehicles, repair shops, warehouses, supply points, camps, and division, district or field offices. Some support equipment or facilities may serve two or more of those activities and may also serve transportation, refining, and marketing activities. To the extent that the support equipment and facilities are used in oil and gas producing activities, their depreciation and applicable operating costs become exploration, development or production costs, as appropriate.

[56] G&G studies may be conducted on a property owned by another person, in exchange for an interest in the property if proved reserves are found or to be reimbursed if proved reserves are not found. In such cases, the G&G costs shall be accounted for as a receivable when incurred and, if proved reserves are found, they shall become the costs of the proved property acquired.

[57] Release No. 33-5878 also proposed to rescind the existing requirements for certain registrants to disclose replacement cost information about mineral resource assets employed in oil and gas producing activities. The Commission's actions published in this release include adoption of the proposed revision to the "Exemption" paragraph of § 210.3-17.

[58] As noted previously, the AICPA's Auditing Standards Executive Committee has under consideration a proposed audit guide on oil and gas reserve information that would describe auditing procedures applicable to information on oil and gas reserves, including valuation data, that is disclosed in financial statements.

SEC 1278

V 4 3 / 1 7 7

general support for the proposed disclosures. It was widely felt that the information was of major importance to investors in evaluating the status and performance of oil and gas producing companies. This view is consistent with the Commission's determinations in this proceeding, as discussed in earlier sections of this release.

The Commission has concluded that the benefits of such disclosures outweigh any limitations associated with the subjective nature of the data and the necessary use of arbitrary assumptions to obtain a uniform methodology. The Commission believes that the usefulness of this supplemental information justifies the costs of compliance; furthermore, as discussed earlier in this release, the Commission has concluded that there is potential for achieving substantial improvements in financial reporting in the oil and gas producing industry if valuations of oil and gas reserves can be ultimately incorporated into the primary financial statements.

The Commission recognizes that the present value data may not be equivalent to the current value of registrants' oil and gas properties. Current values must necessarily take into account, among other factors, the values resulting from the likelihood that the properties contain oil and gas in excess of proved reserves and expectations of future changes in economic conditions, such as the probability of future changes in prices and costs. However, the use of uniform assumptions in estimating the data is necessary to insure an acceptable degree of objectivity and comparability of the information required to be disclosed. Registrants will be permitted to disclose additional data based on other assumptions, if such assumptions are reasonable and are adequately explained.

A general provision contained in § 210.3-18(k)(6) requires disclosure of any additional information that management believes is necessary to prevent the data from being misleading. For example, such information could include: (1) A statement that the data may not reflect cash to be received in the future from the sale of oil and gas currently owned, (2) a statement that the data do not necessarily reflect the costs that would be incurred to obtain equivalent oil and gas reserves, and (3) other statements relevant to an understanding of the effects of changing prices and costs on the future operations of the company. Disclosures of this nature might include a discussion of the relationship between the data disclosed and the current value of the registrant's oil and gas properties.

Release 33-5878 requested comments on several specific issues relating to the proposed disclosures. The responses are summarized below:

1. Discount rate. The release proposed that the net revenues be discounted using an estimated production loan rate (i.e., the rate on financing secured solely by oil and gas reserves). Alternatively, comments were requested on whether it would be appropriate for the Commission to specify a uniform discount rate. Criticisms of the production loan rate focused on the fact that it would incorporate an inflation element, while the net revenue data would be based on current prices and costs; that foreign reserves would require different rates; and that the production loan rate was unrealistic because some companies do not obtain such financing. Alternative recommendations included the use of an overall borrowing rate or a weighted-average cost of capital. However, a majority of commentators were in favor of the Commission specifying a uniform rate to improve comparability of the data disclosed. The Commission agrees that the gain to users in terms of comparability outweighs any distortions caused by the use of a single rate by all registrants. Accordingly, the final rules specify use of a 10-percent-discount factor.

2. Other approaches. Because of the Commission's concern with the quantity of data proposed for disclosure, comments were requested on different approaches to achieving the desired objectives. The requirements for disclosure by category of reserve changes and by specific time periods were generally felt to be too detailed, given the inherent lack of precision in the data and the necessary use of somewhat arbitrary assumptions as to prices, costs and discount rate. As discussed below, the rules have been modified to reduce the quantity of data required to be disclosed.

3. Safe harbor provision. The proposed amendments did not include a safe harbor provision. The comment letters addressing this issue were unanimous in urging that such a provision be included, because of the many uncertainties necessarily involved in the development of the data. The Commission has concluded that such a safe harbor provision is appropriate. The rules provide that the information relating to the disclosure of future net revenues from estimated production of proved reserves shall not be deemed to be misleading unless the information is prepared without a reasonable basis or disclosed other than in good faith.

4. Natural gas liquids ("NGL") plants. Staff Accounting Bulletin No. 10 dated July 27, 1976 (41 FR 35163) states in part that "mineral resource assets" include all assets that are directly associated with and which derive value from mineral reserves. Release No. 33-5878 presented a recommendation that NGL plants should be excluded from mineral resource assets (and therefore subject to the replacement cost disclosures specified in § 210.3-17) if two conditions are met: (1) The NGL plant can be replaced and (2) the value of the NGL plant is not primarily dependent on a particular field. Most comments stated that these guidelines are sufficiently specific.[59]

5. Tax effects. The computations of estimated future net revenues do not require consideration of income tax effects. Many commentators felt that failure to include income taxes would be highly misleading, as taxes are a significant component of any stream of net revenues, especially for foreign reserves. However, there was acknowledgement of the difficulty in making any precise association between income taxes and estimated future revenues. The Commission has concluded that the objectives of the present disclosures are better achieved by excluding income taxes from the net revenue and present value computations. However, it is suggested that registrants indicate the magnitude of the income taxes associated with the difference between the computed present values and the financial statement basis of the related proved reserves with appropriate consideration of related deferred income taxes.

6. Competitive impact. A few commentators expressed concern that the proposed reporting requirements could put registrants at a competitive disadvantage relative to foreign companies not registered with the Commission. Future net revenue data presented on a geographical basis could result in disclosures with respect to individual countries, which some commentators stated might restrict their ability to obtain overseas concessions and create political pressures from host governments. The Commission considers separate geographical information significant to a complete presentation of the data. Unusual problems encountered by a registrant in complying with this requirement should be discussed with the staff of the Commission for appropriate resolution.

The comment letters and testimony at the Commission's public hearing also dealt with other implementation issues. Several persons suggested that specific computational guidelines be provided, e.g., that current prices be defined as the weighted average price of oil and gas produced during the most recent year (or month), or that production and development costs be estimated on the basis of overall current per-unit averages. The Commission does not object to these approaches, appropriately applied and disclosed, in developing current prices and costs as long as they result in reasonable estimates, and does not believe it should adopt specific requirements of this nature at this time. In response to concerns about the quantity of data to be required, the rules have been revised to limit to 3 years the time periods for which estimated future net revenues are presented, with the remainder presented as a single amount. Disclosure of the year-end present value attributable to additions to proved reserves from the application of improved recovery methods is required only if significant. Similarly, insignificant additions attributable to purchases of reserves may be included with discoveries and extensions of reserves. Finally, the requirement for disclosure of the weighted-average prices of oil and gas used in the computations has been eliminated.

The Commission stated in Release No. 33-5878 that it was proposing certain analytical data (i.e., future net revenues presented by year, the sensitivity of the data to a change in the

[59] The Commission's staff is providing additional guidance on this matter in SAB No. 23 (Aug. 31, 1978), published concurrently with this release.

discount rate, and the weighted-average unit prices) to provide information that would permit users to vary assumptions used in developing the required data. Much of the analytical data included in the proposed rules has not been included in the rules adopted by the Commission in response to comments on the burden of the requirements. The Commission believes, nevertheless, that such disclosures could be meaningful in certain circumstances and encourages registrants to develop appropriate presentations of this nature.

The following tables illustrate the disclosure that the rules require for each geographic area for which disclosures of net quantities of reserves of oil and gas are presented, i.e., the reporting entity's home country (if significant reserves are located there) and each foreign geographic area (individual countries or groups of countries as appropriate for meaningful disclosure in the circumstances) in which significant reserves are located.

Estimated future net revenues from proved reserves of oil and gas as of December 31, 1979

	Proved developed and undeveloped	Proved developed	Long-term supply agreements [1]	Equity investees [2]
1980	$X	$X	$X	$X
1981	X	X	X	X
1982	X	X	X	X
Remainder	X	X	X	X
	X	X	X	X

[1] With foreign governments (company operated).
[2] Proportional share.

Present value of estimated future net revenues from proved reserves of oil and gas

	December 31,	
	1978	1979
Proved developed and undeveloped reserves:		
Added in previous years	$X	$X
Added during current year	X	X
Total end of year	X	X
Proved developed reserves	X	X
Long-term supply agreements with foreign governments (company operated).	X	X
Equity investees (proportional share).	X	X

SOLICITATION OF COMMENTS

As noted previously, the Commission is concerned that the rules published in this release achieve certain objectives. Specifically, comments are requested on the following:

1. It is intended that the rules relating to the application of the SE method of accounting conform to related provisions of FAS 19. Those provisions have been rearranged to facilitate their adoption as rules by the Commission. Comments are requested on whether these rearrangements result in significant deviations or omissions.

2. A further objective of the Commission is that its rules be consistent to the extent practicable and appropriate with the Financial Reporting System being developed by DOE. Instances in which application of these rules would result in differing reporting to the various Federal agencies of the costs incurred in oil and gas producing activities should be communicated to the Commission.

3. Finally, comments are requested on the appropriateness of the revised definition of proved oil and gas reserves. Of particular interest are comments on instances in which this definition would be inconsistent with that developed by DOE, or with the Commission's previous definition as contained in Regulation S-K.

All interested persons are invited to submit their written comments by October 31, 1978. It should, however, be noted that, notwithstanding the opportunity to comment on the above matters, § 210.3-18 has been adopted by the Commission and is effective as adopted unless or until amended by the Commission.

Comments should refer to File S7-715 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments will be available for public inspection.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF THE SUMMARY OF EARNINGS

Guide 22, "Summary of Earnings," which applies to registration statements filed pursuant to the Securities Act of 1933, and the related guide 1, "Summary of Operations," which applies to forms 10 and 10-K, require that a narrative analysis of the financial data presented in the summary be included in applicable filings with the Commission.[60] ASR No. 159 states that the purpose of the narrative analysis is "• • • to enable the investors to appraise the quality of earnings." ASR No. 159 also states:

[T]his analysis should include a discussion of material facts, whether favorable or unfavorable, required to be disclosed or disclosed in the prospectus, registration statement, or report which in the opinion of management may make historical operations or earnings as reported in the summary of earnings not indicative of current or future operations or earnings.

In Release No. 33-5837 dated June 20, 1977 (42 FR 33137), the Commission solicited comments on whether it should require a narrative analysis by management of oil and gas producing activities that would include a discussion of oil and gas reserves, operating statistics, and supplemental financial data. Such an analysis could be useful to investors in assessing financial effort and results in view of the complexities involved in understanding and analyzing the data disclosed supplementally to the primary financial statements. The Commission noted in Release No. 33-5837 several matters that might affect an assessment of oil and gas producing activities:

1. Uncertainties related to estimates of quantities of oil and gas reserves;
2. The likelihood of additional recoverable oil and gas in addition to proved reserves;
3. Significant investments in and plans to undertake improved recovery programs;
4. Major changes in management philosophy regarding exploration and development activities; and
5. Effects of factors such as changing prices of specific goods and services, impact of government regulation, and changes in relationships with host governments.

These and other matters can be important to an understanding of the financial statements and of the information disclosed supplementally. Many commentators felt that such a narrative analysis by management of oil and gas producing activities would be useful. Other commentators expressed the opinion that no new requirement was needed because of the existing provisions of Guides 22 and 1, as discussed above.

The Commission has concluded that the existing requirements in this regard are sufficient. It emphasizes, however, that registrants involved in oil and gas producing operations should focus their narrative analyses pertaining to these operations primarily on exploration, development, and production activities, using the supplemental information required by the rules published in this release to discuss the major factors affecting these activities and their relationship to the information conveyed in the financial statements.

EFFECTIVE DATE

The rules adopted in this release are effective initially for full fiscal years ending after December 25, 1978, that are contained in filings that include fiscal years ending after December 25, 1979. Thus, a company with a calendar fiscal year is required to adhere to these rules initially in filings that include its 1979 fiscal year, although earlier application is encouraged. Accounting changes adopted to conform to the provisions of these rules shall be made retroactively by restating the financial statements of prior periods. Financial statements for the fiscal year in which these rules are first applied shall disclose the nature of the accounting changes and their effect on income before extraordinary items,

[60] The amendments to guides 22 and 1 requiring the presentation of management's discussion and analysis of the summary of earnings (operations) were published in ASR No. 159 dated Aug. 16, 1974 [39 FR 31894].

SE 12 78

net income, and related per share amounts for each period restated.

The Commission had proposed that its rules become effective for fiscal years beginning after June 15, 1978, consistent with the FASB's Exposure Draft. The FASB subsequently determined that the standards of FAS 19 would be effective for fiscal years beginning after December 15, 1978. A later effective date has been established for the Commission's rules in order to provide additional time for registrants to comply. It should be noted, however, that the Commission is proposing in Release No. 33-5967 amendments to Regulation S-K that would apply the disclosure provisions of these rules (outside the financial statements) to filings with the Commission that include fiscal years ending after December 25, 1978.

COMMISSION ACTION

The Commission hereby amends 17 CFR Part 210 by revising the title and table of contents of Part 210; adding paragraph (c) to § 210.1-01; revising the "Exemption" paragraph of § 210.3-17; and adding new § 210.3-18; as indicated below:

1. The title of Part 210 is revised as set forth below:

2. The table of contents of Part 210 is amended by adding an entry for § 210.3-18 to read as set forth below:

RULES OF GENERAL APPLICATION

Sec.

* * * * *

210.3-18 Financial accounting and reporting for oil and gas producing activities pursuant to the federal securities laws and the Energy Policy and Conservation Act of 1975.

3. A new paragraph (c) is added to § 210.1-01 as set forth below:

§ 210.1-01 Application of Regulation S-X (17 CFR Part 210).

* * * * *

(c) In addition to filings pursuant to the Federal securities laws, § 210.3-18 applies to the preparation of accounts by persons engaged, in whole or in part, in the production of crude oil or natural gas in the United States pursuant to section 503 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6383) ("EPCA") and section 11(c) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796), as amended by section 505 of EPCA.

4. The Exemption to § 210.3-17 is revised as set forth below:

§ 210.3-17 Current replacement cost information.

* * * * *

Exemption. This section shall not apply to any person where the total of inventories and gross property, plant and equipment (i.e., before deducting accumulated depreciation, depletion and amortization) as shown in the consolidated balance sheet at the beginning of the most recently completed fiscal year is less than $100 million or where the total of inventories and gross property, plant and equipment is less than 10 percent of the total assets of the person as shown in the consolidated balance sheet at the beginning of the most recently completed fiscal year. The replacement cost information specified below in paragraphs (c) and (d) is not required to be shown for mineral resource assets employed in the production of crude oil or natural gas.

* * * * *

5. A new § 210.3-18 is added as set forth below:

§ 210.3-18 Financial accounting and reporting for oil and gas producing activities pursuant to the Federal securities laws and the Energy Policy and Conservation Act of 1975.

This section prescribes financial accounting and reporting standards for registrants of the Commission engaged in oil and gas producing activities in filings under the Federal securities laws and for the preparation of accounts by persons engaged, in whole or in part, in the production of crude oil or natural gas in the United States, pursuant to section 503 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6383) ("EPCA") and section 11(c) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796) ("ESECA"), as amended by section 505 of EPCA.

Exemption. Any person exempted by the Department of Energy from any recordkeeping or reporting requirements pursuant to section 11(c) of ESECA, as amended, is similarly exempted from the related provisions of this section in the preparation of accounts pursuant to EPCA. This exemption does not affect the applicability of this section to filings pursuant to the Federal securities laws.

(a) *Definitions.* The following definitions apply to the terms listed below as they are used in this section:

(1) *Oil and gas producing activities.*

(i) Such activities include:

(A) The search for crude oil, including condensate and natural gas liquids, or natural gas ("oil and gas") in their natural states and original locations.

(B) The acquisition of property rights or properties for the purpose of further exploration and/or for the purpose of removing the oil or gas from existing reservoirs on those properties.

(C) The construction, drilling, and production activities necessary to retrieve oil and gas from its natural reservoirs, and the acquisition, construction, installation, and maintenance of field gathering and storage systems—including lifting the oil and gas to the surface and gathering, treating, field processing (as in the case of processing gas to extract liquid hydrocarbons) and field storage. For purposes of this section, the oil and gas production function shall normally be regarded as terminating at the outlet valve on the lease or field storage tank; if unusual physical or operational circumstances exist, it may be appropriate to regard the production functions as terminating at the first point at which oil, gas, or gas liquids are delivered to a main pipeline, a common carrier, a refinery, or a marine terminal.

(ii) Oil and gas producing activities do not include:

(A) The transporting, refining and marketing of oil and gas.

(B) Activities relating to the production of natural resources other than oil and gas.

(C) The production of geothermal steam or the extraction of hydrocarbons as a byproduct of the production of geothermal steam or associated geothermal resources as defined in the Geothermal Steam Act of 1970.

(D) The extraction of hydrocarbons from shale, tar sands, or coal.

(2) *Proved oil and gas reserves.* Proved oil and gas reserves are the estimated quantities of crude oil, natural gas, and natural gas liquids which geological and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing economic and operating conditions, i.e., prices and costs as of the date the estimate is made. Prices include consideration of changes in existing prices provided only by contractual arrangements, but not on escalations based upon future conditions.

(i) Reservoirs are considered (A) proved and tested if economic producibility is supported by either actual production or conclusive formation test (drill stem or wire line), or (B) proved and untested if economic producibility is supported only by core analyses and/or electric or other log interpretations. The area of a reservoir considered proved includes that portion delineated by drilling and defined by gas-oil and/or oil-water contacts, if any; and the immediately adjoining portions not yet drilled, but which can be reasonably judged as economically productive on the basis of available geological and engineering data. In the absence of information on fluid contacts, the lowest known structural occurrence of hydrocarbons controls the lower proved limit of the reservoir.

(ii) It is not necessary that production, gathering or transportation facilities be installed or operative for a reservoir to be considered proved. However, it should be reasonably certain that such facilities will be installed in the future.

(iii) Reserves which can be produced economically through application of improved recovery techniques (such as fluid injection) are included in the "proved" classification when successful testing by a pilot project, or the operation of an installed program in the reservoir, provides support for the engineering analysis on which the project or program was based.

(iv) Estimates of proved crude oil, natural gas, or natural gas liquids reserves do not include (A) those reserves, the recovery of which is subject to reasonable doubt because of uncertainty as to geology, reservoir characteristics, or economic factors; (B) reserves that may occur in undrilled prospects; (C) reserves that may be recovered from oil shales, coal, gilsonite, and other such sources; and (D) volumes placed in underground storage.

(3) *Proved developed oil and gas reserves.* Proved developed oil and gas reserves and reserves that can be expected to be recovered through existing wells with existing equipment and operating methods. Additional oil and gas expected to be obtained through the application of fluid injection or other improved recovery techniques for supplementing the natural forces and mechanisms of primary recovery should be included as "proved developed reserves" only after testing by a pilot project or after the operation of an installed program has confirmed through production response that increased recovery will be achieved.

(4) *Proved undeveloped reserves.* Proved undeveloped oil and gas reserves are proved reserves that are expected to be recovered from new wells on undrilled acreage, or from existing wells where a relatively major expenditure is required for recompletion. Reserves on undrilled acreage shall be limited to those drilling units that offset productive units and that are reasonably certain of production when drilled.

(5) *Proved properties.* Properties with proved reserves.

(6) *Unproved properties.* Properties with no proved reserves.

(7) *Proved area.* The part of a property to which proved reserves have been specifically attributed.

(8) *Field.* An area consisting of a single reservoir or multiple reservoirs all grouped on or related to the same individual geological structural feature and/or stratigraphic condition. There may be two or more reservoirs in a field which are separated vertically by intervening impervious strata, or laterally by local geologic barriers, or by both. Reservoirs that are associated by being in overlapping or adjacent fields may be treated as a single or common operational field. The geological terms "structural feature" and "stratigraphic condition" are intended to identify localized geological features as opposed to the broader terms of basins, trends, provinces, plays, areas-of-interest, etc.

(9) *Reservoir.* A porous and permeable underground formation containing a natural accumulation of producible oil or gas that is confined by impermeable rock or water barriers and is individual and separate from other reservoirs.

(10) *Exploratory well.* A well drilled to find and produce oil or gas in an unproved area, to find a new reservoir in a field previously found to be productive of oil or gas in another reservoir, or to extend a known reservoir.

(11) *Development well.* A well drilled within the proved area of an oil or gas reservoir to the depth of a stratigraphic horizon known to be productive.

(12) *Service well.* A well drilled or completed for the purpose of supporting production in an existing field. Specific purposes of service wells include gas injection, water injection, steam injection, air injection, saltwater disposal, water supply for injection, observation, or injection for in-situ combustion.

(13) *Stratigraphic test well.* A drilling effort, geologically directed, to obtain information pertaining to a specific geologic condition. Such wells customarily are drilled without the intention of being completed for hydrocarbon production. This classification also includes tests identified as core tests and all types of expendable holes related to hydrocarbon exploration. Stratigraphic test wells are classified as (i) "exploratory-type," if not drilled in a proved area, or (ii) "development-type," if drilled in a proved area.

(b) *Costs to be capitalized if the successful efforts method of accounting is followed.* The costs of the following assets involved in oil and gas producing activities are to be capitalized when incurred:

(1) *Mineral interests in properties.* Including (i) fee ownership or a lease, concession, or other interest representing the right to extract oil or gas subject to such terms as may be imposed by the conveyance of that interest; (ii) royalty interests, production payments payable in oil or gas, and other nonoperating interests in properties operated by other; and (iii) those agreements with foreign governments or authorities under which a reporting entity participates in the operation of the related properties or otherwise serves as "producer" of the underlying reserves (as opposed to being an independent purchaser, broker, dealer, or importer). Properties do not include other supply agreements or contracts that represent the right to purchase, rather than extract, oil and gas.

(2) *Wells and related equipment and facilities.* Including: (i) Costs incurred to drill and equip those exploratory wells and exploratory-type stratigraphic test wells that have found proved reserves and (ii) development costs, i.e., costs incurred to obtain access to proved reserves and provide facilities for extracting, treating, gathering, and storing the oil and gas, including the drilling and equipping of development wells and development-type stratigraphic test wells (whether those wells are successful or unsuccessful) and service wells.

(3) *Support equipment and facilities used in oil and gas producing activities.* Items such as seismic equipment, drilling equipment, construction and grading equipment, vehicles, repair shops, warehouses, supply points, camps, and division, district, or field offices.

(4) *Uncompleted wells, equipment and facilities.* Including costs incurred to: (i) Drill and equip wells that are not yet completed and (ii) acquire or construct equipment and facilities that are not yet completed and installed.

(c) *Assessment of unproved properties if the successful efforts method of accounting is followed.* Unproved properties shall be assessed periodically to determine whether they have been impaired. A property would likely be impaired, for example, if a dry hole has been drilled on it and the enterprise has no firm plans to continue drilling. Also, the likelihood of partial or total impairment of a property increases as the expiration of the lease term approaches if drilling activity has not commenced on the property or on nearby properties. Information that becomes available after the end of the period covered by the financial statements but before those financial statements are issued shall be taken into account in evaluating conditions that existed at the balance sheet date.

(1) If the results of the assessment indicate impairment, a loss shall be recognized by providing a valuation allowance. Impairment of individual unproved properties whose acquisition costs are relatively significant shall be assessed on a property-by-property basis, and an indicated loss shall be recognized by providing a valuation allowance. When a reporting entity has a relatively large number of unproved properties whose acquisition costs are not individually significant, it may not be practical to assess impairment on a property-by-property basis,

V 43 / 177

in which case the amount of loss to be recognized and the amount of the valuation allowance needed to provide for impairment of those properties shall be determined by amortizing those properties, either in the aggregate or by groups, on the basis of the experience of the entity in similar situations and other information about such factors as the primarly lease term of those properties, the average holding period of unproved properties, and the relative proportion of such properties on which proved reserves have been found in the past.

(2) A property shall be reclassified from unproved properties to proved properties when proved reserves are discovered on or otherwise attributed to the property. Occasionally, a single property such as a foreign lease or concession covers so vast an area that only the portion of the property to which the proved reserves relate—determined on the basis of geological structural features or stratigraphic conditions—should be reclassified from unproved to proved. For a property whose impairment has been assessed individually, the net carrying amount (acquisition cost minus valuation allowance) shall be reclassified to proved properties; for properties amortized by providing a valuation allowance on a group basis, the gross acquisition cost shall be reclassified.

(d) *Surrender or abandonment of properties if the successful efforts method of accounting is followed.* When an unproved property is surrendered, abandoned, or otherwise deemed worthless, capitalized acquisition costs relating thereto shall be charged against the related allowance for impairment to the extent an allowance has been provided; if the allowance previously provided is inadequate, a loss shall be recognized. Normally, no gain or loss shall be recognized if only an individual well or individual item of equipment is abandoned or retired or if only a single lease or other part of a group of proved properties constituting the amortization base is abandoned or retired as long as the remainder of the property or group of properties continues to produce oil or gas. Instead, the asset being abandoned or retired shall be deemed to be fully amortized, and its costs shall be charged to accumulated depreciation, depletion, or amortization. When the last well on an individual property (if that is the amortization base) or group of properties (if amortization is determined on the basis of an aggregation of properties with a common geological structure) ceases to produce and the entire property or property group is abandoned, gain or loss shall be recognized. Occasionally, the partial abandonment or retirement of a proved property or group of proved properties or the abandonment or retirement of wells or related equipment or facilities may result from a catastrophic event or other major abnormality. In those cases, a loss shall be recognized at the time of abandonment or retirement.

(e) *Amortization of capitalized costs if the successful effects method of accounting is followed.* (1) Capitalized acquisition costs of proved properties shall be amortized using the unit-of-production method on the basis of total estimated units of proved oil and gas reserves.

(2) Capitalized costs of exploratory wells and exploratory-type stratigraphic test wells that have found proved reserves and capitalized development costs shall be amortized (depreciated) using the unit-of-production method on the basis of total estimated units of proved developed reserves. However, it may be more appropriate, in some cases, to depreciate natural gas cycling and processing plants by a method other than the unit-of-production method.

(3) Amortization, using the unit-of-production method as required by subparagraphs (1) and (2) of this paragraph, may be computed either on a property-by-property basis or on the basis of some reasonable aggregation of properties with a common geological structural feature or stratigraphic condition, such as a reservoir or field. Capitalized acquisition costs of a relatively large number of royalty interests that are not individually significant may be aggregated without regard to commonality of geological structural features or stratigraphic conditions; if information is not available to estimate reserve quantities applicable to royalty interests owned, a method other than the unit-of-production method may be used to amortize their acquisition costs. If significant development costs (such as the cost of an offshore production platform) are incurred in connection with a planned group of development wells before all of the planned wells have been drilled, it will be necessary to exclude a portion of those development costs in determining the unit-of-production amortization rate until the additional development wells are drilled. Similarly, it will be necessary to exclude, in computing the amortization rate, those proved developed reserves that will be produced only after significant additional development costs are incurred, such as for improved recovery systems. However, in no case should future development costs be anticipated in computing the amortization rate. Estimated dismantlement and abandonment costs and estimated residual salvage values shall be taken into account in determining amortization and depreciation rates. For those properties or groups of properties containing both oil reserves and gas reserves, the units of oil and gas used to compute amortization shall be converted to a common unit of measure on the basis of their approximate relative energy content (without considering their relative sales values). Unit-of-production amortization rates shall be revised whenever there is an indication of the need for revision but at least once a year; those revisions shall be accounted for prospectively as changes in accounting estimates.

(f) *Costs to be charged to expense as incurred if the successful efforts method of accounting is followed.* Costs incurred in oil and gas producing activities other than those described in paragraph (b) of this section shall be charged to expense. Examples include geological and geophysical costs, the costs of carrying and retaining undeveloped properties, the costs of drilling those exploratory wells and exploratory-type stratigraphic test wells that do not find proved reserves (see paragraph (g) of this section), and production costs.

(g) *Accounting for the costs of exploratory wells and exploratory-type stratigraphic test wells if the successful efforts method of accounting is followed.* The costs of drilling exploratory wells and the costs of drilling exploratory-type stratigraphic test wells shall be capitalized as part of the reporting entity's uncompleted wells, equipment, and facilities pending determination of whether the well has found proved reserves. If the well has found proved reserves, the capitalized costs of drilling the well shall become part of the entity's wells and related equipment and facilities (even though the well may not be completed as a producing well); if, however, the well has not found proved reserves, the capitalized costs of drilling the well, net of any salvage value, shall be charged to expense. The determination of whether proved reserves are found is usually made on or shortly after completion of drilling the well, and the capitalized costs shall either be charged to expense or be reclassified as part of the costs of wells and related equipment and facilities at that time. Information that becomes available after the end of the period covered by the financial statements but before those financial statements are issued shall be taken into account in evaluating conditions that existed at the balance sheet date. Occasionally, an exploratory well or an exploratory-type stratigraphic test well may be determined to have found oil and gas reserves, but classification of those reserves as proved cannot be made when drilling is completed. In those cases, one of the following subparagraphs shall apply:

(1) Exploratory wells that find oil and gas reserves in an area requiring a major capital expenditure, such as a trunk pipeline, before production could begin. On completion of drilling, an exploratory well may be determined to have found oil and gas reserves, but classification of those reserves as proved depends on whether a major capital expenditure can be justified which, in turn, depends on whether additional exploratory wells find a sufficient quantity of additional reserves. In that case, the cost of drilling the exploratory well shall continue to be carried as an asset pending determination of whether proved reserves have been found only as long as both of the following conditions are met: (i) The well has found a sufficient quantity of reserves to justify its completion as a producing well if the required capital expenditure is made, and (ii) drilling of the additional exploratory wells is under way or firmly planned for the near future. Otherwise, the exploratory well shall be assumed to be impaired, and its costs shall be charged to expense.

(2) All other exploratory wells that find oil and gas reserves. In the absence of a determination as to whether the reserves that have been found can be classified as proved, the costs of drilling such an exploratory well shall not be carried as an asset for more than 1 year following completion of drilling. If, after that year has passed, a determination that proved reserves have been found cannot be made, the well shall be assumed to be impaired, and its costs shall be charged to expense.

(3) Exploratory-type stratigraphic test wells that find oil and gas reserves. On completion of drilling, such a well may be determined to have found oil and gas reserves, but classification of those reserves as proved depends on whether a major capital expenditure (usually a production platform) can be justified which, in turn, depends on whether additional exploratory-type stratigraphic test wells find a sufficient quantity of additional reserves. In the case, the cost of drilling the exploratory-type stratigraphic test well shall continue to be carried as an asset pending determination of whether proved reserves have been found only as long as both of the following conditions are met: (i) The well has found a quantity of reserves that would justify its completion for production had it not been simply a stratigraphic test well, and (ii) drilling of the additional exploratory-type stratigraphic test wells is under way or firmly planned for the near future. Otherwise, the exploratory-type stratigraphic tests well shall be assumed to be impaired, and its costs shall be charged to expense.

(h) *Mineral property conveyances and related transactions if the successful efforts method of accounting is followed.* (1) Certain transactions, sometimes referred to as conveyances, are in substance borrowings repayable in cash or its equivalent and shall be accounted for as borrowings. The following are examples of such transactions:

(i) Entities seeking supplies of oil or gas sometimes made cash advances to operators to finance exploration in return for the right to purchase oil or gas discovered. Funds advanced for exploration that are repayable by offset against purchases of oil or gas discovered, or in cash if insufficient oil and gas is produced by a specified date, shall be accounted for as receivable by the lender and as a payable by the operator.

(ii) Funds advanced to an operator that are repayable in cash out of the proceeds from a specified share of future production of a producing property, until the amount advanced plus interest at a specified or determinable rate is paid in full, shall be accounted for as a borrowing. The advance is a payable for the recipient of the cash and a receivable for the party making the advance. Such transactions, as well as those described in subparagraph (5)(i) of this paragraph, are commonly referred to as production payments. The two types differ in substance, however, as explained in subparagraph (5)(i) of this paragraph.

(2) In the following types of conveyances, gain or loss shall not be recognized at the time of conveyance:

(i) A transfer of assets used in oil and gas producing activities (including both proved and unproved properties) in exchange for other assets also used in oil and gas producing activities.

(ii) A pooling of assets in a joint undertaking intended to find, develop, or produce oil or gas from a particular property or group of properties.

(3) In the following types of conveyances, gain shall not be recognized at the time of the conveyance:

(i) A part of an interest owned is sold and substantial uncertainty exists about recovery of the costs applicable to the retained interest.

(ii) A part of an interest owned is sold and the seller has a substantial obligation for future performance, such as an obligation to drill a well or to operate the property without proportional reimbursement for that portion of the drilling or operating costs applicable to the interest sold.

(4) If a conveyance is not one of the types described in subparagraphs (2) and (3) of this paragraph, gain or loss shall be recognized unless there are other aspects of the transaction that would prohibit such recognition under accounting principles applicable to enterprises in general.

(5) In accordance with subparagraphs (2) through (4) of this paragraph, the following types of transactions shall be accounted for as indicated in each example. No attempt has been made to include the many variations of those arrangements that occur, but subparagraphs (2) through (4) of this paragraph shall, where applicable, determine the accounting for those other arrangements as well.

(i) Some production payments differ from those described in subparagraph (1)(ii) of this paragraph in that the seller's obligation is not expressed in monetary terms but as an obligation to deliver, free and clear of all expenses associated with operation of the property, a specified quantity of oil or gas to the purchaser out of a specified share of future production. Such a transaction is a sale of a mineral interest for which gain shall not be recognized because the seller has a substantial obligation for future performance. The seller shall account for the funds received as unearned revenue to be recognized as the oil or gas is delivered. The purchaser of such a production payment has acquired an interest in a mineral property that shall be recorded at cost and amortized by the unit-of-production method as delivery takes place. The estimated oil or gas reserves and production data shall be reported, in accordance with paragraph (k) of this section, as those of the purchaser of the production payment and not of the seller.

(ii) An assignment of the operating interest in an unproved property with retention of a nonoperating interest in return for drilling, development, and operation by the assignee is a pooling of assets in a joint undertaking for which the assignor shall not recognize gain or loss. The assignor's cost of the original interest shall become the cost of the interest retained. The assignee shall account for all costs incurred as specified by paragraphs (b) through (g) of this section and shall allocate none of those costs to the mineral interest acquired. If oil or gas is discovered, each party shall report its share of oil and gas reserves and production, in accordance with paragraph (k) of this section.

(iii) An assignment of a part of an operating interest in an unproved property in exchange for a "free well" with provision for joint ownership and operation is a pooling of assets in a joint undertaking by the parties. The assignor shall record no cost for the obligatory well; the assignee shall record no cost for the mineral interest acquired. All drilling, development, and operating costs incurred by either party shall be accounted for as provided in paragraphs (b) through (g) of this section. If the conveyance agree-

SEP 12 78

ment requires the assignee to incur geological or geophysical expenditures instead of, or in addition to, a drilling obligation, those costs shall likewise be accounted for by the assignee as provided in paragraphs (b) through (g) of this section. If reserves are discovered, each party shall report its share of reserves and production, in accordance with paragraph (k) of this section.

(iv) A part of an operating interest in an unproved property may be assigned to effect an arrangement called a "carried interest," whereby the assignee (the carrying party) agrees to defray all costs of drilling, developing, and operating the property and is entitled to all of the revenue from production from the property, excluding any third party interest, until all of the assignee's costs have been recovered, after which the assignor will share in both costs and production. Such an arrangement represents a pooling of assets in a joint undertaking by the assignor and assignee. The carried party shall make no accounting for any costs and revenue until after recoupment (payout) of the carried costs by the carrying party. Subsequent to payout the carried party shall account for its share of revenue, operating expenses, and (if the agreement provides for subsequent sharing of costs rather than a carried interest) subsequent development costs. During the payout period the carrying party shall record all costs, including those carried, as provided in paragraphs (b) through (g) of this section, and shall record all revenue from the property including that applicable to the recovery of costs carried. The carried party shall report as oil or gas reserves, in accordance with paragraph (k) of this section, only its share of proved reserves estimated to remain after payout, and unit-of-production amortization of the carried party's property costs shall not commence prior to payout. Prior to payout the carrying party's reserve estimates and production data, reported in accordance with paragraph (k) of this section, shall include the quantities applicable to recoupment of the carried costs.

(v) A part of an operating interest owned may be exchanged for a part of an operating interest owned by another party. The purpose of such an arrangement, commonly called a joint venture in the oil and gas industry, often is to avoid duplication of facilities, diversify risks, and achieve operating efficiencies. Such reciprocal conveyances represent exchanges of similar productive assets, and no gain or loss shall be recognized by either party at the time of the transaction. In some joint ventures, which may or may not involve an exchange of interests, the parties may share different elements of costs in different proportions. In such an arrangement a party may acquire an interest in a property or in wells and related equipment that is disproportionate to the share of costs borne by it. As in the case of a carried interest or a free well, each party shall account for its own cost under the provisions of this section. No gain shall be recognized for the acquisition of an interest in joint assets, the cost of which may have been paid in whole or in part by another party.

(vi) In a unitization, all of the operating and nonoperating participants pool their assets in a producing area (normally a field) to form a single unit and in return receive an undivided interest (of the same type as previously held) in that unit. Unitizations generally are undertaken to obtain operating efficiencies and to enhance recovery of reserves, often through improved recovery operations. Participation in the unit is generally proportionate to the oil and gas reserves contributed by each. Because the properties may be in different stages of development at the time of unitization, some participants may pay cash and others may receive cash to equalize contributions of wells and related equipment and facilities with the ownership interests in reserves. In those circumstances, cash paid by a participant shall be recorded as an additional investment in wells and related equipment and facilities, and cash received by a participant shall be recorded as a recovery of cost. The cost of the assets contributed plus or minus cash paid or received is the cost of the participant's undivided interest in the assets of the unit. Each participant shall include its interest in reporting reserve estimates and production data.

(vii) If the entire interest in an unproved property is sold for cash or cash equivalent, recognition of gain or loss depends on whether, in applying paragraph (c) of this section, impairment had been assessed for that property individually, or by amortizing that property as part of a group. If impairment was assessed individually, gain or loss shall be recognized. For a property amortized by providing a valuation allowance on a group basis, neither gain nor loss shall be recognized when an unproved property is sold unless the sales price exceeds the original cost of the property, in which case gain shall be recognized in the amount of such excess.

(viii) If a part of the interest in an unproved property is sold, even though for cash or cash equivalent, substantial uncertainty usually exists as to recovery of the cost applicable to the interest retained. Consequently, the amount received shall be treated as a recovery of cost. However, if the sales price exceeds the carrying amount of a property whose impairment has been assessed individually in accordance with paragraph (c) of this section, or exceeds the original cost of a property amortized by providing a valuation allowance on a group basis, gain shall be recognized in the amount of such excess.

(ix) The sale of an entire interest in a proved property that constitutes a separate amortization base is not one of the types of conveyances described in paragraphs (h)(2) and (h)(3) of this section. The difference between the amount of sales proceeds and the unamortized cost shall be recognized as a gain or loss.

(x) The sale of a part of a proved property, or of an entire proved property constituting a part of an amortization base, shall be accounted for as the sale of an asset, and a gain or loss shall be recognized, since it is not one of the conveyances described in paragraphs (h)(2) and (h)(3) of this section. The unamortized cost of the property or group of properties, a part of which was sold, shall be apportioned to the interest sold and the interest retained on the basis of the fair values of those interests. However, the sale may be accounted for as a normal retirement under the provisions of paragraph (d) of this section with no gain or loss recognized if doing so does not significantly affect the unit-of-production amortization rate.

(xi) The sale of the operating interest in a proved property for cash with retention of a nonoperating interest is not one of the types of conveyances described in paragraphs (h)(2) and (h)(3) of this section. Accordingly, it shall be accounted for as the sale of an asset, and any gain or loss shall be recognized. The Seller shall allocate the cost of proved property to the operating interest sold and the nonoperating interest retained on the basis of the fair values of those interests.

(xii) The sale of a proved property subject to a retained production payment that is expressed as a fixed sum of money payable only from a specified share of production from that property, with the purchaser of the property obligated to incur the future costs of operating the property, shall be accounted for as follows: If satisfaction of the retained production payment is reasonably assured, the seller of the property, who retained the production payment, shall record the transaction as a sale, with recognition of any resulting gain or loss. The retained production payment shall be recorded as a receivable. The purchaser shall record as the cost of the assets acquired the cash consideration paid plus the present value of the retained production payment, which shall be recorded as a payable. The oil and gas reserve estimates and production data, including those applicable to liquida-

tion of the retained production payment, shall be reported by the purchaser of the property. If satisfaction of the retained production payment is not reasonably assured, the transaction is in substance a sale with retention of an overriding royalty that shall be accounted for in accordance with subparagraph (5)(xi) of this paragraph.

(xiii) The sale of a proved property subject to a retained production payment that is expressed as a right to a specified quantity of oil or gas out of a specified share of future production shall be accounted for in accordance with subparagraph (5)(xi) of this paragraph.

(i) *Application of the full cost method of accounting.* (Provisions of this paragraph have been proposed for public comment in Release No. 33-5968, dated August 31, 1978.)

(j) *Income taxes.* Comprehensive interperiod income tax allocation by the deferred method shall be followed for intangible drilling and development costs and other costs incurred that enter into the determination of taxable income and pretax accounting income in different periods. The excess of statutory depletion over cost depletion for income tax purposes shall be accounted for as a permanent difference in the period in which the excess is deducted for income tax purposes.

(k) *Disclosure of quantities of proved oil and gas reserves and historical financial data.* The following data shall be disclosed in the body of the financial statements, in the notes thereto, or in a separate schedule or other presentation that is an integral part of the financial statements.

(1) *Disclosure of method of accounting.* The reporting entity shall disclose on the face of its balance sheet that it is adhering to the successful efforts method of accounting or the full cost method of accounting.

(2) *Disclosure of capitalized costs.* The aggregate amount of capitalized costs relating to oil and gas producing activities and the aggregate amount of the related accumulated depreciations, depletion, amortization, and valuation allowances shall be reported as of the end of each period for which a balance sheet is presented, with separate presentation for each geographic area for which quantities of proved reserves are presented in accordance with paragraph (k)(5) of this section. If the capitalized costs of unproved properties are significant, aggregate amounts shall be reported separately for capitalized costs related to unproved properties and capitalized costs related to proved properties. Capitalized costs of support equipment and facilities may be disclosed separately or included, as appropriate, with capitalized costs of proved and unproved properties.

(3) *Disclosure of costs incurred in oil and gas producing activities.* The financial statements shall disclose the amounts of each of the following types of costs for each year for which an income statement is required (whether those costs are capitalized or charged to expense at the time they are incurred): (i) Property acquisition costs (disclose separately the costs of acquiring proved properties, if significant); (ii) Exploration costs; (iii) Development costs; and (iv) Production (lifting) costs.

Exploration, development, and production costs include depreciation of support equipment and facilities used in those activities rather than the expenditures to acquire support equipment and facilities. Production (lifting) costs do not include depreciation, depletion, and amortization of capitalized acquisition, exploration, and development costs. If some or all of those costs are incurred in foreign countries, the amounts shall be disclosed separately for each of the geographic areas for which reserve quantities are disclosed in accordance with paragraph (k)(5) of this section and for any other foreign geographic area in which significant costs have been incurred without discovery of significant proved reserves. Also, disclose depreciation, depletion, amortization, and valuation provisions relating to oil and gas producing activities, presented separately for each of these geographic areas. If the reporting entity's share of the oil and gas reserves of its investee companies accounted for by the equity method is reported in conformity with paragraph (k)(5) of this section, disclosure shall also be made of the investor's share of its investee's capitalized costs and costs incurred in oil and gas producing activities.

(4) *Revenues from producing oil and gas.* (i) For each full fiscal year for which an income statement is required, disclose, for each geographic area for which reserve quantities are disclosed in accordance with paragraph (k)(5) of this section, the net revenues from oil and gas production related to each of the following, if significant: (A) Proved developed oil and gas reserves, (B) reserves applicable to long-term supply or similar agreements with foreign governments in which the entity acts as producer (see paragraph (k)(5) of this section), and (C) the entity's proportional interest in reserves of investees accounted for by the equity method.

(ii) Net revenues shall be computed by subtracting production costs from gross revenues that are determined in accordance with the provisions of this subparagraph, as presented below. The following accounting practices shall be applied in determining gross revenues from sales or transfers of production of oil and gas:

(A) Sales to unaffiliated entities shall be included in gross revenues at the amount received in sales transactions attributable to net working interests, royalty interests, oil payments interests (see paragraph (h) of this section), net profits interests, etc., of the reporting entity. Production or severance taxes should not be deducted in determining gross revenues. Royalty payments and net profits disbursements should be excluded from gross revenues.

(B) Sales and transfers to unconsolidated affiliated persons and to other operations (such as refineries, chemical plants, etc.) of the reporting entity shall be separately disclosed and accounted for in the same manner as described in paragraph (k)(4)(ii)(A) of this section except that such sales and transfers shall be valued at estimated market prices based on the prices of comparable products using posted field prices, if applicable, or amounts estimated to represent prices equivalent to those that could be obtained in a competitive arm's-length market environment, giving recognition to transportation costs, quality differences, and arrangements with and regulation of governments.

(5) *Disclosure of estimated quantities of proved oil and gas reserves.* Net quantities of proved reserves and proved developed reserves of crude oil (including condensate and natural gas liquids) and natural gas shall be reported as of the beginning and the end of each full fiscal year for which an income statement is required. "Net" quantities of reserves include those relating to the operating and nonoperating interests in properties as defined in paragraph (b)(1) of this section. Quantities of reserves relating to royalty interests owned shall be included in "net" quantities if the necessary information is available; if reserves relating to royalty interests owned are not included because the information is unavailable, that fact and the reporting entity's share of oil and gas produced for those royalty interests shall be reported for each year for which a complete set of financial statements is presented. "Net" quantities shall not include reserves relating to interests of others in properties owned by the reporting entity.

(l) Changes in the net quantities of proved reserves of oil and gas during each full fiscal year for which an income statement is required shall be reported. Changes resulting from each of the following shall be shown separately, with appropriate explanation of significant changes:

(A) *Revisions of previous estimates.* Revisions represent changes in previ-

V 43 / 177 SE 12 78

V 4 3 / 1 7 7

ous estimates of proved reserves, either upward or downward, resulting from new information (except for an increase in proved acreage) normally obtained from development drilling and production history or resulting from a change in economic factors.

(B) *Improved recovery.* Changes in reserve estimates resulting from application of improved recovery techniques shall be separately shown if significant. If not significant, such changes shall be included in revisions of previous estimates.

(C) *Purchases of minerals-in-place.*

(D) *Extension, discoveries, and other additions.* Additions to proved reserves that result from extension of the proved acreage of previously discovered (old) reservoirs through additional drilling in periods subsequent to discovery and discovery of new fields with proved reserves or of new reservoirs of proved reserves in old fields.

(E) *Production.*

(F) *Sales of minerals-in-place.* (ii) If the reporting entity's proved reserves of oil and gas are located entirely within its home country, that fact shall be disclosed. If some or all of its reserves are located in foreign countries, the disclosures of net quantities of reserves of oil and gas and changes in them (as required above) shall be separately reported for the entity's home country (if significant reserves are located there) and each foreign geographic area in which significant reserves are located. Foreign geographic areas are individual countries or groups of countries, as appropriate, for meaningful disclosure in the circumstances.

(iii) Net quantities disclosed shall not include oil or gas subject to purchase under long-term supply, purchase, or similar agreements and contracts, including such agreements with foreign governments or authorities. However, quantities of oil and gas subject to such agreements with foreign governments or authorities as of the end of each full fiscal year for which an income statement is required, and the net quantity of oil or gas received under the agreements during each such year, shall be separately disclosed if the reporting entity participates in the operation of the properties in which the oil or gas is located or otherwise serves as the "producer" of those reserves, as opposed, for example, to being an independent purchaser, broker, dealer, or importer.

(iv) In determining the reserve quantities to be reported: (A) If consolidated financial statements are issued, 100 percent of the net reserve quantities attributable to the parent company and 100 percent of the net reserve quantities attributable to its consolidated subsidiaries (whether or not wholly owned) shall be included.

(B) If the financial statements include investments that are proportionately consolidated, reserve quantities shall include a proportionate share of the investee's net oil and gas reserves.

(C) If the financial statements include investments that are accounted for by the equity method, the investee's net proved oil and gas reserves shall not be included in the disclosures of reserves. However, the reporting entity's share of the investee's net proved oil and gas reserves shall be separately reported as of the end of each full fiscal year for which an income statement is required.

(v) If important economic factors or significant uncertainties affect particular components of proved reserves, explanations shall be provided. Examples include unusually high expected development or lifting costs; the necessity to build a major pipeline or other major facilities before production of the reserves can begin; or contractual obligations to produce and sell a significant portion of reserves at prices that are substantially below those at which the oil and gas could otherwise be sold in the absence of the contractual obligation.

(6) *Disclosure of future net revenues from estimated production of proved oil and gas reserves.* In conjunction with the disclosure of changes in net quantities of estimated proved reserves of crude oil (including condensate and natural gas liquids) and natural gas as required by paragraph (k)(5) of this section, the following information shall be disclosed in financial statements for each geographic classification for which quantities of oil and gas are disclosed:

(i) For each of the following categories: (A) Proved oil and gas reserves, (B) proved developed oil and gas reserves, (C) proved oil and gas reserves applicable to long-term supply or similar agreements with foreign governments in which the entity acts as producer, and (D) the entity's share of proved oil and gas reserves of investees accounted for by the equity method, an amount (the "Estimated Future Net Revenues"), in the aggregate, computed by applying current prices of oil and gas to estimated future production of proved oil and gas reserves as of the date of the latest balance sheet presented, less estimated future expenditures (based on current costs) to be incurred in developing and producing the proved reserves, and assuming continuation of existing economic conditions. Present separately the amounts applicable to each of the first 3 succeeding fiscal years, and the remainder in a single amount. Indicate the basis used to compute current prices and current costs.

(ii) The present vaue of the Estimated Future Net Revenues (the "Present Value of Estimated Future Net Revenues"), as of the end of each full fiscal year for which an income statement is required, computed using the Estimated Future Net Revenues and a discount factor of 10 percent. In addition, disclose the portions of the Present Value of Estimated Future Net Revenues, at such balance sheet dates, attributable to each of the following components of proved oil and gas reserves: (A) Proved reserves added in years prior to the current year; and (B) proved reserves added during the current year, with amounts attributable to application of improved recovery techiques or purchases of reserves in-place disclosed separately, if significant (which in this case shall generally be considered to be amounts greater than 10 percent of total proved reserves added during the current year).

(iii) The Present Value of Estimated Future Net Revenues, computed as set forth at (k)(6)(i) above, attributable to each of the following, stated separately: (A) Proved developed reserves of oil and gas, (B) proved reserves of oil and gas applicable to long-term supply agreements with foreign governments in which the company acts as producer, and (C) the entity's share of proved reserves of oil and gas of investees accounted for by the equity method.

(iv) Any additional information of which management is aware and which it believes is necessary to prevent the above information from being misleading.

(v) Information relating to the disclosure of future net revenues from estimated production of proved oil and gas reserves pursuant or supplemental to the requirements of this section shall be deemed not to be an untrue statement of a material fact; a statement false or misleading with respect to any material fact; an omission to state a material fact necessary to make a statement not misleading; or the employment of a manipulative, deceptive, or fraudulent device, contrivance, scheme, transaction, act, practice, course of business or an artifice to defraud; as those terms are used in the Securities Act of 1933, the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935, or rules and regulations thereunder, unless such information: (A) Was prepared without a reasonable basis; or (B) was disclosed other than in good faith.

These amendments are adopted pursuant to authority in sections 6, 7, 8, 10, and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s) of the Securities Act of 1933; sections 12, 13, 15(d), and 23(a) (15 U.S.C. 78l, 78m, 78o(d), 78w) of the Securities Exchange Act of 1934; sections 5(b), 14, and 20(a) (15 U.S.C. 79e, 79n, 79t) of the Public Utility Holding Company Act of 1935; sections 8, 30, 31(c), and 38(a) (15 U.S.C. 80a-8, 80a-29, 80a-30(c), 80a-37(a)) of the Investment Company Act of 1940; and section 503 (42 U.S.C. 6383) of the Energy Policy and Conservation Act of 1975.

Pursuant to section 23(a)(2) of the Securities Exchange Act, the Commission has considered the impact that these rules might have on competition and has concluded that, to the extent the rules impose burdens on competition, such burdens are necessary and appropriate in furtherance of the purposes of the securities laws.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 31, 1978.

[FR Doc. 78-25575 Filed 9-11-78; 8:45 am]

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[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 229]

[Release Nos. 33-5967; 34-15109; 35-20691; IC-10385; File No. S7-752]

DISCLOSURE OF OIL AND GAS RESERVES AND OPERATIONS

Proposed Amendments to Regulation S-K

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission proposes to amend its disclosure requirements relating to oil and gas reserves. The proposed amendments would revise the disclosure by oil and gas enterprises in certain registration statements, periodic reports, and proxy and information statements filed with the Commission under the Securities Act of 1933 and the Securities Exchange Act of 1934 to require disclosure of proved reserves for each of the last 5 years, of any favorable or adverse event since the end of the most recent fiscal year, and of the present value of future net revenues from estimated production of proved oil and gas reserves. In addition, the proposed amendments would specify disclosures based upon definitions of "proved reserves" as adopted in regulation S-X in order to obtain consistency in language with the definitions published by the Department of Energy in form EIA-23.

DATE: Comments should be submitted on or before October 15, 1978.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchanged Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to file No. S7-752. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Richard Smith, Office of Engineering, 202-376-2391; J. Rowland Cook, Office of Disclosure Policy and Proceedings, 202-755-1750; Joseph H. Schmitt, Division of Corporation Finance, 202-376-2380; or James L. Russell, Office of the Chief Accountant, 202-755-0222.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is publishing for comment proposed amendments to the Commission's disclosure requirements relating to oil and gas reserves. This release is being published in conjunction with a separate release adopting rules relating to financial accounting for oil and gas producing activities.[1] If adopted, these proposed amendments would revise the existing disclosure requirements for oil and gas reserves.

Background

In release No. 33-5966 the Commission adopted amendments to regulation S-X, a regulation which prescribes the form and content of financial statements included in documents filed under the Federal securities laws. Those rules also apply in the preparation of accounts by persons engaged, in whole or in part, in the production of crude oil or natural gas in the United States for purposes of filing with the Department of Energy ("DOE") reports of energy information that are subject to the requirements of the Energy Policy and Conservation Act of 1975, 89 Stat. 871 ("EPCA"). In addition, regulation S-K, sets forth certain disclosure requirements applicable to documents filed under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq., as amended by Pub. L. 94-29 (June 4, 1975)) and the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. 94-29 (June 4, 1975)).

Basis for Proposed Amendments

In connection with the adoption of the amendments to regulation S-X relating to oil and gas activities,[2] the Commission has also reexamined the nonaccounting disclosure requirements of oil and gas enterprises to determine whether any new or amended rules or guidelines were necessary for the disclosure to be made in registration statements and reports. Presently, where oil and gas operations are material to the registrant's business operations or financial position, disclosure is required pursuant to item 2(b) of regulation S-K.[3] The following discussion summarizes the proposed amendments and generally compares them with the present item 2 of regulation S-K.

[1] Release No. 33-5966 (Aug. 31, 1978) (appearing in this same separate part).

[2] Id.

[3] See, release No. 33-5706 (May 12, 1976) (41 FR 21764) announcing the adoption of amendments to forms S-1 and S-7 and of publication of an amendment to guide 28 of the guides for the preparation and filing of registration statements under the Securities Act of 1933, and the adoption of amendments to forms 10 and 10-K and of publication of amendments to guide 2 of the guides for the preparation and filing of reports and proxy and registration statements under the Securities Exchange Act of 1934 relating to the disclosure of estimates of oil and gas reserves. See also, release No. 33-5893 (Dec. 23, 1977) (42 FR 65554) incorporating the disclosure required by release No. 33-5706 with regulation S-K.

ITEM 2(a)—INSTRUCTION 3

If individual properties are of major significance to an industry segment of an extractive enterprise, instruction 3 presently requires, among other things, more detailed information of "significant geological structures and formations." The Commission feels this terminology may be unduly restrictive and that more useful information may be obtained if the discussion included any "significant geological data."

ITEM 2(a)—INSTRUCTION 4

The first sentence of instruction 4 is an amendment of the existing last sentence of instruction 3 of item 2(a). The proposed amendment requires the registrant under certain conditions to contact the Commission's Office of Engineering in order to determine what documents, if any, should be supplied as supplemental information. Such consultations would help eliminate imcomplete or unnecessary documents being furnished to the engineering staff. The amended language of this sentence also states that it is inappropriate to file such information as part of or as an exhibit to the document.

The remainder of instruction 4 is new. It proposes that where certain information is or will be based on estimates proposed or reviewed by independent consultants, those independent consultants should be named in the report or registration statement and a letter from those consultants should be included in the document. The instruction also specifies what information should be contained in the letter. The provisions of this instruction generally follow the present practices of many registrants; the present value data is intended to complement the new requirements of regulation S-X.

ITEM 2(b)—NOTE 2

Note 2 is new, but it will only be effective for the fiscal year ending after December 25, 1978, and on or before December 25, 1979. It is intended that certain information be provided as nonfinancial statement data for such fiscal year; thereafter, this information will be required to be disclosed as part of the financial statements pursuant to 17 CFR 210.3-18(k).

Note 2 proposes disclosure as of the end of such fiscal year of capitalized costs, costs incurred in oil and gas producing activities, revenues from producing oil and gas, certain estimated quantities of proved oil and gas reserves, and information on future net revenue from estimated production of proved oil and gas reserves. This information will be in lieu of existing paragraph (b)(1) of item 2 which only requires disclosure of estimates of proved developed and proved undeveloped reserves.

ITEM 2(b)(1)

Proposed item 2(b)(1), which would not take effect until the fiscal year ending after December 25, 1979, expands the present disclosure of paragraph (b)(1) to reflect the estimates of proved reserves on a 5-year basis rather than "as of a reasonably current date." It should be noted that new article 3-18(k)(5) of regulation S-X requires disclosure of estimated quantities of proved oil and gas reserves as part of the financial statements. This information would be given for each year for which an income statement is required, and thus would be included for 2 fiscal years for a form 10-K and 3 fiscal years for a form S-1. The data required by regulation S-X would include detailed information about the nature of reserve changes from the beginning to the end of each of the years presented. Amended paragraph (b)(1) would serve as a summary of the information presented under article 3-18(k)(5) and would eventually bring the number of years presented to 5 in order to serve as a comparison with the presentation under proposed paragraph (b)(3) of oil and gas produced.

Proposed paragraph (b)(1) also would require new disclosure concerning reserves in the form of the "the registrant's share of reserves of investees accounted for by the equity method." This new disclosure and the modified disclosure in this paragraph of reportable gepgraphic areas has been proposed in order to conform this paragraph with the requirements of article 3-18 of regulation S-X.

Proposed paragraph (b)(1) would require disclosure relating to certain actions of foreign governments now required by instructions 3(a) and 3(c) of present item 2(b). However, this proposed paragraph is modified to require that the registrant notify the staff of the commission if any foreign government restricts the disclosure of estimated reserves for properties under their governmental authority. Presently, the registrant need not disclose such estimates. The commission has included this provision as a means of monitoring those instances in which data is not dislcosed due to the restriction of a foreign government. The Commission believes registrants should make every reasonable effort to disclose such data, and that the use of this provision should be as limited as possible.

The definitions of the term "proved oil and gas reserves" and various related terms would no longer be located under instruction 2 of item 2(b) of regulation S-K. Rather, proposed paragraph (b)(1) would contain a cross-reference to these definitions which are now located in article 3-18(a) of regulation S-X.[4] These definitions have been patterned after those published by the Department of Energy in form EIA-23.[5]

A new requirement proposed by paragraph (b)(1) is the disclosure of the present value of estimated future net revenues for each of the net quantities of reserves presented. This information is consistent with the requirements of article 3-18(k)(6) of regulation S-X.

The proposed instruction to (b)(1) is new. It would require management to make a statement in the documents, if true, that no significant change in the proved reserves has occurred since the end of the most recent fiscal year. However, if a significant change has occurred in the proved reserves, the event which caused such change would be discussed as well as disclosure of the proved reserves associated with such event. It is intended that the reserve information be updated only during any fiscal year when management knows of an event which would materially affect estimated quantities of proved reserves. The Commission feels that this method of "updating" reserve information would not subject the registrant to the costs and burdens of compiling complete, interim engineering and reserve estimates.

ITEM 2(b)(2)

Proposed paragraph (b)(2) contains substantially the same disclosure presently required by paragraph (b)(5) and instruction 7 of item 2.

ITEM 2(b)(3)

Proposed paragraph (b)(3) contains substantially the same disclosure presently required by paragraph (b)(2) and instruction 4 to item 2 except that it is proposed that the net quantities of oil, condensate and natural gas liquids produced would be combined. Presently, production of oil, condensate and natural gas liquids is shown separately. The purpose of this revision is to conform the disclosure of this paragraph with article 3-18(k) of regulation S-X.

Proposed paragraph (b)(3) would also require disclosure of: (a) The average sales price per unit of oil produced and of gas produced, (b) the average transfer value per unit of oil and of gas produced, and (c) the average production (lifting cost) per unit of production. The disclosure of this information would further conform this paragraph with the requirements of article 3-18 of regulation S-X.

[4] See Securities Act Release No. 5966 for a discussion of these definitions.

[5] 43 FR 6993.

ITEM 2(b)(4)

Proposed paragraph (b)(4) contains substantially the same disclosure presently required by paragraph (b)(3) and instruction 5 of item 2.

ITEM 2(b)(5)

Proposed paragraph (b)(5) contains substantially the same disclosure presently required by paragraph (b)(6) and instruction 8 of item 2.

ITEM 2(b)(6)

Proposed paragraph (b)(6) is new. The Commission feels that information concerning the number of productive and dry wells and the aggregate net drilling footage of such wells would be useful. It is also proposed that such information be furnished on the basis of appropriate geographic areas.

ITEM 2(b)(7)

Proposed paragraph (b)(7) contains substantially the same disclosure presently required by paragraph (b)(7) and instruction 9 of item 2.

ITEM 2(b)(8)

Paragraph (b)(4) presently requires disclosure of the availability of oil and gas from the present reserve and contract supplies. Additional disclosure is also specified for companies engaged in the gathering, transmission, or distribution of natural gas pursuant to guide 28 under the Securities Act and guide 2 under the Exchange Act.

Proposed paragraph (b)(8) would revise present paragraph (b)(4) by incorporating certain aspects of guides 28 and 2 into this paragraph. Moreover, the proposed revision specifies that this information, if material, would be required only for registrants who are obligated to provide oil and gas in the future under existing contracts or agreements. The Commission feels that the present provisions which limit the disclosure to companies engaged in gathering, transmission, or distribution of natural gas may not be broad enough to identify clearly all registrants whose operations necessitate disclosure of this type. It is expected that the information specified in proposed item 2(b)(8) can be presented in a tabular format which will highlight any anticipated shortfalls between the registrant's sources of oil and gas and its commitments to furnish oil and gas.

If this paragraph is adopted, it is expected that guide 28 of the Securities Act and guide 2 of the Exchange Act would be repealed.

Text of Proposed Amendments

The Commission hereby proposes to amend item 2 of regulation S-K, 17 CFR 229.20 to revise instruction 3 and

add a new instruction 4 to paragraph (a) and to revise paragraph (b) as set forth below:

§ 229.20 Information required in document.

* * * * *

Item 2. Description of property.

(a) (No change).

Instruction. 1. (No change).

2. (No change).

3. In the case of an extractive enterprise, material information should be given as to production, reserves, locations, developments, and the nature of the registrant's interest. If individual properties are of major significance to an industry segment, (i) more detailed information concering these matters should be furnished, including the results of development in the area and significant geological data, if appropriate, and (ii) appropriate maps should be used to disclose location data of significant properties except in cases for which numerous maps would be required.

4. If the report of an engineer or other expert is or will be referred to in the document, the staff of the Office of Engineering of the Division of Corporation Finance of the Commission should be consulted; that office may request that a copy of the full report be furnished as supplemental information, and not as part of the filing. If the estimates of proved reserves of oil and gas, or any estimated value thereof, are represented as being based on estimates prepared or reviewed by independent consultants, those independent consultants should be named in the document and a letter from such consultants which discloses summary information in substantially the following format should be included in the document:

Net proved oil and gas reserve information as of (date)

	Developed		Undeveloped	Total
	Producing	Nonproducing		
Oil, bbls				
Gas, mcf				
Estimated present value discounted [1] at 10 pct	$	$	$	$

[1] Estimated maximum productive life — years.

The present value should be determined in accordance with § 210.3-18(k)(6). If the document to be filed is a registration statement filed under the Securities Act of 1933, the letter should also contain the consent of the consultant to the use of the information in the prospectus and, if applicable, the naming of such persons in the prospectus as experts. At least one copy of the letter shoud be manually signed.

(b) If oil and gas operations are material to the registrant's and its subsidelaries' business operations or financial position, disclose the following under appropriate captions (in tabular form if practicable, and with cross-references, where applicable, to related information disclosed in finacial statements):

NOTE 1.—Limited partnerships or joint ventures that conduct, operate, manage, or report upon oil and gas drilling or income programs which acquire properties either for drilling and production, or for production of oil, gas, or geothermal steam or water are not required to include the information specified by this paragraph (b).

NOTE 2.—This note shall apply only for the fiscal year ending after December 25, 1978, and on or before December 25, 1979. For such fiscal year, registrants shall disclose (in lieu of paragraph (b)(1) below) the following:

(i) The capitalized costs specified by § 210.3-18(k)(2), as of the end of such fiscal year.

(ii) The costs incurred in oil and gas producing activities specified by § 210.3-18(k)(3) for such fiscal year.

(iii) The revenues from producing oil and gas specified by § 210.3-18(k)(4) for such fiscal year.

(iv) The estimated quantities of proved oil and gas reserves specified by § 210.3-18(k)(5) except that changes in net quantities of proved reserves and quantities of oil and gas applicable to long-term supply or similar agreements with foreign governments or authorities in which the registrant acts as producer need only be given for such fiscal year; and the estimated quantities of proved developed reserves, quantities applicable to long-term supply or similar agreements with foreign governments or authorities in which the registrant acts as producer and the registrant's share of proved reserves of its investees accounted for by the equity method need only be given as of the end of such fiscal year.

(v) The information on future net revenue from estimated production of proved oil and gas reserves specified by § 210.3-18(k)(6) as of the end of such fiscal year or for such fiscal year, as applicable.

For purposes of the requirements of this note, the definitions of § 210.3-18(a) shall apply. This note shall be deleted from this paragraph when the rules in § 210.3-18 become effective for financial statements.

(1) As of the end of each of the last 5 fiscal years (but not for fiscal years ending prior to December 25, 1978), estimated net quantities of: (i) Proved oil and gas reserves; (ii) proved developed oil and gas reserves; (iii) oil and gas applicable to long-term supply or similar agreements with foreign governments or authorities in which the registrant acts as producer; and (iv) the registrant's share of reserves of investees accounted for by the equity method. The definitions in § 210:3-18(a) shall apply to this paragraph (b)(1). For each of the net quantities reported, disclose the present value of estimated future net revenues, computed in accordance with § 210.3-18(k)(6). If these reserves are located entirely within the registrant's home country, that fact shall be disclosed. If some or all of the reserves are located in foreign countries, the disclosure of net quantities of reserves of oil and gas and present value of estimated future net revenues (as required above) shall be separately reported for the entity's home country (if significant reserves are located there and each foreign geographic area in which significant reserves are located. Foreign geographic areas are individual countries or groups of countries, as appropriate, for meaningful disclosure in the circumstances.

Disclosure shall be given of the effect on ownership of reserves of any takeover or nationalization by foreign government of properties owned by the registrant, including any possible change of a property interest into a long-term supply, purchase, or similar agreement. If any foreign government restricts the disclosure of estimated reserves for properties under their governmental authority, or amounts under long-term supply, purchase, or similar agreements, the registrant should notify the staff of the Commission. If the required information is not disclosed for this reason, the document should identify the country and indicate that the reported reserve estimates or amounts do not include figures for the named country.

The following instruction applies to this paragraph (b)(1):

If no major discovery or other favorable or adverse event that causes a significant change in the proved reserves has occurred since the end of the most recent fiscal year, a statement to that effect shall be made; otherwise, an explanation of any such discovery or event should be provided, including, to the extent reasonable, an estimate of the proved oil and gas reserves associated with such discovery or event.

(2) Any proved oil or gas reserve estimates filed with or included in reports to any other Federal or foreign governmental authority or agency since the beginning of the last fiscal year (or a statement that there were none), together with the name of the authority or agency and an explanation of the reasons for differences, if any, between such estimates and the estimates included in the document.

This requirement as it relates to estimates filed with a foreign governmental authority or agency shall not apply if: (a) The total foreign reserve estimate included in the Commission filing does not exceed 5 percent of the total reserve estimate; or (b) the difference between the foreign reserve estimate included in the Commission filing and the reserve estimate filed with the governmental authority or agency does not exceed 5 percent. However, a statement that the foreign reserve estimate or the difference, whichever is applicable, does not exceed 5 percent shall also be included.

(3) Net quantities of oil (including condensate and natural gas liquids) and of gas produced for each of the last 5 fiscal years and the net quantities of each received during each of these years applicable to long-term supply or similar agreements with foreign governments or authorities in which the registrant acts as producer, by areas no larger than the geographic areas used for estimated reserves in paragraph (b)(1) above. Also disclose separately, for the same geographic areas for which production data are presented, (a) the average sales price per unit of oil produced and of gas produced, (b) the average transfer value per unit of oil and of gas produced, and (c) the average production (lifting cost) per unit of production.

The following instructions apply to this paragraph (b)(3):

(a) Generally, net production should include only production that is owned by the registrant and produced to its interest, less royalties and production die others. However, in special situations (e.g., foreign production) net production before royalties may be provided if more appropriate. If "net before royalty" production figures are furnished, the change from the common usage of "net production" should be noted.

(b) Any part of natural gas liquids production obtained through or from processing plant ownership rather than through leasehold ownership should be reported separately, if material.

(c) Production of natural gas should include only marketable production of gas on an "as sold" basis. Production will include dry, residue, and wet gas, depending on whether liquids have been extracted before the registrant passed title. Flared gas, recovered gas-lift, injected gas, reproduced gas, and gas consumed in operations should be omitted.

(d) The transfer value of oil and gas produced shall be determined in accordance with § 210.3-18(k)(3).

(e) Production costs per unit produced shall be computed using the production costs disclosed pursuant to § 210.3-18(k)(3).

(4) As of a reasonably current date or as of the end of the most recent fiscal year, the total gross and net productive wells, expressed separately for oil and gas, and the total gross and net producing (i.e., developed) acres by the geographic areas for which production data are presented pursuant to paragraph (b)(3) above.

The following instructions shall apply to this paragraph (b)(4):

(a) For purposes of this requirement, one or more completions in the same borehole shall be counted as one well. A footnote shall disclose the number of wells with multiple completions. If one of the multiple completions in a given well is an oil completion, the well shall be classified as an oil well.

(b) A gross well or acre is a well or acre in which an interest is owned. The number of gross wells is the total number of wells in which an interest is owned.

(c) A net well or acre is deemed to exist when the sum of fractional ownership interests in gas wells or acres equals 1. The number of net wells or acres is the sum of the fractional interests owned in gross wells or acres expressed as whole numbers and fractions thereof.

(d) For those unusual situations in which gross and net data cannot be supplied, an alternative disclosure should be furnished that adequately describes the registrant's productive wells and producing acreage.

(5) As of a reasonably current date or as of the end of the most recent fiscal year, the amounts of undeveloped acreage, both leases and concessions, if any, expressed in both grass and net acres by appropriate geographic area, together with an indication of acreage concentrations, and, if material, the minmum remaining terms of leases and concessions. Undeveloped acreage is considered to be those lease areas not now held for production; it should not be confused with acreage for which proved undeveloped reserves can be estimated, which is to be included in producing acreage disclosed pursuant to paragraph (b)(4) above.

(6) For each of the last 5 fiscal years, disclose by appropriate geographic area: (a) the number of net productive and dry exploratory wells drilled; (b) the number of net productive and dry development wells drilled; and (c) the aggregate net drilling footage of exploratory wells and aggregare net drilling footage of development wells.

Instructions for purposes of this paragraph (b)(6) are:

(a) See § 210.3-18(a) for the definition of an exploratory well and a development well.

(b) A dry well (hole) is an exploratory or a development well found to be incapable of producing either oil or gas in sufficient quantities to justify completion as an oil or gas well. The term "completion" refers to the installation of permanent equipment for the production of oil or gas.

(c) A productive well is an exploratory or a development well that is not a dry well.

(d) The number of wells drilled refers to the number of holes completed at any time during the fiscal year, regardless of when drilling was initiated.

(e) Drilling footage is the deepest total depth (length of well bored) of all wells drilled from the surface, excluding (i) the total of all bypassed footage drilled in connection with reported wells and (ii) all new footage drilled for directional "sidetrack" wells. In the case of old wells drilled deeper, the reported footage is that which was drilled below the total depth of the old well.

(7) Present activities, such as the number of wells in process of drilling, waterfloods in process of installation, pressure maintenance operations, and any other related operations of material importance by appropriate geographic areas. This description of present activities whould be provided for an "as of" date as close to the date of filing the document as reasonably possible or as of the end of the most recent fiscal year. The disclosure of wells in the process of being drilled should include only those wells actually being drilled at the "as of" date and should be expressed in terms of both gross and net wells. The disclosure should not include wells planned but not commenced, unless there are factors involved which make such information material.

(8) If the registrant is obligated to provide oil or gas in the future under existing contracts or agreements, material information concerning the estimated availability of oil and gas from any principal sources.

(i) Such information shall be furnished as to current and future reserves and supplies, and should (1) identify the principal sources of reserves and supplies relied on or to be relied upon and the amounts received or to be received from each source; (2) disclose delivery commitment and customers' requirements; and (3) indicate steps taken to insure available supplies are sufficient to meet such commitments. Such future information shall be provided for an appropriate period of 1 to 5 years.

(ii) The term "availability" is used herein to mean an estimate of that quantity of oil and gas which can be produced from current proved developed reserves and an estimate of amounts that can be delivered under long-term supply or purchase agreements, using presently installed equipment under existing economic and operating conditions on a per-day, per-month, or per-year basis. However, this term is not intended to have the same meaning as "deliverability" as used by the Federal Energy Regulatory Commission in FPC form No. 15.

(iii) The registrant should develop disclosure based upon the facts and circumstances of its particular situation, including, where appropriate, disclosure by areas or regions. Such disclosure should be in a form understandable to investors and should include, but not be limited to, description of the following factors: (1) Supplies dedicated or contracted to the registrant; (2) any significant amounts of reserves or supplies subject to priorities which may affect quantities delivered to certain classes of customers, such as customers receiving services under low priority and interruptable contracts; (3) any priority, allocations or price limitations imposed by Federal or State regulatory agencies, as well as other factors beyond the control of the registrant which may affect the ability of the company to meet its contractual obligations (detailed discussions of historic price regulation need not be furnished); (4) any other factors beyond the control of the company, such as other parties having control over the drilling of new wells, competition for the acquisition of reserves and supplies, and the availability of foreign reserves and supplies which may affect the ability of the registrant to acquire additional reserves and supplies, or to maintain or increase the availability of reserves and supplies; and (5) any impact on the registrant's earnings and financing needs resulting from its inability to meet short or long-term contractual obligations. See guide 22 under the Securities Act of 1933 and guide 1 under the Securities Exchange Act of 1934.

(iv) If within the last 5 years the registrant has been unable to meet its delivery commitments or customers' requirements, describe the circumstances concerning such events and the impact on the registrant.

REQUEST FOR COMMENT

All interested persons are invited to submit their views and comment concerning the amendments proposed herein including whether implementation of such amendments would involve unwarranted costs to the issuer and whether the actions would have any impact or burden on competition. All comments should be received no later than October 15, 1978. The Commission will endeavor to review the comments on these proposals and take such actions as may appear necessary to have the amended disclosure requirements adopted in time for compliance by registrants whose fiscal years end after December 25, 1978.

AUTHORITY: These amendments are being proposed pursuant to the authority in sections 6, 7, 8, 19 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, and 77s) of the Securities Act of 1933; sections 12, 13, 14, 15(d), and 23(a) (15 U.S.C. 78L, 78M, 78o(d), and 78w) of the Securities Exchange Act of 1934.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 31, 1978.

[FR Doc. 78-25576 Filed 9-11-78; 8:45 am]

[8010-01]

[17 CFR Part 210]

[Release Nos. 33-5968, 34-15110, 35-20689, IC-10383; File No. S7-715]

OIL AND GAS PRODUCERS—FULL COST ACCOUNTING PRACTICES

Proposed rules

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission has published rules in accounting series release No. 253 that establish financial accounting and reporting practices for oil and gas producing activities. That release expresses the Commission's intention to seek development of a uniform method of reserve recognition accounting based on a valuation of proved oil and gas reserves. During the period of developing this method, however, producers will be required to follow a form of either the successful efforts or full cost methods of accounting. Accounting series release No. 253 prescribes the accounting measurement rules applicable to the successful efforts method. Proposed rules that would define the application of the full cost method are contained in this release.

DATE: Comments should be submitted on or before October 31, 1978.

ADDRESS: Comments should refer to file S7-715 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All comments will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Richard C. Adkerson or James L. Russell, Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-0222.

SUPPLEMENTARY INFORMATION: The Commission is proposing rules to govern the application of the full cost method of accounting in order to conform existing practice to a relatively standardized method that, in the Commission's view, is generally consistent with the conceptual basis of full cost accounting.[1] The Commission's goal is to develop a practical approach for applying the full cost method that is logically consistent and not substantially different from existing practice.

Specifically, if an oil and gas producer follows the full cost method, it would be required under the proposed rules to:

1. Apply it to all its operations and the operations of its subsidiaries and investees accounted for by the equity method.
2. Disclose on the face of its balance sheet that it follows the full cost method of accounting.
3. Establish a separate cost center for each country in which it operates.
4. Capitalize all costs incurred in a cost center that are directly related to exploration and production activities.
5. Charge to expense all production (lifting) costs, general and administrative costs, all costs reimbursed by other persons, and all costs related to drilling arrangements in which income is recognized.
6. Amortize all capitalized costs in the cost center, including undeveloped leases, using a unit-of-production method based either on physical units or monetary units of net revenue.
7. Limit costs in the cost center to the sum of (1) the present value of future net revenue from estimated production of proved oil and gas reserves, and (2) the lower of cost or estimated market value of unproved properties.
8. Account for mineral conveyances and related transactions generally on the same basis as if the successful efforts method were followed except that ordinarily no gains or losses are to be recognized on sales and abandonment of properties.
9. Disclose the depreciation, depletion, and amortization expense per unit of production.
10. Disclose the approximate amount of total capitalized costs and costs incurred during the period that would have been charged to expense had the successful efforts method been followed.

The Commission's proceeding on oil and gas accounting practices resulted in substantial written comment and testimony on the application of the full cost method of accounting. Much of this discussion dealt with definition of the cost center and accounting for undeveloped leases.

Although it may be argued conceptually that the company's total operations should constitute the cost center, the proposed rules recognize that oil and gas reserves in different countries are not always interchangeable, either in kind or in monetary value, because of varying laws, market conditions, property rights, and political-economic climates. Many of the factors that, in the past, have justified the use of combined-country cost centers (e.g., United States and Canada, Western Europe, etc.) are no longer present, as countries have made substantial changes to their energy and tax laws, price controls, and national economic policies. Accordingly, the Commission proposes that property costs should be segregated on a country-by-country basis.

All of the costs incurred in a given country, including the costs of undeveloped leases, should be capitalized within the appropriate cost center, and thus be subject to amortization and to the ceiling limitation on capitalized costs. This would prohibit the practice followed by some companies of deferring the inclusion of undeveloped leases within cost centers until the leases either become productive or are abandoned. The Commission believes that the costs of undeveloped leases should be considered a component of the total costs of oil and gas properties under the full cost concept and thus be subject to amortization.

The proposed rules applicable to drilling arrangements are intended to clarify the Commission's position on the recognition of income from participation in such arrangements. If the consideration received is, in substance, an interest in properties, the recognition of income should not take place prior to the production of oil and gas from the properties involved.

Although the Commission concluded that both successful efforts and full costing have significant deficiencies and that neither should be prescribed as a uniform method of accounting for the petroleum industry, the Commission noted in ASR No. 253 that successful efforts accounting is, in its view, more consistent conceptually with financial accounting in general. The Commission also indicated a concern that, in certain circumstances, full cost accounting can obscure the existence of unprofitable current exploration activities. Because of these concerns and in reponse to comments received by the Commission expressing a need for comparative information, the Commission is proposing that full cost companies disclose: (1) The approximate amount of capitalized costs in their balance sheets that would have been previously charged to expense under the successful efforts method, and (2) the approximate amount of current period costs incurred in oil and gas producing activities that would be charged to expense if the successful efforts method were applied. The Commission recognizes that these disclosures will not provide a precise basis for converting the financial statements of full cost companies to a successful efforts basis since they omit consideration of amortization and valuation provisions; however, it believes that the disclosures will accomplish the objectives described above.

The Commission is publishing these proposed rules for comment in order to provide an opportunity for interested persons to identify potential implementation problems or to suggest areas for which additional clarification is required. It is anticipated that final

[1] For a discussion of the full cost mehtod, see section V, "Traditional Oil and Gas Accounting Methods" of accounting series release ("ASR") No. 253 (Aug. 31, 1978) published concurrently with this release appearing in this same separate part.

rules will be adopted prior to December 31, 1978, to be effective for fiscal years ending after December 25, 1979, with retroactive application to prior periods.

COMMISSION ACTION

The Commission hereby proposes to amend 17 CFR Part 210 by the addition of the new paragraph (i) to § 210.3-18, as presented below:

§ 210-3.18 Financial accounting and reporting for oil and gas producing activities pursuant to the Federal securities laws and the Energy Policy and Conservation Act of 1975.

* * * * *

(i) *Application of the full cost method of accounting.* The full cost method shall be applied as follows:

(1) *Determination of cost centers.* Cost centers shall be established on a country-by-country basis.

(2) *Costs to be capitalized.* All costs directly associated with property acquisition, exploration, and development activities within a cost center shall be capitalized. Any internal costs that are capitalized shall be limited to those costs that can be directly identified with acquisition, exploration, and development activities undertaken by the reporting entity for its own account, and shall not include any costs related to production, general corporate overhead, or similar activities.

(3) *Amortization of capitalized costs.* Capitalized costs within a cost center shall be amortized on the unit-of-production basis using proved oil and gas reserves, as follows:

(i) Costs to be amortized shall include (A) capitalized costs (including all undeveloped leases and uncompleted wells and facilities), less accumulated past amortization, and (B) estimated future costs to complete development of proved reserves and estimated dismantlement and abandonment costs (net of estimated salvage values).

(ii) Amortization may be computed on the basis of physical units or net revenue from production of proved reserves. If physical units are used, oil and gas shall be converted to a common unit of measure on the basis of their approximate relative energy content. Otherwise, amortization shall be computed on the basis of the current net revenue from production in relation to the future net revenue, based on current economic conditions (see paragraph (k)(6) of this section),[2] from estimated production of proved oil and gas reserves.

(iii) Amortization computations shall be made on a consolidated basis, including investees accounted for on a proportionate consolidation basis. However, investees accounted for on the equity method shall be treated separately.

(4) *Limitation on capitalized costs.* Unamortized costs capitalized within a cost center, less related deferred income taxes, shall not exceed an amount (the cost center "ceiling") equal to (i) the present value of future net revenues from estimated production of proved oil and gas reserves, as defined in paragraph (k)(6) of this section; (ii) plus the lower of the cost of unproved properties or their estimated fair market value based generally on the provisions of paragraph (c) of this section; and (iii) less related income tax effects. If unamortized costs capitalized within a cost center (including a cost center in which no oil and gas reserves have been discovered), less related deferred income taxes, exceed the cost center ceiling, the excess shall be charged to expense and separately disclosed during the period in which the excess occurs. The capitalized costs within a cost center shall not be reinstated for any subsequent increases in the cost center ceiling.

(5) *Production costs.* All costs relating to production activities, including costs to maintain or increase levels of production, shall be charged to expense as incurred.

(6) *Mineral property conveyances and related transactions.* The provisions of paragraph (h) of this section, "Mineral property conveyances and related transactions if the successful efforts method of accounting is followed," shall apply also to those reporting entities following the full cost method except as follows:

(i) *Sales and abandonments of oil and gas properties.* Sales of oil and gas reserves in place and abandonments of properties shall be accounted for as adjustments of capitalized costs, with no gain or loss recognized, unless an extraordinary sale occurs that significantly alters the relationship between the capitalized costs and proved reserves of oil and gas attributable to a cost center. If gain or loss is recognized for such a sale, total capitalized costs within the cost center shall be allocated between reserves sold and reserves retained on the same basis used to compute amortization.

(i) *Purchases of reserves.* Purchases of oil and gas reserves in place ordinarily shall be accounted for as additional capitalized costs within the applicable cost center; however, purchases or production payments with lives significantly shorter than the composite productive life of the cost center shall be accounted for separately.

Drilling arrangements. Consistent with the provisions of paragraph (h) of this section, no income shall be recognized from participation in the various forms of drilling arrangements involving oil and gas producing activities, e.g., carried interests, turnkey wells, management fees, etc., if the drilling arrangements, in substance, provide receipt of an interest in properties. If drilling arrangements provide for the receipt of remuneration, e.g., cash, for which income is recognized, then all related costs, including costs associated with the offering and sale or participations in the drilling arrangements and internal costs related to the drilling arrangements, shall be charged to expense as incurred.

(7) *Disclosures.* Reporting entities that adopt the full cost method of accounting shall disclose all of the information required by paragraph (k) of this section (with each cost center considered as a separate geographic area), plus the following:

(i) For each cost center for each year that an income statement is required, the total amount of amortization expense (per equivalent physical unit of production if amortization is computed on the basis of physical units or per dollar of net revenue from production if amortization is computed on the basis of net revenue).

(ii) In connection with the disclosure of capitalized costs required by paragraph (k)(2) of this section, the approximate amount of such capitalized costs that would have been charged to expense had the successful efforts method of accounting been followed.

(iii) In connection with the disclosure of costs incurred in oil and gas producing activities required by paragraph (k)(3) of this section, the approximate amount of costs incurred during the period that would have been charged to expense had the successful efforts method of accounting been followed.

* * * * *

These rules are proposed to be effective for financial statements for full fiscal years ending after December 25, 1979, although earlier application is encouraged. Accounting changes adopted to conform to the provisions of these rules shall be made retroactively be restating the financial statements of prior periods. Financial statements for the fiscal year in which these rules are first applied shall disclose the nature of the accounting changes and their effect on income before extraordinary items, net income, and related per share amounts for each period restated.

These amendments are proposed to be adopted pursuant to authority in section 6, 7, 8, 10, and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s) of the Securities Act of 1933; sections 12, 13, 15(d), and 23(a) (15 U.S.C. 78l, 78m, 78o(d), 78w) of the Securities Exchange Act of

[2] For this and subsequent references to the requirements of § 210.3-18, see ASR No. 253.

1934; sections 5(b), 14, and 20(a) (15 U.S.C. 79e, 79n, 79t) of the Public Utility Holding Company Act of 1935; sections 8, 30, 31(c), and 38(a) (15 U.S.C. 80a-8, 80a-29, 80a-30(c), 80a-37(a)) of the Investment Company Act of 1940; and section 503 (42 U.S.C. 6383) of the Energy Policy and Conservation Act of 1975. Pursuant to section 23(a)(2) of the Securities Exchange Act, the Commission has considered the impact of these proposals on competition and is not aware at this time of any burden that such rule amendments, if adopted, would impose on competition. However, the Commission specifically invites comments as to the competitive impact of these proposals, if adopted.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 31, 1978.

[FR Doc. 78-25577 Filed 9-11-78; 8:45 am]

[8010-01]

[17 CFR Part 210]

[Release Nos. 33-5969, 34-15111, 35-20690, IC-10384; File No. S7-753]

OIL AND GAS PRODUCING ACTIVITIES

Proposed Supplemental Earnings Summary

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: In accounting series release No. 253, the Commission published rules on financial accounting and reporting for oil and gas producing activities. That release stated the Commission's intention to propose rules requiring the presentation of a supplemental earnings summary of oil and gas producing activities prepared on the basis of reserve recognition accounting, i.e., recognizing changes in the present value of estimated future revenues from production of proved oil and gas reserves in income and including in expenses all costs of finding and developing additions to proved reserves. This release contains the proposed rules, which are proposed to be effective for fiscal years ending after December 25, 1979.

DATE: Comments should be submitted on or before April 30, 1979.

ADDRESS: Comments should refer to file S7-753 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All commments will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Richard C. Adkerson or James L. Russell, Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-0222.

SUPPLEMENTARY INFORMATION: In accounting series release ("ASR") No. 253, issued concurrently with this release (appearing elsewhere in this same separate part), the Commission published financial accounting and disclosure rules for oil and gas producing activities. That release expressed the Commission's conclusion that significant improvements in financial reporting by oil and gas producing companies could best be achieved through the development and implementation of an accounting method that reflects a valuation of proved oil and gas reserves as assets, and changes in valuations of proved reserves in reported earnings. However, because of concern over the inherent imprecision of estimates of proved oil and gas reserves and the need for establishing methodologies for their valuation, the Commission has determined that development of this "reserve recognition accounting" or "RRA" should be undertaken gradually.

The rules published in ASR No. 253 require the disclosure in financial statements for fiscal years ending after December 25, 1979, of the present value of future net revenues from estimated production of proved oil and gas reserves. In release No. 33-5967, also published concurrently, the Commission proposed amendments to regulation S-K (17 CFR Part 229) that would require this disclosure in filings with the Commission (but not as part of the financial statements) for fiscal years ending after December 25, 1978.

The Commission believes that the next step in seeking the development of RRA should be a supplemental earnings summary of oil and gas producing activities prepared on that basis. The proposed summary would include as current period income the additions to proved reserves and changes in valuations of proved reserves, and as current period expenses all costs associated with finding and developing additions to proved oil and gas reserves together with all costs determined to be nonproductive during the period. The accompanying proposed rules describe the information proposed to be included in the supplemental earnings summary. The Commission proposes that this information be required as part of financial statements beginning in filings for fiscal years ending after December 25, 1979. If these rules are adopted, the information provided and the experiences gained in developing and reporting the supplemental data should aid in the Commission's assessment of the usefulness of the information provided from applying RRA.

IMPLEMENTATION CONSIDERATIONS

The Commission seeks to assure the development of a meaningful presentation of relevant data on which to evaluate the current results of operations of oil and gas producers. The rule proposals contained in this release require that the supplemental earings summary of oil and gas producing activities distinguish between the major activities of (1) exploration and development, and (2) production. Changes in the present value of proved reserves attributable to revisions of previous additions are to be reported separately, including (1) changes in estimated quantities of proved reserves, (2) changes in the estimated timing of future production, (3) changes to reflect current prices and costs used to compute the present values, and (4) holding gains resulting from the passage of time as a result of applying the discounted cash flow method of valuation.

In ASR No. 253, the Commission stated that "[w]hile the proposed rules provide a general format of the proposed presentation, the Commission views the proposals as establishing general rather than specific guidelines in this regard." An example of the presentation presently envisioned by the Commission for the proposed RRA supplemental earnings summary is presented below:

SUPPLEMENTAL EARNINGS SUMMARY OF
OIL AND GAS PRODUCING ACTIVITIES
YEAR ENDED DECEMBER 31, 19xx

Revenues from oil and gas:		
Sales to outsiders	$xxxx	
Transfers	xxxx	$xxxx
Costs of production:		
Lifting costs	$xxxx	
Amortization of proved properties	xxxx	(xxxx)
Income from producing activities		xxxx
Current additions to proved properties		xxxx
Costs of additions to proved properties:		
Exploration costs	$xxxx	
Development costs	xxxx	(xxxx)
Income from current exploration and development activities		xxxx
Revisions to previous additions to proved properties:		
Changes in estimated quantities of proved reserves		xxxx
Changes in rate of production		xxxx
Changes to reflect current prices and costs		xxxx
Holding gains from passage of time		xxxx
Total revisions		xxxx
Profit contribution from oil and gas producing activities before income taxes		xxxx
Provision for income taxes		(xxxx)
Profit contribution from oil and gas producing activities after income taxes		$xxxx

The Commission requests comments on whether these classifications are appropriate, as well as recommendations for additional information that might enhance the usefulness of the supplemental earnings summary.

The proposed rules indicate the manner in which costs of property acquisition, uncompleted wells, and other exploration and development costs should be included in the earnings summary. Generally, all costs incurred in the search for and development of oil and gas reserves would be charged to expense as incurred except for acquisition costs of unproved properties and the costs of uncompleted exploratory wells. These costs would be deferred until sufficient information is available to indicate whether or not proved oil and gas reserves have been discovered.

The Commission acknowledges that there are a number of unresolved problems relating to this proposed presentation and encourages interested persons to submit views on any pertinent matters prior to the due date for comments. In ASR No. 253, the Commission indicated that it will also seek to establish an advisory committee comprised of representatives of oil and gas producing companies, independent petroleum engineering firms, the investment community, academics, and public accounting firms to meet with the staff of the Commission to consider implementation problems, assess experiences in preparing and using the valuation information on oil and gas reserves, and assist in soliciting and evaluating public comments on the issues involved in this project.

Two major problems to be addressed involve the consideration of income taxes in the supplemental RRA earnings summary and the presentation to be made by integrated petroleum companies.

Under generally accepted accounting principles, income tax expense is determined on the basis of comprehensive interperiod tax allocation by the deferred method, as specified by Accounting Principles Board Opinion No. 11, "Accounting for Income Taxes." Comprehensive interperiod allocation of income taxes by the deferred method was adopted for oil and gas producing activities in ASR No. 253 and in FASB Statement No. 19.

The deferred income tax method, however, appears inconsistent with the basis of accounting for the proposed supplemental earnings summary, in that it does not provide for adjustment in income tax provisions for changes in tax rates or for the imposition of new taxes subsequent to the origination of a timing difference. For instance, if the deferred method were applied in the supplemental RRA earnings summary, the valuation of proved reserves would not be affected by a significant increase in income taxes imposed subsequent to their discovery.

Accordingly, the Commission is suggesting that income tax expense in the supplemental RRA earnings summary include a provision for the difference between the following amounts:

(1) The amount computed by applying the current income tax rates as of the end of the year to the difference between the present value of future net revenues from estimated production of proved oil and gas reserves and the income tax basis of proved properties at that date. (See § 210.3-18(k)(6)); and

(2) The amount computed by applying the income tax rates as of the beginning of the year to the difference between the present value of future net revenues from estimated production of proved oil and gas reserves and the income tax basis of proved properties at that date.

Explanations of the effect of significant changes in the income tax rate would be required.

Another issue for which comments are specifically requested involves the presentation required by integrated petroleum companies and other companies that produce oil and gas that is transferred to other activities, such as transportation or manufacturing, in which they are engaged. The proposed rules require that such companies present transfers of oil and gas in the supplemental RRA earnings summary separately, at a value based on the estimated fair market value at the point of transfer (see § 210.3-18(k)(4) adopted in ASR No. 253). Additional supplemental disclosure would also be required of:

(1) the historical profit contribution [1] from oil and gas producing activities, both before and after income taxes, on the basis of accounting (either successful efforts or full costing) used in the primary financial statements if transfers were recognized as revenues at estimated fair market values; and

(2) The effects on operations other than oil and gas producing activities, both before and after income taxes, resulting from the impact on inventories and related cost of sales of valuing transfers in this manner.

There are, of course, a number of other implementation questions that may require consideration. For example, a registrant may purchase a significant quantity of reserves in-place for an amount different from the present value of those reserves as computed using the methodology prescribed in ASR No. 253. Rather than resulting in a gain or loss in the current period, it could be argued that any such difference should be deferred and amortized as the related reserves are produced.

[1] Profit contribution as used in this instance is similar in concept to operating profit or loss as defined in FASB statement No. 14, except that income tax expense is required to be considered.

Comments are requested on these and other potential measurement and reporting problems associated with implementation of the supplemental RRA earnings summary. A comment period extending through April 30, 1979, has been established to permit respondents to consider experience in preparing and reporting valuation information on oil and gas reserves for year ending December 31, 1978.

Commission Action

The Commission hereby proposes to amend 17 CFR part 210 by adding a new subparagraph (7) to paragraph (k) of § 210.3-18 as presented below:

§ 210.3-18 Financial accounting and reporting for oil and gas producing activities pursuant to the Federal securities laws and the Energy Policy and Conservation Act of 1975.

* * * * *

(k) *Disclosure requirements.* * * *

(7) *Supplemental earnings summary.* For each year for which an income statement is required, a supplemental earnings summary of oil and gas producing activities shall be presented that includes in current period income the change during the year in the present value of future net revenues from proved reserves, as computed under paragraph (k)(6) of this section,[2] and includes in current operating expenses all costs associated with the discovery and development of proved oil and gas reserves, together with all costs determined to be nonproductive during the period.

Identify separately within the supplemental summary the income (loss) from each of the following:

(A) Producing activities;

(B) Current exploration and development activities; and

(C) Revisions to previous additions to proved properties. The revisions to previous additions shall further be segregated as to: (*1*) Changes in estimated quantities; (*2*) changes in estimated timing of production; (*3*) changes in prices and costs used to compute present values; and (*4*) holding gains arising from the passage of time.

(ii) For purposes of this summary, property acquisition cost shall be charged to expense at the time the property is determined to have proved reserves of oil or gas, or when evidence of impairment is ascertained pursuant to paragraph (c) or (d) of this section. Costs of uncompleted exploratory wells shall be deferred pending determination of whether or not the well has found proved reserves, at which time the capitalized costs of drilling the well shall be charged to expense. Other current costs of exploration and development shall be included in expenses of the period. Amortization of capitalized reserve valuations shall be computed on a unit-of-production method.

(iii) Income taxes shall be determined by the difference between (A) the amount that results from applying the income tax rates as of the end of the fiscal year to the difference between the present value of future revenues from estimated production of proved oil and gas reserves (determined in accordance with paragraph (k)(6) of this section) and the tax basis of proved properties as of that date, and (B) the amount that results from applying the income tax rates as of the beginning of the fiscal year to the difference between the present value to future revenues from estimated production of proved oil and gas reserves (determined) in accordance with paragraph (k)(6) of this section) and the tax basis of proved properties as of that date.

(iv) The supplemental earnings summary should include all items of revenue and expense applicable to oil and gas producing operations, but should not include other oil and gas operations or operations in other business segments, corporate administrative expense, interest expense, or extraordinary items. Indicate the related profit contribution, before and after income taxes, that would be reflected for oil and gas producing activities based on applying the method of accounting (successful efforts or full cost) used in the primary financial statements and valuing transfers of oil and gas to other operations of the reporting entity in accordance with paragraph (k)(4) of this section. Further, indicate the aggregate impact, both before and after income taxes, on operations other than oil and gas producing activities resulting from the effects of valuing transfers in this manner.

* * * * *

These amendments are proposed to be effective for financial statements for fiscal years ending after December 25, 1978, that are contained in filings that include fiscal years ending after December 25, 1979, although earlier application is encouraged.

[2] For this and subsequent references to the requirements of § 210.3-18, see ASR No. 253 in this same separate part.

These amendments are proposed to be adopted pursuant to authority in sections 6, 7, 8, 10, and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s) of the Securities Act of 1933; sections 12, 13, 15(d), and 23(a) (15 U.S.C. 78l, 78m, 78o(d), 78w) of the Securities Exchange Act of 1935; sections 8, 30, 31(c), and 38(a) (14 U.S.C. 80a-8, 80a-29, 80a-30(c), 80a-37(a)) of the Investment Company Act of 1940; sections 5(b), 14, and 20(a) (15 U.S.C. 79e, 79n, 79t) of the Public Utility Holding Company Act of 1934; and section 503 (42 U.S.C. 6383) of the Energy Policy and Conservation Act of 1975. Pursuant to section 23(a)(2) of the Securities Exchange Act, the Commission has considered the impact of these proposals on competition and is not aware at this time of any burden that such rule amendments, if adopted, would impose on competition. However, the Commission specifically invites comments as to the competitive impact of these proposals, if adopted.

By the Commission.

George A. Fitzsimmons,
Secretary.

August 31, 1978.

[FR Doc. 78-25578 Filed 9-11-78; 8:45 am]

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[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. SAB-23]

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS

Subpart B—Staff Accounting Bulletins

STAFF ACCOUNTING BULLETIN No. 23

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: These interpretations deal with matters relating to oil and gas producers in connection with the Commission's adoption in Accounting Series Release No. 253 of accounting and disclosure rules for this industry. This Staff Accounting Bulletin: (1) Rescinds Staff Accounting Bulletin No. 16, dealing with the FASB's Exposure Draft, "Financial Accounting and Reporting by Oil and Gas Producing Companies"; (2) provides additional guidance on costs to be classified as "mineral resource assets" for purposes of the replacement cost disclosure rule; and (3) indicates the manner in which the replacement cost of inventories and the replacement cost of sales for transfers from oil and gas producing activities should be determined.

EFFECTIVE DATE: The rescission of Staff Accounting Bulletin No. 16 (Topic 10-I) is effective immediately. The other interpretations are effective for fiscal years ending after December 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard C. Adkerson or James L. Russell, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-0222.

SUPPLEMENTARY INFORMATION: In Accounting Series Release ("ASR") No. 253, August 31, 1978, appearing in this same separate part, the Commission adopted rules for the financial accounting and reporting practices of oil and gas producers. Staff Accounting Bulletin No. 16 (September 1, 1977) (42 FR 44983), had indicated the Commission staff's view of appropriate disclosure of the potential impact of adopting the standards set forth in the FASB's Exposure Draft, "Financial Accounting and Reporting by Oil and Gas Producing Companies." ASR No. 253 provides that registrants may follow either the successful efforts or the full cost method of accounting. In view of the Commission's actions, Staff Accounting Bulletin No. 16 is rescinded. However, in Release No. 33-5968 (August 31, 1978), the Commission has proposed rules for applying the full cost method that include disclosure of the capitalized costs and costs incurred during a period that would have been charged to expense under the successful efforts method.

The requirements of ASR No. 253 include the disclosure of the values of transfers of oil and gas production to other operations (refining, transportation, manufacturing, etc.), in which the registrant engages prior to making sales to other persons (see § 210.3-18(k)(4)). The staff believes that registrants with inventories and cost of sales that include oil and gas produced from their own properties should compute the replacement cost information for its inventories and cost of sales on the basis of the values of transfers required by § 210.3-18(k)(4), i.e., estimated fair market value at the point of transfer.

In Release No. 33-5878 (October 26, 1977) (42 FR 57651), the Commission requested comments on criteria for determining whether natural gas liquids ("NGL") plants should be excluded from mineral resource assets and therefore subject to the replacement cost disclosure requirements. The guidelines of previous staff accounting bulletins are being revised to indicate that an NGL plant should be excluded from mineral resource assets unless the value of the plant is dependent on specific reserves in which the registrant owns an interest and is therefore an integral part of the oil and gas producing properties. If not considered a mineral resource asset, the replacement cost of the plant should be determined in the same manner as other processing and transportation facilities.

The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission, nor are they published as bearing the Commission's official approval; they represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 31, 1978.

STAFF ACCOUNTING BULLETIN No. 23

The staff hereby adds subsection 10, item f, to Topic 6-I regarding replacement cost of inventories and cost of sales for transfers from oil and gas producing activities; amends the definition of mineral resource assets in Topic 6-I(10)(a); and deletes Topic 10-I, which discussed disclosure of the potential impact of the FASB's Exposure Draft, "Financial Accounting and Reporting by Oil and Gas Producing Companies."

TOPIC 6: INTERPRETATIONS OF ACCOUNTING SERIES RELEASES

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I. Accounting Series Release No. 190—Relating to Amendments to Regulation S-X Requiring Disclosure of Replacement Cost Data (§ 210.3-17)

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3. *Replacement Cost of Inventories*

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f. Inventories and Cost of Sales for Transfers from Oil and Gas Producing Activities

Facts:

Certain registrants, including integrated petroleum companies and natural gas transmission companies, engage in oil and gas producing activities and transfer their production to other operations for refining, processing, manufacturing, or transporting before sales are made to other persons. Consequently, an element of their inventories and cost of sales will be represented by oil and gas transferred from properties that they own and produce.

Question:

How should these registrants determine replacement cost information for the portion of their inventories and cost of sales represented by oil and gas transferred from properties that they own and produce?

Interpretative Response:

Consistent with the provisions of § 210.3-18(k)(4), transfers of oil and gas produced by registrants engaged in transporting, refining, processing, etc., of oil and gas should be valued for purposes of § 210.3-17 (c) and (d) at estimated market prices based on the prices of comparable products using posted field prices, if applicable, or amounts estimated to represent prices equivalent to those that could be obtained in a competitive arm's-length market environment, giving recognition to transportation costs, quality differences, and arrangements with and regulations of governments.

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10. *Applicability of § 210.3-17*
a. *Exemptions*

Facts:

Section 210.3-17 contains an exemption for mineral resource assets employed in the production of crude oil or natural gas. Delayed application was permitted for other mineral resource assets.

Question 1:

What are "mineral resource assets?"

Interpretive Response:

Mineral resource assets are defined as those costs shown on the balance sheet representing assets that are directly associated with and that derive value from mineral reserves. For the oil and gas industry these costs include the following:

1. Intangible drilling and development costs;
2. Capitalized nonproductive costs, delay rentals, overhead, and similar costs;
3. Producing and nonproducing leasehold costs;
4. Down-hole equipment;
5. Wellhead equipment;
6. Lease production facilities—tanks, flowlines, separators, above-ground pumps, compressors, etc.;
7. Gas cycling plants;
8. Processing facilities, including natural gas liquids plants, the value of which is primarily dependent on specific oil and gas reserves in which the registrant owns an interest;
9. Support facilities—powerplants, field living quarters, etc.;
10. Gathering systems to the point of market in the field;
11. Offshore platforms.

All costs which involve processing, transportation, refining, distribution, and marketing are not classified as mineral resource assets. Examples include the following:

1. Refineries;
2. Transportation equipment and facilities beyond the point of market in the field—including pipelines, barges, and trucking equipment;
3. Drilling equipment and related facilities used in drilling operations.

For the mining industry mineral resource assets include the following:

1. Capitalized costs related to—
a. Acquisition of mineral rights, leases or properties;
b. Exploration;
c. Development of ore bodies.
2. All assets employed in the extraction and conversion process which are necessary to produce mineral product or products which are commercially marketable;
3. Processing assets, located at or dedicated solely to a mine or mines in which the registrant has an economic interest, which are designed with specific regard to the particular physical or chemical characteristics of the ores being mined or the scale of operation, and which, by their nature, would have only nominal economic value in the absence of the ores they were designed to treat;
4. Supportive facilities such as power generating and distributing facilities, mine transportation facilities, townsites, other infrastructure, etc., which derive value solely because of the existence of the ore body.

All costs which involve processing, manufacturing, and fabricating facilities which are not directly associated with, nor derive value from, a particular mineral deposit in which the registrant has an economic interest, e.g., smelters and refineries which obtain their feed from outside shippers, are not mineral resource assets.

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Question 4: [Deleted and Reserved.]

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TOPIC 10: MISCELLANEOUS DISCLOSURE

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I. [Deleted and Reserved.]

[FR Doc. 78-25579 Filed 9-11-78; 8:45 am]

SEP 12 1978

V 43 / 177

SE 12 78

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TUESDAY, SEPTEMBER 12, 1978
PART V

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

■

RECODIFICATION OF RECREATION REGULATIONS

V 43 / 177 SE 12 78

[4310-84]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

[Circular No. 2435]

RECODIFICATION OF RECREATION REGULATIONS

Final Rules

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking removes the recreation management regulations from subchapter F and into subchapter H of title 43 and renumbers them in the 8000 series. Additional regulations developed under new laws have caused a need for a separate subchapter containing only recreation regulations. The intended effect is to improve the organization of the regulations in title 43 by separating wildlife and recreation regulations. The recreation regulations are reorganized and the wording simplified. However, no substantive change has been made in their meaning.

DATE: Effective date: October 12, 1978.

ADDRESS: Director (370), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION, CONTACT:

Mr. Larry R. Young at the above address or telephone 202-343-9353.

SUPPLEMENTAL INFORMATION: This document was prepared by Mr. Larry R. Young of the Bureau of Land Management, Division of Recreation, assisted by the Division of Legislation and Regulatory Management.

Recreation demands upon public lands have increased in recent years causing a need to regulate the intensive recreation activities. In recognition of this increase, authority has been provided in recent legislation and Executive orders to develop the necessary regulations. The expanding recreation program regulations can be more logically and usably codified by separating them from the wildlife regulations and placing them in a previously reserved subchapter.

This rulemaking is primarily a recodification of existing regulations. Some reorganization and clarification of the provisions are made as part of the recodification process. However, no substantive changes are made in the regulations. Therefore, proposed rulemaking and public participation are not considered necessary.

Accordingly, under the authority of section 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740), Chapter II of Title 43 of the Code of Federal Regulations is amended by removing all recreation regulations from the 6000 series in subchapter F and placing them in the 8000 series in subchapter H as set forth below.

1. All regulatory provisions except subpart 6224 are deleted from subchapter F. Subchapter F is amended to read as follows:

SUBCHAPTER F—WILDLIFE MANAGEMENT (6000)

PART 6000—[Deleted]

PART 6010—[Deleted]

PART 6200—[Deleted]

PART 6220—PROTECTION AND PRESERVATION OF NATURAL VALUES

Subpart 6221—[Deleted]

Subpart 6222—[Deleted]

Subpart 6223—[Deleted]

Subpart 6224—Viable Coral Communities

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Subpart 6225—[Deleted]

PART 6250—[Deleted]

PART 6260—[Deleted]

PART 6270—[Deleted]

PART 6290—[Deleted]

2. The recreation management regulations are reorganized and recodified as follows:

SUBCHAPTER H—RECREATION PROGRAMS

Group 8000—Recreation Programs

PART 8000—RECREATION PROGRAMS

Subpart 8000—General

Sec.
8000.0-1 Purpose.
8000.0-2 Objectives.
8000.0-3 Authority.
8000.0-4 Responsibility.
8000.0-6 Policy.

Group 8100—Cultural Resource Management [Reserved]

Group 8200—Natural History Resource Management

PART 8200—PROCEDURES

Subpart 8200—General

Sec.
8200.0-1 Purpose.

Subpart 8223—Research Natural Areas

8223.0-1 Purpose.
8223.0-5 Definitions.
8223.0-6 Policy.
8223.1 Use of research natural areas.

Group 8300—Recreation Management

PART 8300—PROCEDURES

Subpart 8300—General

Sec.
8300.0-1 Purpose.
8300.0-2 Objective.
8300.0-6 Policy.

PART 8340—OFF-ROAD VEHICLES

Subpart 8340—General

Sec.
8340 Right-of-way.

PART 8350—MANAGEMENT AREAS

Subpart 8351—Designated National Areas

Sec.
8351.0-1 Purpose.
8351.0-2 Objective.
8351.0-3 Authority.
8351.0-6 Policy.
8351.1 Trails [Reserved]
8351.2 Rivers [Reserved]

Subpart 8352—Established Areas

8352.0-1 Purpose.
8352.0-2 Objective.
8352.0-5 Definitions.
8352.0-6 Policy.
8352.1 Use of outstanding natural areas.
8352.2 Use of recreation lands. [Reserved]
8352.3 Use of scenic areas. [Reserved]
8352.4 Use of primitive areas.

PART 8360—OPERATIONS

Subpart 8361—Services

Sec.
8361.0-6 Policy.

Subpart 8363—Rules of Conduct

8363.0-1 Purpose.
8363.0-2 Objective.
8363.1 Developed sites and areas.
8363.1-1 Sanitation.
8363.1-2 Audio devices.
8363.1-3 Occupancy and use.
8363.1-4 Vehicles.
8363.1-5 Public health, safety, and comfort.
8363.1-6 Public property and resources.
8363.2 Undeveloped sites and areas.
8363.2-1 Permitted activities.
8363.2-2 Prohibited activities.
8363.3 Supplemental rules.
8363.4 State and local laws.
8363.5 Criminal penalties.

Subpart 8364—Closures

8364.1 Closure of lands.
8364.1-1 Closure of access.
8364.2 Criminal penalties.

PART 8370—USE AUTHORIZATIONS

Subpart 8371—Recreation use permits, developed sites. [Reserved]

Subpart 8372—Special recreation permits, other than on developed recreation sites

Sec.
8372.0-1 Purpose.
8372.0-2 Objective.
8372.0-3 Authority.
8372.0-5 Definitions.
8372.0-7 Enforcement.
8372.1 Permits required.
8372.1-1 Public lands, general.
8372.1-2 Special areas.
8372.2 Applications.
8372.3 Issuance of permits.
8372.4 Fees.
8372.5 Terms.

PART 8400—VISUAL RESOURCE MANAGEMENT [RESERVED]

PART 8500—WILDERNESS MANAGEMENT [RESERVED]

PART 8600—ENVIRONMENTAL EDUCATION AND PROTECTION [RESERVED]

Group 8000—Recreation Programs

PART 8000—RECREATION PROGRAMS

Subpart 8000—General

Sec.
8000.0-1 Purpose.
8000.0-2 Objective.
8000.0-3 Authority.
8000.0-4 Responsibility.
8000.0-6 Policy.

AUTHORITY: 16 U.S.C. 460(1-6a), 16 U.S.C. 670 (g-n), 16 U.S.C. 1241 et seq., 16 U.S.C. 1271 et seq., 43 U.S.C. 1181(a) and 1181(e), 43 U.S.C. 1201, 43 U.S.C. 1334, 43 U.S.C. 1701 et seq., and E.O. 11644, as amended.

PART 8000—RECREATION PROGRAMS

Subpart 8000—General

§ 8000.0-1 Purpose.

The regulations in this Subchapter H set forth procedures for the administration of recreation programs on public lands. The programs are cultural resource management, natural history resource management, recreation management, visual resource management, wilderness management, and environmental education and protection.

§ 8000.0-2 Objective.

The objective is to manage the public lands and the recreation use of those lands to protect the health and safety of recreationists who use the public lands, to protect natural resource values on the public lands, and promote public use and enjoyment of the public lands.

§ 8000.0-3 Authority.

These regulations are issued under authorities provided in 16 U.S.C. 460(1-6a), 16 U.S.C. 670 (g-n), 16 U.S.C. 1241 et seq., 16 U.S.C. 1271 et seq., 43 U.S.C. 1181(a) and 1181(e), 43 U.S.C. 1201, 43 U.S.C. 1334, 43 U.S.C. 1701 et seq., and Executive Order 11644, as amended.

§ 8000.0-4 Responsibility.

The authority of the Secretary of the Interior to develop and manage the public lands for recreational purposes, to authorize recreation use, and specify terms and conditions of such use on public lands, and to otherwise enforce the regulations in this Subchapter H has been delegated to the authorized officers of the Bureau of Land Management. Any exceptions are specifically provided for in regulations.

§ 8000.0-6 Policy.

(a) The recreation programs involving public lands shall be developed and managed in accordance with multiple-use management principles unless otherwise specified by law.

(b) State and local government and private agencies shall be encouraged to develop public recreation facilities when consistent with the long range management plans and programs of the Bureau of Land Management.

(c) Priority shall be given to these recreation programs:

(1) Recreation development and improvement as follows: (i) Undeveloped sites now under heavy, uncontrolled use that threatens public health and safety or is damaging to natural, cultural, and historical resources; (ii) Areas where public recreation demands exceed the opprtunities and facilities now available; and (iii) Areas that are near urban areas or bodies of water and unique scenic attractions that adjoin heavily traveled highway routes.

(2) Preservation and protection of natural and cultural resources, including but not limited to scientific, scenic, historic, and archeological values, and primitive environments.

(d) Reasonable fees may be established and collected by the authorized officer in accordance with part 18 of this title 43.

Group 8100—Cultural Resource Management [Reserved]

Group 8200—Natural History Resource Management

PART 8200—PROCEDURES

Subpart 8200—General

Sec.
8200.0-1 Purpose.

Subpart 8223—Research Natural Areas

8223.0-1 Purpose.
8223.0-5 Definitions.
8223.0-6 Policy.
8223.1 Use of research natural areas.

AUTHORITY: 43 U.S.C. 1181 (a) and (e), 43 U.S.C. 1201, 43 U.S.C. 1701 et seq.

Subpart 8200—General

§ 8200.0-1 Purpose.

This part 8200 provides procedures and practices for the management and use of public lands that have ecological or other natural history values of scientific interest.

Subpart 8223—Research Natural Areas

§ 8223.0-1 Purpose.

The purpose of this part is to provide procedures for the management and protection of public lands having natural characteristics that are unusual or that are of scientific or other special interest.

§ 8223.0-5 Definitions.

(a) "Research natural area" means an area that is established and maintained for the primary purpose of research and education because the land has one or more of the following characteristics: (1) A typical representation of a common plant or animal association; (2) an unusual plant or animal association; (3) a threatened or endangered plant or animal species; (4) a typical representation of common geologic, soil, or water features; or (5) outstanding or unusual geologic, soil, or water features.

§ 8223.0-6 Policy.

Areas established as research natural areas shall be of sufficient number and size to adequately provide for scientific study, research, and demonstration purposes.

§ 8223.1 Use of research natural areas.

(a) No person shall use, occupy, construct, or maintain facilities in a research natural area except as permitted by law, other Federal regulations,

V 43 177 SE 12 78

or authorized under provisions of this subpart 8223.

(b) No person shall use, occupy, construct, or maintain facilities in a manner inconsistent with the purpose of the research natural area.

(c) Scientists and educators shall use the area in a manner that is nondestructive and consistent with the purpose of the research natural area.

Group 8300—Recreation Management

PART 8300—PROCEDURES

Subpart 8300—General

Sec.
8300.0-1 Purpose.
8300.0-2 Objective.
8300.0-6 Policy.

AUTHORITY: 16 U.S.C. 460(1-6a), 16 U.S.C. 670(g-n), 16 U.S.C. 1241, 16 U.S.C. 1271, 43 U.S.C. 1701 et seq.

Subpart 8300—General

§ 8300.0-1 Purpose.

(a) This group sets forth procedures and practices for the management and use of public lands for specific kinds of public recreation activities, resource conditions, outdoor recreation occupancy, and resource development.

(b) Guidelines are provided regarding access to public lands and limitations on travel across public lands.

§ 8300.0-2 Objective.

The objectives are to provide access to the public lands for those who wish to use them, to minimize conflicts among users, and to prevent damage to natural resources by recreation activities.

§ 8300.0-6 Policy.

(a) As appropriate for management and public identification purposes, lands having significant natural values may be designated under provisions of part 2070 of this chapter and segregated under applicable authorities.

(b) In cooperation with State and local government and private landholders, the Bureau of Land Management shall endeavor to provide for public access to public lands with outdoor recreation values.

PART 8340—OFF-ROAD VEHICLES

Subpart 8340—General

§ 8340 Right-of-way.

Drivers of motor vehicles shall yield the right-of-way to pedestrians, saddle horses, pack trains, and horse-drawn vehicles.

(E.O. 11644.)

PART 8350—MANAGEMENT AREAS

Subpart 8351—Designated National Areas

Sec.
8351.0-1 Purpose.
8351.0-2 Objective.
8351.0-3 Authority.
8351.0-6 Policy.
8351.1 Trails [Reserved].
8351.2 Rivers [Reserved]

AUTHORITY: 16 U.S.C. 1241, 16 U.S.C. 1271, 43 U.S.C. 1701 et seq.

Subpart 8351—Designated National Areas

§ 8351.0-1 Purpose.

To provide procedures for the management of lands administered under provisions of the Wild and Scenic Rivers Act and the National Trails System Act.

§ 8351.0-2 Objective.

To assure that all public lands administered under provisions of the Wild and Scenic Rivers Act and the National Trails System Act are managed in a manner consistent with the purposes of these Acts.

§ 8351.0-3 Authority.

The Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.).

The National Trails System Act of 1968 (16 U.S.C. 1241 et seq.).

§ 8351.0-6 Policy.

(a) Hiking, horse riding, and motor trails shall be located, constructed, and maintained where they are found to be feasible and would improve recreation opportunity and quality. Established trails shall be marked or signed and made known to the public by other means.

(b) Certain rivers and sections of rivers that are flowing free of the influence of dams or other major manmade alterations and that possess outstanding scenic, recreational, geological, biological, cultural, or historical features shall be preserved as free flowing streams. The immediate river area shall be managed to protect the natural, cultural, or historical features that make the river or river segment outstanding.

§§ 8351.1 and 8351.2 [Reserved]

Subpart 8352—Established Areas

§ 8352.0-1 Purpose.

To establish procedures for the management of recreation use to protect (a) lands that have unusual natural characteristics and (b) lands that are primitive in character.

§ 8352.0-2 Objectives.

(a) *Outstanding natural areas.* The objective is to manage for the maximum amount of recreation use possible on outstanding natural areas without damage to the natural features that make the areas outstanding.

(b) *Primitive areas.* The objective is to manage for the maximum amount of recreation use possible on primitive areas with a minimum of interference with natural ecological processes and to preserve the primitive recreation values of solitude, inspiration, and mental and physical challenge.

§ 8352.0-5 Definitions.

As used in this part the term:

(a) "Outstanding natural area" means an area of unusual natural characteristics where management of recreation activities is necessary to preserve those characteristics.

(b) "Primitive area" means an area that is composed of natural, undeveloped lands that are essentially unaffected by civilization and located where the natural environment can be preserved by management of recreation activities and exclusion of additional roads and commercial developments.

§ 8352.0-6 Policy.

(a) *Outstanding natural areas.* Outstanding natural areas shall be large enough to provide for protection of the outstanding natural features through management of recreation activities in the area.

(b) *Scenic areas.* Scenic areas established along highways, roads, trails, streams, or larger water bodies shall be managed to protect and enhance the scenic qualities that led to the establishment of the area.

(c) *Primitive areas.* Public use of primitive areas for recreation purposes shall be encouraged to the extent possible consistent with the objective of maintaining the primitive environment.

§ 8352.1 Use of outstanding natural areas.

(a) Facilities may be used, occupied, constructed, or maintained in an outstanding natural area only as permitted by law, other Federal regulations, or authorized under this subpart 8352.

(b) No person shall use, occupy, construct, or maintain authorized facilities in a manner that unnecessarily detracts from the quality of the outstanding natural features of the area.

§ 8352.2 Use of recreation lands. [Reserved]

§ 8352.3 Use of scenic areas. [Reserved]

§ 8352.4 Use of primitive areas.

(a) With the exception of essential search and rescue, fire control, or other emergency or administrative operations, no person shall travel in primitive areas except by nonmechanized means. With the exception noted, this provision prohibits the landing of aircraft in a primitive area.

(b) No person shall construct facilities in or on a primitive area except in connection with authorized nonrecreation uses of the lands and as necessary to the protection and administration of the area.

(c) No person shall conduct nonrecreational authorized activities except under conditions specified by the authorized officer to preserve the primitive characteristics of the area.

Subpart 8361—Services

§ 8361.0-6 Policy.

To the extent practicable within budget and personnel constraints, signs shall be posted, ownership maps published, and other available means used to inform the public of recreation areas and opportunities.

Subpart 8362 [Reserved]

Subpart 8363—Rules of Conduct

Sec.
8363.0-1 Purpose.
8363.0-2 Objective.
8363.1 Developed sites and areas.
8363.1-1 Sanitation.
8363.1-2 Audio devices.
8363.1-3 Occupancy and use.
8363.1-4 Vehicles.
8363.1-5 Public health, safety, and comfort.
8363.1-6 Public property and resources.
8363.2 Undeveloped sites and areas.
8363.2-1 Permitted activities.
8363.2-2 Prohibited activities.
8363.3 Supplemental rules.
8363.4 State and local laws.
8363.5 Criminal penalties.

AUTHORITY: 43 U.S.C. 1181(a-e), 43 U.S.C. 1201, 43 U.S.C. 1701 et seq.

Subpart 8362 [Reserved]

Subpart 8363—Rules of Conduct.

§ 8363.0-1 Purpose.

The purpose of this subpart is to set forth rules of conduct that provide for the comfort and well-being of the public in its use of outdoor recreation areas, sites, and facilities on public lands.

§ 8363.0-2 Objective.

The objective of this subpart is to insure that outdoor recreation areas, sites, and facilities on public lands are usable by the maximum number of people with a minimum amount of conflict among users and a minimum of damage to public lands and resources.

§ 8363.1 Developed sites and areas.

Rules for the public use and occupancy of developed recreation sites and areas where recreation facilities have been constructed will be posted in conspicuous locations. Failure to comply with posted rules may result in denial of the use of developed sites and facilities, and further action as determined appropriate by the authorized officer.

§ 8363.1-1 Sanitation.

All persons shall:

(a) Dispose of all garbage, paper, cans, bottles, and other waste materials by burning in authorized fires, removal from the public lands, or by disposal in designated places.

(b) Drain or dump refuse or waste from any trailer or other vehicle only in places or receptacles provided for that purpose.

(c) Refrain from cleaning fish, game, or other food and from washing clothing or articles of household use at outdoor hydrants or at water faucets located in restrooms.

(d) Avoid polluting or contaminating water supplies or water used for human consumption.

(e) Deposit body wastes only in toilet receptacles provided for that purpose.

(f) Use any refuse container or disposal facility only for the purposes for which they are supplied.

(g) Refrain from dumping any household or commercial garbage or trash brought from private property.

§ 8363.1-2 Audio devices.

The following acts are prohibited in developed recreation sites:

(a) Operating or using any audio devices, including radio, television, and musical instruments, and other noise-producing devices, such as electrical generator plants and equipment driven by motors or engines, in a manner to annoy other persons.

(b) Operating or using public address systems, whether fixed, portable, or vehicle mounted unless approved by the authorized officer.

(c) Installing aerial or other special radiotelephone or television equipment unless approved by the authorized officer.

§ 8363.1-3 Occupancy and use.

The following rules apply to the occupancy and use of developed camping and picnicking facilities on the public lands. As a condition to such occupancy and use, the user shall:

(a) Pitch tents or park trailers or place other camping equipment only in places provided for such purposes.

(b) Camp within a campground no longer than the period of time established by the authorized officer.

(c) Attend camping equipment within prescribed time limits. Camping equipment which is unattended for more than posted limits, without permission of the authorized officer, is subject to disposition under State and local laws.

(d) Before departure, remove equipment and clean any rubbish from the place occupied for recreation purposes.

(e) Build fires only in stoves, grills, fireplaces, or fire rings provided for such purposes.

(f) Camp overnight only in places provided or posted for such purposes.

(g) Maintain reasonable quiet in campgrounds between evening and morning hours as posted.

(h) Enter or remain in campgrounds closed during established night periods only as an occupant, or to visit persons occupying the campgrounds for camping purposes.

(i) Not enter or use a site or a portion of a site closed to public use.

§ 8363.1-4 Vehicles.

The following rules apply to operation of motor vehicles in developed recreation sites in the interest of public safety and comfort. Motor vehicles and trailers shall not be:

(a) Driven or operated in excess of posted speeds.

(b) Driven or parked except on roads and places provided for this purpose.

(c) Driven or operated in willful disregard of the rights or safety of others, or without due caution and at a speed, or in a manner, so as to endanger, or be likely to endanger, any person or property.

(d) Driven or operated on trails within developed recreation sites, except for purposes of maintaining such sites and facilities.

(e) Driven or operated in developed recreation sites, for any purpose other than access to or from the site.

(f) Driven or operated in developed recreation sites closed to such entrance by the authorized officer.

(g) Driven or operated at any time without a muffler in working order, or in such a manner as to create excessive or unusual noise, or annoying smoke or dust, or using a muffler cutoff, bypass, or similar device.

(h) Unnecessarily accelerated when not moving, or when approaching or leaving a stopping place.

§ 8363.1-5 Public health, safety, and comfort.

The following rules are adopted to further the public health, safety and comfort in the use and occupancy of developed recreation sites and facilities. The user shall not:

(a) Discharge firearms, or firecrackers, rockets, or other fireworks in developed recreation sites.

(b) Be accompanied by a dog, cat, or other animal unless it is crated, caged, leashed, or otherwise under physical, restrictive control at all times.

(c) Bring animals, other than seeing eye dogs, to swimming areas.

(d) Bring saddle, pack, or draft animals into any developed recreation

V 43 / 177

site except where specifically permitted or authorized.

§ 8365.1-6 Public property and resources.

The following rules are adopted to protect public property and to conserve the resources in developed recreation sites for public use and enjoyment. The user shall not:

(a) Intentionally or wantonly destroy, deface, or remove any natural feature or plant.

(b) Intentionally or wantonly destroy, injure, deface, remove, or disturb in any manner any public building, sign, equipment, marker, or other structure or property.

§ 8363.2 Undeveloped sites and areas.

§ 8363.2-1 Permitted activities.

(a) *Collecting—hobby specimens.* Flowers, berries, nuts, seeds, cones, leaves, and similar renewable resources and nonrenewable resources such as rocks, mineral specimens, common invertebrate fossils, and gem stones may be collected in reasonable quantities for personal use, consumption, or hobby collecting. Limitations on this privilege are contained in § 8363.2-2 of this subpart.

(b) *Collecting—for sale or barter.* Gathering or collecting of renewable or nonrenewable resources for the purpose of sale or barter may be done only where specifically authorized by law.

(c) *Petrified wood.* For regulations pertaining to collection of petrified wood see Subpart 3612 of this chapter.

(d) *Vegetative and mineral materials.* For regulations pertaining to removal of vegetative and mineral materials, see Subparts 3610, 3611, and 5400 of these regulations.

§ 8363.2-2 Prohibited activities.

In the use of lands for public outdoor recreation purposes, no one shall:

(a) Intentionally or wantonly destroy, deface, injure, sign, remove, or disturb any public building, sign, equipment, marker, or other public property.

(b) Harvest or remove any vegetative or mineral resources or object of antiquity, historic, or scientific interest unless such removal is in accordance with part 3 of this title, regulations of this section, or is otherwise authorized by law.

(c) Appropriate, mutilate, deface, or destroy any natural feature, object of natural beauty, antiquity, or other public or private property.

(d) Dig, remove, or destroy any tree or shrub.

(e) Gather or collect renewable or nonrenewable resources for the purpose of sale or barter unless specifically permitted or authorized by law.

(f) Drive or operate motorized vehicles or otherwise conduct himself in a manner that may result in unnecessary frightening or chasing of people, domestic livestock and wildlife.

(g) Use motorized mechanical devices or explosives for digging, scrapping, or trenching for purposes of collecting.

§ 8363.3 Supplemental rules.

Additional rules to protect the public health and safety and protect resources may be established by the authorized officer, as necessary. They shall be posted in appropriate locations to notify the public of requirements for the occupancy and use of lands, outdoor recreation facilities, and roads and trails. The posted rules may provide for, but need not be limited to, protection of public health and safety, protection of lands from fires, prevention of soil erosion, and utilization and protection of outdoor recreation and other resource values of the public lands.

§ 8363.4 State and local laws.

Except as otherwise provided by law, State and local laws and ordinances shall apply. This refers, but is not limited, to laws and ordinances governing:

(a) Operation and use of motor vehicles, aircraft, and boats.

(b) Hunting and fishing.

(c) Use of firearms.

(d) Injury to persons or destruction of property.

(e) Air and water pollution.

(f) Littering.

(g) Sanitation.

(h) Use of fire.

§ 8363.5 Criminal penalties.

Any person who knowingly and willfully violates any rule of conduct described in § 8363.1-6 or § 8363.2-2 shall be fined not more than $1,000 or imprisoned not more than 12 months, or both.

Subpart 8364—Closures

Sec.
8364.1 Closure of lands.
8364.1-1 Closure of access.
8364.2 Criminal penalties.

Subpart 8364—Closures

§ 8364.1 Closure of lands.

In the management of lands to protect the public and assure proper resource utilization, conservation, and protection, public use and travel may be temporarily restricted. For instance, areas may be closed during periods of high fire danger or unsafe conditions, or where use will interfere with or delay mineral development, timber, and livestock operations, or other authorized use of the lands. Areas may also be closed temporarily to:

(a) Protect the public health and safety.

(b) Prevent excessive erosion.

(c) Prevent unnecessary destruction of plant life and wildlife habitat.

(d) Protect the natural environment.

(e) Preserve areas having cultural or historical value.

(f) Protect scientific studies or preserve scientific values.

§ 8364.1-1 Closure of access.

Roads, trails, and lands providing access to other public lands may be closed entirely or open only for specifically authorized travel in the interest of public health and safety or preservation and protection of public lands and resources.

§ 8364.2 Criminal penalties.

Any person who knowingly and willfully violates any closure order issued under § 8364.1 shall be fined not more than $1,000 or imprisoned not more than 12 months, or both.

PART 8370—USE AUTHORIZATIONS

Subpart 8371—Recreation use permits, developed sites. [Reserved]

Subpart 8372—Special recreation permits, other than on developed recreation sites.

Sec.
8372.0-1 Purpose.
8372.0-2 Objective.
8372.0-3 Authority.
8372.0-5 Definitions.
8372.0-7 Enforcement.
8372.1 Permits required.
8372.1-1 Public lands, general.
8372.1-2 Special areas.
8372.2 Applications.
8372.3 Issuance of permits.
8372.4 Fees.
8372.5 Terms.

AUTHORITY: 16 U.S.C. 460(1-6a), 16 U.S.C. 670(g-n), 16 U.S.C. 1271-1287, 6 U.S.C. 1241-1249, 43 U.S.C. 1181(a), 43 U.S.C. 1201, 43 U.S.C. 1701 et. seq.

Subpart 8371—Recreation use permits, developed sites [Reserved]

Subpart 8372—Rules for Visitor Uses, other than on Developed Recreation Sites

§ 8372.0-1 Purpose.

This subpart sets forth the procedures for authorizing certain recreational uses of lands and waters administered by the Bureau.

§ 8372.0-2 Objective.

To establish a permit and fee system for certain recreation uses of lands and waters administered by Bureau.

SE 12 78

§ 8372.0-3 Authority.

The rules in this subpart are issued pursuant to: 43 U.S.C. 1201; 43 U.S.C. 1701 et seq.; 43 U.S.C. 1181a; 16 U.S.C. 460(1-6a); 16 U.S.C. 670g-n; 16 U.S.C. 1271-1287; 16 U.S.C. 1241-1249.

§ 8372.0-5 Definitions.

For the purposes of this subpart:

(a) "Commercial use" is recreational use of the public lands for business or financial gain. When any permittee, employee or agent of a permittee, operator, or participant makes or attempts to make a profit, salary, increase his business or financial standing, or supports, in any part, other programs or activities from amounts received from or for services rendered to customers or participants in the permitted activity, as a result of having the special recreation permit, the use will be considered commercial. Subsistence activities of Alaskan natives (as defined in the Alaska Native Claims Settlement Act) in Alaska are not considered recreational use. The collection by a permittee or his agent of any fee, charge, or other compensation which is not strictly a sharing of, or is in excess of, actual expenses incurred for the purposes of the activity or use shall make the activity or use commercial. Use by educational and therapeutic institutions is considered commercial when the above criteria are met. Profit making organizations are automatically classified as commercial, even if that part of their activity covered by the permit is not profit making. Nonprofit status of any group or organization under the Internal Revenue or Postal Laws or regulations does not in itself determine whether an event or activity arranged by such a group or organization is noncommercial. Any person, group, or organization seeking to qualify as noncommercial shall have the burden of establishing to the satisfaction of the authorized officer that no financial or business gain will be derived from the proposed use.

(b) "Actual costs or expenses" are costs or expenses necessarily incurred for the permitted activity or use. These terms include, but are not limited to, the actual costs of such items as expendable equipment and supplies. Actual costs or expenses will not include any salaries, profit, increase of capital worth, allowances, or subsidies of any other activities of the permittee or sponsor, the purchase or amortization of nonexpendable supplies or equipment, any allowance for undersubscribed events, or any monetary compensation for sponsors or participants.

(c) "Competitive use" is any formally organized or structured use, event, or activity on public land in which there are the elements of competition between two or more contestants, registration of participants, and/or a predetermined course or area is designated. The term also applies to one or more individuals contesting an established record such as speed or endurance.

(d) An "event" is a single, structured, organized, consolidated, or scheduled meeting or occurrence for the purpose of recreational use of the public lands. An event may be composed of several related activities.

(e) "Educational use" is use by an institution which has been recognized as educational by Federal, State, or local government bodies, or regional accrediting bodies. Such use must have learning as the major objective, and there must be a teacher-pupil relationship present. National, regional, State, or local accreditation will normally qualify a school as noncommercial, but such accreditation in and of itself does not assure noncommercial status.

(f) An "operator" is a group, association, individual, corporation, or organization which provides recreational services.

(g) A "special area" is an area established as a component of the National Trails System, the National Wild and Scenic Rivers System, the National Wilderness System, an area covered by joint agreement between the Bureau of Land Management and a State government as provided for in title II of the Sikes Act, or any other area where the authorized officer determines that the resources require special management and control measures for their protection.

(h) A "User day" is any calendar day, or portion thereof, for each individual accompanied or serviced by an operator or permittee on the public lands. Passenger day is synonymous with user day.

(i) An "off-road vehicle" is any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain excluding: (1) Any nonamphibious registered motorboat; (2) any military, fire, emergency, or law enforcement vehicle while being used for emergency purposes; (3) any vehicle whose use is specifically authorized by the authorized officer or otherwise officially approved; (4) official use; or (5) any combat or combat support vehicle when used in times of national defense emergencies.

§ 8372.0-7 Enforcement.

Failure to pay any fee or failure to obtain a permit required by this subpart or operating with a suspended permit shall be punishable pursuant to the Federal Land Policy and Management Act of 1976, the Land and Water Conservation Fund Act, as amended, the Wild and Scenic Rivers Act, the National Trails Act, the Sikes Act, and other laws when applicable.

§ 8372.1 Permits required.

§ 8372.1-1 Public lands, general.

Special recreation permits are required for (a) commercial use, (b) competitive use, (c) off-road vehicle events involving 50 or more vehicles, and (d) special area use where the authorized officer determines the criteria of the Land and Water Conservation Fund Act, as amended, the Sikes Act, the Wild and Scenic Rivers Act, Federal Land Policy and Management Act, the Taylor Grazing Act, or National Trails Act require their issuance.

§ 8372.1-2 Special areas.

With the exception of use in special areas, special recreation permits are not required for recreational use by individuals, or individual immediate families. Notice will be given in the FEDERAL REGISTER and regional news media when special recreation permits are required for recreational use other than commercial, competitive, and off-road vehicle use in a special area. Access points in special areas will also be posted notifying the public of required permits for recreational use, other than commercial, competitive, and off-road vehicle use.

§ 8372.2 Applications.

(a) *Forms and maps.* Applications for special recreation permits shall be made to the authorized officer on forms approved by the Director, Bureau of Land Management. Applications shall include a map of sufficient scale and detail to allow identification of the proposed use area on the ground. The authorized officer, may waive the requirement for maps where appropriate.

(b) *Supplemental information.* The authorized officer may require the applicant to submit supplemental information in sufficient detail to evaluate the impact of the proposed event upon the lands and environment, including measures the applicant would take to mitigate impacts on the lands and environment.

(c) *Filing.* (1) The application shall be filed in the office of the Bureau having jurisdiction over the lands to be used. The application shall be filed a minimum of 120 days in advance of intended use unless a shorter time is authorized by the authorized officer. Applications may be filed by mail or in person. (2) Within 30 days of the filing date or within 15 days of the desired use date, whichever is earliest, the authorized officer shall inform the applicant if the decision on issuing the permit will be delayed. (3) The authorized officer may establish a maximum

V 43 / 177

time by which applications will be accepted prior to date of proposed use.

§ 8372.3 Issuance of permits.

The approval of an application and subsequent issuance of a special recreation permit is discretionary with the authorized officer.

§ 8372.4 Fees.

(a) *Filing fees.* Applicants for special recreation permits for commercial or competitive uses shall include with their application a $10 nonrefundable filing fee.

(b) *Use fees.* (1) Commercial use—a minimum of $25 is required for use if not in excess of 100 user days. Payment for use in excess of 100 user days shall be in the amount of $25 each additional 100 user days or fraction thereof. (2) Competitive use—the fee is 5 percent of the gross receipts, $1 per participant per day or $10 whichever is greater. When use is both commercial and competitive, the competitive fee shall be charged. (3) Special area use—fees may be required for special area uses by other than commercial, competitive, and off-road vehicle users where the authorized officer determines that such charges are consistent with the Land and Water Conservation Fund Act. A minimum fee of $1 shall be charged for each permit for such use. (4) Off-road vehicle use—a minimum fee of $1 will be charged for the permit for each event. (5) The authorized officer may charge larger fees than these minimums consistent with charges made for similar uses by other organizations and governmental agencies in the region of use. (6) Any change in established fees will be made in accordance with section 304 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734).

(c) *Payment of use fees.* (1) Payment of fees will be required at the time a permit is issued. (2) Where the amount of intended use cannot be precisely determined, the fee will be based on an estimation and payment will be required of that amount. The fee will be adjusted, based on actual use, after use is made. Refunds will be made or additional payment will be required to the extent the payment requirement for actual use varies from the initial amount paid by $10. (3) If an applicant is unable to pay the fee in advance, the authorized officer may allow the posting of a payment bond or other guarantee in an amount equal to the actual or estimated fee. The authorized officer will establish a payment date which is no later than 15 days following the use period.

(d) *Exceptions, exclusions, and exemptions.* (1) Nothing contained herein shall authorize Federal hunting, trapping, or fishing licenses, permits, or fees. (2) Fees under provisions of this part shall not be charged and permits shall not be required for commercial or other activities not related to recreation. Permits may be required but fees shall not be charged for uses including, but not limited to, organized tours or outings conducted for educational or scientific purposes related to the resources of the area visited by bona fide institutions established for these purposes. (3) Applicants for waiver of fees on this basis shall be required to provide documentation of their official recognition as educational or scientific institutions by Federal, State, or local government bodies and shall also be required to provide a statement as to the purposes of the visit proposed. (4) The use of areas for which a fee waiver is requested must relate directly to scientific or educational purposes. (5) No fee shall be charged for those special recreation permits required for: (i) Any hospital patient actively involved in medical treatment or therapy in the area visited; (ii) educational and therapeutic institutions that are not commercial; and (iii) individuals, and individual immediate families except in certain special areas. The authorized officer may determine that permits and fees are unnecessary where an event begins and ends on nonpublic lands, traverses less than 1 mile of public lands, and poses no threat of significant damage to public resource values.

§ 8372.5 Terms.

(a) *General.* (1) The authorized officer may suspend a special recreation permit if necessary to protect public health, public safety, or the environment. The terms of the permit shall continue to run during any such suspension. (2) Permits may be issued for a day, season of use, or such other time period considered appropriate by the authorized officer for the use involved. (3) A special recreation permit will not be issued for an area larger than the authorized officer determines is necessary for the contemplated use. The land may be surveyed or unsurveyed. (4) The operator or permittee shall allow the authorized officer, or other duly authorized representative of the Bureau, to have access to and the right to examine any directly pertinent books, documents, papers, and records of the operator or permittee involving transactions related to the permit. The operator or permittee also will allow the authorized officer, or other duly authorized representative of the Bureau, to have access to and the right to examine any directly pertinent books, documents, papers, and records of any employee or agent of the permittee or operator. These allowances and rights terminate 3 years after the expiration of the permit.

(b) *Stipulations.* A special recreation permit will contain such stipulations as the authorized officer considers necessary to protect the lands and resources involved and the public interest in general.

(c) *Bonds.* In addition to a payment bond, the authorized officer may require the posting of a cash or surety bond or other guarantee in such form and in such amount as the authorized officer determines to be sufficient to defray the costs of restoration and rehabilitation of the lands affected by the permitted use. Bonds and guarantees will be returned to the permittee upon satisfactory compliance with all permit stipulations, including restoration and rehabilitation requirements.

(d) *Insurance.* The authorized officer shall require all commercial and competitive applicants, and may require other applicants, to obtain and submit a property damage, personal injury, and public liability insurance policy which he judges sufficient to protect the public and the United States. The policy shall name the U.S. Government as a co-insured and stipulate that the authorized officer of the Bureau of Land Mangement shall be notified 30 days in advance of the termination or modification of the policy.

(e) *Liability.* The permittee shall indemnify the United States against any responsibility or liability for damage, injury, or loss to persons and property which may occur during the permitted use period or as a result of such use.

(f) *Violation of law.* The conviction of a violation of any Federal or State law or regulation concerning the conservation or protection of natural resources, the environment, endangered species, or antiquities that is related to said special recreation permit may result in the cancellation of the permit.

Dated: September 7, 1978.

GUY R. MARTIN,
Assistant Secretary of the Interior.

[FR Doc. 78-25584 Filed 9-11-78; 8:45 am]

SEP 12 78

federal register

TUESDAY, SEPTEMBER 12, 1978
PART VI

THE NATIONAL ARCHIVES OF THE UNITED STATES
LITTERIS SCRIPTA MANET
1934

ENVIRONMENTAL PROTECTION AGENCY

GRANTS AND OTHER FEDERAL ASSISTANCE

Water Quality Programs

V 43 / 177 SE 12 78

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 35, 130, 131]

[FRL 944-4]

GRANTS AND OTHER FEDERAL ASSISTANCE

Water Quality Programs

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to amend its regulations relating to water quality planning, management, and implementation funded under sections 106 and 208 of the Clean Water Act of 1977, as amended. Among other things, the regulations reflect modifications in the management of the program in the areas of the delineation of the partnership between States, areawide agencies, and EPA and the integration and consolidation of water quality programs and identification of tasks and funding arrangements through State/EPA agreements. The regulations respond to the President's initiative on consolidation of Federal requirements for State and local planning and the President's urban policy.

DATES: Comments must be received on or before November 13, 1978. Public hearing: October 24, 1978 from 1:30 p.m. to 5:30 p.m.; 7:30 p.m. to 10:30 p.m.

ADDRESSES: Public hearing: Interdepartmental Auditorium, Constitution Avenue NW. (between 12th and 14th Streets), Washington, D.C. Send requests to speak to: Patti Morris, Environmental Protection Agency (WH-554), 401 M Street SW., Washington, D.C. 20460. (For additional information regarding requests to speak and the agenda for the hearing see public hearing below). Send written comments to: Lin Eichmiller, Environmental Protection Agency (WH-554), 401 M Street SW., Washington, D.C. 20460. Comments submitted may be inspected at the Public Information Reference Unit, EPA Headquarters, Room 2922, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Lin Eichmiller, Environmental Protection Agency (WH-554), 401 M Street SW., Washington, D.C. 20460, 202-755-6965.

PUBLIC HEARING

A hearing to receive comments on the proposed regulations will be held at the Interdepartmental Auditorium, Constitution Avenue NW. (between 12th and 14th Streets), Washington, D.C., from 1:30 p.m. to 5:30 p.m. and 7:30 p.m. to 10:30 p.m., on October 24, 1978.

Individuals wishing to comment at the hearing are requested to submit their names, addresses, and telephone numbers to Patti Morris, Environmental Protection Agency (WH-554), 401 M Street SW., Washington, D.C. 20460. Requests should indicate the length of time each individual wishes to comment and any preference to time. Statements will be limited to a maximum of 10 minutes. Individuals who request to comment will be notified in advance of the time scheduled for their statement. Time will be reserved for unscheduled comments. Each individual who plans to comment is requested to submit one legible copy of his or her statement at the hearing. The hearing record will be closed at the end of the hearing; however, as indicated above, written comments on the proposed regulations will be accepted by EPA if they are received no later than [60 days from date of publication]. The agenda for the hearing is as follows: Afternoon session: Introductory presentation—1:30 to 1:50; Question and answer session—1:50 to 2:10; Scheduled presentations—2:10 to 4:45; Unscheduled testimony—4:45 to 5:30; Recess—5:30. Evening session: If there is adequate public interest, an evening session will be scheduled. The afternoon's agenda would be followed.

SUPPLEMENTARY INFORMATION

This proposed regulation governs the water quality management (WQM) program authorized by sections 106, 208, and 303(e) of the Clean Water Act of 1977. Until this consolidation, program requirements were set forth in four places in Title 40: Part 130; Part 131; § 35.200 through § 35.236; and § 35.551 through § 35.570. This revision responds to the President's initiative on consolidation of Federal requirements for State and local planning and the President's urban policy, and does not represent a change in basic program goals or objectives.

There are, however, significant changes in the way EPA will manage this program in the future, and the new regulation reflects those changes. EPA has assessed the need to modify the management of the program through a study required by the Office of Management and Budget entitled "Program Strategy for Water Quality Management, FY 1979-1983". This strategy identified the following areas which the regulation addresses:

(1) The need for a more defined role for the States with more specific delineation of the partnership between the States, areawide agencies, and EPA;

(2) The need for specific outputs to be identified in the grant agreement based on national/State/areawide priorities and for these outputs to be tied to funding;

(3) The need, in order to promote implementation, to establish a policy that beginning fiscal year 1980, no planning funds be awarded to an agency unless at least a significant portion of its plan is being implemented;

(4) The need to ensure greater integration and consolidation of water quality management environmental programs through State/EPA agreements, thereby developing the most cost-effective and environmentally sound decisions; and

(5) The need to focus attention on the difficult decisions that are required, through a greater use by EPA of incentives, sanctions, and technical assistance.

The proposed regulation also makes other adjustments in the structure of the water quality management program. These modifications emphasize continuing planning and implementation, implement applicable provisions of the 1977 Clean Water Act and other new executive orders and directives, and resolve problems with portions of the existing regulations based on the experience of the last several years.

The proposed regulation significantly reduces the number of specific requirements placed on State and local governments by the WQM program. Approximately 150 individual requirements have been eliminated from the existing regulations; numerous others have been simplified or consolidated. This reduction is consistent with EPA's commitment to the President as part of the effort to substantially lessen the burden of requirements on State and substate agencies.

THE STATE/EPA AGREEMENT

The State/EPA agreement required by existing regulations (§130.11 of this chapter) was designed to establish the level of detail and timing of State water quality management plan preparation and assure the orderly integration of planning efforts and control activities. The original emphasis was on initial plan preparation; the proposed regulation now stresses the integrative and coordinative aspects of the Agreement, and implementation.

Beginning with the publication of this regulation, the State/EPA agreement becomes the primary means to integrate the planning, management, implementation, and evaluation of programs under the Clean Water Act, the Resource Conservation and Recovery Act, and the Safe Drinking Water Act. EPA is considering consolidation of State work program submissions for various other environmental programs into the State/EPA agreement. While this subpart governs only that portion of the State/EPA agreement relating to the 106, 208, and 303(e) programs, other programs may be included in a State/EPA agreement but will be governed by the applicable provisions of regulations found elsewhere in this chapter. The responsibilities of affected programs regarding the agreement will be discussed in their regulations and EPA guidance on State/EPA agreements.

Every State/EPA agreement should perform four basic functions: serve as a decision document which reflects important decisions on environmental and programmatic problems at the State and local level and the process by which these problems will be solved; establish State and EPA program priorities, timing of efforts, State and substate responsibilities, and the allocation of funds; be a management tool which focuses top State and EPA decision-maker attention on evaluation and accomplishment of major pollution control objectives; and be a communication and information document useful to EPA, the States, areawide agencies, local governments, and interested or affected publics. These general objectives apply regardless of the specific programs and outputs covered by the Agreement.

One of the keys to a successful agreement is work program development. To provide tangible environmental improvements, work programs must focus on problem solutions rather than individual program activities. The State/EPA agreement will encourage the use of information or results produced in one program by other programs. At a minimum, the agreement will contain the work programs of the various EPA programs that are included (although, to avoid a voluminous package, portions may be incorporated by reference). In developing the agreement, program linkages will be defined and duplication between programs will be minimized, obtaining the greatest benefit from available resources. At the maximum, the agreement will produce a completely integrated and coordinated work program for each State.

Most EPA programs which may be included in the State/EPA agreement have distinct elements which require fiscal accountability. Therefore, all grant agreements will link outputs with statutory funding sources. However, EPA will not allow this requirement to hamper the development of maximum feasible consolidation, so that States and EPA can minimize submissions and other paperwork.

CONTINUING PLANNING AND IMPLEMENTATION

For water quality management under section 208 of the Act, the proposed regulation emphasizes planning and implementation activities that follow development of the initial plans. This change in emphasis occurs because the initial planning phase (generally 3 years) is approaching completion.

To avoid confusion, the old regulations will continue to govern the initial planning phase of existing grantees, except in instances specified in these regulations. WQM planning conducted after the initial phase, including plan update and revision, will be governed by these regulations. This phase of planning is commonly referred to as "continuing planning", and is distinguished from the "continuing planning process" required of States by section 303(e) of the Act, which is also covered by these regulations.

EPA intends to manage the grant funds in all programs covered under this subpart in a manner designed to assure that the grantees are accountable for meeting grant commitments. Eligibility for continuing 208 or 106 funding will depend upon EPA's assessment of the past performance of the applicant agency, be it State or areawide. Success will be determined, in part, based on the adequacy of output achievement, the funds saved by developing more cost-effective solutions, and, in the case of 208, the degree to which an agency can become self-sufficient.

The proposed regulation places new emphasis on use of sanctions during the continuing planning period (including the possibility of withholding construction grant funds after WQM plan approval; see § 35.1531-4(b)).

EPA will use these sanctions to ensure that WQM plans capable of meeting the goals of the Act are developed, approved, and implemented. Continuing planning grant funds may be withheld or terminated if a grantee fails to abide by a grant agreement or meet other planning responsibilities under this subpart. Funding from the various statutory sources covered by these regulations may be withheld for any of a number of failures specified in the regulations. For example, a WQM agency must implement a significant portion of a WQM plan to be eligible for continuing 208 grants beginning in fiscal year 1980.

EPA's funding strategy for the 208 program, if approved by the Office of Management and Budget, does not contemplate Federal 208 grants after fiscal year 1983. Therefore, all State and areawide agencies conducting planning with 208 funds should take steps to become self-supporting by that time.

With the approval of the initial plans, the WQM planning program is entering the implementation phase. EPA intends the planning supported under the Act to be implemented. The regulation emphasizes this phase because it is critical to the achievement of water quality goals. WQM plans must provide assurances that management agencies will implement the plans. Work programs will provide for evaluating the implementation of approved plans.

INCORPORATION OF NEW REQUIREMENTS

Section 208(j) of the Act establishes a cost-sharing program for financing the installation of best management practices to control agricultural nonpoint source pollution. While these proposed regulations outline the role of WQM plans and management agencies in implementing section 208(j), regulations prepared by the Secretary of Agriculture shall set forth the details of the program.

Section 208(b)(2)(A) of the Act requires identification during plan development of open space and recreational opportunities expected to result from implementation of WQM plans. The proposed regulations incorporate this requirement.

Section 208(b)(4) of the Act, added by the amendments, authorizes the development by States of programs for controlling the discharge of dredged and fill material. EPA presently anticipates that a regulation governing the 208(b)(4) program will be incorporated as § 35.1580 of this subpart. However, the 208(b)(4) provisions are still in the drafting stage, and will be published separately as a proposed regulation in the near future.

The definition of best management practices (BMPs) set forth at 40 CFR 130.2 has been broadened in an attempt to make it compatible with several provisions added by the Clean Water Act of 1977 which use the term (see sections 208(b)(4)(B), 304(e), and 404(f)(1)(E)). The process for developing BMPs for WQM nonpoint source programs is not affected by the new definition.

New requirements to deal with wetlands and floodplains imposed under Executive Orders 11988 and 11990 and the Agency's policy on agricultural lands have been included. Although section 511(c)(1) of the Act exempts the WQM programs under sections 106, 208, and 303 from the requirement for preparation of environmental impact statements, it is EPA policy that the spirit and intent of NEPA will continue to be served by the WQM program. EPA has issued guidance concerning compliance with NEPA in the water quality management pro-

V 4 3 / 1 7 7

gram, which is available to reviewers on request. The proposed regulation provides for consideration of water conservation in the development of WQM plans consistent with the President's national water resources policy.

In accordance with the President's urban policy announced on March 27, 1978, and EPA's Urban Initiative, the proposed regulation provides that WQM planning agencies shall assess impacts of the plan on urban development and consider measures for the prevention of urban sprawl. WQM plans must also be consistent with the cost-effectiveness guidelines of the construction grants program, which are also part of EPA's Urban Initiative.

ADDITIONAL CHANGES TO WQM REQUIREMENTS

Requirements for State certification of WQM plans have been changed in the proposed regulation. The existing Agency policy on State certification requires too many commitments and assurances to be workable. Experience has also shown that the existing plan review procedures, providing for EPA review only after open-ended State review and certification is completed, have led to lengthy delays and a lack of communication between EPA and States. To resolve such problems, the proposed regulations narrow the scope and number of commitments and assurances required of the States and provide for a concurrent State-EPA plan review.

The proposed regulation contains a provision which would cut off State 208 funds (and a relevant portion of 106 funds) for failure of the State to act in a timely manner on a WQM plan. An alternative approach would be to consider the inaction of the State to constitute certification. Comments are invited concerning how EPA can deal most effectively with State failure to take prompt action on WQM plans.

The proposed regulation provides procedures for changes in designation of planning and management agencies.

The regulations set forth in this subpart also constitute EPA's implementation, in cooperation with other Federal, State and substate agencies, of the provisions of section 102(a) of the Act concerning comprehensive programs for water pollution control. However, nothing in these regulations shall preclude EPA from undertaking activities under section 102(a) independently of the programs under this subpart, when EPA determines that such programs need supplementation in order to achieve the water quality goals of the Act.

The proposed regulation recognizes the important partnership role played by successful State, regional, and local planning agencies in water quality management planning and implementation. The regulation covers responsibilities of both State and areawide planning agencies. The WQM program relationships between these levels of government in the development of State/EPA Agreements and WQM plans, plan evaluation, and other areas are clarified.

New public participation requirements are included in the proposed regulations at appropriate points. The public participation requirements reflect the recent proposed regulations (40 CFR Part 25, 43 FR 34794) which will replace 40 CFR 105. EPA encourages consolidation of public participation programs at the State and local level to minimize duplication where consistent with public participation goals. The part 25 regulations establish membership and other requirements for the Advisory Committee required under § 35.1533-3 for 208 agencies. Only one official Advisory Committee should be established in accordance with these requirements; however, this should not discourage the formation of technical subcommittees with additional representation at the grantee's discretion to address particular issues.

The proposed regulation includes new detail on the relationship of the NPDES program and WQM. WQM plan provisions to be incorporated in NPDES permits under section 208(e) of the Act must be specifically identified in the plan itself and in any plan approvals. However, because this relationship is technically and institutionally complex, EPA solicits suggestions on enhancing the effectiveness of these programs through this regulation.

Section 35.1519-6 provides that 208 planning agencies must develop BMPs for nonpoint sources. BMPs may also be developed in the WQM process for certain categories of point sources, such as storm sewers. These BMPs can be used in NPDES permits as minimum requirements.

The proposed regulation significantly reduces the specificity for WQM plan content. This was done in part because of EPA's commitment to the President to simplify and consolidate the planning requirements placed on State and local governments, and in part because EPA feels that the grant agreement should be the means for setting out specific requirements and commitments. Several commentors have indicated that a greater level of detail, particularly with regard to plan content, is necessary to help the public and the government in the development of work programs and WQM plans, and to evaluate completed plans (by setting out criteria for plan approval). Other commentors have favored the structure proposed in these regulations, which establishes basic requirements and criteria and allows some regional office flexibility in implementation through the grant agreement. Areas where more detail may be desirable include monitoring, the attainment of water quality goals, and reporting requirements. EPA also encourages reviewers to comment on the desired level of detail.

Reviewers should note that EPA is presently studying implementation of the Federal Grant and Cooperative Agreement Act, and that this regulation, in final form, may use the term "cooperative agreement" rather than "grant". Such a change will have no effect other than a change in nomenclature.

Under EPA's new "sunset" policy for reporting requirements in regulations, the reporting requirements in this regulation will automatically expire 5 years from the date of promulgation unless EPA takes affirmative action to extend them. To accomplish this, a provision automatically terminating the reporting requirements at that time will be included in the text of the final regulations.

EPA is committed to evaluating this regulation three years from the date of publication. This evaluation will assess such factors as overlap of requirements, integration, alternative methods, enforceability, and reporting requirements.

Water quality standards policy now in § 130.17 is not affected by this regulation. The Agency expects that § 130.17 will be incorporated into part 120 of this chapter.

The Agency is developing guidance to complement the regulation. Draft policy on the State/EPA agreement is available for review and comment from the addressee. Availability of other draft guidance for review and comment will be announced in the FEDERAL REGISTER. This regulation and forthcoming guidance retain major elements of existing policy (e.g., policy on regulatory and nonregulatory programs, development and implementation of BMPs, and management agencies). The policy on regulatory and nonregulatory programs is set forth in SAM-31. SAM-31 was developed with public input and the Agency invites further comments on the policy which can be obtained from the addressee as part of the review.

Dated: September 1, 1978.

DOUGLAS M. COSTLE,
Administrator.

PART 35—STATE AND LOCAL ASSISTANCE

(1) 40 CFR is amended by deleting parts 130, 131, § 35.200 through § 35.236, and § 35.551 through § 35.570.

(2) 40 CFR is amended by adding a new subpart G as follows:

Subpart G—Grants for Water Quality Planning, Management and Implementation

Sec.
35.1500 Purpose and scope.
35.1501 Applicability.
35.1502 Definitions.
35.1503 Program summary.
35.1505 Water quality goals.
35.1507 State/EPA agreement for water quality management.
35.1507-1 General.
35.1507-2 Scope.
35.1507-3 Content.
35.1507-4 Role of areawide agencies.
35.1507-5 Grant agreements.
35.1507-6 Relationship to approved WQM plans.
35.1507-7 Development and submission.
35.1507-8 Public participation in development.
35.1507-9 Evaluation.
35.1509 Conflict resolution.
35.1511 WQM work programs of State and areawide agencies.
35.1511-1 General.
35.1511-2 Scope.
35.1511-3 Areawide agency work programs.
35.1511-4 Major work elements.
35.1511-5 Content.
35.1511-6 EPA review and approval of work programs.
35.1511-7 Evaluation.
35.1513 Continuing planning process.
35.1513-1 General.
35.1513-2 State priority system.
35.1513-3 Failure.
35.1515 State assessment and strategy.
35.1515-1 State water quality assessment.
35.1515-2 State strategy.
35.1517 Selection of 208 planning agencies.
35.1517-1 Status of existing planning agency designation.
35.1517-2 Changes in designation status.
35.1517-3 Delegation of planning activities.
35.1519 Water quality management planning.
35.1519-1 General.
35.1519-2 Applicable regulations.
35.1519-3 Relationship to work programs.
35.1519-4 Annual planning outputs.
35.1519-5 Plan development requirements.
35.1519-6 Program areas.
35.1519-7 Planning responsibilities.
35.1519-8 Planning on Indian lands.
35.1521 Evaluation, certification, and approval of WQM plans and designation of management agencies.
35.1521-1 General.
35.1521-2 Plan evaluation.
35.1521-3 Plan certification; designation of management agencies.
35.1521-4 EPA approval.
35.1522 Reviewing plan applicability after approval.
35.1523 Evaluation of management agency performance.
35.1525 Change in management agency designation by States.
35.1529 Intergovernmental coordination and cooperation.
35.1529-1 General.
35.1529-2 Federal responsibility.
35.1529-3 Federal facility compliance.
35.1531 Implementation.
35.1531-1 General.
35.1531-2 Funding.
35.1531-3 Remedies for failure to implement.
35.1531-4 Relationship to other programs.
35.1533 Public participation.
35.1533-1 Purpose.
35.1533-2 Work programs.
35.1533-3 Planning and implementation.
35.1535 Allotments and reallotments.
35.1535-1 Allotments.
35.1535-2 Reallotments.
35.1537 Grant limitations and administration.
35.1537-1 Grant amount.
35.1537-2 Reduction of grant.
35.1537-3 Budget period.
35.1537-4 Eligibility.
35.1537-5 Limitations on award.
35.1537-6 Allowable and unallowable costs.
35.1537-7 Audit.
35.1537-8 Adherence to budget estimates.
35.1537-9 Program changes.
35.1537-10 Payment.
35.1537-11 Financial status report.
35.1537-12 Disputes under this subpart.
35.1580 Development of programs for controlling the discharge or placement of dredged or fill material. [Reserved]

Appendix A, Water quality and pollutant source monitoring. [See Appendix A, Subpart B of Part 35.]

AUTHORITY: Section 501(a) of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

Subpart G—Grants for Water Quality Planning, Management and Implementation

§ 35.1500 Purpose and scope.

This regulation establishes policies, program requirements, and procedures for water quality management planning and implementation under the Clean Water Act and for grants for such purposes under sections 106, 205(g), and 208 of the Act. This subpart supplements the general grant regulations set forth in part 30 of this chapter.

§ 35.1501 Applicability.

This regulation applies to the continuing planning process under 303(e) of this Act, and to all State and areawide water quality management planning and implementation activities and related grants under sections 106, 205(g), and 208 of the Act awarded subsequent to the date of publication of the final regulation in the FEDERAL REGISTER. This regulation does not apply to completion of initial plans under section 208. Completion of initial plans (and satisfaction of requirements pertaining to plans conditionally approved prior to the date of publication) is governed by the earlier regulations superseded by this part, except for plan evaluation, certification, and approval. Water quality standards development, review, and revision are covered under part 120 of this chapter.

§ 35.1502 Definitions.

(a) The term "the Act" means the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

(b) The term "grants under section 205(g) of the Act", and variations thereof, means grants under section 205(g)(2) of the Act for non-construction grants purposes such as administration of approved programs under sections 402 and 404 and grants for administering the statewide waste treatment management program under section 208(b)(4) of the Act. The term does not include construction management assistance grants under subpart F of this chapter.

(c) Other definitions shall be as set forth in the Act (see, e.g., sections 212 and 502). Further definitions are set forth in the provisions where the defined term is used.

§ 35.1503 Program summary.

(a) *General.* Water quality management (WQM) is the name EPA has given to a complex environmental program under the combined authority of several sections of the Act. The WQM program combines State water pollution programs funded under section 106, State and areawide comprehensive waste treatment management planning funded under sections 205(g) for nonconstruction activities and 208, and other State planning mandated by section 303 of the Act into a single planning and implementation program. Public participation is provided for in all aspects of the program.

(b) *Water quality management planning.* (1) Each State, along with areawide agencies in specially designated areas, conducts water quality management planning. Each such State and substate agency is required to have a plan, which identifies sources of pollution, the severity of the pollution, and control programs. Each plan will be revised periodically as needed. The control measures must be designed to attain the 1983 goal of the Act, which is water suitable for swimming, fishing, and the protection of wildlife, where attainable.

(2) Each State is required to have a continuing planning process, which consists of the procedures by which the State controls water pollution (including WQM planning and implementation). The State's system for prioritizing construction grants projects is included in the continuing planning process.

(c) *Public participation.* EPA considers public participation to be a high priority in the WQM program. Public participation is provided for in all aspects of the program, and is discussed in § 35.1533.

(d) *Annual work programs.* Each year, the State prepares a work program (which is submitted as part of the WQM portion of the State/EPA agreement discussed below) identifying the specific planning and implementation outputs the State will un-

V 43 / 177 SEP 12 78

dertake during the subsequent year with funds from sections 106, 205(g), and 208. Each designated areawide agency also develops an annual work program for planning activities funded under section 208. The priority problems which a State or areawide agency may address will vary, depending on the particular needs of the area.

(e) *Participants.* The WQM program is a cooperative effort of EPA and other Federal agencies, States, regional agencies, local governments, and the public. Each has a role in planning and in implementation. The Governor of each State has designated State agencies to manage the WQM program, and, in most cases, areawide agencies to plan in those areas where particularly complex waster quality problems exist. The State conducts planning in areas outside the designated areawide areas and coordinates activities of areawide agencies.

(f) *Implementation.* Implementation of solutions that States and areawide agencies develop for water quality problems involves many programs and agencies at all levels of government. Management agencies are designated by the Governor to carry out WQM plans. These agencies must have the capability, including resources, to implement the assigned programs. Implementation may involve construction of treatment works, regulatory programs, management program, legislative initiatives, enforcement, or other such activities. Implementation is the most important part of the WQM program, because only with successful implementation will water quality goals be achieved. Not all implementation relates to the 208 plan per se; the State uses funds under section 106 of the Act to manage a wide range of WQM activities, including permit activities under title IV of the Act. Various sanctions are available to EPA to deal with failures in implementation.

(g) *Funding.* State administration and management of the WQM program is supported primarily by grants under sections 106 and 205(g) of the Clean Water Act. WQM planning by State and substate agencies is supported primarily by grants (up to 75 percent of costs) under section 208. Implementation is funded from many sources, among them grants under sections 106, 201, 205, 208(j), and 314 of the Clean Water Act, State funds, local funds, and funds from other Federal agencies.

(h) *State/EPA agreement.* The WQM program is one of several EPA programs which will be included in State/EPA agreements. The agreement is negotiated each year between the Regional Administrator and the Governor. It identifies WQM problems and objectives, describes coordination with other environmental programs, summarizes major work program outputs, and includes a detailed annual work program for WQM.

§ 35.1505 Water quality goals.

The water quality goals are: (a) Those set forth in section 101 of the Act, including protection and propagation of fish, shellfish, and wildlife and provision for recreation in and on the water by 1983 whereever attainable, restoration and maintenance of the chemical, physicial, and biological integrity of the Nation's waters, and prohibition of toxic substances in toxic amounts;

(b) Achievement of water quality standards;

(c) Protection of public health and welfare; and

(d) Reduction of water pollutants from nonpoint sources to the maximum extent feasible.

§ 35.1507 State/EPA agreement for water quality management.

§ 35.1507-1 General.

(a) The State/EPA agreement integrates planning, management, and implementation of all EPA programs which the State and the Regional Administrator elect to include. In addition, the agreement reflects appropriate coordination with other Federal, State, regional, and local planning programs affecting or affected by the activities under this subpart. Starting in fiscal year 1980, the Regional Administrator shall not award assistance under this supart unless he or she has determined that the State has coodinated, and integrated to the maximum extent feasible, all work program elements of the WQM program with other EPA programs included under the State/EPA agreement.

(b) The Regional Administrator and the Governor will negotiate the WQM portion of State/EPA agreement on State and EPA responsibilities and funding. The agreement shall (1) ensure that water pollution is controlled in a cost effective manner; (2) coordinate programs, simplify paperwork, and improve program accountability; and (3) serve as the management tool for the WQM programs and as a public information document by identifying activities to be funded and describing the relationship between WQM activities and other environmental programs of the Agency. The agreement is negotiated annually, but may cover commitments to be performed over a longer period.

NOTE.—The State/EPA agreement is not the same as any memoranda of agreement negotiated between a State and EPA governing the operational aspects of other programs such as the permit programs approved under sections 402 and 404 of the Act and implementing regulations (see 40 CFR 123.5), and construction grant delegation agreements under section 205(g) of the Act and implementing regulations (see 40 CFR Part 35, subpart F). However, the State and the Regional Administrator may agree to include such agreements under the State/EPA agreement for ease of coordination, if the particular requirements applicable to those agreements are complied with.

§ 35.1507-2 Scope.

The WQM portion of the State/EPA agreement must cover the WQM program funded under sections 106, 208, and 205(g), and the State's responsibilities under section 303 (e) of the Act.

§ 35.1507-3 Content.

The WQM portion of the State/EPA agreement consists of the following:

(a) A statement of water quality management problems and objectives, based on the State's problem assessment and strategy developed under § 35.1515.

(b) A description of coordination among water quality management programs and other environmental programs to avoid inconsistent, duplicative, or environmentally unsound activities. (For example, coordination with programs to control solid and hazardous waste; in particular, residuals planning and management responsibilities in relation to the requirements of section 4006 of the Resource Conservation and Recovery Act (RCRA).)

(c) A summary of major work program outputs, associated funding (and sources), and agency responsibilities for completing the outputs.

(d) A work program under § 35.1511.

§ 35.1507-4 Role of areawide agencies.

For areawide agencies, the WQM portion of the State/EPA agreement sets a policy framework based on the State strategy, and should include priorities for areawide action and timing of major outputs. Because of the importance of their role, designated areawide planning agencies shall be continually involved in development of all relevant aspects of the agreement. Failure to involve the areawide agencies shall be a basis for disapproval of the WQM portion of the State/EPA agreement. Comments of the areawide agencies (if any), the State's responses, and a brief summary of the participation of areawide planning agencies in development shall be forwarded to EPA with the draft agreement. Nothing shall preclude the right of the designated areawide agency to submit comments directly to EPA.

§ 35.1507-5 Grant agreements.

To avoid duplication, the WQM portion of the State/EPA agreement should constitute the narrative portion of the application for grant funds. In the event of funding delay, the State/EPA agreement may be negotiated prior to grant award. No grant under this subpart shall be awarded unless the Regional Administrator and the Governor (or other State representative) have signed the WQM portion of the State/EPA agreement in accordance with § 35.1507-7(b). The Regional Administrator may award a grant to one agency, a grant which directs funds to more than one agency, or separate grants to the various agencies which will be performing under the agreement.

§ 35.1507-6 Relationship to approved WQM plans.

The Regional Administrator shall not enter into the WQM portion of a State/EPA agreement unless the Regional Administrator determines that it is compatible with the approved State WQM plan (which includes approved elements of areawide plans).

§ 35.1507-7 Development and submission.

(a) The State and the Regional Administrator shall develop a draft of the WQM portion of the State/EPA agreement on an agree-upon schedule. A draft agreement shall be submitted to the Regional Administrator not later than June 1 of each year. The Regional Administrator shall review the draft for compliance with the requirements of this subpart and provide comments to the State within 30 days of receipt.

(b) The final WQM portion of the State/EPA agreement shall be submitted to the Regional Administrator not later than September 1 of each year. The agreement shall be effective upon signature by the Regional Administrator and the Governor or, if the Regional Administrator and the Governor agree that it is appropriate, by one or more heads of State executive agencies.

§ 35.1507-8 Public participation in development.

Early in the process under § 35.1507-7(a), the State shall notify the public about the goals and scope of the agreement (including the work program) and shall schedule opportunities for consultation with the public. The State shall consult with the advisory committee established under § 35.1533-3. Prior to submission of the draft agreement to EPA, the State shall distribute to the public a fact sheet which explains in layman's terms the contents of the proposed agreement and hold a public hearing in accordance with part 25 of this chapter. A summary of significant public comments from the hearing and other sources (including the advisory committee) and the State's responses shall be forwarded to EPA with the draft agreement.

§ 35.1507-9 Evaluation.

Annual evaluation of implementation of the State/EPA agreement shall be conducted with the evaluation of the work program under § 35.1511-7, or on any other basis established in the State/EPA agreement.

§ 35.1509 Conflict resolution.

The State shall develop procedures for resolving conflicts among the State, designated areawide agencies, local governments, and potential and designated management agencies, in accordance with EPA guidance. A written statement of such procedures shall be submitted to the Regional Administrator for approval as an output of the fiscal year 1979 work program. Once approved, it need not be resubmitted, unless amended substantially. Nothing shall preclude the right of any agency to request EPA comment and review, after exhausting available procedures at the State level. All agencies and members of the public have the right to submit comments to EPA.

§ 35.1511 WQM work programs of State and areawide agencies.

§ 35.1511-1 General.

(a) The annual work program of States and areawide agencies provides the basis for tying available Federal and non-Federal funds to the requirements of this subpart, in order to achieve the water quality goals of the Act. It translates the requirements of this subpart and the EPA annual guidance into specific output commitments, including WQM planning.

Most State control program expenses (including expenses of staffing to meet 208 implementation responsibilities) will be funded under section 106 of the Act. State funding under section 208 of the Act is available primarily for planning in nondesignated areas. Thus, the major portion of the WQM program (including permits administration, monitoring, enforcement, and administration of nonpoint source programs) at the State level is a 106-related effort.

(c) The State's work program shall be based on the continuing planning process, the water quality problem assessment, and the State strategy, and shall indicate how the problems dentified in the strategy and assessment will be handled and how the WQM requirements will be met. Although the work program is an annual submission, the Regional Administrator may allow outputs to be addressed on a multiyear basis as long as the Regional Administrator determines that EPA oversight and evaluation capability remains unaltered. Areawide planning agency work programs are developed separately in accordance with §§ 35.1511-3 and 4. The Regional Administrator shall review work programs of both States and areawide agencies to assure that redundant outputs are not included.

§ 35.1511-2 Scope.

The State and areawide work programs shall identify outputs and associated funding within the appropriate work elements of § 35.1511-4. Specific consolidation efforts should be made concerning planning agencies' use of common data bases, simplified and coordinated reporting, and other elimination of conflict and redundancy among programs. Work programs shall meet the requirements of § 35.1529 concerning intergovernmental cooperation.

§ 35.1511-3 Areawide agency work programs.

The WQM portion of the State/EPA agreement sets the policy framework, based on the State strategy, for areawide work programs. The WQM portion of the State/EPA agreement should include priorities for areawide action and timing of major outputs. Areawide planning agencies which the Regional Administrator determines should receive 208 funding must submit a draft and final work program in accordance with the requirements of § 35.1511 concurrently to the State for review and to EPA for approval. Draft and final areawide work programs shall be submitted on the same schedule as the State submissions (see § 35.1507-7). The State shall have 30 days to review and comment on the adequacy of the areawide work program and its compatibility with the WQM portion of the State/EPA agreement and the State WQM plan, and shall submit its comments, if any, to both the areawide agency and EPA. Areawide agency work programs must also meet the public participation requirements of § 35.1507-8, including consultation with the areawide agency's advisory committee.

§ 35.1511-4 Major work elements.

(a) *General.* EPA will provide annual guidance (see § 35.404 of this chapter) identifying specific outputs under the major program elements listed below. Each work program shall be free from redundant or inconsistent outputs; common outputs (i.e., funded from more than one program) may be developed (§ 35.1537-7). An important output of the State is the annual project priority list for construction grants (both the fundable and extended portions), developed and approved in accordance with § 35.915.

(b) *Areawide agencies.* Areawide agencies shall receive grants directly from EPA. Grants to areawide agencies under this subpart are only for water quality management planning

under section 208 of the Act. In addition, such agencies may receive funds from the State, under interagency agreement, to perform specific activities on behalf of the State under sections 106, 205(g), 208, and 314 of the Act; however, such activities remain the responsibility of the State and are not outputs for which the areawide agency is directly accountable to EPA. Areawide agencies similarly may receive funds from other substate agencies; for example, to perform facilities planning activities.

(c) *State agencies.* With approval of the Regional Administrator after negotiation with the State, the State may receive funding for the following elements (potential funding sources shown in brackets):

(1) Construction grants management, including development of the project priority list (to the extent not funded under subpart F), and planning for and management of pretreatment programs [106, 205(g), 208].

(2) Administration of permits programs, including programs under sections 402 and 404 of the Act [106, 205(g)].

(3) WQM planning and certification [primarily 208; 106 where the Regional Administrator determines appropriate; 205(g) for development of the 208(b)(4) program].

(4) Water quality standards development, review, and revision [106, 208].

(5) Nonpoint source management activities [106].

(6) Monitoring and assessment [106,208].

(7) Enforcement (including compliance assurance and litigation support activities) [106].

(8) Training and facilities operation and maintenance [106].

(9) Emergency response programs [106].

(10) Evaluation [106, 208].

(11) Administration of regulatory and other water quality control programs [106].

(12) Planning for and coordination with section 208(j) programs [106, 208].

(13) Administration [106, 205(g), 208].

(14) Public participation in accordance with § 35.1533 [106, 205(g), 208].

§ 35.1511-5 Content.

The draft final work program submitted by an areawide agency or by the State shall contain the following:

(a) A summary and evaluation of the current year's program, including outputs produced and those not completed, and a summary of public participation.

(b) Identification of the outputs to be produced under each program element in § 35.1511-4, and, for each output, the person-years to be used; the costs; the funding source(s); milestones for completion of the output; a disbursement schedule; and the agency(ies) responsible.

§ 35.1511-6 EPA review and approval of work programs.

(a) The areawide agency work program, and the State work program submitted as a part of the State/EPA agreement, shall be forwarded to the Regional Administrator in accordance with the schedule in § 35.1507-7. Grants shall be awarded only upon approval of the work program. The Regional Administrator may award a grant under this subpart with special conditions if the work program requires minor changes. In such an event, the Regional Administrator shall provide the agency with a statement of deficiencies in the work program and revisions which must be made to obtain approval. The grant award shall include this statement and a schedule for making the corrections. Noncompliance may result in a reduction of grant amount or termination.

(b) The Regional Administrator shall not approve a designated areawide agency's work program if, based on the Regional Administrator's review and advice from the State, the Regional Administrator determines that the work program is incompatible with the State strategy and EPA guidance.

(c) The Regional Administrator shall review the work program of each State and areawide agency to determine if it meets these requirements, and to determine:

(1) The consistency of the work program and expected products with this subpart and EPA guidanee, including any EPA guidance designed to coordinate activities under this subpart with activities under other EPA programs.

(2) The feasibility of achieving expected results in relation to the nature of problems, authority, organization, past performance of the agency(ies) involved, and their available resources.

(d) The Regional Administrator shall not approve a work program for any agency which has had its WQM plan or an element thereof approved with conditions unless he or she determines that the agency is moving as rapidly as possible to fulfill the conditions.

§ 35.1511-7 Evaluation

It is EPA policy to limit EPA evaluation to that which is necessary for responsible management of the national effort to control pollution. Each Regional Administrator shall hold meetings to review and evaluate State and areawide programs as follows:

(a) *Mid-year evaluation.* The Regional Administrator shall conduct a joint, on-site, mid-year evaluation meeting with each State and designated areawide agency, and hold a public meeting, to review and evaluate the program accomplishments of the current budget period under the work program and to discuss the work projected for the coming year.

(b) *Other reviews.* The Regional Administrator may conduct an end-of-year evaluation meeting with appropriate State and other officials to review the accomplishments of the program year, and such other reviews as are deemed appropriate.

(c) *Reports.* The Regional Administrator shall prepare a written report of each evaluation, forward a copy to the grantee (and the State, where the grantee is an areawide agency), and notify the public of the report's availability.

§ 35.1513 Continuing planning process.

§ 35.1513-1 General.

Each State shall have an approved continuing planning process (CPP) for both point and nonpoint sources as required by section 303(e) of the Act and EPA guidance. The CPP shall respond to the objectives and requirements of all relevant provisions of the Act, and shall cover both planning and implementation reponsibilities. The CPP shall be described in a document submitted by the State to, and approved by, the Regional Administrator. It consists of the operating policies, procedures, and practices that comprise the water quality management program of the State; describes program working relationships; and sets forth the procedures that will govern the development of the WQM portion of the State/EPA agreement. Revisions to the approved CPP description shall be developed as outputs of the State's work program.

§ 35.1513-2 State priority system.

The CPP includes the State priority system for construction grants, developed in accordance with § 35.915 of this chapter. The State priority system describes the methodology used to rate and rank municipal wastewater treatment projects eligible for grant assistance under subpart E. It also sets forth the administrative, management, and public participation procedures required to develop and revise the State project priority list under § 35.915(c). Under § 35.1531-4(b)(2), areawide priorities are developed consistent with the State priority system.

§ 35.1513-3 Failure.

The CPP is the process under which State WQM planning is conducted. Therefore, a substantial failure of State WQM planning and implementation may indicate a deficiency in the CPP for which the Regional Administrator may withdraw approval of the CPP. Under section 303(e) of the Act, State failure to maintain an approved CPP constitutes grounds for withdrawal of National Pollutant Discharge Elimination System (NPDES) program approval. Further, if the Regional Administrator determines that the CPP, as implemented and revised, does not meet the requirements of the Act and this part, he may withhold grant funds available to the State under sections 106, 205(g), 208, and 314 of the Act. Disapproval of a portion of the CPP need not require disapproval of the whole CPP; for example, the priority system under § 35.1513-2 may be determined approvable by the Regional Administrator in spite of a failure of other portions of the CPP.

§ 35.1515 State assessment and strategy.

§ 35.1515-1 State water quality assessment.

(a) *General.* The State must conduct a water quality assessment based on water quality goals (§ 35.1505). The assessment shall identify water quality and source control problems for programs funded under sections 106, 205(g), and 208 of the Act, and shall link planning and implementation by determining the effectiveness of control programs (e.g., BMPs and NPDES permits) in achieving water quality goals and by indicating where additional controls are necessary to achieve those goals. Future assessment activities shall build on existing data. The Regional Administrator shall not approve funding for further assessment activities unless it is determined that the work will not duplicate past efforts. Except where otherwise determined by the Regional Administrator, State assessment activities shall be funded only under section 106 of the Act. Updates of the assessment will be developed as WQM outputs of the work program. Assessment data should be available to the State by the first of each calendar year for use in developing the State strategy and the WQM portion of the State/EPA agreement.

(b) *Content.* The problem assessment must include:

(1) The water quality descriptions and constituent analyses of point and nonpoint source problems and control needs in accordance with section 305(b) of the Act and EPA guidance for surface and ground waters. The assessment must be based on land use, demographic, and economic data and projections for 20 years in 5-year increments. (Data must be consistent with the EPA cost-effective guidelines under subpart E, appendix A.) For all areas (including rural areas), the relationship between the severity and geographic extent of water quality problems and other environmental problems, such as air quality or solid waste disposal problems, must be considered. The location and nature of the problems, and if possible, point and nonpoint source loads, must be identified.

(2) An analysis of the individual and cumulative impact on receiving waters of activities causing nonpoint source pollution.

(3) The classification of stream segments in accordance with section 303(d)(1)(A) of the Act and EPA guidance, consistent with the needs assessment prepared under section 516(b) of the Act.

(4) An evaluation of the effectiveness of existing point and nonpoint source control programs in achieving water quality goals.

(5) Other assessments required by programs not funded by sections 106 and 208 which are considered appropriate for developing the WQM work program and WQM plans; for example, relevant data from the inventory of land disposal under section 4005 of RCRA; the identification and classification of publicly owned fresh water lakes required under section 314 of the act; and estuarine reports required by section 104(n) of the Act.

(c) *Role of areawide agencies.* With the approval of the Regional Administrator, designated areawide agencies may also conduct problem assessment for their planning areas as necessary to meet areawide WQM responsibilities. State problem assessment activities under sections 106 and 208 may be delegated under interagency agreement to areawide agencies.

§ 35.1515-2 State strategy.

(a) *General.* The State shall prepare and annually update a 5-year strategy for controlling water pollution problems from point and nonpoint sources. It shall address the problems identified in the assessment developed under § 35.1515-1. It shall be consistent with the management agency performance evaluations developed under § 35.1523 and with approved and certified State and areawide WQM plans, although the strategy may be used to recommend revisions in approved plans. The strategy shall include:

(1) Goals for WQM over a 5-year period.

(2) Priorities for controlling the problems identified in the problem assessment, and in the management agency performance evaluation, including;

(i) The construction grant project priority list, and

(ii) Priority rankings for total maximum daily loads and wasteload allocations development under § 35.1519-6(a).

(3) A summary of anticipated planning and implementation activities for priorities identified in (a)(2) of this section.

(4) An identification of governmental entities responsible for conducting the activities identified in (a)(3) of this section.

(5) A summary of anticipated Federal and non-Federal funds for the 5-year period for the activities and entities identified in (a)(3) and (4) of this section, for use by EPA in determining resource needs and allocations.

(b) *Role of areawide agencies.* Since the State strategy is used in the Regional Administrator's review and approval of the areawide agency's work program (see § 35.1511-3), the State shall involve each affected areawide agency in development of the strategy, and shall consider priorities suggested by the areawide agency. The State shall forward a summary of areawide participation and State response to comments received from areawide agencies to EPA with the strategy.

(c) *Public participation.* (1) Early in the process of strategy development, the State shall notify the public about the goals and scope of the strategy and shall schedule opportunities for public participation. The State shall consult, in accordance with part 25 of this chapter, with the State advisory committee established under § 35.1533-3. The State shall distribute a fact sheet which explains in layman's terms the contents of the proposed strategy and hold a public meeting in accordance with part 25. The meeting may be consolidated with other meetings or hearings. A summary of significant public comments from the meeting and other sources and the State's responses shall be forwarded to EPA with the strategy.

(2) Public participation requirements for priority list development shall be as set forth in § 35.915 of this chapter. To avoid duplication, public participation activities for list development should be combined with other such activities under this section wherever practicable.

(d) *Submission.* Each year, the strategy shall be submitted by April 1 to the Regional Administrator for review and comment to provide guidance in work program development and assistance in negotiating the State/EPA agreement. With approval of the Regional Administrator, the priority list developed under § 35.915 of this chapter may be submitted separately.

§ 35.1517 Selection of 208 planning agencies.

§ 35.1517-1 Status of existing planning agency designation.

A designated State, interstate, or areawide planning agency shall retain

its designated status unless changed in accordance with this section. While planning grants funds will be awarded only to designated agencies, designation does not automatically entitle any agency to grant funds. An agency must meet all requirements of this subpart to become or continue to be eligible for funding.

§ 35.1517-2 Changes in designation status.

(a) *General.* (1) As of the date of publicaiton of the final regulations, virtually all areas of the United States are covered by 208 planning by existing State or designated areawide agencies. Generally, therefore, it is not necessary for Governors to designate new areawide planning agencies, since a change in planning responsibility usually can be accomplished through a change in designation. With EPA approval, the Governor may:

(i) Designate a new State planning agency to replace the existing State planning agency;

(ii) Designate a new areawide planning agency for an area previously administered by the State (note § 35.1517-2(a)(3));

(iii) Designate a replacement areawide planning agency for an existing designated agency in a planning area;

(iv) Remove the designation from an existing area and agency, thereby replacing it with the State planning agency;

(v) Alter the boundaries of existing planning areas.

(2) All actions under (a)(1) of this section require the approval of the Regional Administrator, and such changes will be approved only if he or she determines that there is a compelling need for the change and that the procedures set forth below have been followed. Generally, designation changes should not be made where delegation of specific responsibilities through interagency agreement may accomplish the desired objective. Preference should be given to replacement agencies and delegees which have planning responsibilities in other Federal, State, regional, and local environmental and land use planning programs.

(3) Designation of new areawide planning agencies for areas previously administered by the State shall be subject to the procedural requirements of this section and any additional procedures the Regional Administrator considers appropriate to meet the intent of section 208(a)(2) of the Act.

(b) *Procedures.* (1) The Governor shall propose any change in area or agency designation in a written statement, which shall contain the reasons for the proposed change, the impact on applicable time schedules and achievement of program requirements, and the identification of a proposed replacement agency or change in planning area boundaries. This statement shall be sent to the Regional Administrator, to the head of the agency to be replaced, and to the chief elected officials of general purpose governments in the affected area. The statement shall also be available for public review in the affected area.

(2) Except where the proposed change is contained in a certified and approved WQM plan, following distribution of the statement, and not less than 30 days prior to the effective date of the proposed change, the State shall hold a public meeting in the affected area. Advance notice of the meeting shall be given in accordance with part 25 of this chapter. Before the change is approved, the State shall submit a summary of significant public comments received at the meeting and elsewhere, and the State's responses, to the Regional Administrator.

(3) If there is significant public controversy concerning the proposed action, the Regional Administrator should conduct a public meeting in the area.

(4) The Regional Administrator shall approve the designation change if he determines that the proposed change is consistent with (a)(2) of this section and that the proposed replacement agency has the authority, capability (including resources) and willingness to undertake its responsibilites.

(c) *Grant Funds.* Generally, as soon as the Regional administrator determines that an agency may lose its designation, and if unexpended grant funds remain, the Regional Administrator should issue a stop work order under § 30.915 of this chapter. A stop-work order is not needed where the agency to be replaced is allowed by the Regional Administrator to complete its assigned tasks. Upon designation change, the Regional Administrator shall either tranfer the grant under § 30.900-3 of this chapter to the replacement agency, or terminate the grant under § 30.920 of this chapter and provide part or all the funds released to the replacement agency. The final decision of the Regional Administrator may be appealed in accordance with § 30.920-5.

§ 35.1517-3 Delegation of planning activities.

Designated State and areawide agencies may delegate (through interagency agreements) planning activities, but not ultimate responsibilities for planning, to other State, Federal, regional, local, and interstate agencies for the conduct of work under this subpart. Delegation shall take place through a written agreement executed by the two agencies, subject to the approval of the Regional Administrator, specifying outputs and time schedules. If a State or areawide agency intends to delegate any major planning activities under this paragraph then:

(a) Locally elected officials of governments having jurisdiction in the affected area shall be consulted prior to execution of the agreement, and

(b) The draft of the delegation agreement should be distributed widely, with a public meeting held thereafter at least 30 days prior to the execution of the agreement.

§ 35.1519 Water quality management planning.

§ 35.1519-1 General.

WQM plans shall be prepared as outputs of the work program by States under sections 208 and 303(e) of the Act and by areawide agencies under section 208 of the Act. The term "WQM plan" as used in the context of this regulation refers to the initial plan and subsequent revisions and additions prepared in accordance with section 208(b) of the Act. After a WQM plan is adopted by the areawide agency, certified by the Governor, and approved by EPA under § 35.1521, it shall be considered a part of the State's WQM plan. Water quality management decisions are controlled by the applicable provisions of the approved State and areawide plans.

§ 35.1519-2 Applicable regulations.

(a) Except as otherwise provided in this subpart, initial planning begun as of the date of publication of final regulations is governed by the requirements formerly published as 40 CFR Parts 130 and 131, and § 35.200 through § 35.236, which shall remain applicable in uncodified form to the development of initial WQM plans and, to the extent practicable, completion of work needed to fulfill conditional approvals prior to the date of publication of final regulations.

(b) All WQM planning subsequent to development of initial plans shall be in accordance with the requirements of this part.

§ 35.1519-3 Relationship to work programs.

All planning activities of State and areawide planning agencies under this subpart are controlled under work programs under § 35.1511. While funding generally will be available on an annual basis, the approved work program may include planning products which will be developed on a multi-year basis. Multi-year outputs generally shall be evaluated on an interim basis under § 35.1511.

§ 35.1519-4 Annual planning outputs.

To be eligible for grant funds for planning, each State and areawide agency shall submit, as part of its work program, specific proposed outputs under §§ 35.1519-5 and 35.1519-6. WQM planning eventually address all program area (see § 35.1519-6), although annual work programs will only deal with current priorities. Within the context of the WQM portion of the State/EPA agreement, the Regional Administrator shall negotiate with each State and areawide agency to determine activities which will have priority for funding in each year, in accordance with annual EPA guidance. The Regional Administrator shall not approve funding for any output unless he determines that it is consistent with section 208(b) of the Act and attainment of water quality goals.

§ 35.1519-5 Plan development requirements.

WQM plans shall be developed to address point and nonpoint program areas discussed in § 35.1519-6 in accordance with the following requirements:

(a) *Control needs.* The plan shall evaluate alternative control strategies and select point and nonpoint source control programs (in accordance with sections 208(b)(2)) for areas under § 35.1519-6. A schedule for implementing control programs shall be included. The specific conditions (including effluent limitations for water quality standards and BMP's) to be included in NPDES permits or categories of permits under section 208(e) of the Act shall be clearly identified in the proposed and final plan. The State is responsible for providing appeal procedures for these conditions. EPA permit appeal procedures are not available for such conditions. The plan must set forth an explanation of how these procedures have been or will be implemented.

(b) *Regulatory and other programs.* For control programs identified in § 35.1519-5(a), the plan must identify regulatory or other programs under which the control programs will be administered. Existing regulatory programs should be used where effective. Any necessary modifications to existing programs shall be described. Regulatory programs shall have adequate capability including: enabling legislation, ordinances, and other legislative requirements; financing, staffing, and other administrative arrangements; and inspection, enforcement, and surveillance authority. Nonregulatory programs shall have adequate administrative arrangements, financing, public education programs, and surveillance capability.

(c) *Management agencies.* (1) The plan shall propose management agencies for implementing the programs selected. Agencies identified shall have adequate authority and capability to fulfill responsibilities assigned under the plan and shall submit a brief written commitment to fulfill those responsibilities.

(2) No later than submission of the WQM plan under § 35.1519-2(b), the planning agency and each major management agency (those which have primary responsibility for controlling a source) shall forward to the Governor and the Regional Administrator a letter of commitment which will formalize the management agency's acceptance of responsibilities assigned to the management agency by the plan. The letter shall indicate the legal authority, the administrative and financial capability that the agency has or is seeking in order to carry out its assigned responsibilities, a time schedule, reporting procedures, assurance of coordination with the planning agency, public participation procedures, and implementation actions under way or completed.

(3) Proposed management agencies which are to receive construction grant funding shall meet the requirements of section 208(c)(2) of the Act and § 35.900 through § 35.965 of this chapter before they may be designated.

(4) A management agency shall not be designated to carry out regulatory responsibilities if the Regional Administrator determines that (i) a majority of membership of the agency consists of members or representatives of the regulated class, or (ii) the proposed agency is otherwise substantially under the control of members or representatives of the regulated class.

(d) *Environmental, social, and economic impacts and recreational opportunities.* The plan shall assess environmental, social, and economic impacts of implementing plan provisions. This assessment shall include an analysis of primary and, to the extent feasible, secondary impacts of alternative WQM programs and actions. The planning process and plan content shall be consistent with the intent of NEPA, the Executive Order on Flood Plain Management (11988), the Executive Order on Wetlands Protection (11990), published Agency policy on floodplain management and agricultural lands, and other applicable environmental requirements cited in part 30 of this chapter. Plans shall conform with applicable air quality State implementation plans. An analysis shall be made of open space and recreational opportunities shall be identified in the plan.

(e) *Urban impacts.* The plan shall assess the impact on urban development and contain measures for mitigation of adverse impacts to assure consistency with the President's urban policy and the EPA urban initiative to minimize urban sprawl, as implemented in subpart E, appendix A.

(f) *Public participation.* The planning process shall be conducted in accordance with § 35.1533. In addition, the WQM planning agency shall involve potentially affected agencies including general purpose units of local governments, proposed and designated management agencies, and other affected State and Federal agencies (e.g., air, solid waste, drinking water, and fish and game offices) in planning activities in the same manner as the general public.

(g) *Coordination with other programs.* Water quality program activities shall be coordinated during plan development with any other programs related to WQM, as discussed in § 35.1529. Efforts should be made to achieve common planning agencies and areas, data bases, advisory bodies, and public participation programs; to simplify and coordinate reporting requirements; and to develop programs which are consistent with other programs related to WQM.

(h) *Plan evaluation and revision.* The plan shall contain procedures for evaluating the effectiveness of plan implementation (e.g., application of BMP's) in achieving water quality goals. Provisions shall be made for revising WQM plans in an iterative manner as necessary to achieve those goals. The assessment developed under § 35.1515-1 will be a principal means of conducting the evaluation.

§ 35.1519-6 Program areas.

The following point and nonpoint program areas shall be addressed through the plan development process described in § 35.1519-5. The specific responsibilities of State and areawide WQM agencies are indicated below.

(a) *Total maximum daily loads, wasteload allocations.* States shall develop total maximum daily loads and wasteload allocations consistent with the priorities established under § 35.1515-2(a)(2). Areawide agencies shall perform this activity only where delegated under interagency agreement between the State and areawide agency. Wasteload allocations to be incorporated into NPDES permits under section 208(e) must be specifically identified (see § 35.1519-5(a)).

(b) *Dredged or fill programs.* The State may develop programs for the control of the discharge of dredged or fill material under section 208(b)(4)(B) of the Act in accordance with § 35.1580.

(c) *Nonpoint source control.* (1) Feasible best management practices (BMP's) for nonpoint surface water (and ground water) quality and source

V 43 / 177 SE 12 78

control problems shall be developed under section 208 (f) through (k) of the Act to achieve water quality goals (see § 35.1505). For nonpoint source control purposes, BMP's are those methods, measures, or practices to prevent or reduce water pollution and include but are not limited to structural and nonstructural controls, and operation and maintenance procedures. BMP's can be applied before, during, and after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters. Economic, institutional, and technical factors shall be considered in determining feasibility. BMP's shall be developed in a continuing process of identifying control needs (see § 35.1519-5(a)) and evaluating and modifying the BMP's as necessary to achieve the goals.

(2) Nonpoint source regulatory programs shall be identified for implementation of BMP's where regulation is necessary to ensure BMP implementation. Nonregulatory programs are acceptable only where such programs will result in achievement of water quality goals. Nonregulatory programs may supplement regulatory programs.

(3) Under section 208(b)(4)(A) of the Act, States may assume responsibility for identifying nonpoint source control needs and developing control programs in designated areas.

(d) *Municipal and industrial waste treatment systems.* (1) Wastewater treatment facilities needs for 20 years shall be determined after assessing alternative waste disposal facility needs. Operation and maintenance needs shall be identified. NPDES permit requirements (including pretreatment standards), results of prior step 1 facility planning, regulatory programs that control the location, modification, and construction of facilities for municipal and industrial wastewater treatment, water conservation needs, and pretreatment programs for industrial wastewater shall be considered. Under § 35.1531-4(b)(2), facilities needs lists shall be developed consistent with the State priority system. The Regional Administrator shall assure that work of the areawide agency in this area in consistent with the priority list development needs and activities of the State under § 35.915.

(2) Under § 35.915(b), the State is required to maintain a listing of all needed treatment works. This State needs inventory, prepared under section 516(b) of the Act, should be used to satisfy the wastewater treatment facilities needs requirement under paragraph (d)(1) of this section.

(3) All wastewater treatment facility needs in approved areawide WQM plans shall be included in the State needs inventory, except where the State or Regional Administrator determine that a project would be ineligible for a construction grant. Areawide agencies shall use procedures and criteria established by the State and EPA under section 516(b) of the Act when updating facility needs assessments.

(e) *Urban stormwater.* Requirements for improving stormwater systems must be identified. BMPs must be established in the same manner as described in (c) of this section. Regulatory programs must be established to control the location, modification, and construction of facilities for municipal stormwater management. Fiscal analysis of the necessary capital and operations and maintenance expenditures must be included.

(f) *Residual waste control, land disposal.* Control needs for waste disposal to protect water quality and ground water supplies shall be identified. Relationships of residual waste disposal needs to wastewater treatment facility needs (e.g., toxic solid waste disposal, land treatment) shall be described. Activities under WQM planning and the Resource Conservation and Recovery Act shall be coordinated. Regulatory programs to control the location, modification, and construction of facilities for residual waste disposal and other program needs shall be established to achieve water quality goals. States may assume responsibilities from areawide agencies under this paragraph in accordance with section 208(b)(4)(A) of the Act.

NOTE.—Control needs for waste disposal to protect surface and ground water from land disposal of solid waste and from hazardous waste are identified in programs under subtitles C and D of the Resource Conservation and Recovery Act (RCRA). To avoid redundancy and inconsistency, the Regional Administrator and the State shall establish (through the State/EPA Agreement) the planning and funding responsibilities attributable to the RCRA and WQM programs. The division of responsibilites shall be in accordance with annual EPA guidance.

(g) *Water quality standards.* State water quality standards shall be reviewed and appropriate recommendations made on revising such standards to meet water quality goals. The State shall consider the recommendations in the review and revision of standards.

§ 35.1519-7 Planning responsibilities.

(a) *Governor.* The Governor shall:

(1) Assure that adequate WQM planning consistent with this part is conducted throughout the State to control point and nonpoint pollution to meet water quality goals.

(2) Take action necessary to correct a failure in planning of a State or areawide agency by promptly designating a replacement State or local agency or otherwise assuring production of required planning products.

(3) Promptly take action on plans in accordance with § 35.1521-3.

(b) *State.* The State planning agency, and any other appropriate State agency designated by the Governor, shall:

(1) Review and comment on proposed areawide annual work programs in accordance with § 35.1511-3.

(2) Continually review development of areawide plans including revisions and additions.

(3) To the maximum extent feasible, act as a resource for areawide planning agencies, provide them with technical assistance and information on BMP's and pollution control technologies.

(4) Perform planning for nondesignated areas under section 208 of the Act and planning for which the State is responsible in designated areas. The State is responsible for timely completion of its initial planning responsibilities and those identified in its approved work program.

(5) If designated by the Governor, promptly assure completion of necessary additional planning in the event of failure of a designated areawide agency. In such an event, the former work program shall be examined and modified as determined by agreement between the sucessor agency and the Regional Administrator, consistent with the objectives of the Act.

(c) *Areawide agencies.* The are wide agency shall prepare and submit an areawide WQM plan, including revisions and additions, and shall carry out all responsibilities assigned to it under any grant agreement, its approved work program, and any agreement with the State, consistent with this part.

(d) *Local involvement.* State and areawide WQM planning agencies must assure that affected local governments are invloved in WQM plan development. Therefore, no grant will be awarded under this subpart to a State or areawide planning agency unless the Regional Administrator is satisfied that adequate provisions have been made for such local involvement (including the participation of local elected officials).

(e) *Failure.* Failure to meet any of the requirements of this section may result in withholding of all or part of grant funds available under sections 106, the nonconstruction related portion of 205(g), 208, or 314 of the Act and disapproval of the CPP under § 35.1511-2. 201 funds may be withheld in the circumstances described in § 35.1531-4(b).

§ 35.1519-8 Planning on Indian lands.

To the maximum extent feasible, States and areawide agencies shall coordinate with Indian tribal organizations within and adjacent to their

planning areas in the development of WQM plans. Where this is not feasible, the Regional Administrator shall work with the State and Indian tribe to ensure development of WQM planning on Indian lands. The WQM planning area should include all lands within the reservation regardless of ownership. Where the State finds it cannot legally deal with an Indian tribal organization through designation or interagency agreement, the State and the Regional Administrator may agree to allow EPA to use a portion of the State's 208 funds to support a cooperative agreement between EPA and the Indian tribe to accomplish 208 tasks on Indian land. The State shall review the Indian tribe's work program and work outputs for consistency with State and adjacent areawide agency work. Where the Governor determines that he or she has no authority to take action on Indian tribal plans under § 35.1521, the Governor shall, at a minimum, review and comment on the plan submission and provide his or her comments to EPA. All WQM plans for Indian lands shall be submitted to EPA for review and approval.

§ 35.1521 Evaluation, certification, and approval of WQM plans and designation of management agencies.

§ 35.1521-1 General.

The terms "certify" and "certification" mean the finding by the Governor that a State or areawide WQM plan meets the criteria in § 35.1521-2 (c). EPA approval constitutes the finding by the Regional Administrator that the plan meets those criteria. Areawide WQM plan outputs are officially incorporated into State WQM plans upon State certification and EPA approval. State certification is a prerequisite for EPA approval. Failure of the State to take action within the time specified in § 35.1521-3(a) will result in EPA action as specified in § 35.1521-3(b).

§ 35.1521-2 Plan evaluation.

(a) *Review of proposed WQM plans.* In accordance with part 25 of this chapter, the planning agency shall hold a public hearing on its proposed plan. The public hearing shall be preceded by 45 days notice. Comments shall be solicited from the public, the State, EPA, and agencies affected by the WQM plan. Affected agencies include general purpose units of local government, proposed and designated management agencies, and other State and Federal agencies whose lands or programs are impacted (e.g., air, solid waste, drinking water, and fish and game offices). Copies of the proposed plan must be made available to the public and affected agencies at a convenient location. All comments shall be considered.

(b) *Review of final WQM plans by the State and EPA.* Within 30 days after the public hearing under paragraph (a) of this section, the planning agency shall sumbit its WQM plan to the Governor and EPA for their concurrent review and evaluation. In accordance with part 25 of this chapter, a summary of comments received in the hearing and elsewhere and the planning agency's response shall accompany the submittal.

(c) *Evaluation criteria.* To be certified by the Governor and approved by EPA, a WQM plan shall:

(1) Be consistent with work program provisions, other relevant portions of the State/EPA agreement, this subpart, and the Act;

(2) Be consistent with other planning and implementation activities relevant to WQM planning provisions;

(3) Be technically valid;

(4) Be economically feasible; and

(5) Represent substantial progress toward achievement of water quality goals (see § 35.1505).

(d) *Management agency designation criteria.* Management agencies shall satisfy requirements of § 35.1519-5(c) to be designated by the State and accepted by EPA.

§ 35.1521-3 Plan certification; designation of management agencies.

(a) Within 120 days after receipt of the WQM plan for evaluation under § 35.1521-2(b), the Governor shall submit a letter to the Regional Administrator and the planning agency containing findings that the Governor certifies, or does not certify, each element of the plan. Prior to such submission, the Governor shall give public notification of the intended action on the WQM plan and allow an adequate public comment period. If there is sufficient public interest, a public hearing may be held in accordance with part 25 of this chapter. Plan provisions may be certified, and management agencies may be designated, with conditions. The certification letter shall be accompanied by a summary of public participation and comments received, and the Governor's response to those comments. The certification letter shall specify:

(1) Plan provisions the Governor certifies in accordance with § 35.1521-2(c). Specific conditions endorsed for incorporation into NPDES permits under section 208(e) shall be identified. Where provisions are certified under this section with conditions, a schedule for completing revisions shall be included.

(2) For plan provisions the Governor does not certify, the plan revisions necessary for certification.

(3) Designated management agencies for implementing certified plan provisions. Where such agencies are not identified, the plan revisions necessary to obtain designation must be stated. Where the Governor designates a management agency which differs from the agency set forth in the plan, he or she shall forward with the certification letter the rationale for the selection, a summary of comments of the planning agency on the substitution, the Governor's response to those comments, and the commitment letter of the management agency.

(b) Where the Regional Administrator determines that the Governor has failed without good cause to meet in a timely manner the certification requirements of paragraph (a), the Regional Administrator shall withhold further 208 grant awards (and appropriate portions of 106 and 205(g) grant awards) to the State pending compliance with the requirements, and may suspend or terminate the current 208 grant (and appropriate portions of the 106 and nonconstruction related 205(g) grants) in accordance with §§ 30.915 and 30.920 of this chapter.

§ 35.1521-4 EPA approval.

(a) Within 150 days after receipt of a WQM plan for evaluation under § 35.1521-2(b), the Regional Administrator shall take action under this section. Plan recommendations may be approved and designated management agencies accepted with conditions. The Regional Administrator shall notify the Governor and the planning agency in writing of the following:

(1) Plan provisions approved and designated management agencies accepted. Specific conditions approved for incorporation into NPDES permits under section 208(e) shall be identified. Where provisions are approved under this section with conditions, a schedule for completion of revisions shall be included.

(2) For plan recommendations disapproved and designated management agencies not accepted, the plan revisions necessary to obtain approval and acceptance.

(b) Periodically, EPA shall publish notices in the FEDERAL REGISTER describing actions taken under this section. Where a plan is approved with conditions, the notice shall specify an EPA contact for more information about the conditions.

§ 35.1522 Reviewing plan applicability after approval.

The State shall identify, with EPA approval, an agency to review facilities plans and advise EPA concerning whether proposed treatment works projects are in conformity with the approved WQM plan under sections 204(a)(1) and 208(d), and whether pro-

V 43 / 177 SE 12 78

posed permits under section 402 of the Act are in conflict with the plan under section 208(e) (if the permit program has been delegated to the State). EPA shall consider any comments provided by this agency in making the determinations required under sections 204(a), 208(d) and 208(e). The agency identified for wastewater treatment facility plan review shall be the agency which will have responsibility (whether by designation or through delegation from a designated agency) for the ongoing WQM planning functions related to wastewater treatment facilities. The identified agency shall also be responsible for reviewing conformity of treatment works projects with nonpoint source and other elements of the approved WQM plan.

§ 35.1523 Evaluation of management agency performance.

(a) Responsibility for evaluation of management agency performance resides primarily with the State, which shall provide a description of its evaluation output commitment in its work program. States may delegate portions of evaluation tasks to other appropriate agencies, but the State shall remain responsible for ensuring an adequate evaluation. The State shall consult with the areawide planning agency when evaluating a management agency responsible for implementing a portion of the areawide's plan. Results of the evaluation shall be reflected in the strategy and subsequent work programs.

(b) If the Regional Administrator determines it appropriate, EPA shall independently evaluate management agency performance.

(c) The State and EPA shall use the letters of commitment developed under § 35.1519-5(c) when evaluating management agency performance in implementing responsibilities assigned under the WQM plan.

§ 35.1525 Change in management agency designation by States.

Where evaluation of a management agency indicates a failure to implement assigned responsibilities, the Governor, in consultation with the appropriate planning agency, shall withdraw the existing designation and propose an alternate designation in accordance with § 35.1521, or take such other action as is needed to assure implementation. A change in management agency designation shall require EPA acceptance. In proposing to change a management agency's designation, the State shall follow the procedures under § 35.1517-2(b), except that such procedures may be modified with concurrence of the Regional Administrator.

§ 35.1529 Intergovernmental coordination and cooperation.

§ 35.1529-1 General.

Each agency receiving assistance under this part shall assure adequate involvement of appropriate local, regional, State, interstate, and Federal agencies and coordination with other planning activities of those governments. In accordance with the Presidential directive to consolidate planning requirements, Federal agencies may be delegated responsibility under interagency agreement for developing WQM plan outputs: WQM plans may incorporate planning products of other Federal programs. The Regional Administrator shall not approve any work program unless satisfied that the applicant has procedures which will assure coordination with, and the appropriate involvement of, other affected public agencies, and that the proposed work is in compliance with any applicable planning consolidation and other Federal environmental and community development program requirements. WQM plan development must be consistent with any applicable basin plan approved under section 209 of the Act.

§ 35.1529-2 Federal responsibility.

Federal agencies shall cooperate with and give support to State and areawide planning agencies in the formulation and implementation of plans for the control of point and nonpoint pollution relating to Federal property, facilities, or activities, and land areas contiguous with federally owned land, in accordance with section 313 of the Act and Executive Order 11752. Upon request, EPA shall assist in assuring that cooperation and coordination are achieved among States and Federal agencies.

§ 35.1529-3 Federal facility compliance.

(a) In accordance with section 313 of the Act and Executive Order 11752, Federal properties, facilities, and activities shall comply with all Federal, State, interstate, and local requirements, administrative authority, procedures and sanctions respecting the control and abatement of water pollution in the same manner and to the same extent as any nongovernmental entity.

(b) Generally, EPA will attempt to facilitate resolution of conflicts among Federal agencies and State, interstate, or local agencies in matters affecting the application of or compliance with a requirement for abatement of pollution. Where EPA determines that its efforts are or likely will be unsuccessful, the matter shall be referred to the Office of Management and Budget under provisions of Executive Order 11752.

§ 35.1531 Implementation.

§ 35.1531-1 General.

The fundamental objective of all activities of State and other agencies under this subpart shall be to achieve the water quality goals of the Act. Therefore, all planning shall aim at specific implementation action. The framework for implementation should be developed during the preparation of WQM plans. EPA shall not exercise any approval authority under this part, nor award any grant, unless the Regional Administrator is satisfied that the action for which approval or grant funds is sought accords with this policy. This policy shall also be a key elements in evaluations conducted under this part.

§ 35.1531-2 Funding.

Except for subsection 208(j), implementation activities are generally not eligible for funding under section 208 of the Act. In accordance with annual EPA guidance, funds under sections 106, 201, 205(g), and 314 of the Act may be used for implementation activities under approved water quality management plans, if such activities are eligible for funding under those sections. Funding may also be available for implementing BMPs in rural areas under section 208(j) and for certain activities of other Federal agencies under section 304(k) of the Act. Under RCRA, assistance is available to plan and implement programs to control disposal of solid and hazardous waste. Other Federal agencies, such as the Department of Housing and Urban Development, may have funding available for certain implementation activities.

§ 35.1531-3 Remedies for failure to implement.

The Regional Administrator may take any appropriate action for failure to implement, including the following:

(a) If the Regional Administrator determines that a State is not implementing any portion of an approved State WQM plan, or any portion of an approved areawide WQM plan for which the State has implementation responsibility, he may withhold all or part of funds which the State would otherwise receive under sections 106, 205(g), 208, and 314 of the Act. Since the State is responsible for WQM planning throughout the State (see § 35.1519-7), the Regional Administrator may also withold such grant funds from the State if he determines that: (1) Any approved portion of an areawide plan is not being implemented; (2) the State has the capability to implement those portions; and (3) after reasonable notice from the Regional administrator to the Governor, the State has failed to use its best efforts to implement those portions.

NOTE.—Reference to funds under section 205(g) of the Act must be read in light of the definition in § 35.1502(b). The term does not include construction management assistance grants unde subpart F of this chapter.

(b) The Regional Administrator, after consulting State and areawide planning agencies, and after public notification in accordance with part 25 of this chapter, may withdraw acceptance of a management agency designation or approval of a planning agency designation if the agency is not meeting its implementation responsibilities. The State shall then promptly designate a replacement agency under § 35.1517 or § 35.1525.

Under § 30.340, such a failure may provide a basis for EPA determination that the disapproved agency is not entitled to public trust and, therefore, is ineligible to receive funds under any EPA program.

(c) After fiscal year 1979, no funds under section 208 of the Act will be available to any planning agency which developed a certified and approved plan, unless a significant portion of the plan is being implemented.

§ 35.1531-4 Relationship to other programs.

(a) *Relationship to the NPDES program.* In accordance with section 208(e) of the Act, no NPDES permit may be issued to any point source which is in conflict with an approved WQM plan. Under § 35.1519-5(a), requirements for incorporation of conditions into permits under section 208(e) are identified during WQM planning. Permit conditions identified under section 208(e) may be superseded by applicable, more stringent NPDES permit requirements.

(b) *Relationship to the construction grants program.* (1) Under sections 208(d) and 204(a)(1) of the Act, after relevant portions of a WQM plan are approved, section 201 construction grants may be awarded only to designated management agencies for construction of treatment works in conformity with the approved WQM plan. The State or areawide agency which the State has selected under § 35.1522 shall review each facility plan in its area for consistency with the approved WQM plan. Facility planning shall be based on wasteload allocations, delineation of facility planning areas, and population projection totals and disaggregations in approved WQM plans. After October 1, 1979, the Regional Administrator shall not approve a grant for any municipal treatment works under section 201 of the Act where such facility-related information is not available in an approved WQM plan, unless the Regional Administrator determines in writing, based on information submitted by the State or grantee, that the facility related information was not within the scope of the WQM work program or that the award of the 201 grant is necessary to achieve water quality goals.

(2) Construction grant project needs and priorities established during WQM planning shall be developed by State and areawide planning agencies consistent with the priority system of the State under § 35.915 and § 35.1513-2. In developing its annual priority list, the State shall consider the construction grant needs and priorities set forth in certified and approved State and areawide WQM plans.

(c) *Relationship to the rural clean water program.* Under section 208(j) of the Act and regulations promulgated by the U.S. Department of Agriculture (with concurrence of the Administrator), financial assistance is available for installation of BMP's to control agricultural nonpoint source pollution.

NOTE.—The Governor, or his or her designee, must submit proposed projects in order of priority to the Secretary of Agriculture. Proposed projects are eligible if they are identified in approved portions of WQM plans. The management agency designated to implement the program must assure there will be an adequate level of participation in BMP implementation in terms of the percentage of critical acreage or source of the problem that will be controlled. The management agency must certify that the BMP's to be cost-shared are consistent with the approved WQM plan.

§ 35.1533 Public participation.

§ 35.1533-1 Purpose.

The public participation goals, policies and requirements in part 25 of this chapter apply to activities under this subpart. The purpose is to involve the public at appropriate implementation points and throughout the planning process (including determination of planning goals and objectives, identification and assessment of alternatives, evaluation of proposed plans, and development of implementation strategies) so that planning and implementation reflect public concerns and so that there is public understanding and support for WQM.

§ 35.1533-2 Work programs.

State and areawide work programs shall include a public participation element which identifies staff and budget resources; the schedule and anticipated nature activities; key decision points for outputs where public consultation will occur and agency responsiveness summaries will be prepared; a description of advisory committee membership; and mechanisms for coordinating public participation.

§ 35.1533-3 Planning and implementation.

State and areawide planning agencies shall establish mechanisms to encourage public participation in WQM plan development and implementation in accordance with part 25 of this chapter. Information concerning the nature, scope, and anticipated impact of planning alternatives under consideration and of the proposed WQM plans shall be readily available to the public. Opportunities shall be provided for the public to review and comment on proposed WQM plans in accordance with § 35.1521-2. An advisory committee shall be established in accordance with § 25.3(d)(4) of this chapter and shall be consulted at appropriate times during WQM plan development. Any necessary modifications to existing advisory committees to meet the requirements of part 25 of this chapter shall be completed within 45 days of the initial grant award under this subpart. The advisory committee shall have the opportunity to review and comment on the agency's annual grant application and proposed work program. A summary of public participation during WQM plan development shall be forwarded to the State and EPA when the final WQM plan is submitted under § 35.1521.

§ 35.1535 Allotments and reallotments.

§ 35.1535-1 Allotments.

(a) *Section 106.* Sums which the Administrator determines will be available for outputs funded under section 106 of the Act for each fiscal year will be allocated to State and interstate agencies on the basis of the extent of the pollution problem. The allotment formula, allotment ratios, and the amounts available shall be announced in a notice in the FEDERAL REGISTER and included in each year's annual guidance. Interstate agency allotment ratios are based on the level of funding received in fiscal year 1973, provided the total sum available under section 106 is at least $40 million.

(b) *Section 208.* Sums which the Administrator determines will be available for outputs funded under section 208 shall be allotted to each region generally on the basis of need, population, and land area of each region. The allotment formula, allotment ratios, and the amounts available shall be announced in a notice in the FEDERAL REGISTER and included in each year's annual guidance. Grant amounts shall be negotiated by the Regional Administrator and each State and areawide agency in accordance with § 35.1511.

(c) *Section 205(g).* Sums available to States under section 205(g) of the Act and subpart E of this chapter for permit program elements under sections 402 and 404 of the Act and for statewide 208(b)(4) planning will be

determined on a case-by-case basis by the Regional Administrator.

§ 35.1535-2 Reallotments.

(a) At the end of each fiscal year, unobligated funds available under sections 106 and 208 of the Act shall be reissued as carryover funds to the same Region for allocation to eligible agencies within that Region as determined by the Regional Administrator.

(b) Unobligated funds under section 205(g) of the Act shall be managed in accordance with § 35.1020(e) of this chapter.

§ 35.1537 Grant limitations and administration.

§ 35.1537-1 Grant amount.

(a) *For section 106 and 205(g) outputs.* Each State and interstate agency shall receive a grant from its final 106 allotment and 205(g) nonconstruction management assistance funds in an amount not to exceed the reasonable cost of carrying out its approved program, as determined by the Regional Administrator.

(b) *For section 208 outputs.* Each State and areawide planning agency shall receive a grant in an amount not to exceed 75 percent of the reasonable cost of carrying out its approved program, as determined by the Regional Administrator.

§ 35.1537-2 Reduction of grant.

(a) Should the Regional Administrator's evaluation of the work program proposed by a State, interstate, or areawide agency indicate that the proposed output commitment is not consistent with the level of funding requested or national priorities, he or she shall negotiate with the agency to change the output commitment or to reduce the grant amount. However, should an agency propose a different set of outputs than suggested in the EPA annual guidance due to unanticipated regional or statewide pollution problems, the Regional Administrator may approve the program provided he determines the outputs can and should be produced and the proposed funding is appropriate.

(b) If a State, interstate or areawide agency fails to submit its work program by the dates specified in § 35.1507-7, the grant amount may be reduced by an appropriate amount reflecting the significance of the delay in relation to accomplishment of the proposed program.

(c) Funds recovered under this section shall be available for allocation by the Regional Administrator to other agencies within the Region.

§ 35.1537-3 Budget period.

The budget period shall be for the Federal fiscal year.

§ 35.1537-4 Eligibility.

(a) *Section 106.* Grants may be awarded to a State or interstate water pollution control agency provided the agency has submitted a work program which satisfied the requirements of this subpart and is approved by the Regional Administrator.

(b) *Section 208.* (1) Statewide 208 planning grants for non-designated areas may be awarded to the State agency identified in the approved work program.

(2) Areawide planning agencies shall be eligible for grant awards under these provisions only if it:

(i) Is designated by the Governor under 208(a) and approved by the Regional Administrator as the official planning agency for the areas;

(ii) Agrees to develop or revise a 208 water quality management plan in accordance with an approved work program; and

(iii) Is deemed likely to be successful in its efforts by the Regional Administrator who shall take into account in making this determination the past efforts of the agency, evaluations, and comments of the Governor and the public.

§ 35.1537-5 Limitations on award.

(a) No funds under section 106 of the Act shall be awarded to any State or interstate agency for any fiscal year unless the agency has certified (and the Regional Administrator agrees) that its expenditures of non-Federal funds during that fiscal year for its recurrent 106 program expenditures will be not less than such expenditures during the fiscal year ending June 30, 1971, or the last year of Federal support is such Federal support was initiated subsequent to the fiscal year ending June 30, 1971.

(b) If a State has received a construction management assistance grant under section 205(g) of the Act, the provisions of § 35.1016(a) of this chapter determine the maintenance of effort level, but in no case shall a State reduce its expenditures below the amount required in paragraph (a) of this section.

(c) No funds under section 208 of the Act shall be awarded to a designated planning agency where previous planning by that agency for the same water quality problem was not certified by the State or was disapproved by EPA.

(d) No funds under section 106 of the Act shall be awarded to any State which has not provided or is not carrying out as part of its program: (1) The establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor, and to compile and analyze data on (including classification according to eutrophic condition) the quality of navigable waters and to the extent practicable, ground waters including biological monitoring; and provision for annually updating such data and including it in the report required under section 305(b) of the Act. (§ 35.1570 sets forth the minimum requirements for an acceptable monitoring strategy under the Act.) (2) Authority comparable to that in section 504 of the Act, "Emergency Powers", and adequate contingency plans to implement the authority, in accordance with EPA guidance.

(e) No grant shall be awarded for any activity which the Regional Administrator determines is not in conformity with an approved State Implementation Plan under the Clean Air Act.

(f) No funds under section 106 of the Act shall be awarded to a State unless the Regional Administrator determines that the level of funding for legal expenses related to enforcement activities is adequate (including funding for expenses of the State's attorney general or equivalent office, where the Regional Administrator determines such funding to be appropriate).

(g) No funds under section 106 of the Act shall be awarded to any State or interstate agency with respect to which there is in effect any federally assumed enforcement under section 309(a)(2) of the Act.

§ 35.1537-6 Allowable and unallowable costs.

Allowable and unallowable costs under sections 106, 208, and 205(g) shall be determined by the Regional Administrator in accordance with § 35.705 of this chapter if he or she determines that the costs are reasonable for carrying out approved activities. Costs related to the following activities shall be unallowable:

(a) Costs incurred in sewer evaluation surveys as required under § 35.927-2 of this chapter;

(b) Costs incurred in detailed sewer system mapping and related surveys;

(c) Costs related to sewage collection systems;

§ 276.

(d) Cost of special studies for the specific benefit of individual, industrial or commercial establishments; and

(e) Costs of activities which are primarily of a research nature.

§ 35.1537-7 Audit.

State or other agencies which receive funds under more than one paragraph of § 35.1535-1 shall develop outputs for the expenditure of those funds in such a manner as to assure the funds are used for permissible tasks and to permit accountability to each appropriation. However, commonly funded outputs serving more than one program shall be used where feasible. Generally, the audit shall be conducted only back to the approved work program. The Regional Administrator may establish procedures in the State/EPA agreement for accepting State audit results in lieu of EPA audit.

§ 35.1537-8 Adherence to budget estimates.

Grant expenditures shall be consistent with the resource estimates contained in the approved work program. If rebudgeting of funds among program elements becomes necessary, the provisions of § 30.610 of this chapter shall be applied.

§ 35.1537-9 Program changes.

The grantee shall conduct its activities in a manner consistent with the approved work program. If budget changes to the approved State program become necessary, the provisions of § 30.610 of this chapter shall be applied.

§ 35.1537-10 Payment.

Grant payments shall be made in accordance with § 30.615 of this chapter. Notwithstanding the provisions of § 30.345 of this chapter, the first grant payment subsequent to grant award may include reimbursement of all allowable costs incurred from the beginning of the approved budget period, provided that monthly costs incurred from the beginning of the budget period to the date of grant award do not exceed the level of costs approved by the Regional Administrator as reasonable.

§ 35.1537-11 Financial status report.

Within 90 days after the end of each budget period, the grantee shall submit to the Regional Administrator an annual report of all expenditures (Federal and non-Federal) which accrued during the budget period. Beginning in the second quarter of any succeeding budget period, grant payments may be withheld under § 30.615-3 of this chapter until this report is received.

§ 35.1537-12 Disputes under this subpart.

Final determinations of the Regional Administrator concerning refusal to award grant funds and termination or suspension of grants, and final determinations of the Regional Administrator concerning disputes as to Allowable costs or other matters arising under a grant, shall be final and conclusive unless appealed by the applicant or grantee in writing within 30 days from the date of receipt of such final determination. Procedures and further requirements are set forth in the "Disputes" provisions of part 30, subpart J of this subchapter.

§ 35.1580 Development of programs for controlling the discharge or placement of dredged or fill material. [Reserved]

Appendix A—Water quality and pollutant source monitoring.

[Remains the same. See Appendix A, subpart B, Part 35]

[FR Doc. 78-25596 Filed 9-11-78; 8:45 am]

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TUESDAY, SEPTEMBER 12, 1978
PART VII

DEPARTMENT OF LABOR

Mine Safety and Health Administration

■

USE OF PERSONAL NOISE DOSIMETERS

Coal Mine Health and Safety

[4510-43]

Title 30—Mineral Resources

CHAPTER I—MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 70—MANDATORY HEALTH STANDARDS—UNDERGROUND COAL MINES

PART 71—MANDATORY HEALTH STANDARDS—SURFACE COAL MINES

Noise Dosimeters

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: These amendments to 30 CFR Part 70 permit the use of personal noise dosimeters to determine noise exposure in coal mines and set forth the procedures to be followed in taking such noise measurements. The use of a personal noise dosimeter will for the first time allow accurate measurements of noise exposures for all miners working on mobile equipment. These amendments are also applicable to 30 CFR Part 71. Technical amendments to Parts 70 and 71 are also included.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Joseph A. Lamonica, Chief, Division of Health, Coal Mine Safety and Health, Mine Safety and Health Administration, Ballston Tower #3, Room 830, 4015 Wilson Boulevard, Arlington, Virginia 22203, phone 703-235-1358.

SUPPLEMENTARY INFORMATION:

Background Information

On June 2, 1977, the Mining Enforcement and Safety Administration, Department of the Interior, published in the FEDERAL REGISTER (42 FR 28151) proposed amendments to 30 CFR Part 70 that would permit the use of personal noise dosimeters to determine noise exposure in coal mines. The proposed amendments had been transmitted to the Department of the Interior by the Secretary of Health, Education, and Welfare under section 101(d) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 811(d)) (Coal Act).

Interested persons were afforded a period of 45 days within which to submit comments, suggestions, objections and requests for hearing. Pursuant to requests, a public hearing was conducted on September 29, 1977. On the basis of the evidence presented at the hearing and other available information, findings of fact were published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3729).

Under the Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164 (Amendments Act), the rulemaking responsibilities of the Secretaries of the Interior and Health, Education, and Welfare under section 101 of the Coal Act were transferred to the Secretary of Labor on March 9, 1978. Rulemaking commenced under the Coal Act was authorized to be continued by the Department of Labor under the provisions of the Amendments Act.

Discussion of the Final Rule

Section 70.500(f) of the proposed rule contained a definition of "integrating sound level meter," a term which was used throughout the text of the proposal. Since the amendments pertain only to the use of personal noise dosimeters, which are a subclass of integrating sound level meters, the term "personal noise dosimeter" has been substituted wherever the term "integrating sound level meter" appeared in the proposed rule.

The term "noise level measurement" was used throughout the text of the proposed rule. The term "noise exposure measurement" has been substituted in the final rule for the following reasons. The word "level" denotes a sound pressure level or a weighted sound pressure level (e.g., A-weighted) and personal noise dosimeters measure noise dose and not noise level. In addition, the purpose of using either sound level meters or personal noise dosimeters is to assess individual noise exposure, which is a function of both noise level and time of exposure. Conforming technical amendments are also made to subpart F of part 70 and subpart D of part 71 to substitute the word "exposure" for "level" wherever it is appropriate.

The proposed amendment to § 70.505 stipulates that noise exposure measurements may be taken by personal noise dosimeters which have been found to be acceptable by the Mine Safety and Health Administration (MSHA). The tests and criteria used by MSHA to determine acceptability of personal noise dosimeters have been published in "MSHA Test Procedures and Acceptability Criteria for Noise Dosimeters", MSHA RI 1072, 1978, by Dennis Giardino, John Seiler, and Timothy Y. Yen. These tests are derived from procedures and data reported by Timothy Y. Yen and Kenneth C. Stewart in a report entitled "Noise Dosimeter Performance—A second Evaluation," Bureau of Mines Information Circular, IC8754, 1977. These tests and criteria as published in RI 1072 contain two changes from those used in establishing the list of acceptable instruments published in the preamble to the proposed regulations. These changes were made as a result of the Findings of Fact from the public hearing. The first change added a criterion for performance at dosimeter threshold (the level at which the dosimeter begins to record noise exposure) to the list of test criteria. This threshold test is based on exposing a dosimeter to a 1000 Hz, 88 dBA, puretone acoustic signal for one hour. The resultant dose must be equal to or less than 1.0 percent. The second change provided that two out of three instruments (instead of one of three) of a given model must pass all test criteria before the model is accepted by MSHA. Manufacturers whose instruments were removed from the current list of acceptable models because of these changes in criteria have been informed of the basis for such removal and given an opportunity to correct instrument errors and resubmit instruments for testing and inclusion on the list of acceptable models. The following dosimeters are now acceptable to MSHA:

Manufacturer	*Model No.*
Bruel and Kjaer, Inc.	4425.
Benidx	ADS-3000.
E. I. DuPont	D-100. D-376.
Edmont-Wilson Co	60-520.
GenRad, Inc.	1944. 1954.
Mine Safety Appliances Co	90.
Quest	M-7.
Simpson Electric Co.	891.

The results of several studies indicate that the positioning of the personal noise dosimeter microphone on an individual is critical for limiting measurement errors associated with body baffle and absorption effects. These studies include Bureau of Mines Report of Investigation 7810, "Response Variation of a Microphone Worn on the Human Body," by Terry L. Muldoon; "Optimum Microphone Location for Dosimeters," by Leonard C. Marraccini and Dennis A. Giardino (Proceedings of Noisexpo 1975); and "Summary of Dosimeter Microphone Placement Errors," by J. Alton Burks (Internal MESA Memorandum, 1977). The instructions in the proposed rule for positioning and orienting the personal noise dosimeter microphone (section 506(d)(1)) were somewhat unclear. These instructions have been reworded and supplemented with a diagram which will better describe the desired positioning of the microphone.

Although the personal noise dosimeter has been shown to be a reliable measurement instrument, equipment failure rates up to 4.5 percent have been reported. A frequent cause of equipment failure is attributed to microphone errors associated with dust accumulation or actual damage to the microphone from dropping the microphone on hard surfaces. To prevent damage to the microphone and minimize safety problems associated with the wearing of personal noise dosimeters, a statement has been added to § 70.506(d), which provides that the instrument case and microphone cable shall be positioned underneath exterior clothing whenever practical. Furthermore, since the potential for dust accumulation in the microphone is high in coal mine environments, a new paragraph (b)(3) has been added to § 70.506. This new paragraph requires annual recalibration of personal noise dosimeters including, as a minimum, frequency response testing and visual inspection of the microphone for any foreign matter or damage.

To compute noise exposure, information must be available on noise level or integrated noise dose together with information on the amount of exposure time. Therefore, space is provided on the Coal Mine Noise Data Report for recording the total measurement time for both sound level meter and personal noise dosimeter measurements.

Drafting Information

The principal persons responsible for the preparation of this final rule are: Joseph A. Lamonica, Chief, Division of Health, Coal Mine Safety and Health; William H. Sutherland, Division of Health, Coal Mine Safety and Health; and Frank A. White, Office of Standards, Regulations and Variances, MSHA.

Dated: August 25, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

Subchapter O of Chapter I of Title 30 of the Code of Federal Regulations is amended as follows:

1. In § 70.500, paragraph (a) is revised and a new paragraph (f) is added as follows:

§ 70.500 Definitions.

(a) "dBA" means noise level in decibels, relative to a reference level of 20 micro pascals, as measured by the use of an A-weighting and slow metering characteristic as specified in American National Standards Institute (ANSI), "Specification for Sound Level Meters," S1.4-1971 (Type S2A).

* * * * *

(f) "Personal noise dosimeter" means equipment worn by an individual, which performs noise level measurements along with exposure time measurements. The circuitry of the instrument is such that it automatically performs the computation of the multiple noise exposure specified in § 70.502.

§§ 70.503, 70.504, 70.504-1 and 70.504-2 [Amended]

2. Sections 70.504, 70.504-1 and 70.504-2 and the headings to §§ 70.503 and 70.504 are amended by deleting the word "level" wherever it appears and substituting the word "exposure" therefor.

3. Sections 70.505 and 70.506 are revised to read as follows:

§ 70.505 Noise exposure measurement equipment.

Noise exposure measurements shall be taken only with equipment which is approved by the Mine Safety and Health Administration as permissible electric face equipment under the provisions of Part 18 of this chapter and which in the case of sound level meters, meets American National Standards Institute (ANSI), "Specification for Sound Level Meters," S1.4-1971 (Type S2A), or in the case of personal noise dosimeters, has been found to be acceptable by the Mine Safety and Health Administration.

§ 70.506 Noise exposure measurement procedures; instrument setting; calibration.

(a) Noise exposure measurements made with sound level meters shall conform to the following:

(1) Noise exposure measurements shall be made at locations where the noise it typical of that entering the ears of the miner whose exposure is under consideration.

(2) Five measurements shall be made for each type of noise exposure producing operation to which the miner under consideration is exposed.

(3) Each measurement shall be made by observing the A-scale readings for 30 seconds and recording the noise level.

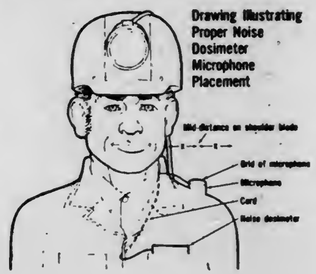
(4) The average of the five noise level measurements shall be considered as the noise level measurement which is representative of the operation.

(5) Where different and distinct noise levels occur at various phases of an operation, noise exposure measurements shall be made in accordance with this section for each distinct phase.

(6) The noise levels and the estimated length of time the miner is exposed to each level during a normal work shift shall be reported for the operation.

(b) Noise exposure measurements made with personal noise dosimeters shall conform to the following:

(1) For the miner whose noise exposure is under consideration, noise exposure measurements shall be made with the personal noise dosimeter microphone located at the top of the shoulder, midway between the neck and the end of the shoulder with the microphone pointing in a vertical upward direction in accordance with the diagram shown below:



(2) To the extent practical, the personal noise dosimeter instrument case and microphone cable shall be positioned underneath exterior clothing so as to minimize potential safety problems and damage to the instrument. The microphone shall not be covered by clothing.

(3) The personal noise dosimeter shall be worn by the miner whose noise exposure is under consideration for an entire normal work shift and the accumulated per centum of the noise exposure shall be reported.

(c) Noise exposure measurement instruments specified in § 70.505 shall be set to operate with the A-weighted network and slow response.

(d)(1) Sound level meters and personal noise dosimeters used by an operator in fulfilling the requirements of this subpart shall be acoustically calibrated in accordance with the manufacturer's instructions before and after each shift on which the meter is used.

(2) Sound level meters and personal noise dosimeters used by an authorized representative of the Secretary shall be acoustically calibrated in accordance with the manufacturer's instructions or by another equivalent procedure before and after each shift on which the meter is used.

(3) Personal noise dosimeters shall be recalibrated annually, including, as a minimum, the following:

(i) Visual inspection of the microphone for any foreign matter or damage,

(ii) Comparison of the dosimeter, at 100 Hz, with a laboratory type condensor microphone of known sensitivity, and

(iii) Frequency response testing in a free or diffused field where the sound field is established using a laboratory type condensor microphone of known sensitivity.

(4) A document containing the date of the annual recalibration of each personal noise dosimeter and the names of the individual and organization performing the calibration shall be kept on file at each mine office.

(e)(1) Acoustical calibrators which are used to calibrate sound level meters and personal noise dosimeters shall be recalibrated once a year using a laboratory type condensor microphone of known sensitivity as determined by a National Bureau of Standards calibration.

(2) A document containing the date of the annual calibration of each acoustical calibrator and the names of the indivdual and organization performing the calibration shall be on file at each mine office.

§§ 70.507—70.510 [Amended]

4. Sections 70.507, 70.508, 70.509 and 70.510 and the headings to §§ 70.507, 70.508 and 70.509 are amended by deleting the word "level" in the phrase "noise level survey" wherever it appears and substituting the word "exposure" therefor.

5. In § 70.509, paragraph (b) is amended by deleting the word "level" in the phrase "noise level measurements" wherever it appears and substituting the word "exposure" therefor.

6. A new § 70.511 is added as follows:

§ 70.511 Incorporation by reference.

In accordance with 5 U.S.C. 552(a)(1), the technical publication, "Specification for Sound Level Meters", S1.4-1971 (Type S2A), issued by the American National Standards Institute (ANSI), April 27, 1971, referenced in this subpart F is hereby incorporated by reference and made a part hereof. The incorporated technical publication is available for examination at MSHA, 4015 Wilson Blvd., Arlington, Va. 22203; the National Institute for Occupational Safety and Health, 5600 Fishers Lane, Rockville, Md. 20857; each Coal Mine Health and Safety District and Subdistrict Office and the Federal Register library. In addition, copies of the document can be purchased from the American National Standards Institute (ANSI), 1430 Broadway, New York, N.Y. 10018.

NOTE.—Incorporation by reference provisions approved by the Director of the Federal Register on June 14, 1978.

7. Figure 1 is revised as follows:

(Submit one form for each miner) Figure 1

COAL MINE NOISE DATA REPORT

Date: ___ ___/ ___ ___/ ___ ___
mo. day yr.

Company: _____ Mine Name _____
Mine I.D. Number: _____
Section/Pit Number: _____
Miners Name: _____
Miners SSN: _____
Occupation Code: _____
Initial_____ Periodic_____Supplemental_____
Hearing Protective Device Used:
Yes_____ No_____ If Yes "R" Value_____
Equipment in Operation:
Manufacturer_____
Type_____
Model Number _____
Serial or Company Number _____
Dosimeter Reading: _____
Measurement Time (In Minutes): _____

Operations (Loading, Tramming, Etc.)	Noise Level dBA Average	Minutes Exposure

Signature of Qualified Person: _____

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§§ 71.302—71.305 [Amended]

8. Sections 71.302, 71.303, 71.304 and 71.305 and the headings to §§ 71.302, 71.303, and 71.304 are amended by deleting the word "level" in the phrase "noise level survey" wherever it appears and substituting the word "exposure" therefor.

9. Section 71.304(b) is amended by deleting the word "level" in the phrase "noise level measurement" wherever it appears and substituting the word "exposure" therefor.

[FR Doc. 78-35640 Filed 9-11-78; 8:45 am]

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PART VIII

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

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METAL AND NONMETAL MINES

Advisory Standards

[4510-43]

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Mine Safety and Health Administration

[30 CFR Parts 55, 56, and 57]

METAL AND NONMETAL MINES

Advisory Standards

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revoke or revise and make mandatory existing advisory health and safety standards applicable to metal and nonmetal mines and mills pursuant to the requirements of section 301(b)(2) of the Federal Mine Safety and Health Amendments Act of 1977. The effect of the proposals will be to make mandatory and enforceable certain advisory standards in order to improve the health and safety of metal and nonmetal miners.

DATES: Comments must be received by October 9, 1978.

ADDRESS: Send comments to Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 629, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-1910.

FOR FURTHER INFORMATION CONTACT:

Roy L. Bernard, Chief, Division of Safety, Metal and Nonmetal Mine Safety and Health, Mine Safety and Health Administration, Room 717, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-8646.

SUPPLEMENTARY INFORMATION:

I. Background Information

The Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164 (Amendments Act) applies to all coal mines and metal and nonmetal mines. The Amendments Act amended the Federal Coal Mine Health and Safety Act of 1969, Pub. L. 91-173, and repealed the Federal Metal and Nonmetallic Mine Safety Act of 1966, Pub. L. 89-577. Section 301(b)(2) of the Amendments Act provides that within 60 days after its enactment on November 9, 1977, the Secretary shall have established an advisory committee under section 102 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, to review the existing health and safety advisory standards developed and promulgated under the Federal Metal and Nonmetallic Mine Safety Act of 1966 (Metal Act). The advisory committee had 180 days after its establishment to review and recommend to the Secretary those standards or modifications thereof which should be upgraded and promulgated as new, mandatory standards.

On January 5, 1978, the Secretary of Labor (Secretary) established the Advisory Committee to review metal and nonmetal mine safety and health standards. It consisted of three representatives each from labor and industry and seven public members with no economic interest in the mining industry. The advisory committee was chartered and conducted public meetings in accordance with the Federal Advisory Committee Act, Pub. L. 92-463. After publishing notices of meetings in the FEDERAL REGISTER, the advisory committee held four sets of meetings that were open to the public and heavily attended in Washington, D.C. on March 6-10, 1978 (43 FR 7071), Tuscon, Ariz., on April 4-7, 1978 (43 FR 11278), Arlington, Va., on May 1-5, 1978 (43 FR 15805), and again in Washington, D.C. on May 22-25, 1978 (43 FR 19477). The advisory committee made its final recommendations to the Secretary on July 5, 1978 which, with a few editorial changes, and updating of the incorporated publications used in the proposed revisions for the term "Flash point", comprise this proposed rule.

II. Discussion of the Proposed Rule

The advisory committee reviewed the 229 existing advisory standards published in 30 CFR Parts 55, 56, and 57. The committee recommended that 161 advisory standards be made mandatory and that 68 standards be revoked. The upgraded advisory standards apply to ground control; fire prevention and control; air quality, ventilation, radiation, and physical agents; aerial tramways; travelways and escapeways; electricity; compressed air and boilers; use of equipment; personal protection; material storage and handling; safety programs; man hoisting; explosives; and gassy mines.

Certain of the advisory standards were proposed to be revised and made mandatory in part III of the FEDERAL REGISTER on September 25, 1975 (40 FR 44272-44285) and were subject to formal public rulemaking hearings under the Metal Act. Administrative Law Judges submitted recommended decisions to the Secretary of Interior on November 16, 1977 and February 10, 1978 respectively, and no final action had been taken by the Department of Interior. The advisory committee considered the standards recommended by the Administrative Law Judges and generally the recommendations made to the Secretary by the advisory committee and republished in this proposed rule are substantially the same as those of Administrative Law Judges. Also included in the modifications recommended by the advisory committee are the following:

(1) The extension coverage of certain standards from part 57 for underground mines to parts 55 and 56 for open pit mines, and sand, gravel and crushed stone operations, respectively.

(2) A revision of the definition for the term "Flash point", and adding new definitions for the terms "combustible liquid" and "flammable liquid", all in parts 55, 56, and 57; and, the addition of a new definition for the term "designated underground fire area" in part 57 only.

(3) An expansion of coverage of certain standards previously applicable to surface only or underground only in part 57.

In addition to section 301 of the Amendments Act, the modifications recommended by the advisory committee and published in this proposed rule are authorized under sections 101 and 508 of the Federal Mine Safety and Health Act of 1977.

The advisory committee took considerable time discussing and making its recommendations on standards 57.4-61, 55.18-2, 56.18-2, and 57.18-2. Because of the importance of these standards and the desire of the Mine Safety and Health Administration (MSHA) to base its decisions with respect to these standards on comments and data which are as complete as possible, interested persons and organizations are further requested to submit specific comments and suggestions, including recommended wording, for these standards.

Standard 57.4-61 is applicable to underground operations of underground mines and covers the recognized potential for fire and the need to control air coursed into a mine in the event of fire underground. This control is essential to protect and evacuate miners during an emergency. Ventilation control doors and fire doors are needed for control of smoke and toxic products from a fire in the shaft and for protection from a fire on the underground levels. Another important consideration for doors is the need to establish a base station for rescuing miners trapped by a fire. Because time is essential in any rescue operation, having doors already installed saves valuable time. MSHA is particularly concerned that the portion of the proposed rule which provides for "review and comment" by the Secretary may not adequately ensure that these factors are fully considered and implemented in all cases.

Standards 55.18-2, 56.18-2, and 57.18-2 apply to all metal and nonmetal mines and recognize that regular examinations of each active working or installation is the mine operator's best method for preventing accidents, injuries, and occupational illnesses. Similar mandatory standards are published for coal mines in 30 CFR 75.303 through 75.315, and 30 CFR 77.1713. The coal standards are applicable to underground and surface operations respectively.

During the advisory committee's considerations for revising the definition of "Flash point" in parts 55, 56, and 57, MSHA suggested using the 1970 test for flash point by the tag closed tester ASTM D 56-70 and the 1973 test for flash point by Pensky-Martens closed tester ASTM D 93-73. However, since both publications are difficult to obtain and were updated in 1977 by the American Society of Testing and Materials, it is proposed to incorporate the 1977 publications in the term "Flash point" or ASTM D 56-77 and ASTM D 93-77, respectively.

III. Expedited Rulemaking

This rulemaking procedure being followed by Mine Safety and Health Administration with respect to this proposed rule is required by section 301(b)(2) of the Amendments Act. Under Executive Order No. 12044 issued on March 23, 1978, entitled "Improving Government Regulations" (see 43 FR 12661-12670), a comment period of at least 60 days would normally be allowed, during which any person may request a public hearing. Section 301(b)(2) of the Amendments Act provides an expedited procedure for review of existing advisory standards, comment period, and promulgation of the final mandatory standards. The Secretary is directed to afford interested persons a period of 25 days after publication of this proposed rule to submit written data or comments and the new, mandatory standards are to be promulgated in the FEDERAL REGISTER no later than 30 days after the close of such comment period. Accordingly, because of the limited time remaining before promulgation, it is requested that data or comments are submitted at the earliest possible date but no later than October 9, 1978.

Since the statutory comment period for this proposed rule is 25 days and final standards are to be promulgated within 30 days thereafter, it is not possible to give the public 60 days to comment on this proposed rule.

IV. Drafting Information

The principal persons responsible for drafting the proposed rule are: Herbert P. LeVan, Office of Standards, Regulations and Variances, MSHA; and Bernard R. McGuire, Attorney Advisor, Division of Mine Safety and Health, Office of the Solicitor, Department of Labor.

V. Regulatory Analysis

NOTE.—It has been determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under Executive Order No. 12044, or the Department of Labor's proposed guidelines for implementation of the Executive Order (43 FR 22915, May 26, 1978).

Dated: September 7, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

In consideration of the foregoing it is proposed to amend 30 CFR Chapter I, Parts 55, 56, and 57 as follows:

PART 55—HEALTH AND SAFETY STANDARDS—METAL AND NONMETALLIC OPEN PIT MINES

A. Section 55.2 "Definitions" is proposed to be amended as follows:

§ 55.2 [Amended].

1. It is proposed to add a definition of "Combustible liquid, class two combustible liquid, and class three combustible liquid" as follows:

"Combustible liquid" means a liquid having a flash point at or above 100° F. (38° C.). "Class two combustible liquid" means a liquid having a flash point at or above 100° F. (38° C.) and below 140° F. (60° C.). "Class three combustible liquid" means a liquid having a flash point at or above 140° F. (60° C.) and an auto ignition temperature below 1,500° F. (816° C.).

2. It is proposed to add a definition of "Flammable liquid" as follows:

"Flammable liquid" means a liquid having a flash point below 100° F. (38° C.), and is designated a class one liquid.

3. It is proposed to revise the definition of "Flash point" as follows:

"Flash point" means the minimum temperature of a liquid at which sufficient vapor is given off to form an ignitable mixture with the air near the surface of the liquid or within the vessel used as determined in accordance with the standard method of test for flash point by the tag closed tester, ASTM Designation: D 56-77, American Society for Testing Materials or a standard method of test for flash point by Pensky-Martens closed tester, ASTM Designation: D 93-77, whichever is applicable. ASTM D 56-70 and ASTM D 93-73 are hereby incorporated by reference and are made a part hereof and may be examined at any Metal and Nonmetal Mine Safety and Health Subdistrict Office, the Mine Safety and Health Administration, and may be obtained from the American Society of Testing and Materials, 1916 Ray Street, Philadelphia, Pa. 19103.

B. Section 55.3 "Ground control" is proposed to be amended as follows:

§ 55.3 [Amended].

1. It is proposed to revoke advisory standard 55.3-7.

2. It is proposed to revise advisory standard 55.3-10 and make it mandatory as follows:

55.3-10 *Mandatory.* Banks, benches, and terrain sloping into occupied working areas shall be examined after every freeze or thaw, and during, as well as after, abnormal rainfall. Should a potential fall of ground be detected, persons in affected working places shall be evacuated immediately.

3. It is proposed to revoke advisory standard 55.3-13.

4. It is proposed to add a new mandatory standard 55.3-58 as follows:

55.3-58 *Mandatory.* Where needed for ground support, rock bolts shall be installed as soon as practicable after an area is exposed.

C. Section 55.4 "Fire prevention and control" is proposed to be amended as follows:

§ 55.4 [Amended].

1. It is proposed to revise advisory standard 55.4-3 and make it mandatory as follows:

55.4-3 *Manatory.* Areas surrounding flammable and combustible liquid storage tanks and electric substations shall be kept free from grass (dry), weeds, underbrush, and other combustible materials for at least 25 feet in all directions.

2. It is proposed to revise advisory standard 55.4-5 and make it mandatory as follows:

55.4-5 *Mandatory.* Fixed unburied flammable and combustible liquid storage tanks shall be mounted securely on firm foundations. Piping shall be provided with flexible connections or other special fittings where necessary to prevent leaks caused from tank settling.

3. It is proposed to replace reserved numbers 55.4-27 with a series of numbers 55.4-27A through 55.4-27Z and to reserve number 55.4-27C through 55.4-27Z.

4. It is proposed to replace number 55.4-39 with a series of numbers 55.4-39A through 55.4-39Z, and to reserve numbers 55.4-39C through 55.4-39Z.

5. It is proposed to revise and renumber advisory standard 55.4-6 and make it mandatory as follows:

55.4-39A *Mandatory.* Buildings or rooms in which oil, grease, flammable liquids, or similar flammable materials are stored shall be of one-hour fire-resistance construction and well ventilated.

6. It is proposed to revise advisory standard 55.4-7 and make it mandatory as follows:

55.4-7 *Mandatory.* Means shall be provided to confine, remove, control, or drain away spilled or flowing flammable or combustible liquids.

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7. It is proposed to revise advisory standard 55.4-13 and make it mandatory as follows:

55.4-13 *Mandatory.* In areas where fire is a hazard, materials, such as oily waste and rags which are subject to spontaneous combustion, shall be placed in covered metal containers until disposed of properly.

8. It is proposed to revise advisory standard 55.4-16 and make it mandatory as follows:

55.4-16 *Mandatory.* Drip pans shall be provided to catch leakage or spillage when oil or combustible liquids or flammable liquids are dispensed in a place or manner which may create a hazard. Floor areas where drip pans are used shall be kept clean.

9. It is proposed to revoke advisory standard 55.4-17.

10. It is proposed to revise advisory standard 55.4-25 and make it mandatory as follows:

55.4-25 *Mandatory.* Fire hydrants shall have uniform fittings. Wrenches or keys to open the valves shall be readily available. Where necessary, adapters shall be provided that are capable of connecting hydrant fittings to the hose equipment of local fire departments, and they also shall be readily available.

11. It is proposed to revise advisory standard 55.4-26 and make it mandatory as follows:

55.4-26 *Mandatory.* Water pipes, valves, outlets, hydrants, and hoses that are designated for firefighting purposes shall be inspected every three months and tested annually.

12. It is proposed to revise advisory standard 55.4-30 and make it mandatory as follows:

55.4-30 *Mandatory.* Employees shall be trained in the use of fire extinguishers.

13. It is proposed to revise and renumber advisory standard 55.4-31 and make it mandatory as follows:

55.4-39B *Mandatory.* Emergency firefighting plans and training, in combination with suitable evacuation and rescue plans and equipment, shall be established and such plans shall be coordinated with available professional firefighting organizations. Drills shall be held at least twice a year.

14. It is proposed to revise and renumber advisory standard 55.4-34 and make it mandatory as follows:

55.4-47 *Mandatory.* Belt conveyors in locations where ignition of the conveyor belt would create a hazard to personnel shall be provided with a safety switch to stop the drive pully automatically in the event of excessive slippage.

15. It is proposed to revise and renumber advisory standard 55.4-39 and make it mandatory as follows:

55.4-27A *Mandatory.* No self-propelled mobile equipment shall be operated without a suitable fire extinguisher accessible to the operator.

16. It is proposed to revise advisory standard 55.4-41 and make it mandatory as follows:

55.4-41 *Mandatory.* Every building or structure, new or old, designed for human occupancy shall be provided with exits sufficient to permit the prompt escape of occupants in case of fire or other emergency. The design of exits and other safeguards shall be such that reliance for safety to life in case of fire or other emergency will not depend solely on any single safeguard; additional safeguards shall be provided for life safety in case any single safeguard is ineffective due to some human or mechanical failure.

17. It is proposed to revise and renumber advisory standard 55.4-49 and make it mandatory as follows:

55.4-27B *Mandatory.* All flammable and combustible waste materials, grease, lubricants, or flammable liquids shall be disposed of in a manner to prevent an accumulation where they can create a fire hazard to personnel.

D. Section 55.5 "Air quality and physical agents" is proposed to be amended as follows:

§ 55.5 [Amended].

1. It is proposed to revise advisory standard 55.5-4 and make it mandatory as follows:

55.5-4 *Mandatory.* At muckpiles, haulage roads, rock transfer points, crushers, and other points, where dust is produced in amounts sufficient to cause a health or safety hazard, such dust shall be suitably controlled.

E. Section 55.6 "Explosives" is proposed to be amended as follows:

§ 55.6 [Amended].

1. It is proposed to revoke advisory standards 55.6-3 and 55.6-4.

2. It is proposed to revise advisory standard 55.6-7 and make it mandatory as follows:

55.6-7 *Mandatory.* Explosives, detonators, and related materials such as safety fuse and detonating cord shall be:

(a) Stored in a manner to facilitate use of oldest stocks first.

(b) Stored according to brand and grade in such a manner as to facilitate identification.

(c) Stored with their top sides up.

(d) Stacked in a stable manner but not more than eight (8) feet high.

3. It is proposed to revoke advisory standard 55.6-9 and 55.6-10.

4. It is proposed to revise advisory standard 55.6-48 and make it mandatory as follows:

55.6-48 *Mandatory.* Explosives and blasting agents shall be transported without undue delay, and over routes and at times that expose a minimum number of persons

5. It is proposed to revoke advisory standard 55.6-55.

6. It is proposed to revise advisory standard 55.6-98 and make it mandatory as follows:

55.6-98 *Mandatory.* (a) Primers containing a detonator shall be prepared with the detonator contained securely and completely within the explosive charge or within a suitable tunnel or cap well.

(b) When using detonating cord to initiate another explosive, connections shall be prepared with the detonating cord threaded through, attached securely to, or otherwise in intimate contact with the explosive charge.

7. It is proposed to revise advisory standard 55.6-106 and make it mandatory as follows:

55.6-106 *Mandatory.* Faces and muckpiles shall be examined by a competent person for undetonated explosives or blasting agents and any undetonated explosives or blasting agents found shall be disposed of safely.

8. It is proposed to revise advisory standard 55.6-109 and make it mandatory as follows:

55.6-109 *Mandatory.* Safety fuse, ignitor cord, and detonating cord shall not be used if they have been kinked, bent sharply, or otherwise damaged.

9. It is proposed to revise advisory standard 55.6-118 and make it mandatory as follows:

55.6-118 *Mandatory.* When using safety fuses, where fly rock might damage unlit or burning fuses, timing shall be such that all fuses are burning within the holes before any hole detonates.

10. It is proposed to revise advisory standard 55.6-121 and make it mandatory as follows:

55.6-121 *Mandatory.* When blasting electrically, a blasting galvanometer or other instrument that is specifically designed for testing blasting circuits, shall be used to test:

(a) In surface operations:

(1) Continuity of each electric blasting cap in the borehole prior to the addition of stemming.

(2) Resistance of individual series or the resistance of multiple balanced series to be connected in parallel prior to their connection to the blasting line.

(3) Continuity of blasting lines prior to the connection of electric blasting cap series.

(4) Total blasting circuit resistance prior to connection to the power source.

(b) In underground operations:

(1) Continuity of each electric blasting cap series.

(2) Continuity of blasting lines prior to the connection of electric blasting caps.

11. It is proposed to revise advisory standard 55.6-130 and make it mandatory as follows:

55.6-130 *Mandatory.* At least a 15-foot gap shall be provided between the blasting circuit and the electric power source.

12. It is proposed to revise advisory standard 55.6-132 and make it mandatory as follows:

55.6-132 *Mandatory.* Delay connectors shall be treated and handled with the same safety precautions as detonators.

13. It is proposed to add a new mandatory standard 55.6-139.

55.6-139 *Mandatory.* Blasting areas shall not be reentered after firing until concentrations of smoke, dust, and fumes have been reduced to safe limits as required and determined in mandatory standards 55.5-1 and 55.5-2.

14. It is proposed to add a new mandatory standard 55.6-140 and make it mandatory as follows:

55.6-140 *Mandatory.* Blasting circuits and electric blasting caps (which are capable of being initiated by conventional power sources) shall be protected from sources of extraneous electricity.

15. It is proposed to revoke advisory standard 55.6-167.

16. It is proposed to revise and renumber advisory standard 55.6-169 and make it mandatory as follows:

55.6-142 *Mandatory.* Explosives or blasting agents shall not be loaded into drilled or sprung holes that could result in premature detonation from heat.

17. It is proposed to revise advisory standard 55.6-190 and make it mandatory as follows:

55.6-190 *Mandatory.* Ammonium nitrate based blasting agents shall be mixed and stored in accordance with the mixing and storage provisions in Bureau of Mines Information Circular 8179 "Safety Recommendations for Sensitized Ammonium Nitrate Blasting Agents", which is hereby incorporated by reference and made a part hereof. IC 8179 is available at each Metal and Nonmetal Mine Safety and Health District and Subdistrict Office of the Mine Safety and Health Administration.

18. It is proposed to revoke advisory standards 55.6-192 and 55.6-196.

F. Section 55.7 "Drilling" is proposed to be amended as follows:

§ 55.7 [Amended]

1. It is proposed to revoke advisory standard 55.7-1.

2. It is proposed to establish a series of numbers 55.7-50 through 55.7-100, and to reserve numbers 55.7-55 through 55.7-100

3. It is proposed to revise and renumber advisory standard 55.7-6 and make it mandatory as follows:

55.7-50 *Mandatory.* Receptacles or racks shall be provided for drill steel and tools stored or carried on drills.

4. It is proposed to revise and renmber advisory standard 55.7-7 and make it mandatory as follows:

55.7-51 *Mandatory.* To prevent injury to personnel, tools and other objects shall not be left loose on the mast or drill platform.

5. It is proposed to revise advisory standard 55.7-9 and make it mandatory as follows:

55.7-9 *Mandatory.* The drill helper when used shall be in sight of the operator at all times and shall assist the operator while the drill is being moved to a new drilling area.

6. It is proposed to revise advisory standard 55.7-14 and make it mandatory as follows:

55.7-14 *Mandatory.* Persons operating or working near jackhammers, jackleg drills, or other drilling machines, shall be instructed in the safe operation of such equipment and the potential hazards involved in case the steel breaks or bends.

7. It is proposed to revise and renumber advisory standard 55.7-15 and make it mandatory as follows:

55.7-52 *Mandatory.* Persons shall not drill from positions that hinder their access to the control levers, or from insecure staging, or from atop equipment not suitable for this purpose.

8. It is proposed to revoke advisory standards 55.7-16 and 55.7-17.

9. It is proposed to revise and renumber advisory standard 55.7-19 and make it mandatory as follows:

55.7-53 *Mandatory.* Before handheld drills are moved from one working area to another, air shall be turned off and bled from the hose.

10. It is proposed to add a new mandatory standard 55.7-54 as follows:

55.7-54 *Mandatory.* Drill operators shall be certain that all persons are in the clear before starting or moving drilling equipment.

G. Section 55.8 "Rotary jet piercing" is proposed to be amended as follows:

§ 55.8 [Amended]

1. It is proposed to revise advisory standard 55.8-1 and make it mandatory as follows:

55.8-1 *Mandatory.* Jet piercing drills shall be provided with: (a) A system to pressurize operator's cabs, when the cabs are provided; (b) A protective cover over the oxygen flow indicator.

2. It is proposed to revise advisory standard 55.8-4 and make it mandatory as follows:

55.8-4 *Mandatory.* With equipment requiring refueling at locations other than fueling stations, a system for fueling from the ground without spill shall be provided.

H. Section 55.9 "Loading, hauling, dumping" is proposed to be amended as follows:

§ 55.9 [Amended]

1. It is proposed to revise advisory standard 55.9-1 and make it mandatory as follows:

55.9-1 *Mandatory.* Self-propelled equipment that is to be used during a shift shall be inspected by the equipment operator before being placed in operation. Equipment defects affecting safety shall be reported to, and recorded by, the mine operator. The record shall be maintained at the mine or nearest mine office for at least six (6) months from the date the defects are recorded. Such records shall be made available for inspection by the Secretary of Labor or his authorized representative.

2. It is proposed to revoke advisory standard 55.9-8.

3. It is proposed to revise advisory standard 55.9-10 and make it mandatory as follows:

55.9-10 *Mandatory.* Equipment operator's cabs shall be constructed to permit operators to see without straining and shall be reasonably comfortable.

4. It is proposed to revise advisory standard 55.9-16 and make it mandatory as follows:

55.9-16 *Mandatory.* Roadbeds, rails, joints, switches, frogs, and other trackage elements on railroads shall be designed, installed and maintained in a safe manner consistent with the speed and type of haulage.

5. It is proposed to revoke advisory standard 55.9-18.

6. It is proposed to revise advisory standard 55.9-29 and make it mandatory as follows:

55.9-29 *Mandatory.* Operators shall sit facing the direction of travel while operating equipment with dual controls.

7. It is proposed to revise advisory standard 55.9-34 and make it mandatory as follows:

55.9-34 *Mandatory.* Haulage equipment shall be loaded in a manner to minimize spillage during haulage.

8. It is proposed to revise advisory standard 55.9-63 and make it mandatory as follows:

55.9-63 *Mandatory.* Ramps and dumping facilities shall be of substantial construction. They shall have suitable width, clearance, and headroom to accommodate the equipment serviced.

9. It is proposed to revise advisory standard 55.9-70 and make it mandatory as follows:

55.9-70 *Mandatory.* A tow bar of substantial construction shall be used

to tow heavy equipment unless the use of another suitable means of controlling the towed equipment proves advisable. A substantial safety chain or wire rope shall be used in conjunction with the tow bar or primary rigging.

10. It is proposed to revoke advisory standard 55.9-81.

11. It is proposed to revise advisory standard 55.9-82 and make it mandatory as follows:

55.9-82 *Mandatory.* Persons working in enclosed production equipment cabs where extreme weather and environmental conditions exist shall be protected by air conditioning, or heater with defroster, or both, which shall be maintained in a good working condition.

I. Section 55.10 "Aerial tramways" is proposed to be amended as follows:

§ 55.10 [Amended].

1. It is proposed to revise advisory standard 55.10-1 and make it mandatory as follows:

55.10-1 *Mandatory.* Buckets shall not be overloaded, and feed shall be regulated to prevent spillage.

2. It is proposed to revise advisory standard 55.10-2 and make it mandatory as follows:

55.10-2 *Mandatory.* Inspection and maintenance of carriers including loading and unloading mechanisms, ropes and supports, and brakes shall be performed by competent persons following recommendations of the manufacturer, and as conditions warrant.

3. It is proposed to revise advisory standard 55.10-4 and make it mandatory as follows:

55.10-4 *Mandatory.* Positive-action-type brakes and devices which apply the brakes automatically in the event of a power failure shall be provided on aerial tramways.

4. It is proposed to revise advisory standard 55.10-5 and make it mandatory as follows:

55.10-5 *Mandatory.* Track cable connections shall not obstruct the passage of carriage wheels.

5. It is proposed to revise advisory standard 55.10-6 and make it mandatory as follows:

55.10-6 *Mandatory.* Towers shall be suitably protected from swaying buckets.

J. Section 55.11 "Travelways and Escapeways" is proposed to be amended as follows:

§ 55.11 [Amended].

1. It is proposed to revise advisory standard 55.11-4 and make it mandatory as follows:

55.11-4 *Mandatory.* Portable rigid ladders shall be provided with suitable bases; and when used, they shall be securely placed.

2. It is proposed to revise advisory standard 55.11-7 and make it mandatory as follows:

55.11-7 *Mandatory.* Wooden members of ladders shall not be painted except with a transparent finish.

3. It is proposed to revise advisory standard 55.11-8 and make it mandatory as follows:

55.11-8 *Mandatory.* Ladderways, stairways, walkways, ramps, and platforms shall be kept free of material which could cause stumbling or slipping hazards, or injure persons below.

4. It is proposed to revise advisory standard 55.11-10 and make it mandatory as follows:

55.11-10 *Mandatory.* Vertical clearance above stair steps shall be a minimum of 7 feet or suitable warning shall be provided to indicate an impaired clearance.

5. It is proposed to revise advisory standard 55.11-11 and make it mandatory as follows:

55.11-11 *Mandatory.* Persons climbing or descending ladders shall face the ladders and have both hands free for climbing.

6. It is proposed to revoke advisory standard 55.11-15.

7. It is proposed to revise advisory standard 55.11-17 and make it mandatory as follows:

55.11-17 *Mandatory.* Fixed ladders shall not incline backwards.

8. It is proposed to revise advisory standard 55.11-25 and make it mandatory as follows:

55.11-25 *Mandatory.* When ladders are used to ascend to heights exceeding 20 feet (except on mobile equipment), landing platforms shall be provided for each 30 feet of height or fraction thereof, except that where no cage, well or ladder safety device is provided, landing platforms shall be provided for each 20 feet of height or fraction thereof. Each ladder section shall be offset from adjacent sections. Where installation conditions (even for a short, unbroken length) require that adjacent sections be offset, landing platforms shall be provided at each offset.

(a) Where a person has to step a distance greater than 12 inches from the centerline of the rung of a ladder to the nearest edge of structure or equipment, a landing platform shall be provided. The minimum step-across distance shall be 2½ inches.

(b) All landing platforms shall be equipped with standard railings and toeboards, so arranged as to give safe access to the ladder. Platforms shall not be less than 24 inches in width and 30 inches in length.

(c) One rung of any section ladder shall be located at the level of the landing laterally served by the ladder. Where access to the landing is through the ladder, the same rung spacing as used on the ladder shall be used from the landing platform to the first rung below the landing.

(d) Ladder safety devices may be used on tower, water tank, and chimney ladders over 20 feet in unbroken length in lieu of cage protection. No landing platform is required in these cases. All ladder safety devices such as those that incorporate life belts, friction brakes, and sliding attachments shall meet the design requirements of the ladders which they serve.

9. It is proposed to revise advisory standard 55.11-26 and make it mandatory as follows:

55.11-26 *Mandatory.* Cages or wells.

(a) Cages or wells (except on chimney ladders) shall be built, as shown on the applicable drawings, covered in detail in Figures 1, 2 and 3, or of equivalent construction.

(b) Cages or wells (except as provided in subparagraph (d) of standard 55.11-25) conforming to the dimensions shown in Figures 1, 2, and 3 shall be provided on ladders of more than 20 feet to a maximum unbroken length of 30 feet.

(c) Cages shall extend a minimum of 42 inches above the top of a landing, unless other acceptable protection is provided.

(d) Cages shall extend down the ladder to a point not less than 7 feet nor more than 8 feet above the base of the ladder, with bottom flared not less than 4 inches, or a portion of cage opposite ladder shall be carried to the base.

(e) Cages shall not extend less than 27 nor more than 28 inches from the centerline of the rungs of the ladder. Cages shall not be less than 27 inches in width. The insides shall be clear of projections. Vertical bars shall be located at a maximum spacing of 40 degrees around the circumference of the cage; this will give a maximum spacing of approximately 9½ inches, center to center.

(f) Ladder wells shall have a clear width of at least 15 inches measured each way from the centerline of the ladder. Smoothwalled wells shall be a minimum of 27 inches from the centerline of rungs to the well wall on the climbing side of the ladder. Where other obstructions on the climbing side of the ladder exist, there shall be a minimum of 30 inches from the centerline of the rungs.

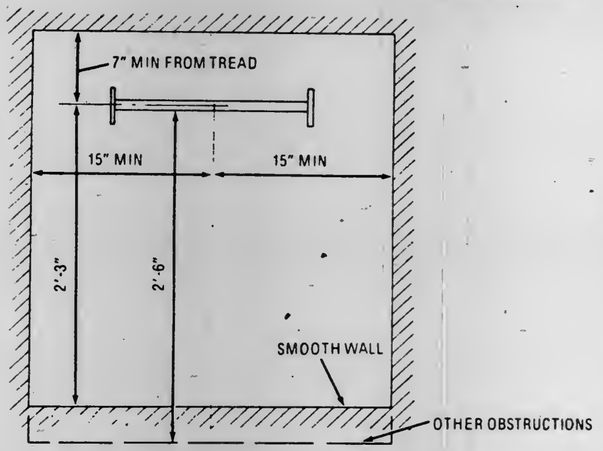
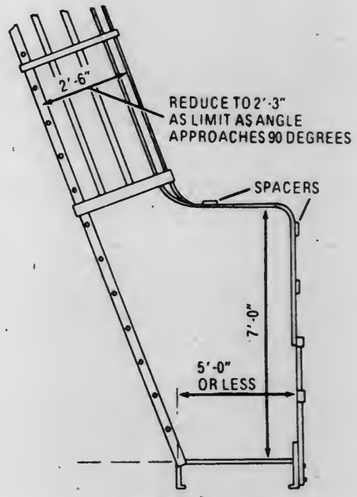
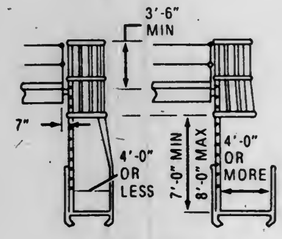


Figure 1.—CLEARANCE DIAGRAM FOR FINISHED LADDER IN WELL



INCLINED LADDER AT ELEVATED LOCATION
(for special hazard only)



SHORT LADDERS AT ELEVATED LOCATIONS

Figure 3.—CAGES—SPECIAL APPLICATIONS—SHORT LADDERS AT ELEVATED LOCATIONS

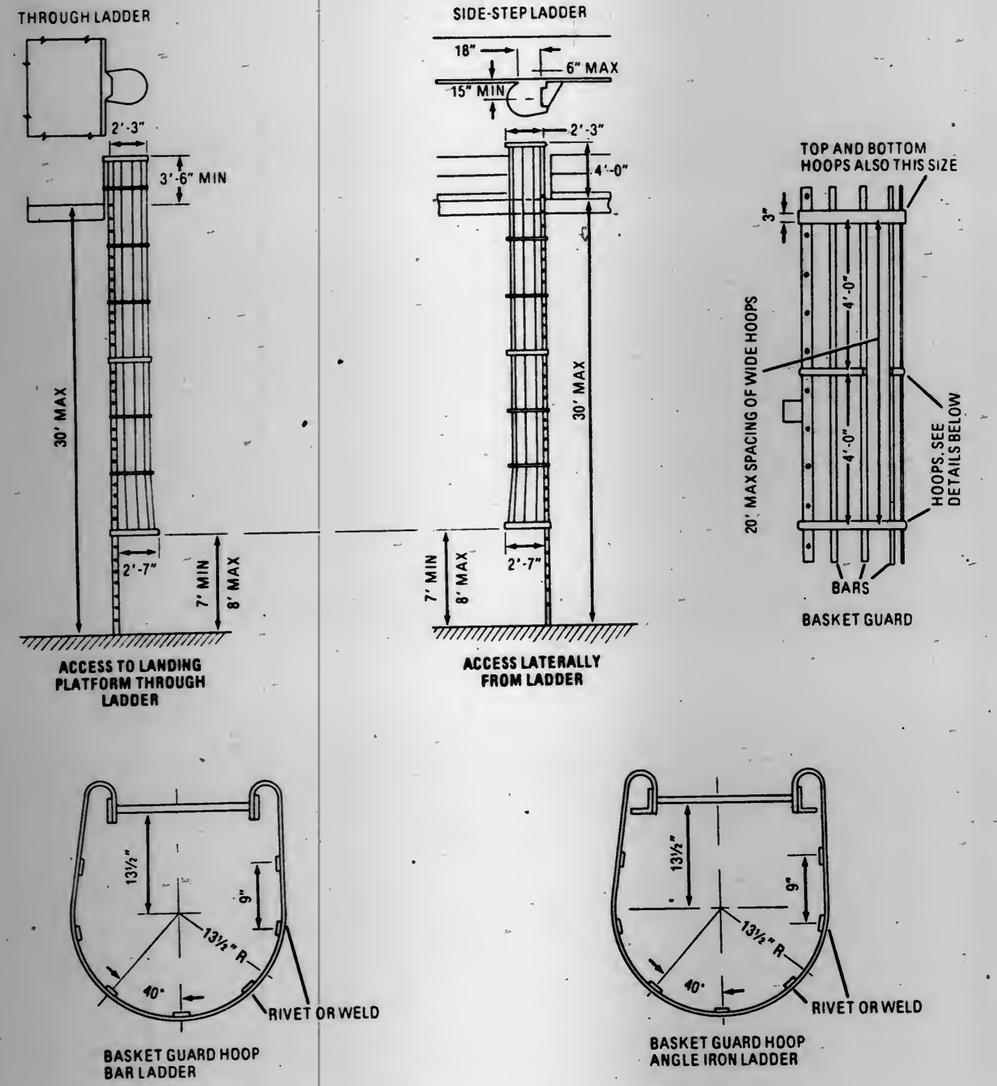


Figure 2.—ACCESS TO LANDING PLATFORM THROUGH LADDER, ACCESS LATERALLY FROM LADDER, BASKET GUARD, BASKET GUARD HOOP—BAR LADDER, AND BASKET GUARD HOOP—ANGLE IRON LADDER

K. Section 55.12 "Electricity" is proposed to be amended as follows:

§ 55.12 [Amended]

1. It is proposed to revise advisory standard 55.12-4 and make it mandatory as follows:

55.12-4 *Mandatory.* Electrical conductors shall be of sufficient size and current-carrying capacity for normal operation so that a rise in temperature resulting from such normal operation will not damage the insulating materials. Suitable protection from mechanical injury shall be provided.

2. It is proposed to revise advisory standard 55.12-19 and make it mandatory as follows:

55.12-19 *Mandatory.* Where access is necessary, suitable clearance shall be provided at stationary electrical equipment or switchgear.

3. It is proposed to revise advisory standard 55.12-22 and make it mandatory as follows:

55.12-22 *Mandatory.* Areas containing major electrical installations shall be entered only by authorized persons.

4. It is proposed to revoke advisory standard 55.12-24.

5. It is proposed to revise advisory standard 55.12-29 and make it mandatory as follows:

55.12-29 *Mandatory.* Electric equipment and wiring shall be inspected by a competent person as necessary to assure safe operating conditions.

6. It is proposed to revise advisory standard 55.12-31 and make it mandatory as follows:

55.12-31 *Mandatory.* Electric circuits and equipment shall be designed, constructed, installed and maintained to prevent injury and safeguard personnel.

7. It is proposed to revise advisory standard 55.12-35 and make it mandatory as follows:

55.12-35 *Mandatory.* Lamp sockets exposed to the weather or wet conditions shall be of a weatherproof type.

8. It is proposed to revise advisory standard 55.12-38 and make it mandatory as follows:

55.12-38 *Mandatory.* Trailing cables shall be attached to machines in a suitable manner to protect the cable from damage and to prevent strain on the electrical connections.

9. It is proposed to revise advisory standard 55.12-39 and make it mandatory as follows:

55.12-39 *Mandatory.* Surplus trailing cables to shovels, cranes and similar equipment shall be stored in cable boats or on reels mounted on the equipment or otherwise protected from mechanical damage.

10. It is proposed to revoke advisory standards 55.12-44 and 55.12-49.

11. It is proposed to revise advisory standard 55.12-50 and make it mandatory as follows:

55.12-50 *Mandatory.* Trolley wires shall be installed at least 7 feet above rails, where height permits, and aligned and supported to suitably control sway and sag.

12. It is proposed to revoke advisory standards 55.12-51 and 55.12-52.

13. It is proposed to revise advisory standard 55.12-53 and make it mandatory as follows:

55.12-53 *Mandatory.* Ground wires for lighting circuits powered from trolley wires shall be connected securely to the ground-return circuit.

14. It is proposed to revise advisory standard 55.12-54 and make it mandatory as follows:

55.12-54 *Mandatory.* Persons shall be instructed to carry tools and supplies so they will not come in contact with bare power conductors.

L. Section 55.13 "Compressed air and boilers" is proposed to be amended as follows:

§ 55.13 [Amended]

1. It is proposed to revise advisory standard 55.13-10 and make it mandatory as follows:

55.13-10 *Mandatory.* Reciprocating type air compressors rated over 10 horsepower shall be equipped with automatic temperature-actuated shutoff mechanisms unless fusible plugs were previously installed in the compressor discharge lines.

Temperature-actuated shutoff mechanisms shall be set to shut off at temperatures not to exceed the normal operating temperature of the compressor by more than 25 percent. Fusible plugs, where installed prior to the adopting of this standard, are acceptable if they melt at temperatures at least 50° less than the flash point of the lubricating oil.

2. It is proposed to revise advisory standard 55.13-11 and make it mandatory as follows:

55.13-11 *Mandatory.* Compressors and air receiver tanks shall be equipped with one or more automatic pressure relief valves. The total relieving capacity of such relief valves shall be such as to prevent pressure from exceeding the maximum allowable working pressure in a receiver tank by not more than 10 percent. Air receiver tanks also shall be equipped with: Indicating pressure gages designed to accurately measure pressure within the air receiver tanks; drain valves installed at the lowest point of the receiver tanks to provide for the removal of accumulated oil and moisture; and traps to prevent oil, moisture, and other contaminants from being expelled through the discharge lines.

3. It is proposed to revise advisory standard 55.13-12 and make it mandatory as follows:

55.13-12 *Mandatory.* Compressor air intakes shall be installed to insure that only clean, uncontaminated air enters the compressors.

4. It is proposed to revise advisory standard 55.13-13 and make it mandatory as follows:

55.13-13 *Mandatory.* Accumulations of water and oil shall be drained from compressed air receivers at least once each day the compressor is in operation.

5. It is proposed to revise advisory standard 55.13-14 and make it mandatory as follows:

55.13-14 *Mandatory.* Compressed air receivers shall have inspection openings. When the tanks are over 36 inches in diameter, the inspection openings shall be of a size to permit entry by persons.

6. It is proposed to revise advisory standard 55.13-15 and make it mandatory as follows:

55.13-15 *Mandatory.* Compressed air receivers and other unfired pressure vessels shall be inspected in accordance with the applicable chapters of the National Board Inspection Code, a Manual for Boiler and Pressure Vessel Inspectors, 1977, approved by the National Board Executive Committee on January 27, 1977, and published by the National Board of Boiler and Pressure Vessel Inspectors, which is hereby incorporated by reference and made a part hereof. Records of such inspections shall be kept. The National Board Inspection Code of 1977 may be examined at any Metal and Nonmetal Mine Health and Safety District Office, MSHA, and may be obtained from the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229.

7. It is proposed to revise advisory standard 55.13-16 and make it mandatory as follows:

55.13-16 *Mandatory.* Compressors shall be operated and lubricated in accordance with the manufacturer's recommendations.

8. It is proposed to revise advisory standard 55.13-17 and make it mandatory as follows:

55.13-17 *Mandatory.* Compressor discharge pipes where carbon buildup may occur shall be cleaned periodically as part of a systematic maintenance schedule and at least annually.

9. It is proposed to revoke advisory standard 55.13-18.

10. It is proposed to revise advisory standard 55.13-30 and make it mandatory as follows:

55.13-30 *Mandatory.* (a) All boilers shall be equipped with water level gages, pressure gages, automatic pressure-relief valves, blowdown piping, and other approved safety devices to protect against hazards from overpressure, flameouts, fuel interruptions and low water level, all as required by

the appropriate sections of the codes listed below.

(b) These gages, devices, and pipings shall be designed, installed, operated, maintained, repaired, altered, inspected, and tested by competent persons in accordance with the following listed sections, or chapters and appendixes—as applicable—of:

(1) The ASME Boiler and Pressure Vessel Code, 1977, published by the American Society of Mechanical Engineers.

Section and Title

I—Power boilers.
II—Material specifications.
II—Part A—Ferrous.
II—Part B—Nonferrous.
II—Part C—Welding rods, electrodes, and filler metal.
IV—Heating boilers.
V—Nondestructive examination.
VI—Recommended rules for care and operations of heating boilers.
VII—Recommended rules for care of power boilers.

(2) The National Board Inspection Code, a Manual for Boiler and Pressure Vessel Inspectors, 1977, approved by the National Board Executive Committee on January 27, 1977, and published by the National Board of Boiler and Pressure Vessel Inspectors.

Chapter and Title

I—Glossary terms.
II—Inspection of boilers and pressure vessels.
III—Repairs and alterations to boilers and pressure vessels by welding.
IV—Shop inspection of boilers and pressure vessels.
V—In-service inspection of pressure vessels by authorized owner-user inspection agencies.

Appendix and Title

A—Safety and safety relief valves.
B—Non-ASME code boilers and pressure vessels
C—Storage of mild steel covered arc welding electrodes.
D—National Board "R" (repair) symbol stamp.
E—Owner-user inspection agencies.
F—Inspection forms.

(c) Records of inspections and repairs shall be kept and made available to the Secretary or his authorized representative.

(d) Sections of the ASME Boiler and Pressure Vessel Code, 1977, to which references are made in this standard are hereby incorporated by reference and made a part hereof, and may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 345 East Forty-Seventh Street, New York, N.Y. 10017. Chapters and appendixes of the National Board Inspection Code of 1977 to which references are made in this standard are hereby incorporated by reference and made a part hereof, and may be obtained from the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229. These publications may be examined at any Metal and Nonmetal Mine Safety and Health District Office of the Mine Safety and Health Administration.

11. It is proposed to revoke advisory standards 55.13-31, 55.13-32, 55.13-33, and 55.13-34.

M. Section 55.14 "Use of Equipment" is proposed to be amended as follows:

§ 55.14 [Amended]

1. It is proposed to revise advisory standard 55.14-3 and make it mandatory as follows:

55.14-3 *Mandatory.* Guards at conveyor-drive, conveyor-head, and conveyor-tail pulleys shall extend a distance sufficient to prevent a person from accidentally reaching behind the guard and becoming caught between the belt and the pulley.

2. It is proposed to revoke advisory standards 55.14-4 and 55.14-5.

3. It is proposed to revise advisory standard 55.14-7 and make it mandatory as follows:

55.14-7 *Mandatory.* Guards shall be of substantial construction and maintained to provide the required protection.

4. It is proposed to revise advisory standard 55.14-11 and make it mandatory as follows:

55.14-11 *Mandatory.* Guards, shields, or other suitable protection shall be provided in areas where flying or falling materials present a hazard.

5. It is proposed to revise advisory standard 55.14-25 and make it mandatory as follows:

55.14-25 *Mandatory.* Machinery or equipment that is to be used during the shift shall be inspected at the beginning of each shift by a competent person. Defects affecting safety shall be corrected before the machinery or equipment is used.

6. It is proposed to revise advisory standard 55.14-27 and make it mandatory as follows:

55.14-27 *Mandatory.* Operation of machinery or equipment shall be assigned only to competent persons; provided, however, that trainees may be permitted to operate machinery or equipment under the guidance of competent persons.

7. It is proposed to revoke advisory standard 55.14-28.

8. It is proposed to revise advisory standard 55.14-36 and make it mandatory as follows:

55.14-36 *Mandatory.* Tools and equipment shall be used within the design capacity for which they are intended and designed.

N. Section 55.15 "Personal protection" is proposed to be amended as follows:

§ 55.15 [Amended]

1. It is proposed to revoke advisory standards 55.15-8, 55.15-9, and 55.15-10.

2. It is proposed to revise advisory standard 55.15-11 and make it mandatory as follows:

55.15-11 *Mandatory.* Employees shall be instructed in the hazards of wearing finger rings and other jewelry on the job.

3. It is proposed to revoke advisory standard 55.15-13.

O. Section 55.16 "Materials storage and handling" is proposed to be amended as follows:

§ 55.16 [Amended].

1. It is proposed to revise advisory standard 55.16-1 and make it mandatory as follows:

55.16-1 *Mandatory.* When stacked or stored, supplies shall not create a stumbling or fall-of-material hazard.

2. It is proposed to revise advisory standard 55.16-2 and make it mandatory as follows:

55.16-2 *Mandatory.* Bins, hoppers, silos, tanks, and surge piles, where loose and unconsolidated materials are stored, handled, or transferred shall be:

(a) Equipped with mechanical devices or other effective means of handling material so that during normal operations persons are not required to enter or work where they are exposed to entrapment by the caving or sliding of these materials;

(b) Equipment with supply and discharge operating controls which are located so as to eliminate hazards to persons from spills or accidental overruns;

(c) Provided with suitable walkways where persons are required to walk over or around;

(d) Provided with ladders, platforms, or stagings where persons are required to enter a material storage facility for maintenance or inspection purposes. Where a possibility exists that moving material may create a hazardous condition, no person shall be allowed to enter this area for any reason, unless the supply and discharge of materials has ceased, the supply and discharge equipment is locked out, and the person is wearing a safety belt or harness equipped with a lifeline suitably fastened. Another person suitably secured with safety belt and line shall be stationed at a point near where the lifeline is fastened, so that he can adjust it or keep it tight as needed with minimum slack in the said lifeline at all times.

3. It is proposed to revise advisory standard 55.16-7 and make it mandatory as follows:

55.16-7 *Mandatory.* Hitches and slings used to hoist materials shall be designed and suitably used for the particular materials handled. Taglines shall be attached to loads that may require steadying or guidance while suspended.

4. It is proposed to revoke advisory standard 55.16-8.

5. It is proposed to revise advisory standard 55.16-10 and make it mandatory as follows:

55.16-10 *Mandatory.* To protect personnel, material shall not be dropped from an overhead elevation until the drop area is first cleared of personnel, and then is either guarded or a suitable warning given.

6. It is proposed to revise advisory standard 55.16-12 and make it mandatory as follows:

55.16-12 *Mandatory.* Concentrated acids and alkalies shall be stored in a manner that these chemicals cannot inadvertently mix with each other or with other substances with which they will react violently or cause the liberation of dangerous fumes.

7. It is proposed to revise advisory standard 55.16-13 and make it mandatory as follows:

55.16-13 *Mandatory.* A suitable warning shall be given before molten metal is poured, or a container of molten metal is moved.

8. It is proposed to revise advisory standard 55.16-16 and make it mandatory as follows:

55.16-16 *Mandatory.* Fork and other similar type lift trucks shall be operated:

(a) With the uprights tilted back to steady and secure load.

(b) With the load in the upgrade position when ascending or descending grades in excess of 10 percent.

(c) Except for minor adjustments, loads shall not be raised or lowered enroute.

(d) Unloaded trucks shall travel on all grades with the load engaging means downgrade.

9. It is proposed to add a new mandatory standard 55.16-17 as follows:

55.16-17 *Mandatory.* Where the stretching or contraction of a hoist rope could create a hazard, chairs or other suitable blocking shall be used to support conveyances at shaft landings before heavy equipment is loaded or unloaded.

P. Section 55.18 "Safety programs" is proposed to be amended as follows:

§ 55.18 [Amended].

1. It is proposed to revise advisory standard 55.18-1 and make it mandatory as follows:

55.18-1 *Mandatory.* The operator shall establish a definite, effective, and continually-functioning safety program which shall be made available to all personnel and make every attempt to prevent accidents and increase safety. All personnel shall actively participate in the safety program.

2. It is proposed to revise advisory standard 55.18-2 and make it mandatory as follows:

55.18-2 *Mandatory.* (a) Each active working area or installation shall be examined at least once each shift, or more often if necessary, by a supervisor or another competent person for hazardous conditions. Such conditions observed shall be promptly corrected by the operator.

(b) A condition noted by the person conducting the examination that may present an imminent danger shall be brought to the immediate attention of the operator who shall withdraw all persons from the area affected, except persons referred to in section 104(c) of the Act, until the danger is abated.

(c) Any hazardous conditions observed by the supervisor or competent person making the examination shall be uniformly recorded and will include the date, the condition observed and the location of the condition. The record shall be available for review by the Secretary or his authorized representative.

(d) All reports shall include the action taken to abate any hazardous conditions found and shall be countersigned by:

(1) The mine foreman, or

(2) The mine superintendent, or

(3) The person designated by the operator as responsible for safety and health at the mine.

3. It is proposed to revoke advisory standards 55.18-3, 55.18-4, 55.18-5 and 55.18-7.

4. It is proposed to revise advisory standard 55.18-8 and make it mandatory as follows:

55.18-8 *Mandatory.* To assure that work is being done in a safe manner, each active working place shall be visited each shift by a supervisor, or another competent person shall be designated to check that working place.

5. It is proposed to revise advisory standard 55.18-9 and make it mandatory as follows:

55.18-9 *Mandatory.* A supervisor or a designated competent person shall be in attendance on the property when persons are working to take charge in case of an emergency.

6. It is proposed to revoke advisory standard 55.18-11.

7. It is proposed to revise advisory standard 55.18-13 and make it mandatory as follows:

55.18-13 *Mandatory.* A suitable communications system shall be provided at the mine site in order to summons assistance in the event of an emergency.

Q. Section 55.19 "Man hoisting" is proposed to be amended as follows:

§ 55.19 [Amended]

1. It is proposed to revise advisory standard 55.19-12 and make it mandatory as follows:

55.19-12 *Mandatory.* Where grooved drums are used, the grooves shall be of suitable size and pitch for the rope used.

2. It is proposed to revoke advisory standard 55.19-20.

3. It is proposed to revise advisory standard 55.19-25 and make it mandatory as follows:

55.19-25 *Mandatory.* Wire ropes shall be used and maintained in accordance with the manufacturer's recommendations, or the equivalent.

4. It is proposed to revise advisory standard 55.19-35 and make it mandatory as follows:

55.19-35 *Mandatory.* Headframes shall be of substantial construction.

5. It is proposed to revise advisory standared 55.19-36 and make it mandatory as follows:

55.19-36 *Mandatory.* Headframes shall be high enough to provide clearance for overtravel and safe stopping of the conveyance.

6. It is proposed to revise advisory standard 55.19-37 and make it mandatory as follows:

55.19-37 *Mandatory.* Fleet angles shall not be greater than one and one-half degrees for smooth drums, and two degrees for grooved drums.

7. It is proposed to revise advisory standard 55.19-39 and make it mandatory as follows:

55.19-39 *Mandatory.* All man hoists, except emergency escape hoists, installed after the effective date of this standard shall have drums and sheaves of diameters at least 60 times the rope diameter.

8. It is proposed to revise advisory standard 55.19-67 and make it mandatory as follows:

55.19-67 *Mandatory.* During shift changes, an authorized person shall be in charge of each man trip.

9. It is proposed to revise advisory standard 55.19-72 and make it mandatory as follows:

55.19-72 *Mandatory.* When combinations of cages and skips are used in the same compartment, the cages shall be totally enclosed to protect personnel from flying material and the hoist speed reduced to man-speed as defined in section 55.19-61, but not to exceed 1,000 feet per minute. Muck shall not be hoisted with personnel during shift changes.

10. It is proposed to revise advisory standard 55.19-74 and make it mandatory as follows:

55.19-74 *Mandatory.* Persons shall not ride the bail, rim, bonnet, or crosshead of any shaft conveyance except where necessary for inspection and maintenance, and then only when suitable protection for persons is provided.

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11. It is proposed to revise advisory standard 55.19-78 and make it mandatory as follows:

55.19-78 *Mandatory.* All buckets shall be stopped after being raised about three (3) feet above the shaft bottom. A bucket shall be stabilized before a hoisting signal is given to continue hoisting the bucket to the crosshead. After a hoisting signal is given, hoisting to the crosshead shall be at the minimum speed. The signaling device shall be attended constantly until a bucket reaches the guides. When persons are hoisted, the signaling devices shall be attended until the crosshead has been engaged.

12. It is proposed to revise advisory standard 55.19-81 and make it mandatory as follows:

55.19-81 *Mandatory.* Conveyances controlled by a hoistman, when not in use, shall be released and the conveyance shall be raised or lowered a suitable distance to prevent persons from boarding or loading the conveyance.

13. It is proposed to revise advisory standard 55.19-91 and make it mandatory as follows:

55.19-91 *Mandatory.* Hoistmen shall accept hoisting instructions only by the regular signaling system unless it is out of order. During an emergency, the hoistman shall accept instructions only from authorized persons to direct movement of the conveyance.

14. It is proposed to revise advisory standard 55.19-93 and make it mandatory as follows:

55.19-93 *Mandatory.* A standard code of hoisting signals shall be adopted and used at each mine. The movement of a shaft conveyance on a "one bell" signal shall be prohibited.

15. It is proposed to revise advisory standard 55.19-104 and make it mandatory as follows:

55.19-104 *Mandatory.* Suitable clearance at shaft stations shall be provided and maintained so as to allow for the safe movements of persons and the safe passage and handling of equipment and materials.

16. It is proposed to revise advisory standard 55.19-124 and make it mandatory as follows:

55.19-124 *Mandatory.* To distribute the wear of the rope, hoist ropes other than those on friction hoists shall be cut off at least six (6) feet above the highest connection to the conveyance, at intervals not to exceed one (1) year unless conditions of use and/or examination and inspection required in 55.19-126 indicate the necessity of a shorter time interval. The portion of the rope that is cut off shall be examined and inspected by a competent person for damage, corrosion, wear and fatigue.

17. It is proposed to revise advisory standard 55.19-125 and make it mandatory as follows:

55.19-125 *Mandatory.* Hoist ropes wound in multiple layers shall have a suitable length cut off at the drum end at least three (3) times during the anticipated life of the rope and whenever necessary, as determined by the inspection or tests required in standard 55.19-126, to distribute the wear at change of layers and crossover points and to preserve the integrity of the rope. The amount of rope cut off shall not be a whole number multiple of the circumference of the drum.

18. It is proposed to revise advisory standard 55.19-126 and make it mandatory as follows:

55.19-126 *Mandatory.* Hoist ropes shall be examined over its entire active length at least every month to evaluate wear and possible damage. Caliper measurements or non-destructive tests shall be made wherever wear is evident on the rope and at least every six (6) months and whenever necessary as determined by examination, inspection or tests as follows:

(a) Immediately above the socket or clips and above the safety connection;

(b) Where the rope rests on the sheaves;

(c) Where the ropes leave the drums when the conveyances are at the regular stopping point;

(d) Where a layer of rope begins to overlap another layer on the drum;

(e) At 100-foot intervals; measurements shall be made midway between the last previously calipered points.

19. It is proposed to revise advisory standard 55.19-127.

20. It is proposed to revoke advisory standard 55.19-130 and make it mandatory as follows:

55.19-130 *Mandatory.* Empty hoist conveyances shall be operated at least one round trip to assure the hoisting compartment is clear of obstruction before hoisting persons:

(a) After any hoist or shaft repairs or related equipment repairs that might restrict or obstruct conveyance clearance;

(b) After any oversize or overweight material or equipment trips that might restrict or obstruct conveyance clearance;

(c) After blasting in or near the shaft that might restrict or obstruct conveyance clearance;

(d) After remaining idle for one shift or longer.

21. It is proposed to revise advisory standard 55.19-131 and make it mandatory as follows:

55.19-131 *Mandatory.* Hoist conveyance connections shall be inspected at least once during any 24-hour period that the conveyance is used for hoisting persons.

22. It is proposed to revise advisory standard 55.19-132 and make it mandatory as follows:

55.19-132 *Mandatory.* A performance drop test of hoist conveyance safety catches shall be made at the time of installation, or prior to installation, in a mockup of the actual installation and certified to in writing by the manufacturer or registered professional engineer performing the test.

After installation, the conveyance shall be suitably rested at least once before use and the hoist rope slackened to test for the unrestricted functioning of the safety catches and their activitating mechanisms.

Thereafter, the safety catches shall be inspected by a competent person at the beginning of any 24-hour period that the conveyance is to by used, and the unrestricted functioning of the safety catches and their activitating mechanisms shall be tested (as before) at least once at the beginning of any 7-day period during which the conveyance is to be used.

R. Section 55.20 "Miscellaneous" is proposed to be amended as follows:

§ 55.20 [Amended]

1. It is proposed to revoke advisory standards 55.20-4, 55.20-6, and 55.20-7.

2. It is proposed to revise advisory standards 55.20-8 and make it mandatory as follows:

55.20-8 *Mandatory.* Toilet facilities shall be provided at locations that are compatible with the mine operations and that are readily accessible to mine personnel. The facilities shall be kept clean and sanitary. Separate toilet facilities shall be provided for each sex except where toilet facilities will be occupied by no more than one (1) person at a time and can be locked from the inside.

PART 56—HEALTH AND SAFETY STANDARDS—SAND, GRAVEL, AND CRUSHED STONE

S. Section 56.2 "Definitions" is proposed to be amended as follows:

§ 56.2 [Amended]

1. It is proposed to add a definition of "combustible liquid, class two combustible liquid, and class three combustible liquid" as follows:

"Combustible liquid" means a liquid having a flashpoint at or above 100° F. (38° C.). "Class two combustible liquid" means a liquid having a flashpoint at or above 100° F. (38° C.) and below 140° F. (60° C.). "Class three combustible liquid" means a liquid having a flashpoint at or about 140° F. (60° C.) and an auto ignition temperature below 1,500° F. (816° C.).

2. It is proposed to add a definition of "flammable liquid" as follows:

"Flammable liquid" means a liquid having a flashpoint below 100° F. (38° C.), and is designated a class one liquid.

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3. It is proposed to revise the definition of "flashpoint" as follows:

"Flashpoint" means the minimum temperature of a liquid at which sufficient vapor is given off to form an ignitable mixture with the air near the surface of the liquid or within the vessel used as determined in accordance with the Standard Method of Test for Flashpoint by the Tag Closed Tester, ASTM Designation: D 56-77, American Society for Testing Materials or a Standard Method of Test for Flashpoint by Pensky-Martens Closed Tester, ASTM Designation: D 93-77, whichever is applicable. ASTM D 56-70 and ASTM D 93-73 are hereby incorporated by reference and are made a part hereof and may be examined at any Metal and Nonmetal Mine Safety and Health Subdistrict Office, the Mine Safety and Health Administration, and may be obtained from the American Society of Testing and Materials, 1916 Ray Street, Philadelphia, Pa. 19103.

T. Section 56.3 "Ground control" is proposed to be amended as follows:

§ 56.3 [Amended]

1. It is proposed to revoke advisory standard 56.3-7.

2. It is proposed to revise advisory standard 56.3-10 and make it mandatory as follows:

56.3-10 *Mandatory.* Banks, benches, and terrain sloping into occupied working areas shall be examined after every freeze or thaw, and during, as well as after, abnormal rainfall. Should a potential fall of ground be detected, persons in affected working places shall be evacuated immediately.

3. It is proposed to revoke advisory standard 56.3-13.

4. It is proposed to add a new mandatory standard 56.3-58 as follows:

56.3-58 *Mandatory.* Where needed for ground support, rock bolts shall be installed as soon as practicable after an area is exposed.

U. Section 56.4 "Fire prevention and control" is proposed to be amended as follows:

§ 56.4 [Amended]

1. It is proposed to revise advisory standard 56.4-3 and make it mandatory as follows:

56.4-3 *Mandatory.* Areas surrounding flammable and combustible liquid storage tanks and electric substations shall be kept free from grass (dry), weeds, underbrush, and other combustible materials for at least 25 feet in all directions.

2. It is proposed to revise advisory standard 56.4-5 and make it mandatory as follows:

56.4-5 *Mandatory.* Fixed unburied flammable and combustible liquid storage tanks shall be mounted securely on firm foundations. Piping shall be provided with flexible connections or other special fittings where necessary to prevent leaks caused from tank settling.

3. It is proposed to replace reserved number 56.4-27 with a series of numbers 56.4-27A through 56.4-27Z and to reserve numbers 56.4-27C through 56.4-27Z.

4. It is proposed to replace number 56.4-39 with a series of numbers 56.4-39A through 56.4-39Z, and to reserve numbers 56.4-39C through 56.4-39Z.

5. It is proposed to revise and renumber advisory standard 56.4-6 and make it mandatory as follows:

56.4-39A *Mandatory.* Buildings or rooms in which oil, grease, flammable liquids, or similar flammable materials are stored shall be of 1-hour fire-resistance construction and well ventilated.

6. It is proposed to revise advisory standard 56.4-7 and make it mandatory as follows:

56.4-7 *Mandatory.* Means shall be provided to confine, remove, control, or drain away spilled or flowing flammable or combustible liquids.

7. It is proposed to revise advisory standard 56.4-13 and make it mandatory as follows:

56.4-13 *Mandatory.* In areas where fire is a hazard, materials such as oily waste and rags which are subject to spontaneous combustion, shall be placed in covered metal containers until disposed of properly.

8. It is proposed to revise advisory standard 56.4-16 and make it mandatory as follows:

56.4-16 *Mandatory.* Drip pans shall be provided to catch leakage or spillage when oil or combustible liquids or flammable liquids are dispensed in a place or manner which may create a hazard. Floor areas where drip pans are used shall be kept clean.

9. It is proposed to revoke advisory standard 56.4-17.

10. It is proposed to revise advisory standard 56.4-25 and make it mandatory as follows:

56.4-25 *Mandatory.* Fire hydrants shall have uniform fittings. Wrenches or keys to open the valves shall be readily available. Where necessary, adapters shall be provided that are capable of connecting hydrant fittings to the hose equipment of local fire departments, and they also shall be readily available.

11. It is proposed to revise advisory standard 56.4-26 and make it mandatory as follows:

56.4-26 *Mandatory.* Water pipes, valves, outlets, hydrants, and hoses that are designated for firefighting purposes shall be inspected every 3 months and tested annually.

12. It is proposed to revise advisory standard 56.4-30 and make it mandatory as follows:

56.4-30 *Mandatory.* Employees shall be trained in the use of fire extinguishers.

13. It is proposed to revise and renumber advisory standard 56.4-31 and make it mandatory as follows:

56.4-39B *Mandatory.* Emergency firefighting plans and training, in combination with suitable evacuation and rescue plans and equipment, shall be established and such plans shall be coordinated with available professional firefighting organizations. Drills shall be held at least twice a year.

14. It is proposed to revise and renumber advisory standard 56.4-34 and make it mandatory as follows:

56.4-47 *Mandatory.* Belt conveyors in locations where ignition of the conveyor belt would create a hazard to personnel shall be provided with a safety switch to stop the drive pulley automatically in the event of excessive slippage.

15. It is proposed to revise and renumber advisory standard 56.4-39 and make it mandatory as follows:

56.4-27A *Mandatory.* No self-propelled mobile equipment shall be operated without a suitable fire extinguisher accessible to the operator.

16. It is proposed to revise advisory standard 56.4-41 and make it mandatory as follows:

56.4-41 *Mandatory.* Every building or structure, new or old, designed for human occupancy shall be provided with exits sufficient to permit the prompt escape of occupants in case of fire or other emergency. The design of exits and other safeguards shall be such that reliance for safety to life in case of fire or other emergency will not depend solely on any single safeguard; additional safeguards shall be provided for life safety in case any single safeguard is ineffective due to some human or mechanical failure.

17. It is proposed to revise and renumber advisory standard 56.4-49 and make it mandatory as follows:

56.4-27B *Mandatory.* All flammable and combustible waste materials, grease, lubricants, or flammable liquids shall be disposed of in a manner to prevent an accumulation where they can create a fire hazard to personnel.

V. Section 56.5 "Air quality and physical agents" is proposed to be amended as follows:

§ 56.51 [Amended]

1. It is proposed to revise advisory standard 56.5-4 and make it mandatory as follows:

56.5-4 *Mandatory.* At muckpiles, haulage roads, rock transfer points, crushers, and other points, where dust is produced in amounts sufficient to cause a health or safety hazard, such dust shall be suitably controlled.

W. Section 56.6 "Explosives" is proposed to be amended as follows:

§ 56.6 [Amended]

1. It is proposed to revoke advisory standards 56.6-3 and 56.6-4.

2. It is proposed to revise advisory standard 56.6-7 and make it mandatory as follows:

56.6-7 *Mandatory.* Explosives, detonators, and related materials such as safety fuse and detonating cord shall be:

(a) Stored in a manner to facilitate use of oldest stocks first.

(b) Stored according to brand and grade in such a manner as to facilitate identification.

(c) Stored with their top sides up.

(d) Stacked in a stable manner but not more than eight (8) feet high.

3. It is proposed to revoke advisory standards 56.6-9 and 56.6-10.

4. It is proposed to revise advisory standard 56.6-48 and make it mandatory as follows:

56.6-48 *Mandatory.* Explosives and blasting agents shall be transported without undue delay, and over routes and at times that expose a minimum number of persons.

5. It is proposed to revoke advisory standard 56.6-55.

6. It is proposed to revise advisory standard 56.6-98 and make it mandatory as follows:

56.6-98 *Mandatory.* (a) Primers containing a detonator shall be prepared with the detonator contained securely and completely within the explosive charge or within a suitable tunnel or cap well.

(b) When using detonating cord to initiate another explosive, connections shall be prepared with the detonating cord threaded through, attached securely to, or otherwise in intimate contact with the explosive charge.

7. It is proposed to revise advisory standard 56.6-106 and make it mandatory as follows:

56.6-106 *Mandatory.* Faces and muckpiles shall be examined by a competent person for undetonated explosives or blasting agents and any undetonated explosives or blasting agents found shall be disposed of safely.

8. It is proposed to revise advisory standard 56,6-109 and make it mandatory as follows:

56.6-109 *Mandatory.* Safety fuse, ignitor cord, and detonating cord shall not be used if they have been kinked, bent sharply, or otherwise damaged.

9. It is proposed to revise advisory standard 56.6-118 and make it mandatory as follows:

56.6-118 *Mandatory.* When using safety fuses, where fly rock might damage unlit or burning fuses, timing shall be such that all fuses are burning within the holes before any hole detonates.

10. It is proposed to revise advisory standard 56.6-121 and make it mandatory as follows:

56.6-121 *Mandatory.* When blasting electrically, a blasting galvanometer or other instrument that is specifically designed for testing blasting circuits, shall be used to test:

(a) In surface operations:

(1) Continuity of each electric blasting cap in the borehole prior to the addition of stemming.

(2) Resistance of individual series or the resistance of multiple balanced series to be connected in parallel prior to their connection to the blasting line.

(3) Continuity of blasting lines prior to the connection of electric blasting cap series.

(4) Total blasting circuit resistance prior to connection to the power source.

(b) In underground operations:

(1) Continuity of each electric blasting cap series.

(2) Continuity of blasting lines prior to the connection of electric blasting caps.

11. It is proposed to revise advisory standard 56.6-130 and make it mandatory as follows:

56.6-130 *Mandatory.* At least a 15-foot gap shall be provided between the blasting circuit and the electric power source.

12. It is proposed to revise advisory standard 56.6-132 and make it mandatory as follows:

56.6-132 *Mandatory.* Delay connectors shall be treated and handled with the same safety precautions as detonators.

13. It is proposed to add a new mandatory standard 56.6-139.

56.6-139 *Mandatory.* Blasting areas shall not be reentered after firing until concentrations of smoke, dust, and fumes have been reduced to safe limits as required and determined in mandatory standards 56.5-1 and 56.5-2.

14. It is proposed to add a new mandatory standard 56.6-140 and make it mandatory as follows:

56.6-140 *Mandatory.* Blasting circuits and electric blasting caps (which are capable of being initiated by conventional power sources) shall be protected from sources of extraneous electricity.

15. It is proposed to revoke advisory standard 56.6-167.

16. It is proposed to revise and renumber advisory standard 56.6-169 and make it mandatory as follows:

56.6-142 *Mandatory.* Explosives or blasting agents shall not be loaded into drilled or sprung holes that could result in premature detonation from heat.

17. It is proposed to revise advisory standard 56.6-190 and make it mandatory as follows:

56.6-190 *Mandatory.* Ammonium nitrate-based blasting agents shall be mixed and stored in accordance with the mixing and storage provisions in Bureau of Mines information Circular 8179 "Safety Recommendations for Sensitized Ammonium Nitrate Blasting Agents," which is hereby incorporated by reference and made a part hereof. IC 8179 is available at each Metal and Nonmetal Mine Safety and Health District and Subdistrict Office of the Mine Safety and Health Administration.

18. It is proposed to revoke advisory standards 56.6-192 and 56.6-196.

X. Section 56.7 "Drilling" is proposed to be amended as follows:

§ 56.7 [Amended]

1. It is proposed to revoke advisory standard 56.7-1.

2. It is proposed to establish a series of numbers 56.7-50 through 56.7-100, and to reserve numbers 56.7-55 through 56.7-100.

3. It is proposed to revise and renumber advisory standard 56.7-6 and make it mandatory as follows:

56.7-50 *Mandatory.* Receptacles or racks shall be provided for drill steel and tools stored or carried on drills.

4. It is proposed to revise and renumber advisory standard 56.7-7 and make it mandatory as follows:

56.7-51 *Mandatory.* To prevent injury to personnel, tools and other objects shall not be left loose on the mast or drill platform.

5. It is proposed to revise advisory standard 56.7-9 and make it mandatory as follows:

56.7-9 *Mandatory.* The drill helper when used shall be in sight of the operator at all times and shall assist the operator while the drill is being moved to a new drilling area.

6. It is proposed to revise advisory standard 56.7-14 and make it mandatory as follows:

56.7-14 *Mandatory.* Persons operating or working near jackhammers, jackleg drills, or other drilling machines shall be instructed in the safe operation of such equipment and the potential hazards involved in case the steel breaks or bends.

7. It is proposed to revise and renumber advisory standard 56.7-15 and make it mandatory as follows:

56.7-52 *Mandatory.* Persons shall not drill from positions that hinder their access to the control levers, or from insecure staging, or from atop equipment not suitable for this purpose.

8. It is proposed to revoke advisory standards 56.7-16 and 56.7-17.

9. It is proposed to revise and renumber advisory standard 56.7-19 and make it mandatory as follows:

56.7-53 *Mandatory.* Before handheld drills are moved from one working area to another, air shall be turned off and bled from the hose.

10. It is proposed to add a new mandatory standard 56.7-54 as follows:

56.7-54 *Mandatory.* Drill operators shall be certain that all persons are in the clear before starting or moving drilling equipment.

Y. Section 56.8 "Rotary jet piercing" is proposed to be amended as follows:

§ 56.8 [Amended]

1. It is proposed to revise advisory standard 56.8-1 and make it mandatory as follows:

56.8-1 *Mandatory.* Jet piercing drills shall be provided with: (a) A system to pressurize operator's cabs, when the cabs are provided; (b) a protective cover over the oxygen flow indicator.

2. It is proposed to revise advisory standard 56.8-4 and make it mandatory as follows:

56.8-4 *Mandatory.* With equipment requiring refueling at locations other than fueling stations, a system for fueling from the ground without spill shall be provided.

Z. Section 56.9 "Loading, hauling, dumping" is proposed to be amended as follows:

§ 56.9 [Amended]

1. It is proposed to revise advisory standard 56.9-1 and make it mandatory as follows:

56.9-1 *Mandatory.* Self-propelled equipment that is to be used during a shift shall be inspected by the equipment operator before being placed in operation. Equipment defects affecting safety shall be reported to, and recorded by, the mine operator. The record shall be maintained at the mine or nearest mine office for at least six (6) months from the date the defects are recorded. Such records shall be made available for inspection by the Secretary of Labor or his authorized representative.

2. It is proposed to revoke advisory standard 56.9-8.

3. It is proposed to revise advisory standard 56.9-10 and make it mandatory as follows:

56.9-10 *Mandatory.* Equipment operator's cabs shall be constructed to permit operators to see without straining and shall be reasonably comfortable.

4. It is proposed to revise advisory standard 56.9-16 and make it mandatory as follows:

56.9-16 *Mandatory.* Roadbeds, rails, joints, switches, frogs, and other trackage elements on railroads shall be designed, installed, and maintained in a safe manner consistent with the speed and type of haulage.

5. It is proposed to revoke advisory standard 56.9-18.

6. It is proposed to revise advisory standard 56.9-29 and make it mandatory as follows:

56.9-29 *Mandatory.* Operators shall sit facing the direction of travel while operating equipment with dual controls.

7. It is proposed to revise advisory standard 56.9-34 and make it mandatory as follows:

56.9-34 *Mandatory.* Haulage equipment shall be loaded in a manner to minimize spillage during haulage.

8. It is proposed to revise advisory standard 56.9-63 and make it mandatory as follows:

56.9-63 *Mandatory.* Ramps and dumping facilities shall be of substantial construction. They shall have suitable width, clearance, and headroom to accommodate the equipment serviced.

9. It is proposed to revise advisory standard 56.9-70 and make it mandatory as follows:

56.9-70 *Mandatory.* A tow bar of substantial construction shall be used to tow heavy equipment unless the use of another suitable means of controlling the towed equipment proves advisable. A substantial safety chain or wire rope shall be used in conjunction with the tow bar or primary rigging.

10. It is proposed to revoke advisory standard 56.9-81.

11. It is proposed to revise advisory standard 56.9-82 and make it mandatory as follows:

56.9-82 *Mandatory.* Persons working in enclosed production equipment cabs where extreme weather and environmental conditions exist shall be protected by air conditioning, or heater with defroster, or both, which shall be maintained in a good working condition.

AA. Section 56.10 "Aerial tramways" is proposed to be amended as follows:

§ 56.10 [Amended].

1. It is proposed to revise advisory standard 56.10-1 and make it mandatory as follows:

56.10-1 *Mandatory.* Buckets shall not be overloaded, and feed shall be regulated to prevent spillage.

2. It is proposed to revise advisory standard 56.10-2 and make it mandatory as follows:

56.10-2 *Mandatory.* Inspection and maintenance of carriers including loading and unloading mechanisms, ropes and supports, and brakes shall be performed by competent persons following recommendations of the manufacturer, and as conditions warrant.

3. It is proposed to revise advisory standard 56.10-4 and make it mandatory as follows:

56.10-4 *Mandatory.* Positive-action-type brakes and devices which apply the brakes automatically in the event of a power failure shall be provided on aerial tramways.

4. It is proposed to revise advisory standard 56.10-5 and make it mandatory as follows:

56.10-5 *Mandatory.* Track cable connections shall not obstruct the passage of carriage wheels.

5. It is proposed to revise advisory standard 56.10-6 and make it mandatory as follows:

56.10-6 *Mandatory.* Towers shall be suitably protected from swaying buckets.

BB. Section 56.11 "Travelways and Escapeways" is proposed to be amended as follows:

§ 56.11 [Amended].

1. It is proposed to revise advisory standard 56.11-4 and make it mandatory as follows:

56.11-4 *Mandatory.* Portable rigid ladders shall be provided with suitable bases; and when used, they shall be securely placed.

2. It is proposed to revise advisory standard 56.11-7 and make it mandatory as follows:

56.11-7 *Mandatory.* Wooden members of ladders shall not be painted except with a transparent finish.

3. It is proposed to revise advisory standard 56.11-8 and make it mandatory as follows:

56.11-8 *Mandatory.* Ladderways, stairways, walkways, ramps, and platforms shall be kept free of material which could cause stumbling or slipping hazards, or injure persons below.

4. It is proposed to revise advisory standard 56.11-10 and make it mandatory as follows:

56.11-10 *Mandatory.* Vertical clearance above stair steps shall be a minimum of 7 feet or suitable warning shall be provided to indicate an impaired clearance.

5. It is proposed to revise advisory standard 56.11-11 and make it mandatory as follows:

56.11-11 *Mandatory.* Persons climbing or descending ladders shall face the ladders and have both hands free for climbing.

6. It is proposed to revoke advisory standard 56.11-15.

7. It is proposed to revise advisory standard 56.11-17 and make it mandatory as follows:

56.11-17 *Mandatory.* Fixed ladders shall not incline backwards.

8. It is proposed to revise advisory standard 56.11-25 and make it mandatory as follows:

56.11-25 *Mandatory.* When ladders are used to ascend to heights exceed-

V 43 / 177 SEP 12 78

ing 20 feet (except on mobile equipment), landing platforms shall be provided for each 30 feet of height or fraction thereof, except that where no cage, well, or ladder safety device is provided, landing platforms shall be provided for each 20 feet of height or fraction thereof. Each ladder section shall be offset from adjacent sections. Where installation conditions (even for a short, unbroken length) required that adjacent sections be offset, landing platforms shall be provided at each offset.

(a) Where a person has to step a distance greater than 12 inches from the centerline of the rung of a ladder to the nearest edge of structure or equipment, a landing platform shall be provided. The minimum step-across distance shall be 2½ inches.

(b) All landing platforms shall be equipped with standard railings and toeboards, so arranged as to give safe access to the ladder. Platforms shall not be less than 24 inches in width and 30 inches in length.

(c) One rung of any section of ladder shall be located at the level of the landing laterally served by the ladder. Where access to the landing is through the ladder, the same rung spacing as used on the ladder shall be used from the landing platform to the first rung below the landing.

(d) Ladder safety devices may be used on tower, water tank, and chimney ladders over 20 feet in unbroken length in lieu of cage protection. No landing platform is required in these cases. All ladder safety devices such as those that incorporate life belts, friction brakes, and sliding attachments shall meet the design requirements of the ladders which they serve.

9. It is proposed to revise advisory standard 56.11-26 and make it mandatory as follows:

56.11-26 *Mandatory.* Cages or wells.

(a) Cages or wells (except on chimney ladders) shall be built, as shown on the applicable drawings, covered in detail in figures 1, 2, and 3, or of equivalent construction.

(b) Cages or wells (except as provided in subparagraph (d) of standard 56.11-25) conforming to the dimensions shown in figures 1, 2, and 3 shall be provided on ladders of more than 20 feet to a maximum unbroken length of 30 feet.

(c) Cages shall extend a minimum of 42 inches above the top of a landing, unless other acceptable protection is provided.

(d) Cages shall extend down the ladder to a point not less than 7 feet nor more than 8 feet above the base of the ladder, with bottom flared not less than 4 inches, or a portion of cage opposite ladder shall be carried to the base.

(e) Cages shall not extend less than 27 nor more than 28 inches from the centerline of the rungs of the ladder. Cages shall not be less than 27 inches in width. The insides shall be clear of projections. Vertical bars shall be located at a maximum spacing of 40 degrees around the circumference of the cage; this will give a maximum spacing of approximately 9½ inches, center to center.

(f) Ladder wells shall have a clear width of at least 15 inches measured each way from the centerline of the ladder. Smoothwalled wells shall be a minimum of 27 inches from the centerline of rungs to the well wall on the climbing side of the ladder. Where other obstructions on the climbing side of the ladder exists, there shall be a minimum of 30 inches from the centerline of the rungs.

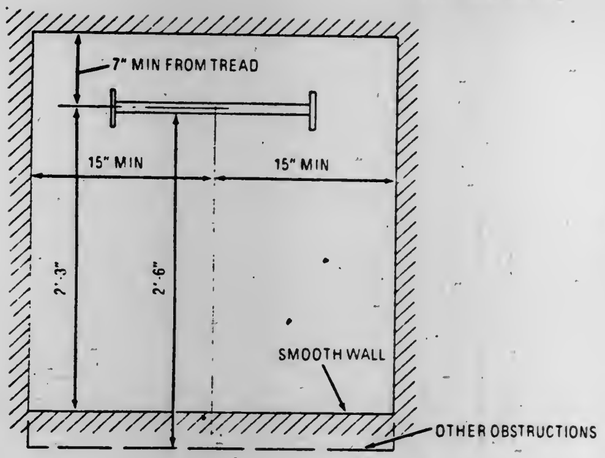
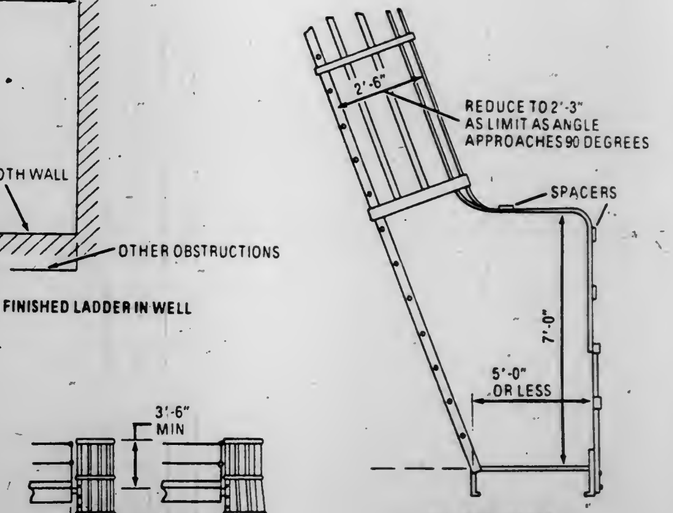
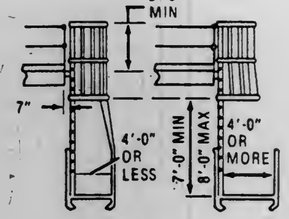


Figure 1.—CLEARANCE DIAGRAM FOR FINISHED LADDER IN WELL



INCLINED LADDER AT ELEVATED LOCATION
(for special hazard only)



SHORT LADDERS AT ELEVATED LOCATIONS

Figure 3.—CAGES—SPECIAL APPLICATIONS—SHORT LADDERS AT ELEVATED LOCATIONS

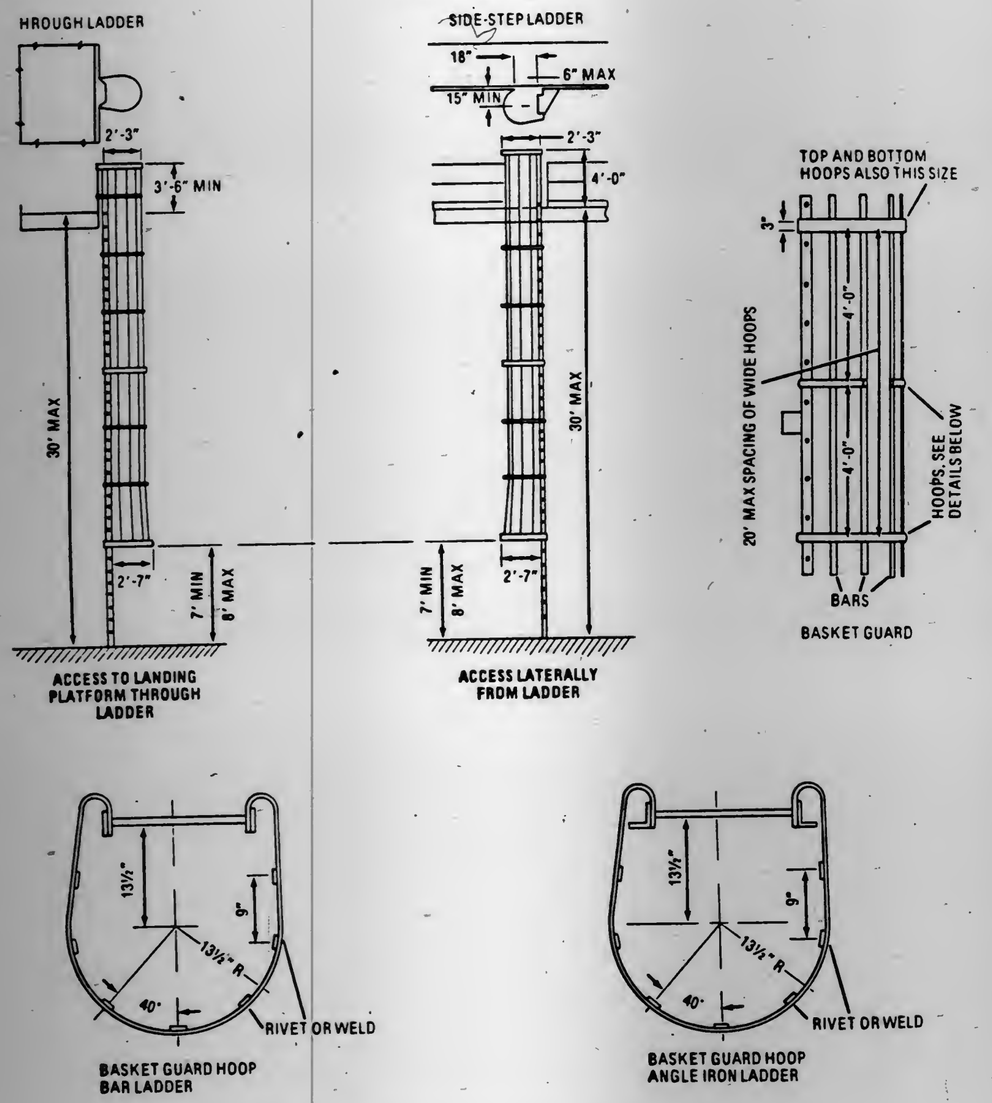


Figure 2.—ACCESS TO LANDING PLATFORM THROUGH LADDER, ACCESS LATERALLY FROM LADDER, BASKET GUARD, BASKET GUARD HOOP—BAR LADDER, AND BASKET GUARD HOOP—ANGLE IRON LADDER

CC. Section 56.12 "Electricity" is proposed to be amended as follows:

§ 56.12 [Amended]

1. It is proposed to revise advisory standard 56.12-4 and make it mandatory as follows:

56.12-4 *Mandatory.* Electrical conductors shall be of sufficient size and current-carrying capacity for normal operation so that a rise in temperature resulting from such normal operation will not damage the insulating materials. Suitable protection from mechanical injury shall be provided.

2. It is proposed to revise advisory standard 56.12-19 and make it mandatory as follows:

56.12-19 *Mandatory.* Where access is necessary, suitable clearance shall be provided at stationary electrical equipment or switchgear.

3. It is proposed to revise advisory standard 56.12-22 and make it mandatory as follows:

56.12-22 *Mandatory.* Areas containing major electrical installations shall be entered only by authorized persons.

4. It is proposed to revoke advisory standard 56.12-24.

5. It is proposed to revise advisory standard 56.12-29 and make it mandatory as follows:

56.12-29 *Mandatory.* Electric equipment and wiring shall be inspected by a competent person as necessary to assure safe operating conditions.

6. It is proposed to revise advisory standard 56.12-31 and make it mandatory as follows:

56.12-31 *Mandatory.* Electric circuits and equipment shall be designed, constructed, installed and maintained to prevent injury and safeguard personnel.

7. It is proposed to revise advisory standard 56.12-35 and make it mandatory as follows:

56.12-35 *Mandatory.* Lamp sockets exposed to the weather or wet conditions shall be of a weatherproof type.

8. It is proposed to revise advisory standard 56.12-38 and make it mandatory as follows:

56.12-38 *Mandatory.* Trailing cables shall be attached to machines in a suitable manner to protect the cable from damage and to prevent strain on the electrical connections.

9. It is proposed to revise advisory standard 56.12-39 and make it mandatory as follows:

56.12-39 *Mandatory.* Surplus trailing cables to shovels, cranes and similar equipment shall be stored in cable boats or on reels mounted on the equipment or otherwise protected from mechanical damage.

10. It is proposed to revoke advisory standards 56.12-44 and 56.12-49.

11. It is proposed to revise advisory standard 56.12-50 and make it mandatory as follows:

56.12-50 *Mandatory.* Trolley wires shall be installed at least 7 feet above rails, where height permits, and alined and supported to suitably control sway and sag.

12. It is proposed to revoke advisory standards 56.12-51 and 56.12-52.

13. It is proposed to revise advisory standard 56.12-53 and make it mandatory as follows:

56.12-53 *Mandatory.* Ground wires for lighting circuits powered from trolley wires shall be connected securely to the ground-return circuit.

14. It is proposed to revise advisory standard 56.12-54 and make it mandatory as follows:

56.12-54 *Mandatory.* Persons shall be instructed to carry tools and supplies so they will not come in contact with bare power conductors.

DD. Section 56.13 "Compressed air and boilers" is proposed to be amended as follows:

§ 56.13 [Amended]

1. It is proposed to revise advisory standard 56.13-10 and make it mandatory as follows:

56.13-10 *Mandatory.* Reciprocating type air compressors rated over 10 horsepower shall be equipped with automatic temperature-actuated shutoff mechanisms unless fusible plugs were previously installed in the compressor discharge lines.

Temperature-actuated shutoff mechanisms shall be set to shut off at temperatures not to exceed the normal operating temperature of the compressor by more than 25 percent. Fusible plugs, where installed prior to the adopting of this standard, are acceptable if they melt at temperatures at least 50° less than the flashpoint of the lubricating oil.

2. It is proposed to revise advisory standard 56.13-11 and make it mandatory as follows:

56.13-11 *Mandatory.* Compressors and air receiver tanks shall be equipped with one or more automatic pressure relief valves. The total relieving capacity of such relief valves shall be such as to prevent pressure from exceeding the maximum allowable working pressure in a receiver tank by not more than 10 percent. Air receiver tanks also shall be equipped with: Indication pressure gages designed to accurately measure pressure within the air receiver tanks; drain valves installed at the lowest point of the receiver tanks to provide for the removal of accumulated oil and moisture; and traps to prevent oil, moisture, and other contaminants from being expelled through the discharge lines.

3. It is proposed to revise advisory standard 56.13-12 and make it mandatory as follows:

56.13-12 *Mandatory.* Compressor air intakes shall be installed to insure that only clean, uncontaminated air enters the compressors.

4. It is proposed to revise advisory standard 56.13-13 and make it mandatory as follows:

56.13-13 *Mandatory.* Accumulations of water and oil shall be drained from compressed air receivers at least once each day the compressor is in operation.

5. It is proposed to revise advisory standard 56.13-14 and make it mandatory as follows:

56.13-14 *Mandatory.* Compressed air receivers shall haye inspection openings. When the tanks are over 36 inches in diameter, the inspection opening shall be of a size to permit entry by persons.

6. It is proposed to revise advisory standard 56.13-15 and make it mandatory as follows:

56.13-15 *Mandatory.* Compressed air receivers and other unfired pressure vessels shall be inspected in accordance with the applicable chapters of the National Board Inspection Code, a manual for Boiler and Pressure Vessel Inspectors, 1977, approved by the National Board Executive Committee on January 27, 1977, and published by the National Board of Boiler and Pressure Vessel Inspectors, which is hereby incorporated by reference and made a part hereof. Records of such inspections shall be kept. The National Board Inspection Code of 1977 may be examined at any Metal and Nonmetal Mine Health and Safety District Office, MSHA, and may be obtained from the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229.

7. It is proposed to revise advisory standard 56.13-16 and make it mandatory as follows:

56.13-16 *Mandatory.* Compressors shall be operated and lubricated in accordance with the manufacturer's recommendations.

8. It is proposed to revise advisory standard 546.13-17 and make it mandatory as follows:

56.13-17 *Mandatory.* Compressor discharge pipes where carbon build-up may occur shall be cleaned periodically as part of a systematic maintenance schedule and at least annually.

9. It is proposed to revoke advisory standard 56.13-18.

10. It is proposed to revise advisory standard 56.13-30 and make it mandatory as follows:

56.13-30 *Mandatory.* (a) All boilers shall be equipped with water level gages, pressure gages, automatic pressure-relief valves, blow down piping, and other approved safety devices to protect against hazards from overpressure, flameouts, fuel interruptions, and low water level, all as required by

V 43 / 177 SE 12 78

the appropriate sections of the codes listed below.

(b) These gages, devices, and pipings shall be designed, installed, operated, maintained, repaired, altered, inspected, and tested by competent persons in accordance with the following listed sections, or chapters and appendixes—as applicable—of:

(1) The ASME Boiler and Pressure Vessel Code, 1977, published by the American Society of Mechanical Engineers.

Section and Title

I—Power Boilers.
II—Material Specifications.
II—Part A—Ferrous.
II—Part B—Nonferrous.
II—Part C—Welding Rods, Electrodes, and Filler Metal.
IV—Heating Boilers.
V—Nondestructive Examination.
VI—Recommended Rules for Care and Operations of Heating Boilers.
VII—Recommended Rules for Care of Power Boilers.

(2) The National Board Inspection Code, A Manual for Boiler and Pressure Vessel Inspectors, 1977, approved by the National Board Executive Committee on January 27, 1977, and published by the National Board of Boiler and Pressure Vessel Inspectors.

Chapter and Title

I—Glossary Terms.
II—Inspection of Boilers and Pressure Vessels.
III—Repairs and Alterations to Boilers and Pressure Vessels by Welding.
IV—Shop Inspection of Boilers and Pressure Vessels.
V—In-Service Inspection of Pressure Vessels by Authorized Owner-User Inspection Agencies.

Appendix and Title

A—Safety and Safety Relief Valves.
B—Non-ASME Code Boilers and Pressure Vessels.
C—Storage of Mild Steel Covered Arc Welding Electrodes.
D—National Board "R" (Repair) Symbol Stamp.
E—Owner-User Inspection Agencies.
F—Inspection Forms.

(c) Records of inspections and repairs shall be kept and made available to the Secretary or his authorized representative.

(d) Sections of the ASME Boiler and Pressure Vessel Code, 1977, to which references are made in this standard are hereby incorporated by reference and made a part hereof, and may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, N.Y. 10017. Chapters and appendixes of the National Board Inspection Code of 1977 to which references are made in this standard are hereby incorporated by reference and made a part hereof, and may be obtained from the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229. These publications may be examined at any Metal and Nonmetal Mine Safety and Health District Office of the Mine Safety and Health Administration.

11. It is proposed to revoke advisory standards 56.13-31, 56.13-32, 56.13-33, and 56.13-34.

EE. Section 56.14 "Use of Equipment" is proposed to be amended as follows:

§ 56.14 [Amended]

1. It is proposed to revise advisory standard 56.14-3 and make it mandatory as follows:

56.14-3 *Mandatory.* Guards at conveyor drive, conveyor head, and conveyor tail pulleys shall extend a distance sufficient to prevent a person from accidently reaching behind the guard and becoming caught between the belt and the pulley.

2. It is proposed to revoke advisory standards 56.14-4 and 56.14-5.

3. It is proposed to revise advisory standard 56.14-7 and make it mandatory as follows:

56.14-7 *Mandatory.* Guards shall be of substantial construction and maintained to provide the required protection.

4. It is proposed to revise advisory standard 56.14-11 and make it mandatory as follows:

56.14-11 *Mandatory.* Guards, shields, or other suitable protection shall be provided in areas where flying or falling materials present a hazard.

5. It is proposed to revise advisory standard 56.14-25 and make it mandatory as follows:

56.14-25 *Mandatory.* Machinery or equipment that is to be used during the shift shall be inspected at the beginning of each shift by a competent person. Defects affecting safety shall be corrected before the machinery or equipment is used.

6. It is proposed to revise advisory standard 56.14-27 and make it mandatory as follows:

56.14-27 *Mandatory.* Operation of machinery or equipment shall be assigned only to competent persons; *Provided, however,* That trainees may be permitted to operate machinery or equipment under the guidance of competent persons.

7. It is proposed to revoke advisory standard 56.14-28.

8. It is proposed to revise advisory standard 56.14-36 and make it mandatory as follows:

56.14-36 *Mandatory.* Tools and equipment shall be used within the design capacity for which they are intended and designed.

FF. Section 56.15 "Personal protection" is proposed to be amended as follows:

§ 56.15 [Amended]

1. It is proposed to revoke advisory standards 56.15-8, 56.15-9, and 56.15-10.

2. It is proposed to revise advisory standard 56.15-11 and make it mandatory as follows:

56.14-11 *Mandatory.* Employees shall be instructed in the hazards of wearing finger rings and other jewelry on the job.

3. It is proposed to revoke advisory standard 56.15-13.

GG. Section 56.16 "Materials storage and handling" is proposed to be amended as follows:

§ 56.16 [Amended]

1. It is proposed to revise advisory standard 56.16-1 and make it mandatory as follows:

56.16-1 *Mandatory.* When stacked or stored, supplies shall not create a stumbling or fall-of-material hazard.

2. It is proposed to revise advisory standard 56.16-2 and make it mandatory as follows:

56.16-2 *Mandatory.* Bins, hoppers, silos, tanks, and surge piles, where loose and unconsolidated materials are stored, handled, or transferred shall be:

(a) Equipped with mechanical devices or other effective means of handling material so that during normal operations persons are not required to enter or work where they are exposed to entrapment by the caving or sliding of these materials;

(b) Equipment with supply and discharge operating controls which are located so as to eliminate hazards to persons from spills or accidental overruns;

(c) Provided with suitable walkways where persons are required to walk over or around;

(d) Provided with ladders, platforms, or stagings where persons are required to enter a material storage facility for maintenance or inspection purposes. Where a possibility exists that moving material may create a hazardous condition, no person shall be allowed to enter this area for any reason, unless the supply and discharge of materials has ceased; the supply and discharge equipment is locked out, and the person is wearing a safety belt or harness equipped with a lifeline suitably fastened. Another person suitably secured with safety belt and line shall be stationed at a point near where the lifeline is fastened, so that he can adjust it or keep it tight as needed with minimum slack in the said lifeline at all times.

3. It is proposed to revise advisory standard 56.16-7 and make it mandatory as follows:

56.16-7 *Mandatory.* Hitches and slings used to hoist materials shall be designed and suitably used for the particular materials handled. Taglines shall be attached to loads that may require steadying or guidance while suspended.

4. It is proposed to revoke advisory standard 56.16-8.

5. It is proposed to revise advisory standard 56.16-10 and make it mandatory as follows:

56.16-10 *Mandatory.* To protect personnel, material shall not be dropped from an overhead elevation until the drop area is first cleared of personnel, and then is either guarded or a suitable warning given.

6. It is proposed to revise advisory standard 56.16-12 and make it mandatory as follows:

56.16-12 *Mandatory.* Concentrated acids and alkalies shall be stored in a manner that these chemicals cannot inadvertently mix with each other or with other substances with which they will react violently or cause the liberation of dangerous fumes.

7. It is proposed to revise advisory standard 56.16-13 and make it mandatory as follows:

56.16-13 *Mandatory.* A suitable warning shall be given before molten metal is poured, or a container of molten metal is moved.

8. It is proposed to revise advisory standard 56.16-16 and make it mandatory as follows:

56.16-16 *Mandatory.* Fork and other similar type lift trucks shall be operated:

(a) With the uprights tilted back to steady and secure load.

(b) With the load in the upgrade position when ascending or descending grades in excess of 10 percent.

(c) Except for minor adjustments, loads shall not be raised or lowered en route.

(d) Unloaded trucks shall travel on grades with the load engaging means downgrade.

9. It is proposed to add a new mandatory standard 56.16-17 as follows:

56.16-17 *Mandatory.* Where the stretching or contraction of a hoist rope could create a hazard, chairs or other suitable blocking shall be used to support conveyances at shaft landings before heavy equipment is loaded or unloaded.

HH. Section 56.18 "Safety programs" is proposed to be amended as follows:

§ 56.18 [Amended]

1. It is proposed to revise advisory standard 56.18-1 and make it mandatory as follows:

56.18-1 *Mandatory.* The operator shall establish a definite, effective, and continually functioning safety program which shall be made available to all personnel and make every attempt to prevent accidents and increase safety. All personnel shall actively participate in the safety program.

2. It is proposed to revise advisory standard 56.18-2 and make it mandatory as follows:

56.18-2 *Mandatory.* (a) Each active working area or installation shall be examined at least once each shift, or more often if necessary, by a supervisor or another competent person for hazardous conditions. Such conditions observed shall be promptly corrected by the operator.

(b) A condition noted by the person conducting the examination that may present an imminent danger shall be brought to the immediate attention of the operator who shall withdraw all persons from the area affected, except persons referred to in section 104(c) of the Act, until the danger is abated.

(c) Any hazardous conditions observed by the supervisor or competent person making the examination shall be uniformly recorded and will include the date, the condition observed and the location of the condition. The record shall be available for review by the Secretary or his authorized representative.

(d) All reports shall include the action taken to abate any hazardous conditions found and shall be countersigned by:

(1) The mine foreman, or

(2) The mine superintendent, or

(3) The person designated by the operator as responsible for safety and health at the mine.

3. It is proposed to revoke advisory standards 56.18-3, 56.18-4, 56.18-5, and 56.18-7.

4. It is proposed to revise advisory standard 56.18-8 and make it mandatory as follows:

56.18-8 *Mandatory.* To assure that work is being done in a safe manner, each active working place shall be visited each shift by a supervisor, or another competent person shall be designated to check that working place.

5. It is proposed to revise advisory standard 56.18-9 and make it mandatory as follows:

56.18-9 *Mandatory.* A supervisor or a designated competent person shall be in attendance on the property when persons are working to take charge in case of an emergency.

6. It is proposed to revoke advisory standard 56.18-11.

7. It is proposed to revise advisory standard 56.18-13 and make it mandatory as follows:

56.18-13 *Mandatory.* A suitable communications system shall be provided at the mine site in order to summon assistance in the event of an emergency.

II. Section 56.19 "Man hoisting" is proposed to be amended as follows:

§ 56.19 [Amended]

1. It is proposed to revise advisory standard 56.19-12 and make it mandatory as follows:

56.19-12 *Mandatory.* Where grooved drums are used, the grooves shall be of suitable size and pitch for the rope used.

2. It is proposed to revoke advisory standard 56.19-20.

3. It is proposed to revise advisory standard 56.19-25 and make it mandatory as follows:

56.19-25 *Mandatory.* Wire ropes shall be used and maintained in accordance with the manufacturer's recommendations, or the equivalent.

4. It is proposed to revise advisory standard 56.19-35 and make it mandatory as follows:

56.19-35 *Mandatory.* Headframes shall be of substantial construction.

5. It is proposed to revise advisory standard 56.19-36 and make it mandatory as follows:

56.19-36 *Mandatory.* Headframes shall be high enough to provide clearance for overtravel and safe stopping of the conveyance.

6. It is proposed to revise advisory standard 56.19-37 and make it mandatory as follows:

56.19-37 *Mandatory.* Fleet angles shall not be greater than 1½ degrees for smooth drums, and 2 degrees for grooved drums.

7. It is proposed to revise advisory standard 56.19-39 and make it mandatory as follows:

56.19-39 *Mandatory.* All man hoists, except emergency escape hoists, installed after the effective date of this standard shall have drums and sheaves of diameters at least 60 times the rope diameter.

8. It is proposed to revise advisory standard 56.19-67 and make it mandatory as follows:

56.19-67 *Mandatory.* During shift changes, an authorized person shall be in charge of each man trip.

9. It is proposed to revise advisory standard 56.19-72 and make it mandatory as follows:

56.19-72 *Mandatory.* When combinations of cages and skips are used in the same compartment, the cages shall be totally enclosed to protect personnel from flying material and the hoist speed reduced to man speed as defined in section 56.19-61, but not to exceed 1,000 feet per minute. Muck shall not be hoisted with personnel during shift changes.

10. It is proposed to revise advisory standard 56.19-74 and make it mandatory as follows:

56.19-74 *Mandatory.* Persons shall not ride the bail, rim, bonnet, or crosshead of any shaft conveyance, except where necessary for inspection and maintenance, and then only when suitable protection for persons is provided.

V 43 / 177 SE 12 78

11. It is proposed to revise advisory standard 56.19-78 and make it mandatory as follows:

56.19-78 *Mandatory.* All buckets shall be stopped after being raised about three (3) feet above the shaft bottom. A bucket shall be stabilized before a hoisting signal is given to continue hoisting the bucket to the crosshead. After a hoisting signal is given, hoisting to the crosshead shall be at the minimum speed. The signaling device shall be attended constantly until a bucket reaches the guides. When persons are hoisted, the signaling devices shall be attended until the crosshead has been engaged.

12. It is proposed to revise advisory standard 56.19-81 and make it mandatory as follows:

56.19-81 *Mandatory.* Conveyances controlled by a hoistman, when not in use, shall be released and the conveyance shall be raised or lowered a suitable distance to prevent persons from boarding or loading the conveyance.

13. It is proposed to revise advisory standard 56.19-91 and make it mandatory as follows:

56.19-91 *Mandatory.* Hoistmen shall accept hoisting instructions only by the regular signaling system unless it is out of order. During an emergency, the hoistman shall accept instructions only from authorized persons to direct movement of the conveyance.

14. It is proposed to revise advisory standard 56.19-93 and make it mandatory as follows:

56.19-93 *Mandatory.* A standard code of hoisting signals shall be adopted and used at each mine. The movement of a shaft conveyance on a "one bell" signal shall be prohibited.

15. It is proposed to revise advisory standard 56.19-104 and make it mandatory as follows:

56.19-104 *Mandatory.* Suitable clearance at shaft stations shall be provided and maintained so as to allow for the safe movements of persons and the safe passage and handling of equipment and materials.

16. It is proposed to revise advisory standard 56.19-124 and make it mandatory as follows:

56.19-124 *Mandatory.* To distribute the wear of the rope, hoist ropes other than those on friction hoists shall be cut off at least six (6) feet above the highest connection to the conveyance, at intervals not to exceed one (1) year unless conditions of use and/or examination and inspection required in 56.19-126 indicate the necessity of a shorter time interval. The portion of the rope that is cut off shall be examined and inspected by a competent person for damage, corrosion, wear and fatigue.

17. It is proposed to revise advisory standard 56.19-125 and make it mandatory as follows:

56.19-125 *Mandatory.* Hoist ropes wound in multiple layers shall have a suitable length cut off at the drum end at least three (3) times during the anticipated life of the rope and whenever necessary, as determined by the inspection or tests required in standard 56.19-126, to distribute the wear at change of layers and crossover points and to preserve the integrity of the rope. The amount of rope cut off shall not be a whole number multiple of the circumference of the drum.

18. It is proposed to revise advisory standard 56.19-126 and make it mandatory as follows:

56.19-126 *Mandatory.* Hoist ropes shall be examined over its entire active length at least every month to evaluate wear and possible damage. Caliper measurements or nondestructive tests shall be made wherever wear is evident on the rope and at least every six (6) months and whenever necessary as determined by examination, inspection or tests as follows:

(a) Immediately above the socket or clips and above the safety connection;

(b) Where the rope rests on the sheaves;

(c) Where the ropes leave the drums when the conveyances are at the regular stopping point;

(d) Where a layer of rope begins to overlap another layer on the drum;

(e) At 100-foot intervals; measurements shall be made midway between the last previously calipered points.

19. It is proposed to revoke advisory standard 56.19-127.

20. It is proposed to revise advisory standard 56.19-130 and make it mandatory as follows:

56.19-130 *Mandatory.* Empty hoist conveyances shall be operated at least one round trip to assure the hoisting compartment is clear of obstruction before hoisting persons:

(a) After any hoist or shaft repairs or related equipment repairs that might restrict or obstruct conveyance clearance;

(b) After any oversize or overweight material or equipment trips that might restrict or obstruct conveyance clearance;

(c) After blasting in or near the shaft that might restrict or obstruct conveyance clearance;

(d) After remaining idle for one shift or longer.

21. It is proposed to revise advisory standard 56.19-131 and make it mandatory as follows:

56.19-131 *Mandatory.* Hoist conveyance connections shall be inspected at least once during any 24-hour period that the conveyance is used for hoisting persons.

22. It is proposed to revise advisory standard 56.19-132 and make it mandatory as follows:

56.19-132 *Mandatory.* A performance drop test of hoist conveyance safety catches shall be made at the time of installation, or prior to installation, in a mockup of the actual installation and certified to in writing by the manufacturer or registered professional engineer performing the test.

After installation, the conveyance shall be suitably rested at least once before use and the hoist rope slackened to test for the unrestricted functioning of the safety catches and their activitating mechanisms.

Thereafter, the safety catches shall be inspected by a competent person at the beginning of any 24-hour period that the conveyance is to be used, and the unrestricted functioning of the safety catches and their activitating mechanisms shall be tested (as before) at least once at the beginning of any 7-day period during which the conveyance is to be used.

JJ. Section 56.20 "Miscellaneous" is proposed to be amended as follows:

§ 56.20 [Amended]

1. It is proposed to revoke advisory standards 56.20-4, 56.20-6, and 56.20-7.

2. It is proposed to revise advisory standard 56.20-8 and make it mandatory as follows:

56.20-8 *Mandatory.* Toilet facilities shall be provided at locations that are compatible with the mine operations and that are readily accessible to mine personnel. The facilities shall be kept clean and sanitary. Separate toilet facilities shall be provided for each sex except where toilet facilities will be occupied by no more than one (1) person at a time and can be locked from the inside.

PART 57—HEALTH AND SAFETY STANDARDS—METAL AND NONMETALLIC UNDERGROUND MINES

KK. Section 57.2 "Definitions" is proposed to be amended as follows:

§ 57.2 [Amended]

1. It is proposed to add the definitions of "Combustible liquid, class two combustible liquid, and class three combustible liquid" as follows:

"Combustible liquid" means a liquid having a flash point at or above 100° F. (38° C.). "Class two combustible liquid" means a liquid having a flash point at or above 100° F. (38° C.) and below 140° F. (60° C.). "Class three combustible liquid" means a liquid having a flash point at or above 140° F. (60° C.) and an auto ignition temperature below 1,500° F. (186° C.).

2. It is proposed to add a definition of "Designated underground fire area" as follows:

"Designated underground fire area" means:

(a) An area where exposed ore is combustible or is susceptible to spontaneous ignition; or,

(b) An area where the exposed surface area of wood and other solid combustible materials in an opening exceeds 30 percent of the surface area of the opening, excluding the floor but including those areas covered by combustible material, in any 60-foot length of the opening; or,

(c) The area within explosive or blasting agents storage magazines.

3. It is proposed to add a definition of "Flammable liquid" as follows:

"Flammable liquid" means a liquid having a flash point below 100° F. (38° C.), and is designated a class one liquid.

4. It is proposed to revise the definition of "Flash point" as follows:

"Flash point" means the minimum temperature of a liquid at which sufficient vapor is given off to form an ignitable mixture with the air near the surface of the liquid or within the vessel used as determined in accordance with the standard method of test for flash point by the tag closed tester, ASTM designation: D 56-77, American Society for Testing Materials or a standard method of test for flash point by Pensky-Martens closed tester, ASTM designation: D 93-77, whichever is applicable. ASTM D 56-77 and ASTM D 93-77 are hereby incorporated by reference and are made a part hereof and may be examined at any Metal and Nonmetal Mine Safety and Health Subdistrict Office of the Mine Safety and Health Administration, and may be obtained from the American Society for Testing and Materials, 1916 Ray Street, Philadelphia, Pa. 19103.

LL. Section 57.3 "Ground control" is proposed to be amended as follows:

§ 57.3 [Amended]

1. It is proposed to revoke advisory standard 57.3-7.

2. It is proposed to revise advisory standard 57.3-10 which is applicable to surface only and make it mandatory as follows:

57.3-10 *Mandatory.* Banks, benches, and terrain sloping into occupied working areas shall be examined after every freeze or thaw, and during, as well as after, abnormal rainfall. Should a potential fall of ground be detected, persons in affected working places shall be evacuated immediately.

3. It is proposed to revoke advisory standards 57.3-13, 57.3-21, and 57.3-28.

4. It is proposed to revise advisory standard 57.3-29 which is applicable to underground only and make it mandatory as follows:

57.3-29 *Mandatory.* Shaft pillars shall have sufficient strength to protect operating shafts.

5. It is proposed to revoke advisory standards 57.3-30 and 57.3-31.

6. It is proposed to revise and renumber advisory standard 57.3-32, make it applicable to surface and underground, and make it mandatory as follows:

57.3-58 *Mandatory.* Where needed for ground support, rock bolts shall be installed as soon as practicable after an area is exposed.

MM. Section 57.4 "Fire prevention and control" is proposed to be amended as follows:

§ 57.4 [Amended]

1. It is proposed to revise advisory standard 57.4-3 which is applicable to surface and underground and make it mandatory as follows:

57.4-3 *Mandatory.* Areas surrounding flammable and combustible liquid storage tanks and electric substations shall be kept free from grass (dry), weeds, underbrush, and other combustible materials for at least 25 feet in all directions.

2. It is proposed to revise advisory standard 57.4-5 which is applicable to surface and underground and make it mandatory as follows:

57.4—5 *Mandatory.* Fixed unburied flammable and combustible liquid storage tanks shall be mounted securely on firm foundations. Piping shall be provided with flexible connections or other special fittings where necessary to prevent leaks caused from tank settling.

3. It is proposed to replace reserved number 57.4-27 with a series of numbers 57.4-27A through 57.4-27Z, and reserve numbers 57.4-27C through 57.4-27Z.

4. It is proposed to replace number 57.4—39 with a series of numbers 57.4-39A through 57.4-39Z, and to reserve numbers 57.4-39C through 57.4-39Z.

5. It is proposed to revise and divide advisory standard 57.4-6 into two standards, renumber them 57.4-39A and 57.4-87, make 57.4-39A applicable to surface only and 57.4-87 applicable to underground only, and make both mandatory as follows:

57.4-39A *Mandatory.* Buildings or rooms in which oil, grease, flammable liquids, or similar flammable materials are stored shall be of one-hour fire-resistance construction and well ventilated.

* * * * *

57.4-87 *Mandatory.* Facilities in which less than 55 gallons of combustible liquids, or flammable materials are stored shall:

(a) Be of one-hour fire-resistance rating construction.

(b) Be well ventilated.

6. It is proposed to revise advisory standard 57.4-7 which is applicable to surface and underground and make it mandatory as follows:

57.4-7 *Mandatory.* Means shall be provided to confine, remove, control, or drain away spilled or flowing flammable or combustible liquids.

7. It is proposed to revise advisory standard 57.4-13 which is applicable to surface and underground and make it mandatory as follows:

57.4-13 *Mandatory.* In areas where fire is a hazard, materials, such as oily waste and rags which are subject to spontaneous combustion, shall be placed in covered metal containers until disposed of properly.

8. It is proposed to revise advisory standard 57.4-16 which is applicable to surface and underground and make it mandatory as follows:

57.4-16 *Mandatory.* Drip pans shall be provided to catch leakage or spillage when oil or combustible liquids or flammable liquids are dispensed in a place or manner which may create a hazard. Floor areas where drip pans are used shall be kept clean.

9. It is proposed to revoke advisory standard 57.4-17.

10. It is proposed to revise advisory standard 57.4-25 which is applicable to surface and underground and make it mandatory as follows:

57.4-25 *Mandatory.* Fire hydrants shall have uniform fittings. Wrenches or keys to open the valves shall be readily available. Where necessary, adapters shall be provided that are capable of connecting hydrant fittings to the hose equipment of local fire departments, and they also shall be readily available.

11. It is proposed to revise advisory standard 57.4-26 which is applicable to surface and underground and make it mandatory as follows:

57.4-26 *Mandatory.* Water pipes, valves, outlets, hydrants, and hoses that are designated for firefighting purposes shall be inspected every 3 months and tested annually.

12. It is proposed to revise advisory standard 57.4-30 which is applicable so surface and underground and make it mandatory as follows:

57.4-30 *Mandatory.* Employees shall be trained in the use of fire extinguishers.

13. It is proposed to revise and renumber advisory standard 57.4-31, make it applicable to surface only, and make it mandatory as follows:

57.4-39B *Mandatory.* Emergency firefighting plans and training, in combination with suitable evacuation and rescue plans and equipment, shall be established and such plans shall be coordinated with available professional firefighting organizations. Drills shall be held at least twice a year.

14. It is proposed to revise and renumber advisory standard 57.4-39, make it applicable to surface and un-

derground, and make it mandatory as follows:

57.4-27A *Mandatory.* No self-propelled mobile equipment shall be operated without a suitable fire extinguisher accessible to the operator.

15. It is proposed to revise advisory standard 57.4-41 which is applicable to surface only and make it mandatory as follows:

57.4-41 *Mandatory.* Every building or structure, new or old, designed for human occupancy shall be provided with exits sufficient to permit the prompt escape of occupants in case of fire or other emergency. The design of exits and other safeguards shall be such that reliance for safety to life in case of fire or other emergency will not depend solely on any single safeguard; additional safeguards shall be provided for life safety in case any single safeguard is ineffective due to some human or mechanical failure.

16. It is proposed to revise advisory standard 57.4-42 which is applicable to surface only and make it mandatory as follows:

57.4-42 *Mandatory.* Combustible mine supplies in excess of one day's supply shall not be stored within 100 feet of mine ventilation fans or mine openings.

17. It is proposed to revise advisory standard 57.4-43 which is applicable to surface only and make it mandatory as follows:

57.4-43 *Mandatory.* Buildings and other structure, erected after the effective date of this standard within 100 feet of any mine opening, shall be of at least one-hour fire-resistant construction. Existing buildings shall conform to this standard within 3 years of its adoption.

18. It is proposed to revise advisory standard 57.4-44 which is applicable to surface only and make it mandatory as follows:

57.4-44 *Mandatory.* Areas within 25 feet of mine openings shall be kept free of combustible materials except for installed wiring and materials in use for ground support and track support.

19. It is proposed to revise advisory standard 57.4-45 which is applicable to surface only and make it mandatory as follows:

57.4-45 *Mandatory.* Blacksmith shops shall:

(a) Be well ventilated and equipped with exhaust vents over the forge;

(b) Be inspected carefully for smoldering vagrant fires at the end of each shift;

(c) Be of at least one-hour fire-resistant construction and located at least 100 feet from mine openings or fan installations and not in buildings or snowsheds adjoining mine openings or fan installation unless a reliable fire wall or fire doors approved by the Secretary is provided.

20. It is proposed to revise advisory standard 57.4-47 which is applicable to surface only and make it mandatory as follows:

57.4-47 *Mandatory.* Belt conveyors in locations where ignition of the conveyor belt would create a hazard to personnel shall be provided with a safety switch to stop the drive pulley automatically in the event of excessive slippage.

21. It is proposed to revise and renumber advisory standard 57.4-49, make it applicable to surface and underground, and make it mandatory as follows:

57.4-27B *Mandatory.* All flammable and combustible waste materials, grease, lubricants, or flammable liquids shall be disposed of in a manner to prevent an accumulation where they can create a fire hazard to personnel.

22. It is proposed to revise advisory standard 57.4-55 which is applicable to underground only and make it mandatory as follows:

57.4-55 *Mandatory.* Suitable fire protection shall be provided in transformer stations, pump rooms, and compressor rooms which are located in designated underground fire areas.

23. It is proposed to revise and divide advisory standard 57.4-56 into two standards, renumber them 57.4-56A and 57.4-56B, and make both of them applicable to underground only and mandatory as follows:

57.4-56A *Mandatory.* Permanent combustile liquid storage depots shall be:

(a) Located at least 100 feet of open space with a minimum pillar of 30 feet from shafts, slopes, raises, underground hoistrooms, shops, explosives magazines, main and booster ventilation fans, and working places other than the depot; at least 50 feet of open space from wooden bulkheads, and other designated underground fire areas, and designated escapeways; and at least 25 feet of open space from main haulageways, trolley wires, and electrical equipment or power cables not serving the depot.

(b) Enclosed by rock and/or materials having at least a 2-hour fire resistance rating, except for access door(s) as provided in subsection (c) below. The evaluation of fire resistance shall be made or based upon tests equivalent to the standard methods of fire tests of building construction and materials, NFPA No. 251-1972, pages 251-3 through 251-32, which is hereby incorporated by reference and made a part hereof. NFPA No., 251-1972 may be examined at any Metal and Nonmetal Mine Safety and Health Subdistrict Office of the Mine Safety and Health Administration and may be obtained from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Mass. 02210.

(c) Provided with access door(s) which shall be kept closed except when the door(s) are in use. The door(s) shall be constructed to have at least a 1½-hour fire resistance rating. The maximum surface temperature developed on the unexposed face of the door at the end of the 30-minute test exposure shall not exceed 250° F. (121° C.). The evaluation of fire resistance shall be made or based upon tests equivalent to standard methods of fire tests of door assembles, NFPA No. 252-1972, pages 252-3 through pages 253-13, which is hereby incorporated by reference and made a part hereof. NFPA No. 252-1972 may be examined at any Metal and Nonmetal Mine Safety and Health Subdistrict Office of the Mine Safety and Health Administration and may be obtained from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Mass. 02210.

(d) Provided with heat-actuated or equivalent sensing devices to automatically close ventilation openings, if such openings are used in case of fire. The closures for ventilation openings shall also meet the construction requirements for access doors given in (c) above.

(e) Provided with floors of rock, concrete or other impermeable, noncombustible material.

(f) Equipped with fire extinguisher(s) with a total minimum nominal capacity of 20 pounds of class B agent. Extinguisher(s) shall be located on the outside of the enclosure, adjacent to the exit.

* * * * *

57.4-56B *Mandatory.* Temporary combustible liquid storage depots shall be:

(a) Located at least 100 feet of open space from shaft, slopes, raises, explosives magazines; at least 50 feet of open space from wooden bulkheads, other designated underground fire areas; and at least 25 feet of open space from main haulageways.

(b) Enclosed by rock and/or materials meeting the standard method of tests, ASTM E-136-1973, noncombustibility of elementary materials which is hereby incorporated by reference and made a part hereof. ASTM E-136-1973, may be examined at any Metal and Nonmetal Mine Safety and Health Subdistrict Office of the Mine Safety and Health Administration, and may be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103.

(c) Of materials having a strength of at least equal to ⅛-inch thick steel plate or 4-inch concrete block.

(d) Provided with access doors meeting the requirements of (b) and (c) above which shall be kept closed except when the door is in use. Ventilation openings, if used, shall be provided with heat-actuated or equivalent sensing devices to automatically close the openings in case of fire.

(e) Equipped with fire extinguisher(s) with a total minimum nonminal capacity of 20 pounds of class B agent. Extinguisher(s) shall be located on the outside of the enclosure, adjacent to the exit.

24. It is proposed to revise advisory standard 57.4.57 which is applicable to underground only and make it mandatory as follows:

57.4-57 *Mandatory.* Trailing cables shall be flame-resistant in accordance with section 18.64, part 18, CFR 30.

25. It is proposed to revise advisory standard 57.4-60 which is applicable to underground only and make it mandatory as follows:

57.4-60 *Mandatory.* Power circuits shall be deenergized in all areas on idle shifts or idle days, except where power is required or when moisture will render the reenergized circuit hazardous to personnel. Circuits which remain energized shall be protected by fuses or circuit breakers of the correct type and capacity consistent with the power load on such idle shifts or idle days.

26. It is proposed to revise and divide advisory standard 57.4-61 into two standards, renumber them 57.4-61A and 57.4-61B, and make both of them applicable to underground only and mandatory as follows:

57.4-61A *Mandatory.* Fire doors or ventilation control doors shall be provided on shaft stations or other appropriate locations as a part of an overall evacuation plan where necessary to prevent the spread of smoke or gas; the door shall be equipped with latches operable from both sides, shall be remotely controlled where appropriate and equipped with suitable man doors. The location and design of these fire and ventilation control doors shall be submitted to the Secretary for his review and comments.

* * * * *

57.4-61B *Mandatory.* To confine and prevent the spread of toxic gases from a fire originating in an underground shop, where mine shop exhaust air cannot be routed directly to an exhaust system and people would be endangered elsewhere in the mine by toxic gases from a fire in the shop, the mine operator shall install a fire door or bulkhead of fire door construction in each opening to a shop and insure that each fire door is:

(a) Constructed so that, once closed, it will not reopen as a result of a differential air pressure.

(b) Provided with a man door that can be opened from either side.

(c) Suitably airtight.

(d) Kept clear of obstructions and extraneous material.

27. It is proposed to revise advisory standard 57.4-62 which is applicable to underground only and make it mandatory as follows:

57.4-62 *Mandatory.* Timber and mine entrances shall meet a flame spread rating of 25 or less as defined in ASTM M162-67 for at least two hundred feet inside the mine portal or collar or the mine entrance shall be provided with fire protection adequate to control a fire for at least two hundred feet inside the mine portal or collar.

28. It is proposed to revise advisory standard 57.4-63 which is applicable to underground only and make it mandatory as follows:

57.4-63 *Mandatory. When waterline outlets are located at shaft stations, they shall have at least one fitting suitably located for connecting firefighting equipment*

29. It is proposed to revoke advisory standard 57.4-64.

30. It is proposed to revise advisory standard 57.4-66 which is applicable to underground only and make it mandatory as follows:

57.4-66 *Mandatory.* Suitable fire protection shall be provided for head, tail, drive, and takeup pulleys of belt conveyors and at suitable intervals along the belt line.

31. It is proposed to revoke advisory standard 57.4-68.

32. It is proposed to revise advisory standard 57.4-71 which is applicable to underground only and make it mandatory as follows:

57.4-71 *Mandatory.* Mine rescue crews shall include supervisory and key personnel familiar with all mine installations who could provide vital to firefighting and rescue operations.

33. It is proposed to revise advisory standard 57.4-72 which is applicable to underground only and make it mandatory as follows:

57.4-72 *Mandatory.* Only trained mine rescue personnel shall participate in rescue and firefighting operations in advance of the fresh air base.

NN. Section 57.5 "Air quality, ventilation, radiation, and physical agents" is proposed to be amended as follows:

§ 57.5 [Amended]

1. It is proposed to revise advisory standard 57.5-4 which is applicable to surface and underground and make it mandatory as follows:

57.5-4 *Mandatory.* At muckpiles, haulage roads, rock transfer points, crushers, and other points, where dust is produced in amounts sufficient to cause a health or safety hazard, such dust shall be suitably controlled.

2. It is proposed to revoke advisory standard 57.5-21 and 57.5-23.

3. It is proposed to revise advisory standard 57.5-25 which is applicable to underground only and make it mandatory as follows:

57.5-25 *Mandatory.* Main fans shall be maintained either according to the manufacturer's recommendations or by a written periodic schedule adopted by the operator. Such schedule shall be available at the operation on request of the Secretary or his authorized representative.

4. It is proposed to revoke advisory standard 57.5-26.

5. It is proposed to revise advisory standard 57.5-27 which is applicable to underground only and make it mandatory as follows:

57.5-27 *Mandatory.* Flame safety lamps or other suitable devices shall be used to test for acute oxygen deficiency.

6. It is proposed to revise advisory standard 57.5-29 which is applicable to underground only and make it mandatory as follows:

57.5-29 *Mandatory.* When used, auxiliary fan systems shall be installed to prevent recirculation and shall be maintained to provide ventilation air that effectively sweeps the working places.

00. Section 57.6 "Explosives" is proposed to be amended as follows:

§ 57.6 [Amended]

1. It is proposed to revoke 57.6-3 and 57.6-4.

2. It is proposed to revise advisory standard 57.6-7 which is applicable to surface and underground and make it mandatory as follows:

57.6-7 *Mandatory.* Explosives, detonators, and related materials such as safety fuse and detonating cord shall be:

(a) Stored in a manner to facilitate use of oldest stocks first.

(b) Stored according to brand and grade in such a manner as to facilitate identification.

(c) Stored with their top sides up.

(d) Stacked in a stable manner but not more than eight (8) feet high.

3. It is proposed to revoke advisory standards 57.6-9, 57.6-10, and 57.6-28.

4. It is proposed to revise advisory standard 57.6-48 which is applicable to surface and underground and make it mandatory as follows:

57.6-48 *Mandatory.* Explosives and blasting agents shall be transported without undue delay, and over routes and at times that expose a minimum number of persons.

5. It is proposed to revoke advisory standard 57.6-55 and 57.6-78.

6. It is proposed to revise advisory standard 57.6-98 which is applicable to surface and underground and make it mandatory as follows:

V 43 / 177 SEP 12 78

57.6-98 *Mandatory.* (a) Primers containing a detonator shall be prepared with the detonator contained securely and completely within the explosive charge or within a suitable tunnel or cap well.

(b) When using detonating cord to initiate another explosive, connections shall be prepared with the detonating cord threaded through, attached securely to, or otherwise in intimate contact with the explosive charge.

7. It is proposed to revise advisory standard 57.6-106 which is applicable to surface and underground and make it mandatory as follows:

57.6-106 *Mandatory.* Faces and muckpiles shall be examined by a competent person for undet- onated explosives or blasting agents and any undetonated explosives or blasting agents found shall be disposed of safely.

8. It is proposed to revise advisory standard 57.6-109 which is applicable to surface and underground and make it mandatory as follows:

57.6-109 *Mandatory.* Safety fuse, ignitor cord, and detonating cord shall not be used if they have been kinked, bent sharply, or otherwise damaged.

9. It is proposed to revise advisory standard 57.6-118 which is applicable to surface and underground and make it mandatory as follows:

57.6-118 *Mandatory.* When using safety fuse, where fly rock might damage unlit or burning fuses, timing shall be such that all fuses are burning within the holes before any hole detonates.

10. It is proposed to revise advisory standard 57.6-121 which is applicable to surface and underground and make it mandatory as follows:

57.6-121 *Mandatory.* When blasting electrically, a blasting galvanometer or other instrument that is specifically designed for testing blasting circuits, shall be used to test:

(a) In surface operations:

(1) Continuity of each electric blasting cap in the bore hole prior to the addition of stemming.

(2) Resistance of individual series or the resistance of multiple balanced series to be connected in parallel prior to their connection to the blasting line.

(3) Continuity of blasting lines prior to the connection of electric blasting cap series.

(4) Total blasting circuit resistance prior to connection to the power source.

(b) In underground operations:

(1) Continuity of each electric blasting cap series.

(2) Continuity of blasting lines prior to the connection of electric blasting caps.

11. It is proposed to revise advisory standard 57.6-130 which is applicable to surface and underground and make it mandatory as follows:

57.6-130 *Mandatory.* At least a 15-foot gap shall be provided between the blasting circuit and the electric power source.

12. It is proposed to revise advisory standard 57.6-132 which is applicable to surface and underground and make it mandatory as follows:

57.6-132 *Mandatory.* Delay connectors shall be treated and handled with the same safety precautions as detonators.

13. It is proposed to revoke advisory standard 57.6-167.

14. It is proposed to revise and renumber advisory standard 57.6-169, make it applicable to surface and underground, and make it mandatory as follows:

57.6-142 *Mandatory.* Explosives or blasting agents shall not be loaded into drilled or sprung holes that could result in premature detonation from heat.

15. It is proposed to revise and renumber advisory standard 57.6-176, make it applicable to surface and underground and make it mandatory as follows:

57.6-139 *Mandatory.* Blasting areas shall not be reentered after firing until concentrations of smoke, dust, and fumes have been reduced to safe limits as required and determined in mandatory standards 57.5-1 and 57.5-2.

16. It is proposed to revise and renumber advisory standard 57.6-178, make it applicable to surface and underground, and make it mandatory as follows:

57.6-141 *Mandatory.* In secondary blasting, if more than one shot is to be fired at one time in a blasting area, the shots shall be initiated from one source.

17. It is proposed to revise and renumber advisory standard 57.6-180, make it applicable to surface and underground, and make it mandatory as follows:

57.6-140 *Mandatory.* Blasting circuits and electric blasting caps (which are capable of being initiated by conventional power sources) shall be protected from sources of extraneous electricity.

18. It is proposed to revoke advisory standard 57.6-181.

19. It is proposed to revise advisory standard 57.6-190 which is applicable to surface and underground and make it mandatory as follows:

57.6-190 *Mandatory.* Ammonium nitrate-based blasting agents shall be mixed and stored in accordance with the mixing and storage provisions in Bureau of Mines Information Circular 8179 "Safety Recommendations for Sensitized Ammonium Nitrate Blasting Agents," which is hereby incorporated by reference and made a part hereof. IC 8179 is available at each Metal and Nonmetal Mine Safety and Health District and Subdistrict Office of the Mine Safety and Health Administration.

20. It is proposed to revoke advisory standards 57.6-192 and 57.6-196.

PP. Section 57.7 "Drilling" is proposed to be amended as follows:

§ 57.7 [Amended]

1. It is proposed to revoke advisory standard 57.7-1.

2. It is proposed to add a new center subheading entitled "General—Surface and Underground" immediately below standard 57.7-32, to establish the series of numbers 57.7-50 through 57.7-100, and to reserve numbers 57.7-55 through 57.7-100.

3. It is proposed to revise and renumber advisory standard 57.7-6, make it applicable to surface and underground, and make it mandatory as follows:

57.7-50 *Mandatory.* Receptacles or racks shall be provided for drill steel and tools stored or carried on drills.

4. It is proposed to revise and renumber advisory standard 57.7-7, make it applicable to surface and underground, and make it mandatory as follows:

57.7-51 *Mandatory.* To prevent injury to personnel, tools and other objects shall not be left loose on the mast or drill platform.

5. It is proposed to revise advisory standard 57.7-9 which is applicable to surface only and make it mandatory as follows:

57.7-9 *Mandatory.* The drill helper when used shall be in sight of the operator at all times and shall assist the operator while the drill is being moved to a new drilling area.

6. It is proposed to revise advisory standard 57.7-14 which is applicable to surface only and make it mandatory as follows:

57.7-14 *Mandatory.* Persons operating or working near jackhammers, jackleg drills, or other drilling machines shall be instructed in the safe operation of such equipment and the potential hazards involved in case the steel breaks or binds.

7. It is proposed to revise and renumber advisory standard 57.7-15, make it applicable to surface and underground and make it mandatory as follows:

57.7-52 *Mandatory.* Persons shall not drill from positions that hinder their access to the control levers, or from insecure footing or insecure staging, or from atop equipment not suitable for this purpose.

8. It is proposed to revoke advisory standards 57.7-16 and 57.7-17.

9. It is proposed to revise and renumber advisory standard 57.7-19, make it applicable to surface and underground and make it mandatory as follows:

57.7-53 *Mandatory.* Before handheld drills are moved from one working area to another, air shall be turned off and bled from the hose.

10. It is proposed to revoke advisory standard 57.7-25, 57.7-26, and 57.7-27.

11. It is proposed to revise advisory standard 57.7-28 which is applicable to underground only and make it mandatory as follows:

57.7-28 *Mandatory.* Persons shall not rest their hands on the chuck or centralizer while drilling.

12. It is proposed to revoke advisory standards 57.7-29 and 57.7-30.

13. It is proposed to revise and renumber advisory standard 57.7-31, make it applicable to surface and underground, and make it mandatory as follows:

57.7-54 *Mandatory.* Drill operators shall be certain that all persons are in the clear before starting or moving drilling equipment.

14. It is proposed to revise advisory standard 57.7-32 which is applicable to underground only and make it mandatory as follows:

57.7-32 *Mandatory.* Columns and the drills mounted on them shall be anchored firmly before drilling is started and shall be so maintained while drilling.

QQ. Section 57.8 "Rotary jet piercing" is proposed to be amended as follows:

§ 57.8 [Amended]

1. It is proposed to revise advisory standard 57.8-1 which is applicable to surface only and make it mandatory as follows:

57.8-1 *Mandatory.* Jet piercing drills shall be provided with:

(a) A system to pressurize operator's cabs, when the cabs are provided;

(b) A protective cover over the oxygen flow indicator.

2. It is proposed to revise advisory standard 57.8-4 which is applicable to surface only and make it mandatory as follows:

57.8-4 *Mandatory.* With equipment requiring refueling at locations other than fueling stations, a system for fueling from the ground without spill shall be provided.

RR. Section 57.9 "Loading, hauling, dumping" is proposed to be amended as follows:

§ 57.9 [Amended]

1. It is proposed to revise advisory standard 57.9-1 which is applicable to surface and underground and make it mandatory as follows:

57.9-1 *Mandatory.* Self-propelled equipment that is to be used during a shift shall be inspected by the equipment operator before being placed in operation. Equipment defects affecting safety shall be reported to, and recorded by, the mine operator. The record shall be maintained at the mine or nearest mine office for at least six (6) months from the date the defects are recorded. Such records shall be made available for inspection by the Secretary of Labor or his authorized representative.

2. It is proposed to revoke advisory standard 57.9-8.

3. It is proposed to revise advisory standard 57.9-10 which is applicable to surface and underground and make it mandatory as follows:

57.9-10 *Mandatory.* Equipment operator's cabs shall be constructed to permit operators to see without straining and shall be reasonably comfortable.

4. It is proposed to revise advisory standard 57.9-16 which is applicable to surface and underground and make it mandatory as follows:

57.9-16 *Mandatory.* Roadbeds, rails, joints, switches, frogs, and other trackage elements on railroads shall be designed, installed, and maintained in a safe manner consistent with the speed and type of haulage.

5. It is proposed to revoke advisory standard 57.9-18.

It is proposed to revise advisory standard 57.9-29 which is applicable to surface and underground and make it mandatory as follows:

57.9-29 *Mandatory.* Operators shall sit facing the direction of travel while operating equipment with dual controls.

7. It is proposed to revise advisory standard 57.9-34 which is applicable to surface and underground and make it mandatory as follows:

57.9-34 *Mandatory.* Haulage equipment shall be loaded in a manner to minimize spillage during haulage.

8. It is proposed to revise advisory standard 57.9-63 which is applicable to surface and underground and make it mandatory as follows:

57.9-63 *Mandatory.* Ramps and dumping facilities shall be of substantial construction. They shall have suitable width, clearance, and headroom to accommodate the equipment serviced.

9. It is proposed to revise advisory standard 57.9-70 which is applicable to surface and underground and make it mandatory as follows:

57.9-70 *Mandatory.* A tow bar of substantial construction shall be used to tow heavy equipment unless the use of another suitable means of controlling the towed equipment proves advisable. A substantial safety chain or wire rope shall be used in conjunction with the tow bar or primary rigging.

10. It is proposed to revoke advisory standard 57.9-81.

11. It is proposed to revise advisory standard 57.9-82 which is applicable to surface only and make it mandatory as follows:

57.9-82 *Mandatory.* Persons working in enclosed production equipment cabs where extreme weather and environmental conditions exist shall be protected by air-conditioning, or heater with defroster, or both which shall be maintained in a good working condition.

12. It is proposed to revise advisory standard 57.9-104 which is applicable to underground only and make it mandatory as follows:

57.9-104 *Mandatory.* Warning devices or conspicuous markings shall be installed where chute lips, ventilation doors, and obstructions create a hazard to persons or equipment.

13. It is proposed to revise advisory standard 57.9-105 which is applicable to underground only and make it mandatory as follows:

57.9-105 *Mandatory.* Empty chutes shall be properly guarded prior to filling or sufficient material shall be left in the chute bottom to prevent rock from flying out when broken material is dumped into the chute.

14. It is proposed to revise advisory standard 57.9-115 which is applicable to underground only and make it mandatory as follows:

57.9-115 *Mandatory.* Covered mantrip cars shall be provided where there is danger of passengers contacting the trolley wire.

SS. Section 57.10 "Aerial tramways" is proposed to be amended as follows:

§ 57.10 [Amended]

1. It is proposed to revise advisory standard 57.10-1 which is applicable to surface only and make it mandatory as follows:

57.10-1 *Mandatory.* Buckets shall not be overloaded, and feed shall be regulated to prevent spillage.

2. It is proposed to revise advisory standard 57.10-2 which is applicable to surface only and make it mandatory as follows:

57.10-2 *Mandatory.* Inspection and maintenance of carriers including loading and unloading mechanisms, ropes and supports, and brakes shall be performed by competent persons following recommendations of the manufacturer, and as conditions warrant.

3. It is proposed to revise advisory standard 57.10-4 which is applicable to surface only and make it mandatory as follows:

57.10-4 *Mandatory.* Positive-action-type brakes and devices which apply the brakes automatically in the event of a power failure shall be provided on aerial tramways.

4. It is proposed to revise advisory standard 57.10-5 which is applicable to surface only and make it mandatory as follows:

57.10-5 *Mandatory.* Track cable connections shall not obstruct the passage of carriage wheels.

5. It is proposed to revise advisory standard 57.10-6 which is applicable to surface only and make it mandatory as follows:

57.10-6 *Mandatory.* Towers shall be suitably protected from swaying buckets.

TT. Section 57.11 "Travelways and escapeways" is proposed to be amended as follows:

§ 57.11 [Amended]

1. It is proposed to revise advisory standard 57.11-4 which is applicable to surface and underground and make it mandatory as follows:

57.11-4 *Mandatory.* Portable rigid ladders shall be provided with suitable bases; and when used they shall be securely placed.

2. It is proposed to revise advisory standard 57.11-7 which is applicable to surface and underground and make it mandatory as follows:

57.11-7 *Mandatory.* Wooden members of ladders shall not be painted except with a transparent finish.

3. It is proposed to revise advisory standard 57.11-8 which is applicable to surface and underground and make it mandatory as follows:

57.11-8 *Mandatory.* Ladderways, stairways, walkways, ramps, and platforms shall be kept free of material which could cause stumbling or slipping hazards, or injure persons below.

4. It is proposed to revise advisory standard 57.11-10 which is applicable to surface and underground and make it mandatory as follows:

57.11-10 *Mandatory.* Vertical clearance above stairsteps shall be a minimum of 7 feet or suitable warning shall be provided to indicate an impaired clearance.

5. It is proposed to revise advisory standard 57.11-11 which is applicable to surface and underground and make it mandatory as follows:

57.11-11 *Mandatory.* Persons climbing or descending ladders shall face the ladders and have both hands free for climbing.

6. It is proposed to revoke advisory standard 57.11-15.

7. It is proposed to revise advisory standard 57.11-17 which is applicable to surface and underground and make it mandatory as follows:

57.11-17 *Mandatory.* Fixed ladders shall not incline backwards.

8. It is proposed to revise advisory standard 57.11-25 which is applicable to surface only and make it mandatory as follows:

57.11-25 *Mandatory.* When ladders are used to ascend to heights exceeding 20 feet (except on mobile equipment), landing platforms shall be provided for each 30 feet of height or fraction thereof, except that where no cage, well, or ladder safety device is provided landing platforms shall be provided for each 20 feet of height or fraction thereof. Each ladder section shall be offset from adjacent sections. Where installation conditions (even for a short, unbroken length) require that adjacent sections be offset, landing platforms shall be provided at each offset.

(a) Where a person has to step a distance greater than 12 inches from the centerline of the rung of a ladder to the nearest edge of structure or equipment, a landing platform shall be provided. The minimum step-across distance shall be 2½ inches.

(b) All landing platforms shall be equipped with standard railings and toeboards, so arranged as to give safe access to the ladder. Platforms shall be not less than 24 inches in width and 30 inches in length.

(c) One rung of any section of ladder shall be located at the level of the landing laterally served by the ladder. Where access to the landing is through the ladder, the same rung spacing as used on the ladder shall be used from the landing platform to the first rung below the landing.

(d) Ladder safety devices may be used on tower, water tank, and chimney ladders over 20 feet in unbroken length in lieu of cage protection. No landing platform is required in these cases. All ladder safety devices such as those that incorporate lifebelts, friction brakes, and sliding attachments shall meet the design requirements of the ladders which they serve.

9. It is proposed to revise advisory standard 57.11-26 which is applicable to surface only and make it mandatory as follows:

57.11-26 *Mandatory.* Cage or wells:

(a) Cages or wells (except on chimney ladders) shall be built, as shown on the applicable drawings, covered in detail in figures 1, 2, and 3, or of equivalent construction.

(b) Cages or wells (except as provided in subparagraph (d) of standard 57.11-25) conforming to the dimensions shown in figures 1, 2, and 3 shall be provided on ladders of more than 20 feet to a maximum unbroken length of 30 feet.

(c) Cages shall extend a minimum of 42 inches above the top of a landing, unless other acceptable protection is provided.

(d) Cages shall extend down the ladder to a point not less than 7 feet nor more than 8 feet above the base of the ladder, with bottom flared not less than 4 inches, or portion of cage opposite ladder shall be carried to the base.

(e) Cages shall not extend less than 27 nor more than 28 inches from the centerline of the rungs of the ladder. Cages shall not be less than 27 inches in width. The insides shall be clear of projections. Vertical bars shall be located at a maximum spacing of 40 degrees around the circumference of the cage; this will give a maximum spacing of approximately 9½ inches, center to center.

(f) Ladder wells shall have a clear width of at least 15 inches measured each way from the centerline of the ladder. Smoothwalled wells shall be a minimum of 27 inches from the centerlines of rungs to the well wall on the climbing side of the ladder. Where other obstructions on the climbing side of the ladder exist, there shall be a minimum of 30 inches from the centerline of the rungs.

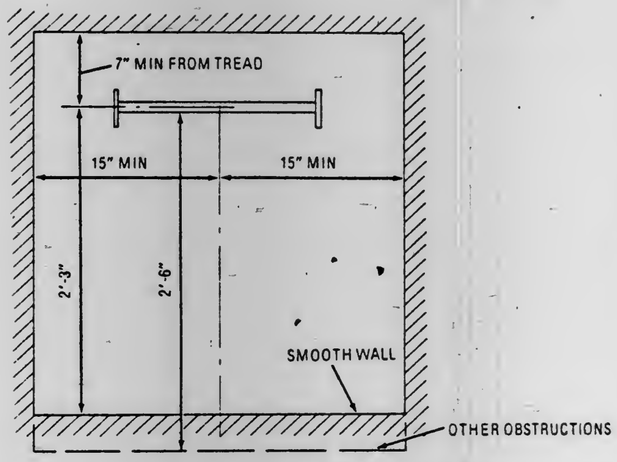
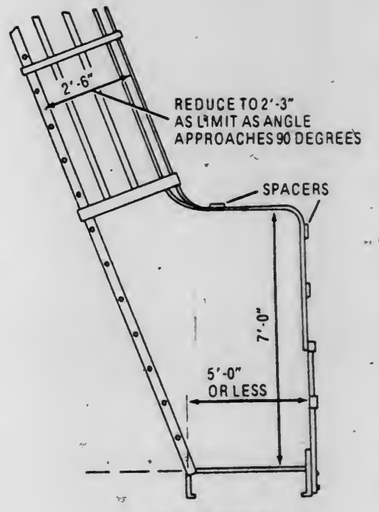
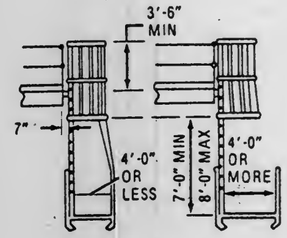


Figure 1.—CLEARANCE DIAGRAM FOR FINISHED LADDER IN WELL

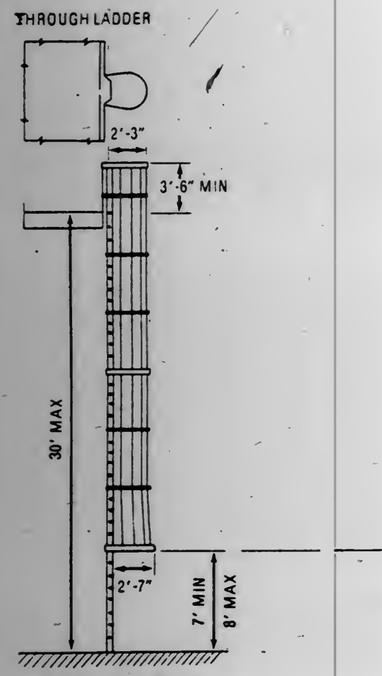


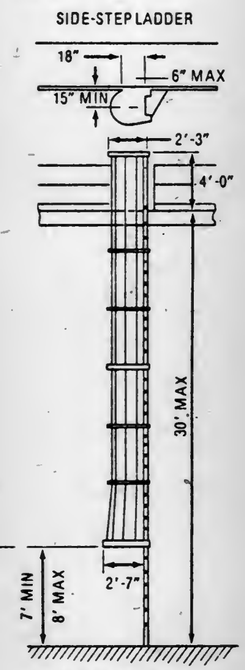
INCLINED LADDER AT ELEVATED LOCATION (for special hazard only)

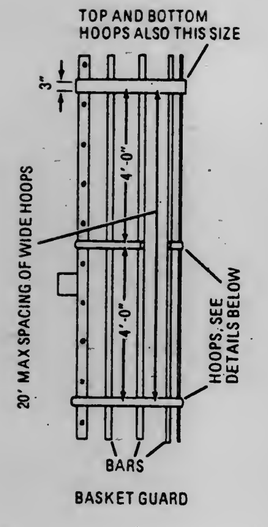


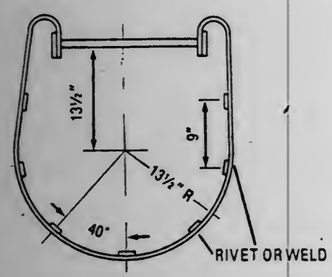
SHORT LADDERS AT ELEVATED LOCATIONS

Figure 3.—CAGES—SPECIAL APPLICATIONS—SHORT LADDERS AT ELEVATED LOCATIONS









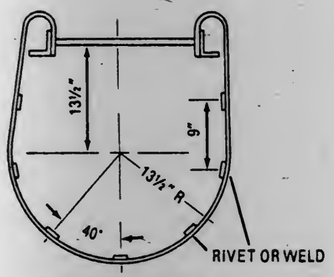


Figure 2.—ACCESS TO LANDING PLATFORM THROUGH LADDER, ACCESS LATERALLY FROM LADDER, BASKET GUARD, BASKET GUARD HOOP—BAR LADDER, AND BASKET GUARD HOOP—ANGLE IRON LADDER

10. It is proposed to revoke advisory standard 57.11-35.

11. It is proposed to revise advisory standard 57.11-37 which is applicable to underground only and make it mandatory as follows:

57.11-37 *Mandatory.* Ladderways constructed after the effective date of this standard shall have a minimum unobstructed cross-sectional opening of 24 inches by 24 inches measured from the face of the ladder.

12. It is proposed to revise advisory standard 57.11-38 which is applicable to underground only and make it mandatory as follows:

57.11-38 *Mandatory.* Warning shall be given and acknowledged before entering a manway above or below where persons are working.

13. It is proposed to revoke advisory standard 57.11-39.

14. It is proposed to revise advisory standard 57.11-40 which is applicable to underground only and make it mandatory as follows:

57.11-40 *Mandatory.* Travelways steeper than 35 degrees from the horizontal shall be provided with ladders or stairways.

15. It is proposed to revise advisory standard 57.11-41 which is applicable to underground only and make it mandatory as follows:

57.11-41 *Mandatory.* Fixed ladders with an inclination of more than 70 degrees off the horizontal shall be offset with substantial landings at least every 30 feet or have landing gates at least every 30 feet.

16. It is proposed to revise advisory standard 57.11-56 which is applicable to underground only and make it mandatory as follows:

57.11-56 *Mandatory.* The systematic procedure of mandatory standard 57.19-120 for inspection, testing, and maintenance shall be exercised at least every 30 days for hoists designated as emergency hoists in any evacuation plan.

UU. Section 57.12 "Electricity" is proposed to be amended as follows:

§ 57.12 [Amended]

1. It is proposed to revise advisory standard 57.12-4 which is applicable to surface and underground and make it mandatory as follows:

57.12-4 *Mandatory.* Electrical conductors shall be of sufficient size and current-carrying capacity for normal operation so that a rise in temperature resulting from such normal operation will not damage the insulating materials. Suitable protection from mechanical injury shall be provided.

2. It is proposed to revise advisory standard 57.12-19 which is applicable to surface and underground and make it mandatory as follows:

57.12-19 *Mandatory.* Where access is necessary, suitable clearance shall be provided at stationary electrical equipment or switchgear.

3. It is proposed to revise advisory standard 57.12-22 which is applicable to surface and underground and make it mandatory as follows:

57.12-22 *Mandatory.* Areas containing major electrical installations shall be entered only by authorized persons.

4. It is proposed to revoke advisory standard 57.12-24.

5. It is proposed to revise advisory standard 57.12-29 which is applicable to surface and underground and make it mandatory as follows:

57.12-29 *Mandatory.* Electric equipment and wiring shall be inspected by a competent person as necessary to assure safe operating conditions.

6. It is proposed to revise advisory standard 57.12-31 which is applicable to surface and underground and make it mandatory as follows:

57.12-31 *Mandatory.* Electric circuits and equipment shall be designed, constructed, installed and maintained to prevent injury and safeguard personnel.

7. It is proposed to revise advisory standard 57.12-35 which is applicable to surface and underground and make it mandatory as follows:

57.12-35 *Mandatory.* Lamp sockets exposed to the weather or wet conditions shall be of a weatherproof type.

8. It is proposed to revise advisory standard 57.12-38 which is applicable to surface and underground and make it mandatory as follows:

57.12-38 *Mandatory.* Trailing cables shall be attached to machines in a suitable manner to protect the cable from damage and to prevent strain on the electrical connections.

9. It is proposed to revise advisory standard 57.12-39 which is applicable to surface and underground and make it mandatory as follows:

57.12-39 *Mandatory.* Surplus trailing cables to shovels, cranes and similar equipment shall be stored in cable boats or on reels mounted on the equipment or otherwise protected from mechanical damage.

10. It is proposed to revoke advisory standards 57.12-44 and 57.12-49.

11. It is proposed to revise advisory standard 57.12-50 which is applicable to surface and underground and make it mandatory as follows:

57.12-50 *Mandatory.* Trolley wires shall be installed at least 7 feet above rails, where height permits, and alined and supported to suitably control sway and sag.

12. It is proposed to revoke advisory standards 57.12-51 and 57.12-52.

13. It is proposed to revise advisory standard 57.12-53 which is applicable to surface and underground and make it mandatory as follows:

57.12-53 *Mandatory.* Ground wires for lighting circuits powered from trolley wires shall be connected securely to the ground-return circuit.

14. It is proposed to revise advisory standard 57.12-54 which is applicable to surface and underground and make it mandatory as follows:

57.12-54 *Mandatory.* Persons shall be instructed to carry tools and supplies so they will not come in contact with bare power conductors.

15. It is proposed to revise advisory standard 57.12-86 which is applicable to underground only and make it mandatory as follows:

57.12-86 *Mandatory.* Trolley and trolley feeder wire shall be installed opposite the clearance side of haulageways, except where it is not feasible.

16. It is proposed to revoke advisory standard 57.12-87.

17. It is proposed to revise advisory standard 57.12-88 which is applicable to underground only and make it mandatory as follows:

57.12-88 *Mandatory.* No splice except a vulcanized splice or its equivalent shall be made in a trailing cable within 25 feet of the machine unless the machine is equipped with a cable reel. A temporary splice may be made to move the equipment for repair.

VV. Section 57.13 "Compressed air and boilers" is proposed to be amended as follows:

§ 57.13 [Amended]

1. It is proposed to revise advisory standard 57.13-10 which is applicable to surface and underground and make it mandatory as follows:

57.13-10 *Mandatory.* Reciprocating type air compressors rated over 10 horsepower shall be equipped with automatic temperature-actuated shutoff mechanisms unless fusible plugs were previously installed in the compressor discharge lines.

Temperature-actuated shutoff mechanisms shall be set to shut off at temperatures not to exceed the normal operating temperature of the compressor by more than 25 percent. Fusible plugs, where installed prior to the adopting of this standard, are acceptable if they melt at temperatures at least 50° less than the flash point of the lubricating oil.

2. It is proposed to revise advisory standard 57.13-11 which is applicable to surface and underground and make it mandatory as follows:

57.13-11 *Mandatory.* Compressors and air receiver tanks shall be equipped with one or more automatic pressure relief valves. The total relieving capacity of such relief valves shall be such as to prevent pressure from exceeding the maximum allowable working pressure in a receiver tank by not more than 10 per cent. Air receiver tanks also shall be equipped with: Indicating pressure gages designed to ac-

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curately measure pressure within the air receiver tanks; drain valves installed at the lowest point of the receiver tanks to provide for the removal of accumulated oil and moisture; and traps to prevent oil, moisture, and other contaminants from being expelled through the discharge lines.

3. It is proposed to revise advisory standard 57.13-12 which is applicable to surface and underground and make it mandatory as follows:

57.13-12 *Mandatory.* Compressor air intakes shall be installed to insure that only clean, uncontaminated air enters the compressors.

4. It is proposed to revise advisory standard 57.13-13 which is applicable to surface and underground and make it mandatory as follows:

57.13-13 *Mandatory.* Accumulations of water and oil shall be drained from compressed air receivers at least once each day the compressor is in operation.

5. It is proposed to revise advisory standard 57.13-14 which is applicable to surface and underground and make it mandatory as follows:

57.13-14 *Mandatory.* Compressed-air receivers shall have inspection openings. When the tanks are over 36 inches in diameter, the inspection openings shall be of a size to permit entry by persons.

6. It is proposed to revise advisory standard 57.13-15 which is applicable to surface and underground and make it mandatory as follows:

57.13-15 *Mandatory.* Compressed air receivers and other unfired pressure vessels shall be inspected in accordance with the applicable chapters of the National Board Inspection Code, a Manual for Boiler and Pressure Vessel Inspectors, 1977, approved by the National Board of Executive Committee on January 27, 1977, and published by the National Board of Boiler and Pressure Vessel Inspectors, which is hereby incorporated by reference and made a part hereof. Records of such inspection shall be kept. The National Board Inspection Code of 1977 may be examined at any Metal and Nonmetal Mine Safety and Health District Office of the Mine Safety and Health Administration, and may be obtained from the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, OH 43229.

7. It is proposed to revise advisory standard 57.13-16 which is applicable to surface and underground and make it mandatory as follows:

57.13-16 *Mandatory.* Compressors shall be operated and lubricated in accordance with the manufacturer's recommendations.

8. It is proposed to revise advisory standard 57.13-17 which is applicable to surface and underground and make it mandatory as follows:

57.13-17 *Mandatory.* Compressor discharge pipes where carbon build-up may occur shall be cleaned periodically as part of a systematic maintenance schedule and at least annually.

9. It is proposed to revoke advisory standard 57.13-18.

10. It is proposed to revise advisory standard 57.13-30 which is applicable to surface and underground and make it mandatory as follows:

57.13-30 *Mandatory.* (a) All boilers shall be equipped with water level gages, pressure gages, automatic pressure-relief valves, blowdown piping, and other approved safety devices to protect against hazards from overpressure, flameouts, fuel interruptions and low water level, all as required by the appropriate sections of the codes listed below.

(b) These gages, devices, and pipings shall be designed, installed, operated, maintained, repaired, altered, inspected, and tested by competent persons in accordance with the following listed sections, or chapters and appendixes—as applicable—of:

(1) The ASME Boiler and Pressure Vessel Code, 1977, published by the American Society of Mechanical Engineers.

Section and Title
I—Power boilers.
II—Material specifications.
II—Part A—ferrous.
II—Part B—nonferrous.
II—Part C—welding rods, electrodes, and filler metal.
IV—Heating boilers.
V—Non-destructive examination.
VI—Recommended rules for care and operations of heating boilers.
VII—Recommended rules for care of power boilers.

(2) The National Board Inspection Code, A Manual for Boiler and Pressure Vessel Inspectors, 1977, approved by the National Board Executive Committee on January 27, 1977, and published by the National Board of Boiler and Pressure Vessels Inspectors.

Chapter and Title
I—Glossary terms.
II—Inspection of boilers and pressure vessels.
III—Repairs and alterations to boilers and pressure vessels by welding.
IV—Shop inspection of boilers and pressure vessels.
V—In-service inspection of pressure vessels by authorized owner-user inspection agencies.

Appendix and Title
A—Safety and safety relief valves.
B—Non-ASME code boilers and pressure vessels.
C—Storage of mild steel covered arc welding electrodes.
D—National board "R" (repair) symbol stamp.
E—Owner-user inspection agencies.
F—Inspection forms.

(c) Records of inspections and repairs shall be kept and made available to the Secretary or his authorized representative.

(d) Sections of the ASME Boiler and Pressure Vessel Code, 1977, to which references are made in this standard are hereby incorporated by reference and made a part hereof, and may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 345 East Forty-Seventh Street, New York, N.Y. 10017. Chapters and appendixes of the National Board Inspection Code of 1977 to which references are made in this standard are hereby incorporated by reference and made a part hereof, and may be obtained from the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229. These publications may be examined at any Metal and Nonmetal Mine Safety and Health District Office of the Mine Safety and Health Administration.

11. It is proposed to revoke advisory standards 57.13-31, 57.13-32, 57.13-33, and 57.13-34.

WW. Section 57.14 "Use of equipment" is proposed to be amended as follows:

§ 57.14 [Amended]

1. It is proposed to revise advisory standard 57.14-3 which is applicable to surface and underground and make it mandatory as follows:

57.14-3 *Mandatory.* Guards at conveyor-drive, conveyor-head and conveyor-tail pulleys shall extend a distance sufficient to prevent a person from accidently reaching behind the guard and becoming caught between the belt and the pulley.

2. It is proposed to revoke advisory standards 57.14-4 and 57.14-5.

3. It is proposed to revise advisory standard 57.14-7 which is applicable to surface and underground and make it mandatory as follows:

57.14-7 *Mandatory.* Guards shall be of substantial construction and maintained to provide the required protection.

4. It is proposed to revise advisory standard 57.14-11 which is applicable to surface and underground and make it mandatory as follows:

57.14-11 *Mandatory.* Guards, shields, or other suitable protection shall be provided in areas where flying or falling materials present a hazard.

5. It is proposed to revise advisory standard 57.14-25 which is applicable to surface and underground and make it mandatory as follows:

57.14-25 *Mandatory.* Machinery or equipment that is to be used during the shift shall be inspected at the beginning of each shift by a competent person. Defects affecting safety shall be corrected before the machinery or equipment is used.

6. It is proposed to revise advisory standard 57.14-27 which is applicable to surface and underground and make it mandatory as follows:

57.14-27 *Mandatory.* Operation of machinery or equipment shall be assigned only to competent persons; provided, however, that trainees may be permitted to operate machinery or equipment under the guidance of competent persons.

7. It is proposed to revoke advisory standard 57.14-28.

8. It is proposed to revise advisory standard 57.14-36 which is applicable to surface and underground and make it mandatory as follows:

57.14-36 *Mandatory.* Tools and equipment shall be used within the design capacity for which they are intended and designed.

9. It is proposed to revise advisory standard 57.14-55 which is applicable to underground only and make it mandatory as follows:

57.14-55 *Mandatory.* Welding operations shall be shielded and well ventilated.

XX. Section 57.15 "Personal protection" is proposed to be amended as follows:

§ 57.15 [Amended]

1. It is proposed to revoke advisory standards 57.15-8, 57.15-9, and 57.15-10.

2. It is proposed to revise advisory standard 57.15-11 which is applicable to surface and underground and make it mandatory as follows:

57.15-11 *Mandatory.* Employees shall be instructed in the hazards of wearing finger rings and other jewelry on the job.

3. It is proposed to revoke advisory standard 57.15-13.

YY. Section 57.16 "Materials storage and handling" is proposed to be amended as follows:

§ 57.16 [Amended]

1. It is proposed to revise advisory standard 57.16-1 which is applicable to surface and underground and make it mandatory as follows:

57.16-1 *Mandatory.* When stacked or stored, supplies shall not create a stumbling or fall-of-material hazard.

2. It is proposed to revise advisory standard 57.16-2 which is applicable to surface and underground and make it mandatory as follows:

57.16-2 *Mandatory.* Bins, hoppers, silos, tanks, and surge piles, where loose and unconsolidated materials are stored, handled, or transferred shall be:

(a) Equipped with mechanical devices or other effective means of handling material so that during normal operations persons are not required to enter or work where they are exposed to entrapment by the caving or sliding of these materials;

(b) Equipped with supply and discharge operating controls which are located so as to eliminate hazards to persons from spills or accidental overruns;

(c) Provided with suitable walkways where persons are required to walk over or around;

(d) Provided with ladders, platforms, or stagings where persons are required to enter a material storage facility for maintenance or inspection purposes. Where a possibility exists that moving material may create a hazardous condition, no person shall be allowed to enter this area for any reason, unless the supply and discharge of materials has ceased, the supply and discharge equipment is locked out, and the person is wearing a safety belt or harness equiped with a lifeline suitably fastened. Another person suitably secured with a safety belt and line shall be stationed at a point near where the lifeline is fastened, so that he can adjust it or keep it tight as needed with minimum slack in the said lifeline at all times.

3. It is proposed to revise advisory standard 57.16-7 which is applicable to surface and underground and make it mandatory as follows:

57.16-7 *Mandatory.* Hitches and slings used to hoist materials shall be designed and suitably used for the particular materials handled. Taglines shall be attached to loads that may require steadying or guidance while suspended.

4. It is proposed to revoke advisory standard 57.16-8.

5. It is proposed to revise advisory standard 57.16-10 which is applicable to surface and underground and make it mandatory as follows:

57.16-10 *Mandatory.* To protect personnel, material shall not be dropped from an overhead elevation until the drop area is first cleared of personnel, and then is either guarded or a suitable warning given.

6. It is proposed to revise advisory standard 57.16-12 which is applicable to surface and underground and make it mandatory as follows:

57.16-12 *Mandatory.* Concentrated acids and alkalies shall be stored in a manner that these chemicals cannot inadvertently mix with each other or with other substances with which they will react violently or cause the liberation of dangerous fumes.

7. It is proposed to revise advisory standard 57.16-13 which is applicable to surface and underground and make it mandatory as follows:

57.16-13 *Mandatory.* A suitable warning shall be given before molten metal is poured, or a container of molten metal is moved.

8. It is proposed to revise advisory standard 57.16-16 which is applicable to surface and underground and make it mandatory as follows:

57.16-16 *Mandatory.* Fork and other similar type lift trucks shall be operated:

(a) With the uprights tilted back to steady and secure load.

(b) With the load in the upgrade position when ascending or decending grades in excess of 10 percent.

(c) Except for minor adjustments, loads shall not be raised or lowered enroute.

(d) Unloaded trucks shall travel on all grades with the load engaging means downgrade.

9. It is proposed to revise and renumber advisory standard 57.16-35, make it applicable to surface and underground, and make it mandatory as follows:

57.16-17 *Mandatory.* Where the stretching or contraction of a hoist rope could create a hazard, chairs or other suitable blocking shall be used to support conveyances at shaft landings before heavy equipment is loaded or unloaded.

ZZ. Section 57.18 "Safety programs" is proposed to be amended as follows:

§ 57.18 [Amended]

1. It is proposed to revise advisory standard 57.18-1 which is applicable to surface and underground and make it mandatory as follows:

57.18-1 *Mandatory.* The operator shall establish a definite, effective, and continually functioning safety program which shall be made available to all personnel and make every attempt to prevent accidents and increase safety. All personnel shall actively participate in the safety program.

2. It is proposed to revise advisory standard 57.18-2 which is applicable to surface and underground and make it mandatory as follows:

57.18-2 *Mandatory.* (a) Each active working area or installation shall be examined at least once each shift, or more often if necessary, by a supervisor or another competent person for hazardous conditions. Such conditions observed shall be promptly corrected by the operator.

(b) A condition noted by the person conducting the examination that may present an imminent danger shall be brought to the immediate attention of the operator who shall withdraw all persons from the area affected, except persons referred to in section 104(c) of the Act, until the danger is abated.

(c) Any hazardous conditions observed by the supervisor or competent person making the examination shall

SE 12 78

be uniformly recorded and will include the date, the condition observed and the location of the condition. The record shall be available for review by the Secretary or his authorized representative.

(d) All reports shall include the action taken to abate any hazardous conditions found and shall be countersigned by:

(1) The mine foreman, or

(2) The mine superintendent, or

(3) The person designated by the operator as responsible for safety and health at the mine.

3. It is proposed to revoke advisory standards 57.18-3, 57.18-4, 57.18-5, and 57.18-7.

4. It is proposed to revise advisory standard 57.18-8 which is applicable to surface and underground and make it mandatory as follows:

57.18-8 *Mandatory.* To assure that work is being done in a safe manner, each active working place shall be visited each shift by a supervisor, or another competent person shall be designated to check that working place.

5. It is proposed to revise advisory standard 57.18-9 which is applicable to surface and underground and make it mandatory as follows:

57.18-9 *Mandatory.* A supervisor or a designated competent person shall be in attendance on the property when persons are working to take charge in case of an emergency.

6. It is proposed to revoke advisory standard 57.18-11.

7. It is proposed to revise advisory standard 57.18-13 which is applicable to surface and underground and make it mandatory as follows:

57.18-13 *Mandatory.* A suitable communications system shall be provided at the mine site in order to summons assistance in the event of an emergency.

8. It is proposed to revoke advisory standard 57.18-26.

AAA. Section 57.19 "Man hoisting" is proposed to be amended as follows:

§ 57.19 [Amended]

1. It is proposed to revise advisory standard 57.19-12 and make it mandatory as follows:

57.19-12 *Mandatory.* Where grooved drums are used, the grooves shall be of suitable size and pitch for the rope used.

2. It is proposed to revoke advisory standard 57.19-20.

3. It is proposed to revise advisory standard 57.19-25 and make it mandatory as follows:

57.19-25 *Mandatory.* Wire ropes shall be used and maintained in accordance with the manufacturer's recommendations, or the equivalent.

4. It is proposed to revise advisory standard 57.19-35 and make it mandatory as follows:

57.19-35 *Mandatory.* Headframes shall be of substantial construction.

5. It is proposed to revise advisory standard 57.19-36 and make it mandatory as follows:

57.19-36 *Mandatory.* Headframes shall be high enough to provide clearance for overtravel and safe stopping of the conveyance.

6. It is proposed to revise advisory standard 57.19-37 and make it mandatory as follows:

57.19-37 *Mandatory.* Fleet angles shall not be greater than 1½ degrees for smooth drums, and 2 degrees for grooved drums.

7. It is proposed to revise advisory standard 57.19-39 and make it mandatory as follows:

57.19-39 *Mandatory.* All man hoists, except emergency escape hoists, installed after the effective date of this standard shall have drums and sheaves of diameters at least 60 times the rope diameter.

8. It is proposed to revise advisory standard 57.19-67 and make it mandatory as follows:

57.19-67 *Mandatory.* During shift changes, an authorized person shall be in charge of each man trip.

9. It is proposed to revise advisory standard 57.19-72 and make it mandatory as follows:

57.19-72 *Mandatory.* When combinations of cages and skips are used in the same compartment, the cages shall be totally enclosed to protect personnel from flying material and the hoist speed reduced to manspeed as defined in section 57.19-61, but not to exceed 1,000 feet per minute. Muck shall not be hoisted with personnel during shift changes.

10. It is proposed to revise advisory standard 57.19-74 and make it mandatory as follows:

57.19-74 *Mandatory.* Persons shall not ride the bail, rim, bonnet, or crosshead of any shaft conveyances except where necessary for inspection and maintenance, and then only when suitable protection for persons is provided.

11. It is proposed to revise advisory standard 57.19-78 and make it mandatory as follows:

57.19-78 *Mandatory.* All buckets shall be stopped after being raised about three (3) feet above the shaft bottom. A bucket shall be stabilized before a hoisting signal is given to continue hoisting the bucket to the crosshead. After a hoisting signal is given, hoisting to the crosshead shall be at the minimum speed. The signaling device shall be attended constantly until a bucket reaches the guides. When persons are hoisted, the signaling devices shall be attended until the crosshead has been engaged.

12. It is proposed to revise advisory standard 57.19-81 and make it mandatory as follows:

57.19-81 *Mandatory.* Conveyances controlled by a hoistman, when not in use, shall be released and the conveyance shall be raised or lowered a suitable distance to prevent persons from boarding or loading the conveyance.

13. It is proposed to revise advisory standard 57.19-91 and make it mandatory as follows:

57.19-91 *Mandatory.* Hoistmen shall accept hoisting instructions only by the regular signaling system unless it is out of order. During an emergency, the hoistman shall accept instructions only from authorized persons to direct movement of the conveyances.

14. It is proposed to revise advisory standard 57.19-93 and make is mandatory as follows:

57.19-93 *Mandatory.* A standard code of hoisting signals shall be adopted and used at each mine. The movement of a shaft conveyance on a "one bell" signal shall be prohibited.

15. It is proposed to revise advisory standard 57.19-104 and make it mandatory as follows:

57.19-104 *Mandatory.* Suitable clearance at shaft stations shall be provided and maintained so as to allow for the safe movements of persons and the safe passage and handling of equipment and materials.

16. It is proposed to revise advisory standard 57.19-124 and make it mandatory as follows:

57.19-124 *Mandatory.* To distribute the wear of the rope, hoist ropes other than those on friction hoists shall be cut off at least six (6) feet above the highest connection to the conveyance, at intervals not to exceed one (1) year unless conditions of use and/or examination and inspection required in standard 57.19-126 indicate the necessity of a shorter time interval. The portion of the rope that is cut off shall be examined and inspected by a competent person for damage, corrosion, wear, and fatigue.

17. It is proposed to revise advisory standard 57.19-125 and make it mandatory as follows:

57.19-125 *Mandatory.* Hoist ropes wound in multiple layers shall have a suitable length cut off at the drum end at least three (3) times during the anticipated life of the rope and whenever necessary, as determined by the inspection or tests required in standard 57.19-126, to distribute the wear at change of layers and crossover points and to preserve the integrity of the rope. The amount of rope cut off shall be not be a whole number multiple of the circumference of the drum.

18. It is proposed to revise advisory standard 57.19-126 and make it mandatory as follows:

57.19-126 *Mandatory.* Hoist ropes shall be examined over its entire active length at least every month to evaluate wear and possible damage.

Caliper measurements or nondestructive tests shall be made wherever wear is evident on the rope and at least every six (6) months and whenever necessary as determined by examination, inspection, or tests as follows:

(a) Immediately above the socket or clips and above the safety connection;

(b) Where the rope rests on the sheaves;

(c) Where the ropes leave the drums when the conveyances are at the regular stopping point;

(d) Where a layer of rope begins to overlap another layer on the drum;

(e) At 100-foot intervals; measurements shall be made midway between the last previously calipered points.

19. It is proposed to revoke advisory standard 57.19-127.

20. It is proposed to revise advisory standard 57.19-130 make it mandatory as follows:

57.19-130 *Mandatory.* Empty hoist conveyances shall be operated at least one round trip to assure the hoisting compartment is clear of obstruction before hoisting persons:

(a) After any hoist or shaft repairs or related equipment repairs that might restrict or obstruct conveyance clearance;

(b) After any oversize or overweight material or equipment trips that might restrict or obstruct conveyance clearance;

(c) After blasting in or near the shaft that might restrict or obstruct conveyance clearance;.

(d) After remaining idle for one shift or longer.

21. It is proposed to revise advisory standard 57.19-131 and make it mandatory as follows:

57.19-131 *Mandatory.* Hoist conveyance connections shall be inspected at least once during any 24-hour period that the conveyance is used for hoisting persons.

22. It is proposed to revise advisory standard 57.19-132 and make it mandatory as follows:

57.19-132 *Mandatory.* A performance drop test of hoist conveyance safety catches shall be made at the time of installation, or prior to installation, in a mockup of the actual installation and certified to in writing by the manufacturer or registered professional engineer performing the test.

After installation, the conveyance shall be suitably rested at least once before use and the hoist rope slackened to test for the unrestricted functioning of the safety catches and their activating mechanisms.

Thereafter, the safety catches shall be inspected by a competent person at the beginning of any 24-hour period that the conveyance is to be used, and the unrestricted functioning of the safety catches and their activating mechanisms shall be tested (as before) at least once at the beginning of any 7-day period during which the conveyance is to be used.

BBB. Section 57.20 "Miscellaneous" is proposed to be amended as follows:

§ 57.20 [Amended]

1. It is proposed to revoke advisory standards 57.20-4, 57.20-6, and 57.20-7.

2. It is proposed to revise advisory standard 57.20-8 which is applicable to surface and underground and make it mandatory as follows:

57.20-8 *Mandatory.* Toilet facilities shall be provided at locations that are compatible with the mine operations and that are readily accessible to mine personnel. The facilities shall be kept clean and sanitary. Separate toilet facilities shall be provided for each sex except where toilet facilities will be occupied by no more than one (1) person at a time and can be locked from the inside.

3. It is proposed to revise advisory standard 57.20-32 which is applicable to underground only and make it mandatory as follows:

57.20-32 *Mandatory.* Telephones or other two-way communication equipment shall be provided from underground operations to the surface and have legible instructions for their use which shall be posted inside the covers, or should there be no covers, posted adjacent to the communication equipment. Persons working underground shall be instructed as to the proper use of the equipment.

CCC. Section 57.21 "Gassy mines" is proposed to be amended as follows:

§ 57.21 [Amended]

1. It is proposed to revise advisory standard 57.21-21 and make it mandatory as follows:

57.21-21 *Mandatory.* Main fans shall be:

(a) Operated continuously while persons are underground except when stopped or slowed down for fan maintenance and/or fan adjustments and related ventilation system adjustments and compliance is made with the provisions of mandatory standard 57.21-24.

(b) Provided with pressure-recording gages which shall be examined daily for good operating condition. The charts of such gages shall be changed after completing one revolution.

(c) Inspected daily and logs kept of such inspection and of fan maintenance.

(d) Charts and logs shall be retained for a minimum of 1 year. Such records and charts shall be available for inspection by the Secretary of Labor or his authorized representative.

2. It is proposed to revoke advisory standard 57.21-37.

3. It is proposed to revise advisory standard 57.21-49 and make it mandatory as follows:

57.21-49 *Mandatory.* Brattice cloth shall be of flame-resistant material.

4. It is proposed to revise advisory standard 57.21-51 and make it mandatory as follows:

57.21-51 *Mandatory.* Crosscuts shall be provided where practicable at or within 18 feet of the face of drifts, entries, and rooms before the workings are abandoned in any unsealed area of the mine. When crosscuts are not practicable, line brattice or other suitable means of ventilating shall be provided to the drifts, entries, or rooms.

5. It is proposed to revise advisory standard 57.21-65 and make it mandatory as follows:

57.21-65 *Mandatory.* At intervals not greater than 7 days the mine foreman, or other competent person designated by the mine foreman shall make examinations for hazardous conditions and for compliance with mandatory health and safety standards, and shall make tests for methane and carbon monoxide. Such tests shall be made with approved devices at the following locations:

(a) In the return of each split where it enters the main return;

(b) Adjacent to retreat areas if accessible;

(c) At seals;

(d) In the main return;

(e) In at least one entry of each intake and return airway;

(f) In idle workings;

(g) In unsealed abandoned workings, insofar as conditions permit.

[FR Doc. 78-25641 Filed 9-11-78; 8:45 am]

V 43/177

SE 12 78

V 4 3 / 1 7 7

SE 12 78

V 43 / 177

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523·5022

SE 12 78

V 4 3 / 1 7 8

S E 1 3 7 8

Vol. 43—No. 178
9-13-78
PAGES
40801-41011

federal register

WEDNESDAY, SEPTEMBER 13, 1978

highlights

HOW TO USE THE FEDERAL REGISTER

SAINT PAUL, MINNESOTA, WORKSHOPS
October 2 and 3, 1978

See inside cover for details.

SUNSHINE ACT MEETINGS 40995

YOUTH CONSERVATION CORPS PROGRAMS
USDA/FS adopts State grant regulations; effective 10-1-78 (Part II of this issue) 40998
Interior/Sec'y adopts State grant regulations; effective 10-1-78 (Part III of this issue) 41004

HISTORIC PRESERVATION PROJECTS
Interior/HCRS issues interim standards for planning, undertaking, and supervising historic preservation grant-in-aid projects; effective 9-13-78; comments by 10-13-78 40808

GRANTS FOR PUBLIC HEALTH TRAINEESHIPS FOR STUDENTS IN SCHOOLS OF PUBLIC HEALTH AND IN OTHER GRADUATE PUBLIC HEALTH PROGRAMS
HEW/PHS sets forth requirements; comments by 11-13-78 ... 40862

SOLAR ENERGY
DOE issues status report on domestic policy review; comments by 9-21-78 40909

LAW AND ORDER ON INDIAN RESERVATIONS
Interior/BIA adds additional violations and expands the scope of some existing violations for offenses committed on Menominee Reservations; effective 9-13-78 40804

MARITIME MOBILE SERVICES
FCC proposes use of scanning receivers to reduce the impact of multiple watch requirements on the safe navigation of vessels; comments by 11-10-78 40889

COMMERCIAL SALES OF AGRICULTURAL COMMODITIES
USDA/Sec'y proposes to revise existing regulations pertaining to ocean transportation of agricultural commodities; comments by 11-13-78 40872

CONTINUED INSIDE

SAINT PAUL, MINNESOTA, WORKSHOPS

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FOR: Any person who must use the Federal Register and Code of Federal Regulations.

WHAT: In cooperation with the Minnesota State Metropolitan Council of the Twin Cities Area, free public workshops (approximately 2½ hours) to present:

1. Brief history of the Federal Register system.
2. Difference between legislation and regulations.
3. Relationship of Federal Register and the Code of Federal Regulations.
4. Important elements of a typical Federal Register document.
5. An introduction to the finding aids of the FR/CFR system.

WHEN: October 2 and 3, 1978, at 9 a.m. (Each session identical)

WHERE: Suite 300, Metro Square Building, Seventh and Robert Streets, St. Paul, Minn.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

RESERVATIONS: Call Chuck McDew, 612-291-6421.

HOW TO USE THE FEDERAL REGISTER

SAINT PAUL, MINNESOTA, WORKSHOPS

October 2 and 3, 1978

See inside cover for details.

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Finding Aids	523-5227
Public Briefings: "How To Use the Federal Register."	523-5235
Code of Federal Regulations (CFR)	523-3419 523-3517
Finding Aids	523-5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523-5233
Weekly Compilation of Presidential Documents.	523-5235
Public Papers of the Presidents	523-5235
Index	523-5235
PUBLIC LAWS:	
Public Law dates and numbers	523-5266 523-5282
Slip Laws	523-5266 523-5282
U.S. Statutes at Large	523-5266 523-5282
Index	523-5266 523-5282
U.S. Government Manual	523-5230
Automation	523-3408
Special Projects	523-4534

HIGHLIGHTS—Continued

WATER PROGRAMS
EPA issues interim final rule on submission of applications for modifications of requirements for best available technology economically achievable in controlling certain pollutants; effective 9-13-78; comments by 11-13-78 40859

NORTHERN ANCHOVY FISHERY
Commerce/NOAA issues regulations under which domestic fishermen may harvest the central subpopulation of the northern anchovy resource, effective 9-15-78 40868

ALIENS
Justice/INS proposes new procedures to be followed by aliens when filing claims for asylum after commencement or completion of deportation proceedings 40879
Justice/INS amends regulations pertaining to applications for asylum submitted by aliens seeking to enter the United States at airports or seaports of entry; effective 9-13-78 40801

RESCISSIONS AND DEFERRALS
OMB issues September 1978 cumulative report 40941

PUBLIC CHARTERS
CAB proposes modification of bond requirements for charter operators; comments by 11-20-78 40880

CIVILIAN/MILITARY SERVICE REVIEW BOARD
DOD/Sec'y proposes to establish policies and procedures; comments by 10-13-78 40884

SCHEDULES OF CONTROLLED SUBSTANCES
Justice/DEA proposes placement of Pentazocine into Schedule IV; comments by 10-13-78 40884

AUTOMOTIVE AND MOTORCYCLE REPAIR MANUALS FROM UNITED KINGDOM
ITC determines reasonable indication of injury to U.S. industry.. 40935

STANDARD HOUSEHOLD INCANDESCENT LAMPS FROM HUNGRY
ITC determines no reasonable indication of injury to U.S. industry 40937

MULTILATERAL TRADE NEGOTIATIONS IN GENEVA
ITC initiates study of probable effects of implementation 40935

TELEPHONE COMPANIES
FCC extends comment period to 1-15-79 and reply comment period to 3-15-79 on proposed regulations revising uniform system of accounts and financial requirements 40886

MEETINGS—
USDA/FS: National Forest Management Act Committee of Scientists, 9-28 and 9-29-78 40895
Commerce/ITA: Advisory Committee on East-West Trade, 9-27-78 40901
DOE/ERA: Exploring the capability of the U.S. refining industry to meet forecast gasoline demand in 1980, 9-22-78 40904
WAPA: Marketing Power from the Navajo Project 9-19 through 9-21-78 40909
EPA: Administrator's Toxic Substances Advisory Committee, 9-25-78 40910
HEW/NIH: Artificial Kidney—Chronic Uremia Advisory Committee, 10-18-78 40920
Cellular and Molecular Basis of Disease Review Committee, 10-30 and 10-31-78 40921
Committees Advisory to the National Cancer Institute, 10-20, 10-30, and 10-31-78 40924

V 43 / 178

HIGHLIGHTS—Continued

National Advisory Child Health and Human Development Council, 10–13 and 10–14–78 40924

Neurological and Communicative Disorders and Stroke Science Information Program Advisory Committee, 11–9–78 40924

Neurological Disorders Program—Project Review A Committee, 10–19 through 10–21–78 40923

Neurological Disorders Program—Project Review B Committee, 11–2 through 11–4–78 40923

Study Sections, meetings for the months of September through November 1978 40921

HEW/PHS: Safety and Occupational Health Study Section, 10–26 through 10–28–78 40924

National Commission on Unemployment Compensation: 9–22 through 9–24–78 40940

NFAH: Expansion Arts Advisory Panel, 10–6 and 10–7–78 40940

SEPARATE PARTS OF THIS ISSUE

Part II, USDA/FS 40998

Part III, Interior/Sec'y 41004

Part IV, USDA/FS 41010

SE 13 78

contents

AGRICULTURAL MARKETING SERVICE

Rules

Milk marketing orders:
Eastern Ohio-Western Pennsylvania 40801

Notices

Packers and stockyards, posting and deposting of stockyards:
Cowtown Horse Auction, Calif., et al 40895
Malvern Livestock Auction Co., Ark., et al 40895

AGRICULTURE DEPARTMENT

See also Agricultural Marketing Service; Forest Service; Soil Conservation Service.

Proposed Rules

Exports under Agricultural Trade Development and Assistance Act; financing:
Ocean freight costs 40872

ALCOHOL, TOBACCO AND FIREARMS BUREAU

Notices

Authority delegations:
Assistant Director, Regulatory Enforcement; ATF tax claims 40971

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Notices

Meetings:
Expansion Arts Advisory Panel 40940

CENTER FOR DISEASE CONTROL

See Disease Control Center.

CIVIL AERONAUTICS BOARD

Rules

Organization and functions:
International Aviation Bureau, Director; schedule filing, etc 40803

Proposed Rules

Charters, public:
Modification of bond requirements 40880

Notices

Hearings, etc.:
Pan American-National acquisition case et al 40897
Texas International Airlines, Inc 40897
Transatlantic fare increases ... 40898

COMMERCE DEPARTMENT

See Industry and Trade Administration.

CUSTOMS SERVICE

Rules

Antidumping:
State-controlled-economy countries, merchandise from; correction 40804

DEFENSE DEPARTMENT

See also Defense Logistics Agency.

Proposed Rules

Civilian or contractual personnel; determinations of active duty and discharge 40884

DEFENSE LOGISTICS AGENCY

Rules

Motor vehicles, privately owned; registration 40806

Notices

Privacy Act; systems of records.. 40902

DISEASE CONTROL CENTER

Notices

Meetings:
National Institute for Occupational Safety and Health; study section 40924

DRUG ENFORCEMENT ADMINISTRATION

Proposed Rules

Schedules of controlled substances:
Pentazocine 40884

ECONOMIC REGULATORY ADMINISTRATION

Notices

Meetings:
Motor gasoline production conference 40904

EMERGENCY LOAN GUARANTEE BOARD

Rules

Deletion of CFR chapter 40803

ENERGY DEPARTMENT

See Economic Regulatory Administration; Federal Energy Regulatory Commission; Intergovernmental and Institutional Relations Office, Energy Department; Western Area Power Administration.

ENVIRONMENTAL PROTECTION AGENCY

Rules

Water pollution control; national discharge elimination system:
BAT requirement modifications; application deadlines . 40859

Notices

Food additive petitions:
Aldicarb 40914
Meetings:
Administrator's Toxic Substances Advisory Committee 40910
Pesticides; tolerance, registration, etc.:
Chlorpyrifos etc 40914
2-[(p-Chlorophenyl) phenylacetyl]-1,3-inandrone 40917
Dibromochloropropane (DBCP) 40911
2,4-D (2,4-Dichlorophenoxyacetic acid, alkylamine salt) .. 49016
Ethyl alpha-[(dimethoxyphosphinothioyl) thio] benzeneacetate, etc.; correction 40918
Malathion 40916
Mesurol 40915
Restricted use products; provisional cancellation; correction 40917
Water pollution control:
Federal Water Pollution Control Act, administration; nonexempt Federal contracts, grants, and loans; list of ineligible violating facilities 40911

FEDERAL COMMUNICATIONS COMMISSION

Proposed Rules

FM broadcast stations, table of assignments:
Minnesota 40887
New Jersey 40888
Maritime services, land and shipboard stations:
Scanning type receivers; provision for use on vessels fitted with VHF installations 40889
Telephone and telegraph companies:
Financial reporting and accounts; extension of time 40886
Television broadcast stations:
Multiple ownership; top-50 market policy; extension of time 40888

Notices

FM broadcast applications ready and available for processing 40918

FEDERAL ENERGY REGULATORY COMMISSION

Notices

Hearings, etc.:
Arkansas Louisiana Gas Co. et al 40905
Arkansas Power & Light Co. (2 documents) 40905
Colorado Interstate Gas Co ... 40906
Connecticut Light & Power Co 40906
Dayton Power & Light Co 40907
Duke Power Co 40907
Idaho Power Co. (3 documents) 40907, 40908
Mississippi Power & Light Co. (2 documents) 40908
Northern Natural Gas Co 40909

FEDERAL TRADE COMMISSION

Rules

Prohibited trade practices:
Cooga Mooga, Inc., et al 40804

V 43 / 178

Proposed Rules

Consent orders:
Louisiana-Pacific Corp 40882

FISCAL SERVICE

Notices

Surety companies acceptable on Federal bonds:
Ranger Insurance Co. 40971

FISH AND WILDLIFE SERVICE

Rules

Hunting:
Salton Sea National Wildlife Refuge, et al., Calif 40867

Proposed Rules

Hunting:
Aransas National Wildlife Refuge, Tex 40893

FOREST SERVICE

Rules

Youth Conservation Corps programs; grants to States for establishment 40998

Notices

Meetings:
Scientists Committee, National Forest Management Act .. 40895
Roadless Area Review and Evaluation (RARE II), progress report 41010

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Disease Control Center; Health Resources Administration; National Institutes of Health; Public Health Service.

Notices

Organization, functions, and authority delegations:
Civil Rights Office 40927
Planning and Evaluation, Office of Assistant Secretary .. 40925
Social Security Administration 40933

HEALTH RESOURCES ADMINISTRATION

Notices

Health planning and development grants to States; population determinations; annual list 40918
Health services areas:
Population determinations; annual list 40920

HERITAGE CONSERVATION AND RECREATION SERVICE

Rules

Historic preservation grant-in-aid projects; interim standards 40808

IMMIGRATION AND NATURALIZATION SERVICE

Rules

Asylum; filing of applications in exclusion proceedings 40801

Proposed Rules

Asylum requests; filing after beginning or completion of deportation proceedings 40879

INDIAN AFFAIRS BUREAU

Rules

Law and order on Indian reservations:
Menominee Indian Reservation, offenses committed on 40804

INDUSTRY AND TRADE ADMINISTRATION

Notices

Meetings:
East-West Trade Advisory Committee 40901

INTERGOVERNMENTAL AND INSTITUTIONAL RELATIONS OFFICE, ENERGY DEPARTMENT

Notices

Solar Energy Domestic Policy Review, status report; availability 40909

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Heritage Conservation and Recreation Service; Indian Affairs Bureau; Land Management Bureau; National Park Service.

Rules

Youth Conservation Corps programs; grants to States for establishment 41004

INTERNATIONAL TRADE COMMISSION

Notices

Import investigations:
Automotive and motorcycle repair manuals from United Kingdom 40935
Standard household incandescent light bulbs from Hungary 40937
Multilateral Trade Negotiations, Geneva; negotiations; effects of implementation, study 40935

INTERSTATE COMMERCE COMMISSION

Proposed Rules

Railroad car service orders:
Freight cars, repair and retirement 40891

Notices

Fourth section applications for relief 40972
Hearing assignments 40971
Motor carriers:
Irregular route property carriers; gateway elimination 40972
Motor carrier, broker, water carrier, and freight forwarder applications; correction ... 40971
Temporary authority applications (2 documents) 40981-40984
Petitions, applications, finance matters (including temporary authorities), railroad abandonments, alternate route deviations, and intrastate applications 40987
Petitions filing:
Trailways, Inc 40972

JUSTICE DEPARTMENT

See Drug Enforcement Administration; Immigration and Naturalization Service; Law Enforcement Assistance Administration.

LAND MANAGEMENT BUREAU

Notices

Outer Continental Shelf:
Oil and gas leasing, Western and Central Gulf of Mexico 40933

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Notices

Criminal Justice Education and Training Office; guidelines for commentary internship program 40939

MANAGEMENT AND BUDGET OFFICE

Notices

Budget recissions and deferrals. 40941

NATIONAL INSTITUTES OF HEALTH

Notices

Meetings:
Allergy and Immunology study section et al 40921
Artificial Kidney-Chronic Uremia Advisory Committee 40920
Cellular and Molecular Basis of Disease Review Committee 40921
Child Health and Human Development National Advisory Council 40923
Neurological and Communicative Disorders and Stroke Science Information Program Advisory Committee .. 40924
Neurological Disorders Program-Project Review A Committee 40923
Neurological Disorders Program-Project Review B Committee 40923
Virus Cancer Program Scientific Review Committee et al 40924

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rules

Fishery conservation and management:
Northern anchovy fishery 40868

NATIONAL PARK SERVICE

Notices

Authority delegations:
Hawaii Volcanoes National Park, Supervisory Administrative Technician 40934
Concession permits, etc.:
Natchez Trace Parkway 40934

NUCLEAR REGULATORY COMMISSION

Notices

Applications, etc.:
Public Service Co. of Oklahoma 40940
Standard review plan; issuance and availability 40940

POSTAL RATE COMMISSION

Notices

Visits to postal facilities 40956

POSTAL SERVICE

Rules

Postal Service Manual:
Domestic mail service, complaints, mail security, etc 40810

Notices

Rates and fees:
Environmental negative declaration (3 documents) .. 40956-40960

PUBLIC HEALTH SERVICE

Rules

Grants:
Allied health personnel, advanced training; traineeships 40862

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
American Electric Power Co., Inc 40962
Continental Assurance Co. et al 40963
Nineveh Water Co. et al 40964
Trustees' Equity Fund, Inc 40965
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc 40967
Boston Stock Exchange Clearing Corp 40968
Depository Trust Co. (2 documents) 40969
New England Securities Depository Trust Co 40970
Pacific Stock Exchange Inc 40965

SOIL CONSERVATION SERVICE

Notices

Environmental statements on watershed projects; availability, etc.:
Chalk Bluff Public Water-Based Recreation R.C. & D. Measure, Ark 40895
North Idaho College Public Water-Based Recreation R. C. & D. Measure, Idaho 40896
Tunkhannock River Street Park Public Water-Based Recreation and Critical Area Treatment R. C. & D. Measure, Pa. 40896

TENNESSEE VALLEY AUTHORITY

Notices

Environmental statements; availability, etc.:
Ocoee No. 2 Hydro Plant, Polk County, Tenn.; hearing 40970

TREASURY DEPARTMENT

See Alcohol, Tobacco and Firearms Bureau; Customs Service; Fiscal Service.

UNEMPLOYMENT COMPENSATION, NATIONAL COMMISSION

Notices

Meetings 40940

WESTERN AREA POWER ADMINISTRATION

Notices

Meetings:
Marketing Power from Navaho Project 40909

SEP 13 1978

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

7 CFR
1036 40801
PROPOSED RULES:
17 40872
8 CFR
108 40879
236 40801
PROPOSED RULES:
108 40879
13 CFR
Ch. IV 40803
14 CFR
385 40803
PROPOSED RULES:
380 40880
16 CFR
13 40804
PROPOSED RULES:
13 40882
19 CFR
153 40804
21 CFR
PROPOSED RULES:
1308 40884
25 CFR
11 40804
32 CFR
1288 40806
PROPOSED RULES:
47 40884
36 CFR
214 40998
1207 40808
39 CFR
111 40810
40 CFR
125 40859
42 CFR
58 40862
43 CFR
26 41004
47 CFR
PROPOSED RULES:
31 40886
33 40886
42 40886
43 40886
73 (3documents) 40887, 40888
83 40889
49 CFR
PROPOSED RULES:
1033 40891
50 CFR
32 40867
662 40868
PROPOSED RULES:
32 40893

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.

1 CFR
Ch. I 39069
3 CFR
EXECUTIVE ORDERS:
12024 (See EO 12078) 39741
12078 39741
MEMORANDUMS:
September 8, 1978 40449
PROCLAMATIONS:
4591 39561
4592 39739
4593 40197
4594 40451
5 CFR
213 ..... 39069, 39070, 39951-39953, 40453
7 CFR
2 39953
245 39070
250 39070
282 ..... 39074, 39075
301 40528
330 39953
908 39743
910 ..... 39080, 39319, 39954
911 39319
915 39321
927 39323
931 39323
932 39743
993 40199
1004 ..... 39744, 39745
1036 40801
1071 39325
1073 39326
1097 39328
1102 39328
1104 39329
1106 39331
1108 39333
1120 39334
1126 39335
1132 39337
1133 39955
1138 39338
1435 39563
1823 ..... 39746, 40199
PROPOSED RULES:
6 ..... 39110, 40530
17 40872
722 39117
918 40027
948 40027
965 40028
981 39393
1079 40028
1126 40030
1427 39118
1701 40036
8 CFR
108 40879
236 40801
8 CFR—Continued
PROPOSED RULES:
108 40879
9 CFR
91 39080
94 39956
355 39340
PROPOSED RULES:
92 40037
317 39394
318 ..... 39119, 39394
319 39394
10 CFR
35 39747
205 ..... 39080, 40200
212 40682
PROPOSED RULES:
51 39801
211 40233
212 40233
430 40192
1004 40530
12 CFR
202 39341
226 40210
13 CFR
107 39563
Ch. IV 40803
PROPOSED RULES:
130 39394
14 CFR
39 ..... 39346-39348, 39748, 39750
71 ..... 39439, 39750-39753, 40211-40213
73 ..... 40214, 40215
75 39753-39755
221 39536
241 40454
302 39536
385 40803
399 39522
PROPOSED RULES:
39 40233
71 ..... 39803, 40237
73 ..... 39803, 39804
223 39805
250 39806
298 39587
380 ..... 39807, 40880
16 CFR
1 39083
13 ..... 39350, 40454, 40804
1209 39564
PROPOSED RULES:
13 ..... 39120, 40536, 40537, 40882
1209 39564
17 CFR
1 39956
210 40688
211 40730
239 39554
249 39554
270 39553
274 39553
PROPOSED RULES:
210 ..... 40724, 40726
229 40720
270 39396
18 CFR
1 39982
3 40217
4 40217
16 40217
131 40217
PROPOSED RULES:
1 ..... 39122, 40037
19 CFR
153 40804
PROPOSED RULES:
6 40238
20 CFR
416 39564
901 39756
PROPOSED RULES:
404 39286
620 39124
653 39124
21 CFR
510 39086
520 ..... 39084, 39085
522 40455
524 40455
558 ..... 39086, 39350
561 40456
PROPOSED RULES:
145 39126
310 39126
314 39126
337 39544
436 40038
469 40038
1308 40884
23 CFR
PROPOSED RULES:
625 40539
24 CFR
221 39570
886 40402
1916 39572
1917 ..... 39351-39360, 39573-39582, 39761-39771, 39983-39987
1920 39771-39774
PROPOSED RULES:
201 39593
1917 39129-39141
3500 ..... 39701, 40539

V 43 / 178
SE 13 78

25 CFR

11 40804
43k 40457
54 39361
178 40458
258 39086

26 CFR

1 ..... 40219, 40459
301 ..... 40219, 40459

PROPOSED RULES:

1 ..... 39142, 39822
31 ..... 39142, 39149
301 39142

29 CFR

1601 39775
1610 40222
1910 39087

PROPOSED RULES:

1601 39831

30 CFR

41 39988
70 40760
71 40760

PROPOSED RULES:

55 40766
56 40766
57 40766

31 CFR

51 40223
223 39088

32 CFR

42 39988
581 40498
902 39089
931 39101
1288 40806
1804 39776

PROPOSED RULES:

47 40884

33 CFR

3 40224
117 39777
161 ..... 39994, 40224

PROPOSED RULES:

89 39946
126 39832

36 CFR

214 40998
1207 40808

37 CFR

302 40225
303 40498
305 40501

38 CFR

2 39364
14 39365

PROPOSED RULES:

3 40239
21 39832
36 ..... 39150, 39833

39 CFR

111 ..... 39583, 39995, 40810

PROPOSED RULES:

111 39593

40 CFR

2 39997
51 40009
52 ..... 39366, 40009-40011
65 ..... 40015, 40226
81 ..... 39101, 40436, 40502
125 40859
600 39367

PROPOSED RULES:

35 40742
52 ..... 39151, 39152, 40009-40011, 40240, 40245
65 ..... 40015, 39153, 39397, 39834, 40015, 40247, 40248, 40539
81 40412
125 39282
130 40742
131 40742
151 39276
162 39644
180 40249
233 39398

41 CFR

Ch. I 40015
Ch. 18 40018
Ch. 101 40019
3-56 39778
5B-2 40227
14-1 ..... 39377, 39787
14-2 ..... 39378, 39788
14-3 39788
14-4 39378
14-7 39379
14-12 39379
14-18 39379
14-30 39380
14-55 39380
101-37 40228

PROPOSED RULES:

101-20 40250

42 CFR

54a 40386
57 39380
58 ..... 39384, 40862

PROPOSED RULES:

110 40376
405 39155
449 39155

43 CFR

26 41004
6000 40734
6010 40734
6200 40734
6220 40734
6250 40734
6260 40734
6270 40734
6290 40734
8000 40734
8200 40734
8300 40734
8340 40734
8350 40734
8360 40734
8370 40735

45 CFR

5b 40229
801 39387

45 CFR—Continued

PROPOSED RULES:

1340 39593

46 CFR

510 40524
512 40524
542 39102

PROPOSED RULES:

151 40250
153 40250
531 39399
536 39399

47 CFR

73 ..... 39388, 39584, 39704, 40250, 40251
74 39704

PROPOSED RULES:

31 ..... 39385, 40886
33 ..... 39385, 40886
42 ..... 39385, 40886
43 ..... 39385, 40886
63 40541
73 ..... 39400, 39593, 39594, 40250, 40251, 40887, 40888
83 40889

49 CFR

172 39789
173 39791
175 39792
176 39792
179 39792
192 39389
571 39390
581 40229
1033 ..... 39103, 39104, 39794-39796
1056 39798

PROPOSED RULES:

172 39835
173 39835
192 39401
195 39402
571 39835
Ch. X 39157
1033 40891
1307 39157
1309 39157
1310 39157
1320 39404
1322 39404

50 CFR

20 39186
26 39798
32 ..... 39105-39107, 39584, 39585, 39799, 39800, 40021-40024, 40232, 40524, 40867
216 40025
285 39107
611 39586
651 39108
652 40527
662 40868
810 39306

PROPOSED RULES:

32 40893
230 40045
652 39161

FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

Pages	*Date*
39069-39317	Sept. 1
39319-39560	5
39561-39738	6
39739-39950	7
39951-40195	8
40197-40448	11
40449-40799	12
40801-41011	13

V 43 / 178 SE 13 78

V 43 / 178 SEP 13 78

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

Next Week's Deadlines for Comments on Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—
- Almonds grown in Calif; administrative rules and regulations; comments by 9-22-78 ..... 39393; 9-5-78
- Irish potatoes grown in Colorado—Area No. 2; proposed handling regulation; comments by 9-23-78 .. 40027; 9-8-78
- Tomatoes grown in Lower Rio Grande Valley in Texas; comments by 9-23-78 ..... 40028; 9-8-78

Farmers Home Administration—
- Emergency, disaster assistance; comments by 9-18-78 ..... 36594; 8-18-78
- Rural housing program loans; comments by 9-20-78 ..... 36952; 8-21-78

CIVIL AERONAUTICS BOARD

- Oversale rules; advertising disclosure of noncompliance; comments by 9-22-78 ..... 39806; 9-7-78
- U.S. corporations not qualifying as U.S. citizens; evaluation of rulemaking proceeding; comments by 9-18-78 ... 32308; 7-26-78

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration
- Atlantic billfishes and sharks; comments by 9-18-78 ..... 38448; 8-28-78 [Originally published at 43 FR 32840, 7-28-78; corrected at 43 FR 35736, 8-11-78]
- Atlantic surf clam and ocean quahog fisheries, Westport, Mass., 9-18-78 39161; 9-1-78
- Gulf of Alaska groundfish; implementation of fishery management plan; comments by 9-21-78 ..... 34825; 8-7-78

CONSUMER PRODUCT SAFETY COMMISSION

- Investigations, inspections and inquiries under the Consumer Product Safety Act; comments by 9-22-78 ..... 35440; 8-9-78

DEFENSE DEPARTMENT

Corps of Engineers, Army Department—
- Danger zone regulations, Pacific Ocean, Calif.; comments by 9-18-78 ..... 36283; 8-16-78

ENVIRONMENTAL PROTECTION AGENCY

- Air quality; approval of delay in compliance with State implementation plan for Kaiser Aluminum and Chemical Corp.; comments by 9-22-78 ..... 37468; 8-23-78
- Proposed tolerance for the pesticide chemical *N*-(mercaptomethyl)phthalimide S-(o,O-dimethyl phosphorodithioate); comments by 9-18-78 ..... 36655; 8-18-78

FEDERAL COMMUNICATIONS COMMISSION

- FM broadcast stations; table of assignments: Klamath Falls, Oreg.; reply comments by 9-18-78 ..... 30079; 7-13-78
- Weed, Calif.; reply comments by 9-18-78 ..... 30079; 7-13-78
- Jurisdictional separation of telephone companies; integration of rates and services between U.S. Mainland and Hawaii, Alaska, and Puerto Rico/Virgin Islands; reply comments by 9-22-78 ... 30840; 7-18-78
- Revision of processing policies for a waiver of the telephone company, cable television "cross ownership rules"; comments by 9-18-78 ..... 36286; 8-16-78
- UHF and VHF television; common use of TV towers; reply comments extended to 9-22-78 ..... 36117; 8-15-78 [Originally published at 43 FR 30584, 7-17-78]

FEDERAL TRADE COMMISSION

- Funeral industry practices; comments by 9-20-78 ..... 26588; 6-21-78 [Comments period extended at 43 FR 34500, 8-4-78]
- Home insulation; labeling and advertising; comments by 9-22-78 ... 37203; 8-22-78
- Interco Inc. et al; consent agreement with analysis to aid public comment; comments by 9-18-78 ..... 31345; 7-21-78
- Textile products and leather wearing apparel; care labeling; comments by 9-18-78. 37459; 8-23-78—42875; 8-25-77

GENERAL SERVICES ADMINISTRATION

Federal Supply Service—
- GSA self-service stores; procedures for purchasing; comments by 9-22-78. 36488; 8-17-78

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—
- Papain; affirmation of GRAS status as a direct human food ingredient; comments by 9-19-78 ..... 31349; 7-21-78

Health Care Financing Administration—
- Medical assistance program; timely claims payment; comments by 9-18-78 36656; 8-18-78
- Pharmaceutical Reimbursement Board, maximum allowable cost limits on specified drugs; comments by 9-18-78 ..... 36698; 8-18-78

Office of the Secretary—
- Procurement of drugs and medical supplies and maximum allowable cost for drug products; comments by 9-18-78. 33941; 8-2-78

Public Health Service—
- Research projects, grants; comments by 9-18-78 ..... 34507; 8-4-78

Social Security Administration—
- Federal old-age, survivors, and disability insurance; Deductions; reductions; nonpayments; increases spouse's benefits—reduction for government pension; comments by 9-18-78 .. 34455; 8-4-78

INTERIOR DEPARTMENT

Fish and Wildlife Service—
- Endangered Species Convention; addition of certain mammals and insects to appendix I or II; comments by 9-18-78 ..... 36662; 8-18-78

Indian Affairs Bureau—
- Navajo-Hopi joint use area grazing; revision of regulations to allow for grazing permits pending relocation; comments by 9-18-78 ..... 36647; 8-18-78

INTERSTATE COMMERCE COMMISSION

- Grant of motor carrier operating authority to an applicant who intends to use it primarily as an incident to the carriage of its own goods and its own nontransportation business; comments by 9-18-78 ..... 33945; 8-2-78
- Regional Rail Reorganization Act of 1973; implementation; submission of cost data to justify reimbursement; comments by 9-18-78 ..... 36455; 8-17-78

JUSTICE DEPARTMENT

Attorney General—
- Privacy Act of 1974; exemption of records systems; comments by 9-18-78 36486; 8-17-78

LABOR DEPARTMENT

Occupational Safety and Health Administration—
- Access to employee exposure and medical records; comments by 9-22-78 31371; 7-21-78

Pension and Welfare Benefit Programs—
- Employee Welfare and Pension Benefit Plans Advisory Council; comments by 9-18-78 ..... 37234; 8-22-78

SECURITIES AND EXCHANGE COMMISSION

- Bearing of distribution expenses by mutual funds; comments extended to 9-21-78. 36643; 8-18-78 [First published at 43 FR 23589, May 31, 1978]
- Shareholder communications, shareholder participation in the corporate electoral process and corporate governance generally; comments by 9-18-78 ..... 31945; 7-24-78

TREASURY DEPARTMENT

Internal Revenue Service—
- Farm property; definition of net earnings from self-employment; material participation requirements; comments by 9-18-78 ..... 31039; 7-19-78
- Tax-exempt organizations; consolidated return regulations; comments by 9-18-78 ..... 31038; 7-19-78

VETERANS ADMINISTRATION

- Veterans education, collegiate undergraduate, credit-hour basis; comments by 9-21-78 ..... 37204; 8-22-78

Next Week's Meetings

AGRICULTURE DEPARTMENT

Forest Service—
- National Forest System Advisory Committee, Dillon, Colo. (open), 9-21 and 9-22-78 ..... 36988; 8-21-78

Soil Conservation Service—
- RCA National meetings, Oakland, Calif. (open), 9-19-78 ..... 36495; 8-17-78

ARTS AND HUMANITIES NATIONAL FOUNDATION

- Humanities Panel Advisory Committee (closed) Washington, D.C. (3 documents) 9-20 thru 9-22-78 ..... 38953-4; 8-31-78

CIVIL RIGHTS COMMISSION

- Illinois Advisory Committee, Springfield, Ill. (open), 9-18-78 ..... 36128; 8-15-78
- Illinois Advisory Committee, Decatur, Ill. (open), 9-23-78 ..... 36128; 8-15-78
- Iowa Advisory Committee, Des Moines, Iowa (open), 9-19-78 ..... 37478; 8-23-78—36129; 8-15-78
- New Jersey Advisory Committee (open), 9-22 and 9-23-78 ..... 38613; 8-29-78
- New York Advisory Committee, New York, N.Y. (open), 9-21-78 ..... 36129; 8-15-78
- Wisconsin Advisory Committee, Milwaukee (open), 9-19-78 ..... 38613; 8-29-78
- Wyoming Advisory Committee (open) Cheyenne, Wyo. 9-23-78 ..... 39406; 9-5-78 [Originally published at 43 FR 36670, Aug. 18, 1978]

COMMERCE DEPARTMENT

Industry and Trade Administration—
- Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee (open), Washington, D.C. 9-20-78 ..... 39407; 9-5-78

National Oceanic and Atmospheric Administration—
- Mid-Atlantic Fishery Management Council, Dover, Del. (open), 9-22-78 ..... 39166; 9-1-78

Office of the Secretary—
- Commerce Technical Advisory Board, Washington, D.C. (open), 9-22 and 9-23-78 ..... 38451; 8-28-78

DEFENSE DEPARTMENT

Air Force Department—
- Scientific Advisory Board; Ad Hoc Committee to Review Air Force Human Resources Laboratory, Washington, D.C. (closed), 9-19 and 9-20-78 ..... 36504; 8-17-78

Army Department—
- Shoreline Erosion Advisory Panel, Seattle, Wash. (open), 9-21 through 9-22-78. 35375; 8-9-78

Defense Communications Agency—
- Scientific Advisory Group, Arlington, Va. (closed), 10-19 and 10-20-78 .. 36504; 8-17-78

Navy Department—
- Chief of Naval Operations Executive Panel Advisory Committee, Technology Sub-Panel, Washington, D.C. (closed), 9-18 and 9-19-78 ..... 38741; 8-30-78

Office of the Secretary—
- Defense Science Board Task Force of National/Tactical Interface, Washington, D.C. (closed), 9-21 and 9-22-78 38741; 8-30-78
- Electron Devices Advisory Group, New York, N.Y. (closed), 9-18 and 9-19-78 ..... 37479; 8-23-78
- Wage Committee, Washington, D.C. (closed), 9-19-78 ..... 30851; 7-18-78

EMPLOYMENT AND UNEMPLOYMENT STATISTICS NATIONAL COMMISSION

- Meeting, Washington, D.C., 9-21 through 9-23-78 ..... 39464; 9-5-78

ENERGY DEPARTMENT

- Energy conservation programs; Washington, D.C. (open), 9-21-78 ..... 29978; 7-12-78

Bonneville Power Administration—
- Proposed wholesale . . . Public Information and Public Comment Forums: Idaho Falls, Idaho (open), 9-21-78. 38356; 8-25-78
- Wenatchee, Wash. (open), 9-18-78. 38356; 8-25-78
- Spokane, Wash. (open), 9-19-78. 38356; 8-25-78
- Missoula, Mont. (open), 9-20-78 38356; 8-25-78

Energy Technology Office—
- Fossil Energy Advisory Committee, Laramie, Wyo. (open), 9-21-78. 38617; 8-29-78

ENVIRONMENTAL PROTECTION AGENCY

- National pollutant discharge elimination system, San Francisco, Calif. (open), 9-21-78 (2 documents) .. 37078; 8-21-78—39282; 9-1-78
- National pollutant discharge elimination system, Washington, D.C. (open), 9-19 and 9-21-78 (4 documents) ..... 37008; 8-21-78—37078; 8-21-78—39282; 9-1-78

FEDERAL COMMUNICATIONS COMMISSION

- Radio Technical Commission for Marine Services, Washington, D.C. (open), 9-19-78 ..... 36140; 8-15-78

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

- Washington, D.C. (partially open), 9-21-78 ..... 38471; 8-28-78

GENERAL SERVICES ADMINISTRATION

- Regional Public Advisory Panel on Architectural and Engineering Services, Washington, D.C. (open), 8-18-78. 33821; 8-1-78

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse, and Mental Health Administration—
- Alcohol Abuse and Alcoholism National Advisory Council (partially open) Rockville, Md. 9-18 and 9-19-78 ..... 33821; 8-1-78
- Biological Sciences Training Review Committee, Rockville, Md. (partially open), 9-22 and 9-23-78 ..... 36691; 8-18-78
- Drug Abuse National Advisory Council, Rockville, Md. (partially open), 9-21 and 9-22-78 ..... 35549; 8-10-78

Education Office—
- Adult Education National Advisory Council (open), San Francisco, Calif. 9-21 and 9-22-78 ..... 37762; 8-24-78
- Women's Educational Programs Agency National Advisory Council, Washington, D.C. 9-18 through 9-20-78 ..... 37763; 8-24-78

Food and Drug Administration—
- Miscellaneous External Drug Products Panel, Rockville, Md. (open), 9-17 and 9-18-78 ..... 36692; 8-18-78

Health Resources Administration—
- Health Planning and Development National Council, Washington, D.C. (open), 9-18-78 ..... 39180; 9-1-78

National Institute of Education—
- Panel for the Review of Laboratory and Center Operations (closed), Denver, Colo. 9-23 and 9-24-78 ..... 40059; 9-8-78

National Institutes of Health—
- Bladder and Prostatic Cancer Review Committee (partially open), Boston, Mass. 9-21-78 ..... 35112; 8-8-78
- Lipid Metabolism Advisory Committee, Bethesda, Md. (open), 9-19-78 ..... 37220; 8-22-78
- National Advisory Dental Research Council, Bethesda, Md. (partially open), 9-21 and 9-22-78 ..... 30357; 7-14-78
- National Advisory Eye Council (partially open), Bethesda, Md. 9-20 through 9-22-78 ..... 35110; 8-8-78
- National Advisory Neurological and Communicative Disorders and Stroke Council Planning Subcommittee (partially open), Bethesda, Md. 9-21-78 35111; 8-8-78
- National Advisory Research Resources Council, Bethesda, Md. (partially open), 9-18 and 9-19-78 ..... 36004; 8-14-78
- National Arthritis Advisory Board, Bethesda, Md. (open), 9-21-78 ..... 32190; 7-25-78
- National Cancer Advisory Board President's Cancer Panel, Board Subcommittee, Bethesda, Md. (open), 9-18 and 9-19-78 ..... 37222; 8-22-78
- National Commission on Digestive Diseases, Bethesda, Md. (open), 9-18 and 9-19-78 ..... 32190; 7-25-78
- National Heart, Lung, and Blood Advisory Council and its Manpower Subcommittee and Research Committee (partially open), Bethesda, Md. 9-21 through 9-23-78 ..... 35110; 8-8-78
- State-of-the-Art Conference on Lung Cancer (partially open), Reston, Va. 9-18 through 9-20-78 ..... 35112; 8-8-78
- Virus Cancer Program Scientific Review Committee (partially open), Bethesda, Md. 9-18-78 ..... 35112; 8-8-78

Social Security Administration—
- Social Security Advisory Council, Washington, D.C. (open), 9-19-78 ..... 38115; 8-25-78

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of the Secretary—
- Task Force on Tenant Participation in the Management of Low-Income Housing (open) Washington, D.C. 9-20 and 9-21-78 ..... 39441; 9-5-78

V 43 / 178

INTERIOR DEPARTMENT

Land Management Bureau—
- Cedar City District Grazing Advisory Board, Kanab, Utah (open), 9–23–78 .... 36517; 8–17–78
- Shoshone District Grazing Advisory Board (open), Shoshone, Idaho, 9–19–78. 35115; 8–8–78

JUSTICE DEPARTMENT

Law Enforcement Assistance Administration—
- Criminal Justice National Minority Advisory Council, Washington, D.C. (open), 9–22 and 9–23–78 ..... 38952; 8–31–78

LABOR DEPARTMENT

Pension and Welfare Benefit Programs—
- Employee Welfare and Pension Benefit Plans Advisory Council, Chicago, Ill. (open), 9–21–78 ..... 37234; 8–22–78

NATIONAL SCIENCE FOUNDATION
- Advisory Committee for Applied Science and Research Applications Policy, Integrated Basic Research Advisory Subcommittee, Washington, D.C. (open), 9–18 and 9–19–78 ..... 38474; 8–28–78
- Ocean Sciences Advisory Committee, Ad Hoc Subcommittee on Oceanographic Equipment, Washington, D.C. (closed), 9–19–78 ..... 37015; 8–21–78
- Ocean Sciences Advisory Committee, Ad Hoc Subcommittee on Ship Operations and Shipboard Technicians, Washington, D.C. (closed), 9–18–78 ... 37015; 8–21–78

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
- Meeting, Washington, D.C. (open), 9–21–78 ..... 39925; 9–7–78

RAILROAD RETIREMENT BOARD
- Actuarial Advisory Committee (open), Chicago, Ill. 9–21–78 ..... 33849; 8–1–78

SMALL BUSINESS ADMINISTRATION
- Region 1 Advisory Council, Providence, R.I. (open), 9–20–78 ..... 38655; 8–29–78
- Region VI Advisory Council, Harlingen, Tex. (open), 9–19–78 ..... 38655; 8–29–78
- Region VI Advisory Council, San Antonio, Tex. (open), 9–21–78 ..... 37048; 8–21–78
- Region VII Advisory Council, Omaha, Nebr. (open), 9–18–78 ..... 37294; 8–22–78
- Region VII Advisory Council, Wichita, Kans. (open), 9–22–78 ..... 37294; 8–22–78
- Region VIII Advisory Council, Denver, Colo. (open), 9–20–78 ..... 34857; 8–7–78
- Region VIII—Advisory Council Executive Board, Denver, Colo. (open), 9–21–78. 36743; 8–18–78
- Region X Advisory Council, Boise, Idaho (open), 9–21–78 ..... 38656; 8–29–78

STATE DEPARTMENT

Office of the Secretary—
- Advisory Committee on the 1979 World Administrative Radio Conference, Washington, D.C. (open), 9–20–78..... 36744; 8–18–78
- Secretary of State's Advisory Committee on Private International Law; Study Group on Transnational Bankruptcy Problems, Washington, D.C. (open), 9–19–78 ..... 31253; 7–20–78
- Shipping Coordinating Committee, Washington, D.C. (open), 9–20–78..... 36153; 8–15–78
- Shipping Coordinating Committee, Committee on Ocean Dumping, Washington, D.C. (open), 9–19–78 .. 36745; 8–18–78
- Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Washington, D.C. (open), 9–21–78 (2 documents) ... 36745; 8–18–78—39204; 9–1–78
- Study Group 1 of the U.S. Organization for the International Radio Consultative Committee (CCIR), Washington, D.C. (open), 9–20–78 ..... 36746; 8–18–78
- U.S. Organization for the International Telegraph and Telephone Consultative Committee, study group 1, Washington, D.C. (open), 9–21–78 .. 38478; 8–28–78

TRANSPORTATION DEPARTMENT

Coast Guard—
- Ship Structure Subcommittee, Washington, D.C. (open), 9–20–78 ..... 37050; 8–21–78

Federal Aviation Administration—
- RTCA Special Committee 133—Airborne Weather and Ground Mapping Pulsed Radar, Washington, D.C. (open), 9–19 through 9–21–78 ..... 37787; 8–24–78

UNEMPLOYMENT COMPENSATION NATIONAL COMMISSION
- Anchorage, Alaska, 9–22 through 9–24–78 ..... 34847; 8–7–78

VETERANS ADMINISTRATION
- Veterans Administration Wage Committee, Washington, D.C. (closed), 9–21–78 ..... 24934; 6–8–78

Next Week's Public Hearings

AGRICULTURE DEPARTMENT

Forest Service—
- Cranberry Wilderness Study Area Report, East Charleston, W. Va., 9–21–78..... 33778; 8–1–78
- Cranberry Wilderness Study Area Report, Marlinton, W. Va., 9–22–78 ..... 33778; 8–1–78

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—
- Food labeling, Little Rock, Ark., 9–18 and 9–19–78..... 25296; 6–9–78

NUCLEAR REGULATORY COMMISSION
- Review of NRC Decommissioning Policy, Philadelphia, Pa., 9–18 through 9–20–78 ..... 34564; 8–4–78

TRANSPORTATION DEPARTMENT

Federal Highway Administration—
- Hours of service of truck and bus drivers; proposed revision of Federal motor carrier safety regulations, New York City, N.Y., 9–20 through 9–22–78 ..... 38609; 8–29–78

TREASURY DEPARTMENT

Internal Revenue Service—
- Depreciation of property; rehabilitation expenditures with respect to low-income rental housing, Washington, D.C., 9–21–78 ..... 31037; 7–19–78

VETERANS ADMINISTRATION
- Station Committee on Educational Allowances, Los Angeles, Calif., 9–18–78 ..... 38660; 8–29–78

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing: September 12, 1978]

- S. 2543 ..... Pub. L. 95–360
  To amend title 39 of the United States Code to provide better enforcement procedures for preventing fraudulent solicitations through the mails. (Sep. 9, 1978; 92 Stat. 594) Price: $.50
- H.R. 8397 ..... Pub. L. 95–361
  To provide that a certain tract of land in Pinal County, Arizona, held in trust by the United States for the Papago Indian Tribe, be declared a part of the Papago Indian Reservation. (Sep. 10, 1978; 92 Stat. 595) Price: $.50
- H.R. 185 ..... Pub. L. 95–362
  To amend section 2632 of title 10, United States Code, to provide the Secretary of the department in which the Coast Guard is operating with the authority to transport Coast Guard employees to and from certain places of employment. (Sep. 11, 1978; 92 Stat. 596) Price: $.50
- H.R. 12106 ..... Pub. L. 95–363
  Independent Safety Board Act Amendment of 1978. (Sep. 11, 1978; 92 Stat. 597) Price: $.50

Documents Relating to Federal Grants Programs

This is a list of documents relating to Federal grants programs which were published in the FEDERAL REGISTER during the previous week.

Rules Going Into Effect:
- DOD/DCPA—Consolidated grants to insular areas; effective 10–1–78 39776; 9–7–78

Other Items of Interest:
- Labor/ETA—Research on Hispanic American Labor Market Problems and Issues; grant applications approved for fiscal year 1978 ..... 40069; 9–8–78
- Youth Employment and Training Programs (YETP) for youths who are members of migrant and other seasonally employed farmworker families; announcement of selection of potential sponsors for funds..... 40070; 9–8–78

SEP 13 1978

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410–02]

Title 7—Agriculture

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 36]

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

Order Suspending a Certain Provision

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action relaxes for September 1978 the shipping requirement for supply plants to qualify for regulatory status under the order. The action was requested by the operator of a pool supply plant to avoid making unnecessary and uneconomic movements of milk in qualifying the supply plant for September. The suspension will provide interim relief for regulated handlers until amendments to the order, which were considered at a public hearing in October 1977, become effective on October 1, 1978.

DATE: Effective September 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–7183.

SUPPLEMENTARY INFORMATION: This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the eastern Ohio-western Pennsylvania marketing area.

It is hereby found and determined that for the month of September 1978 the following provision of the order does not tend to effectuate the declared policy of the Act:

In § 1036.7(b), the word "September".

STATEMENT OF CONSIDERATION

The suspension will reduce (from 50 to 40 percent) for September 1978 the proportion of milk receipts at a supply plant that must be shipped to pool distributing plants and/or sold as route disposition in the marketing area to qualify the supply plant as a pool plant. The current performance standards for the pooling of a supply plant require that for September such disposition be not less than 50 percent of the total quantity of milk approved for fluid use that is received at the plant from producers or cooperative associations, or diverted from it to pool plants and nonpool plants.

The suspension was required by a pool supply plant operator whose plant is located at Titusville, Pa. The handler indicated that without the suspension, he would have to make uneconomic movements of milk to maintain pool status for September. He asked for interim relief pending amendments to the order which were recently announced by the Department.

Beginning October 1, 1978, the supply plant shipping requirement under the order will be reduced 10 percentage points for each month. An amended order providing for this change was issued on August 28, 1978 (43 FR 38797).

In view of the indication that the present 50 percent shipping requirement for this September will likely cause the supply plant operator to have to make uneconomic movements of milk in order to maintain continued pool status for his plant and since it has been found appropriate on the basis of a hearing to lower the pool supply plant shipping requirement under the order, it is concluded that action should be taken to provide the same shipping requirement for pooling a supply plant this September that the amended order provides effective October 1, 1978. Such action will provide appropriate relief for the petitioner and for any other supply plant operator who may have similar marketing problems during September 1978.

All interested parties have had the opportunity through the amendatory proceeding to make their views known to the Department concerning relaxing the shipping requirements for a pool supply plant. All such views are fully considered in the determination of appropriate standards adopted in the amended order, which was approved by over 88 percent of the producers who participated in a referendum.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area for the month of September 1978;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) This suspension is based upon an amendatory proceeding for this order during which interested parties were afforded the opportunity to file written data, views or arguments concerning appropriate supply plant pooling standards.

Therefore, good cause exists for making this order effective upon publication in the FEDERAL REGISTER.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for September 1978.

((Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Effective date: September 13, 1978.

Signed at Washington, D.C., on: September 8, 1978.

JERRY C. HILL,
Deputy Assistant Secretary.

[FR Doc. 78–25757 Filed 9–12–78; 8:45 am]

[4410–01]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 108—ASYLUM

PART 236—EXCLUSION OF ALIENS

Asylum: Filing of Application in Exclusion Proceedings

AGENCY: Immigration and Naturalization Service, Justice.

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ACTION: Final rule.

SUMMARY: This final rule contains amendments of the regulations of the Immigration and Naturalization Service pertaining to applications for asylum submitted by aliens seeking to enter the United States at airports or seaports of entry. Existing Service regulations provide that asylum applications by those seeking to enter the United States must be filed with and adjudicated by a District Director. In order to give alien asylum applicants the fullest possible opportunity to present their claims, the Service will change its policy and revise its procedures in order to provide aliens who apply for asylum at airports or seaports of entry an evidentiary hearing on their asylum claim before an immigration judge in exclusion proceedings. Any person under a pending order of exclusion and deportation who prior to November 1, 1977, has submitted an application for asylum which was denied by a District Director, or is pending but has not been previously considered by an immigration judge, may, prior to December 31, 1978, submit a motion to reopen the exclusion proceedings to have the asylum application decided by an immigration judge under the new procedures. In the future, only those applicants for admission, who, because they are stowaways, crewmen, or temporarily excluded on national security grounds, are not entitled to an exclusion hearing, will submit their asylum applications to the District Director. These rules are being published to give effect to the Service's new policy. A Notice of Proposed Rulemaking, also published today, sets forth the Service's proposal to eliminate the District Director's role in processing asylum claims by aliens already in the United States in an unlawful status.

EFFECTIVE DATE: September 13, 1978.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536, telephone 202-376-8373.

Chapter I of Title 8 of the Code of Federal Regulations is hereby amended as follows:

1. 8 CFR 108.1 is revised by adding a new second sentence between the existing first and second sentences; amending the existing second sentence; and adding three new sentences between the revised second, and existing third, sentences. As revised 8 CFR 108.1 reads as follows:

§ 108.1 Application.

An applicant who is seeking admission to the United States at a land border port or preclearance station who wishes to apply for asylum shall be referred to the nearest American consul. In all other cases, application for asylum shall be submitted on Form I-589, "Request for Asylum in the United States." Except as otherwise provided in this paragraph, an application for asylum by an alien who is applying for admission to the United States at an airport or seaport for entry shall be submitted to the docket clerk for the immigration judge who shall consider that application in connection with an exclusion hearing as provided in § 236.3 of this chapter. A crewman or stowaway or alien temporarily excluded pursuant to section 235(c) of the act who is at a seaport or airport shall submit his application for asylum to the district director. An application for asylum by an alien who is within the United States and who is not under deportation proceedings shall be submitted to the district director having jurisdiction over his place of residence in the United States. The applicant's spouse and unmarried children under the age of 18 years may be included in the application.

2. Section 108.2 is amended by revising the title to read as follows:

§ 108.2 Decision by District Director.

* * * * *

3. 8 CFR 236 is amended by adding a new § 236.3. The third sentence of § 236.6 is amended. The first sentence of § 236.7(c) is amended. The amendments are set forth below.

§ 236.3 Application for asylum.

(a) *Applications on and after November 1, 1977.* (1) An alien subject to exclusion proceedings under this part who believes that he would be subject to persecution in the country to which he would be returned under an order of exclusion and deportation because of race, religion, nationality, membership in a particular social group, or political opinion may apply for asylum on Form I-589. Four copies of such application shall be submitted to the docket clerk before an exclusion hearing is commenced. If application has not been made prior to commencement of the hearing, the hearing may be adjourned for not more than ten days to allow an application to be filed.

(2) Form I-589 may be accompanied by a motion for summary judgment. Within 10 days after the filing of Form I-589, the Service may file and serve on the alien a motion for summary judgment or a reply to any such motion by the alien. Within 10 days of service the alien may file a response to the Service's motion or reply. The grant of a motion for summary judgment shall be subject to appeal as provided in § 236.7 If the immigration judge denies such motion, or if no such motion has been filed within ten days after filing of the Form I-589, the docket clerk shall send two copies of Form I-589 with supporting evidence to the Office of Refugee and Migration Affairs of the Bureau of Human Rights and Humanitarian Affairs of the Department of State, and shall calendar the case for hearing, which shall be deferred for a period not to exceed 30 days pending receipt of the Department of State's views. The reply, if any, from the Department of State, unless classified under Executive Order No. 11652 (37 FR 5209, March 19, 1972), as requiring protection from unauthorized disclosure in the interest of national security shall be given by the docket clerk to the alien and to the trial attorney.

(3) During the exclusion hearing, the applicant shall be examined under oath on his application and may present evidence on his behalf. The applicant has the burden of satisfying the Immigration Judge that he would be subject to persecution on account of race, religion, nationality, membership in a particular social group, or political opinion as claimed. The Trial Attorney may also present evidence for the record, and may submit information not of record to be considered by the Immigration Judge provided that such information is classified under Executive Order No. 11652 and that the Immigration Judge or the Board has determined that such information is relevant. When the Immigration Judge receives such nonrecord information he shall inform the applicant thereof and shall also inform him whether it concerns conditions generally in a specified country or the applicant himself. Whenever he believes he can do so consistently with safeguarding both the information and its source, the Immigration Judge should state more specifically the general nature of the information in order that the applicant may have an opportunity to offer opposing evidence. A decision based in whole or in part on such classified information shall state that such information is material to the decision. An alien seeking admission to the United States at a land border port will be processed in accordance with the provisions of § 108.1 of this chapter.

(b) *Applications prior to November 1, 1977.* Any person under a pending order of exclusion and deportation who prior to November 1, 1977, has submitted an application for asylum which was denied by a district director but was not considered by an Immigration Judge may, prior to December 31, 1978, submit a motion to reopen the exclusion proceedings, without fee, to have such application decided by an Immigration Judge in accordance with paragraph (a).

§ 236.6 Finality of order.

* * * When the order of the Immigration Judge is to admit the applicant, or to grant asylum by parole under section 212(d)(5) of the Immigration and Nationality Act, or to grant the application for adjustment under the conditions specified in § 245.2(a) of this chapter, the Immigration Judge shall place the applicant on notice that the decision is subject to appeal by the district director as provided in § 236.7(c).

§ 236.7 Appeals.

(a) * * *

(b) * * *

(c) *By district director.* The district director may, within five days from date of decision, appeal from an order of the Immigration Judge to admit the applicant, or to grant asylum, or to grant the application for adjustment. * * *

* * * * *

(Sec. 103; 8 U.S.C. 1103; Interpret or apply sec. 212(d)(5) and sec. 236 (8 U.S.C. 1182(d)(5) and 1226))

The amendments contained in this order are issued pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93-502 (88 Stat. 1561) and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) 28 CFR 0.105(b) and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary in this instance because the amendments relate to Service procedure and confer benefits on the persons affected thereby.

Effective date: The amendments contained in this order become effective on September 13, 1978.

Dated: September 8, 1978.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 78-25890 Filed 9-12-78; 8:45 am]

[4810-25]

Title 13—Business Credit and Assistance

CHAPTER IV—EMERGENCY LOAN GUARANTEE BOARD

DELETION OF CHAPTER

EDITORIAL NOTE: The Financial Counselor to the General Counsel, Department of the Treasury, informed the Office of the Federal Register that regulations presently codified as 13 CFR Chapter IV—Emergency Loan Guarantee Board have no future application, are of no current force or affect, and need no longer be published in the Code of Federal Regulations.

The basis for the requested deletion is the termination of the Board's authority to extend or renew guarantee commitments after December 31, 1978 (see Pub. L. 92-70), and a legal opinion on file in the Office of the General Counsel at the Treasury Department.

Therefore, pursuant to 1 CFR 8.2, Chapter IV—Emergency Loan Guarantee Board, of Title 13, Code of Federal Regulations, is deleted.

[6320-01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER E—ORGANIZATION REGULATIONS

[OR-132; Amdt. 71]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Delegation of Authority to the Director, Bureau of International Aviation

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule delegates authority to the Director of the Bureau of International Aviation to waive the 30-day advance notice aspect of part 213 schedule-filing requirements, and to handle certain foreign air carrier requests for authority to operate additional flights. We are adopting this order so that timely relief can be granted when necessary.

DATES: Adopted: September 7, 1978. Effective: September 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Mark Schwimmer, Civil Aeronautics Board, Office of the General Counsel, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: Under § 213.3 of the Economic Regulations (14 CFR 213.3), when the public interest requires it the Board may order a foreign air carrier to file, within 7 days, copies of its existing schedules of service between the United States and any foreign point and then to file copies of any proposed new schedules, or amendments to existing ones, at least 30 days before the inauguration date of the proposed service. A carrier may inaugurate the operations described in a proposed schedule 30 days after filing it, unless the Board issues an order disapproving the schedule. The Board's order would itself be subject to stay or disapproval by the President within 10 days after adoption.

As a result of market conditions, equipment maintenance problems, and other circumstances, foreign air carriers that have been ordered to file schedules often need to alter their schedules on less than 30 days' notice. These changes require waivers of the 30-day advance filing requirement. The Board finds it in the public interest to establish a procedure under which applications for these waivers can be considered quickly, so that timely relief can be granted to the carrier applicant when necessary. U.S. carriers often require similar speedy relief from foreign aeronautical authorities.

The Board has therefore decided to delegate to the Director of the Bureau of International Aviation the authority to approve or disapprove these waiver applications. This delegation does not authorize the Director to make any determinations about the merits of a proposed schedule of service filed under part 213; it delegates only the authority to dispose of the foreign air carrier's request for waiver of the 30-day requirement. The authority to issue an order disapproving the schedule before its anticipated inauguration date remains with the Board.

The Board has also decided to delegate to the BIA Director the authority to approve or disapprove requests by foreign air carriers for authority to operate additional flights for up to a 30-day period where an agreement, permit, or order requires prior Board approval of the flights. This delegated authority will be used only to approve occasional extra flights, like those that a carrier may wish to operate during peak periods. The delegation will allow these requests to be handled more quickly.

Since these amendments are administrative in nature, affecting rules of

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agency organization and procedure, the Board finds that notice and public procedure are unnecessary and that an immediate effective date is in the public interest.

Accordingly, the Civil Aeronautics Board amends part 385 of its Organization Regulations, Delegations and Review of Action under Delegation; Nonhearing Matters (14 CFR Part 385), as follows:

In § 385.26, new paragraphs (s) and (t) are added, to read:

§ 385.26 Delegation to the Director, Bureau of International Aviation.

The Board delegates to the Director, Bureau of International Aviation, the authority to:

* * * * *

(s) Approve or disapprove requests by foreign air carriers for waivers of the 30-day advance filing requirement for proposed service schedules whose filing the Board has ordered under § 213.3 of this chapter.

(t) Approve or disapprove requests by foreign air carriers for authority to operate additional flights for up to a 30-day period where an agreement, permit, or order requires prior Board approval of the flights.

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324); Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 F.R. 5989, (49 U.S.C. 1324 (note)).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-25760 Filed 9-12-78; 8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C—2925]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Cooga Mooga, Inc., et al.

AGENCY: Federal Trade Commision.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Los Angeles, Calif., marketer and promoter of Acne-Statin, a product advertised for the treatment of acne, to cease disseminating advertisements which misrepresent, through endorsements or otherwise, the characteristics, performance, efficacy or superiority of its skin products. Additionally, the firm would be required to maintain ad substantiation records for a specified period of time; and to pay a pro rata share of any restitution which might be ordered by the Commission or a court.

DATES: Complaint and Decision issued August 9, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Thomas J. Donegan, Jr., Assistant Director for Food and Drug Advertising, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, 202-724-1511.

SUPPLEMENTARY INFORMATION: On Tuesday, May 16, 1978, there was published in the FEDERAL REGISTER, 43 FR 21009, a proposed consent agreement with analysis In the Matter of Cooga Mooga, Inc., a corporation, and Charles E. Boone, individually and as corporate president of Cooga Mooga, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.15, Business status, advantages or connections; 13.15-150 Endorsement; 13.15-280 Unique or special status or advantage; § 13.20 Comparative data or merits; 13.20-20 Competitors' products; § 13.110 Endorsements, approval and testimonials; § 13.160 Promotional sales plans; § 13.170 Qualities or properities of product or service; 13.170 Cosmetic or beautifying; § 13.190 Results; § 13.210 Scientific tests: § 13.280 Unique nature or advantages. Subpart—Claiming or Using Endorsements or Testimonials Falsely or Misleadingly: § 13.330 Claiming or using endorsements or testimonials falsely; 13.330-69 Prominent persons. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-45 Maintain records; § 13.533-45(a) Advertising substantiation; § 13.533-55 Refunds, rebates and/or credits. Subpart—Disseminating Advertisements, Etc.: § 13.1043 Dissemeninating advertisements, etc. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1575 Competitive inferiority; § 13.1710 Qualities or properties; § 13.1740 Scientific or other relevant facts; § 13.1762 Tests, purported; § 13.1770 Unique nature or advantages.—Promotional Sales Plans: § 13.1830 Promotional sales plans. Subpart—Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-25761 Filed 9-12-78; 8:45 am]

[1] Copies of the complaint and decision and order are filed with the original document.

[1505-01]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 78-260]

PART 153—ANTIDUMPING

Antidumping Investigation Procedures Under Antidumping Act

Correction

In FR Doc. 78-22177 appearing on page 35262 in the issue of Wednesday, August 9, 1978 on page 35264 in the 3rd column, the last, paragraph "EFFECTIVE DATE", the first sentence should read, "These amendments will take effect on or after September 8, 1978, with respect to investigations initiated on or after that date, and to the extent practicable, will be applied to any investigations pending on the effective date.".

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—LAW AND ORDER

PART 11—LAW AND ORDER ON INDIAN RESERVATIONS

Offenses Committed on the Menominee Reservation

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: There is an urgent and compelling need on the Menominee reservation for substantive law which would allow the CFR court to prosecute offenders for frequently occurring violations. At the present time, Part 11 of the Code of Indian Tribal Offenses does not prohibit certain conduct and contains other general offenses where more specificity is desirable both to the law enforcement personnel and to persons under the jurisdiction of the code. This rule adds additional violations and expands the scope of existing violations.

EFFECTIVE DATE: September 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Elmer T. Nitzschke, Jr., Twin Cities Field Solicitor, Department of the Interior, 685 Federal Building, Fort Snelling Twin Cities, (Minn. 55111. Telephone: 612-725-3540.

SUPPLEMENTARY INFORMATION: Proposed regulations were published in the FEDERAL REGISTER, Vol. 43, No. 144 at 25448 and 25449 on June 13, 1978. No comments have been received during the 60 day commentary period. This rulemaking would amend the Code of Indian Tribal Offenses, 25 CFR § 11.38-11.87 NH, by adding several offenses that would be punishable only on the Menominee Indian Reservation. Wisconsin State law is adopted for traffic offenses, liquor violations, resisting or obstructing officers, juvenile offenses, breaking and entering and the possession of controlled substances. A provision of the Wisconsin Administration Code requiring a permit before setting a fire is also adopted. Menominee County ordinances are adopted concerning curfew and keeping of livestock. Ordinances of the town of Menominee are also adopted concerning firearms, control of dogs, and garbage and rubbish. The amendments also include a section providing for the extradition of Indians accused of committing a crime outside the reservation unless the Menominee Court of Indian Offenses finds there is probable cause to believe the Indian is guilty or that the Indian will probably not receive a fair trial in the State court.

The 30-day deferred effective date could result in a breakdown of the administration of justice on the Menominee Indian Reservation by seriously endangering life and property on the reservation. Therefore, the 30-day deferred effective date is dispensed with under the exception provided in subsection (d)(3) of 5 U.S.C. 553 (1970). Accordingly, this amendement will become effective September 13, 1978.

The primary authors of this document are: Elmer T. Nitzschke, Jr., whose address and telephone number are listed above, and Steven Felsenthal, formerly of Preloznik and Felsenthal (now Preloznik and Associates), 122 W. Mifflin Street, Madison, Wis. 53703. Telephone: 603-256-7711.

The authority for these amendments is contained in 5 U.S.C. 301 and 25 U.S.C. 2 and delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 230 DM 2.

Part 11 of Subchapter B of Chapter I of Title 25 of the Code of Federal Regulations is hereby amended as follows:

1. By adding a § 11.50ME to read as follows:

§ 11.50ME Traffic violations.

Until such time as the Menominee Tribe enacts its own traffic code, the provisions of the Wisconsin State Traffic Laws (chapter 346, Title 32 of Wisconsin Statutes) are hereby applicable to the operation of motor vehicles on the Menominee Reservation with the exception that any Indian found guilty of violating such laws shall, in lieu of the penalties provided by State law, be sentenced to labor for a period not to exceed six (6) months and may be deprived of the right to operate any motor vehicle for a period not to exceed six (6) months.

2. By adding a § 11.55ME to read as follows:

§ 11.55ME Liquor violations.

Until such time as the Menominee Tribe enacts its own liquor control ordinance, the provisions of the Wisconsin State laws found in Wis. Ann. §§ 176.01-176.91 relating to liquor control, are hereby incorporated by reference and made applicable to the buying, selling, and consumption of alcholic beverages on the Menominee Reservation, with the exception that any Indian found guilty of violating such law shall, in lieu of the penalties provided by State law, be sentenced to labor for a period not to exceed sixty (60) days.

3. By adding a § 11.70ME to read as follows:

§ 11.70ME Resisting or obstructing officers.

Until such time as the Menominee Tribe enacts its own ordinances dealing with resisting or obstructing an officer, the provisions of Wisconsin Statutes 946.41 are hereby incorporated by reference and made applicable with the exception that any Indian found guilty of violating the provisions of Wisconsin Statues 946.41(1) shall, in lieu of the penalties therein provided, be sentenced to labor for a period not to exceed sixty (60) days.

4. By adding §§ 11.88ME-11.98ME to read as follows:

§ 11.88ME Curfew.

Until such time as the Menominee Tribe enacts its own curfew ordinance, the provisions of Menominee County Ordinance No. 23A relating to curfew are hereby incorporated by reference and made applicable with the exception that any Indian parent or guardian found guilty of violating such law shall in lieu of the penalties provided by Menominee County Ordinance No. 23A be sentenced to labor for a period not to exceed five (5) days.

§ 11.89ME Firearms.

Until such time as the Menominee Tribe enacts its own firearms ordinance, the provisions of the town of Menominee Ordinance No. 39 relating to the use of firearms are hereby incorporated by reference and made applicable within the unincorporated villages of Keshena, Neopit, and Zoar, according to the plats thereof and additions thereto as recorded with the Register of Deeds of Menominee County, Wis., with the exception that any Indian found guilty of violating such laws shall, in lieu of the penalties provided by the said ordinance, be sentenced to labor for a period not to exceed thirty (30) days.

§ 11.90ME Keeping of livestock.

Until such time as the Menominee Tribe enacts its own ordinances dealing with the keeping of livestock, the provisions of Menominee County Zoning Ordinance, Article 6, Section 41, prohibiting the keeping of livestock within 200 feet of residential property lines are hereby incorporated by reference and made applicable with the exception that any Indian found guilty of violating such law shall, in lieu of the penalties provided by the Menominee County Zoning Ordinance, be sentenced to labor for a period not to exceed thirty (30) days.

§ 11.91ME Control of dogs.

Until such time as the Menominee Tribe enacts its own ordinances regulating the keeping of dogs, the provisions of the town of Menominee Ordinance No. 1 regulating the licensing and control of dogs are hereby incorporated by reference and made applicable, with the exception that any Indian found guilty of violating such law, in lieu of the penalties provided by the said ordinance, be fined five dollars ($5.00) for the first offense and ten dollars ($10.00) for each succeeding offense.

§ 11.92ME Forest fire protection.

Until such time as the Menominee Tribe enacts its own ordinances dealing with fire protection, detection, control and suppression, the provisions of the Wisconsin Administration Code, DNR Section 26.12(5)(a) requir-

ing a written permit issued by Wisconsin Department of Natural Resources Fire Warden before any person sets any fire except for warming the person or cooking food, are hereby incorporated by reference and made applicable to the setting of fires on the Menominee Reservation. Any Indian found guilty of failing to obtain a permit shall be sentenced to labor for a period not to exceed thirty (30) days.

§ 11.93ME Possession of controlled substances.

Until such time as the Menominee Tribe enacts its own ordinances dealing with the possession of controlled substances, the provisions of Wisconsin Statutes 161.41(3) are hereby incorporated by reference and made applicable with the exception that any Indian found guilty of violating such law shall, in lieu of the penalties provided by Wisconsin Statutes 161.41(3), be sentenced to labor for a period not to exceed thirty (30) days.

§ 11.94ME Garbage and rubbish.

Until such time as the Menominee Tribe enacts its own ordinances dealing with garbage, rubbish, and inflammable material, the provisions of the town of Menominee Ordinance No. 4 regulating disposal of garbage, rubbish and inflammable material are hereby incorporated by reference and made applicable with the exception that the designation of Menominee Enterprises, Inc., shall include Menominee Tribal Enterprise, that public dumps may be designated by the Menominee Tribe as well as by the town of Menominee and that any Indian found guilty of violating such law shall, in lieu of the penalties provided by town of Menominee Ordinance No. 4, be sentenced to labor for a period not to exceed five (5) days in the event of the first offense and not to exceed thirty (30) days for each succeeding violation.

§ 11.95ME Extradition.

(a) Whenever the Area Director, Minneapolis Area Office, is informed and believes that an Indian has committed a crime outside the Menominee Reservation and is present on the Menominee Reservation, using it as an asylum from prosecution, the Area Director may order a police officer of the Menominee Reservation to apprehend such Indian and deliver him to the authorities seeking his arrest at the exterior boundaries of the reservation.

(b) If a person, apprehended pursuant to this section, so demands, he shall be taken by the arresting police officers to the Menominee Court of Indian Offenses where a Judge shall hold a hearing. If it appears that there is no probable cause to believe the Indian is guilty of the crime with which he is charged outside the reservation, or if it appears probable that the Indian will not receive a fair trial in the state court, the Judge shall order the Indian released from custody.

§ 11.96ME Breaking and entering.

Until such time as the Menominee Tribe enacts its own breaking and entering ordinance, the provisions of Wisconsin Statutes 943.14, "Criminal trespass to dwellings," are hereby incorporated by reference and made applicable, with the exception that any Indian found guilty of violating the provisions of Wisconsin Statutes 943.14 shall, in lieu of the penalties therein provided, be sentenced to labor for a period not to exceed six (6) months.

§ 11.97ME Juvenile services.

Until such time as the Menominee Tribe enacts its own juvenile code, the provisions of the Wisconsin State laws relating to juveniles, Wisconsin Statutes §§ 48.12-48.47, § 48.78, §§ 48.81-48.97, and Chapter 54, are hereby incorporated by reference and made applicable to juvenile cases arising on the Menominee Reservation. Provided, That the following statutes are not to apply: Wis. Stat. Ann. §§ 48.31, 48.32, 48.41, 48.83, and 48.89. And provided further, That rendering of juvenile services to the Menominee Tribe shall be in accordance with the agreement entered into on March 15, 1978, between the Wisconsin Department of Health and Social Services and the Menominee Restoration Committee.

§ 11.98ME Date of incorporated statutes.

All Wisconsin statutes, Menominee County ordinances, and ordinances of the town of Menominee, incorporated in §§ 11.50ME-11.97ME shall be those in effect on the date of publication of this rulemaking, together with any amendments hereafter adopted.

RICK LAVIS,
Deputy Assistant Secretary for Indian Affairs.

[FR Doc. 78-25735 Filed 9-12-78; 8:45 am]

[3620-01]

Title 32—National Defense

CHAPTER XII—DEFENSE LOGISTICS AGENCY

SUBCHAPTER B—MISCELLANEOUS

[DLAR 5720.3]

PART 1288—REGISTRATION OF PRIVATELY OWNED MOTOR VEHICLES

AGENCY: Defense Logistics Agency (DLA).

ACTION: Final rule.

SUMMARY: The Defense Logistics Agency is revising its regulation prescribing policy and procedures for the registration, inspection, and marking of privately owned vehicles of employees, contractors, and visitors at Defense Logistics Agency activities (42 FR 36997, July 19, 1977). The operation of privately owned vehicles on a DLA activity constitutes a conditional privilege extended by the head of the activity. Employees of, and visitors to DLA activities may be subject to vehicle searches upon entry, while on, and while departing such activities. The DLA command security program recognizes the need to deter acts of sabotage, terrorism, theft, pilferage against DLA personnel and activities. Such policy is an effective deterrent to unlawful acts and is recognized as a viable physical security practice.

EFFECTIVE DATE: August 10, 1978.

FOR FURTHER INFORMATION CONTACT:

LTC John W. Ross, Jr., Commercial, AC 202-274-6263, Autovon, 284-6263.

By order of the Director.

J. J. MCALEER, Jr.,
Colonel, USA,
Staff Director, Administration.

Part 1288, subchapter B, chapter XII of title 32 of the Code of Federal Regulations is revised to read as follows:

Sec.
1288.1 Purpose and scope.
1288.2 Policy.
1288.3 Definitions.
1288.4 Responsibilities.
1288.5 Procedures.
1288.6 Forms and reports.

Appendix A—Decal specifications.
Appendix B—Standard DLA private vehicle identification device.

AUTHORITY: 5 U.S.C. 301; DOD Directive 5105.22, June 8, 1978.

§ 1288.1 Purpose and scope.

To prescribe policy and procedures for the registration, inspection, and marking of privately owned vehicles (POV) on Defense Logistics Agency (DLA) activities. This regulation is applicable to individuals serving in or employed by the Defense Logistics Agency, and to all other individuals subject to motor vehicle registration requirements set forth in this part 1288 and DLAR 5720.1/AR 190-5/OPNAVINST 11200.5B/AFR 125-14/MCO 5110.1B, Military Police Motor Vehicle Traffic Supervision.

§ 1288.2 Policy.

(a) The operation of a POV on a DLA activity constitutes a conditional privilege extended by the Head of the activity. The Heads of DLA primary level field activities (PLFA's) have the authority to supplement this regulation to implement additional controls and restraints warranted by existing conditions at a PLFA. For example, commanders of depots and supply centers may impose searches of vehicles as warranted to reduce pilferage, and protect Government interests.

(b) POV's permanently registered for operation on a DLA activity will be identified by use of one of the decals prescribed in this part 1288 (appendices A and B).

(c) The DLA vehicle decal will be valid for a period of 3 years from the year and month of issue.

(d) Activities will use DLA Form 1454, Vehicle Registration/Driver Record, as the basic vehicle registration and driver record.

(e) DLA tenant activities will comply with host installation policies and procedures for registering POV's.

§ 1288.3 Definitions.

Terms used in this part 1288 are contained in DLAR 5720.1.

§ 1288.4 Responsibilities.

(a) *HQ DLA*—(1) The command security officer, DLA (DLA-T) will provide staff supervision and assistance to DLA activities on matters concerning this part 1288.

(2) The inspector general, DLA (DLA-I) will procure, issue, and control inspector general (IG) vehicle decals in accordance with § 1288.6 below with the exception of the 3-year validation requirement. (Vehicles bearing such decals will be permitted entry to all DLA activities.)

(b) The heads of DLA primary level field activities will:

(1) Insure that personnel adhere to the provisions of this part 1288 when implemented.

(2) Procure, issue, and control vehicle decals in accordance with this DLAR.

(3) Periodically inform personnel of the requirements of this DLAR, DLAR 5720.1, and local requirements concerning the motor vehicle registration program.

(4) Activity/tenant employees are not considered visitors and will not be issued visitor passes. Employees operating loaner/rental vehicles may be temporarily registered in accordance with DLAR 5720.1, paragraph 3-2c.

§ 1288.5 Procedures.

(a) Issuance of DLA POV decal and 3-year validation sticker. (1) One decal will be affixed to the left front bumper (operator's side) of a four-wheel vehicle. An additional decal may be placed on the rear bumper of the vehicle. For vehicles not equipped with bumpers and two-wheeled vehicles, the placement of decals will be determined locally.

(2) A 3-year validation sticker indicating the decal expiration will be issued at the same time the DLA decal is issued. Every 3 years, or following a significant change, registrants will be required to update their registration information. Evidence of compliance will be documented by the issuance and display of a new 3-year validation sticker.

(3) The validation sticker will be placed next to the DLA decal affixed to the front bumper of the vehicle. This sticker will reflect the month and year of the decal expiration, e.g., vehicles registered during the month of June 1978 will have affixed a validation sticker with the numbers "6-81", indicating expiration of the decal at the end of June 1981. The specifications for the validation sticker will be determined locally.

(4) Decals or other media used to identify vehicles of temporary registrants or visitors will be locally prescribed.

(5) Decals will be removed from POV's by the registrant when activity registration is terminated. See DLAR 5720.1, chapter 3, for information on termination of registration.

(6) Vehicle decals will be purchased with appropriated funds for issuance at no cost to authorized users.

(b) Proof of insurance. (1) Individuals registering vehicles will certify possession of insurance per DLAR 5720.1, paragraph 3-3c.

(2) The certification contained on DLA form 1454 will, as indicated thereon, be witnessed and manifested by a signature.

(c) Vehicle inspection. (1) DLA activities located in States or jurisdictions having mandatory vehicle safety inspections will reflect the provisions of DLAR 5720.1, paragraph 3-3d, in the supplementation of this DLAR.

(2) Vehicle safety inspections are not mandatory for DLA activities located in areas not requiring such inspections.

(d) Registrant. Registrant must inform the vehicle registration office within 72 hours as information on DLA form 1454 becomes invalid.

§ 1288.6 Forms and reports.

(a) DLA form 1454 will be prepared at the time of initial registration of the vehicle and will remain valid for as long as the registrant retains ownership of the vehicle and complies with registration requirements. A Privacy Act statement for use in conjunction with DLA form 1454 will be made available to the individual supplying data on the form.

(b) Data blocks 3, 4, and 14 on DLA form 1454 will be entered in ink; remaining entries will be in pencil.

(c) One copy of DLA form 1454 will also serve as the driver record of the registrant.

(d) Upon permanent change of station of the military service registrant, activity clearance procedures will provide for DLA form 1454 to be included in the registrant's military personnel folder for transmittal to the gaining activity. DLA forms 1454 for transferring civilian personnel will be forwarded to the security officer of the gaining activity.

(e) The DLA form 1454 for military personnel being discharged or separated will be forwarded to the appropriate personnel office for inclusion in the records folder for subsequent retirement.

APPENDIX A—DECAL SPECIFICATIONS

A. The design format of the standard DLA decal to be used for identifying POV's permanently registered for operation on DLA activities is shown in enclosure 2. The IG decal will be of the same design and color as that prescribed for the standard DLA decal except that the registration letter/number scheme will consist of the letters "IG" followed by a number. Standard DLA decals may be procured from the U.S. Disciplinary Barracks, USDB, Fort Leavenworth, Kans. 66027, which is an approved Federal printing plant. Existing stocks of decals with "DSA" inscribed will be used until exhausted.

B. The following specifications apply to the separate elements of the decal:

1. *Basic construction.* Decal will meet Federal Specification L-5300A, 7 Jan 70, type I, class 4, reflectivity 1.

2. *Colors:*

a. Background—Silver.

b. DLA emblem, field activity name, and scroll, the letters DLA, and year/date—Black.

c. Registration letters/numbers:

(1) Mandatory categories:

(a) Officer personnel—Blue.

(b) Enlisted personnel—Red.

(c) Civilian employees—Green.

(2) The following additional colors will be used to categorize registration further:

(a) Noncommissioned officer personnel—Brown.

(b) Civilian employees (nonappropriated fund), Red Cross, concessionaires, contractors, and other similar categories—Black.

3. *Registration letters/numbers.* For each registration category a combination of letters and number(s) separated by the DLA emblem will be used. The number-letter system will progress from AA-1 to AA-2, and so on, to AA-99, from AB-1 to AB-99, eventually from AZ-1 to AZ-99, and so on from ZZ-1 to ZZ-99.

4. *Dimensions:*

a. Maximum size: 3 inches by 6 inches. For economy a reduced size decal may be used on POV's to include those with less than four wheels.

b. Registration letters and numerals: 1¼ to 1½ inches in height.

c. DLA emblem letters: 1½ inches to 1¾ inches in height.

d. DLA letters: ½ inch to ¾ inch in height.

e. Activity designation scroll and lettering: See appendix B.

APPENDIX B

STANDARD DLA PRIVATE VEHICLE IDENTIFICATION DEVICE

[FR Doc. 78-25778 Filed 9-12-78; 8:45 am]

[4310-03]

Title 36—Parks, Forests, and Public Property

CHAPTER XII—HERITAGE CONSERVATION AND RECREATION SERVICE, DEPARTMENT OF THE INTERIOR

PART 1207—THE SECRETARY OF THE INTERIOR'S STANDARDS FOR HISTORIC PRESERVATION PROJECTS

Interim Standards

AGENCY: Heritage Conservation and Recreation Service, Interior.

ACTION: Interim standards.

SUMMARY: This document sets forth interim standards established by the Secretary of the Interior for planning, undertaking, and supervising historic preservation grant-in-aid projects under the provisions of the National Historic Preservation Act of 1966, as amended through the creation of a National Historic Preservation Fund. The 1966 act authorizes the Secretary to grant funds to States and the National Trust for Historic Preservation for the purposes of preserving properties for public benefit that are significant in American history, architecture, archeology, and culture.

DATES: Effective date: September 13, 1978. Since there is a current need for the standards, they will be effective immediately on an interim basis pending publication of final standards. However, interested persons may submit comments, suggestions, or objections regarding the standards to the address noted below. Comments must be received on or before October 13, 1978.

ADDRESS: Send comments to Office of Archeology and Historic Preservation, Heritage Conservation and Recreation Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

W. Brown Morton, III, Departmental Consultant for Historic Architecture, Chief, Technical Perservation Services Division, Office of Archeology and Historic Preservation, Heritage Conservation and Recreation Service, Department of the Interior, Washington, D.C., 202-523-5891.

SUPPLEMENTARY INFORMATION: In preparing these regulations and reviewing the National Register and the Historic Preservation Fund grant-in-aid program, the intent, requirements, and spirit of the National Environmental Policy Act of 1969 (Pub. L. 91-190, 42 U.S.C. 4321-4347) have been carefully considered. As established by the 1966 National Historic Preservation Act (80 Stat. 915, 16 U.S.C. 470 et seq.) and amended by title II, Pub. L. 94-422 through the creation of a National Historic Preservation Fund, these programs have as their purpose the identification, protection, and enhancement of the historic, architectural, archeological, and cultural resources of the manmade environment. It has been administratively determined that, beyond the overall program purpose which is intended to enhance the environment, this rulemaking will have no significant effect on the environment. These regulations serve to expand the regulations previously published in the FEDERAL REGISTER and should further insure the environmentally beneficial effects of the National Register and grants programs. Further information, including a memorandum of environmental assessment, is on file in the Office of Archeology and Historic Preservation, Heritage Conservation and Recreation Service, Department of the Interior, Washington, D.C. 20240.

The primary authors of this document are W. Brown Morton, III and Gary L. Hume, Heritage Conservation and Recreation Service, 202-523-5891.

Accordingly, a new chapter XII, part 1207 is added to title 36 to read as follows:

Sec.

1207.1 Intent.
1207.2 Definitions.
1207.3 General standards for historic preservation projects.
1207.4 Specific standards for acquisition, protection, stabilization, preservation, rehabilitation, restoration, and reconstruction projects.

AUTHORITY: The National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 et seq.; section 2124 of the Tax Reform Act of 1976, 90 Stat. 1918; Executive. Order No. 11,593, 3 CFR 75 (1971).

§ 1207.1 Intent.

The intent of this part is to set forth standards for historic preservation projects, containing general standards and specific standards for acquisition, protection, stabilization, preservation, rehabilitation, restoration, and reconstruction. These standards apply to all proposed grant-in-aid projects assisted through the National Historic Preservation Fund.

§ 1207.2 Definitions.

The standards for historic preservation projects will be used by the Heritage Conservation and Recreation Service and State historic preservation officers and their staff members in planning, undertaking, and supervising grant-assisted projects for acquisition, protection, stabilization, preservation, rehabilitation, restoration, and reconstruction. For the purposes of this part:

(a) *Acquisition.* Means the act or process of acquiring fee title or interest other than fee title of real property (including the acquisition of development rights or remainder interest).

(b) *Preservation.* Means the act or process of applying measures to sustain the existing form, integrity, and material of a building or structure, and the existing form and vegetative cover of site. It may include initial stabilization work where necessary, as well as ongoing maintenance of the historic building materials.

(c) *Protection.* Means the act or process of applying measures designed to affect the physical condition of a property by defending or guarding it from deterioration, loss, or attack, or to cover or shield the property from danger or injury. In the case of buildings and structures, such treatment is generally of a temporary nature and anticipates future historic preservation treatment; in the case of archeological sites, the protective measure may be temporary or permanent.

(d) *Reconstruction.* Means the act or process of reproducing by new construction the exact form and detail of a vanished building, structure, or object, or a part thereof, as it appeared at a specific period of time.

(e) *Rehabilitation.* Means the act or process of returning a property to a state of utility through repair or alteration that makes possible an efficient contemporary use while preserving those portions or features of the property that are significant to its historical, architectural, and cultural values.

(f) *Restoration.* Means the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

(g) *Stabilization.* Means the act or process of applying measures designed to reestablish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

§ 1207.3 General standards for historic preservation projects.

The general standards listed below shall apply to all historic preservation grant-in-aid projects; additional standards in § 1207.4 for acquisition, protection, stabilization, preservation, rehabilitation, restoration, and reconstruction apply to specific grant-in-aid projects as appropriate:

(a) Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building structure, or site and its environment, or to use a property for its originally intended purpose.

(b) The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

(c) All buildings, structures, and sites shall be recognized as products of their own time. Alterations, which have no historical basis and which seek to create an earlier appearance, shall be discouraged.

(d) Changes, which may have taken place in the course of time, are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(e) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.

(f) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

(g) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

(h) Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any acquisition, protection, stabilization, preservation, rehabilitation, restoration, or reconstruction projects.

§ 1207.4 Specific standards for acquisition, protection, stabilization, preservation, rehabilitation, restoration, and reconstruction projects.

In addition to the general standards set forth in § 1207.3 the following specific standards shall be applied as appropriate:

(a) *Acquistion.* (1) Careful consideration shall be given to the type and extent of property rights that are re-

V 4 3 / 1 7 8

quired to assure the preservation of the historic resource. The preservation objective shall determine the exact property rights to be acquired.

(2) Properties shall be acquired in fee simple when absolute ownership is required to insure their preservation.

(3) The purchase of less-than-fee-simple interests, such as open space or facade easements, shall be undertaken when a limited interest achieves the preservation objective.

(4) Every reasonable effort shall be made to acquire sufficient property with the historic resource to protect its historical, archeological, architectural, or cultural significance.

(b) *Protection.* (1) Before applying protective measures, which are generally of a temporary nature and imply future historic preservation work, and analysis of the actual or anticipated threats to the property shall be made.

(2) Protection shall safeguard the physical condition or environment of a property or archeological site from further deterioration or damage caused by weather or other natural, animal, or human intrusions.

(3) If any historic material or architectural features are removed, they shall be properly recorded and, if possible, stored for future study or reuse.

(c) *Stabilization.* (1) Stabilization shall reestablish the structural stability of a property through the reinforcement of loadbearing members or by arresting material deterioration leading to structural failure. Stabilization shall also reestablish weather resistant conditions for a property.

(2) Stabilization shall be accomplished in such a manner that it detracts as little as possible from the property's appearance. When reinforcement is required to reestablish structural stability, such work shall be concealed wherever possible so as not to intrude upon or detract from the esthetic and historical quality of the property, except where concealment would result in the alteration or destruction of historically significant material or spaces.

(d) *Preservation.* (1) Preservation shall maintain the existing form, integrity, and materials of a building, structure, or site. Substantial reconstruction or restoration of lost features generally are not included in a preservation undertaking.

(2) Preservation shall include techniques of arresting or retarding the deterioration of a property through a program of ongoing maintenance.

(e) *Rehabilitation.* (1) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historic, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.

(2) Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

(f) *Restoration.* (1) Every reasonable effort shall be made to use a property for its originally intended purpose or to provide a compatible use that will require minimum alteration to the property and its environment.

(2) Reinforcement required for structural stability or the installation of protective or code required mechanical systems shall be concealed whenever possible so as not to intrude or detract from the property's esthetic and historic qualities, except where concealment would result in the alteration or destruction of historically significant materials or spaces.

(3) When archeological resources must be disturbed by restoration work, recovery of archeological material shall be undertaken in conformance with current professsional practices.

(g) *Reconstruction.* (1) Reconstruction of a part or all of a property shall be undertaken only when such work is essential to reproduce a significant missing feature in a historic district or scene, and when a contemporary design solution is not acceptable.

(2) Reconstruction of all or a part of a historic property shall be appropriate when the reconstruction is essential for understanding and interpreting the value of a historic district, or when no other building, structure, object, or landscape feature with the same associative value has survived and sufficient historical documentation exists to insure an accurate reproduction of the original.

(3) The reproduction of missing elements accomplished with new materials shall duplicate the composition, design, color, texture, and other visual qualities of the missing element. Reconstruction of missing architectural features shall be based upon accurate duplication of original features, substantiated by historical, physical, or pictorial evidence rather than upon conjectural designs or the availability of different architectural features from other buildings.

(4) Reconstruction of a building or structure on an original site shall be preceded by a through archeological investigation to locate and identify all subsurface features and artifacts.

(5) Reconstruction shall include measures to preserve any remaining original fabric, including foundations, subsurface, and ancillary elements. The reconstruction of missing elements and features shall be done in such a manner that the essential form and integrity of the original surviving features are unimpaired.

ROBERT L. HERBST,
Assistant Secretary for Fish and Wildlife and Parks.

SEPTEMBER 8, 1978.

[FR Doc. 78-25725 Filed 9-12-78; 8:45 am]

[7710-12]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICES

Postal Service Manual; Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby describes and publishes the full text of numerous miscellaneous revisions of the Postal Service Manual. Some of the revisions are minor, editorial, and technical; other are substantive. As to substantive changes, the Postal Service previously published in the FEDERAL REGISTER the complete text of those changes in the course of informal rulemaking proceedings. Publication of all the changes at this time is in accordance with the incorporation by reference in the FEDERAL REGISTER of all amendments to chapter I of the Postal Service Manual. This document also corrects several technical errors appearing in Transmittal Letter 44, issue 120. The errors are explained below in Supplementary Information.

EFFECTIVE DATE: August 21, 1978, except that the rates and fees referred to in .1b in the Explanation of Changes in the Supplementary Information below became effective, in the case of phased rates, on July 6, 1978, 43 FR 27620, and in all other cases, on May 29, 1978 (43 FR 23039, 23773); except that the revised mail security regulations covered by .2b became effective May 5, 1978 (43 FR 14308); except that the revisions to the regulations concerning publication numbers and identification statements in second-class and controlled circulation publications covered by .3b, .3c, .4e, .4f, .4g, .4i, and .4j became effective August 11, 1978 (43 FR 29943); except that the revisions of the regulations on business reply mail covered by .4c and .4d became effective June 17, 1978 (43 FR 21327); except that the revision of the regulations on newspaper receptacles on rural mailboxes covered by .6b became effective May 4, 1978 (43 FR 14018); and except that the revision to the regulations concerning material found loose in the mail, including books and sound recordings, covered by .6d, .6e, .6f, .6g, and .6h became effective June 3, 1978 (43 FR 19042).

FOR FURTHER INFORMATION CONTACT:

Paul J. Kemp, 202-245-4638.

SUPPLEMENTARY INFORMATION: Chapter I of the Postal Service manual, which has been incorporated by reference in the FEDERAL REGISTER (see 39 CFR 111.1), has been amended by the issuance of Post Office Services (Domestic) Transmittal Letter 44, issue 120, dated August 21, 1978.

Transmittal Letter 44, issue 120, contains several technical errors which are corrected in this document. The misspelling of "Postal" in the caption of 114.2, of "divulged" in 115.24, and of "COD" in 157.31b is corrected. A printing omission in 115.21 which eliminated most of (d) and garbled (c) is corrected. The proper accent marks for "à découvert" are inserted in 115.813 and 115.82. The last paragraph of 115.91 is redesignated "d" instead of a second consecutive "c". An outdated rate in 132.124 is corrected from 6.7 to 7.9 cents per pound. A printing error inserting the text of 132.224 within 132.223a is corrected by supplying the proper text for that provision, which is the same as the full text of 132.223 before new paragraph b was added.

Consistent with 39 CFR 111.3, the amendments made by Transmittal Letter 44, issue 120, are hereby published in full text, and notice of this publication is added as an amendment to § 111.3. In addition, the text of the changes is filed with the Director, Office of the Federal Register. Subscribers to the manual will receive these amendments automatically from the Government Printing Office. (For other availability of chapter I of the Postal Service manual, see 39 CFR 111.2.)

Explanation of the principal changes follows:

EXPLANATION OF CHANGES

.1 General

a. This transmittal contains regulations previously published in Postal Bulletins prior to May 29, 1978. Changes appearing in Postal Bulletins after that date are in effect and will be incorporated in the next Issue.

b. The rates and fees for most classes of mail, special mail services, parcel airlift mail, ZIP Coding mailing lists, second-class applications, envelopes, on-site meter setting and the permit imprint application have changed.

.2 Subchapter 110

a. Amended 112 to add reference to revised 115.

b. Revised 115 to define authority and conditions under which Postal and Customs personnel may open mail.

.3 Subchapter 120

a. Revised 122.514d to prescribe submission of reports covering address correction notices furnished to Federal Government agencies.

b. Amended 125 to include eligibility and preparation requirements and rates for second-class publications.

c. Revised instructions for preparing wrappers and covers for second-class publications. Now includes requirement for publication identification number to be displayed.

d. Renumbered 126.154 to 126.155 without change.

e. Added new 126.154 to make it clear that parcels sent to overseas military post offices for resale or distribution are ineligible for SAM or PAL service.

f. Amended 126.2 to revise the listing of MPO's and mailing restrictions where appropriate.

.4 Subchapter 130

a. Amended 131 to allow mailers under specified conditions to rate residual metered first-class pieces at the first-class presort rate.

b. Revised 131.121 to change the term *bulk presort rate* to *presort rate.*

c. Expanded 131.235 to include new format provisions for business reply mail (BRM). New 131.235b(2)(b) requires facing identification marks (FIM) on BRM cards and envelopes. Provision made for voluntary inspection of BRM pieces. Procedures governing revocation of BRM permits for distribution of BRM pieces not in compliance with the format requirements of this section will be promulgated before May 1, 1979.

d. Revised 131.236 and 131.237 and renumbered them 131.237 and 131.238 respectively.

e. Amended 132 to include eligibility and preparation requirements and rates for second-class publications, and to promulgate new eligibility requirements for second-class in-county rates. Headquarters and local per copy rates are eliminated.

f. Revised 132.2 to change location, content and format of identification statements. Publication numbers must appear in the identification statement.

g. Revised 132.223 to require that the publication name be on the front.

h. Revised 132.33e to show that the entry office, where postage is paid, must request the verification of exceptional dispatch.

i. Revised 133.21 to require that the publication name be on the front.

j. Revised 133.3 to require that controlled circulation identification statements more closely parallel second-class identification statements and that postal publication identification numbers be displayed. Clarified instructions for preparing wrappers and covers.

k. Amended 137.272 to cross reference 122.514d.

l. Revised 137.273e(1) to remove first- and fourth-class limitation of official mail sent under the permit imprint system.

m. Amended 137.8 to add reference to 115.

.5 Subchapter 140

a. Amended 144.13 to update the names and addresses of authorized postage meter manufacturers.

b. Added 146.123 to define uniform procedures for handling unpaid parcels intended for private delivery companies but found in the mail.

c. Amended 147.23c to show that exchanges of unused adhesive stamps may be made under the conditions in 147.11 and 147.12.

.6 Subchapter 150

a. Amended 154.6 to add reference to 115.

b. Amended 156.532 to be consistent with 151.12 and 146.221.

c. Revised 157 to conform with 156.52.

d. Amended 159.441 to require that when loose matter is moved to another location for processing material of no value must be removed before the transfer.

e. Amended 159.721g to include an option of sending material found loose in the mail at bulk mail centers to the dead parcel branch post office for processing and to reemphasize that all loose matter must be held for 30 days before it is sold as dead mail.

f. Amended 159.724c(3) to reemphasize that all loose matter must be held for 30 days before it is sold as dead mail.

g. Amended 159.813b to establish books and sound recordings as separate category of undeliverable mail, and to cross reference the new section containing instructions for their processing.

h. Added 159.814 to establish a new retention period at dead parcel branches for books and sound recordings received from bulk mail centers and to establish new procedures for release of books and sound recordings in dead mail.

.7 Subchapter 160

a. Reprinted several pages to correct printing errors and to include old issues which have only a few current pages.

b. Revised 169.521 and .522a to clarify that lockbox caller service fees are charged on a semi-annual basis.

c. Revised 169.522c, .524, and .525 to establish optional fixed payment peri-

ods at certain categories of offices and to provide necessary procedures.

.8 Subchapter 170

Revised 172.12 to correct the price of migratory-bird hunting stamps.

.9 Subchapter 180

Added 180 to provide instruction for Express Mail.

OBSOLETE MATERIAL

Issues 43, 79, 102, and 108 are now obsolete.

In consideration of the foregoing, 39 CFR 111.3 is amended as follows:

§ 111.3 Amendments to chapter I of the Postal Service Manual.

* * * * *

Transmittal letter	Issue	Date	Federal Register Publication
44	120	Aug. 21, 1978.	43 FR.

ROGER P. CRAIG,
Deputy General Counsel.

(5 U.S.C. 552 (a), 39 U.S.C. 401.)

Accordingly, the amendments made by Transmittal Letter 44, issue 120, are hereby published and read as follows:

PART 112—DOMESTIC MAIL SERVICE

Domestic mail is mail transmitted within, among and between the United States; its territories and possessions; Army-Air Force (APO) and Navy (FPO) post offices (except as provided in Part 115); also mail for delivery to the United Nations, N.Y. The term *territories and possessions* includes:

Baker Island
Canal Zone [1]
Canton Island
Caroline Islands
Enderbury Island
Guam
Howland Island
Jarvis Island
Johnston Island
Kingman Reef
Manual Island
Mariana Islands
Marshall Islands
Midway Islands
Navassa Island
Commonwealth of Puerto Rico
Saint Croix Island
Saint John Island
Saint Thomas Island
Samoa (American)
Sand Island
Swain's Island
Trust Territory of the Pacific
Virgin Islands (U.S.)
Wake Island

See 124.155, 131.235b, 142.6, 161.223, 163.16, 164.44, 164.52, and 168.42.

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PART 114—COMPLAINTS

* * * * *

114.2 POSTAL LAW VIOLATIONS

Send information and complaints of postal law violations to the nearest Postal Inspector in Charge at the address listed below:

Atlanta, GA 30202—P.O. Box 4327
Boston, MA 02107—P.O. Box 2217
Chattanooga, TN 37401—P.O. Box 711
Chicago, IL 60607—Main Post Office Bldg., Room 642
Cincinnati, OH 45201—P.O. Box 2057
Detroit, MI 48232—P.O. Box 119
Fort Worth, TX 76101—P.O. Box 1230
Los Angeles, CA 90030—P.O. Box 30456
Memphis, TN 38103—P.O. Box 3180
Newark, NJ 07101—Post Office and Courthouse Bldg.
New York, NY 10001—8th Ave. and 33rd Street
Philadelphia, PA 19101—P.O. Box 7500
Pittsburgh, PA 15222—Room 1700, Centre City Tower Bldg.
San Francisco, CA 94101—P.O. Box 367
Seattle, WA 98111—P.O. Box 400
St. Louis, MO 63199—200 S. Hanley Rd., 10th Floor
St. Paul, MN 55164—P.O. Box 43558
Washington, DC 20013—P.O. Box 1820

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PART 115—MAIL SECURITY

115.1 IMPORTANCE OF MAIL SECURITY

The Postal Service must preserve and protect the security of all mail in its custody from unauthorized opening, inspection, or reading of contents or covers, tampering, delay, or other unauthorized acts. Any postal employee committing or allowing any of these unauthorized acts is subject to administrative discipline, or criminal prosecution leading to fine, imprisonment, or both. An employee having a question about proper mail security procedures, which is not clearly and specifically answered by postal regulations or by written direction of the Inspection Service or Law Department, shall resolve the question by protecting the mail in all respects and moving it, or letting it move, without interruption to its destination.

115.2 OPENING, READING, AND SEARCHING OF SEALED MAIL GENERALLY PROHIBITED

.21 In general, no person may open, read, search, or divulge the contents of mail sealed against inspection, even though such mail may be believed to contain criminal or otherwise nonmailable matter or evidence of the commission of a crime. The only exceptions to this general rule are: (a) a postal employee in a dead mail office acting in accordance with dead mail regulations, part 159; (b) a postal employee acting with the consent of the addressee or sender; (c) a person executing a search warrant in accordance with section 115.6; (d) a person handling potentially dangerous mail in accordance with section 115.4; or, (e) an authorized Customs or Agriculture employee, acting in accordance with sections 115.91 or 115.92.

.22 MAIL NOT SEALED AGAINST INSPECTION

Mail not sealed against inspection may be opened, surrendered, its contents inspected and read, or information concerning it released, by an authorized postal employee, only: (a) under a search warrant in accordance with section 115.6; (b) without a search warrant in order to determine the mailability of the contents or whether the correct postage has been paid; or, (c) as otherwise expressly permitted by postal regulations.

.23 DEFINITIONS

.231 *Mail Sealed Against Inspection*

For purposes of this part, the terms, "mail sealed against inspection", or "sealed mail", mean mail on which appropriate postage is paid, and which under postal laws and regulations is included within a class of mail maintained by the Postal Service for the transmission of letters sealed against inspection. The terms do not include international transit mail (section 115.8). They include first class mail, Express Mail, international letter mail ("LC Postal Union mail" as defined in USPS Publication 42, International Mail), and Mailgram. When sealed mail is properly inserted inside unsealed mail or attached to it in accordance with postal regulations, the sealed mail component of the combination item shall be treated as sealed mail under this part, except 115.3.

.232 *Mail Not Sealed Against Inspection*

For purposes of this part, the terms, "mail not sealed against inspection", or "unsealed mail", mean mail on which appropriate postage for sealed mail has not been paid, and which under postal laws or regulations is not included within a class of mail maintained by the Postal Service for the transmission of letters sealed against inspection. The terms do not include international transit mail (section 115.8). They include second, third, and fourth class mail, international parcel post mail, and "AO Postal Union Mail" (as defined in USPS Publication 42, International Mail).

.24 CORRESPONDENCE PERMITTED TO BE ENCLOSED IN UNSEALED MAIL

The contents of correspondence permitted to be sent by the blind in special or raised characters or in the form of sound recordings and by school children at the international printed matter rate shall not be divulged except to a postal employee acting with the consent of the addressee or sender or person executing a search warrant in accordance with section 115.6.

115.3 PERMISSIBLE DETENTION OF MAIL

.31 SEALED MAIL GENERALLY NOT DETAINED

No postal employee may detain mail sealed against inspection (other than dead mail) except: (a) a postal inspector acting diligently and without avoidable delay upon reasonable suspicion, for a brief period of time, to assemble evidence sufficient to satisfy the probable cause requirement for a search warrant in accordance with section 115.6, and to apply for, obtain, and execute the warrant; (b) a postal employee acting in strict accordance with postal regulations (for example, sections 115.4 or 154.145); (c) a postal employee acting under postal regulations with the express consent of the addressee or sender (for example, section 153.5 or 154.19); (d) a postal employee acting under an order issued under 39 U.S.C. 3005, relating to false representations, lotteries, and unlawful matter; (e) a postal employee acting under section 115.62; (f) a postal employee conducting a mail count by direction of his postmaster or a postal inspector; (g) a postal employee acting under an order of a Federal court; or, (h) a postal employee during the period required to seek and obtain instructions under section 154.7 concerning mail whose delivery is in dispute, or under section 331.1 concerning legal process other than a search warrant duly issued under Rule 41 of the Federal Rules of Criminal Procedure, purporting to require the surrender of mail matter.

.32 UNSEALED MAIL

Mail not sealed against inspection may be delayed or detained for the reasons stated in section 115.31 and as otherwise expressly permitted by postal regulations.

115.4 MAIL REASONABLY SUSPECTED OF BEING DANGEROUS TO PERSONS OR PROPERTY

Mail, sealed or unsealed, reasonably suspected of posing an immediate danger to life or limb, or an immediate and substantial danger to property, may, without a search warrant, be detained, opened, removed from postal custody, and processed or treated, but only to the extent necessary to determine and eliminate the danger, and only if a complete written and sworn statement of the detention, opening, removal, or treatment, and the circumstances that prompted it signed by the person purporting to act under this subsection, is promptly forwarded to the Chief Inspector. Any person purporting to act under this subsection who does not report his action in accordance with the requirements of this subsection to the Chief Inspector, or whose action is determined after investigation not to have been authorized, is subject to disciplinary action or criminal prosecution or both.

115.5 DISCLOSURE OF INFORMATION ABOUT MAIL SENT OR RECEIVED BY PARTICULAR SENDERS OR ADDRESSEES

Except as provided in 115.5(a)-(f), no employee shall disclose: information on the outside cover of any piece of mail; information obtained from any inspection of the contents of mail; or any other information which concerns any mail sent or received by any particular sender, addressee, or group of senders or addressees, which the employee obtains or controls in the performance of his official duties. An employee may disclose such information:

a. To the Postal Inspection Service for its official use, including appropriate reference to law enforcement authorities, when there is a reasonable basis to suspect that such information is evidence of the commission of a crime under State or Federal law, except that information obtained by opening sealed mail in a dead letter office may be used only to determine an address at which the mail can be delivered;

b. Under section 233.2, regarding mail covers;

c. Under a search warrant in accordance with section 115.6;

d. Under an order of a Federal court;

e. At the request of the sender or addressee or the authorized agent of either; or,

f. Otherwise in accordance with postal regulations, *provided that* any such information obtained from an inspection of the contents of mail may only be disclosed if the inspection accords with the regulations contained in this Part.

115.6 EXECUTION OF SEARCH WARRANTS

.61 WARRANT ISSUED BY FEDERAL COURT OR SERVED BY FEDERAL OFFICER

A search warrant duly issued under Rule 41 of the Federal Rules of Criminal Procedure shall be executed as provided in section 115.62. Usually, a warrant issued by a Federal court or served by a Federal officer is issued under Rule 41, and is "duly issued" if signed and dated within the past ten days. No employee shall permit the execution of a search warrant issued by a State court and served by a State officer. If in doubt, an employee should temporarily detain the mail in question and promptly call a postal inspector for guidance.

.62 SEARCH WARRANT EXECUTION PROCEDURES

A postal inspector may execute a search warrant. A person other than a postal inspector executing a search warrant must be accompanied by a postal employee authorized by the head of the postal installation at which the warrant is to be executed. Mail may be taken from postal custody under the authority of a search warrant only if the person executing the warrant leaves a copy of the warrant and a receipt or inventory, made out in the presence of the postal employee accompanying him, which particularly describes each piece of mail taken, including all service endorsements on the cover (such as, "Return Receipt Requested") and any official postal identity numbers (such as registry, insurance, or certified mail numbers). The receipt or inventory may be attached to the copy of the warrant, or written on the reverse side of the copy of the warrant. The installation head or his designee shall make a copy of the receipt or inventory and of the copy of the warrant and send it to the Inspector-in-Charge of the Division in which the installation is located. The installation head or his designee shall also furnish a report of the seizure of any domestic mail to the addressee's post office and of any seized international mail to the appropriate international claims office.

.63 NOTICE TO SENDER OR ADDRESSEE

If the cover of domestic mail has been endorsed and stamped to show that the sender has requested and paid for a return receipt, the sender shall be notified of the seizure of the mail under the warrant by an endorsement to that effect on the return receipt, or on a duplicate if the original receipt is taken. The receipt shall be dispatched as soon as possible, unless the officer executing the warrant presents a Federal court order to delay the dispatch. In that event the dispatch shall be delayed in accordance with the order.

115.7 COOPERATION WITH FEDERAL AND STATE AND LOCAL AGENCIES FOR ACCESS TO MAIL

A postal employee receiving a request from a Federal, State, or local law enforcement, intelligence, or other government agency, for access to, or

information about, particular mail matter of any class in the custody of the Postal Service shall refer the request to the Postal Inspection Service, with the explanation that the Inspection Service is responsible for liaison with all government agencies with respect to a request of this kind. No employee of the Inspection Service shall comply with such a request, except as authorized by postal regulations.

115.8 INTERNATIONAL TRANSIT MAIL

.81 DEFINITIONS

.811 *International Transit Mail*

As used in this part, the term "international transit mail" applies to mail of foreign origin which is passed by a foreign postal administration to the United States Postal Service for forwarding to a foreign postal administration under a postal treaty or convention. It includes closed mails and a decouvert letter post items.

.812 *Closed Mail*

The term "closed mail" refers to any bag, container, or mail passed to the United States Postal Service by a foreign postal administration, the entire contents of which are required by applicable postal treaties or conventions to be passed to a foreign postal administration.

.813 *À Découvert Letter Post Item*

The term "à découvert letter post item" refers to any international letter post item ("Postal Union mail" as defined by USPS Publication 42, International Mail) which is addressed for delivery by a foreign postal administration, and is passed to the United States Postal Service by a foreign postal administration in a bag, container, or mail that must be opened by the United States Postal Service in accordance with applicable postal treaties or convention because it also contains items addressed for delivery by the United States Postal Service.

.82 SPECIAL SECURITY RULES

International transit mail is entitled to freedom of transit. It shall not be opened, seized, or searched. It is not subject to Customs or Agriculture inspection under section 115.91 or 115.92. In accordance with the Universal Postal Convention, any international transit mail consisting of closed mails, a decouvert letter-post items, and airmail correspondence, shall not be detained, but shall instead be forwarded to the next foreign postal administration by the quickest routes which the United States Postal Service uses for mail sealed against inspection.

115.9 MAIL SECURITY, LAW ENFORCEMENT, AND OTHER GOVERNMENT AGENCIES

.91 CUSTOMS SERVICE

Without a search warrant but upon reasonable cause to suspect that the mail contains dutiable or prohibited items, designated personnel of the U.S. Customs Service may open or inspect the contents of mail in the customs inspection of mail (including APO-FPO mail) which has originated outside the Customs Territory of the United States ("CTUS") and is addressed for delivery either inside the CTUS or inside the Customs district of the Virgin Islands, on the following terms and conditions:

a. *Other regulations.* Such inspections may be conducted only in accordance with 820, USPS Publication 42, International Mail, relating to cooperation with the U.S. Customs Service on inspection of imports.

b. *Virgin Islands.* Postal employees in the Virgin Islands may permit designated personnel of the U.S. Customs Service, without a search warrant, to examine the exterior (but not open or read the contents) of sealed mail which has originated in the CTUS and is addressed for delivery in the Customs district of the Virgin Islands. Upon the request of such Customs personnel, postal employees in the Virgin Islands may ask the addressee of such sealed mail which such Customs personnel have reasonable cause to believe contains dutiable or prohibited matter to authorize such Customs personnel to open and inspect the contents of the sealed mail, or to appear at the post office to accept delivery of the sealed mail in the presence of a Customs official.

c. *Privacy of Correspondence.* No customs personnel may read, allow any other person to read, divulge, or transfer to any other person any correspondence contained in sealed mail; nor may Customs personnel divulge, allow any other person to read or listen to, transfer to any other person, or knowingly listen to any paper or recording which is correspondence for the blind contained in unsealed mail; nor may Customs personnel divulge, allow any other person to read, or transfer to any person correspondence of school children permitted transmission in unsealed mail; unless such action is authorized by a search warrant issued under Rule 41 of the Federal Rules of Criminal Procedure.

d. *Search Warrant Required for Domestic and Certain International Mail.* No Customs personnel may, without a search warrant, open, inspect, read, or seize any mail in postal custody (including APO-FPO mail) which has not originated outside the CTUS, or which has diplomatic or consular immunity from customs inspection (USPS Publication 42, International Mail, sections 821.1a and 821.1b).

.92 DEPARTMENT OF AGRICULTURE

a. *Foreign Origin Mail.* Without a search warrant, but with the written consent of the sender, designated personnel of the U.S. Department of Agriculture may open and inspect (but not read) the contents of mail (including APO-FPO mail) which has originated outside the Customs Territory of the United States ("CTUS") and is addressed for delivery inside the CTUS. Such inspection may be conducted only in accordance with 830, USPS Publication 42, International Mail, relating to cooperation with the Department of Agriculture on plant quarantine inspections of imports.

b. *Domestic Mail from Hawaii or Puerto Rico.* Without a search warrant, designated USDA personnel may open and inspect (but not read) the contents of mail reasonably suspected of containing plant matter or plant pests, which has been mailed in Hawaii or Puerto Rico and is addressed to the United States mainland, either with the consent of the sender, or if the mail is unsealed. Such inspections may take place only in designated areas of the Hawaii or Puerto Rico post office, and only so long as the Federal plant quarantine of Hawaii or Puerto Rico remains in effect.

c. *State Terminal Inspections.* Postal employees may cooperate with the Department of Agriculture and with State terminal inspection officials in accordance with the Terminal Inspection Act, 7 U.S.C. 166, or implementing regulations in USPS Publication 14, Plant Quarantines.

.93 MILITARY POSTAL SYSTEM

This part applies to the military postal system and to all military personnel performing postal duties, including unit mail clerks. A search authorization issued by or under the authority of a commanding officer or a military judge is not a "search warrant" within the meaning of this part. Offenses committed against the security of mail in the custody of the military postal system, at home or abroad, are punishable under Federal criminal laws relating to postal offenses in Title 18, United States Code, as well as under the Uniform Code of Military Justice. Mail in the custody of the military postal system, if mailed outside the Customs Territory of the United States for delivery to an address within the Customs Territory of the United States, may be opened and searched (but correspondence in sealed mail may not be read) without a search warrant, by authorized personnel of the U.S. Customs Service in accordance with section 115.91, relating to customs imspection, and by authorized personnel of the Department of Agriculture in accordance with section 115.92a, relating to plant quarantines of imports, even though for other purposes such mail is domestic mail, part 112.

.94 CUSTOMS INSPECTION IN GUAM

Postal employees in the Agana post office may permit designated customs officials of the Government of Guam, without a search warrant to open, inspect, and read the contents of unsealed mail, and to examine the exterior (but not open or read the contents) of sealed mail which is addressed for delivery within the Territory of Guam. Upon the request of Guam customs officials, postal employees in the Agana post office may ask the addressee of sealed mail which Guam Customs reasonably suspects of containing dutiable or prohibited matter to authorize Guam custom to open and inspect the contents of the sealed mail, or to appear at the post office to accept delivery of the sealed mail in the presence of a Guam customs official.

.95 CANAL ZONE POSTAL SERVICE

.951 *International Transit Mail*

The Canal Zone Postal Service shall comply with section 115.8 with regard to any international transit mail passed to it by a foreign postal administration.

.952 *Mail Addressed to the United States or any Area for Which it is Responsible*

The Canal Zone Postal Service shall comply with part 115 with regard to any mail passed to it by a foreign postal administration which is addressed for delivery in the United States or any area for which the United States is responsible (other than the Canal Zone).

.953 *Mail Passed to the Canal Zone Postal Service by the United States Postal Service Not Addressed for Delivery in the Canal Zone*

The Canal Zone Postal Service shall comply with part 115 with regard to any mail passed to it by the United States Postal Service which is not addressed for delivery in the Canal Zone.

.954 *Definitions*

For purposes of subsections 115.952 and 115.953, the words "postal employee" or words of like import in part 115 refer to an employee of the Canal Zone Postal Service; and the words "Postal Service" or "United States Postal Service" or words of like import refer to the Canal Zone Postal Service.

.96 PUERTO RICO

Under 48 U.S.C. 741a, postal employees in the San Juan Post Office are authorized to permit excise tax collection officials of the Commonwealth of Puerto Rico to record the names and addresses that appear on the exterior of incoming insured, certified, or C.O.D. mail, so long as no mail is opened or detained.

.97 MAIL ADDRESSED TO PRISONERS

Authorized personnel of prisons, jails, or other correctional institutions, in accordance with lawful rules and regulations, may open, examine, and censor mail addressed to an inmate of the institution, if the inmate-addressee consents to receive his mail at the institution through the institutional authorities. If the inmate does not consent, the personnel may either deliver the inmate's mail to the inmate unopened, or return it to the post office unopened marked, "Refused." An inmate may designate in writing an agent outside the institution to receive his mail, either through an authorized address of the agent if the mail is so addressed, or at the delivery post office serving the institution if the mail is addressed to the inmate at the institution.

PART 122—ADDRESSES

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.514 *Charges*

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d. Payment for correction of lists submitted by Federal agencies and for address correction notices furnished to them on Forms 3547 and 3579 is made under the official mail reimbursement program. Submit a report on Item 013, *Routing Slip,* or by memorandum indicating the applicable charges and the name of the Federal agency, including the bureau, for which these services were provided, to:

Manager, Government Revenue and Examination Branch, Finance Department, U.S. Postal Service, Washington, D.C. 20260.

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.552 *Multi-ZIP-Coded Post Offices*

Under the following conditions, post offices will sort mailing lists consisting of addresses for the multi-ZIP-Coded post offices described in section 122.633 (see also 122.634) according to five digit ZIP Code delivery units at a charge of $23.00 per thousand addresses or fraction thereof, payable to the local postmaster upon submission of the list:

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PART 125—SECOND-CLASS BULK MAILINGS

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125.2 WRAPPING

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.26 Sealed or unsealed envelopes used as wrappers and sealed covers must show a notice of entry in the upper right corner of the address area. The upper left corner must show the name of the publication followed immediately by the publication number furnished by the Office of Mail Classification and the mailing address to which undeliverable copies or change of address notices are to be sent. The publication number includes an alpha prefix and is to be within parentheses; for example, *THE NATIONAL WEEKLY* (ISSN 9876-543X) or *THE COMMUNITY JOURNAL* (USPS 123-456). See 132.25f and 159.224 for additional instructions. An alternative to printing these required endorsements on the wrapper is to print them directly on the outside of the publication, provided they can be readily recognized and easily read when the wrapper is in place. This alternative permits the use of clear plastic wrappers and also enables the use of opaque sleeves which only partially cover the publication.

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125.3 MAILING

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.326 *Packages and Sacks*

When there are six or more individually addressed copies to the destinations described in 125.326 a, b, c, d, and e, they must be securely wrapped or tied together as a package by the mailer (the mailer may package less than six copies in the same manner). Packages must be sacked by the mailer when there are enough for the same destination to fill approximately one-third of a standard No. 2 sack or when the copies for the same destination weigh at least 20 pounds. Some publishers may be equipped to prepare the required separations without using mail sacks. For example, the publisher might prepare banded bundles, place the copies on pallets, or place the copies in various kinds of containers. If arrangements mutually beneficial to the publishers and the Postal Service can be made for handling copies outside of mail sacks, a detailed explanation of the arrangements must be submitted by the postmaster of the post office of original second-class entry to his Regional Postmaster General who will inform the postmaster whether

the arragements have been approved or disapproved. See 125.328

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.329 Outside County Per Piece Rates (Regular Rate and Science of Agriculture Publications)

There are several different piece rates provided for regular and science of agriculture publications which reflect the level of presort. Presort levels A, B and C are provided for mailings of 5,000 or more copies of Regular and Science of Agriculture publications being sent to destinations outside the country of publication. Presort levels D and E are provided for mailings of less than 5,000 pieces of Regular and Science of Agriculture publications being sent to destinations outside the county of publication.

a. To qualify for the level B or level E piece rate, a piece must be presented in a sack addressed to a city having a unique 3-digit, or a 5-digit ZIP Code destination, containing sufficient pieces to fill ⅓ of a number 2 postal sack (1,000 cubic inches) or sufficient pieces to weigh at least 20 pounds.

b. To qualify for the level C piece rate, a piece must be presented in a sack addressed to a particular carrier route containing sufficient pieces to fill ⅓ of a number 2 postal sack or sufficient pieces to weigh at least 20 pounds.

c. Pieces presented in bundles in lieu of sacks, in accordance with 125.328 may receive this lower rate providing they are of sufficient volume to fill one-third of a standard number 2 sack (1,000 cubic inches) or if they weigh at least 20 pounds.

d. One sack to a 5-digit ZIP Code or to a city with a unique 3-digit ZIP Code, containing less than one-third of a sack or 20 pounds may qualify for this lower per piece rate provided it is part of a mailing which contains other substantially full sacks to the same ZIP Code destination. This allows for the overflow to that destination which cannot be practicably put with previously sacked mail to that destination.

e. Mailers must be prepared to document or otherwise confirm the number of pieces mailed and paid for at the levels B, C, and E piece rates. This may be done in any of the following ways:

(1) By separating sacks paid at the various piece rates when they are presented for mailing, or

(2) By attaching to the mailing statement a listing of the number of copies (and pieces) to each 5-digit, unique 3-digit city, and carrier route for which level B, C, or E piece rates are being paid, or

(3) By maintaining records for each mailing which will confirm the number of pieces in unique 3-digit city, 5-digit, and carrier route sacks. The records must document the number of copies (and pieces) to each unique 3-digit city, 5-digit, and carrier route destination for which sacks are made up. A printout must be presented prior to the first mailing made under this arrangement, but not prior to August 1, 1978. These records must be retained for at least 2 months.

f. The mailer must provide a copy of the record for a particular mailing, or portions of it, within 30 days of a request by the postmaster of the office of entry. Postmasters shall advise the Region's Revenue Protection Program Manager of all publications being mailed under this arrangement. Acceptance units will maintain a listing of publications authorized to mail under this arrangement.

PART 126—MAIL ADDRESSED TO MILITARY POST OFFICES OVERSEAS

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.15 AIRLIFT MAIL

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.153 Any parcel other than a parcel mailed as priority mail not exceeding 30 pounds in weight or 60 inches in length and girth combined which is mailed at or addressed to any overseas military post office outside the 48 contiguous States will be transported by air on a space available basis, upon payment of a PAL (parcel air lift) fee in addition to the regular surface rate of postage. The PAL fee is 25¢ for parcels weighing 2 pounds or less, 50¢ for parcels weighing over 2 pounds and not exceeding 3 pounds, 75¢ for parcels weighing over 3 pounds and not exceeding 4 pounds and $1.00 for parcels weighing over 4 pounds. These parcels must be marked with the large letters PAL on the address side, preferably below the postage and above the name of the addressee. Postal employees will place these letters on all such parcels at the time of acceptance.

.154 Airlift service in 126.152 and 126.153 shall not be provided for mailings of publications sent in bulk to exchanges or news agents for subsequent resale or distribution.

.155 Second-class publications published once each week or more frequently and featuring principally current news of interest to members of the Armed Forces and the general public, which are mailed at or addressed to any Armed Forces post office *outside the 48 contiguous States*, will be given the airlift service provided in 126.152.

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126.2 CONDITIONS PRESCRIBED BY THE DEFENSE DEPARTMENT APPLICABLE TO MAIL ADDRESSED TO CERTAIN MILITARY POST OFFICES OVERSEAS

Military post office number	See footnotes	Military post office number	See footnotes	Military post office number	See footnotes
09001	B-C-I	09045	B-C-D-U	09078	B-C-D-U
09002	B-C-I	09046	B-C-D-U	09079	B-C-D-U
09007	B-C-D-U	09047	B-C-D-U	09080	B-C-D-U
09008	B-C-D	09048	B*-C	09081	B-C-D-U
09009	B-C-D	09050	B-C-D-U	09082	B-C-D-U
09011	B-C-F[1]	09051	A-B[1]-F-S	09084	
09012	B-C-D	09052	B-C-D-U	09085	
09017	B-E[2]-F-H[1]-R	09053	B-C-D-U	09086	B-C-D-U
09019	B-C-I	09054	B-C-D-U	09088	B*
09020	B[1]	09055	B*	09090	B-C-D-U
09021	B-C-D	09056	B-C-D-U	09091	B-C-D-U
09023		09057	B-C-D	09093	B-C-D-U
09025	B-C-D-U	09058	B-C-D-U	09095	B-C-D-U
09026	B-C-D-U	09059	B-C-D-U	09098	B-C-D-U
09028	B-C-D-U	09061	B-C-D-U	09099	B-C-D-U
09029	B-C-D-U	09066	B-C-D-U	09102	B-C-D-U
09030	I-N	09067	B-C-D-U	09107	B-C-D-U
09031	B-C-D-U	09068	B-C-D-U	09108	B-C-D-U
09033	B-C-D-U	09069	B-C-D-U	09109	B-C-D
09034	B-C-D-U	09070	B-C-D-U	09111	B-C-D-U
09035	B-C-D-U	09072	B-C-D	09114	B-C-D-U
09036	B-C-D	09074	B-C-D-U	09116	B-C-D-U
09038	B-E[2]-F-H[1]-R	09075	B*-C	09117	A-B[1]-F-S
09039	B-C-D-U	09076	B-C-D-U	09118	A-B[1]-F-P-S
09040	A-B[1]-F-S	09077	B-C-D	09120	B*-C

See footnotes at end of table.

126.2 CONDITIONS PRESCRIBED BY THE DEFENSE DEPARTMENT APPLICABLE TO MAIL ADDRESSED TO CERTAIN MILITARY POST OFFICES OVERSEAS—Continued

Military post office number	See footnotes	Military post office number	See footnotes	Military post office number	See footnotes
09121		09164	B-C-D-U	09223	A
09123	B-C-D	09165	B-C-D-U	09224	A-B[1]-F-S
09127	B*-C	09166	B-C-D-U	09227	B-C-D-U
09128	B-C-D-U	09168	B-C-I	09228	A-B
09129	B*-C	09169	B-C-D-U	09230	A-B-F[2]
09130	B-C-D	09170	C-D-N	09232	B-C-I
09131	B-C-D-U	09171	B-C-D-U	09238	B*-C
09132	B-C-D	09172	B-C-D-U	09240	B-C-I
09133	A-B[1]-F-S	09173	B-C-D-U	09241	B*-C
09137	B-C-D-U	09175	B-C-D-U	09245	B-C-D-U
09138	B-C-D-U	09176	B-C-D-U	09252	B-C-D-U
09139	B-C-D-U	09177	B-C-D-U	09253	A
09140	B-C-D-U	09178	B-C-D-U	09254	A-B[1]-F-S
09141	B-C-D-U	09179	B*-C	09277	B-C-D
09142	B-C-D-U	09180	B-C-D-U	09281	B-C-D-U
09143	B-C-D-U	09184	B-C-D-U	09282	
09144	B-C-D-U	09185	B-C-D-U	09283	
09146	B-C-D-U	09189	B-C-D-U	09285	
09150	B*-C	09193	B*-C	09286	
09154	B-C-D-U	09194	B*-C	09289	A-B[1]-F-S
09155	A-B-T	09202	A-B-G	09291	A
09159	B-C-F[1]	09205	A-B-F[2]	09292	B-C-F[1]
09160	B-C-D-U	09210	B*-C	09293	B-C-I
09161	B-C-I-U	09220	B-C-D	09294	A-B[1]-F-S
09162	B-C-D-U	09221	B-C-I	09305	B-C-D-U

See footnotes at end of table.

126.2 CONDITIONS PRESCRIBED BY THE DEFENSE DEPARTMENT APPLICABLE TO MAIL ADDRESSED TO CERTAIN MILITARY POST OFFICES OVERSEAS—Continued

Military post office number	See footnotes	Military post office number	See footnotes	Military post office number	See footnotes
09309	B-C-D-U	09406		09524	B-C-I[1]
09310	B-C-D-U	09407	B-C-D-U	09525	A
09320	A-B[1]-F-S	09411	B-C-D-U	09526	
09321	B-C-D	09451	B-C-D-U	09527	A-N
09322	B-C-D-U	09452	B-C-D-U	09528	A
09324	A-B[1]-F-S	09453	B-C-I	09530	A-B-C-F-M
09325	B-C-D-U	09454	B-C-D-U	09533	B-C-I[1]
09326	B-C-D-U	09455	B-C-D-U	09534	
09330	B-C-D-U	09457	B-C-D-U	09539	
09333	B-C-D-U	09458	B-C-D-U	09540	
09338	A-B-F-S	09460	B-C-D-U	09541	
09351	B-C-D-U	09501		09544	A-B-C-E
09352	B-C-D-U	09502			
09353	B-C-D-U	09505	O	09549	
09354	B-C-D-U	09510	B*-C	09551	
09355	B-C-D-U	09511	B*-C-J	09552	
09358	B-C-D-U	09514	B*-C	09553	
09359	B-C-D-U	09515	B*-C-J	09554	
09360	B-C-D-U	09516	B*-C-J	09555	
09370	B-C-D	09518	B*-C-J	09556	
09378	B*-C	09519	B*-C-J	09558	
09380	A-B[1]-F-S	09520	B-C-I	09559	
09401		09521	B-C-I[1]	09560	
09403	B-C-D-U	09522	B-C-I[1]	09571	C
09405	B*-C	09523	B-C-I[1]	09572	C

See footnotes at end of table.

V 43 / 178 SE 13 78

126.2 CONDITIONS PRESCRIBED BY THE DEFENSE DEPARTMENT APPLICABLE TO MAIL ADDRESSED TO CERTAIN MILITARY POST OFFICES OVERSEAS—Continued

Military post office number	See footnotes	Military post office number	See footnotes	Military post office number	See footnotes
09580	B[1]	09693	A	09865	B-I-M-N
09584	B[1]	09696	B-C-D-U	09867	M-N
09585	B[1]	09697	B-E[2]-F-H[1]-R	09869	B-C-F-M-N
09593		09701	B-C-D-U	09870	C-D-N
09597		09702	B-C-D-U	09871	B-I-L-M-N
09598		09710	B-C-D-U	09872	B-C-D-U
09607	B*-C	09742	B-C-D-U	09879	H-M-N
09611	B-C-D	09743	B-C-D-U	09881	I-M-N
09616	B-E[2]-F-H[1]-R	09751	B-C-D-U	09883	B-I-M-N
09633	B-C-D	09755	B*-C	09885	M-N
09659	B*-C	09757	B-C-D-U	09887	B-D-F-I-M-N
09662		09777	A-B-C-E	09889	B-I-M-N
09664	N	09794	B-C-I	09891	B-M-N
09666	B-C-D-U	09801	B-C-D-U	09892	A-B-F
09667	B*	09807	B-C-D-U	09893	C-F-H-I-M-N
09669	B-C-D	09825	B[1]	09895	B-I-M-N
09670	B-C-I	09826	B[1]	09897	I-N
09671	B-E[2]-F-H[1]-R	09827	B[1]	09899	B-I-M-N
09672		09829	B[1]	96208	A-B
09676	B-M-C-N	09832	B[1]	96209	A-B-H
09678	B-N	09834	B[1]	96210	A-B-M
09689	B-C-I	09837	B[1]	96212	A-B
09690	A	09851		96213	A-B
09691	B-E[2]-F-H[1]-R	09860	B-C-D	96218	A-B
09692	B-C-D	09862	N	96220	A-B

See footnotes at end of table.

126.2 CONDITIONS PRESCRIBED BY THE DEFENSE DEPARTMENT APPLICABLE TO MAIL ADDRESSED TO CERTAIN MILITARY POST OFFICES OVERSEAS—Continued

Military post office number	See footnotes	Military post office number	See footnotes	Military post office number	See footnotes
96221	P	96305		96397	A-B
96224	A-B	96311	B[2]-F-K-L	96401	
96230	A-B-L-M	96315	F-P-N	96404	A-B-H
96231	A-B	96319	B-B[1]-B[2]-F	96405	A-B-H
96235	A-B-M	96324	A-B	96431	F-K
96239	A-B-M	96327	L	96432	B[2]-F-K
96244	A-B-M	96328	A-B-M	96434	P
96248	A-B-M	96331	A-B-M	96435	B-B[1]-B[2]-F
96251	A-B	96333	M	96455	A-B
96259	A-B	96334		96460	A-B
96263	B-B[1]-B[2]-F	96335	A-B	96468	F-N
96264	A-B	96336	A-B-M	96483	A-B
96270	A-B-M	96340	B-B[1]-B[2]-F	96488	A-B
96271	A-B	96343	A-B-M	96501	
96274	B[2]-F-K	96344	A-B-M	96503	A-B-M
96276	A-B	96346	F-N	96519	A-B-M
96277	B[2]-F-K	96351	P	96528	B[2]-F-K
96282	B-B[1]-B[2]-F	96356		96555	M
96286	B[2]-F-K-L	96358	A-B	96556	
96287	A-B-H	96361	A-B-M	96570	A-B
96290	B-B[1]-B[2]-F	96366	A-B	96571	A-B
96292	A-B-M	96367	A-B-L-M	96601	
96298	B[2]-F-K	96369	A-B-H	96602	
96301	A-B	96370	A-B	96605	O
96302	A-B	96371	A-B	96614	
				96619	

See footnotes at end of table.

126.2 CONDITIONS PRESCRIBED BY THE DEFENSE DEPARTMENT APPLICABLE TO MAIL ADDRESSED TO CERTAIN MILITARY POST OFFICES OVERSEAS—Continued

Military post office number	See footnotes	Military post office number	See footnotes	Military post office number	See footnotes
96630		98715		98772	A-B-M
96637		98716		98773	A-B-M
96650	F-K	98723		98777	
96651	F-K	98733		98778	A-B-M
96652	F-K	98736		98781	A-B-M
96654	F-K	98745		98782	A-B-M
96656	F-K	98746		98791	
96658	F-K	98747		98799	
96659	F	98748			
96680	A-B-H-H[1]-Q	98750			
96685		98760	A-B-M		
96690	B-H-M	98761	A-B-M		
96692		98762	A-B-M		
96699	A-F	98763	A-B-M		
98703		98764	A-B-M		
98704		98765	A-B-M		
98706		98766	A-B-M		
98709		98767	A-B-M		
98710		98768	A-B-M		
98711		98769	A-B		
98713		98770	A-B-M		

FOOTNOTES

A. No mail of any class may contain securities or currency. Precious metals in their raw, unmanufactured state are also prohibited. Official shipments are exempt from these restrictions.

B. Customs Declaration form required, except that prepaid mail from a contractor, addressed to a military organization for official use, NEED NOT bear Customs Declaration but must be endorsed "Contents For Official Use—Exempt from Customs Requirement." Official mail from Government agencies DOES NOT require customs declaration or exemption endorsement."

B[1]. Two customs declarations required. One Form 2966—A and one Form 2966.

*Articles will be liable for customs duty and/or purchase tax unless thay are bona fide gifts, personal use intended for military personnel or their dependents. When the contents of a parcel meet these requirements, the mailer should place a certificate similar to the following on the customs form under the heading—"Description of Contents" "Certified to be a bona fide gift, personal effects or items for personal use of military personnel and dependents thereto."

B[2]. Form 2966, Customs Declaration, required except on official mail which does not require customs declaration or exemption endorsement. Army and Air Force Exchange Service (AAFES) will furnish computer listing on all items mailed from their activities to Phillipine APO's indicated. Other major mail order companies will either use Form 2966 on each item or provide computer listings. These listings should include description of item, dollar value of item, complete address including PSC box number and APO of addressee, date of mailing, insurance or registry number if applicable, and serial number of any item over $25.00 in value and any electrical item with a plug over $15.00 in value.

C. Cigarettes and other tobacco products prohibited.

D. Coffee prohibited.

E. Mail may not contain: 1. Medicines or vaccines not conforming to French laws. 2. Nonauthorized publications, reprints, and publications prohibited on account of their political character or immoral contents.

F. Mail of all classes may not contain firearms of any type. See definition of firearms in 124.4 Exception: Not applicable to firearms mailed to or by official U.S. government agencies.

F[1]. No mail of any class may contain privately owned weapons addressed to an individual.

F[2]. "Importation of firearms is restricted to one shotgun and one single shot 22 caliber rifle per individual."

G. Only first-class letters, second- and third-class mail authorized.

H. Meats, including preserved meats whether, hermetically sealed or not, are prohibited.

H[1]. Pork and/or pork by-products prohibited.

I. Mail of all classes may not exceed the following dimensions:

Length	
45"	72" length and girth combined.
Over 42" to 44"	24" girth.
Over 44" to 46"	20" girth.
Over 46" to 48"	16" girth.

Maximum length 48".

[1] Provisions of this footnote are not applicable to registered mail.

[2] Provisions of this footnote are not applicable to official Government mail marked MOM.

J. Weight for other than registered mail is restricted to 50 pounds.

K. Mail which includes in the address the words "Dependent Mail Section" may consist only of letter mail, newspapers, magazines and books. No parcel of any class containing any other matter may be mailed to Dependent Mail Section. This footnote is not applicable if the address does not include the words "Dependent Mail Section."

L. All official mail prohibited.

M. Fruits, animals, and living plants are prohibited.

N. No registered mail accepted.

O. Personal mail addressed to vessels using this number is limited to unregistered first-class mail, and certified mail. Other classes of mail may not be accepted.

P. APO will be used for the receipt and dispatch of official mail only.

Q. Mail may not exceed 66 pounds and size is limited to 42 inches maximum length and 72 inches maximum length and girth combined.

R. All alcoholic beverages, including those mailable under part 124.81 are prohibited.

S. No parcels (merchandise) of any kind accepted.

T. Mailings of case lots of food and supplemental household shipments must be approved by the sender's parent agency prior to mailing.

U. Parcels must weigh less than 16 ounces when addressed to Box R.

V 43 / 178 SE 13 78

MAIL CLASSIFICATION AND RATES
Part 131
FIRST CLASS

131.1 RATES

.11 SINGLE PIECE RATES

The single piece rates are applied to each letter or piece of first-class mail according to its weight.

Kind of Mail	Rate
All first-class mail weighing 12 ounces or less except postal and post cards. See 136.1 for rates on first-class mail weighing more than 12 ounces.	15¢ for the first ounce or fraction of an ounce, 13¢ for each additional ounce or fraction of an ounce.
Single postal cards sold by the post office (see 141.13)	10¢ each.
Double postal cards sold by the post office (see 141.13)	20¢ (10¢ each portion).
Single post cards (see 131.222)	10¢ each.
Double post cards (see 131.222) (Reply portion of double post card does not have to bear postage when originally mailed.)	20¢ (10¢ each portion).
Presort rate (see 131.12)	The applicable first-class rate, less 2¢ per piece for letters and less 1¢ for cards
Business Reply:	
When the advance deposit trust account option is *not* used	The appropriate first-class postage; plus a surcharge of 12¢ per piece.
When the advance deposit trust account option is used	The appropriate first-class postage; plus a surcharge of 3.5¢ per piece.

.12 PRESORT RATE

.121 *Identical Pieces*

The presort rate is equal to the applicable single piece first-class rate, less 2 cents for each letter and 1 cent for each card that is part of a group of ten or more pieces sorted to the same five-digit ZIP Code, or of a group of fifty or more pieces sorted to the same three-digit ZIP Code, when they are presented at one post office as part of a single mailing of not less than 500 pieces of first-class mail of identical size and weight, each weighing 12 ounces or less. All pieces must be individually addressed and lower rated pieces must be sorted to the maximum extent; i.e., all five-digit sorts in groups of ten or more must be exhausted before proceeding to make up all three-digit sorts in groups of fifty or more. Full first-class postage must be paid on the residue not sorted to groups of 5- or 3-ZIP Code digits as decribed above. The mailing must be presented at a place and between the hours designated by the postmaster and must comply with the preparation requirements in 131.5. Deposit of metered presort mail at other than these designated places will be considered misuse of a postage meter and grounds for revocation of the meter license in accordance with 144.23. Cards subject to sortation requirements of 131.224 are eligible for the presort rate if they meet all requirements for the rate.

.122 *Nonidentical Pieces*

a. Metered. Pieces of first-class metered mail which are nonidentical in size and weight may be mailed at presort rates providing all other requirements contained in 131.121 and 131.5 are met. Residual pieces must be *metered* at the full rate.

b. Mailings of nonidentical pieces with *permit imprints* may only be made under the provisions of 145.8 or 145.9.

• • • • •

.23 BUSINESS REPLY MAIL

• • • • •

.233 *Postage and Fees*

• • • • •

f. When payment is not by use of an advance deposit trust account, postage is collected on each piece of business reply mail at the time it is delivered. Postage due stamps for the amount due will be affixed to the mail or to Form 3582-A, *Postage Due Bill.* The stamps will be canceled and delivered to the addressee with the mail when he pays the amount due. Business reply mail will not be mixed with other mail in direct packages or sacks for individuals or concerns. See 131.233g for amount to be collected which may not include fees for any special services

• • • • • •

.235 *Format*

a. General. Any photographic, mechanical or electrical process or any combination of such processes, other than handwriting, typewriting or handstamping, may be used to prepare the address side of business reply mail. The background of business reply mail pieces may be any light color that allows the address, postmark and other required endorsements to be readily discerned. Brilliant colors may not be used. Green diamond and other printed borders are not authorized on business reply letters and cards; however, they may be included on business reply labels and cartons and envelopes larger than 6"×11".

b. Required Format Elements. (1) *Preprinted Endorsements.* (a) The endorsement "NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES" must be printed in the upper right corner of the face of the piece. The arrangement of the endorsement may vary, but it may extend no further than 1¾ inches from the right edge of the mail piece.

(b) The appropriate "Business Reply" legend must appear above the address and must be in capital letters at least 3/16 inches in height. Authorized legends are:

Legend—For Use On

BUSINESS REPLY MAIL—Letters, Cartons, and Cards at Letter Rate

BUSINESS REPLY CARD—Cards qualifying for post card rate. (The legend "Business Reply Card" must be used to be eligible for the lower card rate. See 131.222 for the maximum dimensions for post cards.)

BUSINESS REPLY LABEL—Labels. (Business Reply envelopes and cards may not be used as labels to return matter to the permit holder. However, the permit holder of a business reply label guarantees payment of first-class postage upon the return of any mailable matter having his business reply label affixed.)

(c) Immediately below the "Business Reply" legend the words "FIRST CLASS, PERMIT NO • • • " followed by the permit number, and the name of the issuing post office. (city and state) must be shown in capital letters.

(d) The legend "POSTAGE WILL BE PAID BY ADDRESSEE" must appear above the address.

(e) The complete address, including ZIP Code, must appear in accordance with sections 122.1 and 122.2. A margin of at least one inch is required between the left edge and the address.

(2) *Required Markings*

Horizontal Bars—To facilitate rapid recognition of business reply mail, a series of horizontal bars parallel to the length of the mail piece must be printed immediately below the endorsement "NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES". The bars must be uniform in length, at least 1 inch long and 1/16 to 3/16 inches thick. The spacing between the bars must be nearly equal to the thickness of the bars. A ⅝ inch space must be left between the bottom horizontal bar and the bottom edge of the mail piece on business reply letters and cards. The series of horizontal bars on business reply labels must be at least 1½ inces high.

(b) *Facing Identification Mark (FIM)*—An area measuring ⅝ of an inch in height and 1¼ inches in length, located along the top edge of the piece and to the left of the endorsement "No Postage Necessary if Mailed in the United States" is reserved for the use of Facing Identification Mark (FIM). FIM is a vertical bar code pattern in the top right portion of the address side which functions as an orientation mark for automatic facing and cancelling equipment. The Facing Identification Mark area being 3 inches from the right edge of the piece and extends 1¼ inches to the right (see 131.236). In all cases, U.S. Postal Services specifications and negatives must be used. The specifications and negatives for Facing Identification Mark can be obtained from local post office customer services representatives. FIM must be used on all letter size business reply mail and on business reply post cards. (Letter size mail is defined as being from 4¼ inches to 11½ inches long, 3 inches to 6⅛ high, and .006 inches to .25 inches thick.) On or after November 30, 1978, the minimum dimensions for letter size mail will change to 5 inches long, 3½ inches high, and .007 inch thick.)

(c) *Optional Format Elements.* (1) *Voluntary Review*—Normally, postal inspection of sample business reply pieces or artwork is not required prior to distribution by permit holders. However, permit holders are encouraged to submit such materials to their local postmaster for review and approval prior to printing and distribution. Doing so would avoid the possible inconvenience and cost of reprinting if the Postal Service were to determine that business reply format requirements are not being met and that existing unapproved pieces are not mailable. When postal review is desired, two pieces should be submitted to the postmaster either where the permit is held or where the mail will be returned. One piece will be returned after being marked to indicate either postal approval or suggested changes.

(2) *Bar Code*—The bottom ⅝ inch of business reply cards and letter size envelopes is reserved for USPS bar codes. The USPS bar code is the only information that may appear in this area.

(3) *BRM Legend Box*—It is recommended that the "Business Reply" legend and other preprinted endorsements described in 131.235b(1) (b) and (c) be placed in a box for greater visual impact.

(4) *Company Logo*—A company logo used as part of the company name may appear in the address provided it is located no lower than the top of the street address line or the post office box line and does not interfere with any of the required business reply endorsements.

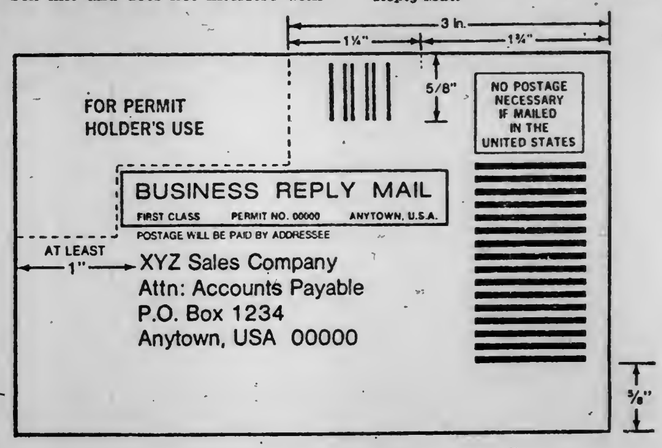
(5) *Space For Permit Holders Use*—The upper left corner of the address side is available fur use by the permit holder. This area is bordered on the right by the FIM area (see 131.235b(2)(b)) and the legend "BUSINESS REPLY MAIL" and is above the address. It may contain the return address, logos, distributor codes, "strad" marks, etc. (see 131.236).

(6) *Attention Lines*—Attention lines or key lines may be included as the first or second line of the distributor's address.

(7) *Window Envelopes*—Window envelopes, if used, must comply with Part 141, Postal Service Manual.

(d) *Implementation Deadline*—BRM material distributed after May 1, 1979, must comply with the format requirements contained in this section. Material complying with previous BRM format requirements may continue to be distributed until May 1, 1979. Postmasters may authorize distribution, on a case by case basis, until May 1, 1979, of material already printed which does not comply with the former format requirements, but which is not expected to cause mail processing problems. Distribution after May 1, 1979, of BRM material which does not comply with the format requirements contained in this section will be grounds for revocation of BRM permits.

.236 *Illustration of Business Reply Mail*



V 43 / 178 SE 13 78

.237 *Distribution*

Business reply cards, envelopes, cartons, and labels may be distributed:

a. In any quantity for return to any post office in the United States and its Territories and possessions, including military post offices overseas; except in the Canal Zone, where they may not be returned without prepayment of postage. They should not be sent to any foreign country.

b. In any manner except by depositing in receptacles provided by customers for receipt of mail.

.238 *Permit Holder*

The permit holder guarantees payment on delivery of postage on returned business reply mail. Any concern distributing business reply cards, envelopes, cartons, or labels under one permit for return to its branches or dealers guarantees to pay postage on any returns refused by any authorized addressees.

* * * * *

.42 PRESORT RATE

.421 Mailings made at presort rates must be paid only by meter stamps or permit imprints. When meter stamps are used, postage must be affixed for the first-class presort rate on qualifying pieces and for the full first-class rate on residual pieces except as provided in 131.422.

.422 *Metered Identical Pieces*

For mailings paid by metered postage, the entire presorted mailing may be metered at the lower presort rate, if the entire mailing consists of pieces of identical size and weight. The additional postage for residual pieces for which the full single-piece rate is required is to be paid by means of a meter strip affixed to the back of Form 3602-PC, Statement of Mailing, Bulk Rates.

.43 ANNUAL FEE

A first-class presort mailing fee of $30 must be paid once each calendar year at each office of mailing by or for any person who mails first-class matter at presort rates. Any person who engages a business concern or another individual to mail for him must pay the $30 fee. This fee is separate from the fee that must be paid for a permit to mail under the permit imprint system (145.1).

* * * * * *

.54 SORTING REQUIREMENTS—LOWER PRESORT RATE

.541 *Packages*

When there are 10 or more pieces to the same five-digit ZIP Code destination and/or 50 or more pieces to the same three-digit ZIP Code prefix destinations described in 131.545 b and c, they must be secured as a package by the mailer. Rubber bands are the only acceptable means of securing packages of trayed mail. See exhibit 131.541.

HOW TO PREPARE PRESORTED FIRST-CLASS MAIL (500 PIECE MINIMUM)

Pieces qualifying for the presort rate MUST be prepared in the following sequence:

DIRECT	CITY	SCF	STATE	MIXED STATES
10 or more to the same 5-digit ZIP Code.	50 or more to the same first 3-digit ZIP Code uniquely* assigned to a City. *Applies ONLY to those Cities listed in upper case letters in the ZIP Code Prefixes Section of the National ZIP Code Directory.	50 or more to a first 3-digit ZIP Code assigned to a Sectional Center Facility.* (Each first 3-digit ZIP Code assigned to a SCF MUST be bundled separately) *See National ZIP Code Directory for SCF list.	(Recommended but not mandatory)	
Qualifying Direct pieces that do not fill a DIRECT TRAY must be bundled into packages and trayed in the following priority order. CITY TRAY - When the first three digits of the Direct packages are the same as the first three digits uniquely assigned to a City. SCF TRAY - When the first three digits of the Direct packages are the same as any of the first three digits assigned to the SCF. STATE TRAY (Recommended but not mandatory) - When the State name on the Direct packages is the same as the State name on all the packages in the tray. MIXED STATES TRAY - When the Direct packages are not presortable in full trays to the required or recommended categories.	Qualifying City pieces that do not fill a CITY TRAY must be bundled into packages and trayed in the following priority order. SCF TRAY - When the first three digits of the City packages are the same as any of the first three digits assigned to the SCF. STATE TRAY (Recommended but not mandatory) - When the State name on the City packages is the same as the State name on all the bundles in the tray. MIXED STATES TRAY - When the City packages are not presortable in full trays to either the required or recommended category.	Qualifying SCF pieces that do not fill a SCF TRAY must be bundled into packages and trayed in the following priority order STATE TRAY (Recommended but not mandatory) - When the State name on the SCF bundles is the same as the State name on all the packages in the tray. MIXED STATES TRAY - When the SCF packages are not presortable in full trays to the recommended category.	REMAINING (RESIDUAL) MAIL Any remaining mail not presorted into DIRECT, CITY, or SCF categories is INELIGIBLE for the lower rate. However, it must be placed in trays to maintain the ZIP Code sequence. It is recommended that a State bundle be prepared when there are 10 or more pieces of residual mail for the same State. All residual mail must be clearly separated from the presorted mail.

Exhibit 131.541

Exhibit 131.541

* * * * * * * *

.545 *Sortation*

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b. *City Packages and Trays.*

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(2) *Presorted Trays.* City mail plus any packages for five-digit ZIP Code delivery units within those cities not trayed, as provided for by 131.545a(2), must be prepared in City trays. A mixed city pouch label must be firmly affixed to the end of each tray. City trays must be labeled in the following manner:

PHILADELPHIA PA 191
FCM PRESORTED
FR JAY MAILING CO
CINCINNATI OH

Mail left over after filling trays must be bundled into packages and placed in an SCF tray.

c. *Sectional Center Facility (SCF) Packages and Trays.*

• • • • •

(2) *Presorted Trays.* SCF packages plus any five-digit and city packages not trayed, as provided for by 131.545 a(2) and b(2), and which are destined for the same sectional center facility must be prepared in SCF trays. An SCF pouch label must be firmly affixed to the end of each tray. SCF trays must be labeled in the following manner:

SCF PHILADELPHIA PA 190
FCM PRESORTED
FR Q MAILERS BALTO MD

Presorted mail left over after filling SCF trays must be bundled into packages. It is recommended, but not required, that these be placed in state trays. If state trays are not prepared, bundles must be placed in mixed states trays.

d. *State Trays.* It is recommended, but not required, that qualifying packages remaining after traying, in accordance with 131.545 a(2), b(2), and c(2), be sorted to State distribution centers. (SDC's) and placed in State trays. See exhibit 131.541. Postmasters will provide mailers with listings of SDC's and the areas they serve. A state pouch label in the format below must be firmly affixed to the end of the tray except for trays for the State of mailing. State trays for the State of mailing shall not be labeled.

DIS CHICAGO IL 606
IL FCM PRESORTED
FR RECORD BOSTON MA

e. *Mixed States Trays.* Packages remaining after traying in accordance with 131.545 a(2), b(2), c(2) and d, must be prepared in Mixed States trays. A mixed States pouch label in the following format must be firmly affixed to the end of the tray:

DIS CHICAGO IL 606
MIXED STATES FCM
PRESORTED
FR RECORD CHICAGO IL

f. *Exceptions to Bundling.* (1) The bundling requirements for presorted mail left over after filling full trays described in 131.545a-e may be waived when the use of separating tabs is approved by the local postmaster.

(2) The local postmaster may also waive the bundling requirements for loose-packed presorted flat mail sorted to one five-digit ZIP Code destination, when there is enough quantity to fill a number 3 sack. The flats must measure not less than approximately 8 inches high by 10 inches long.

.55 RESIDUAL MAIL

.551 *Maintain ZIP Code Sequence*

Pieces remaining after packages have been prepared in accordance with 131.545a-e and exhibit 131.541 are residual mail and are ineligible for the lower presort rate. Residual mail must be placed in trays in a way which maintains the orientation and the ZIP Code sequence of the presort. Trays of residual mail prepared in ZIP Code sequence are not to bear a pouch label.

.552 *Keep Residual Mail Segregated*

Residual mail must be presented together with the lower rated portion of a mailing, but must be clearly segregated therefrom to facilitate verification of the quantities of both the lower rated and residual pieces.

.553 *Optional Residual Sort*

In order to speed processing of the mail, it is recommended, but not required, that the mailer prepare state packages when there are 10 or more pieces to the same state. Orange label S must be affixed to the lower left corner of the address side of the top piece in each package.

131.6 PRESORT VERIFICATION

.61 PROCEDURE

h. For metered mailings select a sample of ten pieces of the mailing at random. Each piece of the sample is to be weighed and verified for proper payment of postage and the correct date. Based on the results of the ten pieces checked use the following procedures for disposition of the mailing:

(6) When the additional postage for metered identical residual pieces for which the full single piece rate is required is attached to Form 3602-PC, acceptance employees must verify the count of the residual pieces and insure that the postage value of the meter strip equals the number of residual pieces multiplied by the difference between the full rate and the lower presort rate.

PART 132—SECOND CLASS

132.1 RATES

.11 WHEN MAILED AT OFFICE OF ORIGINAL ENTRY OR ADDITIONAL ENTRY

.111 *In-County Rates*

In-county rates apply to copies of publications which are to be delivered to addressees within the county of publication, if such copies are:

a. Mailed at the office of original entry; or

b. Mailed at an office of additional entry within the county of publication.

If the postmaster of an office of entry directs a publisher to deposit copies of the publication at a postal facility serving that office, those copies shall be considered as mailed at the office of entry. The rates include a per-piece rate which must be paid in addition to a per-pound rate. These rates are:

Per Piece—1.1 cents
Per Pound—2.5 cents

.112 *Independent Cities*

Each publication having original entry at an incorporated city which is situated entirely within a county or which is situated contiguous to one or more counties in the same State, but which is politically independent of such county or counties, shall be considered to be within and a part of the county with which it is principally contiguous and copies mailed into that county are chargeable with postage at the rates in 132.111. Where more than one county is involved, the publisher will select the principal county and notify the postmaster.

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.121 *All Publications, Except Those Accepted at the Special Rate (132.122), Classroom Rate (132.123), or Science of Agriculture Rate (132.124)*

All publications are subject to the charges in both a and b.

a. Rates in cents per pound or fraction of a pound:

Nonadvertising portion	11.0
Advertising portion:	
Zones 1 and 2	14.7
Zone 3	15.6
Zone 4	17.1
Zone 5	19.7
Zone 6	22.6
Zone 7	25.4
Zone 8	27.8

b. Per piece charge (cents):

(1) For mailings of 5,000 or more copies per issue outside the county:

(a) Level A; pieces not qualifying for Level B or C	5.4
(b) Level B; unique 3-digit city and 5-digit ZIP Code destinations	4.3
(c) Level C; Carrier route or finer sort	3.6

(2) For mailings of less than 5,000 copies per issue outside the county:

(a) Level D; material not qualifying for presort level E	1.6
(b) Level E; unique 3-digit city and 5-digit ZIP Code destination	1.3

c. Copies of second-class publications that do not qualify for level B, C, or E per piece charges must be sorted to the finest extent possible as prescribed by part 125.

.122 *Special Rate Publications*

All publications are subject to the charges in both a and b.

a. Rates in cents per pound or fraction of a pound:

Nonadvertising portion	5.0
Advertising portion:	
Zones 1 and 2	7.8
Zone 3	8.5
Zone 4	9.9
Zone 5	11.6
Zone 6	13.1
Zone 7	14.2
Zone 8	15.3
b. Per piece charge (cents)	1.7

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.123 *Classroom Publications*

(Religious, educational, or scientific publications designed specifically for use in school classrooms or in religious instruction classes.) All publications are subject to the charges in both a and b.

a. Rates in cents per pound or fraction of a pound:

Nonadvertising portion	3.5
Advertising portion:	
Zones 1 and 2	4.6
Zone 3	5.2
Zone 4	6.4
Zone 5	8.3
Zone 6	10.4
Zone 7	11.9
Zone 8	13.7
b. Per piece charge (cents)	1.1

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.124 *Science of Agriculture Publications*

The rates in 132.124 a and b apply to publications devoted to promoting the science of agriculture. Exception: When the total number of copies furnished during any 12-month period to subscribers residing in rural areas consists of at least 70 percent of the total number of copies distributed by any means for any purpose, the rate for zones 1 and 2, for the advertising portion, is 7.9 cents per pound.

.13 RATES FOR NONSUBSCRIBER COPIES

.131 *Commingled and Presorted with Subscribers' Copies*

Sample copies in excess of 10 percent allowance.	15.3 cents per pound or fraction of a pound, plus 5.8 cents per piece.
Copies to persons not included in the list of subscribers.	Do.

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.223 *Preparation*

a. Publications must be formed of printed sheets. They may not be reproduced by stencil, mimeograph, or hectograph processes or reproduced in imitation of typewriting. Reproduction by stencil, mimeograph, or hectograph processes is reproduction in imitation of typewriting and is not permissible. Reproduction by any other printing process is permissible. Any style of type may be used.

b. The name of the publication must be shown on the front/cover page in a position and in a style and size of type that makes it clearly distinguishable from the name of the publisher or other items on the front.

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.25 IDENTIFICATION STATEMENTS IN COPIES

Copies of publications entered as second-class mail and copies of publications awaiting approval of their Application for Second-Class Mail Privileges must have an identification statement conspicuously shown in type no smaller than can be easily read (1) on one of the first five pages (preferably in the masthead) or (2) in the masthead on the editorial page (provided the location of the editorial page is shown on the front page of the publication in the table of contents). The identification statement must contain all of the following items:

a. *Name of Publication and Publication Number*—The publication number includes an alpha prefix and is to be within parentheses immediately following or below the name of the publication, for example, *THE WEEKLY JOURNAL* (ISSN 9876-543X) or *THE CIVIC BULLETIN* (USPS 876-690). The publication number will be furnished by the Office of Mail Classification and must be included within 90 days of the notification. The publication number may be omitted if it appears on the front/cover page.

b. *Date of Issue*—The date of issue may be omitted if it appears on the front/cover page.

c. *Statement of Frequency.*

d. *Issue Number*—Every issue of each publication must be numbered consecutively. The consecutive numbers of published issues may not be broken by assigning numbers to issues unavoidably omitted. The issue number may be omitted if it appears on the front/cover page.

e. *Subscription Price*—If the publication has one.

f. *Name and Address of Known Office of Publication*—Including street number, street name and ZIP Code. The street name and number are optional if there is no letter carrier service. The "Known Office of Publication" must be clearly distinguishable from the names of other offices of the publication. If there is no United States Post Office at the place where published (foreign publication) the name of the post office where mailed must be shown as the office of publication.

g. *Second-Class Imprint*—Which reads "Second-Class Postage Paid at ————." If a publication is mailed at two or more offices, the imprint must read "Second-Class Postage Paid at ———— and at additional mailing offices".

Notice of Pending Application—If copies are mailed while an application is pending, a notice must be included which reads "Application To Mail At Second-Class Postage Rates Is Pending At ————".

h. *Mailing Address For Change of Address Orders*—A statement, in normal text type of the publication, indicating where change of address orders are to be sent, which reads: "POSTMASTER: Send address changes to (Publication name and mailing address)". See 125.26 regarding publications which are wrapped.

V 43 / 178 SE 13 78

V 43 / 178

The following is an example of an appropriate identification statement format:

"THE DAILY TIMES (ISSN 7132-698X) is published daily except Sundays and holidays for $28 per year by Wright News, Co., 123 Main Avenue, Washington, DC 20024. Second-class postage paid at Washington, DC and additional mailing offices. POSTMASTER: Send address changes to *THE DAILY TIMES*, P.O. Box 4, Boulder, CO 80302."

In the above example the publisher's "known office of publication" is located in Washington, DC, where his circulation records must be made available for postal examination. His fulfillment office is located at Boulder, Colorado.

.31 FILING BY PUBLISHER

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e. *Application for exceptional dispatch.* An application to deliver copies of a second-class publication at the publisher's expense and risk from the post office of original entry or an additional entry post office to other post offices or elsewhere may be filed by the publisher at the office of original or additional entry where the postage is paid on the copies which will be transported. Applications for exceptional dispatch may be filed jointly with applications for original entry, reentry, or special rates. A form is not provided for applications for exceptional dispatch. The postmasters at the office of original or additional second-class entry will approve or disapprove applications on the basis of whether the exceptional dispatch will improve service. They will notify other post offices concerned and the sectional center manager of approved arrangements and include a list showing how the sacks or outside bundles are to be labeled and the approximate number of copies. Only after notification by the postmaster at the entry office where the postage is paid shall copies be accepted at another office directly from the publisher. Upon request of the entry office, the accepting office will verify the number of copies received directly from the publisher. The entry office request will be made at least once every 6 months and include the issue to be verified. The results of this verification and any noticeable change in the number of copies received at other times will be immediately reported to the entry office where postage is paid. Denial of an application for exceptional dispatch may be appealed to the Director, Office of Mail Classification, who will issue the final agency ruling.

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.33 FEES

The fees to accompany applications for second-class original entry, reentry, or additional entry, or for registration as a news agent, are:

Kind	Amount
Original entry	$120
News-agent registry	30
Reentry because of change in title, frequency of issue, office of publication, or other reasons	30
Additional entry (Only one fee is collectible for an application for additional entry even though the additional entry being applied for modifies one or more additional entries previously approved.)	50

If an application is not approved, no part of the fee is returned to the applicant.

PART 133—CONTROLLED CIRCULATION PUBLICATIONS

133.1 RATES

	Cents
Per pound or fraction of a pound	13.8
Per piece charge	4.9

The per piece charge is in addition to the pound rate.

133.2 PERMITS

.21 QUALIFICATIONS

* * * * *

e. The name of the publication must be shown on the front/cover page in a position and in a style and size of type that makes it clearly distinguishable from the name of the publisher or other items on the front.

.22 APPLICATIONS

Apply by letter to the postmaster at the office where mailings are to be made. State the name of the publication, frequency of issue, where published, the name of the publisher, and whether the publication is circulated free or mainly free. Submit two copies of the issue published nearest to the date of application marked to show the nonadvertising content as required in 133.53. The postmaster will submit the application and one copy of the publication to the Office of Mail Classification, Rate and Classification Department, Washington, DC 20260. Notice of authorization or denial will be furnished by the General Manager, Domestic Mail Classification Division.

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133.3 IDENTIFICATION STATEMENTS IN COPIES

.31 Copies of publications entered as controlled circulation mail and copies of publications awaiting approval of their application for controlled circulation mail privileges must have an identification statement conspicuously show in type no smaller than can be easily read (1) on one of the first five pages (preferably in the masthead) or (2) in the masthead on the editorial page (provided the location of the editorial page is shown on the front page of the publication in the table of contents). The identification statement must contain all of the following items:

a. *Name of Publication and Publication Number*—The publication number includes an alpha prefix and is to be within parentheses immediately following or below the name of the publication, for example, *MANAGING WIDGETS* (USPS 123-456). The publication number will be furnished by the Office of Mail Classification and must be included within 90 days of the notification. The publication number may be omitted if it appears on the front/cover page.

b. *Date of Issue*—The date of issue may be omitted if it appears on the front/cover page.

c. *Statement of Frequency*

d. *Issue Number*—Every issue of each publication should be numbered consecutively. The consecutive numbering of published issues may not be broken by assigning numbers to issues unavoidably omitted. The issue number may be omitted if it appears on the front/cover page.

e. *Subscription Price*—If the publication has one.

f. *Name and Address of Known Office of Publication*—Including street number, street name and ZIP Code. The street name and number are optional if there is no letter carrier service. The "Known Office of Publication" must be clearly distinguishable from the names of other offices of the publication.

g. *Controlled Circulation Imprint*—Which reads "Controlled Circulation Postage Paid at ————." If a publication is authorized to be mailed at two or more offices, the imprint must read "Controlled Circulation Postage Paid at ———— and at ————."

OR

Notice of Pending Application—If copies are mailed under deposits of money while an application is pending, a notice must be included which reads "Application To Mail At Controlled Circulation Postage Rates Is Pending At ———— (and at ————.)"

h. *Mailing Address For Change of Address Orders*—A statement in normal text type of the publication, indicating where change of address orders are to be sent, which reads: "POSTMASTER: Send address changes to (Publication name and mailing address)". Follow section 125.26 in preparing publications which are wrapped.

.32 The following is an example of an appropriate identification statement format:

"MANAGING WIDGETS (USPS 123-456) is published daily except Sundays and holidays for $28 per year by Business Ideas Co., 44 South Street, Hyattsville, MD 20784. Controlled Circulation Postage Paid at Hyattsville, MD. POSTMASTER: Send address changes to *MANAGING WIDGETS*, P.O. Box 4, Boulder, CO 80302."

.33 In the above example the publisher's "known office of publication" is located in Hyattsville, Maryland where his circulation records must be made available for postal examination. His fulfillment office is located at Boulder, Colorado.

.34 When a controlled circulation publication is enveloped or wrapped for mailing, a printed or hand stamped notice of entry as in 133.3g must appear on the envelopes or wrappers in which the copies are mailed. Follow 125.2 in preparing publications in wrappers and envelopes for mailing.

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PART 134—THIRD CLASS

134.1 RATES

.11 SINGLE PIECE RATE

.111 All matter not in the first or second class (see 134.31 for weight limit) except mailings made under 134.12 and 134.13:

0 to 2 ozs	$0.20
Over 2 to 4 ozs	.40
Over 4 to 6 ozs	53
Over 6 to 8 ozs	66
Over 8 to 10 ozs	.79
Over 10 to 12 ozs	.92
Over 12 to 14 ozs	1.05
Over 14 but less than 16 ozs	1.18

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.12 BULK RATES

NOTE.—The annual bulk mailing fee is $40. (See 134.222 and 134.42.)

	Special rate for authorized organizations only (see 134.5)	Regular rates
.121 Books and catalogs having 24 or more bound pages with at least 22 printed, seeds, cuttings, bulbs, roots, scions, and plants (see 134.31 for weight limit).	14¢ per pound or fraction.	36¢ per pound or fraction.
Minimum rate per piece:	2.7¢ [Applies when a piece weighs not more than 3.0857 oz. or .19286 pounds or 87.479 grams]	8.4¢ [Applies when a piece weighs not more than 3.7333 oz. or .23333 pounds or 105.838 grams]
.122 All matter, except the items in 134.121, not included in the first- or second-class (see 134.31 for weight limit).	17¢ per pound or fraction.	41¢ per pound or fraction.
Minimum rate per piece:	2.7¢ [Applies when a piece weighs not more than 2.5412 oz. or .15882 pounds or 72.041 grams]	8.4¢ [Applies when a piece weighs not more than 3.2780 oz. or .20488 pounds or 92.931 grams]

.13 KEYS, IDENTIFICATION CARDS, IDENTIFICATION TAGS, OR SIMILAR IDENTIFICATION DEVICES

Keys, identification cards, identification tags, or similar identification devices that are without cover and that bear, contain, or have securely attached the name and complete post office address of a person, organization, or concern with instructions to return to such address and a statement guaranteeing the payment of the postage due on delivery: 32 cents for the first 2 ounces, 18 cents for each additional 2 ounces or fraction thereof.

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134.6 PERMISSIBLE ADDITIONS

The additions authorized for fourth-class mail in 135.52 are permissible with matter mailed at third-class rates of postage.

134.7 ENCLOSURES

.71 BOOKS AND CATALOGS MAILED AT BULK RATES PROVIDED BY 134.121

External attachments are not permitted. The covers of a catalog or book for postal purposes are the outermost bound sheets. Only the following specifically named items may be enclosed loose provided they relate exclusively to the book or catalog they accompany:

a. A single reply envelope or reply post card, or both.

b. A single order form.

c. A printed circular. Circulars fastened securely along the entire bound edge inside the book or catalog by

SEP 13 78

paste, stitches, or staples are not loose enclosures.

d. If no circular is enclosed, a printed price list listing only articles featured in the catalog and showing only the same prices and discounts as the catalog.

e. An invoice. (See 135.522.)

f. Samples of merchandise attached to pages.

.72 ALL OTHER THIRD-CLASS MATTER

The following are permissible enclosures:

a. An invoice (see 135.522).

b. Manuscripts accompanying related proof sheets (see 135.521f(2)).

134.8 SEALING

.81 EXAMINATION

Third-class mail must be prepared by the mailer so that it can be easily examined. Third-class mail which is not sealed or secured so that it may be handled by machines is not recommended. Mailing of sealed articles at the third-class rates of postage is considered consent by the mailer to postal inspection of the contents.

.82 MARKING

Each sealed piece mailed at the single piece third-class postage rate provided for by 134.11 must be legibly marked on the address side, preferably below the postage and above the name of the addressee, with the two words *Third Class*. The marking may be included as a part of a permit imprint, and it may be printed adjacent to the meter stamp by a postage meter. The marking will not be considered adequate if it is included as a part of a decorative design or advertisement. Only the markings required by 134.423 need be carried on sealed pieces mailed at the bulk third-class postage rates provided for by 134.12.

Part 135
FOURTH CLASS

135.1 RATES

.11 FOURTH-CLASS (PARCEL POST) ZONE RATES

.111 *Single Piece Zone Rates*

Not Exceeding (Pounds)	Local	Zones 1, 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
2	$1.15	$1.35	$1.39	$1.56	$1.72	$1.84	$1.98	$2.22
3	1.23	1.45	1.53	1.73	1.86	2.04	2.24	2.61
4	1.29	1.56	1.65	1.82	2.00	2.23	2.50	3.00
5	1.36	1.66	1.77	1.92	2.14	2.43	2.77	3.39
6	1.42	1.71	1.84	2.01	2.28	2.62	3.03	3.78
7	1.47	1.76	1.90	2.11	2.41	2.82	3.29	4.17
8	1.51	1.80	1.97	2.20	2.55	3.02	3.56	4.56
9	1.54	1.85	2.03	2.29	2.69	3.21	3.82	4.95
10	1.57	1.89	2.10	2.39	2.83	3.41	4.08	5.34
11	1.60	1.94	2.17	2.50	3.00	3.65	4.42	5.73
12	1.64	1.98	2.22	2.56	3.09	3.77	4.57	6.12
13	1.67	2.02	2.27	2.63	3.17	3.89	4.72	6.41
14	1.70	2.05	2.32	2.69	3.25	3.99	4.86	6.62
15	1.73	2.09	2.36	2.74	3.33	4.09	4.99	6.80
16	1.76	2.13	2.41	2.80	3.40	4.19	5.11	6.98
17	1.79	2.16	2.45	2.85	3.47	4.28	5.23	7.15
18	1.82	2.20	2.49	2.91	3.54	4.37	5.34	7.31
19	1.86	2.23	2.53	2.96	3.61	4.46	5.45	7.47
20	1.89	2.27	2.58	3.01	3.67	4.54	5.55	7.62
21	1.92	2.30	2.62	3.06	3.74	4.62	5.66	7.76
22	1.95	2.34	2.66	3.14	3.85	4.78	5.80	7.90
23	1.98	2.37	2.72	3.25	3.99	4.96	6.02	8.03
24	2.01	2.44	2.80	3.35	4.12	5.13	6.24	8.16
25	2.04	2.51	2.89	3.46	4.26	5.31	6.46	8.28
26	2.07	2.58	2.97	3.56	4.39	5.48	6.68	8.40
27	2.11	2.65	3.06	3.67	4.53	5.66	6.90	8.52
28	2.14	2.72	3.14	3.77	4.66	5.83	7.12	8.63
29	2.17	2.79	3.23	3.88	4.80	6.01	7.34	8.75
30	2.20	2.86	3.31	3.98	4.93	6.18	7.56	8.85
31	2.68	3.09	3.46	4.09	5.07	6.36	7.78	9.41
32	2.71	3.12	3.49	4.19	5.20	6.53	8.00	9.51
33	2.74	3.16	3.57	4.30	5.34	6.71	8.22	9.61
34	2.77	3.19	3.65	4.40	5.47	6.88	8.44	9.80
35	2.80	3.22	3.74	4.51	5.61	7.06	8.66	10.06
36	2.83	3.28	3.82	4.61	5.74	7.23	8.88	10.32
37	2.86	3.35	3.91	4.72	5.88	7.41	9.10	10.58
38	2.89	3.42	3.99	4.82	6.01	7.58	9.32	10.84
39	2.93	3.49	4.08	4.93	6.15	7.76	9.54	11.10
40	2.96	3.56	4.16	5.03	6.28	7.93	9.76	11.36
41	2.99	3.63	4.25	5.14	6.42	8.11	9.98	11.62
42	3.02	3.70	4.33	5.24	6.55	8.28	10.20	11.88
43	3.05	3.77	4.42	5.35	6.69	8.46	10.42	12.14
44	3.08	3.84	4.50	5.45	6.82	8.63	10.64	12.40
45	3.11	3.91	4.59	5.56	6.96	8.81	10.86	12.66

Not Exceeding (Pounds)	Local	Zones 1, 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
46	3.14	3.98	4.67	5.66	7.09	8.98	11.08	12.92
47	3.17	4.05	4.76	5.77	7.23	9.16	11.30	13.18
48	3.20	4.12	4.84	5.87	7.36	9.33	11.52	13.44
49	3.23	4.19	4.93	5.98	7.50	9.51	11.74	13.70
50	3.27	4.26	5.01	6.08	7.63	9.68	11.96	13.96
51	3.30	4.33	5.10	6.19	7.77	9.86	12.18	14.22
52	3.33	4.40	5.18	6.29	7.90	10.03	12.40	14.48
53	3.36	4.47	5.27	6.40	8.04	10.21	12.62	14.74
54	3.39	4.54	5.35	6.50	8.17	10.38	12.84	15.00
55	3.42	4.61	5.44	6.61	8.31	10.56	13.06	15.26
56	3.45	4.68	5.52	6.71	8.44	10.73	13.28	15.52
57	3.48	4.75	5.61	6.82	8.58	10.91	13.50	15.78
58	3.51	4.82	5.69	6.92	8.71	11.08	13.72	16.04
59	3.54	4.89	5.78	7.03	8.85	11.26	13.94	16.30
60	3.57	4.96	5.86	7.13	8.98	11.43	14.16	16.56
61	3.60	5.03	5.95	7.24	9.12	11.61	14.38	16.82
62	3.64	5.10	6.03	7.34	9.25	11.78	14.60	17.08
63	3.67	5.17	6.12	7.45	9.39	11.96	14.82	17.34
64	3.70	5.24	6.20	7.55	9.52	12.13	15.04	17.60
65	3.73	5.31	6.29	7.66	9.66	12.31	15.26	17.86
66	3.76	5.38	6.37	7.76	9.79	12.48	15.48	18.12
67	3.79	5.45	6.46	7.87	9.93	12.66	15.70	18.38
68	3.82	5.52	6.54	7.97	10.06	12.83	15.92	18.64
69	3.85	5.59	6.63	8.08	10.20	13.01	16.14	18.90
70	3.88	5.66	6.71	8.18	10.33	13.18	16.36	19.16

Exception:

Parcels weighing less than 15 pounds, and measuring over 84 inches but not exceeding 100 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 15 pound parcel for the zone to which addressed. See 135.3 for size and weight restrictions.

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.12 BOUND PRINTED MATTER RATES

.121 *Single Piece Zone Rate*

Pieces weighing up to- (pounds)	Zones							
	Local	1 & 2	3	4	5	6	7	8
1.5	$0.69	$0.92	$0.94	$0.97	$1.02	$1.08	$1.16	$1.19
2	.69	.93	.95	.99	1.06	1.14	1.25	1.28
2.5	.69	.93	.96	1.01	1.10	1.20	1.33	1.38
3	.69	.94	.97	1.03	1.14	1.25	1.41	1.47
3.5	.69	.94	.98	1.05	1.17	1.31	1.50	1.56
4	.69	.95	.99	1.07	1.21	1.37	1.58	1.66
4.5	.69	.95	1.00	1.09	1.25	1.42	1.67	1.75
5	.70	.96	1.02	1.12	1.29	1.48	1.75	1.85
6	.70	.96	1.04	1.16	1.36	1.59	1.92	2.03
7	.70	.97	1.06	1.20	1.44	1.71	2.09	2.22
8	.70	.98	1.08	1.24	1.51	1.82	2.25	2.41
9	.70	.99	1.10	1.28	1.59	1.94	2.42	2.59
10	.70	1.00	1.12	1.32	1.66	2.05	2.59	2.78

.122 *Bulk Rates for Bulk Mailings of Separately Addressed Identical Pieces in Quantities of Not Less Than 300 Mailed at One Time*

Zone	Piece rate (cents)	Bulk pound rate (cents)
Local	35	.1
1 & 2	46	.9
3	46	2.1
4	46	4.1
5	46	7.5
6	46	11.4
7	46	16.8
8	46	18.7

.13 SPECIAL FOURTH-CLASS RATE

.131 *Rates*

Kind of mail (Rate restricted to items specifically named)	Rate (without regard to zone)		
	First pound or fraction of a pound	Each additional pound or fraction through 7 pounds	Each additional pound or fraction over 7 pounds
Books; 16-millimeter or narrower width films and catalogs of such films (rate applies for films and catalogs except when mailed to or from commercial theaters); printed music, printed objective test materials, sound recordings playscripts and manuscripts for books, periodicals and music; printed educational reference charts permanently processed for preservation; looseleaf pages, and binders therefor, consisting of medical information for distribution to doctors, hospitals, medical schools, and medical students. (See 135.24)			
Single piece rate	48.0	18.0	11.0
Presort rates:			
Level A [1]	42.6	18.0	11.0
Level B [2]	44.7	18.0	11.0

[1] Mailings of 500 or more pieces properly prepared and presorted to five-digit destination ZIP Codes. (See 135.25)

[2] Mailings of 2,000 or more pieces properly prepared and presorted to five-digit and three-digit destination ZIP Codes. (See 135.25)

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.14 LIBRARY RATE

Kind of mail (Rate restricted to items specifically named mailed by or to organizations mentioned in 135.26	Rate (Without regard to zone)		
	First pound or fraction of a pound	Each additional pound or fraction 7 pounds	Each additional pound or fraction 7 pounds
Books; printed music; bound volumes of academic theses; sound recordings; periodicals; other library materials; museum and herbarium materials; 16-millimeter or narrower width films, filmstrips, transparencies, slides, microfilms; scientific or mathematical kits, instruments, or other devices; also, catalogs, guides or scripts for some of these materials. See 135.26	14¢	5¢	4¢

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135.7 ADDRESSING

The address of all fourth-class matter mailed at bound printed matter, bulk parcel post, library, and special fourth-class rates must contain a complete ZIP Code.

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Part 136
PRIORITY MAIL

136.1 RATES

Weight over 12 ounces and not exceeding-pound(s)	Rate					
	Local zones 1, 2, and 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1.0	$1.71	$1.81	$1.88	$1.97	$2.06	$2.25
1.5	1.86	1.96	2.07	2.21	2.34	2.50
2.0	1.99	2.12	2.27	2.44	2.61	2.83
2.5	2.11	2.27	2.46	2.68	2.89	3.16
3.0	2.23	2.42	2.65	2.91	3.17	3.50
3.5	2.35	2.58	2.84	3.15	3.45	3.83
4.0	2.47	2.73	3.03	3.38	3.73	4.16
4.5	2.59	2.89	3.22	3.62	4.01	4.50
5	2.72	3.04	3.42	3.85	4.29	4.83
6	2.96	3.35	3.80	4.32	4.84	5.50
7	3.20	3.66	4.18	4.79	5.40	6.16
8	3.44	3.96	4.56	5.26	5.96	6.83
9	3.69	4.27	4.95	5.73	6.51	7.49
10	3.93	4.58	5.33	6.20	7.07	8.16
11	4.17	4.89	5.71	6.67	7.63	8.83
12	4.42	5.20	6.10	7.14	8.18	9.49
13	4.66	5.50	6.48	7.61	8.74	10.16
14	4.90	5.81	6.86	8.08	9.30	10.82
15	5.15	6.12	7.25	8.55	9.86	11.49
16	5.39	6.43	7.63	9.02	10.41	12.16
17	5.63	6.74	8.01	9.49	10.97	12.82
18	5.87	7.04	8.39	9.96	11.53	13.49
19	6.12	7.35	8.78	10.43	12.08	14.15
20	6.36	7.66	9.16	10.90	12.64	14.82
21	6.60	7.97	9.54	11.37	13.20	15.49
22	6.85	8.28	9.93	11.84	13.75	16.15
23	7.09	8.58	10.31	12.31	14.31	16.82
24	7.33	8.89	10.69	12.78	14.87	17.48
25	7.58	9.20	11.08	13.25	15.43	18.15
26	7.82	9.51	11.46	13.72	15.98	18.82
27	8.06	9.82	11.84	14.19	16.54	19.48
28	8.30	10.12	12.22	14.66	17.10	20.15
29	8.55	10.43	12.61	15.13	17.65	20.81
30	8.79	10.74	12.99	15.60	18.21	21.48
31	9.03	11.05	13.37	16.07	18.77	22.15
32	9.28	11.36	13.76	16.54	19.32	22.81
33	9.52	11.66	14.14	17.01	19.88	23.48
34	9.76	11.97	14.52	17.48	20.44	24.14
35	10.01	12.28	14.91	17.95	21.00	24.81
36	10.25	12.59	15.29	18.42	21.55	25.48
37	10.49	12.90	15.67	18.89	22.11	26.14
38	10.73	13.20	16.05	19.36	22.67	26.81
39	10.98	13.51	16.44	19.83	23.22	27.47
40	11.22	13.82	16.82	20.30	23.78	28.14

136.1 RATES (Cont'd)

Weight over 12 ounces and not exceeding-pound(s)	Rate					
	Local zones 1, 2, and 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
41	11.46	14.13	17.20	20.77	24.34	28.81
42	11.71	14.44	17.59	21.24	24.89	29.47
43	11.95	14.74	17.97	21.71	25.45	30.14
44	12.19	15.05	18.35	22.18	26.01	30.80
45	12.44	15.36	18.74	22.65	26.57	31.47
46	12.68	15.67	19.12	23.12	27.12	32.14
47	12.92	15.98	19.50	23.59	27.68	32.80
48	13.16	16.28	19.88	24.06	28.24	33.47
49	13.41	16.59	20.27	24.53	28.79	34.13
50	13.65	16.90	20.65	25.00	29.35	34.80
51	13.89	17.21	21.03	25.47	29.91	35.47
52	14.14	17.52	21.42	25.94	30.46	36 13
53	14.38	17.82	21.80	26.41	31.02	36.80
54	14.62	18.13	22.18	26.88	31.58	37.46
55	14.87	18.44	22.57	27.35	32.14	38.13
56	15.11	18.75	22.95	27.82	32.69	38.80
57	15.35	19.06	23.33	28.29	33.25	39.46
58	15.59	19.36	23.71	28.76	33.81	40.13
59	15.84	19.67	24.10	29.23	34.36	40.79
60	16.08	19.98	24.48	29.70	34.92	41.46
61	16.32	20.29	24.86	30.17	35.48	42.13
62	16.57	20.60	25.25	30.64	36.03	42.79
63	16.81	20.90	25.63	31.11	36.59	43.46
64	17.05	21.21	26.01	31.58	37.15	44.12
65	17.30	21.52	26.40	32.05	37.71	44.79
66	17.54	21.83	26.78	32.52	38.26	45.46
67	17.78	22.14	27.16	32.99	38.82	46.12
68	18.02	22.44	27.54	33.46	39.38	46.79
69	18.27	22.75	27.93	33.93	39.93	47.45
70	18.51	23.06	28.31	34.40	40.49	48.12

EXCEPTION: Parcels weighing less than 15 pounds, measuring over 84 inches but not exceeding 100 inches in length and girth combined, are chargeable with a minimum rate equal to that for a 15-pound parcel for the zone to which addressed.

136.2 CLASSIFICATION

.21 DESCRIPTION

Priority mail consists of first-class mail weighing more than 12 ounces and other mail which is mailed for expeditious handling and transportation.

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Part 137
OFFICIAL MAIL

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.271 Treatment.—All official mail must be treated as first-class mail, unless it is endorsed to a lower class. EXCEPTION: Pieces weighing over 12 ounces must be treated as third- or fourth-class mail unless endorsed as priority mail. Official mail endorsed to indicate a special service must be given the service indicated. (See Publication 42 regarding international mail.) EXCEPTION: Reply envelopes and labels and envelopes and labels used by contractors must be preprinted with special service endorsements (see 137.256). Endorsements which are typewritten, handwritten, rubber stamped or applied by adhesive stickers are not acceptable on preprinted reply envelopes and labels.

.272 Forwarding, Return, and Address Correction Services.—Official mail on which forwarding, return, or address correction service has been requested must be given the service requested without being rated for collection of postage due. The Postal Service is reimbursed pursuant to 137.11 and 137.21 for postage due accruing on official mail. See 122.514d for post office reporting procedures for address correction services furnished to Federal agencies.

.273 Mailing Permits.—Applications for mailing permits must be handled in the following manner:

* * * * * * *

e. Permit Imprints

(1) Application. Federal Government agencies may apply to mail identical pieces of mail of any class under the permit imprint system. The application may be filed by letter, memorandum or on Form 3601, Application to Mail Without Affixing Postage Stamps, either at the post office where the mailings will be made or sent directly to the Director, Office of Mail Classification. Applications filed at local post offices must be forwarded by the postmaster to the Director. A special form of permit imprint is prescribed for official mail (see 145.4).

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137.8 GENERAL INSTRUCTIONS

.81 OFFICAL MAIL NOT TO BE DETAINED

Official mail of any kind must not be detained except in accordance with Part 115, even though there are indications of abuse of official mailing privileges. It must be promptly dispatched and delivered to the addressee. Reports of the indicated abuse must be submitted to the Office of Mail Classification, Rates and Classification Department.

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Part 141

ENVELOPES, POSTAL CARDS, AEROGRAMMES

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.12 PLAIN STAMPED ENVELOPES

.121 *Envelopes Available at Post Offices*

Kind	Size	Denomination	Item No.	Prices		
				Less than 500	500	1,000
Regular	6¾	15¢	641	$0.18ea	$79.50	$159.00
	10	15¢	141	0.18ea	80.50	161.00
Window	6¾	15¢	642	No sales	80.00	160.00
	10	15¢	142	except	81.00	162.00
Precanceled	6¾	2.7¢	673	full box	18.00	36.00
	10	2.7¢	173	lots	19.00	38.00

Limit requisitions to a 3-accounting period supply. A minimum quantity of 500 plain stamped envelopes must be ordered even though this may cause some post offices to exceed the 3-accounting period stock level.

.123 *Discount on Sales of Plain Regular Stamped Envelopes*

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b. *Recording Sales and Discount.* The selling employee reports the sale of full box lots of 500 envelopes at discount as postage sales *at the discounted amount* on the day of sale. The difference between the discounted amount and the full retail value is claimed by the employee on Form 3220, Stamp Envelope Sales at Discount. The following entries will be made in ink on Form 3220: the date, purchaser's name (firm name if applicable) and quantity, by size, in the appropriate column. Do not refuse sales to a purchaser declining to provide a name, but annotate the form that the purchaser refused to identify himself.

c. *Reporting Discount.* Employees claiming credit for envelopes sold at discount may submit Form 3220 as often as necessary but no less frequently than once each accounting period. The amount of the discount will be applied to the employee's stamp accountability upon submission of Form 3220. The unit manager, or designated employee, must verify the computations on Form 3220, determine the claim is reasonable, and initial the form. After verification, the form will be forwarded with the daily financial report to the employee maintaining the Accountbook.

.124 *Precanceled Envelopes*

Only nonprofit organizations or associations covered in 134.5 may purchase 2.7 cent precanceled envelopes. Sales are made in full box lots only.

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.13 POSTAL CARDS AVAILABLE

Denomination (cents)	Description
	CUT SINGLE CARDS:
10	Domestic regular single (available also in sheets of 40).
10	Domestic commemorative single.
14	Foreign regular single.
21	Foreign airmail single.
	DOUBLE REPLY-PAID CARDS:
20	Domestic regular reply (10 cents each half).

All domestic postal cards are precanceled. Postal cards in sheets for use in printing must be cut to regulation size, 3½x5½ inches so that the stamp appears in the upper right corner. Cases of sheet postal cards may be broken for sale. Return addresses are not printed on postal cards by the Postal Service.

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141.2 PRINTED STAMPED ENVELOPES (Special-Request)

.21 PRINTED STAMPED ENVELOPES AVAILABLE

Kind	Size	Denomination	Item Number	Prices	
				500	1000
Regular	6¾	15¢	641	$82.00	$164.00
	10	15¢	141	83.00	166.00
Window	6¾	15¢	642	82.50	165.00
	10	15¢	142	83.50	167.00
Precanceled	6¾	2.7¢	673	20.50	41.00
	10	2.7¢	173	21.50	43.00

*Minimum order—Please note that the price for 500 only is more than ½ of the per-thousand price.

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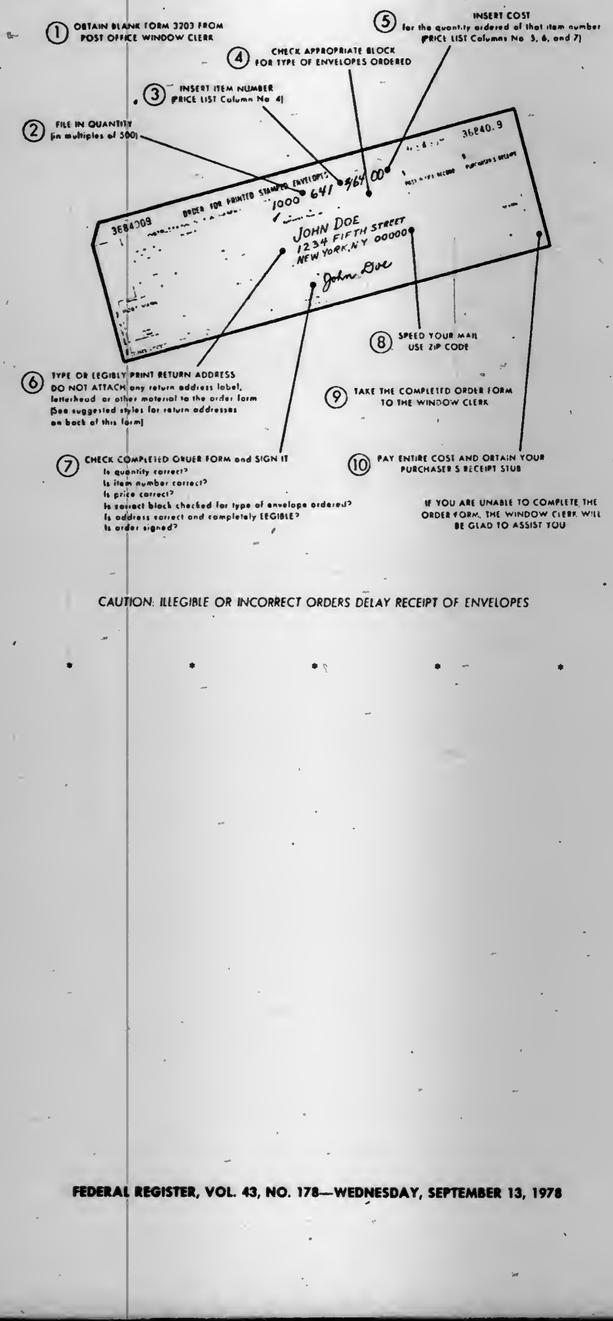
.23 STYLE OF PRINTING RETURN ADDRESSES

.231 All lines of the return address will be printed in capitals and lowercase letters with flush left margin, using 8-point Helvetica type. See sample in 141.232.



CAUTION: ILLEGIBLE OR INCORRECT ORDERS DELAY RECEIPT OF ENVELOPES

PART 142
STAMPS (ADHESIVE)

142.1 AVAILABILITY AND USE

.11 TYPES

Purpose	Form	Denomination and prices
Ordinary postage.	Single or sheet.	1, 2, 3, 4, 5, 9, 10, 11, 12, 13, 14, 15, 16, 18, 20, 21, 24, 25, 28, 29, 30, 40 and 50 cents; $1 and $5.
	Books.	23 13-cent ($2.99)*; 8 15-cent ($1.20); 16 15-cent ($2.40); 24 15-cent ($3.60)
	Coil of 100.	10* and 13, 15 and 16* cents: (Dispenser to hold coils of 100 stamps may be purchased for 5 cents additional)
	Coil of 500	1, 2, 3, 5, 9*, 10, 13, 15, and 16* cents, and $1.
	Coils of 3,000.	1, 2, 3, 5, 6, 8, 9*, 10, 13, 15, 16* and 25 cents.
Airmail postage	Single or sheet.	21, 25, 26, and 31 cents Available for international airmail service.
Commemorative stamps.	Single or sheet.	Various denominations as announced.
Precanceled postage.	Single or sheet, coils of 500 and 3,000.	Available to permit holders only. (See part 143.)
Postage-due (for post office use only).	Single or sheet.	1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 13, 30, and 50 cents; $1 and $5.

*Will be discontinued when stock is exhausted.

Part 144
POSTAGE METERS AND METER STAMPS

.13 METER MANUFACTURERS

Postage meters may be leased from authorized manufacturers who are held responsible by the Postal Service for the control, operation, maintenance, and replacement, when necessary, of meters manufactured by them. The following manufacturers are presently authorized to lease meters to mailers:

a. POSTALIA, INC., 1423 Centre Circle Drive, Downers Grove, Il 60515
b. F.M.E. Corporation, 31285 San Clemente Street, Hayward, CA 94544
c. National Cash Register Co., Dayton, OH 45409
d. Pitney Bowes, Inc., Pacific & Walnut Streets, Stamford, CT 06904

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PART 144—POSTAGE METERS AND METER STAMPS

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144.3 SETTING METERS

.31 REQUIREMENT

.311 A customer may not have any postage meter in his possession until it has been set, sealed, and checked into service by the Postal Service. The manufacturer will bring the meter to the post office where it is to be regularly set for setting and sealing prior to delivery to the customer, unless it is serviced in accordance with 144.38.

.312 Post offices shall not set any meter which is not licensed at that post office, except as specified in 144.344. In the event that a customer moves from one post office to another, the meter(s) shall be checked out of service in accordance with 144.351 and it, or another meter(s), shall be licensed at the new post office before the meter(s) is reset or initial settings are made in a new meter(s). This does not apply to branches or stations within a post office (see 144.345).

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.33 PAYMENT

.331 Payment must be made for postage at the time the meter is set. Payment may be made by cash, check, money order, or by a withdrawal from a trust fund previously established with the post office for that purpose. See 330, Fiscal Handbook F–1, regarding the acceptance of checks. Trust accounts may be established when the monthly mailing of a license is $500 or more. No activity in the account over a 60-day period shall be grounds for closing of the account by the post office and returning the trust funds to the mailer.

.332 Receipts for payment *to* a trust account shall be made on Form 3544, *Post Office Receipt for Money.* The original will be given to the customer, the duplicate sent to the office maintaining the cashbook, and the triplicate retained by the employee setting the meter. Trust account transactions shall be recorded on Form 25, *Trust Fund Account,* kept on the individual account by the employee setting the meter. Daily totals of the money received for such trust funds shall be listed on the *Daily Cash Report,* Form 1412.

.333 Receipts for individual meter settings shall be made on Form 3603, *Receipt for Postage Meter Settings,* in accordance with 144.342.

.334 Refer to 144.384b and .385d for payment procedures under the onsite meter setting program.

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.38 ON-SITE METER SETTING PROGRAM

.381 *General*

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c. The schedule of fees for on-site meter setting follow:

Private businesses	Meter company offices
$7.00 first meter on scheduled basis.	$5.00 each meter on a scheduled basis.
$12.00 first meter on emergency basis.	Do.
$3.50 each additional meter.	Do.

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PART 145—PERMIT IMPRINTS

145.1 PERMIT

.11 APPLICATION

A permit to use permit imprints and pay postage in cash at the time of mailing may be obtained by submitting Form 3601, *Application to Mail Without Affixing Postage Stamps,* with a fee of $30, to the post office where mailings will be made. The postmaster will give the applicant a receipt for the fee on Form 3544. No other fee for use of permit imprints has to be paid so long as the permit is active. However, the applicant must also pay an annual bulk mailing fee if he mails third-class matter at bulk rates. See 134.421.

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PART 146—PREPAYMENT AND POSTAGE DUE

146.1 Postage Payment

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.12 UNPAID MATTER FOUND IN THE MAIL

.121 Matter of any class, including that for which special services are indicated, received at either the office of mailing or office of address without any postage (see 146.41), will be endorsed *Returned for Postage* and returned to the sender without an attempt at delivery. If no return address is shown, or if the delivery and return address are identical, the piece will be disposed of in accordance with 159.4. (Note that letters, but not post cards, are to be sent to dead mail offices as prescribed in 159.412m.)

.122 Metered reply mail, which is prepared in accordance with 144.112, except for the mailer's inadvertent failure to imprint a meter stamp on the envelope, will be treated as business reply mail (see 131.23), and will be delivered upon payment of postage and the corresponding business reply surcharge specified in 131.233.

.123 *Unpaid* parcels intended for handling by a private delivery company but found in the mail will be returned to sender "postage due" rather than to the addressee or private delivery company. Postage due will be assessed by computing postage due from the point at which the unpaid parcel entered the mail to its destination. However, when the point where the unpaid parcel entered the mail is unknown, compute postage due from the point where the parcel was first found in the mail to destination. See 159.4 if sender cannot be identified or parcel is refused by sender.

.13 INSUFFICIENT PREPAYMENT

.131 Mail of any class, including that for which special services is indicated (except registered mail—see 161.31), received at either the office of mailing or office of address without sufficient postage will be:

a. Marked to show the total deficiency of postage and fees.

b. Dispatched promptly to the addressee by means of the regular or special service indicated.

c. Delivered to addressee on payment of the charges marked on the mail. When quantity mailings of ten or more pieces are received at the office of mailing without sufficient postage, the mailer will be notified, without charge, preferably by telephone, in order that the postage charges may be adjusted before the mail is dispatched.

.132 When the addressee refuses to pay the deficient postage, and when the mail is undeliverable for any other reason, it will be handled as follows:

a. First-class mail bearing a return address will be returned to the sender and delivered on payment by him of the deficient postage.

b. Mail other than first-class bearing a return address will be returned to the sender and delivered on payment by him of the total of the deficient postage, the forwarding postage, if any, and the return postage.

c. All mail that does not bear a return address will be disposed of in accordance with 159.4 (Note that letters, but not post cards, are to be sent to dead mail offices as prescribed in 159.412m.)

.14 POSTAGE ON MAIL INSUFFICIENTLY PREPAID

Postage stamps stuck to mail are canceled when the mail is first received in the post office. Postage stamps or meter stamps originally affixed to insufficiently prepaid mail will, when it is again presented for mailing, be accepted in payment of postage to the amount of their face value.

.15 CONTESTED CLASSIFICATION

.151 If a mailer disagrees with a classification decision made by a local post office, the decision may be appealed by the mailer, in writing, to the postmaster within 30 days. The postmaster will forward the appeal to his mail classification center where a decision will be made on the appeal. An unfavorable decision by the mail classification center may be appealed, in writing, within 10 days following receipt of the decision. The appeal must be filed with the postmaster. The postmaster will forward the appeal to the General Manager, Domestic Mail Classification Division, U.S. Postal Service, Washington, DC 20260, who will issue the final agency decision.

.152 Any mail classification decision made initially by the General Manager, Domestic Mail Classification Division, or General Manager, Special Services Division, or General Manager, International Mail Division, for which there is no specified appeal procedures may be appealed within 15 days to the Director, Office of Mail Classification, who will issue the final agency decision. If, however, the Director participated in any such decision, the appeal will be decided by the Assistant Postmaster General, Rates and Classification Department.

.153 Pending resolution of an appeal, the mailer may, by letter to the local postmaster, request to mail under a deposit arrangement. The mailer must deposit with the postmaster an amount adequate to cover postage at the higher rate. The difference between the amount deposited and a lower rate subsequently determined to be appropriate will be returned to the mailer if his appeal is sustained. If the appeal is denied, the deposit will not be returned; the applicable postage will be deducted from the deposit and entered in A/C 114 as postage revenue through the use of a postage-due invoice in lieu of postage due stamps. The customer will be requested to sign the invoice and will be given a duplicate. If a balance remains in the deposit after the postage has been deducted, it should be refunded if the customer so wishes.

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PART 147—EXCHANGES AND REFUNDS

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.230 UNALLOWABLE REFUNDS

No refund will be made:

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c. For unused adhesive stamps (see 147.11 and 147.12).

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PART 154—CONDITIONS OF DELIVERY

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.62 MAIL ADDRESSED TO PERSONS AT HOTELS, SCHOOLS, AND SIMILAR PLACES is delivered to the hotel or school. If the addressee is no longer at that address, the mail shall be redirected to his current address. If the forwarding address is unknown, the mail shall be returned to the post office. For mail addressed to prisoners, see 115.97.

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PART 156—RURAL SERVICE

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.532 *Newspaper Receptacles*

A receptacle for the delivery of newspapers may be attached to the post of a letter box which is used by the Postal Service: *Provided,* That no part of the receptacle touches or is attached to or is supported by any part of the box, interferes with the delivery of mail, obstructs the view of the flag, or presents a hazard to the carrier or his vehicle. The receptacle must not extend beyond the front of the box when the box door is closed. No advertising shall be displayed on the outside of the receptacle except that the name of a publication may be shown.

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PART 157—HIGHWAY CONTRACT ROUTE SERVICE

157.1 DESCRIPTION

Highway contract route service provides for the transportation of mail between post offices or other designated points where mail is received or dispatched. Box delivery, collection service, and other mail service are also performed on a majority of routes. Every highway contract route carrier shall receive any mail matter presented to him, if properly prepaid by stamps, and deliver it for mailing at the next post office at which he arrives.

157.2 ESTABLISHMENT

.21 NEW SERVICE

Contracts for regular service are awarded after public advertisements. Temporary service may be established on short notice without advertising. Address requests or petitions for new routes to the general manager, logistics division, having supervision over the transportation of mail in the area involved.

.22 CHANGES

Changes in line of travel, extensions of service and schedules may be ordered by the general manager, logistics division, at any time. Address requests for changes and extensions to him.

157.3 BOX-DELIVERY AND COLLECTION SERVICE

.31 SERVICE REQUIRED

Highway contract route advertisements and contracts state whether box delivery, collection service, or other mail services are required and specify the area to be served. In addition to usual box delivery and collection service, on some routes the carriers are required to:

a. Sell stamp supplies.

b. Deliver registered, insured, certified, and COD matter.

c. Accept matter presented by customers to be registered, insured, certified, or mailed COD, and money with applications for money orders and give receipts.

.32 AVAILABILITY

Contract route box delivery and collection service is provided without charge to customers who:

a. Are not eligible for city carrier service.

b. Reside on or near a route on which box delivery and collection service is required.

c. Erect a mailbox on the highway contract route carrier's existing line of travel. Where a box is newly installed or a present box is being replaced, an approved rural-type box must be used. Preferably, rural boxes and posts or supports should be painted white, but they may be painted other colors if desired. Where box numbers are used, the box number must be inscribed in contrasting color in neat letters and numerals not less than 1 inch high on the side of the box that is visible to the carrier as he regularly approaches, or on the door if boxes are grouped. Where street names and house numbers have been assigned by local authorities, and the postmaster has authorized use of a street name and house number as a postal address, the house number will be shown on the

box. If the box is located on a different street from the customer's residence, the street name and house number will be inscribed on the box. The placing of the owner's name on the box is optional. Advertising on boxes or supports is prohibited.

d. Request, from the post office to which mail is addressed, delivery and collection service on Form 5431, *Contract Route Box Customer Notice.* Highway contract route *customers* residing between two post offices may receive mail service from that post office which is the one next preceding the customer's residence, or from either post office if there is a return trip. In addition, the customer may receive delivery from the post office from which the highway contract route originates.

.33 DELIVERY OF MAIL

Mail matter addressed to a qualified customer of a highway contract route will be taken by the carrier from the post office and deposited into the proper mailbox. If required by the contract, the carrier will deliver registered, certified, insured, and COD mail: Delivery of this mail will be made only when customer meets the carrier at the box or along the route. Parcel post packages too large to go into boxes may be delivered outside boxes, provided the addressee has filed with the postmaster a written request for delivery in that manner. Otherwise, notice will be left in customer's box to meet carrier on next trip. If delivery cannot be made by carrier, the mail will be held at the post office.

.34 COLLECTION OF MAIL

Mail matter properly stamped and placed in a mailbox for dispatch must be collected by the carrier and deposited in the next post office at which the carrier arrives, unless otherwise directed by the Postal Service. Mail collected on the route, addressed for delivery on that part of the route still to be covered before reaching the next post office, will be delivered on the day of collection. The carrier will cancel the stamps before delivery by writing across them the name of the post office last served, the State, the date, and the number of the route. Bulky mailable matter, properly prepared and stamped, will be collected by the carrier if placed on or near the box. Money left in mailboxes for the purchase of stamps is at the risk of the customer.

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PART 158—FORWARDING MAIL

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.32 CHANGE TO ANOTHER POST OFFICE

Mail forwarded to another post office is subject to additional postage as follows, to be computed the same as if the piece were originally mailed at the office from which it is forwarded:

a. *First-Class Mail weighing* not more than 12 ounces, including postal and post cards, is forwarded without charge when postage has been fully prepaid by the sender. No additional charge is made for forwarding first-class mail weighing not more than 12 ounces that is not fully prepaid, but any amount shortpaid at the time of original mailing will be collected on delivery.

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f. Priority mail (heavy pieces) which includes all mail weighing over 12 ounces with postage prepaid thereon at the rates provided by 136.1, is forwarded by air and additional postage at the applicable rate in 136.1 between the forwarding and the delivery office will be collected on delivery.

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158.6 REFORWARDING

The address (but not the name) may be changed and the mail reforwarded as many times as necessary to reach the addressee. Each time second-class mail, third-class mail of obvious value, or fourth-class mail, and priority mail weighing over 12 ounces, is reforwarded, it is charged additional postage at the appropriate rate.

FORWARDING						APPLICABLE RATES:	RETURN					
First class up to 12 ozs. incl. Postal and postcards	Priority mail (1st over 12 ozs.)	Second class	Controlled circulation	Third class	Fourth class	a. Priority Zone Rate between forwarding and destination PO. b. Transient Rate. c. 3rd or 4th Rate, as applicable. d. 3rd single piece. e. Applicable 4th. f. Postcard Rate or Service Fee, as indicated.	All 1st & priority mail	Postal and postcards	Second class	Controlled circulation	Third class up to 2 ozs. incl.	Third class over 2 ozs.	Fourth class
	a	b	c	d	e	◄----RATES----►		f	b	c	d		e
A	D	FG	FH	J		No Markings	B	L	G	H	O		
						Ret. Post. Guar.		M			M		
				IE		Fwdng & Return Postage Guaranteed					ME		
AC	DC			ICE		Address Corr. Req. Fwdng & Ret Post Guar		N			N		K
				JC		Address Corr. Req. Return Post. Guar							
		FG		JC		Address Corr. Req. or obsolete wording Return Requested			G				P

KEY

A—Forward free.
B—Return free endorsed with reason for nondelivery.
C—Send address correction to mailer, collect address correction fee.
D—Forward at rate "a."
E—Sender must pay Fwdng & Return Postage if addressee refuses mail.
F—For 3-month Period: Transfer locally free and forward out of town postage due if addressee guarantees forwarding postage. Furnish #3578 to addressee. After 3 months, or if not forwardable originally, apply G, H, below as appropriate.
G—Send address correction together with old address, collect address correction fee.
H—Return complete copy with address correction attached. Collect "b" or "c" rate plus address correction fee.
I—Transfer locally free, forward out of town at applicable rate.
J—Transfer locally free if endorsed *Return Postage Guaranteed* or if addressee has guaranteed forwarding postage. Forward out of town only if addressee has guaranteed forwarding postage.
K—Return at applicable rate plus fee for address correction attached.
L—No return—treat as waste.
M—Return at applicable rate, marked NOT DELIVERABLE AS ADDRESSED—UNABLE TO FORWARD only.
N—Return endorsed with reason for nondelivery, collect address correction fee.
O—If of obvious value, return at applicable rate—otherwise treat as waste.
P—If of obvious value, return at applicable rate plus fee for address correction—otherwise send address correction and collect fee.

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PART 159—UNDELIVERABLE MAIL

159.2 TREATMENT BY CLASSES

.21 FIRST-CLASS MAIL

.211 *Letters and Packages*

First-class mail weighing not more than 12 ounces, except postal and post cards, is returned to the sender, if known, without additional charge. See section 159.26 for mail weighing over 12 ounces. Any postage due because of failure to fully prepay postage at the time of mailing will be collected from the sender when the undeliverable mail is returned. When first-class mail bearing the words *Address Correction Requested* is forwarded to a new address, the sender is notified on Form 3547, *Notice to Mailer of Correction in Address,* of the new address. The charge for this notice is 25¢.

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.26 PRIORITY

Priority mail (heavy pieces) will be returned by the same transportation as first-class mail at no additional charge. Priority mail (heavy pieces) includes all mail weighing over 12 ounces which has postage prepaid thereon at the rates provided by section 136.1.

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.44 ARTICLES FOUND LOOSE IN THE MAIL

.441 Process articles found loose in the mail in accordance with this section (159.44) at the facility designated in 159.721g(1). Before transferring loose articles to another location:

a. Make every reasonable effort to match such articles with the envelope or wrapper from which lost.

b. Loose articles which are transferred to another facility must be treated in accordance with 159.443 to remove items of no value before the transfer.

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.72 TREATMENT AT LAST OFFICE OF ADDRESS

.721 *Disposition*

At the end of retention periods specified in 159.3, mail is declared dead. Dead mail described in 159.412 a, b, c, d, e, and f is disposed of locally. First-class letters, first-class parcels, and other articles that have obvious value are forwarded on fixed schedules to dead letter or dead parcel post branches for final disposition. Dispose of as follows:

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g. *Articles Found Loose in the Mail.* Articles found loose in the mail, which cannot be delivered or returned after the initial handling prescribed in 159.44, are treated as dead mail and processed as follows:

(1) *Location.* (a) Process loose articles found in any post office at office where found.

(b) Process loose articles found in any BMC (bulk mail center) either at the BMC where found or at the dead parcel branch post office which serves that BMC service area (see 159.724c). The Regional Postmaster General of the region in which the BMC is located will decide whether the BMC or the dead parcel branch post office will process such articles. Loose articles which are transfered from the BMC where found to a dead parcel branch post office for processing, must be treated at the processing office as loose mail in accordance with 159.724c(3).

(2) *Holding Period.* Hold loose articles at the location where processed for 30 days after the initial handling prescribed by 159.44 and then send to the appropriate dead parcel branch designated in 159.724c at weekly intervals.

(3) *Sorting.* If the volume at any location during the 30-day holding period requires a plan of sorting to facilitate search and disposal on schedule, proceed as follows:

(a) Separate the articles into general groups, such as books, clothing, hardware, etc. Store by weeks to facilitate location and disposal.

(b) Only if the volume makes it necessary, assign a serial number to each category referred to in (a) assign a serial number to each parcel within each category; make a card or book list of the parcels, by category and parcel numbers, with a brief description of the articles.

(4) *Wrapping.* Do not wrap or box loose articles during the holding period except when necessary to keep together several articles known to be from the same parcel.

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.724 *Dead Letter and Dead Parcel Post Branches*

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c. Dead Parcel Branches

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(3) *Separate Activities.* Each post office with a dead parcel branch must provide a separate activity for processing undeliverable and loose matter found within its operation or loose matter designated by the regional postmaster general under 159.721g(1)(b) to be sent from a BMC for processing at the dead parcel branch post office. A physical separation must be provided between the work areas devoted to loose and undeliverable processing and to dead mail activities. Mail subject to a holding period may cross the separation into the dead parcel area only after the applicable holding period has expired. Dead matter which has been held for the appropriate holding period at other facilities must be taken directly into the dead parcel unit and immediately prepared for auction or other appropriate disposal. Activities for each

V 43 / 178 SE 13 78

V 43 / 178

of these operations must be reported separately. Form 3731, *Quarterly Report of Dead Parcel Post Branch,* must not include any volume or work hour statistics for mail matter which has not been held for the prescribed holding period.

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.73 TREATMENT AT DEAD MAIL OFFICE

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b. A fee of 40 cents is charged for delivery to sender or addressee of each letter and first-class parcel opened in the dead mail office.

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.813 *Other Parcels*

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b. Except for books and sound recordings (see 159.814), prepare other parcels, including ordinary, insured, and COD, for disposal as soon as received if sender or addressee cannot be identified. Do not list contents.

.814 *Books and Sound Recordings*

Prepare books and sound recordings for disposal in accordance with 159.85, except for those that may be withheld from sale for release to a publisher or distributor under the following conditions:

a. A publisher or distributor may request, in the manner set forth below, that books and sound recordings bearing a particular trade name, company name, or other organizational identification, be released to the requester, or to the requester's authorized representative.

(1) The requester must apply in writing to the postmaster at each dead parcel branch where release of material is desired.

(2) The request must be in quadruplicate.

(3) Requesters must include a statement that they are a publisher or distributor of books or sound recordings bearing a particular trade name, company name, or other organizational identification.

(4) More than one trade name, company name, or other organizational identification may be listed in the same request.

(5) The request must specify whether the books and sound recordings are to be picked up at the dead parcel branch or whether delivery to another location is desired. If delivery to another location is desired, the address must be specified and must be one used by the requester as a return address. A requester may select only one such address for each dead parcel branch. The specified address may be changed at any time by submitting a written request to the postmaster at the dead parcel branch office.

(6) After approval, the postmaster will retain the original request and send one copy each to the requester, the Inspector in Charge of the Division in which the installation is located, and the General Manager, Special Services Division, Office of Mail Classification, U.S. Postal Service, Washington, DC 20260.

(7) An approved request will remain in effect until canceled in writing by either the requester or the Postal Service (see 159.814j).

b. A book or sound recording will be sold at auction and will not be released to the requester if, although it bears an applicable trade name, company name, or other organizational identification, it does not appear to be new, or was involved in the settlement of a postal indemnity claim, or if it is known that the requester was not the mailer or addressee.

c. A request for release of books or sound recordings will be granted except where a written protest, or a conflicting request from another party, is presented to the postmaster at the dead parcel branch post office. Merchandise involved in such a dispute will be sold at auction in the normal course of business, unless written notice from both parties advising of settlement of the dispute is received prior to the prescribed sale deadline (see 159.814g). The postmaster at the dead parcel branch post office will notify both parties in writing when such disputes arise or are settled and of the consequences to the merchandise in such disputes.

d. Upon approval of a request under 159.814a, dead parcel branches will establish special separations or bins, for segregation of books and sound recordings which bear the specified trade name, company name, or other organizational identification. Such identification must consist of a readily identifiable name and be easily read. Dead parcel branches will attempt to adhere to these special separation requests to the maximum extent practicable.

e. Except where delivery to another locations is desired (see 159.814a[5] and .814h), dead parcel branches will release books and sound recordings to requesters or their authorized representatives at the dead parcel branch at a time and in a manner mutually agreeable between the requester and the postmaster, consistent with the instructions in this section (159.814). Such merchandise must be picked up at least once before each auction, but may be picked up more often by mutual agreement between the postmaster and the requester.

f. When books and sound recordings are to be released at the dead parcel branch, the following procedures apply:

(1) Ten days before each dead parcel auction, or more often, if warranted by volume, the dead parcel branch will send a written notice to each requester who has specified release of such merchandise at the dead parcel branch, advising of the quantity of books and sound recordings on hand. Merchandise which is to be released at the dead parcel branch will not be listed in the sale catalog.

(2) Requesters or their representatives may pick up books and sound recordings at the dead parcel branch upon presentation of a letter from the requester authorizing the Postal Service to release such merchandise to the bearer. This letter of authorization must be executed in triplicate. Upon release of the merchandise, all copies of the letter of authorization will be receipted in bulk by the person accepting delivery. One copy will be given out with the merchandise, one copy will be mailed directly to the requester, and the original will be retained by the dead parcel branch.

g. Books and sound recordings must be picked up at the dead parcel branch before the close of the business day immediately preceding the public display of auction sale merchandise. Failure to do so will result in cancellation of a request (see 159.814j).

h. As to books and sound recordings, which are to be released at another location under 159.814a(5), dead parcel branches will make up individual packages for shipment to the other location desired by the requester, unless hampers or other types of containers would be more advantageous.

(1) *Individual Packages.* Individual packages will be as large as possible subject to the weight and size limitations for fourth-class mail in 135.3. Each package will be prepared to comply with the requirements of 135.24, sent under a penalty label, and delivered at the destination as ordinary mail.

(2) *Containers.* Books and sound recordings from dead mail branches may be delivered in hampers, or other containers, where this means is more advantageous than making up individual packages, and adequate security against pilferage can be maintained. Postmasters at dead parcel branches and postmasters at delivery offices may coordinate suitable arrangements for containment, labeling, movement, and security of such merchandise through their respective transportation management officers.

i. Failure to accept delivery of any shipment under 159.814h will result in cancellation of a request (see 159.814j).

j. When a request is canceled (see 159.814a[7], .814g, and .814i), the requester must be notified by the postmaster in writing. A canceled request may not be renewed for six months after the date of cancellation. At that time, an application must be resubmitted in writing, as if it were a new request. Copies of any cancellation notice must be sent to the General Manager, Special Services Division, Office of Mail Classification, U.S. Postal Service, Washington, DC 20260. Merchandise on hand at the time of a cancellation will be included in the next auction.

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PART 161—REGISTERED MAIL

161.2 FEES AND LIABILITY

.21 FEES

Value	Fee (in addition to postage)	
	For articles not covered by commercial or other insurance	For articles also covered by commercial or other insurance
$ 0.00 to $ 100	$ 3.00	$ 3.00
100.01 to 200	3.30	3.30
200.01 to 400	3.70	3.70
400.01 to 600	4.10	4.10
600.01 to 800	4.50	4.50
800.01 to 1,000	4.90	4.90
1,000.01 to 2,000	5.30	$4.90 plus handling charge of 35 cents per $1,000 or fraction over first $1,000
2,000.01 to 3,000	5.70	
3,000.01 to 4,000	6.10	
4,000.01 to 5,000	6.50	
5,000.01 to 6,000	6.90	
6,000.01 to 7,000	7.30	
7,000.01 to 8,000	7.70	
8,000.01 to 9,000	8.10	
9,000.01 to 10,000	8.50	
10,000.01 to 11,000	8.90	
11,000.01 to 12,000	9.30	
12,000.01 to 13,000	9.70	
13,000.01 to 14,000	10.10	
14,000.01 to 15,000	10.50	
15,000.01 to 16,000	10.90	
16,000.01 to 17,000	11.30	
17,000.01 to 18,000	11.70	
18,000.01 to 19,000	12.10	
19,000.01 to 20,000	12.50	
20,000.01 to 21,000	12.90	
21,000.01 to 22,000	13.30	
22,000.01 to 23,000	13.70	
23,000.01 to 24,000	14.10	
24,000.01 to 25,000	14.50	
$25,000 to $1,000,000	$14.50 plus handling charge of 35 cents per $1,000 or fraction over first $25,000	Maximum Postal Service liability is the first $1,000.00 of value
$1,000,000 to $16,000,000	$355.75 plus handling charge of 30 cents per $1,000 or fraction over first $1,000,000	$354.55 plus handling charge of 30 cents per $1,000 or fraction over first $1,000,000
Over $15,000,000	Additional charges may be made based on considerations of weight, space and value	

ADDITIONAL SERVICES	Extra fee
COD COLLECTION CHARGE (Maximum amount collectible is $400)	$1.40
RESTRICTED DELIVERY	0.80
RETURN RECEIPTS	
Requested at time of mailing	
Showing to whom and date delivered	0.45
Showing to whom, when and address where delivered	0.55
Requested after mailing	
Showing to whom and date delivered	2.10

.22 POSTAL INSURANCE LIABILITY

.221 *Without Other Insurance*

Postal insurance covers value up to the maximum of $25,000, except as provided in 161.222 and 161.223.

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.223 *With Commercial Insurance and Deductible, Excess or other Insurance Clauses*

When a commercial policy contains a deductible clause, the deductible is considered to be without commercial insurance. To obtain full postal liability coverage for the amount of the deductible, the full registry fee (161.21, Col. 1) must be paid for the amount of the deductible. When the commercial policy contains an excess or other insurance clause, there is considered to be no commercial insurance. To obtain full postal liability, the full registry fee (161.21, Col. 1) must be paid. In either case, postal liability cannot exceed $25,000.

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.535 *Hand-to-Hand Receipts*

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c. When hand-to-hand receipt is exchanged in transferring custody of rotary-lock pouches, numbered seal pouches, and outside registered pieces, enter the particulars of the pouches and outside pieces on a dispatch bill, at least in duplicate, and deliver one or more copies of the bill with the registered mail. Unless otherwise authorized, check the particulars of the rotary lock pouches, numbered seal pouches, and outside pieces against entries on the bill at the time of transfer. Obtain a descriptive receipt from the person to whom delivery is made. The postal employee convoying registered mail shipments may assist the receiving postal employee in checking registered articles against the bills, if requested to do so by the receiving employee. Under exceptional conditions when available time does not permit descriptive checking of rotary lock pouches, numbered seal pouches, and outside pieces, the general manager, logistics division, may authorize their bulk transfer with the understanding that full particulars will be checked against entries on the bill as soon as possible after actual transfer.

SE 13 78

.536 *Bus Service*

Dispatch only registered mail of nominal value in iron lock pouches via bus service. Do not send valuable registered mail such as negotiable securities or currency shipments via bus service. Do not dispatch outside registered articles via bus service unless authorized by the general manager, logistics division.

.537 *Air Taxi Service*

Dispatch only registered mail of nominal value in iron-lock or snap-seal pouches transported via air taxi service. Do not dispatch valuable registered mail such as negotiable securities or currency shipments and outside registered articles via air taxi service, unless specifically authorized by the general manager, logistics division.

.538 *Request for Special Routing*

Post offices originating a shipment requiring hand-to-hand receipt for which a routing has not been established on Form 5167 should request routing instructions from the general manager, logistics division. Use Form 5168, *Coded Value Registered Mail Dispatch Instructions,* to record the pertinent information.

.54 RECORDS OF IRON LOCK DISPATCHES

.541 Check Form 3830-A, *Registry Dispatch Record,* daily to determine that dispatches have been accounted for satisfactorily. Note date of return of dispatch receipt cards promptly on the dispatch records and file card. When Form 3830-A is used and the dispatch receipt card is filed with the dispatch record, date of the return of the dispatch card need not be noted on the dispatch record. Paste returned coupons of dispatch bills promptly over the coupon of the office dispatch record on file. Report consistent delays in return of dispatch receipts from any installation to the general manager, logistics division, identifying dispatches involved.

.55 CONVOY SERVICE

.551 All registered mail dispatches (except those requiring hand-to-hand receipt) for transportation via highway contract route or mail messenger, whether enclosed in rotary-lock, numbered seal, or iron-lock pouches, must be accompanied by an employee from the registry section or pouching area to the loading platform. The employee should remain there until loading is completed and the doors of the vehicles locked. When advisable, the employee may be authorized to deliver the pouches to a responsible employee on the platform after identifying dispatches which are to be given.

.63 TRANSFER OF RETURN OR MISSENT MATTER

Transfer at meeting points return or missent matter by pouching in iron-lock pouches, as authorized by the general manager, logistics division. If mail is accessible at the meeting point to employee with LA key, enclose mail in jackets or rotary-lock pouches.

PART 162—INSURED MAIL

162.2 FEES AND LIABILITY

.21 FEES (IN ADDITION TO POSTAGE)

Liability	Fee
$0.01 to $15	$0.50
$15.01 to $50	.85
$50.01 to $100	$1.10
$100.01 to $150	1.40
$150.01 to $200	1.75
$200.01 to $300	2.25
$300.01 to $400	2.75

Liability for insured mail is limited to $400.

PART 163—COD MAIL

.174 *Registered COD Mail*

Sealed domestic mail of any class bearing postage at the first-class rate may be sent as registered COD mail. Such mail is handled the same as other registered mail. The maximum amount of charges collectible on a parcel is $400, but additional indemnity may be obtained over $400 up to the regular registry limit of $25,000 by payment of a higher fee. Registered COD mail is subject to a handling charge applicable to other registered mail, except that the basis of the handling charge is the amount by which the declared actual value of the article exceeds the limit of liability covered by the fee paid. Envelopes used as covers must not be smaller than 4 × 7¾ inches.

163.2 FEES

.21 IN ADDITION TO POSTAGE

Amount to be collected or insurance coverage desired	COD fees
$0.01 to $10	$1.10
$10.01 to $25	1.35
$25.01 to $50	1.65
$50.01 to $100	1.95
$100.01 to $200	2.30
$200.01 to $300	2.75
$300.01 to $400	3.25
Restricted delivery	$0.80
Notice of nondelivery	1.00
Alteration of COD charges or designation of new addressee	1.00
Registered COD	1.40

PART 165—CERTIFICATES OF MAILING, RETURN RECEIPTS, AND RESTRICTED DELIVERY

.12 FEES

.121 *Individual Pieces*

Original certificate of mailing for individually listed pieces of all classes of ordinary mail.	15¢ for each piece of mail described.
Each additional copy of original certificate of mailing or original mailing receipt for registered, insured, certified, and COD mail.	Do.

.122 *Bulk Pieces*

Identical pieces of first- and third-class mail paid with ordinary stamps, precanceled stamps, or matter stamps are subject to the following fees:

	Cents
Up to 1,000 pieces (One certificate for total number)	75
For each additional 1,000 pieces, or fraction	15
Duplicate copy	15

.22 FEES (IN ADDITION TO POSTAGE AND OTHER FEES)

Requested at time of mailing:

Showing to whom (signature) and date delivered	$0.45
Showing to whom (signature), date and address where delivered	.55

Requested at time of mailing:

	Cents
Showing to whom and date delivered	2.10

.242 *Request for Duplicate or Return Receipt After Mailing, Form 3811-A*

c. Form 3811-A shall be postmarked and the $2.10 postage for receipt after mailing shall be canceled. A line is to be drawn through the address of the delivery post office on the front of Forms 3811-A (1973 and later printings) and the form mailed back to the mailer.

.32 FEE (IN ADDITION TO POSTAGE AND OTHER FEES)

Restricted delivery, $0.80.

PART 166—SPECIAL DELIVERY

166.2 PAYMENT FOR SPECIAL DELIVERY

.21 SPECIAL DELIVERY FEES

Part 166

SPECIAL DELIVERY

166.2 PAYMENT FOR SPECIAL DELIVERY

.21 SPECIAL DELIVERY FEES

Class of mail	Weight: Not more than 2 pounds	Weight: More than 2 pounds but not more than 10 pounds	Weight: More than 10 pounds
First-class and priority mail	$2.00	$2.25	$2.85
All other classes	2.25	2.85	3.25

Part 167

SPECIAL HANDLING

167.2 FEES

Weight	Fee
Not more than 10 pounds	$0.70
More than 10 pounds	1.25

The special handling fee is in addition to regular third- or fourth-class postage and may be prepaid by ordinary postage stamps or by meter stamps. The special handling fee on officail mail is collected from Federal Government agencies and departments under the reimbursement procedures in 137.21.

V 43 / 178 SE 13 78

The special handling fee is in addition to regular third- or fourth-class postage and may be prepaid by ordinary postage stamps or by meter stamps. The special handling fee on official mail is collected from Federal Government agencies and departments under the reimbursement procedures in 137.21.

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PART 168—CERTIFIED MAIL

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168.3 FEES

	Cents
.31 fee in addition to postage	80
.32 restricted	80
.33 return receipts:	
Requested at time of mailing:	
Showing to whom and date delivered	45
Showing to whom, date, and address where delivered	55
Requested after mailing:	
Showing to whom and date delivered	2.10

168.5 DELIVERY

.51 PROCEDURE

Mail for delivery by carriers is taken out on the first trip after it is received, unless the addressee has requested the postmaster to hold his mail at the post office. Certified mail not restricted in delivery will be delivered to the addressee or his authorized representative. Restricted delivery may be obtained as set forth in 165.3 and by payment of additional fees as provided in 165.32. For circumstances under which restricted delivery may be accomplished by delivery other than to the addressee, see 165.34. Delivery rules are the same as for registered mail. See 161.4.

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.55 NOTICE OF ARRIVAL

The carrier will leave a notice of arrival on Form 3849-A if he cannot deliver the certified article for any reason. The article will be brought back to the post office and held for the addressee. If the article is not called for within 5 days, a second notice on Form 3849-B will be issued. If the article is not called for or its redelivery requested, it will be returned at the expiration of the period stated by the sender, or after 15 days if no period is stated.

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PART 169—POST OFFICE LOCKBOX AND CALLER SERVICE

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.27 RENTAL RATES FOR LOCKBOXES

Cubic inch capacity of lockboxes	Rate or fee per semiannual period				
	To 265	266 to	500 to	1,000 to	2,000 and over
Box size	1	2	3	4	5
Group 1:					
Subgroup A	$14.00	$20.00	$28.00	$40.00	$55.00
Subgroup B	14.00	20.00	28.00	40.00	55.00
Subgroup C	10.00	14.00	20.00	30.00	40.00
Subgroup D	8.00	11.00	15.00	24.00	30.00
Subgroup E	8.00	11.00	15.00	24.00	30.00
Group 2:					
Subgroup F	2.50	4.00	5.00	7.50	10.00
Subgroup G	2.50	4.00	5.00	7.50	10.00
Subgroup H	2.00	3.00	4.00	6.00	8.00
Group 3:	1.50	1.50	1.50	1.50	1.50

.322 *Basic Caller Service Fee*

a. *General Rule.* The basic fee for caller service for semi-annual periods beginning on or after May 29, 1978, to be applied to each caller number or separation used shall be $60.00. Account for these revenues the same as box rent. (See 169.122e).

* * * * *

.52 PAYMENT OF BOX RENT AND CALLER FEES

.521 *Purpose*

This section establishes semi-annual payment periods for Lockbox and Caller Service fees.

.522 *Rent Paid in Advance*

a. Box rent and caller fees must be paid in advance for no less than one and no more than two semiannual periods except as provided by 169.262 and 169.522c. Fees and rent may be paid by check to postmasters. However, checks sent by mail must be received by the postmaster by the due date.

* * * * *

c. Postmasters who adopt Option 2 (see 169.524b) will adjust new or existing payment periods to begin on April 1 or October 1 at the time of a new rental or at the expiration of all payment periods for which a customer has paid. Adjustments will be made by charging one-sixth of a semiannual rental fee for each month remaining between the beginning of a new payment period (as determined under

169.527), or the expiration of existing payment periods, and the next subsequent April 1 or October 1. Round off the total amount due to the next higher 10 cents. After payment periods have been adjusted in accordance with this section, only fees for full semi-annual payment periods will be accepted, as indicated in 169.522a. Payments for up to two semiannual periods plus the adjustment period may be accepted.

* * * * *

.524 *Payment Periods*

a. Option 1: Payment may be made for any six or twelve consecutive months. The beginning of a payment period is established on the date of the approval of the application to rent a box.

b. Option 2: Postmasters at group 2 and 3 offices with less than 500 lockboxes or caller service numbers may establish April 1 and October 1 as the beginning of payment periods for boxholders or caller service customers in their office. When this Option is used, payment periods beginning other than April 1 or October 1 must be brought into alignment with these dates by adjusting fees in accordance with 169.522c.

.525 *How a Customer May Change His Payment Period Date*

Except for customers at facilities which have adopted Option 2 (see 169.524b), boxholders of record may change their payment period by submitting a new application to rent a box, and noting on the application the month they wish to use as the start of their payment period. This date must be before the end of their current payment period, and rents and fees already paid will not be refunded or applied to the new payment period, except that a remaining period of six months or more will be applied to six months of the new payment period.

* * * * *

PART 171—MONEY ORDERS

171.1 ISSUANCE OF DOMESTIC MONEY ORDERS

.11 WHERE SOLD

Domestic money orders may be purchased at all post offices, branches, and stations in the United States and its possessions. Money order facilities are also provided for members of the Armed Forces of the United States.

.12 AMOUNTS, FEES, PAYMENTS

.121 *Money Order Amounts*

The maximum amount for a single money order is $400. There is no limitation on the number of orders that may be purchased at one time, except when the Postal Service may impose temporary restrictions.

.122 *Money Order Fees*

a. The fee for a postal money order issued to authorized civilian and military personnel and/or their dependents by an Armed Forces Postal Clerk on board any ship or at any Military Post Office (APO or FPO) located outside the 50 States, Puerto Rico, and Guam is $.20, regardless of the amount of the money order. Postal money orders issued to others shall be charged at the fees indicated below.

b. Fees for domestic money orders issued at other post offices including those with branches or stations on military installations are as follows:

Amount of money order	Amount of fee
	Domestic
$0.01 to $10	$0.55
$10.01 to $50	0.80
$50.01 to $400	1.10

* * * * *

.133 *Imprinting the Order*

Before imprinting each money order, clerks will verify that the proper date is set, the validation plate is in place and the print handle is positioned to the extreme left. Set the five amount keys to the requested amount (never more than $400) and verify the setting as registered in the small windows above the keys. Next, select and insert the limitation plate for the same or next higher amount, and insert the blank money order form set so that it lies flat on the machine within the form guides. Finally, imprint the order by moving the print handle in one continuous motion to the extreme right position and returning it in a continuous motion to the starting position.

* * * * *

.14 COMPLETION OF MONEY ORDER BY PURCHASER

* * * * *

a. Name and address of payee and name and address of purchaser. The customer should do this promptly to protect his rights in the event the order is lost. Also, he should complete and safeguard the customer receipt since it must be presented if inquiries are made later. Money orders may be made payable to:

* * * * *

.162 *Spoiled (or incorrectly prepared)*

* * * * *

b. Treat a *spoiled* order as follows:

* * * * *

(3) If the bank refused to accept the returned money order for deposit, send it to the Money Order Division with a completed Form 6401, *Inquiry As To Payment of Money Order.* In the section *Issue Duplicate To,* on Form 6401, show postmaster and the appropriate address. Write or stamp *spoiled* in the *Pay To* or *Purchased By* portion of the money order. Record the amount of the *spoiled* order in AIC 814, Suspense. The Money Order Division will issue a replacement money order payable to the postmaster. Upon receipt of the replacement order, deposit it with other postal funds and clear the entry to AIC 814, Suspense.

* * * * *

171.2 INTERNATIONAL MONEY ORDERS

.21 ISSUANCE

.211 *Where Sold, Amounts and Fees*

An authorization to issue an international money order may be purchased at almost all post offices with 950 or more revenue units. Some post offices with fewer than 950 revenue units have been designated to provide this service. Post offices not designated but having sufficient need for the service will make application to the regional director, finance department. International money orders will be issued to addressees in those countries that have agreed with the United States to conduct such business. The maximum amount for an international order is $300. Except that orders should not

V 43 / 178 SE 13 78

exceed £50 (approx. $90) when payable in Great Britain, $250 when payable in Syria, and $100 when payable in Morocco. The fees are as follows:

Amount of International Order:	Fee
$0.01 to $10	$0.90
$10.01 to $50	1.10
$50.01 to $300	1.40

* * * * *

PART 172—NONPOSTAL STAMPS AND BONDS

172.1 MIGRATORY-BIRD HUNTING STAMPS

.11 WHERE SOLD

Migratory-bird hunting stamps are sold at all post offices in CAG's A—G, and at certain designated offices in CAG's K and L where there is a demand for them. A current migratory-bird poster shall be displayed in the lobby.

.12 PRICE

Migratory-bird hunting stamps cost $5 each.

.13 INSTRUCTIONS ON ADMINISTRATION OF THE LAW

Postal employees must not instruct purchasers of migratory-bird hunting stamps on matters relating to administration of the law. Refer them to: Fish and Wildlife Service, Washington, DC 20240, or the local game warden.

* * * * *

PART 173—POSTAL SAVINGS

* * * * *

173.3 WITHDRAWALS

All withadrawals will be paid by the Treasury Department. Advise customers to mail the endorsed certificates to the Treasury Department, Bureau of Government Financial Operations, Division of Financial Management, Claims Review and Settlement Branch, Washington, DC 20226.

* * * * *

SUBCHAPTER 180—EXPRESS MAIL

PART 181—RATES

181.1 GENERAL RATE INFORMATION

.11 Except as provided in 181.31 and 181.41, postage on Express Mail is charged on each piece. For shipments tendered in Express Mail pouches under a Custom Designed Service service agreement, each pouch is a piece.

.12 Express mail postage rates are based on zones measured by great circle air miles between the airport serving the origin postal facility and the airport serving the destination postal facility, as follows:

Zone	Miles	
	Greater than	Up to and including
3	0	300
4	300	600
5	600	1,000
6	1,000	1,400
7	1,400	1,800
8	1,800	2,400
9	2,400	.....

181.2 SAME DAY AIRPORT SERVICE RATES

NOTE.—Formerly called Airport to Airport Service.

See rate chart in exhibit 181.2

181.3 CUSTOM DESIGNED SERVICE RATES

NOTE.—Formerly called Programmed Service.

.31 See rate chart in exhibit 181.31.

.32 These rates are subject to the following:

a. If tendered at origin airport mail facility, deduct $3.00.

b. If tendered for claim by addressee at destination airport mail facility, deduct $3.00.

c. If tendered at origin airport mail facility for claim by addressee at destination airport mail facility, deduct $6.00.

d. Add $5.25 for each delivery stop for item(s) tendered for delivery to addressee.

e. For each collection stop, add $5.25 per occurrence.

181.4 NEXT DAY SERVICE RATES

NOTE.—Formerly called Regular Service

.41 See rate chart for Next Day Service—Post Office to Addressee in exhibit 181.41.

.42 See rate chart for Next Day Service—Post Office to Post Office in exhibit 181.42.

.43 For each collection stop, add $5.25 per occurrence.

POUNDS (up to and including)	ZONES* 3	4	5	6	7	8	9
1	$ 6.55	$ 6.60	$ 6.65	$ 6.75	$ 6.85	$ 6.95	$ 7.05
2	6.95	7.00	7.15	7.25	7.40	7.55	7.70
3	7.35	7.45	7.60	7.75	7.95	8.15	8.35
4	7.75	7.90	8.10	8.30	8.50	8.75	9.00
5	8.15	8.30	8.55	8.80	9.05	9.35	9.65
6	8.55	8.75	9.00	9.30	9.60	9.95	10.30
7	8.95	9.15	9.50	9.80	10.15	10.55	10.95
8	9.35	9.60	9.95	10.30	10.70	11.15	11.60
9	9.75	10.05	10.45	10.85	11.25	11.75	12.25
10	10.15	10.45	10.90	11.35	11.80	12.35	12.90
11	10.55	10.90	11.35	11.85	12.35	12.95	13.55
12	10.95	11.30	11.85	12.35	12.90	13.55	14.20
13	11.35	11.75	12.30	12.85	13.45	14.15	14.85
14	11.75	12.20	12.80	13.40	14.00	14.75	15.50
15	12.15	12.60	13.25	13.90	14.55	15.35	16.15
16	12.55	13.05	13.70	14.40	15.10	15.95	16.80
17	12.95	13.50	14.20	14.90	15.65	16.55	17.45
18	13.35	13.90	14.65	15.40	16.20	17.15	18.10
19	13.75	14.35	15.15	15.95	16.75	17.75	18.75
20	14.15	14.75	15.60	16.45	17.30	18.35	19.40
21	14.55	15.20	16.05	16.95	17.85	18.95	20.05
22	14.95	15.60	16.55	17.45	18.40	19.55	20.70
23	15.35	16.05	17.00	17.95	18.95	20.15	21.35
24	15.75	16.50	17.50	18.50	19.50	20.75	22.00
25	16.15	16.90	17.95	19.00	20.05	21.35	22.65
26	16.55	17.35	18.40	19.50	20.60	21.95	23.30
27	16.95	17.75	18.90	20.00	21.15	22.55	23.95
28	17.35	18.20	19.35	20.50	21.70	23.15	24.60
29	17.75	18.65	19.85	21.05	22.25	23.75	25.25
30	18.15	19.05	20.30	21.55	22.80	24.35	25.90
31	18.55	19.50	20.75	22.05	23.35	24.95	26.55
32	18.95	19.90	21.25	22.55	23.90	25.55	27.20
33	19.35	20.35	21.70	23.05	24.45	26.15	27.85
34	19.75	20.80	22.20	23.60	25.00	26.75	28.50
35	20.15	21.20	22.65	24.10	25.55	27.35	29.15

Exhibit 181.2. Same Day Airport Service (p. 1)

POUNDS (up to and including)	ZONES* 3	4	5	6	7	8	9
36	20.55	21.65	23.10	24.60	26.10	27.95	29.80
37	20.95	22.05	23.60	25.10	26.65	28.55	30.45
38	21.35	22.50	24.05	25.60	27.20	29.15	31.10
39	21.75	22.95	24.55	26.15	27.75	29.75	31.75
40	22.15	23.35	25.00	26.65	28.30	30.35	32.40
41	22.55	23.80	25.45	27.15	28.85	30.95	33.05
42	22.95	24.20	25.95	27.65	29.40	31.55	33.70
43	23.35	24.65	26.40	28.15	29.95	32.15	34.35
44	23.75	25.10	26.90	28.70	30.50	32.75	35.00
45	24.15	25.50	27.35	29.20	31.05	33.35	35.65
46	24.55	25.95	27.80	29.70	31.60	33.95	36.30
47	24.95	26.35	28.30	30.20	32.15	34.55	36.95
48	25.35	26.80	28.75	30.70	32.70	35.15	37.60
49	25.75	27.25	29.25	31.25	33.25	35.75	38.25
50	26.15	27.65	29.70	31.75	33.80	36.35	38.90
51	26.55	28.10	30.15	32.25	34.35	36.95	39.55
52	26.95	28.50	30.65	32.75	34.90	37.55	40.20
53	27.35	28.95	31.10	33.25	35.45	38.15	40.85
54	27.75	29.40	31.60	33.80	36.00	38.75	41.50
55	28.15	29.80	32.05	34.30	36.55	39.35	42.15
56	28.55	30.25	32.50	34.80	37.10	39.95	42.80
57	28.95	30.65	33.00	35.30	37.65	40.55	43.45
58	29.35	31.10	33.45	35.80	38.20	41.15	44.10
59	29.75	31.55	33.95	36.30	38.75	41.75	44.75
60	30.15	31.95	34.40	36.85	39.30	42.35	45.40
61	30.55	32.40	34.85	37.35	39.85	42.95	46.05
62	30.95	32.80	35.35	37.85	40.40	43.55	46.70
63	31.35	33.25	35.80	38.35	40.95	44.15	47.35
64	31.75	33.70	36.30	38.90	41.50	44.75	48.00
65	32.15	34.10	36.75	39.40	42.05	45.35	48.65
66	32.55	34.55	37.20	39.90	42.60	45.95	49.30
67	32.95	34.95	37.70	40.40	43.15	46.55	49.95
68	33.35	35.40	38.15	40.90	43.70	47.15	50.60
69	33.75	35.85	38.65	41.45	44.25	47.75	51.25
70	$34.15	$36.25	$39.10	$41.95	$44.80	$48.35	$51.90

Exhibit 181.2. Same Day Airport Service (p. 2)

POUNDS (up to and including)	ZONES 3	4	5	6	7	8	9
1	$12 55	$12 60	$12 65	$12.75	$12 85	$12 95	$13 05
2	12 95	13 00	13 15	13 25	13 40	13.55	13 70
3	13 35	13 45	13 60	13 75	13 95	14 15	14.35
4	13 75	13 90	14 10	14 30	14 50	14 75	15 00
5	14 15	14.30	14 55	14 80	15 05	15 35	15 65
6	14 55	14.75	15 00	15.30	15 60	15 95	16 30
7	14 95	15 15	15 50	15 80	16 15	16 55	16 95
8	15 35	15 60	15 95	16 30	16 70	17 15	17 60
9	15 75	16 05	16 45	16 85	17 25	17 75	18 25
10	16 15	16 45	16 90	17 35	17 80	18.35	18 90
11	16 55	16 90	17 35	17 85	18 35	18 95	19 55
12	16 95	17 30	17 85	18 35	18 90	19 55	20 20
13	17 35	17 75	18 30	18 85	19 45	20 15	20 85
14	17 75	18 20	18 80	19 40	20 00	20 75	21 50
15	18 15	18 60	19 25	19 90	20 55	21 35	22 15
16	18 55	19 05	19 70	20 40	21 10	21 95	22 80
17	18 95	19 45	20 20	20 90	21 65	22 55	23 45
18	19 35	19 90	20 65	21 40	22 20	23 15	24 10
19	19 75	20 35	21 15	21 95	22 75	23 75	24 75
20	20 15	20 75	21 60	22 45	23 30	24 35	25 40
21	20 55	21 20	22 05	22 95	23 65	24 95	26 05
22	20 95	21 60	22 55	23 45	24 40	25.55	26 70
23	21 35	22 05	23 00	23 95	24 95	26 15	27 35
24	21 75	22 50	23 50	24 50	25 50	26 75	28 00
25	22 15	22 90	23 95	25 00	26 05	27 35	28 65
26	22 55	23 35	24 40	25 50	26 60	27 95	29 30
27	22 95	23 75	24 90	26 00	27 15	28 55	29 95
28	23 35	24 20	25 35	26 50	27 70	29 15	30 60
29	23 75	24 65	25 85	27 05	28 25	29 75	31 25
30	24 15	25 05	26 30	27 55	28 80	30 35	31 90
31	24 55	25 50	26 75	28 05	29 35	30 95	32 55
32	24 95	25 90	27 25	28 55	29 90	31 55	33 20
33	25 35	26 35	27 70	29 05	30 45	32 15	33 85
34	25 75	26 80	28 20	29 60	31 00	32 75	34 50
35	26 15	27 20	28 65	30 10	31 55	33 35	35 15

Exhibit 181.31. Custom Designed Service (p. 1)

POUNDS (up to and including)	ZONES 3	4	5	6	7	8	9
36	26.55	27.65	29.10	30.60	32.10	33 95	35 80
37	26 95	28.05	29 60	31 10	32 65	34.55	36 45
38	27.35	28 50	30 05	31 60	33 20	35 15	37 10
39	27.75	28 95	30 55	32 15	33 75	35 75	37 75
40	28 15	29 35	31 00	32 65	34 30	36 35	38 40
41	28 55	29 80	31.45	33 15	34 85	36 95	39 05
42	28 95	30 20	31 95	33 65	35 40	37.55	39 70
43	29 35	30 65	32 40	34 15	35 95	38 15	40 35
44	29.75	31 10	32.90	34.70	36 50	38 75	41 00
45	30.15	31.50	33 35	35.20	37.05	39.35	41.65
46	30.55	31.95	33 80	35 70	37.60	39 95	42 30
47	30.95	32 35	34 30	36 20	38 15	40 55	42 95
48	31.35	32.60	34.75	36.70	38.70	41 15	43.60
49	31 75	33.25	35.25	37.25	39.25	41 75	44 25
50	32 15	33.65	35 70	37 75	39 80	42 35	44 90
51	32.55	34.10	36 15	38.25	40.35	42 95	45 55
52	32 95	34.50	36.65	38.75	40 90	43 55	46 20
53	33.35	34 95	37 10	39 25	41.45	44 15	46 85
54	33 75	35.40	37 60	39 80	42 00	44 75	47.50
55	34 15	35 80	38.05	40 30	42.55	45.35	48 15
56	34.55	36 25	38 50	40.80	43 10	45 95	48 80
57	34 95	36.65	39.00	41 30	43.65	46.55	49 45
58	35.35	37 10	39 45	41 80	44 20	47 15	50 10
59	35 75	37 55	39 95	42 35	44.75	47 75	50 75
60	36 15	37 95	40 40	42 85	45.30	48.35	51 40
61	36.55	38 40	40 85	43 35	45 85	48.95	52 05
62	36 95	38 80	41 35	43 85	46 40	49 55	52 70
63	37.35	39 25	41.80	44 35	46 95	50 15	53 35
64	37 75	39 70	42 30	44 90	47 50	50 75	54 00
65	38 15	40 10	42.75	45.40	48 05	51 35	54 65
66	38.55	40.55	43 20	45 90	48 60	51.95	55.30
67	38.95	40.95	43 70	46 40	49 15	52 55	55.95
68	39 35	41 40	44 15	46 90	49 70	53 15	56.60
69	39 75	41 85	44.65	47.45	50.25	53.75	57.25
70	$40.15	$42 25	$45 10	$47.95	$50.80	$54 35	$57 90

Exhibit 181.31. Custom Designed Service (p. 2)

POUNDS (up to and including)	ZONES 3	4	5	6	7	8	9
1	$ 7 50	$ 7 55	$ 7 65	$ 7 70	$ 7 80	$ 7 90	$ 8 00
2	7 90	8 00	8 10	8 25	8 35	8 50	8 65
3	8 30	8 40	8 60	8 75	8 90	9 10	9 30
4	8 70	8 85	9 05	9 25	9 45	9 70	9 95
5	9 10	9 30	9 50	9 75	10 00	10 30	10 60
6	9 50	9 70	10 00	10 25	10 55	10 90	11 25
7	9 90	10 15	10 45	10 80	11 10	11 50	11 90
8	10 30	10 55	10 95	11 30	11 65	12 10	12 55
9	10 70	11 00	11 40	11 80	12 20	12 70	13 20
10	11 10	11 45	11 85	12 30	12 75	13 30	13 85
11	11 50	11 85	12 35	12 80	13 30	13 90	14 50
12	11 90	12 30	12 80	13 35	13 85	14 50	15 15
13	12 30	12 70	13 30	13 85	14 40	15 10	15 80
14	12 70	13 15	13 75	14 35	14 95	15 70	16 45
15	13 10	13 60	14 20	14 85	15 50	16 30	17 10
16	13 50	14 00	14 70	15 35	16 05	16 90	17 75
17	13 90	14 45	15 15	15 90	16 60	17 50	18 40
18	14 30	14 85	15 65	16 40	17 15	18 10	19 05
19	14 70	15 30	16 10	16 90	17 70	18 70	19 70
20	15 10	15 75	16 55	17 40	18 25	19 30	20 35
21	15 50	16 15	17 05	17 90	18 80	19 90	21 00
22	15 90	16 60	17 50	18 45	19 35	20 50	21 65
23	16 30	17 00	18 00	18 95	19 90	21 10	22 30
24	16 70	17 45	18 45	19 45	20 45	21 70	22 95
25	17 10	17 90	18 90	19 95	21 00	22 30	23 60
26	17 50	18 30	19 40	20 45	21 55	22 90	24 25
27	17 90	18 75	19 85	21 00	22 10	23 50	24 90
28	18 30	19 15	20 35	21 50	22 65	24 10	25 55
29	18 70	19 60	20 80	22 00	23 20	24 70	26 20
30	19 10	20 05	21 25	22 50	23 75	25 30	26 85
31	19 50	20 45	21 75	23 00	24 30	25 90	27 50
32	19 90	20 90	22 20	23 55	24 85	26 50	28 15
33	20 30	21 30	22 70	24 05	25 40	27 10	28 80
34	20 70	21 75	23 15	24 55	25 95	27 70	29 45
35	21 10	22 20	23 60	25 05	26 50	28 30	30 10

Exhibit 181.41. Next Day Service—Post Office to Addressee (p. 1)

POUNDS (up to and including)	ZONES 3	4	5	6	7	8	9
36	21 50	22 60	24 10	25 55	27 05	28 90	30 75
37	21 90	23 05	24 55	26 10	27 60	29 50	31 40
38	22 30	23 45	25 05	26 60	28 15	30 10	32 05
39	22.70	23 90	25 50	27 10	28 70	30 70	32 70
40	23 10	24 35	25 95	27 60	29 25	31 30	33 35
41	23 50	24 75	26 45	28 10	29 80	31 90	34 00
42	23 90	25 20	26 90	28 65	30 35	32 50	34 65
43	24 30	25 60	27 40	29 15	30 90	33 10	35 30
44	24 70	26 05	27 85	29 65	31 45	33 70	35 95
45	25 10	26 50	28 30	30 15	32 00	34 30	36 60
46	25 50	26 90	28 80	30 65	32 55	34 90	37 25
47	25 90	27 35	29 25	31 20	33 10	35 50	37 90
48	26 30	27 75	29 75	31 70	33 65	36 10	38 55
49	26 70	28 20	30 20	32 20	34 20	36 70	39 20
50	27 10	28 65	30 65	32 70	34 75	37 30	39 85
51	27 50	29 05	31 15	33 20	35 30	37 90	40 50
52	27 90	29 50	31 60	33 75	35 85	38 50	41 15
53	28 30	29 90	32 10	34 25	36 40	39 10	41 80
54	28 70	30 35	32 55	34 75	36 95	39 70	42 45
55	29 10	30 80	33 00	35 25	37 50	40 30	43 10
56	29 50	31 20	33 50	35 75	38 05	40 90	43 75
57	29 90	31 65	33 95	36 30	38 60	41 50	44 40
58	30 30	32 05	34 45	36 80	39 15	42 10	45 05
59	30 70	32 50	34 90	37 30	39 70	42 70	45 70
60	31 10	32 95	35.35	37 80	40 25	43 30	46 35
61	31 50	33 35	35 85	38 30	40 80	43 90	47 00
62	31 90	33 80	36 30	38 85	41 35	44 50	47 65
63	32 30	34 20	36 80	39 35	41 90	45 10	48 30
64	32 70	34 65	37 25	39 85	42 45	45 70	48 95
65	33 10	35 10	37 70	40 35	43 00	46 30	49 60
66	33 50	35 50	38 20	40 85	43 55	46 90	50 25
67	33 90	35 95	38 65	41 40	44 10	47 50	50 90
68	34 30	36 35	39 15	41 90	44 65	48 10	51 55
69	34 70	36 80	39 60	42 40	45 20	48 70	52 20
70	$35 10	$37 25	$40 05	$42 90	$45 75	$49 30	$52 85

Exhibit 181.41. Next Day Service—Post Office to Addressee (p. 2)

POUNDS (up to and including)	ZONES 3	4	5	6	7	8	9
1	$ 5 40	$ 5 45	$ 5 55	$ 5 60	$ 5 70	$ 5 80	$ 5 90
2	5 80	5 90	6 00	6 15	6 25	6 40	6 55
3	6 20	6 30	6 50	6 65	6 80	7 00	7 20
4	6 60	6 75	6 95	7 15	7 35	7 60	7 85
5	7 00	7 20	7 40	7 65	7 90	8 20	8 50
6	7 40	7 60	7 90	8 15	8 45	8 80	9 15
7	7 80	8 05	8 35	8 70	9 00	9 40	9 80
8	8 20	8 45	8 85	9 20	9 55	10 00	10 45
9	8 60	8 90	9 30	9 70	10 10	10 60	11 10
10	9 00	9 35	9 75	10 20	10 65	11 20	11 75
11	9 40	9 75	10 25	10 70	11 20	11 80	12 40
12	9 80	10 20	10 70	11 25	11 75	12 40	13 05
13	10 20	10 60	11 20	11 75	12 30	13 00	13 70
14	10 60	11 05	11 65	12 25	12 85	13 60	14 35
15	11 00	11 50	12 10	12 75	13 40	14 20	15 00
16	11 40	11 90	12 60	13 25	13 95	14 80	15 65
17	11 80	12 35	13 05	13 80	14 50	15 40	16 30
18	12 20	12 75	13 55	14 30	15 05	16 00	16 95
19	12 60	13 20	14 00	14 80	15 60	16 60	17 60
20	13 00	13 65	14 45	15 30	16 15	17 20	18 25
21	13 40	14 05	14 95	15 80	16 70	17 80	18 90
22	13 80	14 50	15 40	16 35	17 25	18 40	19 55
23	14 20	14 90	15 90	16 85	17 80	19 00	20 20
24	14 60	15 35	16 35	17 35	18 35	19 60	20 85
25	15 00	15 80	16 80	17 85	18 90	20 20	21 50
26	15 40	16 20	17 30	18 35	19 45	20 80	22 15
27	15 80	16 65	17 75	18 90	20 00	21 40	22 80
28	16 20	17 10	18 35	19 40	20 55	22 00	23 45
29	16 60	17 50	18 70	19 90	21 10	22 60	24 10
30	17 00	17 95	19 15	20 40	21 65	23 20	24 75
31	17 40	18 35	19 65	20 90	22 20	23 80	25 40
32	17 80	18 80	20 10	21 45	22 75	24 40	26 05
33	18 20	19 20	20 60	21 95	23 30	25 00	26 70
34	18 60	19 65	21 05	22 45	23 85	25 60	27 35
35	19 00	20 10	21 50	22 95	24 40	25 20	28 00

Exhibit 181.42. Next Day Service—Post Office to Post Office (p. 1)

POUNDS (up to and including)	ZONES 3	4	5	6	7	8	9
36	19 40	20 50	22 00	23 45	24 95	26 80	28 65
37	19 80	20 95	22 45	24 00	25 50	27 40	29 30
38	20 20	21 40	22 95	24 50	26 05	28 00	29 95
39	20 60	21 80	23 40	25 00	26 60	28 60	30 60
40	21 00	22 25	23 85	25 50	27 15	29 20	31 25
41	21 40	22 65	24 35	26 00	27 70	29 80	31 90
42	21 80	23 10	24 80	26 55	28 25	30 40	32 55
43	22 20	23 50	25 30	27 05	28 80	31 00	33 20
44	22 60	23 95	25 75	27 55	29 35	31 60	33 85
45	23 00	24 40	26 20	28 05	29 90	32 20	34 50
46	23 40	24 80	26 70	28 55	30 45	32 80	35 15
47	23 80	25 25	27 15	29 10	31 00	33 40	35 80
48	24 20	25 65	27 65	29 60	31 55	34 00	36 45
49	24 60	26 10	28 10	30 10	32 10	34 60	37 10
50	25 00	26 55	28 55	30 60	32 65	35 20	37 75
51	25 40	26 95	29 05	31 10	33 20	35 80	38 40
52	25 80	27 40	29 50	31 65	33 75	36 40	39 05
53	26 20	27 80	30 00	32 15	34 30	37 00	39 70
54	26 60	28 25	30 45	32 65	34 85	37 60	40 35
55	27 00	28 70	30 90	33 15	35 40	38 20	41 00
56	27 40	29 10	31 40	33 65	35 95	38 80	41 65
57	27 80	29 55	31 85	34 20	36 50	39 40	42 30
58	28 20	30 00	32 35	34 70	37 05	40 00	42 95
59	28 60	30 40	32 80	35 20	37 60	40 60	43 60
60	29 00	30 85	33 25	35 70	38 15	41 20	44 25
61	29 40	31 25	33 75	36 20	38 70	41 80	44 90
62	29 80	31 70	34 20	36 75	39 25	42 40	45 55
63	30 20	32 10	34 70	37 25	39 80	43 00	46 20
64	30 60	32 55	35 15	37 75	40 35	43 60	46 85
65	31 00	33 00	35 60	38 25	40 90	44 20	47 50
66	31 40	33 40	36 10	38 75	41 45	44 80	48 15
67	31 80	33 85	36 55	39 30	42 00	45 40	48 80
68	32 20	34 25	37 05	39 80	42 55	46 00	49 45
69	32 60	34 70	37 50	40 30	43 10	46 60	50 10
70	$33 00	$35 15	$37 95	$40 80	$43 65	$47 20	$50 75

Exhibit 181.42. Next Day Service—Post Office to Post Office (p. 2)

PART 182—CLASSIFICATION

182.1 DESCRIPTION

.11 AVAILABILITY OF SERVICE

.111 Express Mail is a service available to mailers for shipments of any mailable matter which is tendered to the Postal Service, properly prepared, and in accordance with the terms of this directive.

.112 *Service is available:*

a. Between designated postal facilities throughout the United States.

b. To an addressee within the delivery area of a designated destination facility.

c. By prior arrangement, pursuant to a service agreement between the Postal Service and the mailer, from and to designated locations throughout the United States.

.12 SERVICE OFFERINGS

Express Mail provides a high speed, high reliability service. Three basic service offerings are available:

a. Same Day Airport Service (see 182.2).

b. Custom Designed Service (see 182.3).

c. Next Day Service (see 182.4).

182.2 SAME DAY AIRPORT SERVICE

NOTE.—Formerly called Airport to Airport Service.

.21 Same Day Airport Service is available between designated airport mail facilities. Mail tendered for Same Day Airport Service will be dispatched on the next available transportation to the destination airport mail facility. Such mail must be tendered during hours specified by the Postal Service. Upon arrival at the destination airport mail facility, the mail will be made available for claim by the addressee by the time which was determined for each such shipment when accepted at the origin facility. The designated airport mail facilities between which Same Day Airport Service is offered are published in Notice 44, *Airport to Airport Service.* Service at facilities not listed is prohibited.

.22 The Postal Service will refund the postage under provisions in 189.5 for any item that is not available for claim by the time specified, unless the delay is caused by:

a. Strikes or work stoppage.

b. Delay or cancellation of flights.

c. Governmental action beyond the control of the Postal Service or air carriers.

182.3 CUSTOM DESIGNED SERVICE

NOTE.—Formerly called Programmed Service.

.31 AVAILABILITY OF SERVICE

.311 Custom Designed Service is available only on a scheduled basis between designated postal facilities or other designated locations for mailable matter tendered in accordance with the service agreement, Form 5631, *Express Mail Service Agreement,* between the Postal Service and the mailer. Service under a service agreement shall not be offered in a manner that makes any undue or unreasonable discrimination among users or grants any undue or unreasonable preferences to any such user.

.312 Custom Designed Service is provided between any combination of the following: designated airport facilities; designated post offices; and all other addresses within designated three-digit ZIP Code delivery areas. Names and locations of these designated facilities and the designated three-digit ZIP Code areas are in Pub. 97, *Express Mail Custom Designed Service—Service Directory.* Service at facilities, or to or from three-digit ZIP Code areas, not listed is prohibited.

.32 SERVICE AGREEMENT

.321 *Provisions in All Custom Designed Service Agreements*

Each Custom Designed service agreement includes the following:

a. The scheduled place and day or date of origin for each shipment tendered for service to each specific destination.

b. Scheduled place and day or date for claim, or delivery, at destination for each scheduled shipment.

c. Scheduled times of day for tender at origin and for claim or delivery at destination.

.322 *Commencement of Service*

Service provided pursuant to a service agreement will begin not more than 10 days after the signed service agreement is tendered to the Postal Service.

.323 *Termination of Service*

a. Express Mail service provided pursuant to a service agreement may be terminated by the Postal Service after given 10 days written notice to the mailer if:

(1) Service cannot be provided for reasons beyond the control of the Postal Service or because of changes in Postal Service facilities or operations, or,

(2) The mailer fails to adhere to the terms of the service agreement or of this directive.

b. The mailer may terminate a service agreement, for any reason, by notice to the Postal Service.

.33 SERVICE GUARANTEE

Except where a service agreement provides for claim, or delivery, more than 24 hours after scheduled tender at point of origin, the Postal Service will refund postage under provisions in 189.5 for an item not available for claim or not delivered, within 24 hours of mailing unless the item was delayed by strike or work stoppage.

182.4 NEXT DAY SERVICE

NOTE.—Formerly called Regular Service.

.41 AVAILABILITY OF SERVICE

Next Day Service is available at designated retail postal facilities for overnight service to designated destination facilities or locations for items tendered by 5 p.m. For each designated facility at which Next Day Service Express Mail may be tendered, a list of cities to which the delivery is offered, and a list of facilities at which Next Day Service Express Mail may be claimed, will be published later this year. Service to facilities or offices not listed is prohibited.

.42 TYPES OF SERVICE AVAILABLE

.421 *Post Office to Post Office Service*

Items tendered in accordance with 182.41 will be available for claim by the addressee at the destination facility by 10 a.m. of the next day the destination office is open for retail business.

.422 *Post Office to Addressee Service*

Items tendered in accordance with 182.41 will be delivered to an addressee within the city delivery area of the destination facility by 3 p.m. of the next day.

.43 SERVICE AGREEMENT

Pickup service is available for Next Day Service only on a scheduled basis pursuant to a service agreement (Form 5631) between the Postal Service and the mailer. The service agreement shall specify the time, place, day or date, and frequency of such service. Service under a service agreement shall not be offered in a manner that makes any undue or unreasonable preference to any such user. Commencement and termination of service agreements are subject to the provisions of 182.322 and 182.323.

.44 SERVICE GUARANTEE

The Postal Service will refund postage under provisions in 189.5 for an item not available for claim, or not delivered, in accordance with 182.42 unless the item was delayed by strike or work stoppage.

PART 183—SERVICE GUARANTEE

Service Guarantees for the various service offerings of Express Mail are as prescribed in 182.22, 182.33, and 182.44.

PART 184—AUTHORIZATIONS AND PERMITS

184.1 SERVICE AGREEMENTS

A service agreement is required before mailings may be made under

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the Custom Designed Service or Next Day Service pickup provisions, as described in 182.32 and 182.43. Prior authorization or pre-arrangement is not required for the other types of Express Mail service.

184.2 SPECIAL PERMIT AND POSTAGE TRUST ACCOUNTS

A written application is required before mailings are made under special permit or postage trust accounts as described in 188.

PART 185— PHYSICAL LIMITATIONS

185.1 WEIGHT

A piece of Express Mail may weigh not more than 70 pounds.

185.2 SIZE

.21 A piece of Express Mail may not measure more than 100 inches in length and girth combined. See 135.32 for instructions on how to measure.

.22 Express Mail pieces which are not required to be tendered in a pouch must be large enough to hold the required labels and indicia on a single optical plane.

PART 186—PREPARATION REQUIREMENTS

186.1 SAME DAY AIRPORT SERVICE

.11 Customers must complete Label 11C, *Express Mail to Airport to Airport Service,* for each piece of Same Day Airport Service Express Mail.

.12 An item which does not fit in an Express Mail pouch, or which must be mailed as an outside piece under provisions of part 124 may be accepted and dispatched as an outside piece if documentation is securely attached and the piece clearly identified as Express Mail. Use Label 63, *Express Mail—Outside Shipment,* for identification.

186.2 CUSTOM DESIGNED SERVICE

Except as provided in 186.12, all Custom Designed Service Express Mail must be tendered in sealed Express Mail pouches with the required receipt forms and labels combined and attached. See 186.12 for outside pieces.

186.3 NEXT DAY SERVICE

.31 Customers must complete Label 11A, *Express Mail—Post Office to Post Office,* or 11B, *Express Mail—Post Office to Addressee,* for each piece of Next Day Service Express Mail. See 186.12 for outside pieces.

.32 For Next Day Service pickup (182.43) the customer must complete Form 5625-B, *Mailing Statement for Next Day and Same Day Airport Express Mail Service,* for each pickup. Volume mailers must tender the mail in containers provided or approved by the Postal Service.

PART 187—MAILING

Express Mail service is available only between designated postal facilities. See 182.21, 182.312, and 182.41 for reference to the designated postal facilities for each service offering.

PART 188—POSTAGE PAYMENT

188.1 Mailers of Express Mail matter may pay postage by adhesive stamps, meter stamps, special permit, or through the use of an Express Mail trust account. (See chapter 7, Methods handbook M-68, *Express Mail Service,* for procedures.)

188.2 Postage and Fees Paid indicia may be used by Federal agencies entitled to use the indicia.

188.3 Penalty indicia may be used for official mail of the U.S. Postal Service.

188.4 The appropriate charge will be made for all pickups scheduled in a service agreement (see 182.32 and 182.43) unless the scheduled service is not required, and the customer notifies the Postal Service prior to dispatch of the pickup employee.

PART 189—GENERAL PROVISIONS

189.1 FORWARDING

Express Mail pieces may only be forwarded locally. They may not be forwarded to another post office. No additional postage is collected for local forwarding. Follow 159.5 for Directory Service.

189.2 RETURN

Express Mail pieces which are undeliverable or unclaimed after 5 working days are returned to the sender at no additional postage. Pieces being returned to the sender will be handled and transported as Express Mail. The mailer can direct return after less than 5 working days by placing instructions to that effect under the return address.

189.3 EVIDENCE OF MAILING

A receipt showing the time and date of mailing will be provided to the mailer upon acceptance of Express Mail by the Postal Service. This receipt serves as evidence of mailing. Form 5625, *Express Mail Service Receipt,* or 5625-A, *Express Mail Service Receipt/Mailing List,* is used for Custom Designed Service; Form 5625-B for pickup of Next Day Service Express Mail; Label 11A or 11B for Next Day Service; and Label 11C for Same Day Airport Service.

189.4 INSURANCE AND INDEMNITY

.41 COVERAGE

Express Mail is insured against loss, damage, or rifling at no additional cost. Indemnity will be paid by the Postal Service under provisions in 189.5, as outlined below.

.42 DOCUMENT RECONSTRUCTION INSURANCE

.421 Non-negotiable documents are insured against loss, damage, or delay while in transit. Coverage is limited to $50,000 per piece (the unit upon which postage is paid), subject to a limit of $500,000 per occurrence (a single accident or major catastrophe). Claims for document reconstruction insurance must be supported by a statement of expenses incurred in reconstruction.

a. *Non-negotiable documents* include commercial papers, documents, and such written instruments as are used in the conduct and operation of banks and banking institutions, that have not been made negotiable or which cannot be negotiated or converted into cash by unauthorized persons without resort to forgery. Other non-negotiable documents include valuable records, audit media, and other business records. They may be in conventional hard copy form, data processing cards, tapes, film, microfilm, or other forms of data storage.

b. *While in transit* is the time beginning when the Postal Service receives custody of the insured material and ending when the material is delivered to the addressee, or if undeliverable, when the material is received by the sender upon return.

c. *Delay.* For purposes of document reconstruction coverage, an item is considered delayed when the scheduled delivery time for Custom Designed Service, or the guaranteed delivery time for Next Day or Same Day Airport Service is not met.

.422 *Indemnity will be paid as follows:*

a. Reasonable costs incurred in the construction of lost or damaged non-negotiable documents. The mailer must establish reasonable costs.

b. Loss of, or damage to, non-negotiable documents that cannot be reconstructed. The mailer must establish the value of the documents. Maximum indemnity is $5,000.

c. Loss sustained through the use of funds to maintain cash balances during a period of document reconstruction (based on the applicable Federal Reserve discount rate) for a period not to exceed 15 days, beginning at the scheduled delivery time.

d. In the event of a delay, indemnity will be paid under provisions in 189.5 for reconstruction expense incurred or obligated between the time of guaranteed/scheduled delivery and actual delivery, provided the documents are useable upon delivery.

e. In the event of a catastrophic loss, the liability limit is $500,000 per occurrence, regardless of the number of Express Mail pieces or the number of customers involved, and will be paid as follows: Each claim under provisions in 189.5 resulting from the catastrophic loss first will be adjudicated individually. If the sum of the preliminary adjudication exceeds $500,000, the percentage of the sum represented by each individual settlement will be applied to the $500,000 to determine each claimant's pro rata share of the final settlement.

.43 MERCHANDISE INSURANCE

.431 Parcels are insured against loss or damage; coverage is limited to $500.

.432 Claims for loss must be supported by evidence of value. See 164.142.

.433 Subject to 189.434, indemnity will be paid under provisions in 189.5 on the basis of the value at the time of mailing.

.434 Claims for articles that are commercially insured shall be adjudicated in the same manner as registered and insured mail. See 164.9.

.44 EXCLUSIONS

Indemnity will not be paid for:

a. Negotiable items.

b. Currency or bullion.

c. Consequential loss.

d. Nonmailable items (as defined in part 123) or items packaged in such a manner that they could not have reached their destination undamaged in the normal course of the mail.

e. Articles of sentimental value.

f. Acts of employees or agents of the sender or addressee.

g. War, insurrection, or civil disturbance, or seizure by any agency of government.

189.5 CLAIMS PROCEDURES

Claims for refunds of postage and/or insurance claims shall be made by application at the originating office within 60 days of the date of mailing. Such claim may be filed only by the mailer. The dated receipt must be presented with the claim. Use Form 5690, *Express Mail Service Insurance Claim,* for insurance claims and Form 3533, *Application and Voucher for Refund of Postage and Fees,* for postage refunds.

[FR Doc. 78-25533 Filed 9-12-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER D—WATER PROGRAMS

[FRL 955-7]

PART 125—NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Interim Final Rule

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule.

SUMMARY: Under the Clean Water Act persons may receive a modification from the best available technology economically achievable (BAT) requirements for certain pollutants. This interim final rule notifies affected persons of the statutory deadlines for submission of applications for modifications of BAT requirements based on the economic conditions of the particular facility or based on the lack of environmental necessity of the specified limitation. The rule also identifies information which is required in that application.

DATES: These regulations will become effective September 13, 1978. Comments received on or before November 13, 1978, will be considered before promulgation of these regulations in final form. Because certain dischargers will become ineligible for section 301 (c) or (g) modifications if they do not apply by September 25, 1978, EPA finds good cause exists to make these regulations effective without the 30 day waiting period prescribed under 5 U.S.C. § 553(d)(3).

ADDRESSES: Interested persons may participate in this rulemaking by submitting comments or suggestions to Mr. Scott Slesinger, Permits Division (EN-336), Office of Water Enforcement, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Each person submitting a comment should include his or her name and address and give reasons for any recommendations. A copy of all public comments will be available for inspection and copying at EPA Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT:

Scott Slesinger (EN-336), Office of Water Enforcement, Environmental Protection Agency, Washington, D.C. 20460, 202-755-0750.

SUPPLEMENTARY INFORMATION:

(1) BACKGROUND

The Clean Water Act (33 U.S.C. § 1251 et seq. Pub. L. 92-500, 95-217), ("Act") requires that dischargers (other than publicly owned treatment works) achieve compliance with Best Available Technology Economically Achievable (BAT) for certain pollutants. Generally, the Act provides for modification of the BAT requirements, only for those pollutants deemed to be "non-conventional" pollutants. Non-conventional pollutants are those that are defined as neither toxic nor conventional. Toxic pollutants are those pollutants listed by the Agency on January 31, 1978 (43 FR 4108). Conventional pollutants listed in the Act are pH, fecal coliform, biological oxygen demanding and total suspended solids. The Agency proposed on July 28, 1978, (43 FR 32857) that chemical oxygen demand (COD), phosphorous and oil and grease be included as conventional pollutants. However, those pollutants will be considered non-conventionals until those regulations are effective. Only effluent limitations for non-conventional pollutants may be modified under section 301(c) and 301(g).

(2) WHY ARE THESE REGULATIONS IN INTERIM FINAL FORM

The regulations are being published in interim final form and take effect immediately upon publication. The usual Agency rulemaking practice is to propose regulations. In this situation EPA believes it is in the public interest to issue these regulations in interim final form and have them take effect immediately.

Section 301(j)(1)(B) requires that applications for modifications be filed within 270 days after the promulgation of an applicable effluent guideline or 270 days after the enactment of the Act, whichever is later. In the case of industries listed in Appendix A, BAT guidelines for non-conventional pollutants were promulgated before enactment of the Clean Water Act, December 27, 1977. Thus the filing deadline for those industries is September 25, 1978. Therefore, it is in the public interest for these regulations to become effective as soon as possible so that interested persons will have adequate notice on what will be required by the deadline. Section 301(j) requires that applications must be submitted by the 270 day deadline or applicants are precluded from getting a modification.

Publishing these regulations in proposed form and allowing a comment period followed by final promulgation would delay the effective date of these regulations beyond the statutory deadline. Accordingly, EPA finds, pursuant to 5 U.S.C. section 533(b), that notice and comment on proposed regulations would be impracticable and contrary to the public interest and that there exists cause for promulgation of these regulations in interim final form. However, even though these regulations take effect immediately, all comments received on or before [60 days after publication], will be considered before issuance of final regulations.

(3) SUBSTANTIVE REQUIREMENTS FOR A MODIFICATION FROM BAT REQUIREMENTS

The economic modification section [301(c)] gives the Administrator au-

SEP 13 1978

V 43 / 178 SE 13 78

thority to modify BAT requirements for non-conventional pollutants for dischargers who file a permit application after July 1, 1977, upon a showing that such modified requirements will (1) represent the maximum use of technology within the economic capability of the owner or operator and (2) result in reasonable further progress toward the elimination of the discharge of pollutants.

The environmental modification section [301(g)] allows the Administrator, with the concurrence of the State, to modify BAT requirements for non-conventional pollutants other than heat upon a satisfactory showing that:

(A) The resulting modified limits are at least equal to best practicable technology or more stringent limitations required pursuant to section 301(b)(1)(C) of the Act,

(B) Such modification will not result in additional requirements on other point and nonpoint sources, and

(C) Such modification will not interfere with the attainment or maintenance of that water quality which shall assure protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities, in and on the water and such modification will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity or teratogenicity), or synergistic propensities.

The Agency is in the process of developing regulations establishing criteria for 301(c) and 301(g) determinations. However, the discharger must comply with the regulations promulgated today to be eligible for a modification.

(4) EPA Policy on Modifications

The Agency's current intention concerning 301(c) and 301(g) modifications is that modification determinations will be considered at the time the National Pollutant Discharge Elimination System (NPDES) permit is being reissued.

Many permits are expiring in 1979, 1980 or 1981. It would make little sense to require substantial information in a request for a modification under these sections now when historical economic data or biological information could be outdated at the time the permit limitation would be imposed. Therefore, in the interest of decreasing the paperwork burden on industry and the government, substantive requirements for a modification will have to be met after the draft permit establishes a BAT requirement for the particular "non-conventional" pollutant.

Many dischargers will receive BAT permit limitations for non-conventionals not based on a promulgated effluent guideline. Those limitations may also be eligible for modifications under section 301(c) or 301(g). However, such dischargers are not reguired to comply with section 301(j). Such dischargers must comply only with the substantive requirements for a modification during the permit reissuance process.

(5) What Are the Requirements for 301(j)(1)(B)

Initial applications must be filed with the Regional Administrator and, in those States that participate in the NPDES program, a copy must be sent to the Director of the State program. Initial applications to comply with 301(j) must include the name of the permittee, the permit and outfall number, the applicable effluent guideline and whether he or she is applying for a 301(c) or 301(g) modification or both. Applicants interested in applying for both must do so in their initial application.

All dischargers who file an initial application will be sent a copy of the substantive requirements for 301(c) and 301(g) once they are promulgated.

Note.—The Environmental Protection Agency has determined that this document does not constitute major regulation requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and under OMB Circular A-107.

Dated: September 8, 1978.

Douglas M. Costle,
Administrator.

1. Part 125 is amended by adding a new Subpart M and Appendix A as follows:

Subpart M—Criteria for modification of Best Available Technology requirements pursuant to 301(c) and 301(g)

125.61 Definitions.
125.62 Filing initial applications for 301(c) or 301(g) modification.

Appendix A—Industrial categories subject to § 125.62(a)(1).

Authority: Section 301(c) (g), and (j) and 501(a) of the Clean Water Act, 33 U.S.C. 1251 et seq.

Subpart M—Criteria for modification of Best Available Technology requirements pursuant to 301(c) or 301(g)

§ 125.61 Definitions.

(a) The term "conventional pollutants" means those pollutants classified as biological oxygen demanding, suspended solids, fecal coliform, pH and those added to this list in accordance with section 304(a)(4) of the Act;

[*Comment:* Chemical oxygen demand (COD), phosphorus, and oil and grease were proposed on July 28, 1978 (43 FR 32857), to be considered as "conventional" in accordance with section 304(a)(4). For the purpose of this regulation, they will continue to be considered non-conventional until those regulations are effective].

(b) The term "toxic pollutants" means those pollutants published on January 31, 1978 (43 FR 4108), and any modification to that list in accordance with section 307(a)(1) of the Act; and

(c) The term "non-conventional pollutants" means pollutants not included in either (a) or (b) of this section.

§ 125.62 Filing initial applications for 301(c) and 301(g) modifications.

(a) Any person requesting a modification from Best Available Technology Economically Achievable for non-conventional pollutants under section 301(c) or 301(g) must file an initial application by:

(1) September 25, 1978, if the applicable effluent guideline was promulgated before December 27, 1977. [Comment: Appendix A lists those industries and limitations to which this subsection is applicable.]

(2) Not later than 270 days after the promulgation of the applicable effluent limitation guideline if such date of promulgation is after December 27, 1977.

(b) An initial application shall include the name of the applicant, the permit number, the outfall number(s), the applicable effluent guideline, and whether the applicant is applying for a section 301(c) or section 301(g) modification or both.

(c) Persons applying for both section 301(c) and section 301(g) modifications must do so during the same 270 day period.

(d) The initial application shall be submitted to the Regional Administrator and, in States that participate in the NPDES, a copy to the Director.

(e) An application submitted by a corporation must be signed by a principal executive officer of at least the level of vice president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the application form originates. In the case of a partnership or a sole proprietorship the application must be signed by a general partner or the proprietor respectively.

[*Comment:* This section deals only with initial applications for section 301(c) and 301(g) modifications. No substantive criteria have yet been promulgated for determining whether to grant or deny such an application. Once such substantive criteria have been promulgated; initial applications will have to be supplemented to provide sufficient information to determine whether the criteria are met and this section will be amended accordingly.]

Appendix A.—*Industrial categories and pollutants subject to § 125.62(a)(1)*

Industries listed below must apply for variances by September 25, 1978. Variances are only available for nonconventional pollutants from best available technology economically achievable. Variances cannot be less stringent than best practicable control technology. Those pollutants whose BPT requirements are equal to BAT have been eliminated from this list.

Subpart of Title 40 of CFR and industry	Pollutant
410 Textile:	
All subcategories except dry processing	Color, chemical oxygen demand.
414 Organic Chemicals:	
Subcategory B—Quench or vent gas absorbent	Chemical oxygen demand.
415 Inorganic Chemicals:	
Subcategory T—Sodium sulfite	Do.
417 Soaps and Detergents:	
All subcategories	Oil and grease, chemical oxygen demand.
All subcategories that have a best available technology limitation for surfactants (subcategories I, J, K, L, M, N, O, P, Q, R, S).	Surfactants.
418 Fertilizer:	
Subcategory A—Phosphate	Phosphorus, fluoride.
Subcategory B—Ammonia	Ammonia.
Subcategory C—Urea*	Ammonia, organic nitrogen.
Subcategory D—Ammonia Nitrate*	Ammonia, nitrate.
Subcategory E—Nitric Acid	Do.
420 Iron and Steel:	
Subcategory D—Blast furnace (iron)	Sulfide, ammonia, fluoride.
Subcategory E—Blast furnace ferromanganese	Do.
Subcategory H—Open hearth furnace	Fluoride, nitrate.
Subcategory J—Electric arc furnace (wet air pollution control).	Do.
Subcategory K—Vacuum degassing	Manganese nitrate.
Subcategory L—Continuous casting and pressure slab	Oil and grease.
421 Nonferrous:	
Subcategory B—Primary aluminum smelting	Fluoride.
Subcategory C—Secondary aluminum smelting	Fluoride, ammonia as N, chemical oxygen demand.
422 Phosphate:	
Subcategory A—Phosphorus production	Elemental phosphorus, total phosphorus, fluoride.
Subcategory B—Phosphorus consuming	Total phosphorus.
Subcategory C—Phosphate	Do.
Subcategory E—Sodium phosphates	Total phosphorus, fluoride.
423 Steam Electric:	
A and B subcategories (generating unit and small unit)	Phosphorus, iron, oil and grease, nontoxic corrosion inhibitors.
424 Ferroalloys:	
Subcategory A—Open electric furnaces	Manganese total.
Subcategory B—Covered electric	Do.
Subcategory C—Slag processing	Do.
Subcategory F—Electrolytic manganese	Ammonia as N, manganese.
Subcategory G—Electrolytic chromium	Do.
426 Glass:	
Subcategory F—Automotive glass tempering	Oil, phosphorus.
Subcategory H—Glass container manufacturing	Oil.
Subcategory K—Television picture tube envelope	Fluoride.
Subcategory L—Incandescent lamp envelope	Oil, fluoride, ammonia.
Subcategory M—Hard pressed and blown glass	Fluoride.
427 Asbestos:	
Subcategory F—Asbestos roofing	Chemical oxygen demand.
Subcategory G—Asbestos floor tile	Do.
428 Rubber Manufacturing:	

APPENDIX A.—*Industrial categories and pollutants subject to § 125.62(a)(1)*—Continued

Industries listed below must apply for variances by September 25, 1978. Variances are only available for nonconventional pollutants from best available technology economically achievable. Variances cannot be less stringent than best practicable control technology. Those pollutants whose BPT requirements are equal to BAT have been eliminated from this list.

Subpart of Title 40 of CFR and industry	Pollutant
Subcategory B—Emulsion crumb rubber	Do.
Subcategory C—Solution cement rubber	Oil and grease, chemical oxygen demand.
Subcategory D—Latex	Do.
429 Timber products processing:	
Subcategory G—Wood preserving steam	Do.
430 Pulp and paper:	
Subcategory A—Unbleached kraft	Color.
Subcategory B—Sodium-based neutral sulfite semichemical.	Do.
Subcategory C—Ammonia base neutral sulfite semichemical.	Do.
Subcategory D—Unbleached kraft—Neutral sulfite semichemical.	Do.
432 Meat Products:	
Subcategory A—Simple slaughterhouse	Oil and grease.
Subcategory B—Complex slaughterhouse	Do.
Subcategory C—Low processing packinghouse	Do.
Subcategory D—High processing packinghouse	Do.
Subcategory G—Sausage and luncheon meats	Ammonia.
Subcategory H—Ham processors	Do.
Subcategory I—Canned meats	Do.
Subcategory J—Renderer	Oil and grease, ammonia.
443 Paving and Roofing:	
All subcategories	Oil and grease.

* Subcategories urea and ammonia nitrate were promulgated on Apr. 26, 1978. Applications for those two categories are required by Jan. 21, 1979.

[FR Doc. 78-25806 Filed 9-12-78; 8:45 am]

[4110-83]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 58—GRANTS FOR TRAINING OF PUBLIC HEALTH AND ALLIED HEALTH PERSONNEL

Grants for Public Health Traineeships for Students in Schools of Public Health and in Other Graduate Public Health Programs

AGENCY: Public Health Service, HEW.

ACTION: Interim-final regulations.

SUMMARY: These regulations set forth requirements for implementing the Secretary's authority to award grants to schools of public health or nonprofit private educational entities to support traineeships for students in the graduate educational programs of these entities in public health.

DATES: These regulations are effective immediately. As discussed below, comments on the regulations are invited. To be considered, comments must be received on or before November 13, 1978.

ADDRESS: Written comments should be addressed to the Director, Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Center Building, Fourth Floor, Hyattsville, Md. 20782. All comments received will be available for public inspection and copying at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Dr. Merrill DeLong, Education Development Branch, Division of Associated Health Professions, Bureau of Health Manpower, Room 5-27 at the above address, telephone 301-436-6824.

SUPPLEMENTARY INFORMATION:

The Assistant Secretary for Health, Department of Health, Education, and Welfare with the approval of the Secretary of Health, Education, and Welfare proposes to add a new subpart C entitled "Public Health Traineeships for Students in Schools of Public Health and in Other Graduate Public Health Programs" to part 58 of Title 42, Code of Federal Regulations.

Section 748 of the Public Health Service Act (42 U.S.C. 294r) provides that the Secretary may award grants to public or nonprofit private educational entities to provide traineeships in the graduate educational programs of these entities in public health. The purpose of this new subpart C is to establish regulations implementing this authority.

Particular attention is drawn to the following provisions of the regulations:

SECTION 58.202 DEFINITIONS

The definitions of "graduate training" and "specialized training in public health" require that graduate programs be in an accredited institution and that residencies in preventive medicine and dental public health be approved by the relevant specialty boards. Since the statute requires that schools of public health be accredited, in order to provide an overall standard of quality, we believe the requirement that other eligible entities be accredited or approved is a reasonable exercise of the Secretary's discretion under the broad rulemaking authority of section 748(b)(1) which provides "traineeships * * * shall be awarded in accordance with such regulations as the Secretary may prescribe."

Similarly, by limiting the award of traineeships to students enrolled in a "graduate program" or in "specialized training in public health" (approved residency) these regulations preclude the award of traineeships to students enrolled in undergraduate programs or in postbaccalaureate programs of continuing education not leading to an advanced degree. This limitation is based on the legislative history of Pub. L. 94-484 as amended by Pub. L. 95-215, and the statutory language of section 748, which emphasizes the need for graduate training of public health professionals. Limitation of "specialized training in public health" to residency programs in preventive medicine and dentistry is clearly consistent with the emphasis placed on those areas in the enactment of Pub. L. 95-215, which added this language to section 748.

SECTION 58.203 WHO IS ELIGIBLE TO APPLY FOR A GRANT FOR TRAINEESHIPS FOR GRADUATE OR SPECIALIZED TRAINING IN PUBLIC HEALTH?

A literal interpretation of section 748, as amended, would preclude grants from being awarded for any of the purposes authorized under section 748 to an institution (other than a school of public health) which has an accredited program in health administration, hospital administration, or health policy analysis and planning, and is therefore eligible for a grant under section 749. Legislative history surrounding the passage of Pub. L. 95-215, however, indicates that the clear intent of Congress was to make it possible for "all" public or nonprofit private educational entities, which have graduate programs in public health, to be eligible to receive grants. The regulations, therefore, provide the following eligibility requirements:

1. Accredited schools of public health are eligible to apply for support of traineeships in any of the types of graduate and specialized fields specified in the regulation.

2. Other institutions may apply for support of traineeships in any of these programs, except in graduate programs in health administration, or health policy analysis or planning.

SECTION 58.208 HOW WILL GRANT AWARDS BE MADE?

Section 748 provides that grants shall be awarded in accordance with regulations prescribed by the Secretary, and in amounts determined by the Secretary. Under this broad authority, the Secretary has elected to approve applications and determine grant amounts to schools of public health and to other eligible entities by two different methods. Accredited schools of public health which provide the statutorily required assurances will be approved, and will receive grants on a formula basis. Applications from other eligible institutions will be evaluated and approved on a case-by-case basis based on criteria specified in the regulations. The amount of the grants awarded to these institutions will be based on the Secretary's determination of the sum necessary to cover student expenses specified in the regulations.

The legislative history of section 748 makes it clear that Congress was concerned with maintaining a level and predictable source of funding for schools of public health and providing incentives for the development of personnel trained in the fields listed in that section. Because all schools of public health are within the universe of institutions which Congress intended to support under section 748, and a reasonable quality of training is assured by the statutory accreditation requirement for schools of public health, the Secretary has determined that all accredited schools of public health which provide the necessary assurances will receive assistance. Each school will receive an amount based on the ratio of students enrolled in eligible programs in that school to the number of students enrolled in eligible programs in all these schools.

In adding other public or nonprofit institutions as eligible entities, Congress added a diverse and essentially unlimited group of institutions for which no specialized accreditation is required. Therefore, the Department cannot predict the number or nature of potential applications which might be submitted, nor the quality or relevance of the training programs. Consequently, case-by-case determinations will have to be made not only with respect to the quality and relevance of these programs but also with respect to the amount of each grant award.

It should be noted that the regulations provide that the total amount of funds to be distributed to schools of public health will be determined annually, and announced in the FEDERAL REGISTER. The Secretary has determined that for fiscal year 1978 the amount to be distributed to schools of public health is approximately $6.3 million and the amount to be distributed to other institutions is approximately $700,000. This distribution is based on the approximate level of support provided to schools of public health in fiscal year 1977 and the statement in the report of the Subcommittee on Health of the Senate Committee on Labor and Public Welfare (S. Rep. 95-545, p. 15), that for fiscal year 1978, support for other eligible institutions permits continuation of traineeships previously awarded.

Timely implementation is essential if eligible applicants are to have adequate leadtime to comply with the requirements of the statute and this subpart so that grants can be made as quickly as possible in order for schools to make commitments to students for the fall semester and to make continuation awards to institutions which have grants that end June 30. Therefore, the Secretary has determined in accordance with 5 U.S.C. 553 and Department policy that it would be impractical and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Notwithstanding the omission of the proposed rulemaking procedures, interested persons are invited to submit written comments or data relating to these regulations to the Director of the Bureau of Health Manpower at the address given above. All relevant materials received not later than November 13, 1978, will be considered, and following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of the regulations arising from these comments will be published within 90 days of the close of the comment period.

The regulations as set forth below will be effective September 13, 1978.

Accordingly, subpart C is added to part 58 of title 42 of the Code of Federal Regulations and is adopted as set forth below.

Dated: June 20, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: September 1, 1978.

HALE CHAMPION,
Acting Secretary.

Subpart C—Public Health Traineeships for Students in Schools of Public Health and in Other Graduate Public Health Programs

Sec.
58.201 To what educational institutions are these regulations applicable?
58.202 Definitions.
58.203 Who is eligible to apply for a grant for traineeships for graduate or specialized training in public health?
58.204 How is application made for a grant?
58.205 What are the requirements for traineeships and the appointment of trainees?
58.206 Who is eligible for financial assistance as a trainee?
58.207 Duration and termination of traineeships.
58.208 How will grant awards be made?
58.209 How will grant payments be made?
58.210 For what purposes may grant funds be spent?
58.211 What prohibitions against discrimination are applicable to these traineeship grants?
58.212 How must a grantee account for the grant funds it receives?
58.213 What recordkeeping, audit, and inspection requirements apply to these grants?
58.214 What provisions of 45 CFR 74 apply to these grants?
58.215 What additional conditions may apply to these grants?

AUTHORITY: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 748 of the Public Health Service Act, 90 Stat. 2279, as amended by 91 Stat. 1505 (42 U.S.C. 294r).

Subpart C—Public Health Traineeships for Students in Schools of Public Health and in Other Graduate Public Health Programs

§ 58.201 To what educational institutions are these regulations applicable?

The regulations of this subpart are applicable to the award of grants to eligible educational entities under section 748 of the Public Health Service Act (42 U.S.C. 294r) to provide funds for traineeships for students enrolled in graduate programs in schools of public health or in other public or nonprofit private entities which provide graduate or specialized training in public health.

§ 58.202 Definitions.

"Act" means the Public Health Service Act, as amended.

"Budget period" means an interval of time into which the project period is divided for budgetary purposes, as specified in the grant award document.

"Educational entity" means a school, college, or university which is accredited by a body or bodies recognized for this purpose by the Commissioner of Education.

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"Fiscal year" means the Federal fiscal year, beginning October 1 and ending the following September 30.

"Full-time student" means a student who is either (1) in a residency program in preventive medicine or dentistry or (2) is enrolled on a full-time basis in a graduate program in public health and who is enrolled for a sufficient number of credit hours in a semester or other academic term to enable the student to complete the course of study within not more than the number of semesters of other academic terms normally required to complete that course of study on a full-time basis at the school in which the student is enrolled.

"Graduate program" means a program of education leading to a master's degree or equivalent or doctoral degree or equivalent.

"National of the United States" means (1) a citizen of the United States or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States (8 U.S.C. 1101(a)(22)).

"Nonprofit," as applied to any entity, means one which is a corporation or association, or is owned or operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"Project period" means the total time for which support for a project has been approved, including any extension.

"Secretary" means the Secretary of the Department of Health, Education, and Welfare or any officer or employee of the Department to whom the authority involved has been delegated.

"School of public health" means a school which provides training leading to a graduate degree in public health or equivalent degree and which has been accredited by the Council on Education for Public Health as a school of public health.

"Specialized training in public health" or "specialized training in preventive medicine or dentistry" means a residency training program approved by the Liaison Committee on Graduate Medical Education or by the Commission on Accreditation of the Dental and Dental Auxiliary Education Programs leading to board eligibility in a specialty in preventive medicine or dental public health respectively.

"State" means any one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Island.

"Stipend" means a sum of money from a grant made under this subpart given to a student for living expenses during the period of traineeship.

"Trainee" means a student who is receiving traineeship funds from a grant made under this subpart.

§ 58.203 Who is eligible to apply for a grant for traineeships for graduate or specialized training in public health?

A school of public health or a public or nonprofit private educational entity which provides graduate or specialized training in public health and which is located in a State is eligible for a grant under section 748 of the act and this subpart.[1]

§ 58.204 How is application made for a grant?

(a) Each eligible applicant desiring a grant under this subpart must submit an application in the form and at the time the Secretary may require.[2]

(b) The application must be signed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award made under section 748 of the Act, including the regulations of this subpart.

(c) In addition to other pertinent information the Secretary may require, an application for a grant under this subpart must contain the following information:

(1) A description of the graduate or residency programs offered by the applicant for which funds for traineeships are requested.

(2) A description of the qualifications and experience of the director of each graduate or residency program for which funds for traineeships are requested.

(d) An application for a grant under this subpart from a school of public health must contain an assurance that at least 45 percent of the grant funds received for the fiscal year ending September 30, 1978, at least 55 percent of the grant funds received in the fiscal year ending September 30, 1979, and at least 65 percent of the grant funds received in the fiscal year ending September 30, 1980, and in succeeding fiscal years will go to individuals who:

(1) Have previously received a post-baccalaureate degree, or have 3 years of work experience in health services, and

(2) Are pursuing graduate training in (i) biostatistics or epidemiology, (ii) health administration, hospital administration, health planning, or health policy analysis and planning, (iii) environmental or occupational health, (iv) dietetics or nutrition, or are pursuing specialized training in preventive medecine or dentistry as defined in § 58.202.

(e) An application for a grant under this subpart from a public or nonprofit private educational entity, other than a school of public health, must contain:

(1) An assurance that at least 45 percent of the grant funds received for the fiscal year ending September 30, 1978, at least 55 percent of the grant funds received for the fiscal year ending September 30, 1979, and at least 65 percent of the grant funds received in the fiscal year ending September 30, 1980, and in succeeding fiscal years will go to individuals who:

(i) Have previously received a post-baccalaureate degree, or have 3 years of work experience in health services, and

(ii) Are pursuing graduate training in (A) biostatistics or epidemiology, (B) environmental or occupational health, (C) dietetics or nutrition, or are pursuing specialized training in preventive medicine or dentistry as defined in § 58.202.

(2) The number of students for whom traineeship support is requested.

(3) A detailed budget and justification for the amount of funds requested for the period of support (not to exceed 3 years) based on the tuition and fees of the applicant and proposed stipends and allowances for trainees.

§ 58.205 What are the requirements for traineeships and the appointment of trainees?

(a) The grantee must appoint as trainees only individuals who meet the eligibility requirements of § 58.206 and must terminate traineeships in accordance with § 58.207.

(b) Schools of public health may offer traineeships only to individuals enrolled in graduate training in (1) biostatistics or epidemiology, (2) health administration, health planning, or health policy analysis and planning, (3) environmental or occupational health, (4) dietetics or nutrition, or (5) other graduate training in public health, or specialized training in preventive medicine or dentistry.

[1] Public and nonprofit private educational entities, excluding accredited schools of public health, are eligible for grants under sec. 749 of the Act to support traineeships for students enrolled in their accredited programs in health administration, hospital administration, or health policy analysis and planning. Therefore, in accordance with the exclusion in sec. 748 of the Act of institutions eligible for grants under sec. 749 of the Act, public and nonprofit private educational entities are not eligible for grants under this subpart to support traineeships in health administration, hospital administration, or health policy analysis and planning.

[2] Applications and instructions may be obtained from the Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, Department of Health, Education, and Welfare, Center Building, Room 4-22, 3700 East-West Highway, Hyattsville, Md. 20782.

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(c) Other public or nonprofit private educational entities may offer traineeships only to individuals enrolled in graduate training in (1) biostatistics or epidemiology, (2) environmental or occupational health, (3) dietetics or nutrition, or (4) other graduate training in public health (excluding graduate training in health administration, health planning, or health policy analysis and planning), or to individuals receiving specialized training in preventive medicine or dentistry.

(d) Graduate training in environmental or occupational health must provide training to prepare individuals for leadership and policy development roles in the definition, solution, and management of environmental systems in which humans live and work. Graduate training in environmental or occupational health may not include the technical training of industrial hygienists, environmental health technicians, or other allied health personnel.

(e) Graduate training in dietetics and nutrition must provide training in human nutritional requirements as preparation for leadership roles in community nutrition, and must include training in the application of specialized knowledge to the analysis and solution of community or population group nutritional problems. Graduate training in dietetics may not provide basic professional training required for entry level employment as a registered dietitian nor technical training in clinical dietetics primarily emphasizing the analysis and solution of individual patient nutritional problems.

(f) Graduate training programs may not include more than 4 months of field training unless expressly approved by the Secretary.

(g) The grantee must require each trainee to complete a statement of appointment by the beginning of the training period. The original copy must be submitted to the Secretary by the grantee as soon as it is completed. A copy of the statement must be retained by the grantee to be available for program and financial audits.

(h) Full-time trainees must be required to sign a statement that, as a condition of their traineeship, they will not undertake employment during their traineeships which would interfere with their ability to satisfactorily complete in a timely fashion the training program in which they are enrolled. All trainees must agree to respond to communications from the Secretary regarding the trainees' professional activities following completion of the training program for which the traineeship is awarded.

(i) Trainees may not be required, as a condition of their traineeships, to perform any work which is not an integral part of their training program and required of all students in the program. Trainees may not be required to perform services which detract from or prolong the training for which their traineeships are awarded.

(j) Where trainees are enrolled in a course of study requiring more than 12 months to complete, the grantee must advise these trainees that continued support from funds awarded under this subpart is contingent upon continued availability of grant funds, and the ability of the trainee to continue in attendance in accordance with the standards and practices of the institution at which the trainee is enrolled.

§ 58.206 Who is eligible for financial assistance as a trainee?

Trainees must meet the following criteria to be eligible for grant support:

(a) A trainee must be a national of the United States or a lawful permanent resident of the United States, Puerto Rico, the Virgin Islands, Guam, or a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands.

(b) A trainee must be enrolled in a school of public health or other public or nonprofit private educational entity which has been awarded a grant under section 748 of the act and enrolled in a graduate program or specialized training that meets the requirements of § 58.205 (b) or (c).

(c) A trainee may not be receiving concurrent support from any other Federal source except education benefits under the Veterans Readjustment Benefits Act.

§ 58.207 Duration and termination of traineeships.

(a) Traineeships must be for a full academic year, except an appointment for less than a full academic year may be made when the student will complete the program of study at the termination of the appointment. Training for which the student receives a traineeship must begin during the period for which funds are made available. A traineeship may extend beyond the end of this period, but may not exceed 12 months in duration. Appointments may be made on a year-to-year basis.

(b) The grantee must terminate a traineeship at any time (1) upon request of the trainee, (2) if the trainee withdraws from the grantee institution, or (3) upon a determination by the grantee that (i) the trainee is no longer an enrolled student or (ii) is not eligible or able to continue in attendance in accordance with the standards and practices of the institution at which the student is enrolled. In the event that a traineeship is terminated for any reason, the grantee must notify the Secretary as soon as possible.

§ 58.208 How will grant awards be made?

(a) *Grants to schools of public health.* (1) A percentage of the traineeship funds to be awarded under this subpart, to be determined by the Secretary annually, will be awarded on a formula basis among the schools of public health whose applications have been approved by the Secretary. The Secretary will publish a notice in the FEDERAL REGISTER, as soon as possible after the determination is made, setting forth the amount of funds to be available under this paragraph.

(2) The amount of funds awarded to each school of public health with an approved application will be computed by multiplying the amount of traineeship funds determined to be available for schools of public health in that fiscal year, by a ratio determined by dividing the number of students enrolled in graduate programs and specialized training in each school of public health with an approved application, by the total number of students enrolled in graduate programs and specialized training in all schools of public health with approved applications. The number of students enrolled in each school of public health is the number of full-time students plus the total number of credit hours in which part-time students are enrolled divided by 9. This product will be rounded, if necessary, to the next highest number. Students will be counted as of October 15 of the fiscal year in which application is made. In no case will the amount of a grant exceed the amount requested by the applicant.

(b) *Grants to public and nonprofit private educational entities.* (1) After allocation of the funds available for schools of public health in accordance with paragraph (a), the remaining funds will be available to meet the continuation commitments and for award on a competitive basis to eligible public or nonprofit private educational entities (other than schools of public health).

(2) Within the limits of funds available for competitive grant awards, the Secretary may award grants to those applicants whose traineeship programs will in his/her judgment best promote the purposes of section 748 of the act, taking into consideration among other pertinent factors:

(i) The degree of the need for professionals trained in the program(s) provided by the applicant for which funds for traineeships are requested;

(ii) The quality of the training program(s) provided by the applicant for which funds for traineeships are requested;

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(iii) The capability of the applicant to carry out the program(s) for which traineeship funds are requested.

(3) The amount of any award under this paragraph will be determined by the Secretary on the basis of his/her estimate of the sum necessary during the budget period to cover the costs of tuition, fees, stipends, and allowances (including travel costs approved by the Secretary) for full-time students and the costs of tuition and fees for part-time students which the applicant proposes to provide to individuals receiving traineeships.

(c) *General.* (1) All grants awards will be in writing and will specify the amount of funds granted and the period for which such funds will be available for obligation by the grantee.

(2) Neither the approval of any application nor the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion thereof. In the case of competitive grants, grantees must make separate applications for continuation support in accordance with § 58.204.

(3) If a public or nonprofit private educational entity which received a competitive award has filed an application for continuation support, within the limits of funds available for this purpose the Secretary may make a grant award for an additional budget period for any previously approved traineeship grant if, on the basis of progress, accounting, and other records as may be required, the Secretary finds that the grantee's activities during the current budget period justify continued support of the traineeship grant for an additional budget period. If the Secretary decides to continue support, the amount of the grant award will be determined in accordance with paragraph (b) of this section. If the Secretary decides not to continue supporting a traineeship grant for an additional budget period, he/she will notify the grantee in writing before the end of the current budget period.

§ 58.209 How will grant payments be made?

The Secretary will from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement.

§ 58.210 For what purposes may grant funds be spent?

(a) Any funds granted under this subpart must be expended solely for providing traineeships to eligible individuals in accordance with section 748 of the act, the regulations of this subpart, the approved applications, and the terms and conditions of the award.

(b) Expenditures are limited to (1) payment of stipends within the limitations set forth in paragraphs (c) and (d) of this section and in footnote 1, (2) tuition and fees, in accordance with the established rates of the institution except as limited by the Secretary, and (3) transportation allowances on an individual basis when prior approval has been obtained from the Secretary in the following circumstances:

(i) The grantee may pay a trainee an allowance from grant funds for travel from his or her residence to the training site only in cases of extreme need.

(ii) The grantee may pay a trainee an allowance from grant funds for travel to and from field training which is at a site beyond a reasonable commuting distance and which requires the trainee to establish a temporary new residence. No allowance will be paid for daily commuting from the new place of residence to the field training headquarters.

(iii) The grantee may pay the trainee an allowance from grant funds for domestic travel to conduct research to meet dissertation requirements. Use of traineeship funds for dependency allowances or to meet indirect costs (overhead) of the training institution is not authorized.

(c) The grantee may pay each trainee whatever stipend and allowance the grantee determines is required to enable the trainee to pursue the training program in which the trainee is enrolled, except that the stipent amount may not exceed the amount established by the Secretary for predoctoral or postdoctoral trainees, as appropriate.

(d) A grantee may not give a stipend or allowance to a part-time trainee, but may give a traineeship award to pay a part-time trainee's tuition and fees.

(e) A school of public health which receives a grant in accordance with § 58.208(a) may obligate these traineeship funds at any time within the period specified in the grant award document. At the end of this period, any unobligated grant funds must be refunded to the Federal Government.

(f) In the case of competitive grants, any unobligated grant funds remaining in the grant account at the close of a budget period may be carried forward and be available for obligation during subsequent budget periods of the project period. The amount of a subsequent award will take into consideration the amount remaining in the grant account. At the end of the last budget period of the project period any unobligated grant funds remaining in the grant account must be refunded to the Federal Government.

§ 58.211 What prohibitions against discrimination are applicable to these traineeship grants?

(a) Recipients of grants under this subpart are advised that in addition to the terms and conditions of these regulations, the following laws and regulations are applicable:

(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and its implementing regulation, 45 CFR Part 80 (prohibiting discrimination in federally assisted programs on the grounds of race, color, or national origin);

(2) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and its implementing regulation, 45 CFR Part 86 (prohibiting discrimination on the basis of sex in federally assisted education programs);

(3) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulation, 45 CFR Part 84 (prohibiting discrimination in federally assisted programs on the basis of handicap);

(4) Section 704 of the Act (42 U.S.C. 292d) and its implementing regulaiton, 45 CFR Part 83 (prohibiting discrimination on the basis of sex in the admission of individuals to its training programs or in the award of traineeships).

(b) The grantee may not discriminate on the basis of religion in the admission of individuals to its training programs or in the award of traineeships.

§ 58.221 How must a grantee account for the grant funds it receives?

(a) *Accounting for grant award payments.* The grantee must record all payments made by the Secretary in accounting records separate from the records of all other funds, including funds derived from other grant awards. The grantee must account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures meeting the requirements of this subpart.

(b) *Grant closeout*—(1) *Date of final accounting.* The grantee must submit, with respect to each grant under this subpart, a full account, as provided in this subpart, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* The grantee must pay to the Federal Government as final settlement with respect to each grant under this subpart the total sum of (i) any amount not accounted for under paragraph (a) of this section and (ii) any other amounts due under subparts F and M of 45 CFR Part 74 and the terms and conditions of the grant award. This total sum constitutes a debt owed by the grantee to the Federal Government and may be recovered from the grantee or its successors or assignees by setoff or other lawful action.

§ 58.213 What recordkeeping, audit, and inspection requirements apply to these grants?

(a) *Records.* In addition to the applicable requirements of 45 CFR Part 74, the grantee must establish and maintain records which the Secretary may by regulation or order require, including records which completely disclose the amount and disposition of the total amount of funds received by the grantee for the project, the total cost of the project for which a grant was received, the total amount of that portion of the total cost of the project received by or allocated to the grantee from other sources, and other records which will facilitate an audit conducted in accordance with generally accepted auditing standards.

(b) *Audit.* The grantee is responsible for providing and paying for an annual financial audit of its books, accounts, financial records, files, and other papers and property in accordance with the requirements of section 705(b) of the Act. The audit must be conducted by, and certified to be accurate by, an independent certified public accountant utilizing generally accepted auditing standards. A report of the audit must be filed with the Secretary at the time and in the manner which the Secretary may require.

(c) *Inspection.* The grantee must make available to the Secretary or the Comptroller General of the United States or any of their duly authorized representatives all books, documents, papers, and records for examination, copying, or mechanical reproduction, on or off the premises of the grantee upon reasonable request.

§ 58.214 What provisions of 45 CFR 74 apply to these grants?

The relevant provisions of the following subparts of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, apply to all grants awarded under this subpart.

A. General.
B. Cash depositories.
C. Bonding and insurance.
D. Retention and custodial requirements for records.
F. Grant-related income.
K. Grant payment requirements.
L. Budget revision procedures.
M. Grant closeout, suspension, and termination.

§ 58.215 What additional conditions may apply to these grants?

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his/her judgment these conditions are necessary to assure or protect advancement of the approved program, the interests of the public health, or the conservation of grant funds.

[FR Doc. 78-25444 Filed 9-12-78; 8:45 am]

SE 13 78

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER 1—FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Certain National Wildlife Refuges in California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain national wildlife refuges in California is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting seasons for migratory birds and upland game.

EFFECTIVE DATES: October 14, 1978 through January 21, 1979

FOR FURTHER INFORMATION CONTACT:

The refuge manager at the address or telephone number listed below in the body of special regulations.

GENERAL CONDITIONS

Hunting on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional Special Regulations and conditions as indicated. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges are listed on the reverse side of maps available at refuge headquarters. No vehicle travel is permitted except on designated roads and trails.

§ 32.12 Special regulations: Migratory game birds; for individual wildlife refuge areas.

Migratory game birds, except pigeons and doves, may be hunted on the following refuges:

Salton Sea National Wildlife Refuge, P.O. Box 247, Calipatria, Calif. 92233, telephone 714-348-2323.

Kern National Wildlife Refuge, P.O. Box 219, Delano, Calif. 93215, telephone 805-725-2767.

Special conditions: 1. All persons assigned to the space blind unit must remain within 50 feet of the numbered steel post (blind site), except when pursuing cripples, placing decoys or traveling to and from the parking lot.

2. Hunters assigned to the space blind unit must travel to and from parking areas and blind sites with firearms unloaded.

Merced National Wildlife Refuge, (Headquarters: San Luis National Wildlife Refuge, P.O. Box 2176, Los Banos, Calif. 93215, telephone 805-725-2767).

Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, Calif. 95988, telephone 916-934-2801.

Special conditions: 1. All persons assigned to the spaced blind unit must remain in their blind except when pursuing cripples or retrieving birds, placing decoys or traveling to and from the parking lot. All shooting must be from assigned blinds only, except when pursuing crippled birds.

2. No snipe may be taken in the spaced blind unit.

3. Hunters assigned to the spaced blind unit must travel to and from parking areas and blinds with firearms unloaded.

Colusa National Wildlife Refuge, Route 1, Box 311, Willows, Calif. 95988 telephone 916-934-2801.

Delevan National Wildlife Refuge, Route 1, Box 311, Willows, Calif. 95988, telephone 916-934-2801.

Sutter National Wildlife Refuge, Route 1, Box 311, Willows, Calif. 95988, telephone 916-934-2801.

Kesterson National Wildlife Refuge, P.O. Box 2176, Los Banos, Calif. 93635, telephone 209-826-3508.

San Luis National Wildlife Refuge, P.O. Box 2176, Los Banos, Calif. 93635, telephone 209-826-3508.

Clear Lake National Wildlife Refuge, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, Calif. 96134, telephone 916-667-2231).

Special conditions: 1. Air-thrust and inboard water-thrust boats are prohibited.

Lower Klamath National Wildlife Refuge, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, Calif. 96134, telephone 916-667-2231).

Special conditions: 1. During the first two days of waterfowl season, all hunters, 16 years of age and older, must have in their possession an entry permit for the controlled hunting unit in which they are hunting.

2. Posted retrieving zones are established on certain hunting units. Possession of firearms in these retrieving zones is prohibited, except, unloaded

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firearms may be taken through these zones when necessary to reach or leave hunting areas. Decoys may not be set in retrieving zones.

3. Air-thrust and inboard water-thrust boats are prohibited.

4. Bow hunters must follow the same regulations as firearm hunters, the use of long bow is permitted.

5. Legal waterfowl shooting hours end at 1 p.m., daily on all California portions of the refuge.

6. No person may possess any weapon or ammunition that may not be legally used for the taking of waterfowl or pheasants.

Tule Lake National Wildlife Refuge, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 75, Tulelake, Calif. 96134, telephone 916-667-2231).

Special conditions: 1. During the first 2 days of waterfowl season, all hunters, 16 years of age and older, must have in their possession an entry permit for the controlled hunting unit in which they are hunting.

2. Posted retrieving zones are established on certain hunting units. Possession of firearms in these retrieving zones is prohibited, except, unloaded firearms may be taken through these zones when necessary to reach or leave hunting areas. Decoys may not be set in retrieving zones.

3. Air-thrust and inboard water-thrust boats are prohibited.

4. In designated spaced blind areas, hunters may not possess any loaded firearm further than 100 feet from the established blind stakes. Hunters will select blind sites by lottery at the beginning of each day's hunt. Hunters may shoot only from within their assigned blind sites.

5. No person may possess any weapon or ammunition that may not be legally used for taking waterfowl or pheasants. Certain assigned blinds will be limited to possession and use of designated steel or lead shot loads in conjunction with a scientific study.

6. The use of long bow is permitted. Bow hunters must follow the same regulations as firearm hunters.

7. Legal waterfowl shooting hours end at 1 p.m., daily.

Modoc National Wildlife Refuge, P.O. Box 1610, Alturas, Calif. 96101, Telephone 916-233-3572.

Special conditions: 1. First weekend only, entry permits are required to enter the hunting area for every individual with the exception of persons under 16 years of age.

2. After first weekend, hunting permitted on Tuesdays, Thursdays, and Saturdays during authorized seasons.

3. Hunters are required to enter hunting area via designated parking sites.

4. Hunting area is open for access from 90 minutes prior to legal shooting hours until 90 minutes after sunset on days hunting is permitted.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Ring-necked pheasant only may be hunted on the following refuge areas:

Colusa National Wildlife Refuge, Route 1, Box 311, Willows, Calif. 95988, telephone 916-934-2801.

Delevan National Wildlife Refuge, Route 1, Box 311, Willows, Calif. 95988, telephone 916-934-2801.

Kern National Wildlife Refuge, P.O. Box 219, Delano, Calif. 93215, telephone 805-725-2767.

Special condition: No pheasant hunting is permitted in the spaced blind unit.

Merced National Wildlife Refuge, P.O. Box 2176, Los Banos, Calif. 93635, telephone 209-826-3508.

Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, Calif. 95988, telephone 916-934-2801.

Special condition: No pheasant hunting is permitted in the spaced blind unit.

Sutter National Wildlife Refuge, Route 1, Box 311, Willows, Calif. 95988, telephone 916-934-2801.

Lower Klamath National Wildlife Refuge, (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, Calif. 96134, telephone 916-677-2231).

Special conditions: 1. Steel shot is required for 12 guage shotguns on the California portion of Lower Klamath National Wildlife Refuge bounded by State Highway 161 and Dorris Brownell Road. Field possession of lead 12 guage loads are prohibited within this steel shot zone.

2. Pheasant may not be hunted in the controlled waterfowl hunting area or in the retrieving zones.

3. In the controlled pheasant hunting area, entry permits are required throughout the pheasant season for all hunters 16 years of age or older. Advance reservations are required for the first two days of the hunt. Advance reservations are also available for the following seven days.

4. No person may possess any weapon or ammunition that may not be legally used for the taking of pheasant.

Tule Lake National Wildlife Refuge, (Headquarters, Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tulelake, Calif. 96134, telephone 916-667-2231).

Special conditions: 1. Steel shot is required for 12 guage shotguns only on all areas of Tule Lake National Wildlife Refuge. Field possession of lead 12 guage loads is prohibited within this steel shot zone.

2. Pheasant may not be hunted in the controlled waterfowl hunting area or in the retrieving zones.

3. In the controlled pheasant hunting area, entry permits are required throughout the pheasant season for all hunters 16 years of age or older. Advance reservations are required for the first two days of the hunt. Advance reservations are also available for the following seven days.

4. No person may possess any weapon that may not be legally used for the taking of pheasant.

The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

The primary author of this document is Patrick L. O'Halloran, Sacramento Area Office; telephone FTS 468-4771, com'l 916-484-4771.

Dated: September 6, 1978.

WILLIAM D. SWEENEY,
Area Manager,
California-Nevada,
U.S. Fish and Wildlife Service.

[FR Doc. 78-25762 Filed 9-12-78; 8:45 am]

[3510-22]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 662—NORTHERN ANCHOVY FISHERY

Harvesting by Domestic Fishermen

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final rulemaking.

SUMMARY: This document promulgates regulations under which domestic fishermen may harvest the central subpopulation of the northern anchovy resource. These regulations were published as proposed regulations based on the fishery management plan (FMP) for the northern anchovy. That FMP was developed by the Pacific Fishery Management Council and was approved by the Secretary on July 13, 1978. The regulations establish quotas for both reduction and nonreduction fisheries. The quotas are intended to allow a food and bait fishery, and a reduction fishery, while maintaining a sufficient anchovy population for forage.

EFFECTIVE DATE: 0001 P.d.t., September 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerald V. Howard, Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, Calif. 90731, telephone 213-548-2575.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 305 of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq., as amended, authorizes the Secretary of Commerce to publish regulations to implement fishery management plans. This part 662 implements the Pacific Council's management plan for the (central subpopulation) of the northern anchovy fishery resource.

These regulations were published as proposed rulemaking on July 21, 1978 (43 FR 31652). The northern anchovy resource is divided into northern, central, and southern subpopulations. The central subpopulation which ranges from 30° N. latitude in Baja California, Mexico, to 38° N. latitude at Point Reyes, Calif., and extends offshore approximately 200 miles, is harvested by reduction, bait and food fisheries in the United States and Mexico. The Council recognizes the need for an agreement with Mexico and has requested the Departments of State and Commerce to develop such an agreement.

The FMP addresses the management problems presented by a stock which is transnational in character, which is subject to wide population fluctuations, and which is utilized by different fisheries for different purposes. The further complication is that this species also serves as a major forage stock for desired game and food fish.

The regulations establish quotas for both reduction and nonreduction fisheries. These quotas will be announced by FEDERAL REGISTER notice on or about August 1 of each year. The 1978-79 announcement appeared on July 20, 1978 (43 FR 31191). These quotas are intended to allow a food and bait fishery, and a reduction fishery, while maintaining a sufficient anchovy population for forage. All anchovies harvested after August 1 of each year will be counted toward the harvest quotas. Anchovies harvested between August 1, 1978, and the effective date of these regulations will be counted toward the 1978-79 harvest quotas. The total anchovy quota for the 1978-79 season is 70,933 tons.

The reduction and human consumption fisheries may not land anchovies less than 5 inches in length, except that 15 percent of a load or lot may be comprised of shorter fish. This is intended to reduce fishing impact on immature anchovies.

Certain areas of the fishery conservation zone are closed to reduction fishing in order to improve the bait fishery for anchovies in those areas. Reduction fishing is also limited to certain seasons. There are no season or area limits on the nonreduction fisheries.

BROWN PELICAN ISSUE

Fish and Wildlife Service (FWS), Department of the Interior, submitted a biological opinion, after consultations with representatives of the National Marine Fisheries Service, on the effect of the management plan on the California brown pelican, which is listed as an endangered species. This was in accordance with the regulations implementing section 7 of the Endangered Species Act of 1973 (50 CFR 402). That opinion held that the implementation of the northern anchovy fishery management plan is not likely to jeopardize the continued existence or recovery of the brown pelican. However, the opinion contained certain recommendations regarding protection of the brown pelican over the long term. These recommendations, which include closure of some California State waters to anchovy fishing, an overall ceiling on the anchovy harvest, and continued study of the brown pelican/anchovy interactions, are being reviewed, and necessary actions will be taken.

PUBLIC COMMENTS

Many comments were received by the Council and the Secretary during development of this FMP. The significant comments received, and the responses, appear in the final environmental impact statement (FEIS). The notice of availability of the FEIS was published on April 28, 1978, in the FEDERAL REGISTER (43 FR 18249). Issues and concerns raised by commenters with responses during the review period included:

(A) The need for an agreement with Mexico on anchovy management.

Answer. The need for an agreement with Mexico is recognized.

(B) The absence of an upper limit for the optimum yield formula used to calculate the annual harvest quota.

Answer. One reason there is no upper limit on the total harvest of anchovy (reduction and nonreduction) fisheries is because of insufficient data. However, the formula adopted conforms with the requirements of the act.

(C) Problems created if large investments in the commercial fishery were made so that it would be difficult to curtail the fishery if anchovy abundance declined in the future.

Answer. The Council also considered that expansion of the fishery might occur, but concluded that the industry recognizes the risks of expansion under a variable quota system. The Council's FMP clearly indicates that it is the level of anchovy abundance, not the level of investment by the commercial fishing industry, which will determine the harvest quota in any single year.

(D) The suitability of scientific information and methods used to determine the population dynamics of the anchovy stock.

Answer. The FMP is based on the best available scientific evidence. However, the Council does recognize the lack of ecological evidence; every effort is being made to improve on and update the scientific basis of the FMP.

(E) The need for annual egg and larval surveys.

Answer. Estimates of the stock biomass will be made annually under the FMP. These estimates may rely on techniques other than egg and larval surveys as current researchers are investigating the most cost-effective method of stock biomass estimates.

(F) Several commenters voiced concern over the future of the anchovy population, and noted that the anchovy is in danger of being depleted. Concern was also expressed that the harvest quotas adopted are inadequate to protect the anchovy in light of its importance as a forage species for the sport fisheries.

Answer. The anchovy FMP adopts a conservative approach to management of this fishery. The harvest quotas adopted are intended to allow for a 1-million-ton spawning and forage reserve.

(G) Several commenters expressed concern that the anchovy FMP does not provide adequate protection to the bait fishery, and that additional area closures are needed to provide such protection.

Answer. The closures and harvest quota provided in the FMP and these regulations are considered to adequately protect the bait fishermen.

Comments received on the regulations themselves were generally not of a substantive nature. One commenter requested that the regulations be amended to conform with California's requirement that anchovy reduction vessels display their registration number in 14-inch numerals on the sides and top of the wheelhouse. Since this poses no new burden upon the reduction vessels, it has been implemented as a new section.

One comment on the regulations indicated that the management area should include that portion of the FCZ north of 38° N. latitude. This is the northern limit of the range of the central subpopulation. No controls are proposed for the northern subpopulation as it is currently not fished and is not addressed in the FMP. Therefore, the boundaries of the management

SE 13 78

area will remain as originally proposed.

To clarify the relationship of these regulations to those of the State of California, the following sentence has been added to the end of § 662.1:

These regulations recognize that any State law which pertains to vessels registered under the laws of that State, while such vessels are in the fishery conservation zone, and which is consistent with Federal regulations, shall continue to have force and effect upon fishing activities addressed herein.

For clarification purposes the second sentence of § 662.6(c) dealing with the closure of the nonreduction quota was removed.

NOTE.—The Department of Commerce has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Orders 11821 and 11949, and OMB Circular A-107.

Signed this 7th day of September 1978, at Washington, D.C.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

Sec.
662.1 Purpose and scope.
662.2 Definitions.
662.3 Quota.
662.4 Management areas.
662.5 Reduction fishing.
662.6 Nonreduction fishing.
662.7 Catch reports.
662.8 Restrictions.
662.9 Penalties.
662.10 Emergency regulations.

AUTHORITY: 16 U.S.C. 1801-1882.

§ 662.1 Purpose and scope.

This part 662 governs fishing for northern anchovy by vessels of the United States in the fishery conservation zone seaward of California south of 38° N. latitude over which the United States exercise exclusive fishery management authority (Pacific Anchovy Fishery Area (PAFA)). These regulations recognize that any State law which pertains to vessels registered under the laws of that State, while such vessels are in the fishery conservation zone, and which is consistent with the Federal Regulations shall continue to have force and effect upon fishing activities addressed herein.

§ 662.2 Definitions.

For the purpose of this part, the following terms mean:

(a) *Act.* The Fishery Conservation and Management Act of 1976, Pub. L. 94-265 (16 U.S.C. 1801 et seq.) as amended.

(b) *Authorized officer.* (1) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(2) Any certified enforcement agent or special agent of the National Marine Fisheries Service;

(3) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Secretary of Transporation to enforce the provisions of the act; and

(4) Any Coast Guard personnel accompanying and acting under the direction of any person described in subparagraph (1) of this paragraph.

(c) *Fishing.* (1) The catching, taking, or harvesting of fish;

(2) The attempted catching, taking, or harvesting of fish;

(3) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish.

(d) *Fishing vessel.* Any boat, ship, or other water craft which is used for, equipped to be used for, or of a type which is normally used for fishing, except for seine skiffs which are an integral part of a fishing operation conducted under this part.

(e) *Fishing year.* A 12-month period beginning August 1 and extending through July 31 of the following year.

(f) *Northern anchovy.* Fish of the species *Engraulis mordax*, or parts or products thereof.

(g) *Reduction fishing.* The fishing for northern anchovies for conversion of fish into fish flour, fish meal, fish scrap, fertilizer, fish oil, or other fishery products or byproducts for other than human consumption.

(h) *Nonreduction fishery.* Fishing for northern anchovies for the purposes of providing live or frozen bait or providing fish for human consumption.

(i) *Load.* The total amount of fish by weight from a single vessel per fishing trip.

(j) *Lot.* An amount of fish by weight which is the subject of a separate sale or delivery.

(k) *Reduction harvest quota.* The amount of anchovies, by weight, which may be harvested annually for reduction purposes.

(l) *Regional Director.* The National Marine Fisheries Service Regional Director, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731, or a designee.

(m) *Secretary.* The Secretary of Commerce or a designee.

(n) *Subarea B harvest quota.* The amount of anchovies, by weight, which may be harvested annually for reduction purposes in subarea B.

(o) *Total harvest quota.* The total amount of anchovies, by weight, which may be harvested annually by the reduction and nonreduction fisheries.

§ 662.3 Quota.

The total harvest quota, reduction harvest quota and subarea B harvest quota shall be determined by the following formulas and announced by notice in the FEDERAL REGISTER on or about August 1 of each year.

(a) When spawning biomass is less than 100,000 short tons, there shall be no fishing for anchovies for any purpose.

(b) When spawning biomass is equal to or greater than 100,000 short tons but less than 1 million short tons, the total harvest quota for the PAFA shall not exceed 12,600 short tons which will be reserved for nonreduction purposes.

(c) When spawning biomass is equal to or greater than 1 million short tons, the total harvest quota in the PAFA shall not exceed 70 percent of one-third of the spawning biomass in excess of 1 million short tons, or 12,600 short tons, whichever is greater; of this amount, the first 12,600 short tons will be reserved for nonreduction fishing and the remainder will constitute the reduction harvest quota.

(d) Ten percent of the reduction harvest quota or 10,000 tons, whichever is less, shall be reserved for reduction fishing in subarea A. The remainder will constitute the subarea B harvest quota.

(e) Anchovies harvested after August 1, 1978, will be counted toward the 1978-79 harvest quotas.

§ 662.4 Fishery management areas.

(a) The PAFA is divided into two subareas which have the following northern and southern limits;

(1) Subarea A: Between a northern limit at 38° N. latitude (Point Reyes) and a southern limit at 35°14′ N. latitude (Point Buchon).

(2) Subarea B: Between a northern limit at 35°14′ N. latitude (Point Buchon) and a southern limit which is the United States-Mexico International Boundary described at 42 FR 12938.

(b) The inner boundary of both subareas is a line coterminous with the seaward boundary of the State of California, and the outer boundary of each subarea is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

§ 662.5 Reduction fishing.

(a) *Open seasons.* All open seasons will begin at 0001 hours and terminate at 2400 hours local time. The PAFA is closed to reduction fishing except as follows:

(1) In subarea A: The open season is from August 1 to January 31; and from April 1 to June 30.

(2) In subarea B: The open season is from September 15 to January 31; and from April 1 to June 30.

(b) *Closed areas.* The following areas are closed to reduction fishing:

(1) *Farallon Islands closure.* The portion of subarea A bounded by:

(i) A straight line joining Pigeon Point Light (37°10.9′ N., 122°23.6′ W.) and the U.S. navigation light on Southeast Farallon Island (37°42.0′ N., 123°00.1′ W.); and

(ii) A straight line joining the U.S. navigation light on Southeast Farallon Island (37°42.0′ N., 123°00.1′ W.) and the U.S. navigation light on Point Reyes (37°59.7′ N., 123°01.3′ W.).

(2) *Subarea B areas.* That portion of subarea B described as:

(i) *Oxnard closure.* The area that extends offshore 4 miles from the mainland shore between lines running 250° true from the steam plant stack at Manadalay Beach (34°12.4′ N., 119°15.0′ W.) and 220° true from the steam plant stack at Ormond Beach (34°07.8′ N., 119°10.0′ W.).

(ii) *Santa Monica Bay closure.* Santa Monica Bay shoreward of that line from Malibu Point (34°01.8′ N., 188°40.8′ W.) to Rocky Point (Palos Verdes Point) (33°46.5′ N., 118°25.7′ W.).

(iii) *Los Angeles Harbor closure.* The area outside Los Angeles Harbor described by a line extending 6 miles 180° true from Point Fermin (33°42.3′ N., 118°17.6′ W.) and then to a point located 3 miles offshore on a line 225° true from Huntington Beach Pier (33°39.2′ N., 118°00.3′ W.).

(iv) *Oceanside to San Diego closure.* The area 6 miles from the mainland shore south of a line running 225° true from the tip of the outer breakwater (33°12.4′ N., 117°24.1′ W.) of Oceanside Harbor to the United States-Mexico International Boundary.

(3) The inner boundary line of each closed area shall be the line described in 662.4b.

(c) *Length restrictions.* No person shall land anchovies less than five (5) inches in length, measured from tip of snout to tip of tail, for reduction purposes, except that 15 percent by weight of all anchovies in any such load or lot may be less than minimum length.

(d) If a vessel has filed with the State of California a declaration of intent to take anchovies for reduction purposes, it shall be conclusively presumed that any fishing for anchovies by that vessel is for reduction purposes unless an exemption to the declaration has been filed with the State of California.

(e) *Closure of the reduction fishery.* (1) When the reduction harvest quota, the subarea B harvest quota, or the total harvest quota is about to be reached, the Secretary will announce in the FEDERAL REGISTER, and through the offices of the Southwest Region, National Marine Fisheries Service, the Council, and the California Department of Fish and Game, a closure of the reduction fishery in one or both subareas.

(2) If a closure is announced during any open season as specified in § 662.5(a), reduction fishing subject to the closure shall cease by seven (7) days from the date of the FEDERAL REGISTER notice, and shall not resume until new harvest quotas are announced under § 662.3.

(3) All anchovies harvested for reduction purposes in the PAFA and adjacent territorial sea shall be counted toward the applicable harvest quotas.

(f) Registration. All vesseis fishing anchovies for reduction shall be required to display their State anchovy reduction registration number in 14 inch numerals on the side and top of the wheel house.

§ 662.6 Nonreduction fisheries.

(a) There are no closed areas or closed seasons for nonreduction fishing in the PAFA.

(b) No person shall land anchovies less than five (5) inches in length, measured from tip of snout to tip of tail, for any nonreduction purpose other than bait, except that 15 percent, by weight, of all anchovies in any such load or lot may be less than minimum length.

(c) Nonreduction fishing in the PAFA shall cease seven (7) days from the date that a total harvest quota closure is announced as specified in § 662.5(e). Nonreduction fishing shall not resume until a new total harvest quota is announced under § 662.3.

(d) All anchovies harvested for nonreduction purposes in the PAFA and adjacent territorial sea shall be counted toward the total harvest quota.

§ 662.7 Catch report.

Data regarding fishing vessels, fishing activities, landings, and processing activities required by the fishery management plan for the reduction and nonreduction fisheries are collected by the State of California under existing State data collection provisions. No additional reports will be required of fishermen or processors as long as the data collection and reporting systems operated by the State of California continue to provide the Secretary with statistical information adequate for management. Reporting requirements may be promulgated by emergency regulations if this reporting system becomes inadequate for management purposes.

§ 662.8 General restrictions.

The following restrictions apply to all anchovy fishing in subareas A and B:

(a) No person shall fish for anchovies: (1) During any applicable closed season or in any applicable closed area specified in this part; or

(2) During any applicable closure specified in this part; or

(3) Aboard a vessel which has not filed an applicable declaration of intent with the State of California as specified in this part.

(b) No person shall land any anchovy of less than minimum length, except as specified in this part.

(c) No person shall possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, export, or land, any anchovy which was taken in violation of the act, this part, or any other regulation issued under the act.

(d) No person shall: (1) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of enforcement of this act, this part, or any other regulation issued under the act.

(2) Forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer in enforcing provisions of this part;

(3) Resist a lawful arrest for any act prohibited by this part; or

(4) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person knowing that such person has committed any act prohibited by this part.

(d) The operator of each fishing vessel shall immediately comply with instructions issued by authorized officers to facilitate safe boarding and inspection of the vessel for purposes of enforcing the act and this part.

§ 662.9 Penalties.

Any person found to be in violation of the part, the act, or any other regulation issued under the act will be subject to the civil and criminal penalty provisions and forefeiture provisions of the act.

§ 662.10 Emergency regulations.

The Secretary may issue emergency regulations under section 305(e) of the act, if an emergency involving the anchovy resource is found, by publication of a notice in the FEDERAL REGISTER.

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V 43 / 178 SE 13 78

V 4 3 / 1 7 8

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-21]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[7 CFR Part 17]

OCEAN TRANSPORTATION OF AGRICULTURAL COMMODITIES

Proposed Regulations Governing the Financing of Commercial Sales of Agricultural Commodities;

AGENCY: Office of the General Sales Manager, USDA.

ACTION: Proposed rule.

SUMMARY: These proposed regulations would revise the portion of existing regulations which pertains to the ocean transportation of agricultural commodities, the purchase of which is financed under Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (herein referred to as the act). This proposal is part of an overall review of Part 17 designed to update esisting regulations pertaining to the financing of the sale and exportation of Title I commodities, ensure expeditious operations under the program, enable suppliers to effectively participate and keep the costs of the program as low as possible consistent with the purposes of the act.

DATES: Written comments should be submitted in duplicate on or before November 13, 1978.

ADDRESSES: Written comments:

General Sales Manager, Office of the General Sales Manager, U.S. Department of Agriculture, Room 4073, South Building, 14th and Independence Avenue SW., Washington, D.C. 20250.

Comments available for public inspection during business hours (8:15 a.m. to 4:45 p.m., Monday through Friday): Room 4554, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

John H. Maxwell, Room 4554, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone: 202-447-3664.

SUPPLEMENTARY INFORMATION: These regulations propose to revise the rules governing the financing by the Commodity Credit Corporation (CCC) of ocean freight costs and the current procedures governing the approval of the pertinent terms of proposed charter parties and booking notes for vessels carrying agricultural commodities, the purchase of which by foreign governments or private trade entities is financed under the act. Financing of ocean freight costs covers the extension of credit with respect to freight costs or the payment of ocean freight differential, whichever is provided for in the purchase authorization governing the particular transaction.

Currently, CCC does not extend any credit with respect to ocean freight costs. CCC does make an ocean freight differential payment with respect to ocean freight costs on that portion (at least 50 percent) of the commodities required by the Cargo Preference Act to be shipped on U.S. flag vessels. The ocean freight differential is based on the difference between freight rates of U.S. flag vessels and foreign flag vessels, determined in accordance with a specified method.

The proposed rules specify certain costs which may or may not be included in ocean freight costs used as a basis for determining the amount to be financed by CCC.

These rules are promulgated in proposed form to provide interested persons an opportunity to comment and assist the Department in developing final rules. Written comments should be submitted in duplicate to the specified office and, in order to be considered, must not be accompanied by a request that all or any part of the material be treated as confidential. All comments received prior to the closing date will be available for public inspection and copying. Following are explanations of major provisions of the proposed rules together with statements indicating the reason for the proposed rules and their intended effect.

Freight Invitations for Bids (§ 17.9(b))

It is proposed that the contracting for ocean transportation will generally take place based on freight invitations for bids (IFB's), which must be reviewed by the appropriate USDA official prior to issuance by importers. Since it is desirable that all interested carriers have the same opportunity to participate, it is proposed to require that IFB's be made available through two media, including an acceptable news medium such as the Transportation News Ticker. IFB's for non-U.S. flag vessels will not be required when the importer or participant solely employs its national flag vessels or vessels under its control. Vessels under the control of the participant or importer include vessels under consecutive voyage charters, time charters, bareboat charters, or other contractual arrangements for the carriage of commodities where the participant or importer has been guaranteed access to vessels.

Although IFB's are required, the negotiation of contract terms which may result in a less expensive combination of vessels or other arrangements favorable to the importer would not be precluded provided required contract provisions are not avoided. For example, in no event may the participant consider a vessel that offers with a cancelling date later than the last contract layday specified in the IFB. USDA will not approve any vessel with such a discrepancy. This provision is deemed necessary to ensure that the purchased commodity will be lifted within the commodity contract delivery period, thereby meeting the participant's required delivery schedule and reducing storage expenses. Similarly, IFB's will require offers to provide for guaranteed rates for vessel load and free out discharge with demurrage and despatch at both ends in some circumstances.

Ocean Freight Differential Rate (§ 17.9(e))

The applicable Purchase Authorization and Form CCC-106, "Advice of Vessel Approval," will state the extent to which financing of ocean freight is authorized. The proposed regulations establish the method by which the rate of ocean fright differential will be computed. When IFB's are required for both U.S. and non-U.S. flag vessels, the approprate USDA official will average, on a weighted basis, the non-U.S. flag rates for vessels offered that could carry the total tonnage purchased but for the requirement that approximately 50 percent must be carried on U.S. flag vessels. The difference between this average rate and the lowest U.S. flag rate for vessels offered that could carry the preference cargo will comprise the rate of ocean freight differential, irrespective of the freight rate agreed upon for U.S. flag vessels fixed. When IFB's are not required or when insufficient non-U.S. flag tonnage is offered, the appropriate USDA official will construct a non-U.S. flag rate, which in that person's opinion fairly approximates the market rate and which will be used in computing the ocean freight differential rate.

Failure of Vessel To Perform

Under present regulations, a charterer may incur necessary expenses to enable the vessel to perform after tender at the loading port, such as lifting liens asserted against the vessel. Any such expeness incurred may be deducted from the freight earned. It is proposed (§ 17.9(h)(2)) that this provision will be applicable to both charter party and booking notes in an effort to ensure that all commodities will be shipped as anticipated.

Freight Commissions

Recent Title I ocean transportation transactions have been criticized because of provisions in the freight contracts precluding ships brokers from sharing in the freight commissions. The Department believes that ships brokers perform a service in arranging for ocean transportation and that practices which may preclude their participation limit the range of potential suppliers and, therefore, should be avoided. Consequently it is proposed (§ 17.9(1)(10)) that CCC would not finance a brokerage commission to any one person in excess of 50 percent of total commissions when ships brokers are used. This reflects normal commercial practice where ships brokers are involved and freight commissions are shared with shipping agents. This rule would not affect the limitation on CCC's financing total freight commissions of more than 2½ percent of the freight financed.

Demurrage and Despatch

It is proposed (§ 17.9(b)(2) (iii) and (iv)) to require that freight IFB's provide that offers submitted thereunder contain demurrage and despatch provisions, except for bulk liquid cargoes and certain specified liner shipments. It is anticipated that this requirement will reduce the ocean freight differential costs to be paid by CCC since a pro rata portion of net despatch may be witheld from the final payment of differential. Laydays are reversible (§ 17.9(h)(2)(iii)) which precludes demurrage and despatch at only loading or discharge ports. This should be an incentive to accelerate discharging operations. The mechanics of the calculation are set forth in § 17.9(m).

Since many carriers have experienced delays in receiving from importers payment of the final 10 percent of freight, a provision has therefore been added requiring the participant to forward signed laytime statements and statements of fact within 30 days after discharge of vessel (§ 17.9(h)(2)(iv)).

Initial Freight Payment and Cargo Loss

Presently, the regulations state that 90 percent of the ocean freight is earned and payable when the vessel and cargo arrive at the first port of discharge. In view of the increased costs of ocean carriage, it is proposed that this initial freight payment be increased to 95 percent.

The proposed regulations substantially follow existing regulations regarding payment of ocean freight in the case of cargo loss for shipments on charter party terms. The required notice of arrival is prima facie evidence of arrival of the cargo. Consequently, if sufficient evidence exists of cargo loss prior to arrival, the freight on the cargo lost is ineligible for financing until the General Sales Manager determines whether a force majeure, as described in § 17.9(k)(3), is the cause of the non-arrival of the vessel or cargo. If such is determined to be the cause, not more than 95 percent of the freight is then eligible for financing. The final 5 percent is payable only on the cargo which arrives subject to appropriate despatch reductions. If the cargo loss or non-arrival of the vessel is from a cause other than force majeure, no freight is payable on the cargo lost.

Force Majeure

The force majeure provision has been revised to clearly provide for the exclusion, as a force majeure, of incidents caused by master or crew such as faulty navigation. In this respect this provision differs from that provided by the Carriage of Goods by Sea Act.

Cargo Loss or Damage Claims

The provision regarding earned freight is not intended to restrict a charterer's rights to pursue cargo loss and damage claims arising from incidents after the vessel has arrived at the first port of discharge. In these situations charterers would continue to recover damages when the loss is due to causes for which the carrier is liable under general rules of maritime law, notwithstanding the provision for earned freight. The charterer may not withhold amounts other than disputed despatch from the final 5 percent of freight.

It is proposed to add a new section (§ 17.9(j)) specifying that any claims against the ocean carrier for cargo loss or damage pursued by the importer must be reported to OGSM and the ocean freight differential portion of any final recovery must be refunded to CCC. Such claims have not been generally accounted for in the past because these claims have been small. However, it is now felt that amounts realized by this Department would justify the administrative burden involved in collecting such amounts.

Freight Forwarding Fees

It is proposed to make freight forwarding fees assessed at loading ports ineligible for financing by CCC (§ 17.9(1)(13)). This would not preclude the use of such services if the importer feels such services are necessary.

Minibridge Shipments

This Department has been urged to amend the regulations to provide for the financing of the sale and exportation under Title I, Pub. L. 480, of commodities utilizing minibridge services. Minibridge refers to the shipment of containerized cargo by rail to ports for loading upon ocean vessels. The cargo is delivered to containers at railheads operated by minibridge carriers and the ocean carrier's tariff includes the cost of the rail leg of the shipment. It is felt that total transit time could be reduced and risk of commodity loss lessened.

Rather than include detailed minibridge provisions in these draft regulations, public comments are invited from all interested parties concerning the approach to this matter as set forth in this preamble. After considering these comments, proposed regulations with respect to the use of minibridge will be published with a request for further comments. Final publication of ocean transportation regulations specifically proposed herein will not be delayed while consideration is being given to amending the regulations to provide for financing when minibridge services are used.

Minibridge service is not compatible with present operations under the program. This is because under the regulations CCC financing of commodities is available only upon presentation of an on-board ocean bill of lading. In order to permit minibridge services to be utilized, CCC financing of the commodities would be made available upon the presentation of copies of a through bill of lading to final destination which shows the date containers were loaded on rail cars at the railhead. Since the importer would take custody of the commodity at the railhead, the importer would be responsible for pursuing any claims for loss or damage on the rail leg of the shipment.

An endorsement on the through bill of lading indicating that the containers were loaded to the vessel would be necessary for the financing of ocean freight. This would not preclude an importer who is receiving financing for ocean freight under the reimburse-

SE 13 78

V 43 / 178

ment method from making initial payment earlier.

Ocean freight differential would be computed in the same manner as if conventional service were used, from the port at which the railhead is located. Any foreign flag minibridge operator's rate would be averaged into foreign flag all-water rates.

Importers desiring to do so would specify the minibridge option when issuing IFB's for commodity and freight. Such invitations would be issued simultaneously so commodity suppliers could consider any additional cost factors. Commodity suppliers would be permitted to offer separate prices for delivery f.o.b. vessel, f.a.s. vessel, or f.o.b. container at railhead. For purposes of determining the lowest f.o.b. or f.a.s. commodity price, no distinction will be made between offers "f.o.b. container at railhead" and offers "f.o.b. vessel" or "f.a.s. vessel." This will assist in keeping the costs of the Title I, Pub. L. 480 program to the U.S. Government as low as possible by insuring that all responsive commodity offers be considered in arriving at the lowest commodity price.

Accordingly, it is proposed that 7 CFR, part 17, subpart A be amended as follows:

§ 17.1 [Amended]

1. In § 17.1, paragraph (b)(2) is amended by changing the reference "§ 17.9(b)" to "§ 17.9(c)" and paragraph (c)(1) is amended by adding the words "ocean freight or" before the words "ocean freight differential" wherever they appear in the second and third sentences.

2. Section 17.2 is amended by revising paragraph (b)(5), adding a new paragraph (b)(8), and revising paragraph (c)(8), as follows:

§ 17.2 Definition of terms.

* * * * *

(b) *Terms relating to ocean transportation.* * * *

(5)(i) "Ocean bill of lading" means:

(A) *In the case of cargo carried in vessels other than LASH or Seabee.* An "on-board" bill of lading, or a bill of lading with an "on-board" endorsement, which is dated and signed or initialed on behalf of the carrier, or

(B) *In the case of cargo carried in LASH or Seabee barges. (1)* For the purpose of financing commodity price, an "on-board" bill of lading showing the date commodity was loaded on board barges, which is dated and signed or initialed on behalf of the carrier, or a bill of lading or a LASH or Seabee barge bill of lading with an "on-board barges" endorsement which is dated and signed or initialed on behalf of the carrier.

(2) For the purpose of financing ocean freight or ocean freight differential, or any portion thereof, an "on-board" bill of lading which is dated and signed or initialed on behalf of the carrier indicating the barges containing the cargo were placed aboard the vessel named in the form CCC-106 not later than eight (8) running days after the last LASH or Seabee barge loading date (contract layday) specified in the form CCC-106, or a bill of lading or a LASH or Seabee barge bill of lading with an "on-board ocean vessel" endorsement which is dated and signed or initialed on behalf of the carrier indicating the barges containing the cargo were placed aboard the vessel named in the form CCC-106 not later than eight (8) running days after the last LASH or Seabee barge loading date (contract layday) specified in the form CCC-106.

(ii) Documentary requirements for a copy of an "ocean bill of lading" refer to a non-negotiable copy thereof.

* * * * *

(8) "Financing" means the extension of credit with respect to freight costs or the payment of ocean freight differential, whichever is provided for in the purchase authorization governing the particular transaction.

3. Section 17.3 is amended by revising paragraph (b) as follows:

§ 17.3 Purchase authorization.

* * * * *

(b) *Issuance of purchase authorization.* On approval of the application by the General Sales Manager, a purchase authorization will be issued to the participant. For commodities, the form shall be form OGSM-480 (Commodity), "Authorization to Purchase Agricultural Commodities." Financing of ocean freight or ocean freight differential may be authorized in the form OGSM-480 (Commodity) or on a separate form EMS-480 (Ocean Transportation). Financing will be in accordance with the purchase authorization.

* * * * *

§ 17.8 [Amended]

4. In § 17.8, paragraph (c)(5) is amended by changing the reference "17.9(i)(8)" to "17.9 (1) (8), (9), and (10)."

5. Section 17.9 is revised to read as follows:

§ 17.9 Ocean Transportation.

(a) *General.* This section provides requirements applicable to ocean transportation supplied for the shipment of commodities financed under title I of the Act, and specific requirements applicable to the financing of ocean freight or ocean freight differential. The purchase authorization may provide requirements in addition to or in lieu of those stated in this section.

(1) Ocean freight or ocean freight differential will be financed by CCC only to the extent specifically provided for in the purchase authorization.

(2) The offices specified in paragraph (c)(2) of this section shall determine the quantity of the commodity which shall be shipped on privately owned U.S. flag commercial vessels.

(3) The supplier of ocean transportation shall release copies of the ocean bill of lading to the supplier of the commodity promptly upon completion of loading the commodity to the ocean-going vessel; or, in the case of LASH or Seabee type barges, upon completion of loading the commodity to the LASH or Seabee type barge.

(b) *Freight Invitations for Bids.* (1) Freight "Invitations for Bids" (IFB's) must be issued in the United States for U.S. and non-U.S. flag vessels unless otherwise authorized by the Director, Ocean Transportation Division (OTD), Office of the General Sales Manager (OGSM), or in the case of cotton shipments, by the Director, Kansas City ASCS Commodity Office; except that IFB's for non-U.S. flag vessels are not required if the participant or the importer uses only its own flag vessels or non-U.S. flag vessels under its control. Vessels considered to be under the control of the participant or the importer include vessels under time charters, bare boat charters, consecutive voyage charters, or other contractual arrangements guaranteeing access to vessels to the participant or the importer. Prior to release to the trade, IFB's must be submitted for review to the Director, OTD, OGSM (or for cotton, to the Director, Kansas City ASCS Commodity Office). The IFB shall state that offers with a canceling date beyond the laydays specified in the IFB will not be considered by the participant. Freight IFB's must be issued by means of an acceptable news medium (such as the Transportation News Ticker) plus at least one other means of communication, such as teletype or letter, to assure adequate notice to all interested parties. Copies of the freight IFB issued and all offers received must be promptly furnished to the Director, OTD, OGSM (or, for cotton, to the Director, Kansas City ASCS Commodity Office, if the Director so requires). If requested, a record of all negotiations must also be furnished.

(2) For commodities other than cotton, freight IFB's shall provide

that offers submitted thereunder shall contain the following:

(i) The name(s) of the specific vessel(s) to perform.

(ii) The vessel's layday canceling date (last contract layday), which must be no later than the last contract layday specified in the IFB.

(iii) Guaranteed rates for vessel load/free out discharge with provisions for demurrage/dispatch both ends on U.S. flag vessels on charter terms (unless otherwise authorized by the Director, OTD, OGSM, prior to conclusion of fixture).

(iv) That shipments of "mark and count" on U.S.-flag liner vessels will be on basis of gross terms when within the scope of applicable tariffs; "mark and count" shipments on U.S.-flag liner vessels on "open" rates and bulk grain shipments will be on basis of guaranteed rates for vessel load/free out discharge with provisions for demurrage/dispatch at both ends unless otherwise authorized by the Director, OTD, OGSM, prior to conclusion of booking). Shipment of bulk liquid commodities on U.S.-flag vessels may be contracted in accordance with trade customs.

(v) That whenever the quantity of cargo to be loaded is qualified (for example, 5 percent more or less), the option is to be at vessel's discretion, unless approved otherwise by the Director, OTD, OGSM.

(c) *Request for vessel approval.* Whether any portion of the ocean freight is financed by CCC or not, the pertinent terms of all proposed ocean freight contracts, and any amendments thereto (whether liner bookings, single voyage charters, consecutive voyage charters, or time charters), must be submitted to the USDA official specified in paragraph (c)(2) of this section for review and approval before fixture of the vessel. Request for vessel approval must state the name of the specific vessel(s) to perform. Tentative advance vessel approval may be obtained by telephone or telegram provided Form CCC-105, "Request for Vessel Approval, Ocean Shipment Data—PL 480," is sent promptly confirming the information supplied by telephone or telegram.

(1) Requests for vessel approval will be reviewed to insure compliance with the following:

(i) Pub. L. 664 (Cargo Preference Act), the applicable purchase authorization, and the provisions of these regulations.

(ii) Pub. L. 87-266 (definition of privately owned U.S.-flag commercial vessels; 46 U.S.C. 1241(b)).

(iii) That laydays of vessel conform to laydays of IFB, or in absence of a freight IFB, that the canceling date is sufficient to permit loading by the terminal delivery date of the commodity supply contract. Requests for vessel approval submitted to OGSM covering vessels that, when offered in response to the IFB, did not comply with this provision will not be approved by the Director, OTD, OGSM.

(2) To obtain approval, Form CCC-105 shall be sent in duplicate to the applicable office indicated below:

(i) *For cotton.* Form CCC-105 (Cotton), "Request for Vessel Approval, Ocean Shipment Data—PL 480," shall be sent to the Director, Kansas City ASCS Commodity Office, USDA, P.O. Box 8377, Shawnee Mission, Kans. 66208.

(ii) *For all other commodities.* Form CCC-105, "Request for Vessel Approval, Ocean Shipment Data—PL 480", shall be sent to the Director, OTD, OGSM, USDA, Washington, D.C. 20250.

(d) *Advice of vessel approval.* Approval will be given on Form CCC-106. It will state whether the vessel is approved as a dry cargo liner, dry bulk carrier, or tanker; whether or not financing by CCC of any part of the ocean freight is authorized; and, when CCC financing is authorized, a statement as to whether demurrage/dispatch is or is not applicable.

(1) *For cotton.* Form CCC-106-3 (white), signed for the Director, Kansas City ASCS Commodity Office, on sales made on a c.i.f. or c. & f. basis will be issued only to the supplier of the cotton. If CCC finances any part of the ocean freight when cotton is shipped on an f.a.s. basis, two signed originals will be issued, one to the supplier of the cotton and the other to the ocean carrier.

(2) *For all other commodities.* Form CCC-106, signed for the Director, OTD, OGSM, will be issued as follows:

(i) For shipments to be made on an f.o.b. or f.a.s. basis, original Form CCC-106-1 (yellow) will be issued to the supplier of the commodity. When CCC finances any part of the cost of ocean freight, original Form CCC-106-2 (blue) will be issued to the ocean carrier.

(ii) For shipments to be made on a c.i.f. or c. & f. basis, original Form CCC-106-1 (yellow) will be issued to the supplier of the commodity.

(e) *Ocean freight differential.* (1) All required U.S.-flag vessels will be approved prior to approval of any non-U.S.-flag vessles unless otherwise authorized by the Director, OTD, OGSM (or, for cotton, by the Director, Kansas City ASCS Commodity Office).

(2) When IFB's are required for both U.S.- and non-U.S.-flag vessels the ocean freight differential rate will be computed by the Director, OTD, OGSM, except that for cotton, the ocean freight differential rate will be computed by the Director, Kansas City ASCS Commodity Office. The rate of ocean freight differential will be computed on the basis of the difference between (i) the weighted average freight rate(s) of non-U.S.-flag vessels offered that, in the appropriate official's opinion, could carry the total quantity of the commodity purchased (mean or min/max as applicable) and (ii) the lowest U.S.-flag rate offered which in that person's opinion could carry the required U.S.-flag tonnage irrespective of U.S.-flag vessels fixed. When IFB's are not required, either for U.S.- or non-U.S.-flag vessels, or when insufficient non-U.S.-flag tonnage is offered, the non-U.S. flag rate to be used for computation of the ocean freight differential rate will be as determined by the Director, OTD, OGSM, or, for cotton, by the Director, Kansas City ASCS Commodity Office.

(3) The ocean freight differential shall be computed by multiplying the rate of differential stated on Form CCC-106 bearing the number of the applicable purchase authorization, by the tonnage transported as authorized on the Form CCC-106. The ocean freight differential rate will be adjusted to deduct any ineligible commissions or costs as authorized in paragraph (e)(1) of this section.

(f) *U.S.-flag vessels.* When a commodity is required to be shipped on privately owned U.S.-flag commercial vessels, Form CCC-106 will show in addition to other pertinent data:

(1) The rate of the ocean freight differential, if any; as determined by the Director, OTD, OGSM (or Director, Kansas City ASCS Commodity Office, for cotton);

(2) The approximate tonnage for which CCC will finance ocean freight or ocean freight differential; and

(3) A statement that demurrage/dispatch is or is not applicable.

(g) *Foreign flag vessels.* CCC will not finance any part of the ocean freight on foreign flag vessels.

(h) *Information and provisions required on charter party or booking note when any part of ocean freight is financed by CCC.* (1) When CCC finances any part of the ocean freight, the charter party or booking note shall contain the following information:

(i) The name of each party sharing in the ocean freight commission, if any, and the percentage payable to each party.

(ii) The name of the vessel and name of alternate vessel, if any.

(2) The charter party or booking note shall contain or, for the purpose of financing under the regulations in this part, shall be deemed to contain, the following provisions:

V 4 3 / 1 7 8

(i) Any failure by the supplier of ocean transportation to perform under the charter party or the booking note after the vessel has tendered at the loading port shall entitle the participant to incur all expenses which in the judgment of the GSM are required to enable the vessel to undertake and carry out her obligations under the freight contract. This includes, but is not limited to, expenses for lifting any liens against the vessel.

(ii) Notwithstanding any prior assignments of freight made by the owner or operator, the expenses authorized in paragraph (h)(2)(i) of this section may be deducted from the freight earned under the charter party or booking note.

(iii) Laydays are reversible when the contract provides for demurrage and dispatch at both ends. Laytime at first loading and discharging port to commence at 0800 hours the next regular working day after vessel tenders, during regular business hours, whether in berth or not. Prior time, if use, not to count. Laytime at second or subsequent ports of loading or discharging to commence on arrival.

(iv) Signed loading and discharging laytime statement(s) and statement(s) of fact shall be submitted to the supplier of ocean transportation no later than 30 days after discharge of vessel, or payment shall be made to supplier directly, or the bank holding the letter of credit shall be directed to pay, the outstanding balance of freight, less disputed dispatch.

(v) Settlement directly between the supplier of ocean transportation and the participant or through arbitration proceedings of disputes affecting freight financed by CCC shall not be binding on CCC.

(i) *Special charter party provisions required when any part of ocean freight is financed by CCC.* The charter party shall contain or, for the purpose of financing under the regulations in this Part, shall be deemed to contain, the following provisions:

(1) Subject to subparagraphs (2) and (3) of this paragraph, 95 percent of the ocean freight is earned and payable by the charterers when the vessel and cargo arrive at the first port of discharge. The final 5 percent, less adjustments for dispatch only, is payable upon submission of required documentation.

(2) If a force majeure as described in paragraph (k)(3) of this section results in the loss of part of the vessel's cargo, 95 percent of the ocean freight is payable on the part so lost and the quantity on board when the vessel arrives at the first port of discharge. This does not relieve the carrier of the obligation to carry the cargo to other points of discharge if so required by the charter party. The final 5 percent balance of freight on the cargo which arrives shall be settled promptly, subject to adjustments for dispatch only, if any, after submission of signed loading and discharging laytime statement(s) and statement(s) of fact. The 5 percent balance of freight on the cargo lost shall not be due or payable.

(3) If any of the force majeures as described in paragraph (k)(3) of this section prevents the vessel's arrival at the first port of discharge, an amount not to exceed 95 percent of the freight shall be payable by the charterer if the GSM determines that such force majeure was the cause of nonarrival. A pro rata portion of dispatch earned at loading port will be deducted from amounts financed by CCC as provided in § 17.9(m). The remaining 5 percent balance of freight shall not be due or payable.

(j) *Cargo loss and damage claims.* The importer is responsible for pursuing all cargo loss and damage claims and notifying the Director, OTD, OGSM (or, for cotton, the Director, Kansas City ASCS Commodity Office) of all claims made. The importer shall refund to CCC the ocean freight differential portion of amounts recovered which were financed by CCC. This shall not in any way limit CCC's rights to pursue such claim directly against the carrier.

(k) *Notice of arrival.*—(1) *Requirements.* Each Form CCC-106-2 will state whether a notice of arrival is required. If required, it must be furnished promptly to the carrier by the importer or its designated agent or other source acceptable to CCC (excluding the carrier or his agent). The notice must include the name of the vessel, purchase authorization number, first port of discharge, and the date of arrival. The notice of arrival also constitutes prima facie evidence of arrival of the cargo.

(2) *Waiver of notice of arrival (letter of credit).* On receipt of an acceptable letter of credit furnished to CCC as financial coverage by the supplier of ocean freight, the GSM or Controller will issue a waiver of the requirement for the notice of arrival for initial CCC financing of up to 95 percent of the ocean freight or ocean freight differential prior to arrival. The amount of the letter of credit may be computed as follows:

(i) If a copy of the ocean bill of lading is not sent to CCC, 100 percent of the ocean freight or ocean freight differential on the basis of the tonnage stated in the ocean freight contract (without tolerance) times the ocean freight rate or ocean freight differential rate shown on Form CCC-106; or,

(ii) If a copy of the ocean bill of lading is sent to CCC, 95 percent of the ocean freight or ocean freight differential on the basis of the tonnage shown on the ocean bill of lading times the approved ocean freight rate or ocean freight differential rate shown on the Form CCC-106.

(3) *Waiver of notice of arrival (force majeure).* The GSM will waive the requirement for the notice of arrival by a written notice to the supplier of ocean transportation on receipt of evidence satisfactory to him that the vessel is lost or unable to proceed to destination after completion of loading due to one or more of the following causes: Damage caused without the fault of the carrier (including the master or crew) by perils of the sea or other waters, collisions, wrecks, stranding, fire, arrest or restraint of princes, rulers or peoples, jettison, Act of God, public enemies or pirates; wars; public disorders; captures; or detention by public authority in the interest of public safety.

(4) *Force majeure (CCC financing of ocean freight).* When the GSM determines that a force majeure has occurred, as specified in paragraph (k)(3) of this section, the following shall apply: For shipments under purchase authorizations which provide for CCC financing of ocean freight or ocean freight differential, an amount not to exceed 95 percent of the ocean freight or ocean freight differential shall be eligible for financing by CCC. (If the GSM determines that less than 95 percent of the ocean freight is payable to the carrier, CCC will finance the corresponding percentage of the ocean freight or ocean freight differential.) A pro rata portion of dispatch will be deducted in determining the amount to be financed by CCC. The remaining 5 percent of the ocean freight or ocean freight differential is not eligible for CCC financing.

(l) *Items not eligible for CCC financing.* The following costs are not eligible for CCC financing:

(1) Loading, trimming, and other related vessel expenses unless included in the ocean freight rate;

(2) Discharge costs except when in accordance with trade custom (i.e., normal berth term liner shipments);

(3) Cost of "dead freight";

(4) Cargo dues and taxes assessed by the country of import;

(5) Surcharges assessed by steamship conferences or carriers, unless authorized by the Director, OTD, OGSM;

(6) General Average contributions;

(7) Stevedoring overtime and vessel crew overtime;

(8) Address commissions;

(9) Brokerage commissions in excess of 2½ percent of the freight financed;

(10) Brokerage commission to any one person in excess of 50 percent of total commissions when ships brokers are used;

(11) Demurrage;

(12) Elevator or terminal overtime in excess of dispatch earnings for the same voyage;

(13) Freight forwarding fees assessed at loading ports.

(m) *Calculation of demurrage/dispatch.* (1) For the purpose of determining net demurrage or net dispatch, laytime shall be calculated in the following manner:

(i) Determine the laytime saved or lost at loading ports;

(ii) Determine the laytime saved or lost at discharge ports;

(iii) Total the above figures in subdivisions (i) and (ii) of this subparagraph and determine the laytime lost (demurrage) or laytime saved (dispatch) for the entire voyage.

(2) The resulting figure shall be multiplied by the appropriate dollar rate to obtain the amount of demurrage or dispatch.

(3) Dispatch earnings may be credited against elevator or terminal overtime (excluding stevedoring and vessel crew overtime) at loading port.

(4) Any net dispatch earnings shall be divided in proportion to the freight financed by the participant and CCC. CCC's portion of such dispatch earnings shall be deducted from the amount of the request for reimbursement of the balance of the ocean freight or ocean freight differential.

(5) The CCC pro rata share of net dispatch to be deducted from the ocean freight differential otherwise payable will be determined by dividing the ocean freight differential rate by the ocean freight rate. The resulting percentage will be computed to the nearest ⅒ percent (drop less than 0.5 percent; .05 percent and over, round up to next ⅒ percent).

(n) *General financing provisions.* When any part of the ocean freight is to be financed by CCC, the following shall apply:

(1) A copy of the charter party or booking note, and any amendments thereto, shall be sent immediately after signature to the Director, OTD, OGSM (or, for cotton, to the Director, Kansas City ASCS Commodity Office) for review and approval before Form CCC-106 is issued. If any conflict arises between the regulations in this part and the charter party or booking note or the ocean bills of lading issued pursuant thereto, the regulations in this part shall prevail.

(2) Charter parties or booking notes shall show the ocean freight rate from one loading port to one discharge port. A charter party or booking note may provide for an increase in rate for an additional port of loading or discharge, any alternate route or other option. CCC will initially finance the lowest such rate or ocean freight differential. Increased amounts (if any) due because of the exercise of an option will be financed only after receipt of evidence that an option was exercised.

(3) When transshipment from a U.S.-flag vessel to a foreign flag vessel occurs, CCC will finance the ocean freight or ocean freight differential only to the point of transshipment, at a rate determined by the Director, OTD, OGSM. No part of the ocean freight beyond the point of transshipment will be financed by CCC unless specifically approved by the Director, OTD, OGSM. If the commodity was transported from a U.S. port and was transshipped at another U.S. port, CCC will not finance, without prior approval of the Director, OTD, OGSM, any part of the ocean freight incurred before transshipment.

(4) The ocean freight rate eligible for CCC financing and the rate used to compute ocean freight differential for the U.S.-flag vessel may not exceed the following rates for the kind of vessel concerned:

(i) The published contract rate (conference or independent).

(ii) For other commodities (bulk commodities and other commodities for which there is no published contract rate, whether carried on liners, dry bulk carriers, or tankers) the market rate current at the time of request for approval as determined by the Director, OTD, OGSM (or for cotton, by the Director, Kansas City ASCS Commodity Office) but, in any event, not in excess of rates charged other shippers (irrespective of booking dates) for like commodities on the voyage concerned.

(5) CCC will finance ocean freight or ocean freight differential from loading points to discharge points at rates determined by the Director, OTD, OGSM (or for cotton, by the Director, Kansas City ASCS Commodity Office) on Form CCC-106 in conformity with paragraph (n)(4) of this section.

(6) Freight is not eligible for CCC financing unless the vessel complies with the provisions of Pub. L. 87-266. A bank is not responsible for determining compliance with the provisions of the statute.

(7) For purchase authorizations which provide for c. & f., c.i.f. and f.a.s. delivery of cotton, when the financing of ocean freight differential is authorized on Form CCC-106-3, the supplier of the commodity (c. & f. and c.i.f. delivery) or ocean transportation (f.a.s. delivery) may obtain payment for ocean freight differential not included in payment under a letter of credit by application to the Financial Management Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013.

(o) *Initial and final financing of ocean freight or ocean freight differential separately financed under the reimbursement method.* As soon as possible after completion of ocean freight contracting, but not later than 48 hours prior to vessel presentation for loading, letters of credit for 100 percent of ocean freight shall be opened by the participant, providing for sight payment or acceptance of a draft in U.S. dollars, in favor of the supplier of ocean transportation on basis of tonnage and rates specified in the applicable charter party or booking note.

(1) *Initial reimbursement.* (i) When the Form CCC-106 states that a notice of arrival is not required and that no demurrage/dispatch is applicable, reimbursement will be made for 100 percent of the ocean freight or ocean freight differential, as appropriate, on presentation of required documents.

(ii) When the Form CCC-106 states that a notice of arrival is required and that no demurrage/dispatch is applicable, reimbursement for advances up to 95 percent of the ocean freight or ocean freight differential, as appropriate, may be obtained before arrival at the first port of discharge if the supplier furnishes CCC financial coverage in the form of an acceptable letter of credit from a U.S. bank. (See § 17.9(k)(2).)

(iii) When the Form CCC-106 states that a notice of arrival is not required and that demurrage/dispatch is applicable, reimbursement for 95 percent of the ocean freight or ocean freight differential, as appropriate, will be made on presentation of required documents.

(iv) When the Form CCC-106 states that a notice of arrival is required and that demurrage/dispatch is applicable, reimbursement for advances made to the supplier of ocean transportation up to 95 percent of ocean freight or ocean freight differential, as appropriate, may be obtained prior to arrival at the first port of discharge if the supplier furnishes CCC financial coverage in the form of an acceptable letter of credit from a U.S. bank. (See § 17.9(k)(2).)

(2) *Reimbursement of final 5 percent.* (i) After initial reimbursement in accordance with paragraph (1) of this section, or initial payment under the letter of commitment method in accordance with paragraph (p)(2) of this section, the supplier of ocean freight is entitled to prompt payment by the participant of that portion of the balance claimed which is not in dispute when it has been established that a part or all of the balance of ocean freight or ocean freight differential claimed is eligible for financing.

(ii) After the participant has paid to the ocean freight supplier the balance as indicated in paragraph (o)(2)(i) of

SEP 13 78

this section, CCC will reimburse the participant or assignee for such balance less a pro rata share of net dispatch, if any. Such reimbursement shall be made to the extent provided in Form CCC-106 when the participant submits to CCC the documents required by § 17.13(d)(6) and, if applicable, (7).

(3) *Requests for reimbursement.* Requests for reimbursement, accompanied by the required documents, shall be sent to: Financial Management Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

(p) *Initial and final financing of ocean freight or ocean freight differential separately financed under the letter of commitment method.* As soon as possible after completion of ocean freight contracting, but not later than 48 hours prior to vessel presentation for loading, letters of credit for 100 percent of ocean freight shall be opened by the participant, through the U.S. bank holding the letter of commitment, providing for sight payment or acceptance of a draft in U.S. dollars, in favor of the supplier of ocean transportation, on basis of tonnage and rates specified in the applicable charter party or booking note. When a purchase authorization authorizes CCC financing of ocean freight or ocean freight differential separately from the commodity cost by the letter of commitment method, all costs other than ocean freight or ocean freight differential, as appropriate, will be charged against the account of the participant, including all banking institution charges such as commissions, expenses, et cetera, unless approved in advance by OTD, OGSM. In the event that CCC is unable to recover amounts representing ineligible freight payments, either from the carrier or the banking institution, the participant shall reimburse CCC for such amounts.

(1) *Letter of commitment (no demurrage/dispatch applicable.)* (i) If Form CCC-106 does not require notice of arrival and also states "no demurrage/dispatch applicable", 100 percent of the ocean freight may be paid to the carrier upon loading of the vessel and upon submission to the banking institution of the documents required by § 17.13(d) (1) through (5) of these Regulations, except that the carrier's invoice need not be marked "Paid". In this case CCC will finance 100 percent of the ocean freight or ocean freight differential under the letter of commitment.

(ii) If Form CCC-106 requires notice of arrival and also states "No demurrage/despatch applicable," 100% of the ocean freight at the one discharge port rate may be paid to the carrier upon arrival of vessel at first port of discharge and upon submission to the banking institution of documents required by § 17.13(d) (1) through (5) of these regulations, except that the carrier's invoice need not be marked "Paid." In this case CCC will finance 95% of the ocean freight or ocean freight differential under the letter of commitment and reimburse the balance in accordance with paragraph (o)(2) of this section.

(ii) If the Form CCC-106 does not require notice of arrival and also states "Demurrage/despatch is applicable," 95% of the ocean freight may be paid initially to the carrier upon loading of the vessel and upon submission to the banking institution of the documents required by § 17.13(d) (1) through (5) of the regulations, except that the carrier's invoice need not be marked "Paid." In this case CCC will finance 95% of the ocean freight or ocean freight differential under the letter of commitment and reimburse the balance in accordance with paragraph (o)(2) of this section.

(q) *Eligibility of ocean freight contracts for financing.* Ocean freight contracts will not be approved if the supplier of ocean transportation is also the supplier of the commodity or is an affiliate of the supplier of the commodity, unless the supplier of ocean transportation is (1) the owner of the vessel named in Form CCC-106 or (2) the operator of the vessel under time charter or bare-boat charter and the ocean freight rate used to determine the amount of ocean freight or ocean freight differential for which reimbursement is claimed is not in excess of the contract rate under the time charter or bare-boat charter.

(r) *Ocean freight included in commodity contract price (c.&f. or c.i.f.).* For c.&f. or c.i.f. contracts, the ocean freight or ocean freight differential will be financed only to the extent provided for in the purchase authorization.

(1) For c.&f. or c.i.f. contracts, the supplier's detailed invoice covering the commodity shall show a computation of the dollar amount of ocean freight and ocean freight differential. (See § 17.13(c)(2).)

(2) For c.&f. or c.i.f. contracts when Form CCC-106 states that CCC will not finance ocean freight (or ocean freight differential), the supplier's detailed invoice covering the commodity shall show a deduction for the total amount of ocean freight.

(s) *Shipment of commodities on deck of vessel.* No agricultural commodities or products thereof which are financed under the regulations may be shipped on the deck of any vessel unless the Director, OTD, OGSM (or, for cotton, the Director, Kansas City ASCS Commodity Office) has approved in writing in advance such method of shipment, or unless the commodities or products have been placed in ocean containers which are loaded on a specially designed containership outfitted to safely stow ocean containers on deck.

6. Section 17.13 is amended by revising paragraph (b)(1)(i), adding a new paragraph (b)(1)(iii), and revising paragraphs (d)(3), (d)(6), and (d)(7).

§ 17.13 Documentation.

* * * * *

(b) *Identification.* (1) * * *

(i) Documents submitted by a supplier to a bank with request for payment of commodity price (including ocean freight or ocean freight differential, as appropriate, and insurance when covered by the commodity price) or for payment of ocean freight or ocean freight differential when authorization for such financing is included in the commodity purchase authorization, and such documents when submitted to CCC for reimbursement.

(ii) * * *

(iii) Documents submitted to CCC to obtain reimbursement under a commodity purchase authorization which provides for reimbursement of ocean freight or ocean freight differential, which shall be identified with the commodity purchase authorization number.

* * * * *

(d) *Documents required for ocean freight or ocean freight differential financed separately from commodity price.* To obtain financing for ocean freight, or for ocean freight differential or any portion thereof which is financed separately from the commodity price, the following documentation shall be submitted:

* * * * *

(3) One copy of the carrier's invoice (marked "paid" when financing is under the reimbursement method) which shows the total freight costs paid, the amount not eligible for financing by CCC, and the amount for which financing is requested from CCC. * * *

* * * * *

(6) A request for financing of any balance claimed on a shipment after initial financing of 95 percent of ocean frieght or ocean freight differential shall be supported by the following documents:

(i) One copy of the carrier's invoice as described in subparagraph (3) of this paragraph except for the certification required therein. When the Form CCC-106 states that no demurrage/despatch applicable the documents in subdivision (iii) and (iv) of this subparagraph are not required.

(ii) A notice of arrival, if required by the Form CCC-106 and not previously presented to support the 95 percent payment.

* * * * *

(7) A request for payment of any amounts claimed because of the exercise of a higher rated option following payment of a lower rated option pursuant to § 17.9(n)(2) shall be supported by the following documents:

* * * * *

(Sec. 101-115, Pub. L. 83-480, as amended (7 U.S.C. 1701 et seq.); E.O. 10900, 26 FR 143, as amended)

Signed at Washington, D.C., on September 8, 1978.

FRED C. WELZ,
Acting General Sales Manager, Office of the General Sales Manager, Department of Agriculture.

[FR Doc. 78-25731 Filed 9-12-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 108]

FILING OF ASYLUM REQUESTS AFTER COMMENCEMENT OR COMPLETION OF DEPORTATION PROCEEDINGS

Proposed Rule

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed Rule.

SUMMARY: The Immigration and Naturalization Service proposes new procedures to be followed by aliens when filing claims for asylum after commencement or completion of deportation proceedings. These new procedures are designed to eliminate duplications of proceedings and to allow for a more efficient and expedious determination of alien's rights.

DATE: Representations must be received on or before November 13, 1978.

ADDRESS: Please submit written representations in duplicate to the Commissioner of Immigration and Naturalization, Room 7100, 425 I Street NW., Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536, telephone 202-376-8373.

SUPPLEMENTARY INFORMATION: This is a proposal to amend the regulations of the Immigration and Naturalization Service to provide that a request for asylum made by an alien after the commencement of deportation proceedings shall be considered by the immigration judge as a request for the withholding of deportation under section 243(h) of the Immigration and Nationality Act and the benefits of articles 32 and 33 of the Convention Relating to the Status of Refugees. The proposal will also provide that a request for asylum made following the completion of a hearing shall be considered as a motion to reopen the deportation proceedings in order to submit a request for the withholding of deportation under section 243(h) of the act and for the benefits of articles 32 and 33 of the Convention Relating to the Status of Refugees. These will be the exclusive procedures for an alien who is within the United States unlawfully to raise his claim for asylum. Aliens maintaining lawful status in the United States or whose presence in the United States has been authorized by the Service may continue to submit their asylum applications to the District Director for adjudications.

Under current Service regulations, an alien within the United States and not under deportation proceedings may apply to a district director for asylum. If this request is denied, he may renew his application in a deportation proceeding before an immigration judge in the form of an application for withholding of deportation under section 243(h) of the act.

Under the present Service instructions, deportation proceedings must be stopped if a request for asylum is made, so the claim may be considered by the district director. Should the district director deny that request, the claims may be raised again in deportation proceedings.

The foregoing procedures are a duplication of effort and result in the application being adjudicated twice on the same facts. It delays the proceedings and the resolution of the asylum claim. This works to the detriment of the alien because his status remains in doubt and to the detriment of the Service which is unable to resolve the proceedings within a reasonable length of time. Similarly, after the hearing has been completed, an alien may raise an asylum claim which must then be considered by the district director. This also results in duplication of proceedings. In order to eliminate duplication of proceedings, and allow for a more efficient and expeditious determination of the alien's rights, the Service proposes the amendments to chapter I of title 8 of the Code of Federal Regulations set forth below.

1. It is proposed to amend 8 CFR 108.1 to read as follows:

§ 108.1 Application.

An applicant who is seeking admission to the United States at a land border port or preclearance station who wishes to apply for asylum shall be referred to the nearest American consul. In all other cases, application for asylum shall be submitted on form I-589, "Request for Asylum in the United States." Except as otherwise provided in this paragraph, an application for asylum by an alien who is applying for admission to the United States at an airport or seaport of entry shall be submitted to the docket clerk for the immigration judge who shall consider that application in connection with an exclusion hearing as provided in § 236.3 of this chapter. A crewman or stowaway or alien temporarily excluded pursuant to section 235(c) of the act who is at a seaport or airport shall submit his application for asylum to the district director. An application for asylum by an alien who is within the United States and who is maintaining a lawful status or whose presence in the United States has been authorized by the Service may be submitted to the district director having jurisdiction over his place of residence in the United States. For other aliens within the United States, the sole method for applying for asylum shall be through an application for withholding of deportation under section 243(h) of the act submitted in accordance with § 108.3 and § 242.17(c) of this chapter. The applicant's spouse and unmarried children under the age of 18 years may be included in the application.

2. It is proposed to amend 8 CFR 108 by adding a new § 108.3 to read as follows:

§ 108.3 Asylum requests after commencement or completion of deportation proceedings.

(a) *Asylum requests after proceedings have been commenced.* A request for asylum introduced by an alien or his representative after commencement of deportation proceedings shall be considered as a request for withholding of deportation under section 243(h) of the act and for the benefits of articles 32 and 33 of the Convention Relating to the Status of Refugees. See § 242.17(c) of this chapter for processing instructions for section 243(h) applications.

(b) *Asylum requests after completion of deportation hearing.* A request for asylum by an alien or his representative following completion of a deportation hearing shall be considered as a motion to reopen the hearing pursuant to § 103.5 or § 242.22 of this chapter to submit a request for withholding of deportation under section 243(h) of the act and for the benefits of articles 32 and 33 of the Convention Relating to the Status of Refugees and considered in accordance with § 242.17(c) of this chapter.

(Sec. 103; 8 U.S.C. 1103)

PUBLIC COMMENTS INVITED

In accordance with 5 U.S.C. 553 the Service invites representations of interested parties on this proposed rule. All relevant data, views, or arguments submitted on or before November 13, 1978, will be considered. Representations should be submitted in writing, in duplicate, to the Commissioner of Immigration and Naturalization at the address shown at the beginning of this notice.

Dated: September 8, 1978.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 78-25889 Filed 9-12-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[14 CFR Part 380]

[SPDR-66; Docket No. 32477; Dated: September 7, 1978]

PUBLIC CHARTERS

Modification of Bond Requirements for Charter Operators

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: In response to a petition by the City National Bank of Detroit, the Board proposes to amend its rules to allow charter operators to furnish, instead of surety bonds, security agreements issued by banks that provide equivalent or greater protection of charter participants' funds.

DATES: Comments by: November 20, 1978. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 32427, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Richard B. Dyson, Office of General Counsel, Rules Division, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5444.

SUPPLEMENTARY INFORMATION: City National Bank of Detroit filed a petition for rulemaking to amend 14 CFR Part 389 to eliminate filing fees charged for requesting a waiver of our rules when a charter operator seeks to furnish a "surety trust agreement" in lieu of the surety bond required by 14 CFR Part 371. Part 371 of the Board's Special Regulations sets forth the terms and conditions governing the operation of "Advance Booking Charters" (ABC's). Section 371.31 requires that an ABC charter operator obtain a surety bond to insure his financial responsibility and compliance with the terms of the contract between himself and the charter participants relating to air transportation and the accommodations, services, and facilities, if any, that are included in the charter tour package.

The petition argues that "surety trust agreements" protect charter participants as well as if not better than bonds issued by surety companies. The petitioner also contends that the filing fee for a waiver request is particularly burdensome for small charter operators, who have difficulty in finding a surety willing to write the required bonds, file waiver requests for only one or two flights at a time, and must pass along the cost of the filing fee and associated legal fees to the consumer. There were no answers filed to the petition.

It appears that "surety trust agreements" furnished by banks provide a degree of protection for consumer funds substantially equivalent to that provided by surety bonds. The Board has been routinely granting waiver requests to use such agreements when their terms conform to the ones specified for surety bonds, e.g., appendix B of 14 CFR Part 371.

Instead of eliminating the filing fee as requested, the Board has tentatively decided to amend subpart C of part 380[1] to allow use of security agreements provided by banks, to the extent that they provide protection for consumer funds equivalent to or greater than is provided by surety bonds. The need for broadening part 380 to include security agreements other than surety bonds stems from the difficulty many charter operators are having in finding a bonding company willing to issue a surety bond, as well as the high cost of obtaining them. As the petitioner noted, these problems are disproportionately burdensome for small charter operators who file only a few flights at a time and consequently must request a waiver with each new filing. The resultant cost of market entry may be prohibitive, tending to stifle competition in the industry.

The Board proposes to use the term "security agreement" to include both the present surety bonds and any equivalent bank-issued instruments. The name given to these instruments appears not to be important. The proposed amendments allow use of any security agreement whose terms conform to the substantive requirements for surety bonds.

Under the proposed amendments, security agreements for charter operators may be offered by national or State banks. 12 CFR 7.7010(a) establishes the legal authority for national banks to issue surety bonds or guarantees if they meet the conditions specified there. The Board invites comment on how best to ascertain whether a State bank is authorized under State law to issue security agreements. Specifically, the Board proposes and requests comment on a procedure under which a prospectus for a charter to be covered by a State-bank-issued security agreement would have to include an opinion from the State attorney general, or another official responsible for supervising that State's banks, stating his conclusion that the bank is authorized under State law to issue such instruments. Once such an opinion was received from a given State, banks of the same class in that State could issue similar instruments without having to submit proof of their authority to do so.

An issue to be considered in this connection is whether any procedure to confirm the authority of a State bank is necessary. It is proposed in the alternative, therefore, that such a procedure be omitted, and comment is specifically requested on this point.

[1] Part 380, Public Charters replacing part 371, which is revoked effective Jan. 1, 1979. See SPR-149, Aug. 14 1978 (43 FR 36604, Aug. 18, 1978).

In SPDR-50B,[2] the Board recently proposed to simplify the prospectus filing system for public charters. Since 14 CFR 380.34(c), by incorporating appendix A, now prescribes the exact form of surety bonds, there appears to be no need for the Board's staff to examine the actual bonds. That proposal would therefore end the requirement that charter operators file exact copies of their bonds. Instead, they would file a short statement, signed by both the operator and the surety company, that they had entered into a bond that complied with § 380.34. The statement is set forth in SPDR-50B as proposed appendix C to part 380, "Statement of Charter Operator and Surety Company." The Board expects to take final action on SPDR-50B before final action on today's proposal.

We therefore propose two alternative ways of treating security agreements issued by banks. The first would be merely to allow the operator to file a statement, signed by it and the bank, like the statement to be used for bonds. This would be achieved by generalizing the statement in Appendix C, substituting "securer" for "surety company" and "security agreement" for "surety bond". The proposed new § 380.34(c) set out below, however, would permit as an alternative to the prescribed bond "a security instrument issued by a bank that provides equivalent or greater protection of charter participants' funds." Since the text of the security instrument would not be prescribed, the simple prospectus statement would leave a greater risk of noncompliance with § 380.34(c). This suggests a second possibility: To permit operators to use the short statement when they have surety bonds, while requiring them to file actual copies if they choose bank-issued security agreements. This way the staff would retain the opportunity to examine the arrangements for protecting charter participants' money, and reject those that were inadequate. The Board specifically invites comment on these two alternative proposals.

Comments are also invited on problems that may arise with bank-issued security agreements. For example, a bank may resist paying claims even when a valid trust agreement has been signed, if the corpus—the funds that form the basis of the trust—has not yet been delivered by the charter operator. In one case the corpus was delivered, but turned out to be not immediately available, since the operator had also used it as collateral for a loan. We specifically invite comment on whether these problems would be avoided by a requirement that charter prospectuses include a certification from the bank that the corpus has been delivered and the funds are in fact available for the payment of valid claims. Finally, the Board seeks comment on possible problems with a surety trust that may be caused by operator insolvency, particularly whether the corpus, where furnished (as it typically is) by the operator, may be claimed to be part of the operator's bankruptcy estate and therefore not directly available for payment of participant claims.

[2] August 30, 1978 (43 FR ——, September —, 1978).

PROPOSED RULE

Accordingly, it is proposed that 14 CFR Part 380 be amended as follows:

1. The Table of Contents for Part 380 would be amended so that the title for § 380.34 would read as follows:

PART 380—PUBLIC CHARTERS

Sec.

* * * * * *

380.34 Security and depository agreements.

* * * * * *

§ 380.2 [Amended]

2. Section 380.2 would be amended by adding the following definition in proper alphabetical order:

* * * * * *

"Security agreement" means either a surety bond in the form set forth in Appendix A or an agreement with a bank that provides equivalent or greater protection of charter participants' funds.

* * * * * *

§ 380.28 [Amended]

3. In the first sentence of § 380.28, the words "surety bond (an original bond and a copy thereof)" would be revised to read "security agreement (an original and a copy thereof)".

§ 380.32 [Amended]

4. In § 380.32, paragraph (i) would be amended to read as follows:

* * * * * *

(i) The name and address of the surety company or bank issuing the security agreement.

* * * * * *

5. In § 380.32, paragraph (k) would be amended by replacing the word "surety" with the word "securer" wherever it appears, and by replacing the word "bond" with "security agreement".

6. In § 380.32, paragraph (l) would be amended by replacing the words "surety bond-depository" with the words "security-depository".

7. The title of § 380.34 would be amended to read:

§ 380.34 Security and Depository agreements.

8. In § 380.34, paragraph (a) would be revised by replacing the words "surety bond" with "security agreement" and by replacing the words "a bond" with the word "security", wherever they appear.

9. In the proviso at the end of § 380.34(a), the word "surety" would be replaced by the word "securer".

10. In § 380.34, paragraph (b), in the introductory text the words "surety bond" would be replaced with the words "security agreement".

11. In § 380.34(b)(1), the words "surety bond" would be replaced with the words "security agreement", the words "a bond" would be replaced with the word "security" wherever they appear, and the word "surety" would be replaced with the word "securer".

12. In § 380.34(b)(2)(viii); the words "surety bond" would be replaced with the words "the security agreement", and the word "bond" would be replaced with the word "security".

13. In § 380.34, paragraph (c) would be amended to read as follows:

* * * * * *

(c) The security agreement required under paragraphs (a) and (b) of this section shall insure the financial responsibility of the charter operator or foreign charter operator and the supplying of the transportation and all other accommodations, services, and facilities in accordance with the contract between the charter operator or foreign charter operator and the charter participants.

(1) The security agreement may be either a surety bond in the form set forth as appendix A to this part, or a security instrument furnished by a bank that provides equivalent or greater protection of charter participants' funds. Any such instrument furnished by a bank that purports to furnish a lesser degree of protection than the bond form set forth as appendix A shall be invalid to that extent, and instead the bank, the charter operator or foreign charter operator, and the charter participants shall have the same rights and liabilities as those established by a bond in the form of appendix A.

(2) When security is provided by a surety bond, such bond shall be issued by a bonding or surety company (i) whose surety bonds are accepted by the Interstate Commerce Commission under 49 CFR 1084.6; or (ii) which is listed in Best's Insurance Reports (Fire and Casualty) with a general po-

licyholders' rating of "A" or better. The bonding or surety company shall

[6750-01]

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and understands that once the order has been issued, it will be required to

by respondent pursuant to paragraph I above, shall be divested directly or indirectly to anyone who is, at the time of divesti-

section 7 of the Clayton Act, as amended (14 U.S.C. 8) and/or section 5 of the Federal Trade Commission Act (15 U.S.C. 4).

Particleboard and medium-density fiber-

ble for inspection and copying at its principal office in accordance with

licyholders' rating of "A" or better. The bonding or surety company shall be one legally authorized to issue bonds of that type in the State in which the charter originates. For purposes of this section, the term "State" includes any territory or possession of the United States, or the District of Columbia.

(3) When security is provided by other security instruments, such instruments shall be issued by a national bank complying with the provisions of 12 CFR § 7.7010(a), or by a State bank complying with applicable State laws that give authority equivalent to that granted national banks.

(4) The security agreement shall be specifically identified by the issuing securer with a numbering system so that the Board may identify the security agreement with the specific charter or charters to which it relates. *Provided, however,* That these data may be set forth in an addendum attached to the security agreement, which addendum must be signed by the charter operator or foreign charter operator and the securer. It shall be effective on or before the date the charter Prospectus is filed with the Board. If the security agreement does not comply with the requirements of this section, or for any reason fails to provide satisfactory or adequate protection for the public, the Board will notify the direct air carrier and the charter operator or foreign charter operator, stating the deficiencies of the security agreement. Unless such deficiencies are corrected within the time set forth in such notification, the subject charter shall in no event be operated.

* * * * *

14. In § 380.34, paragraph (d) would be amended by replacing the word "bond" with "security agreement", and the word "surety" with the word "securer", wherever they appear.

(Sec. 101(3), 204(a), 401, 402, 407, 416, and 1102, Federal Aviation Act of 1958, as amended; 72 Stat. 737, 743, 754, 757, 766, 771, and 797; (49 U.S.C. 1301, 1324(a), 1371, 1372, 1377, 1386, and 1502)).

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-25759 Filed 9-12-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 781 0022]

LOUISIANA-PACIFIC CORP.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Portland, Oreg., firm engaged in harvesting and converting timber into various wood products, including medium density fiberboard (MDF) and particleboard, to divest, within 2 years to a Commission-approved buyer, the Rocklin MDF plant, which firm was acquired through its merger with the Fiberboard Corp.; and offer the new buyer the opportunity to purchase from the firm, for 5 years, a limited amount of the raw materials necessary to manufacture MDF. Additionally, the order would prohibit the firm, for 10 years, from acquiring without prior agency approval, any entity engaged in the manufacture of particleboard of MDF.

DATE: Comments must be received on or before November 10, 1978.

ADDRESS: Comments should be directed to Office of the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Alfred F. Dougherty, Director, Bureau of Competition, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580, 202-523-3601.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[File No. 781 0022]

LOUISIANA-PACIFIC CORP.

AGREEMENT CONTAINING CONSENT ORDER

The Federal Trade Commission having initiated an investigation of certain acquisitions as well as a proposed acquisition by Louisiana-Pacific Corp., a corporation, and its subsidiaries, and it now appearing that Louisiana-Pacific Corp., a corporation, on behalf of itself and its subsidiaries is willing to enter into an agreement containing an order in settlement of that investigation.

It is hereby agreed by and between Louisiana-Pacific Corp., by its duly authorized officer, and counsel for the Federal Trade Commission that:

1. Proposed respondent, Louisiana-Pacific Corp. is a corporation organized, existing, and doing business under any by virtue of the laws of the State of Delaware with its offices and principal place of business located at 1300 Southwest Fifth Avenue, Portland, Oreg. 97201.

2. Proposed respondent admits all of the jurisdictional facts set forth in the draft of the complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto, publicly released; and such acceptance may be withdrawn by the Commission if, within sixty (60) days after the acceptance, comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.36(b) of the Commission's rules, the Commission may, without further notice to proposed respondent: (1) Issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order in disposition of the proceeding; and (2) make information public in respect thereto. When so entered, the order shall have the same force and effect and shall become final and may be altered, modified, or set aside in the same manner and within the same time provided by satute for other orders. The complaint may be used in construing the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully compiled with the order, and may be liable for a civil penalty of up to $10,000 per day for violation of the order after it becomes final.

ORDER

For the purpose of this order, the following definitions shall apply:

(a) "Particleboard" is a flat panel product consisting of particles of wood bonded together with a synthetic resin or other suitable bonding system by a process in which the interparticle bond is created by the bonding systems, as further described in Commercial Standard CS236-66, published by the U.S. Department of Commerce, National Bureau of Standards, and as reported under the Standard Industrial Classification Manual No. 24921.

(b) "Medium density fiberboard" is a dry-formed panel product manufactured from lignocellulosic fibers, combined with a synthetic resin or other suitable binder, by the application of heat and pressure in which the interfiber bond is substantially created by the added binder, as further described in the standard published by the National Particleboard Association, N.P.A. 4-73, and as reported under the Standard Industrial Classification Manual No. 24997.

(c) The "Rocklin MDF Plant" consists of land, plant, property, equipment, and machinery presently owned and operated by Fibreboard Corp. for the manufacture of medium density fiberboard at Rocklin, Calif., to be acquired by respondent as a result of its merger with Fibreboard Corp., including all additions, replacements, and improvements thereto hereafter made by respondent.

I. *It is ordered,* That respondent, it officers, directors, agents, representatives, and employees shall, absolutely and in good faith divest, within two (2) years from the date this order becomes final, subject to the prior approval of the Federal Trade Commission, all rights, title, and interest in and to the Rocklin MDF plant acquired by respondent as a result of its merger with Fibreboard Corp.

II. *It is further ordered,* That in connection with any divestiture of the said Rocklin MDF plant, respondent will offer to any prospective acquirer the right to enter into a contract to buy from respondent (or its subsidiary Fibreboard Corp.) for use in said plant at Rocklin, Calif., wood residue raw materials of the type currently being supplied by Fibreboard Corp.'s internal operations to said plant, which contract will include provisions substantially as follows:

(a) The contract will continue for a minimum of five (5) years;

(b) Prices will be market prices existing in the area during the contract term for similar wood residue raw materials; and

(c) Quantities to be sold in each year will equal at least the total quantity of said wood residue raw materials heretofore supplied to said plant from Fibreboard Corp.'s own internal operations in the year 1977, or which will be supplied in the year 1978, or double the total quantity of said materials so supplied in the first 6 months of 1978, whichever is greatest.

III. *It is further ordered,* That none of the assets and properties required to be divested by respondent pursuant to paragraph I above, shall be divested directly or indirectly to anyone who is, at the time of divestiture, an officer, director, employee, or agent of, or under the control, direction, or influence of respondent, or who owns or controls more than 1 percent of the capital stock of respondent.

IV. *It is further ordered,* That respondent shall cease and desist for a period of ten (10) years from the date this order becomes final from acquiring, directly or indirectly, through subsidiaries or otherwise, without the prior approval of the Commission: (1) the whole or any part of the stock or share capital or any concern, corporate or noncorporate, engaged at the time of acquisition in any State of the United States in the manufacture of: (a) particleboard, or (b) medium density fiberboard, or (2) a manufacturing plant or facility engaged at the time of acquisition in any State of the United States in the manufacture of: (a) particleboard, or (b) medium density fiberboard. Any exercise hereafter by respondent of its option to purchase the Ukiah, Calif., particleboard plant presently operated by respondent pursuant to a lease shall not be prohibited by this paragraph.

V. *It is further ordered,* That respondent shall within one (1) year from the date this order becomes final, and every sixty (60) days after one (1) year until respondent has fully complied with the provisions of paragraphs I and II of this order, submit in writing to the Federal Trade Commission a verified report setting forth in detail the manner and form in which respondent intends to comply or has complied with this order. All compliance reports shall include a summary of contacts or negotiations with anyone for the specified assets, the identity of all such persons, and copies of all written communications to and from such persons.

VI. *It is further ordered,* That respondent notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the corporate respondent which may affect compliance obligations arising out of the order, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation or the creation or dissolution of subsidiaries.

ANALYSIS TO FACILITATE PUBLIC COMMENT ON PROPOSED CONSENT ORDER

The Federal Trade Commission has accepted an agreement containing a proposed consent order from Louisiana-Pacific Corp. ("L-P"). The agreement culminates an investigation conducted pursuant to file No. 781 0022.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during the period will become a part of this record. At the conclusion of the public record period, the Commission will review the agreement and all comments and determine whether to withdraw the agreement or make the order final.

Following a public announcement that L-P and Fiberboard Corp. ("F-B") had agreed to merge with F-B becoming a wholly owned subsidiary of L-P upon consummation, the Federal Trade Commission authorized an investigation to determine whether the effect of this acquisition or previous acquisitions in the particleboard industry may be substantially to lessen competition or to tend to create a monopoly in violation of section 7 of the Clayton Act, as amended (14 U.S.C. 8) and/or section 5 of the Federal Trade Commission Act (15 U.S.C. 4).

Particleboard and medium-density fiberboard ("MDF") are reconstituted wood products and are used as corestock in furniture, audio equipment, doors, and shelves, as underlayment, and as mobile home decking. The draft of complaint which is attached to the agreement charges that the effects of L-P's acquisition of Fibreboard and its previous acquisitions of particleboard plants located at Missoula, Mont., and Ukiah, Calif., did in fact violate section 7 of the Clayton Act and section 5 of the Federal Trade Commission Act in the particleboard/MDF market by eliminating actual competition between L-P and the acquired companies and by increasing concentration in that market. In order to cure these effects, the consent order requires L-P to:

A. Divest within 2 years from the date the consent order becomes final to a buyer approved by the Federal Trade Commission, the Rocklin, Calif., MDF plant acquired by L-P as a result of its merger with F-B.

This provision will eventually restore the state of competition in the particleboard/MDF market to what it was prior to the F-B acquisition and allows the Commission to reject any potential buyer of the Rocklin plant if it determines the sale would not be in the best interests of competition.

B. Offer the new buyer of the Rocklin plant for a period of at least 5 years, the right to buy California wood residue raw materials from L-P in quantities at least equal to the total quantity heretofore supplied to the Rocklin plant from F-B's own internal operations in 1977, or will be supplied in 1978, or double the total quantity supplied in the first 6 months of 1978, whichever is greater.

This provision enables the new buyer of the Rocklin, Calif., plant to be assured of at least a limited amount of the raw material necessary to manufacture MDF. This material called "furnish" is composed of wood shavings, chips, or dust from western pine, redwood, and fir trees. Sufficiency of furnish is a constant problem in the manufacture of particleboard/MDF and guaranteeing the buyer of the Rocklin plant at least some of his furnish needs may make the plant more desirable to a purchaser and make it a more viable operation.

C. Cease and desist for a period of 10 years from the date the order becomes final from acquiring without the prior approval of the Federal Trade Commission any entity engaged in the manufacture of particleboard or MDF.

This provision was necessary because of the two previous acquisitions by L-P in the particleboard/MDF market. It insures that if L-P is to grow in this market it must do so through internal means and not via acquisition.

To insure that the order is obeyed, L-P must, within 1 year from the date this order becomes final and every 60 days thereafter until L-P has fully complied with its terms, file with the Commission a written report showing in detail the manner and form of its compliance. Moreover, L-P must notify the Commission thirty (30) days prior to any proposed change in its organization which might affect its obligations under the order.

This analysis is intended to encourage public comment; it does not constitute an official interpretation of the agreement and

proposed order or a modification of their terms.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-25747 Filed 9-12-78; 8:45 am]

[4410-09]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[21 CFR Part 1308]

SCHEDULES OF CONTROLLED SUBSTANCES

Proposed Placement of Pentazocine Into Schedule IV

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This is a notice of proposed rulemaking issued by the Administrator of the Drug Enforcement Administration (DEA) to place the drug pentazocine into schedule IV of the Controlled Substances Act (CSA). This action was initiated upon DEA's receipt of a letter from the Assistant Secretary for Health, Department of Health, Education, and Welfare (HEW), recommending that pentazocine be placed into schedule IV. The effect of this proposal would be to require that the manufacture, distribution, dispensing, importation and exportation of pentazocine be subject to controls for schedule IV substances.

DATE: Comments should be received on or before October 13, 1978.

ADDRESS: Send comments in quintuplicate to: Administrator, Drug Enforcement Administration, Department of Justice, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT:

Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement Administration, telephone 202-633-1366.

SUPPLEMENTARY INFORMATION: On February 2, 1978, the Administrator sent information concerning the abuse of the drug pentazocine and a recommendation to control the drug in schedule IV of the CSA to the Assistant Secretary for Health, HEW. The Administrator requested of the Assistant Secretary a scientific and medical evaluation of the information concerning pentazocine, and a recommendation as to whether and in which schedule under the CSA the drug should be controlled. On August 30, 1978, the Assistant Secretary replied:

Mr. PETER B. BENSINGER,
Administrator, Drug Enforcement Administration, Washington, D.C.

DEAR MR. BENSINGER: The Drug Enforcement Administration requested on February 2, 1978, that the Department of Health, Education and Welfare evaluate a proposal to control pentazocine in Schedule IV of the Controlled Substances Act.

The Bureau of Drugs within the Food and Drug Administration has reviewed the relevant data on pentazocine pursuant to Section 201 of the CSA and recommends that pentazocine (including all drug products containing pentazocine and its salts) be controlled in schedule IV of the CSA. I concur with this scientific and medical evaluation. A summary of the basis for this recommendation is enclosed.

Please accept my thanks to you and your staff for your cooperation in gathering the necessary data for the inherently difficult task of evaluating the issue of pentazocine control.

Sincerely yours,

JULIUS B. RICHMOND, M.D.,
Assistant Secretary for Health and Surgeon General.

Enclosure

The Drug Enforcement Administration has conducted a review of pentazocine which has included the following:

1. Published scientific and medical literature from the United States and other nations regarding this drug;

2. Material submitted to the Drug Enforcement Administration by the Department of Health, Education, and Welfare in support of the Assistant Secretary's letter recommending control for pentazocine;

3. Materials on file with the Food and Drug Administration, and the Drug Enforcement Administration; and

4. The legislative history of the Controlled Substances Act.

Based upon the investigations and review of the Drug Enforcement Administration and upon the scientific and medical evaluation and recommendation of the Secretary of Health, Education, and Welfare, received pursuant to sections 201(a) and 201(b) of the Act (21 U.S.C. 811(a) and 811(b)), the Administrator of the Drug Enforcement Administration finds that:

1. Based on information now available, pentazocine has a low potential for abuse relative to the drugs or other substances currently listed in schedule III.

2. Pentazocine has a currently accepted medical use in treatment in the United States.

3. Abuse of pentazocine may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.

Therefore, under the authority vested in him by the Act and regulations of the Department of Justice, the Administrator of the Drug Enforcement Administration hereby proposes that § 1308.14(f) of title 21 of the Code of Federal Regulations (CFR) be amended to read:

§ 1308.14 Schedule IV

* * * * *

(f) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

* * * * *

(2) Pentazocine	9,709

* * * * *

All interested persons are invited to submit their comments or objections in writing regarding this proposal. These comments and objections should state with particularity the issues concerning which the person desires to be heard. All such submissions must be received on or before October 13, 1978.

In the event that an interested party submits objections to this proposal which present reasonable grounds for this rule not to be finalized and requests a hearing in accordance with 21 CFR 1308.45, the party will be notified by registered mail of the time and place that the hearing will be held. If any objections which are submitted do not present reasonable grounds, the party will be so advised by registered mail.

If no objections presenting grounds for a hearing on this proposal are received within the time limitations, or all interested parties waive or are deemed to waive their opportunity for a hearing or to participate in a hearing, the Administrator, after giving consideration to written comments and objections, will issue his final order pursuant to 21 CFR 1308.48 without a hearing.

Dated: September 7, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-25507 filed 9-11-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

[32 CFR Part 47]

DETERMINATIONS OF ACTIVE DUTY AND DISCHARGE

Civilian or Contractual Personnel

AGENCY: Office of the Secretary of Defense.

ACTION: Proposed rule.

SUMMARY: This proposed rule establishes Department of Defense (DOD) policies and procedures for the operation of a civilian/military service review board to implement the provisions of section 401 of Pub. L. 95-202, The GI Bill Improvement Act of 1977. This act directs the Secretary of Defense to determine if civilian employment or contractual service rendered by groups to the Armed Forces of the United States shall be considered active duty and, if finding that it shall, to issue each member of such group a discharge under honorable conditions if the service of each member so warrants.

DATE: Comments should be received by October 13, 1978.

ADDRESSES: Office of the Secretary of the Air Force (Personnel Council) (SAF/MIPC), The Pentagon, Washington, D.C. 20330.

FOR FURTHER INFORMATION CONTACT:

Capt. Mary C. Pruitt, USAF, telephone 694-5204 or 694-5074.

SUPPLEMENTARY INFORMATION: All reviews to determine the active duty status of groups and all reviews of individual applications will be conducted in closed executive sessions and will be limited to written submissions. All available documentation to support group and individual applications should be submitted at the time of application for review. Documentation must be an official document and not a personal statement or affidavit. Documentation for group applications should normally consist of supporting material which may include, but is not limited to, discharge certificates, mission orders, directives from the Armed Forces, commendations, casualty information, and any other documents which may tend to establish qualifications under the criteria. Documentation for individual applications should normally consist of such documents as listed above and other supporting material which may include, but is not limited to, identification cards, contracts or personnel action forms, employment records, education certificates, diplomas, pay vouchers, certificates of awards, and any other supporting evidence of membership and character of service.

In the event the Board decides information provided in behalf of a group is incomplete, the application will be returned without prejudicing later Board consideration.

In the case of an individual application, where the service decides information provided by the applicant is incomplete, the application will be returned without prejudicing later consideration.

The Secretary shall notify in writing the persons or persons who made the request for active duty determination once the determination is made. If the individual application is that of a person who is deceased or incompetent, legal proof of death or incompetency must accompany the application.

The appropriate service will not provide counsel representation nor will it defray cost of such under any circumstances.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 8, 1978.

Accordingly, it is proposed to amend 32 CFR Chapter I by adding a new Part 47, reading as follows:

Sec.
47.1 Purpose.
47.2 Applicability.
47.3 Definitions.
47.4 Policy and criteria.
47.5 Authorities.
47.6 Responsibilities.
47.7 Department of Defense Civilian/Military Service Review Board.
47.8 Procedures.

AUTHORITY: Pub. L. 95-202, Sec. 401.

§ 47.1 Purpose.

This Directive:

(a) Implements the provisions of Pub. L. 95-202, which directs the Secretary of Defense to determine if civilian employment or contractual service rendered by groups to the Armed Forces of the United States shall be considered active duty and, if finding that it shall, to issue each member of such group a discharge under honorable conditions if the service of such member so warrants;

(b) Establishes the Department of Defense Civilian/Military Service Review Board;

(c) Delegates authority vested in the Secretary of Defense by Pub. L. 95-202;

(d) Sets forth policy and assigns responsibilities.

§ 47.2 Applicability.

The provisions of this Directive apply to the Office of the Secretary of Defense, the Military Departments, and the U.S. Coast Guard.

§ 47.3 Definitions.

(a) *Active Duty.* The same as in section 101, Title 39, United States Code.

(b) *Group.* An organization similarly situated to the Women's Air Forces Service Pilots (sic), which was an organization of Federal civilian employees attached to the United States Army Air Forces during World War II. Its members rendered services, then considered civilian employment or contractual, to the Armed Forces of the United States (Pub. L. 95-202).

§ 47.4 Policy and criteria.

Determinations of the active duty status of a group shall be made considering judicial and other appropriate precedent and application of statutory criteria including "the extent to which (a) such group received military training and acquired a military capability or the service performed by such group was critical to the success of a military mission, (b) the members of such group were subject to military justice, discipline, and control, (c) the members of such group were permitted to resign, (d) the members of such group were susceptible to assignment for duty in a combat zone, and (e) the members of such group had reasonable expectations that their service would be considered to be active military service" (Pub. L. 95-202).

§ 47.5 Authorities.

The Secretary of Defense hereby delegates:

(a) To the Secretary of the Air Force the authority to make active duty determinations for groups;

(b) To the Military Department Secretaries concerned and to the Secretary of Transportation to issue discharges to individuals who were members of such groups.

§ 47.6 Responsibilities.

(a) The Secretary of the Air Force shall:

(1) Establish the Department of Defense Civilian/Military Service Review Board.

(2) Appoint a chairperson and a member and alternate from members/employees of the Air Force in grade GS-15 or O-6 or higher.

(3) If groups claim Coast Guard active service, in other than time of declared war, ask the Secretary of Transportation to nominate one member and one alternate member in the grade of GS-15 or O-6 or higher from the Coast Guard to be an additional voting member of the Board when the Board is considering the claims of such groups.

(4) Provide a recorder, maintain the records of the Board, and provide the Board with nonvoting legal advisors as requested by the chairperson.

(b) The Secretaries of the Army and Navy, and the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) shall appoint a member and alternate from members/employees of their organization in grade GS-15 or O-6 or higher.

§ 47.7 Department of Defense Civilian/Military Service Review Board.

(a) *Composition.* The Board shall

plication for discharge to the appropriate Military Department.

(f) The Secretary concerned shall

DATES: Comments must be received on or before January 15, 1979, and Reply Comments must be received on

it to consult with its functional divisions as well as its outside auditors; that considerable time will be needed to develop the definitions for the var-

rate levels proposed in tariff filings (see paragraph 7 of the "notice". We are therefore interested in the earliest possible implementation of a system

nonreserved channel for another in Saint James, Minn. The proposed reserved assignments would enable non-commercial educational service to be

§ 47.7 Department of Defense Civilian/Military Service Review Board.

(a) *Composition.* The Board shall consist of a chairperson and one representative each from the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force. Each sitting member will have one vote with three members present constituting a quorum.

(b) *Advisory Panel.* The chairperson may request historical data or the assistance of historians. For that purpose, the Secretaries of the Military Departments, and, if required, the Secretary of Transportation, shall designate a historian or an alternate as a member of the Advisory Panel.

(c) *Coast Guard Service.* The Board shall consider service in the Coast Guard in time of declared war or as directed by the President as service in the Department of the Navy.

§ 47.8 Procedures.

(a) The Board will meet in executive session and will limit its reviews:

(1) To written submissions submitted by an applicant on behalf of a group;

(2) A written report prepared by the appropriate member or members of the Advisory Panel;

(3) Any other relevant information available and the criteria established by law.

(b) The Board shall make a written recommendation to the Secretary of the Air Force, together with the reasons for the recommendation:

(1) That the service of the group be considered active duty in one of the Armed Forces of the United States; or

(2) That the service of the group not be considered active duty in one of the Armed Forces of the United States.

(c) In the event the Board decides information provided by the applicant or by the Advisory Panel is incomplete, the application will be returned without prejudicing later Board consideration.

(d) The Secretary of the Air Force shall consider the recommendations of the Board to determine whether the service rendered by a group shall be considered active duty for the purpose of all laws administered by the Veterans Administration. The Secretary shall notify in writing:

(1) The person or persons who made the request for the active duty determination;

(2) The Administrator of the Veterans Administration;

(3) The Secretaries of the Army and Navy;

(4) The Assistant Secretary of Defense (M.R.A. & L.).

(e) Following a determination by the Secretary of the Air Force that a group's service is active duty, individuals who were members of that group or their survivors may submit an application for discharge to the appropriate Military Department.

(f) The Secretary concerned shall determine whether the applicant was a member of the group after considering the individual's evidence of membership. If the applicant is determined to have been a member of the group, the Secretary concerned will issue a certificate of service consistent with the provisions of DOD Instruction 1336.1.[1] The certificate will show inclusive dates of service as far as can be determined from existing records. If the applicant has submitted sufficient supporting evidence of the character of the active duty service performed, the Secretary of that military department will issue, as appropriate, an honorable discharge or a discharge under honorable conditions. In the event that the applicant challenges the characterization of a discharge issued by a military department, the applicant may appeal the characterization through the channels established by the military department's regulation, and by law.

(g) Applications:

(1) Submit application for group determinations to the Secretary of the Air Force (SAF/MIPC), the Pentagon, Washington, D.C. 20330.

(2) Individual members of groups whose employment was determined to have been active duty may submit applications for discharge to the appropriate military department. The application may be prepared using DD Form (now being developed) or in narrative form.

[FR Doc. 78-25698 Filed 9-12-8:45 am]

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120, Attention Code 301.

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 31, 33, 42, and 43]

[CC Docket No. 78-196]

REVISION OF ACCOUNTS AND FINANCIAL REPORTING FOR TELEPHONE COMPANIES

Extension of Time

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: The Commission is granting a 4-month extension of time in which to file comments in the captioned proceeding. The action is taken pursuant to requests made by persons affected by the proposed rules. The additional time being allowed will permit further analysis to occur in connection with the preparation of comments.

DATES: Comments must be received on or before January 15, 1979, and Reply Comments must be received on or before March 15, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Douglas Slotten, Policy and Rules Division, Common Carrier Bureau, Room 546, 202-632-9342.

Adopted: September 1, 1978.

Released: September 6, 1978.

Order. In the matter of revision of the uniform system of accounts and financial reporting requirements for telephone companies (parts 31, 33, 42, and 43 of the FCC's rules), CC docket No. 78-196.

1. On July 31, 1978, a "notice of proposed rulemaking" in CC docket No. 78-196, FCC 78-453, 43 FR 33560, on the "revisions of the accounting and financial reporting requirement for telephone companies (notice)" was printed in the FEDERAL REGISTER. Our "notice" proposed comprehensive revisions of the uniform system of accounts (USOA) and financial reporting requirements contained in parts 31, 33, 42, and 43 of the Commission's rules to facilitate, among other things, the determination of the relevant cost of providing service by telephone companies and the prescription of rates by the Commission where necessary. The "notice" specified that comments were to be received on or before September 15, 1978, and that reply comments were due on or before November 1, 1978.

2. GTE Service Corp. and its related domestic telephone companies (GTE), the United States Independent Telephone Association (USITA), and the National Association of Regulatory Utility Commissioners (NARUC) have filed motions for extensions of time in the above-captioned proceeding pursuant to section 1.46 of the Commission's rules. Each of the parties has requested on extension of 6 months from September 15, 1978, within which to file initial comments in the proceeding.

3. In support of the requested extensions of time, the parties generally note the comprehensive nature of the revision proposed in the notice; the large number of issues on which specific comment is sought, such as the Mathtech Report, the impact of a new system of accounts on jurisdictional separations, and the impact on telephone companies of various sizes; and the changes that will be required to be made in the data and records of the telephone companies, as well as the impact on the industry generally. Specifically, GTE notes that in order to thoughtfully and completely comment on the "notice" it will be necessary for it to consult with its functional divisions as well as its outside auditors; that considerable time will be needed to develop the definitions for the various accounts and the data base on which to base its comments; and that substantial study will be required to permit it to comment on the proposed accounts for revenues, plant, and expense, as well as on the costing and nonfinancial reporting requirements.[1]

4. USITA states that as a trade association of many smaller independent telephone companies, it is necessary to initially arrange to send copies of the "notice" to its members as the majority of them do not subscribe to the FEDERAL REGISTER. Time will then be required for its members to analyze the proposed USOA, after which it will require additional time to collect the comments of its various members and assemble them into an informed, thoughtful commentary to present to the Commission. USITA notes, that the 757 independent companies listed in USITA's 1978 "phone facts," pages 19-24, more than 660 independent companies are class A companies under the current rules and 384 of the independent companies had revenues in excess of $1 million.

5. NARUC in its motion states that it intends to submit an extensive analysis of the issues involved through its Subcommittee on Accounts. However it believes that the time before September 15, 1978, is not sufficient time to prepare an adequate response and since 38 states have adopted the USOA of the Commission (see note 1 to the "notice"), it believes that the state commissions are integral parties to the proceeding and must be afforded adequate time and fair opportunity to comment.

6. Initially, we believe the parties have presented a persuasive case that requiring comments to be filed by September 15, 1978, provides insufficient time for adequate analysis of the issues presented in the "notice" and would be likely to lead to the filing of cursory comments that would be of little assistance to the Commission in shaping the USOA to be adopted. The question of the amount of additional time to permit for filing of comments is one affected by competing considerations. While additional time to prepare pleadings should result in comments that are more beneficial to the Commission in further developing the USOA to be adopted, we are aware of the serious limitations on our ability to develop adequate information from the current USOA on the cost of service and the reasonableness of various rate levels proposed in tariff filings (see paragraph 7 of the "notice". We are therefore interested in the earliest possible implementation of a system that will provide the needed information. Moreover, as is reflected in paragraph 46 of the "notice," Congress is extremely interested in having a system of accounts that will provide this additional information in order to permit better analytical tools to be applied to the regulatory process. A factor further complicating the process is that section 220(g) of the Communications Act of 1934, as amended, 47 U.S.C. 220(g), requires that the Commission provide 6 months advance notice of any changes in the USOA. Accordingly, for the proposed USOA to become effective on January 1 of a given year, the Commission must take its final action and have this same published prior to July 1 of the preceeding year. The grant of a 6 month extension of time for the filing of initial comments in this proceeding would severely limit the procedural options available to the Commission in seeking to have a system that can be implemented as soon as practicable. Therefore, we conclude that an extension of 4 months until January 15, 1979, for initial comments and March 15, 1979, for reply comments would be in the public interest.

7. *Accordingly, it is ordered,* Pursuant to authority delegated by § 0.303 of the Commission's rules, that the motions for extension of time in "notice of proposed rulemaking in" CC docket No. 78-196 are granted to the extent that interested parties have until January 15, 1979, to file initial comments, and until March 15, 1979, to file reply comments.

JOSEPH A. MARINO,
Acting Chief,
Common Carrier Bureau.

FR Doc. 78-25729 Filed 9-12-78; 8:45 am]

[1] GTE has also requested an open meeting with the Bureau's staff to seek clarification of certain items contained in the "notice." A public notice concerning such an open meeting will be released in the near future.

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-270; RM-3022]

FM BROADCAST STATIONS IN CENTERVILLE, HIGH POINT, LANSING, MOUNT AYR, AND SPIRIT LAKE, IOWA, AND SAINT JAMES, MINN.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of noncommercial educational television channels to Centerville, High Point, Lansing, Mount Ayr, and Spirit Lake (all in Iowa), and the substitution of one nonreserved channel for another in Saint James, Minn. The proposed reserved assignments would enable noncommercial educational service to be extended to residents of the Iowa communities listed above.

DATES: Comments must be received on or before October 17, 1978. Reply comments must be received on or before November 6, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 18, 1978.

Released: August 25, 1978.

In the matter of amendment of § 73.606(b), *Table of Assignments,* television broadcast stations (Centerville, High Point, Lansing, Mount Ayr, and Spirit Lake, Iowa, and Saint James, Minn.), BC Docket No. 78-270, RM-3022.

1. The Commission has before it for consideration a petition for rulemaking,[1] filed by the State Educational Radio and Television Facility Board of the State of Iowa ("Board"), which seeks the amendment of the television table of assignments (§ 73.606(b) of the Commission's rules). The petition seeks five "drop-in" television assignments and a change in the channel of one existing assignment to better serve the residents in and around the proposed communities of assignment. No responses were received to the proposal.

2. More specifically, the petition requests assignment of channel *31 at Centerville, Iowa; channel *14 at High Point, Iowa; channel *41 at Lansing, Iowa; channel *25 at Mount Ayr, Iowa; and channel *38 at Spirit Lake, Iowa. Further, the Board requests that channel 32 be substituted for channel 38 (unoccupied and unapplied for) at Saint James, Minn., in order that the proposed assignment at Spirit Lake, Iowa, can be accomplished. If the assignments are made, the Board proposes to operate translators at or near Centerville, High Point, Lansing, Mount Ayr, and Spirit Lake, Iowa.[2] The Board is presently the licensee of eight noncommercial educational television stations in Iowa,[3] all of which form the Iowa Educational Broadcasting Network. It says its request for the

[1] Public notice of the petition was given on Jan. 3, 1978, report No. 1095.

[2] The translators would operate with transmitter power of 1,000 watts.

[3] KDIN-TV, Des Moines; KIIN-TV, Iowa City; KRIN, Waterloo; KHIN, Red Oak; KBIN, Council Bluffs; KSIN, Sioux City; KTIN, Fort Dodge; and KYIN, Mason City.

proposed assignments is necessary to improve reception in those areas of the State which do not now receive satisfactory off-the-air service.

station promptly. Failure to file may lead to denial of the request.

3. *Cutoff procedures.* The following procedures will govern the consideration of fil-

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

[6712-01]

[47 CFR Part 83]

changing communications. The 1974 World Maritime Administrative Radio Conference subsequently established the frequency 156.8 MHz (Channel 16)

proposed assignments is necessary to improve reception in those areas of the State which do not now receive satisfactory off-the-air service.

3. The proposed assignments meet the Commission's distance separation requirements. The channel substitution at Saint James, Minn., represents the only change in any existing assignment in the table of assignments required by the Board's proposal. Because the proposed assignments could be used to bring noncommercial educational television to areas now unserved, we believe it is in the public interest to consider this proposal in a rulemaking proceeding.

4. Accordingly, it is proposed that the television table of assignments (§ 73.606(b) of the Commission's rules) be amended with regard to the following communities:

City	Channel No.	
	Present	Proposed
Centerville, Iowa		*31-
High Point, Iowa		*14-
Lansing, Iowa		*41+
Mount Ayr, Iowa		*25-
Spirit Lake, Iowa		*36
Saint James, Minn	38	32+

5. The Commission's authority to institute rulemaking proceedings, showings required, cutoff procedures, and filing requirements are contained in the attached appendix and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 17, 1978, and reply comments on or before November 6, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
NEAL K. MCNAUGHTEN,
Acting Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM table of assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cutoff procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-25743 Filed 9-12-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-101]

MULTIPLE OWNERSHIP OF TELEVISION BROADCAST STATIONS

Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order extending time.

SUMMARY: At the request of several parties, a 30-day extension of time has been granted for the filing of reply comments to the notice of inquiry concerning the Commission's top-50 policy.

DATE: Reply comments must be filed on or before October 5, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Carol P. Foelak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: September 1, 1978.

Released: September 6, 1978.

In the matter of amendment of § 73.636(a) of the Commission's rules relating to multiple ownership of television broadcast stations, BC Docket No. 78-101.[1]

1. The Commission's notice of inquiry in this proceeding invited interested parties to submit comments by August 7, 1978, and reply comments by September 5, 1978.

2. Citizens Communications Center, Metromedia, Inc. and American Broadcasting Companies, Inc., have requested a 30-day extension in which to file reply comments. These parties state that the comments filed are voluminous and additional time is necessary to analyze and reply to them. We agree that additional time is justified.

3. *It is ordered,* That the date for filing reply comments in this proceeding is extended through October 5, 1978.

4. This action is taken pursuant to sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-25744 Filed 9-12-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC docket No. 78-168; RM-2922; RM-3194]

FM Broadcast Station in Cape May Court House, N.J.

Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order extending time.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding involving the assignment of an FM channel to Cape May Court House, N.J. A counterproposal was recently accepted and an extension of time is needed for responses to that pleading.

DATE: Reply comments must be received on or before September 26, 1978.

[1] See 43 FR 29151, July 6, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: September 1, 1978.

Released: September 6, 1978.

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations. (Cape May Court House, N.J.), BC docket No. 78-168,[1] RM-2922, RM-3194.

1. On June 8, 1978, the Commission adopted a memorandum opinion and order and notice of proposed rulemaking, 43 FR 25698, concerning the above-entitled proceeding. A timely filed counterproposal has since been received (RM-3194) from Triplett Broadcasting Co., Inc. The present date for filing reply comments is September 5, 1978.

2. On August 28, 1978, counsel for Avalon Broadcasting Co., filed a request to extend the reply comment date to September 26, 1978. Counsel states that due to prior irrevocable commitments and the press of other business before the Commission, the extension is deemed necessary.[2]

3. We believe an extension of time for reply comments is warranted. The counterproposal referred to above was given public notice of its acceptance on August 29, 1978. In order to provide sufficient time to comment on that pleading, an extension is justified.

4. *Accordingly, it is ordered,* That the request for extension of time for filing reply comments by Avalon Broadcasting Co., Inc., is granted to and including September 26, 1978.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-25745 Filed 9-12-78; 8:45 am]

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[1] See 43 FR 35969, Aug. 14, 1978.

[2] GCC Communications of Philadelphia, Inc., by its counsel, has also informed the Commission that it supports the extension request.

[6712-01]

[47 CFR Part 83]

[Gen. Docket No. 78-277; FCC 78-623]

MARITIME MOBILE SERVICES

Providing for the Use of Scanning Type Receivers To Meet Multiple Watch Keeping Requirements on Certain Vessels Fitted With VHF Installations

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: Notice of Proposed Rule Making is given in the matter of receivers which may be used to comply with multiple watch requirements in the Maritime Mobile Service VHF band. The proposed rules would permit the use of scanning receivers to reduce the impact of multiple watch requirements on the safe navigation of vessels.

DATES: Comments must be received by November 10, 1978, and reply comments by December 11, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert C. McIntyre, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: August 29, 1978.

Released: September 1, 1978.

Amendment of Part 83 to provide for the use of scanning type receivers to meet multiple watch keeping requirements on certain vessels fitted with VHF installations in the Maritime Mobile Services, Gen. Docket No. 78-277.

1. Notice is hereby given of rulemaking to provide for the use of and technical specifications governing receivers to satisfy mandatory watch requirements for certain ship stations operating on VHF in the Maritime Service.

BACKGROUND

2. The VHF maritime mobile radiotelephone service was initiated by Commission action to alleviate congestion in the medium frequency (MF) band. Commission action in 1968 established the frequency 156.8 MHz as a national distress frequency [1] and required ship stations licensed to operate in the band 156-162 MHz to maintain an efficient radio watch whenever such station is not being used for exchanging communications. The 1974 World Maritime Administrative Radio Conference subsequently established the frequency 156.8 MHz (Channel 16) as the international distress, safety and calling (DSC) frequency (international Radio Regulations, Art. 35, Subsection 19(4) (1976)).

3. Congress, on August 4, 1971, enacted the "Vessel Bridge-to-Bridge Radiotelephone Act" (Pub. L. 92-63; 33 U.S.C. 1201) to provide a positive means whereby the operators of approaching vessels can communicate their intentions to one another through voice radio, located conveniently to the operator's navigation station. The responsibility for implementing the provisions of this Act rests with the U.S. Coast Guard and the Federal Communications Commission. In our proceeding [2] implementing this Act the Commission dedicated the frequency 156.650 MHz for the purpose of exchanging navigational information between the bridges of certain vessels. Vessels subject to the Bridge-to-Bridge Radiotelephone Act are required to keep a continuous and efficient watch on the designated navigational frequency except when VHF equipment is transmitting authorized traffic.

4. In response to a request by the Commandant, U.S. Coast Guard, the Commission in 1975 initiated a proceeding to make three frequencies in the 156-162 MHz band of the Maritime Mobile Service available in certain designated port areas for a Vessel Traffic System (VTS). This action was requested to implement Title I of the "Ports and Waterways Safety Act of 1972" (Pub. L. 92-340; 33 U.S.C. 1221). The Commission promulgated rules [3] designating the frequencies 156.55, 156.6 and 156.7 MHz for use in VTS designated areas. The Coast Guard requires that an efficient watch be maintained on one of these three frequencies by vessels operating in port areas where VTS systems are implemented.

5. The Commission in Subpart J, Part 81, provides for the operation of limited coast stations. The licensees of these stations are regularly engaged in the operation, direction, servicing or maintencnce of vessels, ports and waterways. Many vessels engaged in commercial operations are required, because of the nature of the ships' business, to monitor frequencies operated by these limited coast stations. This monitoring is not required by legislative fiat but, nevertheless, is often necessary if the ship's business is to be economically and safely conducted.

[1] Report and Order, Docket No. 17295, Adopted July 17, 1968, 33 FR 10849, 13 FCC 2d 874.

[2] Report and Order, Docket No. 19343, Adopted May 24, 1972, 37 FR 11245, 35 FCC 2d 154.

[3] Report and Order, Docket No. 20444, Adopted December 2, 1975, 40 FR 57673, 56 FCC 2d 1089.

THE PROBLEM

6. A review of the VHF watch requirements indicates that certain ves-

labelled. Accordingly, the bridge-to-bridge and the scanning receiver may be contained in separate enclosures

the Code of Federal Regulations is amended as follows:

1. The title of Subpart H is amended

cease scanning and remain tuned to the priority channel during the time signals are present on that channel.

tute a repair program for each such car less than 35 years of age for which the estimated cost of repairs is $5,000 or less.

SUPPLEMENTARY INFORMATION:

Decided September 5, 1978.

Since good cause may exist for re-

THE PROBLEM

6. A review of the VHF watch requirements indicates that certain vessels operating in congested areas especially where VTS systems have been established may find it necessary to guard as many as four or five frequencies in the VHF band. A large number of these vessels may also be licensed to operate in other frequency bands and, consequently are required to monitor additional frequencies, such as 2182 kHz, the International Distress Safety and Calling frequency in the MF band. The Commission is aware that there is a limit to the number of radio watches which can be maintained without adversely affecting the ability of personnel on the bridge to efficiently perform navigational duties. Our staff has held discussions on this matter with the U.S. Coast Guard and members of industry. As a result of these meetings, use of scanning receivers[1] was identified as one of the means by which the impact of multiple watch requirements on safe navigation of ships can be minimized.

THE COMMISSION PROPOSAL

7. The proposed rules appended hereto set out the technical standards describing a monitoring facility (including scanning receiver) which may be used on a voluntary basis to satisfy mandatory watch requirements for ship stations operating in the VHF band. The proposed monitoring facility provides for a continuous watch on the bridge-to-bridge frequency and use of scanning on the VTS, DSC and up to four other frequencies of the operator's choice. The scanning receiver portion of the monitoring facility includes provisions for a priority channel which requires the receiver to switch to that channel any time a signal is present on that frequency. The priority channel should be designated for VTS purposes when the vessel is operating within a designated VTS area. Outside designated VTS areas the priority channel should be programmed for DSC purposes (Channel 16).

8. The Commission is desirous of allowing the maximum possible flexibility with regard to the physical configuration of equipment to be used for multiple watch keeping facilities provided that the equipment is suitably labelled. Accordingly, the bridge-to-bridge and the scanning receiver may be contained in separate enclosures (equipment cases), in the same enclosure or as a part of a transceiver.

9. Attention is directed to the fact that this matter of VHF multiple watches is under active consideration by the Intergovernmental Maritime Consultative Organization's (IMCO) Subcommittee on Radiocommunications. The Commission is represented on the U.S. Delegation attending these meetings, and the comments received in this proceeding will also be used to aid members of the U.S. delegation to prepare for future sessions of the Subcommittee on Radiocommunications.

10. The proposed rules set out in the Appendix delineate the technical standards for receiving equipment to be used to satisfy multiple watch requirements. Comments are solicited concerning the adequacy of the proposal to provide maximum benefit to personnel responsible for safe navigation of vessels. Respondents should consider the technical specifications of the equipment and the operational aspects of this proposal.

11. Authority for this proposed rule making is contained in Sections 1, 4(i), 303(g) and (r), 355(d) and 384(4) of the Communications Act of 1934, as amended, Sections 1207(a) of the Vessel Bridge Radiotelephone Act, and Section 1221(2) of the Ports and Waterways Safety Act of 1972.

12. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before Novermber 10, 1978, and reply comments on or before December 11, 1978. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission will decide this matter solely on the basis of comments and other material that are made a part of the record in this proceeding.

13. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

14. Regarding questions on matters covered by this document contact Robert C. McIntyre, 202-632-7197.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. The title of Subpart H is amended to read as follows:

Subpart H—Watches, auto alarms and monitoring equipment for safety purposes

2. A new § 83.210 is added to read as follows:

§ 83.210 Receivers for multiple watch in the frequency band 156–162 MHz

(a) To fulfill the watch requirements for Bridge-to-Bridge; Vessel Traffic Services; and Distress, Safety and Calling; and to provide a voluntary watch on other frequencies necessary to conduct a ship's business; vessels may use:

(1) Separate receivers, or

(2) A scanning receiver in conjunction with an independent receiver capable of being tuned to the bridge-to-bridge frequency. Scanning receivers may not be used to monitor the bridge-to-bridge frequency. Scanning receivers shall comply with the technical standards set out in paragraph (b) of this section.

(b) The receivers used to comply with multiple-watch requirements may occupy the same or separate equipment enclosures (case) or be part of a transceiver, however, the scanning receiver may meet the following technical standards to be used for purposes of multiple watch:

(1) The scanning receiver shall provide a capability of scanning two or more frequencies but not more than six frequencies including the priority channel.

(2) The priority channel shall be checked at intervals of 1 second or less to determine if a signal is present on the priority channel.

(3) The priority channel may be capable of being set to any International Radio Regulation Appendix 18 frequency, but at a minimum shall be capable of being set to channel 16 and the VTS sector frequencies in § 83.361. The operator shall be able to select the frequency of the priority channel from the receiver front panel.

(4) Lockout[1] provisions may be provided on all scanned channels.

(5) A numeric indicator shall be provided showing the frequency or channel designation to which the priority channel is set. It is desirable, but not required, that other scanned channels have a similar numeric indication.

(6) A visible indication shall be provided showing the channel on which the receiver is sampling or scanning to determine the presence of a signal and to show on which channel a signal is being received.

(7) When operating in the normal scanning sequence, the receiver shall cease scanning and remain tuned to the priority channel during the time signals are present on that channel.

(8) To minimize susceptibility to spurious responses, the receiver shall not be designed to cover more than the frequency band specified in Appendix 18 of the international Radio Regulations (156–174 MHz).

(9) The dwell time of the scanning on any channel shall not be greater than 150 ms in the absence of a signal on that channel.

(10) Provisions may be included to permit the receiver to remain on any channel for a period not exceeding 2 seconds after reception of a signal on that channel, to permit reception of an interrupted transmission. However, during the normal scanning sequence such provisions shall not prevent the receiver from returning to the priority channel when a signal is present on the priority channel.

(11) The receiver may be provided with a facility for the operator to fix or hold reception on any channel.

(12) The receiver during the normal scanning sequence shall not remain on any channel, except the priority channel, for longer than 5 seconds unless the scanning is manually disabled.

(13) Provisions shall be included to switch the scanning facility on and off. When the scanning facility is switched off, the scanning receiver, if part of a transceiver, shall tune automatically to the same channel as the transmitter.

(14) The equipment shall be appropriately labeled to indicate that the scanning receiver complies with the provision of this section and has been certified in accordance with Part 2 of this chapter.

[FR Doc. 78-25746 Filed 9-12-78; 8:45 am]

[1] A scanning receiver is an electronically programmed device designed to tune to preselected channels in a sequential manner. The receiver automatically tunes to each channel selected and determines if a signal is present on that channel. When a signal is detected, the scanning is inhibited and the audio signal is connected to a speaker. If no signal is present the receiver automatically tunes to the next programmed channel. The scanning sequence is designed to be constantly repeated and one cycle is typically completed in a few seconds.

[1] Lockout is defined as the capability to eliminate a channel from the scanning sequence.

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1033]

[S.O. No. 1335]

REPAIR AND RETIREMENT OF FREIGHT CARS

Service Order; Order To Show Cause

AGENCY: Interstate Commerce Commission.

ACTION: Service order No. 1335. Order to show cause why a proposed car service order should not be issued. Repair and retirement of freight cars.

SUMMARY: Each railroad is ordered to show cause why the Commission should not enter the attached service order requiring railroads having more than five percent (5%) of its ownership of 40-foot plain boxcars in unserviceable condition immediately to institute a repair program for each such car less than 35 years of age for which the estimated cost of repairs is $5,000 or less.

DATES: Respondents or any other persons wishing to provide information and argument relating to the necessity and appropriateness of entering the proposed order may file comments with the Commission on or before September 25, 1978.

ADDRESS: Fifteen copies of such documents shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone, 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided September 5, 1978.

Since good cause may exist for requiring any railroad having more than five percent (5%) of its ownership of 40-foot plain boxcars in unserviceable condition immediately to institute a repair program for each such car less than 35 years of age for which the estimated cost of repairs is $5,000 or less.

Accordingly, each railroad is ordered to show cause to the Commission by submitting fifteen (15) copies of a document setting forth all facts within its knowledge and legal arguments which might tend to show that entry of the attached Service Order is unnecessary or would be inappropriate. The Commission is interested in obtaining specific information with regard to the following areas of inquiry.

1. The number of its 40-foot plain boxcars held on its lines awaiting repairs as of 12:01 a.m., September 1, 1978, classified as follows:

40-ft narrow-door plain Boxcars

[Age of cars]

Estimated cost of repairs	35 years and under			Over 35 years			Total cars		
	Owned	Awaiting repairs	Percent to owned	Owned	Awaiting repairs	Percent to owned	Owned	Awaiting repairs	Percent to owned
$5,000 or less									
Over $5,000									

40-ft wide-door plain boxcars

[Age of cars]

Estimated cost of repairs	35 years and under			Over 35 years			Total cars		
	Owned	Awaiting repairs	Percent to owned	Owned	Awaiting repairs	Percent to owned	Owned	Awaiting repairs	Percent to owned
$5,000 or less									
Over $5,000									

NOTE.—Forty-foot narrow-door plain boxcars are defined as cars having mechanical designations "XM," "SMI" or "XMIH" and assigned car-type codes B100, B101, B105, B106, B110, B111, B115, B116, B120, B121, B125, and B126; 40-foot wide-door plain boxcars are defined as cars having mechanical designations "XM," "XMI" or "XMIH" and assigned car-type codes B102, B103, B104, B107, B108, B109, B112, B113, B114, B117, B118, B119, B122, B123, B124, B127, B128, and B129, all described on page 1170 of the Official Railway Equipment Register, ICC-RER No. 408, issued by W. J. Trezise, or successive issues thereof. Cars identified as having mechanical designation "BX," Passenger Box, are not to be included.

2. Its present program for the repair of such cars, separately by types, including separately its policy as to completion or deferral of light repairs (less than 20 man-hours) of empty boxcars in these categories and its policy as to more extensive repairs. If such policies include any monetary limits or any limitations based on the age of the cars such limits must be described.

3. The number of plain boxcars in each of the above categories which the carrier does not intend to repair and which are being held out of service awaiting retirement. Cars previously retired and held awaiting dismantlement or sale, which cars are excluded from the carrier's reported ownership, shall be excluded.

4. The estimated weekly capacity of the carrier's shops and repair facilities working one shift per day, 5 days per

be helpful, notice of the time and place for such argument will be published in the FEDERAL REGISTER.

(ii) This order shall apply to all 40-foot plain boxcars less than 35 years of age which are described in the Offi-

after the day the cars are set aside for repairs. (See note.)

(iii) Unserviceable system freight

Car type; number cars owned; number cars unserviceable; average daily surplus and shortage for each of the 10 immediately

ADDRESS: Comments may be addressed to the Director, U.S. Fish and Wildlife Service, Department of the

4. The estimated weekly capacity of the carrier's shops and repair facilities working one shift per day, 5 days per week, to restore plain boxcars to serviceable condition.

5. The estimated number of such cars which are removed from service each week for repairs.

6. The estimated net gain or loss of serviceable cars in these categories based on: (a) The carrier's present practices, and (b) the implementation of a repair program as required by the proposed Service Order.

7. The effects of the implementation of the repair program required by the proposed Service Order on the repairs of other types of cars presently scheduled for repairs. Show separately by car types.

8. The availability, source and amount of funds required to institute the proposed repair program.

9. The estimated degree that rehabilitation cost can be recovered under A.A.R. Circular OT-37-B, and whether or not the formula contained in these rules should be modified.

10. Any other information which respondents believe would be helpful to the Commission in determining the necessity and appropriateness of entering the proposed orders.

Oral argument is not presently contemplated by the Commission. However, if the Commission subsequently determines that an oral argument would be helpful, notice of the time and place for such argument will be published in the FEDERAL REGISTER.

(49 U.S.C. 1(10-17).)

A copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission. (Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp. Commissioner Murphy not participating.)

H. G. HOMME, Jr.,
Acting Secretary.

There is an acute shortage of 40-foot plain boxcars throughout the country. Many carriers have excessive numbers of cars held out of service for repairs, some of which can be restored to service without excessive expenditures of money. On July 1, 1978, the railroads reported that bad order ratios of 40-foot plain boxcars were:

Car type	Owned	Unserviceable Heavy	Light	Total	Percent	Repaired previous month (heavy)
40-ft narrow-door	70,297	6,726	2,402	9,128	13.0	407
40-ft wide-door	21,769	2,201	906	3,107	14.3	265
Total 40-ft plain	92,066	8,927	3,308	12,235	13.3	672

NOTE.—"Heavy" repairs are defined as those which require 20 or more man-hours of labor to accom

Certain of the carriers have ratios of unserviceable cars of these car types as high as 50 percent of their ownerships, but have no significant repair programs established for such cars.

Restoration to service of a reasonable portion of these defective cars will be of material assistance to the carriers in reducing the shortages of 40-foot plain boxcars available for loading.

It is in the opinion of the Commission that present regulations and practices with respect to the use, supply, and repair of freight cars are ineffective to overcome these shortages of cars and that an emergency exists requiring immediate action. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days notice.

It is ordered,

§ 1033. Repair and retirement of freight cars.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Application.* (i) The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(ii) This order shall apply to all 40-foot plain boxcars less than 35 years of age which are described in the Official Railway Equipment Register, ICC-RER-No. 408, issued by W. J. Trezise, or successive issues thereof, as having one of the following mechanical designations and car type codes:

40-foot narrow-door plain boxcars—Mechanical designations "XM," "XMI," and "XMIH"; Car-type codes B100, B101, B105, B106, B110, B111, B115, B116, B120, B121, B125, and B126.

40-ft. wide-door plain boxcars—Mechanical designations "XM," "XMI," and "XMIH"; Car-type codes B102, B103, B104, B107, B108, B109, B112, B113, B114, B117, B118, B119, B122, B123, B124, B127, B128, and B129.

(iii) Report to the Commission not later than the 15th day of each month, classified according to the mechanical designations described in paragraph (a)(1)(ii) of this section, the number of each such car type owned as of the first day of the month; the number set aside for repairs estimated to cost more than $5,000 per car; the number set aside for repairs estimated to cost $5,000 or less per car; the ratio of unserviceable cars to the number of cars of the same type owned or leased from others; the number set aside for dismantling, retirement, rebuilding, or reclassification to another car type; the number repaired the previous month at a cost of more than $5,000 per car; the number repaired the previous month at a cost of $5,000 or less per car; the number restored to service the previous month by rebuilding or reclassification from another car type; the number acquired, whether by purchase or by lease, the previous month; and the number retired the previous month.

(2) *Repairs required.* (i) Unserviceable freight cars of any of the car types described in paragraph (a)(1)(ii) of this section which require only light repairs shall be repaired and restored to serviceable condition within twenty-four (24) hours of the time they are found to be unfit for service or within twenty-four (24) hours of arrival at the nearest point at which repairs can be made. In computing time for application of this paragraph, Saturdays, Sundays, and holidays shall be excluded. "Light repairs" are defined as repairs requiring less than twenty (20) man-hours of labor.

(ii) Unserviceable system freight cars of any of the car types described in paragraph (a)(1)(ii) of this section for which the ratio of unserviceable cars to cars owned exceeds five percent (5%) and which require repairs estimated to cost $5,000 or less, but which will require the expenditure of twenty (20) or more man-hours of labor for completion, shall be repaired and restored to service not later than the 15th day of the second month after the day the cars are set aside for repairs. (See note.)

(iii) Unserviceable system freight cars of any of the car types described in paragraph (a)(1)(ii) of this section for which the ratio of unserviceable cars to cars owned exceeds five percent (5%) and which require repairs estimated to cost more than $5,000 shall be repaired and restored to service not later than the last day of the fourth month after the day the cars are set aside for repairs. (See note.)

(iv) Unserviceable foreign cars which will be repaired by the railroad holding the car shall be repaired within the time limits provided in paragraph (a)(2) (ii) or (iii) of this section without regard to the unserviceable car ratio of either the owner or the line repairing the car.

(v) Unserviceable foreign cars which will be returned to the owner for repairs will be forwarded to the owner for repairs within thirty (30 days of the day they become unserviceable, either on their own wheels or loaded on another car. After receipt by the car owners, such cars are subject to the time limits provided in paragraph (a)(2) (ii) or (iii) of this section for repair of cars.

(vi) NOTE.—In the application of paragraph (a)(2) (ii) or (iii) of this section, cars set aside for repairs prior to the effective date of this order shall be considered as having been set aside for repairs on that date.

(3) *Limitations on retirement.* (i) No serviceable 40-foot plain boxcar may be retired by any carrier unless it is thirty-five (35) or more years old.

(ii) No serviceable 40-foot plain boxcar less than 25 years of age which is in need of repairs may be retired unless the estimated cost of repairs exceeds eighty percent (80%) of its depreciated value, or fifty percent (50%) of the cost of a new car of comparable type, capacity and design, whichever is greater.

(iii) No freight car 25 years of age or older which is in need of repairs may be retired unless the estimated cost of repairs exceeds the following amounts:

25 years and less than 26 years—$5,000
26 years and less than 27 years—$4,000
27 years and less than 28 years—$3,000
28 years and less than 29 years—$2,000
29 years and less than 30 years—$1,000
30 years and less than 35 years—$500
35 years and older—No requirement.

(4) *Exceptions:* Exceptions to this order may be authorized to carriers by the Director or Assistant Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423. Request for exceptions must be submitted in writing and must contain the following data separately for each type of car for which an exception is requested:

Car type; number cars owned; number cars unserviceable; average daily surplus and shortage for each of the 10 immediately preceding weeks; proposed schedule of repairs; availability of repair facilities (1) operated by applicant, (2) operated by other than applicant; estimated remaining service life after repairs, if request is for permission for premature retirement.

(b) *Effective date.* This order shall become effective at 12:01 a.m.

(c) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

A copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-25671 Filed 9-12-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 32]

HUNTING

Opening of Aransas National Wildlife Refuge, Texas, To Hunting of Migratory Birds and of Resident Game Species

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to add Aransas National Wildlife Refuge, Texas, to the refuge areas open for the hunting of migratory game birds and of resident game species. The Director has determined that this action would be in accordance with the provisions of all laws applicable to the area, would be compatible with the principles of sound wildlife management, would otherwise be in the public interest, and that such use is compatible with the management objectives established for refuge. Hunting, subject to annual special regulations, will provide additional public recreational opportunities.

RATES: Comments must be received on or before September 30, 1978.

ADDRESS: Comments may be addressed to the Director, U.S. Fish and Wildlife Service, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Donald G. Young, Division of National Wildlife Refuges, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 202-343-4307.

SUPPLEMENTARY INFORMATION: Donald G. Young is also the primary author of this proposed rule. The Aransas National Wildlife Refuge is managed with the following entities in mind: Threatened and endangered species, migratory birds, environmental education, indigenous species, wildlife/wildlands-oriented recreation, research, historic sites, depredation control, and economic use.

This proposal would open approximately 10,000 acres of refuge lands on Matagorda Island to the hunting of migratory ducks, geese, and mourning doves; resident bobwhite quail and white-tailed deer. A total of approximately 8,992 acres of federally controlled land on Matagorda Island will remain closed to hunting. The closed areas will provide a sanctuary where game species may rest and feed without disturbance.

The area proposed for hunting does not include established critical habitat for the endangered whooping cranes. The Service has conducted an "Intra-Service Consultation Procedure" pursuant to section 7 of the Endangered Species Act of 1973, and the director has determined that this action will not affect any endangered species or their habitat.

Pursuant to the requirements of section 102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(c), and environmental assessment has been prepared on this proposal, which is available for public inspection and copying at room 2342, Department of the Interior, 18th and C Streets NW., Washington D.C. 20240, or by mail, addressing the Director at the address given above. A determination will be made prior to the time of final rulemaking as to whether this is a major Federal action significantly affecting the quality of the human environment.

Special circumstances are involved in the promulgation of this rulemaking which limit the amount of time the Service can allow for public comment. Opening dates for State hunting seasons are rapidly approaching and the public interest would not be served by delaying the opening of the refuge unnecessarily. Nevertheless, it is the policy of the Department of the Interior whenever practicable to afford the public an opportunity to partici-

pate in the rulemaking process. Therefore, interested persons may submit

notices

V 43 / 178 SE 13 78

pate in the rulemaking process. Therefore, interested persons may submit written comments, suggestions, or objections regarding the proposal to the Director by September 30, 1978. All relevant comments received will be considered by the Director prior to the issuance of a final rulemaking.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Accordingly, it is proposed to amend 50 CFR Part 32 by the addition of Aransas National Wildlife Refuge as follows:

§ 32.11 List of open areas; migratory game birds.

TEXAS

ARANSAS NATIONAL WILDLIFE REFUGE

§ 32.21 List of open areas; upland game.

TEXAS

ARANSAS NATIONAL WILDLIFE REFUGE

Dated: September 7, 1978.

ROBERT S. COOK,
Acting Director,
Fish and Wildlife Service.

[FR Doc. 78-25699 Filed 9-12-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

COWTOWN HORSE AUCTION, TURLOCK, CALIF., ET AL.

Proposed Posting of Stockyards

The Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards, Agricultural Marketing Service, U.S. Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the act.

CA-173—Cowtown Horse Auction, Turlock, Calif.
IN-154—Cloverdale Sale Barn, Cloverdale, Ind.
IN-155—Producers Livestock Association, Vincennes, Ind.
MS-157—Corinth Livestock Commission Co., Corinth, Miss.
NC-149—Gus Z. Lancaster Stockyards, Inc., Dunn, N.C.
VA-152—Farmers Livestock Market, Rose Hill, Va.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, registrations, Bonds, and Reports Branch, Packers and Stockyards, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, by September 28, 1978.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 U.S.C. 1.27(b)).

Done at Washington, D.C., this 6th day of September 1978.

EDWARD L. THOMPSON,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc. 78-25719 Filed 9-12-78; 8:45 am]

[3410-02]

MALVERN LIVESTOCK AUCTION CO., MALVERN, ARK., ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definitions of a stockyard under said act and are, therefore, no longer subject to the provisions of the act.

Facility No., name, location of stockyard, and date of posting

AR-127—Malvern Livestock Auction Co., Malvern, Ark., June 21, 1957.
FL-117—Paxton Livestock Cooperative Association, Paxton, Fla., February 29, 1960.
IN-148—Producers Livestock Association, Vincennes, Ind., April 28, 1969.
MI-140—Traverse City Livestock Commission Co., Inc., Traverse City, Mich., May 5, 1959.
TN-141—Tri-County Stockyards, McKenzie, Tenn., May 5, 1959.
TX-189—Hico Commision Company, Hico, Tex., September 11, 1961.
VA-120—Loudoun County Live Stock Market, Leesburg, Va., July 7, 1959.

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard with is no longer within the definition of that term contained in the act.

The foregoing is in the nature of a rule relieving a restriction and may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective September 13, 1978.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C., this 6th day of September 1978.

EDWARD L. THOMPSON,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc. 78-25718 Filed 9-12-78; 8:45 am]

[3410-11]

Forest Service

NATIONAL FOREST MANAGEMENT ACT COMMITTEE OF SCIENTISTS

Meeting

The Committee of Scientists will meet on September 28-29, 9 a.m. to 5 p.m., at the Stouffers Denver Inn, 3203 Quebec Street, Denver, Colo.

The purpose of this work session will be to prepare the Committee's detailed technical analysis of the adequacy of the Section 6, National Forest Management Act regulations, published in the August 31, 1978 FEDERAL REGISTER. The following issues will be considered: (1) Lands suitable for timber production, (2) departures from nondeclining yield, (3) silvicultural standards, (4) diversity, (5) wilderness, and (6) coordination of public planning efforts.

The meeting will be open to the public. Persons who wish to attend and/or furnish written statements should notify Charles R. Hartgraves, Forest Service, Director, Land Management Planning, P.O. Box 2417, Washington, D.C. 20013, area code 202-447-5933.

Dated: September 7, 1978.

DOUGLAS R. LEISZ,
Deputy Chief, Forest Service.

[FR Doc. 78-25758 Filed 9-12-78; 8:45 am]

[3410-16]

Soil Conservation Service

CHALK BLUFF PUBLIC WATER-BASED RECREATION, R.C. & D. MEASURE, ARKANSAS

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Chalk Bluff Public Water-Based Recreation R.C. & D. Measure, Clay County, Ark.

The environmental assessment of this federally assisted action indicates

that the project will not cause significant local, regional, or national impacts on the environment. As a result

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national im-

Critical Area Treatment R.C. & D. Measure, Wyoming County, Pa.

The environmental assessment of

[6320-01]

CIVIL AERONAUTICS BOARD

ception of TXI, all the answers support consolidation. TXI believes that the Board has the discretion to treat the applications separately and that

through new licenses without the combination of carriers. While we believe that consolidation will lead to a more efficient use of everybody's time, we

V 43 / 178 SEP 13 78

that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. M. J. Spears, State conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for a 55-acre recreation development. The planned works of impovement include the installation of fences, an access road, parking areas, pavilion, picnic areas, play structure, restroom, scenic overlook, nature trails, and the preservation of historical points of interest. Drinking water and electrical services are also planned for the area.

The notice of intent not to prepare an environmental impact statement had been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. M. J. Spears, State Conservationist, Soil Conservation Service, Federal Office Building, 700 West Capitol Avenue, Little Rock, Ark. 72203, telephone 501-378-5445. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until October 13, 1978.

Dated: September 6, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, (16 U.S.C. 590a-f, q).)

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-25740 Filed 9-12-78; 8:45 am]

[3410-16]

NORTH IDAHO COLLEGE PUBLIC WATER-BASED RECREATION, R.C. & D. MEASURE, IDAHO

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the North Idaho College Public Water-Based Recreation R.C. & D. Measure, Kootenai County, Idaho.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Amos I. Garrison, Jr., State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for constructing a day-use recreation area for North Idaho College and the city of Coeur d'Alene, Idaho. The planned works of improvement include facilities for picnicking, swimming, boating, landscaping, parking, and sanitation.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Amos I. Garrison, Jr., State Conservationist, Soil Conservation Service, Room 345, 304 North Eighth Street, Boise, Idaho 83702, telephone 208-384-1601. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until October 13, 1978.

Dated: September 6, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703 (16 U.S.C. 590a-f, q).)

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-25741 Filed 9-12-78; 8:45 am]

[3410-16]

TUNKHANNOCK RIVER STREET PARK PUBLIC WATER-BASED RECREATION AND CRITICAL AREA TREATMENT R.C. & D. MEASURE, PENNSYLVANIA

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Tunkhannock River Street Park Public Water-Based Recreation and Critical Area Treatment R.C. & D. Measure, Wyoming County, Pa.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Graham T. Munkittrick, State conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for water-based recreation and critical area treatment. The planned works of improvement include developing portions of a 22-acre narrow strip along the Susquehanna River at Tunkhannock for picnicking, walking, riverbank fishing, and passive types of recreation. The planned action includes stabilizing approximately three acres of streambank by grading, shaping, and revegetation. Recreation facilities would include comfort stations, approximately 37 parking spaces, 24 picnic tables, 4,000 feet of trails, 15 benches, 2,200 feet of fence, shrub and tree planting, entrance landscaping, and park signs.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Federal Building, 228 Walnut Street, Harrisburg, Pa. 17108, telephone 717-782-2202. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until October 13, 1978.

Dated: September 6, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, (16 U.S.C. 590a-f, q).)

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-25742 Filed 9-12-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

APPLICATION FOR AMENDMENT OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY UNDER THE BOARD'S PROCEDURAL REGULATIONS

SEPTEMBER 6, 1978.

Notice is hereby given that the Civil Aeronautics Board on September 6, 1978, received an application, docket 33359, from Texas International Airlines, Inc., for amendment of its certificate of public convenience and necessity for Route 82 so as to eliminate the stop requirement in condition (4) for services between Midland/Odessa, Lubbock, and Amarillo, Tex., on the one hand, and Los Angeles, Calif., on the other.

The applicant requests that its application be processed under the expedited procedures set forth in subpart M of part 302 (14 CFR Part 302).

PHILLIS T. KAYLOR,
Secretary.

[FR Doc. 78-25753 Filed 9-12-78; 8:45 am]

[6320-01]

[Docket Nos. 33283; 33112; Order 78-9-24]

PAN AMERICAN-NATIONAL ACQUISITION CASE AND TEXAS INTERNATIONAL-NATIONAL ACQUISITION CASE AND ENFORCEMENT INVESTIGATION

Order Consolidating Applications

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of September 1978.

On August 24, 1978, Pan American filed an application for approval of its acquisition of control of National Airlines and for approval of a merger between the two companies. Texas International Airlines also wants to acquire National, and a hearing on the TXI application and related issues has already been ordered by the Board. Order 78-8-150.[1] Pan American has filed a motion seeking consolidation of the two applications, arguing that the cases involve the same primary problems, cover many very similar issues, and that consolidation will be efficient and not result in delay.

Answers to Pan American's motion have been filed by National Airlines, Texas International Airlines, the United States Department of Transportation, and the Bureau of Pricing and Domestic Aviation.[2] With the exception of TXI, all the answers support consolidation. TXI believes that the Board has the discretion to treat the applications separately and that consolidation may complicate the case. TXI also argues that, if the applications are consolidated, the Board should maintain its original target dates for completion of the proceeding. It asks the Board to describe how the Pan American issues fit into its case, if consolidation is ordered.

We have decided to consolidate the two proceedings. Although initial information requests have been filed in the TXI case, and a prehearing conference has already been scheduled[3] we do not believe that catch-up period for the Pan American case need be lengthy. We do believe that the target date set for the Initial Decision should be modified to reflect the additional workload. Order 78-8-150 set January 2 as the target; we will extend this to February 1, 1979. We will target March 24 for our final decision.

We have decided to consolidate these proceedings for convenience, efficiency and the development of a complete record. There are a number of issues, particularly broad questions of competition policy, which the parties would duplicate if the proceedings were separate. TXI and Pan American would obviously intervene and participate in each other's hearing and many other parties would also be required to appear twice. We are enthusiastic about the prospect of two competing applicants arguing against one another; this should sharpen the issues and the debate. We hope that they will focus their arguments on the competitive matters that are of primary concern to us. And we believe that this can best be accomplished in a single hearing.

It is important, however, that the parties not misread the reasons for consolidation. We caution them not to look on these two proposed applications as presenting mutually exclusive comparative facts. The proceeding should not be focused principally on the comparative public benefits of either combination of route systems. The Board's route program is likely both to make futile any attempt to "freeze" the route system of any of these carriers long enough to examine it, and to make it possible to achieve any alleged public service benefits through new licenses without the combination of carriers. While we believe that consolidation will lead to a more efficient use of everybody's time, we would like all concerned to understand that Pan American's application, like the Texas takeover, raises very distinct questions about competition policy. We expect these to be considered separately for each proposed combination. Our general concerns about the impact of mergers on the potential for a successful transition to a market-regulated system were spelled out at some length in Order 78-8-150. These concerns naturally carry over into the Pan American application. Indeed, this is one of the overlapping issues that make consolidation attractive, and we want a clear statement from everyone on how they think approval of either one or both of these acquisitions would affect competition in general and the possibility of a successful transition period in particular.

In Order 78-8-150, we pointed to the actual and potential competition that existed between TXI and National as an area that needed close consideration.[4] We have similar concerns about a Pan American—National combination.

Pan American and National typify the rapid shift that can take place from potential to actual competition under our pro-competitive licensing and pricing policies. A month ago these two carriers engaged in only very limited actual competition. Pan American had only fill-up rights in two National markets, New York-Washington/Baltimore and Miami-Tampa, and these rights are limited by long-haul restrictions and by the need to use Dulles Airport rather than close-in National Airport in Washington, D.C. But this limited competition is a small fraction of the potential between these two carriers, especially since they both operate fleets that have long-haul, transcontinental and international capabilities. Both carriers have stations at many of the major east coast cities, both serve Los Angeles and San Francisco, as well as London, Paris, Frankfurt, and Amsterdam. Just in the last week we granted Pan American an exemption which will permit it to operate domestic fill-

[1] August 25, 1975. Also, see Order 78-8-151, consolidating the question of whether Texas and Pan American can continue to purchase National stock in advance of a Board decision on their control applications.

[2] All parties to the Texas International case were provided telegraphic notice of our intention to deal with this question expeditiously and these parties were requested to file responses by August 30, in advance of the date that would otherwise have been required by our rules. As noted, responsive answers have been filed and prompt action accords with the interest of all parties. See Rule 302.12.

[3] By notices issued on September 1, the prehearing conference in the Texas acquisition case was postponed, and a consolidated conference for both proceedings has been set.

[4] This issue, as specifically stated in the TXI order, refers to lessening competition *in any region of the United States.* There should be no question in anybody's mind that this includes foreign air transportation. The impact of an anticompetitive consolidation is felt by the consumer first at the point of sale. For example, a reduction in competition between Miama and Europe would have an impact on the sales of foreign air transportation in the Miami metropolitan area. The Miami area is clearly "a region of the country" for section 408 purposes.

up routes in connection with its Houston, Los Angeles, Miami and San Francisco-based international operations.[5]

interest. And, of course, the record should include the consideration of any new public service benefits that

reduce costs and increase productivity, even the most efficient of companies must adjust prices upward periodically

er parties argue that despite high actual profits in the transatlantic market, TWA persists in forecasting

The Board concludes that the proposed increases in normal economy fares may be unlawful and should be

basic point-to-point transportation, and in any event high enough to protect generally high-cost carriers. De-

up routes in connection with its Houston, Los Angeles, Miami and San Francisco-based international operations.[5] This could result in an immediate expansion in the actual domestic competition between these two carriers. The same type of expansion could take place internationally as a result of decisions in the *U.S.-Benelux Low-Fare Proceeding*, and related dockets,[6] where National seeks a direct extension into some of Pan American's European markets. Pan American, and of course National if it should agree to the Pan American proposal,[7] should confront the competitive problems raised by a consolidation of two carriers that are thus poised to become active, competitors over a widespread area of operations.

This statement of our concern about competitive impact is intended not to prejudge this application, but to direct the energies of the parties to what most concerns us. The applicants are free to argue that these concerns are misguided, that a more competitive system will result, that there are offsetting public interest reasons for approving the merger, and that there are no feasible less anticompetitive alternatives for achieving those benefits. On this last point, the consideration of less anticompetitive alternatives should include the possibility that Pan American's limited domestic authority can be cured by internal expansion and new licenses.

In Order 78-8-172, we indicated a willingness to give consideration to an overall plan for system realignment by Pan American, and we anticipate that it will offer a response to this as part of its presentation. We ask that the administrative law judge and the other parties, especially the Bureau of Pricing and Domestic Aviation, do their best to see that this alternative is fully developed.

While we have now described some of the problems that concern us the most, this is not an exclusive statement of the issues or a limitation on the right of any party to argue its case. The general merger issues have been outlined in Order 78-8-150, and they apply here. TXI has raised a question about a possible violation of section 408, and such issues are always considered as elements of the public interest. And, of course, the record should include the consideration of any new public service benefits that would arguably result from the proposed merger, although here again we are interested in whether these could also be feasibly achieved by expanding the licenses of the individual companies.

Accordingly, 1. We consolidate the application of Pan American World Airways for control of National Airlines, Docket 33283, with the proceedings in Docket 33112.

2. We direct the administrative law judge presiding over this consolidated proceeding to issue his decision by February 1, 1979.

3. We direct Pan American World Airways to file the environmental submissions required by Part 312.12 of the Board's Procedural Regulations within 30 days of service of this order.

4. Petitions for reconsideration of this order shall be filed within eight days of service of this order (by September 15, 1978) and answers five days thereafter (by September 20, 1978).

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[8]
Secretary.

[FR Doc. 78-25755 Filed 9-12-78; 8:45 am]

[5] *Houston Service Investigation*, Docket 33320, Order 78-8-172, August 30, 1978. Also, see the applications of Pan American in the *California-Florida Low Fare Case*, Dockets 31976 and 32307.

[6] See the applications of National Airlines in Dockets 31976 and 32307, and Order 78-9-2, September 1, 1978, granting National temporary exemption between New York and Amsterdam.

[7] Newspaper and press reports indicate that National and Pan American are actively considering whether a merger agreement can be reached. National opposes the TXI acquisition at this time.

[8] All Members concurred.

[6320-01]

[Docket No. 33276; Order 78-9-38]

TRANS WORLD AIRLINES, INC.

Order of Suspension and Investigation Regarding Transatlantic Fare Increases

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 23d day of August 1978.

On June 23, 1978, Trans World Airlines, Inc. (TWA), filed fare increases for effect November 1, 1978, through March 31, 1979, in its U.S.-Europe winter season fares. The increases average 7.5 percent. With some exceptions, first-class and normal economy-class fares are increased five percent and promotional fares 10 to 15 percent. The filing proposes no new low fares, although exisiting ones are retained with increases; no increases were filed to countries not directly served by TWA.

Urging early approval of its filing so that the traveling public and foreign governments will have ample advance notice of the changes, TWA contends that rapidly escalating costs, particularly in commissions and reservations expense, together with yield erosion from new low fares, have resulted in a severe decline in profitability and a pressing need for additional revenue; while it has taken steps to control and reduce costs and increase productivity, even the most efficient of companies must adjust prices upward periodically to servive in an inflationary economy; while higher load factors have helped it survive the squeeze between rising cost and declining yield, traffic growth clearly cannot continue at the rapid rate now experienced without dratically eroding the quality of scheduled services offered; and the increases will not result in excessive returns.[1]

TWA points out it has proposed only modest percentage increases in normal fares with greater percentage increases in promotional fares, in deference to the Board's historic concern with the relationship between them. Since most U.S.-Europe first-class fares took a five percent increase last April, it proposes to increase them only to Germany and Switzerland, which took no increase then, merely to align these points with the rests of Europe. TWA argues that while the Board has permitted domestic coach fare increases, which have resulted in higher coach yields domestically than internationally, it has permitted no increases in transatlantic normal economy fares since Novermber 1974; maintaining this "lid" is in direct opposition to the current Board's policy of placing reliance on competitive forces and managerial prerogative in developing an optimal fare structure; and increases in these fares are a market decision best left to carrier managment. TWA maintains the increases in promotional fares are necessary to restore a more reasonable relationship to operating costs as well as to eliminate traffic distribution problems stemming from the low budget and standby fares.

Acknowledging that its filing does little to reform the existing fare structure, TWA states it has unsuccessfully advocated structural reform in the past and is very dissatisfied with the current chaotic structure in which fares vary almost country by country. But any efforts at reform, it feels, stand little chance of success, and extension of the current structure into the winter season is the only approach likely to secure the necessary additional revenue with the approval of all parties.

Requesting suspension and investigation of the increases proposed by TWA, the Aviation Consumer Action Project (ACAP), together with three individuals who are consumers of commercial air services,[2] contend that TWA's justification is invalid and insufficient to support the excessive and massive increases sought. The consumer parties argue that despite high actual profits in the transatlantic market, TWA persists in forecasting an indadequate rate of return; that TWA's cost data for the increases is distorted by a number of questionable procedures such as inclusion of the capitalized value of leased equipment in its rate-making investment base and bizarre and illogical elasticity assumptions for traffic moving under different fares, which present an inaccurate picture of its present and projected return under the fares proposed; and that in failing to provde cost data by class of service, TWA has made it impossible to judge whether each fare is profitable at current levels and, if not, what percentage increase is warranted. The consumer parties also maintain that TWA has manipulated North Atlantic traffic growth statistics to support its contention that the new low fares have been barely profitable, and that other statements by TWA relating to the general, rising trend in travel costs and the difference in yields experienced in domestic and transatlantic service are either irrelevant or misleading. Finally, while endorsing the Board's current philosophy on competition as the most efficient regulator of fare levels, the consumer parties note that the transatlantic market is still closed and the responsibility for protecting consumers from excessive fares still rests with the Board; and TWA's increases will affect both full fare passengers, who are already paying exorbitant fares, and low fare passengers, who will find that travel this winter will cost almost as much as travel during the current peak season.[3]

In an answer to the complaint, TWA defends its comparison of transatlantic and domestic yields and asserts that its treatment of leased equipment is not contrary to the Board's policies; no methodology has been developed to break down expenses by fare category; and although TWA's corporate, system-wide profits have been good this year, its profitability in transatlantic scheduled service has declined from 1977 levels due to yield erpsion, notwithstanding record load factors. Finally, TWA states that excluding the effects of leased equipment capitalization and elasticity would still produce only a 10.2-percent return under proposed fares.[4]

[1] TWA forecasts returns on investment of 6.7 percent and 7.9 percent under existing and proposed fares, respectively, during the 12 months ending March 31, 1979.

[2] Lawrence J. Halloran, Joseph J. McGee and Joanne Yancy.

[3] In an amendment to their complaint, ACAP et al. point out that in 1978 TWA has had the most profitable second quarter in its history.

[4] The carriers have been ordered by the Board to show the capitalized value of leased equipment in their Form 41 reporting to conform with reporting requirements of the Securities and Exchange Commission, and for rate making purposes the Board permits a profit on the asset value of leased equipment when such value exceeds the industry average by a significant amount. As to elasticity, we recognize that passengers are not insenstive to changes in price but determination of its impact on traffic involves a great deal of speculation and assumption. Taking all these matters into consideration, however, there is not indication that TWA will earn excessive profits under the proposed fares, especially in view of our denial of the normal economy fare increases. Our reasons for denial, as will appear below, are not based on a finding that ROI will be excessive; for this reason, we need not attempt here to resolve these questions about the accuracy of TWA's calculations.

The Board concludes that the proposed increases in normal economy fares may be unlawful and should be suspended pending investigation. The Board has decided to take no action on the other fare proposals:

Over the years the North Atlantic has developed into one of the most competitive international markets. There are at present more than 34 U.S. and foreign carriers providing scheduled service to a wide variety of North Atlantic destinations along some of the densest, most heavily traveled international routes in the world. In the past, competition has largely been confined to improvements in schedule convenience or service amenities, since price competition was all but precluded in intercarrier price fixing. There is evidence that restricting competition results in relatively low load factors and relatively high cost, high fare service.

The Board believes there should be greater reliance on market forces to determine the price as well as the quantity and quality of air services and that governments should limit their interventions to preventing unjust discrimination, predation and the abuse of monopoly power. This policy, spurred by the entry of Laker and the continued competition of the supplemental carriers, has resulted in significant new price competition in the Atlantic market over the past year, concentrated at the low end of the fare spectrum. The more price-elastic segment of the market has been the principal beneficiary, but despite the entry of some carriers new to specific city-pair markets and our encouragement of carrier pricing initiatives, there has been little price competition in normal economy service. The overall industry demand for this service is viewed as relatively price inelastic, so that in an oligopolistic market, such as the North Atlantic, if each carrier assumes that a price cut will be matched by its rivals, there is no incentive for a fare reduction which is not expected to produce an overall increase in profits.

These fares are at present at a level set, in a long series of carrier agreements, high enough to cover the cost of providing services not required for basic point-to-point transportation, and in any event high enough to protect generally high-cost carriers. Designed to permit IATA member carriers not certificated over a particular route to compete for that traffic over an indirect routing, the fares include built-in allowances for stopovers and for 20 percent mileage circuity at no extra charge. These are services which many passengers do not need or use yet must pay for.

Against this background, no increase in normal economy fares seems warranted. This does not mean the carriers must be denied the opportunity to recover their costs and a reasonable return. A more competitive industry would set economy fares at the cost of direct point-to-point service, and have separate, unboundled charges for stopovers and circuitous routings. A passenger could then select from among these offerings on the basis of the value to him of the various, separately priced parts of the package, and would be free to choose only point-to-point transportation without paying for hidden extras. In fact, partially unbundled economy fares are already in effect in a few markets. Alitalia has a direct service, one stopover, economy fare in effect in the U.S.-Italy market and British Caledonian has a similar direct service, one stopover, "executive" fare in effect between Houston and London.

Similar reforms in other transatlantic markets are within reach, using fares that already exist. Several confirmed reservations fares for individual travel are currently available to U.S.-Europe air passengers: The normal economy fare with unlimited free stopovers, the 14/21-day excursion fare with two free stopovers in each direction, and the 22/45-day excursion fare, which allows no stopovers. All three have a 20-percent free-circuity allowance. Aside from the one-way availability of the normal fare (the other two are round-trip fares), the only relevant difference among the fares in terms of the cost to the carriers of performing the service is related to the stopover privileges. Obviously, the length of stay requirement is a contrived one; and if a carrier such as Air France is willing to sell a no-stopover fare at a discount of 25-27 percent from the normal fare (New York-Paris), we see no reason why that fare should be encumbered with a meaningless minimum-maximum stay requirement. Such period-of-stay rules are prime examples of fare conditions which do not involve or reflect cost savings. Stated another way, we would be prepared to accept TWA's proposed increases in normal fares if the passenger desiring no stopovers could purchase a reasonable, on demand fare at levels similar to the 22/45-day excur-

sion fare, but without the round-trip or minimum-maximum stay requirements. Similarly, other fares, priced at well as a holdover from the old system of setting fares by inter-carrier agreement, and the incumbent carriers' ap- much less than the latter.[7] Yet it is significant that when compared on the basis of price per mile to the passen-

on-demand service passengers, and to charging them a premium price for services they do not want. For years the IATA carriers have been trying to

7. Copies of this order be filed in the aforesaid tariff and be served upon Trans World Airlines, Inc., and counsel for the Aviation Consumer Action

(2) Film Presentation: "The Price of Freedom and Security" and "There Is No Defense."

(3) Discussion on the preceding films.

sion fare, but without the round-trip or minimum-maximum stay requirements. Similarly, other fares, priced at higher levels and offering varying numbers of stopovers, could be derived from the current 14/21-day excursion and normal economy fares, which now allow two free stopovers and unlimited stopovers, respectively. We certainly take no position on the proper number of stopovers to be offered at such levels; that is up to the carriers to determine. Perhaps the simplest approach, however, would be for them to adopt a low single factor point-to-point fare and charge a specific additional amount for each stopover—an idea the Board has espoused for a number of years. Undoubtedly other combinations would occur to imaginative managements.

Unfortunately, no such proposals are now before us, and we are concerned about what may happen if we simply allow TWA's increases to take effect. We are not convinced that we can rely on market forces to secure competition in economy fares during this period of transition. The number of competitors for such passengers in city-pair markets is severely restricted at this time. Between the U.S. and U.K., the provisions of Bermuda II limit the number in most city-pairs to two—one U.S. and one U.K. carrier—although for two U.S.-U.K. city-pairs two carriers may be designated by each party. Similarly, at the present time, competition between direct service carriers in other U.S.-Europe city-pair markets is limited to two or three combination service carriers. As of yet no new reserved-seat, scheduled service competitors have been certificated for transatlantic service, and while several existing carriers have been recently awarded new transatlantic points, their entry has not altered the limit of two now-stop carriers per city-pair that generally prevails.[5] Further, there are no outside competitors for on-demand passengers similar to the supplemental carriers. Lastly, while it can be argued that the presence of fifth-freedom carriers in a few city-pair markets increases the total number of competitors in those markets, in reality their competitive impact is limited because governments have restricted their operations in order to protect the traffic of their national airlines. The competitive process is not yet in gear as far as normal economy service is concerned. This is partially a result of our inability to bring new carriers devoted to price competition into the on-demand market as quickly as we would like, as well as a holdover from the old system of setting fares by inter-carrier agreement, and the incumbent carriers' apparent assumption that price competition in the normal economy market is not in their self-interest because of the inelasticity of demand. The circle of scheduled route carriers offering normal economy service over the Atlantic is still closed, and it would be naive for us to approve TWA's proposal with the hope that competition will operate to prevent or significantly temper these increases. It is quite likely that if approved, the increases will be adopted by most other carriers and the normal economy passenger will remain excluded from the benefits of the improving competitive regime.

Thus we have reluctantly concluded that we must suspend TWA's proposed increase in normal economy fares. We have a healthy distrust of our ability to divine what individual offerings the market wants. But in this transition period, we believe it is the Board's responsibility to interfere temporarily in the fare-setting process when market forces are as yet too weak to do the job. We view this as a temporary measure, to be abandoned as rapidly as possible once the natural forces of competition are unbound.[6]

TWA's arguments do not persuade us to the contrary. It contends that although the Consumer Price Index has risen 23 percent since late 1974, the Board has permitted no increases in North Atlantic economy fares yet has allowed domestic coach fares to rise over 13 percent on transcontinental routes, and 30 percent on shorter domestic segments, with the result that TWA's average domestic coach yield is now higher than its average transatlantic economy fare yield. This, together with the higher and increasing cost of international operations, is proof, says TWA, that the moderate increases are reasonable and necessary. But these comparisions do not prove its point. One would expect transcontinental coach fares to yield more than transatlantic economy fares, since the former distances are much less than the latter.[7] Yet it is significant that when compared on the basis of price per mile to the passenger, transatlantic economy fares are actually higher than transcontinental coach: the latter average 8.36 cents per mile in nine major markets, while the average current basic season per mile fare in 14 transatlantic markets served by TWA is 9.18 cents—almost 10 percent higher. With the increases proposed, the average would rise to 9.65 cents, or more than 15 percent above the domestic average.[8] This disparity in passenger per mile price reflects the fact that transatlantic fares include large allowances for dilution from stopovers and circuity. TWA's argument ignores the fact that, unlike the situation internationally, the Board's domestic policies have produced mileage related coach fares at levels more closely related to the costs of direct service, with an inconsequential allowance for circuity and none for stopovers. Naturally, as costs have gone up, we have allowed coach fares to rise. Furthermore, the DPFI formula fares in longhaul markets were acknowledged to be well above cost in the decision. Finally, we are now in the process of removing the *DPFI* fare constraints in step with our policy of freeing up entry of new carriers in domestic markets.

Nor are we convinced by TWA's argument that if carrier management sets the economy fares at too high a level the consumer will make his views known by selecting some other. This fare is the principal one used by the non-discretionary traveler, and his opportunity to choose an "alternate" fare is for all practical purposes nil because of the restrictions attached to the others and because most of them are available for round-trip travel only.

The Board will take no action on the increases sought in first-class and discount fares. With the exception of the first-class, the increases are in a lower end of the structure, where the forces of price competition appear to be working.

We are rather disappointed by TWA's judgment that the kind of needed changes in the North Atlantic fares structure we have briefly described stand little chance of success. It knows our historic attitude toward economy fares and their structure—our opposition to a rigid, high fare for on-demand service passengers, and to charging them a premium price for services they do not want. For years the IATA carriers have been trying to raise these fares and for years we have tried to get them down; thus far we have been limited to disapproving increases, so the old IATA levels have continued in effect. It appears that this situation is beginning to change, and carriers will begin to compete for normal-fare traffic by unbundling the various services now included in the price.[9] If there is a serious potential for more competition, present fare levels provide a point of departure every bit as convenient as the proposed ones, and until we have some assurance that there is real price competition in this part of the market, we are not prepared to approve increases in normal economy fares as they exist today.

Accordingly, pursuant to sections 102, 204(a), 403, 801, and 1002(j) of the Federal Aviation Act of 1958, as amended:

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions set forth in the Appendix hereof, and rules and regulations or practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful, and if found to be unlawful, to take appropriate action to prevent the use of such provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, the tariff provisions specified in the attached Appendix are suspended and their use deferred from November 1, 1978, to and including October 31, 1979, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the board;

3. This order shall be submitted to the President [10] and shall become effective on November 1, 1978;

4. The investigation ordered herein be assigned for hearing before an Administrative Law Judge of the Board at a time and place hereafter to be designated;

5. The motion of the Aviation Consumer Action Project, Joanne Yancey, Lawrence J. Halloran, and Joseph J. McGee, to amend their complaint in Docket 33053 is granted;

6. Except to the extent granted herein, the complaint in Docket 33053 is dismissed; and

7. Copies of this order be filed in the aforesaid tariff and be served upon Trans World Airlines, Inc., and counsel for the Aviation Consumer Action Project.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[11]
Secretary.

APPENDIX

INTERNATIONAL LOCAL AND JOINT PASSENGER FARES TARIFF NO. F-9, C.A.B. NO. 37, ISSUED BY TRANS WORLD AIRLINES, INC.

All increased Basic Normal Economy Class Fares except fares between Boston, Massachusetts and Nairobi, Kenya on the following pages:

50th Revised Pages 121 and 122
51st Revised Pages 121 and 122
53d Revised Pages 123 and 124
54th Revised Pages 123 and 124
50th Revised Pages 141 and 142
51st Revised Pages 141 and 142
46th Revised Pages 143
47th Revised Pages 143
47th Revised Pages 144
48th Revised Pages 144
53d Revised Pages 145 and 146
54th Revised Pages 145 and 146
57th Revised Pages 147 and 148
58th Revised Pages 147 and 148
26th Revised Pages 148-A
19th Revised Pages 153

[FR Doc. 78-25754 Filed 9-12-78; 8:45 am]

[5] It is the relative absence of a realistic threat of new entry into the market for on-demand services that is more troublesome than the absolute number of competitors at any one time.

[6] The best way to promote price competition in normal economy fares may be to certificate additional carriers for transatlantic routes, especially those which as part of their applications for new awards offer to establish lower, unboundled, economy fares. The Board has new service under consideration in the *United States-Benelux Low-Fare Proceeding,* and the focus in that proceeding will be on innovative low fares. We will, of course, expect applicant carriers to focus on the level of *all* fare categories in their proposals. But any expansion of competition through this proceeding will directly affect only the Benelux countries, which are a relatively small portion of the total transatlantic market. The greater part of the market will be only affected indirectly; so this proceeding cannot be viewed as a cure-all.

[7] In addition, domestic transcontinental services typically include more "free" amenities than do North Atlantic economy services.

[8] This comparison is between domestic *all year* coach fares and transatlantic *off-peak* economy fares. Peak fares are, of course, higher; and the average transatlantic per mile fare of 10.28 cents for both periods is almost 23 percent above the average for domestic coach.

[9] TWA now participates in lower economy fares that are now in effect between the United States and Italy. We question if even those are truly cost related, considering the availability of lower priced excursion fares which entail essentially identical costs.

[10] This order was submitted to the President on August 28, 1978.

[11] All members concurred.

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

ADVISORY COMMITTEE ON EAST-WEST TRADE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1976), notice is hereby given that a meeting of the Advisory Committee on East-West Trade will be held on Wednesday, September 27, 1978, at 9:30 a.m., in Room 6802, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

The Committee was estalbished on February 11, 1974 to advise the Department, through the Deputy Assistant Secretary for East-West Trade, on ways to further its mission to promote and encourage the orderly expansion of commercial and economic relations between the United States and the communits countries.

The Committee meeting agenda has two parts:

GENERAL SESSION, ROOM 6802

MORNING 9:30 A.M. TO 12:30 P.M.

(1) Summary of recent events in East-West trade by the Deputy Assistant Secretary for East-West Trade.

(2) Film Presentation: "The Price of Freedom and Security" and "There Is No Defense."

(3) Discussion of the preceding films.

(4) Review and comment on upcoming meetings of joint U.S.-East European and Soviet Commercial commissions.

EXECUTIVE SESSION, ROOM 6802

AFTERNOON 2 P.M. TO 4 P.M.

(5) Prospects for U.S.-Soviet trade; the Crawford affair, Dresser Industries case, etc.

The General Session of the meeting will be open to public observation. Approximately 50 seats will be available (including 5 seats reserved for media representatives) on a first-come first-served basis.

A period will be set aside for oral comments or questions by the public which do not exceed 10 minutes each. More extensive questions or comments shold be submitted in writing before September 22, 1978. Other public statements regarding committee affairs may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c).

Copies of minutes of the open portion of the meeting will be available 30 days after the meeting upon written request addressed to the Industry and Trade Administration, Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Gary R. Teske, Committee Control Officer, Office of East-West Policy and Planning, Bureau of East-West Trade, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C 20230, telephone 202-377-2403.

The complete Notice of Determination to close the aforementioned portion of the September 27 meeting of

the Advisory Committee on East-West Trade is hereby published.

KEMPTON B. JENKINS,
Director, Office of Export Administration.

[FR Doc. 78-25755 Filed 9-12-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Export Administration Regulations; Amendment

Pursuant to section 10(a)(1) and 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1976), notice is hereby given that a meeting of the Advisory Committee on Export Administration will be held on Wednesday, September 27, 1978, at 9:30 a.m., in Room 6802, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

The Committee was established on January 3, 1973 to advise the Department on matters pertaining to the regulation of exports.

The Committee meeting agenda has two parts:

GENERAL SESSION, ROOM 6802

MORNING 9:30 A.M. TO 12:30 P.M.

(1) Discussion of the Export Administration Act.

(2) Discussion of the Export Administration Regulations.

(3) Discussion of the Commodity Control List.

(4) Discussion of the Export Control Program.

EXECUTIVE SESSION, ROOM 6802

AFTERNOON 2 P.M. TO 4 P.M.

(5) Discussion of the Export Administration Act.

(6) Discussion of the Export Administration Regulations.

(7) Discussion of the Commodity Control List.

(8) Discussion of the Export Control Program.

The General Session of the meeting will be open to public observation. Approximately 50 seats will be available (including 5 seats reserved for media representatives) on a first-come first-served basis.

A period will be set aside for oral comments or questions by the public which do not exceed 10 minutes each. More extensive questions or comments shold be submitted in writing before September 22, 1978. Other public statements regarding committee affairs may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c).

Copies of minutes of the open portion of the meeting will be available 30 days after the meeting upon written request addressed to the Industry and Trade Administration, Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Gary R. Teske, Committee Control Officer, Office of East-West Policy and Planning, Bureau of East-West Trade, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C 20230, telephone 202-377-2403.

The complete Notice of Determination to close the aforementioned portion of the September 27 meeting of

Data Analysis Center" and substitute: "Defense Manpower and Data Center". In paragraph 4 (four) add at

Back-up files maintained at two offices of the Defense Manpower Data Center, Seventh Floor, 300 North

Authority for maintenance of the system:

10 U.S.C. 136.

Routine uses of records maintained in the

the Advisory Committee on East-West Trade is hereby published.

KEMPTON B. JENKINS,
Deputy Assistant Secretary for East-West Trade.

ADVISORY COMMITTEE ON EAST-WEST TRADE

NOTICE OF DETERMINATION

The Secretary of Commerce, having determined that it is in the public interest in connection with the duties imposed on the Department by law, initially established the Advisory Committee on East-West Trade ("the Committee") on February 11, 1974, pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. (1976 ed.). The Committee, which currently has 21 members, will terminate no later than December 10, 1978, unless renewed by proper authority by appropriate action.

The Committee provides advice on ways to promote, facilitate and coordinate the expansion of two way trade with the Soviet Union, Poland, Hungary, Czechoslovakia, Romania, Bulgaria, the Peoles's Republic of China, and certain other areas of the world with similar economic/political structures, so as to contribute materially to a more positive balance of trade and payments situation.

The Committee may identify and make recommendations concerning current and proposed government policies and programs relating to the promotion and expansion of such trade; advise on the development of future government plans and actions directed at promoting and increasing such trade and improving trading relations; advise on ways U.S. firms could enter this trade or expand existing trade programs and activities; advise on problems encountered by U.S. business in pursuing such trade and recommend solutions; and provide a forum for business, the academic community and government to discuss problems and issues in the field of East-West trade.

The Committee's activities are conducted pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976 ed.), and Office of Management and Budget Circular A-63 (Revised), Advisory Committee Management, effective May 1, 1974. Section 10 of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, provides, among other things, that the meetings of advisory committees are to be open to the public, and to public participation, unless the President, or the head of the agency to which the advisory committee reports, determines that such meetings or portions thereof may be closed to the public in accordance with 5 U.S.C. 552b(c).

On September 7, 1977, the Assistant Secretary for Administration determinded that a one-hour portion of the September 28, 1977 meeting of the Advisory Committee on East-West Trade could be closed to the public, because Committee discussions concerned matters listed in 5 U.S.C. 552b(c)(9)(B). Such discussions addressed the progress by the U.S.S.R. and other East European countries toward implementation of the economic and commercial (Basket II) provisions of the Helsinki Final Act. Advice and information received from the Committee at this meeting was used to formulate and implement an effective U.S. Government negotiation at the October, 1977 Belgrade Conference on Security and Cooperation in Europe.

5 U.S.C. 552b(c)(9)(B) provides that agency meetings or portions thereof may be closed to the public where they are likely to disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. In order to provide advice to the Department under terms of its charter, on September 27, 1978 from 2 p.m to 4 p.m. the Committee will discuss future U.S. Government actions regarding U.S.-Soviet trade in light of the recent arrest of a U.S. businessman in Moscow and recent imposition of validated licensing controls on exports to the U.S.S.R. of commodities utilized in the exploration or production of petroleum or natural gas. Advice and information received from the Committee at this meeting will subsequently be used by the Government in the formulation and implementation of policy on these issues. Public disclosure of information and advice furnished by the Committee could thwart the formulation and implementation of effective U.S. Government actions on these matters. In addition, knowledge that attributed information provided by the Committee would be disclosed would inhibit frank discussions of such issues by committee members at the September 27 meeting. All remaining portions of the meeting will be open to the public.

Accordingly, I hereby determine, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the portion of the Committee meeting scheduled from 2 p.m. to 4 p.m. on September 27, 1978, which will address matters discussed in the preceding paragraph, shall be exempt from the provisions of section 10 (a)(1) and (a)(3) relating to open meetings and public participation therein, because the aforementioned Committee discussions will be concerned with matters listed in 5 U.S.C. 552b(c)(9)(B). Remaining portion of the meeting will be open to the public.

Dated: September 8, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration.

Dated: September 7, 1978.

DANIEL GARBERN,
Acting Assistant General Counsel for Administration.

[FR Doc. 78-25899 Filed 9-12-78; 8:45 am]

[3620-01]

DEPARTMENT OF DEFENSE

Defense Logistics Agency

PRIVACY ACT OF 1974

Amendments to o System of Records

AGENCY: Defense Logistics Agency; DLA.

ACTION: Notice of amendments to a system of records.

SUMMARY: The Defense Logistics Agency proposes to amend a record system subject to the Privacy Act of 1974. The specific changes to the system being amended are set forth below followed by the system published in its entirety as amended.

DATES: This system shall be amended as proposed without further notice on October 13, 1978, unless comments are received on or before October 13, 1978, which would result in a contrary determination and require republication for further comments.

ADDRESS: Any public comments, including written data, views, or arguments concerning the amendment should be addressed to the System Manager identified in the record system.

FOR FURTHER INFORMATION CONTACT:

Mr. Kenneth C. Scheflen, Defense Manpower Data Center, 300 North Washington Street, Alexandria, Va. 22314, 202-325-0490.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency systems of records notices inventory subject to the Privacy Act of 1974 (5 U.S.C. 552a) Pub. L. 93-579 have been published to date in the FEDERAL REGISTER as follows:

FR Doc. 77-28255 (42 FR 51388) September 28, 1977.
FR Doc. 78-1466 (43 FR 2753) January 19, 1978.

The proposed amendment is not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of a new or altered system report.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.
September 7, 1978.

AMENDMENTS

S322.10DLA-LZ

System name:

MARDAC Data Base (43 FR 2753) January 19, 1978.

Changes:

System name: Delete: "MARDAC" and substitute: "Defense Manpower Data Center".

System location: Delete: "DOD Manpower Research and Data Analysis Center" and substitute: "Defense Manpower Data Center".

Categories of individuals covered by the system: Delete: "reservist" and substitute: "military". Add at the end: "individuals responding to recruiting Advertisements since January 1978".

Categories of records in the system: Add at the end: ", military hospitalization records."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete: "Manpower Research and Data Analysis Center" and substitute: "Defense Manpower and Data Center". In paragraph 4 (four) add at the end: ", and to validate eligibility for VA benefits." At the end of the Routine uses add the following: "Information on the name, rank; social security accounting number, duty station, birth date, retirement date, and retirement annuity may be disclosed to the Department of Health, Education, and Welfare (DHEW) for the following purposes: "To the Office of Education, DHEW, for the purpose of identifying individuals who appear to be in default on their guaranteed student loans so as to permit the DHEW to take action, where appropriate, to accelerate recoveries of defaulted loans." "To the Bureau of Supplemental Security Income, Social Security Administration, DHEW, in order to verify and adjust as necessary payments made to active and retired military members under the Supplemental Security Income Program." "To the Office of the Inspector General, DHEW, for the purpose of identifying and investigating DOD employees (military and civilian) who may be improperly receiving funds under the Aid to Families with dependent children (AFDC) program."

System manager(s) and address: Delete: "Director, Department of Defense Manpower Research and Data Analysis Center (MARDAC)" and substitute: "Deputy Chief, Defense Manpower Data Center (DMDC)".

Notification procedures: Delete: "Director, Department of Defense Manpower Research and Data Analysis Center" and substitute: "Deputy Chief, Defense Manpower Data Center".

Record access procedures: Delete: "Director, MARDAC" and substitute: "Deputy Chief, DMDC".

Record source categories: Add at end: ", the Civil Service Commission."

S322.10DLA-LZ

System name:

Defense Manpower Data Center Data Base.

System location:

Primary location: W. R. Church Computer Center, Navy Postgraduate School, Monterey, Calif. 93940.

Back-up locations for processing: Air Force Data Services Center, Room 1D167, The Pentagon, Washington, D.C. 20330.

U.S. Army Management Systems Support Agency, Room BD972, The Pentagon, Washington, D.C. 20310.

National Military Command Systems Support Center, Room BE685, The Pentagon, Washington, D.C. 20331.

Back-up files maintained at two offices of the Defense Manpower Data Center, Seventh Floor, 300 North Washington Street, Alexandria, Va. 22314 and Second Floor, 550 Camino El Estero, Monterey, Calif. 93940.

Selected historic files are maintained at Air Force Data Services Center, Room 1D167, The Pentagon, Washington, D.C., pursuant to court order in IBM antitrust case. These files will be withdrawn from current location when legally permissible.

Decentralized segments—military personnel centers of the services; selected civilian contractors with research contracts in manpower area; other Federal agencies.

Categories of individuals covered by the system:

All officers and enlisted personnel who served on active duty from July 1, 1968 and later; or who have been a member of a reserve component since July 1975; or are retired military; participants in project 100,000 and project transition and the evaluation control groups for these programs; all individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examinating Station from July 1, 1970, and later; DOD civilian employees or civilian employees separated since January 1, 1971; all veterans who have utilized Vietnam-era GI bill education and training entitlements, who visited a state employment service office since July 1, 1971, or who participated in a department of Labor special training program since July 1, 1971; all individuals who ever participated in an educational program sponsored by the U.S. Armed Forces Institute, all individuals who participate in the Armed Forces vocational aptitude testing programs at the high school level since September 1969, individuals who responded to various paid advertising campaigns seeking enlistment information since July 1, 1973; participants in the DHEW, Office of Education and Longitudinal Survey, individuals responding to Recruiting Advertisements since January 1978.

Categories of records in the system:

Name, service number, selective service number, social security account number, demographic information such as hometown, age, sex, race, and educational level; civilian occupational information, military personnel information such as rank, length of service, military occupation; aptitude scores, postservice education, training, and employment information for veterans; participation in various inservice education and training programs, military hospitalization records.

Authority for maintenance of the system:

10 U.S.C. 136.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of the system of records is to provide a longitudinal statistical analysis capability for assessing military manpower trends and evaluation programs impacting of military personnel, potential enlistees, and veterans.

Defense Manpower Data Center—used to analyze accession patterns and trends, promotion and occupation patterns and trends, loss patterns and trends, qualification rates, effectiveness of recruiting programs, participation in education and training programs, force characteristics, postservice experiences of veterans, evaluation of military special pays and bonuses; evaluation of special programs affecting military personnel; to select sample population for surveys; to provide statistical data to OMB, GAO, the military services, DOD civilian contractors, educational institutions and other Federal agencies.

Personnel research and personnel management activities of the military services—uses are same as those specified above.

Veterans' Administration, Management Sciences Staff, Reports and Statistics Service, Office of the Comptroller—used to select sample for surveys asking veterans about the use of veterans benefits and satisfaction with VA services, and to validate eligibility for VA benefits.

Office of Research and Statistics, Social Security Administration—used for statistical analyses of impact of military service and use of GI bill benefits on long term earning.

DOD civilian contractors—used by contractors performing research on manpower problems for statistical analyses.

Aggregate data and/or individual records in the record system may be transferred to other Federal agencies having legitimate use for such information and applying appropriate safeguards to protect data so provided.

Records may be disclosed to the Civil Service Commission concerning pay, benefits, retirement deductions; and other information necessary for the Commission to carry out its governmentwide personnel management functions.

Any record contained in the system of records may be transferred to any other component of the Department of Defense having the need-to-know in the performance of official business.

Name and address information of former military personnel obtained from the Veterans' Administration or the military department may be re-

leased to a number of DOD components for use in attempting to recruit and reenlist prior service personnel and only properly cleared and authorized personnel have access.

The Air force Data Services Center,

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) will con-

Following review by Federal Energy Regulatory Commission (FERC) of the "Findings," we issued an environmental assessment of the proposed ex-

ficial will announce any additional procedures necessary at the opening of the conference.

We will prohibit any company-spe-

ity is provided under the Agreement as stated by AP&L. AP&L states that any energy not returned by AP&L to SWPA will be purchased by AP&L

V 43 / 178

leased to a number of DOD components for use in attempting to recruit and reenlist prior service personnel through direct contact methods. These components are as follows: U.S. Army Recruiting Command; U.S. Army Forces Command; Navy Recruiting Command; Chief of Naval Personnel; Chief of Naval Reserve; U.S. Air Force Recruiting Service; U.S. Air Force Tactical Air Command; Headquarters Air Force Reserve; National Guard Bureau; Headquarters, U.S. Marine Corps; District Directors, U.S. Marine Corps; Commanding General 4th Marine Division; Commanding General, 4th Marine Air Wing; Commandant, U.S. Coast Guard.

Information on the name, rank, social security accounting number, duty station, birth date, retirement date, and retirement annuity may be disclosed to the Department of Health, Education, and Welfare (DHEW) for the following purposes:

To the Office of Education, DHEW, for the purpose of identifying individuals who appear to be in default on their guaranteed student loans so as to permit the DHEW to take action, where appropriate, to accelerate recoveries of defaulted loans.

To the Bureau of Supplemental Security Income, Social Security Administration, DHEW, in order to verify and adjust as necessary payments made to active and retired military members under the supplemental security income program.

To the Office of the Inspector General, DHEW, for the purpose of identifying and investigating DOD employees (military and civilian) who may be improperly receiving funds under the aid for families of dependent children program.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic computer tape.

Retrievability:

Retrievable by name, SSAN, age, occupation, or any other data element contained in system.

Safeguards:

Primary location—at W. R. Church Computer Center, tapes are stored in a locked cage in machine room, which is a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate seurity code is provided.

At back-up locations in Alexandria, Va. and Monterey, Calif. tapes are stored in rooms protected with cypher locks, buildings are locked after hours, and only properly cleared and authorized personnel have access.

The Air force Data Services Center, the U.S. Army Management Systems Support Agency, and the National Command Systems Support Center are all TOP SECRET facilities.

Retention and disposal:

Files constitute a historical data base and are permanent.

System manager(s) and address:

Deputy Chief, Defense Manpower Data Center (DMDC), 550 Camino El Estero, Monterey, Calif. 93940.

Notification procedure:

Information may be obtained from: Deputy Chief, Defense Manpower Data Center, 550 Camino El Estero, Monterey, Calif. 93940 telephone area code 408-646-2951.

Record access procedures:

Requests from individuals should be addressed to Deputy Chief, Defense Manpower Data Center (DMDC), 550 El Estero, Monterey, Calif. 93940.

Written requests for information should contain the full name, social security account number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as drivers license, or military or other ID card.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSTEM MANAGER.

Record source categories:

The Military Services, the Veterans' Administration, the Office of Education of the Department of HEW, from individuals via survey questionnaires, the Department of Labor, the Civil Service Cimmission.

Systems exempted from certain provisions of the act:

None.

[FR Doc. 78-25678 Filed 9-12-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

1980 GASOLINE DEMAND

Conference

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of conference.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) will conduct a conference on Friday, September 22, 1978, at 9 a.m., to explore the capability of the U.S. refining industry to meet forecast gasoline demand in 1980. This conference is a followup to the conference held on August 17, 1978, attended by 17 large refiners. Representatives of all motor gasoline refining companies which did not attend the August 17, 1978, conference are invited to attend. The other conferees will consist of representatives of the DOE and the Environmental Protection Agency (EPA). The public may attend to observe.

DATES: Conference Date: September 22, 1978, 9 a.m.

ADDRESSES: Invitees planning to participate should advise public hearing management in writing on or before September 19, 1978, Box VN, Economic Regulatory Administration, 2000 M Street NW., Room 2313, Washington, D.C. 20461.

CONFERENCE LOCATION: Forrestal Building Auditorium, Forrestal Building, Room GE—086, 1000 Independence Avenue SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Gerald P. Emmer (Regulations and Emergency Planning), 2000 M Street NW., Room 2304, Washington, D.C. 20461, 202-254-7200.

Alan T. Lockard (Fuels Regulation), 2000 M Street NW., Room 6222, Washington, D.C. 20461, 202-254-7422.

Robert C. Gillette (Hearing Procedures), 2000 M Street NW., Room 2214, Washington, D.C. 20461, 202-254-5201.

Michael Paige (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 5136A, Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION:

I. Background
II. Subject of Conference
III. Conduct of Conference

I. Background

In September 1977, the Federal Energy Administration issued "Findings and Views Concerning the Exemption of Motor Gasoline from Mandatory Petroleum Allocation and Price Regulations" ("Findings"), following a comment period and public hearing on preliminary findings which had been issued earlier. The "Findings" contained forecasts for 1978 and 1979 which revealed that motor gasoline supply and demand would likely be in balance in that period.

Following review by Federal Energy Regulatory Commission (FERC) of the "Findings," we issued an environmental assessment of the proposed exemption (EA) on June 28, 1978, accompanied by a "Supplement to the September 1977 Report" ("Supplement") that had been prepared in May 1978. The "Supplement" provided more recent supply and demand historical data than the "Findings" and updated our best estimates of the supply/demand balance for 1979. It did not extend the forecast in the "Findings" to 1980, however, because we were not yet satisfied that our supply projections for 1980 were valid.

II. Subject of the Conference

As indicated in our May 1978 "Supplement," we expect that the combination of domestic gasoline production and gasoline imports should be adequate to meet anticipated demand through 1979. The Energy Information Administration (EIA) has prepared preliminary analyses for 1980 based upon alternate assumptions as to economic growth. These analyses assume that the EPA's lead phasedown and MMT phaseout schedules will remain unchanged. In this analysis potential gasoline manufacturing quantity and quality depend heavily upon refinery downstream processing capability; such capability is essential for improving clear-pool octane and producing adequate volumes of gasoline under the EPA requirements. There are, however, several other factors which also bear upon the refining industry's ability to meet forecast gasoline demand in 1980. In view of our uncertainties as to DOE analyses to date, a conference to which seventeen largest refiners were invited was held on August 17, 1978, concerning the 1980 supply-demand outlook and those refiners' plans to meet 1980 gasoline demand. This conference has been scheduled as a followup to the August 17, 1978, conference to provide information to all other refiners of motor gasoline about DOE's 1980 projections and how these projections were developed. refiner attendees will have an opportunity to comment on DOE 1980 projections, and on any factor which they believe will bear significantly on the 1980 supply-demand picture, including their plans to add gasoline production facilities.

III. Conduct of Conference

Generally, the conference will be conducted in accordance with 10 CFR 205, subpart M. The conference will be presided over by a senior official of DOE. Only invited government and industry representatives may actively participate, but anyone may attend to observe. A transcript of the conference will be prepared, and the presiding official will announce any additional procedures necessary at the opening of the conference.

We will prohibit any company-specific discussion of production, marketing or pricing, but specific disucssion of aggregate data and information will be permitted. Any participant who believes that the discussion poses an antitrust risk may leave and ask that the record note that fact. Representatives of the Department of Justice and/or DOE's Office of General Counsel will be in attendance.

Issued in Washington, D.C., September 7, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

[FR Doc. 78-25702 Filed 9-12-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RI76-28]

ARKANSAS LOUISIANA GAS CO. V. FRANK J. HALL, ET AL.

Extension of Time

SEPTEMBER 5, 1978.

On August 30, 1978, Commission Staff Counsel filed a motion for an extension of time within which to file reply briefs pursuant to the Commission's Order issued August 9, 1978, in the above-designated proceeding.

Upon consideration, notice is hereby given that the time within which to file reply briefs in the above-designated proceeding is extended to and including September 15, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25773 Filed 9-12-78; 8:45 am]

[6740-02]

[Docket No. ER78-585]

ARKANSAS POWER & LIGHT CO.

Filing of Letter Agreement

SEPTEMBER 6, 1978.

Take notice that on August 29, 1978, Arkansas Power & Light Co. (AP&L) tendered for filing a Letter Agreement dated June 27, 1978 between the Southwestern Power Administration (SWPA) and AP&L. AP&L states that the Agreement provides for the exchange of energy between AP&L and SWPA for the period between 12:01 p.m. June 27, 1978 and 11:59 p.m. September 15, 1979. AP&L states that energy will be exchanged between AP&L and SWPA on a kilowatt-hour for kilowatt-hour basis. No firm capacity is provided under the Agreement as stated by AP&L. AP&L states that any energy not returned by AP&L to SWPA will be purchased by AP&L from SWPA at rate equal to the average cost of fuel per kilowatt-hour of generation at AP&L owned generating units during the months hydroelectric energy was furnished by SWPA to AP&L. AP&L requests an effective date of 12:01 p.m., June 27, 1978. AP&L requests waiver of the Commission's notice requirement. AP&L states that due to difficulty of estimating hydroelectric generation due to water conditions, no billing data was filed.

A copy of the filing has been mailed to SWPA, according to AP&L.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25785 Filed 9-12-78; 8:45 am]

[6740-02]

[Docket No. ER-586]

ARKANSAS POWER & LIGHT CO.

Proposed Sale of Additional Capacity and Energy

SEPTEMBER 6, 1978

Take notice that on August 29, 1978 Arkansas Power & Light Co. (AP&L) tendered for filing a Letter Agreement between AP&L and Arkansas Electric Coopertive Corp. (AECC) for the sale of additional capacity and energy as provided for in the parties' Agreement for Electric Service dated July 26, 1977 and filed with this Commission in Docket No. ER77-535.

AP&L indicates that because of the inadequacy of AECC's resources to meet AECC loads during the period beginning June 1, 1978 and ending June 30, 1978, AECC requested and AP&L supplied certain amounts provided under the July 26, 1977 Agreement. AP&L states that the rate charged will be that contained in Ap-

SEP 13 1978

pendix B of the July 26, 1977 Agreement.

The proposed effective date is the date on which service commenced, June 1, 1978, and waiver of the Commission's notice requirements is therefore requested.

AP&L states that a copy of the filing was served on Arkansas Electric Cooperative Corp.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25786 Filed 9-12-78; 8:45 am]

[6740-02]

[Docket Nos. RP78-51, RP72-122 (PGA78-3) and RM77-14]

COLORADO INTERSTATE GAS CO.

Revised Rate Increase Filings

SEPTEMBER 6, 1978.

Take notice that Colorado Interstate Gas Co. (CIG) on August 31, 1978, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1 and Third Revised Volume No. 2.

The purpose of the filing is to comply with the directive stated in Paragraph (C) of the Commission's Order of May 1, 1978, requiring CIG to eliminate from Docket No. RP78-51 all costs associated with facilities which have not been certificated and placed in service by October 1, 1978. As a result of this filing, the jurisdictional cost of service in Docket No. RP78-51 will be reduced approximately $1.9 million.

Replacement Twenty-First Revised Sheet Nos. 5 and 6 are proposed to be substituted for and to replace Twenty-First Revised Sheet Nos. 5 and 6 as filed with the Commission on March 31, 1978, in Docket No. RP78-51 and suspended by the Commission until October 1, 1978, in its Order issued May 1, 1978. Replacement Substitute Twenty-First Revised Sheet Nos. 5 and 6 reflect the increase in gas purchased costs which CIG filed for in Docket No. RP72-122 (PGA 78-3) as applied to the adjusted Docket No. RP78-51 base tariff rates proposed herein. CIG requested that the Replacement Substitute Twenty-First Revised Sheet Nos. 5 and 6 be made effective as of October 1, 1978, the date previously provided for in Docket No. RP78-51.

Replacement Second Revised Sheets Nos. 198 and 262 and First Revised Sheet No. 341 reflecting the adjusted transportation rates contained in Rate Schedules X-60, X-66, and X-72 were also tendered for filing with a requested effective date of October 1, 1978.

By its filing, CIG also proposed to withdraw tariff sheets previously filed by it to be effective October 1, 1978. Such tariff sheets (First Revised Sheet No. 67B and Original Sheet No. 67C) would have instituted a "Gas Research Institute (GRI) Charge Adjustment Provision" in CIG's FPC Gas Tariff. CIG avers that the withdrawal of these tariff sheets is necessary because certain customers have not yet received appropriate State authority to pass through GRI charges from CIG.

Copies of this filing have been served upon the Company's jurisdictional customers and upon interested bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before *September 15, 1978.* Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25787 Filed 9-12-78; 8:45 am]

[6740-02]

[Docket No. ER78-576]

CONNECTICUT LIGHT & POWER CO.

Filing

SEPTEMBER 5, 1978.

Take notice that on August 24, 1978, The Connecticut Light & Power Co. (CL&P) tendered for filing a proposed Amendment to Transmission Agreement (Amendment) dated July 14, 1978 between (1) CL&P, the Hartford Electric Light Co. (HELCO) and Western Massachusetts Electric Co. (WMECP), and (2) Taunton Municipal Light Plant (Taunton).

CL&P states that Taunton has executed contracts with Green Mountain Power Corp. ("GMP") of Burlington, Vt., for the purchase of power from GMP's entitlement in Vermont Yankee nuclear generating facility in the amount of 5,000 kW for the period November 1, 1976 to November 30, 1978, and 5,000 kW for the period April 1, 1979 to November 30, 1979.

CL&P further states that the Amendment provides for an extension of the termination date of the Transmission Agreement from October 31, 1978 to November 30, 1979.

CL&P requests that the Commission permit the Amendment filed to become effective November 1, 1978.

CL&P indicates that the monthly transmission charge is equal to one-twelfth of the estimated annual cost of transmission service on the Northeast Utilities system determined in accordance with § 13.9 (Determination of Amount of the Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee multiplied by the number of kilowatts of winter capability which Taunton is entitled to receive, reduced to give due recognition of the payments made by Taunton for transmission services on the systems of Public Service Co. of New Hampshire and Eastern Utilities Associates.

Copies of this rate schedule have been mailed or delivered to HELCO, WMECO, and Taunton, according to CL&P.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 25, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25776 Filed 9-12-78; 8:45 am]

[6740-02]

[Docket No. ER78-592]

DAYTON POWER & LIGHT CO.

Filing

SEPTEMBER 6, 1978.

Take notice that on August 11, 1978, the Dayton Power & Light Co. (DP&L) tendered for filing Second Revised Sheet No. 10, superseding First Revised Sheet No. 10, to its FERC Electric Tariff, Original Volume No. 1, that incorporates language changes to the provision insuring proper synchronous operation with other power supply systems in the event of interconnection through the electric systems of DP&L's municipal electric customers.

Any person desiring to be heard or to make any protest with reference to said application, on or before September 15, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25793 Filed 9-12-78; 8:45 am]

[6740-02]

[Project No. 2232]

DUKE POWER CO.

Application for Change in Land Rights

SEPTEMBER 1, 1978.

Public Notice is hereby given that application for approval of a change in land rights of project lands (Catawba-Wateree Project No. 2232) was filed on March 23, 1978, by Duke Power Co. (Duke) (correspondence to: John E. Lansche, Assistant General Counsel, Duke Power Co., Box 2178, Charlotte, N.C. 28242).

The lands that are the subject of this application are located in Chester and Lancaster Counties, S.C., and are on the Catawba River, a navigable water of the United States.

Applicant proposes to grant permission to Carolina Pipeline Co., Inc. (Carolina) of Columbia, S.C. to construct, operate, and maintain an underground 6⅝-inch gas pipeline.

The proposed pipeline would fall within the boundaries of Project No. 2232 and pass beneath the Catawba River within an existing right-of-way, which at present contains two 8⅝-inch gas pipelines owned by Carolina.[1]

The proposed pipeline would be placed parallel to and approximately 50 feet away from the existing pipelines, at a minimum of 48 inches below the river bed, and backfilled.

The U.S. Army Corps of Engineers and the South Carolina Budget and Control Board have issued permits to Carolina for the proposed construction.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before October 12, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25774 Filed 9-12-78; 8:45 am]

[6740-02]

[Project No. 2845]

IDAHO POWER CO.

Application for Preliminary Permit

SEPTEMBER 6, 1978.

Take notice that on March 30, 1978, Idaho Power Co. (correspondence to: Idaho Power Co., P.O. Box 70, Boise, Idaho 83721, and Lee S. Sherline, Leighton & Sherline, Suite 406, 1701 K Street NW., Washington, D.C. 20006) filed an application for a 36 month preliminary permit with the Federal Energy Regulatory Commission for the proposed A. J. Wiley Hydroelectric Project, FERC No. 2845, to be located on the Snake River in the counties of Gooding and Twin Falls.

The proposed run-of-the-river project would have an installed capacity of 75,000 kW, and would consist of an impervious core earth dam across the Snake River. The project would be located near the town of Bliss, Idaho. The dam would be of sufficient height to provide an effective head of approximately 79 feet, backing water up the Snake River approximately 8 miles. The dam would impound a reservoir with an estimated surface area of 600 acres, at an approximate elevation of 2,735 feet. A powerhouse containing semi-outdoor-type generator units, with adjacent step-up transformers and switching structures would be located below the dam. A transmission line would connect the powerhouse to one of the Applicant's three transmission lines passing within 3 miles of the project site.

The Applicant proposes to integrate the project energy into its interconnected transmission system for sale to its Idaho, Oregon, Nevada, and Wyoming customers.

A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, market for the power, and all other necessary information for inclusion in an application for license.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determing the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before November 6, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 78-25788 Filed 9-12-78; 8:45 am]

[1] License was issued by the Federal Power Commission for Project No. 2232 on Sept 17, 1958. On Feb. 10, 1958, Duke Power Co. granted to Carolina Pipeline Co. as easement and right-of-way, 200 ft wide and approximately 540 ft long between the project boundaries on each side of the river. Neither the construction of the existing gas pipelines nor the granting of the original easement and right-of-way has been approved by the Commission or its predecessor, the Federal Power Commission.

[6740-02]

[Project No. 2846]

IDAHO POWER CO.

Application for Preliminary Permit

SEPTEMBER 6, 1978.

Take notice that on March 30, 1978, Idaho Power Co. (correspondence to: Idaho Power Co., P.O. Box 70, Boise, Idaho 83721, and Lee S. Sherline, Leighton & Sherline, Suite 406, 1701 K Street NW., Washington, D.C. 20006), filed an application for a 36 month preliminary permit with the Federal Energy Regulatory Commission for the proposed Dike Hydroelectric Project, FERC Project No. 2846, to be located on the Snake River in the county of Elmore, Idaho.

The proposed run-of-the-river project would have an installed capacity of 50,000 kW, and would consist of an impervious core earth dam across the Snake River. The project would be located approximately 5 miles southeast of King Hill, Idaho. The dam would be of sufficient height to provide an effective head of approximately 55 feet, backing water up the Snake River approximately 7 miles to the Applicant's Bliss Hydroelectric Project No. 1975. The dam would impound a reservoir with an estimated surface area of 475 acres, at an approximate elevation of 2,585 feet. A powerhouse containing semi-outdoor type generator units with adjacent step-up transformers and switching structures, would be located below the dam. A transmission line would connect the powerhouse to one of the Applicant's three transmission lines passing within 3 miles of the project site.

The Applicant proposes to integrate the project energy into its interconnected transmission system for sale to its Idaho, Oregon, Nevada, and Wyoming customers.

A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, market for the power, and all other necessary information for inclusion in an application for license.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before November 6, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25789 Filed 9-12-78; 8:45 am]

[6740-02]

[Docket No. ER78-589]

IDAHO POWER CO.

Proposed Tariff Change

SEPTEMBER 6, 1978.

Take notice that the Idaho Power Co., on August 29, 1978, tendered for filing proposed changes in its FERC Electric Service Tariff, Volume 1. Because the tariff covers sales for resale of nonfirm energy, and the amount of such nonfirm energy which can be made available for sale is unknown, it is impossible to determine whether the proposed changes would result in any increase in the Company's revenues, according to the Company.

The proposed change in rates is to provide the Company with reasonable compensation for current costs of hydro and thermal generation, according to the Company.

Copies of the filing were served upon those utilities known to the Company to be interested in purchasing nonfirm energy from the Idaho Power Co. and the Idaho Public Utilities Commission, Boise, Idaho; the Public Utility Commissioner of Oregon, Salem, Oreg.; and the Public Service Commission of Nevada, Carson City, Nev.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 15, 1978. Protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25790 Filed 9-12-78; 8:45 am]

[6740-02]

[Docket No. ER78-583]

MISSISSIPPI POWER & LIGHT CO.

Transmission Service Agreement

SEPTEMBER 6, 1978.

Take notice that on August 28, 1978, Mississippi Power & Light Co. (MP&L) tendered for filing an unexecuted bulk power transmission service agreement (Service Schedule E) between it and the City of Clarksdale (City), Miss., dated August 25, 1978, as a supplement to the Interconnection Agreement between the City and Mississippi Power & Light Co. dated February 13, 1976.

MP&L requests waiver of § 35.11 of the Commission's Regulations requiring thirty (30) days notice in order that transmission service may be available immediately to the City of Clarksdale.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25791 Filed 9-12-78; 8:45 am]

[6740-02]

[Docket No. ER78-584]

MISSISSIPPI POWER & LIGHT CO.

Transmission Service Agreement

SEPTEMBER 6, 1978.

Take notice that on August 28, 1978, Mississippi Power & Light Co. (MP&L) tendered for filing an unexecuted bulk power transmission service agreement (Service Schedule E) between it and the Greenwood Utilities Commission, Greenwood, Miss., dated August 25, 1978, as a supplement to the Interconnection Agreement between Greenwood and Mississippi Power & Light Co. dated September 19, 1975.

MP&L requests waiver of § 35.11 of the Commission's Regulations requiring thirty (30) days notice in order that transmission service may be available immediately to the Greenwood Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25792 Filed 9-12-78; 8:45 am]

[6740-02]

[Docket No. RP 76-89]

NORTHERN NATURAL GAS CO.

Accepting Briefs on Exceptions Out of Time and Granting Further Extension of Time

SEPTEMBER 1, 1978.

On August 30, 1978, Staff Counsel filed a motion for leave to file its Brief On Exceptions out of time and a request to further extend the time for filing Briefs Opposing Exception to the Administrative Law Judge's Initial Decision issued June 22, 1978, in the above-indicated proceeding. The motion states the reason for filing its Brief On Exceptions late was because of active participation in several other proceedings and assisting in the analysis of the proposed Natural Gas Policy Act of 1978. The motion also states that Counsel for the South Dakota Public Utilities Commission does not oppose the requested extension of Briefs Opposing Exceptions.

Upon consideration, notice is hereby given that Staff Counsel's Brief On Exceptions is accepted out of time and the time for filing Briefs Opposing Exception to the Initial Decision is further extended to and including September 15, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25775 Filed 9-12-78; 8:45 am]

[3128-01]

Office of Intergovernmental and Institutional Relations

STATUS REPORT ON SOLAR ENERGY DOMESTIC POLICY REVIEW

Public Availability

AGENCY: Department of Energy.

ACTION: Notice of Public Availability of "Status Report on Solar Energy Domestic Policy Review"

SUMMARY: The Department of Energy announces the availabilty of the "Status Report on Solar Energy Domestic Policy Review" for public review and comment. A final report will be sent to the President by the (Domestic Policy Review) (DPR) Task Force and the Solar Energy Policy Committee. A summary of the comments received concerning the Status Report will also be included as an attachment to this final report.

DATE: Written comments are invited for consideration, if submitted not later than September 21, 1978.

ADDRESSES: Written comments should be submitted to: Dr. Allan Hoffman, Chairman, Domestic Policy Review Integration Group, Room GB-145, Forrestal Building, Washington, D.C. 20585, telephone 202-252-6025.

Any inquiries should be directed to Dr. Hoffman or to Mr. James Madewell, Domestic Policy Review Executive Coordinator; telephone 202-252-6086.

Members of the public may obtain a copy of the document at the DOE National Office, by request in writing or by telephone to:

Department of Energy, Office of Consumer Affairs, Room 8G-066, Forrestal Building, 1000 Independence Avenue SW, Washington, D.C. 20585, Attn: IR-331, telephone 202-252-5877.

Copies also may be reviewed by members of the public during normal business hours at the DOE Regional Offices listed below:

DOE-Region I, 150 Causeway Street, Boston, Mass. 02114, telephone 617-223-0504.
DOE-Region II, 26 Federal Plaza, New York, N.Y. 10007, telephone 212-264-0520.
DOE-Region III, 1421 Cherry Street, Philadelphia, Pa. 19102, telephone 215-597-3880.
DOE-Region IV, 1655 Peachtree Street NE. Atlanta, Ga. 30309, telephone 404-257-2837.
DOE-Region V, 175 West Jackson Boulevard, Chicago, Ill. 60604, telephone 312-353-0540.
DOE-Region VI, 2626 West Mockingbird Lane, Dallas, Tex. 75235, telephone 214-749-7621.
DOE-Region VII, 324 East 11th Street, Kansas City, Mo. 64106, telephone 816-374-2061.
DOE-Region VIII, 1075 South Yukon Street, Denver, Colo. 80226, telephone 303-234-2420.
DOE-Region IX, 111 Pine Street, San Francisco, Calif. 94111, telephone 415-556-7130.
DOE-Region X, 1992 Federal Building, 915 Second Avenue, Seattle, Wash. 98174, telephone 206-399-7285.

FOR FURTHER INFORMATION CONTACT:

Dr. Karl Conrad or Ms. Liz Overstreet, Department of Energy, Office of Consumer Affairs, Room 8G-066, Forrestal Building, Washington, D.C. 20585, telephone 202-252-5877.

Issued in Washington, D.C., on September 11, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-25852 Filed 9-11-78; 11:12 am]

[3128-01]

Western Area Power Administration

MARKETING POWER FROM THE NAVAJO PROJECT

Public Meetings

AGENCY: Western Area Power Administration (WAPA), Department of Energy.

ACTION: Announcement of public meetings concerning marketing power from the Navajo Project, Page, Ariz.

SUMMARY: The Bureau of Reclamation has acquired a 24.3 percent interest (about 560 MW) in the Navajo steam generating plant near Page, Ariz., to provide power from pumping water for the Central Arizona Project (CAP). Power and energy surplus to the needs of the project is marketed by WAPA. The plant began operation in 1975. Pumping requirements are currently scheduled to begin in about 1985. Power is currently marketed to the other particiipants in the power plant and to a private power company under interim agreements which can be terminated on 5 years' notice.

WAPA is in the process of investigating various plans for marketing this surplus Navajo power and energy, upon termination of the interim sales agreements, including possible integration with other Federal resources. It is proposed to hold public meetings to obtain public participation in the marketing considerations.

DATES: Meetings have been scheduled at the times and locations noted below to obtain public participation in a discussion of the marketing of Navajo Project power, including the possible integration of Navajo thermal power with Federal hydroelectric resources on the Colorado River.

September 19, 1978, 9 a.m.: Phoenix Civic Plaza, room: N10, 225 East Adams, Phoenix, Ariz.

September 20, 1978: Hotel Utah, Room: Bonneville Hall 2 and 3 Main at South Temple Streets, Salt Lake City, Utah, telephone 801-531-1000.

September 21, 1978, 9 a.m.: Stouffer's Denver Inn, Room: Centennial Square A, 3203 Quebec Street, Denver, Colo., telephone 303-321-3333.

Three cities have been selected to provide an opportunity to all interested persons to participate in a conveniently located meeting.

ADDRESSES: Five copies of any written comments should be submitted before October 16, 1978, to the Administrator, Western Area Power Administration, P.O. Box 3402, Golden, Colo. 80401. Five copies should also be submitted to the Assistant Secretary for Resource Applications, U.S. Department of Energy, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Oisen, Area Manager, Boulder City Area Office, Western Area Power Administration, Department of Energy, P.O. Box 200, Boulder City, Nev. 89005, 702-293-8475.

BACKGROUND INFORMATION: The United States, acting through the Department of the Interior, is a participant in the Navajo Project, a thermal generating powerplant near Page, Ariz., with appurtenant transmission facilities. The United States is participating in the Navajo Project to obtain electrical power and energy to supply the power requirements of the Central Arizona Project (CAP) and to augment the Lower Colorado River Basin Development Fund, as authorized by Section 303 of the Colorado River Basin Project Act dated September 30, 1968. Section 303 further provides that, when not required by CAP, the power and energy may be disposed of intermittently by the Secretary of the Interior for other purposes at such prices as he may determine, including its marketing in conjuction with the sale of power and energy from Federal powerplants in the Colorado River system so as to produce the greatest practicable amount of power and energy that can be sold at firm power and energy rates. The marketing responsibility for Navajo Project power and energy was transferred on October 1, 1977, from the Secretary of the Interior to the Secretary of Energy by the Department of Energy Organization Act dated August 4, 1977.

In 1969, the United States completed contractual arrangements with other Navajo Participants—Arizona Public Service Co., Los Angeles Department of Water and Power, Nevada Power Co., Salt River Project, and Tucson Gas & Electric Co.—that entitle the United States to 24.3 percent of the output of each of the three 750-megawatt units in the Navajo Generating Station and a right to the use of certain transmission capacity. Construction on the Navajo Project began in April 1970, and the Project was in full-scale operation by May 1976.

In 1969, when the United States committed itself contractually as a Navajo Participant, it also entered into contracts to sell its share of Navajo power and energy until needed for CAP pumping or other purposes of the Colorado River Basin Project Act. These interim sales contracts with Southern California Edison Co. and with each of the other Navajo Participants assured annual repayments on the Federal investment during the 20-year contract period. The contracts can be terminated by the United States upon 5 years' notice. It is presently expected that power will first be needed for CAP pumping requirements in 1985 but may be needed earlier. Notice of termination of the interim sales contracts could be expected to be given by the United States between now and January 1, 1980. It is unlikely that all the Navajo Project power and energy available to the United States will be required for CAP when pumping begins. A gradual development of CAP loads over a period of several years is expected. The power required in any year for CAP pumping will depend upon the Colorado River water available during that year for use within the State of Arizona. Some energy and capacity surplus to the needs of CAP will be available at times, which can be marketed.

The interest and ability of existing or potential preference customers to purchase the United States share of Navajo power and energy not required by CAP will be assessed as part of a Navajo Project power marketing study undertaken by the Western Area Power Administration, Department of Energy. In addition, the possibility of marketing the Navajo Project power in conjunction with power and energy from the Boulder Canyon, Parker-Davis, and Colorado River Storage Projects will be evaluated. The recent shortage of water in the Colorado River has given impetus to such a study. The water shortage required the Federal Government to purchase energy from other sources at high cost to meet long-term firm power contract commitments from Federal power projects on the Colorado River. Any plan to integrate Navajo power and energy with Federal hydroelectric resources must assure the financial repayments required for all Federal projects.

Topics that will be covered at each of these meetings include the limitations on Navajo power availability imposed by the operations of the Central Arizona Project (CAP), options for resource integration, and related transmission studies. Various marketing issues will be addressed, as well as related questions concerning withdrawal of power from the current contractors.

These meetings will also provide background information on the participation of the Bureau of Reclamation in the Navajo Project and an explanation of the terms and conditions under which the Western Area Power Administration now makes Navajo power and energy available to the existing contractors.

All persons interested in the marketing of Navajo Project power are encouraged to participate in one of the scheduled public meetings. In addition to listening to your views orally at the meetings, written comments will also be received subsequent to the meetings.

Issued in Washington, D.C., September 11, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-25850 Filed 9-12-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 964-6]

ADMINISTRATOR'S TOXIC SUBSTANCES ADVISORY COMMITTEE

Meeting

AGENCY Environmental Protection Agency.

ACTION: Notice of open meeting.

SUMMARY: There will be a meeting of the Administrator's Toxic Substances Advisory Committee from 9 a.m. to 5 p.m. on Friday, September 29, 1978. The meeting will be held in Room 3906, Waterside Mall, EPA, 401 M Street SW., Washington, D.C., and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, Administrator's Toxic Substances Advisory Committee, Office of Toxic Substances (TS-788), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone 703-557-7560.

SUPPLEMENTAL INFORMATION: The purpose of this meeting is to advise EPA on implementation of the Toxic Substances Control Act (Pub. L. 94-469). The agenda includes review of:

1. Reports from work groups.
2. Organizational activities of the Committee.
3. In addition, the Agency may present status reports on other ongoing programs of the Office of Toxic Substances.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above. Interested persons may upon advance notice to the Executive Secretary, present oral statements to the extent that time permits.

Dated: September 7, 1978.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

[FR Doc. 78-25667 Filed 9-12-78; 8:45 am]

[6560-01]

[FRL 964-7]

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

List of Violating Facilities

Pursuant to section 306 of the Clean Air Act (42U.S.C. 1857(h)), section 508 of the Federal Water Pollution Control Act (33 U.S.C. 1368) and Executive Order 11738, EPA has been authorized to provide certain prohibitions and requirements concerning the administration of the Clean Air Act and Federal Water Pollution Control Act with respect to Federal contracts, grants, or loans. On April 16, 1975, regulations implementing the requirements of the statutes and the Executive order were promulgated in the FEDERAL REGISTER (see 40 CFR Part 15, 40 FR 17124, April 16, 1975). Section 15.20 of the regulations provides for the establishment of a list of violating facilities which will reflect those facilities ineligible for use in nonexempt Federal contracts, grants, or loans.

The representatives of any facility under consideration for listing are afforded the opportunity to appear at a listing proceeding conducted by the Director, Office of Federal Activities. Listing occurs when the director determines there is adequate evidence of noncompliance with clean air or water standards. Federal, State, and local criminal convictions, civil adjudications, and administrative findings of noncompliance may serve as a basis for consideration of listing. However, in the case of a State or local civil adjudication or administrative finding, EPA may consider listing only at the request of the Governor.

The list of violating facilities is contained in two sublists. Sublist 1 includes those facilities listed on the basis of a conviction under section 113 (c) (1) of the Clean Air Act or section 309(c) of the Federal Water Pollution Control Act. Sublist 2 includes those facilities listed on the basis of: Any injunction, order, judgment, decree, or other form of civil ruling by a Federal, State, or local court issued as a result of noncompliance; or on the basis of noncompliance with an order under section 113(a) of the Clean Air Act or section 309(a) of the Federal Water Pollution Control Act; or having given rise to the initiation of court action under section 113(b) of the Clean Air Act or section 309(b) of the Federal Water Pollution Control Act; or having been subjected to equivalent State or local proceedings to enforce clean air or water standards.

No agency in the executive branch of Government shall enter into, renew, or extend any nonexempt contract, subcontract, grant, subgrant, loan, or subloan where a facility listed would be utilized for the purposes of any such agreement.

The purpose of this Notice is to remove from sublist 1 the facility of Allied Chemical Corp., Semet-Solvay Division, Ashland, Ky.

Pursuant to this authority, the Director, Office of Federal Activities, U.S. Environmental Protection Agency, certifies that the following facilities are on the list of violating facilities as of September 1, 1978. The list of violating facilities will be revised periodically as any listings or delistings occur.

LIST OF VIOLATING FACILITIES

SUBLIST 1

No facilities listed.

SUBLIST 2

ITT Rayonier, Inc., Fernandina Beach, Fla.

Dated: September 1, 1978.

WILLIAM D. DICKERSON,
Acting Director, Office of Federal Activities (A-104).

[FR Doc. 78-25668 Filed 9-12-78; 8:45 am]

[6560-01]

[FIFRA Docket Nos. 401, 402, 403; FRL 964-8; OPP-68003B]

SHELL OIL CO., ET AL.

Amended Notice of Intent To Cancel Registrations of Pesticide Products Containing Dibromochloropropane (DBCP), and Statement of Reasons

I. INTRODUCTION

On October 27, 1977, the Agency issued a notice of intent to cancel the registrations or change the classifications of pesticide products containing dibromochloropropane (DBCP), and statement of reasons (42 FR 57545, Nov. 3, 1977) (the "original notice"). The original notice provided for continuation of the Agency's rebuttable presumption against registration ("RPAR") review of DBCP, and stated that the decisions reached as the result of that review could form the basis, if appropriate, of an amendment to the original notice (id. at 57547). The RPAR review of DBCP has been concluded and a final position document which analyzes the risks and benefits of all uses of DBCP has been prepared. I have reviewed the information, analyses, and recommendations contained in the final position document, and I have determined that it is appropriate to amend the original notice to reflect those recommendations.

Accordingly, under the authority delegated to me by the Administrator (id. at 57547-8), and in accordance with § 164.21(b) of the Agency's rules of practice (40 CFR Part 164), I hereby issue this amended notice.

II. REGULATORY BACKGROUND

A. LEGAL AUTHORITY

The Administrator may cancel the registration of a pesticide whenever he determines that it no longer satisfies the statutory standard for registration. The statutory registration standard requires (among other things) that the pesticide not cause "unreasonable adverse effects on the environment" (FIFRA § 3(c)(5)(C); 7 U.S.C. 136a(c)(5)(C)). "Unreasonable adverse effects on the environment" is defined to mean "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide" (FIFRA § 2(bb); 7 U.S.C. 136(bb)).

The Administrator may also cancel the registration of a pesticide if he determines that the labeling does not comply with the requirements of FIFRA; labeling requirements are found in the statutory definition of "misbranded" (FIFRA § 2(q); 7 U.S.C. 136(q)). Among other things, that section provides that a pesticide is misbranded if the labeling "does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under section 3(d) of (FIFRA), are adequate to protect health and the environment." Finally, the Administrator may change the classification of any use of a pesticide if he determines that such a change "is necessary to prevent unreasonable adverse effects on the environment" (FIFRA § 3(d)(2); 7 U.S.C. 136a(d)(2)).

In effect, FIFRA establishes a statutory scheme which requires the Administrator to weigh the risks and benefits associated with each use of a pesticide.[1] If he determines for any

[1] The burden of proof of establishing the registrability of a pesticide product rests at all times on the proponent of registration. *Environmental Defense Fund* v. *Environmental Protection Agency*, 465 F. 2d 528, 540

Footnotes continued on next page

particular use that the risks exceed the benefits, he must then determine whether those risks can be sufficiently

original notice in accordance with the provisions of 40 CFR 164.21(b). The Administrator delegated to the Assistant Administrator for Toxic Sub-

terms or conditions of registration, as described below. I have further determined that these modifications in the terms or conditions of registration ac-

direct supervision and only for those uses covered by the certified commercial applicator's certification.

WARNING

particular use that the risks exceed the benefits, he must then determine whether those risks can be sufficiently reduced (to a point where they are outweighed by the benefits) by the modification of the terms and conditions of registration (i.e., by changes in labeling or by the classification of the use for restricted use). If he determines that adequate risk reduction cannot be achieved by such means, the registration of the pesticide for that use must be canceled.

In addition, FIFRA authorizes the Administrator to take action to mitigate the risks associated with the use of a pesticide pending the completion of any cancellation or change in classification proceedings which may be instituted. Section 6(c) of FIFRA (7 U.S.C. 136d(c)) authorizes the Administrator to suspend the registration of a pesticide if he determines that such action "is necessary to prevent an imminent hazard during the time required for cancellation or change in classification proceedings." "Imminent hazard" is defined by the statute as "a situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would be likely to result in unreasonable adverse effects on the environment * * *" (FIFRA § 2(l); 7 U.S.C. 136(l)). In other words, if the risks from any particular use of a pesticide during the anticipated pendency of cancellation or change in classification proceedings outweigh the benefits of that particular use during the same period, the registration of any product registered for that use may be suspended.

B. DBCP SUSPENSION ACTIONS

On September 8, 1977, the Administrator issued a notice of intent to suspend and conditionally suspend registrations of pesticide products containing dibromochloropropane (42 FR 48915, Sept. 26, 1977), based upon the Administrator's determination that regulatory action was necessary to prevent an "imminent hazard" from the use of DBCP during the time required for cancellation or change in classification proceedings. That determination was the result of an intensive, expedited investigation into the human health effects of DBCP, triggered primarily by then-recently disclosed information showing that male chemical plantworkers exposed to DBCP had experienced low- and zero-sperm counts, and by the Agency's prior review of animal test data developed by the National Cancer Institute indicating the DBCP is a carcinogen in laboratory animals.

Footnotes continued from last page
(D.C. Cir. 1972); *EDF* v. *EPA*, 510 F. 2d 1292, 1297 (D.C. Cir. 1975); *EDF* v. *EPA*, 548 F. 2d 998, 1004 (D.C. Cir. 1976).

Pursuant to section 6(c) of FIFRA, each registrant of a DBCP product had an opportunity to request an expedited hearing before the Agency on the question of whether an imminent hazard existed. The Agency received only three timely requests for an expedited hearing, each of which was subsequently withdrawn. Consequently, on October 27, 1977, the Administrator issued a suspension order suspending the registration of all pesticide products containing DBCP (42 FR 57543, Nov. 3, 1977).

The suspension order implemented two separate suspension actions: An unconditional "specific food use" suspension of DBCP products registered for use on any of nineteen (19) food crops, based on determinations of the likelihood of DBCP residues occurring in the edible portions of those crops;[2] and a conditional suspension of all DBCP products, aimed at mitigating hazards to DBCP applicators. With respect to the conditional suspension, registrants were afforded an opportunity for relief from the suspension order by obtaining an interim registration amendment implementing certain classification and labeling changes—including the restriction of the product to use only by certified applicators utilizing prescribed protective equipment and respirators—as described in the suspension order (42 FR 57543, Nov. 3, 1977).

Section 6(c)(1) of FIFRA provides that a suspension order cannot be issued unless a notice of intent to cancel the registrations or change the classifications of the pesticide products concerned has already been issued, or is issued with the suspension order. In order to comply with this provision of the statute, the Administrator issued the original notice at the same time he issued the suspension order (id. at 57545). The original notice stated that any registrant or other person adversely affected by it could request a hearing within 30 days. Three timely requests for a hearing were received by the Agency, and were consolidated by order of Chief Administrative Law Judge Perlman dated December 15, 1977. Administrative Law Judge Harwood was designated to preside in these consolidated proceedings by order of designation dated December 15, 1977.

RPAR REVIEW OF DBCP

On September 15, 1977, the Agency's Office of Pesticide Programs issued a notice of rebuttable presumption against registration and continued registration of pesticide products containing dibromochloropropane (DBCP) (42 FR 48026, Sept. 22, 1977).

The Agency's rebuttable presumption against registration ("RPAR") process is set out in 40 CFR 162.11. In broad summary, these regulations provide that a rebuttable presumption against registration shall arise if the Agency determines that a pesticide meets any of the risk criteria set forth in 40 CFR 162.11(a)(3). If it is determined that such a rebuttable presumption has arisen, registrants, applicants, and interested persons are offered an opportunity to submit evidence in rebuttal of the presumption. Those persons may also submit evidence relating to the economic, social and environmental benefits of the use of the pesticide subject to the presumption. If the presumptions of risk are not rebutted, the benefits evidence submitted is considered by the Agency in determining whether the risks of the use of the pesticide exceed the benefits of the use, and, if so, what regulatory action should be taken.

In short, the RPAR process is designed to permit the Agency to gather information about a problem pesticide and to make a decision concerning it in an open manner allowing maximum participation by all interested groups.

Ordinarily, the RPAR process culminates in a determination as to whether or not to issue a notice of intent to cancel the registration or change the classification of the pesticide at issue. As noted above, however, in the instant case it was necessary to issue the original notice prior to the completion of the RPAR process, in order to enable the Administrator to take the regulatory steps necessary to prevent an imminent hazard. Moreover, due to the expedited nature of the suspension remedy, the information then available to the Agency on the issues relevant to an ultimate cancellation or classification decision was necessarily incomplete.

Accordingly, and in light of the fact that the RPAR process had already been initiated with respect to DBCP, the Administrator found it to be in the public interest to continue the RPAR process and the information gathering which it entails. The Administrator determined that this continuation would serve a valuable discovery function in conjunction with this cancellation proceeding, would allow the development of information of significant probative value which might not otherwise be obtainable, and would serve to narrow the issues which may ultimately have to be adjudicated.

The Administrator alos determined that the decisions reached as the result of the RPAR review could form the basis for an amendment to the

[2]The suspension order was subsequently amended by the Administrator to clarify that he did not intend to unconditionally suspend the use of DBCP on strawberry plants which are being grown as transplants or nursery stock and which are not allowed to fruit until after being transplanted (43 FR 23649, May 31, 1978).

original notice in accordance with the provisions of 40 CFR 164.21(b). The Administrator delegated to the Assistant Administrator for Toxic Substances the authority and responsibility: (1) for reviewing evidence submitted in the RPAR process, Agency staff evaluations of that evidence, and Agency staff recommendations concerning possible amendments to the original notice, and (2) for issuing, filing and serving, if appropriate, an amended notice of intent to cancel the registrations or change the classifications of pesticide products containing DBCP (42 FR 57547-8, Nov. 3, 1977).

III. AMENDMENTS TO THE ORIGINAL NOTICE

The RPAR process has been completed, and the Office of Pesticide Programs has prepared a final position document on DBCP which analyzes in considerable detail both the risks and benefits associated with all registered uses of DBCP. I have reviewed that final position document and the recommendations of the Agency staff which are contained in it. In accordance with the authority delegated to me by the Administrator, I find it appropriate to amend the Administrator's original notice. I hereby adopt the final position document as the statement of reasons and underlying support document for this amended notice.[3]

I have determined that use of DBCP on the following crops poses risks which are greater than the social, economic, and environmental benefits of the uses, and that these uses of DBCP will therefore generally cause unreasonable adverse effects on the environment when used in accordance with commonly recognized practice. Accordingly, unless a hearing is timely requested in accordance with part IV of this amended notice, the following uses of DBCP are canceled: Broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, cucumbers, eggplants, endive, lettuce, lima beans (except commercial uses), melons, okra (except commercial uses), parsnips, peanuts, peppers, radishes, snap beans (except commercial uses), southern peas (except commercial uses), squash, tomatoes, turnips, and strawberries (except nursery stock which is not allowed to fruit until after being transplanted).

I have further determined that all remaining uses of DBCP pose risks which are greater than the social, economic, and environmental benefits of those uses, unless risk reductions are accomplished by modifications in the terms or conditions of registration, as described below. I have further determined that these modifications in the terms or conditions of registration accomplish significant risk reductions, and that these risk reductions can be achieved without significant impacts on the benefits of the uses. Unless these changes in the terms or conditions of registration are accomplished, these uses of DBCP will generally cause unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice, and the labeling of DBCP products for these uses will not comply with the provisions of FIFRA.

Accordingly, unless a hearing is timely requested in accordance with part IV of this amended notice, all uses of DBCP not specified above are canceled unless registrants amend the terms of conditions of registration as follows:[4]

1. Classification of DBCP products for restricted use, for use only by or under the direct supervision of certified applicators, and, in the case of residential turf and ornamental uses, for use only by or under the direct supervision of certified commercial applicators.

2. Modification of the labeling of DBCP products to include the following:

RESTRICTED USE PESTICIDE

For retail sale to and use only by certified applicators or persons under their direct supervision and only for those uses covered by the certified applicator's certification. For residential turf and ornamental uses, for retail sale to and use only by certified commercial applicators or persons under their direct supervision and only for those uses covered by the certified commercial applicator's certification.

WARNING

KEEP OUT OF REACH OF CHILDREN

HARMFUL LIQUID AND VAPOR. MAY BE FATAL OR INJURIOUS IF SWALLOWED, INHALED, OR ABSORBED THROUGH SKIN. CAUSES SKIN IRRITATION AND BLISTERS. VAPOR CAUSES IRRITATION OF EYES, NOSE AND THROAT. EXPOSURE WITHOUT WEARING PROTECTIVE EQUIPMENT MAY LEAD TO CANCER, REDUCED SPERM COUNT, OR OTHER CHRONIC EFFECTS.

Use precautions. Wear a full face air-purifying respirator or positive-pressure supplied-air respirator jointly approved by the Mine Safety and Health Administration and National Institute for Occupational Safety and Health for organic vapors or fumigants. Replace canisters or cartridges after each day of use. Also wear impermeable full-body protective clothing during mixing, loading, and transfer operations, and while calibrating or maintaining application equipment. This clothing includes gloves, boots or boot covers, and coat and pants, all made of DBCP-resistant (and preferably heavy-duty) material such as nitrile, or neoprene, or other material shown by the manufacturer to give equal protection. Also wear impermeable gloves and boots or boot covers during application by drench, in-furrow, irrigation, or granular formulations. If protective clothing or shoes become contaminated, remove promptly. Do not wear again until completely free of material or else dispose by burying in soil. Wash thoroughly with soap and water after handling and before eating or smoking. Combustible mixture—do not use, pour, spill, or store near heat or open flame.

In case of accident. Flush eyes with water for at least 15 minutes and get medical attention. If illness results from inhalation, move to fresh air and call a doctor. If swallowed, call a doctor and induce vomiting.

Special equipment. If a closed system for mixing or transfer is used, a respirator and impermeable boots or boot covers, gloves and an apron must be worn. A closed system is defined as appropriate connections, meters, pumps and plumbing designed and maintained to eliminate human contact with the pesticide. If a closed system for mixing, transfer or application is used which results in an airborne concentration of DBCP not exceeding 1 part DBCP per billion parts of air (1 ppb) as an 8-hour time weighted average, a respirator need not be worn during operation of the closed system, but must be available for use in case of a leak, spill or other emergency.

Reentry prohibition. Do not reenter treated area for 24 hours without wearing an approved full-face respirator or positive-pressure respirator. If area has been treated by irrigation or drench, impermeable boots and gloves also must be worn before reentering during the 24 hour waiting period. Post warning signs at usual points of entrance into treated area.

Wildlife precautions. This product is toxic to wildlife. Birds and other wildlife in treated areas may be killed. Keep out of lakes, streams, or ponds. Do not apply where runoff is likely to occur. Do not apply when weather conditions favor drift from areas

[3]Copies of the final position document may be obtained from Mr. C. J. Kempter, Special Pesticide Reviews Division (TS-791), EPA, Room 447, East Tower, 401 M St. SW., Washington, D.C. 20460, 202-755-8053.

[4]FIFRA § 6(b)(1) provides that the Administrator may initiate proceedings to cancel a registration or change its use classification, where the Administrator finds that the pesticide does not satisfy the statutory standard for registration. However, the registered DBCP products subject to this RPAR have not yet been initially classified. Accordingly, any classification action with respect to these products is an initial classification, and not a change in classification. Initial classification generally does not give rise to a right to review the classification decision in an adjudicatory hearing. (See "Preamble to Optional Procedures for Classification of Pesticide Used by Regulation", 43 FR 5782, 5784 (Feb. 9, 1978)). However, in view of the fact that the Agency is proposing other changes to the terms or conditions of the registration (i.e., labeling changes) for registered DBCP products, which are reviewable in adjudicatory hearing, the Agency has determined that it is appropriate to exercise its discretion to fashion procedures in excess of minimum statutory requirements, and to permit the question of whether DBCP products registered for the uses listed below should be initially classified for restricted use and their use limited to certified applicators to be reviewed in any such adjudicatory hearing as well.

treated. Apply this product only as specified on this label.

Crop residue precautions. Any forage crop

classification proceedings" (FIFRA § 6(c)). The Agency interprets that provision to mean that the suspension

Dated September 6, 1978.

DOUGLAS D. CAMPT,
Acting Director,

treated crops are destroyed or used for research purposes only.

Interested parties wishing to review

Koochiching, Lake of the Woods, Pennington, Red Lake, and Wadena. The Applicant will apply Mesurol aerially

time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this

treated. Apply this product only as specified on this label.

Crop residue precautions. Any forage crop grown on soil treated with bromide-containing fumigants should not be used as feed for dairy animals or animals being finished for slaughter until 2 years after row treatments and 3 years after overall treatment.

Residential use prohibition. Do not apply by drench technique of application to residential turf or ornamentals.

IV. Procedural Matters

A. Requests for Hearing

Because this is an amendment to the original notice, issued under 40 CFR 164.21(b), the parties which have already requested a hearing with respect to the original notice have the right under § 164.22(c) to amend their objections on or before October 12, 1978, or receipt of this amended notice, whichever occurs later.

Ordinarily, no other registrant or interested person would be entitled to respond to this amended notice of intent to cancel; failure to request a hearing with respect to an original notice of intent to cancel usually precludes any further participation in the cancellation proceedings. However, I recognize that the procedural circumstances of this case are somewhat unique, and that some registrants may have believed that the continuation of the RPAR review preserved their rights to request a hearing until that review was completed.

Accordingly, I have determined that all persons adversely affected by this amended notice—whether or not they previously requested a hearing in response to the original notice—may request a hearing on specific registered uses on or before October 12, 1978. In the case of registrants, I have determined that a hearing may be requested within thirty (30) days of receipt of this amended notice, or on or before October 12, 1978, whichever occurs later.

Requests must be received by the Hearing Clerk within the applicable thirty (30) day time period (40 CFR 164.5(a)).

Requests for a hearing must be accompanied by specific objections in accordance with 40 CFR 164.20(b) and 164.22. Failure to comply with these requirements will automatically result in denial of the request.

Requests should be submitted to: Hearing Clerk (A-110), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

B. Status of the DBCP Suspension Actions

As explained above, suspension is an interim remedy used to protect against an imminent hazard to public health or the environment "during the time required for cancellation or change in classification proceedings" (FIFRA § 6(c)). The Agency interprets that provision to mean that the suspension order remains effective until the conclusion of cancellation proceedings. Accordingly, the suspension order remains effective until a final order of cancellation or change in classification is issued, or until such other time as the Administrator may determine.

Dated: September 6, 1978.

Steven D. Jellinek,
Assistant Administrator for Toxic Substances.

[FR Doc. 78-25669 Filed 9-12-78; 8:45 am]

[6560-01]

[PFT-30; FRL 965-4]

FOOD ADDITIVE PETITION

Filing

The Washington State University Cooperative Extension Service, Pullman, Wash. 99163, has submitted a petition (FAP 8H5193) to the Environmental Protection Agency (EPA) which proposes to amend 21 CFR 193 by establishing a regulation permitting the use of the insecticide aldicarb (2 - methyl - 2 - (methylthio) propionaldehyde *O* - (methylcarbamoyl) oxime and its cholinesterase - inhibiting metabolites 2 - methyl - 2 - (methylsulfinyl) - propionaldehyde *O* - (methylcarbamoyl) oxime and 2 - methyl - 2 - (methylsulfonyl) propionaldehyde *O* - (methylcarbamoyl) oxime in an experimental program involving the application of said insecticide to growing hops with a tolerance limitation of 50 parts per million (ppm) in dried hops. Notice of this submission is given pursuant to the provisions of section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington D.C. 20460.

Inquiries concerning this petition may be directed to Emergency Response Section (ERS), Registration Division (TS-767), Office of Pesticide Programs, at the above address, or by telephone at 202-755-2516. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated September 6, 1978.

Douglas D. Campt,
Acting Director, Registration Division.

[FR Doc. 78-25800 Filed 9-12-78; 8:45 am]

[6560-01]

[OPP-50379; FRL 966-1]

ISSUANCE OF EXPERIMENTAL USE PERMITS

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and are subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 464-EUP-53. Dow Chemical, U.S.A., Midland, Mich. 48640. This experimental use permit allows the use of 6,000 pounds of the insecticide chlorpyrifos on cotton to evaluate control of bollworms and boll weevils. A total of 500 acres is involved; the program is authorized only in the State of Mississippi. The experimental use permit is effective from May 26, 1978 to May 26, 1979. A permanent tolerance for residues of the active ingredient in or on cottonseed has been established (40 CFR 180.342).

No. 3125-EUP-132. Mobay Chemical Corp., Kansas City, Mo. 64102. This experimental use permit allows the use of 40,000 pounds of the insecticide O-ethyl *O*-[4-(methylthio) phenyl] *S*-propyl phosphorodithioate on cotton to evaluate control of various cotton insects. A total of 20,000 acres is involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. The experimental use permit is effective from May 18, 1978 to June 3, 1979. Temporary tolerances for residues of the active ingredient in or on cottonseed and in milk, meat, fat, and meat by-products of cattle, goats, hogs, horses, poultry, and sheep have been established. A food additive regulation for residues of the active ingredient in cottonseed hulls and cottonseed oils has been established.

No. 891-EUP-29. Hercules, Inc., Wilmington, Del. 19899. This experimental use permit allows the use of 64 pounds of the insecticide O,O-diethyl S-(2-chloro-1-phthalimidoethyl) - phosphorodithioate on walnuts to evaluate control of coddling moth, walnut husk fly, aphids, mites, and scale insects. A total of 4 acres is involved; the program is authorized only in the State of California. The experimental use permit is effective from June 1, 1978 to June 1, 1979. This permit is being issued with the limitation that all

treated crops are destroyed or used for research purposes only.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office so that the appropriate permits may be made conveniently available for review purposes. These files will be made available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: September 6, 1978.

Douglas D. Campt,
Acting Director, Registration Division.

[FR Doc. 78-25795 Filed 9-12-78; 8:45 am]

[6560-01]

[OPP-180228; FRL 965-7]

MINNESOTA DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption to Use Mesurol To Control Blackbirds on Wild Rice

The Environmental Protection Agency (EPA) has granted a specific exemption to the Minnesota Department of Agriculture (hereafter referred to as the "Applicant") to use Mesurol (3,5-dimethyl-4-(methylthio) phenyl methyl carbamate) to control blackbirds which are causing grain losses on commercial wild rice in 13 counties in north central Minnesota. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460.

According to the Applicant, blackbirds attack cultivated wild rice paddies every year; if not controlled, blackbird damage may cause well over 50 percent of the wild rice grain to be lost to harvest, and as a result, economic losses of from $1.5 to $3.0 million may occur. The areas to be treated cover approximately 20,000 to 25,000 acres of commercial wild rice located in the following counties: Aitkin, Beltrami, Cass, Clearwater, Crow Wing, East Polk, Hubbard, Itasca, Koochiching, Lake of the Woods, Pennington, Red Lake, and Wadena. The Applicant will apply Mesurol aerially at a dosage rate of 1.5 to 3.0 pounds active ingredient per acre. At the lower rate, two applications may be made. The 75 percent WP formulation of Mesurol will be used; a 14-day preharvest interval will be observed.

Mesurol is currently registered as a seed treatment on corn for repelling blackbirds. Tolerances for Mesurol have been established on cherries (25 p.p.m.) and peaches (15 p.p.m.), in addition to corn (0.03 p.p.m.). A temporary tolerance for Mesurol residues on domestic rice has been established at 0.2 p.p.m. EPA has determined that residues greater than that level should not occur in the human food processed wild rice. Since neither the processed by-products (husks, debris) nor straw are used as animal feed items, there is no expectation of finite residues of Mesurol in meat, poultry, and eggs. Therefore, a 0.2 ppm residue level of this pesticide in or on processed wild rice grain will not constitute a human health hazard; in addition, wild rice constitutes a very small fraction of the human diet.

The Fish and Wildlife Service, U.S. Department of the Interior (USDI), has informed EPA that two endangered species, the Peregrine Falcon (*Falco peregrinus*) and the Wolf (*Canis lupus*), may be present in the Minnesota counties where the pesticide is to be applied; however, since neither species is known to frequent rice paddies, it is not believed that Mesurol will cause any adverse effects in this respect. Because of the large acreage involved, there is also a possibility that some mortality to nontarget songbirds will occur. However, most of these birds would ingest only enough to induce the repellency effect of this substance; this effect would discourage the birds from ingesting further amounts of treated grain which would induce death. Finally, both the USDI and EPA agree that Mesurol is acutely toxic to fish and aquatic invertebrates; accidental contamination of aquatic areas near these rice paddies will result in fish kills. Therefore, the utmost caution must be exercised by the applicators of this pesticide to avoid such contamination.

After reviewing the application and other available information, EPA has determined that (a) an emergency situation concerning blackbird damage to commercial wild rice crops has occurred; (b) there is no pesticide presently registered and available for this use to control blackbirds in Minnesota; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the blackbirds are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 15, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The Chemagro product, Mesurol 75 percent WP, is authorized;
2. The dosage rate shall be 1.5 to 3.0 pounds active ingredient per acre; two applications may be made at the 1.5 pound rate. Total amount applied per acre must not exceed 3.0 pounds active ingredient;
3. Up to 25,000 acres in the 13 counties listed in this notice may be treated;
4. Only State-certified and licensed commercial applicators may apply Mesurol;
5. Aerial applications are authorized;
6. Applications are limited to drained ricefields only;
7. Applicators must take careful measures to avoid contamination of adjacent aquatic areas or fish kills will occur;
8. A residue level of Mesurol in or on processed wild rice grain not exceeding 0.2 p.p.m. has been deemed adequate to protect the public health. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action;
9. There will be a preharvest interval of 14 days;
10. The University of Minnesota should continue to monitor residue levels of Mesurol in soil and wild rice in cooperation with Chemagro. In addition, efficacy data should be collected so that a registration of this pesticide for use on wild rice may be obtained;
11. Any adverse effects of this pesticide in connection with this specific exemption must be reported to the EPA immediately. In particular, the Peregrine Falcon and the Wolf, endangered species that occur in north central Minnesota, must be protected by cautious application to avoid contamination of areas frequented by these species. Mesurol is also toxic to bees. Drift to nontarget areas must be avoided;
12. The Applicant and Chemagro should actively pursue registration for this use; and
13. A report summarizing the results of this program must be submitted to the EPA by January 15, 1979.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) *et seq.*).)

Dated: September 8, 1978.

Edwin L. Johnson,

parts per million (ppm) will not pose a hazard to human health. The Fish and Wildlife Service, U.S. Department

Dated: September 8, 1978.

Edwin L. Johnson,

2,4-D is a widely used broadleaf weed herbicide and tolerances have been established on foods that make up ap-

6. All applications will be made by State-certified commercial applicators or by growers;

uct number 00107—Endrin-Methyl Parathion 1.6-1.6 Emulsive Cotton Spray Insecticide.

On page 28784, second column,

Dated: September 8, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-25797 Filed 9-12-78; 8:45 am]

[6560-01]

[OPP-180227; FRL 965-5]

MINNESOTA DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption to Use Malathion To Control Wild Rice Worm on Commercial Wild Rice Crop

The Envrionmental Protection Agency (EPA) has granted a specific exemption to the Minnesota Department of Agriculture (hereafter referred to as the "Applicant") to use malathion to control populations of the Wild Rice Worm (*Apamea apamiformis*) which are threatening the commercial wild rice crop in thirteen counties in Minnesota. This exemption was granted in accordane with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, approximately 30,000 acres of commercial wild rice require treatment with malathion to control damage caused by the wild rice worm. The rice crop to be treated is located in the following counties: Aitkin, Beltrami, Cass, Clearwater, Crow Wing, East Polk, Hubbard, Itasca, Koochiching, Lake of the Woods, Pennington, Red Lake, and Wadena. The wild rice worm appears to be a continuing pest of this food crop in Minnesota.

There appear to be no registered alternative pesticides nor alternative methods of controls available to suppress this pest. The Applicant has previously submitted efficacy data which indicate that malathion is effective in controlling the wild rice worm. Application of malahtion E.C. on grain crops, including rice, is a registered use pattern. The Applicant proposes to use 1 pound of active ingredient malathion per acre. There will be a single aerial application, and a 10-day preharvest interval. Without this application, the Applicant estimated that wild rice growers could lose from $1,500,000 to $2,000,000.

EPA has determined that wild rice bearing residues not in excess of 8.0 parts per million (ppm) will not pose a hazard to human health. The Fish and Wildlife Service, U.S. Department of the Interior (USDI), has advised EPA that one endangered species, the Timber Wolf (*Canis lupus lycaon*), is found occasionally in the counties listed; in addition, two endangered migratory avian species, the Whooping Crane (*Grus americana*) and the Arctic Peregrine Falcon (*Falco peregrinus tundrius*), pass through the area. However, both species will be located north of Minnesota during the rice growing season.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of wild rice worm has occurred; (b) there is no pesticide presently registered and available for use to control the wild rice worm on the commercial wild rice crop in Minnesota; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the wild rice worm is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until August 31, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. A malathion E.C. product bearing labeling appropriate for aerial application will be used;
2. A maximum of 3,000 pounds active ingredient may be used;
3. The dosage rate shall not exceed 1 pound active ingredient per acre;
4. A single application may be made;
5. The counties to be treated are limited to the ones listed in this notice;
6. Applications of malathion are prohibited within 10 days of harvest;
7. Wild rice grains with malathion residues not exceeding 8.0 ppm will not pose a hazard to the public health and may be offered in interstate commerce. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action;
8. Care will be taken to avoid spraying over fish-bearing waters. Treated water may not be used to irrigate crops or to water livestock; and
9. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) *et seq.*)

Dated: September 8, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administror for Pesticide Programs.

[FR Doc. 78-25799 Filed 9-12-78; 8:45 am]

[6560-01]

[OPP-180229; FRL 965-8]

NORTH DAKOTA DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use 2,4-D To Control Broadleaf Weeds in Millet

The Environmental Protection Agency (EPA) has granted a specific exemption to the North Dakota Department of Agriculture (hereafter referred to as the "Applicant") to use 2,4-D (2,4-dichlorophenoxyacetic acid, alkylamine salt) on 75,000 acres of millet for the control of broadleaf weeds in North Dakota. This exemption was granted in accordance with, and is subject to, provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

Millets are minor crops grown for grain and forage. Of at least five different groups of millets grown in the United States, foxtails and proso are the primary ones grown in North Dakota. The Applicant has estimated that 100,000 acres of millet will be planted within the State this year. According to the Applicant, approximately 99 percent of the millet is harvested for grain and the major commercial use for the grain is in bird seed mixtures. Proso millet can also be foraged or cut and dried for hay. Foxtail millet hay and ground grain can be fed to livestock. Broadleaf weeds, such as redroot pigweed, Kochia, and wild mustard, are of primary concern to millet growers. There are currently no EPA-registered pesticides for control of broadleaf weeds in millets.

The Applicant has estimated that a 10 to 15 percent loss in yield will occur on 75,000 acres of millet if an efficacious herbicide is not applied to control broadleaf weeds. The economic loss is valued at $900,000 to $1,350,000.

The Applicant proposed to make a single application of 0.25 to 0.50 pound dimethylamine salt of 2,4-D per acre on a maximum of 75,000 acres of millet by State-certified private and commercial applicators using air and ground equipment.

2,4-D is a widely used broadleaf weed herbicide and tolerances have been established on foods that make up approximately 80 percent of the total average human diet. EPA has determined that millet grain and straw with residues of 2,4-D not in excess of 0.1 part per million (ppm) and 10 ppm, respectively, pose a negligible hazard to human health. EPA has also considered the potential for residues from nitrosamine contamination of the chemical and has calculated that such residues would be less than 1 part per billion (ppb) which level also should not pose undue hazard to the environment. This determination was based on the following reasons: (1) Millet is not normally a human food item; (2) the residues are extremely small; and (3) the residues are very likely not stable. The proposed use of 2,4-D is not expected to result in dietary exposure to residues of the chemical which would be in excess of those levels currently considered adequate to protect the public health for the following reasons: (1) Millet is not normally a human food item; (2) established tolerances for meat, milk, and poultry will not be exceeded; and (3) 2,4-D tolerances are established for the major feed commodities at levels significantly higher than the 10 ppm level expected to occur in millet straw.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of broadleaf weeds in millet is likely to occur; (b) there is no pesticide presently registered and available for use to control these weeds in North Dakota; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if these weeds are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 1, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. An EPA-registered dimethylamine salt of 2,4-D which is appropriately labeled for the intended means of application (ground or air) is authorized;
2. 2,4-D will be applied at a maximum rate of one-half pound active ingredient per acre. A maximum of one application may be made;
3. A maximum of 75,000 acres may be treated;
4. A maximum of 37,500 pounds active ingredient may be applied;
5. Applications may be made by air and ground equipment;
6. All applications will be made by State-certified commercial applicators or by growers;
7. No application will be made within 4 weeks of heading time;
8. The resulting residue levels of 0.1 ppm in or on millet grain and 10 ppm in or on straw from such use of this herbicide have been judged adequate to protect the public health. Permanent tolerances have been established for 2,4-D in meat and milk under provisions of the Federal Food, Drug, and Cosmetic Act. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;
9. All applicable directions, restrictions, and precautions on the product label must be followed;
10. Precautions must be taken to minimize or avoid spray drift to nontarget areas;
11. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption; and
12. The Applicant shall be responsible for assuring that all of the provisions of this specific exemption are met, and must submit a report summarizing the results of this program by December 31, 1978.

(Sec 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.).)

Dated: September 8, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-25796 Filed 9-12-78; 8:45 am]

[6560-01]

[OPP-66044A; FRL 965-3]

CERTAIN PESTICIDE PRODUCTS

Intent to Cancel Registrations; Correction

In FR Doc. 78-17995 in the issue of June 30, 1978, page 28780, first column, under registrant number 003238-Agrico Chemical Co., Crop Protection Chemical Division, Box 3451, Tulsa, Okla. 74101, delete products number 00060—Standard Brand Toxaphenemethyl Parathion 6-3 EC Insecticide, and 00065—Endrin-Methyl Parathion 1.6-1.6 Emulsive Cotton Spray Insecticide.

On page 28782, first column, under registrant number 007401, add product number 00245—Hi-Yield 1.6-1.6 EC Cotton Spray.

On page 28784, first column, immediately following the two entries for registrant number 009857-WSR Inc., 262 East Bank Street, Petersburg, Va. 23803, add registrant number 009859—Landia Chemical Co., 1801 West Olive Street, Lakeland, Fla. 33801 and product number 00107—Endrin-Methyl Parathion 1.6-1.6 Emulsive Cotton Spray Insecticide.

On page 28784, second column, delete registrant number 033313, and its entry.

Dated: September 7, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-25801 Filed 9-12-78; 8:45 am]

[6560-01]

[OPP—31020; FRL 965-6]

PESTICIDE PROGRAMS

Receipt of Application to Register a Pesticide Product Entailing a Changed Use Pattern

Chempar Chemical Co., Inc., 260 Madison Avenue., New York, N.Y. 10016, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticide product Rozol Formulation R11A Rodenticide Ground Spray Concentrate (EPA File Symbol 7173-RUN), which contains 5.34 percent of the active ingredient 2-[(p-chlorophenyl)phenylacetyl]-1,3-indandione. The application received from Chempar Chemical Co. proposes that the use pattern of this product be changed from use to control the Norway rat, roof rat, and house mouse in and around buildings to include control of the pine mouse in apple orchards. The application also proposes that this product be classified for restricted use.

Notice of receipt of this application does not indicate a decision by this Agency on the application. Interested persons are invited to submit written comments on this application to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, Room 401, East Tower, 401 M Street SW., Washington D.C. 20460. The comments must be received by October 13, 1978, and should bear a notation indicating the EPA File Symbol "7173-RUN". Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application should be directed to Product Manager (PM) 16, Registration Division (TS-767), Office of Pesticide Programs, at the above address or by telephone at 202-755-9315. The label furnished by Chempar Chemical Co., Inc., as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal

Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Notice of approval or denial of this

Rather, the purpose of this notice is to establish a date by which the parties to the forthcoming comparative hear-

the populations of the health service areas are the July 1, 1975, estimates which appear in the current Popula-

The following changes were in all cases made in order to correct errors in previously published figures:

Health Service Area Population, 1975 Department of Commerce Estimate— Continued

Health Service Area Population, 1975 Department of Commerce Estimate— Continued

Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Notice of approval or denial of this application to register Rozol Formulation R11A Rodenticide Ground Spray Concentrate will be announced in the FEDERAL REGISTER. Except for such material protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the FEDERAL REGISTER if an application is approved.

Dated: September 8, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-25798 Filed 9-12-78; 8:45 am]

[6560-01]

[PF-107A; FRL 965-2]

PESTICIDE PROGRAMS

Filing of Pesticide Petitions; Correction

In FR Doc. 78-23249 appearing at page 36688 in the issue of August 18, 1978, third column, line 4, change the tolerance limitation for tomatoes to 0.6 part per million (ppm).

Dated: September 8, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-25802 Filed 9-12-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: September 8, 1978.

Released: September 8, 1978.

By the Chief, Broadcast Facilities Division.

Cutoff date: October 30, 1978.

Notice is hereby given that the FM broadcast application listed below will be considered as ready and available for processing on October 31, 1978. Since the listed application is timely filed and mutually exclusive with the earlier filed and cutoff applications of Carroll E. Brock (file No. BPH-10,107) and Colgan Communications Corp. (file No. BPH-10,273), no other applications which involve conflict with these applications may be filed. Rather, the purpose of this notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a)(2) of the rules and pleadings to specify issues pursuant to § 1.584.

BPH-10,273 new, Redding, Calif., Redding FM Communications, Inc. Req: 104.3 MHz, No. 282; 31.328 kW; 26 feet.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-25730 Filed 9-12-78; 8:45 am]

[4110-83]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

DETERMINATION OF POPULATION OF HEALTH SERVICE AREAS

Section 1516 of the Public Health Service Act, as added by the National Health Planning and Resources Development Act of 1974 (Pub. L. 93-641), authorized the Secretary of Health, Education, and Welfare to make grants (hereinafter referred to as "planning grants") to health systems agencies to assist them in meeting their costs. The amount of the planning grant to each health systems agency, as provided in the regulations governing this program (42 CFR Part 122, Subpart C), is determined in accordance with a formula set forth in the regulations, and is based in part upon a determination by the Secretary of the population of the health service area to be served by each agency. Section 122.205 of the governing regulations provides that the Secretary will determine the population of the areas based upon the latest available estimate from the Department of Commerce, and will publish annually in the FEDERAL REGISTER a list of all health service areas and their populations. The populations of the health service areas will be published prior to the final allocation of funds in each fiscal year. Pursuant to section 1536 of the Act, certain States (District of Columbia, Rhode Island, and Hawaii) as well as the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa do not have health service areas established within them or health systems agencies designated for them but are nonetheless eligible to receive planning grants, based in part upon their population. This notice also sets forth the population of these areas.

The latest available Department of Commerce comparable estimates of the populations of the health service areas are the July 1, 1975, estimates which appear in the current Population Reports series P-26. The issues from series P-26 publish the population of States by counties and by equivalent major incorporated jurisdictions, and were used to determine the population of the areas within all States except those States in the paragraphs which follow. The Department of the Treasury, Office of Revenue Sharing "Tribe List and Extract" was used to adjust the populations of health service areas in Arizona and the health service area that includes portions of Arizona, New Mexico, and Utah.

Series P-25 Population Reports lists the population of States and territories by counties, incorporated places, and selected minor jurisdictions. Issues from this series were used to determine, by aggregation of data for local jurisdictions, the population of areas in Alaska, Connecticut, Illinois, and Massachusetts, as well as the population of the District of Columbia.

Estimates of July 1, 1973, Populations Reports, series P-25 indicate the populaton of Puerto Rico, American Samoa, Guam, Virgin Islands, and the Trust Territory of the Pacific Islands and the Northern Mariana Islands. These are the latest available estimates from the Department of Commerce for these noncontinental territories.

The populations of the health service and other areas as described above are, with the following exceptions, the same as those published in the FEDERAL REGISTER, vol. 42, No. 171, Friday, September 2, 1977. The exceptions, nature of change, and reasons for the changes in the estimates are:

Florida: Health Service Area 3, population figure changed from 707,100 to 916,900; Health Service Area 5, population figure changed from 1,027,600 to 817,800. Reason for change: Redesignation; Volusia County moved from HSA 5 to HSA 3, July 18, 1978.

Iowa: Health Service Area 1, population figure changed from 2,523,100 to 2,508,600; Health Service Area 2, population figure changed from 709,800 to 724,300. Reason for change: Redesignation; Adams County and Taylor County moved from HSA 1 to HSA 2, July 14, 1977.

Northern Mariana Islands: Population of 14,000 is not identified separately until redesignation January 9, 1978; i.e., prior to that time was included in the Trust Territories of the Pacific Islands.

Trust Territory of the Pacific Islands; population figure changed from 107,500 to 93,500, due to redesignation January 9, 1978, setting up the Northern Mariana Islands separately per section 1536.

The following changes were in all cases made in order to correct errors in previously published figures:

Kansas: Health Service Area 2, population figure changed from 591,100 to 577,300; Health Service Area 3, population figure changed from 787,400 to 801,200.

Massachusetts: Health Service Area 1, population figure changed from 820,594 to 822,480. Health Service Area 3, population figure changed from 480,558 to 478,672.

North Carolina: Health Service Area 1, population figure changed from 934,922 to 939,700.

Accordingly, the Secretary has made the following determination of populations of the health service and other areas as described above.

Dated: September 1, 1978.

HENRY A. FOLEY,
Administrator,
Health Resources Administration.

Health Service Area Population, 1975
Department of Commerce Estimate

	Health service area	Population
Alabama	1	697,700
	2	217,500
	3	852,500
	4	461,600
	5	676,800
	6	661,900
See Georgia No. 5	(7)	
Alaska	1	40,800
	2	229,000
	3	72,900
American Samoa	Sec. 1536	28,300
Arizona	1	1,337,156
	2	584,103
	3	145,450
Including Utah No. 2—5,720 and New Mexico No. 2—47,260.	4	127,670
	5	107,700
Arkansas	1	649,200
	2	550,700
	3	461,700
	4	454,200
California	1	561,500
	2	1,067,000
	3	523,200
	4	1,455,900
	5	1,672,900
	6	899,500
	7	1,173,400
	8	567,500
	9	1,120,200
	10	717,700
	11	6,944,900
	12	1,248,000
	13	1,710,200
	14	1,671,600
Colorado	1	1,720,200
	2	583,900
	3	230,000
Connecticut	1	634,455
	2	592,173
	3	449,604
	4	904,697
	5	466,671
Delaware	1	579,200
District of Columbia	Sec. 1536	712,000
Florida	1	784,700
	2	557,200
	3	916,900
	4	1,486,200
	5	817,800
	6	793,000
	7	635,500
	8	862,500
	9	1,490,000
Georgia (see Tennessee No. 3).	(1)	
	2	514,400
	3	2,053,500
Including South Carolina No. 5—94,800. Including Alabama No. 7—46,000.	4	583,700
	5	761,900
	6	524,100
	7	530,500
Guam	Sec. 1536	100,000
Hawaii	Sec. 1536	864,900
Idaho	1	820,800
Illinois	1	572,400
	2	693,900
	3	562,400
	4	775,700
	5	592,600
	6	3,099,391
	7	2,812,437
	8	787,900
	9	440,800
Including Iowa No. 3—188,700.	10	425,900
See Missouri No. 3	11	
Indiana	1	1,923,700
	2	2,127,900
	3	1,259,900
Iowa, including Nebraska No. 4—14,700.	1	2,508,600
See Nebraska No. 3	(2)	
See Illinois No. 10	(3)	
Kansas	1	418,922
	2	577,300
	3	801,200
See Missouri No. 1	(4)	
Kentucky	1	1,739,200
	2	1,404,700
See Ohio No. 1	(3)	
Louisiana	1	1,371,900
	2	1,335,800
	3	1,802,800
Maine	1	1,059,500
Maryland	1	309,700
	2	564,000
	3	813,600
	4	2,137,000
	5	274,100
Massachusetts	1	882,480
	2	676,766
	3	478,672
	4	2,225,718
	5	964,953
	6	647,597
Michigan	1	4,765,700
	2	674,300
	3	753,100
	4	1,022,900
	5	582,100
	6	741,500
	7	291,800
	8	325,000
Minnesota:		
See North Dakota No. 2.	(1)	
Including Wisconsin No. 7—130,200.	2	459,200
See North Dakota No. 3.	(3)	
	4	411,900
	5	1,919,700
	6	522,000
	7	393,600
Mississippi	1	2,345,600
Missouri:		
Including Kansas No. 4—466,900.	1	1,342,100
	2	1,053,500
Including Illinois No. 1—575,000.	3	2,369,300
	4	562,600
	5	476,900
Montana	1	747,900
Nebraska	1	616,300
	2	374,000
Including Iowa No. 2—187,200.	3	724,300
See Iowa No. 1	(4)	
Nevada	1	259,500
	2	332,500
New Hampshire	1	817,900
New Jersey	1	1,324,600
	2	1,974,900
	3	582,800
	4	1,970,900
	5	1,463,300
New Mexico	1	1,102,730
See Arizona No. 4	(2)	
New York	1	1,745,400
	2	1,206,600
	3	1,424,600
Including Pennsylvania No. 8—102,200.	4	415,400
	5	1,354,600
	6	1,888,100
	7	7,567,900
	8	2,622,000
North Carolina	1	939,700
	2	1,037,900
	3	927,700
	4	741,100
	5	830,900
	6	974,200
North Dakota	1	264,700
Including Minnesota No. 1—157,700.	2	307,300
Including Minnesota No. 3—191,800.	3	393,300
Northern Mariana Islands.	Sec. 1536	14,000
Ohio, including Kentucky No. 3—252,600.	1	1,713,900
	2	1,119,300
	3	401,100
	4	1,007,200
	5	1,566,400
	6	700,400
	7	828,900
	8	668,200
	9	2,244,100
	10	762,200
Oklahoma	1	2,711,800
Oregon	1	1,007,300
	2	961,400
	3	299,800
Pennsylvania	1	3,791,400
	2	901,400
	3	809,800
	4	1,341,200
	5	724,300
	6	2,913,200
	7	751,400
See New York No. 4	(8)	
	9	493,300
Puerto Rico	1	2,951,000
Rhode Island	Sec. 1536	926,800
South Carolina	1	756,000
	2	789,200
	3	561,500
	4	617,000
See Georgia No. 4	(5)	
South Dakota	1	683,000
Tennessee:		
Including Virginia No. 6—84,600.	1	468,100
	2	758,900
Including Georgia No. 1—98,400.	3	550,500
	4	1,350,900
	5	421,800
	6	820,500
Texas	1	335,300
	2	343,100
	3	435,200
	4	620,800
	5	2,804,000
	6	1,183,600

Health Service Area Population, 1975 Department of Commerce Estimate— Continued

	Health service area	Population
	7	684,300
	8	1,092,800
	9	1,212,000
	10	587,300
	11	2,625,500
	12	312,500
Trust Territory of the Pacific Islands.	Sec. 1536	93,500
Utah	1	1,200,520
See Arizona No. 4	(2)	
Vermont	1	471,000
Virginia	1	624,700
	2	998,500
	3	1,076,400
	4	900,400
	5	1,281,500
See Tennessee No. 1	(6)	
Virgin Islands	Sec. 1536	82,600
Washington	1	2,174,800
	2	489,900
	3	413,700
	4	468,700
West Virginia	1	1,802,800
Wisconsin	1	795,700
	2	1,791,300
	3	458,200
	4	498,500
	5	558,500
	6	373,600
See Minnesota No. 2	(7)	
Wyoming	1	374,000
Total	213	216,329,725

[FR Doc. 78-25667 Filed 9-12-78; 8:45 am]

[4110-83]

DETERMINATION OF POPULATION OF THE STATES

Section 1525 of the Public Health Service Act, as added by the National Health Planning and Resources Development Act of 1974 (Pub. L. 93-641), authorizes the Secreatary of Health, Education, and Welfare to make grants (hereinafter referred to as "planning and development grants") to State health planning and development agencies (hereinafter referred to as "State Agencies") to assist them in meeting their costs of operation. The amount of the planning and development grant to each State health planning and development agency, as provided in the regulations governing this program (42 CFR Part 123, Subpart C) is determined in accordance with a formula set forth in the regulations, based in part upon a determination by the Secretary of the population of the States. Section 123.204 of the governing regulations provides that the Secretary will determine the population of each State based upon the latest available estimate from the Department of Commerce, and will publish annually in the FEDERAL REGISTER a list of all States and their populations. The purpose of this notice is to set forth the populations of the States as so determined.

The latest available Department of Commerce estimates of the populations of the States are the July 1977 estimates, issued by the Bureau of the Census, January 23, 1978, which are shown below.

The list does not include population figures for Hawaii, Rhode Island, District of Columbia, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, American Samoa, or the Northern Mariana Islands. The Secretary has determined that these States and territories meet the requirements of section 1536 of the act and the amount of grants to their State Agencies shall be computed in accordance with 42 CFR 122.204(b). The population of these States and territories is determined by the Secretary in accordance with 42 CFR 122.205. Accordingly, their population figures are included with the estimates of population for health service areas, which are published in a separate notice in this issue of the FEDERAL REGISTER. Also published in that notice is the population figure for Puerto Rico, currently under consideration by Congress for inclusion under the provisions of section 1536.

Accordingly, the Secretary has made the following determination of populations of the States,

Dated: September 1, 1978.

HENRY A. FOLEY,
Administrator, Health Resources Administration.

POPULATION OF THE STATES

[1977 Department of Commerce estimate]

Alabama	3,690,000
Alaska	407,000
Arizona	2,296,000
Arkansas	2,144,000
California	21,896,000
Colorado	2,819,000
Connecticut	3,108,000
Delaware	582,000
Florida	8,452,000
Georgia	5,048,000
Idaho	857,000
Illinois	11,245,000
Indiana	5,330,000
Iowa	2,879,000
Kansas	2,326,000
Kentucky	3,458,000
Louisiana	3,921,000
Maine	1,085,000
Maryland	4,139,000
Massachusetts	5,782,000
Michigan	9,129,000
Minnesota	3,975,000
Mississippi	2,389,000
Missouri	4,801,000
Montana	761,000
Nebraska	1,561,000
Nevada	633,000
New Hampshire	849,000
New Jersey	7,329,000
New Mexico	1,190,000
New York	17,924,000
North Carolina	5,525,000
North Dakota	653,000
Ohio	10,701,000
Oklahoma	2,811,000
Oregon	2,376,000
Pennsylvania	11,785,000
South Carolina	2,878,000
South Dakota	689,000
Tennessee	4,299,000
Texas	12,830,000
Utah	1,268,000
Vermont	483,000
Virginia	5,135,000
Washington	3,658,000
West Virginia	1,859,000
Wisconsin	4,651,000
Wyoming	406,000
Total	219,611,000

[FR Doc. 78-25568 Filed 9-12-78; 8:45 am]

[4110-08]

National Institutes of Health

ARTIFICIAL KIDNEY-CHRONIC UREMIA ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Artificial Kidney-Chronic Uremia Advisory Committee, on October 18, 1978. The meeting will be held in Building 31, Room 9A51, at the National Institutes of Health, Bethesda, Md. The meeting will be open to the public from 9 to 10 a.m., to discuss administrative reports. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 10 a.m. to 5 p.m., for the review, discussion, and evaluation of individual contract proposals. The proposals and the discussions could reveal trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals.

Further information concerning the meeting may be obtained from Dr. Robert J. Wineman, associate chief, artificial kidney chronic uremia program, National Institute of Arthritis, Metabolism, and Digestive Diseases, NIH, Building 31, Room 9A-05, Bethesda, Md. 20014, 301-496-4881.

Messrs. James N. Fordham or Irving Shapiro, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Md. 20014, 301-496-3583, will provide summaries of the meeting and rosters of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.849, National Institutes of Health.)

Dated: September 1, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-25684 Filed 9-12-78; 8:45 am]

[4110-08]

CELLULAR AND MOLECULAR BASIS OF DISEASE REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cellular and Molecular Basis of Disease Review Committee, National Institute of General Medical Sciences, October 30-31, 1978, at the Landow Building, Conference Room A, 7910 Woodmont Avenue, Bethesda, Md.

This meeting will be open to the public on October 30, 1978, from 8:30 a.m. until noon for background information and discussion of issues relevant to the National Institute of General Medical Sciences and its national research service award training activities and research program. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Title 5, U.S.C. 552b(c)(4) and 552b(c)(6), the meeting will be closed to the public on October 30, 1978, from 1 until 5 p.m. and on October 31, 1978, from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual grant applications. These applications could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Paul Deming, Research Reports Officer, NIGMS, National Institutes of Health, Room 9A05, Westwood Building, Bethesda, Md. 20014, telephone 301-496-7301, will provide a summary of the meeting and a roster of committee members.

Dr. Lee Van Lenten, Executive Secretary, Cellular and Molecular Basis of Disease Review Committee, NIGMS, National Institutes of Health, Room 907, Westwood Building, Bethesda, Md. 20014, telephone 301-496-7621, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13-863, General Medical Sciences.)

Dated: September 1, 1978.

SUZANNE L. FREMEAU
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-25687 Filed 9-12-78; 8:45 am]

[4110-08]

DIVISION OF RESEARCH GRANTS

Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the following study sections for September through November 1978 and individuals from who summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately 1 hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code, and section 10(d) of Pub. L. 92-463, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Richard Turlington, Chief, Grants Inquiries Office of the Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Md. 20014, telephone area code 301-496-7441, will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Anyone planning to attend a meeting should contact the executive secretary to confirm the exact meeting time.

Study section	September to November 1978 meetings	Time	Location
Allergy and Immunology: Dr. Morton Reitman, room 320, telephone 301-496-7380.	Nov. 2-4	8:45	Holiday Inn, Chevy Chase, Md.
Applied physiology and orthopedics: Ms. Ileen E. Stewart, Room 350, telephone 301-496-7581.	Oct. 26-28	8:30	room 8, Bldg. 31C, Bethesda, Md.
Bacteriology and mycology: Dr. Milton Gordon, room 234, telephone 301-496-7340.	do	8:30	Holiday Inn, Bethesda, Md.
Bioanalytical and metallobiochemistry; Mr. Richard P. Bratzel, room 310, telephone 301-496-7733.	Nov. 2-4	8:00	Sheraton Inn, Silver Spring, Md.
Biochemistry: Dr. Adolphus P. Toliver, room 318, telephone 301-496-7516.	Oct. 25-28	9:00	Ramada Inn, Arlington, Va.
Biophysics and Biophysical Chemistry A: Dr. Irvin Fuhr, room 236, telephone 301-496-7060.	Nov. 3-5	9:00	Mayflower Hotel, Washington, D.C.
Biophysics and biophysical, chemistry B: Dr. John B. Wolff, room 236, telephone 301-496-7070.	Oct. 26-28	8:30	Holiday Inn, Chevy Chase, Md.
Biopsychology: Dr. A. Keith Murray, room 220, telephone 301-496-7058.	Oct. 23-26	9:30	Sheraton Inn, Silver Spring, Md.
Cardiovascular and Pulmonary: Dr. Vincent J. Cairoli, room 339, telephone 301-496-7901.	Nov. 9-11	8:00	Holiday Inn, Dallas, Tex.
Cardiovascular and Renal: Dr. Rosemary S. Morris, room 339, telephone 301-496-7901.	Nov.1-3	9:00	Holiday Inn, Bethesda, Md.
Cell biology: Dr. Gerald Greenhouse, room 2A-04, telephone 301-496-7020.	Nov. 15-18	8:30	Linden Hill Hotel, Bethesda, Md.
Communicative sciences: Dr. Michael Halasz, room 3212, telephone 301-496-7550.	Nov. 15-17	8:30	Sir Francis Drake Hotel, San Francisco, Calif.
Endocrinology: Mr. Morris M. Graff, room 333, telephone 301-496-7346.	Oct. 16-19	7 p.m	Sheraton Inn, Silver Spring, Md.
Epidemiology and disease, control: Dr. Irving Simos, room 443, telephone 301-496-7246.	Nov. 1-3	8:30	Room 6, Bldg. 31C, Bethesda, Md.
Experimental therapeutics: Dr. Anne R. Bourke, room 319, telephone 301-496-7839.	Sept. 21-23	8:30	LaValencia Hotel, LaJolla, Calif.
Experimental virology: Dr. Eugene Zebovitz, room 206, telephone 301-496-7474.	Oct. 22-25	2 p.m	Room 8, Bldg. 31C, Bethesda, Md.
General medicine A: Dr. Harold M. Davidson, room 354, telephone 301-496-7797.	do	6 p.m	Room A, Landow Bldg., Bethesda, Md.
General medicine B: Dr. William F. Davis, Jr., room 322, telephone 301-496-7730.	Nov. 1-4	9:00	Embassy Row Hotel, Washington, D.C.
Genetics: Dr. David J. Remondini, room 349, telephone 301-496-7271.	Nov. 2-4	9:00	Room 8, Bldg. 31C, Bethesda, Md.

Study section	September to November 1978 meetings	Time	Location
Hematology: Dr. Lawrence Kingsley, room 351, telephone 301-496-7506.	Nov. 2-4	8:30	Holiday Inn, Chevy Chase, Md.
Histology and pathology: Dr. Harold Davis, room 360, telephone 301-496-7581.	Oct. 26-28	8:30	Holiday Inn, Bethesda, Md.
Human development: Dr. Gopal Sharma, room 2A-03, telephone 301-496-7020.	Nov. 15-18	8:30	Linden Hill Hotel, Bethesda, Md.
Immunobiology: Dr. Bernard Talal, room 2A-04, telephone 301-496-7020.	Nov. 15-18	8:30	Linden Hill Hotel, Bethesda, Md.
Medical microbiology and infectious diseases: Dr. Gerhard Ammon, room 2A-03, telephone 301-496-7020.	Nov. 15-18	8:30	Linden Hill Hotel, Bethesda, Md.
Metabolism: Dr. Harold M. Kaplan, room 2A-03, telephone 301-496-7020.	Nov. 15-18	8:30	Linden Hill Hotel, Bethesda, Md.
Microbial chemistry: Dr. Gerhard Ammon, room 2A-03, telephone 301-496-7020.	Nov. 15-18	8:30	Linden Hill Hotel, Bethesda, Md.
Neurology A: Dr. Jerry Waniger, room 321, telephone 301-496-7581.	Oct. 26-28	8:30	Holiday Inn, Chevy Chase, Md.
Neurology B: Dr. Jerry Waniger, room 321, telephone 301-496-7581.	Oct. 26-28	8:30	Holiday Inn, Chevy Chase, Md.
Nutrition: Dr. Harold M. Kaplan, room 2A-03, telephone 301-496-7020.	Nov. 15-18	8:30	Linden Hill Hotel, Bethesda, Md.
Pharmacology: Dr. Gopal Sharma, room 2A-03, telephone 301-496-7020.	Nov. 15-18	8:30	Linden Hill Hotel, Bethesda, Md.
Physiological chemistry: Dr. Adolphus P. Toliver, room 318, telephone 301-496-7516.	Oct. 25-28	9:00	Ramada Inn, Arlington, Va.
Physiology: Dr. Lee Van Lenten, room 907, telephone 301-496-7621.	Oct. 30-31	8:30	Landow Bldg., Conference Room A, Bethesda, Md.
Psychopathology: Dr. Jerry Waniger, room 321, telephone 301-496-7581.	Oct. 26-28	8:30	Holiday Inn, Chevy Chase, Md.
Radiation: Dr. Gopal Sharma, room 2A-03, telephone 301-496-7020.	Nov. 15-18	8:30	Linden Hill Hotel, Bethesda, Md.
Reproductive biology: Dr. Gopal Sharma, room 2A-03, telephone 301-496-7020.	Nov. 15-18	8:30	Linden Hill Hotel, Bethesda, Md.
Surgery, anesthesiology and trauma: Dr. Lawrence Kingsley, room 351, telephone 301-496-7506.	Nov. 2-4	8:30	Holiday Inn, Chevy Chase, Md.
Toxicology: Dr. Gopal Sharma, room 2A-03, telephone 301-496-7020.	Nov. 15-18	8:30	Linden Hill Hotel, Bethesda, Md.
Visual sciences A: Dr. Irvin Fuhr, room 236, telephone 301-496-7060.	Nov. 3-5	9:00	Mayflower Hotel, Washington, D.C.
Visual sciences B: Dr. Irvin Fuhr, room 236, telephone 301-496-7060.	Nov. 3-5	9:00	Mayflower Hotel, Washington, D.C.

[4110-08]

NATIONAL ADVISORY CHILD HEALTH AND

Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October

Study section	September to November 1978 meetings	Time	Location
Hematology: Dr. Clark K. Lum, room 355, telephone 301-496-7508.	Oct. 16-18	8:30	Holiday Inn, Chevy Chase, Md.
Human development: Dr. Bertie H. R. Woolf room 232, telephone 301-496-7025.	Oct 25-27	9:00	Embassy Row Hotel, Washington, D.C.
Human embryology and development: Dr. Arthur Hoversland, room 221, telephone 301-496-7597.	Oct. 25-28	8:30	Linden Hill Hotel, Bethesda, Md.
Immunobiology: Dr. James H. Turner, room 233, telephone 301-496-7780.	Nov. 1-3	8:30	Kenwood Country Club, Bethesda, Md.
Immunological sciences: Dr. Lottie Kornfield, room 233, telephone 301-496-7171.	Oct. 25-27	8:30	Room 7, Bldg. 31C, Bethesda, Md.
Medicinal Chemistry A: Dr. Ronald J. Dubios, room 425, telephone 301-496-7286.	Oct. 26-29	9:00	Holiday Inn, Washington, D.C.
Metabolism: Dr. Robert M. Leonard, room 334, telephone 301-496-7091.	Nov. 2-4	8:30	Room 7, Bldg. 31C, Bethesda, Md.
Microbial chemistry: Dr. Eileen Raizen, room 357, telephone 301-496-7130.	Oct. 25-27	8:30	Room 4, Bldg. 31A, Bethesda, Md.
Molecular biology: Dr. Donald T. Disque, room 328, telephone 301-496-7830.	Oct. 26-28	8:30	Holiday Inn, Bethesda, Md.
Molecular cytology: Dr. Asher Hyatt, room 222, telephone 301-496-7149.	Nov. 2-4	8:30	St. Anthony Hotel, San Antonio, Tex.
Neurological sciences: Dr. Edwin M. Bartos, room 207, telephone 301-496-7000.	Nov. 3-5	8:30	Mayfair Hotel, St. Louis, Mo.
Neurology A: Dr. William E. Morris, room 326, telephone 301-496-7095.	Nov. 2-4	8:30	Do.
Neurology B: Dr. Willard L. McFarland, room A-23, telephone 301-496-7422.	Oct. 25-28	8:30	Sheraton Inn, Silver Spring, Md.
Nutrition: Dr. John R. Schubert, room 204, telephone 301-496-7178.	Oct. 25-27	8:30	Greenwood Inn, Beaverton, Oreg.
Oral biology and medicine: Dr. Thomas M. Tarpley, Jr., room 325, telephone 301-496-7818.	Nov. 14-17	8:00	Sheraton Inn, Silver Spring, Md.
Pathobiological chemistry: Dr. Ellen G. Archer, room 206, telephone 301-496-7432.	Oct. 25-28	8:30	Holiday Inn, Chevy Chase, Md.
Pathology A: Dr. Harold Waters, room 337, telephone 301-496-7305.	Oct. 24-28	8:00	Holiday Inn, Bethesda, Md.
Pathology B: Dr. Mischa Friedman, room 352, telephone 301-496-7244.	Nov. 7-9	8:30	Holiday Inn, Chevy Chase, Md.
Pharmacology: Dr. Joseph A. Kaiser, room 218, telephone 301-496-7408.	Oct. 31-Nov. 2	8:30	Holiday Inn, Bethesda, Md.
Physiological chemistry: Dr. Irving Simos, room 338, telephone 301-496-7837.	Nov. 2-4	9:00	Do.
Physiology: Dr. Martin Frank, room 209, telephone 301-496-7878.	Nov. 13-15	9:00	Room 7, Bldg. 31C, Bethesda, Md.
Radiation: Dr. Robert L. Straube, room 219, telephone 301-496-7073.	Nov. 13-15	9:00	Holiday Inn, Hilton Head, S.C.
Reproductive biology: Dr. Dharam S. Dhindsa, room 307, telephone 301-496-7318.	Oct. 16-19	8:30	Holiday Inn, Chevy Chase, Md.
Social sciences and population: Miss Carol A. Campbell, room 210, telephone 301-496-7140.	Oct. 19-22	9:00	Hotel Wasahington, Washington, D.C.
Surgery, anesthesiology, and Trauma: Dr. Keith Franer, room 336, telephone 301-496-7771.	Oct. 26-27	8:30	Holiday Inn (Airport), Arlington, Va.
Surgery and bioengineering: Dr. Joe W. Atkinson, room 348, telephone 301-496-7506.	Oct. 26-27	8:30	Holiday Inn, Arlington, Va.
Toxicology: Dr. Raymond Bahor, room 226, telephone 301-496-7570.	Nov. 7-9	8:30	Holiday Inn, Washington, D.C.
Tropical medicine and parasitology: Dr. Betty June Myers, room 319, telephone 301-496-7494.	Nov. 3-5	8:30	Essex Inn, Chicago, Ill.
Virology: Dr. Claire H. Winestock, room 138, telephone 301-496-7128.	Oct. 26-28	8:30	Room 6, Bldg. 31C Bethesda, Md.
Visual Sciences A: Dr. Orvil E. A. Bolduan, room 437, telephone 301-496-7180.	Nov. 8-10	9:00	Holiday Inn, Crystal City, Va.
Visual Sciences B: Dr. Luigi Giacometti, room 325, telephone 301-496-7351.	Nov. 10-13	9:00	Holiday Inn, St. Louis, Mo.

(Catalog of Federal Domestic Assistance Program Nos. 13.333, 13.337, 13.349, 13.393-13.396, 13.386-13.844, 13.846-13.871, 13.876, Natonal Institutes of Health, HEW.)

Dated: September 5, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-25682 Filed 9-12-78; 8:45 am]

[4110-08]

NATIONAL ADVISORY CHILD HEALTH AND HUMAN DEVELOPMENT COUNCIL

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council, October 13-14, 1978, Building 31, Conference Room 6, National Institutes of Health, Bethesda, Md.

This meeting will be open to the public on October 13 from 9 a.m. to 5 p.m. with current status reports, review of the pregnancy and infancy program, and scientific presentations. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 14 from 9 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mrs. Marjorie Neff, Council Secretary, NICHD, Building 31, Room 2A-04, National Institutes of Health, Bethesda, Md., area code 301-496-1848, will provide a summary of the meeting and a roster of Council members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.864 and 13.865, National Institutes of Health.)

Dated: September 1, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-25683 Filed 9-12-78; 8:45 am]

[4110-08]

NEUROLOGICAL DISORDERS PROGRAM-PROJECT REVIEW A COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Neurological Disorders Program-Project Review A Committee, National Institutes of Health, October 19-21, 1978, in the Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Md. 20014.

The meeting will be open to the public from 8:30 p.m. until 10:30 p.m. on October 19, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 20, from 8:30 a.m. to adjournment on October 21, for the review, discussion, and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, Md. 20014, telephone 301-496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. Leon J. Greenbaum, Jr., Executive Secretary, Federal Building, Room 9C14B, Bethesda, Md. 20014, 301-496-9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health.)

Dated: September 1, 1978.

SUZANNE L. FREMEAU,
Committee management Officer,
National Institutes of Health.

[FR Doc. 78-25685 Filed 9-12-78; 8:45 am]

[4110-08]

NEUROLOGICAL DISORDERS PROGRAM-PROJECT REVIEW B COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Neurological Disorders Program-Project Review B Committee, National Institutes of Health, November 2-4, 1978, in the Breckenridge Pavilion Hotel, One Broadway, St. Louis, Mo. 63102.

The meeting will be open to the public from 8:30 p.m. until 10:30 p.m. on November 2, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 3, from 8:30 a.m. to adjournment on November 4, for the review, discussion, and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, Md. 20014, telephone 301-496-

5751, will furnish summaries of the meeting and rosters of committee

Dated: September 1, 1978.

SUZANNE L. FREMEAU,

Closure reason: To review research grant applications.

Executive secretary: Dr. William R. Sans-

members and other relevant information regarding the meeting may be obtained from the contact person listed

(2) A Division of Planning and Policy Coordination (AE.10.A.2), and

(3) A Division of Intergovernmental

State and local governments. Functions include: Conduct of policy planning and analysis when such policies

5751, will furnish summaries of the meeting and rosters of committee members.

Dr. Herbert Yellin, Executive Secretary, Federal Building, Room 9C10B, Bethesda, Md. 20014, telephone 301-496-9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health.)

Dated: September 1, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-25688 Filed 9-12-78; 8:45 am]

[4110-08]

NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE SCIENCE INFORMATION PROGRAM ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Neurological and Communicative Disorders and Stroke Science Information Program Advisory Committee, National Institutes of Health, November 9, 1978, in Building 31-C, Conference Room 6, NIH, Bethesda, Md. 20014.

This meeting will be open to the public on November 9, from 12 m. to 6 p.m. to discuss the status and plans for the Institutes' science information program. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed on November 9, from 9 a.m. until 12 m. for the review, discussion, and evaluation of an individual contract proposal. The portion of the meeting being closed involves the review, discussion, and evaluation of this contract proposal. The proposal and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposal.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, Md. 20014, telephone 301-496-5751, will furnish summaries of the meeting and rosters of committee members.

Mr. Alfred Weissberg, Executive Secretary, NINCDS, NIH, Building 31, Room 8A-07, Bethesda, Md. 20014, telephone 301-496-9271, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.854, National Institutes of Health.)

Dated: September 1, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-25689 Filed 9-12-78; 8:45 am]

[4110-08]

REVIEW OF CONTRACT PROPOSALS AND GRANT APPLICATIONS

Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, for the review, discussion, and evaluation of individual contract proposals and grant applications, as indicated. These proposals and applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals and the applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014, 301-496-5708, will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the executive secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014, unless otherwise stated.

Name of Committee: Virus Cancer Program Scientific Review Committee.
Dates: October 20, 1978; 9 a.m.
Place: Landow Building, Conference Room A, 7910 Woodmont Avenue, Bethesda, Md. 20014.
Times: Open—October 20, 9-9:30 a.m. Closed—October 20, 9:30 a.m. to adjournment.
Closure reason: To review research contract proposals.
Executive secretary: Dr. Maurice L. Guss, Landow Building, Room 9A10, National Institutes of Health, phone 301-496-4533.

(Catalog of Federal Domestic Assistance No. 13.393, National Institutes of Health.)

Name of Committee: Cancer Special Program Advisory Committee.
Date: October 30-31, 1978; 9 a.m.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Times: Open—October 30, 9-10:30 a.m. Closed: October 30, 10:30 a.m.-5 p.m.; October 31, 8:30 a.m. to adjournment.
Closure reason: To review research grant applications.
Executive secretary: Dr. William R. Sanslone, Westwood Building, Room 805, National Institutes of Health, phone 301-496-7565.

(Catalog of Federal Domestic Assistance No. 13.392, National Institutes of Health.)

Dated: September 1, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-25686 Filed 9-12-78; 8:45 am]

[4110-86]
[4110-87]

Public Health Service

SAFETY AND OCCUPATIONAL HEALTH STUDY SECTION

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Center for Disease Control announces the following National Institute for Occupational Safety and Health Committee meeting:

Name: Safety and Occupational Health Study Section.
Date: October 26, 27, 28, 1978.
Place: Conference Room C, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.
Time: 9 a.m.
Type of meeting: Open—9 to 11 a.m. on October 26, 1978. Closed—Remainder of meeting.
Contact person: Donald F. Flick, Ph. D., Executive Secretary, 5600 Fishers Lane, Parklawn Building, Room 8-63, Rockville, Md. 20857, telephone 301-443-4493.
Purpose: The Committee is charged with the initial review of research, training, demonstration, and fellowship grant applications for Federal assistance in program areas administered by the National Institute for Occupational Safety and Health, and with advising the Institute staff on training and research needs.
Agenda: Agenda items for the open portion of the meeting will include consideration of minutes of previous meeting, and administrative and staff reports. Beginning at 11 a.m., October 26, 1978, through adjournment on October 28, 1978, the Study Section will be performing the initial review of research grant and training grant applications for Federal assistance, and will not be open to the public, in accordance with the provisions set forth in Section 552b(c)(6), Title 5, United States Code, and the determination of the Director, Center for Disease Control, pursuant to Pub. L. 92-463.

Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: September 5, 1978.

WILLIAM H. FOEGE,
Director, Center for Disease Control.

[FR Doc. 78-25670 Filed 9-12-78; 8:45 am]

[4110-12]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION

Statement of Organization, Functions and Delegations of Authority

This notice amends part A of the statement of organization, functions, and delegations of authority of the Department of Health, Education, and Welfare, Office of the Secretary, by modifying certain parts of chapter AE "Office of the Assistant Secretary for Planning and Evaluation" (41 FR 47275, dated 10-28-76).

Increased attention to the evaluation of the Department's programs, the need for greater coordination between evaluation management and available technical and statistical services, the importance of emphasizing the evaluative role of the special concerns function, and administrative streamlining justify these proposed changes. This notice:

(a) Establishes an Office of Evaluation and Technical Analysis (new AE.10.F).

(b) Abolishes the Office of Technical Support and Statistics and its component divisions (AE.10.G).

(c) Abolishes the Division structure within the Office of Program Systems (AE.10.A.1, 2 & 3).

(d) Transfers the Office of Special Concerns (old AE.10.F) to the Office of Evaluation and Technical Analysis. Special Concerns will have a suboffice status within the Office of Evaluation and Technical Analysis, and its existing Divisions are transferred intact (new AE.10.F.5).

(e) Creates within the Office of Evaluation and Technical Analysis:

(1) A Division of Evaluation Planning and Utilization (AE.10.F.1),

(2) A Division of Evaluation Standards and Management (AE.10.F.2),

(3) A Division of Computation and Modeling (AE.10.F.3), and

(4) A Division of Statistics (AE.10.F.4).

(f) Creates within the Office of Program Systems:

(1) A Division of Policy Analysis and Research (AE.10.A.1),

(2) A Division of Planning and Policy Coordination (AE.10.A.2), and

(3) A Division of Intergovernmental Policy (AE.10.A.3).

The following changes are made in the statement of organization, functions and delegations of authority.

Section AE.20.A is revised to read:

A. The Office of Program Systems is responsible for the general development, coordination, and operation of the Department's policy planning and development activities, as well as for direct policy and program analysis for crosscutting issues which involve more than one HEW agency or which involve HEW interaction with other Federal departments or agencies or other levels of government. This office also supervises the collection, storage, retrieval and dissemination of information required for planning, research, and policy anaylsis.

1. The Division of Policy Analysis and Research is responsible for the development of policies and procedures to insure the quality, relevance, and utility of the Department's research activities; for the conduct of policy analysis in subjects and areas not covered by, or cutting across, the programmatic offices of the Office of the Assistant Secretary for Planning and Evaluation; for providing the Department's analysis and representation on issues of primary concern to other Federal departments and agencies, for representing the Department externally on governmentwide task forces studying requirements and procedures for policy analysis, and for developing approaches to conduct effective policy analysis of social programs and providing technical support to other offices on techniques of policy, systems, and benefit cost analysis.

2. The Division of Planning and Policy Coordination is responsible for the oversight, development, and coordination of the Department's policy planning and development procedures, including the establishment of schedules and procedures to insure the availability of supporting information (policy analyses and research) for the purposes of policy planning, legislation, and budget preparation. This Division is further responsible for coordination of the internal development of the Department's legislative program, for performing analyses to identify program duplication and opportunities for consolidation, and for ongoing analysis of the effect of planning requirements in HEW laws and regulations, of experiences and opportunities in the areas of integration of services and the joint funding of projects.

3. The Division of Intergovernmental Policy is responsible for conducting and coordinating the necessary policy planning, program analysis, research, and evaluation on the implications of alternative departmental policies on State and local governments. Functions include: Conduct of policy planning and analysis when such policies have particular impact on State or local governments, review of proposed policies to insure that views of other governments are included in the consideration of proposed policies; oversight of research in areas having intergovernmental significance; analysis of the effect of Department policies on other government types (Indian tribes, Puerto Rico, Virgin Islands, trust territories); assistance to the Deputy Under Secretary for Intergovernmental Affairs on particular initiatives with real or potential impact on State or local governments, and oversight of State or local research and demonstrations under section 1115 of the Social Security Act.

Section AE.20F. is revised to read:

F. The Office of Evaluation and Technical Analysis is generally responsible for development of the Department's evaluation policies and procedures, oversight of the Department's evaluation and statistical policy activities, development and dissemination of new and effective evaluation techniques, performance of some direct evaluation, and insuring that evaluation reports are formatted and organized in such a way that they are available to policy, legislative, and budget decision discussions, and evaluating the Department's programs and analyzing potential departmental policies from the perspective of the program and policy impact on vulnerable groups, including Spanish-surnamed Americans, black Americans, Asian Americans, women, and others.

1. The Division of Evaluation Planning and Utilization is responsible for developing a departmental evaluation agenda, taking into account principal operating components' evaluation priorities, questions raised in policy, legislative, and budget discussions which can be answered by evaluation, and other anticipated information needs for future policy issues or budget or legislative decisions. This Division is also responsible for reviewing evaluation plans of the principal operating components and the Office of the Assistant Secretary for Planning and Evaluation, formatting evaluation products for maximum utility in policy, legislation, and budget decision discussions, working with the Assistant Secretary for Management and Budget to develop ways to shorten the timelag between question development and production of evaluation answers, direct operation of some evaluation projects, and monitoring the usefulness of evaluation products to the Department's decisionmakers.

2. The Division of Evaluation Standards and Management is responsible for monitoring evaluation projects of the Office of the Assistant Secretary

for Planning and Evaluation and the principal operating components through review of evaluation objectives, designs, and reports. Particular attention is given to the impact of programs on vulnerable groups, including Spanish-surnamed Americans, black Americans, Asian Americans, women, and other vulnerable groups. The Office initiates evaluations, research and policy analyses in response to requests from the Secretary, principal regional officials, heads of principal operating components and their staff, and to other agencies of

appropriate degree of their participation in the implementation and evaluation of Department programs. Divi-

Deputy Assistant Secretary for Evaluation and Technical Analysis.

d. The Women's Action program

[4110-12]

OFFICE FOR CIVIL RIGHTS

for Planning and Evaluation and the principal operating components through review of evaluation objectives and design (and in some cases direct participation in contractor selection) and continuing project monitoring throughout the course of the evaluation, establishing standards for use throughout the Department to insure utilization of adequate methodology and the relevance of evaluation activities to real policy or program management concerns, directly operating some evaluation projects, and providing technical assistance both to POC evaluation staff on particular problems of evaluation design or management and to the Office of the Inspector General on service delivery assessments.

3. The Division of Computation and Modeling is responsible for the provision of analytical staff services and professional scientific advice in modeling socioeconomic processes, the development and operation of large-scale computerized simulations for proposed departmental initiatives, provision of specialized scientific computation and analysis services for policy research and evaluation, and providing user-oriented computer assistance for evaluators and other analysts within the Office of the Assistant Secretary for Planning and Evaluation.

4. The Division of Statistics is responsible for the provision of statistical staff services and professional scientific advice in direct support of analytic work in planning and evaluation and in the technical coordination of selected crosscutting statistical activities within the Department, representing the Department in dealing with the Bureau of the Census and other Federal agencies on matters of statistical data collection, establishment of congruent definitions and classifications for statistics of departmental concern, and data access and use; direct performance of survey development and analysis for crosscutting evaluations and policy initiatives; performance of special studies and research to improve existing statistical techniques; development of new quantitative methods for planning and evaluation; and planning and coordination of major data collections to acquire data for policy analysis and evaluation.

5. The Office of Special Concerns is a suboffice within the Office of Evaluation and Technical Analysis and is responsible for conducting program and policy analyses, research and program evaluations to advise the Secretary, Assistant Secretary, and the Deputy Assistant Secretary for Evaluation and Technical Analysis on the impact of the Department's programs and the implications of alternative Departmental policies and strategies on the effective delivery of services to minorities, women, and other vulnerable groups. The Office initiates evaluations, research and policy analyses in these areas and assists or advises on evaluations, studies, or policy analyses conducted by other offices within the Office of the Assistant Secretary and elsewhere in the Department. In addition, the Office is the principal office within the Office of the Secretary which directly interfaces with the Department's Office for Civil Rights and other departmental agencies to coordinate the related issues of the planning, policy analysis, and the legislative formulation process and which conducts research, analysis, and evaluation activites in the civil rights area. These responsibilities, plus special evaluation, research, and analysis projects assigned by the Secretary or Assistant Secretary are accomplished through four divisions representing the interests of Spanish-surnamed Americans, black Americans, Asian Americans, and women as well as through cross divisional working teams.

a. The Division of Spanish-surnamed Americans serves as the principal advisor to the Secretary, the Assistant Secretary, and the Deputy Assistant Secretary for Evaluation and Technical Analysis on all policy matters relating to the Hispanic community. The Division brings this perspective to the development and implementation of a basic social science research, evaluation and policy strategy program for the Office of Special Concerns designed to increase the effective impact of departmental programs on minorities and women. Specific functions include: Design and conduct of research and evaluation studies on the needs of the Spanish-surnamed American populations and on the impact of Department policies and programs on these groups; advice and assistance in the design of research and evaluation studies conducted elsewhere within the Office of the Assistant Secretary and the Department: Identification of the policy issues relevant to impact on these groups; conduct of or assistance in analysis of these policy issues; preparation of reports, issue papers and decision memoranda for the Secretary; advice and assistance on policy analyses conducted elsewhere within the Department; periodic analysis of the standard performance indicators of the Department's programs, such as beneficiary data, to assess the equity of service delivery to Spanish-surnamed Americans and development of recommendations to the Deputy Assistant Secretary for Evaluation and Technical Analysis, the Assistant Secretary, and the Secretary indicating the need for improvement; provision of information and advice on programatic and policy issues impacting on this population to the Department's principal regional officials, heads of principal operating components and their staff, and to other agencies of Federal and State government; provision of advice to the Secretary on methods of building and sustaining effective communication with Spanish-surnamed American communities, including the appropriate degree of their participation in the implementation and evaluation of Department programs. Division staff also serve on cross-division teams to conduct planning, policy, legislative research and evaluation activities in the civil rights area, as well as other crosscutting activities assigned to the Office by the Secretary, the Assistant Secretary, or the Deputy Assistant Secretary for Evaluation and Technical Analysis.

b. The Division of Black American Affairs serves as the principal advisor to the Secretary, the Assistant Secretary, and the Deputy Assistant Secretary for Evaluation and Technical Analysis, on all policy matters relating to the black community. The Division brings this perspective to the development and implementation of a basic social science research, evaluation, and policy strategy program for the Office of Special Concerns designed to increase the effective impact of departmental programs on minorities and women. Specific functions include: Design and conduct of research and evaluation studies on the needs of the black American populations and on the impact of Department policies and programs on these groups; advice and assistance in the design of research and evaluation studies conducted elsewhere within the Office of the Assistant Secretary and the Department; identification of policy issues relevant to impact on these groups' conduct or of assistance in analysis of these policy issues; preparation of reports, issue papers, and decision memoranda for the Secretary; advice and assistance in policy analyses conducted elsewhere within the Department; periodic analysis of the standard performance indicators of the Department's programs, such as beneficiary data to assess the equity of service delivery to black Americans and development of recommendations to the Deputy Assistant Secretary for Evaluation and Technical Analysis, the Assistant Secretary, and the Secretary indicating the need for improvement; provision of information and advice on programatic and policy issues impacting on this population to the Department's principal regional officials, heads of principal operating components and their staffs, and to other agencies of Federal and State government; provision of advice to the Secretary on methods of building and sustaining effective communication with black American communities including the appropriate degree of their participation in the implementation and evaluation of Department programs. Division staff also serve on cross-division teams to conduct planning, policy, legislative, research, and evaluation activities in the civil rights area as well as other crosscutting activities assigned to the Office by the Secretary or Assistant Secretary or the Deputy Assistant Secretary for Evaluation and Technical Analysis.

c. The Division of Asian American Affairs serves as the principal advisor to the Secretary, the Assistant Secretary, and the Deputy Assistant Secretary for Evaluation and Technical Analysis on all policy matters relating to the Asian community. The Division brings this perspective to the development and implementation of a basic social science research, evaluation, and policy strategy program for the Office of Special Concerns designed to increase the effective impact of Departmental programs on minorities and women. Specific functions include: Design and conduct of research and evaluation studies on the needs of the Asian American populations and on the impact of Department policies and programs on these groups, advice and assistance in the design of research and evaluation studies conducted elsewhere within the Office of the Assistant Secretary and the Department; identification of policy issues relevant to impact on these groups; conduct of or assistance in analysis of these policy issues; preparation of reports issue papers and decision memoranda for the Secretary; advice and assistance in policy analyses elsewhere within the Department's programs, such as: Beneficiary data to assess the equity of service delivery to Asian Americans and development of recommendations to the Deputy Assistant Secretary for Evaluation and Technical Analysis, Assistant Secretary, and Secretary, indicating the need for improvement; provision of information and advice on programatic and policy issues impacting on this population to the Department's principal regional officials, heads of principal operating components and their staffs, and to other agencies of Federal and State governments; provision of advice to the Secretary on methods of building and sustaining effective communication with Asian American communities including the appropriate degree of their participation in the implementation and evaluation of Department programs. Division staff also serve on cross division teams to conduct the planning, policy, legislative, research, and evaluation activities in civil rights as well as other crosscutting activities assigned to the Office by the Secretary or Assistant Secretary or the Deputy Assistant Secretary for Evaluation and Technical Analysis.

d. The Women's Action program serves as the principal advisor to the Secretary in all policy matters relating to women. The Division brings this perspective to the development and implementation of a basic social science research, evaluation, and policy strategy program for the Office of Special Concerns designed to increase the effective impact of Department programs on minorities and women. Specific functions include: Design and conduct of research and evaluation studies on the needs of women and on the impact of Department policies and programs on women; advice and assistance in the design of research and evaluation studies conducted elsewhere within the Office of the Assistant Secretary and the Department; identification of policy issues relevant to impact on these groups; conduct of or assistance in analysis of these policy issues; preparation of reports, issue papers and decision memoranda for the Secretary; advice and assistance on policy analyses conducted elsewhere within the Department; periodic analyses of the standard performance indicators of the Department's programs such as beneficiary data to assess the equity of service delivery to women and development of recommendations to the Deputy Assistant Secretary for Evaluation and Technical Analysis, the Assistant Secretary, and the Secretary indicating the need for improvement; provision of information and advice on programmatic and policy issues impacting on this population to the Department's principal regional officials, heads of principal operating components and their staffs, and to other agencies of Federal and State governments; provision of advice to the Secretary on methods of building and sustaining effective communication with women including the appropriate degree of their participation in the implementation and evaluation of Department programs. Division staff also serve on cross-division teams to conduct crosscutting activities assigned to the Office by the Secretary, or the Assistant Secretary, or the Deputy Assistant Secretary for Evaluation and Technical Analysis.

Dated: September 5, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-25723 Filed 9-12-78; 8:45 am]

[4110-12]

OFFICE FOR CIVIL RIGHTS

Statement of Organization, Functions, and Delegation of Authority

This notice amends the statement of organization, functions, and delegations of authority of the Department of Health, Education, and Welfare, Office of the Secretary, to delete in its entirety Chapter AT, Office for Civil Rights (42 FR 31647-52, June 22, 1977), and to replace it with a new chapter AT, which reflects a functional realignment of the headquarters and regional organization of the Office for Civil Rights.

The Office for Civil Rights enforces several laws and authorities which prohibit discrimination on the basis of race, color, national origin, sex, age, and physical and mental handicap in federally assisted programs.

The beneficiaries protected by the nondiscrimination provisions number in the millions. For example, they include approximately 44 million children in the public schools; 11 million students in colleges and universities; and more than 30 million needy, aged, sick, and disabled individuals who benefit from the Department's programs of assistance and services.

The universe of institutions subject to the provisions also is far reaching and includes approximately 16,000 school systems; 2,600 institutions of higher education; 7,000 hospitals; 6,700 nursing homes and home health agencies; hundreds of libraries, day care centers, educational broadcasting facilities, medical laboratories, and various State and local governmental agencies.

In light of the unprecedented staff increases and management needs of the Office for Civil Rights, as well as the increasing complexity of OCR's caseload, organizational arrangements and relationships between units are critical to the success of OCR's compliance program. This functional realignment provides a structure and a definition of authority and functions that will permit the Office to meet its current enforcement responsibilities more efficiently and effectively, and will provide for better management and more coordination with the Department's civil rights attorneys.

The new statement reads as follows:

SECTION AT.00 *Mission.* The primary mission of the Office for Civil Rights is to eliminate unlawful discrimination and to insure equal opportunities for the beneficiaries and potential beneficiaries of Federal financial assistance. This shall be accomplished as quickly and as effectively as possible, but with careful review and meaningful efforts at voluntary compliance.

SEC. AT.10 *Organization.* The Office for Civil Rights is under the supervision of the Director, who reports

termines policies and standards for the civil rights compliance program in coordination with the Secretary and

pretation of the Office's compliance program, including the preparation of news releases, articles, and other infor-

delegations of authority; insures that major Office communications with groups representing government orga-

for improving regional program activity; informs the Division of Training,

plementation of programs and operating procedures.

F. *Office of Deputy Director, Program, Review and Assistance.* Plans

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SEC. AT.10 *Organization.* The Office for Civil Rights is under the supervision of the Director, who reports to the Secretary. The Director also serves as the Secretary's Special Assistant for Civil Rights, responsible for overall coordination of the Department's external civil rights activities. The Office is comprised of the following headquarters and regional components:

A. HEADQUARTERS ORGANIZATION

OFFICE OF THE DIRECTOR AND PRINCIPAL DEPUTY DIRECTOR

Executive Secretariat.
Office of Public Affairs.
Office of Intergovernmental Affairs.

OFFICE OF THE DEPUTY DIRECTOR, COMPLIANCE AND ENFORCEMENT

Elementary and Secondary Education Division.
Postsecondary Education Division.
Health and Human Development Division.
Special Projects and Procedures Division.

OFFICE OF THE DEPUTY DIRECTOR, PROGRAM REVIEW AND ASSISTANCE

Program Planning, Appraisal, and External Technical Assistance Division.
Intradepartmental Technical Assistance Division.

OFFICE OF THE DEPUTY DIRECTOR, STANDARDS, POLICY, AND RESEARCH

Standards and Policy Development Division.
Research and Analysis Division.

OFFICE OF THE DEPUTY DIRECTOR, MANAGEMENT AND ADMINISTRATION

Management Division.
Field Management Division.
Planning, Budget, and Evaluation Division.
Management Information Division.
Training Division.
Administration Division.

B. REGIONAL ORGANIZATION

OFFICE OF THE REGIONAL DIRECTOR (REGIONS I-X)

Elementary and Secondary Education Division.
Postsecondary Education Division.
Health and Human Development Division.
Program Review and Management Support Division.

SEC. AT.20 *Functions.* A. Office of the Director and Principal Deputy Director. As the Department's chief officer for the enforcement of the nondiscrimination provisions of law and adviser to the Secretary on civil rights, the Director is responsible for the overall operations of the Office for Civil Rights (the Office); establishes policy and serves as adviser to the Secretary on civil rights matters, including intradepartmental activities aimed at incorporating civil rights compliance in the programs which the Department administers; sets overall direction and priorities of the Office by formulating budget requests and long-range and annual operating plans; determines policies and standards for the civil rights compliance program in coordination with the Secretary and other Federal agencies; determines cases for enforcement action; in consultation with the Office of the General Counsel (OGC) identifies the cases for referral to the Department of Justice for legal action and cases for the institution of administrative enforcement proceedings; consults with and advises the Assistant General Counsel for Civil Rights concerning the workload and priorities of the Office of the General Counsel, Civil Rights Division; represents the Secretary in congressinal and Executive Office of the President matters relating to civil rights; and solicits the participation of beneficiaries and recipients in the conduct of the Department's civil rights compliance program.

B. *Executive Secretariat.* Reviews completeness and responsiveness of all documents forwarded to the Director for approval; establishes and monitors proedures for insuring that the Office furnishes complete and timely responses to informational requests from the Secretary, Under Secretary, Department components, Congress, governmental agencies, and public; in conjunction with the Director, assigns responsibility for the preparation of documents and completion dates; determines internal clearance procedures for documents and correspondence, insuring legal clearances and necessary coordination with other Departmental components; insures that Office priorities are met with respect to matters referred to OCR for action. Follows up on the work assignments made by the Director; insures the communication in headquarters of the Director's decisions; serves as point of contact with the Secretary's executive secretariat; and maintains official Office correspondence files and records.

C. *Office of Public Affairs.* In coordination with the Assistant Secretary for Public Affairs, plans and directs a comprehensive civil rights public information program, provides advice and counsel from a public affairs perspective in Office planning and decisionmaking, performs a variety of editorial services and disseminates informational materials for print and audiovisual media in connection with Office activities.

Serves as the primary channel for dissemination of civil rights news to recipients and the general public; provides access for interested groups and citizens to participate in Office planning, policy, and operational activities; develops short- and long-range public information programs; plans and carries out the Office's publications program; maintains liaison with the media to facilitate coverage and interpretation of the Office's compliance program, including the preparation of news releases, articles, and other informational material; conducts a speaker's bureau; designs and maintains an exhibits program; provides technical assistance on public affairs matters to Office personnel and clears all informational materials intended for public dissemination, including administration of the Privacy Act and Freedom of Information Act for the Office. Advises all Office components on the preparation of materials intended for the various publics served.

D. *Office of Intergovernmental Affairs.* Maintains liaison with Congress, Federal departments and agencies, and State and local governments (including organizations representing such units of government). In coordination with the Assistant Secretary for Legislation, establishes processes to facilitate exchange of information between the Office and the Congress; reviews pending legislation for civil rights implications; develops position statements; coordinates policy and legal or statutory interpretation issues with the Deputy Director, Office of Standards, Policy and Research. Assists the Division of Planning, Budget and Evaluation in the development of civil rights legislative proposals. Coordinates with the Director and appropriate departmental offices the preparation of testimony and briefing materials for congressional hearings pertaining to civil rights; monitors the status of pending civil rights legislation and congressional (including appropriations) hearings related to civil rights matters and arranges for Office input as necessary; arranges and participates in briefings of congressional members and staffs on civil rights matters; notifies appropriate congressional committees of significant civil rights developments and informs members of compliance developments affecting Federal fund recipients in their congressional districts. Attends and provides summaries of legislative hearings; coordinates preparation of responses to congressional inquiries; develops tracking system for legislative purposes; maintains legislative library; and reviews CONGRESSIONAL RECORD and FEDERAL REGISTER, preparing summaries for Office use.

Facilitates communication of civil rights-related matters with Federal departments and non-HEW agencies, and State and local governments (including organizations representing such units of government); arranges and participates in briefings of State and local governments on civil rights matters and coordinates participation of office program officials in regional or national conferences which relate to Office enforcement authority; coordinates activities related to interagency

delegations of authority; insures that major Office communications with groups representing government organizations are coordinated within the Office before release; facilitates participation of organizations on Office planning, policy, and operational activities; and coordinates Office review of documents submitted by such organizations.

E. *Office of Deputy Director, Compliance and Enforcement.* Oversees the day-to-day conduct of compliance reviews, complaint investigations and other enforcement activities assigned by the Director. Supervises substantive program activities of the Directors, Regional Civil Rights Offices (Regional Offices). Assures preparation and distribution of manuals containing case-related procedural guidelines. Insures that regulations, guidelines, and standards developed by the Office of Standards, Policy and Research and approved by the Director are implemented in a uniform, effective, and timely manner. Establishes and implements quality control systems to insure that enforcement activities are carried out consistent with Office substantive, investigatory and case-related goals. Assures Regional Offices of necessary headquarters assistance and serves as the focal point for directing, coordinating, and interacting with Regional Offices regarding substantive program matters. Reviews cases recommended for enforcement and makes final enforcement recommendations to the the Director and the Office of the General Counsel.

(1) *Elementary and Secondary Education Division.* Directs program of substantive case-related technical assistance and case-related quality assurance for the Office's elementary and secondary education compliance programs. Insures that determinations related to a recipient's compliance status are reached in an appropriate and timely manner and that policies and procedures are applied consistently.

Advises regional personnel during all stages of case development, including determination and approval of appropriate remedies when discrimination is documented; responds to field inquiries on program matters, referring policy issues to the Office of Standards, Policy and Research, and obtaining advice from the Office of the General Counsel, as necessary; coordinates regional office participation in headquarters policy and program development activities; and resolves program problems and priorities affecting one or more regions.

Develops and directs ongoing substantive quality assurance program, including review and analysis of selected cases to insure consistent application of Office policies and procedures; prepares reports and recommendations for improving regional program activity; informs the Division of Training, Office of Management and Administration, of staff training needs as identified from quality assurance review of regional office performance; identifies areas in which new or modified compliance policies are necessary to respond to problems encountered by Regional Offices and makes appropriate recommendations to the Division of Standards and Policy Development.

Develops and directs a preenforcement case review program by examining cases recommended by Regional Offices for enforcement action; conducts negotiations with recipients, in conjunction with Regional Offices, to secure voluntary compliance in such cases; recommends manner of enforcement (i.e., referral to the Department of Justice for court action or initiation of administrative enforcement proceedings); provides necessary liaison with Office of the General Counsel regarding initiation of enforcement actions and cases already in enforcement action; and secures resource persons for preparation of expert testimony in cases involved in enforcement.

(2) *Postsecondary Education Division.* Conducts the same general functions as the Elementary and Secondary Education Division, except that functions are related to institutions of higher education.

(3) *Health and Human Development Division.* Conducts the same general functions as the Elementary and Secondary Education Division, except that functions are related to health and human development services institutions.

(4) *Special Projects and Procedures Division.* In conjunction with the Division of Standards and Policy Development, and with other Divisions of the Office of Compliance and Enforcement, initiates and implements program development and special compliance reviews. Coordinates complex or unique compliance activities.

Directs program of manual development delineating case-development and investigatory procedures. Consults with Division of Standards and Policy Development on procedures which impact on existing policy or development of new policy. Field tests all new procedures.

Develops and directs a program of expert/consultative services for Regional Offices and headquarters units; identifies required resources and obtains such resources either in-house or externally; maintains a register of in-house and external experts (e.g., statisticians, psychologists, linguists, educators, physicians) and secures their services as necessary; provides expert staff for consultation during investigations and in the development and implementation of programs and operating procedures.

F. *Office of Deputy Director, Program Review and Assistance.* Plans, coordinates, reviews, and appraises the departmentwide initiative to incorporate civil rights activities into the program operations of Principal Operating Components (POC's). Serves as coordinator for OCR interactions with departmental POC's in civil rights matters. Develops and promotes civil rights program policies for implementation by POC's; provides technical assistance and support services to POC's for civil rights policy implementation, including securing support from other OCR components; reviews and appraises civil rights activities undertaken by POC's. Plans departmental programs to provide financial and technical assistance to beneficiaries and recipients to support civil rights compliance; coordinates the Department's efforts to deliver such civil rights technical assistance; serves as liaison to other Federal agencies technical assistance efforts. Provides direct technical assistance to recipients, beneficiaries, and their organizations; designs and manages OCR's external technical assistance contracts.

(1) *Program Planning, Appraisal, and External Technical Assistance Division.* Develops long-range priorities, plans, and civil rights program requirements for POC's, including data management and survey activities, that are consistent with OCR's long-range planning activities. Develops the implementation of external technical assistance in cooperation with other Federal agencies.

Reviews and appraises the civil rights activities implemented by the POC's. Oversees establishment and implementation of a coordinated departmental civil rights system and development of appropriate procedures for advising the Director and Secretary regarding civil rights performance of POC's; conducts special program appraisal of civil rights performance of POC staff.

Coordinates the delivery of external technical assistance to HEW beneficiaries and recipients by OCR Technical Assistance Units (Units) in the HEW Regional Offices. Designs a communications system so that Units can learn of recipient problems directly from recipients; designs, in cooperation with the Division of Intradepartmental Technical Assistance, a system to insure that recipient compliance problems discovered by POC program monitoring staff in the regions and in headquarters are effectively communicated to the Units; develops a set of objectives and a work plan for the Units; monitors and evaluates the accomplishment of objectives; provides advice to the Units on specific prob-

lems; monitors the effectiveness of the technical assistance delivered in meeting recipients' needs and beneficiaries'

policy implications of legislative proposals and budget documents submitted to the Director for approval. Ap-

compliance reviews and participates with that Division in the conduct of such reviews when necessary to collect

most effective and efficient methods of using resources to accomplish the program goals and mission of the

(4) *Management Information Division.* Determines needs of OCR components for management information.

components. Identifies specific training needs of OCR employees; directs program for locating appropriate

lems; monitors the effectiveness of the technical assistance delivered in meeting recipients' needs and beneficiaries' concerns.

Develops and disseminates technical assistance materials to beneficiaries and recipients; maintains communication channels with recipients and beneficiaries to identify technical assistance needs; secures the cooperation of Office of the Secretary staff and carries out other special projects as defined by the Deputy Director, Office of Program Review and Assistance.

(2) *Intradepartmental Technical Assistance Division.* Assists the POC's in carrying out their civil rights responsibilities and activities by: Developing procedures for implementing civil rights responsibilities in POC program operations; designing civil rights management systems and operational criteria to guide the POC's in the administration of their civil rights programs; negotiating memorandums of understanding; developing annual work plans; establishing information systems to improve the management of POC civil rights efforts; and administrating contracts and conducting programs to train POC staff to carry out their civil rights responsibilities.

Reviews POC program regulations, directives, and instructions to assure support of the Department's civil rights authorities; serves on program regulation panels and prepares guidelines for POC civil rights review of their program regulations. Coordinates with POC's the review of grants to be awarded to assure consistency with civil rights agreements negotiated by the Department with recipients. Develops with POC's and related components in the Office of the Secretary the preparation of pregrant and postgrant review procedures. Secures OCR response to POC civil rights issues and concerns.

Guides the POC's in establishing technical assistance programs to explain civil rights compliance to recipients, including contracting; works with POC's to identify broad issues hindering the civil rights compliance of recipients and the delivery of services to beneficiaries; develops with the POC's new projects to monitor the civil rights compliance of their recipients and to assume responsibility for the monitoring of existing civil rights agreements.

G. *Office of Deputy Director, Standards, Policy and Research.* Serves as the Director's chief adviser on civil rights policy; directs the development and dissemination of compliance policies, policy-related procedures, legal standards, regulations, guidelines, and statements; directs policy development and research processes; provides policy interpretations and research to other units of the Office; and reviews the policy implications of legislative proposals and budget documents submitted to the Director for approval. Approves, with the concurrence of the Director, all civil rights surveys and forms and procedures for conducting such surveys.

(1) *Standards and Policy Development Division.* Formulates policies, policy-related procedures, legal standards, regulations, guidelines, and interpretations establishing actions required by the statutes OCR enforces. Assures that beneficiaries and recipients of HEW funds contribute to the development of such policy. Identifies information needed to formulate and implement policies, regulations, guidelines, and statements and communicates these needs to the Division of Research and Analysis. Participates with the Office of Compliance and Enforcement to target, design, and conduct special compliance reviews to formulate new policies and procedures. Consults with the Special Projects and Procedures Divison during the development of investigatory procedures by that Division.

Reviews policies and procedures developed by the Office of Program Review and Assistance defining the civil rights responsibilities of POC's and their respective program agencies and civil rights legislative proposals developed by the Divison of Budget, Planning and Evaluation to assure adherence to OCR policy and legal standards. Provides information for the development of OCR training programs and participates in these programs. Provides policy guidance to other OCR offices and clears policy-related materials prepared by these offices.

(2) *Research and Analysis Division.* Plans and conducts research on recipient and beneficiary populations to identify unresolved policy issues and provide to the Division of Standards and Policy Development information needed as a foundation for policy formulation. Plans and implements all OCR national surveys and data collection projects on recipient and beneficiary populations and performs analyses of resulting data. Performs research on a quick turnaround basis to support time-constrained policy formulation tasks. Serves as the primary OCR information resource on recipient and beneficiary populations. Coordinates the development and implementation of all research and information collection projects with appropriate OCR components. Shares the products of information collection and analysis activities and research studies with all OCR components to support the recipient and beneficiary population information needs of those offices. Assists the Division of Special Projects and Procedures in targeting special compliance reviews and participates with that Division in the conduct of such reviews when necessary to collect and analyze data needed to formulate new policy. Coordinates, supports, and monitors civil rights data collection and analysis and research activities of the Department and other Federal agencies to avoid unnecessary duplication of effort and to insure maximum use of available information on recipient and beneficiary populations. Maintains technical supervision over all contracts designed to support the information collection, analysis, and research of the Office of Standards, Policy and Research. Disseminates data and formal analytical and research reports to interested parties outside OCR. Develops and administers a roster of consultants and experts to support the Division's activities.

H. *Office of Deputy Director, Management and Administration.* Serves as Director's principal advisor on budget, administrative, management, planning, evaluation, training, and information systems for the Office. Supervises resource planning, long-range planning, budget development, and execution for headquarters and the regions. Monitors adherence of Office to goals and objectives, advises Director on alternatives and shifts in goals and objectives and recommends corrective actions for shortfalls in meeting goals and objectives. Appraises efficiency and effectiveness in meeting program and management objectives and recommends methods for improvements. Formulates management policies and procedures for development and implementation of management, budget, and information systems. Supervises the provision of training either through courses offered at the OCR training institute or other available programs. Supervises provision of full range of information management, personnel liaison, administrative, records maintenance and planning and evaluation systems for the Office. Advises Director on financial and other resource commitments of the Office and recommends alternative expenditure plans.

(1) *Management Division.* Establishes policies, procedures, and guidelines for the development and implementation of management systems and programs. Develops operating objectives and plans for programs which involve more than one headquarters unit or which involve more than one headquarters unit and the regions. Administers and staffs OCR resource management system and tracks Director and Secretary level initiatives. Conducts management analyses and researches management techniques and programs to improve Office operation. Advises Deputy Director on the

most effective and efficient methods of using resources to accomplish the program goals and mission of the Office. Provides management guidance to headquarters offices and components. Recommends operational, resource, and organizational adjustments and improvements to increase Office efficiency and effectiveness. In coordination with Field Management Division, analyzes Office-wide management programs, recommending corrective action where appropriate.

(2) *Field Management Division.* Develops, implements, and monitors regional management systems. Provides management guidance to and analysis of regional offices and components. Recommends operational resource and organizational adjustments and improvements to increase regional office management efficiency and effectiveness. Serves as principal advisor to the Deputy Directors, Office of Management and Administration and Compliance and Enforcement, on management approaches appropriate to regional needs. Participates with Management Division in the analysis of Office-wide management programs. Maintains management and administrative liaison with regional offices. Conducts studies and designs and implements model programs to increase the effectiveness of regional office managemet.

(3) *Plannning, Budget, and Evaluation Division.* Develops Office-wide long-range goals and national priorities and translates them into long-range plans, budgets, and legislative plans. Sets Office-wide planning calendar and develops long-range planning, budget, and legislative development guidelines within framework established by OMB and the Department. Coordinates Office-wide participation in HEW's legislative planning process in conjunction with the Office of Intergovernmental Affairs. Advises Deputy Director for Management and Administration on out-year effects of shifting goals and priorities and recommends courses of action which will insure an effective program and an efficient use of resources. Establishes evaluation systems and conducts studies to determine the impact, effectiveness, and benefits of OCR's programs on beneficiaries and client groups. Coordinates evaluation studies with appropriate OCR components. Serves as principal advisor to the Deputy Director, Office of Management and Administration, on planning, budget development, and evaluation matters emanating from the Office of the Secretary and as principal staff coordinator on such matters with the staffs of the Offices of the Assistant Secretaries for Planning and Evaluation, Management and Budget, and Legislation.

(4) *Management Information Division.* Determines needs of OCR components for management information. Designs and operates manual and automated systems which meet those needs. Assures that all components of the management information system are coordinated and comply with established professional standards and departmental and Federal requirements. Prepares regular and special reports and analyses on OCR's workload, actions, resources, and use of resources, using data available in the management information system. Maintains a library of reports. Directs contracted services for meeting management information system requirements when they are needed to augment in-house capabilities.

Establishes procedures and controls and provides guidance and direction to offices entering data into the management information system. Assures that data in the management information system conform to established requirements. Applies standard statistical tests to establish the validity of statistical analyses performed by this Division. Establishes controls to assure the security of automated data processing equipment and the data in the management information system. Conducts management studies on OCR procedures for collecting, storing, retrieving, and analyzing information, whether program or management, automated, or manual, and recommends methods for reducing costs and improving quality and effectiveness. Establishes Office-wide standards for the use of automated data processing, and participates in the evaluations of all external service proposals for automated data processing.

Provides a full range of support services to assist other OCR offices in the design, development, and operation of data systems; the acquisition, storage, and retrieval of data; the preparation of reports and analyses; and the acquisition and use of external services for obtaining, processing and analyzing data.

Maintains assurances of compliance with civil rights requirements filed with the Department by recipients of Federal financial assistance. Advises recipients on requirements for filing assurances. Maintains assurance files, and compiles lists of agencies filing assurances. Identifies recipients which have failed to file assurances and informs Office of Compliance and Enforcement of need to negotiate with or initiate enforcement action against recipients.

(5) *Training Division.* Directs and develops Civil Rights staff development and training programs for headquarters, regional offices, and other departmental components in coordination with appropriate departmental components. Identifies specific training needs of OCR employees; directs program for locating appropriate sources for outside training or consultant instruction for internal programs. Directs development of Office training materials and manuals and participates with other Office components in planning, scheduling, and preparing materials for training professional personnel in headquarters and regional offices. Directs and develops counseling activities concerning employees' career development opportunities, staff development, executive development, and other developmental programs. Directs all Office training activities to insure their educational validity; manages OCR Training Institute.

(6) *Administration Division.* Functions as liaison with the Office of the Assistant Secretary for Personnel Administration, the Office of the Secretary Personnel Office, and the regional personnel office. Provides full range of property management services including space, equipment, and supplies management. Manages central mailroom and duplicating services. Manages records retention, transfer, retirement, and disposal systems of the Office and establishes and monitors files and records maintenance systems used throughout the Office. Sets standards for forms and reports development and control and provides technical assistance to Office components in the development and use of forms and reports. Maintains directives system. Assesses effectiveness of paperwork management processes; recommends changes to increase efficiency. Insures adherence to Federal and departmental policies and standards regarding security of records, files, and equipment. Develops and implements Office budget control system to insure conformance with allotments and timely reporting on commitments and expenditures. Establishes policies, procedures, and reports on fiscal matters including pay, travel, contract services, supplies, and space. Manages and implements Office's contracts program.

Serves as liaison with departmental fiscal management units. Assists offices and operating divisions in the development of financial resource requirements and justifications; provides actual cost data and estimates of future obligations to the Planning and Budget Branch for incorporation into budget.

Manages national budget execution system and insures Office control and reprograming of allocated funds. Advises Deputy Director of fiscal effect of reallocations of funds. Submits regular financial status reports.

Implements Office contracts program; establishes policies, procedures,

and standards for award of contracts, including contract development and reviews; coordinates contract processes

annual operating plan (AOP); in conjunction with Deputy Director, Office of Compliance and Enforcement, de-

(3) *Health and Human Development Division.*[1] Conducts the same general functions as the Elementary and Sec-

listed provisions including, but not limited to, (1) the conduct of investiga-

Sec. SP.20 *Office of Program Operations*—(Functions).

G. Bureau of Data Processing (SPP).

ties relative to operations in the central EDP facility.

(2) Directs the development of com-

and standards for award of contracts, including contract development and reviews; coordinates contract processes with planning and resource management processes; reviews and makes recommendations on all contract proposals; reviews all awarded contracts to assure conpliance with programmatic requirements; implements responsibilities within guidelines and authority set by the Office of the Secretary, Division of Contracts and Grants; and maintains liaison with GSA, GPO, SBA, and other executive agencies, contractors, and vendors of administrative services as they relate to contracts.

B. *Regional Organization—Office of Regional Director.* Manages the staff and other resources allocated to the regional office to meet the OCR production objectives for the regional office activities with respect to: The number of compliance activities completed; the completion of compliance activities within established time frames; maintenance of an acceptable level of quality in all compliance decisions; and adherence to OCR compliance policies. Establishes priorities for the assigns work to the chief of the civil rights unit in the regional attorney's office.

Implements public policy regarding nondiscrimination; targets, schedules, and conducts complaint investigations and compliance reviews; determines compliance of recipients of Federal financial assistance and Federal contractors; negotiates for voluntary compliance; approves, disapproves, and monitors implementation of voluntary compliance and corrective plans; recommends to Deputy Director, Office of Compliance and Enforcement, administrative and/or judicial enforcement actions when voluntary compliance cannot be obtained; determines the most efficient enforcement method, including conciliation of differences between complainants and recipients/contractors; participates in headquarters policy and program development.

Provides technical assistance to promote understanding of OCR legal responsibilities and compliance programs. Such assistance is provided to recipients/contractors to help them correct noncompliance; to beneficiaries and other interested persons to help them deal with recipients/contractors on civil rights matters; to regional offices of other Federal agencies where their responsibiities overlap with those of OCR; to non-Federal agencies in the region whose responsibilities are analogous to those of OCR.

Prepares regional budget proposal and supporting resource and work measurement justifications; implements final budget allotment for region; implements regional portion of annual operating plan (AOP); in conjunction with Deputy Director, Office of Compliance and Enforcement, develops the part of the AOP pertaining to the conduct of complaint investigations, compliance reviews, staff training and other regional office activities.

Provides input on civil rights matters at principal regional official's (PRO) request; requests and receives administrative, supply, personnel, payroll, and other support services from PRO; works with PRO and Office of Program Review and Assistance to establish and maintain effective relations with POCs, especially regarding crosscutting enforcement and compliance responsibilities; works with PRO on Freedom of Information Act requests and news media inquiries; solicits chief regional civil rights attorney's legal opinion on investigations and compliance reviews as appropriate during all stages of those activities.

Establishes and maintains effective relations with civil rights arms of offices of Governors, mayors, county officials, and other key State and local officials; furnishes advice and assistance to them in civil rights matters, and strives to develop mutually beneficial Federal-State-local partnerships. Responds promptly and thoroughly to congressional inquiries; implements court decisions as they pertain to region.

Recruits, selects, and trains employees in program areas; maintains and effectively manages staff of supervisory personnel, equal opportunity specialists, and support and clerical employees; provides input into and implements PRO's affirmative action plan.

(1) *Elementary and Secondary Education Division.* Conducts complaint investigations and compliance reviews of preschool, elementary, and secondary institutions pursuant to the authorities the Office enforces; determines compliance of recipients; negotiates for voluntary compliance; advises regional civil rights director on critical compliance matters, and recommends cases for enforcement action; provides technical assistance for corrective action to recipients; monitors implementation of corrective plans; interfaces with the Regional Civil Rights Attorney's Division, POC regional officials, State, local, and other Federal agencies, and, as appropriate, headquarters offices and divisions; represents the regional office to promote understanding of Office's responsibilities and compliance programs.

(2) *Post Secondary Education Division.* Conducts the same general functions as the Elementary and Secondary Education Division except that functions are related to institutions of higher education.

(3) *Health and Human Development Division.*[1] Conducts the same general functions as the Elementary and Secondary Education Division except that functions are related to health and human development services institutions.

(4) *Program Review and Management Support Division.* Provides the Regional Director with evaluative reports and advice concerning the Office's immediate achievement of its production objective, specifically with regard to: The number of compliance activities completed; the completion of compliance activities within established time frames; maintenance of an acceptable level of quality in all compliance decisions; and adherence to OCR compliance decisions and compliance policies.

Evaluates the effectiveness of regional civil rights enforcement effort; prepares and monitors regional AOP; oversees regional resource planning; analyzes programs; conducts regional data collections, support services, computer programing, analysis, and research; assesses and assists in meeting regional training needs; provides administrative support services related to personnel, reproduction, space and supply acquisition and utilization, maintenance, correspondence control, safety, and travel. Responsible for complaint intake, including determination of jurisdiction and completeness; coordination and implementation of OCR case counting system; internal program quality control and liaison with headquarters quality control functions, including followup and monitoring; and information dissemination.

SEC. AT.30 *Delegations of authority.* The following authorities have been delegated by the Secretary to the Director, Office for Civil Rights:

1. Title VI of the Civil Rights Act of 1964, Pub. L. 88-352.
2. Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112.
3. Titles VII and IX of the Education Amendments of 1972, Pub. L. 92-318.
4. Sections 799A and 855 of the Public Health Service Act, Pub. L. 92-157 and 92-158.
5. Section 407 of the Drug Abuse Office and Treatment Act of 1972, Pub. L. 92-255.
6. Section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended, Pub. L. 91-616 and 93-282.
7. Section 606 of the Education of the Handicapped Act, Pub. L. 91-230, as amended by Pub. L. 94-142.
8. Executive Order 11246, as amended. (As of October 1, 1978, OCR's Executive Order 11246 enforcement duties will be transferred to the Department of Labor.)

This delegation includes all powers necessary to effectuate the above

[1] In larger regions, responsibilities may be divided between a Human Development Division and Health Division.

listed provisions including, but not limited to, (1) the conduct of investigations, (2) the conduct of negotiations to secure voluntary compliance, (3) the determination that such voluntary compliance cannt be secured, (4) the evaluation and acceptance or rejection of corrective action plans, and (5) the conduct of enforcement activities. With respect to the Executive order, the delegation also includes the authority to evaluate and accept or reject affirmative action programs. The Director of the Office for Civil Rights is authorized to redelegate the authority delegated to him subject to the review and concurrence of the Secretary.

Dated: September 1, 1978.

HALE CHAMPION,
Acting Secretary.

[FR Doc. 78-25722 Filed 9-12-78; 8:45 am]

[4110-07]

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part S (formerly part 4) of the statement of organization, functions, and delegations of authority for the Department of Health, Education, and Welfare contains the statement of organization, functions, and delegations of authority for the Social Security Administration (SSA). Sections SP.00, SP.10, and SP.20 of the SSA statement (formerly sections 4-05—00 through 4-05-20, respectively, of the SSA statement, published at 40 FR 4476-77, dated Jan. 30, 1975) describe the mission, organization, order of succession, and functions for SSA's Office of Program Operations (OPO).

Notice is hereby given that sections SP.10 G. 3. a.-c. and SP.20 G. 3. a.-c. originally published as sections 4-05-10 F and 4-05-20 F on January 30, 1975 (40 FR 4477), and as amended as sections SP.10 G. 3. a.-c. and SP.20 G. 3. a.-c. on March 28, 1977 (42 FR 16518-16521), of the OPO statement are hereby revised to reflect the reorganization of the Office of the Assistant Bureau Director, Electronic Data Processing Operations (EDP) in OPO's Bureau of Data Processing. This additional material reads as follows:

Sec. SP.10 *Office of Program Operations*—(Organization).

G. Bureau of Data Processing (SPP).

3. Office of the Assistant Bureau Director, EDP Operations (SPP1) which consists of the:

a. Immediate Office of the Assistant Bureau Director (SPP1).

b. Division of EDP Central Operations (SPP11).

c. Division of EDP Production Control and Support (SPP12).

Sec. SP.20 *Office of Program Operations*—(Functions).

G. Bureau of Data Processing (SPP).

3. The Office of the Assistant Bureau Director, EDP Operations (SPP1) plans and directs the nationwide operation of BDP's complex large scale computer processing operation and wire data transmission system, which is connected to over 1,300 field stations ranging from Hawaii to Puerto Rico. It exercises technical surveillance over EDP equipment in PSC's, including use, scheduling, and configuration. The Office utilizes a large variety of sophisticated EDP equipment for the establishment and maintenance of earnings accounts and beneficiary rolls; preparation of benefit computations and awards; provision of data to PSC's from benefit-in-force rolls; and establishment and maintenance of health insurance rolls and data. It generates, processes, and maintains the basic data utilized throughout SSA. The Office includes the following major components, whose functions are as indicated:

a. The immediate Office of the Assistant Bureau Director (SPP1), which provides executive-level leadership and direction to the Office of the Assistant Bureau Director, EDP Operations and its components.

b. The division of EDP Central Operations (SPP11).

(1) Maintains an extensive multisystem complex of computers, with responsibility for accomplishing SSA's EDP operations on a nationwide basis.

(2) Operates computer systems which perform computations for social security benefits, posts reported earnings to over 200 million master accounts, performs reinstating operations for improperly reported earnings records, maintains and updates computer tape files for health insurance, supplemental security income, and post-entitlement programs. Produces extensive statistical information relative to the administration of all social security programs.

(3) Operates the nationwide networks of communication systems linking the headqaurters computer facility with district offices, program service centers, health insurance carriers, and the Railroad Retirement Board. Operates specialized computer systems for the processing of optically scannable input documents and the preparation of computer output microforms.

c. The Division of EDP Production Control and Support (SPP12).

(1) Coordinates the establishment of standards and procedures for production which includes operation of the computers, testing computer programs, and operation of the nationwide online access system, SSADARS, and provides technical support activities relative to operations in the central EDP facility.

(2) Directs the development of computer utilization schedules within the entire EDP complex; has responsibility for the correct and timely execution of all schedules; and monitors the utilization of resources through performance measurement.

(3) Coordinates and interfaces workflow between customers and servicing areas; and maintains and controls the filing, maintenance, and retrieval of magnetic tapes from the tape library.

(4) Produces continuous coordination and liaison throughout EDP operations to achieve and maintain integration of production workflow; and audits all operating procedures and work processes to identify new trends and corrective actions to improve the operating environment.

Dated: September 5, 1978.

LEONDARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-25721 Filed 9-12-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

WESTERN AND CENTRAL GULF OF MEXICO OUTER CONTINENTAL SHELF (TENTATIVE SALE NO. 62)

Call for Nominations of and Comments on Areas for Oil and Gas Leasing

Pursuant to the authority prescribed in 43 CFR 3301.3, nominations are hereby requested for areas on the Gulf of Mexico Outer Continental Shelf for possible oil and gas leasing under the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343). Nominations will be considered for any or all of that part of the following mapped areas seaward of the submerged lands of the adjacent States.

1. Outer Continental Shelf Leasing Maps—Texas Nos. 1 through 8.

These maps are arranged in two sets (Nos. 1 through 4-7 maps, which sells for $5 per set and Nos. 5 through 8-9 maps, which will sell for $7 per set).

2. Outer Continental Shelf Leasing Maps—Louisiana Nos. 1 through 12.

This is a set of 27 maps which sells for $17.

3. Outer Continental Shelf Official Protraction Diagrams:

NG 14-3—Corpus Christi.
NG 14-6—Port Isabel.
NG 15-1—East Breaks.
NG 15-2—Garden Banks.
NG 15-12—Ewing Bank.
NG 15-3—Green Canyon.
NH 16-4—Mobile.
NH 16-7—Viosca Knoll.
NH 16-10—Mississippi Canyon.

These official protraction diagrams may be purchased individually for $2 each.

All these maps and diagrams may be purchased from the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Suite 841, Hale Boggs Federal Building, 500 Camp Street, New Orleans, La. 70130.

All nominations must be described in accordance with the Outer Continental Shelf Leasing Maps or Official Protraction Diagrams prepared by the Bureau of Land Management, Department of the Interior and referred to above. Only whole blocks or properly described subdivisions thereof, not less than one quarter of a block, may be nominated.

Those nominating 12 blocks or more that they wish to see considered for offering in this proposed lease sale, are requested to arrange their nominations into 3 groups according to the priority of their interest.

In addition to requesting nominations of blocks for possible oil and gas leasing within the specified areas, this notice also requests comments identifying particular blocks recommended to be either specifically excluded from oil and gas leasing or leased only under special conditions because of conflicting values or environmental concerns. Particular geological, environmental, biological, archaeological, socioeconomic, or other information which might bear upon potential leasing and development of particular blocks is requested where available. Information on these subjects will be used in the tentative selection of tracts which precedes any final selection by the Director pursuant to 43 CFR 3301.4. This information is requested from Federal, State, and local governments, industry, universities, research institutes, environmental organizations, and members of the general public. Comments may be submitted on blocks or subdivisions thereof, as required for nominations, or on all areas or portions thereof as described above. They should be directed to specific factual matters which bear upon the Department's decision whether to make a preliminary selection of particular tracts within these areas for further environmental analysis pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) and possible leasing. Comments relating to general matters which would be applicable to oil and gas operations in any part of the OCS are not sought at this time.

Nominations and comments must be submitted not later than November 10, 1978, in envelopes labeled "Nominations of Tracts for Leasing in the Outer Continental Shelf-Western and Central Gulf of Mexico," or "Comments on Leasing in the Outer Continental Shelf-Western and Central Gulf of Mexico," as appropriate. They must be submitted to the Director, Attention 720, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240. Copies must be sent to the Conservation Manager, Gulf of Mexico OCS Operations, Geological Survey, Suite 336, Imperial Office Building, 3301 North Causeway Boulevard, Metairie, La. 70011 and to the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management at his New Orleans address cited above.

Final selection of tracts for competitive bidding will be made only after compliance with established Departmental procedures and all requirements of the National Environmental Policy Act of 1969. Notice of any tracts finally selected for competitive bidding will be published in the FEDERAL REGISTER stating the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

Dated: September 5, 1978.

FRANK GREGG,
Director, Bureau of Land Management.

Approved: September 8, 1978.

HEATHER L. ROSS,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-25804 Filed 9-12-78; 8:45 am]

[4310-70]

National Park Service

[Order No. 4]

HAWAII VOLCANOES NATIONAL PARK

Supervisor Administrative Technician, Delegation of Authority Regarding Execution of Purchase Orders, Supplies, Equipment, and Services

Section 1. **Supervisory Administrative Technician.** The Supervisory Administrative Technician may issue purchase orders not in excess of $10,000 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. Orders to GSA centers and sources under established Federal supply schedules of contracts or to other Federal agencies may exceed this amount.

Section 2. **Redelegation.** The authority delegated in this order No. 4 may not be redelegated.

(National Park Service Order No. 77 (38 FR 7478), published March 22, 1973, as amended.)

Dated: August 8, 1978.

ROBERT D. BARBEE,
Superintendent, Hawaii Volcanoes National Park.

Dated: August 29, 1978.

HOWARD H. CHAPMAN,
Regional Director, Western Region.

[FR Doc. 78-25727 Filed 9-12-78; 8:45 am]

[4310-70]

LITTLE MOUNTAIN SERVICE CENTER

Intention To Extend Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with Little Mountain Service Center, Inc., authorizing it to continue to provide facilities and services for the public within the Natchez Trace Parkway for a period of one (1) year from January 1, 1979, through December 31, 1979.

It has been determined that the proposed extension of this contract does not have potential for causing significant environmental impact and therefore preparation of an environmental assessment is not required.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1978, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Little Mountain Service Center, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and a preference in the award of the contract, if, thereafter, the offer of Little Mountain Service Center, Inc., is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: September 7, 1978.

DANIEL J. TOBIN, Jr.,
Associate Director, National Park Service.

[FR Doc. 78-25728 Filed 9-12-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[332-101]

AGREEMENTS BEING NEGOTIATED AT THE MULTILATERAL TRADE NEGOTIATIONS IN GENEVA

Study of Probable Effects of Implementation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of an investigation under the authority of section 332(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1332(b)), to prepare an analysis of the effects on U.S. industrial and agricultural sectors of nontariff barrier agreements and tariff reductions currently being negotiated at the multilateral trade negotiations (MTN) in Geneva.

EFFECTIVE DATE: September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Kenneth R. Mason, Secretary, Office of the Secretary, U.S. International Trade Commission, 202-523-0161.

SUPPLEMENTARY INFORMATION: In response to requests by the Committee on Finance of the U.S. Senate and the Committee on Ways and Means of the U.S. House of Representatives, the Commission will analyze the nontariff barrier and tariff reduction agreements and describe the impact of implementation of these agreements, by this country and by our trading partners, upon the domestic economy and upon U.S. export opportunities.

At the completion of this investigation, the Commission will transmit reports to the Committee on Finance of the U.S. Senate and the Committee on Ways and Means of the U.S. House of Representatives. The reports will not be made public in order not to interfere with the negotiations.

The purpose of this notice is to inform the public of the existence of this study in the event that the Commission finds it necessary to obtain commercial information pertaining to such investigation from domestic firms. Any requests for such information will be made of individual firms in a timely manner pursuant to section 333 of the Tariff Act of 1930 (19 U.S.C. 1333).

Copies of the requests of the committees of Congress are available to the public from the Commission's Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

By order of the Commission.

Issued: September 8, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-25781 Filed 9-12-78; 8:45 am]

[7020-02]

[AA1921-Inq.-19]

AUTHOMOTIVE AND MOTORCYCLE REPAIR MANUALS FROM THE UNITED KINGDOM

Commission Determines "a Reasonable Indication of Injury"

On August 7, 1978, the U.S. International Trade Commission received advice from the Department of the Treasury that, in accordance with section 201(c)(1) of the Antidumping Act of 1921, as amended, an antidumping investigation was being initiated with respect to automotive and motorcycle repair manuals from the United Kingdom and that, pursuant to section 201(c)(2) of the act, information developed during Treasury's preliminary investigation led to the conclusion that there is substantial doubt that an industry in the United States is being or is likely to be injured by reason of the importation of such merchandise into the United States. Accordingly, the Commission, on August 10, 1978, instituted inquiry No. AA1921-Inq.-19 under section 201(c)(2) of the act to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on August 24, 1978, in Washington, D.C. Public notice of both the institution of the inquiry and of the hearing was duly given by posting copies of the notice at the Secretary's Office in the Commission in Washington, D.C., and at the Commission's office in New York City, and by publishing the original notice in the FEDERAL REGISTER of August 16, 1978 (43 FR 36335).

The Treasury Department instituted its investigation after receiving a properly filed complaint on June 30, 1978, from counsel acting on behalf of Clymer Publications Inc., Los Angeles, Calif. Treasury's notice of its antidumping proceeding was published in the FEDERAL REGISTER of August 8, 1978 (43 FR 35139).

On the basis of information developed during the course of the inquiry the Commission determines that there is a reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of automotive and motorcycle repair manuals into the United States from the United Kingdom allegedly sold at less than fair value as indicated by the Department of the Treasury.[1]

VIEWS OF CHAIRMAN JOSEPH O. PARKER AND COMMISSIONERS GEORGE M. MOORE AND CATHERINE BEDELL

On August 7, 1978, the U.S. International Trade Commission received advice from the Secretary of the Treasury that, during the course of a preliminary investigation with respect to automotive and motorcycle repair manuals from the United Kingdom, he had concluded on the basis of the information available that there is substantial doubt whether an industry in the United States is being, or is likely to be, injured by reason of the importation of this merchandise into the United States. Acting upon this advice, the Commission, on August 10, 1978, instituted inquiry No. AA1921-Inq.19 under section 201(c)(2) of the Antidumping Act, 1921, as amended, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States allegedly sold at less than fair value (LTFV). Inquiries involving issues under this section of the Antidumping Act are required to be completed within 30 days.

DETERMINATION

On the basis of information developed during the course of this inquiry, we determine that the standards set forth in section 201(c)(2) of the Antidumping Act, 1921, as amended, for continuing the investigation have been met.

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[1] Commissioners George M. Moore and Catherine Bedell determine that, on the basis of information developed during the course of this inquiry, there is a reasonable indication that an industry in the United States is being, or is likely to be injured by reason of the importation of automotive and motorcycle repair manuals from the United Kingdom, allegedly sold at less than fair value, as indicated by the Department of the Treasury. Chairman Joseph O. Parker, voting to continue the investigation, does not determine that there is no reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of automotive and motorcycle repair manuals from the United Kingdom, allegedly sold at less than fair value, as indicated by the Department of the Treasury. Vice Chairman Bill Alberger and Commissioner Italo H. Ablondi determine that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of automotive and motorcycle repair manuals from the United Kingdom, allegedly sold at less than fair value as indicated by the Department of the Treasury. Commissioner Daniel Minchew did not participate in the determination.

DISCUSSION

The petition to the Department of the Treasury which resulted in the advice from the Secretary of the Treasury which was the basis for this inquiry was filed by Clymer Publications, Los Angeles, Calif. Clymer alleges that the subject merchandise is being sold in the United States at LTFV margins ranging from approximately 27 to 29 percent. Information developed during the Commission's inquiry indicates that U.S. imports of automotive and motorcycle repair manuals from the United Kingdom, all of which are alleged to be sold in the United States at LTFV, rose by 276 percent between 1974 and 1977. The ratio of such imports to apparent U.S. consumption rose by two-thirds during 1975–77 and continued to increase substantially during January–June 1978.

U.S. producers' shipments decreased 5 percent from January–June 1977, to January–June 1978, while the volume of imports from the United Kingdom increased 27 percent.

Although the value of U.S. producers' net sales of automotive and motorcycle repair manuals grew annually from 1975 to 1977, data submitted by the domestic producers indicate net operating profit on those sales in 1977 was about a third lower than operating profit in 1974 or 1975. The ratio of net operating profit to net sales in 1977 was only about half that experienced in 1975.

Specific pricing data for automotive and motorcycle repair manuals are not available. Data on average unit values of shipments, however, indicate that since 1976, imported manuals have been generally valued about 9 percent less than manuals produced in the United States. The LTFV margin alleged is large enough to account for the difference in value.

The suggested retail prices of the imported product and the U.S. produced product are virtually identical. Generally, U.S. producers provide a variety of discounts to their major customers, based on the volume of each title purchased. The U.S. producers' discounts range from 40 percent of the list price for the smallest customers to 65 percent for those purchasing more than 5,000 volumes. The importer, however, often offers discounts of 62½ percent on initial orders regardless of the volume purchased. Information was submitted to support the contention that a higher proportion of the importers' sales than of the U.S. producers' sales are subject to discounts greater than 60 percent.

A continuation of discounting policies, as alleged, of LTFV automotive and motorcycle repair manuals from the United Kindom may result in their making greater inroads into the U.S. market. Such LTFV pricing may result in the enhancement of the competitive position of imported manuals over domestically produced manuals and contribute to increased market penetration. In additon, there appears to be no limitation on the ability to produce the alleged LTFV merchandise for export to the United States.

CONCLUSION

We determine that, on the basis of the indications of injury described above, the investigation should be continued to determine whether the Antidumping Act is being violated.

STATEMENT OF REASONS OF COMMISSIONER BILL ALBERGER [1]

STATUTORY CRITERIA OF SECTION 201(c)(2)

If the Secretary of the Treasury concludes, during a preliminary investigation under the Antidumping Act, 1921, as amended, that there is substantial doubt regarding possible injury to an industry in the United States, he shall forward to the U.S. International Trade Commission (Commission) his reasons for such doubt. Within 30 days of receipt of the Secretary's reasons, the Commission shall determine whether there is no reasonable indication that and industry in the United States is being or is likely to be injured, or is prevented from being established,[2] by reason of the importation of merchandise allegedly sold in the United States at less than fair value (LTFV). This inquiry, instituted on August 10, 1978, concerns automotive and motorcycle repair manuals from the United States.

DETERMINATION

On the basis of information developed during the course of this inquiry, I determine that there is no reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of automotive and motorcycle repair manuals into the United States from the United Kingdom allegedly sold at less than fair value as indicated by the Department of the Treasury (Treasury).

THE IMPORTED ARTICLE AND THE DOMESTIC INDUSTRY

Automotive and motorcycle repair manuals are technical, illustrated "do-it-yourself" type work manuals used to maintain and repair machines. In this inquiry, the majority are paperback publications. There are currently six firms publishing automotive repair manuals in the United States, with two of the firms accounting for the majority of publications.

INFORMATION REGARDING ALLEGED MARGINS OF LTFV SALES

Treasury advised the Commission that the petition alleged margins of LTFV sales of 26.9 to 28.6 percent of the prices in the home market.

A REASONABLE INDICATION OF INJURY

Imports from the United Kingdom. Since 1974, U.S. imports of automotive and motorcycle repair manuals have nearly quadrupled. For the first 6 months of 1978, imports increased 27 percent over the corresponding period for 1977.

U.S. production and shipments. Since 1975, U.S. production of automotive and motorcycle repair manuals has increased annually. For January–June 1978, production is up 10 percent over the same period in 1977. Shipments by U.S. producers declined very slightly from 1975 to 1976 before climbing nearly 30 percent in 1977. The value of shipments rose by nearly 20 percent from 1975 to 1977.

Inventories. Yearend inventories for U.S. producers rose slightly from 1975 to 1976, but dropped sharply during 1977.

Profitability. The value of net sales of reporting U.S. producers automotive and motorcycle repair manuals rose annually from 1974 through 1977, with an overall increase of 18 percent, most of the increase occurring between 1976 and 1977, the year of the greatest increase in imports from the United Kingdom. Net profits on sales of automotive and motorcycle repair manuals increased by nearly half between 1976 and 1977, resulting in a substantial increase in the ratio of profits to sales. Profit margins for reporting U.S. producers, in the aggregate, have been above the level for most U.S. industries throughout the period covered by the inquiry. One U.S. producer that responded to the Commission's questionnaires appeared to be in substantial financial difficulty in 1974, 1975, and 1976, but has improved its financial position significantly in 1977 and in January–June 1978, the period when the alleged LTFV imports were increasing most rapidly.

Prices. Comparative price data are available only for the first two quarters of 1978. These data indicate that, for the three leading customers of the U.S. importer, the weighted average price of automotive and motorcycle repair manuals was about 15 percent higher than the reporting U.S. producers' prices to their three leading customers. The differential between U.S. producers' and the U.S. importers' prices arises from variations in their discount policy to similar classes of customers. The greatest discount offered by the leading U.S. importer of alleged LTFV automotive and motorcycle repair manuals is 62½ percent, whereas the greatest discount offered by the U.S. producer is 65 percent. In addition, the importer of alleged LTFV manuals concentrates on smaller customers that may not be eligible for the maximum 62½-percent discount.

Likelihood of injury. In view of the current health of the domestic industry—with production and profits increasing, and inventories declining—concurrent with increasing imports of alleged LTFV automotive and motorcycle repair manuals from the United Kingdom, we find no indication of injury to the domestic industry in the forseeable future as a result of the alleged LTFV imports.

Employment. This category is difficult to measure since printing is contracted out by the publishing houses and, therefore, the publishers' number of employees do not necessarily reflect changes in production levels. The small number of employees in the publishing houses has slightly increased in the 1975–77 period.

CONCLUSION

Based on increased production and shipments by U.S. producers, reduced inventories, good profits and prices by domestic producers below those of the imported product. I find no reasonable indication of injury to the domestic industry that may be attributed to imports of automotive and motorcycle repair manuals from Great Britain.

By order of the Commission.

Issued: September 8, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-25780 Filed 9-12-78; 8:45 am]

[1] Commissioner Italo H. Ablondi concurs in the result.

[2] Prevention of establishment of an industry in this inquiry is not in question and will not be discussed further in these views.

STATEMENT OF REASONS OF VICE CHAIRMAN BILL ALBERGER AND COMMISSIONERS GEORGE M. MOORE AND CATHERINE BEDELL

STATUTORY CRITERIA OF SECTION 201(c)(2)

If the Secretary of the Treasury concludes during a preliminary investigation under the Antidumping Act, 1921, as amended, that there is substantial doubt regarding possible injury to an industry in the United States, he shall forward to the U.S. International Trade Commission (Commission) his reasons for such doubt. Within 30 days of receipt of the Secretary's reasons, the Commission shall determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of merchandise allegedly sold in the United States at less than fair value (LTFV). Therefore, The Commission, on August 10, 1978, instituted inquiry AA1921–Inq.–18, under section 201(c)(2) of that act, concerning standard household incandescent lamps (light bulbs) from Hungary.

DETERMINATION

On the basis of information developed during the course of this inquiry, we determine that there is no reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of light bulbs into the United States from Hungary allegedly sold at less than fair value, as indicated by the Department of the Treasury.

THE IMPORTED ARTICLE AND THE DOMESTIC INDUSTRY

Standard household incandescent bulbs consist of single wattage light bulbs ranging from 15 to 150 watts, as well as three-way bulbs which offer a choice of three wattages, all the above operating at more than 100 volts. Eight companies currently report production of standard household incandescent bulbs in the United States. Four of these companies also produce special application bulbs, which differ from "standard" bulbs in their longer life, reliability characteristics, and are produced by lower speed processes which are also more labor intensive. Consequently, these special bulbs command higher prices than "standard" household bulbs and are marketed for commercial and industrial applications.

Four companies, General Electric Co. (GE), GTE Sylvania (Sylvania), that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of standard incandescent light bulbs from Hungary that may be sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended.

The Treasury Department had instituted its investigation after receiving a properly filed complaint on June 21, 1978, from counsel acting on behalf of Westinghouse Electric Corp. The Treasury notice of its antidumping proceeding was published in the FEDERAL REGISTER of August 7, 1978 (43 FR 34861).

Accordingly, on August 10, 1978, the Commission instituted inquiry No. AA1921–Inq.–18 under section 201(c)(2) of the Act to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on August 22, 1978, in Washington, D.C. Public notice of both the institution of the inquiry and of the hearing was duly given by posting copies of the notice at the Secretary's Office in the Commission in Washington, D.C., and at the Commission's office in New York City, and by publishing the original notice in the FEDERAL REGISTER, August 16, 1978 (43 FR 36336).

On the basis of information developed during the course of this inquiry, the Commission determines that there is no reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of standard incandescent light bulbs from Hungary allegedly sold at less than fair value as indicated by the Department of the Treasury. [1]

[1] Vice Chairman Bill Alberger and Commissioners George M. Moore and Catherine Bedell determine that, on the basis of information developed during the course of this inquiry, there is no reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of standard household incandescent lamps from Hungary allegedly sold at less than fair value as indicated by the Department of the Treasury. Chairman Joseph O. Parker, voting in the statutory language, does not determine that there is no reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of standard household incandescent lamps from Hungary allegedly sold at less than fair value, as indicated by the Department of the Treasury. Commissioner Italo H. Ablondi, dissenting in this determination, determines that there is a reasonable indication that an industry in the United States is being, or is likely to be injured by reason of the importation of standard household incandescent lamps from Hungary allegedly sold at less than fair value as indicated by the Department of the Treasury. Commissioner Daniel Minchew did not participate in the determination.

[7020–02]

[AA1921–Inq.–18]

STANDARD HOUSEHOLD INCANDESCENT LAMPS FROM HUNGARY

Commission Determines "No Reasonable Indication of Injury"

On August 4, 1978, the U.S. International Trade Commission received advice from the Department of the Treasury that an antidumping investigation had been initiated on August 1, 1978, with respect to standard household incandescent light bulbs from Hungary, in accordance with section 201(c)(1) of the Antidumping Act, 1921, as amended. Pursuant to section 201(c)(2) of the Act, information developed during the Treasury's preliminary investigation led to the conclusion that there is substantial doubt

Westinghouse Electric Corp. (Westinghouse), and North America Philips (Philips) account for more than 95

falling from 1973–75, then rising from 1976 through the first half of 1978. The inventory to sales ratios fell from

from Action Industries (the importing agent of Hungarian bulbs).

North American Philips listed four

light bulbs from Hungary will not injure the domestic industry.

We have therefore determined that

from Hungary are being imported with margins of dumping ranging from 234 to 357 percent. The light bulbs allegedly sold at LTFV are pro-

facts, in my opinion, are indicative of injury and compel the conclusion that the investigation should be continued to determine whether the Antidump-

Westinghouse Electric Corp. (Westinghouse), and North America Philips (Philips) account for more than 95 percent of domestic shipments of standard incandescent bulbs. Of the four companies, only Westinghouse filed a petition with the Treasury Department.

INFORMATION RECEIVED FROM THE DEPARTMENT OF THE TREASURY ON LTFV SALES

In this investigation, we are dealing with imports from a Hungarian company which is wholly owned by and part of a state-controlled economy country. Because of this Westinghouse asserted that the foreign market value of the bulbs should be measured by prices of similar merchandise sold in a non-state-controlled economy. Using prices charged by a major West German supplier and comparing their foreign market prices to the estimated prices paid to the Hungarian company, Tungsram, by the importer, Action Industries, dumping margins as computed by Westinghouse allege a range from 234 percent to 357 percent.

NO REASONABLE INDICATION OF INJURY OR LIKELIHOOD OF INJURY TO U.S. INDUSTRY

Imports from Hungary. Over the period 1973-77, total imports of household light bulbs steadily declined from 187 million units in 1973 to 89.5 million units in 1977—a decrease of 52 percent. Despite this decline in overall imports, the volume of imports from Hungary increased over the same period by 73 percent—from 31 million units to 53 million units.

U.S. production and shipments. After reaching a peak in the boom year, 1973, U.S. production of light bulbs dropped nearly 20 percent (from 1.4 billion units to 1.1 billion units) by the recession year, 1975. Output improved after that, increasing by 19.2 percent from 1975 through 1977—with the 1977 level being only 3.4 percent below 1973's peak. Half-yearly data for 1978 indicate that current output is running at a level slightly higher than that of 1977. Shipments, by volume, have followed a pattern similar to that of production, except that by 1977 the recovery to the 1973 level was virtually complete.

Utilization of productive capacity. Capacity utilization has changed little since 1973, the year in which most agree that output represented maximum economic use of capacity. Since then, capital expenditures by U.S. producers have been concentrated on increased automation and efficiency for existing production lines rather than on the creation of new capacity.

U.S. producers' inventories. U.S. producers' inventories have paralleled trends in production and shipments, falling from 1973-75, then rising from 1976 through the first half of 1978. The inventory to sales ratios fell from about 27 percent in 1973 to about 24 percent in 1977.

Employment. The data available show that since 1973 employment and man-hours worked by production and related workers making standard household lamps have decreased by 11.2 percent and 15.3 percent, respectively, or by 329 persons and 891,000 man-hours. The number of workers did not change from the January-June 1977 period to the corresponding period of 1978, but man-hours worked during the first half of 1978 decreased by 39,000 (1.5 percent) from the first half of 1977. These declines in employment and man-hours have been accompanied by substantial increases in productivity, however; implying that it is was automation, not import competition, that displaced the employees. Productivity increased over 17 percent in the 4½ years between 1973 and June 1978.

Profitability—Profit-and-loss figures for the domestic light bulb industry are not available since Westinghouse was the only respondent to the Commission questionnaire supplying such data.

Westinghouse's profit experience has been • • • since 1973 with a • • • since 1976. Based on the information developed during this inquiry, we cannot attribute these • • • to import competition.

Market share—In terms of volume, Hungary increased its share of the U.S. import market from 16 percent in 1973 to 59 percent in 1977. Imports from Hungary also increased as a percentage of apparent domestic consumption—from 2.1 percent in 1973 to 3.9 percent in 1977—but this increase in market share displaced other imports, not domestic producers. U.S. producers' share of apparent domestic consumption during this period actually increased from 87.3 percent to 93.4 percent.

Lost sales—Westinghouse cited 11 instances of sales allegedly lost to imported Hungarian light bulbs. The Commission verified that four of these accounts did place some orders for Hungarian light bulbs, but that they nevertheless continued to place orders with Westinghouse and/or other domestic manufacturers. A fifth purchaser (of the 11 cited) stated that he still dealt exclusively with Westinghouse, while another indicated that he had switched to a different domestic producer.

General Electric cited five customers with whom sales had been lost to Hungarian light bulbs. The two customers who could be reached stated that GE was still their principal supplier and that they did not purchase light bulbs from Action Industries (the importing agent of Hungarian bulbs).

North American Philips listed four customers with whom it had allegedly lost sales to Hungarian light bulbs. One of the two companies reached had not yet purchased any bulbs from Action, while the other had turned to Hungarian light bulbs for reasons of both • • • on the part of Philips.

Prices—GE light bulbs were priced anywhere from • • • cents to • • • cents • • • light bulbs from Hungary during the period 1976 to June 1978. These differentials are not insignificant, but they may be explained by the fact that there are actually two distinct U.S. light bulb markets—the oncounter market (e.g., supermarkets) and the offcounter, promotion market (e.g., discount stores). GE, selling at or near list price, dominates the oncounter market; while Hungarian light bulbs are sold at lower prices in the offcounter market. It is more appropriate, therefore, to compare Hungarian prices to the prices of domestic companies that sell in the offcounter market, and in so doing, the price differentials become minimal. • • • prices on white lamps, for example, were actually • • • than those of Hungarian bulbs in some cases and • • • than • • • cents • • • the Hungarian price from 1976 through June of 1978.

• • • three-way lamps were priced from • • • cents to • • • cents • • • Hungarian three-way lamps during this period; while the price differences on inside frost lamps were from • • • cent to • • • cents (• • • being higher).

Westinghouse prices fell roughly between those of GE and Philips.

CONCLUSION

The indices we have examined do not reveal any injury within the domestic light bulb industry that may be attributed to imports of light bulbs from Hungary.

As for likelihood of injury, the most significant evidence is a report that Hungary intends to expand its capacity to 840 million units with a 2.4-fold increase in exports to capitalist countries over the next 5 years. There is no evidence, however, that the expanded capacity will be devoted entirely to incandescent lamps. Nor is it likely that the 2.4-fold increase in exports to "capitalist countries" will go exclusively to the United States. These imports could be allocated to Western European countries, the United States, or any other of a number of potential markets. In testimony before the Commission, Counsel for Action Tungsram stated that imports of incandescent bulbs from Hungary into the United States would not exceed 65 million bulbs each year. As long as that objective prevails, and we have no reason for believing otherwise, imports of light bulbs from Hungary will not injure the domestic industry.

We have therefore determined that the Treasury Department investigation of incandescent lamps from Hungary allegedly sold at LTFV should be terminated on the basis that there is no reasonable indication that an industry in the United States is being, or is likely to be, injured by reason of such imports.

VIEWS OF CHAIRMAN JOSEPH O. PARKER AND COMMISSIONER ITALO H. ARLONDI

On August 4, 1978, the U.S. International Trade Commission received advice from the Secretary of the Treasury that, in the course of a preliminary investigation with respect to standard incandescent lamps from Hungary, he had concluded on the basis of the information developed that there is substantial doubt whether an industry in the United States is being or is likely to be injured by reason of the importation of this merchandise into the United States. Acting upon this advice, the Commission, on August 19, 1978, instituted inquiry No. AA1921-Inq.-18 under section 201(c)(2) of the Antidumping Act, as amended, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. The preliminary antidumping investigation was initiated by the Secretary of the Treasury upon the basis of a petition filed by Westinghouse Electric Corp.

DETERMINATION

On the basis of information developed during the course of inquiry No. AA1921-Inq.-18, I determine that the standards set forth in section 201(c)(2) of the Antidumping Act, 1921, as amended, for continuing the investigation have been met.

DISCUSSION

Pursuant to section 201(c)(2) of the Antidumping Act, an investigation under the Antidumping Act may be terminated if the U.S. International Trade Commission determines there is "no reasonable indication that an industry in the United States is being or is likely to be injured • • • by reason of the importation" of the subject merchandise into the United States. In my judgment, this investigation has not established that there is no reasonable indication that an industry is likely to be injured by reason of the importation of standard incandescent lamps (light bulbs) from Hungary alleged to be sold at less than fair value (LTFV).

The petitioner, Westinghouse Electric Corp., has alleged that light bulbs from Hungary are being imported with margins of dumping ranging from 234 to 357 percent. The light bulbs allegedly sold at LTFV are produced by United Incandescent Lamp & Electrical Co., Ltd. (commonly known as Tungsram), Budapest, Hungary. This is a state-owned and state-controlled organization. It is the sole manufacturer and exporter of light bulbs from Hungary. Tungsram is one of Hungary's largest manufacturing organizations and is among the top 10 light bulb manufacturers in the world. During the course of the Commission's investigation, information was received which indicates that Tungsram may increase its annual productive capacity and significantly increase its exports to the United States.

Imports of light bulbs from Hungary increased consistently during 1973-76. In 1973, approximately 31 million units were imported from Hungary. Such imports increased steadily during the next 3 years and totaled 60 million units in 1976, or more than 4.5 percent of apparent U.S. consumption. Although imports of light bulbs from Hungary decreased slightly in 1977, they still accounted for approximately 4 percent of apparent U.S. consumption. The evidence indicates that the share of apparent U.S. consumption accounted for by such imports in January-June 1978 increased over the 1977 level.

Pricing information gathered during the Commission's investigation indicates that light bulbs from Hungary generally undersell domestically produced light bulbs. Because of the present structure of the domestic light bulb market, imports from Hungary appear to be directly competitive with light bulbs produced by Westinghouse and North American Philips and undersell the products of both these producers. The limited information available from this 30-day inquiry also indicates an increase in inventory levels for January-June 1978, although apparent U.S. consumption appears to continue to be rising.

In my judgment the information developed during the Commission's investigation does not warrant a determination that there is no reasonable indication that an industry in the United States is likely to be injured. There is unrebutted evidence that establishes the fact that imports from Hungary are increasing and capturing a larger share of the market. There is also evidence which indicates underselling in the market with alleged LTFV margins ranging from 234 to 357 percent. In addition, there is evidence which indicates that the capacity of Tungsram, a state-controlled company, may be substantially expanded with increased production available for export to the United States. These facts, in my opinion, are indicative of injury and compel the conclusion that the investigation should be continued to determine whether the Antidumping Act is being violated.

By order of the Commission.

Issued: September 8, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-25782 Filed 9-12-78; 8:45 am]

[4410-18]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

OFFICE OF CRIMINAL JUSTICE EDUCATION AND TRAINING

Proposed Change in Guideline

The Office of Criminal Justice Education and Training is currently circulating a draft of the reviesed guideline 5500.1C for the internship program for commentaries. The intership program is intended to enhance a student's college education by bridging theoretical and educational concepts with practical work experience in a criminal justice agency. All students interested in criminal justice careers are encouraged to participate in this program. The program provides financial support up to $65 a week to interns working in criminal justice agencies for a minimum of 8 weeks. Criminal justice agencies employing interns are encouraged to supplement the internship grant by providing additional salary. An intern must work a minimum of 30 hours per week.

The Law Enforcement Assistance Administration (LEAA) provides limited funds to college students to work as interns in criminal justice agencies either during their summer recess or while they are on academic leave from their degree program. The purpose of the internship program is to promote an interest in criminal justice as a career, to assist agencies with their recruiting activities, and to reinforce academic concepts through practical work experience.

Federal funds in the amount of $267,000 will be awarded to selected institutions on the basis of their application describing the proposed internship project. Institutions chosen to conduct internship projects select the student participants.

Should you desire to comment by September 25, 1978, you may obtain a copy and/or further information from J. Robert Lewis, Office of Criminal Justice Education and Training, Law Enforcement Assistance Administration, U.S. Department of Justice, Washington, D.C. 20531, telephone 202-376-3563.

Dated: August 24, 1978.

J. PRICE FOSTER,
Director, Office of Criminal

[7537-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

tory Commission's (Commission) regulations, the Commission has authorized the Public Service Co. of Oklaho-

build new nuclear power plants, and to make information about regulatory matters widely available, including the

Act of 1974 (Public Law 93-344). Section 1014(e) provides for a monthly report listing all budget authority for

No. 189, Part IX); Friday, October 7, 1977 (Vol. 42, No. 195, Part IV); Thursday, November 15, 1977, (Vol. 42, No.

Dated: August 24, 1978.

J. PRICE FOSTER,
Director, Office of Criminal Justice, Education and Training.

[FR Doc. 78-25675 Filed 9-12-78; 8:45 am]

[4510-23]

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Meeting

The seventh meeting of the NCUC will be held in the Westward Hilton Hotel, Anchorage, Alaska on September 22, 23, and 24. The meeting will begin at 9 a.m. on September 22 and will conclude at 1 p.m. on September 24.

TENTATIVE AGENDA—SEPTEMBER MEETING

FRIDAY, SEPTEMBER 22 (9 A.M.)

1. NCUC meeting with Executive Board and other members of Interstate Conference of Employment Security Agencies (ICESA). The topics for discussion include: cost equalitzation, reinsurance, pension deductions, agricultural workers, substitute teachers, solvency standards, taxable wage base and tax rate under FUTA, duration period, administrative financing. 9 a.m.-5:30 p.m.

SATURDAY, SEPTEMBER 23 (9 A.M.)

2. Continuation of NCUC meeting with ICESA. 9 a.m.-1 p.m.
3. Commission discussion of First Interim Report. 2:15 p.m.-5:30 p.m.

SUNDAY, SEPTEMBER 24 (9 A.M.)

4. Continuation of discussion of First Interim Report. 9 a.m.-11:30 a.m.
5. Commission Business Session, 11:30 a.m.-1 p.m.
   a. Legislative report.
   b. Old business.
   c. New business.

Telephone inquiries and communications concerning this meeting should be directed to:

James M. Rosbrow, Executive Director, National Commission on Unemployment Compensation, Room 440, 1815 Lynn Street, Rosslyn, Va. 22209, phone, 703-235-2782.

Signed at Washington, D.C., this 7th day of September, 1978.

JAMES M. ROSBROW,
Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 78-25926 Filed 9-12-78; 8:45 am]

[7537-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

EXPANSION ARTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the expansion arts advisory panel to the National Council on the Arts will be held October 5, 1978, from 9 a.m. to 6 p.m., at the Henry Street Settlement, 265 Henry Street, New York, N.Y.; October 6, 1978, from 9 a.m. to 6 p.m.; and October 7, 1978, from 9 a.m. to 5 p.m. at the Warwick Hotel, 54th Street and Avenue of the Americas, New York, N.Y.

A portion of this meeting will be open to the public on October 5, 1978, from 9 a.m. to 6 p.m.; October 6, 1978, from 11:30 a.m. to 6 p.m.; and October 7, 1978, from 9 a.m. to 5 p.m. topics of discussion will be policy and reports, Q. & A. with the public, and on-site visits.

The remaining sessions of this meeting on October 6, 1978, from 9 a.m. to 11:30 p.m. are for the purpose of panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operation, National Endowment for the Arts.

[FR Doc. 78-25752 Filed 9-12-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-556 and STN 50-557]

PUBLIC SERVICE COMPANY OF OKLAHOMA, BLACK FOX STATION, UNIT NOS. 1 AND 2

Issuance of Amendment to Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e) of the Nuclear Regulatory Commission's (Commission) regulations, the Commission has authorized the Public Service Co. of Oklahoma to conduct certain site activities in connection with the Black Fox Station, unit Nos. 1 and 2, prior to a decision regarding the issuance of construction permits. Notice of the limited work authorization was published in the FEDERAL REGISTER on August 11, 1978 (43 FR 35762).

On August 24, 1978, the Atomic Safety and Licensing Board (Board) issued an order which changed one of the conditions in the limited work authorization. The change eliminates the prohibition against open and/or open pit burning on the site.

A copy of: (1) The Board's order granting applicant's motion for reconsideration and clarification; (2) the partial initial decision authorizing limited work authorization; (3) the applicant's preliminary safety analysis report and amendments thereto; (4) the applicant's environmental report and amendments thereto; (5) the staff's final environmental statement dated February 1977; (6) the Commission's letter of authorization dated July 26, 1978; and (7) the Commission's letter amending the authorization dated September 6, 1978, are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW, Washington, D.C. and at the Tulsa City County Library, 400 Civic Center, Tulsa, Okla.

Dated at Bethesda, Md., this 6th day of September 1978.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-25737 Filed 9-12-78; 8:45 am]

[7590-01]

[NUREG-75/087]

REVISION TO THE STANDARD REVIEW PLAN

Issuance and Availability

As a continuation of the updating program for the standard review plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published revision No. 1 to section No. 6.2.6 (containment leakage-testing) of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the standard reivew plan for the review of safety analysis reports for nuclear power plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70, including first-year supplements. Annual subscriptions for supplements alone are $30. Individual sections are available at current prices. The domestic price for revision No. 1 to section No. 6.2.6 is $4.00. Foreign price information is available from NTIS. A copy of the standard review plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street, NW, Washington, D.C. 20555 (5U.S.C. 552(a)).

Dated at Bethesda this 5th day of September 1978.

For the U.S. Nuclear Regulatory Commission.

R. J. MATTSON, *Director,*
Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 78-25738 Filed 9-12-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS

September 1978

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Public Law 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of September 1, 1978, of 4 rescissions contained in the 14th, 15th, and 17th special messages of fiscal year 1977 and 7 rescissions and 66 deferrals contained in the 10 special messages for fiscal year 1978. These messages were transmitted to the Congress on July 19 (both the 14th and 15th messages), July 26, September 23, October 3, November 10, December 15, 1977, January 27, February 23, March 10, May 12, June 5, and July 20, 1978.

Rescissions (Table A and Attachment A)—One rescission proposal totalling $500 million in budget authority is presently before the Congress. Table A summarizes the status of rescissions proposed by the President as of September 1, 1978, while Attachment A shows the history and status of each rescission proposed for fiscal year 1978. Also included are four rescission proposals totalling $643.4 million made in 1977 but carried into fiscal year 1978 and a single fiscal year 1978 rescission for $2.7 million which has been reclassified as a deferral.

Deferrals (Table B and Attachment B)—As of September 1, 1978, $2,561.0 million in 1978 budget authority was being deferred from obligation and another $2.7 million in 1978 obligations was being deferred from expenditure. Table B summarizes the status of deferrals reported by the President, and Attachment B shows the history and status of each deferral reported during fiscal year 1978.

Information from special messages—The special messages containing information on each of the rescissions and deferrals covered by the cumulative report are contained in the FEDERAL REGISTERS of: Friday, July 22, 1977 (Vol. 42, No. 141, Part V) (both the 14th and 15th 1977 special messages); Friday, July 29, 1977 (Vol. 42, No. 146, Part VIII) 17th 1977 special message); Thursday, September 29, 1977 (Vol. 42, No. 189, Part IX); Friday, October 7, 1977 (Vol. 42, No. 195, Part IV); Thursday, November 15, 1977, (Vol. 42, No. 220, Part IV); Wednesday, December 21, 1977, (Vol. 42, No. 245, Part IV); Wednesday, February 1, 1978 (Vol. 43, No. 22, Part VII); Wednesday, March 1, 1978 (Vol. 43, No: 41, Part VII); Thursday, March 16, 1978 (Vol. 43, No. 52, Part VII); Thursday, May 18, 1978 (Vol. 43, No. 97, Part III); Friday, June 9, 1978 (Vol. 43, No. 112, Part V); Tuesday, July 25, 1978 (Vol. 43, No. 143, Part V).

JAMES T. MCINTYRE, Jr.,
Director.

TABLE A—*Status of 1978 rescission proposals*

[In millions of dollars*]

	Amount
Rescissions proposed by the President	*$1,279.3
Reclassified (from R78-1 to D78-54)*	-2.7
Rescinded by the Congress (R77-17, R77-18, R77-19, R78-2, R78-3, and R78-4)	*-593.7
Rejected by the Congress (R77-20, R78-5, and R78-6)	-183.0
Pending before the Congress	500.0

*This amount includes $643.4 million in rescission proposals for fiscal year 1977 which were still pending in fiscal year 1978.

*This rescission proposal, originally transmitted in conjunction with a rquest for transfer within the Department of Justice, was superseded by a deferral (D78-54) submitted to report the extension of this withholding pending final action on the transfer. The transfer was approved in the First Supplemental Appropriations Act, 1978, and the deferred funds were made available.

*Of this amount, $463.3 million, for B-1 Bomber and SRAM missile procurement, was originally proposed for rescission on July 19, 1977. These funds were made available for obligation on October 5, 1977, following the 45-day Congressional consideration period. Subsequently, the funds were rescinded by the first Supplemental Appropriations Act, 1978, (Pub. L. 95-240).

*Detail does not add to total due to rounding.

TABLE B—*Status of 1978 deferrals*

[In millions of dollars]

	Amount
Deferrals proposed by the President	$4,966.8
Routine Executive releases (-$1,761.1 million) and adjustments (-$585.5 million) through September 1, 1978	-2,346.6
Overturned by the Congress	-58.5
Currently before the Congress	*2,563.7

*This amount includes $2.7 million in outlays for two Department of the Treasury deferrals (D78-28B and D78-66).

PAGE 1 ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1978 AS OF 09/05/78 12:32

AS OF SEPT 1, 1978 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
FUNDS APPROPRIATED TO THE PRESIDENT								
International Security Assistance								
Military assistance	BA	R78- 2	40,200a		1 27 78	40,200b		
	BA	R78- 6	48,000a		6 5 78		c	
DEPARTMENT OF AGRICULTURE								
Agricultural Stabilization & Conservation Service								
Agricultural conservation program	BA	R78- 5	30,000		5 12 78		30,000	7 17 78
DEPARTMENT OF DEFENSE-MILITARY								
Procurement								
Aircraft procurement, Air Force	BA	R77-18	462,000		7 19 77	462,000d	d	
Missile procurement, Air Force	BA	R77-19	1,400		7 19 77	1,400d	d	
	BA	R77-20	105,000		7 26 77		105,000	10 14 77
DEPARTMENT OF JUSTICE								
Law Enforcement Assistance Administration								
Salaries and expenses	BA	R78- 1e	2,668		9 23 77	f	f	
DEPARTMENT OF LABOR								
Employment and Training Administration								
Advances to unemployment trust fund & other funds	BA	R78- 7		500,000g	7 20 78			

PAGE 2 ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1978 AS OF 09/05/78 12:32

AS OF SEPT 1, 1978 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
DEPARTMENT OF STATE								
International Organizations and Conferences								
Contributions for int l peacekeeping activities	BA	R78- 3	5,000		1 27 78	5,000b		
GENERAL SERVICES ADMINISTRATION								
Real Property Activities								
Federal buildings fund	BA	R77-17	75,000		7 19 77	75,000h		
OTHER INDEPENDENT AGENCIES								
Federal Home Loan Bank Board								
Federal Home Loan Bank Board revolving fund	BA	R78- 4	10,055		1 27 78	10,055b		
TOTAL BA			779,323 j	500,000		593,655	135,000 k	

FOOTNOTES

a. This amount was initially deferred (D78-47) in a special message transmitted to the Congress on December 15, 1977.

b. P.L. 95-254.

c. The 45-day Congressional consideration period for this proposal expired on July 30, 1978. However, the funds are not available for obligation pursuant to section 22(c) of the International Security Assistance Act, 1977 (P.L. 95-92).

d. These funds, originally proposed for rescission on July 19, 1977, were made available for obligation on October 5, 1977, following the 45-day Congressional consideration period. Subsequently, the funds were rescinded by the First Supplemental Appropriations Act, 1978, (P.L. 95-240).

e. An opinion issued by the Comptroller General on October 28, 1977, holds that this proposal should have been classified as a deferral.

f. This rescission proposal was transmitted in conjunction with a request for transfer of the same funds within the Department of Justice (contained in the First Supplemental Appropriations Act, 1978, P.L. 95-240). The proposal was superceded by a deferral (D78-54) submitted to report the extension of this withholding pending final action on the transfer. The President signed the Act on March 7, approving the transfer.

g. This amount was initially deferred (D78-55) in a special message transmitted to the Congress on January 27, 1978.

n. Public Law 95-186.

j. Of this amount $643,400,000 was proposed for rescission in FY 1977.

k. This amount is net of $48 million proposed for rescission on June 5, 1978. The Congressional consideration period for this proposal expired on July 30, 1978. The funds are not available for obligation, however, pursuant to section 22(c) of P.L. 95-92.

END OF REPORT

PAGE 1 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1978 AS OF 09/01/78 15:42

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 09-01-78
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Military assistance	BA	D78-47	131,200		12 15 77	-4,000		-88,200a	39,000
International military education and training	BA	D78-48	2,000		12 15 77				2,000
Foreign military credit sales	BA	D78-49	673,250		12 15 77	-644,500			28,750
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL	BA		806,450			-648,500		-88,200	69,750
DEPARTMENT OF AGRICULTURE									
Foreign Agricultural Service									
Salaries & expenses (special foreign currency)	BA	D78- 1	988		10 3 77				
	BA	D78- 1A		52	1 27 78				1,040
Agricultural Stabilization & Conservation Service									
Commodity credit corporation	BA	D78- 2	2,871		10 3 77	-2,871			
Forest Service									
Timber salvage sales	BA	D78-59	4,500		3 10 78				4,500
Permanent appropriations, expenses, brush disposal	BA	D78- 3	31,312		10 3 77				
	BA	D78- 3A		4,839	3 10 78	-1,650			34,501
Permanent appropriations, licensee programs	BA	D78- 4	141		10 3 77				

PAGE 2 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1978 AS OF 09/01/78 15:42

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 09-01-78
	BA	D78- 4A		86	6 5 78				227
DEPARTMENT OF AGRICULTURE TOTAL BA			39,812	4,977		-4,521			40,268
DEPARTMENT OF COMMERCE									
Economic Development Administration									
Local public works program	BA	D78- 5	4,000		10 3 77	-4,000			
Financial and technical assistance	BA	D78- 6	3,900		10 3 77				
	BA	D78- 6A		700	5 12 78				4,600
Economic development revolving fund	BA	D78-51	123,647		1 27 78				123,647
Regional Action Planning Commissions									
Regional development programs	BA	D78-64	1,618		6 5 78				1,618
National Oceanic and Atmospheric Administration									
Operations, research, and facilities	BA	D78- 7	3,750		10 3 77	-3,750			
	BA	D78-65	1,433		6 5 78				1,433
Promote and develop fishery products and research	BA	D78- 8	5,429		10 3 77				
	BA	D78- 8A		839	1 27 78				6,268
Fisheries loan fund	BA	D78- 9	6,177		10 3 77	-723		175	5,629
Fishermen s guaranty fund	BA	D78-10	716		10 3 77				
	BA	D78-10A		272	6 5 78	-38			950
Maritime Administration									
Ship construction									

PAGE 3 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1978 AS OF 09/01/78 15:42

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 09-01-78
	BA	D78-57	122,000		2 23 78				122,000
DEPARTMENT OF COMMERCE TOTAL BA			272,670	1,611		-8,511		175	265,945
DEPARTMENT OF DEFENSE-MILITARY									
Procurement									
Shipbuilding and conversion, Navy	BA	D78-44	871,125		11 10 77				871,125
Military Construction									
Military construction, all services	BA	D78-11	438,439		10 3 77	-281,117		1,383	158,705
DEPARTMENT OF DEFENSE-MILITARY TOTAL BA			1,309,564			-281,117		1,383	1,029,830
DEPARTMENT OF DEFENSE-CIVIL									
Corps of Engineers									
Alaska hydroelectric power development fund	BA	D78-60	5,450		5 12 78				5,450
The Panama Canal									
Canal Zone Government: Capital outlay	BA	D78-52	309		1 27 78				309
Miscellaneous Accounts									
Wildlife conservation, etc., military reservations	BA	D78-12	458		10 3 77	-18			440
DEPARTMENT OF DEFENSE-CIVIL TOTAL BA			6,217			-18			6,199
DEPARTMENT OF ENERGY /b									

PAGE 4 — ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1978 — AS OF 09/01/78 15:42

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 09-01-78
Departmental Operations									
Atomic energy defense activities	BA	D78-61	23,497		5 12 78				23,497
Energy (Plenum fill experiment)	BA	D78-31			10 3 77				
	BA	D78-31A	c		d 11 10 77				
Energy (Clean boiler fuel from coal project)	BA	D78-32	46,660		10 3 77				
	BA	D78-32A			d 11 10 77				46,660
Energy (Molten salt breeder reactor project)	BA	D78-36			10 3 77				
	BA	D78-36A	e		d 11 10 77				
Energy (10 MW solar thermal power plant)	BA	D78-45	31,000		11 10 77	-31,000			
Energy	BA	D78-62	12,300		5 12 78				12,300
DEPARTMENT OF ENERGY /b TOTAL	BA		113,457			-31,000			82,457
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
Office of the Assistant Secretary for Health									
Scientific act. overseas (spec. foreign currency)	BA	D78-03	3,497		1 27 78				3,497
Office of Education									
Higher and continuing education	BA	D78-13	3,740		10 3 77	-3,740			
Social Security Administration									
Limitation on salaries and expenses	BA	D78-14	13,865		10 3 77				
	BA	D78-14A			f 1 27 78				13,865
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE TOTAL	BA		21,102			-3,740			17,362
DEPARTMENT OF THE INTERIOR									
Bureau of Land Management									
Oregon and California grant lands	BA	D78-15	31,200		10 3 77				
	BA	D78-15A		1,980	2 23 78				33,180
Bureau of Reclamation									
Construction and rehabilitation	BA	D78-63	17,700		5 12 78		-17,700g		
Heritage Conservation and Recreation Service									
Land and water conservation fund	BA	D78-16	30,000		10 3 77				
	BA	D78-16A			h 6 5 78				30,000
Geological Survey									
Payments from proceeds, sale of water	BA	D78-17	34		10 3 77				34
Bureau of Mines									
Drainage of anthracite mines	BA	D78-18	3,500		10 3 77	-1,600			1,900
Office of Territorial Affairs									
Trust territory of the Pacific Islands	BA	D78-19	12,000		10 3 77				12,000
DEPARTMENT OF THE INTERIOR TOTAL	BA		94,434	1,980		-1,600	-17,700		77,114
DEPARTMENT OF JUSTICE									

PAGE [illegible] ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1978 AS OF 09/01/78 15:42

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 09-01-78
Federal Prison System									
Buildings and facilities	BA	D78-20	42,245		10 3 77				42,245
Law Enforcement Assistance Administration									
Salaries and expenses	BA	D78-54	2,668		1 27 78	-2,668			
DEPARTMENT OF JUSTICE TOTAL	BA		44,913			-2,668			42,245
DEPARTMENT OF LABOR									
Employment and Training Administration									
Advances to unemployment trust fund & other funds	BA	D78-55	1,380,114		1 27 78	-500,000		-500,000j	380,114
DEPARTMENT OF LABOR TOTAL	BA		1,380,114			-500,000		-500,000	380,114
DEPARTMENT OF STATE									
Other									
Emergency refugee and migration assistance fund /k	BA	D78-43	2,000		11 10 77				
	BA	D78-43A		5,800	12 15 77	-7,550			250
DEPARTMENT OF STATE TOTAL	BA		2,000	5,800		-7,550			250

PAGE 7 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1978 AS OF 09/01/78 15:42

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 09-01-78
DEPARTMENT OF TRANSPORTATION									
Coast Guard									
Acquisition, construction, and improvements	BA	D78-21	13,031		10 3 77	-13,031	m		
Federal Aviation Administration									
Construction, Metropolitan Washington Airports	BA	D78-22	1,010		10 3 77				1,010
Civil supersonic aircraft development termination	BA	D78-23	134		10 3 77				
	BA	D78-23A		14	1 27 78				148
Facilities & equip. (Airport & airway trust fund)	BA	D78-24	320,650		10 3 77	-68,487			252,163
Federal Highway Administration									
Trust fund share of other highway programs	BA	D78-25	74,880		10 3 77	-3,130			71,750
DEPARTMENT OF TRANSPORTATION TOTAL	BA		409,705	14		-84,648			325,071
DEPARTMENT OF THE TREASURY									
Office of the Secretary									
Antirecession financial assistance fund	BA	D78-26	8,184		10 3 77				
	BA	D78-26A		2,425	11 10 77				
	BA	D78-26B		100	12 15 77				
	BA	D78-26C		439	1 27 78	-9,008		66	2,266
	O	D78-50	3,408		12 15 77	-3,406			
	O	D78-58	388		2 23 78	-388			
	O	D78-66	5,000		6 5 78	-4,967		282	315

PAGE 11 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1978 AS OF 09/01/78 15:42

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT * CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 09-01-78
State and local government fiscal assistance fund								
BA	D78-27	45,996		10 3 77				
BA	D78-27A		23,905	11 10 77				
BA	D78-27B		11,831	12 15 77				
BA	D78-27C		729	1 27 78	-3,952		130	78,639
O	D78-28	391		10 3 77				
O	D78-28A		1,320n	12 15 77				
O	D78-28B		4,068	2 23 78	-3,993		618	2,404
Bureau of the Mint								
Construction of mint facilities								
BA	D78-29	5,730		10 3 77				5,730
DEPARTMENT OF THE TREASURY								
TOTAL BA		59,910	39,429		-12,960		196	86,575
TOTAL O		9,185	5,388		-12,754		900	2,719
ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION /p								
Operating Expenses								
Gas cooled reactors								
BA	D78-30	15,000		10 3 77	-15,000q			
Plant and Capital Equipment								
Fusion material test facility								
BA	D78-33	7,500		10 3 77	-7,500r			
Intense neutron source facility								
BA	D78-34	11,300		10 3 77	-11,300s			
Intersecting storage ring accelerator								
BA	D78-35	5,000		10 3 77	-5,000t			
ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION /p								
TOTAL BA		38,800			-38,800			
GENERAL SERVICES ADMINISTRATION								
Property Management and Disposal Activities								

PAGE 12 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1978 AS OF 09/01/78 15:42

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 09-01-78
Rare silver dollar program								
BA	D78-37	1,710		10 3 77				1,710
Federal Preparedness Agency								
State and local preparedness								
BA	D78-38	80		10 3 77				80
GENERAL SERVICES ADMINISTRATION								
TOTAL BA		1,790						1,790
OTHER INDEPENDENT AGENCIES								
Foreign Claims Settlement Commission								
Payment of Vietnam prisoner of war claims								
BA	D78-39	10,738		10 3 77				10,738
International Communication Agency								
Salaries & expenses (special foreign currency)								
BA	D78-41	1,153		10 3 77				
BA	D78-41A		500	1 27 78				
BA	D78-41B		"	5 12 78				1,653
Interstate Commerce Commission								
Payment of directed rail service								
BA	D78-40	13,700		10 3 77				13,700
National Science Foundation								
Research and related activities								
BA	D78-46	4,500		11 10 77	-4,500			
BA	D78-56	6,900		1 27 78				6,900
United States Railway Association								
Payment for purchase of Conrail securities								
BA	D76-42	260,000		10 3 77	-157,000			103,000
OTHER INDEPENDENT AGENCIES								
TOTAL BA		296,991	500		-161,500			135,991

PAGE 10 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1978 AS OF 09/01/78 15:42

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 09-01-78
TOTAL BA		4,897,929	54,311		-1,748,333	-56,500	-586,446	2,560,961
TOTAL O		9,185	5,388		-12,754		900	2,719

FOOTNOTES

a. This amount is included in two rescission proposals: R78-2, for $40,200, transmitted to the Congress on January 27, 1978; and R78-6, for $48,000, transmitted to the Congress on June 5, 1978.

b. See also Energy Research and Development Administration.

c. The amount previously reported in this deferral, $2.3 million, is now contained in another Department of Energy deferral, D78-62.

d. The supplementary report changed the deferral from the Energy Research and Development Administration to the Department of Energy.

e. The amount previously reported in this deferral, $1.5 million, is now contained in another Department of Energy deferral, D78-62.

f. The supplementary report changed the budget account title under which this deferral had been previously reported from the Limitation on construction to the Limitation on salaries and expenses.

g. Impoundment resolution S. Res. 525 passed the Senate on August 9, 1978, rejecting this deferral.

h. The supplementary report changed the bureau title under which this deferral had been previously reported from the Bureau of Outdoor Recreation to the Heritage Conservation and Recreation Service.

i. This amount is included in a rescission proposal (R78-7) transmitted to the Congress on July 20, 1978.

k. This account, previously displayed in the Funds Appropriated to the President section of this report, was moved to the Depart-

ment of State section to reflect a corresponding change in its location in the President's budget.

m. Impoundment resolution S. Res. 282 passed the Senate on November 1, 1977, rejecting this deferral. The funds, however, were made available for obligation on October 31, 1977.

n. This amount is net of a release of $40,000 that was made prior to the transmittal of this supplementary report.

p. See also Department of Energy.

q. Impoundment resolution H. Res. 851 passed the House on November 2, 1977, rejecting this deferral.

r. Impoundment resolution H. Res. 852 passed the House on November 2, 1977, rejecting this deferral.

s. Impoundment resolution H. Res. 853 passed the House on November 2, 1977, rejecting this deferral.

t. Impoundment resolution H. Res. 854 passed the House on November 2, 1977, rejecting this deferral.

u. On April 1, 1978, the functions and budgetary resources of the United States Information Agency were transferred to the International Communication Agency, pursuant to Reorganization Plan No. 2 of 1977 and Executive Order No. 12048 of March 27, 1978. The supplementary report reflects this change.

END OF REPORT

[FR Doc. 78-25889 Filed 9-11-78; 1:28 pm]

[7715-01]

POSTAL RATE COMMISSION

stitute major Federal actions as defined by NEPA.

ROGER P. CRAIG,
Deputy General Counsel

The possible impact of volume changes due to the proposed bulk third-class carrier-route presort subclass is examined primarily from the standpoint of the use of resources:

In noise level, air pollution, and fuel consumption will be dispersed throughout the country. The diffused effect will tend to occur in intercity travel, where mileage is

ed to purchased electricity would hardly be affected. The highest concentration of transportation emissions (SO_x) are only 0.3 percent of the national total (see tables 3

LAND USE

There would be little effect, if any, on current Postal Service use of land and facilities. Indeed, at present many of our facilities are

[7715-01]

POSTAL RATE COMMISSION

VISITS TO POSTAL FACILITIES

SEPTEMBER 7, 1978.

Notice is hereby given that members of the Postal Rate Commission and of the Commission advisory staff made or will make visits to the following postal facilities for the purpose of acquiring general background knowledge of postal operations.

September 7—Washington, D.C., BMC.
September 7—Jacksonville BMC.
September 21—Fairbanks, Alaska, Post Office.
September 22—Anchorage, Alaska, Post Office.

A report of the visits will be on file in the Commission's Docket Room.

DAVID F. HARRIS,
Secretary.

[FR Doc. 78-25751 Filed 9-12-78; 8:45 am]

[7710-12]

POSTAL SERVICE

BULK THIRD-CLASS CARRIER-ROUTE PRESORT CLASSIFICATION

Negative Declaration

On September 7, 1978, the Board of Governors of the U.S. Postal Service authorized Postal Service management to file a bulk third-class carrier-route presort classification request with the Postal Rate Commission. In making its determination to file the request, the Board had before it a declaration by Assistant Postmaster General Edward J. McCaffrey that the classification would have no significant effect on the quality of the human environment and a statement of the reasons for Mr. McCaffrey's declaration. The document which appears below is Mr. McCaffrey's declaration and the statement of the reasons on which he based it.

This notice should not be construed as an admission by the Postal Service of the applicability of the National Environmental Policy Act (NEPA) to it. See 39 CFR 775.1(b) (1977). Even assuming the applicability of NEPA to the Postal Service generally, this notice should not be construed as an admission that the Act applies to this classification proposal, or to classification proposals generally. Neither should it be construed as an admission that this classification proposal, or classification proposals generally, constitute major Federal actions as defined by NEPA.

ROGER P. CRAIG,
Deputy General Counsel.

NEGATIVE DECLARATION CONCERNING BULK THIRD-CLASS CARRIER-ROUTE PRESORT CLASSIFICATION

The National Environmental Policy Act (NEPA) directs agencies of the Federal Government to include in recommendations or reports for major Federal actions significantly affecting the human environment, a detailed statement of the environmental impact of the proposed action. Without taking a position on the applicability of NEPA to this classification proposal, and rates and classification proceedings in general, but in the spirit of the policy enunciated in NEPA, I have studied the possible environmental effects associated with changes of the kind and magnitude of those in the Postal Service's request to the Postal Rate Commission for a recommended decision on the bulk third-class carrier-route presort classification, and I conclude that they will have no significant effect on the human environment. This memorandum constitutes my negative declaration. It states my reasons for finding that the proposed bulk third-class carrier-route presort classification will have no significant effect on the quality of the human environment, and that no environmental impact statement is required.

Under the mandate of the Postal Reorganization Act, the Postal Service is obligated to receive, transmit, and deliver mail adequately and efficiently at fair and reasonable rates, while serving as nearly as practicable the entire population of the United States. 39 U.S.C. 403(a). I believe that establishment of the bulk third-class carrier-route presort subclass is an important means to the statutory goal of ensuring a viable, efficient nationwide system for the delivery of mail.

Changes in mail classifications and rates do not, in themselves, have a measurable environmental effect. Impacts from postal classification and rate changes—if they exist at all—are the secondary result of changes in the use of the mails, reflecting the effect of new classifications and rates on mailers. The most visible manifestation of mail use is volume. The projected volume increase directly attributable to the proposed bulk third-class carrier-route presort classification is 2 billion pieces in the test year, which amounts to a 2-percent increase in total volume.[1]

This volume increase may produce some miniscule environmental effects. Many of these effects, if they exist at all, will be substantially offset by a decrease in the volume handled by substitute services, and thus a decrease in the environmental externalities generated by their activity. There may be some modest increase in overall market volume resulting from the proposed new classification.

In assessing the environmental impact of the proposed bulk third-class carrier-route presort subclass, I considered the effects of the classification change on substitute services as well as ourselves, and placed these effects in a national perspective.

[1] Figures based on fiscal year 1979 projections by the Postal Service. Aggregate volume is forecast to approximate 96 billion pieces.

The possible impact of volume changes due to the proposed bulk third-class carrier-route presort subclass is examined primarily from the standpoint of the use of resources: Human resources, transportation, materials, and land. Pollution is considered an unwanted byproduct of resource and energy consumption.

SOCIOECONOMIC EFFECTS

Because third-class mail is handled throughout the postal system, it is assumed that employment will be affected according to volume variability estimates for the system as a whole, given in docket No. R77-1 as 70.4 percent for bargaining unit employees and 45.9 percent for nonbargaining unit employees. The increase in employment produced by a 2-percent increase in mail volume is then an estimated 9,212 persons.[2] This is, of course, a beneficial effect of the proposed discount. This increase in employment might be offset, at least in part, by further presortation of current volumes.

The competitors of third-class bulk mail are private delivery services and advertising in newspapers and magazines and over radio and television. Perhaps the most significant socioeconomic impact on the competition will be a reduction in employment, or at least in employment opportunities. Employment for newspapers, radio, television, and periodical media was about 580,000 in 1977. Even if we assume a "worst case" analysis that labor in these industries is, as in the Postal Service, 70-percent volume variable, and that they suffer a 2-percent volume loss, employment might drop by 8,120. However, wage agreements and other factors tend to restrict drastic employment cutbacks. Thus the effect would most likely be in terms of future hiring.

TRANSPORTATION

Third-class mail travels almost exclusively by motor vehicle and railroad. Total mileage by all Postal Service-owned or Postal Service-hired vehicles in 1977 was 2.178 billion miles (see table 1, attached). Highway contracts and driveout agreements, which constituted 710 million of those miles, are believed to be 100 percent volume variable. The incremental third-class discount-mail volume would increase mileage by 26.3 million in 1979.[3] This represents an addition to the 1975 total national mileage of only 0.002 percent,[4] and is less than 0.1 percent of annual national mileage growth.[5]

The primary environmental effects of increased mileage would be increased fuel usage, noise and air pollution (see below), and traffic congestion. The last of these would increase only marginally, since the total mileage increase is small to begin with. Any effects of a small percentage increase

[2] $(0.02 \times 0.704 \times 560{,}000) + (0.02 \times 0.459 \times 97{,}000) = 9{,}212$. The employment figures are for 1977.

[3] $0.02 \times [(0.37)(1{,}468) + (1)(710)]$.

[4] 26.3 million ÷ 1,307,723 million.

[5] Automobile registration is growing at 4 percent per year. If mileage were directly related to the number of automobiles, then a 0.002 percent-mileage increase is $0.002 \div 4 = 0.05$ percent of the total annual increase. Although mileage probably does not increase as fast as automobile numbers, a liberal allowance still places a 0.002 percent increase at under 0.1 percent of the total annual increase.

in noise level, air pollution, and fuel consumption will be dispersed throughout the country. The diffused effect will tend to occur in intercity travel, where mileage is particularly sensitive to volume changes, but where the environment has a great capacity to absorb pollutants. Since carrier routes are relatively insensitive to changes in mail volume, the marginal impact of increased mileage will be more attenuated in the populated areas where advertising mail is delivered.

Increased transportation by the mail system would be partially offset by lesser resource use by competitive services. The net effect, for the entire market, would be an increase in use of transportation even less than that attributed solely to the increased in mail volume.

I conclude that the proposed bulk third-class carrier-route presort subclass would result in no significant environmental impact due to Postal Service transportation use.

MATERIALS AND SERVICES

The Postal Service purchased about $400 million worth of materials and supplies in 1977, amounting to only 2.58 percent of its total expenditures. Moreover, most items purchased constituted less than 0.01 percent of the total national expenditure for each item, and the highest percentage for any of the products purchased (not surprisingly, mailhandling equipment) was only 2.0 percent. A 2-percent increase in volume therefore will result in very negligible increases in the purchase of motor vehicles, office equipment and paper.

ENERGY

Energy can be divided into main categories of use: Facilities and transportation. Current overcapacity in many facilities will allow increased handling of volume with almost no additional energy required in facilities. The increased fuel consumption for transportation will be small. In 1977 the Postal Service consumed 0.08 percent of the total national energy production of $76{,}505 \times 10^{12}$ Btu's (see table 2, attached). Even if energy were 100 percent volume variable—and it most certainly is not—a 2-percent mail-volume increase would constitute less than a 0.002-percent increase in the national energy consumption.[6] This is less than one-twentieth of the fuel burned by a single, small-size electric generating plant in 1 year.[7]

POLLUTANTS

The three broad categories of pollutants to be considered are air pollution, noise pollution, and liquid and solid wastes. Air pollution emissions from facilities and attributed to purchased electricity would hardly be affected. The highest concentration of transportation emissions (SO_x) are only 0.3 percent of the national total (see tables 3 and 4, attached).

Increases in emissions due to an increase in mail transportation would amount to only 0.002 percent of the national total, assuming a direct relationship between mileage and emissions (see the transportation section supra). Emissions due to usage of steel, rubber, and paper are negligible and would not change appreciably with volume. Tire wear and burning would increase marginally, with emissions and particulates increasing by only 12.4 tons and 0.008 ton, respectively, in 1979 due to the projected volume change in third-class mail.[8] These amounts are of negligible effect, especially since they are dispersed over the entire country. The Postal Service purchases only 0.0008 percent of the tires delivered in the United States. Paper use by the Service is almost entirely unaffected by mail volume.

With respect to third-class mail volume, noise pollution may increase with regard to motor vehicles and railroad service. Local delivery service would be slightly affected (see the transportation section, supra), and intercity transportation, if affected at all, is in any case confined to mostly noise-insensitive areas. Moreover, Postal Service truck mileage is a very small (0.17) percentage of total national yearly mileage (see table 1).

The Postal Service is not a fabricating industry, and consequently produces low levels of liquid and solid wastes. An estimated 67 percent of Postal Service water use is unaffected by volume. The remainder used (about 1.6 billion gallons per year) will increase somewhat, but the amount is insignificant. Most solid waste is paper or paper products.

We are aware that some mail matter (primarily third-class bulk circulars) is routinely discarded at postal facilities if it is undeliverable as addressed or is not to be returned to the sender. However, even assuming some increase in the volume of such solid waste mail matter due to the presort discount proposal, it is clear that the waste disposal capacities of postal facilities are more than adequate to cope with some additional, incremental waste material dispersed over the country. Moreover, some of this additional paper waste would be sold as scrap or recycled, thereby benefiting the environment.[9]

The Postal Service also purchases steel, paper, and textile products (0.009, 0.09, and 0.004 percent, respectively, of the national totals) and therefore contributes a marginal amount to waste in the related industries. Mail volume changes are unlikely to change these levels of pollutants noticeably. As a safeguard against whatever additional pollution might be generated, most States and municipalities regulate such wastes. Also, liquid wastes are regulated by the rules of the National Permit Discharge Elimination System.

LAND USE

There would be little effect, if any, on current Postal Service use of land and facilities. Indeed, at present many of our facilities are operating with a substantial reserve of capacity.

CONCLUSION

Therefore, it is evident that the increase in volume projected to be generated by the proposed bulk third-class carrier-route presort subclass will have no perceptible or significant effect on the Nation's human environment. Even if the increase in Postal Service volume exceeds the decrease in substitute service volume, the net environmental impact wold be dispersed over thousands of facilities and vehicles throughout the Nation, and would constitute an insignificant increase to national totals.

I find that as a result of the bulk third-class carrier-route presort subclass:

(1) Postal Service's employment levels would increase, offset to some extent by potential employment losses in competitive industries;

(2) Resource use, energy use, and pollution levels will not be altered to a significant extent due to any increases in transportation mileage;

(3) Resource use and pollution will not be increased to a significant extent due to any additional utilization of raw materials;

(4) Existing land use patterns will not be altered and any increases in the intensity of land use will be insignificant.

It is my considered judgment that any environmental harm that could be caused by the proposed bulk third-class carrier-route presort subclass must be balanced against the Federal policy it will serve. In light of the Postal Service's statutory duty of providing mail service efficiently and at adequate levels throughout the Nation, no alternative proposal with a more beneficial environmental impact appears to be feasible. For these reasons I find that the proposed bulk third-class carrier-route presort subclass would not significantly affect the quality of the human environment. This constitutes my negative declaration pursuant to 39 CFR 775.5 and 775.14(c) (1977).

EDWARD J. MCCAFFREY,
Assistant Postmaster General, Rates and Classification Department.

SEPTEMBER 6, 1978.

[6] 0.02×0.08.

[7] A 400-magawatt powerplant operating for 85 percent of a year at 33 percent efficiency burns over 30 trillion Btu's. The Postal Service's incremental energy use will be $0.08 \times 0.02 = 0.0016$ percent of the national consumption of 76,505 trillion Btu's or 1.53 trillion Btu's. $1.53 \div 30 = 0.05$.

[8] The Postal Service purchases, in tires, about 1,400 tons of rubber a year, all of which are used by postal vehicles, which are in turn 37 percent volume variable. Additional purchases produced by a 2-percent volume increase are thus: $0.02 \times 0.37 \times 1{,}400 = 10.9$ tons. Ten percent of this will be incinerated, generating 14 pounds of pollutants per ton. Total additional emissions are thus (14 pounds/ton) × (0.10) × (10.9 tons) = 0.008 ton/year. This constitutes $0.008 \div 119{,}000 = 0.000006$ percent of total national emissions.

Estimated yearly tire wear is 590 tons. Assuming a "worst case" of 100 percent volume variability, the additional wear is (590 tons/year) × (0.02) = 12.4 tons/year.

[9] About 8 million cubic yards of Postal Service paper or paper product waste is scrapped annually.

TABLE 1

COMPARISONS OF POSTAL SERVICE USE OF TRANSPORTATION MODES WITH NATIONAL CONSUMPTION

	GFY 75 Accrued Postal Service Costs		Total 1975 Carrier Revenues (Million Dollars)	USPS Accrued Costs as Percent of Total Carrier Revenues	Annual Mileage		
	Million Dollars	Percent of Total USPS Costs			USPS FY 1977 (Millions of Miles)	National Total, 1975	USPS as Percent of National Total
Highway[a]							
Postal and employee-owned and operated vehicles							
Motor vehicle service					808		
Equipment maintenance							
Rural carriers					660[g]		
Special delivery messengers					-- [e]		
Driveout agreements					10[g]		
Subtotal					1,478		
Highway contracts					700[g]		
Total highway					2,178	1,307,723[f]	0.17%
Air							
Domestic	$216.8		11,925[b]	1.8%			
Foreign	50.5		3,064[b]	1.6[d]			
Total air	$267.3		14,939				
Rail - line haul and other service	117.1		16,705[c]	0.7			
Water							
Domestic	4.8	0.1%					
Foreign	63.9	0.5					
Total water	$ 68.7	0.6					

a/ Highway costs for postal and employee-owned and operated vehicles exclude labor costs; all other transportation is purchased and labor costs are included in the totals.
b/ Scheduled passenger/cargo air carriers total revenues.
c/ Class I railroads, total operating revenues.
d/ This percentage is overstated, because foreign air-flag carriers are not included in the national revenues.
e/ Negligible.
f/ Total vehicle miles excluding motorcycles.
g/ Estimated from Postal Service data.

Source: Docket No. R77-1 Testimony of William M. Graham; U.S. Department of Commerce, Bureau of the Census, Statistical Abstract of the United States, 1976; U.S. Department of Transportation; USPS Make/Model

assuming the applicability of NEPA to the Postal Service generally, this notice should not be construed as an unwanted by product of resource and energy consumption.

socioeconomic effects

be altered, and any increases in the intensity of land use would be insignificant.

For these reasons I find that the proposed electronic computer originated mail classifi-

that the proposed bulk parcel post reclassification will have no significant effect on the quality of the human environment, and that no environmental impact statement is required.

employment by substitute services may decrease slightly. This finding is based on a consideration of past employment-volume relationships within the Postal Service; a comparison between the postal methods of

much less than the Nation's total 0.1 percent annual mileage increase.

However, Inter-bulk mail center (BMC) trucks do not operate at full capacity. In this respect, the increased volume predicted

TABLE 2—*Water and fuel consumption*

	Unit	USPS use fiscal year 1977[a]	National use[b]	USPS use as percent of national use
	(1)	(2)	(3)	(4)
Water	Billions of gallons	[c]4.9	[d]153,300	.003
Fuel in Facilities				
Electricity	Billions of kWh	3.6	[e]2,122	.170
Fuel oil:				
Distillate	Millions of gallons		52,203	
Residual	do		47,406	
Total		20.5	99,609	.021
Coal (Bituminous lignite and anthracite)	Thousands of tons	1.9	632,921	
Natural Gas	Billions of cubic feet	4.5	19,704	.023
Propane	Millions of gallons	1.4	[e]2,808	.050
Fuel in Transportation				
Motor Gasoline	do	248.7	109,228	.228
Lubricating Oil	do	1.9	[e]2,413	.079
Diesel Fuel (distillate oil)	do	55.8	52,203	.107
Energy Consumed:				
Items listed[f]:				
In Transportation	Trillion of Btu	39.1	[b]13,996	
In Facilities	do	20.0	[b]57,435	
Total		59.1	71,431	.082
Total Energy Consumed	do	39.1	[g]19,890	.197
Transportation.				
Other	do	20.0	[h]56,615	.035
Total		59.1	[g]76,505	.077

[a] Consumption volumes for which USPS pays were supplied by USPS, except as noted; estimated fuel consumption for interior space in facilities not covered by USPS payments is added and estimated motor fuel consumption by rural carriers, contract vehicles and air-taxi service is added. The USPS share of fuels consumed by other purchased transportation is not included.

[b] Total U.S. consumption or deemed for 12-month period ending September 1977, except as noted.

[c] Estimated from USPS expenditures for water during FY 1977, using a sample of prevailing water prices paid at major postal facilities.

[d] U.S. Department of Interior, Geological Survey Circular 765, Estimated Use of Water in the United States in 1975; includes 51,100 billion gallons of water withdrawn for irrigation.

[e] Production.

[f] 12-month total ending June 1977.

[g] Conversion factors for fuel consumed are as follows: Electricity—3,412 Btu/kWh. Distillate fuel oil—5,825,000 Btu/bbl. Residual fuel oil—6,287,000 Btu/bbl. Coal (bituminous and lignite)—22,800,000 Btu/short ton (Btu content at point of consumption). Natural gas—1,021 Btu/cu. ft. (for dry natural gas). Propane—97,500 Btu/gal. (Btu content of LP gases). Gasoline—5,248,000 Btu/bbl. Lubricating oil—6,065,000 Btu/bbl.

[h] All distillate oil, part of which is consumed as diesel oil in motor vehicles, is included in facilities consumption.

[i] Includes petroleum products not listed separately.

Source: For National data; U.S. Department of Energy, Monthly Energy Review—December 1977 and Monthly Petroleum Statements through June 1977.

TABLE 3—*Emissions from fuel consumption by vehicles in postal service*

[USPS-Owned plus contract vehicles]

Vehicle type	Particulates	Carbon monoxide	Emissions, tons/year: Hydrocarbons	NO_x	SO_x
Light duty vehicles (rural carriers)	34	12,375	990	1,265	88
Light duty trucks	355	62,000	452	4,700	185
Heavy duty trucks (gas)	216	40,000	3,000	2,980	86
Heavy duty trucks (diesel)	455	1,890	785	9,900	980
Total USPS emissions	1,080	116,265	5,227	18,845	1,339
Total U.S. emissions (road vehicles)	900,000	67,800,000	10,000,00	8,200,000	400,000
USPS as percent of United States	0.1178	0.1715	0.0523	0.2298	0.3348

Source: Estimates based on USPS data and emission factors from EPA report AP-43. Total US. emissions are 1975 emissions for road vehicles, taken from Statistical Abstract, 1977, U.S. Bureau of the Census, p. 205.

TABLE 4.—*Atmospheric emissions, tons/year, due to fuel consumption for facility heating, lighting, and air-conditioning*

	Particulates	SO_x	CO	NO_x	HC
Fuel oil	40	570	102	430	20
Coal	24	37	2	20	[1]
Natural gas	44	2.6	8	525	35
Propane	2	0.2	2.6	15	10
Total, USPS	110	609.8	114.6	990	65
Total U.S. emissions from stationary sources	6,800,000	26,300,000	1,200,000	12,400,000	1,400,000
USPS use, percent of U.S	0.0017	0.0023	0.0096	0.0080	0.0046

[1] Negligible.

Source: Estimates assume sulfur percent=0.2 for fuel oil; ash content=12 percent for anthracite coal; sulfur percent=0.5 for anthracite coal; sulfur content=1 grain/100 SCF for propane. Information on total U.S. emissions from stationary sources (1975) is taken from Statistical Abstract, 1977, U.S. Bureau of the Census, p. 205.

[FR Doc. 78-25647 Filed 9-7-78; 4:20 pm]

[7710-12]

ELECTRONIC COMPUTER ORIGINATED MAIL CLASSIFICATION

Negative Declaration

On September 7, 1978, the Board of Governors of the U.S. Postal Service authorized Postal Service management to file an electronic computer originated mail classification request with the Postal Rate Commission. In making its determination to file the request, the Board had before it a declaration by Assistant Postmaster General Edward J. McCaffrey that the classification would have no signficant effect on the quality of the human environment and a statement of the reasons for Mr. McCaffrey's declaration. The document which appears below is Mr. McCaffrey's declaration and the statement of the reasons on which he based it.

This notice should not be construed as an admission by the Postal Service of the applicability of the National Environmental Policy Act (NEPA) to it. See 39 CFR 775.1(b) (1977). Even

assuming the applicability of NEPA to the Postal Service generally, this notice should not be construed as an admission that the act applies to this classification proposal, or to classification proposals generally. Neither should it be construed as an admission that this classification proposal, or classification proposals generally, constitute major Federal actions as defined by NEPA.

ROGER P. CRAIG,
Deputy General Counsel.

NEGATIVE DECLARATION CONCERNING ELECTRONIC COMPUTER ORIGINATED MAIL CLASSIFICATION

The National Environmental Policy Act (NEPA) directs agencies of the Federal Government to include in recommendations or reports for major Federal actions significantly affecting the human environment, a detailed statement of the environmental impact of the proposed action. Without taking a position on the applicability of NEPA to this classification proposal, and rates and classification proceedings in general, but in the spirit of the policy enunciated in NEPA, I have studied the possible environmental effects associated with changes of the kind and magnitude of those in the Postal Service's request to the Postal Rate Commission for a recommended decision on an electronic computer originated mail classification, and I conclude that they will have no signficant effect on the human environment. This memorandum constitutes my negative declaration. It states my reasons for finding that the proposed electronic computer originated mail classification will have no significant effect on the quality of the human environment, and that no environmental impact statement is required.

The electronic transmission of messages by carriers is regulated by the Federal Communications Commission. Further, that body normally addresses the environmental impact of proposed actions in the electronic-transmission field.

Under the mandate of the Postal Reorganization Act, the Postal Service is obligated to receive, transmit, and deliver mail adequately and efficiently, at fair and reasonable rates, while serving as nearly as practicable the entire population of the United States. 39 U.S.C. 403(a). I believe that the proposed electronic computer originated mail subclass is an important means to the statutory goal of ensuring a viable, efficient nationwide mail-delivery system.

Changes in mail classification and rates do not, in themselves, have a measurable environmental effect. Impacts from postal classification and rate changes—if they exist at all—are the secondary result of changes in the use of the mails, reflecting the effect of new classifications and rates on mailers. The most visible manifestation of mail use is volume. The projected volume of electronic computer originated mail is 12.6 million pieces in the first year of operation. By postal standards, this volume is very small. Moreover, most of this volume is expected to consist of diversions from first-class mail. Thus, no new letter-mail volumes are forecast.

The possible impact of volume changes due to the proposed electronic computer originated mail classification is examined primarily from the standpoint of the use of resources: human resources, transportation, land and materials. Pollution is considered an unwanted by product of resource and energy consumption.

SOCIOECONOMIC EFFECTS

The effect of the proposed electronic computer originated mail classification upon employment levels would be negligible. As indicated above, most of the volume is expected to displace first-class volume. Though there is little, if any, net change in aggregate forecast mail volume, certain mail-handling functions, particularly in mail acceptance, would be eliminated. The effect of this change in workload, for a limited volume and spread over the Nation, is expected to be negligible.

TRANSPORTATION

Electronic computer originated mail messages would be accepted by the communications common carrier from the customer and transmitted electronically to 25 serving post offices. Upon receipt at these offices, the messages would be printed and envelopes processed through the normal mailstream. They would be delivered by regular mail carriers to recipients. The most significant transportation change is elimination of the need for transport from the point of origin to the post office receiving the message. As a result, there may be some negligible decline in fuel consumption as well as lessened air pollution and traffic congestion. To the extent that the modest forecast volumes impact upon fuel consumption, air pollution, and traffic congestion, the impact will be favorable.

MATERIALS, ENERGY

Some saving in paper is anticipated as a result of introduction of electronic computer originated mail. This saving would be experienced at the customers' locations where paper files are now retained for each mailing. These files would now be in the form of magnetic tape. The paper savings, though not expected to be significant, will favorably affect the environment.

There may be some increase in the use of electric power to transmit, receive, and process electronic messages. This increase in electric-power use is expected to be minimal.

LAND USE

No effect is foreseen upon the Postal Service's use of land. In fact, many of our facilities are now operating below capacity.

CONCLUSION

It is evident that the negligible volume change attributable to the proposed electronic computer originated mail classification would have no perceptible or significant effect on the Nation's human environment. Whatever small changes may be realized would be dispersed over the Nation and would constitute an insignificant change in national totals for these various environmental factors.

In conclusion, I find that as a result of the proposed electronic computer originated mail classification:

(1) Postal Service, national and regional employment levels would not change to a significant extent;

(2) Resource use, energy use, and pollution levels would not be altered to a significant extent due to any increases in transportation mileage; in fact, they might decline;

(3) Resource use and pollution would not be increased to a significant extent due to any additional utilization of raw materials; in fact, they might decline;

(4) Existing land use patterns would not be altered, and any increases in the intensity of land use would be insignificant.

For these reasons I find that the proposed electronic computer originated mail classification would not significantly affect the quality of the human environment. This constitutes my negative declaration pursuant to 39 CFR 775.5 and 775.14(c) (1977).

EDWARD J. MCCAFFREY,
Assistant Postmaster General, Rates and Classification Department.

SEPTEMBER 6, 1978.

[FR Doc. 78-25646 Filed 9-7-78; 4:20 pm]

[7710-12]

PARCEL POST RECLASSIFICATION

Negative Declaration

On September 7, 1978, the Board of Governors of the U.S. Postal Service authorized Postal Service management to file a parcel post reclassification request with the Postal Rate Commission. In making its determination to file the request, the Board had before it a declaration by Assistant Postmaster General Edward J. McCaffrey that the reclassification would have no significant effect on the quality of the human environment and a statement of the reasons for Mr. McCaffrey's declaration. The document which appears below is Mr. McCaffrey's declaration and the statement of the reasons on which he based it.

This notice should not be construed as an admission by the Postal Service of the applicability of the National Environmental Policy Act (NEPA) to it. See 39 CFR 775.1(b) (1977). Even assuming the applicability of NEPA to the Postal Service generally, this notice should not be construed as an admission that the act applies to this classification proposal, or to classification proposals generally. Neither should it be construed as an admission that this classification proposal, or classification proposals generally, constitute major Federal actions as defined by NEPA.

ROGER P. CRAIG,
Deputy General Counsel.

NEGATIVE DECLARATION CONCERNING PARCEL POST RECLASSIFICATION

The National Environment Policy Act (NEPA) directs agencies of the Federal Government to include in recommendations or reports for major Federal actions significantly affecting the human environment, a detailed statement of the environmental impact of the proposed action. Without taking a position on the applicability of NEPA to this classification proposal, and rates and classification proceedings in general, but in the spirit of the policy enunciated in NEPA, I have studied the possible environmental effects associated with changes of the kind and magnitude of those in the Postal Service's request to the Postal Rate Commission for a recommended decision on parcel post reclassification, and I conclude that they will have no significant effect on the human environment. This memorandum constitutes my negative declaration. It states my reasons for finding

that the proposed bulk parcel post reclassification will have no significant effect on the quality of the human environment, and that no environmental impact statement is required.

Under the mandate of the Postal Reorganization Act, the Postal Service is obligated to receive, transmit, and deliver parcels adequately and efficiently, at fair and reasonable rates, while serving as nearly as practicable the entire population of the United States. 39 U.S.C. 403(a). I believe that the restructuring of the bulk parcel post subclass is an important means to the statutory goal of insuring a viable, efficient nationwide surface parcel delivery system.

Changes in mail classifications and rates do not, in themselves, have a measurable environmental effect. Impacts from postal classification and rate changes—if they exist at all—are the secondary result of changes in the use of the mails, reflecting the effect of new classifications and rates on mailers. The most visible manifestation of mail use is volume. The projected volume increase directly attributable to the proposed bulk parcel post classification change is 30 million pieces in the test year, which amounts to a negligible 0.03 percent increase in total postal volume.[1]

This volume increase may produce some minuscule environmental effects. Most of these effects, if they exist at all, will be substantially offset by a decrease in the volume handled by substitute services, and thus a decrease in the environmental externalities generated by their activity.[2] There may be some slight increase in overall market volume resulting from the new parcel post rate structure.

In assessing the environmental impact of the proposed restructuring of the bulk parcel post subclass, I considered the effects of the classification change on substitute services as well as ourselves, and placed these effects in a national perspective.

The possible impact of volume changes due to the restructuring of the bulk parcel post subclass is examined primarily from the standpoint of the use of resources: human resources, transportation, land, and materials. Pollution is considered an unwanted byproduct of resource and energy consumption.

SOCIOECONOMIC EFFECTS

National and regional unemployment rates are not expected to change to any measurable extent because of the proposed bulk parcel post subclass. Postal Service employment levels may increase slightly while employment by substitute services may decrease slightly. This finding is based on a consideration of past employment-volume relationships within the Postal Service, a comparison between the usual methods of parcel processing by the Postal Service and substitute services, and the nationwide distribution of both the Postal Service's and substitute services' parcel processing facilities.

The predicated 0.03 percent increase in total mail volume associated with the proposed bulk parcel post subclass, coupled with a Postal Service employment variability coefficient of 0.065, could lead to a 0.002 percent increase in employment by the Postal Service. However, a much lower level of personnel increase is probable. A substantial portion of the new volume will be machine processed, and does not require increased labor inputs. Moreover, through increased efficiency and attrition, the Postal Service has been able to reduce its labor force over the last several years despite increased volume. Therefore, the most likely effect of the proposed subclass would be to help keep Postal Service employment at constant levels by partially recapturing previously lost volume and stemming the tide of diversion to substitute services.

Regional employment and unemployment figures would not change, because both the Postal Service and its competitors are national scope. Any possible increase in unemployment would be geographically dispersed throughout the country. Thus, human resource utilization cannot reasonably be expected to change in either intensity or locality to any significant degree due to the proposed restructuring of the bulk parcel post subclass.

TRANSPORTATION—RESOURCE USE, ENERGY, AND POLLUTION

The overall effects of the proposed restructuring of the bulk parcel post subclass on transportation use and, consequently, on resource use and pollution levels, would be negligible. Postal Service transportation mileage could increase to a minor extent, while substitute services' transportation mileage could decrease to a minor extent.

Even when considered alone, the Postal Service's transportation system would not entail important environmental change merely in the delivery of additional parcels. Trucks move most of this subclass of mail; gasoline consumption, noise, and air pollution vary in almost direct proportion to miles driven.

Highway contracts and driveout agreements, which constitute one-third of the more than two billion miles traveled by Postal Service-owned or hired vehicles each year, have been estimated to have a 100 percent longer run volume variability for periods extending beyond the test year. Postal Service owned vehicles, accounting for the remainder of the mileage, have been estimated to be 37 percent volume variable over the longer run.

Assuming these volume variability relationships on a worst case basis, the increase in transportation mileage attributable to a 0.03 percent increase in total mail volume would be less than 0.00003 percent of the national total.[3] This negligible increase is much less than the Nation's total 0.1 percent annual mileage increase.

However, inter=bulk mail center (BMC) trucks do not operate at full capacity. In this respect, the increased volume predicted to result from the restructured bulk parcel post subclass will serve to increase the use of existing truck capacity instead of contributing to an increase in transportation mileage.

The source of the anticipated parcel post volume increase will primarily be decreased diversions to substitute services. To the extent the anticipated increase is a result of possible volume losses of substitute carriers, its environmental effects will be substantially offset. Thus, the net effect of the increased volume attributable to the proposed bulk parcel post subclass would be even less significant than the 0.00003 percent increase hypothesized above.

Any effects of a small percentage increase in noise level, air pollution, and fuel consumption will be dispersed throughout the country. The diffused effect will tend to occur in intercity travel, where mileage is particularly sensitive to volume changes, but where the environment has a great capacity to absorb pollutants. Since carrier routes are relatively insensitive to changes in mail volume, the marginal impact of increased mileage will be more attenuated in the populated areas where parcels are delivered.

Further environmental effects could result from the increased purchase of trucks for expansion and replacement, but such effects would also be minuscule. The Postal Service spends only 0.9 percent of all nationwide money spent on small transportation equipment and accessories, which suggests that a small change in its consumption would have very negligible environmental ramifications.

I conclude that the proposed bulk parcel post subclass change would result in no significant environmental impact due to Postal Service transportation use.

MATERIALS—UTILIZATION AND POLLUTION

The Postal Service uses many different goods in providing services to the nation. Since consumption of any particular good is an extremely small portion of total national consumption of that good, any change in Postal Service consumption of that good cannot sizably affect overall national consumption. The volume increase under consideration as a consequence of the proposed bulk parcel post subclass restructuring may cause minor insignificant changes in the nationwide consumption of certain goods. In my estimation, the increased use of machines, facilities, and papers are the only resource commitments which arguably could have some environmental effect.

The Postal Service would purchase no new machines due to the projected volume increase alone, as the machines which currently exist in our bulk mail facilities are capable of processing the increased volume at higher speeds. The energy and fuel required to operate at higher speeds would be negli-

[1] Figures based on fiscal year 1979 projections by the Postal Service. The projected volume for parcel post before change is approximately 151 million pieces. These figures compare with an overall forecast postal volume of over 96 billion pieces.

[2] In addition to possible diversion of parcels from substitute businesses to parcel post after change, a negligible amount of our own third-class single-piece mail may be diverted to parcel post for the following reason. Under the proposed structure, mailers will have the option of including parcels weighing between 8 and 16 ounces, which currently are third-class mail, in bulk parcel post mailings. However, the volume in this weight range is small to begin with, and third-class rates for those parcels are generally lower than the proposed parcel post rates.

[3] [0.0003 × [(0.37) (1,468) + (1)(710)]] ÷ 1,307,723 = 0.0000286 percent.
0.0003 = expected volume increase.
0.37 = volume variability of Service owned vehicles.
1,468 = annual mileage of Service owned vehicles ÷ 1 million.
1 = volume variability of Service hired vehicles.
710 = annual mileage of Service hired vehicles ÷ 1 million.
1,307,723 = total yearly national mileage ÷ 1 million.

gible. At present, Postal Service facilities consume only 0.170 percent of the Nation's electrical output (see table 1). The share of the 0.170 percent which is attributable to

It is my considered judgment that any environmental harm that could be caused by the proposed bulk parcel post subclass must be balanced against the Federal policy it

sons I find that the proposed bulk parcel post reclassification will not significantly affect the quality of the human environment. This constitutes my negative declara-

cation-declaration, which is summarized below, for a complete statement of the proposed transaction.

[8010-01]

[Rel. No. 10387; 812-4142]

CONTINENTAL ASSURANCE CO. & CONTINENTAL ASSURANCE CO. SEPARATE ACCOUNT

in the Texas public institutions of higher education.

Because of uncertainty regarding the effect of these amendments, the

gible. At present, Postal Service facilities consume only 0.170 percent of the Nation's electrical output (see table 1). The share of the 0.170 percent which is attributable to bulk mail processing facilities is an indeterminable small fraction, and the share which is attributable to machines in those facilities is at a simularly insignificant level. The bulk mail centers will continue to operate their normal shifts, and thus will not require increased fuel and electricity to accommodate the increased volume.

Microscopic increases in electricity and fuel consumption would cause a correspondingly insignificant increase in pollutants generated by electricity production and fuel consumption.

Parcel post consists primarily of merchandise and contains a significantly lower proportion of paper in relation to the other classes of mail. Therefore, the increase in paper use generated by the proposed bulk parcel post subclass would be even less than the 0.03 percent predicted increase in total mail volume. Even that minor increment will be largely offset by decreased diversion to substitute services and the possibility of lower volumes for substitute services.

Whatever effects may exist with regard to resource use, any resulting pollution will be dispersed over wide areas. In short, the environmental effects of the bulk parcel post subclass proposal on materials are negligible and imperceptible.

LAND USE

Twenty-one bulk mail centers and 10 auxiliary service facilities (ASF's) have the capability to increase the mail volumes they handle. The absorption of new volume would make these existing facilities more efficient and would not require an increase in their number or size. Thus, no net increase or decrease in land use, or change in existing land use patterns would result from the proposed bulk parcel post subclass. Moreover, the increase in parcels handled at the BMC's and ASF's would not materially affect the use of other types of Postal Service facilities.

CONCLUSION

In conclusion, I find that as a result of the parcel post reclassification:

(1) Postal Service, national and regional employment levels will not change to a significant extent;

(2) Resource use, energy use, and pollution levels will not be altered to a signficant extent due to any increases in transportation mileage;

(3) Resource use and pollution will not be increased to a significant extent due to any additional utilization of raw materials;

(4) Existing land use patterns will not be altered and any increases in the intensity of land use will be insignificant.

Therefore, it is evident that the increase in volume projected to be generated by the proposed bulk parcel post subclass will have no perceptible or significant effect on the nation's human environment. Even if the increase in Postal Service volume exceeds the decrease in substitute service volume, the net environmental impact would be dispersed over thousands of facilities and vehicles throughout the Nation, and would constitute an insignficant increase to national totals.

It is my considered judgment that any environmental harm that could be caused by the proposed bulk parcel post subclass must be balanced against the Federal policy it will serve. In light of the Postal Service's statutory duty of providing parcel post service efficiently and at adequate levels throughout the Nation, no alternative proposal with a more beneficial environmental impact appears to be feasible. For these reasons I find that the proposed bulk parcel post reclassification will not significantly affect the quality of the human environment. This constitutes my negative declaration pursuant to 39 CFR 775.14(c).

EDWARD J. McCAFFREY,
Assistant Postmaster General, Rates and Classification Department.

SEPTEMBER 5, 1978.

TABLE 1—*Water and fuel consumption*

	Unit	USPS use fiscal year 1977 [a]	National use [b]	USPS use as percent of national use
	(1)	(2)	(3)	(4)
Water	Billions of gallons	[c] 4.9	[d] 153,300	.003
Fuel in facilities:				
Electricity	Billions of kWh	3.6	[e] 2,122	.170
Fuel oil:				
Distillate	Millions of gallons		52,203	
Residual	do		47,406	
Total		20.5	99,609	.021
Coal (bituminous lignite and anthracite).	Thousands of tons	1.9	832,921	
Natural gas	Billions of cubic feet	4.5	19,704	.023
Propane	Millions of gallons	1.4	[f] 2,808	.050
Fuel in transportation:				
Motor gasoline	do	248.7	109,228	.228
Lubricating oil	do	1.9	[g] 2,413	.079
Diesel fuel (distillate oil)	do	55.8	52,203	.107
Energy consumed:				
Items listed [h]:				
In transportation	Trillion of Btu	39.1	[b] 13,998	
In facilities	do	20.0	[b] 57,435	
Total		59.1	71,431	.082
Total Energy consumed transportation.	do	39.1	[i] 19,890	.197
[h] Other	do	20.0	[i] 56,615	.035
Total		59.1	[i] 76,505	.077

[a] Consumption volumes for which USPS pays were supplied by USPS, except as noted; estimated fuel consumption for interior space in facilities not covered by USPS payments is added and estimated motor fuel consumption by rural carriers, contract vehicles and air-taxi service is added. The USPS share of fuels consumed by other purchased transportation is not included.

[b] Total U.S. consumption or demand for 12-month period ending September 1977, except as noted.

[c] Estimated from USPS expenditures for water during fiscal year 1977, using a sample of prevailing water prices paid at major postal facilities.

[d] U.S. Department of Interior, Geological Survey Circular 765, Estimated Use of Water in the United States in 1975; includes 51,100 billion gallons of water withdrawn for irrigation.

[e] Production.

[f] 12-month total ending June 1977.

[g] Conversion factors for fuel consumed are as follows: Electricity—3,412 Btu/kWh. Distillate fuel oil—5,825,000 Btu/bbl. Residual fuel oil—6,287,000 Btu/bbl. Coal (bituminous and lignite)—22,800,000 Btu/short ton (Btu content at point of consumption). Natural gas—1,021 Btu/cu. ft. (for dry natural gas). Propane—97,500 Btu/gal. (Btu content of LP gases). Gasoline—5,248,000 Btu/bbl. Lubricating oil—6,065,000 Btu/bbl.

[h] All distillate oil, part of which is consumed as diesel oil in motor vehicles, as included in facilities consumption.

[i] Includes petroleum products not listed separately.

Source: For National data; U.S. Department of Energy, Monthly Energy Review—December 1977 and Monthly Petroleum Statements through June 1977.

[FR Doc. 78-25645 Filed 9-12-78; 4:20 pm]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 20696; 70-6205]

AMERICAN ELECTRIC POWER CO., INC.

Proposed Issuance and Sale of Common Stock at Competitive Bidding

SEPTEMBER 6, 1978.

Notice is hereby given that American Electric Power Co., Inc. ("AEP"), 2 Broadway, New York, N.Y. 10004, a registered holding company, has filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6, 7, and 12(c) of the Act and rules 42 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

AEP proposes to issue and sell up to 6,000,000 shares of its authorized but unissued common stock, par value $6.50 per share, at competitive bidding. It is stated that the proceeds from the sale of such stock will be used to repay, at or before maturity, an equivalent amount of AEP's short term indebtedness. As of August 23, 1978, AEP's short term debt was $50,140,000, and it is estimated that such short term debt will be $140,000,000 as of the anticipated date of sale of such stock.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. No State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 5, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulations, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25703 Filed 9-12-78; 8:45 am]

[8010-01]

[Rel. No. 10387; 812-4142]

CONTINENTAL ASSURANCE CO. & CONTINENTAL ASSURANCE CO. SEPARATE ACCOUNT (B)

Application for an Order of Exemption

SEPTEMBER 1, 1978.

Notice is hereby given that Continental Assurance Co. and Continental Assurance Co. separate account (B) (hereinafter collectively referred to as "Applicants"), CNA Plaza, Chicago, Ill., filed an application on June 2, 1977, and an amendment thereto on August 7, 1978, pursuant to section 6(c) of the Act for an order exempting Applicants from the provisions of sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance by Applicants with certain provisions of the Education Code of the State of Texas. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Continental Assurance Co. separate account (B) ("SAB") was established in connection with the sale of certain variable annuity contracts (the "Contracts"). Continental Assurance Co. allocates to SAB net purchase payments received under the Contracts which are designed and offered for annuity purchase plans adopted by public school systems and certain tax exempt organizations pursuant to Section 403(b) of the Internal Revenue Code. SAB is registered under the Act as an open-end diversified management investment company.

In 1967, the State of Texas directed the governing boards of all Texas institutions of higher education to make available to certain employees an optional retirement program ("Program"), codified as Subchapter G of Chapter 51 of the Texas Education Code. The statute provides as the funding media for the Program fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. In 1973, the Texas legislature made two amendments in the Program legislation, which amendments became effective on June 14, 1973. The statutory definition of the Program was amended to provide that the benefits of such annuities are to be available only upon termination of employment in the Texas public institutions of higher education, retirement, death or total disability of the participant. The other amendment added a new section 51.358 to subchapter G which also provides that the benefits of such annuities will be available only if the participant dies, terminates his employment due to total disability, accepts retirement, or terminates employment in the Texas public institutions of higher education.

Because of uncertainty regarding the effect of these amendments, the university of Texas System ("System") requested the opinion of the Attorney General of Texas with respect to several questions concerning such amendments. The Attorney General rendered an opinion dated February 18, 1975, in response to the System's letter. The Attorney General interpreted section 51.358 to prohibit provisions in a variable annuity contract issued in connection with the Program on or after June 14, 1973, which provide for making available the redemption value of such contract prior to the occurrence of one of the conditions specified in the statute, i.e., termination of employment, retirement, death or total disability. Moreover, the opinion further stated that the prohibitions of section 51.358 were impliedly in effect upon the establishment of the Program (in 1967) and that notwithstanding any language which may be contained in existing contracts, a participant in the Program has never had the right to redeem his annuity contract otherwise than in accordance with the limitations described above. The opinion did not affect the right of a participant to transfer the redemption value of his annuity contract from one carrier to another; accordingly, the granting of the relief requested in the application would not affect such right.

SECTIONS 27(c)(1), 22(e) AND 27(d)

Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless such certificate is a redeemable security. Section 2(a)(32) of the Act defines "redeemable security" to mean any security under the terms of which the holder upon its presentation to the issuer or to a person designated by the issuer is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than 7 days after the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment

plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder

these Contracts is suitable for that participant, to sign a statement indicating that he/she is aware that these restrictions will be placed on his/her

[8010-01]

[Rel. No. 20695; 70-6201]

will have been expended for repairs and replacements necessitated by flood damage. The proceeds will be ap-

[8010-01]

[Release No. 15124; SR-PSE-78-16]

transactions effected by members of the national securities exchanges and the amended provision became effec-

plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first 18 months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor equal to that part of the excess paid for sales loading which is over 15 per centum of the gross payments made by the certificate holder.

Applicants request exemptions from the provisions of sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance with section 51.358 as it pertains to (i) redemption values under Contracts issued to participants in the Program subsequent to the date of such exemptive order and (ii) redemption values under Contracts issued prior thereto but attributable to payments made subsequent to the date of such order.

Applicants assert that if such exemptions are not granted, persons participating in the Program effectively will be denied an opportunity to select as a funding medium for their retirement benefits one of two funding media (the other being fixed annuity contracts) specifically provided in the Texas statute for such purpose. Additionally, participants will be unable to obtain the State's matching contributions for the purchase of an equity-based retirement vehicle. In this respect, the Attorney General's opinion indicated that these matching contributions will encourage participation in the retirement plan but that unrestricted withdrawals prior to retirement might be detrimental to an effective retirement vehicle. In view of the foregoing, Applicants assert that the Commission should grant the requested exemptions because: (1) The limited restriction on redemption would be voluntarily assumed by participants, i.e., eligible employees are not required to participate in the Program; (2) the restrictions were not formulated nor suggested by Applicants; and (3) participants' relinquishment of the full right of redemption is a reasonable requirement in exchange for the benefits bestowed by the matching contributions of the State of Texas.

Applicants will insure that appropriate disclosure is made to persons who consider participation in the Program, informing them of the restriction on the availability of redemption values under Contracts to be issued to them. This disclosure will take the form of an appropriate reference in each prospectus to the restrictions on redemption of these Contracts, as well as requiring each participant, as a part of the determination that the sale of these Contracts is suitable for that participant, to sign a statement indicating that he/she is aware that these restrictions will be placed on his/her Contract when it is issued. In addition, Applicants will review all sales literature that is to be used in conjunction with the sales of these contracts for the existence of material representations that are inconsistent with the restrictions to be placed on these contracts and will instruct the salespeople involved in soliciting in this market specifically to bring this restriction to the attention of the potential participants.

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 26, 1978, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following September 26, 1978, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25704 Filed 9-12-78; 8:45 am]

[8010-01]

[Rel. No. 20695; 70-6201]

NINEVEH WATER CO. AND GENERAL PUBLIC UTILITIES CORP.

Proposed Issuance of Note by Subsidiary and Guarantee Thereof by Parent and Holding Company; Request for Exemption From Competitive Bidding

SEPTEMBER 6, 1978.

Notice is hereby given that General Public Utilities Corp. ("GPU"), 260 Cherry Hill Road, Parsippany, N.J. 07054, a registered holding company, Pennsylvania Electric Co. ("Penelec"), 1001 Broad Street, Johnstown, Pa. 15907, an electric utility subsidiary of GPU, and Nineveh Water Co. ("Nineveh") a water company subsidiary of Penelec, have filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6, 7, and 12 of the Act and rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Nineveh proposes to enter into a loan agreement with the Small Business Administration ("SBA") for the purpose of borrowing up to $775,600 for repairs and replacement to its property and equipment damaged by rain and flood in July 1977. Such loan was authorized by the SBA on January 5, 1978, under the Disaster Relief Act of 1969. Under the loan agreement Nineveh would issue the SBA a note ("Note"), the first $250,000 bearing interest at the annual rate of 3 percent and the balance bearing interest at the annual rate of 6⅝ percent. The monthly payments on the Note, to begin 5 months from the date of issuance, would be $12,500 based upon a borrowing of $775,000, with each payment being applied first to accrued interest and the balance, if any, being applied to principal (such principal reductions first being applied to reduce the $250,000 principal component bearing interest at the annual rate of 3 percent). The Note will mature 78 months from the date of issuance and will be prepayable at any time without premium or penalty.

The Note will be secured by a mortgage on all of the real estate, improvements and fixtures of Nineveh. As further security for the loan the SBA authorization also requires that Penelec and GPU enter into respective agreements with the SBA unconditionally guaranteeing Nineveh's payment of principal and interest on the loan.

Pursuant to the SBA authorization the proceeds from the loan are to reimburse Nineveh for amounts which will have been expended for repairs and replacements necessitated by flood damage. The proceeds will be applied by Nineveh to reduce or pay in full the notes issued by Nineveh to Penelec pursuant to order of this Commission dated December 22, 1977 (HCAR No. 20333), which order authorized borrowings by Nineveh from Penelec pending disposition of Nineveh's SBA loan request.

Nineveh requests exemption from the competitive bidding requirements of rule 50 under the Act pursuant to rule 50(a)(5).

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. The Pennsylvania Public Utility Commission has jurisdiction over the proposed transaction. No other State commission and no Federal commission, other than this Commission and the SBA, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 5, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25705 Filed 9-12-78; 8:45 am]

[8010-01]

[Release No. 15124; SR-PSE-78-16]

PACIFIC STOCK EXCHANGE INC.

Filing of Proposed Rule Change and Order Approving Proposed Rule Change

SEPTEMBER 1, 1978.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), notice is hereby given that on August 28, 1978, the Pacific Stock Exchange Inc. ("PSE"), 618 South Spring Street, Los Angeles, Calif. 90014, filed with the Commission copies of a proposed rule change which amends PSE rule XIII, sections 2 and 3 to provide that no rule, stated policy or practice of the PSE shall prohibit, condition or otherwise limit the ability of a member acting as agent to effect any transaction other than on the PSE with another person in any equity security listed on the PSE or to which unlisted trading privileges on the PSE have been extended, except when such member also is acting as agent for such other person in the transaction.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file No. SR-PSE-78-16.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the proposed rule change is intended to conform PSE rule XIII, sections 2 and 3 to amended Commission rule 19c-1 (17 CFR 240.19c-1) under the Act. Rule 19c-1 governs certain off-board agency transactions effected by members of the national securities exchanges and the amended provision became effective March 1, 1978.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25706 Filed 9-12-78; 8:45 am]

[8010-01]

[Release No. 10388; 812-4317]

TRUSTEES' EQUITY FUND, INC. AND WINDSOR FUND, INC.

Filing of Application for an Order Exempting a Proposed Transaction

SEPTEMBER 1, 1978.

Notice is hereby given that Trustees' Equity Fund, Inc. ("Trustees' Equity") and Windsor Fund, Inc. ("Windsor"), P.O. Box 1100, Valley Forge, Pa. 19482, both registered under the Investment Company Act of 1940 ("Act") as open-end, diversified management investment companies ("Applicants"), filed an application on May 30, 1978, and an amendment thereto on August 7, 1978, pursuant to section 17(b) of the Act for an order exempting from the provisions of section 17(a) of the Act the proposed sale by Trustees' Equity of substantially all of its assets to Windsor in exchange for shares of Windsor. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that Trustees' Equity was organized in 1966 and that Wellington Management Co. has served as Trustees' Equity's investment adviser since August 1, 1968. Currently, Wellington Management Co. receives an annual basic advisory fee which may not exceed 0.325 percent of Trustees' Equity's average net assets. The basic fee may be increased or decreased depending on Trustees' Equity's investment performance relative to the Standard & Poor's 500 Composite Stock Index ("S&P Index"). Applicants represent that Trustees' Equity's investment objective is to realize long-term investment return by investing in common stocks. Current income is a secondary factor. Trustees' Equity is designed for tax-exempt investors, pension and profit sharing plans, retirement plans under the Keogh Act, and charitable, educational, and religious organizations.

Applicants state that Windsor was organized in 1958 and that Wellington

Management Co. has served as Windsor's investment adviser since Windsor's inception. Currently, Wellington

approval by the affirmative vote of at least a majority of the outstanding shares of Trustees' Equity. Applicants

the proposed transaction had been consummated on March 3., 1978, each share of Trustees' Equity would have

the purchase and sale of securities and other property between affiliated registered investment companies and,

such request shall be served personally of by mail upon Applicant at the address stated above. Proof of service (by

office under normal conditions within 48 hours, e.g., if received before noon on Monday must be available for

Management Co. has served as Windsor's investment adviser since Windsor's inception. Currently, Wellington Management Co. receives an annual basic advisory fee which may not exceed 0.350 percent of Windsor's average net assets. Such fee is scaled down at various asset levels. Applicants state that Windsor's previous investment advisory agreement provided for an investment performance adjustment formula identical to that applicable to Trustees' Equity. On May 18, 1978, Windsor's board of directors approved a new investment advisory agreement with Wellington Managment Co. which went into effect on August 1, 1978. This agreement provides for a slightly higher advisory fee rate at Windsor's present asset levels and a change in the performance adjustment formula. Applicants represent that Windsor's investment objective is to seek long-term growth of capital and income by investing primarily in equity securities. As a secondary objective, Windsor also endeavors to provide current income.

Applicants further state that Trustees' Equity and Windsor are both members of the Vanguard Group of investment companies ("Vanguard Funds"). The directors of Trustees' Equity and Windsor are identical. With certain minor exceptions, such directors also serve as directors of the other Vanguard Funds, as well as the directors of the Vanguard Group, Inc., a corporation organized by the Vanguard Funds to provide them with corporate management and administrative services at cost. The officers of Trustees' Equity, Windsor, the Vanguard Group, Inc. and the other Vanguard Funds are identical. Accordingly, Applicants state that they may be deemed to be under common control and, therefore, that they may be affiliated persons of each other. Section 2(a)(3)(C) of the Act defines affiliated person of another person to include any person under common control with such other person.

Windsor and Trustees' Equity state that they have entered into articles of transfer and agreement and plan of reorganization, dated April 20, 1978 ("Agreement"), providing for the acquisition by Windsor of substantially all the assets of Trustees' Equity in exchange for shares of Windsor, and for the liquidation and subsequent dissolution of Trustees' Equity. Applicants state that the reorganization is contingent upon receipt of either a ruling from the Internal Revenue Service or an opinion of counsel to the Applicants, to the effect that such acquisition will constitute a tax-free reorganization, and that no gain or loss will be recognized by Applicants or their shareholders as a result of the transaction. The Agreement is subject to approval by the affirmative vote of at least a majority of the outstanding shares of Trustees' Equity. Applicants represent that a special meeting of shareholders of Trustees' Equity will be held on September 29, 1978, to vote upon the Agreement and that if it is approved, the reorganization is expected to be consummated on the same day, although a later date may be mutually agreed upon by the parties.

The Agreement provides that the number of shares of Windsor to be issued to shareholders of Trustees' Equity will be determined on the basis of the relative net asset values per share of the funds, computed as of the close of the New York Stock Exchange on the day of the closing. In computing the net asset value of Trustees' Equity and Windsor for the purpose of the exchange, the Applicants have agreed to apply, in part, a tax adjustment formula that is based on a practice which has been used in the past in connection with similar combinations of investment companies in an attempt to take into account the potential tax effect of the disproportion in realized and unrealized capital gains and losses of the combining funds. Applicants propose to use this formula only to reflect the realized capital losses which Trustees' Equity has in its portfolio; they do not propose to make an adjustment for the unrealized gains or losses which either fund may have. They assert that the impact upon individual shareholders of an adjustment for these factors cannot be determined with sufficient accuracy. Applicants further state that because Windsor has realized substantial net gains in the current fiscal year, the capital losses which Trustees' Equity would bring to the combined fund have an immediate, determinable value to Windsor shareholders, and should, therefore, be taken into account in calculating the relative net asset values for purposes of the exchange. Applicants further state that as of March 31, 1978, Trustees' Equity had a capital loss carry forward of $5,062,000, of which $168,000 would, according to section 383 of the Code, be available to Windsor for purposes of the tax adjustment formula. In accordance with the further application of the formula, Trustees' Equity's shareholders would have received, if the reorganization had occurred on March 31, 1978, an additional value of $32,106, or $0.02 per share.

As of March 31, 1978, Trustees' Equity had total net assets of approximately $11,815,000, 1,372,009 shares outstanding and a net asset value per share of $8.61. As of the same date, Windsor had total net assets of $536,178,793, 54,521,413 shares outstanding and a per share net asset value of $9.83. Applicants state that if the proposed transaction had been consummated on March 3., 1978, each share of Trustees' Equity would have been valued, after application of the tax adjustment formula, at $8.73 for purposes of computing the exchange ratio. Using that value, each share of Trustees' Equity would have been exchanged for 0.8881 shares of Windsor.

Applicants state that immediately following the closing, Trustees' Equity will dissolve and distribute pro rata to its shareholderes of record the shares of Windsor received at the closing. Applicants represent that such liquidation and distribution will be accomplished by establishing open accounts on the share records of Windsor in the names of such Trustees' Equity shareholders and representing the respective pro rata number of shares of Windsor due such shareholders. New certificates will be issued only upon written request.

Applicants state that prior to consummation of the transaction Trustees' Equity intends to sell securities with a market value of approximately $3.8 million. The proceeds of such sales will be reinvested in securities appropriate for Windsor's portfolio and transferred to Windsor at closing. Trustees' Equity and Windsor will each bear such expenses of entering into and carrying out the provisions of the Agreement as will be separately incurred by it. The expense of Windsor will include legal and accounting fees estimated not to exceed $5,000. Trustees' Equity's expense will include the cost of the special meeting; proxy costs (including all costs of solicitation, printing and mailing of a proxy statement); the expenses of its proposed liquidation and dissolution; legal and accounting fees; and the brokerage costs incurred in the realignment of its portfolio securities. These expenses are estimated not to be in excess of $20,000.

Section 17(a) of the Act provides, in pertinent part, that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such a person, knowingly to sell to or purchase from such registered investment company any security or other property. Section 17(b) of the Act provides however, that the Commission shall grant an exemption from such prohibition if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Applicants state that the proposed acquisition may be deemed to involve

the purchase and sale of securities and other property between affiliated registered investment companies and, therefore, may be deemed to violate section 17(a) of the Act. However, Applicants state that the terms of the Agreement are reasonable and fair and do not involve overreaching on the part of any person concerned in that Windsor will be issuing its shares in exchange for the assets of Trustees' Equity on the basis of their respective net asset values with a minor adjustment to account for the potential tax effect of the disproportion in realized capital losses of the two funds.

Applicants state that the principal factors contributing to the decision of the board of directors of Trustees' Equity to merge the fund into another investment company was Trustees' Equity's investment record and the declining trend in its assets. Trustees' Equity's board of directors also believes that future prospects are for a continued rise in the fund's expense ratio since many of its costs are relatively fixed and it is unlikely that the fund's assets will increase significantly during the years ahead. Applicants assert that Windsor should, based on past results, provide Trustees' Equity's shareholders with improved capital performance and an increase in dividend income. Applicants further represent that Windsor's investment objective and policies are consistent with those of Trustees' Equity. Applicants also state that although the basic advisory fee rate paid by Windsor at lower asset levels is higher than the rate applicable to Trustees' Equity, the effective basic fee rate paid by Windsor is lower because of its declining fee rate at larger asset levels. Applicants represent that the expense ratio for Trustees' Equity's shareholders will be substantially reduced as shareholders of Windsor because of Windsor's larger asset base over which it may spread its operating expenses.

Applicants state that the proposed reorganization will also benefit Windsor because it will reduce the expense ratio of Windsor to a modest extent by providing a larger asset base over which it may spread certain of its fixed operating costs.

Notice is further given that any interested person may, not later than September 25, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally of by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25707 Filed 9-12-78; 8:45 am]

[8010-01]

[Release No. 34-1511-9; File No. SR-Amex-78-18]

AMERICAN STOCK EXCHANGE, INC.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No 94-29, 16 (June 4, 1975), notice is hereby given that on August 21, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF PROPOSED RULE CHANGE

The American Stock Exchange, Inc., proposes to amend its transfer agent Rule 891 as set forth below. [Italics indicate words to be added.]

RULE 891

REQUIREMENTS IN ORDER TO QUALIFY AS A TRANSFER AGENT FOR SECURITIES LISTED ON THE AMERICAN STOCK EXCHANGE (WHERE THE LISTED COMPANY DOES NOT ACT AS ITS OWN TRANSFER AGENT) IN RESPECT OF: (I) ALL TRANSFER AGENTS LOCATED IN NEW YORK CITY, AND (II) TRANSFER AGENTS LOCATED OUT-OF-TOWN WHERE THE LISTED COMPANY HAS NO TRANSFER AGENT IN NEW YORK CITY

1. Office facilities (hereinafter referred to as the "office") satisfactory to the Exchange and the issuer to receive and redeliver securities must be located south of Chambers Street in the Borough of Manhattan, city of New York.

2. Routine transfers are to be processed and available for pickup at the office under normal conditions within 48 hours, e.g., if received before noon on Monday must be available for pickup not later than immediately after 1 p.m. on Wednesday.

3. The transfer agent must assume total responsibility and liability for securities from the time of deposit at the office until redelivery at the window. The transfer agent must maintain insurance coverage of at least $10,000,000 (*or such lesser amount as the Exchange may approve because of the limited volume of transfers handled*) to protect securities while in transit or in process of transfer, and it must be in a position to demonstrate that it has a substantial net worth. If the transfer agent does not have capital, surplus (both capital and earned), undivided profits and/or capital reserves aggregating at least $3,000,000, it will be required to furnish additional evidence of its ability to meet financial obligations (*such as an unconditional guarantee of performance from a parent, affiliate, or other party acceptable to the Exchange*) and it may be required to maintain insurance coverage in excess of $10,000,000. In this regard, all relevant factors will be considered such as its past record of operations as a transfer agent, the experience of its management and supervisory personnel, its security and recordkeeping procedures, the nature and scope of any other activities in which it is engaged and the amount of its capital in relation to its overall business activities.

4. Out-of-town agents having a drop in New York must make appropriate arrangements to pickup from and deliver to the Central Certificate Service normally within the 48-hour period and framework mentioned above.

5. Personnel at the office must have sufficient experience to respond promptly to inquiries regarding transfers, including legal items.

6. Securities received before the close of business at the office on a record date or any other date involving the rights of a securityholder must be recorded as of that date so as to establish the transferee's rights.

7. Facilities should be available for expediting transfer service when needed. No objection will be made if a reasonable charge is made for such special service.

8. The Exchange reserves the right to request a company with securities listed on the Exchange to terminate the appointment of its transfer agent in the event of the failure of such transfer agent to conform to all of the foregoing requirements.

* * * Commentary

.01 Insurance—It is the policy of the Exchange to require a minimum of $10 million of insurance coverage pursu-

ant to the provisions of paragraph (3) of Rule 891 in all cases where the

available for inspection and copying in the Public Reference Room, 1100 L

No comments have been or are to be solicited; however, an organization

[8010-01]

[Release No. 34-15118; File No. SR-DTC-78-13]

facilitate the prompt and accurate settlement of securities transactions.

The proposed W/T mismatch service was publicized in DTC's December

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change involves implementation of a third party deliv-

ant to the provisions of paragraph (3) of Rule 891 in all cases where the transfer agent handles a substantial volume of transfers. In the case of a transfer agent which acts for fewer than ten public companies and can demonstrate on the basis of experience that it regularly has less than $10 million face value of certificates in process of transfer at any given time, the Exchange will consider a request to maintain lower insurance coverage, but in no event less than $5 million.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The SEC has stated that the financial standards set forth in paragraph (3) of rule 891 are unduly restrictive because they exclude transfer agents that deal with a limited number of issuers and whose volume of transfers therefore make it reasonable to require either a lower amount of assets or a lower insurance coverage. Since a transfer agent generally subjects itself to less exposure where it handles a limited number of issuers, it appears appropriate in such situations for the Exchange to ease its standards for potential transfer agents seeking to qualify under the rule. The amendments to rule 891 are being proposed to allow an added measure of flexibility in demonstrating a transfer agent's financial responsibility.

The proposed amendments to rule 891 are intended to eliminate any burden on competition among transfer agents that is not necessary or appropriate in furtherance of the Act, consistent with section 6(b) of the Act.

No comments were solicited or received with respect to the proposed rule change.

The Amex has determined that no burden on competition will be imposed by the proposed rule change.

On or before October 18, 1978, or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer periods to be appropriate and publishes its reasons for so finding; or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

All submissions should refer to the file number referenced in the caption above and should be submitted by October 4, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS
Secretary.

SEPTEMBER 1, 1978.

[FR Doc. 78-25711 Filed 9-12-78; 8:45 am]

[8010-01]

[Release No. 34-15120; File No. SR-BSECC-78-2]

BOSTON STOCK EXCHANGE CLEARING CORP.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 30, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS AND SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change imposes a fee for trades through the Intermarket Trading System ("ITS"). The text of the proposed rule change is attached herein as exhibit No. 1.

STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to reimburse the clearing agency for the additional expenses it incurs due to its participation in the ITS system.

The proposed rule change relates to the capacity of Boston Stock Exchange Clearing Corp. to facilitate the prompt and accurate clearance and settlement of securities transactions by enabling it to carry on its functions in a profitable manner. The clearing agency will incur additional expenses in connection with its clearing of ITS trades. These expenditures are principally for the additional personnel required to report and reconcile ITS trades. Additional finance charges will be incurred due to the fact that payments for ITS trades must be made by the clearing agency in New York and other cities before payment is made by the users of the system in Boston.

No comments have been or are to be solicited; however, an organization representing specialists on the floor of the Boston Stock Exchange has expressed opposition to the amendment.

No burden on competition is expected.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by October 4, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 1, 1978.

TEXT OF PROPOSED RULE CHANGE

The schedule of charges set forth at exhibit E of the form CA-1 filed for Boston Stock Exchange Clearing Corp. is hereby amended by imposing the following additional charges on the clearance and settlement of trades made through the intermarket trading system: 2 cents per share on settled transactions plus an amount equal to the interest rate charged at the time of any such trade by the clearing agency's principal lender times the dollar amount of any such trade.

[FR Doc. 78-25710 Filed 9-12-78; 8:45 am]

[8010-01]

[Release No. 34-15118; File No. SR-DTC-78-13]

DEPOSITORY TRUST CO.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 28, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change modifies the administration of the Depository Trust Co.'s (DTC) withdrawal by transfer service by increasing assistance to participants to resolve misdeliveries of certificates physically withdrawn from DTC in other than Cede & Co. name. Participant operating procedures are attached as exhibit 2 to DTC's filing on form 19b-4A, file No. SR-DTC-78-13.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed rule change is to modify the administration of DTC's withdrawal by transfer (W/T) service with regard to "mismatches." "Mismatched" certificates, as distinguished from missorted, misplaced, and lost certificates, are those where two or more participants receive certificates registered to another participant's customer, without identification of the intended receiving participant. Currently, upon receiving notification of a mismatch from one participant, DTC does the research necessary to identify the other side or sides of the mismatch. Where only two in-town participants are involved, DTC supplies its research conclusions to the participants and they resolve the mismatch between themselves. Where one participant is out of town or more than two participants are involved, DTC takes a more active role in resolving the mismatch.

The new service modifies an existing practice by introducing a form to be used to report the mismatch and by extending DTC's active participation in mismatch resolution to cases where only two in-town participants are involved.

The proposed rule change would carry out the purposes of section 17A of the Securities Exchange Act of 1934 because DTC's increased assistance in resolving securities misdeliveries will facilitate the prompt and accurate settlement of securities transactions.

The proposed W/T mismatch service was publicized in DTC's December 1977 newsletter. No written comments were received from participants. The substance of oral comments was that the service would be useful.

DTC perceives no burden on competition by reason of the proposed rule change.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by October 4, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 1, 1978.

[FR Doc. 78-25712 Filed 9-12-78; 8:45 am]

[8010-01]

[Release No. 34-15121; File No. SR-DTC-78-4]

DEPOSITORY TRUST CO.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 25, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change involves implementation of a third party delivery service in the interface between the Depository Trust Co. (DTC) and Pacific Securities Depository Trust Co. (PSDTC). The proposed rule change is attached as exhibits 2A and 2B to DTC's filing on form 19b-4A, file No. SR-DTC-78-4, as amended.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed rule change is to implement a third party delivery service in the interface between DTC and PSDTC. This third party delivery service permits any participant in one depository to deliver securities to, or receive securities from, and participant in the other depository, either free (without settlement) or for payment. Previously, only a participant affiliated with both depositories could use the interface and then only to move positions between its accounts in DTC and PSDTC. The third party delivery service between DTC and PSDTC is substantially similar to, and involves the same DTC fee as, the third party delivery service between DTC and Midwest Securities Trust Co., which is the subject of amendment No. 1 to DTC's filing on form 19b-4A, file No. SR-DTC-76-8.

The proposed rule change would carry out the purposes of section 17A of the Securities Exchange Act of 1934 by facilitating the prompt and accurate clearance and settlement of securities transactions for which DTC is responsible in that the proposed rule change eliminate the need for dual participants in DTC and PSDTC to initiate multiple book-entry deliver orders with attendant charges to effect interdepository movements and the proposed rule change enable sole participants of one depository to effect book-entry deliveries to sole participants of the other depository, which would otherwise necessitate physical deliveries by intercity securities drafts.

As DTC announced in its newsletter of September-October 1976, to accommodate the needs of participants expansion of the interface between DTC and PSDTC has been planned in stages to achieve a full interface capability, including a third party delivery service. All participants have been notified of the proposed rule change by the DTC important notices attached as exhibits 2A and 2B to DTC's filing on form 19b-4A, file No. SR-DTC-78-4, as amended.

DTC perceives no burden on competition by reason of the proposed rule change.

On or before October 18, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

March 2, 1977 and by SR-NESDTCO-78-1 filed on March 2, 1978, is hereby amended as follows (brackets denote

into the flume which transports the water to the two units in the powerhouse where approximately 17 megawatts of power can be produced.

3. *Delegation.* Pursuant to the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department order No. 221,

censed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Gov-

On or before October 18, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street NW., Washington, D.C.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by October 4, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 1, 1978.

[FR Doc. 78-25709 Filed 9-12-78; 8:45 am]

[8010-01]

[Release No. 34-15122; File No. SR-NESDTCO-78-2]

NEW ENGLAND SECURITIES DEPOSITORY TRUST CO.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 1, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change changes certain of the fees which the self-regulatory organization charges for its securities clearance service. The text of the proposed rule change is attached herein as exhibit No. 1.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to raise the fees for the securities clearance service in such a manner as to enable such service to be operated in a break-even or profitable manner or will encourage use of the clearing agency's book-entry settlement system.

The proposed rule change relates to the capacity of New England Securities Depository Trust Co. to facilitate the prompt and accurate clearance and settlement of securities transactions by enabling it to carry on it functions in a profitable manner.

No comments have been or are to be solicited.

New England Securities Depository Trust Co. does not believe the proposed rule change will impose burdens on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by October 4, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZIMMONS,
Secretary.

SEPTEMBER 1, 1978.

EXHIBIT No. 1

TEXT OF PROPOSED RULE CHANGE

(a) Item 3, schedule E of form CA-1, file No. 600-5, as amended in SR-NESDTCO-77-2 filed by New England Securities Depository Trust Co. on March 2, 1977 and by SR-NESDTCO-78-1 filed on March 2, 1978, is hereby amended as follows (brackets denote deletions and italics denotes additions):

3. Transaction fees on sales to—	Prior charge	New charge
Securities clearance service user	[$1.25]	*$2.50*
Nonuser Boston bank*	[1.25]	*2.50*
Nonuser*	[2.00]	*5.00*
On buys from—		
Securities clearance service user	[1.25]	*2.50*
Nonuser Boston bank*	[1.25]	*3.00*
Nonuser*	[2.00]	*5.00*
Either way		
Coupon bond	[3.00]	*7.50*
Transfer-per item transferred	[3.00]	*5.00*
U.S. Government item transferred	10.00	10.00
Legal item transferred	25.00	25.00
Messenger service	5.00	5.00
Reclamations (per reclamation):		
Equitys	[1.25]	*2.50*
Registered bonds	[1.25]	*3.00*
Coupon bonds	[2.00]	*7.50*
Miscellaneous	Charges at cost to members for out-of-pocket expenses including drafts, interest, postage, telephones, etc	

*Nonuser transactions always billed to user.

[FR Doc. 78-25708 Filed 9-12-78; 8:45 am]

[8120-01]

TENNESSEE VALLEY AUTHORITY

REHABILITATION OF THE OCOEE NO. 2 HYDRO PLANT, POLK COUNTY, TENN.

Public Hearing

The Tennessee Valley Authority will conduct a public hearing October 2, 1978, in Cleveland, Tenn., concerning the agency's plans to rehabilitate the Ocoee No. 2 hydroelectric plant. The hearing will begin at 7 p.m., e.d.t., in the Bradley County Courthouse, located on Ocoee Street.

A draft environmental impact statement on the proposed project was issued in August. The notice of availability of the draft statement was published in the FEDERAL REGISTER on August 28, 1978. Copies of the statement are available from the TVA Information Office, 400 Commerce Avenue, Knoxville, Tenn. 37902.

The Ocoee No. 2 hydroelectric project, which was constructed in 1912, is located on the Ocoee River in Polk County, Tenn. The project consists of a rock-filled timber dam at river mile 24.2, a powerhouse at river mile 19.7, and a 4.6 mile-long wooden flume connecting the reservoir intake to the penstock intake at the powerhouse.

During normal operation for power, the water is diverted by the crib dam into the flume which transports the water to the two units in the powerhouse where approximately 17 megawatts of power can be produced. The Ocoee No. 2 project was shut down in September 1976, when field inspections revealed that the project did not meet design criteria to assure reasonable safety factors for operation. Since cessation of the project operation, the water has been spilled at the dam and has flowed in the portion of the natural riverbed which is bypassed when Ocoee No. 2 is operated for power production. This stretch of the river provides excellent whitewater recreation conditions.

TVA proposes to restore the Ocoee No. 2 hydro plant to operation by repairing or replacing the trestles of the flume and reinforcing the crib dam with rockfill. In addition, TVA proposes to provide special releases for recreation during the summer months. A minimum water release of 1,000 ft³ per second would be provided for recreation between the hours of 10 a.m. and 6 p.m., on 46 days from May 1 through September 30, consisting of all Saturdays, Sundays, and national holidays.

The public is invited to attend and comment on TVA's plans and the draft environmental statement. A record will be made of the hearing. All statements and comments made will be considered by TVA in finalizing its plans for the project and in developing the final environmental statement. All written statements submitted to the following address on or before October 12, 1978, will be included in the record:

Herbert S. Sanger, Jr., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, Knoxville, Tenn. 37902.

Dated: September 7, 1978.

H. N. STROUD, JR.,
Acting General Manager.

[FR Doc. 78-25713 Filed 9-12-78; 8:45 am]

[4810-31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 78- ; Reference: ATF O 1100.95]

AUTHORITY TO SETTLE ALCOHOL, TOBACCO AND FIREARMS TAX CLAIMS

Delegation Order

1. *Purpose.* This order delegates certain authority to the Assistant Director (Regulatory Enforcement) to settle alcohol, tobacco, and firearms tax claims.

2. *Cancellation.* Delegation order No. 29 (corrected), delegation of authority to settle alcohol, tobacco, and firearms tax claims, dated July 1, 1972, is canceled.

3. *Delegation.* Pursuant to the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department order No. 221, dated June 6, 1972, by 26 U.S.C. 7851(b)(3) and 26 CFR 301.7701.9, authority is hereby delegated to the Assistant Director (Regulatory Enforcement):

a. To allow or to reject, in whole or in part:

(1) Claims for drawback of tax paid or determined on distilled spirits used in nonbeverage products and filed under the provisions of 26 U.S.C. 5134(b).

(2) Claims for allowance, abatement, remission, refund, or credit of taxes imposed under chapters 51 and 52 of title 26 of the United States Code.

b. To determine tax liabilities and to allow or reject claims for abatement or refund of taxes or penalties, or for redemption of stamps, prescribed by chapter 53 of title 26 of the United States Code.

4. *Redelegation.* The authority delegated herein may be redelegated to regional regulatory administrators. Regional regulatory administrators may redelegate this authority to regional Regulatory Enforcement personnel not lower than the position of chief, technical services.

Effective date: This order becomes effective on September 1, 1978.

JOHN S. KROGMAN,
Acting Director.

[FR Doc. 78-25614 Filed 9-12-78; 8:45 am]

[4810-35]

Fiscal Service

[Dept. Circ. 570, Rev., Supp. No. 3]

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

Certificate of Authority

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $2,280,000 has been established for the company.

Name of Company, Business Address, and State in Which Incorporated

Ranger Insurance Company, Post Office Box 2807, Houston, Texas 77001; New York.

Certificates of authority expire on June 30 each year, unless sooner revoked, and new certificates are issued on July 1 so long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: September 6, 1978.

D. A. PAGLIAI,
Commissioner, Bureau of Government Financial Operations.

[1505-01]

INTERSTATE COMMERCE COMMISSION

[Volume No. 86]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

Correction

In FR Doc. 78-12064 appearing at page 19317 in the issue for Thursday, May 4, 1978, under No. MC 134574 (Sub-No. 28F), on page 19326, 10 lines from the top of the first column, "NE" should have read "NV".

[7035-01]

[Notice No. 712]

ASSIGNMENT OF HEARINGS

SEPTEMBER 8, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 113678 (Sub-739), Curtis, Inc., application dismissed.

MC 144119, Hansen Consolidators, Inc., now assinged for hearing on October 11, 1978, at Chicago, IL, is canceled and transfered to modified procedure.

MC 143546, Atlantic Marketing Cooperative Association, now assigned for September 14, 1978, at San Francisco, CA, is postponed indefinitely.

AB 12 (Sub-56), Southern Pacific Transportation Co., abandonment between Brenham and Giddings in Washington, Fayette and Lee Counties, TX, now being assigned for further hearing on September 27, 1978 (2 days), at Brenham, TX, in room B-100,

Federal Building, Main and Market Streets.

MC 2226 (Sub-113F), Red Arrow Freight Lines, Inc., now being assigned October 31,

motor carriers of passengers to publish non-predatory fare reductions[1] without notice. Its proposal envisions that any bus carrier availing itself of these

As authority for adoption of its proposal Trailways cites section 217(c) of the Interstate Commerce Act, as precedent, it refers to school charters

will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of

along Interstate Hwy 15 to junction CA Hwy 127, then north along CA Hwy 127 to the CA-NV State line,

United States International boundary line at Interstate Hwy 5 and extending north along Interstate Hwy 5 to the

Federal Building, Main and Market Streets.

MC 2226 (Sub-113F), Red Arrow Freight Lines, Inc., now being assigned October 31, 1978 (8 days), at Laredo, TX, in a hearing room to be later designated; and continued to November 13, 1978 (5 days), at Dallas, TX, in a hearing room to be later designated.

MC 115826 (Sub-302F), W. J. Digby, Inc., now being assigned November 28, 1978 (1 day), at Seattle, WA, in a hearing room to be later designated.

MC 136605 (Sub-47F), Davis Bros. Dist., Inc., now being assigned November 29, 1978 (3 days), at Seattle, WA, in a hearing room to be later designated.

MC 118832 (Sub-8), Westours Motor Coaches, Inc., now being assigned December 4, 1978 (1 week), at Seattle, WA, in a hearing room to be later designated.

MC 29948 (Sub-10F), Empire Lines, Inc., now being assigned for hearing on December 12, 1978 (3 days), at Spokane, WA, in a hearing room to be later designated.

MC 138018 (Sub-41F), Refrigerated Foods, Inc., now being assigned for hearing on December 11, 1978 (2 days), at Seattle, WA, in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-25766 Filed 9-12-78; 8:45 am]

[7035-01]

[Nos. 36990 and 36991]

DOWNWARD FARE FLEXIBILITY IN THE INTERCITY PASSENGER MARKET AND FLEXIBILITY OF CHARTER PRICES

Petition of Trailways for the Institution of Rulemaking Proceedings

SEPTEMBER 5, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of requests for rulemakings.

SUMMARY: Public comment is invited upon the requests by Trailways, Inc., that the Commission institute rulemakings to accord the bus industry (1) downward fare flexibility in the intercity passenger market, and (2) flexibility in charter prices.

DATES: Comments should be filed with the Commission on or before October 13, 1978.

ADDRESS: An original and 10 copies, if possible, of each submission should be forwarded to: Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak or Harvey Gobetz, telephone 202-275-7693.

SUPPLEMENTARY INFORMATION: *Downward fare flexibility in the intercity passenger market.* In No. 36990, Trailways requests a rulemaking to develop special procedures to allow motor carriers of passengers to publish non-predatory fare reductions[1] without notice. Its proposal envisions that any bus carrier availing itself of these special procedures would, in so doing, agree to the exercise of the Commission's power to suspend and/or investigate within 30 days after the effective date upon a finding that the fare is predatory.

The proposal is characterized as one to "institutionalize" certain aspects of existing Commission practices. Trailways points out that 49 CFR §§ 1306.4 and 1306.14 authorize publication on less than statutory notice under certain circumstances. In addition, it notes that outstanding special permission order No. 75-4370-M, as amended April 20, 1977, permits reductions in bus fares on five days' notice to meet Amtrak reductions.

Benefits to the industry and the public foreseen by Trailways as resulting from adoption of its proposal include: (1) More timely responsiveness by the bus industry to reductions in fares by Amtrak and the airlines, (2) more competition within the bus industry, and (3) the elimination of unnecessary paperwork by the Commission and the industry.

By eliminating the requirement of advance notice for fare reductions, Trailways contends, a deterrent to fare reductions will be eliminated. The existing notice requirement is said to be a deterrent to the extent it provides competitors with time to meet a reduction, thereby defeating the purpose of the reduction. Since only reductions are involved, the individual consumer it is said, will not be harmed by the elimination of notice.

Flexibility in charter prices. In No. 36991, Trailways requests a rule to accord the carriers complete flexibility (upward and downward) in charter pricing.

Essential features of its proposal are:

(1) Negotiated prices in lieu of publication of fixed charges in tariffs;

(2) Reliance on the market place to control the prices; (3) and monitoring by the Commission to ensure no abuses.

Trailways presents three chief grounds as justification:

(1) That the Commission's liberalized entry requirements ensure sufficient competition to let the market determine the price;

(2) That the purchaser of charter service is more sophisticated and the travel involves more discretion than other services offered by the intercity bus industry, thereby lessening the need for regulation; and (3) that the requested rule would enable regulated carriers to meet competition from illegal operators.

As authority for adoption of its proposal Trailways cites section 217(c) of the Interstate Commerce Act, as precedent, it refers to school charters, where Commission policy is said to accord such pricing flexibility, The State of Florida is also alleged currently to permit such flexibility.

Trailways further comments that the approach can be that of a "controlled experiment" by requiring the carriers to retain copies of charter contract orders for a reasonable period. If abuses are found in free marketing, Trailways notes, the Commission can order resumption of the traditional practice of tariff filing.

H.G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-25777 Filed 9-12-78; 8:45 am]

[1] A reduction which is not below cost or destructively competitive.

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 8, 1978.

This application for long-and-short-haul relief has been filed with the ICC.

Protests are due at the ICC by September 28, 1978. FSA No. 43600, Southwestern Freight Bureau, Agent's No. B-771, annual volume rates on propylene oxide, from Plasuemine, La., and stations in Texas, to Natrium, W. Va., in sup. 7 to its Tariff 12-L, ICC 5334, to become effective October 3, 1978. Grounds for relief—rate relationship.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-25764 Filed 9-12-78; 8:45 am]

[7035-01]

IRREGULAR—ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

SEPTEMBER 6, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's gateway elimination rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission by September 25, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 25869 (Sub-E2), filed August 15, 1978. Applicant: NOLTE BROS. TRUCK LINE, INC., 6217 Gilmore Avenue, P.O. Box 7184, South Omaha Station, Omaha, NE 68107. Representative: J. F. Crosby (same as above). *Meats, meat products, and meat byproducts and articles* distributed by meat-packinghuses, as described in parts A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except liquid commodities, in bulk, in tank vehicles), (1) from the facilities of Cornland Dressed Beef Co. at or near Lexington and Minden, NE, to points in KY; (2) from the facilities of American Beef Packers, Inc., Pottawattamie County, IA, to points in KY and WI. (Gateways eliminated: Council Bluffs, IA and Saunders County, NE.)

MC 61825 (Sub-E293) (correction), filed May 13, 1974, published in the FEDERAL REGISTER issue of October 29, 1975, and republished, as corrected, this issue. Applicant: ROY STONE TRANSFER CORP. P.O. Box 385, Collinsville, Va. 24078. Representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. *New furniture*, between point in GA on and north of a line beginning at the GA-SC State line at GA Hwy 13, then west along GA Hwy 13 to junction US Hwy 23, then southwest along US Hwy 23 to junction US Hwy 78, then west and US Hwy 78 to the GA-AL State line, on the one hand, and, on the other, points in CA, ID, MT, NV, ND, OR, SC, UT, WA, and WY on and west of a line beginning at the Mexico-United States International boundary line, and extending along Interstate Hwy 5, to junction Interstate Hwy 8, then east along Interstate Hwy 8 to junction CA Hwy 79, then north along CA Hwy 79 to junction CA Hwy 71, then east along CA Hwy 71 to junction CA Hwy 74, then north along CA Hwy 74 to junction CA Hwy 111, then east along CA Hwy 111 to junction Interstate Hwy 10, then northwest along Interstate Hwy 10 to junction CA Hwy 62, then north along CA Hwy 62 to junction unnumbered hwy, then north through Old Woman Springs, CA, along unnumbered hwy to junction Interstate Hwy 40 at Dagget, CA, then west along Interstate Hwy 40 to junction Interstate Hwy 15, then northeast along Interstate Hwy 15 to junction CA Hwy 127, then north along CA Hwy 127 to the CA-NV State line, then north along NV Hwy 29 to junction US Hwy 95, then north along US Hwy 95 to junction US Hwy 6, then east along US Hwy 6 to junction NV Hwy 25, then east along NV Hwy 25 to junction NV-UT State line, then east along UT Hwy 56 to junction U.S. Hwy 18, then north along UT Hwy 18 to junction UT Hwy 21, then east along UT Hwy 21 to junction US Hwy 91, then north along US Hwy 91 to junction U.S. Hwy 89, then north along U.S. Hwy 89 to junction ID-WY State line, then north along US Hwy 89 to junction US Hwy 14, then east along US Hwy 14 to junction Big Horn River, then north along Big Horn River to junction MT Hwy 47, then north along MT Hwy 47 to junction US Hwy 10, then east along US Hwy to junction US Hwy 12, then east along US Hwy 12 to junction MT-ND State line, then southeast along US Hwy 12 to junction ND-SD State line, then along US Hwy 12 to junction SD Hwy 65, then north along SD Hwy 65 to junction ND-SD State line, then north along ND Hwy 31 to junction ND Hwy 21, then east along ND Hwy 21 to junction ND Hwy 6, then north along ND Hwy 6 to junction US Hwy 10, then east along US Hwy 10 to junction ND Hwy 3, then north along ND Hwy 3 to junction ND Hwy 19, then east along ND Hwy 19 to junction ND Hwy 20, then north along ND Hwy 20 to junction ND Hwy 5, then along ND Hwy 5 to junction US Hwy 81, then north along US Hwy 81 to the United States-Canadian International boundary line. (Gateway eliminated: points in Smyth County, VA.)

NOTE.—The purpose of this republication is to state the correct territorial description.

MC 61825 (Sub-E294) (correction), filed May 13, 1974, published in the FEDERAL REGISTER issue of October 29, 1975, and republished, as corrected, this issue. Applicant: ROY STONE TRANSFER CORP. P.O. Box 385, Collinsville, VA 24078. Representative: Harry J. Jordon, 1000 Sixteenth Street NW., Washington, DC 20036. *New furniture*, between points in GA on, south and east of a line beginning at the GA-FL State line at US Hwy 441, then north along U.S. Hwy 441 to junction U.S. Hwy 23, then along U.S. Hwy 23 to junction GA Hwy 11, then along GA Hwy 11 to junction GA Hwy 211, then along GA Hwy 211 to junction Interstate Hwy 85, then west along Interstate Hwy 85 to junction GA Hwy 366, then north along GA Hwy 366 to junction GA Hwy 13, then east along GA Hwy 13 to the GA-SC State line, on the one hand, and, on the other, points in CA, CO, ID, MT, NE, NV, ND, OR, SD, UT, WA, and WY on the west of a line beginning at the Mexico-United States International boundary line at Interstate Hwy 5 and extending north along Interstate Hwy 5 to the junction of Interstate Hwy 8, then east along Interstate Hwy 8 to junction CA Hwy 79, then north along CA Hwy 79 to junction CA Hwy 71, then east along CA Hwy 71 to junction CA Hwy 74, then north along CA Hwy 74 to junction CA Hwy 111, then east along CA Hwy 111 to junction Interstate Hwy 10, then east along Interstate Hwy 10 to junction unnumbered Hwy, then northeast along unnumbered Hwy to junction U.S. Hwy 95, then north along U.S. Hwy 95 to junction CA-NV State line, then north along U.S. Hwy 95 to junction Interstate Hwy. 15, then east along Interstate Hwy 15 to junction NV-AZ State line, then north along NV-AZ State line to the AZ-UT State line, then along the AZ-UT State line to junction U.S. Hwy 160, then along U.S. Hwy 160 to junction AZ-CO State line, then east along U.S. Hwy 160 to junction Interstate Hwy 25, then north along Interstate 25 to junction U.S. Hwy 24, then east along U.S. Hwy 24 to junction CO Hwy 71, then north along CO Hwy 71 to junction U.S. Hwy 6, then northeast along U.S. Hwy 6 to junction U.S. Hwy 138, then east along U.S. Hwy 138 to junction CO Hwy 113, then north along CO Hwy 113 to the CO-NE State line, then north along NE Hwy 10 to junction U.S. Hwy 385, then north along U.S. Hwy .385 to junction NE Hwy 2, then east along NE Hwy 2 to junction NE-Hwy 91, then east along NE Hwy 91 to junction U.S. Hwy 183, then north along U.S. Hwy 183 to the NE-SD State line, then east along the NE-SD State line to junction SD Hwy 37, then north along SD Hwy 37 to junction U.S. Hwy 18, then east along U.S. Hwy 18 to junction U.S. Hwy 77, then north along U.S. Hwy 77 to junction U.S. Hwy 16, then east along U.S. Hwy 16 to the SD-MN State line, then north along the SD-MN State line to the MN-ND State line, then north along the MN-ND State line to the Canadian-United States International boundary line. (Gateway eliminated: points in Smyth County, VA.

NOTE: The purpose of this republican is to correct the territorial description and highway description.

MC 61825 (Sub-E350) (correction), filed May 13, 1974, published in the FEDERAL REGISTER issue of October 17, 1975, and republished, as corrected, this issue. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *Furniture parts, materials, equipment, and supplies* used in the manufacture and distribution of new furniture and furniture parts (except in bulk), from

points in TX on, west and south of a line beginning at the NM-TX State line, and extending along U.S. HWY

ginning at the NE-KS State line, and extending along U.S. Hwy 81 to junction Interstate Hwy 70, then along Interstate Hwy 70 to junction U.S. Hwy

tion U.S. Hwy 2, then along U.S. Hwy 2 to the ID-WA State line, then south along U.S. Hwy 2 to junction U.S. Hwy 195, then south along U.S. Hwy 195 to

when shipped therewith, from points in AZ, AR, IL, IN, IA, KS, LA, MI, MN, MO, NE, OK, TX, and WI, to

west of Interstate Hwy 65 to points in ME. (Gateway eliminated: Evansville, IN.) Limitation: The certificate in MC

bus, OH 43215. *Guard rail and component parts*, from those points in KY

points in TX on, west and south of a line beginning at the NM-TX State line, and extending along U.S. HWY 285 to junction U.S. Hwy 80, then along U.S. Hwy 80 to junction TX Hwy 18, then along TX Hwy 18 to junction TX Hwy 329, then along TX Hwy 329 to junction U.S. Hwy 67, then along U.S. Hwy 67 to junction TX Hwy 915, then along TX Hwy 915 to junction TX Hwy 29, then along TX Hwy 29 to junction U.S. Hwy 83, then along U.S. Hwy 83 to junction U.S. Hwy 90, then along U.S. Hwy 90 to junction TX Hwy 173, then along TX Hwy 173 to junction TX Hwy 97, then along TX Hwy 97 to junction U.S. Hwy 281, then along U.S. Hwy 281 to junction TX Hwy 99, then along TX Hwy 99 to junction U.S. Hwy 181, then along U.S. HWY 181 to junction TX Hwy 72, then along TX Hwy 72 to junction TX Hwy 239, then along TX Hwy 239 to junction U.S. Hwy 59, then along U.S. Hwy 59 to junction U.S. Hwy 87, then along U.S. Hwy 87 to the Lavaca Bay, then through Cavallo Pass to the Gulf of Mexico to points in WV on and east of a line beginning at the VA-WV State line, and extending along U.S. Hwy 52 to junction WV Hwy 20, then along WV Hwy 20 to junction WV Hwy 71, then along WV Hwy 71 to junction WV Hwy 10, then along WV Hwy 10 to junction WV Hwy 16, then along WV Hwy 16 to junction Interstate Hwy 77, then along Interstate Hwy 77 to junction U.S. Hwy 21, then along U.S. Hwy 21 to junction Interstate Hwy 77, then along Interstate Hwy 77 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction WV-OH State line, and points located west of a line beginning at the VA-WV State line, and extending along U.S. Hwy 460 to junction U.S. Hwy 21, then along U.S. Hwy 21 to junction U.S. Hwy 19, then along U.S. Hwy 19 to junction U.S. Hwy 33, then along U.S. Hwy 33 to junction U.S. Hwy 119, then along U.S. Hwy 119 to junction U.S. Hwy 250, then along U.S. Hwy 250 to junction U.S. Hwy 19, then along U.S. Hwy 19 to the WV-PA State line. (Gateways eliminated: points in Smyth County and Lynchburg, VA.)

NOTE: The purpose of this republican is to correct the territorial description.

MC 61825 (Sub-E353) (correction), filed May 13, 1974, published in the FEDERAL REGISTER issue of October 17, 1975, and republished, as corrected, this issue. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington DC 20036. *Furniture parts, materials, equipment, and supplies* used in the manufacture and distribution of new furniture and furniture parts (except in bulk), from points in KS on and west of a line beginning at the NE-KS State line, and extending along U.S. Hwy 81 to junction Interstate Hwy 70, then along Interstate Hwy 70 to junction U.S. Hwy 156, then along U.S. Hwy 156 to junction U.S. Hwy 56, then along U.S. Hwy 56 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Alternate Hwy 50, then along U.S. Alternate Hwy 50 to junction U.S. Hwy 283, then along U.S. Hwy 283 to junction U.S. Hwy 54, then along U.S. Hwy 54 to the KS-OK State line to points in SC west of a line beginning at the Atlantic Ocean at the South Santee River, then along the South Santee River to SC Hwy 41, then along SC Hwy 41 to junction U.S. Hwy 521, then along U.S. Hwy 521 to junction SC Hwy 377, then along SC Hwy 377 to junction U.S. Hwy 52, then along U.S. Hwy 52 to junction U.S. Hwy 15, then along U.S. Hwy 15 to junction U.S. Hwy 52 then along U.S. Hwy 52 to the SC-NC State line, and on and east of a line beginning at the Atlantic Ocean extending along SC Hwy 703 to junction U.S. Hwy 17, then along U.S. Hwy 17 to junction SC Hwy 41, then along SC Hwy 41 to junction SC Hwy 402, then along SC Hwy 402 to junction U.S. Hwy 52, then along U.S. Hwy 52 to junction SC Hwy 311, then along SC Hwy 311 to junction U.S. Hwy 176, then along U.S. Hwy 176 to junction U.S. Hwy 15, then along U.S. Hwy 15 to junction SC Hwy 6, then along SC Hwy 6 to junction SC Hwy 267, then along SC Hwy 267 to junction U.S. Hwy 601, then along U.S. Hwy 601 to junction U.S. Hwy 521, then along U.S. Hwy 521 to the NC-SC State line. (Gateways eliminated: Smyth County and Lynchburg, VA.)

NOTE.—The purpose of this republication is to state the correct territorial description.

MC 61825 (Sub-E354) (correction), filed May 13, 1974, published in the FEDERAL REGISTER issue of October 29, 1975, and republished, as corrected, this issue. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, DC 20036. *New furniture*, from points in VA on and west of a line beginning at the VA-WV State line at VA Hwy 311, and extending along VA Hwy 311 to junction VA Hwy 42, then along VA Hwy 42 to junction VA Hwy 100, then along VA Hwy 100 to junction U.S. Hwy 11, then along U.S. Hwy 11 to junction VA Hwy 100, then along VA Hwy 100 to junction U.S. Hwy 58, then along U.S. Hwy 58 to junction VA Hwy 89, then along VA Hwy 89 to the VA-NC State line, to those points in CA, ID, NV, OR, and WA on and west of a line beginning at the United States-Canadian international boundary line, and extending along U.S. Hwy 95 to junction ID Hwy 200, then along ID Hwy 200 to junction U.S. Hwy 2, then along U.S. Hwy 2 to the ID-WA State line, then south along U.S. Hwy 2 to junction U.S. Hwy 195, then south along U.S. Hwy 195 to the ID-WA State line, then along U.S. Hwy 195 to junction U.S. Hwy 12, then U.S. Hwy 12 to junction ID-WA State line, then along U.S. Hwy 12 to junction WA Hwy 129, then along WA Hwy 129 to junction unnumbered highway near Fields Spring, WA, then along unnumbered highway to the WA-OR State line, then along unnumbered highway to the OR Hwy 82, then along OR Hwy 82 to junction Interstate Hwy 80, then along Interstate Hwy 80 to junction OR Hwy 244, then along OR Hwy 244 to junction U.S. Hwy 395, then along U.S. Hwy 395 to the OR-CA State line, then along the OR-CA State line to the CA-NV State line, then along CA-NV State line to junction U.S. Hwy 395, then along U.S. Hwy 395 to junction U.S. Hwy 40, then along U.S. Hwy Alternate 95, then along U.S. Hwy Alternate 95 to junction U.S. Hwy 95, then along U.S. Hwy 95 to junction NV Hwy 10, then along NV Hwy 10 to junction U.S. Hwy 6, then along U.S. Hwy to the NV-CA State line, then along U.S. Hwy 6 to junction U.S. Hwy 395, then along U.S. Hwy 395 to junction CA Hwy 58, then along CA Hwy 58 to junction unnumbered highway near Barstow, CA, then along unnumbered highway to junction CA Hwy 18, near Lucerne Valley, CA, then along CA Hwy 18 to junction unnumbered highway near Baldwin Lake, CA, then along unnumbered highway to junction CA Hwy 62, then along CA Hwy 62 to junction Interstate Hwy 10, then along Interstate Hwy 10 to junction CA Hwy 111, then along CA Hwy 111 to junction CA Hwy 74, then along CA Hwy 74 to junction CA Hwy 71, then along CA Hwy 71 to junction CA Hwy 79, then along CA Hwy 79 to junction U.S. Hwy 80, then along U.S. Hwy 80 to junction CA Hwy S-1, then along CA Hwy S-1 to junction CA Hwy 94, then along CA Hwy 94 to junction unnumbered highway near Tecate, CA, then along unnumbered highway to the United States-Mexico international boundary line. (Gateways eliminated: Lynchburg and Smyth Counties, VA.)

NOTE:—The purpose of this republication is to correct the territorial description.

MC 103993 (Sub-E36) (correction), filed May 25, 1974, published in the FEDERAL REGISTER issue of October 8, 1974, and republished, as corrected, this issue. Applicant: MORGAN DRIVE-AWAY, INC., 2800 W. Lexington Avenue, Elkhart, IN 46514. Representative: Paul D. Borghesani (same as above). (1) *Prefabricated steel buildings* and (2) *prefabricated building sections, and panels and equipment, and materials*, incidental to the erection and completion of such buildings

when shipped therewith, from points in AZ, AR, IL, IN, IA, KS, LA, MI, MN, MO, NE, OK, TX, and WI, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and DC. (Gateway eliminated: Niles, Warren or Youngstown, OH.)

NOTE.—The purpose of this republication is to correct the territorial description, adding the State of MO, previously omitted.

MC 112304 (Sub-E548), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cinncinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 E. Broad Street, Columbus, OH 43215. *Structural steel and iron and steel angles, bars, channels, conduit, lath, piling, pipe, posts, rails, rods, roofing, tubing and wire in coils*, from points in Cuyahoga, Medina, Wayne, Holmes Coshocton, Muskingum, Perry, Fairfield, Pickaway, Fayette, Clinton, Hamilton, Clermont, Brown, Adams, Scioto, Lawrence, Gallia, Meigs, Athens, Washington, Monroe, Belmont, Jefferson, Columbiana, Mahoning, Trumbull, Ashtabula, Lake, Geauga, Summit, Portage, Stark, Carroll, Tuscarawas, Harrison, Guernsey, Noble, Morgan, Hocking, Vinton, Jackson, Ross, Pike and Highland Counties, OH, to points in St. Louis and St. Charles Counties, MO. (Gateway eliminated: Daviess County, KY.) Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980.

MC 112304 (Sub-E549), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cinncinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 E. Broad Street, Columbus, OH 43215. *Structural steel and iron and steel angles, bars, channels, conduit, lath, piling, pipe, posts, rails, rods, roofing, tubing and wire in coils*, from those points in KY on and east of a line beginning at the KY-TN State line, and extending along U.S. Alternate Hwy 41, then north along U.S. Alternate 41 to junction U.S. Hwy 41, then along U.S. Hwy 41 to junction U.S. Hwy 62 then east along U.S. 62 to junction U.S. Hwy 431, then north along U.S. Hwy 431 to the KY-IN State line on the Ohio River, to points in St. Louis and St. Charles Counties, MO. (Gateway eliminated: Daviess County, KY.) Limitation: The certificate in MC 112304 (Sub-65) shall be of no futher force and effect after August 9, 1980.

MC 112304 (Sub-E550), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cinncinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 E. Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from those points in KY on and west of a line beginning at the KY-TN State line, and extending along Interstate Hwy 65, to junction with the Green River Parkway, then north to junction U.S. Hwy 60 Bypass, then west along U.S. Hwy 60 Bypass to junction U.S. Hwy 431, then north along U.S. Hwy 431 to the IN-KY State line on the Ohio River, to points in NH. (Gateway eliminated: Evansville, IN.) Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980.

MC 112304 (Sub-E551), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO. 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Ste. 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from Louisville, KY, to points in ME. (Gateway eliminated: Evansville, IN.) Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980.

MC 112304 (Sub-E552), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Ste. 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from those points in KY on and west of a line beginning at the KY-TN State line, and extending along Interstate Hwy 65, to junction with the Green River Parkway, then north to junction U.S. Hwy 60 Bypass, then west along U.S. Hwy 60 Bypass to junction U.S. Hwy 431, then north along U.S. Hwy 431 to the IN-KY State line on the Ohio River, to points in NH. (Gateway eliminated: Evansville, IN.) Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980.

MC 112304 (Sub-E553), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Ste. 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from Bowling Green, KY, to points in NH. (Gateway eliminated: Evansville, IN.) Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980.

MC 112304 (Sub-E554), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Ste. 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from Owensboro, KY, to points in NH. (Gateway eliminated: Evansville, IN.) Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980.

MC 112304 (Sub-E555), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Ste. 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from those points in KY on and west of a line beginning at the KY-TN State line, and extending north along Interstate Hwy 75 to junction with Green River Parkway, then north along to junction U.S. Hwy 60 Bypass, then west along U.S. Hwy 60 Bypass to junction U.S. Hwy 431, then north along U.S. Hwy 431 to the IN-KY State line on the Ohio River, to points in VT. (Gateway eliminated: Evansville, IN.) Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980.

MC 112304 (Sub-E556), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from Bowling Green, KY, to points in VT. (Gateway eliminated: Evansville, IN.) Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980.

MC 112304 (Sub-E557), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from Owensboro, KY, to point in VT. (Gateway eliminated: Evansville, IN.) Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980.

MC 112304 (Sub-E558), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from those points in KY on an west of a line beginning at the KY-TN State line, and extending along Interstate Hwy 65, then north along Interstate Hwy 65 to junction with the Green River Parkway, then north along the Green River Parkway to junction U.S. Hwy 60 Bypass, then west along U.S. Hwy 60 Bypass to junction U.S. Hwy 431, then north along U.S. Hwy 431 to the IN-KY State line, on the Ohio River, to points in MA. (Gateway eliminated: Evansville, IN.) Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980.

MC 112304 (Sub-E559), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from those points in KY on and west of a line beginning at the KY-TN State line, and extending north along Interstate Hwy 75 to junction with Green River Parkway, then north along to junction U.S. Hwy 60 Bypass, then west along U.S. Hwy 60 Bypass to junction U.S. Hwy 431, then north along U.S. Hwy 431 to the IN-KY State line on the Ohio River, to points in VT. (Gateway eliminated: Evansville, IN.) Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980.

bus, OH 43215. *Guard rail and component parts*, from Bowling Green, KY, to points in MA. (Gateway eliminated:

MC 112304 (Sub-E564), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue

no further force and effect after August 9, 1980.

MC 114019 (Sub-E462) (correction),

to junction U.S. Hwy 63, then south along U.S. Hwy 63 to junction IA Hwy 2, then west along IA Hwy 2 to junction IA Hwy 5, then south along IA Hwy 5 to the IA-MO State line, to

from DC, to points in NM. (Gateways eliminated: points in Wayne County, NC, and Thomson, GA.)

MC 117574 (Sub-E154), filed January

PA 17013. Representative: E. S. Moore, Jr. (same as above). (1) *Commodities*, the transportation of which because of size or weight, require the use of special equipment, and *related materials*,

bus, OH 43215. *Guard rail and component parts,* from Bowling Green, KY, to points in MA. (Gateway eliminated: Evansville, IN.) Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980.

MC 112304 (Sub-E560), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from Owensboro, KY, to points in MA. (Gateway eliminated: Evansville, IN.) Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980.

MC 112304 (Sub-E561), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative; A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from those points in KY on and west of a line beginning at the KY-TN State line, and extending along Interstate Hwy 65, then north along Interstate Hwy 65 to junction with the Green River Parkway, then north along the Green River Parkway to intersection with U.S. Hwy 60 Bypass, then west along U.S. Hwy 60 Bypass to junction U.S. Hwy 431, then north along U.S. Hwy 431 to the IN-KY State line on the Ohio River to all points in RI. Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E562), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from Bowling Green, KY, to points in RI. (Gateway eliminated: Evansville, IN.) Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980.

MC 112304 (Sub-E563), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from Owensboro, KY, to points in RI. (Gateway eliminated: Evansville, IN.) Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980.

MC 112304 (Sub-E564), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from those points in KY on and west of a line beginning at the KY-TN State line, and extending along Interstate Hwy 65, then north along Interstate Hwy 65 to junction with the Green River Parkway, then north along the Green River Parkway to junction U.S. Hwy 60 BYP, then west along U.S. Hwy 60 BYP to the junction U.S. Hwy 431, then north along U.S. Hwy 431 to the IN-KY State line on the Ohio River, to points in CT. Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E565), filed July 11, 1978. Applicant; ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from Bowling Green, KY, to points in CT. (Gateway eliminated: Evansville, IN.) Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980.

MC 112304 (Sub-E566), filed July 11, 1978. Applicant; ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from Owensboro, KY, to points in CT. (Gateway eliminated: Evansville, IN.) Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980.

MC 112304 (Sub-E566), filed July 11, 1978. Applicant; ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from those points in KY on and west of a line beginning at the KY-TN State line and extending along Interstate Hwy 65, then north along Interstate Hwy 65 to the junction with the Green River Parkway, then north along the Green River Parkway to junction U.S. Hwy 60 BYP, then west along U.S. Hwy 60 BYP to junction U.S. Hwy 431, then north along U.S. Hwy 431 to the IN-KY State line on the Ohio River, to points in NY. (Gateway eliminated: Evansville, IN.) Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980.

MC 114019 (Sub-E462) (correction), filed December 20, 1976, published in the FEDERAL REGISTER issue of February 2, 1978, and republished, as corrected, this issue. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Representative: Arthur J. Sibik (same as above). *Frozen foods, and foods not frozen,* when transported in the same vehicle with frozen foods, in vehicles equipped with mechanical refrigeration, (A) from points in Van Buren, Cass and Berrien Counties, MI, to points in CT, MA, VT, NH, ME, RI, NJ, DE, those points in MD on and east of U.S. Hwy. 15 beginning at the PA-MD State line, and extending south along U.S. Hwy 15 to the MD-VA State line, those points in VA on and east of U.S. Hwy. 340, beginning at the MD-VA State line, and extending south along U.S. Hwy 340 to junction U.S. Hwy 522, then south along U.S. Hwy 522 to junction VA Hwy 231, then south along VA Hwy 231 to junction U.S. Hwy 29, then south along U.S. Hwy 29 to junction VA Hwy 56, then south along VA Hwy 56 to junction U.S. Hwy 15, then south along U.S. Hwy 15 to the VA-NC State line, points in DC, those points in NY on and east of Interstate Highway 87; (B) from points in Kalamazoo County, MI, to points in VT, NH, ME, MA, CT, RI, NJ, points in DE and MD, and VA east of the Chesapeake Bay, and points in VA located in and east of Isle of Wight, Nasemond and York Counties, points in NY on and east of Interstate Hwy 87, and DC. (Gateways eliminated: Chicago, IL, and Gary, IN.)

NOTE.—The purpose of this republication is to correct the territorial description.

MC 114019 (Sub-E465) (correction), filed December 20, 1976, published in the FEDERAL REGISTER issue of February 15, 1978, and partially republished, as corrected, this issue. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Representative: Arthur J. Sibik (same as above). (2) *Meats, meat products and meat by-products and articles* distributed by meat packinghouses, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, except hides and commodities in bulk, (a) from points in WI and those points in that part of IA on, north and west of a line beginning at the IL-IA State line, and its junction with U.S. Hwy 61, then south along U.S. Hwy 61 to junction IA Hwy 78, then west along IA Hwy 78 to junction IA Hwy 1, then south along IA Hwy 1 to junction U.S. Hwy 34, then west along U.S. Hwy 34 to junction U.S. Hwy 63; then south along U.S. Hwy 63 to junction IA Hwy 2, then west along IA Hwy 2 to junction IA Hwy 5, then south along IA Hwy 5 to the IA-MO State line, to points in ME, VT, NH, DE and points in that part of PA on and north of U.S. Hwy 22 from the OH-PA State line to Nanty-Glo and on and east of U.S. Hwy 219 from Nanty-Glo to the PA-MD State line, points in that part of MD on and east of U.S. Hwy 15, points in that part of WV on and east of a line beginning at the OH-WV State line, and extending south along WV Hwy 18 to junction U.S. Hwy 33, then west along U.S. Hwy 33 to junction WV Hwy 5, then south along WV Hwy 5 to junction U.S. Hwy 19, then south along U.S. Hwy 19 to junction U.S. Hwy 60, then south along U.S. Hwy 60 to junction WV-VA State line, and its junction with U.S. Hwy 60 and VA Hwy 311, then south along VA Hwy 311 to junction U.S. Hwy 220, then south along U.S. Hwy 220 to junction at the VA-NC State line and DC.(Gateway eliminated: Chicago, IL and Union City, OH.)

NOTE.—The purpose of this partial republication is to correct the territorial description. The remainder of this letter-notice remains as previously published.

MC 114019 (Sub-E473) (correction), filed December 20, 1976, published in the FEDERAL REGISTER issue of February 8, 1978, and republished, as corrected, this issue. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Representative: Arthur J. Sibik (same as above). *Such merchandise,* as is dealt in by wholesale, retail, and food business houses, (a) from Chicago, IL, to Akron, Cleveland, Columbus, Dayton, Toledo, and Youngstown, OH, and Lousiville, KY; (b) from Louisville, KY, Akron, Cleveland, Columbus, Dayton, Toledo, and Youngstown, OH, points in Oh within 25 miles of each of such OH cities, Fort Wayne, Indianapolis, Muncie, South Bend, and Terre Haute, IN, and points in IN within 25 miles of such IN cities, Detroit, Flint, and Grand Rapids, MI, and points in MI within 25 miles of such MI cities, to Chicago, IL; (c) between Chicago, IL, on the one hand, and, on the other Bowling Green, KY, and Nashville, TN. (Gateway eliminated: Barrington, IL.).

NOTE.—The purpose of this republication is to correct the territorial description and the gateway, and add part (c), previously omitted.

MC 114552 (Sub-E170), filed September 4, 1975. Applicant: SENN TRUCKING CO., P.O. Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 919 Eighteenth Street NW., Washington, DC 20006. *Particleboard,* except commodities in bulk, from DC, to points in NM. (Gateways eliminated: points in Wayne County, NC, and Thomson, GA.)

MC 117574 (Sub-E154), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA., 17013. Representative: E. S. Moore, Jr. (same as above). (1) *Commodities,* the transportation of which because of size or weight, require the use of special equipment, and *related materials, supplies, and parts* of such commodities when their transporation is incidental thereto, and, (2) *self-propelled articles* each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to self-propelled articles transported on trailers: (1) between points in the KY counties of Jackson, Laurel, and Rockcastle, on the one hand, and, on the other, points in MI and PA, and those points in IN on and north of U.S. Hwy 40, and those points in WV on and east of a line beginning at the WV-VA State line on U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 35, then along U.S. Hwy 35 to the WV-OH State line; (2) between points in Estill, Montgomery, and Powell Counties, on the one hand, and, on the other, points in MI and PA, those points in IN on and north of U.S. Hwy 40, and those points in WV on and east of a line beginning at the VA-WV State line on U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 35, then along U.S. Hwy 35 to the WV-OH State line; (3) between points in the KY counties of Bath, Fleming, and Menifee on the one hand, and, on the other, points in MI and PA, those points in IN on and north of U.S. Hwy 40, and those points in WV on and east of a line beginning at the WV-VA State line on U.S. Hwy 60 to junction U.S. Hwy 19, then along U.S. Hwy 19 to junction WV Hwy 5, then along WV Hwy 5 to junction WV Hwy 14, then along WV Hwy 14 to the WV-OH State line; (4) between points in the KY counties of Harlan, Leslie, and Perry, on the one hand, and, on the other, points in MI and PA, those points in IN on and north of U.S. Hwy 40; and those points in WV on, north and east of a line beginning at the WV-VA State line on U.S. Hwy 250, then along U.S. Hwy 250 to junction U.S. Hwy 219, then along U.S. Hwy 219 to junction U.S. Hwy 33, then along U.S. Hwy 33 to junction WV Hwy 47, then along WV Hwy 47 to the WV-OH State line; (5) between Bracken, Mason, and Robertson Counties, KY, on the one hand, and, on the other, points in IN, MI, PA, and WV. (Gateway eliminated: Columbus, OH, and points within 80 miles thereof.)

MC 117574 (Sub-E155), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). (1) *Commodities,* the transportation of which because of size or weight, require the use of special equipment, and *related materials, supplies, and parts* of such commodities when their transportation is incidental thereto, and (2) *self-propelled articles* each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to self-propelled articles transported on trailers: (1) Between Breathitt and Wolfe Counties, KY, on the one hand, and, on the other, points in MI and PA, those points in IN on and north of a line beginning at the IN-OH State line on U.S. Hwy 40, then along U.S. Hwy 40 to the IN-IL State line, and those points in WV on and east of a line beginning at the VA-WV State line on U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 35, then along U.S. Hwy 35 to the WV-OH State line; (2) between Magoffin and Morgan Counties, KY, on the one hand, and, on the other, points in MI and PA, those points in IN on and north of a line beginning at the IN-OH State line on U.S. Hwy 40, then along U.S. Hwy 40 to the IN-IL State line, and those points in WV on and east of a line beginning at the VA-WV State line on U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 35, then along U.S. Hwy 35 to the WV-OH State line; (3) between points in the KY counties of Clay, Lee, and Owsley, on the one hand, and, on the other, points in MI and PA, those points in IN on and north of U.S. Hwy 40, and those points in WV on, north, and east of a line beginning at the WV-VA State line on WV Hwy 39, then along WV Hwy 39 to junction U.S. Hwy 219, then along U.S. Hwy 219 to junction U.S. Hwy 33, then along U.S. Hwy 33 to junction WV Hwy 14, then along WV Hwy 14 to the WV-OH State line; (4) between points in IN, MI, and PA and those points in WV on and east of a line beginning at the VA-WV State line on U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 35, then along U.S. Hwy 35 to the WV-OH State line; (5) between points in Lewis and Rowan Counties, KY, on the one hand, and, on the other, points in IN, MI, and PA and those points in WV on and east of a line beginning at the VA-WV State line on U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 35, then along U.S. Hwy 35 to the WV-OH State line. (Gateway eliminated: Columbus, OH, and points within 80 miles thereof.)

MC 117574 (Sub-E156), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore,

Jr. (same as above). (1) *Commodities,* the transportation of which because of size or weight, require the use of special equipment, and *related materials,*

MC 117574 (Sub-E157), filed November 8, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore,

points in DE and MD, and those in VA on and east of a line beginning at the VA-WV State line on U.S. Hwy 522, then along U.S. Hwy 522 to junction

state Hwy 70), Ridgeville, MD, within 25 miles of Baltimore, MD.)

MC 117574 (Sub-E159), filed January

311, then along VA Hwy 311 to junction U.S. Hwy 220 at Roanoke, then along U.S. Hwy 220 to the NC-VA State line; points in NC on and east of

line, and points in NC on and east of a line beginning at the NC-VA State line on NC Hwy 35, then along NC Hwy 35 to junction U.S. Hwy 258, then along

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Jr. (same as above). (1) *Commodities*, the transportation of which because of size or weight, require the use of special equipment, and *related materials, supplies, and parts* of such commodities when their transportation is incidental thereto, and (2) *self-propelled articles* each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to self-propelled articles transported on trailers: (1) Between points in the KY counties of Johnson and Lawrence, on the one hand, and; on the other, Louisville, KY, points in IN, MI, and PA, and those points in WV on and north of a line beginning at the WV-VA State line on U.S. Hwy 33, then along U.S. Hwy 33 to junction WV Hwy 4, then along WV Hwy 4 to junction Interstate Hwy 77, then along Interstate Hwy 77 to the WV-OH State line; (2) between points in the KY counties of Boyd, Carter, and Greenup, on the one hand, and, on the other, points in MI and PA, those points in IN on, north and east of a line beginning at the IL-IN State line on IN Hwy 62, then along IN Hwy 62 to junction U.S. Hwy 231, then along U.S. Hwy 231 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction IN Hwy 37, then along IN Hwy 37 to junction IN Hwy 58, then along IN Hwy 58 to Interstate Hwy 65, then along Interstate Hwy 65 to junction In Hwy 46, then along IN Hwy 46 to junction IN Hwy 3, then along IN Hwy 3 to junction U.S. Hwy 40, then along U.S. Hwy 40 to the IN-OH State line, and those points in WV on, north and east of a line beginning at the WV-VA State line on U.S. Hwy 60, then along U.S. Hwy 60 to Interstate Hwy 77, then along Interstate Hwy 77 to the WV-OH State line; (3) between points in the KY counties of Martin and Pike, on the one hand, and, on the other, Louisville, KY, points in IN, MI, and PA and those points in WV on, north and east of a line beginning at the WV-VA State line on U.S. Hwy 33, then along U.S. Hwy 33 to junction Interstate Hwy 77, then along Interstate Hwy 77 to the WV-OH State line; (4) between points in Floyd, Knott, and Letcher Counties, KY, on the one hand, and, on the other, points in MI and PA, those points in IN on and north of U.S. Hwy 40, and those points in WV on and east of a line beginning at the VA-WV State line on U.S. Hwy 250, then along U.S. Hwy 250 to junction U.S. Hwy 219, then along U.S. Hwy 219 to junction U.S. Hwy 33, then along U.S. Hwy 33 to junction WV Hwy 87, then along WV Hwy 87 to junction WV Hwy 2, then along WV Hwy 2 to the WV-OH State line. (Gateway eliminated: Columbus, OH, and points within 80 miles thereof.)

MC 117574 (Sub-E157), filed November 8, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). (A) *Conduit*, from New Kensington, PA, to points in KS, MN, NE, ND, and SD (Gateway eliminated: Glendale, WV.); (B) *conduit* (except commodities which because of size or weight require the use of special equipment), from New Kensington, PA, to points in AZ, AR, CA, CO, ID, LA, MT, NV, NM, OK, OR, TX, UT, WA, and WY (Gateway eliminated: Titusville, PA.); (C) *conduit*, used in connection with the erection and construction of sewage, water and refuse treatment system (except commodities in bulk), (1) from those points in NY in and west of the counties of Allegany, Livingston, and Monroe, those points in OH on and east of a line beginning at the WV-OH State line on U.S. Hwy 30, then along U.S. Hwy 30 to junction OH Route 11, then along OH Route 11 to junction in Ashtabula, OH, with OH Route 46, then along OH Route 46 to the shore of Lake Erie, and those points in PA on, north and west of a line beginning at the PA-WV State line on U.S. Hwy 30, then along U.S. Hwy 30 to junction U.S. Hwy 119, then along U.S. Hwy 119 to junction U.S. Hwy 219, then along U.S. Hwy 219 to the NY-PA State line to points in FL, GA, NC, SC, and those points in TN on and east of Interstate Hwy 81 (Gateway eliminated: New Kensington, PA.); (2) from Buckhannon, WV, to those points in IL on and north of a line beginning at the IL-IN State line on U.S. Hwy 30, then along U.S. Hwy 30 to junction Interstate Hwy 55, then along Interstate Hwy 55 to junction U.S. Hwy 36, then along U.S. Hwy 36 to the IL-MO State line, those points in IN on and north of U.S. Hwy 30, points in IA, MI, and WI, and those points in MO on and north of a line beginning at the IL-MO State line on U.S. Hwy 36, then along U.S. Hwy 36 to junction U.S. Hwy 24, then along U.S. Hwy 24 to the KS-MO State line (Gateway eliminated: New Kensington, PA.); (3) from Buckhannon, WV, to points in KS, MN, NE, ND, and SD (Gateways eliminated: New Kensington, PA, and Glendale, WV.)

MC 117574 (Sub-E158), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). *Commodities* which because of size or weight, require the use of special equipment, except machinery, equipment, materials, and supplies used in, or in connection with, the construction, operations, repair, servicing, maintenance, dismantling of pipelines, (1) between points in MO south of U.S. Hwy 50, on the one hand, and, on the other, points in DE and MD, and those in VA on and east of a line beginning at the VA-WV State line on U.S. Hwy 522, then along U.S. Hwy 522 to junction VA Hwy 3 at Culpeper, VA, then along VA Hwy 3 to junction Interstate Hwy 95, then along Interstate Hwy 95 to junction VA Hwy 30, then south along VA Hwy 30 to junction U.S. Hwy 60, then south along U.S. Hwy 60 to junction U.S. Hwy 17, then along U.S. Hwy 17 to the NC-VA State line; (2) between points in MO on and north of U.S. Hwy 50, on the one hand, and, on the other, all points in DE and MD, and points in VA on and east of a line beginning at the VA-WV State line on U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Hwy 522, then along U.S. Hwy 522 to junction U.S. Hwy 15, then along U.S. Hwy 15 to junction U.S. Hwy 460, then along U.S. Hwy 460 to junction VA Hwy 46, then along VA Hwy 46 to the NC-VA State line; (3) between those points in IA, south of IA Hwy 92, on the one hand, and, on the other, all points in DE, MD, and those points in VA on and east of a line beginning at the VA-WV State line on U.S. Hwy 33, then along U.S. Hwy 33 to junction U.S. Hwy 29, then south along U.S. Hwy 29 to junction VA Hwy 56, then along VA Hwy 56 to junction U.S. Hwy 15, then along U.S. Hwy 15 to the NC-VA State line; (4) between points in IA, on and north of IA Hwy 92, on the one hand, and, on the other, all points in DE and MD, and those points in VA on and east of a line beginning at the VA-WV State line on U.S. Hwy 33, then along U.S. Hwy 33 to junction U.S. Hwy 29, then south along U.S. Hwy 29 to junction VA Hwy 56, then along VA Hwy 56 to junction U.S. Hwy 15, then along U.S. Hwy 15 to the NC-VA State line; (5) between points in MN, south of MN Hwy 19, on the one hand, and, on the other, all points in VA on and east of a line beginning at the VA-WV State line on U.S. Hwy 250, then southeast along U.S. Hwy 250 to junction Interstate Hwy 81, then southwest along Interstate Hwy 81 to junction U.S. Hwy 60, then southeast along U.S. Hwy 60 to junction U.S. Hwy 501, then along U.S. Hwy 501 to the NC-VA State line; (6) between points in MN on and north of MN Hwy 19, on the one hand, and, on the other, points in VA on and east of a line beginning at the VA-WV State line on U.S. Hwy 250, then along U.S. Hwy 250 to junction Interstate Hwy 95, then along Interstate Hwy 95 to junction U.S. Hwy 60, then west along U.S. Hwy 60 to junction U.S. Hwy 501, then along U.S. Hwy 501 to the NC-VA State line. (Gateways eliminated: The intersection of U.S. Hwy 127 and Interstate Hwy 70 in OH (within 80 miles of Columbus, OH), Richmond, IN (Interstate Hwy 70), Ridgeville, MD, within 25 miles of Baltimore, MD.)

MC 117574 (Sub-E159), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). *Agricultural implements, agricultural machinery, tractors, with or without attachments, cranes, industrial and processing machinery, and attachments, accessories, and parts of all of the above-described commodities, which are also commodities, the transportation of which because of their size or weight requires the use of special equipment or, self-propelled articles each weighing 15,000 pounds or more, and either related materials or machinery, tools, parts or supplies moving in connection therewith*, when their transportation is incidental thereto, with self-propelled articles restricted to transportation on trailers, (1) between points in MN on and north of U.S. Hwy 12, on the one hand, and, on the other, points in VA on and east of a line beginning at the VA-WV State line, then along U.S. Hwy 460 to junction VA Hwy 8, then along VA Hwy 8 to the NC-VA State line; points in NC on and east of a line beginning at the NC-VA State line, then along U.S. Hwy 52 to junction U.S. Hwy 601, then along U.S. Hwy 601 to junction NC Hwy 268, then along NC Hwy 268 to junction U.S. Hwy 21, then along U.S. Hwy 21 to junction U.S. Hwy 521, then along U.S. Hwy 521 to the NC-SC State line, and points in SC on and east of a line beginning at the NC-SC State line, then along U.S. Hwy 521 to junction Interstate Hwy 95, then along Interstate Hwy 95 to the GA-SC State line, and points in FL on and south of FL Hwy 84; (2) between points in WI, on the one hand, and, on the other, points in VA on and east of a line beginning at the VA-WV State line on VA Hwy 39, then southeast along VA Hwy 39 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 501, then along U.S. Hwy 501 to junction U.S. Hwy 29, then along U.S. Hwy 29 to the NC-VA State line; points in NC east of a line beginning at the NC-VA State line on U.S. Hwy 29, then southwest along U.S. Hwy 29 to junction NC Hwy 87, then along NC Hwy 87 to junction U.S. Hwy 501, then along U.S. Hwy 501 to the NC-SC State line, and points in SC on and east of a line beginning at the NC-SC State line on U.S. Hwy 501, then along U.S. Hwy 501 to junction SC Hwy 41, then along SC Hwy 41 to the Santee River, then along the Santee River to the Atlantic Ocean; (3) between points in MN, south of U.S. Hwy 12, and points in IA on and north of U.S. Hwy 20, on the one hand, and, on the other, all points in VA on and east of a line beginning at the VA-WV State line on VA Hwy 311, then along VA Hwy 311 to junction U.S. Hwy 220 at Roanoke, then along U.S. Hwy 220 to the NC-VA State line; points in NC on and east of a line beginning at the NC-VA State line on U.S. Hwy 220, then along U.S. Hwy 220 to junction U.S. Hwy 1, then along U.S. Hwy 1 to the NC-SC State line, and points in SC on and east of a line beginning at the NC-SC State line on U.S. Hwy 1, then along U.S. Hwy 1 to junction U.S. Hwy 52, then along U.S. Hwy 52 to junction with the Santee River, then southeast along the Santee River to the Atlantic Ocean; (4) between points in IA south of U.S. Hwy 20, on the one hand, and, on the other, points in VA on and east of a line beginning at the VA-WV State line, on U.S. Hwy 250, then along U.S. Hwy 250 to junction Interstate Hwy 81, then along Interstate Hwy 81 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 29, then along U.S. Hwy 29 to the NC-SC State line; and points in NC on and east of a line beginning at the NC-VA State line on U.S. Hwy 29, then along U.S. Hwy 29 to junction NC Hwy 87, then along NC Hwy 87 to Southport, NC, and its junction with the Atlantic Ocean.

(5) Between points in MO on and north of U.S. Hwy 50, on the one hand, and, on the other, points in VA on and east of a line beginning at the VA-WV State line on U.S. Hwy 250, then along U.S. Hwy 250 to junction VA Hwy 20 near Charlottesville, VA, then along VA Hwy 20 to junction U.S. Hwy 15, then along U.S. Hwy 15 to the NC-VA State line, and points in NC on and east of a line beginning at the NC-VA State line on U.S. Hwy 15, then along U.S. Hwy 15 to junction NC Hwy 96, then along NC Hwy 96 to junction U.S. Hwy 70, then along U.S. Hwy 70 to junction U.S. Hwy 258, then along U.S. Hwy 258 to the New River at Jacksonville, NC, and then along the New River to the Atlantic Ocean; (6) between points in MO south of U.S. Hwy 50, on the one hand, and, on the other, points in VA on and east of a line beginning at the WV-VA State line on U.S. Hwy 522, then along U.S. Hwy 522 to junction U.S. Hwy 250, then southeast along U.S. Hwy 250 to junction U.S. Hwy 301, then along U.S. Hwy 301 to junction U.S. Hwy 460, then southeast along U.S. Hwy 460 to junction U.S. Hwy 17, then along U.S. Hwy 17 to the NC-VA State line; (7) between points in IL south of U.S. Hwy 136, on the one hand, and, on the other, points in VA on and east of a line beginning at the VA-WV State line on U.S. Hwy 522, then along U.S. Hwy 522 to junction U.S. Hwy 250, then along U.S. Hwy 250 to junction U.S. Hwy 301, then south along U.S. Hwy 301 to junction VA Hwy 35, then along VA Hwy 35 to the NC-VA State line, and points in NC on and east of a line beginning at the NC-VA State line on NC Hwy 35, then along NC Hwy 35 to junction U.S. Hwy 258, then along U.S. Hwy 258 to junction NC Hwy 308, then along NC Hwy 308 to junction U.S. Hwy 17, then along U.S. Hwy 17 to the Pamlico River, then along the shore of the Pamlico River to the Pamlico Sound at the Atlantic Ocean; (8) between points in IL on and north of U.S. Hwy 136 and south of Interstate Hwy 80, on the one hand, and, on the other, points in VA on and east of a line beginning at the VA-WV State line on U.S. Hwy 250, then along U.S. Hwy 250 to junction VA Hwy 6, then along VA Hwy 6 to junction U.S. Hwy 29, then along U.S. Hwy 29 to junction VA Hwy 56, then southeast along VA Hwy 56 to junction U.S. Hwy 15, then along U.S. Hwy 15 to the NC-VA State line, and points in NC on and east of a line beginning at the NC-VA State line on U.S. Hwy 15, then along U.S. Hwy 15 to junction NC Hwy 39, then along NC Hwy 39 to junction U.S. Hwy 70, then along U.S. Hwy 70 to junction U.S. Hwy 117, then along U.S. Hwy 117 to Wilmington, NC, and its junction with U.S. Hwy 421, then along U.S. Hwy 421 to the Atlantic Ocean; (9) between points in IL on and north of Interstate Hwy 80, on the one hand, and, on the other, points in VA on and east of a line beginning at the VA-WV State line on VA Hwy 39, then along VA Hwy 39 to junction Interstate Hwy 81, then along Interstate Hwy 81 to junction U.S. Hwy 501, then along U.S. Hwy 501 to junction U.S. Hwy 29, then along U.S. Hwy 29 to the NC-VA State line, points in NC on and east of a line beginning at the NC-VA State line on U.S. Hwy 29, then along U.S. Hwy 29 to junction NC Hwy 87, then along NC Hwy 87 to junction U.S. Hwy 501, then along U.S. Hwy 501 to the NC-SC State line, and points in SC on and east of a line beginning at the NC-SC State line on U.S. Hwy 501, then along U.S. Hwy 501 to junction SC Hwy 41, then along SC Hwy 41 to junction with the Santee River, then along the Santee River to the Atlantic Ocean; (10) between points on the Lower Peninsula of MI west of a line beginning at the MI-OH State line on U.S. Hwy 127, then along U.S. Hwy 127 to junction U.S. Hwy 27, then along U.S. Hwy 27 to junction Interstate Hwy 75, then along Interstate Hwy 75 to Mackinaw City, and Lake Huron, MI, and all points in the Upper Peninsula of MI, on the one hand, and, on the other, all points in VA on and east of a line beginning at the VA-WV State line on VA Hwy 39, then along VA Hwy 39 to junction Interstate Hwy 95, then along Interstate Hwy 95 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 501, then along U.S. Hwy 501 to junction U.S. Hwy 29,

then along U.S. Hwy 29 to the NC-VA State line; points in NC on and east of a line beginning at the NC-VA State line on U.S. Hwy 29, then along U.S.

the IL-IN State line on U.S. Hwy 24, then along U.S. Hwy 24 to junction IN Hwy 124, at Peru, IN, then along IN Hwy 124 to the IN-OH State line, on

30, then southeast along VA Hwy 30 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction VA Hwy 31 at Williamsburg, VA, then southwest along

the facilities of Frick Co., Inc. at or near Waynesboro, PA, or the facilities of Grove Manufacturing Co. at or near Shady Grove, PA).

ed commodities as are dealt in or used by household appliance stores from the facilities of White Consolidated Industries, Inc. at Muskegon, MI to

liam C. Harris, Executive Vice President (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

then along U.S. Hwy 29 to the NC-VA State line; points in NC on and east of a line beginning at the NC-VA State line on U.S. Hwy 29, then along U.S. Hwy 29 to junction NC Hwy 87, then along NC Hwy 87 to junction U.S. Hwy 501, then along U.S. Hwy 501 to the NC-SC State line, and points in SC on and east of a line beginning at the NC-SC State line on U.S. Hwy 501, then along U.S. Hwy 501 to junction SC Hwy 41, then along SC Hwy 41 to junction with the Santee River, then along the Santee River to the Atlantic Ocean; (11) between points on the Lower Peninsula of MI (except Detroit, MI) on and east of a line beginning at the OH-MI State line on U.S. Hwy 127, then along U.S. Hwy 127 to junction U.S. Hwy 27, then north along U.S. Hwy 27 to junction Interstate Hwy 75, then along Interstate Hwy 75 to the Straits of Mackwau, on the one hand, and, on the other, all points in VA on and east of a line beginning at the VA-WV State line on VA Hwy 311, then south along VA Hwy 311 to junction U.S. Hwy 220, then along U.S. Hwy 220 to the VA-NC State line, points in NC on and east of a line beginning at the NC-VA State line on U.S. Hwy 220, then along U.S. Hwy 220 to junction U.S. Hwy 1, then along U.S. Hwy 1 to the NC-SC State line, and points in SC on and east of a line beginning at the NC State line on U.S. Hwy 1, then along U.S. Hwy 1 to junction U.S. Hwy 52, then along U.S. Hwy 52 to Charleston, SC, and the Atlantic Ocean.

(12) Between Detroit, MI, on the one hand, and, on the other, points in VA on and east of a line beginning at the VA-WV State line on VA Hwy 311, then along VA Hwy 311 to junction U.S. Hwy 220, then south along U.S. Hwy 220 to the NC-VA State line; points in NC on and east of a line beginning at the NC-VA State line on U.S. Hwy 220, then along U.S. Hwy 220 to junction U.S. Hwy 1, then along U.S. Hwy 1 to the NC-SC State line; points in SC, on and east of a line beginning at the NC-SC State line on U.S. Hwy 1, then along U.S. Hwy 1 to junction U.S. Hwy 52, then along U.S. Hwy 52 to junction Interstate Hwy 95, then along Interstate Hwy 95 to the SC-GA State line; points in GA on and east of Interstate Hwy 95, and points in FL beginning at the GA-FL State line on Interstate Hwy 95, then along Interstate Hwy 95 to junction Interstate Hwy 10, at Jacksonville, FL, then west along Interstate Hwy 10 to junction U.S. Hwy 301, then south along U.S. Hwy 301 to junction FL Hwy 24, then along FL Hwy 24 to junction FL Hwy 121 at Gainesville, FL, then along FL Hwy 121 to junction FL Hwy 40, then west along FL Hwy 40 to the Gulf of Mexico; (13) between points in IN on and north of a line beginning at the IL-IN State line on U.S. Hwy 24, then along U.S. Hwy 24 to junction IN Hwy 124, at Peru, IN, then along IN Hwy 124 to the IN-OH State line, on the one hand, and, on the other, points in DE and those points in MD on and east of U.S. Hwy 522, points in VA on and east of a line beginning at the VA-WV State line on U.S. Hwy 250, then along U.S. Hwy 250 to junction VA Hwy 6, then along VA Hwy 6 to junction U.S. Hwy 29, then along U.S. Hwy 29 to junction U.S. Hwy 60, then east along U.S. Hwy 60 to junction VA Hwy 26, then south along VA Hwy 26 to junction VA Hwy 24, then south along VA Hwy 24 to junction U.S. Hwy 501, then along U.S. Hwy 501 to the NC-VA State line, and points in NC on and east of a line beginning at the NC-VA State line on U.S. Hwy 501, then along U.S. Hwy 501 to junction U.S. Hwy 70, then along U.S. Hwy 70 to junction U.S. Hwy 401, near Raleigh, NC, then along U.S. Hwy 401 to junction U.S. Hwy 421, then along U.S. Hwy 421 to the Atlantic Ocean; (14) between points in IN in an area bounded on the north by a line beginning at the IL-IN State line on U.S. Hwy 24, then along U.S. Hwy 24 to junction IN Hwy 124, then along IN Hwy 124 to the IN-OH State line, and bounded on the south by U.S. Hwy 40, extending west along U.S. Hwy 40 to junction U.S. Hwy 36 at Indianapolis, IN, then along U.S. Hwy 36 to the IN-IL State line, on the one hand, and, on the other, all points in DE, those in MD east of U.S. Hwy 522, those points in MD east of U.S. Hwy 522, those points in VA on and east of a line beginning at the WV-VA State line on U.S. Hwy 522, then along U.S. Hwy 522 to junction U.S. Hwy 15, at Culpeper, VA, then along U.S. Hwy 15 to the NC-VA State line, and points in NC on and east of a line begining at the NC-VA State line on U.S. Hwy 1, then along U.S. Hwy 1 to junction U.S. Hwy 401, then along U.S. Hwy 401 to junction NC Hwy 39, then along NC Hwy 39 to junction Interstate Hwy 95, then along Interstate Hwy 95 to junction U.S. Hwy 701, then along U.S. Hwy 701 to junction NC Hwy 50, then southeast along NC Hwy 50 to the Atlantic Ocean; (15) between points in IN south of a line beginning at the IL-IN State line on U.S. Hwy 36, then along U.S. Hwy 36 to junction U.S. Hwy 40 near Indianapolis, IN, then east along U.S. Hwy 40 to the IN-OH State line on the one hand, and, on the other, points in DE, those in MD on and east of U.S. Hwy 522, those in VA on and east of a line beginning at the VA-WV State line on U.S. Hwy 522, then along U.S. Hwy 522 to junction VA Hwy 3 near Culpeper, VA, then east along VA Hwy 3 to junction Interstate Hwy 95, then south along Interstate Hwy 95 to junction VA Hwy 30, then southeast along VA Hwy 30 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction VA Hwy 31 at Williamsburg, VA, then southwest along VA Hwy 31 to junction U.S. Hwy 460, then southeast along U.S. Hwy 460 to junction VA Hwy 32, then along VA Hwy 32 to the NC-VA State line and points in NC on, east and north of VA Hwy 32 extending to junction U.S. Hwy 64, then east along U.S. Hwy 64 to the Atlantic Ocean; (16) between points in WI south of a line beginning at the MN-WI State line on U.S. Hwy 16, then east along U.S. Hwy 16 to junction WI Hwy 82, then east along WI Hwy 82 to junction WI Hwy 23, then along WI Hwy 23 to the shore of Lake Michigan, on the one hand, and, on the other, all points in DE, those in MD on and east of U.S. Hwy 522, those points in VA on and east of a line beginning at the WV-VA State line on VA Hwy 311, then along VA Hwy 311 to Roanoke, VA, and its junction with U.S. Hwy 220, then south along U.S. Hwy 220 to the NC-VA State line, points in NC on and east of a line beginning at the NC-VA State line on U.S. Hwy 220, then along U.S. Hwy 220 to junction U.S. Hwy 74, then southeast along U.S. Hwy 74 to junction U.S. Hwy 1, then along U.S. Hwy 1 to the NC-SC State line and points in SC on and east of a line beginning at the NC-SC State line on U.S. Hwy 1, then along U.S. Hwy 1 to junction U.S. Hwy 52, then south along U.S. Hwy 52 to the north shore of the Santee River, then along the Santee River to the Atlantic Ocean; (17) between points in WI on and north of a line beginning at the MN-WI State line on U.S. Hwy 16, then along U.S. Hwy 16 to junction WI Hwy 82, then east along WI Hwy 82 to junction WI Hwy 23, then along WI Hwy 23 to Sheboygan, WI, and the shore of Lake Michigan, on the one hand, and, on the other, points in DE, those points in MD on and east of U.S. Hwy 522, those points in VA on and east of a line beginning at the VA-WV State line on U.S. Hwy 311, then along VA Hwy 311 to Roanoke, VA, and U.S. Hwy 220, then along U.S. Hwy 220 to the NC-VA State line; points in NC on and east of a line beginning at the NC-VA State line on U.S. Hwy 220, then along U.S. Hwy 220 to junction U.S. Hwy 311, then along U.S. Hwy 311 to junction U.S. Hwy 52, at Winston-Salem, NC, then southeast along U.S. Hwy 52 to junction U.S. Hwy 601, then along U.S. Hwy 601 to junction U.S. Hwy 521, then southeast along U.S. Hwy 521 to junction Interstate Hwy 95, then along Interstate Hwy 95 to junction Interstate Hwy 26, then along Interstate Hwy 26 to Charleston, SC, and the Atlantic Ocean. (Gateways eliminated: Points in OH within 80 miles of Columbus, OH, and

the facilities of Frick Co., Inc. at or near Waynesboro, PA, or the facilities of Grove Manufacturing Co. at or near Shady Grove, PA).

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-25768 Filed 9-12-78; 8:45 am].

[7035-01]

[Notice No. 161]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 30, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 51146 (Sub-609), filed July 7, 1978. Applicant: Schneider Transport, Inc., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air conditioners, refrigerators, freezers, stoves and related commodities* as are dealt in or used by household appliance stores from the facilities of White Consolidated Industries, Inc. at Muskegon, MI to the facilities of Western Auto Supply Co. at or near Delaware, OH; Salina, KS; Kansas City, MO; Chicago, IL; Temple, TX; Jacksonville, FL; Jackson, MS; Owings Mills, MD; O'Fallon, MO and Gastonia, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Western Auto Supply Co., 2107 Grand Avenue, Kansas City, MO 64108 (Raymond F. Schaefer). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 51146 (Sub-610), filed July 7, 1978. Applicant: Schneider Transport, Inc., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Games, toys, and crafts* from all points in and east of ND, SD, NB, KS, OK, and TX to the facilities of M. W. Kasch Co. at or near Austintown, OH, for 180 days. Supporting shipper: M. W. Kasch Co., P.O. Box 2040, Milwaukee, WI 53201 (Robert Morgan). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 65525 (Sub-24 TA), filed July 10, 1978. Applicant: White Bros. Trucking Co., Inc., P.O. Box 96, Wasco, IL 60183. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete pressure pipe and articles* used in the installation of concrete pressure pipe, from Dayton, OH, to points in Clayton County, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Price Brothers Co., Richard R. Rogers, Assistant Distribution Manager, P.O. Box 825, Dayton, OH 45401. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 82492 (Sub-200 TA), filed July 10, 1978. Applicant: Michigan & Nebraska Transit Co., Inc., P.O. Box 2853, 2109 Olmstead Road, Kalamazoo, MI 49003. Representative: William C. Harris, Executive Vice President (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables and frozen potato products*, from the facilities of Wiscold, Inc., located at or near Beaver Dam and Milwaukee, WI, to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, points in NY in and west of Allegany, Livingston, and Monroe Counties, NY, and those in PA on and west of U.S. Hwy 219, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wiscold, Inc., P.O. Box 26336, Milwaukee, WI 53226; American Potato Co., 555 California Street, San Francisco, CA 94104; International Co-op, P.O. Box 1378, Grand Forks, ND 58201. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

MC 100666 (Sub-406TA), filed July 10, 1978. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 73112. Representative: Mr. Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in, or used by, agricultural equipment, industrial equipment, and lawn and leisure product dealers* (except commodities in bulk), from the facilities of Deere & Co. in Jackson County, MO, to points in OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Deere & Co., 3210 East 85th Street, Kansas City, MO 64132. Send protests to: Connie A. Guillory, Interstate Commerce Commission, Bureau of Operations, T-9038, U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

MC 105566 (Sub-171TA), filed July 10, 1978. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, 6901 Old Keene Mill Road, Suite 406, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heating and air-conditioning equipment and parts* and accessories therefor (except commodities the transportation of which because of size or weight requires the use of special equipment), from Nashville, TN, to points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY, for 180 days. Supporting shipper(s): Heil Quaker Corp., 1714 Heil Quaker Boulevard, La Vergne, TN 37086. Send

protests to: P. E. Binder, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis,

110, Building 100, Knoxville, TN 37919. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle,

CARRIERS, INC., 5910 49th Street, Kenosha, WI 53140. Representative: Paul J. Maton, 10 South La Salle Street, Suite 1620, Chicago, IL 60603.

180 days. Supporting shipper(s): Skil Corp., 1401 Kirk, Elk Grove Village, IL 60007. Send protests to: Wiliam H. Land, Jr., District Supervisor, 3108

VT, VA, WV, and DC, for 180 days. Supporting shipper(s): Lykes Pasco Packing Co., P.O. Box 97, Dade City, FL 33525. Send protests to: G. H.

protests to: P. E. Binder, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

MC 107403 (Sub-1099TA), filed July 10, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, in tank vehicles, from Alpine AL, to points in GA, SC, NC, and TN, for 180 days. Supporting shipper(s): Great Lake Mineral Co., 285 Coolidge Hwy, Suite No. 202, Troy, MI 48084. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 108119 (Sub-90TA), filed July 7, 1978. Applicant: E. L. MURPHY TRUCKING CO., P.O. Box 43010, 3303 Sibley Memorial Hwy, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Environmental control equipment*, from Memphis, TN, to points in KS, OK, MO, IL, IN, MI, OH, NY, NJ, GA, and KY, (2) *materials, equipment, and supplies* used in the manufacture, sale, or distribution of the commodities named in part (1) above, from KS, OK, MO, IL, IN, MI, OH, NY, NJ, GA, and KY, to Memphis, TN, for 180 days. Supporting shipper(s): Triskellion, Inc., 3529 Lamar Avenue, Memphis, TN 38118. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

MC 108207 (Sub-482TA), filed July 10, 1978. Applicant: FROZEN FOOD EXPRESS, P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Photographic materials*, requiring refrigeration, from Irving, TX, to points in NM, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Agfa-Gevaert, Inc., 1780 Hurd Drive, Irving, TX 75062.

MC 115841 (Sub-638TA), filed July 7, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler, Colonial Refrigerated Transportation, Inc., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pharmaceuticals, toilet preparations, materials, and supplies used in the manufacture* thereof, from (1) from South Plainfield, NJ (2) from Chicago, IL (3) from Cleveland, OH, to (a) Los Angeles, CA, Atlanta, GA, Chicago, IL, Kansas City, KS, Kansas City, MO, Cleveland, OH, Dallas, TX, and Seattle, WA, (b) Los Angeles, CA, Atlanta, GA, Kansas City, KS, Kansas City, MO, Cleveland, OH, Dallas, TX, and Seattle, WA, (c) Atlanta, GA, and the respective commercial zones of the above. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ayerst Laboratories Division of American Home Products Corp., 685 Third Avenue, New York, NY 10017. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 119774 (Sub-95TA), filed July 10, 1978. Applicant: EAGLE TRUCKING CO., P.O. Box 471, 301 East Main Street, Kilgore, TX 75662. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and plastic pipe fittings* from the facilities of Plexco, at or near Fairfield, IA, to points in AR, KS, LA, NM, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Plexco, Inc. (Division of Amstead Industries), 3240 Mannheim Road, Franklin Park, IL 60131. Send protests to: Opal M. Jones, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 119789 (Sub-493TA), filed July 10, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: Lewis Coffey (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, lumber products, lumber*, from Charleston, SC, to points in AL, FL, GA, KY, NC, SC, and TN, for 180 days. Supporting shipper(s): Pacific Wood Products, 22673 South Wilmington, Carson, CA 90745. Send protests to: Opal M. Jones, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

No. MC 123255 (Sub-168TA), filed July 7, 1978. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, NJ 43055. Representative: James W. Muldoon, Esquire, Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as* are manufactured, processed, distributed, or dealt in by manufacturers or converters of *paper and paper products*, except commodities in bulk, from Chillicothe, OH, to points in IL; IN; the Lower Peninsula of MI; St. Louis, MO; and Louisville, KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Mead Corp., Mead World Headquarters, Courthouse Plaza Northeast, Dayton, OH 45463. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 125335 (Sub-26TA), filed July 7, 1978. Applicant: GOOD-WAY, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen of Peterson, Bowman, Larsen & Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Lake Odessa Canning Co., a Division of Seabrook Foods, Inc., at or near Grand Rapids and Lake Odessa, MI, to Bettendorf, IA; Bonner Springs and Kansas City, KS; Garden City, NJ; and Richmond, VA; and points in their respective commercial zones, and points in Cumberland County, NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Seabrook Foods, Inc., John Farrell, Manager of Distribution, Seabrook, NJ 08302. Send protests to: Charles Myers, District Supervisor, Interstate Commerce Commission, P.O. 869 Federal Square Station, 228 Walnut St., Harrisburg, PA 17108.

No. MC 133095 (Sub-193TA), filed July 10, 1978. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Kim G. Meyer, P.O. 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper articles*, from the facilities of Scott Paper Co. at or near Mobile, AL to points in TX, for 180 days. Supporting shipper(s): Scott Paper Co., Scott Plaza, Philadelphia, PA 19113. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

No. MC 138824 (Sub-13TA), filed July 10, 1978. Applicant: REDWAY CARRIERS, INC., 5910 49th Street, Kenosha, WI 53140. Representative: Paul J. Maton, 10 South La Salle Street, Suite 1620, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glassware, bottles, or jars*, n.o.i. other than cut, with or without their equipment of caps, covers, stoppers, or tops, between facilities of Metro Pak Containers in or near Washington, PA and the facilities of Ocean Spray Cranberries, Inc. in Kenosha Co., WI, for 180 days. Supporting shipper(s): Ocean Spray Cranberries, Inc., 7800 South 60th Avenue, Kenosha, WI 53142. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 139577 (Sub-24TA), filed July 7, 1978. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, 204 East Winnebags Street, Freieland, WI 53935. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and container ends*, from the facilities of Rockford Can Co. at Rockford, IL to Croswell, Hart, and Scottville, MI; Fairmont, MN; and Appleton, Cumberland, Columbus, Friesland, Frederick, Plymouth, Sheboygan, Horicon, Beaver Dam, Fox Lake, Holmen, and Pickett, WI for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Rockford Can Co., P.O. Box 878, 208 Quaker Road, Rockford, IL 61105. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 212 East Washington Avenue, Room 317, Madison, WI 53703.

MC 141195 (Sub-6TA), filed July 7, 1978. Applicant: CAL-ARK, INC., Rural Route 2, Armestic, Prairie Grove, AK 72753. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Power tools, parts, accessories, equipment and supplies*, from Heber Springs and Walnut Ridge, AR to points in the United States (except AR, Ak, and HI); and (2) *power tools and materials, equipment and supplies* used in the manufacture and distribution of the commodities named in (1) above from Berkeley, Chicago, Elk Grove Village, Skokie and Wheeling, IL, to Heber Springs and Walnut Ridge, AR, under a continuing contract or contracts with Skil Corp., for 180 days. Supporting shipper(s): Skil Corp., 1401 Kirk, Elk Grove Village, IL 60007. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142207 (Sub-19TA), filed July 10, 1978. Applicant: GULF COAST TRUCK SERVICES, INC., P.O. Box 29487, Chef Monteure Hwy, New Orleans, LA 70189. Representative: Mr. Bruce E. Mitchell, Serby & Mitchell, P.C., Fifth Floor-Lenox Towers I, 3390 Peachtree Road, Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* from Pascagoula, MS to points in FL, AL, GA, NC, SC, TN, MS, LA, TX, OK, KS, IL, IN, OH, PA, and NY, for 180 days. Applicant has filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pavco Industries, Inc., P.O. Box 612, Pascagoula, MS 39567. Send protests to: Connie A. Guillory, Interstate Commerce Commission, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

MC 143775 (Sub-7TA), filed July 7, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except in bulk) in vehicles equipped with mechanical refrigeration, from Avenel and Sewaren, NJ, and their respective commercial zones, to points in the States of CO, AZ, UT, NV, WA, OR, and CA, for 180 days. Applicant has also filed and underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Philipp Brothers Chemicals, Inc., 10 Columbus Circle, New York, NY 10019. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

MC 144140 (Sub-19TA), filed July 10, 1978. Applicant: SOUTHERN FREIGHTWAYS, INC., Hwy 44, P.O. Box 374, Eustis, FL 32726. Representative: Gene Baugh, P.O. Box 374, Eustis, FL 32726. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverages and beverage preparations*, citrus and citrus products, and foodstuffs in mixed shipments with beverages and beverage preparations, citrus and citrus products (except commodities in bulk), from the facilities of Lykes Pasco Packing Co., Dade City, FL to CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC, for 180 days. Supporting shipper(s): Lykes Pasco Packing Co., P.O. Box 97, Dade City, FL 33525. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 144713 (Sub-2TA), filed July 7, 1978. Applicant: HAULMARK TRANSFER, INC., 1100 North Macon Street, Baltimore, MD 21205. Representative: Glenn M. Heagerty (same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by a manufacturer of toilet preparations and cleaning compounds*, from Cockeysville, MD, to CA, under a continuing contract or contracts with Noxell Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wayne T. Beverungen, Traffic Manager, Noxell Corp., P.O. Box 1799, 11050 York Road, Baltimore, MD 21203. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, MD 21201.

MC 145018, filed July 7, 1978. Applicant: NORTHEAST DELIVERY, INC., P.O. Box 127, Taylor, PA 18517. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flavored crushed ice* (in vehicles equipped with mechanical refrigeration), from Moosic, PA, to points in NY, OH, KY, TN, NC, SC, GA, FL, LA, and TX, for 150 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Donetta Foods, Inc., P.O. Box 271, Scranton, PA 18501. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, PA 18503.

MC 145020, filed July 7, 1978. Applicant: EARL G. LETANG, 5500 West Hwy 34, Loveland, CO 80537. Representative: Charles J. Kimball, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wall board*, from the facilities of Western Gypsum Co. at or near Roserio, NM to points in Larimer County, CO, under a continuing contract or contracts with Dry Wall Supply, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dry

Wall Supply, Inc., 1805 West Irvington Place, Denver, CO 80223. Send protests to: D/S Roger L. Buchanan, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 145048 (Sub-1TA), filed July 10, 1978. Applicant: R. D. RODGERS, d.b.a. R. & E. TRUCKING, Route 2, Box 77, Plain Dealing, LA 71064. Representative: John M. Madison, Jr., 411 Commercial National Bank Building, Shreveport, LA 71101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Seasonable merchandise* for department store sales from Minden, LA to Atlanta and Mount Pleasant, TX and the State of AR, for 180 days, under a continuing contract or contracts with West and Co. of LA, Inc. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): West and Co. of LA, Inc., P.O. Box G, Minden, LA 71055. Send protests to: Connie A. Guillory, Interstate Commerce Commission, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 71101.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-25763 Filed 9-12-78; 8:45 am]

[7035-01]

[Notice No. 162]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 30, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 7555 (Sub-69TA), filed July 12, 1978. Applicant: TEXTILE MOTOR FREIGHT, INC., P.O. Box 70, Junction of U.S. 220 and 73, Elerbe, NC 28338. Representative: Terrence D. Jones, 2033 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Fulton, Oswego, and Syracuse, NY, to Charlotte, NC, and Jacksonville, FL, for 180 days. Supporting shipper(s): The Nestle Co., Inc., 100 Bloomingdale Road, White Plains, NY 10605. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 48441 (Sub-15TA), filed July 12, 1978. Applicant: R.M.E., INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 666 Eleventh Street NW., No. 805, Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and accessories therefor*, from the facilities of Owens-Illinois, Inc., at or near Streator, IL, to points in MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Owens-Illinois, Inc., Gerald C. Turner, Manager of Transportation, Glass Container Division, P.O. Box 1035, Toledo, OH 43666. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 48441 (Sub-16TA), filed July 12, 1978. Applicant: R.M.E., INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 666 Eleventh Street NW., No. 805, Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers*, from the facilities of Miller Brewing Co. at Milwaukee, WI, to Fulton, Oswego, Syracuse, and Liverpool, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Robert Niemann, Assistant Corporate Traffic Manager, Rates, Miller Brewing Co., 3939 West Highland Boulevard, Milwaukee, WI 53208. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 49567 (Sub-10TA), filed July 12, 1978. Applicant: GOLDEN BROS., INC., 234 East McClure Street, Kewanee, IL 61443. Representative: Donald S. Mullins, 4704 West Irving Park Road, Chicago, IL 60641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Heating systems and power systems*, from Kewanee, IL, to points in CA, GA, KY, NC, NJ, NV, OK, SC, TN, TX, VA, and WV, limited to a transportation service to be performed under a continuing contract, or contracts, with Kewanee Boiler Corp. of Kewanee, IL, for 180 days. Supporting shipper(s): Kewanee Boiler Corp., Keith Dybdal, Traffic Manager, 101 Franklin Street, Kewanee, IL 61443. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 69833 (Sub-132 TA), filed July 10, 1978. Applicant: ASSOCIATED TRUCK LINES, INC., Vandenberg Center, Grand Rapids, MI 49503. Representative: Harry Pohland (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Iron and steel articles*, from Allenport, PA, to points in the Lower Peninsula of MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wheeling-Pittsburgh Steel Corp., P.O. Box 118, Pittsburgh, PA 15230. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

MC 81412 (Sub-35 TA), filed July 10, 1978. Applicant: VALLEY TRANSFER & STORAGE CO., P.O. Box 2101, Lehigh Valley Postal, Bethlehem, PA 18001. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Steel transmission poles and parts and accessories* therefor, from the facilities of Meyer Industries, a division of International Telephone & Telegraph Corp., in the Borough of West Hazleton and the township of Hazle, Luzerne County, PA, to points in MD, for 180 days. Supporting shipper(s): Meyer Industries, division of I.T. & T Corp., P.O. Box L, Hazleton, PA 18201. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 109633 (Sub-37TA), filed July 12, 1978. Applicant: ARBET TRUCK LINES, INC., 222 East 135th Place, Chicago, IL 60627. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Electric tools, parts, and accessories*, (1) from the facilities of the Skil Corp., located at or near Walnut Ridge and Heber Springs, AR, to points in the United States (except AL and HI), and returned or rejected shipments of the above-described commodities, from points in the above-named destination States to the above-named origins, and (2) *materials, equipment, and supplies* used in the manufacture or distribution of electric tools, from the facilities of Skil Corp., at Chicago, Wheeling, Berkeley, Skokie, and Elk Grove Village, IL, to the facilities of the Skil Corp., located at or near Walnut Ridge and Heber Springs, AR, for 180 days. Supporting shipper(s): Donald Salenger, Traffic Manager, Skil Corp., 1401 Kirk Street, Elk Grove Village, IL 60007. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 109708 (Sub-90TA), filed July 12, 1978. Applicant: INDIAN RIVER TRANSPORT CO., d.b.a. INDIAN RIVER TRANSPORT, INC., P.O. Box AG, 2580 Executive Road, Dundee, FL 33838. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alocholic liquors* (in bulk, in tank vehicles), from Philadelphia, PA, to Auburndale, FL, for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jacquin Florida Distillers, Inc., 425 Recker Highway, Auburndale, FL 33823. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 Northwest, 53d Terrace, Miami, FL 33166.

MC 110525 (Sub-1250TA), filed July 12, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, other than derived from petroleum (in bulk, in tank vehicles), from the plantsite of E. I. du Pont at or near Gregory, TX, to points in AL, AR, CO, GA, LA, MS, MO, NM, OK, and TN, for 180 days. Supporting shipper(s): E. I. du Pont de Nemours & Co., Inc., 1007 Market Street, Wilmington, DE 19898. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 113271 (Sub-47TA), filed July 12, 1978. Applicant: CHEMICAL TRANSPORT, P.O. Box 2644, Great Falls, MT 59401. Representative: Ray F. Koby, 314 Montana Building, Great Falls, MT 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid* (in bulk, in tank vehicles), from Grace and Pocatello, ID, to points in WY and UT, for 180 days. Supporting shipper(s): M & M Crop Service, Inc. d.b.a. Sulac Co., Star Route, Box 190, Pocatello, ID. 83201. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT. 59101.

MC 114457 (Sub-413TA), filed July 10, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers* from the facilities of National Can Corp. at Piscataway, NJ, to the facilities of Pabst Brewing Co., at or near Perry, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): National Can Corp., 8101 West Higgins Road, Chicago, IL 60631. Send protests to: Dolores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

MC 114457 (Sub-415TA), filed July 12, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric ranges microwave ovens and such commodities* as are used in the manufacture of electric ranges and microwave ovens and accessories related thereto, from the facilities of Litton Microwave Cooking Products, Litton Systems, Inc., at Minneapolis, MN, to representative points in the United States in and east of the States of WI, IA, MO, AR, and LA, for 180 days. Supporting shipper(s): Litton Microwave Cooking, 1405 Xenium Lance North, Minneapolis, MN 55441. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

MC 115331 (Sub-463TA), filed July 10, 1978. Applicant: TRUCK TRANSPORT INC., 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from Sedalia, MO, to points in the United States except AK and HI and the St. Louis, MO-East St. Louis, IL commercial zone, for 180 days. Supporting shipper(s): Alcolac, Inc., 3440 Fairfield Road, Baltimore, MD. Send protests to: P. E. Binder, Interstate Commerce Commission, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

MC 115648 (Sub-29TA), filed July 12, 1978. Applicant: LOCK TRUCKING, INC., 16th and Pine Streets, P.O. Box 290, Wheatland, WY 82201. Representative: Ward A. White, P.O. Box 568, Cheyenne, WY 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes; transporting: *Salt and salt products* (except in bulk), from Solar, Utah, to points in Platte County, WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hardy Salt Co., P.O. Drawer 449, St. Louis, MO 63166. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 105, Federal Building and Courthouse, 111 South Wolcott, Casper, WY 82601.

MC 126276 (Sub-196TA), filed July 12, 1978. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, IL 60513. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from the facilities of the Continental Group, Inc., at Kentwood and Grand Rapids, MI, to Kenexa, KS, under a continuing contract, or contracts, with the Continental Group, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Continental Group, Inc., LaVerne W. Myers, Man-

ager, Transportation/Distribution, 633 Third Avenue, New York, NY 10017. Send protests to: Louis M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 113271 (Sub-48TA), filed July 12, 1978. Applicant: CHEMICAL TRANSPORT, P.O. Box 2644, Great Falls, MT 59401. Representative: Ray F. Koby, 314 Montana Building, Great Falls, MT 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid* (in bulk, in tank vehicles), from Grace and Pocatello, ID, to points in WY and UT, for 180 days. Supporting shipper(s): M & M Crop Service, Inc. d.b.a. Sulac Co., Star Route, Box 190, Pocatello, ID. 83201. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT. 59101.

MC 114457 (Sub-414TA), filed July 10, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers* from the facilities of National Can Corp. at Piscataway, NJ, to the facilities of Pabst Brewing Co., at or near Perry, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): National Can Corp., 8101 West Higgins Road, Chicago, IL 60631. Send protests to: Dolores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

MC 114457 (Sub-415TA), filed July 12, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric ranges microwave ovens and such commodities* as are used in the manufacture of electric ranges and microwave ovens and accessories related thereto, from the facilities of Litton Microwave Cooking Products, Litton Systems, Inc., at Minneapolis, MN, to representative points in the United States in and east of the States of WI, IA, MO, AR, and LA, for 180 days. Supporting shipper(s): Litton Microwave Cooking, 1405 Xenium Lane North, Minneapolis, MN 55441. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

MC 115331 (Sub-463TA), filed July 10, 1978. Applicant: TRUCK TRANSPORT INC., 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from Sedalia, MO, to points in the United States except AK and HI and the St. Louis, MO-East St. Louis, IL commercial zone, for 180 days. Supporting shipper(s): Alcolac, Inc., 3440 Fairfield Road, Baltimore, MD. Send protests to: P. E. Binder, Interstate Commerce Commission, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

MC 115648 (Sub-29TA), filed July 12, 1978. Applicant: LOCK TRUCKING, INC., 16th and Pine Streets, P.O. Box 290, Wheatland, WY 82201. Representative: Ward A. White, P.O. Box 568, Cheyenne, WY 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes; transporting: *Salt and salt products* (except in bulk), from Solar, Utah, to points in Platte County, WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hardy Salt Co., P.O. Drawer 449, St. Louis, MO 63166. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 105, Federal Building and Courthouse, 111 South Wolcott, Casper, WY 82601.

MC 126276 (Sub-196TA), filed July 12, 1978. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, IL 60513. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from the facilities of the Continental Group, Inc., at Kentwood and Grand Rapids, MI, to Kenexa, KS, under a continuing contract, or contracts, with the Continental Group, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Continental Group, Inc., LaVerne W. Myers, Man-

ing shipper(s): Mr. E. R. Wiseman, Director, Transportation Economics, GM Logistics, 30007 Van Dyke Avenue,

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[7035-01]

[Volume No. 114]

PETITIONS, APPLICATIONS, FINANCE MATTERS

nent of: *General commodities* (except those of unusual value, and except livestock, dangerous explosives, household goods as defined in Practices of

ager, Transportation/Distribution, 633 Third Avenue, New York, NY 10017. Send protests to: Louis M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 126555 (Sub-59TA), filed July 12, 1978. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, SD 57709. Representative: Barry C. Burnette, P.O. Box 3000, Rapid City, SD 57709. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, (in bulk), from the storage facilities of Cominco American near Sidney, NE, to CO and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cominco, American, Inc., Route 3, Beatrice, NE 68310. (R. W. Elmborg, traffic supervisor) Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455 Federal Building, Pierre, SD 57501.

MC 129424 (Sub-1TA), filed July 10, 1978. Applicant: FILEX TRUCKING CORP., North Water Street, Ossining, NY 10562. Representative: Bruce J. Robbins, Esq., Robins & Newman, 118-21 Queens Boulevard, Forest Hills, NY 11375. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Filing and storage cabinets, desks and parts* thereof, between Ossining, NY, on the one hand, and, on the other, points in the United States (except AK and HI) in and west of the States of AR, IL, LA, MO, and WI., for 180 days, under a continuing contract or contracts with Filex Steel Products Co., Inc. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Filex Steel Products Co., Inc., North Water Street, Ossining, NY 10562. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 133966 (Sub-55TA), filed July 10, 1978. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, PA 18707. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinyl plastic products*, from Mountaintop, PA, to Charlotte, NC, Chicago, IL, Dallas, TX, and Three Oaks, MI, for 150 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Harte & Company, Inc., 16 East 34th Street, New York, NY 10016. Send protests: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, PA 18503.

MC 139276 (Sub-3TA), filed July 12, 1978. Applicant: ALOHA FREIGHTWAYS, INC., 225 West Higgins Road, Des Plaines, IL 60018. Representative: Grace Kasallis, Secretary-Treasurer, of Aloha Freightways, Inc., 1069 Bryn Mawr Avenue, Bensenville, IL 60106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel sheets or coils coated or uncoated*, from facilities of Pre Finish Metals, Inc., at Elk Grove Village, IL, to Mount Vernon and Indianapolis, IN, under a continuing contract, or contracts, with Pre Finish Metals, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pre Finish Metals, Inc., Dale Youssi, vice president, 2300 East Pratt Boulevard, Elk Grove, IL 60007. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 143003 (Sub-3TA), filed July 10, 1978. Applicant: GEORGE L. MORROW TRUCKING COMPANY, INC., 429 North Seventh Street, P.O. Box 916, Raymondville, TX 78580. Representative: Harry F. Horak, Room 109, 5001 Brentwood Stair Road, Forth Worth, TX 76112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pork pigskins and byproducts of pork* from St. Paul, MN, Kansas City, MO, Memphis, TX, Louisville, KY, Pittsburg, PA, Omaha, NE, San Francisco, CA, Chicago, IL, Roswell, NM, and Oklahoma City, OK to Raymondville, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cisneros Packing Co., 169 South Fifth Street, Raymondville, TX 78580. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Room B-400 Federal Building, 727 East Durango Street, San Antonio, TX 78206.

MC 144473 (Sub-4TA) filed July 12, 1978. Applicant: DORVAL CORP., 1201 Corbin Street, Elizabeth, NJ. 07201. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts*, (1) From points in New York, NY, Philadelphia, PA; Wilmington, DE; and their Commercial Zones to points in CA, GA, IL, IN, MN, NJ, NY, NC, OH, IA, FL, PA, SC, TN, TX, VA, WV, ND, SD, MI, NE, AL, MO, KS, OR, NV, AZ, MI, LA, KY, CO, and WI, under a continuing contract or contracts with United Beef Packers, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): United Beef Packers, 1630 NW., 70th Avenue, Miami, FL 33126. Send protests to: Robert E. Johnston District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 144473 (Sub-5TA) filed July 12, 1978. Applicant: DORVAL CORP., 1201 Corbin Street, Elizabeth, NJ 07201. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts*, (1) From Miami, Tampa, FL; Charleston, SC, to points in the States of CA, GA, IL, IN, MN, KY, NJ, NY, NC, MI, OH, PA, SC, TN, TX, VA, WV, MS, AL, WI and (2) from Charleston, SC, to points in FL, under a continuing contract or contracts with United Beef Packers, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): United Beef Packers, 1630 NW., 70th Avenue, Miami, FL 33166. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 144646 (Sub-1TA), filed July 12, 1978. Applicant: BLACK & WHITE CAB, INC., d.b.a. YPSILANTI TRANSPORTATION SERVICE, P.O. Box 487, Ypsilanti, MI 48197. Representative: Robert E. McFarland, McFarland & Bullard, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile parts and other parts and materials* related to the manufacture, production, and assembly of motor vehicles and component parts, between the facilities of the General Motors Corp. located at or near Lansing, MI, on the one hand, and on the other, the Metropolitan Wayne County Airport located at or near Romulus, MI, and Willow Run Airport located at or near Ypsilanti, MI, restricted to shipments having a prior or subsequent movement by air, weighing not more than 5,000 pounds from one consignor at one location to one consignee at one location in a single day, moving in vehicles possessing a gross vehicle weight of not more than 10,000 pounds for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mr. E. R. Wiseman, Director, Transportation Economics, GM Logistics, 30007 Van Dyke Avenue, Warren, MI 48090. Send protests to: Tim Quinn, District Supervisor, Interstate Commerce Commission, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

MC 145024TA, filed July 10, 1978. Applicant: SHANE INDUSTRIES, INC., 2424 South Railroad, Fresno, CA 93706. Representative: Gary W. Wigand, 13031 San Antonio Drive, Suite 214, Norwalk, CA 90650. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feldspar and materials used in the manufacturing of ceramics* from Kingman, AZ, to points in Fresno, CA, under a continuing contract or contracts with Duncan Enterprises, Inc., for 180 days. Supporting shipper(s): Duncan Enterprises, Inc., 5673 East Shields, Fresno, CA 93727. Send protests to: District Supervisor, Michael M. Butler, 211 Main, Suite 500, San Francisco, CA 94105.

MC 145076 (Sub-1TA), filed July 12, 1978. Applicant: JOHN MANS, INC., Rural Route 2, Haubstadt, IN 47639. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heavy construction, excavating, and mining equipment and supplies*, between points and places in IL on and south of U.S. Hwy 24, and in IN on and south of U.S. Hwy 40, and in KY in that part of west of U.S Hwy 31E, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) R. L. Burns Coal Corp., 653 South Hebron Avenue, Evansville, IN 47715; (2) General Electric Co., 2709 Washington Avenue, Evansville, IN 47714. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

H.G. Homme, Jr.,

Acting Secretary.

[FR Doc. 78-25765 Filed 9-12-78; 8:45 am]

[7035-01]

[Volume No. 114]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES),

SEPTEMBER 6, 1978.

PETITIONS FOR MODIFICATION, INTERPRETATION, OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with special rule 247(e) of the Commission's general rules of practice (49 CFR 1100.247) [1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 2129 (Sub-4) (M1 F) (notice of filing of petition to modify permit), filed July 18, 1978. Petitioner: PIEDMONT FREIGHT CO., INC., Bumpass, VA 23024. Representative: Eugene Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. Petitioner holds a motor *contract carrier* permit in MC 2129 (Sub-4), issued August 28, 1974, authorizing transportation, over irregular routes, of: *Lumber and lumber products*, from points in Louisa County, VA, to points in CT, DE, IL, IN, KY, MD, MA, MI, NJ, NY, NC, OH, PA; RI, TN, and WV and DC, under a continuing contract(s) with Woolfolk Bros., Lumber Co., Inc., of Pendleton, VA, and Dick Purcell Lumber Corp., of Louisa, VA. By the instant petition, petitioner seeks to add Tega industries as a contracting shipper.

MC 32505 (M1 F) (notice of filing of petition to modify certificate), filed July 28, 1978. Petitioner: VINCI'S EXPRESS, INC., 402 Jefferson Avenue, Woodbine, NJ 08270. Representative: Morton Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Petitioner holds a motor *common carrier* certificate in MC 32505 issued July 12, 1951, authorizing transportation, over irregular routes, as pertinent of: *General commodities* (except those of unusual value, and except livestock, dangerous explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 MCC 467, commodities in bulk, commodities requiring special equipment) between points in the Philadelphia, PA, commercial zone, as defined by the Commission in 17 MCC 533, on the one hand, and, on the other, points in NJ south of U.S. Hwy 322, not including points on said hwy, and not including Mays Landing or points within 10 miles of Atlantic City. By the instant petition, petitioner seeks to remove the language "not including Mays Landing."

MC 50935 (Sub-12) (M1 F) (notice of filing of petition to modify certificate), filed June 22, 1978. Petitioner: WOLVERINE TRUCKING CO., a corporation, 2605 Woodward Avenue, Bloomfield, MI 48013. Representative: William Elmer, 21635 East Nine Mile Road, St Clair Shores, MO 48080. Petitioner holds a motor *common carrier* authority in MC 50935 (Sub-12), issued December 26, 1967 authorizing transportation over irregular routes as pertinent: *Malt beverages* from Detroit, MI, to points in MD, TN, WV, and WV, and PA and that part of IN on and south of U.S. Hwy 30 (except points in that part of IN beginning at the IN-OH State line and extending along U.S. Hwy 30 to junction U.S. Hwy 31, then south along U.S. Hwy 31 to Indianapolis, IN, then east along U.S. Hwy 40 to the IN-OH State line, then along the IN-OH State line to the point of beginning). By the instant petition, petitioner seeks to delete the word "malt" from the commodity description.

MC 95540 (Sub-999) (M1F) (notice of filing of petition to modify certificate), filed July 5, 1978. Petitioner: WATKINS MOTOR LINES, INC., P.O. Box 1636, 1144 West Griffin Road, Lakeland, FL 33801. Representative: Paul Daniell, 235 Peachtree Street NE., Atlanta, GA 30303. Petitioner holds motor *common carrier* authority in MC 95540 (sub-999), issued August 18, 1978, authorizing transportation over regular routes, as pertinent, of: (A) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between New York, NY, and Bainbridge, GA, serving the intermediate points of Philadelphia, PA, Wilmington, DE, Baltimore, MD, Washington, DC, and all intermediate points in GA, NC, and SC, with service at Washington, DC, restricted to the transportation of traffic moving from or to points south thereof: From NY over Interstate Hwy 95 to junction In

[1] Copies of special rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

terstate Hwy 85 at Petersburg, VA, then over Interstate Hwy 85 to Newnan, GA then over U.S. Hwy 29 to La Grange GA, then over U.S. Hwy 27 boro, GA: From Greenville, over U.S. Hwy 25 to Statesboro and return over the same route. (14) Between Atlanta, GA, and Rossville, GA, serving all intion: The authority granted in (A) (1) through (23) above is restricted as follows: (1) Service at points in NC (except from and to points within 15

Hwy 403, then along NC Hwy 403 to junction U.S. Hwy 421, then along U.S. Hwy 421 to junction U.S. Hwy 1, then along U.S. Hwy 1 to the NC-SC State Charlotte, Prince Edward, and Nottoway Counties, VA. By the instant petition, petitioner seeks to delete the restrictions as set forth over irregular routes, of: (1) *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by

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terstate Hwy 85 at Petersburg, VA, then over Interstate Hwy 85 to Newnan, GA then over U.S. Hwy 29 to La Grange GA, then over U.S. Hwy 27 to Bainbridge, and return over the same route. (2) Between Petersburg, VA, and Kingsland, GA, serving all intermediate points in GA, SC, and NC, and serving Petersburg for purpose of joinder only: From Petersburg over Interstate HWY 95 to Savannah, GA, then over U.S. Hwy 17 to Kingsland, and return over the same route. (3) Between Norfolk, VA, and South Hill, VA, serving South Hill and the intermediate point of Emporia, VA, for purposes of joinder only: From Norfolk over U.S. Hwy 58 to South Hill, and return over the same route. (4) Between Richmond, VA, and Greensboro, NC, Serving the intermediate point of Danville, VA, all intermediate points in NC, and serving Richmond for purpose of joinder only: From Richmond over U.S. Hwy 360 to South Boston, VA, then over U.S. Hwy 58 to Danville, VA, then over U.S. Hwy 29 to Greensboro, and return over the same route. (5) Between Norfolk, VA, and Wilmington, DE: From Norfolk over U.S. Hwy 13 to Wilmington, and return over the same route. (6) Between Wilson, NC, and the junction of U.S. Hwy 17 and Interstate Hwy 95 near Gardens Corner, SC, serving all intermediate points: From Wilson over U.S. Hwy 117 Wilmington, NC, then over U.S. Hwy 17 to its intersection with Interstate-95 near Gardens Corner and return over the same route. (7) Between Durham, NC, and Goldsboro, NC, serving all intermediate points: From Durham over U.S. Hwy 70 to Goldsboro and return over the same route. (8) Between Asheville, NC, and Greensboro, NC, serving all intermediate points: From Asheville over Interstate Hwy 40 to Greensboro and return over the same route. (9) Between Asheville, NC, and Wilmington, NC, serving all intermediate points: From Asheville over U.S. Hwy 74 to Wilmington, and return over the same route. (10) Between Atlanta, GA, and Wilmington, NC, serving all intermediate points: From Atlanta, over Interstate Hwy 20 to Columbia, SC, then over U.S. Hwy 76 to Wilmington, and return over the same route. (11) Between Charlotte, NC, and Savannah, GA, serving all intermediate points: From Charlotte over U.S. Hwy 21 to Columbia, SC, then over U.S. Hwy 321 to Savannah, and return over the same route. (12) Between Asheville, NC, and Charleston, SC, serving all intermediate points: From Asheville, over U.S. Hwy 25 to Greenville, SC, then over U.S. Hwy 276 to junction Interstate Hwy 26 near Clinton, SC, then over Interstate Hwy 26 to Charleston, and return over the same route. (13) Between Greenville, SC, and Statesboro, GA: From Greenville, over U.S. Hwy 25 to Statesboro and return over the same route. (14) Between Atlanta, GA, and Rossville, GA, serving all intermediate points: From Atlanta, over U.S. Hwy 41 to Rossville, and return over the same route. (15) Between Atlanta, GA, and Thomasville, GA, serving all intermediate points: From Atlanta, over GA Hwy 85 to Manchester, GA, then over U.S. Hwy Alternate 27 to Columbus, GA, then over U.S. Hwy 280 to Richland, GA, then over GA Hwy 55 to Dawson, GA, then over U.S. Hwy 82 to Albany, GA, then over U.S. Hwy 19 to Thomasville, and return over the same route.

(16) Between Atlanta, GA, and Valdosta, GA, serving all intermediate points: From Atlanta, over Interstate Hwy 75 to Valdosta, and return over the same route. (17) Between Macon, GA, and Folkston, GA, serving all intermediate points: From Macon, over U.S. Hwy 23 to Folkston, and return over the same route. (18) Between Columbus, GA, and Savannah, GA, serving all intermediate points: From Columbus, over U.S. Hwy 80 to Savannah and return over the same route. (19) Between Macon, GA, and the junction of U.S. Hwy 441 and Interstate Hwy 85 near Commerce, GA, serving all intermediate points: From Macon, over U.S Hwy 129 to Athens, GA, then over U.S. Hwy 441 to junction Interstate Hwy 85 near Commerce, and return over the same route. (20) Between Bainbridge, GA, and Midway, GA, serving all intermediate points: From Bainbridge, over U.S. Hwy 84 to Waycross, GA, then over U.S. Hwy 82 to Midway, and return over the same route. (21) Between Statesboro, GA, and Folkston, GA, serving all intermediate points: From Statesboro over U.S. Hwy 301 to Folkston, and return over the same route. (22) Between Waycross, GA, and Brunswick, GA, serving all intermediate points: From Waycross, over U.S. Hwy 84 to Brunswick, and return over the same route. (23) Between Macon, GA, and Savannah, GA, serving all intermediate points: From Macon, over Interstate Hwy 16 to Soperton, GA, then over U.S. Hwy 221 to junction U.S. Hwy 280, then over U.S. Hwy 280 to Savannah, and return over the same route. Service is authorized at all points in GA, SC, and NC, and those points in Lunenburg, Mecklenburg, Halifax, Charlotte, Prince Edward, Pittsylvania, Henry, Franklin, and Nottoway Counties, VA, and those in Cumberland, Gloucester, Salem, Hudson, Bergen, Passaic, Sussex, Essex, Morris, Union, Middiesex, Monmouth, and Somerset Counties, NJ, not on the above-described regular routes, as off-route points in connection with the regular route operations described in (A) (1) through (23) above. Restriction: The authority granted in (A) (1) through (23) above is restricted as follows: (1) Service at points in NC (except from and to points within 15 miles of Atlanta, GA, and points in SC) restricted to the transportation of traffic moving from or to points within the territory bounded (a) by a line extending east along the NC-VA State line to junction U.S. Hwy 1, then along U.S. Hwy 1 to junction U.S. Hwy 158, then along U.S. Hwy 158 to Warrenton, NC, then along NC Hwy 58 to Wilson, NC, then along U.S. Hwy 301 to junction U.S. Hwy 117, then along U.S. Hwy 117 to Wilmington, NC, then along U.S. Hwy 421 to Fort Fisher, NC, and (b) by a line extending west along the NC-TN State line to junction U.S. Hwy 25, then along U.S. Hwy 25 to the NC-SC State line. (2) Service from or to points in NC as described in (1) above on traffic moving from and to points in GA restricted, except as set forth in (3) below, to the transportation of traffic moving from or to points beyond.

(3) Service authorized between points in NC and points in GA is restricted to the transportation of traffic moving only: (a) Between points in that part of GA on and bounded by a line beginning at the GA-AL State line, then along U.S. Hwy 80 to junction GA Hwy 96, then along GA Hwy 96 to Fort Valley, then along GA Hwy 49 to junction Interstate Hwy 75, then along Interstate Hwy 75 to Atlanta, then along U.S. Hwy 78 to the GA-AL State line, on the one hand, and, on the other, points in that part of NC on and bounded by a line beginning at the NC-VA State line, then along U.S. Hwy 1 to junction U.S. Hwy 158, then along U.S. Hwy 158 to Warrenton, then along NC Hwy 58 to Wilson, then along U.S. Hwy 301 to junction U.S. Hwy 117, then along U.S. Hwy 117 to Wilmington, then along U.S. Hwy 421 to Fort Fisher, then along the NC-SC State line to junction NC Hwy 18, then along NC Hwy 18 to Morganton, then along NC Hwy 181 to junction NC Hwy 194, then along NC Hwy 194 to junction U.S. Hwy 19E, then along U.S. Hwy 19E to the NC-TN State line; or (b) between points in that part of GA, south and west of a line beginning at the GA-AL State line, then along U.S. Hwy 80 to junction GA Hwy 96, then along GA Hwy 96 to Fort Valley, then along GA Hwy 49 to junction Interstate Hwy 75, then along Interstate Hwy 75 to Tifton, then along U.S. Hwy 41 to the GA-FL State line on the one hand, and, on the other, points in that part of NC on and bounded by a line beginning at the NC-VA State line, then along U.S. Hwy 1 to junction U.S. Hwy 158, then along U.S. Hwy 158 to Warrenton, then along NC Hwy 58 to Wilson, then along U.S. Hwy 117 to junction NC Hwy 403, then along NC Hwy 403 to junction U.S. Hwy 421, then along U.S. Hwy 421 to junction U.S. Hwy 1, then along U.S. Hwy 1 to the NC-SC State line, then along NC-SC State line to junction NC Hwy 18, then along NC Hwy 18 to the NC-VA State line; or (c) between points in that part of GA bounded by a line beginning at Atlanta, then along Interstate Hwy 75 to the GA-FL State line, then along the GA-FL State line to junction U.S. Hwy 23, then along U.S. Hwy 23 to Waycross, then along U.S. Hwy 1 to Wrens, then along GA Hwy 17 to Thompson, then along U.S. Hwy 78 to Atlanta, on the one hand, and, on the other, points in that part of NC bounded by a line beginning at the NC-SC State line at Interstate Hwy 85, then along Interstate Hwy 85 to Charlotte, then along Interstate Hwy 77 to Statesville, then along NC Hwy 115 to junction NC Hwy 18, then along NC Hwy 18 to the NC-VA State line, then along the NC-VA State line to junction Interstate Hwy 85, then along Interstate Hwy 85 to Henderson, then along U.S. Hwy 1 to the NC-SC State line, then along the NC-SC State line to Interstate Hwy 85, point of beginning; or (d) between points in that part of GA north of a line beginning at the GA-AL State line, thene along U.S. Hwy 78 to Atlanta, then on and north of U.S. Hwy 78 to Athens, then on and north of GA Hwy 72 to the GA-SC State line, on the one hand, and, on the other, points in that part of NC on and bounded by a line beginning at the NC-VA State line, then along U.S. Hwy 1 to junction U.S. Hwy 158, then along U.S. Hwy 158 to Warrenton then along NC Hwy 58 to Wilson, then along U.S. Hwy 301 to junction U.S. Hwy 117, then along U.S. Hwy 117 to junction U.S. Hwy 421, then along U.S. Hwy 421 to Fort Fisher, then along the Atlantic Ocean to the NC-SC State line, then along the NC-SC State line to junction Interstate Hwy 85, then along Interstate Hwy 85 to Charlotte, then along U.S. Hwy 21 to Statesville, then along U.S. Hwy 601, then along U.S. Hwy 601 to Mount Airy, then along U.S. Hwy 52 to the NC-VA State line to point of beginning. (4) Service at points in GA is restricted against the transportation of traffic moving between points in GA. (5) Service at Wilmington, DE, and points in Cumberland, Gloucester, and Salem Counties, NJ, is restricted against the transportation of traffic moving from or to points in VA. (6) Service at points in Cumberland, Gloucester, and Salem Counties, NJ, is restricted against the transportation of traffic moving from points in NC, GA, and SC. (7) Service at Norfolk, VA, is restricted against the transportation of traffic destined to points in Lunenburg, Mecklenburg, Halifax, Charlotte, Prince Edward, and Nottoway Counties, VA. By the instant petition, petitioner seeks to delete the restrictions as set forth above.

MC 103926 (Sub-29M1F) (notice of filing of petition to remove a restriction), filed July 17, 1978. Petitioner: W. T. MAYFIELD SONS TRUCKING CO., a corporation. Representative: William H. Driskell, P.O. Box 947, Mableton, GA 30059. Petitioner holds a motor *common carrier* certificate in No. MC 103926 (Sub-29) issued August 8, 1975, authorizing transportation, over irregular routes, of: *Cranes, derricks, power shovels, drag lines, front-end loaders, backhoes,* and *related parts* and *attachments* moving in connection therewith, which because of size or weight require the use of special equipment or special handling, from the plantsite of Bucyrus-Erie Co. at Evansville, IN, to points in AL, FL, GA, LA, MS, NC, and SC, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the named plantsite and destined to points in the above-described destination territory. By the instant petition, petitioner seeks to delete the restriction reading "the operations authorized herein are restricted to the transportation of traffic originating at the named plantsite and destined to points in the above-described destination territory."

MC 126458 (Sub-10M1F) (notice of filing of petition to modify permit), filed July 31, 1978. Petitioner: NICHOLAS J. ASCENZO INC., 1544 Boone Avenue, Bronx, NY 10460. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Petitioner holds a motor *contract carrier* authority in MC 126458 (Sub-10) issued July 17, 1978, authorizing transportation over irregular routes of: *Contractors equipment, materials, and supplies* (except commodities in bulk), between points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, under continuing contract or contracts with Slattery Associated, Inc. By the instant petition, petitioner seeks to add Grand Iron Works, Inc., Bronx, NY, as an additional contracting shipper.

MC 127346 (Sub-2M1F) (notice of filing of petition to modify certificate), filed June 23, 1978. Petitioner: HALL'S FAST MOTOR FREIGHT INC., 330 Oak Tree Avenue, South Plainfield, NJ 07080. Representative: George Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Petitioner holds a motor *common carrier* certificate in MC 127346 (Sub-2), issued February 15, 1967, authorizing transportation, over irregular routes, of: (1) *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), (a) between points in Bergen, Passaic, Hudson, Essex, Union, Middlesex, Hunterdon, Warren, and Somerset Counties, NJ, on the one hand, and, on the other, New York, NY, and points in Westchester and Nassau Counties, NY, and Berks, Lehigh, and Northampton Counties, PA, (b) between New York, NY, and points in Westchester and Nassau Counties, NY, on the one hand, and, on the other, points in Berks, Lehigh, and Northampton Counties, PA, and (2) *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities requiring special equipment) between points in Middlesex, Somerset, and Union Counties, NJ, on the one hand, and, on the other, points in New Castle County, DE, and Philadelphia, Montgomery, Bucks, and Lancaster Counties, PA. By the instant petition, petitioner seeks to modify the above authority by broadening the base territorial description in (1)(a) and (2) to include all points in NJ.

MC 141538 (Sub-1M1F) (notice of filing of petition to modify permit) filed July 19, 1978. Petitioner: GEORGE BROS., INC., P.O. Box 492, Sutton, NE 68979. Representative: Arlyn L. Westergren, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Petitioner holds a motor *contract carrier* permit in MC 141538 Sub 1, issued August 21, 1977, authorizing transportation, over irregular routes, of: *Grain bins, metal buildings, grain handling equipment,* and *materials and equipment* used in the erection of grain bins and metal buildings, from the facilities of Hymark Industries, Inc. at or near Henderson, NE, to points in the United States (except AK and HI). *Augers and grain handling equipment,* from Clay Center, KS, to the facilities of Hymark Industries, Inc. at or near Henderson, NE. *Iron and steel articles,* from Chicago and Hennepin, IL, and Sheffield, IA to the facilities of YORK Manufacturing Co. at or near Henderson, NE. Restriction: The service authorized herein is subject to the following conditions: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Hymark Industries, Inc. of Henderson, NE. The purpose of the modification is to add the authority to transport iron and steel articles from Chicago and Hennepin, IL, and Sheffield, IA to the facilities at YORK Manufacturing Co. at or near Henderson, NE.

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NOTE.—Petitioner has pending a modification of its permit to change the corporate name of the supporting shipper Hymark Industries, Inc. to YORK Manufacturing Co.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with special rule 247(e) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 136605 (Sub-39) (republication), filed November 16, 1977, published in the FEDERAL REGISTER issue of January 12, 1978, and republished this issue. Applicant: DAVIS BROS., INC., P.O. Box 8058, Missoula, MT 59807. Representative: W. E. Seliski (same address as applicant). A Decision of the Commission, Review Board Number 2, decided July 13, 1978, and served August 17, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Materials and supplies* used in the construction, installation, and packaging of pre-cut log buildings, from points in the United States in and west of MI, IN, IL, MO, AR, and TX (except AK, HI, and MT), to the facilities of Real Log Homes, Inc., at Missoula, MT; and (2) *windows, doors, and millwork*, from the facilities of Real Log Homes, Inc., t Missoula, MT, to the facilities of Real Log Homes, inc., at Reno, NW, and Mena, AR, restricted in (1) and (2) above to the transportation of Traffic originating at the named origins and destined to the named destinations, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republican is to indicat the addition of NV as a destination point in part (2) above.

MC 143121 (Sub-4) (republication), filed August 24, 1977, published in the FEDERAL REGISTER issue of November 10, 1977, and republished this issue. Applicant: TILLAMOOK CARRIERS, INC., 8023 East Slausen Avenue, Montevello, CA 90640. Representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. A decision of the Commission, by the initial decision of Administrative Law Judge Geraldine R. Keyes, served June 28, 1978, becomes effective August 17, 1978, finds that the present and public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Such commodities as are dealt in by retail and chain grocery, hardware and drugstores*, and (2) *materials and supplies* (except commodities in bulk), used in the manufacture and distribution of such commodities as follows: (1) Between the facilities of Boyle-Midway Division of American Home Products, in Chicago, IL and Los Angeles, CA, and points in IA, Kansas City, MO, Denver, CO, Salt Lake City, UT, and Phoenix, AZ, (2) from the facilities of Boyle-Midway Division of American Home Products, in Chicago, IL, to Fargo, ND, (3) from the facilities of Boyle-Midway Division of American Home Products, in Los Angeles, CA and in Chicago, IL, to points in MT, ID, OR, and WA, (4) from Portland, OR, to points in MT, WY, ID, WA, and OR, (5) from the facilities of Peterson-Puritan and Aerosol Techniques, in Danville, IL, to the facilities of Boyle-Midway Division of American Home Products, in Chicago, IL and Los Angeles, CA, and (6) between the facilities of Boyle-Midway, in Canton, OH, Chicago, IL, and Cranford, NJ, under a continuing contract or contracts with Boyle-Midway Division of American Home Products in items (1) through (6) above, will be consistent with the public interest and the national transportation policy, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by special rule 247 of the Commission's general rules of practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally, protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly specify the F suffix where the docket is so identified in this notice. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission decision which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

MC 51146 (Sub-594F), filed April 5, 1978, and previously noticed as Sub-494F in the FEDERAL REGISTER issue of July 6, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products, and cellulose materials and products* (except commodities in bulk), (a) from the facilities of International Paper Co., at or near (i) Bastrop and Springhill, LA, and (ii) Moss Point and Redwood, MS, to points in IL, IN, IA, KY, MN, MO, ND, SD, TN, and WI, and (b) from the facilities of International Paper Co., at or near Moss Point and Redwood, MS, to points in MI and OH, and (2) *equipment, materials, and supplies* used in the manufacture or distribution of paper and paper products, and cellulose materials and products (except commodities in bulk), from points in the destination States named in (1) (a) and (b) above, to the facilities of International Paper Co., at or near (i) Mobile, AL, (ii) Bastrop and Springhill, LA, and (iii) Moss Point and Redwood, MS. (Hearing site: Chicago, IL.)

NOTE.—This republication shows the correct sub-number.

MC 83539 (Sub-485F), filed March 8, 1978, and previously noticed in the FEDERAL REGISTER issue of July 20, 1978. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military Parkway, P.O. Box 270535, Dallas, TX 75227. Representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Buildings*, complete, knocked down, or in sections, (b) *building sections and building panels*, and (c) *metal prefabricated structural components and panels*, from the facilities of American Buildings Co., in Carson County, NV, to points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY, and (2) *materials, supplies, and parts*, used in the manufacture and servicing of commodities in (1) (a), (b), and (c) except commodities in bulk), from points in the United States (except AK and HI), to points in Carson County, NV. (Hearing site: Birmingham, AL, or Dallas, TX.)

NOTE.—This republication shows that the facilities of American Buildings Co. are located in Carson County, NV.

MC 83539 (Sub-493F), filed April 14, 1978, and previously noticed as Sub-193F in the FEDERAL REGISTER issue of July 27, 1978. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military Parkway, P.O. Box 270535, Dallas, TX 75227. Representative: Thomas E. James (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulk material handling equipment and parts and components* for bulk material handling equipment, from points in Buchanan County, MO, to points in the United States (except AK and HI). (Hearing site: Kansas City, MO, or Dallas, TX.)

NOTE.—This republication shows the correct sub-number.

MC 140024 (Sub-126F), filed April 14, 1978, and previously noticed as Sub-104 in the FEDERAL REGISTER issue of August 17, 1978. Applicant: J. B. MONTGOMERY, INC., 5565 East 52d Avenue, Commerce City, CO 80022. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from ports of entry on the international boundary line between the United States and Canada, at or near Champlain, NY, to Dallas and Grand Prairie, TX, Lincoln, NE, Elk Grove Village, IL, Los Angeles, CA, and New Orleans, LA. (Hearing site: Denver, CO, or Chicago, IL.)

NOTE.—Common control may be involved. This republication indicates the correct sub-number.

MC 144232 (Sub-1F), filed April 14, 1978. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 4168, Amarillo, TX 79105. Representative: Warren Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by manufacturers and distributors of paint, chemicals, and related articles, between points in the United States (except AK and HI), under a continuing contract with the Sherwin-Williams Co., of Cleveland, OH. (Hearing site: Chicago, IL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 144342 (Sub-2F), filed March 30, 1978, and previously noticed in the FEDERAL REGISTER issue of May 25, 1978. Applicant: CONTAINER TRANSPORT, INC., 630 Terminal Tower Building, Cleveland, OH 44113. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel drums*, from the facilities of Republic Steel Corp., at or near Nitro, WV, to points in IN, KY, OH, and TN under a continuing contract with Republic Steel Corp., of Cleveland, OH. (Hearing site: Washington, DC.)

NOTE.—Common control may be involved. This republican indicates applicant's correct name.

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with special rules 240(c) or 240(d) of the Commission's general rules of practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

MC-F-3694F. Authority sought for purchase by COOPER MOTOR LINES, 301 Hammett Street, Greenville, SC 29608, a portion of the operating rights of Crescent Motor Lines, P.O. Box 2625, Spartanburg, SC 29302, and for acquisition by Cooper Motor Lines, Inc., also of Greenville, SC, of control of the rights through the purchase. Applicant's attorneys: Francis W. McInerny Esq., 1000–16th Street NW., Washington, DC 20036 and Frank B. Hand, Jr., Esq., P.O. Drawer C, Berryville, VA 22611. Operating rights sought to be purchased: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, as a *common carrier*, over irregular routes, between Spartanburg and Lyman, SC, on the one hand, and, on the other, points in NC on and west of Interstate Hwy 77 extending between the NC-SC State line and the VA-NC State line. Approval of the proposed transaction will result in vendee acquiring operating authority to handle traffic which it is presently handling in interline service by interchange with other motor carriers at Spartanburg, SC. Vendor proposes to split its authority to serve the entire State of NC and vendee the portion west of U.S. Hwy 77. Vendee is authorized to operate as a common carrier in NY, NJ, PA; DE MD, DC, VA, NC, SC, and WV. Application has not been filed for temporary authority under section 210a(b) of the Act.

NOTE.—MC-47171 (Sub-114F) is a directly related matter.

MC-F-13713F. Authority is sought for purchase by RONALD HACKENBERGER, d.b.a. RON'S TRUCKING SERVICE, Route 3, Norwalk, OH, 44957, of a portion of the operating rights of BREYER EXCHANGE, INC., 236 Front Street, Southwest,

New Philadelphia, OH, 44663. Applicant's attorney: Richard H. Brandon, 220 West Bridge Street, P.O. Box 97,

Trucking Co., Inc., 161 West Wisconsin Avenue, Milwaukee, WI 53201. Applicant's attorneys: A. N. Jacobs, P.O.

rights. Applicant's attorney: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK, 73157, and Carl L.

ing special equipment), between points in NC on and west of U.S. Hwy 77, on the one hand, and, on the other, Culpeper, Suffolk, Windsor, Norfolk,

Geysers; (b) State Hwy 17 between San Rafael and Santa Cruz, inclusive; (c) Interstate Hwy 80 between San Francisco and Roseville, inclusive; (d)

hicles. (4) Livestock, viz: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids,

New Philadelphia, OH, 44663. Applicant's attorney: Richard H. Brandon, 220 West Bridge Street, P.O. Box 97, Dublin, OH, 43017. Operating rights sought to be purchased: Under certificate MC-138579 authorizing the transportation of: *Lime, limestone* and *limestone products*, as a *common carrier* over irregular routes from the facilities of the National Lime and Stone Co., located at or near Carey (Wyandotte County) OH to points in MI, IN, IL, KY, NJ, PA, TN, WV, WI and MO. Vendee is authorized to operate as a contract carrier under permit MC 113654 in the States of OH, PA, and WV. Application has been filed for temporary authority under section 210a(b).

MC-F-13717F. Authority sought for purchase by AMERICAN TRANSFER & STORAGE CO., 2665 Villa Creek Drive, P.O. Box 34410, Dallas, TX 75234, a portion of the operating rights of Central Forwarding Inc., 310 South 13th Street, P.O. Box 1519, Waco, TX 76703, and for acquisition by W. N. McKinney, also of Dallas, TX, of control of the rights through the purchase. Applicant's attorney: Phillip Robinson, P.O. Box 2207, Austin, TX 78768. Operating rights sought to be purchased: *Household goods*, as defined by the Commission, as a *common carrier*, over irregular routes, between points in TX, on the one hand, and, on the other, points in OK, KS, and MO, and between Houston, TX, on the one hand, and, on the other, points in AR, LA and OK, *explosives and blasting supplies* from Joplin, MO, and points in MO within 5 miles of Joplin, to points in TX, and from Dallas and Houston, TX, and Joplin, MO, and points within 20 miles Dallas and Houston and within 15 miles of Joplin, to powder maganizes and construction job sites in AR and LA; *replacement engines* for disabled aircraft, and *parts* necessary for the installation thereof, from Dallas, TX, to points in NM, AR, OK, KS, and LA, and *defective aircraft engines* from points in MN, AR, OK, KS and LA, to Dallas, TX, *telephone equipment, materials, and supplies*, as a *contract carrier*, over irregular routes, between Dallas, TX, on the one hand, and, on the other, points in 36 Texas counties as more specifically described in permit MC 136577 (Sub-2). Vendee is authorized to operate pursuant to certificate No. MC 126246 as a *common carrier* in AR and TX. Application has been filed for temporary authority under section 210a(b).

MC-F-13719F. Authority sought for purchase by TRI-STATE MOTOR TRANSIT CO., P.O. Box. 113 (Business I-44), Joplin, MO 64801, of the operating rights of Henry Lambert Trucking Co., d.b.a. Henry Lambert Trucking Co., Inc., 161 West Wisconsin Avenue, Milwaukee, WI 53201. Applicant's attorneys: A. N. Jacobs, P.O. Box 113, Joplin, MO 64801, and Paul F. Sullivan, Suite 711, Washington Building, Washington, D.C. 20005. Operating rights sought to be purchased in MC 94597: *Heavy industrial machinery and contractor's equipment, materials, and supplies*, as a *common carrier*, over irregular routes, between points and places in MN, SD, ND, and WI, and Sub-No. 2, *Crude vermiculite ore*, in bulk, in dump vehicles, from Seneca, IL, to Minneapolis, MN. Vendee is authorized to operate pursuant to certificate No. MC 109397 as a *common carrier*, by motor vehicles, throughout the United States. Approval of the proposed transaction will result in vendee acquiring no duplicating authority. Application has not been filed for temporary authority under section 210a(b).

MC-F-13720F. Authority sought for purchase by CHIZEKELEVATOR & TRANSFORT, INC., P.O. Box 147, Cleveland, WI 53063, of a portion of the operating rights of Ralph H. Boelk, an individual, d.b.a. Boelk Truck Lines, Route 2, Mendota, IL 61342, and for acquisition by Carmen and Janic Chizek, both of Route 1, Newton, WI 53063, of control of such rights through the transcation. Applicants' attorneys: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703, and Walter Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. Operating rights sought to be transferred: *Canned vegetables and cranberry products*, as a *common carrier*, over irregular routes, from Manitowoc, WI, to points in IL, KY, and OH, and points in that part of IA and MO on and east of U.S. Hwy 61, from Plainview, MN, to points in KY and OH, and *canned vegetables*, from Bloomer, WI, to points in IL, points in that part of IN north of IN Hwy 26, points in that part of OH north of U.S. Hwy 36, and points in that part of IA and MO on and east of U.S. Hwy 61. Restriction: The authority granted herein is restricted to the transportation of shipments originating at the above-named origins and destined to the above-named destinations. Vendee is authorized to operate as a *common carrier* in MO, IA, WI, IL, OH, IN, MI, MN, PA, AR, KS, KY, MI, and TN. Application has not been filed for temporary authority under section 210a(b).

MC-F-13726F. Authority sought for purchase by LEE WAY MOTOR FREIGHT, INC., 3401 Northwest 63d Street, Oklahoma City, OK 73116, of a portion of the operating rights of O.K. Motor Service, Inc., 5450 South Center Avenue, Summit, IL 60501, and PepsiCo, Inc., Andersonhill Road, Purchase, NY 10577, of control of such rights. Applicant's attorney: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK, 73157, and Carl L. Steiner, 30 South LaSalle Street, Chicago, IL 60603. Operating rights sought to be purchased: *General commodities*, with exceptions, as a *common carrier* over irregular routes, between Chicago, IL, and its commercial zone and Milwaukee, WI, and points in its commercial zone, serving all intermediate points, and Waukesha, WI, as more fully described in Docket MC 52587 and Sub-1 thereto. Vendee is authorized to operate as a *common carrier* of general commodities over primarily regular routes in AL, AR, AZ, CA, CO, GA, IL, IN, IA, KS, KY, MN, MS, MO, NM, NC, NY, OH, OK, PA, SC, TN, TX, VA, and WV, as more fully described in MC 61440. Application has been filed for temporary authority under section 210(a)(b). Vendee proposes to tack the authority sought herein at Chicago, IL, to provide a through service.

Operating Rights Application(s) Directly Related to Finance Proceedings

The following operating rights application(s) are filed in connection with pending finance applications under section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protests shall comply with Special Rule 247(e) of the Commission's general rules of practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

MC 47171 (Sub-114F), filed August 4, 1978. Applicant: COOPER MOTOR LINES, INC., 301 Hammett Street, Greenville, SC 29608. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in NC on and west of U.S. Hwy 77, on the one hand, and, on the other, Culpeper, Suffolk, Windsor, Norfolk, Madison Heights, Petersburg, Lester Manor, Richmond, Fredericksburg, Warrenton, Franklin, Lynchburg, Farmville, Smithfield, Danville, South Boston, Victoria, and Roanoke, VA, DC, Baltimore, and Cumberland, MD, Wilmington and Cheswold, DE, Philadelphia, Biglerville, and York, PA, and points in that part of PA east of the Susquehanna River, Camden and Trenton, NJ, points in Cumberland, Salem, Warren, Sussex, Morris, and Somerset Counties, NJ, New York, NY, and points in NJ and NY within 25 miles of New York, NY, and points in Connecticut west of the Connecticut River. (Gateway to be eliminated: Spartanburg and Lyman, SC.) (Hearing site: Asheville, NC or DC.)

Note.—The purpose of this application is to eliminate the gateway as indicated above. This application is directly related to a finance proceeding docketed MC-F-13694F published in a previous section of this Federal Register issue.

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket 58281 (amendment), filed August 7, 1978. Applicant: KELLER'S FREIGHT LINE, INC., 2270 McKinnon Avenue, San Francisco, CA 94124. Representative: Steven H. Herman, 235 Montgomery Street, Suite 2210, San Francisco, CA 94104. Certificate of public convenience and necessity sought to operate a freight service, as follows: transportation of: *general commodities*, (1) between all points and places in the San Francisco-East Bay Cartage Zone as described in Note A hereof; (2) between all points and places on and within 10 statute miles of the following routes: (a) U.S. Hwy 101 between Asti and Salinas, inclusive, with no service authorized to points north of Asti or to the Geysers; (b) State Hwy 17 between San Rafael and Santa Cruz, inclusive; (c) Interstate Hwy 80 between San Francisco and Roseville, inclusive; (d) State Hwy 238 and Interstate Hwy 580 between San Lorenzo and junction of Interstate Hwy 5, inclusive; (e) State Hwy 120 and Interstate Hwys 5 and 205 between Manteca and junction with Interstate Hwy 580; (f) State Hwy 12 between Santa Rosa and Lodi, inclusive: (g) State Hwy 4 between Pinole and junction with State Hwy 160. inclusive; (h) State Hwy 160 and State Hwy 12 between junction with State Hwy 4 and Rio Vista, inclusive; (i) State Hwy 24 between Oakland and junction with State Hwy 4, inclusive; (j) Interstate Hwy 680 between Vallejo and Warm Spring, inclusive; (k) State Hwy 29 between Vallejo and Rutherford, inclusive, with no service authorized to points north of Rutherford; (l) State Hwy 99 between Sacramento and Modesto, inclusive; (m) Interstate Hwy 5 between Woodland and Sacramento, inclusive; (n) State Hwys 99 and 120 between Stockton and Manteca, inclusive; (o) U.S. Hwy 50 and Folsom Boulevard between Sacramento and Rancho Cordova, inclusive; (p) Interstate Hwys 80, 505 and State Hwy 128 between Vacaville and Winters, inclusive; (q) State Hwy 120 between Manteca and Oakdale, inclusive; (r) State Hwy 1 between San Francisco and Carmel, inclusive; (s) State Hwy 156 between Castroville and Hollister, inclusive; (t) State Hwy 68 between State Hwy 1 and Salinas, inclusive; in performing the service herein authorized, carrier may make use of any and all streets, roads, highways, and bridges necessary or convenient for the performance of said service. Except that purusant to the authority herein granted carrier shall not transport any shipments of: (1) Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in salesmen's hand sample cases, suitcases overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fiberboard, or straw matting); (2) Automobiles, trucks, and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis, freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis. (3) Liquids compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers or a combination of such highway vehicles. (4) Livestock, viz: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers. (5) Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers. (6) Commodities when transported in motor vehicles equipped for mechanical mixing in transit. (7) Logs. (8) Articles of extraordinary value. (9) Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

Note A—San Francisco-East Bay Cartage Zone

The San Francisco-East Bay Cartage Zone includes the area embraced by the following boundary: Beginning at the point where the an Francisco-San Mateo County boundary line meets the Pacific Ocean; then easterly along said boundary line to Lake Merced Boulevard; then southerly along said Lake Merced Boulevard to South Mayfair Avenue; then westerly along said South Mayfair Avenue to Crestwood Drive; then southerly along Crestwood Drive to Southgate Avenue; then westerly along Southgate Avenue to Maddux Drive; then southerly and easterly along Maddux Drive to a point 1 mile west of State Hwy 82; then southeasterly along an imaginary line 1 mile west of and paralleling State Hwy 82 (El Camino Real) to its intersection with the southerly boundary line of the city of San Mateo; then along said boundary line to U.S. Hwy 101 (Bayshore Freeway); then leaving said boundary line proceeding to the junction of Foster City Boulevard and Beach Park Road, then northerly and easterly along Beach Park Road to a point 1 mile south of State Hwy 92; then easterly along an imaginary line 1 mile southerly and paralleling State Hwy 92 to its intersection with State Hwy 17 (Nimitz Freeway); then continuing northeasterly along an imaginary line 1 mile southerly of and paralleling State Hwy 92 to its intersection with an imaginary line 1 mile easterly of and paralleling State Hwy 238; then northerly along said imaginary line 1 mile easterly of and paralleling State Hwy 238 to its intersection with "B" Street, Hayward; then easterly and northerly along "B" Street to Center Street; then northerly along Center Street to Castro Valley Boulevard; then westerly along Castro Valley Boulevard to Redwood Road; then northerly along Redwood Road to Somerset Avenue; then westerly along Somerset Avenue and 168th Street to Foothill Boulevard; then northwesterly along Foothill Boule-

vard to the southerly bolundary line of the city of Oakland; then easterly and northerly along the Oakland boundary line to its intersection with (except the following); (a) used household goods and personal effects not packed in accordance with the crated property requirements; (b) livestock; Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road;

sunshine act meetings

vard to the southerly bolundary line of the city of Oakland; then easterly and northerly along the Oakland boundary line to its intersection with the Alameda-Contra Costa County boundary line; then northwesterly along said county line to its intersection with Arlington Avenue (Berkeley); then northwesterly along Arlington Avenue to a point 1 mile northeasterly of San Pablo Avenue (State Hwy 123); then northwesterly along an imaginary line 1 mile easterly of and paralleling San Pablo Avenue to its intersection with County Road 20 (Contra Costa County); then westerly along County Road 20 to Broadway Avenue; then northerly along Broadway Avenue to San Pablo Avenue (State Hwy 123) to Rivers Street; then westeriy along Rivers Street to 11th Street; then northerly along 11th Street to Johns Avenue; then westerly along Johns Avenue to Collins Avenue; then northerly along Collins Avenue to Morton Avenue, then westerly along Morton Avenue to the Southern Pacific Co. right-of-way and continuing westeriy along the prolongation of Morton Avenue to the shoreline of San Pablo Bay; then southerly and westerly along the shoreline and waterfront of San Pablo Bay to Point San Pablo; then southerly along an imaginary line to the San Francisco waterfront at the foot of Market Street; then westerly along said waterfront and shoreline to the Pacific Ocean; then southerly along the shoreline of the Pacific Ocean to point of beginning. (Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to California Public Utilities Commission, California State Building, 350 McAllister Street, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.)

NOTE.—The purpose of this publication is to amend applicant's present authority by the removal of the restriction. Intrastate, interstate and foreign commerce authority sought.

California Docket 58307, filed August 22, 1978. Applicant: T & K EXPRESSWAYS & MOVING CO., 2537 Hartley Road, Vacaville, CA 95688. Representative: Daniel W. Baker, 100 Pine Street, Suite 2550, San Francisco, CA 94111. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: transportation of *general commodities* (except the following); (a) used household goods and personal effects not packed in accordance with the crated property requirements; (b) livestock; (c) liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquid in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles; (d) commodities when transported in bulk in dump trucks or in hopper-type trucks; (e) commodities when transported in motor vehicles equipped with mechanical mixing in transit; (f) logs; (g) fresh fruits and vegetables; (h) articles of extraordinary value; (i) automobiles, trucks, busses, and trailer coaches and campers. Between points in the San Francisco Territory, as described in note A, on the one hand, and, on the other, hand, points on within 10 miles of points on the following routes: (1) Points on Interstate Hwy 80, between Oakland and Sacramento, inclusive; (2) points on State Hwy 4, between Interstate Hwy 80 and Stockton, inclusive; (3) points on State Hwy 99, between Chico and Sacramento, inclusive. In performing the service, applicant may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of such service.

SAN FRANCISCO TERRITORY

San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said county line to a point 1 mile west of State Hwy 82; southerly along an imaginary line 1 mile west of and paralleling State Hwy 82 to its intersection with Southern Pacific Co. right-of-way at Arastradero Road; southeasterly along the Southern Pacific Co. right-of-way to Pollard Road, including industries served by the Southern Pacific Co. spur line extending approximately 2 miles southwest from Simla to permanente; easterly along Pollard Road to West Parr Avenue; easterly along West Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Co. right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los-Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Hwy 82; northwesterly along State Hwy 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Hwy 238 (Oakland Road); northerly along State Hwy 238 to Warm Springs; northerly along State Hwy 238 (Mission Boulevard) via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard and MacArthur Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard to Warren Boulevard (State Hwy 13); northerly along Warren Boulevard to Broadway Terrace; westeriy along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; westerly, northerly, and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Hwy 123); northerly along San Pablo Avenue to and including the city of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Intrastate, Interstate and foreign commerce authority sought. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to California Public Utilities Commission, California State Building, 350 McAllister Street, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-25767 Filed 9-12-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Home Loan Bank Board	1
Indian Claims Commission	2
Securities and Exchange Commission	3

[6720-01]

1

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 175, Page 40099, Friday, September 8, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 A.M., Wednesday, September 13, 1978.

PLACE: 1700 G Street NW., 6th floor, Washington, D.C.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-327-6677.

CHANGES IN THE MEETING: The following item has been deleted from the agenda:

Proposed Regulations Regarding Forward Commitments To Purchase Securities.

No. 180, September 11, 1978.

[S-1839-78 Filed 9-11-78; 11:19 am]

[7030-01]

2

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., September 20, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the public

Docket 13-F, et al., *James Strong.*
Docket 113, et al., *Chippewa.*
Docket 181-C, *Coleville.*
Docket 272, *Creek.*
Docket 301 (Claims 3-7), *Oneida.*

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, 202-653-6174.

[S-1838-78 Filed 9-11-78; 11:19 am]

[8010-01]

3

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 39216, August 29, 1978.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

TIME AND DATE PREVIOUSLY ANNOUNCED: Thursday, September 7, 1978.

CHANGES IN THE MEETING: The following additional item was considered at the closed meeting, following the 10 a.m. open meeting, on Thursday, September 7, 1978:

Institution of administrative proceedings.

Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required consideration of these matters and that no earlier notice thereof was possible.

SEPTEMBER 8, 1978.

[S-1840-78 Filed 9-11-78; 11:57 am]

WEDNESDAY, SEPTEMBER 13, 1978
PART II

V 43 / 178 SE 13 78 V 4

federal register

WEDNESDAY, SEPTEMBER 13, 1978
PART II

DEPARTMENT OF AGRICULTURE

Forest Service

GRANTS TO STATES FOR ESTABLISHING YOUTH CONSERVATION CORPS PROGRAMS

Final Rule

[3410-11]

Title 36—Parks, Forests, and Public Properties

SECTION 214.2

1. The definition of subgrantee has been expanded to include the word

(Program Narrative Statement) must be included for each project.

SECTION 214.7

SECTION 214.5

1. The recommendation that disabled persons be specifically included under § 214.5 is rejected. Under our

2. It permits the Secretaries' designated representatives to evaluate each proposed project,

3. It provides the basis for the representatives to evaluate the project per-

which further the development and conservation of the natural resources of the United States. The Corps is open to youth of both sexes, and youth of all social, economic, and

V 43 / 178 SEP 13 78

[3410-11]

Title 36—Parks, Forests, and Public Properties

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 214—GRANTS TO STATES FOR ESTABLISHING YOUTH CONSERVATION CORPS PROGRAMS

AGENCY: USDA, Forest Service.

ACTION: Final rule.

SUMMARY: The Forest Service and the Department of the Interior have adopted final regulations relating to grants to States for establishing youth conservation corps programs. After 5 years of program operation, changes in policies and procedures have necessitated the issuance of revised regulations. The revised rules will assure a closer alinement between Federal and State grant program characteristics and will update current procedures to reflect the policy and grants-in-aid requirements. The Department of the Interior will publish the same revision under title 43 of the Code of Federal Regulations, subpart A, part 26 which is published elsewhere in this issue.

EFFECTIVE DATE: These regulations become effective October 1, 1978.

FOR FURTHER INFORMATION, CONTACT:

Hollis Hardy, State Grant Officer, P.O. Box 2417, Washington, D.C. 20013, 202-447-7783.

NOTE.—The Department of Agriculture has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

An impact analysis indicates that there will be no economic or social effects except for an improvement in the quality of the program for the youth involved.

SUPPLEMENTARY INFORMATION: On October 5, 1977, a document was published in the FEDERAL REGISTER (36 CFR Part 214) proposing to revise the rules for Youth Conservation Corps grants to States to assure a closer alinement between Federal and State grant program characteristics and to update current procedures to reflect policy and grants-in-aid requirements. All comments submitted with respect to the proposed revised rules were given due consideration:

A. As a result of comments received, the following changes in the proposed rules are made in addition to language changes for clarification:

SECTION 214.2

1. The definition of subgrantee has been expanded to include the word "county" as suggested by the National Association of Counties.

2. Use of the words "program" and "project" throughout the regulations have been changed to be consistent with their definitions in § 214.2. In addition, the word "camp" has been changed to "project" throughout the regulations.

SECTION 214.3

1. The requirement in § 214.3(3)(c) required a group-living component has been clarified. Recommendations from several States that nonresidential projects be exempt from the group-living requirement is not consistent with the project characteristics of YCC as stated in this section.

SECTION 214.5

1. The wording in the first paragraph of § 214.5(a) has been revised to clarify the requirements for recruitment, as recommended by several program agents, and to clarify the principle that each project should have as near as possible an equivalent number of enrollee positions assigned to males and females.

2. Also, it states that enrollees must have attained the age of 15 by June 1 but not have attained the age of 19 by August 30 as suggested by the Delaware program agent.

3. As suggested by several States, the required workweek for enrollees and the method for calculating enrollee pay in § 214.5(e) has been revised to accommodate States and subgrantees which have established workweeks of less than 40 hours.

4. In § 214.5(f), a statement has been included that, to the maximum extent possible, the grantee should apply the same meal and lodging deduction as used by the Federal program, to standardize enrollee earnings.

5. Requirements for submission of budget revisions, in accordance with attachment K, A-102, are specified in § 214.5(n) when a reduction of 5 percent of enrollees occurs, when grant funds in excess of $5,000, or 5 percent, will not be utilized by the grantee, or when the State matching ratio is reduced.

6. Coverage in the grant of enrollees for accidential injury and tort claims, under State laws, is made mandatory in § 214.5(s), as provided for by FMC 74-4, attachment B, C. 4.

SECTION 214.6

The wording in §§ 214.6(c) and 214.7 has been revised to clarify the requirements for grant application as requested by several States. Only Part III—(Program Narrative Statement) must be included for each project.

SECTION 214.7

1. In accordance with direction from OMB, the grant application procedure for Part II—(Budget Data) has been changed. The standard object class categories printed on the form are to be used. This eliminates the supplemental budget sheet. Definitions of the object class categories are found in the YCC State Grant Procedures Handbook.

2. Project Profile, Part V of the application, has been eliminated. This information has been incorporated into the Program Narrative, Part III.

SECTION 214.8

The requirements for an interim financial status report and an interim performance report have been eliminated. The instructions for submitting enrollee statistical and work accomplishment data have been removed from this section and are placed in the YCC State Grant Procedures Handbook.

B. Certain other recommendations have been carefully considered but have not been accepted. The following suggestions were not adopted for the reasons given:

The recommendation that "adequate assurances should be required from the State to insure that counties and cities receive funds from this pot" is rejected. The YCC Act itself only provides for grants to States, who are then responsible for meeting the objectives of the program. It has proven possible in a number of States to meet the objectives of the YCC State grant program without using subgrantees.

A recommendation that the State recruiter's role be described in the regulations has not been accepted, since these responsibilities are established by a joint Federal-State cooperative agreement. This does not preclude States from including recruitment costs in grants.

SECTION 214.2

The suggestion that §214.2(10) be modified to include a third type of project which would be a residential-nonresidential combination is rejected. Such projects may be established but must be designated as either residential or nonresidential, whichever condition predominates.

SECTION 214.3

The many recommendations regarding the project characteristics covered in § 214.3(c) are rejected. The Secretaries' designated representatives have the authority to allow exceptions to these project characteristics.

SECTION 214.5

1. The recommendation that disabled persons be specifically included under § 214.5 is rejected. Under our present legislation and recruitment and selection policy, handicapped individuals do participate in the program. Every effort is made to insure that no discrimination exists in the program. This includes the handicapped.

2. Recommendations from several States concerning requirements in § 214.5(a) that "the grantee will assure that not more than 10 percent of the enrollees in a project have been YCC enrollees in previous years and that all returnees shall be designated as youth leaders" be modified because some applicants falsify their applications regarding previous participation are rejected. The project director has the authority and obligation to disqualify selected applicants who do not meet the eligibility requirements.

3. A recommendation that the requirement in § 214.5(a) that an equal number of males and females be selected for each project not be required of nonresidential projects since a larger number of males than females apply is rejected as being inconsistent with national YCC program policy. The objective is to have an equivalent number of females and males enrolled in individual projects as well as programwide.

4. Proposals that the provision in the § 214.5(a) requiring an increment of $1.50 per day for youth leaders be modified is rejected in the interest of a uniform pay plan for both Federal and State enrollees.

5. An objection by one State to the stipulation in § 214.5(e) establishing a weekly pay rate based on 30 hours times the current minimum wage rate as being contradictory to the Fair Labor Standards Act and labor contract with State employees is rejected. The Office of the Solicitor, USDI, and the Office of General Counsel, USDA, have advised that this is not contradictory to the Fair Labor Standards Act.

SECTION 214.7

Objections to the requirements of § 214.7(c) that a separate program narrative statement be submitted for each project as being unnecessary and requiring too much paperwork on the part of the program agent are rejected. Under the revised requirements for submitting grant applications, the program narrative statement is the only document now required for each project. This information is needed on a project-by-project basis for the following reasons:

1. It establishes that adequate preliminary planning of work projects has been accomplished by the camp and reviewed by the program agent,

2. It permits the Secretaries' designated representatives to evaluate each proposed project,

3. It provides the basis for the representatives to evaluate the project performance during the operating season,

4. It provides a means for determining when a budget revision is necessary.

SECTION 214.9

1. The recommendation that "the method or formula used to allocate funds to each State" be included in the regulations is rejected. The basis for present allocations is complex and has been covered in several letters sent to the States. The present policy is to prorate the grant share of an annual appropriation is excess of $32 million to all States based on eligible youth population.

2. A recommendation that geographic location be added as a criterion for awarding grants is not accepted. Section 214.9(b), which provides that "the quality of the proposed program in terms of meeting program characteristics and objectives" encompasses consideration of geographic location.

3. A recommendation was made that limits be set for the cost of an enrollee 8-week position as one of the criteria in § 214.9 for awarding grants. The suggestion was that the average national cost per enrollee for the State grant program be listed for both resident and nonresident programs with the provision that a State could deviate by up to 20 percent. Exceptions to the guide figures would require a justification statement by the State program agent. This proposal has to be rejected at this time as there was no opportunity for other States to consider and respond to it.

Accordingly, 36 CFR Part 214, is revised as set forth below:

PART 214—GRANTS TO STATES FOR ESTABLISHING YOUTH CONSERVATION CORPS PROGRAMS

Sec.
214.1 Introduction.
214.2 Definitions.
214.3 Program purpose and objectives.
214.4 Legislation.
214.5 Administrative requirements.
214.6 Request for grant.
214.7 Application format and instructions.
214.8 Program reporting requirements.
214.9 Consideration and criteria for awarding grants.

AUTHORITY: Sec. 4, 86 Stat. 1320, as amended, 88 Stat. 1067 (16 U.S.C. 1704).

§ 214.1 Introduction.

(a) The Youth Conservation Corps (YCC) is a program of summer employment for young men and women, aged 15 through 18, who work, earn, and learn together by doing projects which further the development and conservation of the natural resources of the United States. The Corps is open to youth of both sexes, and youth of all social, economic, and racial classifications who are permanent residents of the United States, its territories, possessions, trust territories, or commonwealths.

(b) The Youth Conservation Corps Act of 1970 (Pub. L. 91-378) provided for a 3-year pilot program to be carried out on lands and waters under the jurisdiction of the Secretary of Agriculture or the Secretary of the Interior. Pub. L. 92-597 amended the 1970 Act to include a pilot program (beginning in fiscal year 1974) of grants to States to assist them in meeting the cost of Youth Conservation Corps projects on non-Federal public lands and waters within the States. Pub. L. 93-408 made the Youth Conservation Corps program permanent.

§ 214.2 Definitions.

(a) Terms used in these regulations are defined as follows:

(1) *Act.* The Youth Conservation Corps Act of 1970. Pub. L. 91-378, as amended.

(2) *Secretaries.* The Secretaries of Agriculture and the Interior, or their designated representatives, who jointly administer the grant program. Within the Department of Agriculture, the YCC program is administered by the Forest Service; within the Department of the Interior, it is administered by the Office of Youth Programs.

(3) *States.* Any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(4) *Grant.* Money or property provided in lieu of money, paid or furnished by the Secretaries pursuant to the Act to a State to carry out a YCC program on non-Federal public lands and waters. The amount of any grant shall be determined jointly by the Secretaries, except that no grant for any project may exceed 80 per centum of the cost (as determined by the Secretaries) of said project.

(5) *Grantee.* Any State which is a recipient of a Federal grant for the operation of a YCC program.

(6) *Subgrantee.* Any public organization, municipality, county or agency which administers non-Federal public lands and waters which successfully applied through a State for the operation of a Youth Conservation Corps project within that State.

(7) *Contractor.* Any public agency or organization or any private nonprofit agency or organization which has been

in existence for at least 5 years which operates a YCC project for a grantee or subgrantee.

(8) *Program agent.* Individual desig-

(3) Develop an understanding and appreciation of the Nation's environment and heritage in participating youth.

ies, possessions, or the Trust Territory of the Pacific Islands, (iii) be employed without regard to the personnel laws, rules, and regulations applicable to full-time employees of the applicant, (iv) be employed for a

(d) Operation of a project or session will be for a minimum of 26 consecutive calendar days. Projects during noncummer periods may be authorized

ies by March 31 of the following operating year.

(l) Allowable costs under the grant program are defined in FMC 74-4 and

standards, or conditions, the Secretaries may jointly suspend the grant, in whole or in part, pending corrective action. Subsequent to or during any

V 43 / 178 SE 13 78

in existence for at least 5 years which operates a YCC project for a grantee or subgrantee.

(8) *Program agent.* Individual designated in writing by the Governor to have program responsibility for all aspects of YCC operations in that State except for those projects conducted under Federal auspices.

(9) *State grant program.* That part of the YCC program carried out on non-Federal public lands and waters by States receiving YCC grants-in-aid.

(10) *Project.* The operating unit of the State YCC grant program. A project will be designated as either residential or nonresidential.

(i) *Residential project.* One in which youth reside either 7 or 5 days per week at a site on or in proximity to the public lands where they conduct their work-learning program.

(ii) *Nonresidential project.* One in which youth reside at home and daily commute to the public lands to conduct their work-learning program.

(11) *Operating year.* January 1 through December 31.

(12) *Non-Federal public lands and waters.* Any lands or waters within the territorial limits of a State owned either in fee simple by a State or political subdivision thereof or over which a State or political subdivision thereof has, as determined by the Secretaries, sufficient long-term jurisdiction so that improvements made as the result of a grant will accrue primarily to the benefit of the public as a whole. Federally owned public lands and waters administered by a State or political subdivision thereof under agreement with a department or agency of the Federal Government are eligible under such definition if the Secretaries determine that the State or political subdivision thereof is entitled to or is likely to retain administrative responsibility for an extended period of time sufficient to justify classification as non-Federal public lands or waters.

§ 214.3 Program purpose and objectives.

(a) The purpose of the Act is to further the development and maintenance of the natural resources of the United States by American youth and in so doing prepare them for the ultimate responsibility of maintaining and managing these resources for the American people. The Departments of Agriculture and the Interior have stressed the following three equally important objectives of the Youth Conservation Corps as reflected in the law:

(1) Accomplish needed conservation work on public lands.

(2) Provide gainful employment for 15- through 18-year-old males and females from all social, economic, and racial backgrounds.

(3) Develop an understanding and appreciation of the Nation's environment and heritage in participating youth.

(b) These objectives will be accomplished in a manner that will provide the youth with an opportunity to acquire increased self-dignity and self-discipline, better work and relate with peers and supervisors, and build lasting cultural bridges between youth from various social, ethnic, racial, and economic backgrounds.

(c) Each YCC project will have, to the maximum extent possible as determined by the Secretaries' representatives, the following characteristics:

(1) A properly balanced and integrated environmental work-learning program in which environmental knowledge and awareness derives principally from meaningful work activities on public lands.

(2) A mixture of youth of both sexes from various social, economic, ethnic, and racial backgrounds which is representative of the youth residing within the recruiting area.

(3) A group-living component, both in residential and nonresidential programs, wherein enrollees have an opportunity to relate to each other and to staff during nonworking hours in activities which promote social interaction and group learning (e.g., evening cookouts, overnight or weekend camping).

(4) An enrollment of sufficient size (not less than 10 enrollees) that will permit social interaction and group learning. The program encourages projects of a size of 20 to 50 enrollees as the most desirable size.

§ 214.4 Legislation.

State programs must meet all of the requirements of section 4 of the Act. Section 4 of the Act which applies to the grant program reads as follows:

SEC. 4 (a). The Secretary of the Interior and the Secretary of Agriculture shall jointly establish a program under which grants shall be made to States to assist them in meeting the cost of projects for the employment of young men and women to develop, preserve, and maintain non-Federal public lands and waters within the States. For purposes of this section, the term "States" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

(b) (1) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary of the Interior and the Secretary of Agriculture. Such application shall be in such form, and submitted in such manner, as the Secretaries shall jointly by regulation prescribe, and shall contain—

(A) Assurances satisfactory to the Secretaries that individuals employed under the project for which the application is submitted shall: (i) Have attained the age of 15 but not attained the age of 19, (ii) be permanent residents of the United States or its territories, possessions, or the Trust Territory of the Pacific Islands, (iii) be employed without regard to the personnel laws, rules, and regulations applicable to full-time employees of the applicant, (iv) be employed for a period of not more than 90 days in any calendar year, and (v) be employed without regard to their sex or social, economic, or racial classification; and

(B) Such other information as the Secretaries may jointly by regulations prescribe.

(2) The Secretaries may approve applications which they determine (A) meet the requirements of pargraph (1), and (B) are for projects which will further the development, preservation, or maintenance of non-Federal public lands or waters within the jurisdiction of the applicant.

(c) (1) The amount of any grant under this section shall be determined jointly by the Secretaries, except that no grant for any project may exceed 80 per centum of the cost (as determined by the Secretaries) of such project.

(2) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretaries find necessary.

(d) Thirty per centum of the sum appropriated under section 6 for any fiscal year shall be made available for grants under this section for such fiscal year.

§ 214.5 Administrative requirements.

The following administrative requirements must be met:

(a) Recruitment and selection will be conducted in accordance with a statewide plan designed to assure:

(1) An equal opportunity for both sexes, for all urban and rural youth regardless of social, economic, ethnic, or racial background, with special outreach efforts toward minority, disadvantaged, nonpublic school youth, and youth having left school before graduation;

(2) That selections will be made on a random basis, without consideration of race, creed, religion, or national origin. Each project should be assigned as near as possible an equal number of slots for males and females;

(3) That enrollees have attained age 15 by June 1 but not age 19 by August 30;

(4) That not more than 10 percent of the enrollees in a project have been YCC enrollees in previous years and all returnees be designated as youth leaders and paid $1.50 per day in addition to their hourly rate of pay.

(b) To the maximum extent practicable, enrollees should be selected from an area within 1 day's surface travel from their home to a residential YCC project.

(c) Capital outlays for facilities should be kept at a minimum. No grant is to be made for construction of residential facilities other than to provide temporary facilities and their necessary basic infrastructure, and necessary renovation or modification of existing facilities.

(d) Operation of a project or session will be for a minimum of 26 consecutive calendar days. Projects during nonsummer periods may be authorized by the Secretaries when it can clearly be demonstrated that enrollment will not interfere with the established educational systems.

(e) The enrollee is an employee of the grantee or subgrantee. Depending on grantee's or subgrantee's work week, grantees will insure that enrollees are engaged in up to 40 hours of work-learning activities each week, 25 percent of which will be in environmental awareness.

(f) To arrive at the enrollee weekly pay rate, the Federal or State minimum hourly wage (whichever is higher) should be multiplied by 30 hours per week, or 75 percent of the number of hours in the grantee or subgrantee established work week, if less than 40 hours. To the maximum extent possible, the grantee should apply the same meal and lodging deduction as used by the Federal program.

(g) The Federal Government will cost-share as part of the grant enrollee pay based on up to 30 hours per week; any cost based on enrollee compensation for more than 30 hours per week will be assumed by the grantee or subgrantee and will not be part of the grant.

(h) Grantees must provide for an effective accident control, health, and safety program. As a minimum, grantees shall follow U.S. Department of Labor Bulletin No. 101, "A Guide to Child Labor Provisions of the Fair Labor Standards Act."

(i) Grantees will have a financial management system which will provide the information called for in attachment G of the Office of Management and Budget (OMB) Circular A-102 (formerly FMC 74-7).

(j) "Request for Advance or Reimbursement," as outlined in OMB Circular A-102, attachment H, item 4(a), will be used to obtain an advance to start and/or maintain the program. It can also be used to obtain a reimbursement during or at the end of a project. An advance, not to exceed 1 month's needs, may be made after approval of the grant application.

(k) Grantees will prepare a "Financial Status Report" required by OMB Circular A-102, attachment H, item 3(a). This report will be prepared on a cash basis. Instructions and forms will be supplied each grantee at the time of grant award. Grantees shall require similar reports from all subgrantees and contractors to facilitate their own reporting to the grantor agencies. The financial status report will be prepared as of December 31 of each operating year. This report will be forwarded in time to reach the Secretaries by March 31 of the following operating year.

(l) Allowable costs under the grant program are defined in FMC 74-4 and OMB Circular A-102.

(m) Records retention and custodial requirements for records are prescribed by attachment C to OMB Circular A-102.

(n) A budget revision is required in advance when the scope of the grant is to be changed through (1) addition or elimination of a project, (2) reduction in the State's grant program of 5 percent or more of enrollees, and/or (3) determination that the grantee will not utilize Federal funds in an amount in excess of $5,000, or 5 percent of the Federal grant, whichever is greater. A budget revision must also be submitted when the State's matching ratio is reduced. No budget revision may be submitted later than March 31 following the end of the operating year. Procedures in attachment K of OMB Circular A-102 will be followed.

(o) Grantees shall comply with the provisions of attachments N and O of OMB Circular A-102 in regard to nonexpendable personal property and procurement standards.

(p) The Secretaries or their designees shall periodically review the conduct of the program of the State.

(q) Grantees will supervise those projects in the State being administered by subgrantees and contractors. Subgrantees and contractors will be required to operate in accordance with the procedures outlined in these regulations and the grant agreement with the State. Periodic inspection of subgrantee projects will be made by the grantee under the direction of the program agent or his designee. Grantees or subgrantees may contract with any public agency or organization or any private nonprofit agency or organization which has been in existence for at least 5 years.

(r) Grantees will meet the financial audit requirements of attachment G to OMB Circular A-102 and will require the same of subgrantees. Copies of audits will be made available to the Secretaries upon request.

(s) Grantees shall provide accidental injury compensation and tort claims coverage under State laws for its enrollees. Enrollees shall be employed without regard to State personnel laws, rules, and regulations applicable to full-time employees. It is not intended that State enrollees be covered for retirement, unemployment compensation, health and life insurance purposes, or that they earn or be granted leave-with-pay or sick leave; such charges shall not be considered a qualifying expense for Federal cost-share purposes.

(t) If the grantee fails to comply with the grant award stipulations, standards, or conditions, the Secretaries may jointly suspend the grant, in whole or in part, pending corrective action. Subsequent to or during any period of suspension of the grant, the Federal Government shall not be obliged to reimburse the grantee for any incurrence of obligations for suspended projects other than direct pay of enrollees and then only for a period of time which both the Secretaries shall determine to be reasonable. In addition, the Secretaries may jointly terminate the grant, in whole or in part. Termination shall be effected by notice of termination. Upon receipt of a notice of termination, the grantee shall:

(1) Discontinue further commitments of grant funds for the terminated project(s).

(2) Cancel all subgrants or contracts, where possible, scheduled for payment with funds budgeted for the terminated project(s).

(3) Within 90 days after receipt of the notice of termination for the entire grant, supply either of the Secretaries with a fincncial status report, along with a refund check for any unused portion of funds advanced, or a request for reimbursement for allowable expenditures incurred in the grant program.

§ 214.6 Request for grant.

(a) Of the amount available for Youth Conservation Corps projects, 30 percent will be allocated for State projects. All States will be given an opportunity to participate in the program. Allocated funds not needed by a State will be reallocated, based on the merit of proposals submitted in accordance with paragraph (c) of this section.

(b) Pursuant to section 4(c)(1) of Pub. L. 93-408, States may receive grants up to but not to exceed 80 percent of the cost of funding any project from the Federal Government. The combined Federal/State costs of individual projects and other program expenses as established in the State grant application determine the Federal-State cost-sharing ratio. Matching State costs can consist of either direct expenditures or services of an inkind nature.

(c) Application for Federal assistance (standard form 424) will be used by applicants in applying for grants under this program. Application forms will be supplied to program agents. Only a program agent may submit an application. A single grant application must be submitted for the entire summer program within each State. A separate application must be used for nonsummer projects. A nonsummer project is defined as one which extends beyond September 30, or begins prior to May 1.

(d) The Secretaries have designated individuals for each State who will jointly represent them. Grant applica-

(3) Project location (nearest city or town and county).

(4) Name of grantee, subgrantee

printed and must be included by the grantee in the grant application:

The grantee agrees to administer tests and

WEDNESDAY, SEPTEMBER 13, 1978
PART III

V 43 / 178 SEP 13 78

(d) The Secretaries have designated individuals for each State who will jointly represent them. Grant applications (original and two copies) must be submitted to the designated representatives of either Secretary. January 1 has been established as the deadline date for acceptance of applications for each operating year. Names and addresses of designated representatives will be furnished to each State. The Secretaries' representatives must jointly approve grant proposals. Approval or disapproval of proposals will be documented by a formal letter to the program agent. The Secretaries' representatives will also be available for technical assistance and will monitor the program.

§ 214.7 Application format and instructions.

Grant application must be made using the Office of Management and Budget approval form (SF-424) entitled "Federal Assistance." Specific instructions and requirements which must be followed are included in the Secretaries' State Grant Procudures Handbook. General instructions for completing the form by part numbers are:

(a) Part I—(SF-424 Cover Sheet, Sections I and II) shall be completed.

(b) Part II—(Budget Data). See YCC State Grant Procedures Handbook for definitions of cost categories and for budget narrative instructions.

(c) Part III—(Program Narrative Statement). Complete a separate description of each project, which will include the following information (items 13, 14, 15, and 16 may be consolidated, if common to all projects):

(1) Project number.

(2) Project name and address.

(3) Project location (nearest city or town and county).

(4) Name of grantee, subgrantee and/or contractor.

(5) Landownership class(es) benefiting from the program—State, county, municipal, or other non-Federal public lands (identify).

(6) Number of male and female youth planned for project, including youth leaders.

(7) Type of project (7-day residential; 5-day residential; nonresidential; other).

(8) Length of session(s) (e.g., number of weeks) and proposed beginning and ending dates per session.

(9) Cost of project.

(10) Description of living conditions, if residentail project (types of facilities, age, condition, tents, cabins, dormitories, food services).

(11) Project staff (number and position titles).

(12) Work-learning program. (Describe major projects, planned units of production if applicable, and any constraints that are anticipated. Explain how environmental learning will be integrated into projects.)

(13) Complete calculation for daily rate of enrollee pay, including deduction for food and lodging.

(14) Description of health and safety program.

(15) Description of enrollee recruiting and selection system. (The statewide recruiting and selection plan may be substituted.)

(16) Description of staff recruiting and selection system, including affirmative action measures to be taken.

(d) Part IV—(Assurances) is preprinted within attachment M, exhibit M-5, OMB Circular A-102, and is to be included as part of the application. The following assurance is not preprinted and must be included by the grantee in the grant application:

The grantee agrees to administer tests and questionnaires; conduct interviews; submit enrollee statistical and work accomplishment data; and otherwise assist the Federal Government in collecting information.

§ 214.8 Program reporting requirements.

(a) Monitoring and reporting of program performance will be in accordance with attachment I of OMB Circular A-102.

(b) The reporting and/or record-keeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

§ 214.9 Consideration and criteria for awarding grants.

The decision by both of the Secretaries' representatives on grants on individual States will consider the following:

(a) The amount of grant funds allocated to the State.

(b) The quality of the proposed program in terms of meeting program characteristics and objectives.

(c) The overall cost per enrollee 8-week position.

(d) Actual prior performance of the State in administering YCC projects.

(e) The performance of the grantee in meeting the conditions of the grant and the requirements of OMB Circular A-102 and FMC 74-4.

DAVID G. UNGER,
Deputy Assistant Secretary for Conservation, Research, and Education.

AUGUST 15, 1978.

[FR Doc. 78-25733 Filed 9-12-78; 8:45 am]

federal register

WEDNESDAY, SEPTEMBER 13, 1978

PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF THE INTERIOR

Office of the Secretary

GRANTS TO STATES FOR ESTABLISHING YOUTH CONSERVATION CORPS PROGRAMS

1. The requirement in § 26.3(c)(3) requiring a group-living component has

2. Project Profile, Part V of the application, has been eliminated. This information has been incorporated into

enrollees in a project have been YCC enrollees in previous years and that all returnees shall be designated as youth leaders" be modified because some applications

for present allocations is complex and has been covered in several letters sent to the States. The present policy is to prorate the grant share of an annual

ried out on lands and waters under the jurisdiction of the Secretary of Agriculture or the Secretary of the Interior. Pub. L. 93-597 amended the 1970

Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR

PART 26—GRANTS TO STATES FOR ESTABLISHING YOUTH CONSERVATION CORPS PROGRAMS

AGENCY: Office of Youth Programs, Interior.

ACTION: Final rule.

SUMMARY: The Department of the Interior and the Department of Agriculture have adopted final regulations relating to grants to States for establishing Youth Conservation Corps programs. After 5 years of program operation, changes in policies and procedures have necessitated the issuance of revised regulations. The revised rules will assure closer alinement between the Federal and State grant program characteristics and will update current procedures to reflect policy and grants-in-aid requirements. The Department of Agriculture has published similar regulations elsewhere in this issue.

EFFECTIVE DATE: These regulations become effective October 1, 1978.

FOR FURTHER INFORMATION, CONTACT:

Vivian Bower, 202-343-8086.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

SUPPLEMENTARY INFORMATION: On October 5, 1977, a document was published in the FEDERAL REGISTER (43 CFR Part 26) proposing to revise the rules for Youth Conservation Corps grants to States to assure a closer alinement between Federal and State grants program characteristics and to update current procedures to reflect policy and grants-in-aid requirements. All comments submitted with respect to the proposed revised rules were given due consideration:

A. As a result of comments received, the following changes in the proposed rules are made in addition to language changes for clarification:

SECTION 26.2

1. The definition of subgrantee has been expanded to include the word "county" as suggested by the National Association of Counties.

2. Use of the words "program" and "project" throughout the regulations have been changed to be consistent with their definitions in § 26.2. In addition, the word "camp" has been changed to "project" throughout the regulations.

SECTION 26.3

1. The requirement in § 26.3(c)(3) requiring a group-living component has been clarified. Recommendations from several States that nonresidential projects be exempt from the group-living requirement is not consistent with the project characteristics of YCC as stated in this section.

SECTION 26.5

1. The wording in the first paragraph of § 26.5(a) has been revised to clarify the requirements for recruitment, as recommended by several program agents, and to clarify the principles that each project should have as near as possible an equivalent number of enrollee positions assigned to males and females.

2. Also, it states that enrollees must have attained the age of 15 by June 1 but not have attained the age of 19 by August 30 as suggested by the Delaware program agent.

3. As suggested by several States, the required workweek for enrollees and the method for calculating enrollee pay in § 26.5(e) has been revised to accommodate States and subgrantees which have established workweeks of less than 40 hours.

4. § 26.5(f), a statement has been included that to the maximum extent possible, the grantee should apply the same meal and lodging deduction as used by the Federal program, to standardize enrollee earnings.

5. Requirements for submission of budget revisions, in accordance with attachment K, A-102, are specified in § 26.5(n) when a reduction of 5 percent of enrollees occurs, when grant funds in excess of $5,000 or 5 percent will not be utilized by the grantee, or when the State matching ratio is reduced.

6. Coverage in the grant of enrollees for accidental injury and tort claims, under State laws, is made mandatory in § 26.5(s), as provided for by FMC 74-4, attachment B, C. 4.

SECTION 26.6

The wording in § 26.6(c) and 26.7 has been revised to clarify the requirements for grant application as requested by several States. Only Part III—(Program Narrative Statement) must be included for each project.

SECTION 26.7

1. In accordance with direction from OMB, the grant application procedure for Part II—(Budget Data) has been changed. The standard object class categories printed on the form are to be used. This eliminates the supplemental budget sheet. Definitions of the object class categories are found in the YCC State Grant Procedures Handbook.

2. Project Profile, Part V of the application, has been eliminated. This information has been incorporated into the Program Narrative, Part III.

SECTION 26.8

The requirements for an interim financial status report and an interim performance report have been eliminated. The instructions for submitting enrollee statistical and work accomplishment data have been removed from this section and are placed in the YCC State Grant Procedures Handbook.

B. Certain other recommendations have been carefully considered but have not been accepted. The following suggestions were not adopted for the reasons given:

The recommendation that "adequate assurances should be required from the State to insure that counties and cities receive funds from this pot" is rejected. The YCC Act itself only provides for grants to States, who are then responsible for meeting the objectives of the program. It has proven possible in a number of States to meet the objectives of the YCC State grant program without using subgrantees.

A recommendation that the State recruiter's role be described in the regulations has not been accepted, since these responsibilities are established by a joint Federal-State cooperative agreement. This does not preclude States from including recruitment costs in grants.

SECTION 26.2

The suggestion that § 26.2(10) be modified to include a third type of project which would be a residential-nonresidential combination is rejected. Such projects may be established but must be disignated as either residential or nonresidential, whichever condition predominates.

SECTION 26.3

The many recommendations regarding the project characteristics covered in § 26.3(c) are rejected. The Secretaries' designated representatives have the authority to allow exceptions to these project characteristics.

SECTION 26.5

1. The recommendation that disabled persons be specifically included under § 26.5 is rejected. Under our present legislation, recruitment and selection policy, handicapped individuals do participate in the program. Every effort is made to insure that no discrimination exists in the program. This includes the handicapped.

2. Recommendations from several States concerning requirements in § 26.5(a) that "the grantee will assure that not more than 10 percent of the enrollees in a project have been YCC enrollees in previous years and that all returnees shall be designated as youth leaders" be modified because some applicants falsify their applications regarding previous participation are rejected. The Project Director has the authority and obligation to disqualify selected applicants who do not meet the eligibility requirements.

3. A recommendation that the requirement in § 26.5(a) that an equal number of males and females be selected for each project not be required of nonresidential projects since a larger number of males than females apply is rejected as being inconsistent with National YCC program policy. The objective is to have an equivalent number of females and males enrolled in individual projects as well as programwide.

4. Proposals that the provision in the § 26.5(a) requiring an increment of $1.50 per day for youth leaders be modified is rejected in the interest of a uniform pay plan for both Federal and State enrollees.

5. An objection by one State to the stipulation in § 26.5(e) establishing a weekly pay rate based on 30 hours times the current minimum wage rate as being contradictory to the Fair Labor Standards Act and labor contract with State employees is rejected. The Office of the Solicitor, USDI, and the Office of General Counsel, USDA, have advised that this is not contradictory to the Fair Labor Standards Act.

SECTION 26.7

Objections to the requirements of § 26.7(c) that a separate program narrative statement be submitted for each project as being unnecessary and requiring too much paperwork on the part of the program agent are rejected. Under the revised requirements for submitting grant applications, the program narrative statement is the only document now required for each project. This information is needed on a project-by-project basis for the following reasons:

1. It establishes that adequate preliminary planning of work projects has been accomplished by the camp and reviewed by the Program Agent.

2. It permits the Secretaries' designated representatives to evaluate each proposed project.

3. It provides the basis for the representatives to evaluate the project performance during the operating season.

4. It provides a means for determining when a budget revision is necessary.

SECTION 26.9

1. The recommendation that "the method or formula used to allocate funds to each State" be included in the regulations is rejected. The basis for present allocations is complex and has been covered in several letters sent to the States. The present policy is to prorate the grant share of an annual appropriation in excess of $32,000,000 to all States based on eligible youth population.

2. A recommendation that geographic location be added as a criterion for awarding grants is not accepted. Section 26.9(b), which provides that "the quality of the proposed program in terms of meeting program characteristics and objectives" encompasses consideration of geographic location.

3. A recommendation was made that limits be set for the cost of an enrollee 8-week position as one of the criteria in § 26.9 for awarding grants. The suggestion was that the average National cost per enrollee for the State grant program be listed for both resident and nonresident programs with the provision that a State could deviate by up to 20 percent. Exceptions to the guide figures would require a justification statement by the State Program Agent. This proposal has to be rejected at this time as there was no opportunity for other States to consider and respond to it.

The primary author of this document is: Vivian Bower, Office of Youth Programs, USDI, 202-343-8086.

Dated: September 8, 1978.

JAMES A. JOSEPH,
Deputy Secretary of the Interior.

Accordingly, 43 CFR part 26, is revised as set forth below:

Sec.
26.1 Introduction.
26.2 Definitions.
26.3 Program purpose and objectives.
26.4 Legislation.
26.5 Administrative requirements.
26.6 Request for grant.
26.7 Application format and instructions.
26.8 Program reporting requirements.
26.9 Consideration and criteria for awarding grants.

AUTHORITY: Sec. 4, 86 Stat. 1320, as amended, 88 Stat. 1067 (16 U.S.C. 1704)

§ 26.1 Introduction.

(a) The Youth Conservation Corps (YCC) is a program of summer employment for young men and women, aged 15 through 18, who work, earn, and learn together by doing projects which further the development and conservation of the natural resources of the United States. The corps is open to youth of both sexes, and youth of all social, economic, and racial classifications who are permanent residents of the United States, its territories, possessions, trust territories or commonwealths.

(b) The Youth Conservation Corps Act of 1970 (Pub. L. 91-378) provided for a 3-year pilot program to be carried out on lands and waters under the jurisdiction of the Secretary of Agriculture or the Secretary of the Interior. Pub. L. 92-597 amended the 1970 Act to include a pilot program (beginning in fiscal year 1974) of grants to States to assist them in meeting the cost of Youth Conservation Corps projects on non-Federal public lands and waters within the States. Pub. L. 93-408 made the Youth Conservation Corps program permanent.

§ 26.2 Definitions.

(a) Terms used in these Regulations are defined as follows:

(1) *Act.* The Youth Conservation Corps Act of 1970. Pub. L. 91-378, as amended.

(2) *Secretaries.* The Secretaries of Agriculture and the Interior, or their designated representatives, who jointly administer the grant program. Within the Department of Agriculture, the YCC program is administered by the Forest Service; within the Department of the Interior it is administered by the Office of Youth Programs.

(3) *States.* Any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(4) *Grant.* Money or property provided in lieu of money, paid or furnished by the Secretaries pursuant to the Act to a State to carry out a YCC program on non-Federal public lands and waters. The amount of any grant shall be determined jointly by the Secretaries, except that no grant for any project may exceed 80 per centum of the cost (as determined by the Secretaries) of said project.

(5) *Grantee.* Any State which is a recipient of a Federal grant for the operation of a YCC program.

(6) *Subgrantee.* Any public organization, municipality, county, or agency which administers non-Federal public lands and waters which successfully applied through a State for the operation of a Youth Conservation Corps project within that State.

(7) *Contractor.* Any public agency or organization or any private nonprofit agency or organization which has been in existence for at least 5 years which operates a YCC project for a grantee or subgrantee.

(8) *Program agent.* Individual designated in writing by the Governor to have program responsibility for all aspects of YCC operations in that State except for those projects conducted under Federal auspices.

(9) *State grant program.* That part of the YCC program carried out on

non-Federal public lands and waters by States receiving YCC grants-in-aid.

(10) *Project.* The operating unit of the State YCC grant program. A project

from various social, ethnic, racial and economic backgrounds.

(c) Each YCC project will have, to the maximum extent possible as deter-

(2) The Secretaries may approve applications which they determine (A) meet the requirements of paragraph (1), and (B) are for projects which will further the develop-

on grantee's or subgrantee's workweek, grantees will insure that enrollees are engaged in up to 40 hours of work-learning activities each week, 25

(n) A budget revision is required in advance when the scope of the grant is to be changed through (1) addition or elimination of a project, (2) reduction in the State's grant program of 5 per-

enrollees and then only for a period of time which both the Secretaries shall determine to be reasonable. In addition, the Secretaries may jointly terminate the grant, in whole or in part.

non-Federal public lands and waters by States receiving YCC grants-in-aid.

(10) *Project.* The operating unit of the State YCC grant program. A project will be designated as either residential or nonresidential.

(i) *Residential project.* One in which youth reside either 7 or 5 days per week at a site on or in proximity to the public lands where they conduct their work-learning program.

(ii) *Nonresidential project.* One in which youth reside at home and daily commute to the public lands to conduct their work-learning program.

(11) *Operating year.* January 1 through December 31.

(12) *Non-Federal public lands and waters.* Any lands or waters within the territorial limits of a State owned either in fee simple by a State or political subdivision thereof or over which a State or political subdivision thereof has, as determined by the Secretaries, sufficient long-term jurisdiction so that improvements made as the result of a grant will accrue primarily to the benefit of the public as a whole. Federally owned public lands and waters administered by a State or political subdivision thereof under agreement with a Department or Agency of the Federal Government are eligible under such definition if the Secretaries determine that the State or political subdivision thereof is entitled to or is likely to retain administrative responsibility for an extended period of time sufficient to justify classification as non-Federal public lands or waters.

26.3 Program purpose and objectives.

(a) The purpose of the Act is to further the development and maintenance of the natural resources of the United States by American youth and in so doing prepare them for the ultimate responsibility of maintaining and managing these resources for the American people. The Departments of Agriculture and the Interior have stressed the following three equally important objectives of the Youth Conservation Corps as reflected in the law:

(1) Accomplish needed conservation work on public lands.

(2) Provide gainful employment for 15- through 18-year-old males and females from all social, economic, and racial backgrounds.

(3) Develop an understanding and appreciation of the Nation's environment and heritage in participating youth.

(b) These objectives will be accomplished in a manner that will provide the youth with an opportunity to acquire increased self-dignity and self-discipline, better work and relate with peers and supervisors, and build lasting cultural bridges between youth from various social, ethnic, racial and economic backgrounds.

(c) Each YCC project will have, to the maximum extent possible as determined by the Secretaries' representatives, the following characteristics:

(1) A properly balanced and integrated environmental work-learning program in which environmental knowledge and awareness derives principally from meaningful work activities on public lands.

(2) A mixture of youth of both sexes from various social, economic, ethnic, and racial backgrounds which is representative of the youth residing within the recruiting area.

(3) A group-living component, both in residential and nonresidential programs, wherein enrollees have an opportunity to relate to each other and to staff during nonworking hours in activities which promote social interaction and group learning (e.g., evening cookouts, overnight or weekend camping).

(4) An enrollment of sufficient size (not less than 10 enrollees) that will permit social interaction and group learning. The program encourages projects of a size of 20 to 50 enrollees as the most desirable size.

§ 26.4 Legislation.

State programs must meet all of the requirements of section 4 of the act. Section 4 of the act which applies to the grant program reads as follows:

Sec. 4(a). The Secretary of the Interior and the Secretary of Agriculture shall jointly establish a program under which grants shall be made to States to assist them in meeting the cost of projects for the employment of young men and women to develop, preserve, and maintain non-Federal public lands and waters within the States. For purposes of this section, the term "States" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

(b)(1) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary of the Interior and the Secretary of Agriculture. Such application shall be in such form, and submitted in such manner, as the Secretaries shall jointly by regulation prescribe, and shall contain—

(A) Assurances satisfactory to the Secretaries that individuals employed under the project for which the application is submitted shall: (i) Have attained the age of 15 but not attained the age of 19, (ii) be permanent residents of the United States or its territories, possessions, or the Trust Territory of the Pacific Islands, (iii) be employed without regard to the personnel laws, rules, and regulations applicable to full-time employees of the applicant, (iv) be employed for a period of not more than 90 days in any calendar year, and (v) be employed without regard to their sex or social, economic, or racial classification; and

(B) Such other information as the Secretaries may jointly by regulation prescribe.

(2) The Secretaries may approve applications which they determine (A) meet the requirements of paragraph (1), and (B) are for projects which will further the development, preservation, or maintenance of non-Federal public lands or waters within the jurisdiction of the applicant.

(c)(1) The amount of any grant under this section shall be determined jointly by the Secretaries, except that no grant for any project may exceed 80 per centum of the cost (as determined by the Secretaries) of such project.

(2) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretaries find necessary.

(d) Thirty per centum of the sum appropriated under section 6 for any fiscal year shall be made available for grants under this section for such fiscal year.

§ 26.5 Administrative requirements.

The following administrative requirements must be met:

(a) Recruitment and selection will be conducted in accordance with a Statewide plan designed to assure:

(1) An equal opportunity for both sexes, for all urban and rural youth regardless of social, economic, ethnic or racial background, with special outreach efforts toward minority, disadvantaged, non-public school youth, and youth having left school before graduation;

(2) That selections will be made on a random basis, without consideration of race, creed, religion, or national origin. Each project should be assigned as near as possible an equal number of slots for males and females;

(3) That enrollees have attained age 15 by June 1 but not age 19 by August 30;

(4) That not more than 10 percent of the enrollees in a project have been YCC enrollees in previous years and all returnees be designated as youth leaders and paid $1.50 per day in addition to their hourly rate of pay.

(b) To the maximum extent practicable, enrollees should be selected from an area within 1 day's surface travel from their home to a residential YCC project.

(c) Capital outlays for facilities should be kept at a minimum. No grant is to be made for construction of residential facilities other than to provide temporary facilities and their necessary basic infrastructure, and necessary renovation or modification of existing facilities.

(d) Operation of a project or session will be for a minimum of 26 consecutive calendar days. Projects during nonsummer periods may be authorized by the Secretaries when it can clearly be demonstrated that enrollment will not interfere with the established educational systems.

(e) The enrollee is an employee of the grantee or subgrantee. Depending on grantee's or subgrantee's work-week, grantees will insure that enrollees are engaged in up to 40 hours of work-learning activities each week, 25 percent of which will be in environmental awareness.

(f) To arrive at the enrollee weekly pay rate, the Federal or State minimum hourly wage (whichever is higher) should be multiplied by 30 hours per week, or 75 percent of the number of hours in the grantee or subgrantee established work-week, if less than 40 hours. To the maximum extent possible, the grantee should apply the same meal and lodging deduction as used by the Federal program.

(g) The Federal Government will cost-share as part of the grant enrollee pay based on up to 30 hours per week; any cost based on enrollee compensation for more than 30 hours per week will be assumed by the grantee or subgrantee and will not be part of the grant.

(h) Grantees must provide for an effective accident control, health, and safety program. As a minimum, grantees shall follow U.S. Department of Labor Bulletin No. 101, "A Guide to Child Labor Provisions of the Fair Labor Standards Act."

(i) Grantees will have a financial management system which will provide the information called for in attachment G of the Office of Management and Budget (OMB) circular A-102 (formerly FMC 74-7).

(j) "Request for Advance or Reimbursement," as outlined in OMB circular A-102, attachment H, item 4(a), will be used to obtain an advance to start and/or maintain the program. It can also be used to obtain a reimbursement during or at the end of a project. An advance, not to exceed 1 month's needs, may be made after approval of the grant application.

(k) Grantees will prepare a "Financial Status Report" required by OMB circular A-102, attachment H, item (3)a. This report will be prepared on a cash basis. Instructions and forms will be supplied each grantee at the time of grant award. Grantees shall require similar reports from all subgrantees and contractors to facilitate their own reporting to the grantor agencies. The Financial Status Report will be prepared as of December 31 of each operating year. This report will be forwarded in time to reach the Secretaries by March 31 of the following operating year.

(l) Allowable costs under the grant program are defined in FMC 74-4 and OMB circular A-102.

(m) Records retention and custodial requirements for records are prescribed by attachment C to OMB circular A-102.

(n) A budget revision is required in advance when the scope of the grant is to be changed through (1) addition or elimination of a project, (2) reduction in the State's grant program of 5 percent or more of enrollees, and/or (3) determination that the grantee will not utilize Federal funds in amount in excess of $5,000 or 5 percent of the Federal grant, whichever is greater. A budget revision must also be submitted when the State's matching ratio is reduced. No budget revision may be submitted later than March 31 following the end of the operating year. Procedures in attachment K of OMB circular A-102 will be followed.

(o) Grantees shall comply with the provisions of attachments N and O of OMB circular A-102 in regard to nonexpendable personal property and procurement standards.

(p) The Secretaries or their designees shall periodically review the conduct of the program of the State.

(q) Grantees will supervise those projects in the State being administered by subgrantees and contractors. Subgrantees and contractors will be required to operate in accordance with the procedures outlined in these regulations and the grant agreement with the State. Periodic inspection of subgrantee projects will be made by the grantee under the direction of the program agent or his designee. Grantees or subgrantees may contract with any public agency or organization or any private nonprofit agency or organization which has been in existence for at least 5 years.

(r) Grantees will meet the financial audit requirements of attachment G to OMB circular A-102 and will require the same of subgrantees. Copies of audits will be made available to the Secretaries upon request.

(s) Grantees shall provide accidental injury compensation and tort claims coverage under State laws for its enrollees. Enrollees shall be employed without regard to State personnel laws, rules, and regulations applicable to full-time employees. It is not intended that State enrollees be covered for retirement, unemployment compensation, health and life insurance purposes, or that they earn or be granted leave-with-pay or sick leave; such charges shall not be considered a qualifiying expense for Federal cost-share purposes.

(t) If the grantee fails to comply with the grant award stipulations, standards, or conditions, the Secretaries may jointly suspend the grant, in whole or in part, pending corrective action. Subsequent to or during any period of suspension of the grant, the Federal Government shall not be obligated to reimburse the grantee for any incurrence of obligations for suspended projects other than direct pay of enrollees and then only for a period of time which both the Secretaries shall determine to be reasonable. In addition, the Secretaries may jointly terminate the grant, in whole or in part. Termination shall be effected by notice of termination. Upon receipt of a notice of termination, the grantee shall:

(1) Discontinue further commitments of grant funds for the terminated project(s).

(2) Cancel all sub-grants or contracts, where possible, scheduled for payment with funds budgeted for the terminated project(s).

(3) Within 90 days after receipt of the notice of termination for the entire grant, supply either of the Secretaries with a financial status report, along with a refund check for any unused portion of funds advanced, or a request for reimbursement for allowable expenditures incurred in the grant program.

§ 26.6 Request for grant.

(a) Of the amount available for Youth Conservation Corps projects, 30 percent will be allocated for State projects. All States will be given an opportunity to participate in the program. Allocated funds not needed by a State will be reallocated, based on the merit of proposals submitted in accordance with paragraph (c) of this section.

(b) Pursuant to section (4)(c)(1) of Pub. L. 93—408, States may receive grants up to but not to exceed 80 percent of the cost of funding any project from the Federal Government. The combined Federal/State costs of individual projects and other program expenses as established in the grant application determine the Federal/State cost-sharing ratio. Matching State costs can consist of either direct expenditures or services of an in-kind nature.

(c) Application for Federal Assistance (Standard Form 424) will be used by applicants in applying for grants under this program. Application forms will be supplied to Program Agents. Only a Program Agent may submit an application. A single grant application must be submitted for the entire summer program within each State. A separate application must be used for non-summer projects. A non-summer project is defined as one which extends beyond September 30, or begins prior to May 1.

(d) The Secretaries have designated individuals for each State who will jointly represent them. Grant applications (original and two copies) must be submitted to the designated reresentative of either Secretary. January 1 has been established as the deadline date for acceptance of applications for each operating year. Names and addresses of designated representatives will be

furnished to each State. The Secretaries' representatives must jointly approve grant proposals. Approval or disapproval of proposals will be docu-

county, municipal or other non-Federal public lands (identify).

(6) Number of male and female youth planned for project, including

grantee in the grant application: The grantee agrees to administer tests and questionnaires; conduct interviews; submit enrollee statistical and work accomplishment data; and otherwise

WEDNESDAY, SEPTEMBER 13, 1978

PART IV

furnished to each State. The Secretaries' representatives must jointly approve grant proposals. Approval or disapproval of proposals will be documented by a formal letter to the Program Agent. The Secretaries' representatives will also be available for technical assistance and will monitor the program.

§ 26.7 Application format and instructions.

Grant application must be made using the Office of Management and Budget approved form (SF-424) entitled "Federal Assistance." Specific instructions and requirements which must be followed are included in the Secretaries' State Grant Procedures Handbook. General instructions for completing the form by part numbers are:

(a) Part I—(SF-424 Cover Sheet, Sections I and II) shall be completed.

(b) Part II—(Budget Data). See YCC State Grant Procedures Handbook for definitions of cost categories and for budget narrative instructions.

(c) Part III—(Program Narrative Statement). Complete a separate description of each project, which will include the following information (Items 13, 14, 15, and 16 may be consolidated, if common to all projects):

(1) Project number.

(2) Project name and address.

(3) Project location (nearest city or town and county).

(4) Name of Grantee, Sub-Grantee and/or Contractor.

(5) Land Ownership class(es) benefiting from the program—State, county, municipal or other non-Federal public lands (identify).

(6) Number of male and female youth planned for project, including youth leaders.

(7) Type of project (7-day residential; 5-day residential; non-residential; other).

(8) Length of session(s) (e.g., number of weeks) and proposed beginning and ending dates per session.

(9) Cost of project.

(10) Description of living conditions, if residential project (types of facilities, age, condition, tents, cabins, dormitories, food service).

(11) Project staff (number and position titles).

(12) Work-learning program. (Describe major projects, planned units of production if applicable, and any constraints that are anticipated. Explain how environmental learning will be integrated into projects.)

(13) Complete calculation for daily rate of enrollee pay, including deduction for food lodging.

(14) Description of health and safety program.

(15) Description of enrollee recruiting and selection system. (The Statewide recruiting and selection plan may be substituted.)

(16) Description of staff recruiting and selection system, including affirmative action measures to be taken.

(d) Part IV—(Assurances) is preprinted within Attachment M, Exhibit M-5, OMB Circular A-102, and is to be included as part of the application. The following assurance is not preprinted and must be included by the grantee in the grant application: The grantee agrees to administer tests and questionnaires; conduct interviews; submit enrollee statistical and work accomplishment data; and otherwise assist the Federal Government in collecting information.

§ 26.8 Program reporting requirements.

(a) Monitoring and reporting of program performance will be in accordance with Attachment I of OMB Circular A-102.

(b) The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

§ 26.9 Consideration and criteria for awarding grants.

The decision by both of the Secretaries' representatives on grants to individual States will consider the following:

(a) The amount of grant funds allocated to the State.

(b) The quality of the proposed program in terms of meeting program characteristics and objectives.

(c) The overall cost per enrollee 8-week position.

(d) Actual prior performance of the State in administering YCC projects.

(e) The performance of the grantee in meeting the conditions of the grant and the requirements of OMB Circular A-102 and FMC 74-4.

[FR Doc. 78-25734 Filed 9-12-78; 8:45 am]

federal register

WEDNESDAY, SEPTEMBER 13, 1978

PART IV

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF AGRICULTURE

Forest Service

Roadless Area Review and Evaluation

RARE II Update

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

2. MINERALS, OIL, AND GAS

Steps are being taken to refine data on critical mineral and oil and gas

timber harvest which would be caused by leaving areas roadless by intensifying investments in timber production within areas already roaded. This

cations suggested by the public will be strongly considered.

ADEQUACY OF DISPLAYED ALTERNATIVES

The Forest Service realistically con-

months. For this reason, the Forest Service concluded all comment must be received by the agency by October

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

ROADLESS AREA REVIEW AND EVALUATION (RARE II)

RARE II Update

RARE II is an accelerated land management planning process designed to determine which of more than 2,600 tracts of roadless and undeveloped national forest system land should be allocated to: (1) wilderness use, (2) nonwilderness use, or (3) further planning for all uses. A national draft environmental statement, tied to 20 regional and State supplements, was issued June 15 for public comment.

Building on the Department of Agriculture's commitment to keep the public as fully up to date as possible on the developments and status of the national forest system roadless area review and evaluation (RARE II) project, we have prepared this progress report.

Some questions have arisen about: (1) availability of additional data, (2) clarity of some points in the draft environmental statement, (3) adequacy of displayed alternatives, and (4) the final date when public comments will be accepted on the RARE II draft environmental statement. Following is clarification of these subjects:

Availability of Data

Although the draft environmental statement has been issued, the Forest Service has continued to improve its information base as a means of making the final product (the final environmental statements) as sound as possible. Data are being refined continuously during the 3½ month public comment period. As data are revised or refined, they are immediately made available to the public through any Forest Service regional or forest supervisor's office. Examples of this data refinement include:

1. DEVELOPMENT OPPORTUNITY RATING SYSTEM (DORS)

As part of the economic analysis for the final RARE II product, DORS is a system to establish relative ratings of areas on the basis of their cost-effectiveness relationships. Through a range of ratings (0 to 15), it expresses relative potentials for development of known nonwilderness resources, and it gauges opportunity costs based on estimates of total present net values of nonwilderness resources which could be lost through wilderness classification. We anticipate these indices, based on data available in late August, will be available in mid-September at regional and forest supervisors' offices.

2. MINERALS, OIL, AND GAS

Steps are being taken to refine data on critical mineral and oil and gas areas, particularly those with high potential. Nearly 500 areas with high critical mineral potential and 400 with high energy potential were identified in the draft statement. Information on how these data are being refined will be available in mid-September at regional forester and forest supervisor offices.

3. RPA RELATIONSHIPS

The Forest Service is working on determination of the relationship of the RARE II roadless areas and the resource Planning Act program goals. When this task is complete, an announcement to that effect will be made, including a very short resume of the relationships and the public will be informed as to where more detailed information might be obtained.

4. ADDITIONAL DISPLAY

The Forest Service is presently preparing a display of those roadless areas, amounting to nearly two-thirds of the roadless acreage, which are in the top half of the wilderness attributes ratings scale of each of the nine regions. It will be used as an evaluation reference point. Previously, it had been an intermediate phase of alternative I. Alternative I placed all areas in the top half of the wilderness attributes ratings in the wilderness recommendation category, except for those having a high level of nonwilderness resource potential. These exceptions were allocated to further planning. This display being prepared shows those areas with the high wilderness attributes rating before any of them were moved into further planning. The display and its associated data will be available for public review in mid-September—again at regional or forest supervisors' offices.

5. DRAFT ENVIRONMENTAL STATEMENT DATA BASE AVAILABLE

A great deal of detailed data was compiled to prepare the draft environmental statement and the State and regional supplements. All of it was, of course, not displayed because of the great volume involved. It was organized and summarized so the documents would be readily understandable by the public in a reasonably manageable package. The background and other supporting data which went into the June 15 publications can be reviewed and studied at regional forester or forest supervisors' offices right now.

6. ROADLESS AREAS TRADEOFFS STUDY

The Forest Service has been conducting a study into the potential for offsetting the reductions in levels of timber harvest which would be caused by leaving areas roadless by intensifying investments in timber production within areas already roaded. This study has now been completed and the results are expected to be published by mid-September. Copies of the study are available from Pacific Northwest experiment station and will be made available by the Forest Service upon request.

Clarity of Draft Environmental Statement Information

Erroneous conclusions have been drawn by some reviewers on two subjects in the draft statement—grazing in wilderness and changing of area boundaries. To clarify these points, the following explanations are offered:

1. EFFECTS OF WILDERNESS DESIGNATION ON GRAZING

A number of persons have expressed concerns that the displays in the draft environmental statement overstate the effects on grazing of wilderness designation. Actually, they are not necessarily overstated, but they do not make obvious the time frames involved. The effects would not take immediately, as some draft environmental statement reviewers might conclude. A number of years may pass before the grazing outputs under a wilderness management situation reach the levels displayed in the tables. The display tables show the entire effect, leading some to believe the effect will be immediate. Among the factors which might cause a reduction in grazing capacity over a period of time under wilderness management are prohibition of use of motorized vehicles and equipment, prohibition of vegetation manipulation, and possible conversion of some existing improvements to those having less adverse impact on wilderness values.

2. BOUNDARY ADJUSTMENT IN RARE II

The RARE II process contemplates that some roadless areas may have their boundaries adjusted prior to decisionmaking as to whether wilderness or nonwilderness uses should be directed. Many of these would occur where the presence of significant nonwilderness output potential conflicts with high wilderness value, resulting in controversy over allocation of the area. Several Forest Service regions have made boundary adjustments during the DES process to reduce such controversy.

The Forest Service will consider additional situations where modification of boundaries might result in segregating the features which cause an area allocation to be controversial. Any such boundary adjustments will be suggested in the final course of action recommended. Also, any such modifications suggested by the public will be strongly considered.

3. AREAS PLACED IN FURTHER PLANNING

Many people have asked how areas placed in further planning will be handled in the future. Provision for the further planning category acknowledges that decisions cannot be issued on all areas during the RARE II process. There are a number of reasons why an area might be placed in further planning. Examples include: insufficient data available, significant public disagreement on an area, the need for additional steps required for congressionally designated study areas, etc.

Except for the specific procedural steps required for congressionally designated studies, these areas are simply remanded to regular national forest land management planning.

This planning will occur at the national forest level under the guidance of planning regulations provided for in the National Forest Management Act. Congressionally mandated study areas will follow the procedures outlined in the statute directing the study.

The resource opportunities represented in the further planning category will provide additional flexibility when considering the 1980 update for the Resource Planning Act (RPA) program alternatives. The final RPA program will provide direction to national forest land management planning.

Adequacy of Displayed Alternatives

The Forest Service realistically concluded there was no way to display all possible alternatives in the DES. It did select 10 alternatives ranging from recommendation of all 62 million acres of national forest roadless areas as wilderness to recommendation of all 62 million acres for nonwilderness allocation, as well as a no-action alternative. These three extremes and the seven other alternatives were designed to illustrate ways that the areas might be allocated. Since the final recommendation will be determined on an area-by-area and approach basis, public reviewers should not be constrained by the acreage ranges in the DES alternative groupings. The public can influence the process most by commenting on the individual areas and on the criteria and approaches which should be used in forming the final recommendation.

Deadline for Public Comments

Because of this administration's commitment to completing the final environmental statement by the end of this year, the Forest Service had earlier decided it would need to analyze the public comment, complete the evaluation of this comment and other data, and go through the complex process of decisionmaking on 2,600 areas within a period of less than 3 months. For this reason, the Forest Service concluded all comment must be received by the agency by October 1. This restriction of time is still critical, but because of possible mail delays and activities attendant with the conclusion of summer vacations, the agency has decided to accept written comment if it is postmarked no later than October 1. The practicality of incorporating these comments into the analysis while still meeting the remaining deadlines will require that the written comments reach the Forest Service by October 6.

It must be emphasized, however, that every effort should be made by the reviewing and commenting public to submit comments as early as possible, so a last-minute crush can be avoided.

Conclusion

Printed copies of this update of the RARE II process are available at every Regional Office and at every National Forest Supervisor's office. Comments by the public are welcome on it, as well as on the draft environmental statement, the State and regional supplements, or any of the informational material on which they are based.

Dated: September 7, 1978.

JOHN R. MCGUIRE,
Chief.

[FR Doc. 78-25717 Filed 9-12-78; 8:45 am]

V 4 3 / 1 7 8

S E

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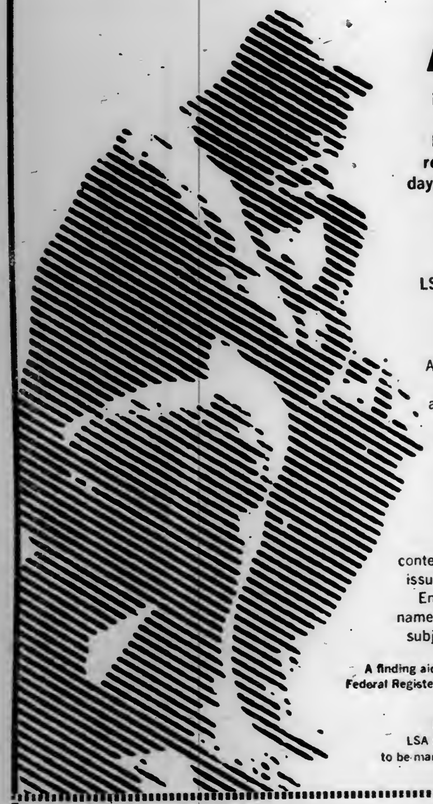
V 4

V 43 / 178

SE 13 78



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V 43 / 179 SE 14 78 UMI

Vol. 43—No. 179
9-14-78
PAGES
41013-41179

Federal Register

THURSDAY, SEPTEMBER 14, 1978

highlights

SUNSHINE ACT MEETINGS 41158

VETERANS DAY
Presidential proclamation 41013

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED
HEW/SSA proposes amendments to the program for medical and social services which are "not" income; comments by 11-13-78 41054

GUARANTEED STUDENT LOAN PROGRAM
HEW/OE extends comment period for supplemental proposed regulations; comments by 10-5-78 41056

AIR BRAKE SYSTEMS
DOT/NHTSA proposes amendment of standards to broaden and simplify the parking and emergency brake requirements; comments by 10-23-78 41056

TRANSPORTATION SAFETY
NTSB issues accident report; safety recommendations and responses 41101

SHORT FORM REGISTRATION OF SECURITIES
SEC proposes amendments which would revise procedures to further expand usage for primary offerings by subsidiaries of certain issuers; comments by 10-31-78 41052

PROTECTION OF WETLANDS
USDA/FHA proposes to amend regulations to insure protection by not providing assistance to applicants whose proposed construction would interfere with or destroy; comments by 11-13-78 41049

FLOOD PLAIN MANAGEMENT
USDA/FHA issues proposal to insure proper management and that construction is not undertaken and that no changes will be allowed unless there are no other practicable alternatives; comments by 11-13-78 41047

MANNING OF TOWING VESSELS
DOT/CG proposes interpretative regulations concerning the licensing of personnel on uninspected towing vessels; comments by 10-30-78 (Part III of this issue) 41178

MEETINGS—
Commerce/Census: Census Advisory Committee on Population Statistics, 10-6-78 41070

CONTINUED INSIDE

V 43 / 179 SEP 14 78 V 43

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

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NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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Corrections	523-5237
Public Inspection Desk	523-5215
Finding Aids	523-5227
Public Briefings: "How To Use the Federal Register."	523-5235
Code of Federal Regulations (CFR)	523-3419 523-3517
Finding Aids	523-5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523-5233
Weekly Compilation of Presidential Documents.	523-5235
Public Papers of the Presidents	523-5235
Index	523-5235
PUBLIC LAWS:	
Public Law dates and numbers	523-5266 523-5282
Slip Laws	523-5266 523-5282
U.S. Statutes at Large	523-5266 523-5282
Index	523-5266 523-5282
U.S. Government Manual	523-5230
Automation	523-3408
Special Projects	523-4534

HIGHLIGHTS—Continued

ITA: Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee, 9-21-78 41071
Computer Systems Technical Advisory Committee, 9-21-78 41072
NOAA: South Atlantic Fishery Management Council, 9-26 through 9-28-78 41073
DOE/BPA: Franklin Area System Reinforcement, 10-17-78 41075
Subcommittee on Materials and Manpower Requirements, 10-5-78 41085
HEW/ADAMHA: Personality and Cognition Research Review Committee, 10-27-78 41087
President's Commission on the Coal Industry, 9-29-78 41105
State: Advisory Committee to United States Section International North Pacific Fisheries Commission, 9-26-78 41118
Study Group 5 of the U.S. Organization for the International Radio Consultative Committee (CCIR), 10-6-78 41119
USDA/FS: Targhee National Forest Grazing Advisory Committee, 11-21-78 41063
VA: Station Committee on Educational Allowances, 10-19-78 41128

CHANGED MEETINGS—

HEW/ADAMHA: Experimental Psychology Research Review Committee, 10-5 and 10-7-78 changed to 10-6 and 10-7-78 41088

SEPARATE PARTS OF THIS ISSUE

Part II, FRS, Library of Congress/Copyright Office 41164
Part III, DOT/CG 41178

contents

CONTENTS

Notices
Freight forwarder licenses:
Merchant Box Co 41086

GENERAL SERVICES ADMINISTRATION
Rules
Procurement, Federal: temporary authority applications; correction 41157
Petitions, applications, finance

V 43 / 179 SEP 14 78 V 43

contents

THE PRESIDENT

Proclamations

Veterans Day 41013

EXECUTIVE AGENCIES

AGRICULTURE DEPARTMENT

See Farmers Home Administration; Forest Service.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Notices

Meetings:
- Experimental Psychology Research Review Committee; date change 41088
- Personality and Cognition Research Review Committee ... 41087

BONNEVILLE POWER ADMINISTRATION

Notices

Meetings:
- Franklin Area System Reinforcement 41075

CENSUS BUREAU

Notices

Meetings:
- Population Statistics Census Advisory Committee 41070

Surveys, determinations, etc.:
- Registration and voting statistics collection; cancellation .. 41070

CENTER FOR DISEASE CONTROL

See Disease Control Center.

CIVIL AERONAUTICS BOARD

Rules

Practice and procedure, economic proceedings:
- Certificated route authority, new or modified, applications 41021

Notices

Hearings, etc.:
- Eastern Air Lines, Inc., et al ... 41063
- Frontier Airlines, Inc 41065
- Houston-Phoenix/Tucson case 41065
- Hughes Air Corp 41066
- National Airlines, Inc 41066
- North Central Airlines, Inc 41067
- Piedmont Aviation, Inc 41068
- REA Express, Inc 41068
- St. Louis-Denver-Las Vegas/Reno route investigation 41068
- Texas International Airlines, Inc 41060
- Trans World Airlines, Inc 41060

COAL INDUSTRY, PRESIDENT'S COMMISSION

Notices

Meeting 41105

COAST GUARD

Drawbridge operations:
- New Jersey 41032

Proposed Rules

Boating safety:
- Ventilation systems; minimum safety standards; correction 41056

Manning of vessels:
- Towing vessels, uninspected; licensing 41178

Notices

Equipment, construction, and materials; approvals and terminations (2 documents) 41119, 41120

COMMERCE DEPARTMENT

See Census Bureau; Economic Development Administration; Industry and Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration; National Technical Information Service.

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Notices

Privacy Act; systems of records; annual publication 41165

DISEASE CONTROL CENTER

Notices

Privacy Act; systems of records 41088

ECONOMIC DEVELOPMENT ADMINISTRATION

Notices

Import determination petitions:
- Charter Oak Industries, Inc., et al 41071

EDUCATION OFFICE

Proposed Rules

Guaranteed student loan program; refund policy requirements; extension of time 41056

ENERGY DEPARTMENT

See also Bonneville Power Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department; Intergovernmental and Institutional Relations Office (DOE).

Notices

Conduct standards:
- Waivers granted; designation of certain employees 41086

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air quality implementation plans; approval and promulgation; various States, etc.:
- California (7 documents) 41032–41039

Notices

Pesticides; tolerances, registration, etc.:
- Permethrin; correction 41086

FARMERS HOME ADMINISTRATION

Proposed Rules

Loan and grant programs (group):
- Flood plain management; policy and procedures 41047
- Wetlands protection; policy and procedures 41059

FEDERAL AVIATION ADMINISTRATION

Rules

Airworthiness directives:
- Lockheed 41016

Standard instrument approach procedures 41019

Transition areas (3 documents) .. 41017, 41018

Proposed Rules

Transition areas 41051

FEDERAL ENERGY REGULATORY COMMISSION

Notices

Hearings, etc.:
- Aminoil USA, Inc 41076
- Bright & Schiff 41076
- Columbia Gas Transmission Corp. et al 41078
- Consolidated Gas Supply Corp. et al 41079
- National Fuel Gas Supply Corp 41081
- Northern Natural Gas Co 41081
- Seattle, City of, Wash 41078
- Sun Oil Co 41081
- Texas Eastern Transmission Corp. (2 documents) 41082
- Transcontinental Gas Pipe Line (2 documents) 41083, 41084
- Transwestern Pipeline Co 41084
- United Gas Pipe Line Co 41084
- Western Transmission Corp ... 41085

FEDERAL INSURANCE ADMINISTRATION

Rules

Flood insurance; communities eligible for sale:
- Alabama et al. (2 documents) .. 41028, 41030

FEDERAL MARITIME COMMISSION

Rules

Practice and procedure:
- Freight charges in foreign commerce; applications for permission to refund or waive portions; correction ... 41040

Notices

Freight forwarder licenses:
- Merchant Box Co 41086

FEDERAL RAILROAD ADMINISTRATION

Notices

Loan guarantee obligations:
- Chicago and North Western Transportation Co 41126

FEDERAL RESERVE SYSTEM

Rules

Interest on deposits:
- Early withdrawal penalty, temporary suspension for Wisconsin disaster areas 41015

Truth-in-lending:
- Official staff interpretations .. 41015

Notices

Applications, etc.:
- First Financial Bancshares, Inc 41087
- Security Bancshares, Inc 41086
- Urich Bancshares, Inc 41087

Notices

Privacy Act; systems of records; annual publication 41164

FEDERAL TRADE COMMISSION

Proposed Rules

Antacids, over-the-counter; advertising; correction 41051

FISH AND WILDLIFE SERVICE

Rules

Fishing:
- Lake Ilo National Wildlife Refuge, N. Dak 41044

Hunting:
- Agassiz National Wildlife Refuge, Minn 41043
- Des Lacs National Wildlife Refuge, N. Dak 41043
- Lake Zahl National Wildlife Refuge, N. Dak 41042
- Lostwood National Wildlife Refuge, N. Dak 41043

Public access, entry, use, and recreation:
- Charles M. Russell National Wildlife Refuge, et al., Mont. 41042

Proposed Rules

Endangered and threatened species; fish, wildlife, and plants:
- Colorado squawfish; critical habitat 41060

FOREST SERVICE

Notices

Meetings:
- Targhee National Forest Grazing Advisory Committee 41063

GENERAL ACCOUNTING OFFICE

Notices

Regulatory reports review; proposals, approvals, etc. (ICC) ... 41087

GENERAL SERVICES ADMINISTRATION

Rules

Procurement, Federal; temporary regulations:
- Major disaster acquisitions for automated data processing (ADP) and telecommunications 41044

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Alcohol, Drug Abuse, and Mental Health Administration; Disease Control Center; Education Office; Social Security Administration.

HEARINGS AND APPEALS OFFICE, ENERGY DEPARTMENT

Notices

Applications for exception:
- Decisions and orders 41085

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Insurance Administration.

INDUSTRY AND TRADE ADMINISTRATION

Notices

Meetings:
- Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee 41071
- Computer Systems Technical Advisory Committee 41072

INTERGOVERNMENTAL AND INSTITUTIONAL RELATIONS OFFICE (DOE)

Notices

Meetings:
- National Petroleum Council ... 41085

INTERIOR DEPARTMENT

See Fish and Wildlife Service; Land Management Bureau.

INTERSTATE COMMERCE COMMISSION

Rules

Freight forwarders and motor carriers:
- Claims, overcollection, duplicate payment, and overcharge; processing, etc 41040

Proposed Rules

Motor carriers and rail carriers:
- Shippers; extension of credit; conference; change in time .. 41059

Notices

Motor carrier, broker, water carrier, and freight forwarder applications; correction 41157

Motor carriers:
- Permanent authority applications (2 documents) ... 41128, 41139
- Permanent authority applications; correction (2 documents) 41156
- Temporary authority applications (2 documents) 41149, 41153
- Temporary authority applications; correction 41157

Petitions, applications, finance matters (including temporary authorities), railroad abandonments, alternate route deviations, and intrastate applications; correction 41157

Waste products, transportation for reuse or recycling 41157

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
- New Mexico 41100
- Wyoming (3 documents) 41099

Outer continental shelf:
- Oil and gas leasing, Alaska, protraction diagrams, availability 41098

Survey plat filings:
- Minnesota 41099

LIBRARY OF CONGRESS

See Copyright Office, Library of Congress.

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; list of requests 41104

NATIONAL BUREAU OF STANDARDS

Notices

Voluntary product standards:
- Iron and steel roofing, siding, and ridge roll; withdrawal 41073

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Proposed Rules

Motor vehicle safety standards:
- Air brake systems; trucks, buses, and trailers 41056

Notices

Motor vehicle safety standard; exemption petitions, etc.:
- Washington State Commission on Equipment; lamps, reflective devices, etc 41127

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rules

Tuna, Atlantic fisheries:
- Bluefin tuna; purse seine season closure 41044

Proposed Rules

Fishery conservation and management:
- Foreign fishing: billfish and sharks in Pacific Ocean; withdrawal and advance notice 41062

Notices

Meetings:
- South Atlantic Fishery Management Council 41073

NATIONAL TECHNICAL INFORMATION SERVICE

Notice

Proposed Rules

Securities Act:
- Registration; short form 41052

STATE DEPARTMENT

Notices

Meetings:

list of cfr parts affected in this issue

NATIONAL TECHNICAL INFORMATION SERVICE

Notice

Inventions, Government-owned; availability for licensing (2 documents) 41074

NATIONAL TRANSPORTATION SAFETY BOARD

Notices

Pipeline accidents; investigation hearings 41103
Safety recommendations and accident reports; availability, responses, etc 41101

NUCLEAR REGULATORY COMMISSION

Notices

Rulemaking petitions:
Non-Destructive Testing Management Association 41100
Safety analysis reports, safety evaluation reports; availability, etc.:
Gilbert Associates, Inc., et al . 41100

SECURITIES AND EXCHANGE COMMISSION

Rules

Financial statements:
Bank holding companies and banks; form and content 41022

CONTENTS

Proposed Rules

Securities Act:
Registration; short form 41052

Notices

Hearings, etc.:
Binney & Smith, Inc 41107
Broad Street Investing Corp .. 41106
Ohio Edison Co 41107
Shepmyers Investment Co 41108
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc 41117
Midwest Stock Exchange, Inc 41118
Municipal Securities Rulemaking Board (2 documents) 41110, 41111
National Association of Securities Dealers, Inc 41115
New York Stock Exchange, Inc. (2 documents) 41116

SOCIAL SECURITY ADMINISTRATION

Proposed Rules

Aged, blind, and disabled; supplemental security income for:
Medical and social services; income exclusion 41054

STATE DEPARTMENT

Notices

Meetings:
International North Pacific Fisheries Commission; U.S. Section Advisory Committee 41118
International Radio Consultative Committee 41119

TRADE NEGOTIATIONS, OFFICE OF SPECIAL REPRESENTATIVE

Notices

Import relief investigations; determinations:
Pneumatic bicycle tires 41104
Multilateral trade negotiations, Tokyo Round; ad valorem duty rates conversion; inquiry; extension of time 41105

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; Federal Railroad Administration; National Highway Traffic Safety Administration.

VETERANS ADMINISTRATION

Notices

Meetings:
Educational Allowances Station Committee 41128

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR

PROCLAMATIONS:
4595 41013

7 CFR

PROPOSED RULES:
1940 (2 documents) 41047–41049

12 CFR

217 41015
226 41015

14 CFR

39 41016
71 (3 documents) 41017, 41018
97 41019
302 41021

PROPOSED RULES:
71 41051

16 CFR

PROPOSED RULES:
451 41051

17 CFR

210 41022

PROPOSED RULES:
239 41052

20 CFR

PROPOSED RULES:
416 41054

24 CFR

1914 (2 documents) 41028, 41030

33 CFR

117 41032

PROPOSED RULES:
183 41056

40 CFR

52 (7 documents) 41032–41039

41 CFR

Ch. I 41044

45 CFR

PROPOSED RULES:
177 41056

46 CFR

502 41040

PROPOSED RULES:
157 41178

49 CFR

1008 41040

PROPOSED RULES:
571 41056
1320 41059
1322 41059

50 CFR

26 41042
32 (4 documents) 41042, 41043
33 41044
285 41044

PROPOSED RULES:
17 41060
611 41062

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

FCC—Table of assignments, FM broadcast stations; Grand Island, Nebr 35924; 8–14–78

HEW/FDA—Approval of new animal drug application for use of amprolium, ethopabate, bacitracin and roxarsone in animal feeds 30275; 7–14–78

Bile salts and ox bile extract; affirmation of GRAS status as direct human food ingredient 36063; 8–15–78

HUD—Federal National Mortage Association; conduct of secondary market operations 36200; 8–15–78

Treasury/Customs—Field organization changes 36055; 8–15–78

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing: September 13, 1978]

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during

24 CFR

221 39570
886 40402

36 CFR

214 40998
1207 40808

42 CFR

54a 40386
57 39380

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.

1 CFR

Ch. I 39069

3 CFR

EXECUTIVE ORDERS:
12024 (See EO 12078) 39741
12078 39741

MEMORANDUMS:
September 8, 1978 40449

PROCLAMATIONS:
4591 39561
4592 39739
4593 40197
4594 40451
4595 41013

5 CFR

213 .... 39069, 39070, 39951-39953, 40453

7 CFR

2 39953
245 39070
250 39070
282 ..... 39074, 39075
301 40528
330 39953
908 39743
910 ..... 39080, 39319, 39954
911 39319
915 39321
927 39323
931 39323
932 39743
993 40199
1004 ..... 39744, 39745
1036 40801
1071 39325
1073 39326
1097 39328
1102 39328
1104 39329
1106 39331
1108 39333
1120 39334
1126 39336
1132 39337
1133 39955
1138 39338
1435 39563
1823 ..... 39746, 40199

PROPOSED RULES:
6 ..... 39110, 40530
17 40872
722 39117
918 40027
948 40027
965 40028
981 39393
1079 40028
1126 40030
1427 39118
1701 40036
1940 41047-41049

8 CFR

108 40879
236 40801

PROPOSED RULES:
108 40879

9 CFR

91 39080
94 39956
355 39340

PROPOSED RULES:
92 40037
317 39394
318 ..... 39119, 39394
319 39394

10 CFR

35 39747
205 ..... 39080, 40200
212 40682

PROPOSED RULES:
51 39801
211 40233
212 40233
430 40192
1004 40530

12 CFR

202 39341
217 41015
226 ..... 40210, 41015

13 CFR

107 39563
Ch. IV 40803

PROPOSED RULES:
130 39394

14 CFR

39 ..... 39346-39348, 39748, 39750, 41016
71 ..... 39439, 39750-39753, 40211-40213, 41017, 41018
73 ..... 40214, 40215
75 39753-39755
97 41019
221 39536
241 40454
302 ..... 39536, 41021
385 40803
399 39522

PROPOSED RULES:
39 40233
71 ..... 39803, 40237, 41051
73 ..... 39803, 39804
223 39805
250 39806
298 39587
380 ..... 39807, 40880

16 CFR

1 39083
13 ..... 39350, 40454
1209 39564

16 CFR—Continued

13 ..... 39120, 40536, 40537, 40882
451 41051
1209 39564

17 CFR

1 39956
210 ..... 40688, 41022
211 40730
239 39554
249 39554
270 39553
274 39553

PROPOSED RULES:
210 ..... 40724, 40726
229 40720
239 41052
270 39396

18 CFR

1 39982
3 40217
4 40217
16 40217
131 40217

PROPOSED RULES:
1 ..... 39122, 40037

19 CFR

153 40804

PROPOSED RULES:
6 40238

20 CFR

416 39564
901 39756

PROPOSED RULES:
404 39266
416 41054
620 39124
653 39124

21 CFR

510 39086
520 ..... 39084, 39085
522 40455
524 40455
558 ..... 39086, 39350
561 40456

PROPOSED RULES:
145 39126
310 39126
314 39126
337 39544
436 40038
469 40038
1308 40884

23 CFR

PROPOSED RULES:
625 40539

24 CFR

221 39570
886 40402
1914 ..... 41028, 41030
1916 39572
1917 ..... 39351-39360, 39573-39582, 39761-39771, 39983-39987
1920 39771-39774

PROPOSED RULES:
201 39593
1917 39129-39141
3500 ..... 39701, 40539

25 CFR

11 40804
43k 40457
54 39361
178 40458
258 39086

26 CFR

1 ..... 40219, 40459
301 ..... 40219, 40459

PROPOSED RULES:
1 ..... 39142, 39822
31 ..... 39142, 39149
301 39142

29 CFR

1601 39775
1610 40222
1910 39087

PROPOSED RULES:
1601 39831

30 CFR

41 39988
70 40760
71 40760

PROPOSED RULES:
55 40766
56 40766
57 40766

31 CFR

51 40223
223 39088

32 CFR

42 39988
581 40498
902 39089
931 39101
1288 40806
1804 39776

PROPOSED RULES:
47 40884

33 CFR

3 40224
117 ..... 39777, 41032
161 ..... 39994, 40224

PROPOSED RULES:
89 39946
126 39832
183 41056

36 CFR

214 40998
1207 40808

37 CFR

302 40225
303 40498
305 40501

38 CFR

2 39364
14 39365

PROPOSED RULES:
3 40239
21 39832
36 ..... 39150, 39833

39 CFR

111 ..... 39583, 39995, 40810

PROPOSED RULES:
111 39593

40 CFR

2 39997
51 40009
52 ..... 39366, 40009-40011, 41032-41039
65 ..... 40015, 40226
81 ..... 39101, 40412, 40436, 40502
125 40859
600 39367

PROPOSED RULES:
35 40742
52 ..... 39151, 39152, 40009-40011, 40240, 40245
65 ..... 40015, 39153, 39397, 39834, 40015, 40247, 40248, 40539
81 40436
125 39282
130 40742
131 40742
151 39276
162 39644
180 40249
233 39398

41 CFR

Ch. I 40015, 41044
Ch. 18 40018
Ch. 101 40019
3-56 39778
5B-2 40227
14-1 ..... 39377, 39787
14-2 ..... 39378, 39788
14-3 39788
14-4 39378
14-7 39379
14-12 39379
14-18 39379
14-30 39380
14-55 39380
101-37 40228

PROPOSED RULES:
101-20 40250

42 CFR

54a 40386
57 39380
58 ..... 39384, 40862

PROPOSED RULES:
110 40376
405 39155
449 39155

43 CFR

26 41004
6000 40734
6010 40734
6200 40734
6220 40734
6250 40734
6260 40734
6270 40734
6290 40734
8000 40734
8200 40734
8300 40734
8340 40734
8350 40734
8360 40734
8370 40735

45 CFR

5b 40229
801 39387

PROPOSED RULES:
177 41056
1340 39593

46 CFR

502 41040
510 40524
512 40524
542 39102

PROPOSED RULES:
151 40250
153 40250
157 41178
531 39399
536 39399

47 CFR

73 ..... 39388, 39584, 39704, 40250, 40251
74 39704

PROPOSED RULES:
31 ..... 39385, 40886
33 ..... 39385, 40886
42 ..... 39385, 40886
43 ..... 39385, 40886
63 40541
73 ..... 39400, 39593, 39594, 40250, 40251, 40887, 40888
83 40889

49 CFR

172 39789
173 39791
175 39792
176 39792
179 39792
192 39389
571 39390
581 40229

49 CFR—Continued

1008 41040

49 CFR—Continued

PROPOSED RULES—Continued

50 CFR—Continued

285 ..... 39107, 41044

presidential documents

49 CFR—Continued

1008	41040
1033	39103, 39104, 39794-39796
1056	39798

PROPOSED RULES:

CH. X	39157
172	39835
173	39835
192	39401
195	39402
571	39835, 41056
1033	40891
1307	39157
1309	39157
1310	39157

49 CFR—Continued

PROPOSED RULES—Continued

1320	39404, 41059
1322	39404, 41059

50 CFR

20	39186
26	39798, 41042
32	39105-39107, 39584, 39585, 39799, 39800, 40021-40024, 40232, 40524, 40867, 41042, 41043
33	41044
216	40025

50 CFR—Continued

285	39107, 41044
611	39586
651	39108
652	40527
662	40868
810	39306

PROPOSED RULES:

17	41060
32	40893
230	40045
611	41062
652	39161

FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

Pages	Date	Pages	Date	Pages	Date
39069-39317	Sept. 1	39739-39950	7	40449-40799	12
39319-39560	5	39951-40195	8	40801-41011	13
39561-39738	6	40197-40448	11	41013-41179	14

presidential documents

[3195-01]

Title 3—The President

PROCLAMATION 4595

Veterans Day, 1978

By the President of the United States of America

A Proclamation

Among the great days of national remembrance, none is more deeply moving to Americans than Veterans Day. On this occasion, our nation traditionally joins together to salute those valiant individuals who have served in the Armed Forces.

This is a very special day. It symbolizes the debt of gratitude we owe our veterans. It reminds us that the freedom we enjoy has endured intact because millions of patriotic men and women answered their country's call to service and sacrifice.

Our veterans have not sought glory for themselves, but peace and freedom for us all. They represent the spirit that has preserved us as a great nation. They deserve our recognition for all they have done.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, invite all Americans to observe Saturday, November 11, 1978, as Veterans Day and on this historic occasion, let us resolve anew to keep faith with those whose love of country has set them in an imperishable roll of honor.

I urge all the families and friends of our sick and disabled veterans to visit them and extend to them a grateful nation's promise that they will not be forgotten.

I call upon Federal, State, and local Government officials to mark Veterans Day by displaying the flag of the United States, and by encouraging and supporting public involvement in appropriate ceremonies throughout the country.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of September, in the year of our Lord, nineteen hundred and seventy-eight, and of the Independence of the United States of America, the two hundred and third.

Jimmy Carter

[FR Doc. 78-26029 Filed 9-12-78; 2:36 pm]

rules and regulations

V 43 / 179 SEP 14 78

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Q]

PART 217—INTEREST ON DEPOSITS

Order Granting Temporary Suspension of Early Withdrawal Penalty

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Temporary suspension of the regulation Q penalty normally imposed upon the withdrawal of funds from time deposits prior to maturity.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by the severe storms, flooding, hail, and tornadoes beginning on or about June 25, 1978, in the State of Wisconsin.

EFFECTIVE DATE: July 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Anthony F. Cole, Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3711.

SUPPLEMENTARY INFORMATION: On July 7, 1978, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 11795 of July 11, 1974, the President, acting through the Administrator of the Federal Disaster Assistance Administration, designated the following counties of the State of Wisconsin a major disaster area: Buffalo, Crawford, Dane, Green, Iowa, Juneau, La Crosse, Lafayette, Monroe, Pepin, Pierce, Richland, Rock, Sauk Trempealeau, and Vernon. The Board regards the President's action as recognition by the Federal Government that a disaster of major proportions has occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the regulation Q early withdrawal penalty.[1] The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster area as a result of the severe storms, flooding, hail, and tornadoes. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to July 7, 1978, and will remain in effect until 12 midnight December 31, 1978.

Section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) provides that no member bank shall pay any time deposit before maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the Board. The Board has determined it to be in the overriding public interest to suspend the penalty provision in § 217.4(d) of regulation Q for the benefit of depositors suffering disaster-related losses within those geographical areas of the State of Wisconsin officially designated a major disaster area by the President. The Board, in granting this temporary suspension, encourages member banks to permit penalty-free withdrawal before maturity of time deposits for depositors who have suffered disaster-related losses within the designated disaster areas.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons directly affected by the severe damage and destruction occasioned by the storms and flooding in the designated counties of Wisconsin, the Board finds that good cause exists for dispensing with notice and public participation referred to in section 553(b) of title 5 of the United States Code with respect to this action and that public procedure with regard to this action would be contrary to the public interest. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, the Board finds that there is good cause to make the action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority (12 CFR 265.2(a)(18)), September 5, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-25885 Filed 9-13-78; 8:45 am]

[1] Sec. 217.4(d) of regulation Q provides that where a time deposit, or any portion thereof, is paid before maturity, a member bank may pay interest on the amount withdrawn at a rate not to exceed that currently prescribed for a savings deposit and that the depositor shall forfeit 3 months of interest payable at such rate.

[6210-01]

[Reg Z; FC-0153]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official staff interpretation(s).

SUMMARY: The Board is publishing the following official staff interpretation of regulation Z, regarding the necessity of separate disclosure of certain finance charges described under Ohio law. The agency is taking this action in response to a request for interpretation of this regulation.

EFFECTIVE DATE: On or after October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3867.

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(2) An opportunity for public comment on an official staff interpreta-

tion may be provided upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2)(ii). As

Cleveland, Cleveland, Ohio 19105.

Sincerely,

NATHANIEL E. BUTLER,
Associate Director.

ation Regulations (14 CFR Part 39) by adding a new AD applicable to Lockheed L-1011-385 series airplanes (42

Aviation Regulations (14 CFR 39.13) is amended, by adding the following new

(e)(2) of this AD. Revert to routine maintenance/inspection practices.

EFFECTIVE DATE: November 2, 1978.

tion may be provided upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2)(ii). As provided by 12 CFR Part 226.1(d)(3) every request for public comment must be in writing, should clearly identify the number of the official staff interpretation in question, should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 and must be postmarked or received by the Secretary's office before the effective date of the interpretation. The request must also state the reasons why an opportunity for public comment would be appropriate.

(3) 15 U.S.C. 1640(f).

12 CFR Part 226, FC-0153
§ 226.8(c)

Whether "base finance charge" and "service charge" are the same type of charge depends on interpretation of Ohio law. (Rescinds FC-0029 and Letter 1114.)

AUGUST 31, 1978.

On * * *, you requested an official staff interpretation of regulation Z regarding the requirement of § 226.8(c)(8)(i) of the regulation that a creditor provide a "description of the amount of each type" of finance charge where the total finance charge consists of "two or more types of charges."

At that time, you questioned whether the regulation requires a creditor to separately disclose the finance charges described under the Ohio Retail Installment Sales Act, ORC 1317.06, as a "base finance charge" and a "service charge." The position taken in Official Staff Interpretation FC-0029 answered your question affirmatively. However, in response to several requests, the staff has reconsidered the matter and is hereby rescinding FC-0029 and Public Information Letter 1114 which deals with the same subject.

The staff is of the opinion that if under the Ohio Retail Installment Sales Act, the "base finance charge" and the "service charge" constitute the same type of charge, regulation Z would not require separate disclosure of each charge. The answer to the question regarding whether the "base finance charge" and the "service charge" are the same type of charge depends on an interpretation of Ohio law. We believe it is inappropriate for the staff to make that determination. However, if the two charges were determined to be different "types of charges" under Ohio law the staff is of the opinion that separate disclosure of the "base finance charge" and the "service charge," using those terms, would be proper. We believe this would also be permissible, in accordance with the additional information provisions of § 226.6(c), if a creditor simply elected to itemize the charges.

This is an official staff interpretation of regulation Z, issued in accordance with § 226.1(d)(2) of the regulation and limited in its applicability to the facts and issues discussed above. If you have additional questions, please contact this office or Mr. Harry W. Huning, Vice President, Supervision and Regulations, Federal Reserve Bank of Cleveland, Cleveland, Ohio 19105.

Sincerely,

NATHANIEL E. BUTLER,
Associate Director.

Board of Governors of the Federal Reserve System, September 5, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-25886 Filed 9-13-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-WE-3-AD; Amdt. 39-3296]

PART 39—AIRWORTHINESS DIRECTIVES

Lockheed-California Co. Model L-1011-385 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection, protection, repair or replacement of the Lockheed Model L-1011 Series airplane center engine "S" duct flexible fire seal that could, if allowed to wear beyond certain limits, or become torn, compromise the function of the fire wall and permit the transfer of potentially hazardous quantities of vapors from the engine compartment into the afterbody section.

DATES: Effective October 13, 1978. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Co., P.O. Box 551, Burbank, Calif. 91520, Attention: Commercial Support Contracts, Department 63-11, U-33, B-1. Also, a copy of the service information may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. Telephone: 213-536-6351.

SUPPLEMENTARY INFORMATION: On April 21, 1978, the FAA proposed to amend Part 39 of the Federal Aviation Regulations (14 CFR Part 39) by adding a new AD applicable to Lockheed L-1011-385 series airplanes (42 FR 17366). This AD establishes inspections of the flexible fire seal and provides for repair, repetitive inspections and terminating action. The proposal was prompted by discovery of a torn seal and subsequent evaluations of hazard and repair possibilities.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all comments received in response to the notice of proposed rulemaking. Comments were received from the manufacturer and from the Air Transport Association of America (ATA). The ATA presented the views of three operators.

Both commenters stated their agreement with the proposal except as regards proposed compliance requirements if a seal is found worn through or torn. These commenters proposed substitution of compliance recommendations contained in Lockheed L-1011 Service Bulletin 093-54-030. This position was predicated on their acceptance of a Lockheed analysis which purports to show that the combination of circumstances required to produce a hazardous condition is less than extremely improbable.

The FAA concurs that some additional time for compliance is appropriate. Therefore the "before further flight" requirement of paragraph (g) has been modified to "250 hours".

Other comments relative to economic burden due to scheduling problems have been considered by the FAA. Since some 10 months will have elapsed from initial discovery of the condition to the issuance of a final AD, the FAA believes that there is adequate time for the operators to conduct scheduling activities necessary to minimize economic burden.

The phrase "or later FAA approved revisions" has been deleted from the service bulletin citation in paragraph (c) of the AD and a note has been added indicating that this version of the service bulletin is the only version acceptable for demonstrating compliance with the AD under the terms of paragraphs (c) through (h).

After careful review of all available data including the comments above the FAA believes that sufficient evidence exists in the public interest in aviation safety to adopt the proposed rule, with relieving substantive changes and with minor editorial and clarifying changes of a nonsubstantive nature, as a final rule.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

LOCKHEED CALIFORNIA CO.: Applies to Lockheed-California Co. Model L-1011-385 Series airplanes certificated in all categories.

Compliance required as indicated, unless previously accomplished.

To prevent the transfer of potentially hazardous quantities of vapors from the engine compartment into the afterbody of the airplane, accomplish the following:

(a) For airplanes with 7,500 or more hours total time in service on the effective date of this AD, within the next 1,000 hours time in service, inspect the center engine "S duct" flexible fire seal Part No. 1506933-101 per paragraph (c) below.

(b) For airplanes with less than 7,500 hours total time in service on the effective date of this AD, prior to the accumulation of 8,500 hours total time in service, inspect the center engine "S" duct flexible fire seal per paragraph (c) below.

(c) Visually inspect the center engine "S" duct flexible fire seal for depth of groove and/or tears per the procedures set forth in paragraph 2.A of Lockheed California Service Bulletin 093-54-030 dated March 28, 1978 (hereinafter referred to as SB 093-54-030).

NOTE.—Service Bulletin 093-54-030 dated March 28, 1978 is the only version of Service Bulletin 093-54-030 suitable for demonstrating compliance with paragraphs (c) through (h) of this AD.

(d) If there are no tears, and evidence of grooving is observed, or if groove depth is determined to be less than 0.035 inch using the procedures of paragraph 2.A of SB 093-54-030, the seal may be retained in service with performance of repetitive inspections at intervals not to exceed 1500 hours total time in service.

(e) If there are no tears and seal is worn to a groove depth greater than 0.035 inch but less than 0.050 inch:

(1) Continue worn part in service and reinspect within 1000 hours additional time in service; or

(2) Repair seal per paragraph 2.C of SB 093-54-030, and reinspect within 8500 hours additional time in service; or

(3) Replace seal with like serviceable part per paragraph 2.B of SB 093-54-030 and reinspect per paragraph 2.A of SB 093-54-030 within 8500 hours additional time in service.

(f) If seal is worn to a groove depth equal to or greater than 0.050 inch but is intact, within 500 hours additional time in service, repair seals per paragraph 2.C of SB 093-54-030 or replace seal per paragraph 2.B of SB 093-54-030 and reinspect per paragraph 2.A of SB 093-54-030 within 8500 hours additional time in service.

(g) If seal is worn through or torn, within 250 hours additional time in service repair seal per paragraph 2.C of SB 093-54-030 or replace seal per paragraph 2.B of SB 093-54-030 and reinspect per paragraph 2.A of SB 093-54-030 within 8,500 hours additional time in service.

(h) Actions required per this AD may be terminated when chafing protection (Belt Assembly Part Number 1619429-101) is installed per paragraph 2.D of SB 093-54-030 in conjunction with a new, used, or repaired center engine "S" duct flexible fire seal which meets the criteria of paragraph (d) or (e)(2) of this AD. Revert to routine maintenance/inspection practices.

(i) Equivalent inspection procedures and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(j) Special flight permits may be issued in accordance with FARs 21.197 and 21.199 to operate aircraft to a base for accomplishment of inspections and/or maintenance required by paragraph B of this AD.

(k) Upon request of operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western Region may adjust the initial and repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

This amendment becomes effective October 13, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044 and set forth in interim Department of Transportation guidelines.

Issued in Los Angeles, Calif., on September 30, 1978.

LEON C. DAUGHERTY,
Acting Director,
FAA Western Region.

[FR Doc. 78-25693 Filed 9-13-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-GL-12]

PART 71—DESIGNATION OF FEDERAL AIRWAYS AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate additional controlled airspace near Lebanon, Ohio, to accommodate a new (NDB) instrument approach procedure into the Lebanon-Warren County Airport established pursuant to a request from the Lebanon-Warren County Airport officials to provide that facility with instrument approach capability. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Clair M. Billington, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone 312-694-4500, extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1,200 feet above ground to 700 feet above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained in controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

DISCUSSION OF COMMENTS

On page 30068 of the FEDERAL REGISTER dated July 13, 1978, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of part 71 of the Federal Aviation Regulations so as to designate a transition area at Lebanon, Ohio. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. As a result of the notice of proposed rulemaking docket issued June 26, 1978, a letter of objection was received from Mr. James T. VanDervort of Wilmington, Ohio. Mr. VanDervort objected to the establishment of an instrument approach procedure into the Lebanon-Warren County Airport because he felt the approach procedure would cause an increase in air traffic in the vicinity of the Waynesville Airport, Waynesville, Ohio. He expressed concern over the fact that the Waynesville Airport experiences a heavy volume of traffic due to pilot training, glider operations, parachute jumping, and business flying. He believes that the establishment of the instrument approach procedure would entice students to practice IFR approaches at the Lebanon-Warren County Airport and therefore cause the increase in air traffic at the Waynesville Airport.

Aeronautical study disclosed that the Waynesville Airport is located approximately 6 nmi northeast of the Lebanon-Warren County Airport. The approach procedure will be established on the northwest side of the Labanon-Warren County Airport. It will be ini-

tiated on the Oneida LOM located 7.4 nmi northwest of the Warren County

trolled airspace near Kenton, Ohio, to accommodate a [VOR-A] instrument

tential of aircraft delays at other adja-

vide controlled airspace for aircraft executing a proposed instrument ap-

pal Airport utilizing the Glenpool VOR.

DATES: An effective date for each SIAP is specified in the amendatory provisions

tiated on the Oneida LOM located 7.4 nmi northwest of the Warren County Airport and proceed direct to the airport. Aircraft utilizing the approach procedure will be directed away from, instead of toward, the Waynesville Airport thereby assisting in eliminating some of the possible traffic in the Waynesville area. There are presently 15 IFR approaches to airports within 25 nmi of the Waynesville Airport. The establishment of this new approach procedure and the designation of the transition area to accommodate the procedure should not cause student pilots to concentrate their training at Lebanon-Warren County.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, effective November 2, 1978, as follows:

In § 71.181 (43 FR 440), the following transition area is added:

LEBANON, OHIO

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Lebanon-Warren County Airport (latitude 39°27'30" N., longitude 84°15'15" W.) excluding the portions which overlie the Dayton, Ohio, and Middletown, Ohio, transition areas.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Des Plaines, Ill., on August 30, 1978.

WAYNE J. BARLOW,
Acting Director,
Great Lakes Region.

[FR Doc. 78-25694 Filed 9-13-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-GL-8]

PART 71—DESIGNATION OF FEDERAL AIRWAYS AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate additional controlled airspace near Kenton, Ohio, to accommodate a [VOR-A] instrument approach procedure into the Hardin County Airport established on the basis of a request from Hardin County Airport officials to provide that facility with instrument approach capability. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Clair M. Billington, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone 312-694-4500, extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1,200 feet above ground to 700 feet above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

DISCUSSION OF COMMENTS

On page 21464 of the FEDERAL REGISTER dated May 18, 1978, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Kenton, Ohio. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. As a result of the notice of proposed rule making docket issued May 8, 1978 a letter of aeronautical comment was received from the Trager Aviation Center, Lima, Ohio, expressing concern that the proposed instrument approach procedure would conflict with student training at Allen County Airport in Lima. Aeronautical study by the FAA reveals that the airspace docket action to designate additional controlled airspace is intended to enhance safety as it relates to the see-and-be-seen concept of visual weather condition operations. In addition, the comments were addressed to the potential of aircraft delays at other adjacent airports as a result of the new instrument approach procedure. As in the previous statement, the instrument approach procedure into Kenton Airport is intended to provide for a better movement of aircraft operations in the area and should reduce delays, particularly those now experienced by aircraft desiring to operate into Kenton Airport. The approach procedures and the designated airspace described in this docket will improve safety and should reduce delays in this area.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Adminstrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective November 2, 1978, as follows:

In § 71.181 (43 FR 440), the following transition area is added:

KENTON, OHIO

That airspace extending upward from 700 feet above the surface within a 7.5 mile radius of the center, latitude 40°36'48" N., longitude 83°38'39" W. of Hardin County Airport, Kenton, Ohio.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Adminstration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Des Plaines, Ill., on August 30, 1978.

WAYNE J. BARLOW,
Acting Director,
Great Lakes Region.

[FR Doc. 78-25695 Filed 9-14-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-ASW-20]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area: Sand Springs, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to designate a transition area at Sand Springs, Okla. The intended effect of the action is to provide controlled airspace for aircraft executing a proposed instrument approach procedure to the William R. Pogue Municipal Airport. The circumstance which created the need for the action was a requirement to provide capability for flight under instrument flight rules (IFR) procedures to the airport. Coincident with this action, the airport is changed from visual flight rules (VFR) to IFR status.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On June 5, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 24324) stating that the Federal Aviation Administration proposed to designate the Sand Springs, Okla., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Responses were received with one commenter objecting to the proposal.

DISCUSSION OF COMMENTS

The owner-operator of the Eagle's Nest Airport expressed concern that the proposed standard instrument approach procedure (SIAP) to the William R. Pogue Airport, designated on the Tulsa VORTAC, would traverse the Eagle's Nest traffic pattern. The commenter recommended realignment of the SIAP on a north-south flow to remove possible conflicts. The FAA concurred in the recommendation and redesigned the SIAP to the William R. Pogue Airport, basing the final approach course on the 318° radial of the Glenpool, Okla., VOR. The transition area airspace configuration as described in the notice was not affected by the action. Except for editorial changes, this amendment is that proposed in the notice.

THE RULE

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates the Sand Springs, Okla., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the William R. Pogue Municipal Airport utilizing the Glenpool VOR.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 G.m.t., November 2, 1978, as follows:

In Subpart G, § 71.181 (43 FR 440), the following transition area is added:

SAND SPRINGS, OKLA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the William R. Pogue Municipal Airport (latitude 36°10'25" N., longitude 96°08'55" W.) excluding that airspace that overlies the Tulsa, Okla., transition area.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Fort Worth, Tex., on August 31, 1978.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 78-25697 Filed 9-13-78; 8:45 am]

[4910-13]

[Docket No. 18267; Amdt. No. 1119]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP's) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

FOR EXAMINATION

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

FOR PURCHASE

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

BY SUBSCRIPTION

Copies of all SIAP's, mailed once every 2 weeks, may be ordered from Superintendant of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAP's). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. section 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FAR's). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAP's, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAP's but refer to their graphic depiction on charts printed by publishers of aeronautical materials.

Thus, the advantages of incorporation by reference are realized and publica-

Monmouth, IL—Monmouth Municipal, VOR-A, Amdt. 4

Denver, CO—Stapleton International, LOC BC Rwy 17R, Amdt. 13

Allentown, PA—Allentown-Bethlehem-Easton, NDB Rwy 6, Amdt. 14

4. By amending § 97.29 ILS-MLS follows: Knoxville, TN—McGhee Tyson, Radar-1, Amdt 18, is rescinded. Knoxville, TN—McGhee Tyson, Radar-1, Amdt 17 remains in effect.

DATES: Adopted: September 7, 1978. Effective: September 7, 1978.

FOR FURTHER INFORMATION

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Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAP's. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAP's which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective less than 30 days. For the remaining SIAP's, an effective date at least 30 days after publication is provided.

Further, the SIAP's contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERP's). In developing these SIAP's, the TERP's criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAP's is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAP's effective in less that 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAP's identified as follows:

• • • effective November 2, 1978:

Fort Myers, FL—Page Field, VOR RWY 23, Amdt. 4
Galesburg, IL—Galesburg Municipal, VOR Rwy 2, Amdt. 9
Galesburg, IL—Galesburg Municipal, VOR Rwy 20, Amdt. 10
Monmouth, IL—Monmouth Municipal, VOR-A, Amdt. 4
Detroit, MI—Detroit Metropolitan Wayne County, VOR Rwy 3C, Amdt. 6, cancelled
Detroit, MI—Detroit Metropolitan Wayne County, VOR Rwy 27, Amdt. 7, cancelled
Alliance, NE—Alliance Muni, VOR Rwy 12, Original
Alliance, NE—Alliance Muni, VOR Rwy 12, Amdt. 4, cancelled
Alliance, NE—Alliance Muni, VOR Rwy 30, Original
New York, NY—LaGuardia, VOR-A, Amdt. 11
New York, NY—LaGuardia, VOR-B, Amdt. 14
New York, NY—LaGuardia, VOR-C, Amdt. 4
Beckley, WV—Raleigh County Memorial, VOR/DME RWY 19, Original

• • • effective October 19, 1978:

Alabaster, AL—Shelby County, VOR-A, Amdt. 4
Marianna, FL—Marianna, Muni, VOR-B, Orig.
Wichita, KS—Copeland, VOR-D, Original
Westminster, MD—Clearview Airpark, VOR-A, Amdt. 5
Mt. Pleasant, MI—Mt. Pleasant Municipal, VOR Rwy 27, Amdt. 5
Muskegon, MI—Muskegon County, VOR-A (TAC), Amdt. 13
Salem, MI—Salem, VOR-A, Amdt. 2
Faribault, MN—Faribault Municipal, VOR Rwy 2, Original, Cancelled
Faribault, MN—Faribault Municipal, VOR-A, Original
Owatonna, MN—Owatonna Municipal, VOR Rwy 12, Amdt. 6
Owatonna, MN—Owatonna Municipal, VOR/DME Rwy 30, Original
Waseca, MN—Waseca Municipal, VOR-A, Amdt. 2
O'Neill, NE—O'Neill Muni, VOR Rwy 13, Amdt. 2
Silver City, NM—Silver City & Grant County, VOR-A, Amdt. 5
Silver City, NM—Silver City & Grant County, VOR/DME-B, Amdt. 1
Rocky Mount, NC—Rocky Mount-Wilson, VOR/DME RWY 22, Amdt. 7
Okmulgee, OK—Okmulgee Muni, VOR Rwy 22, Original
Okmulgee, OK—Okmulgee Muni, VOR-A, Amdt. 7, cancelled
Charleston, SC—Johns Island, VOR-A, Amdt. 3
Aberdeen, SD—Aberdeen Regional, VOR Rwy 31, Amdt. 14
Aberdeen, SD—Aberdeen Regional, VOR/DME Rwy 13, Amdt. 6
Gloucester, Va—Gloucester, VOR-A, Amdt. 5
West Point, VA—West Point Muni, VOR-A, Amdt. 1
Winchester, VA—Winchester Muni, VOR-A, Amdt. 4
Winchester, VA—Winchester Muni, VOR/DME-B, Amdt. 1
LaCrosse, WI—LaCrosse Municipal, VOR Rwy 13, Amdt. 18
LaCrosse, WI—LaCrosse Municipal, VOR Rwy 36, Amdt. 20

• • • effective September 21, 1978:

Allentown, PA—Allentown-Bethlehem-Easton, VOR-A, Amdt. 7

2. By amending § 97.25 SDF-LOC-LDA SIAP's identified as follows:

• • • effective November 2, 1978:

Denver, CO—Stapleton International, LOC BC Rwy 17R, Amdt. 13
Alliance, NE—Alliance Municipal, VOR Rwy 30, Amdt. 7, cancelled
New York, NY—LaGuardia, LOC (BC) Rwy 31, Amdt. 8

• • • effective October 19, 1978:

Aberdeen, SD—Aberdeen Regional, LOC/DME BC Rwy 13, Amdt. 3
LaCrosse, WI—LaCrosse Municipal, LOC (BC) Rwy 36, Amdt. 6

• • • effective October 5, 1978:

LaFayette, LA—Lafayette Regional, LOC (BC) Rwy 1, Amdt. 4, cancelled
Milwaukee, WI—General Mitchell Field, LOC (BC) Rwy 1L, Original

• • • effective September 21, 1978:

Allentown, PA—Allentown-Bethlehem-Easton, LOC BC RWY 24, Amdt. 15

3. By amending § 97.27 NDB-ADF SIAP's identified as follows:

• • • effective November 2, 1978:

Denver, CO—Arapahoe County, NDB RWY 34R, Amdt. 4
Denver, CO—Stapleton International, NDB Rwy 26L, Amdt. 34
Denver, CO—Stapleton International, NDB Rwy 26R, Amdt. 4
Detroit, MI—Detroit Metropolitan Wayne County, NDB Rwy 3C, Amdt. 5
Detroit, MI—Detroit Metropolitan Wayne County, NDB Rwy 3L, Amdt. 5
Detroit, MI—Detroit Metropolitan Wayne County, NDB Rwy 21C, Amdt. 6
Detroit, MI—Detroit Metropolitan Wayne County, NDB Rwy 21R, Amdt. 6
Alliance, NE—Alliance Muni, NDB Rwy 30, Amdt. 6
New York, NY—LaGuardia, NDB RWY 4, Amdt. 34
New York, NY—LaGuardia, NDB RWY 22, Amdt. 9

• • • effective October 19, 1978:

Macomb, IL—Macomb Municipal, NDB Rwy 26, Amdt. 6
Topeka, KS—Forbes Field, NDB Rwy 13, Original
Jackson, MN—Jackson Muni, NDB Rwy 13, Amdt. 5
Sidney, MT—Sidney-Richland Municipal, NDB/DME RWY 1, Original
Gwinner, ND—Gwinner Muni, NDB Rwy 34, Amdt. 3
Charleston, SC—Johns Island, NDB Rwy 9, Amdt. 2
Aberdeen, SD—Aberdeen Regional, NDB RWY 31, Amdt. 4
LaCrosse, WI—LaCrosse Municipal, NDB Rwy 18, Amdt. 7

• • • effective October 5, 1978:

Lafayette, LA—Lafayette Regional NDB Rwy 3, Orig.
Lafayette, LA—Lafayette Regional, NDB Rwy 19, Amdt. 6, cancelled
Lafayette, LA—Lafayette Regional, NDB Rwy 21, Orig.
Denton, TX—Denton Municipal, NDB Rwy 17, Original
Denton, TX—Denton Municipal, NDB Rwy 17, Amdt. 1, Cancelled

• • • effective September 21, 1978:

Elmira, NY—Chemung County, NDB RWY 24, Amdt. 8

Allentown, PA—Allentown-Bethlehem-Easton, NDB Rwy 6, Amdt. 14

4. By amending § 97.29 ILS-MLS SIAP's identified as follows:

• • • effective November 2, 1978:

Denver, CO—Arapahoe County, ILS Rwy 34R, Amdt. 1
Denver, CO—Stapleton International, ILS BC Rwy 8R, Amdt. 6
Denver, CO—Stapleton International, ILS Rwy 26L, Amdt. 40
Denver, CO—Stapleton International, ILS Rwy 35L, Amdt. 21
Denver, CO—Stapleton International, ILS Rwy 35R, Amdt. 3
Galesburg, IL—Galesburg Municipal, ILS Rwy 2, Amdt. 1
Detroit, MI—Detroit Metropolitan Wayne County, ILS Rwy 21R, Amdt. 13
New York, NY—LaGuardia, ILS RWY 13, Amdt. 10
New York, NY—LaGuardia, ILS RWY 22, Amdt. 12
Detroit, MI—Detroit Metropolitan Wayne County, ILS Rwy 3L, Amdt. 3

• • • effective October 19, 1978:

Arcata-Eureka, CA—Arcata, ILS Rwy 31, Amdt. 22
Shreveport, LA—Shreveport Regional, ILS Rwy 31, Amdt. 1
Aberdeen, SD—Aberdeen Regional, ILS Rwy 31, Amdt. 4
LaCrosse, WI—LaCrosse Municipal, ILS Rwy 18, Amdt. 7

• • • effective October 5, 1978:

Lafayette, LA—Lafayette Regional, ILS Rwy 19, Amdt. 7, cancelled
Lafayette, LA—Lafayette Regional, ILS Rwy 21, Original
Denton, TX—Denton Muni, ILS Rwy 17, Original

• • • effective September 21, 1978:

Elmira, NY—Chemung County, ILS Rwy 24, Amdt. 10
Allentown, PA—Allentown-Bethlehem-Easton, ILS Rwy 6, Amdt. 20
Allentown, PA—Allentown-Bethlehem-Easton, ILS Rwy 13, Amdt. 3
Charleston, SC—Charleston AFB/Municipal ILS Rwy 33, Original

5. By amending § 97.31 RADAR SIAP's identified as follows:

• • • effective November 2, 1978:

Denver, CO—Arapahoe County, RADAR-1, Amdt. 8
Denver, CO—Stapleton International, RADAR-1, Amdt. 15

• • • effective October 19, 1978:

Orlando, FL—Herndon, RADAR-1, Amdt. 17
Tampa, FL—Tampa International, RADAR-1, Amdt. 7
Lansing, MI—Capital City, RADAR-1, Amdt. 4

• • • effective October 5, 1978:

Lafayette, LA—Lafayette Regional, RADAR-1, Amdt. 2

NOTE.—The FAA published an Amendment in Docket No. 18143, Amdt. No. 1116 to Part 97 of the Federal Aviation Regulations (Vol. 43 FR No. 145, page 32410; dated July 27, 1978) under § 97.31 effective September 7, 1978, which is hereby amended as follows: Knoxville, TN—McGhee Tyson, Radar-1, Amdt 18, is rescinded. Knoxville, TN—McGhee Tyson, Radar-1, Amdt 17 remains in effect.

6. By amending § 97.33 RNAV SIAP's identified as follows:

• • • effective November 2, 1978:

Denver, CO—Arapahoe County, RNAV Rwy 28, Amdt, 1.

• • • effective October 19, 1978:

Oxford, OH—Miami University, RNAV Rwy 4, Amdt. 2

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 6489 and paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 1, 1978.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 78-25692 Filed 9-13-78; 8:45 am]

[6320-01]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. PR-178; Amdt. No. 41]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Applications for Route Authority

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., September 11, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule clarifies and slightly modifies a recently adopted provision of the Board's procedural regulations. It changes the date for answers, from 30 working days, to 30 days (including weekends and holidays), and eliminates its applicability when the Board has already initiated a route case and the applicant is filing an application to be heard in that case. This action is being taken on the Board's own initiative.

DATES: Adopted: September 7, 1978. Effective: September 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Stephen Babcock, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: By PR-173, 43 FR 21873 (May 22, 1978), the Board adopted a new section 908 to its rules of practice in economic proceedings (14 CFR 302.908). This new section requires carriers to file motions for hearing, motions to consolidate, or petitions for orders to show cause, with almost all applications for new or modified certificated route authority. Experience under the new rule (which went into effect on June 21, 1978) has shown the need for two small changes.

The first of these is that we have decided to require answers to motions for hearing to be filed 30 days after the service date of the motion that they answer, rather than 30 days excluding Saturdays, Sundays, and holidays, as the rule now provides. We believe that 30 calendar days is sufficient time to prepare answers and this change will also conform this provision to our general rule, which is that the nonworking days are excluded from time computations only when a time of 7 days or less is specified.

Secondly, we are expecting from the coverage of this section applications "filed in response to, and conforming to, an order instituting a route investigation." We are taking this action because the economic data that section 908 requires are not needed when the Board has already decided to hear a case, and we believe that the service requirements contained in our generally applicable rules of practice (14 CFR 302.8(a)) are sufficient to give notice of applications to interested persons when a case has already been set down.

We are also eliminating subsection (f) because it is superfluous, and have changed the format of the section in order to clarify it.

Because of the need to clarify the present rule to avoid confusion on the part of applicants and their counsel, we find good cause to omit notice of proposed rulemaking and to make this rule effective immediately.

We will also instruct our docket section to continue to accept answers to motions served on or before the publication date of this rule on or before the dates determined in accordance with the existing provision. This should preclude any inconvenience to parties who may not immediately become aware of this change.

Accordingly, we revise section 908 of our rules of practice in economic proceedings (14 CFR 302.908) to read as follows:

§ 302.908 Applications for new or modified certificated route authority.

(a) This section applies to all applications for new or modified certificated route authority except those filed under subpart M or N of this part and those filed in response to, and conforming to, an order instituting a route investigation. Except as modified by this section, the rules in subpart A of this part continue to apply.

(b) A motion for hearing, a motion to consolidate, or a petition for an order to show cause shall be filed with every application.

(c) Applications and accompanying motions shall be served, for each point applied for, on the following:

(1) All air carriers authorized to regularly serve the point.

(2) All persons that have applications pending before the Board to regularly serve the point.

(3) All commuter air carriers operating at least five flights per week to or from the point, according to the current "Official Airline Guide" or "Air Cargo Guide."

(4) The aviation regulatory agency of the State, territory, or possession of the United States in which the point is located or, if there is no aviation regulatory agency, the Governor or other chief executive of the State, territory, or possession.

(5) The mayor or other chief executive of the point.

(6) The airport authority of each airport that the applicant proposes to use.

(7) Any other persons, as ordered by the Board in particular instances.

(d) Motions for hearing need not contain traffic and financial data for markets for which data has already been submitted by another person, if the applicant has moved to consolidate its application with the route proceeding that that other person has asked the Board to initiate. Otherwise, all motions shall include statements of all matters that the applicant believes justify the institution of a route proceeding. Matters of fact shall be sworn to, unless they are subject to official notice. Statements must include the following facts and projections:

(1) Present and proposed schedules by type of aircraft;

(2) Number of departures, plane-miles, passengers, and passenger-miles;

(3) Estimate of self-diversion or diversion from other carriers, if applicable;

(4) Anticipated operating revenues;

(5) Estimate of impact of proposal on operating expenses (for local service carriers, computed according to subpart K of this part);

(6) (For local service carriers only) estimate of allowance for return on investment and taxes, computed according to subpart K of this part; and

(7) (For local service carriers only) increase or decrease in subsidy requirements.

(e) Motions for hearing shall include a list of the names and addresses of all persons that will be served, and a notice that those persons can support or oppose the motion by filing an answer and serving a copy of it on all persons served with the motion. The notice shall also state the due-date for answers.

(f) Answers to motions for hearing shall be filed and served within 30 days of the service date of the motion that they answer. Answers to motions to consolidate and petitions for orders to show cause shall be filed within 7 days of the service date of the motion or petition that they answer.

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR
Secretary.

[FR Doc. 78-25954 Filed 9-13-78; 8:45 am]

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5973, 34-15135, 35-20699, IC-10389, AS 254]

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

Requirements for Form and Content of Financial Statements of Bank Holding Companies and Banks

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting new rules concerning the form and content of financial statements for bank holding companies and banks in view of the increased complexity of these companies. These rules are designated as article 9 of regulation S-X. It is expected that the rules being adopted will provide more informative financial statements for investors and potential investors in securities of these companies.

EFFECTIVE DATE: Effective for financial statements covering periods commencing after December 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Lawrence J. Bloch, Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549, 202-472-3782.

SUPPLEMENTARY INFORMATION: In a release issued on December 8, 1977,[1] the Commission requested comment on a revision of its proposed article 9 of regulation S-X concerning the form and content of financial statements of bank holding companies and banks. In proposing the replacement of the existing article 9, the Commission intended to eliminate its reliance on the provisions of regulation F of the Board of Governors of the Federal Reserve System. The principal purpose of this proposal was to establish requirements in regulation S-X for statements of bank holding companies and banks in view of the increased complexity of their operations. An earlier proposal had been issued on April 21, 1977.[2]

Comments on this proposal have been received from 102 persons, including 83 from bank holding companies and banks. Letters have been received from banking associations, bank regulatory agencies, a financial analyst organization, and accounting organizations and accounting firms. The comments in these letters have been considered and changes have been made in the drafts. The Commission believes that at this time it is appropriate to adopt the revised Article 9.

COMMENTS AND CHANGES

INCOME STATEMENT FORMAT

A relatively small number of comments were concerned with the net interest income format of the income statement included in the proposal. These commentators felt that using this statement format without making an equivalency adjustment for tax-exempt interest made the statement confusing when compared to statistical data found elsewhere in reports. In particular, they referred to the statistical disclosure requirements for bank holding companies under guides 61 and 3 which permit the use of such adjustments. Some of those criticizing the proposed income statement format

[1] Release Nos. 33-5886, 34-14238, 35-20307, IC-10052 (42 FR 63578; Dec. 16, 1977).

[2] Release Nos. 33-5823, 34-13459, 33-19995; IC-9730 (42 FR 21809; Apr. 29, 1977).

suggested that article 9 adopt the single step income statement format found in the regulatory agency reports, while others favored the addition of tax equivalent amounts to securities interest income.

In reports for 1976 and 1977, a substantial number of bank holding companies used the net interest income format of income statements, and we believe that this format presents valuable information for analysis by investors even when it is not on a tax equivalent basis. The tax equivalency adjustment is not in accordance with generally accepted accounting principles but reflects theoretical income never actually realized by a company. Although such and adjustment may be appropriate for statistical analytical purposes, it is not appropriate for inclusion in financial statements. Consequently, we have not deemed it appropriate to change the format of the income statement.[3]

RECEIVABLES FROM OFFICERS, DIRECTORS AND OTHERS

Many letters of comment were concerned with the broad scope of the proposed requirements for reporting of loans to persons in such relationships to the registrant and its affiliates as officers, directors, employees, and principal stockholders. As proposed, this reporting would have extended also to certain associates of such persons. These letters argued that the information requested was not material and might be misleading, that sufficient regulatory safeguards exist, that this disclosure would breach traditional privacy and confidentiality relationships in banking, and that the scope of the disclosure was too broad and consequently unworkable. It was pointed out that many bank holding companies have several thousands of employees and obtaining information about them and their associates was extremely difficult, if not impossible in the case of associates. In addition, some commentators noted that the requirement for detail reporting of amounts receivable aggregating more than $500,000 or 2½ percent of stockholders' equity, whichever is less, in a schedule was not particularly material in the case of most bank holding companies.

These comments have been considered, and as a result the requirement has been changed so that it is now limited to persons related to the registrant and its principal subsidiaries as directors, executive officers or principal holders of equity securities and certain of their associates. For the purpose of this reporting principal subsidiaries include the subsidiary with the greatest amount of deposits and any other subsidiary with deposits which exceed 15 percent of consolidated deposits. The term "executive officer" has been defined for the purpose of this report to mean the president, secretary, treasurer, any vice president in charge of a principal business function and any other person who performs similar policymaking functions for the registrant. This is derived from a definition in form 10-K. A definition of "relative" has been provided. Neither the threshold of 5 percent of stockholders' equity for supplementary note reporting of the aggregate amount due from these persons nor the threshold of the lesser of $500,000 or 2½ percent of stockholders' equity for detail schedule reporting has been changed.

FOREIGN ACTIVITIES

There were many comments on aspects of the proposed requirements for disclosure of foreign activities. This is a relatively new reporting area resulting from the issuance of statement of financial accounting standards No. 14 by the Financial Accounting Standards Board in December 1976. In developing these requirements, we considered the general criteria of standard No. 14, the specific characteristics of banking and the developing reporting requirements of the banking regulatory agencies.

The letters of comment were principally concerned with the following matters:

(1) The definition of foreign activities differed from the one found in standard No. 14.

(2) In addition to asset and revenue tests the threshold tests included criteria based on income (loss) before income tax expenses and net income, which are not found in standard No. 14.

(3) The disclosure requirements in the proposal are more detailed than those in standard No. 14.

(4) Allocation of the allowance for loan losses to foreign activities.

The definition of foreign activities includes loans and other revenue producing assets and transactions in which the debtor or customer is domiciled outside of the United States. The definition covers operations located and conducted entirely outside the United States and also covers loans and transactions made from a location in the United States to a debtor or customer outside of the United States. The definition recognizes the ability of banks at times to place loans in a foreign or domestic office depending on the availability or funds. Although the definitions and details of items to be reported for foreign activities in Article 9 differ in certain respects from those in the reports of condition and income (call report) of the Federal bank regulatory agencies because of differences in the purposes for which the reports are required, we believe that there is no difference in details and totals of corresponding assets, liabilities, revenue, and income which are to be reported. The provisions of Article 9 have also been designed to reflect the application of the general provisions of standard No. 14 to the special nature of banking. Because of difficulties in defining "guarantee" we have changed the proposed definition by deleting from it the provision for exclusion from foreign activities of a loan to a debtor domiciled outside of the United States which is fully guaranteed by a U.S. Government agency or U.S. domiciled company.

The general requirement for disclosure of foreign activities has been changed by the deletion of a provision that disclosure be made if the appropriate criteria were met in each of the two most recent fiscal years. As revised, disclosure would be necessary only for those years in which the criteria are met. The requirement that disclosure be made if income before income tax expense or net income exceeds 10 percent of the corresponding amount in the related financial statement has not been deleted. These criteria are appropriate for bank holding companies and other financial type companies because their leveraged nature creates different relationships between assets, revenue and income as against the relationships existing in commercial and industrial companies.

The requirements for disclosure of particular assets and liabilities and revenue and income related to foreign activities has not been changed except in minor details; however, disclosure to be made by significant geographic area has been revised so that amounts will be called for only by identifiable assets, total revenue and income before income taxes and net income.

As was the case in the first exposure of article 9, many letters objected to the requirement for allocation of a portion of the allowance for loan losses to foreign loans. The December proposal would have necessitated disclosure not only as to allocation to foreign loans in the aggregate but also by significant geographic segment. The American Institute of Certified Public Accountants suggested limitation of disclosure to foreign loans in the aggregate only. A few other letters supported this but indicated that allocations were nevertheless made. By limiting the requirements for significant geographic segment reporting to one amount for identifiable assets, disclosure of the allocation of the

[3] The format of the income statement and also of the balance sheet are suggested presentations, but the statements may be filed in such form and order as will best indicate their significance and character. (See § 210.3-01(a).)

allowance for loan losses is limited to the aggregate amount applicable to

ported and stated that it would be difficult to implement accounting sys-

paragraph (c) is redesignated as (b) as set forth below:

ASSETS AND OTHER DEBITS

1. *Cash and due from depository institutions.* (a) State separately (1) interest bear-

reported gross and not netted against purchases of Federal funds and sales of securities under repurchase agreements.

such person serves as trustee or in a similar fiduciary capacity, and (3) any relative or spouse of any of the foregoing persons, or

allowance for loan losses is limited to the aggregate amount applicable to foreign activities. In this connection, standard No. 14 states clearly that asset valuation allowances of this type shall be taken into account in computing the amount of an industry segment's identifiable assets.

INVESTMENT SECURITIES

Although many letters of comment took the view that parenthetical disclosure of market value of investment securities on the balance sheet was not necessary, we believe that this disclosure is valuable in the evaluation of this asset specifically and in relation to the balance sheet in its entirety. The significance of market value of investments is such that it should not be completely relegated to a note to the financial statements.

A number of other changes have been made to related areas of the proposal. The schedule which called for presentation of investment securities grouped by type and maturity has been changed by revising the definition of "issuer" to delete the provision for considering securities which are guaranteed by or moral obligations of a person to be securities of the guarantor or obligor as well as securities of their issuer. This has been replaced by a provision that debt securities which are payable from and secured by the same source of revenue shall be considered securities of a single issuer.

OTHER CHANGES

The requirement for reporting loans in several detailed categories has been revised by changing the consumer category to installment. A requirement for separate reporting of financial or agricultural loans if the total of either category exceeds 10 percent of total loans has been dropped. A provision has been made that unearned income shall be deducted separately from total loans.

Separate provisions have been made to report lease financing on the balance sheet and the related income on the income statement.

The requirement for disclosure of the amount of other real estate on the balance sheet or in a note regardless of materiality has been deleted. Other real estate need be disclosed only if the amount exceeds 30 percent of stockholders' equity. The suggestion in other letters of comment that other real estate be accounted for as part of loans has not been recognized.

A provision has been added for disclosure of the aggregate amount of time certificates of deposit in denominations of $100,000 or more.

A number of letters of comment questioned the information value of reporting loan interest income in the same categories by which loans are reported and stated that it would be difficult to implement accounting systems to produce this information. This proposed requirement has been deleted.

The provision in the proposal for separate reporting of equity and earnings of unconsolidated subsidiaries, gains or losses on investments in securities of subsidiaries and 50 percent or less owned persons, and minority interests has been changed so that these items are included with other income and other expense.

EFFECTIVE DATE

Many comments were concerned with the need for sufficient time to plan and install changes in accounting systems to provide new information called for in these requirements. Consequently the revised article 9 will be effective for financial statements for periods commencing after December 24, 1978. In this connection, because of the usefulness of some of the new provisions to investors, the Commission strongly encourages early compliance with them in statements for periods commencing prior to the effective date.

We believe that changes to the statement of income involve reclassification and presentation of information presently available to a registrant so that statements for prior periods can be recast without difficulty. The detailed information concerning foreign activities is such that it may not be available for 1978 and earlier years. Registrants should give as much information concerning foreign activities for 1978 and earlier years as is presently available and explain in a note that all of the currently prescribed information was not available earlier.

Commission action: The Commission hereby amends part 210 of chapter II of title 17 of the Code of Federal Regulations by revising the table of contents, § 210.5-01, §§ 210.9-01—9-05, § 210.12-01 and § 210.12-02 as indicated below:

1. The table of contents of part 210 is revised as set forth below:

APPLICATION OF REGULATION S-X (17 CFR PART 210)

* * * * *

BANK HOLDING COMPANIES AND BANKS

Sec.
210.9-01 Application of §§ 210.9-01 to 210.9-05.
210.9-02 Balance sheets.
210.9-03 Income statements.
210.9-04 Foreign activities.
210.9-05 What schedules are to be filed.

* * * * *

2. In § 210.5-01 paragraph (a)(7) is revised, paragraph (b) is deleted, and paragraph (c) is redesignated as (b) as set forth below:

§ 210.5-01 Application of §§ 210.5-01 to 210.5-04.

(a) * * *

(7) Bank holding companies consolidated and banks (see §§ 210.9-01 to 210.9-05). Unconsolidated financial statements and schedules filed for bank holding companies shall be prepared in accordance with this article (§§ 210.5-01 to 210.5-04), except as provided in § 210.9-01(b).

* * * * *

(b) [Deleted]

(c) [Redesignated as (b)]

3. Sections 210.9-01 through 210.9-05, are revised to read as follows:

BANK HOLDING COMPANIES AND BANKS

§ 210.9-01 Application of §§ 210.9-01 to 210.9-05.

(a) *Bank holding companies and banks.* This article shall be applicable to consolidated financial statements filed for bank holding companies and financial statements of banks.

(b) Financial statements filed for bank holding companies (unconsolidated) shall be prepared in accordance with §§ 210.5-01—210.5-04 except that:

(1) On the balance sheet, (i) current assets and current liabilities need not be separately classified from other assets and liabilities respectively, and (ii) the amounts presented for securities of, indebtedness of, and indebtedness to affiliates and other persons at §§ 210.5-02- 10, 11, and 31 and on schedules III, IV, and X shall show investments in and indebtedness of and to banks separately from amounts for other persons; and

(2) On the income statement, dividends received from unconsolidated subsidiaries and 50 percent or less owned persons shall be shown as the first item on the statement, and the amount to be reported at § 210.5-03-17 shall be the equity in undistributed earnings of unconsolidated subsidiaries and 50 percent or less owned persons. Dividends and equity in undistributed earnings related to banks shall be shown separately from amounts for other persons.

(c) The requirements of the general rules in §§ 210.1-01—210.1-02, 210.2-01—210.2-05, 210.3-01—210.3-17, and 210.4-01—210.4-08 shall be applicable except where they differ from requirements of § 210.9-01 to 9-05.

§ 210.9-02 Balance sheets.

Except as otherwise permitted by the Commission, the balance sheets filed for persons to whom this article is applicable shall comply with the following provisions (see paragraph (a) of § 210.3-01):

ASSETS AND OTHER DEBITS

1. *Cash and due from depository institutions.* (a) State separately (1) interest bearing deposits in other banks and (2) noninterest bearing deposits and cash.

(b) State in a note the amount and terms of any deposits in other banks held as compensating balances against long- or short-term borrowing arrangements (see § 210.5-02-1).

2. *Investment securities.* (a) State the aggregate book value of investment securities showing parenthetically or otherwise on the balance sheet the aggregate amount on the basis of market quotations or fair value at the balance sheet date.

(b) State in a note book value and value on the basis of market quotations or fair value of securities of (1) the U.S. Treasury and other U.S. Government agencies and corporations; (2) States of the U.S. and political subdivisions; and (3) other securities including bonds, notes, debentures and stock of business corporations, foreign governments and political subdivisions, intergovernmental agencies, and a Federal Reserve bank.

(c) State in a note the basis by which book value is determined. Bond premium shall be amortized and discount shall be accreted.

(d) Include securities pledged, loaned, or sold under repurchase agreements and similar arrangements. Exclude borrowed securities and securities purchased under resale agreements or similar arrangements.

(e) State in a note the name of issuer, aggregate book value, and aggregate amount on the basis of market quotations or fair value of the securities of any issuer for which the aggregate book value exceeds 10 percent of stockholders' equity of the person. For the purpose of this disclosure, the term "issuer" shall have the meaning given in section 2(4) of the Securities Act of 1933, except that debt securities issued by a State of the United States and its political subdivisions and agencies which are payable from and secured by the same source of revenue or taxing authority shall be considered to be securities of a single issuer. Information need not be given as to securities of the U.S. Government and U.S. Government agencies and corporations. Consideration shall be given to disclosure of risk characteristics of the securities of an issuer and of differences in risk characteristics of different issues of securities of an issuer as may be appropriate.

3. *Trading account securities.* State in a note whether securities in dealer trading accounts are valued at (a) cost, (b) lower of cost or market, or (c) market. If market is not used, state parenthetically or otherwise on the balance sheet the aggregate amount on the basis of the market quotations or fair value at the balance sheet date.

4. *Other short-term investments.* (a) State the aggregate value of Federal funds sold and securities purchased under resale agreement or similar arrangements. All securities purchased under transactions of this type shall be included regardless of (1) whether they are called simultaneous purchases and sales, buy-backs, turnarounds, overnight transactions, delayed deliveries, or other terms signifying the same substantive transaction, and (2) whether the transactions are with the same or different institutions if the purpose of the transaction is to resell identical or similar securities.

(b) Federal funds sold and purchases of securities under resale agreements shall be reported gross and not netted against purchases of Federal funds and sales of securities under repurchase agreements.

5. *Loans.* (a) State separately (1) total loans and (2) allowance for loan losses and (3) unearned income.

(b) State on the balance sheet or in a note the amount of loans in each of the following categories:

(1) Commercial, financial, and agricultural.

(2) Real estate—construction.

(3) Real estate—mortgage.

(4) Installment.

(5) Foreign.

(c) (1) Include under the real estate-construction category loans secured by real estate which are made for the purpose of financing construction of real estate and land development projects.

(2) Include under the real estate-mortgage category loans payable in monthly, quarterly, or other periodic installments and secured by developed income property and personal residences.

(3) Include under the installment category loans to individuals generally repayable in monthly installments. This category shall include but not be limited to credit card and related activities, individual automobile loans, other installment loans, mobile home loans, and residential repair and modernization loans.

(4) The amount to be reported for foreign loans shall agree with the total reported at § 210.9-04(c)(1).

(5) Include under the commercial, financial, and agricultural category all loans not included in another category. This category shall include but not be limited to loans to real estate investment trusts, mortgage companies, banks, and other financial institutions; loans for carrying securities; and loans for agricultural purposes. Do not include loans secured primarily by real estate.

(d) State separately any other loan category regardless of relative size if necessary to reflect any unusual risk concentration.

(e) If the amount exceeds 5 percent of stockholders' equity, state in a note the aggregate amount of loans owed by persons related to the reporting person or any of its principal subsidiaries as directors, executive officers,[1] or principal holders of equity securities. The aggregate amount shall include (but not be limited to) loans to the foregoing persons and to (1) any corporation, venture, or organization of which any of the foregoing persons is a general partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities, (2) any trust or other estate in which any of the foregoing persons has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity, and (3) any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person. Amounts to be reported shall include loans from the parent company or any consolidated subsidiary. It shall not be necessary to disclose amounts related to installment loans as defined in subparagraph (c)(3) above made in the ordinary course of business that (i) were made on substantially the same terms, including interest rates and collateral, as those prevailing at the same time for comparable transactions with other persons, and (ii) did not involve more than normal risk of collectability or present other unfavorable features.

(f) Unearned income shall be deducted separately from total loans.

(g) A series of categories other than those specified in (b) above may be used to present details of loans if considered a more appropriate presentation. The provisions of (d), (e), and (f) above shall be complied with.

(h) For each period for which an income statement is filed furnish in a note a statement of changes in the allowance for loan losses showing balances at beginning and end of the period, provision charged to income, recoveries of amounts charged off, and losses charged to the allowance.

6. *Lease financing.* State separately in a note the net investment in (a) direct financing leases and (b) leveraged leases.

7. *Bank premises and equipment.* (a) State the net amount of bank premises, equipment, and leasehold improvements.

(b) State separately in a note each major class used in the ordinary course of business such as land, building, equipment, or leasehold improvements; the accumulated depreciation and amortization; and the basis of determining the amounts. Include premises and equipment under capital leases.

8. *Due from customers on acceptances.* (a) State amounts receivable from customers on drafts and bills of exchange that have been accepted by a consolidated subsidiary bank or by other banks for the account of a consolidated subsidiary and that are outstanding—that is, not held by the subsidiary bank, on the reporting date. (If held by the subsidiary bank, they should be reported as "loans.")

9. *Other assets.* (a) State separately any of the following assets which exceeds 30 percent of stockholders' equity or any other asset which exceeds 30 percent of stockholders' equity. The remaining assets may be shown in one amount.

(1) Excess of cost over assets acquired (net of amortization).

(2) Other intangible assets (net of amortization).

(3) Other real estate.

(4) Investments in and indebtedness of affiliates and other persons.

(b) Include under other real estate all real estate owned other than that used in the ordinary course of business and state the basis or bases at which it is carried. Any reduction in book value resulting from the recognition of fair market value at the time of acquisition of other real estate shall be accounted for as a loan loss. If an allowance for real estate losses subsequent to acquisition is maintained, the amount shall be disclosed, deducted from the other real estate owned and a statement of changes in the allowance showing balances at beginning

[1] For the purpose of the disclosures in §§ 210.9-02-5(e) and 14(c) and § 210.9-05 schedule I, the term "principal subsidiaries" includes the subsidiary with the greatest amount of deposits of all consolidated bank subsidiaries and any other consolidated subsidiary in which deposits exceed 15 percent of consolidated deposits as reported at § 210.9-02-11; the term "executive officer" means the president, secretary, treasurer, any vice president in charge of a principal business function (such as loans, investment, operations administration or finance) and any other person who performs similar policymaking functions; and the term "relative" means any relationship by blood, marriage, or adoption, not more remote than first cousin.

and end of period, provision charged to income and losses charged to the allowance shall be furnished for each period for which

standing during the period and the approximate weighted average interest rate (and a brief description of the means used to com-

on bank premises of a subsidiary bank or its consolidated subsidiaries which have not

ments to resell) and interest on bank deposits.

5. *Lease financing.*

State in a note the method followed in determining the cost of investments sold, e.g., "average cost," "first-in, first-out," or "iden-

coveries of amounts charged off and losses charged to the allowance.

(e) *Balances and deposits in banks located*

and end of period, provision charged to income and losses charged to the allowance shall be furnished for each period for which an income statement is filed.

(c) State in a note (1) amounts representing investments in affiliates and investments in other persons which are accounted for by the equity method and (2) indebtedness of affiliates and indebtedness of other persons the investments in which are accounted for by the equity method. State the basis of determining the amounts reported under (1). (See § 210.5-02-10 and 11).

10. *Total assets and other debits.*

LIABILITIES AND STOCKHOLDERS' EQUITY

LIABILITIES

11. *Deposits.* (a) State separately the following deposit categories:

(1) Demand deposits in domestic bank offices.

(2) Savings deposits in domestic bank offices.

(3) Time deposits in domestic bank offices.

(4) Deposits in foreign banking offices.

(b) Include under demand deposits—domestic all domestic deposits other than savings and time deposits.

(c) Include under the savings deposits—domestic category interest bearing deposits without specified maturity or contractual provisions requiring advance notice of intention to withdraw funds. Include deposits for which a bank, optionally, may require written notice of intended withdrawal not less than 30 days in advance.

(d) Include under the time deposits—domestic category deposits subject to provisions specifying maturity or other withdrawal conditions such as time certificates of deposits, open account time deposits and deposits accumulated for the payment of personal loans.

(e) State separately in a note the aggregate of time certificates of deposit in denominations of $100,000 or more.

(f) Subcaptions (a)(2) and (a)(3) above may be combined if either one is less than 10 percent of total deposits.

12. *Short-term borrowings.* (a) State separately here or in a note amounts payable for (1) Federal funds purchased and securities sold under agreements to repurchase; (2) commercial paper; and (3) other short-term borrowings.

(b) Federal funds purchased and sales of securities under repurchase agreements shall be reported gross and not netted against sales of Federal funds and purchases of securities under resale agreements.

(c) Include as securities sold under agreements to repurchase all transactions of this type regardless of (1) whether they are called simultaneous purchases and sales, buy-backs, turnarounds, overnight transactions, delayed deliveries, or other terms signifying the same substantive transaction, and (2) whether the transactions are with the same or different institutions if the purpose of the transactions is to repurchase identical or similar securities.

(d) The weighted average interest rate and general terms (as well as formal provisions for the extension of the maturity) of each category of short-term borrowings shall be disclosed along with the maximum amount of borrowings in each category outstanding at any month-end during each period for which an end-of-period balance sheet is required. In addition, the approximate average short-term borrowings outstanding during the period and the approximate weighted average interest rate (and a brief description of the means used to compute such averages) for such aggregate short-term borrowings shall be disclosed in the notes to the financial statements.

This information is not required to be given for any category of short-term borrowings for which the approximate average balance outstanding during the period was less than 30 percent of stockholders' equity.

(e) The amount and terms (including commitment fees and the conditions under which lines may be withdrawn) of unused lines of credit for short-term financing shall be disclosed, if significant, in the notes to the financial statements. The amount of these lines of credit which support a commercial paper borrowing arrangement or similar arrangements shall be separately identified.

13. *Bank acceptances outstanding.* State the aggregate of unmatured drafts and bills of exchange accepted by a subsidiary bank, or by some other bank as its agent, less the amount of such acceptances acquired by the subsidiary bank through discount or purchase and held on the reporting date.

14. *Accounts payable and accrued liabilities.* (a) State separately any of the following liabilities which exceeds 30 percent of stockholders' equity or any other liability which exceeds 30 percent of stockholders' equity. The remaining accounts payable and accrued liabilities may be shown in one amount (see note disclosure called for in subparagraph (c) below:)

(1) Income taxes payable.

(2) Deferred income taxes.

(3) Indebtedness to affiliates and other persons (see § 210.5-02-31).

(4) Indebtedness to directors, executive officers, and principal holders (other than affiliates) of equity securities.

(b) State in a note indebtedness to affiliates and indebtedness to other persons the investments in which are accounted for by the equity method. (See § 210.5-02-31.)

(c) If the amount exceeds 5 percent of stockholders' equity, state in a note the aggregate amount owed to persons related to the reporting person or any of its principal subsidiaries as directors, executive officers, or principal holders of equity securities. The aggregate amount shall include (but not be limited to) amounts owed to the foregoing persons and to (1) any corporation, venture or organization of which any of the foregoing persons is a general partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities, (2) any trust or other estate in which any of the foregoing persons has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity and (3) any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person. Amounts to be reported shall include amounts owed by the parent company or any consolidated subsidiary.

15. *Bonds, mortgages and similar debt.* (a) Include bonds, capital notes, debentures, mortgages and similar debt.

(b) State in a note the information required under § 210.5-02-29 (see also § 210.5-02-30).

(c) State in notes with appropriate explanations (1) the title and amount of each issue of debt of a subsidiary included in (a) above which has not been assumed or guaranteed by the registrant; and (2) any liens on bank premises of a subsidiary bank or its consolidated subsidiaries which have not been assumed by the bank subsidiary or its consolidated subsidiaries.

16. *Total liabilities.*

17. *Commitments and contingent liabilities.* (a) See § 210.3-16(i).

(b) State in a note the amount of outstanding standby letters of credit. For the purpose of this disclosure "standby letters of credit" shall include every letter of credit (or similar arrangement however named or designated) which represents an obligation to the beneficiary on the part of an issuing consolidated subsidiary bank (1) to repay money borrowed by or advanced to or for the account of the account party; (2) to make payment on account of any evidence of indebtedness undertaken by the account party; or (3) to make payment on account of any default by the account party in the performance of an obligation. Do not include standby letters of credit for which the issuing bank has either been paid an amount equal to its liability under the standby letter of credit, or has set aside sufficient funds in a segregated deposit account to cover its maximum liability.

18. *Minority interest in consolidated subsidiaries.*

STOCKHOLDERS' EQUITY

19. *Capital shares.* The classification and disclosure required by § 210.5-02-38 shall be given.

20. *Other stockholders' equity.* The classification and disclosure required by § 210.5-02-39 shall be given (see subsection 210.3-16(h)).

21. *Total stockholders' equity.*

22. *Total liabilities and stockholders' equity.*

§ 210.9-03. Income statements.

Except as otherwise permitted by the Commission, the income statements filed for persons to whom this article is applicable shall comply with the provisions of this rule (see paragraph (a) of § 210.3-01).

INTEREST INCOME

1. *Interest and fees and loans.*

(a) Include interest and service charges and fees which are related to or are an adjustment of the loan interest rate. Include interest on notes, bills and drafts that have been rediscounted with Federal Reserve or other banks or pledged as collateral to secure bills payable or for any other purpose and profits or losses resulting from the sale of acceptances and commercial paper at discount rates other than those at which such paper was purchased.

(b) Current amortization of premiums on mortgages or other loans shall be deducted from interest on loans and current accretion of discount on such items shall be added to interest on loans.

2. *Interest (and dividends if material) on investment securities.* (a) State separately (1) taxable interest income, (2) interest income exempt from Federal income taxes, and (3) dividends (if material).

(b) Include accretion of discount on securities and deduct amortization of premiums on securities.

3. *Trading account interest.* Include interest from securities carried in a dealer trading account or accounts that are held principally for resale to customers.

4. *Other interest income.* Include interest on short-term investments (Federal funds sold and securities purchased under agreements to resell) and interest on bank deposits.

5. *Lease financing.*

6. *Total interest income.*

INTEREST EXPENSE

7. *Interest on deposits.* Include interest on all deposits. State separately on the income statement or in a note interest on deposits detailed in the same categories as those specified for deposits at § 210.9-02-11 (a) and (e).

8. *Interest on short term borrowings.* Include interest on borrowed funds including Federal funds purchased, securities sold under agreements to repurchase, commercial paper and other short-term borrowings.

9. *Interest on long-term debt.* Include interest on bonds, capital notes, debentures, mortgages on bank premises, capitalized leases and similar debt.

10. *Total interest expense.*

11. *Net interest income.*

12. *Provision for loan losses.*

13. *Net interest income after provision for loan losses.*

14. *Other income.* State separately any of the following items of income which exceeds 1 percent of revenue or any other item of income which exceeds 1 percent of revenue.[5] The remaining other income may be shown in one amount.

(a) Commissions and fees from fiduciary activities.

(b) Fees for other services to customers.

(c) Commissions, fees and markups on securities underwriting and other securities activities.

(d) Profit or loss on transactions in securities in dealer trading account.

(e) Equity in earnings of unconsolidated subsidiaries and 50 percent or less owned persons.

(f) Gains or losses on disposition of investments in securities of subsidiaries and 50 percent or less owned persons.

15. *Other expenses.* (a) State separately any of the following expenses which exceeds 1 percent of revenue or any other expense which exceeds 1 percent of revenue. The remaining expenses may be shown in one amount.

(1) Salaries and employee benefits.

(2) Net occupancy expense of premises.

(3) Net cost of operation of other real estate.

(4) Minority interest in income of consolidated subsidiaries.

(b) Report in one amount the net expense of occupancy of premises used in the ordinary course of business reduced by income from premises leased to others.

(c) Report in one amount the net expense of operation of other real estate reduced by rental or other related income. Include provisions for real estate losses resulting from revaluations, of assets subsequent to acquisition, if any, and gains or losses on disposition of assets.

16. *Income or loss before income tax expense, securities gains or losses (and appropriate items below).*

17. *Income tax expense.* (See § 210.3-16(o).)

18. *Income before securities gains or losses.*

19. *Investment securities gains or losses, less applicable tax.*

[5] For the purpose of the tests of materiality under §§ 210.9-03-14 and 15, the term "revenue" includes the total of amounts reported at §§ 210.9-03-6 and 14.

State in a note the method followed in determining the cost of investments sold, e.g., "average cost," "first-in, first-out," or "identified certificate." Related income taxes shall be shown parenthetically. Gains or losses on the person's own equity securities shall not be included under this caption.

20. *Income or loss before extraordinary items.*

21. *Extraordinary items, less applicable tax.* State separately (a) extrordinary items of the person and (b) equity in extraordinary items of (1) unconsolidated subsidiaries and (2) 50 percent or less owned persons for which the equity in earnings was reported under caption 14. Indicate the nature of any material items and disclose parenthetically or otherwise the tax applicable to each.

22. *Cumulative effects of changes in accounting principles.* State separately (a) changes of the person and (b) equity in changes of (1) unconsolidated subsidiaries and (2) 50 percent or less owned persons for which the equity in earnings was reported under caption 14. Indicate the nature of any material items and disclose parenthetically or otherwise the tax applicable to each.

23. *Net income or loss.* (See § 210.9-02-20.)

24. *Earnings per share data.* Refer to the pertinent requirements in the appropriate filing form.

§ 210.9-04. Foreign activities.

(a) *General requirement.* (1) Separate disclosure concerning foreign activities (banking, bank related and nonbanking) as specified in paragraphs (c), (d), (e), (f), (g), and (h) below shall be made if (i) assets, or (ii) revenue, or (iii) income (loss) before income tax expense, or (iv) net income (loss), each as associated with foreign activities, exceeded 10 percent of the corresponding amount in the related financial statements.

(2) If disclosure is required to be made under (1) above there shall be presented separately in a note for each significant geographic areas and in the aggregate for all other geographic area not deemed significant (i) total identifiable assets (net of valuation allowances), (ii) total revenue, (iii) income (loss) before income tax and (iv) net income (loss).

(b) *Definitions.* As used in this article the following terms shall have the meanings indicated:

(1) *Foreign activities.* The term "foreign activities" includes loans and other revenue producing assets and transactions in which the debtor or customer, whether an affiliated or unaffiliated person, is domiciled outside the United States.

(2) *Revenue.* The term "revenue" includes the total of amounts reported at §§ 210.9-03-6 and 14.

(3) *Significant geographic area.* A "significant geographic area" is one whose assets, revenue or income or net income exceed 10 percent of the comparable amount as reported in the related financial statements.

(c) *Loans.* State separately each of the following categories of loans which exceeds 10 percent of total loans related to foreign activities (1) governments and official institutions, (2) banks and other financial institutions, (3) commercial and industrial, and (4) all other loans.

(d) *Allowance for loan losses.* For each period for which an income statement is filed, furnish in a note a statement of changes in the allowance for loan losses applicable to loans related to foreign activities showing balances at beginning and end of the period, provision charged to income, recoveries of amounts charged off and losses charged to the allowance.

(e) *Balances and deposits in banks located outside the United States.* Show separately (1) interest bearing deposits and balances, and (2) all other balances.

(f) *Deposit liabilities.* State separately deposits of (1) banks in foreign countries (including balances of foreign branches of other United States banks), (2) deposits of foreign governments and official institutions, (3) other foreign demand deposits, and (4) other foreign time and savings deposits.

(g) *Other borrowings.* State separately (1) short-term borrowings and (2) bonds, mortgages and similar debt related to foreign activities corresponding to the amounts reported on the balance sheet at §§ 210.9-02-12 and 15.

(h) *Revenue and income or loss.* For each period for which an income statement is filed state the amount of revenue, expenses, and income (loss) before taxes and net income (loss) associated with foreign activities. Information may be presented in the form of the income statement in § 210.9-03. State in a note the method of pricing money transfers in adjusting for funds generated or used and the nature of significant estimates and assumptions made in allocating revenue and expenses to foreign activities.

§ 210.9-05. What schedules are to be filed.

(a) Except as expressly provided otherwise in the applicable form—

(1) The schedules specified below in this section as schedules III, IV, V, and VI shall be filed as of the dates of the most recent audited balance sheet and any subsequent unaudited balance sheeet being filed for each person or group, provided that any such schedule (other than schedule V) may be omitted if both of the following conditions exist:

(i) The financial statements are being filed as part of an annual or other periodic report; and (ii) the information that would be shown in the respective columns of such schedule would reflect no changes in any issue of securities of the registrant or any significant subsidiary in excess of 5 percent of the outstanding securities of such issue as shown in the most recently filed annual report containing the schedule.

(2) Schedule V, capital shares, may also be omitted if the above two conditions exist and any information required by column G of the schedule is shown in the related balance sheet or in a note thereto.

(3) The other schedules specified below in the rule as schedules I and II shall be filed for each period for which an income statement is required to be filed for each person or group.

(b) If the information required by any schedule (including the notes thereto) may be shown in the related financial statement or in a note thereto without making such statement unclear or confusing, that procedure may be followed and the schedule omitted.

(c) The schedules shall be examined by the independent accountant if the related financial statements are so examined.

(d) The schedules prescribed by §§ 210.12-04, 05 and 11 shall be filed in support of subcaptions 9(c) and 14(b) of each balance sheet and shall be designated schedules VII, VIII and IX, respectively. These schedules shall be filed for each period for which an income statement is required to be filed. These schedules may be omitted if (1) nei-

ther the amount required to be reported in a note under subcaption 9(c) in the related

notes, drafts, bills of exchange, or bankers' acceptances having a maturity at the time

be suspended because of noncompliance with the flood plain management

notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

ther the amount required to be reported in a note under subcaption 9(c) in the related balance sheet nor the amount required to be reported in a note under subcaption 14(b) in such balance sheet exceeds 5 percent of stockholders' equity as shown by the related balance sheet at either the beginning or end of the period, or (2) there have been no material changes in the information required to be filed from that last previously reported.

Schedule I. Amounts receivable from certain persons. The schedule prescribed by § 210.12-03 shall be filed with respect to indebtedness of more than $500,000 or 2½ percent of stockholders' equity, whichever is less, which is owed or, at any time during the period for which related income statements are required to be filed, was owed by each person (including those referred to below) related to the reporting person or any of its principal subsidiaries as director, executive officer,* or principal holder of equity securities. Indebtedness to be reported for a director, officer or principal holder of equity securities shall include the aggregate of indebtedness owed by such person and indebtedness owed by any of the following which are related to such person: (1) any corporation, venture or organization of which any of the foregoing persons is a general partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities, (2) any trust or other estate in which any of the foregoing persons has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity and (3) any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person. Indebtedness to be reported shall include amounts owed to the parent company or any consolidated subsidiary. It shall not be necessary to disclose amounts related to installment loans as defined in § 210.9-05-5(c)(3) made in the ordinary course of business that (i) were made on substantially the same terms, including interest rates and collateral, as those prevailing at the same time for comparable transactions with other persons, and (ii) did not involve more than normal risk of collectability or present other unfavorable features.

Schedule II. Valuation and qualifying accounts and reserves. The schedule prescribed by § 210.12-13 shall be filed in support of valuation and qualifying accounts and reserves included in each balance sheet excluding the allowances for loan losses and real estate losses.

Schedule III. Bonds, mortgages, and similar debit. The schedule prescribed by § 210.12-10 shall be filed in support of caption 15 of a balance sheet.

Schedule IV. Guarantees of securities of other issuers. The schedule prescribed by § 210.12-12 shall be filed in support of caption 15 of a balance sheet.

Schedule V. Capital shares. The schedule prescribed by § 210.12-14 shall be filed in support of caption 19 of a balance sheet.

Schedule VI. Other securities. If there are any classes of securities not included in schedules III, IV, and V, set forth in this schedule information concerning such securities corresponding to that required for the securities included in such schedules. Information need not be set forth, however, as to notes, drafts, bills of exchange, or bankers' acceptances having a maturity at the time of issuance of not exceeding one year

§ 210.12-01 [Amended]

4. In § 210.12-01 the last listed section number "§ 210.9-04" is changed to "§ 210.9-05."

§ 210.12-02 [Amended]

5. Footnote 2(b) to the table in § 210.12-02 is deleted, and footnote 2(a) is redesignated as footnote 2.

§ 210.12.02 Marketable securities—Other security investments.

* * * * *

2(b) [Deleted]

These amendments are adopted pursuant to authority in sections 6, 7, 8, 10, and 19(a) [15 U.S.C. 77f, 77g, 77h, 77j, 77s] of the Securities Act of 1933; sections 12, 13, 15(d) and 23(a) [15 U.S.C. 78l, 78m, 78o(d), 78w] of the Securities Exchange Act of 1934; sections 5(b), 14, and 20(a) [15 U.S.C. 79e, 79n, 79t] of the Public Utility Holding Company Act of 1935; and sections 8, 30, 31(c) and 38(a) [15 U.S.C. 80a-8, 80a-30(c), 80a-37(a)] of the Investment Company Act of 1940. Pursuant to section 23(a)(2) of the Securities Exchange Act, the Commission has considered the impact of these amendments on competition and is not aware of any burden that they would impose.

By the Commission.

Dated: September 7, 1978.

GEORGE A FITZSIMMONS,
Secretary.

[FR Doc. 78-25887 Filed 9-13-78; 8:45 am]

*See footnote 1 for definitions of "principal subsidiaries", "executive officer" and "relative."

[4210-01]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-4479]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (24 CFR Part 1909 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since publication of a flood insurance map. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that

notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified	Date
Alabama	Cullman	Hanceville, town of	010059-B	Mar. 12, 1974, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Apr. 12, 1974 Dec. 19, 1975	Sept. 15, 1978.
California	Sacramento	Sacramento, city of	060266-B	Mar. 17, 1972, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Jan. 10, 1975 Dec. 27, 1977	Do.
Colorado	Adams	Northgleen, city of	080257-A	Jan. 22, 1975, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Aug. 22, 1975	Do.
Florida	Orange	Belle Isle, city of	120181-B	July 3, 1975, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	July 19, 1974 Jan. 30, 1976	Do.
Do	Palm Beach	Lake Park, town of	120212-B	Aug. 20, 1973, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Nov. 23, 1973 Jan. 30, 1976	Do.
Georgia	Clarke	Athens, city of	130040-B	Dec. 5, 1973, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Apr. 12, 1974 Feb. 13, 1976	Do.
Do	Fulton	College Park, city of	130086-B	Oct. 22, 1971, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	May 31, 1974 Sept. 12, 1975	Do.
Do	Floyd	Rome, city of	130081-B	Dec. 19, 1973, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	May 17, 1974 Jan. 30, 1976	Do.
Idaho	Bannock	Inkom, city of	160010-B	July 16, 1975, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Sept. 13, 1974 Dec. 19, 1975	Do.
Illinois	Cook	Franklin Park, village of	170094-B	Apr. 11, 1973, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Nov. 2, 1973 Mar. 19, 1976	Do.
Do	do	Schiller Park, village of	170159-B	May 4, 1973, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Nov. 9, 1973 Apr. 9, 1976	Do.
Do	do	Wheeling, village of	170173-B	Dec. 15, 1972, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Aug. 27, 1976 Dec. 24, 1976	Do.
Kansas	Allen	Iola, city of	200003-B	Apr. 1, 1975, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Dec. 17, 1973 Mar. 7, 1975	Do.
Do	Harvey	Halstead, city of	200131-B	Apr. 3, 1975, emergency, Sept. 1, 1978, regular, Sept. 15, 1978, suspended.	June 7, 1974 Jan. 23, 1978	Do.
Louisiana	St. Mary	Franklin, city of	220195-B	Apr. 23, 1973, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Mar. 22, 1974 Aug. 6, 1976	Do.
Maine	Piscataquis	Abbot, town of	230406-A	Apr. 21, 1976, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Feb. 14, 1975	Do.
Massachusetts	Middlesex	Boxborough, town of	250184-B	Apr. 11, 1975, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Sept. 20, 1974 Dec. 17, 1976	Do.
Do	Hampden	East Longmeadow, town of	250138-B	Mar. 3, 1975, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	June 14, 1974 Aug. 20, 1976	Do.
Michigan	Wayne	Southgate, city of	260242-B	May 14, 1973, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Apr. 12, 1974 Apr. 18, 1975	Do.
Minnesota	Anoka	Circle Pines, city of	270009-A	Apr. 15, 1974, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	July 30, 1976	Do.
Do	Ramsey	North St. Paul, city of	270382-B	May 9, 1974, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Mar. 29, 1974 Oct. 8, 1976	Do.
Missouri	Jackson	Blue Springs, city of	290169-B	Oct. 18, 1974, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	June 28, 1974 May 21, 1976	Do.
Do	do	Raytown, city of	290176-B	Feb. 27, 1975, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Dec. 21, 1973 Sept. 17, 1976	Do.
Do	St. Charles	Unincorporated areas	290315-A	Aug. 6, 1971, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Sept. 15, 1978	Do.
Do	St. Louis	do	290327-A	Sept. 3, 1971, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	do	Do.
North Carolina	Rowan	Granite Quarry, town of	370212-B	May 1, 1975, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Mar. 8, 1974 Apr. 2, 1976	Do.
North Dakota	Ward	Burlington, city of	380141-A	Jan. 30, 1975, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Apr. 16, 1976	Do.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified	Date

Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Fed-

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified	Date [1]
New Jersey	Burlington	Moorestown, township of	340105-A	Feb. 11, 1972, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Mar. 16, 1973	Do.
Do	Essex	West Orange, town of	340197-A	Nov. 12, 1971, emergency, May 2, 1977, regular, Sept. 15, 1978, suspended.	June 21, 1974	Do.
New York	Rockland	Spring Valley, village of	365344-B	Oct. 29, 1971, emergency, Aug. 31, 1973, regular, Sept. 15, 1978, suspended.	Aug. 31, 1973	Do.
Do	Monroe	Wheatland, town of	360438-B	Mar. 30, 1973, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Feb. 22, 1974 Oct. 15, 1976	Do.
Oregon	Clatsop	Cannon Beach, city of	410029-B	Mar. 6, 1974, emergency, Sept. 1, 1978, regular, Sept. 15, 1978, suspended.	June 21, 1974 Nov. 28, 1975	Do.
Pennsylvania	Carbon	Palmerton, borough of	420253-A	Mar. 29, 1974, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Sept. 15, 1978	Do.
Rhode Island	Kent	Conventry, town of	440004-A	Nov. 21, 1973, emergency, Sept. 1, 1978, regular, Sept. 15, 1978, suspended.	Sept. 1, 1978	Do.
Vermont	Lamoille	Morristown, town of	500064-B	Aug. 20, 1974, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	May 31, 1974 Apr. 22, 1977	Do.
Virginia	Rockingham	Grottoes, town of	510138-B	June 17, 1975, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	June 28, 1974 Apr. 30, 1976	Do.
Do	Giles	Narrows, town of	510068-B	Dec. 6, 1973, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Feb. 1, 1974 Feb. 27, 1976	Do.
Do	Powhatan	Uncorporated areas	510117-A	Feb. 5, 1975, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Sept. 13, 1974	Do.
Wisconsin	Lafayette	do	550223-A	Mar. 10, 1972, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Dec. 27, 1974	Do.
Do	Manitowac	do	550236-A	July 18, 1973, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Feb. 7, 1975	Do.
Do	Waukesha	Menomonee Falls, village of	550483-B	Nov. 12, 1973, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Sept. 13, 1974 Aug. 27, 1976	Do.
Do	Kenosha	Silver Lake, village of	550210-B	Mar. 20, 1974, emergency, Sept. 1, 1978, regular, Sept. 15, 1978, suspended.	Dec. 28, 1973 July 30, 1976	Do.

[1] Data certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 29, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24791 Filed 9-13-78; 8:45 am]

[4210-01]

[Docket No. FI-4480]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Md. 20034, phone 800-638-6620.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood

Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified	Date [1]
Alabama	Pickens	Carrollton, town of	010181-B	Aug. 15, 1978, suspension withdrawn.	Aug. 23, 1974	Aug. 15, 1978.
Do	Autauga	Prattville, city of	010002-B	do	May 3, 1974 Jan. 2, 1976	Do.
Connecticut	Fairfield	Fairfield, town of	090007-B	do	Aug. 2, 1974	Do.
Delaware	Sussex	Henlopen Acres, town of	100053-B	do	Sept. 6, 1974 Jan. 2, 1976	Do.
Florida	Orange	Unincorporated areas	120179-A	do	Jan. 30, 1976 Apr. 15, 1977	Do.
Do	Volusia	Ormon Beach, city of	125136-A	do	Sept. 7, 1973	Do.
Do	St. Johns	St. Augustine, city of	125145-B	do	Oct. 11, 1972	Do.
Do	Martin	Stuart, city of	120165-C	do	May 24, 1974 Feb. 13, 1976	Do.
Indiana	Noble	Unincorporated areas	180183-A	do	Aug. 15, 1978	Do.
Do	St. Joseph	do	180224-A	do	Dec. 27, 1974	Do.
Do	Washington	Salem, city of	180279-B	do	Nov. 23, 1973 May 28, 1976	Do.
Kansas	Wilson	Neodesha, city of	200359-B	do	Jan. 9, 1974 Aug. 29, 1975	Do.
Kentucky	Harlan	Unincorporated areas	210098-A	do	Nov. 29, 1974	Do.
Do	Jefferson	Shively, city of	210124-B	do	May 17, 1974 Aug. 27, 1976	Do.
Massachusetts	Bristol	Berkley, town of	250050-B	do	July 26, 1974 Oct. 1, 1976	Do.
Minnesota	Goodhue	Unincorporated areas	270140-A	do	Aug. 15, 1978	Do.
North Carlina	Mecklenburg	Charlotte, city of	370159-A	do	June 28, 1974	Do.
New Hampshire	Hillsborough	Hudson, town of	330092-B	do	Mar. 8, 1974 Oct. 1, 1976	Do.
New Jersey	Camden	Cherry Hills, township of	340129-A	do	Feb. 21, 1975	Do.
Do	Monmouth	Marlboro, township of	340310-A	do	Dec. 28, 1973	Do.
Do	Somerset	North Plainfield, city of	345307-A	do	Aug. 20, 1971	Do.
Do	Union	Roselle, borough of	340472-A	do	Apr. 22, 1977	Do.
New York	Livingston	Avon, town of	360380-C	do	May 24, 1974 June 4, 1976	Do.
Do	Jefferson	Ellisburg, town of	360334-B	do	Apr. 5, 1974 Feb. 6, 1976	Do.
Do	Monroe	Parma, town of	360425-B	do	Nov. 9, 1973 Apr. 18, 1976	Do.
Do	do	Spencerport, village of	360433-B	do	Feb. 1, 1974 June 18, 1976	Do.
Ohio	Fayette	Washington, city of	390166-B	do	Nov. 23, 1974	Do.
Pennsylvania	Allegheny	Baldwin, borough of	420007-A	do	Dec. 17, 1976	Do.
Do	Bucks	Durham, township of	420186-B	do	Apr. 13, 1973 May 21, 1976	Do.
Do	Mifflin	Granville, township of	421134-B	do	Aug. 30, 1974 Sept. 26, 1975	Do.
Do	Montgomery	Hatfield, borough of	420698-A	do	July 30, 1976	Do.
Do	Mifflin	Lewistown, borough of	420687-B	do	July 20, 1973 Oct. 10, 1975	Do.
Do	Lawrence	New Castle, city of	420568-C	do	June 21, 1974 Dec. 26, 1975	Do.
Do	Chester	North Coventry, township of.	420283-A	do	Nov. 30, 1973	Do.
Do	Bucks	Wrightstown, township of	421045-B	do	May 31, 1974 July 30, 1976	Do.
South Carolina	Horry	Surfside Beach, town of	450111-B	do	June 14, 1974 June 25, 1976	Do.
Tennessee	Loudon	Unincorporated areas	470107-A	do	Aug. 15, 1978	Do.
Virginia	Mecklenburg	do	510189-A	do	Feb. 7, 1975	Do.
Do	Prince William	Quantico, town of	510232-B	do	Nov. 1, 1974 May 21, 1976	Do.
West Virginia	Mason	Leon, town of	540113-B	do	Sept. 6, 1974 July 16, 1976	Do.
Wisconsin	Fond du Lac	Fond du Lac, city of	550136-A	do	Feb. 8, 1970	Do.
Wyoming	Natrona	Unincorporated areas	560036-A	do	Aug. 15, 1978	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
Florida	Orange	Unincorporated areas	Aug. 15, 1978, suspension withdrawn.	Aug. 23, 1974	120179-A
Do	Volusia	Ormon Beach, city of	do	May 3, 1974 Jan. 2, 1976	125136-A
Do	St. Johns	St. Augustine, city of	do	Aug. 2, 1974	125145-B
Do	Martin	Stuart, city of	do	Sept. 6, 1974 Jan. 2, 1976	120165-C
Indiana	Noble	Unincorporated areas	do	Jan. 30, 1976 Apr. 15, 1977	180183-A
Do	St. Joseph	do	do	Sept. 7, 1973	180224-A
Do	Washington	Salem, city of	do	Oct. 11, 1972	180279-B
Kansas	Wilson	Neodesha, city of	do	May 24, 1974 Feb. 13, 1976	200359-B
Kentucky	Harlan	Unincorporated areas	do	Aug. 15, 1978	210098-A
Do	Jefferson	Shively, city of	do	Nov. 29, 1974	210124-B
Massachusetts	Bristol	Berkley, town of	do	May 17, 1974 Aug. 27, 1976	250050-B
Minnesota	Goodhue	Unincorporated areas	do	July 26, 1974 Oct. 1, 1976	270140-A
North Carlina	Mecklenburg	Charlotte, city of	do	Aug. 15, 1978	370159-A
New Hampshire	Hillsborough	Hudson, town of	do	June 28, 1974	330092-B
New Jersey	Camden	Cherry Hills, township of	do	Mar. 8, 1974 Oct. 1, 1976	340129-A
Do	Monmouth	Marlboro, township of	do	Feb. 21, 1975	340310-A
Do	Somerset	North Plainfield, city of	do	Dec. 28, 1973	345307-A
Do	Union	Roselle, borough of	do	Aug. 20, 1971	340472-A
New York	Livingston	Avon, town of	do	Apr. 22, 1977	360380-C
Do	Jefferson	Ellisburg, town of	do	May 24, 1974 June 4, 1976	360334-B
Do	Monroe	Parma, town of	do	Apr. 5, 1974 Feb. 6, 1976	360425-B
Do	do	Spencerport, village of	do	Nov. 9, 1973 Apr. 18, 1976	360433-B
Ohio	Fayette	Washington, city of	do	Feb. 1, 1974 June 18, 1976	390166-B
Pennsylvania	Allegheny	Baldwin, borough of	do	Nov. 23, 1974	420007-A
Do	Bucks	Durham, township of	do	Dec. 17, 1976	420186-B
Do	Mifflin	Granville, township of	do	Apr. 13, 1973 May 21, 1976	421134-B
Do	Montgomery	Hatfield, borough of	do	Aug. 30, 1974 Sept. 26, 1975	420698-A
Do	Mifflin	Lewistown, borough of	do	July 30, 1976	420687-B
Do	Lawrence	New Castle, city of	do	July 20, 1973 Oct. 10, 1975	420568-C
Do	Chester	North Coventry, township of.	do	June 21, 1974 Dec. 26, 1975	420283-A
Do	Bucks	Wrightstown, township of	do	Nov. 30, 1973	421045-B
South Carolina	Horry	Surfside Beach, town of	do	May 31, 1974 July 30, 1976	450111-B
Tennessee	Loudon	Unincorporated areas	do	June 14, 1974 June 25, 1976	470107-A
Virginia	Mecklenburg	do	do	Aug. 15, 1978	510189-A
Do	Prince William	Quantico, town of	do	Feb. 7, 1975	510232-B
West Virginia	Mason	Leon, town of	do	Nov. 1, 1974 May 21, 1976	540113-B
Wisconsin	Fond du Lac	Fond du Lac, city of	do	Sept. 6, 1974 July 16, 1976	550136-A
Wyoming	Natrona	Unincorporated areas	do	Feb. 8, 1970	560036-A
				Aug. 15, 1978	

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) is promulgating a revision to the Arizona State Implementation Plan (SIP) for the Maricopa County Air Pollution Control District. This revision will control emissions of particulate matter from fugitive dust sources. The intended effect of this action is to bring about attainment of the national ambient air quality standards for particulate matter in the Phoenix area.

(Secs. 110, 301(a), Clean Air Act as amended (42 U.S.C. 7410 and 7601(a)).)

ronmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105. Attention: Wayne A.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
•	•	•	•	•	•
Arkansas	Lawrence	Powhatan, city of	Aug. 17, 1978, emergency		050572-new
New Hampshire	Strafford	Rollinsford, town of	Aug. 18, 1978, emergency	Jan. 3, 1975 and Feb. 28, 1978.	330190-A
North Dakota	Mountrail	Parshall, city of	do	Nov. 29, 1974	380073
Pennsylvania	Juniata	Beale, township of	do	Dec. 6, 1974	421738
Texas	Walker	Unincorporated areas	do	July 19, 1977	481042-A
Indiana	Huntington	do	Aug. 21, 1978, emergency	Mar. 3, 1978	180438
Connecticut	New London	Ledyard, town of	Aug. 22, 1978, emergency	May 27, 1977	090157-A

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 29, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24790 Filed 9-13-78; 8:45 am]

[4910-14]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 78-061]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Wading River, N.J.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Burlington County Board of Chosen Freeholders, the Coast Guard is changing the regulations governing the County Road 542 drawbridge across the Wading River, mile 5.0, New Jersey. This change is being made because of a decrease in requests for opening the draw. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw.

EFFECTIVE DATE: This amendment is effective on October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: On May 25, 1978, the Coast Guard published a proposed rule (43 FR 22411) concerning this amendment. The Commander, 3d Coast Guard District also published these proposals as a public notice dated June 15, 1978. Interested persons were given until June 27, 1978, and July 17, 1978, respectively, to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lt. G. S. Karavitis, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

One comment which had no objection to the proposal was received.

In consideration of the foregoing, part 117 of title 33 of the Code of Federal Regulations is amended by adding a new subparagraph (9) to § 117.225(f) to read as follows:

§ 117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of draw tenders is not required.

• • • • • •

(f) • • •

(9) Wading River, Burlington County Road 542, N.J. the draw shall open on signal if at least 24 hours' notice is given.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: September 5, 1978.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard
Acting Commandant.

[FR Doc. 78-25898 Filed 9-13-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 966-2]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, takes no action on changes to the Ventura County Air Pollution Control District (APCD) portion of the California State implementation plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105, Attn: Wayne A. Blackard, 415-556-7882.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8809) EPA published a notice of proposed rulemaking for revisions to the Ventura County APCD's rules and regulations submitted on October 13, 1977, by the California Air Resources Board for inclusion in the California SIP.

The change contained in the above submittal that is acted upon by this notice is a new rule concerning continuous emissions monitoring.

The notice of proposed rulemaking for this submittal was published on March 3, 1978 (43 FR 8809). No comments were received during the comment period.

Under section 110 of the Clean Air Act, as amended, and 40 CFR part 51, the Administrator is required to approve or disapprove regulations submitted as SIP revisions. It is the purpose of this notice to approve rule 105 and incorporate it into the California SIP and take no action on rule 71 as discussed below.

Rule 105, Continuous Emissions Monitoring, submitted on October 13, 1977, is a new rule adopted to implement the continuous monitoring program in accordance with the requirements of 40 CFR 51.19(e). This rule is approved for Ventura County APCD. However, it should be noted that the rule does not satisfy all the requirements specified under § 51.19(e) and the plan is disapproved in part under 40 CFR 52.234.

No action is being taken on Rule 71, Transfer of Gasoline Into Vehicle Fuel Tanks, since it has been superseded by the June 22, 1978, submittal and the corresponding rule will be acted on in a separate FEDERAL REGISTER notice.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110, 301(a), Clean Air Act as amended (42 U.S.C. 7410 and 7601(a)).)

Dated: September 8, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraph (c)(41)(iv) as follows:

§ 52.220 Identification of plan.

• • • • • •

(c) • • •

(41) • • •

(iv) Ventura County APCD.

(A) New rule 105.

• • • • • •

2. Section 52.234 is amended by adding paragraph (e)(6) as follows:

§ 52.234 Source surveillance.

• • • • • •

(e) • • •

(6) Metropolitan Los Angeles Intrastate AQCR:

(i) Ventura County APCD.

• • • • • •

[FR Doc. 78-25858 Filed 9-13-78; 8:45 am]

[6560-01]

[FRL 966-3]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Merced County Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove changes to the Merced County Air Pollution Control District (APCD) portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105, Attention: Wayne A. Blackard, 415-556-7882.

SUPPLEMENTARY INFORMATION: On April 7, 1978, EPA published a notice of proposed rulemaking for revisions to the Merced County APCD's rules and regulations submitted on November 4, 1977, by the California Air Resources Board for inclusion in the California SIP.

The State also submitted regulations concerning new source performance standards and national emission standards for hazardous air pollutants; however, no action is being taken at this time as these rules will be acted upon in separate FEDERAL REGISTER notices.

The changes contained in the above submittal that are acted upon by this notice include the following:

(a) A wording change made to the rule concerning the transfer of gasoline into stationary storage containers,

(b) Amendments to the rule concerning transfer of gasoline into vehicle fuel tanks.

The notice of proposed rulemaking for this submittal was published on April 7, 1978 (43 FR 14692). No comments were received during the comment period.

Under section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove regulations submitted as SIP revisions. It is the purpose of this notice to approve and disapprove the following rules.

The revision to rule 411(b) is approved and incorporated into the California SIP.

Rule 411.1, Gasoline Transfer Into Vehicle Fuel Tanks, is disapproved because it relaxes the control of emissions and no analysis has been submitted to demonstate that this relaxation will not interfere with the attainment and maintenance of the national ambient air quality standards. Rule 411.1, Gasoline Transfer Into Vehicle Fuel Tanks, previously approved in the August 2, 1976, submittal is retained.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110, 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a)).)

Dated: September 8, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of part 52 of chapter I, title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraph (c)(42)(v) as follows:

§ 52.220 Identification of plan.

November 10, 1976, by the California Air Resources Board for inclusion in the California SIP.

(A) Rule 412.1

posed rulemaking (42 FR 46555) and a further notice of proposed rulemaking (42 FR 62163) for revisions to the rules of the Sierra County APCD submitted (NAAQS) and thus is not appropriate for inclusion in the SIP.

Rule 211, Process Weight Per Hour, revises an analogous rule under the trol on open buring should not be allowed. Thus both rule 302(C) and rule 319 are disapproved.

Rule 322, Mechanized Burners, is

V 43 / 179 SEP 14 1978

§ 52.220 Identification of plan.

• • • • •

(c) • • •
(42) • • •
(v) Merced County APCD.
(A) Amended rules 411(b) and 411.1.

• • • • •

2. Section 52.269 is amended by adding paragraph (b)(1)(iv) as follows:

§ 52.269 Control strategy: photochemical oxidants (hydrocarbons) and carbon monoxide.

• • • • •

(b) • • •
(1) • • •
(iv) Merced County APCD.
(A) Rule 411.1, submitted on November 4, 1977, is disapproved. Rule 411.1, submitted on August 2, 1976, remains in effect.

• • • • •

[FR Doc. 78-25859 Filed 9-13-78; 8:45 am]

[6560-01]

[FRL 966-4]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Kern County Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve the changes to the Kern County Air Pollution Control District (APCD) portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105, Attention: Wayne A. Blackard, 415-556-7882.

SUPPLEMENTARY INFORMATION: On April 7, 1978, EPA published a notice of proposed rulemaking for revisions to the Kern County APCD's rules and regulations submitted on October 13, 1977, and November 4, 1977, November 10, 1976, by the California Air Resources Board for inclusion in the California SIP.

The changes contained in the above submittals that are being acted upon by this notice include the following:

(a) Section number change in reference to the health and safety code,

(b) Establishment of sources and pollutants to be monitored and requirements for submission data,

(c) Amendments to the rules concerning transfer of gasoline into vehicle fuel tanks.

The notice of proposed rulemaking for this submittal was published on April 7, 1978 (43 FR 14692). No comments were received during the public comment period.

Under section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapproved regulations submitted as SIP revisions.

It is the purpose of this notice to approve all of the revisions and to incorporate the rules into the California SIP. These rules have met all the EPA requirements.

Rule 108, Stack Monitoring, is approved since it partially satisfies the requirements of 40 CFR 51.19(e). However, since the rule does not satisfy all the requirements, the plan is disapproved in part under 40 CFR 52.234.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Sec. 110, 301(a), Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a)).)

Dated: September 8, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of part 52 of chapter I, title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(35)(xiii)(B), (c)(41)(v), and (c)(42)(vi) as follows:

§ 52.220 Identification of plan.

• • • • •

(c) • • •
(35) • • •
(xiii) • • •
(B) Rule 504.

• • • • •

(41) • • •
(v) Kern County APCD.
(A) Rule 108.

• • • • •

(42) • • •
(vi) Kern County APCD.
(A) Rule 412.1

• • • • •

2. Section 52.234 is amended by adding paragraph (e)(2)(iv) as follows:

§ 52.234 Source surveillance.

• • • • •

(e) • • •
(2) • • •
(iv) Kern County APCD.

• • • • •

[FR DOC. 78-25860 Filed 9-13-78; 8:45 am]

[6560-01]

[FRL 966-5]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Sierra County Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on revisions to the Sierra County Air Pollution Control District (APCD) portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations, and to correct certain deficiencies in the SIP.

DATES: Final rulemaking actions taken in this notice will be effective on October 16, 1978. Comments on rule 213 may be submitted up to November 13, 1978. See supplementary information section for details.

ADDRESS: Comments on rule 213 should be addressed to: Regional Administrator, Attn.: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), U.S. Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Director, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105, Attn.: Wayne A. Blackard, telephone: 415-556-7882.

SUPPLEMENTARY INFORMATION: On September 16, 1977 and December 9, 1977, EPA published a notice of proposed rulemaking (42 FR 46555) and a further notice of proposed rulemaking (42 FR 62163) for revisions to the rules of the Sierra County APCD submitted to EPA by the California Air Resources Board (ARB) on June 6, 1977 for inclusion in the California SIP.

The changes contained in the June 6, 1977 submittal that are acted on in this notice include the following:

(a) Some definitions are amended.

(b) The list of exceptions to the visible emission control rule is amended.

(c) New rules are added to control pathological incineration, abrasive blasting and equipment malfunction conditions.

(d) The pollutant coverage of the rule for controlling particulate emissions based on process weight rates is changed.

(e) Some rules for controlling open outdoor fires including agricultural burning are amended.

(f) A new rule is adopted to implement the continuous monitoring program.

(g) Several administrative and procedural changes are made in the procedures before the hearing board.

(h) Minor wording changes, that do not affect the degree of control, are made to a number of rules.

(i) The sections of the California Health and Safety Code referred to in the rules are renumbered to conform to the recodification of the Code.

(j) A number of rules are renumbered.

(k) The "severability" rule is deleted.

A list of the rules considered in this notice was published as part of the September 16, 1977 notice of proposed rulemaking and the December 9, 1977 further notice of proposed rulemaking. The proposed rulemaking provided 30 days for public comments. No comments have been received.

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the submitted rules as SIP revisions. It is the purpose of this notice to approve all the revisions contained in the June 6, 1977, submittal, and incorporate them into the California SIP, with the exception of those rules not being acted upon and those rules being disapproved as discussed below.

No action is being taken on Rule 203 (D and G), Exceptions; Rule 304, Exceptions to Rule 303; and Rule 307, Exceptions to Rule 306, as these rules will be addressed in a future FEDERAL REGISTER notice.

Also, no action is being taken on Rule 205, Nuisance, because the rule is not specifically directed at the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) and thus is not appropriate for inclusion in the SIP.

Rule 211, Process Weight Per Hour, revises an analogous rule under the same rule number and title, previously approved in the January 10, 1975, submittal, by narrowing the pollutant coverage from the more inclusive "dust and fumes" to the less inclusive "dust". Since no control strategy analysis has been submitted by the APCD to demonstrate that this relaxation in control will not interfere with the attainment and maintenance of the NAAQS, EPA is disapproving rule 211 in the June 6, 1977, submittal and retaining the analogous rule in the January 10, 1975, submittal for Federal enforcement purposes.

No action is being taken on Rule 213, Storage of Petroleum Products, because EPA is now in the process of reevaluating the appropriateness of applying the vapor recovery programs specified in 40 CFR 52.255 and 40 CFR 52.256 to the districts within the area presently known as the Mountain Counties Air Basin. Preliminary information supplied by the Mountain Counties Air Basin Control Council indicates that existing ambient air quality standard excursions for oxidant in the Mountain Counties Air Basin are due to transport from the Sacramento Valley and the San Joaquin Valley rather than to the emissions of hydrocarbons within the area. Thus, EPA, by this notice, is inviting public comments on this thesis for the purpose of promulgating final approval or disapproval of rule 213. Comments should be sent to the EPA Region IX Office at the address given above. Comments received oh or before November 13, 1978, will be considered, and made available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit. In addition, copies of the proposed rule and the preliminary analysis are available for public inspection during normal business hours at the EPA Region IX Office and at the following locations:

Sierra County Air Pollution Control District, County Courthouse, Downieville, Calif. 95936.
California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

Rule 302(C), Exceptions to Rule 301, allows the open burning of unsalable wood waste from property being developed for commercial or residential use, subject to requirements imposed by Rule 319, Open Burning of Wood Waste on Property Where Grown. Without any showing that this relaxation will not cause any interference with the attainment and maintenance of the NAAQS, this relaxation in control on open buring should not be allowed. Thus both rule 302(C) and rule 319 are disapproved.

Rule 322, Mechanized Burners, is disapproved because it exempts open outdoor fires in mechanized burners from "no-burn day" requirements. Although a visible emission limitation of Ringlemann No. 1 is set, there is no demonstration that this new rule will not interfere with the attainment and maintenance of the NAAQS.

Rule 404, Upset Conditions, Breakdown or Scheduled Maintenance, is disapproved because it permits the automatic exemption of sources from applicable emission limitations during equipment malfunction and scheduled maintenance, and therefore could render such limitations unenforceable.

Rule 409, Public Records, revises an analogous rule under the same rule number and title, previously approved in the January 10, 1975, submittal, with some minor wording changes that do not affect the degree of control. The rule is approved because it partially satisfies the requirements of 40 CFR 51.10(e). However, since the rule does not provide for the correlation of emission data with applicable emission limitations as required by § 51.10(e), paragraph (b)(4) of the federally promulgated regulation in 40 CFR 52.224, General requirements, is retained and shall remain in effect for the district.

Rule 507, Provision of Sampling and Testing Facilities, is a new rule adopted to implement the continuous monitoring program in accordance with the requirements of 40 CFR 51.19(e). The rule is now approved; however, since the rule does not satisfy all the requirements specified in 40 CFR Part 51, Appendix P, the plan will be disapproved in part under 40 CFR Part 52.

Regulation VI revisions (which include rules 600 to 617) are approved as part of a procedure for the granting of variances. Each variance, however, must satisfy the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51 in order to be approved by EPA as a revision to the SIP.

The deletion of Rule 203(j), Exceptions, is approved because the rule permitted automatic exemption of sources from the visible emission limitations during equipment breakdown, and therefore rendered such limitations potentially unenforceable.

Rule 619, Order of Abatement, previously approved in the January 10, 1975, submittal, was mistakenly listed as a deletion in the September 16, 1977, Notice of Proposed Rulemaking. Actually, the rule is replaced by Rule 610(G), Notice of Public Hearing, in the June 6, 1977, submittal and the replacement is approved.

The deletion of Rule 620, Severability, previously approved in the January 10, 1975, submittal, is approved be-

cause the omission of this rule will not cause any relaxation in the control

(B) Rule 404, Upset Conditions, Breakdown or Scheduled Maintenance, submitted on June 6, 1977,

FOR FURTHER INFORMATION CONTACT:

the national ambient air quality standards.

It is the purpose of this final rule-

approved under 40 CFR 52.223 (37 FR 19812).

• • • • •

(b) The list of exceptions to the visible emission control rule is amended.

(c) New rules are added to control pathological incineration, abrasive

cause the omission of this rule will not cause any relaxation in the control regulations.

Certification has been received from the ARB that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)).)

Dated: September 8, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c)(39)(viii) is added as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *
(39) * * *
(viii) Sierra County APCD.
(A) New or amended rules 102(B), 102(E), 102(S), 102(II), 102(SS), 203 (with the exception of (D) and (G)), 206(B), 207, 208, 211, 215, 216, 301, 302, 303, 308, 319, 320, 321, 322, 324, 402, 404, 407, 409, 507, 514, 516, 600 to 617.
(B) Previously approved and now deleted (without replacement) rules 203(j) and 620.

* * * * *

2. Section 52.224, paragraph (a)(2)(ii)(B) is added as follows:

§ 52.224 General requirements.

(a) * * *
(2) * * *
(ii) * * *
(B) Sierra County APCD.

* * * * *

3. Section 52.234, paragraph (e)(3) is added as follows:

§ 52.234 Source surveillance.

* * * * *

(e) * * *
(3) Sacramento Valley Intrastate AQCR:
(i) Sierra County APCD.

* * * * *

4. Section 52.271, paragraph (a)(2)(viii)(B) is added as follows:

§ 52.271 Malfunction regulations.

(a) * * *
(2) * * *
(viii) * * *

(B) Rule 404, Upset Conditions, Breakdown or Scheduled Maintenance, submitted on June 6, 1977.

* * * * *

5. Section 52.273, paragraph (a)(1)(v) is added as follows:

§ 52.273 Open burning.

(a) * * *
(1) * * *
(v) Sierra County APCD.
(A) Rule 302(C), Exceptions to Rule 301; Rule 319, Open Burning of Wood Waste on Property Where Grown; and Rule 322, Mechanized Burners, Submitted on June 6, 1977.

* * * * *

6. Section 52.275, paragraph (b)(2)(iii) is added as follows:

§ 52.275 Particulate matter control.

(a) * * *
(b) * * *
(2) * * *
(iii) Sierra County APCD.
(A) Rule 211, Process Weight Per Hour, submitted on June 6, 1977, is disapproved; and the analogous Rule 211, Process Weight Per Hour, previously approved in the January 10, 1975, submittal is retained and shall remain in effect for Federal enforcement purposes.

* * * * *

[FR Doc. 78-25861 Filed 9-13-78; 8:45 am]

[6560-01]

[FRL 952-6]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Glenn County Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, take no action on changes to the Glenn County Air Pollution Control District (APCD) portion of the California State implementation plan (SIP) submitted by the Governor's designee. In addition, a portion of a rule which is now part of the applicable SIP is being disapproved. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105, Attn: Wayne A. Blackard, 415-556-7288.

SUPPLEMENTARY INFORMATION: On May 15, 1978 EPA published a notice of proposed rulemaking for revisions to the Glenn County APCD's rules and regulations submitted on November 4, 1977, by the California Air Resources Board for inclusion in the California SIP. In addition, EPA proposed to disapprove a portion of a rule which is now part of the applicable SIP.

The changes contained in this submittal and being acted upon by this notice include the following: The deletion of an exemption which allowed the burning of garbage and administrative and procedural changes in fee requirements.

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove regulations submitted as SIP revisions.

Rules concerning new source review have been revised; however, no action is being taken at this time and these rules will be acted upon in a separate FEDERAL REGISTER notice.

A list of the rules being considered by this action was published as part of the notice of proposed rulemaking and can be found in 43 FR 20823 (May 15, 1978). Comments were received from the Glenn County APCD during the 60-day public comment period. No other comments were received.

The APCD commented on the proposed disapproval of section 77(e), Exceptions. The APCD commented that enforcement of section 77(e) is not necessary while agreeing that the rule is vague. They commented that the rule cannot be precise or definite because to be specific would require a volume on agricultural practices within the county and that operations dealing with the growing of crops, raising of fowls or animals are not precise. EPA proposed to disapprove this exemption because the terms "agricultural operations" and "other equipment" are undefined. The lack of definition for these terms renders Rule 76, Visible Emissions potentially unenforceable. Section 77(e) could be interpreted to exempt stationary sources (e.g., alfalfa dehydration, fertilizer plants) to which rule 76 is now intended to apply, and must therefore be disapproved. Thus, while enforcement of section 77(e), an exception rule, may not be necessary, enforcement of rule 76, a prohibitions rule, is necessary for the attainment and maintenance of the national ambient air quality standards.

It is the purpose of this final rulemaking notice to approve all the changes contained in the November 4, 1977, submittal and incorporate them into the California SIP with the exception of those rules not being acted upon and section 77(e) as discussed below.

Section 77(e), Exceptions, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 is disapproved. Paragraph (e) exempts "the use of other equipment in agricultural operations" from the visible emissions rule. Because the term "other equipment" is not defined, the rule is vague and unenforceable and could be interpreted to exempt stationary sources to which the regulations now apply.

Section 78, Nuisance and section 79, Exception are not appropriate for inclusion in the SIP because they are not specifically directed at the attainment and maintenance of the national ambient air quality standards. Therefore, EPA is taking no action on these rules.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110 and 301(a), Clean Air Act as amended (42 U.S.C. 7410 and 7601(a)).)

Dated: September 8, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c)(42)(viii) is added as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

* * * * *

(42) * * *
(viii) Glenn County APCD.
(A) New or amended rules 82, 152, and 154.

* * * * *

2. Section 52.236, paragraph (b)(2)(v) is added as follows:

§ 52.236 Rules and regulations.

* * * * *

(b) * * *
(2) * * *
(v) Glenn County APCD.
(A) Section 77(e), Exceptions submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

* * * * *

[FR Doc. 78-25863 Filed 9-13-78; 8:45 am]

[6560-01]

[FRL 966-7]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Plumas County Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on revisions to the Plumas County Air Pollution Control District (APCD) portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations, and to correct certain deficiencies in the SIP.

DATES: Final rulemaking actions taken in this notice will be effective on October 16, 1978. Comments on rule 213 may be submitted up to November 13, 1978. See SUPPLEMENTARY INFORMATION section for details.

ADDRESS: Comments on rule 213 should be sent to: Regional Administrator, Attention: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), U.S. Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Director, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105, Attention: Wayne A. Blackard, telephone 415-556-7882.

SUPPLEMENTARY INFORMATION: On September 16, 1977 and December 9, 1977, EPA published a notice of proposed rulemaking (42 FR 46557) and a further notice of proposed rulemaking (42 FR 62163) for revisions to the rules of the Plumas County APCD submitted to EPA by the California Air Resources Board (ARB) on June 6, 1977, for inclusion in the California SIP.

The changes contained in the June 6, 1977, submittal that are being acted on in this notice include the following:

(a) Some definitions are amended.
(b) The list of exceptions to the visible emission control rule is amended.
(c) New rules are added to control pathological incineration, abrasive blasting and equipment malfunction conditions.
(d) The pollutant coverage of the rule controlling particulate emissions based on process weight rates is changed.
(e) Several rules controlling open outdoor fires including agricultural burning are amended.
(f) A new rule is adopted to implement the continuous monitoring program.
(g) New rules are adopted to set the permit fees.
(h) Some administrative and procedural changes are made in the procedures before the hearing board.
(i) Minor wording changes, that do not affect the degree of control, are made to a number of rules.
(j) The sections of the California Health and Safety Code referred to in the rules are renumbered to conform to the recodification of the Code.
(k) The language in the California Health and Safety Code is incorporated into a number of rules.
(l) A number of rules are renumbered.

A list of the rules considered in this notice was published as part of the September 16, 1977 notice of proposed rulemaking and the December 9, 1977 further notice of proposed rulemaking. The proposed rulemaking provided 30 days for public comments. No comments have been received.

Under section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapproved the submitted rules as SIP revisions. It is the purpose of this notice to approve all the revisions contained in the June 6, 1977 submittal, and incorporate them into the California SIP, with the exception of those rules not being acted upon and those rules being disapproved as discussed below.

No action is being taken on rule 203 (D and G), Exceptions, and rule 601, Permit Fees, as the rules will be addressed in a future FEDERAL REGISTER notice.

Also, no action is being taken on rule 205, Nuisance, because the rule is not specifically directed at the attainment and maintenance of the national ambient air quality standards (NAAQS) and thus is not appropriate for inclusion in the SIP.

Rule 211, Process Weight Per Hour, revises an analogous rule under the same rule number and title, previously approved in the January 10, 1975 submittal, by narrowing the pollutant coverage from the more inclusive "particulate matter" to the less inclusive "dust." Since no control strategy anal-

ysis has been submitted by the APCD to demonstrate that this relaxation in permit requirements without an adequate control strategy analysis demon-

Rule 507, Provision of Sampling and Testing Facilities, is a new rule adopt-

(ii) Plumas County APCD.

* * * * *

visions to the Nevada County Air Pollution Control District (APCD) portion of the California State implementation plan (SIP) submitted by the

the California SIP, with the exception of those rules not being acted upon and those rules being disapproved as discussed below.

ysis has been submitted by the APCD to demonstrate that this relaxation in control will not interfere with the attainment and maintenance of the NAAQS, EPA is disapproving rule 211 in the June 6, 1977 submittal and retaining the analogous rule in the January 10, 1975 submittal for Federal enforcement purposes.

No action is being taken on rule 213, Storage of Petroleum Products, because EPA is now in the process of reevaluating the appropriateness of applying the vapor recovery programs specified in 40 CFR 52.255 and 40 CFR 52.256 to the districts within the area presently known as the Mountain Counties Air Basin. Preliminary information supplied by the Mountain Counties Air Basin Control Council indicates that existing ambient air quality standard excursions for oxidant in the Mountain Counties Air Basin are due to transport from the Sacramento Valley and the San Joaquin Valley rather than to the emissions of hydrocarbons within the area. Thus, EPA, by this notice, is inviting public comments on this thesis for the purpose of promulgating final approval or disapproval of rule 213. Comments should be sent to the EPA Region IX Office at the address given above. Comments received on or before November 13, 1978, will be considered, and made available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit. In addition, copies of the proposed rule and the preliminary analysis are available for public inspection during normal business hours at the EPA Region IX Office and at the following locations:

Plumas County Air Pollution Control District, County Courthouse, Quincy, Calif., 95971.
California Air Resources Board, 1709 11th Street, Sacramento, Calif., 95814.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460

Rule 302(C) Exceptions to rule 301, allows the open burning of unsalable wood waste from property being developed for commercial or residential use, subject to requirements imposed by rule 319, Open Burning of Wood Waste on Property Where Grown. Without any showing that this additional category of open burning will not cause any interference with the attainment and maintenance of the NAAQS, this relaxation in control on open burning should not be allowed. Thus both rule 302(C) and rule 319 are disapproved.

Rule 304, Exceptions to Rule 303, is disapproved because it exempts open burning of agricultural waste at altitudes above 3,000 feet mean sea level (m.s.l.) and agricultural burning in areas above 6,000 feet (m.s.l.) from permit requirements without an adequate control strategy analysis demonstrating that these exemptions will not interfere with the attainment and maintenance of the NAAQS.

Rule 307, Exceptions to Rule 306, is disapproved because it grants five exceptions to the general rule that specifies no burning on days designated by the ARB as "no-burn days." The most significant exception is set forth in 307(A)(1) which permits the air pollution control officer to grant a special burning permit upon a showing of threatened economic loss. Economic factors are an impermissible basis upon which to condition the granting of a variance from emission limitations absent a showing that all other requirements of section 110 of the Clean Air Act as well as the NAAQS will be met. In addition, 307(A)(2) exempts the burning of empty pesticide sacks and containers; 307(B) exempts range burning between January and May; 307(C) exempts open burning of agricultural waste at altitudes above 3,000 feet (m.s.l.); and 307(D) exempts open burning at altitudes over 6,000 feet (m.s.l.) from the "no-burn day" requirements. All are disapproved because no analysis has been submitted by the District to demonstrate that these exemptions will not interfere with the attainment and maintenance of the NAAQS. 307(E) is also disapproved because it specifies the procedures for the issuing of burning permits for the above mentioned categories of open burning.

Rule 332, Mechanized Burners, is disapproved because it exempts open outdoor fires in mechanized burners from "no-burn day" requirements. Although a visible emission limitation of Ringlemann No. 1 is set, there is no demonstration that this new rule will not interfere with the attainment and maintenance of the NAAQS.

Rule 404, Upset Conditions, Breakdown, or Schedule Maintenance, is disapproved because it permits the automatic exemption of sources from applicable emission limitations during equipment malfunction and scheduled maintenance, and therefore could render the emission limitations unenforceable.

Rule 409, Public Records, is a new rule adopted to provide public availability of emission data furnished by source owners or operators. The rule is approved because it partially satisfies the requirements of 40 CFR 51.10(e). However, since the rule does not provide for the correlation of emission data with applicable emission limitations as required by § 51.10(e), paragraph (b)(4) of the federally promulgated regulation in 40 CFR 52.224, General requirements, is retained and shall remain in effect for the District.

Rule 507, Provision of Sampling and Testing Facilities, is a new rule adopted to implement the continuous monitoring program in accordance with the requirements of 40 CFR 51.19(e). The rule is now approved; however, since the rule does not satisfy all the requirements specified in 40 CFR Part 51, Appendix P, the plan will be disapproved in part under 40 CFR Part 52.

Regulation VII revisions (which include rules 700, 703, and 710) are approved as part of a procedure for the granting of variances. Each variance, however, must satisfy the requirements of section 110 of the Clean Air Act and 40 CFR Part 51 in order to be approved by EPA as a revision to the SIP.

Certification has been received from the ARB that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110, 301(a), Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)).)

Dated: September 8, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of part 52 of chapter I, title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c)(39)(ix) is added as follows:

§ 52.220 Identification of plan.

* * * * * * *

(c) * * *
(39) * * *
(ix) Plumas County APCD.
(A) New or amended rules 102(B), 102(E), 102(S), 102(II), 102(SS), 203 (with the exception of (D) and (G)), 206(B), 207, 208, 211, 215, 216, 301, 302, 303, 304, 307, 308, 319, 320, 321, 322, 324, 402, 404, 407, 409, 507, 514, 602 to 605, 700, 703, and 710.

* * * * * * *

2. Section 52.224, paragraph (a)(2)(ii)(C) is added as follows:

§ 52.224 General requirements.

(a) * * *
(2) * * *
(ii) * * *
(C) Plumas County APCD.

* * * * * * *

3. Section 52.234, paragraph (e)(3)(ii) is added as follows:

§ 52.234 Source surveillance.

* * * * * * *

(e) * * *
(3) * * *

(ii) Plumas County APCD.

* * * * * * *

4. Section 52.271, paragraph (a)(2)(ii)(B) is added as follows:

§ 52.271 Malfunction regulations.

(a) * * *
(2) * * *
(ii) * * *
(B) Rule 404, Upset Conditions, Breakdown, or Scheduled Maintenance, submitted on June 6, 1977.

* * * * * * *

5. Section 52.273, paragraph (a)(1)(iii)(B) is added as follows:

§ 52.273 Open burning

(a) * * *
(1) * * *
(iii) * * *
(B) Rule 302(C), Exceptions to Rule 301; Rule 304, Exceptions to Rule 303; Rule 307, Exceptions to Rule 306; Rule 319, Open burning of Wood Waste on Property Where Grown; and Rule 322, Mechanized Burners, submitted on June 6, 1977.

* * * * * * *

6. Section 52.275, paragraph (b)(2)(iv) is added as follows:

§ 52.275 Particulate matter control.

(a) * * *
(b) * * *
(2) * * *
(iv) Plumas County APCD.
(A) Rule 211, Process Weight Per Hour, submitted on June 6, 1977 is disapproved; and the analogous Rule 211, Process Weight Per Hour, previously approved in the January 10, 1975 submittal is retained and shall remain in effect for Federal enforcement purposes.

* * * * * * *

[FR Doc. 78-25864 Filed 9-13-78; 8:45 am]

[6560-01]

[FRL 966-6]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Nevada County Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on revisions to the Nevada County Air Pollution Control District (APCD) portion of the California State implementation plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations, and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Director, Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105, Attn: Wayne A. Blackard, telephone, 415-556-7882.

SUPPLEMENTARY INFORMATION: On September 16, 1977, EPA published a notice of proposed rulemaking (42 FR 46556) for revisions to the rules of the Nevada County APCD submitted to EPA by the California Air Resources Board (ARB) on June 6, 1977 for inclusion in the SIP.

The changes contained in the June 6, 1977 submittal that are being acted on in this notice include the following:

(a) Some definitions are amended.
(b) The list of exceptions to the visible emission control rule is amended.
(c) New rules are added to control pathological incineration and abrasive blasting.
(d) The emission standards for particulate matter are modified.
(e) Some rules for controlling open outdoor fires including agricultural burning are amended.
(f) Two new rules are adopted to implement the source surveillance programs related to source inspection and continuous monitoring, and one new rule is adopted to provide penalties for violations.
(g) Several administrative and procedural changes are made in the procedures before the hearing board.
(h) Minor wording changes, that do not affect the degree of control, are made to a number of rules.
(i) The sections of the California Health and Safety Code referred to in the rules are renumbered to conform to the recodification of the Code.
(j) A number of rules are renumbered.

A list of the rules considered in this notice was published as part of the September 16, 1977, notice of proposed rulemaking. The proposed rulemaking provided 30 days for public comments. No comments have been received.

Under section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the submitted rules as SIP revisions. It is the purpose of this notice to approve all the revisions contained in the June 6, 1977, submittal, and incorporate them into the California SIP, with the exception of those rules not being acted upon and those rules being disapproved as discussed below.

No action is being taken on Rule 203(d), *Exceptions*, as the rule will be addressed in a future FEDERAL REGISTER notice.

Also, no action is being taken on Rule 205, *Nuisance*, because the rule is not specifically directed at the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) and thus is not appropriate for inclusion in the SIP.

Rule 304, *Exceptions to Rule 303*, is disapproved because it exempts open burning of agricultural waste at altitudes above 3,000 feet mean sea level (msl) and agricultural burning in areas above 6,000 feet (msl) from permit requirements without an adequate control strategy analysis demonstrating non-interference with the attainment and maintenance of the NAAQS.

Rule 319, *Open Burning of Wood Waste on Property Where Grown*, sets the standard procedures for carrying out open burning of unsalable wood waste from property being developed for commercial or residential use. Without any showing that this additional category of open burning will not interfere with the attainment and maintenance of the NAAQS, this relaxation in control on open burning should not be allowed. Therefore, rule 319 is disapproved.

Rule 409, *Public Records*, is a new rule adopted to provide public availability of emission data furnished by source owners or operators. The rule is approved because it partially satisfies the requirements of 40 CFR 51.10(e). However, since the rule does not provide for the correlation of emission data with applicable emission limitations as required by § 51.10(e), paragraph (b)(4) of the federally promulgated regulation in 40 CFR 52.224, *General requirements*, is retained and shall remain in effect for the district.

Rule 507, *Provision of Sampling and Testing Facilities*, is a new rule adopted to implement the continuous monitoring program in accordance with the requirements of 40 CFR 51.19(e). The rule is now approved; however, since the rule does not satisfy all the requirements specified in 40 CFR part 51 appendix P, the plan will be disapproved in part under 40 CFR part 52.

Regulation VII revisions (which include rules 700, 703, 704, 710, and 711) are approved as part of a procedure for the granting of variances. Each variance, however, must satisfy the requirements of section 110 of the Clean Air Act and 40 CFR part 51 in order to be approved by EPA as a revision to the SIP.

Certification has been received from the ARB that the public hearing re-

quirements of 40 CFR 51.4 have been satisfied.

[6730-01]

Title 46—Shipping

with the rules. However, should the Commission's monitoring of the carriers' compliance with these regulations household goods, as defined in part 1056 of this chapter, under tariffs lawfully on file with this Commission.

(c) Claims for duplicate payment and overcollection shall be accompanied by the original freight bill(s) for

quirements of 40 CFR 51.4 have been satisfied.

(Secs. 110, 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)).)

Dated: September 8, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of part 52 of chapter I, title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c)(39)(x) is added as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *
(39) * * *
(x) Nevada County APCD.
(A) New or amended rules 102(B), 102(E), 102(S), 102(II), 102(SS), 103, 104, 203(e and i), 206(B), 207, 216, 304, 319, 320, 321, 402, 407, 409, 507, 514, 700, 703(E and I), 704, 710 and 711(A).

* * * * *

2. Section 52.224, paragraph (a)(2)(ii)(D) is added as follows:

§ 52.224 General requirements.

(a) * * *
(2) * * *
(ii) * * *
(D) Nevada County APCD.

* * * * *

3. Section 52.234, paragraph (e)(3)(iii) is added as follows:

§ 52.234 Source surveillance.

* * * * *

(e) * * *
(3) * * *
(iii) Nevada County APCD.

* * * * *

4. Section 52.273, paragraph (a)(1)(ii)(B) is added as follows:

§ 52.273 Open burning.

(a) * * *
(1) * * *
(ii) * * *
(B) Rule 304, *Exceptions to Rule 303*, and Rule 319, *Open Burning of Wood Waste on Property Where Grown*, submitted on June 6, 1977.

* * * * *

[FR. Doc.78-25865 Filed 9-13-78; 8:45 am]

[6730-01]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER A—GENERAL PROVISIONS

[General Order No. 16, Amdt. 25; Docket No. 78-12]

PART 502—RULES OF PRACTICE AND PROCEDURE

Simplification of the Rules Governing Special Docket Applications for Permission To Refund or Waive Portions of Freight Charges in the Foreign Commerce; Correction

AGENCY: Federal Maritime Commission.

ACTION: Correction of final rules.

SUMMARY: In the final rules published August 29, 1978 (43 FR 38578 at 38582) the Zip Code Reference in § 502.92(c) should read "20573".

SUPPLEMENTARY INFORMATION: None.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-25815 Filed 9-13-78; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. 342]

PART 1008—PROCEDURES GOVERNING THE PROCESSING, INVESTIGATION, AND DISPOSITION OF OVERCHARGE, DUPLICATE PAYMENT, OR OVERCOLLECTION CLAIMS

Procedures Governing the Processing, Investigation, and Disposition of Overcharge, Duplicate Payment, or Overcollection Claims

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: These regulations provide uniform procedures for the efficient processing, investigation, and timely disposition of overcharge, duplicate payment, and overcollection claims by motor common carriers and freight forwarders. They are issued in response to the many complaints received by the Commission concerning extended delays in the disposition of such claims and based upon the comments submitted in this proceeding.

EFFECTIVE DATE: October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, 202-275-7693 or Harvey Gobetz, 202-275-7656.

SUPPLEMENTARY INFORMATION: This proceeding was instituted by a notice of proposed rulemaking, published in the FEDERAL REGISTER on October 7, 1977 (42 FR 54579), to consider the propriety of the practices of motor common carriers and freight forwarders in the processing and disposition of claims of overcharge, duplicate payment, and overcollection for the transportation of household goods, and to determine if new rules are necessary to govern the processing of such claims in a more expeditious manner.

As indicated in the notice, this Commission has received and continues to receive numerous complaints from shippers, receivers, and their representatives respecting the practices of motor carriers and freight forwarders in the processing of overcharge, duplicate payment, and overcollection claims. Essentially, the complaints involve either a failure by motor carriers and freight forwarders to acknowledge such claims, or extended delays in their processing and disposition.

In response to the notice over 150 initial and reply statements have been received. It is evident, that many of the parties recognize the need for uniform procedures to foster prompt and equitable handling of claims. The need for a practical, efficient, and workable method of dealing fairly with all concerned parties in processing such claims, and of protecting the public interest in the entire transportation process, is, in essence, the underlying purpose for which this proceeding was commenced.

The proposed regulations as revised and adopted require written acknowledgment of all claims, a strict time limitation for their disposition, and a flexible documentation rule which should substantially improve carrier practices and alleviate the vast majority of complaints concerning recovery or overpayments by shippers. The regulations also provide uniform procedures for the disposition of unidentified payments, overcharges, duplicate payments, and overcollections not supported by claims.

The timelag between overpayment and refund should be reduced substantially by carriers' adherence to these regulations.

A mandatory interest requirement has not been required at this time because we are not persuaded that it would result in any greater compliance with the rules. However, should the Commission's monitoring of the carriers' compliance with these regulations indicate the need for an interest requirement, this matter will be reopened for further consideration.

Complete copies of the decision in this proceeding can be obtained from the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Accordingly, chapter X of title 49 of the Code of Federal Regulations is amended by adding a new part 1008 as follows:

Sec.
1008.1 Applicability.
1008.2 Definitions.
1008.3 Filing and processing claims.
1008.4 Documentation of claims.
1008.5 Investigation of claims.
1008.6 Claim records.
1008.7 Acknowledgment of claims.
1008.8 Disposition of claims.
1008.9 Disposition of unidentified payments, overcharges, duplicate payments, and overcollections not supported by claims.

AUTHORITY: Secs. 553 and 559 of the Administrative Procedure Act (5 U.S.C. 553 and 559) and secs. 204(a)(8), 204a, 208(a), 216(b), 217(b), 404(a), 405(c), 406a, 410(e), and 417(a) of the Interstate Commerce Act.

§ 1008.1 Applicability.

The regulations set forth in this part govern the processing of claims for overcharge, duplicate payment, or overcollection for the transportation of property in interstate or foreign commerce by motor common carriers and freight forwarders subject to part II or IV of the Interstate Commerce Act.

§ 1008.2 Definitions.

(a) "Carrier" means a motor common carrier or freight forwarder subject to part II or IV or the Interstate Commerce Act.

(b) "Overcharge" means an overcharge as defined in sections 204a(6) and 406a(6) of the Interstate Commerce Act. It also includes duplicate payments as defined in paragraph (c) of this section and overcollections as defined in paragraph (d) of this section when a dispute exists between the parties concerning such charges.

(c) "Duplicate payment" means two or more payments for transporting the same shipment. Where one or more payment is not in the exact amount of the applicable tariff rates and charges, refunds shall be made on the basis of the excess amount over the applicable tariff rates and charges.

(d) "Overcollection" means the receipt by a household goods carrier of a payment in excess of the transportation and/or accessorial charges applicable to a particular shipment of household goods, as defined in part 1056 of this chapter, under tariffs lawfully on file with this Commission.

(e) "Unidentified payment" means a payment which a carrier has received for the performance of transportation services but which the carrier is unable to match with its open accounts receivable or otherwise identify as being due.

(f) "Claimant" means any shipper or receiver, or its authorized agent, filing a request with a carrier for the refund of an overcharge, duplicate payment, or overcollection.

§ 1008.3 Filing and processing claims.

(a) A claim for overcharge, duplicate payment, or overcollection shall not be paid unless filed in writing with the carrier that collected the transportation charges. The collecting carrier shall be the carrier to process all such claims. When a claim is filed with another carrier that participated in the transportation, that carrier shall transmit the claim to the collecting carrier within 15 days after receipt of the claim. If the collecting carrier is unable to dispose of the claim for any reason, the claim may be filed with or transferred to any participating carrier for final disposition.

(b) A single claim may include more than one shipment provided the claim on each shipment involves (1) the same tariff issue or authority or circumstances, (2) single line service by the same carrier, or (3) service by the same interline carriers.

§ 1008.4 Documentation of claims.

(a) Claims for overcharge, duplicate payment, or overcollection shall be accompanied by sufficient information to allow the carriers to conduct an investigation and pay or decline the claim within the time limitations set forth in § 1008.8. Claims shall include the name of the claimant, its file number, if any, and the amount of the refund sought to be recovered, if known.

(b) Claims for overcharge shall be accompanied by the original freight bill. Additional information may include, but is not limited to, the following:

(1) The rate, classification, or commodity description or weight claimed to have been applicable.

(2) Complete tariff authority for the rate, classification, or commodity description claimed.

(3) Freight bill payment information.

(4) Other documents or data which is believed by claimant to substantiate the basis for its claim.

(c) Claims for duplicate payment and overcollection shall be accompanied by the original freight bill(s) for which charges were paid and by freight bill payment information.

(d) Regardless of the provisions of paragraphs (a), (b), and (c) of this section, the failure to provide sufficient information and documentation to allow a carrier to conduct an investigation and pay or decline the claim within the allowable time limitation shall not constitute grounds for disallowance of the claim. Rather, the carrier shall comply with § 1008.5(c) to obtain the additional information required.

(e) A carrier may accept copies instead of the original documents required to be submitted in this section where the carrier is furnished with an agreement entered into by the claimant which indemnifies the carrier for subsequent duplicate claims which might be filed and supported by the original documents.

§ 1008.5 Investigation of claims.

(a) Upon receipt of a claim, whether written or otherwise, the processing carrier shall promptly initiate an investigation and establish a file, as required by § 1008.6.

(b) If a carrier discovers an overcharge, duplicate payment, or overcollection which has not been the subject of a claim, it shall promptly initiate an investigation and comply with the provisions in § 1008.9.

(c) In the event the carrier processing the claim requires information or documents in addition to that submitted with the claim, the carrier shall promptly notify the claimant and request the information required. This includes notifying the claimant that a written claim must be filed before the carrier becomes subject to the time limits for settling such a claim under § 1008.8.

§ 1008.6 Claim records.

At the time a claim is received the carrier shall create a separate file and assign it a successive claim file number and note that the number on all documents filed in support of the claim and all records and correspondence with respect to the claim, including the written acknowledgment of receipt required under § 1008.7. If pertinent to the disposition of the claim, the carrier shall also note that number on the shipping order and delivery receipt, if any, covering the shipment involved.

§ 1008.7 Acknowledgment of claims.

Upon receipt of a written claim, the carrier shall acknowledge its receipt in writing to the claimant within 30 days

after the date of receipt except where the carrier shall have paid or declined in writing within that period. The car-

transportation charges or to the person that made duplicate payment within 30 days from the date of such

has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under

(2) Vehicle travel is restricted to public roads and the refuge entrance road to refuge headquarters. All other

ance with all applicable State regulations covering the hunting of deer.

The provisions of this special regula-

after the date of receipt except where the carrier shall have paid or declined in writing within that period. The carrier shall include the date of receipt in its written acknowledgment and shall also enter this date on the face of the written claim which shall be placed in the file for that claim.

§ 1008.8 Disposition of claims.

The processing carrier shall pay, decline to pay, or settle each written claim within 60 days after its receipt by that carrier, except where the claimant and the carrier agree in writing to a specific extension based upon extenuating circumstances. If the carrier declines to pay a claim or makes settlement in an amount different from that sought, the carrier shall notify the claimant, in writing, of the reason(s) for its action, citing tariff authority or other pertinent information developed as a result of its investigation.

§ 1008.9 Disposition of unidentified payments, overcharges, duplicate payments, and overcollections not supported by claims.

(a) Carriers shall establish procedures for identifying and properly applying all unidentified payments. If a carrier does not have sufficient information with which properly to apply such a payment, the carrier shall notify the payor of the unidentified payment within 60 days of receipt of the payment and request information which will enable it to identify the payment. If the carrier does not receive the information requested within 90 days from the date of the notice, the carrier may treat the unidentified payment as a payment in fact of freight charges owing to it. Following the 90-day period, the regular claims procedure under this part shall be applicable.

(b) When a carrier which participated in a transportation movement, but did not collect the transportation charges, finds that an overpayment has been made, that carrier shall immediately notify the collecting carrier. When the collecting carrier discovers or is notified by such a participating carrier that an overcharge, duplicate payment, or overcollection exists for any transportation charge which has not been the subject of a claim, the carrier shall create a file as if a claim had been submitted and shall record in the file the date it discovered or was notified of the overpayment. The carrier that collected the charges shall then refund the amount of the overpayment to the person who paid the transportation charges or to the person that made duplicate payment within 30 days from the date of such discovery or notification.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-25956 Filed 9-13-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 26—PUBLIC ENTRY AND USE

Closing the Charles M. Russell National Wildlife Refuge and the UL Bend National Wildlife Refuge, Montana, to the unauthorized operation of aircraft at low altitudes

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the unauthorized operation of aircraft at low altitudes over the Charles M. Russell National Wildlife Refuge and the UL Bend National Wildlife Refuge is incompatible with the objectives for which the areas were established.

DATES: Year around (October 1, 1978, through September 30, 1979).

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Charles M. Russell National Wildlife Refuge, P.O. Box 110, Lewistown, Mont. 59457, telephone 406-538-8707.

SUPPLEMENTARY INFORMATION:

§ 26.34 Special regulations.

The unauthorized operation of all aircraft below 1,000 feet above the ground of the landing or aircraft on the Charles M. Russell National Wildlife Refuge and the UL Bend National Wildlife Refuge is prohibited. The boundaries of these areas are delineated on maps available at the refuge headquarters, Lewistown, Mont., and from the office of the area manager, U.S. Fish and Wildlife Service, Federal Building, 316 North 26th Street, Billings, Mont. 59101.

The provisions of this special regulation supplement the regulations which are set forth in Title 50, Code of Federal Regulations, Part 27.34. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

LARRY L. CALVERT,
Refuge Manager, Charles M. Russell National Wildlife Refuge, Lewistown, Mont.

OCTOBER 1, 1978.

[FR Doc. 78-25902 Filed 9-13-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Lake Zahl National Wildlife Refuge, North Dakota, to the Public Hunting of Ring-Necked Pheasants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of pheasant hunting on Lake Zahl National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 20, 1978, through December 10, 1978.

FOR FURTHER INFORMATION CONTACT:

John Venegoni, Project Leader, Des Lacs National Wildlife Refuge, Kenmare, N. Dak. 58746, 701-385-4046.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game, for individual wildlife refuge areas.

The public hunting of ring-necked pheasant will be permitted on Lake Zahl National Wildlife Refuge. The open area consists of the refuge portion owned in fee title and includes 3,296 acres located in northern Williams County. Hunting shall be in accordance with all applicable State regulations covering ring-necked pheasant hunting, subject to the following conditions:

(1) No motorized vehicles will be allowed within the boundaries of the refuge.

(2) Pheasant hunting is permitted from November 20 through December 10, 1978.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas, generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 10, 1978.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 6, 1978.

JOHN VENEGONI,
Project Leader, Des Lacs National Wildlife Refuge Complex, Kenmare, N. Dak.

[FR Doc. 78-25833 Filed 9-13-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Lostwood National Wildlife Refuge, North Dakota, to Use of Guns for the Public Taking of Deer

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of deer hunting on Lostwood National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 17, 1978 through November 26, 1978.

FOR FURTHER INFORMATION CONTACT:

John Venegoni, Project Leader, Des Lacs National Wildlife Refuge, Kenmare, N. Dak. 58746, 701-385-4046.

SUPPLEMENTARY INFORMATION:

§32.32 Special regulations, big game for individual wildlife refuge areas.

The use of guns for the taking of deer will be permitted on Lostwood National Wildlife Refuge except within a 1½ mile square area surrounding the refuge headquarters buildings which is posted "Closed to Hunting." The area open to hunting, comprising 25,300 acres is delineated on a map available at the refuge headquarters and from the Area Manager, U.S. Fish and Wildlife Service, P.O. Box 1897, Bismarck, N. Dak. 58501. Hunting shall be in accordance with all applicable State regulations and the following special conditions.

(1) Only those hunters with special refuge permits will be permitted to take deer from November 17 through November 19, 1978. From November 20 through November 26, no special refuge permit is required. All hunters possesing appropriate state hunting permits will be permitted to take the type of deer specified on their state permit.

(2) Vehicle travel is restricted to public roads and the refuge entrance road to refuge headquarters. All other roads and trails are closed to vehicles.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 26, 1978.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 6, 1978.

JOHN VENEGONI,
Project leader Des Lacs National Wildlife Refuge Complex, Kenmare, N. Dak.

[FR Doc. 78-25834 Filed 9-13-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Agassiz National Wildlife Refuge, Minn., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Agassiz National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 4, 1978, to November 19, 1978, and November 24, 1978, to November 26, 1978, all dates inclusive from sunrise to sunset.

FOR FURTHER INFORMATION CONTACT:

Joseph Kotok, Refuge Manager, Agassiz National Wildlife Refuge, Middle River, Minn. 56737, 218-449-4115, or Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of white-tailed deer is permitted on the Agassiz National Wildlife Refuge, Minn. in all areas except those designated by closed area signs.

The open area comprised approximately 57,600 acres and is delineated on a map available at the refuge headquarters. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 26, 1978.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

JOSEPH KOTOK,
Refuge Manager.

SEPTEMBER 8, 1978.

[FR Doc. 78-25901 Filed 9-13-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Des Lacs National Wildlife Refuge, North Dakota, to use of Guns for the Public Taking of Deer

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening of deer hunting on Des Lacs National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 17, 1978, through November 26, 1978.

FOR FURTHER INFORMATION CONTACT:

John Venegoni, Project Leader, Des Lacs National Wildlife Refuge, Kenmare, N. Dak. 58746, 701-385-4046.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game, for individual wildlife refuge areas.

The use of guns for the public taking of deer will be permitted on Des Lacs National Wildlife Refuge except within a 1,000 acre area surrounding the town of Kenmare which is posted as "Closed Area." The area open to hunting, comprising 17,740 acres, is delineated on a map available at the refuge headquarters and from the Area Manager, U.S. Fish and Wildlife Service, P.O. Box 1897, Bismarck, N. Dak. 58501. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer, subject to the following conditions.

(1) Only those hunters with special refuge permits will be permitted to take deer from November 17 through

November 19, 1978. From November 20 through November 26, no special refuge permit is required. All hunters

ACTION: Temporary regulation.

SUMMARY: This FPR temporary regulation provides interim policies and

which implements these recommendations, was issued April 5, 1976. This OMB Circular establishes specific

competition and encourage innovative solutions to agency mission needs. Accordingly, major ADP and/or telecom-

November 19, 1978. From November 20 through November 26, no special refuge permit is required. All hunters possessing appropriate State hunting permits will be permitted to take the type of deer specified on their State permit.

(2) Vehicle travel is restricted to public roads and the refuge entrance road to refuge headquarters. All other roads and trails are closed to vehicles.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 26, 1978.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 8, 1978.

JOHN VENEGONI,
Project Leader, Des Lacs National Wildlife Refuge Complex.

[FR Doc. 78-25900 Filed 9-13-78; 8:45 am]

[4310-55]

PART 33—SPORT FISHING

Opening of Lake Ilo National Wildlife Refuge, North Dakota, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Lake Ilo National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: December 15, 1978 through March 25, 1979.

FOR FURTHER INFORMATION CONTACT:

John Venegoni, Project Leader, Des Lacs NWR Complex, Kenmare, N. Dak. 58746, 701-385-4046.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the Lake Ilo National Wildlife Refuge, North Dakota, only on the areas designated by signs as being open to fishing. These areas comprising 1050 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Post Office Box 25486, Denver Federal Center, Denver, Colorado 80225. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Fishing shall be limited to daylight hours only. The provisions of this special regulations supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in title 50 Code of Federal Regulations, part 33, and are effective through March 25, 1979. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 6, 1978.

JOHN VENEGONI,
Project Leader, Lake Ilo National Wildlife Refuge, Dunn Center, North Dakota 58626.

[FR Doc. 78-25832 Filed 9-13-78; 8:45 am]

[3510-22]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 285—ATLANTIC TUNA FISHERIES

Bluefin Tuna Regulations; Closure Notice

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final rulemaking

SUMMARY: This document provides notices to those fishing for giant Alantic bluefin tuna with gear other than purse seines in the area north and east of a line drawn from a point on the southern coast of Massachusetts extending due south through Gay Head Light, Mass. into the Atlantic Ocean, that the season will close because the annal quota for that area has been caught.

EFFECTIVE DATE: September 10, 1978, at 2400 hours, e.d.t.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, 14 Elm Street, Gloucester, Mass. 01930, telephone. 617-281-3600.

SUPPLEMENTARY INFORMATION: Pursuant to the Atlantic Tunas Convention Act of 1975, 16 U.S.C. Secs. 971-971h, final regulations implementing the recommendations of the International Commission for the Conservation of Atlantic Tunas were published in the FEDERAL REGISTER on June 21, 1978 (43 FR 26581). 50 CFR 285.13(b)(1)(i) provides that no more than 2,075 of the total annual quota of 2,250 giant Atlantic bluefin tuna allocated to those fishing with gear other than purse seines may be taken north and east of a line drawn from a point on the southern coast of Massachusetts extending due south through Gay Head Light, Mass. into the Atlantic Ocean.

The Assistant Administrator for Fisheries has determined that the annual quota of 2,075 giant Atlantic bluefin tuna allocated to be taken by fishing with gear other than purse seines in the above described area has been caught.

The Assistant Administrator has determined further that if this fishery were to continue, future levels of giant Atlantic bluefin tuna stocks could be adversely affected. Consequently, in accordance with 5 U.S.C. 553(d), it is found for good cause that the 30-day effective rule period is impractical and contrary to the public interest.

Therefore, pursuant to 50 CFR 285.12 and 285.13(d), notice is hereby given that the fishing season for giant Atlantic bluefin tuna with gear other than purse seines in the above described area will close on September 10, 1978, at 2400 hours, e.d.t.

Issued at Washington, D.C., and dated September 7, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-25862 Filed 9-13-78; 8:45 am]

[6820-24]

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

APPENDIX—TEMPORARY REGULATIONS

[FPR Temp. Reg. 47]

Major System Acquisitions for Automatic Data Processing (ADP) and Telecommunications

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This FPR temporary regulation provides interim policies and procedures applicable to the acquisition of major ADP and telecommunications systems under the requirements of Office of Management and Budget (OMB) Circular A-109. The provisions are required to implement the reform principles of A-109 with respect to the acquisition of major ADP and telecommunication systems by executive branch agencies. The intent of the temporary regulation is to clarify the relationship between OMB Circular No. A-109, the FPR, and the Federal Property Management Regulations for these major system acquisitions.

DATES: Effective date: This regulation is effective October 16, 1978, but may be observed earlier. Expiration date: This regulation will continue in effect until canceled. Comments due on or before: December 13, 1978.

ADDRESS: Comments should be addressed to: Director, FPR Staff (FV); General Services Administration; Washington, D.C. 20406.

FOR FURTHER INFORMATION CONTACT:

Philip G. Read, Director of Federal Procurement Regulations, 703-557-8947.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

In 41 CFR Chapter 1, the following temporary regulation is added to the appendix at the end of the chapter to read as follows:

[Federal Procurement Regs.; Temporary Reg. 47]

To: Heads of Federal agencies.

Subject: Major system acquisitions for automatic data processing (ADP) and telecommunications.

1. *Purpose.* This FPR temporary regulation clarifies the relationship between Office of Management and Budget (OMB) Circular No. A-109, Major System Acquisitions, the Federal Procurement Regulations (FPR), and the Federal Property Management Regulations (FPMR) governing major ADP/telecommunications system procurements. The temporary regulation also provides interim policies and procedures concerning such acquisitions.

2. *Effective date.* This regulation is effective October 16, 1978, but may be observed earlier.

3. *Expiration date.* This regulation will continue in effect until canceled.

4. *Background.* a. The Commission on Government Procurement studied the Government's major system acquisition practices and recommended basic changes to promote economy, efficiency, and effectiveness in the management of the major system acquisition process. OMB Circular A-109, which implements these recommendations, was issued April 5, 1976. This OMB Circular establishes specific policy and procedural requirements for implementation by executive branch agencies. Basically, the Circular provides for:

(1) Top level management attention to the determination of agency mission needs and goals;

(2) An integrated systematic approach for establishing mission needs, and for budgeting, contracting, and managing programs;

(3) Improved opportunities for innovative private sector contributions to national needs; and

(4) Early communication with the Congress and OMB in the acquisition process by relating major system acquisitions to agency mission needs and goals. OMB Circular A-10 relating to budget estimates establishes requirements that should be followed in the communication to the Congress. OMB Circular A-11 relating to ADP and telecommunication requirements establishes requirements that should be followed in the preparation and submission of budget estimates to OMB.

b. The decision whether ADP and/or telecommunications major systems are required is the responsibility of the using agency. Under OMB Circular A-109 the using agency head establishes dollar thresholds for the determination of which agency programs are to be considered major system acquisitions for that agency.

c. The fact that the acquistions of major systems are made in accordance with OMB Circular A-109 does not alleviate the need for compliance with the applicable provisions of the FPR and/or the FPMR. Accordingly, this temporary regulation describes the responsibilities of the using agency after the agency's decision is made to acquire under the A-109 policies. In addition, this temporary regulation describes the responsibilities of the General Services Administration (GSA) when GSA procures the major ADP or telecommunication system for the using agency or delegates the authority to the using agency to conduct the procurement.

d. In August 1976, the Office of Federal Procurement Policy (OFPP) published pamphlet No. 1, titled "Major System Acquisitions, A Discussion of the Application of OMB Circular No. A-109." an OFPP pamphet setting forth the application of A-109 policies to the acquisition of major ADP and telecommunications systems is being developed by GSA and OFPP. The new pamphlet will supplement the provisions of this temporary regulation.

5. *Policy.* The major system acquisition procedures described in OMB Circular A-109 are designed to maximize competition and encourage innovative solutions to agency mission needs. Accordingly, major ADP and/or telecommunications systems shall be acquired in accordance with this regulation, other applicable provisions of the FPR and/or FPMR, the OFPP pamphlet and agency A-109 implementing procedures to meet agency mission requirements.

6. *Agency action.*—a. *Using agency responsibilities prior to the contracting phases of the acquisition.* (1) The using agency shall perform an analysis of mission needs. However, the advice and assistance of GSA may be requested in performing the analysis, particularly in regard to contemporary experience which may be applicable to the agency need. Requests for assistance should be addressed to General Services Administration, Agency Services Division (CDS), Washington, D.C. 20405.

(2) The agency shall advise GSA upon agency head approval of the mission need statement (Key Decision I) and of the assignment of the program manager when major ADT/telecommunications equipment or services (systems) are to be acquired in accordance with A-109.

(3) The agency is responsible for the development of the system acquisition strategy and plan. However, since this plan will become the blueprint for the procurement, it should be developed in coordination with GSA. Participation by GSA may be arranged by contacting the Agency Service Division.

(4) The agency program manager shall forward the approved major system procurement request to GSA (CDS). The request shall include applicable data required in the agency procurement request (APR) as required by FPR § 1-4.1104 or the GSA Form 2068, Request for ADP Service, as required by FPMR § 101-36.203-2. In addition, the request should include:

(a) The user mission need statement, approved in accordance with applicable directives (Key Decision I—Approval of Need);

(b) The name and telephone number of the designated program manager togerher with the approved charter outlining the manager's responsibilities, authority, and accountability; and

(c) The system acquisition strategy and plan, approved by the program manager.

b. *GSA responsibilities prior to the contracting phases of the acquisition.* (1) GSA will advise the agency, as requested, in their mission analysis efforts to the maximum practicable extent.

(2) GSA will participate, in an advisory role to the using agency program manager, in the development of the

system acquisition strategy and plan, upon request.

(3) Based on the major system procurement request, GSA will assist the agency in preparing the solicitation document. Assistance may be requested in the development of the evaluation criteria and in the evaluation of proposals. GSA will participate in the negotiation of the contract upon request.

(4) GSA will assist the agency in the implementation. For example, the Government could acquire ADPE and software in accordance with the concepts, the technical, judgmental, and total cost criteria to be used in the evaluation of alternative system

proposed rules

V 43 / 179 SE 14 78 V 4

system acquisition strategy and plan, upon request.

(3) Based on the major system procurement request, GSA will:

(a) Delegate authority to the using agency to conduct the procurement;

(b) Delegate authority to the using agency to conduct the procurement action subject to GSA participation to the extent specified in the delegation; or

(c) Conduct the procurement on behalf of the using agency.

c. *Contracting under A-109 procedures.* When A-109 policies are applicable, normally only one solicitation at the beginning of the exploration of alternative system design concepts will be used. The scope and basis for selection of the solicitation may, however, vary depending on the complexity of the mission need and the acquisition strategy. For example, in complex situations the solicitation may request proposals which describe the contractor's capabilities, understanding of the mission need, approach to developing a system design concept to meet the need, and identify the personnel which would be assigned to the contract; or in less complex situations the solicitation may request proposals which define the contractor's recommended system design concept. In either situation, the evaluation of proposals will result in the selection of two or more contractors to develop or further define recommended system design concepts. When evaluation of the contracted efforts shows sufficient definition of concepts, program manager recommendations will go forward for using agency head Key Decision II—Approval of concepts for Demonstration, or Key Decision III—Approval of Full Implementation. If a demonstration of concept phase is approved, two or more of the remaining contractors in the competition will be selected to verify their concepts and design. Evaluation and selection of the final contractor will be based on this phase. However, it does not necessarily follow that the system contractor would be responsible for all aspects of the full implementation. For example, the Government could acquire ADPE and software in accordance with the system contractor's performance specifications and furnish it to the contractor for incorporation into his system implementation. The using agency head Key Decision IV—Approval for Production, will apply in the case where a multiple quantity of systems are required to meet the agency need.

d. *Using agency responsibilities when GSA delegates contracting action to the using agency.* When the agency is acting under a delegation of procurement authority pursuant to paragraphs 6b(3) (a) or (b) of this temporary regulation, the agency shall conduct the procurement in compliance with applicable procurement policies, regulations, and, in particular, the specific terms of the delegation.

e. *Using agency responsibilities when GSA procures for the using agency.* (1) When GSA elects to conduct the procurement under paragraph 6b(3) (c) of this temporary regulation, the procurement is a joint endeavor. Agency responsibilities shall be as set forth in FPR § 1-4.1105-1, as modified and supplemented in this subparagraph 6e.

(2) The agency shall submit its determination and findings to support the authorization to procure by negotiation.

(3) With reference to paragraph (b) of § 1-4.1105-1, the technical portion of the solicitation document should cover the statement of work, the functional specification addressing the mission need statement, limitations and constraints, environment, facilities, and work force, urgency and priorities, transitioning, changes, growth potential, and other requirements that must be met by the offerors. Other information that the offerors need in order to properly construct their proposal shall be provided. The solicitation should outline the overall acquisition strategy, the specific evaluation criteria for the initial contracting phase, and criteria for follow-on phases. If the initial contracts will be for system design concepts, the technical, judgmental, and total cost criteria to be used in the evaluation of alternative system design concepts should be provided to assist offerors in preparing for the subsequent phases of the acquisition.

(4) The agency shall provide for the necessary personnel for evaluation of the concept designs and demonstration contracts and for the selection of alternatives for further consideration.

(5) The agency shall provide copies of agency head approvals (Key Decisions).

f. *GSA responsibilities when GSA procures for the using agency.* (1) When conducting the procurement, GSA's responsibilities will be as set forth in FPR § 1-4.1105-2, as modified and supplemented in this subparagraph 6f.

(2) When evaluation criteria includes technical considerations (or points), GSA will insure that the evaluations criteria for selecting the successful offeror from the final acceptable alternatives will result in meeting the using agency's need at the lowest ultimate overall cost, price and other factors considered.

7. *Effect on other issuances.* Notwithstanding any limitations of applicability of the FPR or the FPMR, the provisions referenced in this temporary regulation apply to all ADP and telecommunications major system acquisitions by executive branch agencies subject to the provisions of OMB Circular No. A-109.

8. *Solicitation of comments.* Notwithstanding the provisions of this temporary regulation, the views of agencies and other interested parties are invited regarding the policy and procedures that should be adopted in the future. All comments received on or before December 13, 1978, will be considered.

JAY SOLOMON,
Administrator
General Services.

SEPTEMBER 12, 1978.

[FR Doc. 78-26158 Filed 9-13-78; 11:41 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[7 CFR Part 1940]

[FmHA Instruction 1940-M]

FLOOD PLAIN MANAGEMENT

Proposed Addition of Subpart

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration proposes to add a new subpart to its regulations to provide for flood plain management. This action is being taken to implement an Executive order. The intended effect of this action is to insure that flood plains are properly managed and that construction is not undertaken or the flood plain changed unless there are no other practicable alternatives.

DATES: Comments must be received on or before November 13, 1978.

ADDRESS: Submit written comments to the office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Cecil W. Rose, 202-447-3394.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration proposes to amend its regulations by issuing a new Subpart M, "Flood Plain Management," in Part 1940, Chapter XVIII, Title 7 of the Code of Federal Regulations. This subpart will provide regulations for compliance with the Executive Order 11988 regarding all programs and activities administered by Farmers Home Administration. Therefore, as proposed, part 1940, subpart M reads as follows:

Subpart M—Flood Plain Management

Sec.
1940.601 Introduction.
1940.602 Policy.
1940.603 [Reserved]
1940.604 Definitions.
1940.605-1940.610 [Reserved]
1940.611 Flood plain identification.
1940.612 Actions to be taken if proposed action is located above base flood plain.
1940.613 Actions taken if project lies within the base flood plain.
1940.614 Facilities financed with Rural Housing (RH) or Rural Rental Housing (RRH) funds only.
1940.615 Floodproofing of low risk facilities within the flood plain.
1940.616-1940.620 [Reserved]
1940.621 Notices required after the evaulation of the flood plain.
1940.622 Flood plain evaluation as part of an Environmental Impact Statement (EIS).
1940.623 Floodproofing of the facility.
1940.624 Acquired property.
1940.625 Compliance with National Flood Insurance.
1940.626-1940.650 [Reserved]

AUTHORITY: E.O. 1198; 7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357; 88 State 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistance Secretary for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.

Subpart M—Flood Plain Management

§ 1940.601 Introduction.

This subpart prescribes agency policies, procedures and guidelines for compliance with the President's Executive Order 11988 for all programs or activities administered by the Farmers Home Administration (FmHA). This Executive order requires that FmHA will determine whether to finance the development of a facility located in a flood plain or take other actions in a flood plain.

§ 1940.602 Policy.

(a) It is FmHA's policy to avoid, to the extent possible, the long and short term adverse impacts associated with the occupancy and modification of flood plains, and to avoid direct and indirect support of flood plain development unless there is no practicable alternative to the development.

(b) FmHA's policy is in basic conformance with a "unified national program for flood plain management," issued by the U.S. Water Resources Council. A copy will be available in each State office.

(c) FmHA will support policies to reduce risk of floods and minimize impacts of floods on human safety, health and welfare, and restore and preserve the natural and beneficial values served by flood plains by:

(1) Providing guidance, training, and assistance by the State Director to County Supervisors and District Directors as needed, so that they are capable of determining whether actions are to be taken within flood plains and if an affirmative decision is reached, the safeguards that will be required.

(2) Requiring compliance with existing laws, statutes, ordinances, etc., of Federal, State or local governments that provide standards for regulation or use of the flood plain in question.

(3) Carrying out its responsibilities for making loan and grants for all programs administered by FmHA.

(4) Managing and disposing of acquired property, lands, and facilities to comply with agency regulations.

§ 1940.603 [Reserved]

§ 1940.604 Definitions.

(a) *Action.* Action means any Federal activity including: (1) Acquiring, managing, and disposing of Federal lands and facilities; (2) providing federally undertaken, financed, or assisted construction and improvements, including guaranteed loans; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities. Normal farming operations including extant or normal maintenance and repairs of existing facilities shall not be considered as an action.

(b) *Base flood.* The 100-year flood has a magnitude that may be equaled once every 100 years on the average. It may also be called the "100-year frequency flood" or the 1 percent chance flood.

(c) *Flood plains.* The lowland and relatively flat areas adjoining inland and coastal waters, including at a minimum, that area subject to a 1 percent or greater chance of flooding in any given year.

(d) *Flood hazard.* The risk to life or damage to property from overflows of a river or stream channel; extraordinary waves or tides occurring on lakes, estuaries, or ocean shores; flood flows in intermittent or normally dry streams; floods on tributary streams; floods caused by accumulated debris or ice in rivers; or other similar events.

(e) *Flood hazard zone.* The area inundated by the base flood.

(f) *Flood proofing.* The actions taken to eliminate or greatly curtail flood

damage to buildings, land, or structures for the base flood.

(g) *Flood evaluation.* The process of

§ 1940.612 Actions to be taken if proposed action is located above base flood plain.

and the functional need for locating the proposed action in the flood plain.

(2) If the State Director determines

(2) Determine whether a 100-year flood would cause moderate or exces-

per. This notice will explain why the action is being taken in the floodplain

§§ 1940.626-1940.650 [Reserved]

Dated: September 6, 1978.

damage to buildings, land, or structures for the base flood.

(g) *Flood evaluation.* The process of identifying such factors as flood area, depth of water, velocities, pressure, rates of rise, duration, seasonality, probability of occurrence, probable load of debris and pollutants, and assessing potential damage that may be caused by these factors.

(h) *Impedance of flow.* The obstruction of flow caused by the action proposed during a base flood which causes significant increase is ordinarily considered as 1 foot or more increase in depth or a velocity increase of one-half foot per second or greater.

(i) *Practicable.* Practicable means capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of the pertinent factors, such as environment, cost, technology, etc.

§ 1940.605–1940.610 [Reserved]

§ 1940.611 Flood plain identification.

Before taking any action, FmHA will determine whether the project to be financed or the action to be taken will occur in a base flood plain area and whether or not flooding will significantly affect the utility of the facility or development. To identify a flood plain for a base flood the County Supervisor will:

(a) Review Federal Insurance Administration (FIA) maps, or more detailed maps of the area if available, from county or State agencies.

(b) In cases where FIA has identified an area as having special flood hazards but has not established the projected elevations of a 100-year flood, the State Director may accept the findings of other State or Federal agencies as well as reliable private firms to establish the 100-year flood level.

(c) Where the project to be financed has not been clearly delineated or there are strong indications that existing maps or surveys are incomplete or are in error, the applicant may provide the following information for FmHA consideration.

(1) Estimated elevations of the base flood level from the Corps of Engineers, Soil Conservation Service (SCS) or other governmental agencies at the location of the project.

(2) Initial and final contour elevations of the property to be developed, by SCS, a private consulting engineer, registered land surveyor, or other recognized qualified individual.

(d) When buildings are to be financed in the base flood area refer to part 1806 subpart B (FmHA instruction 426.2).

§ 1940.612 Actions to be taken if proposed action is located above base flood plain.

If, as a result of the study of maps, elevations, or contours it is determined that the proposed action to be financed or taken will rest entirely above the base flood plain, no further studies or flood plain identification is required. The County Supervisor will use either Form FmHA 440-46, "Environmental Impact Assessment," appraisal reports, or other means to document that the flood plain has been identified and the proposed action does not fall within the flood plain and proceed with the action.

§ 1940.613 Actions taken if project lies within the base flood plain.

(a) If the flood plain identification shows that the proposed action will be located in a flood plain, the County Supervisor will include in the loan or grant docket the following:

(1) Evaluation of the potential flood hazard.

(2) Evaluation of any practical alternatives consistent with the law and FmHA procedures that will allow locating the facility outside the flood plain.

(3) Evaluation of proposals for structures to be located within the base flood area with technical assistance from the local SCS office, private surveyors, or private engineers provided by the applicant to determine that the flood hazard will be minimal with the floodproofing proposed.

(4) Review proposals for subdivisions or large rural businesses or industries, schools, and the like to be constructed, rehabilitated, or floodproofed within the base flood area.

(5) Evaluate alternative sites within the flood plain and show that the site selected is subject to the least flood damage.

(6) Document the actions to be taken to floodproof the facility.

(7) The County Supervisor will provide supporting documentation and forward the information to the State Director.

(b) After the County Supervisor has determined that the proposed action will occur within a flood plain and has forwarded the above documentation to the State Director, the State Director shall:

(1) Determine whether a practicable alternative exists to locating the proposed action in the flood plain. Consideration shall be given to alternate sites, alternate actions, and the taking of no action. Consideration shall also be given to factors including but not limited to: Conservation, economics, natural and beneficial values served by flood plains, impact of floods on human safety, locational advantage, and the functional need for locating the proposed action in the flood plain.

(2) If the State Director determines that the only practicable alternative is locating the facility in the flood plain, consider the impact of the proposed action and modify the proposed action to minimize potential impact on the flood plain.

§ 1940.614 Facilities financed with Rural Housing (RH) or Rural Rental Housing (RRH) funds only.

(a) If the proposed action is to provide financial assistance to buy a dwelling or multi-unit housing facility:

(1) The first floor elevation of the habitable space of the dwelling or housing unit must be above the 100-year flood level, and

(2) The housing must be served by public utilities and facilities, such as sewer, gas, electrical, and water systems that are located and constructed to minimize or eliminate flood damage or have an onsite water supply system and waste disposal system constructed to avoid impairment of such systems including contamination of the water supply by the waste disposal system.

(b) If the proposed action is to provide financial assistance to build or provide substantial improvement, the requirements of paragraph (a)(1) of this section must be met. All construction must meet the requirements of the applicable Minimum Property Standards.

(c) If the financial assistance is to make minor repairs, the conditions of paragraphs (a) (1) and (2) of this section must be met or the building must have existed on the site prior to the date the area was identified as having special flood or mudslide hazards and, the loan approval official must determine that the dwelling is suitable as a residence.

(d) When applications for financial assistance are received in areas identified as having special flood or mudslide hazards, the loan approval official will consider the expected severity and frequency of floods and mudslides in determining whether any housing loans should be made in the area. The loan approval official should be sure, if loans are made, that the objectives of the loans can be accomplished and that the Government's financial interest will be adequately protected.

(e) In cases where the FmHA has financed dwellings in an area now identified as being in a special flood hazard area and the family wishes to sell the property to an applicant who seeks FmHA assistance to buy or assume the existing loan on the property, the following will apply:

(1) Members of our field staff must determine whether the house is structurally sound and should be retained in the programs; and

(2) Determine whether a 100-year flood would cause moderate or excessive damage to the property.

(f) In cases where the dwelling is not structurally sound or the occurrence of a 100-year flood would cause excessive damage to the property, a loan or transfer should not be processed for an eligible applicant. If, however, the house is structurally sound and the occurrence of a 100-year flood would cause only moderate damage to the property, an RH loan could be made to buy the dwelling or a transfer made to an eligible applicant provided the new applicant understands and agrees in writing that the dwelling is located in a special flood hazard area, that the first floor elevation of the dwelling is not above the 100-year flood level, and that National Flood Insurance must be maintained on the property until the FmHA indebtedness is paid in full.

§ 1940.615 Floodproofing of low risk facilities within the flood plain.

(a) Proposed facilities such as leveled land, terraces, and agricultural drainage facilities will be reviewed by the County Supervisor with assistance by the District Director to determine whether such facilities would be substantially damaged by the base flood.

(b) Facilities such as houses, rural businesses, machine storage sheds, milk barns, and the like will be floodproofed. Outlet drains are to be designed so that they can be used by auxiliary pumps during the base flood period whenever practical. Assistance in this regard may be requested from SCS or the State Director.

(c) Water facilities may be located in floodplains by installing such items as grout, pitless adapters, sanitary well seals, etc., so that water supplies can be operated without being polluted during reasonable periods of inundation.

(d) Septic tanks shall be designed with excess storage capacity and provided with adequate weight so they will not float out of the ground during periods of inundation. Septic tanks and absorption fields will not be used when the period of inundation exceeds 10 days under base flood conditions.

§§ 1940.616–1940.620 [Reserved]

§ 1940.621 Notices required after the evaluation of the floodplain.

(a) *Actions where there is no practicable alternative to locating in the floodplain.* If the State Director determines that there is no practicable alternative to locating the proposed action in a floodplain, the County Supervisor will inform the applicant to prepare a notice of proposed actions for projects which would involve an action in the floodplain. Such notice will be published in the local newspaper. This notice will explain why the action is being taken in the floodplain and provide a brief description of the proposal together with the economic justification and evaluation of the project. The notice will also show the address where the general public can review the facility plans during normal working hours.

(b) *On projects requiring compliance with OMB Circular A-95.* On all applicant projects requiring compliance with OMB Circular A-95, the applicant will include the following information along with the SF 424, "Federal Assistance," to the appropriate clearinghouse(s) for comment with a copy of the notice forwarded to the FmHA County Office.

(1) Floodplain map with project location indicated thereon.

(2) Reasons why facility is proposed to be located in the floodplain.

(3) Statement indicating whether action conforms to applicable State of local floodplain protection standards.

(4) List of alternatives considered.

(5) The clearinghouse(s) will be allowed 30 days for comment prior to FmHA taking any further action on the application. The applicant will provide the County Supervisor with written notice of any comments, or lack of comments, received from the clearinghouse(s) at the end of the specified period.

§ 1940.622 Floodplain evaluation as part of an environmental impact statement (EIS).

In those cases where it is determined through the environmental assessment that an EIS is required, a complete floodplain evaluation will be part of the EIS.

§ 1940.623 Floodproofing of the facility.

The State Director will determine whether the facilities to be constructed in the floodplain are floodproofed in a manner that the flood hazard is minimal, and whether the facility can reasonably be operated during the indundation period. The applicant will obtain and pay for any necessary engineering studies required by the State Director to support the determination.

§ 1940.624 Acquired property.

Disposition of inventory property which may be in floodplains will need to be conveyed by deeds containing the appropriate restrictions. Such cases will be referred to the National Office for for review and advice regarding necessary actions.

§ 1940.625 Compliance with National Flood Insurance.

The requirements of part 1806 subpart B (FmHA instruction 426.2) will be followed regarding flood insurance requirements.

§§ 1940.626–1940.650 [Reserved]

Dated: September 6, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-25716 Filed 9-13-78; 8:45 am]

[3410-07]

[7 CFR Part 1940]

[FmHA Instruction 1940-Q]

PROTECTION OF WETLANDS

Proposed Addition of Subpart

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration proposes to add a new subpart to its regulations to provide for the preservation of wetlands. This action is being taken to implement the provisions of an Executive order. The intended effect of the action is to assure the protection of wetlands by not providing assistance to applicants whose proposed construction would interfere with or destroy wetlands.

DATE: Comments must be received on or before November 13, 1978.

ADDRESS: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Cecil W. Rose, 202-447-3394.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration proposes to amend its regulations by issuing a new subpart Q, "Protection of Wetlands," in part 1940, chapter XVIII, title 7 of the Code of Federal Regulations. This subpart will provide regulations for compliance with Executive Order 11990 regarding all programs and activities administered by the Farmers Home Administration. Therefore, as proposed, part 1940, subpart Q reads as follows:

Subpart Q—Protection of Wetlands

Sec.
1940.801 Introduction.
1940.802 Policy.
1940.803 Definitions.
1940.804-1940.810 [Reserved]
1940.811 Determination whether area is a wetland.
1940.812 Decisionmaking process.
1940.813 Notices required after the evaluation of wetland.
1940.814 Acquired property.

1940.815-1940.850 [Reserved]

AUTHORITY: E.O. 11990; 7 U.S.C. 1989; 42

§§ 1940.804–1940.810 [Reserved]

§ 1940.811 Determination whether area is

struction and will have an impact on a wetland, the County Supervisor will

[4910-13]

DEPARTMENT OF TRANSPORTATION

ceived. All comments submitted will be available, both before and after the closing date for comments, in the

under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transpor-

1940.815-1940.850 [Reserved]

AUTHORITY: E.O. 11990; 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.

Subpart Q—Protection of Wetlands

§ 1940.801 Introduction.

This subpart prescribes Farmers Home Administration (FmHA) policies, procedures, and guidelines for compliance with the President's Executive Order 11990 for all programs or activities administered by FmHA. This Executive order requires that FmHA (a) make decisions whether to finance the development or otherwise interfere with the wetland, and (b) assure that actions of the agency are directed toward protecting our wetlands.

§ 1940.802 Policy.

It is the general policy of the FmHA to avoid providing financial assistance for new construction located in wetlands unless the State Director finds: (a) that there is no practicable alternative to such new construction, and (b) that the proposed new construction includes all practicable measures to minimize harm to wetlands which may result from such use.

§ 1940.803 Definitions.

(a) *Wetland.* The term "wetland" means those areas that are inundated by surface or ground water with a frequency sufficient to support a prevalence of aquatic vegetation or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetland may include swamps, marshes, bogs, sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

(b) *New construction.* New construction shall consist of draining, dredging, channelizing, filling, diking, impounding, and related activities or part thereof together with the building facilities after the wetland has been drained or altered. Normal farming operations and maintenance of existing facilities are not considered to be new construction.

(c) *Practicable.* Practicable means capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of the pertinent factors such as environment and cost of technology.

§§ 1940.804-1940.810 [Reserved]

§ 1940.811 Determination whether area is a wetland.

If an FmHA appraisal, U.S. Geological Service maps, local county maps, or other source material, indicate that the area to be developed is a wetland, the County Supervisor will document the facts and submit them to the State Director for review before new construction is to take place on wetlands and a final determination is made. The State Director will determine whether to proceed with the new construction before funds are allocated or other commitments have been made. If the County Supervisor, upon inspection of the area where new construction is to be commenced, is unable to determine whether the area is a wetland, he/she should contact the local Soil Conservation Service (SCS) office and seek assistance. The local SCS representative may determine that an area is a wetland in those questionable areas if the predominate species of grasses or vegetation are of the variety usually supported on soil which is seasonally wet.

§ 1940.812 Decisionmaking process.

(a) The State Director will determine whether there is a practicable alternative to locating the new construction on wetlands.

(b) In carrying out these activities the State Director shall consider factors relevant to a proposal's effect on the survival and quality of the wetlands. Among these factors are:

(1) Public health, safety, and welfare, including water supply, quality, recharge and discharge; pollution; flood and storm hazards; and sediment and erosion;

(2) Maintenance of natural systems, including conservation and long-term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and food and fiber resources; and

(3) Other uses of wetlands in the public interest, including recreational, scientific, and cultural uses.

(c) If there appears to be no practicable alternative to locating the new construction on wetlands, the State Director will determine that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use. In making this determination, economic, environmental, and other pertinent factors may be taken into account.

§ 1940.813 Notices required after the evaluation of wetland.

(a) *Projects involving new construction.* If it has been determined that the project will constitute new construction and will have an impact on a wetland, the County Supervisor will inform the applicant to prepare a notice of proposed actions for projects which impact on the wetland. Such notice will be published in the local newspaper. This notice will explain why the action is being taken in the wetland and will provide a brief description of the proposal together with the economic justification and evaluation of the project. The notice will also show the address of the location where the general public can review plans during normal working hours.

(b) *Projects requiring compliance with OMB Circular A-95.* On all projects requiring compliance with OMB Circular A-95, the applicant will include the following information along with the SF 424, "Federal Assistance," to the appropriate clearinghouse(s) for comment with a copy of notice forwarded to the FmHA County Office.

(1) Wetland map with project location indicated thereon.

(2) Reasons why facility is proposed to be located in the wetland.

(3) Statement indicating whether action conforms to applicable State or local wetland protection standards.

(4) List of alternatives considered.

(5) The clearinghouse(s) will be allowed 30 days for comment prior to FmHA taking any further action on the application. The applicant will provide the County Supervisor with written notice of any comments, or lack of comments, received from the clearinghouse(s) at end of period specified.

(c) *Wetland evaluation as part of an Environmental Impact Statement (EIS).* In those cases where it is determined through the environmental assessment that an EIS is required, a complete wetland evaluation will be part of the EIS.

§ 1940.814 Acquired property.

Disposition of inventory property which may be located in wetlands will need to be conveyed by deeds containing the appropriate restrictions. Such cases will be referred to the National Office for necessary actions.

§§ 1940.815-1940.850 [Reserved]

Dated: September 6, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-25715 Filed 9-13-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 78-NE-16]

TRANSITION AREA

Proposed Designation of the State of New Hampshire as a 1,200-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to designate the entire State of New Hampshire as a 1,200-foot transition area. This action would consolidate all existing 1,200-foot transition areas in the State and converts a small segment of remaining uncontrolled airspace in the State (about 200 square miles) to controlled airspace, to be defined as the "State of New Hampshire Transition Area."

DATE: Comments must be received on or before October 4, 1978.

ADDRESS: Send comments to the Federal Aviation Administration, Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 78-NE-16, 12 New England Executive Park, Burlington, Mass. 01803.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803.

FOR FURTHER INFORMATION CONTACT:

Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Mass. 01803; telephone 617-273-7285.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted to the Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 78-NE-16, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803. All communications received on or before October 4, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of the Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington D.C. 20591, or by calling 202-426-8085. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would establish the State of New Hampshire Transition Area. Presently, about 98 percent of the airspace in New Hampshire is designated as transition area, all contiguous. This proposal would consolidate all the existing transition areas which are now listed in Part 71 of the Federal Aviation Regulations under numerous geographic names into a single 1,200-foot transition area. It would also require that a small segment of uncontrolled airspace, about 200 square miles, be converted to controlled airspace. This amendment will simplify charting and reduce the possibility of pilot confusion in distinguishing the boundaries of designated controlled airspace.

THE PROPOSED AMENDMENT

Accordingly, the FAA proposes to amend § 71. 181 of Part 71 of the Federal Aviation Regulations (14 CFR 71.181) as follows:

1. By designating a new transition area to read:

STATE OF NEW HAMPSHIRE TRANSITION AREA

"That airspace extending upward from 1,200-feet above the surface within the territorial boundaries of the State of New Hampshire, including offshore airspace beginning at latitude 42°56'00" N., longitude 70°34'00" W.; to latitude 42°56'00" N., longitude 70°25'00" W.; to latitude 42°43'15" N., longitude 70°25'00" W., to latitude 42°41'20" N., longitude 70°30'00" W.; to latitude 42°52'00" N., longitude 70°45'00" W., then via state territorial boundaries to point of beginning."

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)).) sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Burlington, Mass., on August 22, 1978.

ROBERT E. WHITTINGTON,
Director, New England Region.

[FR Doc. 78-25696 Filed 9-13-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 451]

ADVERTISING FOR OVER-THE-COUNTER ANTACIDS

Final Notice Concerning Proposed Trade Regulation Rule; Correction

AGENCY: Federal Trade Commission.

ACTION: Correction.

SUMMARY: This document makes corrections to the Federal Trade Commission's notice which established the dates for oral hearings to be held on FTC's proposed trade regulation on advertising for over-the-counter antacid prodcts. These corrections are to FR Doc. 78-24602 which appeared at page 38851 in the issue for Thursday, August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Joel Brewer, 202-724-1530.

The changes are as follows:

1. On page 38851 in the first column under the paragraph captioned SUMMARY, and in the seventh line therein, change the word "product" to "products".

2. On page 38851 in the third column and in paragraph 4. therein, change the deadline for filing statements or outlines from November 3, 1978 to November 10, 1978.

3. On page 38852 in the second column and in paragraph 10. therein, change the word "They" to "Then" in the eighteenth line so that the sentence reads, "Then you may summarize the statement in your testimony, and the entire statement will be introduced into the record as an exhibit."

4. On page 38852 in the third column, third paragraph of SECTION E, and in the first sentence change the symbol (g) to (j) so that the sentence reads, "Accordingly, in the following questions, the term 'warning' refers to the FDA antacid labeling requirements set forth in (a) to (j) below;".

5. On page 38853 in the second column and in paragraph 4. therein, in the final sentence of the paragraph, insert the word "a" before the word "general" so that the sentence reads, "Can criteria be developed to deter-

mine what elements a general disclosure must contain in order to induce

ties and Exchange Commission, 500 North Capitol Street, Washington,

to fixed charges ratios (varying according to industry) for the most

that many companies with no publicly held voting stock may be better established than those with such stock. In response to these comments, the

the $50 million voting stock market capitalization requirements, the first proposed amendment would require the issuer to have outstanding debt or

that the form be available only to a category of issuers whose earnings exceed fixed charges by a generally accepted multiple amount for the partic-

mine what elements a general disclosure must contain in order to induce consumers to familiarize themselves with the warnings on particular antacid products?".

6. On page 38853 in the third column and in the first line therein, insert the word "a" before the word "specific".

Dated: September 7, 1978.

JAMES P. GREENAN,
Presiding Officer.

[FR Doc. 78-25854 Filed 9-13-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 239]

[Release Nos. 33-5974, IC-10395; File No. S7-754]

SHORT FORM FOR THE REGISTRATION OF SECURITIES

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendments to a form.

SUMMARY: The Commission is proposing amendments which would revise the short form for the registration of securities in order to further expand its usage for primary offerings by subsidiaries of certain issuers. Presently, an issuer with no publicly held voting stock may use the form for primary offerings of securities if it meets certain requirements and is a majority owned subsidiary whose parent guarantees the securities as to principal and interest. The proposed amendments would eliminate the guarantee requirement under certain circumstances and also allow the use of the form for the registration of equity securities by certain subsidiary issuers under conditions designed to assure adequate dissemination of current information about the issuer.

DATE: Comments should be submitted on or before October 31, 1978. Issuers desiring to take advantage of the proposed amendments may do so immediately, provided they comply with all applicable provisions of the new form.

ADDRESS: Comments should refer to file S7-754 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Steven J. Paggioli, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-376-8090.

SUPPLEMENTARY INFORMATION: On April 11, 1978, the Commission in Securities Act Release No. 5923 (43 FR 16672) announced the adoption of amendments to form S-16 (17 CFR 239.27), a form for registration of certain securities under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq., as amended by Pub. L. 94-29 (June 4, 1975)). Form S-16 is a registration form which is comparatively simpler and shorter than other available forms for the registration of securities under the Securities Act.

The amendments adopted in release 33-5923 broadened the types of transactions for which form S-16 may be used in that for the first time the form was made available for primary offerings by issuers under certain specified conditions. One of these conditions requires issuers or their parents to meet a $50 million market capitalization standard based on computation by reference to voting stock held by nonaffiliates. In adopting this requirement, the Commission noted that several commentators had criticized the relation of the $50 million amount to issuers' voting stock. These commentators noted that many companies with no publicly held voting stock may be more seasoned than some companies with publicly held voting stock. Accordingly, the Commission determined to permit the use of form S-16 by issuers with no publicly held voting stock when the issuer is a majority owned subsidiary and its parent meets the $50 million voting stock market capitalization requirements and guarantees the securities as to principal and interest. However, at that time the Commission also directed the staff to consider what conditions for the availability of form S-16 would be appropriate for other issuers with no publicly held voting securities. The amendments proposed today generally would expand the class of subsidiary issuers eligible to use the form for primary offerings to include those whose parents do not guarantee their securities as to principal and interest and also allow the use of the form for the registration of equity securities of such issuers.

In addition to the general requirements for the use of the form and the market capitalization requirement of the parent, the proposed criteria for subsidiaries include (1) The existence of outstanding debt or equity securities held by nonaffiliates, with an aggregate principal amount or market value of at least $250 million, the offer or sale of which has been registered pursuant to the provisions of section 6 of the Securities Act of 1933, (2) compliance with certain specified earnings to fixed charges ratios (varying according to industry) for the most recent fiscal period reported, (3) the existence of at least 2,500 security holders who receive annual reports from the issuer containing certified financial statements.

This release contains a general discussion of the background and purpose of the proposed amendments and a brief description thereof. Attention is directed to the text of the proposed amendments for a more complete understanding.

BACKGROUND AND PURPOSE

The adoption in release 33-5923 of the amendments making form S-16 available for primary offerings reflects in part the recommendation of the Advisory Committee on Corporate Disclosure ("Advisory Committee") that form S-16 be available for the registration of securities to be offered directly to the public by a "small top tier of companies * * * which usually provide high quality corporate communication documents, including 1934 act reports, * * * whose corporate information is widely disseminated * * * [and] which are widely followed by debt and equity analysts." [1] This is also consonant with the position set forth in the Commission's original concept release [2] on the amendments ultimately adopted in release 33-5923 that the category of issuers should be limited to those which, in addition to meeting the existing standards set forth in form S-7, are of sufficient size and have an established reporting history that would justify the use of an abbreviated prospectus.

As noted infra, one of the major conditions ultimately adopted in furtherance of identifying a category of such issuers was the requirement that an issuer have outstanding voting stock held by nonaffiliates with an aggregate market value of at least $50 million. This standard was considered appropriate in that in addition to wide dissemination of information about such companies in the marketplace, they would also be the subject of significant scrutiny by securities analysts.[3]

The relation of this requirement to the issuer's voting stock, however, was criticized by several commentators on the proposed amendments who noted

[1] Report of the Advisory Committee on Corporate Disclosure to the Securities and Exchange Commission ("Report"), House Committee on Interstate and Foreign Commerce, 95th Cong., 1st sess., Committee Print 95-29 at 433-34.

[2] Securities Act Release No. 5792, Dec. 20, 1976, 41 FR 56331.

[3] See report at A-51. This requirement had its origin in a report by the Financial Analysts Federation to the Advisory Committee indicating that New York City based brokerage firms and institutions generally will follow companies of this size.

that many companies with no publicly held voting stock may be better established than those with such stock. In response to these comments, the amendments as adopted permit the use of form S-16 by issuers with no publicly held voting stock when the issuer is a majority owned subsidiary and its parent meets the $50 million market capitalization requirement and guarantees the securities as to principal and interest.

Since the date these amendments were adopted, further comments have been received to the effect that several subsidiary issuers, such as finance companies and utility companies, are among the largest and best established business concerns and frequently finance externally. In view of their previous issuances of securities and reporting history, substantial public information is available regarding these issuers. Further, it has been suggested that the parent companies of these issuers generally do not guarantee securities issued by their subsidiaries, and in view of the quality of these issuers there is no need for such a guarantee. Accordingly, these commentators believe that such issuers should have access to form S-16 for primary offerings without requiring a guarantee by their parent companies. In addition, it has been suggested that the form also should be available for the issuance of nonvoting equity securities by these issuers.

In light of these concerns, the Commission is proposing amendments to form that would allow its use under certain circumstances by issuers with no publicly held voting securities without requiring a parent guarantee. The proposed criteria discussed below are intended to assure that the subsidiary issuers which will be able to use the form for primary offerings in the absence of a parent guarantee will satisfy similar standards of information dissemination and significant interest by securities professionals.

TWO HUNDRED AND FIFTY MILLION DOLLARS AGGREGATE / PRINCIPAL AMOUNT OR MARKET VALUE OF OUTSTANDING SECURITIES

In addition to the requirement that the issuer satisfy the rules for the use of form S-7 [4] and that its parent meet the $50 million voting stock market capitalization requirements, the first proposed amendment would require the issuer to have outstanding debt or equity securities held by nonaffiliates, with an aggregate principal amount or market value of at least $250 million, the offer or sale of which has been registered pursuant to the provisions of section 6 of the Securities Act of 1933.

This proposed requirement is similar in concept to the $50 million market capitalization requirement adopted with respect to voting stock and is intended to serve the same function as that requirement, i.e., assuring a category of issuers about which significant information is available, disseminated, and analyzed. With respect to those subsidiary issuers with substantial debt and nonvoting equity securities outstanding, the $250 million standard has been suggested and is proposed as a means of assuring the same type of significant interest within the investment community and the wide dissemination of adequate current information on issuers that is attendant to that interest.

The requirement that the debt or preferred stock used to meet the $250 million condition have been registered pursuant to the provisions of the Securities Act is likewise further intended to provide additional assurance that information regarding the issuer has been disseminated, in view of the nature of the disclosure required by the registration provisions of that Act and the reporting obligations that attach.

COVERAGE RATIOS

An additional proposed requirement relates to the issuer's ratio of earnings to fixed charges. Specifically, the issuer's earnings for the last fiscal year or 12-month period reported in the registration statement, after all operating and income deductions except fixed charges and taxes based on income or profits after eliminating undistributed income of unconsolidated subsidiaries and 50 percent or less owned persons, must be at least: (a) 1.25 times fixed charges for finance companies; (b) 3 times fixed charges for utilities; and (c) 6 times fixed charges for any other issuers. The ratios are to be adjusted to give effect to: (1) The issuance of the securities being registered; (2) any issuance, retirement, or redemption of securities during or after such period; or (3) any issuance, retirement, or redemption of securities after, or presently proposed for the year after, such period.

The earnings to fixed charges ratio criterion is also designed to assure that the form be available only to a category of issuers whose earnings exceed fixed charges by a generally accepted multiple amount for the particular industry in which the issuer is engaged. The selected ratios are based on one of the conditions for use of form S-9, a now rescinded form for registration of certain debt securities.[5] In rescinding the form, the Commission noted that one of the factors contributing to the form's infrequent use may have been the effect of increased interest rates on the ability of many registrants to meet the minimum fixed charges coverage standards. Although the proposed format for coverage ratios is based on form S-9 and contains the same ratios for utilities and general industrial issuers, the Commission feels that these ratios may be appropriate for an initial period of experimentation. Comment is specifically invited, however, as to the appropriateness of the ratios selected for each industry, and any other conditions that would include the category of issuers described above. Comment is also requested with regard to whether a definition of "finance company" is necessary and with regard to any other appropriate standards for classifying companies within an industry or other appropriate industry groups in which special conditions would warrant different ratios.[6]

DISTRIBUTION OF ANNUAL REPORTS WITH CERTIFIED FINANCIAL STATEMENTS

As noted above, one of the major arguments in favor of making form S-16 available for primary offerings by high quality issuers is the accessibility to investors and shareholders of adequate current information about these issuers. An important source of that information is the annual and periodic reporting obligation of the Exchange Act; companies must be subject to those requirements and current in filing such reports in order to use forms S-7 and S-16. Although subsidiary issuers intended to be covered by the proposed amendments published today must also be subject to Exchange Act reporting requirements, those reports and other disclosure doc-

[4] Generally, an issuer may use form S-16 if it meets the conditions for use of form S-7, which require an issuer (a) to have a class of securities registered under sec. 12 or be subject to the reporting requirements of sec. 15(d) of the Exchange Act; (b) to have been subject to the requirements of sec. 12 or 15(d) and to have filed all applicable reports for 36 calendar months prior to filing the registration statement and have timely filed all required reports for the past 12 calendar months; (c) to have had no default in payments on preferred stock, indebtedness for borrowed money or long-term leases during the past 36 months; and (d) to have had consolidated net income of at least $250,000 for 3 of the last 4 fiscal years, including the most recent fiscal year. See 17 CFR 239.26.

[5] Form S-9 was a registration form available for registration of nonconvertible, fixed-interest debt securities of an issuer required to file reports pursuant to sec. 13 or 15(d) of the Exchange Act; that form required certain earnings to fixed charges ratios as a condition to its use. Form S-9 was rescinded on Dec. 30, 1976, in view of the minimal number of registrations that had been filed on the form in recent years. Securities Act Release No. 5791, 41 FR 56306, Dec. 20, 1976.

[6] See also Accounting Series Release No. 119, June 16, 1971, 36 FR 11918, and Accounting Series Release No. 122, Aug. 10, 1971, 36 FR 15527, with regard to computation of earnings to fixed charges ratios.

uments regarding issuers with no publicly held voting securities may not be widely distributed. This may be particularly true with respect to the market for the securities. Comment is requested as to whether the proposed amendments should require that the issuer have a minimum number of shareholders of record or a minimum number of holders of the class of securities to be registered. Comment is also requested as to whether the proposed amendments should require that the securities be listed on a national securities exchange or quoted in an automated quotation system. Comment is also requested as to whether the proposed amendments should require that there be a minimum number of market makers for the securities. Comment is also requested as to whether the proposed amendments should require that there be a minimum number of shares of the class of securities to be registered sold, or the average of the bid and asked prices of such stock, as of a specified date within 60 days prior to the date of filing.

[4110-07]

DEPARTMENT OF HEALTH,

SUPPLEMENTARY INFORMATION: Under existing regulations, income for SSI purposes is defined as including vices under any governmental program.

The proposed amendments reflect

Dated: July 25, 1978.

DON WORTMAN,
Acting Commissioner of

uments regarding issuers with no publicly held voting securities may not be widely distributed. This may be particularly so with reference to issuers of debt securities. For example, a recent survey of corporations having over $4 billion in debt outstanding and over 30,000 bondholders indicated that only 28 percent of their bondholders received annual reports and only 20 percent received interim reports.[7]

In view of the possible difference in degree and frequency of disclosure by those issuers with no publicly held voting securities, the Commission is proposing the additional requirement that the issuer have at least 2,500 security holders who were furnished an annual report containing certified financial statements for its most recent fiscal year. The requirement is also intended to assure the existence of complete and current information on the issuer and sufficient market interest in its securities.

REQUEST FOR COMMENT

All interested persons are invited to submit their views and comments on the amendments proposed herein. All comments should be received no later than October 31, 1978. Issuers desiring to take advantage of the proposed amendments may do so immediately, provided they comply with all applicable provisions of the new form.[8]

PROPOSED AMENDMENTS

The text of the proposed amendments is set forth below:

Form S-16 (17 CFR 239.27) is proposed to be amended to read as follows:

§ 239.27 Form S-16, for registration under the Securities Act of 1933 of securities of certain issuers offered pursuant to certain types of transactions.

(No change in facing page.)

GENERAL INSTRUCTIONS

A. Rule as to use of form S-16: Form S-16 may be used for registration under the Securities Act of 1933 of securities offered in the transactions specified below, if the issuer meets the requirements for the use of form S-7 (17 CFR 239.26) at the time of filing the registration statement:

1. Transactions involving certain primary offerings. Debt or equity securities offered for cash by or on behalf of the issuer provided the following conditions are met:

(a) The issuer meets the conditions listed in (i), (ii), or (iii) below. The aggregate market value of the issuer's or its parent's outstanding stock shall be computed by reference to the price at which the stock was sold, or the average of the bid and asked prices of such stock, as of a specified date within 60 days prior to the date of filing. (See the definition of affiliate in rule 405.)

(i) The aggregate market value of the voting stock held by nonaffiliates of the issuer is $50 million or more; or

(ii) The aggregate market value of the voting stock of the issuer's parent held by nonaffiliates is $50 million or more, the issuer is a majority owned subsidiary and its parent has fully guaranteed the securities as to principal and interest; or

(iii) The aggregate market value of the voting stock of the issuer's parent held by nonaffiliates is $50 million or more, the issuer is a majority owned subsidiary; and

(A) The issuer has outstanding securities held by nonaffiliates, with an aggregate principal amount or market value (computed in accordance with instruction A(1)(a) above) of at least $250 million, the offer or sale of which has been registered pursuant to the provisions of section 6 of the Securities Act of 1933;

(B) For the last fiscal year or 12-month period reported in the registration statement the earnings of the issuer after all operating and income deductions except fixed charges and taxes based on income or profits after eliminating undistributed income of unconsolidated subsidiaries and 50 percent or less owned persons have been at least: (a) 1.25 times its fixed charges in the case of finance companies, (b) 3 times its fixed charges in the case of utilities, or (c) 6 times its fixed charges in the case of any other issuer for such period, adjusted to give effect to: (1) The issuance of securities being registered; (2) any issuance, retirement, or redemption of securities during or after such period; and (3) any issuance, retirement, or redemption of securities after, or presently proposed for the year after, such period; and

(C) The issuer has at least 2,500 security holders to whom the issuer, for its most recent fiscal year, has furnished an annual report containing certified financial statements.

(No other change in form S-16.)

(Secs. 6, 7, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 906; sec. 8, 68 Stat. 658; sec. 1, 79 Stat. 1051; 15 U.S.C. 77f, 77g, 77j, 77s(a).)

STATUTORY AUTHORITY

The foregoing action is taken pursuant to the Securities Act of 1933, particularly sections 6, 7, 10, and 19(a) thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 7, 1978.

[FR Doc. 78-25888 Filed 9-13-78; 8:45 am]

[7] The survey is referred to in the report of the Fixed Income Analysts Society to the Advisory Committee. See report at A-65-66.

[8] Rule 401 under the Securities Act, 17 CFR 230.401, provides that any registration statement shall be deemed to be filed on the proper form unless objection is made by the Commission prior to the effective date.

[4110-07]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 416]

[Reg. No. 16]

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Medical and Social Services Which Are Not Income

AGENCY: Social Security Administration, HEW.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The proposed amendments concern the treatment under the Supplemental Security Income (SSI) program of various types of assistance furnished for the purpose of providing medical care and services and social services. The amendments are a result of continued questions from interested sources concerning the treatment of cash payments by social services programs, and the treatment of food, clothing, or shelter provided incident to social services or incident to medical care and services other than during a medical confinement. The proposed amendments are intended to promote better understanding of what assistance provided in cash or in kind under any medical care or services or social services program is excluded as income under the SSI program.

DATES: Comments must be received on or before November 13, 1978.

ADDRESSES: Prior to final adoption of these proposed amendments to the regulations, consideration will be given to any data, views, or arguments which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Mr. Henry D. Lerner, Legal Assistant, Office of Policy and Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7336.

SUPPLEMENTARY INFORMATION: Under existing regulations, income for SSI purposes is defined as including "* * * the receipt by an individual of any property or service which he can apply, either directly or by sale or conversion, to meeting his basic needs for food, clothing, and shelter." Therefore, services of a strictly social nature provided by any private or governmental agency are excluded from this definition of income. Third party payments for medical care and services, including those for support and maintenance provided during a medical confinement, regardless of source, are also excluded from the definition of income. Further, although not now explicit in regulations, present policy excludes from the concept of "income" any public or private agency cash payment to an individual as reimbursement for, or restricted to the future purchase of, approved medical or social services which are not food, clothing, or shelter.

Medical care and services and social services are not included as "income" for SSI purposes because they are not intended to meet on a continuing basis the individual's basic need for food, shelter, and clothing, toward which the SSI program is primarily directed. Moreover, inclusion of these items as income would be inconsistent with the basic pattern of the Social Security Act, where SSI benefits are provided under title XVI, while medicaid is provided under title XIX, and social services are provided under title XX. Nevertheless, questions have arisen in situations where medical or social services, provided under a public or private program, have included food, shelter, or clothing, or cash or other items convertible into food, shelter, or clothing. The proposed regulations clarify how the rules apply in these situations.

There are governmental medical care and services and social services programs under other authority than the Social Security Act that provide food, clothing, and shelter and other assistance as an integral or essential part of the medical care and services and social services (e.g., vocational rehabilitation, developmental disabilities). Where the SSI program reduces its payments to take into account assistance of this type furnished under other governmental programs, SSI is, in effect, nullifying or frustrating achievement of those other programs' purposes. Consistent with the intent underlying these medical care and services and social services programs, SSI policy is being modified so as to exclude from the definition of income cash or food, clothing, or shelter furnished for the purpose of providing medical care and services or social services under any governmental program.

The proposed amendments reflect an essential distinction made by the Congress between title XVI of the Social Security Act and other Federal programs designed to meet needs other than those met by SSI. SSI payments are provided in recognition of basic needs. The expenditure of public funds under other governmental programs is assumed to be consistent with the purpose and requirements of these other programs and their legislative authorizations.

This rationale cannot be extended to embrace nongovernmental programs under the exclusion. Bills that would have created an income exclusion for assistance provided by private nonprofit organizations have been introduced into the Congress and voted down on three separate occasions. Only one exclusion along these lines has been enacted, and it is limited to the provision of in-kind support and maintenance to certain residents of private nonprofit institutions.

The following examples show medical and social services situations.

Example 1: In State A, the State vocational rehabilitation agency agrees to provide required training to a disabled SSI recipient at a State university. The State agency pays for his tuition and since the recipient must temporarily live apart from his family while taking the required training, the State agency provides a cash living allowance while he is away. Under the existing regulations, the value of the living allowance would be considered as income, and the SSI payment would be reduced. Under the proposed regulations, none of the assistance from the State vocational rehabilitation agency would be counted as income with no consequent reduction in the recipient's SSI benefit.

Example 2: Religious Charities, Inc., a nonprofit social service organization, provides Mr. Smith, who had been recently released from the hospital, with cash to pay for temporary homemaker services. Mr. Smith must give the receipt for the service to his caseworker before he can receive the following week's payment. Under the existing regulations, this payment is considered income. Under the proposed regulations, payments of this sort would not be considered income and would not be counted against Mr. Smith's SSI benefit.

Example 3: Mr. Morris, an alcoholic, was given room and board for over a month by the Salvation Hall Halfway House until he could be accommodated at a local clinic for treatment. Under both the existing and the proposed regulations, this assistance would be considered income.

The proposed amendments are to be issued under the authority contained in sections 1102, 1612, and 1631(d) of the Social Security Act, 49 Stat. 647, as amended, 86 Stat. 1468 and 1475; 42 U.S.C. 1302, 1382a and 1383(d).

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

Dated: July 25, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: September 6, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended by revising § 416.1109 to read as follows:

§ 416.1109 Medical and social services.

(a) *Medical services.* The term "income" does not include the value of:

(1) Room and board furnished during a medical confinement;

(2) Any assistance provided in cash or in kind under any Federal, State or local governmental program, the purpose of which is to provide medical care or medical services (including those related to vocational rehabilitation) or both;

(3) Any in-kind assistance (other than food, clothing, or shelter) provided under a nongovernmental program, the purpose of which is to provide medical care or medical services or both;

(4) Any cash provided by any nongovernmental medical care and services program as reimbursement for services (not to include food, clothing, or shelter) already purchased by the individual and approved by the services program, or as a payment restricted to the future purchase of a service (not to include food, clothing, or shelter) approved by the medical care and services program.

(b) *Social services.* The term "income" does not include the value of:

(1) Any assistance provided in cash or in kind under any Federal, State or local governmental program, the purpose of which is to provide social services (including those related to vocational rehabilitation);

(2) Any in-kind assistance (other than food, clothing, or shelter) provided under a nongovernmental program, the purpose of which is to provide social services.

(3) Any cash provided by any nongovernmental social services program as reimbursement for services (not to include food, clothing, or shelter) already purchased by the individual and approved by the services program, or as a payment restricted to future purchase of a service (not to include food, clothing, or shelter) approved by the services program.

[FR Doc. 78-25868 Filed 9-13-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

teed student loan program (GSLP), and amended the previously published

December 1975 proposal. The intent of this proposal is to allow manufacturers more latitude in their engineering

effective date of the standard. Therefore, the agency declines to propose this TTMA recommendation.

Trailer manufacturers have general-

the standard that are the subject of judicial review. The proposal responds

ation, has been granted. In addition, it is proposed that the same option be extended to straddle-type agricultural commodity trailers and heavy hauler

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 183]

[CGD 76-082]

VENTILATION OF BOATS

Proposed Minimum Safety Standards; Correction

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule; correction.

SUMMARY: In FR Doc. 78-25014 appearing at page 32606 in the FEDERAL REGISTER of July 27, 1978, 33 CFR 183.601(a)(2) on page 32608 is corrected to read as follows:

§ 183.601 Applicability.

(a) * * *

(2) Are built after July 31, 1979, except that a manufacturer may elect to comply with this subpart at any time after July 31, 1978 and prior to August 1, 1979.

* * * * *

EFFECTIVE DATE: September 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Lars E. Granholm, Office of Boating Safety (G-BBT), U.S. Coast Guard, Room 4314, Department of Transportation, Trans Point Building, 2100 V Street SW., Washington, D.C. 20590, 202-426-4027.

Dated: September 7, 1978.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 78-25953 Filed 9-13-78; 8:45 am]

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 177]

GUARANTEED STUDENT LOAN PROGRAM

Extension of Period for Public Comment on Supplemental Proposed Rulemaking

AGENCY: Office of Education, HEW.

ACTION: Extension of comment period for public comment on supplemental proposed rulemaking.

SUMMARY: On July 19, 1978, the Office of Education published a notice of supplemental proposed rulemaking for the guaranteed student loan program (43 FR 31104). This proposed rule concerned refund policies of institutions participating in the guaranteed student loan program (GSLP), and amended the previously published notice of proposed rulemaking for the GSLP which was published on April 5, 1978 (43 FR 14376). Comments on the supplemental notice of July 19 were to be received on or before September 5, 1978. However, due to unavoidable delays encountered by the Office of Education in obtaining and mailing reprints of the July 19 proposed regulations, some members of the public who are interested in the GSLP may not have adequate opportunity to submit their comments by September 5. Therefore, notice is hereby given that the Commissioner of Education will accept public comments on the July 19 supplemental proposed rulemaking which are received on or before October 5, 1978, rather than the previously announced date of September 5, 1978.

DATE: Comments now due by October 5, 1978.

ADDRESS: Comments must be addressed to Miss Patricia Hopson, Guaranteed Student Loan Branch, DPPD, Bureau of Student Financial Assistance, Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202. Comments will be available for public inspection at the GSA Building, 7th and D Streets SW., Room 4642, between 9 a.m. and 3:30 p.m., Monday through Friday, except on Federal holidays. (20 U.S.C. 1071 to 1087-4.)

FOR FUTHER INFORMATION CONTACT:

Mr. David C. Bayer, 202-245-9717.

(Catalog of Federal Domestic Assistance No. 13.460, guaranteed student loan program.)

Dated: September 10, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-25979 Filed 9-13-78; 8:45 am]

[4910-59]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 75-16; Notice 22]

AIR BRAKE SYSTEMS

Parking and Emergency Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Proposal.

SUMMARY: This notice proposes amendment of the air brake standard to broaden and simplify the parking and emergency brake performance requirements, and to temporarily extend exclusions for heavy hauler and auto transporter vehicles from aspects of the standard that are the subject of judicial review. The proposal responds to manufacturers petitions and recommendations, and to the agency's experience with implementation of the air brake standard since January 1975. The modifications are intended to improve the means by which a vehicle manufacturer is able to comply with the standard, and the exclusions would preserve the status quo for affected vehicles regarding those portions of the standard subject to judicial review.

DATES: Comments must be received on or before October 23, 1978. Proposed effective Date: Date of publication of the final rule in the FEDERAL REGISTER.

ADDRESSES: Comments should refer to the docket number and be submitted to: Room 5108, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Duane Perrin, Office of Crash Avoidance, National Highway Traffic Safety Administration, Washington, D.C. 20590 202-426-2153.

SUPPLEMENTARY INFORMATION: Standard No. 121 (49 CFR 571.121) regulates the braking system performance of air-braked trucks, buses, and trailers. The standard has been in effect for trailers since January 1, 1975, and for trucks and buses since March 1, 1975. The standard contains requirements for service brake systems, emergency brake systems, and parking brake systems.

Based on more than 3 years' experience with the standard on the part of manufacturers, users, the agency, and other interested parties, it is judged that some modifications of the performance requirements may be justified. Quite apart from the more controversial aspects of the standard, some of which are still subject to judicial challenge, manufacturer and user experience indicates that some emergency and parking brake performance requirements could be more broadly stated to allow new design options that offer an equivalent level of safety to existing designs.

EMERGENCY AND PARKING BRAKES

In December 1975, the NHTSA issued a notice of proposed rulemaking (40 FR 56920; December 5, 1975) that would have resulted in a major restructuring of several portions of the standard, including the parking and emergency braking requirements for trailers. Since that time, several petitions relating to this subject have been received. This notice is based on analysis of those petitions as well as the comments received in response to the

December 1975 proposal. The intent of this proposal is to allow manufacturers more latitude in their engineering choices, while maintaining a safety performance level equivalent to that currently required. All parking and emergency brake systems meeting the current requirements of Standard No. 121 would also meet these proposed requirements.

The existing parking brake requirements set forth in S5.6 of the standard require minimum performance levels, application by an energy source that is not affected by loss of service brake pressure, maintenance of the brakes in the applied postion by mechanical means, and certain parking brake control requirements in the case of trucks and buses. The "separate energy source" requirement is intended to provide parking brake capability at all times. The "holding by mechanical means" requirement insures that the gradual leaking away of air pressure or other fluid pressure over time would not permit a parked vehicle to become a "rollaway" hazard.

The agency has granted two petitions of the Truck Trailer Manufacturers Association (TTMA) to modify the minimum parking brake performance levels. The TTMA asked that the existing specification to provide certain retardation forces on an axle-by-axle basis (S 5.6.1(a)) be changed to specify the same total retardation forces, but to permit their calculation on the basis of all the axles on the vehicle considered together. This would permit a somewhat closer calculation of the necessary retardation forces, without as much "overdesign" of each axle to allow for manufacturing tolerances in order that the performance of no axle fell below the minimum. The agency intended that the retardation forces be adequate for the vehicle in its entirely, and tentatively adopts the TTMA rationale. Accordingly S 5.6.1's specification would be modified to specify calculations on a "whole vehicle" basis.

The TTMA also petitioned to eliminate the parking brake test of an unloaded vehicle, arguing that testing of the loaded vehicle would be adequate as the test of the system at its greatest strain. The agency decided that the argument had some merit and granted the petition.

However, upon further consideration of the issue, the agency concludes that the unloaded test is a realistic test of a condition under which vehicles are parked. The requirement precludes the possibility of a manufacturer placing parking brakes only on a lightly loaded axle that would allow the vehicle to roll in the unloaded condition.

Manufacturers have apparently not encountered problems in meeting this requirement in the 3 years since the effective date of the standard. Therefore, the agency declines to propose this TTMA recommendation.

Trailer manufacturers have generally used compressed springs to provide the "separate energy source" and "holding by mechanical means" required by S 5.6.3 of the existing standard. This is a traditional means to ensure that, upon sudden loss of service brake air pressure in operation or gradual leaking away of service brake air pressure when parked, the spring brake can actuate to stop the moving vehicle or hold the parked vehicle. While spring brakes are commonly used on trucks and trailers, buses often use a "double diaphragm" air-applied system, along with a mechanical gripping device, that together meet the requirements of S 5.6.3.

A potential problem has arisen with the near universal installation of spring brakes on trailers. Because these vehicles do not have air compressors to generate their own air supplies independently of a towing vehicle, the automatic application of the spring brakes when air pressure is lost can be troublesome. For example, in applications such as logging and agricultural harvesting, regular towing of the air-braked trailer off road by a vehicle without an air compressor makes difficult the release of the spring brakes that applied automatically when the trailer was disconnected from the highway tractor. Alternatively, on the highway, any air-braked trailer which suffers a supply line rupture will be stopped by automatic application of the spring brakes, and without pressure in the supply line, the spring brakes cannot be released. In both situations, a solution is to "cage" (manually compress) the springs, but this can lead to an unsafe situation on the highway if the springs are not subsequently uncaged. Specifically, the caged springs mean there is no parking brake capability, and in current trailers, this means there also is no emergency braking capability. Bureau of Motor Carrier Safety (BMCS) and NHTSA monitoring of this situation has not uncovered significant caging, but the agency is concerned about the potential problem.

In the case of certain bulk agricultural commodity trailers, the agency has provided an alternative means to meet the standard (42 33293, June 30, 1977) because of the greater potential for operation with caged spring brakes. These trailers may meet the standard's requirements or, at the option of the manufacturer, the breakaway protection requirements of the BMCS (49 CFR 393.43). A petition by R. E. Thomas Erectors, asking for a similar option in the case of logging trailers because of their similar operation, has been granted. In addition, it is proposed that the same option be extended to straddle-type agricultural commodity trailers and heavy hauler trailers, for the same reason. The proposed provision makes clear that, while excluded from Standard 121's parking brake requirements, the trailers would still be required to have an emergency brake system.

It has also become apparent that the present wording of S5.6.3. may prevent the use of several innovations in parking brake design. One device is comparable to the mechanical gripping device used with the "double diaphragm" system earlier described, but it is also intended and could be used with at least some single diaphragm systems. Another innovation is a design that provides for emergency application of air pressure through the service brake system of the trailer, and uses the spring brakes only as a backup system for extended parking or in case of a service system failure such as a ruptured brake chamber diaphragm. This system is considered to be simpler than existing systems and might thereby reduce the possibility of system failure.

One impediment to these systems has been the current requirement of S5.2.1.1 for an isolated source of air pressure to permit release of the parking brakes. This reservoir has been required to allow for the prevention of the problem of spring-brake lockup on the highway without a means of release. Some early FMVSS 121 towing vehicle brake system designs were able to utilize this reservoir for modulation of trailer brakes through the supply line in case of failure of the trailer service brake system. However, more recent towing vehicle brake designs generally use a split braking system instead, and the isolated reservoir is largely unused. In the December 1975 proposal earlier noted, the agency responded to a California Highway Patrol petition to increase the utility of this reservoir by requiring the provision of a manual parking brake release on the trailer so that a driver could quickly actuate the isolated air supply and move the vehicle. This action would be comparable to the simple action of releasing the air applied "breakaway" capability that had been in common use prior to Standard No. 121. The vast majority of commenters objected to this requirement, however, because of concern over added complexity and cost to the system, and the fear of unintended actuation of the release control on parked trailers.

The agency has tentatively determined that the use of an air-applied emergency brake with a backup spring brake or other mechanical means of holding should not be discouraged. Pe-

titions from the Berg Mfg. Co., Fruehauf Corp., and the Bendix Corp. re-

for the installation of components could interfere with compliance with

1. Section S 4 (Definitions) would be amended by the addition of six new definitions to read:

auto transporter need not meet the requirements of S5.3."

6. Section S5.3.2.2 would be amended

The control shall be identified in a manner that specifies the method of control operation.

ed that interested persons continue to examine the docket for new material.

The program official and lawyer

titions from the Berg Mfg. Co., Fruehauf Corp., and the Bendix Corp. requesting deletion or rewording of S5.2.1.1 have all been granted. While it is noted that the requirement of S5.2.1.1 does not prohibit production of an air-applied system, the agency understands that the economic incentive to offering such a system depends in large part on being able to produce a system with one less reservoir. Air-applied systems offer the important advantage that, even if the parking brakes are caged, an emergency braking capability is still available on the highway. The agency considers this important because of the potential for the caging of spring brakes. In addition, an air-applied system will offer antilock control of emergency braking if the trailer is antilock-equipped and the antilock system is powered during emergency braking.

The agency has proposed the "separate energy source" requirement in different terminology to encourage alternatives to the use of spring brakes, while still insuring a back-up capability independent of the service brake system and a "holding" capability by mechanical means.

Another impediment to new innovations is the requirement, in the case of trailers, that emergency braking must be accomplished by automatic application of the parking brake system. Greater flexibility of design would be afforded if alternative means of emergency brake application were also allowed. Therefore, this proposal would also reword the emergency brake requirement to clarify that it is distinct from the parking brake requirement, although the same hardware could be used to accomplish both functions. Definitions of service, emergency, and parking brake systems are proposed, to clarify that each system has a distinct function, although some components may be common to two or more systems.

VEHICLE EXCLUSIONS

Auto transporters and heavy hauler trailers have been excluded from Standard No. 121 until January 1, 1979, due to the distinctive construction or use of these vehicles that makes compliance with certain aspects of the standard more difficult. The Truck Trailer Manufacturers Association (TTMA) has petitioned for permanent exclusion of heavy hauler trailers from the standard for these and related reasons.

The agency's analysis of available componentry and of the engineering issues involved in compliance of these vehicles with the standard indicates that the only remaining difficulties with compliance might be satisfaction of the "no lockup" and parking brake requirements. For example, less room for the installation of components could interfere with compliance with the parking brake requirement on these vehicles.

A separate but critical consideration is that the road tests (including "no lockup" requirements) of the standard remain subject to judicial review. Reengineering of presently excluded vehicles to meet these requirements might be for a temporary period only. In view of this uncertainty about long term requirements, it is proposed that auto transporters and heavy hauler trailers be temporarily excluded from the road test requirements.

Because reservoir volume requirements are closely related to the "no lockup" performance requirement, it is proposed that the two vehicle types also be temporarily excluded from S 5.1.2.1 and S 5.2.1.2. On this subject, it is noted that the TTMA has petitioned for a 50-percent reduction in reservoir requirements on trailers not equipped with antilock systems. The agency granted this petition because the volume requirements are based in part on the air release cycling of antilock systems. However, the agency would prefer a requirement that applies whether or not a vehicle is antilock-equipped, specifying a certain number of stops that must be made with the compressor turned off and any antilock cycling, without a drop in air pressure below a specified level. Such a requirement would encourage design of brake systems that use less air, especially those that are antilock-equipped. The NHTSA does not have sufficient test data to define what such performance levels should be, however, and no change in the current requirements can be proposed at this time. Comments are solicited on the advisability of NHTSA's suggested alternative, and on the number of stops and pressure levels that would meet the need for motor vehicle safety.

To the degree that this proposal does not grant the TTMA's heavy hauler petition, it is denied.

In accordance with Department of Transportation policy, it is hereby stated that the agency does not consider this amendment of standard No. 121 to have significant impact as defined in the Department's criteria for internal review. The proposed changes all permit greater manufacturing flexibility and do not impose any additional requirements. The implementation of some of the standards's requirements for heavy hauler trailers and auto transporters reflects the termination of an exclusion, not new agency action, and the controversial "no lockup" requirement is being excluded for an indefinite period.

In consideration of the foregoing, it is proposed that Standard No. 121 (49 CFR 571.121) be amended as follows:

1. Section S 4 (Definitions) would be amended by the addition of six new definitions to read:

"Agriculture commodity trailer" means a trailer that is designed to transport bulk agricultural commodities in off-road harvesting sites and to a processing plant or storage location, as evidenced by skeletal construction that accommodates harvest containers, a maximum length of 28 feet, and an arrangement of air control lines and reservoirs that minimizes damage in field operations.

"Emergency brake system" means the components of a motor vehicle that provide the primary means of stopping the vehicle in the event of a failure or loss of energy source in the service brake system. Some of these components may be common to the service or parking brake systems.

"Parking brake system" means the components of a motor vehicle that provide the primary means of preventing movement of the vehicle when stationary. Some of these components may be common to the service or emergency brake systems.

"Pulpwood trailer" means a trailer that is designed exclusively for harvesting logs or pulpwood and constructed with a skeletal frame with no means for attachment of a solid bed, body, or container, and with an arrangement of air control lines and reservoirs designed to minimize damage in off-road operations.

"Service brake system" means the components of a motor vehicle that provide the primary means of retarding, stopping and holding the vehicle, and any other vehicle that it is designed to tow. Some of these components may be common to the parking or emergency brake systems.

"Straddle trailer" means a trailer that is designed to transport bulk agricultural commodities from the harvesting location as evidenced by a framework that is driven over the cargo and hydraulic lifting arms that suspend the cargo for transit.

2. Section S5.1.2.1 would be amended by the addition of a sentence at the end of the text to read: "However, the reservoirs on the truck portion of an auto transporter need not meet this requirement."

3. Section S5.2.1.1 would be deleted and reserved.

4. Section S5.2.1.2 would be amended by the addition of a sentence at the end of the text to read: "However, the reservoirs on a heavy hauler trailer and on the trailer portion of an auto transporter need not meet this requirement."

5. The last sentence in the paragraph designated S5.3 would be replaced by a new sentence to read: "However, a heavy hauler trailer and the truck and trailer portions of an auto transporter need not meet the requirements of S5.3."

6. Section S5.3.2.2 would be amended to read:

S5.3.2.2 When stopped in accordance with S5.3.2, a pulpwood trailer need not meet the requirements relating to wheel lockup, but must nevertheless meet the requirements of staying within the 12-foot lane.

7. Section S5.6 and its subsections would be amended to read:

S5.6 *Parking brake system.* Except for an agricultural commodity trailer, a heavy hauler trailer, a pulpwood trailer, a straddle trailer, or a trailer converter dolly, each vehicle shall be equipped with a parking brake system that, under the conditions of S6.1, meets the requirements of S5.6.1 through S5.6.5.

S5.6.1 *Parking brake system performance.* With no other vehicle braking systems applied, both when loaded to its GVWR and when at its unloaded weight plus 500 pounds (including driver and instrumentation), the parking brake system shall be capable of holding the vehicle stationary when racing uphill or downhill on a smooth, dry, portland cement concrete roadway with a 20-percent grade, or, at the option of the manufacturer, during a static drawbar pull in the forward or rearward direction, with drawbar force equal to—

(a) 0.14 times the vehicle's weight in the case of a truck tractor equipped with more than two axles; or

(b) 0.28 times the sum of the weights on all axles other than all front steerable axles in the case of any vehicle other than a truck tractor with more than two axles.

S5.6.2 *Application.* The parking brake system shall be capable of application with the forces specified in S5.6.1 with any single failure in any other brake system of a part designed to contain compressed air or brake fluid (except failure of a component of a brake chamber housing).

S5.6.3 *Holding.* The parking brake system shall maintain the retardation performance level specified in S5.6.1 in the event of complete loss of electric energy and fluid pressure, including air pressure, in the vehicle.

S5.6.4 *Release.* The parking brake system shall not be capable of release unless adequate energy is available to make immediate reapplication with sufficient retardation force to meet the requirements of S5.6.1.

S5.6.5 *Parking brake control—trucks and buses.* Each vehicle shall be equipped with a manual control, separate from the service brake control and operable by a person seated in the normal driving position, that controls application and release of the parking brake system of the vehicle and of any air-braked vehicle it is designed to tow. The control shall be identified in a manner that specifies the method of control operation.

8. Section S5.7 would be amended by replacing the last sentence with a sentence to read: "However, the truck portion of an auto transporter need not meet the road test requirements of S5.7.1."

9. Section S5.8 and its subsections would be amended to read:

S5.8 *Emergency brake system—trailers.* Each trailer shall be equipped with an emergency brake system which, under the conditions of S6.1, conforms to the requirements of S5.8.1 through S5.8.4.

S5.8.1 *Emergency brake system performance.* The retardation afforded by the trailer's emergency brake system shall be not less than that required for the parking brake system, as specified in S5.6.1.

S5.8.2 *Application.* With the trailer supply line initially pressurized to 90 psi, the brakes on the trailer shall automatically apply when the trailer supply line coupling is vented to the atmosphere. The emergency brake system shall be capable of application at any vehicle speed.

S5.8.3 *Holding.* After automatic application, the emergency brake system shall be capable of maintaining the application for not less than 15 minutes.

S5.8.4 *Release.* The emergency brake system shall be capable of release when the vehicle's supply line is pressurized to 90 psi.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

In the case of comments that contain materials for which confidential treatment is requested, those materials should be deleted from the copies submitted to the docket. A copy of the complete comments should be submitted to the Office of Chief Counsel at the above address, with an indication of which portions of the comments are the subject of the request for confidentiality.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

The program official and lawyer principally responsible for the development of this proposal are Duane Perrin and Tad Herlihy, respectively.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued: September 6, 1978.

MICHAEL FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-25739 Filed 9-8-78; 4:13 pm]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1320, 1322]

[Ex Parte Nos. 73, MC-1]

REGULATIONS FOR PAYMENT OF RATES AND CHARGES AND PAYMENT OF RATES AND CHARGES OF MOTOR CARRIERS

Informal Conferences

AGENCY: Interstate Commerce Commission.

ACTION: Rescheduling of informal conference to discuss modification and improvement of credit regulations.

SUMMARY: An informal conference in these proceedings had originally been scheduled for September 25, 1978. (Notice of the conference was published in the FEDERAL REGISTER at volume 43, page 39404, on September 5, 1978.) The informal conference has been rescheduled for October 12, 1978.

DATE: The informal conference in these proceedings is rescheduled for October 12, 1978.

ADDRESS: The informal conference will begin at 9:30 a.m. at the Commission's offices at 12th Street and Constitution Avenue NW., Hearing Room F, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak or Harvey Gobetz, Interstate Commerce Commission, Washington, D.C. 20423, phone 202-275-7693.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-25955 Filed 9-13-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

its reasons for recommending the entire currently occupied areas as follows: (1) There has been a decline or

ered critical to survival of the species. Surveys within the past 5 years have

13. Koster, W. J. 1957. Fishes of New Mexico. Univ. New Mexico Press, Albuquerque. 116 pp.
14. Koster, W. J. 1960. *Ptychocheilus lucius*

authorities in furtherance of the purposes of this act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section

habit eddies 2 to 3 feet deep along the edge of backwater areas. These areas also support a good population of crustaceans and aquatic insects which are

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[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Sevice

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Propose Critical Habitat for the Colorado Squawfish

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Service issues this proposed rulemaking which would determine critical habitat for the Colorado squawfish (*Ptychocheilus lucius*). This action is being taken because of the threatened modification of its remaining habitat. Destruction of habitat in the past has been and is presently the primary factor which jeopardizes the continued existence of the Colorado squawfish. This proposal would provide for Federal protection of the remaining habitat for this species. The proposed critical habitat is located in Colorado and Utah.

DATES: Comments from the public must be received by November 13, 1978. Comments from the Governors of the State involved with this action must be received by December 13, 1978.

ADDRESSES: Submit comment to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, suite 1100, 1612 K Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 202-343-4646 or Mr. Harvey Willoughby, Regional Director, Fish and Wildlife Service, 10597 West Sixth Street, Denver, Colo. 80215 303-234-2209.

SUPPLEMENTARY INFORMATION:

BACKGROUND

In 1976, the U.S. Fish and Wildlife service requested the Colorado Squawfish Recovery Team to make recommendations for critical habitat for the squawfish under the provisions of section 7 of the Endangered Species Act of 1973. The team recommended that all areas where the fish is currently known to occur be determined to be critical habitat. The team presented its reasons for recommending the entire currently occupied areas as follows: (1) There has been a decline or elimination of the squawfish from the majority of its historic range, (2) there has been a continued alteration of much of the remaining habitat, and (3) there are ever increasing demands on the remaining habitat.

In compliance with the intent of the Endangered Species Act of 1973 and the Memorandum of Understanding on Interagency Cooperation in Nonemergency Critical Habitat Determinations Pursuant to section 7 of the Endangered Species Act of 1973, with the Bureau of Land Management and the Bureau of Reclamation, requests for comments on the recommended areas were sent to all concerned State and Federal agencies. All of these agencies have now responded to that request. They are:

Arizona Game and Fish Department, Phoenix Ariz.; Utah Division of Wildlife Resources, Salt Lake City, Utah; Colorado Division of Wildlife, Denver, Colo.; Bureau of Land Management, Colo.; Bureau of Land Management, Ariz.; Bureau of Land Management, Utah; Bureau of Reclamation, Boulder City, Nev.; Bureau of Reclamation, Salt Lake City, Utah; and U.S. Forest Service, Region 3, Albuquerque, N. Mex.

Copies of these comments are on file in the U.S. Fish and Wildlife Service's Regional Office in Albuquerque, N. Mex. The comments and objections generally fall into several, similar categories, including: (1) Criteria used to delineate the recommended areas; (2) how designating an area as critical habitat will affect proposed or ongoing projects in the areas and the watersheds above the areas; (3) conflicts over who has the authority to designate critical habitat and who must abide by the decision; (4) what part public participation will have and the final designation; and (5) questions about specific areas recommended by the recovery team.

After reviewing all of the comments and suggestions from the above agencies, the Service finds that only those from the U.S. Forest Service and Bureau of Reclamation contain data which are biologically relevant. The other comments are either not of a biological nature or have already been addressed in the April 22, 1975 and January 4, 1978 FEDERAL REGISTER discussion of critical habitat (40 FR 17764-17765 and 43 FR 870-876). In answer to the relevant biological questions, a recent letter from Dr. Paul B. Holden indicates Colorado squawfish have been recently collected from the Gunnison River and the Yampa River above Maybell. Colo. Reaches above these points, although historic range for the species, are not known to support Colorado squawfish at present, and therefore, can no longer be considered critical to survival of the species. Surveys within the past 5 years have failed to find Colorado squawfish in the Salt River above Roosevelt Dam or in the Grand Canyon portion of the Colorado River, both localities in Arizona. Thus, protection of these areas seems less critical for the continued survival of the species than those areas presently supporting populations and therefore, the former areas are not being proposed as critical habitat at this time.

Several professional fisheries organizations have recently passed resolutions supporting the designation of critical habitat for the Colorado squawfish and the work of the recovery team.

Important reports and publications which were utilized in preparing this proposal are as follows:

1. Baxter, G. T., and J. R. Simon. 1970. Wyoming Fishes. Wyoming Game, Fish Dep. Bull. 4. 168 pp.
2. Beckman, W. C. 1953. Guide to the Fishes of Colorado. Colorado Fish and Game Dep., Denver. 110 pp.
3. Colorado River Fishes Recovery Team. 1978. Colorado Squawfish Recovery Plan. Fish and Wildlife Service, Denver, Colo. 31 pp.
4. Colorado River Wildlife Council—Endemic Species Committees. 1977. Endemic Fishes of the Colorado River System. 15 pp.
5. Cross, J. N. 1975. Ecological Distribution of the Fishes of the Virgin River (Utah, Arizona, Nevada). M. S. Thesis, Univ. Nevada, Las Vegas. 187 pp.
6. Holden, P. B. 1973. Distribution, Abundance and Life History of the Fishes of the Upper Colorado River Basin. Ph. D. Dissertation, Utah State University, Logan. 59 pp.
7. Holden, P. B. 1977. Habitat Requirements of Juvenile Colorado River Squawfish. Fish and Wildlife Service, Biological Services Program Report, Fort Collins, Colo. 59 pp.
8. Holden, P. B., and C. B. Stalnaker. 1975. Distribution and Abundance of Mainstream Fishes of the Middle and Upper Colorado River Basins, 1967-73. Trans. Am. Fish. Soc. 104(2):217-231.
9. Holden, P. B., and C. B. Stalnaker. 1975. Distribution of Fishes in the Dolores and Yampa River Systems of the Upper Colorado Basin. Southwest. Natur. 19(4):403-412.
10. Holden, P. B., W. White, G. Somerville, D. Duff, R. Gervais, and S. Gloss. 1974. Threatened Fishes of Utah. Proc. Utah Acad. Sci., Arts, Lett., Proc. 51(Part 2):46-65.
11. Johnson, J. E. 1976 Status of Endangered and Threatened Fish Species in Colorado. U.S. Department of the Interior, Bur. Land Manage. Tech. Note. Form 1220-5. 21 pp. plus 2 appendices.
12. Joseph, T. W. and J. A. Sinning. 1977. An Evaluation of the Status, Life History, and Habitat Requirements of Endangered and Threatened Fishes of the Upper Colorado River System. Fish and Wildlife Service, Biological/ Services Program Report, Fort Collins, Colo. 183 pp.

13. Koster, W. J. 1957. Fishes of New Mexico. Univ. New Mexico Press, Albuquerque. 116 pp.
14. Koster, W. J. 1960. *Ptychocheilus lucius* (Cyprinidae) in the San Juan River, N.M. Southwest. Natur. 5(3):174-175.
15. LaRivers, I. 1962. Fishes and Fisheries of Nevada. Nevada States Fish Game Comm., State Printing Office, Carson City. 782 pp.
16. Miller, R. R. 1961. Man and the Changing Fish Fauna of the American Southwest. Michigan Acad. Sci., Arts, Lett. 46:365-404.
17. Miller, R.R. 1972. Threatened Freshwater Fishes of the United States. Trans. Am. Fish. Soc. 101(2):239-252.
18. Minckley, W. I. 1973. Fishes of Arizona. Arizona Game Fish Dep., Phoenix. 293 pp.
19. Pearson, W. D., R. H. Kramer, and D. R. Franklin. 1968. Macroinvertebrates in the Green River Below Flaming Gorge Dam, 1964-65 and 1967. Utah Acad. Sci., Arts, Lett., Proc. 45:148-167.
20. Seethaler, K. H., C. W. McAda, and R. S. Wyodski. 1977. Endangered and Threatened Fish in the Yampa and Green Rivers of Dinosaur National Monument. Utah Coop. Fish. Res. Unit, Utah State Univ., Logan. 22 pp.
21. Sigler, W. F., and R. R. Miller. 1963. Fishes of Utah. Utah State Dep. Fish Game, Salt Lake City. 203 pp.
22. Stalnaker, C. B.,.and P. B. Holden. 1973. Changes in the Native Fish Distribution in the Green River System, Utah-Colorado. Utah Acad. Sci., Arts, Lett., Proc. 51(Part 1):25-32.
23. Sublette, J. E. 1977. A Survey of the Fishes of the San Juan River basins, With Particular Reference to the Endangered Species. 95 pp.
24. Suttkus, R. D., G. Clemmer, C. Jones and R. Shoop. 1976. Survey of Fishes, Mammals and Herpetofauna of the Colorado River and Adjacent Riparian Areas of the Grand Canyon National Park. National Park Service report (contract number CX821060006. 21 pp. plus 8 Appendices.
25. Vanicek, D. C. 1967. Ecological Studies of Native Green River Fishes Below Flaming Gorge Dam, 1964-1966. Ph. D. Thesis. Utah State Univ., Logan. 124 pp.
26. Vanicek, C. D., and R. H. Kramer. 1969. Life History of the Colorado Squawfish, *Ptychocheilus lucius*, and the Colorado Chub, *Gila robusta*, in the Green River in Dinosaur National Monument, 1964-1966. Trans. Amer. Fish. Soc. 98(2):193-206.
27. Vanicek, C. D., R. H. Kramer, and D. R. Franklin. 1970. Distribution of Green River Fishes in Utah and Colorado Following Closure of Flaming Gorge Dam. Southwest. Natur. 14(3):297-315

Copies of the U.S. Fish and Wildlife Service reports refered to above are available from U. S. Fish and Wildlife Service Regional Office, 10597 West Sixth Street, Denver, Colo. 80215.

EFFECT OF THE RULEMAKING

The effects of this determination are involved primarily with section 7 of the act, which states:

"The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this act. All other Federal departments and agencies shall, in consulation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 7 of this act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species of result in the desturction or modification of habitat of such species which is determined by the Secretary, after consultation an appropriate with the affected States, to be Critical."

A definition of the term "critical habitat" was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of January 4, 1978 (43 FR 870-876) and is reprinted below:

"Critical habitat" means any air, land or water area (exclusive of those existing manmade structures or settlements which are not necessary to the survival and recovery of a listed species) and constituent elements thereof, the loss of which would appreciable decrease the likelihood of the survival and recovery of a listed species or a distinct segment of its population. The constituent elements of critical habitat include, but are not limited to: physical structures and topography, biota, climate, human activity, and the quality and chemical content of land, water, and air. Critical habitat may represent any portion of the present habitat of a listed species and may include additional areas from reasonable population expansion."

As specified in the regulations for Interagency Cooperation as published in the January 4, 1978, FEDERAL REGISTER (43FR-870-876), the Director will consider the physiological, behavioral, ecological, and evolutionary requirements for survival and recovery of listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing of offspring; and generally,

(5) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

With respect to the Colorado squawfish, the portions of the rivers proposed as critical habitat satisfy all known criteria for the evolutionary, ecological, behavioral, and physiological requirements of the species. The stream areas proposed have backwater areas where there is little or no current and a firm silt bottom with shallow depths (1 to 2 feet) which are required by young-of-the-year Colorado squawfish. Juvenile Colorado squawfish inhabit similar backwater areas but are found in a wider range of depths (up to 3 feet). Juveniles also inhabit eddies 2 to 3 feet deep along the edge of backwater areas. These areas also support a good population of crustaceans and aquatic insects which are utilized as food by the squawfish.

The deeper runs and eddies in the proposed stream areas provide habitat for subadult and adult Colorado squawfish. These areas also support populations of aquatic insects and small fishes which are prey for subadult and adult Colorado squawfish. Deep backwater areas are used by adult Colorado squawfish during periods of high discharge. The portions of the rivers proposed are representative of the geographical distribution of this species. There may be many kinds of action which can be carried out within the critical habitat of a species which would not be expected to adversely affect that species.

This point has not been well understood by some persons. There has been widespread and erroneous belief that a critical habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a critical habitat designation applies only to Federal agencies, and essentially is an official notification to those agencies that their responsibilities pursuant to section 7 of the act are applicable in a certain area.

A Critical Habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a critical habitat delineation so as to cover additional habitat under section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed by legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of critical habitat delineations. Such questions should, and can more conveniently, be dealt with after critical habitat has been designated. In this respect the Service, in cooperation with other Federal agencies, has drawn up a set of regulations which, in part, establish consultation and assistance process for helping to evaluate the possible effects of actions on critical habitat. The regulations for Interagency Cooperation were published on January 4, 1978, in the FEDERAL REGISTER (43 FR 870-876) to assist Federal agencies in complying

with section 7 of the Endangered Species Act of 1973.

SQUAWFISH MAP OF ORIGINAL RANGE

expected that the amended PMP and revised proposed regulations will be re-published for public comment on or

notices

with section 7 of the Endangered Species Act of 1973.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate as possible in delineating the critical habitat of the Colorado squawfish. The Director, therefore, desires to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested party on these proposed rules.

Final promulgation of critical habitat regulations will take into consideration all comments received by the Director. Such comments and any additional information received may lead the Director to adopt final regulations that differ from this proposal.

An envirionmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary authors of the proposed rule are Dr. James D. Williams and Dr. James Johnson, Office of Endangered Species 202-343-7814.

REGULATION PROMULGATION

Accordingly, it is hereby proposed to amend Title 50, Chapter I, § 17.95(e) by adding critical habitat of the Colorado squawfish after the spotfin chub, as follows:

(e) *Fishes.* • • •

COLORADO SQUAWFISH (*Ptychocheilus lucius*)

Utah. San Juan, Wayne, Grand, Emery, Carbon, and Uintah Counties. Colorado River, main channel from backwaters of Powell Reservoir in San Juan County upstream to the Utah-Colorado State line in Grand County. Green River, main channel from its junction with the Colorado River in San Juan County upstream to the Utah-Colorado State line in Unitah County.

Colorado. Mesa and Moffat Counties. Colorado River, main channel from the Colorado-Utah State line upstream to the junction of Plateau Creek, all within Mesa County. Gunison River, main channel from its junction with the Colorado River upstream to the Colorado State Highway 141 crossing at Whitewater, Mesa County. Green River, from the Colorado-Utah State line upstream to the junction of the Yampa River. Yampa River from its junction with the Green River upstream to the junctions of Milk Creek, approximately 12 air miles southwest of Craig, Moffat County.

SQUAWFISH MAP OF ORIGINAL RANGE

NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 7, 1978.

ROBERT S. COOK,
Acting Director,
Fish and Wildlife Service.

[FR Doc. 78-25732 Filed 9-13-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 611]

PACIFIC BILLFISH AND OCEANIC SHARKS

Foreign Fishing Regulations PMP and Supplementary Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Withdrawal of notice of proposed rulemaking; advance notice of proposed plan amendment and proposed rulemaking.

SUMMARY: This notice is to withdraw a Preliminary Fishery Management Plan (PMP) for Billfish and Oceanic Sharks in the Pacific Ocean, which was published on July 21, 1978 (43 FR 31374), because of the public comments which have been received. This notice is also intended to provide advance notice to the public of prospective amendments which may be made to the PMP with corresponding changes in the proposed regulations.

EFFECTIVE DATE: The withdrawal is effective September 14, 1978. It is expected that the amended PMP and revised proposed regulations will be republished for public comment on or about October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Gerald V. Howard, Director, Southwest Region, 300 Ferry Street, Terminal Island, Calif. 90731, telephone 213-548-2575.

SUPPLEMENTARY INFORMATION: NMFS received a number of comments on the PMP and proposed regulations. A large number of commentators opposed adoption of the PMP and implementing regulations because they felt (1) that the proposed management measures did not afford sufficient recognition to the socio-economic differences existing among the human populations of the State of Hawaii, American Samoa, and Guam; and (2) that the PMP should also include management measures for wahoo (ono) (*Acanthocybium solanderi*), and both dolphin (mahimahi) and little dolphin (little mahimahi) (*Coryphaena hippurus* and *C. equisetis*, respectively).

The Assistant Administrator for Fisheries has determined, consequently, that this PMP should be reconsidered. Therefore, NMFS is presently considering amendments to the plan which would (1) include both species of dolphin and wahoo, and (2) modify certain of the management measures relating to billfish, based on the unique socio-economic characteristics and needs of the particular human populations involved. Special consideration is being given to dividing the optimum yield and total allowable level of foreign fishing figures for various species of billfish by geographic area.

One major purpose of this advance notice is to invite comments concerning any of these or other possible amendments to the PMP.

NMFS will consider this information in developing amendments to the PMP, and will then resubmit the amended plan and proposed implementing regulations for an additional comment period of 30 days.

In consideration of the foregoing, the proposal published in the FEDERAL REGISTER (43 FR 31374) on July 21, 1978, and circulated as proposed regulations, is hereby withdrawn, and advance notice is hereby given of proposed amendment and rulemaking.

Signed at Washington, D.C., this 28th day of August 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-25870 Filed 9-13-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

TARGHEE NATIONAL FOREST GRAZING ADVISORY COMMITTEE

Meeting

The Targhee National Forest Grazing Advisory Committee will meet at 10 a.m., November 21, 1978, at the Forest Supervisor's Office, 420 North Bridge Street, St. Anthony, Idaho 83445. The purpose of this meeting is to secure recommendations for use of range betterment funds.

The meeting will be open to the public. Persons who wish to attend should notify Bill Little, Targhee Supervisor's Office, telephone 208-624-3151. Written statements will be filed with the committee before or after the meeting.

The committee has established the following rule for public participation: Nonmembers are asked to withhold comments until the close of business.

PHILIP L. LEE,
Acting Forest Supervisor.

SEPTEMBER 5, 1978.

[FR Doc. 78-25891 Filed 9-13-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Order 78-9-29; Docket Nos. 32738, et al.]

EASTERN AIR LINES, INC., ET AL.

Roanoke-Pittsburgh Service Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of September 1978. Application of Eastern Air Lines, Inc., for temporary suspension authority, docket 32738. Applications of Allegheny Airlines, Inc., Piedmont Aviation, Inc., for certificate amendment, dockets 32587, 32739. Applications of Piedmont Aviation, Inc., Allegheny Airlines, Inc., for Roanoke-Pittsburgh exemption authority, dockets 32740, 32834. Roanoke-Pittsburgh service investigation, docket 33364.

By application filed May 24, 1978, Eastern Air Lines asked authority to suspend service at Roanoke for a period of 5 years.[1] In support of its application, Eastern asserts that, due to certain route limitations on its system, Roanoke has become an economically marginal point, with a continually declining proportion of the traffic using its service; that it would realize a financial improvement of as much as $141,000 a year, were the Board to grant its request; and that Piedmont Aviation stands ready to provide replacement service.

On May 24, 1978, Piedmont filed simultaneous applications for temporary exemption[2] and permanent certificate authority to provide Roanoke-Pittsburgh nonstop service. It maintains that, if the Board should grant its applications, it would fill the void resulting from Eastern's suspension by providing more service at lower fares.

By application filed June 9, 1978, Allegheny Airlines requests a temporary exemption to provide service between Roanoke and Pittsburgh.[3] It contends that it is the logical replacement for Eastern in this market because it will provide nonstop service and will also be able to provide service to a number of beyond points that are not on Piedmont's system. Earlier it had filed an application for permanent certificate authority to provide service between Pittsburgh and Charlotte via Roanoke and Raleigh/Durham.

No answers to Eastern's suspension application have been filed. Answers, generally in support of one or more of the exemption applications, have been filed by various civic parties.[4] Both Allegheny and Piedmont filed answers in opposition to the other's exemption request. Piedmont argues that Allegheny's application was filed with the intention of preventing Piedmont from serving Pittsburgh rather than from any interest Allegheny may have in the market; and that route structure considerations support its own selection. Allegheny replies that it has every incentive to serve the market effectively; that it would provide better service than Piedmont; and that route structure considerations support its selection.

We have decided to institute an investigation to determine the need for new nonstop authority between Roanoke and Pittsburgh and to decide whether Eastern's authority to serve Roanoke should be suspended, deleted, or otherwise amended. We are consolidating for hearing the applications in dockets 32738 (Eastern), 32587 (Allegheny), and 32739 (Piedmont).

As we have made clear in recent decisions (see, e.g., *Service to Oakland* Case, order 78-4-121), we believe that market forces are more likely than limitations on entry and selection of carriers by the Board to result in optimum service at optimum fares, since the market selection process operates continuously and efficiently. We will therefore consider the possible grant of permissive authority to all fit, willing, and able applicants, and the extent to which such awards encourage the efficiency, innovation, and competition deemed to be in the public interest by section 102 of the act. In view of this, we are less inclined than we were when we laid down the policy in our order instituting the Chicago-Albany/Syracuse-Boston Competitive Service Investigation, order 77-12-50, to give heavy weight in carrier selection to the offer or failure to offer low prices, since open competition will insure these offers more effectively than restrictive carrier selections based on their promise.

We are therefore concerned about the delay and costs of the evidentiary burdens which traditional carrier-selection cases entail for the parties, the Board and the Board's staff, and par-

[1] Eastern currently provides only one daily round trip at Roanoke, serving Miami and Greensboro to the south and Pittsburgh and Cleveland to the north.

[2] Piedmont proposes a pattern of two nonstop round trips between Roanoke and Pittsburgh, as follows: (1) Washington, D.C.-Roanoke-Pittsburgh, scheduled every day but Saturday with the return trip scheduled every day but Sunday, and (2) Richmond-Roanoke-Pittsburgh, scheduled every day but Sunday with the return trip scheduled every day but Saturday.

[3] Allegheny proposes a pattern of two nonstop round trips between Roanoke and Pittsburgh as follows: (1) Roanoke-Pittsburgh-Philadelphia-Albany and return scheduled every day but Sunday; (2) Roanoke-Pittsburgh-Cleveland-Toronto scheduled every day but Saturday; and (3) Detroit-Cleveland-Pittsburgh-Roanoke scheduled every day but Saturday.

[4] The Metropolitan Richmond Chamber of Commerce, the Commonwealth of Virginia, and the Pittsburgh Parties (the county of Allegheny and the Pittsburgh Airport Advisory Committee). The Metropolitan Richmond Chamber of Commerce answer was accompanied by a motion to file an unauthorized document. We will grant the motion. The Niagara Frontier Transportation Authority and the Buffalo Area Chamber of Commerce filed a petition for leave to intervene in the matter of Allegheny's application for certificate amendment.

ticularly with the burden of introducing and evaluating evidence that will

provides, and there is no civic opposition to the latter's suspension. Under

be authorized and should the new or existing authority be subject to any

13. This order may be amended or revoked at the discretion of the Board without hearing.

Interested persons will be given 30 days following the date of service of this order to show cause why the ten-

[6320-01]

[Order 78-9-31; Docket 32708]

ticularly with the burden of introducing and evaluating evidence that will be unnecessary if the case results in multiple permissive awards. We invite the parties and the administrative law judge to explore ways of reducing the quantity of required exhibit material, eliminating duplication and superfluous detail, standardizing methodology, and focusing on the significant facts and assumptions. Specifically, we are interested in reducing or eliminating the tremendous amount of detail on schedules, traffic, profitability, and diversion typically required to adjudicate the issue of comparative carrier selection. The possibility of stipulating facts and eliminating comparative selection evidence should be carefully explored. In particular, carriers interested in being selected for a market only if multiple, permissive authority is awarded generally should be excused from submitting the full panoply of comparative selection evidence for that market.[5] Further, although low fares naturally will continue to be reflected in any revenue estimates submitted, we are not interested in any detailed comparative examination of the price/quality options arrived at by the various applicants. Ultimately, of course, we leave the resolution of all of these matters to the administrative law judge.

We have also decided to grant for a period of 5 years or until 90 days after the final decision in the investigation instituted here (1) Eastern's application for temporary suspension of service at Roanoke and (2) the concurrent applications of Allegheny and Piedmont for exemptions permitting them to provide service between Roanoke and Pittsburgh.

We see no reason to compel Eastern to continue to engage in economically marginal operations, particularly when two carriers stand ready to furnish replacement service, which may be superior to what Eastern currently provides, and there is no civic opposition to the latter's suspension. Under these circumstances, we find that grant of suspension is in the public interest.

We will also grant both exemption requests.

The schedules proposed by Allegheny and Piedmont would complement each other, and granting exemptions to both of them will result in substantial benefits to the traveling public in the primary and beyond markets. Roanoke and Pittsburgh are major hubs on the systems of Piedmont and Allegheny, respectively. Only one new station each would have to be established, at Roanoke (Allegheny) and at Pittsburgh (Piedmont). Thus, these carriers would be able to provide replacement service at nominal risk. Granting temporary authority to them to correspond with Eastern's suspension will permit a continuation of service at Roanoke. To require the carriers to seek certification for their temporary operations would be disproportionate to any economic benefits that they can expect to gain.

We find that enforcement of section 401 of the Act and the terms, conditions, and limitations of Allegheny's certificate for Route 97 and Piedmont's certificate for Route 87, to the extent that they would otherwise prevent them from providing the services authorized would be an undue burden on the carriers by reason of the limited extent of their operations and would not be in the public interest.[6]

Applications, amendments to applications, motions to consolidate, and petitions for reconsideration of this order shall be filed within 20 days of its date of service and replies shall be filed within 10 days later.

Accordingly,

1. We institute under section 204 of the Act the *Roanoke-Pittsburgh Service Investigation*, docket 33364, and we set it for hearing before an administrative law judge of the Board at a time and place to be determined later;

2. The investigation instituted in paragraph 1, above, shall consider the following issues:

a. Do the public convenience and necessity require the authorization of an air carrier or air carriers to engage in nonstop air transportation between Roanoke, Va., and Pittsburgh, Pa;

b. If the answer to (a), above, is affirmative, which air carrier(s) should be authorized and should the new or existing authority be subject to any terms, conditions, or limitations; and

c. Should Eastern's authority at Roanoke, a point on segment one of its Route 6, be suspended or deleted or otherwise amended;

3. Any authority awarded in this investigation shall be category II subsidy ineligible;

4. To the extent that they conform to the scope of this investigation, we consolidate into the proceeding instituted in paragraph 1, above, the applications of Eastern Air Lines, Inc., in docket 32738, Piedmont Aviation, Inc., in docket 32739, and Allegheny Airlines, Inc., in docket 32587;

5. We grant the motion for leave to file an unauthorized document of the Metropolitan Richmond Chamber of Commerce;

6. We grant the petition for leave to intervene filed by the Niagara Frontier Transportation Authority and the Buffalo Area Chamber of Commerce;

7. The following we make parties to the proceeding instituted by paragraph 1, above: Allegheny Airlines, Eastern Air Lines, Piedmont Aviation, Metropolitan Richmond Chamber of Commerce, Commonwealth of Virginia, the Niagara Frontier Transportation Authority, the Buffalo Area Chamber of Commerce, and the Pittsburgh Parties;

8. We suspend under section 401(j) of the Act the authority of Eastern Air Lines to serve Roanoke, Va., on Route 6 for a period of 5 years or until 90 days after final decision in docket 33364, whichever occurs first;

9. We exempt Allegheny Airlines and Piedmont Aviation from section 401 of the Act and the terms, conditions, and limitations of their certificates for Routes 97 and 87, respectively, to the extent necessary to permit them to provide air transportation between Roanoke, Va., and Pittsburgh, Pa., for a period of 5 years or until 90 days after the final decision in docket 33364, whichever occurs first;

10. Applications, amendments to applications, motions to consolidate, and petitions for reconsideration of this order shall be filed by September 26, 1978, and answers shall be filed by October 6, 1978;[7]

11. All carriers filing applications in this proceeding shall file environmental evaluations under § 312.12 of the Board's regulations within 30 days of the date of service of this order;[8]

12. The authority granted above shall be effective on the date of service of this order; and

13. This order may be amended or revoked at the discretion of the Board without hearing.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[9]
Secretary.

[FR Doc. 78-25948 Filed 9-13-78; 8:45 am]

[5] Moreover, for those who wish to pursue a traditional carrier selection theory of the case, detailed cost accounting evidence, e.g., separate estimates for every segment or each type of fare, need not be required to justify the various price and quality proposals. For the Board's purposes, an analysis of profit of any applicant's proposal shall be adequate if the expense estimates are calculated in accordance with the methodology described for local service carrier route applicants in the Board's procedural regulations. 14 CFR 302.1101 et seq., subpt. K and PR-172, Apr. 14, 1978. Applicants, including new entrants, whose data are not included in this costing system shall submit costings based on their internal company data, in subpt. K format to the extent feasible. While all applicants are of course free to include estimates of expense computed using a different methodology, we do not believe that it is a fruitful use of the applicants', the staff's, or the Board's resources to require an analysis of the cost of an applicant's proposal by a second costing method.

[6] On review of the environmental evaluations submitted by Allegheny and Piedmont in their applications for exemptions and Eastern in its application for suspension, to which no answers were filed, we find that our decisions does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Act of 1969 or a major regulatory action under the Energy Policy and Conservation act of 1975.

[7] We delegate to the presiding administrative law judge the authority to consolidate by order any applications which conform to the scope of the proceeding.

[8] Allegheny and Piedmont filed environmental evaluations as part of their applications.

[9] All members concurred.

[6320-01]

[Order 78-8-182; Docket 33327]

FRONTIER AIRLINES, INC.

Amendment of Certificate of Public Convenience and Necessity for Route 73

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 31st day of August 1978.

By order 78-8-178, issued concurrently with this order, we have proposed to realign the route system of American Airlines in a manner which would, among other things, give American unrestricted authority in the Memphis-Omaha market, a minor market[1] where Frontier holds restricted authority. As discussed in orders 78-7-91, 78-4-109, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Frontier as well as American will give those carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Therefore, consistent with out tentative findings and conclusions set forth in order 78-8-178, and those in orders 78-7-91, 78-4-1-109, and 76-5-101, we tentatively find and conclude that the elimination of restrictions on Frontier's operations in the Memphis-Omaha market is required by the public convenience and necessity, and is consistent with our policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.[2]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 10 days after objections are due.

Accordingly, *it is ordered that:*

1. All intrerested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Frontier's certificate for Route 73 so as to remove operating restrictions in the Memphis-Omaha market;

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here shall, no later than October 11, 1978, file with the Board and serve upon all persons listed in appendix I of order 78-8-178, a statement of objections together with a summary of testimony, statistical data, and such evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than October 26, 1978;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board;[3]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in appendix I of order 78-8-178.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[4]
Secretary.

[FR Doc. 78-25943 Filed 9-13-78; 8:45 am]

[1] All members concurred.

[2] Since this market generated 5,600 true O.&D. plus interline connecting passengers for the year ended Sept. 30, 1975, it meets the Board's definition of a minor market, i.e., one with less than 20 daily passengers.

[2] We further tentatively find and conclude that Frontier is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[3] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideraton of this order will be entertained.

[4] All Members concurred.

solidate, shall be filed within 20 days of the date of service of this order, and answers shall be filed 10 days later.[1]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 10 days after objections are due.

Accordingly, *it is ordered that:*

1. All intrerested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Frontier's certificate for Route 73 so as to remove operating restrictions in the Memphis-Omaha market;

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here shall, no later than October 11, 1978, file with the Board and serve upon all persons listed in appendix I of order 78-8-178, a statement of objections together with a summary of testimony, statistical data, and such evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than October 26, 1978;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board;[2]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in appendix I of order 78-8-178.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board: [3]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-25944 Filed 9-13-78; 8:45 am]

[1] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideraton of this order will be entertained.

[2] All Members concurred.

[6320-01]

[Order 78-8-185; Docket 33330]

HOUSTON-PHOENIX/TUCSON CASE

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 7th day of September, 1978.

By Order 78-5-109, May 19, 1978, the Board instituted this proceeding to determine whether the public convenience and necessity require the grant of new authority in the Houston-Phoenix/Tucson market. Western Air Lines has filed a petition for reconsideration asking us to clarify our intention that this proceeding consider the issue of additional service between Phoenix and Tucson. Hughes Airwest filed an answer; it does not oppose inclusion of Phoenix-Tucson service within the scope of this case, provided that any carrier authorized to serve Phoenix-Tucson as a result of this proceeding be required to serve Houston on all such flights. Airwest argues that, were we to include the issue of unrestricted Phoenix-Tucson rights, we would shift the focus of the proceeding from the primary Houston-Phoenix/Tucson market and raise the additional issue of the removal of long-haul restrictions on carriers currently operating between Phoenix and Tucson market.

We recognize that our instituting order was ambiguous on this point. We will therefore grant Western's petition and clarify the scope of this case to include the issue of nonstop authority between Houston, on the one hand, and the coterminal points of Phoenix and Tucson, on the other. The right to serve Phoenix and Tucson on the same flight and to carry local and through traffic between the two Arizona points will be in issue. Turnaround authority will not be in issue, as this would unduly delay and complicate the examination of the Houston-Phoenix/Tucson markets.

Accordingly,

1. We grant Western's petition;

2. The issues in this proceeding shall include:

(a) Whether the public convenience and necessity require that new nonstop service be granted between the terminal point Houston, Tex., and the coterminal points Phoenix and Tucson, Ariz.: *Provided*, That all flights serving both Phoenix and Tucson shall also serve Houston;

(b) If the answer to (a) is in the affirmative, which air carrier(s) should be authorized to provide such service; and

(c) Whether any terms, conditions and/or limitations should be attached to any new authority which may be awarded; and

4. Applications within the expanded scope of this case, and motions to con-

solidate, shall be filed within 20 days of the date of service of this order, and answers shall be filed 10 days later.[1]

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[2]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-25935 Filed 9-13-78; 8:45 am]

[6320-01]

[Order 78-8-183; Docket 33328]

HUGHES AIR CORP., D.B.A. HUGHES AIRWEST

Amendment of Certificate of Public Convenience and Necessity for Route 76

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 31st day of August, 1978.

By Order 78-8-178, issued concurrently with this Order, we have proposed to realine the route system of American Airlines in a manner which would, among other things, give American unrestricted authority in the Palm Springs-Salt Lake City market, a minor market[1] where Hughes Airwest holds restricted authority. As discussed in Orders 78-7-91, 78-4-109 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Hughes Airwest as well as American will give those carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Therefore, consistent with out tentative findings and conclusions set forth in Order 78-8-178, and those in Orders 78-7-91, 78-4-109 and 76-5-101, we tentatively find and conclude that the elimination of restrictions on Hughes Airwest operations in the Palm Springs-Salt Lake City market is required by the public convenience and necessity, and is consistent with our policy of removing restirctions which serve no useful purpose and which are otherwise wasteful and undesirable.[2]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here whould not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 10 days after objections are due.

Accordingly, it is ordered That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Hughes Airwest certificate for Route 76 so as to remove operating restrictions in the Palm Springs-Salt Lake City market;

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here shall, no later than October 11, 1978, file with the Board and seve upon all persons listed in Appendix I of Order 78-8-178, a statement of objections together with a summary of testimony, statistical data, and such evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than October 26, 1978;

3. If timely and properly supported objections are filed, full considerations will be accorded the matters or issues raised before further action is taken by the Board;[3]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in Appendix I of Order 78-8-178.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[4]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 25942 Filed 9-13-78; 8:45 am]

[6320-01]

[Order 78-8-184; Docket 33329]

NATIONAL AIRLINES, INC.

Amendment of Certificate of Public Convenience of Necessity for Routes 31 and 39

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 31st day of August 1978.

By Order 78-8-178, issued concurrently with this Order, we have proposed to realign the route system of American Airlines in a manner which would, among other things, give American unrestricted authority in the Houston-Providence market, a minor market[1] where National holds restricted authority. As discussed in Orders 78-7-91, 78-4-109 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on National as well as American will give those carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-8-178, and those in Orders 78-7-91, 78-4-109 and 76-5-101, we tentatively find and conclude that the elimination of restrictions on National's operations in the Houston-Providence is required by the public convenience and necessity, and is consistent with our policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.[2]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 10 days after objections are due.

Accordingly, *It is ordered*, That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending National's certificates for Routes 31 and 39 so as to remove operating resrtrictions in the Houston-Providence market;

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here shall, no later than October 11, 1978, file with the Board and serve upon all persons listed in Appendix I of Order 78-8-178, a statement of objections together with a summary of testimony, statistical data, and such evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than October 26, 1978;

3. If timely and properly supported objections are filed, full consideraton will be accorded the matters or issues raised before further action is taken by the Board;[3]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in Appendix I of Order 78-8-178.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[4]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-25941 Filed 9-13-78; 8:45 am]

[6320-01]

[Order 78-8-185; Docket 33330]

NORTH CENTRAL AIRLINES, INC.

Amendments of Certificate of Public Convenience and Necessity for Route 86

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 31st day of August, 1978.

By Order 78-8-178, issued concurrently with this Order, we have proposed to realign the route system of American Airlines in a manner which would, among other things, give American unrestricted authority in the Cincinnati-Omaha, Columbus-Omaha and Dayton-Omaha markets, minor markets,[1] where American holds unresticted authority. As discussed in Orders 78-7-91, 78-4-109 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on North Central as well as American will give those carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-8-178, and those in Orders 78-7-91, 78-4-109 and 76-5-101, we tentatively find and conclude that the elimination of restrictions on North Central's operations in the Cincinnati-Omaha, Columbus-Omaha and Dayton-Omaha markets is required by the public convenience and necessity, and is consistent with our policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.[2]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 10 days after objections are due.

Accordingly, *It is ordered*, That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending North Central's certificate for Route 86 so as to remove operating restrictions in the Cincinnati-Omaha, Columbus-Omaha and Dayton-Omaha markets;

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, no later than October 11, 1978, file with the Board and serve upon all persons listed in Appendix I of Order 78-8-178, a statement of objections together with a summary of testimony, statistical data, and such evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than October 26, 1978;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board;[3]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the board for final action; and

5. A copy of this order shall be served upon all persons listed in Appendix I of Order 78-8-178.

This Order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[4]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-25938 Filed 9-13-78; 8:45 am]

[1] There is no need for any applicants in Docket 32708 to file new applications. We delegate to the presiding administrative law judge the authority to consolidate by order any new applications which conform to the scope of this proceeding.

[2] All Members concurred.

[1] Since this market generated 2,350 true O. & D. plus interline connecting passengers for the year ended Sept. 30, 1975, it meets the Board's definition of a minor market; i.e., one with less than 20 daily passengers.

[2] We further tentatively find and conclude that Hughes Airwest is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[3] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[4] All Members concurred.

[1] Since this market generated 4,940 true O&D plus interline connecting passengers for the year ended Sept. 30, 1975, it meets the Board's definition of a minor market, i.e., one with less than 20 daily passengers.

[2] We further tentatively find and conclude that National is a citizen of the United States within the meaning of the act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[3] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[4] All Members concurred.

[1] Since these markets generated 5,710, 5,020 and 4,800 true O & D plus interline connecting passengers, respectively, for the year ended Sept. 30, 1975, they each meet the Board's definition of a minor market, i.e., one with less than 20 daily passengers.

[2] We further tentatively find and conclude that North Central is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[3] All motions of petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[4] All Members concurred.

[6320-01]

opportunity for oral cross-examination is requested, the objector should state,

In Order 78-6-206, June 29, 1978, we directed all interested persons to show

The amended applications will be consolidated into Docket 32920 to the extent that they conform to the scope

American unrestricted authority in the El Paso-Salt Lake City market, a minor market[1] where Texas Interna-

stated here and amending Texas International's certificate for Route 82 so as to remove operating restrictions in

[6320-01]

[Order 78-8-186; Docket 33331]

PIEDMONT AVIATION, INC.

Amendment of Certificate of Public Convenience and Necessity for Route 87

Adopted by the Civil Aeronautics Board at its Office in Washington, D.C., on August 31, 1978.

By Order 78-8-178, issued concurrently with this order, we have proposed to realign the route system of American Airlines in a manner which would, among other things, give American unrestricted authority in the Charleston, W. Va.-Nashville market, a minor market[1] where Piedmont holds restricted authority. As discussed in Orders 78-07-91, 78-4-109, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Piedmont as well as American will give those carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-8-178, and those in Orders 78-7-91, 78-4-109, and 76-5-101, we tentatively find and conclude that the elimination of restrictions on Piedmont's operations in the Charleston, W. Va-Nashville market is required by the public convenience and necessity, and is consistent with our policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.[2]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 10 days after objections are due.

Accordingly, *It is ordered*, That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Piedmont's certificate for Route 87 so as to remove operating restrictions in the Charleston, W. Va-Nashville market;

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here shall, no later than October 11, 1978, file with the Board and serve upon all persons listed in appendix I of Order 78-8-178, a statement of objections together with a summary of testimony, statistical data, and such evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than October 26, 1978;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board;[3]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in appendix I of Order 78-8-178.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[4]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-25939 Filed 9-13-78; 8:45 am]

[1] Since this market generated 2,310 true O&D plus interline connecting passengers, respectively, for the year ended Sept. 30, 1975, it meets the Board's definition of a minor market, i.e., one with less than 20 daily passengers.

[2] We further tentatively find and conclude that Piedmont is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[3] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[4] All members concurred.

[6320-01]

[Order 78-9-25; Docket 22388]

REA EXPRESS, INC.

Interstate Air Freight Forwarding Operating Authority Application

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on September 7, 1978.

In Order 78-6-206, June 29, 1978, we directed all interested persons to show cause within 30 days why we should not dismiss the application of REA Express, Inc. for interstate air freight forwarder operating authority. The order stated that if no objections were filed, we would consider all further procedural steps waived and would issue an order making our tentative findings and conclusions final.

No objections to Order 78-6-206 have been filed. Accordingly, we conclude that the tentative findings and conclusions set forth in the order should be made final, and that the application of REA Express for interstate air freight forwarder operating authority should be dismissed.

Accordingly, 1. We make the tentative findings and conclusions set forth in Order 78-6-206 final; and

2. We dismiss the application of REA Express, Inc. for interstate air freight forwarder operating authority filed in Docket 22388.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[1]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-25934 Filed 9-13-78; 8:45 am]

[6320-01]

[Order 78-9-18; Docket 32920]

ST. LOUIS-DENVER-LAS VEGAS/RENO ROUTE INVESTIGATION

Order on Motions to Consolidate applications

Issued under delegated authority September 6, 1978.

Because of ambiguity in the instituting order (Order 78-6-191) concerning the markets in issue in the instant proceeding, Allegheny Airlines, Inc., Frontier Airlines, Inc., and Western Air Lines, Inc., did not make application for Las Vegas-Reno authority during the period allowed for filing of applications and amendments to applications. After the ambiguity was brought to its attention, the Board on August 17, 1978, issued Order 78-8-90 to clarify the authority in issue. The Board indicated that the scope of the instant proceeding includes Las Vegas-Reno authority but with the restriction that any flights serving this market must also serve either Denver or St. Louis.

Allegheny, Frontier, and Western have now filed amended applications for Las Vegas-Reno authority subject to long-haul restriction and have moved to consolidate these applications into this proceeding. No answers have been filed to the amended applications or the related motions to consolidate.

[1] All Members concurred.

The amended applications will be consolidated into Docket 32920 to the extent that they conform to the scope of the investigation instituted by Order 78-6-191, as clarified by Order 78-8-90. To the extent that the applications do not conform to that scope by route description or otherwise, they will be dismissed.

Western also filed a motion for leave to file its motion to consolidate as an otherwise unauthorized document on the assumption that this action was necessary in the circumstances. This motion will be granted.

Accordingly, pursuant to authority delegated to the presiding administrative law judge by Order 78-6-191, served June 28, 1978.

1. I grant Western's motion for leave to file an unauthorized document.

2. I grant the following motions:

a. Of Allegheny to consolidate its amended application in Docket 33047 into Docket 32920;

b. Of Frontier to consolidate its Amendment No. 1 to its application in Docket 33043 into Docket 32920; and

c. Of Western to consolidate Amendment No. 2 to its application in Docket 32458 into Docket 32920;

to the extent they conform to the scope of the investigation specified in Order 78-6-191, as clarified by Order 78-8-90.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within 10 days after the service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless before that date a petition for review thereof if filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By Joseph J. Saunders, Administrative Law Judge.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-25949 Filed 9-13-78; 8:45 am]

[6320-01]

[Order 78-8-187; Docket 33332]

TEXAS INTERNATIONAL AIRLINES, INC.

Amendment of Certificate of Public Convenience and Necessity for Route 82

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 31st day of August 1978.

By Order 78-8-178, issued concurrently with this Order, we have proposed to realign the route system of American Airlines in a manner which would, among other things, give American unrestricted authority in the El Paso-Salt Lake City market, a minor market[1] where Texas International holds restricted authority. As discussed in Orders 78-7-91, 78-4-109, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Texas International as well as American will give those carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-8-178, and those in Orders 78-7-91, 78-4-109, and 76-5-101, we tentatively find and conclude that the elimination of restrictions on American's operations in the El Paso-Salt Lake City markets is required by the public convenience and necessity, and is consistent with our policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.[2]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 10 days after objections are due.

Accordingly, *it is ordered* that:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Texas International's certificate for Route 82 so as to remove operating restrictions in the El Paso-Salt Lake City market;

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here shall, no later than October 11, 1978, file with the Board and serve upon all persons listed in Appendix I of Order 78-8-178, a statement of objections together with a summary of testimony, statistical data, and such evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than October 26, 1978;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board;[3]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in Appendix I of Order 78-8-178.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[4]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-25940 Filed 9-13-78; 8:45 am]

[6320-01]

[Order 78-8-188; Docket 33333]

TRANS WORLD AIRLINES, INC.

Amendment of Certificate of Public Convenience and Necessity for Route 2

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 31st day of August 1978.

By Order 78-8-178, issued concurrently with this Order, we have proposed to realign the route system of American Airlines in a manner which would, among other things, give American unrestricted authority in the Indianapolis-Nashville market, a minor market[1] where TWA holds restricted authority. As discussed in

[1] Since this market generated 6,100 true O&D plus interline connecting passengers, for the year ended Sept. 30, 1975, it meets the Board's definition of a minor market, i.e., one with less than 20 daily passengers.

[2] We further tentatively find and conclude that Texas International is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[3] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[4] All members concurred.

[1] Since this market generated 6,660 true O&D plus interline connecting passengers, respectively, for the year ended 9-30-75, it meets the Board's definition of a minor market i.e., one with less than 20 daily passengers.

Orders 78-7-91, 78-4-109, and 76-5-101, it is our view that such small markets do not, as a practical matter, pres-

shall, no later than October 11, 1978, file with the Board and serve upon all persons listed in appendix I of Order

lines for State reports containing sample data from the 1980 census of

[3510-24]

Executive Session will begin at 11 a.m. and will be a joint meeting with the Computer Systems Technical Advisory

be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public par-

V 43 / 179 SEP 14 78

Orders 78-7-91, 78-4-109, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on TWA as well as American will give those carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-8-178, and those in Orders 78-7-91, 78-4-109, and 76-5-101, we tentatively find and conclude that the elimination of restrictions on TWA's operations in the Indianapolis-Nashville markets is required by the public convenience and necessity, and is consistent with our policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.[2]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be enterained; answers shall be filed 10 days after objections are due.

Accordingly, *It is ordered* That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending TWA's certificate for Route 2 so as to remove operating restrictions in the Indianapolis-Nashville market;

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here shall, no later than October 11, 1978, file with the Board and serve upon all persons listed in appendix I of Order 78-8-178, a statement of objections together with a summary of testimony, statistical data, and such evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than October 26, 1978;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board; [3]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in Appendix I of Order 78-8-178.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[4]
Secretary.

[FR Doc. 78-25937 Filed 9-13-78; 8:45 am]

[2] We further tentatively find and conclude that TWA is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[3] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[4] All members concurred.

[3510-07]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE ON POPULATION STATISTICS

Public Meeting

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that the Census Advisory Committee on Population Statistics will convene on October 6, 1978, at 9:40 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Md.

The Census Advisory Committee on Population Statistics advises the Director, Bureau of the Census, on current programs and on plans for the decennial census of population.

The Committee is composed of 5 members appointed by the Secretary of Commerce, and 10 members designated by the president of the Population Association of America from the membership of that association.

The agenda for the meeting, which is scheduled to adjourn at 4:15 p.m. is: (1) Introductory remarks; (2) status of 1980 census planning; (3) table outlines for State reports containing sample data from the 1980 census of population; (4) National Academy of Sciences Decennial Census Review Panel; (5) Committee recommendations from the March 31 meeting, and Census Bureau responses; (6) goals and operating procedures of the Advisory Committee; (7) possible revisions in Census Bureau publications on international demographic statistics; (8) design of 1940 and 1950 public use samples; (9) new criteria for defining metropolitan areas; and (10) Committee recommendations, agenda for the next meeting, and election of the chairperson-elect.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee control officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Dr. Paul C. Glick, Senior Demographer, Population Division, Bureau of the Census, Room 2011, Federal Building 3, Suitland, Md. (Mailing address: Washington, D.C. 20233.) Telephone 301-763-7030.

Dated: September 8, 1978.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

[FR Doc. 78-25866 Filed 9-13-78; 8:45 am]

[3510-07]

CANCELLATION OF SURVEY TO COMPILE REGISTRATION AND VOTING STATISTICS

Notice was given in the FEDERAL REGISTER, Wednesday, March 22, 1978 (43 FR 11841) that the Bureau of the Census would conduct a survey to collect registration and voting statistics in certain jurisdictions covered under section 207 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973aa-5.

Notice is hereby given that this survey will not be conducted because the funding required for fiscal year 1979 was not appropriated by the Congress.

Dated: September 8, 1978.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

[FR Doc. 78-25867 Filed 9-13-78; 8:45 am]

[3510-24]

Economic Development Administration

CHARTER OAK INDUSTRIES, INC. AND DIANE KNITFABRICS, INC.

Petitions for Determinations of Eligibility to Apply for Trade Adjustment Assistance

Petitions were accepted for filing from two firms: (1) Charter Oak Industries, Inc., 1407 Park Street, Hartford, Conn. 06106, a producer of women's coats (accepted September 5, 1978); and (2) Diane Knitfabrics, Inc., 85 Spring Street, South Norwalk, Conn. 06854, a producer of women's sweaters (accepted September 6, 1978). The petitions were accepted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-25824 Filed 9-13-78; 8:45 am]

[3510-25]

Industry and Trade Administration

COMPUTER PERIPHERALS, COMPONENTS AND RELATED TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Computer Peripherals, Components and Related test Equipment Technical Advisory Committee will be held on Thursday, September 21, 1978, at 9 a.m. in Room 3817, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. The Executive Session will begin at 11 a.m. and will be a joint meeting with the Computer Systems Technical Advisory Committee.

The Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer peripherals, components and related test equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has six parts:

GENERAL SESSION

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Report on the solicitation for new members.
4. Nomination and election of a new chairman.
5. Report and discussion on combining the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee and the Computer Systems Technical Advisory Committee.

EXECUTIVE SESSION

6. Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the committee. Written statements may be presented at any time before or after the meeting.

With respect to agenda item (6), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the executive session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the executive session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the committee during the executive session of the meeting have been properly classified under Executive Order 11652. All committee members have appropriate security clearances. This meeting is called on short notice because of the need to obtain and consider the committee's advice on proposals to revise the multilateral COCOM control list prior to the beginning of negotiations on October 1, 1978.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION, CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee and of any subcommittees thereof is hereby published.

Dated September 11, 1978.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

U.S. DEPARTMENT OF COMMERCE, OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

COMPUTER PERIPHERALS, COMPONENTS AND RELATED TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Notice of determination

In response to written requests of representatives of a substantial segment of the computer peripherals, components and related test equipment industry, the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was established by the Secretary of Commerce pursuant to section 5(c)(1) of the Export Administration Act of 1969, 50 U.S.C. App. 2404(c)(1) (1976), to advise the Department of Commerce with respect to

questions involving (A) technical matters, (B) worldwide availability, and actual utili-

Dated: September 11, 1978.

LAWRENCE J. BRADY,

meetings dealing with the matters set forth in the first paragraph of this determination. These meetings will include discussions of

It has been determined that this standard is technically inadequate, and in view of the existence of an up-

questions involving (A) technical matters, (B) worldwide availability, and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to computer peripherals, components and related test equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls.

The Committee, which currently has 12 members representing industry and 9 members representing Government agencies, will terminate no later than August 29, 1980, unless extended by the Secretary of Commerce or her designee. All members of the Committee have the appropriate security clearances.

The Committee's activities are conducted pursuant to 50 U.S.C. App. 2404(c)(1); the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976); and the Office of Management and Budget Circular A-63 (Revised), Advisory Committee Management, effective May 1, 1974. Section 10 of the Federal Advisory Committee Act as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, provides that advisory committee meetings or portions thereof may be exempt from the open meeting and public participation requirements of the Federal Advisory Committee Act if the President, or the head of the agency to which the advisory committee reports, determines that such meetings or portions thereof may be closed to the public in accordance with 5 U.S.C. 552b(c).

5 U.S.C. 552b(c)(1) provides that agency meetings or portions thereof may be closed to the public where they are likely to disclose matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and are in fact properly classified pursuant to such Executive order.

Eight notices of determination authorizing the closing of meetings, or portions thereof, of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee and its formal subcommittees, dealing with security classified matters, have been approved in the past.

In order to provide advice to the Department under the terms of its charter, the Committee and formal subcommittees thereof will continue to hold a series of meetings dealing with the matters set forth in the first paragraph of this determination. These meetings will include discussions of the COCOM control list as it relates to the commodities and technical data under its purview, and with the foreign availability of these commodities and technical data. In addition, the Committee and its formal subcommittees will be preparing recommendations for the Department's consideration relating to the U.S. Government's negotiating position on COCOM-related matters. Much of the information relating to the COCOM control list, as well as proposed changes, is now or will be security classified for national defense or foreign policy reasons, pursuant to Executive Order No. 11652, 3 CFR 339 (1974) or Executive Order No. 12065, 43 FR 28949 (1978). In order for the Committee and its formal subcommittees to provide required advice to the U.S. Government, it will be necessary to provide the Committee and its formal subcommittees with such classified material. Therefore, the series of meetings or portions thereof will be open to the public.

Accordingly, I hereby determine, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the series of meetings or portions of meetings of the Committee and of any subcommittees thereof, dealing with the aforementioned classified materials shall be exempt, for the period from the date of the signing of this determination, to August 29, 1980, from the provisions of section 10 (a)(1) and (a)(3), relating to open meetings and public participation therein, because the Committee and subcommittee discussions will be concerned with matters listed in 5 U.S.C. 552b(c)(1). The remaining series of meetings or portions thereof will be open to the public.

Dated: September 6, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration.

Dated: September 5, 1978.

DANIEL GARBERN,
Acting Assistant General Counsel.

[FR Doc. 78-25932 Filed 9-13-78; 8:45 am]

[3510-25]

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Computer Systems Technical Advisory Committee will be held on Thursday, September 21, 1978, at 9:30 a.m. in Room 1851, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. At 11 a.m. the Committee will continue the meeting in Room 3817 with the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of Trade Regulation, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee will meet only in executive session to discuss matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the executive session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and the public participation therein, because the executive session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances. This meeting is called on short notice because of the need to obtain and consider the Committee's advice on proposals to revise the multilateral COCOM control list prior to the beginning of negotiations on October 1, 1978.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

The complete notice of determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof is hereby published.

Dated: September 11, 1978.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

U.S. DEPARTMENT OF COMMERCE, OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMERCE

Notice of determination

In response to written requests of representatives of a substantial segment of the computer systems industry, the Computer Systems Technical Advisory Committee was established by the Secretary of Commerce pursuant to section 5(c)(1) of the Export Administration Act of 1969, 50 U.S.C. App. 2404(c)(1) (1976), to advise the Department of Commerce with respect to questions involving (A) technical matters, (B) worldwide availability, and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls.

The Committee, which currently has 10 members representing industry and 11 members representing Government agencies, will terminate no later than August 29, 1980, unless extended by the Secretary of Commerce or her designee. All members of the Committee have the appropriate security clearances.

The Committee's activities are conducted pursuant to 50 U.S.C. App. 2404(c)(1); the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976); and the Office of Management and Budget Circular A-63 (Revised), Advisory Committee Management, effective May 1, 1974. Section 10 of the Federal Advisory Committee Act as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, provides that advisory committee meetings or portions thereof may be exempt from the open meeting and public participation requirements of the Federal Advisory Committee Act if the President, or the head of the agency to which the advisory committee reports, determines that such meetings or portions thereof may be closed to the public in accordance with 5 U.S.C. 552b(c).

5 U.S.C. 552b(c)(1) provides that agency meetings or portions thereof may be closed to the public where they are likely to disclose matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and are in fact properly classified pursuant to such Executive order.

Eight notices of determination authorizing the closing of meetings, or portions thereof, of the Computer Systems Technical Advisory Committee and its formal subcommittees, dealing with security classified matters, have been approved in the past.

In order to provide advice to the Department under the terms of its charter, the Committee and formal subcommittees thereof will continue to hold a series of meetings dealing with the matters set forth in the first paragraph of this determination. These meetings will include discussions of the COCOM control list as it relates to the commodities and technical data under its purview, and with the foreign availability of these commodities and technical data. In addition, the Committee and its formal subcommittees will be preparing recommendations for the Department's consideraton relating to the U.S. Government's negotiating position on COCOM-related matters. Much of the information relating to the COCOM control list, as well as proposed changes, is now or will be security classified for national defense or foreign policy reasons, pursuant to Executive Order No. 11652, 3 CFR 339 (1974) or Executive Order No. 12065, 43 FR 28949 (1978). In order for the Committee and its formal subcommittees to provide required advice to the U.S. Government, it will be necessary to provide the Committee and its formal subcommittees with such classified material. Therefore, the series of meetings or portions of meetings of the Committee and of subcommittees thereof that will involve discussions of matters specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order, must be closed to the public. The remaining series of meetings or portions thereof will be open to the public.

Accordingly, I hereby determine, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the series of meetings or portions of meetings of the Committee and of any subcommittees thereof, dealing with the aforementioned classified materials shall be exempt, for the period from the date of the signing of this determination, to August 29, 1980, from the provisions of section 10 (a)(1) and (a)(3), relating to open meetings and public participation therein, because the Committee and subcommittee discussions will be concerned with matters listed in 5 U.S.C. 552b(c)(1). The remaining series of meetings or portions thereof will be open to the public.

Dated: September 6, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration.

Dated: September 5, 1978.

DANIEL GARBERN,
Acting Assistant General Counsel.

[FR Doc. 78-25933 Filed 9-13-78; 8:45 am]

[3510-13]

National Bureau of Standards

SIMPLIFIED PRACTICE RECOMMENDATION

Action on Withdrawal

In accordance with section 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the withdrawal of simplified practice recommendation R 78-50, "Iron and Steel Roofing, Siding, and Ridge Roll."

It has been determined that this standard is technically inadequate, and in view of the existence of an up-to-date American Iron and Steel Institute's Steel Products Manual which adequately covers R 78-50, revision of this simplified practice recommendation would serve no useful purpose.

This action is taken in furtherance of the Department's announced intentions as set forth in the public notice appearing in the FEDERAL REGISTER of July 7, 1978 (43 FR 29345) to withdraw this standard. The effective date for the withdrawal of this standard will be 60 days after the publication of this notice. This withdrawal action terminates the authority to refer to this standard as a voluntary standard developed under the Department of Commerce procedures.

Dated: September 11, 1978.

THOMAS A. DILLON,
Acting Director.

[FR Doc. 78-25924 Filed 9-13-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

Meetings

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) will meet September 26-28, 1978.

DATES: The meeting will convene at 1:30 p.m. on Tuesday, September 26 and will adjourn at about noon on September 28.

ADDRESS: The meeting will be held at the Velvet Cloak Inn, 1505 Hillsborough Street, Raleigh, N.C. 27605.

FOR FURTHER INFORMATION CONTACT:

Ernest D. Premetz, Executive Director, South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, S.C. 29407, 803-571-4366.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. For information on seating, changes to the agenda, or written comments, contact the Executive Director. Proposed Agenda:

SEPTEMBER 26, 1978

(1) Snapper-Grouper FMP status and recommendation; (2) Billfish FMP update.

SEPTEMBER 27, 1978

(1) Coral FMP contract selection de-

Patent 4,042,938: Analog and Digital Data Recorder; filed January 8, 1976, patented

Patent 3,958,602: Flueric Laminar Digital Amplifier; filed March 12, 1975, patented

Patent 3,919,406: Thermochemical Production of Hydrogen; filed July 10, 1974, patented November 11, 1975.

Patent 3,971,110: Method for Fabricating an Electron-Emission Cathode; filed September 11, 1975, patented July 27, 1976.

SEPTEMBER 27, 1978

(1) Coral FMP contract selection decision review; (2) King and Spanish Mackerel FMP status report; (3) Other management plan-related activities; (4) Involved agencies Council-related activities.

SEPTEMBER 28, 1978

(1) Foreign fishing permit applications, if any; (2) Other management business.

Dated: September 8, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-25825 Filed 9-13-78; 8:45 am]

[3510-04]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for $4 ($8 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, Office of Judge Advocate General, Patent Division, Room 2C-455, Pentagon, Washington, D.C. 20314

Patent 4,037,821: Telescoping Retractor; filed August 10, 1976, patented July 26, 1977; not available NTIS.

Patent 4,038,660: Microwave Absorbers. filed August 5, 1975, patented July 26, 1977; not available NTIS.

Patent 4,042,938: Analog and Digital Data Recorder; filed January 8, 1976, patented August 16, 1977, Not available NTIS.

Patent 4,046,976: Pressure Actuated Sensor Switch with Bobbin, Trip Cord and Breakwire; filed January 16, 1976, patented September 6, 1977; not available NTIS.

Patent 4,049,131: Freight Container Unloading System; filed July 11, 1975, patented September 20, 1977; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Services Division, Federal Building, Agricultural

Patent application 725,225: Improved Emulsion Systems for Imparting Durable Press Properties to Cotton and Cotton-Polyester Blended Textiles; filed September 22, 1976.

Patent application 725,226: Hydrophobic Quaternary Ammonium Cottons Prepared in Non-Aqueous Media; filed September 22, 1976.

Patent application 766,156: Dyebath Application of Direct, Acid, and Base Dyestuffs and Combinations Thereof the Cotton Textiles; filed February 2, 1977.

Patent application 768,806: New Antimicrobial Esters of Aliphatic Diols; filed February 15, 1977.

Patent application 787,177: Antibacterial Textile Finishes Utilizing Zirconyl Acetate Complexes of Inorganic Peroxides; filed April 12, 1977.

Patent application 794,594: Improved Emulsion Systems for Imparting Durable Flame Retardancy to Cotton-Polyester Blended Textiles; filed May 6, 1977.

Patent application 794,595: Process for Imparting Wrinkle Recovery to Cotton Fabrics with Vapors from Glycidol; filed May 6, 1977.

Patent application 809,356: High Performance Durable-Press Cotton Fabrics; filed June 23, 1977.

Patent application 833,882: Sulfur-Containing Antimicrobial Ester Amides; filed September 16, 1977.

Patent application 837,490: A Process for Producing a Powdered Flavoring Material; filed September 28, 1977.

Patent application 846,478: Apparatus for Conditioning Seed Cotton; filed October 28, 1977.

Patent application 866,078: Improved Formulations for Imparting Flame Retardance to Cellulosic Fabrics via Transfer Techniques; filed December 30, 1977.

Patent application 879,999: Purification of Sucrose Esters of Fatty Acids by a Method of Ultrafiltration; filed February 22, 1978.

Patent application 900,373: A Substituted Benzodioxan Sweetening Compound; filed April 26, 1978.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545

Patent application 734,839: Solar Energy Collector; filed October 22, 1976.

Patent 4,029,519: Solar Collector Having a Solid Transmission Medium; filed March 19, 1976, patented June 14, 1977; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014

Patent 4,070,621: Antenna with Electro-Optical Modulator; filed July 23, 1976, patented January 24, 1978; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546

Patent 4,077,678: Energy Storage Apparatus; filed July 30, 1976, patented March 7, 1978; not available NTIS.

Patent 4,077,788: Atomic Hydrogen Storage Method and Apparatus; filed April 13, 1976, patented March 7, 1978; not available NTIS.

Patent 4,077,818: Process for Utilizing Low-Cost Graphite Substrates for Polycrystalline Solar Cells; filed June 4, 1976, patented March 7, 1978; not available NTIS.

Patent 4,079,268: Thin Conformal Antenna Array for Microwave Power Conversions; filed October 6, 1976, patented March 14, 1978; not available NTIS.

[FR Doc. 78-25826 Filed 9-13-78; 8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, Office of Judge Advocate General, Patent Division, Room 2C-455, Pentagon, Washington, D.C. 20310

Patent 3,941,999: Automatic Focus Pulse Gated System; filed April 1, 1975, patented March 2, 1976.

Patent 3,944,950: Quasi-Optical Integrated Circuits; filed September 30, 1974, patented March 16, 1976.

Patent 3,949,246: Piezoelectric Bimorph Controlled Variable Capacitor; filed December 23, 1974, patented April 6, 1976.

Patent 3,952,378: Mechanical Closure Device; filed February 4, 1975, patented April 27, 1976.

Patent 3,952,576: Laminar Jet Fluid Property Sensor; filed April 10, 1975, patented April 27, 1976.

Patent 3,953,129: Testing and Inspecting Lens by Holograph Means; filed January 9, 1975, patented April 27, 1976.

Patent 3,953,850: Radar Test Facility Communication System; filed October 8, 1974, patented April 27, 1976.

Patent 3,958,121: Infrared Image Storage Plate; filed September 10, 1975, patented May 18, 1976.

Patent 3,958,602: Flueric Laminar Digital Amplifier; filed March 12, 1975, patented May 25, 1976.

Patent 3,960,022: Null Adjustable Vortex Rate Sensor; filed May 9, 1973, patented June 1, 1976.

Patent 3,962,591: Voltage Doublar Circuit; filed December 23, 1974, patented June 8, 1976.

Patent 3,962,657: Broadband Data Modulation System; filed October 22, 1974, patented June 8, 1976.

Patent 3,967,218: Edge-Guided Wave Directional Combiner; filed September 26, 1975, patented June 29, 1976.

DEPARTMENT OF THE AIR FORCE AF/JACP, Washington, D.C. 20314

Patent 3,970,007: Salvage Switch; filed January 20, 1971, patented July 20, 1976.

Patent 3,975,210: Metal-Gas Battery with Axial Reactant Gas Storage Cavity; filed March 27, 1975, patented August 17, 1976.

Patent 3,975,416: Preparation of Yttrium and Lanthanide Hexafluoroisopropoxide Diammoniates; filed September 6, 1973, patented August 17, 1976.

Patent 3,975,444: Ethynyl-Substituted Aromatic Ortho Diamines and Method of Synthesis; filed May 19, 1975, patented August 17, 1976.

Patent 3,975,748: Multispectral Laser Camera Device; filed May 22, 1970, patented August 17, 1976.

Patent 3,975,955: Edgetone Suppression Device for Wind Tunnel Walls; filed June 27, 1975, patented August 24, 1976.

Patent 3,975,981: Separation Spring Actuator; filed May 12, 1975, patented August 24, 1976.

Patent 3,976,268: Tethered Baloon Mooring Means; filed April 8, 1975, patented August 24, 1976.

Patent 3,976,394: Interstage Bleed Assembly; filed July 18, 1975, patented August 24, 1976.

Patent 3,976,521: Method of Coating Boron Particles with Ammonium Perchlorate; filed November 20, 1974, patented August 24, 1976.

DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545

Patent 3,910,714: Liquid Metal Pump for Nuclear Reactors; filed December 11, 1974, patented October 7, 1975.

Patent 3,912,582: Hydraulic Balancing of a Control Component Within a Nuclear Reactor; filed August 16, 1974, patented October 14, 1975.

Patent 3,912,584: LMFBR with Booster Pump in Pumping Loop; filed January 9, 1974, patented October 14, 1975.

Patent 3,912,908: Electric Cartridge-Type Heater for Producing a Given Non-Uniform Axial Power Distribution; filed November 12, 1974, patented October 14, 1975.

Patent 3,914,371: Method for Preparing Boron-Carbide Articles; filed December 27, 1973, patented October 21, 1975.

Patent 3,914,612: Neutron Source; filed August 26, 1974, patented October 21, 1975.

Patent 3,915,499: Acid Pre-Treatment Method for in situ Ore Leaching; filed July 23, 1974, patented October 28, 1975.

Patent 3,917,509: Thermionic Nuclear Reactor with Internal Heat Distribution and Multiple Duct Cooling; filed April 16, 1974, patented November 4, 1975.

Patent 3,919,406: Thermochemical Production of Hydrogen; filed July 10, 1974, patented November 11, 1975.

Patent 3,919,580: Relativistic Electron Beam Generator; filed September 11, 1974, patented November 11, 1975.

Patent 3,923,496: Nickel Powder and a Process for Producing It; filed April 26, 1945, patented December 2, 1975.

Patent 3,923,612: Electroplating a Gold-Platinum Alloy and Electrolyte Therefor; filed February 25, 1974, patented December 2, 1975.

Patent 3,924,106: Background Compensation for a Radiation Level Monitor; filed October 31, 1974, patented December 2, 1975.

Patent 3,925,536: Method of Recovering Uranium Hexafluoride; filed June 19, 1947, patented December 9, 1975.

Patent 3,926,344: Volumetric Dispenser for Small Particles From Plural Sources; filed June 20, 1974, patented December 16, 1975.

Patent 3,927,192: Chemical Cycle for Thermochemical Production of Hydrogen From Water; filed January 29, 1975, patented December 16, 1975.

Patent 3,927,325: Tissue Irradiator; filed July 10, 1974, patented December 16, 1975.

Patent 3,928,126: Fuel or Irradiation Subassembly; filed July 9, 1974, patented December 23, 1975.

Patent 3,928,549: Thermochemical Production of Hydrogen; filed June 20, 1974, patented December 23, 1975.

Patent 3,928,700: Method of Producing Thin Cellulose Nitrate Film; filed May 30, 1974, patented December 23, 1975.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014.

Patent 3,976,072: Blink-Operated Extracorporeal Tear Duct; filed September 3, 1975, patented August 24, 1976.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, VA. 22217

Patent 3,549,591: Polyfluoroepoxides and Epoxy Resins Containing Fluorine on the Aromatic Carbon Structure and Process; filed July 30, 1968, patented December 22, 1970.

Patent 3,898,662: Radar Target Simulator Using No Electrical Connection to Radar; filed August 16, 1968, patented August 5, 1975.

Patent 3,936,954: Electronic Bearing Selector for Omni-Directional Signals; filed May 27, 1964, patented February 10, 1976.

Patent 3,936,958: Sonar Reverberation Simulation; filed June 18, 1968, patented February 10, 1976.

Patent 3,964,155: Method of Planar Mounting of Silicon Solar Cells; filed June 8, 1973, patented June 22, 1976.

Patent 3,965,343: Modular System for Performing the Discrete Fourier Transform via the Chirp-Z Transform; filed March 3, 1975, patented June 22, 1976.

Patent 3,965,729: Load Crack Testing Device; filed October 1, 1975, patented June 29, 1976.

Patent 3,967,633: Gas Vent System for Operation in any Arbitrary Spatial Orientation; filed May 22, 1975, patented July 6, 1976.

Patent 3,968,491: Radar Rangemeter; filed November 25, 1974, patented July 6, 1976.

Patent 3,971,110: Method for Fabricating an Electron-Emission Cathode; filed September 11, 1975, patented July 27, 1976.

Patent 3,971,927: Modular Discrete Cosine Transform System; filed November 3, 1975, patented July 27, 1976.

Patent 3,972,554: Ring Type Recovery Tool; filed January 12, 1976, patented August 3, 1976.

Patent 3,972,555: Tong Type Recovery Tool; filed January 2, 1976, patented August 3, 1976.

Patent 3,972,730: Pyrotechnically Activated Lithium-Chlorine Cell, filed June 25, 1976, patented August 3, 1976.

Patent 3,972,814: Fluidic Oil-Water Separator, filed February 12, 1975, patented Augst 3, 1976.

Patent 3,973,501: Fuze with Dual Safe Positions and Armed-Safe Indicator; filed September 17, 1974, patented August 10, 1976.

Patent 3,978,487: Coupled Fed Electric Microstrip Dipole Antenna; filed April 24, 1975, patented August 31, 1976.

Patent 3,979,746: High Speed Manchester Code Demodulator; filed April 29, 1975, patented September 7, 1976.

TENNESEE VALLEY AUTHORITY, Division of Law, Muscle Shoals, Ala. 35660

Patent 3,969,483: Removal of Carbonaceous Matter From Ammonium Polyphosphate Liquids; filed June 5, 1975, patented July 13, 1976.

[FR Doc. 78-25827 Filed 9-13-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Bonneville Power Administration

FRANKLIN AREA SYSTEM REINFORCEMENT

Meeting

This notice is published to apprise interested parties of a public information meeting to be held by the Bonneville Power Administration (BPA) on Tuesday, October 17, 1978, at 7:30 p.m. in the Burbank High School Commons Building, Burbank, Wash. The meeting is being held so that BPA officials may describe to the public the proposed facilities for Franklin area system reinforcement. BPA will also be soliciting public comments on the draft location supplement to BPA's fiscal year 1979 program environmental statement covering Franklin area system reinforcement.

The draft location supplement on this proposal describes the environmental impact of constructing approximately 6 miles (10 km) of 500-kV transmission line between the existing BPA Lower Monumental-John Day 500-kV line and the Sacajawea substation near Ice Harbor Dam in Walla Walla County, Wash. Impacts resulting from expanding Sacajawea substation by approximately 6 acres (2.4 ha) are also described.

All interested parties are urged to attend. All comments are welcomed in order to assist the administration in fully evaluating the environmental

factors pertinent to this particular aspect of BPA's fiscal year 1979 program. Comments received will be con-

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[6740-02]

Federal Energy Regulatory Commission

sion's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be consid-

producer certificate issued in docket No. CS71-70 on May 4, 1971. With regard to the proposed rate increase,

(B) B&S is authorized to collect a total rate of §1.00 per Mcf at 14.65 psia for the sale of natural gas from the

Line No. and item	Amount
(a)	(b)

factors pertinent to this particular aspect of BPA's fiscal year 1979 program. Comments received will be considered in the preparation of the Franklin area system reinforcement final location supplement.

In addition to the nonconstruction alternative, with its lack of environmental impacts and resultant line overloading, two alternative route locations for the proposed transmission line have been identified. The alternative locations of the transmission line and the additional substation facilities and the environmental impacts associated with each are more thoroughly presented in the draft location supplement for Franklin area system reinforcement.

Copies of the draft location supplement are available for inspection in the library of the BPA headquarters, 1002 Northeast Holladay Street, Portland, Oreg.; the BPA Washington, D.C., office in the Interior Building, room 5600; and at the Walla Walla area office, West 101 Poplar, Walla Walla, Wash.

For those who cannot attend the meeting, written comments will be accepted until the end of the comment period, October 27, 1978.

Additional or clarifying information may be obtained by writing or calling the Environmental Manager, Bonneville Power Administration, P.O. Box 3621, Portland, Oreg. 97208; 503-234-3361, extension 5136.

Dated at Washington, D.C. this 11th day of September 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-25853 Filed 9-13-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket Nos. CI66-853, et al.]

AMINOIL USA, INC. (OPERATOR), (SUCC. TO BURMAH OIL AND GAS CO. AND SIGNAL OIL AND GAS CO.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

SEPTEMBER 6, 1978.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 15, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI66-853, Mar. 13, 1974 [1]	Aminoil USA, Inc. (operator), (successor to Burmah Oil & Gas Co. and Signal Oil & Gas Co.), Golden Center One, 2800 North Loop West, Houston, Tex. 77018.	Panhandle Eastern Pipe Line Co., Aline Plant, Alfalfa County, Okla.	20.7925	14.65
CI70-375, Mar. 13, 1974 [1]	Aminoil U.S.A., Inc. (operator), (successor to Burmah Oil & Gas Co. and Signal Oil & Gas Co.).	do	20.7925	14.65

[1] Applicant to consolidate the certificates issued in Docket Nos. CI66-853 and CI70-375 with the certificate issue in Docket No. CI70-375 as the surviving certificate.

Filing code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 78-25784 Filed 9-13-78; 8:45 am]

[6740-02]

[Docket No. RI78-29]

BRIGHT & SCHIFF

Order Granting Petition for Special Relief

SEPTEMBER 7, 1978.

On February 13, 1978, Bright & Schiff [1] (B&S) filed a petition [2] for special relief pursuant to § 2.76 of the Commission's General Policy and Interpretations. In the subject petition, B&S seeks authorization to charge the increased total rate of $1.00 per Mcf for the sale of gas attributable to the 100 percent working interest in gas produced from the Hamman No. 1 Well, Monte Christo Field, Hidalgo County, Tex. South Texas Natural Gas Gathering Co. (South Texas) is purchaser of the subject gas.[3]

B&S is currently selling this gas to South Texas at a rate of 33.32 cents per Mcf pursuant to a 20-year contract, dated May 1, 1959, and a small producer certificate issued in docket No. CS71-70 on May 4, 1971. With regard to the proposed rate increase, South Texas agreed, in a letter to B&S, to pay the requested $1.00 per Mcf rate if the Commission authorizes B&S to charge the increased rate for its gas.

On March 7, 1978, notice of B&S's petition was issued. No protests or petitions to intervene were filed.

As justification for the proposed rate increase B&S states that compression is needed so that the subject gas can continue to be delivered to South Texas. Further B&S avers that it is uneconomical to continue to operate compression at the current rate of 33.32 cents per Mcf and that if special relief is not granted, it will sek abandonment of the subject well.

Due to the adequacy of the data finally submitted, Staff concludes that no field investigation is necessary.

B&S states that it has invested $10,000 for a major overhaul of the compressor on the Humman Lease.[4] Staff considers this expense reasonable. Moreover, based on the data filed by B&S and Staff's analysis thereof, Staff determined that B&S's a remaining net book investment of $5,315, and estimated initial yearly production expenses of $10,852 [5] are reasonable. Additionally, using the estimated yearly production expense of $10,852, and allowing for a 5 percent yearly inflation factor over the estimated remaining 2½ year life of the well, Staff estimates that total operating expenses for this project will be $29,641.

The above costs and the net working interest reserves of 46,275 Mcf of gas were used in a traditional cost study.[6] The results of this study, utilizing a 15 percent rate of return, indicates the rate requested is supported on a cost basis.[7]

A review of the economics associated with this project, and Staff's analysis thereof, indicates that the requested rate is cost supported and it is in the public interest to grant special relief.

The Commission orders: (A) B&S's petition for special relief, in docket No. RI78-29, is hereby granted.

(B) B&S is authorized to collect a total rate of §1.00 per Mcf at 14.65 psia for the sale of natural gas from the Hamman No. 1 Well to South Texas effective on the date of the Commission order herein, subject to the conditions in paragraph (C) below.

(C) B&S must file a Notice of Independent Producer Rate Change reflecting the above authorized rate, an executed amendment to its contract with South Texas providing for payment of the rate granted above, and a statement signed by South Texas that the compressor overhaul work was completed to South Texas's satisfaction within 30-days of the date of the order herein.

By the Commission.

KENNETH F. PLUMB,
Secretary.

Bright & Schiff, Docket No. RI78-29, Hamman No. 1 Well, Monte Christo Field, Hidalgo County, Tex.

[Unit cost of gas]

Line No. and item (a)	Amount (b)
1. Net working interest volumes:	
2. Gas—M ft³ at 14.65 psia [1]	46,275
3. Liquids—Barrels	0
4. Cost of production:	
5. Return on rate base at 15 pct [2]	$4,225
6. D.D. & A [3]	10,193
7. Production expense [4]	29,641
8. Regulatory expense [5]	46
9. Total cost of production	44,105
10. Unit cost of gas (per M ft³):	
11. Cost of production [6]	0.95
12. Production tax [7]	.08
13. Total unit cost	1.03

[1] 52,886 M ft³ times 87.5 pct net working interest.
[2] Line 10 of sheet 3 times 0.15 times 2.5-year production life.
[3] From line 6 of sheet 2.
[4] Based on expected well and compressor initial annual operating expense of $10,852 escalated 5 pct per year over the life of the project.
[5] Line 2 times 0.1 cents per M ft³ per opinion No. 749.
[6] Line 9 divided by line 2.
[7] Texas State production tax at 7.5 pct.

[Investment]

Line No. and Item (a)	Amount (b)
1. Investment:	
2. Remaining net book value	$5.315
3. Compressor overhaul	10,000
4. Total project investment	15,315
5. Less salvage value [1]	5,122
6. Depreciable investment	10,193
7. Depreciation per unit of production [2]	0.22027

[1] Salvage value figured at 10 pct of original new plant investment of $51,221 from company books as reflected in applicant's letter of Mar. 10, 1978.
[2] Line 6 divided by 46,275-M ft³.

Bright & Schiff, Docket No. RI78-29, Hamman No. 1 Well, Monte Christo Field

[Average investment and annual rate base]

Line No. and year (a)	Annual N.W.I. production (M ft³) (b)	Beginning of year investment (c)	Depreciation [1] (d)	End of year investment (e)	Average investment [2] (f)
1. Average annual investment:					
2. 1	21,886	$15,315	$4,821	$10,494	$12,905
3. 2	17,214	10,494	3,792	6,702	8,598
4. 3 (8 mos)	7,175	6,702	1,580	5,122	[3] 2,956
5. Total	46,275		10,193		24,459
6. Average annual investment [4]					9,784
7. Average annual rate base:					
8. Average annual investment					9,784
9. Annual working capital allowance [5]					1,482
10. Total annual rate base					11,266

[1] Column (b) times line 7 of schedule 2.
[2] Column (c) plus column (e) divided by 2.
[3] Adjusted by weight factor of 0.5 year.
[4] Column (f) of line 5 divided by 2.5-year project life.
[5] 0.125 times line 7 of sheet 1 divided by 2.5-year project life.

[FR Doc. 78-25783 Filed 9-13-78; 8:45 am]

[1] Bright & Schiff's name has been changed to Bright & Co.
[2] This petition covers 100 percent of the working interest. B&S owns 87.5 percent of the working interest, and Coastal States owns the other 12.5 percent working interest.
[3] B&S proposes to sell the subject gas at the increased rate to South Texas, who, in turn, will resell the gas to Transcontinental Gas Pipeline Co.
[4] No liquid revenue is derived from this lease.
[5] Staff estimated B&S's initial yearly operating expenses to be $10,852 by utilizing figures submitted by B&S, depicting its operating expenditures for the years 1976 and 1977.
[6] See appendix A, attached hereto.
[7] An allowance has been made for compressor fuel.

[6740-02]

mum base instantaneous flow is not to be less than 1,000 c.f.s. from Gorge Dam irrespective of tributary inflow. Any reduction

sion (FPC) in the instant docket pursuant to section 7(c) of the Natural

procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act

Zone "C". Texas Eastern would then deliver to Consolidated the storage injection volumes made available to it by

constitutes a "backhaul" of gas, Columbia is to pay Texas Eastern a charge of $1,148.43 per day; and when

[6740-02]

CITY OF SEATTLE, WASH.

[EL78-36; Project No. 553]

Recommendation for Change in Project Operation

SEPTEMBER 7, 1978.

Take notice that on August 4, 1977, the U.S. Department of the Interior petitioned to intervene in the proceeding involving the raising of Ross Dam—one of three developments licensed under Project No. 553. Interior requested that the Federal Power Commission stay the effect of Order No. 808, which permitted the raising of Ross Dam, until an examination was made of the effect of the project's flow regime on the river's fishery resource. The Secretary of the Interior requested that he be given 45 days to file conditions to be included in the project license to protect the fishery resource. The FPC granted intervention and the requested stay. Interior filed its proposed conditions on September 21, 1977.

On August 2, 1978, the Federal Energy Regulatory Commission [1] issued Opinion No. 808-A reaffirming the earlier order. The FERC stated that, while it would not stay its approval of raising Ross Dam nor would it include Interior's proposed conditions in the license amendment at that time, it would treat Interior's request for minimum flows in the Skagit River below the project as a recommendation under article 37 of the license.

Article 37 states:

> The Licensee shall in connection with the Gorge development, construct, maintain, and operate such protective devices and comply with such reasonable modifications of the project structure and operation in the interests of fish and wildlife resources as may be hereafter prescribed by the Commission upon the recommendation of the Secretary of the Interior, the Washington Department of Game.

Interior's minimum flow recommendation is as follows:

> During the period of February 1 through July 15, the Licensee shall release enough water from Gorge Dam so as to maintain a constant minimum flow of 3,000 c.f.s. at Marblemount Bridge. Any flow reductions below 3,000 c.f.s. are unacceptable. However, if drought conditions necessitate, a lower flow from 3,000 c.f.s. is to be maintained with little or no fluctuation and the minimum base instantaneous flow is not to be less than 1,000 c.f.s. from Gorge Dam irrespective of tributary inflow. Any reduction in minimum flow below 3,000 c.f.s. should not exceed 200 c.f.s. per hour. Flow reduction from 5,000 c.f.s. to 3,000 c.f.s. is not to exceed the rate of 500 c.f.s. per hour. From the period August 15 through October 1, minimum base instantaneous flow at Gorge Dam shall be maintained at 1,000 c.f.s. (or approximately 2,000 c.f.s. at Marblemount Bridge). Any flow reductions from the period of August 15 through October 1 shall not exceed 200 c.f.s. per hour.
>
> For the flows from the periods of July 15 to August 15 and October 1 to February 1, additional studies are needed to determine proper flows downstream from Gorge Dam. When the studies are completed additional conditions will be submitted for inclusion in the license.

This notice initiates a proceeding on this recommendation.

Any person desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any protest or petition to intervene must be filed on or before October 17, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25837 Filed 9-13-78; 8:45 am]

[1] This proceeding was commenced before the FPC. By the joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC. The term "Commission", when used in the context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

[6740-02]

[Docket No. CP71-132]

COLUMBIA GAS TRANMISSION CORP., ET AL.

Petition To Amend

SEPTEMBER 7, 1978.

In the matter of Columbia Gas Transmission Corp., Atlantic Seaboard Corp., Cumberland & Allegheny Gas Co., Home Gas Co., Kentucky Gas Transmission Corp., the Manufacturers Light & Heat Co., the Ohio Fuel Gas Co., and United Fuel Gas Co.

Take notice that on August 25, 1978, Columbia Gas Transmission Corp. (Petitioner), P.O. Box 1273, Charleston, W. Va. 25325, filed in Docket No. CP71-132 a petition to amend the order of March 10, 1971 (45 FPC 398) issued by the Federal Power Commission (FPC) in the instant docket pursuant to section 7(c) of the Natural Gas Act [1] so as to eliminate the condition that Petitioner maintain its books and records in such a manner that certain of its accounts would be identifiable as to each of the eight constituent companies to the merger which was approved in the aforementioned order, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of March 10, 1971 (45 FPC 398), Petitioner was authorized to acquire and operate all of the natural gas facilities of Atlantic Seaboard Corp., Cumberland & Allegheny Gas Co., Home Gas Co., Kentucky Gas Transmission Corp., the Manufacturers Light & Heat Co., the Ohio Fuel Gas Co., and United Fuel Gas Co. Petitioner states that the effectiveness of the certificates issued in the FPC order was conditioned in ordering paragraph (F) "upon Columbia's maintenance of its books and records, until further order of the Commission, in such a manner that its operating revenue accounts, gas purchase costs, other direct operating expense accounts, and gas plant accounts, will be identifiable as to each of the constituent companies to the merger." (45 FPC at 402.) The order also indicates that Petitioner had advised various intervenors that it was willing to maintain the identifiable accounts, as described above, through July 1, 1978, it is stated.

Petitioner asserts that the maintenance of accounts identifiable as to each constituent company to the merger authorized herein no longer serves any useful purpose. Petitioner states that by the order issued January 20, 1975, in docket No. RP73-86, the Commission approved article III of a proposed stipulation and agreement which provided for a phased removal of Petitioner's multiple zone system. As a result, says Petitioner, the maintenance of accounts identifiable with the constituent companies is no longer used in Columbia's rate cases.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 29, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and

[1] This proceeding was commenced before the FPC. By joint regulation of Oct. 1, 1977 (10 CFR 1000.01), it was transferred to the FERC.

procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it or its designee in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25838 Filed 9-13-78; 8:45 am]

[6740-02]

[Docket No. CP78-506]

CONSOLIDATED GAS SUPPLY CORP. AND TEXAS EASTERN TRANSMISSION CORP.

Order Granting Temporary Certificates of Public Convenience and Necessity

SEPTEMBER 7, 1978.

On August 29, 1978, Consolidated Gas Supply Corp. (Consolidated) and Texas Eastern Transmission Corp. (Texas Eastern) at the request of Columbia Gas Transmission Corp. (Columbia) filed a notice with the Commission that on or about September 1, 1978, they would, for a period not to exceed 60 consecutive days, pursuant to § 157.22 of the Commission's regulations under the Natural Gas Act (18 CFR 157.22), commence emergency transportation and delivery of natural gas for injection into Consolidated's storage facilities of up to six million dekatherms (6,000,000 dts)of natural gas for the account of Columbia. Withdrawals would be made by Consolidated and return delivery would be made by Texas Eastern to Columbia during another period, not to exceed 60 consecutive days, during the course of the 1978-79 winter heating season. Withdrawal of the volumes would commence on a date mutually agreed to by the parties. The Notice assumes that § 157.22 of the Commission's regulations is sufficiently broad to exempt from Commission regulation under seciton 7 of the Natural Gas Act both the 60-day injection into Consolidated's storage and the subsequent withdrawal and redelivery to Columbia during the second 60-day period.

The contemplated transportation and storage service would be rendered for Columbia on an interruptible basis and would be subordinate to the other delivery obligations of Consolidated and Texas Eastern. The storage injection volumes would be made available to Consolidated through a reduction by Columbia in its takes of natural gas from Texas Eastern at existing points of delivery in Texas Eastern's Rate Zone "C". Texas Eastern would then deliver to Consolidated the storage injection volumes made available to it by Columbia at existing points of delivery to Consolidated, also in Texas Eastern's Rate Zone "C". Subsequent redelivery of the withdrawal volumes from Consolidated's storage facilities to Columbia would be made through the facilities of Texas Eastern by reversing the flow of the injection volumes.

The Notice asserts that Columbia has a critical short-term need for additional storage capacity to accommodate volumes of gas available for injection during the remainder of the current summer season. Columbia's gas supply and market situation is such that it will be unable, without the utilization of Consolidated's storage facilities, to take all of the volumes of gas which will be available to it between now and October 31, 1978. There will be a permanent loss of this supply currently available to Columbia unless it can be injected into storage. If these presently available volumes can find their way into storage, they will be withdrawn for high-priority service during the forthcoming winter heating season. Columbia projects curtailment of high priority customers during the forthcoming winter heating season. It currently projects that during the 5-month winter heating season commencing November 1, 1978, it will be required to curtail 100 percent of priority 3 and a substantial percentage of its priority 2 requirements.[1]

Columbia is unable to provide capacity for this currently available gas in its own storage facilities which are now more than 10 Bcf above scheduled injection levels. Columbia contends that it can avoid the loss of these volumes if it is permitted to utilize available storage capacity belonging to Consolidated.

Columbia has agreed to pay Consolidated in accordance with the rates contained in Consolidated's GSS Rate Schedule in its effective FERC Gas Tariff, adjusted to an average rate per dekatherm stored. Accordingly, Columbia would be billed monthly thirty cents (30¢) per dt injected for each month in which gas is injected for storage. Columbia has agreed to pay Texas Eastern the applicable TS-1 or TS-1 Excess rate currently effective for transportation under Texas Eastern's Rate Schedule TS-1 of its FERC Gas Tariff. When Texas Eastern's transportation of gas from Columbia constitutes a "backhaul" of gas, Columbia is to pay Texas Eastern a charge of $1, 148.43 per day; and when Texas Eastern's transportation of gas to Columbia constitutes a "backhaul" of gas, Columbia is to pay Texas Eastern a charge of $1,351.10 per day.

The language of § 157.22(a) of the regulations specifically provides that the section is to be "limited to a single period of not more than 60 days * * *". The Federal Power Commission (FPC), predecessor agency to this Commission in an order issued in *Transcontinental Gas Pipeline Company* and *Consolidated Gas Supply Corporation*, Docket No., CP77-25, on February 3, 1977, discussed the meaning of the limited term emergency service provided for under this section. That case involved emergency storage service sought to be undertaken by interstate pipeline companies. Storage injections were to be commenced on a certain date, were scheduled to continue for a period of not more than 60 consecutive days, and were to be withdrawn subsequently during a second 60-day period. The FPC concluded that such a "proposal encompasses a time period not within the contemplation of § 157.22(a) of the regulations".[4]

The same rationale should be applied with respect to Consolidated's proposed storage for Columbia. Not only does the proposed service involve 120 days as opposed to the 60-day period contemplated by § 157.22, but we perceive no emergency of the magnitude presented the FPC prior to its January 19, 1977, order in Transco, Docket No. CP77-128. Moreover, there is considerable question whether § 157.22 can properly be applied in a situation involving storage and transportation service only. We need not decide that issue, however, because of our determination, infra that a temporary certificate of public convenience and necessity should be issued promptly pursuant to section 7 of the Natural Gas Act so that the proposed storage

[1] Such curtailment is estimated both under its currently effective three priority end use curtailment plan as well as under a curtailment plan predicated on the priorities specified for curtailment under FPC order No. 467-B (18 CFR 2.78). These projections evidently contemplate Columbia storage facilities being filled to capacity prior to the start of the 1978-79 winter heating season.

[4] In the February 3, 1977, order the FPC referred to another order issued in *Transcontinental Gas Pipeline Corporation*, Docket No. CP77-128 on January 19, 1977, in which it had permitted the use of § 157.22 in a similar situation. The FPC in the February 3, 1977, order emphasized the extreme emergency presented in the earlier matter, stating: "* * * Finding the severity of the current individual emergency situation expressed therein precluded the pipelines from responding effectively on an emergency basis under section 7 procedures, the Commission determined that the public interest demanded that pipelines be allowed to act quickly to "assure the maintenance of adequate natural gas service where interruption or serious curtailment exist * * * because of * * * curtailment of supply* * *". (sec. § 157.22(a)). However, we are not compelled to apply that rationale here in that we find the granting of a certificate is a more appropriate response.

injections can commence as soon as possible.

sales by persons with exemptions under section 1(b) and 1(c) of the Act

public convenience and necessity authorizing the proposed service. As pre-

therefor should be issued as hereinafter ordered and conditioned.

[6740-02]

[Docket No. RP74-100 et al.]

by Colorado Interstate Gas Co. at Docket No. RP78-51 and a semiannual purchased gas adjustment filed by

injections can commence as soon as possible.

On August 31, 1978, Consolidated, Texas Gas Transmission Corporation (Texas Gas) and Texas Eastern filed a Notice [5] at the request of New Jersey Natural Gas Co. (NJN) that they intend to commence on or about September 1, 1978, pursuant to § 2.68 of the Commission's Statement of General Policy and Interpretations for a period not to exceed 60 consecutive days, emergency transportation and deliveries of natural gas for the account of NJN for injection into Consolidated's storage facilities.

The proposed gas storage service is to be utilized by NJN to husband certain supplies that have become available to it pursuant to a 60-day emergency gas purchase agreement with Louisiana Gas Intrastate, Inc., providing for the purchase of up to a total of approximately 1,000,000 delkatherms (dt) of natural gas. Deliveries are to be made in Louisiana, beginning on or about September 1, 1978, and continuing for a period up to 60 consecutive days. The deliveries of natural gas in Louisiana will first be made to Texas Gas, followed by delivery into the facilities of Texas Eastern. Texas Eastern will in turn transport and deliver to Consolidated for the account of NJN. Texas Eastern's deliveries to Consolidated will be at existing points of interconnection between the facilities of Consolidated and Texas Eastern in the latter's Rate Zone C, for injection by Consolidated into storage. On a subsequent date during the 1978-79 winter, to be mutally agreed upon by NJN, Consolidated and Texas Eastern, withdrawals by Consolidated and deliveries by Texas Eastern to NJN will commence and continue for a period not to exceed 60 consecutive days.

In the August 31, 1978, Notice, Consolidated asserts that NJN is in need of additional storage to offset critically low storage balances resulting from the severity of the past two winters and is currently seeking additional storage on a long-term basis. It further notes that the customer profile of NJN is virtually all in Priority 1 with a relatively small amount in Priority 2 and that but for emergency purchases made in February and March of this year NJN would have depleted its storage by the third week of March.

Consolidated indicates that all phases of the contemplated transaction as to NJN are to be instituted pursuant to § 2.68 of the Commission's Statement of General Policy and Interpretations under the Natural Gas Act (18 CFR 2.68). It is of the view that § 2.68 is broad enough in scope to include not only 60 day emergency sales by persons with exemptions under section 1(b) and 1(c) of the Act but also the transportation and storage of such volumes by interstate pipelines subject to the jurisdiction of the Commission.

While the 60-day sale described in Consolidated's August 31, 1978, Notice between Louisiana Gas Intrastate, Inc. and NJN would seem to fall within the purview of § 2.68,[6] it does not follow that Consolidated's proposed storage service for NJN may also be performed pursuant to § 2.68. The language of that section extends a 60 day emergency exemption only to the nonjurisdictional companies described. Moreover, § 2.68 like § 157.22 contemplates exempting from section 7 certificate requirements certain emergency sales and operations which do not exceed 60 consecutive days. The injection and withdrawal operations of Consolidated and the transportation by Texas Eastern are proposed to encompass 120 days.

We believe that Consolidated's proposed storage service and Texas Eastern's proposed transportation service for NJN cannot be permitted pursuant to § 2.68. Not only would these services involve 120 days as opposed to 60 days, but § 2.68 by its terms applies only to nonjurisdictional entities. Consolidated and Texas Eastern are both jurisdictional natural gas companies. We are aware, in this regard, of a Commission order issued in *Southern Natural Gas Company*, Docket No. RP77-136-1 on November 29, 1977, wherein we permitted a nonjurisdictional distributor to provide emergency storage service and two jurisdictional pipelines to provide the necessary transportation service pursuant to § 2.68. It is sufficient for present purposes to note again that § 2.68 refers expressly to only nonjurisdictional entities. Moreover, because we herein determine that the proper course in this instance involving jurisdictional companies is to issue a temporary certificate of public convenience and necessity authorizing the proposed storage and transportation for NJN, it is not necessary for us to reconsider any previous order involving the application of § 2.68 to storage service by a nonjurisdictional entity.

By letter filed September 1, 1978, Consolidated states that it does not intend to commence the service contemplated in its Notices of August 29 and 31, 1978, discussed infra until the Commission informs it that its proposed use of § 157.22 (with respect to Columbia) and § 2.68 (with respect to NJN) is permissible or, in the alternative, issues temporary certificates of public convenience and necessity authorizing the proposed service. As previously stated, we decline to authorize the use of §§ 157.22 and § 2.68 proposed by Consolidated and, instead, herein grant the temporary certificates alternatively sought by Consolidated.

The rate proposed to be charged by Consolidated for its temporary emergency storage service for NJN is identical to that it will charge Columbia, discussed previously. NJN has agreed to pay Texas Eastern, for its transportation of the gas to Consoldiated for injection, the applicable TS-1 or TS-1 Excess currenctly effective rate for transportation from Texas Eastern's Zone A to its Zone C as set forth in Texas Eastern's Rate Schedule TS-1 of its FERC Gas Tariff. During the withdrawal period the applicable TS-1 or TS-1 Excess currently effective rate for transportation from Zone C to Zone D will be the basis for the transportation charge. NJN has agreed to reimberse Texas Eastern for all charges paid by Texas Eastern to Texas Gas under the transportation agreement between Texas Eastern, NJN, and Texas Gas.

We shall require that Consolidated and Texas Eastern file, within 15 days of the issuance of this order formal applications seeking appropriate authorization for the services to be rendered Columbia and NJN. The temporary authorization granted herein will be subject to all the terms and conditions of any permanent authorization granted by the Commission in this docket.

The Commission finds: (1) Applicants, Consildated GAs Supply Corp. and Texas Eastern Transmission Corp. are "natural gas companies" within the meaning of the Natural Gas Act as heretofore found by the Commission.

(2) The facilities hereinbefore described, as more fully described in the Notices filed by consolidated on August 29, 1978, and August 31, 1978, are to be used in the transportation and storage of natural gas in interstate commerce, subject to the jurisdiction of the Commission and the operation thereof described in this order are subject to the requirements of subsection (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the sevice propsed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The operations and services described in the Notices filed by Consolidated on August 29, 1978, and August 31, 1978, to be undertaken byConsolidated and Texas Eastern, may be required by the public convenience and necessarity and temporary certificates therefor should be issued as hereinafter ordered and conditioned.

(5) The public interest requires that the temporary certificates issued to Texas Eastern and Consolidated be made subject to all the terms and conditions that the Commission may impose with respect to any permanent certificate issued in this docket.

(6) The public convenience and necessity requires that Consolidated and Texas Eastern file formal applications, consistent with the Commission's Regulations under the Natural Gas Act, requesting authorization to perform the operations and services sought to be rendered on behalf of Columbia and NJN.

The Commission orders: (A) Temporary certificates of public convenience and necessity are issued authorizing Texas Eastern and Consolidated to operate certain facilities for the transportation, storage and withdrawal of natural gas as hereinbefore described, all as more fully described in Consolidated's Notices filed on August 29 and Augusts 31, 1978, upon the terms and conditions of this order.

(B) The certificate authorization issued in paragraph (A) above and the rights granted thereunder are conditioned upon the following:

(1) The temporary certificates issued herein to Consolidated and Texas Eastern shall be made subject to all of the terms and conditions imposed by the Commission in any permanent certificate that may ultimately be issued in this docket.

(2) The ultimate disposition of any revenues that may be received by Consolidated and Texas Eastern shall be subject to the terms and conditions that the Commission may impose in any permanent certificate that it may issue in this docket.

(3) Consolidated and Texas Eastern shall file with the Commission appropriate applications, consistent with the Commission's regulations under the Natural Gas Act, requesting authorization to undertake the operations and services more fully described in this order and in Consolidated's Notices of August 29, 1978, and August 31, 1978, within 15 days for the issuance order

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25839 Filed 9-13-78; 8:45 am]

[5] The Notice was filed on behalf of Consolidated and Texas Eastern.

[6] Moreover, the deliveries contemplated in this transaction by Texas Gas are for a single 60-day period. In the circumstances, Texas Gas appears to be able to perform its specific portion of the proposal under § 157.22.

[6740-02]

[Docket No. RP74-100 et al.]

NATIONAL FUEL GAS SUPPLY CORP.

Proposed PGA Rate Adjustment

SEPTEMBER 7, 1978.

Take notice that on August 28, 1978, National Fuel Gas Supply Corp. (National) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, 21st Revised Sheet No. 4, proposed to be effective October 1, 1978.

National states that the sole purpose of this revised tariff sheet is to adjust National's rates pursuant to the PGA provisions in section 17 of the General Terms and Conditions. National further states that such tariff sheet reflects an adjustment in National's rates of 7.61 cent per Mcf on 21st Revised Sheet No. 4.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected State regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants party to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25840 Filed 9-13-78; 8:45 am]

[6740-02]

[Docket No. RP73-48]

PEOPLES NATURAL GAS DIVISION OF NORTHERN NATURAL GAS CO.

Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

SEPTEMBER 7, 1978.

Take notice that Peoples Natural Gas Divsion of Northern Natural Gas Co., on August 28, 1978, tendered for filing First Substitute 21st Revised Sheet No. 3a of its FPC Gas Tariff, Original Volume No. 4. The proposed change to become effective October 1, 1978, would increase the rate per Mcf to jurisdictional customers by 27.67 cents per Mcf. This increase reflects the net effect of a decrease in rates to Peoples resulting from a rate change by Colorado Interstate Gas Co. at Docket No. RP78-51 and a semiannual purchased gas adjustment filed by CIG in accordance with the provisions of its FPC Gas Tariff. Colorado Interstate is the pipeline supplier to Peoples for sales made under volume No. 4.

Copies of the filing were served upon the gas utility customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with § § 1.8 and 1.10 of the Commission's Rules of Practrice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants prarties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25841 Filed 9-13-78; 8:45 am]

[6740-02]

[Docket No. R178-53]

SUN OIL CO. (Delaware)

Order Granting Petition for Special Relief

SEPTEMBER 7, 1978.

On April 20, 1978, Sun Oil Co. (Sun) filed a petition [1] for special relief, in Docket No. R178-53, pursuant to § 2.76(d)(1) of the Commission's General Policy and Interpretations, requesting permission to charge a base rate of 50 cents per Mcf for the sale of its 50 percent working interest in gas produced from the Tebo Gas Unit, Hamilton County, Kans. (Hugoton-Anadarko Area). Kansas-Nebraska Natural Gas Co., Inc. (Kansas-Nebraska) is the purchaser of the subject gas.[2] In a letter, dated March 23, 1978, to Sun, Kansas-Nebraska stated that it will purchase the subject gas at whatever special relief rate the Commission permits Sun to charge. Currently Sun sells the subject gas at 29.5 cents per Mcf at 14.73 psia.

Notice of Sun's petition was issued on May 25, 1978. No protests or petitions to intervene were filed.

[1] This petition covers only Sun's 50 percent working interest in the gas. Kansas-Nebraska's 50 percent working interest in the subject gas is not covered by this petition.

[2] This gas is being sold to Kansas-Nebraska pursuant to a contract, dated November 14, 1957, which is on file as Sun's FERC Gas Rate Schedule No. 99 in Docket No. G-15434.

In support of its petition, Sun states that it intends to restimulate the sub-

[6740-02]

[6740-02]

refund from October 1, 1978 (subject to the limitation prescribed in § 154.38(d)(4)(vii)(e)), until an agree-

day, on an interruptible basis, for the accounts of various companies who have participated in three programs

gas developed in the Bolivar Point Area, Plaquemines Parish, La.

Applicant states that in the initial

In support of its petition, Sun states that it intends to restimulate the subject well and install a pumping unit to lift water therefrom at a cost of $20,000 in the furtherance of producing the estimated remaining reserves of 71,000 Mcf of gross working interest gas over the projected seven year life of the well. Staff finds that the proposed $20,000 expenditure is reasonable.

In consideration of the section and the subsection [3] thereof under which the petition was filed and the reasonableness of Sun's proposed expenditure, Staff concludes that a field investigation is unnecessary.

Sun's petition meets the criteria for special relief as established by § 2.76(d)(1) of the Commission's General Policy and Interpretations. Sun's proposed increase in revenue of $12,736 over the life of the project is less than the $50,000 maximum established by the above section. The proposed new investment of $20,000 exceeds 25 percent of the increased revenue. The requested base rate of 50 cents per Mcf at 14.73 psia meets the requirement of the above section.

Inasmuch as Sun's petition meets the criteria for special relief set forth for minor projects in 18 CFR § 2.76(d)(1), we believe that it is in the public interest to grant Sun's petition for special relief.

The Commission orders:

(a) The petition for special relief filed, in Docket No. RI78-53, by Sun is hereby granted.

(B) Sun is authorized to collect a base rate of 50 cents per Mcf at 14.73 psia for natural gas produced from its Tebo Gas Unit, located in Hamilton County, Kans., and sold to Kansas-Nebraska, effective upon the date that the proposed work is completed or the date of the Commission order herein whichever is later, subject to the conditions set forth in paragraphs (C) and (D) below.

(C) Within 30 days of the effective date specified above, Sun must file a statement signed by Kansas-Nebraska that the proposed work has been completed to Kansas-Nebraska's satisfaction.

(D) Sun must file an executed contract amendment providing for the payment of the approved rate and a notice of Independent Producer Rate Change within 30 days of the date of the order herein.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25842 Filed 9-13-78; 8:45 am]

[3] 18 CFR § 2.76(d)(1).

[6740-02]

[Docket No. RP74-41]

TEXAS EASTERN TRANSMISSION CORP.

Proposed Changes in FERC Gas Tariff

SEPTEMBER 7, 1978.

Take notice that Texas Eastern Transmission Corp. on August 28, 1978, tendered for filing as a part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets:

Revised Forty-second Revised Sheet No. 14.
Revised Forty-second Revised Sheet No. 14A.
Revised Forty-second Revised Sheet No. 14B.
Revised Forty-second Revised Sheet No. 14C.
Revised Forty-second Revised Sheet No. 14D.

The above sheets were issued in compliance with the Commission's order issued July 28, 1978, in docket No. RP74-41 (PGA 78-6). In such July 28, 1978, order the Commission accepted Texas Eastern's PGA filing of June 16, 1978, subject to modification to reflect the proper rate levels from its pipeline suppliers as of August 1, 1978.

The above tariff sheets also reflect a flow through to Texas Eastern's Zone D customers the monthly exchange charge of $150,000 received from Consolidated System LNG Co. by means of a rate reduction to the demand component of rate schedules DCQ, GS, WS, SS, and X-28 as previously filed for on June 2, 1978, and approved by Commission order issued July 5, 1978.

The proposed effective date of these tariff sheets is August 1, 1978.

Copies of this filing were served on the company's jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 28, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25843 Filed 9-13-78; 8:45 am]

[6740-02]

[Docket No. RP78-87]

TEXAS EASTERN TRANSMISSION CORP.

Proposed Increase in Gas Tariff

SEPTEMBER 7, 1978.

Take notice that Texas Eastern Transmission Corp., on August 31, 1978, tendered for filing proposed changes in its FERC gas tariff, fourth revised volume No. 1 and original volume No. 2. The proposed changes would increase revenues from jurisdictional sales and services by approximately $55,700,000 per year based on actual sales and services for the 12-month base period ended May 31, 1978, as adjusted through September 30, 1978. This annual increase is exclusive of an additional increase of approximately $38,500,000 per year attributable to purchase gas costs and advance payment recoveries which Texas Eastern will track under applicable provisions of its FERC gas tariff and past rate settlements.

Texas Eastern states that this filing is being submitted pursuant to §§ 154.38(d)(4)(vi)(a) and 154.63 of the Commission's regulations and includes known and measurable adjustments to the 12-month base period through September 30, 1978.

Texas Eastern also states that the rates set forth in the revised tariff sheets are based on the United method of cost classification and the rate design prescribed by the Commission in opinion No. 21 issued on August 9, 1978, in docket No. RP74-41. However, because opinion No. 21 was issued while Texas Eastern was preparing this filing, it has not utilized the new cost allocation methods prescribed by the Commission in opinion No. 21. Accordingly, the rates set forth in the above-revised tariff sheets are based on the methods of cost allocation underlying the base tariff rates prescribed for Texas Eastern in its last general rate increase in docket No. RP75-73. (See "Order Modifying and Accepting Settlement" issued June 6, 1977, in docket No. RP75-73.) Prior to October 1, 1978, Texas Eastern will file substitute revised tariff sheets reflecting rates based on the cost allocation as well as the cost classification and rate design prescribed in opinion No. 21 and will request that such substitute revised tariff sheets be permitted to become effective October 1, 1978, in lieu of the revised tariff sheets currently on file.

Texas Eastern further recites that in compliance with § 154.38(d)(4)(vi)(a) of the Commission's regulations it has submitted statements A through M in support of the proposed new base tariff rates. As required by such section, Texas Eastern states its agreement that this filing will be subject to refund from October 1, 1978 (subject to the limitation prescribed in § 154.38(d)(4)(vi)(c)) until an agreement is reached or a Commission determination is made with respect to the base tariff rates filed herewith or the aforementioned substitute revised base tariff rates to be filed by Texas Eastern prior to October 1, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 21, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25844 Filed 9-13-78; 8:45 am]

[6740-02]

[Docket No. CP77-421]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Amendment to Application

SEPTEMBER 1, 1978.

Take notice that on August 23, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in docket No. CP77-421 [1] an amendment to its pending application in said docket pursuant to section 7(c) of the Natural Gas Act so as to provide for (1) a long-haul interruptible transportation service for UCG Energy Corp. (UCG Energy), instead of United Cities Gas Co., North and South Carolina Division (United Cities), as proposed in the application as initially filed, and (2) a similar transportation service for Devco Enterprises, Inc. (Devco), for gas produced in one producing area identified in the initial application in which Devco has an interest, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

It is indicated that pursuant to the application filed herein on June 3, 1977, Applicant requested authorization to transport up to 18,000 dekatherms equivalent of natural gas per day, on an interruptible basis, for the accounts of various companies who have participated in three programs for the exploration and development of new natural gas reserves in onshore areas, or in State waters, in the gulf coast region. The companies for which Transco has proposed to render transportation service are 11 of its distribution company customers, its 1 direct industrial customer, and 2 industrial customers of its distribution customers, or affiliates of such customers, it is said. It is indicated that as a result of their participation in the drilling programs, these customers have earned rights to gas production from successful wells discovered by the three drilling programs and that it is this production which is the subject of the transportation service. It is further indicated that a temporary certificate was issued on December 21, 1977.

Applicant states that in the application initially filed herein, United Cities, Applicant's distribution company customer serving communities in North and South Carolina, was a party for which transportation service was proposed. United Cities participated in two of the drilling programs, the Transmac exploration and development program (Transmac) and the Enterprise Resources, Inc. program, through its subsidiary, UCG Energy, a small producer qualified under section 157.40 of the Commission's regulations (18 CFR 157.40), it is said. Applicant states that the transportation service for United Cities authorized in the temporary certificate of December 21, 1977 is provided in accordance with a transportation agreement dated November 10, 1976, as amended February 25, 1977 (Applicant's FERC gas tariff rate schedule X-135, original volume 2). Under this transportation agreement, Applicant receives gas tendered by United Cities in the producing area from fields listed in the initial application and transports gas through its production area and mainline facilities for delivery at existing delivery points to United Cities in North and South Carolina, it is said.

Applicant states that United Cities has requested Applicant to provide the transportation service for the gas production to which it is entitled from the two drilling programs to the account of its subsidiary, UCG Energy, instead of for its own account.

Applicant indicates that pursuant to this request, Applicant, United Cities, and UCG Energy have amended their previous agreement to provide for transportation for the account of UCG Energy rather than for United Cities.

Applicant also requests authority to provide transportation service to Devco, an affiliate of Cherokee Brick Co. of North Carolina, Inc. and a participant in the Transmac program for gas developed in the Bolivar Point Area, Plaquemines Parish, La.

Applicant states that in the initial application, it was shown that Devco had an interest in the production from two other producing areas, but inadvertently, Devco's interest in the production from the Bolivar Point Area was not identified in the initial application. Transportation service for other participants in the Transmac program who have interests in the production from the Bolivar Point Area began July 14, 1978, it is said. It is further indicated that Devco's interest is being banked until the authority it is requesting to provide transportation of its gas from the Bolivar Point Area is granted.

Applicant states its transportation service for Devco is in accordance with an agreement, dated March 25, 1977 (Applicant's FERC gas tariff rate schedule X-138, original volume No. 2) and that Applicant and Devco have entered into a new transportation agreement, dated August 22, 1977, which includes the Bolivar Point Area as a source of supply.

Applicant also states that it is renewing a request which it made in its application for a temporary certificate for authority to attach new resources of supply available to the transportation customers as a result of the activities of the three exploration and development programs without the need for filing an application for and receiving a certificate of public convenience and necessity. This request was denied in the temporary certificate issued December 21, 1977.

It is stated that the drilling programs were established in 1975 as 3-year programs but have been extended with substantial increases in their budgets. In 1975, the Transmac program had a budget of $36 million for exploration activities over a 3-year period, but after 2 years it was extended with a prospective 3-year budget of $67.5 million, it is said.

Applicant states that the purpose of its request is to reduce the number of certificate filings that would be required by Applicant in the future to transport gas developed from the three drilling programs.

Applicant also requests transportation authority herein for industrial customers on a long-term basis, instead of the 2-year term which was granted in the temporary certificate issued December 21, 1977, if a term of more than 2 years is allowed in the proceedings in docket Nos. CP77-71 et al., Natural Gas Pipeline Co. of America et al. The temporary certificate granted to Applicant provides that the initial term of 2 years is without prejudice to Applicant's filing or refiling for authorization to continue the transportation service beyond the 2-year

[1] This proceeding was commenced before the FPC. By joint regulation of Oct. 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

period, pending the outcome of the proceedings in docket Nos. CP77-71 et

Transwestern states that the principal reasons for the proposed rate in-

the effective date of the rates in the captioned proceeding.

The issue of the proper cost of service treatment for interest reimburse-

[6740-02]

ments of the National Petroleum Council will meet Thursday, October

period, pending the outcome of the proceedings in docket Nos. CP77-71 et al. In docket Nos. CP77-71 et al., several interstate pipelines, including Applicant, have applied for authority to transport industry-owned natural gas for a 10-year period pursuant to section 7(c) of the Natural Gas Act, and not under the Commission's order No. 2 (issued February 1, 1978) which limits authorization to transport gas for industry to a 2-year period.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 25, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25845 Filed 9-13-78; 8:45 am]

[6740-02]

[Docket No. RP78-88]

TRANSWESTERN PIPELINE CO.

Proposed Changes in FERC Gas Tariff

SEPTEMBER 7, 1978.

Take notice that pursuant to the provisions of section 4 of the Natural Gas Act, Transwestern Pipeline Co. (P.O. Box 2521, Houston, Tex. 77001) on August 31, 1978, tendered for filing proposed changes in its FERC gas tariff, second revised volume No. 1. The proposed changes would increase revenue from jurisdictional sales by approximately $14 million based on the 12 months ended April 30, 1978, as adjusted. Approximately $2 million of the proposed increase can be attributed to purchased gas cost increases, and includes a surcharge adjustment to cover costs reflected in the proposed rate levels but not accounted for in the present rate level and which Transwestern asserts it is permitted to track under the purchased gas cost adjustment provision in its FERC gas tariff. The remainder of the increase is related to other than purchased gas cost increases.

Transwestern states that the principal reasons for the proposed rate increase are: (1) Increased cost of labor, supplies, expenses, plant facilities, and working capital requirements; (2) the need for an increased rate of return of 10.75 percent; (3) the need for an overall rate of depreciation of 6.9 percent; (4) increased taxes, including income taxes associated with the increased return; and (5) lower sale quantities than those on which its current rates are based.

The proposed effective date of the tariff changes is October 1, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 21, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25846 Filed 9-13-78; 8:45 am]

[6740-02]

[Docket No. RP77-108]

TRANSCONTINENTAL GAS PIPE LINE CORP.

SEPTEMBER 7, 1978.

Take notice that Transcontinental Gas Pipe Line Corp. (Transco) on August 23, 1978, tendered for filing certain revised tariff sheets to its FERC gas tariff, original volume No. 2, to become effective January 1, 1978. Transco states that the revised tariff sheets reflect a rate reduction for certain interruptible transportation services and are being filed in accordance with article VII of the "Agreement as to Rates" in docket Nos. RP76-136 and RP77-26. Transco states that on June 27, 1978, the Commission approved the settlement agreement in Transco's docket Nos. RP76-136 and RP77-26 and that article VII of that agreement provides that Transco shall reduce its rates for the interruptible transportation services into or within its rate zones (which had been increased in the instant docket No. RP77-108) to the levels provided in said agreement.

The proposed effective date of the revised tariff sheets is January 1, 1978, the effective date of the rates in the captioned proceeding.

Transco states that copies of the instant filing have been mailed to each of its jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 22, 1978. Protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestants perties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspections.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 25847 Filed 9-13-78; 8:45 am]

[6740-02]

[Docket Nos. RP71-41,[1] RP72-75,[1] RP74-20, RP74-83, RP75-30, RP75-109, RP76-84, and RP77-107]

UNITED GAS PIPE LINE CO.

Order Granting in Part Motion to Sever Issue of Interest Reimbursement, Consolidate, and Set Matter for Hearing

SEPTEMBER 7, 1978.

On June 12, 1978, pursuant to § 1.12 of the Commission's rules of practice and procedure (18 CFR § 1.12), the staff of the Federal Energy Regulatory Commission filed a motion requesting the Commission to sever the issue of interest reimbursement payments[2] from each of the above-captioned proceedings,[3] consolidate the issue into one proceeding, and set the matter for hearing. No party has objected to the proposal.[4]

[1]These two dockets have been deleted from the consolidated proceeding for the reasons set forth in the body of the order. Hereafter, the appropriate caption for the consolidated proceeding is "United Gas Pipe Line Co.," docket Nos. RP74-20 et al.

[2]Interest reimbursement has here been used by United as an alternative to advance payments. Under this program United reimburses the producer's actual interest expense on capital procured by the producer for use in exploration and development of natural gas.

[3]In view of staff's discussion of docket No. RP77-107 in the body of its motion, its failure to include that docket in the caption of the motion was apparently an oversight. Therefore, this order includes that docket in its decision.

[4]While not objecting to staff's motion, United Gas Pipe Line Co. did file a response

Footnotes continued on next page

The issue of the proper cost of service treatment for interest reimbursement payments appears in each of the above captioned proceedings with the exception of docket Nos. RP71-41 and RP72-75. These latter two dockets were inappropriately included in the motion and are, therefore, deleted from the proposed consolidated hearing. In the other dockets, which are at various procedural stages, the interest reimbursement issue has not been resolved.

In order to facilitate the Commission's consideration of the interest reimbursement issue, to insure its consistent treatment, and to expedite the Commission's business, we shall grant staff's motion as limited by the exception set forth above.

The Commission orders: (A) The issue of interest reimbursement payments is hereby severed from each of the following proceedings: Docket Nos. RP74-20, RP74-83, RP75-30, RP75-109, RP76-84, and RP77-107, and that issue is consolidated into a single proceeding. Hereafter, all filings made in the consolidated proceeding should be captioned "United Gas Pipe Line Co.," docket Nos. RP74-20 et al.

(B) Pursuant to the authority under the Natural Gas Act, particularly sections 4 and 15 thereof, and the Commission's rules and regulations, a consolidated hearing shall be held to consider the issue of the proper cost of service treatment for interest reimbursement payments in docket Nos. RP74-20 et al.

(C) An administrative law judge to be designated by the Chief Administrative Law Judge, for that purpose (see delegation of authority, 18 CFR § 3.5(a)), shall preside at the hearing, prescribe necessary procedures not provided for in this order and otherwise conduct the hearing in accordance with the Commission's rules of practice and procedure.

(D) The administrative law judge shall call a prehearing conference within 15 days from the issuance of this order to discuss procedural matters and to establish appropriate hearing dates for the conduct of the hearing.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25848 Filed 9-13-78; 8:45 am]

Footnotes continued from last page

which contained several suggested modifications. These suggestions were given consideration and where appropriate incorporated into the order.

[6740-02]

[Docket Nos. RP72-41 (PGA 78-2)]

WESTERN TRANSMISSION CORP.

Notice of Proposed Changes

SEPTEMBER 7, 1978.

Take notice that Western Transmission Corp. (Western), on August 30, 1978, tendered for filing as part of its FPC gas tariff, original volume No. 1, the following sheet: Eighth Revised Sheet No. 3-A, superseding Second Substitute Seventh Revised Sheet No. 3-A.

The proposed changes would increase the monthly charges for purchsed gas to Colorado Interstate Gas Co., Western's sole jurisdictional customer, pursuant to the provisions of section 18 of Western's FPC gas tariff, orginal volume No. 1.

Although this is a rate increase, Western requests that the notice provision otherwise applicable be waived so as to permit the proposed rates to become effective July 1, 1978, insofar as statements and payments will not be rendered and made before August 26, 1978.

Copies of this filing have been served upon Colorado Interstate Gas Co.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatroy Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-25849 Filed 9-13-78; 8:45 am]

[3128-01]

Intergovernmental and Institutional Relations

NATIONAL PETROLEUM COUNCIL, SUBCOMMITTEE ON MATERIALS AND MANPOWER REQUIREMENTS

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Subcommittee on Materials and Manpower Requirements of the National Petroleum Council will meet Thursday, October 5, 1978, at 9 a.m., in the Continental Room of the Fairmont Hotel, 1717 North Akard Street, Dallas, Tex.

The parent committee was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

The subcommittee will make an analysis of materials and manpower requirements for the U.S. oil and gas industry, and will report its findings to the parent committee.

The tentative agenda is as follows:

1. Discussion of scope of the study to be conducted in response to the Secretary of Energy's request for an analysis of materials and manpower requirements.
2. Discussion of an organizational structure for the study.
3. Discussion of a timetable for completion of the study.
4. Discussion of any other matters pertinent to the overall assignment from the Secretary.

The meeting is open to the public. The chairman of the subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the subcommittee concerning matters on the agenda will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to matters on the agenda should inform Georgia Hildreth, director, advisory committee management, 202-566-9996, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

The transcript of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on September 11, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-25851 Filed 9-13-78; 8:45 am]

[3128-01]

Office of Hearings and Appeals

ISSUANCE OF PROPOSED DECISIONS AND ORDERS

August 14 through August 18, 1978

Notice is hereby given that during the period August 14 through August

18, 1978, the proposed decisions and orders which are summarized below

Great Southern Oil & Gas Co., Inc. filed an application for exception from the provi-

Dated: September 6, 1978.

JAMES R. SCHLESINGER,

proval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding

are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

mated to average 6 man-hours per quarterly report.

18, 1978, the proposed decisions and orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within 10 days of service. For purposes of the new procedures, the date of service of notice of issuance of a proposed decision and order shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a notice of objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the proposed decision and order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In that statement of objections an aggrieved party must specify each issue of fact or law contained in the proposed decision and order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except Federal holidays.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

SEPTEMBER 7, 1978.

E. B. Brooks, Jr., Dallas, Tex., DEE-0154, crude oil

E. B. Brooks, Jr. filed an application for exception from the provisions of 10 CFR 212.73. The exception request, if granted, would permit Brooks to retroactively increase the selling prices for crude oil produced from the V. L. Neis lease, located in Motley County, Tex. On August 14, 1978, the DOE issued a proposed decision and order in which it determined that the exception request should be denied.

Great Southern Oil & Gas Co., Inc., Lafayette, La., DXE-1466, crude oil

Great Southern Oil & Gas Co., Inc. filed an application for exception from the provisions of 10 CFR 212.73. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a portion of the crude oil which it produces from the RA SUA Breaux No. 1 well located in St. Martin Parish, La. at upper tier ceiling prices. On August 15, 1978, the DOE issued a proposed decision and order in which it determined that the exception request should be granted.

R. W. Tyson Producing Co., Inc., Jackson, Miss., DXE-1370 through DXE-1373, crude oil

R. W. Tyson Producing Co., Inc. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Tyson to sell the crude oil produced from four properties situated on the Ovett Field in Jones County, Miss., at market prices. On August 14, 1978, the DOE issued a proposed decision and order in which it determined that the Tyson exception request should be granted.

[FR Doc. 78-25808 Filed 9-13-78; 8:45 am]

[3128-01]

CONDUCT OF EMPLOYEES

Waiver From Divestiture Requirements

Section 602(c) of the Department of Energy Organization Act (Pub. L. 95-91, hereinafter referred to as the "Act") authorizes the Secretary of Energy to grant waivers from the divestiture requirements of section 602(a) of the Act to "supervisory employees" (as defined in section 601(a) of the Act) of the Department of Energy who have financial interests in "energy concerns" (as defined in section 601(b) of the Act), where exceptional hardship would result or where such interest is vested.

It has been established to my satisfaction that the interest of the individual "supervisory employee" of the Department of Energy whose name is listed below satisfies the requirements of section 602(c) of the Act. Accordingly, I have granted him a waiver from the divestiture provisions of section 602(a) of the Act for his vested insurance interest until such time as the entity in which he has an interest no longer qualifies as a "energy concern" within the meaning of the Act, or until his employment with the Department of Energy terminates, whichever first occurs.

Name, energy concern

Duane C. Sewell, University of California.

To minimize or eliminate the conflict of interest during the period of this waiver Mr. Sewell will disclose at least annually, pursuant to section 603 of the Act, the nature and extent of his financial interest in the University of California.

Dated: September 6, 1978.

JAMES R. SCHLESINGER,
Secretary of Energy.

[FR Doc. 78-25884 Filed 9-13-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180225; FRL 957-5]

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND VIRGINIA DEPARTMENT OF AGRICULTURE AND COMMERCE

Issuance of Specific Exemptions To Use Permethrin To Control Colorado Potato Beetles on Potatoes

Correction

In FR Doc. 78-24445 appearing at page 38932 in the issue of Thursday, August 31, 1978, in the third column, the fourth line contained in paragraph eight should be corrected to read: "They must not be applied where runoff is"

[6730-01]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1624]

MERCHANT BOX CO.

Order of Revocation

On August 30, 1978, Merchant Box Co., 175 West Broadway, New York, N.Y. 10013, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1624 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in manual of orders, Commission order No. 201.1 (revised), section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1624 issued to Merchant Box Co. be and is hereby revoked effective August 30, 1978, without prejudice to Reapplication for a license in the future.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Merchant Box Co.

ROBERT G. DREW,
Director, Bureau of Certification and Licensing.

[FR Doc. 78-25807 Filed 9-13-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

SECURITY BANCSHARES, INC.

Formation of Bank Holding Company

Security Bancshares, Inc., Tulsa, Okla., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of Security Bank, Tulsa, Okla. The factors that are considered in acting on the application are set forth in § 3(c) of the act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 4, 1978.

Board of Governors of the Federal Reserve System, September 7, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-25871 Filed 9-13-78; 8:45 am]

[6210-01]

URICH BANCSHARES, INC.

Formation of Bank Holding Company

Urich Bancshares, Inc., Urich, Mo., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of Bank of Urich, Urich, Mo. The factors that are considered in acting on the application are set forth in § 3(c) of the act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 3, 1978.

Board of Governors of the Federal Reserve System, September 5, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-25872 Filed 9-13-78; 8:45]

[6210-01]

FIRST FINANCIAL BANCSHARES, INC.

Acquisition of Bank

First Financial Bancshares, Inc., Nevada, Mo., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of The First National Bank of Mount Vernon, Mount Vernon, Mo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 11, 1978.

Board of Governors of the Federal Reserve System, September 11, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-25992 Filed 9-13-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on September 8, 1978. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before October 2, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, U.S. General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

INTERSTATE COMMERCE COMMISSION

The ICC is requesting an extension no change clearance of Quarterly Report Form QPA, required to be filed by some 73 Class I Motor Carriers of Passengers, pursuant to section 220 of the Interstate Commerce Act. Data are used for economic regulatory purposes. Reports are mandatory and available for use of the public. Reporting burden for the 73 carriers is estimated to average 6 man-hours per quarterly report.

NORMAN F. HEYL,
Regulatory Reports,
Review Officer.

[FR Doc. 78-25803 Filed 9-13-78; 8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

PERSONALITY AND COGNITION RESEARCH REVIEW COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of October 1978:

Personality and Cognition Research Review Committee, October 27-28; 9 a.m., Riviera Room, Holiday Inn Georgetown, 2101 Wisconsin Avenue NW., Washington, D.C. 20007.

Open: October 27, 9 to 10 a.m.

Closed: Otherwise

Contact: Shirley Maltz, Room 10C06, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3942.

Purpose: The Committee is charged with the initial review of grant applications for Federal Assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review

Agenda: From 9 to 10 a.m., October 27, the meeting will be open for discussions of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal Assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 United States Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contract person listed above. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Dr. Jacquelyn Hall, Acting Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, telephone 301-443-4573.

Dated: September 7, 1978.

ELIZABETH A. CONNOLLY,

HEW/CDC/NIOSH; Number 09-20-0155;

09-20-0013 Gold Mine (Home Stake) Silicosis Study (page 52054)

09-20-0017 Silicosis (Brick Layers) Study—

09-20-0065 Noise-induced Temporary Threshold Shift Data (page 52094)

09-20-0073 Hearing and Noise Study of In-

Mining Activities; HEW/CDC/NIOSH; Number 09-20-0151; to incorporate a total of 3 system notices, listed below,

09-20-0129 Health Effects of Dust and Diesel Exhaust on Non-Coal Underground Miners (Page 52131)

Dated: September 7, 1978.

ELIZABETH A. CONNOLLY,
Committee Management Officer, Alcohol, Drug Abuse and Mental Health Administration.

[FR Doc. 78-25813 Filed 9-13-78; 8:45 am]

[4110-88]

EXPERIMENTAL PSYCHOLOGY RESEARCH REVIEW COMMITTEE

Meeting Change

In FR Doc. 78-24297 appearing on page 38626 in the issue of Tuesday, August 29, 1978, the dates for the meeting of this committee have been changed from October 5-7, 1978, to October 6-7, 1978. As a result the meeting will be open to the public from 9 to 9:30 a.m., October 6 instead of October 5 as previously announced. All other arrangements for the meeting remain as announced August 29.

Dated: September 8, 1978.

ELIZABETH A. CONNOLLY,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-25814 Filed 9-13-78; 8:45 am]

[4110-87]

Center for Disease Control

PRIVACY ACT OF 1974

Systems of Records

AGENCY: Department of Health, Education, and Welfare; Center for Disease Control.

ACTION: Notification of deletion, revision, and consolidation of system notices.

DSHEFS Occupational Health Epidemiological Studies; HEW/CDC/NIOSH; Number 09-20-0147;

Results of DBBS Hearing Studies; HEW/CDC/NIOSH; Number 09-20-0148;

DRDS General Industry Morbidity Studies; HEW/CDC/NIOSH; Number 09-20-0149;

DRDS Morbidity Studies in Coal Mining Activities; HEW/CDC/NIOSH; Number 09-20-0150;

DRDS Mortality Studies in Coal Mining Activities; HEW/CDC/NIOSH; Number 09-20-0151;

DRDS Mortality Studies in Non-Coal Mining Activities; HEW/CDC/NIOSH; Number 09-20-0152;

DRDS General Industry Mortality Studies; HEW/CDC/NIOSH; Number 09-20-0153;

DRDS Medical and Laboratory Studies; HEW/CDC/NIOSH; Number 09-20-0154;

DRDS Morbidity Studies in Metal and Non-Metal Mining Activities; HEW/CDC/NIOSH; Number 09-20-0155;

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) is publishing these new notices of systems of records in accordance with the requirements of 5 U.S.C. 552a(e)(4).

Since these consolidations do not meet the criteria of OMB Circular A-108, Transmittal Memorandum No. 1, for a new or altered system report, none has been filed.

NIOSH has made no major changes requiring an altered system report nor added any new routine uses.

DATES: These systems are effective September 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter Y. Bengtson, NIOSH Privacy Act Coordinator, 5600 Fishers Lane, Room 8-30, Parklawn Building, Rockville, Md. 20857, or call 301-443-3227.

SUPPLEMENTARY INFORMATION: NIOSH has been working on major revisions of its Privacy Act system notices to (a) reduce the number of system notices by using broader based systems notices to cover all the studies being undertaken by particular divisions; and to (b) replace the Director of NIOSH as a system manager, with someone more closely associated with each system notice. NIOSH expects that these steps will allow closer control and supervision of data being collected under the Privacy Act, and allow NIOSH to be more responsive to requests for epidemiological information on hazards in the workplace.

The Division of Surveillance Hazard Evaluations, and Field Studies (DSHEFS) will use the new notice; DSHEFS Occupational Health Epidemiological Studies; HEW/CDC/NIOSH; Number 09-20-0147; to incorporate a total of 37 system notices, listed below. NIOSH published these system notices in the FEDERAL REGISTER, Part X, Volume 42, Number 189, dated September 29, 1977.

09-20-0002 Study Of Workers Exposed To Talc (page 54045)
09-20-0003 Study Of Workers Exposed To Bladder Carcinogens (page 54046)
09-20-0004 Beta-Napthylamine Workers Study (page 54047)
09-20-0024 Workers Exposed To Benzidine—(Bladder Cancer) (page 52063)
09-20-0005 Study Of Columbus Coated Fabrics Workers (page 52048)
09-20-0009 Study Of Workers Exposed To Methyl Butyl Ketone (page 52051)
09-20-0006 Study Of Phosphate Fertilizer Industry (page 52049)
09-20-0010 Study Of Mineral Wool Workers (page 52052)
09-20-0012 Study Of Colloids, Inc. Workers (page 52054)
09-20-0013 Gold Mine (Home Stake) Silicosis Study (page 52054)
09-20-0017 Silicosis (Brick Layers) Study—North Carolina (page 52058)
09-20-0018 Control Study Group From University Of Utah For Cosmetology Study (page 52059)
09-20-0061 Cosmetology Workers Study (Thesaurosis) (page 52091)
09-20-0019 Study Of Selected Environmental Protection Agency Employees In Cincinnati For Respiratory Disease (page 52059)
09-20-0020 Workers Exposed to Bis(chloromethyl) Ether and Chloromethyl Methyl Ether (page 52060)
09-20-0021 Study Of Workers Exposed To Benzene (page 52061)
09-20-0022 Uranium Miner Study In Far West (page 52062)
09-20-0039 Study Of Workers In Tyler, Texas Asbestos Plants (page 52074)
09-20-0047 Studies Of Workers In Asbestos Related Industries (page 52081)
09-20-0042 Study Of Workers Exposed To Chlorinated Hydrocarbons (page 52076)
09-20-0045 Study Of Pottstown, Pennsylvania Chemical Plant Workers (page 52079)
09-20-0062 Study Of Workers Exposed To Polyvinal Chloride In The Plastics Industry At Ashtabula, Ohio, Avon Lake, Ohio and Louisville, Kentucky (page 52092)
09-20-0048 Study Of Workers Exposed To Fibrous Glass (page 52082)
09-20-0049 Workers Exposed To Cotton Dust—Byssinosis (page 52082)
09-20-0068 Individuals Listed In The 1960 American Dental Association Directory (page 52096)
09-20-0070 Study Of New Jersey Motor Vehicle Examiners Exposed To Carbon Monoxide (page 52097)
09-20-0076 Uranium Mill Worker Study In Colorado (page 52101)
09-20-0116 Study Of Workers Exposed To Heavy Metals (lead, calcium, etc.) Industries (page 52123)
09-20-0122 Study Of Workers Exposed To Inorganic Chemicals (page 52127)
09-20-0126 Study Of Workers Exposed To Organic Chemicals (page 52129)
09-20-0132 Early Warning Indicators Of Pesticides Exposure (page 52134)
09-20-0130 Study Of Workers Exposed To Mineral Fibers (page 52132)
09-20-0140 Medical Records Of Vinyl Chloride And Carcinogen Workers (page 52139)
09-20-0057 Kennecott Sulfur Dioxide Study (page 52088)
09-20-0007 Study Of Union Carbide, Charleston, W. Va. Plant (page 52049)
09-20-0008 Coal Miner Workers Study (page 52050)
09-20-0044 Study Of Cincinnati Fireworkers (page 52078)

The Division of Biomedical and Behavioral Science (DBBS) will use the new notice; Results of DBBS Hearing Studies; HEW/CDC/NIOSH; Number 09-20-0148; to incorporate a total of 7 system notices, listed below. NIOSH published these system notices in the FEDERAL REGISTER, Part X, Volume 42, Number 189, dated September 29, 1977.

09-20-0064 Textile Workers Audiogram Results (page 52094)

09-20-0065 Noise-induced Temporary Threshold Shift Data (page 52094)
09-20-0073 Hearing and Noise Study of Industrial Workers (page 52099)
09-20-0074 Fireman Hearing Study (page 52100)
09-20-0115 Study of Noise and Hearing in Paper Working Industry (page 52123)
09-20-0143 Occupational Hearing Loss in Coal Mining Regions (page 52140)
09-20-0067 Coal Mine Hearing Study (page 52095)

The Division of Respiratory Disease Studies (DRDS) will use the new notice; DRDS General Industry Morbidity Studies; HEW/CDC/NIOSH; Number 09-20-0149; to incorporate a total of 9 system notices, listed below. NIOSH published these system notices in the FEDERAL REGISTER, Part X, Volume 42, Number 189, dated September 29, 1977.

09-20-0029 Byssinosis Study at Cordova, North Carolina, Klopman Steele Plant
09-20-0051 Kaiser Aluminum Employees at Ravenswood, West Virginia Study (Page 52084)
09-20-0052 West Virginia Pulp and Paper Company Study (Page 52085)
09-20-0078 Beryllliosis/Sarcoidosis Study of Beryllium Plant Workers (Page 52103)
09-20-0124 Study of Workers Exposed to Toluene Diisocyanate (TDI) (Page 52128)
09-20-0127 Pilot Agricultural Noise Study (Page 52130)
09-20-0142 Medical Health Surveillance of Grain Handlers (Page 52140)
09-20-0145 Pulmonary Function Standards Study (Page 52142)
09-20-0146 Health Effects of Sulfur Oxides and Sulfuric Acid, Nitrogen Oxides, and Nitric Acid (Page 52141)

The DRDS will use the new notice; DRDS Morbidity Studies in Coal Mining Activities; HEW/CDC/NIOSH; Number 09-20-0150; to incorporate a total of 9 system notices, listed below. NIOSH published these system notices in the FEDERAL REGISTER, Part X, Volume 42, Number 189, dated September 29, 1977.

09-20-0023 Bureau of Mines Study in Morgantown, West Virginia (Page 52062)
09-20-0025 Mine Enforcement Safety Adminstration (MESA) Dust Measurement (Page 52064)
09-20-0031 Histocompatibility Association of Pneumoconiosis (Black Lung) in Coal Workers (Page 52069)
09-20-0032 National Coal Miner Study (Page 52070)
09-20-0038 Epidemiological Study of United States Surface Coal Miners (Page 52073)
09-20-0041 Purseglove Mine (West Virginia) Shift Study (Page 52076)
09-20-0053 Coal Miner Medical Information Processing Systems (Page 52086)
09-20-0080 Miner/Neighbor Study in Pineville, West Virginia (Page 52104)
09-20-0129 Respiratory Disease Studies Involving Persons of West Virginia Coal Mining Communities (Page 52138)

The DRDS will use the new notice; DRDS Mortality Studies in Coal Mining Activities; HEW/CDC/NIOSH; Number 09-20-0151; to incorporate a total of 3 system notices, listed below. NIOSH published these system notices in the FEDERAL REGISTER, Part X, Volume 42, Number 189, dated September 29, 1977.

09-20-0050 Appalachian Coal Miner Study (1963-1966) (Page 52083)
09-20-0069 Coal Miner Study in Charleston-Beckley, West Virginia (Page 52096)
09-20-0141 Coal Handler's Study (Page 52139)

The DRDS will use the new notice; DRDS Mortality Studies in Non-Coal Mining Activities; HEW/CDC/NIOSH; Number 09-20-0152; to incorporate a total of 4 system notices, listed below. NIOSH published these system notices in the FEDERAL REGISTER, Part X, Volume 42, Number 189, dated September 29, 1977.

09-20-0028 Silicosis Study in 30 Metal Mines (1958-1962) (Page 52066)
09-20-0075 Hard Rock Miner Mortality Study (Page 52100)
09-20-0084 Metal Mining Mortality Survey Systems (Page 52106)
09-20-0119 Mortality and Morbidity Among Oil Shale Workers (Page 52125)

The DRDS will use the new notice; DRDS General Industry Mortality Studies; HEW/CDC/NIOSH; Number 09-20-0153; to incorporate two system notices, listed below. NIOSH published these system notices in the FEDERAL REGISTER, Part X, Volume 42, Number 189, dated September 29, 1977.

09-20-0030 Byssinosis Research at Burlington Industries (Page 52068)
09-20-0128 Mortality Study of Tennessee Valley Authority (TVA) Workers Exposed to Coal Handling Process (Page 52130)

The DRDS will use the new notice; DRDS Medical and Laboratory Studies; HEW/CDC/NIOSH; Number 09-20-0154; to incorporate two system notices, listed below. NIOSH published these system notices in the FEDERAL REGISTER, Part X, Volume 42, Number 189, dated September 29, 1977.

09-20-0063 Biochemical Data System (Page 52093)
09-20-0079 Medical Records of Patients Examined at NIOSH in Morgantown, West Virginia (Page 52103)

The DRDS will use the new notice; DRDS Morbidity Studies in Metal and Non-Metal Mining Activities; HEW/CDC/NIOSH; Number 09-20-0155; to incorporate 4 system notices, listed below. NIOSH published these system notices in the FEDERAL REGISTER, Part X, Volume 42, Number 189, dated September 29, 1977.

09-20-0011 Study of Metal Mine Workers (Page 52053)
09-20-0054 New Mexico Potash Miner Study (Page 52086)
09-20-0119 Mortality and Morbidity Among Oil Shale Workers (Page 52125)
09-20-0129 Health Effects of Dust and Diesel Exhaust on Non-Coal Underground Miners (Page 52131)

Dated: September 8, 1978.

LEONARD SCHAFFER,
Assistant Secretary for Management and Budget.

09-20-0148

System name:

Results of DBBS Hearing Studies, HEW/CDC/NIOSH.

Security classification:

None.

System location:

Division of Biomedical and Behavioral Science (DBBS), National Institute for Occupational Safety and Health (NIOSH), Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

In addition, data is occasionally at field work sites and contractor sites as studies are developed, data collected and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request from the Systems Manager.

Categories of individuals covered by the system:

Workers exposed to noise at a harmful or potentially hazardous level and individuals selected as control groups.

Categories of records in the system:

Physical examinations, results of laboratory tests (physiological, acceleration measures, performance tests); results of hearing tests, hearing acuity tests, occupational histories, medical history, demographic data, related anamenestic information. The specific types of records to be collected and maintained are determined by the needs of the individual study.

Authority for maintenance of the system:

Occupational Safety and Health Act, Section 20 (29 U.S.C. 669); Federal Coal Mine Safety and Health Act (30 U.S.C. 669 Section 20 (1970)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal agencies in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the

Public Health Service in connection with such individual. (Appendix B, De-

lumbia Parkway, Robert A. Taft Laboratories, Cincinnati, Ohio 45226.

exposed to substances which are known or suspected respiratory irri-

Policies and practicies for storing, retrieving, accessing, retaining, and disposing of records in the system:

Record access procedures:

Same as notification procedures.

Authority for maintenance of the system:

Coal Mine Health and Safety Act

Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b, Item 100).)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosre is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual files, computer tape, microfilm, computer cards, index audiogram files, audiogram questionnaire forms.

Retrievability:

The purpose of this system is to assist in the development of standards for occupational exposure to hazards. Name, case number and study number are the indices used to retrieve records from this system.

Safeguards:

24-hour guard service in buildings, locked buildings, personnel screening, access limited to authorized personnel. In most instances informaton is related to individual identifiers by case numbers. The file of individual case number relationships is available to a limited group of people. Departmental security guidelines will be followed.

Retention and disposal:

Record copy maintained from three to ten years in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form as appropriate. Disposal methods include erasing computer tapes and burning or shredding printouts.

System manager(s) and address:

Industrial Hygiene Engineer, Noise Section, Physical Agents Effects Branch, DBBS, NIOSH, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Notification prodecure:

To determine if a record exists write to: Director, DBBS, NIOSH, 4676 Columbia Parkway, Robert A. Taft Laboratories, Cincinnati, Ohio 45226.

An individual who requests notification of or access to medical records shall, (1) at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the represnentative's discretion, (2) supply the name of the study if known, (3) provide the approximate date and place of treatment or questionnaire administration. These notification and access procedures are in accordance with Department regulations (45 CFR, Section 5b.6).

Record access procedures:

These access procedures are in accordance with Department regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures:

Contact the official at the address specified under notification procedures above. These procedures are in accordance with Department regulations (45 CFR, Section 5b.7).

Record source categories:

Information is obtained directly from the individual, and employee records. Many of the hearing test results were obtained from Doctors Memorial Hospital Hearing and Speech Center, Atlanta, Ga.

Systems exempted from certain provisions of the act:

None.

09-20-0149

System Name:

DRDS General Industry Morbidity Studies, HEW/CDC/NIOSH.

Security Classification:

None.

System Location:

Division of Respiratory Disease Studies (DRDS), National Institute for Occupational Safety and Health (NIOSH), Morgantown, W. Va. 26505.

In addition, data is occasionally at field collection sites and contractor sites as studies are developed, data collected, and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request to the system manager.

Categories of individuals covered by the system:

Persons working, or having worked at Workplaces not identified as surface mining or below ground mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population which have been selected as a control group.

Categories of records in the system:

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data and spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

Authority for maintenance of the system:

Occupational Safety and Health Act Section 20 (29 U.S.C. 669); Federal Coal Mine Health and Safety Act, Section 501 (30 U.S.C. 951).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to missing person location agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations. (45 CFR Par 5b), item 100).

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity: (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practicies for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

Retrievability:

The purpose of this system is to investigate occupationally related diseases and to determine the cause and prevention of such diseases. Plant name, study, name, and/or assigned numerical identifers are some of the indices used to retrieve records from this system. Social security numbers, supplied on a voluntary basis may occasionally be used for data retrieval.

Safeguards:

24-hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer rooms, and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by each individual study. Departmental security guidelines will be followed.

Retention and disposal:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include burning or shredding paper materials, and erasing computer tapes.

System manager(s) and address:

Program Management Officer (PMO), DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

Notification procedure:

To determine if a record exists write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

An individual who requests notification of or access to a medical record shall, (1) at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) provide the name of the study if known, (3) provide the approximate date and place of treatment or questionnaire administration. These notification and access procedures are in accordance with Department regulations (45 CFR, Section 5b.6).

Record access procedures:

Same as notification procedures. These access procedures are in accordance with Department regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department regulations (45 CFR, Section 5b.7).

Record source categories:

Information is obtained directly from the individual and from employee records.

Systems exempted from certain provisions of the act:

None.

09-20-0150

System name:

DRDS Morbidity Studies in Coal Mining Activities, HEW/CDC/NIOSH.

Security classification:

None.

System location:

Divison of Respiratory Disease Studies (DRDS), National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

Data is also occasionally located at field collection sites and contractor sites, as studies are developed, data collected, and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request to the System Manager.

Categories of individuals covered by the system:

Persons working or having worked at coal mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population which have been selected as a control group.

Categories of records in the system:

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data, spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

Authority for maintenance of the system:

Coal Mine Health and Safety Act Section 501 (30 U.S.C. 951); Section 203 (30 U.S.C. 843); Occupational Safety and Health Act Section 20 (29 U.S.C. 669).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations, (45 CFR Part 5b, item 100).)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity: (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Some data is sent to the Mining Enforcement and Safety Administration, Department of the Interior to report incidence of pneumoconiosis.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer tape, cards, and printouts; microfiche; X-rays, and manual files.

Retrievability:

The purpose of this system is to investigate occupationally-related diseases and to determine the cause and prevention of such diseases. Plant name, study, name, and/or assigned numercial identifiers are some of the indicies used to retrieve records from this system. Social security numbers, supplied on a voluntary basis may occasionally be used for data retrieval.

Safeguards:

Twenty-four hour guard service in

Systems exempted from certain provisions of the act:

Records may be released to the Department of Justice or other appropri-

vaults, password protection of computerized records, limited access to only

APPENDIX I—POTENTIAL SOURCES FOR DETERMINATION OF VITAL STATUS

ritants or carcinogens. Also included are those individuals in the general population which have been selected

Safeguards:

Twenty-four hour guard service in building, locked buildings, locked rooms, personnel screening, locked computer room and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by each individual study. Departmental security guidelines will be followed.

Retention and disposal:

Record copy maintained in accordance with retention schedules. source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. disposal methods include burning or shredding paper materials, and erasing computer tapes.

System manager(s) and address:

Program Management Officer (PMO), DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

Notification procedure:

To determine if a record exists write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

An individual who requests notification of or access to a medical record shall, at the time the request is made, (1) designate in writing a responsible representative who will be willing to review the records and inform the subject individual of its contents at the representative's discretion, (2) name the study, if known, (3) name the industrial plants, location of the plant, and approximate date of treatment or questionnaire administration, if known. Notification procedures for medical records are in accordance with Department regulations (45 CFR, Section 5b.6).

Record access procedures:

Same as notification procedures. These access procedures are in accordance with Department regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department regulations (45 CFR, Section 5b.7).

Record source categories:

Information is obtained directly from the individual and from employee records.

Systems exempted from certain provisions of the act:

None.

09-20-0151

System name:

DRDS Mortality Studies in Coal Mining Activities, HEW/CDC/NIOSH.

Security classification:

None.

System location:

Division of Respiratory Disease Studies (DRDS), National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, W. Va. 26505

Data is also occasionally located at field collection sites and contractor sites as studies are developed, data collected, and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request to the system manager.

Categories of individuals covered by the system:

Persons working, or having worked at coal mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population which have been selected as a control group.

Categories of records in the system:

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data and spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

Authority for maintenance of the system:

Public Health Service Act, Section 301 (42 U.S.C. 241). Coal Mine Health and Safety Act, Section 501 (30 U.S.C. 951).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to missing person location agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is base upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department regulations, (45 CFR Part 5b, item 100).)

Portions of records (name, social security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, State, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally-related mortality is occurring.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

Retrievability:

The purpose of this system is to investigate occupationally-related diseases and to determine the cause and prevention of such diseases. Plant name, study, name, and/or assigned numerical identifiers are some of the indicies used to retrieve records from this system. Social Security numbers, supplied on a voluntary basis may occasionally be used for data retrieval.

Safeguards:

Locked buildings, locked rooms, 24-hour guard service, locked file cabinets, locked computer rooms and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by an individual study. Departmental security guidelines will be followed.

Retention and disposal:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include burning or shredding paper materials and erasing computer tapes.

System manager(s) and address:

Program Management Officer (PMO), DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

Notification procedure:

To determine if a record exist write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

An individual who requests notification of or access to a medical record shall, at the time the request is made, (1) designate in writing a responsble representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) provide the name of the study if known, (3) provide the approximate date and place of treatment or questionnaire administration. These notification and access procedures are in accordance with Department regulations (45 CFR, Section 5b.6).

Record access procedures:

Same as notification procedures. These access procedures are in accordance with Department regulations (45 CFR. Section 5b.5(a)(2)).

Contesting record procedures:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department regulations (45 CFR, Section 5b.7).

Record source categories:

Information is obtained directly from the individual and from death certificates.

Systems exempted from certain provisions of the act:

None.

APPENDIX I—POTENTIAL SOURCES FOR DETERMINATION OF VITAL STATUS

Military records
Appropriate State motor vehicle registration departments
Appropriate State drivers license departments
Appropriate State government divisions of:
Assistance payments (welfare), social services, medical services
Food stamp program, child support, board of corrections, aging
Indian affairs, workman's compensation, disability insurance
Retail credit association follow up
Veteran's Administration files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State vital statistics offices
Life insurance companies
Railroad Retirement Board
Area nursing homes
Area Indian trading posts
Mailing list correction cards (U.S. Postal Service)
Letters and telephone conversations with relatives
Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)
Social Securtiy Administration
Internal Revenue Service

09-20-0152

System name:

DRDS Mortality Studies In Non-Coal Mining Activities; HEW/CDC/NIOSH.

Security classification:

None.

System location:

Division of Respiratory Disease Studies (DRDS), National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

Data is also occasionally located at field collection sites and contractor sites as studies are developed, data collected, and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request to the System Manager.

Categories of individuals covered by the system:

Persons working, or having worked at mining operations other than coal mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population which have been selected as a control group.

Categories of records in the system:

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data and spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

Authority for maintenance of the system:

Public Health Service Act, section 301 (42 U.S.C. 241); Federal Metal and Nonmetalic Mine Safety Act, section 4 (30 U.S.C. 723); Occupational Safety and Health Act, section 20 (29 U.S.C. 669).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Data may be sent to State vital statistics divisions to obtain death certificates, and to missing person location agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department regulations (45 CFR part 5b, item 100.)

Portions of records (name, social security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, State, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally-related mortality is occurring.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity: (b) the United States where the Department determines that the claim, if success-

ful, is likely to directly affect the operations of the Department or any of its

shall, at the time the request is made, designate in writing a responsible rep-

Appropriate local newspaper (obituaries)

from the congressional office made at the request of that individual.

Records may be released to the De-

documents for computer disposed of when no longer needed in the study, and as determined by the system man-

(NIOSH), 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

ful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer tape, cards and printouts; microfiche; X-rays; and manual files.

Retrievability:

The purpose of this system is to investigate occupationally-related diseases and to determine the cause and prevention of such diseases. Plant name, study, name, and/or assigned numerical identifers are some of the indicies used to retrieve records from this system. Social security numbers, supplied on a voluntary basis may occasionally be used for data retrieval.

Safeguards:

Twenty-four--hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer rooms and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by each individual study. Departmental security guidelines will be followed.

Retention and disposal:

Records copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form as appropriate. Disposal methods include erasing computer tapes and burning or shredding paper materials.

System manager(s) and address:

Program Management Officer (PMO), DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

Notification procedure:

To determine if a record exists write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. These notification and access procedures are in accordance with Department regulations (45 CFR, section 5B.6).

Record access procedures:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. These access procedures are in accordance with Department regulations (45 CFR, section 5b.5(a)(2)).

Contesting record procedures:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department regulations (45 CFR, section 5b.7).

Record source categories:

Information is obtained from the individual, from company personnel records, from death certificates, and from industry and union records.

Systems exempted from certain provisions of the act:

None.

APPENDIX I—POTENTIAL SOURCES FOR DETERMINATION OF VITAL STATUS

Military records
Appropriate State motor vehicle registration departments
Appropriate State drivers license departments
Appropriate State government divisions of:
- Assistance payments (welfare), social services, medical services,
- Food stamp program, child support, board of corrections, aging,
- Indian affairs, workman's compensation, disability insurance

Retail credit association follow up
Veteran's Administration files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State vital statistics offices
Life insurance companies
Railroad Retirement Board
Area nursing homes
Area Indian trading posts
Mailing list correction cards (U.S. Postal Service)
Letters and telephone conversations with relatives
Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)
Social Security Administration
Internal Revenue Service

09-20-0155

System name:

DRDS Morbidity Studies in Metal and Non-Metal Mining Activities, HEW/CDC/NIOSH.

Security classification:

None.

System location:

Division of Respiratory Disease Studies (DRDS), National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

Data is also occasionally located at field collection sites and contractor sites as studies are developed, data collected, and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request to the system manager.

Categories of individuals covered by the system:

Persons working, or having worked at mining operations other than coal mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population which have been selected as a control group.

Categories of records in the system:

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data and spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

Authority for maintenance of the system:

Occupational Safety and Health Act, section 20 (29 U.S.C. 669); Public Health Service Act, section 301 (42 U.S.C. 241).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Data may be sent to State vital statistics divisions to obtain death certificates, and to missing person location agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry

from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department regulations (45 CFR Part 5b), item 100.)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity: (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

Retrievability:

The purpose of this system is to investigate occupationally related diseases and to determine the cause and prevention of such diseases. Plant name, study, name, and/or assigned numerical identifiers are some of the indices used to retrieve records from this system. Social security numbers, supplied on a voluntary basis, may occasionally be used for data retrievial.

Safeguards:

Twenty-four-hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer room and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by such individual study. Departmental security guidelines will be followed.

Retention and disposal:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, and as determined by the system manager, as provided in the signed consent form as appropriate. Disposal methods include erasing computer tapes and burning or shredding paper material.

System manager(s) and address:

Program Management Officer, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

Notification procedure:

To determine if a record exists write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. These notification and access procedures are in accordance with Department regulations (45 CFR, section 5b.6).

Record access procedures:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. These access procedures are in accordance with Department regulations (45 CFR, section 5b.5(a)(2)).

Contesting record procedures:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department regulations (45 CFR, section 5b.7).

Record source categories:

Vital status information is obtained from Federal, State, and local governments and other available sources. Information is obtained from the individual and from employer records.

Systems exempted from certain provisions of the act:

None.

09-20-0153

System name:

DRDS General Industry Mortality Studies, HEW/CDC/NIOSH.

Security classification:

None.

System location:

Division of Respiratory Disease Studies (DRDS), National Institute for Occupational Saftey and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

Data is also occasionally located at field collection sites and contractor sites as studies are developed, data collected, and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request to the System Manager.

Categories of individuals covered by the system:

Persons working, or having worked at workplaces not identified as surface mining or below ground mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population which have been selected as a control group.

Categories of records in the system:

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data and spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

Authority for maintenance of the system:

Occupational Safety and Health Act, Section 20 (29 U.S.C. 669); Public Health Service Act; Section 301 (42 U.S.C. 141).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Data may be sent to State vital statistics divisions to obtain death certificates, and to missing person location agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department regulations, (45 CFR Part 5b), item 100.)

Portions of records (name, social security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in appendix I,

as applicable. This may be done solely for obtaining a determination as to

agencies to find those individuals who cannot otherwise be located.

vidual study. Departmental security guidelines will be followed.

System location:

Division of Surveillance, Hazard Eval-

as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the approprate Federal, State, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally-related mortality is occurring.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provide such disclosure as compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

Retrievability:

The purpose of this system is to investigate occupationally-related diseases and to determine the cause and prevention of such diseases. Plant name, study, name, and/or assigned numerical identifiers are some of the indices used to retrieve records from this system. Social security numbers, supplied on a voluntry basis may occasionally be used for data retrieval.

Safeguards:

24-hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer room and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by such individual study. Departmental security guidelines will be followed.

Retention and disposal:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include burning or shredding materials and erasing computer tapes.

System manager(s) and address:

Program Management Officer (PMO), DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

Notification procedure:

To determine if a record exists write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

An individual who requests notification of or access to a medical record shall, (1) at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) provide the name of the study if known, (3) provide the approximate date and place of the treatment or questionnaire administration. These notification and access procedures are in accordance with Department regulations (45 CFR, Section 5b.6).

Record access procedures:

Same as notification procedures. These access procedures are in accordance with Department regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department regulations (45 CFR, Section 5b.7).

Record source categories:

Information is obtained directly from the individual, from employee records, from death certificates, and from industry and trade union records.

Systems exempted from certain provisions of the act:

None.

APPENDIX I—POTENTIAL SOURCES FOR DETERMINATION OF VITAL STATUS

Military records
Appropriate State motor vehicle registration departments
Appropriate State drivers license departments
Appropriate State government divisions of:
- Assistance payments (welfare), social services, medical services,
- Food stamp program, child support, board of corrections, aging,
- Indian affairs, workman's compensation, disability insurance

Retail credit association followup
Veterans' Administration files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State vital statistics offices
Life insurance companies
Railroad Retirement Board
Area nursing homes
Area Indian trading posts
Mailing list correction cards (U.S Postal Service)
Letters and telephone conversations with relatives
Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)
Social Security Administration
Internal Revenue Service

09-20-0154

System name:

DRDS Medical and Laboratory Studies, HEW/CDC/NIOSH.

Security classification:

None.

System location:

Division of Respiratory Disease Studies (DRDS), National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

Categories of individuals covered by the system:

Individuals who have had physical examinations at DRDS or who have had Biochemical tests done on various samples submitted to DRDS.

Categories of records in the system:

Analysis of biochemical data, occupational and medical histories, and results of medical tests. The specific types of records to be collected and maintained are determined by the needs of the individual study.

Authority for maintenance of the system:

Coal Mine Health and Safety Act Section 501 (30 U.S.C. 951), Occupational Safety and Health Act Section 20 (29 U.S.C. 669). Occupational Safety and Health Act Section 22(d) (29 U.S.C. 671(d)); Federal Coal Mine Health and Safety Act Section 427(b) (30 U.S.C. 937(b)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Data may be sent to State vital statistics divisions to obtain death certificates, and to missing person location

agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department regulations, (45 CFR Part 5b), item 100.)

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

Retrievability:

The purpose of this system is to perform medical and epidemiological research, statistical analyses, and to identify early indicators of occupationally-related diseases (biochemical indices). Data is given to other NIOSH units for biochemical and epidemiological studies. Name and case number are the indices used to retrieve records from this system.

Safeguards:

24-hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer room and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by such individual study. Departmental security guidelines will be followed.

Retention and disposal:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, and as determined by the system manager, as provided in the signed consent form as appropriate. Disposal methods include erasing computer tapes and burning or shredding paper materials.

System manager(s) and address:

Project Management Officer, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

Notification procedures:

To determine if a record exists write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. These notification and access procedures are in accordance with Department regulations (45 CFR, Section 5b.6).

Record access procedures:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. These access procedures are in accordance with Department regulations (45 CFR, Section 5b.5(a)(2)).

Contesting record procedures:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department regulations (45 CFR, Section 5b.7).

Record source categories:

Information is obtained directly from the individual.

Systems exempted from certain provisions of the act:

None.

09-20-0147

System name:

DSHEFS Occupational Health Epidemiological Studies, HEW/CDC/NIOSH.

Security classification:

None.

System location:

Division of Surveillance, Hazard Evaluations, and Field Studies (DSHEFS), National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Southwest Ohio Regional Computer Center, Medical Sciences Building, University of Cincinnati, Cincinnati, Ohio 45202.

In addition, data is occasionally at field work sites and contractor sites as studies are developed, data collected and reports written. A list of field and contractor sites where individually identifiable data is currently located is available upon request to the system manager.

Categories of individuals covered by the system:

Industrial workers exposed to physical and/or chemical agents that may damage the human body in any way. Some examples are: (1) organic carcinogens, (2) inorganic carcinogens, (3) mucosal or dermal irritants, (4) fibrogenic materials, (5) acute toxic agents including sensitizing agents, (6) neurotoxic agents, (7) mutogenic (male and female) and teratogenic agents, (8) bio-accumulating noncarcinogen agents, and (9) chronic vascular disease-causing agents.

Categories of records in the system:

Physical exams, sputum cytology results, questionnaires, demographic information, smoking history, occupational histories, previous and current employment records, urine test records, X-rays, medical history, pulmonary function test records, medical disability forms, blood test records, drivers license data, hearing test results, spirometry results. The specific types of records to be collected and maintained are determined by the needs of the individual study.

Authority for maintenance of the system:

Public Health Service Act, Section 301 (42 U.S.C. 241); Occupational Safety and Health Act section 20 (29 U.S.C. 669); Coal Mine Health and Safety Act section 501 (30 U.S.C. 951).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Records may be released to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is al-

leged to have arisen because of activities of the Public Health Service in connection with such individual. (Appendix B, Department Regulations (45 CFR Part 5b), item 100.)

Portions of records (name, social security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, State, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally related mortality is occurring.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage:

Manual files, computer files, card files, microfilm, microfiche, and other files as appropriate.

Retrievability:

The purpose of these studies is to evaluate mortality and morbidity of occupationally related diseases: to determine the cause and prevention of diseases of industrial origin, and lead toward future prevention of occupationally related diseases. Name, assigned number, plant name, year tested are some of the indices used to retrieve records from these systems. Other retrieval methods are utilized as individual research dictates.

Safeguards:

Locked buildings, locked rooms, locked file cabinets, personnel screening, locked computer room and computer tape vaults, 24-hour guard service, password protection of computerized records, limited access to only authorized personnel. Two or more of the safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by an individual study. Departmental security guidelines will be followed.

Retention and disposal:

Records will be maintained from 3 to 20 years in accordance with retention schedules. Every attempt will be made to strip personal identifiers from records and destroy the records when they are no longer needed. Any paper records which are disposed of will be shredded or burned and computer tapes will be erased.

System manager(s) and address:

Program Management Officer (PMO), DSHEFS, P-1, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Notification procedure:

To determine if a record exists write to: Director, DSHEFS, R-1, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. These notification and access procedures are in accordance with Department regulations (45 CFR, section 5b.6).

Record access procedures:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. These access procedures are in accordance with Department Regulations (45 CFR, section 5b.5(a)(2)).

Contesting record procedures:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department regulations (45 CFR, section 5b.7).

Record source categories:

Vital status information is obtained from Federal, State, and local governments and other available sources selected from those listed in appendix I. Information is obtained directly from the individual and employer records, whenever possible.

Systems exempted from certain provisions of the act:

None.

APPENDIX I—POTENTIAL SOURCES FOR DETERMINATION OF VITAL STATUS

Military records
Appropriate State motor vehicle registration departments
Appropriate State drivers license departments
Appropriate State government divisions of:
Assistance payments (welfare), social services, medical services,
Food stamp program, child support, board of corrections, aging,
Indian affairs, workman's compensation, disability insurance
Retail Credit Association followup
Veteran's Administration files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State vital statistics offices
Life insurance companies
Railroad Retirement Board
Area nursing homes
Area Indian trading posts
Mailing list correction cards (U.S. Postal Service)
Letters and telephone conversations with relatives
Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)
Social Security Administration
Internal Revenue Service

[FR Doc. 78-25925 Filed 9-11-78; 4:28 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OUTER CONTINENTAL SHELF OFFICIAL PROTRACTION DIAGRAMS

Notice of Approval

1. Notice is hereby given that, effective with this publication, the following OCS official protraction diagrams, approved on the dates indicated, are available for information in the Outer Continental Shelf Office, Bureau of Land Management, Anchorage, Alaska. In accordance with Title 43, Code of Federal Regulations, these protraction diagrams are the basic record for the description of mineral and oil and gas lease offers in the geographic area they represent.

OUTER CONTINENTAL SHELF PROTRACTION DIAGRAMS

	Description	Approval date
NM 60-2	Rat Islands	Apr. 25, 1978.
NN 1-8	ATKA	Do.
NO 3-2	Kuskokwin Bay	Do.
NQ 2-4	do.	Do.
NR 3-4	Solivik Island	Do.

OUTER CONTINENTAL SHELF PROTRACTION DIAGRAMS—Continued

	Description	Approval date
NS 4-7	do.	Do.
NS 5-7	do.	Do.
NS 6-7	Laurentian Basin	Do.

2. Copies of these diagrams are for sale at two dollars ($2.00) per sheet by the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, P.O. Box 1159, Anchorage, Alaska 99510. The street address is 800 A Street, Anchorage, Alaska. Checks or money orders should be made payable to the Bureau of Land Management.

ROBERT J. BROCK,
Acting Manager, Alaska Outer Continental Shelf Office.

[FR Doc. 78-25831 Filed 9-13-78; 8:45 am]

[4310-84]

[Wyoming 65022]

WYOMING

Application

SEPTEMBER 5, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185) the Colorado Interstate Gas Co. of Colorado Springs, Colo. filed an application for a 6⅝-inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 19 N., R. 98 W.,
Sec. 24, S½SE¼.

The proposed pipeline will transport natural gas from an existing well located in the SE¼ of section 24, T. 19 N., R. 98 W., into an existing natural gas pipeline located in the SW¼ of section 24, in Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 North, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands Minerals Operations.

[FR Doc. 78-25828 Filed 9-13-78; 8:45 am]

[4310-84]

[Wyoming 64652]

WYOMING

Application

SEPTEMBER 7, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Co. of Oklahoma City, Okla. filed an application for a right-of-way to construct two 4½-inch pipelines for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 96 W.,
Sec. 12, lot 2, S½W¼ and SE¼SE¼;
Sec. 24, S½NE¼, N½NW¼, SE¼NW¼ and NE¼SE¼.

One of the proposed pipelines with appurtenant anode facilities will transport natural gas produced from the Champlin 221B-1 well located in the NW¼SW¼ sec. 7, T. 18 N., R. 95 W., to a point of connection with Colorado Interstate Gas Co.'s existing pipeline in the SE¼SE¼ sec. 11, T. 18 N., R. 96 W.; the other pipeline with appurtenant anode facilities will transport natural gas produced from the Champlin 221C-1 well located in the SE¼SW¼ sec. 19, T. 18 N., R. 95 W., to a point of connection with Colorado Interstate Gas Co.'s existing pipeline in the NW¼NW¼ sec. 24, T. 18 N., R. 96 W., all within Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Oprations.

[FR Doc. 78-25829 Filed 9-13-78; 8:45 am]

[4310-84]

[Wyoming 64677]

WYOMING

Application

SEPTEMBER 6, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Phillips Petroleum Co. of Denver, Colo. filed an application for a right-of-way to construct a 4- and 6-inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 44 N., R. 76 W.,
Sec. 7, lots 1 and 2.
T. 44 N., R. 77 W.,
Sec. 1, S½NW¼;
Sec. 2, lot 1 and SE¼NE¼.
T. 45 N., R. 77 W.,
Sec. 35, E½SW¼, N½SE¼ and SE¼SE¼.

The proposed pipeline will transport natural gas from a point in the NW¼NW¼ of section 7, T. 44 N., R. 76 W., to a point in the NW¼NE¼, section 12, T. 44 N., R. 77 W., and from points in the NE¼SW¼, section 1, T. 44 N., R. 77 W., and the SE¼NW¼ and the NW¼SE¼ of section 35, T. 45 N., R. 77 W., to a point in the SW¼, section 15, T. 44 N., R. 77 W., Johnson County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 951 Union Boulevard, Casper, Wyo. 82601.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-25830 Filed 9-13-78; 8:45 am]

[4310-84]

[ES 17760; Survey Group 109]

MINNESOTA

Filing of Plat of Survey

SEPTEMBER 6, 1978.

On May 26, 1977, a plat of survey of Tract 37, T. 147 N., R. 30 W., Fifth Principal Meridian, Minnesota, containing 1.30 acres, was accepted. This plat, which represents the survey of an island not previously surveyed, will be officially filed in the Eastern States Office, Silver Spring, Md., at 10 a.m. on October 13, 1978.

The island's formation is similar in all respects to that of the adjacent mainland. The soil is composed of a layer of organic matter on glacial till and large boulders are scattered throughout. Timber on the island consists of elm, cedar, white birch, and aspen with an undergrowth of young oak, willows, and grass. Reeds and elder grow around the fringe of the island. Tract 37, which rises to an elevation of approximately 5 feet above the ordinary high watermark, is well

over 50 percent upland in character

[7590-01]

and Records, Office of Administration, U.S. Nuclear Regulatory Com-

All interested persons who desire to submit written comments for consider-

ity of Allegheny County concerning the means by which the track switch

revised since 1962. These standards apply only to new tires. The Board

V 43 / 179 SEP 14 1978

over 50 percent upland in character within the interpretation of the Swampland Act of September 28, 1850.

By Proclamation No. 2216 of December 29, 1936, all public lands in T. 147 N., R. 30 W., Fifth Principal Meridian, Michigan, were included in the Chippewa National Forest. Therefore, subject to valid, existing rights, the abovementioned land is withdrawn in accordance with said proclamation.

All inquiries regarding the subject land should be addressed to the Director, Eastern States, 7981 Eastern Avenue, Silver Spring, Md. 20910.

LOWELL J. UDY,
Director, Eastern States.

[FR Doc. 78-25892 Filed 9-13-78; 8:45 am]

[4310-84]

[NM 34425]

NEW MEXICO

Application

SEPTEMBER 6, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 27 N., R. 8 W.,
Sec. 3, E½SE¼ and SW¼SE¼.

This pipeline will convey natural gas across 0.352 of a mile of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-25893 Filed 9-13-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. PRM-7-1]

NONDESTRUCTIVE TESTING MANAGEMENT ASSOCIATION

Petition for Rulemaking

Notice is hereby given that Mr. Walter P. Peeples, Jr., on behalf of the Nondestructive Testing Management Association, by letter dated July 19, 1978, has filed with the Nuclear Regulatory Commission a petition for rulemaking.

The petitioner requests the Commission to establish a review board made up of responsible members of the industry to review all pertinent NRC regulations and to clarify positions of the industry prior to issuance of all new regulations. The petitioner states that the petition is related to all regulations that directly affect users of byproduct materials in the field of nondestructive testing. The petitioner states also that since the field of nondestructive testing is large in scope, the members of the review group should be selected from the manufacturers and users of byproduct materials representing industrial radiography, gaging, and oil well logging industries.

As a basis for the petition, the petitioner states that:

Within the past few years, it has become obvious that certain regulations are placed upon the industry which are deemed unnecessary. It is the consensus of the industry that this is caused by certain individuals within the bureaucracy writing regulations and not being familiar with the industry * * * We feel that this petition is necessary and that this approach will serve to educate both the industry and the U.S. Nuclear Regulatory Commission. The industry's objective is to maintain liaison with the U.S. Nuclear Regulatory Commission what is considered necessary and unnecessary in relationship to regulations.

A copy of the petition for rulemaking is available for public inspection at the Commission's Public Document Room, 1717 H Street NW, Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments or suggestions concerning the petition for rulemaking should send their comments to the Secretary of the Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by November 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerald L. Hutton, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301-492-7211.

Dated at Washington, D.C. this 7th day of September.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-25736 Filed 9-13-78; 8:45 am]

[7590-01]

[Docket NO. STN 50-595]

GILBERT ASSOCIATES, INC., COMMONWEALTH ASSOCIATES, INC.

Receipt of a Standard Safety Analysis Report

Gilbert Associates, Inc. and Commonwealth Associates, Inc. have filed with the Nuclear Regulatory Commission (the Commission) their Standard Safety Analysis Report (GAISSAR) which was docketed on August 21, 1978. GAISSAR was tendered on February 24, 1978. During the acceptance review for completeness, Gilbert Associates, Inc. submitted additional information by letter dated July 31, 1978. Subsequently, GAISSAR was found to be acceptable for docketing. Docket No. STN 50-595 has been assigned to GAISSAR and should be referenced in any correspondence relating thereto.

The GAISSAR application was filed in response to Option 1 (Reference System) of the Commission's standardization policy for nuclear power plants issued on March 5, 1973, and pursuant to appendix 0 of 10 CFR part 50. Under the "Reference System" option, an entire facility or major portions of it can be identified as a standard design to be used in multiple applications. GAISSAR describes and analyzes the balance-of-plant equipment and structures intended to be used conjunction with any one of three standard pressurized water reactor nuclear steam supply systems, namely, the Babcock & Wilcox Co. B-SAR-205, the Combustion Engineering, Inc. CESSAR-80, and the Westinghouse Electric Corp. RESAR-414. Each of the above nuclear steam supply systems have a rated thermal output of about 3,800 MWt.

The Commission's Office of Nuclear Reactor Regulation (staff) will publish a summary report on its review of GAISSAR and will refer it to the Advisory Committee on Reactor Safeguards (ACRS) for its review and a report thereon. Subsequently, the staff will prepare a Safety Evaluation Report documenting the results of the review and will publish in the FEDERAL REGISTER a determination as to whether or not the preliminary design is acceptable.

All interested persons who desire to submit written comments for consideration by the staff and ACRS during their review of GAISSAR should send them to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC. 20555, attention: Docketing and Service Section by November 13, 1978.

A copy of the GAISSAR Standard Safety Analysis Report is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. 20555. When available, the Safety Evaluation Report and the ACRS report will be made available for inspection by the Public at the Commission's Public Document Room.

Dated at Bethesda, Md., this 7th day of September 1978.

For the Nuclear Regulatory Commission.

CLEMENS J. HELTEMES, Jr.,
Chief, Standardization Branch, Division of Project Management.

[FR Doc. 78-25998 Filed 9-13-78; 8:45 am]

[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-37]

SAFETY RECOMMENDATIONS AND RESPONSES

Accident Report

RAILROAD ACCIDENT REPORT

The National Transportation Safety Board announces the availability of its formal report of investigation into the February 10, 1978, collision of a trolley car and a bus in Pittsburgh, Pa. The report, No. NTSB-RAR-78-5, shows that the collision occurred during the morning rush hour on a portion of the Port Authority of Allegheny County busway which is used both by buses and trolleys. The bus, with at least 39 passengers, was inbound. The trolley, with only its operator aboard, was outbound.

The busdriver and three bus passengers were killed in the crash. The car operator and 36 bus passengers were injured. Probable cause of the accident, the Safety Board finds, was the operator's inadvertent and untimely operation of an unprotected track switch, which caused the trolley car to be routed into the path of the approaching bus. Contributing to the accident was the operator's operation of the car at a speed too great to permit stopping when he detected the turning movement of the car, and the lack of protective devices to control the switch operation.

Two recommendations, Nos. R-78-49 and 50, were made to the Port Authority of Allegheny County concerning the means by which the track switch can be operated from the trolley car and the provision of protection against the switch's operating when another vehicle is in a danger zone. One recommendation, No. R-78-51, was also made by the Safety Board to the Governor of the Commonwealth of Pennsylvania, urging the State to encourage communities that have emergency response facilities to establish emergency procedures for disasters. (See also 43 FR 39871, September 7, 1978.)

AVIATION SAFETY RECOMMENDATIONS

Last April 25 the Safety Board expressed its concern to the Federal Aviation Adminstration about multiple tire failures on wide-bodied aircraft, such as that experienced by the Continental Air Lines DC-10 at Los Angeles International Airport on March 1, 1978. FAA's response of May 23 detailed several actions which FAA had underway or was planning to initiate.

The Safety Board acknowledges FAA's actions as a step toward reducing the potential risk of tire failures. However, the Board's public hearing, which was convened on May 30 as part of the investigation of the DC-10 accident, elicited much testimony regarding factors which can affect tire safety and reliability. As a result, the Board believes that additional regulatory or advisory actions are needed in the areas of design standards, qualification testing, quality control during manufacture, and operational limits. The Board's concerns apply to retreaded tires as well as new tires.

Hearing testimony indicates that some confusion exists within the industry regarding the significance of a tire's rated load, as defined by the Tire & Rim Association, and the consideration given when mating a particular tire with airframe design and intended operations. No margin is required for possible overload from unequal load distribution which can be created by normal differences between the two tires—differences in deflection characteristics between tires from different manufacturers, differences in retread levels, differences in inflation pressures, differences in outside diameters, and differences in wear. In addition, no margin is provided for possible overload caused by the angle at which the landing gear contacts the airport surface. The Board believes that steps must be taken to insure that such factors are considered when tires are selected and when maintenance and operational practices are established for the aircraft's service life.

On September 6 the Safety Board directed a recommendation letter to FAA, noting that minimum performance standards for aircraft tires, as established by TSO-C62b, have not been revised since 1962. These standards apply only to new tires. The Board further noted that currently there are no methods of nondestructive inspection available to insure satisfactorily that carcasses intended for retread are free of defects which can produce premature failure. Accordingly, the Board's September 6 letter recommended that FAA—

Assess current tire rating criteria, as used by the Tire & Rim Association and as interpreted by airframe designers and Federal standards, in terms of compatibility of tire, airframe, and intended operation to assure that adequate margins are provide for all normal conditions. (A-78-67)

Upgrade technical standard order C62b to reflect current engineering practices and operational conditions in both the specifications for performance standards and certification test requirements. (A-78-68)

Insure that the tire is compatible with the airframe by considering this compatibility during the airplane certification. Tire loads which result from design peculiarities and normal variations in maintenance and operational practices must be considered. (A-78-69)

Issues a new technical standard order to specify performance standards and qualification test requirements for retreaded tires. (A-78-70)

Prohibit different model tires or tires manufactured by different manufacturers from being mounted on the same axle where different characteristics between such tires can affect tire loading under normal operating conditions. (A-78-71)

Require that operator maintenance and operational practices regarding tire usage, such as taxi speeds and distances and inflation pressures, are in accordance with the tire manufacturers' recommendations. (A-78-72)

Expedite the development of a nondestructive inspection technique which would detect flaws in tire carcasses. Require nondestructive inspection for new and retreaded tires and develop criteria based upon such inspection to withdraw a faulty tire from service. (A-78-73)

In the interim, establish a safe upper limit for the number of retread cycles allowed each model tire. (A-78-74)

Recommendation A-78-71 is designated "Class I, Urgent Action"; all other above recommendations are designated "Class II, Priority Action."

RESPONSES TO SAFETY RECOMMENDATIONS

Highway

H-78-56 through 60.—Letter of August 14 from the Department of Highways and Transportation, Commonwealth of Virginia, is in response to recommendations issued by the Safety Board following its investigation of the truck/automobile collision on U.S. route 50 near Chantilly, Va., July 21, 1977. The truck, loaded with 17 tons of stone, violated a red traffic signal at an intersection and struck the car, killing all four occupants of the car.

The department reports that direct-

and the element of watch officer dis-

In answer to M-77-5, recommending prohibition of the use of metals with

the suspension or revocation of licenses or documents of marine chem-

cedures for issuing, transmitting, and posting certificates.

agencies. Coast Guard states that it lacks statutory authority to impose

V 43 / 179 SEP 14 1978

The department reports that directly after this accident occurred, its traffic engineers visited the location and found, as pointed out by the Safety Board, that the yellow clearance interval was 6 seconds due to the width of the intersection. An all-red phase with a 2-second interval has now been added. The department is now allowing for an all-red phase on all new installations and has been adding such to its signals in places where the speed limit is 45 mph or more. Former Virginia law made it illegal for a motorist to enter an intersection when the signal turned to "Caution." A few years ago this was changed, the department notes, and now a motorist may enter on caution provided he feels that it is safe to do so—thus the need for an all-red clearance period.

The department states that since all actuated equipment is used, and due to eight phases at this location, it was not thought practical to use multipoint detection. The Fairfax Police Department has greatly intensified their enforcement at this location, not only as to speeding, but also to violations of the weight laws. According to the department, since the subject fatal accident, hundreds of summonses have been issued for both.

Marine

M-77-1 through 6.—U.S. Coast Guard's letter of August 15 is in reply to the Safety Board's letter of May 30 which commented on the Coast Guard's initial response, dated October 11, 1977, to recommendations developed as a result of the collision between the *SS Keytrader* and *SS Baune* on the lower Mississippi River on January 18, 1974.

Recommendation M-77-1 asked Coast Guard to determine the maximum safe speeds for vessels that are navigating with radar in limited visibility on inland waters and require vessel operators to set the vessel's speed at, or less than, the maximum safe speed. The Safety Board stated in its May 30 letter that its intent in making this recommendation was to urge Coast Guard to develop the correlation between the ability of the vessel's personnel to process and use radar data and the safe speed of the vessel. The Board said that the speed of a vessel navigating with radar should be such that there is adequate time to detect other vessels, evaluate their movements, and make passing agreements. Coast Guard on August 15 stated that equating time required to solve a relative motion problem to safe speed introduces a number of additional variables not heretofore considered. Aside from operator proficiency, such a relationship is very much involved with vessel size and speed, congestion and geographic restraints, and the element of watch officer distraction during plotting and solution time. However, Coast Guard states that it has not investigated this concept and it is possible that a solution time standard may be useful for this or other purposes. Coast Guard will pursue the idea as time and workload permit.

Recommendation M-77-2 asked Coast Guard to determine the maximum strength of current which leads to the mandating of one-way traffic for vessels that are navigating by radar in limited visibility on inland wates, and require the Vessel Traffic Service (VTS) to mandate one-way traffic when the strength of the current exceeds the maximum strength. The August 15 response indicates that Coast Guard believes that one-way traffic imposition should be considered on a case-by-case or port-by-port basis. This opinion is based on the variables encountered in each situation. The case-by-case approach rather than strict quantifiable standards keeps the safety of the wateway under continued surveillance, and the supervision of the situation is not dulled when the standards have not yet been breached, according to Coast Guard. A summary of normally encountered, one-way traffic situations in the VTS program is provided in the response.

Recommendation M-77-3 asked Coast Guard to establish minimum standards for manually processing radar data to assist in evaluating the movements of approaching radar contacts on inland waters, and require vessel operators to insure that radar data is processed in accordance with the standards unless a collision avoidance system is in use. In response to the Safety Board's May 30 followup, Coast Guard has supplied further information and states that the notice of proposed rulemaking to amend 46 CFR 10.05-46 concerning the endorsement of a deck officer's license as a "radar observer" does include a proficiency requirement for manipulation radar data. The officer will be required to demonstrate his ability to plot, interpret, and evaluate approaching radar contacts within a specified time.

Concerning M-77-4, which asked Coast Guard to develop and publicize information about deficiencies in the use of sound signals between vessels including the effect of environmental conditions on sound propagation, Coast Guard reports that the information on sound signal characteristics, to be published in local notices to mariners is being compiled but has been delayed by higher priority items. Coast Guard believes that the information, when published, will be precisely what the Safety Board seeks.

In answer to M-77-5, recommending prohibition of the use of metals with low melting points and of fire-consumable gaskets in both tankcovers and deck piping systems on tank ships, Coast Guard indicates that a test series has been completed which evaluated the potential problems associated with aluminum hatch covers on tank ships. Based on these tests, a rulemaking has been initiated to require retrofitting of steel hatchcovers.

Recommendation M-77-6 called for Coast Guard to study the adequacy of its capability to fight major marine fires on remote waterways where the local firefighting capability is inadequate and establish an adequate firefighting capability for such areas. The Safety Board's May 30 followup noted that Coast Guard's initial response to M-77-6 placed the responsibility for fighting marine fires totally on the local jurisdiction and stated that Coast Guard has neither the assets nor the mandate to accept such a role. The Board agreed with Coast Guard as this responsibility relates to large port areas or along waterways where development is directly related to and supported by marine commerce, but noted that in remote areas such as this accident location there is no local firefighting capability and no incentive to acquire that capability. The Board on May 30 also stated that the obvious gap in emergency response must be filled by an agency with the needed resources—Federal, State, or nearest major port authority.

Coast Guard's August 15 response to M-77-6 states: "Whether or not the alleged gap in fire fighting capability should be filled by the federal government is a question for the Congress, not the Coast Guard. Until so tasked, funded, staffed, and equipped, the Coast Guard will continue to offer, when asked or on scene, such very limited capability as it now has, to the extent that that assistance does not interfere with higher priority missions."

M-78-3 through 8.—Coast Guard's letter of August 11 comments on recommendations issued last March 4 following investigation of the fire and explosion aboard Tank Barge B-924 which occurred November 13, 1975, at the barge's repair facility in Greenville, Miss.

Recommendation M-78-3 asked that Coast Guard establish a program for licensing or documenting marine chemists, which includes the latest methods and materials, to safely insure that all marine chemists demonstrate a working knowledge of all necessary regulations pertaining to the repair of vessels; reexamine marine chemists periodically to insure that they maintain familiarity with current regulations and provide for

the suspension or revocation of licenses or documents of marine chemists who do not comply with these regulations. In response Coast Guard states that an extensive review of the marine chemist program of the National Fire Protection Association (NFPA) has been made and Coast Guard concludes that the existing NFPA organization is a suitable vehicle for administering and upgrading the program, provided that NFPA supplies the logistical support to effectively implement the recommendations of its Qualifications Board and Sectional Committee on Gas Hazards.

Coast Guard notes that NFPA has formally indicated that they will provide the necessary support. The rules for certification of marine chemists have been extensively revised by NFPA to require an examination on applicable Coast Guard and the Occupational Safety and Health Administration (OSHA) regulations prior to certification. A 5-year interval for recertification has been established. As a part of this process, marine chemists will be required to pass an examination on NFPA standard No. 306 and current Coast Guard and OSHA regulations. Current certification rules are adequate for suspension or cancellation of NFPA certification. The presence of a Coast Guard liaison on the Qualifications Board meetings will insure thorough investigation.

In answer to M-78-4, which called for regulations to establish specific procedures for issuing, transmitting, and posting marine chemists' certificates, Coast Guard notes that NFPA standard No. 306 contains these procedures. This standard is presently being amended, with the Coast Guard represented on the committee. Coast Guard reports that the modified standard will contain specific responsibilities delineating (a) certificates to be completed and issued by the marine chemist prior to any hot work, (b) certificate to be presented to owner or representative with a signature for receipt, and (c) owner or repairer or his representative to be responsible for securely posting the marine chemists' certificate in a conspicuous place aboard the vessel.

Coast Guard notes that the use of NFPA standard No. 306 as a guide in conducting inspections and issuing certificates is currently specified in 46 CFR 35.01-1. In addition, each marine chemist at the time of his certification by NFPA must sign a Memorandum of Agreement stating that he will perform all of his work in accord with the requirements of NFPA-306. Also, Coast Guard is reviewing all regulations concerning this subject and will soon issue a notice of proposed rulemaking that will require specific procedures for issuing, transmitting, and posting certificates.

In answer to M-78-5, which sought regulations to establish specific criteria which must be met before personnel enter and repair vessels, Coast Guard says that an advance notice of proposed rulemaking entitled, "Entry Into Cargo Tanks, Cofferdams and Pumprooms," has been drafted but not yet released. Coast Guard notes that a complete technical review of all current Federal regulations regarding vessel repairs and tank entry is tentatively scheduled for completion during September 1978 and that subsequent to this review, regulatory action will be initiated as appropriate.

Regarding M-78-6, Coast Guard states that, in consultation with OSHA, it will determine standards that should be established for fire watch personnel, as recommended.

Recommendation M-78-7 asked Coast Guard review of personnel utilization practices and staffing levels at marine safety detachments to insure that adequate resources are available to properly monitor vessel repairs and related activities. Coast Guard reports that its Headquarters Office of Personnel completed a body-billet match study last fall. The objective of the study was to determine excesses and/or needs by program at each grade level. The study has been a help in developing plans to fill existing vacancies and new billets. The Office of Personnel has reviewed utilization practices and will do so periodically in the future. A discussion of the philosophy of "monitoring" is included in the Coast Guard response. Coast Guard states that its function is not to "monitor vessel repairs and related activities," but to determine what repairs are required and that the repairs are completed in an acceptable manner. Coast Guard says, "Any requirement to 'monitor' or 'superintend' repairs would require tripling or quadrupling of our inspection resources and would, in essence, have the Coast Guard assume the responsibility for safety previously held by the ship repair facility."

Recommendation M-78-8 called for Coast Guard to initiate contingency plans for responding to major marine casualties in the Greenville, Miss., area, such plans to require that emergency communications are established, that appropriate training be provided, and that firefighting resources are coordinated. In response, Coast Guard notes that its Captains of the Port have developed contingency plans which systematically list steps to be taken upon occurrence of certain mishaps, including marine fires, within their zone of authority. Such contingency plans include identification of local points of contact for response agencies. Coast Guard states that it lacks statutory authority to impose upon local communities any requirements that they establish emergency communications systems, provide firefighting training, and coordinate resources as recommended by the Safety Board. Cooperation is encouraged but is dependent upon voluntary implementation. Coast Guard units, if requested by local authority, will provide assistance to local firefighting forces in the event of a vessel fire or a fire at a waterfront facility. Such assistance is on an "as available" basis and actual firefighting involvement has been very limited. Funds for this purpose are limited.

NOTE.—The above notice reports on Safety Board documents recently released and recommendation response letters received. Single copies of accident reports and the Board's recommendation letters in their entirety are available to the general public without charge. Copies of the full text of responses to recommendations may be obtained at a cost of $4 for service and 10 cents per page for reproduction.

All requests to the Board for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

Dated: September 11, 1978.

MARGARET L. FISHER,
Federal Register Liaison Officer.

[FR Doc. 78-25903 Filed 9-13-78; 8:45 am]

[4910-58]

[Docket No. DCA-78-AP-021]

PIPELINE ACCIDENT, DONNELLSON, IOWA

Investigation Hearing

Notice is hereby given that the National Transportation Safety Board will convene an accident investigation hearing at 9 a.m. (local time) September 26, 1978, in the Grand Ballroom of the Hotel Savery at Locust and Fourth Streets, Des Moines, Iowa.

The public hearing will be held in connection with the Safety Board's investigation of an accident involving the failure of an 8-inch propane pipeline owned by the Mid America Pipeline System which occurred August 4, 1978, in Donnelison, Iowa.

HENRY M. SHEPHERD,
Hearing Officer.

SEPTEMBER 11, 1978.

[FR Doc. 78-25967 Filed 9-13-78; 8:45 am]

[3110-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

responses, 18,929 hours, Richard Eisinger, 395-3214.

ations he may deem relevant, the following factors:

[3190-01]

TRADE POLICY STAFF COMMITTEE

Mr. W. Dewey Presley, Director and Chairman of the Executive Committee, First International Bancshares, Inc., Dallas, Tex.

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Request

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 8, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF ENERGY

Automotive Fuel Economy Guide Evaluation Survey, EIA-35, single time, sample of new car and truck buyers in 41 States, 2,400 responses, 6,000 hours, C. Louis Kincannon, 395-3211.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration (medicare), Summary of Utilization at Different Levels of Care, HCFA-L-70T, single time, 108 PSROS that had implemented review by December 31, 1977, 108 responses, 54 hours, Richard Eisinger, 395-3214.

REVISIONS

U.S. CIVIL SERVICE COMMISSION

Application for Federal Summer Employment, OPM 843A, on occasion, students, 100,000 responses, 16,666 hours, Warren Topelius, 395-6132.

DEPARTMENT OF ENERGY

Natural Gas Liquids Operations Report, EIA-64, monthly, natural gas processing plant operators, 8,700 responses, 17,400 hours, C. Louis Kincannon, 395-3211.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service, National Ambulatory Medical Care Survey (1979), HRA 34-2, 3, 4, and 5, other (see SF-83), physicians in office practice, 91,000 responses, 1,525 hours, Office of Federal Statistical Policy and Standard, Richard Eisinger 673-7956.

Social Security Administration:

Evaluation and Measurement System (EMS) Questionnaire—Retirement Survivors Disability Insurance (RSDI) SSA-1398, monthly, monthly samples of original adjustment RSDI application within each sample month, 24,000 responses, 12,000 hours, Human Resources Division, Reese, B. F., 395-3532.

Statement Regarding Wages by Person Having Knowledge Thereof, SSA-7013, on occasion, any person having knowledge of wages paid to an individual, no evidence, 15,000 responses, 5,000 hours, Reese, B. F., 395-3211.

Health Care Financing Administration (medicare), RACC Provider Survey (hospital administrators, directors of nursing, and physicians), HCFA-28T, 73T, and 19T, single time, admitting physicians in rural hospital in Texas, Iowa, and South Dakota, 588 responses, 294 hours, Office of Federal Statistical Policy and Standard, 673-7956.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, Utility Information Authorization, BLS-CCE—10(X), weekly, households in 3 test areas—Philadelphia, Pa.; Akron, Ohio; and Wisconsin, 1,600 responses, 7,200 hours, Office of Federal Statistical Policy and Standard, 673-7956.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Statement of Institution or Social Agency, SSA-1255, on occasion, institution or social agency in which a beneficiary resides, 3,500 responses, 600 hours, Reese, B. F., 395-3211.

Health Care Financing Administration (medicare), End Stage Renal Disease Medical Information System, HCFA-2742, 2743, 600-1 through 600-5, annually, facilities certified for ESRD services, 330,000 responses, 18,929 hours, Richard Eisinger, 395-3214.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-26008 Filed 9-13-78; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Solicitation of Public Views

Pursuant to section 201 of the Trade Act of 1974, on September 1, 1978, the President received a report from the U.S. International Trade Commission (USITC) on the case of Bicycle Tires and Tubes (Investigation No. TA-201-33). The Commission submitted a report containing an affirmative determination that pneumatic bicycle tires provided for in item 772.48 of the Tariff Schedules of the United States (TSUS), other than tubular tires consisting of tires with tubes permanently enclosed therein; and tubes for bicycle tires, provided for in TSUS item 772.57, are being imported into the United States in such increased quantities as to be substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

The Commission finds and recommends that, to prevent or remedy the serious injury or the threat thereof to the domestic industry, it is necessary to impose rates of duty, in lieu of the present rates of duty, with respect to U.S. imports of pneumatic bicycle tires, other than tubular tires consisting of tires with tubes permanently enclosed therein; and tubes for bicycle tires as follows:

[Figures in percent ad val.]

Item	Recommended rates of duty				
	1st yr	2d yr	3d yr	4th yr	5th yr
Pneumatic bicycle tires, provided for under TSUS item 772.48 (other than tubular tires consisting of tires with tubes permanently enclosed therein)	15	15	15	15	10
Tubes for bicycle tires, provided for under TSUS item 772.57	25	25	20	20	20

Within 60 days of receiving a report from the Commission containing an affirmative determination, the President must determine what method and amount of import relief he will provide or determine that the provision of relief is not in the national economic interest, and whether he will direct expeditious consideration of adjustment assistance petitions.

In determining whether to provide import relief and what method and amount of import relief he will provide, the President must take into account, in addition to other considerations he may deem relevant, the following factors:

(1) the probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the Nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic markets for such articles;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on U.S. industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) The geographic concentration of imported products marketed in the United States;

(6) The extent to which the U.S. market is a focal point for exports of such article by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities, and workers if import relief were or were not provided.

The Office of the Special Representative for Trade Negotiations chairs the interagency Trade Policy Committee structure that makes recommendations to the President as to what action, if any, he should take on reports submitted by the USITC under section 201(d). In order to assist the Trade Policy Staff Committee in developing recommendations to the President as to what action to take under sections 202 and 203 of the Trade Act of 1974, the Committee welcomes briefs from interested parties on the above listed subjects. (Additional information on this case is available in USITC Report 201-33.)

Briefs should be submitted in twenty (20) copies to Secretary, Trade Policy Staff Committee, Room 728, Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C. 20506.

To be considered by the Trade Policy Staff Committee, submissions should be received in the Office of the Special Representative for Trade Negotiations no later than the close of business Thursday, September 28, 1978.

WILLIAM B. KELLY, JR.,
Chairman,
Trade Policy Staff Committee.

[FR Doc. 78-25856 Filed 9-13-78; 8:45 am]

[3190-01]

TRADE POLICY STAFF COMMITTEE

Extension of Deadline for Submission of Public Views and Comments

In the FEDERAL REGISTER of August 22, 1978 (43 FR 37249) and of September 7, 1978 (43 FR 39876) the Trade Policy Staff Committee solicited public views and comments with respect to the possible conversion by the United States of certain specific and compound rates of duty to ad valorem rates as part of the "Tokyo Round" of Multilateral Trade Negotiations. The deadline given in those notices for such submissions was specified as September 8, 1978. Notice is hereby given that this deadline has been extended until September 22, 1978.

WILLIAM B. KELLY, JR.,
Chairman, Trade Policy Staff Committee

[FR Doc. 78-25855 Filed 9-13-78; 8:45 am]

[4510-23]

PRESIDENT'S COMMISSION ON THE COAL INDUSTRY

MEETING

The first meeting of the President's Commission on the Coal Industry will be held on Friday, September 29, 1978, from 9 a.m. to 1 p.m., in room 2010 of the New Executive Office Building, 726 Jackson Place NW., Washington, D.C.

The Commission was created by Executive Order 12062 on May 26, 1978. Under that order the Commission is to conduct a comprehensive review of the state of the coal industry in the United States with particular emphasis on matters pertaining to productivity, capital investment, and the general economic health of the industry; collective bargaining, grievance procedures, and such other aspects of labor-management relations as the Commission deems appropriate; health, safety, and living conditions in the Nation's coal fields; the development and application of new technologies to the industry; the impact on the coal industry of Federal regulations and such other matters as the Commission deems appropriate.

The Commission membership is as follows:

VOTING MEMBERS

Hon. John D. Rockefeller IV, Chairman, Governor of West Virginia, Charleston, W. Va.
Mr. Jesse Core, Adjunct Professor of Mining Engineering, Pennsylvania State University, University Park, Pa.
Mr. Marvin Friedman, Vice President, Rutenberg, Friedman, Kilgallon, Gutchess & Associates, Inc., Washington, D.C.
Mr. W. Dewey Presley, Director and Chairman of the Executive Committee, First International Bancshares, Inc., Dallas, Tex.
Mr. Willard Wirtz, Wirtz & Gentry, Washington, D.C.

NONVOTING MEMBERS

Hon. Walter Huddleston, U.S. Senate, Washington, D.C.
Hon. Charles Percy, U.S. Senate, Washington, D.C.
Hon. Jennings Randolph, U.S. Senate, Washington, D.C.
Hon. Ray Marshall, Secretary, Department of Labor, Washington, D.C.
Hon. John Buchanan, U.S. House of Representatives, Washington, D.C.
Hon. Austin Murphy, U.S. House of Representatives, Washington, D.C.
Hon. Carl Perkins, U.S. House of Representatives, Washington, D.C.
Hon. James Schlesinger, Secretary, Department of Energy, Washington, D.C.

The Commission is to prepare and transmit a final report of their findings and recommendations to the President, the Secretary of Labor and the Secretary of Energy within a year of the first meeting of the Commission.

The agenda for the September 29 meeting follows:

9 a.m.—Meeting convened—Hon. John D. Rockefeller IV, Chairman.
9:15 a.m.—Background of Commission—Representatives of: The White House, Department of Labor, Department of Energy.
10 a.m.—Scope of work—Commission members.
11:45 a.m.—Hearings schedule—Commission members.
2:30 p.m.—Administrative matters—Commission members.
1 p.m.—Adjournment.

The meeting will be open to the public with approximately 40 seats available on a first-come, first served basis. This first Commission meeting will be devoted primarily to setting an agenda for the coming year. Persons wishing to file statements with the Commission pertaining to the agenda should provide 25 copies of such statement to Mr. James M. Childress, President's Commission on the Coal Industry, P.O. Box 1424, Washington, D.C. 20013, to be received no later than October 13, 1978.

Minutes of the Commission meeting will be available upon request 30 days after the meeting. In addition, copies of the meeting transcript, as well as the Commission agenda and formal statements received from the public will be maintained and available for public inspection and copying at actual cost at the Commission offices. Persons wishing to inspect these documents should contact Mr. Childress at 202-673-7925, or at the above address.

Dated: September 13, 1978.

MICHAEL S. KOLEDA,

an aggregate net asset value equal to the value of the Hunter assets to be acquired shall be issued in exchange

shareholders in complete liquidation of Hunter, in proportion to their respective stock ownership in Hunter,

and in view of the short time span involved, applicant argues that the possible abuses at which Rule 22c-1 is di-

cation should be addressed: Secretary, Securities and Exchange Commission,

attendant on maintaining a dual listing on both exchanges. The Company does not see any particular advantage

Dated: September 13, 1978.

MICHAEL S. KOLEDA,
Executive Director, President's Commission on the Coal Industry.

[FR Doc. 78-26100 Filed 9-13-78; 10:11 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 10392]

BROAD STREET INVESTING CORP.

Filing of an Application Pursuant to Section 6(c) of the Act for an Order Exempting a Proposed Exchange of Shares From the Provisions of Sections 22(c) and 22(d) of the Act, and Rule 22c-1 Thereunder.

SEPTEMBER 17, 1978.

Notice is hereby given, that Broad Street Investing Corp. ("Broad Street"), registered under the Investment Co. Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on July 18, 1978, and an amendment thereto on August 18, 1978, requesting an order of the Commission pursuant to section 6(c) of the Act exempting from the provisions of section 22(c) of the Act and rule 22c-1 thereunder, and section 22(d) of the Act the proposed exchange of Broad Street shares at net asset value without a sales charge and at a price other than the price next determined after receipt of a purchase order, for substantially all of the assets of Hunter Investment Corp. ("Hunter"), which, applicant asserts, is an investment company exempt from registration under the Act by reason of section 3(c)(1) thereof. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Broad Street is a Maryland corporation, and on August 14, 1978, had net assets totalling $331,234,797. Applicant represents that Hunter is a corporation organized and existing under the laws of Massachusetts and that its stock is held of record and beneficially by 5 persons.

Applicant further represents that no affiliation exists between Hunter or its officers, directors or stockholders and Broad Street and its officers or directors.

Applicant states that Broad Street and Hunter have entered into an Agreement and Plan of Reorganization (the "Plan") which provides that substantially all of the cash and securities owned by Hunter will be transferred to Broad Street in exchange for shares of its capital stock. Pursuant to the Plan, Broad Street shares having an aggregate net asset value equal to the value of the Hunter assets to be acquired shall be issued in exchange therefor. The number of shares of applicant to be issued to Hunter on the exchange date is to be determined by dividing the aggregate market value of the assets of Hunter to be transferred to applicant by the net asset value per share of Broad Street. Determination of the aggregate market value of the assets of Hunter will be subject to an adjustment designed to compensate for any increase in the potential taxes of applicant that may result from any excess in the proportion of the net asset value of the assets acquired from Hunter represented by realized and unrealized appreciation over the proportion of the net asset value of applicant represented by realized and unrealized appreciation. The valuation date for purposes of determining the net asset value per share of Broad Street and the market value of the assets of Hunter to be acquired by Broad Street will be the close of business of the New York Stock Exchange on the business day next preceding the exchange date. If the valuation date under the plan had occurred on August 14, 1978, Hunter would have received 420,569 shares of Broad Street's capital stock, having a net asset value of $11.65 per share, in exchange for substantially all the assets of Hunter having an aggregate value as of that date of approximately $4,899,619, and Broad Street would not have recognized any capital loss carryforward as a result of the transaction. Broad Street presently intends to sell approximately 36 percent of the assets to be acquired from Hunter within a relatively short period following their acquisition. As of August 14, 1978, the market value of such assets was approximately $1,742,812.

The Plan also provides for the retention by Hunter of an amount equivalent to less than 10 percent of its net assets to pay its liabilities, costs of liquidation and dividends to its stockholders equal to its "undistributed personal holding company" income as defined in section 545 of the Internal Revenue Code of 1954. Hunter has advised applicant, however, that the Plan calls for the exchange of 100 percent of its assets for applicant's shares, and that within a 12 month period immediately following the exchange date, Hunter intends to transfer to Broad Street any balance of the assets retained by Hunter. Broad Street shall thereupon issue and deliver to Hunter additional Broad Street shares at the net asset value per share next computed after receipt of such assets.

Applicant states that, when received by Hunter, the shares of Broad Street are to be distributed to Hunter's shareholders in complete liquidation of Hunter, in proportion to their respective stock ownership in Hunter. Applicant has been informed by management of Hunter that the shareholders of Hunter have no present intention of redeeming or otherwise transferring any of the Broad Street shares so distributed. Applicant believes that expenses and other costs related to the distribution of an equivalent number of its shares in the ordinary course of business substantially exceed the expenses which Applicant may incur in connection with the proposed transaction.

It is a condition to the obligations of Hunter and Broad Street under the Plan that, prior to the exchange of Hunter's assets for Broad Street shares, Broad Street and Hunter shall have received an opinion of counsel to the effect that the Plan, the acquisition of Hunter's assets by Broad Street, the receipt of Broad Street shares in exchange therefor and the distribution of such Broad Street shares to Hunter shareholders, will not result in taxable gains either to Broad Street, Hunter, or to any of their respective shareholders.

Section 22(c) of the Act and rule 22c-1 thereunder taken together provide, in pertinent part, that a registered investment company may not issue its redeemable securities except at a price based on the current net asset value of such security which is next computed as of the close of trading on the New York Stock Exchange next following receipt of an order to purchase such security.

Section 22(d) of the Act provides, in pertinent part, that a registered investment company may sell redeemable securities issued by such company only at the current public offering price described in the prospectus. The current public offering price of the shares of Broad Street as described in its prospectus is net asset value plus a sales charge.

Without an exemption from sections 22(c) and 22(d) of the Act and rule 22c-1 thereunder, Applicant submits that it would be prohibited from (a) exchanging its shares at net asset value without a sales charge for substantially all of the assets of Hunter, and (b) effecting the proposed exchange transaction on the exchange date based on the market value of the assets of Hunter to be transferred and net asset value per share of Broad Street, both determined as of the valuation time which is the close of business on the business day next preceding the exchange date. It is currently expected that the valuation date will be September 29, 1978; the exchange date is expected to be October 2, 1978. Because the exchange date and the valuation date will be fixed in advance, and in view of the short time span involved, applicant argues that the possible abuses at which Rule 22c-1 is directed will not exist. Applicant also argues that consummating the proposed transaction in the manner described above will allow both Broad Street and Hunter adequate time to complete the necessary preparations for closing the transaction.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision under the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant represents that it considers the proposed exchange of shares to be at a fair price, arrived at by arms-length bargaining, and believes that granting of the requested exemption from the provisions of section 22(c), rule 22c-1 thereunder and section 22(d) of the Act is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant states that the proposed acquisition will be beneficial to the shareholders of Broad Street because those expenses of Broad Street which do not rise proportionately with an increase in portfolio size will as a result of the proposed transaction be spread over a larger number of shares. In addition, Applicant states that, even after offsetting brokerage commissions and approximate principal transaction costs involved in disposition of securities which Broad Street does not expect to retain for any significant period after consummation of the proposed transaction, the transfer of portfolio securities to be retained pursuant to the proposed transaction will cause Broad Street less expense than the purchase of securities of the same issuers in the open market. Further, Applicants state that the proposed exchange will enable Broad Street to acquire at one time additional securities for its existing portfolio without affecting the market in such securities.

Notice is further given, that any interested person may, not later than September 28, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25873 Filed 9-13-78; 8:45 am]

[8010-01]

[File No. 1-4745]

BINNEY & SMITH, INC.

Application To Withdraw From Listing and Registration

SEPTEMBER 5, 1978.

In the matter of Binney & Smith, Inc., common stock, par value $2.50 per share, file No. 1-4745, Securities Exchange Act of 1934, section 12(d).

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 and rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Binney & Smith, Inc. (the "Company") has been listed for trading on the Amex since May 1, 1963. On June 19, 1978 the stock was also listed for trading on the New York Stock Exchange, Inc. ("NYSE") and concurrently therewith, such stock was suspended from trading on the Amex. In making the decision to withdraw its common stock from listing and registration on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining a dual listing on both exchanges. The Company does not see any particular advantage in the dual trading of its common stock and believes that dual listing would fragment the market for such stock.

The application relates solely to the withdrawal from listing and registration on the Amex and shall have no effect on the continued listing of such common stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before October 6, 1978, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25874 Filed 9-13-78; 8:45 am]

[8010-01]

[Rel. No. 20703]

OHIO EDISON CO.

Proposed Issuance and Sale of Common Stock Pursuant to Dividend Reinvestment and Stock Purchase Plan; Request for Exemption From Competitive Bidding

SEPTEMBER 8, 1978.

Notice is hereby given that Ohio Edison Co. ("Ohio Edison"), a registered holding company, has filed with this Commission a post-effective amendment to its application-declaration previously filed and amended in this matter pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

By order dated December 23, 1977 (HCAR No. 20339), Ohio Edison was authorized to issue and sell not more than 1,000,000 shares of its authorized but unissued common stock, par value $9 per share, through October 31, 1979, pursuant to its Dividend Rein-

vestment and Stock Purchase Plan (the "Plan"). Ohio Edison currently

gram and to repay a portion of its unsecured short term debt. Ohio Edison

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[8010-01]

rules or regulations upon its own motion or by order upon application,

These terms are based upon rule 10f-3 revised for the purposes of the re-

er, but in no event greater than 10 percent of the principal amount of the

vestment and Stock Purchase Plan (the "Plan"). Ohio Edison currently estimates that of such 1,000,000 shares approximately 593,024 remain unsold as of August 30, 1978, and approximately 200,000 shares will remain unsold as of December 31, 1978.

By post-effective amendment Ohio Edison proposes to issue and sell not more than 1,000,000 shares of its authorized but unissued common stock ("Additional Common Stock") pursuant to the Plan through October 31, 1980. It is stated that the common stock remaining to be sold under the previous order will be issued and sold under the Plan before the Additional Common Stock is issued and sold.

The Additional Common Stock will be offered to all of Ohio Edison's common stockholders pursuant to a voluntary plan whereby such stockholders may elect to (a) have dividends on their shares of common stock reinvested or, (b) continue to receive their cash dividends on shares registered in their names and invest by making optional cash payments of not less than $10 per payment nor more than a total of $5,000 per quarter, or (c) invest both their cash dividends and such optional cash payments. No service charge or commission will be paid by participants in connection with purchases under the Plan, and participants will retain all voting rights relating to shares purchased under the Plan. A participant will be able to withdraw from the Plan at any time upon written notice.

The purchase price of shares of common stock purchased with reinvested cash dividends will be an amount equal to 95 percent of the average of the high and low prices for Ohio Edison's common stock, as reported in *The Wall Street Journal* report of NYSE-Composite Transactions, on the investment date as of which the purchase is made. The purchase price of shares purchased with optional cash payments will be an amount equal to 100 percent of such average of the high and low prices. Investment dates will be the last business day of each month. No shares will be sold under the Plan at less than the par value of such shares.

Ohio Edison will announce the Plan to all of its new stockholders by addressing to them a brochure describing the Plan. The continued existence of the Plan will occasionally be brought to the attention of all nonparticipants by a remailing of such brochure. All current participants in the Plan, all stockholders who so request and all stockholders who join the Plan will be sent a copy of a complete prospectus.

The reason for the proposed issuance of the Additional Common Stock is to provide funds for Ohio Edison to continue its ongoing construction program and to repay a portion of its unsecured short term debt. Ohio Edison estimates its total plant additions for 1978 at $381,635,000.

Ohio Edison considers that the issuance and sale of shares of Additional Common Stock through the reinvestment of dividends to be exempted from the requirements of rule 50 by virtue of rule 50(a)(1). With respect to the issuance and sale of shares of Additional Common Stock through optional cash payments, Ohio Edison requests an exemption from the competitive bidding requirements of rule 50 pursuant to rule 50(a)(5).

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. The Public Utilities Commission of Ohio has jurisdiction over the proposed issuance and sale of the Additional Common Stock. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 6, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as further amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application-declaration, as further amended by said post-effective amendment or as it may be further amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulation promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25875 Filed 9-13-78; 8:45 am]

[8010-01]

[Release No. 10391]

SHEPMYERS INVESTMENT CO. AND DREXEL BURNHAM LAMBERT INC.

Filing of Application Pursuant to Section 10(f) of the Act for an Order of the Commission Exempting Certain Transactions From the Provisions of Section 10(f)

SEPTEMBER 6, 1978.

Notice is hereby given that Shepmyers Investment Co. (the "Fund"), a Pennsylvania corporation, and Drexel Burnham Lambert Inc. (the "Adviser") (hereinafter collectively referred to as the "Applicants") filed an application on May 26, 1978, and an amendment thereto on August 30, 1978, pursuant to section 10(f) of the Investment Company Act of 1940 (the "Act"), for an order of the Commission exempting certain transactions of the Fund from the provisions of section 10(f) of the Act so as to permit the Fund to purchase Municipal Bonds (as hereinafter defined) in public offerings in which the Adviser participates as a principal underwriter, subject to certain conditions specified in the application and set forth below. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

The Fund is a diversified, closed-end, management investment company registered under the Act. Its investment objective is to provide shareholders with as high a level of income exempt from Federal income tax as is consistent with the preservation of capital. In seeking this objective, the Fund proposes to invest all of its assets in a portfolio consisting of debt obligations issued by States, territories and possessions of the United States and the District of Columbia and their political subdivisions, duly constituted authorities and corporations, the interest on which is exempt from Federal income tax (such obligations being referred to hereinafter as "Municipal Bonds"). The Adviser acts as investment adviser for the Fund.

The Adviser states that it participates as an underwriter in a substantial number of public offerings of Municipal Bonds. Secton 10(f) of the Act, in pertinent part, provides that no registered investment company shall knowingly purchase or acquire, during the existence of any underwriting or selling syndicate, any security a principal underwriter of which is an officer, director, investment adviser, or employee of such investment company, or is a person of which any such officer, director, investment or employee is an affiliated person. That section further provides that the Commission, by

rules or regulations upon its own motion or by order upon application, may exempt any transaction or classes of transactions from the restrictions contained therein to the extent such exemption is consistent with the protection of investors.

Pursuant to the rulemaking authority granted by section 10(f), the Commission adopted rule 10f-3 in 1958. That rule provides that a purchase of securities by a registered investment company prohibited by section 10(f) of the Act shall be exempt from the provisions of that section if certain conditions are satisfied. The Applicants submit that rule 10f-3 was designed for underwritten offerings of corporate equity and debt securities, whereas they intend to invest primarily in Municipal Bonds. They assert that underwritten offerings of Municipal Bonds are conducted under different terms and conditions than corporate underwritings and for several reasons do not fit within the framework of rule 10f-3. For example, there is no registration requirement for Municipal Bonds under the Securities Act of 1933; such registration is one of the conditions precedent to the availability of the exemption provided for by rule 10f-3. Therefore, the Fund will be precluded from being able to take advantage of the exemption afforded by the rule, and will be unable to purchase Municipal Bonds in public offerings in which the Adviser participates as a "principal underwriter", as such term is defined in secton 2(a)(29) of the Act.

It is the Applicants' contention as stated in its application, that, due to the special nature of the Municipal Bond market and its emphasis on distributions through underwriting syndicates, the Fund must have access to the primary underwriting market in order to obtain best price and execution in the accumulation of portfolio securities. Because of the substantial participation of the Adviser in these underwritings, the Applicants believe that the prohibitions of section 10(f) would, unless modified, prejudice the Fund by precluding access to a significant portion of the Municipal Bond market. The Applicants state that, although there may be a large secondary market in Municipal Bonds, this secondary market lacks the depth and liquidity of the corporate bond or short-term securities market and is more susceptible to sharp price fluctuations.

In order for the Fund to participate in public offerings of Municipal Bonds in which the Adviser is a "principal underwriter", the Applicants seek an order of the Commission exempting its proposed future purchases of Municipal Bonds from section 10(f) on the basis of the terms set forth below, which are discussed in the application. These terms are based upon rule 10f-3 revised for the purposes of the requested exemptive order to reflect the special nature of the Municipal Bond market.

Terms of the Proposed Order

The exemptive order sought by the Applicants would be subject to the following conditions:

(a) The securities to be purchased shall be:

(1) Part of an issue of Municipal Bonds, the interest on which is exempt from Federal income tax, which is being offered to the public;

(2) Purchased at not more than the public offering price prior to the end of the first full business day after the first date on which the issue is offered to the public;

(3) Offered pursuant to an underwriting agreement under which the underwriters are committed to purchase all of the Municipal Bonds being offered, if the underwriters purchase any thereof;

(4) Acquired pursuant to an order (which may be conditional) placed by or for the account of the Fund with an underwriter not earlier than two days after the first public announcement of the offering and prior to the first date on which the issue is offered to the public;

(5) Purchased in an unsolicited transaction originating with the Fund or its investment adviser; and

(6) Purchased in transactions for which records are maintained setting forth the reasons for the purchase and for the sale, if any, of any portfolio securities related to the transaction, which records shall be available for inspection by the Commission.

(b) The gross commission, spread or profit to the principal underwriters shall not exceed 2.5 percent of the principal amount of the issue.

(c) On the date of purchase the issue shall have received an investment grade rating, including conditional or provisional ratings, from Standard & Poor's Corp. or Moody's Investors Service, Inc.; provided, however, if the issuer of the securities to be purchased, or the entity supplying the revenues from which the issue is to be paid, shall have been in continuous operation for less than 3 years, including the operations of any predecessor, then on the date of purchase the issue shall have received a rating of "A" or better from Standard & Poor's Corp. or Moody's Investors Service, Inc.

(d) The principal amount of Municipal Bonds to be purchased by the Fund or by the Fund and any other investment companies having the same investment adviser, shall not exceed 3 percent of the principal amount of the issue being underwritten or $500,000 in principal amount, whichever is greater, but in no event greater than 10 percent of the principal amount of the issue.

(e) The consideration to be paid by the Fund in purchasing the Municipal Bonds being offered shall not exceed 3 percent of the total assets of the Fund; provided, that if such consideration shall exceed $1,000,000, it shall not exceed 1 percent of the Fund's total assets.

(f) The exemptive order shall not be construed to permit transactions which would otherwise be prohibited by section 17 of the Act, and the Fund agrees that the exemptive order will not be applicable to a transaction otherwise prohibited by section 10(f) of the Act unless the Fund does not purchase Municipal Bonds being offered directly or indirectly (including purchases from syndicate managers designated as group sales or otherwise allocated to the account of any person designated in clause (i), (ii) or (iii)), from (i) the Adviser or any affiliated person thereof; (ii) an officer, director, member of an advisory board, investment adviser or employee of the Fund; or (iii) a person of which any such officer, director, member of an advisory board, investment adviser or employee is an affiliated person; the Fund having represented that it will keep its noninterested directors completely informed, and fully aware, of the available alternatives with respect to recapture of the costs of portfolio transactions and having undertaken to take such steps as may be necessary to seek to implement any such recapture, including the filing of applications for exemptions under the Act, if the noninterested directors should determine that recapture is in the best interests of the Fund or if otherwise required by developments in the law.

(g) The purchase of the securities being offered shall have been authorized or approved by a resolution of the board of directors of the Fund, or of a committee composed of at least three members of such board (at least a majority of which must be noninterested persons of the Fund), which resolution shall state that in the judgment of the board or committee, the purchase of securities proposed will meet all the requirements of paragraphs (a) through (f) above and which authorization or approval shall have been supported by the vote (at a meeting or by written consent given without a meeting) of not less than a majority (consisting of at least three persons) of the members of the board of directors or of the committee who were not interested persons of the Fund.

(h) The Fund shall set forth all transactions conducted pursuant to the exemptive order in its quarterly reports filed with the Commission on form N-1Q. In addition, information

as to such transactions shall be contained in the notes to the Fund's pub-

the date of the hearing (if ordered) and any postponements thereof.

(iv) through (vi) No change.

(h) through (l) No change.

change Act of 1934, as amended (the "Act"), which authorizes and directs the Board to adopt rules which are:

pal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number

amendment No. 1 to form 19b-4A for copies of such letters of comment.

As a result of the extensive comment

as to such transactions shall be contained in the notes to the Fund's published financial statements.

(i) The officers and directors of the Fund and its investment adviser assume the burden of establishing that each transaction made pursuant to the exemptive order is consistent with the purpose of such order which is to assure that the selection of the Fund's portfolio securities is in the interest of the Fund's security holders rather than in the interest of its affiliated persons or in the interest of underwriters, brokers or dealers.

The Applicants state that, as set forth in Investment Company Act Release No. 2797 (December 2, 1958), the conditions to the exemption from section 10(f) contained in rule 10f-3 are designed to permit purchases without an exemptive order where the circumstances are such as to make it unlikely that the purchase will be inconsistent with the protection of investors. The Applicants contend that the exemption sought from the prohibitions of section 10(f) is consistent with the protection of investors. The Applicants further contend that the terms of the exemption sought in the application attempt to incorporate the substantive provisions of rule 10f-3 into a framework taking into account the realities of Municipal Bond underwritings so as to permit effective use of the exemption and at the same time make it unlikely that a purchase thereunder will be inconsistent with the protection of investors.

Notice is further given that any interested person may, not later than October 2, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25876 Filed 9-13-78; 8:45 am]

[8010-01]

[Release No. 34-15137; File No. SR-MSRB-78-10]

MUNICIPAL SECURITIES RULEMAKING BOARD

Self-Regulatory Organizations, Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 25, 1978 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

On June 15, 1978, the Municipal Securities Rulemaking Board (the "Board") filed with the Securities and Exchange Commission (the "Commission") proposed amendments to sections (e) and (g) of Board rule G-12 on uniform practice (the "proposed amendments"). The Board has filed the following proposed changes to such amendments (the "proposed rule changes").

Rule G-12. Uniform Practice[1]
(a) through (d) No change.
(e) Delivery of Securities
(i) through (viii) No change.
(ix) Delivery of certificates called for redemption. A certificate for which a notice of call has been published *on or* prior to the delivery date shall not constitute good delivery unless securities are identified as "called" at the time of trade or the notice of call is applicable to the entire issue of securities. For purposes of this subparagraph and item (D)(2) of subparagraph G-12(g)(iii), an "entire issue of securities" shall mean securities of the same issuer having the same date of issue, maturity date and coupon rate.
(x) through (xv) No change.
(f) No change.
(g) Rejections and Reclamations.
(i) and (ii) No change.
(iii) (A) through (C) No change.
(D)(1) No change.
(2) not good delivery because notice of call for less than the entire issue of securities was published *on or* prior to the delivery date and the securities were not identified as "called" at the time of trade.

[1]Marked to show changes from proposed rule changes currently filed with the Commission. Italics indicate new language.

(iv) through (vi) No change.
(h) through (l) No change.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes is as follows:

PURPOSE OF PROPOSED RULE CHANGES

Under section (e) of rule G-12, as presently in effect, delivery of a certificate for which a notice of call has been published prior to the trade date does not constitute good delivery if the securities are not identified as "called" at the time of trade. Section (g) of rule G-12, as presently in effect, provides that reclamation may be made, without time limitation, if it is discovered after delivery that a notice of call was published prior to trade date and this was not specified at the time of trade.

The proposed amendments filed with the Commission on June 15, 1978 would modify section (e) of rule G-12 to provide that delivery of a certificate for which a notice of call has been published for less then the entire issue prior to delivery date, as opposed to trade date, does not constitute good delivery unless the securities are identified as "called" at the time of trade. Similarly, the proposed amendments would amend section (g) of rule G-12 to provide for reclamation of called securities in such circumstances.

The proposed rule changes would modify the proposed amendments by providing that, with respect to section (e), delivery of securities would not be good delivery if a notice of call has been published for less than the entire issue on the delivery date, as well as prior to the delivery date. A comparable change would be made in section (g) of rule G-12.

As indicated in the June 15, 1978 filing, the Board believes that modification of sections (e) and (g) of rule G-12 is necessary to reflect more accurately the bargain of the parties to a transaction involving "called" securities. For example, it seems appropriate to assume that the parties to a transaction intend securities that have not been called to be delivered if the securities are not identified as "called" at the time of trade, and the call is not for the entire issue. This assumption would seem valid whether the call is published on or prior to the delivery date. The proposed rule changes therefore modify the proposed amendments to address the situation involving a call published on the delivery date.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGES

The Board has adopted the proposed rule changes pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended (the "Act"), which authorizes and directs the Board to adopt rules which are:

designed * * * to foster cooperation and coordination with persons engaged in * * * clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGES

As indicated above, the Board filed proposed amendments to sections (e) and (g) of rule G-12 on June 15, 1978. Such amendments were published by the Commission in the FEDERAL REGISTER on June 29, 1978. In response to a Board notice describing the proposed amendments, the Depository Trust Co. submitted a comment letter to the Board, a copy of which is on file at the offices of the Securities and Exchange Commission and the Board.

Depository Trust Co. expressed support for the proposed amendments, but suggested that the Board consider further amending rule G-12 to provide that the delivery of securities which are called pursuant to a notice published on the delivery date will not be considered "good delivery." As reflected in the proposed rule changes, the Board has determined to adopt the suggestion of the Depository Trust Co.

BURDEN ON COMPETITION

The Board does not believe that the proposed rule changes will impose any burden on competition.

On or before October 19, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by October 5, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 7, 1978.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25879 Filed 9-13-78; 8:45 am]

[8010-10]

[Release No. 34-15138; File No. SR-MSRB-77-12]

MUNICIPAL SECURITIES RULEMAKING BOARD

Self-Regulatory Organizations, Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 23, 1978 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

On September 20, 1977, the Municipal Securities Rulemaking Board (the "Board") filed with the Securities and Exchange Commission (the "Commission") a series of proposed rules and rule amendments, the general purpose of which was to codify basic standards of fair and ethical business conduct for municipal securities professionals (the "fair practice rules"). The Board filed amendments on February 28, 1978 and June 30, 1978 to certain of the fair practice rules.

The Board has filed amendments to proposed rule G-23 on the activities of financial advisors, one of the fair practice rules. The admendments (hereafter sometimes referred to as the "proposed amendments") effect substantial changes to proposed rule G-23, as originally filed with the Commission. The text of the proposed amendments appears below.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes are as follows:

PURPOSE OF PROPOSED RULE CHANGES

As indicated above, the Board filed its fair practice rules on September 20, 1977. In response to the publication of the fair practice rules in the FEDERAL REGISTER on September 28, 1977, the Commission and the Board received 28 comment letters. See exhibit 2 to amendment No. 1 to form 19b-4A for copies of such letters of comment.

As a result of the extensive comment directed specifically to proposed rule G-23, the Board held two open meetings, on March 3, 1978 in Washington, D.C. and on March 30, 1978 in Denver, Colo., to explore in full the issues raised with regard to proposed rule G-23 by the commentators. Copies of the transcripts of the open meetings have been previously furnished to the Commission staff. On June 8, 1978, after extensive deliberation on the subject, the Board issued for public comment certain draft amendments to proposed rule G-23. The proposed amendments reflect the Board's consideration of the comments on the draft amendments.

In the September 20, 1977 filing, the Board indicated its belief that there is a prima facie conflict of interest when a municipal securities professional acts both as a financial advisor to an issuer of municipal securities and as a purchaser of the issuer's securities. The Board therefore provided in proposed rule G-23 that, in competitive bid situations, a municipal securities professional must obtain the express written consent of the issuer to the purchase of securities by the municipal securities professional in a competitive sale. However, in the negotiated bid situation, the Board prohibited a municipal securities professional from acting in such dual capacity under any circumstances, except with respect to certain short-term issues. The focus of discussion in the comment letters and at the open meetings was on the prohibition in the negotiated sale context.

The Board continues to believe that there is a prima facie conflict of interest when a municipal securities professional acts both as financial advisor to an issuer of municipal securities and as a purchaser of the issuer's securities in a negotiated sale. However, after extensive deliberation, the Board believes that the purpose and intent of rule G-23 can be achieved, without restricting the flexibility of issuers, through an approach which would permit a municipal securities professional to purchase in a negotiated sale the securities of an issuer for whom it has acted as financial advisor, provided that certain conditions are met. These conditions are discussed below.

Specifically, the proposed amendments effect the following changes to proposed rule G-23:

1. *Purpose of the rule.* The proposed amendments add a new section (a) which sets forth a brief statement of the purpose and intent of the Board in adopting proposed rule G-23. The Board believes such a provision is helpful in explaining the Board's goals with respect to the regulation of the

activities of financial advisors under proposed rule G-23.

John Hahn, Director of Finance of Trumbull, Conn.

Proposed rule G-23 would not preclude the municipal securities professional in the circumstances described

V 43 / 179 / SEP 14 1978

activities of financial advisors under proposed rule G-23.

2. *Definition of financial advisory relationship.* Section (b) of the proposed amendments (section (a) of the proposed rule as filed with the Commission) defines a financial advisory relationship for purposes of the proposed rule. The proposed amendments would clarify the definition of the term by providing examples of the types of services performed by financial advisors. The proposed amendments would also make clear that a municipal securities professional will not be deemed to have a financial advisory relationship with an issuer solely by reason of rendering financial advice to the issuer in the course of acting as an underwriter. Under the proposed amendments, a financial advisory relationship will be deemed to exist in circumstances in which a municipal securities professional renders financial advisory services to an issuer on a continuing basis.

3. *Nonpublic information.* Section (c) of the proposed rule as filed with the Commission prohibits a municipal securities professional from using, for its own benefit or the benefit of another person, nonpublic information obtained in the course of a financial advisory relationship. The proposed amendments would delete this section in its entirety on the basis that it is duplicative of general antifraud rules applicable to transactions in municipal securities.

4. *Underwriting activities.* As noted above, the Board continues to believe that there is a prima facie conflict of interest when a municipal securities professional acts as both financial advisor to an issuer and purchaser of the issuer's securities in a negotiated sale. However, in order to preserve the flexibility of issuers in obtaining financing, the proposed amendments would permit a financial advisor to change capacity subject to certain conditions.

Under the proposed amendments, a financial advisor could purchase a new issue of municipal securities at negotiated sale if the financial advisor terminates in writing the financial advisory relationship with respect to such issue and obtains the express written consent of the issuer, at or after such termination, to the change in capacity.

Further, under the proposed amendments, the municipal securities professional would be required to disclose in writing to the issuer at or before the termination of the financial advisory relationship (1) that there may be a conflict of interest in changing from the capacity of financial advisor to purchaser in a negotiated sale, and (2) the source and anticipated amount of all remuneration to the municipal securities professional with respect to the issue. The municipal securities professional would be required to obtain the express written acknowledgement of the issuer with respect to the receipt of such disclosures and to maintain such consents, disclosures and acknowledgements in a separate file.

The Board believes that the provisions of the proposed amendments requiring disclosure to an issuer and acknowledgement by the issuer will promote informed determinations by issuers concerning the advisability of permitting a financial advisor to purchase the securities of the issuer in a negotiated sale. In view of the changes in section (d) to permit financial advisors to change capacity with respect to negotiated sales of municipal securities, the Board proposes to remove the exemption for short term issues previously provided in section (d).

The provisions of section (d) relating to the purchase of securities at competitive bid would, under the proposed amendments, remain essentially the same as in the proposed rule as filed with the Commission. However, the Board proposes to modify section (d) to require the financial advisor in a competitive bid situation to make available to other prospective bidders, upon request, information which the financial advisor utilizes or expects to utilize in purchasing or selling the securities constituting the issue.

5. *Disclosure to customers.* Section (e) of the proposed rule as filed with the Commission requires a financial advisor who purchases a new issue of municipal securities at competitive bid to disclose in writing to each customer purchasing the securities the existence of the financial advisory relationship. In view of the proposed changes to section (d), the Board proposes to amend section (e) to require the same disclosure in the case of a financial advisor who purchases a new issue of municipal securities at negotiated sale.

6. *Other provisions of the proposed rule.* The requirement in proposed rule G-23 for financial advisory arrangements to be evidenced in a writing which sets forth, among other matters, the basis for compensation to the financial advisory would not be changed by the proposed amendments. The Board proposes to amend section (b), however, to permit parties to enter into a written agreement promptly after, as well as at or prior to, the inception of a financial advisory relationship. In addition, under the proposed amendments, the consent of the issuer with respect to the purchase by a financial advisor of the issuer's securities at competitive bid is not required to be contained in the original agreement relating to the financial advisory relationship, although such consent must be obtained prior to the bid.

Section (g) of the proposed rule as filed with the Commission is modified by the proposed amendments to clarify that the proposed rule is not intended to apply to financial advisory arrangements reduced to writing prior to September 20, 1977, the date proposed rule G-23 was filed with the Commission. However, any written agreement entered into prior to that date which contemplates only a financial advisory relationship would be subject to the requirements of section (d) of the proposed rule with respect to the purchase of the issuer's securities by the financial advisor.

Basis Under the Act for Proposed Rule Changes

The Board has adopted the proposed rule changes pursuant to section 15B(b)(2) of the Securities Exchange Act of 1934, as amended (the "Act"), which authorizes the Board to adopt rules governing transactions in municipal securities effected by brokers, dealers, and municipal securities dealers, and in accordance with the standards set forth in section 15B(b)(2)(C) of the Act, which provides in part that the Board's rules shall

> be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, • • • to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest; and [shall] not be designed to permit unfair discrimination between customers, issuers, municipal securities brokers, or municipal securities dealers • • •.

Comments Received From Members, Participants or Others on Proposed Rule Changes

Proposed rule G-23 was filed with the Commission on September 20, 1977, as one of several fair practice rules. As indicated above, in view of the extensive comment directed specifically to the proposed rule, the Board held two open meetings to discuss the rule and subsequently circulated draft amendments to the proposed rule for public comment. Set forth below is a discussion of the letters of comment received by the Board on the draft amendments.

The following persons submitted letters of comment on the draft amendments:

Roy Romer, Treasurer, State of Colorado
Columbian Securities, Inc. ("Columbian Securities")
The Connecticut Bank and Trust Co. ("Connecticut Bank and Trust")
Hartford National Bank and Trust Co. ("Hartford National Bank")
Hugo Marx & Co. ("Hugo Marx") (2 letters)
Municipal Finance Officers Association (the "MFOA")
Public Securities Association (the "PSA")
Sullivan & Cromwell

John Hahn, Director of Finance of Trumbull, Conn.

Copies of the above letters of comment are on file at the office of the Securities and Exchange Commission and the Board.

The MFOA and the PSA endorsed without reservation the changes reflected in the proposed amendments. In contrast, Connecticut Bank and Trust urged that proposed rule G-23 be rescinded in its entirety.

Roy Romer, Treasurer of the State of Colorado, expressed support for the proposed amendments. However, he suggested that the Board should consider modifying the rule to cover a municipal securities professional who renders financial advisory services without "present expectation of compensation • • • yet then acts as underwriter via negotiation." The Board determined not to adopt this suggestion because it would be difficult to distinguish that situation from the situation involving a municipal securities professional which renders financial advice in the course of acting as an underwriter. As made clear in the proposed amendments to section (b), a financial advisory relationship will not be deemed to exist for purposes of the rule in the latter circumstances.

Sullivan & Cromwell made several specific recommendations concerning the draft amendments. With respect to the provision on negotiated sales, Sullivan & Cromwell suggested that, in lieu of the requirement for a municipal securities professional to disclose in writing that there may be a conflict of interest in changing capacities, a municipal securities professional should be required to disclose that "upon termination, such broker, dealer or municipal securities dealer would no longer be acting on behalf of the issuer as agent subject to the obligations of a financial advisor to the issuer, but rather as a principal, acting and negotiating on its own behalf with respect to the sale." The Board decided to adopt the language contained in the draft amendments, as opposed to the suggested language of Sullivan & Cromwell, because it believes that such language will more effectively apprise an issuer of the possible conflict of interest involved in a municipal securities professional changing from financial advisor to underwriter in the negotiated sale of the securities of the issuer, and therefore enable the issuer to make a more informed determination concerning the advisability of permitting the financial advisor to do so.

Sullivan & Cromwell also suggested that the requirement to disclose to issuers the source and anticipated amount of all remuneration could present compliance problems. In lieu of such a requirement, Sullivan & Cromwell recommended that a municipal securities professional be required to state at the time of termination of its financial advisory role that the compensation it would receive as an underwriter could be substantially greater than that which it would receive solely for its financial advisory services. The Board believes that the requirement to disclose "anticipated amount of all remuneration" would provide more meaningful information to an issuer than the substitute disclosure suggested by Sullivan & Cromwell. Further, since the proposed amendments require disclosure of only the "anticipated" amount of remuneration, the Board believes that municipal securities professionals should not have difficulty in complying with the rule. In those cases in which a municipal securities professional terminates its financial advisory role at an early point in the process of the development of an issue, the municipal securities professional could satisfy the disclosure requirement with respect to anticipated compensation by making appropriate disclosure to the issuer based on the information then known to the professional.

Sullivan & Cromwell and Columbian Securities objected to the requirement in subparagraph (d)(ii)(B) of the draft amendments which would require a municipal securities professional to disclose all material information obtained as a result of a financial advisory relationship and utilized or expected to be utilized in the course of purchasing or selling securities unless such information is made available on a timely basis upon request to other municipal securities professionals interested in bidding on the issue. The Board believes that such disclosure is appropriate and necessary to assure that a municipal securities professional which has acted as a financial advisor does not obtain an unfair competitive advantage over other municipal securities professionals in acquiring the securities of an issuer by reason of information obtained in the course of acting as a financial advisor.

Sullivan & Cromwell also made several suggestions of a clarifying or technical nature. As reflected in the proposed amendments, the Board adopted several of them.

Mr. Hahn, the director of finance of Trumbull, Conn., expressed concern regarding the application of the rule to bond anticipation notes ("bans"). He specifically questioned whether under the draft amendments a municipal securities professional which resigns and purchases an issue of bans in a negotiated sale could subsequently act as financial advisor in connection with the renewal of the notes or the bond issue with respect to which the notes were issued.

Proposed rule G-23 would not preclude the municipal securities professional in the circumstances described above from acting as a financial advisor in connection with the renewal of the notes of the bond issue. The proposed rule is intended to apply on an issue-by-issue basis. The Board considers bans a separate issue from the bonds with respect to which they are issued.

Mr. Hahn also suggested that the Board consider exempting certain note issues:

> • • • any issue of municipal securities having a term of 1 year or less if the aggregate face amount of the issue does not exceed $1 million, or if the term of the issue does not exceed 90 days or if the dealer or municipal securities dealer represents to the issuer in writing that it is purchasing the issue for its own account and not for purposes of resale.

Similarly, Hartford National Bank recommends that small interim financings and negotiated sales of securities by an issuer in emergency situations be exempted.

The Board believes that the disclosure and consent requirements of proposed rule G-23 should apply to all issues. Also, since the proposed amendments would permit financial advisors to change capacity, the Board believes that it is not necessary to provide an exemption for certain issues, as it did in the proposed rule as previously filed with the Commission.

Burden on Competition

The Board is of the opinion that the proposed amendments will not impose any burden on competition among brokers, dealers, or municipal securities dealers not necessary or appropriate in furtherance of the purposes of the Act.

On or before October 19, 1978 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule changes, or

(B) institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L

Street NW., Washington, D.C. Copies of such filing will also be available for

nicipal securities dealer or by a person controlling, controlled by, or under

before such termination the source and anticipated amount of all remunera-

curities or participates in a syndicate or other account that acquires new

XII

level 3 service through NASDAQ market makers. Under the proposal,

Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by October 5, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 7, 1978.

RULE G-23 ACTIVITIES OF FINANCIAL ADVISORS [1]

(a) Purpose. The purpose and intent of this rule is to establish ethical standards and disclosure requirements for brokers, dealer, and municipal securities dealers who act as financial advisors to issuers of municipal securities.

(b) [(a)] Financial advisory relationship. For purposes of this rule, a financial advisory relationship shall be deemed to exist when a broker, dealer, or municipal securities dealer renders or enters into an agreement to render financial advisory or consultant services to or on behalf of an issuer *with respect to a new issue or issues of municipal securities, including advice with respect to the structure, timing, terms and other similar matters* concerning *such issue or issues* [a new issue of municipal securities], for a fee or other compensation or in expectation of such compensation for the rendering of such services. *Notwithstanding the foregoing, a financial advisory relationship shall not be deemed to exist when, in the course of acting as an underwriter, a municipal securities dealer renders advice to an issuer, including advice with respect to the structure, timing, terms and other similar matters concerning a new issue of municipal securities.*

(c) [(b)] Basis of compensation. Each [agreement entered into by a broker, dealer, or municipal securities dealer concerning a] financial advisory relationship shall be evidenced *by* [in] a writing entered into [at or] prior to, *upon or promptly after* the inception of the financial advisory relationship (or promptly after the creation or selection of the issuer if the issuer does not exist or has not been determined at the time the relationship commences). Such writing shall set forth the basis of compensation for the financial advisory services to be rendered, including provisions relating to the deposit of funds with or the utilization of fiduciary or agency services offered by such broker, dealer, or municipal securities dealer or by a person controlling, controlled by, or under common control with such broker, dealer, or municipal securities dealer in connection with the rendering of such financial advisory services. The requirement for a writing shall become effective on ———— [90 days after the date of approval by the Commission].

[(c) Nonpublic information. No broker, dealer, or municipal securities dealer shall make use of material, nonpublic information obtained in the course of a financial advisory relationship with an issuer, in connection with the purchase, sale, or exchange of securities of such issuer, whether for the benefit of such broker, dealer, or municipal securities dealer, or any other person.]

(d) Underwriting Activities. No broker, dealer, or municipal securities dealer that has a financial advisory relationship with respect to a new issue of municipal securities shall [:] *acquire as principal either alone or as a participant in a syndicate or other similar account formed for the purpose of purchasing, directly or indirectly, from the issuer all or any portion of such issue, or arrange for such acquisition or participation by a person controlling, controlled by, or under common control with such broker, dealer, or municipal securities dealer, unless*

(i) if such issue is to be sold by the issuer on a negotiated basis [acquire as principal or participate in a syndicate or other similar account formed for the purpose of purchasing, directly or indirectly, from the issuer all or any portion of the issue, or arrange for such acquisition or participation by a person controlling, controlled by, or under common control with such broker, dealer, or municipal securities dealer; or]

(A) the financial advisory relationshp with respect to such issue has been terminated in writing and at or after such termination the issuer has expressly consented in writing to such acquisition or participation in the purchase of the securities on a negotiated basis;

(B) the broker, dealer, or municipal securities dealer has expressly disclosed in writing to the issuer at or before such termination that there may be a conflict of interest in changing from the capacity of financial advisor to purchaser of the securities with respect to which the financial advisory relationship exists and the issuer has expressly acknowledged in writing to the broker, dealer or municipal securities dealer receipt of such disclosure; and

(C) the broker, dealer or municipal securities dealer has expressly disclosed in writing to the issuer at or before such termination the source and anticipated amount of all remuneration to the broker, dealer or municipal securites dealer with respect to such issue in addition to the compensation referred to in, section (c) of this rule, and the issuer has expressly acknowledged in writing to the broker, dealer or municipal securities dealer receipt of such disclosure; or

(ii) if such issue is to be sold by the issuer at competitive bid, [acquire as principal or participate in a syndicate or other similar account formed for the purpose of purchasing, directly or indirectly, from the issuer all or any portion of the issue unless:]

(A) the issuer has expressly consented in writing prior to the bid [the writing referred to in section (b) above includes the express written consent of the issuer] to such acquisition or participation, and

(B) all material information concerning the issue or the issuer thereof *obtained* [known to such broker, dealer, or municipal securities dealer] as a result of the financial advisory relationship *and utilized or expected to be utilized by such broker, dealer, or municipal securities dealer in the course of purchasing or selling the securities constituting such issue* has been *made available* [disseminated] on a timely basis *upon request* to other brokers, dealers, and municipal securities dealers [reasonably expected to be] interested in bidding for the issue.

The limitations *and requirements* set forth in [paragraph (ii) of] this section (d) shall also apply to any broker, dealer, or municipal securities dealer controlling, controlled by, or under common control with the broker, dealer, or municipal securities dealer having a financial advisory relationship. [This section (d) shall not apply to any issue of municipal securites having a final stated maturity of fewer than 366 days, other than bond anticipation notes.] The use of the term "indirectly" in this section (d) shall not preclude a broker, dealer, or municipal securities dealer who has a financial advisory relationship with respect to a new issue of municipal securities from purchasing such securities from *an underwriter* [a syndicate], either for its own trading account or for the account of customers, except to the extent that such purchase is made to contravene the purpose and intent of this rule. *Each broker, dealer, and municipal securities dealer subject to the provisions of this section (d) shall maintain a copy of the written disclosures, acknowledgements and consents required by this section in a separate file and in accordance with the provisions of rule G-9).*

(e) Disclosure to customers. If a broker, dealer, or municipal securities dealer acquires new issue municipal securities or participates in a syndicate or other account that acquires new issue municipal securites in accordance with *section (d)* [paragraph (d) (ii)] of this rule, such broker, dealer, or municipal securities dealer shall disclose [in writing, at or before the completion of the transaction,] the existence of the financial advisory relationship *in writing* to each customer who purchases such securities from such broker, dealer, or municipal securities dealer, *at or before the completion of the transaction with the customer.*

(f) Applicability of State or Local Law. Nothing contained in this rule shall be deemed to supersede any more restrictive provision of state or local law applicable to the activities of financial advisors.

(g) Non-Applicability of Rule to Prior Written Agreements. *This rule shall not apply to any written agreement entered into prior to September 20, 1977* [*the date of filing of this rule with the Commission*] *which expressly permits a broker, dealer or municipal securities dealer to act in a manner or capacity prohibited by this rule, but this rule shall apply to any extension or renewal of any such agreement.* [This rule shall not apply to any written agreement entered into prior to ————, [the date of filing of this rule with the Commission], but shall apply to any extension or renewal of any such agreement.]

[1] Italic indicate new language; brackets indicate deletions.

[FR Doc. 78-25880 Filed 9-13-78; 8:45 am]

[8010-01]

[Release No. 34-15131; File No. SR-NASD-78-8]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 23, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

TEXT OF PROPOSED RULE CHANGE

The following is the full text of proposed new part XII of schedule D of article XVI of the Association's bylaws. (New language is indicated by italics.)

XII

PROCEDURES FOR ACCESS TO THE NASDAQ SYSTEM BY NON-NASDAQ MARKET MAKERS

These procedures permit a registered NASDAQ market maker, upon approval by the Corporation, to enter quotations into the NASDAQ System on behalf of another market maker who does not subscribe to Level 3 NASDAQ service.

A. Definitions:

1. An "access market maker" is a member of the Association who does not subscribe to Level 3 NASDAQ service, but is or intends to be a market maker in a security for which quotations are displayed on the NASDAQ System.

2. An "entering subscriber" is a registered NASDAQ market maker who has entered into an arrangement with an access market maker to enter quotations in the NASDAQ System on behalf of such access market maker.

B. The entering subscriber may enter quotations in the NASDAQ System on behalf of an access market maker only upon submission and approval by the Association of the following:

1. A fully executed copy of the access arrangement agreement which shall contain all agreements and conditions concerning the access arrangement.

2. An application for registration as an access market maker for each security.

C. Access market makers and entering subscribers shall be limited to one access arrangement in each security.

D. Quotations displayed by the entering subscriber on behalf of the access market maker shall be accompanied by the entering subscriber's market maker identifier and a special symbol designating that an access arrangement exists. The identity of the access market maker must be made available by the entering subscriber upon request.

E. All transactions resulting from the display of quotations in the NASDAQ System by the entering subscriber shall be executed by the entering subscriber and he shall be responsible for the transaction. Both the entering subscriber and the access market maker shall be subject to and be responsible for compliance with the provisions of Schedule D.

F. Access market makers shall pay to the Corporation an access fee of $100 per month for the first security and $75 per month for each additional security which is subject to an approved access arrangement.

NASD's STATEMENT OF PURPOSE OF PROPOSED RULE CHANGE

Proposed new part XII of schedule D permits non-NASDAQ market makers to gain access to NASDAQ level 3 service through NASDAQ market makers. Under the proposal, an "access market maker" may display his quotations in the NASDAQ System through an "entering subscriber," a registered NASDAQ market maker who agrees to enter quotations on behalf of the access market maker. Both the access market maker and the entering subscriber will be subject to compliance with schedule d. All transactions will be executed by the entering subscriber, who will assume full responsibility for the transactions. A special symbol disclosing that an access arrangement exists will accompany the entering subscriber's quotation, and the identity of the access market maker must be made available upon request.

Each access arrangement will be required to be registered with and approved by the Association. Furthermore, access market makers and entering subscribers will be limited to one access arrangement in each security. Access market makers will be charged an access fee by the Association for each security under an approved access arrangement.

NASD's STATEMENT OF BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

Section 15A(b)(11) provides that the rules of a national securities association shall include provisions governing the form and content of quotations relating to securities sold otherwise than on a national securities exchange which may be distributed or published by any member or person associated with a member, and the persons to whom such quotations may be supplied. Such rules relating to quotations shall be designed to produce fair and informative quotations, to prevent fictitious or misleading quotations, and to promote orderly procedures for collecting, distributing, and publishing quotations.

Proposed new part XII of schedule D has been approved by the Board of Governors under the authority granted to it by article XVI, section 3 of the Association's bylaws as a means of carrying out the purposes of the Act.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

Seven (7) comment letters were received from the membership regarding proposed new part XII of schedule D. The members who responded uniformly objected to what they considered the prohibitive cost of access service.

NASD's STATEMENT REGARDING BURDEN ON COMPETITION

Several of the comments received criticized the proposal as imposing an undue burden on competition. The Association's response to this criticism is

that, far from constituting a burden on competition, the proposal will actu-

U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice

the provisions of this title the rules

rities and Exchange Commission a proposed rule change as follows:

the organization. To allow a member to associate with another member or-

(B) Institute proceedings to determine whether the proposed rule

that, far from constituting a burden on competition, the proposal will actually enhance competition. Currently, non-NASDAQ market makers are not permitted access to the NASDAQ System for market making activities. The proposed access service will permit non-NASDAQ market makers to display their quotations in the NASDAQ system through NASDAQ market makers and therefore increase competition among market makers. Furthermore, the Association believes that, based upon the cost of NASDAQ terminals and the expenses involved in operating a trading department, the $100 fee for access service is reasonable.

On or before October 19, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by October 5, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 6, 1978.

[FR Doc. 78-25881 Filed 9-13-78; 8:45 am]

[8010-01]

[Release No. 34-15125; File No. SR-NYSE-78-47]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 21, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED AMENDMENTS

The proposed amendments allow a member organization whose sole qualifying member has ceased to be associated therewith to continue its status as a member organization for a specified period of time.

STATEMENT OF PURPOSE OF PROPOSED AMENDMENTS

The Exchange constitution and rules allow a member organization whose sole qualifying member has died, to remain a member organization for 60 days or such longer period as the Exchange may determine if the member is engaged in active military or political service.

The proposed amendments extend the permitted time period for retention of member organization status from 60 to 90 days, and expand the provisions to be applicable in any situation where the sole qualifying member ceases to be associated with the member orgainization. The member organization must continue to comply with Exchange rules, and would continue to be regulated by the Exchange as a member organization. The Exchange would have the authority to extend the 90-day time period, up to an additional 90 days, where necessary for the completion of legal requirements (e.g., appointment of executor, receipt of will or tax waivers, etc.) necessary for the transfer of the membership, or where an arbitration proceeding has already been commenced to resolve a dispute arising from an a-b-c agreement (a financing arrangement for purchase of a membership) relating to such membership.

STATEMENT OF BASIS UNDER ACT

The basis under the Act for the proposed amendments is sections 3(a)(3)(A)(iv) and 6(b)(5).

The proposed amendments are consistent with section 6(b)(5) in that they provide for the protection of investors and the public interest by allowing a member organization which has lost its sole qualifying member to continue as a member organization with minimal interruption.

The proposed amendments are also consistent with section 3(a)(3)(A) which defines a member of a national securities exchange as " * * * any registered broker or dealer which agrees to be regulated by such exchange and with respect to which the exchange undertakes to enforce compliance with the provisions of this title the rules and regulations thereunder, and its own rules * * *".

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, AND OTHERS

No comments were solicited or received.

STATEMENT OF BURDEN ON COMPETITION

The proposed amendments will impose no burden on competition.

On or before October 19, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submission should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by October 5, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 1, 1978.

[FR Doc. 78-25882 Filed 9-13-78; 8:45 am]

[8010-01]

[Release No. 34-15130; File No. SR-NYSE-78-49]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 21, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED AMENDMENTS

The proposed amendments allow an a-b-c member to continue to transact business on the floor during any time period allowed for the exercise of option (a), (b) or (c) of an a-b-c agreement. (Upon termination of an a-b-c agreement, a member must: retain the membership and pay the member organization the amount necessary to purchase another membership (option a); sell the membership and pay the proceeds to the member organization (option b); or transfer the membership to a person designated by the member organization for a nominal consideration (option c)).

EXCHANGE'S STATEMENT OF PURPOSE OF PROPOSED RULE CHANGE

The proposed amendments permit a member, whose membership is financed by his member organization pursuant to an a-b-c agreement and who ceases to be associated with the financing member organization, to transact business as an individual member on the floor during any period allowed for the exercise of option (a), (b) or (c).

In certain situations where the resolution of a-b-c agreement provisions have become protracted, members have been permitted to transact business on the floor provided another member or member organization guaranteed the members trades. The proposed amendments extend the provisions to all a-b-c members, codify the practice in exchange rules and set forth the specific criteria for so acting.

To so act, the member must be a broker/dealer registered with the Securities and Exchange Commission and must comply with the exchange's financial responsibility rule (rule 325(e)). The financial responsibility rule would afford the member organization participant to the a-b-c agreement, which retains a financial interest in the membership until option (a), (b) or (c) is exercised, protection to the extent that claims resulting from the member's transaction of business on the floor would first be satisfied by the $25,000 guarantee requirement. In addition, the member would be restricted to functioning as an individual member (so-called "two-dollar broker"). This restriction results from the operation of the "use and proceeds" agreement in which each member associated with a member organization pledges the use of his membership to the organization and agrees that the proceeds from the transfer of the membership shall be available for the protection of creditors of the organization and generally as an asset of the organization. To allow a member to associate with another member organization prior to the exercise of a-b-c agreement options would be to permit such a member to pledge the use of his membership and the proceeds of transfer thereof with two member organizations, and would diminish the protection which the agreement seeks to provide the creditors and customers of each member organization.

EXCHANGE'S STATEMENT OF BASES UNDER THE ACT

The basis under the Act for the proposed amendments is sections 6(b)(5), 6(b)(7), and 6(c)(3)(A).

Compliance with the financial responsibility rule and the limitation to functioning as an individual member are standards which are consistent with section 6(b)(5) in that they are designed to protect the interests of customers and the public by assuring that members and member organizations with whom they deal have adequate financial responsibility and operational capability pursuant to section 6(c)(3)(A).

Exchange rules deem a membership to be a personal franchise vested solely in the member regardless of the manner in which the membership is financed. A member who is no longer associated with the member organization participant to an a-b-c agreement, remains a member if he elects to retain the membership (option a) or until he sells (option b) or transfers (option c) the membership. To deny a member access to the floor during this transition period solely because he is no longer associated with a particular member organization, would be inconsistent with the Act because: Section 6(b)(7) of the Act which requires that the rules of an exchange provide fair procedures for any limitation of any natural person with respect to access.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED AMENDMENTS

No comments were solicited or received.

EXCHANGE'S STATEMENT OF BURDEN ON COMPETITION

No burden on competition will be imposed by the proposed amendments.

On or before October 19, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by October 5, 1978.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

Dated: September 6, 1978.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25883 Filed 9-13-78; 8:45 am]

[8010-01]

[Release No. 34-15136; File No. SR-Amex-78-19]

AMERICAN STOCK EXCHANGE, INC.

Self-Regulatory Organization; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 28, 1978 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a rule change as follows:

EXCHANGE'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Article III, section 8 of the Constitution of the American Stock Exchange Inc. (the "Amex") is amended by the addition of a new subparagraph (j) (*Italics* indicate new material):

Secrecy in Voting

(j) Whenever any action, including the election of a person to any position or office, is to be taken by the vote of the regular members of the Exchange, secrecy in voting shall be preserved.

After the proxies have been tabulated and the inspectors have certified all results, the proxies shall be sealed by the inspectors and retained by the exchange, sealed.

PURPOSE OF THE PROPOSED RULE CHANGE

[8010-01]

with the Secretary of the Commission, Securities and Exchange Commission,

[4710-07]

[CM-8/100]

the period from September 27, 1977, to May 19, 1978 (list No. 1-78). These actions were taken in accordance with

Approval No. 160.011/23/1, type WUG-N2W universal gas mask, Bureau of Mines approval No. 1445A,

PURPOSE OF THE PROPOSED RULE CHANGE

Amex states that the purpose of the proposed amendment is to establish a general constitutional requirement that membership votes, including elections, be by secret ballot.

BASIS UNDER THE ACT

Amex believes the amendment is consistent with section 6(b)(3) of the Act, in that it formalizes a procedure which contributes to fair representation of Amex members in the selection of the Board of Governors and the administration of its affairs.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGE

Amex states that no comments were solicited or received from members or any other persons concerning this amendment.

BURDEN ON COMPETITION

The Amex has determined that no burden on competition will be imposed by the proposed rule change.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by October 5, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 7, 1978.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25877 Filed 9-13-78; 8:45 am]

[8010-01]

[Release No. 34-15133; File No. SR-MSE-78-20]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organization; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on August 11, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

This filing presents an Option Floor Procedure Manual for the Midwest Stock Exchange, Inc. The manual includes descriptive procedures for complying with various existing rules of the Exchange. It also includes copies of forms used, and discusses interpretations to those rules.

Attached as exhibit A is the complete text of the "Options Floor Procedure Manual".

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the Options Floor Procedure Manual is to clarify existing rules of the Exchange by showing examples, procedures for compliance, forms to be used and interpretations of those Rules.

The basis for this rule proposal is section 6(b)(5) of the Act, which provides that the rules of the Exchange be designed to promote just and equitable principles of trade.

The Midwest Stock Exchange, Inc. has neither solicited nor received any comments.

The Midwest Stock Exchange, Inc. believes that no burdens have been placed on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by October 5, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 7, 1978.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25878 Filed 9-13-78; 8:45 am]

[4710-01]

DEPARTMENT OF STATE

[Public Notice CM-8/104]

ADVISORY COMMITTEE TO U.S. SECTION, INTERNATIONAL NORTH PACIFIC FISHERIES COMMISSION

Meeting

The Advisory Committee to the U.S. Section, International North Pacific Fisheries Commission, will meet on September 26, 1978, at the Federal Building, Juneau, Alaska, at 8:30 a.m. The meeting will discuss the 1978 protocol to the International Convention for the High Seas Fisheries of the North Pacific Ocean, surveillance of foreign fishing fleets, the progress of fisheries research, the Alaska salmon fisheries, and fishery developments as they affect the International North Pacific Fisheries Commission. The meeting on September 26 from 8:30 a.m. until noon will be open to the public.

Requests for further information on the meeting should be directed to Mr. Carl Price, Pacific Fisheries Officer, Room 3214 (OES/OFA/FA), U.S. Department of State, Washington, D.C. 20520. Mr. Price can be reached by telephone on 202-632-2883.

Dated: September 11, 1978.

BENOIT BROOKENS II,
Special Assistant to the Deputy Assistant Secretary for Oceans and Fisheries Affairs.

[FR Doc. 78-25950 Filed 9-13-78; 8:45 am]

[4710-07]

[CM-8/100]

STUDY GROUP 5 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 5 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on October 6, 1978, from 9:30 a.m. until 12:30 p.m., in the Aspen Room, National Telecommunications and Information Administration, Department of Commerce, 1325 G Street NW., Washington, D.C.

Study Group 5 deals with propagation of radio waves (including radio noise) at the surface of the Earth, through the nonionized regions of the Earth's atmosphere, and in space where the effect of ionization is negligible. The purpose of the meeting is preparation for the special preparatory meeting for the 1979 World Administrative Radio Conference and the International Study Group 5 meeting.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the chairman.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone 202-632-2592.

Dated: September 5, 1978.

GORDON L. HUFFCUTT,
Chairman,
U.S. CCIR National Committee.

[FR Doc. 78-25835 Filed 9-13-78; 8:45]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 78-088]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats, and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from September 27, 1977, to May 19, 1978 (list No. 1-78). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

KAPOK LIFE PRESERVER

Approval No. 160.002/67/0, model 3, adult kapok life preserver, USCG specification subpart 160.002. Elvin Salow Co., 273-285 Congress Street, Boston, Mass. 02210, no longer manufactures certain kapok life preservers and approval No. 160.002/67/0 was therefore terminated effective February 6, 1978.

Approval No. 160.002/68/0, model 5, child kapok life preserver, USCG specification subpart 160.002. Elvin Salow Co., 273-285 Congress Street, Boston, Mass. 01120, no longer manufactures certain kapok life preserver and approval No. 160.002/68/0 dated February 6, 1973, was therefore terminated effective February 6, 1978.

CORK RING LIFE BUOY

Approval No. 160.009/15/0, 30-inch cork ring life buoy, USCG specification subpart 160.009 and drawing No. 3401/3/68 dated March 14, 1968, and USCG letter dated April 23, 1968. Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, no longer manufactures certain cork ring life buoy and approval No. 160.009/15/0 dated February 2, 1973, was therefore terminated effective February 2, 1978.

GAS MASK

Approval No. 160.011/22/1, type WUG-N1W universal gas mask, Bureau of Mines approval No. 1443A consisting of BM-1443A canister, BM-1432 harness, and BM-1623 facepiece. Willson Products Division ESB Inc., Second and Washington Streets, Reading, Pa. 19063, no longer manufactures certain gas mask and approval No. 160.011/22/1 dated February 2, 1973, was therefore terminated effective February 2, 1978.

Approval No. 160.011/23/1, type WUG-N2W universal gas mask, Bureau of Mines approval No. 1445A, consisting of BM-1445A canister, BM-1432 or BM-1444 harness, and BM-1423 facepiece. Willson Products Division ESB Inc., Second and Washington Streets, Reading, Pa. 19603, no longer manufactures certain gas mask and approval No. 160.011/23/1 dated February 2, 1973, was therefore terminated effective February 2, 1978.

UNICELLULAR PLASTIC RING LIFE BUOY

Approval No. 160.050/51/0, 30-inch unicellular plastic ring life buoy, USCG specification subpart 160.050 and drawing No. 8431-1-68 dated January 30, 1968. Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, no longer manufactures certain unicellular plastic ring life buoy and approval No. 160.050/51/0 dated February 2, 1973, was therefore terminated effective February 2, 1978.

Approval No. 160.050/49/0, 30-inch unicellular plastic ring life buoy, USCG specification subpart 160.050, Cal-June Corp. letter dated October 22, 1967, and drawing No. R dated January 25, 1968. Cal-June Corp., P.O. Box 9551, North Hollywood, Calif. 91606, no longer manufactures certain unicellular plastic ring life buoy and approval No. 160.050/49/0 dated November 16, 1972, was therefore terminated effective November 16, 1977.

Approval No. 160.050/59/0, 30-inch model No. CGX-30 unicellular plastic ring life buoy, USCG specification subpart 160.050, Cal-June Corp. letter dated October 22, 1967, and September 17, 1968, and drawing No. RX dated September 1, 1968. Cal-June Corp., P.O. Box 9551, North Hollywood, Calif. 91606, no longer manufactures certain unicellular plastic ring life buoy and approval No. 160.050/59/0 dated August 2, 1973, was therefore terminated effective March 9, 1978.

UNICELLULAR PLASTIC FOAM WORK VEST

Approval No. 160.053/14/0, unicellular plastic foam work vest, drawing Nos. 20, 21, and 22, and bill of materials dated May 21, 1963, Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, Va. 23212, and 12th and Graham Streets, Emporia, Kans. 66801 no longer manufactures certain unicellular plastic foam work vest and approval No. 160.053/14/0 dated January 4, 1973, was therefore terminated effective January 4, 1978.

Approval No. 160.053/25/0, style Nos. 228 and 229, unicellular plastic foam, cloth-covered work vest, Tapatco drawing Nos. 282-1, 282-2, and 282-3 dated February 11, 1965. Outdoor Supply Co., Inc., Oxford, N.C. 27565, no longer manufactures certain unicellular plastic foam work vest and

approval No. 160.053/25/0 dated February 2, 1973, was therefore terminat-

Co., Wharton, N.J. 07885, expired and was terminated January 2, 1978.

unless sooner canceled or suspended by proper authority.

ment drawing F-103561, revision A dated September 26, 1977, and drawing

Approval No. 160.035/475/1, Class 1, motor-propelled lifeboat, 44-person ca-

tured by Whittaker Corp, 5159 Baltimore Drive, La Mesa, Calif. 92041, ef-

approval No. 160.053/25/0 dated February 2, 1973, was therefore terminated effective February 2, 1978.

UNICELLULAR PLASTIC FOAM LIFE PRESERVER

Approval No. 160.055/56/1, nonstandard model 8115, adult molded cloth-covered unicellular plastic foam life preserver, drawing no. 8115/10/67, revision 2 dated March 25, 1968. Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, no longer manufactures certain unicellular plastic foam life preserver and approval No. 160.055/56/1 dated January 8, 1974, was terminated effective January 8, 1978.

Approval No. 160.055/57/0, type II, model 8116, child molded cloth-covered unicellular plastic foam life preserver, drawing No. 8115/10/67, revision 2 dated March 25, 1968. Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avene, Brooklyn, N.Y. 11201, no longer manufactures certain unicellular plastic foam life preserver and approval no. 160.055/57/0 dated February 2, 1973, was therfore terminated February 2, 1978.

WATER SPRAY-TYPE FIRE EXTINGUISHING SYSTEMS

Approval No. 162.036/2/0, Bete water spray system for tank vessel pumprooms, nozzle model Nos. N3S, N3WS, N5S, and N5WS, layout drawing Nos. 4S-453B, 4S-454B, 4S-455B, 4S-456B, all revised May 5, 1958. Bete Fog Nozzle, Inc., 309 Wells Street, Greenfield, Mass. 01301, approval No. 162.036/2/0 dated January 3, 1973, expired and was terminated effective January 3, 1978.

NONCOMBUSTIBLE MATERIAL

Approval No. 164.009/51/0, "Glasweld" and "quasal" cement-asbestos board-type noncombustible materials as described in National Bureau of Standards Report No. TG10210-2023:PF3450 dated May 20, 1958. Champion International U.S. Plywood Division, 777 Third Avenue, New York, N.Y. 10017, approval No. 164.009/51/0 dated April 12, 1973, was terminated effective April 12, 1978.

INTERIOR FINSISH

Approval No. 164.012/5/0, CCC-W408a, type II, mediumweight coated, quality V-275, UL Serial A 34741, vinyl-coated fabric wall covering (Victex) manufactured by L. E. Carpenter & Co., Wharton, N.J. 07885, expired and was terminated January 2, 1978.

Approval No. 164.012/7/0, CCC-W-408a, type I, lightweight coated, quality V-152, UL Serial A 34730, vinyl-coated fabric wall covering (Victrtex) manufactured by L. E. Carpenter & Co., Wharton, N.J. 07885, expired and was terminated January 2, 1978.

Approval No. 164.012/7/0, CCC-W-408a, type I, lightweight laminate, quality VW-73 (1), UL Serial F 22215, vinyl-coated fabric wall covering (Victex) manufactured by L. E. Carpenter & Co., expired and was terminated January 2, 1978.

Approval No. 164.012/8/0, CCC-W-408a, type I, lightweight laminated plus tedlar, quality VR-74 (R), UL Serial F 9531, vinyl-coated fabric wall covering (Victex) manufactured by L. E. Carpenter & Co., expired and was terminated January 2, 1978.

Dated: September 1, 1978.

H. H. BELL,
Rear Admiral, U.S. Coast Guard Chief, Office of Merchant Marine Safety.

[FR Doc. 78-25907 Filed 9-13-78; 8:45 am]

[4910-14]

[CGD 78-087]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR chapter I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motor boats and other recreational vessels, and on the artificial island and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from September 27, 1977, to May 19, 1978 (list No. 1-78). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner canceled or suspended by proper authority.

LIFE FLOAT

Approval No. 160.027/40/5, 4.17' x 3.0' (8" x 8½" body section) rectangular life float, fibrous glass, reinforced neoprene latex shell with unicellular plastic foam core, or, alternate construction of unicellular plastic foam core, wrapped with waterproof vinyl coated cotton tape and sealed with fire retardant urethane coatings. Six-person capacity, identified by drawing No. 4 LF revised July 23, 1974, drawing No. 4 LF supplement dated July 29, 1977. Manufactured by the Plasti-Kraft Corp., Ozona Industrial Park, Ozona, Fla., effective date September 14, 1977 (supersedes approval No. 160.027/40/5 dated September 14, 1972.)

Approval No. 160.027/41/5, 6.17' x 3.67' (10" x 9¼" body section) rectangular life float, fibrous glass, reinforced neoprene latex shell with unicellular plastic foam core, or, alternate construction of unicellular plastic foam core, wrapped with waterproof vinyl coated cotton tape and sealed with fire retardant urethane coatings, 12-person capacity, identified by drawing No. 4 LF revised July 23, 1974, drawing No. 4 LF supplement dated July 29, 1977 (to show alternate platform construction) effective September 14, 1977, manufactured by the Plasti-Kraft Corp., Ozona Industrial Park, Ozona, Fla. 33560. (Supersedes approval No. 160.027/41/5.)

LIFEBOAT DAVIT

Approval No. 160.032/213/0, type MRD 8.0 gravity davit and launching cradle; approved for a maximum working load of 17,700 pounds per set (8,850 lb per davit head) using single-part falls; identified by general arrangement drawing F103185, revision A dated March 21, 1977, and drawing list D402520, undated. Manufactured by Watercraft America, Inc., P.O. Box 307, Mims, Fla. 32754, effective March 7, 1978 (supersedes approval No. 160.032/213/0 dated September 6, 1977, to include comments in "Remarks" below).

Approval No. 160.032/214/0, type 6.5M A-frame fixed gravity davit; approved for a maximum working load of 11,200 pounds per set (5,600 lb per arm) using one-part falls; identified by Schat Davits, Ltd., general drawing list dated November 16, 1977. Manufactured by Watercraft America, Inc., P.O. Box 307, Mims, Fla. 32754, effective February 15, 1978.

Approval No. 160.032/216/0, type SPG (L) MKII gravity pivot davit; approved for a maximum working load of 11,200 pounds per set (5,600 lb per arm) using 2-part falls; identified by Schat Davits, Ltd., general arrangement drawing F-103561, revision A dated September 26, 1977, and drawing list D-402886 dated December 6, 1977. Manufactured by Watercraft America, Inc., P.O. Box 307, Mims, Fla. 32754, effective March 7, 1978.

Approval No. 160.032/217/0, Type SS2810 survival capsule launching system (winch-type); approved as an alternate to a lifeboat davit for a maximum working load of 11,000 lbs. on a single fall; identified by general arrangement drawing SS2810 dated August 18, 1977. Manufactured by Whittaker Corp., 5159 Baltimore Drive, La Mesa, Calif. 92041, effective March 7, 1978.

MECHANICAL DISENGAGING APPARATUS (FOR LIFEBOATS)

Approval No. 160.033/66/1, Viking on-load release gear, approved for a maximum working load of 8,517 lbs. per hook, identified by 26' on-load release gear arrangment drawing 8.0 EL-015A dated March 6, 1978, and drawing list dated March 23, 1978. Manufactured by Watercraft America, Inc., P.O. Box 307, Mims, Fla. 32754, effective May 8, 1978 (supersedes approval No. 160.033/66/0 dated November 16, 1977, to show revised working load).

Approval No. 160.033/60/4, Rottmer Type, releasing gear, approved for a maximum working load of 15,000 lbs. per hook, identified by disengaging apparatus drawing No. 9090-111 revision E dated June 11, 1976. Manufactured by Whittaker Corp., 5159 Baltimore Drive, La Mesa, Calif. 90242, effective March 30, 1978 (supersedes approval No. 160.033/60/4 dated April 9, 1973, to show revised drawing).

LIFEBOAT

Approval No. 160.035/105/3, Class 1, 48-person capacity, 26.0' x 9.0' x 3.8' steel, motor-propelled lifeboat, identified by general arrangement and construction drawing No. 26-001-1 revision B dated February 11, 1978. Built with wooden or fibrous glass reinforced plastic (FRP) removable interior. Manufactured by Lane Lifeboat Division of Lane Marine Technology, Inc., 150 Sullivan Street, Brooklyn, N.Y. 11231, effective March 3, 1978 (supersedes approval No. 160.035/105/2 dated December 14, 1972, to show addition of alternate engine).

Approval No. 160.035/443/5, Class 1 lifeboat, motor-propelled 74-person capacity, 30.0' x 10.0' x 4.33' fibrous glass reinforced plastic by general arrangement drawing No. P-30-1M, revision K dated December 13, 1977, and drawing list P-30-MP dated December 12, 1977. Manufactured by Marine Safety Equipment Corp., Foot of Wyckoff Road, Farmingdale, N.J. 07727, effective February 8, 1978. (Supersedes approval No. 160.035/443/4 to show optional engine.)

Approval No. 160.035/475/1, Class 1, motor-propelled lifeboat, 44-person capacity, fibrous glass reinforced plastic (FRP), totally enclosed (covered), without radio cabin or searchlight, identified by general arrangement drawing No. 8EL-101 revision 7 dated March 11, 1977, and 8 meter enclosed lifeboat approved drawing list dated July 21, 1977. Manufactured by Watercraft America, Inc., P.O. Box 307, Mims, Fla. 32754, effective September 1, 1977. (Supersedes approval No. 160.035/475/0 dated February 13, 1975, to show effect of modifications.)

Approval No. 160.035/485/0, Class 1, 21.03' x 8.08' x 2.93' fibrous glass reinforced plastic (FRP), totally enclosed (covered) motor-propelled lifeboat, without radio cabin or searchlight, 23-person capacity, identified by constructional arrangement drawing No. 6.5 KL-122A, dated October 3, 1977, and 6.5 meter (21 ft.) class 1 lifeboat drawing list dated November 11, 1977. Manufactured by Watercraft America, Inc., P.O. Box 307, Mims, Fla. 32754, effective November 21, 1977.

Approval No. 160.035/465/1, 14.0' diameter x 4.8' depth fibrous glass reinforced plastic (FRP) motor-propelled, totally enclosed survival capsule, 28-person capacity, as alternate for lifeboat, inflatable liferaft or lifeboat, identified by general arrangement drawing No. 9091-101 dated June 1, 1974, except that Xenon blinker is optional item. Manufactured by Whittaker Corp., 5159 Baltimore Drive, La Mesa, Calif. 92042, effective March 30, 1978 (supersedes approval No. 160.035/465/1 dated April 11, 1973, to show revised laminating procedure and optional blinker).

Approval No. 160.035/480/3, Model CA2801, 14.0' diameter x 4.8' depth fibrous glass reinforced plastic (FRP) motor-propelled totally enclosed survival capsule fitted with Farymann S30M engine 28-person capacity, as alternate for lifeboat, inflatable liferaft or lifefloat, identified by master drawing list for model CA2801, revision B dated August 4, 1975. Manufactured by Whittaker Corp., Survival Systems Division, 5159 Baltimore Drive, La Mesa, Calif. 92042, effective November 4, 1977 (supersedes approval No. 160.035/480/3 dated January 12, 1977, to show revision of master drawing list).

Approval No. 160.035/483/1, Model CA5001, 19.75' x 14.0' x 5.12' fibrous glass reinforced plastic (FRP) motor-propelled, totally enclosed survival capsule fitted with Perkins 4.154 diesel engine, 50-person capacity, as alternate for lifeboat, inflatable liferaft or life float, identified by master drawing list for Model CA5001, revision C dated August 1977 and general arrangement drawing CA5001-101 revision C dated March 31, 1977. Manufactured by Whittaker Corp, 5159 Baltimore Drive, La Mesa, Calif. 92042, effective November 8, 1977. (Supersedes approval No. 160.035/483/1 dated January 12, 1977, to show updated drawing list.)

Approval No. 160.035/486/0, Model CA5003, 19.75' x 14.0' x 5.12' fibrous glass reinforced plastic (FRP) motor-propelled, totally enclosed survival capsule, approved as equivalent to totally enclosed (covered) motor-propelled lifeboat, without radio cabin or searchlight (class 1), 50-person capacity, identified by master drawing list for model CA5003, dated August 1977, and general arrangement drawing CA5003-101, dated March 7, 1977. Manufactured by Whittaker Corp., 5159 Baltimore Drive, La Mesa, Calif. 92041, effective November 8, 1977.

HAND ORANGE SMOKE DISTRESS SIGNAL

Approval No. 160.037/15/0, International hand-held orange smoke distress signal, catalog No. CG-3234, drawing. CP-4335-1-1, dated March 15, 1977. Manufactured by Kilgore Corp., Toone, Tenn. 38381, also produced for Olin Corp. under approval No. 160.037/15/0, effective October 27, 1977.

Approval No. 160.037/14/0, Kilgore's International hand-held orange smoke distress signal, Kilgore drawing. CP-4335-1-1, dated March 15, 1977. Manufactured by Kilgore Corp., Toone, Tenn. for Olin Corp., identical to 160.037/15/0 except for labelling, effective October 27, 1977.

FIRST-AID KIT

Approval No. 160.041/5/0, first-aid kit, model G-12, assembly drawing No. B-12596, dated September 9, 1952, with substitute eye dressing packet, catalog No. 2132. Manufactured by Mine Safety Appliances Co., 3880 Meadowbrook Road, Murraysville, Pa. 15668, effective December 13, 1977. (Supersedes approval No. 160.041/5/0 dated January 3, 1973, to show change of address of manufacturer and substitute eye dressing.

Approval No. 160.041/6/0, first-aid kit, model No. 24 L.B., assembly drawing No. 1-24-LB, revised January 14, 1953, marking drawing No. 2-24-LB revised January 14, 1953. Manufactured by Pac-Kit Safety Equipment Division, K. W. Graffin Co., 100 Pearl Street, Norwalk, Conn. 07850, effective November 2, 1977. (Supersedes approval No. 160.041/6/0 dated October 6, 1977, to change of address of manufacturer.)

UNICELLULAR PLASTIC RING LIFE BUOYS

Approval No. 160.050/48/1, model No. G-20, 20-inch white, becket-type polystyrene foam core ring life buoy, covered with unicellular plastic foam and coated with vinyl, manufactured in accordance with USCG specification

subpart 160.050, Cal-June, Inc., drawing for 20-inch becket-type ring life

for 24-inch becketless ring life buoy dated February 27, 1978, procedure

Union, W. Va. 24983, effective October 28, 1977. (Supersedes approval No.

"Water Ski Vest" manufactured in accordance with USCG specification subpart 160.064 and Fabrianies, Inc. approval No. 160.064/634 (revision No. — in effect on date of manufac-

Subpart 160.064 and America's Cup Inc. approval No. 160.064/634 (revision

tion, Texas Watercrafters Division, Wichita Falls, Tex. 76307, for O'Brien International (private label listee), ef-

subpart 160.050, Cal-June, Inc., drawing for 20-inch becket-type ring life buoy, dated January 12, 1978, and procedure covering production and bill of materials dated February 13, 1978, file No. 160.050/48. Manufactured by Cal-June, Inc., P.O. Box 9551, North Hollywood, Calif. 91606, effective March 3, 1978. (Supersedes approval No. 160.050/48/0, dated November 1972, to show changes in construction and color restriction.)

Approval No. 160.050/50/1, type IV PFD, model G-24, 24-inch, white, becket-type polystyrene foam core ring life buoy, covered with unicellular plastic foam and coated with vinyl, manufactured in accordance with USCG specification subpart 160.050; Cal-June, Inc., drawing for 24-inch becket-type ring life buoy dated, January 12, 1978, and procedure covering production and bill of materials dated February 13, 1978, file No. 160.050/105; and Cal-June letter dated February 13, 1978, file No. 160.050/48. Manufactured by Cal-June, Inc., P.O. Box 9551, North Hollywood, Calif. 91606, effective March 3, 1978. (Supersedes approval No. 160.050/50/0, dated November 15, 1972, to show changes in construction and color restriction.)

Approval No. 160.050/60/1, type IV PFD, 24-inch white, becketless polystyrene foam core ring life buoy, model No. GX-24, covered with unicellular plastic foam and coated with vinyl manufactured in accordance with USCG specification subpart 160.050; Cal-June, Inc., drawing for 20-inch becketless ring life buoy dated February 27, 1978, and procedure covering production and bill of materials dated February 3, 1978, both file No. 160.050/102 and Cal-June letter dated February 13, 1978, file No. 160.050/60. Manufactured by Cal-June, Inc., P.O. Box 9551, North Hollywood, Calif. 91606, effective March 7, 1978. (Supersedes approval No. 160.050/61/0, dated August 2, 1973, to show change in construction and color restriction.)

Approval No. 160.050/102/0, type IV PFD, model No. GX-20, 20-inch becketless polystyrene foam core ring life buoy, covered with unicellular plastic foam and coated with vinyl, manufactured in accordance with USCG specification subpart 160.050; Cal-June Inc., drawing for 20-inch becketless ring life buoy, dated February 27, 1978; procedure covering production and bill of materials, dated February 3, 1978. Manufactured by Cal-June, Inc., P.O. Box 9551, North Hollywood, Calif. 91609, effective February 15, 1978.

Approval No. 160.050/103/0, type IV, model GX-24, 24-inch becketless polystyrene foam core ring life buoy, covered with unicellular plastic foam and coated with vinyl, manufactured in accordance with USCG specification subpart 160.050; Cal-June, Inc., drawing for 24-inch becketless ring life buoy dated February 27, 1978, procedure covering production and bill of materials dated February 3, 1978. Manufactured by Cal-June, Inc., P.O. Box 9551, North Hollywood, Calif. 91609, effective February 15, 1978.

Approval No. 160.050/104/0, type IV PFD, model No. GX-30, 30-inch becketless polystyrene foam core ring life buoy, covered with unicellular plastic foam and coated with vinyl, manufactured in accordance with USCG specification subpart 160.050; Cal-June, Inc., drawing for 30-inch becketless ring life buoy dated February 27, 1978, procedure covering production and bill of materials, dated February 3, 1978. Manufactured by Cal-June, Inc., P.O. Box 9551, North Hollywood, Calif. 91609, effective February 15, 1978.

Approval No. 160.050/105/0, type IV PFD, model No. G-20, 20-inch becket-type polystyrene foam core ring life buoy, covered with unicellular plastic foam and coated with vinyl, manufactured in accordance with USCG specification subpart 160.050; Cal-June, Inc., drawing for 20-inch becket-type buoy dated January 12, 1978, procedure covering production and bill of materials, dated February 3, 1978. Manufactured by Cal-June, Inc., P.O. Box 9551, North Hollywood, Calif. 91609, effective March 2, 1978.

Approval No. 160.050/106/0, type IV PFD, model No. G-24, 24-inch becket-type polystyrene foam core ring life buoy, covered with unicellular plastic foam and coated with vinyl, manufactured in accordance with USCG specification subpart 160.050; Cal-June, Inc., drawing for 24-inch becket-type buoy dated January 12, 1978, procedure covering production and bill of materials, dated February 3, 1978. Maufactured by Cal-June, Inc., P.O. Box 9551, North Hollywood, Calif. 91609, effective March 2, 1978.

Approval No. 160.050/107/0, type IV PFD, model No. G-30, 30-inch becket-type polystyrene foam core ring life buoy, covered with unicellular plastic foam and coated with vinyl, manufactured in accordance with USCG specification subpart 160.050; Cal-June, Inc., drawing for 30-inch becket-type buoy dated January 12, 1978, procedure covering production and bill of materials, dated February 3, 1978. Manufactured by Cal-June, Inc., P.O. Box 9551, North Hollywood, Calif. 91609, effective March 2, 1978.

Inflatable Liferaft

Approval No. 160.051/60/1, type 20 MC MK 3, davit-launched inflatable liferaft, 20-person capacity, identified by drawing 5RA1097, revision A, dated March 3, 1977, and specification RFD-US-500, revision No. 3, dated December 27, 1974. Manufactured by B. F. Goodrich, Engineered Systems Co., Union, W. Va. 24983, effective October 28, 1977. (Supersedes approval No. 160.051/60/0 dated February 13, 1975, to show design revision.)

Approval No. 160.051/71/1, 4-person inflatable life raft with toroidal stabilizing device identified by general arrangement drawing SPC-MM-4, revised February 28, 1978. Manufactured by Switlik Parachute Co., Inc., 1325 East State Street, Trenton, N.J. 08607, effective March 2, 1978. (Supersedes approval No. 160.051/71/0, dated September 17, 1976, to show design change.)

Desalter Kits

Approval No. 160.058/4/0, type 183, desalter kit, seawater, metal container and contents identified by Revere Supply Co. Inc., drawing D-761-100, dated March 3, 1976, and specification dated, August 24, 1977. Manufactured by Revere Supply Co., Inc., 603-607 West 29th Street, New York, N.Y. 10001, effective October 11, 1977.

Fishing Tackle Kit

Approval No. 160.061/6/0, model FL-214, emergency fishing tackle kit, container drawing, dated October 5, 1977. Alternate zip lock vinyl pouch container identified as model FL-214P, container drawing, dated October 5, 1977. Manufactured by F&L Packing Corp., 681 Main Street, Belleville, N.J. 07109, effective November 3, 1977.

Approval No. 160.061/4/1, model RSCF-182 emergency fishing tackle kit, container drawing No. A-731-03, revision A dated November 17, 1977 and list of drawings dated February 27, 1973. Manufactured by Revere Supply Co. Inc., 603-607 West 29th Street, New York, N.Y. 10001, effective February 15, 1978. (Supersedes approval No. 160.061/4/0 dated April 3, 1973 to show revised container drawing.)

Launching Device for Inflatable Life Rafts

Approval No. 160.063/1/1, type R-50-B single-armed davit with W-50-M pedestal winch; approved for a maximum working load of 5,000 lbs by a one-part fall; identified by general arrangement drawing. D1-E-267 revision A dated January 21, 1975 and drawing lists (2) revision A dated January 21, 1975. Manufactured by Marine Safety Equipment Corp., Foot of Wyckoff Road, Farmingdale, N.J. 07727, effective December 13, 1977. (Supersedes approval No. 160.063/1/0 dated February 13, 1975 to show alternate winch subassembly.)

Marine Buoyant Device

Approval No. 160.064/1341/0, type III PFD, adult large, model No. 901, vinyl dipped unicellular plastic foam

"Water Ski Vest" manufactured in accordance with USCG specification subpart 160.064 and Fabrionics, Inc. approval No. 160.064/1230 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 174 (sec. 2). Manufactured by Fabrionics, Inc., P.O. Box 1061, Tolono, Ill. 61880, for American Marine Products Inc. (private label listee) effective November 22, 1977.

Approval No. 160.064/1287.0, child small (30-50 lbs.), model 505, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with USCG Specification Subpart 160.064 and America's Cup Inc., approval No. 160.064/1023 (revision No. — in effect on date of manufacture) and UL/MD report file No. 69 (sec. 2) Manufactured by America's Cup Inc., 1443 Potrero, South El Monte, Calif. 91733, for O'Brien International Inc., (private label listee), effective September 20, 1977.

Approval No. 160.064/1287/0, child small (30-50 lbs.), model 505, cloth covered unicellular plastic foam "Buoyant Vest," manufactured in accordance with USCG Specification Subpart 160.064 and America's Cup Inc., approval No. 160.064/1033 (revision No.— in effect on date of manufacture) and UL/MD report file No. MQ 69 (sec. 2). Manufactured by America's Cup Inc., 1443 Potrero, South El Monte, Calif. 91733, for O'Brien International Inc. (private label listee), effective September 20, 1977.

Approval No. 160.064/1288/0, child medium, model No. 505, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with USCG specification subpart 160.064 and America's Cup Inc., approval No. 160.064/1035 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 69 (sec. 2). Type III PFD, manufactured by America's Cup Inc., 1443 Potrero, South El Monte, Calif. 91733, for O'Brien International Inc., (private label listee) effective September 20, 1977.

Approval No. 160.064/1289/0, type III PFD, adult X-small, model No. 505, cloth covered unicellular plastic foam "Buoyant Vest" manufactured in accordance with USCG specification subpart 160.064 and America's Cup Inc. approval No. 160.064/1034 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 69 (sec. 2). Manufactured by America's Cup Inc., 1443 Petrero, South El Monte, Calif. 91733, for O'Brien International, Inc. (private label listee), effective September 20, 1977.

Approval No. 160.064/1290/0, type III PFD, adult small, model No. 505, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with USCG Specification Subpart 160.064 and America's Cup Inc. approval No. 160.064/634 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 69 (sec. 2), effective September 20, 1977.

Approval No. 160.064/1292/0, type III PFD, model No. 505, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with USCG specification subpart 160.064 and America's Cup Inc. approval No. 160.064/635 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 69 (sec. 2). Manufactured by America's Cup Inc., 1443 Potrero, South El Monte, Calif. 91733, for O'Brien International, Inc. (private label listee), effective September 20, 1977.

Approval No. 160.064/1293/0, type III PFD, model No. 505, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with USCG specification subpart 160.064 and America's Cup Inc. approval No. 160.064/75- (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 69 (sec. 2). Manufactured by America's Cup Inc., 1443 Potrero, South El Monte, Calif. 91733, for O'Brien International, Inc. (private label listee) effective September 20, 1977.

Approval No. 160.064/1354/0, type III PFD, model No. 200CM child medium, vinyl dipped unicellular plastic foam "Sail 'N' Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and Texas Recreation approval No. 160.064/325 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 3 (sec. 5). Manufactured by Texas Recreation, Texas Watercrafters Division, Wichita Falls, Tex. 76307, for O'Brien International (private label listee), effective October 11, 1977.

Approval No. 160.064/1355/0, type III PFD, model No. 200CL child large, vinyl dipped unicellular plastic foam "Sail 'N' Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and Texas Recreation approval No. 160.064/327 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 3 (sec. 5). Manufactured by Texas Recreation, Texas Watercrafters Division, Wichita Falls, Tex. 76307, for O'Brien International (private label listee), effective October 11, 1977.

Approval No. 160.064/1356/0, type III PFD, model No. 200S adult small, vinyl dipped unicellular plastic foam "Sail 'N' Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and Texas Recreation approval No. 160.064/328 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 3 (sec. 5). Manufactured by Texas Recreation, Texas Watercrafters Division, Wichita Falls, Tex. 76307, for O'Brien International (private label listee), effective October 11, 1977.

Approval No. 160.064/1357/0, type III PFD, model No. 200M adult medium, vinyl dipped unicellular plastic foam "Sail 'N' Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and Texas Recreation approval No. 160.064/329 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 3 (sec. 5). Manufactured by Texas Recreation, Texas Watercrafters Division, Wichita Falls, Tex. 76307, for O'Brien International (private label listee) effective October 11, 1977.

Approval No. 160.064/1358/0, type III PFD, model No. 200L adult large, vinyl dipped unicellular plastic foam "Sail 'N' Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and Texas Recreation approval No. 160.064/330 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 3 (sec. 5). Manufactured by Texas Recreation, Texas Watercrafters Division, Wichita Falls, Tex. 76307, for O'Brien International (private label listee), effective October 11, 1977.

Approval No. 160.064/1359/0, type III PFD, model No. 200XL adult XL, vinyl dipped unicellular plastic foam "Sail 'N' Ski Vest", manufactrured in accordance with USCG specification subpart 160.064 and Texas Recreation approval No. 160.064/399 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 3 (sec. 5). Manufactured by Texas Recreation, Texas Watercrafters Division, Wichita Falls, Tex. 76307, for O'Brien International (private label listee), effective October 11, 1977.

Approval No. 160.064/1360, type III PFD, model No. 200XXL adult XXL, vinyl dipped unicellular plastic foam "Sail 'N' Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and Texas Recreation approval No. 160.064/1064 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 3 (sec. 5). Manufactured by Texas Recreation, Texas Watercrafters Division, Wichita Falls, Tex. 76307, for O'Brien International (private label listee) effective October 11, 1977.

Approval No. 160.064/1431/0, type III PFD, model No. 1200 child medium, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 24. Manufactured by Quality Built Products Co., 1832 East Commercial Street, Springfield, Mich. 65803, effective November 14, 1977.

Approval No. 160.064/1432/0, type III PFD, model No. 1200 adult small,

tured in accordance with USCG specification subpart 160.064 and Fabrion-

effect on date of manufacture) and UL/MD report file No. MQ 174 (sec.

Approval No. 160.064/1344/0, type III PFD, model No. 5515 adult M/L, cloth covered unicellular plastic foam

facture) and UL/MD report file No. MQ 69 (sec. 1). Manufactured by America's Cup Inc., 1443 Potrero,

part numbers. Manufactured by Walter Kidde & Co. Inc., Belleville, N.J. 07109, effective December 15,

Approval No. 160.064/1432/0, type III PFD, model No. 1200 adult small, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 24. Manufactured by Quality Built Products Co., 1832 East Commercial Street, Springfield, Mich. 65803, effective November 14, 1977.

Approval No. 160.064/1433/0, type III PFD, model No. 1200 adult medium, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 24. Manufactured by Quality Built Products Co., 1832 East Commercial Street, Springfield, Mich. 65803, effective November 14, 1977.

Approval No. 160.064/1434/0, type III PFD, model No. 1200 adult large, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 24. Manufactured by Quality Built Products Co., 1832 East Commercial Street, Springfield, Mich. 65803, effective November 14, 1977.

Approval No. 160.064/1435/0, type III PFD, model No. 1200 adult X-large, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 24. Manufactured by Quality Built Products Co., 1832 East Commercial Street, Springfield, Mich. 65803, effective November 14, 1977.

Approval No. 160.064/1322/0, type III PFD, model No. 4030 child medium, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and Fabrionics Inc. approval No. 160.064/636 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 174 (sec. 1). Manufactured by Fabrionics Inc., P.O. Box 1061, Tolono, Ill. 61880, for Red Head Brand Corp. (private label listee), effective November 22, 1977.

Approval No. 160.064/1323/0, type III PFD, model No. 4031 adult small, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and Fabrionics Inc. approval No. 160.064/1016 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 174 (sec. 2). Manufactured by Fabrionics Inc., P.O. Box 1061, Tolono, Ill. 61880, for Red Head Brand Corp. (private label listee), effective November 22, 1977.

Approval No. 160.064/1324/0, type III PFD, model No. 4032 adult medium, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and Fabrionics Inc. approval No. 160.064/1017 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 174 (sec. 2). Manufactured by Fabrionics Inc., P.O. Box 1061, Tolono, Ill. 61880, for Red Head Brand Corp. (private label listee), effective November 22, 1977.

Approval No. 160.064/1325/0, type III PFD, model No. 4033 adult large, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and Fabrionics Inc. approval No. 160.064/1018 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 174 (sec. 2). Manufactured by Fabrionics Inc., P.O. Box 1061, Tolono, Ill. 61880, for Red Head Brand Corp. (private label listee), effective November 22, 1977.

Approval No. 160.064/1326/0, type III PFD, model No. 4034 adult large, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and Fabrionics Inc. approval No. 160.064/1230 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 174 (sec. 2). Manufactured by Fabrionics Inc., P.O. Box 1061, Tolono, Ill. 61880, for Red Head Brand Corp. (private label listee), effective November 22, 1977.

Approval No. 160.064/1327/0, type III PFD, model No. 4035 adult universal, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and Fabrionics Inc. approval No. 160.064/1096 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 174 (sec. 3). Manufactured by Fabrionics Inc., P.O. Box 1061, Tolono, Ill. 61880, for Red Head Brand Corp. (private label listee), effective November 22, 1977.

Approval No. 160.064/1328/0, type III PFD, model No. 754 child medium, vinyl dipped unicellular plastic foam "Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and Fabrionics Inc. approval No. 160.064/636 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 174 (sec. 1). Manufactured by Fabrionics Inc., P.O. Box 1061, Tolono, Ill. 61880, for Buddy Schoellkopf Products Inc. (private label listee), effective November 22, 1977.

Approval No. 160.064/1329/0, type III PFD, model No. 755 adult small, vinyl dipped unicellular plastic foam "Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and Fabrionics Inc. approval No. 160.064/1016 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 174 (sec. 2). Manufactured by Fabrionics Inc., P.O. Box 1061, Tolono, Ill. 61880, for Buddy Schoellkopf Products Inc. (private label listee), effective November 22, 1977.

Approval No. 160.064/1330/0, type III PFD, model No. 756 adult medium, vinyl dipped unicellular plastic foam "Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and Fabrionics Inc. approval No. 160.064/1017 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 174 (sec. 2). Manufactured by Fabrionics Inc., P.O. Box 1061, Tolono, Ill. 61880, for Buddy Schoellkopf Products Inc. (private label listee), effective November 22, 1977.

Approval No. 160.064/1331/0, type III PFD, model No. 757 adult large, vinyl dipped unicellular plastic foam "Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and Fabrionics Inc. approval No. 160.064/1018 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 174 (sec. 2). Manufactured by Fabrionics Inc., P.O. Box 1061, Tolono, Ill. 61880, for Buddy Schoellkopf Products Inc. (private label listee), effective November 22, 1977.

Approval No. 160.064/1332/0, type III PFD, model No. 758 adult large, vinyl dipped unicellular plastic foam "Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and Fabrionics Inc. approval No. 160.064/1230 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 174 (sec. 2). Manufactured by Fabrionics Inc., P.O. Box 1061, Tolono, Ill. 61880, for Buddy Schoellkopf Products Inc. (private label listee), effective November 22, 1977.

Approval No. 160.064/1333/0, type III PFD, model No. 759 adult universal, vinyl dipped unicellular plastic foam "Ski Vest", manufactured in accordance with USCG specification subpart 160.064 and Fabrionics Inc. approval No. 160.064/1096 (revision No. — in effect on date of manufacture) and UL/MD report file No. MQ 174 (sec. 2). Manufactured by Fabrionics Inc., P.O. Box 1061, Tolono, Ill. 61880, for Buddy Schoellkopf Products Inc. (private label listee), effective November 22, 1977.

Approval No. 160.064/1343/0, type III PFD, model No. 5514 adult S/M, cloth covered unicellular plastic foam "Trapeze Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 289. Manufactured by Soniform Inc., 8400 Alvarado Road, La Mesa, Calif. 92041, effective August 30, 1977.

Approval No. 160.064/1344/0, type III PFD, model No. 5515 adult M/L, cloth covered unicellular plastic foam "Trapeze Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 289. Manufactured by Soniform Inc., 8400 Alvarado Road, La Mesa, Calif. 92041, effective August 30, 1977.

Approval No. 160.064/1283/0, type III PFD, model No. 1100 adult small, cloth covered unicellular plastic foam "Yachting Jacket", manufactured in accordance with USCG specification subpart 160.064 and America's Cup Inc. approval No. 160.064/221 (revision No. in effect on date of manufacture) and UL/MD report file No. MQ 69 (sec. 1). Manufactured by America's Cup Inc., 1443 Potrero, South El Monte, Calif. 91733, effective September 19, 1977.

Approval No. 160.064/1284/0, type III PFD, model No. 1100 adult medium, cloth covered unicellular plastic foam "Yachting Jacket", manufactured in accordance with USCG specification subpart 160.064 and America's Cup Inc. approval No. 160.064/222 (revision No. in effect on date of manufacture) and UL/MD report file No. MQ 69 (sec. 1). Manufactured by America's Cup Inc., 1443 Potrero, South El Monte, Calif. 91733, for Utica Duxbak Corp. (private label listee), effective September 19, 1977.

Approval No. 160.064/1285/0, type III PFD, model No. 1100 adult large, cloth covered unicellular plastic foam "Yachting Jacket", manufactured in accordance with USCG specification subpart 160.064 and America's Cup Inc. approval No. 160.064/223 (revision No. in effect on date of manufacture) and UL/MD report file No. MQ 69 (sec. 1). Manufactured by America's Cup Inc., 1443 Potrero, South El Monte, Calif. 91733 for Utica Duxbak Corp. (private label listee), effective September 19, 1977.

Approval No. 160.064/1286/0, type III PFD, model No. 1100 X-large, cloth covered unicellular plastic foam "Yachting Jacket", manufactured in accordance with USCG specification subpart 160.064 and America's Cup Inc. approval No. 160.064/226 (revision No. in effect on date of manufacture) and UL/MD report file No. MQ 69 (sec. 1). Manufactured by America's Cup Inc., 1443 Potrero, South El Monte, Calif. 91733 for Utica Duxbak Corp. (private label listee), effective September 19, 1977.

Approval No. 160.064/1361/0, type III PFD, model No. 1100 adult XX-large, cloth covered unicellular plastic foam "Yachting Jacket", manufactured in accordance with USCG specification subpart 160.064 and America's Cup Inc. approval No. 160.064/640 (revision No. in effect on date of manufacture) and UL/MD report file No. MQ 69 (sec. 1). Manufactured by America's Cup Inc., 1443 Potrero, South El Monte, Calif. 91733 for Utica Duxbak Corp., Utica, N.Y. (private label listee) effective September 19, 1977.

Approval No. 160.064/469/1, type III PFD, model S9762 child small (30-50 lbs.), vinyl dipped unicellular plastic foam "Ski, Swim, and Jump Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 106. Manufactured by Wellington Puritan Mills, Inc., Monticello Highway, Madison, Ga. 30650, effective September 2, 1977 (supersedes approval No. 160.064/469/0 dated February 23, 1973, to show model No. and weight range change).

Approval No. 160.064/471/1, type III PFD, model No. S9764 adult medium, vinyl dipped unicellular plastic foam "Ski, Swim, and Jump Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 106. Manufactured by Wellington Puritan Mills, Inc., Monticello Highway, Madison, Ga. 30650, effective September 2, 1977 (supersedes approval No. 160.064/471/0 dated February 23, 1973, to show model change).

Approval No. 160.064/472/1, type III PFD, model S9765 adult large, vinyl dipped unicellular plastic foam "Ski, Swim, and Jump Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 106. Manufactured by Wellington Puritan Mills, Inc., Monticello Highway, Madison, Ga. 30650, effective September 2, 1977 (supersedes approval No. 160.064/472/0 dated February 23, 1973, to show model change).

Approval No. 160.064/471/1, type III PFD, model No. S9766 adult X-large, vinyl dipped unicellular plastic foam "Ski, Swim, and Jump Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 106. Manufactured by Wellington Puritan Mills, Inc., Monticello Highway, Madison, Ga. 30650, effective September 2, 1977.

Approval No. 160.064/1374/0, type III PFD, model No. S9763 adult small, vinyl dipped unicellular plastic foam "Ski, Swim, and Jump Vest", manufactured in accordance with USCG specification subpart 160.064 and UL/MD report file No. MQ 106. Manufactured by Wellington Puritan Mills, Inc., Monticello Highway, Madison, Ga. 30650, effective September 2, 1977.

FIRE PROTECTIVE SYSTEMS

Approval No. 161.002/6/0, type RB smoke detector system eight (8) through forty-eight (48) lines (drawing SK-122753 wiring diagram, drawing SK-134355 schematic) identified by part numbers. Manufactured by Walter Kidde & Co. Inc., Belleville, N.J. 07109, effective December 15, 1977.

FLOATING ELECTRIC WATER LIGHT

Approval No. 161.010/8/0, Automatic Lite Co., Save-U-Lite, model WL003 floating electric water light with mounting bracket. Manufactured by the Automatic Lite Co. Inc., 900 North Iris Avenue, Baltimore, Md. 21205, effective September 15, 1977.

Approval No. 161.010/9/0, model 375, guest man-overboard light. Case, drawing 061176 Rev. E (sheet 2), lens, drawing No. 61076 Rev. C, schematic operating data and test reports submitted with letters dated July 5, and August 9, 1977. Effective November 9, 1977.

CLASS A EPIRB

Approval No. 161.011/8/0, "Vespir" (PN 15-01-002), class A float-free, emergency position indicating radio beacon (EPIRB). Manufactured by Leigh Systems Inc., 6081 Court Street Road, Syracuse, N.Y. 13206, effective December 13, 1977.

Approval No. 161.011/1/0, model EB-2BW Whaler (PN 750082), class A, float-free, emergency position indicating radio beacon. Manufactured by Martech Inc., P.O. Box 1539, Fort Lauderdale, Fla. 33302, effective March 21, 1978.

PRESSURE VACUUM RELIEF VALVE

Approval No. 162.017/119/0, Martin Hi-Jet Mark III system "C" and junior system "C" high velocity pressure-vacuum relief valve consisting of one high velocity pressure vent, one low velocity pressure vent, and one vacuum vent. Valve construction consists of expox coated mild steel housing with stainless steel valve seats, bearing surfaces, and bushings. Manufactured by Wilson Walton International Inc., 66 Hudson Street, Hoboken, N.J. 07030, effective November 22, 1977.

HALON 1301 FIXED FIRE EXTINGUISHING SYSTEM

Approval No. 162.029/11/0, Sea Fire Marine Model 75M, Preengineered Halon 1301 extinguishing system unit, stored pressure type, identical to that described in Underwriters Laboratories, Inc., report 75NK10159, file EX3080, dated September 16, 1977. Manufactured by Sea Fire Marine Products, 4139 Sunset Lane, Northbrook, Ill. 60062, effective March 7, 1978.

DECK COVERING

Approval No. 164.006/23/0, DEX-O-MAGNABOND No. 1 composite mastic and magnesite type deck covering

identical to that described in National Bureau of Standards test report No.

[4910-06]

(4) Existing mortgage indebtedness of C. & N.W. totaling $36,500,000

The FRA has not approved or disapproved this application nor has it passed upon the accuracy or adequacy

er, we are aware of the debate that has been going on for some time with respect to the utility and effectiveness of sealed beam

The second durability issue is properly aimed headlights. Misaimed headlights obviously provide a lower quality of lighting and

identical to that described in National Bureau of Standards test report No. TP 367-116; FR2395 dated July 11, 1945, approved for use with other insulating material as meeting class A-15 requirements in the thickness of DEX-O-TEX No. 1 underlay one-fourth inch plus magnasite overlay three-eighths inch. Manufactured by Crossfield Products Corp., 140 Valley Road, Roselle Park, N.J. 07204, effective October 4, 1977.

BULKHEAD PANELS

Approval No. 164.008/92/0, "Asahi Marilite G-P" inorganic composition board type bulkhead panel identical to that described in Underwriters Laboratories, Inc., report R7709-2 (77NK3407) dated September 12, 1977, approved as meeting class B-15 requirements in a 19 mm thickness. To be used as a component in A-15 construction only. Drawing forms part of this approval. Manufactured by Asahi Asbestos Co., Ltd., 10-6, 7-Chome, Ginza, Chuo-Ku, Tokyo, Japan, effective March 31, 1978.

NONCOMBUSTIBLE MATERIAL

Approval No. 164.009/77/0, "Pabco Precision Molded Super Caltemp Type 'A'" calcium silicate type, identical to that described in Fiberboard Paper Products Corp. letter dated October 15, 1964, and National Bureau of Standards test report No. FR-3937, approved in densities from 11.5 to 13.5 pounds per cubic foot. Manufactured by Fiberboard Corp., 55 Francisco Street, San Francisco, Calif. 94135, effective September 16, 1977.

Approval No. 164.009/104/0, "Foamglas" cellulated glass type noncombustible material identical to that described in National Bureau of Standards letter file No. 10.2/10/2, FP2628 dated August 25, 1948, Pittsburgh Corning letter dated June 5, 1967, and USCG letter 5946/164/009/104 dated June 9, 1967, approved in a 7 through 10 pound per cubic foot density. All contact areas are to be coated with U.S. Gypsum Co's. Hydrocal B-11 when installed in areas subject to vibration or when used to insulate piping. Manufactured by Pittsburgh Corning Corp., Three Gateway Center, Pittsburgh, Pa. 15222, effective February 7, 1978. (Reinstates and supersedes approval No. 164.009/104/0 terminated April 3, 1977.)

Dated: September 1, 1978.

H. H. BELL,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Merchant
Marine Safety.

[FR Doc. 78-25908 Filed 9-13-78; 8:45 am]

[4910-06]

Federal Railroad Administration

[Docket No. FRA 511-78-1]

GUARANTEE OF OBLIGATIONS

Receipt of Application

Project. Notice is hereby given that the Chicago & North Western Transportation Co. ("C. & N.W.") and its wholly owned subsidiary Western Railroad Properties, Inc. ("WRPI"), both having their principal business office at 400 West Madison Street, Chicago, Ill. 60606 ("applicants") have filed an application with the Federal Railroad Administration ("FRA") under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, 45 U.S.C. 831, to secure a commitment by the United States to guarantee obligations and other evidence of indebtedness issued and to be issued by applicants in the principal amount of $531,894,000. Although loan arrangements have not been completed at this time, applicants propose to offer as part of the security for the guarantee a first lien on 519 miles of trackage between Shawnee, Wyo., and Fremont, Nebr., and on 173 miles of trackage between Fremont, Nebr., and Nevada, Iowa.

The guarantee sought by applicants will be used to cover:

(1) Loans to WRPI for (a) $50 million as C. & N.W.'s share of the construction costs for a 106-mile rail line to be owned jointly by WRPI and Burlington Northern Inc., extending from the Atlantic Richfield Co.'s Coal Creek Mine in the Southern Powder River Basin to Shawnee, Wyo., (b) $1,796,000 in interest payments on interim construction loans for these costs pending approval of this application, and (c) $3,750,000 for contingencies in connection with these costs;

(2) Loans to WRPI for (a) $2,096,000 for construction of four relay tracks and a setout track at Bill, Wyo., and a holding track and setout track at Shawnee, Wyo., (b) $332,030,000 for the rehabilitation and improvement of 519 miles of existing track presently owned by C. & N.W., extending from Shawnee, Wyo., to Fremont, Nebr., including installation of locomotive and car shops, headquarters, and maintenance-of-way facilities at Chadron, Nebr., and track, bridge, and traffic control work, and (c) $35,435,000 for contingencies in connection with these costs;

(3) Loans to C. & N.W. for (a) $57,991,000 in operating deficits and capitalized interest incurred in the early years of the project until revenues from traffic are sufficient to cover these costs, and (b) $12,296,000 for contingencies in connection with these costs; and

(4) Existing mortgage indebtedness of C. & N.W. totaling $36,500,000 under its Chicago & North Western Railway Co. 3 percent first mortgage bonds series B, due January 1, 1989.

Justification for project. The applicants state that the project is justified by the present and future demand for rail services. The project will, according to applicants, permit by 1990 up to 33-unit coal trains (including both loaded and empty trains) to travel each day over the Southern Powder River Basin-Fremont track to and from various electric generating plants located in the Midwest, Southwest, South, and Southeast. The applicants state that the project will consequently make an important contribution to the current national effort to generate a greater proportion of electrical demand from clean-burning coal by providing for an additional transportation route for low-sulfur coal and by assuring that transportation prices for low-sulfur coal will be kept at competitive levels. The applicants also state that the project will enable C. & N.W. to transport increased freight tonnage economically and efficiently at higher speeds and under safer conditions than at present. In addition, the applicants state that financing is required for operating deficits and capitalized interest in the early years of the project until the project generates revenues sufficient to cover project-related costs. Finally, the applicants state that a Federal guarantee of C. & N.W.'s existing mortgage indebtedness will permit applicants to offer to the United States as security for its guarantee a first lien on the project facilities and will permit C. & N.W. to remove burdensome contractual restraints on its normal business.

Comments. Interested persons may submit written comments on the application to the Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590, not later than the comment closing date shown below. Such submission shall indicate the docket number shown on this notice and state whether the commenter supports or opposes the application and the reasons therefor.

To the extent permitted by law, the application will be made available for inspection during normal business hours in room 5415 at the above address of the FRA in accordance with the regulations of the Office of the Secretary of Transportation set forth in part 7 of title 49 of the Code of Federal Regulations.

The comments will be taken into consideration by the FRA in evaluating the application. However, formal acknowledgment of the comments will not be provided.

The FRA has not approved or disapproved this application nor has it passed upon the accuracy or adequacy of the information contained therein.

(Sec. 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210), as amended.)

Dated: September 7, 1978.

Comment closing date: November 13, 1978.

CHARLES SWINBURN,
Associate Administrator for Federal Assistance, Federal Railroad Administration.

[FR Doc. 78-25894 Filed 9-13-78; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

WASHINGTON STATE COMMISSION ON EQUIPMENT

Denial of Petition for Rulemaking

This notice sets forth reasons for denial of a petition for rulemaking to amend 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment.* It is published in accordance with section 124 of the National Traffice and Motor Vehicle Safety Act which provides that the National Highway Traffice Safety Administration must grant or deny such petitions within 120 days, and that if a petition is denied the reasons for it shall be published in the FEDERAL REGISTER (sec. 124(d)).

On February 10, 1978, the Washington State Commission on Equipment petitioned for an amendment of Motor Vehicle Safety Standard No. 108 "that FMVSS 108 be amended to permit retaining existing headlamp standards • • • for a 36-month trial period so that these headlamps can be properly evaluated under the unique weather and road conditions of this State."

This was the second petition from the Commission for an amendment of Federal lighting requirements to permit the sale of European-type unsealed headlamps. Notice of denial of the first petition was published in the FEDERAL REGISTER on May 1978 (43 FR 19313). Because of the public interest in European headlighting systems as reflected in comments to docket No. 78-5 (on increasing headlamp candlepower output), NHTSA believes that the response to the petition should not merely be summarized in this notice but set forth in detail. Portions of its letter of August 1, 1978, follow:

Currently, the National Traffic and Motor Vehicle Safety Act of 1966, does not permit NHTSA to promulgate regulations which would be limited to one specific region. Thus, we could not grant the Commission's request even if we were so inclined. However, we are aware of the debate that has been going on for some time with respect to the utility and effectiveness of sealed beam headlights compared to those manufactured without sealed beams.

The ECE standards are sufficiently vague and subjective to permit substandard products to be sold. The National Traffic and Motor Vehicle Safety Act requires that safety standards be stated in "objective terms." As currently written, there is no way that the ECE headlight standards could be adopted without major revision to fulfill these statutory requirements. These revisions would require a very large commitment of agency resources.

Substantively then, the issue we must address is whether such a commitment of Government resources would result in any improvement in safety. At this juncture, we are not able to conclude that the revision of our lighting standard to permit sale of nonsealed beam halogen headlights would result in any safety improvement at all. Further, most of the scenarios we envision could lead to some reduction in safety.

Our conclusion on the safety effect of this question was reached after considering two major factors, photometrics (including beam pattern), and durability. We also believe that consideration must be devoted to consumer costs.

Photometrics. Photometrics covers both the intensity of the headlights as well as the beam patterns produced. Currently, under the ECE standard, headlights on upper beam can be rated up to 300,000 candlepower. A recent amendment to FMVSS 108 has raised the American ceiling to 150,000 candlepower from the present 75,000 limit. This 150,000 candlepower will provide maximized seeing distance without a major safety detriment of excessive glare produced by still higher candlepower of the ECE regulation.

With respect to beam patterns, for all intents and purposes, the upper beam ECE pattern requirements are so close to the requirements of FMVSS 108 that there is no discernable difference, and the proposed 150,000 candlepower more closely alines the intensity of each system. On the low beam, the patterns do differ, but actual night driving tests on both systems indicate no definitive safety advantage of either pattern, although there clearly are consumer preferences for one or the other. Further, ECE headlamps have higher intensities on the lower beam, lighting the roadway close to the front of the vehicle and producing higher veiling glare than the U.S. pattern. This veiling glare cannot contribute to safety and may detract from it.

Durability. Durability addresses issues of performance of the headlighting system while in use.

With respect to sustained uniformity of quality of the lighting output, sealed lamps are superior to the unsealed ECE lamps. With a sealed beam headlamp, almost by definition, the reflector can never deteriorate. With nonsealed beam lamps, moisture can corrode a reflector. Data from Germany show that upwards of 5 percent of all German motorists' headlamps are rejected in their biennial inspection because of reflector deterioration. While we cannot currently prove that a reduction in lighting quality invariably is linked to an increasing number of accidents, it would be reasonable to conclude that it doesn't contribute to an improvement in highway safety.

The second durability issue is properly aimed headlights. Misaimed headlights obviously provide a lower quality of lighting and increased glare than do properly aimed lights. Vehicle headlamp misaim is one of the major vehicle inspection rejection causes. With American headlights, there is a requirement that they be capable of being aimed with simple to use and objective mechanical aimers. ECE headlights must be optically or visually aimed, which is more difficult and subjective. Further, headlamp reflectors are subject to damage from improperly installed bulbs. The mechanical aim capability should reduce the misaim problem.

Finally, the last durability issue is ease of replacement. The limitations in the U.S. FMVSS are such that original equipment manufacturers and aftermarket suppliers are limited to four configurations of sealed headlights. While this places design restrictions on the manufacturer, the safety benefits from low cost widely available headlights permit broken lamps to be replaced conveniently. Under the ECE standards, any headlight configuration is permitted. While ECE has standardized the halogen bulbs, the same does not hold true for the lens or the reflector. This might require larger inventories resulting in higher prices and frequent problems with local availability of ECE headlight replacements.

This would make the replacement of headlights more difficult and could result in increased driving with broken headlights.

While not necessary to our decision on the petition, we also considered consumer costs. One of the byproducts of the relatively limited number of headlamp configurations that are permitted to be manufactured under U.S. standards is that costs are held down. When a headlight is inoperative, it can be replaced for less than $5 at a local repair shop. This is far less expensive than the European situation where nonstandardization has led to much higher costs. Thus, the consumer's costs are low and hopefully, this encourages him to replace defective headlights.

Based upon our analysis, there is no advantage to revising FMVSS 108 to permit the sale of ECE lamps, and in fact the European experience indicates that there may be some safety degradation.

In consideration of the foregoing I respectfully deny the petition of February 10, 1978, by the Commission on Equipment. • • • In view of this decision, there does not appear to be any useful purpose now in holding the hearing you requested.

The interest of the State of Washington in better headlighting has, over the past year, acted constructively as a catalyst to NHTSA in according priority treatment to improve headlamp photometrics, and we believe that all motorists should be grateful for your interest.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); sec. 106, Pub. L. 93-492, 88 Stat. 1482 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on September 7, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-25659 Filed 9-13-78; 8:45 am]

[8320-01]

shall not include issues or allegations phrased generally. A protestant

thority will be issued to each applicant (except those with duly noted prob-

MC 720 (Sub-55F), filed August 8, 1978. Applicant: BIRD TRUCKING CO., INC., P.O. Box 227, Waupun, WI

cerning Applications for Operating Authority To Handle Traffic to and From Points in Canada" published in the FEDERAL REGISTER

carrier, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and

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[8320-01]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on Thursday, October 19, 1978 at 8 a.m. the Denver Regional Office Station Committee on Educational Allowances shall, in the Hearing Room of the Denver Veterans Administration Regional Office, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in LaVonne's Academy of Beauty, 2162 South Colorado Boulevard, Denver, Colo. 80222, and LaVonne's Academy of Beauty, 828 East 104th Avenue, Thornton, Colo. 80229 (formerly located at 1565 Glenarm Place, Denver, Colo. 80202) should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: September 6, 1978.

N. B. ALVERSON,
Director, VA Regional Office, Denver Federal Center, Denver, Colo.

[FR Doc. 78-25895 Filed 9-13-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Decisions Volume No. 28]

DECISION-NOTICE

Decided: September 5, 1978.

The following applications are governed by Special Rule 247 of the Commission's Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protestants not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is not a major Federal action significantly affecting the quality of the human environment.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones. (Review Board Member Joyce not participating).

H. G. HOMME, Jr.,
Acting Secretary.

MC 200 (Sub-306F), filed June 23, 1978. Applicant: RISS INTERNATIONAL CORP (a Delaware corporation.), 903 Grand Avenue, Kansas City, MO 64106. Representative: Ivan E. Moody, 903 Grand Avenue, Kansas City, MO 64106. To operate as a *common carrier*, by motor vehicle, transporting: *Printed matter*, serving Kokomo, IN, as an intermediate and off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Indianapolis, IN, or Kansas City, MO.)

MC 270 (Sub-4F), filed June 30, 1978. Applicant: EGGLESTON TRANSPORTATION, INC., R.D. 1, Corinth, NY 12822. Representative: Richard Rueda, 135 North Fourth Street, Philadelphia, PA 19106. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, and materials used in the manufacture of paper* (except commodities in bulk), between the facilities of Scott Paper Co., (1) at or near Philadelphia and Chester, PA, and (2) at or near Fort Edward and Albany, NY. (Hearing site: Philadelphia, PA, or Camden, NJ.)

NOTE.—The person or persons who it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 720 (Sub-54F), filed August 8, 1978. Applicant: BIRD TRUCKING CO., INC., P.O. Box 227, Waupun, WI 53963. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the facilities of Aunt Jane Foods, Inc., at or near Croswell, MI, to those points in the United States in and east of MN, IA, NE, CO, OK, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Madison, WI, or Detroit, MI.)

MC 720 (Sub-55F), filed August 8, 1978. Applicant: BIRD TRUCKING CO., INC., P.O. Box 227, Waupun, WI 53963. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Coloma, MI, to points in IL, MN, OH, and WI. (Hearing site: Detroit, MI, or Madison, WI.)

MC 2505 (Sub-2F), filed August 2, 1978. Applicant: LOTT MOTOR LINES, INC., West Cayuga Street, P.O. Box 751, Moravia, NY 13118. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum articles, aluminum ingots, aluminum sheet metal, aluminum plate, aluminum scrap, and aluminum industrial foil*, between Oswego, NY, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract with Alcan Aluminum Corp., of Cleveland, OH. (Hearing site: Cleveland, OH, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 21866 (Sub-104F), filed June 29, 1978. Applicant: WEST MOTOR FREIGHT, INC., 740 South Reading Avenue, Boyertown, PA 19512. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Automotive parts*, and (2) *materials* used in the manufacture of automotive parts (except in bulk), between the facilities of Ford Motor Co., in MI and OH, on the one hand, and, on the other, points in NJ and VA. (Hearing site: Washington, DC, or Philadephia, PA.)

MC 26396 (Sub-188F), filed June 29, 1978. Applicant: POPELKA TRUCKING CO., INC., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box, 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drilling mud and additives*, from points in Big Horn County, WY, to ports of entry on the international boundary line between the United States and Canada in MT. Condition: Prior receipt from applicant of an affidavit setting forth its appropriate complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Billings, MT.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled "Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority To Handle Traffic to and From Points in Canada" published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the Provinces of Alberta, Saskatchewan, and Manitoba regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 26396 (Sub-189F), filed June 29, 1978. Applicant: POPELKA TRUCKING CO., INC., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and plastic pipe fittings*, from McPherson, KS, to points in IA. (Hearing site: Wichita, KS, or Billings, MT.)

MC 35890 (Sub-46F), filed July 19, 1978. Applicant: BLODGETT FURNITURE SERVICE, INC., 5650 Foremost Drive SE., Grand Rapids, MI 49508. Representative: Ronald C. Nesmith, P.O. Box 4403, Chicago, IL 60680. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Appliances, and parts, supplies, and accessories for appliances*, from the facilities of the Maytag Co. at or near Newton, IA, to points in CT, DE, IN, KY, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, VT, VA, WV, and DC. (Hearing site: Chicago, IL, or Washington, DC.)

MC 41406 (Sub-86F), filed July 5, 1978. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, IN 46323. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel tubing*, from the facilities of Bull Moose Tube Co., at or near Gerald, MO, to points in AR, IA, IL, IN, KS, MI, OH, OK, and WI; and (2) *materials and equipment* used in the manufacture and distribution of steel tubing, from points in MI to the facilities of Bull Moose Tube Co., at or near Gerald, MO. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 42487 (Sub-877F), filed July 17, 1978. Applicant: CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenberg, P.O. Box 3062, Portland, OR 97208. To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and assembled automobiles), (1) between the terminal facilities of Consolidated Freightways Corp. of Delaware, at Peru, IL, and Rockford, IL, over U.S. Hwy 51, serving no intermediate points, and (2) between the terminal facilities of Consolidated Freightways Corp. of Delaware, at Peru, IL, and El Paso, IL, over U.S. Hwy 51, serving no intermediate points. (Hearing site: Washington, DC, or Chicago, IL.)

MC 48441 (Sub-14F), filed July 18, 1978. Applicant: R.M.E. INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper articles, plastic articles, and materials and supplies* used in the manufacture and distribution of paper articles and plastic articles (except commodities in bulk), (1) from Chicago, IL, to points in WI, and (2) from Shelbyville, IL, to points in IN and OH. (Hearing site: Chicago, IL, or Washington, DC.)

MC 52460 (Sub-219F), filed July 11, 1978. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are used by automotive service stations* (except commodities in bulk, and commodities which because of size or weight require the use of special equipment) from the facilities of Gulf Oil Co.-U.S., in Fulton County, GA, to points in AR, CO, KS, LA, MO, NM, OK, and TX. (Hearing site: Houston, TX.)

MC 52704 (Sub-174F), filed May 30, 1978, previously noticed in the FEDERAL REGISTER issue of July 20, 1978. Applicant: GLENN McCLENDON TRUCKING CO., INC., P.O. Drawer H, LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Refrigerated vending machines*, and (2) *parts* for refrigerated vending machines, from the facilities of Cavalier Corp., at Chattanooga, TN, to points in AL, FL, GA, and MS. (Hearing site: Atlanta, GA.)

NOTE: This republication includes *parts* (or refrigerated vending machines as a com-

site: Jacksonville, FL, or Columbia, SC.)

liam D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. To op-

common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or

carrier, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, in tank vehicles, from

MC 110380 (Sub-10F), filed August 7, 1978. Applicant: BERSCHENS OF MADISON, INC., 120 West Verona

NOTE: This republication includes *parts* for refrigerated vending machines as a commodity.

MC 57239 (Sub-36F), filed August 14, 1978. Applicant: RENNER'S EXPRESS, INC., 1350 South West Street, Indianapolis, IN 46206. Representative: Roland Rice Suite 501, 1111 E Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Ford Motor Co., at or near Milan, MI, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Detroit, MI, or Indianapolis, IN.)

MC 57239 (Sub-37F), filed August 14, 1978. Applicant: RENNER'S EXPRESS, INC., 1350 South West Street, Indianapolis, IN 46206. Representative: Roland Rice, Suite 501, 1111 E Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Penny Products, Inc., at or near Trafalgar, IN, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Detroit, MI, or Indianapolis, IN.)

MC 59150 (Sub-133F), filed July 19, 1978. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board* and *lumber*, from the facilities of Georgia Pacific Corp., at or near Russellville, SC, to points in FL, GA, NC, TN, and VA. (Hearing site: Atlanta, GA.)

MC 59150 (Sub-135F), filed July 27, 1978. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, (1) from points in NC to points in TN, KY, FL, SC, GA, and VA, (2) from points in GA to points in TN, KY, SC, NC, and VA, (3) from points in VA to points in NC, SC, TN, KY, GA, and FL, (4) from points in SC to points in VA, NC, TN, KY, and GA, (5) from points in TN to points in NC, SC, GA, and FL, and (6) from points in AL to points in FL and GA. (Hearing site: Jacksonville, FL, or Columbia, SC.)

MC 61403 (Sub-258F), filed July 21, 1978. Applicant: THE MASON AND DIXON TANK LINES, INC., Highway 11-W, P.O. Box 969, Kingsport, TN 37662. Representative: W.C. Mitchell, Suite 1201, 370 Lexington Avenue, New York, NY 10017. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from the facilities of Dow Chemical Co., at or near Dalton and Tildale, GA, to points in MN, WI, IL, KY, TN, MS, LA, AL, FL, GA, SC, NC, VA, IN, OH, MI, PA, NY, WV, MD, DE, NJ, CT, MA, RI, NH, VT, ME, and DC. (Hearing site: Washington, DC.)

MC 69492 (Sub-63F), filed June 28, 1978. Applicant: HENRY EDWARDS, d.b.a., HENRY EDWARDS TRUCKING CO., P.O. Box 97, Clinton, KY 47301. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, and household goods as defined by the Commission), between Hichman, KY, on the one hand, and, on the other, points in AR, IL, KY, MO, and TN, restricted to the transportation of traffic having a prior or subsequent movement by water. (Hearing site: Jackson or Memphis, TN.)

MC 69833 (Sub-133F), filed July 20, 1978. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue NW., 6th floor, Grand Rapids, MI 49503. Representative: Harry Pohlad (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Allenport, PA, to points in OH, WI, and those in the lower Peninsula of MI. (Hearing site: Pittsburgh, PA, or Columbus, OH.)

MC 71652 (Sub-20F), filed July 10, 1978. Applicant: BYRNE TRUCKING, INC. P.O. Box 1124 Medford, OR 97501. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Compressed wood fiberboard*, and (2) *materials* used in the installation of compressed wood fiberboard from the plant site of Kaiser Cement & Gypsum Corp., at or near St. Helens, OR, or points in CA. (Hearing site: San Francisco, CA, or Portland, OR.)

MC 71652 (Sub-21F), filed July 10, 1978. Applicant: BYRNE TRUCKING, INC., 4669 Crater Lake Highway, Medford, OR 97501. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass materials, fiberglass products, fibrous glass mineral wool products, fibrous glass textile materials, fibrous glass textile products*, and *roofing materials*, from the facilities of Owens-Corning Fiberglas Corp., at or near Santa Clara, CA, to points in OR, WA, and ID. (Hearing site: San Francisco, CA, or Portland, OR.)

MC 79687 (Sub-20F), filed July 17, 1978. Applicant: WARREN C. SAUERS CO., INC., 200 Rochester Road, Zelienople, PA 16063. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass bottles, and materials* used in the manufacture or distribution of glass bottles, from the facilities of Foster-Forbes Glass Co., division of National Can Corp., in Cornplanter Township, PA, to the facilities of Vlasic Foods, Inc., at Millsboro, DE. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 90870 (Sub-8F), filed August 3, 1978. Applicant: RIECHMANN ENTERPRISES, INC., Route 2, Box 137, Alhambra, IL 62001. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Madison, IL, to points in AR, IA, KS, KY, and MO. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 103926 (Sub-73F), filed July 3, 1978. Applicant: W. T. MAYFIELD SONS TRUCKING CO., a corporation, P.O. Box 947, Mableton, GA 30059. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mechanical press brakes, hydraulic press brakes and hydraulic shears*, which because of size or weight require the use of special equipment, from the facilities of Hydra Tool Co., at or near Greenwood, MS, to points in AL, AR, DE, FL, GA, IL, IN, KY, LA, MD, MO, NJ, NC, OH, OK, PA, SC, TN, TX, VA, WV, and DC, and (2) *materials and equipment* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Jackson, MS, or Memphis, TN.)

MC 105813 (Sub-243F), filed July 24, 1978. Applicant: BELFORD TRUCKING CO., INC., 1759 Southwest 12th Street, P.O. Box 2009, Ocala, FL 32670. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by producers and distributors of alcoholic beverages and wine (except commodities in bulk, in tank vehicles), between the facilities of Heublein, Inc., at or near Paducah, KY, on the one hand, and, on the other, points in AL, FL, GA, SC, NC, and TN. (Hearing site: Chicago,IL.)

MC 106195 (Sub-20F), filed August 1, 1978. Applicant: CLARK BROS. TRANSFER, INC., P.O. Box 388, Norfolk, NE 68701. Representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Norfolk Iron & Metal Co., at or near Norfolk, NE, to points in CO, IL, IN, IA, KS, MN, MO, UT, WI, and WY. (Hearing site: Omaha, NE.)

MC 106920 (Sub-76F), filed August 1, 1978. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, OH 45869. Representative: David C. Venable, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *foodstuffs and nonnutritive sweetner* (except commodities in bulk), from Baltimore, MD, Philadelphia, PA, Pitman, NJ, and New York, NY, to points in IL, IN, KY, MI, MO, OH, and WI. (Hearing site: New York, NY.)

MC 107403 (Sub-1101F), filed July 19, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *liquid chemicals* (except bromine), in bulk, in tank vehicles, from the facilities of Dow Chemical U.S.A., in Columbia County, AR, to points in KY, LA, IL, KS, MS, MO, OK, TN, and TX. (Hearing site: Washington, DC.)

MC 107403 (Sub-1102F), filed July 20, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, between Paris, KY, on the one hand, and, on the other, points in the United States. (Hearing site: Washington, DC.)

MC 107403 (Sub-1103F), filed July 20, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, in tank vehicles, from Alpine, AL, to points in GA, SC, NC, and TN. (Hearing site: Washington, DC.)

MC 107743 (Sub-46F), filed July 24, 1978. Applicant: SYSTEM TRANSPORT, INC., P.O. Box 3456 T.A., Spokane, WA 99220. Representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, TX 75224. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum products*, (1) between points in OR, WA, asnd CA, and (2) between points in OR, WA, and CA, on the one hand, and, on the other, ports of entry on the international boundary line between the United States and Canada at points in WA, restricted to the transportation of traffic moving in foreign commerce to points in British Columbia. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Portland, OR.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled notice to interested parties of new requirements concerning applications for operating authority to handle traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the Provinces of Alberta, Saskatchewan, and Manitoba regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditiopns which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 108340 (Sub-32F), filed August 8, 1978. Applicant: HANLEY TRUCK LINE, a corporation, P.O. Box 485, Cornelius, OR 97113. Representative: Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, OR 97210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, dry kilns, machinery and dry kiln parts and components, and fabricated steel*, from the facilities of Moore Oregon/Canada, at or near Portland, OR, and the facilities of Irvington-Moore Division, U.S. Natural Resources, Inc., at or near Tigard, OR, to points in WA, ID, MT, and those points in CA in and north of Medocino, Lake, Colusa, Sutter, and Placer Counties. (Hearing site: Portland, OR.)

MC 110380 (Sub-10F), filed August 7, 1978. Applicant: BERSCHENS OF MADISON, INC., 120 West Verona Avenue, Verona, WI 53593. Representative: Rolfe E. Hanson, 121 West Doty Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe* and (2) *materials and supplies* used in the installation of plastic pipe and conduit, (except commodities in bulk), from points in Rock County, WI, to points in IL, IN, IA, MI, MN, MO, and OH. (Hearing site: Madison or Milwaukee, WI.)

MC 110525 (Sub-1253F), filed August 3, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., a Delaware corporation, 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry talc*, in bulk, in tank vehicles, from Johnson, VT, to New Castle, DE. (Hearing site: New York, NY.)

MC 110525 (Sub-1254F), filed August 2, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., a Delaware corporation, 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum lubricating oil and hydraulic systems fluid*, in bulk, in tank vehicles, from Carrollton, GA, to points in AR, NC, SC, TN, and VA. (Hearing site: Atlanta, GA.)

MC 111231 (Sub-240F), filed May 3, 1978, previously published as Sub-235F on July 18, 1978, and republished as corrected this issue. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials* (except in bulk), from Memphis, TN, to points in OK, AR, KS, IL, MO, IN, OH, KY, and IA, restricted to the transportation of traffic originating at the named origin. (Hearing site: Washington, DC.)

NOTE.—The purpose of this republication is to indicate the correct Sub-240F, in lieu of Sub-235F which was previously published on July 18, 1978.

MC 112713 (Sub-216F), filed July 20, 1978. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: David B. Schneider (same address as applicant). To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and

B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special

proceeding will be limited to a period expiring 3 years from its effective date unless prior to its expiration (but not less than 6

JUNGE, INC., 3818 Southwest 84th Street, Tacoma, WA 98491. Representative: George R. LaBissoniere, 1100

tank vehicles), between the facilities of Heublein, Inc., at or near Paducah, KY, on the one hand, and, on the

points in OH, IL, and those in the Lower Peninsula of MI. (Hearing site: Chicago, IL.)

and east of AL State Hwy 69, and those in Tallapoosa on and north of AL State Hwy 22, Counties, AL, and

B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Dallas, TX, and Shreveport, LA, over U.S. Hwy 80, serving all intermediate points, and serving Kilgore, TX, as an off-route point, (2) between Gladewater and Mineola, TX: From Gladewater over U.S. Hwy 271 to Tyler, TX, then over U.S. Hwy 69 to Mineola, and return over the same route, serving all intermediate points, and (3) between Baxter Springs, KS, and Marshall, TX: From Baxter Springs over U.S. Hwy 166 to junction U.S. Hwy 166 and Interstate Hwy 44, then over Interstate Hwy 44 to junction Interstate Hwy 44 and U.S. Hwy 71, then over U.S. Hwy 71 to Texarkana, TX, then over U.S. Hwy 59 to Marshall, TX, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. (Hearing site: Dallas, TX or Washington, DC.)

MC 113063 (Sub-8F), filed July 21, 1978. Applicant: RALPH H. BURNS & SONS, INC., P.O. Box 38, Hillsboro, WV 24946. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fuel oil, asphaltic concrete, and liquid asphaltic*, and (2) *by-products* of the commodities named in (1) above, from Catlettsburg, KY, to points in Fayette, Greenbrier, Mercer, Pocahontas, Raleigh, Randolph, and Summers Counties, WV. (Hearing site: Charleston, WV.)

MC 114274 (Sub-50F), filed July 10, 1978. Applicant: VITALIS TRUCK LINES, INC., 137 Northeast 48th Street Place, Des Moines, IA 50306. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals, toilet preparations, shampoo, such commodities as are dealt in by grocery and hardware stores, packaging materials* (except commodities in bulk); and (2) *materials used in the manufacture of the commodities in (1) above* (except commodities in bulk), (A) between Fort Madison, IA, on the one hand, and, on the other, points in AR, CA, CT, CO, GA, ID, IL, IN, KS, KY, MA, MI, MN, MO, ME, NJ, NV, NY, ND, OH, OR, PA, SD, TN, TX, UT, WI, and WY, and (B) from points in MA, CT, NY, NJ, and PA, to points in MO, IL, IN, MI, and IA (except Fort Madison). (Hearing site: Chicago, IL or Des Moines, IA.)

NOTE.—In view of the findings in MC 114274 (Sub-38) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 114301 (Sub-96F), filed July 19, 1978. Applicant: DELAWARE EXPRESS CO., A Delaware corporation, P.O. Box 97, Elkton, MD 21921. Representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street, NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, between Elkton, MD, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, KY, ME, MA, MD, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, and WV. (Hearing site: Washington, DC or Baltimore, MD.)

MC 114569 (Sub-239F), filed August 8, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese* (1) from points in WI and the Upper Peninsula of MI to points in CT, MD, MA, RI, and PA; and (2) from Fredericksburg and Preston, IA to points in CT, DE, MA, RI, and those in VA east of the Chesapeake Bay. (Hearing site: Harrisburg, PA or Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 114569 (Sub-240F), filed August 14, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except frozen foods and commodities in bulk, in tank vehicles) from Philadelphia, PA, and points in NY, NJ, MA, RI, CT, MD, DE, and those in VA east of the Chesapeake Bay, to points in AZ, AR, CO, KS, KY, LA, IL, IN, IA, MI, MN, MS, MO, NE, NM, ND, OH, OK, SD, TN, TX, WI, and WY; and (2) *frozen foods* from Philadelphia, PA, and points in NY, NJ, MA, RI, CT, MD, DE, and those in VA east of the Chesapeake Bay, to points in AR, CO, IA, KS, KY, LA, MI, MN, MS, MO, NE, NV, NM, ND, OK, SD, TN, TX, WI, and WY. (Hearing site: Harrisburg, PA or Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 115570 (Sub-15F), filed August 10, 1978. Applicant: WALTER A. JUNGE, INC., 3818 Southwest 84th Street, Tacoma, WA 98491. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint*, from Longview, WA, to points in CA, ID, and NV, under a continuing contract with North Pacific Paper Corp., of Longview, WA. (Hearing site: Seattle, WA).

MC 116725 (Sub-26F), filed July 31, 1978. Applicant: INDIAN VALLEY ENTERPRISES, INC., 855 Maple Avenue, Harleysville, PA 19438. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, as described in section B of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, from the facilities of Wilsey Bennett Co., at or near Oklahoma City, OK, to points in PA, NJ, and NY, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations.

MC 117688 (Sub-214F), filed July 3, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations, and materials* used in the sale of toilet preparations, from the facilities of LaMaur, Inc., at or near Minneapolis, MN, to points in AL, AR, FL, GA, KY, KS, LA, MO, MS, OK, TN, and TX. (Hearing site: Minneapolis, MN or Omaha, NE.)

MC 117765 (Sub-243F), filed July 24, 1978. Applicant: HAHN TRUCK LINE, INC., 1100 South MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the facilities of Bowater Southern Paper Corp., at or near Calhoun, TN, to points in IL, IA, KS, MN, MO, NE, ND, SD, and WI. (Hearing site: Oklahoma City, OK).

MC 118142 (Sub-179F), filed July 10, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in and used by producers and distributors of alcoholic beverages, liquor, and wines (except commodities in bulk, in tank vehicles), between the facilities of Heublein, Inc., at or near Paducah, KY, on the one hand, and, on the other, points in NC, SC, GA, FL, AL, MS, LA, TX, NM, CO, KS, OK, MO, NE, and CA. (Hearing site: Louisville, KY, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 118142 (Sub-181F), filed June 29, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen food*, from the facilities of Southland Frozen Foods, Inc., at or near Plant City, FL, to points in GA, KY, MI, MO, NJ, PA, TN, and WI. (Hearing site: Miami, FL, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 118159 (Sub-280F), filed August 7, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., a Louisiana Corp., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in or used by manufacturers and distributors of footwear from points in MA, IN, TN, GA and FL, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX; and (2) *equipment* and *materials* used in the manufacture and distribution of footwear (except comodities in bulk), in the reverse direction. (Hearing site: Miami, FL.)

MC 118696 (Sub-16F), filed June 27, 1978. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46324. Representative: Carl L. Steiner, 39 South La Salle Street Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Kitchen cabinets and vanities*, and (2) *accessories* for the commodities named in (1), from Union City, IN, to points in DE, KS, ME, MN, ND, NE, NH, SD, VT, and WV. (Hearing site: Indianapolis, IN.)

MC 119656 (Sub-40F), filed June 30, 1978. Applicant: NORTH EXPRESS, INC., 219 Main Street, Winamac, IN 46996. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, or irregular routes, transporting: *Welding electrodes*, from the facilities of Chemetron Corp., at or near Montecello, IN, to Milwaukee and New Berlin, WI, and points in OH, IL, and those in the Lower Peninsula of MI. (Hearing site: Chicago, IL.)

MC 119774 (Sub-94F), filed July 12, 1978. Applicant: EAGLE TRUCKING CO., a corporation, P.O. Box 471, Kilgore, TX 75662. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. To operate as a *common carrier*, by motor vehicle, or irregular routes, transporting: *Plastic pipe* from the facilities of PLEXCO, at or near Fairfield, IA, to points in AR, KS, LA, NM, OK, and TX. (Hearing site: Chicago, IL, or Dallas, TX.)

MC 119789 (Sub-503F), filed July 26, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heating and air conditioning equipment*, (2) *parts* for the commodities in (1) above, and (3) *recreational equipment*, from Wichita, KS, to points in AL, FL, GA, MS, and SC. (Hearing site: Wichita, KS.)

MC 120910 (Sub-13F), filed June 30, 1978. Applicant: SERVICE EXPRESS, INC. P.O. Box 1009, Tuscaloosa, AL 35401. Representative: William P. Jackson, Jr. 3426 North Washington Boulevard, P.O. Box 1240; Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phenolic resins, and compounds and products of phenolic resins* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Reichhold Chemicals, Inc., at or near Tuscaloosa, AL, to points in IL, IN, MI, OH, PA, and WI. (Hearing site: Birmingham, AL.)

MC 121006 (Sub-4F), filed June 14, 1978. Applicant: GADSDEN TRUCK LINE, INC. 1708 Mount Zion Avenue, Gadsden, AL 35901. Representative: John P. Carlton, 727 Frank Nelson Building, Birmingham, AL 35203. To operate as a *common carrier*, by motor vehicle, transporting: (A) over irregular routes, (1) *Iron and steel articles*, between the facilities of (a) Republic Steel Corp., and (b) Hanna Steel Corp., in Etowah County, AL, on the one hand, and, on the other, points in GA, MS, NC, SC, and TN, and (2) *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), (a) between Gadsden, AL, and points in Etowah, Cherokee, DeKalb, Jackson, Marshall, Madison, Morgan, Cullman, Blount, Jefferson, Shelby, Talladega, Cleburne, Clay, Randolph, Calhoun, St. Clair, those in Limestone east of U.S. Hwy 31 and on and south of U.S. Hwy 72, those in Coosa on and north of U.S. Hwy 280, those in Walker on and east of AL State Hwy 69, and those in Taliapoosa on and north of AL State Hwy 22, Counties, AL, and (b) between Gadsden, AL, on the one hand, and, on the other, Decatur, Mobile, and Montgomery, AL; (B) over regular routes, (3) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and personal effects) (a) between Birmingham and Gadsden, AL, from Birmingham over Interstate Hwy 59 to junction U.S. Hwy 278, then over U.S. Hwy 278 to Gadsden, AL, and return over the same route, serving no intermediate points, and (b) between Gadsden, AL, and the AL-GA State line, over U.S. Hwy 78, serving no intermediate points. (Hearing site: Gadsden or Birmingham, AL.)

NOTE.—Applicant states that the purpose of this application is to provide new service in interstate commerce as described in (1) above, and to convert his certificate of registration MC-121006 (Sub-1), to a certificate of public conveneince and necessity.

MC 121060 (Sub-69F), filed August 11, 1978. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials, and materials and supplies*, used in the manufacture and distribution of construction materials (except commodities in bulk), between the facilities of the Celotex Corp., at or near Dubuque, IA, on the one hand, and on the other, points in IL, IN, MI, KY, OH, and MO. (Hearing site: Tampa, FL.)

MC 121060 (Sub-70F), filed August 10, 1978. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Construction materials, and materials and supplies*, used in the manufacture and distribution of construction materials (except commodities in bulk), between the facilities of the Celotex Corp., at or near Sunbury, PA, on the one hand, and, on the other, points in OH, WV, IN, IL, MI, KY, TN, VA, NC, SC, GA, FL, AL, and MS. (Hearing site: Tampa, FL.)

MC 121066 (Sub-8F), filed June 14, 1978. Applicant: NEBRASKA TRANSPORT CO., INC., P.O. Box 621, Scottsbluff, NE 69361. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, in containers, between the facilities of Great

Western Sugar Co., at or near Ovid, CO, on the one hand, and, on the

Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in and used by manufacturers and distributors of alcoholic beverages, liquor, and wines (except commodities in bulk), from Chillicothe and Schooleys, OH, to points in AZ, AR, CA, CO, ID, IA, KS, LA, MS, MO,

liams, 1815 Front Street, Scotch Plains, NJ 07076. To operate as a *common carrier*, by motor vehicle, Rock, AR 72118. Representative: Bob McAdams (same address as applicant). To operate as a *common carrier*, by AK, HI, OR, WA, and WY), under a continuing contract with Crane Co., of New York, NY. (Hearing site: Atlanta,

Western Sugar Co., at or near Ovid, CO, on the one hand, and, on the other, points in NE, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Denver, CO or Lincoln, NE.)

MC 123061 (Sub-97F), filed July 20, 1978. Applicant: LEATHAM BROTHERS INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 310 South Main, Salt Lake City, UT 84101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boxes and sheets*, from the facilities of Boise Cascade Corp., at or near Nampa, ID, to points in NV. (Hearing site: Salt Lake City, UT or Boise, ID.)

MC 123675 (Sub-6F), filed July 28, 1978. Applicant: SOLDIER BROS. ABT LINE, INC., 614 Paine Avenue, Toledo, OH 43605. Representative: Arthur R. Cline, 420 Security Building, Toledo, OH 43604. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile parts and stampings*, from Fort Wayne, IN, to Toledo, OH. (Hearing site: Columbus, OH or Lansing, MI.)

MC 124170 (Sub-100F), filed July 26, 1978. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 600 Enterprise Drive—Suite 222, Oak Brook, IL 60521. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by health and beauty aid distributors*, from Detroit, MI, to points in AZ, AR, CA, CO, ID, IA, KS, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY. (Hearing site: Detroit, MI or Washington, DC.)

MC 124284 (Sub-4F), filed July 10, 1978. Applicant: WALKER TRANSFER INC., P.O. Box 1154, Durham Road, Roxboro, NC 27573. Representative: Mark Galloway, 25 Abbitt Street, P.O. Box 601, Roxboro, NC 27573. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood molding and hardwood lumber*, from the facilities of Pat Brown Lumber Corp., at or near Roxboro, NC, to points in AL, AR, CT, DE, FL, GA, IL, IN, KS, KY, LA, ME, MD, MS, MI, MA, MO, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VA, WV, WI, and DC, under a continuing contract with Pat Brown Lumber Corp., of Lexington, NC. (Hearing site: Raleigh, NC or Richmond, VA.)

MC 124692 (Sub-212F), filed July 10, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59801. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass tanks* from Denver, CO, to points in the United States (except AK and HI). (Hearing site: Denver, CO.)

MC 125470 (Sub-32F), filed August 2, 1978. Applicant: MOORE'S TRANSFER, INC., Rural Route 4, P.O. Box 1151, Norfolk, NE 68701. Representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Norfolk Iron & Metal Co., at or near Norfolk, NE, to points in CO, IL, IN, IA, KS, MI, MN, MO, MT, ND, OK, SD, TX, UT, WI, and WY. (Hearing site: Norfolk or Lincoln, NE.)

MC 126844 (Sub-53F), filed July 24, 1978. Applicant: R.D.S. TRUCKING CO., INC., 1713 North Main Road, Vineland, NJ 08360. Representative: Terrence D. Jones, 2033 K Street NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), and (2) *foodstuffs* (except the commodities in (1) above and commodities in bulk), from the facilities used by Geo. A. Hormel & Co., at or near Scottsbluff and Fremont, NE, Ottumwa, IA, Austin, MN, and the facilities of the Spencer Packing Co., at or near Schuyler, NE, to points in CT, DE, MD, MA, NJ, NY, PA, RI, and DC. (Hearing site: Washington, DC.)

MC 127303 (Sub-44F), filed July 19, 1978. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street, NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers* from Streator, IL, to points in MI, IN, KY, and TN. (Hearing site: Chicago, IL, or Washington, DC.)

MC 128273 (Sub-311F), filed July 19, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: James W. Muldoon, 50 West Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by manufacturers and converters of paper and paper products* (except commodities in bulk), from Chillicothe and Schooleys, OH, to points in AZ, AR, CA, CO, ID, IA, KS, LA, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY. (Hearing site: Columbus, OH, or Washington, DC.)

MC 128343 (Sub-41F), filed July 19, 1978. Applicant: C-LINE, INC., Tourtellot Hill Road, Chepachet, RI 02814. Representative: Ronald N. Cobert, Suite 501, 1730 M Street NW., Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Games and toys*, from Central Falls and Pawtucket, RI, Los Angeles, CA, and Seattle, WA, to points in the United States (except AK and HI); (2) *school supplies, art supplies, and hobby supplies*, from Shelbyville, TN, to points in the United States (except AK and HI), and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) and (2) above (except commodities in bulk), in the reverse direction, under a continuing contract with Hasbro Industries, Inc., of Pawtucket, RI. (Hearing site: Providence, RI, or Boston, MA.)

MC 129950 (Sub-3F), filed August 9, 1978. Applicant: CONSOLIDATED TRUCK SERVICE, INC., 1 Scout Avenue, South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: (1) *such commodities as are dealt in by department stores*, and (2) *equipment and supplies* used in the conduct of the business named in (1) above (except commodities in bulk and foodstuffs), between New York, NY, on the one hand, and, on the other, points in MN, under a continuing contract with Belscot Retailers, Inc., of Secaucus, NJ. (Hearing site: New York, NY, or Washington, DC.)

MC 133095 (Sub-194F), filed July 28, 1978. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hair care toiletries and hair care equipment*, from Cheshire, CT, Saddle Brook and Lakewook, NJ, and points in Kings, Queens, Nassau, and Suffolk Counties, NY, to Atlanta, GA, Dallas, TX, Chicago, IL, Portland, OR, and Camarillo and Los Angeles, CA, restricted to the transportation of traffic originating at or destined to the facilities of Clairol, Inc. (Hearing site: Boston, MA, or Washington, DC.)

MC 133565 (Sub-14F), filed July 27, 1978. Applicant: TRUE TRANSPORT, INC., 15 Stockston Street, Newark, NJ 07105. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Talc*, from Windsor, VT, to New York, NY, restricted to the transportation of traffic having a subsequent movement by water. (Hearing site: New York, NY.)

MC 133591 (Sub-45F), filed July 17, 1978. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from points in Jefferson County, CO, to points in MO; and (2) *containers and materials* for recycling, in the reverse direction. (Hearing site: Denver, CO.)

NOTE.—Dual operations may be involved in this proceeding.

MC 133591 (Sub-46F), filed July 19, 1978. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cough drops and confectionery*, from the facilities of Luden's Inc., at or near Reading, PA, to points in TX, CO, NM, UT, AZ, NV, CA, ID, OR, and WA. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 133655 (Sub-117F), filed July 31, 1978. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale. FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal feed* (except in bulk), from the facilities of Sunshine Feed Mills, Inc., at or near Red Bay, AL, and Tupelo, MS, to points in IL, IN, KY, MD, NY, OH, OK, PA, TX, and WV. (Hearing site: Chicago, IL.)

MC 133920 (Sub-16F), filed August 9, 1978. Applicant: HOWARD SHEPPARD, INC., Tennile Road, Sandersville, GA 31082. Representative: Virgil H. Smith, 1587 Phoenix Boulevard, Suite 12, Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbide lime slurry*, in bulk, in tank vehicles, from Atlanta, Macon, Waycross, and Albany, GA, to Pontotoc, MS. (Hearing site: Sandersville, GA.)

MC 134922 (Sub-269F), filed July 10, 1978. Applicant: B. J. MCADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery* (except in bulk, in vehicles equipped with mechanical refrigeration), from Elizabeth and Hackettstown, NJ, and Elizabethtown, PA, to points in OH and MI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 138420 (Sub-28F), filed August 8, 1978. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., P.O. Box 147, Cleveland, WI 53015. Representative: Rolfe E. Hanson, 121 West Doty Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from the facilities of Fall River Canning Co., at or near Markesan and Cambria, WI, and the facilities of Gale Packing, Inc., at or near Galesville WI, to points in IN, MN, MI, MO, KY, OH, PA, TN, and those points in IL south of U.S. Hwy 136. (Hearing site: Madison or Milwaukee, WI.)

MC 138869 (Sub-12F), filed June 5, 1978, previously noticed in the FEDERAL REGISTER issue of July 18, 1978. Applicant: W. T. MYLES TRANSPORTATION CO., a corporation, P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plumbing fittings and fixtures*, and (2) *equipment, materials, and supplies*, for the commodities in (1), from Ferguson, KY, to points in AL, AR, AZ, CT, DE, FL, GA, IL, IN, IA, KS, LA, MA, MD, ME, MI, MN, MS, MO, NC, NM, ND, NH, NJ, NY, NE, OH, OK, PA, RI, SC, SD, TN, TX, WI, VA, VT, WV, and DC, under a continuing contract with Crane Co., of New York, NY. (Hearing site: Atlanta, GA.)

NOTE.—Dual operations may be involved in this proceeding. This republication includes plumbing fittings, fixtures, materials, and supplies.

MC 138869 (Sub-13F), filed June 2, 1978, previously noticed in the FEDERAL REGISTER issue of July 20, 1978. Applicant: W. T. MYLES TRANSPORTATION CO., a corporation, P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plumbing fittings, and fixtures*, and (2) *equipment, materials, and supplies*, for the commodities in (1), from Alliance, OH, to points in the United States (except AK, HI, OR, WA, and WY), under a continuing contract with Crane Co., of New York, NY. (Hearing site: Atlanta, GA.)

NOTE.—Dual operations may be involved in this proceeding. This republication includes plumbing fittings and equipment as commodities.

MC 139193 (Sub-87F), filed July 24, 1978. Applicant: ROBERTS & OAKE, INC., P.O. Box 1356, Sioux Falls, SD 57101. Representative: Jacob P. Billig, 2033 K Street NW., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of John Morrell & Co., at or near East St. Louis, IL, St. Louis, MO, and Cincinnati, OH, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, and (2) *such commodities* as are dealt in by meat-packing houses (except hides and commodities in bulk), in the reverse direction, under a continuing contract with John Morrell & Co., of Chicago, IL. (Hearing site: Washington, DC, or Chicago, IL.)

MC 139193 (Sub-88F), filed July 24, 1978. Applicant: ROBERTS & OAKE, INC. P.O. Box 1356, Sioux Falls, SD 57101. Representative: Jacob P. Billig, 2033 K Street NW., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of John Morrell & Co., at or near East St. Louis, IL, St. Louis, MO, and Cincinnati, OH, to points in AL, FL, GA, NC, and SC, and (2) *such commodities* as are dealt in by meat packers (except hides and commodities in bulk), in the reverse direction, under a continuing contract with John Morrell & Co., of Chicago, IL. (Hearing site: Washington, DC, or Chicago, IL.)

MC 139420 (Sub-42F), filed July 24, 1978. Applicant: ART GREENBERG d.b.a. GLACIER TRANSPORT, P.O. Box 428, Grand Forks, ND 58201. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen confections and dietetic frozen desserts*, from Grand Forks, ND, to

points in AZ, CA, CO, IL, IN, IA, KS, NE, NV, NM, SD, WA, WI, and WY; and (2) *yogurt, dairy creamers, and*

(2) from Reno, NV, to points in PA, and (3) from San Leandro, CA, to points in GA, IN, and PA, restricted in

Oleomargarine, shortening, and salad dressings, from the facilities of The Miami Margarine Co., at or near Cin-

porting: *Ceramic tile*, from the facilities of Kate-Lo, Inc., at or near Brook-

MC 142715 (Sub-16F), filed July 28, 1978. Applicant: LENERTZ, INC., 411 Northwestern National Bank, South

ers, water evaporators, condensing units, and *compressors*, and (2) *parts*,

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points in AZ, CA, CO, IL, IN, IA, KS, NE, NV, NM, SD, WA, WI, and WY; and (2) *yogurt dairy creamers, and plastic milk containers,* from points in CO to points in ND, SD, MN, WI, IL, IN, CA, and NV. (Hearing site: Grand Forks or Fargo, ND.)

MC 139495 (Sub-37F), filed July 31, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs,* from points in ID, OR, UT, and WA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Portland, OR.)

MC 139495 (Sub-372F), filed August 1, 1978. Applicant: NATIONAL CARRIERS, INC. 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Footwear, footwear accessories, and display cases* and (2) *materials and supplies* used in the distribution of footwear, from the facilities of the Meldisco Shoe Division of Melville Shoe Corp., at or near Morrow, GA, to points in AR, KS, LA, MS, OK, and TX. (Hearing site: Washington, DC.)

MC 139495 (Sub-373F), filed August 2, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Footwear, footwear, accessories, and display cases and materials and supplies* used in the distribution of footwear, from the facilites of the Meldisco Shoe Division of Melville Shoe Corp., at or near Huntington, IN, to points in IA, KS, MN, MO, NE, ND, and SD. (Hearing site: Washington, DC.)

MC 140024 (Sub-117F), filed June 29, 1978. Applicant: J. B. MONTGOMERY, INC., 5565 East 52d Avenue, Commerce City, CO 80022. Representative: Jeffrey A. Knoll (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Drugs, toilet preparations, health care products, alumina calcined, and magnesium hydroxide* (except in bulk), in vehicles equipped with mechanical refrigeration, (1) from Philadelphia, PA, Lakewood, NJ, Friendship, NC, and Lewes, DE, to points in the United States (except AL, AK, CT, DE, DC, FL, GA, HI, ME, MD, MA, MS, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, and WV), (2) from Reno, NV, to points in PA, and (3) from San Leandro, CA, to points in GA, IN, and PA, restricted in (1), (2), and (3) to the transportation of traffic originating at the named origins. (Hearing site: Philadelphia, PA, or Washington, DC)

MC 140033 (Sub-60F), filed July 19, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Confectionery and cough drops,* from the facilities of Luden's, Inc., at or near Reading, PA, to points in AL, AR, LA, MS, OK, TN, and TX. (Hearing site: Philadelphia, PA or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140755 (Sub-55F), filed July 31, 1978. Applicant: BRAY TRANSPORTS, INC., a Colorado corporation, 1401 North Little Street, P.O. Box 270, Cushing, OK 74023. Representative: Dudley G. Sherrill (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia,* in bulk, from the facilities of Chevron Chemical Co., at or near Friend, KS, to points in CO, NE, OK, TX, and WY. (Hearing site: Dallas, TX.)

MC 140820 (Sub-6F), filed August 10, 1978. Applicant: A & R TRANSPORT, INC., 2996 North Illinois 71, Rural Route No. 3, Ottawa, IL 61350. Representative: James R. Malder, 120 West Madison Street, Suite 718, Chicago, IL 60602. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Acids,* from DePue, IL, to points in IL, IA, IN, KS, KY, MI, MO, OH, and WI. (Hearing site: Chicago, IL.)

MC 140820 (Sub-7F), filed August 15, 1978. Applicant: A & R TRANSPORT, INC., 2996 North Illinois 71, Rural Route No. 3, Ottawa, IL 61350. Representative: James R. Madler, 120 West Madison Street, Suite 718, Chicago, IL 60602. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dicalcium phosphate,* in bulk, from Marseilles, IL, to points in IL, IA, IN, KS, KY, MI, MN, NE, OH, and WI. (Hearing site: Chicago, IL.)

MC 141076 (Sub-19F), filed July 3, 1978. Applicant: ROGERS MOTOR LINES, INC., P.O. Box 388D2, R.F.D. No. 2, Hackettstown, NJ 07848. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Oleomargarine, shortening, and salad dressings,* from the facilities of The Miami Margarine Co., at or near Cincinnati, OH, to points in CI, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC. (Hearing site: Cincinnati, OH.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 141357 (Sub-5F), filed July 17, 1978. Applicant: SHANUS, INC., 232 First Street North, Minneapolis, MN 55401. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Coal and coke,* between points in MN, restricted to the transportation of traffic having a prior movement by rail. (Hearing site: Minneapolis, MN.)

MC 141436 (Sub-2F), filed July 5, 1978. Applicant: HARKER'S TRANSPORTATION, INC., P.O. Box 1308, LeMars, IA 51031. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Frozen foods* (except in bulk), from LeMars, IA, to points in AR, NM, OK, TN, and TX; and (2) *materials and equipment* used in the manufacture and distribution of frozen foods (except commodities in bulk), from points in AR, NM, OK, TN, and TX, to Sioux City, Orange City, Marshalltown, and LeMars, IA, under a continuing contract with Harker's Wholesale Meat, Inc., of LeMars, IA. (Hearing site: Omaha, NE.)

MC 141550 (Sub-5F), filed July 6, 1978. Applicant: HOPPY LINES, INC., 420 Devonshire Drive, Brea, CA 92521. Representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Wax, polish, cleaning fluids, and paint* (except commodities in bulk), from the facilities of B.A.F. Industries, d.b.a. Burford Auto Finishes, at or near Santa Ana, CA, to Denver, CO, Indianapolis, IN, Muskegon, MI, Cortland, NY, Cincinnati, OH, and Oklahoma City, OK; and (2) *buffing pads,* from Cincinnati, OH, to the facilities of B.A.F. Industries, d.b.a. Burford Auto Finishes, at or near Santa Ana, CA, under a continuing contract with B.A.F. Industries, d.b.a. Burford Auto Finishes, of Santa Ana, CA. (Hearing site: Los Angeles, CA.)

MC 141694 (Sub-5F), filed July 13, 1978. Applicant: HARCO CARRIERS, INC., 1808 Ford Road, Minnetonka, MN 55343. Representative: John B. Van de North, Jr., 2200 First National Bank Building, St. Paul, MN 55101. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Ceramic tile,* from the facilities of Kate-Lo, Inc., at or near Brooklyn Park, MN, to Omaha, NE, Wichita, KS, Tulsa and Oklahoma City, OK, San Antonio, TX, Des Moines, IA, Kansas City and Springfield, MO, Tontitown and Little Rock, AR, Memphis, TN, Wheaton and Bloomington, IL, Indianapolis, IN, and Middleburg, Heights, OH. (Hearing site: Minneapolis or St. Paul, MN.)

MC 142364 (Sub-3F), filed July 12, 1978. Applicant: KENNETH SAGELY d.b.a. Sagely Produce, 2802 Kibler Road, Van Buren, AR 72956. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Fencing, fencing materials, wire, and wire products* from the facilities of Bekaert Steel Wire Corp., at or near Van Buren, AR, to points in AZ, CA, CO, CT, DE, FL, ID, MD, MI, MN, MT, NV, NJ, NM, NY, NC, ND, OR, PA, RI, SC, SD, UT, VA, WA, WV, WI and WY; (2) *steel rods* from the facilities of Georgetown Steel Co., at or near Beaumont, TX, to the facilities of Bekaert Steel Wire Corp., at or near Van Buren, AR; and (3) *steel wire carriers* from points in the United States (except AR, AK, and HI), to the facilities of Bekaert Steel Wire Corp., at or near Van Buren, AR. (Hearing site: Fort Smith, AR or Tulsa, OK.)

MC 142516 (Sub-12F), filed July 5, 1978. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Plastic film, plastic bags, and polyethene;* and (2) *materials* used in the manufacture and sale of the commodities named in (1) above (except in bulk), from Jersey City, Kearny, and Elizabeth, NJ, to points in the United States (except AK and HI), under continuing contracts with Armin Corp., of Jersey City, NJ. (Hearing site: New York, NY or Washington, DC.)

MC 142606 (Sub-8F), filed July 3, 1978. Applicant: WESCO TRANSPORTATION, INC., 2222 West Garvey, Suite L, West Covina, CA 91790. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Furniture parts,* (1) from Georgetown, KY, to Vernon, CA, and (2) from Delaplain, KY, to points in AZ, CA, CO, MA, MN, MO, NJ, OR, and TX, under continuing contracts with Hoover Universal, Inc., Spring Systems Division, of Ann Arbor, MI. (Hearing site: Los Angeles, CA.)

MC 142715 (Sub-16F), filed July 28, 1978. Applicant: LENERTZ, INC., 411 Northwestern National Bank, South St. Paul, MN 55101. Representative: Andrew R. Clarke, 1000 First National Bank Building Minneapolis, MN 55402 To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses,* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of John Morrell & Co., at or near Fort Smith, AR, to points in IL, IN, MI, MN, OH, and WI, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Chicago, IL.)

MC 143284 (Sub-3F), filed July 5, 1978. Applicant: IVAN WEHRLE, d.b.a. WEHRLE GRAIN CO., Box 36, Mulberry Grove, IL 62262. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Feed* (1) between Vandalia, IL, and Montgomery City, MO, and (2) from Vandalia, IL, to Dexter and Gray Summit, MO, restricted to the transportation of traffic originating at the facilities of Ralston Purina Co., at or near Vandalia, IL, and Montgomery City, MO. (Hearing site: St. Louis, MO.)

MC 143610 (Sub-11F), filed July 24, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Woodworking hand tools, automatic door-operating equipment, steel strapping, builders' hardware, industrial hardware, and drapery hardware,* from Farmington, New Britain, and Wallingford, CT, to points in AZ, AR, CA, CO, IL, IN, KS, LA, MI, MO, NE, NV, NM, OH, OK, OR, TX, UT, and WA, under a continuing contract with the Stanley Works, of New Britain, CT. (Hearing site: New Britain, CT or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 143794 (Sub-6F), filed July 10, 1978. Applicant: EAST-WEST MOTOR FREIGHT, INC., P.O. Box 525, Selmer, TN 38375. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, NE., Atlanta, GA 30326. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Central heating* and *air conditioning units, furnaces, air coolers, water evaporators, condensing units,* and *compressors,* and (2) *parts, equipment,* and *supplies* used in the manufacture and installation of the commodities in (1) above, from the facilities of Heil-Quaker Corp., in Davidson County, TN, to points in AZ, CA, CO, IA, NE, NV, ND, OR and SD, under continuing contracts with Heil-Quaker Corp., of Nashville, TN. (Hearing site: Atlanta, GA.)

MC 144190 (Sub-2F), filed July 16, 1978. Applicant: STORY, INC., Route 1, Box 122, Henegar, AL 35978. Representative: John W. Cooper, Suite 200, Woodward Building, 1927 1st Avenue, North, Birmingham, AL 35203. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Rugs and carpeting,* from Chatsworth and Calhoun, GA, and points in Catoosa and Whitfield Counties, GA, to points in CA, OR, WA, CO, AZ, UT, WY, ID, MT, and IA. (Hearing site: Dalton, GA or Chattanooga, TN.)

MC 144246 (Sub-4F), filed June 29, 1978. Applicant: LARSEN TRUCKING CO., a corporation, 7703 Sunset Street, Ralston, NE 68127. Representative: Kenneth P. Weiner, 608 Executive Building, Omaha, NE 68102. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts,* and *articles distributed by meat-packing houses,* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Dugdale Packing Co., at or near Darr, NE, to Webster City, IA. (Hearing site: Omaha, NE.)

MC 144513 (Sub-3F), filed July 19, 1978. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster Street, Lodi, OH 44252. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Construction and maintenance materials and supplies* (except commodities in bulk and commodities which because of size and weight require the use of special equipment), from the facilities of Republic Powdered Metals, Inc., at or near Medina, OH, and Gilroy, CA, to points in the United States (except AK and HI), and (2) *materials and equipment* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk and commodities which because of size and weight require the use of special equipment), in the reverse direction, restricted to the transportation of traffic originating at the named origins and destined to the indicated des-

tinations. (Hearing site: Cleveland, OH.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 144740 (Sub-2F), filed July 19, 1978. Applicant: L. G. DeWITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Terrence D. Jones, 2033 K Street, NW., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from the facilities of Pet Inc., at or near Chambersburg and Allentown, PA, to points in CA, OR, and WA, under a continuing contract with Pet Inc., of St. Louis, MO. (Hearing site: Washington, DC.)

MC 144828F, filed May 24, 1978, and previously noticed in the FEDERAL REGISTER issue of July 18, 1978. Applicant: FEPCO TRUCKING, INC., 2699 Caladium Drive, NE, Atlanta, GA 30345. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fibreboard, paperboard, or pulpboard containers* (except corrugated), between Detroit, MI, and the facilities of Mead Packaging, Division of the Mead Corp., at or near Chicago, IL, under a continuing contract with the Mead Corp., of Dayton, OH. (Hearing site: Atlanta, GA.)

NOTE.—(1) The carrier must satisfy the Commission that its common control possibilities are either approved by the Commission, and consummated, or do not require Commission approval.

(2) The purpose of this republication is to correct the commodity description from boxes to containers.

MC 144865 (Sub-1F), filed July 31, 1978. Applicant: JASCO TRUCKING, INC., 202 94th Street SW., Albuquerque, NM 97105. Representative: David C. Olson, 20 First Plaza No. 405, P.O. Drawer 965, Albuquerque, NM 87103. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from the facilities of National King Cole Mine, at or near Hesperus, CO, to the facilities of Ideal Basic Industries, at or near Tijeras, NM, under a continuing contract with Ideal Basic Industries, of Denver, CO. (Hearing site: Albuquerque, NM or Denver, CO.)

MC 144906F, filed June 16, 1978. Applicant: NORTH OPERATING COMPANY, a corporation, 39 Little Brook Road, Springfield, NJ 07081. Representative: John L. Alfano, 550 Mamaroneck Avenue Harrison, NY 10528. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Corrugated cartons*, (2) *corrugated sheets*, and (3) *pulpboard*, in rolls, from the facilities of Weyerhaeuser Co., at or near Closter, NJ, to points in CT, NJ, NY, and PA, under a continuing contract with Weyerhaeuser Co., of Tacoma, WA. (Hearing site: New York, NY.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary. Dual operations may be at issue in this proceeding.

MC 144996F, filed July 3, 1978. Applicant: D. H. SHARRER & SON, INC. Route 2, Box C, New Oxford, PA 17350. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal and poultry feed ingredients*, in bulk, in dump vehicles, from Philadelphia, PA, Baltimore, MD, and points in NJ, to the facilities of H. J. Baker & Bros., Inc., at or near Robbins, NC; and (2) *animal and poultry feed and feed ingredients*, in bulk, in dump vehicles, from the facilities of H. J. Baker & Bros., Inc., at or near Robbins, NC, to points in DE, MD, and PA. (Hearing site: Washington, DC.)

MC 145032F, filed July 10, 1978. Applicant: NATIONAL TRANSPORTATION SERVICES, INC., P.O. Box 3291, Lubbock, TX 79410. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers, trailer chassis, and containers* (except those designed to be drawn by passenger automobiles), in truckaway service, and (2) *parts* for the commodities named in (1) above, between the facilities of the Budd Co., Trailer Division, at or near Ridgeway, VA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC or Philadelphia, PA.)

MC 145034F, filed July, 10, 1978. Applicant: SKY TRUCKING CO., a corporation, 2136 Hancock, San Diego, CA 92110. Representative: Milton W. Flack, 4311 Wilshire Boulevard, Suite 300, Los Angeles, CA 90010. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except classes A and B explosives and articles of unusual value), in containers or in trailers, between Los Angeles, CA, on the one hand, and, on the other, points in San Diego County, CA, restricted to the transportation of traffic having an immediately prior or subsequent movement by water. (Hearing site: Los Angeles CA.)

MC 145059 (Sub-3F), filed June 23, 1978. Applicant: SPINELLI BROS. TRUCKING, INC., 55 Wade Boulevard, Millville, NJ 08332. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, toilet preparations, health care products, magnesium hydroxide, and alumina calcinade* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, (1) from Philadelphia, PA, Lakewood, NJ, and Lewes, DE, to points in AZ, AR, CA, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TX, UT, WA, WI, CO, and WY, and (2) from Reno, NV, San Leandro, CA, and Round Rock, TX, to Philadelphia, PA, and Lakewood, NJ. (Hearing site: Philadelphia, PA or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 145110F, filed July 24, 1978. Applicant: WILLAMETTE INDUSTRIES, INC., Trucking Division, P.O. Box G, Beaverton, OR 97005. Representative: Nick I. Goyak, 555 Benjamin Franklin Plaza, One Southwest Columbia, Portland, OR 97258. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ink, adhesives, and paper products*, from the facilities of Western Kraft, Bag Division, at or near Beaverton, OR, to points in CA, under a continuing contract with Western Kraft, Bag Division, of Beaverton, OR. (Hearing site: Portland, OR.)

NOTE.—In view of the Geraci and Toto policies (see, e.g., 43 FR 33945) (8-2-78), the carrier must satisfy the Commission that its operations will not result in objectionable private and for-hire operations.

MC 145130F, filed August 1, 1978. Applicant: ATICO TRANSPORT, INC., 6700 South LeClaire Avenue, Chicago, IL 60638. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. To operate as a *common carrier*, by motor, vehicle, over irregular routes, transporting: (1) *Containers, container closures, container parts and attachments, and* (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk, and those which because of size or weight require the use of special equipment), between the facilities of Natico, Inc., at or near (a) Bound Brook and Pennsauken, NJ, (b) Florence, KY, and (c) Chicago, IL, on the one hand, and, on the other, points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC, restricted to the transportation of traffic originating at the named origins and destined

to the indicated destinations. (Hearing site: Washington, DC.)

MC 145146F, filed June 23, 1978. Applicant: STEVE RUNYON, d.b.a. RUNYON TRUCKING, Route 1, Box 10, Bidwell, OH 45614. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25516. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from points in Athens, Hocking, Jackson, Lawrence, and Vinton Counties, OH, to West Columbia and Clifton, WV. (Hearing site: Columbus, OH.)

NOTE.—Dual operations may be at issue in this proceeding.

BROKER AUTHORITY

MC 12613 (Sub-7F), filed June 15, 1978. Applicant: WAYNE'S HERITAGE TOURS OF AMERICA, INC., Greyhound Terminal, 28 North Perry Square, Erie, PA 16501. Representative: Jeremy Kahn, Suite 733 Investment Building, Washington, DC 20005. To engage in operation, in interstate or foreign commerce, as a *broker*, at Pittsburgh and Erie, PA, in arranging for the transportation, by motor vehicle, of: *Passengers and their baggage*, in special and charter operations, between points in the United States (including AK and HI). (Hearing site: Pittsburgh, PA.)

NOTE.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in Tauck Tours, Inc., Extension—New York, NY, 54 MCC 291 (1954).

[FR Doc. 78-25769 Filed 9-13-78; 8:45 am]

[7035-01]

[Decisions Volume No. 29]

DECISION-NOTICE

Decided: August 31, 1978. The following applications are governed by special rule 247 of the Commission's rules of practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the pertinent rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is not a major Federal action significantly affecting the quality of the human environment.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

H. G. HOMME, Jr.,
Acting Secretary.

MC 8948 (Sub-113F), filed August 14, 1978. Applicant: WESTERN GILLETTE, INC., a California corporation, P.O. Box 471, Akron, OH 44309, Representative: William O. Turney, Suite, 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Fredonia, AZ, to Salt Lake City, UT. (Hearing site; Salt Lake City, UT.)

MC 11207 (Sub-438F), filed July 18, 1978. Applicant: DEATON, INC., a Delaware corporation, 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* (except commodities which by reason of size or weight require the use of special equipment), from the facilities of Lamson & Session Co, at or near Birmingham, AL, to points in TX. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 19157 (Sub-52F), filed July 17, 1978. Applicant: McCORMACK'S HIGHWAY TRANSPORTATION, INC., R.D. 3, Box 4, Campbell Road, Schenectady, NY 12306. Representative: Paul Montarello (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardware* (except commodities in bulk and those which because of size or weight require the use of special equipment), between Youngstown, OH, on the one hand, and, on the other, points in CT, DE, ME, MA, MD, NJ, NH, NY, PA, RI, VT, WV, and DC. (Hearing site: Columbus, OH, or Washington, DC.)

MC 35706 (Sub-12F), filed July 10, 1978, Applicant: ATSL, INC., 6801 State Road, Philadelphia, PA 19135. Representative: Steven M. Tannenbaum, 135 North Fourth Street, Philadelphia, PA 19106. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, and (2) *materials* used in the manufacture of paper and paper products (except in

bulk), between the facilities of Scott Paper Co., at or near (a) Philadelphia

tion of glass containers, from the facilities of Thatcher Glass Manufacturing

(Hearing site: Des Moines, IA, or Chicago, IL.)

MO, MS, OK, TN, and TX. (Hearing site: Dallas, TX, or Memphis, TN.)

site: Birmingham, AL, or Nashville, TN.)

MC 111545 (Sub-255F), filed August 3, 1978. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box

bulk), between the facilities of Scott Paper Co., at or near (a) Philadelphia and Chester, PA, and (b) Fort Edward and Albany, NY. (Hearing site: Philadelphia, PA, or Camden, NJ.)

MC 59531 (Sub-108F), filed July 20, 1978. Applicant: AUTO CONVOY CO., a limited partnership, 3020 South Haskell Avenue, Dallas, TX 75223. Representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Motor vehicles,* in secondary movements, in truckaway service, between points in TX, NM, and AZ. (Hearing site: Dallas, TX.)

MC 59531 (Sub-109F), filed July 20, 1978. Applicant: AUTO CONVOY CO., a limited partnership, 3020 South Haskell Avenue, Dallas, TX 75223. Representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Motor vehicles,* in secondary movements, in truckaway service, between points in TX, AR, LA, and OK. (Hearing site: Dallas, TX.)

MC 59531 (Sub-110F), filed July 20, 1978. Applicant: AUTO CONVOY CO., a limited partnership, 3020 South Haskell Avenue, Dallas, TX 75223. Representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Motor vehicles,* in secondary movements, in truckaway service, between points in TX, OK, CO, KS, and MO. (Hearing site: Dallas, TX.)

MC 61977 (Sub-9F), filed July 19, 1978. Applicant: ZERKLE TRUCKING CO., an Ohio corporation, 2400 Eighth Avenue, Huntington, WV 25703. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Flat glass,* from the facilities of Fourco Glass Co., at Clarksburg and Jerry Run, WV, to points in AR, KS, MO, OK, and TX. (Hearing site: Charleston, WV.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 79687 (Sub-19F), filed July 17, 1978. Applicant: WARREN C. SAUERS CO., INC., 200 Rochester Road, Zelienople, PA 16063. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Glass containers,* (2) *accessories for glass containers,* and (3) *materials, equipment, and supplies* used in the manufacture and distribution of glass containers,from the facilities of Thatcher Glass Manufacturing Co., Division of Dart Industries, Inc., (a) at Wharton, NJ, to Aspers and Schenley, PA, and those points in the Lower Peninsula of MI, (b) in Hamilton County, OH, and at Lawrenceburg, IN, to points in DE, MD, NJ, and NY, and (c) at Elmira and Horseheads, NY, to Louisville, KY. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 94201 (Sub-162F), filed July 24, 1978. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, GA 30316. Representative: Maurice F. Bishop, 601-09 Frank Nelson Building, Birmingham, AL 35203. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Marble, limestone, soapstone, and talc,* from points in Talladega County, AL, to those points in the United States in and east of TX, AR, MO, IA, and MN. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 94265 (Sub-277F), filed August 4, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460, Windsor, VA 23487. Representative: John J. Capo, Suite 212, 5299 Roswell Road, NE., Atlanta, GA 30342. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the facilities of Peter Eckrich & Sons, Inc., in Allen Township, MI, to points in AL, GA, NC, SC, and TN, restricted to the transportation of traffic originating at the above named origin. (Hearing site: Chicago, IL, and Washington, DC.)

MC 95084 (Sub-121F), filed July 5, 1978. Applicant: HOVE TRUCK LINE, a corporation, Stanhope, IA 50246. Representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Steel construction forms,* and (2) parts and accessories for steel construction forms between the facilities of Economy Forms Corp., at (a) Atlanta, GA, (b) Columbus, OH, (c) Dallas, TX, (d) Des Moines, IA, (e) Fresno, CA, (f) Kent, WA, and (g) Metuchen, NJ, on the one hand, and, on the other, points in the United States (except AK, and HI); and (2) *iron and steel articles,* from Chicago, Federal, and Granite City, IL, Detroit, MI, and Toledo, OH, to the facilities of Economy Forms Corp., at Des Moines, IA. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 95540 (Sub-1029F), filed August 11, 1978. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Such commodities as are dealt in by grocery business houses,* and (2) *materials, equipment, and supplies* used in the conduct of the businesses named in (1) above, from Cincinnati and Columbus, OH, to St. Louis, MO, and Peoria, IL. (Hearing site: Cincinnati, OH, or Washington, DC.)

MC 100597 (Sub-8F), filed July 21, 1978. Applicant: FAIRFIELD TRUCKING, INC., Route 5, Box 480, Pine Bluff, AR 71601. Representative: Harry E. Dixon, Jr., P.O. Box 4319, Monroe, LA 71203. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Particleboard, lumber, and lumber products,* (1) from Lillie and Winnfield, LA, to points in AR, OK, and TX, and (2) from Huttig, AR, to points in OK and TX. (Hearing site: Monroe, LA, and or Little Rock, AR.)

MC 106398 (Sub-822F), filed August 10, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Buildings, and parts and fixtures for buildings,* and (2) *materials and supplies* used in the manufacture, installation, and erection of the commodities in (1) above, from Warrenton, MO, to points in CO, ID, MT, ND, OK, OR, TX, UT, WA, and WY. (Hearing site: St. Louis, MO.)

NOTE.—In view of the findings in MC 106398 (Sub-741) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date, unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 100666 (Sub-404F), filed July 10, 1978. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Ground clay,* from Quality, GA, to points in AL, AR, AZ, CO, IA, KS,

MO, MS, OK, TN, and TX. (Hearing site: Dallas, TX, or Memphis, TN.)

MC 100666 (Sub-405F), filed July 10, 1978. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lath,* from the facilities of the Ceco Corp., at or near Broadview, IL, to points in OK. (Hearing site: Chicago, IL.)

MC 106674 (Sub-331F), filed July 10, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber and particleboard,* from Louisville, KY, to points in KY and IN, restricted to the transportation of traffic having an immediately prior movement by water. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 107496 (Sub-1151F), filed July 10, 1978. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fertilizer, feed, and feed ingredients,* in bulk, in tank or hopper-type vehicles, from points in Holt County, MO, to points in IA, KS, MN, MO, NE, and SD. (Hearing site: Des Moines, IA, or Kansas City, MO.)

MC 108340 (Sub-33F), filed August 14, 1978. Applicant: HANEY TRUCK LINE, a corporation, P.O. Box 485, Cornelius, OR 97113. Representative: Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, OR 97210. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Malt beverages,* from the facilities of Blitz Weinhard Brewing Co., at Portland, OR, to Longview, Centralia, Pasco, Wenatchee, Moses Lake, and Walla Walla, WA, and to points in ID. (Hearing site: Portland, OR.)

MC 108676 (Sub-124F), filed July 5, 1978. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, Knoxville, TN 37917. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Steel sheets, and steel coils,* from the facilities of Feralloy Corp., at Birmingham AL, to those points in the United States in and east of TX, OK, MO, IA, and MN. (Hearing site: Birmingham, AL, or Nashville, TN.)

MC 109708 (Sub-91F), filed August 11, 1978. Applicant: INDIAN RIVER TRANSPORTATION CO., a corporation, d.b.a. INDIAN RIVER TRANSPORT, INC., P.O. Box AG, Dundee, FL 33838. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Grape concentrate,* in bulk, in tank vehicles, from points in CA, to points in NY, PA, and FL. (Hearing site: Los Angeles, CA, or Omaha, NE.)

MC 109708 (Sub-92F), filed August 11, 1978. Applicant: INDIAN RIVER TRANSPORT CO., a corporation, d.b.a. INDIAN RIVER TRANSPORT, INC., P.O. Box AG, Dundee, FL 33838. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fruit juice concentrates,* in bulk, in tank vehicles, from Weslaco, TX, to points in MI and FL. (Hearing site: Dallas, TX or Omaha, NE.)

MC 110663 (Sub-10F), filed July 26, 1978. Applicant: R. CONLEY, INC., 6891 Seneca Street, Elma, NY 14059. Representative: Robert V. Giarniny, 900 Midtown Tower, Rochester, NY 14604. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Containers,* between points in PA, NJ, and OH, on the one hand, and, on the other, those points in NY on and west of Interstate Hwy 81, under continuing contract(s) with (a) Pierce Glass Co., of Port Allegany, PA, and (b) the Continental Group, Inc., of Greenwich, CT. (Hearing site: Rochester or Buffalo, NY.)

NOTE.—Dual operations are at issue in this proceeding.

MC 111231 (Sub-243F), filed July 26, 1978. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springfield, AR 72764. Representative: John C. Everett, P.O. Box A, 140 East Buchanan, Prairie Grove, AR 72753. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Fiberglass products, fiberglass materials, plastic materials, and plastic products* (except plastic bottles), and (2) *materials, supplies, and equipment* used in the manufacture and distibution of commodities named in (1) above (except commodities in bulk), between the facilities of Owens-Corning Fiberglass Corp., in Franklin and Licking Counties, OH, on the one hand, and, on the other, points in AR, IL, KS, LA, MS, NE, OK, TN, TX, and MO. (Hearing site: Toledo, OH or Cleveland, OH.)

MC 111545 (Sub-255F), filed August 3, 1978. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: Robert E. Born (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Commodities,* the transportation of which because of size or weight requires the use of special equipment, and (2) *self-propelled articles,* each weighing 15,000 pounds or more, between points in CA, on the one hand, and, on the other, those points in the United States in east of MN, IA, NE, KS, OK, and TX. (Hearing site: San Francisco, CA or Atlanta, GA.)

MC 111941 (Sub-26F), filed July 24, 1978. Applicant: PIERCETON TRUCKING COMPANY, INC., P.O. Box 233, Laketon, IN 46943. Representative: Robert A. Kriscunas, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products,* from Indianapolis, IN, to Columbus, OH. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 113362 (Sub-334F), filed July 11, 1978. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, 1105½ Eighth Avenue NE., P.O. Box 429, Austin, MN 55912. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Confectionery* (except in bulk), from West Reading and Wyomissing, PA, to Cleveland and Cincinnati, OH, Detroit, MI, Indianapolis, IN, Chicago, IL, St. Louis and Kansas City, MO, Omaha, NE, Minneapolis, MN, Memphis, TN, and Dallas, TX, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Washington, D.C.)

MC 113855 (Sub-440F), filed July 10, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., a North Dakota corporation, 2450 Marion Road SE, Rochester, MN 55901. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58102. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Pre-cut log buildings,* and (2) *materials* and *supplies* used in the construction, installation, and erection of the commodities in (1) above, from points in Surry County, NC, to points in the United States (except AK, NC, and HI). (Hearing site: Washington, D.C.)

MC 114045 (Sub-503F), filed July 11, 1978. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (same address as applicant). To oper-

ate as a *common carrier,* by motor vehicle, over irregular routes, transport-

and 252), of which official notice is taken, the certificate to be issued here

lar routes, transporting: (1) *Paper and paper products,* from the facilities of

for permanent extension of the certificate showing that it has been in full compliance with applicable regula-

Sub-252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a

and cleaners, from Milford, CT, to Chicago, IL. Condition: In view of the findings in MC 114273 (Sub-147 and

ate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from points in TX, to points in CT, DE, IL, IN, KY, ME, MD, MI, NH, NJ, NY, OH, MA, PA, RI, VT, VA, WV, WI, and DC. (Hearing site: Dallas, TX.)

MC 114273 (Sub-419F), filed July 24, 1978. Applicant: CRT, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. core, (Same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel shot*, (except in bulk, in tank vehicles), from Hamilton, OH, and Mt. Pleasant, PA, to points in WI, and those points in the Lower Peninsula of MI on and east of a line beginning at the OH/MI State Line and extending along U.S. Hwy 127 to junction U.S. Hwy 27, then along U.S. Hwy 27 to junction Interstate Hwy 75, then along Interstate Hwy 75 to Mackinow City; (2) ceramics *foundry products and ceramic foundry supplies*, (except commodities in bulk, in tank vehicles), from Columbus, OH, to Milwaukee, WI, and (3) *silicon carbide* (except in bulk, in tank vehicles), from Niagara Falls, NY, to points in IL, IA, MN, and WI, restricted in (1), (2), and (3) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. Condition: In view of the findings in No. MC-11473 (Sub-147 and 252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-420F), filed July 24, 1978. Applicant: CRT, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. core, (Same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel nails and staples, steel, plastic and nylon strapping and seals, and pneumatic hand tools*, and (2) *parts and accessories* used in the installation of the commodities named in (1) above, from Chicago, IL, Cincinnati, OH, Downingtown, PA, New York, NY, and Philadelphia, PA, to the facilities of Carlson Stapler and Shippers Supply Inc., at Denver, CO, Minneapolis, MN, Omaha, NE, and Wichita, KS, restricted to the transportation of traffic destined to the named destinations. CONDITION: In view of the finding in No. MC 114273 (Sub-147 and 252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL or Washington, DC.)

MC 114273 (Sub-421F), filed July 24, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:. (1) *Paper, paper articles, plastic bags, and plastic sheeting*, from Richmond, VA, to Cleveland and Youngstown, OH, and (2) *Paper and paper articles*, (a) from Franklin, VA, to Waukegon, IL, and (b) from Clinton, IA, to Columbus, OH. Condition: In view of the findings in No. MC-114273 (Sub-147 and 252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-422F), filed July 24, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Iron and steel articles*, and (b) *wheels, rims, spindles, hub caps, and grease caps* (except iron and steel articles), between Romulus, MI, and Davenport, IA, and (2) iron and steel articles, from Cleveland, OH, to points in IL, IN, IL, and NE. Condition: In view of the findings in No. MC-114273 (Sub-147 and 252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-423F), filed July 24, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from the facilities of Champion International Corp., at or near Cincinnati and Hamilton, OH, to points in CO, and (2) *commodities* used in the manufacture of paper and paper products, (except commodities in bulk, in tank vehicles), from points in CO, to the facilities of Champion International Corporation, at or near Cincinnati and Hamilton, OH, restricted in (1) and (2) above to the transportation of traffice originating at the named originis and destination to the indicated destination. Condition: In view of the findings in No. MC-114273 (Sub-147 and 252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-424F), filed July 24, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (Same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen foodstuffs* (except commodities in bulk, in tank vehicles), from Danbury and New Milford, CT, to Chicago, IL. Condition: In view of the findings in No. MC-114273 (Sub-147 and 252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-425F), filed July 24, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (Same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of General Foods Corp., at Dover, DE, to Chicago, IL, Kansas City, MO, and St. Paul, MN, restricted to the transportation of traffic originating at the named origin. Condition: In view of the findings in No. MC-114273 (Sub-147 and 252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition

for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, D.C.)

MC 114273 (Sub-426F), filed July 24, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (Same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Iron and steel articles*, (b) *vehicle wheels, vehicle bands, and vehicle rings*, and (c) *parts for the commodities* in (1)(b) above, from Detroit, Lansing, and Wyandotte, MI, to Kewanee, IL; and (2) *iron and steel articles*, from (a) Marysville, MI, to Ida Grove, IA, and (b) from Portage, IN, to East Moline, IL. Condition: In view of the findings in No. MC-114273 (Sub-147 and 252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, D.C.)

MC 114273 (Sub-427F), filed July 24, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberboard corrugated boxes*, (1) from Philadelphia, PA to St. Paris, OH, and Des Moines, IA, and (2) from St. Paris, OH, to Des Moines, IA, Chicago, IL, Kansas City, KS, Minneapolis, MN, Dallas, Ennis, and Houston, TX, and Gretna, LA. Condition: In view of the findings in MC 114273 (Sub-147 and Sub-252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 124273 (Sub-428F), filed July 24, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paints, shellac, and caulking compounds* (except commodities in bulk, in tank vehicles), from Tipp City and Dayton, OH, to Dallas, TX. Condition: In view of the findings in MC 114273 (Sub-147 and Sub-252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, D.C.)

MC 114273 (Sub-429F), filed July 24, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Zinc, zinc oxide, and zinc articles* (except commodities in bulk, in tank vehicles), from Palmerton, PA, to Chicago, IL; and (2) *titanium dioxide* (except in bulk, in tank vehicles), from Dayton, Edison, Hoboken, Linden, Sayreville, and South Amboy, NJ, to Chicago, IL, Des Moines, IA, and Lincoln, NE. Condition: In view of the findings in MC 114273 (Sub-147 and Sub-252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-430F), filed July 24, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Containers, container closures*, and (2) *accessories, materials, and supplies* used in the distribution of containers and container closures, from Dunkirk, IN, to points in IA, KS, MN, MO, and NE. Condition: In view of the findings in MC 114273 (Sub-147 and Sub-252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-431F), filed July 24, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals and cleaners*, from Milford, CT, to Chicago, IL. Condition: In view of the findings in MC 114273 (Sub-147 and Sub-252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-432F), filed July 24, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals* except in bulk, in tank vehicles), from Chicago, IL, to Crete, NE, Kansas City and Topeka, KS, Macedonia, OH, and St. Paul, MN; and (2) *petroleum and petroleum products* (except commodities in bulk, in tank vehicles), from Cincinnati, OH, and Freedom, Pa, to points in IA, KS, MN, MO, and NE. Condition: In view of the findings in MC 114273 (Sub-147 and Sub-252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-433F), filed July 24, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs* (except in bulk), from the facilities of Michigan Natural Storage, at or near Grand Rapids, MI, and Lake Odessa Canning, at Lake Odessa, MI, to Bettendorf, IA, Bonner Springs, KS, Chicago, IL, Kansas City, KS, Richmong, VA, and points in Cumberland County, NJ. Condition: In view of the findings in MC 114273 (Sub-147 and Sub-252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-434F), filed July 26, 1978. Applicant: CRST, INC., P.O. Box

ed in point of time to a period expiring 2 years from its date of issue, unless,

MC 115496 (Sub-96F), filed July 10, 1978. Applicant: LUMBER TRANS-

didge and Troy, AL. (Hearing site: Birmingham, AL or Washington, DC.)

MC 117940 (Sub-287F), filed August

hicle, over irregular routes, transporting: (1) *Sugar*, in containers, from Philadelphia, PA, to points in OH

Scranton, PA. 18504. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

MC 114273 (Sub-434F), filed July 26, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pellets* (except in bulk, in tank vehicles), from points in Vanderburgh County, IN, to points in CO, IA, IL, KS, MI, MN, MO, NE, NC, OH, PA, SC, TN, TX, VA, WV, and WI. Condition: In view of the findings in MC 114273 (Sub-147 and Sub-252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-435F), filed July 26, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen bakery goods*, from the facilities of Midwest Biscuit, at or near Burlington, IA, to points in CO, NM, OK, TX, and those points in KS on and west U.S. Hwy 81, restricted to the transportation of traffic originating at the named origin and destinated to the named destinations. Condition: In view of the findings in MC 114273 (Sub-147 and Sub-252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-436F), filed July 26, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Antimonial lead*, from the facilities of Gould, Inc., at Omaha, NE, to Burlington and Manchester, IA, Detroit, MI, Kankakee, IL, Philadelphia, PA, Vincennes, IN, and Zanesville, OH, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. Condition: In view of the findings in MC 114273 (Sub-147 and Sub-252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114457 (Sub-414F), filed July 17, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric ranges and microwave ovens*, and (2) commodities used in the manufacture and distribution of the commodities in (1) above, between the facilities of Litton Microwave Cooking Products, Litton Systems, Inc., at Minneapolis, MN, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: St. Paul, MN, or Chicago, IL.)

MC 114457 (Sub-417F), filed July 17, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in packages, from the facilities used by Atalanta Corp., at (a) Jersey City, NJ, (b) New York, NY, and (c) Philadelphia, PA, to Burlington, IA, Chicago, IL, Lawrence, KS, and Los Angeles, CA, and points in IN, MI, MN, OH, and WI. (Hearing site: New York, NY, Chicago, IL, or St. Paul, MN.)

MC 114457 (Sub-418F), filed July 17, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, and woodpulp*, from Calhoun, TN, to points in KY. (Hearing site: Nashville, TN, or St. Paul, MN.)

MC 115311 (Sub-293F), filed July 21, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, particleboard, wallboard, composition board, poles, piling, pallets, timbers, and crossties*, from points in AR, LA, MS, OK, TN, and TX, to those points in the United States in and east of TX, OK, KS, NE, IA, and WI. (Hearing site: New Orleans, LA.)

MC 115496 (Sub-96F), filed July 10, 1978. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, GA 31014. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix boulevard, Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from points in Georgetown County, SC, to points in AL, FL, GA, IL, IN, KY, MD, MI, MO, NC, OH, PA, TN, VA, and WV. (Hearing site: Atlanta, GA, or Georgetown, SC.)

MC 115821 (Sub-36F), filed July 26, 1978. Applicant: FRANK BEELMAN, d.b.a. BEELMAN TRUCK CO., St. Libory, IL 62282. Representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, MO 63101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients*, (1) From Springfield, IL, to points in MO and IN, (2) from East St. Louis and Wayne City, IL, to points in IN, and, (3) from the facilities of Sandoval Zinc Co., at or near Sandoval, IL, to points in AR, IA, AL, and MI. (Hearing site: St. Louis, MO.)

MC 115821 (Sub-37F), filed July 24, 1978. Applicant: FRANK BEELMAN, d.b.a. BEELMAN TRUCK CO., St. Libory, IL 62282. Representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, MO 63101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rock*, in bulk, from Perry County, MO, to those points in IL bounded by a line beginning at the intersection of IL-MO State line and Interstate Hwy 57, north along Interstate Hwy 57 to Interstate Hwy 70, then west along Interstate Hwy 70 to the IL-MO State line, then south along the IL-MO State line to the point of beginning. (Hearing site: St. Louis, MO or Washington, DC.)

MC 115841 (Sub-642F), filed July 20, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., Suite 110, 9041 Executive Park Drive, Knoxville, TN 37919. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except in bulk), from the facilities of Hudson Foods, Inc., at or near Brundidge, and Troy, AL, to points in the United States (except AL, AK, and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), from points in the United States (except AL, AK, and HI), to the facilities of Hudson Foods, Inc., at or near Brundidge and Troy, AL. (Hearing site: Birmingham, AL or Washington, DC.)

MC 117940 (Sub-287F), filed August 11, 1978. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmernan, 5300 Highway 12, Maple Plain, MN 55359. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of Minnesota Mining and Manufacturing Co., at or near (a) Middleway, WV, (b) Prairie du Chien, WI, (c) Ames and Knoxville, IA, (d) Springfield, MO, (e) Hutchinson and St. Paul, MN, and (f) Chicago, IL, to points in CA, OR, and WA, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations; and (2) *printing paper* (except newsprint), from the facilities of the James River Paper Co., at or near Fitchburg, MA, to the facilities of Minnesota Mining and Manufacturing Co., at or near White City, OR, restricted to the transportation of traffic originating at the named origin facilities and destined to the named destination facilities.

Condition: In view of the findings in No. MC 117940 (Sub-86), the certificate issued here shall be limited in point of time to a period expiring 3 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to the expiration), applicant files a petition for permanent extensions of the certificate showing that it has been in full compliance with applicable rules and regulations. (Hearing site: St. Paul or Minneapolis, MN.)

MC 119176 (Sub-21F), filed July 6, 1978. Applicant: THE SQUAW TRANSIT CO., a corporation, P.O. Box 9368, Tulsa, OK 74107. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel tubing*, from Ambridge and Beaver Falls, PA, and Alliance, OH, to points in AR, LA, OK, and TX; and (2) *pipe fittings*, from Koppel, PA, to points in AR, LA, OK, and TX. (Hearing site: Washington, D.C. or Tulsa, OK.)

MC 119631 (Sub-27F), filed July 24, 1978. Applicant: DEIOMA TRUCKING CO., a corporation, P.O. Box 3315, Mount Union Station, Alliance, OH 44610. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, D.C. 20004.To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sugar*, in containers, from Philadelphia, PA, to points in OH (except Carroll, Columbiana, Harrison, Jefferson, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscarawas, and Wayne Counties), IN, IL, and MI. (Hearing site: Washington, D.C.)

MC 119726 (Sub-135F), filed July 10, 1978. Applicant: N.A.B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, 130 East Washington Street, Suite 1000, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bathroom fixtures*, from the facilities of AMPCO Division of Chromalloy Corp., at or near Tyrone, PA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 119774 (Sub-93F), filed July 10, 1978. Applicant: EAGLE TRUCKING CO., P.O. Box 471, Kilgore, TX 75662. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Commodities which because of size or weight require the use of special equipment*, and (b) *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), in mixed shipments with the commodities in (1) (a) above, and (2) *self-propelled articles*, in truckaway service, from the facilities of Riley Beaird, Inc., at or near Shreveport, LA, to points in the United States (except AK and HI), and (3) *materials and equipment* used in the manufacture and distribution of the commodities in (1) and (2) above, from points in the United States (except AK and HI) to the facilities of Riley Beaird, Inc., at or near Shreveport, LA. (Hearing site: Shreveport, LA, or Dallas, TX.)

MC 124078 (Sub-852F), filed August 14, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, from Vassar, MI, to points in IL, IN, and IA. (Hearing site: Detroit, MI.)

MC 124920 (Sub-15F), filed May 30, 1978, previously noticed in the FEDERAL REGISTER issue of July 13, 1978. Applicant: LA BAR'S, INC., 771 Scott Street, Wilkes Barre, PA 18705. Representative: Peter Wolff, P.O. Box 116, Scranton, PA. 18504. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, and materials and supplies* used in the manufacture of paper and paper products (except commodities in bulk), between the facilities of Potlatch Corp., at Avoca, Coxton, Duryea, Moosic, Old Forge, Pittston, Ransom, Scranton, and Wilkes Barre, PA, on the one hand, and, on the other, Chicago, IL, Detroit, Grand Rapids, and Lansing, MI, Cleveland and Solon, OH, and points in CT, MD, MA, NY (except the New York, NY, commercial zone), and DC. (Hearing site: Wilkes Barre, PA.)

NOTE.—Dual operations may be involved. In MC-F-13217, a noncarrier controlling P. L. Lawton Inc., a contract carrier, seeks approval to control applicant.

NOTE.—This republication excludes commodities in bulk. A sought negative vehicle restriction has been deleted.

MC 125293 (Sub-11F), filed July 26, 1978. Applicant: INDUSTRIAL CONTRACT CARRIERS, INC., 14750 Southwest 72d Avenue, Tigard, OR 97223. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Packaged cellulose fibre products*, from Portland, OR, to points in CA, CO, ID, NV, OR, UT, WA, and WY, and (2) *packaged borates*, from Wilmington, Richmond, Pittsburg, and Trona, CA, and Phoenix, AZ, to Portland, OR, under continuing contract(s) with Fibron Corp., of Portland, OR. (Hearing site: Portland, OR.)

MC 126118 (Sub-89F), filed August 8, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Self-propelled vehicles, mowers, turf spikers, chemical injectors, rakes, seeders, spreaders, sod cutters, and trailers*, and (b) *accessories, attachments, and parts* for the commodities in (1) (a) above, from the facilities of OMC-Lincoln, division of Outboard Marine Corp., at or near Lincoln, NE, to points in the United States (except AK, HI, and NE), and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, from points in the United States (except AK, HI, and NE), to the facilities of OMC-Lincoln, Division of Outboard Marine Corp., at or near Lincoln, NE, restricted in (1) above to the transportation of traffic originating at the named origin facilities, and in (2) above to the transportation of traffic destined to the named destination facilities. (Hearing site: Lincoln or Omaha, NE.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 127047 (Sub-23F), filed July 17, 1978. Applicant: MARTIN TRANSPORTATION SYSTEMS, INC., P.O. Box 1000, Bowling Green, KY 42101. Representative: Jerry Martin (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Granite City Steel Co., at or near Granite City, IL, to points in KY, TN, and those points in MO on and south of Interstate Hwy 70. (Hearing site: Louisville, KY. (Hearing site: Louisville, KY, or Lincoln NE.)

MC 140865 (Sub-2F), filed August 4, 1978. Applicant: MARTIN TRANSPORTATION SYSTEMS, INC., P.O. Box 1000, Bowling Green, KY 42101. Representative: Jerry Martin (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Granite City Steel Co., at or near Granite City, IL, to points in KY, TN, and those points in MO on and south of Interstate Hwy 70. (Hearing site: Louisville, KY, or Lincoln NE.)

MC 141804 (Sub-1F), filed July 31, 1978. Applicant: WESTERN EXPRESS, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Jerry Lowry (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting*, from Dalton, GA, and Winchester, TN, to points in CA, under continuing

MC 143317 (Sub-6F), filed July 18, 1978. Applicant: GEORGE CLARK TRANSIT CO., a corporation, 2902

NOTE.—Dual operations may be at issue in this proceeding.

MC 127047 (Sub-33F), filed July 17, 1978. Applicant: ED RACETTE & SON, INC., 6021 North Broadway, Wichita, KS 67219. Representative: William B. Barker, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prefabricated buildings*, knocked-down, from Wichita, KS, to points in the United States (except AK and HI), and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, from points in the United States (except AK and HI), to Wichita, KS. (Hearing site: Wichita, KS.)

MC 128117 (Sub-34F), filed July 18, 1978. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. Box 896, Hickory, NC 28601. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Smyth County, VA, to points in AZ, AR, CA, CO, LA, NM, NV, OK, and TX. (Hearing site: Washington, DC.)

MC 133095 (Sub-195F), filed August 3, 1978. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by drug stores (except commodities in bulk), from Cheshire and Stamford, CT, Saddle Brook and Lakewood, NJ, and points in Kings, Queens, Nassau, and Suffolk Counties, NY, to points in VA, WV, NY, OH, PA, MI, IN, KY, and IL. (Hearing site: Boston, MA, or Atlanta, GA.)

MC 134300 (Sub-31F), filed May 30, 1978, previously published in the FEDERAL REGISTER issue of July 13, 1978. Applicant: TRIPLE R EXPRESS, INC., 498 First Street NW., New Brighton, MN 55112. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats*, in boxes, in vehicles equipped with mechanical refrigeration, from New York, NY, Jersey City, Port Newark, and Elizabethport, NJ, Philadelphia, PA, Wilmington, DE, and New Haven, CT, to points in IL, IN, IA, KY, MI, MN, MO, NE, OH, PA, and WI, restricted to the transportation of traffic having a prior movement by water. (Hearing site: Minneapolis, MN.)

NOTES.—(1) The person or persons who it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary. (2) The purpose of this republication is to show the additional destination of MI.

MC 134477 (Sub-259F), filed July 19, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wearing apparel*, and (2) *materials and supplies* used in the manufacture of wearing apparel (except commodities in bulk), from Perry, NY, to Burlington, IA, and Grants Pass, OR. (Hearing site: St. Paul, MN.)

MC 134477 (Sub-260F), filed July 19, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by department stores (except foodstuffs and commodities in bulk), from Charlotte and High Point, NC, and Dallas and Fort Worth, TX, to the facilities of Montgomery Ward, at or near (a) Denver, CO, (b) Chicago, IL, (c) Minneapolis, MN, and (d) Kansas City, MO, restricted to the transportation of traffic originating at the named origins and destined to the named destination facilities. (Hearing site: St. Paul, MN.)

MC 135895 (Sub-27F), filed July 31, 1978. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated beverages*, in containers, and *materials, equipment, and supplies* used in the manufacture and distribution of carbonated beverages (except commodities in bulk), between the facilities of Shasta Beverage Co., Inc., at or near Kenner, LA, on the one hand, and, on the other, points in AL, FL, LA, MS, and TX. (Hearing site: New Orleans, LA.)

MC 136123 (Sub-2F), filed July 25, 1978. Applicant: MEAT DISPATCH, INC., 2103 17th Streeet, East, Palmetto, FL 33561. Representative: Robert D. Gunderman, Suite 710 Statler Hilton, Buffalo, NY 14202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials and plastic products*, (2) *resins*, and (3) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) and (2) above (except commodities in bulk, and those which because of size or weight require the use of special equipment), between points in the United States (except AK and HI). (Hearing site: Buffalo, NY.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 139495 (Sub-367F), filed July 19, 1978. Applicant: NATIONAL CARRIERS, INC. 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *School, art, and hobby supplies*, and (2) *materials* used in the manufacture and distribution of school, art, and hobby supplies (except commodities in bulk, in tank vehicles), from points in the United States (except AK and HI), to Easton, PA, and Winfield, KS.. (Hearing site: Washington, DC.)

MC 139495 (Sub-376F), filed August 4, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Batteries, battery fluids, battery chargers, rectifiers, and materials and supplies* used in the manufacture and distribution of batteries and battery accessories (except commodities in bulk, in tank vehicles), (1) from the facilities of Exide Power Systems Division, ESB Inc., at or near (a) Richmond, KY, (b) Raleigh, NC, and (c) Sumter, SC, to points in the United States (except AK and HI), and (2) from Chicago, IL, Arlington and Cavendish, VT, Deerfield, MA, Trenton, Clark, and Rancocas, NJ, Philadephia, PA, Jacksonville, FL, Johnson City, and Memphis, TN, and Herculaneum, MO, to Richmond, KY, Raleigh, NC, and Sumter, SC.. (Hearing site: Washington, DC.)

MC 140061 (Sub-7F), filed July 20, 1978. Applicant: DONALD MULDER, d.b.a. Don Muder Trucking, 1735 North 50th Street, Lincoln, NE 68504. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal, wood chips, lighter fluid*, and *wax-impregnated fireplace logs*, (except commodities in bulk), (1) from the facilities of The Kingsford Co., at or near Parsons, WV, to Belle, MO, Dallas, TX, and Denver, CO, and (2) from the facilities of the Kingsford Co., at or near St. Louis, Kansas City, and Belle, MO, to points in MN, NE, ND, and SD, under continuing contract(s) with The Kingsford Co., of

Louisville, KY. (Hearing site: Louisville, KY, or Lincoln NE.)

MC 140865 (Sub-2F), filed August 4, 1978. Applicant: JAMES T. GARRETT, d.b.a. AMERICAN CONTRACT CARRIER, 14769 San Bernardino Avenue, Fontana, CA 92335. Representative: Richard C. Celio, 1415 West Garvey Avenue, Suite 102, West Covina, CA 91790. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by manufacturers and distributors of health foods (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Hollywood Health Foods, a division of Hain Pure Food Co., Inc., at Los Angeles, CA, to points in the United States in and east of ND, SD, NE, KS, OK, and TX, under continuing contract(s) with Hain Pure Food Co., Inc., of Los Angeles, CA. (Hearing site: Los Angeles, CA.)

MC 141076 (Sub-20F), filed July 5, 1978. Applicant: ROGERS MOTORS LINES, INC., P.O. Box 388 D2, Rural Delivery No. 2, Hackettstown, NJ 07848. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Infant formulas, prepared nutriments, nutritional and dietary supplements*, and *plastic and rubber articles*, from the facilities of Ross Laboratories, Division of Abbott Laboratories, at or near Columbus, OH, to points in CT, DE, MA, ME, MD, NH, NJ, NY, PA, RI, VA, VT, and DC. (Hearing site: New York, NY.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 141764 (Sub-9F), filed July 10, 1978. Applicant: BLACKHAWK ENTERPRISES, a corporation, 3149 Depot Road, Hayward, CA 94545. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum insect screening, fiberglass insect screening, aluminum nails, and vinyl coated yarns*, from the facilities of Phifer Wire Products, Inc., at or near Tuscaloosa, AL, to points in CA, under continuing contract(s) with Phifer Wire Products, Inc., of Tuscaloosa, AL. (Hearing site: San Francisco or Los Angeles, CA.)

MC 141764 (Sub-10F), filed July 10, 1978. Applicant: BLACKHAWK ENTERPRISES, a corporation, 3149 Depot Road, Hayward, CA 94545. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting*, from Dalton, GA, and Winchester, TN, to points in CA, under continuing contract(s) with E & B Carpet Mills, Inc., of Dalton, GA. (Hearing site: San Francisco or Los Angeles, CA.)

MC 141947 (Sub-3F), filed July 17, 1978. Applicant: GEORGE HALL, d.b.a. GEORGE HALL TRUCKING CO., 8260 Berry Avenue, Sacramento, CA 95828. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cartons*, knocked-down, and *glass bottles*, (1) from the facilities of Glass Container Corp., in Alameda, Contra Costa, Los Angeles, and Orange Counties, CA, to Reno and Sparks, NV, and (2) from the facilities of Brockway Glass Corp., at or near Oakland, San Leandro, and Pomona, CA, to Reno and Sparks, NV, under continuing contract(s) with (1) Glass Container Corp., of Fullerton, CA, and (2) Brockway Glass Co., Inc., of Oakland, CA. (Hearing site: San Francisco, CA, or Reno, NV.)

MC 142335 (Sub-3F), filed August 4, 1978. Applicant: C & E TRUCKING CO., INC., 11910 Greenstone Avenue, Santa Fe Springs, CA 90670. Representative: Richard Celio, 1415 West Garvey Avenue, Suite 102, West Covina, CA 91790. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel, and* (2) *materials, equipment, and supplies*, used in the manufacture and distribution of hot water heaters, from points in Los Angeles and San Bernardino Counties, CA, to the facilities of State Industries, Inc., at or near Henderson, NV. (Hearing site: Los Angeles, CA.)

MC 142948 (Sub-10F), filed August 7, 1978. Applicant: THE GRADER LINE, INC., 434 Atlas Drive, Nashville, TN 37211. Representative: Edward C. Blank II, Middle Tennessee Bank Building, P.O. Box 1004, Columbia, TN 38401. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pens, pencils, book satchels, stationery, and school supplies*, (1) from the facilities of Reliance Pen & Pencil Corp., at or near Lewisburg, TN, to Los Angeles, CA, and (2) from the facilities of Reliance Pen & Pencil Corp., at or near Los Angeles, CA, to Lewisburg, TN, and points in AZ, CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY, restricted in (1) and (2) above to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Nashville, TN.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 143317 (Sub-6F), filed July 18, 1978. Applicant: GEORGE CLARK TRANSIT CO., a corporation, 2902 Calumet Avenue, Manitowox, WI 54220. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Phenolic coated resin sand*, from points in Green Lake County, WI, to points in MN and MI, under continuing contract(s) with Faskure Coated Sand, Division of Aurora Metal Company, of Fairwater, WI. (Hearing site: Madison, WI or Chicago, IL.)

NOTE.—The person or persons who it appears to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 143317 (Sub-7F), filed July 18, 1978. Applicant: GEORGE CLARK TRANSIT CO., a corporation, 2902 Calumet Avenue, Manitowoc, WI 54220. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Silica sand*, from points in Green Lake and Jackson Counties, WI, to points in IL, IN, IA, MI, ND, SD, WI, and MN (except Minneapolis), under continuing contract(s) with Fairwater Silica, Inc., of Fairwater, WI. (Hearing site: Madison, WI or Chicago, IL.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 143570 (Sub-3F), filed August 11, 1978. Applicant: D & G TRUCKING, INC., 4420 East Overland Road, Meridian, ID 83642. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, feed ingredients, and feed supplements* (except liquid commodities in bulk, in tank vehicles), (1) from points in Ada, Canyon, Gem, Washington, Owyhee, and Payette Counties, ID, to points in AZ, CA, CO, MO, NE, OR, UT, WA, and WY, and (2) from points in AZ, CA, CO, MO, NE, OR, UT, WA, and WY, to points in ID, in and south of Adams, Valley, and Lemhi Counties, and points in Malheur County, OR. (Hearing site: Boise, ID or Reno NV.)

MC 143625 (Sub-2F), filed August 4, 1978. Applicant: REUNION TRANSPORT CO., INC., 854 Heiskell Place, Memphis, TN 38125. Representative: R. Connor Wiggins, Jr., Suite 909, 100 North Main Building, Memphis, TN 38103. To operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Waste chemicals*, between points in AL, AK, FL, GA, IL,

Rock, AR 72209. Representative: Phillip Glenn (same as above). To operate

the other, Santa Fe, NM, Phoenix, AZ, and Chino, CA, (d) from Muscatine,

land, NJ, on the one hand, and, on the other, points in CT, DE, MD, NY, PA, VA, and DC, restricted to the trans-

in vehicles equipped with mechanical refrigeration, between the facilities of The Kroger Co., at or near Indianapo-

BROKER AUTHORITY

MC 130519F, filed August 11, 1978.

routes, transporting: *Waste chemicals*, between points in AL, AK, FL, GA, IL, IN, KY, LA, MI, MS, MO, OK, TN, and TX. (Hearing site: Memphis, TN.)

MC 144076 (Sub-3F), filed June 30, 1978. Applicant: SCHWINNEN GRAIN & TRUCKING, INC., R.F.D. No., Venedocia, OH 45894. Representative: John L. Alden, 1396 West Fifth Avenue, P.O. Box 12241, Columbus, OH 43212. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Soybean meal*, in bulk, from the facilities of Cargill, Inc., at or near Sidney, OH, to points in IL, IN, KY, MI, NY, OH, PA, TN, and WV; and (2) *corn products and feed products*, in bulk, from the facilities of Cargill, Inc., at or near Dayton, OH, to points in IL, and IN, under continuing contract(s) with Cargill, Inc., of Sidney, OH. (Hearing site: Columbus or Cleveland, OH.)

MC 144117 (Sub-14F), filed July 18, 1978. Applicant: TLC LINES, INC., P.O. Box 1090, Fenton, MO 63026. Representative: William D. Brejcha, 10 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel shelving and bins, unassembled pallet racks, storage racks, screw cases, and storage cabinets*, and (2) *accessories* for the commodities in (1) above, from the facilities of the Frick-Gallagher Manufacturing Co., at Canton and Wellston, OH, to points in AZ, CA, CO, FL, ID, MT, NV, NM, OR, TX, UT, WA, and WY, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Columbus or Cincinnati, OH.)

MC 144485 (Sub-3F), filed August 3, 1978. Applicant: WEST COAST DISTRIBUTING CO., INC., 539 North 170th Place, Seattle, WA 98133. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper*, from Everett, WA, to points in CA, under continuing contract(s) with Everett Pad & Paper Co., Inc., of Everett, WA. (Hearing site: Seattle, WA.)

MC 144606 (Sub-3F), filed July 6, 1978. Applicant: DUNCAN SALES & LEASING CO., INC., 714 East Baseline, Buckeye, AZ 85326. Representative: Donald W. Powell, 1833 North Third Street, Phoenix, AZ 85004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic bottles*, from Phoenix, AZ, to points in NM and El Paso County, TX. (Hearing site: Phoenix, AZ.)

MC 144622 (Sub-5F), filed July 6, 1978. Applicant: GLENN BROS. MEAT CO., INC., P.O. Box 9343, Little Rock, AR 72209. Representative: Phillip Glenn (same as above). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bicycles, and bicycle parts and accessories*, from Little Rock, AR, to points in MN, IA, LA, KS, NE, OK, TX, WI, IL, MS, TN, KY, AL, GA, FL, IN, MI, OH, SC, NC, PA, WV, VA, MD, DE, MA, CT, NJ, and NY, restricted to the transportation of traffic originating at the facilities of AMF Inc., at Little Rock, AR.. (Hearing site: Little Rock, AR or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 144625 (Sub-1F), filed August 2, 1978. Applicant: CLOVERLEAF TRANSPORTATION, INC., 14 Kerri Lane, Spring Valley, NY 10977. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10001. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* (except in bulk), *and beverage containers*, between Oswego, Canton, and Watertown, NY, on the one hand, and, on the other, Newark, NJ, Williamsburg, VA, and Pabst, GA, under continuing contract(s) with Dorsey Distributors Inc., of Oswego, NY, Martin Beer Distributors, Inc., of Canton, NY, and Sparracino Co., Inc., of Watertown, NY. (Hearing site: New York, NY.)

MC 144700 (Sub-2F), filed June 12, 1978. Applicant: CONTINENTAL CARRIERS, INC., P.O. Box 6238, Pompano Beach, FL 33050. Representative: Stuart R. Mandel, 315 South Beverly Drive—Suite 315, Beverly Hills, CA 90212. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rubber tire treads, tread stocks, tire patches, tire tubes, solvent, adhesives, and cured rubber*, (except commodities in bulk), and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above, in vehicles equipped with mechanical refrigeration, (a) between Muscatine, IA, on the one hand, and on the other, St: Louis and Kansas City, MO, Wichita, KS, Memphis, TN, Little Rock, AR, New Orleans, LA, Fort Worth, Dallas, and Abilene, TX, Oxford, NC, Scottsbluff, NE, Longmont, Denver, and Commerce City, CO, Salt Lake City, UT, Santa Fe, NM, Phoenix, AZ, and Sacramento, Oakland, Fresno, and Chino, CA, (b) between Oxford, NC, on the one hand, and, on the other, Little Rock, AR, New Orleans, LA, Memphis, TN, Birmingham, AL, Fort Worth, Dallas, and Abilene, TX, Kansas City and St. Louis, MO, Wichita, KS, Longmont, Denver, and Commerce City, CO, Salt Lake City, UT, Sante Fe, NM, Phoenix, AZ, and Chino, CA, (c) between Abilene, TX, on the one hand, and, on the other, Santa Fe, NM, Phoenix, AZ, and Chino, CA, (d) from Muscatine, IA, to Los Angeles, CA, Birmingham, AL, and Griffin, GA, (e) from Abilene, TX, to Fort Worth and Dallas, TX, Los Angeles and San Francisco, CA, New Orleans, LA, Memphis, TN, Birmingham, AL, and Griffin, GA, and (f) from Oxford, NC, to Los Angeles and San Francisco, CA, under a continuing contract(s) with Bandag, Inc., of Muscatine, IA. (Hearing site: Chicago, IL, or Miami, FL.)

MC 144740 (Sub-4F), filed August 10, 1978. Applicant: L. G. DeWITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Terrance D. Jones, 2033 K Street NW., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of M & M Mars, Division of Mars, Inc., at or near Cleveland, TN to points in AZ, CA, CO, ID, IL, IA, IN, LA, MI, NV, NM, OR, TX, UT, WA, and WI, under continuing contract(s) with M & M Mars, Division of Mars, Inc., of Hackettstown, NJ.

NOTE.—(1) The person or persons who appears to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit showing why such approval is unnecessary; (2) Dual operations may be at issue in this proceeding because of applicant's affiliation with a common carrier.

MC 145026F, filed July 10, 1978. Applicant: NORTHEAST CORRIDOR EXPRESS, INC., Railroad Avenue, Federalsburg, MD 21632. Representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, PA 19107. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from the facilities of the Green Giant Company, at Vineland, NJ, to points in CT, MA, ME, NH, RI, and VT, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Philadelphia, PA.)

MC 145057F, filed July 19, 1978. Applicant: JOHN A. DI MEGLIO, INC., White Horse Pike, Ancora, NJ 08037. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Precast and prestressed concrete products*, and (2) *materials, equipment, and supplies* used in the manufacture, sale, and installation of the commodities named in (1) above (except commodities in bulk), between the facilities of Formigli Corp., at or near Williamstown Junction and Vineland, NJ, on the one hand, and, on the other, points in CT, DE, MD, NY, PA, VA, and DC, restricted to the transportation of traffic originating at or destined to the indicated points. (Hearing site: Philadelphia, PA, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 145057 (Sub-No. 1F), filed July 19, 1978. Applicant: JOHN A. DI MEGLIO, INC., White Horse Pike, Ancora, NJ 08037. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe*, between the facilities of Kerr Concrete Pipe Co., at Folsom, NJ, on the one hand, and, on the other, points in CT, DE, MD, NY, PA, VA, and DC, restricted to the transportation of traffic originating at or destined to the indicated points. (Hearing site: Philadelphia, PA, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 145168F, filed August 7, 1978. Applicant: JAMES H. BRACKEEN, d.b.a., BRACKEEN TRUCKING, 7427 Eccles, Dallas, TX 75227. Representative: Mr. Thomas L. Cook, 136 Wynnewood Professional Building, Dallas, TX 75224. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motorcycles*, (1) from Baton Rouge, LA, to Houston and Galveston, TX, and (2) from Dallas, TX, to Houston, Austin, and San Marcos, TX. (Hearing site: Houston or Dallas, TX.)

MC 145170F, filed August 1, 1978. Applicant: BRELAR, INC., P.O. Box 796, Greenville, MS. Representative: C. Edward Glasscock, 1600 Citizens Plaza, Louisville, KY 40202. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuff* (except frozen, and commodities in bulk), *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs (except commodities in bulk), from points in the United States (except AK, HI, and MS), to the facilities of Vlasic Foods, Inc., at or near Greenville, MS, under continuing contract(s) with Vlasic Foods, Inc. (Hearing site: Greenville, MS, or Detroit, MI.)

MC 145179 (Sub-1F), filed August 11, 1978. Applicant: J & J CONTRACT CARRIER, INC., 60 South State Street, Indianapolis, IN 46201. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46204. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by grocery and food business houses (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between the facilities of The Kroger Co., at or near Indianapolis, IN, on the one hand, and, on the other, Memphis and Nashville, TN, Little Rock, AR, Atlanta, GA, Dallas and Houston, TX, and Roanoke, VA, and points in IL, KY, MI, MO, OH, and PA, under continuing contract(s) with The Kroger Co., of Cincinnati, OH. (Hearing site: Cincinnati, OH.)

NOTE.—The person or persons who it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Commission Act, or submit an affidavit showing why such approval is unnecessary.

PASSENGER AUTHORITY

MC 48561 (Sub-14F), filed July 10, 1978. Applicant: WILSON BUS LINES, INC., Main Street, East Templeton, MA 01438. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special operations, between Athol, East Templeton, Gardner, Westminster, Fitchburg, and Leominster, MA, on the one hand, and, on the other, Hampton and Hampton Beach, NH. (Hearing site: Boston, MA or Concord, NH.)

MC 144240 (Sub-1F), filed July 11, 1978. Applicant: D. R. WISMER, d.b.a. BAYSIDE LIMOUSINE SERVICE, P.O. Box 4732, Beaufort, SC 29902. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in special and charter operations, between points in Beaufort County, SC, on the one hand, and, on the other, Savannah, GA, and the Savannah Airport, near Savannah, GA, limited to the transportation of not more than 16 passengers in any one vehicle, not including the driver of the vehicle. (Hearing site: Columbia, SC.)

MC 145169F, filed August 4, 1978. Applicant: THIELEN BUS LINES, INC., 1205 South Halvarson, Redwood Falls, MN 56283. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Brown, Redwood, Cottonwood, and Renville Counties, MN, and extending to points in the United States (including AK, but excluding HI). (Hearing site: St. Paul, MN.)

BROKER AUTHORITY

MC 130519F, filed August 11, 1978. Applicant: SUMMIT TRAVEL, INC., 1217 Player Place, Columbia, MO 65201. Representative: Charles J. Fain, 222 Madison, Jefferson City, MO 65101. To engage in operations, in interstate or foreign commerce, as a *broker*, at Columbia, MO, in arranging for the transportation, by motor vehicle, of: *Passengers and their baggage*, in the same vehicle with passengers, in round trip special and charter operations, beginning and ending at Columbia, Kansas City, St. Louis, Cape Girardeau, Springfield, Kirksville, and Marysville, MO, Ames and Iowa City, IA, Lawrence, Manhattan, and Wichita, KS, Normal, Macomb, Champagne, Carbondale, and De Kalb, IL, Lincoln and Omaha, NE, Madison and Milwaukee, WI, Oklahoma City, Norman, and Stillwater, OK, Boulder and Greeley, CO, Louisville and Lexington, KY, Knoxville and Memphis, TN, Austin, Lubbock, Houston, and College Station, TX, Minneapolis, MN, Bloomington, Indianapolis, and West Lafayette, IN, Ann Arbor, Kalamazoo, and East Lansing, MI, and College Park, MD, and extending to points in CO, FL, NH, NM, NY, TX, and VT. (Hearing site: Columbia or Kansas City, MO.)

NOTE.—(1) Authority is to operate as a broker at Columbia, MO. A broker licensed to perform operations at named points may not transact the business of selling transportation at any point other than that named. Activities of a preliminary nature may be conducted outside authorized points, but the actual broker-passenger contract(s) or agreement(s) must be entered into only at a point at which the broker is authorized to conduct operations. See generally Kirkland Broker Application, 61 MCC 691 (1953); and Paragon Travel Agency, Inc., Ext.—MA and RI, 100 MCC 641 (1966). (2) Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in Tauck Tours, Inc., Extension—New York, NY, 54 MCC 291 (1954).

[FR Doc. 78-25770 Filed 9-13-78; 8:45 am]

[7035-01]

[Notice No. 163]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 30, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the

filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the appli-

continuing contract, or contracts, with General Services Administration, Chief, Contracts and Negotiations

operating authority. Supporting shippers(s): Dow Chemical USA, Eastern Division, 14955 Sprague Road

ing authority. Supporting shipper(s): Reichold Chemicals, Inc., P.O. Box 1610, Tuscaloosa, AL 35401. Send pro-

protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building,

Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal

filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 13569 (Sub-40TA), filed July 13, 1978. Applicant: THE LAKE SHORE MOTOR FREIGHT CO., INC., 1200 South State Street, Girard, OH 44420. Representative: John P. Tynan, Bowes, Millner, Rodgers, Liberstein & Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from the plantsite of the Wheeling-Pittsburgh Steel Corp., located at Allenport, PA, to points in the Lower Peninsula of MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wheeling-Pittsburgh Steel Corp., P.O. Box 118, Pittsburgh, PA 15230. Send protests to: Martin P. Monaghan, Jr., Special Agent, Bureau of Operations, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 36509 (Sub-30TA), filed July 13, 1978. Applicant: LOOMIS ARMORED CAR SERVICE, INC., 821 Sansome Street, San Francisco, CA 94111. Representative: Robert C. Konkle, 821 Sansome Street, San Francisco, CA 94111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin shipments*, between Denver, CO, on the one hand, and, on the other, the commercial zones of Lake Tahoe, NV; Stateline, NV; Reno, NV; Las Vegas, NV; and Phoenix, AZ, under a continuing contract, or contracts, with General Services Administration, Chief Contracts and Negotiations Branch, for 180 days. Supporting shipper(s): General Services Administration Chief, Contracts and Negotiations Branch, GSA-FSS (FZTC), Washington, DC 20406. Send protests to: Michael M. Butler, District Supervisor, 211 Main, Suite 500, San Francisco, CA 94105.

MC 107012 (Sub-275TA), filed July 13, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, 5001 U.S. Hwy 30 West, Fort Wayne, IN 46801. Representative: David D. Bishop, P.O. Box 988, Fort Wayne, IN 46801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass fiber reinforced plastic articles* from the facilities of Owens-Corning Fiberglas at or near Huntsville AL, to points in AZ, AR, CA, CO, ID, IA, KS, LA, MN, MT, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY, for 180 days. Supporting shipper(s): Owens-Corning Fiberglas Corp., Fiberglas Tower, Toledo, OH 43659. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 107295 (Sub-881TA), filed July 13, 1978. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, 100 South Main Street, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and plywood, treated or untreated*, from the plantsite of Dixie Wood Products at or near Thomson, GA, to points in KY, MI, NJ, NY, OH, PA, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Joe S. Dozier, Plant Manager, Dixie Wood Products, P.O. Box 746, Thomson, GA 30824. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 107403 (Sub-1100TA), filed July 13, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (in bulk, in tank vehicles), from the plantsite of Dow Chemical USA at or near Dalton or Tildale, GA, to Finksburg, MD; Marietta, PA; and Chillicothe, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dow Chemical USA, Eastern Division, 14955 Sprague Road, P.O. Box 36000, Strongsville, OH 44136. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 107496 (Sub-1152TA), filed July 13, 1978. Applicant: RUAN TRANSPORT CORP., 666 Grand Avenue, 3200 Ruan Center, Des Moines, IA 50309. Representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar products* (in bulk, in tank vehicles), from Granite City, IL, to Decatur, GA; Henderson, CO; Columbus, GA; Charlotte, NC; Columbia, SC; Spartanburg, SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers(s): Maintenance, Inc., Division of Premier Industrial Corp., 1051 West Liberty Extension, Wooster, OH 44691. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 109124 (Sub-46TA), filed July 13, 1978. Applicant: SENTLE TRUCKING CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime, limestone, and limestone products* from the facilities of the National Lime & Stone Co. located at or near Carey, Wyandot County, OH, to points in IN, KY, NJ, PA, TN, WV, WI, and MO, 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers(s): The National Lime & Stone Co., P.O. Box 120, Findlay, OH 45840. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 111045 (Sub-155TA), filed July 13, 1978. Applicant: REDWING CARRIERS, INC., 8515 Palm River Road, P.O. Box 426, Tampa, FL 33601. Representative: L. W. Fincher, P.O. Box 426, Tampa, FL 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid* (in bulk, in tank vehicles), from the facilities of Reichold Chemicals, Inc., at or near Fox, AL, to Purvis, MS, for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Reichold Chemicals, Inc., P.O. Box 1610, Tuscaloosa, AL 35401. Send protests to: Donna M. Jones Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 NW., 53rd Terrace, Miami, FL 33166.

MC 114632 (Sub-174TA), filed July 13, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, 212 Soutwest, Second Street, Madison, S.D. 57042. Representative: Michael L. Carter, 212 Southwest, Second Street, Madison, S.D. 57042. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), From Battle Creek, MI, Lancaster and Sharonville, OH, to Clearfield, UT, for 180 days. Supporting shipper(s): Ralston Purina Co., Checkerboard Square, St. Louis, MO 63188. (Leo N. Brown Coordinator Motor Transportation). Send protests to: J. L. Hammond, District Superisor, Interstate Commerce Commission, Bureau of Operations, Room 455 Federal Building, Pierre, S.D. 57501.

MC 115092 (Sub-69TA), filed July 13, 1978. Applicant: TOMAHAWK TRUCKING, INC., P.O. BOX O), Vernal, UT 84078. Representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite clay in bags*, from Dresser Industries, Inc., at or near Greybull, WY, to points in OK, KS, and TX., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper(s): Oilfield Products Group Dresser Industries, Inc., P.O. Box 6504, Houston, TX 77005. (Steve Anders, Supervisor Domestic Traffic). Send protests to: L. D. Helfer, District Supervisor, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 115821 (Sub-35TA), filed July 13, 1978. Applicant: FRANK BEELMAN, d.b.a., BEELMAN TRUCK CO., St. Libory, IL 62282. Representative: Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rock* (in bulk), from Perry County, MO, to points in IL on and west of U.S. Hwy 57, and on and south of U.S. Hwy 70, for 180 days. Supporting shipper(s): (1) Richard J. Hurst, President, Perry Co., Stone Co., Route 3, Perryville, MO 63775. (2) William M. Regenhardt, President, Southern IL Asphalt Co., Inc., P.O. Box 1707, Mt. Vernon, IL 62864. (3). N. E. Walters, Sr., Superintendent, Hoeffken Bros., Inc., 222 East B Street, Belleville, IL 62222. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 118159 (Sub-275TA), filed July 13, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded cellular foam rubber*, from Baltimore, MD, to Fort Smith, AR, and Dallas and Waco, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): William T. Burnett & Co., Inc., 1500 Bush Street, Baltimore, MD 21230. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office & Court House Building, 215 NW., 3rd, Oklahoma City, OK 73102.

MC 120181 (Sub-10TA), filed July 12, 1978. Applicant: MAIN LINE HAULING CO., INC., P.O. Box C, St. Clair, MO 63077. Representative: Ralph Howard, P.O. Box C, St. Clair, MO 63077. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers*, from Mineral Wells, MS, to Fort Wayne, IN, and Omaha, NE, and *refused, rejected or damaged shipments, pallets and materials and supplies* used in the manufacture, distribution and transportation of containers on return, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Chattanooga Glass Co., 400 W. 45th Street, Chattanooga, TN 37410. Send protests to: Peter E. Binder, Acting District Supervisor, Interstate Commerce Commission, 210 North 12th Street, Room 1465, St. Louis, MO 63101.

MC 124078 (Sub-837TA), filed July 13, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime, limestone and limestone products* from the facilities of National Lime & Stone located at or near Carey Wyandot County, OH, to points in IL, IN, KY, MI, MO, NJ, NY PA, TN, WV, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): National Lime & Stone Co., P.O. Box 120, Findley, OH 45840. (T. M. Black) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 125985 (Sub-24TA), filed July 12, 1978. Applicant: AUTO DRIVEAWAY CO., 310 South Michigan Avenue, Chicago, IL 60604. Representative: Ronald I. Fredriksen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Freight utility trucks* from the plant sites of Holiday Rambler Corp. in Elkhart County, IN, on the one hand, and, on the other, points in the United States, in driveaway service, in secondary movement, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Duane R. Johnson Vice President, Marketing & Transportation, Holiday Rambler Corp., 65528 State Road 19, Wakarusa, IN 46573. Send protests to: Lois M. Stahl Tranportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 126276 (Sub-195TA), filed July 12, 1978. Applicant: FAST MOTOR SERVICE, INC. 9100 Plainfield Road, Brookfield, IL 60513. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by a producer and distributor of paper and plastic products (except commodities in bulk, and those which because of size or weight, require the use of special equipment or handling), between Fort Worth and Saginaw, TX, on the one hand, and, on the other, Millville, NJ, under a continuing contract or contracts with the Continental Group, Inc. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Continental Group, Inc., Walter L. Weart, Manager of Traffic Methods & Control-Bondware, 800 East Northwest Highway, Palatine, IL 60067. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 133167 (Sub-1TA), filed July 12, 1978. Applicant: JOHN R. RAWLS TRUCKING CO., INC., P.O. Box 174, Capron, VA 23829. Representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 23229. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, between

the facilities of Commonwealth Wood Preservers, Inc., at or near Newport MA, and the facilities of the C. S. Allen of Deran Confectionery at or in the State of CA, on the one hand, and, on the other hand, points in the

as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat*, in mechanical refrigerated sor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub"

the facilities of Commonwealth Wood Preservers, Inc., at or near Newport News, VA, on the one hand, and, on the other, points in DC, DE, MD, NC, NJ, NY, PA, SC, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Commonwealth Wood Preservers, Inc., Millard Davis, vice president, P.O. Box 5041, Newport News, VA 23605. Send protests to: Paul D. Collins District Supervisor, Bureau of Operations, Room 10-502 Federal Building, 400 North Eighth Street, Richmond, VA 23240.

MC 133221 (Sub-29TA), filed July 13, 1978. Applicant: OVERLAND CO., INC., 1991 Buford Highway, Lawrenceville, GA 30245. Representative: Alvin Button, 1991 Buford Highway, Lawrenceville, GA 30245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Styrofoam products*, from the facilities of Huntsman Container Corp. at Memphis, TN, to points in the United States (except AK and HA), for 180 days. Supporting shipper(s): Huntsman Container Corp., Keyes Fibre Company-Huntsman Container Corp., Waterville, ME 04901. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 133221 (Sub-30TA), filed July 13, 1978. Applicant: OVERLAND CO., INC., 1991 Buford Highway, Lawrenceville, GA 30245. Representative: Alvin Button, 1991 Buford Highway, Lawrenceville, GA 30245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper articles*, from the facilities of Keyes Fibres Co. at or near Albertville, AL, to points in the United States (except AL and HI), for 180 days. Supporting shipper(s): Keyes Fibre Co., Waterville, ME 04901. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 133566 (Sub-No. 118TA), filed July 12, 1978. Applicant: GANGLOFF & DOWNHAM TRUCKING CO. INC., P.O. Box 479, Logansport, IN 46947. Representative: Charles W. Beinhauer, Suite 4959, 1 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery*, in vehicles equipped with mechanical refrigeration, from the facilities of Deran Confectionery, a division of Borden Foods at or near Cambridge, MA, and the facilities of the C. S. Allen of Deran Confectionery at or near North Grosvenor Dale, CT, to points in the States of AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, OH, OK, PA, TN, TX, and WI, restricted to traffic originating at the named origin and destined to points in the named destination States, for 180 days. Supporting shippers(s): Deran Confectionery, 134 Cambridge Street, Cambridge, MA 02141. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 133708 (Sub-No. 34TA), filed July 13, 1978. Applicant: FIKSE BROS. INC., 12647 East South Street, Artesia, CA 90701. Representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard*, from the plant site of Domtar Gypsum America, Inc., at Long Beach, CA, to points in Pima County, AZ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Domtar Gypsum America, Inc., 1221 Broadway, Oakland, CA 94612. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 136786 (Sub-140TA), filed July 13, 1978. Applicant: ROBCO TRANSPORTATION, INC., 4333 Park Avenue, Des Moines, IA 50321. Representative: Stanley C. Olsen, Jr., 7525 Mitchell Road, Eden Prairie, MN 55344. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from Kansas City, MO, to points in KY and TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Merritt Foods Co., 2840 Guinotte, Kansas City, MO 64120, (2) Commercial Distribution Center, Inc., P.O. Box 477, Independence, MO 64051. Send protests to: Herbert W. Allen District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 140262 (Sub-4TA), filed July 12, 1978. Applicant: VIKING TRANSPORT, INC., 585 Hi Tech Way, P.O. Box 546, Oakdale, CA 93561. Representative: Eldon M. Johnson, 650 California Street, San Francisco, CA 94108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer* (in bulk), between points in the State of CA, on the one hand, and, on the other hand, points in the States of OR, WA, and ID, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Smith & Ardussi, Inc., P.O. Box 80847, Seattle, WA 98108. Send protests to: Michael M. Butler, District Supervisor, 211 Main, Suite 500, San Francisco, CA 94105.

MC 141033 (Sub-45TA), filed July 12, 1978. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, P.O. Box 1257, City of Industry, CA 91749. Representative: H. L. Rabins, Continental Contract Carrier Corp., 15045 East Salt Lake Avenue, City of Industry, CA 91749. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal, charcoal briquettes, fireplace logs (compressed sawdust, wax impregnated), charcoal lighter fluid in cans in carton, hickory chips (not charred), and vermiculite, other than crude*, from Dallas and Jacksonville, TX, and their commercial zones to points in AZ, and CA, for 180 days. Supporting shipper(s): The Kingsford Co., P.O. Box 1033, 919 Commonwealth Building, Louisville, KY 40201. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 141033 (Sub-46TA), filed July 12, 1978. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, P.O. Box 1257, City of Industry, CA 91749. Representative: H. L. Rabins, Continental Contract Carrier Corp., 15045 East Salt Lake Avenue, P.O. Box 1257, City of Industry, CA 91749. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal, charcoal briquettes, fireplace logs (compressed sawdust, wax impregnated), charcoal lighter fluid in cans in carton, hickory chips (not charred), and vermiculite, other than crude*, from Burnside, KY, to points in IN, OH, IL, WI, and MI, for 180 days. Supporting shipper(s): The Kingsford Co., P.O. Box 1033, Louisville, KY 40201. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 142051 (Sub-3TA), filed July 12, 1978. Applicant: MOYER PACKING TRANSPORTATION CO., d.b.a. V & J DERSTINE, P.O. Box 395, Allentown Road, Souderton, PA 18964. Representative: Edwin L. Scherlis, Suite 420, 1315 Walnut Street, Philadelphia, PA 19107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat*, in mechancial refrigerated equipment, between the plantsites of Moyer Packing Co., in Souderton, Blooming Glen, Bernville, and Elizabethville, PA, and points in CT, DE, FL, GA, IN, IL, ME, MD, MA, MI, NC, NH, NJ, NY, OH, RI, SC, VT, VA, WV, WI, DC, IA, MN, MO, AR, KY, TN, AL, MI, LA, NE, KA, OK, and TX, under a continuing contract, or contracts with Moyer Packing Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Moyer Packing Co., P.O. Box 395, Souderton, PA. 18964. Send protest to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA. 19106.

MC 143436 (Sub-12TA), filed July 12, 1978. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 9049 Stonegate Road, Indianapolis, IN 46227. Representative: Stephen M. Gentry, 1500 Main Street, Speedway, IN 46224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Fred's Frozen Foods, Inc., located at or near Noblesville, IN, to points in IL, KY, MI, and OH, restricted to traffic originating at and destined to those points named above, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fred's Frozen Foods, Inc., 2395 East Conner, Noblesville, IN 46060. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 144023 (Sub-3TA), filed July 12, 1978. Applicant: TAYLOR TRANSPORT, INC., Route 1, Fort Mill, SC 29715. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Copper, brass, items made totally or partially of copper and brass, and scrap*, between the facilities of Mueller Brass Co., located at or near Covington, TN, on the one hand, and, on the other, points in the United States (except points in AK, HI, OH, Memphis, TN, Louisville, KY, Melrose Park, IL, and points in their respective commercial zones), under a continuing contract, or contracts, with Mueller Brass Co., for 180 days. Supporting shipper(s): Mueller Brass Co., Covington, TN. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 144122 (Sub-17TA), filed July 13, 1978. Applicant: CARRETTA TRUCKING, INC., South 160 Route 17 North, Paramus, NJ 07652. Representative: Joseph Carretta, South 160 Route 17 North, Paramus, NJ 07652. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper articles, reproduction paper, printing ink, chemicals, optical and scientific instruments and tools, artists supplies, school supplies and draftsmans drawing films* (except commodities in bulk), from Rockaway, NJ, to Fort Wayne, IN, and Houston, TX, for 180 days. Supporting shipper(s): Keuffel & Esser Co., 20 Whippany Road, Morristown, NJ 07960. Sent protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, NJ 07102.

MC 144122 (Sub-18TA), filed July 13, 1978. Applicant: CARRETTA TRUCKING, INC., South 160 Route 17 North, Paramus, NJ 07652. Representative: Joseph Carretta, South 160 Route 17 North, Paramus, NJ 07652. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products in packages*, from Jefferson County, TX, to PA, NY, NJ, KY, and TN, for 180 days. Supporting shipper(s): Texaco, Inc., 1111 Rusk, Houston, TX 77052. Sent protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-25771 Filed 9-13-78; 8:45 am]

[7035-01]

[Notice No. 164]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

September 1, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC field office to which protests are to be transmitted.

Motor Carriers of Property

MC 47171 (Sub-111TA), filed July 10, 1978. Applicant: COOPER MOTOR LINES, INC., P.O. Box 4259, Greenville, SC 29608. Representative: Harris G. Andrews, V.P.—Traffic, P.O. Box 4259, Greenville, SC 29608. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment between Greenville and Spartanburg, SC, on the one hand, and, on the other, Clayton, Cobb, Coweta, De Kalb, Fayette, Fulton, Henry, and Rockdale Counties, GA, with services at Greenville and Spartanburg, SC, for purposes of joinder only, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 12 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the filed office named below. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 69397 (Sub-51TA), filed July 13, 1978. Applicant: JAMES H. HARTMAN & CO., INC., P.O. Box 85, Pocomoke City, MD 21851. Representative: Wilmer B. Hill, Suite 805, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pipe, fittings, valves, and hydrants*,

and (2) *accessories* used in the installation of the items named in (1) above, from the facilities of Clow Corp. near

Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

Road, Chicago, IL 60607; Thomas A. Slover. Send protests to: Gail Daugherty, Transportation Assistant, Inter-

protests to: Joel Morrows, District Supervisor, Interstate Commerce Com-

cant has filed an underlying ETA seeking 90 days of operating authority.

its junction with the western boundary of Itasca County, MN, then north-

and (2) *accessories* used in the installation of the items named in (1) above, from the facilities of Clow Corp. near Buckhannon, WV, to points in CT, DE, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, VT, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Clow Corp., Executive Plaza East, 1211 West 22d Street, Oak Brook, IL 60521. Send protests to: T. Esposito, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 95084 (Sub-122TA), filed July 10, 1978. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel forms* for concrete construction from Des Moines, IA, to points in CA, MT, WA, and WY, for 180 days. Supporting shipper: Economy Forms Corp., 4301 Northeast 14th Street, Des Moines, IA 50316. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 113158 (Sub-30TA), filed August 23, 1978. Applicant: TODD TRANSPORT CO., INC., Secretary, MD 21664. Representative: James W. Patterson, Harper, George, Buchanan & Driver, 1200 Western Savings Bank Building, Philadelphia, PA 19107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Sussex County, DE to points in VA, NC, and SC, for 180 days. Applicant has filed an ETA application seeking 90 days of operating authority. Supporting Shipper: Jenkins Foods Corp., Milford, DE 19963. Send protect to: T. Esposito, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 115904 (Sub-110TA), filed July 10, 1978. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, ID. 83401. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite clay*, from the facilities of Dresser Industries, Inc., located in Big Horn County, WY, to points in KS, OK, and TX, for 180 days. Applicant has filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dresser Mineral and Manufacturing Corp., P.O. Box 6504, Houston, TX 77005. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

MC 119765 (Sub-56TA), filed July 10, 1978. Applicant: EIGHT WAY XPRESS, INC., 5402 South 27th Street, Omaha, NE 68107. Representative: Aryln L. Westergren, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, class A and B explosives, and commodities requiring the use of special equipment), from the facilities of Allied Shippers & Receivers Association at Chicago, IL, to Omaha, NE and Kansas City, MO, and their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: William B. Marsells, Allied Shippers & Receivers Association, 2029 West Hubbard Street, Chicago, IL 60612. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 120761 (Sub-41TA), filed July 31, 1978. Applicant: NEWMAN BROS. TRUCKING CO., P.O. Box 18728, Fort Worth, TX 76118. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Chaparral Steel Co. at or near Midlothian, TX, to Hartsville, TN; Hope, AK, and MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chaparral Steel Co., P.O. Box 1100, Midlothian, TX 76065. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 124554 (Sub-26TA), filed July 10, 1978. Applicant: LANG CARTAGE CORP., P.O. 513, Milwaukee, WI 53201. Representative: Richard C. Alexander, 710 N. Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by a retail mail order house* (except furniture), from the facilities of Aldens, Inc., in Chicago, IL, to the facilities of the carrier-applicant at LaCrosse and Milwaukee, WI, for 180 days, under a continuing contract or contracts with Aldens, Inc. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Aldens, Inc., 5000 West Roosevelt Road, Chicago, IL 60607; Thomas A. Slover. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 128133 (Sub-21TA), filed August 23, 1978. Applicant: H. H. OMPS, INC., Route 7, Box 295, Winchester, VA 22601. Representative: Jeremy Kahn, Kahn & Kahn, Suite 733, Investment Building, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pebble lime*, in bulk, in pneumatic tank trailers, from Strasburg, VA to Eden, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper(s): Chemstone Corp., Menlo Park, Edison, NJ 08817. Send protests to: T. Esposito, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 129455 (Sub-33TA), filed August 11, 1978. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except in bulk), for the account of Amoco Chemical Corp., from the facilities of Amoco Chemical Corp., at Willow Springs, Joliet, and Wood River, IL, to points in CA, WA, OR, MD, DE, PA, NJ, NY, CN, RI, and MA, under a continuing contract or contracts with Amoco Chemical Corp., for 180 days. Supporting shipper(s): Amoco Chemical Corp., 200 East Randolph Drive, Chicago, IL 60601. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 129455 (Sub-34TA), filed August 11, 1978. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except in bulk), for the account of Amoco Chemical Corp., from the facilities of Amoco Chemical Corp., at Texas City and Chocolate Bayou, TX, to points in CA, WA, OR, MD, DE, PA, NJ, NY, CT, RI, MA, IN, IL, and WI., under a continuing contract, or contracts, with Amoco Chemical Corp., for 180 days. Supporting shipper(s): Amoco Chemical Corp., 200 East Randolph Drive, Chicago, IL 60601. Send

protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 135797 (Sub-129TA), filed July 10, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Highway 71, Lowell AR 72745. Representative: Paul R. Bergant, Sullivan & Associates, Ltd., 10 South LaSalle Street, Chicago IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed and animal feed ingredients* (except in bulk) between Kansas City, KS, Camp Hill and Mechanicsburg, PA, on the one hand, and, on the other, points in ND, SD, NE, KS, OK, TX, LA, AR, MO, IA, MN, WI, IL, MI, IN, KY, TN, MS, AL, GA, FL, SC, NC, VA, WV, OH, MD, DE, NJ, NY, PA, RI, CT, MA, VT, NH, and ME. Restriction: Restricted to traffic originating at the facilities of or utilized by Perk Foods located at or near the above named origins, for 180 days. Supporting shipper(s): Perk Foods, 1580 Northwest Highway, Park Ridge, IL 60068. Send protests to: William H. Land, Jr., District Supervisor, 3128 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-130TA), filed July 10, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Highway 71, Lowell, AR 72745. Representative: Paul R. Bergant, P.O. Box 200, Lowell, AR 72745. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ground waste paper, liquid adhesives, chemicals in containers*, and (2) *equipment materials and supplies* used in the manufacture, distribution, and application of the commodities in (1) above, between the facilities of National Cellulose Corp., at or near Monroe, OH on the one hand, and, on the other, points in the United States (except AK and HI). Restriction: Restricted against the transportation of commodities in bulk in tank vehicles, for 180 days. Supporting shipper(s): National Cellulose Corp., 12315 Robin Boulevard, Houston, TX 77045. Send protests to: William H. Land, Jr., District Supervisor, 3108 West Capitol, Little Rock, AR 72201.

MC 138000 (Sub-38TA), filed August 23, 1978. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Edward N. Button, P.O. Box 1417, Hagerstown, MD 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Powdered clay* (except in bulk), from Robbins, NC and its commercial zone to Chelsea, MI and its commercial zone, for 180 days. Applicant has filed an underlying ETA seeking 90 days of operating authority. Supporting shipper: LRI Industries, Inc., 11770 Dexter Road, Chelsea, MI 48118. Send protests to: T. Esposito, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 138438 (Sub-31TA), filed August 23, 1978. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, P.O. Box 1417, Hagerstown, MD 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bricks*, from East Windsor Hill, CT and Middleboro, MA and their respective commercial zones, to points in NY, NJ, OH, WV, VA, MD, DE, PA, and DC for 180 days. Applicant has filed an underlying ETA for 90 days operating authority. Supporting shippers: K-F Brick Co., Route 5, East Windsor Hill, CT 06028. Send protests to: T. Esposito, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 142390 (Sub-3TA), filed July 10, 1978. Applicant: TRANSIT MOVING INC., Colonial Park Suite No. 116, 1027 Hollywood Boulevard, Iowa City, IA 52240. Representative: Carl E. Munson, 469 Fischer Building, Dubuqe, IA 52001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic articles* (except commodities in bulk), in shipper-owned or shipper-leased trailers, from Chicago, IL, to Indianapolis and Rushville, IN; Bancroft, IA; Grand Rapids and Monroe, MI; Minneapolis-St. Paul, MN; Cincinnati, OH; and Marshfield, WI, under a continuing contract(s) with Clark-Crain Foam Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers(s): Clark-Crain Foam Industries, Inc., 1550 East 97th Place, Chicago, IL 60628. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 142917 (Sub-1TA), filed July 10, 1978. Applicant: CEDAR TRANSPORTATION, INC., P.O. Box 49, Stockton, CA 95201. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pressed fireplace logs*, from Trenton, NJ, to points in the United States east of a line beginning at the mouth of the Mississippi river, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the United States-Canada boundary line; and materials and supplies used in the manufacture of pressed fireplace logs, from points in the above described destination territory to Trenton, NJ., for 180 days. Restricted to the operations authorized herein are limited to a transportation service to be performed under a continuing contract(s) with P & M Lumber Products, Inc., and Duraflame, Inc., of Falls Township, Bucks County, PA. Supporting shipper(s): Duraflame, Inc., P.O. Box 49, Stockton, CA 95201. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 144122 (Sub-23TA), filed August 11, 1978. Applicant: CARRETTA TRUCKING, INC., S. 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap plastic, plastic flakes, plastic powder, plastic granules, and plastic pellets*, (except in bulk), (1) between the facilities of George Woloch Co., Inc., at Allentown, PA, on the one hand, and, on the other, points in LA and TX; and (2) from points in LA and TX, to points in PA, NY, NJ, CT and MA, for 180 days. Supporting shipper(s): George Woloch Co., Inc., 120 Wall Street West, Lyndhurst, NJ 07071. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 144122 (Sub-24TA), filed August 8, 1978. Applicant: CARRETTA TRUCKING, INC., S. 160, Route 17 North, Paramus, NJ 07652. Representative: Joseph Carretta, S. 160, Route 17 North, Paramus, NJ 07652. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tape products, materials, equipment, and supplies* used in the manufacture thereof (except commodities in bulk), from Beacon, NY., and Passaic, NJ, to Carbondale, IL, and from Carbondale, IL, to points in CA; and (2) *springs and spring assemblies, bed frames, materials and equipment and supplies* used in the manufacture thereof, from Carthage, MO, to points in IL, IN, OH, MI, PA, NJ, NY and GA, for 180 days. Supporting shipper(s): Technical Tape, Inc., 1 Market Street, Passaic, NJ 07055. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 145019TA, filed July 10, 1978. Applicant: R. J. HEBERT TRUCK-

cilities of Nashua Corp. and its subsidiaries located at or near Chicago, IL,

Oil field equipment, from the facility of Phillips Petroleum Co., at El

MO, MT, NE, ND, SD, UT, WA, and • • •".

[7035-01]

Lavery (same address as applicant). Authority sought to operate pursuant to a certificate of public convenience

MC 145019TA, filed July 10, 1978. Applicant: R. J. HEBERT TRUCKING, INC., 458 Pelham Road, Dracut, MA 01826. Representative: James E. Mahoney, 84 State Street, Boston, MA 02109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are sold in drug, chain, discount and department stores* (except commodities in bulk, in tank vehicles) between the distribution centers, warehouses and retail outlets of J. M. Fields, Inc. in MA, on the one hand, and, on the other, Salem, NH, under a continuing contract with J. M. Fields, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): J. M. Fields, Inc., 450 West 33d Street, New York, NY 10001. Send protests to: Paul A. Roberts, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 145022 (Sub-1TA), filed July 10, 1978. Applicant: MARSH BROTHERS TRUCKING SERVICE, INC., 1811 Howell Avenue, Dayton, OH 45407. Representative: Jerry B. Sellman, Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from Powell County, KY, to Montgomery County, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): BBS Coal, Inc., Robert L. Judy, Vice President, 3726 Harrison, Cincinnati, OH 45211; General Motors Corp., John C. Rill, Jr., Manager-Traffic, 300 Taylor, Dayton, OH 45442. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, ICC, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 145045TA, filed July 10, 1978. Applicant: INTERNATIONAL FREIGHTWAYS, INC., 6638 South University Avenue, Chicago, IL 60637. Representative: William P. O'Connor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial tapes, tape dispensers, reproduction or copy machines and supplies* thereof, toners, chemicals NOI., machines and or parts thereof, rubber, resin, cotton piece goods, glass fiber yarns, synthetic film, tape, masking, paper sealing, strapping, plastic or rubber articles, paper gummed, paper supplies, pipe covering, packing rubber or gummed compound, and materials, equipment and supplies, used in the production, manufacturing and the distribution of the above named products; between the facilities of Nashua Corp. and its subsidiaries located at or near Chicago, IL, Troy, NY, Nashua, NH, Omaha, NE, Atlanta, GA, Dallas, TX, Seattle, WA, Los Angeles, CA, Denver, CO, on the one hand, and, on the other hand, points and places in AL, AZ, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, and WY, for 180 days. Restricted to the facilities of the Nashua Corp. and its subsidiaries, and against the transportation of commodities in bulk, class A & B explosives, and household goods as defined by the commission. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mr. Lawrence J. Mulholland, Production Manager, Nashua Corporation (Industrial Tape Division), 7800 South Woodlawn Avenue, Chicago, IL 60619. Send protests to: Lois Stahl, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, Room 1386, 219 South Dearborn Street, Chicago, IL 60604.

MC 145098 (Sub-1TA), filed July 10, 1978. Applicant: CASPER'S CARTAGE, INC., 3837 West 127th Street, Alsip, IL 60658. Representative: James L. Battey, 130 East Washington Street, Suite 1000, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement* in bulk in tanks, from the facilities of Louisville Portland Cement Co., at Logansport, IN to facilities of Ozinga Bros., Inc., at Mokena, IL, Alsip, IL, and Chicago Heights, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Martin Ozinga III, Executive Vice President, Ozinga Bros., Inc., 9518 South Spaulding, Evergreen Park, IL. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 145160TA, filed July 26, 1978. Applicant: EDDIE DUMAS, d.b.a. DUMAS CONSTRUCTION CO., Route 4, Box 110A, El Dorado, AR 71730. Representative: Shackleford, Shackleford & Phillips, 100 East Church Street, El Dorado, AR 71730. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum related products*, from the facility of MacMillan Ring-Free Oil Co., at Norphlet, AR, to Baton Rouge, LA, and New Orleans, LA, and return to the facility at Norphlet, AR; and (2) *Oil field equipment*, from the facility of Phillips Petroleum Co., at El Dorado, AR, to drilling and production sites in East Texas, MS; LA, AL, and OK, under a continuing contract, or contracts, with Phillips Petroleum Co., and MacMillan Ring-Free Oil Co., Inc., for 180 days. Supporting shipper(s): (1) Phillips Petroleum Co., Box 1567, El Dorado, AR 71730. (2) MacMillan Ring-Free Oil Co., Inc., Drawer J, Norphlet, AR 71759. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145208TA, filed July 27, 1978. Applicant: ONEY ENTERPRISES, INC., P.O. Box 2978, Milan, NM 87020. Representative: James E. Snead, 215 Lincoln Avenue, P.O. Box 2228, Santa Fe, NM 87501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bulk salt*, by dump trucks only having a prior movement by rail in interstate commerce, from Reid Siding, NM, to Ambrosia Lake, NM, under a continuing contract, or contracts, with Morton Salt Co., Division of Morton-Norwich, for 180 days. Applicant has also filed an underlyng ETA seeking up to 90 days of operating authority. Supporting shipper(s): Morton Salt Co., Division of Morton-Norwich, 110 North Wacker Drive, Chicago, IL 60606. Send protests to: District Supervisor, Interstate Commerce Commission, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM 87101.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-25772 Filed 9-13-78; 8:45 am]

[1505-01]

[Decisions Volume No. 22]

DECISION-NOTICE

Correction

In FR Doc. 78-23646 appearing on page 37792 in the issue of Thursday, August 24, 1978 on page 37794 in the middle column, the 4th full paragraph, the application number should read, "MC 107515 (Sub-1158F), • • •".

[1505-01]

DECISIONS VOLUME NO. 6

Order-Notice

Correction

In FR Doc. 78-16457 appearing on page 25902 in the issue of Thursday, June 15, 1978 on page 25907, the 3rd column, the 11th line should read, "No. MC 114632 (Sub-No. 164F), • • •

MO, MT, NE, ND, SD, UT, WA, and • • •".

[1505-01]

[Notice No. 140]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-22461 appearing on page 35780 in the issue of Friday, August 11, 1978, on page 35781 in the 1st column, the 1st full paragraph, the 16th line should read, "MC 25798 (Sub-322TA), • • • WV; and (2) from Easton, ME, to • • •".

[1505-01]

[Volume No. 110]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Correction

In FR Doc. 78-22945 on page 36566 appearing in the issue of Thursday, August 17, 1978, on page 36571 in the 3d column, the 2d application number should read, "MC 106398 (Sub-798F), • • •".

[7035-01]

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

Special Certificate Letter Notice(s)

The following letter notices request participation in a special certificate of public convenience and necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, ex parte No. MC-85, 124 MCC 583 (1976).

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission within 20 days from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence within 30 days of the date of its notice in the FEDERAL REGISTER, subject to its tariff publication effective date.

P-17-78 (Special certificate—Waste products), filed August 31, 1978. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, IL 60650. Representative: William R. Lavery (same address as applicant). Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes in the transportation of waste products for recycling or reuse, between points in the United States, (except AK and HI) in furtherance of a recognized pollution control program sponsored by Motor Oils Refining Co. of McCook, IL; and Safety-Kleen Corp. of Elgin, IL for the purpose of transporting and recycling waste products.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-25904 Filed 9-13-78; 8:45 am]

[1505-01]

INTERSTATE COMMERCE COMMISSION

[Volume No. 88]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

Correction

In FR Doc. 78-12758 appearing at page 20297 in the issue for Thursday, May 11, 1978, under No. MC 119934 (Sub-No. 224F) on page 20306, "KA" should have read "IA".

sunshine act meetings

REVISED AGENDA** (AS OF SEPTEMBER 11)

Open to the public

under its interim carcinogen policy. At this meeting, the Commission will discuss addi-

ER-25, E-9469 and ER76-377, Lockhart Power Co.

V43/179 SE 14 78

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1, 2, 3, 4
Consumer Product Safety Commission	5, 6
Federal Energy Regulatory Commission	7, 8
Federal Home Loan Bank Board	9, 10
Federal Maritime Commission	11
Federal Reserve System (Board of Governors)	12
Legal Services Corporation	13
National Transportation Safety Board	14
Nuclear Regulatory Commission	15, 16
Overseas Private Investment Corporation	17
Securities and Exchange Commission	18, 19

[6351-01]

1

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 40349.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., September 14, 1978.

CHANGES IN THE MEETING: Meeting canceled.

[S-1856-78 Filed 9-12-78; 4:01 pm]

[6351-01]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., September 19, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Proposed FEDERAL REGISTER notice on revision of 04's.
Proposed final rules on regulation of commodity trading advisors and pool operations.
Final rule imposing a temporary moratorium on the offer and sale of leverage contracts.
Proposed FEDERAL REGISTER release seeking public comment concerning the interpretation of contracts of sale of a commodity for future delivery within the meaning of the Commodity Exchange Act.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1857-78 Filed 9-12-78; 4:01 p.m.]

[6351-01]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 2 p.m., September 19, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement matter/offers of settlement.
Rule enforcement review.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1858-78 Filed 9-12-78; 4:01 pm]

[6351-01]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., September 20, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Judicial Session.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1859-78 Filed 9-12-78; 4:01 pm]

[6355-01]

5

CONSUMER PRODUCT SAFETY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: September 8, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME: September 13, 1978, 9:30 a.m.

CHANGES IN THE MEETING: (See following revised agenda.)

Commission briefing, Wednesday, September 13, 1978, 9:30 a.m., third floor hearing room, 1111 18th Street NW., Washington, D.C.

REVISED AGENDA*

Open to the public

1. *Holiday safety spots.* The Commission will review the radio and television "spots" prepared for the 1978 Holiday Safety Campaign.

Closed to the public

2. *Final rule to exempt certain ink cartridges from labeling requirements.* In response to a petition from the Parker Pen Co. (HP 77-4), the Commission in November, 1977 proposed to exempt certain rigid or semi-rigid ink cartridges from labeling requirements of the Federal Hazardous Substances Act. At this meeting, the Commission will discuss this proposed exemption. (Closed—exemption 9, possible significant frustration of agency action.)

3. *Aluminum wiring.* The Commission and staff will meet to discuss issues related to aluminum wiring. This is a continuation of the special meeting the Commission held September 11. (Closed—exemption 10, litigation.)

[S-1841-78 Filed 9-12-78; 10:46 am]

[6355-01]

6

CONSUMER PRODUCT SAFETY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: September 1, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME: September 14, 1978, 9:30 a.m.

CHANGES IN THE MEETING: (See following revised agenda.)

Commission meeting, Thursday, September 14, 1978, 9:30 a.m., third floor hearing room and eighth floor conference room, 1111 18th Street NW., Washington, D.C.

* Agenda approved September 5; corrected September 6 to show discussion rather than decision for current Item 2 (Ink Cartridges). Agenda was revised September 8, to delete previous Item 2 (Chronic Hazard Priorities), and revised September 11 to add the Aluminum Wiring Item.

REVISED AGENDA** (AS OF SEPTEMBER 11)

Open to the public

1. *Recommendation to accept corrective action plan: Howard Commercial Turf Equipment, Inc., riding lawn mower, ID 78-56.* The staff has recommended that the Commission accept the corrective action plan which this company has implemented to deal with a possible brake defect, and that the Commission not pursue a timeliness-of-reporting case. Under the corrective action plan, the firm is refitting all the involved mowers, and has initiated production changes.

2. *Recommendation to accept corrective action plan: Wham-O Manufacturing Co., "Water Wiggle" toy, ID 78-75.* The staff has recommended that the Commission accept the corrective action plan Wham-O has implemented to deal with hazards associated with the nozzle design of this toy, which has allegedly caused two drownings. The staff also recommends that the Commission not pursue a timeliness-of-reporting case. The firm has notified customers and dealers, and is recalling the toy.

3. *Recommendation to close possible substantial product hazard case: Chadwick-Miller, Inc., ice cream scoop, ID 77-75.* Based on its evaluation that these ice cream scoops present less than a substantial product hazard, the staff has recommended that the Commission close this case, and not pursue a timeliness-of-reporting case,

4. *Recommendation to close case: Lambert Cycle of London, Ltd.* In August 1977, the Commission directed the staff to prepare a product ban of bicycles manufactured by Lambert Cycle of London, Ltd. At this meeting, the Commission will consider a staff recommendation to close this case, and not pursue a timeliness-of-reporting case.

5. *Petition on telescope solar eyepiece filters, CP 78-11.* Norman Sperling of Somerville, Mass., has petitioned the Commission to ban eyepiece solar filters sold with certain telescopes. Mr. Sperling has stated that concentrated heat from direct sunlight can shatter or crack these filters and cause temporary or permanent damage to the retina of the user's eye.

6. *Final exemption from special packaging requirements for mebendazole (Vermox).* In response to a petition from the manufacturer, Ortho Pharmaceutical, the Commission proposed to exempt certain forms of the drug mebendazole from child-resistant packaging requirements of the Poison Prevention Packaging Act. The proposal was published in October 1977. At this meeting, the Commission will consider the final exemption document.

7. *Proposed revision and amendment of regulations under the Flammable Fabrics Act (FFA).* The Commission will consider a draft FEDERAL REGISTER document which would revise the FFA regulations dealing with guarantees under section 8 of the act, and with the flammability standards for wearing apparel and vinyl plastic film.

8. *Provisional classification tetrachloroethylene (perchloroethylene) under CPS carcinogen policy.* At its July 27, 1978, meeting, the Commission conditionally approved the provisional classification of tetrachloroethylene as a category A substance under its interim carcinogen policy. At this meeting, the Commission will discuss additional data on the substance, and will vote once again on provisional classification.

Closed to the public

9. *Enforcement matter under the Poison Prevention Packaging Act (OS 576).* The Commission will consider a staff recommendation to initiate an enforcement proceeding for an alleged violation of Poison Prevention Packaging Act requirements.

Closed to the public, eighth floor conference room

10. *OMB Management Report.* The Commission will discuss the oral report to the Chairman from the OMB Management Assistance Team. The Chairman will brief the Commission on the report and will obtain informal guidance about possible future management directions.

[S-1842-78 Filed 9-12-78; 10:46 am]

**Agenda approved September 5, 1978. Revised September 11 with the deletion of previous Items 6 and 7 (on architectural glazing), and Item 12 (possible substantial product hazard enforcement matter).

[6740-02]

7

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 40349, published September 11, 1976.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., September 13, 1978.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

CI-2. CI77-567, Union Oil Co. of California. CI77-796, General Crude Oil Co.

KENNETH F. PLUMB,
Secretary.

[S-1846-78 Filed 9-12-78; 10:46 am]

[6740-02]

8

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 40349, published September 11, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., September 13, 1978.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

ER-10, ER76-177, ER76-207, ER76-208, and ER76-210, Southwestern Electric Power Co.
ER-11, ER76-39, ER76-340, and ER76-363, Kansas Power & Light Co.
ER-25, E-9469 and ER76-377, Lockhart Power Co.

KENNETH F. PLUMB,
Secretary.

[S-1854-78 Filed 9-12-78; 3:26 pm]

[6720-01]

9

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: Wednesday, September 20, 1978, 9:30 a.m.

PLACE: 1700 G Street NW., 6th floor, Washington, D.C.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Amendment of Charter (Change of Name)—Elizabeth Federal Savings & Loan Association, Elizabeth, N.J.
Consideration of voluntary termination of insurance of accounts and withdrawal from bank membership—Home Savings & Loan Association, Siler City, N.C.
Bank membership application—Seacoast Savings Bank, Dover, N.H.
Bank membership application—Berlin Savings Bank, Kensington, Conn.
Consideration of application for permission to purchase property—Citizens Federal Savings & Loan Association of Cleveland, Cleveland, Ohio.
Branch office application—First Federal Savings & Loan Association of mid-Florida, Deland, Fla.
Consideration of resolution re James A. Coles.
Consideration of resolution re John M. Kleeb.
Proposed regulations regarding forward commitments to purchase securities.
Consideration of extension of Civil Rights Settlement Agreement.
Consideration of Tax and Loan Account Regulations.

No. 182, September 12, 1978.

[S-1849-78 Filed 9-12-78; 2:02 pm]

[6720-02]

10

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 175, Page 40099, Friday, September 8, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, September 13, 1978.

PLACE: 1700 G Street NW., 6th floor, Washington, D.C.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION:

Dated: September 11, 1978.

Sharon Flemming, 202-472-6022.

[S-1855-78 Filed 9-12-78; 3:26 pm]

2. Affirmation items (approximately 10 minutes, public meeting): a. FOIA appeal of A. Kranish (postponed from September 6,

[8010-01]

18

be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552(c)(4)(8)(9)(A) and (10) and 17 CFR

V 43 / 179 SEP 78

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

CHANGES IN THE MEETING: The following item has been withdrawn from the agenda:

Consideration of Tax and Loan Account Regulations.

No. 181, September 12, 1978.

[S-1853-78 Filed 9-12-78; 3:26 pm]

[6730-01]

11

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., September 20, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Part of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion open to the public:

1. Request of Maritz Inc., that the Commission require it to only submit Annual Balance Sheets and Statements of Income and Surplus to support its Passenger Vessel Performance Certificate.

Portion closed to the public:

1. Docket No. 77-19—Agreement No. 10235, Consolidators Forwarders Intermodal Corp.—Discussion of the record.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Assistant Secretary, 202-523-5725.

[S-1845-78 Filed 9-12-78; 10:46 am]

[6210-01]

12

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 40102, September 8, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, September 13, 1978.

CHANGES IN THE MEETING: Deletion of the following open item from the agenda:

Proposal to implement Executive Order 12044, relating to improving Government Regulations.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

SUNSHINE ACT MEETINGS

Dated: September 11, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[S-1843-78 Filed 9-12-78; 10:46 am]

[6820-35]

13

LEGAL SERVICES CORPORATION (COMMITTEE ON REGULATIONS).

TIME AND DATE: 9:30 a.m., Monday, September 18, 1978.

PLACE: Seventh floor conference room, Legal Services Corporation 733 15th Street NW., Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Consideration of proposed amendments that were published for comment:
   1602—Procedures for disclosure or production of information under the Freedom of Information Act.
   1609—Fee-generating cases.
   1620—Priorities in allocation of resources.
2. Discussion of internal staff directives concerning expansion.
3. Discussion of plans for republication of regulations in final form.

CONTACT PERSON FOR MORE INFORMATION:

Dellanor Young, Office of the President, telephone 202-376-5100.

Issued: September 11, 1978.

THOMAS EHRLICH
President.

[S-1850-78 Filed 9-12-78; 3:26 pm]

[4910-58]

14

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, September 21, 1978 [NM-78-34].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report*—MV *Halliburton 207* explosion and sinking, Garden Island Bay, Mississippi River Delta, on February 4, 1978.
2. *Railroad Accident Report*—Derailment of Auto-Train No. 4 on Seaboard Coast Line Railroad at Florence, S.C., on February 24, 1978.
3. *Highway Accident Report*—Kohler Co. tractor-semitrailer/pickup truck collision, U.S. Route 226, near Marion, N.C., January 25, 1978.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-1855-78 Filed 9-12-78; 3:26 pm]

[7590-01]

15

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of September 4, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open (additional item).

CHANGES IN THE MEETING:

WEDNESDAY, SEPTEMBER 6

3:40 p.m.—Discussion of proposed letter to J. Honicker.

ADDITIONAL INFORMATION

By a unanimous vote on September 6, 1978, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's rules that Commission business requires that this agenda item be held on less than 1 week's notice to the public. Prompt scheduling was required for this urgent matter.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

SEPTEMBER 8, 1978.

[S-1847-78 Filed 9-12-78; 2:02 pm]

[7590-01]

16

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of September 11 (changes).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

THURSDAY, SEPTEMBER 14

9:30 a.m.—Discussion of Three Mile Island (approximately 1 hour, closed—Exemption 10).
Additional item.

FRIDAY, SEPTEMBER 15

CANCELLATION

1. Discussion of employee allegations (approximately 1 hour, closed—exemption 1) is canceled.

CHANGE IN START TIME—9:30 A.M.

1. Briefing on licensing procedures for geologic repositories for high level waste (approximately 45 minutes, public meeting).

2. Affirmation items (approximately 10 minutes, public meeting): a. FOIA appeal of A. Kranish (postponed from September 6, 1978). b. Amendments of parts 2 and 51.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

SEPTEMBER 11, 1978.

[S-1848-78 Filed 9-12-78; 2:02 pm]

[3210-01]

17

OVERSEAS PRIVATE INVESTMENT CORPORATION.

MEETING OF THE BOARD OF DIRECTORS

TIME AND DATE: Meeting of the OPIC Board of Directors, Tuesday September 19, 1978 at 9 a.m. (closed portion), 11:30 a.m. (open portion).

PLACE: Offices of the Corporation, seventh floor board room, 1129 20th Street NW., Washington, D.C.

STATUS: The first part of the meeting from 9 a.m. to 11:30 a.m. will be closed to the public. The open portion of the meeting will start at 11:30 a.m.

MATTERS TO BE CONSIDERED:

Closed to the public 9 a.m. to 11:30 a.m.:

1. Personnel matters.
2. Human rights policy restraints in a Latin American country.
3. Insurance and finance projects.
4. Claims report.
5. Information reports.

FURTHER MATTERS TO BE CONSIDERED:

Open to the public 11:30 a.m.:

1. Approval of the minutes of the previous meeting.
2. Confirmation of Board meetings.
3. Agribusiness Council.
4. Information reports to the Board.

Information with regard to this meeting may be obtained from the Secretary of the Corporation at 202-632-1839.

ELIZABETH A. BURTON,
Corporate Secretary.

SEPTEMBER 12, 1978.

[S-1844-78 Filed 9-12-78; 10:46 am]

[8010-01]

18

SECURITIES AND EXCHANGE COMMISSION.

STATUS: Open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Thursday, September 14, 1978.

The following item will not be considered at the open meeting scheduled for Thursday, September 14, 1978, at 10 a.m.:

Consideration of the application of John R. Patterson to reenter the securities business as a registered representative, with Offerman & Co., Inc., a registered broker-dealer, in a nonsupervisory, nonproprietary capacity.

Chairman Williams and Commissioners Loomis, Evans, and Karmel determined that no earlier notice of the aforesaid was possible.

SEPTEMBER 11, 1978.

[S-1851-78 Filed 9-12-78; 3:26 pm]

[8010-01]

19

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of September 18, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Wednesday, September 20, 1978, at 10 a.m. An open meeting will be held on Thursday, September 21, 1978, at 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402 (a)(8)(9)(i) and (10).

Chairman Williams, and Commissioners Loomis, Evans, and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, September 20, 1978, at 10 a.m., will be:

Access to investigative files by Federal, State or self-regulatory authorities.
Formal orders of investigation.
Freedom of Information Act appeals.
Freedom of Information Act request.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Settlement of administrative proceedings of an enforcement nature.
Settlement of injunctive action.
Other litigation matters.

The subject matter of the open meeting scheduled for Thursday, September 21, 1978, at 2:30 p.m., will be:

1. Consideration of plans for allocating regulatory responsibilities filed under 17 CFR 240.17d-2 between the National Association of Securities Dealers, Inc., and each of the following: Boston Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., Midwest Stock Exchange, Inc., and Pacific Stock Exchange, Incorporated. For further information, please contact Gail Gordon Alkire at 202-755-1395.
2. Consideration of a proposal by the National Association of Securities Dealers, Inc. ("NASD") to adopt a set of rules to (i) regulate the options activities of so-called "access firms," i.e., NASD members who are not members of any exchange which lists the standardized options that they trade, and (ii) regulate trading of conventional (i.e., non-standardized) over-the-counter options, including options on securities other than common stock. For further information, please contact Jessica Licker at 202-755-1382.
3. Consideration of a Freedom of Information Act appeal of Andrew Jay Schwartzman of Media Access Project, a public interest law firm, from the determination by its Freedom of Information Act Officer denying access to certain agency records relating to *Home Box Office, Inc.* v. *Federal Communications Commission* and the request for a waiver of copying fees. For further information, please contact Philip Becker at 202-755-1234.

FOR FURTHER INFORMATION, PLEASE CONTACT:

Michael P. Rogan at 202-755-1638.

SEPTEMBER 11, 1978.

[S-1852-78 Filed 9-12-78; 3:26 pm]

V 43 / 179 SEP 78

THURSDAY, SEPTEMBER 14, 1978
PART II

V 43 / 179 SE 14 78 V 4

federal register

THURSDAY, SEPTEMBER 14, 1978
PART II

FEDERAL RESERVE SYSTEM

LIBRARY OF CONGRESS/COPYRIGHT OFFICE

■

PRIVACY ACT OF 1974

Annual Publication

FEDERAL RESERVE SYSTEM

PRIVACY ACT ISSUANCES

1977 Compilation Up-to-Date

Information about the Board's systems of records that appears in

LIBRARY OF CONGRESS

The Office also uses these records to compile the Copyright Card Catalog. The cards in this catalog contain the names of copyright

V 43 / 179

FEDERAL RESERVE SYSTEM

PRIVACY ACT ISSUANCES

Notice of Incorporation by Reference

Agency: Board of Governors of the Federal Reserve System.

Action: Incorporation by reference of Privacy Act issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation" and to publish in full the systems that the Board of Governors of the Federal Reserve System has amended since publication of the 1977 Compilation.

Dates: This document fulfills the annual notice requirements of the Privacy Act for 1978.

For further information contact: MaryEllen A. Brown, Senior Attorney, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Room B-1051E, Washington, D.C. 20551, (202) 452-3608.

Approval of the Director

The notices of systems of records of the Board of Governors which appear in "Privacy Act Issuances—1977 Compilation" are incorporated herein by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on August 28, 1978.

1977 Compilation Up-to-Date

Information about the Board's systems of records that appears in "Privacy Act Issuances—1977 Compilation" is complete and up-to-date. Since publication of the 1977 Compilation, the Board has made no changes to its systems of records.

Availability of 1977 Compilation

"Privacy Act Issuances—1977 Compilation" is available from regional depository libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be examined at the central headquarters and all field offices of this agency. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Location of Notices in 1977 Compilation

Notices of the Board of Governors' systems of records appear in volume I of the 1977 Compilation at 48142 (42 FR 48142, September 22, 1977.) The price of this volume is six dollars and fifty cents

Theodore E. Allison,
Secretary of the Board.

August 30, 1978.

[FR Doc. 78-25187 Filed 9-13-78; 8:45 am]

SEP 14 78

LIBRARY OF CONGRESS

Copyright Office

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

Pursuant to 5 U.S.C. 552a(e)(4) of the Privacy Act of 1974, the Copyright Office hereby publishes the systems of records as currently maintained by the Office. The systems of records identified in the notices published at 42 FR 61574, December 5, 1977, and 43 FR 5113, February 7, 1978, continue in effect and are published in their entirety below.

TABLE OF CONTENTS

CO-1—Copyright Applications File
CO-2—Pseudonym Card File (Previous to 1938)
CO-3—Master Index Cards File
CO-4—Deposit Accounts Subsystem
CO-5—Compliance Activity File
CO-6—Miscellaneous Correspondence File
CO-7—Incomplete Submission Correspondence File
CO-8—Open and Closed Unfinished Business Files
CO-9—Recorded Documents File
CO-10—Notices of Institution of Actions for the Infringment of Works Refused Registration
CO-11—Motion Picture Agreement File
CO-12—Open and Closed Renewal Correspondence Files
CO-13—Unfinished Business Document File
CO-14—Appeal from Refusal to Register File
CO-15—Biobibliographic File
CO-16—Address File
CO-17—Domestic Master Mailing List
CO-18—Freedom of Information Act Requests and Privacy Act Requests and Disclosures File
CO-19—ABA Master Mailing List
CO-20—Open and Closed Certification and Documents Work Files
CO-21—Copies of Records Correspondence File
CO-22—Open and Closed Photo-duplication Control Forms Files
CO-23—Notice of Intention to Obtain Compulsory License for Making and Distributing of Phonorecords Embodying Nondramatic Musical Compositions File
CO-24—Secondary Transmission Cable Systems: Initial Notice of Identity and Changes File
CO-25—Cable Systems Subject to Compulsory License: Statements of Account
CO-26—Cable System Videotape Transfer Contracts File
CO-27—Jukebox License Record Books
CO-28—Unmailable Jukebox Certificates
CO-29—Licensing Division Refund File
CO-30—Voluntary Licensing Agreements File
CO-31—Licensing Division Search Report File
CO-32—Licensing Division Unfinished Business Files (Open and Closed)
CO-33—Deposit Recordation File

CO—1

System name: Copyright Applications File

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Copyright claimants.

Categories of records in the system: Original, supplemental and renewal applications for claims to copyright.

Authority for maintenance of system: 17 U.S.C. sections 408 and 705 (the Act for General Revisions of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records in the preparation of search reports compiled at the request of a member of the public. These records are available to the public from 8 to 4 on weekdays.

The Office also uses these records to compile the Copyright Card Catalog. The cards in this catalog contain the names of copyright and renewal claimants of copyrighted works, the names of authors of copyrighted works, titles of works, registration numbers, publishers' names, pseudonyms, and additional information on copyrighted works.

Note: The Copyright Card Catalog includes a pre-1938 section in which the original copyright application also serves as the catalog card.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Bound volumes and microfilm.

Retrievability: Registration number, cross-referenced by name of author, name of claimant, and title of work in the Copyright Card Catalog.

Safeguards: These records are maintained in a room which is locked during nonworking hours.

Retention and Disposal: Retained permanently.

System manager(s) and address:
Section Head, Record Storage Section
Records Management Division, Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure".

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Copyright claimants or their authorized agents.

CO—2

System name: Pseudonym Card File (Previous to 1938)

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who author works under pseudonyms in those instances where both the author's real name and pseudonym appear on either the application for copyright registration or the deposit copy.

Categories of records in the system: Pseudonym, real name, claimant's name as given on the application and the deposit copy, registration number, and date of receipt of deposit copy.

Authority for maintenance of system: 17 U.S.C. section 705 (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records in the preparation of search reports compiled at the request of a member of the public. These records are also available to the public during working hours.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 3 x 5 cards in cabinet.

Retrievability: Alphabetically by author's pseudonym and real name.

Safeguards: These records are maintained in a room which is locked during nonworking hours.

Retention and Disposal: Retained permanently.

System manager(s) and address:
Section Head, Card Catalog Section
Records Management Division, Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquires about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure".

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Individual to whom the record pertains or such individual's authorized agent.

CO—3

System name: Master Index Cards File

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Remitters of all cash received by the Office, and individuals who submit documents for recordation, whether or not accompanied by a remittance.

Categories of records in the system: Temporary and permanent records of material and remittances received, records of final disposition of cases (in the form of registration numbers or identity of other fee services), the amount charged and/or the amount refunded, if any.

Authority for maintenance of system: 17 U.S.C. section 708, (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The office uses this system: (1) to keep a record of the receipt and disbursement of all incoming cash; (2) to locate cases in-process before the permanent catalog record is available; and (3) to prepare refund vouchers.

Storage: 4 x 6 index cards in file cabinets.

Retrievability: Alphabetically by remitter's name.

Safeguards: These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: Retained permanently.

System manager(s) and address:
Section Head, Materials Control Section
Acquisitions and Processing Division, Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquires about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Remitters or their authorized agents.

CO—4

System name: Deposit Accounts Subsystem

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who maintain deposit accounts in the Office for the payment of their copyright fees.

Categories of records in the system: Name of deposit account holder, date of transaction, debit or credit notation, old balance, new balance, and transaction identification.

Authority for maintenance of system: 17 U.S.C. section 708, (Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records:

(1) To record copyright fee charges, replenishments, and current balances of deposit account holders; (2) to send periodic statements to deposit account holders of their transactions with the Office; (3) to notify deposit account holders that their accounts have become depleted; and (4) to obtain recent registration numbers to locate applications needed in the preparation of search reports.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records kept prior to November 1, 1977, are on 6 x 8 manila cards. After that date, all such records are on computer discs and tapes.

Retrievability: By name of deposit account holder, deposit account number, and transaction identification number.

Safeguards: The manual system of records is stored in locked file cabinets as are the microfilmed records. Access to both is restricted to authorized personnel. Computer records are stored on tapes and discs in a room which is restricted to authorized personnel. Computer access is by functional passwords which are restricted to personnel who require access to these records in the performance of their official duties.

Retention and Disposal: The former manual system will be kept indefinitely. The computerized system is used to store transactions for 3 months, at which time the record is transferred to microfilm for permanent retention.

System manager(s) and address:
Section Head, Fiscal Control Section
Acquisitions and Processing Division, Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publication Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Deposit account holders and Office charge sheets.

CO—5

System name: Compliance Activity File

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals from whom the Office has demanded, in accordance with 17 U.S.C. section 407 (An Act for General Revision of the Copyright Law), copies of works published with a notice of copyright.

Categories of records in the system: Author's name, title of work, publisher, copyright claimant, date of initial action.

Authority for maintenance of system: 17 U.S.C. section 407 (An Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records to avoid sending out duplicate correspondence.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 3 x 5 index cards in a file cabinet.

Retrievability: Alphabetically by author's name.

Safeguards: These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: Retained until:

(1) Receipt of the requested copy; (2) abandonment of the case; or (3) the demand process is complete and the Library of Congress advises the Office that it does not want the copy for its collection.

System manager(s) and address:
Section Head, Compliance Section
Acquisitions and Processing Division, Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Printed bibliographies, publishers' catalogs, citations provided by the Library of Congress, published citations of the work, and Office personnel who have personnally observed the item cited.

CO—6

System name: Miscellaneous Correspondence File

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who have: (1) written to the Office for general information about copyright; (2) requested fee services such as search reports, copies of records, and certified copies of deposit copies; and (3) requested recordation of changes of name or address.

Categories of records in the system: General correspondence, intersectional referral forms, change of name/address forms, and charge out sheets.

Authority for maintenance of system: 17 U.S.C. sections 407-410, 705, 708 (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records:

(1) To maintain a record of correspondence with individuals who address inquiries to the Office and with individuals who request search reports; (2) to maintain a record of requests for recordation of changes of name or address; (3) to record the removal and return of documents in the file by Office personnel; and (4) to record intersectional referrals,

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila envelopes in file cabinets.

Retrievability: Alphabetically by remitter's name.

Safeguards: These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: Retained permanently.

System manager(s) and address:
Section Head, Materials Control Section
Acquisitions and Processing Division, Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Remitters or their authorized agents.

CO—7

System name: Incomplete Submission Correspondence File

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who wish to register a claim to copyright, but who have not sent the Office all of the elements (fee, application, deposit copies) necessary for registration.

Categories of records in the system: Applications for registration of a copyright claim, deposit copies, fees, and FL 81 form letters which advise the remitter that one or more elements necessary for registration have not been received.

Authority for maintenance of system: 17 U.S.C. sections 407-410, 708 (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records to identify and temporarily store incomplete deposits and correspondence requesting missing elements.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Elements received and form letters are filed on book shelves.

Retrievability: Alphabetically by remitter's name.

Safeguards: These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: When the missing elements are received, the fee, application and deposit copies are forwarded to the Examining Division. If the missing elements are not received after correspondence with the remitter, those elements which have been received are forwarded to the Acquisition Section for further action. In either case, the FL 81 letters are retained by the Materials Control Section in a separate chronological file.

System manager(s) and address:
Section Head, Materials Control Section
Acquisition and Processing Division, Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Remitters or their authorized agents.

CO—8

System name: Open and Closed Unfinished Business Files

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Remitters of incomplete or imperfect applications for registration of a copyright claim.

Categories of records in the system: Applications for registration of a copyright claim, deposit copies, fees, correspondence, split fee sheets, intersectional referral sheets, search reports, cash cards, and history cards.

Authority for maintenance of system: 17 U.S.C. sections 407-410, 708.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records in the course of correspondence with applicants for registration of a copyright claim in those instances where correspondence is necessary to complete or perfect registration.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila envelopes in file cabinets and on book shelves.

Retrievability: Alphabetically by remitter's name.

Safeguards: These records are maintained in various parts of the Office, all of which are restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: Records are retained in the Open file until registration is complete or until the remitter has failed to reply to Office correspondence. Closed files are permanently retained.

System manager(s) and address:
Section Head, Materials Control Section
Processing and Acquisitions Division, Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Remitters or their authorized agents.

CO—9

System name: Recorded Documents File

System manager(s) and address:
Section Head, Performing Arts Section

CO—10

System name: Notices of Institution of Actions for the Infringement

Categories of individuals: Remitters of assignments or other documents pertaining to a copyright which have been submitted to the Office for recordation and require correspondence.

CO—9

System name: Recorded Documents File

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who are parties to, or have submitted for recordation, assignments, licenses, notices of termination of transfer, and other documents affecting copyright ownership, notices of error in the name in a copyright notice; authors of anonymous or pseudonymous works in instances where any person having an interest in the copyright in such a work submits a statement identifying one or more authors of the work; authors of works in instances where any person having an interest in the copyright in a particular work submits a statement of the date of death of the author or a statement that the author is still living on a particular date; individuals who are parties to litigation under title 17 of the United States Code.

Categories of records in the system: Assignments, licenses, notices of termination of transfer, and other documents pertaining to copyright ownership, statements of the identity of an anonymous or pseudonymous author, statements of the date of death of an author or that the author is still living on a particular date, notices of error in the name in a copyright notice, notifications of the filing of actions under sections 411 and 508 of title 17 of the United States Code, and copies of final orders or judgements together with written opinions.

Authority for maintenance of system: 17 U.S.C. sections 203(a)(4), 205(a), 302(c), 302(d), 304(c), 406(a)(2), 411(a), 508(a), 508(b), 705(a) (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses this file to establish and maintain a public record of recorded copyright-related documents. These records are used in the preparation of search reports compiled at the request of a member of the public, and are available to records to compile an index to documents received for recordation. The index to documents received for recordation prior to January 1, 1978, is a separate index. The index to documents received on or after January 1, 1978, is interfiled in the Copyright Card Catalog.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Original documents submitted for recordation are microfilmed and returned to the remitter with the following exceptions: original copies of notifications of the filing of actions under sections 411 and 508 of title 17 of the United States Code and copies of final orders, judgments, and written opinions are microfilmed, but the original copies are permanently retained in the historical litigation file of the Copyright Office Library. Copies of copyright assignments and related documents received prior to 1954 are in bound volumes as well as on microfilm.

Retrievability: By the date the Office received the document and cross-referenced in the Copyright Card Catalog by individual names and titles of works.

Safeguards: These records are maintained in a room which is locked during nonworking hours.

Retention and Disposal: Retained permanently.

System manager(s) and address:
Chief, Records Management Division
Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Individual to whom the record pertains, such individual's authorized agent, other parties to the document recorded, such parties' authorized agents, individuals having an interest in the copyright in a work which is the subject of the document submitted for recordation, and clerks of the courts of the United States.

CO—10

System name: Notices of Institution of Actions for the Infringement of Works Refused Registration.

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Persons who have instituted infringement actions in cases where the Office has refused registration of the work which is the subject of the litigation.

Categories of records in the system: Notice of the institution of an infringement action, a copy of the complaint, and documents related to that action.

Authority for maintenance of system: 17 U.S.C. section 411(a) (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records: (1) to determine whether the Register will exercise the option of becoming a party to the action with respect to the issue of registrability of the copyright claim; and (2) in the preparation of search reports compiled at the request of a member of the public.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila folders in file cabinet.

Retrievability: Alphabetically by name of applicant or applicant's authorized agent.

Safeguards: These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: Retained indefinitely.

System manager(s) and address:
General Counsel
Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division. Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: The individual to whom the record pertains or such individual's authorized agent.

CO—11

System name: Motion Picture Agreement File

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Copyright claimants who have agreed to deliver one copy of any motion picture they copyright if the Library of Congress requests a copy for its motion picture collection.

Categories of records in the system: Records contain the name and address of the copyright claimant and the date on which the Motion Picture Agreement was signed.

Authority for maintenance of system: 17 U.S.C. section 407 (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records to determine if the Library of Congress has a motion picture agreement with an applicant for registration of a copyright claim in a motion picture. If the Library has such an agreement, the copy of the motion picture submitted with the copyright application will be returned to the remitter after examination. In the absence of such an agreement, the Office will retain the copy.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 3 x 5 cards in a metal file box.

Retrievability: Alphabetically by claimant's name.

Safeguards: These records are maintained in a room which is restricted authorized personnel and locked during nonworking hours.

Retention and Disposal: Retained indefinitely.

System manager(s) and address:
Section Head, Performing Arts Section
Examining Division, Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Motion Picture Agreements are filled out by copyright claimants or their authorized agents. Upon receipt of these Agreements, the Exchange and Gift Division of the Library of Congress transcribes some of the information in the agreements onto 3 x 5 cards which are then sent to the Copyright Office.

CO—12

System name: Open and Closed Renewal Correspondence Files

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who have submitted an application for copyright renewal which requires correspondence and individuals who have requested general information about copyright renewal.

Categories of records in the system: Applications for copyright renewal, correspondence, original search forms, renewal search records, search sheets, split fee sheets.

Authority for maintenance of system: 17 U.S.C. section 304 (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses the records in the Open file to hold cases requiring correspondence until the reply is received. The Office uses the records in the Closed file to hold correspondence and other material which may be requested by the Examiner in evaluating a case or by parties involved in litigation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila envelopes in a file cabinet.

Retrievability: Alphabetically by remitter's name.

Safeguards: These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: Records are retained in the Open file until a reply is received or the case is closed. Closed files are retained permanently.

System manager(s) and address:
Section Head, Renewal and Assignments Section
Examining Division, Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Individual to whom the record pertains or such individual's authorized agent.

CO—13

System name: Unfinished Business Document File

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Remitters of assignments or other documents pertaining to a copyright which have been submitted to the Office for recordation and require correspondence.

Categories of records in the system: Assignments, licenses, mortgages, wills, court decrees, statements of abandonment of copyright, affidavits (such as a statement with respect to the authorship of a work), agreements or contracts (such as an employment agreement), certificates of change of name or corporate certificates of corporate mergers, power of attorney documents.

Authority for maintenance of system: 17 U.S.C. section 205 (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses this file to store securely assignments and other valuable documents pertaining to a copyright which have been submitted for recordation but which require correspondence prior to recordation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila envelopes in a file cabinet.

Retrievability: Alphabetically by remitter's name.

Safeguards: These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: As each recordation problem is resolved, the original document is microfilmed and then returned to the remitter.

System manager(s) and address:
Section Head, Renewal and Assignment Section
Examining Division, Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Individual to whom the record pertains or such individual's authorized agent.

CO—14

System name: Appeal from Refusal to Register File

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who are appealing the decision of the Register of Copyrights to refuse registration because, in accordance with title 17 of the United States Code (the Act for General Revision of the Copyright Law) the Register has determined that the material deposited does not constitute copyrightable subject matter or that the claim is invalid for any other reason.

Categories of records in the system: Copies of Office correspondence refusing to register a claim after January 1, 1978; letters appealing the refusal, subsequent correspondence regarding the appeal, and wherever possible copies or photocopies of the material submitted for registration.

Authority for maintenance of system: 17 U.S.C. 410 (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records—(1) to respond to appeals from the Register's refusal to register a claim; and (2) to keep an accounting of the number and nature of appeals, Office responses, and reasons for initial refusals to register.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila folders in a file cabinet.

Retrievability: Alphabetically by name of the remitter, cross-referenced to title of work.

Safeguards: These records are maintained in a room which is restricted to authorized personnel and locked during nonworking house.

Retention and Disposal: Retained permanently.

Authority for maintenance of system: 17 U.S.C. section 705 (the Act for General Revision of the Copyright Law).

Record source categories: Individual to whom the record pertains, Copyright Office records, and trade reference sources.

Storage: Manila folders in a file cabinet.

Retrievability: Alphabetically by attorney's name.

Retention and Disposal: Retained permanently.

System manager(s) and address:
Chief, Examining Division
Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Individual to whom the record pertains, or such individual's authorized agent, and Office personnel.

CO—15

System name: Biobibliographic File

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Well known or prolific authors or authors of well known works, in those instances where the Office determines that it would be in the public interest to preserve published copyright-related information about such authors.

Categories of records in the system: Newspaper clippings, magazine articles, obituaries, book jackets, and search reports.

Authority for maintenance of system: 17 U.S.C. section 705 (the Act of General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records: (1) in the preparation of search reports compiled at the request of a member of the public, and (2) in the compilation of an index to this system, which cross-references authors, titles, and law firms, and which may indicate the contents of a record. These records are also available to the public during working hours.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Folders in file cabinets.

Retrievability: Alphabetically by author's name, law firm's name, or title of work.

Safeguards: These records are maintained in a room which is locked during nonworking hours.

Retention and Disposal: Retained permanently.

System manager(s) and address:
Section Head, Reference Search Section
Information and Reference Division, Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Magazines, newspapers, book jackets, trade reference sources, copyright card catalog, the assignee-assignor file, and applications.

CO—16

System name: Address File

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Copyright claimants of record whose address has been requested by a member of the public.

Categories of records in the system: Name and address of claimant of record, year date of address.

Authority for maintenance of system: 17 U.S.C. section 705 (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records to facilitate searching for addresses of copyright claimants when such addresses are requested by a member of the public.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 3 x 5 index cards in file box.

Retrievability: Alphabetically by claimant of record's name.

Safeguards: These records are maintained in a room which is restricted to authorized personnel and is locked during nonworking hours.

Retention and Disposal: Retained indefinitely, but obsolete addresses are disposed of as more current addresses are obtained.

System manager(s) and address:
Section Head, Reference Search Section
Information and Reference Division, Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Copyright claimants, their authorized agents, phone books, and city directories.

CO—17

System name: Domestic Master Mailing List

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who have frequent contact with the Office, or have asked to receive all Office information circulars, announcements, and other printed material prepared by the Office.

Categories of records in the system: Names and addresses.

Authority for maintenance of system: 17 U.S.C. section 707, (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records to address and mail Office information circulars, announcements, and other printed material.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer print-out sheets in a binder, stored in a desk drawer.

Retrievability: Alphabetically by name.

Safeguards: These records are maintained in a room which is locked during nonworking hours.

Retention and Disposal: Individuals may request that their names be dropped from the list. All other names and addresses are retained indefinitely.

System manager(s) and address:
Section Head, Information and Publications Section
Information and Reference Division, Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Individual to whom the record pertains, Copyright Office records, and trade reference sources.

CO—18

System name: Freedom of Information Act Requests and Privacy Act Requests and Disclosures File

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who have submitted Freedom of Information Act requests and Privacy Act requests for disclosures of Office records as set forth in 37 CFR 203 and 204; individuals who have requested correction or amendment of Office records pertaining to them.

Categories of records in the system: Requests submitted under the Freedom of Information and Privacy Acts for disclosures of Office records; requests submitted under the Privacy Act for correction or amendment of Office records; copies of the Office response to these requests.

Authority for maintenance of system: 17 U.S.C. 701 (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records to maintain an accounting of Freedom of Information Act and Privacy Act requests for disclosure of records and Office responses to these requests. The Office also uses these records to maintain an accounting of requests submitted under the Privacy Act to correct or amend a record pertaining to an individual, and the Office responses to these requests. The Office also uses these records to compile the annual report required by the Freedom of Information Act, and to conduct the annual update and review and compile the the annual report required by the Privacy Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila folders in a file cabinet.

Retrievability: Alphabetically by requester's name.

Safeguards: These records are maintained in a room which is restricted to authorized personnel and locked during non-working hours.

Retention and Disposal: Retained indefinitely.

System manager(s) and address:
Section Head, Information and Publications Section
Information and Reference Division, Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Individual to whom the record pertains, and Copyright Office records.

CO—19

System name: ABA Master Mailing List

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Attorneys who are listed in the annual edition of the "American Bar Association Section of Patent, Trademark, and Copyright Law Committees" as members of copyright-related committees.

Categories of records in the system: Names and addresses.

Authority for maintenance of system: 17 U.S.C. section 707 (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records to address and mail office information circulars, announcements, and other printed material to attorneys who are members of copyright-related ABA committees.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila folders in a file cabinet.

Retrievability: Alphabetically by attorney's name.

Safeguards: These records are maintained in a room which is locked during nonworking hours.

Retention and Disposal: Attorneys may request that their names be dropped from the list. Additionally, the Office uses the annual edition of the "American Bar Association Section of Patent, Trademark, and Copyright Law Committees" to update the list, deleting and adding names as appropriate.

System manager(s) and address:
Section Head, Information and Publications Section
Information and Reference Division, Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: "American Bar Association Section of Patent, Trademark, and Copyright Law Committees."

CO—20

System name: Open and Closed Certification and Documents Work Files.

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who request copies of Office records or additional certificates of copyright registration.

Categories of records in the system: Requester's name, date of request, description of record(s) or registration certificate(s) requested, action taken by the Office.

Authority for maintenance of system: 17 U.S.C. sections 706 and 708 (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses this system: (1) To maintain a record of all requests for copies of Copyright Office records and additional certificates of copyright registration; and (2) to control and monitor the processing of such requests.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 3 x 5 paper slips in a file cabinet.

Retrievability: Alhphabetically by requester's name.

Safeguards: These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: Records in the Open file are transferred to the Closed file when the requests are filled; the Closed file is retained indefinitely.

System manager(s) and address:
Section Head, Certification and Documents Section
Information and Reference Division, Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Individual to whom the record pertains.

CO—21

System name: Copies of Records Correspondence File

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who request copies of Copy-

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records: (1) In the preparation of search reports compiled at the

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who request copies of Copyright Office records or additional certificates of copyright registration.

Categories of records in the system: A form letter for mailing out copies of Office records, which includes the requester's name and address, a description of the certificate or copies of records requested, the remittance received, and the deposit account charges.

Authority for maintenance of system: 17 U.S.C. sections 706 and 708 (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses this system to keep a record of: (1) Requests for copies of Office documents or for additional certificates of copyright registration; (2) the fees charged; and (3) remittances received.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila folders in a file cabinet.

Retrievability: Alphabetically by requester's name.

Safeguards: These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: Retained indefinitely.

System manager(s) and address:

Section Head, Certification and Documents Section
Information and Reference Division, Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Individual to whom the record pertains.

CO—22

System name: Open and Closed Photoduplication Control Forms Files

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who request copies of Office records.

Categories of records in the system: Requester's name, description of record(s) requested, cash number and date, the amount of the order, and request for certification of the records, if any.

Authority for maintenance of system: 17 U.S.C. sections 706 and 708 (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses this system: (1) to maintain a record of all requests for copies of Copyright Office records; and (2) to control, within the Office the flow of copying fees and the flow of those original records which are copies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 3 x 5 paper slips in a file cabinet.

Retrievability: Alphabetically by requester's name.

Safeguards: These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: Records in the Open file are transferred to the Closed file when the requests are filled. the Closed file is retained indefinitely.

System manager(s) and address:

Section Head, Certification and Documents Section
Information and Reference Division, Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Individual to whom the record pertains.

CO—23

System name: Notice of Intention to Obtain Compulsory License for Making and Distributing of Phonorecords Embodying Nondramatic Musical Compositions File

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who file a notice of their intention to obtain a compulsory license for making and distributing phonorecords embodying nondramatic musical compositions.

Categories of records in the system: Individual's name, name of copyright owner, titles, date of recordation of notice, internal notation of date upon which the Office informally acknowledged receipt of the notice.

Authority for maintenance of system: 17 U.S.C. section 115(b)(1) (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records: (1) In the preparation of search reports compiled at the request of a member of the public; (2) to establish and maintain a public record; and (3) in the preparation of internal statistical reports.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila folders in file cabinet and microfilm.

Retrievability: Alphabetically by name of remitter and name of copyright owner.

Safeguards: These records are maintained in a room restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: Retained indefinitely

System manager(s) and address:

Chief, Licensing Division
Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Inividual to whom the record pertains or such individual's authorized agent.

CO—24

System name: Secondary Transmission Cable Systems: Initial Notice of Identity and Changes file

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Cable system owners, operators, or controllers who submit for recordation in the Copyright Office notices of identity, notices of ownership or control change, or notices of change in the signal carriage complement of cable systems.

Categories of records in the system: Statement of identity and address of the person who owns or operates or has the power to exercise control over secondary transmission service, name and location of the primary transmitter or transmitters whose signals are regularly carried, and changes in any of the preceding categories.

Authority for maintenance of system: 17 U.S.C. section 111(d)(1) (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records: (1) In the preparation of search reports compiled at the request of a member of the public; (2) in the preparation of internal statistical reports; and (3) to establish and maintain a public record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila folders in locked file cabinet and microfilm.

Retrievability: Alphabetically by system name or name of system's owner/controller.

Safeguards: These records are maintained in a room restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: Retained indefinitely.

System manager(s) and address:

Chief, Licensing Division
Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publication Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Individual to whom the record pertains or such individual's authorized agent.

CO—25

System name: Cable Systems Subject to Compulsory License: Statements of Account

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Owners/controllers of cable systems who file the semi-annual statement of account required by 17 U.S.C. section 111(d)(2).

Categories of records in the system: Numbers of channels on which the cable system made secondary transmission to its subscribers, names and locations of all primary transmitters whose transmissions were further transmitted by the cable system, the total number of subscribers, the gross amounts paid to the cable system for the basic service of providing secondary transmissions of primary broadcast transmitters, a special statement of account covering any nonnetwork television programming that was carried by the cable system in whole or in part beyond the local service area of the primary transmitter, under rules, regulations, or authorizations of the Federal Communications Commission permitting the substitution or addition of signals under certain circumstances, together with logs showing the times, dates, stations, and programs involved in such substituted or added carriage.

Authority for maintenance of system: Authority for maintenance of the system: 17 U.S.C. section 111(d)(2) (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records: (1) In the preparation of search reports compiled at the request of a member of the public; (2) to establish and maintain a public record; and (3) in the preparation of semi-annual compilations of statements of account which the Copyright Office must submit to the Copyright Royality Tribunal as required by 17 U.S.C. section 111(d)(3).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila folders in a file cabinet.

Retrievability: Alphabetically by system name or system owner/controller.

Safeguards: These records are maintained in a room restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: Retained indefinitely.

System manager(s) and address:

Chief, Licensing Division
Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Individual to whom the record pertains or such individual's authorized agent.

CO—26

System name: Cable System Videotape Transfer Contracts File

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals to whom a cable system has transferred a videotape nonsimultaneously transmitted by the system under a written, nonprofit contract providing for the equitable sharing of costs of such videotape and its transfer. Only transfer contracts involving cable systems located outside the continental United states are required to be filed in the Copyright Office.

Categories of records in the system: Transferor, transferee, title, date contract effective date of recordation, location of cable system, notation of acknowledgement of receipt by the Copyright Office, related correspondence.

Authority for maintenance of system: 17 U.S.C. section 111(e)(2)(A) (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records: (1) In the preparation of search reports compiled at the request of a member of the public; and (2) to establish and maintain a public record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila folders in file cabinet and microfilm (contains only copies of contracts).

Safeguards: These records are maintained in a room restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: Retained indefinitely.

System manager(s) and address:

Chief, Licensing Division
Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Parties to the transfer contracts or such parties' authorized agents.

CO—27

System name: Jukebox License Record Books

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Jukebox operators who have applied for, and been issued, a jukebox license.

Categories of records in the system: Name and address of operator, manufacturer, serial number or model number, model name, model year, charge per play, capacity, type of sound, person to be contacted for further information, number of juke boxes, and amount of remittance.

Authority for maintenance of system: 17 U.S.C. section 116(b) (the Act for General Revision of the Copyright Law).

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Individual to whom the record pertains or such individual's authorized agent.

CO—28

System name: Subject Matter Files

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who request copies of Office records.

Categories of records in the system: Requester's name, description of record(s) requested, cash number and date, the amount of the order, and request for certification of the records, if any.

Authority for maintenance of system: 17 U.S.C. sections 706 and 708 (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses this system: (1) to maintain a record of all requests for copies of Copyright Office records; and (2) to control, within the Office the flow of copying fees and the flow of those original records which are copies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 3 x 5 paper slips in a file cabinet.

Retrievability: Alphabetically by requester's name.

Safeguards: These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: Records in the Open file are transferred to the Closed file when the requests are filled. the Closed file is retained indefinitely.

System manager(s) and address:

Section Head, Certification and Documents Section
Information and Reference Division, Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Individual to whom the record pertains.

CO—29

System name: Videotape Duplication Control Forms File

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who request copies of Office records.

Categories of records in the system: Requester's name, description of record(s) requested, cash number and date, the amount of the order, and request for certification of the records, if any.

Authority for maintenance of system: 17 U.S.C. sections 706 and 708 (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses this system: (1) to maintain a record of all requests for copies of Copyright Office records; and (2) to control, within the Office the flow of copying fees and the flow of those original records which are copies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 3 x 5 paper slips in a file cabinet.

Retrievability: Alphabetically by requester's name.

Safeguards: These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: Records in the Open file are transferred to the Closed file when the requests are filled. the Closed file is retained indefinitely.

System manager(s) and address:

Section Head, Certification and Documents Section
Information and Reference Division, Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Individual to whom the record pertains.

CO—30

System name: Visual Arts Registration Records

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who register claims to copyright in works of the visual arts.

Categories of records in the system: Name and address of author, claimant, and copyright owner, nature of work, publication information, and correspondence.

Authority for maintenance of system: 17 U.S.C. section 408 (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records: (1) In the preparation of search reports compiled at the request of a member of the public; (2) to establish and maintain a public record; and (3) in the preparation of internal statistical reports.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila folders in file cabinet and microfilm.

Retrievability: Alphabetically by names of copyright owners and public broadcasting entities.

Authority for maintenance of system: 17 U.S.C. sections 03111, 115, 116, 118, and 705.

Authority for maintenance of system: 17 U.S.C. section 116(b) (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records: (1) In the preparation of search reports compiled at the request of a member of the public; (2) to establish and maintain a public record; and (3) in the preparation of internal statistical and accounting reports.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File boxes pending binding; bound volumes on shelves.

Retrievability: Alphabetically by operator's name within each annual volume.

Safeguards: These records are maintained in a room restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: Retained indefinitely.

System manager(s) and address:

Chief, Licensing Division
Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing, addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Individual to whom the record pertains or such individual's authorized agent.

CO—28

System name: Unmailable Jukebox Certificates

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Jukebox operators who have applied for, and been issued, a jukebox license, in those instances where the Office is unable to deliver the license because an incorrect address was given on the license application form.

Categories of records in the system: Jukebox certificates, which contain the name and address of the operator, manufacturer, serial number or model number, model name, model year, charge per play, capacity, type of sound, issue date, expiration date, criminal penalties, where and when to affix the certificate, and a notation if the certificate is a replacement.

Authority for maintenance of system: 17 U.S.C. section 116 (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records: (1) In the preparation of search reports compiled at the request of a member of the public; and (2) in the preparation of internal accounting reports.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Boxes in safe.

Retrievability: Alphatetically by operator's name.

Safeguards: These records are locked in a safe and maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: Retained indefinitely.

System manager(s) and address:

Chief, Licensing Division
Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publication Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure".

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Individual to whom the record pertains or such individual's authorized agent.

CO—29

System name: Licensing Division Refund File

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who file a defective or excessive remittance for a compulsory license necessitating a refund of such remittance.

Categories of records in the system: Carbon copy of refund check, carbon copy of refund letter explaining reason for refund, and related correspondence.

Authority for maintenance of system: 17 U.S.C. sections 111 and 116 (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records in the preparation of semi-annual reports to the Copyright Royalty Tribunal.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila folders in file cabinet.

Retrievability: Alphabetically by remitter's name.

Safeguards: These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: retained indefinitely.

System manager(s) and address:

Chief, Licensing Division
Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Individual to whom the record pertains.

CO—30

System name: Voluntary Licensing Agreements File

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who submit for recordation voluntary licensing agreements between: (1) copyright owners of published nondramatic musical works and published pictorial, graphic, and sculptural works and public broadcasting entities; and (2) copyright owners of nondramatic literary works and public broadcasting entities.

Categories of records in the system: Copies of the actual agreements submitted for recordation, copies of registration certificates of record, and related correspondence.

Authority for maintenance of system: 17 U.S.C. sections 118(b)(2) and (e)(1) (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records: (1) In the preparation of search reports compiled at the request of a member of the public; (2) in the preparation of internal statistical reports; and (3) to establish and maintain a public record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila folders in a file cabinet and microfilm (contains only copies of documents submitted for recordation).

Retrievability: Alphabetically by names of copyright owners and public broadcasting entities.

Safeguards: These records are maintained in a room restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: retained indefinitely.

System manager(s) and address:

Chief, Licensing Division
Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publication Section, Information and Reference Divisions, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Parties to voluntary licensing agreements or such parties' authorized agents.

CO—31

System name: Licensing Division Search Report File

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who request a search of Licensing Division records.

Categories of records in the system: Search reports, records of completed searches and notations if search reports are not picked up and the Office is unable to cantact the requester.

Authority for maintenance of system: 17 U.S.C. section 705 (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records: (1) To establish and maintain a public record of searches of Licensing Division records; and (2) to prepare internal accountings of the number of searches requested, the time required of Office personnel to compile such searches, and related information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila folders in file cabinet.

Retrievability: Alphabetically by name of requester.

Safeguards: These records are maintained in a room restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: Retained indefinitely.

System manager(s) and address:

Chief, Licensing Division
Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designate under "Notification procedure."

Contesting record procedures: See rules published in 37 CFR part 204.

Record source categories: Individual to whom the record pertains, such individual's authorized agent, and Office personnel.

CO—32

System name: Licensing Division Unfinished Business Files (Open and Closed)

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who send the Office a license application, license-related document for recordation, remittance, or letter which requires correspondence.

Categories of records in the system: License applications, license-related documents submitted for recordation, remittances, and general correspondence.

Authority for maintenance of system: 17 U.S.C. sections 03111, 115, 116, 118, and 705.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The office uses these records: (1) In the preparation of search reports compiled at the request of a member of the public; (2) to establish and maintain a public record; (3) in the preparation of internal statistical reports; and (4) to hold cases requiring correspondence until replies are received.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila folders in file cabinet.

Retrievability: Alphabetically by remitter's name.

Safeguards: These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: Records are kept in the Open file until a reply is received or until the case is closed. Records in the closed file are permanently retained.

System manager(s) and address:

Chief, Licensing Division
Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publication Section, Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification Procedure."

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Individual to whom the record pertains or such individual's authorized agent.

CO—33

System name: Deposit Recordation File.

System location: Copyright Office, Library of Congress, Arlington, Virginia.

Categories of individuals: Individuals who, without simultaneously applying for copyright registration, have submitted deposit copies in accordance with the provisions of section 407, title 17 (the Act for General Revision of the Copyright Law).

Categories of records in the system: Title of work, author, edition statement, imprint, collation, in notice statement, depositor, depositor's address, number of copies received, and date received.

Authority for maintenance of system: 17 U.S.C. section 407 (the Act for General Revision of the Copyright Law).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office uses these records: (1) to keep a record of compliance with section 407 of title 17 of the United States Code; (2)to locate and correspond with those who have published works with notice of copyright but who have not deposited the required copies; (3) in the preparation of weekly statistics on the number and nature of deposits received; and (4) in the preparation of search reports compiled at the request of a member of the public.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 4 x 6 cards in file cabinet.

Retrievability: Alphabetically by depositor's name, author's name, and title of work.

Safeguards: These records are maintained in a room which is restricted to authorized personnel and locked during nonworking hours.

Retention and Disposal: Retained permanently.

System manager(s) and address:

Section Head
Deposits and Acquisitions Section
Acquisitions and Processing Division
Copyright Office
Library of Congress
Washington, D.C. 20559

Notification procedure: Inquiries about an individual's record

Record source categories: Deposit copies submitted.

THURSDAY, SEPTEMBER 14, 1978
PART III

V 43 / 179 SE 14 78

Notification procedure: Inquiries about an individual's record should be in writing addressed to the Supervisory Copyright Information Specialist, Information and Publications Section. Information and Reference Division, Copyright Office, Library of Congress, Washington, D.C. 20559.

Record access procedures: Requests from individuals should be in writing addressed to the official designated under "Notification procedure".

Contesting record procedures: See rules published in 37 CFR Part 204.

Record source categories: Deposit copies submitted.

Dated: August 28, 1978.

Waldo H. Moore,
Assistant Register of Copyrights for Registration.

Approved:

DANIEL J. BOORSTIN,
the Librarian of Congress.

[FR Doc. 78—25188 Filed 9-13-78; 8:45 am]

federal register

THURSDAY, SEPTEMBER 14, 1978
PART III

DEPARTMENT OF TRANSPORTATION

Coast Guard

MANNING OF TOURING VESSELS

Proposed Interpretative Rule

V 43 / 179 SEP 14 1978

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 157]

[CGD 77-062]

MANNING OF TOWING VESSELS

Proposed Interpretative Rule

AGENCY: Coast Guard, DOT.

ACTION: Proposed interpretative rule.

SUMMARY: The Coast Guard is proposing to issue interpretative regulations concerning R.S. 4427(b) which deals with the licensing of personnel on uninspected towing vessels. Since the enactment of the statute, many questions have been asked concerning the application of manning standards to unispected towing vessels. These regulations will clarify the relationship between the statute and other manning statutes.

DATES: Comments must be received on or before October 30, 1978.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), (CGD 77/062) U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G/CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Comdr. Scott McCowan, Office of Merchant Marine Safety (G-MVP/82); Room 8214, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-2240.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each comment should include the name and address of the person submitting the comment, reference the docket number (CGD 77-062), identify the specific section of the proposal to which each comment applies, and include sufficient detail to indicate the basis on which each comment is made. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and a place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

This proposal has been reviewed under the Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (43 FR 9582, Mar. 8, 1978). A draft evaluation of the proposal has been prepared, and has been included in the public docket.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Comdr. Scott McCowan, Project Manager, Office of Merchant Marine Safety, and Mr. Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

Many questions have been asked by the marine community concerning the application of manning standards to uninspected towing vessels. These questions stem primarily from conflicting interpretations of R.S. 4427(b) (46 U.S.C. 405(b)) (concerned with the licensing of personnel on uninspected towing vessels) enacted in 1972, and its relationship to other manning statutes. The principal questions have concerned the 12 hour work provision of this statute conflicting with the three watch provisions of previously enacted statutes.

The Coast Guard is considering issuing the regulations in this document in order to clarify its interpretation of this issue and other related issues as follows:

a. Licensed operators serving under the authority of 46 U.S.C. 405(b) are subject to the 12-hour work clause of 46 U.S.C. 405(b) rather than the three watch provisions of 46 U.S.C. 673.

b. Licensed uninspected towing vessel operators shall not be included for computation purposes when determining whether a vessel meets the 65 percent able seamen requirement of 46 U.S.C. 672, on vessels subject to 46 U.S.C. 672.

c. Persons licensed solely under the provisions of 46 U.S.C. 405(b) cannot serve in any capacity as a licensed officer on vessels of 200 gross tons and over subject to the provisions of 46 U.S.C. 224a.

In order to clarify the intended effect of the regulations, a definition of rest time has been included.

Short periods of rest spent in a non-working status which militate against extended rest are included in the 12-hour work periods. Periods of rest in excess of 6 hours are not included in the 12-hour work period.

In consideration of the foregoing, it is proposed that part 157 of title 46 of Code of Federal Regulations be amended:

1. By adding a new § 157.20-5(c) to read as follows:

§ 157.20-5 Division into three watches.

* * * * * *

(c) On uninspected towing vessels of less than 200 gross tons to which the provisions of section 2 of the Seaman's Act of 1915, as amended (49 Stat. 1933, 46 U.S.C. 673) apply, the licensed operators required to be on board by R.S. 4427(b) (46 U.S.C. 405(b)) are not subject to the three watch provisions.

2. By revising § 157.20-15(b) to read as follows:

§ 157.20-15 Able seamen.

* * * * * *

(b) *Computation of number.* On vessels to which the provisions of section 13 of the Seamen's Act of 1915, as amended (46 U.S.C. 672), apply, at least 65 per centum of the deck crew, exclusive of licensed officers, licensed uninspected towboat operators, and apprentices, shall be of a rating not less than able seamen. In the event that the number of persons in the deck crew, as defined in § 157.10-20(a), is in excess of the number of persons required therein by the certificate of inspection, at least 65 per centum of the whole deck crew on the vessel, exclusive of licensed officers, licensed uninspected towboat operators, and apprentices, shall be of a rating of not less than able seamen.

3. By adding a new § 157.20-65 to read as follows:

§ 157.20-65 Uninspected towing vessel operators.

(a) For the purposes of this section, "rest time" is defined as any period of time when the operator, as required by R.S. 4427(b) (46 U.S.C. 405(b), is on board the towing vessel but is not in a work or duty status.

(b) No licensed operator of an uninspected towing vessel subject to R.S. 4427(b) (46 U.S.C. 405(b)) may work a vessel while underway, or perform other duties in excess of 12 hours in any consecutive 24-hour period except in an emergency.

(c) A period of rest ime of 6 hours or more is not counted as part of the 12 hours' work or duty status permitted under paragraph (b).

(d) Periods of rest time of less than 6 hours will be counted as part of the 12 hours' work or duty status permitted under paragraph (b), unless, in the judgement of the cognizant Officer in Charge, Marine Inspection, the actual rest time was sufficient to meet the intent of the Act to assure that only adequately rested operators are in charge of the navigation of uninspected towing vessels.

4. By adding a new § 157.30-10 (d) and (e) to read as follows:

§ 157.30-10 Officers of uninspected vessels.

* * * * * *

(d) A person licensed only as operator of uninspected towing vessels under R.S. 4427(b) (46 U.S.C. 405(b)) is not a licensed master, mate, or engineer within the terms of R.S. 4438a (46 U.S.C. 224a), but the holder of a master or mate license which authorizes service on uninspected towing vessels may serve, within the scope and limitation of the license, as the licensed operator required by R.S. 4427(b).

(e) The licensed operator required by R.S. 4427(b) (46 U.S.C. 405(b)) of uninspected seagoing towing vessels of 200 gross tons, or over, but less than 300 gross tons must be a licensed master or mate within the meaning of R.S. 4438a (46 U.S.C. 224a).

(53 Stat. 1049 (46 U.S.C. 224a); Pub. L. 92-239, 86 Stat. 423 (46 U.S.C. 405(b)); 38 Stat. 1169, as amended (46 U.S.C. 672); 38 Stat. 1164, as amended (46 U.S.C. 673); 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: September 8, 1978.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 78-25897 Filed 9-13-78; 8:45 am]

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V 4 3 / 1 7 9

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V 43/180 SEP 15 78 UMI

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41181-41369

federal register

FRIDAY, SEPTEMBER 15, 1978

highlights

SUNSHINE ACT MEETINGS 64983

ANTIBIOTICS
HEW/FDA revises procedures for collecting samples for certification; effective 11-14-78 41195
HEW/FDA simplifies obtaining reference standards, eliminates duplication, and requests comments by 11-14-78; effective 10-1-78 41194

COMMUNITY DEVELOPMENT BLOCK GRANTS
HUD proposes to permit use of funds for rehabilitation assistance; comments by 10-16-78 (Part III of this issue) 41369

GOVERNMENT IN THE SUNSHINE ACT
United States Metric Board proposes to adopt procedures for public meetings; comments by 10-16-78 41230

MANDATORY PRICING AND ALLOCATION REGULATIONS
DOE/FERC publishes analysis and recommendations regarding exemption of aviation gasoline and kerosene-base jet fuel 41214

MINORITY BUSINESS ENTERPRISES
Interior prescribes policies, procedures, and contract clauses establishing program to increase contracting participation; effective 9-15-78 41207

NEW DRUGS
HEW/FDA amends marketing conditions for single-entity coronary vasodilators 41282
HEW/FDA proposes to withdraw approval of a combination product containing prochlorperazine maleate and isopropamide iodide; hearing requests by 10-16-78; comments by 11-14-78 41278

NONCOMMERCIAL EDUCATIONAL BROADCAST
FCC proposes to change requirements contained in the "Primer on Ascertainment of Community Problems by Noncommercial Educational Broadcast Applicants"; comments by 10-16-78 41241

OUTER CONTINENTAL SHELF
Interior/BLM establishes policy relating to sale notices to further and enhance consultation with affected coastal States . 41292

PUBLIC HOUSING PROGRAM
HUD revises Schedule A, "Prototype Cost Limits for Low-Income Housing", and requests comments by 10-16-78; effective 9-15-78 41198

CONTINUED INSIDE

V 43 / 180 SEP 15 78 V4

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

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NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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Finding Aids	523-5227
Public Briefings: "How To Use the Federal Register."	523-5235
Code of Federal Regulations (CFR)	523-3419
	523-3517
Finding Aids	523-5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523-5233
Weekly Compilation of Presidential Documents.	523-5235
Public Papers of the Presidents	523-5235
Index	523-5235
PUBLIC LAWS:	
Public Law dates and numbers	523-5266
	523-5282
Slip Laws	523-5266
	523-5282
U.S. Statutes at Large	523-5266
	523-5282
Index	523-5266
	523-5282
U.S. Government Manual	523-5230
Automation	523-3408
Special Projects	523-4534

HIGHLIGHTS—Continued

PUBLIC SAFETY OFFICERS' BENEFITS ACT
Justice/LEAA publishes report on toxic effects of carbon monoxide and on whether CO inhalation should be considered a substantial factor in the deaths of firefighters and others 41302

RAYON STAPLE FIBER FROM BELGIUM
ITC institutes investigation to determine whether an industry in the United States is being or likely to be injured 41299

REGISTERED MANAGEMENT INVESTMENT COMPANIES
SEC announces the recommendation that all disinterested directors review their existing fidelity bond coverage 41321

RURAL HOUSING SITE LOANS
USDA/FmHA proposes to revise RHS loan regulations; comments by 10-16-78 41215

SCRAPIE ERADICATION PROGRAM
USDA/APHIS amends rules to increase the maximum indemnity which may be paid for destroyed animals; effective 9-15-78 41183

SUMMARY ANNUAL REPORT
Labor/PWBP sets forth amendments clarifying rules regarding content, style, and format of SAR 41205

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT, COLLEGE WORK-STUDY, AND NATIONAL DIRECT STUDENT LOAN PROGRAMS
HEW/OE publishes notice of closing dates for filing applications, corrections, and appeals for funds, and for establishing eligibility 41289

TEACHER CORPS
HEW/OE publishes questions for consideration in preparing an application for a grant 41286

TELECOMMUNICATIONS
National Communication System solicits comments by 11-14-78 on proposed Federal Standard 1033, Telecommunications: Digital Communication Performance Parameters 41313

MEETINGS—
ACUS: Agency Decisional Processes Committee, 9-28-78 41247
CRC: West Virginia Advisory Committee, 9-29 and 9-30-78 41255
DOD/Navy: Command, Control, and Communications Subpanel, Chief Naval Operations Executive Panel Advisory Committee, 10-4 and 10-5-78 41256
Secy: Wage Committee, 11-7, 11-14, 11-21, and 11-28-78 41256
HEW/FDA: Advisory Committees, various dates in October 41273
Labor/BLS: Business Research Advisory Council, 10-4-78 (2 documents) 41304
National Advisory Committee for Women, 10-4 and 10-5-78 41312
National Commission for Manpower Policy, 10-7 and 10-20-78 (2 documents) 41312, 41313
National Commission on Unemployment Compensation, 9-22 through 9-24-78; 10-19 through 10-21-78; and 11-11 through 11-14-78 (3 documents) 41312, 41313
NFAH/NEA: Music Advisory Panel, 10-5-78 41314
NSF: Biology and Medicine Subcommittee, Polar Programs Advisory Committee, 10-3-78 41315
DOE/NSF Nuclear Science Advisory Committee, 10-7 and 10-8-78 41316

HIGHLIGHTS—Continued

Ecological Sciences Subcommittee, Environmental Biology Committee, 10-12 and 10-13-78 41314
Psychobiology Subcommittee, Behavioral and Neural Sciences Advisory Committee, 10-12 and 10-13-78 41314
NRC: Guard Training and Contingency Planning Rules, 9-27, 10-3, 10-5, and 10-13-78 41187

HEARINGS—

contents

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES
Meetings 41247

AGRICULTURAL MARKETING SERVICE
Proposed Rules
Milk marketing orders:
Eastern Colorado 41214
Texas 41214
Notices
Meetings:
Peanut Administrative Committee 41247

AGRICULTURE DEPARTMENT
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Farmers Home Administration; Food and Nutrition Service; Forest Service; Soil Conservation Service.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE
Rules
Scrapie eradication program 41183
Proposed Rules
Scrapie eradication program; extension of time 41214

ARMY DEPARTMENT
See Engineers Corps.

CIVIL RIGHTS COMMISSION
Notices
Meetings:
West Virginia Advisory Committee 41255

COMMERCE DEPARTMENT
See Economic Development Administration; National Oceanic and Atmospheric Administration; Patent and Trademark Office.

COMMODITY FUTURES TRADING COMMISSION
Notices
Hearings:
Chicago Board of Trade 41247

CONSUMER PRODUCT SAFETY COMMISSION
Notices
Meetings; Sunshine Act 41312

DEFENSE DEPARTMENT
See Army Department; Engineers Corps; Navy Department.

ECONOMIC DEVELOPMENT ADMINISTRATION
Notices
Petitions for determination of eligibility:
Bethlehem Steel Corp. et al. 41248
Cleveland-Cliffs Iron Co. et al. 41248
Jones & Laughlin Steel Corp. et al. 41249
Kaiser Steel Corp. et al. 41249
Republic Steel Corp. et al. 41250
U.S. Steel Corp. et al. 41250

EMPLOYMENT AND TRAINING ADMINISTRATION
Notices
Adjustment assistance:
Bethlehem Steel Corp. et al. 41251
Cleveland-Cliffs Iron Co. et al. 41251
Jones & Laughlin Steel Corp. et al. 41252
Kaiser Steel Corp. et al. 41252
Republic Steel Corp. et al. 41253
U.S. Steel Corp. et al. 41253
Meetings:
National Commission for Manpower Policy 41312
National Commission on Unemployment Compensation 41312

V 43 / 180 SE 15 78

HIGHLIGHTS—Continued

Ecological Sciences Subcommittee, Environmental Biology Committee, 10–12 and 10–13–78 41314
Psychobiology Subcommittee, Behavioral and Neural Sciences Advisory Committee, 10–12 and 10–13–78 41314
Sociology Subcommittee, Social Sciences Advisory Committee, 10–12 and 10–13–78 41315
NRC: Advisory Committee on Reactor Safeguards, 10–4–78 (2 documents) 41316
Reactor Fuel Subcommittee, ACRS, 10–4–78 41316
Regional State Liaison Officers, 10–24 and 10–25–78 41320
State: Advisory Committee to United States Section, International North Pacific Fisheries Commission, 9–26–78 41324

RESCHEDULED MEETINGS—

Justice/DEA: National Minority Advisory Council on Criminal Justice, 9–29 and 9–30–78 41302
NRC: Guard Training and Contingency Planning Rules, 9–27, 10–3, 10–5, and 10–13–78 41187

HEARINGS—

Commerce/NOAA: Draft Fishery Management Plan for Halibut off the Coast of Alaska, 10–10, 10–12, 10–24, 10–26, and 10–31–78 41244
HEW/FDA: Vitamin D and Soy Protein Isolates, and Sodium Chloride and Potassium Chloride, 9–25 and 9–26–78 (2 documents) 41276, 41277

SEPARATE PARTS OF THIS ISSUE

Part II, Labor/ESA 41338
Part III, HUD 41369

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

Commerce/NOAA—Policies and procedures regarding disclosure of information and NOAA employee testimony in litigation not involving the United States 36240; 8–16–78
EPA—California plan revision: Northern Sonoma County Air Pollution Control District 36247; 8–16–78
FCC—Regulatory policies and procedures in the Domestic Public Land Mobile Radio Service (DPLMRS) 35314; 8–9–78
UHF television receiver noise figures. 36096; 8–15–78
HUD/ILSOR—Administrative changes in rules of practice and procedure 29494; 7–7–78
NTSB—Change in design of official seal 36454; 8–17–78
USDA/FNS—Food donation program; Food distribution to schools 39070; 9–1–78
FS—Impoundment and disposal of unauthorized livestock 36245; 8–16–78

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

[Last Listing: September 13, 1978]

contents

ADMINISTRATIVE CONFERENCE OF UNITED STATES
Notices
Meetings:
Agency Decisional Processes Committee 41247

AGRICULTURE DEPARTMENT
See Animal and Plant Health Inspection Service; Farmers Home Administration; Rural Electrification Administration.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE
Rules
Livestock and poultry disease control:
Indemnities payment; sheep or goats destroyed because of scrapie 41183
Viruses, serums, toxins, etc.:
Serum-neutralization tests use authorization 41185

ARTS AND HUMANITIES, NATIONAL FOUNDATION
Notices
Meetings:
Music Advisory Panel 41314

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM
Notices
Procurement list, 1978; additions and deletions (2 documents) 41255

CIVIL AERONAUTICS BOARD
Rules
Air taxi operators, classification and exemptions:
Alaska and Hawaii, all-cargo operations, aircraft size increase 41187

CIVIL AERONAUTICS BOARD
Notices
Hearings, etc.:
Allegheny Airlines, Inc 41247
American Airlines, Inc 41248
Braniff Airways, Inc 41249
Duncan Airlines et al 41252
Eastern Air Lines, Inc. (2 documents) 41250, 41251
Evergreen International Airlines, Inc., et al 41252
Northwest Airlines, Inc 41253
Omaha-Dallas/Ft. Worth Subpart N proceeding 41253
Tucson-San Diego nonstop route investigation 41253
United Air Lines, Inc 41254

CIVIL RIGHTS COMMISSION
Notices
Meetings; State advisory committees:
West Virginia 41255

COMMERCE DEPARTMENT
See Economic Development Administration; National Oceanic and Atmospheric Administration.

COMMUNITY PLANNING AND DEVELOPMENT, OFFICE OF ASSISTANT SECRETARY
Proposed Rules
Community development block grants:
Rehabilitation assistance and program benefit 41369

CUSTOMS SERVICE
Rules
Customhouse brokers:
Incidental services; charges 41192
Proposed Rules
Administrative rulings:
Research and development costs, "pirated" or "stolen"; dutiable status 41236

DEFENSE DEPARTMENT
See also Navy Department.
Notices
Federal regional council liaison officers; list 41256
Meetings:
Wage Committee 41256

ECONOMIC DEVELOPMENT ADMINISTRATION
Notices
Business development program:
Steel industry, basic; guarantee loan assistance applications 41255

ECONOMIC REGULATORY ADMINISTRATION
Notices
Cosent orders:
Blue Ridge Fuel Co. (Iandoli) 41258
Environmental statements; availability, etc.:
Columbia LNG Corp 41257

EDUCATION OFFICE
Notices
Applications and proposals, closing dates:
Supplemental Educational Opportunity Grant, College Work-Study, and National Direct Student Loan Programs 41289
Grants:
Teacher Corps program; criteria for preparing application 41286

EMPLOYMENT AND TRAINING ADMINISTRATION
Notices
Employment transfer and business competition determinations; financial assistance applications 41304

EMPLOYMENT STANDARDS ADMINISTRATION
Notices
Minimum wages for Federal and federally assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Ariz., Ark., Calif., Conn., Fla., Guam, Hawaii, La., Md., Mich., Miss., Nev., N.J., N. Dak., Okla., Penn., Tex., Va.) 41338

ENERGY DEPARTMENT
See also Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
Notices
International atomic energy agreements; civil uses; subsequent arrangements:
Euratom 41265

ENVIRONMENTAL PROTECTION AGENCY
Rules
Health and safety studies; extension of reporting deadline
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
Thiabendazole; correction 41206
Proposed Rules
Air quality implementation plans; enforcement by State and Federal governments after statutory deadlines:
Kentucky (2 documents) 41238, 41239
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
Carbaryl 41240
Notices
Pesticide registration applications 41269
Pesticides; tolerances, registration, etc.:
4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one, etc.; correction 41268
2,4,5-Trichlorophenol and salts; correction 41269
2,4,5-Trichlorophenol and salts; extension of time 41268

V 43 / 180 SE 15 78

CONTENTS

FARMERS HOME ADMINISTRATION
Proposed Rules
Rural housing loans and grants:
Human drugs and animal drugs:
Antibiotic sampling procedure 41195

INTERIOR DEPARTMENT
See also Geological Survey; Land Management Bureau;

CONTENTS

ASARCO, Inc. (2 documents) 41306, 41307
Bennett Manufacturing Co 41308
Brown Shoe Co 41308

NATIONAL INSTITUTES OF HEALTH
Notices
Carcinogenisis bioassay reports;

PENSION AND WELFARE BENEFIT PROGRAMS OFFICE
Rules
Reporting and disclosure re-

FARMERS HOME ADMINISTRATION
Proposed Rules
Rural housing loans and grants:
Rural housing site loans 41215

FEDERAL COMMUNICATIONS COMMISSION
Rules
Aviation services:
Station identification, use of FAA indentifier 41214
Proposed Rules
Practice and procedure:
Public participation in proceedings; reimbursement; extension of time 41241
Radio broadcast services:
Community leader survey, primer amendment 41241

FEDERAL ENERGY REGULATORY COMMISSION
Rules
Aviation gasoline and kerosene jet fuel; exemption from allocation and price regulations ... 41214
Notices
Hearings, etc.:
Consumers Power Co 41258
Elms Brothers & Co 41267
Gas Research Institute 41258
Great Lakes Gas Transmission Co 41258
Juarez Gas Co. S.A. et al 41259
Maine Hydro-Electric Development Corp 41259
Northern Natural Gas Co 41260
Panhandle Eastern Pipe Line (2 documents) 41261
Tennessee Gas Pipeline Co. et al 41262
Texas Gas Transmission Corp 41262
Transcontinental Gas Pipe Line Corp. (2 documents) 41263
United Gas Pipe Line Co. (2 documents) 41264

FEDERAL INSURANCE ADMINISTRATION
Rules
Flood elevation determinations:
Mississippi; correction 41204
Proposed Rules
Flood elevation determinations:
Massachusetts; correction 41237

FEDERAL MARITIME COMMISSION
Notices
Agreements filed, etc 41270
Complaints filed:
Port of Portland v. Pacific Westbound Conference 41271

FEDERAL TRADE COMMISSION
Proposed Rules
Consent orders:
Corning Glass Works et al 41233

FOOD AND DRUG ADMINISTRATION
Rules
Human drugs:
Antibiotic reference standards; availability 41194
Human drugs and animal drugs:
Antibiotic sampling procedure 41195
Notices
Animal drugs, feeds, and related products:
Sulfonamide; approval withdrawn 41281
GRAS of prior-sanctioned ingredients; hearings (2 documents) 41276, 41277
Human drugs:
Coronary vasodilators, single-entity; efficacy study implementation 41282
Prochlorperazine; proposed withdrawal; hearing 41278
Topical ointment and ointment baciguent; certification exemption 41285
Meetings:
Advisory committees, panels, etc 41273

GENERAL ACCOUNTING OFFICE
Notices
Regulatory reports review; proposals, approvals, etc. (ICC) ... 41273

GEOLOGICAL SURVEY
Notices
Coal leasing areas:
Crownpoint, N. Mex 41297
Red Oak, Okla 41298

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See Education Office; Food and Drug Administration; Health Services Administration; National Institutes of Health; Public Health Service.

HEALTH SERVICES ADMINISTRATION
Notices
Committees; establishment, renewals, terminations, etc.:
Maternal and Child Health Research Grants Review Committee 41285

HEARINGS AND APPEALS OFFICE, ENERGY DEPARTMENT
Notices
Applications for exception:
Decisions and orders 41266
Gulf refund procedures, extension of comment period 41266

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
See also Community Planning and Development, Office of Assistant Secretary; Federal Insurance Administration.
Rules
Low-income housing:
Public housing program; development phase; prototype cost limits 41198

INTERIOR DEPARTMENT
See also Geological Survey; Land Management Bureau; Reclamation Bureau.
Rules
Procurement; minority business 41207

INTERNAL REVENUE SERVICE
Rules
Income taxes:
Custodial accounts and annuity contracts 41204
Proposed Rules
Income taxes:
Guarantee agreements; treatment of losses 41237

INTERNATIONAL TRADE COMMISSION
Notices
Import investigations:
Ceramic tile setters 41298
Copper rod, apparatus for continuous production 41298
Fabricated steel plate products from Japan 41299
Rayon staple fibers from Belgium 41299

INTERSTATE COMMERCE COMMISSION
Proposed Rules
Motor carriers:
Mobile homes transportation . 41242
Railroad service abandonment:
Chicago & North Western Transportation Co. et al 41245
Notices
Hearing assignments 41324
Inflation policy statement 41325
Motor carriers:
Permanent authority applications; corrections (6 documents) 41324, 41332
Temporary authority applications (2 documents) ... 41325, 41329
Petitions, applications, finance matters (including temporary authorities), railroad abandonments, alternate route deviations, and intrastate applications; correction 41332
Petitions filing:
Declaratory order, 2 railroads 41324

JUSTICE DEPARTMENT
See Law Enforcement Assistance Administration.

LABOR DEPARTMENT
See also Employment and Training Administration; Employment Standards Administration; Labor Statistics Bureau; Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office.
Notices
Adjustment assistance:
Apex Glove Co 41306

ASARCO, Inc. (2 documents) 41306, 41307
Bennett Manufacturing Co 41308
Brown Shoe Co 41308
Cornelius Weiss Co., Inc 41308
H & D Sportswear, Inc 41309
Perkin-Elmer Corp 41309
Silver King Mining & Milling Co., Inc 41309
Tara Knitting Mills, Inc 41310
Unitech Chemical Co 41310
U.S. Steel Corp 41311
Vinco Fashions, Inc 41311

LABOR STATISTICS BUREAU
Notices
Meetings:
Business Research Advisory Council (2 documents) 41304

LAND MANAGEMENT BUREAU
Notices
Applications, etc.:
New Mexico (6 documents) 41290, 41291
Wyoming (2 documents) 41291
Outer Continental Shelf:
Oil and gas lease sale; western and central Gulf of Mexico . 41292
Wilderness area inventories:
California 41290

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
Notices
Meetings:
Carbon monoxide and heart disease, relative contribution of, to death of public safety officers 41302
Criminal Justice National Minority Advisory Council; date change 41302

MANAGEMENT AND BUDGET OFFICE
Notices
Privacy Act; systems of records 41320

MANPOWER POLICY, NATIONAL COMMISSION
Notices
Meetings (2 documents) 41312, 41313

METRIC BOARD
Proposed Rules
Sunshine Act; implementation .. 41230

NATIONAL COMMUNICATIONS SYSTEM
Notices
Telecommunications; digital communication performance parameters; proposed Federal standard 1033 41313

NATIONAL INSTITUTES OF HEALTH
Notices
Carcinogenisis bioassay reports; availability:
1,4-Dioxane 41285
N-Phenyl-P-phenylenediamine 41286

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
Proposed Rules
Halibut off the coast of Alaska; draft fishery management plan 41244
Notices
Meetings:
New England Fishery Management Council 41255

NATIONAL SCIENCE FOUNDATION
Notices
Meetings:
Behavioral and Neural Sciences Advisory Committee ... 41314
Environmental Biology Advisory Committee 41314
Nuclear Science Advisory Committee, DOE/NSF 41316
Polar Programs Advisory Committee 41315
Social Sciences Advisory Committee 41315

NAVY DEPARTMENT
Notices
Meetings:
CNO Executive Panel Advisory Committee 41256

NUCLEAR REGULATORY COMMISSION
Rules
Plants and materials, physical protection:
Security personnel qualification training and equipment requirements; meetings; change in date 41187
Notices
Applications, etc.:
Carolina Power & Light Co 41317
Consumers Power Co 41317
Florida Power Corp. et al. (2 documents) 41318
Meetings:
Reactor Safeguards Advisory Committee (3 documents) 41316
Regional State Liaison Officers 41320

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
Notices
State plans; development, enforcement etc.:
Wyoming 41305
Utah 41305

PENSION AND WELFARE BENEFIT PROGRAMS OFFICE
Rules
Reporting and disclosure requirements:
Annual report summary 41205

PUBLIC HEALTH SERVICE
Rules
Indian health; contract health services, eligibility and requirements; correction 41214

RECLAMATION BUREAU
Proposed Rules
Off-road vehicle use; correction 41241

RURAL ELECTRIFICATION ADMINISTRATION
Rules
Electric borrowers:
Engineering service contracts (Bulletin 41-1) 41181
Proposed Rules
Electric borrowers:
Accounts, uniform system (Bulletin 181-1) 41215

SECURITIES AND EXCHANGE COMMISSION
Rules
Securities Act:
Private placement exemptive rule; disclosure requirements modification 41193
Proposed Rules
Securities Act:
Private placement exemptive rule; withdrawn 41235
Notices
Investment companies, registered management, fidelity bonding; determination 41321

STATE DEPARTMENT
Notices
Meetings:
International North Pacific Fisheries Commission 41324

TREASURY DEPARTMENT
See Customs Service; Internal Revenue Service.

UNEMPLOYMENT COMPENSATION, NATIONAL COMMISSION
Notices
Meetings (3 documents) 41312, 41313

WOMEN, NATIONAL ADVISORY COMMITTEE
Meetings 41312

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

7 CFR

1701 41181

PROPOSED RULES:

1701 41215
1822 41215
1944 41215

9 CFR

54 41183
113 41185

10 CFR

73 41187

PROPOSED RULES:

210 41224
211 41224
212 41224

14 CFR

298 41187

15 CFR

PROPOSED RULES:

500 41230

16 CFR

PROPOSED RULES:

13 41233

17 CFR

111 41192
230 41193

PROPOSED RULES:

230 41235

19 CFR

PROPOSED RULES:

177 41236

21 CFR

430 41194
431 (2 documents) 41194, 41195
514 41195

24 CFR

841 41198
1917 41204

PROPOSED RULES:

570 41369
1917 41237

26 CFR

1 41204

PROPOSED RULES:

1 41237

29 CFR

2520 41205

40 CFR

180 41206
730 41206

PROPOSED RULES:

65 (2 documents) 41238, 41239
180 41240

41 CFR

14-1 41207

42 CFR

36 41214

43 CFR

PROPOSED RULES:

420 41241

47 CFR

87 41214

PROPOSED RULES:

1 41241
73 41241

49 CFR

PROPOSED RULES:

1060 41242
1121 41245

50 CFR

PROPOSED RULES:

611 41244

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.

1 CFR

Ch. I 39069

3 CFR

EXECUTIVE ORDERS:

12024 (See EO 12078) 39741
12078 39741

MEMORANDUMS:

September 8, 1978 40449

PROCLAMATIONS:

4591 39561
4592 39739
4593 40197
4594 40451
4595 41013

5 CFR

213 ..... 39069, 39070, 39951-39953, 40453

7 CFR

2 39953
245 39070
250 39070
282 ..... 39074, 39075
301 40528
330 39953
908 39743
910 ..... 39080, 39319, 39954
911 39319
915 39321
927 39323
931 39323
932 39743
993 40199
1004 ..... 39744, 39745
1036 40801
1071 39325
1073 39326
1097 39328
1102 39328
1104 39329
1106 39331
1108 39333
1120 39334
1126 39335
1132 39337
1133 39955
1138 39338
1435 39563
1701 41181
1823 ..... 39746, 40199

PROPOSED RULES:

6 ..... 39110, 40530
17 40872
722 39117
918 40027
948 40027
965 40028
981 39393
1079 40028
1126 40030
1427 39118
1701 ..... 40036, 41215
1822 41215
1940 41047-41049
1944 41215

8 CFR

108 40879
236 40801

PROPOSED RULES:

108 40879

9 CFR

54 41103
91 39080
94 39956
113 41185
355 39340

PROPOSED RULES:

92 40037
317 39394
318 ..... 39119, 39394
319 39394

10 CFR

35 39747
73 41187
205 ..... 39080, 40200
212 40682

PROPOSED RULES:

51 39801
210 41224
211 ..... 40233, 41224
212 ..... 40233, 41224
430 40192
1004 40530

12 CFR

202 39341
217 41015
226 ..... 40210, 41015

13 CFR

107 39563
Ch. IV 40803

PROPOSED RULES:

130 39394

14 CFR

39 ..... 39346-39348, 39748, 39750, 41016
71 ..... 39439, 39750-39753, 40211-40213, 41017, 41018
73 ..... 40214, 40215
75 39753-39755
97 41019
221 39536
241 40454
298 41187
302 ..... 39536, 41021
385 40803
399 39522

PROPOSED RULES:

39 40233
71 ..... 39803, 40237, 41051
73 ..... 39803, 39804
223 39805
250 39806
298 ..... 39587, 00000
380 ..... 39807, 40880

15 CFR

PROPOSED RULES:

500 41230

16 CFR

1 39083
13 ..... 39350, 40454
1209 39564

PROPOSED RULES:

13 ..... 39120, 40536, 40537, 40882, 41233
451 41051
1209 39564

17 CFR

1 39956
111 41192
210 ..... 40688, 41022
211 40730
230 41193
239 39554
249 39554
270 39553
274 39553

PROPOSED RULES:

210 ..... 40724, 40726
229 40720
230 41235
239 41052
270 39396

18 CFR

1 39982
3 40217
4 40217
16 40217
131 40217

PROPOSED RULES:

1 ..... 39122, 40037

19 CFR

153 40804

PROPOSED RULES:

6 40238
177 41236

20 CFR

416 39564
901 39756

PROPOSED RULES:

404 39266
416 41054
620 39124
653 39124

21 CFR

430 41194
431 ..... 41194, 41195
510 39086
514 41195
520 ..... 39084, 39085
522 40455
524 40455
558 ..... 39086, 39350
561 40456

21 CFR—Continued

PROPOSED RULES:

145 39126

32 CFR—Continued

1288 40806
1804 39776

41 CFR—Continued

14-1 ..... 39377, 39787, 41207
14-2 ..... 39378, 39788
14-3 39788

47 CFR—Continued

PROPOSED RULES—Continued

42 ..... 39385, 40886

49 CFR—Continued

1033 ..... 39103, 39104, 39794-39796
1056 39798

50 CFR

20 39186
26 ..... 39798, 41042

21 CFR—Continued

PROPOSED RULES:

145 39126
310 39126
314 39126
337 39544
436 40038
469 40038
1308 40884

23 CFR

PROPOSED RULES:

625 40539

24 CFR

221 39570
841 41198
886 40402
1914 ..... 41028, 41030
1916 39572
1917 ..... 39351-39360, 39573-39582, 39761-39771, 39983-39987, 41204
1920 39771-39774

PROPOSED RULES:

201 39593
570 41369
1917 ..... 39129-39141, 41237
3500 ..... 39701, 40539

25 CFR

11 40804
43k 40457
54 39361
178 40458
258 39086

26 CFR

1 ..... 40219, 40459, 41204
301 ..... 40219, 40459

PROPOSED RULES:

1 ..... 39142, 39822, 41237
31 ..... 39142, 39149
301 39142

29 CFR

1601 39775
1610 40222
1910 39087
2520 41205

PROPOSED RULES:

1601 39831

30 CFR

41 39988
70 40760
71 40760

PROPOSED RULES:

55 40766
56 40766
57 40766

31 CFR

51 40223
223 39088

32 CFR

42 39988
581 40498
902 39089
931 39101

32 CFR—Continued

1288 40806
1804 39776

PROPOSED RULES:

47 40884

33 CFR

3 40224
117 ..... 39777, 41032
161 ..... 39994, 40224

PROPOSED RULES:

89 39946
126 39832
183 41056

36 CFR

214 40998
1207 40808

37 CFR

302 40225
303 40498
305 40501

38 CFR

2 39364
14 39365

PROPOSED RULES:

3 40239
21 39832
36 ..... 39150, 39833

39 CFR

111 ..... 39583, 39995, 40810

PROPOSED RULES:

111 39593

40 CFR

2 39997
51 40009
52 ..... 39366, 40009-40011, 41032-41039
65 ..... 40015, 40226
81 ..... 39101, 40412, 40436, 40502
125 40859
180 41206
600 39367
730 41206

PROPOSED RULES:

35 40742
52 ..... 39151, 39152, 40009-40011, 40240, 40245
65 ..... 39152, 39153, 39397, 39834, 40015, 40247, 40248, 40539, 41238, 41239
81 40436
125 39282
130 40742
131 40742
151 39276
162 39644
180 ..... 40249, 41240
233 39398

41 CFR

Ch. I 40015, 41044
Ch. 18 40018
Ch. 101 40019
3-56 39778
5B-2 40227

41 CFR—Continued

14-1 ..... 39377, 39787, 41207
14-2 ..... 39378, 39788
14-3 39788
14-4 39378
14-7 39379
14-12 39379
14-18 39379
14-30 39380
14-55 39380
101-37 40228

PROPOSED RULES:

101-20 40250

42 CFR

36 41214
54a 40386
57 39380
58 ..... 39384, 40862

PROPOSED RULES:

110 40376
405 39155
449 39155

43 CFR

26 41004
6000 40734
6010 40734
6200 40734
6220 40734
6250 40734
6260 40734
6270 40734
6290 40734
8000 40734
8200 40734
8300 40734
8340 40734
8350 40734
8360 40734
8370 40735

PROPOSED RULES:

420 41241

45 CFR

5b 40229
801 39387

PROPOSED RULES:

177 41056
1340 39593

46 CFR

502 41040
510 40524
512 40524
542 39102

PROPOSED RULES:

151 40250
153 40250
157 41178
531 39399
536 39399

47 CFR

73 ..... 39388, 39584, 39704, 40250, 40251
74 39704
87 41214

PROPOSED RULES:

1 41241
31 ..... 39385, 40886
33 ..... 39385, 40886

47 CFR—Continued

PROPOSED RULES—Continued

42 ..... 39385, 40886
43 ..... 39385, 40886
63 40541
73 ..... 39400, 39593, 39594, 40250, 40251, 40887, 40888, 41241
83 40889

49 CFR

172 39789
173 39791
175 39792
176 39792
179 39792
192 39389
571 39390
581 40229
1008 40040

49 CFR—Continued

1033 ..... 39103, 39104, 39794-39796
1056 39798
1121 00000

PROPOSED RULES:

Ch. X 39157
172 39835
173 39835
192 39401
195 39402
571 ..... 39835, 41056
1033 40891
1060 41242
1121 41245
1307 39157
1309 39157
1310 39157
1320 ..... 39404, 41059
1322 ..... 39404, 41059

50 CFR

20 39186
26 ..... 39798, 41042
32 ..... 39105-39107, 39584, 39585, 39799, 39800, 40021-40024, 40232, 40524, 40867, 41042, 41043
33 41044
216 40025
285 ..... 39107, 41044
611 39586
651 39108
652 40527
662 40868
810 39306

PROPOSED RULES:

17 41060
32 40893
230 40045
611 ..... 41062, 41244
652 39161

FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

Pages	Date
39069-39317	Sept. 1
39319-39560	5
39561-39738	6
39739-39950	7
39951-40195	8
40197-40448	11
40449-40799	12
40801-41011	13
41013-41179	14
41181-41369	15

rules and regulations

V 43 / 180 SEP 15 78

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-15]

Title 7—Agriculture

CHAPTER XVII—RURAL ELECTRIFICATION ADMINISTRATION, DEPARTMENT OF AGRICULTURE

PART 1701—PUBLIC INFORMATION

REA Bulletin: Engineering Service Contracts

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration hereby amends Appendix A—REA Bulletins to provide for the issuance of a supplement to REA Bulletin 41-1, Engineering Services for Electric Borrowers. This supplement: (1) Announces the revision of REA Form 211 (8-78), Engineering Service Contract for the Design and Construction of a Generating Plant; (2) Provides for an alternate liability clause, with respect to special and consequential damages, that may be used at the borrower's option in negotiating for engineering services on REA Form 211; (3) Allows the borrower to formulate a comprehensive insurance program covering the borrower, its engineer, and any contractor or supplier involved in the design and/or construction of REA-financed generation projects; and (4) Permits borrowers to negotiate alternate compensation provisions when contracting for engineering services on REA Form 211.

DATE: The Supplement to REA Bulletin 41-1 becomes effective September 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Rowland C. Hand, Sr., Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, room 3304, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-4413.

SUPPLEMENTARY INFORMATION: REA regulations are issued pursuant to the Rural Electrification Act, as amended, (7 U.S.C. 901 et seq.). In response to the publication of the notice of the proposed issuance of a Supplement to REA Bulletin 41-1, public comments were received from 25 individuals representing consulting engineers and REA borrowers. Outlined below is a summary of the substantive comments received on the proposed issuance of the revised REA Form 211, along with REA's position on the issue raised. For ease of reference, the comments have been numerically keyed to the corresponding article and section of the proposed REA Form 211 announced in the November 4, 1977, FEDERAL REGISTER notice. Besides those major change listed below, many other lesser changes have been made in the contract as a result of public comments. Copies of the adopted contract are available from REA upon request. Due to the number of significant changes incorporated into the proposed Supplement to REA Bulletin 41-1, as a result of public comment, the final adopted supplement is printed below in its entirety. Additional copies are available from REA upon request.

General comment. Of all the parties submitting comments, three suggested that REA defer action on the revision of the proposed contract. One suggested deferral until after the Spring Generation and Transmission Managers Conference (May 1-3, 1978) and the others until a coordinated revision of REA Form 200 (Construction Contract—Generating) had been completed. REA has complied with the former recommendation to allow the managers an opportunity to discuss the proposed changes at their meeting and to submit their comments to REA. On the latter recommendation, REA is presently considering REA Form 200 for revision. If, and when, this revision occurs, the contract language will reflect the changes made in REA Form 211.

General comment. One consulting firm suggested that REA include a "Force Majeure" clause in the revised contract to protect the engineer from occurrences beyond its reasonable control. Since a problem has never arisen in this regard in the history of the program, REA does not consider it advisable to include such a clause in the revised contract form. On another matter, the same firm also suggested that the contract language be modified to hold the engineer harmless for any claims arising as a result of patent infringement. Again, this suggested change has not been adopted because REA believes that the borrower should not be held responsible for patent infringement claims when it is the engineer's design that gives rise to the claim.

Preamble. Two commenters requested that the Preamble be modified to cover those instances where design work is being performed under the contract terms and conditions but the contract has not, as yet, been approved by REA. Due to program restraints, REA cannot include such a provision in the contract.

Article I. Four commenters indicated that the proposed contract language could be interpreted to impose stricter than normal standards on the engineer. REA concurs with the commenters and has modified the contract language to require that the engineer provide its services in accordance with the normal standards and practices used in the engineering profession.

Three commenters suggested that a "Scope of Services" document be attached to the contract indicating, in detail, all services to be provided under the contract. REA believes that the present contract format is preferable since it is virtually impossible on such large and complex projects to list every service that an engineer is to provide.

One commenter suggested that the contract be written so as to allow the borrower to utilize its staff to provide some of the services normally provided by the engineer. REA believes that the borrower, in general, does not have the engineering capability to design and construct a powerplant. REA, also, believes that it is not desirable to split the responsibility on such projects.

Article II, section 1(d). Two borrowers suggested that the engineer be given responsibility for conducting topographic and grid system surveys and for doing soil testing. REA does not believe that these are responsibilities that should be assigned to the engineer in all cases. Several borrowers expressed a desire to have the flexibility of being able to retain some other firm to provide these services.

Article III, section 1. Sixteen comments were received on various aspects of this proposed section. However, most of these comments had one un-

derlying concern—what really are the engineer's duties and responsibilities on the construction site. In proposing the original change in this article, quests the data on a more frequent basis.

Article III, section 4. One commenter suggested that the contract borrower be permitted to insert such a clause in the contract if it so chose. Two commenters suggested that the borrower and/or the engineer be per-

vise "all details" of construction and "the manner of incorporation of materials and equipment into the project" have been deleted.

the existing compensation provision (art. V, sec. 1). However, REA is, by this supplement, permitting borrowers to negotiate alternate compensation clauses where the

value not exceed $40 per head for grade animals and not to exceed $90 per head for purebred animals, to two-thirds of the appraisal value not to

derlying concern—what really are the engineer's duties and responsibilities on the construction site. In proposing the original change in this article, REA tried to define the engineer's functions during construction so as to limit its responsibility to only those items for which it had direct control, thereby limiting its professional liability. From the many verbal and written comments received on this issue, no one solution seemed acceptable to the majority of commenters. Some people indicated that the proposed changes improved the engineer's position from a professional liability standpoint, while others indicated that the engineer's position was no better than under the existing REA Form 211 (8-72) and might even be worse. Having analyzed the various comments in detail, REA determined that the contract should address those few specific areas that were objectionable to all parties, and should not make major changes in language that are untested.

In this regard, REA intends to retain much of the existing language of Article III, section 1, of REA Form 211 (8-72). However, certain existing phrases will be deleted and the term "supervise" will be defined so as to enumerate those areas for which the engineer is not intended to have responsibility.

Article III, section 2. Two commenters suggested that a procedure be adopted whereby routine changes developing during the project life are implemented in an orderly fashion. REA has adopted this recommendation by making the implementation of minor changes the responsibility of the engineer and within the intent of its general undertakings under the contract with the borrower. Major changes affecting the project scope will be handled in a manner mutually agreed upon by the borrower and the engineer.

Another commenter suggested that REA remove its approval requirement on contract amendments. REA has not adopted this suggestion.

Article III, section 3. Four comments were received concerning revised cost estimates. Two commenters expressed a concern that providing updated cost estimates to the borrower could be expensive and hard to evaluate. The other commenters expressed an interest in when, and how often, such cost estimates should be revised. REA has determined that it is in the best interest of REA and the borrower to receive an updated cost estimate for each contract when the bid documents for that contract are submitted to REA for review, and to receive revised cash flow and project cost estimates quarterly after certain design and construction targets have been achieved, unless the borrower specifically requests the data on a more frequent basis.

Article III, section 4. One commenter suggested that the contract language be clarified to show that acceptance tests are normally conducted by the contractor and observed by the engineer. Another engineering firm recommended that the engineer be given the responsibility for plant start-up. Both of these recommendations were adopted with minor modifications.

Article V, section 1. Three commenters indicated that another means of computing the compensation due the engineer needs to be considered. Two commenters suggested a "cost plus" approach, while the other suggested that compensation should be based on an hourly rate. Due to the fact that REA Form 211 has been developed for use on various sized projects—from small diesel to large fossil fired plants—REA does not believe that changing the compensation format would be of benefit to the users of the form as a whole. However, REA is concurrently issuing with the revised contract form a supplement to REA bulletin 41-1 which will give borrowers the option of negotiating alternate compensation provisions with the engineer when contracting for engineering services on REA Form 211.

Article VI, section 3 (b) and (c). Four commenters suggested that the "minimum" insurance limits specified in the contract be increased. REA does not believe that the agency should dictate what amounts of insurance are required on the various projects to guarantee the engineer protection. REA believes that this is a determination that can only be made by the engineer after evaluating its possible exposure on a particular project. REA has, however, given the borrower the option of developing a comprehensive insurance program for the project (see art. VI, sec. 4, below, for further explanation).

Article VI, section 4. Eighteen comments were received on the proposed provision which would limit the engineer's liability for specific consequential damages. In general, most engineering firms felt that the proposed limit was unreasonably high. Some firms indicated that REA should go further and limit the engineer's liability for all damages—both direct and special and consequential. Other firms indicated that if only the engineer's liability for special and consequential damages was to be limited, then all such damages should be limited and not just a few. Two REA borrowers opposed limiting the engineer's liability and indicated that the provision, as proposed, was unacceptable to them. Two more commenters suggested that this provision not be included in the standard contract form but that the borrower be permitted to insert such a clause in the contract if it so chose. Two commenters suggested that the borrower and/or the engineer be permitted to procure various types of insurance to cover liability that might arise during the design or construction of the project.

After reviewing the various verbal and written arguments presented, REA has decided upon the following courses of action: (1) The revised REA Form 211 will not address the question of special and consequential damages directly. However, REA is issuing concurrently with the revised REA Form 211 a supplement to REA bulletin 41-1 that will give REA borrowers the option of inserting in the revised contract a clause which would limit the engineer's liability to the borrower for all special and consequential damages. The limit would be ten million dollars ($10,000,000) or five percent (5%) of the estimated generating plant cost, whichever is less. This approach is intended to give the borrower additional flexibility in negotiating a contract while providing the engineer with a specified limit on its exposure for those kinds of damages. (2) In addition, this supplement would also provide the borrower the option of developing, in conjunction with its engineer, a comprehensive insurance program. Such an insurance program would cover the borrower, its engineer, and any contractors or suppliers providing services or materials and equipment for the engineering, design, and construction of an REA-financed generating plant. The insurance coverages decided upon would supplement the minimum requirements specified in the standard REA Forms 200 and 211. Any such mutually agreed upon supplementary insurance program would be subject to REA review and approval.

SUPPLEMENT TO REA BULLETIN 41-1

SUBJECT: ENGINEERING SERVICE CONTRACTS FOR GENERATION FACILITIES

I. *Purpose.* This supplement: (1) Announces the revision of REA Form 211 (8-78), Engineering Service Contract for the Design and Construction of a Generating Plant, and (2) outlines various changes that may be made in the revised contract form under certain specified circumstances, if the borrower elects to permit such changes. This revised contract form and supplement replaces REA Form 211 (8-72) and the November 14, 1972, Supplement No. 2 to REA Bulletin 41-1.

II. *Summary of principal changes.* Listed below is a summary of the substantive changes made in REA Form 211, dated August 1972.

A. Article III, section 1—The term "supervise" has been defined so as not to confer upon the engineer responsibility for the contractor's construction means, methods, or techniques. In addition, the previous contract requirements that the engineer supervise "all details" of construction and "the manner of incorporation of materials and equipment into the project" have been deleted.

B. Article III, sections 4 and 6—The engineer's, borrower's, and manufacturer's roles in component and system tests and final acceptance tests of major equipment have been clarified to reflect usual practice.

C. Article III, section 5—A new provision has been added to the contract which gives the engineer the responsibility for coordinating and scheduling plant start-up activities.

In addition to those outlined above, many other lesser changes have been made throughout the contract to reflect current conditions and practice. Additional copies of revised REA Form 211 are available from REA upon request, or the attached form may be reproduced.

III. *Limitation of liability.* REA has become aware that some engineering firms are reluctant to sign REA Form 211, Engineering Service Contract for the Design and Construction of a Generating Plant, because of its lack of limitation of liability. REA has carefully reviewed this matter and has determined that where a borrower's board of directors believes that the borrower's best interest can be served by soliciting proposals which limit the engineer's liability, the following changes may be made in the standard REA Form 211 under the conditions specified below.

A. *Special and consequential damages.* In negotiating for engineering services on REA Form 211, the borrower may elect to limit the engineer's liability for special and consequential damages by inserting the following clause. (Note: This clause may be inserted without prior REA approval.)

"The Engineer shall not be liable to the owner under this agreement for special or consequential damages in an aggregate amount exceeding ten million dollars ($10,000,000) or five percent (5%) of the total estimated generating plant cost (page 1, line 10), whichever is less."

B. *Project insurance program.* If State statutes permit, borrowers may consider formulating a comprehensive insurance program for a specific generating project. This insurance program would modify the provisions of article VI, section 3, of REA Form 211 and would provide financial protection for the borrower, its engineer, and any contractors or suppliers providing goods or services for that project. Borrowers electing to exercise this option should consult with REA prior to formulating the insurance program.

Before exercising either of the above options, the borrower's board of directors should carefully weigh the relative advantages and disadvantages of soliciting proposals on such a basis. If the decision is made to solicit proposals on either basis, REA should be notified of this by an appropriate board resolution.

IV. *Payment provisions of REA Form 211.* It has come to REA's attention that many borrowers and consulting engineering firms would prefer for REA Form 211 to provide for the engineer to be compensated on some basis other than the one presently contained in the existing contract form. Since REA Form 211 is utilized for the design and construction of various sized generating projects (from small diesel to large fossil fired plants), REA does not believe it is in the overall best interest of borrowers to modify the existing compensation provision (art. V, sec. 1). However, REA is, by this supplement, permitting borrowers to negotiate alternate compensation clauses where the board of directors believes it is in the borrower's best interest to do so. Prior REA approval to insert such negotiated compensation clauses in the contract is not needed as long as the provision specifies a maximum "not-to-exceed" price to perform the scope of work defined in the contract.

Dated: September 6, 1978.

DAVID A. HAMIL,
Administrator.

[FR Doc. 78-25750 Filed 9-14-78; 8:45 am]

[3410-34]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—COOPERATIVE CONTROL AND ERADICATION OF LIVESTOCK OR POULTRY DISEASES

PART 54—ANIMALS DESTROYED BECAUSE OF SCRAPIE

Payment of Indemnities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations to increase the maximum indemnity which may be paid for sheep or goats destroyed because of scrapie, to provide for appraisals of such animals by special appraisers, and to clarify the regulations by defining or redefining certain terms used therein. These provisions are needed to insure that appraisals are made comparable to fair market values and that the regulations can be readily understood, and they are expected to result in improved cooperation with the scrapie eradication program by members of the sheep and goat industries.

EFFECTIVE DATE: September 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. A. L. Klingsporn, USDA, APHIS, VS, Sheep, Goats, Equine, and Ectoparasites Staff, Room 739, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782, 301-436-8321.

SUPPLEMENTARY INFORMATION: On March 17, 1978, there was published in the FEDERAL REGISTER (43 FR 11204-11205), a notice of proposed rulemaking which would increase maximum Federal indemnity which may be paid for animals destroyed because of scrapie from one-half of the appraisal value not exceed $40 per head for grade animals and not to exceed $90 per head for purebred animals, to two-thirds of the appraisal value not to exceed $300 per head for grade and purebred animals; to provided for appraisals of such animal by qualified appraisers; and to clarify the regulations by defining or redefining certain terms used therein.

A period of 60 days was provide for receipt of comments and six comments were received. Two were in favor of the proposed amendment as written. With regard to the four other comments one was in favor of the increased indemnity, but suggested clarification on the selection and employment of qualified appraisers to assure fair and equitable appraisals and to reduce costs. Another comment did not oppose the proposed amendment, but suggested clarification on the selection and employment of qualified appraisers, and inquired as to whom will be responsible for the expense of disposing of animals destroyed. The Department believes that this final rule clearly states the manner of selection and employment of qualified appraisers. Further, § 54.5 of the regulations clearly indicates that the expense of disposing of animals will not be paid by the Department. The remaining two comments also did not oppose the proposed amendment. One of these comments requested information on methods of destruction. Both requested that the animals be destroyed by humane methods. Additionally, one of these comments suggested editorial changes in part 54, to assure humane destruction under the supervision of a Veterinary Services employee accountable to the Deputy Administrator. The Department will encourage people destroying animals under part 54 to do so in a humane manner. However, the Department does not have the authority to require the destruction of such animals in a humane manner.

As noted in the proposal, the appraisal of animals under this part shall be made by a qualified appraiser selected and employed by Veterinary Services. The individual selected to make the appraisals will be a person from the area involved who is knowledgeable in sheep and goat values in the area where the appraisal is being made. He may be a purebred breeder, sheep or goat specialist, member of local breeder associations, show judge, or other such qualified person. This individual generally will be employed and paid by Veterinary Services on a part-time basis. However, an additional appraiser may be selected and employed by the owner if he deems the appraisal to be inadequate. In addition, with the approval of the owner and State representative, appraisals

can be made by a qualified Veterinary Services representative or jointly by a Veterinary Services representative and

(d) *Veterinary Services representative.* A person employed by Veterinary Services in animal health activities

thorized by the Deputy Administrator in an exceptional situation.

2. Section 54.3(a) is amended to read:

such animals are not to be processed for human food. The carcasses of the animals destroyed shall be disposed of

[3410-34]

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS,

these vaccines, but included suggestions for changes.

Four responses suggested the serum-neutralization titer required for satis-

can be made by a qualified Veterinary Services representative or jointly by a Veterinary Services representative and a State representative. Such appraisals would generally include small groups or individual scattered, exposed animals sold from infected and source flocks. If the owner believes the appraisal by the Veterinary Services representative or the joint appraisal by a Veterinary Services representative and State representative to be inadequate, an appraiser from the region will be employed by Veterinary Services. A proviso has been inserted into § 54.3(a) to clarify this matter.

The owner is responsible for the expense of disposal of animals destroyed under this part.

The destruction and disposition of animals destroyed will be under the supervision of a Veterinary Services or State representative who shall prepare and forward a report to the Deputy Administrator.

The definition of the word "flock," as it appeared in the proposal, in § 54.1(j) has been changed by deleting the words "or movement." As written in the proposal, the term "flock" was defined in relevant part as "two or more groups of animals under common ownership or supervision, and geographically separated, but which have an interchange or movement of animals." This definition was broader than intended by the Department in that two or more groups of animals under common ownership or supervision, and geographically separated could fall under the definition of "flock" if any of the animals were moved. The Department intended the definition of "flock," to apply only to two or more groups or animals which have an interchange of animals.

After due consideration of all relevant material submitted, the proposed regulations are hereby adopted as proposed, except for the change in the definition of a flock and the change in § 54.3(a).

Accordingly, Part 54, Title 9, Code of Federal Regulations, is amended in the following respects:

1. Section 54.1 is amended to read:

§ 54.1 Definitions.

For the purpose of this part, the following words, names, and terms shall be construed, respectively, to mean:

(a) *Department.* The U.S. Department of Agriculture.

(b) *Veterinary Services.* The Veterinary Services unit of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture.

(c) *Deputy Administrator.* The Deputy Administrator for Veterinary Services or any other Veterinary Services official to whom authority has been delegated or may hereafter be delegated to act in his stead.

(d) *Veterinary Services representative.* A person employed by Veterinary Services in animal health activities who is authorized by the Deputy Administrator to perform the function involved.

(e) *State.* Any State or Territory or possession of the United States, the District of Columbia, or Puerto Rico.

(f) *State representative.* A person employed in livestock sanitary work of a State or a political subdivision thereof, and who is authorized by such State or political subdivision to perform the function involved under a cooperative agreement with the U.S. Department of Agriculture.

(g) *Owner.* A person, partnership, company, or corporation who has legal or rightful title to animals whether or not they are subject to a mortgage.

(h) *Mortgage.* Any mortgage, lien, or other security or beneficial interest held by any person other than the one claiming indemnity.

(i) *Animal.* A sheep or goat.

(j) *Flock.* A group of animals maintained on common ground, or two or more groups of animals under common ownership or supervision, and geographically separated, but which have an interchange of animals.

(k) *Affected animal.* An animal for which a diagnosis of scrapie has been made by a Veterinary Services representative or State representative.

(l) *Infected flock.* A flock in which an affected animal has been found by a Veterinary Services representative or a State representative.

(m) *Source flock.* A flock from which an animal was moved and within 18 months of the date of the movement the animal showed clinical evidence of scrapie, or from which two or more animals were moved and subsequent to the movement the animals showed clinical evidence of scrapie.

(n) *Exposed animal.* An animal, other than an affected animal, which is either in an infected or source flock, or which has been:

(1) Held, pastured, or penned with an infected flock at any time since the birth or introduction of the affected animal into such flock, or

(2) Held, pastured, or penned with a source flock at any time since the birth or introduction of an affected animal into such flock, or

(3) Female progeny of an affected female animal and her first generation male progeny, or

(4) The dam of an affected animal and the dam's first generation progeny, or

(5) The first generation progeny of an exposed female animal moved from an infected flock or source flock, or

(6) The first generation progeny of an affected male animal.

(o) *Destroyed.* Killed by slaughter or by such other means as may be authorized by the Deputy Administrator in an exceptional situation.

2. Section 54.3(a) is amended to read:

§ 54.3 Appraisal of animals.

(a) Subject to the provisions of paragraph (b) of this section, affected animals and exposed animals for which indemnity is to be paid under this part shall be appraised at their fair market value by an appraiser selected and employed by Veterinary Services in each of the Veterinary Services regions; except that, if the owner and State representative approve, such animals may be appraised by a Veterinary Services representative alone, or may be appraised jointly by a Veterinary Services representative and a State representative; *Provided,* That if the owner deems the appraisal of the Veterinary Services representative or of the joint Veterinary Services representative and State representative to be inadequate, the appraisal shall be made by an appraiser selected and employed by Veterinary Services in each of the Veterinary Services regions. Should the appraisal made by the appraiser employed by Veterinary Services be deemed inadequate by the owner, the owner may select and employ his own appraiser who shall appraise the animals and consult with the Veterinary Services appraiser and attempt to agree on the appraisal value. If the two appraisers do not agree on the appraisal value of the animals, the two appraisers shall select a third appraiser who will be employed by Veterinary Services. The three appraisers shall attempt to agree upon an appraisal value for the animals. Any appraisal agreed upon by these three appraisers will be final.

* * * * *

3. Section 54.7 (a) and (b) are amended to read:

§ 54.7 Destruction and disposition of animals.

(a) Indemnity for affected animals and exposed animals destroyed under this part shall be paid only after Veterinary Services obtains the written agreement of the owner to accept from the United States compensation which shall be equal to two-thirds of the appraised value of each animal, not to exceed $300 per head.

(b) Affected animals and exposed animals shall be destroyed on the premises where held, pastured, or penned at the time of appraisal; except that such animals may be moved for destruction to a location other than the premises where appraised when movement to such location is approved in advance by the State representative and Veterinary Services representative involved, and such animals are not to be processed for human food. The carcasses of the animals destroyed shall be disposed of by burial or incineration.

* * * * *

4. Section 54.8 is amended to read:

§ 54.8 Payments to owners for animals destroyed.

(a) Owners of affected animals and exposed animals destroyed in accordance with this part shall be paid an indemnity by the United States equal to two-thirds of the appraised value of each animal so destroyed, not to exceed $300 per head.

(b) Veterinary Services may indemnify owners up to the limitations specified in this part whether or not the State participates in indemnity payment.

(c) Animals presented for appraisal as purebred shall be accompanied by their certificate of registry at the time of appraisal, or they shall be appraised as grades; except that, in the absence of such proof of purebreeding, the Deputy Administrator shall grant a reasonable time for the owner to obtain and present his certificate of registration to the Veterinary Services representative.

(Sec. 3, 23 Stat. 32, as amended; sec. 2, 32 Stat. 792, as amended; sec. 11, 58 Stat. 734, as amended (21 U.S.C. 111, 114, 114a, 134a-134h); 37 FR 28464, 28477, 38 FR 19141.)

Because of the urgency involved in eradicating scrapie and preventing the dissemination of this disease among livestock of the country, it is essential that these provisions be placed into effect without delay. It is believed the amendments will expedite the eradication of scrapie and will protect gains made in the State-Federal cooperative scrapie eradication program and will therefore be of maximum benefit to affected persons and the public if they are made effective immediately.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, good cause is found for making these amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 11th day of September 1978.

NOTE.—It is hereby certified that the economic and inflationary effects of these amendments have been carefully evaluated in accordance with Executive Order 11821.

J. K. ATWELL,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-25951 Filed 9-12-78; 8:45 am]

[3410-34]

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS; ORGANISMS AND VECTORS

PART 113—STANDARD REQUIREMENTS

Miscellaneous Amendments

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment authorizes the use of serum-neutralization tests instead of vaccination-challenge tests which are presently required by the Standard Requirements in the evaluation of certain vaccines. The result of this amendment would be cheaper, quicker, and more humane testing, without a decrease in the validity of the results.

EFFECTIVE DATE: This amendment becomes effective October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Price, Biologics Licensing and Standards Staff, USDA, APHIS, VS, room 827, Federal Building, Hyattsville, Md. 20782, 301-436-8245.

SUPPLEMENTARY INFORMATION: This amendment provides for the use of the serum-neutralization test instead of the vaccination-challenge test in the evaluation of certain vaccines. It also provides for subsequent vaccination-challenge testing if the serum-neutralization test results are not satisfactory.

The potency of many viral vaccines can be adequately evaluated by using a serum-neutralization test instead of a vaccination-challenge test. This test is conducted in the laboratory without using virulent virus in valuable test animals.

This amendment also provides editorial changes for clarity and consistency. The requirements for modified live and killed feline panleukopenia vaccines are reworded to equalize as nearly as possible the requirements for both.

On April 14, 1978, a notice of the proposed amendment to Part 113 of Title 9 was published in the FEDERAL REGISTER at 43 FR 15719.

Comments on this proposal were solicited and eight responses were received. One response was favorable to the proposal as written. Five responses supported the use of the serum-neutralization test instead of the vaccination challenge test in the evalution of these vaccines, but included suggestions for changes.

Four responses suggested the serum-neutralization titer required for satisfactory product in § 113.123(b)(4)(ii) be reduced from 1:8 to 1:4, since experience shows cats with serum-neutralization titers of 1:4 will resist challenge. Titers obtained when a serum is tested using the serum-neutralization test may vary significantly depending upon the test procedures used. As a result, a number of different titers have been reported to represent protection. This suggestion was rejected since data show that when the serum-neutralization test is conducted according to the proposed rule, a titer of 1:8 is required to assure protection from challenge.

Three responses suggested the number of cats required for the potency test in § 113.123(b) be reduced from four vaccinates and one control to two vaccinates and two controls or two vaccinates and one control. These suggestions were rejected since the proposed rule provides the minimum number of animals considered acceptable for use in this type of test to assure validity of results.

Two responses suggested § 113.123(b)(5) and 113.139(c)(4)(v) be amended to provide a limit to the time period permitted between completion of the serum-neutralization test and challenge of the cats. Such a time limit would not add to the validity of the test and could require the licensee to repeat the test if technical problems were encountered that delayed challenge beyond the established time limit. This suggestion was rejected as being unnecessarily restrictive.

One response suggested that the serum-neutralization test procedure also be applied to the 25 dog Master Seed immunogenicity test in §§ 113.140(c) and 113.141(c). This suggestion was considered to be outside the scope of the proposed rule.

Suggestions received in seven responses were considered appropriate and constructive. These suggestions have been incorporated in this final rule and are explained in the discussion of changes below.

After due consideration of all relevent matters, including the proposal set forth in the aforesaid notice, and pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151-158), the amendment of Part 113, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as contained in the aforesaid notice is hereby adopted with the following exceptions:

The terminology used to express the titers that are required has been amended. Sections 113.123 (b)(1) and (b)(4)(ii); § 113.123 (c)(1)(ii) and (c)(4)(iv); § 113.140 (c)(4)(iv); and § 113.141 (c)(4)(iv) have been reworded

for consistency and clarity to indicate titers are based upon final serum dilution.

(b) *Potency test—serum-neutralization test.* Bulk or final container samples of completed product shall be

§ 113.139 Feline panleukopenia vaccine.

* * * * *

(v) If the results of a valid SN test are unsatisfactory, the vaccinates and the controls may be challenged as pro-

tinued. Ten susceptible dogs (8 vaccinates and 2 controls) shall be used in the retest. Susceptibility shall be de-

ACTION: Rescheduling of meeting to discuss guard training and contingency planning rules.

for consistency and clarity to indicate titers are based upon final serum dilution.

The time period between vaccination and the collection of blood samples in § 113.123(b)(2), § 113.139(c)(4)(ii), § 113.140(c)(4)(ii), and § 113.141(c)(4)(ii) has been changed from "14 days" to "14 to 21 days." The additional time permitted will provide greater flexibility in the scheduling of the test, permit test animals greater time to develop an optimal response to vaccination, and will not effect the validity of results.

"Invalid" has been changed to "inconclusive" in § 113.123 (b)(4) and (b)(6); § 113.139(c)(3)(i), (c)(4)(iii), and (c)(4)(v); § 113.140 (c)(4)(iii) and (c)(4)(v); and § 113.141 (c)(4)(iii) and (c)(4)(v) for consistency.

The requirement that white blood cell counts be made on each test animal for nine consecutive days following challenge has been deleted from § 113.123(b)(5) to make procedures for testing modified live and killed virus feline panleukopenia vaccines more equal. This change also eliminates the need to conduct time-consuming white blood cell counts that are not necessary for interpretation of test results.

Printing errors have been corrected in § 113.123(b)(6) by changing "no" to "not" and in the heading for § 113.141 by correcting the spelling of "Distemper." Sections 113.123(b)(6) and 113.139(c)(3)(i) have been changed to require that white blood cell counts be taken "prior to challenge" rather than "prior to initiation of the test." This change permits greater flexibility in the test procedure, may reduce the number of white blood cell counts that are required if challenge of cats is not necessary, and permits the establishment of normal white blood cell counts closer to the day of challenge when they will be more valid.

1. Section 113.123 is amended by revising the introductory portion and revising paragraph (b) to read:

§ 113.123 Feline panleukopenia vaccine, killed virus.

Feline panleukopenia vaccine, killed virus shall be prepared from virus-bearing cell culture fluids or from tissues obtained from cats that have developed feline panleukopenia following inoculation with virulent feline panleukopenia virus prepared from a master seed virus which meets the applicable requirements prescribed in § 113.120. Each serial shall meet the special requirements for safety provided in paragraph (a) and the potency requirements provided in paragraph (b) of this section.

* * * * *

(b) *Potency test—serum-neutralization test.* Bulk or final container samples of completed product shall be tested for potency using five susceptible cats (four vaccinates and one control) as the test animals. Blood samples drawn from each cat shall be individually tested for neutralizing antibody against feline panleukopenia virus to determine susceptibility.

(1) A constant virus-varying serum neutralization test in tissue culture using 100 to 300 $TCID_{50}$ of virus shall be used. Cats shall be considered susceptible if there is no neutralization at a 1:2 final serum dilution.

(2) *Vaccination.* Each of the four vaccinates shall be injected as recommended on the label. If two doses are recommended, the second dose shall be given 7 to 10 days after the first dose and the cats observed each day for 14 to 21 days.

(3) *Serology.* At the end of the post-vaccination observation period, a second blood sample shall be obtained from each of the five cats and the serums shall be individually tested for neutralizing antibody against feline panleukopenia virus in the same manner used to determine susceptibility.

(4) *Interpretation of the SN test.* (i) If the control has not remained seronegative at 1:2, the test is inconclusive and may be repeated.

(ii) If at least 3 of the 4 vaccinates in a valid test have not developed titers based upon final serum dilution of at least 1:8, and the remaining vaccinate has not developed a titer of at least 1:4, the serial is unsatisfactory except as provided in paragraphs (b) (5) and (6) of this section.

(5) *Virus-challenge test.* If the results of the valid SN test are unsatisfactory, the vaccinates and the control may be challenged with a virulent feline panleukopenia virus furnished by veterinary services and each animal observed each day for an additional 14 days.

(6) *Interpretation of the virus-challenge test.* If the control does not show clinical signs of feline panleukopenia, the test is inconclusive and may be repeated except, that if any of the vaccinates show such signs, the serial is unsatisfactory. Clinical signs of feline panleukopenia shall include a pronounced leukopenia wherein the white blood cell count drops to 4,000 or less per cubic mm or the white cell count drops to less than 25 percent of the normal level established by an average of three or more counts taken prior to challenge.

2. Section 113.139 is amended by revising paragraphs (c)(1), (3)(i) and (ii) by revising paragraph (4) in its entirety.

§ 113.139 Feline panleukopenia vaccine.

* * * * *

(c) * * *

(1) Twenty-five feline panleukopenia susceptible cats shall be used as test animals (20 vaccinates and 5 controls). Blood samples drawn from each cat shall be individually tested for neutralizing antibody against feline panleukopenia virus to determine susceptibility.

(i) A constant virus-carrying serum neutralization test in tissue culture using 100 to 300 $TCID_{50}$ of virus shall be used.

(ii) Cats shall be considered susceptible if there is no neutralization at a 1:2 final serum dilution.

* * * * *

(3) * * *

(i) If at least 80 percent of the controls do not show clinical signs of feline panleukopenia during the observation period, the test is inconclusive and may be repeated. Clinical signs of feline panleukopenia shall include a pronounced leukopenia wherein the white cell count drops to 4,000 or less per cubic mm, or the white cell count drops to less than 25 percent of the normal level established by an average of three or more counts taken prior to challenge.

(ii) If at least 19 of the 20 vaccinates do not survive the observation period without showing clinical signs of feline panleukopenia as described in subparagraph (3)(i), of this paragraph, the master seed virus is unsatisfactory.

(4) The master seed virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Ten susceptible cats (8 vaccinates and 2 controls) shall be used in the retest. Susceptibility shall be determined in the manner provided in paragraph (c)(1) of this section.

(i) Each vaccinate shall be injected with a predetermined quantity of vaccine virus as provided in paragraph (c)(2) of this section.

(ii) Fourteen to twenty-one days postvaccination, a second serum sample shall be drawn from each cat and tested for neutralizing antibody to feline panleukopenia virus in the same manner used to determine susceptibility.

(iii) If the two controls have not remained seronegative at 1:2, the test is inconclusive and may be repeated.

(iv) If at least 6 of the 8 vaccinates in a valid test do not develop titers based upon final serum dilution of at least 1:8, and the remaining vaccinates do not develop titers of at least 1:4, the master seed virus is unsatisfactory except as provided in subparagraph (4)(v) of this paragraph.

(v) If the results of a valid SN test are unsatisfactory, the vaccinates and the controls may be challenged as provided in paragraph (c)(3) of this section. If 100 percent of the controls do not show clinical signs of feline panleukopenia, the test is inconclusive and may be repeated except, that, if any of the vaccinates show such signs, the master seed virus is unsatisfactory.

* * * * *

(3) Section 113.140 is amended by revising paragraph (c)(4) to read:

§ 113.140 Canine hepatitis vaccine.

* * * * *

(c) * * *

(4) The master seed virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Ten susceptible dogs (8 vaccinates and 2 controls) shall be used in the retest. Susceptibility shall be determined in the manner provided in paragraph (c)(1) of this section.

(i) Each vaccinate shall be injected with a predetermined quantity of vaccine virus as provided in paragraph (c)(2) of this section.

(ii) Fourteen to twenty-one days postvaccination, a second serum sample shall be drawn from each dog and tested for neutralizing antibody to canine hepatitis virus in the same manner used to determine susceptibility.

(iii) If the two controls have not remained seronegative at 1:2, the test is inconclusive and may be repeated.

(iv) If at least 6 of the 8 vaccinates in a valid test do not develop titers of at least 1:10 based upon final serum dilution, the master seed virus is unsatisfactory except as provided in subparagraph (4)(v) of this paragraph.

(v) If the results of a valid SN test are unsatisfactory, the vaccinates and the controls may be challenged as provided in paragraph (c)(3) of this section. If 100 percent of the controls do not show clinical signs of canine hepatitis, the test is inconclusive and may be repeated except, that, if any of the vaccinates show such signs, the master seed virus is unsatisfactory.

* * * * *

4. Section 113.141 is amended by revising paragraph (c)(4) to read:

§ 113.141 Canine Distemper Vaccine, Ferret Avirulent.

* * * * *

(c) * * *

(4) The master seed virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Ten susceptible dogs (8 vaccinates and 2 controls) shall be used in the retest. Susceptibility shall be determined in the manner provided in paragraph (c)(1) of this section.

(i) Each vaccinate shall be injected with a predetermined quantity of vaccine virus as provided in paragraph (c)(2) of this section.

(ii) Fourteen to twenty-one days postvaccination, a second serum sample shall be drawn from each dog and tested for neutralizing antibody to canine distemper virus in the same manner used to determine susceptibility.

(iii) If the two controls have not remained seronegative at 1:2, the test is inconclusive and may be repeated.

(iv) If at least 6 of the 8 vaccinates in a valid test do not develop titers of at least 1:50 based upon final serum dilution, the master seed virus is unsatisfactory except as provided in subparagraph (4)(v) of this paragraph.

(v) If the results of a valid SN test are unsatisfactory, the vaccinates and the controls may be challenged as provided in paragraph (c)(3) of this section. If 100 percent of the controls do not now clinical signs of canine distempter, the test is inconclusive and may be repeated except, that, if any of the vaccinates show such signs, the Master Seed Virus is unsatisfactory.

* * * * *

(21 U.S.C. 151 and 154; 37 FR 28477, 28646; 38 FR 19141.)

Done at Washington, D.C., this 8th day of September 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

CLAUDE J. NELSON,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 78-25857 Filed 9-14-78; 8:45 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

Implementation of Security Personnel Qualification Training and Equipment Requirements by Commercial Nuclear Power Reactors; Rescheduled Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Rescheduling of meeting to discuss guard training and contingency planning rules.

SUMMARY: On August 28, 1978 (43 FR 38370), the Commission published in the FEDERAL REGISTER a notice of meetings to discuss amendments to 10 CFR Part 73 requiring nuclear power-plant licensees to develop contingency and training and qualification plans. The region I meeting scheduled for October 11, 1978, has been rescheduled to October 13, 1978.

DATES AND ADDRESSES: The revised meeting schedule is as follows:

Region II—Sept. 27, 1978—Stadium Hotel, 450 Capitol Ave. SE., Atlanta, Ga. 30312, 404-688-1900.
Region III—Oct. 3, 1978—Ramada O'Hare, 6600 North Mannheim Rd., Des Plains, Ill. 60018, 312-827-5131.
Regions IV and V—Oct. 5, 1978—San Francisco Airport Hilton, P.O. 8355, San Francisco, Calif. 94128, 415-589-0770.
Region I—Oct. 13, 1978—Valley Forge Holiday Inn, 260 Goddard Blvd., King of Prussia, Pa., 19406, 215-265-7500.

FOR FURTHER INFORMATION CONTACT:

Frank G. Pagano, Chief, Reactor Safeguards, Development Branch, 301-492-7846.

Persons other than reactor licensees desiring to attend should call the Office of the Chief, Reactor Safeguards Development Branch, phone 301-492-7846, before September 25, 1978, for further information.

Dated at Washington, D.C., this 8th day of September, 1978.

For the Nuclear Regulatory Commission.

JACK W. ROE,
Acting Assistant Director for Reactor Safeguards, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 78-26004 Filed 9-14-78; 8:45 am]

[6320-01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Docket No. 31397; Regulation ER-1074; Amendment No. 9]

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATIONS

Increase in Air Taxi All-Cargo Aircraft Size in Alaska and Hawaii

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule increases the maximum allowed size of air taxi all-cargo aircraft in the States of Hawaii and Alaska to 18,000 pounds payload

usual circumstances affecting, their operations, and that it is not in the public interest. As discussed below, the air taxi all-cargo operations in Hawaii

fact, the only objection at all is by TIA, a supplemental carrier that holds certificate charter authority for intra-Hawaiian points. TIA raises two objec-

and their accompanying regulations would be an undue burden on the all-cargo air taxi operator using this

Part 298 was also revised to include a prohibiton of any intrastate air taxi operations without approval by the State of Alaska. The weight limit for

require the carrier or party seeking a special exception to establish the need for varying our general rules to create that exception. After reviewing all of

SUMMARY: This rule increases the maximum allowed size of air taxi all-cargo aircraft in the States of Hawaii and Alaska to 18,000 pounds payload capacity to bring the rule for these two States in line with that for all other all-cargo air taxi operations. The amendment was proposed in part by various Hawaiian parties, and is in part at the Board's own initiative.

DATES: Adopted: September 11, 1978. Effective: October 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Joseph A. Brooks, Office of the General Counsel, Rules Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: On March 28, 1978, the Board issued supplemental notice of proposed rulemaking EDR-341A (43 FR 13892, April 3, 1978) proposing to increase the maximum authorized size of all-cargo air taxi aircraft from 7,500 pounds to 18,000 pounds payload capacity in the States of Hawaii and Alaska, thereby establishing a uniform rule for all air taxi all-cargo operations.[1]

We have thoroughly reviewed the comments received on these issues,[2] the special situations of the two States, and our past policies in regard to air taxi operations in these areas. It is our opinion that the rule for Hawaii and Alaska should be the same as for all other operations of all-cargo air taxis, and that the maximum payload capacity for operations within these two States thus should be increased to 18,000 pounds. There is no sufficient reason to penalize shippers and communities in Alaska and Hawaii that use, or can use, the unique service provided by air taxis by imposing separate, lower weight limits for these two States.

Section 416 of the act requires the Board to make certain findings before exempting a class of air carriers from other sections of the act—namely, that the enforcement of these sections would be an undue burden on them because of the limited extent of, or unusual circumstances affecting, their operations, and that it is not in the public interest. As discussed below, the air taxi all-cargo operations in Hawaii and Alaska meet these requirements for exemption.

HAWAII

By ER-1031, dated December 8, 1977 (42 FR 62904, December 14, 1977), the Board increased the size of air taxi aircraft operating in Hawaii to 7,500 pounds (at that time the size applicable to all other air taxi operations). In that rule we found that there was no longer a valid basis for denying Hawaiian markets the benefits of expanded air taxi service available in all other States. This finding has remained valid, and has gained added force from the recent change in available all-cargo service in Hawaii.

On March 28, 1978, Hawaiian Airlines terminated the only certificated scheduled all-cargo freighter service available in the Hawaiian Islands. In response, the Board granted exemptions to three air carriers to use certain large aircraft to provide all-cargo service for a period of 2 years (order 78-3-152, dated March 30, 1978). These limited exemptions, however, do not solve the problem of adequate air cargo service in Hawaii, and are certainly no reason to make Hawaii an exception to the general weight size rule for air taxis. The combination passenger/cargo service offered by Hawaiian and Aloha (the two certificated carriers providing scheduled service in Hawaii) is no subsititute for frequent all-cargo service with adequate capacity needed to meet the demands of Hawaii's air-dependent communities and shippers.

All-cargo service permits the carriage of containers and pallets, and hazardous and oversize shipments, not possible on combination flights, to the island communities of Hawaii, thereby playing a key part in the movement of freight in the intra-Hawaiian market. For example, in 1977, Hawaiian carried 3.9 million revenue ton-miles of freight in cargo service.[3] The Hawaiian shippers and communities have now become dependent on air taxis for this all-cargo capacity. The need for additional air taxi cargo capacity, as well as for all-cargo service itself, is amply described in ER-1031 (pp. 5-6), especially, for example, at a point such as Kamuela, which receives only two scheduled certificated combination passenger flights per week. Expanded all-cargo service by air taxis in Hawaii is, therefore, clearly in the public interest.

Neither Hawaiian nor Aloha, in response to EDR-341A, has objected to this proposed increase in the size of aircraft for the all-cargo air taxis.[4] In fact, the only objection at all is by TIA, a supplemental carrier that holds certificate charter authority for intra-Hawaiian points. TIA raises two objections. First, it argues that with the Board's grant of exemptions to three air carriers to operate large aircraft, there is no longer a need for a class exemption for air taxis. According to the State of Hawaii, however, Air Cargo Enterprises is the only exempted carrier now providing large aircraft cargo service; and there is no indication when the other two exempted carriers (Air Cargo Hawaii and Air Polynesia) will start operations. Also, these three exemptions are only interim in nature, and in no way a substitute for permanent all-cargo authority. More important, the mere existence of these exemptions is no reason to create an exception for Hawaii to the general operating size for all-cargo air taxi aircraft, as implied in TIA's comment, unless a need can be shown to protect scheduled certificated service from undue diversion. TIA has presented no such evidence that would contradict our findings in ER-1031, particularly now that there is no longer scheduled certificated all-cargo service.

Second, TIA argues that this increase in aircraft size would put TIA at a competitive disadvantage, since it would have to compete with air taxis exempt from many requirements applicable to it as a section 401 supplemental carrier, with charter authority for intra-Hawaiian points. TIA contends that it should therefore be given comparable exemption authority for small aircraft. As we stated in ER-1052, the Board does not believe that this expanded all-cargo air taxi service presents direct competition to TIA, since TIA has presented no evidence that it operates similar size aircraft in these markets, or that particular traffic would be subject to diversion because of direct competition with air taxis operating small aircraft. Also, TIA's request for comparable exemption authority is beyond the scope of this rulemaking, although its specific request for dual operating authority as an air taxi will be given consideration by the Board as a separate proceeding. The issue underlying TIA's request, competitive fairness in domestic air cargo transportation, is being considered in the rulemaking on all-cargo air carriers operating under section 418 of the Act.[5]

On the question of whether the enforcement of certification procedures

[1] By ER-1052, effective June 1, 1978 (43 FR 25087, June 9, 1978), the Board increased the authorized size of all-cargo aircraft used by air taxis to 18,000 pounds, except for Hawaii and Alaska. This action was proposed in EDR-341, dated December 8, 1977 (42 FR 62930, December 14, 1977).

[2] Comments in response to EDR-341A have been received from the State of Hawaii, Hawaii Air Cargo Shippers Association, Trans International Airlines (TIA), Alaska Air Carriers Association, Reeve Aleution Airways, and Wien Air Alaska. Comments on the Hawaiian issue were also received in response to EDR-341 from County of Maui, State of Hawaii, Hawaii Air Cargo Shippers Association, and the Commuter Airline Association of America.

[3] Schedule T-1(b), CAB form 41.

[4] Before the termination of Hawaiian's all-cargo service, Aloha filed an answer in opposition to the original petition in this proceeding.

[5] TIA comments that order 78-3-152 is a precedent for allowing TIA similar exemptions to compete in the intra-Hawaiian cargo market. We find no such precedent in the order. The Board stated only that the three exempted carriers would be considered on equal basis with any other applicants for intra-Hawaiian cargo certificates.

and their accompanying regulations would be an undue burden on the all-cargo air taxi operator using this larger size of aircraft, the Board has reviewed its findings in ER-1031 (p. 9), and finds that they continue to apply here. Air taxis will still provide unique and limited operations which pose financial risks, and which need the flexibility to make quick route and rate changes to meet market demand.[6] These unusual circumstances, as well as the limited extent of air taxi operations, would just as likely prevent them from applying for certification to operate this size of aircraft as it would air taxi operators in other parts of the country, as we found in ER-1052.

The State of Hawaii argues that because of the diverse nature and size of shippers in Hawaii, all-cargo air taxis should be required to file a simplified form of tariff. The State argues that a tariff filing requiring little economic justification would not be a burden on the air taxi operators, would permit them to compete better with each other and with other classes of carriers, and would allow shippers to make more knowledgeable choices. As we stated in ER-1052, however, air taxis have long been exempt from any form of tariff filing, and to require even this simplified type of tariff would be an unnecessary burden on these small operators. The State has presented no evidence that the Hawaiian markets are so different from all other air taxi markets, or that there have been any problems in these markets in the past which require such a solution. We are, therefore, denying the State's request.

ALASKA

The Board's general rules in part 298 have not always contained an exception for Alaska to the general weight limit rule, contrary to the claims of Wien. Before Alaska statehood, Alaskan certificated carriers and air taxis operating within the State were regulated under parts 292 and 293 (14 CFR Parts 292 and 293) of our economic regulations. Part 293 contained a 7,900 pound maximum certified takeoff weight limit on intrastate air taxi operations. In January of 1961, however, in connection with the assumption by the State of Alaska of jurisdiction over intrastate air operations, part 293 was deleted, and part 298 was revised to include a section prohibiting regular air taxi operations within Alaska. This was done to protect Alaskan certificated carriers.[7] Part 298 was also revised to include a prohibiton of any intrastate air taxi operations without approval by the State of Alaska. The weight limit for all Board-regulated air taxis, however, remained at 12,500 pounds under part 298.

In 1972 the Board concluded the Part 298 Weight Limit Investigation (orders 72-7-61, 72-9-62), in which the examiner found that the air taxi weight limit should be raised to 7,500 pounds maximum payload capacity, except for Hawaii and Alaska. His decision stated that, because of the unique topography and competitive situation in these two States, their weight limits should remain at the old limit of 12,500 pounds certified takeoff weight. The Board on review agreed with the examiner's decision in regard to Hawaii, but deferred any action on the weight limit in Alaska for further investigation.

At the conclusion of a separate rulemaking on this issue, the Board, in ER-970, effective November 5, 1976 (41 FR 44033, October 6, 1976), stated that it disagred with the examiner, and decided to keep the weight limit for interstate air taxi aircraft in Alaska the same as for other air taxi operations, then 7,500 pounds for all other parts of the country, except Hawaii. The Board did, however, continue the unique restrictions on air taxi operations in Alaska, such as route protection for certificated carriers providing a minimum scheduled service, and a requirement that before operating in Alaska air taxis receive permission from the State. No other air taxi operation has been so restricted. The Board in no way, therefore, is "reversing its course," as asserted by Wien, and is in fact following its own precedent, as well as its recent testimony to the Congress, by establishing an 18,000-pound payload limit.[8]

The Board, as Wien correctly states, does, and will continue to, consider the special problems and needs of Alaska in applying its rules to that State. But, unless a clear need can be shown for an exception to the general weight limit rule, the aircraft size for Alaska should remain the same as for other parts of the country. Wien argues that just the opposite standard is required—that the Board must show why Alaska should not be excluded. It has long been our policy, however, to require the carrier or party seeking a special exception to establish the need for varying our general rules to create that exception. After reviewing all of the facts and arguments presented, it is our opinion that sufficient facts have been presented in this proceeding to make the requisite findings under section 416 of the act to raise the air taxi all-cargo aircraft payload limit in Alaska to 18,000 pounds, as has been done for all other air taxi all-cargo operations. Wien and other opponents of this rule have not presented sufficient evidence to justify an exception.

Wien and Reeve disagree with this conclusion. They argue that this increase would allow air taxis to compete with certificated carriers for the same limited traffic in the same markets using equal or larger aircraft. Such competition, they argue, will drain needed revenues (this is alleged to be especially important because all except for Reeve are receiving subsidy), thus imperiling their ability to support scheduled services to the many small, isolated communities in Alaska. Both of these certificated carriers are particularly concerned about the impact of the proposed increase in air taxi size on nonscheduled operations, which, since these are such a large part of their overall traffic, are important to their ability to support the certificate responsibility of scheduled service.

Both carriers claim that their operations are different from those of other certificated carriers in that their route systems consist of small, isolated communities spread over large distances, with thin traffic, extreme seasonality, and severe weather and climatic conditions. They argue that unlike the local service carriers, the small Alaskan carriers have not shifted to larger aircraft or reduced all-cargo services. Reeve and Wien also emphasize their dependence on freight revenues and charter operations to provide the economic margin to support essential scheduled services, as well as their vulnerability to peak season traffic skimming by air taxis. Reeve further states that it provides adequate scheduled freight service, including all-cargo service on a regular basis, to these communities, and there is no evidence of need for expanded exemption authority for air taxis in any area of Alaska.

For example, according to Reeve, its freight revenues amount to nearly 20 percent of passenger revenues, and its freight traffic as a percent of passenger traffic ranks above every local service carrier (36.3 percent). (The domestic trunkline average is 16.9 percent, while that for local service is 5.5 percent.) Also, over 30 percent of its total freight traffic is nonscheduled service, claims Reeve. Reeve and Wien

[6] Section 418 of the act, which recently liberalized the operating authority for all-cargo certificated carriers, specifically exempts Hawaii and Alaska, thus eliminating the option of operating under a section 418 certificate in those two States.

[7] By ER-589, effective October 31, 1969 (34 FR 15293), the regulatory prohibition was changed to allow air taxi regular service where a certificated carrier had less than two single-plane round trips per week.

[8] Presentation of the U.S. Civil Aeronautics Board before the Subcommittee on Aviation, U.S. Senate, March 21, 1977 (p. C-13); presentation of the U.S. Civil Aeronautics Board before the Subcommittee on Aviation, U.S. House of Representatives, April 18, 1977 (p. 71); Comments of the U.S. Civil Aeronautics Board on H.R. 8813, October 5, 1977 (p. 26).

thus argue that this freight revenue is subject to diversion by air taxis operating the same type of aircraft, with the part of certificated carriers. In fact, while the total freight revenue ton miles (RTM's) for the Alaskan certificated carriers in Alaska enplaned 48,262 tons of cargo, while the 20 commuter carriers operating in the

true for all-cargo air taxis in Alaska. Even if their is diversion from certificated carriers in some markets, uneconomic certificated scheduled service is Wien has misread the Board's purpose in this testimony, however. Our testimony does not mean that the Board craft and serve smaller markets than most local service carriers, their operations are no substitute for a reliable air taxi operation with adequate ca-

thus argue that this freight revenue is subject to diversion by air taxis operating the same type of aircraft, with no distinction between services by the two types of carriers. Since Reeve is only 1/20th the size of the smallest local service carrier and 1/100th the size of the smallest trunk carrier, it claims there is a far smaller cushion of protection against diversion in its operations than for other certificated carriers.

Reeve also states that the communities and markets served by the Alaskan carriers are totally different from those served by certificated carriers in other States, particularly in size. For example, Reeve estimates the population of 11 communities in its region receiving regular scheduled service as ranging from 10 to 100 at Port Moller to 4,400 at the Adak Naval Station. Reeve argues that the basic need for this type of community is not air freight service per se, but rather an integrated pattern of reliable scheduled service on a year-round basis. This type of service would be seriously jeopardized by the use of larger aircraft by air taxis to skim off vital freight traffic, argues Reeve. Reeve operates scheduled all-cargo service with C-46 aircraft once a week to Anchorage, Port Heiden, Sand Point, Cold Bay, and Dutch Harbor. Also, all of Reeve's combination aircraft (YS-11 and Electra) carry freight on both the upper and lower decks. The maximum payload capacities are: 15,500 pounds for the C-46, 14,000 pounds for the YS-11, and 33,000 pounds for the Electra. The service of expanded air taxis would thus be directly competitive with, rather than complementary to, certificated service, as occurs elsewhere. Since the Alaskan markets are so thin, even occasional operations by 18,000-pound air taxis would have a serious impact, especially during the peak season, it argues.

Reeve cites its service to Nikolski, an island of 50 permanent residents, as an example of its dependence on air freight. Last year, at Nikolski, Reeve deplaned only 100 passengers, but 88,000 pounds of cargo. Without this freight traffic, Reeve argues that it could not maintain year-round economic scheduled passenger and cargo service.

In this proceeding, these two carriers have stressed the dependence of their scheduled services on revenues that they derive from freight charters which, they claim, will be diverted to air taxis if the maximum permissible payload is increased to 18,000 pounds. Since November 1976, when we raised the weight limit size for air taxis (both passenger and cargo) in Alaska to 7,500 pounds, however, there has been no evidence that this size increase has caused any loss of freight charters on the part of certificated carriers. In fact, while the total freight revenue ton miles (RTM's) for the Alaskan certificated carriers decreased in 1977 from 37.9 million to 36.6 million, their nonscheduled civilian freight RTM's increased from 453,000 to 1.1 million. During the same period that this charter traffic increase occurred, however, their scheduled freight revenue ton-miles did decrease from 24.2 million to 21.2 million. A comparison of calendar years 1976 and 1977 (the year following the weight limit increase to 7,500 pounds) shows that the certificated carriers' enplaned cargo dropped from 54,515 tons to 48,262 tons; while the commuters enplaned cargo also dropped from 2,913 tons to 2,695 tons. For Reeve and Wien in particular, their traffic followed the same trend as for the Alaskan carriers as a whole—a decrease in total freight traffic and scheduled freight revenue tonmiles, while nonscheduled civilian freight increased. Neither carrier has offered any specific case in which increased air taxi competition diverted traffic from its scheduled or charter traffic. On the financial side, the Alaskan certificated carriers increased their charter freight revenues from $435,000 to $494,000 between 1976 and 1977, but their scheduled freight revenue decreased from $16.8 million to $15.6 million. As the only nonsubsidized Alaskan certificated carrier, Reeve's charter revenues increased from $303,000 to $384,000, while its scheduled freight revenues decreased from $894,000 to $835,000. Its overall operating profit, however, increased from $396,000 to $1.1 million.[9]

After the last increase in air taxi aircraft size in Alaska, the nonscheduled freight part of the certificated carriers' operations increased, and that part of their cargo operations where Board-regulated competition is restricted—scheduled service—showed a decline.[10]

Only where competition causes diversion from a certificated carrier that imperils certificated operations genuinely needed by the public would restrictions be justified. In the year ended June 30, 1977, the largest commuter carrier in Alaska in terms of cargo was Air North (Fairbanks, Alaska), which carried only 164,192 ton-miles of cargo. By contrast, for the same period, Wien carried 14,001,562 ton-miles (4.5 million RTM's of which was in scheduled all-cargo service); while Reeve carried 1,579,966 revenue ton-miles (157,775 RTM's of which was nonscheduled civilian freight service). Further, in calendar year 1977 the 5 certificated carriers in Alaska enplaned 48,262 tons of cargo, while the 20 commuter carriers operating in the State enplaned only 2,695 tons of cargo. Air taxi freight operations would thus have to grow at a phenomenal rate to seriously threaten certificated scheduled service in the State. There is not sufficient evidence available to indicate that increasing the size of all-cargo air taxis would have this result.

The certificated carriers also claim that, while the 7,500 pound limit is smaller than most of their aircraft, the 18,000 pound aircraft will permit the air taxis to use the same aircraft as they operate, particularly in freighter service. The air taxis, however, primarily serve completely different markets from Wien, Reeve, and other Alaskan certificated carriers. The certificated carriers do not, and cannot economically, serve all communities needing all-cargo service. For example, as of June 30, 1977, of the 76 markets in Alaska served by commuter air carriers, 61 are not served by certificated carriers; and, of the 20 commuter markets receiving only cargo and/or mail service, none is served by all-cargo certificated scheduled service.[11]

The claim of Wien and Reeve that expansion of the all-cargo weight limit to 18,000 pounds is unnecessary in Alaska is thus unfounded. Although they would be using similar aircraft, the Alaskan air taxis serve many different markets than the certificated carriers, and provide the same connecting link to larger markets as do air taxis in other areas of the country.

The goal of this rulemaking, as it has been in all proceedings involving an increase in the size limit for air taxis, is to encourage and protect an integrated air service, not only to maintain the health of the certificated route system, but also to assure that service needed in the public interest is provided, and that air taxis have the ability to fulfill their position as a supplement to the scheduled certificated route system. Although we recognize the differences between the Alaskan carriers and other certificated carriers, as well as their high percentage of freight and nonscheduled traffic, we do not believe that such significant diversion would occur as would impair scheduled air service or their certificated route system to the point where those who wish to use it are unable to do so. For example, when the air taxi weight limit was raised to 7,500 pounds, there was no rush by air taxi operators to use the larger aircraft, except where traffic potential existed. We expect this to continue to hold

[9] Air Carrier Traffic Statistics, and Air Carrier Financial Statistics, CAB.

[10] The Alaskan certificated carriers have never been protected from intra-state carriers approved by the State of Alaska.

[11] Commuter Air Carrier Traffic Statistics for the year ending June 30, 1977; Official Airline Guide.

true for all-cargo air taxis in Alaska. Even if their is diversion from certificated carriers in some markets, uneconomic certificated scheduled service is likely to be replaced by economic air taxi scheduled service, thereby strengthening the certificated carriers' route systems as a whole financially, reduce subsidy payments, and improve the quality and availability of air service to the local community.

Nor, contrary to Wien's assertion, do we believe that any traffic gained by air taxis would be entirely at the expense of the certificated carriers. Because of their freedom from the obligation to support a route system operation, and their ability to concentrate in a few markets, air taxis are able to provide a different type of service than certificated carriers, thereby often attracting new traffic to the air cargo market. For example, because of their ability to offer economical, frequent and specialized service, air taxis' services can include check clearance shipments for banks and other cargo requiring immediate transfer. This is not to say that there may not be some diversion from certificated carriers, but only that Reeve and Wien have underestimated the traffic generative potential of the air taxis, as well as their sound business sense not to engage in hit-and-run operations in markets served by certificated carriers. The Board will, of course, closely observe the competitive situation in Alaska, and will take whatever action may be necessary to maintain adequate scheduled and certificated service.

Two other arguments are advanced by the opponents of this amendment. First, they argue that since the new section 418 (creating a deregulated form of all-cargo certificate) by its express language excludes Alaska, as well as Hawaii, Congress has expressed an intent to exclude these States from the benefits of unregulated all-cargo service with larger aircraft, as proposed in this amendment. This argument is fully discussed in ER-1052, at p. 2, where we stated that nothing in Pub. L. 95-163 (which established section 418) or its legislative history, indicates a congressional intention to prevent the Board from continuing to provide, in part 298, for a class of air carrier operating only "small aircraft," or from continuing to redefine that term in light of changes in the need for air service. Nor is there any indication that Congress intended to foreclose the Board from changing the rule or weight limit specifically for air taxi operations conducted in Alaska.

The second argument, advanced by Wien, is that the Board's own testimony before the Congress on various deregulation bills indicates that Alaska should be exempted from any statutory increase in air taxi aircraft size.[12]

[12] See note 8, supra.

Wien has misread the Board's purpose in this testimony, however. Our testimony does not mean that the Board opposes an 18,000 pound limit for Alaska, but only that, because of the particular situation in Alaska, air taxi operations in the State should be determined by rule rather than statute, to allow greater flexibility. We specifically stated that the Board should be allowed to limit, by rule, the operations of air taxis in Alaska, but that we supported a general increase to 18,000 pounds. As discussed above, the Board does not believe that the public interest requires at this time any restrictions in addition to those already existing.

Further, as we have found for all other air taxis, it would be an undue burden to impose certification requirements on all-cargo small aircraft operators in Alaska to enable them to use 18,000 pound aircraft. Air taxis, even in Alaska, are quite limited in their operations. As a comparison, in the year ending June 30, 1977, the Alaskan certificated carriers moved 23.1 million revenue ton-miles of freight in all services. During the same period, the four largest air taxis in Alaska (in terms of cargo) together carried only 310,000. Also, our air taxi regulations now limit Board-authorized air taxis to occassional and irregular operations in those markets having a minimum of scheduled certificated service.

Wien has claimed that these protections are illusory for two reasons. First, it claims that the Board is abdicating its responsibilities to insure adequate scheduled certificated service; and, second, that neither the State nor the Board enforces the present restrictions. As we stated in ER-970 (p. 3), in rejecting these same arguments, the Board recognizes that there may be a need to afford a certain amount of protection to the Alaskan certificated carriers, consistent with the public interest. Contrary to Wien's assertion, however, the Board is not abdicating its responsibilities, since our regulations have never been intended to protect a federally-regulated carrier from intra-state competition. Isolated violations of these prohibitions, of course, are subject to enforcement complaints, and should not be a justification for adjustments to the basic rule structure.

Nor do air taxis in Alaska differ from the patterns found in the part 298 investigation and in ER-1052 as to the uniqueness of their operations and service. As we have found in these proceedings, the air taxis here are also providing a financially-risky, bush-hop type of service, which often provides the only all-cargo air service to small, rural, and isolated communities. While we agree with Reeve that the Alaskan certificated carriers use smaller aircraft and serve smaller markets than most local service carriers, their operations are no substitute for a reliable air taxi operation with adequate capacity to link those markets, which are uneconomical for certificated service (even when subsidized), to the somewhat larger markets served by these carriers. In this respect, air taxis remain distinguishable from Alaskan certificated carriers.

TIA argues that the restriction in its certificate which prohibits operations in the State of Alaska should also be removed, if the Board intends to expand the available cargo capacity of exempt air taxis in the State. TIA contends that to do otherwise is unfair, since both certificated supplemental and route carriers are prohibited from operating in Alaska, and should also be allowed to compete for available cargo demand. It states that its L-188 Electra and L-100 Hercules aircraft are well-suited to meet the demand of the intra-Alaskan cargo charter market, and are competitive with the weight size of aircraft proposed for use by air taxis. As we discussed in ER-1052, we do not believe that these aircraft are directly comparable to the larger aircraft to be used by air taxis. TIA has already filed a petition to amend its certificate to permit Alaskan operations (D.32499), and subsequently filed a motion to consolidate this petition into the Former Large Irregular Air Service Proceeding (D.32337).[13] Also, to consider TIA's petition here would be beyond the scope of this proceeding. Nor do we see any reason or need to delay this rulemaking pending completion of the petition amendment proceeding.

Reeve and TIA both strenously argue that the Board should order a full evidentiary hearing in this case, with opportunity for cross-examination. Reeve argues that the need for hearing here is even more important than for the basic rulemaking in this docket because of the Board's longstanding recognition of special circumstances in Alaska, and because of the potentially severe impact on Reeve's ability to maintain essential certificated scheduled services. Reeve has listed several factual questions which it argues should be explored at an oral hearing, including: the need for expanded all-cargo authority in Alaska; the fundamental distinctions between the proposed air taxi service and certificated service; and the potential for diversion from, and its impact on, certificated service.

As we have stated throughout this proceeding, the Board is not required

[13] In order 78-7-106, July 21, 1978, the Board denied TIA's motion to consolidate its petition into the *Large Irregular Case*. The Board will consider this matter in a separate order.

to use evidentiary hearing procedures in promulgating rules or in exercising its exemption authority.[14] We have

portation between points both of which are in the State of Alaska, or one of which is in Alaska and the

mere failure to itemize should not of itself be a violation of any obligation owed by the broker to his client under

client under the customs regulations. This policy change nonetheless will continue to protect importers against

thorizes the broker to handle the importation.

However, when the difference has

SUMMARY: The Commission is adopting an amendment to its private placement exemptive rule which modi-

to use evidentiary hearing procedures in promulgating rules or in exercising its exemption authority.[14] We have carefully reviewed Reeve's suggested factual issues, the extensive comments presented by Wien, Reeve and TIA, and the facts and statistics readily available from public Board reports. It is our opinion that the issues raised are not of the kind particularly requiring resolution through oral testimony and cross-examination, that there are ample facts and arguments in the record and public reports for the Board to make the required findings under section 416 of the act, and that no further procedures are needed.

Accordingly, the Board amends part 298 of its economic regulations (14 CFR part 298) as follows:

1. Paragraph (i) of § 298.2 is revised to read as follows:

§ 298.2 Definitions

* * * * *

(i) Large aircraft means:

(1) Any aircraft used in passenger service having a maximum seating capacity of more than 30, or a maximum payload capacity of more than 7,500 pounds; *Provided, however,* That for the purposes of this part, large aircraft shall include all models of the Convair 240, 340 and 440; Martin 202 and 404; F-27 and FH-227; and Hawker Siddeley 748; and shall also include any other aircraft with a maximum zero fuel weight in excess of 35,000 pounds, except as provided in subsection 298.2(i)(2) below.

(2) Any aircraft used solely in all-cargo service having a maximum payload capacity of more than 18,000 pounds.

2. Section 298.31 is revised to read as follows:

§ 298.31 Scope of service and equipment authorized.

Nothing in this part shall be construed as authorizing the operation of large aircraft in air transportation, and the exemption provided by this part to air taxi operators which register and reregister with the Board extends only to the direct operation in air transportation in accordance with the limitations and conditions of this part of aircraft having maximum passenger capacities and maximum payload capacities as defined in subsections 298.2(i)(1) and 298.2(i)(2) of subpart A of this part.

3. Paragraph (a) of § 298.34 is revised to read as follows:

§ 298.34 Limitations on air taxi service in Alaska.

(a) An air taxi operator shall not provide or offer to provide air transportation between points both of which are in the State of Alaska, or one of which is in Alaska and the other in Canada, unless the air taxi operator also holds authority from the State of Alaska to operate aircraft used in passenger service having a maximum payload capacity of 30 or less, and a maximum payload capacity of 7,500 pounds or less, or to operate aircraft used in all-cargo service having a maximum payload capacity of 18,000 pounds or less, as a common carrier in intrastate commerce, or has applied to the Board for, and received, special exemption authority (see subpart D of part 302 of the Procedural Regulations).

* * * * *

(Sec. 204, 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 771; 49 U.S.C. 1324, 1386.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-26085 Filed 9-14-78; 8:45 am]

[14] EDR-341 (p. 5), ER-1052 (p. 8).

[4810-22]

Title 19—Customs Duties

Chapter I—United States Customs Service

[T.D. 78-308]

PART 111—CUSTOMHOUSE BROKERS

Change of Policy Relating to Brokers' Charges for Incidental Services

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Change of policy/final rule.

SUMMARY: This document changes customs policy with regard to the results of a failure by a customhouse broker to provide a client an itemized accounting of the cost of any incidental service the broker may arrange for the client. Formerly, any variance between the amounts actually expended for these items and the broker's statement to his client, not fully explained both on the statement and in records required to be maintained for customs inspection and audit, was considered to be an improper withholding from the client of information relating to customs business and a failure to keep complete records. Under the policy change, customs will inquire only into the reasonableness of the charges and then only in cases in which the charges are not itemized on the broker's statement to the client or are not itemized in writing to the client before the charges are incurred. The policy change is made to recognize that a mere failure to itemize should not of itself be a violation of any obligation owed by the broker to his client under the customs regulations. The policy change nonetheless continues to protect importers against unreasonable billings for these incidental services.

EFFECTIVE DATE: This policy change is effective September 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Edward B. Gable, Jr., Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5578.

SUPPLEMENTARY INFORMATION:

BACKGROUND

A "customhouse broker" is licensed by the Customs Service to transact customs business on behalf of his clients. The Customs Service is authorized by section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), and part 111, customs regulations (19 CFR Part 111), to license brokers and supervise their activities.

A broker's bill to his client often includes charges for "incidental services", such as freight, storage, cartage, cooperage, dock and messenger service, insurance, or bonds, which are arranged by the broker on behalf of his client. These incidental services are in addition to the primary customs-related function of entry documentation performed by brokers for their clients.

TREASURY DECISION 49868

Under Treasury decision 49868 dated May 19, 1939, the records maintained by brokers for customs inspection and audit are required to set forth the actual amounts expended by the broker for the incidental items referred to above. That Treasury decision provides that any variance between the amounts actually expended for these items and the broker's statement to his client, which is not explained fully both on the statement to the client and the records required to be maintained for customs, constitutes an improper withholding from the client of information relating to customs business (see section 111.39(a), customs regulations; 19 CFR 111.39(a)) and a failure to keep complete records (see sections 111.21 and 111.22, customs regulations; 19 CFR 111.21, 111.22; T.D. 78-138, T.D. 78-257).

REASONS FOR CHANGE IN POLICY

Customs has determined that a policy change is necessary because a mere failure of a broker to itemize incidental service charges for his client should not of itself be a violation of any obligation owed by a broker to his client under the customs regulations. This policy change nonetheless will continue to protect importers against unreasonable billings for these incidental services.

Accordingly, customs will continue to require that brokers maintain, available as part of their records of customs transactions for customs inspection and audit, an itemized accounting of the costs incurred by them for incidental services. However, customs now will make only limited inquiries into the reasonableness of the charges brokers bill clients and then only in case in which:

1. The difference between the cost of an incidental service to the broker and the amount billed to the client has not been identified (itemized) separately on billings to the client, or

2. The client has not been provided, in advance of importation, with a written itemized quotation of the charges for the incidental services, following which the client has authorized the broker to handle the importation.

If a difference between the cost to the broker and the amount billed to the client is not identified on the billing, or if the client has not received a prior written quotation itemizing the costs of the service, customs auditors will determine if the charge is reasonable according to the billing practices of the particular broker for that service.

If a broker is unable to justify the customs auditors substantial or unreasonable differences in billings between clients, based on normal, accepted business practices, such as volume discounts, special circumstances, or the like, the District Director of Customs will advise the broker of the apparent discrepancy and recommend an appropriate change. The broker, of course, will be given an opportunity to justify his charges to the District Director.

CHANGE OF POLICY

Customhouse brokers shall continue to maintain for customs inspection records of the costs incurred by them for "incidental services", such as freight, storage, cartage, cooperage, dock and messenger service, insurance, or bonds, arranged by the brokers for their clients, for which the brokers bill the clients.

In cases where the difference between the cost of an incidental service (see section 111.22(d), customs regulations) to the broker and the amount billed to the client has been identified separately on billings to the client, customs shall not inquire into the reasonableness of the difference. Nor shall customs inquire into the reasonableness of a broker's charge for an incidental service when the client has been provided with a written quotation of the charge and thereafter authorizes the broker to handle the importation.

However, when the difference has not been identified separately on billings to the client, or when the incidental service charge has not been quoted in writing to the client previous to importation, customs auditors shall verify whether the difference is reasonable according to the billing practices of that particular broker; that is, customs auditors shall examine the broker's records to determine whether the billings to one client for the service vary substantially from billings to other clients for the same service.

Where the broker cannot justify substantial differences between billings to one client and the rest of his clients on the basis of discounts for volume of business, special circumstances, or the like, the district director shall advise the broker of his findings and recommend an appropriate change. Upon request, the District Director shall afford the broker an opportunity to justify his charge.

AUTHORITY

This policy change is made under the authority of R.S. 251 (19 U.S.C. 66), section 624, 46 Stat. 759 (19 U.S.C. 1624), section 641, 46 Stat. 759, as amended (19 U.S.C. 1641), 77A Stat. 14 (19 U.S.C. 1202 (Gen. Hdnte. 11)), and 5 U.S.C. 301.

DRAFTING INFORMATION

The principal author of this document was Todd J. Schneider, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other customs offices participated in its development.

Dated: September 11, 1978.

R. E. CHASEN,
Commissioner of Customs.

[FR Doc. 78-25994 Filed 9-14-78; 8:45 am]

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 33-5975]

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Private Placement Exemptive Rule

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting an amendment to its private placement exemptive rule which modifies the disclosure requirements when an offering does not exceed $1,500,000. This action is taken at this time in response to the public comments received and to allow issuers the benefits of the amendment at the earliest practicable date.

EFFECTIVE DATE: September 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard K. Wulff, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-1240.

SUPPLEMENTARY INFORMATION: In Securities Act Release No. 5913 (Mar. 6, 1978) (43 FR 10701), the Commission published for comment proposed amendments to rule 146 (17 CFR 230.146) which would prohibit persons who receive compensation from the issuer in connection with an offering made in reliance upon the rule from also serving as offeree representatives, and would amend the disclosure requirements under the rule when an offering did not exceed $500,000. In a related action announced today, the Commission has withdrawn the proposed amendment to rule 146(a) regarding the disqualification of certain persons for serving as offeree representatives. See Securities Act Release No. 33-5976 under proposed rules in this issue. In light of the recent amendment to section 3(b) of the Securities Act of 1933 (15 U.S.C. 77a et seq.) raising the small issue exemption ceiling from $500,000 to $1,500,000 (Pub. L. 95-283 (May 21, 1978)), the Commission has determined to increase the dollar limitation under the proposed modification of the disclosure requirements for rule 146 and adopt the proposal. The Commission has also codified the nonexclusive concept of the rule in subparagraph (b)(2).[1] The substance of this provision previously appeared in a note to the rule.

BACKGROUND

Section 4(2) of the Securities Act of 1933 provides that offers and sales of securities by an issuer not involving any public offering are exempt from the registration provisions of the Act. Rule 146 provides objective standards for determining when the exemption is available. On December 6, 1976, the Commission published Securities Act Release No. 5779 (41 FR 53808) re-

[1] Release No. 33-5913, which proposed the amendments to rule 146 for comment, contains an extensive discussion of the Commission's views on the nonexclusive nature of the rule.

questing public comment about the operation of the rule. As a result of the comments received as well as the

§ 230.146 Transactions by an issuer deemed not to involve any public offering.

[4110-03]

Title 21—Food and Drugs

materials that have been compared to the master standard. The working standards are used by FDA in the testing and analysis of antibiotic drugs

effective date of this order will be forwarded to U.S.P.

The Commissioner notes that the U.S.P. is a nonprofit, self-supporting

(b) *Working standards.* * * * Unless otherwise noted, the working standard and the U.S.P. reference standard for the antibiotic drug named are identi-

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questing public comment about the operation of the rule. As a result of the comments received as well as the Commission's own experience with rule 146, a proposal was made that subparagraph (e) of rule 146, which requires that an offeree have access to the same kind of information as required under the Act or that the offeree or his representative be furnished such information, be amended. Under the proposal, the information required by schedule I of regulation A (17 CFR 239.90) could be substituted for that presently required if the offering is for $500,000 or less.

In response to its invitation to comment upon these proposals, the Commission received 27 responses. The responses were predominantly directed toward the proposed amendment to rule 146(a) which has been withdrawn as indicated above. Several commentators did specifically approve of the proposal amending rule 146(e), and no commentator specifically opposed its adoption. The Commission notes that comments received in response to release No. 33-5779 strongly favored the relaxation of the disclosure requirements under the rule. In addition, the Commission believes that the increase in offering price from $500,000 to $1,500,000 under this provision may facilitate the raising of capital by small businesses without affecting the protection of investors. Consequently, the Commission has concluded that the proposal regarding rule 146(e) with the revision indicated above should be adopted.

SYNOPSIS OF THE AMENDMENT

As previously noted, subparagraph (e) of rule 146 requires an offeree to have access to the same kind of information required under the Securities Act or that the offeree or his representative be furnished the information. Under the amendment, the information prescribed by schedule I of regulation A can be substituted if the offering is for $1,500,000 or less. In this connection, persons relying on rule 146 should carefully consider the factors indicated in preliminary note 3 to the rule and the provisions of subparagraph (b)(1) of the rule in determining whether particular transactions are part of a larger offering.

As indicated in release No. 5913, the Commission is also relocating that portion of preliminary note 1 to rule 146 regarding the nonexclusivity of the rule under subdivision (b) of the rule.

TEXT OF THE AMENDMENT

Paragraphs (b) and (e) of 17 CFR 230.146 are amended to read as follows:

§ 230.146 Transactions by an issuer deemed not to involve any public offering.

* * * * *

(b) * * *

(1) * * *

(2) Transactions by an issuer which do not satisfy all of the conditions of this rule shall not raise any presumption that the exemption provided by section 4(2) of the Act is not available for such transactions.

* * * * *

(e) * * *

(1) * * *

(ii) * * *

(c) Notwithstanding paragraph (e)(1)(ii) (*a*) and (*b*) of this section exhibits required to be filed with the Commission as part of a registration statement or report need not be furnished to each offeree or offeree representative if the contents of the exhibits are identified and such exhibits are available pursuant to paragraph (e)(2) of this section; (*d*) If the aggregate sales price of all securities offered in reliance upon this rule does not exceed $1,500,000, the information requirements of paragraph (e)(1)(ii) may be satisfied by furnishing the disclosure required by schedule I of regulation A under section 3(b) of the Act; and

* * * * *

(Secs 4, 19, 203, 48 Stat. 77, 85, 906, 908; sec. 6, 68 Stat. 684; sec. 12, 78 Stat. 580; sec. 308(a)(2), 90 Stat. 57; 15 U.S.C. 77d(2), 77s(a).)

STATUTORY AUTHORITY FOR AMENDMENTS

The foregoing amendments have been adopted by the Commission pursuant to the Securities Act of 1933, particularly sections 3(b), 4(2) and 19(a) thereof. To the extent that the adoped provision differs from that originally proposed for comment, the Commission believes that republication for comment pursuant to the Administrative Procedure Act (5 U.S.C. 553) is unnecessary inasmuch as the change represents a relaxation of the provisions proposed.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 8, 1978.

[FR Doc. 78-25969 Filed 9-14-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 78N-0261]

PART 430—ANTIBIOTIC DRUGS: GENERAL

PART 431—CERTIFICATION OF ANTIBIOTIC DRUGS

Antibiotic Reference Standards; Available from U.S.P.

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations to change the manner of distributing antibiotic reference standards and clarifies that the agency's working standards and the U.S. Pharmacopeial's (U.S.P.) reference standards are identical. This action is being taken to simplify obtaining reference standards and to eliminate duplication of efforts in this regard. It will enable antibiotic and nonantibiotic reference standards to be available from a single source.

DATES: Effective October 1, 1978; comments by November 14, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

I. David Wolfson, Bureau of Drugs (HFD-335), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5307.

SUPPLEMENTARY INFORMATION: Section 507 of the Federal Food, Drug, and Cosmetic Act provides for the certification of batches of antibiotic drugs. The Food and Drug Administration (FDA) has developed an antibiotic drug certification program that incorporates the use of both "master standards" and "working standards." These reference standards are described in § 430.5 of the regulations (21 CFR 430.5). A master standard is a specific lot of antibiotic material designated by the Commissioner of Food and Drugs as the standard of comparison in determining the potency of the working standards. Working standards are specific lots of homogeneous antibiotic materials that have been compared to the master standard. The working standards are used by FDA in the testing and analysis of antibiotic drugs and by manufacturers of antibiotic drugs to establish their own reference standards and to conduct critical assays.

Under § 431.1(f) (21 CFR 431.1(f)), FDA provides a portion of a working standard upon request. As a rule, requests only from persons seeking certification of antibiotic drugs are filled. Although no specific fee is charged for a portion of a working standard, the costs associated with providing it are incorporated into the agency's certification fees as overhead.

The U.S. Pharmacopeial Convention is well recognized in providing reliable reference materials. The U.S.P. currently provides more than 700 reference materials under its Reference Standards Program. The U.S.P. Drug Research and Testing Laboratory and FDA's laboratories participate in the collaborative testing of new standards and replacements for existing standards. In addition, laboratories throughout the nation, both academic and industrial, participate in the testing.

The U.S.P. reference standards are widely used in this country and have received worldwide recognition from foreign governments and manufacturers. To assure broader availability of antibiotic reference standards, the U.S.P. includes antibiotic reference standards as part of its extensive reference standards program. In many instances, the materials that serve as the U.S.P. reference standard and the FDA working standard are derived from the same source and are identical. If they are not from the same batch, procedures are in effect to assure the equivalence of these standards. These cooperative efforts of FDA and U.S.P. include original assays and periodic analyses of reference standards in collaborative studies.

Currently, both FDA and U.S.P. actively distribute antibiotic reference standards. The Commissioner believes that this is an unnecessary duplication of services. He has concluded that the most appropriate arrangement is to have a central source to which pharmaceutical manufacturers and any other persons can direct their orders for all reference standards. Therefore, beginning October 1, 1978, FDA will no longer provide antibiotic working standards. The U.S.P. will be the only source of reference standards of antibiotic drugs. Requests for these standards after October 1, 1978, should be made directly to the U.S.P., and addressed to U.S.P. Reference Standards, 12601 Twinbrook Parkway, Rockville, Md. 20852, phone 301-881-0666. Any requests received by FDA after the effective date of this order will be forwarded to U.S.P.

The Commissioner notes that the U.S.P. is a nonprofit, self-supporting, compendial entity and that moderate charges are necessary to cover the costs associated with establishing, storing, and distributing reference standards. The current U.S.P. charge of $30 for each reference standard will also apply to all U.S.P. antibiotic reference standards.

The Commissioner emphasizes that the only purposes of this amendment are to simplify obtaining reference standards and to eliminate duplication in distributing antibiotic reference standards. Any savings in overhead costs to FDA will be taken into account during periodic evaluations of the certification fees. The Commissioner will continue to designate suitable lots of antibiotic drugs as master standards, and after collaboration with the U.S.P. in establishing suitable lots of antibiotic drugs as U.S.P. reference standards, the Commissioner will designate them as FDA working standards.

The Commissioner believes that it is advantageous to establish an effective date for this change as soon as practicable. After consultation with the U.S.P., the Commissioner concludes that an effective date of October 1, 1978, is appropriate. This effective date will provide sufficient time for the U.S.P. to have available all necessary antibiotic reference standards.

Because the rule reduces unnecessary administrative duplication in establishing one source for obtaining reference standards and imposes no additional certification requirements, the Commissioner determines for good cause that prior notice and public procedure are unnecessary. However, an opportunity for submission of comments to determine whether the regulations should subsequently be modified or revoked is provided.

The Commissioner has determined that this document does not contain an agency action covered by § 25.1(b) (21 CFR 25.1(b)) and therefore consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), parts 430 and 431 are amended as follows:

1. In part 430 by adding a sentence to the end of the introductory paragraph in § 430.5(b) to read as follows:

§ 430.5 Definitions of master and working standards.

* * * * *

(b) *Working standards.* * * * Unless otherwise noted, the working standard and the U.S.P. reference standard for the antibiotic drug named are identical.

2. In part 431 by revising § 431.1(f) to read as follows:

§ 431.1 Requests for certification, check tests and assays, and working standards; information and samples required.

* * * * *

(f) Reference standards identical to working standards are available from: U.S.P. Reference Standards, 12601 Twinbrook Parkway, Rockville, Md. 20857, 301-881-0666.

Effective date. This regulation shall be effective October 1, 1978. However, interested persons may, on or before November 14, 1978, file with the Hearing Clerk (HFA-305), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments in four copies and identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by these comments will be subject to a further amendment.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

In accordance with Executive Order 12044, the economic effects of this action have been carefully analyzed, and it has been determined that the rulemaking does not involve major economic consequences as defined by that order.

Dated: September 7, 1978.

MERVIN H. SHUMATE,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-25677 Filed 9-14-78; 8:45 am]

[4110-03]

[Docket No. 77P-0002]

PART 431—CERTIFICATION OF ANTIBIOTIC DRUGS

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 514—NEW ANIMAL DRUG APPLICATIONS

Revision of Sampling Procedure

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revisiny the reg-

ulations specifying the intervals at which antibiotics in unit dosage forms, such as capsules, tablets, and supposi-

units collected and the intervals at which they are collected throughout production and during packaging

use a sampling procedure that would avoid including defective units in the sample would defeat the purpose of

poses. If the Commissioner allowed the individual monographs to take precedence over the general sampling regulations, manufacturers could

of 100 units systematically collected so that they are representative of the batch is sufficient for certification testing purposes. The current sam-

ic certification is in addition to the Current Good Manufacturing Practice (CGMP) requirements. This require-

ulations specifying the intervals at which antibiotics in unit dosage forms, such as capsules, tablets, and suppositories, are collected during manufacture or packaging or from the completed bulk batch for submission to FDA for certification. The revisions apply to batches exceeding 500,000 units. There revisions will result in sampling requirements that are more appropriate for the high-speed, large-volume production equipment now in use.

EFFECTIVE DATE: November 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Philip L. Paquin, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of March 29, 1977 (42 FR 16638), the Commissioner of Food and Drugs proposed to revise the antibiotic sampling procedure. The Commissioner included in the document an excerpt from a proposed new sampling procedure developed by the Sampling Committee of the Quality Control Section of the Pharmaceutical Manufacturers Association (PMA) to give the public an opportunity to review the manufacturers' suggested procedure. Both FDA and PMA sampling procedure proposals would revise the intervals at which antibiotics in unit dosage forms (capsules, tablets, and suppositories) are collected by deleting the currently required sampling interval (1 tablet per 5,000 units produced). The PMA proposed to give manufacturers a choice of collecting 100 units at approximately equal intervals either throughout the final production of the batch, during packaging or from the completed bulk batch, regardless of batch size. The Commissioner's proposal would require manufacturers to collect 100 units by taking single units at equal intervals throughout the final production of the batch or during packaging, such that the quantity produced between each unit collected is equal to 1 percent of the number of units in the batch. It did not provide for sampling from a completed bulk batch. The proposed requirement applied to all manufactured batches regardless of size. Interested persons were invited to submit comments on the Commissioner's proposal by May 31, 1977.

Comments were received from a trade association representing the pharmaceutical industry and from several pharmaceutical firms. In response to the comments, the Commissioner has revised the final rule so that the new requirements on the number of units collected and the intervals at which they are collected throughout production and during packaging apply only to batches exceeding 500,000 units. Representative sampling from bulk containers is also permitted when it is not feasible to collect samples throughout the final production of the batch (e.g., if tablets undergo further processing, such as polishing and coating, after being compressed). For batches of 500,000 units or less, the Commissioner has retained the current sampling procedure (1 unit per 5,000 units produced) with minor revisions in the regulations to state the requirements more clearly. The comments submitted and the Commissioner's conclusions are as follows:

1. *Intervals between units collected.* Several comments argued that the regulation should provide for a measure of flexibility in establishing the intervals between units collected. The regulation as proposed by FDA would require the sample to be collected at intervals such that 1 percent of the batch is produced between each unit collected. The comments contended that literal application of this requirement would be a practical impossibility as the exact size of the finished batch cannot always be accurately predicted. Theoretical yields are not always achieved because products are culled during manufacture to eliminate those with defects in appearance, weight, or other characteristics. Because the final batch size cannot be accurately predicted, 1 percent of the batch size cannot be precisely calculated. It is for this reason that the regulation proposed by PMA was worded to require sample collections at "approximately equal intervals."

The Commissioner concurs with these comments. Accordingly, § 431.1 (c)(8)(ii) (21 CFR 431.1(c)(8)(ii)) and § 514.50(c)(8)(ii) (21 CFR 514.50(c)(8)(ii)) are revised to permit the collection of samples at "approximately equal intervals."

2. *Multi-unit sampling.* One comment objected to the provision that only a single unit may be collected at any stage during the manufacturing, packaging, or holding operations. A problem may exist in the reluctance of any sampler to sample an obviously defective unit even though by timing, sequence, or other criteria it would be the appropriate sample.

The Commissioner concludes that the single-unit sampling procedure should be retained. The explicit purpose of revising the sampling procedure is to obtain a sample that is representative of approximately equal portions of the batch and to avoid the collection of excessively large samples. If the sample collected is defective, the purpose of the revised sampling procedure has been accomplished. To use a sampling procedure that would avoid including defective units in the sample would defeat the purpose of representative sampling. If the comment is suggesting, however, that some manufacturers may need to collect multiunit samples (some for their own sample reserve), the Commissioner notes that the rule does not prohibit this practice.

3. *Sampling from bulk containers and resamples.* Several comments proposed that the final regulation should specifically provide for sampling from bulk containers. The option to collect samples from bulk containers is an essential part of the proposal submitted to FDA by PMA. The Pharmaceutical Manufacturers Association noted that this provision was intended to provide for the collection of representative samples when quality control or other factors, such as difficulty in determining "final production" as in coating operations, preclude sampling during manufacture. Further, PMA noted that FDA occasionally calls for certification resamples from manufactured batches. Such resamples must be taken from the sequential bulk containers. A strict interpretation of the published proposal would appear to preclude such resampling. The comment strongly urged FDA to specifically provide for collection of samples from bulk containers.

The Commissioner agrees that representative sample collection from bulk containers should be permitted when it is not feasible to collect the samples throughout the final production of the batch (e.g., if tablets undergo further processing, such as polishing and coating, after being compressed), or if FDA requests certification resamples from manufactured batches. Accordingly, §§ 431.1(c)(8)(ii) (c) and 514.50(c)(8)(ii) (c) are revised to allow representative sample collection from completed bulk batches.

4. *Precedence for individual monograph.* One comment proposed that individual monograph should take precedence over general sampling regulations. Often individual monographs provide for the specific number of units to be taken. In some instances, the number of units may differ from the number provided in the subject proposal. For this reason, the final sampling regulation should specifically provide that conformity with the requirements of an individual monograph constitutes compliance with this regulation.

The Commissioner disagrees with this comment. Although individual monographs do provide a specific number of units to be collected, this minimum number applies only when the current general sampling regulation (1 unit per 5,000) would yield a sample too small for certification purposes. If the Commissioner allowed the individual monographs to take precedence over the general sampling regulations, manufacturers could submit the minimum number of units for any size batch, without any assurance that the certification sample units collected were representative of the batch. The revised final rule clearly states that when the sampling procedure would result in the collection of a sample that is smaller than the minimum submission requirements specified in the monograph, the minimum submission requirement in the monograph will prevail. Accordingly, the comment is rejected.

5. *Abolishment of a proven procedure.* One comment contended that the proposal abolishes a procedure that has been proven effective in favor of an untried replacement proposed by a special interest group, the PMA. If PMA wishes an alternative, the comment said, it should propose it as such, not as a replacement. The comment suggested handling the PMA proposal on an ad hoc basis, as a potential alternative applicable only to very large batches (over 5 million units).

The Commissioner does not agree that the proposal abolishes an effective procedure in favor of an untried replacement proposed by a special interest group. Since early 1972, discussions have been held between the FDA certification services staff, PMA Quality Control Section, Subcommittee on Antibiotic Certification, and non-PMA drug firms. The published proposal was based on the decisions reached during these discussions and does not, therefore, represent the opinion of one special interest group. Although the Commissioner agrees with the contention that the revision should apply only to large size batches, he believes the procedures should be used for any batch over 500,000 units, rather than over 5 million units as the comment suggested. Accordingly, the final rule provides that the revised sampling procedure applies only to those batches exceeding 500,000 units.

6. *Excessive sample sizes.* One comment contended that the proposal assumed that an inherent fault exists in submitting sample sizes "far in excess of what is needed for certification and testing." The comment stressed that the cost to the manufacturer under the current sampling procedure of submitting large samples to FDA is much less than the cost of establishing and maintaining variable sampling interval facilities, which pose a significant potential source of error.

The Commissioner disagrees with the contention that the proposal assumes that there is an inherent fault in submitting excessive sample units for certification. However, the proposal does stress that a sample consisting of 100 units systematically collected so that they are representative of the batch is sufficient for certification testing purposes. The current sampling procedure of collecting 1 dosage unit per 5,000 units produced results in the submission of samples from some of the larger batches far in excess of what is needed for testing. Storing and disposing of these samples and providing manpower for security present a major problem for FDA. The costs generated by this problem must be absorbed by the certification program and subsequently have an impact on certification fees. The elimination of this problem is part of FDA's plan to improve the efficiency of the certification program and to maintain reasonable certification fees. The Commissioner is not persuaded that the revised sampling procedure will result in additional costs to the manufacturer of increase the potential for error, particularly because the revisions apply only to batches in excess of 500,000 units.

7. *Sample/batch size correlation.* One comment contended that the proposal ignores sample/batch size correlation.

The Commissioner agress that the proposed sampling procedure did not relate sample size to batch size. As revised, however, the final rule will continue to permit sample size for batches consisting of 500,000 units or less to be determined by the size of the batch (i.e., 1 dosage unit per 5,000 produced). Samples sizes under this procedure will not result in samples exceeding 100 units. For drug product batches exceeding 500,000 units, sample/batch size correlation will not be retained. The Commissioner is not pursuaded that this requirement is necessary to assure collection of a representative sample. The Commissioner believes that collecting a maximum of 100 units will at approximately equal intervals from batches exceeding 500,000 units will provide a sample suitable for testing under the FDA certification procedure and will accomplish the primary objectives of the revision, which are to develop sampling requirements that are more appropriate for the high speed, large volume production equipment now in use, and to decrease the number of excess units currently submitted for certification.

8. *Two distinct sampling systems.* One comment contended that the proposal would result in requiring two distinct production sampling systems (one for certification and one for compliance with current good manufacturing practice requirements). This will result in confusion, increased cost, and disparity between release and certification data.

The Commissioner is aware that the collection of sample units for antibiotic certification is in addition to the Current Good Manufacturing Practice (CGMP) requirements. This requirement, however, is not new. The regulations have always required two distinct sampling systems because each serves a different purpose. The certification sampling procedure mandated by §§ 431.1 and 514.50 is designed to assure collection of a representative number of units from a batch for certification purpose. The CGMP regulations in Part 211 (21 CFR Part 211) are designed to enable each manufacturer to establish adequate quality control criteria for its manufacturing operations. The CGMP regulations allow manufacturers wide discretion in implementing in-process sampling procedures for testing for release prior to marketing. The Commissioner is not persuaded that finalization of the proposal would alter the situation which now exists with respect to antibiotic certification sampling and CGMP sampling requirements.

The Commissioner has determined that this document does not contain an agency action covered by § 25.1(b) and, therefore, consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512(n), 59 Stat. 463 as amended, 82 Stat. 350-351 (21 U.S.C. 357, 360b(n)) and under authority delegated to the Commissioner (21 CFR 5.1), Parts 431 and 514 are amended as follows:

1. In Part 431, by revising § 431.1(c)(8)(ii) to read as follows:

§ 431.1 Requests for certification, check tests and assays, and working standards; information and samples required.

* * * * * *

(c) * * *

(8) * * *

(ii) In the case of drugs in unit dosage forms, such as tablets, capsules, or suppositories, samples shall be collected as follows:

(*a*) From batches exceeding 500,000 units, a representative sample consisting of 100 units shall be collected by taking single units at approximately equal intervals throughout the final production of the batch. If the person packaging the units into dispensing-size containers is not the manufacturer, the representative sample consisting of 100 units shall be collected by taking single units at approximately equal intervals during packaging.

(*b*) From batches of 500,000 units or less, a representative sample consisting of not more than 100 units shall be collected by taking single units at approximately equal intervals throughout the final production of the batch.

If the person packaging the units into dispensing-size containers is not the manufacturer, the samples shall be collected by taking single units at approximately equal intervals during packaging.

(*b*) From batches of 500,000 units or

[4210-01]

Title 24—Housing and Urban Development

vised prototype per unit cost schedules are being published for specific areas.

These cost limits, established pursuant to section 6(b) of the U.S. Housing

er County, N.Y., which is in error. The cost limit shall be $26,600 in lieu of limit published.

3. At 43 FR 26997, revise the proto-

If the person packaging the units into dispensing-size containers is not the manufacturer, the samples shall be collected by taking single units at approximately equal intervals during packaging. In no case shall more than 5,000 units be produced or packaged during a sampling interval. The minimum acceptable sample size shall be as specified in the appropriate monograph.

(c) When the manufacturing process is such that it is not feasible to collect the samples throughout the final production of the batch (e.g., if tablets undergo further processing, such as polishing or coating, after being compressed), the samples may be collected from bulk containers of the finished product, according to the following requirements:

(*1*) For batches exceeding 500,000 units: If the batch is in more than 100 containers, the sample is 1 unit from each container. If the batch is in 100 containers or less, the sample is 100 units, taken in approximately equal amounts from each container.

(*2*) For batches of 500,000 units or less: If the batch is in more than 100 containers, the sample is 1 unit from each container. If the batch is in 100 containers or less, the sample is at least 1 unit for every 5,000 units in the batch taken in approximately equal amounts from each container. The sample shall not be less than the minimum number of units specified in the appropriate monograph.

* * * * *

2. In Part 514, by revising § 514.50(c)(8)(ii) to read as follows:

§ 514.50 Requests for certifications, check tests and assays, and working standards for animal drugs subject to section 512(n) of the act; information and samples required.

* * * * *

(c) * * *

(8) * * *

(ii) In the case of drugs in unit dosage forms, such as tablets, capsules, or suppositories, samples shall be collected as follows:

(*a*) From batches exceeding 500,000 units, a representative sample consisting of 100 units shall be collected by taking single units at approximately equal intervals throughout the final production of the batch. If the person packaging the units into dispensing-size containers is not the manufacturer, a representative sample consisting of 100 units shall be collected by taking single units at approximately equal intervals during packaging.

(*b*) From batches of 500,000 units or less, a representative sample consisting of not more than 100 units shall be collected by taking single units at approximately equal intervals throughout the final production of the batch. If the person packaging the units into dispensing-size containers is not the manufacturer, the samples shall be collected by taking single units at approximately equal intervals during packaging. In no case shall more than 5,000 units be produced or packaged during a sampling interval. The minimum acceptable sample size shall be as specified in the appropriate monograph.

(c) When the manufacturing process is such that it is not feasible to collect the samples throughout the final production of the batch (e.g., if tablets are subjected to further processing, such as polishing or coating, after being compressed), the samples may be collected from bulk containers of the finished product, according to the following requirements:

(*1*) For batches exceeding 500,000 units: If the batch is in more than 100 containers, the sample is one unit from each container. If the batch is in 100 containers or less, the sample is 100 units, taken in approximately equal amounts from each container.

(*2*) For batches of 500,000 units or less: If the batch is in more than 100 containers, the sample is 1 unit from each container. If the batch is in 100 containers or less, the sample is at least 1 unit for every 5,000 units in the batch, taken in approximately equal amounts from each container. The sample shall not be less than the minimum number of units specified in the appropriate monograph.

* * * * *

Effective date. This regulation shall be effective November 14, 1978.

(Secs. 507, 512(n), 59 Stat. 463 as amended, 82 Stat. 350-351 (21 U.S.C. 357, 360b(n)).)

Dated: September 7, 1978.

MERVIN H. SHUMATE,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-25822 Filed 9-14-78; 8:45 am]

[4210-01]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-571]

PART 841—PUBLIC HOUSING PROGRAM: DEVELOPMENT PHASE

Appendix A—Prototype Cost Limits for Low-Income Housing—Regions II, III, VIII, and IX

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development.

ACTION: Interim rule.

SUMMARY: On June 22, 1978, the Department published a revised Schedule A, "Prototype Cost limits for Low-Income Housing," to part 841. Consideration of subsequent factual data and omissions and an error detected in the June 22, 1978, revised schedule A require that revisions be made and published for: Row dwellings in Washington, D.C.; Newark, Asbury Park, North Bergen, and Freehold, New Jersey; Ronan, Browning, Harlem, Wolf Point, and Lodge Grass, Mont.; Mission, Fort Thompson, McLaughlin, Wagner, and Sisseton, S. Dak.; Fort Totten, N. Dak.; one bedroom elevator dwelling in Westchester County, N.Y., and detached and semidetached, row and walkup dwellings in Elko, Fallon, and Gardnerville, Nev.

EFFECTIVE DATE: September 15, 1978.

COMMENTS DUE: October 16, 1978.

ADDRESSES: Sent comments to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. Jack R. VanNess, Chief, Construction Cost Branch, Office of Technical Support, Room 6282, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5880. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Based on information supplied by the field offices and omissions and an error detected upon publication, revised prototype per unit cost schedules are being published for specific areas.

These cost limits, established pursuant to section 6(b) of the U.S. Housing Act of 1937, represent per unit cost schedules for low-income public housing and are required to be published at least annually in the FEDERAL REGISTER.

Section 6(b) of the Act provides that prototype cost shall be effective on September 15, 1978. However, timely written comments will be considered and additional amendments will be published if the Department determines that acceptance of the comments is appropriate. Comments with respect to cost limits for a given location should be sent to the address indicated above.

A finding of inapplicability respecting the National Environmental Policy Act of 1969, has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours in the office of the rules docket clerk at the address specified above.

Accordingly, 24 CFR, part 841, appendix A. Prototype Cost Limits for Low-Income Housing, is amended as follows:

1. At 43 FR 26994, revise the prototype per unit cost schedules for row dwellings as shown on the prototype per unit cost schedule—region II—Newark, Asbury Park, North Bergen, and Freehold, N.J.

2. At 43 FR 26996, revise the one bedroom elevator limit for Westchester County, N.Y., which is in error. The cost limit shall be $26,600 in lieu of limit published.

3. At 43 FR 26997, revise the prototype per unit cost schedule for row dwellings as shown on the prototype per unit cost schedule region III—Washington, D.C.

4. At 43 FR 27037, revise the prototype per unit cost schedules for row dwellings as shown on the prototype per unit cost schedule—region VIII—Ronan, Browning, Harlem, Wolf Point, and Lodge Grass, Mont.

5. At 43 FR 27038, revise the prototype per unit cost schedules for row dwellings as shown on the prototype per unit cost schedule—region VIII—Mission, Fort Thompson, McLaughlin, Wagner, and Sisseton, S. Dak.

6. At 43 FR 27038, revise the prototype per unit cost schedule for row dwellings as shown on the prototype per unit cost schedule—region VIII—Fort Totten, N. Dak.

7. At 43 FR 27049, revise the prototype per unit schedules as shown on the prototype per unit cost schedule—region IX—Elko, Fallon, and Gardnerville, Nev.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)); sec. 6(b), U.S. Housing Act of 1937 (42 U.S.C. 1437(d)).)

Issued at Washington, D.C., on September 7, 1978.

MORTON BARUCH,
Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

REGION II 6

Newark	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings	17,250	20,450	22,700	26,900	32,500	36,300	37,900
Walk-Up							
Elevator-Structure							

Asbury Park	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings	17,250	20,450	22,700	26,900	32,500	36,300	37,900
Walk-Up							
Elevator-Structure							

North Bergen	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings	17,250	20,450	22,700	26,900	32,500	36,300	37,900
Walk-Up							
Elevator-Structure							

Freehold	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings	17,250	20,450	22,700	26,900	32,500	36,300	37,900
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

REGION II 7

Westchester County, New York	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure		26,600					

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

REGION III 8

District of Columbia Washington	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings	17,000	20,400	22,600	26,900	32,400	36,100	37,650
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

REGION VIII 9

Montana Ronan	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings	15,950	19,150	23,700	28,150	33,900	37,800	39,600
Walk-Up							
Elevator-Structure							

Browning	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings	15,800	18,950	23,450	27,900	33,550	37,400	39,200
Walk-Up							
Elevator-Structure							

Harlem	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings	16,250	19,500	24,150	28,650	34,550	38,550	40,400
Walk-Up							
Elevator-Structure							

Wolf Point	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings	16,850	20,300	24,900	29,800	35,700	39,850	41,800
Walk-Up							
Elevator-Structure							

Lodge Grass	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings	16,100	19,300	23,850	28,400	34,150	38,050	39,750
Walk-Up							
Elevator-Structure							

REGION VIII 10

South Dakota Mission Det. & Semi-Det.	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Row Dwellings	16,350	19,850	24,450	29,250	35,150	38,900	40,900
Walk-Up							
Elevator-Structure							

Fort Thompson Det. & Semi-Det.	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Row Dwellings	16,350	19,900	24,500	29,300	35,250	39,000	41,000
Walk-Up							
Elevator-Structure							

McLaughlin Det. & Semi-Det.	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Row Dwellings	15,900	19,350	23,800	28,500	34,300	37,900	39,850
Walk-Up							
Elevator-Structure							

Wagner Det. & Semi-Det.	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Row Dwellings	14,750	17,950	22,050	26,400	31,750	35,100	36,900
Walk-Up							
Elevator-Structure							

Sisseton Det. & Semi-Det.	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Row Dwellings	14,350	17,450	21,500	25,700	30,950	34,200	36,000
Walk-Up							
Elevator-Structure							

REGION VIII 11

North Dakota Fort Totten Det. & Semi-Det.	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Row Dwellings	19,750	22,600	26,600	30,500	35,500	39,000	40,450
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

REGION IX 12

Nevada Elko Det. & Semi-Det.	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Row Dwellings	20,400	24,500	27,200	31,850	38,050	42,200	44,150
Walk-Up	18,600	22,300	24,750	29,400	35,000	38,900	40,850
Elevator-Structure	16,500	20,250	22,950	27,100	31,350	34,350	34,800

Fallon Det. & Semi-Det.	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Row Dwellings	20,400	24,500	27,200	31,850	38,050	42,200	44,150
Walk-Up	18,600	22,300	24,750	29,400	35,000	38,900	40,850
Elevator-Structure	16,500	20,250	22,950	27,100	31,350	34,350	34,800

Gardnerville Det. & Semi-Det.	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Row Dwellings	20,400	24,500	27,200	31,850	38,050	42,200	44,150
Walk-Up	18,600	22,300	24,750	29,400	35,000	38,900	40,850
Elevator-Structure	16,500	20,250	22,950	27,100	31,350	34,350	34,800

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

[FR Doc. 78-26026 Filed 9-14-78; 8:45 am]

[1505-01]

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No FI-3678]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Grenada, Grenada County, Miss.

Correction

In FR Doc. 78-24232, appearing at page 39358 in the issue of Tuesday, September 5, 1978, the document heading should be corrected to refer to "Grenada, Grenada County, Miss." as set forth above.

[4830-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7565; EE-13-78]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Certain Custodial Accounts and Annuity Contracts

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to certain custodial accounts and annuity contracts. Changes in the applicable tax law were made by the Employee Retirement Income Security Act of 1974. The regulations would provide the public with the guidance needed to comply with that Act and would affect certain pension, profit-sharing, and stock bonus plans.

DATE: The regulations are effective beginning on January 1, 1974.

FOR FURTHER INFORMATION CONTACT:

Norman J. Misher of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC: EE 202-566-3433, not a toll-free call.

SUPPLEMENTAL INFORMATION:

BACKGROUND

On October 16, 1975, proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 401(f) of the Internal Revenue Code of 1954 were published in the FEDERAL REGISTER (40 FR 48517). The amendments were proposed to confrom the regulations to section 1022(d) of the Employee Retirement Income Security Act of 1974 (88 Stat. 939), relating to certain custodial accounts and annuity contracts. Only one written comment was received and no public hearing was requested or held. The proposed amendments are adopted without change by this Treasury decision except for a minor clarifying revision.

This Treasury decision does not reflect section 1505(b) of the Tax Reform Act of 1976 (90 Stat. 1738), which clarifies section 401(f) by allowing a qualified pension plan to invest in an insurance contract with a segregated asset account even though the contract does not provide annuities. In order to provide an opportunity for public comment, a notice of proposed rulemaking reflecting section 1505(b) of that act will be published in the FEDERAL REGISTER at a later date.

DRAFTING INFORMATION

The principal author of this regulation was Norman J. Misher of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly—

1. Section 1.401, as set forth in paragraph 1 of the October 16, 1975, notice of proposed rulemaking, is withdrawn.

2. The proposed amendments to 26 CFR Part 1 are adopted without change, except that the last sentence of paragraph (b)(1)(ii) is amended to read as follows:

§ 1.401-8 Certain custodial accounts and annuity contracts.

* * * * *

(b) *Rules applicable to custodial accounts and annuity contracts.* (1) * * * (ii) * * * This demonstration must be made in the same manner as the demonstration required by section 401(d)(1) and the regulations thereunder.

* * * * * *

(Secs. 401(f)(2), 7805, Internal Revenue Code of 1954 (88 Stat. 939 and 68A Stat. 917; 26 U.S.C. 401(f)(2), 7805).)

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: September 5, 1978.

Donald C. Lubick,
Assistant Secretary of the Treasury.

PAR. 2. Section 1.401-8 is redesignated as § 1.401-8A and is amended by revising the title and adding a new sentence at the end of paragraph (a) to read as follows:

§ 1.401-8A Custodial accounts prior to January 1, 1974.

(a) *Treatment of a custodial account as a trust.* * * * For regulations relating to the period after December 31, 1973, see § 1.401-8.

* * * * * *

PAR. 3. A new § 401.8 is added immediately before § 1.401-8A (as redesignated by paragraph 2 of this appendix) to read as follows:

§ 1.401-8 Certain custodial accounts and annuity contracts.

(a) *Treatment of a custodial account or an annuity contract as a qualified trust.* Beginning on January 1, 1974, a custodial account or an annuity contract may be used, in lieu of a trust, under any qualified pension, profit-sharing, or stock bonus plan if the requirements of paragraph (b) of this section are met. A custodial account or an annuity contract may be used under such a plan, whether the plan covers common-law employees, self-employed individuals who are treated as employees by reason of section 401(c), or both. The use of a custodial account or annuity contract as part of a plan does not preclude the use of a trust or another custodial account or another annuity contract as part of the same plan. A plan under which a custodial account or an annuity contract is used may be considered in connection with other plans of the employer in determining whether the requirements of section 401 are satisfied. For regulations relating to the period before January 1, 1974, see § 1.401-8A.

(b) *Rules applicable to custodial accounts and annuity contracts.* (1) Beginning on January 1, 1974, a custodial account or an annuity contract is treated as a qualified trust under section 401 if the following requirements are met:

(i) The custodial account or annuity contract would, except for that fact that it is not a trust, constitute a qualified trust under section 401; and

(ii) In the case of a custodial account, the custodian either is a bank or is another person who demonstrates, to the satisfaction of the Commissioner, that the manner in which he will hold the assets will be consistent with the requirements of section 401. This demonstration must be made in the same manner as the demonstration required by section 401(d)(1) and the regulations thereunder.

(2) If a custodial account would, except for the fact that it is not a trust, constitute a qualified trust under section 401, it must, for example, be created pursuant to a written agreement which constitutes a valid contract under local law. In addition, the terms of the contract must make it impossible, prior to the satisfaction of all liabilities with respect to the employees and their beneficiaries covered by the plan. For any part of the funds of the custodial account to be used for, or diverted to, purposes other than for the exclusive benefit of the employees or their beneficiaries as provided for in the plan (see paragraph (a) of § 1.401-2).

(3) An annuity contract would, except for the fact that it is not a trust, constitute a qualified trust under section 401 if it is purchased by an employer for an employee under a plan which meets the requirements of section 404(a)(2) and the regulations thereunder, except that the plan may be either a pension or a profit-sharing plan.

(c) *Effect of this section.* (1)(i) Any custodial account or annuity contract which satisfies the requirements of paragraph (b) of this section is treated as a qualified trust for all purposes of the Internal Revenue Code of 1954. Such a custodial account or annuity contract is treated as a separate legal person which is exempt from the income tax under section 501(a). In addition, the person holding the assets of such account or holding such contract is treated as the trustee thereof. Accordingly, such person is required to file the returns described in sections 6033 and 6047 and to supply any other information which the trustee of a qualified trust is required to furnish.

(ii) Any procedure which has the effect of merely substituting one custodian for another shall not be considered as terminating or interrupting the legal existence of a custodial account which otherwise satisfies the requirements of paragraph (b) of this section.

(2)(i) The beneficiary of a custodial account which satisfies the requirements of paragraph (b) of this section is taxed in accordance with section 402. In determining whether the funds of a custodial account are distributed or made available to an employee or his beneficiary, the rules which under section 402(a) are applicable to trusts will also apply to the custodial account as though it were a separate legal person and not an agent of the employee.

(ii) If a custodial account which has qualified under section 401 fails to qualify under such section for any taxable year, such custodial account will not thereafter be treated as a separate legal person, and the funds in such account shall be treated as made available within the meaning of section 402(a)(1) to the employees for whom they are held.

(3) The beneficiary of an annuity contract which satisfies the requirements of paragraph (b) of this section is taxed as if he were the beneficiary of an annuity contract described in section 403(a).

(d) *Definitions.* For purposes of this section—

(1) The term "bank" means a bank as defined in section 401(d)(1).

(2) The term "annuity" means an annuity as defined in section 401(g). Thus, any contract or certificate issued after December 31, 1962, which is transferable is not treated as a qualified trust under this section.

(e) *Cross reference.* For the requirement that the assets of an employee benefit plan be placed in trust, and exceptions thereto, see section 403 of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1103, and the regulations prescribed thereunder by the Secretary of Labor.

[FR Doc. 78-25974 Filed 9-14-78; 8:45 am]

[4510-29]

Title 29—Labor

CHAPTER XXV—PENSION AND WELFARE BENEFIT PROGRAMS, DEPARTMENT OF LABOR

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

Summary Annual Report

AGENCY: Department of Labor.

ACTION: Amendment of regulations.

SUMMARY: This document sets forth amendments to clarify existing temporary regulations concerning the content, style, and format of the summary annual report (SAR) required to be furnished to participants and beneficiaries of employee benefit plans under the Employee Retirement Income Security Act of 1974 (ERISA). The amendments provide that when an extension of time in which to file an annual report has been granted by the Internal Revenue Service, an SAR must be furnished no later than 2 months after the close of the period for which the extension was granted. The amendments affect participants and beneficiaries of employee benefit plans, plan administrators, and other persons who might be involved in the preparation or receipt of SAR's.

DATES: The amendments are effective immediately.

FOR FURTHER INFORMATION CONTACT:

John Christensen, Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, 202-523-8515. This is not a toll free number.

SUPPLEMENTARY INFORMATION: These amendments clarify the provisions of 29 CFR 2520.104b-10 and 2520.104b-11 [1] regarding the date by which SAR's must be furnished to participants and beneficiaries of employee benefit plans. Those sections currently provide that the SAR must be furnished within 9 months of the close of the plan year, or within 9 months of the close of the fiscal year of the trust or other entity which is filing the annual report. These dates are 2 months after the date by which the annual report must ordinarily be filed with the Internal Revenue Service (Service).

In some cases, the Service grants an extension of time in which to file the annual report. Because the SAR is meant to provide participants and beneficiaries with a summary of their plan's latest annual report, preparation of the SAR by necessity must await preparation of the annual report, and it is apparent that the deadlines described above are not intended to apply in cases in which, pursuant to an extension granted by the Service, preparation of the annual report is delayed so as to make it difficult or even impossible to furnish the SAR in compliance with those deadlines. However, the existing regulations do not explicitly state that the deadlines do not apply in such instances, nor do they state when the SAR must be furnished in cases where the usual deadlines are inapplicable. As a result of the absence of such provisions in the regulations, the Department has received a number of inquiries from plan administrators and other affected persons with regard to this matter.

In order to eliminate the uncertainty described above, the Department is adopting certain clarifying amendments. The amendments provide that

[1] 41 FR 32522, Aug. 3, 1976.

when an extension of time in which to file the annual report has been granted by the Service, the corresponding SAR must be furnished no later than

the administrator of an employee welfare benefit plan which is part of a group insurance arrangement de-

Mr. Edward Gross, Program Support Division (TS-757), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-

1978 the time period for submitting such studies. Accordingly, the final rule is amended effective immediately.

of Administrative and Management Policy, Office of the Assistant Secretary—Policy, Budget and Admini-

ities within the Department of the Interior, and in particular by the Branch of Minority Procurement, Division of

when an extension of time in which to file the annual report has been granted by the Service, the corresponding SAR must be furnished no later than 2 months after the close of the period for which the extension was granted.

Because the amendments being adopted herein are designed solely to clarify certain existing requirements and thereby to eliminate uncertainty on the part of affected persons, the Department finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. For the same reasons, the Department finds that the amendments may be made effective immediately.[2]

AUTHORITY: Secs. 104, 109, 110, 505 Pub. L. 93-406, 88 Stat. 847, 851, 894 (29 U.S.C. 1024, 1029, 1030, 1135).

Accordingly, Part 2520 of Chapter XXV of Title 29 of the Code of Federal Regulations is hereby amended as follows:

1. Amend § 2520.104b-10 by amending paragraph (a) thereof and adding thereto a new paragraph (e), the section as amended to provide as follows:

§ 2520.104b-10 Summary annual report.

(a) *Obligation to furnish.* Under the authority of sections 104(a)(3) and 110 of the act, the administrator of an employee benefit plan subject to Part 1, Title I of the act shall, except as otherwise provided in paragraph (e) of this section, furnish a summary annual report containing the information prescribed in paragraph (c) of this section to plan participants and beneficiaries within 9 months after the close of the plan year or the date prescribed in paragraph (b), in accordance with § 2520.104b-1.

* * * * *

(e) *Extension of time.* When an extension of time in which to file an annual report has been granted by the Internal Revenue Service, the summary annual report shall be furnished within 2 months after the close of the period for which the extension was granted.

2. Amend § 2520.104b-11 by amending paragraph (a) thereof and adding thereto a new paragraph (d), the section as amended to provide as follows:

§ 2520.104b-11 Summary annual report for plans which are part of a group insurance arrangement.

(a) *Obligation furnish:* In accordance with section 104(b)(3) of the act, the administrator of an employee welfare benefit plan which is part of a group insurance arrangement described in § 2520.104-43 shall, except as otherwise provided in paragraph (d) of this section, furnish a summary annual report containing the information prescribed in paragrpah (b) of this section for fiscal years beginning after December 31, 1974 in accordance with the requirements of § 2520.104b-1 within 9 months after the close of the fiscal year of the trust or other entity which is filing the annual report with the Secretary pursuant to § 2520.104a-6 * * *.

* * * * *

(d) *Extension of time.* When an extension of time in which to file an annual report has been granted by the Internal Revenue Service, the summary annual report shall be furnished within 2 months after the close of the period for which the extension was granted.

Signed at Washington, D.C., this 7th day of September, 1978.

IAN D. LANOFF,
Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration.

[FR Doc. 78-25690 Filed 9-8-78; 11:03 am]

[2] It might be noted that the Department has recently issued a proposed regulation (43 FR , August , 1978) which, if adopted, would replace the existing regulations concerning SAR's. That proposed regulation contains a provision regarding extensions of time similar to that contained in the attached amendments.

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

[PP 4F1646/R132A; FRL 967-5]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Thiabendazole; correction

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule that appeared at page 32782 in the FEDERAL REGISTER of Tuesday, June 28, 1977 (FR Doc. 77-18517), relating to the establishment of a tolerance for residues of the fungicide thiabendazole.

EFFECTIVE DATE: September 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Edward Gross, Program Support Division (TS-757), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-755-4854.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-18517 appearing at page 32782 in the issue of Tuesday, June 28, 1977, the item "0.02 part per million (negligible residue) in or on sweet potatoes from postharvest application to sweet potatoes intended only for use as seed" was inadvertently omitted from the table in paragraph (a) during the reformatting process. Therefore, § 180.242 is editorially amended by alphabetically inserting the above item in the table in paragraph (a) to read as follows:

§ 180.242 Thiabendazole; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Sweet potatoes (POST-H to sweet potatoes intended only for use as seed).....	0.02(N)
* * * * *	

(Sec. 408(d)(2) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 346a(d)(2)).)

Dated: September 8, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-26081 Filed 9-14-78; 8:45 am]

[6560-01]

[FRL 969-5]

SUBCHAPTER R—TOXIC SUBSTANCES CONTROL

PART 730—HEALTH AND SAFETY STUDY REPORTING REGULATIONS

Extension of Reporting Deadline

AGENCY: Environmental Protection Agency.

ACTION: Final rule, notice of extension.

SUMMARY: The final health and safety reporting regulations appearing at 40 CFR Part 730, 43 FR 30984 (July 18, 1978) became effective August 17, 1978, and provides that all persons who are required to submit lists and/or copies of health and safety studies must do so by September 18, 1978. EPA is now extending to October 16, 1978 the time period for submitting such studies. Accordingly, the final rule is amended effective immediately.

EFFECTIVE DATE: September 15, 1978.

FOR FURTHER INFORMATION CONTACT:

John Ritch, Director, Industry Assistance Office, Office of Toxic Substances (TS-793), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone 800-424-9065 or 202-554-1404.

40 CFR Part 730 is amended by changing § 730.6(a) to read as follows:

§ 730.6 Schedule for submission of studies.

(a) Except as provided in paragraph (b) of this section, submission under § 730.5 shall be postmarked on or before 60 days after the effective date of this part.

* * * * *

Dated: September 13, 1978.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

[FR Doc. 78-26225 Filed 9-14-78; 8:45 am]

[4310-10]

Title 41—Public Contracts and Property Management

CHAPTER 14—DEPARTMENT OF THE INTERIOR

PART 14-1—GENERAL

Implementation of Program To Increase Contracting Participation of Minority Business Enterprises

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Temporary rule.

SUMMARY: This rule prescribes the Department of the Interior's policies, procedures, and contract clauses which establish the Department's program to increase the contracting and subcontracting participation of minority business enterprises. The program is authorized and required pursuant to Executive Order 11625, October 13, 1971, and 41 CFR 1-1.1302(a).

EFFECTIVE DATE: September 15, 1978.

ADDRESS: Send comments to address listed immediately below.

FOR FURTHER INFORMATION CONTACT:

Charlotte B. Spann, Chief, Branch of Minority Procurement, Division of Procurement and Grants, Office of Administrative and Management Policy, Office of the Assistant Secretary—Policy, Budget and Administration, Room 5523, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240, 202-343-4907.

SUPPLEMENTARY INFORMATION: This rule prescribes the policies, procedures, and contract clauses by which the Department is establishing its program to increase the level of participation of minority business enterprises in contracting and subcontracting for the procurement requirements of the Department. The program is authorized and required pursuant to Executive Order 11625, October 13, 1971, and 41 CFR 1-1.1302(a).

The principal authors of the policies, procedures, and contract clauses set forth in this rule are: Charlotte B. Spann, Kenneth T. Kelly, and William S. Opdyke, Office of Administrative and Management Policy, and Justin P. Patterson, Office of the Solicitor.

On March 27, 1978, President Carter annouced in his national urban policy message to the Congress that Federal procurement should be used to strengthen the economic base of the Nation's cities, communities, and neighborhoods, and provide important employment opportunities to city residents. He proposed two important initiatives which will increase the role of minority business in our economy. First, he established a goal to triple Federal procurement from minority businesses by the end of fiscal year 1979. Second, he required all agencies to develop goals for minority business participation in their contracts and grants activities. In this regard, the President indicated that Interior and four other agencies had already proposed improvements in minority business programs. Earlier, the Department had established an overall goal of $135 million, for minority participation during fiscal year 1978. As required by law and pursuant to President Carter's policies, this regulation sets forth a minority business program.

This rule is being published as a temporary rule pursuant to the authority of 5 U.S.C. 553(b)(B) without having been previously published as proposed rulemaking. Such action is necessary because of the immediate need for the implementation of a minority business enterprise program within the Department of the Interior. The Department of the Interior has determined that due to the existence of such need and the particular circumstances of the implementation of this program, it would be contrary to the public interest to delay its implementation. The program will be subject to close and continuous monitoring by the responsible procuring activities within the Department of the Interior, and in particular by the Branch of Minority Procurement, Division of Procurement and Grants, Office of Administrative and Management Policy, which has responsibility for the overall administration of the program. During the next 12 months, the effectiveness and practicality of the various policies, procedures, and contract clauses set forth herein will be monitored and analyzed and may be amended from time to time.

During this initial period of implementation, the Department of the Interior encourages concerned persons to comment on both the program as a whole and upon particular policies, procedures, or contract clauses. The Department is especially interested in receiving the views of prime and subcontractors, as well as from others upon whom this program may have a direct impact. Only with the comments of all parties having direct or actual experience under the program can a full and accurate evaluation of the program be undertaken and due regard be given to unforeseen impacts which may results from its various aspects.

For the foregoing reasons, and because the Department of the Interior wishes to have its MBE program operative during the award of the Department's fourth-quarter procurement requirements so as to meet the overall goals established by the President and the Secretary, the Department has determined that it is in the public interest to make this rule effective immediately upon publication, pursuant to 5 U.S.C. 553(b)(B).

SBA 8(a) PROGRAM

This program is in addition to the Small Business Administration's small business set-aside program operated pursuant to section 8(a) of the Small Business Act and prescribed under 41 CFR 1-1.713. This program is not intended to change or affect the small business set-aside program in any way.

PROGRAM DEVELOPMENT/COMPLIANCE

The Branch of Minority Procurement, Division of Procurement and Grants, Office of Administrative and Management Policy, is responsible for the establishment and administration of the program. Any changes made in the program will originate in and be the responsibility of the Branch of Minority Procurement. All comments or inquiries concerning the program should be directed to the Chief, Branch of Minority Procurement, at the above address.

The Office for Equal Opportunity (OEO) also has substantial responsibilities concerning the program; OEO is responsible for insuring compliance with the intent and purpose of the

regulations as set forth in this chapter, at all Department levels and contractor tiers. OEO is further responsible for assessing the effectiveness of

SUBCONTRACTING—REQUIRED CLAUSES

The Department is concerned not just with the level of participation of

involvement in Government contracting.

It is the Department's belief that the 20-percent goal for construction

the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) is not required.

LARRY E. MEIEROTTO,

for evaluating and documenting all findings with respect to the accomplishment of the goals, objectives, and policies of the Department's minority

ing to do business with the Government.

(4) Appointment of a qualified, full time Minority Business Enterprise

regulations as set forth in this chapter, at all Department levels and contractor tiers. OEO is further responsible for assessing the effectiveness of the various aspects of the program and for the recommendation of specific changes to improve the program.

FINDINGS

The Department of the Interior has analyzed the participation of minority business enterprises in procurements by its procuring activities. Based on this analysis, the Department of the Interior hereby finds that minority business enterprises have historically been underrepresented in Interior procurement.

Moreover, the Department of the Interior takes notice of the vast amount of data and court decisions referring to historical underrepresentation of minority business enterprises in the construction trades in general and finds that minorities are substantially underrepresented in these trades.

IMPLEMENTATION

Responsibility for the actual implementation and success of the program lies primarily with the heads of the various procuring activities within the Department which have the authority to enter into contracts; e.g., the Bureau of Land Management, or the National Park Service. (See 41 CFR 14-1.205 and 14-1.206.) Pursuant to 41 CFR 14-1.1302-5, the head of each procuring activity is required to "take positive action to achieve maximum practicable participation of minority businesses in the procuring activities of the organization." The action must include the establishment of percentage goals, the use of available minority vendor listings, directories, and query systems, the training of personnel to assist minority businesses seeking to do business with the activity, and the appointment of a Minority Business Enterprise Coordinator for each procurement office. In addition, operating procedures must be established which at a minimum, include the procedures specified in 41 CFR 14-1.1302-5(b)(5).

MINORITY BUSINESS ENTERPRISE COORDINATORS

The Minority Business Enterprise Coordinators (MBEC's) working in the individual procurement offices, have the responsibility to oversee the day-to-day implementation of the program and to take appropriate actions necessary to overcome obstacles wherever and whenever they occur. Such action shall include, but not be limited to, the specific duties and responsibilities enumerated in 41 CFR 14-1.1302-6.

SUBCONTRACTING—REQUIRED CLAUSES

The Department is concerned not just with the level of participation of minority business enterprises in prime contracting, but also in the subcontracting tiers. The Department recognizes that it is through subcontracting that many minority business enterprises can gain the experience which will eventually enable them to compete directly for Federal procurement requirements as prime contractors. Accordingly, 41 CFR 14-1.1310-2 prescribes certain contract clauses for use in solicitations and contracts which exceed specified dollar thresholds and which contain the clause required by 41 CFR 1-1.1310-2(a). These clauses are to be used in lieu of the clause set forth in 41 CFR 1-1.1310-2(b).

The contract clause prescribe in 41 CFR 14-1.1310-2(b) is to be utilized in formally advertised nonconstruction procurements exceeding $250,000. The clause generally requires that the low responsible, responsive bidder submit a detailed plan for establishing and conducting a minority business enterprise subcontracting program. The plan must include the specific actions to be taken by the contractor in securing minority business enterprise subcontractors. The plan must include, at a minimum, the designation of a liaison officer to conduct the subcontracting program, the identification and description of each specific subcontract to be awarded to a minority business enterprise, and the estimated number and dollar amount of all subcontracts to be awarded under the contract.

A separate clause is prescribed in 41 CFR 14-1.1310-2(c) for use in formally advertised construction contracts which exceed $250,000. When this clause is used, the contracting officer is required to determine a percentage goal of the total value of all subcontracts, which will be awarded to minority business enterprises. The percentage goal shall reflect known circumstances and market conditions, and should, to the extent permitted by known circumstances and market conditions, represent an amount which will significantly increase the level of minority business subcontracting participation above the level which would otherwise have been anticipated. Due to the historic underrepresentation of minority business enterprise subcontractors in Department of the Interior construction procurement, the Department has determined that the percentage goal specified for any such contract should initially be at least twenty percent (20%), except in those cases where known circumstances and market conditions would make such a percentage goal unfeasible. This and other goals will promote fair dealing and equitable relationships with minority business enterprises and their involvement in Government contracting.

It is the Department's belief that the 20-percent goal for construction projects will also assist in counterbalancing the anticipated shortfall by some of Interior's agencies in meeting their overall goals. A further rationale for the 20-percent goal is the effect of the geographic diversity of the minority population. In some areas of the country the minority population and number of minority contractors is sparse. Thus the need for a 20-percent goal is further enhanced to support an equitable program nationally. Moreover, this and similar goals are a flexible measure in reaching those areas where availability of minority business enterprises is greatest but underutilization of minority contractors is the most acute.

It is the hope of the Department of the Interior that the use of the percentage goal in such a manner will result in a meaningful nationwide impact on the participation of minority contractors and subcontractors particularly in the construction industry. The 20-percent goal is further deemed necessary in light of the presently existing statistical evidence indicating the serious underutilization of minority contractors and subcontractors in federally funded construction contracts. In addition, other efforts to remedy the problem of underutilization of minorities in federally funded construction projects have failed to result in any appreciable increase in minority participation. Also, other executive agencies such as the National Aeronautics and Space Administration and the General Services Administration have recorded appreciable success with a 20-percent goal program, aimed at increasing minority business participation in the construction industry.

In conclusion, the Department of the Interior recognizes that existing conditions, with respect to minority contractors participation in Department of the Interior funded projects are subject to change; consequently, the percentage goals used will be subject to review on an annual basis. The contract clause prescribed in 41 CFR 14-1.1310-2(d) is required for negotiated procurements over $250,000 and architect-engineer contracts over $100,000.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order and OMB Circular A-107. The Department has also determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment and that a detailed statement pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) is not required.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

SEPTEMBER 12, 1978.

Accordingly, 41 CFR subpart 14-1.13 is adopted as follows:

1. The table of contents of Part 14-1 is amended by adding a new subpart 14-1.13 to read as follows:

Subpart 14-1.13—Minority Business Enterprise

Sec.
14-1.1300 Scope of subpart.
14-1.1302 Agency programs.
14-1.1302-1 Office of Administrative and Management Policy.
14-1.1302-2 Office for Equal Opportunity.
14-1.1302-3 Office of the Solicitor.
14-1.1302-4 Assistant Secretaries.
14-1.1302-5 Heads of procuring activities.
14-1.1302-6 Minority business enterprise coordinators.
14-1.1310 Subcontracting with minority business enterprises.
14-1.1310-2 Required clauses.
14-1.1350 Minority vendors sources.
14-1.1351 Reports.

AUTHORITY: E.O. 11625, October 13, 1971 and 41 CFR 1-1.1302(a).

2. Part 14-1 is amended by adding a new subpart 14-1.13 to read as follows:

Subpart 14-1.13—Minority Business Enterprise

§ 14-1.1300 Scope of subpart.

This subpart prescribes Department of the Interior policies, procedures, and contract clauses which establish a minority business enterprise program pursuant to the provisions of subpart 1-1.13 of this title. This subpart is in addition to the policies and procedures for contracts with the Small Business Administration pursuant to section 8(a) of the Small Business Act as prescribed under § 1-1.713 of this title and as otherwise prescribed by law.

§ 14-1.1302 Agency programs.

§ 14-1.1302-1 Office of Administrative and Management Policy.

The Branch of Minority Procurement, Division of Procurement and Grants, Office of Administrative and Management Policy is responsible for the establishment of policy, procedures, and guidelines for the effective administration of the Department's minority business enterprise program as required by § 1-1.1302 of this title.

§ 14-1.1302-2 Office for Equal Opportunity.

The Office for Equal Opportunity is responsible for insuring compliance with the intent and purpose of these regulations at all Departmental levels and contractor tiers. The Office for Equal Opportunity is also responsible for evaluating and documenting all findings with respect to the accomplishment of the goals, objectives, and policies of the Department's minority business program and for recommending those positive corrective actions needed to improve the program's effectiveness.

§ 14-1.1302-3 Office of the Solicitor.

Pursuant to the provisions of subpart § 14-1.13 of this chapter, the Office of the Solicitor is responsible for reviewing selected procurement actions for legal sufficiency in accordance with the provisions of § 14-1.352 of this chapter.

§ 14-1.1302-4 Assistant secretaries.

Each Assistant Secretary within the Department is responsible for insuring that all policies, procedures and regulations pertaining to the Department's minority business enterprise program are effectively implemented at all operational levels under his/her jurisdiction and for timely transmission of all communications related to the Department's minority business program to the heads of procuring activities; and for fully endorsing and supporting recommended Departmental minority procurement seminars, conferences and special forums.

§ 14-1.1302-5 Heads of procuring activities.

(a) The head of each procuring activity (see § 14-1.206 of this chapter) is responsible for administering the Department's minority business enterprise program within that activity. This responsibility may be assigned to a qualified senior level official(s) designated by the head of the procuring activity.

(b) The head of each procuring activity, or designee, shall take immediate positive action to insure maximum practicable participation of minority business enterprises in the procuring activities of the organization. This action shall include, but not be limited to, the following:

(1) Establishment of aggressive minority business goals based on the annual review of advance procurement plans. These goals shall be expressed as a percentage of planned procurement dollars and submitted in accordance with the requirements of § 14-1.1351 of this chapter.

(2) Full utilization of available minority vendor listings, directories, and query systems to insure that eligible and qualified minority business enterprises are included on the bidder's mailing lists and source lists.

(3) Providing training opportunities for all personnel involved in carrying out the Department's minority business enterprise program so as to effectively assist minority businesses seeking to do business with the Government.

(4) Appointment of a qualified, full time Minority Business Enterprise Coordinator (MBEC) for each procurement office within a procuring activity which has annual contract dollar awards of $20 million or more. When volume of procurement and contract activity warrants it, the appointment of a full time Minority Business Enterprise Coordinator (MBEC) in procurement offices with annual contract dollar awards of less than $20 million. Appointment of a qualified part-time MBEC for each procurement office which has annual contract dollar awards of less than $20 million and in which volume of procurement and contract activity does not justify a full time MBEC (see § 14-1.1302-6 of this chapter).

(5) Establishment of standard operating procedures which implement this subpart 14-1.13 and which, as a minimum, are to be followed by all personnel involved in carrying out the Department's minority business enterprise program. Such procedures shall include, but not be limited, to, the following actions:

(i) A review of each procurement requirement in excess of $2,500 to determine the opportunity for award to the Small Business Administration pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)) (see § 1-1.713 of this title). A search of minority business enterprises including those located in rural areas and the inclusion of such concerns on the bidder's mailing lists and source lists (see § 14-1.1350 of this chapter).

(ii) Regular consultations with the designated Minority Business Enterprise Coordinator, other procuring activities of the Department, and other Federal agencies, to insure that a sufficient number of minority business enterprises are identified on the bidder's mailing lists and other source lists, and to further insure that such lists are periodically updated and fully utilized in the solicitation of bids and offers from minority business enterprises.

(iii) With regard to minority business enterprise concerns on existing bidder's mailing lists and other source lists, maintain records showing the number of minority business enterprises solicited and the total dollar amount of awards to such concerns.

(iv) Whenever practicable, recommend a labor surplus set-aside or exclusive small business participation for each procurement requirement that cannot be awarded to the Small Business Administration pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)). (See §§ 1.706-5 and 1-1.706-6 and subpart 1-1.8 of this title).

(v) Insure to the maximum extent practicable, that procurement specifications and requirements are written

are provided to minority business enterprises.

(xii) Provide debriefings to unsuc-

minimum of 50 percent of their time for performance of minority business functions. Persons designated as

terprise regulations, policies, procedures, and other related information. Compile data and prepare all reports

specified in § 14-1.1310-2 of this chapter.

(n) Contact procuring activities of

exceed the specified dollar thresholds and which contain the clause required by § 1-1.1310-2(a) of this title. These

(v) Insure to the maximum extent practicable, that procurement specifications and requirements are written so as to enhance the possibility of participation by minority business enterprises.

(vi) Assist in the counseling of minority business enterprises on matters relating to future procurement opportunities and appropriate procedures for participating in the Department's procurement requirements. However, this does not include the advance release of information regarding specific procurements in process.

(vii) Review all proposed procurements to explore the possibility of dividing the work into components or subcomponents suitable for participation by minority business enterprises. Insure that the estimated dollar amount of a particular requirement is not used as a determining factor in soliciting minority business enterprise participation or in the award of contracts to the Small Business Administration under section 8(a) of the Small Business Act.

(viii) Insure that all competitive procurements and procurements offering subcontracting opportunities are synopsized in the Commerce Business Daily in a timely fashion and that the maximum practicable response time is provided (see § 1-1.1003-6 of this title).

(ix) Facilitate participation of minority business enterprises by providing them with counsel and advice on matters relating to preparation of bids and proposals, allowance of time for preparation of bids and proposals, quantities of articles or services required, specifications, delivery schedules, bonding requirements, level of effort estimates (when appropriate), and any other relevant procurement matters that will aid and assist minority business enterprises in competing for contract opportunities with the Department.

(x) Insure that each solicitation which incorporates the clauses prescribed under § 14-1.1310-2 of this chapter contains a conspicuous notice of the requirements for submission of a minority business enterprise subcontracting plan and that an appropriate evaluation factor is included in requests for proposals which contain the clause prescribed under § 14-1.1310-2 (d) of this chapter. Insure that a thorough review is made of subcontracting plans submitted by bidders/offerors, in consultation with the Minority Business Enterprise Coordinator of the procuring activity.

(xi) Take full advantage of the services offered by the Small Business Administration's field procurement representatives, and the local Office of Minority Business Enterprise, Department of Commerce, in order to insure that ample procurement opportunities are provided to minority business enterprises.

(xii) Provide debriefings to unsuccessful minority business enterprises upon request. The debriefing should place special emphasis on the deficiencies of the proposal or bid so that the minority business enterprises will be able to enhance their future solicitation responses based on the knowledge gained.

(xiii) Whenever practicable attend and participate in local procurement conferences, seminars, and meetings on matters relating to minority business enterprises. Apprise such concerns of procurement opportunities and also obtain a working knowledge of their capabilities. Invite members of minority trade and professional organizations, the Small Business Administration, and the Office of Minority Business Enterprise, Department of Commerce, to speak at Department sponsored procurement conferences and to participate in minority procurement workshops, seminars, special forums, etc.

(xiv) By using optional form 61 (see § 1-16.902-OF-61 of this title) obtain data on subcontract awards to minority business enterprises from all prime contractors having contracts which contain the clauses prescribed under § 14-1.1310-2 of this chapter. Negative reports are also required.

(xv) Maintain data on contract and subcontract awards to minority business enterprises and make such data available to the procurement activity personnel responsible for submitting required reports (see § 14-1.1351 of this chapter).

(xvi) Exercise sound judgement and flexibility in determining percentage goals for minority business enterprise subcontractors by considering known circumstances and market conditions; e.g., cases where it is clearly known and established that an insufficient or inadequate number of minority business enterprises are available within a reasonable geographical area; document all facts and circumstances whenever flexibility is used to determine percentage goals that fall above or below the 20 percent goal established for construction subcontracting; apply sanctions of default, suspension, or debarment in cases where evidence shows a contractor's lack of best efforts to meet MBE requirements.

§ 14-1.1302-6 Minority business enterprise coordinators.

The head of each procuring activity shall appoint full time and part-time Minority Business Enterprise Coordinators (MBECs) within each procurement office in accordance with the provisions set forth in § 14-1.1302-5 (b)(4) of this chapter. Part-time MBEC positions shall be allocated a minimum of 50 percent of their time for performance of minority business functions. Persons designated as MBEC's shall take positive actions that will result in the maximum practicable achievement of the minority business enterprise program objectives. The duties and responsibilities of MBEC's shall include, but not be limited to the following:

(a) Participate in procurement planning and evaluation activities including the review of and written concurrence in advance procurement plans; establish and update annual minority business enterprise goals; and consult with the contracting officer in the evaluation of and written concurrence in all minority business enterprise subcontracting plans submitted by potential prime contractors.

(b) Review of each procurement package in excess of $2,500 received in the procurement office to determine the potential for award to the Small Business Administration in accordance with section 8(a) of the Small Business Act (15 U.S.C. 637(a)). Subsequent to each review, the MBEC shall advise the appropriate contracting officer in writing, of all recommendations citing rationale for same.

(c) Assist program and procurement personnel in the development of the technical proposal evaluation criteria to insure that such criteria and their assigned weighting factors are a realistic representation of the Government's actual needs for technical expertise and know-how. For example, if the experience of the key or principal individual(s) is significant to the successful performance of the procurement requirement, the MBEC shall insure that the evaluation factor for "Key Personnel" is given greater weight than the factor for company experience.

(d) Insure to the maximum extent practicable, that contract opportunities of all dollar values including small purchases (under $10,000) are made available to minority firms and that there be no arbitrary limitations on the types of goods and services to be procured from minority business enterprises.

(e) In concert and cooperation with the contracting officer, insure that performance bonding requirements in nonconstruction contracts are not arbitrarily and capriciously imposed and that when such requirements are needed, the amount required does not exceed that absolutely necessary to protect the best interest of the Government.

(f) Establish internal operating procedures which implement the requirements of the regulations as set forth in this chapter. Insure that the procuring activity is kept abreast of new and/or revised minority business enterprise regulations, policies, procedures, and other related information. Compile data and prepare all reports pertaining to minority business enterprise activities. Insure that minority business enterprise reports are accurate, complete, and up to date.

(g) Maintain all records and files necessary to demonstrate that maximum efforts have been taken to implement an aggressive, effective, and viable minority business enterprise program.

(h) Assist contracting personnel in the review of large complex procurements to explore the feasibility of the requirement being divided into reasonably small lots suitable for participation by minority business enterprises.

(i) Participate in debriefing sessions with unsuccessful minority business bidders and offerors; the debriefing should place special emphasis on the deficiencies of the proposal or bid so that the minority business enterprise will be able to enhance its future responses to solicitations based on the knowledge gained.

(j) Actively and aggressively seek out and contact minority business firms having actual or potential capabilities to fulfill procurement requirements. In this regard, MBEC's shall continuously coordinate with local and regional officials of the Office of Minority Business Enterprise (OMBE), Department of Commerce, and the Small Business Administration (SBA) to advise them at the earliest possible date of projected or potential requirements for which minority sources will be sought.

(k) Assist in the establishment and maintenance of current source lists of minority businesses. Insure that all minority firms seeking to do business with the Department's procuring activity are listed under all commodity and service classifications in which the firms have demonstrated capabilities.

(l) Advise and counsel minority business representatives on the various ways and means of enhancing their participation in Government procurement by: (i) Explaining bid and proposal submission requirements; (ii) serving as liaison person to insure that minority businesses are granted access to appropriate program and project personnel; and (iii) directing minority business concerns to SBA or OMBE for certification of 8(a) eligibility, financial assistance, management assistance, and any other business or technical assistance offered by such organizations and their funded components in the private sector.

(m) Provide minority business enterprises with a source list of firms solicited for any proposed procurements that contain any of the minority business enterprise subcontracting clauses specified in § 14-1.1310-2 of this chapter.

(n) Contact procuring activities of other Federal agencies which procure like or similar goods and services for the purpose of increasing and expanding the list of minority sources at the Department's procuring activity.

(o) Establish contact with local minority trade, business and professional associations and Indian tribal councils to apprise them of the Department's program needs and recurring procurement requirements. Obtain the names and addresses of the minority business enterprises which have an expressed interest in the Department's requirements.

(p) Actively participate in the programs and activities of the local Minority Business Opportunity Committees (MBOC).

(q) Periodically sponsor or participate in area or local procurement conferences, workshops or trade fairs in order to attract potential minority contractors and to apprise them of current and projected contracting opportunities. Such conferences, workshops, or trade fairs should normally be held in conjunction with other departmental activities, activities of other Federal agencies, or the activities of a responsible local SBA or OMBE funded organization.

(r) Invite members of minority trade, business and professional associations, MBOC chairpersons, OMBE and SBA representatives to speak at conferences, workshops, seminars and other similar type forums to increase program and personnel awareness of minority business enterprises and their capabilities.

(s) To the extent practicable and feasible, participate in all training opportunities related to the minority business enterprise program.

(t) Encourage the establishment of local, regional and national Minority Business Enterprise Steering Committees or Councils, for the purpose of exploring new ways of increasing MBE contract awards. The committees or councils should be comprised of the MBEC and the appropriate procurement and program management official responsible for the procurement placement of organizational resources and requirements. These groups should meet as often as necessary, preferably not less than quarterly, to review the organization's complete MBE program and its progress.

§ 14-1.1310 Subcontracting with minority business enterprises.

§ 14-1.1310-2 Required clauses.

(a) The clauses set forth in paragraphs (b), (c), and (d) of this § 14-1.1310-2 are prescribed for use in solicitations and contracts which may exceed the specified dollar thresholds and which contain the clause required by § 1-1.1310-2(a) of this title. These clauses are to be used in lieu of the clause set forth under § 1-1.1310-2(b) of this title.

(b) The minority business enterprise subcontracting program (Department of the Interior), clause set forth in this § 14-1.1310-2(b) shall be included in each formally advertised, nonconstruction solicitation and resulting contract which may exceed $250,000. At the discretion of the contracting officer, this clause may be used in formally advertised nonconstruction solicitations and contracts which do not exceed $250,000, when, in the opinion of the contracting officer, substantial subcontracting opportunities exist. When this clause is utilized, a detailed minority business enterprise subcontracting program plan shall be obtained from the low responsive, responsible bidder. The plan must include, as a minimum, a detailed description of the specific actions to be taken by the contractor in establishing and conducting a minority business enterprise subcontacting program including, but not limited to, designation of a liaison officer to administer the contractor's subcontracting program; description and estimated dollar amount of each specific subcontract to be awarded to a minority business enterprise, including firm commitments when obtainable; and the estimated number and dollar value of all subcontracts to be awarded under the contract. Bidders shall be advised of the requirment for submission of a detailed minority business enterprise subcontracting plan and the contents of the plan, by a conspicuous notice in the solicitation. The solicitation notice shall state that as a matter of establishing responsibility, a plan acceptable to the contracting officer shall be submitted by the otherwise successful bidder to the contracting officer, and that the plan will become a part of the contract at the time of award. Whenever the contracting officer can establish a percentage of anticipated subcontracting which can realistically be awarded to minority business enterprises based on historical or other data, he shall add the following sentence to paragraph (a) of the clause under this § 14-1.1310-2(b):

"It is Interior's intent that —— percent (——%) of the total value of all subcontracts resulting from this prime contract be awarded to minority business enterprises as defined in the clause of this contract entitled, 'utilization of minority business enterprises.'"

MINORITY BUSINESS ENTERPRISE SUBCONTRACTING PROGRAM—(DEPARTMENT OF THE INTERIOR)

(a) In keeping with national policy which is to stimulate and encourage the economic

development of minority business enterprises, it is the Interior's objective that an aggressive and vigorous procurement pro-

tracting officer of the names of such subcontractors. The contractor further agrees to inform potential subcontractors of the re-

MINORITY BUSINESS ENTERPRISES SUBCONTRACTING PROGRAM—CONSTRUCTION CONTRACT (DEPARTMENT OF THE INTERIOR)

(8) Cooperate with the contracting officer in any studies or surveys of the contractor's minority business enterprise procedures and practices that the contracting officer may

tect-engineer services. The plan must include, as a minimum, a detailed description of the specific actions to be taken by the potential contractor in

"vendor information system (VIS)" is a direct method of obtaining current, detailed listings of minority 8(a) and non-8(a) firms. Requests can be made

development of minority business enterprises, it is the Interior's objective that an aggressive and vigorous procurement program of actively seeking out and soliciting minority business enterprises be accomplished at the prime contractor and subcontractor levels to ensure their increased participation in this constructive effort. The contractor agrees to use every posssible means available to carry out this policy by making subcontract opportunities available to minority business enterprises to the fullest extent consistent with the efficient performance of this contract. For the purpose of this program, the term "subcontract" includes all construction, modifications, supplies and material and service work contracted for the prime contractor in the execution of the work. In this regard, contractors should take note that in subcontract awards to minority business suppliers only the commission earned by the minority supplier will be credited towards meeting the assigned percentage goal in minority business enterprise subcontracting dollars.

(b) The contractor further agrees to immediately implement a program for the employment of specific minority business enterprises in accordance with the minority business enterprise subcontracting program plan which has been submitted to and approved by the contracting officer. The contractor agrees to aggressively conduct the MBE subcontracting program through the full term of this contract. In pursuit of this effort, the contractor shall:

(1) Designate a liaison officer who will administer the contractor's minority business enterprise program.

(2) Develop, maintain, and utilize comprehensive listings of minority vendors.

(3) Provide adequate and timely consideration of the potentialities of known minority business enterprises in all "make-or-buy" decisions.

(4) Ensure that known minority business enterprises will have an equitable opportunity to compete for subcontracts, namely by arranging (i) solicitations, (ii) time for the preparation of bids, (iii) quantities, (iv) specifications, and (v) delivery schedules so as to facilitate the participation of minority business enterprises.

(5) Maintain records showing (i) procedures which have been adopted to comply with the policies set forth in this clause including the establishment of a source list of minority business enterprises, (ii) awards to minority business enterprises on the source list, and (iii) specific efforts to identify and award contracts to minority business enterprises.

(b) Submit quarterly reports to the contracting officer summarizing the records referred to in subparagraph (4) above.

(7) Submit quarterly optional form 61 reports to the contracting officer.

(8) Cooperate with the contracting officer in any studies and surveys of the contractor's minority business enterprise procedures and practices that the contracting officer may from time to time conduct.

(c) The contractor further agrees to insert, in any subcontract hereunder which may exceed $250,000 the "utilization of minority business enterprises" clause and the "minority business enterprise subcontracting program" clause, including this paragraph (9); to require such subcontractors to submit to this contractor a summary plan of proposed further subcontracting to minority business enterprises, and to notify the contracting officer of the names of such subcontractors. The contractor further agrees to inform potential subcontractors of the requirements of this clause and that the minority status of potential subcontractors will be a key factor in the contractor's selection of subcontractors. If the contractor refuses or fails to carry out his obligations under this clause, such refusal or failure shall be considered to be a basis for default in accordance with the default clause of this contract.

(c) The minority business enterprise subcontracting program—construction contracts (Department of the Interior) clause set forth in this, § 14-1.1310-2(c) shall be included in each formally advertised construction contract which may exceed $250,000. At the discretion of the contracting officer, this clause may also be used in formally advertised construction contracts which do not exceed $250,000, when in the opinion of the contracting officer, substantial subcontracting opportunities exist. When this clause is utilized, the contracting officer is required to determine a percentage goal of the total dollar value of all subcontracts to be awarded to minority business enterprises. The percentage goal to be inserted in the following clause should normally be 20 percent or higher. In establishing the percentage goal, the contracting officer may exercise flexibility to the extent provided in the provisions set forth in § 14-1.1302-5(b)(5)(xvi) of this chapter. However, at the time the solicitation is issued, the contracting officer shall make every effort to ensure that the percentage goal represents an amount which will significantly increase subcontract awards to minority business enterprises beyond the level which could normally be anticipated to accrue to such firms. When this clause is utilized, a detailed minority business enterprise subcontracting program plan shall be obtained from the bidder selected to receive award. The plan must include, as a minimum, a description of the specific actions to be taken by the contractor in establishing and conducting a minority business enterprise program including, but not limited to, designation of a liaison officer to administer the contractor's subcontracting program; description and estimated amount of each specific subcontract to be awarded to a minority business enterprise, including commitments when obtainable; percentage of total estimated subcontract dollars, to be awarded to minority business enterprises; and estimated dollar value of all subcontracts to be awarded under the contract. In this regard, contractors should take note that in subcontract awards to minority business suppliers only the commission earned by the minority supplier will be credited towards meeting the assigned percentage goal in minority business enterprise subcontracting dollars. Bidders shall be advised of the requirement for submission of a detailed minority business enterprise subcontracting program plan and the contents of the plan by a conspicuous notice in the solicitation, preferably on the cover page. The solicitation notice shall state, that as a matter of responsibility, a plan acceptable to the contracting officer shall be submitted by the otherwise successful bidder to the contracting officer, and that the plan will become a part of the contract at the time of award.

MINORITY BUSINESS ENTERPRISES SUBCONTRACTING PROGRAM—CONSTRUCTION CONTRACT (DEPARTMENT OF THE INTERIOR)

(a) In keeping with national policy, which is to stimulate and encourage the economic development of minority business enterprises, it is Interior's objective that an aggressive and vigorous procurement program of actively seeking out and soliciting minority business enterprises be accomplished at the prime contractor and subcontractor levels to ensure their increased participation in this constructive effort. It is Interior's intent that —— percent (——%) of the total value of all subcontracts resulting from this prime contract shall be awarded to minority business enterprises as defined in the clause of this contract entitled "utilization of minority business enterprises." The contractor agrees to use every possible means available to carry out this policy by making subcontract opportunities available to minority business enterprises to the fullest extent consistent with the efficient performance of this contract. For the purpose of this program, the term "subcontract" includes all construction, modifications, supplies and material and service work contracted for by the prime contractor in the execution of the work. In this regard, contractors should take note that in subcontract awards to minority business suppliers only the commission earned by the minority supplier will be credited towards meeting the assigned percentage goal in minority business enterprise subcontracting dollars.

(b) The contractor does hereby agree to immediately implement a program for the employment of specific minority enterprises in accordance with the minority business enterprise subcontracting program plan which has been submitted to and approved by the contracting officer. The contractor further agrees to implement and aggressively conduct such a program during the full course of work under this contract. In this connection the contractor shall:

(1) Designate a liaison officer who will administer the contractor's minority business enterprise subcontract program.

(2) Develop, maintain and utilize comprehensive listings of minority businesses.

(3) Provide adequate and timely consideration of the potentialities of known minority business enterprises in all "make-or-buy" decisions, with timely notice to the contracting officer prior to entering into any subcontract of $50,000 or more, of the extent to which minority firms have been considered for the award.

(4) Insure that known minority business enterprises will have an equitable opportunity to compete for subcontracts, namely by arranging the (i) solicitation, (ii) time for the preparation of bids, (iii) quantities, (iv) specifications, and (v) delivery schedules so as to facilitate the participation of minority business enterprises.

(5) Maintain records showing (i) procedures which have been adopted to comply with the policies set forth in this clause, including the establishment of a source list of minority business enterprises, (ii) awards to minority business enterprises, on the source list, and (iii) specific efforts to identify and award contracts to minority business enterprises.

(6) Submit quarterly reports to the contracting officer, summarizing the record referred to in subparagraph (5) above.

(7) Submit quarterly optional form 61 reports to the contracting officer.

(8) Cooperate with the contracting officer in any studies or surveys of the contractor's minority business enterprise procedures and practices that the contracting officer may wish to conduct.

(c) The contractor further agrees to insert in any subcontract hereunder which may exceed $250,000, the "utilization of minority business enterprises" clause and the "minority business enterprises subcontracting program, construction contracts" clause including the paragraph (b); to require such subcontractors to submit to the contractor a summary plan of proposed further subcontracting to minority business enterprises, and to notify the contracting officer of the names of such subcontractors. The contractor further agrees to inform potential subcontractors of the requirements of this clause and that the minority status of potential subcontractors will be a key factor in the contractor's selection of subcontractors. If the contractor refuses or fails to carry out his obligation under this clause, such refusal or failure shall be considered to be a basis for default in accordance with the default clause of this contract.

(d) The minority business enterprise subcontracting program (Department of the Interior) clause set forth in § 14-1.1310-2(b) of this chapter shall be included in each negotiated solicitation and resultant contract for architect-engineer services, which may exceed $100,000 and in all other negotiated solicitations and resulting nonconstruction contracts which may exceed $250,000.

(1) When in the opinion of the contracting officer, substantial subcontracting opportunities exist, this clause may also be used in negotiated solicitation and contracts for architect-engineer services which may not exceed $100,000 and for any other negotiated solicitations and resulting nonconstruction contracts which may not exceed $250,000.

(2) When this clause is used, the contracting officer may determine a percentage goal of the total dollar value of all subcontracts to be awarded to minority business enterprises. In establishing the percentage goal, the contracting officer may exercise flexibility as provided in § 14-1.1302-5(b)(5)(xvi) of this chapter. The percentage goal used should reflect known circumstances and market conditions and must represent an amount which will significantly increase subcontract awards to minority business enterprises beyond the level which could normally be anticipated to accrue to such firms.

(3) When this clause is utilized, a detailed minority business enterprise subcontracting program plan shall be submitted by each offeror with its competitive or noncompetitive proposal. A factor for evaluating the adequacy of the subcontracting plan shall be included as a separate evaluation criterion and included in competitive requests for proposals and in the Commerce Business Daily notices for architect-engineer services. The plan must include, as a minimum, a detailed description of the specific actions to be taken by the potential contractor in establishing and conducting a minority business enterprise subcontracting program including, but not limited to, designation of a liaison officer to administer the subcontracting program; description and estimated dollar amount of each specific subcontract to be awarded to a minority business enterprise, including firm commitments when obtainable; and the estimated number and dollar value of all subcontracts to be awarded under the potential contract. Offerors shall be advised of the requirement for submission of a detailed minority business enterprise subcontracting plan with the proposal, the contents of the plan, and the method by which the plan will be evaluated in terms of an evaluation criterion by a conspicuous notice in the solicitation, on or near the cover page.

§ 14-1.1350 Minority vendor sources.

The head of each procurement activity shall insure the availability of or access to all possible sources of minority vendors, both locally and nationally. Until a Department of Interior automated minority data bank is operational, procuring activities are encouraged to make maximum use of the following sources in addition to any other listings at their disposal.

(a) The SBA publication "firms in the 8(a) business development program" should be used as an aid in locating eligible 8(a) firms. This publication is a nationwide listing, by State, and can be ordered from:

Small Business Administration, Office of Reports, Room 503, 1441 L Street NW., Washington, D.C. 20416.

(b) The SBA query system "minority vendors program (MVP)" is a direct method of obtaining current and more detailed data concerning eligible 8(a) firms. Requests for minority vendor lists under the MVP shall be made on SBA form 1024, in accordance with instructions on the reverse side of the form. Requests must identify goods or services by standard industrial classification (SIC) codes and telephone area codes for the regions in which desired firms must be located. If the location of the firm is not significant, a national search may be requested. MVP requests may be mailed or telecopied to the SBA in Washington, D.C. Forms and detailed instructions can be obtained from local SBA offices or by writing to the Branch of Minority Procurement, Division of Procurement and Grants, Office of Administrative and Management Policy, U.S. Department of the Interior, Washington, D.C. 20240.

(c) The National Minority Purchasing Council (NMPC) query system, "vendor information system (VIS)" is a direct method of obtaining current, detailed listings of minority 8(a) and non-8(a) firms. Requests can be made either by telephone or by completing and mailing the NMPC VIS Processing Form, which can be ordered from the NMPC at the address below:

(1) Telephone requests must include the desired VIS capability code(s) and, for regional requests, the VIS geographic regions. Calls should be made to the NMPC, area code 202-466-7077.

(2) Written requests must include the same information as in paragraph (c)(1) of this section on the VIS form, and should be mailed to the NMPC, Inc., 1925 K Street NW., Suite 206, Washington, D.C. 20006.

§ 14-1.1351 Reports.

(a) The head of each procuring activity shall submit to the Office of Administrative and Management Policy a report on the goals established for minority business enterprise contract and subcontract awards within the procuring activity during the fiscal year, no later than thirty (30) days prior to the beginning of each new fiscal year (see § 14-1.1302-5(b) of this chapter). The report shall be submitted on the Department of Commerce minority business enterprise program data form, MBE-91, sections 1, 2, and 3. The Office of Administrative and Management Policy will consolidate the goal reports of each procuring activity and submit a departmental goal report to the Office of Minority Business Enterprise, Department of Commerce.

(b) The head of each procuring activity shall submit to the Office of Administrative and Management Policy a quarterly progress report on the actual contract and subcontract awards made to minority business enterprise during the preceding quarter no later than thirty (30) days after the end of the fiscal year quarter. The progress report shall be submitted on the Department of Commerce minority business enterprise program data form, MBE-91, sections 1, 2, and 3. The numbers and amounts of awards shall be reported on a noncumulative basis for the preceding quarter and the following additional information shall also be submitted:

(1) For each contract awarded to the Small Business Administration (SBA) under section 8(a) of the Small Business Act (see § 1-1.713 of this title), list the name of the 8(a) contractor, the date requirement was offered to SBA, the dollar amount of the contract, the date of contract award, SBA office, a brief description of work under the contract, and the performance of the 8(a) contractor to date (satisfactory/unsatisfactory).

(2) For each precurement requirement offered to SBA under section 8(a) of the Small Business Act and re-

PART 36—INDIAN HEALTH

Subpart C—Contract Health Services

identifier in lieu of the call sign assigned by the Commission.

2. Our rules do not clearly permit use of the FAA identifier in lieu of the

proposed rules

(2) For each precurement requirement offered to SBA under section 8(a) of the Small Business Act and rejected by SBA, list the description of the work required under the procurement, the date the requirement was offered to SBA, the estimated dollar amount of the requirement, location of SBA office, and name of representative (if known), date of the SBA rejection, and reason(s) given by SBA for the rejection.

(3) For each contract awarded to a minority business enterprise, excluding section 8(a) contracts with SBA, list the name of the contractor, a description of the work under the contract, the dollar amount of the contract and the date of contract award.

(4) For contracts awarded which contain the clause prescribed by §§ 14-1.1310-2(b), 14-1.1310-2(c) or 14-1.1310-2(d) of this chapter submit an optional form 61 (see § 1-16.902-OF-61 of this title) report which summarizes the number and dollar amounts of subcontract awards made to minority business enterprises. The head of each procuring activity shall insure that an ample supply of the optional form 61 is on hand at each procurement office and that they are made available to contractors for their completion and quarterly submission to the contracting officer as required.

(5) In the event a procuring activity fails to meet its established goals, an explanation shall be provided on the last quarterly report for the fiscal year including specific recommendations for meeting future MBE goals.

[FR Doc. 78-26024 Filed 9-14-78; 8:45 am]

[1505-01]

Title 42—Public Health

CHAPTER I—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 36—INDIAN HEALTH

Subpart C—Contract Health Services

Correction

In FR Doc. 78-21331, appearing at page 34650 in the issue for Friday, August 4, 1978; on page 34655, first column, the eighth line of § 36.23(a) should read as follows: "[ac-]cessible or available, to persons described."

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 87—AVIATION SERVICES

Editorial Order Concerning Station Identification

AGENCY: Federal Communications Commission.

ACTION: Rule amendment.

SUMMARY: Amendment of FCC rules to permit station identification by a Federal Aviation Administration "identifier". The permissibility of the use of the FAA "identifier" in lieu of the FCC call sign is not clear in the rules. This action clarifies the rules to indicate that this practice is permissible.

EFFECTIVE DATE: September 22, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Kemp J. Beaty, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: September 7, 1978.

Released: September 11, 1978.

1. Radionavigation land stations in the aviation services are assigned a three letter "identifier" by the Federal Aviation Administration. These stations are normally identified by this identifier in lieu of the call sign assigned by the Commission.

2. Our rules do not clearly permit use of the FAA identifier in lieu of the station's call sign. We are therefore amending § 87.115(g) of our rules to permit station identification by the FAA "identifier".

3. Regarding questions on matters covered in this document contact Kemp J. Beaty, telephone, 202-632-7197.

4. Authority for this amendment is contained in section 4(i), and 303 (c) and (r) of the Communications Act of 1934, as amended, and section 0.231(d) of the Commission's rules. Since the amendment is editorial in nature the public notice, procedure and effective date provisions of 5 U.S.C. 553 do not apply.

5. In view of the above, *it is ordered*, That the rule amendment set forth in the attached appendix is adopted effective September 22, 1978.

FEDERAL COMMUNICATIONS COMMISSION,

R. D. LICHTWARDT,
Executive Director.

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended to read as follows:

In § 87.115 paragraph (g) is amended to read as follows:

§ 87.115 Station Identification.

* * * * * *

(g) A land station in the aviation services may use radio station call letters, its location, its assigned FAA identifier, or the name of the city, area, or airdrome which it serves together with such additional identification as may be required. An aeronautical enroute station which is a part of multistation network may also be identified by the location of its control points.

* * * * * *

[FR Doc. 78-26051 Filed 9-14-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules

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[3410-15]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

RURAL ELECTRIC PROGRAM

Proposed Revision of REA Bulletin 181-1, Uniform System of Accounts Prescribed for Electric Borrowers of the Rural Electrification Administration

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: This action concerns the revision of REA Bulletin 181-1 to include additional electric plant instructions for REA borrowers regarding the accounting for item (19) "training costs", of Electric Plant Instruction 3, Components of Construction Cost. It is intended to clarify the circumstances under which such costs may be capitalized, as is mentioned in the Letter of Transmittal of the January 1, 1978, Uniform System of Accounts, and to provide specific accounting instructions.

DATE: Public comments must be received by REA no later than November 14, 1978.

ADDRESS: Submit written comments to the Director, Accounting and Auditing Division, Rural Electrification Administration, Room 4307, South Building, U.S. Department of Agriculture, Washington, D.C. 20250; submissions are available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Sheldon Chazin, Director, Accounting and Auditing Division, Rural Electrification Administration, Room 4307, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-7221.

Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.) REA proposes to revise REA Bulletin 181-1, Uniform System of Accounts, to include the following:

ELECTRIC PLANT INSTRUCTION

Additional electric plant instructions for REA borrowers:

3. Components of Construction Cost.

(19) "Training Costs."

(a) Training costs may be capitalized only with the prior written approval of REA. Only the costs of training employees to operate or maintain new type production plant facilities that are being constructed and which are not conventional in nature, or are new to the company's operations, will be approved for capitalization.

(b) Training costs approved for capitalization shall be classified to an appropriately titled subaccount of Account 303, Miscellaneous Intangible Plant, and amortized to Account 405, Amortization of Other Electric Plant. The credit shall be to Account 111, Accumulated Provision for Amortization of Electric Utility Plant. The amortization should be over the estimated remaining service lives of the employees for whom the training is provided or on some other reasonable basis related to the period of expected benefit.

(c) Once plant is placed in service, the capitalization of training costs shall cease and subsequent training costs shall be expenses. (See Operating Expense Instruction 4.)

Dated: September 6, 1978.

DAVID A. HAMIL,
Administrator.

[FR Doc. 78-25749 Filed 9-14-78; 8:45 am]

[3410-07]

Farmers Home Administration

[7 CFR Parts 1822 and 1944]

RURAL HOUSING LOANS AND GRANTS AND RURAL HOUSING SITE LOANS

Proposed Revision—Redesignation

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes as part of a general restructuring and revision-redesignation of rural housing regulations, the revision to update and clarify the present rural housing site (RHS) loan regulations. This proposal action will provide the public and FmHA with a more workable RHS loan program. This action is being taken because of comments reviewed on a previous proposal and because of an administrative decision.

DATE: Comments must be received on or before October 16, 1978.

ADDRESS: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul R. Conn, 202-447-7207.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration (FmHA) has under consideration the transfer-redesignation under Chapter XVIII, Title 7, Code of Federal Regulations, Subchapter B, "Loans and Grants Primarily for Real Estate Purposes," of Part 1822, "Rural Housing Loans and Grants," Subpart G, to Subchapter L, Loan and Grant Making, Part 1944, Rural Housing Loans and Grants, Subpart G (§§ 1944.301-1944.350). Former subpart G of part 1822 (35 FR 16087) of this chapter published as a proposed rule at 38 FR 12815, dated May 16, 1973, is transferred and redesignated as Subpart G, "Rural Housing Site Loan Policies, Procedures and Authorizations," of this new part 1944. Basically, the present proposal supplements the May 16, 1973, proposal by the addition of a loan resolution, information on subordination, preapplication and application, presented as Exhibits A through D, incorporate comments received from the prior proposal, and is again being published for comment. The purpose of the proposed rule is to strengthen and clarify the rural housing site loan program.

It is proposed that 7 CFR be amended as follows:

PART 1822—RURAL HOUSING LOANS AND GRANTS

§§ 1822.261—1822.278 (Subpart G)—[Redesignated]

1. In Subchapter B, Loans and Grants Primarily for Real Estate Purposes, Part 1822, Rural Housing Loans and Grants, Subpart G (1822.261-1822.278) is transferred and redesignated as subpart G of Subchapter L, Loan and Grant Making of Part 1944, Rural Housing Loans and Grants.

2. As proposed, new part 1944, subpart G, as revised and redesignated reads as follows:

V 43 / 180 / SEP 15 78

SUBCHAPTER L—LOAN AND GRANT MAKING

PART 1944—RURAL HOUSING LOANS AND GRANTS

Subpart G—Rural Housing Site Loan Policies, Procedures and Authorizations

Sec.
1944.301 General.
1944.302 Objective.
1944.303 Definitions.
1944.304 Eligibility requirements.
1944.305 Authorized representative of applicant.
1944.306 Loan purposes.
1944.307 Limitations.
1944.308 Special conditions.
1944.309 Rates, terms, use of sales proceeds, and type of loan.
1944.310 Security.
1944.311 Technical, legal, and other services.
1944.312 Processing applications.
1944.313 Loan approval authority and State office action.
1944.314 Loan disapproval.
1944.315 Loan closing.
1944.316 Actions after sites are developed.
1944.317 Subsequent RHS loans.
1944.318 Complaints regarding discrimination in opportunity to buy developed sites.
1944.319 Special requirements for RHS section 523 loans (loans to organizations providing sites for self-help housing).
1944.320 1944.350 [Reserved]
Exhibit A—Loan resolution (rural housing site) loan to nonprofit corporation).
Exhibit B—Subordination by the Government for use with rural housing site loan.
Exhibit C—Information to be submitted with preapplication for rural housing site loan.
Exhibit D—Information to be submitted with application for Federal assistance (short form).

AUTHORITY: Delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.

Subpart G—Rural Housing Site Loan Policies, Procedures, and Authorizations

§ 1944.301 General.

This subpart sets forth the policies and procedures and delegates authority for making rural housing site (RHS) loans under sections 523 and 524 of the Housing Act of 1949 as amended. Section 523 loans are direct loans for the purchase and development of building sites for housing to be build by the self-help method, they have additional requirements which are contained in § 1944.319.

§ 1944.302 Objective.

The basic objective of RHS loans is to assist public or private nonprofit organization in the acquisition and development of land for single and multiple family building sites in rural areas. This land will be subdivided into adequate building sites and sold on a nonprofit basis.

§ 1944.303 Definitions.

As used in this subpart.

(a) *Private nonprofit organization.* A corporation which is organized and operated for purposes other than making gains or profits for the corporation or its members; is legally precluded from distributing to its members any gains or profits during its existence, in the event of its dissolution, is legally bound to transfer its net assets to a nonprofit corporation of a similar type or to a municipal corporation which will agree to continue with the objectives of the loan for the remaining period, and at least 51 percent of the outstanding interest in the organization must be owned and controlled by individuals as defined in paragraph C of this section.

(b) *Public nonprofit organization.* A nonprofit corporation other than a private nonprofit corporation, including a municipal corporation or other corporate agency of a State or local government.

(c) *Individual.* A natural person who is a citizen of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, the territories and possessions of the United States, or who resides in one of the foregoing areas after being admitted for permanent residence.

(d) *Rural areas.* Open country or rural places as defined in § 1822.3 (c) of this chapter.

(e) *Development cost.* The cost of purchasing land and developing it into adequate sites including engineering and legal fees, streets, roads, utilities, minimum essential administrative costs, and necessary equipment.

(f) *Section 523 RHS loan.* A loan to an organization which will provide sites for housing to be built by the self-help method.

(g) *Section 524 RHS loan.* A loan to an organization which will provide sites for housing with no limitation as to the method of construction that will be used.

(h) *Office of the General Counsel (OGC).* The regional attorney or the attorney in charge who provides legal services to the Farmers Home Administration (FmHA) for the State in which the RHS project is located.

(i) *Conditional commitment.* The term is defined in § 1822.303 of this chapter.

§ 1944.304 Eligibility requirements.

(a) To be eligible for an RHS loan, the applicant must be a private or public nonprofit organization as defined in § 1944.303 (a) or (b) which is authorized to develop and sell sites for housing.

(b) In the case of a private nonprofit organization.

(1) If operating in one community and its trade area, meet the following additional requirements:

(i) Each member must be limited to one vote in the affairs of the organization.

(ii) A majority of the members must reside in the community or the trade area where the housing will be located.

(iii) The board of directors must number not less than five.

(iv) The directors must be members of the organization.

(v) Not less than five of the directors must be recognized as leaders in civic, governmental, fraternal, religious, and other community organizations of the community where the housing will be located.

(vi) The organization membership should represent a variety of interests in the community.

(vii) If a new organization, plan to adopt articles of incorporation and bylaws substantially conforming to the model articles and bylaws set forth in the appropriate FmHA State instructions.

(2) If operating in more than one community or on a county or regional basis and providing or planning to develop and sell housing sites in more than one community, meet the following requirements in addition to those in § 1944.304(b)(1) above with the exception of item (ii):

(i) The membership base should be representative of the area being served with at least five members representing a variety of interests from each community where the development and housing sites will be located. Each member must be limited to one vote in the affairs of the organization.

(ii) The board of directors should be representative of each community or trade area where the sites are to be located.

(iii) The total number of directors should not be less than five and the directors must be members of the organization.

(iv) The organization's articles of incorporation and bylaws must include the requirements outlined in paragraphs (b)(2) (i) and (ii) of this section.

§ 1944.305 Authorized representative of applicant.

The FmHA will deal only with the applicant or a bona fide representative of the applicant and the representative's technical advisers. An authorized representative of a nonprofit applicant must have no pecuniary interest in the award of the architectural or construction contracts, the purchase of equipment, or the purchase of the land for the housing site.

§ 1944.306 Loan purposes.

RHS loans may be made to qualified applicants for:

(a) The purchase of land to be used for housing sites. Loan funds may be used in the acquisition of land in excess of that needed for the number of sites to be developed only when this excess land is not suitable for sites and the transaction cannot be consummated without its inclusion.

(b) The development of sites, including the construction of essential access roads, streets, utility lines, and necessary equipment which will become a permanent part of the development. If public water and waste disposal facilities are not available and cannot reasonably be provided on a community basis with other financing, including FmHA water and waste disposal loans, funds may be included for this purpose. If any such facilities are located off the site, the following requirements must be met.

(1) The applicant will hold the title to the facility or have a legally assured right to use of the facility for at least the life of the loan and such title or right can be transferred to any subsequent owner of the site.

(2) The facilities are provided for the exclusive use of the project or funds are limited to the prorated part of the total cost of the facility according to the use and benefit to the project. The applicant will agree in writing to the application as extra payments on the loan of any subsequent collection by the borrower from other users or beneficiaries of the facility.

(3) Adequate security can be obtained with or without a mortgage based on the offsite facilities.

(c) The payment of necessary enginnering fees, legal fees, and closing costs. When RHS funds are to be used for such pruposes, the loan approval official shall determine that the amounts to be paid are reasonable and typical in the area for the services to be performed.

(d) The payment of actual cash cost of incidental administrative expenses such as postage, telephone, advertising, temporary secretarial help and travel expenses, if funds to pay these expenses are not otherwise available. The estimated cost of these items should be identified and shown in a budget. If a loan is made for this purpose, detailed operating budgets for the first year's operation and a typical year's operation will be prepared showing that the applicant has sufficient operating capital on hand or sufficient planned income to pay all other costs and meet payments on debts during the planning and development period prior to the sale of the sites. Exhibit F-5 of subpart D of this chapter of Part 1822 or a smiliar form may be used for this purpose.

(e) To provide other necessary facilities related to the housing such as parking and recreational areas, and landscaping including plantings, seeding, sodding, and driveways.

(f) When legally required by proper local, county, or State governmental bodies as a condition for subdivision approval, RHS loan funds may be used to provide common areas, playgrounds, and tot lots provided such facilities are dedicated to, and maintained by, a public body.

§ 1944.307 Limitations.

(a) *Loan limits.* The amount of the RHS loan or loans on each project at any time will be limited to a maximum amount of $500,000 unless the prior approval of the National Office is obtained in advance to develop an application for a larger loan.

(1) No loan will exceed the lesser of the development cost as defined in § 1944.303(e) or the security value of the property as improved with the loan.

(2) Prior consent of the National Office is required before loan approval when two or more applicant organizations have the same persons holding a majority of the membership interests or constitute a majority of the directors.

(b) *Limitations on use of loan funds.* Loans will not be made for:

(1) Development of sites or the purchase of land in excess of the immediate and identified needs in the locality.

(2) Purchase of land from a member of an applicant-organization, or from another organization in which any member of the applicant-organization has an interest, without prior written consent of the State director. Before granting such consent, the State director will determine that the site is at least as desirable in terms of location and physical layout as any other available sites and that the sales price represents the present market value of the property.

(3) Refinancing of debts, except:

(i) As authorized in paragraph (e) of this section.

(ii) When an applicant already owns land on which a lien has existed for more than 5 years before the date of the application, a subordination or release cannot be obtained, and the applicant does not have the financial resources necessary to obtain a release of the existing lien(s). In this situation, loan funds may be used to obtain a release of the land to be developed. The amount of funds used for such purposes shall be limited to the amount necessary to obtain the release and, in any case, shall not exceed the "as is" value of the land as determined in accordance with FmHA Instruction 422.3, which is available in any FmHA office.

(4) Payment of any fee, salary, commission, profit, or compensation to an applicant, or to any officer, director, trustee, stockholder, member, or agent of an applicant except as provided in § 1944.306(c). Contracts or agreement for services, to be provided by these persons and to be paid for with loan funds, should not be executed by the applicant without prior approval of the State Director.

(5) Payment of any fee, charge, or commission to any broker, negotiator, or other person for the referral of a prospective applicant or solicitation of a loan.

(c) *Sale of developed sites.* Developed sites will be sold as follows:

(1) Sites developed with section 523 loan funds must be sold only to families with low or moderate incomes who are eligible for and will receive a section 502 rural housing (RH) loan or a loan from any other source to build a house on the site by the mutual self-help method.

(2) Sites developed with a section 524 loan must be for housing low- and moderate-income families as defined in exhibits C and D of subpart A of part 1822 of this chapter, and may be sold to families, nonprofit organizations, public agencies, and cooperatives eligible for assistance under any section of title V of the Housing Act of 1949, or under any other law which provides financial assistance for housing low- and moderate-income families meeting the definitions as stated in this paragraph.

(3) When an RHS borrower is eligible for and receives an RRH loan, such loan may be made to include funds to pay off the pro rata amount of the RHS loan. The sale requirement of this regulation shall be considered met when the RHS applicant receives the RRH loan.

(d) *Suitability of sites.* Sites must meet the local requirements of the planned use of land in the area. Building sites must be well located and designed to provide a desirable living environment. Generally, a loan will not be made for the development of less than 10 units, but they need not be contiguous.

(e) *Obligations incurred before loan closing.* When an applicant files an application for a loan, the county supervisor will advise the applicant not to start construction or incur any indebtedness until the loan is closed. If, nevertheless, the applicant incurs debts for work, materials, land purchase, or other authorized fees and charges before the loan is closed, the State director may authorize the use of loan funds to pay such debts when he finds that all the following conditions exist:

(1) The debts were incurred after the applicant filed a written application for a loan with FmHA, or the

(g) *Compliance with the Interstate Land Sales Full Disclosure Act.* The State director will be responsible for

opment. When projects exceed 10 building sites the provisions of subpart H of part 1901 of this chapter will be

met and a conditional commitment issued prior to the start of construction of the home.

(iii) Other persons for use as residential housing, and

(iv) On the open market.

(b) *Title clearance and legal services.* The complete loan docket for all RHS loans will be sent to OGC for closing

(1) The debts were incurred after the applicant filed a written application for a loan with FmHA, or the debts were incurred prior to the date of application as part of a predevelopment loan specifically intended as temporary financing from a public agency or nonprofit organization and National Office concurrence is obtained.

(2) The applicant is unable to pay such debts from his own resources or to obtain credit from other sources and failure to authorize the use of loan funds to pay such debts would impair the applicant's financial position.

(3) The debts were incurred for authorized loan purposes.

(4) Contracts, materials, construction, and any land purchased meet FmHA standards and requirements.

(5) Payment of the debts will remove any liens which have attached, and any basis for liens that may attach, to the property, on account of such debts or such work, materials or land purchase.

§ 1944.308 Special conditions.

(a) *Evidence of need.* Loans will be made on the basis of the applicant providing firm market data that the number of sites to be developed are needed in the locality and can be sold within the repayment period of the loan.

(b) *Nondiscrimination.* The borrower will be required to agree not to discriminate or permit discrimination in accordance with item 3 of exhibit A of this subpart.

(c) *Supervisory assistance.* Supervision will be provided borrowers to the extent necessary to achieve the objectives of the loan and to protect the interests of the Government. County supervisors will counsel applicants in selecting locations that will provide essential services and facilities and result in the development of desirable communities.

(d) *Loan resolution.* A loan resolution will be adopted by the applicant's board of directors or governing body. Exhibit A of this subpart should be used when applicable. If changes are needed they should be made only after obtaining the advice of OGC.

(e) *Development policies.* Development will be planned and performed in accordance with subpart A and D of part 1804 of this chapter. Sites to be developed should be located in residential areas as part of established communities where other essential facilities and services such as schools, shopping and medical services are readily available.

(f) *Water and waste disposal facilities.* Water and waste disposal systems will be utilized in accordance with § 1804.66 of this chapter.

(g) *Compliance with the Interstate Land Sales Full Disclosure Act.* The State director will be responsible for determining that the applicant has or will comply with the provisions of this Act before the loan is approved.

(1) The Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701 et seq.) is applicable to RHS loans if 50 or more lots are to be developed in the subdivision. Under the provisions of the Act, it is unlawful for any developer to make use of any intruments or transportation or communication in interstate commerce, or of the mails, to sell or lease any lot in any subdivision unless the land is registered with and a printed property report is furnished to the purchaser or leasee in advance of the signing of an agreement for sale or lease.

(2) There are certain exemptions to this general requirement. It is possible that sites or subdivisions developed under this subpart, which contain 50 or more lots, will qualify for the limited offering exemption set forth in 38 FR 23877, (1973). Such a determination can only be made by HUD. If the applicant believes the property is eligible for this exemption, it must file a partial statement of record requesting such exemption, pay the required fee and submit a comprehensive statement to HUD. If the applicant qualifies for the exemption, HUD may issue an exemption order limited to the facts, affirmations and representations contained in the request for exemption.

(3) The developer will file his request with the HUD office having jurisdiction over the area where the site is located. The applicant will furnish FmHA copies of the request submitted to HUD and a copy of HUD's reply. This information should be submitted with the application.

(h) *Preservation of prime agricultural lands.* Location of projects shall be in compliance with the Secretary of Agriculture's memorandum No. 1827 concerning preservation of prime agricultural lands. Applications which would irrevocably commit prime agricultural lands to nonagricultural uses may be approved only with the prior consent of the National Office. Applications involving prime agricultural land should be considered favorably only when there are no suitable alternative sites and only when there is an apparent overriding public need. Submittals to the National Office shall fully document the lack of suitable alternative sites and the overriding public need.

(i) *Implementation of Office of Management and Budget (OMB) Circular A-95 concerning formulation, evaluation, and review of Federal programs and projects having significant impact on area and community development.* When projects exceed 10 building sites the provisions of subpart H of part 1901 of this chapter will be applicable.

(j) *Guidelines for preparing environmental assessment and environmental impact statements.* See the provisions of subpart G of part 1901 of this chapter.

(k) *FmHA affirmative action.* An affirmative fair housing marketing plan will be submitted in accordance with §1901.203(c) of this chapter.

(l) *Disposal of excess land.* Excess land acquired with RHS funds as part of the total land package, or discovered after loan closing to be unsuitable for development, may be sold by the borrower provided:

(1) Funds received from the sale are paid on the FmHa loan account.

(2) The land sold and any development on this land is not financed by FmHA.

(3) The State director approves the sale in accordance with § 1861.43(a)(6) of this chapter. The partial release will be executed in accordance with § 1872.4 of this chapter.

(m) *Use of excess land for recreation purposes.* Open space for recreation may not be developed unless the land is unsuitable for adequate sites or required in accordance with § 1944.306(f) of this section. Recreation areas should however, be planned only if an acceptable method of ownership and management is possible. The following methods, with OGC guidance, may be used to accomplish this.

(1) The recreation area could be dedicated to a government body which would assume ownership and provide maintenance of the areas as a public park.

(2) A homeowners association comprised of all owners of the property in the development could be formed as a nonprofit association to retain ownership of the recreational property and provide maintenance.

(3) A trust agreement between a banking institution and the homeowners association may be utilized. The agreement should specify that the management of the recreation area will be the responsibility of the selected institution.

(4) Recreation land may be dedicated to a special taxing district created to provide ownership and maintenance of the property.

(n) *Conditional commitments for construction of homes on developed sites.* Conditional commitments may be issued on sites developed with an RHS section 524 loan to permit homes to be constructed on those sites prior to the sale of the site to an eligible purchaser in accordance with the following:

(1) The requirements of subpart H of part 1822 of this chapter must be met and a conditional commitment issued prior to the start of construction of the home.

(2) The conditional commitment must be issued to an RHS loan borrower who can legally provide the proposed housing and has the experience and training in construction to assure that the housing will be built or the conditional commitment must be issued jointly to the RHS loan borrower and a builder who has the legal capacity, training and experience necessary to construct the housing. In all cases the following language will be added under "other conditions" on Form FmHA 444-11, "Conditional Commitment":

Notwithstanding the other provisions of this commitment the sale of completed homes on sites developed with section 524 rural housing site loans will be limited to families eligible for assistance under any section of title V of the housing Act of 1974 or under any other law which provides financial assistance for housing low-and moderate-income families as defined in exhibits C and D of subpart A of part 1822 of 7 CFR. Prior to the sale of any home not to be financed through FmHA a request for approval shall be submitted to the local FmHA office which will include a verification of the purchasers income and source of the other credit to be used. Development of this site was on a nonprofit basis. Thus, this site is being sold for $[*price to be determined as provided for in § 1944.316 (b)*].

(3) In arriving at the commitment price for the site and the completed home, the value will be based on the present market value of the house only, plus the nonprofit selling price of the lot.

(4) If in order to obtain interim financing for the construction of the homes the RHS loan borrower requests a subordination by FmHA on individual lots, the State director may approve the subordination by completing and executing a subordination in the format of exhibit B of this subpart.

(5) FmHA's lien on any lot will be released only at the time of sale to an eligible purchaser.

(o) *Sale of sites to ineligible purchasers.* If after the development has been completed, and the borrower has made a diligent effort to sell the sites to eligible purchasers, sites still remain unsold, the following plans of liquidation should be followed with the approval of the State director.

(1) Section 523 sites will be offered for sale to ineligible purchasers in the following order.

(i) Persons eligible for assistance under the FmHA section 502 loan program,

(ii) To other persons eligible for assistance under any other law which provides financial assistance for housing low-and moderate-income families;

(iii) Other persons for use as residential housing, and

(iv) On the open market.

(2) Section 524 sites will be offered for sale to ineligible purchasers in the following order:

(i) To persons for use as residential housing; and

(ii) On the open market.

(3) The sale price will be set by FmHA in accordance with § 1944.316 and the entire proceeds applied to the loan account.

§ 1944.309 Rates, terms, use of sales proceeds, and type of loan.

(a) *Interest.* The interest rate will be as specified in subpart A part 1810 of this chapter.

(b) *Repayment period.* Payment will be due two years after the date of the loan. When necessary to carry out the loan purposes, the National Office may authorize extension of the maturity date.

(c) *Use of sales proceeds.* As lots are sold before the final due date of the note, the proceeds of the sales will be applied on the account, or any prior lien, in payment of real estate taxes assessed against the property, or, with prior approval of the National Office, used in a manner consistent with the purposes of the loan and the security interest of the government.

(d) *Type of loan.* Loans under this regulation will be made as insured loans, except that section 523 loans under § 1944.319 to develop building sites for sale in connection with self-help projects will be made as direct loans.

§ 1944.310 Security.

Each loan will be secured by a first mortgage on the property purchased or improved with the loan, and a security interest in the funds held by the corporation in trust for the Government, in accordance with the provisions of the loan resolution.

§ 1944.311 Technical, legal and other services.

(a) *Appraisals.* The property will be appraised by an FmHA employee authorized to make real estate appraisals. The appraisal will consist of a narrative statement prepared and signed by the authorized employee, describing in detail the items considered in arriving at the value of the property. Two values will be established by the appraiser:

(1) The fair market value of the total property "as is."

(2) The aggregate fair market value of the building sites after development. In determining the value of the property, the appraiser will consider the value and selling prices of similar building sites in the area, or similar areas.

(b) *Title clearance and legal services.* The complete loan docket for all RHS loans will be sent to OGC for closing instructions.

(c) *Contracts for legal services.* On projects requiring more legal services than are customarily required for title clearance alone, the applicant will be required to have a written contract when loan funds will be used for these services. All such contracts will be subject to review and approval by the State Director and, therefore, should be submitted to the State director through the county supervisor before execution by the applicant. Contracts will provide for the types of service to be performed and the amount of fees to be paid, either in lump sum on the completion of all services or in installments as services as performed.

(d) *Engineering services.* On projects requiring engineering services, a written contract will be required between the engineer and the borrower. All such contracts will be subject to review and approval by the State director, and therefore, should be submitted to him prior to being executed by the applicant. If, however, the applicant has entred into a contract to meet the RHS application requirements, the State director may grant post approval of the contract provided the services to be provided are in accordance with appropriate FmHA regulations and the fee is typical for the area.

(e) *Compliance with local codes and regulations.* Planning and development of sites will be for housing that will conform with any applicable housing assistance plans, laws, ordinances, codes and regulations governing such matters as construction, heating, plumbing, electrical installation, fire prevention, health and sanitation.

(f) *Optioning of land.* If a loan is to include funds to purchase real estate, form FmHA 440-34, "Option to Purchase Real Property," or other acceptable agreement to purchase will be used. This option or agreement will be executed before the loan is approved. After the loan is approved, the county supervisor will have Form FmHA 444-35, "Form Letter—Acceptance of Option", or other appropriate form of acceptance, completed, signed by the applicant, and mailed to the seller.

(g) *Use of and accountability for loan funds.* Supervised bank accounts will not be used except when they are required or authorized by the State Director for cases where adequate bonding is not available. If a supervised bank account is used, collateral for deposits of funds will be pledged in accordance with § 1803.4 of this chapter. All loan funds, and any borrower funds to be used to pay the development costs of the site, as well as proceeds from the sale of any sites not ap-

plied or used in accordance with § 1944.316 (c), will be deposited in a bank which is a member of the Federal Deposit Insurance Corporation. The

sor. This information is used to determine the applicant's eligibility and eliminate any proposals which have

sistance (Short Form)," together with the additional information as outlined in exhibit D will be submitted to the county supervisor.

Form No.	Name of form or document	Total number of copies	Signed by borrower	Number for loan docket	Copy for borrower

plied or used in accordance with § 1944.316 (c), will be deposited in a bank which is a member of the Federal Deposit Insurance Corporation. The county supervisor will assure that funds for land purchase are paid to the seller and used appropriately simultaneously with loan closing before issuing the partial release. After the loan is closed, the borrower will provide monthly reports to FmHA of all disbursements made and income received by them. Reports for each month will be submitted to the FmHA County Office during the first 10 days of the following month. No expenditures will be made without prior FmHA consent for items which are not included in the FmHA approved development cost estimate or for amounts greater than those set forth in such estimate.

(h) *Insurance.* The State director will determine the minimum amounts and types of insurance the applicant will carry.

(1) Suitable workmen's compensation insurance will be carried by the applicant for all its employees.

(2) The applicant will be advised of the possibility of incurring liability and encouraged, or required when appropriate, to obtain liability insurance.

(i) *Bonding.* (1) The provisions of § 1804.4(d)(2) of this chapter pertaining to surety bonds are applicable to RHS loans.

(2) The applicant will provide fidelity bond coverage for its officers and employees entrusted with the receipt, custody, and disbursement of its funds and the custody of any other negotiable or readily salable personal. The amount of the bond will be at least equal to the maximum amount of such funds including funds in bank accounts, and property that the applicant will have in its possession or control at any one time. The United States will be named co-obligee in the bond if not prohibited by State law and Form FmHA 440-24, "Position Fidelity Schedule Bond," may be used.

§ 1944.312 Processing applications.

(a) *Preapplication.* Form AD-621, "Preapplication for Federal Assistance," together with the additional information outlined in exhibit C, will be submitted to the County Supervisor. This information is used to determine the applicant's eligibility and eliminate any proposals which have little or no chance for funding. The applicant should be instructed not to prepare an application until notified to proceed by FmHA.

(1) *Actions by county supervisor.* The preapplication, with attachments, will be reviewed by the county supervisor. The preapplication, including the comments and recommendations of the county supervisor and District Director and any additional material considered necessary, will be forwarded to the State director.

(2) *Actions by State director.* If the applicant is an organization adopting without change the "Articles and Bylaws" prescribed by State regulations, the preapplication need not be submitted to the OGC.

(i) In all other cases involving RHS loans the docket, with any questions or comments of the State director will be submitted to the OGC for preliminary opinion as to whether the applicant and the proposed loan meet or can meet the requirements of State law and this regulation.

(ii) When the State director determines it necessary, and for all applications requesting a loan of more than $500,000, the preapplication will be sent to the National Office for evaluation and instructions. For loan requests of more than $500,000, and all other applications sent to the National Office, all information pertinent to determine the eligibility of the proposal should be submitted to the National Office.

(iii) The State director, after completing the review, of the preapplication will notify the county supervisor of the determination regarding the preapplication and authorize the county supervisor to prepare and execute form AD-622. The county supervisor will forward the original to the applicant, a copy to the State office, and retain a copy in the case file. If form AD-622 indicates unfavorable consideration, the applicant will be notified in accordance with § 1944.314 of this regulation.

(b) *Preparation of completed loan docket.* If the applicant has been requested to file an application, Form AD-625, "Application for Federal Assistance (Short Form)," together with the additional information as outlined in exhibit D will be submitted to the county supervisor.

(1) *County supervisors responsibility.* As the information for the loan docket is being developed, the county supervisor will work closely with the applicant. The county supervisor will review the information furnished for correctness, adequacy, and completeness. The county supervisor will determine that:

(i) The sites will be located in a good residential area and that essential facilities and services will be provided.

(ii) The lots will be reasonable in cost and of a type FmHA can appropriately finance.

(iii) There is an immediate and ready market for the proposed sites in the planned location.

(iv) The total number of sites planned does not exceed the number of loans the county office can reasonably expect to include in the rural housing program or for which other credit is reasonably assured when the sites are developed.

(v) The proposed subdivision will comply with the local, State and Federal codes, ordinances and regulations, including the Interstate Land Sales Full Disclosure Act, OMB Circular A-95, National Environmental Policy Act and guidelines for preparing environmental impact statements as outlined in this subpart and meet the requirements outlined in part 1804 of this chapter.

(2) Form FmHA 440-1, "Request for Obligation of Funds," will be completed in accordance with the forms manual insert (FMI).

(3) Form FmHA 444-5, "Multiple Family Housing Fund Analysis," will be completed in accordance with the FMI. Items 12, 13, and 15 of part B of the form will be left blank, with items 16 through 23 being completed when appropriate.

(c) *Assembly, review and distribution of complete loan docket items.* When all items required for the complete loan docket have been furnished, they will be examined thoroughly to make sure they are properly and accurately prepared and are complete in all respects, including dates and signatures. The loan docket items will be assembled in the following order and distributed as follows:

Form No.	Name of form or document	Total number of copies	Signed by borrower	Number for loan docket	Copy for borrower
*FmHA 444-5	Multiple Family Housing Fund Analysis	4		4-0 & 3C	
*FmHA 440-1	Request for Obligation of Funds	4	2	4-0 & 3C	1
*AD-621	Preapplication for Federal Assistance	3	1	2-0 & 1C	1-C
*Exhibit C	Information To Be Submitted With Preapplication for RHS Loan.	2	0	1-0	1-C
*AD-622	Notice of Preapplication Review Action	3		2-0 & 1C	1-0
*AD-625	Application for Federal Assistance (short form)	3	1	2-0 & 1C	1-0
*Exhibit D	Information To Be Submitted With Application for Federal Assistance (short form).	2	0	1-0	1-C
	Narrative-plan and other supporting information	2	1	1-0	1-C
	Certified Copy of Loan Resolution	1	1	1-0	

Form No.	Name of form or document	Total number of copies	Signed by borrower	Number for loan docket	Copy for borrower
*FmHA 400-4	Nondiscrimination Agreement	2	1	1-0	1-C
*FmHA 400-1	Equal Opportunity Agreement (when applicable)	2	1	1-0	1-C
*FmHA 400-3	Notice to Contractors and Applicants	3		1-C	1-C
*FmHA 400-6	Compliance Statement (when applicable)	3		1-C	1-C
*FmHA 449-10	Applicants Environmental Impact Evaluation (when applicable).	1	1	1	
*FmHA 440-46	Environmental Impact Assessment (when applicable)	1		1	
	Survey of land given as security, plans specifications, cost estimates, and proposed manner of development.	3	1	1-0	1-C
	Operating Budget (if administrative expenses are to be included in loan).	2	1	1-0	1-C
	Appraisal Report With Attachments	1		1-0	
	Preliminary Title Opinion and a Final Title Opinion or a Title Insurance Binder and a Mortgage Title Insurance Policy.				
	Option or copy of deed, purchase contract, or other instrument of ownership.				

(d) *Submission of complete docket.* The complete docket will be sent to the State office together with the county supervisor's comments and recommendations.

§ 1944.313 Loan approval authority and State office action.

The State director is authorized to approve loans in accordance with this subpart and subpart A of part 1901 of this chapter. As soon as it is evident that a loan will be approved, the State director will complete form FmHA 071-1, "Project Information Card," as required by FmHA instruction 2015-C. The State director may redelegate approval authority to qualified State office employees. When a docket or preliminary application is received in the State office, the State director will:

(a) Utilize the services of technicians on his staff and from other agencies in evaluating the application.

(b) If additional information is needed to adequately evaluate the application, return the loan docket to the county supervisor with comments and recommendations for further processing.

(c) If the docket is sufficiently complete to enable the State director to determine that the applicant is eligible and the loan would be sound and proper, issue a proposed memorandum of approval listing any specific conditions that must be met before loan closing.

(d) If the applicant is not eligible or the loan would not be sound and proper and the deficiencies cannot be corrected, inform the county supervisor accordingly.

(e) When the loan is approved, the approval official will:

(1) Sign the original and one copy of form FmHA 440-1 and insert the approval official's title in the space provided. Indicate on all copies any conditions that must be met at or before the time the loan is closed. Such conditions could include the amount of surety and fidelity bond coverage, other insurance, the title evidence, and any other special requirements. If more space is needed, the form will be supplemented by a memorandum.

(2) Forward an executed form FmHA 440-1 to the applicant in accordance with the forms manual insert (FMI) and FmHA instruction 2015-C.

(f) After the loan is approved, the contents of the docket will be distributed in accordance with paragraph (c) of § 1944.312.

§ 1944.314 Loan disapproval.

If a loan is disapproved after the docket has been developed, the reason for such action will be shown on the original form FmHA 440-1. Form FmHA 440-1 will be initialed and dated. In all cases, the county supervisor will notify the applicant of the disapproval of the loan and the reasons therefor. The notification of disapproval at any time will inform the applicant that an appeal of the decision may be requested if it is believed that the decision has not been made in the proper manner based on the information submitted, as provided for in subpart B part 1900 of this chapter.

§ 1944.315 Loan closing.

(a) *Applicable instructions.* RHS loans will be closed in accordance with applicable provisions of Part 1807 of this chapter, State supplements, and closing instructions from OGC, and with the assistance of the designated attorney, representative of the title insurance company, or local attorney, whichever is appropriate.

(b) *Mortgage.* Unless the OGC determines the form to be inappropriate in any case, real estate mortgage form FmHA 427-1 (State), "Real Estate Mortgage for ————" will be used for all RHS section 524 loans modified by or with the advice of the OGC with respect to the name, address, and other identification of the borrower, style of execution, and acknowledgment. Additional paragraphs will be included in the mortgage to read as follows:

(1) "The property described herein was obtained or improved through Federal financial assistance. This property is subject to the provisions of Title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the property continues to be used for the same or similar purpose for which financial assistance was extended or for so long as the mortgagor owns it, whichever is longer."

(2) "This instrument also secures the obligations and covenant of borrower set forth in Borrower's Loan Resolution of (*Date*), which is hereby incorporated herein by reference."

(c) *RHS section 523.* The mortgage to be used for RHS section 523 loans will be in accordance with § 1944.319.

(d) *Promissory Note.* Form FmHA 440-16, "Promissory Note," will be used. Instructions for preparation will be in accordance with the FMI.

(e) *Recorded mortgages.* When the real estate mortgage is returned by the recording official, the county supervisor will retain the original in the borrower's case folder. If the original is retained by the recording official for the county records, a conformed copy including the recording data showing the date and place of recordation and the book and page number will be prepared and filed in the borrower's case folder. A copy of the mortgage will be delivered to the borrower but will be conformed only if required by State law or if it is the custom of other lenders in the area.

(f) *Date of loan closing.* An RHS loan is considered closed when the mortgage is filed of record.

§ 1944.316 Actions after sites are developed.

The building sites will be sold on a nonprofit basis to eligible families or organizations as described in paragraph (c) of § 1944.307.

(a) An option, form FmHA 440-34, "Option to Purchase Real Property," or other acceptable agreement to purchase the property. The agreement should include any other information which the State director or county supervisor

conditions prescribed by the Government. To secure the note and any obligations as required by the Government, the president and the secretary are hereby authorized to

ernment to inspect such books and records at all reasonable times.

(b) Unless the Government gives prior consent—

The undersigned, ————, the

(a) An option, form FmHA 440-34, "Option to Purchase Real Property," or other acceptable agreement to purchase will be executed. The site will be clearly identified by a land survey.

(b) The sale price of each individual site will be based on its appraised value and will not exceed an amount sufficient to pay a proportionate part of the total development cost including the RHS loan and any other authorized costs of buying, developing, and selling the building site.

(c) The proceeds from sale of the building sites will be applied on the RHS loan and any prior lien or, with the prior approval of the national office, used in a manner consistent with the purposes of the loan and the security interest of the Government. The sites will be released from the mortgage in accordance with § 1872.4 of this chapter or otherwise in accordance with prior approval of the national office.

§ 1944.317 Subsequent RHA loans.

A subsequent RHS loan is a loan made to an applicant or borrower to complete the purchase and development planned with the initial loan. Subsequent RHS loans will be made on the same basis as initial RHS loans. A loan made to a RHS borrower to develop sites not planned with a previous loan will be considered an initial loan.

§ 1944.318 Complaints regarding discrimination in opportunity to buy developed sites.

Any person wishing to purchase a site financed by an RHS loan who believes that person has been discriminated against because of race, color, creed, or national origin may file a complaint with the county supervisor or State director. Any such complaint will be referred through the State director to the national office.

(a) The complaint must be in writing and signed by the complainant and contain the following information:

(1) The name and address (including telephone number) of the complainant.

(2) The name and address of the person committing the alleged discrimination.

(3) Date and place of the alleged discrimination.

(4) Any other pertinent information that will assist in the investigation and resolution of the complaint.

(b) The county supervisor or State director will acknowledge receipt of the complaint and promptly forward it to the national office.

(c) Attached to the written complaint should be a statement from the county supervisor or State director as to whether the security instrument or other document executed by the borrower contains a nondiscrimination agreement. The statement also should include any other information which the State director or county supervisor has pertaining to the complaint. The county supervisor or State director should delay a comprehensive investigation of any complaint until requested to investigate by the National Office.

(d) The national office will determine whether discrimination did in fact occur. If necessary, appropriate steps will be taken to ascertain the essential facts.

(e) If it is found that the complaint is without substance, the parties concerned will be notified.

(f) If it is found that the borrower discriminated FmHA will inform the parties of such finding and advise the borrower to take the action necessary to correct the discrimination and to give appropriate assurance of future compliance.

§ 1944.319 Special requirements for RHS section 523 loans (loans to organizations providing sites for self-help housing).

Loans to organizations which will provide sites for self-help housing (RHS section 523 loans) will be made under the provisions of this regulation with the following exceptions:

(a) *Eligibility.* The applicant must be a nonprofit organization engaged in assisting self-help projects.

(b) *Interest.* The interest rate will be 3 percent per annum on the unpaid principal balance.

(c) *Source of funds.* These will be direct loans made from the Self-Help Land Development Fund.

(d) *Evidence of need.* Loans to newly formed organizations will be made on the basis of the applicant's providing firm information as to the number of sites to be developed and the names of eligible bona fide prospective purchasers who are assured of available home financing. Loans to organizations currently involved in mutual self-help housing projects may be made without submitting a list of names of prospective site purchasers. There must, however, be definite evidence that enough families are available who are eligible and who will buy the sites when they are developed.

(e) *Multiple advances.* These loans may be disbursed over a period not to exceed 18 months from the date of the first advance.

(f) *Note forms.* Form FmHA 440-16 will be used. See § 1944.315(d).

(g) *Mortgage.* Unless the OGC determines the form to be inappropriate in any case, real estate mortgage form FmHA 427-1 (State), "Real Estate ——— for ——— (Direct Loan)," will be used modified as prescribed by or with the advice of the OGC with respect to the name, address, and other identification of the borrower, the style of execution, and the acknowledgment. Additional paragraphs will be included in the mortgage to read as follows:

(1) "The property described herein was obtained or improved through Federal financial assistance. The property is subject to the provisions of title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the property continues to be used for the same or similar purpose for which financial assistance was extended or for so long as the mortgagor owns it, whichever is longer."

(2) "This instrument also secures the obligations and covenants of borrower set forth in borrower's loan resolution of (date), which is hereby incorporated herein by reference."

§ 1944.320–§ 1944.350 [Reserved]

EXHIBIT A

LOAN RESOLUTION [(RURAL HOUSING SITE) LOAN TO NONPROFIT CORPORATION]

Loan resolution of ———, 19—— resolution of the board of directors of ——— providing for borrowing $—— to finance building sites and related facilities for persons and families of low or moderate income, as defined in exhibits C and D of subpart A of part 1822 of Chapter XVIII, Code of Federal Regulations (exhibits C and D of FmHA Instruction 444.1), in rural areas, the collection, handling, and dispostion of income, the issuance of a promissory note and real estate security instrument, and related matters. Whereas ——— (herein referred to as the "Corporation") is a nonprofit corporation duly organized and operating under ——— (authorizing State statute) and the board of directors of the Corporation (herein referred to as the "board") has decided to provide building sites and related facilities for eligible rural residents, the board has determined that the Corporation is unable to provide such facilities with its own resources or to obtain from other sources, for such purpose, sufficient credit upon terms and conditions which the Corporation could reasonably be expected to fulfill.

Be it resolved:

1. *Application for loan.* The Corporation shall apply for and obtain a loan (herein called "the loan") of $—— from the United States of America, acting through the Farmers Home Administration, U.S. Department of Agriculture (herein called "the Government") pursuant to section 523(b)(1)(B) or section 524 of the Housing Act of 1949. The loan shall be used solely for the specific eligible purposes specified or approved by the Government, in order to provide developed building sites (herein called "building sites") for eligible purchasers as defined by the Government.

2. *Execution of loan instruments.* To evidence the loan the Corporation shall issue a promissory note (herein referred to as "the note"), signed by its president and attested by its secretary, with its corporate seal affixed thereto, for the amount of the loan, payable 2 years after date, bearing interest at a rate, and containing other terms and

conditions prescribed by the Government. To secure the note and any obligations as required by the Government, the president and the secretary are hereby authorized to execute a real estate security instrument giving a lien upon the building sites and such other security as the Government shall require.

3. *Equal employment opportunity under construction contracts and nondiscrimination in the sale of sites and in any other benefits of the loan.* The president and the secretary are hereby authorized and directed to execute on behalf of the corporation: (a) Any undertakings and agreements required by the Government pursuant to Executive Order 11063 regarding nondiscrimination in the use and occupancy of housing; (b) Farmers Home Administration Form 400-1 entitled "Equal Opportunity Agreement" including an "Equal Opportunity Clause," and (c) Farmers Home Administration Form 400-4 entitled "Nondiscrimination Agreement (Under Title VI, Civil Rights Act 1964)," a copy of which is attached hereto and made a part hereof, and any other undertakings and agreements required by the Government pursuant to lawful authority.

4. *Site development account.* (a) The Corporation shall establish on its books a development account which shall be maintained so long as the loan obligations remain unsatisfied. All loan funds and any revenue received from the sale of loans for building sites or other purposes shall be placed in said account and shall be deposited in a bank or banks insured by the Federal Deposit Insurance Corporation. Funds in excess of $40,000 shall be collateralized as provided in Treasury Circular 176. Any such funds shall be held by the corporation in trust for the Government as security for the loan. Disbursements may be made only for development costs approved by the Farmers Home Administration and for repayment of the loan.

(b) The Corporation shall provide a fidelity bond, with a surety company approved by the Government covering the treasurer and any other officers or employees who will have custody or control of funds or readily marketable personal property of the Corporation in an amount not less than the estimated maximum amount of such funds and property to be held in the custody or control of the Corporation at any one time, which amount shall be approved or prescribed by the Government. The United States of America shall be named as coobligee and the amount of the bond shall not be reduced without the prior wirtten consent of the Government.

(c) A complete accounting will be made of all income, contributions, and loan funds required by this resolution to be deposited in the account. Each expenditure will be identified as to the source of funds from which payment is made. All proceeds from sales of the building sites shall upon receipt be immediately paid on the loan obligations, unless otherwise specifically authorized by the Government in writing.

5. *Regulatory covenants.* So long as the loan obligations remain unsatisfied the Corporation shall—

(a) Maintain complete books and records relating to the Corporation's financial affairs, promptly furnish the Government at the end of each month a report of all income and expenses, and permit the Government to inspect such books and records at all reasonable times.

(b) Unless the Government gives prior consent—

(1) Not sell sites to other than eligible purchasers.

(2) Not enter into any contract or agreement for improvements or extensions to the property securing the loan obligations.

(3) Not cause or permit voluntary dissolution of the corporation, nor merge or consolidate with any other organization, nor cause or permit any transfer or encumbrance of title to the building sites or any part thereof or interest therein, by sale, mortgage, lease, or otherwise.

(4) Not cause or permit the issuance or transfer of any stock, borrow any money, nor incur any liability aside from current expenses.

(c) Comply with all its agreements and obligations in or under the note, security instrument, and any related agreement executed by the Corporation in connection with the loan.

(d) Not alter, amend, or repeal without the Government's consent this resolution or the bylaws or articles of incorporation of the Corporation, which shall constitute parts of the total contract between the Corporation and the Government relating to the loan obligations.

(e) Do other things as may be required by the Government in connection with the development of the building sites or with any of the Corporation's operations or affairs which may affect the sites, the loan obligations, or the security.

6. *General provisions.* (a) It is expressly understood and agreed that any loan made will be administered subject to the limitations of the authorizing act of Congress and related regulations and that any rights granted to the Government herein or elsewhere may be exercised by it in its sole and exclusive discretion to carry out the purposes of the loan, enforce such limitations, and protect the Government's financial interest in the loan and security.

(b) The provisions of this resolution are representations to the Government to induce the Government to make a loan to the Corporation as aforesaid. If the Corporation should fail to comply with or perform any provision of this resolution or any requirement made by the Government pursuant to this resolution, such failure shall constitute default as fully as default in payment of amounts due on the loan obligations. In the event of such failure, the Government at its option may declare the entire amount of the loan obligations immediately due and payable and, if such entire amount is not paid forthwith, may take possession of and operate the project and proceed to foreclose its security, and may enforce all other available remedies.

(c) Any provisions of this resolution may be waived by the Government in its sole discretion, or changed by agreement between the Government and the Corporation after this resolution becomes contractually binding, to any extent such provisions could legally have been foregone, or agreed to in amended form, by the Government initially.

(d) Any notice, consent, approval, waiver, or agreement must be in writing.

(e) This resolution may be cited in the security instrument and any other instruments or agreements as the "Loan Resolution of ———, 19—— (date of this resolution)."

The undersigned, ———, the secretary of the Corporation identified in the foregoing loan resolution, hereby certifies that the foregoing is a true copy of a resolution of the board of directors of the Corporation passed on ———, 19——.

Date: ———.

Secretary.

EXHIBIT B

SUBORDINATION BY THE GOVERNMENT FOR USE WITH RURAL HOUSING SITE LOANS

Whereas, the United States of America acting through the Farmers Home Administration (hereinafter called the "Government") is the holder of the following described instrument(s) executed by ——— of ——— County, State of ——— (hereinafter called the "Borrower");

Title of instrument ———
Date of instrument ———
Date filed ———
Office filed ———
Book No. ———
Page No. ———

And whereas, ——— (hereinafter called the "Lender") has agreed to provide a loan to the borrower or to a builder designated by the borrower to construct a home on the property described in this instrument:

Now, therefore, in consideration of the Lender's agreement to make such loan to the borrower, the Government hereby consents to the Borrower obtaining said loan from the lender, and agrees to and hereby subordinates in favor of the Lender and his successors and assigns its liens or security interests created or evidenced by the above-described instrument(s) insomuch as they cover the following described property: (1)

———
———
———

Except that, the Government shall retain a first lien or security interest in the above-described property in an amount of (2) $——. Such first lien will be released only when satisfactory evidence is provided indicating that the lot with completed home is being sold to a family eligible for assistance under any section of title V of the Housing Act of 1949 or under any other law which provides financial assistance for housing low- and moderate-income families and that the benefits of the nonprofit development of the site are being passed on to the eligible purchaser and that the amount of that first lien is paid on the Borrower's rural housing site loan debt to the Government.

This subordination is limited to the amount actually loaned by the Lender to the Borrower for the foregoing purpose, but shall not exceed (3) $——.

Only the above-described property is affected by this subordination. This subordination shall not otherwise affect or modify the obligations secured by the aforesaid lien instrument(s), and the said obligations shall continue in force and effect until fully paid, satisfied, and discharged.

No Member of Congress shall be admitted to any share or part of this agreement or to any benefit that may arise thereupon.

In witness whereof, the United States of America has caused these presents to be signed on the —— date of ———, 19——, pursuant to delegated authority published

other qualified applicants that are likely to be able to obtain financing for a home.

b. List of names and addresses of any fam-

SUMMARY: On July 7, 1978, the Federal Energy Regulatory Commission published in the FEDERAL REGISTER

policy objectives in section 4(b)(1) of the EPAA. These objectives are as follows:

The Secretary has: (a) determined that the exemptions are consistent with the public policy objectives in

In addition to a general discussion of avgas and kerojet industries and history of price controls, supply and

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In witness whereof, the United States of America has caused these presents to be signed on the —— date of ————, 19——, pursuant to delegated authority published in 7 CFR Part 1800.

Witness: ————————————
Witness: ————————————

United States of America:

By ————————————
Title ————————————
Farmers Home Administration, U.S. Department of Agriculture.

INSTRUCTIONS FOR COMPLETION OF EXHIBIT B

(1) Insert complete legal description of specific lot or lots on which lien is to be subordinated.

(2) Insert present market value of lot or pro rata amount of RHS loan, as determined in accordance with § 1944.316(b) of this regulation.

(3) This amount should be provided by lender, however, approval official should be assured that amount loaned does not exceed market value of the house, not including the value of the lot.

EXHIBIT C

INFORMATION TO BE SUBMITTED WITH PREAPPLICATION FOR RHS LOANS

The following information is to be submitted with Form AD–621, "Preapplication for Federal Assistance":

1. *Eligibility:* a. A copy of, or an accurate citation to, the specific provisions of State law under which the applicant is organized, a copy of the applicant's articles of incorporation, bylaws, and other authorizing documents; the names and addresses of the applicant's members, directors, and officers; and if another organization is a member of the applicant organization, its name, address, and principal business.

b. A current dated, and signed financial statement showing assets and liabilities, together with information on the repayment schedule and status of each debt.

2. *General description of the proposed project:* a. Location and size of tract or tracts to be bought and/or developed.

b. Location, size, and cost of other available and suitable sites in the area.

c. Number and size of individual sites planned together with a preliminary plot plan.

d. Preliminary engineering plans, if available.

e. Estimated cost and amount of loan needed.

f. Explanation of applicant's financial contribution to the project.

g. A map showing the location of and other supporting information on neighborhood and existing facilities such as distance to shopping areas, neighborhood churches, available transportation, drainage, sanitation facilities, water supply available or planned, and access to essential services such as doctors, dentists, and hospitals.

h. If facilities such as water and sewage systems, paved streets, and utilities are not currently, available, information on when and how they will be provided.

i. Written evidence of any State, county, or local planning, zoning, or other ordinances imposing additional restrictions or requirements upon the proposed sites.

3. *Need and demand:* a. Evidence of the need for the proposed sites in the locality by low- and moderate-income families and other qualified applicants that are likely to be able to obtain financing for a home.

b. List of names and addresses of any families who have been contacted and are eligible bona fide prospective purchasers.

EXHIBIT D

INFORMATION TO BE SUBMITTED WITH APPLICATION FOR FEDERAL ASSISTANCE (SHORT FORM)

The following information is to be submitted with Form AD–625, "Application for Federal Assistance (Short Form)":

1. A detailed plot plan and detailed preliminary plans and specifications for development of the building sites.

2. A detailed cost breakdown of the project for such items as land and rights-of-way, utility installations or connections, onsite improvements, engineering and legal services, and estimated interest.

3. If water and sanitary facilities are not publicly owned, a complete statement as to how they will be provided and details about their ownership and operation.

4. Satisfactory evidence of review and approval of the proposed development by applicable State and local officials whose approval is required by State or local laws, ordinances, or regulations.

5. Evidence of compliance with the Interstate Land Sales Full Disclosure Act, implementation of OMB A-95 concerning formulation, evaluation and review of Federal programs and projects having significant impact on area and community development and guidelines for preparing environmental impact statements where applicable.

6. Any additional information necessary to assure the feasibility of the proposal and the ability of the applicant to successfully carry out the proposal.

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB circular A-107.

Dated: September 9, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-25993 Filed 9-14-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[10 CFR Parts 210, 211, and 212]

[Docket No. EA78-2]

PROPOSED EXEMPTION OF AVIATION GASOLINE AND KEROSENE-BASE JET FUEL FROM MANDATORY PRICING AND ALLOCATION REGULATIONS

Analysis and Recommendations

AGENCY: Federal Energy Regulatory Commission.

ACTION: Recommendations regarding exemption of aviation gasoline and kerosene-base jet fuel from mandatory pricing and allocation.

SUMMARY: On July 7, 1978, the Federal Energy Regulatory Commission published in the FEDERAL REGISTER amendments to exempt aviation gasoline and kerosene-base jet fuel from mandatory pricing and allocation regulations. The amendments were issued by the Economic Regulatory Administration and were transmitted to FERC for its consideration and recommendations. This document reflects the views expressed in response to the Commission's notice as well as those expressed to ERA as a result of that agency's proposal.

DATE: Nonapplicable.

FOR FURTHER INFORMATION CONTACT:

Robert L. Baum, Deputy General Counsel, Federal Energy Regulatory Commission, 202–275–4333.

SUPPLEMENTARY INFORMATION:

INTRODUCTION

SEPTEMBER 12, 1978.

On June 22, 1978, the Secretary of Energy transmitted to the Federal Energy Regulatory Commission certain amendments to the regulation under the Emergency Petroleum Allocation Act (EPAA) proposed by the Economic Regulatory Administration (ERA). Included were proposals to exempt aviation gasoline (avgas) and kerosene-base jet fuel (kerojet) from the mandatory petroleum allocation regulations as well as the mandatory petroleum price regulations. In order to take effect, an exemption from either the pricing or allocation regulations must be submitted to Congress as an "energy action." Under section 402(c)(1) of the DOE Act, the Commission is required to "consider" these proposals prior to submission to Congress by the Secretary.

At a Commission meeting on June 28, 1978, the Commission approved a FEDERAL REGISTER notice inviting comments and scheduling a public hearing on the proposals. The notice was published in the FEDERAL REGISTER on July 7, 1978, and established August 11, 1978, as the last day for written comments. A public hearing was scheduled and held on August 1 and 3.

The notice in the FEDERAL REGISTER indicated that the ERA had held public hearings and that the records of those hearings along with comments filed as as result of the ERA proposals would be available to the Commission. Accordingly, this summary reflects the views expressed in response to the Commission's notice as well as those expressed to ERA as a result of that Agency's proposal.

In order for a product to be exempted from the regulations the Secretary must find that the exemption is consistent with the attainment of public

policy objectives in section 4(b)(1) of the EPAA. These objectives are as follows:

(A) Protection of public health (including the production of pharmaceuticals) safety and welfare (including maintenance of residential heating, such as individual homes, apartments, and similar occupied dwelling units), and the national defense;

(B) Maintenance of all public services (including facilities and services provided by municipally, cooperatively, or investor owned utilities or by any State or local government or authority, and including transportation facilities and services which serve the public at large);

(C) Maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities, and services directly related therto;

(D) Preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independent marketers;

(E) The allocation of suitable types, grades, and quality of crude oil to refineries in the United States to permit such refineries to operate at full capacity;

(F) Equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, nonbranded independent marketers, branded independent marketers, and among all users;

(G) Allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of, exploration for, and production or extraction of—

(ii) Minerals essential to the requirements of the United States, and for required transportation related thereto;

(H) Economic efficiency; and

(I) Minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms.

In addition, section 12 of the EPAA provides that any amendment submitted to congress which proposes an exemption from the allocation regulations be accompanied by a finding that the product is no longer in short supply and the exemption would not have an adverse effect on the supply of any other oil or product. The exemption from the price regulations must be accompanied by findings that competition and market forces would provide adequate protection for the consumer and that such amendment would not result in inequitable prices for any class of user. The exemption also must be accompanied by an analysis of the potential economic impact of such amendment.

The Secretary has: (a) determined that the exemptions are consistent with the public policy objectives in § 4(b)(1) of the EPAA (supra), (b) found that avgas and kerojet are no longer in short supply and that exempting them from the pricing and allocation regulations would not have an adverse effect on the supply of oil or other refined products, (c) found that competition and market forces will provide adequate protection for the consumer and the exemption will not result in inequitable prices for any class of user, and (d) provided an analysis of the potential economic impact of the proposed exemptions. It is these issues which the Commission must now consider.

Although a representative of the Secretary made oral presentations at the hearings, the basis for the Secretary's determinations and findings is contained in documents entitled "Findings and Views Concerning the Exemption of Aviation Gasoline from the Mandatory Petroleum Allocation and Price Regulations, June 1978," and "finding and Views Concerning the Exemption of Kerojet Fuels from the Mandatory Petroleum Allocation and Price Regulations—June 1978." These documents were made available to interested persons in this proceeding. Earlier drafts were made available to the public at the time of the ERA proposal. At that time they were ERA's "Preliminary Findings." Subsequent to review of the comments and oral statements in that Agency's proceedings, the drafts were revised as a final report.

Comments on Avgas and Kerojet Exemption

	To ERA				To FERC			Total ERA and FERC*
	Oral		Written		Oral		Written	
	Avgas	Kerojet	Avgas	Kerojet	Avgas	Kerojet		
FBO's**	1	1	23	21	1	1	27	48
Oil companies	4	11	11	15	1	2	13	26
Airlines		2		3			8	9
Trade associations	2	4	5	5	1	3		10
State and Federal Government			4	4	1	1	2	6
Consumers			1	2				2
Consultants							1	1
Total	7	18	44	50	4	7	51	102

*Excludes duplicate counting of parties who presented their comments more than once.
**FBO's (fixed base operators) are vendors of aviation fuels to general customers at air fields.

None of the oral or written comments to the FERC or to ERA expressed opposition to the proposal although there were some suggestions for modifications. A large majority of the written comments merely expressed support for the proposal; some few provided additional factual material or added analysis to supplement the ERA work.

In spite of the overwhelming support for the proposal we feel that the dissenting suggestions merit more

In addition to a general discussion of avgas and kerojet industries and history of price controls, supply and demand trends, etc., the final reports contain the technical information which the Secretary believes supports the determination and findings which must accompany the exemption.

PUBLIC RECORD

ERA PROPOSAL

ERA, after detailed analysis of avgas and kerojet and after consideration of comments on their preliminary findings, proposes to exempt avgas and kerojet from price and allocation control with no transition program and with no monitoring of prices.

HEARINGS AND COMMENTS

The FERC held public hearings on the ERA proposals on August 1, 1978 (covering avgas), and August 3, 1978 (covering kerojet). Four parties commented orally on avgas and seven on kerojet. In addition 51 parties presented comments in writing.

The record also includes the ERA hearing of March 22, 1978, on avgas where there were 7 commentors and March 23, 1978, on kerojet when 18 speakers participated. ERA's record also includes 44 written comments on exemption of avgas from controls and 50 on kerojet exemption. A tabulation of the comments shows the scope of participation:

than cursory considertion. Of particular concern are:

1. The concern of the Energy Planning Di-

required by section 12(d)(2)(A) of the EPAA in which they anticipate:

1. No significant State or regional impacts.

cent of the commercial airlines' fuel is avgas, and this accounts for 6 percent of the total avgas market.

There is a performance and/or maintenance penalty for using the wrong quality gasoline in most airplanes. Refiners have developed grade

pull out from certain markets after controls are lifted but FBO's seem to feel that this step will enable refiners to supply other areas more efficiently

possibility of local shortages so there is no inconsistency between the Montana evaluation of the supply situation and the ERA evaluation. It is the sig-

V 43 / 180 SE 15 78 V 4

than cursory considertion. Of particular concern are:

1. The concern of the Energy Planning Division of the Montana Department of Natural Resources and Conservation (Montana) in their letter of July 26, 1978, to the Commission that the supply of aviation products appeared sufficient in the spring but there is now difficulty for FBO's to obtain supplies. Adequacy of supplies for forest firefighting and other emergency situations is their expressed immediate concern. Although this is the only mention of this type problem, it cannot be ignored.

2. The International Air Transport Association (IATA) claims, in their oral presentation to the FERC on August 3, 1978, that there is a need to provide air carriers with a safeguard of supply. In doing so they repeat points made to the ERA on March 23. A similar position was taken by Pacific Southwest Airlines in its August 4, 1978, letter to the Commission. Also, the Air Transport Association of America (ATA) and United Airlines in statements to the ERA on March 23 took the same position. ATA and United in letters to the Commission, asked that their previous testimony be considered although both emphasized the need to complete action by the end of this year.

These positions represent the two most significant differences from the ERA recommendation and although they are minority points of view they will be considered in our analysis.

Aviation Gasoline

ERA CONCLUSIONS

ERA's analysis of the supply and demand for aviation gasoline is contained in "Findings and Views Concerning the Exemption of Aviation Gasoline from the Mandatory Petroleum Allocation and Price Regulations" (U.S. Department of Energy, Economic Regulatory Administration, June 1978 DOE/ERA 002) and pages 3-36 in the transcript of the August 1 hearing before the FERC in this docket. ERA's recommendation for exemption from price and allocation control is based on their conclusions that:

1. Aviation gasoline is not in short supply and anticipated supplies will be sufficient to meet the demand through 1979. Similarly, stocks of aviation gasoline are sufficient to meet demand surges.
2. Adequate capacity exists to meet the demand for aviation gasoline and all other refined products, except for residual fuel oil and refineries have the flexibility to satisfy this demand.
3. Competition and market forces are adequate to protect consumers if aviation gasoline is exempted from regulations.
4. No major price increases for aviation gasoline are expected to occur solely as a result of exemption.
5. Exemption would not result in inequitable prices for any class of end-user.

With these conclusions, they find that their recommendation is consistent with the attainment of the objectives in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 (EPAA). They also present views on potential impacts of the exemption as required by section 12(d)(2)(A) of the EPAA in which they anticipate:

1. No significant State or regional impacts.
2. No adverse impact on the availability of consumer goods and services.
3. An insignificant effect on the gross national product.
4. No adverse effect on the competitive viability of independent refiners and marketers.
5. No adverse effect on small business.
6. No effect on the supply of fuel and feedstock for industry.
7. A negligible impact on the rate of unemployment.

ANALYSIS AND EVALUATION

1. *Supply and demand.* ERA's conclusions depend on the adequacy of supply to meet demand. Domestic demand for aviation gasoline in 1977 increased by about 4½ percent—the first increase in about 20 years. ERA's analysis of the avgas market leads them to conclude that the increase in 1977 represents a change in the trend and that continued small increases may be expected in the next few years. A review of the composition of the avgas makret supports this conclusion.

Aviation gasoline serves customers in four end-use categories: general aviation (corporation aircraft, personal flying, air charters, air taxis, commuter airlines, and civilian government flying), military, commercial airlines, and factory use.

The largest part of the present market is in general aviation. This market, served by fixed-base operators (FBO's) is the only end-use that has shown any growth in recent years and it now accounts for about 80 percent of the avgas market. Slightly less than half of the general aviation fuel requirements are avgas and it is in this part of the market that requirements are expected to increase.

In the general aviation category, almost three-fourths of the operations are for business purposes, about one-quarter for personal flying and 2 percent is classified as "other flying." Business aircraft use is continuing to grow and there is no indication of a decline in the popularity of personal flying. Corporate aircraft use a considerable amount of jet fuel but still require avgas for some operations.

Military use which represented the largest market for avgas 10 years ago (after most commercial airlines switched to jet fuel) has also converted to jet to a large extent. Less than 10 percent of the military aviation fuel is avgas and the military market accounts for about 15 percent of avgas sales.

Commercial airlines' switch from piston-engined aircraft to jet-powered equipment has been the the largest factor in the long-term decline of avgas use and this switch has about been completed. Now less than 1 percent of the commercial airlines' fuel is avgas, and this accounts for 6 percent of the total avgas market.

During the period of a declining market for aviation gasoline no major shortage problems have been recorded. Spot shortages have existed, particularly for low octane avgas. DOE regulations only apply to adequacy of supply of total aviation gasolines so the problems of shortages of a specific quality of aviation gasoline have been solved by refiners' voluntary response to DOE requests and by their response to their customers' needs.

With the exception of the spot shortages noted above, the supply appears to have been adequate and none of the FBO's have complained to ERA or FERC of serious shortages. There is a tendency to attribute any shortages to regulation and FBO's seem to expect the free market to be able to answer any supply problems.

FBO's show faith in their suppliers. The only supply evidence they present is the statement by their suppliers (the refiners) that supplies will be adequate. Some refiners have publicly stated that they will continue to supply customers for at least a year if they can't get a new supplier in that period. This has been interpreted by some spokesmen to indicate that all suppliers will adopt this policy in spite of the fact that some are known to plan to abandon markets as soon as they can.

Most refiners oppose a transitional supply arrangement similar to special rule 4 for motor gasoline, but none indicated they would find it intolerable. Refiners also oppose any form of price monitoring that would include provisions for automatic return to controls (monitoring with triggering). They do not object to DOE following price data or requiring reasonable reports to enable the monitoring of price trends (monitoring without triggering).

2. *Product specifications.* Aviation gasoline comes from the same part of the barrel as motor gasoline; currently about 45 percent of the refinery output is motor gasoline and about 0.3 percent is aviation gasoline. No aviation gasoline is imported at this time and no imports are expected.

Aviation gasoline was at one time available in five grades:

Grade (octane or performance number) and *Current Status*
80/87—Available; sometimes in short supply; some refiners want to phase it out.
91/98—Discontinued.
100/130—Available.
108/135—Discontinued.
115/145—Now a specialty product, available in only a few locations.
100/130 LL (low lead)—A new product designed to provide performance required for both 80/87 and 100/130.

There is a performance and/or maintenance penalty for using the wrong quality gasoline in most airplanes. Refiners have developed grade 100/130 low-lead because it reduces the problems caused by using 100/130 leaded gasoline in planes designed for 80/87 octane. It has not proven a completely satisfactory substitute and there have been numerous reports that 100/130 LL is damaging engines designed for grade 80/87.

Aircraft manufacturers, owners, and pilots seem to have adjusted to the discontinuation of production of 91/98 and 108/135 grades and it is possible that one all-purpose grade will be developed. Most, if not all, new aircraft are designed for 100/130 LL.

3. *Refinery capacity.* Aviation gasoline quality requirements are stricter than those for motor gasoline but not necessarily higher in octane rating. The potential supply for aviation gasoline is limitd by the quality requirements and by the availability of refinery facilities to provide product that meets specifications. Aviation gasoline specifications that may cause problems are octane requirements, additive requirement, and more precise quality control. The components of aviation gasoline are produced in the same facilities that produce motor gasoline and the adequacy of industry capacity will depend on the developments in motor gasoline rather than aviation gasoline. Less than 1 percent of the gasoline output from American refineries goes into aviation gasoline.

The development of one all-purpose grade of aviation gasoline, such as 100/130 low lead, would relieve supply problems of FBO's. It would, however, seem to aggravate supply problems of refiners since this step would require more high-octane unleaded components for aviation gasoline. It is the requirement for more high-octane unleaded components for motor gasoline that presents the major potential supply problem for that market. The grade to be phased out—80/87 octane leaded—should present no supply problems to refiners; it is, however, this product that has been in short supply while no problems in 100/130 low lead have been reported.

From the record, however, it seems clear that the Nation's total aviation gasoline supply will be adequate to meet needs if there are no major problems in total gasoline supply. There can, however, be supply problems in one specific grade, and, as noted in paragraph 5 below, there can be regional problems.

4. *Competition and prices.* FBO's expect there will be more competition among their suppliers with decontrol; ERA, on the other hand, looks for competition to remain about constant. There are indications that refiners will pull out from certain markets after controls are lifted but FBO's seem to feel that this step will enable refiners to supply other areas more efficiently and that new marketers will move in.

No complaints were received that prices are, or will be, too high. FBO's feel that competition limits their prices and only in some high-cost markets are they now at ceiling prices. ERA expects that FBO prices will increase as much as 4 cents per gallon in some areas and 1½ cents per gallon on the average because of the lifting of controls. No estimate was provided concerning the change in price at refineries, but ERA indicates that prior to control, avgas prices paralleled motor gasoline prices. It would seem reasonable to expect the same pattern to follow after decontrol. In their presentation on motor gasoline decontrol, ERA projected a 1 cent per gallon increase in motor gasoline prices due to decontrol. If this increase carries through to aviation gasoline, there may be an additional 1 cent increase if both motor gasoline and aviation gasoline are freed from control; this would represent a 11.5 percent increase (avgas now priced at 70 cents–$1 per gallon). Such an increase would be consistent with analyses by refiners.

5. *Objectives of section 4(b)(1) of the EPAA.* ERA analyzes the results of exemption of avgas as follows:

> It is DOE's finding that the exemption of aviation gasoline from the price and allocation regulations is consistent with the attainment of the objectives set forth in section 4(b)(1) of the EPAA. Since an adequate supply is anticipated, the continued allocation and pricing control of aviation gasoline are not necessary to protect the public health, safety, and welfare and the national defense (section 4(b)(1)(A)); the maintenance of all public services (section 4(b)(1)(B)); the maintenance of agricultural operations (section 4(b)(1)(C)); or the maintenance of exploration for the production or extraction of fuels and minerals (section 4(b)(1)(G)). Adequate supply and the positive effects of increased competition should insure that an exemption is consistent with the preservation of an economically sound and competitive petroleum industry (section 4(b)(1)(D)); the equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices (section 4(b)(1)(F)); economic efficiency (section 4(b)(1)(H)); and the minimization of economic distortions, inflexibility, and interference with market mechanisms (section 4(b)(1)(I)). An exemption should have no adverse effect on the allocation of suitable crude oil to U.S. refineries (section 4(b)(1)(E)).

The ERA analysis is consistent with the record available from their March hearing. However, the Montana letter, noted above, offers a different viewpoint that would lead to different conclusions. Certainly there can be little doubt that overall supply is adequate and that any shortages would be localized. The ERA study admits to the possibility of local shortages so there is no inconsistency between the Montana evaluation of the supply situation and the ERA evaluation. It is the significance of local shortages that is of concern.

If local shortages represent inconveniences they are unfortunate; if they result in inability to meet an emergency they are intolerable and mean that this proposal, as presented, does not meet the requirements of section 4(b)(1)(A) of the EPAA to protect public health, safety, and welfare and section 4(b)(1)(B) to maintain all public services.

The problems raised by Montana were not presented to ERA in March when their hearings were held and, therefore, they have not been addressed by the ERA. Nor has any other party commented on this problem. We cannot be certain whether this is a problem unique to the State of Montana or whether it exists elsewhere but has not been reported. In any event, it seems proper to consider providing relief for such situations where they exist.

6. *Potential economic impacts.*—(a) *State and regional impacts.* DOE expects no State or regional impact. No participant presented any State or regional analysis to show adverse impact in any specific area but, as noted in paragraph 5 above, the Montana State Fuel Allocation Office pointed out that small remote FBO's could face problems that could adversely affect economic activity there.

The airplane is more important to the economic activity of sparsely populated areas where considerable distances must be covered in a normal working day than it is in densely populated areas. In the less populated areas, the use of aviation gasoline may not be large and the markets may be unattractive to suppliers. Therefore, the problem noted by Montana may have an economic impact to be considered. Provisions to accommodate the problem noted in paragraph 5 above would cover this problem to the extent it exists.

(b) *Availability of consumer goods.* ERA's conclusion that the exemption will have no adverse impact on the availability of consumer goods and services appears justified.

(c) *Competition.* ERA's conclusion that the exception will not adversely affect the competition viability of independent refiners and marketers seems justified.

(d) *Effect on small business.* ERA concludes that "an exemption • • • would not adversely affect small business." no comment received by ERA or FERC from refiners or FBO's would dispute this conclusion. To the extent this conclusion refers to small refiners (see paragraph 6c above) it seems jus-

tified. The FBO's are generally small businesses and, as noted in paragraph 5 and 6a above, Montana feels they

2. Adequate refinery capacity exists to meet the demand for kerojet and all other refined petroleum products,

as new equipment, larger aircraft, better load factors, and better scheduling. These steps have enabled airlines

Further improvement in supply would be achieved if the blending of naphtha with kerojet is allowed but

4. *Objectives of section 4(b)(1) of the EPAA.* The same considerations that apply to avgas seem to apply to kero-

take over and supplies move more freely, supply problems should be minimized, if ERA analysis is correct,

tified. The FBO's are generally small businesses and, as noted in paragraph 5 and 6a above, Montana feels they may be adversely affected in that State. This, however, would be a regional problem occurring in unusual instances and not a problem for all small businesses, or even for all small fixed base operators.

(e) *Supply of energy.* Aviation gasoline represents such a small part of our energy needs that its effect on supply and availability of energy will be negligible. Its use for commercial development of energy (company planes of energy companies) is not expected to suffer.

(f) *Unemployment, consumer price index, and gross national product.* The impact of aviation gasoline on national economic indicators will be small, as reported by ERA.

7. *Price monitoring.* The question of price monitoring was discussed by some parties. Generally it was opposed by refiners, ignored by FBO's and was requested by some airlines for jet fuel. ERA plans to continue to use existing price reporting systems until EIA's proposed price report form, EIA-12, is put into operation. This should provide adequate procedure to monitor prices (without triggering).

8. *Complaint procedures.* DOE currently has in operation a system for dealing with spot shortage problems in aviation gasoline. This system has proven to be an effective means of eliciting voluntary cooperation from suppliers to satisfy all needs. When free market forces take over and supplies move more freely, there should no longer be a need for this system, if the ERA analysis is correct. In the short run, however, this procedure should remain available as needed, and the method for handling problems of shortages should be made known to the public.

KEROSENE BASE JET FUEL

ERA CONCLUSIONS

ERA's analysis of the supply and demand for kerosene base jet fuel (Kerojet) is contained in "Findings and Views Concerning the Exemption of Kerojet Fuels from the Mandatory Petroleum Allocation and Price Regulations" (U.S. Department of Energy, Economic Regulatory Administration, June 1978, DOE/ERA-0001) and pages 134-184 in the transcript of the August 3 hearing before the FERC in this docket. ERA's recommendations for exemption from price and allocation control are based on the conclusions that:

1. Kerojet is not in short supply and anticipated supplies will be sufficient to meet the demand through 1979. Similarly stocks of kerojet are sufficient to meet demand surges.

2. Adequate refinery capacity exists to meet the demand for kerojet and all other refined petroleum products, except for residual fuel oil, and refineries have the flexibility to satisfy this demand.

3. Competition and market forces are adequate to protect consumers if kerojet is exempted from regulations.

4. Price increases for kerojet are not expected to exceed 1 cent per gallon solely as a result of the exemption.

5. Exemption would not result in inequitable prices for any class of end-user.

With these conclusions they find that their recommendation is consistent with the attainment of the objectives in section 4(b)(1) of the EPAA. They also present views on potential impacts of the exemption as required by section 12(d)(2)(A) of the EPAA in which they anticipate:

1. No significant State or regional impacts.
2. No adverse impact on the availability of consumer goods and services.
3. An insignificant effect on the gross national product.
4. No adverse effect on the competitve viability of independent refiners and marketers.
5. No adverse effect on small business.
6. No effect on the supply of fuel and feedstock for industry.
7. A negligible impact on the rate of unemployment.

ANALYSIS AND EVALUATION

1. *Supply and demand.* ERA recommendations are predicated upon an adequacy of supply. Kerojet requirements were growing at about 6½-7 percent per year prior to the oil embargo but in 1974 there was a drop in the domestic air activity. With the end of the embargo and the better supply situation some increase in kerojet demand has since been recorded and a 5 percent increase is projected by ERA.

The market for kerojet is 86 percent commercial air lines, 7 percent military, 5 percent general aviation; and 2 percent other.

The commercial airline market growth seems to follow past trends but may be understated. ERA points out that further action to deregulate airlines, now under consideration, could further accelerate kerojet demand. Military demand, now largely limited to carrier-based planes, could expand considerably beginning in 1979 if plans to switch all aircraft from naphtha-base jet fuel to kerojet are realized.

General aviation demand for kerojet is divided between commuter airlines and corporate jets. There are no specific factors that herald a change in the outlook for those uses.

Demand for kerojet has not grown as rapidly as the demand for jet travel. Efficiencies and economies have been brought about by such developments as new equipment, larger aircraft, better load factors, and better scheduling. These steps have enabled airlines to increase their revenue ton-miles per unit of fuel. Some further improvements are expected but their impact has not been quantified; nor are they expected to match those of the recent past. The balance between growth and efficiency will determine the market and there is no evidence that the ERA outlook is not accurate.

The outlook for military demand for kerojet can cause some pressures on supply. If the military does convert all its operations from naptha to kerojet it could bring about a need for 20 percent more kerojet beginning late next year. Such an increase in demand could put a strain on supply, but refiners, airlines and DOE are working to improve the supply situation either by a change in refinery yields or by developing a fuel for civilian aircraft that would include some naphtha (up to 30 percent) in the kerojet. If this step can be taken, it will eliminate the problem. Such a fuel would be interchangeable with kerojet and would not require modification of equipment.

2. *Refinery capability.* Jet fuel is available from U.S. refineries and from imports. Imports amounted to over 20 percent of our kerojet in 1973 and are projected to supply slightly more than 5 percent of our needs. With surplus foreign refining capacity it would appear that additional imports will be available if needed.

Prior to 1973 international airlines imported low cost kerojet in bond for flights to foreign countries. When foreign kerojet prices rose to make U.S. product cheaper, they switched to domestic kerojet and the cost of their imports was borne by the importers who passed it on to domestic as well as international airline customers. If there is an increase in kerojet prices following exemption, bonded imports may again be a factor in the supply-demand balance.

The major portion of the supply of kerojet under any circumstances will come from U.S. refineries. Kerojet is a highly refined kerosene; total refinery output of kerosene products have averaged less than 7 percent of crude runs, but yield can be increased to a maximum potential yield of about 10 percent without special equipment. With sophisticated and costly secondary operations and appropriate crude oil, it is possible that a refinery can yield 14 percent kerojet fuel. The output of kerojet may increase because of changes in the gasoline market and increases are expected because of increased crude runs. The optimistic supply outlook is enhanced by the increased flexibility of American refineries.

Further improvement in supply would be achieved if the blending of naphtha with kerojet is allowed but even without such a step the potential supply is adequate. Adequacy of supply, of course, depends on availability of crude oil imports for processing at our refineries and availability of imported oil products to supplement our refinery output. ERA analysis shows that the foreign crude oil and products are available. Spot shortages are considered possible, particularly in PAD IV (Colorado, Idaho, Montana, Utah, and Wyoming) but recent pipeline additions seem to have relieved this problem.

3. *Competition and prices.* Large integrated refiners dominate the kerojet market and four of these supply more than 70 percent of the fuel to airlines. ERA maintains that capital demands restrict entry and does not expect any changes in competition but some refiners and other commentors consider controls to be the restrictive factor and expect additional entrants into the market if kerojet is exempt from controls. The parties purchasing kerojet note increasing interest upon the part of potential new suppliers and increased supply availability. Sun Oil Co. has indicated an interest in reentering the kerojet market and some other refiners have indicated plans to look for new markets. The record suggests that there will be more competition in the future, particularly if controls are lifted.

Competition will tend to keep prices from increasing but most of the record suggests that there will be some increases. ERA projects a price increase of 1 cent per gallon if kerojet is exempted (plus any increase in crude costs). Price increases of 1-3 cents are suggested by one FBO. Several refiners in testimony to the ERA alleged that refiners need incentives to increase the output of kerojet. Whether price decontrol would be an adequate incentive was not stated.

The purchasers of kerojet (civilian airlines and FBO's) all support decontrol and are not concerned that prices to them will increase to the detriment of their operations. From the record would seem that the increase in kerojet prices in response to the exemption would be less than 10 percent. This is based on a review of the ERA analysis which gives the only quantification in the record plus the comments by other parties.

Foreign prices can, in some cases, serve as a brake on increases in domestic prices. ERA estimates that there is about a 4-cent difference between U.S. and foreign kerojet prices. If the kerojet prices increase more than 10 percent, imports, including bonded fuel, can become competitive.

4. *Objectives of section 4(b)(1) of the EPAA.* The same considerations that apply to avgas seem to apply to kerojet. Montana refers to an aviation fuels supply problem; the provision for protection to FBO's who need supplies to avoid emergencies should be considered for both avgas and kerojet when local conditions demand such protection.

5. *Potential economic impact.* Kerojet represents a much larger part of our energy use than avgas and therefore its impact will be more noticeable. The potential increased supply in response to exemption seems to be economically beneficial even when balanced against the expected small price increase. Kerojet prices, as noted above, are expected to increase less than 10 percent; fuels account for about 20 percent of the airlines operating cost so the impact on airline costs would appear to be less than 2 percent.

Airline concern seems to emphasize supply and suggest that the economic impact of slightly higher fuel prices would be offset by the operating advantages of an uncontrolled source of supply.

6. *Monitoring and transition.* One big difference of opinion that shows up in the consideration of kerojet is the question of monitoring and transition controls. All refiners oppose monitoring although some provide suggestions for monitoring if it is to be instituted. Airlines and airline associations, on the other hand, tend to call for monitoring at the same time they ask for decontrol. Transitional control is likewise opposed by refiners but supported by airlines; FBO's generally show no enthusiasm for either monitoring or controls.

ERA's opposition to monitoring is generally directed against monitoring with a trigger, a program for which there was no support in the record. ERA, either by itself or through EIA, will collect data that will enable it to follow price trends. Such monitoring without triggering is essential and should be part of the exemption program.

The transition program for kerojet seems to have less justification, except as noted in paragraph 4, above, for FBO's in unique circumstances. Airlines have demonstrated the ability to cope with supply problems and therefore it does not seem that they should need any transitional protection.

7. *Complaint procedures.* The record indicates that there is some confusion concerning the DOE method of handling complaints. DOE's present system has allowed for voluntary cooperation by suppliers to solve problems when this would prove more effective than operation of mandatory procedures. When free market forces take over and supplies move more freely, supply problems should be minimized, if ERA analysis is correct, and such a system may no longer be needed. In the short run, however, to provide for unforeseen events, this procedure should remain available as needed and the method of handling supply problems should be made known to the public.

CONCLUSION

The following correspondence sets forth the Commission's findings and conclusions and the final recommendation of the Commission.

By the Commission.

KENNETH F. PLUMB,
Secretary.

FEDERAL ENERGY REGULATORY COMMISSION,
Washington, D.C., September 6, 1978.

Hon. JAMES R. SCHLESINGER,
Secretary, Department of Energy,
Washington, D.C.

DEAR MR. SECRETARY: On June 22, 1978, you forwarded to the Federal Energy Regulatory Commission certain proposed amendments to the regulations under the Emergency Petroleum Allocation Act (EPAA) that would exempt aviation gasoline and kerosene-based jet fuel (kerojet) from both the mandatory pricing and allocation regulations. The commission has considered the proposed exemptions pursuant to Section 402(c)(1) of the Department of Energy Organization Act.

Based on our review of this matter the Commission has arrived at the conclusion that the methodology used to evaluate these matters is reasonable and the findings are appropriate. Accordingly, you are advised that the Commission has made the determination to concur in the proposals to exempt aviation gas and kerojet from the pricing and allocation regulations.

Although the data developed by the Economic Regulatory Administration (ERA) and the comments received by both the ERA and the FERC fully support the exemptions, both the data and the comments recognize that spot shortages of aviation fuels have existed and are likely to continue to exist. While the frequency and seriousness of these shortages cannot be accurately predicted, they remain a matter of concern.

The State of Montana's Department of Natural Resources and Conservation has submitted comments indicating that although supplies of "aviation products" appeared sufficient until recently, at the present time some fixed base operators in that State are having difficulty in obtaining suppliers. The letter (copy attached) was apparently not available to the ERA during its consideration of this matter. In addition, in both the ERA proceeding and proceedings before the Commission, the commercial airlines, although favoring the exemptions, request both a monitoring program and transitional controls for kerosene-based jet fuel.

In connection with the monitoring system, it is generally agreed that such a program should not contain a "trigger". In view of ERA's expressed intention to generally monitor prices of aviation fuel, the Commission does not conclude that a recommendation within the contemplation of § 404(b)

and § 404(c) of the DOE Act is necessary. However, the Commission believes that a monitoring program should be announced

Sincerely,

JOHN C. BRAUNBECK,
Fuel Allocation,

"United States Metric Board" to consist of part 500 to read as follows:

American Federation of Labor and Congress of Industrial Organizations or its successor who are representative of workers directly affected by metric

on behalf of the Board, or to take action on behalf of the Board, meet with members of the public or staff. Conference telephone calls that in-

(c) Disclose matters specifically exempted from disclosure by statute (other than section 552, Title 5, United States Code), provided, that such stat-

and § 404(c) of the DOE Act is necessary. However, the Commission believes that a monitoring program should be announced as part of the exemption and should be fully described by the ERA if the proposals are forwarded to Congress.

The possibility of a transitional program presents different problems. In this connection, the Commission is interested in the legal and administrative feasibility of a program more limited than Special Rule No. 4, adopted in connection with the exemption of motor gasoline. More specifically the Commission believes that you should consider the possibility of program applicable only to certain areas of the county. In this regard you may wish to examine whether such a program could be provided only upon request of a State or a State Energy office.

You are advised that the Commission has instructed the Secretary of the Commission to forward to you a letter stating its concurrence without recommendations in this proposal, unless, by noon, Friday, September 8, 1978, you advise the Commission that you wish to consult on any matter set forth in this letter.

Sincerely,

CHARLES B. CURTIS,
Chairman.

MONTANA DEPARTMENT OF NATURAL RESOURCES & CONSERVATION,
July 26, 1978.

Re Exemption of Aviation Jet Fuel and Gasoline from Federal Price and Allocation Regulation.

DEPARTMENT OF ENERGY,
FEDERAL ENERGY REGULATORY COMMISSION,
Washington, D.C.
Attn: Commission Secretary.

GENTLEMEN: The Montana State Fuel Allocation Office (MSFAO) hereby submits comments on removal of aviation products from price and allocation controls as noted in the July 3, 1978 Federal Energy Regulatory Commission (FERC) news release.

The MSFAO has closely followed DOE's aviation decontrol proceedings. The supply of aviation products appeared sufficient in Montana until approximately two months ago. Now, new fixed base operators are having difficulty obtaining suppliers. In addition, many small, established fixed-base operators are unable to secure priority fuel increases because of major oil company exchange problems.

Presently, the MSFAO understands that Phillips Petroleum Co. is unable to obtain aviation fuel from the Denver or Salt Lake City areas. If this is indeed the situation, DOE's findings of supply sufficiency is in error. Of immediate concern is the adequacy of supplies for forest fire fighting and other emergency situations. DOE, under the current regulations, has appointed Region X as the emergency aviation fuel problem cente for such situations in the Pacific Northwest. When decontrol is achieved, how will these emergencies be handled?

Because of major oil company withdrawals from the Montana marketing area, aviation fuel exchange capabilities will be greatly reduced with decontrol. Consequently, the small rural fixed-base operators will have a difficult time procuring supplies.

Prior to aviation fuel decontrol, the MSFAO hereby petitions FERC to investigate the above situations and provide emergency measures to deal with supply availability for fire fighting and small, fixed base operations.

Sincerely,

JOHN C. BRAUNBECK,
Fuel Allocation,
Montana Energy Division, DNRC.

DEPARTMENT OF ENERGY,
September 11, 1978.

Hon. CHARLES B. CURTIS,
Chairman, Federal Energy Regulatory Commission, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of September 6, 1978 to Secretary Schlesinger indicating the Commission's concurrence in the Secretary's proposal to exempt aviation fuel and kerosene-base jet fuel from mandatory price and allocation regulations. We appreciate the Commission's comments and suggestions regarding a price monitoring system and a transitional product allocation program to deal with localized shortages and will take these views into account in developing a final decontrol action. In light of the fact that the Commission's concurrence in the rule proposed by the Secretry is not subject ot any recommendations within the meaning of Section 404(b) of the Department of Energy Organization Act, I do not believe any further consultation beyond this exchange of letters in necessary.

Sincerely,

JOHN F. O'LEARY,
Deputy Secretary.

[FR Doc. 78-26117 Filed 9-13-78; 11:16 am]

[3510-13]

UNITED STATES METRIC BOARD

[15 CFR Part 500]

PROPOSED PROCEDURES FOR PUBLIC MEETINGS UNDER THE GOVERNMENT IN THE SUNSHINE ACT

Request for Public Comment

AGENCY: United States Metric Board.

ACTION: Proposed rule.

SUMMARY: The United States Metric Board proposes to adopt procedures for its public meetings in order to implement the Government in the Sunshine Act. Such procedures are intended to allow and encourage the public to observe the deliberations and decisions of the United States Metric Board to the maximum extent possible. Written comments concerning proposed procedures are invited from interested persons.

DATE: All relevant materails received on or before October 16, 1978, will be considered.

ADDRESS: Mail comments to: United States Metric Board, Magazine Building, Suite 301, 1815 North Lynn Street, Arlington, Va. 22209.

FOR FURTHER INFORMATION CONTACT:

John Tascher, 703-235-1933.

Title 15 of the Code of Federal Regulations is proposed to be amended by establishing chapter V to be entitled "United States Metric Board" to consist of part 500 to read as follows:

PART 500—PUBLIC MEETING PROCEDURES OF THE UNITED STATES METRIC BOARD

Sec.
500.1 Purpose and scope.
500.2 Definitions.
500.3 Open meetings.
500.4 Grounds on which meetings may be closed, or information may be withheld.
500.5 Procedure for announcing meetings.
500.6 Procedure for closing meetings.
500.7 Transcripts, recordings, and minutes of meetings.
500.8 Enforcement and review.

AUTHORITY: 5 U.S.C. 552b(g); Pub. L. 94-168, 89 Stat. 1007 (15 U.S.C. 205a-205k).

§ 500.1 Purpose and scope.

It is the policy of the United States Metric Board to provide the public with the fullest practicable information regarding its decisionmaking processes. It is the purpose of these regulations to provide the public with such information while protecting the rights of individuals and the Board's ability to carry out its responsibilities. Accordingly, these procedures apply to all meetings of the United States Metric Board, including committees of the Board. Every portion of every Board meeting will be open to public observation, except as otherwise provided in these regulations.

§ 500.2 Definitions.

As used in this part:

"Board" or "United States Metric Board" means the collegial body that conducts the business of the United States Metric Board, as specified in section 5 of Pub. L. 94-168 (15 U.S.C. 205d), consisting of:

(a) The Chairman, a qualified individual who shall be or has been appointment by the President, by and with the advice and consent of the Senate;

(b) Sixteen members who shall be or have been appointed by the President, by and with the advice and consent of the Senate, on the following basis—

(1) One selected from lists of qualified individuals recommended by engineers and organizations representative of engineering interests;

(2) One selected from lists of qualified individuals recommended by scientists, the sceientific and technical community, and organizations representative of scientists and technicians;

(3) One selected from a list of qualified individuals recommended by the National Association of Manufacturers or its successor;

(4) One selected from a list of qualified individuals recommended by the U.S. Chamber of Commerce, or its successor, retailers, and other commercial organizations;

(5) Two selected from a list of qualified individuals recommended by the

American Federation of Labor and Congress of Industrial Organizations or its successor who are representative of workers directly affected by metric conversion, and by other organizations representing labor;

(6) One selected from a list of qualified individuals recommended by the National Governors Conference, the National Council of State Legislatures, and organizations representative of State and local government;

(7) Two selected from a list of qualified individuals recommended by organizations representative of small business;

(8) One selected from a list of qualified individuals representative of the construction industry;

(9) One selected from a list of qualified individuals recommended by the National Conference on Weights and Measures and standards making organizations;

(10) One selected from a list of qualified individuals recommended by educators, the educational community, and organizations representative of educational interests; and

(11) Four at-large members to represent consumers and other interests deemed suitable by the President and who shall be qualified individuals.

"Chairman" means the presiding officer of the Board, appointed in accordance with section 5(b)(1), Pub. L. 94-168 (15 U.S.C. 205D(b)(1)).

"Committee" means any formally desgnated subdivision of the Board, consisting of at least two Board members, authorized to act on behalf of the Board, including the Board's standing committees and any ad hoc committees appointed by the Board for special purposes.

"Executive Director" means the individual appointed by the Board to serve as the chief executive officer of the Board, in accordance with section 10(a), Pub. L. 94-168 (15 U.S.C. 205i(a)).

"Meeting" means the deliberations of at least the number of individual voting members of the Board required to take action on behalf of the Board, where such deliberations determine or result in the joint conduct or disposition of official business of the Board, but does not include:

(a) Deliberations to open or close a meeting, to establish the time, place, and subject matter of a meeting, or to release or withhold information required or permitted by § 500.5 or § 500.6,

(b) Notation voting or similar consideration of matters whether by circulation of material to members individually in writing, or polling of members individually by telephone, telegraph, or similar mechanism, and

(c) Instances where individual members, authorized to conduct business on behalf of the Board, or to take action on behalf of the Board, meet with members of the public or staff. Conference telephone calls that involve the requisite number of members, and otherwise come within the definition, are included.

"Member" means a member of the Board.

"Staff" includes the employees of the United States Metric Board, other than the members of the Board.

§ 500.3 Open meetings.

(a) Members shall not jointly conduct or dispose of business of the board other than in accordance with these procedures. Every portion of every meeting of the Board shall be open to public observation subject to the exceptions provided in § 500.4.

(b) Open meetings may be attended by members of the Board, staff, and any other individual(s) or group(s) desiring to observe the meeting, provided that sufficient room is available to safely accommodate them. The Board shall exert its best efforts to assure that such room is available and therefore requests but does not require that those wishing to attend notify the Board in advance by phoning or writing the contact person identified in the Board's notice of the upcoming meeting.

(c) The public will be invited to observe and listen to the meeting, but not to participate unless specifically invited to do so by the Board and then only in accordance with such reasonable limitations and procedures as the Board shall specify.

§ 500.4 Grounds on which meetings may be closed, or information may be withheld.

Except in a case where the Board or one of its committees finds that the public interest requires otherwise, the open meeting requirement as set forth in the second sentence of § 500.3(a) shall not apply to any portion of a Board or committee meeting, and the informational disclosure requirements of §§ 500.5 and 500.6 shall not apply to any information pertaining to such meeting otherwise required by this part to be disclosed to the public, where the Board or committee, as applicable, properly determines that such portion or portions of its meetings or the disclosure of such information is likely to:

(a) Disclose matters that are (1) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense of foreign policy and (2) in fact properly classified pursuant to such Executive order;

(b) Relate solely to the internal personnel rules and practices of the Board and its staff;

(c) Disclose matters specifically exempted from disclosure by statute (other than section 552, Title 5, United States Code), provided, that such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety of law enforcement personnel;

(h) Disclose information the premature disclosure of which would in the case of any agency, be likely to significantly frustrate implementation of a proposed agency action, except in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(i) Specifically concern the issuance of a subpena, or the Board's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Board of a particular case of formal Board adjudication pursuant to the procedures in section 554 of Title 5, United States code, or otherwise involving a determination on the record after opportunity for a hearing.

§ 500.5 Procedure for announcing meetings.

(a) Except to the extent that such

actual cost of duplication or transcription.

(3) The determination of the Board or General Counsel to withhold information and deny access to a transcript, recording, or minutes may be appealed to the General Counsel of the Board, if the determination was made by the Board, or to the Chairman, if the determination was made by the General Counsel. Appeals must be addressed to the General Counsel or Chairman, as appropriate, United States Metric Board, Suite 301, 1815 North Lynn Street, Arlington, Va. 22209, or to the Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Com-

§ 500.5 Procedure for announcing meetings.

(a) Except to the extent that such information is exempt from disclosure under the provisions of § 500.4, in the case of each Board or committee meeting, the Executive Director, acting at the Direction of the Board, shall submit for publication in the FEDERAL REGISTER, at least 7 days before the meeting, the following information:

(1) Time of the meeting,

(2) Place of the meeting,

(3) Subject matter of the meeting,

(4) Whether the meeting or parts of it are to be open or closed to the public, and

(5) The name and phone number of the person designated by the Board or committee to respond to requests for information about the meeting.

(b) The 7-day period for the public announcement required by paragraph (a) of this section may be reduced if a majority of the members of the Board or committee, as applicable, determine by a recorded vote that Board or committee business requires that such expedited meeting be called at an earlier date. In this case the Board or committee shall make public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time.

(c) The time or place of a meeting may be changed following the public announcement required by paragraph (a) of this section only if the Executive Director, acting at the direction of the Board or one of its committees, publicly announces such change at the earliest practicable time. Such change need not be voted on by the members.

(d) The subject matter of a meeting or the determination of the Board or committee, as applicable, to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by paragraph (a) of this section, only if (1) a majority of the entire voting membership of the Board or committee determines by a recorded vote that Board or committee business so requires and that no earlier annoucement of the change was possible, and (2) the Board or committee publicly announces such change and the vote of each member upon such change at the earliest practicable time.

(e) Immediately following each public announcement required by this section, notice of the time, place and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the person designated by the Board or committee to respond to requests for information about the meeting, shall be submitted for publication in the FEDERAL REGISTER.

§ 500.6 Procedure for closing meetings.

(a) Action to close a meeting or a portion thereof, pursuant to the exemptions set forth in § 500.4, shall be taken only when a majority of the entire voting membership of the Board or committee, as applicable, votes to take such action.

(b) A separate vote of the Board or committee members shall be taken with respect to each Board or committee meeting, a portion or portions of which are proposed to be closed to the public pursuant to § 500.4, or with respect to any information which is proposed to be withheld under § 500.4.

(c) A single vote of the Board or committee may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than 30 days after the initial meeting in such series.

(d) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Board or a committee close such portion to the public under any of the exemptions relating to criminal accusation or censure, personal privacy, or law enforcement information, as referred to respectively in paragraph (e), (f), (g) of § 500.4, the Board or committee, as applicable, upon request of any one of its members, shall vote by recorded vote, at the earliest practicable time, whether to close such meeting, to delete the relevant subject matter from the meeting agenda, or to delay discussion of the relevant subject matter to a subsequent meeting. Any resulting changes shall be announced in accordance with § 5 of these regulations.

(e) The vote of each member, taken pursuant to paragraph (a), (b), (c), or (d) of this section, shall be recorded, and may be by notation voting, telephone polling, or similar mechanism. Within 1 day of any such vote, the Board or committee shall make publicly available a written copy of the vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the Board or committee shall, within 1 day of the vote taken, pursuant to paragraph (a), (b), (c), or (d) of this section, make publicly available a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation. The information required by this paragraph shall be disclosed except to the extent it is exempt from disclosure under the provisions of § 500.4.

(f) For every meeting closed pursuant to § 500.4, the General Counsel of the United States Metric Board shall certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the Board as part of the transcript, recording or minutes required by § 500.7.

§ 500.7 Transcripts, recordings, and minutes of meetings.

(a) The Board shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting closed to the public pursuant to paragraph (i) of § 500.4, the Board shall maintain either such a transcript or recording, or a set of minutes.

(b) Where minutes are maintained they shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons for such actions, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(c) The Board shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting or portion of a meeting, closed to the public, for a period of at least 2 years after such meeting, or until 1 year after the conclusion of any Board proceeding with respect to which the meeting or portion was held, whichever occurs later.

(d) Public availability of such records shall be as follows:

(1) At the earlies practicable time the Board shall make available to the public, in its offices located at 1815 North Lynn Street, Arlington, Va. 22209, the transcript, electronic recording, or minutes of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting except for such item or items of such discussion or testimony as the Board or its General Counsel determines to contain information which may be withheld under § 500.4.

(2) Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be available at the

actual cost of duplication or transcription.

(3) The determination of the Board or General Counsel to withold information pursuant to paragraph (d)(1) of this section may be appealed to the Board. The Board shall make a final determination to withhold or release the requested information no later than at its next regularly scheduled meeting following the date of receipt of a written request for review. Such a request shall be deemed received by the Board when it has arrived at the offices of the Board in a form that describes in reasonable detail the material sought.

§ 500.8 Enforcement and review.

In addition to the right of appeal specified in § 500.7(d)(3) of these regulations, any person may bring an action to enforce these regulations and the relevant related provisions of the Government in the Sunshine Act, Pub. L. 94-409, 90 Stat. 1241, 5 U.S.C. 552b, in accordance with the provisions of that Act. Review of Board action related to these regulations may also be had in the same manner.

Dated at Arlington, Va., this 12th day of September 1978.

For United States Metric Board.

MALCOLM E. O'HAGAN,
Executive Director.

[FR Doc. 78-26062 Filed 9-14-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 762 3048]

CORNING GLASS WORKS, OWENS-ILLINOIS, INC.

Consent Agreements with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreements.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, these provisionally accepted agreements, among other things, would require Corning, N.Y., and Toledo, Ohio manufacturers and distributors of disposable glass culture tubes to make bona fide efforts to identify and provide proper restitution to eligible end-user customers who had failed to receive the amount of disposable glass tubes specified on packaging.

DATE: Comments must be received on or before November 13, 1978.

ADDRESS: Comments should be directed to Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Harvey Saferstein, Director, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Boulevard, Los Angeles, Calif., 90024, 213-824-7575.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreements containing consent orders to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, have been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of 60 days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14).

[File No. 762 3048]

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

CORNING GLASS WORKS

The Federal Trade Commission having initiated an investigation of certain acts and practices of Corning Glass Works, a corporation, hereinafter sometimes referred to as proposed respondent, and it appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being invetigated,

It is hereby agreed by and between Corning Glass Works, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Corning Glass Works is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at Houghton Park, Corning, N.Y. 14830.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives: (a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and it understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

I. *It is ordered*, That respondent Corning Glass Works, a corporation, its successors and assigns, and its officers, agents, representatives and employees, in connection with the manufacture, distribution or sale of disposable glass culture tubes in or affecting commerce, as "commerce" is defined in the Federal Trade Commissison Act, do forthwith cease and desist from failing to:

1. Make a bona fide effort, with the voluntary cooperation of each of its dealers, to identify all purchases of disposable glass culture tubes manufactured by respondent in sizes 10×75, 12×75 and 13×100 mm, by each such dealer's end-user customers between January 1, 1974, and December 31, 1975.

2. Make a refund to each person, partnership or corporation so identified as an end-user purchaser of the said products by (a) delivering or causing to be delivered a quantity of disposable culture tubes equal to 2.5 percent of the total of such tubes purchased by such end-user purchaser, (b) paying an amount of money equal to 2.5 percent of the total price paid for such tubes by such end-user purchaser, or (c) a combination of said methods, at respondent's option.

3. At or prior to the time of making the refund under 2., above, send to each such recipient of a refund, an announcement worded substantially as set forth in appendix A to this order.

4. Maintain for a period of three years after the date of this order, and upon request make available to the Federal Trade Commission for inspection and copying, records adequate to show the manner and form of its compliance with this order, including but not limited to, a list of all persons, partnerships or corporations identified as end-user purchasers of disposable glass culture tubes, the amount of refund paid to each such person, partnership or corporation, and the date of payment.

5. Notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

6. File with the Federal Trade Commission within sixty (60) days after service upon it of this order, and at such other times as the Federal Trade Commission may by written notice require, a report in writing, setting forth in detail the manner and form in which it has complied with this order.

II. *It is further ordered*, That respondent Corning Glass Works, a corporation, its successors and assigns, and its officers, agents, representatives and employees, in connection with the manufacture, distribution or sale of disposable glass culture tubes in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to:

1. Make a bona fide effort, with the voluntary cooperation of each of its dealers, to identify all purchases of disposable glass culture tubes manufactured by respondent in sizes 10×75, 12×75 and 13×100 mm, by each such dealer's end-user customers between April 1, 1974, and December 31, 1975.

2. Make a refund to each person, partnership or corporation so identified as an end-user purchaser of the said products by (a) delivering or causing to be delivered a quantity of disposable culture tubes equal to 2.5 percent of the total of such tubes purchased by such end-user purchaser, (b) paying an amount of money equal to 2.5 percent of the total price paid for such tubes by such end-user purchaser, or (c) a combination of said methods, at respondent's option.

3. At or prior to the time of making the refund under 2., above, send to each such recipient of a refund, an announcement worded substantially as set forth in appendix B to this order.

4. Maintain for a period of three years after the date of this order, and upon request make available to the Federal Trade Commission for inspection and copying, records adequate to show the manner and form of its compliance with this order, including but not limited to, a list of all persons, partnerships or corporations identified as end-user purchasers of disposable glass culture tubes, the amount of refund paid to each such person, partnership or corporation, and the date of payment.

5. Notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

6. File with the Federal Trade Commission within sixty (60) days after service upon it of this order, and at such other times as the Federal Trade Commission may by written notice require, a report in writing, setting forth in detail the manner and form in which it has complied with this order.

III. *It is further ordered*, That respondent Owens-Illinois, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, in connection with the manufacture, distribution or sale of disposable glass culture tubes in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to:

1. Make a bona fide effort, with the voluntary cooperation of each of its dealers, to identify all purchases of disposable glass culture tubes manufactured by respondent in sizes 10×75, 12×75 and 13×100 mm, by each such dealer's end-user customers between January 1, 1974, and December 31, 1975.

2. Make a refund to each person, partnership or corporation so identified as an end-user purchaser of the said products by (a) delivering or causing to be delivered a quantity of disposable culture tubes equal to 2.5 percent of the total of such tubes purchased by such end-user purchaser, (b) paying an amount of money equal to 2.5 percent of the total price paid for such tubes by such end-user purchaser, or (c) a combination of said methods, at respondent's option.

3. At or prior to the time of making the refund under 2., above, send to each such recipient of a refund, an announcement worded substantially as set forth in appendix C to this order.

4. Maintain for a period of three years after the date of this order, and upon request make available to the Federal Trade Commission for inspection and copying, records adequate to show the manner and form of its compliance with this order, including but not limited to, a list of all persons, partnerships or corporations identified as end-user purchasers of disposable glass culture tubes, the amount of refund paid to each such person, partnership or corporation, and the date of payment.

5. Notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

6. File with the Federal Trade Commission within sixty (60) days after service upon it of this order, and at such other times as the Federal Trade Commission may by written notice require, a report in writing, setting forth in detail the manner and form in which it has complied with this order.

IV. *It is further ordered*, That respondent Owens-Illinois, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, in connection with the manufacture, distribution or sale of disposable glass culture tubes in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to:

1. Make a bona fide effort, with the voluntary cooperation of each of its dealers, to identify all purchases of disposable glass culture tubes manufactured by respondent in sizes 10×75, 12×75 and 13×100 mm, by each such dealer's end-user customers between April 1, 1974, and December 31, 1975.

2. Make a refund to each person, partnership or corporation so identified as an end-user purchaser of the said products by (a) delivering or causing to be delivered a quantity of disposable culture tubes equal to 2.5 percent of the total of such tubes purchased by such end-user purchaser, (b) paying an amount of money equal to 2.5 percent of the total price paid for such tubes by such end-user purchaser, or (c) a combination of said methods, at respondent's option.

3. At or prior to the time of making the refund under 2., above, send to each such recipient of a refund, an announcement worded substantially as set forth in appendix D to this order.

4. Maintain for a period of three years after the date of this order, and upon request make available to the Federal Trade Commission for inspection and copying, records adequate to show the manner and form of its compliance with this order, including but not limited to, a list of all persons, partnerships or corporations identified as end-user purchasers of disposable glass culture tubes, the amount of refund paid to each such person, partnership or corporation, and the date of payment.

5. Notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

6. File with the Federal Trade Commission within sixty (60) days after service upon it of this order, and at such other times as the Federal Trade Commission may by written notice require, a report in writing, setting forth in detail the manner and form in which it has complied with this order.

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

3. At or prior to the time of making the refund under 2., above, send to each such recipient of a refund, an announcement worded substantially as set forth in appendix A hereto, or in such other form as may be approved by the Regional Director of the Commission's Los Angeles Regional Office.

II. *It is further ordered*, That respondent shall forthwith distribute a copy of this order to each of its operating divisions.

III. *It is further ordered*, That respondent notify the Commission at least 30 days prior to any proposed change in respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in respondent which may affect compliance obligations arising out of the order.

IV. *It is further ordered*, That the respondent herein shall within ninety (90) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

APPENDIX A

DEAR CUSTOMER: Following investigation by the Federal Trade Commission, Corning Glass Works had reason to believe that certain packages of disposable culture tubes sold by us between September 1973 and the fall of 1975 contained fewer tubes than the quantity specified. Several factors may have contributed to this situation including human error on our packing lines, slight variations in the tube diameter and our high speed manufacturing process. Fortunately, a careful audit of our disposable culture tube packages, conducted by our quality assurance people, indicated that the potential shortages were relatively small and that such shortages were limited to only 3 sizes—10×75, 12×75, and 13×100 mm. After learning of this problem and studying its causes, we took corrective action by changing to a slightly larger package in September 1975 and turning to an entirely different packaging concept early in 1976.

The above is Corning's version of the facts in this matter and has not been approved or adopted by the Commission or its staff.

We sincerely regret that this problem arose and wish to assure you that Corning Glass Works will strive to provide products of the highest quality and dependability at all times. Because of the impossibility of determining which customers may have purchased merchandise affected by this problem, we have voluntarily agreed with the Federal Trade Commission to make an across-the-board refund of 2.5 percent of your purchases of these tubes during the years 1974 and 1975. [Enclosed is a check for —— representing your purchases of such products from ———— (dealer's name) ———— during 1974 and 1975. If you purchased these sizes of tubes from more than one dealer, you may be receiving more than one separate check in the mail.[1]

If you have any questions you may write directly to Edmund M. Olivier, Vice-President and General Manager, Science Products Division, Corning Glass Works; Corning, N.Y. 14830 or call 607-974-4126. We hope you feel we have compensated you for any shortage you may have experienced.

Very truly yours,

R. MICHAEL WORLEY,
Marketing Manager,
Disposable Glassware.

You will be receiving a shipment of tubes within the near future which represents 2.5 percent of your purchase from ———— (dealer's name) during the years 1974 and 1975. If you purchased these sizes of tubes from more than one dealer you may receive more than one glass shipment.

[1] Alternative language to that in brackets above.

OWENS-ILLINOIS, INC., & KIMBLE DIVISION OF OWENS-ILLINOIS, INC.

[File No. 762 3048]

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of Owens-Illinois, Inc., a corporation trading and doing business under its own name and as Kimble Division of Owens-Illinois, Inc., hereinafter sometimes referred to as proposed respondent, and it appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Owens-Illinois, Inc., by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Owens-Illinois, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, trading and doing business under its own name and as Kimble division of Owens-Illinois, Inc., with its principal office and place of business located at the Owens-Illinois Building, Madison Avenue, Toledo, Ohio 43666.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and it understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

8. Notwithstanding any other provision of this agreement, the order contained herein shall not become final within the meaning of the Federal Trade Commission Act, as amended, unless and until the Commission shall have issued a final order against Corning Glass Works in connection with an investigation of that company undertaken by the Commission's Los Angeles Regional Office involving alleged practices similar to those alleged in the draft of complaint attached hereto, which order shall contain provisions substantially equivalent to the provisions of the order contained herein except for those portions of section I (including appendix A) thereof which pertain peculiarly to the alleged practices of proposed respondent, e.g., specific tube sizes, dates and refund rates. In the event that the Commission shall issue a final order against Corning Glass Works which contains provisions (other than the excepted portions of section I (including appendix A) referred to above) more favorable to that respondent than the corresponding provisions of the order contained herein, proposed respondent Owens-Illinois, Inc., shall have the right to renegotiate the provisions of the order contained herein to substitute any more favorable provisions [other than the excepted portions of Section I (including appendix A) referred to above] of the order against Corning Glass Works.

ORDER

I. *It is ordered*, That respondent Owens-Illinois, Inc., a corporation trading and doing business under its own name, as Kimble Division of Owens-Illinois, Inc., or under any other name or names, its successors and assigns, and its officers, agents, representatives and employees, in connection with the manufacture, distribution or sale of disposable glass culture tubes in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to:

1. Make a bona fide effort, by soliciting the voluntary cooperation of each of its dealers, to identify all purchases of disposable glass culture tubes, except the 6 x 50 mm size, manufactured by respondent, by each such dealer's end-user customers between April 1, 1974, and December 31, 1975.

2. Make a refund to each person, partnership or corporation so identified as an end-user purchaser of the products referred to in 1., above, by (a) delivering or causing to be delivered a quantity of disposable culture tubes equal to 0.75 percent of the total of such tubes purchased by such end-user purchaser during such period; (b) paying an amount of money equal to 0.75 percent of the total price paid for such tubes by such end-user purchaser, if such price information is obtainable from the dealer (otherwise, such refund shall be based upon respondent's suggested consumer prices during such period; for this purpose a customer's purchase of tubes of a particular size for each time period shown on the records furnished by the dealer shall be deemed to be a single shipment); or (c) a combination of said methods, at respondent's option.

3. At or prior to the time of making the refund under 2., above, send to each such recipient of a refund, an announcement worded substantially as set forth in appendix A hereto.

II. *It is further ordered*, That respondent shall forthwith distribute a copy of this order to each of its operating divisions.

III. *It is further ordered*, That respondent notify the Commission at least 30 days prior to any proposed change in respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in respondent to the extent that any such change may affect compliance obligations arising out of the order.

IV. *It is further ordered*, That the respondent herein shall within ninety (90) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

APPENDIX A

DEAR CUSTOMER: Our Kimble disposable glass culture tubes are packaged in trays designed to hold 250 or 125 tubes each (depending on tube size), then boxed four trays to a carton. Following investigation by the Federal Trade Commission, it has been discovered that during the period from April 1, 1974, to December 31, 1975, because of our high-speed packing methods, a misalignment of the tubes could result in a count of fewer than 250, or 125, tubes, depending on size, in one or more of the four inner trays in a particular carton. Since such discovery was made we have taken appropriate corrective action.

The above is O-I's version of the facts in this matter and has not been approved or adopted by the Commission or its staff.

We sincerely regret that this problem arose and wish to assure you that Owens-Illinois, Inc. will strive to provide products of the highest quality and dependability at all times. Because of the impossibility of determining which customers may have purchased merchandise affected by this problem, we have voluntarily agreed with the Federal Trade Commission to make an across-the-board refund of 0.75 percent of your purchases of these tubes during the period from April 1, 1974, through December 31, 1975. [Enclosed is a check for —— representing 0.75 percent of your purchases of such products from ———— (dealer's name) during such period. If you purchased these sizes of tubes from more than one dealer, you may be receiving more than one separate check in the mail.][2]

If you have any questions you may write directly to Mr. E. W. Metz, Owens-Illinois, Inc., P.O. Box 1035, Toledo, 43666 or call 419-242-6543. We hope you feel we have compensated you for any shortage you may have experienced.

Very truly yours,

You will be receiving a shipment of tubes within the near future which represents 0.75 percent of your purchases from ———— (dealer's name) during such period. If you purchased these sizes of tubes from more than one dealer you may receive more than one glass shipment.

[2] Alternative language to that in brackets above.

[File No. 762-3048]

CORNING CLASS WORKS OWENS-ILLINOIS, INC.

ANALYSIS OF PROPOSED CONSENT ORDERS TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted agreements to proposed consent orders from Corning Glass Works and Owens-Illinois, Inc.

The proposed consent orders have been placed on the public record for sixty (60) days for reception of comments by the public. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will review the agreements and the comments received and will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

Corning Glass Works is a New York corporation; Owens-Illinois, Inc., is an Ohio corporation trading and doing business as Kimble Division of Owens-Illinois, Inc. They manufacture, distribute and sell disposable glass culture tubes.

The complaint alleges that the corporations manufactured and distributed boxes, carton or packages labeled as containing not less than 1,000 tubes, when, in fact, certain of the boxes, cartons or packages contained less than 1,000 tubes.

The consent order requires Corning to make restitution, in cash or tubes, to purchasers of three sizes of tubes, in the amount of 2.5 percent of their purchases in the years 1974 and 1975. It requires Owens-Illinois to make restitution, in cash or tubes, to purchasers of all but one size of tubes, in the amount of 0.75 percent of their purchases from April 1, 1974 to December 31, 1975.

The order is generally designed to compensate the corporations' customers for the short-count packages they may have bought.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-26025 Filed 9-14-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[17CFR Part 230]

[Release No. 33-5976]

PRIVATE PLACEMENT EXEMPTIVE RULE

AGENCY: Securities and Exchange Commission

ACTION: Withdrawal of proposal.

SUMMARY: The Commission is withdrawing a proposed amendment to its private placement exemptive rule which would have prohibited persons who receive compensation from the issuer in connection with the offering from also serving as an offeree representative. This action is taken in response to the public comments received urging that the proposal not be adopted.

EFFECTIVE DATE: September 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard K. Wulff, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-1240.

SUPPLEMENTARY INFORMATION: In Securities Act Release No. 5913 (Mar. 6, 1978) (43 FR 10701), the Commission published for comment proposed amendments to rule 146 (17 CFR 230.146) which would prohibit persons who receive compensation from the issuer in connection with an offering made in reliance upon the rule from also serving as offeree representatives, and would revise the disclosure requirements under the rule when an offering did not exceed $500,000. In a related action announced today, the Commission has adopted an amendment to rule 146 regarding the disclosure requirements for an offering not exceeding $1,500,000. See Securities Act Release No. 33-5975 under rules and regulations in this issue.

Under the proposal to amend subparagraph (a) of rule 146 a person receiving compensation directly or indirectly from an issuer in connection with an offering effected in reliance upon the rule would not qualify as an offeree representative. In response to the Commission's invitation to comment upon this proposal 27 commentators submitted their views. The comments opposed adoption of the proposal indicating a counterproductive effect which would do little in the interest of investor protection but further limit issuer reliance upon the rule. The commentators also believed adoption of the proposal would signifi-

cantly increase the costs involved in a rule 146 placement. Contrary to the

[1505-01]

DEPARTMENT OF HOUSING AND

FOR FURTHER INFORMATION CONTACT:

William E. Mantle of the Legislation

notice that the Customs Service is considering changing its present position

toms believes that the origin of an "assist" should not be considered in

became worthless (or partially worthless). However, legal action need not have been brought against the guarantor

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cantly increase the costs involved in a rule 146 placement. Contrary to the statements set forth in release No. 33-5913, it was submitted that an offeree representative, even when compensated by the issuer, owes significant loyalty to his customer and that any potential conflict of interest is adequately balanced by full disclosure of the arrangements.

The commentators highlighted the fact that the Securities Act is a disclosure statute and that the proposal is contrary to the philosohpy embodied in the Act. In short, it was submitted that the disclosure of compensation arrangements with the issuer is sufficient to counter the potential conflict of interest. Moreover, it was asserted that loyalties do run, in the main, to the offeree rather than the issuer and that independence is not compromised in spite of the fee. A recurrent concern of the commentators was the increased costs attendant upon the implementation of the proposed amendment. Perhaps most important were the comments indicating that the proposal, if adopted, would discourage use of rule 146, inhibit the raising of capital, adversely affect the quality and cost of investment advice and eliminate the use of offeree representatives, all to the detriment of investors.

The Commission has considered the comments and agrees that the proposal should not be adopted.

In consideration of the foregoing, the proposal published in the FEDERAL REGISTER (43 FR 10701) on March 6, 1978, and circulated as Securities Act Release No. 5913 regarding the amendment of Rule 146 (a) "Offeree Representative" is hereby withdrawn.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 8, 1978.

[FR Doc. 78-25970- Filed 9-14-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 177]

[541805/520715]

DUTIABLE STATUS OF "PIRATED" OR "STOLEN" RESEARCH AND DEVELOPMENT COSTS

Proposed Change of Position

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed change of position.

SUMMARY: This document gives notice that the Customs Service is considering changing its present position of not including "pirated" or "stolen" research and development costs as part of the dutiable value of imported merchandise. This change in position is being considered because the current position of the Customs Service appears to conflict with the principles announced in Customs Court decisions and with the practice of including "assists" as part of the dutiable value of the merchandise.

DATES: Comments must be received on or before: November 14, 1978.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Thomas L. Lobred, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-2983.

SUPPLEMENTARY INFORMATION:

BACKGROUND

It has been the position of the Customs Service not to include "pirated" or "stolen" research and development (R. & D.) costs as part of the dutiable value of imported merchandise, because the "pirate-company" (the producer of the merchandise using the "pirated" or "stolen" R. & D.) does not incur actual R. & D. costs in producing the merchandise. However, "assists", such as molds or R. &. D. costs, are unformly dutiable if otherwise provided to the producer in the normal course of business. In this context, the term "assists" is used to described anything of value acquired by or furnished to a foreign manufacturer, producer, or assembler at less than its full cost or value for use in the production, manufacture, or assembly of the imported merchandise. See T.D. 77-297.

The U.S. Customs Court, in *Ford Motor Company* v. *United States*, 29 Cust. Ct. 553 (1952), stated that the purpose of the applicable section of the value law is to derive "not the manufacturer's actual cost, but the actual cost of manufacturer" when determining the cost of production of imported merchandise. A similar rule was made applicable to constructed value determinations by the Customs Court in *Goodrich-Gulf Chemicals Inc.* v. *United States*, 66 Cust. Ct. 509 (1970). In view of these decisions and the Customs position that R. & D. costs are dutiable as "assists", Customs believes that the origin of an "assist" should not be considered in determining dutiable value. "Pirated" or "stolen" R. & D. costs which are necessary for the production of the merchandise should be considered dutiable "assists". Information concerning a process or idea which has become part of the public domain, however, is not included in determining dutiable value, because the information is freely available to anyone without incurring R. & D. costs.

PROPOSED CHANGE OF POSITION

The Customs Service is considering a change in its position of not including "pirated" or "stolen" R. & D. costs as part of the dutiable value of imported merchandise. The Customs Service proposes that "pirated" or "stolen" R. & D. costs be considered dutiable "assists" to be included as part of the dutiable value of imported merchandise.

AUTHORITY

This notice is published in accordance with § 177.10(c)(2) of the Customs Regulations (19 CFR 177.10(c)(2)).

COMMENTS

Pursuant to § 177.10(c)(1) of the Customs Regulations (19 CFR 177.10(c)(1)), the Customs Service invites written comments (preferably in triplicate) on this proposed change from all interested parties.

All comments received in response to this notice will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

DRAFTING INFORMATION

The principal author of this notice was Carmen D. Hawkins, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service participated in its development.

Dated: September 11, 1978.

LEONARD LEHMAN,
Assistant Commissioner, Regulations and Rulings.

[FR Doc. 78-25995 Filed 9-14-78; 8:45 am]

[1505-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4443]

Proposed Flood Elevation Determination for the Town of Westhampton, Hampshire County, Mass.

Correction

FR Doc. 78-24037, appearing on page 38718 in the issue of Wednesday, August 30, 1978, is corrected as follows:

(1) The document heading should be corrected to refer to "Westhampton, Hamsphire County, Mass." as set forth above.

(2) In the summary, in the 5th line, "the town of Easthampton, Hampshire County, Mass." should be corrected to read "the town of Westhampton, Hampshire County, Mass."

(3) In the supplementary information, in the 4th line, "for the town of Easthampton" should be corrected to read for the "town of Westhampton."

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-255-76]

INCOME TAX

Treatment of Losses From Certain Guarantee Agreements

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the treatment of losses resulting from payments made in discharge of certain guarantee agreements. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The Regulations would provide the public with the guidance needed to comply with the changes.

DATES: Written comments and requests for a public hearing must be delivered by . The amendments are proposed to be effective for losses incurred, on guarantee agreements made after December 31, 1975, in taxable years beginning after such date.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-255-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

William E. Mantle of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3459).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 166 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 605 of the Tax Reform Act of 1976 (90 Stat. 1575) (hereafter referred to as "the Act") and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

REPEAL OF SECTION 166(F)

Section 605 of the Act repeals section 166(f) of the Code for losses incurred, on guarantees made after December 31, 1975, in taxable years beginning after such date. Section 166(f) dealt with agreements made by noncorporate taxpayers to guarantee the obligations of noncorporate borrowers if the proceeds of those obligations were to be used in the borrower's trade or business. The section provided, in part, that a payment by the guarantor in discharge of a guarantee obligation was to be treated as a business bad debt. Thus, the debt resulting from the payment under the guarantee was to be deductible as an ordinary loss even though the guarantee agreement did not arise in the course of the guarantor's trade or business.

NEW RULES

This notice of proposed rulemaking contains new rules to be applied to losses, on guarantee agreements made after December 31, 1975, in taxable years beginning after such date.

These new rules provide generally that if a guarantee agreement arose out of the guarantor's trade or business, the guarantor may treat a payment under the agreement as a business bad debt. If a guarantee agreement arose out of a transaction entered into for profit by the guarantor (and not as a part of the guarantor's trade or business), the guarantor may treat a payment under the agreement as a nonbusiness bad debt.

A payment may be treated as a bad debt under these rules only if the guarantee agreement was entered into in the course of the guarantor's trade or business or a transaction for profit, there was an enforceable duty upon the guarantor to make payment under the agreement, and the agreement was entered into before the obligation became worthless (or partially worthless). However, legal action need not have been brought against the guarantor.

A taxpayer must also demonstrate that he has received reasonable consideration for the guarantee agreement for a payment under the agreement to be treated as a bad debt. Reasonable consideration is not limited to direct consideration in the form of cash or property. Thus, if the guarantor can demonstrate that the guarantee was given without direct consideration in the form of cash or property but according to normal business practice or for a good faith business purpose, bad debt treatment is allowed if the conditions of these new rules are met. Consideration received from members of the guarantor's family must be direct consideration in the form of cash or property.

If the guarantor has a right of subrogation or other similar right against the borrower, bad debt treatment is not allowed until that right becomes worthless (or partially worthless in the case of a guarantee agreement which arose in the course of the guarantor's trade or business).

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations is William E. Mantle of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part 1 are as follows:

§ 1.166 [Deleted]

PARAGRAPH 1. Section 1.166 and the historical note are deleted.

PAR. 2. Section 1.166-5 is amended by revising paragraph (c) to read follows:

§ 1.166-5 Nonbusiness debts.

* * * * *

(c) *Guaranty of obligations.* For provisions treating a loss sustained by a guarantor of obligations as a loss re-

ment made by the taxpayer in discharge of part or all of the taxpayer's obligation as a guarantor, endorser, or

(3) *Other applicable provisions.* Unless inconsistent with this section, other Internal Revenue laws concern-

approval of the order as a delayed compliance order.

DATE: Written comments must be re-

satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above referenced order satisfies these requirements.

SUMMARY: EPA proposes to approve an administrative order issued by the Commonwealth of Kentucky to United States Department of the

(c) *Guaranty of obligations.* For provisions treating a loss sustained by a guarantor of obligations as a loss resulting from the worthlessness of a debt, see §§ 1.166–8 and 1.166–9.

PAR. 3. Section 1.166-8 is amended by revising the caption and adding a new paragraph (d) at the end of the section. As revised, the section reads as follows:

§ 1.166–8 Losses of guarantors, endorsers, and indemnitors incurred on agreements made before January 1, 1976.

* * * * *

(d) *Effective date.* This section applies only to losses, regardless of the taxable year in which incurred, on agreements made before January 1, 1976.

PAR. 4. The following new section is added immediately after § 1.166–8:

§ 1.166–9 Losses of guarantors, endorsers, and indemnitors incurred, on agreements made after December 31, 1975, in taxable years beginning after such date.

(a) *Payment treated as worthless business debt.* This paragraph applies to taxpayers who, after December 31, 1975, enter into an agreement in the course of their trade or business to act as a guarantor, endorser, or indemnitor of a debt obligation. Subject to the provisions of paragraphs (c), (d), and (e) of this section, a payment made during a taxable year beginning after December 31, 1975, by the taxpayer in discharge of part or all of the taxpayer's obligation as a guarantor, endorser, or idemnitor is treated as a business debt becoming worthless in the taxable year in which the payment is made or in the taxable year described in paragraph (e)(2). Section 165 (relating to losses) shall not apply with respect to such a payment.

(b) *Payment treated as worthless nonbusiness debt.* This paragraph applies to taxpayers (other than corporations) who, after December 31, 1975, enter into a transaction for profit, but not in the course of their trade or business, to act as a guarantor, endorser, or indemnitor of a debt obligation. Subject to the provisions of paragraphs (c), (d), and (e) of this section, a payment made during a taxable year beginning after December 31, 1975, by the taxpayer in discharge of part or all of the taxpayer's obligation as a guarantor, endorser, or indemnitor is treated as a worthless nonbusiness debt in the taxable year in which the payment is made or in the taxable year described in paragraph (e)(2). Section 165 shall not apply with respect to such a payment.

(c) *Obligations issued by corporations.* No treatment as a worthless debt is allowed with respect to a payment made by the taxpayer in discharge of part or all of the taxpayer's obligation as a guarantor, endorser, or indemnitor of an obligation issued by a corporation if, on the basis of the facts and circumstances at the time the obligation was entered into, the payment constitutes a contribution to capital by a shareholder.

(d) *Certain payments not treated as worthless debts.* A payment in discharge of part or all of taxpayer's agreement to act as guarantor, endorser, or indemnitor of an obligation is to be treated as a worthless debt only if—

(1) The agreement was entered into in the course of the taxpayer's trade or business or a transaction for profit;

(2) There was an enforceable legal duty upon the taxpayer to make the payment (except that legal action need not have been brought against the taxpayer); and

(3) The agreement was entered into before the obligation became worthless (or partially worthless in the case of an agreement entered into in the course of the taxpayer's trade or business).

(e) *Special rules*—(1) *Reasonable consideration required.* Treatment as a worthless debt of a payment made by a taxpayer in discharge of part or all of the taxpayer's agreement to act as a guarantor, endorser, or indemnitor of an obligation is allowed only if the taxpayer demonstrates that he has received reasonable consideration for entering into the agreement. For purposes of this paragraph (e)(1), reasonable consideration is not limited to direct consideration in the form of cash or property. Thus, where a taxpayer can demonstrate that the agreement was given without direct consideration in the form of cash or property but in accordance with normal business practice or for a good faith business purpose, worthless debt treatment is allowed with respect to a payment in discharge of part or all of the agreement if the conditions of this section are met. However, consideration received from a taxpayer's spouse or any individual listed in section 152(a) must be direct consideration in the form of cash or property.

(2) *Right of subrogation.* With respect to a payment made by a taxpayer in discharge of part or all of the taxpayer's agreement to act as a guarantor, endorser, or indemnitor where the agreement provides for a right of subrogation or other similar right against the issuer, treatment as a worthless debt is not allowed until the taxable year in which the right of subrogation or other similar right becomes totally worthless (or partially worthless in the case of an agreement which arose in the course of the taxpayer's trade or business).

(3) *Other applicable provisions.* Unless inconsistent with this section, other Internal Revenue laws concerning worthless debts, such as section 111 relating to the recovery of bad debts, apply to any payment which, under the provisions of this section, is treated as giving rise to a worthless debt.

(f) *Effective date.* This section applies to losses incurred on agreements made after December 31, 1975, in taxable years beginning after such date. However, paragraph (c) of this section also applies to payments, regardless of the taxable year in which made, under agreements made before January 1, 1976.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-25973 Filed 9-14-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 967-4; Docket No. DCO-78-25]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by the Commonwealth of Kentucky, Department for Natural Resources and Environmental Protection, to Owensboro Grain Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Commonwealth of Kentucky to Owensboro Grain Co. The order requires Owensboro Grain Co. to bring air emissions from its grain elevator in Owensboro, Ky., into compliance with certain regulations contained in the federally approved Kentucky State implementation plan (SIP) by March 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before October 16, 1978.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Leon Folsom, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, telephone 404-881-4298.

SUPPLEMENTARY INFORMATION: Owensboro Grain operates a grain elevator at its facility in Owensboro, Ky.

The order under consideration addresses fugitive emissions from various sources at the facility, which are subject to Kentucky air pollution control regulation 401 KAR 3:060, section 14(2). The regulation limits the emissions of particulate matter, and is part of the federally approved Kentucky State implementation plan. The order requires final compliance with the regulation by September 1, 1978, through the implementation of the following schedule for the construction or installation of control equipment:

(1) Commence onsite construction or installation of control equipment by June 1, 1978.

(2) Complete construction or installation of control equipment by August 20, 1978.

(3) Submit proof of final compliance by September 1, 1978.

The source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. The source is required to submit monthly reports by the tenth (10th) of the month, beginning with the month following the date of signing this order, which reflect the actual hours and days the subject facilities are operated as well as listing throughput of grain for that month. As an interim control grain throughput shall not exceed 10,000 bushels per month for wheat and 1,000,000 bushels per month for corn.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above referenced order satisfies these requirements.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Kentucky SIP. Compliance with the proposed order will not exempt the company from the requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order.

After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: September 7, 1978.

JOHN C. WHITE,
Regional Administrator, Region IV.

[FR Doc. 78-25957 Filed 9-14-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 967-3; Docket No. DCO-78-26]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by the Commonwealth of Kentucky, Department for Natural Resources and Environmental Protection, United States Department of the Army, Headquarters U.S. Army Armor Center and Fort Knox

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Commonwealth of Kentucky to United States Department of the Army, Headquarters U.S. Army Armor Center and Fort Knox (hereinafter referred to as "Fort Knox"). The order requires Fort Knox to bring air emissions from its asphalt plant and quarrying operations at Fort Knox, Ky., into compliance with certain regulations contained in the federally-approved Kentucky State Implementation Plan (SIP) by March 31, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before October 16, 1978.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Richard S. DuBose, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, Telephone Number: 404-881-4298.

SUPPLEMENTARY INFORMATION: Fort Knox operates an asphalt plant and quarry at its facility at Fort Knox, Ky. The order under consideration addresses fugitive emissions from various sources at the facility, which are subject to Kentucky Air Pollution Control Regulation 401 KAR 3:060, section 14(2). The regulation limits the emissions of particulate matter and is part of the federally-approved Kentucky State Implementation Plan. The order requires final compliance with the regulation by March 31, 1979, through the implementation of the following schedule for the construction or installation of control equipment:

(1) Submit final control plan for achieving compliance with applicable regulation by September 1, 1978.

(2) Commence onsite construction or installation of control equipment by October 1, 1978.

(3) Complete construction or installation of control equipment by November 15, 1978.

(4) Submit proof of final compliance by December 1, 1978.

The source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. The source is required to submit monthly reports by the tenth (10th) of the month, beginning with the month following the date of signing this order, which reflect the actual hours and days the subject facilities are operated as well as listing throughput of grain for that month. As an interim control grain throughput shall not exceed 10,000 bushels per month for wheat and 1,000,000 bushels per month for corn.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above referenced order satisfies these requirements.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Kentucky SIP. Compliance with the proposed order will not exempt the company from the requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order.

After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: September 7, 1978.

JOHN C. WHITE,
Regional Administrator, Region IV.

[FR Doc. 78-25958 Filed 9-14-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-253; RM-3161]

FM BROADCAST STATIONS IN CLEWISTON, FLORIDA

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Channel 292A to Clewiston, Florida, as the community's first local FM broadcast service. The channel can be assigned in conformance with the minimum mileage separation requirements of the Commission's Rules. Petitioner has indicated that it will apply for the channel if it is assigned.

DATES: Comments must be filed on or before October 30, 1978, and reply comments on or before November 16, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Walker, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Clewiston, Florida), BC Docket No. 78-253, RM-3161.

1. The Commission has before it a petition for rule making filed by Hendry Broadcasting Company, Inc., licensee of Standard broadcast station WCNO, Clewiston, Florida, requesting the assignment of Channel 292A to Clewiston as the community's first local FM broadcast service. Petitioner has indicated that it will apply for the channel if it is assigned.

2. Channel 292A can be assigned to Clewiston in conformance with the minimum mileage separation requirements of the Commission's Rules. The coordinates for Channel 292A at Clewiston are North Latitude 26° 45' 30" and West Longitude 80° 56' 00".

3. Clewiston (population 7,000) is the seat of Hendry County (population 12,000) and is located in south central Florida, approximately 40 miles west of West Palm Beach. Petitioner states that Clewiston is the center of the sugar cane industry in Florida and that the area is also known for its cattle and citrus industries. Petitioner asserts that Clewiston has a need for a local FM broadcast service to provide a broadcast medium for the dissemination of local news and information.

4. Pursuant to the provisions of § 1.415 of the Commission's Rules and Regulations, interested parties may file comments on or before October 30, 1978, and reply comments on or before November 16, 1978.

5. This action is taken pursuant to sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as

tration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on

(2) Commence onsite construction or installation of control equipment by October 1, 1978.

(3) Complete construction or installation of control equipment by December 31, 1978.

(4) Submit proof of final compliance by March 31, 1979.

The source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. For interim controls, the source has agreed to:

(1) Use water trucks for suppression of dust on haul roads.

(2) Use temporary wet suppression system on the portable rock crusher.

(3) Use current control system on the main quarry crusher.

(4) Complete asphalt plant hook-up to baghouse by April 28, 1978. (Pug mill exhaust.) The asphalt plant will not be put into operation prior to the completion of the hook-up to the baghouse.

As an emission monitoring and reporting requirement, the source shall submit quarterly reports, beginning with April 1 through June 30, 1978, quarter, which reflect the actual hours and days the subject facilities are operated as well as documentation related to the fulfillment of the requirements for interim controls.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above referenced order satisfies these requirements.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Kentucky SIP. Compliance with the proposed order will not exempt the company from the requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order.

After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: September 7, 1978.

JOHN C. WHITE,
Regional Administrator,
Region IV.

[FR Doc. 78-25958 Filed 9-14-78; 8:45 am]

[6560-01]

[40 CFR Part 180]

[PP 7E1935/P90; FRL 967-7]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerances for the Pesticide Chemical Carbaryl

AGENCY: Office of Pesticide Programs, Environmental Protection Agnecy (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the insecticide carbaryl on celery. The proposal was submitted by the Interregional Research Project. This amendment to the regulations would establish a maximum permissible level for residues of carbaryl on celery.

DATE: Comments must be received on or before October 16, 1978.

ADDRESS: Comments to: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Strret SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA (202-755-2516).

SUPPLEMENTARY INFORMATION: The interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment stations of California, Florida, Michigan, New Jersey, and New York, has submitted a pesticide petition (PP 7E1935) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.169 be amended by the establishment of a tolerance for combined residues of the insecticide carbaryl (1-naphthyl *N*-methylcarbamate) including its hydrolysis product 1-naphthol, calculated as 1-naphthyl *N*-methylcarbamate, in or on the raw agricultural commodity celery at 10 parts per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a rat oral lethal dose (LD_{50}) study with an LD_{50} of 510 milligrams (mg)/kilogram (kg) of body weight (bw), a 2-year rat study with a no-observable-effect level (NOEL) of 200 ppm, a one-year dog subchronic feeding study (negative at 10 mg/kg bw/day (the highest level fed), an 18-month mouse oncogenicity study (negative at 400 ppm) (the highest level fed), a three-generation rat reproduction study with an NOEL of 200 mg/kg bw/day, a Rhesus monkey teratology study (negative at 20 mg/kg bw/day) (highest exposure level) and a dog teratology study with a NOEL of 3 mg/kg and a dominant lethal mutagenicity in the rat (negative at 200 mg/kg) (the highest dose used). The acceptable daily intake (ADI) in man is 0.1 mg/kg bw/day based on the NOEL of the 2-year rat feeding study and a 100-fold safety factor.

Carbaryl is a candidate for a rebuttable presumption against registration (RPAR) since it may exceed the risk criteria described in 40 CFR 162.11(a)(3)(ii)(B) for some registered uses. However, the amount of carbaryl theoretically added to the diet from the proposed use, calculated to be 0.043 mg/day for a 1.5 kg/day diet, is too small to substantially increase the risk for man since it is only 1 percent of the theoretical maximal residue contribution (TMRC) from the tolerances which have previously been established on a variety of raw agricultural commodities at levels ranging from 100 ppm to zero ppm. The TMRC from these established tolerances is about 4 mg/day. Thus, the proposed tolerance is considered to pose a negligible increment in risk.

An adequate analytical method (colorimetry) is available for enforcement purposes, and the metabolism of carbaryl is adequately understood. No actions are currently pending against the continued registration of carbaryl, nor are there any desirable data lacking from the petition, nor any other considerations involved in establishing the proposed tolerance.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before October 16, 1978, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP7E1935/P90". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: September 8, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)].)

It is proposed that part 180, subpart C, section 180.169 be amended by alphabetically inserting celery at 10 ppm in the table to read as follows:

§ 180.169

Carbaryl; tolerances for residues.

Commodity	Parts per million
Celery	10

[FR Doc. 78-25960 Filed 9-14-78; 8:45 am]

[1505-01]

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[43 CFR Part 420]

OFF-ROAD VEHICLE USE

Correction

In FR Doc. 78-23628 which appeared at page 37206 in the issue for Tuesday, August 22, 1978, the deadline for the receipt of comments was printed incorrectly. The last sentence of the paragraph headed "DATES:" which now reads: "Comments must be received on or before September 6, 1978," should be changed to read: "Comments must be received on or before September 21, 1978."

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[Gen. Docket No. 78-205]

REIMBURSEMENT OF EXPENSES FOR PARTICIPATION IN COMMISSION PROCEEDINGS

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of time for comments.

SUMMARY: The Commission is granting an extension of time in which to file comments and reply comments in the captioned proceeding. (43 FR 30834, July 18, 1978). The action is taken pursuant to requests made by organizations representing persons interested in this matter who wish to file comments. No further extensions of time are contemplated.

DATES: Comments must be received on or before October 16, 1978, and reply comments must be received on or before November 16, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Belle O'Brien, Office of Consumer Assistance, Room 258, 202-632-7000.

In the matter of reimbursement of expenses for participation in Commission proceedings; order extending time for filing comments.

Adopted: September 8, 1978.

Released: September 11, 1978.

By the General Counsel:

1. The Commission's notice of inquiry in this proceeding invited interested parties to submit comments on or before September 15, 1978, and reply comments on or before October 15, 1978.

2. The Federal Communications Bar Association (FCBA) and the law firm of McKenna, Wilkinson & Kittner (M.W. & K.) have requested that the time for filing comments be extended. The FCBA requests a 45-day extension of time for filing initial comments and M.W. & K. requests a 60-day extension.

3. We agree that an extension of time is justified. However, persons wishing to comment are informed by this order that no further extensions for the filing of comments or reply comments are contemplated.

4. *It is ordered*, that the date for filing comments in this proceeding, is extended through October 16, 1978, and for filing reply comments through November 16, 1978.

5. This action is taken pursuant to sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and sections 0.251(b) and 1.46 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
ROBERT R. BRUCE,
General Counsel.

[FR Doc. 78-26050 Filed 9-14-78; 8:45 am]

[6712-01]

[47 CFR—Part 73]

[BC Docket No. 78-237; RM-2937; FCC 78-626]

COMMERCIAL BROADCAST RENEWAL APPLICANTS AND NONCOMMERCIAL EDUCATIONAL BROADCAST APPLICANTS, PERMITTEES AND LICENSEES

Primers on Ascertainment of Community Problems

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rulemaking.

SUMMARY: This action proposes to change the requirements contained in the Primer on Ascertainment of Community Problems by Noncommercial Educational Broadcast Applicants to indicate that noncommercial educational broadcasters are required to consult with any group which is significant in their communities even if the group is not already included in the 19 elements on the Community Leader Checklist. This action, which would have the effect of requiring that all significant community groups be contacted by noncommercial educational broadcasters, results from a petition filed by the National Gay Task Force.

DATES: Comments must be received on or before October 16, 1978, and reply comments on or before November 15, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of the primers on ascertainment of community problems by commercial broadcast renewal applicants and noncommercial educational broadcast applicants, permittees and licensees.[1] Further notice of proposed rulemaking.

[1] Caption has been changed to reflect inclusion of the subject matter of this document.

Adopted: September 8, 1978.

Released: September 14, 1978.

By the Commission: Commissioner

lel change in the Primer for educational broadcast applicants. In view of the fact that the Community Leader provisions of the 1976 and Noncommercial

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is issu-

(3) Carriers have charged additional fees to assume liability for certain

anyway. The Commission does not believe it should be necessary to adopt

damage, even though caused by an act of God. In such cases, the shipper

V 43 / 180 / 15 / 78 / SE

Adopted: September 8, 1978.

Released: September 14, 1978.

By the Commission: Commissioner Quello dissenting; Commissioner Washburn concurring in the result.

1. On August 8, 1978, we issued a notice of proposed rulemaking, (43 FR 35357, August 9, 1978), in this proceeding proposing to change language in the Primer on Ascertainment of Community Problem by Broadcast Renewal Applicants ("1976 Primer")[2] relating to the Community Leader Checklist. The comment and reply comment dates for that notice are October 16, and November 15, 1978.

2. In the above document, the Commission proposed to change language appearing in the *1976 Primer*, which sets forth the ascertainment requirements applicable to commercial broadcast license renewal applicants.[3] The *notice* proposes changing the Primer to indicate that these licensees have a responsibility to insure that all significant elements or institutions which are readily accessible within their community of license, whether or not they are one of the nineteen categories on the Community Leader Checklist, are ascertained. The Commission also proposed that other elements or institutions which might be significant in a particular community but not readily accessible be ascertained if their existence is brought to the attention of the licensee.

3. The same community leader ascertainment provisions in the 1976 Primer are found in the Primer on Ascertainment of Community Problems by Noncommercial Educational Broadcast Applicants ("Noncommercial Primer").[4] Both in 1976 and Noncommercial Primers provide for a Community Leader Checklist [5] containing 19 institutions and elements commonly found in a community.[6]

4. The proposal set out in the initial notice did not include making a parallel change in the Primer for educational broadcast applicants. In view of the fact that the Community Leader provisions of the 1976 and Noncommercial Primers are identical and the proposed changes would serve the same purposes in both cases, we believe that it is appropriate to propose the same modifications to the Noncommercial Primer as were proposed for commercial broadcasters in the initial notice. However, if filing parties believe there is any reason why commercial renewal and noncommercial broadcast applicants should be treated differently in this regard, they may so indicate.

5. Based on the foregoing discussion, and pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, it is proposed to amend the Primer on Ascertainment of Community Problems by Noncommercial Educational Applicants as described above.

6. Pursuant to applicable procedures set forth in sections 1.415 of the Commission's rules, interested parties may file comments on or before October 16, 1978 and reply comments on or before November 15, 1978. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding.

7. In accordance with the provisions of section 1.419 of the Commission's rules, an original and five copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. Members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying the docket number, including the entire designation (BC docket No. 78-237) in the heading. All filings made in this proceeding will be made available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C. 20554.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-26049 Filed 9-14-78; 8:45 am]

[2] 57 FCC 2d 418 (1976).

[3] A separate Primer provides ascertainment guidelines for applicants for construction permits for new commercial broadcast stations. 27 FCC 2d 650 (1971).

[4] This primer applies to all noncommercial educational applications, renewal and otherwise. 58 FCC 2d 526 (1976).

[5] Whereas, applicants for construction permits for new commercial broadcast stations are not provided a checklist but rather are required to determine the composition of the community and select for consultations those community leaders that reflect that composition.

[6] See n. 2 of the initial notice in this proceeding for the list of elements. Consulting with one or more leaders in each of these elements creates a presumption of the adequacy of the community leader study. However, an applicant is permitted to show that one or more of these elements is not present in its community, and, at its option, it may utilize a category entitled "other" to interview leaders in elements not found on the checklist.

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1060]

[Ex Parte No. MC-108]

TRANSPORTATION OF MOBILE HOMES

Proposed Rulemaking

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is issuing proposed rules dealing with the practices of motor common carriers of mobile homes and their contents. The rules contain provisions concerning a carrier's liability for loss of or damage to a mobile home or its contents and require carriers to provide shippers, before a contract is signed, with an up-to-date copy of an information booklet, to be published by the Commission. These proposed regulations are designed to clarify the rights of shippers of mobile homes. During the course of this proceeding, the Commission will hold an informal conference on the proposed rules which will be open to anyone who wishes to attend.

DATE: Comments must be filed by November 14, 1978. Parties should indicate in their comments whether they wish to participate in the informal conference.

ADDRESS: An original and 15 copies, if possible, marked Ex Parte No. MC-108, should be forwarded to: Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, phone 202-275-7693.

SUPPLEMENTAL INFORMATION: The Department of Defense (DOD) has petitioned the Commission to institute a rulemaking proceeding concerning practices of motor common carriers of mobile homes and their contents. The DOD petition states that carriers have engaged in the practice of including in their tariffs and bills of lading clauses purporting to limit their liability for loss or damage in violation of section 20(11) of the Interstate Commerce Act (the Act), 49 U.S.C. 20(11).

The Commission has looked into this matter and has found that, since the DOD petition was filed, mobile home carriers have removed the objectionable language from their tariffs and bills of lading. However, several other alleged practices of mobile home carriers have come to the Commission's attention. These alleged practices include the following:

(1) Carriers have denied liability on the basis of language in receipts signed by shippers on delivery of the mobile homes purportedly releasing the carriers from liability.

(2) Carriers have agreed, in exchange for the payment of an additional fee, to assume certain liability they would not otherwise incur, only to deny liability after damage occurs on the grounds that the additional fee was not paid prior to the time that the mobile home was shipped.

(3) Carriers have charged additional fees to assume liability for certain damage for which they would have been liable anyway.

(4) Carriers have delivered damaged mobile homes after dark without notifying the person receiving the mobile home that it has been damaged.

The Commission is not sure if these practices are isolated incidents or if they represent fairly widespread practices in the industry, and any individual who has encountered these practices or other questionable practices is encouraged to participate in this proceeding by filing comments describing the practices that they have encountered. Similarly, mobile home carriers are urged to submit any information that they may have concerning such practices.

The rules which the Commission is proposing in this proceeding have been kept short and simple. Sections 1060.1 and 1060.2 spell out carrier liability for loss or damage which occurs during the transportation of a mobile home and which is caused by the carrier or anyone engaged by it to transport or service the mobile home. The carrier's liability extends to loss of or damage to the contents of the mobile home, which is defined to include tires and equipment. Transportation includes incidental pickup and delivery and storage-in-transit.

Section 1060.3(a) responds to the original petition of the Department of Defense and bans the inclusion of any language in the carrier's tariffs or bills of lading purporting to limit the carrier's liability for loss of or damage to the mobile home or its contents.

Section 1060.3(b) contains the exception to § 1060.3(a) included in section 20(11) of the Act. A carrier may include in its tariffs or bills of lading provisions which limit its liability to a stated amount, in return for the performance of service at a reduced (released value) rate, or which require a shipper to declare the value of a shipment in return for an agreement by the carrier to assume liability up to, but not in excess of, the stated amount.

Section 1060.3(c) makes it clear that a carrier may offer, for an additional fee, to assume liability it would not otherwise incur. For example, carriers now agree, for an additional fee, to assume liability for loss or damage attributable to acts of God. The Commission would like to see carriers offer similar coverage for loss or damage resulting from inherent defects in a mobile home, and carriers are requested to comment on the feasibility of offering such coverage to shippers.

No language has been included in § 1060.3(c) banning the practice of charging an additional fee to assume liability which would be incurred anyway. The Commission does not believe it should be necessary to adopt such a rule in order to put a halt to such a patently illegal practice. The Commission hopes that the education of shippers through this rulemaking proceeding and the proposed information booklet will lead to the elimination of the practice. Language has been included in the provision, however, requiring carriers to notify any shipper who requests such additional coverage if he must pay the additional charge prior to the transportation of his mobile home.

Section 1060.4, which prohibits carriers from including language restricting liability in receipts to be signed on delivery of the mobile home, is patterned on § 1056.14 of the Commission's household goods regulations. It is included in the hope that it will prevent situations from arising in which carriers attempt to use language in receipts to avoid their liability.

Section 1060.5 requires carriers to provide shippers with an up-to-date copy of the Commission's Public Advisory No. 8. This advisory, which will be prepared during the course of this rulemaking proceeding, will contain all of the information which the Commission believes a prospective shipper of mobile homes should have. It is hoped that the booklet, by educating shippers to their rights, will help to alert them to practices which might violate those rights. Furthermore, the booklet will inform shippers as to how they can contact the Commission for assistance if they encounter any problems during or after the transportation of their mobile home. If carriers are engaging in questionable practices, the booklet should make it more likely that the Commission will find out about it, and if it develops that there is a need for further regulations, this proceeding can be reopened.

In recognition of the fact that many carriers transport mobile homes for regular customers, § 1060.5 does not require carriers to provide a copy of the information booklet each time they transport a mobile home for such customers.

Section 1060.6 requires certain information to be provided to the person who accepts delivery of the mobile home. The driver making the delivery must provide a written report stating the route followed in transporting the mobile home, the distance traveled, and the time elapsed. This information will be helpful to a shipper if a dispute develops concerning liability for damage to the mobile home during its transportation. For example, if warnings were posted in an area for high winds or flooding and the mobile home was transported through that area in spite of the warning, the carrier could be liable for any resultant damage, even though caused by an act of God. In such cases, the shipper should know the route that was taken.

Section 1060.6 also requires that notification be made at the time of delivery of any damage to the mobile home during its transportation. This provision is designed to prevent carriers from delivering damaged mobile homes after dark and not telling the person accepting delivery that any damage has occurred. The provision will also insure that the person accepting delivery is notified if the damage was related to any accidents, thefts, or natural disasters.

All persons are encouraged to study the rules set forth below and to submit comments on the rules themselves, the need for the rules, and the need for any additional rules. If anyone desires to attend an informal conference, to be held in Washington, D.C., to discuss the proposed rules, they should indicate their interest in their comments.

This proceeding is not a major Federal action signficantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Dated: August 24, 1978

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Murphy, Brown, Stafford, Gresham, and Clapp. Commissioner Clapp dissenting in part; Commissioner Murphy dissenting; and Commissioner Stafford dissenting.

H. G. HOMME, JR.,
Acting Secretary.

Commissioner Clapp, dissenting in part:

I am not convinced that the proposed rules are necessary. Essentially, these regulations embody the provisions of section 20(11) of the Act. I see no need for regulations reminding the mobile home carriers that section 20(11) applies to them. There is no evidence of widespread abuse by the mobile home carriers. If particular abuses were identified then specific regulations would be justified.

Further, proposed § 1060.3(b) is misleading. It can be read to approve released rates across-the-board for mobile home carriers. Section 20(11) allows released rates only if expressly authorized or required by order of the Commission. This section should be reworked.

I do agree with the proposal to require the carriers to provide prospective shippers with a copy of an information booklet explaining the carriers' obligations, the shippers' rights, and the Commission's role. This booklet would serve the purpose of the proposed regulations.

Commissioner Stafford, dissenting:

I find no justification for the proposed rulemaking. DOD's petition has been rendered moot by the voluntary

by it agrees, in return for an added charge, to assume liability it would not otherwise incur. However, if the tariff

management plan, "Halibut off the Coast of Alaska." This plan will replace the management regime promul-

Cancelled public hearings will be rescheduled as soon as possible and not later than 5 days after the cancella-

tional Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Copies of the draft fishery manage-

SAND POINT

Alaska Department of Fish and Game, 99661.
Sand Point Community/School Library,

I find no justification for the proposed rulemaking. DOD's petition has been rendered moot by the voluntary action of the mobile home carriers. Moreover, the Commission has few complaints on file concerning practices within this segment of the transportation industry. To subject these carriers to a separate set of regulations is not warranted at this time. There is no hard data on which to base the specific rules. I believe the Commission's time should not be wasted on such a questionable rulemaking proceeding.

It is proposed that 49 CFR be amended by adding a new part 1060, as follows:

PART 1060—TRANSPORTATION OF MOBILE HOMES

Sec.
1060.1 General.
1060.2 Liability of carriers.
1060.3 Provisions in tariffs and bills of lading.
1060.4 Provisions in receipt signed by shipper or consignee.
1060.5 Information for shippers.
1060.6 Recordkeeping and reporting.

AUTHORITY: Secs. 20(11) and 219, ICC Act, 49 U.S.C. 20(11) and 319; sec. 553, Administrative Procedures Act.

§ 1060.1 General.

These regulations apply to the transportation of mobile homes and their contents (including tires and other equipment) by motor common carriers engaged in interstate or foreign commerce. As used in this part, transportation includes incidental pickup and delivery and storage-in-transit.

§ 1060.2 Liability of carriers.

A carrier shall be liable for any loss of or damage to a mobile home or its contents which occurs during its transportation, if the loss or damage is caused by the carrier or by anyone engaged by it to transport or service the mobile home or its contents.

§ 1060.3 Provisions in tariffs and bills of lading.

(a) Except as provided in paragraph (b) of this section, a carrier's tariffs and bills of lading shall not contain provisions which purport to limit the carrier's liability for loss of or damage to a mobile home or its contents.

(b) A carrier may include in its tariffs or bills of lading provisions which limit its liability to a stated amount in return for the performance of service at a reduced (released value) rate or which require a shipper to declare the value of a shipment in return for an agreement by the carrier to assume liability up to, but not in excess of, the stated amount.

(c) A carrier may include in its tariffs or bills of lading provisions whereby it agrees, in return for an added charge, to assume liability it would not otherwise incur. However, if the tariff or bill of lading requires prepayment of the added charge, that fact must be made clear to the shipper before the agreement is signed.

§ 1060.4 Provisions in receipt signed by shipper or consignee.

A receipt which is to be signed by a shipper or consignee in acknowledgment of delivery of a mobile home and its contents shall not contain any provisions having the effect of limiting the carrier's liability for any loss or damage, other than a statement that the mobile home and its contents have been received in apparent good condition, except as noted on the shipping documents.

§ 1060.5 Information for shippers.

Before a carrier agrees to accept a mobile home for shipment, the carrier must have on file a receipt showing that the prospective shipper has received an up-to-date copy of the Commission's Public Advisory No. 8, "Information for shippers of Mobile Homes."

§ 1060.6 Recordkeeping and reporting.

Before a driver asks a person accepting delivery of a mobile home to sign a receipt, the driver must provide that person with a written report which shall include:

(1) A record of the route followed in transporting the mobile home, the distance traveled, and the time elapsed; and

(2) A statement as to whether there was any damage to the mobile home during its transportation and, if so, whether the damage was related to any accidents, thefts, or natural disasters.

[FR Doc. 78-26030 Filed 9-14-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 611]

FOREIGN FISHING

Draft Fishery Management Plan for Halibut off the Coast of Alaska

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of public hearing schedule.

SUMMARY: Pursuant to Title III of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), the North Pacific Fishery Management Council has prepared a draft fishery management plan, "Halibut off the Coast of Alaska." This plan will replace the management regime promulgated by the International Pacific Halibut Commission (IPHC) which will end April 1, 1979. It is designed to minimize the disruption of current halibut fishery practices and arrangements. All major management philosophies of the IPHC with regard to conservation of the halibut resource and regulation of the fishery have been carried forward in the plan. The draft plan has been prepared jointly by the North Pacific Fishery Management Council, International Pacific Halibut Commission, National Marine Fisheries Service and Alaska Department of Fish and Game. Public hearings will be held to receive comments on the draft plan.

DATES: Comments will be received until October 31, 1978. For the dates of the hearings, see Supplementary Information below.

ADDRESSES: Copies of the draft FMP are available at the locations listed in Supplementary Information below. Comments should be addressed to: Chairman, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510. For the locations of the hearings, see Supplementary Information below.

FOR FURTHER INFORMATION CONTACT:

Maggie Duff, 202-634-7449 or 634-7450.

SUPPLEMENTARY INFORMATION: Individuals or organizations wishing to comment on the draft fishery management plan may do so at public hearings to be held at the times and locations listed below:

Seattle, Wash., October 7, 1978, 9 am to 5 pm, Seattle Airport Hilton, South 176th and Pacific South, 98188.

Kodiak, Alaska, October 10, 1978, 9 am to 5 pm, Elks Club Lodge, Marine Way, 99615.

Unalaska, Alaska, October 12, 1978, 9 am to 12 noon, Pan-Alaska Recreation Room, 99685.

Sitka, Alaska, October 24, 1978, 9 am to 3 pm, Centennial Building off Harbor Drive, 99835.

Seattle, Wash., October 26, 1978, 9 am to 5 pm, Vance Airport Inn at Sea-Tac, 18220 Pacific Highway South, 98199.

Anchorage, Alaska, October 31, 1978, 9 am to 5 pm, Commodore Room, Anchorage/Westward/Hilton Hotel, Third and E Streets, 99501.

The uncertainty of travel in Alaska during winter months makes it necessary to consider alternative meeting places and times. The Council has, therefore, scheduled October 16 thru 20, and November 6 thru 10, 1978, as alternative dates for the above scheduled public hearings if they have to be cancelled.

Cancelled public hearings will be rescheduled as soon as possible and not later than 5 days after the cancellation. Cancellations and new schedules will be announced locally by telephone, radio, television, and newspapers.

Background: The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), 16 U.S.C. 1801 *et seq.* (the "Act"), authorizes the Secretary of Commerce (the "Secretary"), to implement fishery management plans prepared by the Regional Fishery Management Councils for their areas of concern within the 3-200 mile Fishery Conservation Zone established by the Act.

The proposed action is to adopt and implement a Fishery Management Plan for the halibut resource off the coast of Alaska under the provisions of the Fishery Conservation and Management Act (Pub. L. 94-265). This Act extends jurisdiction over fishery resources and establishes a program for their management. The management regime proposed by this plan is designed to increase halibut stocks to a level approaching that which allows MSY, and to maintain a viable setline fishery for U.S. fishermen. Retention of halibut by foreign vessels is prohibited at all times. Regulations designed to protect halibut are included in other management plans developed by the North Pacific Fishery Council where necessary.

The transboundary nature of Pacific halibut requires that management of halibut in Canada and the United States be closely coordinated. Current information suggests that eggs and larvae from Canada frequently find their way into United States waters and that a significant movement of juveniles and adults occurs in the opposite direction. For this reason, the management regime outlined in this plan must be closely coordinated with any plans developed for halibut in Canadian waters.

This management plan continues the philosophy current in U.S./Canadian and I.P.H.C. management measures that Pacific halibut shall be regarded as a prohibited species by every fishery except the domestic setline fishery directed at Pacific halibut. this plan continues the basic management philosophy and regime of the last several years as set forth by the International Pacific Halibut Commission.

The council will not make its final decisions on the management regime until the public review process is complete. Written comments may be submitted on or before October 31, 1978, to the Executive Director, North Pacific Fishery Council, P.O. Box 3136DT, Anchorage, Alaska 99510, or to the Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Copies of the draft fishery management plan are available at the following locations in the State of Alaska:

ANCHORAGE

Alaska Department of Fish and Game, 333 Raspberry Road, 99502.
National Marine Fisheries Service, 632 West Sixth Avenue, Room 408, 99501.
Z. J. Loussac Public Library, 427 F Street, 99501.
North Pacific Fishery Management Council, 333 West Fourth Avenue, Suite 32, Post Office Mall Building, 99501.

BETHEL

Alaska Department of Fish and Game, 99559.
Bethel Public Libary, 99559.

CORDOVA

Alaska Department of Fish and Game, 99574.
Cordova Public Library, 99574.

DILLINGHAM

Alaska Department of Fish and Game, 99576.
Dillingham Public Library, 99576.

FAIRBANKS

Alaska Department of Fish and Game, 1300 College road, 99701.
Fairbanks North Star Borough Public Library, 901 First Avenue, 99701.

HOMER

Alaska Department of Fish and Game, 99603.
Homer Public Library, 99603.

JUNEAU

Alaska Department of Fish and Game, S.E. Regional Office, 210 Ferry Way, 99801.
Alaska Department of Fish and Game, Commissioner, Subport Building, 99801.
National Marine Fisheries Service, Federal Building, Room 453, Ninth Street, 99801.
Juneau Memorial Library, 114 West Fourth Street, 99801.

KETCHIKAN

Alaska Department of Fish and Game, State Court and Office Building, Suite 208, 99901.
Ketchikan Public Library, 629 Dock Street, 99901.

KODIAK

Alaska Department of Fish and Game, 99615.
A. Holmes Johnson Memorial Library, 319 Benson Avenue, 99615.
National Marine Fisheries Service, Gibson Cove, 99615.

KOTZEBUE

Kotzebue Public Library, 99752.

PELICAN

Pelican City Hall, 99832.

PETERSBURG

Alaska Department of Fish and Game, Swanson Building, 99833.
Petersburg Public Library, 99833.

SAND POINT

Alaska Department of Fish and Game, 99861.
Sand Point Community/School Library, 99661.

SEWARD

Alaska Department of Fish and Game, Seward Court Building, 99664.

SITKA

Alaska Department of Fish and Game, State Office Building, 99835.
Kedelson Memorial Library, 99835.

UNALASKA

Alaska Department of Fish and Game, c/o Standard Oil Dock, Dutch Harbor, 99685.
Unalaska/School/Community Library, 99685.

VALDEZ

Alaska Department of Fish and Game, 99686.

WRANGELL

Alaska Department of Fish and Game, 99929.
Wrangell Public Library, 99929.

YAKUTAT

Alaska Department of Fish and Game, 99689.

Limited numbers of copies of the draft fishery management plan are available from the Executive Director, North Pacific Fishery Management Council, Suite 32, 333 West Fourth Avenue, Post Office Mall Building, Anchorage, Alaska 99501, and the Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. Written comments from members of the public may be submitted no later than October 31, 1978, to the North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510.

This Notice of Public Hearing is being published at the request of and in cooperation with the North Pacific Fishery Management Council.

Dated: September 13, 1978.

WINFRED H. MEIBOHM,
National Marine Fisheries Service.

[FR Doc. 78-26194 Filed 9-14-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1211]

[Ex. Parte No. 274 (Sub.-No 2)]

ABANDONMENT OF RAILROAD LINES AND DISCONTINUANCE OF SERVICE

Request for Comments

AGENCY: Interstate Commerce Commission.

ACTION: Notice requesting comment.

SUMMARY: The U.S. Court of Appeals for the Seventh Circuit has in-

the court's decision are discussed separately below.

POSTPONEMENT OF ABANDONMENT

appropriate base upon which to calculate return, as provided in § 1121.42(c)(6)(ii) of the regulations. But the court indicated that on re-

notices

V 43/180 SE 15 78

ACTION: Notice requesting comment.

SUMMARY: The U.S. Court of Appeals for the Seventh Circuit has invalidated portions of the Commission's regulations governing the abandonment of railroad lines and discontinuance of service, 41 FR 48520 as amended 42 FR 25327. The court's decision of May 30, 1978, as modified July 31, 1978, in Nos. 76-2283, 77-1008 and 77-1487, *Chicago & North Western Transportation Company, et al.* v. *United States, et al.*, affects the ability of the Commission to postpone issuance of an abandonment certificate beyond the statutorily prescribed 6-month negotiating period. 49 CFR 1121.38(i)(2). It also addresses the computations of avoidable cost and return on the line for subsidy computation purposes, in subpart D of the regulations.

On remand, the Commission seeks comment from all interested persons on the best means to bring its regulations into compliance with the decision of the seventh circuit.

The full text of the court's decision is available from the Commission upon request.

DATE: Comments must be received on or before October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Edward J. Schack, 202-275-7580.

SUPPLEMENTARY INFORMATION: Section 1a of the Interstate Commerce Act (act), as enacted in section 802 of the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210, established a two-stage abandonment procedure. The Commission first must decide whether a proposed abandonment or discontinuance is in the public interest. If it finds that it is, a notice is published in the FEDERAL REGISTER. Interested persons have 15 days after that publication to offer financial assistance for rail service continuation, either through a subsidy or acquisition of the line. If the Commission finds that a financially responsible person or organization has offered financial assistance that is likely to cover (A) the difference between attributable revenues and avoidable costs of the service, together with a reasonable return on the value of the line, in the case of a subsidy, or (B) the acquisition cost of all or part of the line, then it must postpone the issuance of an abandonment certificate for up to 6 months to enable the parties to negotiate a binding financial assistance agreement.

The portions of the Commission's implementing regulations affected by the court's decision are discussed separately below.

POSTPONEMENT OF ABANDONMENT CERTIFICATE

The Commission's regulations 1121.38(i)(2) provides that, if the parties are unable to reach agreement during the 6-month negotiating period, the Commission may take one of the following actions:

(i) Issue a final certificate at the end of the 6-month period * * *;

(ii) Reopen the underlying abandonment or discontinuance proceeding to reevaluate the application on its merits in light of the financial assistance offer;

(iii) Direct the carrier to continue to provide rail freight service for an additional year in return for compensation to be computed by the Commission (in accordance with certain standards) * * * or

(iv) Take whatever action is appropriate in the particular situation and in conformity with section 1a of the Act. Such action may include but not be limited to setting the matter for arbitration subject to the final review of the Commission.

In promulgating the regulations, the Commission believed that all of these options were necessary to permit it effectively to supervise negotiations and provide for some equality of bargaining power between the railroads and affected shippers. The Court held, however, that only the first of the four options is authorized by statute. It invalidated the remaining three sections.

The Commission intends to seek further judicial review only with respect to its authority, under section 17(9)(g) of the Act, to reopen the underlying abandonment proceeding.

AVOIDABLE COST AND RETURN ON LINE

(1) *"Current cost" of equipment.* In its regulations, § 1121.42(c)(4) and 1121.42(m), the Commission considers "current cost" of equipment for depreciation purposes as the portion of historical average cost of the carrier providing the service allocable during the subsidy year to the service involved. The court (one judge dissenting), on the other hand, held that for calculating depreciation as an avoidable cost, current equipment costs should be "the cost that would be avoided if the service were terminated and the equipment used elsewhere on the railroad, i.e., the cost of purchasing new equipment." The court expressly refrained from ruling on whether the book cost of locomotives and freight cars is the appropriate base upon which to calculate return, as provided in § 1121.42(c)(6)(ii) of the regulations. But the court indicated that on reopening the railroads should be afforded the opportunity to argue that replacement costs should be used for calculating the return investment on element of avoidable cost for subsidy computations.

(2) *Cost of equity capital in determining return on equipment.* Although both debt and equity capital are invested in locomotives and freight cars, the regulations provide a single rate of return on these items based on the cost of debt capital. Section 1121.42(c)(6) and 1121.42(1), (3), and (5). No specific methods of measuring the equity capital costs had been suggested by the carriers and the Commission believed that reliance solely on the cost of debt capital would provide an effective return on equity capital while promoting administrative convenience. The court directed the Commission to develop a standard which would recognize the cost of equity capital in locomotives and freight cars.

(3) *Cost of capital for railroads in reorganization.* Section 1121.44(b) of the regulations provides that the reasonable return of a railroad in reorganization shall be the average yield on all railroad bonds for the week immediately preceding the execution of the subsidy agreement, as quoted by any standard investors' service. The court held this provision invalid insofar as it excludes the cost of equity capital for railroads in reorganization.

(4) *Effect of income taxes.* The court directed the Commission, upon remand, to consider the effects of applicable Federal and State income taxes on the return on equity capital of railroads, including railroads in reorganization, invested in equipment in accordance with section 1a(11)(a) of the Act. It also directed the Commission to address the criticism that using the effective tax rate for a railroad's overall operations to calculate the effect of taxes upon the equity portion of return on investment in a line, as provided by § 1121.44(c) of the regulations, is inadequate.

Dated: September 8, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Stafford, Gresham, Clapp, and Brown. Commissioner Brown absent and not participating.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-25971 Filed 9-14-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6110-01]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON AGENCY DECISIONAL PROCESSES

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Agency Decisional Processes of the Administrative Conference of the United States, to be held at 9:30 a.m. Thursday, September 28, 1978, in the office of Ginsburg, Feldman and Bress, 1700 Pennsylvania Avenue NW., Suite 300, Washington, D.C.

The Committee will meet to discuss Professor Michael Baram's study of the use of cost-benefit analysis in Federal regulation.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least 2 days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact David M. Pritzker, 202-254-7065. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

SEPTEMBER 8, 1978.

[FR Doc. 78-26031 Filed 9-14-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 33324; 78-8-179]

ALLEGHENY AIRLINES, INC.

Amendment of Certificate of Public Convenience and Necessity for Route 97; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 31st day August, 1978.

By Order 78-8-178, issued concurrently with this Order, we have proposed to realign the route system of American Airlines in a manner which would, among other things, give American unrestricted authority in 23 minor markets [1] where Allegheny holds restricted authority.[2] As discussed in Orders 78-7-91, 78-4-109 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Allegheny as well as American will give those carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-8-178, and those in Orders 78-7-91, 78-4-109 and 76-5-101, we tentatively find and conclude that the elimination of restrictions on Allegheny's operations in the 23 markets listd below is required by the public convenience and necessity, and is consistent with out policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.[3]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 10 days after objections are due.

Accordingly, *it is ordered* That: 1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Allegheny's certificate for Route 97 so as to remove operating restrictions in the markets listed in Appendix A;

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here shall, no later than October 11, 1978, file with the board and serve upon all persons listed in Appendix I of Order 78-8-178, a statement of objections together with a summary of testimony, statistical data, and such evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than October 26, 1978;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board; [4]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in Appendix I of Order 78-8-178.

This order shall be published in the FEDERAL REGISTER.

[1] I.e., markets which generate fewer than 20 true O&D plus interline connecting passengers a day.

[2] The minor markets where both Allegheny and American currently hold restricted authority are set forth in Appendix A of this order.

[3] We further tentatively conclude that Allegheny is a citizen of the United States within the meaning of the act, and is fit, willing, and able to perform properly the air transportation proposed here and to comform to the provisions of the act and the Board's rules, regulations, and requirements.

[4] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

can also has requested a waiver of part 312 of the Board's Procedural Regulations, which requires the filing of an

flows, and to eliminate or modify certificate conditions which serve no useful purpose, impair meaningful

We have applied here the guidelines used in the Delta realinement. [12] In addition, we will grant American's re-

The proposed restriction removals for Allegheny, Braniff, Eastern, Frontier, Hughes Airwest, Piedmont, National, North Central, Texas Interna-

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

APPENDIX A.—*Minor Markets Where Allegheny Will Receive Unrestricted Authority*

Market	Traffic[1] fiscal year 1975	Present authority
Albany to:		
Memphis	4,220	1-stop.
Nashville	4,630	Do.
Boston to Charleston	6,900	Do.
Buffalo to:		
Charleston	3,480	Do.
Memphis	6,140	Do.
Nashville	5,320	Do.
Charleston to:		
Dayton	260	Do.
Detroit	5,980	2-stop.
Hartford	2,190	1-stop.
Louisville	4,380	Do.
Nashville	2,130	Do.
Providence	850	Do.
Rochester	1,110	Do.
Cincinnati to Islip	180	Do.
Cleveland to Islip	180	Do.
Columbus to:		
Islip	110	Do.
Providence	4,450	Do.
Dayton to Islip	90	Do.
Detroit to Islip	1,110	Do.
Indianapolis to Providence	4,900	Do.
Islip to St. Louis	710	Do.
Louisville to Providence	3,160	Do.
Memphis to:		
Rochester	3,080	Do.
Syracuse	3,970	Do.

[1]True O&D plus interline connecting passengers.

[FR Doc. 78-25945 Filed 9-14-78; 8:45 am]

[6320-01]

[Docket 28874; order 78-8-178]

AMERICAN AIRLINES, INC.

Application for Route Realinement by Show-Cause Order; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 31st day of August 1978.

By application, filed February 13, 1976, and by petition and amended application, both filed October 15, 1976, American Airlines has requested the Board to issue an order directing interested persons to show cause why American's certificates of public convenience and necessity for Routes 4, 7, 25, and that portion of its certificate for Route 134 relating to its domestic authority, should not be amended or modified to realize its existing 21 domestic segments into 2 linear segments (1 of which includes a mainland-Hawaii segment)[1] and to eliminate certain conditions which American claims are no longer required for competitive reasons and which impede the carrier's operating flexibility.[2] American also has requested a waiver of part 312 of the Board's Procedural Regulations, which requires the filing of an environmental evaluation.

In support of its applications, American contends that: Its route system is burdened by numerous segment and route junction stop requirements and certificate conditions; relief from these restrictions would facilitate greater scheduling flexibility, better equipment utilization and improved service to the public, without any significant impact on competing carriers; and its submission conforms with the Board's realinement guidelines, with some minor proposed changes.

Answers in general support of American's petition were filed by the Cincinnati parties[3] the El Paso Civic Interests[4] and by the town of Islip, Long Island. Answers in general opposition were filed by the State of Maryland and by the Port of Oakland. The Iowa Department of Transportation filed a petition for leave to intervene.

The following local service carriers filed specific objections to American's proposal as it affects individual markets, as well as a variety of general objections directed to the question of realining the route systems of trunkline carriers: Allegheny Airlines, Frontier Airlines, Ozark Air Lines, North Central Airlines, Piedmont Aviation, and Texas International Airlines.[5]

Answers were also filed by Air California, Braniff Airways, Continental Air Lines, Delta Air Lines, Eastern Air Lines, Trans World Airlines, United Air Lines, Western Air Lines, and World Airways.

American filed a reply, addressing the objections raised by the other parties.

As we stated in the recent Continental, Ozark, Delta, and Western route realinements,[6] it is our policy to realine the route systems of the certificated scheduled carriers to maximize the opportunities for scheduling flexibility and equipment utilization, to conform route authority to traffic flows, and to eliminate or modify certificate conditions which serve no useful purpose, impair meaningful market development, and inhibit significant improvement in the carrier's economic performance. These objectives are equally applicable to trunk and local service carriers.[7]

We tentatively conclude that American's proposed realinement, as modified by this Order, conforms with the Board's policy and objectives discussed above and that substantial public service and carrier benefits will result from the realined route system. The proposed realinement will offer American the potential for significant improvement in operating efficiency and will permit it to provide improved service to the traveling public.[8]

Many of the local service carriers object to American's petition on the general grounds that our realinement of truck carriers, through show cause procedures, is unwise, These carriers and other parties also express concern that the award of improved authority to American in minor and monopoly markets will create dormant authority in those markets which will serve to discourage attempts by other carriers to enter the affected markets. They suggest that any improvement in authority to American could retard needed service expansion, contrary to the public interest. To remedy this alleged harm of the realinement program, several civic parties[9] suggest that the Board adopt a policy that, if any particular route authority awarded in a realinement is not used during a 12-month period and another carrier seeks that authority, an award of operating rights on that particular route be made to the latter carrier and the incumbent's rights be deleted automatically.

In addition, several carriers have raised the *Ashbacker*[10] doctrine as a bar to the Board's individual consideration of requests by American for improved authority in specific markets.

It will suffice here to say that we have rejected these contentions in the past and reject them here, and refer to our Delta order[11] for a full discussion of these issues.

[1]A map showing the realined system as proposed by this Order is set forth in Appendix A. All appendices are filed as a part of the original document.

[2]American's certificates for its international Routes 56, 137, 166 and the Mexican portion of 134 are unaffected by the applications and petition.

[3]The Greater Cincinnati Chamber of Commerce, the Kenton County Airport Board, operators of the Greater Cincinnati Airport, and the city of Cincinnati.

[4]The city of El Paso, the El Paso Airport and Mass Transit Board, and the El Paso Chamber of Commerce.

[5]These eight local service carriers filed a motion requesting a stay of further procedural steps on trunkline realinement applications for purposes of receiving written and oral argument on certain alleged legal and policy issues concerning trunk realinements. This motion was denied in the Western realinement proceeding by Order 77-11-74, November 17, 1977, at 4-13. See also, Order 78-4-109, April 19, 1978, at n. 6, for a fuller history of this motion.

[6]Orders 78-7-91, 78-6-4, 78-4-109, and 77-11-74, making final Order 76-5-101.

[7]Orders 78-6-4, at 2, and Order 78-4-109, at 4-5.

[8]American will, of course, be required by the *Domestic Passenger-Fare Investigation—Phase 9* (*Fare Structure*), Order 74-12-109, December 27, 1974, to revise its fares in markets in which it receives improved authority so that the fares are calculated in a manner which properly reflects the improved authority resulting from the realinement.

[9]The Cincinnati Parties, the El Paso Civic Interests and the town of Islip.

[10]*Ashbacker Radio Corp.* v. *F.C.C.*, 326 U.S. 327 (1975).

[11]Order 78-4-109, at 5-8.

We have applied here the guidelines used in the Delta realinement.[12] In addition, we will grant American's requests for changes in the designation of certain named points on its certificate and for deletion of Long Beach as a named point. The hyphenation of New York and Newark, Dallas and Fort Worth, and Buffalo and Niagara Falls will improve operating and scheduling flexibility and will enable American to more easily respond to the demands of the marketplace.[13] As for the deletion of Long Beach (currently hyphenated with Los Angeles and Ontario), American does not intend to serve Long Beach through Daugherty Field; the city of Long Beach has not objected to the request, and, according to American's petition, does not desire additional air service.

Finally, American has requested a waiver of the requirement of Part 312 of the Board's Procedural Regulations, which require the filing of an environmental evaluation. American supports its request by stating that the realinement of its routes will enable it to operate more efficiently, and produce greater opportunities for reduction in fuel consumption, air pollution and ambient noise levels. Further, American indicates that it is not proposing any increased service as a result of its proposals.

We will waive the requirement that American file an environmental evaluation. Further, we tentatively conclude that the action we propose here will not constitute a major action significantly affecting the quality of the environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA).[14]

The proposed restriction removals for Allegheny, Braniff, Eastern, Frontier, Hughes Airwest, Piedmont, National, North Central, Texas International, TWA, and United, which we are proposing in separate orders issued concurrently, will enable those carriers to operate more efficiently, and will not constitute either major Federal actions within the meaning of NEPA or major regulatory actions within the meaning of the Energy Policy and Conservation Act.

We futher conclude that American Airlines is a citizen of the United States within the meaning of the act, and is fit, willing, and able to perform properly that air transportation proposed here and to conform to the provisions of the act and the Board's rules, regulations, and requirements.

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing, complete with the opportunity for oral cross-examination, is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 15 days after objections are due.

Accordingly, *it is ordered* that:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending American's certificates for Routes 4, 7, 25, and 134 in the manner set forth in the accompanying proposed certificate (Appendix B);

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, no later than October 11, 1978, file with the Board and serve upon all persons listed in Appendix I, a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than October 26, 1978;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;[15]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action;

5. The motion of the Iowa Department of Transportation for leave to intervene be granted;

6. American's application for a waiver of Part 312 be granted; and

7. A copy of this order shall be served upon all persons listed in Appendix I.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-25947 Filed 9-14-78; 8:45 am]

[6320-01]

[Docket 33325; Order 78-8-180]

BRANIFF AIRWAYS, INC.

Amendments of Certificate of Public Convenience and Necessity for Route 9; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 31st day of August 1978.

By Order 78-8-178, issued concurrently with this Order, we have proposed to realign the route system of American Airlines in a manner which would, among other things, give American unrestricted authority in six minor markets[1] where Braniff holds restricted authority.[2] As discussed in Orders 78-7-91, 78-4-109, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Braniff as well as American will give those carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-8-178, and those in Orders 78-7-91, 78-4-109, and 76-5-101, we tentatively find and conclude that the

[12]American proposes to refine our definition of "clearly superior" in Guideline 3(b) and to add a new guideline, enabling any carrier to operate one-stop service between any two points that are more than 50 percent circuitous relative to a nonstop routing. We proposed certain significant modifications to our guidelines in the Delta route realinement, Order 78-4-109, at Appendix C. Because of our desire, as will as that of the applicants, to complete the realinements expeditiously we have been reluctant to alter the guidelines any further. Proposals similar to those made by American here were rejected in the Delta order; and we decline to amend our guidelines further in this order.

[13]There were no objections to the hyphenation of these points. In fact New York and Newark are hyphenated on American's Route 4 but are designated as coterminal points on Routes 7 and 25. As to the other city pairs, American was permitted to serve Niagara Falls through Buffalo by means of an airport notice filed in 1956; American has served the Dallas-Fort Worth area through the Dallas/Fort Worth Regional Airport since 1974.

[14]We further tentatively conclude that this action will not constitute a major regulatory action within the meaning of the Energy Policy and Conservation Act and does not require an energy statement pursuant to Part 313 of our Procedural Regulations.

[15]All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[1]That is, markets which generate fewer than 20 true O. & D. plus interline connecting passengers a day.

[2]The minor markets where both Braniff and American currently hold restricted authority are set forth in Appendix A to this order.

elimination of restrictions on Braniff's operations in the six markets is required by the public convenience and necessity, and is consistent with our

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amend-

would, among other things, give American unrestricted authority in 18 minor markets[1] where Eastern holds restricted authority.[2] As discussed in

tentative findings and conclusions stated here and amending Eastern's certificates for Routes 5, 6, 10, and 71

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken

service will provide much needed additional nonstop authority[1] and will also lead to new single-plane service in four beyond-Atlanta markets, as well as

elimination of restrictions on Braniff's operations in the six markets is required by the public convenience and necessity, and is consistent with our policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.[3]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 10 days after objections are due.

Accordingly, *it is ordered* That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Braniff's certificate for Route 9 so as to remove operating restrictions in the six markets;

APPENDIX A.—*Minor Markets Where Braniff Will Receive Unrestricted Authority*

Market	Traffic[1] fiscal year 1975	Present authority
Des Moines to:		
Little Rock	2,040	2-stop via Kansas City, Tulsa.
Memphis	4,490	Do.
Nashville	3,520	Do.
Oklahoma City	5,210	1-stop via Kansas City.
San Antonio	3,900	Do.
Little Rock to Omaha	3,840	1-stop via Tulsa.
Memphis to Omaha	5,600	Do.
Nashville to Omaha	2,600	Do.

[1]True O. & D. plus interline connecting passengers.

[FR Doc. 78-25946 Filed 9-14-78; 8:45 am]

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here shall, no later than October 11, 1978, file with the Board and serve upon all persons listed in Appendix I of Order 78-8-178, a statement of objections together with a summary of testimony, statistical data, and such evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than October 26, 1978;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board; [4]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in Appendix I of Order 78-8-178.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[6320-01]

[Docket 33326; order 78-8-181]

EASTERN AIR LINES, INC.

Amendments of Certificates of Public Convenience and Necessity for Routes 5, 6, 10 and 71; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington D.C. on the 31st day of August 1978.

By Order 78-8-178, issued concurrently with this Order, we have proposed to realign the route system of American Airlines in a manner which would, among other things, give American unrestricted authority in 18 minor markets[1] where Eastern holds restricted authority.[2] As discussed in Orders 78-7-91, 78-4-109, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Eastern as well as American will give those carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-8-178, and those in Orders 78-7-91, 78-4-109, and 76-5-101, we tentatively find and conclude that the elimination of restrictions on Eastern's operations in the 18 markets is required by the public convenience and necessity, and is consistent with our policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.[3]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 10 days after objections are due.

Accordingly, *it is ordered* That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Eastern's certificates for Routes 5, 6, 10, and 71 so as to remove operating restrictions in the markets listed in Appendix A;

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here shall, no later than October 11, 1978, file with the Board and serve upon all persons listed in Appendix I of Order 78-8-178, a statement of objections together with a summary of testimony, statistical data, and such evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than October 26, 1978;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board; [4]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in Appendix I of Order 78-8-178.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[1]This is, markets which generate fewer than 20 true O&D plus interline connecting passengers a day.

[2]The minor markets where both Eastern and American currently hold restricted authority are set forth in Appendix A to this order.

[3]We further tentatively conclude that Eastern is a citizen of the United States within the meaning of the act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the act and the Board's rules, regulations, and requirements.

[4]All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[3]We further tentatively conclude that Braniff is a citizen of the United States within the meaning of the act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the act and the Board's rules, regulations, and requirements.

[4]All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

APPENDIX A.—*Minor Markets Where Eastern Will Receive Unrestricted Authority*

Market	Traffic[1] fiscal year 1975	Present authority
Buffalo to:		
Memphis	6,140	No single-plane service.
Nashville	5,230	Do.
Omaha	2,730	Do.
San Antonio	5,320	Do.
Cincinnati to:		
Omaha	5,710	3-stop via Chicago, Nashville, St. Louis.
San Antonio	7,190	2-stop via Chicago, Birmingham.
Columbus, Ohio to:		
Omaha	5,020	2-stop via Charlotte, St. Louis.
Providence	4,450	1-stop via Charlotte.
Hartford to Omaha	5,790	1-stop via St. Louis.
Houston to Syracuse	6,970	1-stop via Atlanta.
Indianapolis to Providence	4,900	1-stop via Louisville.
Louisville to Omaha	3,840	1-stop via St. Louis.
Memphis to:		
Omaha	5,600	2-stop via Birmingham, St. Louis.
Syracuse	3,970	1-stop via Atlanta.
Nashville to:		
Omaha	2,600	1-stop via St. Louis.
Syracuse	4,150	1-stop via Atlanta.
Omaha to:		
Providence	1,700	1-stop via St. Louis.
Syracuse	1,890	2-stop via St. Louis, Washington.
Providence to Syracuse	4,000	1-stop via Philadelphia.
San Antonio to Syracuse	4,240	1-stop via Atlanta.

[1]True O. & D. plus interline connecting passengers.

[FR Doc. 78-25944 Filed 9-14-78; 8:45 am]

[6320-01]

[Order 78-8-190; Docket 32662]

EASTERN AIR LINES, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 31st day of August 1978.

On May 11, 1978, Eastern Air Lines filed an application to amend its certificate of public convenience and necessity for route 6 to allow it to provide nonstop service between Atlanta, Ga., and Columbus, Ohio. On May 17, it filed a motion for hearing of its application.

In support of its application, Eastern states that it currently participates in the Columbus-Atlanta market but is required to carry passengers one-stop via Charlotte, N.C.; that Delta is the only carrier authorized to provide nonstop service in the market and that its service is operated with high fares and high-load factors; and that many passengers are forced onto one-stop flights. It claims that its proposed service will provide much needed additional nonstop authority [1] and will also lead to new single-plane service in four beyond-Atlanta markets, as well as first effective competitive service in eight markets, and that its certification in the market will significantly improve the overall economy of its operations.[2]

The Toledo and Atlanta parties filed pleadings in support of Eastern's application.[3] Delta filed an answer in opposition.

Delta argues that we should defer any action on Eastern's application until we consider Delta's application to provide competitive service in the Atlanta-Raleigh / Durham / Greensboro/High Point/Winston-Salem markets.[4] It also claims that Eastern should not be certificated in the Columbus-Atlanta market because it is unable and unwilling to uphold its service responsibilities in its other markets, and because it cannot and will not provide the competition that it claims it can offer.

We have decided to order any interested persons to show cause why Eastern's petition should not be granted as requested. Our tentative conclusion that Eastern should be authorized to conduct nonstop operations between Columbus and Atlanta is based on the following tentative findings.

Eastern's application, which involves removal of a one-stop restriction, falls within the class of cases which can be handled by show-cause procedures because of the absence of any material, determinative issue of fact requiring resolution in a formal evidentiary proceedings.[5] Implementation of its service proposal will significantly benfit the traveling public. It will also result in new single-plane service in four beyond-Atlanta markets, as well as first effective competitive service in eight.

Eastern claims that grant of the requested authority will improve its overall economy of operations and will result in profitable operations in the 1979 forecast year.[6] We find that there

[1]Its service proposal indicates that it plans to operate four daily Columbus-Atlanta round trips which will continue on to Jacksonville, West Palm Beach, Sarasota, Houston, and Toledo in various service patterns.

[2]See attached appendix.

[3]The Toledo parties consist of the Toledo-Lucas County Port Authority, the Toledo Area Chamber of Commerce and the city of Toledo. The Atlanta parties are the city of Atlanta and Atlanta Chamber of Commerce.

[4]Docket 32159.

[5]See Piedmont's application for Boston entry, order 78-4-69, Apr. 14, 1978; application of Eastern Air Lines, order 78-6-60, June 8, 1978.

[6]Delta, the incumbent, in no way contests Eastern's financial forecast.

is sufficient traffic in the market to sustain profitable operation, if not under its proposal, then under some

Interested persons will be given 30 days following the date of service of this order to show cause why these

By the Civil Aeronautics Board.[14]

PHYLLIS T. KAYLOR,
Secretary.

In the matter of former large irregular air service investigation (docket

Tours, Inc., d.b.a. Duncan Airlines (has not operated direct air service);

Dated at Washington, D.C., September 7, 1978.

is sufficient traffic in the market to sustain profitable operation, if not under its proposal, then under some variation of it.[7] We need not find that Eastern's precise proposal here, or any other specific service pattern, can in fact be profitably operated.[8] If Eastern's proposal or a variation can be operated on a profitable basis service is likely to be provided, and we are persuaded that has been plausibly shown here.[9] However, even if the service is or becomes unprofitable the carrier is free, under permissive authority, to cease serving the markets. We are satisfied that nothing developed in an oral evidentiary hearing would reverse this conclusion.[10]

Delta's arguments fail to persuade us that we should either defer or denty Eastern's application. The pendency of Delta's Raleigh/Greensboro-Atlanta application does not constitute a valid reason for failing to act on Eastern's now. As for the argument that Eastern will not provide the comptetion it claims it can offer, we presume that Eastern's management will respond in an economically rational manner and will gear its service to market conditions and its economic opportunities between Columbus and Atlanta and elsewhere. Whether or not Eastern provides the level of service which it now proposes or serves the market at all,[11] its certification benefits the public by creating a competitive spur to the incumbent to provide the public with the level and kinds of service it wants.[12]

[7] For the year ended Sept. 30, 1977, there were 107,610 O&D plus connecting passengers in the Columbus-Atlanta market.

[8] See order 78-4-69, at 6-7.

[9] As noted in order 78-4-69, our conclusion that Eastern has made a plausible showing that service can be profitably provided is not an element of our tentative findings of public convenience and necessity, but rather of our determination to give this application priority of processing.

[10] We would dismiss Eastern's application if it involved authority under consideration in Eastern's route realinement, docket 29983. However, nonstop Columbus-Atlanta authority is superior to what it would receive under the realinement guidelines, i.e., two-stop authority or one-stop authority via Charlotte.

[11] We find that the public convenience and necessity require that the authority we propose to grant Eastern be permissive, so that its management can have the discretion to provide service or not as the demands of the market dictate.

[12] We also tentatively conclude that Eastern is fit, willing and able to perform the air transportation it proposes and to conform to the provisions of the Act and the Board's rules; that, on evaluation of Eastern's environmental submission, our proposed action will not be a major Federal action significantly affecting the quality of the environment within the meaning of sec. 102(2)(C) of the National Environment Policy Act of 1969; and that approval of Eastern's proposal will not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975, as defined in sec. 313 of our regulations.

[13] Since provision is made for filing objections, no petitions for reconsideration will be entertained.

Interested persons will be given 30 days following the date of service of this order to show cause why these tentative findings and conclusions should not be made final. We expect that objections will be supported by detailed economic or legal arguments. If an oral evidentiary hearing complete with the opportunity for cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established through written pleadings. General, vague or unsupported objections will not be entertained. Answers to objections ar due within 10 days after the due date for objections.

Accordingly, *it is ordered*, that: 1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative conclusions stated here and amending Eastern's certificate for route 6 so as to add a new segment authorizing the permissive nonstop scheduled air transportation of persons, property and mail between the terminal point Atlanta, Ga., and the terminal point Columbus, Ohio;

2. Any interested person having objections to the issuance of an order making final the proposed findings, conclusions and certificate amendments set forth here shall, no later than October 11, 1978, file with the Board and serve upon all persons listed in paragraph 6 a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to suport its objections; answers to objections shall be filed no later than October 23, 1978;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board;[13]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for further action; and

5. A copy of this order shall be served upon all persons named in the service list of Docket 32662.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[14]

PHYLLIS T. KAYLOR,
Secretary.

APPENDIX

EASTERN'S PROPOSED SERVICE IMPROVEMENTS

[Docket 32662]

Market and Improved Service

Columbus to Atlanta—First competitive nonstop.
Columbus to Jacksonville—First single-plane.
Columbus to West Palm Beach—First single-plane.
Columbus to Sarasota—First single-plane.
Todelo to Sarasota—First single-plane.
Columbus to Montgomery—First single-carrier.

Source: EA-95, 96, and OAG 7/15/78.

[FR Doc. 78-26062 Filed 9-14-78; 8:45 am]

[14] All Members concurred.

[6320-01]

[Order 78-8-163; Docket 31147, et al]

EVERGREEN INTERNATIONAL AIRLINES, INC., AND DHL AIRWAYS, INC.

Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of August 1978.

In the matter of application of Evergreen International Airlines, Inc., for a certificate of public convenience and necessity for foreign supplemental air transportation (docket 31147); application of Evergreen International Airlines, Inc., for a certificate of public convenience and necessity to engage in overseas and foreign supplemental air transportation (docket 31837); application of DHL Airways, Inc., for a certificate of public convenience and necessity to engage in supplemental air transportation (docket 32495).

Trans International Airlines was inadvertently omitted from ordering paragraph 8,43 FR 39631. TIA should be added to the list of persons to be served with objections and replies filed in response to this order.

Dated: August 31, 1978.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-26063 Filed 9-14-78; 8:45 am]

[6320-01]

[Order 78-9-26; Docket 32327, et al.]

FORMER LARGE IRREGULAR AIR SERVICE INVESTIGATION, ET AL.

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of September 1978.

[14] All Members concurred.

In the matter of former large irregular air service investigation (docket 32327; former large irregular air service investigation—Phase 1 (docket 33361); former large irregular air service investigation—Phase 2 (docket 33362); former large irregular air service investigation—Phase 3 (docket 33363); applications of Duncan Tours, Inc., d.b.a. Duncan Airlines, Petroleum Air Transport, Inc., Puerto Rico Airlines Corp., Rosenbalm Aviation, Inc. (Dockets 33060, 33061, 33189, 33190, 3309, 33010, 33169, 3170).

By Order 78-7-106 (43 FR 33779, Aug. 1, 1978), the Board outlined the issues and procedures for this proceeding. We organized the case so that issues relating to our tentative findings and conclusions on need and applicant selection would be taken up in the policy portion of the proceeding (paragraph 5(a) of the order) and other issues would be tried by administrative law judges (paragraph 5(b) of the order). To facilitate the hearings before the administrative law judges, we divided the applicants into three groups according to direct air service operating experience and assigned a different phase number to each group. Those phases are dockets 32327-1 (applicants once but no longer operating), 32327-2 (applicants currently operating), and 32327-3 (all others).

For internal administrative record purposes, we are redesignating the three hearing phases with new docket numbers. The original phasing concept, however, will be retained for each hearing docket by way of modified titles. Documents submitted or filed in conjunction with the hearings under paragraph 5(b) of order 78-7-106 should reflect the proper hearing docket: for example, submissions for the hearing on applications from persons once but no longer operating will be labeled with:

Former large irregular air service investigation—Phase 1, docket 33361.

Note that the title for each hearing reflects the proper phase.

Comments under paragraph 5(a) of order 78-7-106 on the proposed policy determinations, answers, and other submissions pertaining to nonhearing matters should reflects the basic docket No. 32327.[1] These documents will be labeled with:

Former large irregular air service investigation, docket 32327.

These should also be served upon parties to all three phases.

On another matter, motions to consolidate have been filed by Duncan Tours, Inc., d.b.a. Duncan Airlines (has not operated direct air service); Petroleum Air Transport, Inc. (part 121 private carriage); Puerto Rico Airlines Corp. (has not operated direct air service); and Rosebalm Aviation, Inc. (part 121 private carriage). The applications of Duncan, Petroleum Air, and Rosenbalm are worldwide in scope. Puerto Rico Airlines seeks authority to engage in supplemental air transportation in interstate, Caribbean, and military areas. We are granting these motions.

Accordingly, 1. We redesignate the following dockets:

(a) 32327-1 will be former large irregular air service investigation—Phase 1, docket 33361;

(b) 32327-2 will be former large irregular air service investigation—Phase 2, docket 33362;

(c) 32327-3 will be former large irregular air service investigation—Phase 3, docket 33363;

2. Documents filed in conjunction with the hearings under paragraph 5(b) of order 78-7-106 shall bear the respective label set forth in paragraph 1 above;

3. All other documents shall be labeled former large irregular air service investigation, docket 32327; and

4. To the extent they conform to the scope of the proceeding,

(a) We consolidate the applications of Duncan Tours, Inc., d.b.a. Duncan Airlines (dockets 33060, 33061) and Puerto Rico Airlines Corp. (dockets 33009, 33010) into phase 3, docket 33363.

(b) We consolidate the applications of Petroleum Air Transport, Inc. (dockets 33189, 33190), and Rosenbalm Aviation, Inc. (dockets 33169, 33170), into phase 2, docket 33362. To the extent parts of the applications do not conform to the scope of the proceedings, we dismiss them.

We shall publish this order in the FEDERAL REGISTER,

By the Civil Aeronautics Board.[2]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-26064 Filed 9-14-78; 8:45 am]

[1] Initial comments, petitions for reconsideration, etc., submitted prior to service of this order will be received as long as they carry docket 32327 or one of the phases (e.g., 32327-1).

[2] All Members concurred.

[6320-01]

[Docket 32965]

NORTHWEST AIRLINES, INC.

Enforcement Proceeding; Postponement of Hearing

The hearing in the above-entitled case scheduled for September 18, 1978 (43 FR 34514, Aug. 4, 1978) is hereby canceled. A subsequent notice setting forth a new time and date will be issued at a later date.

Dated at Washington, D.C., September 7, 1978.

RUDOLF SOBERNHEIM,
Administrative Law Judge.

[FR Doc. 78-26059 Filed 9-14-78; 8:45 am]

[6320-01]

[Docket 32743]

OMAHA-DALLAS/FORT WORTH SUBPART N PROCEEDING

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on October 10, 1978, at 10 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the order of administrative law judge, dated July 6, 1978, and other documents which are in the docket of this proceeding on file in the docket section of the Civil Aeronautics Board.

Dated at Washington, D.C., September 9, 1978.

RICHARD M. HARTSOCK,
Administrative Law Judge.

[FR Doc. 78-26060 Filed 9-14-78; 8:45 am]

[6320-01]

[Docket 32709]

TUCSON-SAN DIEGO NONSTOP ROUTE INVESTIGATION

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on October 17, 1978, at 10 a.m. (local time), in the Smuggler's Inn, 6330 East Speedway, Tucson, Ariz. 85710, before the undersigned administrative law judge.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on August 10, 1978, and other documents which are in the docket of this proceeding on file in the docket section of the Civil Aeronautics Board.

Dated at Washington, D.C., September 8, 1978.

THOMAS P. SHEEHAN,
Administrative Law Judge.

[FR Doc. 78-26061 Filed 9-14-78; 8:45 am]

[6320-01]

[Docket 33334; Order 78-8-189]

is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material

the stated objections; answers to objections shall be filed no later than

[6335-01]

COMMISSION ON CIVIL RIGHTS

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

[6820-33]

COMMITTEE FOR PURCHASE FROM

[6320-01]

[Docket 33334; Order 78-8-189]

UNITED AIR LINES, INC.

Amendments of Certificates of Public Convenience and Necessity for Routes 1, 34, 51, and 57; Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 31st day of August 1978.

By Order 78-8-178, issued concurrently with this Order, we have proposed to realign the route system of American Airlines in a manner which would, among other things, give American unrestricted authority in 36 minor markets[1] where United holds restricted authority.[2] As discussed in Orders 78-7-91, 78-4-109, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on United as well as American will give those carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-8-178, and those in Orders 78-7-91, 78-4-109, and 76-5-101, we tentatively find and conclude that the elimination of restrictions on United's operations in the 36 markets is required by the public convenience and necessity, and is consistent with our policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.[3]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained; answers shall be filed 10 days after objections are due.

Accordingly, *it is ordered*, That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending United's certificates for routes 1, 34, 51, and 57 so as to remove operating restrictions in the markets listed in Appendix A;

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here shall, no later than October 11, 1978, file with the Board and serve upon all persons listed in Appendix I of Order 78-8-178, a statement of objections together with a summary of testimony, statistical data, and such evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than October 26, 1978;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board;[4]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in Appendix I of Order 78-8-178.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[1] I.e., markets which generate fewer than 20 true O&D plus interline connecting passengers a day.

[2] The minor markets where both United and American currently hold restricted authority are set forth in Appendix A to this order.

[3] We further tentatively conclude that United is a citizen of the United States within the meaning of the act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the act and the Board's rules, regulations, and requirements.

[4] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

APPENDIX A.—*Minor Markets Where United Will Receive Unrestricted Authority*

Market	Traffic [1] fiscal year 1975	Present authority
Boston to Charleston	6,900	1-stop via New York.
Buffalo to:		
Des Moines	2,420	1-stop via Chicago.
Memphis	6,140	1-stop via Knoxville.
Omaha	2,730	1-stop via Chicago.
Salt Lake City	3,890	1 Do.
Charleston to:		
Dayton	260	2-stop via Pittsburgh, Washington.
Des Moines	330	1-stop via Akron.
Detroit	5,900	1-stop via Cleveland.
Hartford	2,190	Do.
Oakland	300	1-stop via Charleston
Omaha	510	1-stop via Akron.
Providence	850	1-stop via Cleveland.
Salt Lake City	1,020	1-stop via Akron.
San Francisco	4,900	1 Do.
San Jose	340	No effective authority.
Columbus to:		
Des Moines	5,030	1-stop via Chicago.
Knoxville	5,450	1-stop via Washington.
Omaha	5,020	1-stop via Chicago.
Providence	4,450	1-stop via Washington.
Salt Lake City	5,160	1-stop via Chicago.
Dayton to:		
Des Moines	4,180	Do.
Knoxville	2,470	1-stop via Washington.
Omaha	4,800	1-stop via Chicago.
Salt Lake City	6,430	Do.
Des Moines to:		
Knoxville	920	1-stop via Akron.
Memphis	4,490	2-stop via Akron, Knoxville.
Pittsburgh	5,530	1-stop via Chicago.
Rochester	1,800	Do.
Knoxville to:		
Omaha	890	1-stop via Akron.
Salt Lake City	1,370	Do.
Memphis to:		
Omaha	5,600	1-stop via Washington.
Rochester	3,080	1-stop via Knoxville.
Salt Lake City	3,200	1-stop via Washington.
Omaha to Rochester	2,380	1-stop via Chicago.
Providence to Rochester	5,280	1-stop via Detroit.
Rochester to Salt Lake City	4,400	1-stop via Chicago.

[1] True O. & D. plus interline connecting passengers.

[FR Doc. 78-25936 Filed 9-14-78; 8:45 am]

[6335-01]

COMMISSION ON CIVIL RIGHTS

WEST VIRGINIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference of the West Virginia Advisory Committee (SAC) of the Commission will convene at 2 p.m., September 29, 1978, and will end at 4:30 p.m., September 30, 1978, at the Heart O' Town (Holiday) Inn, 1000 Washington Street East, Charleston, W. Va.

Persons wishing to attend this conference should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose is a statewide leadership conference on civil rights.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., September 12, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-25997 Filed 9-14-78; 8:45 am]

[3510-24]

DEPARTMENT OF COMMERCE

Economic Development Administration

BUSINESS DEVELOPMENT PROGRAM

Application for Assistance Under the Economic Development Administration's (EDA) Special Program to Guarantee Loans to Firms in the Basic Steel Industry

Notice is hereby given that the following application for assistance under the EDA special program to guarantee loans to firms in the basic steel industry has been received by EDA:

Firm	Amount	Products
Wheeling Pittsburgh Steel Corp	90 Pct. of $100,000,000.	Hot and cold rolled sheet and strip; coated sheet; seamless tubes; welded tubes; * rail.

* Proposed new product.

Dated: September 7, 1978.

ROBERT T. HALL,
Assistant Secretary for Economic Development.

[FR Doc. 78-25724 Filed 9-14-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Public Hearings

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Public hearings notice on mackerel, squid, and butterfish management plans.

SUMMARY: The New England Fishery Management Council, in cooperation with the Mid-Atlantic Fishery Management Council, announces that three public hearings on the Mackerel, Squid, and Butterfish Fishery Management Plans, prepared by the Mid-Atlantic Fishery Management Council, have been scheduled as follows: (1) Tuesday, October 3, 1978, at the Dutch Inn, Galilee, R.I. from 7 to 10 p.m.; (2) Wednesday, October 4, 1978, at the Fuller School, Gloucester, Mass., from 7 to 10 p.m., and (3) Thursday, October 5, 1978, at the Holiday Inn West, Portland, Maine, from 7 to 10 p.m.

FOR FURTHER INFORMATION CONTACT:

Mr. Spencer Apollonio, Executive Director, New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Mass. 01960, 617-535-5450.

SUPPLEMENTAL INFORMATION: Hearings are being held to receive public comment on the plans, and are open to the public. Copies of the management plans are available at the above council office.

Dated: September 11, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 78-25966 Filed 9-14-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletions from procurement list.

SUMMARY: This action deletes from Procurement List 1978 commodities produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: September 15, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On July 21, 1978 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (43 FR 31427) of proposed deletions from Procurement List 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities are hereby deleted from Procurement List 1978:

CLASS 7210

Pillowcase (IB), 7210-00-299-9609 and 7210-00-716-9000.
Sheet, crib (IB), 7210-00-717-000.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-26047 Filed 9-14-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Proposed Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed deletion from procurement list.

SUMMARY: The Committee has received a proposal to delete from Procurement List 1978 a service provided by workshops for the blind or other

For further information concerning this meeting, contact Commander Robert B. Vosilus, USN, Executive Secretary of the CNO Executive Panel

have been obtained from officials of private establishments with a guarantee that the data will be held in confi-

DOD FEDERAL REGIONAL COUNCIL (FRC) LIAISON REPRESENTATIVES OF THE DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR INSTALLATIONS AND HOUSING FOR A-95 MATTERS

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

I. BACKGROUND

On November 24, 1975, the Federal Energy Administration (FEA) (a predecessor agency of DOE) issued a deci-

SUMMARY: The Committee has received a proposal to delete from Procurement List 1978 a service provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 18, 1978.

ADDRESS: Committee for purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher 703-557-1145

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.
It is proposed to delete the following service from Procurement List 1978, November 14, 1977 (42 FR 59015):

SIC 7349

Janitorial/Custodial Service, Social Security Administration, District Office Building, Watertown, N.Y.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-26048 Filed 9-14-78; 8:45 am]

[3810-71]

DEPARTMENT OF DEFENSE

Department of the Navy

CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE, COMMAND, CONTROL AND COMMUNICATIONS SUB-PANEL

Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. APP. I), notice is hereby given that the Command, Control and Communications Sub-Panel of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on October 4-5, 1978, at the Pentagon, Washington, D.C. Sessions of the meeting will commence at 8:30 a.m. and terminate at 5:30 p.m. on both days. All sessions will be closed to the public.

The entire agenda will be devoted to discussions of sensitive command, control, and communications systems and related intelligence. The agenda will consist of classified information that is specifically authorized by executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Commander Robert B. Vosilus, USN, Executive Secretary of the CNO Executive Panel Advisory Committee, 1401 Wilson Boulevard, Room 405, Arlington, Va. 22029, telephone number, 202-894-3191.

Dated: September 7, 1978.

P. A. WILLE,
Captain, JAGC, U.S. Navy Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 78-26032 Filed 9-14-78; 8:45 am]

[3810-70]

Office of the Secretary

DEPARTMENT OF DEFENSE WAGE COMMITTEE

Notice of Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-436, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, November 7, 1978; Tuesday, November 14, 1978; Tuesday, November 21, 1978; and Tuesday, November 28, 1978 at 9:45 a.m. in Room 1E801, The Pentagon, Washington, D.C.

The committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-643, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b.(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the committee's attention. Additional information concerning this meeting may be obtained by writing the chairman, Department of Defense Wage Committee, Room 3D281, The Pentagon, Washington, D.C.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 78-26055 Filed 9-14-78; 8:45 am]

[3810-70]

INTERGOVERNMENTAL COORDINATION OF DEPARTMENT OF DEFENSE LAND AND FACILITY PLANS AND PROJECTS

List of DOD Federal Regional Council Liaison Officers

Notice is hereby given that the Deputy Assistant Secretary of Defense (Installation and Housing) on September 5, 1978, issued the following memorandum to the Assistant Secretaries of the Army (IL&FM), Navy (MRA&L), and Air Force (MRA&I), and the directors of the Defense Agencies:

32 CFR 243 established a DOD Federal Regional Council (FRC) liaison position at each of the 10 Federal regions to represent the Deputy Assistant Secretary of Defense (Installations and Housing) for all DOD matters regarding the evaluation, review, and coordination of Federal and federally assisted programs and projects (OMB Circular A-95). The functions assigned to this liaison officer are specified under § 243.5(d), DOD Federal Regional Council Liaison Officers.

The following is the list of the DOD Federal Regional Council Liaison Representatives (FRCLR) for A-95 matters designated by the military departments to function in this capacity, with their addresses and telephone numbers.

It is requested that this list be disseminated to appropriate military installations and activities in order that they are aware of the FRCLR for A-95 matters for their region. Further, to ensure compatibility of efforts, addresses should also provide each of the FRCLR's with a list of military installations and activities within that FRCLR's area of cognizance.

DOD FEDERAL REGIONAL COUNCIL (FRC) LIAISON REPRESENTATIVES OF THE DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR INSTALLATIONS AND HOUSING FOR A-95 MATTERS

Standard Federal regions	DOD FRC liaison representative
	Air Force
I	Chief, Environmental Planning Division, USAF Regional Civil Engineer/ER, 526 Title Building, Atlanta, Ga. 30303, 404-221-6776, Autovon 925-1110 (ask for 221-6776).
	Army
II	Division Engineer (except Puerto Rico), North Atlantic Division, U.S. Army Corps of Engineers, 90 Church Street, New York, N.Y. 10007, 212-264-7101.
	Division Engineer (Puerto Rico only), South Atlantic Division, U.S. Army Corps of Engineers, 510 Title Building, 30 Pryor Street SW., Atlanta, Ga. 30303, 404-221-6711.
	Navy
III	Commanding Officer, Northern Division, Naval Facilities, Engineering Command, Philadelphia, Pa. 19112, 215-755-3950, Autovon 443-3950.
IV	Commanding Officer, Southern Division, Naval Facilities, Engineering Command, P.O. Box 10068, Charleston, S.C. 29411, 803-743-4450.
	Air Force
V	Chief, Environmental Planning Division, USAF Regional Civil Engineer/ER, Main Tower Building, 1200 Main Street, Dallas, Tex. 75202, 214-767-2514, Autovon 967-1101 (ask for 767-2514).
VI	Do.
	Army
VII	Division Engineer, Missouri River Division, U.S. Army Corps of Engineers, P.O. Box 103 (Downtown Station), Omaha, Nebr. 68101, 402-221-7200.
	Air Force
VIII	Chief, Environmental Planning Division, USAF Regional Civil Engineer/ER, Main Tower Building, 1200 Main Street, Dallas, Tex. 75202, 214-767-2514, Autovon 967-1101 (ask for 767-2514).
	Navy
IX	Commanding Officer, Western Division, Naval Facilities, Engineering Command, San Bruno, Calif. 94066, 415-877-7100, Autovon 859-7100.
	Army
X	Division Engineer (except Alaska), South Pacific Division, U.S. Army Corps of Engineers, 630 Sansome Street, San Francisco, Calif. 94111, 415-556-0914.
	Division Engineer (Alaska only), North Pacific Divison, U.S. Army Corps of Engineers, P.O. Box 2870, Portland, Oreg. 97028, 503-221-3700.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 12, 1978.

[FR Doc. 78-26054 Filed 9-14-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

COLUMBIA LNG CORP.

Allocation of Synthetic Natural Gas (SNG) Feedstocks

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of availability of environmental assessment and notice of negative determination and request for comments on a petition for feedstock assignment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces the availability of its environmental assessment (EA) of a proposed assignment of supplier and a base period use of synthetic natural gas (SNG) feedstocks for the Columbia LNG Corp.'s (Columbia) Green Springs, Ohio, SNG plant. DOE has determined, based on the EA, that the proposed assignment of 100 percent of historical operating levels does not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of section 102(2)(C) of the National Environmental Policy Act. Comments regarding the EA and DOE's determination that an environmental impact statement is not required are invited. Additionally, interested parties are invited to comment on Columbia's petition for SNG feedstock.

DATE: Written comments to be submitted by September 27, 1978.

ADDRESS: Comments should be submitted to Box VI, Economic Regulatory Administration, Office of Public Hearing Management, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Richard Johnson, Economic Regulatory Administration, Office of Fuel Supply and Allocation, Room 6318, 2000 M Street NW., Washington, D.C. 20461, 202-254-3330.

Carol Borgstrom, Office of Environment, Room 7119, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9760.

Deanna Williams, Department of Energy, Freedom of Information Reading Room, 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461, 202-566-9161.

SUPPLEMENTAL INFORMATION:

I. BACKGROUND

On November 24, 1975, the Federal Energy Administration (FEA) (a predecessor agency of DOE) issued a decision and order assigning Columbia a base period use of 6,125,000 barrels of propane, butane, or natural gasoline per quarter, designating Dome Petroleum, Ltd., as a supplier for 3,500,000 barrels, and permitting Columbia to obtain the remainder of the feedstock from imported non-Canadian sources, to draw from its inventory or, if approved by FEA, from surplus domestic product. This assignment was effective through December 31, 1976. On June 9, 1976, Columbia submitted a supplemental petition requesting a permanent base period assignment at the same level of 6,125,000 barrels of propane, butane, or natural gasoline for each quarter corresponding to a base period. At that time, FEA initiated a review to determine whether various allocation levels, if granted, would significantly affect the quality of the human environment. Pending completion of ERA's environmental review, Columbia has been given feedstock allocations through September 30, 1978.

The analysis of the EA indicates operation of the SNG plant would not significantly affect the quality of the human environment at an allocation of 100 percent of the current base period volume. Therefore, DOE has determined that if Columbia is assigned feedstock at 100 percent of current base period volumes, a negative determination, pursuant to 10 CFR 208.4(c), is appropriate and that no EIS is required.

ERA is continuing to evaluate Columbia's need for the SNG produced at its Green Springs plant. In this connection, ERA has recently received information from the attorney general of Ohio raising questions as to the class of customer receiving gas service from Columbia's distribution company customers. If it is determined that an allocation less than 100 percent of base period volumes is required, DOE will consider the need for further environmental review.

II. COMMENT PROCEDURE

Single copies of the Columbia EA may be obtained from the Fuel Supply and Allocation Office, Room 6318, 2000 M Street NW., Washington, D.C. 20461, 254-3330. Copies of the EA are also available for public review in the DOE Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. A file containing all pertinent information and data filed in conjunction with Columbia's petition, other than confidential information which ERA has deter-

mined to be exempt from the disclosure requirements of 5 U.S.C. 522, is also available for public inspection and

With that notice and in accordance with 10 CFR 205.197(c), ERA invited interested persons to comment on the

censee states that it will retain flowage rights over the conveyed lands within project boundaries.

(Petitioner), 2100 Buhl Building, Detroit, Mich. 48226, filed in docket No. CP74-317, et al., a petition pursuant to

would instead, it is stated, install a hot tap at mile post 748.3 of its pipeline in Otsego County, Mich. at an estimated

[6740-02]

[Project No. 2804]

mined to be exempt from the disclosure requirements of 5 U.S.C. 522, is also available for public inspection and copying at the DOE Freedom of Information Reading Room.

Interested parties may submit written comments with respect to the EA, negative determination and the petition to Box VI, Public Hearing Management, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "Columbia LNG Corp. Feedstock Assignment." All comments should be received by DOE by 4:30 p.m., September 27, 1978, in order to insure consideration.

Any person submitting written comments should forward 15 copies to ERA and should comply with the requirements of the ERA procedural regulations set forth at 10 CFR 205.9 et seq.

Any information or data submitted with respect to the EA, the negative determination, or Columbia's petition considered by the person furnishing it to be confidential must be so identified and submitted in writing, in one copy only, in accordance with procedures set forth in 10 CFR 205.9(f). Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. The Economic Regulatory Administration reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Issued in Washington, D.C., September 11, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 25996 Filed 9-14-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

LEWIS E. IANDOLI

Action Taken on Consent Order

Pursuant to 10 CFR 205.199J, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of final action taken on a consent order. Under the terms of 10 CFR 205.199J(c) no consent order involving sums in excess of $500,000 shall become effective until ERA publishes notice of its execution and solicits and considers public comments with respect to its terms. On June 7, 1978, ERA published notice of a consent order which was executed between Lewis E. Iandoli d.b.a. Blue Ridge Fuel Co. (Iandoli) and ERA (43 FR 24727, June 7, 1978). With that notice and in accordance with 10 CFR 205.197(c), ERA invited interested persons to comment on the consent order. A press release in conformity with 10 CFR 205.197(c) was issued on June 16, 1978.

No comments were received during the designated period. ERA has concluded that the consent order as executed between ERA and Iandoli is an appropriate resolution of the compliance proceedings described in the notice published on June 7, 1978 and hereby gives notice that the consent order shall become effective as proposed, without modification, upon publication of the notice in the FEDERAL REGISTER.

Issued in Washington, D.C. on the 1st day of September 1978.

RICHARD B. HERZOG,
Assistant Administrator for Enforcement, Economic Regulatory Administration.

[FR Doc. 78-26027 Filed 9-14-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2452]

CONSUMERS POWER CO.,

Application for Change in Land Rights

SEPTEMBER 7, 1978.

Take notice that Consumers Power Co. (licensee) on May 30, 1978, filed an application with the Federal Energy Regulatory Commission under the Federal Power Act, 16 U.S.C. 791a-825r for lands included in the Hardy plant project No. 2452. Licensee states that the purpose of the conveyance and easement is to enable the Michigan State Highway Commission to relocate Route U.S.-131 and to upgrade it to limited access freeway status between the village of Howard City, Mich., and the city of Big Rapids, Mich., and to relocate certain telephone lines that will follow the highway corridor over project property. (Correspondence to Mr. P. A. Perry, Secretary, Consumers Power Co., 212 West Michigan Avenue, Jackson, Mich. 49201.) The project is located in Mecosta and Newaygo Counties, Mich., on the Muskegon River.

Licensee states that the State Highway Commission seeks to upgrade Route U.S.-131 to limited access freeway status between Howard City and Big Rapids to provide for anticipated future traffics growth and to alleviate a serious safety hazard posed by the existing U.S.-131. The limited access status of the proposed highway mandates that the State Highway Commission acquire title to the land in fee. Licensee states that it will retain flowage rights over the conveyed lands within project boundaries.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any protest or petition to intervene must be filed on or before October 2, 1978. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26009 Filed 9-14-78; 8:45 am]

[6740-02]

[Docket No. RP78-76]

GAS RESEARCH INSTITUTE

Extension of Time

SEPTEMBER 7, 1978.

On August 28, 1978, the people of the State of California and the Public Utilities Commission of the State of California (California) filed a motion for additional time to respond to the staff's report on Gas Research Institute's filing in this proceeding as noticed by the Commission on July 3, 1978. California states that it had not received a copy of the staff's comments as of August 24, 1978. GRI filed an answer on August 29, 1978, stating no objection to the request, but asking that an extension apply only to California.

Upon consideration, notice is hereby given that California shall file its comments on or before September 11, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26010 Filed 9-14-78; 8:45 am]

[6740-02]

[Docket No. CP74-317, et al.]

GREAT LAKES GAS TRANSMISSION CO.

Petition To Amend

SEPTEMBER 8, 1978.

Take notice that on August 28, 1978, Great Lakes Gas Transmission Co. (Petitioner), 2100 Buhl Building, Detroit, Mich. 48226, filed in docket No. CP74-317, et al., a petition pursuant to section 7(c) of the Natural Gas Act to amend the order issued on July 7, 1977, as amended on August 1, 1978, in the instant docket so as to reflect amendments in the transportation agreement between Petitioner and Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin) authorized by said certificate, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that this petition is a companion to the petition of Michigan Wisconsin filed on May 4, 1978, in docket No. CP74-136, which requests that the Commission authorize the development of the south Chester 15 field located in Chester Township, Otsego County, Mich. in lieu of the presently authorized Leonard field located in Oakland County, Mich. It is stated that Petitioner has agreed to provide the transportation service from the south Chester 15 field for Michigan Wisconsin.

Petitioner states, further, that by the terms of its agreement with Michigan Wisconsin it would receive gas from Michigan Wisconsin, during the summer period, at an existing interconnection at Farwell, Mich. and Petitioner would deliver thermally equivalent volumes to Michigan Wisconsin at a new interconnection, with pipeline facilities proposed bo be constructed by Michigan Wisconsin, at mile post 748.3 on Petitioner's pipeline in Otsego County, Mich. Petitioner states that it would not charge any price for this summer period exchange.

During the winter period, Petitioner states that it would receive gas from Michigan Wisconsin at the new interconnection in Otsego County, Mich. and would redeliver a thermally equivalent quantity to Michigan Wisconsin at the Farwell interconnection and/or at an existing interconnection near Crystal Falls, Mich. Petitioner proposes to charge a rate of 2.66 cents per Mcf of gas for any deliveries made by it to Michigan Wisconsin at Farweil. Any deliveries made at the Crystal Falls interconnection, Petitioner states, would be considered as exchange deliveries and no rate would be charged to Michigan Wisconsin for such deliveries. It is said that almost all of the deliveries by Petitioner during the winter period are expected to be made at Crystal Falls, and would generate insignificant revenues to Petitioner.

Petitioner states that if its proposed amendment is granted it would not install 15.2 miles of 36-inch diameter pipeline loop that would otherwise be required to transport the gas to the Leonard storage field. Petitioner would instead, it is stated, install a hot tap at mile post 748.3 of its pipeline in Otsego County, Mich. at an estimated cost of $41,400 to provide the proposed service. Petitioner states that the costs of acquiring and developing the south Chester field on a project basis would be less than required to develop the Leonard field as authorized.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 29, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 24026, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26011 Filed 9-14-78; 8:45 am]

[6740-02]

[Docket No. RP77-142]

JUAREZ GAS COMPANY S.A. v. DEL NORTE NATURAL GAS CO.

Changing Date for Informal Conference

SEPTEMBER 8, 1879.

By notice issued on August 18, 1978, an informal conference of all interested persons in the above-captioned matter was set for September 6, 1978. Because of prior commitments, counsel for Juarez Gas Co. submitted a letter on August 29, 1978, requesting that the conference be postponed. The letter indicates that staff counsel and counsel for Del Norte Natural Gas Co. have no objection. Accordingly, the date for the informal conference is hereby changed to October 19, 1978, at 10 a.m. at the offices of the Federal Energy Regulatory Commission, 825 North Capital Street, Washington, D.C. 20426. The room number will be posted on the second floor on the day of the conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26012 Filed 9-14-78; 8:45 am]

[6740-02]

[Project No. 2804]

MAINE HYDRO-ELECTRIC DEVELOPMENT CORP.

Application for Minor License for Hydroelectric Project

SEPTEMBER 11, 1978.

Public notice is given that Maine Hydro-Electric Development Corp. has filed [1] an application under the Federal Power Act (16 U.S.C. 791(a)-825(r) (1970)) for a minor license for the proposed project No. 2804, to be known as the Goose River Hydroelectric project. Correspondence regarding this application should be sent to: Mr. Lawrence Gleeson, Mill Lane, P.O. Box 402, Belfast, Maine 04975.

Project No. 2804 would consist of the rehabilitation of five consecutive developments on the Goose River; the combined output of the completed project would be 426 kW. The following description of the project's five developments proceeds in sequence, beginning with the uppermost and continuing downstream.

SWAN LAKE DAM

The first development, located approximately 7 miles upstream from the mouth of the Goose River would consist of:

(1) The existing 10-foot-high, 250-foot-long dam of concrete and stone construction;

(2) A gate structure with three regulating gates;

(3) A reservoir with a storage capacity of 7,500-acre-feet.

This dam would be used only to regulate the water levels in Swan Lake and the flow to the downstream power developments. There would be no power facilities at this development.

MASONS DAM

Four miles downstream from Swan Lake is the Masons Dam development which would consist of:

(1) The existing 15-foot-high, 86-foot-long dam of rock masonry construction;

(2) An existing 160-foot-long, 3-foot-diameter penstock which would be reconditioned;

(3) The existing tailrace and wheel pit;

(4) An existing powerhouse to be reconditioned allowing the installation of a new 75 kW generator;

(5) A reservoir with a storage capacity of 1,621-acre-feet; and

[1] This proceeding was commenced before the Federal Power Commission (FPC). By regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Federal Energy Regulatory Commission (FERC). In this notice, the term "Commission" refers to the FPC for actions or statements that occurred before October 1, 1977; otherwise, it refers to the FERC.

(6) Appurtenant facilities.

KELLY DAM

protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules.

which would cost approximately $5,250. El Paso will reimburse applicant for the actual cost of installing

[6740-02]

In addition, Applicant proposes to increase the present horsepower capacity of the Humbert Compressor

(6) Appurtenant facilities.

KELLY DAM

One mile downstream from Masons Dam is the Kelley Dam development which would consist of;

(1) The existing 15-foot-high, 135-foot-long dam of rock masonry construction;

(2) A proposed 305-foot-long, 3-foot-diameter penstock (to be constructed);

(3) The existing tailrace;

(4) An existing powerhouse to be reconditioned allowing the installation of a new 55 kW generator;

(5) A reservoir with a storage capacity of 200-acre-feet; and

(6) Appurtenant facilities.

MILL DAM

One-half mile downstream from Kelly Dam is the Mill Dam development, which would consist of:

(1) The existing 6-foot-high, 70-foot-long dam of rock masonry construction;

(2) An existing 108-foot-long, 4-foot-diameter penstock;

(3) An existing powerhouse which applicant proposes to recondition allowing operation on an existing 94 kW generator;

(4) A reservoir with a storage capacity of 7-acre-feet and;

(5) Appurtenant facilities

CMP DAM

One-half mile downstream from Mill Dam is the CMP Dam development. This is the last development on the Goose River and it would consist of:

(1) An existing 21-foot-high, 231-foot-long dam of concrete gravity/buttress construction;

(2) An existing 1,100-foot-long, 5-foot-diameter penstock, parts of which would require restoration and replacement;

(3) A powerhouse (to be constructed);

(4) A new 200 kW generator to be installed in the powerhouse;

(5) A reservoir with a storage capacity of 72-acre-feet; and

(6) Appurtenant facilities.

USE OF PROJECT POWER

Applicant proposes to sell the power generated at these developments to the Central Maine Power Co. for distribution to its customers.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any protest or petition to intervene must be filed on or before November 13, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26014 Filed 9-14-78; 8:45 am]

[6740-2]

[Docket No. CP78-496]

NORTHERN NATURAL GAS CO.

Application

SEPTEMBER 8, 1978.

Take notice that on August 25, 1978, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in docket No. CP78-496 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 600 Mcf of natural gas per day for El Paso Natural Gas Co. (El Paso) for delivery to the city of Rankin, Tex. (Rankin) and the installation and operation of certain minor measurement facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that Rankin, a municipal customer of El Paso's, has been experiencing excessive lost-or-unaccounted-for volumes during the past several months. This problem is primarily due to the deteriorated state, caused by corrosion, of Rankin's transmission system, it is said.

Applicant states that on June 23, 1978, Applicant and El Paso entered into a gas transportation agreement whereby El Paso would deliver up to 600 Mcf of gas per day to Applicant at an existing point of interconnection between the pipeline systems of Applicant and El Paso located in Schleicher County, Tex., and Applicant would transport and deliver this gas for the account of El Paso to Rankin at a point on Applicant's mainline located approximately one (1) mile north of Rankin in Upton County, Tex.

Applicant states that the purpose of this arrangement is to assist Rankin in correcting its lost-or-unaccounted-for problem, which results in the waste of natural gas and constitutes a potential hazard.

Applicant indicates that in order to accommodate the delivery of gas to Rankin it is necessary to install and operate minor measurement facilities, which would cost approximately $5,250. El Paso will reimburse applicant for the actual cost of installing such facilities, it is said.

It is indicated that pursuant to the gas transportation agreement, El Paso would pay Applicant 3.85 cents per Mcf for all gas volumes transported and delivered for El Paso's account to Rankin. In addition, Applicant would retain one (1) percent of the gas volumes received from El Paso for transportation, which volume is for fuel shrinkage, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 29, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26013 Filed 9-14-78; 8:45 am]

[6740-02]

[Docket No. CP78-83]

PANHANDLE EASTERN PIPE LINE CO.

Petition To Amend

SEPTEMBER 8, 1978.

Take notice that on August 25, 1978 Panhandle Eastern Pipe Line Co. (Petitioner), P.O. Box 1642, Houston, Tex. 77001, filed in docket No. CP78-83, a petition pursuant to section 7(c) of the Natural Gas Act to amend the order issued by the Commission on January 30, 1978 in the instant docket, and to waive § 157.7(b)(1)(c) of the Commission's regulations so as to authorize Petitioner to expend an increased amount for the construction and operation of certain gas purchase facilities, during the 12-month period commencing January 30, 1978, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that Petitioners were authorized to construct and operate certain facilities, to enable it to contract for and receive into its pipeline system natural gas, with such construction and operation authorized to take place during the 12-month period beginning January 30, 1978, at a total cost not to exceed $12 million with the single-project costs not to exceed $1,500,000. Petitioner states that due to a number of new supply sources, as well as the increased costs of connecting new wells the $12 million previously authorized is insufficient to meet Petitioner's costs for new gas purchase facilities. Consequently, Petitioner requests that the Commission waive § 157.7(b)(1)(c) of the Commission's regulations, and amend the order issued on January 30, 1978 in the instant docket to authorize Petitioner to construct facilities at a total cost not to exceed $18 million. Petitioner states that it does not anticipate the cost of any single project to exceed the $1,500,000 originally authorized.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 29, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26015 Filed 9-14-78; 8:45 am]

[6740-02]

[Docket No. CP78-495]

PANHANDLE EASTERN PIPE LINE CO.

Application

SEPTEMBER 8, 1978.

Take notice that on August 25, 1978, Panhandle Eastern Pipe Line Co. (Applicant), P.O. Box 1642, Houston, Tex. 77001, filed in docket No. CP78-495 an application pursuant to section 7(c) of the National Gas Act for a certificate of public convenience and necessity authorizing the construction and operation during the 1978 construction season of two new compressor stations, additions of horsepower at two existing compressor stations, and an additional 59.2 miles of pipeline between four (4) and eight (8) inches in diameter in Kearny County, Kans., Carson County, Tex., and Weld County, Colo., all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to construct and operate various facilities, which, it says, would cost approximately $6,816,000, in order to connect new supplies of natural gas.

Applicant proposes the establishment of what it calls the Hampton Compressor Station which, it states, would be located in Kearny County, Kans., and would be equipped with 1,800 compressor horsepower; 54.9 miles of pipeline of varying diameters between 4-inch and 8-inch, which would be utilized in connecting new natural gas supplies in Kearny County, Kans., on the upstream side of the proposed Hampton Compressor Station; and 4.3 miles of 8-inch pipeline, which would be utilized as a discharge line from the proposed Hampton Compressor Station to connect with the existing Miles Compressor Station.

Approximately sixty-eight (68) percent of the dollar value of the facilities proposed in this application would be utilized by Applicant in Kearny County, Kans., it is said. Applicant states that it has successfully secured for the first time sources of natural gas supply in this area of Kansas.

Applicant also proposes the establishment of what it refers to as the Armour Compressor Station, which, it says, would be located in Carson County, Tex., and would be equipped with 1,400 compressor horsepower. Applicant states that it has secured a new source of natural gas in the vicinity of the proposed station.

In addition, Applicant proposes to increase the present horsepower capacity of the Humbert Compressor Station, located in Weld County, Colo., from 700 horsepower to 1,400 horsepower. Applicant states that recently, the Colorado Oil and Gas Conservation Commission authorized drilling on 160-acre spacing units in the Weld County area. Applicant further states that producers in Weed County are now drilling new wells and that the increased compression facilities it has proposed herein are necessary to handle the resultant increases in volumes of gas.

Finally, Applicant proposes to increase the present horsepower capacity of the Blair Compressor Station in Carson County, Tex., from 700 horsepower to 1,400 horsepower. Applicant states that it needs the additional horsepower because it has connected new wells to its pipeline system upstream of the Blair Compressor Station and anticipates the connection of additional wells during 1978 and 1979.

Applicant notes that it has filed simultaneous with this application in docket No. CP78-83 pursuant to § 157.7(b)(1)(i) of the Commission's rules and regulations (18 CFR 157.7(b)(1)(i)) a request to increase by $6 million its budget authorization for new natural gas connection facilities for the 12-month budget period, which began January 30, 1978. Certain of the supplies connected under the proposed authorization in docket No. CP78-83 would be handled by the facilities for which authorization is requested herein, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 29, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its

designee on this application if no petition to intervene is filed within the time required herein, if the Commis-

Line Corp. (Transco) at Crowley, La., for transportation to United. In addition, it is said that the E/T agreement

application to amend the order of May 24, 1976, as amended, in said docket pursuant to section 7(c) of the Natural

Applicant states that for the transportation service proposed herein it would retain 6.23 percent of the volumes delivered as makeup for com-

tion of up to 420 dekatherms (dt) equivalent of natural gas per day on an interruptible basis for the Celotex Corp. (Celotex) an existing industrial

with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18

designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26016 Filed 9-14-78; 8:45 am]

[6740-02]

[Docket No. CP77-108]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO, INC., AND UNITED GAS PIPE LINE CO.

Petition To Amend

SEPTEMBER 8, 1978.

Take notice that on August 24, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc. (Tennessee), P.O. Box 2511, Houston, Tex. 77001 and United Gas Pipe Line Co. (United), P.O. Box 1478, Houston, Tex. 77001, filed in docket No. CP77-108 a joint petition to amend the order of April 14, 1978 (1 FERC ——) issued by the Commission pursuant to section 7(c) of the Natural Gas Act so as to provide for transportation by Tennessee to United, and an exchange of 80,000 Mcf of gas per day in addition to the 300,000 Mcf per day previously authorized in this docket, and the delivery of gas to United at two additional points, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the Commission's order of April 14, 1978, Tennessee was authorized to transport up to 300,000 Mcf per day for United in accordance with a transportation agreement between the parties dated July 14, 1976, as amended June 16, 1977 (Tennessee's FERC gas tariff rate schedule T-63). Under the transportation agreement, Tennessee receives volumes of gas from United at Starks, La. (Starks) and delivers equal volumes to United at three points: West Monroe and Bayou Sale, La., and Chauncey, Miss., it is said.

It is further indicated that Tennessee and United have entered into an exchange and transportation agreement (E/T agreement) dated May 1, 1978, in which Tennessee has agreed to receive an additional 80,000 Mcf per day from Transcontinental Gas Pipe Line Corp. (Transco) at Crowley, La., for transportation to United. In addition, it is said that the E/T agreement provides for the delivery of equal volumes of gas to United at Cocodrie and Lirette, La., in addition to the three above-mentioned redelivery points, and grants to Tennessee the right to make available to United at Lirette up to 150,000 Mcf per day of the volumes received at Starks and Crowly, La., as exchange gas.

It is stated that for the volumes of gas which are to be transported under the E/T agreement, Tennessee would charge a rate based upon its then-effective 100 Mcf-mile charge, computed on the basis of a 100-percent load factor and utilizing Tennessee's then-current system average transmission cost of service applied to the distance in miles between the receipt point and the applicable delivery point.

Tennessee and United state that on July 20, 1978, they filed an application in docket No. CP78-436 requesting authorization to construct pipeline and compression facilities. The proposed pipeline is said to extend from Cocodrie to Lirette. Tennessee and United state that these facilities will enable Tennessee to make redeliveries of the proposed exchange and transportation volumes at the Cocodrie and Lirette points.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 29, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26017 Filed 9-14-78; 8:45 am]

[6740-02]

[Docket No. CP76-267]

TEXAS GAS TRANSMISSION CORP.

Application To Amend

SEPTEMBER 8, 1978.

Take notice that on August 25, 1978, Texas Gas Transmission Corp. (Applicant), P.O. Box 1160, Owensboro, Ky. 42301, filed in docket NO. CP76-267 an application to amend the order of May 24, 1976, as amended, in said docket pursuant to section 7(c) of the Natural Gas Act and § 2.79 of the Commission's general policy and interpretations (18 CFR 2.79) so as to extend Applicant's authorization to transport and deliver volumes of natural gas to Southern Indiana Gas and Electric Co. (SIGECO) for the account of Aluminum Co. of America (Alcoa) for an additional 2-year period, commencing November 1, 1978, all as more fully set forth in the application to amend on file with the Commission and open to public inspection.[1]

It is indicated that by order of the Federal Power Commission, issued May 24, 1976, as amended, Applicant was authorized to transport, on an interruptible basis, and deliver a volume of natural gas to SIGECO for the account of Alcoa. This certificate authorization to transport gas expired by its terms as of June 30, 1978, it is stated.

Applicant requests that the certificate issued in the instant docket be amended to authorize the transportation service for an additional 2-year period, commencing November 1, 1978, pursuant to a Transportation Service Agreement between Applicant and Alcoa, dated July 14, 1978. Applicant asserts that the proposed extension is within the contemplation of § 2.79 of the Commission's general policy and Interpretations (18 CFR 2.79), as amended by Commission order No. 2, issued February 1, 1978.

It is indicated that the volumes of gas to be transported for the account of Alcoa, as proposed herein, would be purchased by Alcoa from Weeks Petroleum Corp. (Weeks) and Sun Gas Co. (Sun). These volumes of natural gas would be delivered to Applicant for the account of Alcoa by Texas Eastern Transmission Corp. (Texas Eastern) at an existing point of delivery from Texas Eastern to Applicant at Applicant's Sharon Purchase Meter Station located near Lisbon, La., it is stated, and that Applicant would simultaneously redeliver the volumes of gas received from Texas Eastern up to 5,808 Mcf per day to its existing point or points of delivery with Sigeco, for ultimate delivery to Alcoa's facility in Warrick, Ind. Applicant States that it in no event would be obligated to deliver on any day an aggregate amount of more than 102,000 Mcf of gas through all its points of delivery to Sigeco. It is indicated that Sigeco has agreed to accept volumes of natural gas up to 5,808 Mcf per day for the account of Alcoa.

[1] This proceeding was commenced before the Federal Power Commission. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Applicant states that for the transportation service proposed herein it would retain 6.23 percent of the volumes delivered as makeup for compressor fuel and line loss. This percentage was calculated on an incremental basis for pipeline throughput to and within the rate zone in which the delivery by Applicant would be made, which is Zone 3, it is stated. It is indicated that Applicant would not retain any volumes for its own system supply. Applicant states that it would collect an initial charge from Alcoa of 24.81 cents per Mcf for all volumes delivered to Sigeco for Alcoa's account (Applicant's FERC gas tariff, third revised volume No. 1, revised sheet No. 7-A.

It is further indicated that Texas Eastern will file an application, at approximately the same time as the filing of the application herein, for a certificate of public convenience and necessity for authorization for Texas Eastern to transport and deliver volumes of gas for the account of Alcoa.

Any person desiring to be heard or to make any protest with reference to said application to amend should on or before September 29, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26018 Filed 9-14-78; 8:45 am]

[6740-02]

[Docket No. CP78-497]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

SEPTEMBER 8, 1978.

Take notice that on August 25, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in docket No. CP78-497 an application pursuant to section 7(c) of the Natural Gas Act and § 2.79 of the Commission's general policy and interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 420 dekatherms (dt) equivalent of natural gas per day on an interruptible basis for the Celotex Corp. (Celotex) an existing industrial customer of Pennsylvania Gas and Water Co. (PG&W), one of Applicant's resale customers served under rate schedule CD-3, pursuant to Applicant's rate schedule T for a period of 2 years, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that Celotex has contracted to purchase from Davis Oil Co., ENI Oil and Gas development drilling program 1977/1978E, and the Campbell Co. 1977 limited partnership (Davis, et al.), up to 420 dt of natural gas per day at a price of $1.90 per million Btu's, which price would increase $.10 per million Btu at the end of the first year of the contract. Such gas would be produced from the Papalote west field area in San Patricio County, Tex., and is not available for resale in the interstate market, it is said. It is indicated that Celotex would arrange to have the subject gas delivered to a mutually agreeable point on Applicant's system in that county, and Applicant would redeliver the transportation quantities to existing points of delivery to PG&W for the account of Celotex. Applicant indicates that PG&W would transport such quantities of natural gas delivered to it by Applicant for the account of Celotex to Celotex's Pittston, Pa. plant, where such gas would be used for "process gas" requirements to dry mineral acoustical time by a direct fire method which process is limited by current technology to the use of propane as alternate fuel. Experiments using other fuels have failed to produce a tile of acceptable quality; thus the Pittston plant is dependent on natural gas and propane, it is stated.

Applicant indicates that under its rate schedule T, it would charge Celotex an initial rate of 24.0 cents per dt for all quantities delivered hereunder, and would retain, initially, 4.4 percent of the quantities received for transportation as makeup for compressor fuel and line loss. The transportation service provided by PG&W for Celotex is subject to PG&W's existing rate schedule SL-8, it is said. The application states that Davis, et al., would reimburse Applicant for their pro-rate share (amounting to $6,000) of existing authorized metering facilities owned by Applicant and required for the receipt of the subject gas into Applicant's pipeline.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 29, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will b considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless othewise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26019 Filed 9-14-78; 8:45 am]

[6740-02]

[Docket Nos. RP76-136, RP77-26 and RP77-106]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Tariff Filing

SEPTEMBER 7, 1978.

Take notice that Transcontinental Gas Pipe Corp. (Transco) on August 23, 1978, tendered for filing certain revised tariff sheets to its FERC gas tariff, Second Revised Volume No. 1, and Original Volume No. 2 to become effective on various dates from February 1, 1977 through December 1, 1977. Transco states that this filing is being made pursuant to and in accordance with the Commission's order of June 27, 1978, approving the settlement agreement in docket Nos. RP76-136 and RP77-26.

Transco states that the tariff sheets which are applicable to sales for resale, storage, and firm transportation services and are filed to become effective on various dates from February 1, 1977 through September 2, 1977,

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are the same as the tariff sheets contained in sections 1 through 9 of appendix C of the settlement agreement in docket Nos. RP76-136 and RP77-26. Additionally, the tariff sheets filed to be effective December 1, 1977, reflect the settlement rates contained in section 9 to be effective September 2, 1977, adjusted to reflect the elimination of the opinion 770-A surcharge, which occurred after the agreement was filed. Transco further states that the tariff sheets which are applicable to interruptible transportation service rate schedules reflect changes which are in conformity with article VII of the approved settlement agreement and that certain of the tariff sheets for interruptible transportation services relate to rate schedule changes made effective in docket No. RP77-106 subject to the outcome of the proceedings in docket Nos. RP77-136 and RP77-26.

Transco states that copies of the instant filing have been mailed to each of its jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspections.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26020 Filed 9-14-78; 8:45 am]

[6740-02]

[Docket No. CP78-498]

UNITED GAS PIPE LINE CO.

Application

SEPTEMBER 8, 1978.

Take notice on August 28, 1978, United Gas Pipe Line Co. (Applicant), P.O. Box 1478, Houston, Tex. 77001, filed in docket No. CP78-498 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 25,000 Mcf of natural gas per day for Florida Gas Transmission Co. (Florida Gas), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant indicates that Florida Gas has acquired the right to purchase said volumes of gas from onshore production in Jefferson Davis County, Miss., attributable to the interests of Florida Gas Exploration Co. Florida Gas desires Applicant to transport such gas to an existing authorized point of interconnection between the pipeline systems of the two companies, it is said. Consequently, Applicant and Florida Gas have entered into an agreement dated August 16, 1978, whereby Florida Gas would deliver or cause the delivery to Applicant for the account of Florida Gas up to 25,000 Mcf of gas per day at a tap to be installed by Applicant, at Index 301-4 Jefferson Davis County, Miss. Applicant states that it would redeliver equivalent volumes of gas to Florida Gas, less an allowance for fuel and company-used gas, at an existing authorized point of interconnection between the pipeline systems of Applicant and Florida Gas in St. Landry Parish near Arnauldville, La., or St. Helena Parish, La., or at Wiggins, Stone County, Miss.

It is indicated that Applicant would charge Florida Gas for the transportation services an amount per Mcf equal to Applicant's jurisdictional transmission cost of service in effect from time to time in Applicant's northern rate zone as such may be determined by Applicant based on rate filings made from time to time with the Commission, less any amount included in such average jurisdictional transmission cost of service which is attributable to gas consumed in the operation of Applicant's pipeline system which current average jurisdictional transmission cost of service, exclusive of the cost of gas consumed in Applicant's operation is 24.46 cents per Mcf in Applicant's northern rate zone.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 29, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26021 Filed 9-14-78; 8:45 am]

[6740-02]

[Docket No. RP77-138]

UNITED GAS PIPE LINE CO.

Order Granting Petition for Advance Approval and Granting Interventions

SEPTEMBER 5, 1978.

On September 23, 1977,[1] United Gas Pipe Line Co. (United) filed a petition[2] pursuant to section 154.38(d)(5)(i) of the Commission's regulations[3] requesting advance assurance that United will be permitted to recover in rates some $12.7 million in research, development, and demonstration (R.D. & D.) expenditures associated with its "project SNG-biomass." The project will explore anaerobic digestion processes for the conversion of nonfossil carbonaceous materials (eg. municipal solid wastes (MSW), agricultural residues and "biomass"[4]) into methane (i.e. synthetic natural gas). If initial project research proves successful, United proposes to construct and operate a pilot facility having the capability of converting 100 tons per day of nonfossil carbonaceous materials into

[1] This proceeding was commenced before the FPC. By joint regulation of Oct. 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

[2] The petition was supplemented on Dec. 5, 1977, May 17, 1978, and July 12, 1978.

[3] Amended by order No. 566 issued June 3, 1978, rehearing denied by order issued Aug. 3, 1977, in docket No. RM76-17, motion for reconsideration denied by order issued Jan. 9, 1978, in docket No. RM76-17.

[4] The "biomass" species to be studied in particular are (water hyacinths) and bermuda grass.

1,000 Mcf per day of methane gas. The Commission shall rule that United's project expenditures are entitled to rate treatment subject to the annual review provisions of the Commission's regulations.

Notice of United's petition was issued on September 23, 1977, calling for protests or petitions to intervene to be filed on or before February 6, 1978. The State of Louisiana filed an untimely notice of intervention on March 30, 1978. Memphis Light, Gas and Water Division, city of Memphis, filed a timely petition to intervene. Inasmuch as both parties have demonstrated an interest in this proceeding, they shall be permitted to intervene.

As stated in more detail in the petition, as supplemented, United's project SNG-biomass seeks to convert a combination of MSW, agricultural residues, and biomass into pipeline quality methane by an anaerobic digestion process. The project will initially consist of laboratory research into (1) feedstock selection, production, cultivation, transportation, and storage, and (2) anaerobic digestion technology. From this laboratory research a computerized process and economic model will be developed leading to the design, construction, and operation of a pilot plant. The project is expected to take at least 8 years and cost $12.7 million.

United indicates that one of the unique aspects of its proposal is the use of an optimum combination of terrestrial (bermuda grass) and aquatic (water hyacinths) plant cultures as a partial feedstock for the anaerobic digestion process. The combination of crops to be used will depend upon the specific wastes which will be gasified as well as the soil and water quality of the site location.

United also points out that its proposed use of anaerobic digestion should decrease energy consumption compared to the anaerobic digestion processes now employed in sewage disposal. Current sewage disposal techniques require that aqueous effluent resulting from the digestive process be subjected to secondary waste treatment. This secondary treatment converts the bulk of the energy-rich organic matter into carbon dioxide and water by oxidation but, in the process, consumes significant amounts of energy.

United proposes to develop a process which would use this aqueous effluent to raise aquatic plants which, in turn, could serve not only to remove a wide variety of water pollutants but also to capture solar energy by photosynthesis. Solid wastes produced by anaerobic digestion will be used to fertilize terrestrial crops.

United distinguishes its process from the process to be used at a pilot plant under construction at Pompano Beach, Fla. The latter process, United states, uses for feedstock a mixture of shredded MSW and primary sewage sludge. Dewatered residual sludge is landfilled and residual water from the sludge recycled directly back to the digestors or else applied to the landfill. United's project, on the other hand, uses a combined feedstock of biomass and MSW. Residual solids and liquids will be used to produce terrestrial and aquatic feedstock crops respectively. This approach, if successful, will minimize the disposal problems which occur as a result of anaerobic digestion.

United estimates that the first year of its project will cost $290,000. Of this total, $220,000 will be paid to the Institute of Gas Technology (IGT) under a May 18, 1977 contract, between United and IGT. The research will test the anaerobic digestibility of bermuda grass, water hyacinths, and MSW from New Orleans, La.

Additionally, United signed on July 28, 1977, a letter of intent requiring a $50,000 contribution toward the design, construction, and operation of a pilot plant at Walt Disney World in Orland, Fla., to grow water hyacinths in 50,000 gallons per day of municipal sewage effluents. The project aims to determine whether effluent purification resulting from the growth of water hyacinths is sufficient to meet water quality standards. The project involves other companies, the National Aeronautical and Space Administration, the Environmental Protection Agency, and the State of Florida. The total cost is expected to be $932,000 which will be shared by all participants over the 24 months of the project. Other costs in the first year of the project SNG-biomass are miscellaneous in character.

In accordance with section 154.38(d)(5)(iii) of the Commission's regulations[5] United's petition also purports to comply with the requirement that a 5 year R.D. & D. plan be submitted as part of United's request for advance approval.

United's project SNG-biomass involves research, design, construction, and operation of an experimental anaerobic digestion pilot plant for the conversion to synthetic gas of a unique and heretofore untested combination of selected biomass and waste feedstock. The results from the R.D. & D. effort will be closely monitored so that project tasks, goals and timetables may be modified or altered if necessary.

United has an R.D. & D. section within the company and it is being used to coordinate its efforts with private and Federal organizations and agencies to insure that there is no overlap or duplication. It will seek patents and licenses of significant inventions and all revenues derived from the R.D. & D. project will be credited to the gas customers.

Moreover, United agrees to comply with order No. 566 and the Commission's regulations by filing annually a comprehensive and detailed report on the R.D. & D. results, progress to date, as well as proposed future project tasks.

The Commission has reviewed the application and the supplemental data and concludes United's project SNG-biomass is within the R.D. & D. definition 28.B of the uniform system of accounts and that United's plan is adequate under the guidelines set forth in section 154.38(d)(5)(iii) of the Commission regulations.

The Commission order: (A) Actual expenditures associated with project SNG-biomass for the year ended May 31, 1978, shall be allowed in rates in accordance with section 154.38(d)(5)(v) of the Commission's regulations and account 188 of the Commission's uniform system of accounts.

(B) The authorization granted in paragraph (A), above, is conditioned upon United's continued compliance with sections 154.38(d)(5)(iii) and 154.38(d)(5)(iv) of the Commission's regulations.

(C) The State of Louisiana and Memphis Light, Gas, and Water Divison are permitted to intervene in this proceeding subject to the Commission's rules and regulations; *Provided, however,* That the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; and *Provided, further,* that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26022 Filed 9-14-78; 8:45 am]

[5] Order No. 566, p. 31, et seq.

[3128-01]

Office of Assistant Secretary for International Affairs

ADDITIONAL AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES AND THE EUROPEAN ATOMIC ENERGY COMMUNITY

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amend-

ed (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the additional agreement for cooperation between the Government of the United States and the European Atomic Energy Community (EURATOM) concerning the peaceful uses of atomic energy.

The subsequent arrangement to be carried out under the above mentioned agreement involves a modification to a loan contract negotiated by the Government of the United States and Euratom whereby the United States agrees to the transfer for 8.05 grams of plutonium 242 (previously transferred from the United States to France) from the Institut Laue Langevin (ILL) in Grenoble, France to the Atomic Energy Research Establishment (AERE) in Harwell, England. This material will be used in specific heat (nondestructive) experiments by AERE personnel. Afterwards, the material will be reencapsulated and returned to France.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than 15 days after the date of publication of this notice.

For the Department of Energy.

Dated: September 12, 1978.

ROBERT N. SLAWSON,
Acting Director for Nuclear Affairs International programs.

[FR Doc. 78-25981 Filed 9-14-78; 8:45 am]

[3128-01]

Office of Hearings and Appeals

ISSUANCE OF PROPOSED DECISIONS AND ORDERS

August 28 through September 1, 1978

Notice is hereby given that during the period August 28 through September 1, 1978, the proposed decisions and orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the proposed decision and order in final form may file a written notice of objection within 10 days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a notice of objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the proposed decision and order in final form.

Any aggrieved party that wishes to contest any finding or conclusion contained in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In that statement of objections an aggrieved party must specify each issue of fact or law contained in the proposed decision and order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 and 5 p.m., e.d.t., except Federal holidays.

SEPTEMBER 11, 1978.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

Proposed Decisions and Orders

American Petroleum Refiners Association, Inc., Washington, D.C., FEE-4433, Aviation Jet Fuel

The American Petroleum Refiners Association, Inc. filed an application for class exception relief from the provisions of sections 212.82 and 212.93. The exception request, if granted, would permit a class of refiners and resellers to retroactively increase their maximum permissible selling prices for aviation jet fuel which they have supplied to the Defense Fuel Supply Center. On August 31, 1978, the DOE issued a proposed decision and order which determined that the class exception request be dismissed.

C. F. Lawrence & Assoc., Inc., Midland, Tex., DEE-1304, Crude Oil

C. F. Lawrence & Assoc., Inc., filed an application for exception from the provisions of 10 CFR, part 212, subpart D. The exception request, if granted, would permit C. F. Lawrence to sell the crude oil produced for the benefit of the working interest owners at the Childress M. I. Masterson lease at upper tier ceiling prices. On September 1, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted.

Continental Oil Co., Houston, Tex., DEE-0983, DEE-0984, Crude Oil

The Continental Oil Co. filed an application for exception from the provisions of 10 CFR 212.73. The exception request, if granted, would permit the firm to sell the crude oil produced from the McCroskey and McNee leases located in Santa Barbara County, Calif., at upper tier ceiling price levels. On August 29, 1978, the DOE issued a proposed decision and order in which it determined that the exception request be granted for both the McCroskey and McNee leases.

W. N. McMurry, Casper, Wyo., DXE-1477, Crude Oil

W. N. McMurry filed an application for exception from the provisions of 10 CFR 212.73. The exception request, if granted, would result in the extension of exception relief previously granted and would permit McMurry to continue to sell certain of the crude oil which he produces at upper tier ceiling prices. On August 29, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted.

Mobil Oil Corp., New York, N.Y., DEE-1460, Crude Oil

The Mobil Oil Corp. filed an application for exception from the provisions of 10 CFR 212.73. The exception request, if granted, would permit Mobil to sell the crude oil produced from the H&J 495-D lease at upper tier ceiling prices. On September 1, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted in part.

North Kern Front Enterprises, Inc., Santa Ana, Calif., DEE-1081, Crude Oil

North Kern Front Enterprises, Inc. filed an application for exception from the provisions of 10 CFR, part 212, subpart D. The exception request, if granted, would permit the firm to sell the crude oil produced from the Mitchell lease located in Kern County, Calif., at market price levels. On September 1, 1978, the DOE issued a proposed decision and order which determined that the exception request should be denied.

Texaco, Inc., Denver, Colo., DEE-1338, DEE-1339, Crude Oil

Texaco, Inc. filed two applications for exception from the provisions of 10 CFR, part 212, subpart D. The exception requests, if granted, would permit the working interest owners to sell the crude oil which is produced from the State of Wyoming "G" lease and from the John Sweeney lease at upper tier ceiling prices. On September 1, 1978, the DOE issued a proposed decision and order which determined that the requests be granted in part.

[FR Doc. 78-25980 Filed 9-14-78; 8:45 am]

[3128-01]

GULF REFUND PROCEDURES

Extension of Time for Comments

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of extension of comment period.

SUMMARY: On August 28, 1978, a notice was published in the FEDERAL REGISTER that pertained to the settlement of claims resulting from a $42,240,000 refund by Gulf Oil Corp.

Attached to the notice was a copy of an Interim Decision and Order that established procedures for refund applications. The notice sought public comments on the procedures by September 18, 1978. The Table of Contents of the FEDERAL REGISTER contained an incorrect page reference to the Notice and accompanying Decision and Order. The purpose of this document is to provide notice that the Notice and Interim Decision and Order may be found on page 38,548 of the August 28, 1978, FEDERAL REGISTER. In view of the foregoing, the comment period will be extended until September 29, 1978.

DATE: Comments by September 29, 1978.

ADDRESS: Office of Public Hearing Management, Box VH, 2000 M Street NW., Room 2313, Washington, D.C. 20461.

Issued in Washington, D.C., on September 13, 1978.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

[FR Doc. 78-26185 Filed 9-14-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. RI78-5]

ELMS BROS. & CO.

Order Granting Petition for Special Relief

SEPTEMBER 7, 1978.

On November 1, 1977, Elms Bros. & Co. (Elms), filed a petition for special relief in docket No. RI78-5 pursuant to section 2.76 (18 CFR 2.76) of the Commission's general policy and interpretations. Elms seeks authorization to charge a total rate of $1.14 per Mcf for natural gas produced from the Scott well, located in Gray Township, Greene County, Pa., and sold to Columbia Gas Transmission Corp. (Columbia). Elms owns 100 percent working interest in the subject gas.

Notice of Elm's petition was issued on March 31, 1978. Columbia filed a timely petition to intervene, stating therein, among other things, that it would abide by any rate found justified by the Commission.

Currently, Elms sells gas to Columbia at the rate of 82 cents per Mcf. This gas is being sold pursuant to a contract, dated January 13, 1939, and a small producer certificate issued in docket No. CS76-1115 on December 28, 1976.

In a previous petition for special relief, filed in docket No. RI78-48,[1] Elms advised the Commission staff that it contemplated working over the Scott well and that it would file a petition for special relief when it secured a rig to do the workover. Additionally, Elms stated that it did not expect to gain immediate access to a rig due to the limited availability of rigs; however, due to a cancellation, a rig became available, and Elms decided to take advantage of the opportunity and do the workover then, notwithstanding it had not filed a petition for special relief regarding the Scott well. In that Elms previously informed the Commission of the contemplated additional work and the well has been recovering only out-of-pocket costs, staff concluded that the petition should be considered under section 2.76.

Staff estimates that the workover will return the well to its previous production level resulting, over a life of 9.16 years, in the recovery of estimated remaining gross reserves of 32,875 Mcf of gas.

Due to the adequacy of the data filed by Elms, staff concludes that no field investigation is necessary. Based on data filed by Elms, staff calculates that Elms net remaining book value amounts to $4,670 as of January 1, 1978. Further, staff estimates that the initial year operating expense will be $1,500, which results, allowing a 5 percent-per-year inflation factor during the first 5 years of project life, in total operating expenses over the projected life of the well of $15,052. These costs and the net working interest reserves of 30,650 were used in a traditional cost study.[2] The result of the study indicates that a total rate of $1.14 per Mcf is required to allow Elms to recomp all costs associated with the project, including a 15-percent rate of return. Moreover, staff estimates that granting the above rate will result in a revenue increase of less than $10,000 over the life of the project.

We conclude, after considering the data submitted and staff's analysis thereof, that it is in the public interest to grant special relief to Elms.

The Commission orders: (A) Elms petition for special relief is granted.

(B) Elms is authorized to collect a total rate of $1.14 per Mcf at 14.73 psia for the sale of its gas from the Scott well, Greene County, Pa., to Columbia effective on the date of this order subject to the condition set forth in paragraph (C) below.

(C) Within 30 days of the effective date herein, Elms must file a statement signed by Columbia that the work has been completed to Columbia's satisfaction.

(D) Columbia is permitted to intervene in the above entitled proceeding, subject to the rules and regulations of the Commission; *Provided, however, That its participation shall be limited to matters affecting affecting asserted rights and interest specifically set forth in its petition for leave to intervene; And provided further,* That the admission of Columbia in the manner provided shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders entered in this proceeding, and that Columbia agrees to accept the record as it now stands.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A.—*Elms Bros. & Co. Docket No. RI78-5, Scott Lease, Greene County, Pa.*

[Unit cost of gas]

Line No. and item (a)	Amount (b)
1. Net working interest at volumes:	
2. Gas—Mcf at 14.73 psia [1]	30,650
3. Liquids—Barrels	0
4. Cost of production:	
5. Return on rate base at 15 pct [2]	$5,661
6. D.D. & A [3]	7,803
7. Production expense [4]	15,052
8. Plug and abandon well [5]	6,400
9. Regulatory expense [6]	31
10. Total cost of production	34,947
11. Unit cost of gas (cents per Mcf):	
12. Cost of production [7]	1.14
13. Production tax	0
14. Total unit cost	1.14

[1] 32,875 Mcf times 93.23 net working interest.
[2] Line 17 of sheet 3 times 0.15 times 9.16 year productive life.
[3] From sheet 2, line 6.
[4] Based on $1,500 per year escalated 5 pct per year for the first 5 yr.
[5] Cost to plug and abandon well.
[6] Line 2 times 0.1 cent/Mcf (per opinion No. 749).
[7] Line 10 divided by line 2.

NOTE.—The above cost is based on representations of the applicant contained in his filing. The volumes are based on staff's estimated recoverable reserves of 32,875 Mcf of gas.

[Investment]

Line No. and item (a)	Amount (b)
1. Investment:	
2. Remaining net book value	$4,670
3. Workover	4,000
4. Total investment	8,670
5. Less salvage value	867
6. Depreciable investment	7,803
7. Depreciation per unit of production [1]	0.254584
8. Total gas	30,650

[1] Line 6 divided by line 8.

[1] Staff previously determined that the 82 cents per Mcf price for the Scott well would recover only out-of-pocket costs.

[2] See app. A, attached thereto.

Elms Bros. & Co., Docket No. RI78-5, Scott Lease, Greene County, Pa.

[Average investment and annual rate base]

A request for an additional 60 days in which to present evidence to the Agency has been received from one of the major registrants who was affect-

[6560-01]

[OPP-30000/27A; FRL 968-3]

EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 2329]

ton, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning appli-

Elms Bros. & Co., Docket No. RI78-5, Scott Lease, Greene County, Pa.

[Average investment and annual rate base]

Line No. and year (a)	Annual N.W.I. production (Mcf) (b)	Beginning of year investment (c)	Depreciation [1] (d)	End of year investment (e)	Average investment [2] (f)
1. Average investment:					
2. 1	717	$7,803	$183	$7,620	$7,712
3. 2	5,110	7,620	1,301	6,319	6,970
4. 3	4,599	6,319	1,170	5,149	5,734
5. 4	4,139	5,149	1,054	4,095	4,621
6. 5	3,726	4,095	949	3,146	3,620
7. 6	3,018	3,146	768	2,378	2,762
8. 7	2,716	2,378	691	1,687	2,033
9. 8	2,445	1,687	622	1,065	1,376
10. 9	2,200	1,065	560	505	785
11. 10	1,980	505	505		253
12. Total	30,650				35,866
13. Average annual investment [3]					3,916
14. Annual rate base:					
15. Average annual investment					205
16. Average annual working capital allowance [4]					205
17. Total annual rate base					4,121

[1] Col. (b) times line 7 of sheet 2.
[2] Col. (c) plus col. (e) divided by 2.
[3] Col. (f) of line 13 divided by 9.16 year productive life.
[4] 0.125 times line 7 of sheet 1 divided by 9.16 year productive life.

[FR Doc. 78-25836 Filed 9-14-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50375A; FRL 967-8]

ISSUANCE OF EXPERIMENTAL USE PERMIT

Correction

In FR Doc. 78-22489 appearing at page 35999 in the issue of Monday, August 14, 1978, in experimental use permits No. 3125-EUP-145 and No. 3125-EUP-144, the following corrections should be made in the center section describing the experimental use permits granted to Mobay Chemical Corp., Kansas City, Mo. 64120.

The eighth line of the description in both permits should read: "• • • A total of 7,275 acres is involved • • •."

The list of States in which the programs are authorized in both permits starts on line 10 of No. 3125-EUP-144. To that list are added the following States: "• • • Colorado, Kansas, Nebraska, New Mexico, and Wyoming • • •."

Dated: September 11, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-25963 Filed 9-14-78; 8:45 am]

[6560-01]

[OPP-30000/27B; FRL 968-2]

REBUTTABLE PRESUMPTION AGAINST REGISTRATION AND CONTINUED REGISTRATION OF PESTICIDE PRODUCTS CONTAINING 2,4,5-TRICHLOROPHENOL AND ITS SALTS

Extension of Period for Submission of Rebuttal Evidence and Comments

On July 25, 1978, the Environmental Protection Agency (EPA) issued a notice of presumption against registration and continued registration of pesticide products containing the ingredient 2,4,5-trichlorophenol and its salts. This notice was published in the FEDERAL REGISTER on August 2, 1978 (43 FR 34026). The regulations governing rebuttable presumptions provide that the applicant or registrant of such pesticide products shall have forty-five (45) days from the date such notice is sent to submit evidence in rebuttal of the presumption. However, for good cause, an additional sixty (60) days may be granted in which such evidence may be submitted (40 CFR 162.11(a)(1)(i)).

A request for an additional 60 days in which to present evidence to the Agency has been received from one of the major registrants who was affected by the notice of presumption. The requester has specified a need for additional time to collect and analyze data and other information in order to adequately rebut and respond to the notice.

The Agency agrees that additional time would be beneficial for the submission of complete and accurate responses to the notice of presumption. Therefore, because good cause has been shown, all registrants, applicants for registration, and other interested persons shall have until November 17, 1978, to submit rebuttal evidence and other comments or information. Such evidence, comments, or other information relevant to the presumption against registration and continued registration should be submitted to the Federal Register Section, Technical Services Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. All comments should bear the identifying notation "OPP-30000/27B." Comments and information received on or before November 17, 1978, shall be considered before it is determined whether a notice shall be issued in accordance with 40 CFR 162.11(a)(5)(ii) and 7 U.S.C. 136(a)(c)(6) or 7 U.S.C. 136(d)(b)(1). Comments received after November 17, 1978, shall be considered only to the extent feasible consistent with the time limits imposed by 40 CFR 162.11(a)(5)(ii). All written comments filed pursuant to this notice will be available for public inspection in the Office of Federal Register Section at the above address from 8:30 a.m. to 4 p.m., Monday through Friday. The file supporting the Agency's presumption against this pesticide is available for public inspection in the Office of Special Pesticide Review, Room 447, East Tower, EPA, during the same hours.

Dated: September 8, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc. 78-25964 Filed 9-14-78; 8:45 am]

[6560-01]

[OPP-30000/27A; FRL 968-3]

REBUTTABLE PRESUMPTION AGAINST REGISTRATION AND CONTINUED REGISTRATION OF PESTICIDE PRODUCTS CONTAINING 2,4,5-TRICHLOROPHENOL AND ITS SALTS

Correction

In FR Doc. 78-21012 in the issue of August 2, 1978, commencing on page 34053, third column, add the following to the list of Federally Registered Products Containing 2,4,5-TCP and its salts.

On page 34053, third column, under registrant No. 001043—Vestal Laboratories—Division of Chemed Corp., 4963 Manchester Avenue, St. Louis, Mo. 63110, following the entry product No. 00015—Anti-Bacterial Vescu-Lite, add product No. 00040—Ty-Lon 27 Bacteriostat and Algicide.

On page 34054, second column, registrant No. 005736—DuBois Research Laboratories, Dubois Chemical Division, Chemed Corp., 3630 East Kemper Road, Sharonville, Ohio 45241, before the entry product No. 00054—D-Slime, Algicide Bacteriostat, add product No. No. 00053—Gax-15 Microbiocide.

On page 34054, second column, following the product entry 00010—SC 710 Algicide under registrant No. 008428—Shrader Chemical Co., 1205 South Santa Fe, Compton, Calif. 90221 add registrant No. 008501—Pace National Corp., 500 7th Ave., South Kirkland, Wash. 98033 and its product No. 00017—Moss Stop.

On page 34054, third column, following the last product entry 07183—Algicide 101L, add registrant No. 037296—Product-Sol, Inc., 2010 Cole Ave., Birmingham, Mich. 48008 and its product No. 00001—Bioderm 200 Antimicrobial.

Dated: September 8, 1978.

EDWIN L. JOHNSON,
Deputy Assistant
Administrator
for Pesticide Programs.

[FR Doc. 78-25965 Filed 9-14-78; 8:45 am]

[6560-01]

[OPP-33000/555; FRL 968-1]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the adminstration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement which were effected by the enactment of the amendments to FIFRA on November 28, 1975 [Pub. L. 94-140], and the regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street SW., Washington, D.C. 20460. In the case of applications subject to the section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, are being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data and wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, or (d) wishes to assert confidential status under section 10 for his data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 12 and 16—202-755-9315;
PM 21 and 22—202-426-2454;
PM 24—202-755-2196;
PM 31 and 32—202-426-2635;
PM 15 and 17—202-426-9427;
PM 23—202-755-1397;
PM 25—202-426-2632.

The Iterim Policy Statement requires that claims for compensation be filed within 60 days of publication of this notice. EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under section 10 of FIFRA, as amended, should be made within 30 days subsequent to publication of this notice. Registration will be delayed pending resolution of section 10 claims.

Dated: Spetember 11, 1978.

DOUGLAS D. CAMPT,
Acting Director
Registration Division.

APPLICATION RECEIVED 33000/555

EPA File Symbol 10088-AL. Athea Laboratories, Inc., 630 East Keefe Ave., Milwaukee, Wis. 53212. SPRAY FOG R. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250 percent; related compounds 0.034 percent; Aromatic petroleum hydrocarbons 0.331 percent; Petroleum distillate 99.375 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 10292—ET. Venus Labs, 855 Lively, Wood Dale, Ill. 60101. AIRBORN INSECT KILLER. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclo- propanecarboxylate 0.200 percent; Related compounds 0.028 percent; d-trans Allethrin (allyl homolog of Cinerin I) 0.400 percent; Related compounds 0.030 percent; Aromatic petroleum hydrocarbons 0.0272 percent; Petroleum distillate 6.500 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 10292—EI. Venus Labs. ALL PURPOSE INSECTICIDE CONCENTRATE. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropane- carboxylate 0.250 percent; Related compounds 0.034 percent; Aromatic petroleum hydrocarbons 0.331 percent; Petroleum distillate 99.375 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 10623-E. Metropolitan Chemical Co., 733 West 14 St., Long

Beach, Calif. 90813. SANAMINE-X. Active Ingredients: n-Alkyl (50 percent C14, 40 percent C12, 10 percent C16) dimethyl benzyl ammonium chloride 5.0 Sodium Hypochlorite 12.5 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 41547-E. Etaini International, Inc., W. Towsend, Mass. 01474. ALGAECIDE AQUAPILL. Active Ingredients: Alkyl dimethyl benzyl ammoni-

P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington,

Dated: September 12, 1978.

JOSEPH C. POLKING,
Assistant Secretary.

the Commission's predecessor authorized equalization on deciduous fruits and dairy products when service is unavailable at the ports through which

Beach, Calif. 90813. SANAMINE-X. Active Ingredients: n-Alkyl (50 percent C14, 40 percent C12, 10 percent C16) dimethyl benzyl ammonium chloride 5.0 percent; Sodium metasilicate 3.0 percent; Tetrasodium salt of ethylene diamine tetraacetic acid 1.8 percent. Method of support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay. PM31

EPA File Symbol 11613-RA. Southeastern Sanitary Supply Co., P.O. Box 1541, Montgomery, Ala. 36102. SESSCO LEMON DISINFECTANT. Active Ingredients: Alkyl (C14, 58 percent, C16 28 percent, C12, 14 percent) dimethyl benzyl ammonium chloride 2.00 percent; Essential oils 0.25 percent. Method of support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay. PM31.

EPA File Symbol 11715-AN. Speer Products, Inc., P.O. Box 18993, 4242 B. F. Goodrich Blvd., Memphis, Tenn. 38118. SPEER HOUSEHOLD INSECT KILLER FOR HOUSEHOLD USE ONLY. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 11715-AR. Speer Products, Inc. SPEER HOUSEHOLD INSECT SPRAY FOR HOUSEHOLD USE ONLY. Active Ingredients: Tetramethrin [*N*-(hydroxymethyl)-1-cyclohexene-1,2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate] 0.250 percent; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.143 percent; Other isomers 0.007 percent; Petroleum distillate 9.250. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 12204-RE. Mid-American Research Chemical Corp., Box 458, Columbus, Nebr. 68601. MARC BOWL CLEANSER. Active Ingredients: Octyl decyl dimethyl ammonium chloride 1.250 percent; Dioctyl dimethyl ammonium chloride 0.625 percent; Didecyl dimethyl ammonium chloride 0.625; Alkyl amino betaine 4.000 percent; Hydrogen chloride 8.000 percent. Method of support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 32901-A. Altawood, Inc., 18924 South Broadway, Gardena, Calif. 90248. KNOCK 'UM DOWN HOUSEHOLD INSECT KILLER FOR HOUSEHOLD USE ONLY. Active Ingredients: Tetramethrin [*N*-(hydroxymethyl)-1-cyclohexene-1,2-dicarboximide 2,2-dimethyl- 3-(2-methylpropenyl) cyclopropanecarboxylate] .200 percent; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.191 percent; Other isomers 0.009 percent; Petroleum distillate 9.250 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 34088-R. S & S Pool & Hockey, Inc., 1176 Union Road, West Seneca, N.Y. 14224. S & S LIQ-KLOR. Active Ingredients: Sodium Hypochlorite 12.5 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 34089-R. S & S Soap Products, Inc., 810 Elk St., Buffalo, N.Y. 14210. SHOCKS. Active Ingredients: Sodium Hypochlorite 12.5 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34.

EPA File Symbol 34704-LE. Platte Chemical Co., Inc., 150 South Main St., Fremont, Nebr. 68025. CLEAN CROP BROMACIL WEED KILLER. Active Ingredients: Lithium salt of bromacil (5-bromo-3-sec-butyl-6-methyluracil) 8.7 percent. Method of support: Application proceeds under 2(b) of interim policy. PM25.

EPA File Symbol 35576-E. Enterprise Products, 901 East Third St., Los Angeles, Calif. 90013. BUGS—'BYE. Active Ingredients: Tetramethrin [*N*-(hydroxymethyl)-1-cyclohexene-1,2- dicar- boximide 2,2-dimethyl-3-(2-methylpropenyl)-cyclopropanecarboxylate]. 0.200 percent; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.191 percent; Other isomers. 0.009 percent; Petroleum distillate 9.250 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 37621-U. American Bleach Mfg., Co., 1706 Portland Ave., Louisville, Ky. 40203. CHLOR-RITE. Active Ingredients: Sodium Hypochlorite 12.5 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 38529-E. Acme Welding Supply Co., Box 2188, Fargo, N. Dak. 58102. ACME 12.50. Active Ingredients: Sodium Hypochlorite 12.5 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 39240-O. Bio Lab, Inc., P.O. Box 1489, Decatur, Ga. 30031. KONEX LEMON ODOR DISINFECTANT. Active Ingredients: Alkyl (C14,58 percent, C16,28 percent, C12,14 percent) dimethyl benxyl ammonium chloride 2.00 percent; Essential oils 0.25 percent. Method of support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay. PM31

EPA File Symbol 39754-U. ChemRite Industries, Inc., P.O. Box 371, Lannon, Wis. 53406. CHEMCLEAN-D. Active Ingredients: Didecyl dimethyl ammonium chloride 2.5 percent; Tetrasodium ethylenediamine tetraacetate 2.0 percent; Sodium carbonate 1.5 percent. Method of support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay. PM31

EPA File Symbol 40352-E. Admiral Pool Service, P.O. Box 2015, Delray, Fla. 33444. SODIUM HYPOCHLORITE SOLUTION. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40628-R. Advance Enterprises, Inc., 1063 Northwest 36th St., Miami, Fla. 33127. ADVASODIUM. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 40868-R. Interstate Sales, P.O. Box 72, Edgewater, N.J. 07020. BOLDO TECHNICAL RODENTICIDE. Active Ingredients: (Hydroxy-4',coumarinyl-3')-3-phenyl-3, (bromo-4,biphelyl-4')-1-propanol-1 100 percent. Method of support: Application proceeds under 2(a) of interim policy. PM11

EPA File Symbol 41547-E. Etaini International, Inc., W. Towsend, Mass. 01474. ALGAECIDE AQUAPILL. Active Ingredients: Alkyl dimethyl benzyl ammonium chloride (C14,60 percent, C12,25 percent, C16,15 percent) 9.5 percent. Method of support: Application proceeds under 2(b) of interim policy. PM24

EPA File Symbol 41770-R. Magnesium Elektron, Inc., Star route A, Box 202-1, Flemington, N.J. 08822. ZIRCUCIDE—A. Active Ingredients: Copper carbonate 10.1 percent; Basic zirconium carbonate 39.4 percent. Method of support: Application proceeds under 2(a) of interim policy. Republished: Revised offer to pay. PM22

EPA File Symbol 41958-R. A-1 Pool Service Co., 34 Madrid Lane, Davie, Fla. 33314. TRUE BLUE. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 41959-R. S.E. Abbott Maintenance and Repair Service, 6068 Chevy Chase St., West Palm Beach, Fla. 33406. S.E. ABBOTT POOL PRODUCTS. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of support. Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 41961-R. Air Flow Pools, Inc., Div. of Air Flow Industries, Inc., 308 Northwest 170th St., North Miami Beach, Fla. 33169. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 41965-R. Colley's Pool Sales, 4953 Camp Rd., Hamburg, N.Y. 14085. COLLEY KLOR. Active Ingredients: Sodium Hypochlorite 12.5 percent: Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 41966-R. Crystal Clear Pools, P.O. Box 14417, North Palm Beach, Fla. 33408. SODIUM HYPOCHLORITE SOLUTION. Active Ingredients: Sodium Hypochlorite 9.2 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 42031-R. A-Chem Corp., 408 Neepier Rd., Baltimore, Md. 21228. A-CHEM 722. Active Ingredients: Poly [oxyethylene(dimethyliminio)ethylene-(dimethyliminio) ethylene dichloride 15.5 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

[FR Doc. 78-25962 Filed 9-14-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

AGREEMENT FILED

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by October 5, 1978. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. 9427-4 and 9552-3.

Filing Party: Howard A. Levy, Esq., Suite 727, 17 Battery Place, New York, N.Y. 10004.

Summary: Agreements 9427-4 and 9552-3 modify, respectively, the Germany-North Atlantic Rate Agreement and the North Atlantic/West Europe Rate Agreement to (1) authorize agreement on services and facilities provided or performed in conjunction with intermodal shipments moving via ports covered by the agreement, whether moving under a through bill of lading or otherwise, and (2) authorize agreement with other U.S./European conferences serving the same ports relative to the establishment, policing, and enforcement of rules, practices, and charges relating to the use, employment, and transport of loaded and unloaded containers in Europe only, subject to the right of independent action.

Notice of the filing of Agreeement 9427-4 previously appeared in the FEDERAL REGISTER on July 19, 1976 (41 FR 29748) and notice of the filing of Agreement 9552-3 previously appeared on June 11, 1976 (41 FR 23799).

Upon advice of the Commission's staff, these agreements were modified and refiled by proponents on September 20, 1977, to (1) provide that any interconference agreement entered into must first be filed with and approved by the Commission and (2) exclude from the jurisdiction of the agreements all-water through movements originating at or destined to ports outside the scope of the agreements.

These changes were for purposes of clarification and resulted in no substantive change in the scope of the agreements or the anticompetitive relationships of the parties.

Because of the above changes and the lapse of time since the initial filing of these agreements, the Commission has decided to afford interested parties a further opportunity to comment thereon before it takes final action.

By order of the Federal Maritime Commission

Dated: September 12, 1978.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc. 78-26071 Filed 9-14-78; 8:45 am]

[6730-01]

[Docket No. 78-32]

PACIFIC WESTBOUND CONFERENCE—EQUALIZATION AND ABSORPTION RULES AND PRACTICES

Order of Investigation and Hearing

By petition of February 21, 1975, the Port of Portland (hereafter "Portland") complained of, and requested an a investigation into, the equalization practices of the Pacific Westbound Conference (hereafter "PWC") and its ocean carrier member lines, as those practices allegedly harmed Portland. Portland alleged that PWC members not serving Portland by direct vessel call arranged with shippers of cargo naturally tributary to Portland to truck their cargo to San Francisco, Oakland, and Long Beach, Calif., and to Seattle and Tacoma, Wash., for ocean carriage from those ports. These ocean carriers then absorbed, or paid the shippers, the difference in the inland transportation charges from the shipments' point of origin to Portland and to the various ports. Portland alleged that this practice resulted in a diversion of cargo, naturally tributary to Portland, away from its normal flow through Portland to these California and Washington ports.

Portland charged that this equalization practice violated article 3 of the PWC basis agreement No. 57, sections 15, 16, and 17 of the Shipping Act, 1916 (hereafter "act"), section 8 of the Merchant Marine Act, 1920 and section 205 of the Merchant Marine Act, 1936.

Article 3 of agreement No. 57 provides in part, "There shall be • • • no absorption at loading or discharging ports of rail or coastal steamer freights or other charges directly or indirectly • • • except as may be agreed to by two-thirds of parties hereto • • •." Portland contended that article 3 did not provide for equalization of motor carrier inland freight rates and charges. Motor carriage was apparently the primary mode of inland transport involved in this matter.

Portland further contended that equalization, authorized by rule No. 16 (then rule 2) of PWC freight tariff No. 3, between ports in Oregon and Washington and British Columbia was unlawful under sections 15, 16, and 17 of the Act and unnamed provisions of the Merchant Marine Acts of 1920 and 1936. Portland cited *City of Portland* v. *PWC*, 4 FMB 664 (1955), wherein the Commission's predecessor authorized equalization on deciduous fruits and dairy products when service is unavailable at the ports through which these products would normally move. Portland alleged in its petition that direct service for these products, from Portland to the Far East points and ports named in PWC tarrif No. 3, had become adequate.

Portland also alleged that PWC's equalization practices created increased environmental costs that were borne by the public. These costs, which Portland was unable to quantify, were increased air pollution, noise impact, fuel consumption and roadway congestion. Portland stated that the FMC was mandated by Congress through the National Environmental Policy Act to consider these environmental costs in its regulatory decisions.

Other Portland allegations involved over-equalization through excessive payments for inland costs and a charge that the PWC tariff did not authorize equalization of charges by ICC exempt carriers.[1]

PWC responded to Portland's petition contending that its rules and practices were not violative of any statute. PWC cited specific Portland allegations it believed to be groundless and deserving summary rejection. These were: (1) The specific instance of equalization without proper reporting (by Phoenix Container Lines); (2) that article 3 of PWC's agreement did not authorize absorptions or equalization of motor carrier inland freight charges, and (3) that PWC's tariff did not authorize equalization of charges by ICC exempt motor carriers.

As to Portland's general allegations concerning PWCD's equalization practices, the conference contended that its rules and practices reflected the Commission's prior decisions respecting these rules as set forth in *City of Portland* v. *PWC, supra,* and *Stockton Port District* v. *PWC,* 9 FMC 12 (1965). However, PWC offered to "undertake a full and objective review of these rules and practices in the light of any relevant considerations that Portland or others may wish to present, and will attempt to gather relevant facts on its own."

PWC stressed that because it was willing to participate in a good faith exchange of views and of facts in an effort to resolve any objections raised by Portland, a Commission-ordered investigation was premature. Such ex-

[1] Portland also alleged that a specific PWC member was not properly reporting equalizations and absorptions. As this investigation is designed to study overall practices, the Commission will not investigate that allegation here. Portland may, however, institute a complaint proceeding under section 22 of the act if it wishes to pursue the reporting matter.

changes were held, and much correspondence was exchanged among Portland, the PWC and the Commission's staff, but did not resolve the issues in-

Act considerations, nor does it otherwise create substantive rights in Shipping Act proceedings." *Port of New Orleans, supra,* 18 S.R.R. 770.

ticipate therein shall file a petition to intervene pursuant to rule 72 of the Commission's rules of practice and procedure (46 CFR 502.72);

Agents, 17 Battery Place. New York, N.Y. 10004.

Mitsui O.S.K. Lines, Ltd., One World Trade Center, Suite 2211, New York, N.Y. 10048.

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

available from other Federal sources and that the proposed reporting requirements are consistent with the provisions of section 3512. GAO is cur-

changes were held, and much correspondence was exchanged among Portland, the PWC and the Commission's staff, but did not resolve the issues involved.

A section order requesting further and more current information from PWC and Portland concerning PWC equalization and absorption affecting Portland was served on April 14, 1978. The data was submitted by Portland on May 31, 1978, and by PWC some 2 weeks later. Portland's data indicates that, during a 1-year period, approximately 29,000 TEU's and 340,000 short tons of cargo moved through Portland to destinations served by PWC. This cargo was carried via about 200 vessel calls. Portland also attempted to provide descriptions of "naturally tributary" area and environmental impacts. It agreed to present environmental data in any manner required by the Commission.

Seventeen PWC carriers reported that they do not equalize and absorb inland transportation costs on cargo vis-a-vis Portland. Four other carriers, apparently handling about 60,000 short tons, do equalize and absorb vis-a-vis Portland. Two of those lines also serve Portland directly. This information from Portland and PWC, while providing some guidance, is not sufficient to resolve the issues raised by Portland, especially in view of recent Commission pronouncements regarding cargo routing, and a formal proceeding must now be instituted.

The Commission believes, however, that due to the extensive record already compiled, consisting of correspondence and replies to section 21 orders, many of the issues raised can be resolved without the necessity of a trial-type evidentiary hearing on every issue and that, if such a hearing becomes necessary, it can be limited to certain narrowly defined issues.

Moreover, in view of our recent decision in *Council of North Atlantic Shipping Associations, et al.* v. *American Mail Lines, Ltd., et al.*, ("CONASA") 18 S.R.R. 774 and *Board of Commissioners of the Port of New Orleans, et al.* v. *Seatrain International, et al.*, ("Port of New Orleans") 18 S.R.R. 763, both issued on August 8, 1978, we must reject Portland's suggestion that section 8 of the Merchant Marine Act of 1920 be specified as a statutory section, the violation of which is in issue in this proceeding. While certain cargo may be naturally tributary to a port, any "naturally tributary zone" surrounding the Port is constantly changing and is determined by various factors including shipper needs and cargo characteristics. *CONASA, supra*, 18 S.R.R. 779. But section 8 "* * * does not require the Commission to incorporate any specific concept of naturally tributary cargo into its Shipping Act considerations, nor does it otherwise create substantive rights in Shipping Act proceedings." *Port of New Orleans, supra*, 18 S.R.R. 770.

Accordingly, this proceeding will be governed by the precedents and guidelines set forth in the *CONASA* and *Port of New Orleans* cases (*supra*).

Now, therefore, *it is ordered*, That, pursuant to sections 15, 16, 17 and 22 of the Act, an investigation and hearing is hereby commenced to examine PWC's equilization and absorption practices as they affect Portland. This investigation shall examine: (1) Whether article 3 of PWC's basic agreement No. 57 permits equalization and absorption of motor carrier inland freight rates and charges; (2) whether PWC's equalization and absorption practices, as they affect Portland, are unlawful and detrimental to the commerce of the United States and the general public interest, or unduly prejudicial or unjustly discriminatory to Portland or to businesses and individuals which depend on Portland's economic viability pursuant to section 205 of the Merchant Marine Act, 1936, and sections 15, 16 and 17 of the Shipping Act, 1916; (3) whether PWC freight tariff No. 3, rule 16 violates section 205 of the Merchant Marine Act of 1936, and sections 15, 16 and 17 of the Shipping Act, 1916 by permitting equalization and absorption of cargo away from Portland where direct service is adequate to handle such cargo; and, (4) whether PWC freight tariff No. 3, rule 16 permits cargo being equalized and absorbed to move on ICC exempt carriers;

It is further ordered, That all previous correspondence and replies to section 21 orders received by the Commission be made part of the record, and may be referred to by any party without resubmission, but that any further proceeding be limited to the submission of memoranda of law on the above issues and affidavits of fact concerning but not limited to: (1) The extent of equalization and absorption of cargo away from and to Portland; (2) the sufficiency of Portland direct carrier service to PWC destinations to handle cargo being equalized and absorbed away from that port; (3) the area, if any, which should be considered "naturally tributary" to Portland; and, (4) the justification, if any, for equalization and absorption away from Portland;

It is further ordered, That, Portland be designated a petitioner, that PWC and its member lines listed in appendix A be named respondents, and that hearing counsel also be a party to this proceeding;

It is further ordered, That persons other than those already parties to this proceeding who desire to become parties to this proceeding and to participate therein shall file a petition to intervene pursuant to rule 72 of the Commission's rules of practice and procedure (46 CFR 502.72);

It is further ordered, That the following procedural schedule be adhered to:

October 16, 1978—Petitions to intervene;

November 1, 1978—Opening memoranda of law and affidavits of fact (petitioner, respondents, and hearing counsel);

December 1, 1978—Reply memoranda of law and affidavits of fact (all parties);

December 20, 1978—Requests for discovery, hearing and/or oral argument;

It is further ordered, That any requests for discovery or evidentiary hearing must be accompanied by a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, and why such data could not be submitted through affidavit;

It is further ordered, That a notice of this order be published in the FEDERAL REGISTER and that a copy thereof be served upon Portland, PWC and hearing counsel;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573 in an original and 15 copies as well as being mailed directly to all parties of record.

By the Commission.

JOSEPH C. POLKING,
Assistant Secretary.

APPENDIX A

PETITIONER

Port of Portland, Milton A. Mowat, Manager, Traffic and Regulatory Affairs, Box 3529, Portland, Oreg. 97208.

RESPONDENTS

Pacific Westbound Conference, D. D. Day, Chairman, 320 California St., San Francisco, Calif. 94104.

Members of the Pacific Westbound Conference:

American President Lines, Ltd., 601 California St., San Francisco, Calif. 94108.
Barber Blue Sea Line, 17 Battery Place, New York, N.Y. 10004.
East Asiatic Co., Inc., 650 California St., San Francisco, Calif. 94108.
Galleon Shipping Corp., c/o Nedlloyd, Inc., 5 World Trade Center, Suite 617, New York, N.Y. 10048.
Japan Line, Ltd., One World Trade Center, Suite 2867, New York, N.Y. 10048.
Kawasaki Kisen Kaisha, Ltd., K Line—Kerr Corp., One Market Plaza, Suite 2400, San Francisco, Calif. 94105.
Knutsen Line, c/o Bakke Steamship Corp., 650 California St., San Francisco, Calif. 94108.
Maritime Company of the Philippines, Inc., North American Maritime Agencies, Agents, 17 Battery Place. New York, N.Y. 10004.
Mitsui O.S.K. Lines, Ltd., One World Trade Center, Suite 2211, New York, N.Y. 10048.
Moller-Maersk Line, One Market Plaza, Suite 2510, San Francisco, Calif. 94105.
Nippon Yusen Kaisha, One World Trade Center, Suite 5031, New York N.Y. 10048.
Phoenix Container Lines (1976), Ltd., c/o Kerr Steamship Co. Inc., One California Street, San Francisco, Calif. 94111.
Scindia Steam Navigation Company, Ltd., U.S. Navigation Co., Inc., General Agents, 17 Battery Place, New York, N.Y. 10004.
Sea-Land Service, Inc., One World Trade Center, Suite 2711, New York, N.Y. 10048.
Seatrain Pacific Services, S.A., 7700 Edgewater Dr., Oakland, Calif. 94621.
Shipping Corp. of India, c/o Norton, Lilly & Co. Inc., 90 West St., New York, N.Y. 10006.
Showa Line, Ltd., c/o Norton, Lilly & Co., Inc., 425 California St., San Francisco, Calif. 94104.
United States Lines, Inc., 1579 Middle Harbor Rd., Oakland, Calif. 94607.
Waterman Steamship Corp., 120 Wall St., New York, N.Y. 10005.
Yamashita-Shinnihon Steamship Co., Ltd., c/o TTT Ship Agencies, Inc., 71 Broadway, New York, N.Y. 10006.
Zim Container Service, One World Trade Center, Suite 2969, New York, N.Y. 10048.

OTHER PARTIES

Bureau of Hearing Counsel, John Robert Ewers, Director, Federal Maritime Commission, 1100 L St. NW., Washington, D.C. 20573.

[FR Doc. 78-25977 Filed 9-14-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Contingency of Reporting Requirements' Effective Date

A request for cleance of proposed reports intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on August 29, 1978. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice is to inform the public that the effective date of these reports will not become valid until GAO has completed its clearance review.

INTERSTATE COMMERCE COMMISSION

On September 6, 1978, GAO published a notice in the FEDERAL REGISTER (43 FR 39607-8) that ICC requested a clearance of revisions to the annual report forms for class I and class II railroads, forms R-1 and R-2. ICC promulgated these revisions in order No. 36725 which was decided July 18, 1978. In its order, ICC stated that these revisions became effective on January 1, 1978. In this notice, GAO specifies that the effective date for these reports is contingent upon ICC compliance with 44 U.S.C. 3512 which precludes the collection of information from 10 or more persons until the Comptroller General has had the opportunity to advise that the information required is not presently available from other Federal sources and that the proposed reporting requirements are consistent with the provisions of section 3512. GAO is currently conducting its review of these reports.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-26070 Filed 9-14-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Radiologic Devices Section of the Obsteterics-Gynecology and Radiology Devices Panel.	Oct. 2, 9 a.m., Room 6821, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing/open committee discussion, 9 a.m. to 4 p.m.; Lilliam Yin (HFK-470), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7555.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing/open committee discussion. Glenn H. Brown, Ph. D., D.Sc., Director of Liquid Crystal Institute, Regents Professor of Chemistry, Kent State University, will discuss "Structure and Properties of Cholesteric Liquid Crystal"; Wendy Logan, M.D., Consultant, Roswell Park Institute, will discuss "Liquid Crystal Cutaneous Termography"; and Orliss Wildermuth, M.D., Clinical Professor of Radiologic Therapy, University of Washington Medical School, will discuss "Application of Liquid Crystal Thermography to the Determination of the Abnormality of the Breast."

Interested parties are encouraged to present information pertinent to the use of encapsulated cholesteric liquid crystal as contact thermography to detect abnormality of the temperature distribution of the breast. Submission of data on tentative classification findings is also invited. Those desiring to make formal presentations should notify Lillian Yin by September 18, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Committee name	Date, time, and place	Type of meeting and contact person
2. Radiopharmaceutical Drugs Advisory Committee.	Oct. 5, 9 a.m., Conference room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open committee discussion, 9 to 11:30 a.m.; open public hearing, 11:30 a.m. to 12:30 p.m.; open committee discussion, 12:30 to 5 p.m.; Joyce Creamer (HFD-150), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4260.

General funcion of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and in-

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writ-

of radiopharmaceutical drugs; contrast media adverse reaction data collection; radiobiologic efficacy review; and in-

proximate time desired for their presentation.

sponse to the over-the-counter (OTC) review's call for data for this Panel (see also § 330.10(a)(2) (21 CFR

The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization

General funcion of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of nuclear medicine.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. Topics of discussion include the pediatric use of radiopharmaceutical drugs; contrast media adverse reaction data collection; radiobiologic efficacy review; and investigational new drug (IND), new drug application (NDA), and Radioactive Drug Research Committee (RDRC) status.

Committee name	Date, time, and place	Type of meeting and contact person
3. Teratology Subcommittee of the Science Advisory Board.	Oct. 13, 9 a.m., National Center for Toxicological Research, Jefferson, Ark.	Open public hearing/open committee discussion, 9 a.m. to 3:30 p.m.; Ruth S. Magee, National Center for Toxicological Research, Jefferson, Ark. 72079, 501-541-4528.

General function of the Committee. The Committee advises on establishment and implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Agenda—Open public hearing/open committee discussion. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

The Committee will discuss pharmacokinetics, hypertension study, new program areas, and perinatal research.

Committee name	Date, time, and place	Type of meeting and contact person
4. Dental Device Section of the Ophthalmic; Ear, Nose, Throat; and Dental Devices Panel.	Oct. 12 and 13, 9 a.m., Room 1813, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing, Oct. 12, 9 a.m. to 1:30 p.m.; open committee discussion, Oct. 12, 1:30 to 4 p.m., and Oct. 13, 9 a.m. to 4 p.m.; Gregory Singleton, D.D.S. (HFK-450), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7234.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the classification of denture cushions, plaque disclosing kits, denture adhesives, and preformed positioners to Gregory Singleton, D.D.S. Submission of data on tentative classification findings is also invited. Those desiring to make formal presentations should notify Dr. Singleton by September 25, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments. Presentations by manufacturers of denture adhesives and denture cushions will be given.

Open Committee discussion. The Committee will review the presentation for denture adhesives and determine a classification category based on the information presented. Discussion will cover the research findings presented by manufacturers of denture cushions and re-evaluation of the classification category assigned to these devices based on these findings; recommendations for the classification of plaque disclosing kits; and recommendations for the classification of preformed tooth positioners.

Committee name	Date, time, and place	Type of meeting and contact person
5. Oral Cavity Drug Products Panel	Oct. 17 and 18, 9 a.m., Conference room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, Oct. 17, 9 to 10 a.m.; open committee discussion, Oct. 17, 10 a.m. to 4:30 p.m., and Oct. 18, 9 a.m. to 4:30 p.m.; John T. McElroy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4871.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before October 12, 1978, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open Committee discussion. The Panel will review data submitted in response to the over-the-counter (OTC) review's call for data for this Panel (see also § 330.10(a)(2) (21 CFR 330.10(a)(2))).

The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
6. Biochemical Mechanisms in Toxicity Subcommittee of the Science Advisory Board.	Oct. 19, 9 a.m., National Center for Toxicological Research, Jefferson, Ark.	Open public hearing/open Committee discussion, 9 a.m. to 3:30 p.m.; Ruth S. Magee, National Center for Toxicological Research, Jefferson, Ark. 72079, 501-541-4528.

General function of the Committee. The Committee advises on establishment and implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Agenda—Open public hearing/open Committee discussion. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Discussion will include presentations of new programs in biochemical mechanisms in toxicity: Mechanisms of initiation of mutagenesis and carcinogenesis by structurally simple alkylating agents; detection, identification, and quantitation of components from DNA modified by exposure to nonradioactive suspected mutagens and other toxicants; role of n-Hydroxy arylamines in bladder carcinogenesis; role of persistent DNA-bound residues of 2-AAF in tumor induction; feasibility of the utilization of functional cell culture systems derived from variety or organs and mammalian species as predictors of potential mutagenicity/carcinogenicity; and other new program areas.

Committee name	Date, time, and place	Type of meeting and contact person
7. Slow Acting Anti-Rheumatic Drugs Guideline Subcommittee of the Arthritis Advisory Committee.	Oct. 19, 9 a.m., Conference room I, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, 9 to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Joyce Creamer (HFD-150), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4260.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in arthritic conditions.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those desiring to make oral or written comments concerning the guidelines should contact Joyce Creamer by October 2, 1978. Copies of the draft guidelines may be obtained from Joyce Creamer by written request.

Open Committee discussion. The Committee will discuss and review comments on draft guidelines and revisions of guidelines.

Committee name	Date, time, and place	Type of meeting and contact person
8. Mutagenesis Subcommittee of the Science Advisory Board.	Oct. 20, 9 a.m., National Center for Toxicological Research, Jefferson, Ark.	Open public hearing/open committee discussion, 9 a.m. to 3:30 p.m.; Ruth S. Magee, National Center for Toxicological Research, Jefferson, Ark. 72079, 501-541-4528.

General function of the Committee. The Committee advises on establishment and implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Agenda—Open public hearing/open Committee discussion. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

The meeting will include discussion of the detection of chemically induced mutations by assay of metabolic characteristics and discussion of heritable translocation document in preparation.

Committee name	Date, time, and place	Type of meeting and contact person
9. Gastroenterology and Urology Section of the General Medical Devices Panel.	Oct. 26, 9 a.m., Room 529A, HHH Bldg., 200 Independence Ave. SW., Washington, D.C.	Open public hearing, 9 to 10 a.m.; open committee discussion, 10 a.m. to 3:30 p.m., Dennis J. Cotter (HFK-430), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7226.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently

potence device to Dennis J. Cotter. Submission of data relative to tentative classification findings is also invit-

Open Committee discussion. The Panel will discuss the requirements for the establishment of product develop-

Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, Md. 20014, 301-530-7033.

1. Food Protein Council, 1800 M Street NW., Washington, D.C. 20036.

2.Ralston-Purina Co., Checkerboard Square, St. Louis, Mo. 63188.

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information on classification of gastroenterology and urology devices or product development protocols for hemodialyzers, ultrasonic stone crusher, and mechanical/hydraulic impotence device to Dennis J. Cotter. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify Mr. Cotter by October 16, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open Committee discussion. The Panel will discuss the requirements for the establishment of product development protocols used in testing and evaluating hemodialyzers, ultrasonic stone crusher, and mechanical/hydraulic impotence device. The Panel's recommendations will be the basis for agency establishment of product development protocol criteria to be used in the collection of clinical data supporting the safety and efficacy of these gastroenterology and urology devices.

Committee name	Date, time, and place	Type of meeting and contact person
10. Miscellaneous External Drug Products Panel.....	Oct. 29 and 30, 9 a.m.; Holiday Inn, Bethesda, Md. (Oct. 29); Conference room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. (Oct. 30).	Open committee discussion, Oct. 29, 9 a.m. to 4:30 p.m.; open public hearing, Oct. 30, 9 a.m. to 10 a.m.; open committee discussion, Oct. 30, 10 a.m. to 4:30 p.m.; John T. McElroy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4871.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before October 25, 1978, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open Committee discussion. The Panel will review data submitted in response to the over-the-counter (OTC) review's call for data for this Panel (see also § 330.10(a)(2) (21 CFR 330.10(a)(2))).

The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1-hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner approves the scheduling of meetings at locations outside of the Washington, D.C., area on the basis of the criteria of 21 CFR 14.22 of FDA's regulations relating to public advisory committees.

Dated: September 11, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-25975 Filed 9-14-78; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 78N-0105]

GRAS SAFETY REVIEW OF VITAMIN D AND SOY PROTEIN ISOLATES

Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is announcing that public hearings will be held on vitamin D and soy protein isolates so that data, information, and views can be presented orally to determine if they are generally recognized as safe (GRAS) or subject to a prior sanction.

DATES: Hearings will be held September 25, 1978, for vitamin D and September 26, 1978 for soy protein isolates.

ADDRESS: The hearings will be held in the Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Md. 20014.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-4750.

George W. Irving, Jr., Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, Md. 20014, 301-530-7033.

USPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of June 16, 1978 (43 FR 26132), the Commissioner of Food and Drugs issued a notice advising the public that an opportunity would be provided for the oral presentation of data, information, and views at public hearings to be conducted by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (hereafter referred to as the Select Committee), concerning the safety of the following four categories of food ingredients and the Select Committee's tentative determination of whether or not they are GRAS or subject to a prior sanction:

Gluconates.
Vitamin D.
Soy protein isolates.
Unmodified, pregelatinized, and modified starches.

Requests received for a hearing on gluconates from Gallard-Schlesinger Chemical Corp., Carle Place, N.Y., and on unmodified, pregelatinized, and modified starches from the Corn Refiners Association, Washington, D.C., were subsequently withdrawn. The Corn Refiners Association proposes to submit a written statement in lieu of an oral hearing presentation. No other reqests were received on gluconates and unmodified, pregelatinized, and modified starches. Accordingly, no hearing will be held on these food ingredients.

The Select Committee received a request from Vitamins, Inc., 200 East Randolph Drive, Chicago, Ill. 60601, asking for an opportunity to appear at a public hearing on vitamin D to make an oral presentation. No other requests were received for a hearing on vitamin D.

In accordance with the procedures set forth in the FEDERAL REGISTER of June 16, 1978 (43 FR 26132), announcement is hereby made that a hearing on vitamin D will be held at 1:30 p.m., on September 25, 1978, in the Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Md. 20014. Those who have requested an opportunity to make oral presentations will be expected to complete their presentations within the period indicated and in accordance with the following schedule: September 25, 1978, 1:30 to 2:15 p.m., L. E. Kovacs, Ph. D., Vitamins, Inc.—30 minutes.

The Select Committee also received requests from the following companies and organizations asking for an opportunity to appear at a public hearing on soy protein isolates to make oral presentations:

1. Food Protein Council, 1800 M Street NW., Washington, D.C. 20036.
2. Ralston-Purina Co., Checkerboard Square, St. Louis, Mo. 63188.
3. Central Soya Co., Inc., Fort Wayne, Ind. 46802.
4. Mead Johnson Nutritional Division, Evansville, Ind. 47721.
5. Grain Processing Corp., 1600 Oregon, Muscatini, Iowa 52761.

No other requests for a hearing on soy protein isolates were received.

In accordance with the procedures set forth in the FEDERAL REGISTER of June 16, 1978 (43 FR 26132), announcement is hereby made that a hearing on soy protein isolates will be held at 9 a.m., on September 26, 1978, in the Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Md. 20014. Those who have requested an opportunity to make oral presentations will be expected to complete their presentations within the periods indicated and in accordance with the following schedule:

September 26, 1978, 9 a.m. to 12 p.m:
1. Food Protein Council, speaker to be named—15 minutes.
2. H. L. Schilt, D. H. Waggle, Ph. D., and D. T. Hopkins, Ph. D., Ralston-Purina Co.-60 minutes.
3. E. F. Sipos, Ph. D., and E. W. Meyer, Ph. D., Central Soya Co., Inc.—15 minutes.
4. H. P. Sarett, Ph. D., Mead Johnson Nutritional Division—20 minutes.
5. A. M. Hansen, Ph. D., Grain Processing Corp.—20 minutes.

Dated: September 13, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-26238 Filed 9-14-78; 10:21 am]

[4110-03]

[Docket No. 78N-0154]

GRAS SAFETY REVIEW OF SODIUM CHLORIDE AND POTASSIUM CHLORIDE

Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is announcing that a public hearing will be held for sodium chloride and potassium chloride so that data, information, and views can be presented orally to determine if they are generally recognized as safe (GRAS) or subject to a prior sanction.

DATE: Hearing, September 25, 1978.

ADDRESS: The hearing will be held in the Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Md. 20014.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-4750.

George W. Irving, Jr., Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, Md. 20014, 301-530-7033.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of June 13, 1978 (43 FR 25487), the Commissioner of Food and Drugs issued a notice advising the public that an opportunity would be provided for the oral presentation of data, information, and views at a public hearing to be conducted by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (hereafter referred to as the Select Committee), concerning the safety of the following five categories of food ingredients and the Select Committee's tentative determination of whether or not they are GRAS or subject to a prior sanction:

Pantothenates.
Thiamine.
Urea.
Vitamin B_{12}.
Sodium chloride and potassium chloride.

No requests were received for a hearing on pantothenates, thiamine, urea, or vitamin B_{12}. Accordingly, no hearing will be held on these food ingredients.

The Select Committee received requests from the following companies, institutions, and organizations asking for an opportunity to appear at a public hearing on sodium chloride and potassium chloride to make oral presentations:

1. Salt Institute, 206 North Washington Street, Alexandria, Va. 22314.
2. Frito-Lay, Inc., Frito-Lay Tower, Exchange Park, P.O. Box 35034, Dallas, Tex. 75235.
3. Center for Science in the Public Interest, 1755 South Street NW., Washington, D.C. 20009.
4. American Heart Association, 7320 Greenville Avenue, Dallas, Tex. 75231.
5. Morton Salt Co., 110 North Wacker Drive, Chicago, Ill. 60606.

Requests for a hearing on sodium chloride and potassium chloride were also received from the following organizations but were subsequently withdrawn:

1. National Food Processors Association, 1133 Twentieth Street NW., Washington, D.C. 20036.
2. International Hydrolyzed Protein Council, Suite 505, 1625 K Street NW., Washington, D.C. 20006.
3. Kikkoman Foods, Inc., P.O. Box H, Walworth, Wis. 53184.

No other requests for a hearing on sodium chloride and potassium chloride were received.

In accordance with the procedures

ADDRESSES: Communications in response to this notice should be identified with the docket No. 75N-0187 and the reference number DESI 10837, di-

binations, as single entities, had not been shown to be effective as sedatives or as antianxiety agents in nonpsychotic patients. For the latter reason

ety, or sleep disturbance. Patients were randomly assigned to Combid (10 milligrams Compazine, 5 milligrams Darbid), Darbid 5 milligrams, or placebo. They were told to eat a bland diet

There is no explanation of how analyst bias was prevented in the course of this after-the-fact analysis, as required by 21 CFR 314.111(a)(5)(ii)(a)(4), and it is striking

current symptoms, often clearly temporarily related to emotional stress and/or dietary indiscretion, and absence of organic disease of the gastrointestinal tract). In about two-thirds

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No other requests for a hearing on sodium chloride and potassium chloride were received.

In accordance with the procedures published in the FEDERAL REGISTER on June 13, 1978 (43 FR 25487), announcement is hereby made that a hearing on sodium chloride and potassium chloride will be held at 9 a.m., on September 25, 1978 in the Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Md. 20014. Those who have requested an opportunity to make oral presentations will be expected to complete their presentations within the periods indicated and in accordance with the following schedule:

September 25, 1978, 9 a.m. to 12 p.m.:

1. W. E. Dickinson, Salt Institute—30 minutes.
2. T. D. Dreyer, Frito-Lay, Inc.—25 minutes.
3. Bonnie F. Liebman, Center for Science in the Public Interest—15 minutes.
4. J. W. Farquhar, M.D., Stanford University Medical Center, Stanford, Calif. (representing the American Heart Association)—20 minutes.
5. Glenn C. Anderson, Product Manager, Morton Salt Co.—30 minutes.

Dated: September 13, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 7826239- Filed 9-14-78; 10:21 am]

[4110-03]

[Docket No. 75N-0187; DESI 10837]

PROCHLORPERAZINE MALEATE WITH ISOPROPAMIDE IODIDE

Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is reissuing a notice of opportunity for hearing that was published and later rescinded. The notice proposes to withdraw approval of the new drug application for a combination product containing prochlorperazine maleate and isopropamide iodide, on the ground that the product lacks substantial evidence of effectiveness. The product has been used as an adjunct in the treatment of peptic ulcer and irritable bowel syndrome.

DATES: Any request for hearing must be submitted on or before October 16, 1978. All data and information relied upon in support of any such request and any other comments must be submitted on or before November 14, 1978.

ADDRESSES: Communications in response to this notice should be identified with the docket No. 75N-0187 and the reference number DESI 10837, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Requests for hearing, supporting data and information, and other comments: Hearing Clerk (HFA-305), Room 4-65.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Robert J. Temple, M.D., Bureau of Drugs (HFD-1110), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4730.

SUPPLEMENTARY INFORMATION:

BACKGROUND

In a notice (DESI 10837) published in the FEDERAL REGISTER of June 22, 1971 (36 FR 11875), the Food and Drug Administration (FDA) announced its conclusions based on a report received from the National Academy of Sciences-National Research Council (NAS-NRC) that the drug products described below are less than effective (possibly effective as adjunctive therapy in peptic ulcer and in the irritable bowel syndrome, functional diarrhea, ulcerative colitis, urinary bladder spasm, and urethral spasm), and lacking substantial evidence of effectiveness for their other labeled indications, and that additional evidence is required to establish their effectiveness.

In a notice published in the FEDERAL REGISTER of November 11, 1975 (40 FR 52652), the Director of the Bureau of Drugs offered an opportunity for hearing on the proposal to withdraw approval of the following new drug applications:

NDA 11-162; Combid Spansules, containing prochlorperazine maleate and isopropamide iodide; Smith Kline & French Laboratories, Division of SmithKline Corp., 1500 Spring Garden Street, Philadelphia, Pa. 19101.

NDA 11-368; Pro-Banthine with Dartal tablets, containing propantheline bromide and thiopropazate hydrochloride; Searle Laboratories, Division of G. D. Searle & Co., Box 5100, Chicago, Ill. 60680.

The notice stated that the combination drugs lacked substantial evidence of effectiveness and, furthermore, that the major tranquilizer components (thiopropazate hydrochloride and prochlorperazine maleate) of the combinations, as single entities, had not been shown to be effective as sedatives or as antianxiety agents in nonpsychotic patients. For the latter reason these combinations were not included in the group of anticholinergic/sedative combinations that were allowed to remain on the market while studies were conducted to demonstrate effectiveness (so called "paragraph XIV" drugs). In the FEDERAL REGISTER of November 25, 1975 (40 FR 54602), the notice of November 11, 1975, was rescinded with respect to both products. The recission notice stated that another notice concerning the products would be published at a later date.

The status of the propantheline bromide-thiopropazate hydrochloride combination was the subject of a notice of opportunity for hearing published in the FEDERAL REGISTER of February 28, 1978 (43 FR 8185).

This notice reissues the notice of opportunity for hearing of November 11, 1975, with respect to Combid Spansules (NDA 11-162).

In a notice published in the FEDERAL REGISTER of June 18, 1971 (36 FR 11754) as amended by 42 FR 15468 (March 22, 1977) and 42 FR 35895 (July 12, 1977), the single-entity anticholinergic, isopropamide iodide (Darbid tablets, NDA 10-744, DESI 3265) was evaluated as effective for use as adjunctive therapy in the treatment of peptic ulcer and probably effective for use as adjunctive therapy in the irritable bowel syndrome (irritable colon, spastic colon, mucous colitis). In a notice published in the FEDERAL REGISTER of April 3, 1971 (36 FR 6447) as amended by 36 FR 20997 (November 2, 1971) the single entity tranquilizer prochlorperazine (Compazine, DESI 9149) was evaluated as effective in the management of manifestations of psychotic disorders and for the control of severe nausea and vomiting and possibly effective for the control of excessive anxiety, tension, and agitation as seen in neuroses or associated with somatic conditions. In a followup notice published in the FEDERAL REGISTER of April 7, 1978 (43 FR 14742) the possibly effective indication was upgraded to effective and reworded to read for the management of psychoneurotic patients displaying primarily symptoms of moderate to severe anxiety and tension.

EFFICACY ISSUE

The submission from Smith Kline & French consisted of four studies, which are discussed below:

1. *Combid vs. Darbid vs. placebo in peptic ulcer.* This multi-investigator double-blind study was carried out in 221 outpatients who had had duodenal ulcer documented within 10 days of the trial. The patients all had ulcer pain and, in most cases, tension, anxiety, or sleep disturbance. Patients were randomly assigned to Combid (10 milligrams Compazine, 5 milligrams Darbid), Darbid 5 milligrams, or placebo. They were told to eat a bland diet and were permitted antacids (different antacids and different antacid frequencies for various investigators). There was no uniformity in the baseline antacids used.

Patients were seen at 0, 1, 2, and 4 weeks and were rated according to severity (0-3) of ulcer symptoms (pain, nocturnal pain, nausea, vomiting) and tension-related symptoms (anxiety, tension, and sleep disturbance). An ulcer symptom score and a tension-related symptom score were generated by adding the scores for individual symptoms. In addition, a global evaluation of ulcer symptoms and tension-related symptoms was made at the last visit: Excellent—marked relief of most symptoms; good—marked relief of some symptoms; fair—partial relief of symptoms; poor—no relief of symptoms; and worse—increased symptoms.

An intial report was provided on August 16, 1972, and a more detailed analysis was submitted on July 6, 1973. The reports claim that the global evaluation of ulcer symptoms showed more satisfactory resolution on both active drugs than placebo ($p<0.05$) and that Combid showed some tendency to be better than Darbid, although not to a statistically significant degree.

The results thus fail to show a significant advantage for Combid over Darbid, and the study fails facially to demonstrate a contribution of Compazine to the overall effect of Combid, as required by 21 CFR 300.50. In addition, the study does not support the effectiveness of Darbid. The entire advantage of Combid and Darbid over placebo arises from the results of only one investigator, Dr. Weiss, out of the nine investigators in this study. Neither FDA nor SKF can explain the sharp difference between Dr. Weiss and the other investigators (It did not result from breakdown of blinding, according to the firm, as Dr. Weiss' code was returned unopened.), but it is clear that the study overall (eight of nine investigators) shows no advantage of either "active" drug (Combid or Darbid) over placebo. Put another way, Dr. Weiss' positive results are unconfirmed by eight other identical studies, seven of them of comparable size.

In addition to the global analysis, individual pain and ulcer symptom scores (sum of pain, night pain, nausea, and vomiting scores) were analyzed in a combined analysis. Numerous patients were omitted from this analysis for inappropriate reasons, e.g., if an investigator provided "too few patients" or if "nearly all of the final (symptom) scores were zero." There is no explanation of how analyst bias was prevented in the course of this after-the-fact analysis, as required by 21 CFR 314.111(a)(5)(ii)(a)(*4*), and it is striking that Dr. Weiss' scores, which were clearly untypical and might have been excluded on those grounds, were kept in the analysis.

In any case, analysis of individual scores fails to show a contribution of Compazine to the effects of the combination for any symptom. The results of the pain analysis (patients with complete relief of pain at weeks 1, 2, and 4) show a significant advantage for Combid over placebo at weeks 2 and 4 for the five "included" investigators, but Combid was not significantly superior to Darbid. Thus Compazine made no contribution to the effect of the combination on pain. 21 CFR 300.50. Moreover, if Dr. Weiss' patients are omitted, the placebo group is slightly superior to Combid for pain relief at weeks 1 and 2 and slightly worse at week 4. Both are better than Darbid at all weeks. Again, any positive trends in this multi-investigator study are attributable to a single set of untypical results and the study overall fails to show effectiveness for either Combid or Darbid.

Analysis of ulcer symptom score averages gives the the same result. If Dr. Weiss' values are omitted, placebo scores are almost identical to Combid scores. No statistical significant advantage for Combid over Darbid is claimed in any case. 21 CFR 300.50.

In summary, the study fails to demonstrate any advantage of Combid over Darbid in treatment of ulcer symptoms and does not show that either agent is more effective than placebo. What positive results are reported are attributable entirely to the results of one of nine investigators; the remainder of the data (excluding Weiss) does not show even a trend favoring Combid over placebo until numerous patients are excluded for various reasons devised long after completion of the study. These exclusions regularly favor Combid and are not adequately justified. (21 CFR 314.111(a)(5)(ii)(*a*)(*4*).) The study was also deficient in design in not seeking to assure use of a single antacid and in not measuring antacid use carefully (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*)), but results did not seem to depend on type of antacid or frequency of use.

2. *Combid vs. Darbid vs. placebo in irritable bowel syndrome.* This multi-investigator double-blind study was carried out in 266 outpatients with irritable bowel syndrome (defined as any two of the following: (1) Abdominal discomfort or pain, (2) an apparent relationship between pain and bowel movement, (3) erratic or abnormal bowel function, and/or (4) chronic recurrent symptoms, often clearly temporarily related to emotional stress and/or dietary indiscretion, and absence of organic disease of the gastrointestinal tract). In about two-thirds of the patients a sigmoidoscopic or barium examination had been performed within 6 months; results were the same for them and the total group. Patients were randomly assigned Combid, Darbid, or placebo and were followed up at 1, 2, and 4 weeks. A bland diet and antacids were given in various ways by the different investigators. Patients were rated according to global evaluation, using the same definitions as the previous study, but the global evaluation was not separated into tension-related and gastrointestinal-related symptoms as in the previous study—a serious flaw. There is no doubt that Compazine is an effective agent in treating emotional disorders. The question is whether, when added to Darbid, it contributes to treatment of gastrointestinal symptoms. The question cannot be answered if other kinds of symptoms are lumped together. In addition, individual symptoms, both gastrointestinal (abdominal discomfort or pain, distension, diarrhea, constipation, alternating diarrhea and constipation, and urgency) and emotional (anxiety, tension, and sleep disturbances) were rated on a scale of 0-3.

Results were described as showing a statistically significant advantage for Combid over Darbid and placebo in achieving excellent or good results in the global efficacy evaluation, with Darbid and placebo indistinguishable from each other. Unfortunately, as noted there was no separate global evaluation of gastrointestinal symptoms and these results thus are based on a mixture of gastrointestinal and emotional symptoms. The results do not in any way support the usefulness of Compazine in treating gastrointestinal symptoms.

In the evaluation of individual gastrointestinal symptom scores, Combid and Darbid were reported to be superior to placebo at various times but at no time was Combid significantly superior to Darbid. The study thus on its face does not show a contribution by Compazine to the effect of the combination on the irritable bowel syndrome, as required by 21 CFR 300.50.

3. *Combid vs. Darbid in treatment of psychophysiological gastrointestinal disorders.* This was a seven-investigator double-blind study of 209 patients with gastrointestinal complaints thought to result from anxiety, tension, or neurosis and manifested by such complaints as nausea, belching, epigastric discomfort, diarrhea, etc. Patients were assigned randomly to treatment and assessed essentially as

in the previous study, with both symptom scores and a global evaluation.

Global evaluation favored Combid, output than the Darbid group, it is unlikely that Compazine interfered with Darbid in this phase of the study.

unaware of any adequate and well-controlled clinical investigations, conducted by experts qualified by scientific

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), making findings and conclusions, denying a hearing.

All submissions pursuant to this

food-producing animals (21 CFR 510.450).

I. D. Russell Co. and Ralston Purina

in the previous study, with both symptom scores and a global evaluation.

Global evaluation favored Combid, but not to a statistically significant degree. Moreover, the favorable result is almost entirely due to a single investigator, Berger, whose results markedly favored Combid. Equally important, as in the irritable bowel syndrome study, the global evaluation includes an emotional symptom component and is not a pure gastrointestinal symptom measurement.

There were small differences in the effects of the Combid vs. Darbid, which in the firm's words, "do not approach the level of statistical significance." The results thus do not provide support for the idea that adding Compazine to Darbid to treat the presumed emotional causes of these patients' gastrointestinal symptoms in any way helps provide relief of those symptoms (21 CFR 300.50).

4. *Gastric acid secretion study.* Updike carried out a double-blind, parallel design study in 16 male patients with documented active or inactive ulcer disease. Its purpose was to compare the effects of Combid and its components on gastric secretory activity and to detect possible interaction. Patients were randomly assigned to capsules of Combid (10 milligrams Compazine and 5 milligrams Darbid), Compazine (10 milligrams), Darbid (5 milligrams), or placebo twice a day. They were evaluated at baseline and after 2 weeks of treatment. Evaluation consisted of analysis for acid output, pH, and volume of two consecutive 90-minute collections of gastric secretions, the first before and the second after a 1.5-milligram/kilogram injection of betazole hydrochloride. The 14-day analysis was begun 2½ hours after the last treatment capsule (i.e., betazole was given 4 hours after the last capsule).

Two principal comparisons were made: (1) Baseline secretion before and after therapy, and (2) betazole-stimulated secretion before and after therapy. The baseline volume and acid output were lower than placebo in the Combid and Darbid groups (Combid was lowest) but not in the Compazine group. Factorial analysis showed that Compazine was not effective, that Darbid was effective in lowering total volume and acid output ($p<0.05$), and that Compazine interacted significantly in reducing volume. Only a factorial analysis is reported. There is no claim that either Combid or Darbid reduced volume or acid output significantly in a direct comparison with placebo. There is also, despite an 11-page analysis, no discussion of the statistical power of the study to detect an unfavorable effect of Compazine if one existed. Nevertheless, as the Combid group had a lower volume and acid output than the Darbid group, it is unlikely that Compazine interfered with Darbid in this phase of the study.

In the betazole-stimulation phase of the study, there was no significant treatment effect seen, although acid output and volume were lower in the Combid and Darbid groups (the two groups were almost identical). This phase of the study is obviously a "no-test" situation and cannot be used to indicate no interaction.

Overall, the study suggests that Compazine does not impair the effect of Darbid on acid secretion but, probably because of its very small size, it is unable to show this definitively. The study was not designed or intended to show that any of the drugs are effective in the treatment of duodenal ulcer or any other illness and cannot provide substantial evidence of such effectiveness.

Bioavailability Issue

Submissions were received in October 1976 and December 1977.

Combid Spansule is a sustained-release formulation of a combination of prochlorperazine and isopropamide. The prochlorperazine component is prepared so that an initial dose is released promptly and the remaining medication is released gradually over a prolonged time. The isopropamide iodide component is not sustained release because of its long half-life. The objectives of this study were to demonstrate the sustained-release characteristics of prochlorperazine from a Compazine Spansule and to compare the degree and duration of inhibition of hydrochloric acid secretion following oral administration of 5 milligrams of isopropramide (Darbid tablet).

The data in this submission are unacceptable under 21 CFR 320.21 for demonstrating bioavailability. The data provided were not based on studies of the Combid Spansule but arose from studies of the single entities, prochlorperazine and isopropramide. Moveover Combid contains 10 milligrams of prochlorperazine and 5 milligrams of isopropamide while the submitted prochlorperazine study was for 15 milligrams of prochlorperazine.

Bioavailability studies of the Combid Spansule, rather than its separate components, are required, and the serum and urine levels of prochlorperazine should be determined. If assay methodology for isopropamide is not available, physiological parameters such as gastric secretion could be monitored.

The Combid Spansule should be compared to immediate and sustained release forms of each single entity in a crossover design.

Therefore, on the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigations, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5) and 21 CFR 300.50 which provide substantial evidence of effectiveness for Combid Spansules (NDA 11-1620.

Notice of Opportunity for Hearing

Therefore, notice is given to the holder of the new drug application and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application and all amendments and supplements thereto on the ground that new information before him with respect to the drug product, evaluated together with the evidence available to him at the time of approval of the application, shows there is a lack of substantial evidence that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holder of the new drug application specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

In addition to the grounds for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

The applicant or any other person subject to this notice pursuant to 21 CFR 310.6 who decides to seek a hearing, shall file (1) on or before October 16, 1978, a written notice of appearance and request for hearing, and (2) on or before November 14, 1978, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of the applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed with respect to the product and constitutes a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate. Such submissions except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: September 5, 1978.

J. Richard Crout,
Director, Bureau of Drugs.

[FR Doc. 78-25812 Filed 9-14-78; 8:45 am]

[4110-03]

[Docket No. 77N-0442]

REED PHARMACAL CO., ET AL.

Sufonamide Drugs; Withdrawal of Approval of Certain NADA's

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document withdraws approval of certain new animal drug applications for which no written appearances or requests for hearing were filed in response to a notice of opportunity for hearing. This document also vacates that notice as it pertains to the Ralston Purina Co., I. D. Russell Laboratories, and Upjohn Laboratories.

EFFECTIVE DATE: September 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Emilio E. Viera, Bureau of Veterinary Medicine (HFV-125), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3134.

SUPPLEMENTARY INFORMATION: In the Federal Register of February 28, 1978 (43 FR 8184), the Director of the Bureau of Veterinary Medicine issued a notice of opportunity for hearing proposing to withdraw approval of certain new animal drug applications for certain sulfonamide products for use in food-producing animals on the ground that the sponsors had failed to submit the results of 90-day subacute toxicity studies as required by § 510.450 Sulfonamide-containing drugs for oral, injectable, intramammary, or intrauterine use in food-producing animals (21 CFR 510.450).

I. D. Russell Co. and Ralston Purina Co. responded to the notice and indicated that they were authorized to use the results of the 90-day subacute toxicity studies generated by Merck & Co., and that their NADA's should not be withdrawn.

The Director has evaluated these responses and finds that the firms have received authorization from Merck & Co., and that Merck has submitted the results of 90-day subacute toxicity studies as required by § 510.450. Therefore, the Director agrees that the notice of opportunity for hearing should be vacated as it pertains to NADA 6-776 and NADA 6-891 for I. D. Russell Co. and NADA 7-076 and NADA 8-244 for Ralston Purina Co. Additionally, NADA 9-696, Kaobiotic tablets, sponsored by Upjohn Laboratories was withdrawn in a separate, independent proceeding published in the Federal Register of July 14, 1978 (43 FR 30354). Therefore, the Director also vacates the notice of opportunity for hearing as it pertains to that product. No other sponsor filed a timely written appearance or request for hearing in response to the notice within the 30-day period provided, as required by § 514.200 Contents of notice of opportunity for a hearing (21 CFR 514.200). Such failure is construed as an election not to avail themselves of the opportunity for hearing and is grounds for entering a final order without further notice.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84) and in accordance with § 514.200 Contents of notice of opportunity for a hearing, and § 514.116 Notice of withdrawal of approval of application (21 CFR 514.116), notice is given that the notice of opportunity for hearing published in the Federal Register on February 28, 1978 (43 FR 8184) is vacated as it pertains to NADA 6-776 and NADA 6-891 for I. D. Russell Co., NADA 7-076 and NADA 8-244 for Ralston Purina Co. and NADA 9-696 for Upjohn Laboratories, and that approval of the following new animal drug applications and all supplements thereto is withdrawn:

NADA 0-665; Quinox Powder (Sulfaquinoxaline), Reed Pharmacal Co., 5622 Wyndale Ave., Philadelphia, Pa. 19134.
NADA 4-054; Sulfadiazine, Lederle Laboratories, Division of American Cyanamid Co., P.O. Box 400, Princeton, N.J. 08540.
NADA 6-730; Quinoxamix 25 percent (Sulfaquinoxaline), Vet Products Co., 1522-24 Holmes St., Kansas City, Mo. 64108.
NADA 6-780; Sulfa Q Sulfaquin-O-Hor 20 percent (Sulfaquinoxaline), Hill Top Labo-

ratories, 718 North Washington Ave., Minneapolis, Minn. 55401.
NADA 6-926; Sodium Sulfaquinoxaline Solution (Sodium sulfaquinoxaline), Fleming Vitamin Premixes, P.O. Box 5189, North Little Rock, Ark. 72205.
NADA 41-179; Broiler No. 40 W/V Medicated (Nitromide, sulfanitran), Hoffmann-

whichever is earlier. Submit protocols for clinical studies by June 12, 1979. Start clinical studies by September 17, 1979. Submit the results of completed

Those that were subjects of approved NDA's on August 26, 1977; those that were on the market on August 26, 1977, without approved NDA's; and

ANDA's must be conditionally approved.

Any drug product on the market after December 27, 1977, for which the

status. Therefore, NDA and ANDA holders are being asked to supplement or amend their applications with a complete accounting of the status of

ratories, 718 North Washington Ave., Minneapolis, Minn. 55401.
NADA 6-926; Sodium Sulfaquinoxaline Solution (Sodium sulfaquinoxaline), Fleming Specialty Co., 2209 Thrift Rd., Charlotte, N.C. 28021.
NADA 7-016; Vineland Liquid Sulfaquinoxaline (Sulfaquinoxaline), Vineland Labs., 2285 East Landis Ave., Vineland, N.J. 08360.
NADA 7-267; Sulfaquinoxaline solubilized 25 percent (Sulfaquinoxaline), Savoy Drug & Chemical Co., 16 South Peoria St., Chicago, Ill. 60607.
NADA 7-353; Quinatroc 25 Powder (Sulfaquinoxaline), Whitmoyer Labs., 19 North Railroad St., Myerstown, Pa. 17067.
NADA 7-816; Sulfaquinoxaline Soluble Powder (Sulfaquinoxaline), Raymer Pharmacal Co., northeast corner Jasper and Willard Sts., Philadelphia, Pa. 19134.
NADA 7-860; Liquid Sulfaquinoxaline (Sulfaquinoxaline sodium), Northeastern Supply Co., Ipswich, Mass. 01938.
NADA 7-978; Quinel Powder 25 percent Sulfaquinoxaline (Sulfaquinoxaline), Ells Poultry Product Inc., West Garden Rd., Vineland, N.J. 08360.
NADA 8-003; Sol-Quinel Solution (Sulfaquinoxaline 25 percent), Ells Poultry Product, Inc.
NADA 8-081; Quinel 3.2 percent Solution Sulfaquinoxaline (Sulfaquinoxaline), Ells Poultry Product, Inc.
NADA 8-342; Sulfaquinoxaline Solution (Sulfaquinoxaline), Veterinary Products Co., 608 Grove St., P.O. Box 231, Gainesville, Ga. 30501.
NADA 8-352; NITROSAL Premix (Sulfanitran Roxarsone), C. A. Swanson & Sons Mill, Malvern, Iowa 51551.
NADA 8-399; NITROSAL Premix (Sulfanitran Roxarsone), Pillsbury Ballard Division, Pillsbury Mill, Inc., 912 East Broadway, Louisville, Ky. 40204.
NADA 8-568; Sulfaquinoxaline Soluble Powder (Sulfaquinoxaline Soduim), Vineland Labs.
NADA 8-925; Liquid Sulfaquinoxaline (Sulfaquinoxaline Soduim), Dorn & Mitchell Lab., P.O. Box 6528, 1610 Jackson Blvd., Birmingham, Ala. 35217.
NADA 8-926; Sulfaquinoxaline 25 percent (Sulfaquinoxaline), Dorn & Mitchell, Lab.
NADA 9-302; Sulfaquinoxaline 25 percent (Sulfaquinoxaline), Whitmoyer Labs.
NADA 9-316; Foxbilt Sulfaquinoxaline 1.3 percent Premix (Sulfaquinoxaline), Foxbilt, Inc., 504½ Grand Ave., Des Moines, Iowa 50309.
NADA 9-469; Sulfaquinoxaline (Sulfaquinoxaline), Vet Products Co.
NADA 34-877; ACLAN-Medicated Premix (Aklomide Sulfanitran), Amdal Co., Div., Abbott Labs., North Chicago, Ill. 60064.
NADA 35-136; ACLAN Premix (Aklomide, sulfanitran, roxarsone), Amdal Co.
NADA 35-238; Formica Premix AN-3 (Sulfanitran, roxarsone), Mountaire Feed & Vitamin Premixes, William Davis Co., Inc., Danville, Ill. 61832.
NADA 35-541; Swisher Super Broiler 200 Medicated S.B. 300, S.B. 400 (Nitromide, sulfanitran, roxarsone), Swisher Feed Division, William Davis Co., Inc.
NADA 38-969; Formica Premix UN-3-8 (Nitromide, sulfanitran, roxarsone), Mountaire Feed & Vitamin Premixes, William Davis Co., Inc.
NADA 40-097; Formica Premix UN-2-8 (Nitromide, sulfanitran), Mountaire Feed & Vitamin Premixes, P.O. Box 5189, North Little Rock, Ark. 72205.
NADA 41-179; Broiler No. 40 W/V Medicated (Nitromide, sulfanitran), Hoffmann-LaRoche, Inc., Nutley, N.J. 07110.
NADA 42-856; Broiler Premix 18579 Medicated (Sulfanitran, roxarsone, nitromide), Hoffmann-LaRoche, Inc.

Dated: September 5, 1978.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-25676 Filed 9-14-78; 8:45 am]

[4110-03]

[Docket No. 77N-0240]

SINGLE-ENTITY CORONARY VASODILATORS

Drugs for Human Use; Drug Efficacy Study Implementation; Permission for Drugs To Remain on the Market; Amendment

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice announces a change in previously published conditions for testing and marketing of coronary vasodilators. The conditions previously published required that each manufacturer conduct both bioavailability studies and clinical studies of effectiveness on its own particular products in order for them to remain on the market pending conclusions as to effectiveness. The agency now will allow a drug to remain on the market even though its manufacturer is not conducting clinical studies of its effectiveness, provided that some manufacturer is conducting such studies on a product containing the same chemical entity in a similar dosage form. The purpose of this change in policy is to minimize redundant clinical testing. The notice also allows additional time for completing both bioavailability studies and clinical studies, and it changes the requirements for marketing of drugs without approved new drug applications (NDA's) or abbreviated new drug applications (ANDA's).

DATES: ANDA's for conventional oral dosage forms, sublingual dosage forms, and topical dosage forms must have conditional approval by December 1, 1978; ANDA's for controlled-release oral forms and oral products coated so as to significantly affect product dissolution and absorption must have conditional approval by April 1, 1979. Identify previously submitted clinical studies, submit previously unsubmitted clinical studies, and identify ongoing clinical studies by October 16, 1978. Notify FDA by October 16, 1978, whether or not clinical studied will be undertaken. Submit data from bioavailability studies by March 14, 1979, or within 30 days after the completion, whichever is earlier. Submit protocols for clinical studies by June 12, 1979. Start clinical studies by September 17, 1979. Submit the results of completed clinical studies by September 15, 1981, or 30 days after their completion, whichever is earlier.

ADDRESSES: Communications in response to this notice should be identified with the NDA or ANDA number (if any), or other identifying number, and the following in a box in the upper portion of the cover letter: "Paragraph XIV Drug—Category I; Coronary Vasodilator," They should be directed to the attention of the appropriate officer named below and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Supplements to NDA's (identify with NDA number): Division of Cardio-Renal Drug Products (HFD-110), Room 16B-30, Bureau of Drugs.

ANDA's and amendments thereto: Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for guidelines for clinical studies: Division of Cardio-Renal Drug Products (HFD-110), Room 16B-30, Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

All other submissions required by this notice: Division of Cardio-Renal Drug Products (HFR-110), Room 16B-30, Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

CONCERNING BIOAVAILABILITY STUDIES

Bernard E. Cabana, Bureau of Drugs (HFD-520), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4750.

CONCERNING CLINICAL STUDIES

Thomas H. Davis, Bureau of Drugs (HFD-110), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4730.

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of August 26, 1977 (42 FR 43127), and amended on October 21, 1977 (42 FR 56156), the Commissioner of Food and Drugs announced: (1) the availability of guidelines and methods of evaluating the bioavailability and effectiveness of single-active-ingredient coronary vasodilators, and (2) the specific conditions under which these products may be marketed while such studies are in progress.

The notices detailed the requirements for three categories of products:

Those that were subjects of approved NDA's on August 26, 1977; those that were on the market on August 26, 1977, without approved NDA's; and those entering the market after August 26, 1977. They announced that each manufacturer must comply with certain specific conditions in order for its products to remain on or enter the market after August 26, 1977. Among the conditions were that each manufacturer must make a commitment to conduct bioavailability studies and must conduct or participate in clinical tests for effectiveness within the terms of the notices. In a notice published in the FEDERAL REGISTER of February 17, 1978 (43 FR 7044), the Commissioner modified the requirement for clinical testing in the interest of minimizing duplicative and costly clinical testing of essentially the same drug product and the burden that redundant testing places on already overloaded and scarce clinical testing resources. The Commissioner concluded that the public interest would be better served by not requiring each manufacturer to carry out clinical studies of its own product, as long as the required clinical studies are being conducted by at least one manufacturer on a drug product containing the same chemical ehtity in a similar dosage form. This notice implements that change in policy with respect to single-entity coronary vasodilators.

This change in policy applies only to requirements for clinical studies and does not eliminate present requirements for bioavailability studies on individual products as a condition of continued marketing while studies of effectiveness are in progress.

The August 26, 1977, notice, as amended by the October 21, 1977, notice, announced that all such products on the market at that time must be the subject of an NDA or the sponsor must submit an ANDA by December 27, 1977, and have it conditionally approved by May 23, 1978. It further required that all sponsors of such products who intended to conduct bioavailability studies notify FDA on or before November 28 1977. For products entering the market after August 26, 1977, it required the submission of an ANDA and a commitment to conduct bioavailability studies. The Food and Drug Administration has found that it could not complete by May 23, 1978, all action on all of the ANDA's submitted in response to the notice. The agency has needed more time to resolve with the applicants deficiencies in the original submissions not sufficiently serious to warrant outright disapproval and to validate the firms' analytical methods in FDA laboratories. Accordingly, the Commissioner is extending the date by which ANDA's must be conditionally approved.

Any drug product on the market after December 27, 1977, for which the sponsor failed to submit an ANDA and a commitment to conduct bioavailability studies is unlawfully marketed and is subject to immediate action to remove it from the market. Accordingly, the only products legally on the market on September 15, 1978, are those: (1) That are the subject of an approved NDA or were the subject of an ANDA by December 27, 1977 (and the ANDA has not been declared nonapprovable), and (2) for which, on or before November 28, 1977, the NDA holder or the ANDA applicant filed a notice of intent to conduct bioavailability studies. The Food and Drug Administration intends to initiate prompt regulatory action against all products affected by the August 26, 1977, and October 21, 1977, notices and this notice under category I of the administrative guideline "Marketed New Drugs Without Approved NDA's or ANDA's," the availability of which was announced in the FEDERAL REGISTER of September 23, 1976 (41 FR 41770).

The August 26, 1977, notice, as amended on October 21, 1977, announced that, for products on the market on August 26, 1977, bioavailability studies must be started by March 27, 1978, and completed within 6 months after their initiation. This would require that all bioavailability tests be completed by September 25, 1978, at the latest. The laboratories capable of conducting bioavailability tests, however, lacked the capacity to carry out these tests for all manufacturers requesting them by that deadline. The Commissioner concludes that additional time is justified. Accordingly, it is now required that all bioavailability tests be completed and submitted to FDA by March 14, 1979.

The August 26, 1977, and October 21, 1977, notices both announced that clinical trials must be completed and the results submitted to FDA by August 27, 1979. The Commissioner now finds that this date is not realistic because of the difficulty of locating and securing suitable patients and the time required for completing and analyzing the results of the studies. Accordingly, it is now required that clinical trials be completed and the results submitted to FDA no later than 2 years after their initiation or by September 15, 1981, whichever is earlier.

The Commissioner is aware of numerous protocols for clinical trials of coronary vasodilators that have been referred to in various submissions to the agency. Some of the trials may have been completed, others abandoned; but in most instances there has been no systematic summary of their status. Therefore, NDA and ANDA holders are being asked to supplement or amend their applications with a complete accounting of the status of all well-controlled clinical trials.

Therefore, the August 26, 1977, notice, as amended on October 21, 1977, is further amended as follows:

1. The section entitled "REQUIREMENTS FOR PRODUCTS NOW SUBJECTS OF APPROVED NDA'S" and the section entitled "REQUIREMENTS FOR PRODUCTS NOT NOW SUBJECTS OF APPROVED NDA'S" are replaced by the following section:

REQUIREMENTS FOR PRODUCTS THAT ARE SUBJECTS OF ABBREVIATED NDA'S (INCLUDING THOSE NOT YET CONDITIONALLY APPROVED) AND APPROVED NDA'S ON SEPTEMBER 15, 1978

Proceedings to withdraw approval of NDA's or to refuse approval of ANDA's on the basis of lack of substantial evidence of effectiveness will not be taken provided that each of the following conditions is met:

1. On or before October 16, 1978, each person who holds an approved NDA or who has submitted an ANDA in compliance with the requirements of the August 26, 1977, and October 21, 1977, notices (and the ANDA has not been declared nonapprovable) either supplements or amends such application, as appropriate, as follows. (If the information in the ANDA or supplemental NDA is complete and satisfactory, it will be conditionally approved pending conclusions concerning bioavailability studies of the sponsor's product and pending results of clinical studies of that product or another product to which the same effectiveness conclusions would apply. Such conditionally approved products will have the same legal status as products that are subjects of "deemed approved" applications reviewed in the drug efficacy study.)

a. To identify all previously submitted completed clinical studies of effectiveness that comply with the essentials of adequate and well-controlled clinical investigations as set forth in 21 CFR 314.111(a)(5)(ii).

b. To submit to FDA all previously unsubmitted completed clinical studies that comply with 21 CFR 314.111(a)(5)(ii).

c. To identify all ongoing clinical studies of effectiveness that are in compliance with 21 CFR 314.111(a)(5)(ii).

d. To inform FDA of plans either to conduct or not to conduct additional clinical studies of effectiveness.

2. Each sponsor is conducting or intends to conduct bioavailability studies and the studies are completed and submitted to the Division of Cardio-Renal Drug Products within 30 days after their completion or by March 14, 1979,

whichever is earlier. That division will inform the sponsor whether the bioavailability data are satisfactory. (If

cal dosage form, the ANDA or supplemental NDA is conditionally approved by December 1, 1978. All deficiencies

uct is bioavailable, proceedings will be commenced to withdraw or refuse approval of the application and future

(secs. 505, 701, 52 Stat. 1052-1053, as amended, 1055-1056, as amended (21 U.S.C. 355, 371)), the Administrative

The Commissioner reviewed the data and information submitted as part of the petition, as well as other relevant

[4110-08]

National Institutes of Health

whichever is earlier. That division will inform the sponsor whether the bioavailability data are satisfactory. (If FDA determines that the bioavailability studies are inadequate or fail to show that the product is bioavailable, proceedings will be commenced to withdraw or refuse approval of the application, and future clinical trials would necessitate submission of a "Notice of Claimed Investigational Exemption for a New Drug" (IND).)

3. A sponsor who has elected to conduct clinical studies submits a protocol for such studies to the Division of Cardio-Renal Drug Products by June 12, 1979.

4. If clinical studies are to be conducted, the studies are ongoing by September 17, 1979, and the sponsor informs the Division of Cardio-Renal Drug Products when studies are underway. Because clinical studies must be underway by September 17, 1979, the Division of Cardio-Renal Drug Products will at that time, upon request, inform interested persons of the identity of all products undergoing clinical study. Queries regarding products undergoing testing before that time will also be answered, but may be incomplete.

5. If the sponsor is not conducting clinical studies on its own product by September 17, 1979, another sponsor is conducting such studies on a product containing the same chemical entity in a similar dosage form. (If no person has elected to conduct clinical studies on a particular product, it follows that such product will no longer be eligible to remain on the market.) For purposes of this provision the following dosage forms are considered to be separate and distinct:

a. Conventional dosage forms involving oral tablets, capsules, and solutions.

b. Sublingual dosage forms.

c. Controlled-release dosage forms and oral products coated so as to significantly affect product dissolution and absorption.

d. Topical products from which the active ingredient is absorbed through the skin.

6. An analyzed progress report of the clinical studies is submitted annually to the Division of Cardio-Renal Drug Products, and a brief progress report is submitted at 6-month intervals.

7. Clinical studies are completed and the results submitted to the Division of Cardio-Renal Drug Products within 30 days after their completion or by September 15, 1981, whichever is earlier.

8. The FDA does not issue a nonapprovable letter to the applicant regarding an ANDA or supplemental NDA.

9. For a conventional oral dosage form, sublingual dosage form, or topical dosage form, the ANDA or supplemental NDA is conditionally approved by December 1, 1978. All deficiencies in the original submission must be resolved by this date.

10. For a controlled-release oral dosage form or products coated so as to significantly affect product dissolution and absorption, the ANDA or supplemental NDA is conditionally approved by April 1, 1979. All deficiencies in the original submission must be resolved by this date.

2. The section entitled "REQUIREMENTS FOR PRODUCTS ENTERING THE MARKET AFTER AUGUST 26, 1977" is replaced by the following:

REQUIREMENTS FOR PRODUCTS ENTERING THE MARKET AFTER SEPTEMBER 15, 1978

Regulatory action will not be taken against a product that enters the market after September 17, 1978, based upon the absence of an approved NDA (or an ANDA that was submitted in compliance with the August 26, 1977, and October 21, 1977, notices and has not been declared nonapprovable) under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), provided that each of the following conditions is met:

1. If the product is to be placed on the market on or before December 1, 1978 (if a conventional oral dosage form, sublingual dosage form, or topical dosage form), or April 1, 1979 (if a controlled-release oral dosage form or oral product coated so as to significantly affect product dissolution and absorption), prior to the start of marketing the sponsor submits an ANDA (21 CFR 314.1(f)); on or before March 14, 1979, the sponsor submits the data from completed bioavailability studies to the Division of Cardio-Renal Drug Products; and at the time the ANDA is submitted, the sponsor notifies the Division of Cardio-Renal Drug Products whether clinical studies will be conducted on the product.

2. If the sponsor does not intend to conduct clinical studies on its own particular product, another sponsor is conducting such studies on a product containing the same chemical entity in a similar dosage form as discussed in paragraph 5 above. By September 17, 1979, the Division of Cardio-Renal Drug Products will, upon request, inform interested persons of the identity of all products undergoing clinical study at that time. Queries regarding products undergoing studies before that time will also be answered, but may be incomplete.

The Division of Cardio-Renal Drug Products will inform the sponsor whether or not the bioavailability data are satisfactory. (If FDA determines that the bioavailability studies are inadequate or fail to show that the product is bioavailable, proceedings will be commenced to withdraw or refuse approval of the application and future clinical trials would necessitate an IND.)

If the information in the ANDA is complete and satisfactory, it will be conditionally approved pending conclusions concerning bioavailability studies of the sponsor's product and pending results of clinical studies of that product or another manufacturer's product to which the same effedtiveness conclusions would apply. Such conditionally approved products will have the same legal status as products that are subjects of "deemed approved" applications reviewed in the drug efficacy study.

3. A sponsor who elects to conduct clinical studies submits a protocol for such studies to the Division of Cardio-Renal Drug Products within 90 days after submitting the results of the bioavailability studies.

4. A sponsor who elects to conduct clinical studies begins the studies within 6 months after submitting the results of the bioavailability studies and informs the Division of Cardio-Renal Drug Products when the studies are underway.

5. An analyzed progress report of the clinical studies is submitted annually to the Division of Cardio-Renal Drug Products and a brief progress report is submitted at 6-month intervals.

6. Clinical studies are completed and the results submitted to the Division of Cardio-Renal Drug Products within 30 days after their completion or by September 15, 1981, whichever is earlier.

7. For a conventional oral dosage form, sublingual dosage form, or topical dosage form, the ANDA is conditionally approved by December 1, 1978. All deficiencies in the original submission must be resolved by this date.

8. For a controlled-release oral dosage form and oral products coated so as to significantly affect product dissolution and absorption, the ANDA is conditionally approved by April 1, 1979. All deficiencies in the original submission must be resolved by this date.

9. For a product that is to be placed on the market after December 1, 1978, if the product is a conventional oral dosage form, sublingual dosage form, or topical dosage form, or for a product to be placed on the market after April 1, 1979, if the product is a controlled-release oral dosage form (or an oral product coated so as to significantly affect product dissolution and absorption), the sponsor first submits and obtains conditional approval of an ANDA prior to marketing the product.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 505, 701, 52 Stat. 1052-1053, as amended, 1055-1056, as amended (21 U.S.C. 355, 371)), the Administrative Procedure Act (5 U.S.C. 553, 554), and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: September 7, 1978.

MERVIN H. SHUMATE,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-25811 Filed 9-14-78; 8:45 am]

[4110-03]

[Docket No. 77P-0289]

TOPICAL OINTMENT MYCITRACIN AND OINTMENT BACIGUENT

Exemption From Certification

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs announces approval of the Upjohn Co.'s petition requesting that two of its antibiotic drug products, Topical Ointment Mycitracin and Ointment Baciguent, be exempted from the batch certification requirements for antibiotic drugs. The Commissioner has reviewed pertinent information and has concluded that the petitioner meets the conditions for exemption specified in the antibiotic drug regulations. The agency has notified the petitioner by letter that the petition was approved and is issuing this notice in compliance with the regulations.

EFFECTIVE DATE: September 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert J. Rice, Jr., Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: Based on authority provided in section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), the antibiotic drug regulations in § 433.1 (21 CFR 433.1) establish the procedures for obtaining exemption from batch certification of topical antibiotic drugh products. The Upjohn Co., Kalamazoo, Mich., in accordance with § 433.1, filed a petition (FDA Docket No. 77P-0289, on public file at the office of the Hearing Clerk (HFA-305), Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857) requesting exemption from batch certification of two antibiotic drug products, Topical Ointment Mycitracin and Ointment Baciguent.

The Commissioner reviewed the data and information submitted as part of the petition, as well as other relevant factors regarding the certification history of the two drug products. He concluded that under the conditions of § 433.1 agreed to by the petitioner, batch certification of Topical Ointment Mycitracin and Ointment Baciguent is not necessary to ensure safety and efficacy of such drug products. Therefore, the petitioner was notified that the petition was granted and that batch certification of these two products, manufactured at the Kalamazoo, Mich. facility, would no longer be required, provided the conditions of § 433.1 continue to be met.

Dated: September 7, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 78-25810 Filed 9-14-78; 8:45 am]

[4110-84]

Health Services Administration

MATERNAL AND CHILD HEALTH RESEARCH GRANTS REVIEW COMMITTEE

Reestablishment

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463 (5 U.S.C. Appendix I), the Health Services Administration announces the reestablishment by the Acting Secretary, HEW, with concurrence by the General Services Administration, of the following advisory committee:

Designation. Maternal and Child Health Research Grants Review Committee.

Purpose. The Committee shall advise the Secretary and the Administrator, Health Services Administration, regarding research grants in the field of maternal and child health and reviews applications for grants to improve the operation, functioning, and general usefulness and effectiveness of maternal and child health services of all kinds by providing financial support for studies that may contribute to the advancement of health services for mothers and children.

Authority for this Committee will expire on June 30, 1980, unless the Secretary, HEW, with the concurrence of the General Services Administration, formally determines that continuance is in the public interest.

Dated: September 5, 1978.

WILLIAM H. ASPDEN, JR.,
Associate Administrator for Management.

[FR Doc. 78-26033 Filed 9-14-78; 8:45 am]

[4110-08]

National Institutes of Health

REPORT ON BIOASSAY OF 1,4-DIOXANE FOR POSSIBLE CARCINOGENICITY

Availability

1,4-dioxane (CAS 123-91-1) has been tested for cancer-causing activity with rats and mice in the carcinogenesis program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 1,4-dioxane for possible carcinogenicity was conducted by administering the test chemical in the drinking water to Osborne-Mendel rats and B6C3F1 mice.

Groups of 35 rats and 50 mice of each sex were administered 1,4-dioxane at concentrations of either 0.5 percent or 1.0 percent (v/v) in the drinking water. Because of variations in intake of water, the doses of test chemical received by the high-dose groups were not precisely twice those received by the low-dose groups; in the male mice, the high dose was only slightly greater than the low dose. The rats were dosed for 110 weeks and the mice for 90 weeks. Matched controls consisted of 35 untreated rats and 50 untreated mice of each sex. All surviving rats were killed at 110-117 weeks and all surviving mice at 90-93 weeks.

The mean body weights of the rats and mice were not consistently affected by the administration of dioxane. Survival rates of the dosed groups of rats and female mice were lower than those of corresponding control groups, but sufficient numbers of animals were at risk for development of late-appearing tumors.

It is concluded that under the conditions of this bioassay, 1,4-dioxane induced hepatocellular adenomas in female Osborne-Mendel rats. 1,4-dioxane was carcinogenic in both sexes of rats, producing squamouscell carcinomas of the nasal turbinates, and in both sexes of B6C3F1 mice, producing hepatocellular carcinomas.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: September 5, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-25680 Filed 9-14-78; 8:45 am]

[4110-08]

tional Institutes of Health, Bethesda, Md. 20014.

ess involving all the project schools, the community and the institution of higher education?

local educational agency's organizational structure, well defined and agreed upon?

of higher education and the community council?

4. Are the objectives designed to re-

higher education to teacher-interns, include:

(a) Practical classroom experience?

V 43 / 180 / SEP 15 78

[4110-08]

REPORT ON BIOASSAY OF N-PHENYL-P-PHENYLENEDIAMINE FOR POSSIBLE CARCINOGENICITY

Availability

N-Phenyl-p-phenylenediamine (CAS 101-54-2) has been tested for cancer-causing activity with rats and mice in the carcinogenesis program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of N-Phenyl-p-phenylenediamine for possible carcinogenicity was conducted by administering the test chemical in the diet to Fischer 344 rats and B6C3F1 mice.

Groups of 50 rats of each sex were administered N-Phenyl-p-phenylenediamine at one of two doses, either 600 or 1,200 ppm, for 78 weeks and were then observed for 26 additional weeks. Matched controls consisted of groups of 20 untreated rats of each sex. All surviving rats were killed at 104 weeks.

Groups of 50 mice of each sex were initially administered N-Phenyl-p-phenylenediamine at one of the following doses, either 2,500 or 5,000 ppm for the males and either 5,000 or 10,000 ppm for the females, for 31 weeks. Because of toxicity of the chemical, the doses were lowered at that time and terminated at 48 weeks. The animals were then observed for 43 additional weeks. Time-weighted average doses during the period of administration were 2,057 or 4,114 ppm for the males and 3,672 or 8,170 ppm for the females. Matched controls consisted of groups of 20 untreated mice of each sex. All surviving mice were killed at 91 weeks.

Mean body weights of the dosed rats were only slightly lower than those of the matched controls during the bioassay. Mean body weights of the dosed mice were appreciably lower than those of the matched controls, and mortality was high in the dosed groups prior to reduction of the doses, particularly in the females. Sufficient numbers of rats and mice of each sex were at risk for the development of late-appearing tumors; however, the shortened period used for administering N-Phenyl-p-phenylenediamine to the mice may not have been adequate for determining the carcinogenic potential of the test chemical in this species.

It is concluded that under the conditions of this bioassay, N-Phenyl-p-phenylenediamine was not carcinogenic for Fischer 344 rats or for B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: August 18, 1978.

THOMAS E. MALONE,
Acting Director,
National Institutes of Health.

[FR Doc. 78-25681 Filed 9-14-78; 8:45 am]

[4110-02]

Office of Education

GRANTS UNDER THE TEACHER CORPS PROGRAM

Suggested Questions To Consider in Preparing an Application

INTRODUCTION

Although they are not required to do so, it is suggested that applicants consider the questions in this document when they prepare applications for grants under the Teacher Corps program (20 U.S.C. 1101 et seq.). These questions are designed to assist applicants in addressing the evaluation criteria set forth in subpart F of the Teacher Corps regulation (45 CFR 172). While these questions do not constitute an all inclusive list, they are useful questions to think about. In the past, applications that have received high evaluations have addressed these kinds of questions. The questions are listed under the criteria that they address.

QUESTIONS TO CONSIDER

I. *School learning climate criterion.* (Sec. 172.151.) (25 points)

A. *To what extent are the objectives developed under sec. 172.62 (school learning climate) likely to achieve the outcome in sec. 172.60(a) (improved school learning climate)?* (Sec. 172.151(a).) (8 points)

1. Do the school learning climate objectives include each of the following and will they produce measurable results:

(a) Education that is multicultural—promotes knowledge of and sensitivity to the needs of diverse cultures?

(b) School programs that can accomodate a wide range of varibility?

(c) School programs that focus on identifying children with learning or behavioral problems, diagnosing their special needs and prescribing specific learning activities?

2. Were the objectives developed as a result of an assessment of the needs in the community?

3. Are the objectives designed to affect the total school learning environment?

4. Were the objectives developed through a collaborative planning process involving all the project schools, the community and the institution of higher education?

5. Is there evidence that the principal controllers of educational resources (i.e., the community council chairman, school superintendent and the dean of the college of education) are committed to achieving the objectives?

6. Are the objectives realistic, when one considers the existing shool environment, community environment and available resources?

7. Is there a basis for each of the objectives in research, theory or practical experience?

B. *To what extent are the project activities likely to accomplish the school learning climate objectives developed under sec. 172.62?* (Sec. 172.151(b).) (9 points)

1. Are the project activities directly related to the objectives and to the processes that are designed to achieve those objectives?

2. Do the project activities focus on continued planning with the collaborative involvement of significant groups in the school, community and institution of higher education?

3. Are the project activities comprehensive; that is, do they emphasize total school-community involvement and offer a broad range of school and community activities?

4. Do the project activities provide a variety of options for achieving the same goals or objectives?

5. Is there evidence that adequate resources are available, or will be made available, to carry out the project activities that are designed to improve the school learning climate?

6. Have the local educational agency and institution of higher education provided adequate resources for school based programs in the past?

7. Do the project activities include:

(a) Programs that provide multicultural education?

(b) Programs that accommodate a wide range of variability in children?

(c) Programs that focus on identifying children with learning or behavioral problems, diagnosing special needs, and prescribing specific learning activities?

8. Do the activities affect the entire school staff in the project schools?

C. *To what extent is the management plan for accomplishing the school learning climate objectives, developed under sec. 172.62, realistic and economical?* (Sec. 172.151(c).) (8 points)

1. In the past, have the local educational agency and institution of higher education demonstrated their ability to successfully manage change through collaborative efforts focused on school learning climate objectives?

2. Is the project's organizational structure, and its relationship with the

local educational agency's organizational structure, well defined and agreed upon?

3. Are the responsibilities for planning, development and implementation of the objectives well defined?

4. Is there a realistic timetable for planning, development, implementation dissemination and evaluation of the objectives?

5. Is there a collaborative system for shared decisionmaking that:

(a) Involves all significant groups in the community, the project schools and the institution of higher education?

(b) Provides for two-way communication between the project staff and such groups?

(c) Uses the representation of such groups to expedite decisionmaking?

(d) Includes an efficient process for input and decisionmaking?

6. Is there evidence that a shared decisionmaking process (involving all significant groups in the community, the project schools and the institution of higher education) was used on the planning and development of the application?

7. Is there an evaluation program that will assess both the process and the product and provide feedback to the project management, community council and policy board?

8. Does the management plan cover all the project years and provide for annual revision?

9. Does the management plan identify and describe the resources that are needed?

(U.S.C. 1103(g).)

II. *Educational personnel development system criterion* (Sec. 172.152) (36 points).

A. *To what extent are the objectives developed under sec. 172.63 (educational personnel development system) likely to achieve the outcome in Sec. 172.60(b) (improved educational personnel development system)?* (Sec. 172.152(a).) (9 points)

1. Do the educational personnel development system objectives include:

(a) Improving the methods used by the local educational agency and the institution of higher education?

(b) Increasing the capacity of the institution of higher education to provide training related to the school learning climate objectives?

(c) Providing both pre-service and in-service training as an integral process that will produce measurable outcomes?

2. Were the objectives developed from an assessment of the needs in each of the project schools?

3. Were the objectives developed through a collaborative planning process, that involves the school (specifically the school staff), the institution of higher education and the community council?

4. Are the objectives designed to respond to the needs of the entire staff in each of the project schools?

5. Is there evidence that the principal controllers of educational resources (i.e., the school superintendent, dean of the college of education and community council chairman) are committed to achieving the objectives?

6. Are the objectives realistic in relation to existing policies of the local educational agency, professional organizations and the available resources?

7. Is there a basis for each of the objectives in research, theory or experience?

B. *To what extent are the project training activities likely to accomplish the objectives developed under Sec. 172.63(b) (development of the capacity of the institution of higher education to provide training that will achieve the objectives under sec. 172.62(b)?* (Sec. 172.152(b).) (9 points)

1. Do the project training activities relate directly to the educational personnel development system objectives?

2. Do the project training activities focus on continued planning with the collaborative involvement of significant groups in the local educational agency, institution of higher education and community?

3. Are the project training activities comprehensive; that is, do they emphasize involvement of the total school staff and offer a broad range of staff development activities?

4. Do the project training activities provide a variety of options for achieving the same goals or objectives?

5. Is there evidence that adequate resources are available to carry out the training activities that are designed to establish new educational personnel development systems?

6. In the past, has the institution of higher education provided adequate resources for educational personnel development efforts?

7. Do the project training activities develop the capacity of the institution of higher education to provide training that will achieve the objectives?

8. Are the pre-service and in-service training activities of the institution of higher education part of an integral process?

9. Are the project training activities of the institution of higher education designed to achieve the objectives and improve the competency of the educational personnel?

10. Do the project training activities of the institution of higher education include training for volunteers and teacher aides that is designed to prepare them for service in the project?

11. Do the project training activities, that are provided by the institution of higher education to teacher-interns, include:

(a) Practical classroom experience?

(b) Academic study?

(c) Practical experiences and training in the community served by the project?

12. Do the project training activities include involving the project staff from the institution of higher education in activities at the project schools and in the community?

C. *To what extent are the project training activities likely to accomplish the objectives developed under sec. 172.63(a) and (c) (basic and systemic improvements in the methods used by the institution of higher education and the local educational agency to train educational personnel; provision of pre-service and in-service training as an integral process)?* (Sec. 172.152(c).) (9 points)

1. Are the project training activities directly related to the objectives?

2. Do the project training activities focus on continued planning with the collaborative involvement of significant groups in the local educational agency, institution of higher education and community?

3. Are the described project training activities comprehensive; that is, do they emphasize the involvement of the entire school staff and offer a broad range of training activities?

4. Do the project training activities provide a variety of options for achieving the same goals or objectives?

5. Is there evidence that adequate resources are available to provide the project training activities?

6. In the past, has the local educational agency provided adequate training resources?

7. Will the local educational agency provide adequate time for teachers to participate in the project training activities?

8. Do the project training activities provide pre-service and in-servicxe training as an integral process?

9. Do the project training activities provide for the participation of team leaders, including supervising the teacher-interns during their experience at all the project schools?

D. *To what extent is the management plan for accomplishing the educational personnel development system objectives developed under sec. 172.63 realistic and economical?* (Sec. 172.152(d).) (9 points)

1. In the past, have the local educational agency and the institution of higher education demonstrated their ability to successfully manage change, through collaborative efforts focused on educational personnel development?

2. Is the project's organizational structure, and its relationship with the organizational structures of the insti-

tution of higher education and local educational agency, well defined and agreed to?

(*institutionalization objectives*)? (Sec. 172.153(b).) (8 points)

1. Are the project activities directly

practices to a broad range of groups in educational agencies and institutions?

3. Were the objectives developed as a

6. Does the management plan provide a sound method for evaluation so that only the successful elements of the project are adopted by other

b. *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate that the application forms and

The campus and State grant branch will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Satur-

tution of higher education and local educational agency, well defined and agreed to?

3. Are the responsibilities for the planning, development, and implementation of the objectives well defined?

4. Is the timetable for planning, development, implementation, and evaluation of the activities realistic?

5. Is there a collaborative system for shared decisionmaking that:

(a) Involves all significant groups?

(b) Provides for two-way communication between the project staff and significant groups?

(c) Uses representation from significant groups to expedite decisionmaking?

6. Is there evidence that a shared decisionmaking process, that involves all significant groups, was used in planning the objectives and project activities?

7. Is there an evaluation program that assesses both the process and the product and provides feedback to the project staff, community council and policy board?

(20 U.S.C. 1193(g).)

III. Institutionalization criterion (Sec. 172.153.) (21 points)

A. *To what extent are the objectives developed under sec. 172.64 (institutionalization) likely to achieve the outcome in sec. 172.60(c) (continuation of educational improvements made as a result of the project, after Federal funding ends)?* (Sec. 172.153(a).) (7 points)

1. Do the institutionalization objectives specifically described the methods that will be used to institutionalize the successful products, processes and practices that result from the project?

2. Are the objectives designed to affect both the educational programs (in the school and community) and the educational personnel development systems (in the local educational agency and institution of higher education)?

3. Were the objectives developed as a result of a collaborative planning process that involved the local educational agency, the community council and the institution of higher education?

4. Is there evidence that the principal controllers of educational resources (i.e., the community council chairman, school superintendent and dean of the college of education) are committed to achieving the objectives?

5. Are the objectives realistic, when one considers the resources of the local educational agency, community and institution of higher education (as well as the administrative and programmatic constraints)?

B. *To what extent are the project activities likely to accomplish the objectives developed under sec. 172.64 (institutionalization objectives)?* (Sec. 172.153(b).) (8 points)

1. Are the project activities directly related to the objectives?

2. Do the project activities focus on continued planning and shared decisionmaking involving significant groups in the local educational agency, institution of higher education and community?

3. Do the project activities provide different options for achieving the same goals or objectives?

4. Is there evidence that adequate resources will be available to carry out the project activities, as an ongoing local effort, once the Federal funding ends?

5. Is documentation of the project activities provided for as an ongoing process?

C. *To what extent is the management plan for accomplishing the objectives developed under sec. 172.64 (institutionalization objectives) realistic and economical?* (Sec. 172.153(c).) (6 points)

1. In the past, have the local educational agency and institution of higher education successfully managed the adoption of project results into their ongoing education programs?

2. Is the process for transition from Teacher Corps project operation to ongoing educational program operation well defined with respect to the organizational structures and responsibilities?

3. Is there a collaborative method for:

(a) Systematically evaluating the programs and practices introduced by the project?

(b) Determining which practices should, and should not, be continued?

(c) Developing an institutionalization plan for those practices that are successful?

4. Is the timetable for institutionalization realistic?

5. Are there specific plans outlined for the continuation of the educational improvements, made as a result of the project, in the local educational agency and the institution of higher education.

(20 U.S.C. 1103(g).)

IV. *Adaptation of educational improvements criterion* (Sec. 172.154.) (18 points)

A. *To what extent are the objectives developed under sec. 172.65 (demonstration and dissemination) likely to achieve the outcome in sec. 172.60(d) (adaptation of educational improvements)?* (Sec. 172.154(a).) (6 points)

1. Do the adaptation objectives describe specific methods for dissemination to other educational agencies and institutions?

2. Do the objectives propose dissemination of processes, products, and practices to a broad range of groups in educational agencies and institutions?

3. Were the objectives developed as a result of a collaborative planning process that involved the local educational agency, community council and institution of higher education?

4. Is there evidence that the principal controllers of educational resources (i.e., the community council chairman, school superintendent and dean of the school of education) are committed to achieving the objectives?

5. Do the objectives realistically reflect the amount of resources available for dissemination activities and the nature of the educational agencies and institutions involved?

B. *To what extent are the project activities likely to accomplish the demonstration and dissemination of the adaptation objectives developed under sec. 172.65?* (Sec. 172.154(b).) (6 points)

1. Are the project activities, that are designed to achieve adaptation, specifically described.

2. Are the project activities directly related to the objectives?

3. Do the project activities focus on planning and dissemination methods that are efficient and cost effective ways of communicating with groups in other educational institutions and agencies?

4. Do the project activities provide for dissemination to a broad range of user groups?

5. Do the project activities include a wide variety of options to meet the needs of different user groups at different levels of understanding?

6. Is there evidence that adequate resources are available to carry out the adaptation activities?

C. *To what extent is the management plan for achieving the demonstration and dissmination objectives developed under sec. 172.65 realistic and economical?* (Sec. 172.154(c).) (6 points)

1. In the past, have the local educational agency and institution of higher education effectively disseminated educational improvements to other agencies and institutions?

2. Is there an organizational plan that clearly describes the responsibilities of the project staff, local educational agency, institution of higher education and community council?

3. Are the significant groups from the local educational agency, institution of higher education and community council involved in the planning, development and implementation of the dissemination efforts?

4. Is the timetable for planning and implementing the adaptation activities realistic?

5. Does the management plan consider the needs of user groups in other agencies and institutions, in determining the most effective methods for demonstration and dissemination?

6. Does the management plan provide a sound method for evaluation so that only the successful elements of the project are adopted by other groups?

(20 U.S.C. 1103(g).)

(Catalog of Federal Domestic Assistance Program No. 13.489.)

Dated: September 10, 1978.

EARNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-26087 Filed 9-14-78; 8:45 am]

[4110-02]

Office of Education

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT, COLLEGE WORK-STUDY, AND NATIONAL DIRECT STUDENT LOAN PROGRAMS

Closing Dates for Filing Applications, Corrections, and Appeals for Funds and for Establishing Eligibility

The Commissioner of Education gives notice that:

1. An eligible institution of higher education may apply for fiscal year 1979 funds—for use in the 1979-80 award period—under the supplemental educational opportunity grant (SEOG), college work-study (CWS), and national direct student loan (NDSL) programs;

2. An institution of higher education that is seeking eligibility status may apply for fiscal year 1979 funds—for use in the 1979-80 award period—under the SEOG, CWS, and NDSL programs;

3. An area vocational school may apply for fiscal year 1979 funds—for use in the 1979-80 award period—under the CWS program; and

4. An area vocational school that is seeking eligibility status may apply for fiscal year 1979 funds—for use in the 1979-80 award period—under the CWS program.

These programs allocate to institutions funds to assist students who need financial aid to meet the cost of postsecondary education.

The SEOG, CWS, and NDSL are authorized respectively by Title IV-A-2, C and E of the Higher Education Act of 1965.

(20 U.S.C. 1070b-1070b-3; 42 U.S.C. 2751-2756; and 20 U.S.C. 1087aa-1087bb.)

a. *Closing dates.* Applicants shall observe the following closing dates:

1. For submitting applications for funds, October 16, 1978.

2. For submitting corrections to applications for funds or to fiscal-operations reports, December 1, 1978.

3. For submitting appeals for funds, January 8, 1979.

4. For establishing institutional eligibility, January 15, 1979.

b. *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate that the application forms and instructions will be ready for mailing on or about September 15, 1978.

An applicant institution shall prepare and submit its application in accordance with the instructions included in the package sent to it.

The Commissioner reviews and edits, by computer, applications, and accompanying fiscal-operations reports. The Commissioner mails to each institution:

(1) A notice of the recommended funding levels by program, or

(2) Instructions for making any necessary corrections. In accordance with these instructions, an institution shall return corrected versions of edited applications and fiscal-operations reports.

The U.S. Office of Education, Washington, D.C., must receive all corrections no later than December 1, 1978.

The notice of recommended funding levels also includes instructions to an institution that may wish to appeal one or more recommended amounts. An institution that files an appeal shall file in accordance with these instructions.

The U.S. Office of Education, Washington, D.C., must receive all appeals no later than January 8, 1979.

c. *Applications sent by mail.* An applicant shall address a mailed application to the U.S. Office of Education, Bureau of Student Financial Assistance, Division of Program Operations, Campus and State Grant Branch, Room 4621, Regional Office Building, 3, 400 Maryland Avenue SW., Washington, D.C. 20202.

In order for an application to be assured of consideration, an applicant must mail it on or before the pertinent closing date and must provide the following proof of mailing.

Proof of mailing consists of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. An applicant should check with its local post office before relying on this method.

The Commissioner encourages an applicant to use registered for first-class mail.

d. *Applications delivered by hand.* An application that is hand-delivered must be taken to: The U.S. Office of Education, Campus and State Grant Branch, Room 4621, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The campus and State grant branch will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

e. *Eligibility deadline.* The Commissioner accepts, processes, and reviews applications from institutions that have not qualified as eligible institutions of higher education under sections 491(b) or 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1085(b), 1141(a)).

For an institution to receive an allocation of fiscal year 1979 funds, the Division of Eligibility and Agency Evaluation, Bureau of Higher and Continuing Education, U.S. Office of Education, must have received by January 15, 1979, all materials and documents necessary for the Commissioner to determine whether that institution is an eligible institution of higher education.

Similarly, the Commissioner accepts applications from area vocational schools whose eligibility to participate in the CWS program has not been established.

For an area vocational school to receive an allocation of fiscal year 1979 funds, the Division of Eligibility and Agency Evaluation, Bureau of Higher and Continuing Education, U.S. Office of Education, must have received by January 15, 1979, all materials necessary for the Commissioner to determine whether that school is an area vocational school.

f. *Further information.* For further information contact Mr. Robert Coates, Acting Chief, Campus and State Grant Branch, Division of Program Operations, Room 4621, Regional Office Building 3, 400 Maryland Avenue SW., Washington, D.C. 20202; telephone 202-245-2432.

g. *Applicable regulations.* The regulations applicable to these programs are:

1. SEOG: 45 CFR part 176;
2. CWS: 45 CFR part 175: and
3. NDSL: 45 CFR part 144.

All of these program regulations were published in the FEDERAL REGISTER on August 24, 1978 (43 FR 37896-37956).

(20 U.S.C. 1070b-3; 42 U.S.C. 2756; 20 U.S.C. 1087bb(b).)

(Catalog of Federal Domestic Assistance No. 13.418, Supplemental Educational Opportunity Grant Program; 13.463, College Work-Study Program; and 13.471, National Direct Student Loan Program.)

Dated: September 12, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-26102 Filed 9-14-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

[4310-84]

[NM 34435]

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 7 W.,

Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,

The proposed pipelines will transport natural gas produced from the Whiskey Buttes Well No. 21 located in the NE¼SW¼ sec. 9 to a point of con-

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA DESERT CONSERVATION AREA

Wilderness Inventory

Notice is hereby given that the Bureau of Land Management is conducting a wilderness inventory on the public lands of the California desert conservation area in accordance with section 603 of the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579). This and other resource inventories are being conducted at this time in order to comply with the requirement of section 601(d) of the Act that the California desert plan be completed by September 30, 1980.

Field analysis utilizing the Bureau of Land Management's draft wilderness procedures as guidelines, as well as extensive public involvement, have been underway since May 1, 1978, and will continue through November 1, 1978. Public involvement has included seventeen public meetings and twenty-eight workshops in addition to news releases and mailings to obtain input on the existence of wilderness characteristics and roads in areas identified tentatively as "roadless" within the conservation area.

The Bureau will issue a draft wilderness inventory map and narratives for the California desert conservation area on November 1, 1978, to be followed by a 90-day period for public review and comment. Public meetings will be held December 4-15, 1978, at times and places to be announced in a subsequent notice.

Persons who wish to receive additional information or a copy of the November report and notice of meeting locations are invited to write the BLM Wilderness Inventory Team, Riverside District Office, 1695 Spruce Street, Riverside, Calif. 92507, and request their names be placed on the mailing list.

At the close of the 90-day public review period (February 1, 1979), the Bureau will prepare the final map showing wilderness study areas in the California desert conservation area. Study areas will be those areas which have been found to have the characteristics necessary for consideration by Congress for inclusion within the national wilderness preservation system as provided for in section 603(a) of Pub. L. 94-579.

Dated: September 7, 1978.

ROBERT E. METZGER,
Acting State Director.

[FR Doc. 78-26034 Filed 9-14-78; 8:45 am]

[4310-84]

[NM 34435]

NEW MEXICO

Notice of Application

SEPTEMBER 5, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Phillips Petroleum Co. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 31 E.,
Sec. 27, SW¼SE¼;
Sec. 33, SE¼NE¼;
Sec. 34, NW¼NE¼ and NW¼.

This pipeline will convey natural gas across 1.085 miles of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-26035 Filed 9-14-78; 8:45 am]

[4310-84]

[NM 34484]

NEW MEXICO

Application

SEPTEMBER 5, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corp. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 32 N. R. 7 W.,
Sec. 34, N½NE¼.

This pipeline will convey natural gas across 0.087 of a mile of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-26036 Filed 9-14-78; 8:45 am]

[4310-84]

[NM 34490]

NEW MEXICO

Notice of Application

SEPTEMBER 6, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Co. has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 16 S., R. 24 E.,
Sec. 25, E½SW¼ and SW¼SW¼;
Sec. 35, E½NE¼ and SW¼NE¼.

This pipeline will convey natural gas across 1.074 miles of public land in Eddy County, N.M.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N.Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-26037 Filed 9-14-78; 8:45 am]

[4310-84]

[NM 34427, 34428, 34429, 34430, and 34431]

NEW MEXICO

Notice of Applications

SEPTEMBER 7, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for five 4½-inch pipeline and related facilities rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 7 W.,
Sec. 25, NE¼SE¼.
T. 30 N., R. 7 W.,
Sec. 8, E½SE¼;
Sec. 9, S½NW¼, NE¼SW¼, and W½SW¼;
Sec. 16, NW¼NW¼.
T. 29 N., R. 8 W.,
Sec. 26, N½NW¼ and SW¼NW¼.

These pipelines will convey natural gas across 1.315 miles of public lands in Rio Arriba and San Juan Counties, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested person desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-26038 Filed 9-14-78; 8:45 am]

[4310-84]

[NM 34426]

NEW MEXICO

Notice of Application

SEPTEMBER 7, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for two 4½-inch natural gas pipelines and related facilities right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R. 34 E.,
Sec. 6, SE¼SW¼;
Sec. 7, E½W½;
Sec. 18, NE¼NW¼.

These pipelines will convey natural gas across 1.324 miles of public lands in Lea County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-26039 Filed 9-14-78; 8:45 am]

[4310-84]

[NM 34436]

NEW MEXICO

Application

SEPTEMBER 8, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Phillips Petroleum Co. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R. 32 E.,
Sec. 3, NE¼SW¼ and NW¼SE¼.

This pipeline will convey natural gas across 0.202 of a mile of public land in Lea County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-26040 Filed 9-14-78; 8:45 am]

[4310-84]

[Wyoming 64657]

WYOMING

Notice of Application

SEPTEMBER 7, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Stauffer Chemical Co. of Wyoming of Green River, Wyo., filed an application for a right-of-way to construct 4-inch lateral pipelines for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 21 N., R. 112 W.,
Sec. 10, NW¼SW¼;
Sec. 14, W½SW¼;
Sec. 22, NW¼NE¼ and N½NW¼.

The proposed pipelines will transport natural gas produced from the Whiskey Buttes Well No. 21 located in the NE¼SW¼ sec. 9 to a point of connection with Stauffer Chemical Co. of Wyoming's existing mainline located in the SW¼SW¼ sec. 10; from the Whiskey Buttes Well No. 9 located in the NE¼SW¼ sec. 21 to a point of connection with the same mainline in the NW¼SW¼ sec. 14, and from the Whiskey Buttes Well No. 19 in the NE¼SW¼ sec. 15 to a point of connection with the proposed pipeline to be located in the NW¼NE¼ sec. 22, T. 21 N., R. 112 W., all within Lincoln County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-26041 Filed 9-14-78; 8:45 am]

[4310-84]

[Wyoming 65023]

WYOMING

Notice of Application

SEPTEMBER 5, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Mountain Fuel Supply Co. of Salt Lake City, Utah, filed an application for a 12¾-inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 106 W.,
Sec. 14, S½NE¼, E½NW¼ and NE¼SE¼;
Sec. 24, W½NE¼ and NW¼SE¼.

The proposed pipeline will transport natural gas from an existing pipeline in sec. 14, T. 18, N., R. 106 W., in a southeasterly direction to a point of connection with an existing compressor station site in sec. 24, T. 18 N., R. 106 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address

the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., c.s.t., De-

value of lease production during each calendar quarter. For purposes of determining the royalty percent due on production during a quarter, the value

Figure 1
Form of the Sliding Royalty Schedule

Quarterly

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Highway 187 North, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-26042 Filed 9-14-78; 8:45 am]

[4310-84]

Bureau of Land Management

OUTER CONTINENTAL SHELF, WESTERN AND CENTRAL GULF OF MEXICO

Proposed Oil and Gas Lease Sale No. 51

In connection with oil and gas leasing on the Outer Continental Shelf, the Secretary of the Interior has established a policy relating to sale notices to further and enhance consultation with the affected coastal States. That policy includes providing the affected States with the opportunity to review the draft proposed sale notice prior to its final publication in the FEDERAL REGISTER. The following is a draft sale notice for proposed Sale No. 51 in the offshore waters of the Western and Central Gulf of Mexico area. This notice is hereby published as a matter of information to the public.

Dated: September 8, 1978.

ARNOLD E. PETTY,
Acting Associate Director, Bureau of Land Management.

CECIL D. ANDRUS,
Secretary of the Interior.

PROPOSED SALE NOTICE

1. *Authority.* This notice is published pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343), as amended, and the regulations issued thereunder (43 CFR Part 3300).

2. *Filing of bids.* Sealed bids will be received by the Manager, New Orleans Outer Continental Shelf (OCS) Office, Bureau of Land Management, Hale Boggs Federal Building, 500 Camp Street, Suite 841, New Orleans, La. 70130. Bids may be delivered, either by mail or in person, to the above address until 4:15 p.m., c.s.t., December 1978; or by personal delivery to (sale site in New Orleans, La. to be announced) between the hours of 8:30 a.m., c.s.t., and 9:30 a.m., c.s.t., December —, 1978. Bids received by the Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., c.s.t., December —, 1978. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 43 FR 1978.

3. *Method of bidding.* A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10 a.m., c.s.t., December —, 1978," must be submitted for each tract. A suggested form appears in paragraph 17 of this notice. Bidders are advised that tract numbers are asigned solely for administrative purposes and are not the same as block numbers found on official protraction diagrams or leasing maps. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one fifth of the cash bonus in cash or by cashier's check, bank draft, certified check, or money order payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 13 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, as well as submit a sworn statement that the bidder is qualified under 43 CFR Part 3302. The suggested form for this statement to be used in joint bids appears in paragraph 18. Other documents may be required of bidders under 43 CFR 3302.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. *Bonus bidding with a fixed sliding scale royalty.* Bids on tracts 51-1, 51-2, 51-3, 51-4, 51-5, 51-6, 51-7, 51-9, 51-10, 51-23, 51-24, 51-25, 51-26, 51-27, 51-28, 51-29, 51-30, 51-31, 51-35, 51-36, 51-37, 51-38, 51-39, 51-40, 51-44, 51-45, 51-72, 51-73, 51-75, 51-76, 51-80, 51-86, 51-87, 51-88, 51-89, 51-90, 51-91, 51-92, 51-93, 51-98, 51-99, 51-105, 51-107, 51-108, 51-109, 51-111, 51-119, 51-125, 51-127, 51-128, 51-129, 51-131, 51-132, 51-135, 51-136, 51-137, 51-142, 51-144, and 51-145 must be submitted on a cash bonus bid basis with the percent royalty due in amount or value of production saved, removed or sold fixed according to the sliding scale formula described below. This formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter. For purposes of determining the royalty percent due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64.

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than or equal to $13.236229 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $13.236230 million, but less than or equal to $1662.854082 million, the royalty percent due on the unadjusted value or amount of production is given by

$$R_j = b[\mathrm{Ln}\,(V_j/S)]$$

where

R_j = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j
b = 10.0
Ln = natural logarithm
V_j = the value of production in quarter j, adjusted for inflation, in millions of dollars
S = 2.5

When the adjusted quarterly value of production is equal to or greater than $1662.854083 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In determining the quarterly percent royalty due, R_j, the calculation will be carried to five decimal places (for example, 20.17329 percent). This calculation will incorporate the adjusted quarterly value of production, V_j, in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 15.392847 millions of dollars).

The form of the sliding scale royalty schedule is illustrated in figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

Figure 1
Form of the Sliding Royalty Schedule

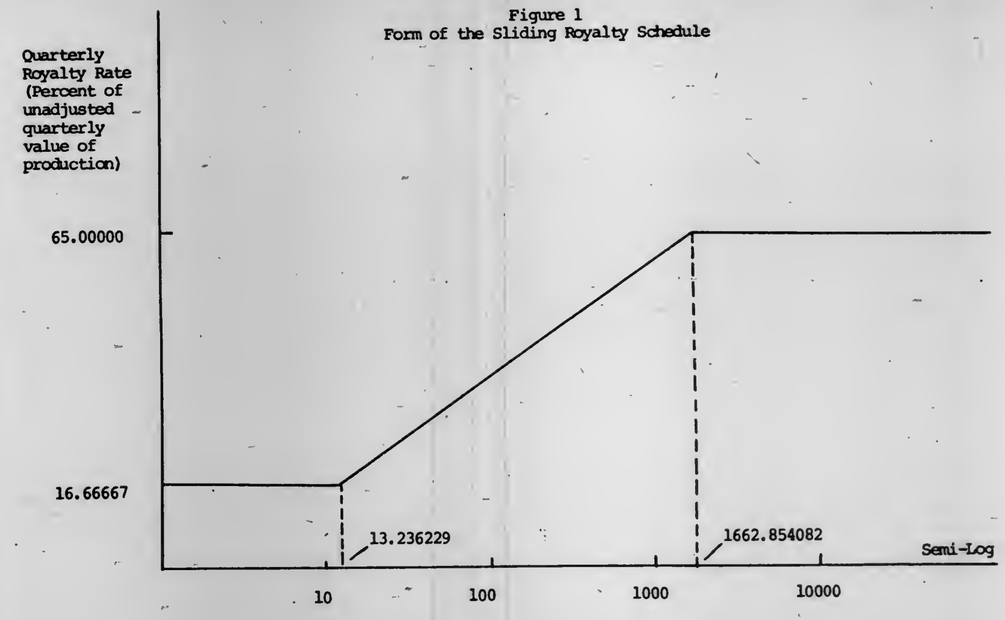

TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

(1) Actual Value of Quarterly Production (Millions of dollars)	(2) GNP Fixed Weighted Price Index	(3) Inflation Factor[1]	(4) Adjusted Value of Quarterly Production[2] (V_j, mil. $)	(5) Percent Royalty Rate (R_j)	(6) Royalty Payment[3] (millions of dollars)
10.000000	200.0	4/3	7.500000	16.66667	1.666667
30.000000	200.0	4/3	22.500000	21.97225	6.591675
90.000000	200.0	4/3	67.500000	32.95837	29.662533
270.000000	200.0	4/3	202.500000	43.94449	118.650123
810.000000	200.0	4/3	607.500000	54.93061	444.937941
10.000000	250.0	5/3	6.000000	16.66667	1.666667
30.000000	250.0	5/3	18.000000	19.74081	5.922243
90.000000	250.0	5/3	54.000000	30.72693	27.654237
270.000000	250.0	5/3	162.000000	41.71306	112.625262
810.000000	250.0	5/3	486.000000	52.69918	426.863358

1 Column (2) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

2 Column (1) divided by Inflation Factor.

3 Column (1) times Column (5); All values are rounded for display purposes only.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production

prohibited for any reason from opening any bid before midnight, December —, 1978, that bid will be returned

OCS LEASING MAP, SOUTH PADRE ISLAND AREA, TEXAS MAP NO. 1
[Approved July 16, 1954]

OCS LEASING MAP, GALVESTON AREA, SOUTH ADDITION, TEXAS MAP NO. 6A
[Approved Sept. 24, 1959]

OCS LEASING MAP, WEST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 1B
[Approved Sept. 8, 1959]

OCS LEASING MAP, EUGENE ISLAND AREA, SOUTH ADDITION, LOUISIANA MAP NO. 4A
[Approved Sept. 8, 1959]

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production saved, removed, or sold as determined pursuant to 30 CFR 250.64. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index.

Leases awarded on the basis of a cash bonus bid with fixed sliding scale royalty will provide for a yearly rental or minimum royalty payment of $3 per acre or fraction thereof.

Bidders for these tracts should recognize that the Department of Energy is authorized, under section 302 (b) and (c) of the Department of Energy Organization Act, to establish production rates for all Federal oil and gas leases.

5. *Bonus bidding with a fixed constant royalty.* Bids on the remaining tracts to be offered at this sale must be on a cash bonus basis with a fixed royalty of 16⅔ percent. Leases which may be issued will provide for a yearly rental payment or minimum royalty payment of $3 per acre or fraction thereof. A suggested cash bonus bid form is shown in paragraph 17.

6. *Equal opportunity.* Each bidder must have submitted by 9:30 a.m., c.s.t., December , 1978, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971).

7. *Bid opening.* Bids will be opened on December , 1978, beginning at 10 a.m., c.s.t., at the address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing and recording bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, December , 1978, that bid will be returned unopened to the bidder, as soon thereafter as possible.

8. *Deposit of payment.* Any cash, cashier's checks, certified checks, bank drafts, or money orders submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

9. *Withdrawal of tracts.* The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

10. *Acceptance or rejection of bids.* The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has complied with all requirements of this notice and applicable regulations;

(b) The bid is the highest valid cash bonus bid; and

(c) The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of $25 or more per acre or fraction thereof.

11. *Successful bidders.* Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's annual rental and satisfy the bonding requirements of 43 CFR 3304.1 within the time provided in 43 CFR 3302.5.

12. *Protraction diagram/leasing maps.* Tracts offered for lease may be located on the following leasing maps/protraction diagram which are available from the Manager, New Orleans Outer Continental Shelf Office at the address stated in paragraph 2.

(a) Outer Continental Shelf Leasing Maps—Texas Nos. 1 through 8. These maps are arranged in two sets, Nos. 1 through 4 (7 maps), which sell for $5 per set, and Nos. 5 through 8 (9 maps), which sell for $7 per set.

(b) Outer Continental Shelf Leasing Maps—Louisiana Nos. 1 through 12. This is a set of 27 maps which sells for $17.

(c) Outer Continental Shelf Official Protraction Diagram: NH 16-7, Viosca Knoll, which sells for $2.

13. *Tract Descriptions.* The tracts offered for bid are as follows:

NOTE.—There may be gaps in the numbers of the tracts listed and they are not in sequence. Some of the blocks identified in the final environmental statement may not be included in this notice.

OCS LEASING MAP, SOUTH PADRE ISLAND AREA, TEXAS MAP NO. 1
[Approved July 16, 1954]

Tract	Block	Description	Acreage
51-139	1041	All	5,760.00

OCS LEASING MAP, NORTH PADRE ISLAND AREA, EAST ADDITION, TEXAS MAP NO. 2A
[Approved May 6, 1965]

51-1	A-1	All	5,760.00
51-2	A-2	All	5,760.00

OCS LEASING MAP, MUSTANG ISLAND AREA, EAST ADDITION, TEXAS MAP NO. 3A
[Approved Jan. 23, 1967]

51-3	A-51	All	5,065.10
51-4	A-52	All	5,098.74
51-5	A-53	All	5,132.21
51-6	A-65	All	5,760.00
51-7	A-66	All	5,760.00
51-8	A-96	All	5,760.00
51-9	A-174	All	5,760.00
51-10	A-175	All	5,760.00

OCS LEASING MAP, MATAGORDA ISLAND AREA, TEXAS MAP NO. 4
[Approved July 16, 1954]

51-11	518	(1)	5,675.00
51-12	(519	(1)	3,457.00
	(520	(1)	352.00
51-13	526	(1)	1,355.00
51-14	527	(1)	5,100.00
51-15	557	(1)	5,620.00
51-16	(558	(1)	1,180.00
	(565	(1)	4,563.00
51-140	657	(1)	5,071.00
51-141	666	All	5,760.00
51-17	673	All	5,760.00

OCS LEASING MAP, BRAZOS AREA, TEXAS MAP NO. 5
[Approved July 16, 1954]

51-16	374	(1)	1,177.00
51-19	436	All	5,760.00
51-20	437	All	5,760.00
51-21	(438	(1)	4,125.00
	(439	(1)	930.00
51-22	451	All	5,760.00
51-23	A-19	All	5,760.00
51-24	A-22	All	5,760.00
51-25	A-23	All	5,760.00
51-26	A-24	All	5,760.00

OCS LEASING MAP, BRAZOS AREA, SOUTH ADDITION, TEXAS MAP NO. 5B
[Approved Sept. 24, 1959]

51-27	A-46	All	5,760.00
51-28	A-47	All	5,760.00
51-29	A-48	All	5,760.00
51-30	A-71	All	5,760.00
51-31	A106	All	5,760.00

OCS LEASING MAP, GALVESTON AREA, TEXAS MAP NO. 6
[Approved July 16, 1954]

51-32	213	(1)	4,730.00
51-33	222	(1)	5,525.00
51-34	242	All	5,760.00
51-35	283	All	5,760.00
51-36	284	All	5,760.00
51-37	324	All	5,760.00
51-38	350	All	5,760.00
51-39	351	All	5,760.00
51-40	352	All	5,760.00
51-144	389	All	5,760.00

OCS LEASING MAP, GALVESTON AREA, SOUTH ADDITION, TEXAS MAP NO. 6A
[Approved Sept. 24, 1959]

51-41	A-221	All	5,760.00

OCS LEASING MAP, HIGH ISLAND AREA, TEXAS MAP NO. 7
[Approved July 16, 1954; revised August 1955]

51-42	33	(1)	4,740.00
51-43	107	All	5,760.00

OCS LEASING MAP, HIGH ISLAND AREA, SOUTH ADDITION, TEXAS MAP NO. 7B
[Approved Sept. 24, 1959]

51-44	A-416	All	5,760.00
51-45	A-461	All	5,760.00
51-46	A-523	All	5,760.00
51-47	A-552	All	5,760.00
51-48	A-574	All	5,760.00

OCS LEASING MAP, HIGH ISLAND AREA, EAST ADDITION, SOUTH EXTENSION, TEXAS MAP NO. 7C
[Approved Sept. 24, 1959]

51-49	A-284	All	5,760.00
51-50	A-308	All	5,760.00
51-51	A-344	All	5,760.00
51-52	A-345	All	5,760.00
51-53	A-378	All	5,760.00
51-54	A-385	All	5,760.00
51-55	A-397	All	5,760.00

OCS LEASING MAP, SABINE PASS AREA, TEXAS MAP NO. 8
[Approved Mar. 7, 1977]

51-56		(2)	2,041.91

OCS LEASING MAP, SABINE PASS AREA, LOUISIANA MAP NO. 12
[Approved Mar. 7, 1977]

51-57	3	(2)	1,316.62
51-58	(5	(2)	211.29
	(6	(2)	4,771.91
51-59	7	All	5,000.00
51-60	8	All	5,000.00
51-61	9	All	4,254.39
51-62	10	All	3,144.37
51-63	13	All	5,000.00

OCS LEASING MAP, WEST CAMERON AREA, LOUISIANA MAP NO. 1
[Approved June 8, 1954; revised July 22, 1954]

51-64	23	(2)	3,323.64
51-65	42	All	5,000.00
51-66	92	All	5,000.00
51-67	109	All	5,000.00
51-68	136	All	5,000.00
51-69	194	S½	2,500.00
51-70	204	All	5,000.00
51-71	239	All	5,000.00
51-72	282	All	5,000.00

OCS LEASING MAP, WEST CAMERON AREA, WEST ADDITION, LOUISIANA MAP NO. 1A
[Approved Nov. 15, 1955; revised Jan. 30, 1957]

51-73	312	All	5,000.00
51-145	326	All	5,000.00
51-74	412	All	5,000.00

OCS LEASING MAP, WEST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 1B
[Approved Sept. 8, 1959]

51-75	477	All	5,000.00
51-76	478	All	5,000.00

OCS LEASING MAP, WEST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 1B
[Approved Sept. 8, 1959]

51-77	542	All	5,000.00
51-78	569	All	5,000.37
51-79	597	All	5,000.00
51-80	645	All	5,000.00

OCS LEASING MAP, EAST CAMERON AREA, LOUISIANA MAP NO. 2
[Approved June 8, 1973]

51-81	9	(2)	203.62
51-82	9	(2)	884.30
51-83	11	All	5,000.00
51-84	51	All	5,000.00
51-85	104	All	5,000.00
51-86	106	All	5,000.00
51-87	(109	All	2,170.10
	(110	All	2,114.00
51-88	111	All	5,000.00
51-89	125	All	5,000.00
51-90	126	All	5,000.00
51-142	143	All	5,000.00
51-146	235	All	1,384.67

OCS LEASING MAP, VERMILION AREA, LOUISANA MAP NO. 3
[Approved June 8, 1954; revised June 25, 1954; July 22, 1954]

51-91	54	All	5,000.00
51-92	57	N½	2,500.00
51-93	75	All	5,000.00
51-94	79	All	5,000.00
51-95	83	All	5,000.00
51-96	104	SE¼; N½; E½SW¼; E½W½SW¼.	4,687.50
51-97	202	All	5,148.72

OCS LEASING MAP, VERMILION AREA, SOUTH ADDITION, LOUISIANA MAP NO. 3B
[Approved Sept. 8, 1959]

51-98	263	All	5,000.00
51-99	264	All	5,000.00
51-100	330	All	5,000.00
51-101	375	All	5,000.00
51-102	375	All	5,000.00

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, NORTH ADDITION, LOUISIANA MAP NO. 3D
[Approved Apr. 16, 1971; revised Jan. 18, 1972]

51-103	264	All	5,000.00

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, LOUISIANA MAP NO. 3A
Approved Aug. 7, 1959]

51-104	19	All	5,000.00

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, SOUTH ADDITION, LOUISIANA MAP NO. 3C
[Approved Sept. 8, 1959]

51-105	75	All	5,000.00
51-106	126	All	2,806.27
51-107	139	All	5,000.00

OCS LEASING MAP, EUGENE ISLAND AREA, LOUISIANA MAP NO. 4
[Approved June 8, 1954; revised July 22, 1954]

51-108	44	All	5,000.00
51-109	45	All	5,000.00
51-110	71	All	5,000.00
51-111	79	All	5,000.00
51-112	190	All	5,000.00
51-113	191	All	5,000.00

OCS LEASING MAP, EUGENE ISLAND AREA, SOUTH ADDITION, LOUISIANA MAP NO. 4A
[Approved Sept. 8, 1959]

51-114	278	All	5,000.00
51-147	279	All	5,000.00
51-115	290	All	5,000.00

OCS LEASING MAP, SHIP SHOAL AREA, LOUISIANA MAP NO. 5
[Approved June 8, 1954]

51-116	148	All	5,000.00
51-117	153	All	5,000.00
51-118	182	W½	2,500.00
51-119	187	All	5,004.46

OCS LEASING MAP, SHIP SHOAL AREA, SOUTH ADDITION, LOUISIANA MAP NO. 5A
[Approved Sept. 8, 1959]

51-120	295	All	5,000.00

OCS LEASING MAP, SOUTH TIMBALIER AREA, LOUISIANA MAP NO. 6
[Approved June 8, 1954; revised July 22, 1954; revised Dec. 9, 1954]

51-138	11	(2)	1,248.13
51-121	27	SE¼; S½SW¼.	1,875.00
51-122	53	All	5,000.00
51-123	173	All	5,000.00

OCS LEASING MAP, GRAND ISLE AREA, LOUISIANA MAP NO. 7
[Approved June 8, 1954]

51-124	33	All	5,000.00

OCS LEASING MAP, GRAND ISLE AREA, SOUTH ADDITION, LOUISIANA MAP NO. 7A
[Approved Sept. 8, 1959; revised Mar. 7, 1961]

51-125	90	All	5,000.00

OCS LEASING MAP, WEST DELTA AREA, LOUISIANA MAP NO. 8
[Approved June 8, 1954]

51-126	46	All	5,000.00
51-143	47	All	5,000.00
51-127	87	S½	2,500.00
51-128	88	All	5,000.00

OCS LEASING MAP, MAIN PASS AREA LOUISIANA MAP NO. 10
[Approved June 8, 1954; revised July 22, 1954]

51-137	59	(2)	319.85
51-129	61	(2)	1,217.96
51-130	111	All	4,994.55
51-131	128	All	4,994.55
51-132	129	All	4,994.55

OCS LEASING MAP, MAIN PASS AREA, SOUTH AND EAST ADDITION, LOUISIANA MAP NO. 10A
[Approved Sept. 8, 1959]

51-133	312	All	4,999.96
51-134	314	All	4,999.96

OCS OFFICIAL PROTRACTION DIAGRAM, VIOSCA KNOLL NH 16-7
[Approved Oct. 10, 1972, revised Feb. 15, 1973; revised Aug. 1, 1973; revised Dec. 2, 1976]

51-135	89	All	5,760.00
51-136	113	All	5,760.00

See footnotes on next page.

FOOTNOTES

[1] That portion of the lease block seaward of the Three-Marine-League Line.

[2] That portion of the lease block seaward of the Three-Marine-League Line and lying outside of the Sabine Pass Historic Archaeological District.

V_j=the value of production in quarter j, adjusted for inflation, in millions of dollars

S=2.5

A report of this investigation prepared by the marine survey archaeologist or underwater archaeologist shall be submitted to

Outside the above aliquots, exploration and development operations are permitted within the circle with a radius of 6,116 meters around point P, located by

tion saved, removed or sold from the lease area.

STIPULATION NO. 5

of understanding dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both

FOOTNOTES

[1] That portion of the lease block seaward of the Three-Marine-League Line.

[2] That portion of the lease block which is more than 3 geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (*United States* v. *Louisiana*, 422 U.S. 13).

[3] That portion of the south half of the lease block which is more than 3 geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (*United States* v. *Louisiana*, 422 U.S. 13) to the zone 1 line as that zone is defined in the interim agreement (Oct. 12, 1956) between the United States and State of Louisiana.

[4] W½SW¼ and that portion of the north half of the lease block which is more that 3 geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (*United States* v. *Louisiana*, 422 U.S. 13).

[5] That portion of the lease block located landward of the line 3 geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, Dec. 13, 1965 (*United States* v. *Louisiana*, 382 U.S. 288).

[6] That portion of the lease block located seaward of the third supplemental decree line (404 U.S. 388, Dec. 20, 1971).

[7] That portion of the lease block described as follows:

Beginning at the southeast corner of said block which is described by coordinates x=2,264,446.02, y=127,591.99; thence westerly along the south boundary of the block, 15,600.00 ft to coordinates x=2,248,846.02, y=127,591.99; thence northerly along the west boundary of the block 6,645.35 ft to coordinates x=2,248,846.02, y=134,237.34; thence N. 76°17'04" E., 499.25 ft to coordinates x=2,249,331.04, y=134,355.71; thence S. 65°53'32" E., 16,559.30 ft to coordinates x=2,264,446.02, y=127,591.99, the point of beginning.

[8] That portion of the lease block seaward of the Three-Marine-League Line measured from the historic shoreline described in the *United States* v. *Louisiana*, No. 9 original (394 U.S. 836).

14. *Lease terms and stipulations.* All leases issued as a result of this sale will be for an initial term of 5 years. Leases issued as a result of this sale will be on Form 3300-1 (September 1978), available from the Manager, New Orleans Outer Continental Shelf Office, at the address stated in paragraph 2. For leases resulting from this sale for tracts offered on a cash bonus basis with fixed sliding scale royalty, listed in paragraph 4, Form 3300-1 will be amended as follows:

Sec. 6 *Royalty on Production.* (a) To pay the lessor a royalty of that percent in amount or value of production saved, removed or sold from the leased area as determined by the sliding scale royalty formula as follows. When the quarterly value of production, adjusted for inflation, is less than or equal to $13.236229 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount or production. When the adjusted quarterly value of production is equal to or greater than $13.236230 million, but less than or equal to $1662.854082 million, the royalty percent due on the unadjusted value or amount of production is given by

$$R_j = b[\mathrm{Ln}\ (V_j/S]$$

where

R_j = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

b = 10.0

Ln = natural logarithm

V_j = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 2.5

When the adjusted quarterly value of production is equal to or greater than $1662.854083 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In determining the quarterly percent royalty due, R_j, the calculation will be carried to five decimal places (for example, 20.17329 percent). This calculation will incorporate the adjusted quarterly value of production, V_j, in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 15.392847 millions of dollars). • • •

Except as otherwise noted, the following stipulations will be included in each lease resulting from this proposed sale. In the following stipulations the term "Supervisor," refers to the Gulf of Mexico Area Oil and Gas Supervisor for Operations of the Geological Survey and the term "Manager," refers to the Manager of the New Orleans OCS Office of the Bureau of Land Management.

STIPULATION NO. 1

If the Supervisor, having reason to believe that a site, structure or object of historical or archaeological significance hereinafter referred to as "cultural resource", may exist in the lease area, gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation", the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archaeologist to determine if indications are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archaeologist shall be submitted by the lessee to the Supervisor and to the Manager for review.

If such cultural resource indicators are present the lessee shall: (1) Locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the Supervisor, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the Supervisor, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archaeologist or underwater archaeologist shall be submitted to the Supervisor and the Manager for review. Should the Supervisor determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the Supervisor has given directions as to its preservation.

The lessee agrees that if any site, structure, or object of historical or archaeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the Supervisor, and make every reasonable effort to preserve and protect the cultural resource from damage until the Supervisor has given directions as to its preservation.

STIPULATION NO. 2

(To be included only in those leases resulting from this proposed sale for tracts 51-8 and 51-78):

Operations within the circle with a radius of 5,820 meters around point A, located by X=2,720,700, Y=736,500 (Texas Lambert System) and within the circle with a radius of 7,000 meters around point B located by X=3,775,400, Y=153,280 (Texas Lambert System) shall be restricted as specified in either (a) or (b) below:

(a) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but not more than six meters, from the bottom.

(b) The operator (lessee) shall submit a monitoring plan as part of the exploration and development and production plans. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of South Baker Bank and 29 Fathom Bank.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified independent scientific personnel and that these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the supervisor on a schedule established by the supervisor, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank is being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the supervisor shall require shunting as specified in (a) above or other appropriate operational restrictions.

STIPULATION NO. 3

(To be included only in the leases resulting from this proposed sale for tracts 51-54 and 51-55):

No structures, drilling rigs, or pipelines will be allowed within the aliquots established for the West Flower Garden Bank (Tract 51-55, High Island Area, East Addition, South Extension A-397): W½-W½NW¼; W½NW¼SW¼; NW¼SW¼SW¼.

Outside the above aliquots, exploration and development operations are permitted within the circle with a radius of 6,116 meters around point P, located by X=3,674,965, Y=50,690 (Texas Lambert System), with the following restrictions:

All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than 10 meters, from the bottom; however, if the shunting method is not adequate, as determined by the monitoring program proceedings outlined in this stipulation, to protect the unique character of the subject area, then the material must be transported a minimum of 10 miles from any 50-meter isobath surrounding live reef-building coral before disposal. Disposal sites must be approved by the supervisor.

No garbage, untreated sewage, or other solid waste shall be disposed of from vessels (workboats, crew-boats, supply boats, pipelaying vessels) during exploration and development operations.

No drilling permits shall be issued by the supervisor until he has found that the lessee's exploration and development plan filed under 30 CFR 250.34 is adequate to insure the exploration and production operations in the leased area will have no significant adverse effect on the biota communities associated with the high value requiring sites on the Flower Garden Banks. As a part of the development plan, a reef monitoring program must be included.

The monitoring program will be designed to assess the effects of oil and gas exploration and development operations on the visability of the coral reefs and associated communities. The development plan should indicate that the monitoring program will be conducted by qualified independent scientific personnel and that program personnel and equipment will be available at the time of operations. The monitoring team will submit its findings to the Regional Director, U.S. Fish and Wildlife Service, the manager, and the supervisor, on a regular schedule established by the supervisor, or immediately in case of imminent danger to the reefs resulting directly from drilling or other operations.

STIPULATON NO. 4

To be included in any leases resulting from this proposed sale for the sliding scale royalty tracts listed in paragraph 4 of this notice.

(a) The royalty rate on production saved, removed or sold from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.12 (e)). The Director, Geological Survey, may grant a reduction for only 1 year at a time. Reduction of royalty rates will not be approved unless production has been underway for 1 year or more.

(b) Although the royalty rate specified in section 6(a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16⅔ percent of the production saved, removed or sold from the lease area may be taken as royalty in amount, except as provided in section 15(d); the royalty on any portion of the production saved, removed or sold from the lease in excess of 16⅔ percent may only be taken in value of the production saved, removed or sold from the lease area.

STIPULATION NO. 5

Unless the lessee can demonstrate to the satisfaction of the supervisor that it would not be in the interests of conservation, all reservoirs underlying this lease which extend into one or more other leases with either a different royalty rate or a royalty rate based on a sliding scale, as indicated by drilling and other information, shall be operated and produced only under a unit agreement including the other lessee(s) and approved by the supervisor. Such a unit agreement shall provide for the fair and equitable allocation of production and costs. The supervisor shall prescribe the method of allocating production and costs in the event operators are unable to agree on a method acceptable to him.

15. *Information to Lessees.* The Department of the Interior will seek the advice of the States of Texas, Louisiana, Mississippi, and Alabama and other Federal agencies, to identify areas of special concern which might require appropriate protective measures for live bottom areas and areas which might contain cultural resources.

If it is determined that live bottom areas might be adversely impacted by the proposed activities then the supervisor, in consultation with the Regional Director, Fish and Wildlife Service (FWS), the manager, BLM and the Sates, will require the lessee to undertake any measures deemed economically, environmentally, and technologically feasible to protect live bottom areas.

In September —, 1978, the OCS Lands Act Amendments of 1978 was enacted. Some sections of current regulations applicable to OCS leasing operations are inconsistent with this new legislation, and the legislation requires the issuance of some new regulations. The inconsistencies will be corrected by rulemakings and the new regulations will be issued as soon as possible. Nevertheless, bidders are notified that provisions of the new OCS Lands Act Amendments shall apply to all leases offered at this lease sale and shall supersede all inconsistent provisions in current regulations applicable to OCS leasing operations.

Some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes. Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf in accordance with section 4(f) of the Outer Continental Shelf Lands Act of 1953 as modified by the 1978 Amendments.

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of understanding dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

16. *OCS Orders.* Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Mexico Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.

17. *Suggested Bid form.* It is suggested that bidders submit their bids to the Manager, New Orleans Outer Continental Shelf Office, in the following form:

OIL AND GAS BID

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf specified below:

Tract No. ———

Total amount bid ———

Amount per acre ———

Amount of cash bonus submitted with bid —

PROPORTIONATE INTEREST OF COMPANY(S) SUBMITTING BID

Qualification No. ———

Company ———

Percent interest ———

Address ———

Signature ———

(Please type signer's name under signature.)

18. *Required Joint Bidders Statement.* In the case of joint bids, each joint bidder is required to execute a joint bidder's statement before a notary public and submit it with his bid. A suggested form for this statement is shown below.

JOINT BIDDER'S STATEMENT

I hereby certify that ——— (entity submitting bid) is eligible under 43 CFR 3302 to bid jointly with the other parties submitting this bid.

Signature ———

(Please type signer's name under signature.)

Sworn to and subscribed before me this ——— day of ——— 19——.

Notary Public ———

State of ———

County of ———

[FR Doc. 78-25805 Filed 9-14-78; 8:45 am]

[4310-31]

Geological Survey

KNOWN RECOVERABLE COAL RESOURCE AREA

Crownpoint, N. Mex.

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganiza-

tion Plan No. 3, of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and section 8A of the Mineral Leasing Act of

25046, Federal Center, Denver, Colo, 80225.

Dated: September 11, 1978.

a motion to terminate this investigation as to all issues and with respect to all respondents (see motion to terminate filed June 19, 1978). The presid-

prehearing statement filed in compliance with the above order, complainant omitted any reference to alleged anticompetitive acts (2) through (6) as

States and to restrain or monopolize trade and commerce in fabricated steel plate products in the United States.

Complainant requests an order di-

service of the complaint and this notice. Extensions of time for submitting a response will not be granted unless good and sufficient cause there-

tion Plan No. 3, of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and section 8A of the Mineral Leasing Act of February 25, 1920, as added by section 7 of the Federal Coal Leasing Amendments Act of 1975 (Pub. L. 94-377, August 4, 1976), Federal lands within the State of New Mexico have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(31) New Mexico

Crownpoint (New Mexico) Known Recoverable Coal Resource Area; January 20, 1978; 183,397 acres.

A diagram showing the boundaries of the area classified has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colo. 80225.

Dated: September 11, 1978.

H. W. MENARD,
Director.

[FR Doc. 78-26043 Filed 9-14-78; 8:45 am]

[4310-31]

KNOWN RECOVERABLE COAL RESOURCE AREA

Red Oak, Okla.

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and section 8A of the Mineral Leasing Act of February 25, 1920, as added by section 7 of the Federal Coal Leasing Amendments Act of 1975 (Pub. L. 94-377, August 4, 1976), Federal lands within the State of Oklahoma have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(36) Oklahoma

Red Oak (Oklahoma) Known Recoverable Coal Resource Area; June 8, 1978; 2,874 acres.

A diagram showing the boundaries of the area classified has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colo, 80225.

Dated: September 11, 1978.

[FR Doc. 78-26044 Filed 9-14-78; 8:45 am]

[7020-02]

UNITED STATES INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-52]

CERTAIN APPARATUS FOR CONTINUOUS PRODUCTION OF COPPER ROD

Denial of Motion To Amend Complaint

Notice is hereby given that the United States International Trade Commission denied the motion of complainant, Southwire Co., to amend the complaint in investigation No. 337-TA-52 on certain apparatus for the continuous production of copper rod, in which complainant sought to add an antitrust-type count to the investigation. Respondents opposed the motion to amend, as did the Commission investigation attorney, and the presiding officer's order of August 1, 1978, recommended denial of complainant's motion.

The Commission determined, pursuant to section 210.20(d) of the Commission's rules of practice and procedure (19 CFR 210.20(d)), that complainant had not shown good cause for the amendment to the complaint, and that there would be prejudice to the public and to the rights of the parties to the investigation if the motion were granted. The Commission has adopted the views and rationale of the presiding officer in recommending denial of the motion to amend the complaint. The presiding officer's recommended order is on file and available at the Office of the Secretary of the Commission.

Notice of institution of the investigation was published on May 22, 1978 (43 FR 21951).

By order of the Commission.

Issued: September 11, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-26077 Filed 9-14-78; 8:45 am]

[7020-02]

[Investigation 337-TA-41]

CERTAIN CERAMIC TILE SETTERS

Commission Determination, Order and Memorandum Opinion

PROCEDURAL HISTORY

On June 19, 1978, complainant Ferro Corp. filed, pursuant to section 210.51 of the Commission's Rules of Practice and Procedure [1] (hereinafter "Rules"), a motion to terminate this investigation as to all issues and with respect to all respondents (see motion to terminate filed June 19, 1978). The presiding officer, acting in conformity with sections 210.51(c) and 210.53 of the Rules,[2] concluded that no present violation of section 337 of the Tariff Act of 1930 [3] (hereinafter "section 337") exists with respect to the importation of the tile setters which are the subject of the Commission's investigation, and recommended, by order of June 28, 1978, (see recommended determination and order, filed June 28, 1978), that (1) the Commission determines that there is no violation of section 337 in the importation or sale in the United States of certain ceramic tile setters, and (2) the Commission grant complainant's motion to terminate the investigation. It is the purpose of this determination, order and memorandum opinion to consider the presiding officer's recommendation and to rule on complainant's motion to terminate.

DETERMINATION AND ORDER

Having considered (1) complainant's motion to terminate (motion docket No. 41-13), and (2) the presiding officer's recommendation of June 28, 1978, in the context of the record in the instant investigation, the Commission determines that no violation of section 337 presently exists by reason of the importation or sale in the United States of the ceramic tile setters which are the subject of the Commission's investigation.

Therefore, the Commission grants complainant's motion to terminate and orders that the instant investigation be and hereby is terminated with respect to all issues and all respondents.

OPINION

The notice of investigation issued in connection with the instant investigation enumerated six alleged unfair acts and unfair method of competition: (1) Patent infringement, (2) unfair use of know how and trade secrets, (3) discriminatory and/or unfairly low pricing with the intent to destroy or injure competition, (4) conspiracy to price discriminatorily and/or unfairly low, (5) attempt and intent to monopolize, and (6) conspiracy to attempt to monopolize (see 43 FR 5901, Feb. 10, 1978).

In his order for prehearing statements issued May 23, 1978, the presiding officer directed the parties to submit statements of the issues to be considered at the hearing. Any contentions not set forth in detail were to be deemed abandoned, uncontroverted, or withdrawn (see order for prehearing statements, issued May 23, 1978). In its

[1] 19 CFR 210.51.

[2] 19 CFR 210.51(c) and 210.53.
[3] 19 U.S.C. 1337.

prehearing statement filed in compliance with the above order, complainant omitted any reference to alleged anticompetitive acts (2) through (6) as set forth in the notice of investigation, thus effectively removing those acts from consideration in the adjudication of the case.

On June 15, 1978, complainant filed with U.S. Patent and Trademark Office a disclaimer pursuant to 35 U.S.C. 253 disclaiming claims 1, 4, 6, 7, and 8 of U.S. Letters Patent 3,169,295 (the '295 patent) the only patent claims at issue in the investigation. Notice of the disclaimer was published in the August 22, 1978, issue of the Official Gazette of the United States Patent and Trademark Office (see 973 OG 42). Since the effect of complainant's section 253 disclaimer is to cancel the disclaimed claims from its '295 patent, patent infringement too has been eliminated as an issue in this investigation.

Inasmuch as none of the six alleged unfair methods of competition and unfair acts enumerated in the Commission's notice of investigation remain viable, the Commission concludes that there is no present violation of section 337. The Commission therefore has determined to order the termination of the instant investigation as to all issues and all respondents.

By order of the Commission.

Issued: September 11, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-26075 Filed 9-14-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-58]

CERTAIN FABRICATED STEEL PLATE PRODUCTS FROM JAPAN

Notice of Investigation

Notice is hereby given that on August 7, 1978, the Steel Plate Fabricators Association (complainant), 15 Spinning Wheel Road, Hinsdale, Ill. 60521 filed a complaint with the U.S. International Trade Commission under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337). The complaint alleges unfair methods of competition and unfair acts in the importation and sale of certain fabricated steel plate products from Japan by reason of (1) collusive bidding and (2) individual and concerted action implementing predatory pricing schemes facilitated by sales at unreasonably low or below cost prices.

The complaint further alleges that such unfair methods of competition have the effect or tendency to destroy or substantially injure the fabricated steel plate industry in the United States and to restrain or monopolize trade and commerce in fabricated steel plate products in the United States.

Complainant requests an order directing the respondents named below to cease and desist from engaging in the alleged unfair practices, and seeks such further relief as may be appropriate.

Having considered the complaint, the U.S. International Trade Commission on September 7, 1978, ordered:

1. That, pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine, under subsection (c) whether, on the basis of the allegations set forth in the complaint and the evidence adduced, there is a violation of subsection (a) of this section in the importation of certain fabricated steel plate products into the United States, or in their sale, by reason of (1) collusive bidding and (2) individual and concerted action implementing predatory pricing schemes facilitated by sales at unreasonably low or below cost prices.

2. That, for the purpose of this investigation so instituted, the following are hereby named as parties:

a. The complainant is Steel Plate Fabricators Association, 15 Spinning Wheel Road, Hinsdale, Ill. 60521.

b. The respondents are the following companies alleged to be involved in the importation of such articles into the United States, or in their sale, and are parties upon which the complaint and this notice are to be served:

Japan Steel Works, a.k.a. The Japan Steel Works, Ltd., 1-12-1 Yuraku-cho, Chiyoda-ku, Tokyo, Japan.
Kobe Steel Co., 13-18, 1-chome, Wakinohama-cho, Fukiai-ku, Kobe, Japan.
Ishikawajima-Harima Industries, a.k.a. Ishikawajima-Harima Heavy Industries, New Ote-Machi Building, 2-1, Ote-Machi, 2-chome, Chiyoda-ku, Tokyo, Japan.
C. Itoh & Co., 4 Nihonbashi-Honcho, 2-Chome Chuo-ka, C.P.O. Box 136, Tokyo, Japan.

c. Wilhelm A. Zeitler, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation.

3. That, for the purpose of the investigation so instituted, Chief Administrative Law Judge Donald K. Duvall, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby appointed as presiding officer.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's rules of practice and procedure, as amended (19 CFR 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint and this notice. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute waiver of the right to appear and contest the allegations of the complaint and of this notice, and will authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination, respectively, containing such findings.

The complaint is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the New York City office of the Commission, 6 World Trade Center.

By Order of the Commission.

Issued: September 11, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-26076 Filed 9-14-78; 8:45 am]

[7020-02]

[AA1921-186]

RAYON STAPLE FIBER FROM BELGIUM

Determination of Injury or Likelihood of Injury

On May 2, 1978, the U.S. International Trade Commission received advice from the Department of the Treasury (43 FR 18619 (May 1, 1978)) that rayon staple fiber from Belgium is being, or is likely to be sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on May 15, 1978, the Commission instituted investigation No. AA1921-181 under section 201(a) of the act to determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Notice of the institution of the investigation and of the public hearing to be held in connection therewith was published in the FEDERAL REGISTER of May 19, 1978 (43 FR 21740). On June 20, 1978, a hearing was held in Washington, D.C., at which time all interested persons were provided the opportunity to appear by counsel or in person.

On July 21, 1978, the Commission was advised by Treasury that it had reconsidered the basis for its fair-value comparisons of rayon staple fiber from Belgium (43 FR 32915 (July 28, 1978)).

As a result of its reconsideration, Treasury modified its determination of May 2, 1978, such that the weighted

at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on May 15, 1978, the

The sole U.S. importer of Belgian rayon staple sold rayon staple to three textile mills during the period January 1977-March 1978. In 1976 these firms

likely to be injured by reason of the importation of rayon staple fiber from Belgium sold at LTFV within the meaning of the Antidumping Act,

appropriate basis for calculating fair value. Treasury then found the revised weighted average margin of 57.6 percent. While I was prepared to vote on

The Commission should not apply antitrust principles to its factfinding proceedings under the Antidumping Act. We should not make determina-

As a result of its reconsideration, Treasury modified its determination of May 2, 1978, such that the weighted average LTFV margin increased from 6.7 percent to 57.6 percent. Having received new and substantially different advice from Treasury, the Commission took the following actions:

1. Terminated investigation No. AA1921-181 without any determination because of the intervening advice of the Treasury;

2. Instituted the instant investigation (No. AA1921-186) to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of rayon staple fiber from Belgium into the United States; and

3. Determined that there did not appear to be good and sufficient reasons for holding a public hearing in investigation No. AA1921-186 because the written statements and transcript of the hearing from the prior investigation remainded relevant to the Commission's determination in the new investigation. Nevertheless, in accordance with 19 CFR 208.4, the Commission allowed any interested persons to submit a request for a public hearing in investigation No. AA1921-186. No such requests were received and a new public hearing was not held.

Notice of the termination of investigation No. AA1921-181 and the institution of investigation No. AA1921-186 was published in the FEDERAL REGISTER of August 8, 1978 (43 FR 35122).

On the basis of its investigation the Commission determines (Vice Chairman Alberger and Commissioner Ablondi dissenting and Commissioner Minchew not participating) that an industry in the United States is being or is likely to be injured by reason of the importation of rayon staple fiber from Belgium, which is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information provided by the Department of the Treasury and data obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

STATEMENT OF REASONS FOR THE AFFIRMATIVE DETERMINATION OF CHAIRMAN JOSEPH O. PARKER AND COMMISSIONERS GEORGE M. MOORE AND CATHERINE BEDELL

On May 2, 1978, the U.S. International Trade commission received advice from the Secretary of the Treasury (Treasury) that rayon staple fiber from Belgium is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on May 15, 1978, the Commission instituted investigation No. AA1921-181 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established,[1] by reason of the importation of such merchandise sold at LTFV into the United States.

On July 21, 1978, the Commission received new and substantially different advice from the Secretary of the Treasury. The Secretary stated that he had reconsidered the basis for his fair-value comparisons relating to rayon staple fiber from Belgium. The earlier determination was modified, and the average weighted LTFV margin was increased from 6.7 to 57.6 percent. Therefore, on July 25, 1978, the Commission terminated investigation No. AA1921-181 without any determination and instituted a new investigation (AA1921-186) to determine whether an industry in the United States is being or is likely to be injured by reason of the importation of such merchandise into the United States.

recovered from the 1975 recession and earned $7.6 million net operating profit. This changed abruptly in 1977 when the domestic industry registered a $1.7 million net operating loss. In 1978 the financial difficulties of the domestic industry accelerated, and it lost nearly $3.0 million during January-March alone. U.S. domestic shipments of rayon staple fiber declined from 433 million pounds in 1976 to 424 million pounds in 1977. U.S. producers accumulated large inventories in 1977, increasing from 24.2 million pounds on December 31, 1976, to 47.3 million pounds on December 31, 1977, or by 95 percent.

The entry of Belgian rayon staple into the U.S. market in 1977 caused the domestic industry to lose sales. The effect of such imports might have been less consequential had U.S. consumption increased sufficiently to give both U.S. producers and importers a larger market in which to grow. However, in a declining or stagnant market which existed in 1977, increased import penetration was gained almost entirely at the expense of the domestic industry. With the rapid development of other manmade fibers, U.S. consumption of rayon staple declined from 890 million pounds in 1968 to 711 million pounds in 1973, and then fell to 391 million pounds in 1975. Consumption recovered somewhat in 1976 to 475 million pounds and remained virtually unchanged in 1977.

The sole U.S. importer of Beligian rayon staple sold rayon staple to three textile mills during the period January 1977-March 1978. In 1976 these firms purchased virtually all of their commodity rayon staple from a U.S. producer. During 1977 the bulk of these firms' purchases of such staple were supplied by LTFV imports from Belgium. This investigation disclosed that the importer undersold U.S. producers during the period January-September 1977 and that price was an important factor influencing the decisions of these textile mills to purchase imports.

The importer's pricing policy not only resulted in lost sales to the domestic industry, but it also contributed to the suppression of U.S. producers' prices. During January-June 1977 Belgian fiber entered the U.S. market selling at a price well below the average domestic price. In March 1977 the largest U.S. producer of rayon staple fiber announced that it would be increasing its list price from $0.58 per pound to $0.61 per pound, effective May 1977. A second U.S. producer announced a similar increase in list price. By mid-1977 the average domestic transaction price registered about $0.574, reflecting a $0.02-per-pound increase since October-December 1976. This price difference influenced some U.S. textile mills to shift to imports and forced U.S. producers, in an effort to retain market share, to reduce their prices. By October-December 1977 the U.S. producers which had increased their list prices rolled them back to $0.58 per pound. The average domestic price fell from $0.574 per pound in April-June 1977 to $0.557 per pound in April-May 1978.

The issue of likelihood of injury to the domestic industry primarily involves the ability and willingness of Fabelta, the Belgian producer, to export rayon staple fiber to the United States at LTFV. According to information received at the public hearing, Fabelta operated at about 77 percent of capacity in 1977. The difference between this level of operation and full capacity is an additional 15 million pounds of annual production of rayon staple. With the European market experiencing a prolonged slump in demand, Fabelta has an incentive to increase its exports to the United States. The very large LTFV margins (57.6 percent) applicable to Fabelta's exports to the United States strongly suggest that Fabelta is willing to make LTFV sales when it is necessary to do so in order to sell its staple.

CONCLUSION

On the basis of the information obtained in the Commission's investigation, we conclude that an industry in the United States is being injured or is likely to be injured by reason of the importation of rayon staple fiber from Belgium sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

[1] Prevention of the establishment of an industry is not an issue in this investigation and will not be discussed further.

STATEMENT OF REASONS FOR THE NEGATIVE DETERMINATION OF COMMISSIONER BILL ALBERGER [2]

In order for a Commissioner to make an affirmative determination in an investigation under the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), it is necessary to find that an industry in the United States is being or is likely to be injured, or is prevented from being established,[3] *and* the injury or likelihood thereof must be by reason of imports at less than fair value (LTFV).

DETERMINATION

On the basis of information obtained in this investigation, I determine that an industry in the United States is not being injured and is not likely to be injured by reason of the importation of rayon staple fiber from Belgium, which the Department of the Treasury (Treasury) has determined is being sold at LTFV.

THE IMPORTED ARTICLE AND THE DOMESTIC INDUSTRY

Rayon staple fiber is a manmade textile fiber, which resembles raw or unprocessed cotton. It is spun into yarn and then either woven or otherwise processed into a variety of end products. In this determination, I consider the relevant domestic industry to consist of the facilities in the United States devoted to the production of rayon staple fiber. Three U.S. firms currently produce rayon staple fiber.

LTFV SALES

U.S. imports from Belgium, which were negligible from 1973 through 1976, increased to 6.5 million pounds in 1977 and 1.4 million pounds during the first quarter of 1978. Price comparisons made by Treasury for the period February 1, 1977, through July 31, 1977, revealed that 100 percent of the rayon staple exported to the United States from Belgium was sold at LTFV, with a margin of 57.6 percent. Treasury had earlier reported margins of only 6.7 percent. Just prior to a scheduled vote on AA1921-181, Treasury notified the Commission that it had determined that sales in the home market were made at prices less than the cost of producing the merchandise and that lacking information with respect to sales to third countries constructed value was the appropriate basis for calculating fair value. Treasury then found the revised weighted average margin of 57.6 percent. While I was prepared to vote on this case on July 25, I joined my colleagues in voting to terminate the previous investigation without any determination, and to institute this new investigation—to allow time to consider the impact of this revised margin.

Counsel for the domestic industry has argued that these revised margins have great significance to the Commission. He contends that Treasury's finding shows purposeful intent to Fabelta of Belgium (the only company exporting rayon staple fiber to the United States from Belgium) to engage in unfair pricing practices designed to injure the domestic producers by eliminating them entirely or substantially reducing their productive capacity. Counsel points to case law proscribing sales below cost with predatory intent and urges that we should find affirmatively even if complainant has not demonstrated the extent and seriousness of the injury. He seems to be arguing that in cases where Treasury determines dumping margins by constructed value based on costs, the Commission can relax its injury standard.

I totally reject the contention that the Commission's injury determination in antidumping investigations may be altered by some inference of intent derived from comparison to costs of production. That would distort the purpose of the Antidumping Act and the type of legislative factfinding role the Commission plays in enforcing the Act. While counsel cites the Sherman Act, the Robinson-Patman Act, and the Federal Trade Commission Act as examples of laws prohibiting predatory pricing practices, the Antidumping Act was not designed to be such a measure. It prohibits international price discrimination but does not depend on a finding of intent. Our factfinding hearings are merely designed to uncover the indicia of injury and its causal relationship with LTFV sales, but do not equip us to adjudicate matters revolving around the intentions of the parties. In this case we have nothing more than mere allegations of intent. We cannot adopt the approach of a court, nor can we utilize formal, on the record adjudication, as we have under section 337 of the Tariff Act of 1930. While there is precedent under section 337 for prohibiting predatory pricing, the Commission has been mindful of the differences between that statute and the Antidumping Act.[4]

The Commission should not apply antitrust principles to its factfinding proceedings under the Antidumping Act. We should not make determinations that rest upon a presumption of illegality. My determination of injury under the Act will be confined to the record of this proceeding and established procedents.

THE QUESTION OF INJURY OR LIKELIHOOD BY REASON OF LTFV SALES

U.S. imports—From 1973 to 1977, total imports of rayon staple fiber have increased from 44.2 million pounds to 54.1 million pounds, and based on first quarter data for 1978, appear to be remaining at 1977 levels. Imports from Belgium were negligible during 1973-76, 6.5 million pounds in 1977, and 1.4 million pounds January-March 1978. This volume from Belgium accounted for 1.4 percent of apparent U.S. consumption in 1977 and 1.1 percent in the first quarter of 1978.

Production and shipments—Domestic production declined sharply from a high level of 660 million pounds in 1973 to a low of 350 million pounds in 1975, then recovered to 507 million pounds in 1977, and appears to be continuing to climb slightly in 1978, based only on first quarter data. U.S. producers' shipments followed a similar pattern during the past 5 years.

Capacity utilization—Domestic facilities producing rayon staple fiber operated at 84 percent of capacity in 1973 and 78 percent in 1974, before dropping to 49 percent during the 1975 recession. Capacity has dropped about 17 percent since 1974, and utilization has recently recovered to the 1974 level. The recovery appears to be continuing in 1978.

Exports—Substantial quantities of rayon staple fiber have been exported in recent years. U.S. exports increased from only 16.9 million pounds in 1973 to 33.8 million pounds in 1974, and then jumped to 59.4 million pounds in 1977. This quantity exceeds imports in 1977, and is about nine times the volume of LTFV imports from Belgium.

Inventories—The peak level of inventories during the period January 1973-March 1978 was reached at the end of 1974—67.3 million pounds. Inventories had dropped to 24.2 million by the end of 1976, but were up again by 47.3 million pounds on December 31, 1977, before dropping to 45.1 million pounds by March 13, 1978.

Consumption—Apparent consumption of rayon staple peaked in 1968 at 890 million pounds dropped to 711 million pounds in 1973 and then dropped to 391 million pounds in 1975. Much of this decline is due to competition from polyester and other manmade fibers. In 1976 and 1977, apparent consump-

[2] Commissioner Italo H. Ablondi concurs in the result.

[3] Prevention of the establishment of an industry is not an issue and will not be discussed further.

[4] See USITC Publication 863, In the Matter of Certain Welded Stainless Steel Pipe & Tube, Inv. No. 337-TA-29, p. 13-16; and USITC Publication 899, Welded Stainless Steel Pipe & Tube from Japan, Inv. No. AA1921-180, p. 12-14.

tion recovered to 475 and 478 million pounds, respectively.

Employment—The average number of production and related workers producing rayon staple fiber declined

sales are explained above, and inventories, while up from 1976, are well below 1975 levels. I simply cannot attribute the present profit situation of

system. The meeting is open to the public.

Anyone wishing additional information should contact Frank de la Fe,

personal in origin, are not within the purview of the act. Neither are deaths attributable to "stress and strain." Inhalation of carbon monoxide is considered a traumatic injury.

oxygen to the heart muscle. Dr. Aronow's research has also demonstrated that raising the arterial carboxyhemoglobin level from 1.09 percent to 6.34 percent lowered the ventricular fi-

positive correlation between CO levels in the atmosphere and the number of cardio-respiratory complaints received in the emergency room of Colorado General Hospital. On the basis of his

tion recovered to 475 and 478 million pounds, respectively.

Employment—The average number of production and related workers producing rayon staple fiber declined from 3,700 in 1973 and 1974 to 2,300 in 1975 before climbing to 2,700 in 1977. Employment during the first quarter of 1978 averaged 2,600, but man-hours worked increased from 5.7 million hours in 1977 to 5.9 million, on an annualized basis, in the first quarter of 1978.

Profits—Since 1974, when the aggregate net operating profit to net sales ratio was 13.4 percent, losses have been more prevalent than profits. Losses occurred in both 1975 and 1977, and the first quarter of 1978 looks even worse. Profits of 2.9 percent were realized in 1976. Not all domestic producers suffered losses in 1975, 1977, and 1978.

Prices—Price competition exists in three different ways in this investigation. Intense competition appears to exist between the three domestic producers, who accounted for between 94 percent and 89 percent of apparent consumption between 1973 and 1977. Obviously, competition also exists between importers and U.S. producers. A third area of price competition involves the interaction of rayon staple, polyesters, and other manmade fibers in the marketplace. While prices may appear low and suppressed since late 1974, the competition between substitute fibers appears to be an important factor. The imported product is generally priced below domestic staple, and the average net selling prices of imports from Belgium have been below similar domestic prices in each quarter since 1976. However, the Belgian product has never been the lowest priced imported product in any quarter.

Lost sales—There are three verified cases of lost sales in 1977, although they were not solely related to price. All three users mentioned quality problems with the domestic product.

Summary—Nineteen hundred and seventy-five was a horrible year for this industry, with sharp declines in production, shipments, capacity utilization, exports, employment, profits, and obviously consumption. Three were no measurable imports from Belgium until 1977. Since 1975, domestic production, shipments capacity utilization, and employment have made major recoveries and with the exception of employment are approaching 1974 levels. Exports have increased sharply to new record levels in 1978. Profits recovered in 1976, but have dropped badly since then. Consumption remains well below 1974 levels. The factors indicating some degree of injury, unrelated to the 1975 recession, are profits, prices, inventories, and lost sales. The price situation and the lost sales are explained above, and inventories, while up from 1976, are well below 1975 levels. I simply cannot attribute the present profit situation of U.S. producers to LTFV imports from Belgium and, therefore do not find injury by reason of such imports.

With respect to likelihood of injury, the only factor suggesting any future injury in the first quarter of 1978 is profits. Production, shipments, capacity utilization, consumption, and manhours worked are all up or steady. Inventories and imports from Belgium are down. The question of the capacity of Fabelta of Belgium to ship larger quantities at low prices to the United States must be addressed. Apparently Fabelta's idle capacity in 1977 could produce about three times as much rayon staple as was exported to the United States in that year. Import penetration from Belgium could increase to around 4 percent of apparent U.S. consumption, hardly an overwhelming level. Counsel for Fabelta stated that it has limited annual exports to the United States to no more than 9 million pounds, or slightly less than 2 percent of apparent consumption. There may be a slight possibility of some problems occurring in the future with respect to imports from Belgium but I certainly wouldn't classify it as a likelihood.

By order of the Commission.

Issued: September 12, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-26078 Filed 9-14-78; 8:45 am]

[4410-18]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

NATIONAL MINORITY ADVISORY COUNCIL ON CRIMINAL JUSTICE

Date Changes of Meeting

This is to provide notice of change in dates of the meeting of the National Minority Advisory Council on Criminal Justice (NMACCJ).

The National Minority Advisory Council will hold its regular quarterly meeting on September 29-30, 1978 instead of September 22-23, 1978. The meeting will be held in the 13th Floor Conference Room of the Law Enforcement Assistance Administration (LEAA), 633 Indiana Avenue NW., Washington, D.C. 20531. The meeting is scheduled to run from noon until 6 p.m. on the 29th and from 9 a.m. until 3 p.m. on the 30th. The two sessions will center on review of the Council's final report on the national needs assessment of minorities and their relationship with the criminal justice system. The meeting is open to the public.

Anyone wishing additional information should contact Frank de la Fe, Project Monitor, 633 Indiana Avenue NW., Washington, D.C. 20531, telephone number 202-376-3868.

FRANK DE LA FE,
Project Monitor, National Minority Advisory Council on Criminal Justice.

[FR Doc. 78-26045 Filed 9-14-78; 8:45 am]

[4410-18]

RELATIVE CONTRIBUTION OF CARBON MONOXIDE AND HEART DISEASES TO THE DEATH OF PUBLIC SAFETY OFFICERS

Meeting

On April 21, 1978, five leading medical experts on the toxic effects of carbon monoxide (CO) met in Washington with officials of the Law Enforcement Assistance Administration (LEAA) to offer advice on when CO inhalation should be considered a substantial factor in the deaths of firefighters and others whose survivors may be eligible for benefits under the Public Safety Officers' Benefits Act (PSOB). The experts were:

Wilbert S. Aronow, M.D., Chief, Cardiovascular Section of the Veterans Administration Hospital in Long Beach, Calif., Professor of Medicine, Professor of Pharmacology and Therapeutics, Professor of Community and Environmental Medicine, Vice-Chief, Cardiovascular Division, and Chief, Cardiovascular Research, University of California, Irvine;
Russell S. Fisher, M.D. Chief Medical Examiner of the State of Maryland;
Thomas L. Kurt, M.D., Associate Professor, Division of Cardiology, University of Colorado Medical Center;
Richard D. Stewart, M.D., Professor, Department of Environmental Medicine, Medical College of Wisconsin; and
Robert L. Thompson, M.D., Captain, U.S. Navy, Chairman, Department of Forensic Sciences, Armed Forces Institute of Pathology (AFIP).

Their advice was sought on a complex issue which arises regularly under the PSOB Act. Under the act, the eligible survivors of a public safety officer who dies as the direct and proximate result of a personal injury sustained in the line of duty are entitled to $50,000 in benefits. In accordance with the legislative history of the act, LEAA has determined that the "direct and proximate" requirement will be satisfied only when a traumatic injury is a "substantial factor" in the officer's death. To be a substantial factor, the injury must contribute to the death to as great a degree as any other contributing factor, such as a pre-existing chronic, congenital, or progressive disease. Deaths resulting from such diseases, whether occupational or

personal in origin, are not within the purview of the act. Neither are deaths attributable to "stress and strain." Inhalation of carbon monoxide is considered a traumatic injury.

Many of the firefighter deaths reviewed by LEAA have been attributable, in some degree, to chronic heart disease. In some of these cases, the toxicological examination of the victim at autopsy also revealed a higher than normal level of CO saturation in the blood. In order to properly decide the case, therefore, LEAA had to determine whether the CO level was so high as to warrant it being a substantial factor in the victim's death. A review of the medical literature and consultation with a variety of experts revealed that the relationship between CO exposure, heart disease, and death is complex and not yet fully understood even in the scientific community. In order to avail themselves of the best possible information, and more specifically, to develop a general guideline for coverage under the Act that was reasonable, fair, and supported by the most current expertise, LEAA staff responsible for administering the act asked the doctors listed above to share their knowledge with them.

Prior to the meeting, LEAA sent each doctor a letter explaining the act and its implementig regulations, and enclosed a number of relevant medical journal articles. A summary of the applicable law was presented again at the meeting.

The group, as a whole, cautioned LEAA that, for want of sufficient scientific knowledge, the subject was not yet capable of precise quantification. Each doctor was asked to present the results of his own research for the consideration and comment of the others.

Dr. Aronow informed the group that his research had demonstrated that rasing the venous carboxyhemoglobin (COHb) level from 1.03 percent to 2.68 percent aggravates angina pectoris. He also noted the similar conclusions reached by Dr. Anderson and associates, whose study demonstrated that increasing the venous COHb level from 1.3 percent to 2.9 percent aggravates angina pectoris. In addition, he cited a study by Cohen and associates which demonstrated an association between atmospheric CO pollution in Los Angeles and case fatality rates for patients with acute myocardial infarction admitted to 35 Los Angeles hospitals. Dr. Aronow explained that because CO has approximately 245 times a greater affinity for hemoglobin (Hb) than oxygen (O_2) does, CO inhibits the supply of oxygen to the heart muscle. Carbon monoxide also causes tighter binding of oxygen to hemoglobin, further decreasing the availability of oxygen to the heart muscle. Dr. Aronow's research has also demonstrated that raising the arterial carboxyhemoglobin level from 1.09 percent to 6.34 percent lowered the ventricular fibrillation threshold in dogs with experimentally induced acute myocardial injury. These effects combine to make the victim more vulnerable to heart attacks and to sudden death.

Dr. Fisher presented an analysis of carbon monoxide-related deaths that had been seen by his office. A substantial number of cases supported the generally accepted theory advanced by Dr. Aronow, but the largest group of cases showed that persons with serious heart disease tolerated CO saturation levels of well over 50 percent before dying. Other participants pointed out that some of those deaths could have occurred in air containing a very high content of carbon monoxide. In those circumstances, just a few breaths could have produced the high CO saturation percentages noted and a fatal episode of ventricular fibrillation.

Dr. Stewart explained the results of a study he performed on Milwaukee firefighters, which found that, after a fire, nonsmoking firefighters had a mean CO saturation of approximately 5 percent, and smokers approximately 11 percent. Before a fire, each group had levels of approximately 3 percent and 7 percent, respectively. Only 0.5 percent of those firefighters who averaged between 11 and 19 percent saturation experienced any coronary trouble. The saturation levels of the firefighters who died ranged from 2-89 percent.

Dr. Stewart also noted one problem that could result from setting too high a level of saturation as the "substantial factor" standard. The inhalation of high concentrations of CO can result in arterial blood with a toxic CO saturation reaching the brain, causing cerebral hypoxia. By the time that blood with the high CO saturation has circulated to the rest of the body, however, the percentage of CO in the venous blood would be reduced sharply. For example, inhalation of 10 percent CO for a few breaths could send blood to the brain that was 50 percent to 70 percent saturated. After several minutes of recirculation and no further exposure to CO, the venous blood might show a 5 percent saturation. If the hypoxia (which cannot be identified at autopsy) resulted in ventricular fibrillation and death, the relatively low CO level found at autopsy and the victim's preexisting heart disease could lead LEAA to improperly deny benefits in a case where CO inhalation was truly a substantial factor in the victim's death.

Dr. Kurt summarized two of his studies, one of which demonstrated a positive correlation between CO levels in the atmosphere and the number of cardio-respiratory complaints received in the emergency room of Colorado General Hospital. On the basis of his own experience and the preceding discussion, Dr. Kurt suggested 20 percent saturation as the level at which CO became a substantial factor in a death also contributed to by heart disease. He noted the level was consistent with Dr. Fisher's findings, and above the CO level found in even the heaviest smoker. He had originally suggested a sliding scale of benefits for carbon monoxide-related deaths starting at zero dollars in benefits for job-related deaths at 2 percent CO saturation and working up to $50,000 in benefits at 20 percent CO saturation and greater. Because the Act only permits the award of $50,000 or nothing, this concept could not be applied.

Discussion followed on whether different standards should be set for smokers and nonsmokers. The group agreed that the standard set should take into account the increased CO level in the blood of regular smokers. This increased level had been amply demonstrated by several studies, including Dr. Stewart's study of the Milwaukee firefighters. On the basis of that study, Dr. Stewart felt that 20 percent would be a substantial factor beyond a reasonable doubt, but that at 13 percent, there was still a likelihood that CO inhalation would be a major contributing factor to death. Dr. Kurt suggested a level of 15 percent saturation for both smokers and nonsmokers, with a benefit of the doubt given to nonsmokers with as low as 10 percent saturation. The group concurred in this recommendation, believing that most doctors familiar with the issue would find these figures generous to the victim's survivors.

On a later date, Dr. Fisher urged that LEAA consider a 20 percent level for smokers, and 13 percent for nonsmokers, respectively. However, given the imprecision of present scientific knowledge and the possibility, as recognized in his own findings, that CO saturation levels of less than 20 percent could be a substantial factor in a particular decedent's death, he concurred in the agreed standard.

The group was also asked to develop a method of estimating the CO saturation level in the blood at the onset of a fatal cardiac or pulmonary event, if resuscitative attemps resulted in reducing the level below the "substantial factor" level by the time of death. Dr. Stewart stated that the percentage of CO in a sedentary individual breathing air at sea level is reduced by 50 percent in 5 hours. The same person receiving 100 percent oxygen would eliminate 50 percent of the CO in his system in 90 minutes. Dr. Stewart of-

fered to provide LEAA with computer-generated tables specifying the percentage of CO reduction over a 12-hour period at 5-minute intervals. The charts would be prepared for persons

the New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C., room N-4437. The agenda for the meeting is as follows:

[4510-30]

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COM-

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of

4. Providing certified copies of Rules and Regulations or Standards to the Office of the State Archivist.

This decision is effective September 15, 1978.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29

fered to provide LEAA with computer-generated tables specifying the percentage of CO reduction over a 12-hour period at 5-minute intervals. The charts would be prepared for resuscitation by 21 percent oxygen (ambient air), 40 percent oxygen (nasal prongs), 85 percent oxygen (mask), and 100 percent oxygen (bag). Because the rate of elimination also varies slightly depending on the atmospheric pressure, Dr. Stewart also agreed to provide LEAA the appropriate charts for above sea level, under sea level, and sea level.

Reviewed and Approved:

Dr. Wilbert S. Aronow, Dr. Russell S. Fisher, Dr. Thomas L. Kurt, Dr. Richard D. Stewart, Dr. Robert L. Thompson.

On the basis of the group's recommendation, LEAA will find CO inhalation a substantial factor in a public safety officer's death when the decedent had a CO saturation level of 15 percent or greater at the time of the fatal event, or, if the decedent was a nonsmoker, a saturation level of 10 percent or greater. LEAA believes that the selection of these standards reflects the most advanced thought on this issue and comports with the requirement in the PSOB regulations that any reasonable doubt arising from the circumstances of the officer's death be resolved in favor of paying the benefit. See 28 CFR 32.4.

Benefits will be denied in cases meeting the above guideline only if the doctor performing the autopsy and the doctor reviewing the file on behalf of LEAA expressly agree that (1) CO inhalation was not a substantial factor in the death, or (2) the CO saturation level was not attributable to a personal injury, as defined in the LEAA regulations.

The tables provided by Dr. Stewart will be used to calculate the CO saturation level at the onset of the fatal event.

If any further information on this subject is needed, please contact Mr. William F. Powers, Director, Public Safety Officers' Benefits Program, LEAA, Washington, D.C. 20531.

JAMES M. H. GREGG,
Assistant Administrator,
Office of Planning and Management.

[FR Doc. 78-26046 Filed 9-14-78; 8:45 am]

[4510-24]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL

Meeting

The regular fall meeting of the Business Research Advisory Council will be held at 9:30 a.m., October 4, 1978, at the New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C., room N-4437. The agenda for the meeting is as follows:

1. Chairman's Opening Remarks—J. Frank Gaston.
2. Commissioner's Remarks—Janet L. Norwood, Acting Commissioner.
3. The Job Vacancy Program—Prospects and Plans.
4. Committee Reports: (a) Manpower and Employment, (b) Economic Growth; (c) Wages and Industrial Relations (a preview).
5. Other Business.
6. Chairman's Closing Remarks.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on area code 202-523-1559.

Signed at Washington, D.C. this 8th day of September 1978.

JANET L. NORWOOD,
Acting Commissioner of Labor Statistics.

[FR Doc. 78-25910 Filed 9-14-78; 8:45 am]

[4510-24]

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON WAGES AND INDUSTRIAL RELATIONS

Meeting

The BRAC Committee on Wages and Industrial Relations will meet at 2 p.m., October 4, 1978, at the General Accounting Office Building in room 4453, 441 G Street NW., Washington, D.C. The agenda for the meeting is as follows;

1. Work in Progress.
2. WIR Program Planning and Budget Cycles.
3. Status of Sub-Committee Work on Long-Range Program Plans.
4. Changing Structure of Employee Compensation.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on area code 202-523-1559.

Signed at Washington, D.C. this 8th day of September 1978.

JANET L. NORWOOD,
Acting Commissioner of Labor Statistics.

[FR Doc. 78-25909 Filed 9-14-78; 8:45 am]

[4510-30]

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate, or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information petinent to the determinations which must be made regarding these applications are invited to submit such information in writing within 2 weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 11th day of September 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING SEPTEMBER 8, 1978

Name of applicant, location of enterprise, and principal product or activity: American Brass, Inc., Headland, Ala., manufacture of brass and bronze ingot.

[FR Doc. 78-26023 Filed 9-14-78; 8:45 am]

[4510-26]

Occupational Safety and Health Administration

UTAH STATE STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 10, 1973, notice was published in the FEDERAL REGISTER (38 FR 1178) of the approval of the Utah Plan and the adoption of Subpart E to Part 1952 containing the decision.

The Utah Plan provides for the adoption of Federal Standards as State Standards by:

1. Advisory Committee recommedation.
2. Publication in newspapers of general/major circulation with a 30-day waiting period for public comment and hearing(s).
3. Commission order adopting the standards and designating an effective date.
4. Providing certified copies of Rules and Regulations or Standards to the Office of the State Archivist.

Section 1952.113 of subpart E sets forth the State's schedule for adoption of Federal Standards. By letters dated June 1, 1978, from Ronald L. Joseph, Acting Administrator, Utah Occupational Safety and Health Division, to Curtis A. Foster, Regional Administrator, and incorporated as part of the Plan, the State submitted rules and regulations concerning 29 CFR 1910.1045 for Occupational Exposure to Acrylonitrile (Vinyl Cyanide), 43 FR 2586, Tuesday, January 17, 1978. These standards which are contained in the Utah Occupational Safety and Health Rules and Regulations for General Industry, were promulgated per the requirements of Utah Code annotated 1953, Title 63-46-1, and in addition, published in newspapers of general/major circulation throughout the State. No public comment was received and no hearings held. The Emergency Temporary Standard for Occupational Exposure to Acrylonitrile (Vinyl Cyanide) was adopted by the Industrial Commission of Utah, Archives File Number 2727 on May 3, 1978, pursuant to Title 35-9-6 Utah Code Annotated 1953.

2. *Decision.* The State submission having been reviewed in comparison with the Federal Standards, it has been determined that the State Standards are identical to the Federal Standards and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Room 1554, Federal Office Building, 1961 Stout Street, Denver, Colo. 80294; Utah State Industrial Commission, UOSHA Offices at 448 South 400 East, Salt Lake City, Utah 84111; and the Technical Data Center, Room N2439R, Third and Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Utah State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

The Standards were adopted in accordance with the procedural requirements of State law which permitted public comments, and further public participation would be repetitious.

This decision is effective September 15, 1978.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1808 (29 U.S.C. 667).)

Signed at Denver, Colo., this 18th day of August 1978.

CURTIS A. FOSTER,
Regional Administrator.

[FR Doc. 78-26080 Filed 9-14-78; 8:45 am]

[4510-26]

WYOMING STATE STANDARDS

Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On May 3, 1974, notice was published in the FEDERAL REGISTER (39 FR 15394) of the approval of the Wyoming Plan and the adoption of Subpart BB to Part 1952 containing the decision.

The Wyoming Plan provides for the adoption of Federal standards as State standards after public hearings. Section 1953.23(a)(2) of 29 CFR provides that whenever a Federal standard is promulgated, the State must adopt or promulgate a standard or standard change which will make the State standard at least as effective as the Federal standard or change within 6 months of the Federal promulgation or change. In response to Federal standard changes, the State has submitted by letter dated July 14, 1978, from Donald G. Owsley, Health and Safety Administrator, to Curtis A. Foster, Regional Administrator, and incorporated as part of the plan, State standards comparable to 29 CFR 1910.401, 29 CFR 1910.410, 29 CFR 1910.411, 29 CFR 1910.420, 29 CFR 1910.421, 29 CFR 1910.422, 29 CFR 1910.423, 29 CFR 1910.424, 29 CFR 1910.430, 29 CFR 1910.440 and 29 CFR 1910.441 Commercial Diving Operations which was published in the FEDERAL REGISTER (42 FR 37650), Friday, July 22, 1977. These standards, which are contained in the Wyoming Occupational Safety and Health Rules and Regulations for General Industry, were promulgated after hearings held on March 17, 1978, and by resolution

adopted by the Wyoming Occupational Health and Safety Commission on May 12, 1978, and became effective on

certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

[4510-28]

[TA-W-3517]

lead prices (31 cents by U.S. producers versus 25 cents by the LME), which may have prompted some U.S. customers to purchase abroad. Also from Feb-

All workers at the Vanadium mine of ASARCO, Inc., Vanadium, N. Mex., who became totally or partially separated from employment on or after January 1, 1978, are

ports to domestic production ratio increased from 14.1 percent in the first quarter of 1977 to 19.5 percent for the same period in 1978.

adopted by the Wyoming Occupational Health and Safety Commission on May 12, 1978, and became effective on July 6, 1978, pursuant to section 27-278, Wyoming Statutes 1957, as amended 1973.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards.

3. *Location of supplements for inspection and copying.* A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 1554, Federal Building, 1961 Stout Street, Denver, Colo. 80294; the Occupational Health and Safety Department, 200 East Eighth Avenue, Cheyenne, Wyo. 82001; and the Technical Data Center, Room N2439R, Third and Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Under § 1953.2(c) of 29 CFR Part 1953, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Wyoming State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law, which included public comments, and further public participation would be unnecessary.

This decision is effective September 15, 1978.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Denver, Colo., this 8th day of August 1978.

CURTIS A. FOSTER,
Regional Administrator.

[FR Doc. 78-26079 Filed 9-14-78; 8:45 am]

[4510-28]

Office of the Secretary

[TA-W-3725]

APEX GLOVE CO., MILWAUKEE, WIS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3725: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 18, 1978 in response to a worker petition received on May 15, 1978 which was filed by the Amalgamated Clothing & Textile Workers Union on behalf of workers producing work gloves at Apex Glove Co., Milwaukee, Wis.

The notice of investigation was published in the FEDERAL REGISTER on June 13, 1978 (43 FR 25498-9). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Apex Glove Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

On May 28, 1976, the Department issued a certification of eligibility to apply for worker adjustment assistance applicable to workers at Apex Glove Co. (TA-W-710). That certification expired on May 28, 1978—2 years from its date of issuance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation revealed that, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both of the firm or subdivision have decreased absolutely.

Value of sales by Apex Glove Co. increased in January-June 1978 from the same period in 1977. Production increased in January-June 1978 from the same period in 1977. Production increased in the fourth quarter of 1977 and first two quarters of 1978 compared to the same quarter of the previous year.

CONCLUSION

After careful review, I determine that workers of Apex Glove Co., Milwaukee, Wis. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 6th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-25911 Filed 9-14-78; 8:45 am]

[4510-28]

[TA-W-3517]

ASARCO, INC., VANADIUM, N. MEX.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3517: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 18, 1978, in response to a worker petition received on April 5, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers mining zinc at the Vanadium mine of ASARCO, Inc., Vanadium, N. Mex. During the course of the investigation it was established that lead is also mined.

The notice of investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18789). No public hearing was requested and none was held. The information upon which the determination was made was obtained principally from officials of ASARCO, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, the U.S. Department of the Interior, *The American Metal Market, Metal Bulletin, Metals Week,* industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of refined and recovered lead increased from 101 thousand short tons in 1975 to 147 thousand short tons in 1976 and then increased to 264 thousand short tons in 1977. Imports increased from 47 thousand short tons in the first quarter of 1977 to 66 thousand short tons for the same period in 1978. The import to domestic production ratio increased from 7.8 percent in 1975 to 10.7 percent in 1976 and then to 19.7 percent in 1977. The import to domestic production ratio increased from 14.1 percent in the first quarter of 1977 to 19.5 percent for the same period in 1978.

Imports of lead are affected by the differential between domestic producers' prices and the price of lead on the London Metal Exchange (LME). Generally, prices charged by domestic producers range from 2 to 4 cents per pound above LME prices. When the LME price drops more than the 2 to 4 cents per pound below the domestic producer' prices, there is increased demand for imported lead. In August 1977 there was a 6-cent difference in lead prices (31 cents by U.S. producers versus 25 cents by the LME), which may have prompted some U.S. customers to purchase abroad. Also from February-April 1978 lead prices on the LME have ranged from 6.5 to 7.0 cents per pound lower than those charged by U.S. producers. Consequently, imports of refined and recovered lead increased 79.6 percent from 1976 to 1977 and 40.4 percent in the first quarter of 1978 when compared to the same period in 1977, while domestic production of lead has remained fairly constant in 1977 and in the first quarter of 1978.

U.S. imports of slab zinc increased from 380,437 short tons in 1975 to 714,489 short tons in 1976 before declining to 555,147 short tons in 1977. Imports increased from 121,120 short tons in the first quarter of 1977 to 155,998 short tons for the same period in 1978. The import to domestic production ratio increased from 76.7 percent in 1975 to 127.0 percent in 1976 and then to 127.9 percent in 1977. The import to domestic production ratio increased from 94.0 percent in the first quarter of 1977 to 152.1 percent for the same period in 1978.

Imports of zinc are affected by the differential between the domestic price of zinc established by U.S. producers and the price established by the LME (London Metal Exchange). When the LME price drops more than the estimated transportation cost of 5 cents per pound below the producers' price, the demand for imported zinc increases. Except for brief periods in the spring of 1976 and in March 1977, the price differential between U.S. producers and the LME has exceeded 5 cents per pound. The average U.S. producer price for zinc was 7.6 cents higher than the average LME zinc price in 1977 and 7.1 cents higher in the first quarter of 1978. This is well above the 5-cent limit at which domestic suppliers can remain competitive. Consequently, in the first quarter of 1978 when many domestic zinc producers curtailed production because of the depressed market price of zinc, imports of slab zinc increased 28.8 percent when compared to the same period in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the lead and zinc produced at the Vanadium mine of ASARCO, Inc., Vanadium, N. Mex., contributed importantly to the decline in sales and production and to the total or partial separation of workers at the mine. In accordance with the provisions of the act, I make the following certification:

All workers at the Vanadium mine of ASARCO, Inc., Vanadium, N. Mex., who became totally or partially separated from employment on or after January 1, 1978, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25912 Filed 9-14-78; 8:45 am]

[4510-28]

[TA-W-3518]

ASARCO, INC., DEMING, N. MEX.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3518: Investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 18, 1978, in response to a worker petition received on April 5, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing zinc at the Deming Mill of ASARCO, Inc., Deming, N. Mex. During the course of the investigation it was established that lead is also produced.

The Notice of Investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18789). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of ASARCO, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, the U.S. Department of the Interior, *The American Metal Market, Metal Bulletin, Metals Week,* industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of refined and recovered lead increased from 101 thousand short tons in 1975 to 147 thousand short tons in 1976 and then increased to 264 thousand short tons in 1977. Imports increased from 47 thousand short tons in the first quarter of 1977 to 66 thousand short tons for the same period in 1978. The imports to domestic production ratio increased from 7.8 percent in 1975 to 10.7 percent in 1976 and to 19.7 percent in 1977. The imports to domestic production ratio increased from 14.1 percent in the first quarter of 1977 to 19.5 percent for the same period in 1978.

Imports of lead are affected by the differential between domestic producers' prices and the price of lead on the London Metal Exchange (LME). Generally, prices charged by domestic producers range from 2 to 4 cents above LME prices. When the LME price drops more than 2 to 4 cents per pound below the domestic producers' price, the demand for imported zinc increases. Except for brief periods in the spring of 1976 and in March 1977, the price differential between U.S. producers and the LME has exceeded 5 cents per pound. The average U.S. producer price for zinc was 7.8 cents higher than the average LME zinc price in 1977 and 7.1 cents higher in the first quarter of 1978. This is well above the 5-cent limit at which domes-

tic suppliers can remain competitive. Consequently, in the first quarter of 1978 when many domestic zinc producers curtailed production because of the depressed market price of zinc, imports of slab zinc increased 28.8 percent when compared to the same period in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the lead and zinc produced at the Deming Mill of ASARCO, Inc., Deming, N. Mex., contributed importantly to the decline in sales and production and to the total or partial separation of workers at the mill. In accordance with the provisions of the Act, I make the following certification:

All workers at the Deming Mill of ASARCO, Inc., Deming, N. Mex., who became totally or partially separated from employment on or after January 1, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 25913 Filed 9-14-78; 8:45 am]

[4510-28]

[TA-W-3070]

BENNETT MANUFACTURING CO., NEW HAVEN, IND.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3070: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 7, 1978, in response to a worker petition received on January 31, 1978, which was filed by Amalgamated Clothing & Textile Workers Union on behalf of workers and former workers producing tailored suits and sport coats at Bennett Manufacturing Co., New Haven, Ind. During the course of the investigation it was determined that women's skirts and blouses are also produced at the plant.

The notice of investigation was published in the FEDERAL REGISTER on February 24, 1978 (43 FR 7744). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bennett Manufacturing Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's, misses' and children's suits decreased from 412 thousand dozen in 1975 to 408 thousand dozen in 1976 and further decreased to 384 thousand dozen in 1977. U.S. imports of women's, misses' and children's skirts decreased from 791 thousand dozen in 1976 to 654 thousand dozen in 1977. U.S. imports of women's, misses' and children's blouses and shirts have declined relative to domestic production from 1976 to 1977.

A Departmental survey was conducted of manufacturers representing nearly all Bennett Manufacturing Co. contract work. The consensus among the respondents was that imports have had a negligible effect upon the markets they serve and any changes in purchasing patterns were due to shifts in consumer preference of style and fabric and general decreases in demand for knitted dresses and suits.

CONCLUSION

After careful review I determine that all workers of Bennett Manufacturing Co., New Haven, Ind., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25914 Filed 9-14-78; 8:45 am]

[4510-28]

[TA-W-3574]

BROWN SHOE CO., CARUTHERSVILLE, MO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3574: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 4, 1978, in response to a worker petition received on April 25, 1978, which was filed on behalf of workers and former workers producing ladies' shoes at the Caruthersville, Mo. plant of the Brown Shoe Co.

The Notice of Investigation was published in the FEDERAL REGISTER on May 23, 1978 (43 FR 22087). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Brown Shoe Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales of ladies' shoes at the Caruthersville, Mo. plant of Brown Shoe Co. increased 11.3 percent, in quantity, from 1975 to 1976, 11.2 percent from 1976 to 1977 and 3.9 percent in the first half of 1978 compared to the same period of 1977. Production increased 12.7 percent, in quantity, from 1975 to 1976, 10.2 percent from 1976 to 1977 and 2.4 percent in the first half of 1978 compared to the same period of 1977.

CONCLUSION

After careful review I determine that all workers at the Caruthersville, Mo. plant of the Brown Shoe Co. are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington D.C., this 6th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25915 Filed 9-14-78; 8:45 am]

[4510-28]

[TA-W-3746]

CORNELIUS WEISS CO., INC., BROOKLYN, N.Y.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 23, 1978, in response to a worker petition received on May 15, 1978, which was filed on behalf of workers and former workers producing women's slacks at the Brooklyn, N.Y. plant of Cornelius Weiss Co., Inc.

The Notice of investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24633-34). No public hearing was requested and none was held.

The petitioner, the Amalgamated Clothing and Textile Workers Union, requested withdrawal of this petition. The basis for the withdrawal was that the petition was filed in error. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 30th day of August 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-25916 Filed 9-14-78; 8:45 am]

[4510-28]

[TA-W-3590]

H & D SPORTSWEAR, INC., WEST PATERSON, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3590: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and jackets at H & D Sportswear, Inc., West Paterson, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of H & D Sportswear, Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Office of Trade Adjustment Assistance conducted a survey of the principal manufacturers for which H & D Sportswear worked in 1976, 1977, and 1978. Manufacturers who accounted for a majority of sales in 1976, and 1977, reduced purchases from H & D Sportswear in the May 1977 through April 1978 period compared to the like period of the previous year. The manufacturers increased purchases of imported ladies' coats and jackets in the May 1977 through April 1978 period compared to the like period of the previous year.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats and jackets produced at H & D Sportswear, Inc., West Paterson, N.J. contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of H & D Sportswear, Inc., West Paterson, N.J. who became totally or partially separated from employment on or after June 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25917 Filed 9-14-78; 8:45 am]

[4510-28]

[TA-W-3793 & 3793A]

INTERDATA DIVISION OF THE PERKIN-ELMER CORP., OCEANPORT AND OAKHURST, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3793 and 3793A: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 31, 1978, in response to a worker petition received on May 26, 1978, which was filed on behalf of all workers producing cables for computers at the Oceanport, N.J. plant of the Interdata Division of the Perkin-Elmer Corp. The petition was expanded to include workers at the Oakhurst, N.J. plant since the company operates the two plants as a single production unit. The investigation revealed that workers at the Oceanport and Oakhurst plants produce minicomputers.

The Notice of Investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26497). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Perkin-Elmer Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales of minicomputers and other software at the Oceanport and Oakhurst, N.J. plants of the Interdata Division of the Perkin-Elmer Corp. increased in 1977 compared to 1976 and increased in the first 5 months of 1978 compared to the same period in 1977. Production data was not provided. Sales approximate production.

CONCLUSION

After careful review, I determine that all workers of the Oceanport and Oakhurst, N.J. plants of the Interdata Division of the Perkin-Elmer Corp. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office Of Foreign Economic Research.

[FR Doc. 78-25918 Filed 9-14-78; 8:45 am]

[4510-28]

[TA-W-3443]

SILVER KING MINING AND MILLING CO., INC., USK, WASH.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3443: Investigation regarding

certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 4, 1978, in response to a worker petition received on April 25, 1978, which was filed on behalf of workers and former workers producing lead-zinc concentrate, among them, the Yellowhead Mine, Metaline Falls, Wash.

CONCLUSION

After careful review I determine that all workers of Silver King Mining and Milling Co., Inc., Usk, Wash., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25919 Filed 9-14-78; 8:45 am]

[4510-28]

[TA-W-3834]

UNITED STATES STEEL CORP., PITTSBURGH, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3834: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 26, 1978, in response to a worker petition received on June 23, 1978, which was filed on behalf of workers at the Fairless Works, Fairless Hills, Pa. plant of the United States Steel Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on July 11, 1978 (43 FR 29844). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the United States Steel Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the group eligibility requirements of section 222 have been met.

U.S. imports of steel mill products increased from 15,791 thousand tons in 1976 to 17,431 thousand tons in 1977. Imports declined from 4,911 thousand tons in the first quarter of 1977 to 4,000 thousand tons in the first quarter of 1978. The ratio of imports to domestic production increased from 15.1 percent in 1976 to 16.7 percent in 1977.

The Office of Trade Adjustment Assistance conducted a survey of the principal manufacturers for which United States Steel Corp. worked in 1976, 1977, and 1978. Manufacturers who accounted for a majority of sales in 1976, and 1977, reduced purchases from United States Steel Corp. in the May 1977 through April 1978 period compared to the like period of the previous year. The manufacturers increased purchases of imported steel mill products in the May 1977 through April 1978 period compared to the like period of the previous year.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with steel mill products produced at the Fairless Works, Fairless Hills, Pa. plant of United States Steel Corp. contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of the Fairless Works, Fairless Hills, Pa. plant of United States Steel Corp. who became totally or partially separated from employment on or after June 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25920 Filed 9-14-78; 8:45 am]

[4510-28]

[TA-W-3834]

UNITED STATES STEEL CORP., PITTSBURGH, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3834: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 26, 1978, in response to a worker petition received on June 23, 1978, which was filed on behalf of workers at the Fairless Works, Fairless Hills, Pa. plant of the United States Steel Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on July 11, 1978 (43 FR 29844). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the United States Steel Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the group eligibility requirements of section 222 have been met.

U.S. imports of steel mill products increased from 15,791 thousand tons in 1976 to 17,431 thousand tons in 1977. Imports declined from 4,911 thousand tons in the first quarter of 1977 to 4,000 thousand tons in the first quarter of 1978. The ratio of imports to domestic production increased from 15.1 percent in 1976 to 16.7 percent in 1977.

The Office of Trade Adjustment Assistance conducted a survey of the principal manufacturers for which United States Steel Corp. worked in 1976, 1977, and 1978. Manufacturers who accounted for a majority of sales in 1976, and 1977, reduced purchases from United States Steel Corp. in the May 1977 through April 1978 period compared to the like period of the previous year. The manufacturers increased purchases of imported steel mill products in the May 1977 through April 1978 period compared to the like period of the previous year.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with steel mill products produced at the Fairless Works, Fairless Hills, Pa. plant of United States Steel Corp. contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of the Fairless Works, Fairless Hills, Pa. plant of United States Steel Corp. who became totally or partially separated from employment on or after June 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25921 Filed 9-14-78; 8:45 am]

certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 28, 1978, in response to a worker petition received on March 13, 1978, which was filed on behalf of workers and former workers of Silver King Mining & Milling Co., Inc., producing zinc ore at the Yellowhead Mine, Metaline Falls, Wash.

The Notice of investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15205). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Silver King Mining & Milling Co., Inc., its customers, *Metals Week, Metal Bulletin*, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

Silver King Mining & Milling Co., Inc., along with another firm, mined the Yellowhead Mine of the Bunker Hill Co. Silver King produced zinc ore which was hauled to the concentrator at the Pend Oreille Mine nearby where it was made into zinc concentrate. The concentrate was taken by Bunker Hill to its refineries in Kellogg, Idaho and refined into zinc and sold.

The ratio of imports of slab zinc to domestic production increased from 76.7 percent in 1975 to 127.0 percent in 1976 and 127.9 percent in 1977.

Industry sources maintain that domestic suppliers of zinc can remain competitive with foreign suppliers as long as the domestic price is within 5 cents per pound of the London Metal Exchange price. Except for brief periods in the spring and summer of 1976 and 1977, the price differential between U.S. producers and the LME has exceeded 5 cents per pound. The average U.S. production price for zinc was 7.6 cents per pound higher than the average LME zinc price in 1977, well above the 5-cent limit at which domestic suppliers can remain competitive.

Evidence developed during the course of the investigation indicates that imports of refined zinc metal have been an important factor affecting domestic sales of zinc and depressing the price of zinc. The depressed price of zinc has brought about a reduction in the domestic production of refined zinc and has resulted in cutbacks and shutdowns at many mines and concentrators producing zinc concentrate, among them, the Yellowhead Mine, Metaline Falls, Wash.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with zinc ore produced at the Yellowhead Mine, Metaline Falls, Wash. by Silver King Mining & Milling Co., Inc., Usk, Wash. contributed importantly to the decline in production and to the total or partial separations of workers of that firm. In accordance with the provisions of the act, I make the following certification:

All workers of Silver King Mining & Milling Co., Inc., Usk, Wash., who were engaged in employment related to the production of zinc ore at the Yellowhead Mine, Metaline Falls, Wash. who became totally or partially separated from employment on or after May 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-25919 Filed 9-14-78; 8:45 am]

[4510-28]

[TA-W-3844]

TARA KNITTING MILLS, INC., BROOKLYN, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3844: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 14, 1978, in response to a worker petition received on June 12, 1978, which was filed by the International Ladies Garment Workers Union on behalf of all workers producing ladies dresses, suits and sportswear at the Brooklyn, N.Y. plant of Tara Knitting Mills, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27924). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Tara Knitting Mills, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's dresses were recorded at 371,000 dozen in the first quarter of 1977 and increased by 8.6 percent in the first quarter of 1978 to 403,000 dozen.

U.S. imports of women's, misses', and children's suits were recorded at 62,000 dozen in the first quarter of 1977 and increased by 67.7 percent to 104,000 dozen in the first quarter of 1978.

The Department conducted a survey of the major customer buying ladies suits and dresses from Tara Knitting Mills. In mid-year 1977 that customer drastically reduced purchases from Tara and began to import ladies suites and dresses. By 1978 this customer had totally ceased buying from Tara and depended primarily on imports as a source for ladies suits and dresses.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's knitwear produced by Tara Knitting Mills, Inc., Brooklyn, N.Y., contributed importantly to the sales or production declines and to the total or partial separation of workers at the plant. In accordance with the provisions of the act, I make the following certification:

All workers of Tara Knitting Mills, Inc., Brooklyn, N.Y., who became totally or partially separated from employment on or after November 6, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25920 Filed 9-14-78; 8:45 am]

[4510-28]

[TA-W-3797]

UNITECH CHEMICAL CO., ST. JOSEPH, MO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In Accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3797: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 31, 1978, in response to a worker petition received on May 23, 1978, which was filed by the National Brotherhood of Packinghouse & Industrial Workers on behalf of workers and former workers producing bone glue at the St. Joseph, Mo. plant of Unitech Chemical Co.

The Notice of Investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26479). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Unitech Chemical Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

The petition received by the Office of Trade Adjustment Assistance alleges that major layoffs occurred at the St. Joseph plant of Unitech Chemical Co., during 1975. In accordance with section 223(b) of the act, no certification may apply to any worker whose last total or partial separation from the subject firm occurred more than 1 year prior to the date of the petition. Since the date of the petition in this case is May 23, 1978, workers of the St. Joseph plant who were separated from employment prior to May 23, 1977, would not be eligible to apply for adjustment assistance.

Shipments of bone glue by the St. Joseph, Mo., plant of Unitech Chemical Co. increased in both quantity and value in 1977 from 1976 and during January-May 1978 compared to January-May 1977. Compared to the same quarter of the previous year, production increased during four consecutive quarters from the second quarter of 1977 through the first quarter of 1978.

CONCLUSION

After careful review, I determine that workers of the St. Joseph, Mo., plant of Unitech Chemical Co. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25923 Filed 9-14-78; 8:45 am]

[4510-28]

[TA-W-3834]

UNITED STATES STEEL CORP., AIRCRAFT DIVISION, PITTSBURGH, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3834: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 12, 1978, in response to a worker petition received on June 7, 1978, which was filed by three workers on behalf of all workers at the Pittsburgh, Pa., facility of the Aircraft Division of the United States Steel Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27925). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of United States Steel Corp. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the group eligibility criteria have been met.

Average facility employment began to decline in November 1977 and declined in the first half of 1978 compared to the like 1977 period.

The petitioners maintain and operate a fleet of company-owned planes which are primarily utilized to transport officials of the Steel Division of the United States Steel Corp. This transportation activity is necessary to the support of the operations of the Steel Division. Workers engaged in the production of a significant percentage of the Steel Division's total 1976 production of steel have previously been certified eligible to apply for adjustment assistance benefits. See Department determinations for adjustment assistance cases: TA-W-1292, 1431, 1433, 1438, 1439, 1444, 1447, 1449, 1451, 1452, 2135, 2588, 2836, and 3205. The certifications for the above cases will expire between March 18, 1979 and April 6, 1980, depending upon the date of certification of the individual cases.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increasesd imports of articles like or directly competitive with the steel products produced at the various United States Steel Corp. plants that have already been certified eligible for adjustment assistance have contributed importantly to the total or partial separation of workers at the Pittsburgh, Pa., facility of the Aircraft Division of the United States Steel Corp. as required for certification under section 222 of the Trade Act of 1974. In accordance with the provisions of the act, I make the following certification:

All employees of the Pittsburgh, Pa., facility of the aircraft division of the United States Steel Corp. who became totally or partially separated from employment on or after November 1, 1977, are eligible to apply for adjustment assistance benefits under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25992 Filed 9-14-78; 8:45 am]

[4510-28]

[TA-W-3655]

VINCO FASHIONS, INC., JERSEY CITY, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3655: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and raincoats at Vinco Fashions, Inc., Jersey City, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Vinco Fashions, Inc., its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial

Signed at Washington, D.C., this 7th day of September 1978.

JAMES M. ROSBROW,

public inspection 5 working days after the conference at the Commission's headquarters located at 1522 K Street NW., Room 300, Washington, D.C.

Members of the general public or other interested individuals may

thors, discussants and invited participants.

will conclude at 1 p.m. on September 24.

TENTATIVE AGENDA—SEPTEMBER MEETING

Opportunities in the Private Sector" on October 20, 1978, in the Mount Vernon Room of the Sheraton Carlton

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That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

A survey of the manufacturers who purchased ladies' coats and raincoats produced at Vinco Fashions, Inc., indicated that these manufacturers have not reduced purchases from the subject firm. Since the company was founded in August 1976, a comparison of sales and production figures from 1976 to 1977 is only valid for the period from September-December. Sales and production, in quantity, as well as employment, increased in the last four months of 1977 compared to the same period in 1976. Sales, production and employment also increased in the first 5 months of 1978 compared to the same period in 1977. Although sales and production declined in the first quarter of 1978 compared to the first quarter of 1977, employment increased during this period. Increased employment in the first quarter of 1978 is reflected in increased sales and production recorded in April and May 1978.

CONCLUSION

After careful review I determine that all workers at Vinco Fashions, Inc., Jersey City, N.J., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington D.C., this 6th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-25921 Filed 9-14-78; 8:45 am]

[4510-23]

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

MEETING

The eighth meeting of the NCUC will be held in the Austin Marriott Hotel, Austin, Tex., on October 19, 20, and 21. The meeting will begin at 9 a.m. on October 19 and will conclude at 12:15 p.m. on October 21.

The meeting will include public hearings limited to the topic of agricultural workers. Anyone wishing to testify or submit a written statement should direct telephone inquiries and communications to:

James M. Rosbrow, Executive Director, National Commission on Unemployment Compensation, 1815 Lynn Street, Rosslyn, Va. 22209, phone 703-235-2782.

Signed at Washington, D.C., this 7th day of September 1978.

JAMES M. ROSBROW,
Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 78-25930 Filed 9-14-78; 8:45 am]

[4510-23]

MEETING

The ninth meeting of the NCUC will be held in Los Angles, Calif. on November 11, 12, 13, and 14. The meeting will include public hearings limited to the topic of agricultural workers. Anyone wishing to testify or submit a written statement should direct telephone inquiries and communications to:

James M. Rosbrow, Executive Director, National Commission on Unemployment Compensation, Room 440, 1815 Lynn Street, Rosslyn, Va. 22209, phone 703-235-2782.

Signed at Washington, D.C., this 7th day of September 1978.

JAMES M. ROSBROW,
Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 78-25931 Filed 9-14-78; 8:45 am]

[4510-23]

NATIONAL ADVISORY COMMITTEE FOR WOMEN

MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the National Advisory Committee for Women. Date and Time: October 4 and 5, 1978, 10 a.m. to 5 p.m. each day. Place: Room N3437 C and D, 200 Constitution Avenue NW., Washington, D.C. 20210. Purpose: This is a regular meeting of the Advisory Committee. The agenda will include discussions of the President's Report to Congress, Meetings and reports of Action Groups, Reports on Special Programs, Issues and Activities affecting women and other matters related thereto.

Dated: September 8, 1978.

BELLA S. ABZUG,
Co-Chair.

[FR Doc. 78-25927 Filed 9-14-78; 8:45 am]

[4510-30]

NATIONAL COMMISSION FOR MANPOWER POLICY

MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) notice is hereby given that the National Commission for Manpower Policy will sponsor a conference on "Creating Job Opportunities in the Private Sector" on October 20, 1978, in the Mount Vernon Room of the Sheraton Carlton Hotel located at 16th and K Streets NW., Washington, D.C. The conference will convene at 9 a.m. and adjourn at 5 p.m.

The National Commission for Manpower Policy was established pursuant to Title V of the Comprehensive Employment and Training Act of 1973 (Pub. L. 92-203). The Act charges the Commission with the broad responsibility of advising the Congress, the President, the Secretary of Labor, and other Federal agency heads on national manpower issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's manpower policies and programs.

The agenda will be concerned with employer wage subsidies; increasing youth employment in the private sector; the structurally unemployed and potential ways of increasing their private sector employment; and private employers' perspective of policies for disadvantaged workers.

Members of the general public or other interested individuals may attend the conference as observers. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so, provided such statements are in reproducible form and are submitted to the Director no later than two days before and seven days after the meeting.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that the time available for the conference permits. Such oral statements must be directly germane to the announced agenda items and written applications must be submitted to the Director of the Commission 3 days before the conference. This application shall identify the following: The name and address of the applicant, the subject of his or her presentation and its relationship to the agenda; the amount of time requested; the individuals' qualifications to speak on the subject matter; and a statement as to why a written presentation will not suffice. The Chairman reserves the right to decide to what extent public oral presentation will be permitted at the conference. Oral presentations shall be limited to statements of fact and views and shall not include any questions of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the conference, working papers and other documents prepared for the conference will be available for

public inspection 5 working days after the conference at the Commission's headquarters located at 1522 K Street NW., Room 300, Washington, D.C.

Signed at Washington, D.C., this 5th day of September 1978.

ISABEL V. SAWHILL,
Director, National Commission for Manpower Policy.

[FR Doc. 78-25928 Filed 9-14-78; 8:45 am]

[4510-30]

MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) notice is hereby given that the National Commission for Manpower Policy will sponsor a 2-day conference on Work Time and Employment on October 6 and October 7, 1978, in the North Ballroom of the Capitol Hill Quality Inn, located at 415 New Jersey Avenue NW., Washington, D.C. The conference will begin at 9 a.m. and adjourn at 5 p.m. on both days.

The National Commission for Manpower Policy was established pursuant to Title V of the Comprehensive Employment and Training Act of 1973 (Pub. L. 92-203). The Act charges the Commission with the broad responsibility of advising the Congress, the President, the Secretary of Labor, and other Federal agency heads on national manpower issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's manpower policies and programs.

The conference will explore the viability of combating unemployment by reducing work time in order to spread jobs among a larger number of persons. The session on October 6 will deal with four papers which examine the basic premises of combating unemployment by reduced work time. These papers will deal with work time trends, work time decisions of individuals and firms, and the long range effects of using work time reductions to fight unemployment. The session on October 7 will focus on four papers concerning alternative policy options for sharing work. These options include short-time compensations, tax incentives to firms to cover added fixed labor costs incurred by work time reductions, amendment of the Fair Labor Standards Act to limit overtime and reduce the standard work week, and earlier retirement ages to reduce the size of the labor force. The papers will be verbally summarized by the authors, critiqued by selected discussants, then discussed by a panel of authors, discussants and invited participants.

Members of the general public or other interested individuals may attend the conference as observers. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so, provided such statements are in reproducible form and are submitted to the Director no later than 2 days before and 7 days after the meeting.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that the time available for the conference permits. Such oral statements must be directly germane to the announced agenda items and written applications must be submitted to the Director of the Commission 3 days before the conference. This application shall identify the following: The name and address of the applicant, the subject of his or her presentation and its relationship to the agenda; the amount of time requested; the individual's qualifications to speak on the subject matter; and shall include a justifying statement as to why a written presentations would not suffice. The Chairman reserves the right to decide to what extent public oral presentation will be permitted at the conference. Oral presentations shall be limited to statements of fact and views and shall not include any questions of commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the conference, working papers and other documents prepared for the conference will be available for public inspection 5 working days after the conference at the Commission's headquarters located at 1522 K Street NW., Room 300, Washington, D.C.

Signed at Washington, D.C. this 5th day of September 1978.

ISABEL V. SAWHILL,
Director, National Commission for Manpower Policy.

[FR Doc. 78-25929 Filed 9-14-78; 8:45 am]

[4510-23]

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

MEETING

NOTE.—This document originally appeared in the FEDERAL REGISTER for Wednesday, September 13, 1978. It is reprinted in this issue at the request of the Department of Labor.

The seventh meeting of the NCUC will be held in the Westward Hilton Hotel, Anchorage, Alaska, on September 22, 23, and 24. The meeting will begin at 9 a.m. on September 22 and will conclude at 1 p.m. on September 24.

TENTATIVE AGENDA—SEPTEMBER MEETING

FRIDAY, SEPTEMBER 22 (9 A.M.)

1. NCUC meeting with executive board and other members of Interstate Conference of Employment Security Agencies (ICESA). The topics for discussion include: Cost equalization, reinsurance, pension deductions, agricultural workers, substitute teachers, solvency standards, taxable wage base and tax rate under FUTA, duration period, administrative financing. 9 a.m.-5:30 p.m.

SATURDAY, SEPTEMBER 23 (9 A.M.)

2. Continuation of NCUC meeting with ICESA. 9 a.m.-1 p.m.
3. Commission discussion of first interim report. 2:15 p.m.-5:30 p.m.

SUNDAY, SEPTEMBER 24 (9 A.M.)

4. Continuation of discussion of first interim report. 9 a.m.-11:30 a.m.
5. Commission business session. 11:30 a.m.-1 p.m.
   a. Legislative report.
   b. Old business.
   c. New business.

Telephone inquiries and communications concerning this meeting should be directed to: James M. Rosbrow, Executive Director, National Commission on Unemployment Compensation, Room 440, 1815 Lynn Street, Rosslyn, Va. 22209, phone 703-235-2782.

Signed at Washington, D.C., this 7th day of September 1978.

JAMES M. ROSBROW,
Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 78-25926 Filed 9-12-78; 8:45 am]

[3610-05]

NATIONAL COMMUNICATIONS SYSTEM

TELECOMMUNICATIONS: DIGITAL COMMUNICATION PERFORMANCE PARAMETERS

Proposed Federal Standard 1033

The Administrator of the General Services Administration (GSA) is responsible, under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal standardization program. On August 14, 1972, the national communications system (NCS)[1] was designated by the Administrator, GSA, as the responsible agent for the development of telecommunication standards for NCS interoperability and the computer-communications interface. The Federal Telecommunication Standards Committee (FTSC) was established

[1] DOD Directive 5100.41, "Arrangements for Discharge of Executive Agent Responsibilities for the NCS"—filed as part of original document.

under the administration of NCS to accomplish this mission. Additionally, the Secretary of Commerce is authorized, under the provisions of Pub. L.

[7537-01]

NATIONAL FOUNDATION ON THE

NAME: Subcommittee on Psychobiology of the Advisory Committee for Behavioral and Neural Sciences.

TYPE OF MEETING: Closed.

CONTACT PERSONS: Dr. George W. Cox, Program Director, Ecology, Pro-

PURPOSE OF SUBCOMMITTEE: To advise the Division of Polar Programs on the development and conduct of a

NAME: Subcommittee on Sociology of the Advisory Committee for Social Sciences.

under the administration of NCS to accomplish this mission. Additionally, the Secretary of Commerce is authorized, under the provisions of Pub. L. 89-306, to develop and establish uniform Federal automatic data processing standards.

The proposed Federal standard is part of a series of joint Federal telecommunication standards and Federal information processing standards (FIPS) falling within the area of mutual responsibility to the NCS and National Bureau of Standards (NBS) as defined in FIPS, PUB 23,[2] and NCS Circular 175-1.[3]

The purpose of this standard is to facilitate interoperability between telecommunication systems and information processing systems of the Federal Government by establishing uniform, user-oriented means of specifying the performance of digital telecommunication systems and services acquired by Federal departments and agencies. A previous version of this standard was published in the FEDERAL REGISTER, volume 42—No. 35, February 22, 1977, to solicit comments prior to formal coordination. The revised versin of the standard incorporates, where possible, the thrust of the comments received. Copies of this standard may be obtained from:

Office of the Manager, National Communications System, Attention: NCS-TS, Washington, D.C. 20305.

Prior to submission of the final endorsement of this proposed Federal standard and the companion FIPS publication to the Department of Commerce (DOC); the Office of Science and Technology Policy (OSTP), and GSA, it is essential that proper consideration is given to the needs and views of industry, the public, and State and local governments. The purpose of this notice is to solicit such views. Interested parties may submit their comments to the Office of the Manager, National Communications System, Attention: NCS-TS, Washington, D.C. 20305. All comments should be submitted within 60 days of the date of this notice. Telephone inquiries should be directed to Mr. Dennis Bodson, 202-692-2124.

PRESTON D. HIX,
Colonel, USA,
Acting Deputy Manager.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 12, 1978.

[FR Doc. 78-26086 Filed 9-15-78; 8:45 am]

[2] Filed as part of original. Copies available from U.S. Government Printing Office, Washington, D.C. 20402.

[3] Filed as part of original. Copies available from Office of the Manager, NCS, Washington, D.C. 20305.

[7537-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

MUSIC ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-163), is amended, notice is hereby given that a meeting of the Music Advisory Panel (Planning Section) to the National Council on the Arts will take place October 4, 1978, from 9:30 a.m. to 5:30 p.m.; October 5, 1978, from 9:30 a.m. to 5 p.m., in Washington, D.C. Location to be determined.

A portion of this meeting will be open to the public on October 4, 1978, from 9:30 a.m. to 1 p.m., and October 5, 1978, from 9:30 to 11 a.m., and from 1 to 5 p.m. The topic of discussion will be the ensemble program and future program directions.

The remaining sessions of this meeting on October 4, 1978, from 1 to 5:30 p.m., and October 5, 1978, from 11 a.m. to 1 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1966, is amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and 9(b) of section 552b of Titie 5, United States Code.

Futher information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operation, National Endowment for the Arts.

[FR Doc. 78-25972 Filed 9-14-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR BEHAVIORAL AND NEURAL SCIENCES, SUBCOMMITTEE ON PSYCHOBIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

NAME: Subcommittee on Psychobiology of the Advisory Committee for Behavioral and Neural Sciences.

DATE AND TIME: October 12 and 13, 1978—8:30 a.m. to 5 p.m. each day.

PLACE: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON: Fred Stollinitz, Program Director, Psychobiology Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4264.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research in psychobiology.

AGENDA: To review and evaluate research proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: September 12, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-26068 Filed 9-14-78; 8:45 am]

[7555-01]

ADVISORY COMMITTEE FOR ENVIRONMENTAL BIOLOGY, SUBCOMMITTEE ON ECOLOGICAL SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: Subcommittee on Ecological Sciences of the Advisory Committee for Environmental Biology.

DATE AND TIME: October 12 and 13, 1978—8:30 a.m. to 5 p.m. each day.

PLACE: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSONS: Dr. George W. Cox, Program Director, Ecology Program, 202-632-7324, and Dr. Melvin I. Dyer, Program Director, Ecosystem Studies Program, 202-632-5854, Room 336, National Science Foundation, Washington, D.C. 20550.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research in ecological sciences.

AGENDA: To review and evaluate research proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, inlcuding technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: September 12, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-26066 Filed 9-14-78; 8:45 am]

[7555-01]

ADVISORY COMMITTEE FOR POLAR PROGRAMS, SUBCOMMITTEE ON BIOLOGY AND MEDICINE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

NAME: Subcommittee on Biology and Medicine of the Advisory Committee for Polar Programs.

DATE AND TIME: October 3, 1978—9 a.m. to 5 p.m.

PLACE: Room 628, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

TYPE OF MEETING: Part open—9:00 to 2:00, open; 2:00 to 3:00, ciosed; 3:00 to 5:00, open.

CONTACT PERSON: Dr. Francis S. L. Williamson, Program Manager, Room 623, National Science Foundation, Washington, D.C. 20550, 202-632-4162.

PURPOSE OF SUBCOMMITTEE: To advise the Division of Polar Programs on the development and conduct of a variety of programs including the behavioral and physiological adaptation of organisms to low temperatures, the structure and functioning of marine and terrestrial ecosystems, the monitoring of pollutants, biological resource assessments, environmental and technological change on living systems, biomedical research, the roie of remote sensing in biological studies, and the development of international cooperation in polar research.

AGENDA: 9 a.m. to 12 noon, open: Status of and plans for the Antarctic research program; status of and plans for the Arctic research program; subcommittee discussion of above items. 1:30 to 2 p.m., open: Budget trends. 2 to 3 p.m., closed: Review of two research proposals. 3 to 5 p.m., open: discussion of budget trends related to program planning; and recommendations.

SUMMARY MINUTES: May be obtained from the Committee Management Coordinator, Room 248, Division of Financial and Administrative Management, National Science Foundation, Washington, D.C. 20550.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to made such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: September 12, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-26069 Filed 9-14-78; 8:45 am]

[7555-01]

ADVISORY COMMITTEE FOR SOCIAL SCIENCES, SUBCOMMITTEE ON SOCIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation annouces the following meeting:

NAME: Subcommittee on Sociology of the Advisory Committee for Social Sciences.

DATE AND TIME: October 12 and 13, 1978—9 a.m. to 5 p.m. each day.

PLACE: Room 628, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

TYPE OF MEETING: Part open—October 12, 9 a.m. to 5 p.m., closed; October 13, 9 a.m. to 12:30 p.m., closed; October 13, 12:30 to 3 p.m., open; October 13, 3 p.m. to 5 p.m., closed.

CONTACT PERSON: Dr. Roland J. Liebert, Program Director, Sociology Program, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4204.

SUMMARY MINUTES: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning research support in sociology.

AGENDA: October 13, 12:30 to 3 p.m., open session: General discussion of computer technology and other equipment advances relevant to sociology, of standards for assessing need for equipment, and of research topics which deserve special emphasis. October 12, 9 a.m. to 5 p.m. and October 13, 9 a.m. to 12:30 p.m. and October 13, 3 to 5 p.m., closed sessions: To review and evaluate research proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: September 12, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-26067 Filed 9-14-78; 8:45 am]

DOE/NSF NUCLEAR SCIENCE ADVISORY COMMITTEE (NUSAC), 1978 INSTRUMENTATION SUBCOMMITTEE

portions of the meeting when a transcript is being kept, and questions may be asked only by members of the subcommittee, its consultants, and staff.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977 (42 FR 56972), oral or written statements may be presented

NW., Washington, D.C. 20555, to continue its review of the NRC Office of Nuclear Regulatory Research pro-

[7590-01]

[Docket No. 50-325]

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,

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DOE/NSF NUCLEAR SCIENCE ADVISORY COMMITTEE (NUSAC), 1978 INSTRUMENTATION SUBCOMMITTEE

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

NAME: DOE/NUSAC, Instrumentation Subcommittee.

DATE AND TIME: October 7, 1978, 9 a.m. to 6 p.m.; October 8, 1978, 9 a.m. to 12 noon.

PLACE: Conference Room 338, National Science Foundation, Washington, D.C., telephone 202-632-4318.

TYPE OF MEETING: October 7, 1978, open; October 8, 1978, open.

CONTACT PERSONS: Dr. Howel G. Pugh, Head, Nuclear Science Section, Room 341, National Science Foundation, Washington, D.C., telephone 202-632-4318.

SUMMARY MINUTES: May be obtained from the Committee Management Coordination Staff, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.

PURPOSE OF COMMITTEE: To provide advice on the continuing basis to both DOE and NSF on support for basic nuclear science in the United States.

AGENDA: Formulation of Subcommittee activities for the next 6 months.

Dated: September 12, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-26065 Filed 9-14-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON REACTOR FUEL

Meeting

The ACRS Subcommittee on Reactor Fuel will hold an open meeting on October 4, 1978, in Room 1046, 1717 H Street NW., Washington, D.C. 20555, to continue its review of NRC research on reactor fuel for consideration by the ACRS in its preparation of a report to Congress.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977 (42 FR 56972), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

WEDNESDAY, OCTOBER 4, 1978

4 P.M. UNTIL THE CONCLUSION OF BUSINESS

The subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to discuss the subcommittee's preparation of a report to the full committee on reactor fuel research.

At the conclusion of the executive session, the subcommittee will hear presentations by and hold discussions with representatives of the NRC staff and their consultants, pertinent to the above topics. The subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether additional meetings on this topic are necessary.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Dr. Thomas G. McCreless, telephone 202-634-3267, between 8:15 a.m. and 5 p.m., e.d.t.

Dated: September 12, 1978.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 78-26072 Filed 9-14-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON IMPROVED SAFETY SYSTEMS

Meeting

The ACRS Subcommittee on Improved Safety Systems will hold an open meeting on October 4, 1978, in Room 1167, 1717 H Street NW., Washington, D.C. 20555, to discuss the NRC plan for research to improve the safety of light-water nuclear powerplants.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977 (42 FR 56972), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

WEDNESDAY, OCTOBER 4, 1978

MEETING WILL COMMENCE AT 8:30 A.M.

The subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to discuss the Subcommittee's preparation of a report to the full Committee on improved safety systems.

At the conclusion of the executive session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff and their consultants, pertinent to the above topics. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether additional meetings on this topic are necessary.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Dr. Thomas G. McCreless, telephone 202-634-3267, between 8:15 a.m. and 5 p.m., e.d.t.

Dated: September 12, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-26073 Filed 9-14-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON RELIABILITY AND PROBABILISTIC ASSESSMENT

Meeting

The ACRS Subcommittee on Reliability and Probabilistic Assessment will hold an open meeting on October 4, 1978, in room 1167, 1717 H Street

NW., Washington, D.C. 20555, to continue its review of the NRC Office of Nuclear Regulatory Research programs in risk assessment.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977 (42 FR 56972), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by memnbers of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

WEDNESDAY, OCTOBER 4, 1978

1 P.M. UNTIL THE CONCLUSION OF BUSINESS

The Subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting.

At the conclusion of the executive session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, and their consultants, pertinent to the agenda items. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and to formulate a report and recommendations to the full Committee.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Mr. Robert L. Wright, Jr., telephone 202-634-3314, between 8:15 a.m. and 5 p.m., e.d.t.

Dated: September 12, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-26074 Filed 9-14-78; 8:45 am]

[7590-01]

[Docket No. 50-325]

CAROLINA POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 14 to facility operating license No. DPR-71, issued to Carolina Power & Light Co. (the licensee) for operation of the Brunswick Steam Electric Plant, Unit No. 1 (the facility), located in Brunswick County, N.C. The amendment is effective as of its date of issuance.

The amendment raises the lift settings of the safety-relief valves by 25 psi.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated August 14, 1978, as supplemented August 30, 1978, (2) amendment No. 14 to license No. DPR-71, and (2) the Commission's related safety evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, N.C. 28461. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 11th day of September 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-26000 Filed 9-14-78; 8:45 am]

[7590-01]

[Docket No. 50-155]

CONSUMERS POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 20 to facility operating license No. DPR-6, issued to the Consumers Power Co. (the licensee), which revised the technical specifications for operation of the Big Rock Point Plant (the facility) located in Charlevoix County, Mich. The amendment is effective as of its date of issuance.

The amendment consists of changes to the technical specifications to increase the interval between control rod withdrawal time tests.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 28, 1978, (2) amendment No. 20 to license No. DPR-6, and (3) the Commission's related safety evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Mich. 49720.

A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Director, Division of Operating Reactors.

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Dated at Bethesda, Md., this 1st day of September 1978.

For the Nuclear Regulatory Com-

nection with issuance of this amendment.

For further details with respect to

set forth in CR-3's technical specifications, the ECCS cooling performance for the facility would conform with

termined that to meet the limits of 10 CFR 50.46(b), operator action is required to open the manually operated

lution to the ECCS small break analysis problem. This submittal references the B. & W. summary of May 1, 1978,

dures will not endanger life or property or the common defense and security.

Dated at Bethesda, Md., this 1st day of September 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-26001 Filed 9-14-78; 8:45 am]

[7590-01]

[Docket No. 50-302]

FLORIDA POWER CORP. ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 16 to facility operating license No. DPR-72, issued to the Florida Power Corp., city of Alachua, city of Bushnell, city of Gainesville, city of Kissimmee, city of Leesburg, city of New Smyrna Beach and Utilities Commission, city of New Smyrna Beach, city of Ocala, Orlando Utilities Commission and city of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the city of Tallahassee (the licensees) which revised the technical specifications for operation of the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Fla. The amendment is effective as of the date of issuance.

This amendment revises the technical specifications to support operation of Crystal River Unit No. 3 during the remainder of cycle 1 with 4 fuel assemblies acquired from Oconee Unit 1 and without burnable poison rod assemblies and most orifice rod assemblies. In addition, quadrant power tilt limits are changed to compensate for increased detector uncertainties and administrative use of revised reactor coolant pressure-temperature limits has been reviewed.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not invlove a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated June 6, and July 21, 1978, (2) amendment No. 16 to license No. DPR-72, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Crystal River Public Library, Crystal River, Fla. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 1st day of September 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-26002 Filed 9-14-78; 8:45 am]

[7590-01]

[Docket No. 50-302]

FLORIDA POWER CORP., ET AL. (CRYSTAL RIVER UNIT NO. 3, NUCLEAR GENERATING PLANT)

Exemption

I

Florida Power Corp. and 11 other coowners are the holders of facility operating license No. DPR-72 which authorizes the operation of the nuclear power reactor known as Crystal River Unit No. 3, Nuclear Generating Plant (CR-3), at steady state reactor power levels not in excess of 2,452 megawatts thermal (rated power). The facility consists of a Babcock & Wilcox (B. & W.) designed pressurized water reactor (PWR) located at the licensees' site in Citrus County, Fla.

II

In accordance with the requirements of the Commission's emergency core cooling system (ECCS) acceptance criteria, 10 CFR 50.46, Florida Power Corp. (FPC) submitted on August 6, 1974, an ECCS evaluation for the facility. The ECCS performance submitted by FPC was based upon an ECCS evaluation model developed by B. & W., the designer of the nuclear steam supply system for this facility. The B. & W. ECCS evaluation model had been previously found to conform to the requirements of the Commission's ECCS acceptance criteria, 10 CFR Part 50.46, and appendix K. The evaluation indicated that with the limits set forth in CR-3's technical specifications, the ECCS cooling performance for the facility would conform with the criteria contained in 10 CFR 50.46(b) which govern calculated peak clad temperture, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long-term cooling.

On April 12, 1978, B. & W. informed the NRC that it had determined that in the event of a small break loss of coolant accident (LOCA) on the discharge side of a reactor coolant pump, high pressure injection (HPI) flow to the core could be reduced somewhat. Subsequent calculations indicated that in such a case the calculated peak clad temperature might exceed 2,200° F.

Previous small break analyses for B. & W. 177 fuel assembly (FA) lowered loop plants had identified the limiting small break to be in the suction line of the reactor coolant pump. Recent analyses have shown that the discharge line break is more limiting than the suction line break. As a result, it was necessary that operating B. & W. plants of this design provide justification and propose restrictions as necessary to continue operating. Since CR-3 was shutdown at that time, and has been since March 3, 1978, to conduct repairs resulting from burnable poison rod assembly failures, no immediate action was necessary.

CR-3 has an ECCS configuration which consists of two HPI trains. Each train has a HPI pump and injects into two of the four reactor coolant system (RCS) cold legs on the discharge side of the RCS pump. (There is also a third HPI pump installed.) The two parallel HPI trains are connected but are kept isolated by a manual valve (known as a crossover valve) that is normally closed. Upon receiving a safety injection signal, the HPI pumps are started and valves in the four injection lines are opened. Assuming loss of offsite power and the worst single failure, only one HPI pump and two of the four injection paths would be available.

If a small break is postulated to occur in the RCS piping between the RCS pump discharge and the reactor vessel, the HPI flow injected into this line (about 50 percent of the output of one HPI pump) could flow out the break. Therefore, for the worst combination of break location and single failure, only 50 percent of the flow rate of a single HPI pump would contribute to maintaining the coolant inventory in the reactor vessel. This situation had not been previously analyzed and B. & W. had indicated that the limits specified in 10 CFR 50.46 may be exceeded.

B. & W. has stated that they have analyzed a spectrum of small breaks in the pump discharge line and have determined that to meet the limits of 10 CFR 50.46(b), operator action is required to open the manually operated crossover valve and to manually align the motor driven isolation valves which had failed to open. This would allow the flow from the HPI pump to feed all four reactor coolant legs. B. & W. has assumed that 30 percent of the flow would be lost through the break and 70 percent would enter the core.

B. & W. has prepared and submitted a summary entitled "Analysis of Small Breaks in the Reactor Coolant Pump Discharge Piping for the V. & W. Lowered Loop 177 FA Plants," May 1, 1978 (the B. & W. summary), which describes the methods used and the results obtained in the above analysis. The analysis models operator action by assuming a step increase in flow to the reactor vessel (with balanced flow in the three intact loops) 10 minutes after the LOCA reactor protection system trip signal occurs.

The results of the B. & W. analyses for reactor coolant pump discharge line break sizes of 0.17, 0.15, 0.13, 0.1, 0.07, and 0.04 ft^2 at a reactor power level of 2,568 Mwt were presented in the B. & W. summary of May 1, 1978. This power level is representative of the full power rating of similar B. & W.-designed reactors and encompasses the 2,452 Mwt full power rating of CR-3. Based on these results, B. & W. states that with operator action consistent with that modeled in the analysis, a 0.13 ft^2 discharge line break is the most limiting case. In this case, core uncovery occurs for about 350 seconds and the conservatively calculated peak clad temperature is approximately 1,550° F. This temperature is well below the limit specified in 10 CFR 50.46(b).

Based on our review of the B. & W. analyses, we found that the calculations supported the conclusion that a 0.13 ft^2 discharge line break is the most limiting case. However, the analyses did not demonstrate that the assumptions employed in supplying heat inputs to the FOAM Code (a part of the approved B. & W. model) were conservative. Therefore, B. & W. was requested to justify the use of these assumptions. By letter dated August 11, 1978, B. & W. submitted a report which describes and compares the simplified and detailed input methods for the FOAM analyses. We have reviewed this report and have determined that the assumptions used in supplying heat inputs are conservative and the use of the simplified input in the FOAM calculations meets the requirement for calculations using an approved model.

By letter dated June 14, 1978, FPC submitted justification for restart and operation of CR-3 at rated power prior to implementation of a permanent solution to the ECCS small break analysis problem. This submittal references the B. & W. summary of May 1, 1978, stating that the results are applicable to CR-3, and presents procedural modifications to describe how the required operator actions have been instituted. These procedural changes regarding operator action are consistent with the assumptions of the B. & W. analysis and have been implemented. The letter also states that shift review and simulator training will be conducted on the changes. FPC has stated that this action has been completed. Based on the above, we conclude that the procedures implemented and the training conducted by FPC relative to operator action in the event of a small break are acceptable and allow reliance on prompt operator action for an interim period. We do not, however, consider the need to assume prompt operator action outside the control room to be in compliance with 10 CFR 50.46.

Reliance on prompt local operation of valves after the onset of a LOCA is not desirable on a permanent basis. FPC has, by letter dated July 21, 1978, as supplemented on July 27, 1978, proposed a permanent solution for this issue. We are currently reviewing this proposal.

Due to our inability to conclude that operation of CR-3 to 100 percent of licensed power would be in conformance with 10 CFR 50.46, and due to the pending restart of the facility, FPC was requested by telephone on July 24, 1978, to either provide an acceptable ECCS for resumption of cycle 1 operation or request an exemption from the provisions of 10 CFR 50.46 with justification to support licensing of CR-3 operation.

By letter dated August 4, 1978, FPC requested an exemption from the provisions of 10 CFR 50.46. FPC states that CR-3 can be operated to 100 percent rated power in full compliance with 10 CFR 50.46; however, to assure this, prompt operator actions as described in FPC's June 14, 1978, letter are necessary. FPC also states that improvements to the ECCS prior to restart of CR-3 would not be feasible and therefore the exemption has been requested.

We have reviewed the effects of changes made to the facility during the current outage and have concluded that operation of CR-3 at power levels of up to 2,452 Mwt and in accordance with the operating procedures of this exemption, will assure that the ECCS system will conform to the performance criteria of 10 CFR 50.46. Accordingly, until modifications are completed to achieve full compliance with 10 CFR 50.46, operation of the facility at power levels up to 2,452 Mwt with appropriate operating procedures will not endanger life or property or the common defense and security.

In the absence of any safety problem associated with the facility during the period until the modifications for achieving full compliance with 10 CFR 50.46 are completed, there appears to be no public interest consideration favoring undue restriction of the operation of the captioned facility. Accordingly, the Commission in accordance with 10 CFR 50.12 is appropriate. The specific exemption has determined that an exemption is limited to the period of time necessary to complete modifications regarding the ECCS system, but no later than the next scheduled refueling outage, currently scheduled to begin on May 1, 1979.

III

Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555, and are being placed in the Commission's local public document room at the Crystal River Public Library, Crystal River, Fla.

(1) B. & W. Report "Analysis of Small Breaks in the Reactor Coolant Pump Discharge Piping for the B. & W. Lowered Loop 177 FA Plants" dated May 1, 1978,

(2) FPC's justification for restart and interim operation dated June 14, 1978,

(3) The application for exemption dated August 4, 1978,

(4) B. & W. comparison of amplified and detailed input methods for FOAM analysis dated August 11, 1978, and

(5) This exemption in the matter of Florida Power Corp., at al., Crystal River Unit No. 3 Nuclear Generating Plant.

IV

Wherefore, in accordance with the Commission's regulations as set forth in 10 CFR 50.12, Florida Power Corp. is hereby granted an exemption from the provisions of 10 CFR Part 50, paragraph 50.46(a). With respect to Crystal River Unit No. 3, this exemption is conditioned as follows:

(1) Until further authorization by the Commission, Florida Power Corp. shall operate in accordance with the procedures described in its letter of June 14, 1978.

(2) This exemption shall be terminated upon completion of the modifications in accordance with this exemption or upon shutdown for the next scheduled refueling outage, whichever occurs first.

Dated at Bethesda, Md., this 1st day of September 1978.

For the Nuclear Regulatory Commission.

VICTOR STELLO, Jr.,
Director, Office of Inspection and Enforcement.

[FR Doc. 78-26003 Filed 9-14-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Waste Disposal; Meeting

In accordance with the purposes of sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards, Subcommittee on Waste Disposal will hold a meeting on October 3, 1978, in room 1046, 1717 H Street, NW., Washington, D.C. 20555.

The agenda for the subject meeting shall be as follows:

Tuesday, October 3, 1978—8:30 a.m. until the conclusion of business

The Subcommittee will discuss the Waste Isolation Safety Assessment Program (WISAP) and the Waste Isolation Flow and Transport Program (WIFT). Representatives of the Nuclear Regulatory Commission staff and its contractors will participate in the discussions.

Persons desiring to attend or present oral statements should notify Mr. Paul Boehnert, Executive Secretary of the Subcommittee (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EDT, as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. The use of still, motion picture, and television cameras during the meeting may be permitted, subject to the approval of the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Secretary of the Subcommittee prior to the meeting. In view of the possibility that the schedule for Subcommittee meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Executive Secretary if such rescheduling would result in major inconvenience.

Dated: September 12, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-26004 Filed 9-14-78; 8:45 am]

Point-of-contact: Mr. William Cavaney, Department of Defense, Washington, D.C. 20301.

Report date: August 22, 1978.

Summary: The system is being established to administer claims of racial discrimination filed by current and

Summary: This system, established earlier in 1978, is being modified to eliminate disclosure of records to law

the exercise of their statutory responsibilities under rule 17g-1 and their general fiduciary obligations under the Act, carefully examine their exist-

For the Nuclear Regulatory Commission.

VICTOR STELLO, Jr.,
Director, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 78-26003 Filed 9-14-78; 8:45 am]

[7590-01]

REGIONAL STATE LIAISON OFFICERS

Meeting

On October 24 and 25, 1978, the Nuclear Regulatory Commission will sponsor a meeting with State Liaison Officers in Maine, New Hampshire, Vermont, Massachusetts, New York, Connecticut, Rhode Island, Pennsylvania, Maryland, Delaware, and New Jersey to discuss mutual regulatory interests. Forty-nine Governors have appointed Liaison Officers to NRC and this will be the first meeting of officers from the States in NRC region I (King of Prussia, Pa). The meeting, which will be open to the public, will be held on October 24th from 1 to 5:30 p.m. and on October 25 from 8:30 a.m. to 3:15 p.m. at the Holiday Inn, 260 Goddard Boulevard, King of Prussia, Pa.

Questions regarding this meeting should be directed to Tom Elsasser, NRC's Regional Liaison Officer, at 215-337-1150.

Dated at Bethesda, Md., this 11th day of September 1978.

For the Nuclear Regulatory Commission.

ROBERT G. RYAN,
Director Office of State Programs.

[FR Doc. 78-25999 Filed 9-14-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

PRIVACY ACT

Notice of New Systems

The purpose of this notice is to give members of the public an opportunity to comment on Federal agency proposals to establish or alter personal data systems subject to the Privacy Act of 1974.

The Act states that "each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals * * *."

OMB policies implementing this provision require agencies to submit reports on proposed new or altered systems to Congress and OMB 60 days prior to the issuance of any data collection forms or instructions, or 60 days prior to the issuance of any requests for proposals for computer and communications systems or services to support such systems—whichever is earlier.

The following reports on new or altered systems were received by OMB between August 21 and September 1, 1978. Inquiries or comments on the proposed new systems or changes to existing systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. The 60 day advance notice period begins on the report date indicated.

DEPARTMENT OF JUSTICE

System name: Swine Flu Administrative Claim File System.

Report date: August 16, 1978.

Point-of-contact: Ms. Bronson Clayton, Administrative Counsel, Office of Management and Finance, Department of Justice, Washington, D.C. 20240.

Summary: This proposed system will be maintained by the Civil Division as a record of claims filed for damages resulting from reactions to the swine flu vaccine. Although the Department of Health, Education, and Welfare receives the claims and makes the final decision, the Justice Department makes recommendations on their disposition. The records will include information submitted by individuals supporting their damage claims. Information may be disseminated on a routine use basis to agencies, courts, or parties involved in litigation regarding the claims; to agencies involved in law enforcement investigations related to the information; and to the public, media, and other organizations for educational/informational purposes, without individual identifiers.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

System name: Mortgagee Activities Review System.

Report date: August 16, 1978.

Point-of-contact: Mr. Harold Rosenthal, Department of Housing and Urban Development, Washington, D.C. 20410.

Summary: This proposed system will be used to evaluate the qualifications of those who apply to be HUD approved mortgagees. The record subjects will be the directors, officers, and managers of applicant firms; their educational, professional, and employment history will be included on a voluntary basis.

DEPARTMENT OF THE INTERIOR

System name: Personnel Research Records.

Report date: August 17, 1978.

Point-of-contact: Mr. Warren Dahlstrom, Department of the Interior, Washington, D.C. 20240.

Summary: This system, established earlier in 1978, is being modified to eliminate disclosure of records to law enforcement agencies for investigation and prosecution purposes, in order to reflect concerns of Subcommittee on Government Information and Individual Rights of the House Government Operations Committee.

DEPARTMENT OF DEFENSE

System name: AMEDD Personnel Management System.

Report date: August 21, 1978.

Point-of-contact: Mr. William Cavaney, Defense Privacy Board, Forrestal Building, 1000 Independence Avenue, Washington, D.C. 20301.

Summary: This proposed system will include records on officers in the Army Medical Corps, as well as those who have applied for or recently been released from active duty with the Corps. The records, which will include personal, professional, and background information data, will be part of an automated system used to improve personnel management, including duty assignments, patient care, position vacancies, and training requirements.

DEPARTMENT OF ENERGY

System name: Participants in Experiments, Studies and Surveys.

Report date: August 25, 1978.

Point-of-contact: Milton Jordan, Department of Energy, Washington, D.C. 20585.

Summary: This proposed system will include a number of DOE surveys, studies, and experiments, which will be subsystems of the overall system. DOE has determined that a continuing single notice will be more informative and efficient than a series of notices being added and deleted at frequent intervals. The first three subsystems will consist of survey responses on the Annual Survey of Oil and Gas Reserves; National Interim Residential Study; and Residential Energy Consumption Survey.

DEPARTMENT OF DEFENSE

System name: Mailing Lists for Army Newspapers/Periodicals.

Report date: August 28, 1978.

Point-of-contact: Mr. William Cavaney, Department of Defense, Washington, D.C. 20301.

Summary: The Army Department proposes to consolidate current mailing lists for Army newspapers, newsletters, professional and trade publications, journals, and other special interest periodicals.

System name: Drug Rehabilitation Action Management Information Program.

Report date: August 28, 1978.

Point-of-contact: Mr. William Cavaney, Department of Defense, Washington, D.C. 20301.

Summary: The Strategic Air Command maintains a drug rehabilitation program for Air Force active duty military personnel who are identified as drug users. This proposed system will be used to follow those individuals' progress and to support personnel management actions regarding the individuals.

WAIVER REQUESTS

OMB procedures permit a waiver of the advance notice requirement when the agency can show that the delay caused by the 60-day advance notice would not be in the public interest. It should be noted that a waiver of the 60-day advance notice period does not relieve an agency of the obligation to publish a notice describing the system and to allow 30 days for public comment on the proposed routine uses of the personal information to be collected. A waiver of the 60-day advance notice provision was requested by agencies for the following reports received between August 21 through September 1, 1978. Public inquiries or comments on the proposed new or altered systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. Comments on the operation of the waiver procedure should be directed to OMB.

DEPARTMENT OF DEFENSE

System name: College Transcript Registry System.

Report date: August 17, 1978.

Point-of-contact: Mr. William Cavaney, Department of Defense, Washington, D.C. 20301.

Summary: The Department of the Army proposes to establish this system of records in cooperation with the American Council on Education and the American College Testing Program. The system will include records of tests and courses taken, as well as occupational special ties, and pay grade and unit numbers, and will give a reliable record of individuals' training progress, both for placement in advanced training programs and to avoid duplication of training, and for use by potential civilian employer. Statistical reports will also be generated by the system. It will initially be a pilot program at Forts Eustis and Polk for individuals who participated in the Army Continuing Education System and attended Army service schools.

Status of waiver request: No action as of September 5, 1978.

FEDERAL TRADE COMMISSION

System name: Individual Claims Submitted Pursuant to Consent Agreement in *Bachman* v. *Pertschuk.*

Report date: August 22, 1978.

Summary: The system is being established to administer claims of racial discrimination filed by current and former employees and applicants for FTC jobs. The FTC has determined that, in order to fulfill its affirmative action responsibilities a system of records retrieved by claimants' names is necessary.

Status of waiver request: No action as of September 5, 1978.

VETERANS ADMINISTRATION

System name: Fee Basis Medical and Pharmacy Program.

Report date: August 30, 1978.

Point-of-contact: Mr. Edwin Arnold, Veterans Administration, Washington, D.C. 20420.

Summary: The VA proposes to centralize all automated data processing functions for this system from current processing centers to the VA Data Processing Center at Austin, Tex. Data in the system will then be transmitted via the Advanced Records System (ARS) telecommunications network rather than by mail. The result will be reduced processing time and thus speedier payments to health care providers.

Status of waiver request: No action as of September 5, 1978.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc. 78-26007 Filed 9-14-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-10393]

FIDELITY BONDING OF REGISTERED MANAGEMENT INVESTMENT COMPANIES

The Securities and Exchange Commission today announced the views of its Division of Investment Management ("Division") regarding the duties of members of the boards of directors of registered management investment companies who are not "interested persons" of such investment companies respecting their responsibilities under section 17(g) of the Investment Company Act of 1940 and rule 17g-1 thereunder with regard to the fidelity bonding of officers and employees against larceny and embezzlement. The Division believes the directors should be aware of the issues raised in two recent Federal court cases concerning such bonding requirements and this release alerts them to the Division's concerns with respect to existing provisions of fidelity bonds being obtained to satisfy the requirements of rule 17g-1. In this regard, the Division recommends that the directors, in the exercise of their statutory responsibilities under rule 17g-1 and their general fiduciary obligations under the Act, carefully examine their existing fiedlity bonds to determine that they effectively satisfy the specific requirements and purposes of the Act and rule.

FOR FURTHER INFORMATION CONTACT:

S. Elliott Cohan 202-755-0237 or John M. Metzger 202-755-0233, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549.

BACKGROUND

Section 17(g) of the Investment Company Act of 1940 ("Act"), 15 U.S.C. 80a-1, et seq., authorizes the Securities and exchange Commission ("Commission") to require by rule and regulation that any officer or employee of a registered management investment company ("investment company") having access to securities or funds of such investment company, either directly or through authority to draw upon such funds or to direct generally the disposition of such securities, be bonded by a reputable fidelity insurance company against larceny and embezzlement. The Commission, pursuant to this provision, adopted rule 17g-1 ("Rule"), 17 CFR 270.17g-1, in 1947 and amended it in 1964 and 1974.

Rule 17g-1 provides, in substance, that the form and amount of the fidelity bond be determined by a majority of the investment company's board of directors who are not "interested persons" as defined in the Act ("disinterested directors") at least once each year; that a copy of the resolution of the disinterested directors approving the form and amount of the bond be filed with the Commission; that a copy of each amendment to the bond be filed with the Commission; that, in the case of an "individual bond" or "single insured bond," written notice be given by the acting party to the affected party and to the Commission not less than 60 days prior to the effective date of cancellation, termination or modification of the bond; that, in the case of a "joint insured bond," written notice be given by the acting party to the affected party and by the fidelity insurance company to each named investment company under the bond and the Commission not less than 60 days prior to the effective date of cancellation, termination or modification[1]

[1] The division has recently taken a "no-action" position with regard to a bond written by the Federal Insurance Company which effectively permits a waiver of the 60-day notice requirement with respect to a modification of the bond provisions. However, the waiver was permitted on the conditions that: the modification did not adverse-

Footnotes continued on next page

of the bond; and that the amount of the bond for any investment company named as an insured in a single or joint bond shall not be less than the

joint fidelity bonds (a "basic" bond and an "excess" bond, both of which were written on a Standard Form 14) in which the Insurance Co. of North

complaint alleged that one Robert R. Hagopian (a co-conspirator in the *Research Equity* case) while president of Index Fund, caused Index Fund to

and fraudulent activities of Hagopian.[8] Writing for the majority, Judge Smith (with whom Chief Judge Kaufman

Index Fund cases, they clearly highlight two specific areas of concern which the Division believes the disin-

received new riders which amended their existing Standard Form 14 fidelity bonds. It is not yet clear whether

V43/180 SE 15 78

of the bond; and that the amount of the bond for any investment company named as an insured in a single or joint bond shall not be less than the minimum amounts of coverage set forth in a schedule based on the gross assets of the insured.

Instead of adopting an entirely new fidelity bond form to meet the unique bonding requirements of investment companies, the surety industry has generally used its stockbrokers blanket bond ("Standard Form 14"). The Standard Form 14 was designed specifically to meet the needs of broker-dealers and investment bankers, but it has been used, generally with numerous modifications (i.e. riders), for fidelity coverage of registered investment companies.[2] Due to the distinct differences in organization and methods of operation between brokerage and investment banking firms and investment companies, certain problems have come to the attention of the Division regarding the provisions of the fidelity bond forms presently being used and the applicability of those provisions to the requirements of the rule. For this reason, the Division believes it appropriate to the highlight these problems for the disinterested directors who have responsibility for ensuring that proper coverage is maintained.

RECENT LITIGATION

Two recent lawsuits involving Standard Form 14 fidelity coverage of investment companies identified certain unanticipated problems in the language of the bond form being used at that time for the fidelity bonding of most investment companies.

On December 17, 1976, Judge A. C. Wollenberg, U.S. District Court for the Northern District of California, dismissed on the merits the case of *Research Equity Fund, Inc.* v. *Insurance Company of North America.*[3] In that lawsuit, Research Equity Fund, Inc. ("Fund"), an open-end management investment company registered under the Act, brought an action to obtain recovery under two Standard Form 14 joint fidelity bonds (a "basic" bond and an "excess" bond, both of which were written on a Standard Form 14) in which the Insurance Co. of North America ("INA") agreed to indemnify the Fund for losses resulting from any dishonest or fraudulent act of any of its employees. The complaint alleged that one of the Fund's portfolio managers (whose employment agreement was with the investment adviser) and outside co-conspirators caused the Fund to purchase securities at prices which the portfolio manager knew were artificially inflated by the conspirators' market manipulations and which he later sold for the Fund at a loss. Judge Wollenberg concluded (1) that the person influencing the trading in question (the portfolio manager whose employment agreement was with the investment adviser) was not an employee of the fund and (2) that the fidelity bonds purchased from the INA did not cover trading losses. These conclusions were based, among other things, upon findings that "* * * employees of investment advisers who render services to registered management companies are not 'employees' or 'covered persons' within the meaning of Rule 17g-1(a)"[4] and that the losses of the investment company caused by the market manipulation were trading losses that came within the terms of the "trading loss exclusion" clause of the fidelity bond. Because the court found this exclusion could have been removed by payment of an additional premium by the Fund and the addition of a rider to the Standard Form 14, an action taken by some registered investment companies, the court denied recovery under the bonds held by Research Equity. Research Equity has appealed this decision.[5]

In a more recent case, *Index Fund, Inc.* v. *Insurance Company of North America,*[6] *based on a similar factual situation and involving some of the same co-conspirators, a different Federal district court handed down an opinion identical in result to that of Research Equity.* On October 18, 1977, Judge Charles H. Tenney, U.S. District Court for the Southern District of New York, granted the defendant's motion for judgment notwithstanding the verdict. In that lawsuit, Index Fund, Inc., an open-end management investment company registered under the Act during the time period with which the action was concerned, brought suit to obtain recovery under a fidelity bond in which INA agreed to indemnify Index Fund for losses resulting from any dishonest or fraudulent act of any of its employees. The complaint alleged that one Robert R. Hagopian (a co-conspirator in the *Research Equity* case) while president of Index Fund, caused Index Fund to purchase securities at prices which he knew were artificially inflated by the conspirators' market manipulations and which he later sold for Index Fund at a loss.[7]

The case was tried to a jury, and the jury returned a verdict for the plaintiff, Index Fund. In setting aside the jury verdict, the court held that (in addition to an error in the amount of the judgment) the jury's verdict was against the greater weight of the evidence and could not stand.

Judge Tenney, citing the findings of fact and conclusions of law in the *Research Equity* case, concluded: (1) that the term "trading," in the "trading loss exclusion" contained in the bond, should not be given any interpretation other than that contained in the bond itself—"transactions involving the purchase, sale or exchange of securities"; (2) that the plaintiff, in fulfilling its statutory duty, could have purchased a bond without a "trading loss exclusion" but failed to do so; (3) that the trading exclusion was a major determinant of the price of the bond; and (4) that the loss complained of (larceny and embezzlement) fell squarely within the trading loss exclusion of the Standard Form 14, a clause which the court found to be valid and enforceable.

Judge Tenney noted that the testimony of the INA employees and a representative of the Surety Association of America indicated: (1) that the terms of the Standard Form 14 issued to an investment company, and the meaning of those terms, are no different when the bond is purchased by an investment company than when it is purchased by a broker or investment banker; (2) that it was INA's practice not to provide for losses for "trading" coverage unless it was specifically requested and a supplemental premium paid; and (3) that Standard Form 14s are regularly issued to investment companies as well as to investment banks and stockbrokers, and their terms have the same meaning in all three situations.

On appeal, the U.S. Court of Appeals for the Second Circuit recently reversed the judgment of the lower court and held that INA was liable on the bond to Index Fund for those losses it suffered from the dishonest

Footnotes continued from last page

ly affect the investment company; that it was initiated by the investment company and not the insurer; and that it was approved by a majority of the disinterested directors of the investment company. See letter from Division of Investment Management to Donald E. O'Connor (Nov. 11, 1977), as modified by the letter from the Division of Investment Management to Donald E. O'Connor (Aug. 16, 1978).

[2] One surety company has recently begun offering a fidelity bond which is written exclusively for investment companies. *See* letters from the Division of Investment Management to Donald E. O'Connor, *supra* note 1.

[3] Civil No. C-74-1174 ACW (N.D. Cal. 12/16/76), appeal docketed, No. 77-1467 (9th Cir. Jan. 13, 1977).

[4] *Id.* at 37.

[5] No. 77-1467 (9th Cir. Jan. 13, 1977).

[6] [1977-1978 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 96,198 rev'd, No. 77-7600 (2d Cir. Aug. 1, 1978).

[7] Hagopian pleaded guilty to charges of criminal conspiracy and embezzlement for his fraudulent actions while serving as president of Index Fund. See *United States* v. *Hagopian*, 72 Crim. 884 (S.D.N.Y. 1977). The embezzlement charge was alleged as a violation of section 37 of the Investment Company Act, 15 U.S.C. 80a-36, which is titled "Larceny and Embezzlement."

and fraudulent activities of Hagopian.[8] Writing for the majority, Judge Smith (with whom Chief Judge Kaufman concurred) concluded that: (1) in such a diversity action the court had to apply the substantive law, including the conflict of law rules, of the State of New York; (2) under the conflict of law rules in New York, courts when construing the meaning of words in a contract or determining the validity of specific provisions in a contract apply the law of the State which has the most significant relationship to and the greatest interest in the transaction of the parties; (3) in the case at bar the State of New York had the greatest interest and most significant contacts; (4) under New York law, where the words in a clause of a fidelity bond are capable of more than one reasonable construction, the courts construe such words most strictly against the insurer and most favorably to the insured, particularly where doubt is found in an exclusionary clause; (5) if fairly possible the "trading loss exclusion" in the bond had to be construed in favor of Index Fund and against INA; (6) where the obligee is a registered investment company rather than a broker, fraudulent purchase of securities for the investment company by a covered employee at artificially manipulated prices may well be considered to be without the contemplated meaning of "trading" as used in the bond; (7) even if "trading" was ordinarily read in such a manner as to include activities such as Hagopian's, the fact remained that the bond at issue was a statutory bond; (8) under New York law, the fidelity bond has to be read in conjunction with the statutory requirements pursuant to which it was issued where the issuer either knew or ought to have known of the statutory requirements; (9) accordingly, consideration must be given to the language of the Investment Company Act of 1940 and the purpose for which the bond is given; and (10) in construing the act the court had "* * * no doubt that in requiring a bond to provide coverage against losses from 'larceny and embezzlement' by an officer of a registered investment company Congress intended such bonds to cover the kind of dishonest and fraudulent activity in which Hagopian engaged."[9]

In a separate opinion, Judge Meskill dissented and stated that, "I would affirm the decision of the district court and hold Index Fund to its bargain."[10]

AREAS OF CONCERN

Notwithstanding the reasoning or the results in the *Research Equity* and *Index Fund* cases, they clearly highlight two specific areas of concern which the Division believes the disinterested directors of investment companies should focus on. These are the "trading loss exclusion" and the definition of "employee" which exist in the Standard Form 14. For although "larceny or embezzlement," as defined by the Act,[11] occurred in these two cases, the provisions of the bonds purchased by the two investment companies, as interpreted by both district courts, prevented recovery.

Because investment companies make extensive use of strict securities custodial arrangements pursuant to section 17(f) of the act, 15 U.S.C. 80a-17(f) and rules 17f-1 and 17f-2 thereunder, 17 CFR 270.17f-1, 17f-2, it is extremely difficult for a wrongdoer physically to steal an investment company's assets; the principal means for any substantial larceny or embezzlement to take place is through the improper trading of securities. Thus, it is vitally important that there be no exclusion in investment company bonds for losses caused by larceny and embezzlement due to artificial manipulation by criminal conspirators of prices received in investment company securities transactions. However, two Federal district courts in the cases discussed above held that the fidelity bonds involved in those cases contained just such an exclusion. Consequently, although the Second Circuit Court of Appeals reversed the Southern District of New York and allowed recovery in the *Index Fund* case, the Division is concerned that losses caused by larceny or embezzlement perpetrated through improper investment company securities trading activity may be excluded from fidelity bond coverage merely because the trader or a trading desk is involved.

Moreover, investment companies, which generally have substantially all of their operations conducted by employees supplied by an external investment adviser, also need a broad definition of "employee" in their fidelity bonds. However, in the *Research Equity* case an employee of the investment adviser was found not to be an employee of the investment company for purposes of fidelity coverage, despite the fact that the investment adviser was another named insured on the same joint fidelity bonds held by Research Equity Fund, Inc.

NEW RIDERS TO THE STANDARD FORM 14 FIDELITY BONDS

After the decision in *Research Equity,* many investment companies received new riders which amended their existing Standard Form 14 fidelity bonds. It is not yet clear whether these new riders do, in fact, resolve the problems experienced by Research Equity Fund, Inc. and Index Fund, Inc. However, these new riders, together with those initially added to the bond, significantly increase the complexity of an already complicated document. The Division believes the complexity existing in such fidelity bonds was a major factor in and of itself in the current litigation in this area, and warrants careful consideration by all disinterested directors.

CONCLUSION

The Division strongly suggests that the disinterested directors of investment companies carefully examine the fidelity bonds maintained for their companies, keeping in mind the recent court decisions regarding the provisions of Standard Form 14 and recognizing the complexity of fidelity bonds written to meet the specific needs of the rule. Where appropriate, in conducting such reviews, consideration should be given to obtaining an opinion from the insurance carrier writing the insurance that the policy issued will solve the problems exemplified in the cases described above. Consideration should also be given to obtaining opinions of legal counsel familiar with fidelity and surety law with respect to the complex legal issues involved. In this regard, the Division reminds the disinterested directors of their specific statutory obligations under the provisions of the rule and their fiduciary responsibilities under the Act to assure that the investment companies which they serve have fidelity bond coverage which both satisfies the requirements of the rule and offers adequate protection to shareholders. Rule 17g-1(d) states, in part, that "The bond shall be in such reasonable form and amount as a majority of the board of directors of the registered management investment company who are not 'interested persons' of such investment company * * * shall approve as often as their fiduciary duties require * * * with due consideration of all relevant factors * * *." 17 CFR 270.17g-1(d) (emphasis added).

By the Commission.

Dated: September 8, 1978.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25968 Filed 9-14-78; 8:45 am]

[8] *Index Fund, Inc.* v. *Insurance Company of North America,* No. 77-7600 (2d Cir. Aug. 1, 1978).

[9] *Id.* at 4159.

[10] *Id.* at 4166.

[11] Section 37 of the act provides, in pertinent part: Whoever steals, unlawfully abstracts, unlawfully and willfully converts to his own use or to the use of another, or embezzles any money, funds, securities, credits, property, or assets of any registered investment company shall be deemed guilty of a crime * * *.

V4

[4710-01]

DEPARTMENT OF STATE

20520. Mr. Price can be reached by telephone on 202-632-2883.

fices of the Interstate Commerce Commission, Washington, D.C.

MC 107107 (Sub-466F), Alterman Transport

[7035-01]

POLICY STATEMENT ON INFLATION

the best means for assuring efficient operation and fair prices. The competitive impacts will be examined

Commission, Washington, D.C., and also in the ICC field office to which protests are to be transmitted.

[4710-01]

DEPARTMENT OF STATE

[CM-8/105]

ADVISORY COMMITTEE TO U.S. SECTION, INTERNATIONAL NORTH PACIFIC FISHERIES COMMISSION

Partially Closed meeting

The Advisory Committee to the U.S. Section, International North Pacific Fisheries Commission, will meet on September 26, 1978, in open session from 8:30 a.m. to noon at the Federal Building, Juneau, Alaska. This session will discuss the 1978 Protocol to the International Convention for the High Seas Fisheries of the North Pacific Ocean, surveillance of foreign fishing fleets, the progress of fisheries research, the Alaska salmon fisheries, and fishery developments as they affect the International North Pacific Fisheries Commission. The meeting on September 26 will be open to the public from 8:30 a.m. to noon.

The Advisory Committee will also meet in closed session from 1 p.m. to 5 p.m. on September 26, 1978. This session will not be open to the public inasmuch as the discussion will involve classified matters pertaining to the U.S. negotiating position to be taken at the 25th Annual Meeting of the International North Pacific Fisheries Commission to be held in Vancouver, B.C., Canada, during October 30-November 3, 1978. Pursuant to the North Pacific Fisheries Act of 1954, 1023(c) U.S.C. 16 as amended, which provides that the "advisory committee • • • shall be granted opportunity to examine and to be heard on all proposed programs of study and investigation, reports, and recommendations of the U.S. Section," the members of the Advisory Committee will examine various options for the negotiating position at the Special Meeting, and these considerations must necessarily involve review of classified matters.

Given the immediacy of the October 30, 1978, annual meeting of the International North Pacific Fisheries Commission and the time necessary for adequate U.S. preparation for that meeting, the Advisory Committee to the U.S. Section of the International North Pacific Fisheries Commission could be convened no later than September 26, 1978. For these reasons, the Department of State was unable to comply with the 15-day notice requirement as set forth in Office of Management and Budget Circular A-63; Revised.

Requests for further information on the meeting should be directed to Mr. Carl Price, Pacific Fisheries Officer, Room 3214 (OES/OFA/FA), U.S. Department of State, Washington, D.C. 20520. Mr. Price can be reached by telephone on 202-632-2883.

Dated: September 12, 1978.

BENOIT BROOKENS II,
Special Assistant to the Deputy Assistant Secretary for Oceans and Fisheries Affairs.

[FR Doc. 78-26186 Filed 9-15-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 713]

ASSIGNMENT OF HEARINGS

SEPTEMBER 12, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 114569 (Sub-221F), Shaffer Trucking, Inc., now being assigned October 18, 1978, (3 days), at Denver, CO, in a hearing room to be later designated.
MC 144409 (Sub-1F), F. C. Auto Sales, Inc., now being assigned October 16, 1978, (2 days), at Denver, CO, in a hearing room to be later designated.
MC 133233 (Sub-57), Clarence L. Werner d.b.a. Werner Enterprises, now assigned October 13, 1978, at Chicago, IL, is postponed indefinitely.
MC 138026 (Sub-16F), Logistics Express, Inc., now assigned October 12, 1978, at Chicago, IL, is postponed indefinitely.
MC 2835 (Sub-40), Adirondack Transit Lines, Inc., now assigned for October 11, 1978, at Albany, NY, is postponed to October 13, 1978 (2 days), at Albany, NY, in a hearing room to be later designated.
MC 123872 (Sub-79), W & L Motor Lines, Inc., now assigned October 2, 1978, at Charlottesville, VA, is canceled and transferred to Modified Procedure.
MC 144697, Gibco Motor Express, Inc., transferred to Modified Procedure.
MC 55889 (Sub-47F), AAA Cooper Transportation, transferred to Modified Procedure.
MC 136828 (Sub-19), Cook Transports, Inc. and MC 136828 (Sub-20), Cook Transports, Inc., now assigned for hearing on October 30, 1978, at Birmigham, AL, is postponed indefinitely.
MC-C-9860, Carolina Coach Co., et al. v. Williams Bus Rental, now being assigned for hearing on October 18, 1978 (3 days), at Rocky Mount, NC, in a hearing room to be later designated.
MC 119670 (Sub-33F), The Victor Transit Corp., now being assigned for prehearing conference on October 16, 1978, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 107107 (Sub-466F), Alterman Transport Lines, Inc., now being assigned for hearing on November 1, 1978, at the Offices of the Interstate Commerce Commission, Washington, D.C.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26058 Filed 9-14-78; 8:45 am]

[1505-01]

[Decisions Volume No. 19]

DECISION-NOTICE

Correction

In FR Doc. 78-22942 appearing at page 36557 in the issue of Thursday, August 17, 1978, on page 36563, second column, "MC 136446 (Sub-120F)" should read "MC 136446 (Sub-12F)".

[1505-01]

[Decisions Volume No. 15]

DECISION-NOTICE

Correction

In FR Doc. 78-20472 appearing at page 32209 in the issue for Tuesday, July 25, 1978, on page 32212, first column, 17th line of MC 112989 (Sub-69F), "MV" should read "NV".

[7035-01]

[Nos. 36639, 36590, 36595]

ILLINOIS CENTRAL GULF RAILROAD CO. AND LOUISVILLE & NASHVILLE RAILROAD CO.

Petition for Declaratory Order—Security Deposits—Payment of Demurrage Charges

AUGUST 28, 1978.

The Commission voted today that the practice of requiring a security deposit to guarantee payment of demurrage charges is unlawful under section 6 of the act, absent publication of tariff provisions. Rail carriers were ordered to discontinue the practice until such time as reasonable tariff regulations are published and filed with the Commission. The order is effective 45 days from the date of service of the decision.

A copy of this notice will be sent to the Director of the Federal Register for publication.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26057 Filed 9-14-78; 8:45 am]

[7035-01]

POLICY STATEMENT ON INFLATION

General Increases—Wage Increases, the Need to Hold Down the Inflationary Cycle

Inflation is unquestionably one of the most serious problems facing the United States today. Not only has this been recognized by the Administration and the Congress, but national public polls have demonstrated that rising prices are the greatest single cause of concern among our citizens.

President Carter has asked that wage and price increases in each industry and sector of the economy be held this year to an amount significantly below the average increase for the preceding 2 years. He has called upon all the independent regulatory agencies to take an active role in holding the line against rising prices. On April 11, 1978, in an address to the American Society of Newspaper Editors, he said:

• • • I am asking the independent regulatory agencies to try to reduce inflation when they review rate changes, and to explore regulatory changes that can make the regulated industries more efficient.

Because of the importance of the national fight against inflation, the Interstate Commerce Commission is issuing this public statement of its policies.

Requests by carriers for rate or fare increases, particularly general increases, which are subject to our jurisdiction will be scrutinized with particular care, and the pass-through of increased costs will not be permitted in the absence of a compelling revenue need. Those submitting increase requests should be prepared to show that—

- The increase is fully justified by cost increases which the carrier has no reasonable means of controlling, and to which it is definitely committed, and is not based on projected cost increases reflecting anticipated inflationary trends.
- The increase is the minimum required to assure adequate and safe service and to attract capital at reasonable costs.
- The increase, particularly if it exceeds the President's guidelines on wages and prices, must be fully justified not only on the basis of rising costs, but also on the basis of changes in work practices or other similar changes in the efficiency of operations.

In addition, we will examine all other proceedings which come before us in view of their impact upon inflation. Most particularly, we will consider whether any action we may take would serve to promote or to restrict competition for we are convinced that healthy and vigorous competition is the best means for assuring efficient operation and fair prices. The competitive impacts will be examined closely, for example, in applications involving requests for new operating authority, where favorable action on our part would be likely to increase competition, and in those involving mergers or common control, where a grant of the authority sought might well lessen existing competition.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham and Clapp. Commissioner Murphy concurring.

Dated: September 8, 1978, at Washington, D.C.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26056 Filed 9-14-78; 8:45 am]

[7035-01]

[Notice No. 165]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 5, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 13569 (Sub-39TA), filed July 11, 1978. Applicant: THE LAKE SHORE MOTOR FREIGHT CO., 1200 South State Street, Girard, OH 44420. Representative: John P. Tynan, Bowes, Milliner, Rodgers & Liberstein, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Guard rails, highway, steel;* (2) *pipe or tubing, iron or steel, NOI*, from the facilities of the Regal Tube Co. at Chicago, IL, to the facilities of (1) O. W. Hubbell and Sons, New York Mills, NY, and (2) L. S. Lee and Sons, Oaks Corners, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Regal Tube Co., 7401 South Linder Avenue, Chicago, IL, 60638. Send protests to: Martin P. Monaghan, Jr., Special Agent, Bureau of Operations, Interstate Commerce Commission, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 14552 (Sub-65TA) filed July 11, 1978. Applicant: McNICHOLAS TRANSPORTATION CO., 555 West Federal Street, Youngstown, OH 44502. Representative: Paul F. Beery, Beery & Spurlock Co., L.P.A., 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, and iron and steel articles*, from Weirton, WV and the Weirton, WV commercial zone, to points in FL, GA, AL, LA, SC and AR, for 180 days. Restricted to service from the facilities of Weirton Steel Division, National Steel Corp. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Weirton Steel Division, National Steel Corp., 3 Sorings Drive, Weirton, WV 26062. Send protests to: Martin P. Monaghan, Jr., Special Agent, Bureau of Operations, Interstate Commerce Commission, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 26396 (Sub-193TA), filed July 11, 1978. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt roofing materials* from ports of entry on the international boundary line between the United States and

Canada located in MT and ND to points in the States of WA, OR, ID,

transport loads composed solely of frozen foods as well as mixed loads with regulated and otherwise exempt commodities. From the facilities of

cessories thereof, and materials and supplies used in the manufacture of bicycles, tricycles and unicycles (except commodities in bulk), from

tainers and container ends, from the facilities of American Can Co. at Batavia, IL, to points in IN, IA, MO, OH and WI, for 180 days. Applicant has

Canada located in MT and ND to points in the States of WA, OR, ID, MT, WY, ND, and SD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): R. D. Benjamin, Building Products of Canada, Ltd., Suite 200, 10500 Cote de Liesse Road, Lachine, PQ, Canada H9T 3E3. Send Protests to: D/S Paul J. Labane, Interstate Commerce Commission, 2602 1st Avenue North, Billings, MT 59101.

MC 32882 (Sub-97TA), filed July 11, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, 3841 North Columbia Boulevard, Portland, OR 97217. Representative: Edward G. Rawle, 1400 East Anaheim Street, Wilmington, CA 90744. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* as described in appendix V to the report in descriptions in motor carriers certificates, 61 MCC 209; between Los Angeles County, CA, on the one hand, and, on the other, Salt Lake City; Ogden; Logan; and Provo, UT, and Grand Junction; Colorado Springs; Denver; and Pueblo, CO and their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately eight statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 59367 (Sub-123TA), filed July 11, 1978. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, 3584 5th Avenue South, Fort Dodge, IA 50501. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables and frozen potato products* from the facilities of Wiscold, Inc., located at or near Beaver Dam and Milwaukee, WI to points in CO, IL, IN, IA, KS, MI, MN, MO, NE, ND, and SD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wiscold, Inc., P.O. Box 26336, Milwaukee, WI 53226; International Co-op, P.O. Box 1378, Grand Fords, ND 58201; American Potato Co., a wholly-owned subsidiary of Basic American Food Co., 555 California Street, San Francisco, CA 94104. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 107403 (Sub-1086TA), filed June 13, 1978, and published in the FEDERAL REGISTER issue of August 10, 1978, and republished as corrected this issue. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt* (in bulk, in tank vehicles), from Cleveland, OH, to points in AR, KY, IA, LA, KS, MO, OK, MS, MI, MN, NE, ND, SD, and TX, for 180 days. Supporting shipper(s): Unique Paving Materials Corp., 3993 East 93d Street, Cleveland, OH 44105. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106. The purpose of this republication is to add OK as a destination point as previously omitted.

MC 115311 (Sub-292TA), filed July 11, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Mark C. Ellison, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Newsprint paper* from Richmond County, GA to AL, AR, FL, KY, KS, LA, MS, OK, NC, SC, TN, TX, and VA; and (2) *materials, equipment and supplies* used in the manufacturing and distribution of newsprint paper from AL, AR, FL, KY, KS, LA, MS, OK, NC, SC, TN, TX and VA to Richmond County, GA; for 180 days. Supporting shipper(s): Abitibi Southern Corp., P.O. Box 1647, Augusta, GA 30903. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 124078 (Sub-834TA), filed July 11, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, P.O. Box 1601, Milwaukee, WI 53215. Representative: Richard H. Prevette (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk and bags, from Evansville, PA to points in CT, DE, DC, MD, NJ, NY, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cement Division, National Gypsum Co., 17515 West Nine Mile Road, P.O. Box 887, Southfield, MI 48075; Ernest J. Lubeck. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124692 (Sub-213TA), filed July 11, 1978. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass tanks* from the facilities of Steve Anderson, Inc. d.b.a. Lifetime Fiberglass Tank Co. at Denver, CO., to points in the United States, for 180 days. Supporting shipper(s): Steve Anderson, President, Steve Anderson, Inc., d.b.a. Lifetime Fiberglass Tank Corp., 5000 Packinghouse Road, Denver, CO 80216. Send protests to: D/S Paul J. Labane, Interstate Commerce Commission, 2602 1st Avenue North, Billings, MT 59101.

MC 125533 (Sub-24TA), filed June 27, 1978, and published in the FEDERAL REGISTER issue of August 24, 1978, and republished as corrected this issue. Applicant: GEORGE W. KUGLER, INC., 2800 East Waterloo Road, Akron, OH 44312. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay roofing tile and parts, materials and supplies* used in the installation of clay roofing tile, from New Lexington, OH, to points in MA, RI, CT, NY, NJ, PA, MD, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ludocici-Celadon, Division of C.S.C., Inc., 4757 Tile Plant Road, New Lexington, OH 43764. Send protests to: District Supervisor, Interstate Commerce Commission, 731 Federal Building, 1240 East 9th Street, Cleveland, OH 44199. The purpose of this republication is to show New Lexington, OH in lieu of New Kensington, OH as previously published.

MC 129387 (Sub-71TA), filed July 10, 1978. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen prepared foods*, and (2) *agricultural* (including horticultural) *and fish* (including shellfish), *commodities* otherwise exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act when moving at the same time as the commodities in (1) above. A mixed load restriction is not sought. Applicant proposes to

transport loads composed solely of frozen foods as well as mixed loads with regulated and otherwise exempt commodities. From the facilities of Van de Kamp's located at: (A) Santa Fe Springs, CA to points in IL, MI, OH, KS, MO, Erie, PA, and Syracuse, NY (and points in their respective commercial zones), and (B) Erie, PA to points in IL, KS, MI, MN, MO, OH, WI, and Atlanta, GA, for 180 days. The authority sought in parts (1) and (2) above is restricted to the transportation of the above commodities in vehicles equipped with mechanical refrigeration. Supporting shipper(s): Van de Kamp's, 13100 Artic Circle Drive, Santa Fe Springs, CA 90670. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

MC 133975 (Sub-7TA), filed July 11, 1978. Applicant: FLAMINGO TRANSPORTATION, INC., 901 First Street, West Palm Beach, FL 33401. Representative: Richard B. Austin, Suite 214, Palm Coast II Building, 5255 Northwest 87th Avenue, Miami, FL 33178. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment and mobile homes, between Palm Beach County, FL, on the one hand, and, on the other, points in Indian River, Martin, Okeechobee, and St. Lucie Counties, FL, and in the city of Clewiston and its commerical zone, restricted to transportation of traffic having an immediately prior or subsequent handling by freight forwarder, for 180 days. There is no environmental impact involved in this application. Supporting shipper(s): Florida-Texas Freight, Inc., P.O. Box 670-777, Miama, FL 33167. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission-BOP, Monterey Building, Suite 101, 8410 Northwest 53d Terrace, Miami, FL 33166.

MC 136363 (Sub-19TA), filed June 23, 1978, and published in the FEDERAL REGISTER issue of August 22, 1978, as MC 136364 (Sub-19TA), and republished as corrected this issue. Applicant: J & P PROPERTIES, INC., First and Washington, Streets, P.O. Box 1146, Apopka, FL 32703. Representative: James E. Wharton, Suite 811, Metcalf Building, 100 South Orange Aveniue, Orlando, FL 32801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bicycles, tricycles, and unicycles, and parts and accessories thereof, and materials and supplies* used in the manufacture of bicycles, tricycles, and unicycles (except commodities in bulk), from Celina, OH, on the one hand, and, on the other, points in FL, GA, and AL, for 180 days. Supporting shipper(s): Huffy Corp., 410 Grand Lake Road, Celina, OH 45822. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202. The purpose of this republication is to show applicant's address as First and Washington Streets as previously published.

MC 138206 (Sub-4TA), filed May 23, 1978, and published in the FEDERAL REGISTER issue of July 5, 1978, and republished as corrected this issue. Applicant: TRULINE CORP., 4455 South Cameron Avenue, Las Vegas, NV 89701. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products*, from points in Clark County, NV to Salt Lake City, UT, and *gypsum board paper*, from Commerce, CO to points in Clark County, NV, for 180 days. Supporting shipper(s): Flintkote Co., 2201 East Washington, Los Angeles, CA 90012. Send protests to: W. J. Huetig, District Supervisor, Interstate Commerce Commission, 203 Federal Building, 705 North Plaza Street, Carson City, NV 89701. The purpose of this republication is to correct the commodity and territorial scope of application as previously published.

MC 139577 (Sub-23TA), filed June 21, 1978, and published in the FEDERAL REGISTER issue of August 23, 1978, and republished as corrected this issue. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, 204 East Winnebago Street, Friesland, WI 53935. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal containers and container ends*, from the facilities of American Can Co. at (a) Chicago, IL, to points in IN, IA, MI, MN, MO, OH, and WI, (b) Hoopeston Ill., to points in IN, IA, MI, MN, MO, OH, and WI, (c) Austin, IN, to points in IL, MI, MN, MO, OH, and WI, (d) Hammond, IN, to points in IL, MN, MO, OH, and WI, (e) Indianapolis, IN, to points in IL, IA, MI, MN, MO, OH, and WI, (f) Fort Dodge, IA, to points in IL, IN, and MN, (g) St. Paul, MN, to points in IL, IN, IA, MO, and WI, (h) Whitehouse, OH, to points in MI and WI, and (i) Milwaukee, WI, to points in IL, IN, IA, MI, MN, MO, and OH, and (2) *plastic containers and container ends*, from the facilities of American Can Co. at Batavia, IL, to points in IN, IA, MO, OH and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Can Co., 915 Harger Road, Oak Brook, IL 60521. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 212 East Washington Avenue, Room 317, Madison, WI 53703. The purpose of this republication is to add Michigan (MI) to part (1)(c), and also to change (3) to (e) as previously published.

MC 140101 (Sub-4TA), filed June 30 1978, and published in the FEDERAL REGISTER issue of August 24, 1978, and republished as corrected this issue. Applicant: I.T.A. TRUCKING, INC., P.O Box 62, Amherst, WI 54406. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables and frozen potato products*, from the facilities of Wiscold, Inc., located at or near Beaver Dam and Milwaukee, WI, to points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) International Co-op, P.O. Box 1378, Grand Forks, ND 58201, (2) Wiscold, Inc., 11400 West Burleigh Street, P.O. Box 26336, Milwaukee, WI 53226, and (3) American Potato Co., Bank of America Center, 555 California Street, San Francisco, CA 94104. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 212 East Washington Avenue, Room 317, Madison, WI 53703. The purpose of this republication is to show the correct address of the second (2) supporting shipper as P.O. Box 26336 in lieu of 26226, as previously published.

MC 144813 (Sub-1TA), filed June 19, 1978, and published in the FEDERAL REGISTER issue of August 10, 1978, and republished as corrected this issue. Applicant: HUNT TEAL TRUCKING, INC., 3324 Northwest, 32d Street, Miami, FL 33142. Representative: Glen Teal (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen boxed meat*, from Tampa and Miami, FL, to Rocky Mount, NC, and its commercial zone, Pittsburgh, PA, and its commercial zone, Oneida, NY, and its commercial zone, Canajoharie, NY, and its commercial zone, and Bedford, VA, and its commercial zone, for 180 days. Supporting shipper(s): United Beef Packers, Inc., 1630 Northwest 70th Avenue, Miami, FL 33147. Send pro-

tests to: George M. Parker, District Supervisor, Interstate Commerce Commission, 8410 Northwest 53d Terrace, Miami, FL 33166. The purpose of this republication is to show applicant's address as First and Washington Streets as previously published.

MC 141804 (Sub-1TA), filed July 11, 1978. Applicant: WESTERN COMMERCIAL TRANSPORT, INC., 3333 Quebec Street, Suite 6000, Denver, CO 80207. Representative: Richard P. Kissinger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* as described in appendix V to the report in descriptions in motor carriers certificates, 61 MCC 209; between Los Angeles County, CA, on the one hand, and, on the other, Salt Lake City; Ogden; Logan; and Provo, UT, and Grand Junction; Colorado Springs; Denver; and Pueblo, CO and their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately eight statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 142303 (Sub-1TA), filed July 11, 1978. Applicant: ROBERT L. HOLLAND, 1 Lakeside Drive, Lake Jackson, TX 77566. Representative: Robert L. Holland (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Houston, TX to points in AR, LA, NM, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Texas Petroleum Co., P.O. Box 1111, Houston, TX 77001. Send protests to: Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 142304 (Sub-1TA), filed July 11, 1978. Applicant: ROBERT L. HOLLAND, 1 Lakeside Drive, Lake Jackson, TX 77566. Representative: Robert L. Holland (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Houston, TX to points in AR, LA, NM, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Texas Petroleum Co., P.O. Box 1111, Houston, TX 77001. Send protests to: Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 142305 (Sub-1TA), filed July 11, 1978. Applicant: ROBERT L. HOLLAND, 1 Lakeside Drive, Lake Jackson, TX 77566. Representative: Robert L. Holland (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Houston, TX to points in AR, LA, NM, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Texas Petroleum Co., P.O. Box 1111, Houston, TX 77001. Send protests to: Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 145070 (Sub-1TA), filed July 11, 1978. Applicant: PROGRESSIVE TRANSPORTATION, INC., 1 Progressive Drive, Cedar Rapids, IA 52404. Representative: Robert D. Gunderson, 5 River Park Place East, Fargo, ND 58103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at Dakota City, NE, to points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Iowa Beef Processors, Inc., P.O. Box 515, Dakota City, NE 68731. Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 3, 6 Loudon Road, Concord, NH 03301. The purpose of this republication is to show the commodity description as previously published.

Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 3, 6 Loudon Road, Concord, NH 03301. The purpose of this republication is to show the commodity description as previously published.

MC 145070 (Sub-1TA), filed July 11, 1978. Applicant: PROGRESSIVE TRANSPORTATION, INC., 1 Progressive Drive, Cedar Rapids, IA 52404. Representative: Robert D. Gunderson, 5 River Park Place East, Fargo, ND 58103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at Dakota City, NE, to points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Iowa Beef Processors, Inc., P.O. Box 515, Dakota City, NE 68731. Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 3, 6 Loudon Road, Concord, NH 03301. The purpose of this republication is to show the commodity description as previously published.

MC 145070 (Sub-2TA), filed July 11, 1978. Applicant: PROGRESSIVE TRANSPORTATION, INC., 1 Progressive Drive, Cedar Rapids, IA 52404. Representative: Robert D. Gunderson, 5 River Park Place East, Fargo, ND 58103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at Dakota City, NE, to points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Iowa Beef Processors, Inc., P.O. Box 515, Dakota City, NE 68731. Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 3, 6 Loudon Road, Concord, NH 03301. The purpose of this republication is to show the commodity description as previously published.

MC 145070 (Sub-3TA), filed July 11, 1978. Applicant: PROGRESSIVE TRANSPORTATION, INC., 1 Progressive Drive, Cedar Rapids, IA 52404. Representative: Robert D. Gunderson, 5 River Park Place East, Fargo, ND 58103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at Dakota City, NE, to points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Iowa Beef Processors, Inc., P.O. Box 515, Dakota City, NE 68731. Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 3, 6 Loudon Road, Concord, NH 03301. The purpose of this republication is to show the commodity description as previously published.

MC 145070 (Sub-4TA), filed July 11, 1978. Applicant: PROGRESSIVE TRANSPORTATION, INC., 1 Progressive Drive, Cedar Rapids, IA 52404. Representative: Robert D. Gunderson, 5 River Park Place East, Fargo, ND 58103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at Dakota City, NE, to points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Iowa Beef Processors, Inc., P.O. Box 515, Dakota City, NE 68731. Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 3, 6 Loudon Road, Concord, NH 03301. The purpose of this republication is to show the commodity description as previously published.

MC 145070 (Sub-5TA), filed July 11, 1978. Applicant: PROGRESSIVE TRANSPORTATION, INC., 1 Progressive Drive, Cedar Rapids, IA 52404. Representative: Robert D. Gunderson, 5 River Park Place East, Fargo, ND 58103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at Dakota City, NE, to points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Iowa Beef Processors, Inc., P.O. Box 515, Dakota City, NE 68731. Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 3, 6 Loudon Road, Concord, NH 03301. The purpose of this republication is to show the commodity description as previously published.

MC 59457 (Sub-37TA), filed July 17, 1978. Applicant: SORENSON TRANSPORTATION CO., INC., 6 Old Amity Road, Bethany, CT 06525. Representative: Wilbur L. Hinman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* as described in appendix V to the report in descriptions in motor carriers certificates, 61 MCC 209; between Los Angeles County, CA, on the one hand, and, on the other, Salt Lake City; Ogden; Logan; and Provo, UT, and Grand Junction; Colorado Springs; Denver; and Pueblo, CO and their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately eight statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

tests to: George M. Parker, District Supervisor, Interstate Commerce Commission, 8410 Northwest 53d Terrace, Miami, FL 33166. The purpose of this republication is to show Rocky Mount, NC, rather than Rocky Mount, NY, as previously published.

MC 144912TA, filed June 19, 1978, and published in the FEDERAL REGISTER issue of August 17, 1978, and republished as corrected this issue. Applicant: LEON R. GOLDSMITH, d.b.a. TERMINAL MOTOR EXPRESS, 1711 East 15th Street, Los Angeles, CA 90021. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, the transportation of which is subject to regulation by the Interstate Commerce Commission, in vehicles equipped with mechanical refrigeration, moving in mixed loads as the same time in the same vehicle with *commodities*, the transportation of which would be exempt from economic regulation under the provisions of section 203(b) of the Interstate Commerce Act if they were to move exclusively in the vehicle, from Parsippany, NJ, points in the New York, NY, commercial zone and points in VA, NC, and GA, to points in CA, and UT, for 180 days. Supporting shipper(s): There are approximately (9) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012. The purpose of this republication is to correct the territorial description as previously published.

MC 144959TA, filed June 22, 1978, and published in the FEDERAL REGISTER issue of August 18, 1978, and republished as corrected this issue. Applicant: RAINBOW TRANSPORT, 1190 East Holt, P.O. Box 366, Ontario, CA 91761. Representative: Gary Donald Lewis, 853 Lassen Way, Ontario, CA 91764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled motor homes*, from Los Angeles, Orange, Riverside, and San Bernadino Counties, CA, to points and places in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Harvest Recreation Vehicle, Inc., 11262 East Rush Street, South El Monte, CA 91733. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012. The purpose of this republication is to show self-propelled motor *homes* in lieu of self-propelled motor *vehicles* as previously published.

MC 144999 (Sub-1TA), filed July 11, 1978. Applicant: JEM TRUCKING COMPANY, INC., P.O. Box 326, Wilkesboro, NC 28697. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products (except in bulk) and articles distributed by meat packing houses* from the facilities of Kenosha Beef International, Ltd. at or near Kenosha, WI to points in KY, NC, TN, VA, and WV; under a continuing contract(s) with Kenosha Beef International, Ltd., for 180 days. Supporting shipper(s): Kenosha Beef International, Ltd., P.O. Box 639, Kenosha, WI 53141. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 145011 (Sub-1TA), filed June 29, 1978, and published in the FEDERAL REGISTER issue of August 24, 1978, as MC 145011 TA, and republished as corrected this issue. Applicant: R. F. WESTBURY, 1617 Willis Road, Richmond, VA 23224. Representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 23229. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Toilet and drug preparations, medicines, prescriptions, and ingredients thereof; chemicals, animal, fish and poultry feed, animal, fish and poultry feed ingredients, cleaning compounds, displays, glassware, light bulbs, paper and paper articles, pet products, pharmaceutical products, pesticides, plastic or rubber articles, shampoo, soap, and toys*, and (2) *materials, supplies and equipment* used in the manufacture, sale or distribution of articles in (1) above, under a continuing contract or contracts with A. H. Robins Co., Elkins-Sinn, Inc., Miller-Morton Co., Chap Stick Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): A. H. Robins Co., Elkins-Sinn, Inc., Miller-Morton Co., Chap Stick Co., Alfred W. Kenney, Director of Transportation, 700 Darbytown Road, Richmond, VA 23231. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10-502, Federal Building, 400 North 8th Street, Richmond, VA 23240. The purpose of this republication is to show the complete commodity description as previously published.

MC 145070 (Sub-1TA), filed July 11, 1978. Applicant: PROGRESSIVE PRODUCE CO., d.b.a. PATHFINDER TRUCKING, 1206 East 6th Street, Los Angeles, CA 90021. Representative: Milton W. Flack, 4311 Wilshire Boulevard, Los Angeles, CA 90010. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, in vehicles equipped with mechanical refrigeration, from Los Angeles, and Long Beach Harbors, CA, to Portland, Salem, Medford, Eugene and Pendleton, OR; Seattle, Spokane, Pasco and Mt. Vernon, CA; Salt Lake City, UT; and Phoenix, AZ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Del Monte Banana Co., Berth 55, San Pedro, CA 90731. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 145207TA, filed July 17, 1978. Applicant: BOWERS TRUCKING, 2892 Foothill Boulevard, Croville, CA 95965. Representative: David P. Christianson of Knapp, Stevens, Grossman & Marsh, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Precoated and prefinished plywood paneling and wooden molding*, between Los Angeles County, on the one hand, and on the other, OK, TX, KS, CO, NM and ID, under a continuing contract, or contracts, with National Plywood, Inc., for 180 days. Supporting shipper(s): National Plywood, Inc., 2807 El Presidio, Long Beach, CA 90810. Send protests to: A. J. Rodriguez, District Supervisor, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 145212TA, filed June 30, 1978. Applicant: KENNETH R. MEADOWS, d.b.a. KWIKI ENTERPRISES AND KWIKI KABS, 493 Central Avenue, Dover, NH 03820. Representative: Alvin E. Taylor, 426 Middle Street, Portsmouth, NH 03801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods, alcoholic beverages, bulk commodities injuriours to other lading, dangerous explosives, commodities requiring special equipment, commodities of unusual value or commodities requiring refrigeration), between points in NH, ME, and MS, for 180 days. Supporting shipper(s): Northern Heel, Inc., 6 Grove Street, Dover, NH 03820. (Attention: Barry Sansoucie, President). Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 3, 6 Loudon Road, Concord, NH 03301.

MC 145260TA, filed August 23, 1978. Applicant: GLOUCESTER LOBSTER CO., INC., 3630 East Street, Landover, MD 20785. Representative: Melvin Spitz, c/o Gloucester Lobster Co., Inc., 3630 East Street, Landover, MD 20785. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meat products*, perishable, from Landover, MD to points in MA, CT, and RI, under a continuing contract with N.P.M. Sales, Inc., for 180 days. Supporting shipper: N.P.M. Sales, Inc., 500 Turnpike Street, Canton, MA 02021. Send protests to: T. Esposito, Transportation assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-25905 Filed 9-14-78; 8:45 am]

[7035-01]

[Notice No. 166]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 5, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 51146 (Sub-614TA), filed July 12, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: James W. Muldoon, Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured, processed, distributed, or dealt in, by manufacturers or converters of paper and paper products (except commodities in bulk), from Chillicothe and Schooleys, Ohio, to points in the United States (except DC; MD and VA, points in NC east of U.S. Hwy 25; and points in SC east of a line beginning at the NC-SC state line and extending southeast along U.S. Hwy 176 to Columbia, then east along I-20 to Florence, then south along U.S. Hwy 52 to Charleston), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Mead Corp., Mead World Headquarters, Courthouse Plaza Northeast, Dayton, OH 45463. Send protests to: Gail Daugherty Transportation Assistant, Interstate Commerce Commission, U.S. Federal Building, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 53841 (Sub-10TA), filed July 12, 1978. Applicant: W. H. CHRISTIE & SONS, INC., Box 517, East State Street, Knox, PA 16232. Representative: John A. Pillar, 205 Ross Street, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products, vehicle body sealers and deadener compounds* (except commodities in bulk), and (2) *related advertising materials, empty cartons and containers* when moving in mixed shipments with the commodities in (1) above, from the facilities of Pennzoil Co. in Oil City and Rouseville, PA, and the facilities of Wolf's Head Oil Refining Co. in Reno, PA, to points in CT, DE, IL, IN, MA, MD, ME, MI, NH, NY, RI, and VT, for 180 days. Supporting shipper(s): Pennzoil Co. and Wolf's Head Oil Refining Co., P.O. Box 808, Oil City, PA 16301. Send protests to: John England District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 59457 (Sub-37TA), filed July 17, 1978. Applicant: SORENSON TRANSPORTATION CO., INC., 6 Old Amity Road, Bethany, CT 06525. Representative: Gerald A. Joseloff 80 State Street Hartford, CT 06103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Magazines and magazine parts*, from the facilities of W. R. Bean & Son, Inc., in Atlanta, GA, to Richmond, VA; North Bergen, NJ; Harrisburg, PA; Bethany, CT; and Buffalo, NY, for 180 days. Supporting shipper(s): Family Circle, Inc., 488 Madison, Avenue, New York, NY 10022. Send protests to: J. D. Perry, Jr., Interstate Commerce Commission, 135 High Street, Room 324, Hartford, CT 06101.

MC 69397 (Sub-50TA), filed July 7, 1978. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85 Pocomoke City, MD 21851. Representative: Wilmer B. Hill, Suite 805, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and building materials* (except in bulk), from Manville, NJ to points in WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Johns-Manville Sales Corp., 200 North Main Street, Manville, NJ 08853. Send protests to: T. Esposito, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 94265 (Sub-275TA), filed July 13, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: John J. Capo, 5299 Roswell Road, Northeast, Suite 212, Atlanta, GA 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and skins and commodities in bulk, in tank vehicles), from the facilities utilized by John Morrell and Co., at or near Fort Smith, AR, to Chicago, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Curt Y. Hopkins, Manager of Transportation, John Morrell & Co., 208 East LaSalle Street, Chicago, IL 60604. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10-502 Federal Building, 400 North 8th Street, Richmond, VA 23240.

MC 102567 (Sub-210TA), filed July 14, 1978. Applicant: McNAIR TRANS-

Gleason Crane Rentals, Inc., or Gleason Service, Inc., or moved on freight

Austin, TX. 78701. Authority sought to operate as a *common carrier*, by

from the facilities of Gulf Atlantic Distribution Services at Forest Park, GA, to points in FL, on or south of FL

equipment and supplies used in the manufacture of games, and toys, from El Paso, TX, to the facilities of Louis

eral Office Building, 234 Summit Street, Toledo, OH 43604.

V 43/180 SE 15 78

MC 102567 (Sub-210TA), filed July 14, 1978. Applicant: McNAIR TRANSPORT, INC., P.O. Drawer 5557, 4295 Meadow Lane, Bossier City, LA 71010. Representative: Joe C. Day, 2040 North Loop West, Suite 208, Houston, TX 77018. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline, diesel fuel, jet fuel, and aviation gasoline* (in bulk, in tank vehicles), from Memphis, TN, to points in Greene, Jackson and Mississippi Counties, AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Field Oil & L. P. Gas Co., P.O. Box 16, Leachville, AR 72438. (2) Robinson Oil Co., P.O. Box 42, Paragould, AR 72450. (3) Gilleylen Oil Co., P.O. Drawer G, Tuckerman, AR 72473. Send protests to: Connie A. Guillory, Interstate Commerce Commission, Bureau of Operations, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

MC 114829 (Sub-17TA), filed July 14, 1978. Applicant: GENERAL CARTAGE CO., INC., West U.S. Route 30, Rock Falls, IL 61071. Representative: Bernard J. Kompare, Sullivan & Associates, Ltd., 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products* (except commodities in bulk), from Rockford, IL, to Oshkosh, WI, and points in Dane, Green, and Rock Counties, WI, restricted to the transportation of traffic, under a continuing contract, or contracts, with the Weyerhaeuser Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Weyerhaeuser Co., 100 South Wacker Drive, Chicago, IL 60606. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 117574 (Sub-315TA), filed July 13, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Representative: E. S. Moore, Jr., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cranes, draglines, backhoes, shovels, and graders*, and (2) *Incidental machinery, attachments, accessories and parts* used in connection with the commodities in (1) above, between points in the United States, (except AK and HI), restricted to the transportation of shipments originated or destined to facilities of Gleason Equipment, Inc., Gleason Crane Rentals, Inc., or Gleason Service, Inc., or moved on freight bills issued to Gleason Equipment, Inc., Gleason Crane Rentals, Inc., or Gleason Service, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gleason Equipment, Inc., 3401 S. Cicero Avenue, Chicago, IL. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869 Federal Square Station, Harrisburg, PA 17108.

MC 120184 (Sub-12TA), filed July 12, 1978. Applicant: PEP LINES TRUCKING CO., 32600 Dequindre Road, Warren, MI 48092. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Appliances and television sets*, from the facilities of George's Radio & TV Co. in Washington, DC, to Baltimore, MD, and Baltimore, Harford, Cecil and Carroll Counties, MD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): George's Radio & TV Co., 2850 New York Avenue, Washington, DC 20002. Send protests to: Lois Stahl, Transportation Assistant, Interstate Commerce Commission, Room 1386, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL 60604.

MC 120279 (Sub-9TA), filed July 12, 1978. Applicant: F. H. McFARLAND AND S. R. HULLINGER, d.b.a. McFARLAND & HULLINGER, P.O. Box 238, 915 North Main Street, Tooele, UT 84074. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Siliceous fluxing ore*, from the Trixie Mine of the Tintic Division of Kennecott Copper Corp., near Eureka, UT, to the Kennecott Copper Corp. smelter near McGill, NE, with one stop in route at Tooele, UT, for partial processing, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kennecott Copper Corp., 161 East 42nd Street, New York, NY 10017. (Mr. G. H. Hubbard, Manager-Transportation Pricing) Send protests to: L. D. Helfer, District Supervisor, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 123392 (Sub-79TA), filed July 14, 1978. Applicant: JACK B. KELLEY, INC., Route 1, Box 400, U.S. 66 West at Kelley Drive, Amarillo, TX 79106. Representative: Austin L. Hatchell, Suite 1022, Perry Brooks Building, Austin, TX 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cryogenically liquefied ethylene* (in bulk), from Odessa, TX, to points in CA and WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): El Paso Products Co., Box 3986, Odessa, TX. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206 Federal Building, Amarillo, TX 79101.

MC 124078 (Sub-838TA), filed July 14, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, WI 53215. Representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Humboldt, KS, to Irving, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Quikrete of TX, 324 North Nursery, Irving, TX 75061. (James Spence) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124679 (Sub-93TA), filed July 14, 1978. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South Street, Salt Lake City, UT 84119. Representative: Daniel E. England, 975 West 2100 South, Salt Lake City, UT 84119. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese, cheese products and synthetic cheeses*, from the facilities of L. D. Schreiber Cheese Co., of Logan, UT, to points in MT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): L. D. Schreiber Cheese Co., Inc., P.O. Box 610, Green Bay, WI 54305. (Robert Buchberger, Corporate Traffic Manager) Send protests to: L. D. Helfer, District Supervisor, Interstate Commerce Commissioner, 5301 Federal Building, Salt Lake City, UT 84138.

MC 125335 (Sub-27TA), filed July 13, 1978. Applicant: GOOD-WAY, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen of Peterson, Bowman, Larsen & Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in or used by retail, wholesale, or chain grocery, drug and food business houses (except frozen and in bulk),

from the facilities of Gulf Atlantic Distribution Services at Forest Park, GA, to points in FL, on or south of FL Hwy 40, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gulf Atlantic Distribution Services, Clair Williams Manager-Marketing and Distribution Services, P.O. Box 2588, Houston, TX. Send Protests to: Charles Myers District Supervisor, Interstate Commerce Commission, P.O. Box 869, Harrisburg, PA 17108.

MC 126715 (Sub-14TA), filed July 14, 1978. Applicant: TRANSPORT SERVICE, 8101 Northeast, 11th Avenue, Portland, OR 97211. Representative: John A. Anderson, Suite 1440, 200 Market Building, Portland, OR 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial asphalt (other than road surfacing)*, in bulk, in tank vehicles, from Seattle, WA, to the port of the entry on the International boundary line between the United States and Canada, located at or near Blaine, WA (for further movement into British Columbia, Canada), for 180 days. Supporting shipper(s): Duwamish Manufacturing Co., Inc., 8700 Dallas Avenue, Seattle, WA 98108. Send Protests to: A. E. Odoms District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest, Yamhill Steet, Portland, OR 97204.

MC 127705 (Sub-59TA), filed June 19, 1978. Applicant: KREVDA BROS. EXPRESS, INC., 501 South Broadway, Gas City, IN 46933. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and accessories therefor*, from Streator, IL, to points in MI, for 180 days. Supporting shipper(s): Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send Protests to: J. H. Gray District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 135152 (Sub-25TA), filed July 12, 1978. Applicant: CASKET DISTRIBUTORS, INC., P.O. Box 327, R. R. No. 2, Harrison-Brookville Road, West Harrison, IN 45030. Representative: J. D. Campbell, Harrison-Brookville Road, West Harrison, IN 45030. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Toys, games and children's vehicles*, from the facilities of Louis Marx & Co., at Girard, PA; Columbus, OH; Glendale, WV, to all points in the United States east of MT, WY, and NM; and (2) *Materials, equipment and supplies* used in the manufacture of games, and toys, from El Paso, TX, to the facilities of Louis Marx & Co., at Glendale, WV, Girard, PA, and Columbus, OH, for 180 days. Supporting shipper(s): Louis Marx & Co., Inc., 633 Hope Street, Stamford, CT 06904. Send Protests to: Beverly J. Williams Transportation Assistant, Interstate Commerce Commission, Federal Building, and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 136605 (Sub-64TA), filed July 14, 1978. Applicant: DAVIS BROS. DISTRIBUTOR, INC., P.O. Box 8058, 216 Trade Street, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-engineered steel buildings, parts, components and accessories* used in the manufacture thereof, from the facilities of Star Manufacturing Co., at or near Oklahoma City, OK, to points in the states of WA, OR, ID, and MT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): C. Fred MacDonald Distribution Manager, Pacific Northwest Distributor, Star Manufacturing Co., 2902 Briarwood Court South, Puyallup, WA 98371. Send protests to: Paul J. Labane District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 139261 (Sub-8TA), filed June 9, 1978. Applicant: BUCKEYE EXPRESS, INC., P.O. Box 368, H and 1st Street, Perrysburg, OH 43551. Representative: Michael M. Briley, 300 Madison Avenue, 12th Floor, Toledo, OH 43603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Non-carbonated fruit beverages, applesauce and vinegar*, from the facilities of New England Apple Products Co., Inc., at or near Ohio City and Rockford, OH, to all points in the United States, (except AK and HI), and (2) *Empty glass containers*, from Dayville, Ct., Mansfield, MA., and Charlotte, MI, to the facilities of New England Apple Products Co., Inc., at or near Ohio City and Rockford, OH; limited to transportation services to be performed for and under a continuing contract, or contracts, with New England Apple Products Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): New England Apple Products Co., P.O. Box 425, Harvard Road, Littleton, MA 01460. Send protests to: Keith D. Warner District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 139306 (Sub-10TA), filed July 14, 1978. Applicant: DEL R. AND JOE R. STANAGE, d.b.a. STANAGE TRANSPORTATION, 121 Indian Springs Road, Hot Springs, AR 71901. Representative: Gary E. Thompson, 121 Indian Springs Road, Hot Springs, AR 71901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Recyclable aluminum*, in dump vehicles, between Longview, TX, and Hot Springs, AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Arkansas Aluminum Alloys, P.O. Box 1410, Hot Springs, AR 71901. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 140768 (Sub-24TA), filed July 12, 1978. Applicant: AMERICAN TRANSFREIGHT, INC., P.O. Box 796, Manville, NJ 08833. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Power tools*, from the facilities of Skil Corp. at or near Walnut Ridge and Heber Springs, AR, to points in CA, IL, IA, MN, NV, NJ, OH, OR, TN, TX and WA; and (2) *Power tools*, and *equipment, materials and supplies* used in the manufacture, packaging and distribution thereof (except commodities in bulk, and those which because of size or weight require the use of special equipment), from the facilities of Skil Corp. at or near Berkeley, Chicago, Elk Grove Village, Skokie, and Wheeling, IL, to Walnut Ridge and Heber Springs, AR, for 180 days. Supporting shipper(s): Skil Corp., 1401 Kirk Street, Elk Grove Village, IL 6007. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commerce, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 144198 (Sub-1TA), filed June 6, 1978. Applicant: T & J TRUCKING, INC., P.O. Box 238, Cheshire, MA 01225. Representative: David M. Marshall, Marshall and Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prestressed concrete products and materials, supplies and equipment* used in connection with the manufacture and distribution of such products, between Pittsfield, MA, and points in NH, VT, RI, CT and NY, under a continuing contract, or contracts, with Unistress Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating au-

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thority. Supporting shipper(s): Unistress Corp., P.O. Box 1145, Cheshire Road, Pittsfield, MA 01201. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark,

August 1, 1978; on page 33867, first column, fifteenth line of MC 134477 (Sub-246F), insert "WV" after "VA";

sunshine act meetings

thority. Supporting shipper(s): Unistress Corp., P.O. Box 1145, Cheshire Road, Pittsfield, MA 01201. Send protests to: David M. Miller, District Supervisor, 436 Dwight Street, Room 338, Springfield, MA 01103.

MC 145062 (Sub-1TA), filed July 12, 1978. Applicant: DARL DAILY & SONS, INC., Route 3, Kewanna, IL 46939. Representative: Edward G. Bazelon, Axelroad, Goodman, Steiner & Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roll-off hoists, trailer hoists, waste containers, self-dumping hoppers, compactors, trucks and parts and accessories therefor*, from the facilities of Galbreath, Inc., located at or near Winamac, IN, to points in the United States (except AK and HI); and (2) *materials, equipment and supplies* used in the manufacture and distribution of roll-off hoists, trailer hoists, waste containers, self-dumping hoppers, compactors and trucks, from points in the United States (except AK and HI), to the facilities of Galbreath, Inc., at or near Winamac, IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Galbreath, Inc., P.O. Box 226, Winamac, IN 46996. Send protests to: Justus H. Gray, Transportation Specialist, Interstate Commerce Commission, Room 204, 345 West Wayne Street, Fort Wayne, IN 46802.

MC 145086 (Sub-1TA), filed July 12, 1978. Applicant: HENDERSON TRUCKING, INC., 8 Ruth Street, East Brunswick, NJ 08816. Representative: A. Dayton Schell, 6 Eileen Way, Edison, NJ 08817. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wallpaper pulp coloring, dry paint, paste paint*, to points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NY, OH, PA, RI, TX, VT, VA, and WV, and carbon bleach, from Carbon, LA, to Neshanic, NJ, under a continuing contract, or contracts, with Wilson Products Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wilson Products Co., Neshanic, NJ 08853. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 145189TA, filed July 13, 1978. Applicant: RONALD E. MacFARLANE, 716 Woodstock Road, Fredericton, New Brunswick, Canada E3B 5N7. Representative: Michael T. Healy, 2 Canal Plaza, Portland, ME 04112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Untreated rock salt (bulk)*, from the port of entry of the international boundary line between the United States and Canada at or near Houlton, ME, to Houlton, ME, under a continuing contract, or contracts, with Moore Chemical, Inc., for 180 days. Supporting shipper(s): Moore Chemical, Inc., 58 Main Street, Westbrook, ME 04092. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 305, 76 Pearl Street, Portland, ME 04111.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-25906 Filed 9-14-78; 8:45 am]

[1505-01]

DECISIONS VOLUME NO. 6

Order-Notice

Correction

In FR Doc. 78-16457 appearing at page 25902 in the issue for Thursday, June 15, 1978; on page 25907, third column, eleventh line of No. MC 114632 (Sub-No. 164F), "MD" should read "ND".

[1505-01]

[Decisions Volume No. 17]

DECISION-NOTICE

Correction

In FR Doc. 78-21099 appearing at page 33861 in the issue for Tuesday, August 1, 1978; on page 33867, first column, fifteenth line of MC 134477 (Sub-246F), insert "WV" after "VA"; and on page 33871, first column, the FR Doc line should read "[FR Doc. 78-21099 filed 7-31-78; 8:45 am]".

On page 33867, first column, fourteenth line of MC 138328 (Sub-70F), "MN" should read "NM".

[1505-01]

[Decision Volume No. 14]

DECISION-NOTICE

Correction

In FR Doc. 78-21577 appearing at page 35142 in the issue for Tuesday, August 8, 1978, on page 35146, second column, sixteenth line of MC 115816 (Sub-320F), "MN" should read "NM".

[1505-01]

[Volume No. 109]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Corrections

In FR Doc. 78-22240 appearing at page 35586 in the issue for Thursday, August 10, 1978, make the following corrections:

1. On page 35590, second column, fifteenth line of MC 95540 (Sub-1019F), "CA" should read "VA".

2. On page 35598, second column, "MC 244582F" should read "MC 144582F".

[1505-01]

[Decisions Volume No. 10]

DECISION-NOTICE

Correction

In FR Doc. 78-19486 appearing at page 30960 in the issue for Tuesday, July 18, 1978, under MC 144122 (Sub-9F) in the third column of page 30968, change "AM" to read "MA".

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-4091, 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Equal Employment Opportunity Commission	1, 2
Federal Communications Commission	3, 4
Federal Election Commission	6
Federal Energy Regulatory Commission	8
Federal Home Loan Bank Board	7
Federal Reserve System (Board of Governors)	8
Federal Trade Commission	9, 10
International Trade Commission	11
Interstate Trade Commission	12
Legal Services Corporation	13
National Science Board	14
Postal Rate Commission	15
Renegotiation Board	16, 17

[6570-06]

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, September 19, 1978.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the public:

1. Freedom of Information Act Appeal No. 78-6-FOIA-118, concerning a request by an employer charged with discrimination for access to investigative files.
2. Report on Commission Operations by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations: Matters closed to the public under the Commission's regulations at 29 CFR 1612.13.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued September 12, 1978.

[S-1878-78 Filed 9-13-78; 3:58 pm]

[6570-06]

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-3823-76.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Wednesday, September 13, 1978.

CHANGE IN THE MEETING: The following matters are postponed for consideration at a later date:

1. Freedom of Information Act Appeal No. 78-6-FOIA-118, concerning a request by an employer charged with discrimination for access to investigative files.
2. Freedom of Information Act Appeal No. 78-7-FOIA-150, concerning a request by a party who filed a charge of discrimination for access to the file on that charge after his right to bring a Title VII action expired.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of change.—Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; and Ethel Bent Walsh, Commissioner.

Opposed.—None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued September 8, 1978.

[S-1860-78 Filed 9-13-78; 9:27 am]

[6712-01]

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, September 14, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special closed commission meeting following the special open meeting which is scheduled to commence at 9:30 a.m.

MATTER TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Litigation: Discussion with regard to U.S.A. vs. FCC—D.C. circuit 77-1249, August 29, 1978.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: September 12, 1978.

[S-1871-78 Filed 9-13-78; 2:23 pm]

[6712-01]

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, September 14, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Common Carrier—1—Application by COMSAT General Corporation (File No. 12-DSS-La-78) for authority to launch and place in orbit the third COMSTAR domestic communications satellite.

Common Carrier—2—MTS/WATS—Inquire Commission Discussion.

Common Carrier—3—RCA Alaska Communications, Inc. Tariff FCC No. 3 establishing Wide Area Telephone Service (WATS) in Alaska.

Common Carrier—4—MCI Telecommunications Corporation, CC Docket No. 78-241, Revisions to Tariff FCC No. 1 Transmittal Nos. 86 and 88 (Metered Used Service). MCI Telecommunications Corporation Revisions to Tariff FCC No. 1 Transmittal Nos. 91 and 92 (Shared Private Line Service).

Common Carrier—5—Proposed revisions to Tariff FCC No. 3 of the General Telephone Company of Pennsylvania (GTE) that would increase the rates for CATV signal distribution service.

Common Carrier—6—RCA Global Communications, Inc. Transmittal No. 4364 Revisions to Tariff No. 58 and Western Union

International, Inc. Transmittal No. 1272 Revisions to Tariff FCC No. 4.

[6740-02]

6

CHANGES IN THE MEETING: The following item has been changed from the open to the closed agenda:

CI74-430, Colorado Oil & Gas Corp. and Gas Producing Enterprises, Inc.
CP-3, Docket No. CP76-85, et al., Algonquin

Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

There are no other changes to the agenda for that date.

CONTACT PERSON FOR MORE IN-

International, Inc. Transmittal No. 1272 Revisions to Tariff FCC No. 4.
Broadcast—1—Proposed Standards for FM quadraphonic sound transmission.
Broadcast—2—Notice of Inquiry in Docket 21313; stereophonic broadcasting by AM stations.

If additional information is required concerning this meeting it may be obtained from the FCC Public Information Office, telephone 202-632-7260.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Issued: September 12, 1978.

[S-1872-78 Filed 9-13-78; 2:23 pm]

[6715-01]

5

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, September 20, 1978, at 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit Reports, Compliance, Personnel.

• • •

DATE AND TIME: Thursday, September 21, 1978, at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:
Setting of dates for future meetings.
Correction and approval of minutes.
Nonreporting entities.
Presidential campaign disclosure form.
Appropriation and budget.
Pending legislation.
Pending litigation.
Liaison with other Federal agencies.
Classification actions.
Reports from division heads.
Nonfiler procedures.
Interpretation and application of 2 U.S.C. 438(b) regarding clearinghouse (if not concluded September 14).
Routine administrative matters.

Portions closed to the public:
Any matters not concluded on Wednesday, September 20, 1978.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-1875-78 Filed 9-13-78; 3:56 p.m.]

[6740-02]

6

SEPTEMBER 13, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., September 20, 1978.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Item listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

GAS AGENDA—162ND MEETING, SEPTEMBER 20, 1978, REGULAR MEETING

CAG-1. Docket No. RI77-89, W.B. Osborn, Jr., (Operator).
CAG-2. Docket No. RI78-10, Carl E. Smith, Inc.
CAG-3. Docket No. RI78-43, Cordillera Corp.
CAG-4. Docket No. RI78-50, Sun Oil Co.
CAG-5. Docket No. CI73-164, Shell Oil Co.
CAG-6. Docket Nos. CI66-1227, et al., Texaco Inc., et al.
CAG-7. Docket No. CI74-528, Exxon Corp.
CAG-8. Docket No. CI78-640, MESA Petroleum Co.
CAG-9. Docket No. RP73-36 (PGA78-3) (DCA78-2), Panhandle Eastern Pipe Line Co.
CAG-10. Docket No. CP76-509, Transwestern Pipeline Co. Docket No. CP78-516, Western Gas Interstate Co.
CAG-11. Docket No. CP78-424, United Gas Pipe Line Co.
CAG-12. Docket No. CP78-430, Texas Eastern Transmission Corp., Transcontinental Gas Pipe Line Corp.
CAG-13. Docket No. CP78-290, Mountain Fuel Supply Co.
CAG-14. Docket No. CP78-201, Northern Natural Gas Co.
CAG-15. Docket No. CP78-397, Northwest Pipeline Corp.
CAG-16. Docket No. CP78-426, United Gas Pipe Line Co.

I. PIPELINE RATE MATTERS

RP-1. Docket No. RP78-76, Gas Research Institute.
RP-2. Docket Nos. RP72-122 and RP78-51 (PGA78-3), Colorado Interstate Gas Co.
RP-3. Docket No. RP74-86, Gulf Energy & Development Corp.

II. PIPELINE CERTIFICATE MATTERS

CP-1. Docket No. CP78-43, Trunkline Gas Co.
CP-2. Docket No. CP78-325, Texas Gas Transmission Corp.
CP-3. Docket No. CP73-340, Colorado Interstate Gas Co. Docket No. CP75-243, Northern Natural Gas Co. Docket No. CI74-430, Colorado Oil & Gas Corp. and Gas Producing Enterprises, Inc.
CP-3. Docket No. CP76-85, et al., Algonquin Gas Transmission Co.
CP-4. Docket No. CP77-535, Carnegie Natural Gas Co.

MISCELLANEOUS AGENDA—162ND MEETING, SEPTEMBER 20, 1978, REGULAR MEETING

CAM-1. Docket No. —, Powder River Pipeline Corp. and the Crude Co.
CAM-2. Docket No. OR78- , (ICC Docket No. 38553), *Kerr-McGee Refining Corporation v. Texoma Pipe Line Company, et al.*
M-1. Docket No. RM78-2 (formerly known as Ex Parte No. 308), valuation of Common Carrier Pipelines.
M-2. Docket No. OR78-1, Trans Alaska Pipeline System.
M-3. July 31, 1978, Comptroller General's Report to the Congress, "Liquefied Energy Gases Safety".
M-4. Docket No. RM78- , Freedom of Information Act Requests and Appeals.
M-5. Proposed Treatment of Data Claimed to be Confidential.

POWER AGENDA 162ND MEETING, SEPTEMBER 20, 1978, REGULAR MEETING

CAP-1. Docket Nos. ER78-538, 569 through 575, Southern California Edison Co.

I. ELECTRIC RATE MATTERS

ER-1. Docket No. ER78-536, Duke Power Co.
ER-2 (A). Docket No. ER78-566, Florida Power & Light Co. (B) Docket No. ER78-567, Florida Power & Light Co.
ER-3. Docket No. ER78-32, New York Electric & Gas Corp.
ER-4. Docket No. ER78-379, ER78-320, ER78-381, ER78-382 and ER78-383, Indiana & Michigan Electric Co.
ER-5. Docket No. E-7777 (Phase II), Pacific Gas & Electric Company. Docket No. E-7796, Pacific Power & Light Co.
ER-6. Docket No. ER78-539. Missouri Power & Light Co.

II. LICENSED PROJECT MATTERS

F-1. Project No. 2742, Copper Valley electric Association, Inc.

KENNETH F. PLUMB,
Secretary.

[S-1876-78 Filed 9-13-78; 3:56 pm]

[6720-01]

7

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 175; page 40099, Friday, September 8, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., September 13, 1978.

PLACE: 1700 G Street NW., sixth floor, Washington. D.C.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling. 202-377-6677.

CHANGES IN THE MEETING: The following item has been changed from the open to the closed agenda:

Limited Facility Application—Lincoln Federal Savings & Loan Association, Lincoln, Nebr.

No. 183, September 13, 1978.

[S-1867-78 Filed 9-13-78; 11:59 am]

[6210-01]

8

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

TIME AND DATE: 10 a.m., Wednesday, September 20, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

SUMMARY AGENDA

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed revised annual survey of the trust assets of insured commercial banks.

DISCUSSION AGENDA

1. Proposed amendment to Regulation I (Credit by Brokers and Dealers) to permit brokers and dealers to extend credit on OTC traded corporate bonds, subject to certain specified conditions, and to set a uniform loan value for all eligible corporate debt securities. (Proposed earlier for public comment; Docket No. R-0080).
2. Proposed policy statement regarding intercorporate income tax practices of bank holding companies and their State member bank subsidiaries. (Proposed earlier for public comment; Docket No. R-0163).
3. Proposed Federal Reserve System contract guidelines.
4. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coynt, Assistant to the Board, 202-452-3204.

Dated: September 12, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-1862-78 Filed 9-13-78; 9:27 am]

[6750-01]

9

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, September 19, 1978.

PLACE: Room 432, Federal Trade Commission Buiiding, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

NONADJUDICATIVE MATTERS

1. Approval of minutes on nonadjudicative matters considered at meetings of July 21, and 27, 1978.
2. Discussion of interlock enforcement policy and standard consent order terms.

ADJUDICATIVE MATTER UNDER PART 3 OF THE RULES OF PRACTICE

The Commission has not yet schedule any adjudicative items for discussion at this meeting.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830. Recorded Message: 202-523-3806.

[S-1869-78 Filed 9-13-78; 2:23 pm]

[6750-01]

10

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, September 20, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Consideration of Proposed Rule and Staff Report on Standards and Certifications.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830. Recorded Message: 202-523-3806.

[S-1870-78 Filed 9-13-78; 2:23 pm]

[7020-02]

11

[USITC SE-78-46 A]

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 40601, published September 12, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Thursday, September 19, 1978.

CHANGES IN THE MEETING: The notice for this meeting stated that the meeting would be held on Thursday, September 19, 1978. It should have read, Tuesday, September 19, 1978. There are no other changes to the agenda for that date.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1868-78 Filed 9-13-78; 2:20 pm]

[7030-01]

12

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 2 p.m., Tuesday, September 19, 1978.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C. 20423.

STATUS: Open special conference.

MATTER TO BE CONSIDERED: Review of compliance program, including relationship of headquarters and field (Managing Director Quinlan, Directors Burns, Shannon, and Thomas).

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, telephone 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-1877-78 Filed 9-13-78; 3:56 pm]

[6820-35]

13

LEGAL SERVICES CORPORATION (Committee on Provision of Legal Services).

TIME AND DATE: 9:30 a.m., Tuesday, September 19, 1978.

PLACE: Seventh floor conference room, Legal Services Corporation, 733 15th Street NW., Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Discussion of draft paper on "Support: Policies and Options for 1979 and Beyond."
2. Report on study mandated by section 1007(h) of the Legal Services Corporation Act.
3. Report on Legal Services Institute proposal.
4. Report on delivery systems study.
5. Report on quality improvement project.
6. Reginald Heber Smith Program: (a) Report on Reginald Heber Smith contract and (b) meeting with Interim Advisory Committee to the Reginald Heber Smith Program.

CONTACT PERSON FOR MORE INFORMATION:

Dellanor Young, Office of the President, telephone 202-376-5100.

Issued: September 12, 1978.

THOMAS EHRLICH,
President.

[S-1874-78 Filed 9-13-78; 3:56 p.m.]

[6740-02]

14

SEPTEMBER 13, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

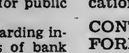
TIME AND DATE: 10 a.m., September 21, 1978.

PLACE: 825 North Capitol Street, NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Internal personnel practices, closed pursuant to 5 U.S.C. 552b(c) (2).

B. Case processing,
C. Organization progress of the staff,
D. Rulemaking and regulations, and
E. Personnel actions.



FRIDAY, SEPTEMBER 15, 1978
PART II

V 43 / 180 / SEP 15 1978

Issued: September 12, 1978.

THOMAS EHRLICH,
President.

[S-1861-78 Filed 9-13-78; 9:27 am]

[7555-01]

14

NATIONAL SCIENCE BOARD.

DATE AND TIME: Sept. 21, 1978; 1 to 5 p.m., open session. Sept. 22, 1978; 8 to 9 a.m., conclusion of open session if necessary. Sept. 22, 1978; 9 a.m. to 1 p.m. closed session.

PLACE: Room 540, 1800 G Street NW., Washington, D.C.

STATUS: Addition to agenda.

MATERS TO BE CONSIDERED AT THE OPEN SESSION: Add: Final Regulations on the Rights of the Handicapped.

CONTACT PERSON FOR MORE INFORMATION:

Miss Vernice Anderson, Executive Secretary, 202-632-3840.

[S-1866-78 Filed 9-13-78; 11:59 am]

[7715-01]

15

POSTAL RATE COMMISSION.

TIME AND DATE: 8:15 a.m., Thursday, September 14, 1978.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Internal personnel practices, closed pursuant to 5 U.S.C. 552b(c) (2).

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, telephone 202-254-5614.

[S-1863-78 Filed 9-13-78; 9:54 am]

[7910-01]

16

RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 40351, September 11, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Tuesday, September 19, 1978; 10 a.m.

CHANGE IN MEETING: Matters 12 through 16 are added to the previously announced agenda:

MATTERS TO BE CONSIDERED:

12. Recommended determination of excessive profits: OEA, Inc., consolidated with: Mathewson Tool Co., Matco Equipment Corp., and Explosive Technology, Inc., fiscal years ended July 31, 1970, 1971, 1972, and 1973.
13. Recommended determination of excessive profits: OSO Corp., fiscal year ended October 31, 1973.
14. Recommended determination of excessive profits: Poloron Products, Inc., consolidated with: Poloron Products of Pennsylvania, Inc., and Poloron Products of Mississippi, Inc., fiscal year ended November 30, 1969.
15. Recommended determination of excessive profits: MBAssociates, fiscal year ended April 1, 1973.
16. Report of the Chairman concerning:
A. Budget,
B. Case processing,
C. Organization progress of the staff,
D. Rulemaking and regulations, and
E. Personnel actions.

STATUS: Matters 12 through 16D are open to public observation. Matter 16E is closed to public observation.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: September 12, 1978.

GOODWIN CHASE,
Chairman.

[S-1873-78 Filed 9-13-78; 2:23 pm]

[7910-01]

17

RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 37332, August 22, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Monday, September 25, 1978, 11 a.m.

CHANGE IN MEETING: Date postponed to Wednesday, October 25, 1978, 11 a.m.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: September 12, 1978.

GOODWIN CHASE,
Chairman.

[S-1874-78 Filed 9-13-78; 2:23 pm]

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federal register

FRIDAY, SEPTEMBER 15, 1978
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES * 1934 *

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27]

DEPARTMENT OF LABOR

cordingly, the applicable decision together with any modifications issued subsequent to its publication date

tained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special

[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their date of publication in the FEDERAL REGISTER are listed with each State.

Arizona, AZ78-5114, Aug. 11, 1978
Arkansas, AR78-4063 Jun. 16, 1978; AR78-4064, AR78-4067, AR78-4068, AR78-4069, Jun. 23, 1978.
California, CA78-5123, Aug. 18, 1978.
Connecticut, CT75-2067, Apr. 25, 1978.
Florida, FL78-1043, Apr. 14, 1978.
Hawaii, HI78-5016, Mar. 17, 1978.
Louisiana, LA78-4072, July 14, 1978; LA78-4077, Aug. 11, 1978.
Maryland, MD77-3086, Aug. 5, 1977.
Michigan, MI78-2054, Jun. 2, 1978.
Nevada, NV78-5010, Mar. 10, 1978.
New Jersey, NJ78-3009, Apr. 21, 1978.
North Dakota, ND78-5113, Jul. 21, 1978.
Pennsylvania, PA78-3053, Aug. 11, 1978.
Texas, TX78-4017, Mar. 10, 1978; TX78-4038, Apr. 14, 1978; TX78-4051, May 12, 1978; TX78-4073, Jul. 21, 1978; TX78-4078, TX78-4079, Aug. 11, 1978; TX78-4080, Aug. 4, 1978; TX78-4083, TX78-4084, Aug. 25, 1978.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Guam, GU78-5021(GU78-5127), Mar. 24, 1978.
Mississippi, MS78-1014(MS78-1079), Feb. 17, 1978.
Nevada, NV78-5009(NV78-5124), Mar. 10, 1978.
Oklahoma, OK77-4036(OK78-4093), Feb. 18, 1977.
Texas, TX77-4139(TX78-4089), Jul. 1, 1977; TX78-4032(TX78-4090), Apr. 14, 1978; TX78-4014(TX78-4091), Feb. 17, 1978; TX78-4042(TX78-4092), Apr. 14, 1978.
Virginia, VA76-3244(VA78-3061), Sept. 10, 1976.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

None.

Signed at Washington, D.C. this 8th day of September 1978.

DONALD M. ESSIG,
Acting Administrator,
Wage and Hour Division.

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AR78-4067 - Mod. #1 (43 FR 27342 - June 23, 1978) Garland, Hot Springs & Clark Counties, Arkansas					
CHANGE:					
ASBESTOS WORKERS	$11.10	.50	.70		.02
IRONWORKERS	10.00	.45	.55		.04
LABORERS:					
Group I	6.25	.33	.60		
Group II	6.50	.33	.60		
Group III	6.65	.33	.60		
Group IV	6.75	.33	.60		
Group V	6.90	.33	.60		
Group VI	7.15	.33	.60		
Group VII	7.05	.33	.60		
PLASTERERS	9.70				.02
PLUMBERS & PIPEFITTERS:					
Zone A	10.10	.55	.55		.10
Zone B	10.75	.55	.55		.10
Zone C	11.30	.55	.55		.10
DECISION NO. AR78-4068 - Mod. #1 (43 FR 27344 - June 23, 1978) Sebastian, Crawford & Washington Counties, Arkansas					
CHANGE:					
GLAZIERS (Washington County) - *Five Paid Holidays- New Years Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.	6.85*				
LABORERS:					
Group I	6.25	.33	.60		
Group II	6.50	.33	.60		
Group III	6.65	.33	.60		
Group IV	6.75	.33	.60		
Group V	7.15	.33	.60		
Group VI	7.05	.33	.60		
PAINTERS (Washington County)					
Group I	8.30				.02
Group II	8.30				.02
Group III	9.30				.02
Group IV	9.30				.02
Group V	8.55				.02
Group VI	10.175				.02
Group VII	8.925				.02
PLASTERERS	9.70				.02
PLUMBERS & STEAMFITTERS	9.76	.45	.55		.04

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #AZ78-5114 - Mod. #2 (43 FR 35828 - August 11, 1978) Statewide Arizona					
Change:					
Electricians:					
Gallup Area - Apache County north of Hwy. #66:					
Electricians	$13.62	.60	3% + .70		1/2%
Cable Splicers	14.76	.60	3% + .70		1/2%
DECISION NO. AR78-4063 - Mod. #1 (43 FR 26232 - June 16, 1978) Union and Ouachita Counties, Arkansas					
CHANGE:					
Asbestos workers	$11.10	.50	.70		.02
LABORERS:					
Group I	6.25	.33	.60		
Group II	6.50	.33	.60		
Group III	6.65	.33	.60		
Group IV	6.75	.33	.60		
Group V	7.05	.33	.60		
Group VI	7.15	.33	.60		
Group VII	6.82	.33	.60		
PAINTERS:					
Brush, roller, sheet rock work and papethanging	8.25				.02
Spray painting and sandblasting	9.125				
PLASTERERS	9.70				
DECISION NO. AR78-4064 - Mod. #1 (43 FR 27341 - June 23, 1978) Pulaski County, Arkansas					
CHANGE:					
ASBESTOS WORKERS	11.10	.50	.70		.02
IRONWORKERS	10.00	.45	.55		.04
LABORERS:					
Group I	6.25	.33	.60		
Group II	6.50	.33	.60		
Group III	6.65	.33	.60		
Group IV	6.75	.33	.60		
Group V	6.90	.33	.60		
Group VI	7.15	.33	.60		
Group VII	7.05	.33	.60		
PLASTERERS	9.70				.02

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AR78-4069 - Mod. #1 (43 FR 27343 - June 23, 1978) Benton, Boone, Carroll, Madison, Marion, Newton, Searcy & Washington Counties, Arkansas					
CHANGE:					
ASBESTOS WORKERS	$11.10	.50	.70		.02
IRONWORKERS	10.00	.45	.55		.04
LABORERS:					
Group I	6.25	.33	.60		
Group II	6.50	.33	.60		
Group III	6.65	.33	.60		
Group IV	6.75	.33	.60		
Group V	6.90	.33	.60		
Group VI	7.15	.33	.60		
Group VII	7.05	.33	.60		
PLASTERERS	9.70				.02
PLUMBERS & STEAMFITTERS	9.76	.45	.55		.04
DECISION NO. AR78-4078 - Mod. #1 (43 FR 27345 - June 23, 1978) Cleburne, Faulkner, Lonoke, Prairie, Pulaski, Saline, White & Woodruff Counties, Arkansas					
CHANGE:					
ASBESTOS WORKERS	11.10	.50	.70		.02
IRONWORKERS	10.00	.45	.55		.04
LABORERS:					
Group I	6.25	.33	.60		
Group II	6.50	.33	.60		
Group III	6.65	.33	.60		
Group IV	6.75	.33	.60		
Group V	6.90	.33	.60		
Group VI	7.15	.33	.60		
Group VII	7.05	.33	.60		
PLASTERERS	9.70				.02
PLUMBERS & STEAMFITTERS	9.76	.45	.55		.04

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AR78-4079 - Mod. #1 (43 FR 27346 - June 23, 1978) Benton, Boone, Carroll, Madison, Marion, Newton, Searcy & Washington Counties, Arkansas					
CHANGE:					
ASBESTOS WORKERS	$11.10	.50	.70		.02
IRONWORKERS	10.00	.45	.55		.04
LABORERS:					
Group I	6.25	.33	.60		
Group II	6.50	.33	.60		
Group III	6.65	.33	.60		
Group IV	6.75	.33	.60		
Group V	6.90	.33	.60		
Group VI	7.15	.33	.60		
Group VII	7.05	.33	.60		
PLASTERERS	9.70				.02
PLUMBERS & STEAMFITTERS	9.76	.45	.55		.04
DECISION NO. AR78-4080 - Mod. #1 (43 FR 27347 - June 23, 1978) Clark, Dallas, Garland, Hot Springs, Howard, Montgomery, Perry, Pike & Polk Counties, Arkansas					
CHANGE:					
ASBESTOS WORKERS	11.10	.50	.70		.02
IRONWORKERS	10.00	.45	.55		.04
LABORERS:					
Group I	6.25	.33	.60		
Group II	6.50	.33	.60		
Group III	6.65	.33	.60		
Group IV	6.75	.33	.60		
Group V	6.90	.33	.60		
Group VI	7.15	.33	.60		
Group VII	7.05	.33	.60		
PLASTERERS	9.70				.02
PLUMBERS & STEAMFITTERS	9.76	.45	.55		.04

MODIFICATIONS P. 3

DECISION NO. AR78-4069 - Mod. #1 (43 FR 27346 - June 23, 1978) Jefferson County, Arkansas	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS	$11.10	.50	.70		.02
BOILERMAKERS	10.55	.80	1.00		.02
IRONWORKERS	10.00	.45	.55		.04
LABORERS:					
Group I	6.25	.33	.60		
Group II	6.50	.33	.60		
Group III	6.65	.33	.60		
Group IV	6.75	.33	.60		
Group V	6.90	.33	.60		
Group VI	7.15	.33	.60		
Group VII	6.95	.33	.60		
PLASTERERS	9.70				.02
PLUMBERS:					
0 to 9 miles from Jefferson County Courthouse	10.10	.55	.55		.10
9 to 45 miles from Jefferson County Courthouse	10.75	.55	.55		.10
45 miles and over from Jefferson County Courthouse	11.30	.55	.55		.10

DECISION NO. CA78-5123 - Mod. #1 (43 FR 36839 - August 18, 1978) Imperial, Kern, Los Angeles, Orange, Riverside, San-Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
LABORERS:					
Group 1	$8.35	1.15	2.45	.80	.10
Group 2	8.50	1.15	2.45	.80	.10
Group 3	8.70	1.15	2.45	.80	.10
Group 4	8.85	1.15	2.45	.80	.10
Group 5	9.00	1.15	2.45	.80	.10

MODIFICATIONS P. 4

DECISION #CT75-2067 - MOD. #1 (40 FR 18304 April 25, 1975) Hartford County, Connecticut	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Residential Construction:					
Electricians:					
Berlin, Bristol, New Britain, Newington, Plainville, Southington	$10.91	1.00	3%+.40		½%
Suffield & Enfield (portion of Thompsonville West of George Washington Road and North of Hazard Ave)	9.85	.70	3%+.30	.43	.03
Hartland	10.40	1.22	3%+.60	b	1/8%
Remainder of County	11.30	1.50	3%+.50		½%
FOOTNOTE:					
b. The last four regular working hour prior to Christmas Day shall be paid half day.					

DECISION #FL78-1043 - Mod. #2 (43 FR 16043 - April 14, 1978) Duval County, Florida	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers; Stonemasons	$9.27	.40	.50		.06
Carpenters; Acoustical ceiling; Drywall installer	9.17	.62	.50		.05
Cement Masons	7.96	.45	.40		.01
Ironworkers	9.20	.65	.85		.02
Millwrights	9.98	.62	.50		.05
Painters:					
Brush	8.70	.40	.60		
Paperhangers	9.10	.40	.60		
Roller	8.70	.40	.60		
Spray; Sandblast	8.97	.40	.60		
Piledrivers	9.17	.62	.50		.05
Soft floor layers	9.17	.62	.50		.05
Sprinkler fitters	10.61	.75	1.05		.10

MODIFICATIONS P. 5

DECISION #HI78-5016 - Mod. #4 (43 FR 11366 - March 17, 1978) Statewide Hawaii	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:	$10.18	$1.30	$1.70	.60	.15
Bricklayers; Stonemasons					
Power Equipment Operators: (Except Piledriving and Steel Erection):					
Group 1	8.15	1.05	2.20	.75	.10
Group 2	8.26	1.05	2.20	.75	.10
Group 3	8.43	1.05	2.20	.75	.10
Group 4	8.70	1.05	2.20	.75	.10
Group 5	9.01	1.05	2.20	.75	.10
Group 6	9.66	1.05	2.20	.75	.10
Group 7	9.98	1.05	2.20	.75	.10
Group 8	10.09	1.05	2.20	.75	.10
Group 9	10.20	1.05	2.20	.75	.10
Group 9-A	10.43	1.05	2.20	.75	.10
Group 10	10.49	1.05	2.20	.75	.10
Group 10-A	10.64	1.05	2.20	.75	.10
Group 11	10.79	1.05	2.20	.75	.10
Group 12	11.15	1.05	2.20	.75	.10
Asphalt Paving Group:					
Asphalt Raker	8.20	.90	2.25	a	
Asphalt Roller	9.16	.90	2.25	a	
Asphalt Spreader	9.48	.90	2.25	a	
FOOTNOTE: a. An employee who has completed two to five years' service shall receive a vacation of one week with pay; each additional year an additional one day vacation with pay; ten or more years, a vacation for two weeks each year; for each year of completed service thereafter to and including fifteen years' service, an addition of one day vacation with pay; fifteen or more years of service, a vacation of three weeks each year with pay.					

MODIFICATIONS P. 6

DECISION #HI78-5016 (Cont'd):

Change (Cont'd):
Power Equipment Operators (Except Piledriving and Steel Erection) (Cont'd):

Group 1: Partsman (heavy duty repair shop parts room when needed); Repairman, helper

Group 2: Compressor, electrically, diesel or gas powered etc.; Hydraulic Monitor; Material loader and/or Conveyor operator (handling building material); Mixer Box operator (concrete plant); Pump operator; Spreader Boxman (with screeds); Tar pot fireman (power agitated)

Group 3: Oiler; Fireman; Switchman; Brakeman; Deckhand; Tar Pot fireman; Box operator (bunker); Locomotive (up to and including 30 tons); Roller (5 tons and under); Screedman (except asphaltic concrete paving); Self-propelled, automatically applied concrete curing machine (on streets, highways, airports and canals); Tugger Hoist, single drum; Rodman and Chainman

Group 4: Boom truck or dual purpose "A" frame truck; Dinky operator; Fork lift or lumber stacker (construction job site); Material hoist (1 drum); Straddle truck; Ross Carrier and similar (jobsite)

Group 5: Agri-Cat (mini-cat); Concrete Mixer (up to 2 yds.); Concrete pumps or pumpcrete guns; Generators, gasoline or diesel driven (100 K.W.); Lubrication and Service Engineer (mobile and grease rack); Towermobile; Welding machine (gasoline or diesel)

Group 6: Combination loader and backhoe including Hopto (up to and including 1/2 yd.); Concrete batch plants (wet or dry); Concrete saws and/or grinder (self-propelled unit on streets, highways, airports and canals); Drilling machinery (not to apply to waterliners, wagon drills or jackhammers); High-line cableway signalman; Loader (up to and including 2-1/2 cu. yds.); Lull High Lift; Maginnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mechanical finishers (concrete) (large Clary, Johnson Bidwell Bridge Deck or similar types); Mobile Crane Driver; Pavement breakers; Portable Crushers; Power Jumbo operator (setting slip forms, etc., in tunnels); Rollers (over 5 tons); Self-propelled compactor (single engine); Slip Form Pumps (power driven hydraulic, electric, air, gas, etc., lifting device for concrete forms); Small Rubber-tired tractors; Trencher (up to and including 6 ft.)

DECISION #MI78-5016 (Cont'd): MODIFICATIONS P. 7

Change (Cont'd):
Power Equipment Operators (Except Piledriving and Steel Erection) (Cont'd):

Group 7: Crusher plant; Dual drum mixer; Gradesetter (mechanical or otherwise); Hoist (2 drums); Loader (over 2-1/2 cu. yds. up to and including 5 cu. yds.); Mechanical Finishers or Spreader machine, Asphalt (Barber Greene and similar); Mine or shaft hoist; Mixermobile (over 5 tons); Pavement Breaker, truck mounted, with compressor combination; Pavement breaker with compressor combination (operators 1 or 2); Pipe cleaning machine (tractor propelled and supported); Pipe wrapping machine (tractor propelled and supported); Pipe bending machine (Pipe lines only); Self-propelled elevating grade plane; Slusher operator; Small tractor (with boom D-6 or similar); Trencher (over 6 ft.); Water tanker (pulled by Euclids, T-Pulls, DW-10, 20, 21 or similar); Instrument Man

Group 8: Boring machine; Cast-in-place pipe laying machine; Concrete batch plant (multiple units); Combination loader and hydraulic backhoe (over 1/2 yd. up to and including 3/4 yd.); Conveyor (tunnel); Engineer, Locomotive (over 30 tons up to and including 100 tons); Finishing machine operator (airports and highways); Hydraulic backhoe (over 1/2 yd. to and including 3/4 yd.); Kolman loader; Mechanic trench shield; Mucking Machine; No-Joint pipe laying machine; Portable crushing and screening plants; Saurman type dragline (under 5 yds.); Self-propelled boom type lifting device; Stationary pipe wrapping, cleaning and banding machine; Surface heater and planer; Tunnal badger; Tri-batch paver

Group 9: Boom type backfilling machine; Combination mixer and compressor (gunite); Do-more loader and Adams elegrader; Lull Hi-Lift (40' or over); Rubber-tired earthmoving equipment (up to 12 cu. yds.); Wheel trencher (over 6")

Group 9-A: Dozers; Heavy duty repairman or welder; Push cats; Scrapers; Self-propelled compactor with dozer; Sheep Foot; Tractors; Tractors (with boom, larger than D-6 and similar)

Group 10: Chicago boom; Hoist (3 drums); Koehring Skooper; Loader (over 5 yds. up to and including 12 yds.); Locomotive (over 100 tons) (single or multiple units); Power blade operator; Rubber-tired earthmoving equipment (up to and including 35 cu. yds., Euclid, T-Pulls, DW-10, 20, 21 and similar); Saurman type dragline (5 yds. or over); Soil Stabilizer (P & H equal); Sub-grader (Curries or other automatic type); Track-laying type earthmoving machine (single engine with tandem scraper); Tractor, compressor, drill combination; Tractor (tandem scraper); Tractors (D-9 or equivalent); Chief of Party

DECISION #MI78-5016 (Cont'd): MODIFICATIONS P. 8

Change (Cont'd):
Power Equipment Operators (Except Piledriving and Steel Erection) (Cont'd):

Group 10-A: Cranes (not over 25 tons); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (up to and including 1 cu. yd.)

Group 11: Automatic slip form paver (concrete or asphalt); Cranes (over 25 tons); DW-10, 20, etc. (tandem); Earthmoving machine (multiple propulsion power units and two or more scrapers) (up to and including 35 cu. yds. struck m.r.c.); Highline cableway; Lift slab machine; Loader (over 12 yds.); Power shovels, clamshells, draglines, backhoes, gradealls (over 1 yd. and up to 7 yds.); Power blade operator (16 or over); Pre-stress wire wrapping machine; Self-propelled compactor (with multiple propulsion power units); Single engine rubber-tired earthmoving machine (with tandem scraper); Tandem Cats; Tower cranes, mobile; Trencher (pulling attached shield); Universal, Liebher, Linden and similar types of tower cranes; Wheel excavator (up to and including 750 cu. yds. per hour)

Group 12: Band Wagon (in conjunction with wheel excavator); Derricks; Drill Rigs; Multi-propulsion earthmoving machines (2 or more scrapers) (over 35 cu. yds. "struck" m.r.c.); Power shovels and draglines (7 cu. yds. m.r.c. and over); Rubber-tired Earthmoving equipment (over 35 cu. yds., Euclids, T-Pulls, DW-10, 20, 21 and similar); Wheel excavator (over 750 cu. yds.)

MODIFICATIONS P. 9

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #LA78-4072 - Mod. #5 (43 FR 30456 - July 14, 1978) Bossier, Caddo & Calcasieu Parishes, Louisiana					
Change:					
Carpenters:					
Calcasieu Par. - Millwrights	$11.73				.07
Plumbers & pipefitters:					
Bossier & Caddo Pars.	10.54	.50	.60	.95	.09
DECISION #LA78-4077 - Mod. #3 (43 FR 35841 - August 11, 1978) Statewide Louisiana					
Change:					
Bricklayers & stonemasons:					
Zone 2	9.90	.53			
Carpenters (Building Const.):					
Zone 2 - Millwrights	11.73				.07
Zone 7 - Carpenter & soft floor layers	9.75				
Millwrights	10.50				
Piledrivermen	10.25				
Electricians:					
Zone 4 - Electricians	12.30	.35	3%		2/10%
Cable splicers	12.55	.35	3%		2/10%
Lathers - Zone 5	9.05				.01
Line construction:					
Zone 4:					
Linemen, equipment ops.	12.30	.35	3%		
Cable splicers	12.55	.35	3%		
Groundmen	50%JR	.35	3%		
Plumbers & pipefitters - Zone 4	10.54	.50	.60	.95	.00

DECISION #MD77-3086 - Mod #8 (42 FR-39880 - August 5, 1977) MODIFICATIONS P. 10
Allegany & Garrett Counties, Maryland

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers	10.54	.65	.40		
Marble Masons	10.54	.65	.40		
Painters:					
Brush, rollers, wall covering hangers, and installation of seamless type floors	7.70		.50		
Spray, sandblasting, and use of flame burning and power tool	8.70		.50		
Toxic materials - brush & roller	8.20		.50		
Toxic materials - spray	9.20		.50		
Plumbers & Steamfitters	9.55	.50	.70	1.00	.05
Stone Masons	10.54	.65	.40		
Terrazzo Workers	10.54	.65	.40		
Tile Setters	10.54	.65	.40		
DECISION #MI78-2054 - MOD. #4 (43 FR 24200 - June 2, 1978) Statewide, Michigan					
CHANGE:					
Carpenters:					
Zone 1	$11.79	.95	11%	11%	.04
Zone 2E	10.98	.60	.70		.01
Zone 2W	10.85	.60	.70		.01
Zone 3LP	10.74	.60	.70		.01
Zone 3UP	10.69	.60	.70		.01
Zone 4	12.78	.65	.67		.05
DECISION #NV78-5010 - Mod. #2 (43 FR 10229 - March 10, 1978) Nevada Test Site including Tonopah Test Range in Clark and Nye Counties, Nevada					
Change:					
Power Equipment Operators: (Except Piledriving and Steel Erection):					
Group 1	$10.78	$1.10	$2.00	.35	.04
Group 2	11.02	1.10	2.00	.35	.04
Group 3	11.26	1.10	2.00	.35	.04
Group 4	11.37	1.10	2.00	.35	.04
Group 5	11.56	1.10	2.00	.35	.04
Group 6	11.66	1.10	2.00	.35	.04
Group 7	10.36	1.10	2.00	.35	
Group 7-A	10.07	1.10	2.00	.35	
Group 7-B	9.96	1.10	2.00	.35	
Group 7-C	9.72	1.10	2.00	.35	

MODIFICATIONS P. 11

DECISION #NJ78-3009 - Mod. #4
(42 FR 17223 - April 21, 1978)
Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union and Warren Counties New Jersey

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers, Stone Masons, Cement Masons, & Plasterers					
Zone 7	12.25	.50	.70		.02
Pipefitters:					
Bergen & Hudson Counties and the city of Passaic in Passaic County	12.30	1.00	1.00	1.00	.25
Plumbers & Steamfitters:					
Zone 1					
Plumbers	13.25	.75	1.35		.25
Zone 5	12.42	.65	1.00	.90	.02
Zone 6					
Steamfitters	12.30	1.00	1.00	1.00	.25
Plumbers	13.25	.75	1.35		.25
Plumbers & Pipefitters:					
Zone 2	11.67	1.005	1.36	1.00	.04
Plumbers:					
Zone 1	13.25	.75	1.35		.25
Zone 2	13.25	.75	1.35		.25
Zone 3	13.25	.75	1.35		.25

MODIFICATIONS P. 12

DECISION NO. ND78-5113 - Mod. #1
(43 FR 31563 - July 21, 1978)
Burleigh, Cass, Grand Forks, Morton, Richland, Steele, Walsh and Ward Counties, North Dakota

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers; Stonemasons:					
Burleigh and Morton Cos.	$10.20		.30		
Grand Forks, Steele and Walsh Counties	11.15		.30		
Cass and Richland Counties	10.95	.60	.30		
Carpenters:					
Grand Forks, Steele (Northern Area) and Walsh Counties					
Carpenters	9.71		.20		
Piledrivermen	9.97		.20		
Ward County					
Carpenters	9.23				.02
Piledrivermen	9.46				.02
Cement Masons:					
Grand Forks, Steele and Walsh Counties	8.10		.30		
Cass and Richland Counties	9.86				
Laborers:					
Building Construction:					
Grand Forks and Steele Cos.					
Group 1	7.47	.35			
Group 2	7.62	.35			
Group 3	7.82	.35			
Burleigh and Morton Cos.					
Group 1	6.90	.35			
Group 2	7.00	.35			
Group 3	7.10	.35			
Cass and Richland Cos.					
Group 1	7.04	.35			
Group 2	7.14	.35			
Group 3	7.19	.35			
Ward County					
Group 1	7.04	.35			
Group 2	7.14	.35			
Group 3	7.29	.35			

MODIFICAITONS P. 13

DECISION NO. ND78-5113 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Group 1	$10.53	.45	3%		1/2%
Group 2	8.46	.45	3%		1/2%
Group 3	7.04	.45	3%		1/2%
Group 4	6.46	.45	3%		1/2%
Plasterers:					
Grand Forks, Walsh and Steele Counties	8.84		.30		
Ward County	8.75				
Roofers:					
Cass and Richland Counties	9.05				
Power Equipment Operators:					
Building Construction:					
Group 1	10.00	.45	.40		
Group 2	9.05	.45	.40		
Group 3	8.45	.45	.40		
Group 4	7.45	.45	.40		
Add:					
Cement Masons:					
Ward County	$ 8.75				
Glaziers:					
Burleigh County	7.16				
Soft Floor Layers:					
Burleigh County	8.20				
DECISION #PA78-3053 - Mod. # 2 (43 FR 35871 - August 11, 1978) Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania					
Change:					
Roofers:					
All other work					
Commercial					
Composition, damp and waterproofers	$12.77	1.40	.95	•	
Roofers Assistant	6.00	1.40	.95	•	

MODIFICATIONS P. 14

DECISION #TX78-4017 - Mod. #3 (43 FR 10272 - March 10, 1978) Taylor County, Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians - Electricians	$ 9.80	.60	3%		1/4%
Cable splicers	10.05	.60	3%		1/4%
Line construction:					
Lineman	9.80	.60	3%		1/4%
Cable splicers	10.05	.60	3%		1/4%
Groundman (over 1 year of experience)	7.35	.60	3%		1/4%
Groundman (under 1 year of experience)	5.88	.60	3%		1/4%
Equipment operator	8.04	.60	3%		1/4%
Flat bed truck driver	6.08	.60	3%		1/4%
Painters:					
Brush, tape & bedding, paperhangers	8.00		.35		
Spray	8.675		.35		
DECISION #TX78-4038 - Mod. #2 (43 FR 16129 - April 14, 1978) Harrison County, Texas					
Change:					
Bricklayers & stonemasons	10.25		.25		
DECISION #TX78-4051 - Mod. #2 (43 FR 20718 - May 12, 1978) Ector & Midland Cos., Texas					
Change:					
Electricians - Zone 1	10.45	.60	3%		1/10%
Zone 2	10.75	.60	3%		1/10%
Zone 3	10.95	.60	3%		1/10%
DECISION #TX78-4073 - Mod. #2 (43 FR 31569 - July 21, 1978) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
Change:					
Building Construction:					
Glaziers	7.20				

MODIFICATIONS P. 15

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4078 - Mod. #2 (43 FR 35881 - August 11, 1978) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas					
Change:					
Power Equipment Operators:					
Zone 1 - Dallas County:					
Group 1	$ 8.265	.40	.90		
Group 2	9.35	.40	.90		
Group 3	9.75	.40	.90		
DECISION #TX78-4079 - Mod. #1 (43 FR 35884 - August 11, 1978) Bee, Kleberg & Nueces Cos., Texas					
Change:					
Carpenters: Millwrights	$10.05				1%
Electricians - Electricians	10.90	.60	3%		3/4%
Cable splicers	11.025	.60	3%		3/4%
Line construction:					
Linemen	11.03	.50	3%		1/2%
Cable splicers	11.155	.50	3%		1/2%
Groundmen (1st year)	5.52	.50	3%		1/2%
Groundmen	6.07	.50	3%		1/2%
DECISION #TX78-4080 - Mod. #2 (43 FR 35886 - August 4, 1978) Jefferson & Orange Cos., Texas					
Change:					
Electricians	13.35	.50	3%+.285		.06
Line construction:					
Linemen	13.635	.50	3%		1/2%
Groundmen	9.95	.50	3%		1/2%
Tile setters	10.95	.63	.60		.04

MODIFICATIONS P. 16

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4083 - Mod. #1 (43 FR 38279 - August 25, 1978) El Paso County, Texas					
Change Description of Work to Read: Building Construction (does not include single family homes or garden type apartments up to & including 4 stories). (See current highway general wage determination for Paving Incidental to Building Const.)					
DECISION #TX78-4084 - Mod. #1 (43 FR 38281 - August 25, 1978) Galveston & Harris Cos., Texas					
Change:					
Electricians - Galveston Co.	$12.29	.50	3%+$1.40		.06
Change Description of Work to Read: Building Construction (does not include single family homes or garden type apartments up to & including 4 stories). (See current highway general wage determination for Paving & Utilities Incidental to Building Construction).					

SUPERSEDEAS DECISION

STATE: Guam
DECISION NUMBER: GU78-5127 DATE: Date of Publication
Supersedas Decision No. GU78-5021 dated March 24, 1978 in 43 FR 12537
DESCRIPTION OF WORK: Building, Residential, Heavy, and Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air hammer operator including airbreaker, air gun, and air tool operators	$5.25				
Asbestos and insulation workers	5.80				
Asphalt heater tenders	4.75				
Asphalt mixing machine tenders	4.75				
Asphalt rakers, blacktop rakers	4.75				
Asphalt plant dryer operator	5.25				
Asphalt plant operator	5.25				
Asphalt paving machine operator	6.05				
Blade grader operator	6.05				
Bricklayers	5.80				
Bulldozer operator	6.05				
Carpenters including hardwood floor layers, framing carpenters	5.80				
Cement Masons	5.80				
Concrete paving machine operator	6.05				
Crane operator	6.05				
Concrete mixer operator including batch and mix plant operator, and mixing machine operator	5.25				
Derrick, dragline, hoist operator	6.05				
Dredge pipe installer	5.25				
Dredge dipper tenders including bucket operator	5.25				
Dredge operators including dredge pumpers	5.80				
Drywall applicator including nailer, sheatrocker	5.25				
Earth boring machine operators	6.05				
Elevating grader operator	6.05				
Finegraders including slopers	4.75				
Floor sanding machine operator including floor scraper, and floor finishers	4.75				
Fence erector including ironworker, wirefence erector, wirefence builder	5.25				
Forklift operator	5.25				

DECISION NO. GU78-5127 Page 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Form temper operator, tamping machine operator including road form tamping machine	$5.25				
Form grader operators	6.05				
Foundation drill operators	6.05				
Glazier	5.25				
Heater planer operators	6.05				
Horizontal earth boring machine operator	6.05				
Laborers, hod carriers	4.30				
Lathers including metal, and rockboard lathers	5.25				
Line maintainers including high tension line maintainers	5.80				
Mason Tender	4.75				
Metal road form setter, metal road form fitter	5.25				
Millwrights, machine erectors	5.25				
Motor grader operator	6.05				
Mucking machine operator	6.05				
Oilers	4.75				
Painters including structural steel and finish painters	5.25				
Pile driver operator	6.05				
Pile driving jetters	5.25				
Pipelayers	5.80				
Pipelaying fitters, spacers	5.25				
Plasterers	5.25				
Portable pump operator	5.25				
Plumbers, pipefitters, steamfitters and sprinkler installers	5.80				
Power shovel operators	6.05				
Reinforcing ironworker including reinforcing bar setters	5.25				
Reinforcing steel erectors, reinforcing rod tiers	5.25				
Roofers, aluminum, shingle, and composition roofers	5.80				
Road mixer operators	6.05				
Road roller operator	6.05				
Rock drill operator	6.05				

DECISION NO. GU78-5127

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sheet metal workers	5.80				
Scraper operator	6.05				
Sheet pile hammer operator	6.05				
Shield runner	6.05				
Subgrader operator	6.05				
Sweeper operator	6.05				
Tapers, drywall finisher, wall board and plaster board finisher, tapers and bedders, floaters	5.25				
Truck mechanic	5.25				
Truck drivers including concrete mixing trucks, dump trucks	5.25				
Terrazzo workers	5.80				
Tile setters	5.80				
Tower excavator operator	6.05				
Trenching machine operator	6.05				
Utility tractor operator	6.05				
Water well drillers	6.05				
Well drill operators, cable tool, rotary drill	6.05				

SUPERSEDEAS DECISION

STATE: Mississippi — COUNTIES: *See below
DECISION NO. MS78-1079 — DATE: Date of Publication
Supersedeas Decision NO.: MS78-1014 dated February 17, 1978 in 43 FR-7130
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), and heavy construction.

*Counties: Hancock, Harrison, Jackson, & Pearl River

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers (Pearl River and Hancock)	9.05	.50	1.10		.05
Asbestos workers (Jackson and Harrison	10.35	.495	1.00	c	.02
Boilermakers	9.85	1.05	1.10		.02
Bricklayers:					
Bricklayers	9.35	.40	.40		
Blockmasons	9.35	.40	.40		
Caulkers & Pointers	9.35	.40	.40		
Marble masons	9.35	.40	.40		
Stonemasons	9.35	.40	.40		
Plasterers	9.25	.40	.40		
Terrazzo workers	9.25	.40	.40		
Tile setters	9.25	.40	.40		
Cement masons	8.75	.40	.40		
Carpenters:					
Carpenters	8.70	.40	.25		.05
Soft floor layers	8.70	.40	.25		.05
Millwrights	9.20	.40	.25		.05
Electricians:					
Electricians	10.10	5%	3%+.20		1/8 of 1%
Cable splicer	10.35	5%	3%+.20		1/8 of 1%
Elevator constructors	7.03	.545	.35	2%+a&b	.02
Ironworkers:					
Jackson Co. & eastern 1/3 of Harrison Co. (incl. Biloxi, Keesler AFB, & towns of Howison & Suceess)					
Structural, Ornamental, & Reinforcing	9.88	.40	.50		
Ironworkers:					
Hancock & Pearl River Counties & western 2/3 of Harrison Co.					
Structural, Ornamental, & Reinforcing	10.76	.63	.35		.04
Laborers:					
Laborers	5.35	.15	.15		.05
Asphalt rakers, masons tenders mortar mixers, pipelayers, pipe wrappers, post hole digger, plasterer tenders	5.50	.15	.15		.05

MS78-1079 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Linemen	10.10	5%	3%+.20		1/8 of 1%
Cable splicers	10.35	5%	3%+.20		1/8 of 1%
Painters (Harrison & Jackson Counties:					
Commercial:					
Brush	7.40		.40		.12
Roller	7.50		.40		.12
Spray	7.70		.40		.12
Industrial:					
Brush	8.20		.40		.12
Spray & Sandblasting	9.50		.40		.12
Painters (Hancock & Pearl River Counties:					
Commercial:					
Brush & Roller	5.55				.03
Spray	6.55				.03
Piledrivermen	8.84	.30	.35		
Piledrivermen on creosote material	9.09	.30	.35		
Plumbers & steamfitters	10.44	.31	.50		.02
Roofers:					
Roofers	8.60		.20		
Kettlemen	6.75		.20		
Sheet metal workers	11.00	3%+.60	.91		.14
Sprinkler fitters	10.10	.60	.90		.08

MS78-1079 - (Cont'd)

PAID HOLIDAYS:
A-New Year's Day — B-Memorial Day — C-Independence Day
D-Labor Day — E-Thanksgiving Day — F-Christmas Day

FOOTNOTES:

a. Holiday: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Holidays: Labor Day and Thanksgiving Day, provided the employee works at least one day out of 3 workdays prior to the paid holiday and the first work day after the paid holiday.

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MS78-1079 - (Cont'd)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	7.25	.40	.50		
GROUP II	7.84	.40	.50		
GROUP III	9.15	.40	.50		

GROUP I: Truck drivers on equipment up to but not including 1½ tons, station wagons, jeeps and automobiles, truck spotters, general warehousemen.

GROUP II: Truck drivers on equipment 1½ tons and up to but not including 5 tons.

GROUP III: Truck drivers on equipment rated 5 tons or 6 yards and over, including heavy equipment such as pole trucks, miss or corning wagons, dumpsters, semi-drivers, agitator, roes carriers, dempsey dumps, euclid trucks, forklift truck in warehouse and similar equipment, such as tractors, 10 wheelers, jeeps or dump trucks or pickup trucks pulling two or four wheel trailers hauling equipment.

MS78-1079 - (Cont'd)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	9.33	.50	.30		
GROUP 2	8.33	.50	.30		
GROUP 3	8.18	.50	.30		
GROUP 4	7.43	.50	.30		
GROUP 5	6.33	.50	.30		
GROUP 6	6.33	.50	.30		

GROUP 1:
Engineer - operating under air pressure

GROUP 2:
Mechanic

GROUP 3:
Air tugger (2 drum), asphalt plant, backhoe, blacksmith, boom tractor, bulldozer, central mixing plant, cherry picker, clamshell, crane derrick, derrick boat, derrick car, draglino, dredge, elevating grader, excavator (power belt), forklift, hoist (2 drum) locomotive engineer, marine engineer (chief), master pilot, mixermobile, motor patrol & similar type equipment, paver (21 C.F. or larger), piledriver, recharger, roaming greaser (1st), scoop (skimmer), scraper, shovel, trenching machine (over 18" bucket line width), tournapull, DW-10 & similar pulltype scrapers, traxavator and similar endloaders, welder, welding machines or S/N pumps (2 to 6), well driller, well point pumps

GROUP 4:
Air tugger, asphalt spreader (bituminous distributor) asphalt spreader (bituminous mixer), backfilling machine, conveyor, drill (earth), finishing machine, fireman, heating plant, hoist, marine engineer (assistant), mixer, payloader, and similar endloaders, pilot, power generating plant, pump (concrete), roller, scoopmobile, tractor (with power take-off), trenching machine(18" or smaller bucket line width), tugboat, winch truck

GROUP 5:
Air compressor, form grader, locomotive hostler, oiler (truck crane), pump, roughneck, tractor (without attachments), welding machine

GROUP 6:
Batch scale, deckhand, motorboat (in or outboard), oiler scowman

SUPERSEDEAS DECISION

STATE: Nevada

COUNTIES: Statewide (does not include the Nevada Test Site and Tonopah Test Range, and highway construction in Douglas County), Nevada

DECISION NUMBER: NV78-5124

DATE: Date of Publication

Supersedes Decision No. NV78-5009 dated March 10, 1978, in 43 FR 10229

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Clark, Esmeralda, Lincoln, Nye Counties	$ 13.66	$ 1.10	$ 1.20		
Elko, Eureka, White Pine Cos.	11.21	.84	1.20		
Remaining Counties	13.00	1.02	1.20		.07
BOILERMAKERS	13.625	1.075	1.00	.75	.02
BRICKLAYERS; Stonemasons:					
Clark, Esmeralda, Lincoln, Nye County (south of Hwy. 6)	12.27	.70	.60		.06
Remaining Counties and Nye County (north of Hwy. 6)	11.45	.50	.60		.01
BRICK HOD CARRIERS:					
Statewide excluding Clark, Esmeralda, Lincoln, Nye County (south half):					
Zone A: 0-35 miles from Courthouse in Reno, Nevada	9.60	.50	.90		.05
Zone B: 35-75 miles from Courthouse in Reno, Nevada	10.50	.50	.90		.05

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Clark, Esmeralda County (South of Hwy. 6), Lincoln, Nye County (south of Hwy. 6, including City of Tonopah):					
Zone 1: Area within the City limits of Henderson, Nevada, and Boulder City, Nevada; area within a 10 mile radius of Las Vegas, Nevada; area within a 5 mile radius of Tonopah, Nevada; present fenced area of Nellis Air Force Base, as well as that area adjacent to Nellis Air Force Base bounded on the north by the Nellis spur track and on the west by the train line of the Union Pacific Railroad:					
Carpenters	$ 11.96	.85	$ 1.10	$1.00	.10
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	12.11	.85	1.10	1.00	.10
Piledrivermen	12.16	.85	1.10	1.00	.10
Millwrights	12.46	.85	1.10	1.00	.10
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the communities described above:					
Carpenters	12.46	.85	1.10	1.00	.10
Floor layers; Patent Scaffold Erectors; Power Saw Operators	12.61	.85	1.10	1.00	.10
Piledrivermen	12.66	.85	1.10	1.00	.10
Millwrights	12.96	.85	1.10	1.00	.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Zone 3: Area over 20 miles and not more than 40 miles from the communities described in Zone 1:					
Carpenters	$ 12.71	.85	$ 1.10	$1.00	.10
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	12.86	.85	1.10	1.00	.10
Piledrivermen	12.91	.85	1.10	1.00	.10
Millwrights	13.21	.85	1.10	1.00	.10
Zone 4: Area over 40 miles from the communities described in Zone 1:					
Carpenters	13.96	.85	1.10	1.00	.10
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	14.11	.85	1.10	1.00	.10
Piledrivermen	14.16	.85	1.10	1.00	.10
Millwrights	14.46	.85	1.10	1.00	.10
Nye County (north of Hwy. #6, excluding City of Tonopah) and all Remaining Counties:					
Carpenters	11.15	.70	1.16		.05
Floor Layers; Patant Scaffold Erectors; Power Saw Operators	11.30	.70	1.16		.05
Piledriverman	11.35	.70	1.16		.05
Millwrights	11.75	.70	1.16		.05
CEMENT MASONS:					
Clark, Lincoln, Nye Counties:					
Cement Masons	11.90	1.00	1.00		.08
Cement Floor Finishing Machine and Color Work	12.15	1.00	1.00		.08
Lake Tahoe Area:					
Cement Masons	10.80	.70	1.00	1.35	.05
Mastic, Magnesite and all Composition Masons	11.05	.70	1.00	1.35	.05
Troweling Machine; Grinder Operator and Kelly Float	11.30	.70	1.00	1.35	.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS: (Cont'd)					
Remaining Counties:					
Cement Masons	$ 9.35	.70	$ 1.00	$1.35	.05
Mastic, Magnesite and all Composition Masons	9.60	.70	1.00	1.35	.05
Troweling Machine; Grinder Operator and Kelly Float	9.85	.70	1.00	1.35	.05
DRYWALL INSTALLERS:					
Statewide except the Counties of Clark, Esmeralda County (south of Hwy. #6), Lincoln, Nye County (south of Hwy. #6)	11.40	.70	1.16		.05
Clark, Esmeralda County (South of Hwy. #6), Lincoln, Nye County (South of Hwy. #6, including City of Tonopah):					
Zone 1: Area within the City limits of Henderson, Nevada, and Boulder City, Nevada; area within a 10 mile radius of Las Vegas, Nevada; Area within a 5 mile radius of Tonopah, Nevada; present fenced area of Nellis Air Force Base, as well as that area adjacent to Nellis Air Force Base bounded on the north by the Nellis spur track and on the west by the train line of the Union Pacific Railroad	12.13	.85	1.10	1.00	.10
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the communities described in Zone 1	12.63	.85	1.10	1.00	.10
Zone 3: Area over 20 miles and not more than 40 miles from the communities described in Zone 1	12.88	.85	1.10	1.00	.10
Zone 4: Area over 40 miles from the communities described in Zone 1	14.13	.85	1.10	1.00	.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Clark, Lincoln, Nye County (south of Mt. Diablo Base Line):					
Electricians; Technicians	$ 15.06	.73	3%+1.30		.08
Cable Splicers	15.39	.73	3%+1.30		.08
Nye County (north of Mt. Diablo Base Line) and Remaining Counties excluding Lake Tahoe Area:					
Electricians; Technicians	14.18	.99	3%+1.22		.08
Cable Splicers	15.60	.99	3%+1.22		.08
Lake Tahoe Area:					
Electricians; Technicians	15.18	.99	3%+1.22		.08
Cable Splicers	16.60	.99	3%+1.22		.08
ELEVATOR CONSTRUCTORS:					
Nevada east of 118° longitude and south of 39° north latitude:					
Elevator Constructors	13.41	.745	.56	3%+a	.025
Elevator Constructors' Helpers	9.39	.745	.56	3%+a	.025
Elevator Constructors' Helpers (Prob.)	6.705				
Nevada west of 118° longitude:					
Elevator Constructors	14.82	.745	.56	3%+a	.025
Elevator Constructors' Helpers	10.37	.745	.56	3%+a	.025
Elevator Constructors' Helpers (Prob.)	7.41				
GLAZIERS:					
Clark, Esmeralda, Lincoln and Nye Counties	14.17	.65	.40		.05
Remaining Counties	11.22	.58	1.50	1.25	
IRONWORKERS:					
Elko, Eureka, White Pine Cos. Fence Erectors; Machinery Movers; Ornamental; Reinforcing; Riggers; Structural	10.65	.65	1.24		.05
Remaining Counties:					
Fence Erector	10.66	1.24	2.22	1.46	.06
Ornamental; Reinforcing; Structural	11.55	1.24	2.22	1.46	.06
LATHERS:					
Clark, Esmeralda, Lincoln, and Nye Counties	10.60	.70	1.00	1.00	.16

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION WORKERS:					
Clark, Lincoln, Nye County (South half)					
Groundman	$ 11.09	.73	3%		3/4%
Linemen; Line Equipment Operators	14.79	.73	3%		3/4%
Cable Splicers	15.53	.73	3%		3/4%
Lake Tahoe Area:					
Lineman	15.18	.99	3%+1.22		.08
Line Equipment Operators	13.76	.99	3%+1.22		.08
Groundman	11.64	.99	3%+1.22		.08
Cable Splicer	16.60	.99	3%+1.22		.08
Remaining Counties (excluding Lake Tahoe Area):					
Lineman	14.18	.99	3%+1.22		.08
Line Equipment Operator	12.76	.99	3%+1.22		.08
Groundman	10.64	.99	3%+1.22		.08
Cable Splicers	15.60	.99	3%+1.22		.08
MARBLE MASONS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	12.27	.70	.60		.06
Remaining Counties and Nye County (north half)	11.45	.50	.60		.01
MARBLE, TERRAZZO, TILE HELPERS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	9.65	.70	.60		
Remaining Counties and Nye County (north half)	6.87	.50	.60		.01
MASON TENDERS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	10.02	.66	1.35		
PAINTERS:					
Clark, Esmeralda, Lincoln, Nye Counties:					
Brush; Roller	13.64	.75	.35		.06
Paperhangers; Spray; Steel; Swing Stage; Sandblasters; Sign; Tapers	13.99	.75	.35		.06
Buffing Steel; Sandblasters, Structural Steel	14.34	.75	.35		.06
Steeplejack	15.14	.75	.35		.06

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Remaining Counties including Lake Tahoe Area:					
Brush and Roller	$ 12.70	.70	.75		
Spray; Taper; Paperhangers	13.20	.70	.75		
Spray-swing stage up to 40 ft.; Spray-steel	13.45	.70	.75		
Brush-swing stage, up to 40 ft.; Brush-steel; Sandblaster	12.95	.70	.75		
PLASTER HOD CARRIERS:					
Statewide excluding Clark, Esmeralda, Lincoln, Nye County (south half):					
Plaster Hod carriers serving Plasterers	10.95	.95	1.05		
Plaster Hod Carriers working on any type of Gun	11.55	.95	1.05		
PLASTER TENDERS:					
Clark, Esmeralda, Lincoln, and Nye County (south half)	11.12	.66	1.35		
PLASTERERS:					
Clark, Lincoln, Nye Counties	12.18	1.00	1.00		.08
Remaining Counties	11.22	.70	1.00		.03
PLUMBERS; Steamfitters:					
Clark, Esmeralda, Lincoln, Nye County (south half)	11.53	1.25	2.32	1.85	.08
Remaining Counties and Nye County (north half)	11.74	.73	.90	1.95	.10
PLUMBERS (Utility):					
Statewide except Clark, Esmeralda, Lincoln, Nye County (south half)	11.74	.73	.90	1.95	.10
ROOFERS:					
Clark, Esmeralda, Lincoln, and Nye County (south half)	13.75	.65			
Remaining Counties and Nye County (north half)	11.60	.70	.50		.02
SHEET METAL WORKERS:					
Clark, Esmeralda, Lincoln, Nye County (south half), White Pine Counties	14.82	1.03	1.61		.17
Remaining Counties and Nye County (north half)	11.22	1.04	2.13		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Clark, Esmeralda, Lincoln, and Nye Counties	$ 13.47	.65			.15
Remaining Counties including Lake Tahoe Area	11.48	.70	.20	.28	
SPRINKLER FITTERS	15.50	.75	1.05		.08
TERRAZZO WORKERS; TILE SETTERS:					
Clark, Esmeralda, Lincoln, and Nye County (south half)	12.27	.70	.60		.06
Remaining Counties and Nye County (north half)	11.45	.50	.60		.01

FOOTNOTE:
a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

LABORERS

Clark, Esmeralda, Lincoln, Nye County (south half)			
Group 1	$ 9.95	.66	$ 1.53
Group 2	10.16	.66	1.53
Group 3	10.26	.66	1.53
Group 4	10.35	.66	1.53
Group 5	10.45	.66	1.53

LABORERS

Group 1: Cutting Torch Operator (demolition); Dry Packing of Concrete and Filling of Form-bolt Holes; Fine Grader, highway and street paving, airport runways and similar type heavy construction; Flagman, Spotter, Debris Handler and Dumpman; Gas and Oil Pipeline Laborer; Guinea Chaser; Laborer, demolition (cleaning of bricks, lumber, etc.); Laborer, general or construction; Laborer, packing rod steel and pans; Laborers, temporary water lines (portable type); Landscape Gardener and Nurseryman; Tarman and Mortarman, Kettleman, Potman and man applying asphalt, lay-kold creosote, lime and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Underground Laborer, including Caisson Bellowers; Window Cleaner

Group 2: Asphalt Raker, Ironer, Spreader, Luteman; Buggymobile Man; Cement Dumper (on 1 yard or larger mixers and handling bulk cement); Cesspool Digger and Installer; Chucktender (except tunnel); Concrete Core Cutter; Concrete Curer, impervious membrane and oiler of all materials; Concrete Saw Man, excluding tractor type, cutting, scoring old or new concrete; Gas and oil Pipeline Wrapper, Pot Tender and Form Man; Making and Caulking of all non-metallic pipe joints; Operators and Tenders of pneumatic and electric tools; Vibrating Machines, hand-propelled Trenching Machines, impact Wrench, multiplate and similar mechanical tools not separately classified herein; Operator of Cement Grinding Machine; Riprap Stonepaver; Roto-Scraper; Sandblaster (pot tender); Scaler; Septic Tank Digger and Installer (Lead Man); Tank Scaler and Cleaner; Tree Climber, faller, Chain Saw Operator, Pittsburgh Chipper and similar type brush shredders

Group 3: Gas and Oil Pipeline Wrapper, 6 inch pipe and over; Jackhammer and/or Pavement Breaker; Laying of all non-metallic pipe, including sewer pipe, drain pipe, and underground tile; Oversize concrete vibrator, 70 lbs. and over; Rock Slinger; Scaler (using boa'n chair or safety belt or power tools)

Group 4: Cribber or Shorer, Lagging, Sheeting, Trench Bracing, hand guided lagging hammer; Head Rock Slinger; Powderman-blaster, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Sandblaster (Nozzleman); Steel Headerboard Man

Group 5: Driller (Core, Diamond or Wagon), Joy Driller Model TW-M-2A, Gardner-Denver Model DH 143 and similar type drills

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS*:					
Remaining Counties:					
Building Construction:					
Zone 1: Area within 5 road miles of the following communities - Carson City, Elko, Fallon, Hawthorne, Lovelock, Minden, Tonopah, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 2 road miles of Yerington, Nevada, also Washoe Valley between Reno, Nevada and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base; also the Tahoe Basin from the Summit to the Lake:					
Group 1	$ 8.40	.95	$ 1.05		.10
Group 2	8.50	.95	1.05		.10
Group 3	8.65	.95	1.05		.10
Group 4	8.90	.95	1.05		.10
Group 5	9.20	.95	1.05		.10
Group 6-A	9.20	.95	1.05		.10
Group 6-B	8.90	.95	1.05		.10
Group 6-C	8.55	.95	1.05		.10
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the above communities:					
Group 1	9.00	.95	1.05		.10
Group 2	9.10	.95	1.05		.10
Group 3	9.25	.95	1.05		.10
Group 4	9.50	.95	1.05		.10
Group 5	9.80	.95	1.05		.10
Group 6-A	9.80	.95	1.05		.10
Group 6-B	9.50	.95	1.05		.10
Group 6-C	9.15	.95	1.05		.10

LABORERS*: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Remaining Counties (Cont'd)					
Building Construction (Cont'd)					
Zone 3: Area over 20 and not more than 40 road miles from the communities named in Zone 1:					
Group 1	$ 9.20	.95	$ 1.05		.10
Group 2	9.30	.95	1.05		.10
Group 3	9.45	.95	1.05		.10
Group 4	9.70	.95	1.05		.10
Group 5	10.00	.95	1.05		.10
Group 6-A	10.00	.95	1.05		.10
Group 6-B	9.70	.95	1.05		.10
Group 6-C	9.35	.95	1.05		.10
Zone 4: Area over 40 road miles from the communities named in Zone 1:					
Group 1	9.90	.95	1.05		.10
Group 2	10.00	.95	1.05		.10
Group 3	10.15	.95	1.05		.10
Group 4	10.40	.95	1.05		.10
Group 5	10.70	.95	1.05		.10
Group 6-A	10.70	.95	1.05		.10
Group 6-B	10.40	.95	1.05		.10
Group 6-C	10.05	.95	1.05		.10
Heavy and Highway Construction:					
Area 1:					
Group 1	8.40	.95	1.05		.10
Group 2	8.50	.95	1.05		.10
Group 3	8.65	.95	1.05		.10
Group 4	8.90	.95	1.05		.10
Group 5	9.20	.95	1.05		.10
Group 6-A	9.20	.95	1.05		.10
Group 6-B	8.90	.95	1.05		.10
Group 6-C	8.55	.95	1.05		.10
Area 2:					
Group 1	9.55	.95	1.05		.10
Group 2	9.65	.95	1.05		.10
Group 3	9.80	.95	1.05		.10
Group 4	10.05	.95	1.05		.10
Group 5	10.35	.95	1.05		.10
Group 6-A	10.35	.95	1.05		.10
Group 6-B	10.05	.95	1.05		.10
Group 6-C	9.70	.95	1.05		.10

*LABORERS - Area Definition - See "Area Definition" following TRUCK DRIVERS

LABORERS
Remaining Counties

Group 1: All cleanup work of debris, grounds and building including windows and tile; Dumpman or spotter (other than asphalt); General laborer; Gardeners and landscape laborers; Limber, brushloader and piler; Flagman

Group 2: Choker setter or rigger (clearing work only); Pittsburgh chipper and similar type brush shredders; Concrete worker (wet or dry) all concrete work not listed in Group 3; Crusher or Grizzle tender; Guinea Chaser (stakeman); Panel forms (wood or metal) handling, cleaning and stripping of; Loading and unloading, carrying and handling of all rods and material for reinforcing concrete; Railroad trackmen (builders); Sloper; Semi-skilled wrecker (salvaging of building materials other than those listed in Group 3); Greasing Dowels

Group 3: Asphalt workers (ironers, shoveler, cutting machine); Buggymobile; Chainsaw, faller, logloader and bucker; Compactor (all types); Concrete mixer under 1/2 yd.; Concrete pan work (breadpan type), (handling, cleaning, stripping); Concrete saw, chipping, grinding, sanding, vibrator; Cribbing, shoring, lagging, trench jacking, hand-guided lagging hammer; Curbing or divider machine; Curb setter (precast or cut); Ditching machine (hand-guided); Driller's helper, chuck tender; Form raiser, slip forms; Grouting of concrete walls, windows and door jams; Headerboardman; Jackhammer, pavement breaker, air spade; Mastic worker (wet or dry); Pipe wrapper, kettleman, potman, and man applying asphalt, creosote and similar type materials; All power tools (air, gas or electric) not listed in Group 5; Pipejacking; Posthole digger (air, gas or electric); Post driver; Riprap-stonepaver and rock slinger, including placing of sack concrete wet or dry; Rototiller; Rigging and signaling in connection with laborers' work; Sandblaster, potman, gunman or nozzleman; Vibra-screed; Skilled wrecker (removing and salvaging of sash windows, doors, plumbing and electrical fixtures)

Group 4: Burning and welding in connection with laborers' work; Joy Drill Model TWM-2A, Gardner Denver Model DM 143 and similar type drills; Track drillers, Diamond core drillers, Wagon drillers, Mechanical drillers on multiple units; High scalers; Concrete pump; Heavy duty vibrator with stinger 5" diameter or over; Pipelayer, Caulker and bander; Pipelayer - waterline, Sewerline, gasline, conduit; Asphalt Rakers

Group 5: Blasters and powderman, all work of loading, placing and blasting of all powder and explosives of any type, regardless of method used for such loading and placing

Group 6-A: Nozzleman

Group 6-B: Gunman, Materialman

Group 6-C: Reboundman

POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection) Clark, Esmeralda, Lincoln, Nye Counties:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 10.70	$1.00	$ 2.00	.50	.14
Group 2	10.98	1.00	2.00	.50	.14
Group 3	11.27	1.00	2.00	.50	.14
Group 4	11.41	1.00	2.00	.50	.14
Group 5	11.63	1.00	2.00	.50	.14
Group 6	11.74	1.00	2.00	.50	.14
Group 7	11.86	1.00	2.00	.50	.14
Group 8	12.03	1.00	2.00	.50	.14
Group 9	12.16	1.00	2.00	.50	.14

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)
Clark, Esmeralda, Lincoln, Nye Counties

Group 1: Brakeman; Compressor Operator; Engineer Oiler; Ganerator Operator; Heavy Duty Repairman Helper; Pump; Signalman; Switchman

Group 2: Concrete Mixer Operator, skip type; Conveyor Operator; Fireman; Hydrostatic Pump Operator; Oiler Crusher (asphalt or concrete plant); Plant Operator, generator, pump or compressor; Rotary Drill Helper (oilfield); Skiploader - wheel type up to 3/4 yd. with attachment; Soils Field Technician; Tar Pot Fireman; Temporery Heating Plant Operator; Trenching Machine Oiler; Truck Crane Oiler

Group 3: A-Frame or Winch Truck; Elevator Operator (inside); Equipment Greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter Radioman (ground); Power Concrete Curing Machine; Power Concrete Saw; Power driven Jumbo Form Setter; Ross Carrier; Stationary Pipe Wrapping and Cleaning Machine

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixerman (asphalt or concrete); Bridge type Unloader and Turntable Operator; Chip Spreading Machine; Concrete Pump (small portable); Dinky Locomotive or Motorman (up to and including 10 tons); Equipment Greaser (grease truck); Helicopter Hoist; Highline Cableway Signalman; Hydra-hammer-Aero Stomper; Power Sweeper; Roller (compacting); Screed (asphalt or concrete); Trenching Machine (up to 6 feet)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Clark, Esmeralda, Lincoln, Nye Counties

Group 5: Asphalt Plant Engineer; Concrete Batch Plant; Backhoe (up to and including 3/4 yds.); Bit Sharpener; Concrete Joint Machine (canal and similar type); Concrete Planer; Deck Engine; Forklift (under 5 ton capacity); Machine Tool; Maginnis Internal Full Slab Vibrator; Mechanical Berm (curb or gutter concrete or asphalt); Mechanical Finisher (concrete-Clary-Johnson-Bidwell or similar); Pavement Breaker; Road Oil Mixing Machine; Roller (asphalt or finish); Rubber-tired Earth Moving Equipment, (single engine, up to and including 25 yds. struck); Self-propelled Tar Pipelining Machine; Slip Form Pump (power-driven hydraulic lifting device for concrete forms); Tugger Hoist (1 drum); Tunnel Locomotive (over 10 and up to and including 30 tons); Stinger Crane (Austin-Western or similar type); Skiploader Crawler and wheel type (over 3/4 yards and up to and including 1½ yds.); Tractor-Bulldozer, Tamper, Scraper (single engine, up to 100 HP, Flywheel and similar types, up to and including D-5 and similar types)

Group 6: Asphalt or Concrete Spreading (tamping or finishing); Asphalt Paving Machine (Barber Greene or similar type); BHL Lima Road Pactor or similar; Bridge Crane; Pipe Laying Machine (cast in place); Combination Mixer and Compressor (gunite work); Concrete Pump (truck mounted); Concrete Mixer; Crane (up to and including 25 tons); Crushing Plant; Elevating Grader; Forklift (over 5 tons); Grade Checker; Gradeall; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist (Chicago Boom and similar type); Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Slab Machine (Vagtborg and similar types); Lift Mobile; Loader-Athey, Euclid, Sierra and similar type); Material Hoist; Micking Machine 1/4 yd. - rubber-tired, rail or track type); Pneumatic Concrete Placing Machine (Hackley-Presswell or similar type); Pneumatic Heading Shield (tunnel); Pumpcrete gun; Rotary Drill (excluding caisson type); Rubber-tired Earth Moving Equipment Operator (single engine - Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yards and up to and including 50 cubic yards struck); Rubber-tired Scraper (self-loading - paddle wheel type - John Deere, 1040 and similar single unit); Skiploader (Crawler and wheel type over 1½ yds., up to and including 6½ yds.); Surface Heaters and Planers; Rubber-tired Earth Moving Equipment, multiple engine (up to and including 25 yds., struck); Trenching Machine (over 6 feet depth capacity, manufacturers rating); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger than D-5, 100 flywheel HP and over or similar) (Bulldozer, Tamper, Scraper and Push Tractor single engine); Tractor (boom attachments); Traveling Pipe Wrapping, Cleaning and Bending; Tunnel Locomotive (over 30 tons); Shovel, Backhoe, Dragline, Clamshell (over 3/4 yd. and up to 5 cu. yds. M.R.C.)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Clark, Esmeralda, Lincoln, Nye Counties

Group 7: Crane (over 25 tons up to and including 100 tons M.R.C.); Derrick Barge; Dual drum mixer; Hoist, stiff legs, guy derrick, or similar type, up to and including 100 tons; Monorail locomotive (diesel, gas or electric); Motor patrol-blade Operator (single engine); Multiple engine tractor operator (Euclid and similar type except Quad 9 cat); Rubber-tired earth moving equipment (single engine over 50 yds. struck); Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpillar and similar) (over 25 yds. and up to 50 cu. yds. struck); Tractor loader operator (crawler and wheel type over 6½ yds.); Tower crane repairman; Shovel, backhoe, dragline, clamshell operator (over 5 cu. yds. MRC); Woods mixer and similar pugmill equipment; Heavy duty repairman - welder combination

Group 8: Auto grader; Automatic slip form; Crane (over 100 tons); Hoist stiff legs, guy derricks or similar types (capable of hoisting 100 tons or more); Mass excavator (less than 750 cu.yds.); Mechanical finishing machine; Mobile form traveler; Motor patrol (multi engine); Pipe mobile machine; Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpillar and similar type over 50 cu. yds. struck); Rubber-tired self loading scraper (paddle wheel-auger type self-loading) (2 or more units); Tandem equipment (2 units only); Tandem tractor (quad 9 or similar type); Tunnel mole boring machine; Rubber-tired Scraper (pushing without push cat, push-pull) (50¢ per hour additional)

Group 9: Canal liner; Canal trimmer; Helicopter pilot; Highline cableway; Wheel excavator (over 750 cu. yds.); Remote controlled earth moving equipment ($1.00 per hour additional to base rate)

POWER EQUIPMENT OPERATORS[a] (Except Piledriving and Steel Erection)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
Remaining Counties	AREA 1	AREA 2				
Group 1-A	$ 9.68	$10.83	$1.90	$2.35	$1.17	.10
Group 2	10.08	11.23	1.90	2.35	1.17	.10
Group 3	10.29	11.44	1.90	2.35	1.17	.10
Group 4	10.85	12.00	1.90	2.35	1.17	.10
Group 5	11.08	12.23	1.90	2.35	1.17	.10
Group 6	11.21	12.36	1.90	2.35	1.17	.10
Group 7	11.39	12.54	1.90	2.35	1.17	.10
Group 8	11.81	12.96	1.90	2.35	1.17	.10
Group 9	12.04	13.19	1.90	2.35	1.17	.10
Group 10	12.29	13.44	1.90	2.35	1.17	.10
Group 10-A	12.42	13.57	1.90	2.35	1.17	.10
Group 11	13.60	13.75	1.90	2.35	1.17	.10
Group 11-A	13.77	14.92	1.90	2.35	1.17	.10

[a]POWER EQUIPMENT OPERATORS - Area Definition- See "Area Definition" following Truck Drivers

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)
Remaining Counties

Group 1-A: Assistant to Engineer, including brakeman, deckhand, fireman, oiler, partsman (heavy duty repair shop parts room when needed), Switchman, Tar Pot Fireman; Boiler Tender

Group 2: Compressor; Material Loader and/or Conveyor (handling building materials); Pump; Tar Pot Fireman (power agitated)

Group 3: Box operator (bunker); Concrete curing machine (streets, highways, airports, canals); Conveyor belt (tunnel); Engineer generating plant (500 K.W.); Fireman hot plant; Hydraulic monitor; Lubrication and service engineer (mobile and grease rack); Mixer bor operator (concrete plant); Motorman; Rotomist; Screedman (except asphaltic or concrete paving); Oiler (truck crane); Rodman or chainman; Bobcat or similar loader, 1/4 cu. yd. or less

Group 4: Ballast jack tamper; Ballast regulator; Ballast tamper multiple-purpose; Boxman (asphalt plant); Concrete mixer, skip type; Dinky; Fork lift (construction job site); Ross carrier; Skip loader (under 1 cu. yd.); Tie Spacer; Line Master

Group 5: Concrete Mixer (over 1 cu. yd.); Concrete pumps or pumpcrete guns; Elevator and material hoist (1 drum); Screedman (Barber-Greene and similar)(asphalt or concrete paving); Shuttle car; Signalman

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Remaining Counties

Group 6: Boom truck or dual purpose "A" frame truck; B.L.H. lima road pactor or similar; Chip box spreader (Flaherty type or similar); Concrete batch plant (wet or dry); Concrete saws (highways, streets, airports, canals); Highline cableway signalman; Locomotive (over 30 tons); Maginnis International full slab vibrator (airports, highways, canals, warehouses); Mechanical burn, curb and/or curb gutter machine (concrete or asphalt); Power jumbo (setting slip forms, etc., in tunnels); Roller (except asphalt); Self-propelled Compactor (single engine); Slip Form Pump (power driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms); Stationary pipe wrapping, cleaning and bending machine; Pavement breaker or tamper (with or without compressor combination); Pavement breaker, truck mounted, with compressor combination; Small rubber-tired tractors; Self-propelled tape machine; Auger type drilling equipment up to and including 30 ft. depth drilling capacity m.r.c.

Group 7: Compressor (over 2); Concrete conveyor; Concrete conveyor or concrete pump, truck or equipment mounted (boom length to apply); Crusher plant engineer; Deck engineer; Drilling and boring machinery, vertical and horizontal (not to apply to waterliners, wagon drills or jackhammers); Generators; Grade setters; Grade checker; Kolman loader; Material hoist (2 or more drums); Mechanical finishers or spreader machine (asphalt, Barber-greene and similar); Mine or shaft hoist; Pipe bending machines (pipelines only); Pipe cleaning machines (tractor propelled and supported); Pipe wrapping machines (tractor propelled and supported); Portable crushing and screening plants; Pumps (over 2); Refrigeration plants; Self-propelled boom type lifting device (center mount) (10 ton capacity or less); Slusher; Soil tester (certified); Surface heater and planer; Trenching machine (maximum digging capacity 3 ft. depth); Truck type loader; Welding machines (gasoline or diesel); Roller (asphalt); Instrumentman; Auger type drilling equipment over 30 ft. depth digging capacity M.R.C.

Group 8: Asphalt plant engineer; Car passer; Cast-in-place pipe laying machine; Combination slusher and motor; Dozer; Concrete batch plant (multiple units); Elevating grader; Grooving and grinding machine (highways); Heavy-duty repairman and/or welder; Ken-seal; Loader (up to and including 2½ cu. yds.); Machanical trench shield; Mixermobile; Push cats; Road oil mixing machine; Wood-mixer (and other similar pugmill equipment); Rubber-tired earthmoving equipment (up to and including 35 cu. yds. "struck" m.r.c., Euclid, T-pulls, DW's 10, 20, 21 and similar); Self-propelled compactor with dozer; Sheepfoot; Small tractor (with boom); Soil stabilizer (P&H or equal); Timber Skidder (rubber tired) or similar equipment; Tractor; Tractor drawn scraper; Tractor mounted compressor drill combination; Trenching machine (over 3 ft. depth); Tri-batch paver; Tunnel badger or tunnel boring machine; Tunnel mole boring machine; Vermeer T-600B rock cutter

Group 9: Canal finger drain digger; Chicago boom; Combination backhoe and loader (up to and including 3/8 yds.); Combination mixer and compressor (gunite); Lull Hi-lift (20 ft. or over); Mucking machine; Tractor with boom (D6 or larger); Track laying type earth moving machine (single engine with tandem scrapers); Sub-grader (Gurries or other types)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Remaining Counties

Group 10: Boom type backfilling machine; Bridge crane; Cary-lift or similar; Chemical grouting machine; Derricks; Derrick barges (except excavation work); Euclid loader and similar types; Heavy duty rotary drill rigs; Lift-slab (Vagtborg and similar types); Loader (over 2½ cu. yds. up to and including 4 cu. yds.); Locomotive (over 100 tons)(single or multiple units); Multiple engine earth moving machines (Euclid, dozers, etc.); Pre-stress wire-wrapping machine; Rubber-tired scraper, self-loading; Self-propelled reservoir-debris equipment floating (200 HP and over); Shuttle car (reclaim station); Single engine Scraper (over 35 cu. yds.); Train loading station; Vacuum cooling plant; Whirley crane (up to and including 25 tons); Trenching Machine; Multi-engine with sloping attachments (JEFFCO or similar); Chief of Party

Group 10-A: Backhoe (up to and including 1 cu. yd. hydraulic); Backhoe (up to and including 1 cu. yd. cable); Cranes (not over 25 tons) (hammerhead and gantry); Grade-alls (up to and including 1 cu. yd.); Motor patrol; Power Shovels, Clamshells, Draglines; Cranes (up to and including 1 cu. yd.); Rubber-tired scraper, self-loading (twin engine); Self-propelled boom-type lifting device (canter mount) (over 10 tons); CMI dual lane auto-grader SP30 or similar

Group 11: Automatic Asphalt or Concrete slip form paver; Automatic railroad car dumper; Canal finger drain backfiller; Canal trimmer; Cranes (over 25 tons); Highline cableway operator; Loader (over 4 yds. up to and including 12 cu. yds.); Multiple-engine earthmoving equipment (up to and including 75 cu. yds. "struck" M.R.C.); Power shovels, clamshells, draglines, backhoes, grade-alls (over 1 yd. and up to and including 7 cu. yds. M.R.C.); Self-propelled compactor (with multiple propulsion power units); Single engine rubber-tired earth-moving machine (with tandem scraper); Slip form paver (concrete or asphalt); Tandem cats and scrapers; Tower crane mobile; Universal Liebher and tower cranes (and similar types); Wheel excavator (up to and including 750 cu. yds. per hour); Whirley cranes (over 25 tons); Euclid loadar when controlled from the pullcat

Group 11-A: Band wagons (in conjunction with wheel excavators); Loader (over 12 cu. yds.); Multi-engine earth moving equipment (over 75 cu. yds. "struck" M.R.C.); Operator of helicopter (when used in construction work); Power shovels and draglines (over 7 cu. yds. M.R.C.); Remote controlled earth moving equipment; Wheel excavator (over 750 cu. yds. per hour)

POWER EQUIPMENT OPERATORS STEEL ERECTION Remaining Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 10.19	$ 1.98	$ 2.35	$1.17	.10
Group 2	10.60	1.98	2.35	1.17	.10
Group 3	11.69	1.98	2.35	1.17	.10
Group 4	11.84	1.98	2.35	1.17	.10
Group 4-A	12.15	1.98	2.35	1.17	.10
Group 5	12.67	1.98	2.35	1.17	.10
Group 6	13.11	1.98	2.35	1.17	.10
Group 6-A	13.72	1.98	2.35	1.17	.10
Group 7	14.01	1.98	2.35	1.17	.10

POWER EQUIPMENT OPERATORS
Steel Erection
Remaining Counties

Group 1: Oiler

Group 2: Compressor Operator; Generator, gasoline or diesel-driven (100 K.W. or over); Truck Crane Oiler

Group 3: Compressors, Generators and/or Welding Machines or Combination (2 to 6) (Structural steel or tank erection only)

Group 4: Heavy Duty Repairman; Tractor Operator

Group 4-A: Combination Heavy-duty Repairman-Welder

Group 5: Boom Truck or Dual Purpose A-Frame Truck; Boom Cat; Chicago Boom; Crawler Cranes and Truck Cranes (15 ton M.R.C. or less); Self-propelled Boom-type Lifting Device (center mount) (10 ton capacity or less M.R.C.); Single Drum Hoist; Tugger Hoist

Group 6: Crawler Cranes and Truck Cranes (over 15 tons M.R.C.); Derricks; Gantry Rider (or similar equipment); Highline Cableway; Self-propelled boom-type Lifting Device (center mount) (over 10 tons); Tower Cranes Mobile; Universal Liebher and Tower Cranes(and similar types); Two or more drum hoist

Group 6-A: Cranes (over 125 tons)

Group 7: Operator of Helicopter

POWER EQUIPMENT OPERATORS PILEDRIVING Remaining Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr.
Group 1	$ 9.60	$ 1.98	$ 2.35	$1.17	.10
Group 1-A	10.05	1.98	2.35	1.17	.10
Group 1-B	10.20	1.98	2.35	1.17	.10
Group 2-A	10.28	1.98	2.35	1.17	.10
Group 2-B	11.10	1.98	2.35	1.17	.10
Group 3	11.42	1.98	2.35	1.17	.10
Group 3-A	11.86	1.98	2.35	1.17	.10
Group 4	12.43	1.98	2.35	1.17	.10
Group 5	12.61	1.98	2.35	1.17	.10
Group 6	13.77	1.98	2.35	1.17	.10

POWER EQUIPMENT OPERATORS
Piledriving
Remaining Counties

Group 1: Fireman; Oilman; Deckhand

Group 1-A: Compressor Operator

Group 1-B: Truck Crane Oiler

Group 2-A: Operator of Tugger Hoist (hoisting material only)

Group 2-B: Compressor Operator (over 2); Generator Operator; Pump Operator (over 2); Welding Machine Operator (powered other than by electricity)

Group 3: Deck Engineer; Fork Lift Operator; A-Frames; Self-propelled boom-type Lifting Device (center mount) (10 ton capacity or less M.R.C.)

Group 3-A: Heavy Duty Repairman and/or Welder

Group 4: Operating Engineer in lieu of Assistant to Engineer tending Boiler or Compressor attached to Crane Piledriver; Operator of Piledriving Rigs, Skid or Floating and Derrick Barges; Operator of diesel or gasoline powered Crane Piledriver (without boiler) (up to and including 1 cu. yd. rating); Self-propelled boom-type Lifting Device (center mount)(over 10 tons); Truck Crane Operator (up to and including 25 tons)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (without boiler) (over 1 cu. yd. rating); Operator of Crane (with steam, flash boiler, pump or compressor attached); Operator of steam powered crawler, or Universal type driver (Raymond or similar type); Truck crane Operator (over 25 tons) (hoisting material or performing piledriving work)

Group 6: Cranes (over 125 tons)

TRUCK DRIVERS Clark, Esmeralda, Lincoln, Nye Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.97	.51	.70		
Group 2	10.08	.51	.70		
Group 3	10.13	.51	.70		
Group 4	10.29	.51	.70		
Group 5	10.47	.51	.70		
Group 6	10.97	.51	.70		

TRUCK DRIVERS
Clark, Esmeralda, Lincoln, Nye Counties

Group 1: Dump Trucks (less than 12 yds.); Trucks (legal payload capacity less than 15 tons); Water and fuel trucks (under 2500 gallons); Pickups; Service; Repairman helper; Drivers of busses (on jobsite used for transportation of up to 25 passengers); Teamster equipment (highest rate for dual craft operation)

Group 2: Dump Trucks (12 yds. but less than 16 yds.); Trucks (legal payload capacity between 15 and 20 tons); Water and fuel trucks (2500 to 4000 gallons); Truck driver working on gas and oil pipeline (including winch truck and all sizes of trucks); Truck greaser and tireman; Drivers of busses (on jobsite used for transportation of more than 25 passengers); Bootman

Group 3: Dumpcrete (less than 6½ yds.); Transit-mix (less than 3 yds.); Warehouse Clerk

Group 4: Dump Trucks (16 yds. up to and including 22 yds.); Trucks (legal payload capacity 20 tons but less than 30 tons); Water and fuel trucks (4000 gallons but less than 6000 gallons); Dumpcrete (6½ yds. and over); Transit-mix (3 yds. but less than 6 yds.); Euclid-type spreader trucks; Dumpster; Fork lift; Ross carrier-highway; Road oil spreading truck, time spent spreading oil

Group 5: Dump trucks (over 22 yds.); Trucks (legal payload capacity 20 tons and over); Water and fuel trucks (6000 gallons and over); Tansit-mix (6 yds. and over); Truck repairman

Group 6: D.W. and similar type equipment, D.W. 10 and D.W. 20; Euclid-type equipment, LeTournesu Pulls, Terra Cobras and similar types of equipment; also FS and similar-type trucks when performing work within teamster jurisdiction, regardless of types of attachment including power units pulling off highway belly dumps in tandem

TRUCK DRIVERS* Remaining Counties	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	AREA 1	AREA 2				
DUMP (single or multiple units including semis, double and transfer units); Dumpcrete and bulk cement spreaders:						
Under 4 yards	$ 9.60	$10.75	.91	.65		.05
4 yds. and under 8 yds.	9.80	10.95	.91	.65		.05
8 yds. and under 18 yds.	10.00	11.15	.91	.65		.05
18 yds. and under 35 yds.	10.15	11.30	.91	.65		.05
35 yds. and under 60 yds.	10.40	11.55	.91	.65		.05
60 yds. and under 75 yds.	10.55	11.70	.91	.65		.05
75 yds. and under 100 yds.	10.70	11.85	.91	.65		.05
100 yds. and over	10.85	12.00	.91	.65		.05
TRANSIT MIX:						
Under 8 yards	10.00	11.15	.91	.65		.05
8 yds. and including 12 yds.	10.10	11.25	.91	.65		.05
Over 12 yards	10.30	11.45	.91	.65		.05
WATER TRUCKS & JETTING TRUCKS:						
Up to 2,500 gallons	9.80	10.95	.91	.65		.05
2,500 gallons and over	10.00	11.15	.91	.65		.05
DW 20's and 21's and other similar Cat type; Terra Cobra, LeTourneau Pulls, Tournerocker, Euclid and similar type equipment when pulling Aqua/Pak; Water tank trailers, fuel and/or grease tank, or other misc. trailers (except as defined under dump trucks)	10.25	11.40	.91	.65		.05
FLATRACK; Industrial Lift with Mechanical Tailgate:						
Single unit - 2 axle	9.80	10.95	.91	.65		.05
Single unit - 3 axle	9.90	11.05	.91	.65		.05

TRUCK DRIVERS* (Cont'd) Remaining Counties	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	AREA 1	AREA 2				
BUS AND MANHAUL DRIVERS, Single unit; Pickup:						
Up to 18,000 pounds	$ 9.65	$10.80	.91	.65		.05
18,000 pounds and over	9.75	10.90	.91	.65		.05
WINCH TRUCKS, A-Frame:						
Under 18,000 pounds	9.75	10.90	.91	.65		.05
18,000 pounds and over	9.85	11.00	.91	.65		.05
HEAVY DUTY TRANSPORT (highbed); Heavy Duty transport (gooseneck lowbed); Tiltbed or flatbed pull trailers	10.15	11.30	.91	.65		.05
BOOTMAN, combination; Bootman and Road Oiler	10.05	11.20	.91	.65		.05
ROAD OIL TRUCKS OR BOOTMEN; Fuel drivers; Fuel man and Fuel Island Man	9.75	10.90	.91	.65		.05
HELICOPTER PILOT (when transporting men or materials)	10.55	11.70	.91	.65		.05
LIFT JITNEYS and FORK LIFTS	9.85	11:00	.91	.65		.05
WAREHOUSE CLERK	9.80	10.95	.91	.65		.05
TIRE REPAIRMAN	10.00	11.15	.91	.65		.05
TRUCK REPAIRMAN	10.30	11.45	.91	.65		.05

*TRUCK DRIVERS - Area Definition - See "Area Definition" following this page.

AREA DEFINITIONS
Remaining Counties
LABORERS
Heavy and Highway Construction
POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)
TRUCK DRIVERS

AREA 1: All of northern Nevada within the following lines:

Commencing at the N.E. corner of township 22N, range 18E, Mount Diablo Baseline and Meridian at the California-Nevada border;
Thence easterly to the N.E. corner of township 22N, range 22E;
Thence southerly to the N.E. corner of township 20N, range 22E;
Thence easterly to the N.W. corner of township 20N, range 26E;
Thence northerly to the N.W. corner of township 22N, range 26E;
Thence easterly to the N.W. corner of township 22N, range 29E;
Thence northerly to the N.W. corner of township 30N, range 29E;
Thence easterly to the N.E. corner of township 30N, range 33E;
Thence southerly to the S.E. corner of township 24N, range 33E;
Thence westerly to the S.E. corner of township 24N, range 31E;
Thence southerly to the S.E. corner of township 16N, range 31E;
Thence westerly to the S.E. corner of township 16N, range 30E;
Thence southerly to the S.E. corner of township 15N, range 30E;
Thence westerly to the S.E. corner of township 15N, range 27E;
Thence southerly to the S.E. corner of township 14N, range 27E;
Thence westerly to the S.E. corner of township 14N, ragne 23E;
Thence southerly to the S.E. corner of township 13N, range 23E;
Thence westerly to the S.E. corner of township 13N, range 22E;
Thence southerly to the N.E. corner of township 10N, range 22E;
Thence easterly to the N.E. corner of township 10N, range 23E;
Thence southerly along the easterly line of range 23E to the intersection of the California-Nevada border;
Thence north-westerly, then northerly following the California-Nevada border to the point of beginning.

Area 1 also includes that portion of northern Nevada included within the following lines:

Commencing at the S.W. corner of township 37N, range 52E;
Thence northerly to the N.E. corner of township 37N, range 52E;
Thence easterly to the N.W. corner of township 37N, range 58E;
Thence southerly to the S.W. corner of township 37N, range 58E;
Thence easterly to the S.E. corner of township 37N, range 58E;
Thence southerly to the N.E. corner of township 31N, range 58E;
Thence westerly to the N.W. corner of township 31N, range 58E;
Thence southerly to the S.W. corner of township 31N, range 58E;
Thence westerly to the S.E. corner of township 31N, range 52E;
Thence northerly to the N.E. corner of township 31N, range 52E;
Thence westerly to the S.E. corner of township 31N, range 51E;
Thence northerly to the point of beginning.

AREA 2: All areas not included within Area 1 as defined above.

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: Atoka, Bryan, Choctaw, Haskell, LeFlore, Latimer, McCurtain, Pittsburg, Coal & Pushmataha
DECISION NO. OK78-4093 DATE: Date of Publication
Supersedes Decision No. OK77-4036 dated February 18, 1977 in 42 FR 10261
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanic	$6.50				
Bricklayers	6.23				
Carpenters	6.00				
Drywall Installers	5.52				
Drywall tapers & finishers	5.25				
Cement masons	4.85				
Electricians	6.00				
Insulation Installer	5.50				
LABORERS:					
Laborers	3.50				
Mason tenders	4.02				
Painters, brush	5.35				
Plumbers & Pipefitters	6.33				
Roofers	6.00				
Sheet metal workers	4.85				
Soft floor layers	6.00				
Tile setters	6.00				
Truck drivers	4.20				
POWER-EQUIPMENT OPERATORS:					
Backhoe	4.59				
Box blade operator	4.50				
Bulldozers	5.00				
Concrete pump	3.50				
Rollers, motor graders, scrapers & tractors	3.00				
Trenching machines	5.50				

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Bee, Kleberg, Nueces & San Patricio
DECISION NO.: TX78-4089 DATE: Date of Publication
Supersedes Decision No. TX77-4139, dated July 1, 1977, in 42 FR 34247.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$ 3.50				
BRICKLAYERS	5.00				
CARPENTERS	5.14				
CEMENT MASONS	6.25				
ELECTRICIANS	10.90	.60	3%		3/4%
LABORERS:					
Laborers	2.73				
Pipelayers	3.59				
PAINTERS, BRUSH	6.00				
PLUMBERS	6.00				
ROOFERS	5.00				
SHEET METAL WORKERS	6.22				
SOFT FLOOR LAYERS	4.25				
TRUCK DRIVERS	3.00				
POWER EQUIPMENT OPERATORS:					
Backhoes	3.50				
Bulldozers	3.20				
Loaders	3.66				
Motor graders	4.09				
Scrapers	3.66				

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Bowie
DECISION NO.: TX78-4090 DATE: Date of Publication
Supersedes Decision No. TX78-4032, dated April 14, 1978, in 43 FR 16119.
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.43	.40	.76		.03
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS	8.15	.40	.35		.04
CARPENTERS:					
Carpenters	8.75				.01
Millwrights	10.95				.04
Piledrivermen	9.45				.01
CEMENT MASONS	6.82				
ELECTRICIANS	10.20	.60	3%+.35		1/4%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.91	.745	.35	4%+a+b	.02
Helpers	70%JR	.745	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
GLAZIERS	5.30				
IRONWORKERS	10.75	.45	.90		.06
LABORERS, UNSKILLED	3.70				
LINE CONSTRUCTION:					
Linemen	11.15		3%		1/2%
Cable splicers	11.48		3%		1/2%
Hole digger op., heavy equipment ops. (or pole cat equivalent); powderman	10.15		3%		1/2%
Line truck driver (winch op.)	9.14		3%		1/2%
Jackhammer man	8.36		3%		1/2%
Groundmen	7.47		3%		1/2%
Groundmen, 1st year	5.58		3%		1/2%
Truck driver (flat bed, ton & half & under)	7.92		3%		1/2%
PAINTERS	5.50				
PLUMBERS & PIPEFITTERS	11.20	.50	.65		.05
ROOFERS	5.71				
SHEET METAL WORKERS	5.99				
SOFT FLOOR LAYERS	7.50				
SPRINKLER FITTERS	11.60	.75	1.05		.08
TRUCK DRIVERS	5.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly r.
b - Paid Holidays A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:
A-New Years' Day; B-Memorial Day; Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

Page 2

DECISION NO. TX78-4090

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.065	.40	1.00		.10
GROUP 2	8.85	.40	1.00		.10
GROUP 3	9.25	.40	1.00		.10

GROUP 1 - Oiler-Fireman
GROUP 2 - Air Compressor, Pumps, Welding Machines, Throttle Valves, Light Plants; Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers, less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment; All other equipment of similar nature coming under the Light Equipment Classification, when power operated
GROUP 3 - Ford Tractor or like with any attachment (except blade and mower on rear); Drilling Machine (all types); Scoopmobile; Hoists, two drums or more; Forklifts (over 25 ft.); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic feet or over; Blade Graders, self-propelled; Cableways; Cranes - power operated to 100 ft.; Derricks, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving Mixers (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractovators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressors & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic; All other equipment of similar nature coming under the Heavy Equipment Classification, when power operated

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Gregg
DECISION NO.: TX78-4091 DATE: Date of Publication
Supersedes Decision No. TX78-4014, dated February 17, 1978, in 43 FR 7132
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.43	.40	.76		.03
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS	10.30		.45		.05
CARPENTERS:					
Carpenters	8.50				.015
Millwrights	10.75				.015
Piledrivermen	9.00				.015
CEMENT MASONS	6.50				
ELECTRICIANS:					
Electricians	9.40	.60	3%		1/4%
Cable splicers	9.80	.60	3%		1/4%
GLAZIERS	5.80				
IRONWORKERS	8.95	.35	.35		.04
LABORERS:					
Laborers	3.40				
Mason tenders	3.80				
Plasterers' tenders	4.40				
LATHERS	6.875	.20	.10		.01
PAINTERS, BRUSH	6.75				
PLASTERERS	7.68				
PLUMBERS & PIPEFITTERS	7.79	.43	.90		.10
ROOFERS	6.40				
SHEET METAL WORKERS	8.455	3%+.35	.50		.055
TILE SETTERS	6.90				
TILE SETTERS' HELPERS	3.65				
TRUCK DRIVERS	3.50				
POWER EQUIPMENT OPERATORS:					
Backhoes	4.50				
Blade graders	4.50				
Bulldozers	4.75				
Cherry pickers	4.50				
Drilling machine operators	3.75				
Loaders	4.50				
Motor graders	5.00				
Rollers	4.87				
Scrapers	4.28				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Smith
DECISION NO.: TX78-4092 DATE: Date of Publication
Supersedes Decision No. TX78-4042, dated April 14, 1978, in 43 FR 16134
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$ 4.63				
BRICKLAYERS	7.75				
CARPENTERS	8.40				
CEMENT MASONS	5.92				
ELECTRICIANS:					
Electricians	9.70	.60	3%		1/4%
Cable splicers	10.10	.60	3%		1/4%
GLAZIERS	5.25				
IRONWORKERS	8.50	.30	.35		.04
LABORERS:					
Laborers	3.00				
Mason tenders	4.00				
Mortar mixers	4.10				
Plasterers' tenders	4.40				
LATHERS	7.15	.30	.10		.01
PAINTERS	4.50				
PLASTERERS	10.075				.05
PLUMBERS:					
On projects of $200,000 or more	7.59				.03
On projects less than $200,000	6.76				.03
ROOFERS	4.50				
SHEET METAL WORKERS	7.78	.62	.50		.03
SOUND INSTALLERS	6.00	.40	1%		
SPRINKLER FITTERS	11.60	.75	1.05		.08
TRUCK DRIVERS	2.75				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

SUPERSEDEAS DECISION

STATE: Virginia
DECISION NO.: 78-VA-3061

COUNTIES: Albemarle, Culpeper, Fauquier, Fluvanna, Greene, Loudoun, Louisa, Madison, Orange, Prince William & Rappahannock

DATE: Date of Publication

Supersedes Decision No. VA76-3244, dated September 10, 1976, in 41 FR 38748

DESCRIPTION OF WORK: Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASPHALT RAKER	4.39				
CARPENTER, STRUCTURE	5.58				
CARPENTER HELPER, STRUCTURE	4.00				
CONCRETE FINISHER	5.56				
CONCRETE FINISHER HELPER	4.00				
ELECTRICIAN	6.61				
FIREMAN	4.38				
FORM SETTER ROAD	8.00				
GUARDRAIL/FENCE ERECTOR	4.00				
IRON WORKER, REINF.	6.00				
IRON WORKER, STRUCTURAL	10.60				
IRON WORKER, STRUCTURAL, HELPER	6.48				
LABORER, UNSKILLED	3.72				
LANDSCAPE WORKER	5.65				
MASON, STRUCTURE	7.00				
MECHANIC	5.82				
MECHANIC HELPER	3.95				
PAINTER	5.08				
PAINTER, BRIDGE	6.50				
PIPE LAYER	3.94				
POWDERMAN BLASTER	5.00				
ASPHALT DISTRIBUTOR OPERATOR	4.33				
ASPHALT PAVER OPERATOR	4.98				
BACKHOE OPERATOR	5.66				
BULLDOZER OPERATOR	5.00				
BULLDOZER OPERATOR (UTILITY)	5.00				
CRANE, DERRICK, DRAGLINE OPERATOR (1YD. & UNDER)	6.65				
CRANE, DERRICK, DRAGLINE OPERATOR (OVER 1YD.)	6.65				
DRILL OPERATOR	4.50				
LOADER OPERATOR (2 YDS. & UNDER)	5.25				
LOADER OPERATOR (OVER 2 YDS.)	5.50				
MOTOR GRADE OPERATOR (FINE GRADE)	6.00				
MOTOR GRADE OPERATOR (ROUGH GRADE)	5.55				
OILER GREASER	5.72				
PILE DRIVER OPERATOR	6.33				
POWER TOOL OPERATOR	4.43				
ROLLER OPERATOR (ROUGH)	4.67				
ROLLER OPERATOR (FINISH)	4.75				
SCRAPER PAN OPERATOR	5.00				
SHOVEL OPERATOR (OVER 1 YD.)	8.75				

DECISION #78-VA-3061 PAGE 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
STABILITIZER OPERATOR	4.44				
STONE SPREADER OPERATOR	5.53				
SUBGRADE MACHINE OPERATOR	6.00				
TRACTOR OPERATOR (CRAWLER)	5.38				
TRENCHING MACHINE OPERATOR	4.78				
TRUCK DRIVER, HEAVY DUTY (7 C.Y. & UNDER)	4.18				
TRUCK DRIVER, HEAVY DUTY (OVER 7 C.Y.)	4.18				
TRUCK DRIVER (MULTI-REAR AXLE)	6.00				
TRUCK DRIVER (SINGLE-REAR AXLE)	4.31				

[FR Doc. 78-25756 Filed 9-14-78; 8:45 am]

federal register

FRIDAY, SEPTEMBER 15, 1978
PART III

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Planning and Development

COMMUNITY DEVELOPMENT BLOCK GRANTS

Rehabilitation Assistance and Program Benefit

V 43 / 180 SEP 15 1978

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[24 CFR Part 570]

[Docket No. R-78-570]

COMMUNITY DEVELOPMENT BLOCK GRANTS

Rehabilitation Assistance and Program Benefit

AGENCY: Office of the Assistant Secretary for Community Planning and Development, (HUD).

ACTION: Proposed rule.

SUMMARY: HUD is issuing a proposed rule that would permit the use of block grant funds for rehabilitation assistance to be provided on a spot basis throughout the applicant's jurisdiction where this is necessary to eliminate conditions detrimental to public health and safety.

DATE: Comments must be received on or before: October 16, 1978.

ADDRESS: Comments should be addressed to: Rules Docket Clerk, Office of the General Counsel, Room 5218, 451—7th Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Harriet L. Frank or William R. Hammer, Entitlement Cities Division, Office of Block Grant Assistance Washington, D.C. 20410, 202-755-6304 or 6306.

Background

On March 1, 1978, final rules were published in the FEDERAL REGISTER governing eligible activities (43 FR 8434), and entitlement grants (43 FR 8450). These rules were based in part from amendments to title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) under title I of the Housing and Community Development Act of 1977 (Pub. L. 95-128). Those amendments eliminated the requirement that rehabilitation financing be incidental to other activities, and thus permitted rehabilitation financing to be provided on a spot basis throughout the community.

The rules published in March 1, 1978, restricted spot rehabilitation to low- and moderate-income persons. This notice proposes to expand the eligibility of spot rehabilitation to include situations where such rehabilitation is necessary to eliminate conditions detrimental to public health and safety.

Rehabilitation Assistance

Paragraph (c)(2) of section 570.202 is proposed to be amended to permit the use of block grant funds for spot rehabilitation where such rehabilitation is necessary to eliminate conditions detrimental to public health and safety. Rehabilitation assistance to be provided under this Section would not be limited to low- and moderate-income persons. However, it would be limited to those improvements necessary to correct the conditions detrimental to public health and safety. Unlike rehabilitation assistance provided under other provisions, general property improvements, and improvements of a cosmetic nature would not be permitted in these cases. The conditions to be remedied under this provision would generally be documented by the applicant as violations of health and safety or housing codes.

Program Benefit

Paragraph (e)(2) of § 570.302 is proposed to be revised to add rehabilitation to the list of activities that may be carried out under the category of elimination of scattered detrimental conditions, which is one of the categories of projects which prevent or eliminate slums or blight. Activities carried out under this provision would be limited to those necessary to correct the conditions that are detrimental to public health and safety. The overall requirement that block grant programs must principally benefit low- and moderate-income persons is not changed.

Other Information

A finding of inapplicability with regard to environmental impact has been prepared in accordance with HUD handbook 1390.1. Copies of this finding are available for inspection and copying during business hours in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451-7th Street SW., Washington, D.C. 20410.

All relevant comments received on or before the date specified above will be considered before the adoption of the final rule. Copies of the comments will be available for examination during business hours at the above address.

Accordingly, 24 CFR Part 570 is amended as set forth below:

I. By amending § 570.202(c)(2) as follows:

§ 570.202 Eligible rehabilitation and preservation activities.

* * * * * *

(c) * * *

(2) *Rehabilitation financing.* Block grant funds may be used to finance the rehabilitation of privately owned residential, nonresidential (excluding industrial) and mixed use properties.

(i) Such financing may be provided either (A) within areas designated in the application for comprehensive treatment, such as a NSA; (B) for persons of low- and moderate-income; or (C) to eliminate conditions detrimental to public health and safety, provided that the rehabilitation assistance is limited to the extent necessary to correct the conditions that are detrimental to public health and safety.

(ii) Block grant funds may be used directly to finance rehabilitation, including settlement costs, through the direct use of block grant funds in the provision of assistance, such as grants, loans, loan guarantees, and interest supplements, for:

* * * * * *

II. By redesignating paragraphs (c)(2)(i), (ii), (iii), (iv), and (v) of § 570.202 as paragraphs (c)(2)(ii)(A), (B), (C), (D), and (E), respectively.

III. By amending § 570.302(e)(2) as follows:

§ 570.302 Authorization to incur costs.

* * * * * *

(e) * * *

(2) A project designed to eliminate detrimental conditions which are scattered or located outside slum or blighted areas. Authorized activities are only those necessary to eliminate the specific conditions of blight or physical decay, by acquisition of blighted structures, demolition, historic preservation, relocation, and rehabilitation to the extent necessary to eliminate conditions detrimental to public health and safety pursuant to § 570.202(c)(2)(i)(C).

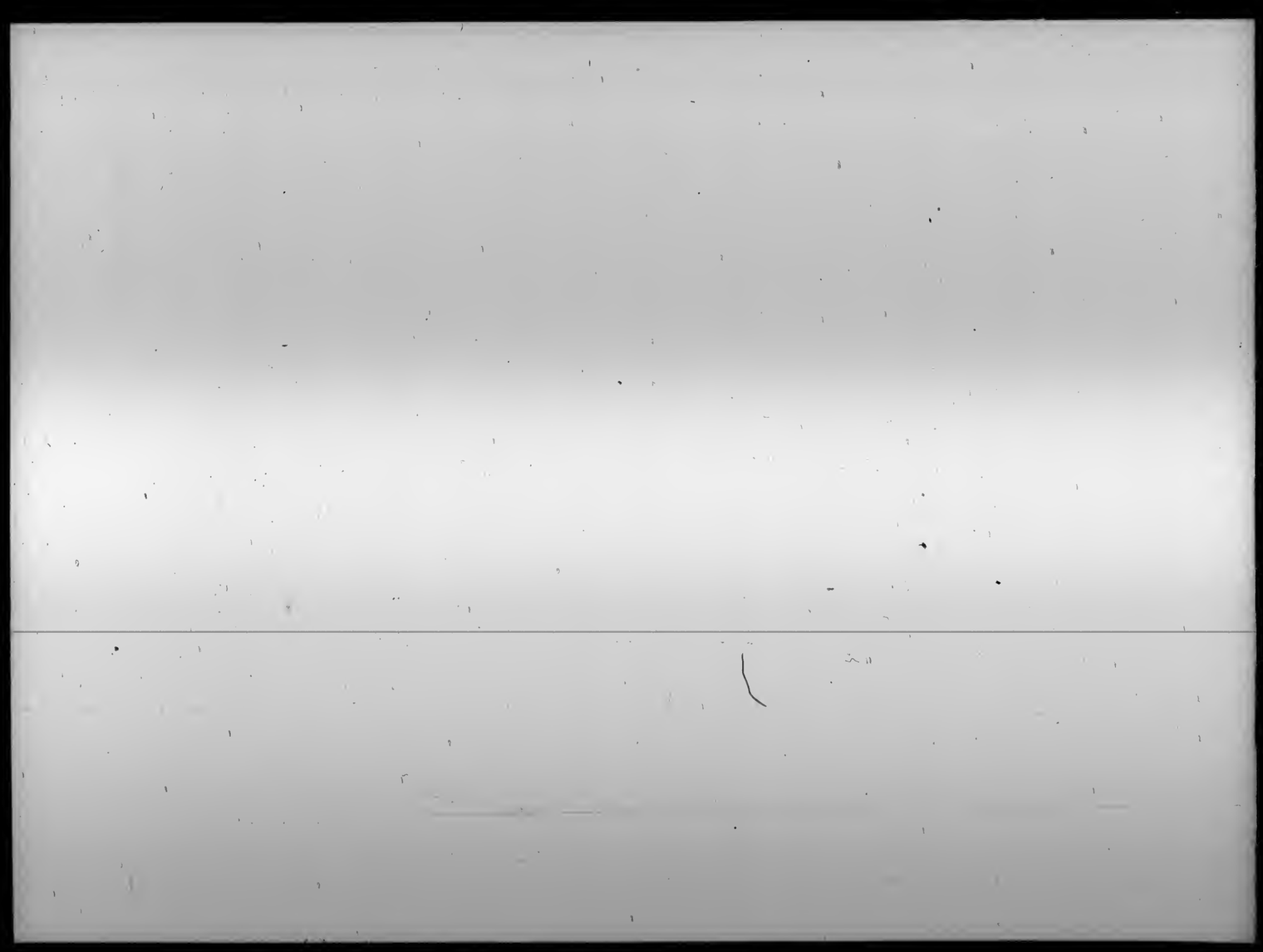
* * * * * *

(Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., September 8, 1978.

ROBERT C. EMBRY, Jr.,
Assistant Secretary for Community Planning and Development.

[FR Doc. 78-26082 Filed 9-14-78; 8:45 am]



V 43 / 180

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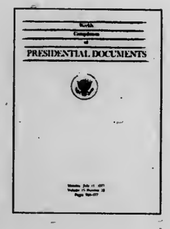

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41371-41660

BOOK 2:
PAGES
41661-41940

federal register

BOOK 1 OF 2 BOOKS

MONDAY, SEPTEMBER 18, 1978

highlights

SUNSHINE ACT MEETINGS 41464

MOTOR VEHICLE POLLUTION
EPA announces Federal certification test results for 1978 model year (Part II of this issue) 41538

INCOME TAX
Treasury/IRS adopts rule relating to the imposition of the manufacturers excise tax; effective 1-13-77 41388

CONSTRUCTION PROJECTS
Commerce/EDA proposes amendment on labor standards, comments by October 12, 1978 41408

MOTOR FUEL MARKETING
DOE gives notice of hearing concerning subsidization study; comments by 10-16-78, hearing on 10-6-78 41422

SURFACE COAL MINING AND RECLAMATION OPERATIONS
Interior/OSM proposes regulations implementing a nationwide permanent program governing surface coal mining and reclamation operations; comments by 11-14-78 (Part III of this issue) 41662

REAL ESTATE PROPERTY
Treasury/Comptroller of the Currency proposes interpretive rule on financial accounting; comments by 10-12-78 41406

REAL ESTATE AND CHATTEL PROPERTIES
USDA/FmHA amends regulations to clarify definition of suitable property; effective 9-18-78 41373

HAZARDOUS MATERIALS TRANSPORTATION
DOT/HMOO modifies requirements on repair and maintenance of vehicles; effective 1-1-79 41401

NUCLEAR LICENSING AND PROCEDURES FOR ENVIRONMENTAL PROTECTION
NRC extends rule on uranium fuel cycle impacts from spent fuel reprocessing and radioactive waste management; effective 9-14-78 41373

PAROLE, RELEASE, SUPERVISION, AND RECOMMITMENT OF PRISONERS
Justice/Parole Commission proposes rule on eligibility for hearings; comments by 11-15-78 41411

PESTICIDES
EPA establishes tolerances for Bifenox; effective 9-18-78 41393
EPA establishes tolerances for 4-amino-6-(1,1-dimethylethyl-3-(methylthio)-1,2,4-triazin-5(4*H*)-one; effective 9-18-78 41386
EPA establishes exemptions from requirement of a tolerance for certain inert ingredients in pesticide formulations; effective 9-18-78 41391

CONTINUED INSIDE

V 43 / 181 SE

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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Finding Aids	523-5227
Public Briefings: "How To Use the Federal Register."	523-5235
Code of Federal Regulations (CFR)	523-3419
	523-3517
Finding Aids	523-5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523-5233
Weekly Compilation of Presidential Documents.	523-5235
Public Papers of the Presidents	523-5235
Index	523-5235
PUBLIC LAWS:	
Public Law dates and numbers	523-5266
	523-5282
Slip Laws	523-5266
	523-5282
U.S. Statutes at Large	523-5266
	523-5282
Index	523-5266
	523-5282
U.S. Government Manual	523-5230
Automation	523-3408
Special Projects	523-4534

HIGHLIGHTS—Continued

EPA establishes tolerances for oxamyl; effective 9-18-78 (2 documents) ... 41394
EPA establishes tolerances for 2-4-[(Chloro-6-(ethylamino)-*s*-triazin-2-yl] amino]-2-methylpropionitrile ... 41395

SECURITIES
SEC issues rule on increase in amount of small offering exemption; effective 9-18-78 ... 41383

FEDERAL-AID HIGHWAY RECORDS
DOT/FHA issues rule on recordkeeping and retention requirements; effective 9-22-78 ... 41387

FEDERAL CROP INSURANCE
USDA/FCIC issues rule extending final dates for filing applications; effective 8-31-78 ... 41371

CONTROLLED SUBSTANCES
Justice/DEA issues proposed 1978 revised aggregate production quotas for aniheridine and ethylmorphine; comments by 10-23-78 ... 41440

BICYCLE TIRES AND TUBES FROM REPUBLIC OF KOREA
Treasury issues notice of antidumping; comments by 10-18-78 ... 41449

CONSUMER APPLIANCES
FTC gives revised schedule for hearings and submission dates on proposed rulemaking on energy cost and consumption information in labeling and advertising; comments by 10-2-78; hearings 10-12-78 ... 41410

TETON FLOOD VICTIMS
Interior/RB adopts rules on sale of replacement farm units; effective 9-18-78 ... 41396

BICYCLE TIRES AND TUBES FROM REPUBLIC OF CHINA
Treasury issues notice of antidumping; comments by 10-18-78 ... 41451

MEETINGS—
Administrative Conference of the United States: Committee on Judicial Review, 10-5-78 ... 41418
CRC: Colorado Advisory Committee, 10-7-78 ... 41420
DOT/FAA: Radio Technical Commission for Aeronautics, Special Committee 138, 10-17 and 10-18-78 ... 41449
FCC: Proposed revisions to Uniform System of Accounts, 9-22-78 ... 41436
Radio Technical Commission for Marine Services, 10-3 and 10-5-78 ... 41435
Federal Prevailing Rate Advisory Committee, 10-5, 10-12, and 10-26-78 ... 41437
HEW/EO: Women's Educational Equity Act Program, 10-19-78 ... 41439
NIH: Cancer Control and Rehabilitation Advisory Committee, 10-27-78 ... 41438
High Blood Pressure Working Group, 11-6-78 ... 41438
Interior/NPS: Boston National Historical Park Advisory Commission, 10-3-78 ... 41439

HEARINGS—
Delaware River Basin Commission, 9-27-78 ... 41420

SEPARATE PARTS OF THIS ISSUE
Part II, EPA ... 41538
Part III, Interior/OSM ... 41662

V 43 / 181 SE 18 78 V 4

contents

ADMINISTRATIVE CONFERENCE OF UNITED STATES
Notices
Meetings:
Judicial Review, Committee ... 41418

COAST GUARD
Rules
Navigation rules:
Inland waters; Mississippi River ... 41403
Inland waters; Ohio River ... 41403
Notices
Meetings:
Navigation Safety Advisory Council ... 41418

ENVIRONMENTAL PROTECTION AGENCY
Rules
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
Oxamyl ... 41394
2-4-[(Chloro-6-(ethylamino)-*s*-triazin-2-yl] amino]-2-methylpropionitrile ... 41395

CONTENTS

FEDERAL COMMUNICATIONS COMMISSION
Rules
Experimental broadcast services; miscellaneous amendments ... 41404
Proposed Rules
Uniform System of Accounts for Class A and Class B telephone companies; revisions ... 41436
Notices
Meetings:
Radio Technical Commission for Marine Services ... 41435
Hearings, etc.:
Delaware River Basin Commission ... 41420
Temporary authority applications (3 documents) ... 41454, 41458, 41463
Transfer proceedings (2 documents) ... 41461, 41463

FEDERAL TRADE COMMISSION
Proposed Rules
Appliances, consumer; energy cost and consumption information in labeling and advertising ... 41410

contents

ADMINISTRATIVE CONFERENCE OF UNITED STATES
Notices
Meetings:
Judicial Review Committee 41418

AGRICULTURAL MARKETING SERVICE
Rules
Lemons grown in Arizona and California 41372

AGRICULTURE DEPARTMENT
See also Agricultural Marketing Service; Farmers Home Administration; Federal Crop Insurance Corporation; Federal Grain Inspection Service.
Rules
Authority delegations by Secretary and General Officers:
Director, Equal Opportunity Office; EEO program and discrimination complaints.... 41371

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION
Notices
Committees; establishment, renewals, terminations, etc.:
Advisory committees 41438

ALCOHOL, TOBACCO AND FIREARMS BUREAU
Notices
Authority delegations:
Assistant Director, Regulatory Enforcement; ATF tax claims; correction 41449

CIVIL AERONAUTICS BOARD
Proposed Rules
Citizen of U.S.; corporations qualifying as; supplemental advance notice 41410
Notices
Hearings, etc.:
California-Arizona low fare route proceeding 41419
California/Southwest-Western Mexico route proceeding 41419
Reeve Aleutian Airways, Inc .. 41419

CIVIL RIGHTS COMMISSION
Notices
Meetings, State advisory committees:
Colorado 41420
Kansas 41420
Missouri 41420
Nevada 41420

CIVIL SERVICE COMMISSION
See Federal Prevailing Rate Advisory Committee.

COAST GUARD
Rules
Drawbridge operations:
Georgia 41389
Michigan 41389
Virginia 41390
Proposed Rules
Drawbridge operations:
Massachusetts 41412
Wisconsin 41413

COMMERCE DEPARTMENT
See Economic Development Administration; National Oceanic and Atmospheric Administration.

COMPTROLLER OF CURRENCY
Proposed Rules
Rulings:
Real estate owned 41406

DELAWARE RIVER BASIN COMMISSION
Notices
Water resources program, etc.; hearing 41420

DRUG ENFORCEMENT ADMINISTRATION
Notices
Schedules of controlled substances; production quotas:
Schedule II, 1978 aggregate production quotas 41440

ECONOMIC DEVELOPMENT ADMINISTRATION
Proposed Rules
Financial assistance requirements:
Labor standards for construction projects 41408

ECONOMIC REGULATORY ADMINISTRATION
Notices
Environmental statements; availability, etc.:
Columbia LNG Corp. et al 41422

EDUCATION OFFICE
Notices
Meetings:
Women's educational equity act program 41439

ENERGY DEPARTMENT
See also Economic Regulatory Administration.
Notices
Petroleum Marketing Practices Act; subsidization of motor fuel marketing; hearings and inquiry 41422

ENVIRONMENTAL PROTECTION AGENCY
Rules
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one 41396
Bifenox 41393
2-4-Chloro-6-(ethylamino)-s-triazin-2-yl amino-2-methylpropionitrile 41395
Inert ingredients in pesticide formulations 41391
Oxamyl 41394
Pesticides, tolerances in animal feeds:
4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one 41386
Oxamyl 41385
Notices
Air pollution control, new motor vehicles and engines:
Federal certification test results, 1978 FY 41538
Air programs; fuels and fuel additives:
Methyl cyclopentadienyl manganese tricarbonyl (MMT); waiver; denial 41424
Environmental statements; availability, etc.:
Agency statements, weekly receipts 41429
Meetings:
FIFRA Scientific Advisory Panel 41429
Pesticides; tolerances, registration, etc.:
Butachlor; correction 41424

FARMERS HOME ADMINISTRATION
Rules
Real estate and chattel properties:
Disposal of acquired property; "suitable property" 41373

FEDERAL AVIATION ADMINISTRATION
Rules
Airworthiness directives:
Cessna 41376
Messerschmitt 41375
Rolls Royce 41374
Control area 41381
Control zone 41381
Transition areas (3 documents) 41382, 41383
Proposed Rules
Control zones 41408
Transition areas (2 documents) 41409
Notices
Meetings:
Aeronautics Radio Technical Commission 41449

FEDERAL COMMUNICATIONS COMMISSION
Rules
Experimental broadcast services:
Broadcasting reregulation; editorial changes, etc.; correction 41401
Television broadcast stations; table of assignments:
New Mexico 41400
Notices
Canadian standard broadcast stations; notification list 41434
Meetings:
Common Carrier Bureau 41436
Marine Services Radio Technical Commission 41435
Rulemaking proceedings filed, granted, denied, etc.; petitions by various companies:
Key Broadcasting Corp 41434
Television broadcast applications ready and available for processing 41433

FEDERAL CROP INSURANCE CORPORATION
Rules
Crop insurance, various commodities:
Sugarcane, extension of closing date 41371

FEDERAL GRAIN INSPECTION SERVICE
Notices
Grain standards; inspection points:
Texas 41418

FEDERAL HIGHWAY ADMINISTRATION
Rules
State highway agencies; record-keeping requirements for Federal-aid highway records 41387

FEDERAL MARITIME COMMISSION
Notices
Agreements filed, etc 41436

FEDERAL PREVAILING RATE ADVISORY COMMITTEE
Notices
Meetings 41437

FEDERAL RAILROAD ADMINISTRATION
Notices
Petitions for exemptions, etc.:
Duluth, Missabee & Iron Range Railway 41447

FEDERAL RESERVE SYSTEM
Notices
Applications, etc.:
Century Bancshares Corp 41437
Fairbank Bancshares, Inc 41437
Greencastle Investment Corp. 41438
Republic of Texas Corp 41438

FEDERAL TRADE COMMISSION
Proposed Rules
Appliances, consumer; energy cost and consumption information in labeling and advertising; hearings and extension of time 41410

FISH AND WILDLIFE SERVICE
Rules
Hunting:
Fish Springs National Wildlife Refuge, Utah 41404
Seedskadee National Wildlife Refuge, Wyo. (2 documents) 41404

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See also Alcohol, Drug Abuse, and Mental Health Administration; Education Office; National Institutes of Health.
Notices
Organization, functions, and authority delegations:
National Institutes of Health; Baltimore Cancer Research Program 41439

INDIAN AFFAIRS BUREAU
Rules
Enrollment:
Preparation of rolls for various Chippawa tribes and bands; qualifications and deadlines 41388

INTERIOR DEPARTMENT
See Fish and Wildlife Service; Indian Affairs Bureau; National Park Service.; Reclamation Bureau; Surface Mining Reclamation and Enforcement Office.

INTERNAL REVENUE SERVICE
Rules
Excise taxes:
Trucks (light duty) and buses; further manufacture and sale 41388

INTERSTATE COMMERCE COMMISSION
Rules
Railroad car service orders; various companies:
Western Maryland Railway Co. 41403
Notices
Fourth section applications for relief 41454
Hearing assignments 41453
Motor carrier, broker, water carrier, and freight forwarder applications; correction 41453
Motor carriers:
Permanent authority applications; correction (5 documents) 41453
Temporary authority applications (3 documents) 41454, 41458, 41463
Transfer proceedings (2 documents) 41461, 41463

JUSTICE DEPARTMENTS
See Drug Enforcement Administration; Parole Commission.

MATERIALS TRANSPORTATION BUREAU
Rules
Highway, carriage by:
Vehicle maintenance and repair 41401

NATIONAL INSTITUTES OF HEALTH
Notices
Meetings:
Cancer Control and Rehabilitation Advisory Committee 41438
High Blood Pressure Working Group 41438

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
Rules
Fishery conservation and management:
Cod, haddock, and yellowtail flounder, Atlantic; fisheries closure 41405

NATIONAL PARK SERVICE
Proposed Rules
Fire Island National Seashore, N.Y., zoning standards 41414
Notices
Concession permits, etc.:
Great Smoky Mountains National Park 41439
Meetings:
Boston National Historical Park Advisory Commission .. 41439

NUCLEAR REGULATORY COMMISSION
Rules
Environmental protection; licensing and regulatory policy and procedures:
Uranium fuel cycle impacts from spent fuel reprocessing and radioactive waste management; extension of time . 41373

PAROLE COMMISSION
Proposed Rules
Prisoners, youth offenders, and juvenile delinquents; parole, release, etc.:
Parole hearings; initial 41411

POSTAL RATE COMMISSION
Notices
Mail classification schedule, 1978; request for decisions:
Electronic computer subclass . 41441
Third-class carrier route presort subclass 41440
Parcel post domestic mail classification, 1978; request for decision 41441

POSTAL SERVICE
Rules
Privacy Act, systems of rec-

Notices
Hearings, etc.:
Middle South Utilities, Inc., et al 41443

TRANSPORTATION DEPARTMENT
See Coast Guard; Federal Aviation Administration; Federal

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

POSTAL SERVICE

Rules

Privacy Act, systems of records 41391

Notices

Environmental statements; availability, etc.:
Southeast Incoming Mail Center, Braintree, Mass 41442

RECLAMATION BUREAU

Rules

Teton flood victims, sale of replacement farm units to 41396

SECURITIES AND EXCHANGE COMMISSION

Rules

Securities Act:
Small offering exemption, increase 41383

CONTENTS

Notices

Hearings, etc.:
Middle South Utilities, Inc., et al 41443
New Orleans Public Service, Inc 41443
Real Estate Associates Limited et al 41444
State Mutual Life Assurance Co. of America 41446

Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc 41442
Boston Stock Exchange, Inc .. 41442

SURFACE MINING RECLAMATION AND ENFORCEMENT OFFICE

Proposed Rules

Surface coal mining reclamation and enforcement operations; permanent regulatory program 41662

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration; Material Transportation Bureau.

TREASURY DEPARTMENT

See also Alcohol, Tobacco and Firearms Bureau; Comptroller of Currency; Internal Revenue Service.

Notices

Antidumping:
Bicycle tires and tubes from Korea 41449
Bicycle tires and tubes from Republic of China 41451

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.
A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

7 CFR
2 41371
401 41371
910 41372
1955 41373

10 CFR
51 41373

12 CFR
PROPOSED RULES:
7 41406

13 CFR
PROPOSED RULES:
309 41408

14 CFR
39 (3 documents) 41374–41376
71 (5 documents) 41381–41383
PROPOSED RULES:
71 (3 documents) 41408, 41409
Ch. II 41410

16 CFR
PROPOSED RULES:
305 41410

17 CFR
230 41383

21 CFR
561 (2 documents) 41385, 41386

23 CFR
17 41387

25 CFR
41 41388

26 CFR
48 41388

28 CFR
PROPOSED RULES:
2 41411

30 CFR
PROPOSED RULES:
Chapter VII 41662

33 CFR
117 (3 documents) 41389, 41390
PROPOSED RULES:
117 (2 documents) 41412, 41413

36 CFR
PROPOSED RULES:
28 41414

39 CFR
266 41391

40 CFR
180 (5 documents) 41391–41396

43 CFR
428 41396

47 CFR
73 41400
74 41401

49 CFR
177 41401
1033 41403

50 CFR
32 (3 documents) 41404
651 41405

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

EPA—State implementation plans: California 36624; 36625; 8–18–78
FCC—FM broadcast stations; table of assignments:
Fayetteville, Ark. and Neosha, Mo.... 36104; 8–15–78

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing: September 13, 1978]

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.

FEDERAL REGISTER

21 CFR
430 41194
431 ..... 41194, 41195
510 39086

30 CFR—Continued
71 40760
PROPOSED RULES:
55 40766

40 CFR—Continued
PROPOSED RULES:
35 40742
52 39151,

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.

1 CFR

Ch. I 39069

3 CFR

EXECUTIVE ORDERS:
12024 (See EO 12078) 39741
12078 39741

MEMORANDUMS:
September 8, 1978 40449

PROCLAMATIONS:
4591 39561
4592 39739
4593 40197
4594 40451
4595 41013

5 CFR

213 .... 39069, 39070, 39951-39953, 40453

7 CFR

2 ..... 39953, 41371
245 39070
250 39070
282 ..... 39074, 39075
301 40528
330 39953
401 41371
908 39743
910 ..... 39080, 39319, 39954, 41372
911 39319
915 39321
927 39323
931 39323
932 39743
993 40199
1004 ..... 39744, 39745
1036 40801
1071 39325
1073 39326
1097 39328
1102 39328
1104 39329
1106 39331
1108 39333
1120 39334
1126 39335
1132 39337
1133 39955
1138 39338
1435 39563
1701 41181
1823 ..... 39746, 40199
1955 41373

PROPOSED RULES:
6 ..... 39110, 40530
17 40872
722 39117
918 40027
948 40027
965 40028
981 39393
1079 40028
1126 40030
1427 39118
1701 ..... 40036, 41215
1822 41215
1940 41047-41049
1944 41215

8 CFR

108 40879
236 40801

PROPOSED RULES:
108 40879

9 CFR

54 41103
91 39080
94 39956
113 41185
355 39340

PROPOSED RULES:
92 40037
317 39394
318 ..... 39119, 39394
319 39394

10 CFR

35 39747
51 41373
73 41187
205 ..... 39080, 40200
212 40682

PROPOSED RULES:
51 39801
210 41224
211 ..... 40233, 41224
212 ..... 40233, 41224
430 40192
1004 40530

12 CFR

202 39341
217 41015
226 ..... 40210, 41015

PROPOSED RULES:
7 41406

13 CFR

107 39563
Ch. IV 40803

PROPOSED RULES:
130 39394
309 41408

14 CFR

39 ..... 39346-39348, 39748, 39750, 41016, 41374-41376,
71 ..... 39439, 39750-39753, 40211-40213, 41017, 41018, 41381-41383
73 ..... 40214, 40215
75 39753-39755
97 41019
221 39536
241 40454
298 41187
302 ..... 39536, 41021
385 40803
399 39522

14 CFR—Continued

PROPOSED RULES:
Ch. II 41410
39 40233
71 ..... 39803, 40237, 41051, 41408, 41409
73 ..... 39803, 39804
223 39805
250 39806
298 ..... 39587, 00000
380 ..... 39807, 40880

15 CFR

PROPOSED RULES:
500 41230

16 CFR

1 39083
13 ..... 39350, 40454
1209 39564

PROPOSED RULES:
13 ..... 39120, 40536, 40537, 40882, 41233
305 41410
451 41051
1209 39564

17 CFR

1 39956
111 41192
210 ..... 40688, 41022
211 40730
230 ..... 41193, 41383
239 39554
249 39554
270 39553
274 39553

PROPOSED RULES:
210 ..... 40724, 40726
229 40720
230 41235
239 41052
270 39396

18 CFR

1 39982
3 40217
4 40217
16 40217
131 40217

PROPOSED RULES:
1 ..... 39122, 40037

19 CFR

153 40804

PROPOSED RULES:
6 40238
177 41236

20 CFR

416 39564
901 39756

PROPOSED RULES:
404 39266
416 41054
620 39124
653 39124

21 CFR

430 41194
431 ..... 41194, 41195
510 39086
514 41195
520 ..... 39084, 39085
522 40455
524 40455
558 ..... 39086, 39350
561 ..... 40456, 41385, 41386

PROPOSED RULES:
145 39126
310 39126
314 39126
337 39544
436 40038
469 40038
1308 40884

23 CFR

17 41387

PROPOSED RULES:
625 40539

24 CFR

221 39570
841 41198
886 40402
1914 ..... 41028, 41030
1916 39572
1917 ..... 39351-39360, 39573-39582, 39761-39771, 39983-39987, 41204
1920 39771-39774

PROPOSED RULES:
201 39593
570 41369
1917 ..... 39129-39141, 41237
3500 ..... 39701, 40539

25 CFR

11 40804
41 41388
43k 40457
54 39361
178 40458
258 39086

26 CFR

1 ..... 40219, 40459, 41204
48 41388
301 ..... 40219, 40459

PROPOSED RULES:
1 ..... 39142, 39822, 41237
31 ..... 39142, 39149
301 39142

28 CFR

PROPOSED RULES:
2 41411

29 CFR

1601 39775
1610 40222
1910 39087
2520 41205

PROPOSED RULES:
1601 39831

30 CFR

41 39988
70 40760

30 CFR—Continued

71 40760

PROPOSED RULES:
55 40766
56 40766
57 40766
Chapter VII 41662

31 CFR

51 40223
223 39088

32 CFR

42 39988
581 40498
902 39089
931 39101
1288 40806
1804 39776

PROPOSED RULES:
47 40884

33 CFR

3 40224
117 ..... 39777, 41032, 41389, 41390
161 ..... 39994, 40224

PROPOSED RULES:
89 39946
117 ..... 41412, 41413
126 39832
183 41056

36 CFR

214 40998
1207 40808

PROPOSED RULES:
28 41414

37 CFR

302 40225
303 40498
305 40501

38 CFR

2 39364
14 39365

PROPOSED RULES:
3 40239
21 39832
36 ..... 39150, 39833

39 CFR

111 ..... 39583, 39995, 40810

PROPOSED RULES:
111 39593
266 41391

40 CFR

2 39997
51 40009
52 ..... 39366, 40009-40011, 41032-41039
65 ..... 40015, 40226
81 ..... 39101, 40412, 40436, 40502
125 40859
180 ..... 41206, 41391-41396
600 39367
730 41206

40 CFR—Continued

PROPOSED RULES:
35 40742
52 ..... 39151, 39152, 40009-40011, 40240, 40245
65 ..... 39152, 39153, 39397, 39834, 40015, 40247, 40248, 40539, 41238, 41239
81 40436
125 39282
130 40742
131 40742
151 39276
162 39644
180 ..... 40249, 41240
233 39398

41 CFR

Ch. I 40015, 41044
Ch. 18 40018
Ch. 101 40019
3-56 39778
5B-2 40227
14-1 ..... 39377, 39787, 41207
14-2 ..... 39378, 39788
14-3 39788
14-4 39378
14-7 39379
14-12 39379
14-18 39379
14-30 39380
14-55 39380
101-37 40228

PROPOSED RULES:
101-20 40250

42 CFR

36 41214
54a 40386
57 39380
58 ..... 39384, 40862

PROPOSED RULES:
110 40376
405 39155
449 39155

43 CFR

26 41004
428 41396
6000 40734
6010 40734
6200 40734
6220 40734
6250 40734
6260 40734
6270 40734
6290 40734
8000 40734
8200 40734
8300 40734
8340 40734
8350 40734
8360 40734
8370 40735

PROPOSED RULES:
420 41241

V 43 / 181 SE 18 78

45 CFR

5b 40229
801 39387

PROPOSED RULES:

177 41056
1340 39593

46 CFR

502 41040
510 40524
512 40524
542 39102

PROPOSED RULES:

151 40250
153 40250
157 41178
531 39399
536 39399

47 CFR

73 ..... 39388, 39584, 39704, 40250, 40251, 41400
74 ..... 39704, 41401
87 41214

PROPOSED RULES:

1 41241
31 ..... 39385, 40886
33 ..... 39385, 40886
42 ..... 39385, 40886
43 ..... 39385, 40886

47 CFR—Continued

PROPOSED RULES—Continued

63 40541
73 ..... 39400, 39593, 39594, 40250, 40251, 40887, 40888, 41241
83 40889

49 CFR

172 39789
173 39791
175 39792
176 39792
177 41401
179 39792
192 39389
571 39390
581 40229
1008 41040
1033 ..... 39103, 39104, 39794-39796, 41403
1056 39798
1121 00000

PROPOSED RULES:

Ch. X 39157
172 39835
173 39835
192 39401
195 39402
571 ..... 39835, 41056
1033 40891

49 CFR—Continued

PROPOSED RULES—Continued

1060 41242
1121 41245
1307 39157
1309 39157
1310 39157
1320 ..... 39404, 41059
1322 ..... 39404, 41059

50 CFR

20 39186
26 ..... 39798, 41042
32 ..... 39105-39107, 39584, 39585, 39799, 39800, 40021-40024, 40232, 40524, 40867, 41042, 41043, 41404
33 41044
216 40025
285 ..... 39107, 41044
611 39586
651 ..... 39108, 41405
652 40527
662 40868
810 39306

PROPOSED RULES:

17 41060
32 40893
230 40045
611 ..... 41062, 41244
652 39161

FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

Pages	Date
39069-39317	Sept. 1
39319-39560	5
39561-39738	6
39739-39950	7
39951-40195	8
40197-40448	11
40449-40799	12
40801-41011	13
41013-41179	14
41181-41369	15
41371-41940	18

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-01]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document transfers the delegations of authority for management of the Department's Equal Employment Opportunity Program and the EEO Discrimination Complaints and Appeals activities from the Director, Office of Personnel to the Director, Office of Equal Opportunity. This change will result in increased emphasis for the Department's EEO program. In addition, the delegations of authority relating to the Department's Contract Compliance program are revoked as the Department no longer has that responsibility.

EFFECTIVE DATE: September 18, 1978.

FOR FURTHER INFORMATION CONTACT:

James Frazier, Director, Office of Equal Opportunity, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4256.

Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

Subpart C—Delegations of Authority to the Deputy Secretary, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget, and the Director, Office of Governmental and Public Affairs

1. Section 2.25 is amended by revoking and reserving paragraphs (h)(2) and (h)(3) as follows:

§ 2.25 Delegations of authority to the Assistant Secretary for Administration.

• • • • •

(h) Related to equal opportunity

• • •

(2) [Revoked and Reserved]
(3) [Revoked and Reserved]

• • • • •

Subpart J—Delegations of Authority by the Assistant Secretary for Administration

2. Section 2.78 is amended by revoking and reserving paragraphs (a)(11) and (a)(12) as follows:

§ 2.78 Director, Office of Personnel.

(a) • • •
(11) [Revoked and Reserved]
(12) [Revoked and Reserved]

• • • • •

3. Section 2.80 is amended by revoking and reserving paragraphs (a)(1) and (a)(2) and adding paragraphs (a)(13) through (21) as follows:

§ 2.80 Director, Office of Equal Opportunity.

(a) • • •
(1) [Revoked and Reserved]
(2) [Revoked and Reserved]

• • • • •

(13) Develop regulations, plans, and procedures necessary to carry out the Department's equal employment opportunity programs including the development, implementation, and coordination of EEO Action Plans.

(14) Coordinate activities of Agency EEO Counselors, as related to Departmental policies and procedures.

(15) Process formal EEO discrimination complaints, up to the appellate stage, by employees or applicants for employment.

(16) Develop, implement, and coordinate the Hispanic Employment Program.

(17) Develop, implement, and coordinate the Federal Women's Program.

(18) Administer the discrimination appeals and complaints program for the Department, including all formal individual or group appeals, where the system provides for an avenue of redress to the Department level, Civil Service Commission or other outside authority.

(19) Perform staff work for the Director of Equal Employment Opportunity including the preparation of decisions on complaints of discrimination.

(20) Provide liaison on EEO matters, including complaints and appeals, with the EEOC, the CSC, USDA agencies and Department employees.

(21) Serve as focal point through which all contacts involving matters relating to title VI of the Civil Rights Act of 1964 are made with the Department of Justice, except those matters in litigation including administrative enforcement actions which shall be coordinated by the Office of General Counsel.

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.)

Dated: September 6, 1978.

For Subpart C:

BOB BERGLAND,
Secretary of Agriculture.

For Subpart J:

JOAN S. WALLACE,
Assistant Secretary for Administration.

[FR Doc. 78-26153 Filed 9-15-78; 8:45 am]

[3410-08]

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

[Amdt. No 99]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1979 and Succeeding Crop Years

EXTENSION OF FINAL DATES FOR FILING APPLICATIONS

AGENCY: Federal Crop Insurance Corporation.

ACTION: Rule; extension of sales closing dates.

SUMMARY: This is an extension of the final dates for the filing of applications for sugarcane crop insurance in all counties in Florida and Texas effective for the 1979 crop year. This action is being taken since the Federal Crop Insurance Corporation is contemplating changes in the current sug-

arcane crop insurance regulations effective with the 1979 crop year, and prospective insureds must be given sufficient time to consider such changes and to file applications under

SUGARCANE

• • • • •

"The closing date time for filing applications for year [illegible] for the

910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7

Dated: September 13, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vege-

out the objectives of an FmHA loan program with financing provided through that program. Any property located in an area whose designation

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Nuclear Regulatory Commission has extended through March 14, 1979, the

arcane crop insurance regulations effective with the 1979 crop year, and prospective insureds must be given sufficient time to consider such changes and to file applications under the provisions of the revised regulations.

EFFECTIVE DATE: August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: The normal closing date for the filing of applications for sugarcane crop insurance in those counties in Florida and Texas, where such insurance is otherwise authorized to be offered, is August 31.

The Federal Crop Insurance Corporation is currently considering a revision of the sugarcane crop insurance endorsement to become effective for the 1979 crop year. This revision will be issued in a separate document. The Corporation has determined that it would be fair and equitable to extend the sales closing date through September 30, 1978, for accepting applications for sugarcane crop insurance for the 1979 crop year inasmuch as the contemplated revision would become effective at about the same time as the closing date of August 31, or shortly thereafter.

The additional time for accepting applications will provide prospective insured an opportunity to examine the changes in the regulations. Extension of closing dates would be of benefit to the producer by allowing more time to consider crop insurance protection. Since this extension is of benefit to the producer and since producers need to be informed of such extension immediately, the Corporation has found and determined that compliance with the procedure for notice and public participation in the proposed rulemaking procedure would be impracticable, unnecessary, and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure. Accordingly, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), § 401.103(a) of the Federal Crop Insurance Regulations for the 1969 and succeeding crop years as found in 7 CFR Part 401 is amended by adding at the end of the entry under the heading of "Sugarcane" the following:

§ 401.103 Application for insurance.

(a) • • •

CLOSING DATES

•	•	•	•	•

SUGARCANE

•	•	•	•	•

"The closing date time for filing applications for crop insurance for the 1979 crop year on sugarcane in those counties in Florida and Texas where such insurance is otherwise authorized to be offered is hereby extended from August 31, 1978, until the close of business on September 30, 1978. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result."

(Secs. 506, 615, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1501, 1516.)

Dated: September 1, 1978.

JOYCE M. MCCOY,
Acting Secretary,
Federal Crop Insurance Corporation.

Approved: September 13, 1978.

BOB BERGLAND,
Secretary.

[FR Doc. 78-26210 Filed 9-15-78; 8:45 am]

[3410-02]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 164; Lemon Reg. 162, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period September 17-23, 1978, and increases the quantity of such lemons that may be so shipped during the period September 10-16. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective September 17, 1978, and the amendment is effective for the period September 10-16, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Findings. Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on September 12, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons continues good on 140's and larger, easier on 165's and smaller.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

1. Section 910.464 is added as follows:

§ 910.464 Lemon regulation 164.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period September 17, 1978, through September 23, 1978, is established at 200,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

§ 910.462 Amended.

2. Paragraph (a) of § 910.462 lemon regulation 162 (43 FR 39954) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period September 10, 1978, through September 16, 1978, is established at 235,055 cartons."

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: September 13, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-26266 Filed 9-14-78; 12:40 pm]

[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER K—PROPERTY MANAGEMENT

[FmHA Instruction 1955-C]

PART 1955—REAL ESTATE AND CHATTEL PROPERTIES

Subpart C—Disposal of Acquired Property

SUITABLE PROPERTY

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to reflect a change resulting from recent legislation. The intended effect is to include as "suitable property" in Government inventory all property that was in a rural area when the initial loan was made but which area was later reclassified as nonrural due to development and population expansion.

EFFECTIVE DATE: September 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert M. Yates, 202-447-3752.

SUPPLEMENTARY INFORMATION: Section 1955.103(e) of subpart C, part 1955, chapter XVIII, title 7 in the Code of Federal Regulations is amended. It is the policy of this Department that rules relating to public property, loans grants benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the purpose of the change is to implement a recent legislative provision of the Agricultural Credit Act of 1978. This amendment also removes a restriction.

Accordingly, § 1955.103, paragraph (e) is amended as follows:

§ 1955.103 Definitions.

•	•	•	•	•

(e) *Suitable property.* Property that could be used by a borrower to carry out the objectives of an FmHA loan program with financing provided through that program. Any property located in an area whose designation has been changed from rural to nonrural and which is otherwise suitable property shall be considered as if it were still in a rural area.

•	•	•	•	•

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the assistant Secretary for Rural, development, 7 CFR 2.70; delegations of authority by Director, OEO 29 FR 14764, 33 FR 9850.)

Dated: September 6, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-26152 Filed 9-15-78; 8:45 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 51—LICENSING AND REGULATORY POLICY AND PROCEDURES FOR ENVIRONMENTAL PROTECTION

Uranium Fuel Cycle Impacts From Spent Fuel Reprocessing and Radioactive Waste Management

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of the interim fuel cycle rule.

SUMMARY: The Commission promulgated on March 14, 1977, an interim rule identifying the environmental impact values for the uranium fuel cycle which are to be included in environmental reports and environmental impact statements for individual light water nuclear power reactors. The interim rule was made effective for 18 months with the possibility of extension for good cause. The Commission now finds good cause to extend the period of effectiveness of the interim rule for 6 months, through March 14, 1979.

EFFECTIVE DATE: September 14, 1978.

FOR FURTHER INFORMATION CONTACT:

E. Leo Slaggie, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 202-634-3224.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Nuclear Regulatory Commission has extended through March 14, 1979, the effectiveness of the interim fuel cycle rule, 10 CFR 51.20(e) ("table S-3," as revised) originally made effective on March 14, 1977, for a period of 18 months (42 FR 13803, March 14, 1977). The Commission finds this extension desirable to avoid disruption in licensing procedures pending completion of the proceedings to promulgate a final fuel cycle rule.

BACKGROUND

The events leading to the promulgation of the Commission's interim fuel cycle rule were described at length in the March 14, 1977, notice of rulemaking (42 FR 13803). The Commission there stressed that the sole purpose of the interim rule and its predecessors was to identify the environmental impacts attributable to the reprocessing and waste management portions of the LWR fuel cycle. The Commission noted that it was not the purpose of the rulemaking proceeding to decide which of the various waste management approaches should be employed in practice or to settle upon licensing or site selection criteria. The interim rule represented a "temporary measure pending completion of the final rulemaking proceedings which will reflect additional public participation." The Commission expressed its belief that these proceedings could be concluded within the 18-month period of effectiveness established for the interim rule, but left open the possibility of entending the period of effectiveness for good cause.

After promulgating the interim rule, the Commission initiated public participation in developing a final rule by issuing on May 30, 1977, a notice of reopened hearing (42 FR 26987, May 26, 1977). A three-person Hearing Board was appointed to conduct the hearings under procedures established by the Commission. Twenty-four parties participated, including the NRC staff, other Federal agencies, several States, public interest groups, members of the nuclear industry, and interested individuals. The Board took written testimony from the parties, followed up by written questions and answers, and then heard 10 days' of oral testimony between January 16, 1978, and March 30, 1978. The record closed June 30, 1978, with the submission of final position statements by the parties. The Hearing Board has informed the Commission that its record includes more than 1,100 pages of direct testimony, several hundred pages of written responses to questions, more than 1,200 pages of transcript of oral hearings, written rebuttal testimony, and final concluding statements.

In June 1978, the Commission requested the Hearing Board to provide the Commission a report summarizing the record and outlining the signifi-

the advantage of keeping the interim rule in place outweighs the risk that use of the rule will lead to unsound results. Accordingly, the Commission

362, Supplement 1, may be obtained from:

Rolls-Royce Motors Ltd., Light Aircraft Engine Division, Crewe, Cheshire CW1

Compliance required within the next fifty (50) hours time in service after the effective date of this AD, unless already accomplished.

To prevent the possibility of cylinder head

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe,

upper edge of the cover and that it is slightly higher on the side opposite the fixed lug. Release the operating handle and check that it will automatically return to position "Don".

In June 1978, the Commission requested the Hearing Board to provide the Commission a report summarizing the record and outlining the significant issues raised in the proceedings. The Commission also requested, once that was completed, that the Hearing Board submit its recommendations regarding the reprocessing and waste management aspects of the fuel cycle rule. Anticipating that the time required for the Board to prepare recommendations and for the Commission to make full use of the extensive record might well extend past the September 14, 1977 expiration date of the interim rule, the Commission also asked the Hearing Board for its views on whether the record supports extension of the rule for a reasonable period.

On August 31, 1978, the Hearing Board submitted its 137-page summary and outline. In an accompanying memorandum the Board advised the Commission that preparation of their recommendations may take until October 31 1978. In an attachment to the summary and outline, the Board stated in response to the Commission's request for its views on extending the interim rule:

> It is our view that the rulemaking record adequately supports an extension of the interim rule for a reasonable period, pending completion of our recommendations and Commission consideration prior to action on a final rule. * * * We have concluded that, as a result of the record in the reopened proceedings, some additions in and modifications to the fuel cycle rule as it affects reprocessing and waste management are warranted and will, therefore, be recommended. These additions and modifications are not, in our opinion, substantial enough to change the effects of the present interim rule.

EXTENSION OF INTERIM RULE

The Commission is now confronted with the question whether there is good cause to extend the interim rule for the additional time preparation of a final rule will require. When the interim rule was promulgated, the Commission reviewed in detail the balance of considerations, weighing "the costs of a hiatus in licensing that would be caused by the failure to promulgate an interim rule" against "the risks of proceeding by interim rule where the sufficiency of the information supporting the rule might later be called into question during the final rulemaking proceeding on the permanent rule." (42 FR 13803, 13804.) The Commission found then that the balance favored having the interim rule.

Now that the Commission has before it the summary of the final rulemaking hearings and the Hearing Board's view that the record supports extension of the interim rule, the Commission has further strong evidence that the advantage of keeping the interim rule in place outweighs the risk that use of the rule will lead to unsound results. Accordingly, the Commission finds good cause to extend the period of effectiveness of the interim rule through March 14, 1979. The Commission has considered extension for a shorter period, notably the January 1, 1979, date urged by the Natural Resources Defense Council in letters dated July 14 and August 29, 1978. The Commission has instead opted for extension to March 14, 1979, so that the additional period would provide a reasonable margin following receipt of the Hearing Board's recommendation, for the Commission to consider carefully the outcome of the final rulemaking.

The Commission will address NRDC's general procedural suggestions for the conclusion of the S-3 rulemaking in a separate order to be issued shortly.

Dated at Washington, D.C., this 12th day of September 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary.

[FR Doc. 78-26170 Filed 9-15-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 18298; Amdt. 39-3301]

PART 39—AIRWORTHINESS DIRECTIVES

Rolls-Royce Motors Ltd. Model 0-200-A, -B, and -C Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts an airworthiness directive (AD) which requires resetting the Rolls-Royce Motors Ltd. Model 0-200 engine series magneto to engine timing and inspection of the cooling baffle installation. The AD is needed to prevent cylinder head cracking and possible head separation which could result in complete power loss.

EFFECTIVE DATE: October 2, 1978.

Compliance required within the next 50 hours time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: Rolls-Royce Motors Ltd. Service Bulletins T-362 and T-362, Supplement 1, may be obtained from:

Rolls-Royce Motors Ltd., Light Aircraft Engine Division, Crewe, Cheshire CW1 3PL, England.

A copy of the Rolls-Royce Motors Ltd. Service Bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Mr. Don C. Jacobsen, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: There have been an increasing number of reports of cylinder head cracking on RRM 0-200 series engines which, if permitted to continue, could result in cylinder failure. Such failures could result in a complete power loss. These failures have been determined to be pressure and temperature oriented and may be caused by advanced magneto timing or improper installation of the engine cooling baffles. Since this condition is likely to exist or develop in other engines of the same type design, an airworthiness directive is being issued which requires resetting the magneto to engine timing to 24°+1°/−0° BTC on both magnetos and inspection for proper installation and security of all intercylinder and perimeter cooling baffles. It has been found that reduction of magneto timing to 24° BTC significantly decreases cylinder pressures and temperatures with no substantial effect on power or performance. Calibration testing conducted on a representative engine indicated a 1.5% power loss with average head temperature maintained at 475° F; however, when cooling air was held constant (as is the case in the aircraft installation) head temperatures decrease and tests indicate there is no apparent power reduction.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Adminstrator § 39.13 of Part 39 of the Federal Aviation Regulation (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

ROLLS ROYCE MOTORS LTD. Applies to all Model 0-200-A, -B, and -C engines.

Compliance required within the next fifty (50) hours time in service after the effective date of this AD, unless already accomplished.

To prevent the possibility of cylinder head cracking accomplish the following:

(a) Reset magneto to engine timing to 24°+1°/−0°, BTC on both magnetos.

(b) Overstamp the engine data plate timing number with the current 24° setting.

(c) Inspect for and insure proper installation and security of all intercylinder and perimeter cooling baffles in accordance with FAR § 43.13.

(d) Make a log book entry stating that the timing change has been made in compliance with this AD.

NOTE.—RRM Service Bulletins T-362 and T-362, Sup. 1, pertain to this subject.

This amendment becomes effective October 2, 1978.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1855 (c)); and 14 CFR 11.89.)

Issued in Washington, D.C., on September 8, 1978.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 78-25988 Filed 9-15-78; 8:45 am]

[4910-13]

[Docket No. 17844; Amdt. 39-3302]

PART 39—AIRWORTHINESS DIRECTIVES

Messerschmitt-Bolkow-Blohm GmbH Model BO-105 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires replacement or repair of certain Autoflug safety belts type BAGU FAG-5 and FAG-7 equipped with type GL-2 buckles and installed in the BO-105 series helicopters. The AD is needed to prevent jamming of the seat belt buckle release mechanism which could result in the entrapment of the occupant.

DATES: Effective October 18, 1978. Compliance schedule—As prescribed in body of AD.

ADDRESSES: The applicable Technical Instruction may be obtained from Messrs. Autoflug GmbH, Industriestrasse 10, D-2084 Rellingen 2, West Germany.

A copy of the Technical Instruction is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone: 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring replacement or repair of Autoflug type BAGU FAG-5 and FAG-7 safety belts with type GL-2 buckles and manufactured prior to October 1, 1974, and installed on Model BO-105 series helicopters was published in the FEDERAL REGISTER at 43 FR 16740 on April 20, 1978. The proposal was prompted by reports of jamming of the seat belt buckle release mechanism which could result in the entrapment of the occupant.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. Accordingly, the proposal is adopted without substantive change. Minor clarifying changes have been made.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

MESSERSCHMITT-BOLKOW-BLOHM GmbH. Applies to all Model BO-105 helicopters, all serial numbers, equipped with Autoflug safety belts types BAGU FAG-5 and FAG-7 with type GL-2 buckles and a date of manufacture prior to October 1, 1974.

Compliance required as indicated unless already accomplished.

To reduce the possibility of the safety belt release mechanism either jamming or requiring release forces beyond a specified range, while the belt is stressed under a load condition, accomplish the following:

(a) Within the next 30 hours time in service after the effective date of this AD, inspect the safety belts and if the date of manufacture stamped on the belt's name tag is prior to October 1, 1974, before further use, except that the aircraft may be flown in accordance with FAR 21.197 and 21.199 to a place where repairs or replacement can be made—

(1) Replace the safety belt assembly with a serviceable safety belt assmbly of the same part number; or

(2) Repair the GL-2 buckle assembly in accordance with Autoflug Technical Instruction No. 3/77, or an FAA-approved equivalent, and test the buckle and release mechanism for proper operation in accordance with paragraphs (a)(2) (i) through (iv) of this AD, or an FAA-approved equivalent.

(i) *Checking the locking and release action of the buckle.* Set the opening lever of the buckle to position "Release" and press the lever against the stop. Check that the lever flange of the body is at least level with the upper edge of the cover and that it is slightly higher on the side opposite the fixed lug. Release the operating handle and check that it will automatically return to position "Don".

Lift the operating lever position "Release" and press it at right angles to its longitudinal axis to place the body in an inclined position. Check that the body tumbles freely in the cover.

(ii) *Checking the arresting mechanism of the operation lever.* In position "Locked" the release force of the arresting mechanism of the operating lever—measured at the strap handle and at right angles to the lever—must be 4.4 ± 1.4 lbs.

(iii) *Checking the locking mechanism of the multiple-point buckle.* Insert the belt lugs into the multiple-point buckle and subject each lug to a load of approximately 20 lbs. with the load applied at right angles to the buckle plane. Perform this test once with the cover of the buckle pointing upwards and once downwards, ensuring that the operating lever and body are unobstructed. The buckle must not open and must keep the belt lugs securely locked.

(iv) *Checking the force to release.* With the safety belt fastened and positioned to simulate an inverted aircraft/seat position and while applying 250 lbs. load uniformly distributed across the buckle and belt webbing, measure the force necessary on the operating lever to actuate belt release. The measured force to actuate belt release must not be greater than 45 lbs.

(b) Mark the safety belts repaired and tested to comply with paragraph (a)(2) of this AD with permanent legible marking either on the manufacturer's name tag or on the belt webbing near the name tag with the number of this AD and the date repaired.

(c) If the safety belt is tested prior to repair in accordance with paragraph (a)(2) and complies with the limits specified in paragraphs (a)(2) (i) through (iv) of this AD, the compliance time to effect repairs is extended to 150 hours time in service after the effective date of this AD, at which time the GL-2 buckle assembly must be replaced or repaired and retested in accordance with paragraph (a) of this airworthiness directive.

(d) Equivalent means of compliance with the AD must be approved by the Chief, Aircraft Certification Staff, Europe, Africa, and Middle East Region.

This amendment becomes effective October 18, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Issued in Washington, D.C., on September 8, 1978.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 78-25989 Filed 9-15-78; 8:45 am]

[4910-13]

[Docket No. 75-CE-26-AD; Amdt. 39-3298]

Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

ADOPTION OF AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administra-

3) Delete the existing Table I and insert a new Table I which reads:

[4910-13]

[Docket No. 75-CE-26-AD; Amdt. 39-3298]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna T310, 320, 340, 401, and 411 Series Airplanes and Cessna Models 402, 402A, 402B, 414, 421, 421A, and 421B Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule (revision).

SUMMARY: This amendment revises Airworthiness Directive 75-23-08, applicable to Cessna T310, 320, 340, 401, and 411 series airplanes, and Cessna Models 402, 402A 402B, 414, 421, 421A, and 421B airplanes by either deleting or extending the inspection intervals on new improved exhaust system components. This action provides relief to owners/operators without compromising safety.

EFFECTIVE DATE: September 25, 1978.

COMPLIANCE: As prescribed in the body of the AD.

ADDRESSES: Cessna multi-engine service letter No. ME77-1 (supplement No. 2), dated June 26, 1978, referenced in this AD, may be obtained from Cessna Aircraft Co., Marketing Division, Attention: Customer Service Department, Wichita, Kans. 67201; telephone 316-685-9111. A copy of the service letter cited above is contained in the rules docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Mo. 64106 and at Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Donald L. Page, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106; telephone 816-374-3446.

SUPPLEMENTARY INFORMATION: This amendment revises AD 75-23-08, applicable to Cessna T310, 320, 340, 401, and 411 series airplanes, and Cessna Models 402, 402A, 402B, 414, 421, 421A, and 421B airplanes. AD 75-23-08 presently requires repetitive inspections of exhaust system components on these airplanes. Subsequent to the issuance of this AD, the manufacturer has developed and made available exhaust system components having increased reliability that permit either deletion or extension of the inspection intervals without compromising the existing level of safety. In addition, the manfacturer has issued supplement No. 2 to Cessna service letter No. ME77-1 to reflect this and to update its existing exhaust system component and inspection information. Finally, on new models of certain series airplanes to which this AD is applicable, the manufacturer has incorporated improved exhaust systems which render future applicability unnecessary. Accordingly, the FAA is revising the AD to make it consistent with these actions.

Since this amendment is relieving in nature and imposes no additional burden on any person, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days after the date of publication in the FEDERAL REGISTER.

ADOPTION OF AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by revising AD 75-23-08, amendment 39-2419 (40 FR 52717-52720) as corrected on December 1, 1975 (40 FR 55637) and as revised by amendments 39-2687 (41 FR 33245, 33246) and 39-2830 (42 FR 9013), as follows:

(1) Revise the applicability statement so that it now reads as follows:

CESSNA: Applies to T310, 320, 340, 401, and 411 series airplanes and Models 402, 402A, 402B, 414, 421, 421A, and 421B airplanes.

(2) Revise Paragraph I.A) so that it now reads as follows:

"I. Repetitive General Exhaust System Inspection:

(A) On all new and in-service airplanes listed above, visually inspect the exhaust system components per procedures hereafter specified in accordance with the following schedule:

50-HOUR INSPECTION

Inspect components not listed in table II or III within 50 hours time-in-service after the effective date of this AD or last inspection per AD 75-04-01 and within each 50 hours time-in-service thereafter.

100-HOUR INSPECTION

Inspect components listed in table II within 100 hours time-in-service after the effective date of this AD or last inspection in accordance with this AD and within each 100 hours time-in-service thereafter.

EXEMPT COMPONENTS

Components listed in table III are exempt from these inspection requirements.

3) Delete the existing Table I and insert a new Table I which reads:

TABLE I

EXHAUST COUPLING APPLICABILITY CHART

	Coupling Part Number	Qty Per Acft	Torque In-Lbs	AIRCRAFT APPLICABILITY T310P Q, R	320	320A B, C	320D E, F	340 340A	401/402 A, B	414	421 A, B	Location	Life Limited
Single Piece "V" Couplings	NH1000897-20	2	40 *					X		X		Collector (wye) Inlet	No
	NH1000897-30	2	40 *								X	Wastegate Inlet	No
	NH1000897-40 or V57A4234 or 41195AA423	2	40 *	X			X		X			Turbine Outlet	No
	NH1000897-50 or V57A5019 or 41195AA502	2	40 *					X		X	X	Turbine Outlet	No
Multi-Segment "V" Band Clamps	51394H250 (51134-2505 Gasket)	3	35		X							Collector Inlet	Yes
	B38C37 Alternates: 4309AL 4309AF	3	35			X						Collector Inlet	Yes
	MVT64832 Alternates: 4309AL 4309AF	3	35	X			X		X			Collector Inlet	Yes
	MVT68892-250 Alternate: 4301BT250	4	45					X		X		Collector (wye) Inlet	Yes
	4256AB200 Alternate: MVT68892-200	2	45-50							X	X	Wastegate Inlet (414) & Wastegate Exit (421)	Yes
	4356AA300	2	70-90								X	Wastegate Inlet (421)	Yes

*Initial installation of single piece couplings must be made in strict adherence to the specified 40 inch-pounds torque value. However, periodic retorquing is required only if coupling shows torque values below 30 inch-pounds.

4) Delete existing Table II and insert a new Table II which reads:

TABLE II

NOTES FOR TABLE II

4) Delete existing Table II and insert a new Table II which reads:

TABLE II

• 100 HOUR INSPECTION EXHAUST SYSTEM COMPONENTS

Description & Part Number	Qty Per Eng	T310 P,Q,R	320 D,E,F	340	340A	401/402 A,B	414	421 A,B	Notes
Exhaust Stack Assy									
9910379-1 L.H. Eng (Inconel 601)	1 (LH)							X	1
9910379-2 R.H. Eng (Inconel 601)	1 (RH)							X	1
Aft Slip Joints									
9910314-1 (Inconel 601)	1							X	
Aft Elbows									
9910299-3 (LH) (5654551-5)	1			X	X		X		2 & 6
9910299-4 (RH) (5654551-6)	1			X	X		X		2 & 6
9910301-1 (0850712-39)	1 (LH)	X	X			X			2
9910301-3 (0850712-41)	1 (LH)	X	X			X			2
9910301-5 (0850712-40)	1 (RH)	X	X			X			2
9910379-19 (Inconel 601)	1 (LH)							X	5,8
9910379-20 (Inconel 601)	1 (RH)							X	5,8
Wye Collector Assy									
9910299-8 (Inconel 601)	1				X		X		2, 4, & 6
9910301-4 (0850732-3)	1 (LH)	X	X			X			2 & 3
9910301-6 (0850732-18)	1 (RH)	X	X			X			2 & 3
9910341-1 (Inconel 601)	1			X					2, 4, & 6
Couplings (One Piece)									
Wastegate Inlet MH1000897-30	1							X	9
Turbine Outlet MH1000897-40	1	X	X			X			
Turbine Outlet MH1000897-50	1			X	X		X	X	
Wye Collector Inlet MH1000897-20	2			X	X		X		7

NOTES FOR TABLE II

GENERAL NOTES: 0850XXX and 5654XXX numbers shown in parenthesis are earlier part numbers for the corresponding 9910XXX part numbers.

Ball joint attaching parts (springs, bolts, nuts, washers and cotter pins) are subject to the 100-hour inspection instead of the 50-hour only if installed in combination with the components listed in Table II.

1. Exhaust stack assemblies are sealed type and the part numbers shown include risers for both cylinder banks and the cross-over pipes.
2. Components incorporate formed sheet metal coupling flanges.
3. Components incorporate external safety ring.
4. Compcnents incorporate internal safety sleeve.
5. Components incorporate seal-less style machined coupling flanges.
6. Components require seals (part number 17189-250-N1) at coupling flange.
7. Alternate for MVT68892-250 and 4301BT250 couplings.
8. Gasket (P/N 24096-300-N) not required when these parts are installed.
9. NH1000897-30 supersedes 4356AA300. Gasket (P/N 24096-300-N) is required on all 421 aircraft not equipped with 9910379-19 & -20 Elbow Assemblies.

5) Immediately following Table II add Table III which reads:

(6) Revise the sentence immediately following paragraph VI to read:

Cessna service letter ME75-17 dated July 14, 1975 and Cessna service letter ME77-1

miles to 30 miles. Interested persons were invited to participate in this rule-making proceeding by submitting written comments on the proposal to the FAA. No comments were received.

vision, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98108; telephone: 206-767-2610.

5) Immediately following Table II add Table III which reads:

TABLE III

EXEMPT EXHAUST SYSTEM COMPONENTS

Description & Part Number	Qty Per Eng	F310 P,Q,R	320 D,E,F	340	340A	401/402 A,B	414
Exhaust Stack Assy							
Seal-less Type 9910295-9, L.H. (5155166-1)	1	X	X	X	X	X	X
9910295-10, R.H. (5155166-2)	1	X	X	X	X	X	X
Aft Slip Joints							
9910296-2 (Inconel 601) or 9910296-1 (5355108-4) (Stainless Steel)	2	X	X	X	X	X	X

General Notes

1. Numbers in parenthesis are earlier part numbers for corresponding 9910XXX part numbers.

2. Exhaust stack assemblies are seal-less type and part numbers shown are complete bank assemblies.

3. Ball joint attaching parts (springs, bolts, nuts, washers and cotter pins) are exempt from mandatory inspection only if installed in combination with slip joints.

(6) Revise the sentence immediately following paragraph VI to read:

Cessna service letter ME75-17 dated July 14, 1975 and Cessna service letter ME77-1 dated January 24, 1977 and supplement 2 thereto dated June 26, 1978, or later revisions, pertain to this subject.

This amendment becomes effective September 25, 1978.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec., 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Mo. on September 6, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 78-26163 Filed 9-15-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-NW-5]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Revocation of Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes Control 1445 northwest of Neah Bay, Wash., since it has been rarely used. This action returns the airspace to the public for unrestricted use.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-8525.

SUPPLEMENTARY INFORMATION:

HISTORY

On June 19, 1978 (43 FR 26321), the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke Control Area 1445 which extends northwest from the Neah Bay, Wash., for approximately 33 miles with a width varying from 10 miles to 30 miles. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. This amendment is the same as that proposed in the notice. Section 71.163 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 348).

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.163 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 348) is amended, effective 0901 G.m.t., November 2, 1978, as follows:

Under § 71.163, the designation of Control 1445 is revoked.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on September 7, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-25976 Filed 9-15-78; 8:45 am]

[4910-13]

[Airspace Docket No. 76-NW-13]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Controlled Airspace, Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the designation of controlled airspace in the vicinity of Richland, Wash. The rule designates additional airspace as a control zone. This action is necessary to provide controlled airspace protection for aircraft executing approaches to the Richland Airport.

EFFECTIVE DATE: October 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Dale C. Jepsen, Airspace Specialist (ANW-533), Operations, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98108; telephone: 206-767-2610.

SUPPLEMENTARY INFORMATION:

HISTORY

A notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER on Thursday, July 6, 1978, which described the proposed Richland, Wash., control zone. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. Comments were received from the Aircraft Owners and Pilots Association (AOPA) and the Women's Medical Service, P.C., both of which favored the proposal.

THE RULE

This amendment to part 71 of the Federal Aviation Regulations (FAR) designates control zone airspace as controlled airspace to encompass aircraft executing approaches to the Richland, Wash., Airport.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.171 (subpart F) of the Federal Aviation Regulations is amended as follows:

RICHLAND, WASH.

That airspace bounded by a line beginning at latitude 46°15'46" N., longitude 119°13'06" W., thence clockwise along an arc of a 5-mile radius circle centered on the Richland Airport (latitude 46°18'30" N., longitude 119°18'00" W.) to latitude 46°18'27" N., longitude 119°11'43" W., thence counterclockwise via an arc of a 5-mile radius centered on the Tri-Cities Airport (latitude 46°15'50" N., longitude 119°16'53" W.) to point of beginning. Unless specified by Notice to Airmen, this Control Zone is effective continuously.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Seattle, Wash., on September 7, 1978.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc. 78-25991 Filed 9-15-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-ANW-14]

Part 71) is amended, effective 0901 G.m.t., September 15, 1978, as follows:

PENDLETON, OREG.

RULE

This amendment to part 71 of the Federal Aviation regulations (FAR's) designates a 1,200-foot transition area

[4910-13]

[Airspace Docket No. 78-NE—14]

tended from the 5 mile radius area to 9 miles southwest of the runway threshold and within 2.5 miles each

ceedings, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol

[4910-13]

[Airspace Docket No. 78-ANW-14]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Controlled Airspace, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the designation of controlled airspace in the vicinity of Pendleton, Oreg. This alteration is needed to accommodate a planned standard instrument approach procedure to the Hermiston, Oreg., Airport. The status of the Hermiston Airport will change from VFR to IFR in conjunction with the establishment of the standard instrument approach procedure.

EFFECTIVE DATE: October 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Dale C. Jepsen, Airspace Specialist (ANW-533), Operations, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98108; telephone 206-767-2610.

SUPPLEMENTARY INFORMATION:

History

A notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER on Thursday, July 20, 1978, which described the proposed Pendleton 700-foot transition area. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The one comment received was from the Aircraft Owners and Pilots Association (AOPA) which voiced no objection to the proposal.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (FAR) designates additional 700-foot transition area at Pendleton, Oreg., as controlled airspace to encompass aircraft executing a standard instrument approach procedure to the Hermiston, Oreg., Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Pendleton, Oreg., transition area in section 71.181 of part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 G.m.t., September 15, 1978, as follows:

Pendleton, Oreg.

Add the following description to the 700-foot airspace designation:

"Within a 5-mile radius of the Hermiston Municipal Airport (latitude 45°49'39" N., longitude 119°15'41" W.) and within 2.5 miles each side of the Pendleton VORTAC 300° radial, extending from the 5-mile radius area to the Pendleton VORTAC."

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; Mar. 8, 1978).

Issued in Seattle, Wash., on September 7, 1978.

C. B. WALK, Jr.,
Director,
Northwest Region.

[FR Doc. 78-25982 Filed 9-15-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-RM-19]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Establishment of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a 1,200-foot transition area at Bozeman, Mont. This action is necessary to provide controlled airspace for holding aircraft and additional controlled airspace for air traffic control purposes.

EFFECTIVE DATE: 0901 G.m.t., November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. David M. Laschinger, Operations, Procedures, and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colo. 80010; telephone 303-837-3937.

SUPPLEMENTARY INFORMATION:

History

On July 17, 1978, the FAA published for comment, a proposal to designate a 1,200-foot transition area at Bozeman, Mont. (43 FR 30573). The only comment received expressed no objection.

Rule

This amendment to part 71 of the Federal Aviation regulations (FAR's) designates a 1,200-foot transition area at Bozeman, Mont. This action is necessary to provide controlled airspace for holding aircraft and additional controlled airspace for air traffic control purposes.

Drafting Information

The principal authors of this document are Mr. David M. Laschinger, Operations, Procedures, and Airspace Branch, Air Traffic Division, and Mr. Daniel J. Peterson, Office of Regional Counsel.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the administrator, part 71 of the Federal Aviation regulations (14 CFR Part 71) is amended effective 0901, G.m.t., November 2, 1978, as follows:

By amending subpart G § 71.181 by designating the following transition area:

Bozeman, Mont.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Gallantin Field (latitude 45°46'50" N., longitude 111°09'20" W.) and within 5.5 miles northeast and 9.5 miles southwest of the Bozeman ILS northwest localizer course extending from the 11-mile radius area to 28 miles northwest of Gallatin Field, and that airspace extending upward from 1,200 feet above the surface bounded on the south by the northern edge of V86, on the west by the east edge of V21, on the north by the Helena, Mont., 1,200-foot transition area, on the east by a point 8 miles east of V2, excluding that area designatd as the Butte, Mont., 1,200-foot transition area.

(Sec. 307 (a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Aurora, Colo., on September 6, 1978.

M. M. MARTIN,
Director,
Rocky Mountain Region.

[FR Doc. 78-25984 Filed 9-15-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-NE-14]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Smithfield, R.I., 700-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the designation of the Smithfield, R.I., 700-foot transition area to Pawtucket, R.I., and amends the transition area to provide added controlled airspace for aircraft executing a new RNAV runways 5 and 23 and VOR-B standard instrument approach procedures to the Pawtucket, R.I., North Central State Airport.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803; telephone 617-273-7285.

SUPPLEMENTARY INFORMATION: On July 20, 1978, the Federal Aviation Administration published a notice proposed to change the designation of the Smithfield, R.I., 700-foot transition area to Pawtucket, R.I., and to amend the transition area to provide added controlled airspace for aircraft executing new RNAV runways 5 and 23 and standard instrument approach procedures to the Pawtucket, R.I., North Central State Airport.

No objections were received.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator the description of the Smithfield, R.I., 700-foot transition area in part 71, § 71.181 of the Federal Aviation regulations (14 CFR Part 71.181) is amended, effective 0901 G.m.t., November 2, 1978, as follows:

a. Change the title of Smithfield, R.I., 700-foot transition area to Pawtucket, R.I., 700-foot transition area.

b. Delete from the description the words: "excluding the portion that overlaps the Providence 700-foot Transition Area," and substitute the words: "and within 5 miles each side of the 097 radial from the PUTNAM VORTAC extending from the 5 mile radius to VORTAC, and within 4 miles each side of Runway 5 centerline extended from the 5 mile radius area to 9 miles southwest of the runway threshold and within 2.5 miles each side of Runway 23 centerline extended from the 5 mile radius area to 6 miles northeast of the runway threshold; excluding that portion that coincides with the Providence, Rhode Island, Danielson, Connecticut, Hopedale, Massachusetts, and Southbridge, Massachusetts 700-foot transition areas."

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Burlington, Mass., on August 29, 1978.

ROBERT E. WHITTINGTON,
Director,
New England Region.

[FR Doc. 78-25984 Filed 9-15-78; 8:45 am]

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 33-5977]

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Increase In Amount of Small Offering Exemption

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: A recent amendment to the Securities Act of 1933 increased the dollar amount of securities of an issue which the Commission may exempt from registration by rule or regulation from $500,000 to $1,500,000. The testimony received by the Commission during its recently completed small business hearings indicates there is a substantial need for an increase in the dollar limit ceiling on the small offering regulation. The Commission is therefore amending its small offering regulation to increase the aggregate amount of securities which may be sold thereunder within a 12-month period from $500,000 to $1,500,000. The Commission is also amending a rule in its small offering regulation to increase the amount of securities which may be sold without the use of an offering circular from $50,000 to $100,000.

EFFECTIVE DATE: September 18, 1978.

FOR FURTHER INFORMATION CONTACT:

John A. Granda, or Paul A. Belvin, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-1750.

SUPPLEMENTARY INFORMATION: On May 21, 1978, section 3(b) of the Securities Act of 1933 (the "Act") (15 U.S.C. 77a et seq.) was amended by Pub. L. 95-283 to increase the limit on the aggregate offering price of securities which may be sold pursuant to a rule or regulation thereunder from $500,000 to $1,500,000. The Securities and Exchange Commission today announced amendments to regulation A (17 CFR 230.251 to 230.264), adopted pursuant to section 3(b), which: (1) Raise the aggregate offering price of securities which may be sold thereunder by an issuer within a 12-month period from $500,000 to $1,500,000,[1] and (2) raise the aggregate offering price of securities which may be sold without the use of an offering circular, pursuant to rule 257 (17 CFR 230.257), from $50,000 to $100,000.

Background

Section 3(b) of the Act authorizes the Commission to adopt rules and regulations to exempt securities from the registration requirements of the Act, subject to appropriate conditions, if it finds that such registration is not necessary in the public interest and for the protection of investors by reason of the small amount involved or the limited character of the public offering.

Pursuant to section 3(b), the Commission adopted regulation A.[2] The regulation reflects the intent of Congress, as represented by section 3(b), by conditionally exempting from registration those small issues of securities which are offered to the public in such a manner as to meet the statutory criteria specified above. Thus, the regulation requires, among other things, that a notification and an offering circular containing certain specified information be filed with the regional office of the Commission for the region in which the issuer's principal business operations are conducted. The offering circular is required to be furnished to prospective investors at

[1] The initial ceiling under section 3(b) and the regulation was $100,000. In May 1945, the Commission amended regulation A, pursuant to statutory authorization, to increase the maximum of the offering to $300,000. The ceiling price was again raised, pursuant to amended statutory authorization, in January 1971 to $500,000.

[2] Under the authority granted by section 3(b) the Commission has also, inter alia, adopted regulation B (17 CFR 230.300-230.346) for fractional undivided interests in oil or gas rights, and regulation F (17 CFR 230.651-230.656), for assessments or assessable stock and for assessable stock offered or sold to realize assessments.

forth in rule 257 may, however, be made without the use of an offering circular if the aggregate offering price of all securities of the issuer, its predecessors and affiliates does not exceed

sion expressed its support for these increases with the proviso that it be made clear that the Commission would retain its present flexibility to adopt rules classifying offerings under

it is appropriate to raise the amount allowable under rule 257 to $100,000.

Possible Future Action

A thorough review of the require-

under section 13 of that act.[13] The Commission recognizes the possible burden on smaller issuers which may arise as a result of these registration

Statutory Basis and Effective Date

The amendments to rules 254 and 257 have been adopted by the Commission pursuant to the Securities Act of

SUPPLEMENTARY INFORMATION: On August 3, 1978, notice was given (43 FR 34203) that E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, had filed a petition (FAP

forth in rule 257 may, however, be made without the use of an offering circular if the aggregate offering price of all securities of the issuer, its predecessors and affiliates does not exceed $50,000.[3]

One of the Commission's primary purposes in adopting regulation A was to provide, consistent with the protection of investors, a simple and relatively inexpensive procedure by which small businesses could raise limited amounts of needed capital. As currently written, regulation A does not require certified financial statements for most issuers,[4] thus reducing costs of compliance. Also, attorneys' fees are normally lower for the preparation of a regulation A filing than a registration statement under the Act. In addition, many smaller, local issuers have found that since a regulation A offering is reviewed by the Commission's regional offices, the reviewing process is more convenient than if the filing were made in Washington, D.C.

Despite these advantages, the number of issuers utilizing the exemption has declined drastically from 998 in 1972, to 657 in 1973, 331 in 1974, 250 in 1975, 226 in 1976, and 158 in 1977. Based on the record developed at the Commission's recently completed small business hearings,[5] it appears that this trend is primarily attributable to the regulation's $500,000 offering ceiling. The expanding capital requirements resulting from inflation are unlikely to be adequately met with an offering of this size. Moreover, the issuer is receiving a lower percentage of the net proceeds as compared to earlier periods because of the increasing costs of making a regulation A offering. The reluctance of underwriters to become involved in an offering of $500,000 also appears to have played a part in the declining use of the exemption.

Congressional recognition of these limitations resulted in the introduction of a number of bills to raise the dollar limit ceiling in section 3(b) to $2,500,000 or $3,000,000.[6] The Commission expressed its support for these increases with the proviso that it be made clear that the Commission would retain its present flexibility to adopt rules classifying offerings under regulation A, and otherwise, based on such factors as the size of the offering and the business and history of the issuer.[7] The legislative history of the bill which was enacted makes clear that the Commission retains its present flexibility under section 3(b).[8]

DISCUSSION

(1) *Regulation A:* In view of the fact that section 3(b) was raised to only $1,500,000 and not to the amounts previously proposed, the Commission believes that the regulation A ceiling stated in rule 254 may be raised correspondingly without the need for a revision of the existing requirements of the regulation. In determining not to require certified financial statements for offerings above $500,000, the Commission was guided by its recognition that such a requirement would deny the use of the regulation to many deserving small businesses which are severely in need of capital. In this connection, the Commission notes that the securities laws of many States would require certified financial statements in order to qualify an issue for sale in such States. It is also noted that underwriters frequently require that the offering circular contain certified financial statements as a condition to their participation in an offering. In those situations where these factors do not prevent an offering without certified financials, the Commission does not feel justified at this time in foreclosing the availability of regulation A. The Commission does, however, strongly encourage the use of certified financials and will closely monitor enforcement matters arising in this area to determine whether further requirements are necessary.

(2) *Rule 257:* As indicated previously, rule 257 permits offerings not exceeding $50,000 to be made by seasoned issuers[9] without the use of an offering circular. Although the rule is available for primary and secondary offerings of securities, it is not presently being utilized extensively. This may be due in part to the limited amount of securities which may be sold thereunder.

In view of the apparent lack of abuse attendant to use of the rule and the fact that the $50,000 amount was not increased when the statutory ceiling was increased from $300,000 to $500,000, the Commission believes that it is appropriate to raise the amount allowable under rule 257 to $100,000.

POSSIBLE FUTURE ACTION

A thorough review of the requirements of regulation A is contemplated, particularly with a view to addressing the comments raised in the small business hearings. This will also provide an opportunity to consider in detail a number of staff proposals for streamlining procedures and reducing the cost of compliance for certain quality companies wishing to avail themselves of the regulation.[10] The Commission is, however, of the view that the immediate assistance which can be provided to small businesses by an increase in the ceilings under rules 254 and 257 should not await the completion of a comprehensive review of regulation A. The magnitude of any increases in the dollar amounts of secondary sales of securities by affiliates and others under the regulation will also be addressed at that time. The Commission recognizes that secondary offerings have an effect on the ability of small businesses to raise capital because of the liquidity which they provide, but further inquiry is necessary to determine what the limits of such sales should be.

It should be noted that issuers completing an offering under regulation A for the maximum $1,500,000 may thereby become subject to the requirements of section 12(g) under the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78a et seq., as amended by Pub. L. 94-29 (June 4, 1975)]. Section 12(g) requires an issuer with total assets exceeding $1 million and with a class of equity securities held of record by 500 or more persons to register that class with the Commission within 120 days after the close of the fiscal year in which these criteria are met. Registration under section 12(g) triggers, among other things, the obligation to file a registration statement[11] under the Exchange Act and thereafter to file periodic reports under section 13 of that act.[12] The Commission recognizes the possible burden on smaller issuers which may arise as a result of these registration and reporting requirements. Thus, among the topics addressed at the Commission's small business hearings was whether there should be a reduction in the amount of disclosure required for such small companies. It is contemplated that this question will be examined based on the testimony and written submissions received during the hearings and the experience gained with companies filing under the new regulation A ceiling.

TEXT OF AMENDMENTS

Part 230 of Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

1. § 230.254(a)(1)(i) is revised to read as follows:

§ 230.254 Amount of securities exempted.

(a) • • •

(1) • • •

(i) $1,500,000 if the securities are offered or sold by or on behalf of the issuer, or by the estate of a decedent who owned the securities at death if offered within 2 years after the death of a decedent, or by affiliates of issuer: *Provided,* That the aggregate offering price of securities offered or sold by or on behalf of any one affiliate other than an estate shall not exceed $100,000; and

• • • • •

2. § 230.257 is revised to read as follows:

§ 230.257 Offerings not in excess of $100,000.

Except as to issues specified in paragraph (a) of § 230.253 and issues of assessable stock, the offering circular specified in § 230.256 need not be filed or used in connection with an offering of securities under this regulation if the aggregate offering price of all securities of the issuer, its predecessors and affiliates offered or sold without the use of such an offering circular does not exceed $100,000, computed in accordance with § 230.254, provided the following conditions are met.

• • • • •

(Secs. 3(b), 19(a), 48 Stat. 75, 85; secs. 202, 209, 48 Stat. 906, 908; 59 Stat. 167; Pub. L. 91-565, 84 Stat. 1480; sec. 308(a)(2), 90 Stat. 57; 15 U.S.C. 77c(b), 77s(a).)

STATUTORY BASIS AND EFFECTIVE DATE

The amendments to rules 254 and 257 have been adopted by the Commission pursuant to the Securities Act of 1933, particularly sections 3(b) and 19(a) thereof. The amendments will become effective September 18, 1978.

The Commission finds that the changes in rules 254 and 257 have already been generally subject to comment in Securities Act Release No. 33-5914 (43 FR 10876) and in its small business hearings, and represent a relaxation of existing requirements, so that further notice of rulemaking procedures pursuant to the Administrative Procedure Act (5 U.S.C. 553) are not necessary.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 11, 1978.

[FR Doc. 78-26209 Filed 9-15-78; 8:45 am]

[3] Although an offering circular does not have to be filed, rule 257(a) does require that there be filed as an exhibit to the notification a statement setting forth the information (other than financial statements) required by schedule I of form 1-A.

[4] Regulation A requires that the offering circular contain financial statements covering the issuer's last 2 full fiscal years. The statements required for the issuer's latest fiscal year must be certified if the issuer has filed or is required to file with the Commission certified financial statements for such fiscal year.

[5] The transcript of this proceeding as well as comment letters and written submissions are contained in Commission file No. S7-734 and are available for public inspection and copying.

[6] See, e.g., S. 2305, 95th Cong., 1st sess. and S. 1815, 95th Cong., 1st sess., respectively.

[7] See, e.g., Commission comments on S. 2305 and S. 1815.

[8] See, 124 Cong. Rec. S6444 (daily ed. Apr. 26, 1978) (remarks of Senator Williams).

[9] This would include issuers which have been organized or incorporated for more than 1 year and have a net income from operations for 1 of the last 2 years.

[10] In release No. 33-5915 (Mar. 6, 1978), the Commission invited comment on a proposed new registration form, form S-18, under the Securities Act. That proposed form is contemplated for offerings of less than $3 million by issuers not required to file reports under the Exchange Act. In considering the record of the small business hearings and the comments on proposed form S-18, the Commission will also consider the question of whether the increase in the regulation A ceiling justifies a revision in the ceiling contemplated under proposed form S-18.

[11] The form most likely to be used for such registration statement is form 10 (17 CFR 249.210) which requires, among other things, an audited year-end balance sheet and audited statements of income and source and application of funds for each of the 3 fiscal years preceding the date of such balance sheet.

[12] It should be noted that the Foreign Corrupt Practices Act of 1977 (Pub. L. 95-213) (Dec. 19, 1977) amended the Exchange Act, among other things, to require reporting companies to make and keep detailed books, records and accounts which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the registrants.

[6560-01]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[FAP 8H5189/R38; FRL 969-2]

SUBCHAPTER E—ANIMAL FEEDS, DRUGS, AND RELATED PRODUCTS

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Oxamyl

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends 21 CFR Part 561 by establishing a feed additive tolerance for residues of the insecticide oxamyl in pineapple bran. The amendment to the regulations was requested by E. I. du Pont de Nemours & Co. This rule establishes a maximum permissible level for residues of oxamyl in pineapple bran.

EFFECTIVE DATE: September 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. James Rea, Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-426-755-9315.

SUPPLEMENTARY INFORMATION: On August 3, 1978, notice was given (43 FR 34203) that E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, had filed a petition (FAP 8H5189) with the EPA. This petition proposed that 21 CFR 561 be amended by establishing a regulation permitting residues of the insecticide oxamyl (methyl *N',N'*-dimethyl-*N*-[(methylcrabamoyl)oxy]thiooxamimidate) in pineapple bran at 6 parts per million (ppm) resulting from application of the insecticide to growing pineapples. The comment period was shortened to 15 days under the Administrative Procedure Act (5 U.S.C. 553(d)(3)) because of a threat to hundreds of acres of pineapples in Hawaii from the mealybug, against which no other currently registered pesticide is an effective control agent. No comments were received by the Agency in response to this notice of filing. (A related document establishing tolerances for residues of oxamyl on pineapples and pineapple forage appears elsewhere in today's FEDERAL REGISTER.)

The data submitted in the petition and other relevant material have been evaluated, and it is concluded that the pesticide can be safely used in the prescribed manner when such use is in accordance with the label and the labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.).

The toxicological data considered in support of the proposed tolerance included 2-year rat and dog feeding studies with no-observable-effect levels (NOEL) of 50 ppm and 100 ppm, respectively; a three-generation rat reproduction study with an NOEL of 50 ppm, and a rat teratogenicity study, which was negative. Based on the 2-year chronic rat feeding study with a 50 ppm NOEL and using a safety factor of 100, the acceptable daily intake (ADI) for man is 0.025 milligram (mg)/kilogram (kg) of body weight (bw)/day. The theoretical maximal residue contribution (TMRC) in the human diet from the previously established tolerances on celery at 3 ppm, apples and tomatoes at 2 ppm, and potatoes at 0.1 ppm does not exceed the ADI. The proposed tolerance does not contribute anything to the TMRC since pineapple bran is an animal feed, and the transfer of residues to meat, milk, eggs, or poultry is not likely.

Desirable data that is lacking from the petition are a second oncogenicity study and additional mutagenicity studies. The mutagenicity studies will be requested when suitable test protocols have been determined. In a letter of April 28, 1978, the petitioner indicated that a second oncogenicity study was underway and is expected to be

or prior to the time the securities are offered for sale. A regulation A offering which meets the conditions set

[6560-01]

[FAP 6H5133/R39; FRL 968-8]

Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.). Therefore, the regulation is being established as proposed.

PART 17—RECORDKEEPING AND RETENTION REQUIREMENTS FOR FEDERAL-AID HIGHWAY, RECORDS OF

Sec.
17.1 Purpose.
17.3 Definitions.
17.5 Requirements.

(4) Toll facility records shall be retained for 3 years subsequent to the date when the facility became oper-

or prior to the time the securities are offered for sale. A regulation A offering which meets the conditions set completed in late 1980. The petitioner also agreed to voluntarily delete the use of oxamyl on pineapples from the label should the second oncogenicity study exceed the risk criteria for chronic toxicity in 40 CFR 162.11. Although the evaluation of the oncogenic potential of oxamyl is not complete, it is concluded that based on the available data, the risks are acceptable since the absence of an oncogenic potential is adequately shown in the 2-year rat feeding study.

The metabolism of oxamyl is adequately understood, and an adequate analytical method (gas chromatography using a flame photometric detector) is available for enforcement purposes. No actions are currently pending against continued registration of oxamyl nor are there any other relevant considerations involved in establishing the proposed tolerances.

Any person adversely affected by this regulation may, on or before October 18, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on September 18, 1978, 21 CFR 561 is amended as set forth below.

Dated: September 8, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Sec. 409(c)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)).)

Part 561 is amended by adding the new § 561.285 to read as follows:

§ 561.285 Oxamyl.

A tolerance of 6 parts per million is established for residues of the insecticide oxamyl (methyl *N',N'*-dimethyl-*N*-[(methylcarbamoyl)oxy]-1-thiooxamimidate) in pineapple bran as a result of application of the insecticide to growing pineapples.

[FR Doc. 78-26091 Filed 9-15-78; 8:45 am]

[6560-01]

[FAP 6H5133/R39; FRL 968-8]

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

4-Amino-6-(1,1-Dimethylethyl)-3-(Methylthio)-1,2,4-Triazin-5(4H)-One

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule eastablishes a feed additive tolerance for residues of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one in dried tomato pomace and dried processed potato waste. The amendment to the regulations was requested by Mobay Chemical Corp. This rule estalishes maximum permissible levels for residues of the subject pesticide in dried tomato pomace and dried processed potato waste.

EFFECTIVE DATE: September 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, EPA, 202-426-2632.

SUPPLEMENTARY INFORMATION: On June 30, 1978, notice was given (43 FR 28522) that Mobay Chemical Corp., Chemagro Agricultural Division, P.O. Box 4913, Hawthorne Road, Kansas City, Mo. 64120, had filed a petition (FAP 6H5133) with the EPA. This petition proposed that 21 CFR 561.41 be amended by the establishment of a regulation permitting residues of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methylthio-1,2,4-triazin-5(4*H*)-one and its triazinone metabolites in or on growing tomatoes with a tolerance limitation in dried tomato pomace at 2 parts per million (ppm) and in dried processed potato waste at 3 ppm. No comments or requests for referral to an advisory committee were received by the Agency in response to this notice of proposed rulemaking. (A related Document establishing a tolerance for residues of the subject herbicide on tomatoes appears elsewhere in today's FEDERAL REGISTER.)

The data submitted in the petition and other relevant material have been evaluated, and it is concluded that the pesticide can be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.). Therefore, the regulation is being established as proposed.

Any person adversely affected by this regulation may, on or before October 18, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on September 18, 1978. 21 CFR 561.41 is amended as set forth below.

(Sec. 409(c)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)).)

Dated: September 11, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 561, subpart A, § 561.41 is revised by reformatting the section into an alphabetized columnar listing and by adding the tolerance of 2 ppm in dried tomato pomace to read as follows:

§ 561.41 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)- one.

Tolerances are established for combined residues of the herbicide 4-amino-6-(1,1-dimethylethyl)-3(methylthio)-1,2,4-triazin-5(4*H*)-one and its triazinone metabolites in the following processed feeds when present therein as a result of application of this herbicide to growing crops:

Feed:	*Parts per million*
Potato waste, processed (dried)	3
Sugarcane molassses	0.3
Tomato pomace, dried	2

[FR Doc. 78-26093 Filed 9-15-78; 8:45 am]

[4910-22]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

PART 17—RECORDKEEPING AND RETENTION REQUIREMENTS FOR FEDERAL-AID HIGHWAY, RECORDS OF STATE HIGHWAY AGENCIES

Revision

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: This document consolidates the existing regulations on recordkeeping requirements and retention schedules. This document is in response to the recommendations of the Federal Highway Administration's (FHWA) policy on minimization of redtape (43 FR 10578, Mar. 14, 1978).

EFFECTIVE DATE: September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Franklin D. Rubis, Office of Management Systems, 202-426-0534; Lee Burstyn, Attorney, Office of the Chief Counsel, 202-426-0790, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: Because there are no major substantive changes or additions from the existing recordkeeping requirements and retention schedules for Federal-aid highway records of State highway agencies, notice and comment are unnecessary. The effect of this revision is to consolidate record retention practices and reduce previous requirements. The regulations were originally published on May 15, 1974, at 39 FR 17306 as Subpart A of part 17 of Title 23, Code of Federal Regulations.

NOTE.—The Federal Highway Administration has determined that this document does not contain a major proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044.

In consideration of the foregoing and under the authority of 23 U.S.C. 315; 49 CFR 1.45 and 1.48(b) prescribing the delegation of authority by the Secretary of Transportation; and OMB Circular A-102 issued on August 24, 1977, title 23 of the Code of Federal Regulations, part 17, is revised to read as set forth below:

Sec.
17.1 Purpose.
17.3 Definitions.
17.5 Requirements.
17.7 Authorization to microfilm records.
17.9 Waiver.

AUTHORITY: 23 U.S.C. 315; 49 CFR 1.45 and 1.48(b); OMB Circular A-102.

§ 17.1 Purpose.

This regulation prescribes the recordkeeping and retention requirements for the Federal-aid highway program.

§ 17.3 Definitions.

As used in this regulation:

(a) *Records.* Includes all accounts, papers, maps, photographs, or other documentary materials regardless of physical form or characteristics, made or received by any agency, firm, or individual in connection with the transaction of Federal-aid highway business. This includes, but is not limited to, financial records, supporting documents, statistical records, and other records pertinent to Federal-aid highway projects.

(b) *Retention period.* The minimum period of time records are required to be held by the Federal Highway Administration (FHWA). Other governmental (Federal as well as State, municipal, etc.) or private entities may require or choose longer periods.

(c) *Federal-aid highway program.* All activity undertaken by a non-Federal governmental agency, business firm, or individual in connection with Federal grants-in-aid related to title 23, United States Code.

§ 17.5 Requirements.

(a) State record systems and requirements for maintaining documentation concerned with the Federal-aid highway program will meet applicable requirements of Federal and State laws and regulations, establish a sound basis for auditing the State program, and be consistent with generally accepted records management and accounting practices.

(b) Records pertaining to the Federal-aid highway program shall be retained for a minimum period of 3 years with the following exceptions:

(1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.

(2) Records for nonexpendable property acquired with Federal funds shall be retained for 3 years after the final disposition of the property.

(3) Records which have been transferred to the Federal Highway Administration for retention.

(4) Toll facility records shall be retained for 3 years subsequent to the date when the facility became operable on a toll-free basis.

(c) The start of retention periods for State and third-party records is as follows:

(1) State records shall be retained from the date of submission of the final voucher for project oriented records, or from the end of the fiscal or calendar year in which the final entry is made for cost accounting and fiscal type records.

(2) Third-party records shall be retained from the date final payment is received.

(d) FHWA may, from time to time, request transfer of records from State and local governments when it is determined that these records possess long-term retention value. However, to avoid duplicate recordkeeping, the Division Administrator may make arrangements with State and local governments to retain any records which are continuously needed for joint use.

(e) State or third parties should not limit access to Federal-aid highway records on the basis of this regulation. Federal-aid highway records need be kept confidential only when FHWA can demonstrate that such records must be kept confidential and would be exempted from disclosure under the Freedom of Information Act (5 U.S.C. 552) if the records were FHWA records.

(f) All records shall be available at all reasonable times for inspection by any authorized representative of the Federal Government and copies thereof shall be furnished when requested.

§ 17.7 Authorization to microfilm records.

Microfilmed copies may be used in lieu of original records subject to the following requirements:

(a) Copies must be legible and contain all the significant record detail shown on the originals.

(b) Copies shall be so arranged, identified and indexed so that any individual document or component of the records can be located with reasonable facility.

(c) Copies shall be adequate substitutes for the original records and serve the purposes for which such records were created or maintained.

§ 17.9 Waiver.

The granting of a waiver to the provisions of this regulation is expressly reserved to the Federal Highway Administrator subject to:

(a) Full written justification demonstrating unusual circumstances by the requesting party,

(b) An indication that compliance would be an unreasonable burden upon the State or contractor, and

(c) A determination by FHWA that

the judgment funds. The 30-day deferred effective date would curtail the filing period which would not be in the public interest. Therefore, the 30-day

(3) Applications must be filed with the Superintendent, Michigan Agency, Bureau of Indian Affairs, P.O. Box 884, Sault Ste. Marie, Mich. 49783, on

ury Decision 7461 in the FEDERAL REGISTER on January 13, 1977 (42 FR 2670). A public hearing was not held.

There was one written comment on

posed on the subsequent manufacturer's sale or use of the modified article.

* * * * *

Oceanic and Atmospheric Administration. One other letter was received, which discussed in general terms the potential hazards to vessels. The points raised were valid, however, the

(b) An indication that compliance would be an unreasonable burden upon the State or contractor, and

(c) A determination by FHWA that the waiver is in the public interest.

Issued on September 8, 1978.

JOHN S. HASSELL, Jr.,
Deputy Administrator.

[FR Doc. 78-26213 Filed 9-15-78; 8:45 am]

[4310-02]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER F—ENROLLMENT

PART 41—PREPARATION OF ROLLS OF INDIANS

Qualifications for Enrollment and Deadline for Filing

SEPTEMBER 12, 1978.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: A plan for the use and distribution of certain judgment funds, awarded by the Indian Claims Commission, was submitted to the Congress and became effective November 12, 1977. The Bureau of Indian Affairs is amending its regulations on preparation of rolls of Indians to include requirements for enrollment as lineal descendants to share in the distribution of the judgment awarded the Saginaw, Swan Creek, and Black River Bands of Chippewa Indians. The regulation will clarify the qualifications for enrollment and impose a deadline for filing.

EFFECTIVE DATE: September 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Mitchell L. Bush, Jr., Enrollment Officer, Bureau of Indian Affairs, 1951 Constitution Avenue NW., Washington, D.C. 20245, telephone 202-343-6921.

SUPPLEMENTARY INFORMATION: Proposed regulations were published in the FEDERAL REGISTER, volume 43, No. 89 at 19674 on May 8, 1978. No comments or suggestions have been received.

The authority for issuing these regulations is contained in 5 U.S.C. 301 and sections 463 and 465 of the revised statutes (25 U.S.C.) (25 U.S.C. 2 and 9), and 230 DM 1 and 2.

The regulations impose a deadline for applying for enrollment to share in the judgment funds. The 30-day deferred effective date would curtail the filing period which would not be in the public interest. Therefore, the 30-day deferred effective date is dispensed with under the exception provided in subsection (d)(3) of 5 U.S.C. 553 (1970).

NOTE.—The Bureau of Indian Affairs has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

The principal author of this amendment is Mitchel L. Bush, Jr., Bureau of Indian Affairs.

FORREST J. GERARD,
Assistant Secretary, Indian Affairs.

Part 41, chapter I of title 25 of the Code of Federal Regulations is amended by the addition of a new paragraph designated (cc) as set forth below.

No further changes are made in the text of part 41.

§ 41.3 Qualifications for enrollment and the deadline for filing.

* * * * *

(cc) Saginaw, Swan Creek, and Black River Bands of Chippewa Indians.

(1) All persons who meet the following requirements for eligibility shall be entitled to be enrolled to share in the distribution of the judgment funds awarded the Saginaw, Swan Creek, and Black River Bands of Chippewa Indians in Indian Claims Commission docket No. 57:

(i) They were born on or prior to and living on November 12, 1977;

(ii) Their name or the name of a lineal ancestor appears on (*a*) the 1868 census of the Kansas Swan Creek and Black River Chippewas; (*b*) the 1900 enrollment schedules of the United Band of Chippewa and Munsee of Kansas, appearing thereon as a Chippewa; (*c*) allotment schedules of the Saginaw, Swan Creek, and Black River Bands of Chippewa Indians dated Febrary 6, 1871, June 3, 1871, April 1, 1872 (two schedules), November 10, 1883, November 13, 1885 (two schedules), and November 7, 1891; (*d*) the March 22, 1939, revised membership roll of the Saginaw Chippewa Indian Tribe of Michigan; (*e*) the records as a person of Chippewa Indian descent who received a tract of land pursuant to article 3 of the treaty of September 24, 1819 (7 Stat. 203); or (*f*) any other record or document which is acceptable to the Secretary.

(2) No person shall be eligible to be enrolled under this paragraph who is not a citizen of the United States or who is enrolled or entitled to be enrolled with the Saginaw Chippewa Indian Tribe of Michigan.

(3) Applications must be filed with the Superintendent, Michigan Agency, Bureau of Indian Affairs, P.O. Box 884, Sault Ste. Marie, Mich. 49783, on forms provided for that purpose. Applications for enrollment must be received by the Superintendent no later than the close of business, December 1, 1978.

[FR Doc. 78-26181 Filed 9-15-78; 8:45 am]

[4830-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7566]

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Excise Tax on Further Manufacture of Certain Light-Duty Trucks, Buses, and Related Articles

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains a final regulation relating to the imposition of the manufacturers excise tax under the Internal Revenue Code of 1954. The regulation provides the public with guidance needed to comply with the Code by clarifying existing regulations in certain cases involving the further manufacture and sale of light-duty trucks, buses, and related articles after sale by an original manufacturer.

DATE: The regulation is effective retroactively as of January 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert H. Waltuch of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3328, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On March 31, 1978, the Internal Revenue Service published in the FEDERAL REGISTER a proposed amendment to the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) under section 4061(a) of the Internal Revenue Code of 1954. The amendment was proposed to clarify § 48.4061(a)-1(f)(1) published in Treasury Decision 7461 in the FEDERAL REGISTER on January 13, 1977 (42 FR 2670). A public hearing was not held.

There was one written comment on the proposed amendment. It asked that the amendment specifically exclude from potentially taxable events the sale or use of certain articles. These would be articles sold or used after modifications that are characterized as "further manufacture," but that do not alter the nature of the article so as to remove it from the light-duty class of tax-exempt items.

The final regulation contains the more general language of the proposed amendment. Thus, the regulation avoids any negative inference that might be drawn from a failure to identify other types of modifications not changing the tax-exempt character of a further-manufactured article.

DRAFTING INFORMATION

The principal author of this regulation was Thomas Rogan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, the proposed amendment to 26 CFR Part 48 as published in the FEDERAL REGISTER (43 FR 13587) on March 31, 1978, is adopted without change as set forth below.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: September 7, 1978.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

§ 48.4061(a)-1 Imposition of tax; exclusion for light-duty trucks, etc.

* * * * * *

(f) *Exclusion of light-duty trucks, buses, and related articles from tax—*(1) *In general.* * * *

(iv) Where the modification of an article, exempt from tax when sold by the original manufacturer, constitutes further manufacture after the original manufacturer's sale, a tax may be imposed on the subsequent manufacturer's sale or use of the modified article.

* * * * *

[FR Doc. 78-26214 Filed 9-15-78; 8:45 am]

[4910-14]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 78-63]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Frederica River, Ga.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Brunswick-Glynn County Joint Planning Commission, the Coast Guard is changing the regulations governing the Torras Causeway vertical lift bridge across the Frederica River by permitting the draw to remain closed during certain periods. This change is being made to accommodate periods of peak vehicular traffic. This action will accommodate the needs of vehicular traffic while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment is effective on October 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: On May 30, 1978, the Coast Guard published a proposed rule (43 FR 23001) concerning this amendment. The Commander, 7th Coast Guard District also published these proposals as a public notice dated June 5, 1978. Interested persons were given until July 5, 1978, to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., project manager, Office of Marine Environment and Systems, and Lt. G. S. Karavitis, project attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

Ten letters and one petition were received. Seven letters and a petition with 35 signatures support the proposed regulation. Letters of no objection were received from the U.S. Department of the Interior and National Oceanic and Atmospheric Administration. One other letter was received, which discussed in general terms the potential hazards to vessels. The points raised were valid, however, the vessel operator, by timing his approach to this bridge, can avoid these potential problems.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new § 117.409 immediately after § 117.408 to read as follows:

§ 117.409 Frederica River, AIWW, mile 675.5, Torras Causeway, Glynn County Drawbridge, St. Simons Island to Brunswick, Ga.

(a) From 7:30 a.m. to 9:30 a.m. and 4:30 p.m. to 6:30 p.m., Monday through Friday, except holidays, the draw need only open on the hour and half-hour to pass all accumulated vessels. At all other times, the draw shall open on signal.

(b) The draw shall open at any time for the passage of public vessels of the United States, tugs with tows, and vessels in distress.

(c) The owner of or agency controlling this bridge shall post, on both sides of the bridge, signs that state the conditions of this regulation. These signs shall be of such size that they may be easily read from an approaching vessel at any time.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: September 12, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 78-26233 Filed 9-15-78; 8:45 am]

[4910-14]

[CGD 77-093]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Saginaw River, Mich.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Michigan Department of State Highways, the Coast Guard is changing the operating regulations for the Veteran's Memorial Bridge, mile 5.6, and the Lafayette Street Bridge, mile 6.8, across the Saginaw River, Bay City, Mich., to extend the restrictive opening periods for these bridges to include

weekends. Vehicular traffic on these bridges has increased because of the loss of the nearby Third Street Bridge. This action will assist the flow of vehicular traffic during the reconstruc-

need not open for the passage of downbound vessels of over 50 gross tons.

(iii) From 8 a.m. to 8 p.m. on Saturdays, Sundays, and legal holidays ob-

concerning this amendment. The Commander, Fifth Coast Guard District, also published these proposals as a public notice dated January 3, 1978. Interested persons were given until

(b) From 7 p.m. to 6 a.m. the draw shall open on signal.

(c) The draw tender shall open the bridge promptly for the passage of any vessel with an emergency condition

ly published system in the FEDERAL REGISTER.

The new systems of records involved are:

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 967-6; OPP-300014A]

PART 180—TOLERANCES AND EX-

weekends. Vehicular traffic on these bridges has increased because of the loss of the nearby Third Street Bridge. This action will assist the flow of vehicular traffic during the reconstruction of the Third Street Bridge.

EFFECTIVE DATE: This amendment is effective on October 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: On March 2, 1978, the Coast Guard published a proposed rule (43 FR 8559) concerning this amendment. The Commander, Ninth Coast Guard District, also published these proposals as a public notice dated March 15, 1978. Interested persons were given until March 24, 1978, and April 13, 1978, respectively, to submit comments.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lt. G. S. Karavitis, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

The proposal was to extend the period of restrictive openings to include weekends. Two comments were received, but both commenters were concerned with the existing weekday restrictions rather than the proposal. Correspondence with the Bay County Administration indicates that it is considering requesting modification of the weekday rules. The Coast Guard will consider the issues raised by the two commenters at that time.

In consideration of the foregoing, Part 117 of title 33 of the Code of Federal Regulations, is amended by revising § 117.700(h)(2) to read as follows:

§ 117.700 Saginaw River, Mich.; bridges.

* * * * *

(h) * * *

(2) From March 16 through December 15, the draws of the Belinda Street, Third Street, Veterans Memorial, and Lafayette Street Bridges shall open on signal, except that:

(i) From 6:30 a.m. to 8:30 a.m. and 3:30 p.m. to 5:30 p.m., Monday through Friday, except legal holidays observed in the locality, the draws need not open for the passage of vessels of less than 50 gross tons.

(ii) From 7:30 a.m. to 8:30 a.m. and 4:30 p.m. to 5:30 p.m., Monday through Friday, except legal holidays observed in the locality, the draws need not open for the passage of downbound vessels of over 50 gross tons.

(iii) From 8 a.m. to 8 p.m. on Saturdays, Sundays, and legal holidays observed in the locality, the draws of the Lafayette Street and Belinda Street Bridges need not open for the passage of recreational vessels except from 3 minutes before to 3 minutes after the hour and half-hour.

(iv) From 8 a.m. to 8 p.m. on Saturdays, Sundays, and legal holidays observed in the locality, the draw of the Veteran's Memorial Bridge need not open for the passage of recreational vessels except from 3 minutes before to 3 minutes after the quarter hour and the three-quarter hour.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: September 11, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard Commandant.

[FR Doc. 78-26235 Filed 9-15-78; 8:45 am]

[4910-14]

[CGD 77-229]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Albemarle and Chesapeake Canal, Va.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This change amends the regulations for the drawbridge across the Albemarle and Chesapeake Canal, Great Bridge, Va., to allow the draw to open only on the hour from 6 a.m. to 7 p.m. At all other times the draw shall open on signal. This change will permit a more even flow of vehicular traffic during this period.

EFFECTIVE DATE: This amendment is effective on October 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: On January 5, 1978, the Coast Guard published a proposed rule (43 FR 981) concerning this amendment. The Commander, Fifth Coast Guard District, also published these proposals as a public notice dated January 3, 1978. Interested persons were given until February 4, 1978, to submit comments.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Environment and Systems, and Lt. G. S. Karavitis, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

Nine comments on the proposal were received. Three supported the proposal and one had no objection. Five opposed the change on various grounds.

Those opposed to the proposal suggested alternatives in the following categories: (1) More frequent openings; (2) open on demand for commercial vessels; (3) limit restrictions to rush hours only; and (4) construct a high level bridge.

Various combinations of restricted bridge openings have been tried on a temporary basis for more than a year. Both vehicular and vessel traffic statistics have been compiled. Based on these studies, it is the Coast Guard's position that hourly openings will provide for the reasonable needs of navigation and that these restrictions should be imposed from 6 a.m. to 7 p.m. daily.

The Virginia Department of Transportation is planning construction of a high level bridge which will relieve vehicular traffic, however, it may be several years before the bridge is completed. When the new bridge is completed, the restrictions on this bridge will be reevaluated.

The original proposal was for the restricted periods to run from 5 a.m. to 10 p.m. A careful study of vehicular traffic patterns for this period showed that the traffic was heaviest from 6 a.m. to 7 p.m. The original proposal was too restrictive to navigation, and the period acceptable at this time is 6 a.m. to 7 p.m.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.350 to read as follows:

§ 117.350 Albemarle and Chesapeake Canal (AIWW), Va., U.S. Government bridge at Great Bridge.

(a) From 6 a.m. to 7 p.m., the draw need open only on the hour. However, if any vessel is approaching the drawbridge, and cannot reach the draw exactly on the hour, the draw tender may delay the hourly opening up to 10 minutes past the hour for the passage of the approaching vessel and any other vessels that are waiting to pass.

(b) From 7 p.m. to 6 a.m. the draw shall open on signal.

(c) The draw tender shall open the bridge promptly for the passage of any vessel with an emergency condition which presents danger to life or property. The signal to request emergency opening is four or more short blasts of a whistle or horn.

(d) Signs shall be posted on both the upstream and downstream sides of the bridge regarding the hours of restricted operation in such a manner that they can easily be read by an approaching vessel at any time.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: September 11, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard Commandant.

[FR Doc. 78-26237 Filed 9-15-78; 8:45 am]

[7710-12]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 266—PRIVACY OF INFORMATION

Exemptions of Systems of Records

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service announces the amendment of regulations exempting systems of records from specified provisions of the Privacy Act of 1974 by changing the descriptions of certain records systems.

DATE: October 18, 1978.

ADDRESS: Records Officer, U.S. Postal Service, Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Mr. John E. Finlay, 202-245-4142.

SUPPLEMENTARY INFORMATION: The Postal Service recently determined that it was desirable to make general description changes to certain personal records systems to reflect more accurately the nature and the scope of the systems described.

As a result of the revisions made, two new records systems descriptions subject to exemptions under the Privacy Act were substituted for a previously published system in the FEDERAL REGISTER.

The new systems of records involved are:

USPS 120.151—Personnel Records—Recruiting, Examining, and Appointment Records.

USPS 120.152—Personnel Records—Career Development and Training Records.

The amendment to part 266 of 39 CFR reflects only changes to the system descriptions, not the exemptions to which the systems are subject.

Accordingly, 39 CFR is amended as set forth below:

In § 266.9 revise paragraph (b)(4) and add a new paragraph (b)(8) as follows:

§ 266.9 Exemptions.

* * * * *

(b) * * *

(4) Postal Service Recruiting, Examining, and Appointment Records from 5 U.S.C. 552a (d)(1)-(4), (e)(1), (e)(4) (G) and (H), and (f) to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(k) (5) and (6) as relating to the compromise of the objectivity or fairness of the testing or examination process and to the identity of a source who has furnished information to the Government in confidence as a part of an investigation conducted solely for the purpose of determining suitability, eligibility, or qualifications of an individual for employment.

* * * * *

(8) Postal Service Career Development and Training Records from 5 U.S.C. 552a (d)(1)-(4), (e)(4) (G) and (H), and (f) to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(k)(6) as relating to the compromise of the objectivity or fairness of the testing or examination process.

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-26159 Filed 9-15-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 967-6; OPP-300014A]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Exemptions From Requirement of a Tolerance for Certain Inert Ingredients in Pesticide Formulations

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes exemptions from tolerance requirements for certain additional inert (or occasionally active) ingredients in pesticide formulations. The requests were submitted by various firms. This regulation permits the use of the exempted ingredients in pesticide formulations.

EFFECTIVE DATE: September 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. David L. Ritter, Hazard Evaluation Division (TS-769), Office of Pesticide Programs, EPA, 401 M Street SW., Washington D.C., 202-426-2680.

SUPPLEMENTARY INFORMATION: On July 11, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 29809) to amend 40 CFR 180, subpart D, by exempting certain pesticide chemicals which are additional inert (or occasionally active) ingredients in pesticide formulations from tolerance requirements under provisions of section 408(e) of the Federal Food, Drug, and Cosmetic Act. No requests for referral to an advisory committee were received by the Agency with regard to this notice.

Two comments were received in response to this notice requesting that the use of the inert ingredient styrene-maleic anhydride copolymer be expanded to include postemergence application. The Agency concludes that since a substantive change in crop coverage is involved and since the requests will require more review time than is available, the requested changes should be considered along with the next group of inert ingredients for which exemptions are requested. It has been concluded that the amendment will protect the public health and, therefore, that the amendment to the regulations should be adopted as proposed.

Any person adversely affected by this regulation may, on or before October 18, 1978, file written objections

with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regu-

Dated: September 8, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

§ 180.1001 [Amended]

1. Section 180.1001 is amended as follows:

Section 180.1001 *Exemptions from the requirement of a tolerance* is

(d) * * *

Inert ingredients	Limits	Uses

with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective September 18, 1978, part 180 is amended as set forth below.

(Sec. 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)).)

Dated: September 8, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, subpart D, is amended by (1) deleting the items "*N,N*-Bis(2-[*omega*-hydroxypoly (oxyethylene)] ethyl) alkyl amines; * * *," "*N,N*-Bis[2-*omega*-hydroxypoly (oxyethylene)] ethyl alkyl amines; * * *," and "*N,N*-Bis(2-hydroxyethyl) alkylamine, where the alky groups (C_{16}–C_{18}) * * *" from the table in § 180.1001(d); (2) alphabetically inserting new items in the tables in § 180.1001 (c), (d), and (e); and (3) adding the new § 180.1040, as follows:

§ 180.1001 [Amended]

1. Section 180.1001 is amended as follows:

Section 180.1001 *Exemptions from the requirement of a tolerance* is amended in paragraph (d) by deleting the three items "*N,N*-Bis(2-[*omega*-hydroxypoly(oxyethylene)]ethyl) alkylamines; * * *," "*N,N*-Bis[2-*omega*-hydroxypoly(oxyethylene)] ethyl alkylamines; * * *," and "*N,N*-Bis(2-hydroxyethyl) alkylamine, where the alkyl groups (C_{16}–C_{18}) * * *" from the list of items in the table.

2. Section 180.1001 is amended by alphabetically inserting new items in the tables in paragraphs (c), (d), and (e).

§ 180.1001 Exemptions from the requirement of a tolerance.

(c) * * *

Inert ingredients	Limits	Uses
Glycerol mono-, di-, and triacetate		Solvent, cosolvent.
n-Propanol		Solvent, cosolvent.

(d) * * *

Inert ingredients	Limits	Uses
n-Alkyl(C_{8}–C_{18}) amine acetate		Surfactants, related adjuvants of surfactants.
N,N, bis(2-hydroxyethyl) alkylamine, where the alkyl groups (C_{8}–C_{18}) are derived from coconut, cottonseed, soya, or tallow acids.		Surfactants, related adjuvants of surfactants.
N,N-Bis 2-(*omega*-hydroxypolyoxyethylene) ethyl alkylamine; the reaction product of 1 mole *N,N*-Bis(2-hydroxyethyl) alkylamine and 3-60 moles of poly(oxyethylene) alkylamine, where the alkyl group (C_{8}–C_{18}) is derived from coconut, cottonseed, soya, or tallow acids.		Surfactants, related adjuvants of surfactants. Do.
Copper naphthenate	Not more than 2.5 pct of formulation; application limited to before edible portions of plants begin to form.	Mercaptan scavenger in technical pesticide.
Copper salts of neodecanoic acid and 2-ethyl hexanoic acid	Not more than 1 pct of formulation; application limited to before edible portions of plants begin to form.	Do.
Diakyl(C_{8}–C_{18}) dimethyl ammonium chloride, (C_{8}–C_{18}) group from tallow		Surfactants, related adjuvants of surfactants.
Douglas-fir bark, ground		Solid diluent, carrier.

(d) * * *

Inert ingredients	Limits	Uses
α-Pinene	Not more than 2 pct of formulation by weight.	Stabilizer.
Polyoxyethylene (5) sorbitan monooleate		Surfactants, related adjuvants of surfactants.
Styrene-maleic anhydride copolymer	For preemergence use only	Suspending or dispersing agent.

(e) * * *

Inert ingredients	Limits	Uses
Corn syrup		Sticker, attractant.
D and C green No. 6		Dye, coloring agent.
D and C red No. 17		Do.
D and C violet No. 2		Do.
FD and C blue No. 1		Dye, coloring agent.
α-Pinene	Not more than 2 pct of formulation by weight.	Stabilizer.
Tartrazine		Dye, coloring agent.

3. Part 180, Subpart D, is amended by adding the new § 180.1040 to read as follows:

§ 180.1040 Ethylene glycol; exemption from the requirement of a tolerance.

Ethylene glycol as a component of pesticide formulations is exempt from the requirement of a tolerance when used in foliar applications to peanut plants.

[FR Doc. 78-25959 Filed 9-15-78; 8:45 am]

[6560-01]

[PP 6 F1 738/R1 66; FRL 969-4]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Bifenox

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY. This rule establishes tolerances for residues of the herbicide bifenox on sorghum grain and forage, rice grain and straw, barley grain and straw, oat grain and straw, and wheat grain and straw. The request was submitted by Mobil Chemical Co. This regulation establishes maximum permissible levels for residues of bifenox on the above raw agricultural commodities.

EFFECTIVE DATE: September 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW.,

Washington, D.C. 20460, 202-426-2632.

SUPPLEMENTARY INFORMATION: On March 12, 1976, notice was given

of 600 ppm in the two-year dog feeding study using a safety factor of 100. Although a complete evaluation of the oncogenic potential is not possible, the

Commodity:	Parts per million
Corn, field	.05
Corn, fodder	.05
Corn, forage	.05

ing a feed additive regulation for residues of oxamyl in pineapple bran appears elsewhere in today's FEDERAL

It is concluded, therefore, that the tolerances be established as set forth below.

residues of the herbicide on wheat grain and straw and green wheat forage.

Washington, D.C. 20460, 202-426-2632.

SUPPLEMENTARY INFORMATION: On March 12, 1976, notice was given (41 FR 10709) that Mobil Chemical Co., P.O. Box 26683, Richmond, Va. 23261, had filed a pesticide petition (PP 6F1738) with the EPA. This petition proposed that 40 CFR 180.351 be amended to establish tolerances for residues of the herbicide bifenox (methyl 5-(2,4-dichlorophenoxy)-2-nitrobenzoate) in or on the raw agricultural commodities sorghum grain and forage, rice grain and straw, barley grain and straw, oat grain and straw, and wheat grain and straw at 0.05 part per million (ppm). No comments were received in response to this notice of filing.

The data sumitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included a rat oral lethal dose (LD_{50}) study with the LD_{50} greater than 6 grams (g)/kilogram (kg) of body weight (bw), a 90-day dog feeding study with a no-observable-effect level (NOEL) of 500 ppm, a 90-day rat feeding study with an NOEL of 500 ppm, a cataract study with chicks (negative), 2-year rat and dog feeding studies both with an NOEL of 600 ppm, a three-generation rat reproduction study with an NOEL of 200 ppm, a rat teratogenicity study (negative at 100 milligrams (mg)/kg bw/day, and a mouse dominant lethal mutagenicity study (negative at 500 mg/kg bw).

Desirable data lacking from the petition include oncogenic studies on two species of rodents and an additional mutagenicity study. In a letter of June 23, 1978, Mobil Chemical Co. agreed to do the missing studies and to remove the proposed uses from the label should the oncogenic studies exceed the risk criteria for chronic toxicity in 40 CFR 162.11. The additional mutagenicity studies are deferred until the Agency's requirements are finalized.

Tolerances have previously been established for negligible residues of bifenox on field corn grain, fodder, and forage and soybeans, soybean forage and hay at 0.05 ppm. The negligible residue designation is removed from these existing tolerances by this order because long-term studies are now available. The metabolism of bifenox is adequately understood and an adequate analytical method (gas chromatography using a halogen-specific microcoulometric detector) is available for enforcement purposes. The theoretical maximal residue contribution (TMRC) for all tolerances, established and proposed, is 0.0099 mg/day compared with a maximum permissible intake (MPI) of 9 mg/day for a 60-kg man. This is only 0.11 percent of the MPI. The MPI is based on the NOEL of 600 ppm in the two-year dog feeding study using a safety factor of 100. Although a complete evaluation of the oncogenic potential is not possible, the results of the 2-year rat feeding study in conjunction with the low potential for exposure provide adequate assurance of a very low over-all risk and even lower increment in risk from the additionally proposed tolerances. There are no pending regulatory actions against continued registration of bifenox, nor are there any other relevant considerations involved in establishing the proposed tolerances. There is no reasonable expectation of residues in eggs, meat, milk, or poultry as delineated in 40 CFR 180.6(a)(3).

The pesticide is considered useful for the purpose for which tolerances are sought, and it is concluded that the tolerances of 0.05 ppm on sorghum grain and forage, barley grain and straw, oat grain and straw, rice grain and straw, and wheat grain and straw established by amending 40 CFR 180.351 will protect the public health. It is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before October 18, 1978, file written objections with the Hearing Clerk, EPA, Rm. M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on September 18, 1978, part 180 is amended as set forth below.

Dated: September 11, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Sec. 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)).)

Section 180.351 is revised by alphabetically reformatting the section into an alphabetized columnar listing and alphabetically inserting barley grain and straw, oat grain and straw, rice grain and straw, sorghum grain and forage, and wheat grain and straw at 0.05 ppm in the table, as follows:

§ 180.351 Bifenox; tolerances for residues.

Tolerances are established for residues of the herbicide bifenox (methyl 5 - (2,4 - dichlorophenoxy) - 2 - nitrobenzoate) in or on the following raw agricultural commodities:

Commodity:	Parts per million
Barley, grain	0.05
Barley, straw	.05
Corn, field	.05
Corn, fodder	.05
Corn, forage	.05
Oats, grain	.05
Oats, straw	.05
Rice, grain	.05
Rice, straw	.05
Sorghum, forage	.05
Sorghum, grain	.05
Soybeans	.05
Soybeans, forage	.05
Soybeans, hay	.05
Wheat, grain	.05
Wheat, straw	.05

[FR Doc. 78-26090 Filed 9-15-78; 8:45 am]

[6560-01]

[PP 7F2000/R164; FRL 969-1]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Oxamyl

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide oxamyl on pineapples and pineapple hay. The request was submitted by E.I. du Pont de Nemours & Co., Inc. This regulation establishes maximum permissible levels for residues of oxamyl on pineapples and pineapple forage.

EFFECTIVE DATE: September 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. James Rea, Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-755-9315.

SUPPLEMENTARY INFORMATION: On October 27, 1977, notice was given (42 FR 56643) that E.I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, had filed a pesticide petition (PP 7F2000) with the EPA. This petition proposed that 40 CFR 180.303 be amended to establish tolerances for residues of the insecticide oxamyl (methyl *N'*, *N'*-dimethyl-*N*-[methylcarbamoyl)oxy] - 1 - thiooxamimidate) in or on the raw agricultural commodities pineapples at 1 part per million (ppm) and pineapple hay at 10 ppm.

Subsequently, the petitioner amended the petition by deleting the proposed tolerance of 10 ppm in or on pineapple hay and proposing a tolerance of 10 ppm in or on pineapple forage. (A related document establishing a feed additive regulation for residues of oxamyl in pineapple bran appears elsewhere in today's FEDERAL REGISTER.) No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included 2-year rat and dog feeding studies with no-observable-effect levels (NOEL) of 50 ppm and 100 ppm, respectively; a three-generation rat reproduction study with a NOEL of 50 ppm; and a rat teratogenicity study, which was negative. Based on the 2-year chronic rat feeding study with a 50 ppm NOEL and using a safety factor of 100, the acceptable daily intake (ADI) for man is 0.025 milligram (mg)/kilogram (kg) of body weight (bw)/day. The theoretical maximal residue contribution (TMRC) in the human diet from the previously established tolerances on celery at 3 ppm, apples and tomatoes at 2 ppm, and potatoes at 0.1 ppm and from the proposed tolerances does not exceed the ADI.

Desirable data that is lacking from the petition are a second oncogenicity study and additional mutagenicity studies. The mutagenicity studies will be requested when suitable test protocols have been determined. In a letter of April 28, 1978, the petitioner indicated that a second oncogenicity study was underway and is expected to be completed in late 1980. The petitioner also agreed to voluntarily delete the use of oxamyl on pineapples from the label should the second oncogenicity study exceed the risk criteria for chronic toxicity in 40 CFR 162.11. Although the evaluation of the oncogenic potential of oxamyl is not complete, it is concluded that based on the available data, the risks are acceptable since the absence of an oncogenic potential is adequately shown in the 2-year rat feeding study.

The metabolism of oxamyl is adequately understood, and an adequate analytical method (gas chromatography using a flame photometric detector) is available for enforcement purposes. No actions are currently pending against continued registration of oxamyl nor are there any other relevant considerations involved in establishing the proposed tolerances.

There is no reasonable expectation of residues in eggs, meat, milk, or poultry as delineated in 40 CFR 180.6(a)(3). The pesticide is considered useful for the purpose for which tolerances are sought, and it is concluded that the tolerances of 1 ppm on pineapples and 10 ppm on pineapple forage established by amending 40 CFR 180.303 will protect the public health. It is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before October 18, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington D.C. 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on September 18, 1978, Part 180 is amended as set forth below.

Dated: September 8, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Sec. 408(d)(2) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(d)(2)].)

Section 180.303 is amended by alphabetically inserting pineapples at 1 ppm and pineapple forage at 10 ppm in the table to read as follows:

§ 180.303 Oxamyl; tolerances for residues.

• • • • • •

Commodity:	Parts per million
Pineapples	1
Pineapples, forage	10

• • • • • •

FR Doc. 78-26092 Filed 9-15-78; 8:45 am]

[6560-01]

[PP 6F1729/R169; FRL 969-3]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

2-[[4-Chloro-6-(ethylamino)-s-triazin-2-yl]amino]-2-methylpropionitrile

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide 2-[[4-chloro-6-(ethylamino)-*s*-triazin-2-yl]amino]-2-methylpropionitrile. The request was submitted by Shell Chemical Co. This regulation establishes maximum permissible levels for residues of the herbicide on wheat grain and straw and green wheat forage.

EFFECTIVE DATE: September 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C., 202-426-2632.

SUPPLEMENTARY INFORMATION: On July 14, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 30314) in response to a pesticide petition (PP 6F1729) submitted to the Agency by Shell Chemical Co., Suite 200, 1025 Connecticut Avenue NW., Washington, D.C. 20036. This petition proposed that 40 CFR 180.307 be amended by the establishment of tolerances for residues of the herbicide 2-[[4-chloro-6-(ethylamino) -s-triazin-2-yl]- amino]-2-methylpropionitrile in or on the raw agricultural commodities wheat grain and wheat straw and green wheat forage at 0.1 part per million (ppm). No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.307 should be adopted without change, and it has been determined that this regulation will protect public health.

Any person adversely affected by this regulation may, on or before October 18, 1978, file written objections with the Hearing Clerk, EPA, Rm. M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on September 18, 1978, Part 180, Subpart C, § 180.307 is amended by adding tolerances for residues of the subject herbicide on wheat grain and straw and green wheat forage at 0.1 ppm as set forth below.

Dated: September 11, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)].).

Part 180, subpart C, § 180.307 is revised in its entirety by editorially reformatting the section into an alpha-

betized columnar listing, deleting the term "negligible residue," and alphabetically inserting tolerances of 0.1 ppm in or on wheat grain, wheat straw, and green wheat forage, as follows:

§ 180.307 2-[[4-chloro-6- (ethylamino) -s-triazin-2-yl] amino]-2-methylpropio- nitrile; tolerances for residues.

Tolerances are established for residues of the herbicide 2-[[4-chloro-6-(ethylamino) -*s*-triazin-2-yl]amino] -2-methylpropionitrile in or on the following raw agricultural commodities:

Commodity:	Parts per million
Corn, fodder	0.2
Corn, forage	.2
Corn, fresh (including sweet K+CWHR)	.05
Corn, grain	.05
Cottonseed	.05
Sorghum, fodder	.05
Sorghum, forage	.05
Sorghum, grain	.05
Wheat, forage (green)	.1
Wheat, grain	.1
Wheat, straw	.1

[FR Doc. 78-26089 Filed 9-15-78; 8:45 am]

[6560-01]

[PP 6F1783 & 6F1823/R165; FRL 968-7]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one. The amendment to the regulations was requested by Mobay Chemical Corp. This rule establishes maximum permissible levels for residues of the subject herbicide on lentils, lentil forage, lentil vine hay, peas, pea forage, peavine hay, and tomatoes.

EFFECTIVE DATE: September 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-426-2632.

SUPPLEMENTARY INFORMATION: On June 30, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 28524) in response to pesticide petitions (PP 6F1783 and 6F1823) submitted to the Agency by the Mobay Chemical Corp., Chemagro Agricultural Division, P.O. Box 4913, Hawthorne Road, Kansas City, Mo. 64120.

PP 6F1783 proposed to amend 40 CFR 180.332 by establishing a tolerance for residues of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one and its triazinone metabolites in or on the raw agricultural commodity tomatoes at 0.1 part per million (ppm).

PP 6F1823 proposed to amend 40 CFR 180.332 by establishing tolerances for combined residues of the subject herbicide and its triazinone metabolites in or on the raw agricultural commodities lentils (dried), lentil vine hay, peas (dried) and peavine hay at 0.05 ppm; peas at 0.1 ppm; and pea forage and lentil forage at 0.5 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking. (A related document establishing tolerances for residues of the subject herbicide in dried tomato pomace appears elsewhere in today's FEDERAL REGISTER.)

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.332 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before October 18, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on September 18, 1978, part 180, subpart C, § 180.332 is amended by alphabetically inserting tolerances in the table on lentil forage and pea forage at 0.5 ppm; peas and tomatoes at 0.1 ppm; lentils (dried), lentil vine hay, peas (dried), and peavine hay at 0.05 ppm as set forth below.

Dated: September 11, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Part 180, Subpart C, § 180.332 is amended by alphabetically inserting tolerances of 0.5 ppm on lentil forage and pea forage, 0.1 ppm on peas and tomatoes, and 0.05 ppm on lentils (dried), lentil vine hay, peas (dried), and pea vine hay in the list of commodities to read as follows:

§ 180.332 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one; tolerances for residues.

Commodity:	Parts per million
• • • • •	
Lentils (dried)	0.05
Lentils, forage	.5
Lentils, vine hay	.05
• • • • •	
Peas	.1
Peas (dried)	.05
Peas, forage	.5
Peas, vine hay	.05
• • • • •	
Tomatoes	.1

[FR Doc. 78-26094 Filed 9-15-78; 8:45 am]

[4310-09]

Title 43—Public Lands: Interior

CHAPTER I—BUREAU OF RECLAMATION; DEPARTMENT OF THE INTERIOR

PART 428—SALE OF REPLACEMENT FARM UNITS TO TETON FLOOD VICTIMS

Reclamation Rules and Regulations for the Sale of Replacement Farm Units to Teton Flood Victims

AGENCY: Bureau of Reclamation, Interior.

ACTION: Final rules.

SUMMARY: On June 2, 1978, proposed rules for the sale of replacement farm units to Teton flood victims were published in the FEDERAL REGISTER (43 FR 107). Interested persons were given until June 30, 1978, to submit written comments, suggestions, or objections. Full and careful consideration was given to all written comments and to the transcript of comments made at a public hearing held by the Bureau of Reclamation on June 22, 1978, in Sugar, Idaho. In view of these comments, the language of the proposed rules has been revised. The revised rules will permit two members of an immediate family who occupied, and obtained the major part of their income from, the same damaged farm to each obtain an adjacent 160-acre replacement unit thus raising the maximum replacement farm size to 320 acres. The requirements for financial information have been relaxed to permit the applicants to use signed estimates or information provided in making earlier damage claims. A person who purchased other farmlands since June 5, 1976, must report such purchase(s). He shall not be eligible to purchase a replacement farm unit under these regulations, if through activities initiated since June 5, 1976, he purchased a farm of like productivity to his damaged farm prior to the flood. The income producing ability of the damaged lands has been changed to make eligibility easier to obtain. The performance guarantee is returnable to those unable to purchase a replacement farm through no fault of their own. For two qualifying members of the same immediate family residing on the same damaged farm and filing for adjacent replacement unit, only one performance guarantee is required.

A new clause (428.6(m)) was added to reduce the possibility of speculation by prohibiting resale of these lands for a period of 3 years without the express approval of the Regional Director. Another new section 428.7(b) was included to permit appeal of Commissioner decisions to the Office of Hearings and Appeals of the Secretary of the Interior's Office.

These regulations will determine the socioeconomic criteria pursuant to which the Secretary will determine eligibility for the purchase of lands in compliance with section 210(c) of Pub. L. 95-238. The Bureau has completed an environmental impact assessment concluding that the publication of final regulations will not produce a significant impact on the human environment. They are, however, continuing to assess the environmental impact on the actual disposal of the lands. The provisions of the National Environmental Policy Act of 1969 will be complied with prior to any such disposal.

EFFECTIVE: September 18, 1978.

ADDRESS: Bureau of Reclamation, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240, Attention: Code 400.

FOR FURTHER INFORMATION CONTACT:

Mr. L. David Williamson, Senior Staff Assistant for Land Resources Management, O. & M. Policy Staff, Bureau of Reclamation, 202-343-5204.

SUPPLEMENTAL INFORMATION: Reimbursement for losses and damages to property as a result of the failure of the Teton Dam on June 5, 1976, was provided for under the Teton Dam Disaster Assistance Act, Pub. L. 94-400 (90 Stat. 1211), and rules and regulations published relating thereto. The Teton flood caused substantial losses of farm soils and productive capacity which is not economical to reclaim. While payment was made for such actual monetary loss, it is probable that some individuals will not be able to maintain an economically productive farming enterprise to reestablish themselves in the farming business. The act of February 25, 1978, Pub. L. 95-238, provides for the sale of lands formerly within the Idaho National Engineering Laboratory Reserve to such individuals. The acres available for purchase will allow the qualifying farmers to reestablish themselves in a farming enterprise and will also help to restore the economic and agricultural base of the flood-damaged region.

There is a limited amount of land available for purchase together with a limit of 5 years in which purchases can be made. There is also a need to avoid checkerboarding of undisposed lands; therefore, the regulations provide for sales in sequence rather than by random selections.

These regulations will determine the socio-economic criteria pursuant to which the Secretary will determine eligibility for the purchae of lands in compliance with section 210(c) of Pub. L. 95-238. We have concluded that the publication of these final regulations which determine eligibility for purchase of lands can be accomplished without further National Environmental Policy Act compliance. We are, however, assessing the environmental impacts of the disposal of the subject lands. Prior to a decision on disposal of these lands, we will have completed our National Environmental Policy Act compliance.

The regulations provide two separate filings by the qualifying farmers: First, a notice of prospective eligibility; and second, a notice of intent to purchase. The notice of prospective eligibility is to be filed by individuals who believe they are qualifying farmers as defined in these regulations. This notice must be given on or before October 31, 1978, in order to receive consideration for participation in the land-sale program. The regulations require that qualifying farmers file a notice of intent to purchase in sufficient time to allow for the administrative work to be done on surveys, appraisals, and drawings prior to the date of sale.

It is also provided in the proposed regulations that where two members of the same immediate family residing on the same damaged farm are both eligible they can, to the extent deemed possible by the Secretary, select contiguous replacement farm units. They will also be required to post only one performance guarantee between them.

Sales will be conducted at approximately 6-month intervals until the expiration of the statutory period ending February 24, 1983, or until the disposal of all the available lands, whichever occurs first.

The 5-year limit on sales provided in the act makes it necessary that the final date for filing a notice of intent to purchase occur no later than July 1, 1982. Filings after that date will not be considered by the Secretary.

Because of the time restrictions for publication of regulations to set forth the criteria for the determinations of eligibility provided in the act, the Department intends to act promptly.

The primary authors of this document are Loyd Ericson, Chief, Lands Branch, Pacific Northwest Region, Bureau of Reclamation, Federal Building and U.S. Courthouse, Box 043, Boise, Idaho, and Terence G. Cooper, Natural Resources Specialist, O. & M. Policy Staff, Bureau of Reclamation, 18th and C Streets NW., Washington, D.C.

Pursuant to the authority of the Secretary of the Interior contained in the Administrative Procedure Act (60 Stat. 237) 5 U.S.C. 552, 553, and in the Act of February 25, 1978 (92 Stat. 76), 42 U.S.C. 2011 et seq., a new Part 428 of Title 43, Code of Federal Regulations, is hereby established to read as shown on the following pages:

Dated: September 13, 1978.

DANIEL P. BEARD,
Deputy Assistant Secretary of the Interior.

The rules for title 43, part 428, will read as follows:

Sec.
428.1 Purpose.
428.2 Policy.
428.3 Liability.
428.4 Definitions.
428.5 Eligibility.
428.6 Sale of replacement farm units.
428.7 Decisions and appeals.

AUTHORITY: 42 U.S.C. 2011, Pub. L. 95-238, sec. 210, February 25, 1978.

§ 428.1 Purpose.

The purpose of these rules is to provide for the sale of economic farm units to qualifying farmers whose land is economically infeasible to reclaim from damages resulting from the Teton flood of June 5, 1976, and who are unable to find suitable replacement land for their flood-damaged farms, and to restore the economic and agricultural base of the flood-damaged region, as authorized by the act of February 25, 1978 (92 Stat. 76).

§ 428.2 Policy.

(a) The policy of the Department shall be to provide for the expeditious

tary from lands made available for that purpose within sections 14, 23, 24, 25, and 36, township 6 north, range 33 east; sections 19, 30, and 31, township

tion for purchase of a replacement farm unit. Notice must be delivered to the Regional Director, U.S. Bureau of

(9) A statement of the applicant's residence for the 12 months immediately preceding June 5, 1976.

tions, the applicant shall not be qualified to purchase a replacement farm unit. The applicant shall be notified of

the amount of $1,000 payable to the Bureau of Reclamation. The check shall constitute a performance guarantee by the qualifying farmer. No

§ 428.2 Policy.

(a) The policy of the Department shall be to provide for the expeditious and orderly sale of public lands under the provisions of the act of February 25, 1978 (92 Stat. 76).

(b) The possibility exists that not all of the lands set aside by Congress will be required; therefore, it is the policy of the Department to dispose of the lands in adjacent blocks to the extent feasible. To accomplish this objective, replacement farm units will be made available for purchase by qualifying farmers on a sequential basis, rather than on a random selection basis. When two members of a single family exercise their rights to purchase at a single drawing, to the extent possible, they will be allowed to purchase contiguous farm units.

§ 428.3 Liability.

Neither the promulgation of these regulations nor the rights arising under them constitute any admission of liability by the United States. No provision of these regulations shall be construed as providing or creating a right of action against the United States, its agents, or employees, nor shall these regulations be construed as waiving or extending any applicable statute of limitations or any other requirement prerequisite to any such right of action in connection with the Teton flood of June 5, 1976.

§ 428.4 Definitions.

(a) "Secretary" means the Secretary of the Interior or his duly authorized representative.

(b) "Regional Director" means the Regional Director of the Pacific Northwest region of the Bureau of Reclamation.

(c) "Teton flood" means the flood resulting from the collapse of the Teton Dam of the lower Teton division of the Teton basin Federal reclamation project on June 5, 1976.

(d) "Damaged farm" means an agricultural enterprise which, in the opinion of the Secretary of the Interior, produced sufficient income immediately prior to June 5, 1976, to support a farmer, and which is not economically feasible to reclaim so that it produces an income equal to that earned prior to the Teton flood because of damages resulting directly from the Teton flood.

(e) "Replacement farm unit" means a quarter section tract of land or the approximate equivalent thereof containing approximately one hundred sixty (160) acres, of which at least 85 percent is certified as arable (capable of sustaining continuous successful irrigation farming with the application of water to the land) by the Secretary of the Interior. The replacement farm units shall be established by the Secretary from lands made available for that purpose within sections 14, 23, 24, 25, and 36, township 6 north, range 33 east; sections 19, 30, and 31, township 6 north, range 34 east, and the southeast quarter (SE¼), the south half of the northeast quarter (S½NE¼), the east half of the southwest quarter (E½SW¼), and the southeast quarter of the northwest quarter (SE¼NW¼), all in section 8, and the south half of the north half (S½N½) of section 9, all in township 5 north, range 34 east; Boise meridian, Jefferson County, Idaho.

(f) "Qualifying farmer" means an owner-operator of a damaged farm who, on June 5, 1976, resided on or in the immediate locality of the damaged farm, and a substantial portion of whose livelihood was derived from his farming operation of the damaged farm prior to the Teton flood, and who is otherwise qualified under the terms of these regulations to purchase a replacement farm unit.

(g) "Resident" means an individual whose principal place of residence during the farming season for 1 year immediately prior to the Teton flood was within the counties of Fremont, Teton, Madison, Jefferson, Bonneville, Bingham, or Bannock in the State of Idaho.

(h) "Owner" means an individual, partnership, or corporation vested with title to a damaged farm on June 5, 1976, to the extent that all land parcels comprising the damaged farm share the same title and are all used as a single agricultural enterprise. When two members of the same immediate family occupy the damaged farm as joint tenants, tenants-in-common, tenants, by the entirety, or as owner operator-lessor where both receive primary income from the farm as in (f), then both shall be considered an owner.

(i) "Operator" means an individual who makes the day-to-day decisions and directs day-to-day farming activities, including giving directions to any employee of the operator. Lessors of farms shall not be considered operators for the purposes of these regulations, unless the lessor meets the requirements of (h) above.

(j) "Immediate family" means husband, wife, son, daughter, father, mother.

§ 428.5 Eligibility.

(a) In order to qualify for consideration for purchase of a replacement farm unit under these regulations, each prospective qualifying farmer must notify the Secretary of his prospective eligibility as a qualifying farmer as defined in these regulations on or before October 31, 1978. Failure to notify the Secretary on or before October 31, 1978, shall disqualify the applicant from any further consideration for purchase of a replacement farm unit. Notice must be delivered to the Regional Director, U.S. Bureau of Reclamation, Federal Building and U.S. Courthouse, Box 043, 550 West Fort Street, Boise, Idaho 83274, or must be postmarked to this address, on or before October 31, 1978. Where two members of the same immediate family occupying or receiving primary income from the same damaged farm are both applying under § 428.4(h), it should be so noted on each application. Only one performance bond will be required of the two immediate family members who occupied the same damaged farm when filing for adjacent replacement units. Each notice of prospective eligibility must provide the following information:

(1) The full name of each individual seeking to be determined eligible as a qualifying farmer, or the name of each partnership together with the name of each partner, or the name of the corporation seeking eligibility.

(2) The legal description of the damaged farm.

(3) The owner of the damaged farm on the date of the Teton flood.

(4) An estimate of the applicant's total net taxable income for the tax year prior to the Teton flood, together with a statement of the portion of such net taxable income derived from his operation of the damaged farm during that period. Federal tax records are preferred, but are not necessary; a signed statement giving the applicants estimate is sufficient. Records used in filing for a damage compensation claim following the flood are sufficient.

(5) A statement describing the nature and extent of the land damage loss sustained on the damaged farm, including the number of acres completely lost which cannot be economically reclaimed for agricultural purposes.

(6) The date and amount of each determination of flood damage pertaining to the damaged farm made by the authorized officer of the Department of the Interior under the laws and regulations pertaining specifically to the Teton flood (43 CFR Part 419 (1977)).

(7) A report on all farmlands purchased, or contracts, or options instigated for the purchase of farmland by the applicant since June 5, 1976.

(8) A statement of the operating procedures and responsibilities of the applicant in connection with a damaged farm during the 12 months preceding June 5, 1976, including a report on any leases or other agreements, oral or written, providing for use of the lands by others, in whole or in part, for rent or for sharing of crops or income from the production of the damaged farm.

(9) A statement of the applicant's residence for the 12 months immediately preceding June 5, 1976.

(b) In order to be determined eligible, the applicant's damaged farm must have suffered an economically nonreclaimable land loss to the extent that, if reclaimed, it could provide only fifty percent (50%) or less of its potential income-producing capacity prior to the flood; or the damaged farm must have sustained a complete loss of at least fifty-five (55) acres of land.

(c) In order to be eligible as a qualifying farmer, the owner-operator must have derived more than forty percent (40%) of his net taxable income from the operation of the damaged farm during the tax year preceding the Teton flood and must have been unable to purchase a farm of comparable productivity since the Teton flood. Persons who purchased other farmlands since June 5, 1976, must report such purchase, including the date on which the action was initiated, and shall not be eligible to purchase a replacement farm unit under these regulations if through activities initiated since June 5, 1976, he purchased a farm of like productivity to his damaged farm prior to the flood.

(d) The Secretary, acting through the Regional Director, shall make a preliminary determination of qualifying farmers based upon the notices of eligibility filed pursuant to section 428.5(a). Each applicant shall be given written notice by December 1, 1978, of the preliminary determination made concerning his eligibility status.

(e) A final determination of eligibility as a qualifying farmer shall be made by the Secretary, acting through the Regional Director, on the basis of documentary evidence submitted by the applicant. The accumulation of data to provide evidence or proof of eligibility shall be the sole responsibility of the applicant. Such evidence must be submitted to: Regional Director, U.S. Bureau of Reclamation, Federal Building and U.S. Courthouse, Box 043, 550 West Fort Street, Boise, Idaho 83724. A final notice of eligibility, or lack thereof, will be given by written notice prior to January 15, 1979.

(f) The evidence submitted by the applicant, together with any other evidence available, shall be examined to determine its sufficiency, authenticity, and reliability in determining the eligibility of the applicant. If the examination of the evidence indicates that the applicant is a qualifying farmer, the applicant shall be notified by certified mail that he is a qualifying farmer.

(g) If the applicant fails to supply any of the information required, or if the applicant's qualifications do not meet the requirements of these regulations, the applicant shall not be qualified to purchase a replacement farm unit. The applicant shall be notified of such disqualification, whether conditional or complete, and the reasons therefore and of the right of appeal.

§ 428.6 Sale of replacement of farm units.

(a) Replacement farm units shall be made available for purchase by qualifying farmers approximately every 6 months starting in February 1979 and ending in July 1982: *Provided, however,* That sales will be limited to the land made available for this program pursuant to the act of February 25, 1978 (92 Stat. 76) and described in § 428.4(e) hereof. The Secretary shall notify all qualifying farmers, in writing, of the date the first replacement farm units will be offered for sale and will also give notice of the closing date on which the qualifying farmer may file an intent to purchase a replacement farm unit from those offered for sale during the initial sale period. No subsequent notice will be provided; however, each qualifying farmer may file an intent to purchase at any time after the initial sale provided that no filings may be made after July 1, 1982.

(b) To participate in the sale program for any period, the qualifying farmer must file a notice of intent to purchase with the Regional Director, at the address provided in § 428.5(a) hereof. All such notices of intent to purchase filed after the closing date of the initial sale shall be accumulated as of January 1 and July 1 of each year to determine the number of replacement farm units to be sold to qualifying farmers at the next sale: *Provided, however,* That the availability of land for replacement farm units will be limited to the area authorized for sale under this program as indicated in § 428.4(e) hereof. The available lands will, to the extent possible, be sold in quarter section units of approximately 160 acres to qualifying farmers according to their priority standing for purchase of replacement farm units as established in subparagraphs (c) and (d) below.

(c) The Secretary, acting through the Regional Director, shall, on or about February 1 and August 1 of each year, starting in 1979 and ending in 1982, conduct public drawings of the names of those finally determined to be qualifying farmers who have filed a notice of intent to purchase.

(d) The names of the qualifying farmers shall be drawn and numbered in the order drawn for the purpose of establishing priority in the order in which the replacement farm units may be purchased by qualifying farmers.

(e) Each notice of intent to purchase filed by a qualifying farmer shall be accompanied by a certified check in the amount of $1,000 payable to the Bureau of Reclamation. The check shall constitute a performance guarantee by the qualifying farmer. No intent to purchase can be submitted until notice of final determination of eligibility has been issued. If the qualifying farmer fails to enter into a purchase agreement with the United States for a replacement farm unit offered by the Regional Director, or, having entered into a purchase agreement fails to complete the purchase, the performance guarantee will be forfeited to the United States as liquidated damages. If the qualifying farmer enters into a purchase agreement and completes the terms of the agreement, the performance guarantee fee will be applied to the purchase price of the replacement farm unit. Should the applicant not be selected as a qualifying farmer, or should land not be available for purchase, or he is unable to purchase through no fault of his own, his performance guarantee fee shall be returned.

(f) Where two members of an immediate family are each entitled as qualifying farmers at the drawing, their drawing shall be for only one number which shall allow them consecutive order purchases of replacement farm units. They are required to submit only one performance guarantee. Qualifying farmers need not be present at the drawings to participate therein.

(g) After the drawing, the Regional Director will notify, in writing, each qualifying farmer of his respective priority. The qualifying farmers may, to the extent that lands are available, successively exercise their rights to purchase replacement farm units in accordance with the purchase-right priority established by the drawing.

(h) All available replacement farm units will be assigned numbers by the United States and must be purchased in sequence by qualifying farmers in accordance with the purchase-right priority established by the drawings. The lower numbered units will be sold first, and no replacement unit will be sold until all units having a lower number have been purchased.

(i) If a qualifying farmer fails within 10 calendar days after receipt of his notification to enter into a purchase contract for the unit offered to him at the time of his eligibility, the replacement farm unit will be offered to the next qualifying farmer who has not made a purchase at the time the unit is available. A qualifying farmer who fails to purchase an offered unit shall forfeit his opportunity to participate in the sale for that period and shall also forfeit his performance guarantee required under § 428.6(e). Qualifying farmers who forfeit their rights to purchase through their own actions

may file a subsequent notice of intent to purchase for later sales, but must meet all the requirements of the new filing, including the payment of an-

(b) Any party to a case adversely affected by a final decision of the Commissioner of the Bureau of Reclamation under this part shall have a right

By the Chief, Broadcast Bureau:

1. The Commission has before it the notice of proposed rulemaking, 43 FR 6636, February 15, 1978, adopted Feb-

6. Accordingly, *it is ordered,* That pursuant to sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and

broadcast stations) of the Commission's rules and regulations.

1. On December 8, 1977, the Commission adopted a report and order

repair and maintenance on the vehicle inside a building under specified conditions. An exception is provided for any vehicle containing combustible liquids.

may file a subsequent notice of intent to purchase for later sales, but must meet all the requirements of the new filing, including the payment of another performance guarantee; however, only one performance guarantee will apply toward the purchase price, the other will cover the Governments administrative costs.

(j) The consideration to be paid by the qualifying farmer for a replacement farm unit shall be the current fair market value of the unit on the basis of an appraisal approved by the Regional Director on behalf of the Secretary. An appraisal approved not more than 6 months prior to the offering of the farm units for sale shall be considered adequate to determine the current fair market value of the unit.

(k) The fair market value of replacement farm units shall be determined by a board of three appraisers composed of one appraiser designated by the Secretary, one designated by the State of Idaho, and one selected from the Teton flood disaster area by the designated State and Federal appraisers.

(l) The Secretary, acting through the Regional Director, shall sell and convey, by quitclaim deed, fee title to replacement farm units to qualifying farmers, subject to the completion of NEPA compliance and to the normal reservations included in patents issued for other public lands disposed of in the area, including, but not limited to, the reservations of easements for public roads along exterior boundaries and other environmental aspects of such replacement farm units as determined to be desirable by the Secretary.

(m) Replacement farms purchased under these rules shall not be resold for a period of 3 years following the date of sale without express approval of the Regional Director. Permission shall only be granted for extreme extenuating circumstances where failure to sell would work permanent extreme hardship on the seller.

§ 428.7 Decisions and appeals.

(a) The Regional Director, acting as designee of the Secretary, shall make the determinations required under these rules and regulations. A party directly affected by such determination may appeal in writing to the Commissioner of the Bureau of Reclamation within 30 days of receipt of the Regional Director's determination. The affected party shall have an additional 30 days thereafter within which to submit a supporting brief or memorandum to the Commissioner. The Regional Director's determination will be held in abeyance until the Commissioner has reviewed the matter and rendered a decision.

(b) Any party to a case adversely affected by a final decision of the Commissioner of the Bureau of Reclamation under this part shall have a right of appeal to the Director, Office of Hearings and Appeals, Office of the Secretary, in accordance with procedures provided in 43 CFR Part 4, Subpart G.

Pertinent addresses are shown below:

Commissioner, Bureau of Reclamation, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

Regional Director, Bureau of Reclamation, Federal Building and U.S. Courthouse, Box 043, 550 West Fort Street, Boise, Idaho 83724.

[FR Doc. 78-26246 Filed 9-15-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 78-46; RM-2904]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations in Hatch and Silver City, N. Mex.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action deletes the noncommercial educational reservation on VHF TV channel *10 at Silver City to reflect its current use by a commercial TV translator station and to provide a second commercial TV channel there. In addition, VHF TV channel *12 was reassigned from Hatch, N. Mex., to Silver City to provide for a noncommercial educational TV service to Silver City and to the southwestern portion of New Mexico.

EFFECTIVE DATE: October 23, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Hatch and Silver City, N. Mex.). Report and order (proceeding terminated).

Adopted: September 8, 1978.

Released: September 12, 1978,

By the Chief, Broadcast Bureau:

1. The Commission has before it the notice of proposed rulemaking, 43 FR 6636, February 15, 1978, adopted February 3, 1978, proposing to delete the educational reservation of VHF TV channel *10 at Silver City, N. Mex., and to reassign VHF TV channel *12 from Hatch, N. Mex., to Silver City (retaining the reservation for noncommercial educational use). Comments were received from Hubbard Broadcasting, Inc., proponent for these channel changes with an attached letter from the Governor's Commission on Public Broadcasting.

2. Silver City (pop. 8,557)[1] is the seat of Grant County (pop. 22,030) in southwest New Mexico. It has two VHF TV channel assignments, channels 6 and *10 (both have 100-watt commercial translator stations). Hatch (pop. 867) is located in Dona Ana County (pop. 69,773), approximately 105 kilometers (65 miles) east of Silver City. Its only TV channel assignment, channel *12, is unoccupied. It receives noncommercial educational service from station KRWG-TV, channel *22, Las Cruces, N. Mex., licensed to New Mexico State University.

3. Hubbard Broadcasting, Inc., operates a commercial translator TV station on channel *10 in Silver City.[2] Pursuant to its request, the notice proposed that the reservation for that channel be deleted so as to reflect its present use. It also proposed to reassign channel *12 from Hatch (where it is unoccupied and unapplied for) to Silver City to provide a frequency for the expressed interest of the Governor's Commission on Public Broadcasting to operate a noncommercial educational TV translator station at Silver City. The comments of Hubbard Broadcasting, Inc. and the Governor's Commission on Public Broadcasting support the Commission's proposed action.

4. The Commission finds that the proposed changes are in the public interest and should be adopted. Deletion of the reservation on channel 10, Silver City, would reflect its present use and would provide a second commercial channel for the community. The assignment of channel 12 to Silver City, with its reservation for noncommercial educational use would extend such TV service to Silver City and the southwestern portion of the State. No interest in continuation of the educational assignment at Hatch has been expressed by any educational or public broadcasting authority.

5. Mexican concurrence in these channel changes has been obtained.

[1] Population figures are taken from the 1970 U.S. census.

[2] The translator station K10KF retransmits the programing of station KOB-TV, channel 4, Albuquerque, N. Mex., also licensed to Hubbard Broadcasting, Inc.

6. Accordingly, *it is ordered*, That pursuant to sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, the TV table of assignments, § 73.606(b) of the Commission's rules is amended, effective October 23, 1978, for the following cities:

City	Channel No.
Hatch, N. Mex.	....
Silver City, N. Mex.	6, 10+, *12

7. *It is further ordered*, That this proceeding is terminated.

Federal Communications Commission,
Wallace E. Johnson,
Chief, Broadcast Bureau.

[FR Doc. 78-2617 Filed 9-15-78; 8:45 am]

[6712-01]

[Docket No. 20539]

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Reregulation of Radio and Television Broadcasting; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document makes an editorial amendment to a final rule published at 43 FR 14660, April 7, 1978, to include provisions relating to TV translator relay stations which were inadvertently omitted.

EFFECTIVE DATE: April 14, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John W. Reiser, Broadcast Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION:

Released: September 11, 1978.

In the matter of amendment of subparts F and G of part 74 and subpart B of part 78 to provide for the use of FM microwave by television translator relay stations, and to provide for the operation of television translator stations using modulation of direct video and audio feed. Amendment of subpart F, part 74 (television auxiliary broadcast stations) of the Commission's rules and regulations.

1. On December 8, 1977, the Commission adopted a report and order terminating the proceeding in docket No. 20539 (43 FR 1943, Jan. 13, 1978), by which the use of certain TV auxiliary microwave facilities were made available for use with TV translator broadcast stations. By that proceeding, paragraph (a) of § 74.602 was amended to include TV translator relay stations under the eligibility requirements for auxiliary microwave frequencies. A subsequent order adopted March 28, 1978 (43 FR 14660, Apr. 7, 1978), making editorial revisions in the same rule section inadvertently deleted the amendments made in December 1977. Therefore, the introduction of paragraph (a) of § 74.602 of the Commission's rules and regulations should be corrected to read:

§ 74.602 Frequency assignment.

(a) The following frequencies are available for assignment to television pickup, television STL, television intercity relay, and television translator relay station:

* * * * *

Federal Communications Commission,
William J. Tricarico,
Secretary.

[FR Doc. 78-26099 Filed 9-15-78; 8:45 am]

[4910-60]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-110; Amdt. No. 177-42]

PART 177—CARRIAGE BY PUBLIC HIGHWAY

Repair and Maintenance of Vehicles

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the DOT hazardous materials regulations modifies existing requirements on performing repairs or maintenance to a motor vehicle containing hazardous materials. Modification is necessary to allow repair of such a vehicle when it can safely be performed inside a building. The modification prohibits hot work on the cargo or fuel containment systems of the vehicle if the vehicle is required to be placarded but permits repair and maintenance on the vehicle inside a building under specified conditions. An exception is provided for any vehicle containing combustible liquids.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Alan I. Roberts, Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau, 2100 Second Street SW., Washington, D.C. 20590, phone 202-426-0656.

SUPPLEMENTARY INFORMATION:

I. Previous Notices and Amendments in This Docket

On August 27, 1973 (38 FR 22901), the Department of Transportation (DOT) published a notice that, among other things, proposed to modify an existing requirement (49 CFR 177.854(g)) which prohibited repair and maintenance work on vehicles containing hazardous materials inside a building, or whenever that work could not be performed without hazard. The notice was prompted by a rulemaking petition from a motor carrier who observed that the existing requirement prohibited minor but important repairs, such as brake adjustments and tire and lamp replacement, from being performed indoors on vehicles carrying hazardous materials. The carrier asserted that such minor repair work could be performed safely indoors. The notice resulted in an amendment (39 FR 41741, Dec. 2, 1974) with a 6-month delay in effective date. The effective date was extended another 6 months (40 FR 12269, Mar. 18, 1975) during which time the original proposal was modified (40 FR 21485, May 16, 1975) and then the modification withdrawn (40 FR 44842, Sept. 30, 1975). The effective date was again extended until July 1, 1976 (40 FR 44821, Sept. 30, 1975). Finally, § 177.854(g) as it originally read was confirmed until further amendment (41 FR 27968, July 8, 1976). On October 12, 1976 (41 FR 44712), a new notice was published upon which this amendment is based.

II. Purpose of This Amendment

This amendment is intended to reduce the possibility of an accident involving significant quantities of hazardous materials as a result of maintenance or repair work on the motor vehicle in which the materials are contained. Commenters have suggested that a complete examination of the work area might be necessary to control possible sources of accidents. The MTB agrees and has prescribed only general conditions in this amendment to deal with hazards arising from the materials a cargo vehicle may carry, and with conditions that threaten the

integrity of the system on the vehicle that contains the materials. This amendment does not exhaustively address conditions in the work area. Be-

gasoline as motor fuel in vehicles subject to customary repair practices. However, although it may be common repair practice to allow some ignition

vent the ignition of an explosive fuel-air mixture.

4. Provided that the requirements of paragraph (g)(2) of the amendment

a cargo tank. For facilities that lack receiving tanks, the carrier seeking the repairs will have to arrange to remove

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e).)

Note.—The Materials Transportation Bureau has determined that this final rule

Rail Corp. (CR) between Back River and Sparrows Point, Md. The Amtrak portion of this route carries in excess

integrity of the system on the vehicle that contains the materials. This amendment does not exhaustively address conditions in the work area. Because of the variety of possible circumstances involved, reliance must be placed on existing local, State, and Federal laws concerning motor vehicle repair work, and on the sound judgment and experience of those persons performing the work.

Paragraph (g)(1) of this amendment prohibits hot work on the cargo or fuel containment system of a vehicle carrying a sufficient quantity of a hazardous material to necessitate placarding. Vehicles carrying combustible liquids are excluded from this prohibition.

Under paragraph (g)(2) of the amendment, repair or maintenance inside a building on any placarded vehicle, except one placarded COMBUSTIBLE, is prohibited unless the cargo and fuel containment systems are free from leaks, the vehicle can be quickly removed from the enclosed area if necessary in an emergency, and the vehicle is removed from the enclosed area upon completion of repair or maintenance work. Both a person capable of operating the vehicle, and a means of moving the vehicle (in the event the vehicle cannot or should not be moved under its own power) must be available if removing the vehicle becomes necessary in an emergency. Conditions under which the vehicle should be removed, and the location to which it should be removed, are not prescribed in the amendment. Those conditions, which may vary, are left to be determined by the carrier or repair facility. In some circumstances it may be advisable not to attempt to remove the vehicle until further precautions are taken. To preclude the potential dangers that may develop, the vehicle must be removed from the enclosed area upon completion of repair or maintenance work. This condition was proposed in the notice of proposed rulemaking and generated very few comments because from a practical safety standpoint it appears to be followed by motor carrier shops and repair facilities.

In addition to these three restrictions on inside repair to a placarded vehicle, two more conditions apply if the vehicle contains explosives A or B (any quantity of which necessitates placarding) or contains a flammable liquid or flammable gas (note that cargo tanks and portable tanks containing even residues of these materials necessitate placarding unless cleaned and purged). The MTB recognizes that hazardous materials other than those prescribed in paragraph (g)(2)(iv) may pose fire hazards.

Such hazards are commensurate with hazards posed by the presence of gasoline as motor fuel in vehicles subject to customary repair practices. However, although it may be common repair practice to allow some ignition sources near a vehicle being repaired in an enclosed area, the additional and potentially much more extensive hazards, and accident consequences, involving explosives or significant quantities of flammable liquids or flammable gases warrant special precautions. Consequently, a placarded vehicle containing those materials may be repaired inside a building only if ignition sources are eliminated. The method used to eliminate ignition sources is not prescribed in the amendment but is left to the sound judgment of the repair facility, subject to applicable local, State, and Federal laws concerning those facilities.

Some of the differences between this amendment and the notice proposed on October 16, 1976, should be reiterated.

1. The proposed prohibition against use of heat, flame or spark outdoors within 100 feet of a vehicle containing certain hazardous materials has been dropped in favor of a general prohibition on the use of heat, flame, or spark on the cargo or fuel containment system of a placarded vehicle. Judgment on the safe use of welding equipment, outside of a building, on other components of a placarded vehicle is left to the repair facility.

2. Except for a vehicle carrying combustible liquids, any vehicle required to be placarded is subject to this amendment. The previous proposal would have applied to any vehicle containing any quantity of a flammable liquid, combustible liquid, flammable gas, poisonous liquid, oxidizer, or explosive. Excluded from the amendment's coverage is any vehicle not required to be placarded (however, note that materials, especially explosives A or B, listed in table 1 at § 172.504, as well as cargo tanks and portable tanks that have not been cleaned and purged, necessitate placarding regardless of quantities).

3. Repair work performed indoors on placarded vehicles containing cargoes of explosives A or B, flammable liquids, or flammable gases is permitted, provided exposed sources of ignition are eliminated. Compliance with National Fire Protection Association Pamphlet No. 70, "National Electrical Code," although proposed in the last notice for electrical equipment, is not required by the amendment. In addition to that publication, there exist various requirements imposed by local, State, and Federal agencies pertaining to sources of ignition. Rather than requiring compliance with a particular method of protecting exposed ignition sources, the amendment allows use of any reliable method that would prevent the ignition of an explosive fuel-air mixture.

4. Provided that the requirements of paragraph (g)(2) of the amendment are met, cold repairs to closed fuel and cargo containment systems may be performed indoors. The vehicle's motor and electrical system may remain operational to the extent necessary to accomplish maintenance or repair.

5. The previous proposal to delete paragraph (h) (concerning hot repair to cargo tanks and fuel containers) has been dropped. Paragraph (h) will be retained in this amendment since repair of a cargo tank or compartment thereof, formerly containing certain hazardous materials, can be safely performed by using flame, arc, or other means of welding if the tank or compartment has been made gas-free prior to the repair. In response to the notice, several comments indicated that paragraph (h) should be retained since it reflects long standing safety practices set forth by safety-oriented organizations, such as NFPA, and which should be adhered to by all motor carriers and repair shops that engage in such work.

III. Impact

This amendment may still necessitate the performance of some kinds of repair work outdoors, such as hot work on vehicles carrying flammable or explosive cargoes. The MTB has attempted to balance the hazards of working in an enclosed area on such vehicles against the disadvantages and possible hazards of requiring the work to be performed outside. A concern raised in comment, with which MTB agrees, is that a rule that is too stringent may result in deferral of repair work, failure to correct vehicle deficiencies, and the continued operation of vehicles in an unsafe condition. On the other hand, hot work in an enclosed area on vehicles carrying explosives or large volumes of liquids, gases or vapors which are flammable presents substantial, inherent risks. Reliance on the repair worker's sense of smell to detect cargo or fuel leakage is not a sufficient safeguard against the possibility of fire or explosion.

This amendment is a relaxation of existing requirements found in § 177.854(g). Moreover, the restrictions imposed by the amendment are similar to restrictions resulting from existing fire codes and insurance practices. Comments indicate that cleaning and purging a cargo tank can cost $100 or more and that many repair facilities lack tankage to receive hazardous materials that this amendment may require to be removed from a vehicle on which work is to be performed. The incremental safety thereby achieved is worth the cost of cleaning and purging a cargo tank. For facilities that lack receiving tanks, the carrier seeking the repairs will have to arrange to remove the vehicle's contents before hot repair may be undertaken.

Primary drafters of this document are David B. Goodman, Vehicle Requirement Branch, Bureau of Motor Carrier Safety; Joseph T. Horning, Regulations Development Branch, Office of Hazardous Materials Regulation; and Douglas A. Crockett, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

In consideration of the foregoing, Part 177 of Title 49, Code of Federal Regulations, is amended as follows:

1. In § 177.854, paragraph (g) is revised to read as follows:

§ 177.854 Disabled vehicles and broken or leaking packages; repairs.

• • • • •

(g) *Repair and maintenance of vehicles containing certain hazardous materials.*—(1) *General.* No person may use heat, flame or spark producing devices to repair or maintain the cargo or fuel containment system of a motor vehicle required to be placarded, other than COMBUSTIBLE, in accordance with subpart F of part 172 of this subchapter. As used in this section, "containment system" includes all vehicle components intended physically to contain cargo or fuel during loading or filling, transport, or unloading.

(2) *Repair and maintenance inside a building.* No person may perform repair or maintenance on a motor vehicle subject to paragraph (g)(1) of this section inside a building unless:

(i) The motor vehicle's cargo and fuel containment systems are closed (except as necessary to maintain or repair the vehicle's motor) and do not show any indication of leakage;

(ii) A means is provided, and a person capable to operate the motor vehicle is available, to immediately remove the motor vehicle if necessary in an emergency;

(iii) The motor vehicle is removed from the enclosed area upon completion of repair or maintenance work; and

(iv) For motor vehicles loaded with explosives A or B, flammable liquids or flammable gases, all sources of spark, flame or glowing heat within the area of enclosure (including any heating system drawing air therefrom) are extinguished, made inoperable or rendered explosion-proof by a suitable method. *Exception:* Electrical equipment on the vehicle, necessary to accomplish the maintenance function, may remain operational.

• • • • •

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e).)

NOTE.—The Materials Transportation Bureau has determined that this final rule will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (43 FR 9582). A regulatory evaluation is available in the docket.

Issued in Washington, D.C., on September 12, 1978.

L. D. SANTMAN,
Acting Director,
Materials Transportation Bureau.

[FR Doc. 78-26221 Filed 9-15-78; 8:45 am]

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1337]

PART 1033—CAR SERVICE

Western Maryland Railway Co. Authorized To Operate Over Tracks of the Baltimore & Ohio Railroad Co.

Decided September 11, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1337).

SUMMARY: The Western Maryland Railway Co. operates over tracks of the National Railroad Passenger Corp. between Fulton Junction, Md., and Back River, Md., thence over tracks of Consolidated Rail Corp. between Back River and Sparrows Point, Md. The high density of traffic results in serious delays to WM trains. Service order No. 1337 authorizes Western Maryland to operate over tracks of the the Baltimore & Ohio Railroad Co. between Westport, Md., and Sparrows Point, Md., in order to expedite train movements.

DATES: Effective 11:59 p.m., September 12, 1978. Expires 11:59 p.m., January 31, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone: 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Western Maryland Railway Co. (WM) presently operates over tracks of the National Railroad Passenger Corp. (Amtrak) between Fulton Junction, Md., and Back River, Md., thence over the tracks of the Consolidated Rail Corp. (CR) between Back River and Sparrows Point, Md. The Amtrak portion of this route carries in excess of sixty (60) passenger trains daily plus a large number of freight trains operated by CR. This high density of traffic results in serious delays in the movement of WM trains between its tracks at Fulton Junction and Sparrows Point.

An alternate route is available via the tracks of the Baltimore & Ohio Railroad Co. (BO) between Westport, Md., and Sparrows Point. Use of this route by the WM would enable it to bypass the congested Amtrak trackage on its present route and greatly expedite the movement of WM trains, thereby improving both freight car and locomotive utilization. The BO has consented to this use of its tracks by the WM.

It is the opinion of the Commission that an emergency exists requiring operation of WM trains over these tracks of the BO in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered,

§ 1033.1337 Service order 1337.

(a) *Western Maryland Railway Co. authorized to operate over tracks of the Baltimore & Ohio Railroad Co.* The Western Maryland Railway Co. (WM) is authorized to operate over tracks of the Baltimore & Ohio Railroad Co. (BO) between Westport, Md., and Sparrows Point, Md., all within the Baltimore, Md., terminal area.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the WM over tracks of the BO is deemed to be due to carrier's disability, the rates applicable to traffic moved by the WM over the tracks of the BO shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 11:59 p.m., September 12, 1978.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be

given to the general public by depositing a copy in the Office of the Secre-

Refuge, Fontenelle Route, Via Kemmerer, Wyo. 83101, 307-877-6334.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for

[3510-22]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NA-

fishery, when the total quarterly quota of cod is taken.

During the period of closure, it shall be unlawful for vessels of 61-125 GRT

given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26212 Filed 9-15-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Fish Springs National Wildlife Refuge, Utah, to Public Hunting of Ducks, Coots, and Mergansers

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of ducks, coots, and mergansers at Fish Springs National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 7, 1978 through January 7, 1979.

FOR FURTHER INFORMATION CONTACT:

Kim Forrest, Acting Refuge Manager, Fish Springs National Wildlife Refuge, Dugway, Utah 84022; or Mitchell G. Sheldon, Assistant Area Manager, Refuges and Wildlife, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138, 801-524-5633.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Hunting for ducks, coots, and mergansers is permitted on Fish Springs National Wildlife Refuge, Utah, only on the areas designated by signs as being open to hunting. This area, comprising 6,773 acres, is delineated on maps available at the refuge headquarters, 66 miles southwest of Dugway, Utah, and from the office of the Area Manager, U.S. Fish and Wildlife Service, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. Hunting shall be in accordance with all State and Federal regulations applicable to the hunting of ducks, coots, and mergansers, subject to the following conditions:

1. All hunters must register at the Visitor Information Station prior to hunting each day and must check out at the end of each day.

2. Shooting from, upon, or across dikes or roads, open to vehicular traffic, is prohibited.

3. The use of small boats, canoes, etc. is permitted, but outboard motors or air thrust boats are prohibited.

4. Dogs may be used for hunting, but must be kept under control at all times.

The provisions of these special regulations supplement the regulations that govern hunting on wildlife refuge areas generally that are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 7, 1979. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparations of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

KIM FORREST,
Acting Refuge Manager.

AUGUST 28, 1978.

[FR Doc. 78-26113 Filed 9-15-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Seedskadee National Wildlife Refuge, Wyo., to Public Hunting of Mule Deer

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public hunting of mule deer (either sex) on Seedskadee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 15, 1978, through October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

H. J. Johnson, Refuge Manager, Seedskadee National Wildlife Refuge, Fontenelle Route, Via Kemmerer, Wyo. 83101, 307-877-6334.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of mule deer is permitted on Seedskadee National Wildlife Refuge, Wyo. All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to hunting. Maps of the area are available at the refuge office, Fontenelle Route, Via Kemmerer, Wyo. 83101 and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225. Hunting shall be in accordance with all applicable State regulations governing the hunting of mule deer.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

H. J. JOHNSON,
Refuge Manager.

SEPTEMBER 8, 1978.

[FR Doc. 78-26114 Filed 9-15-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Seedskadee National Wildlife Refuge, Wyo., to Public Hunting of Migratory Game Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public hunting of migratory game birds on Seedskadee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 30, 1978, through December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

H. J. Johnson, Refuge Manager, Seedskadee National Wildlife Refuge, Fontenelle Route, Via Kemmerer, Wyo. 83101, 307-877-6334.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of migratory game birds is permitted on Seedskadee National Wildlife Refuge, Wyo. All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to hunting. Maps of the area are available at the refuge office, Fontenelle Route, Via Kemmerer, Wyo. 83101 and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225. Hunting shall be in accordance with all applicable State regulations governing the hunting of migratory game birds.

The provisions of the special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service had determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

H. J. JOHNSON,
Refuge Manager.

SEPTEMBER 8, 1978.

[FR Doc. 78-26115 Filed 9-15-78; 8:45 am]

[3510-22]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

Part 651—Atlantic Groundfish (Cod, Haddock, and Yellowtail Flounder)

Fisheries Closure Notice

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of closure.

SUMMARY: This notice announces the closure of commercial cod fishing in the southern New England (including Georges Bank) area for vessels in the 61-125 gross registered ton class for the remainder of 1978. This action is being taken because those commercial vessels have exceeded the annual quota of 6,910 metric tons allocated to that class.

EFFECTIVE DATE: 0001 hours, September 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Mass. 09130, Telephone: 617-281-3600.

SUPPLEMENTARY INFORMATION: 50 CFR 651.9(a) (43 FR 31015) published on July 19, 1978, authorizes the Assistant Administrator for Fisheries to announce the closure of the season for cod by publication in the FEDERAL REGISTER, specifying the time, date, and area for the termination of that fishery, when the total quarterly quota of cod is taken.

During the period of closure, it shall be unlawful for vessels of 61-125 GRT to catch, retain, or land any cod.

On July 21, 1978, a vessel allocation system, based on traditional landing patterns for each of three sizes of trawl vessels was published in the FEDERAL REGISTER (43 FR 31341). The annual vessel allocation of cod for vessels in the 61-125 GRT class fishing in southern New England and on Georges Bank was established at 6,910 metric tons.

This annual quota, based on a calendar year, included the total allowable catch for that vessel class for 4 consecutive quarters.

The landing statistics for cod indicate that by August 31, 1978, the 61-125 GRT vessel class operating in southern New England had caught and landed 6,877 metric tons, or 99.5 percent of the total annual allocation. It is estimated, therefore, that the 61-125 GRT vessel class engaged in the southern New England and Georges Bank cod fishery has now exceeded its quota for the current calendar year. The closure will continue through the remainder of the present quarter and the entire 4th quarter.

Fishermen are reminded that vessels of a comparable size using small mesh nets in other fisheries are restricted to an incidental catch and landing of cod not to exceed 1 percent of all other fish on board.

Signed at Washington, D.C. this 13th day of September 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-26265 Filed 9-15-78; 8:45 am]

proposed rules

DRAFTING INFORMATION

The principal drafters of this document were Ms. Roberta Books, Special

property, the appraiser must apply an appropriate discount to reflect what a prudent, knowledgeable purchaser under no necessity to buy would re-

(ii) All instructions from the bank to the appraiser must be in writing. The bank must instruct the appraiser to estimate fair value according to this sub-

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[4810-33]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 7]

OTHER REAL ESTATE PROPERTY

Proposed Revision to Interpretive Ruling

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Proposed revision to interpretive ruling.

SUMMARY: The purpose of this proposed revision is to indicate that national banks should record the value of "other real estate owned" in a manner consistent with generally accepted accounting principles as reflected in the Financial Accounting Standards Board's statement of financial accounting standards No. 15 (FASB 15), and as additionally required in this ruling. In addition, the proposed ruling has been expanded to include accounting for certain real estate transactions where a national bank's involvement is other than as lender only.

On January 20, 1978, the Comptroller of the Currency published for comment (43 FR 2881) a proposed amendment to interpretive ruling 7.3025 entitled "Other real estate owned" to conform the ruling with the provisions of FASB 15. As a result of the January proposal, the Comptroller has decided to expand the scope of this ruling significantly in order to more fully encompass the provisions of FASB 15, and to incorporate certain transactions not specifically addressed in the January proposal. The Comptroller is, therefore, reproposing this amendment, with significant changes for additional comment.

DATE: Written comments must be received on or before October 18, 1978.

ADDRESS: Comments should be addressed to Mr. John E. Shockey, Chief Counsel, Comptroller of the Currency, Washington, D.C. 20219.

FOR FURTHER INFORMATION CONTACT:

Mr. Andrew Levinson, Attorney, Comptroller of the Currency, Washington, D.C. 20219, 202-447-1880.

SUPPLEMENTARY INFORMATION: The current version of 12 CFR 7.3025 permits "other real estate owned" to be recorded initially at the lower of cost or fair market value. It also provides that if the book value exceeds the fair market value, the difference must be charged off. The existing interpretive ruling, in addition, notes that if a subsequent increase in fair market value occurs, book value should not be written up beyond the original cost.

On January 20, 1978, the Comptroller of the Currency published for comment (43 FR 2881) a proposed amendment to interpretive ruling 7.3025 entitled "Other real estate owned" to conform the ruling with the provisions of FASB 15. As a result of the many suggestions received in response to the January proposal, the Comptroller has decided to expand the scope of this ruling significantly in order to more fully encompass the provisions of FASB 15, and to incorporate certain transactions not specifically addressed in the January proposal. The Comptroller is, therefore, reproposing this amendment, with significant changes, for additional comment.

FASB 15 dictates that real estate acquired in a troubled debt restructuring be accounted for at its fair value. Thereafter a creditor shall account for an asset received in satisfaction of a loan the same as if the asset had been acquired for cash. FASB 15 defines fair value at the time of transfer as market value or, if no active market exists, the price it could reasonably be expected that a willing buyer would currently pay a willing seller. When real estate is acquired in a troubled debt restructuring, any excess of recorded investment in the satisfied loan over fair value is recognized as a loss by a charge against an appropriate loan loss or valuation reserve or against income. The proposed ruling follows these principles and additionally provides a definition for recorded investment in the satisfied loan.

The ruling has been further expanded to discuss the proper accounting for certain transactions among a debtor, the bank, and a third-party purchaser of real estate who does not assume significant economic risk. Transactions covered by the ruling are sales of other real estate owned where less than 10 percent of the total sales prices is in cash or there is financing by the bank of a portion of the sale price on terms more favorable than those customarily granted by the bank where its only involvement is as lender. The ruling also covers transactions in which the debtor transfers real property to a new owner who invests nominal equity and assumes the debt owed to the bank on restructured terms more favorable than those customarily required by the bank where its only involvement is as lender. These transactions are included to insure that banks recognize losses in a timely manner and do not circumvent the holding period of 12 U.S.C. 29.

Assets in the "other real estate owned" account which are not acquired by the bank in a troubled debt situation (former banking premises and property originally acquired for future expansion) will be accounted for at the lower of their net book value or fair value at the date of transfer to the account. This treatment is being required since the property is no longer an investment, but rather is held for resale.

The proposed ruling requires that banks substantiate both the initial fair value of all other real estate owned and its continuing carrying value by obtaining an appraisal or certification from an independent, qualified appraiser. Where the subsequent appraisal indicates that fair value has fallen below the carrying value, the bank must record the decline in a manner consistent with Statement of Financial Accounting Standards No. 5, "Accounting for Contingencies." Should a later appraisal indicate that fair value has increased, any valuation reserve established to record the decline in value of a specific parcel of real estate may be reduced by the amount of the increase in value of that property, but not below zero.

At present, there is a bill before Congress which would modify the statutory holding period contained in 12 U.S.C. 29. If enacted, the Comptroller of the Currency would have the authority, upon application by a national bank, to extend the 5-year holding period but for no more than an additional 5 years. Recognizing the possibility that the holding period may be changed, the ruling no longer contains reference to 5 years. Rather, the term "the allowable holding period under 12 U.S.C. 29" is used. The Comptroller of the Currency intends to use any appropriate supervisory remedies including those enumerated at 12 U.S.C. 1818(b) to enforce the requirement of 12 U.S.C. 29.

DRAFTING INFORMATION

The principal drafters of this document were Ms. Roberta Books, Special Assistant to the Comptroller, Mr. Robert Klinzing, National Bank Examiner, and Mr. Douglas Ward, Director, Bank Accounting.

PROPOSED AMENDMENT

For the reasons stated above, the Comptroller proposes to amend 12 CFR part 7 by revising § 7.3025 to read as follows:

§ 7.3025 Other real estate owned.

(a) "Other real estate owned" is:

(1) Real estate acquired by a national bank:

(i) Through purchases at sales under judgments, decrees, or mortgages where the property was security for debts previously contracted;

(ii) Through conveyance in satisfaction of debts previously contracted; or

(iii) Through purchases to secure debts previously contracted; and

(2) Former banking premises beginning on the date of relocation to new banking quarters and property originally acquired for future expansion for which banking use is no longer contemplated.

(b) "Covered transactions" are:

(1) Sales of other real estate owned where less than 10 percent of total sales price is in cash or there is financing by the bank of a portion of the sales price on terms more favorable than those customarily required for transactions where the bank's involvement is as lender only; and

(2) Transfers of real property from the original borrower to a new owner where the new owner's-purchase price is for nominal equity and the debt owed the bank is assumed by the new owner on restructured terms more favorable than those customarily required for transactions in which the bank's involvement is as lender only.

(c) The "recorded investment in the loan satisfied" is the unpaid balance of the loan adjusted for previous direct writedowns, if any, and increased or decreased for accrued and uncollected interest and for unamortized premium, discount, finance charges, or loan acquisition costs.

(d) "Fair value" is the cash price that might reasonably be anticipated in a current sale under all conditions requisite to a fair sale. A fair sale means that buyer and seller are each acting prudently, knowledgeably, and under no necessity to buy or sell. The appraiser should estimate the cash price that might be received upon exposure to the open market for a reasonable time, considering the property type and local market conditions. However, when more than 1 year is deemed necessary for a fair sale of the property, the appraiser must apply an appropriate discount to reflect what a prudent, knowledgeable purchaser under no necessity to buy would require to purchase the property within 1 year of the date of estimation of fair value.

(e) The bank must maintain current documentation reflecting its continuing and diligent efforts to dispose of each parcel of other real estate owned. Whenever a bank can recover the amount of its original loan and acquisition costs, it should dispose of other real estate owned. However, no national banking association shall hold other real estate owned for longer than the holding period permitted under 12 U.S.C. 29. That holding period begins on the date that legal title to the property is transferred to the bank, except for properties for which banking use is no longer contemplated and covered transactions. After a covered transaction, if title reverts or passes to the bank and the outstanding financing exceeds 90 percent of the sales price, the holding period begins on the date the bank originally acquired title. For covered transactions described in paragraph (b)(2) of this section, the holding period begins on the date of the first such transaction for the property.

(f) Real estate acquired for future expansion should normally be used within 3 years. After holding future expansion real estate for 1 year, the board must state, by resolution, definite plans for its use. The resolution must be available for inspection by national bank examiners.

(g) Real estate for which banking use is no longer contemplated will be accounted for at the lower of its net book value or its fair value at the date of transfer to other real estate owned. Otherwise, other real estate owned will be accounted for individually at its fair value on the date of transfer to that category. Any excess of the recorded investment in the loan satisfied, over the fair value of the property must be charged against the reserve for possible loan losses. In the absence of such a reserve, the excess must be charged to expense of the current period. Legal fees and direct costs of acquiring title to the property shall be expensed when incurred.

(i) Upon transfer to other real estate owned, fair value must be substantiated by a current appraisal prepared by an independent, qualified appraiser.

(i) This requirement is waived when the entire property is recorded at the lower of 5 percent of the bank's equity capital or $25,000. The requirement is deferred for 3 months after bank takes title when the bank can document reasonable expectation of a sale, other than in a covered transaction.

(ii) All instructions from the bank to the appraiser must be in writing. The bank must instruct the appraiser to estimate fair value according to this subparagraph and the definition of fair value. The appraisal must contain all of the bank's instructions to the appraiser. Whenever the appraiser believes that more than 1 year is necessary for a fair sale of the property, the appraiser shall state and justify the estimated time and shall state the annual discount rate applied.

(h) The bank must obtain annually from an independent, qualified appraiser a current appraisal of fair value for each property or certification, in letter form, that the fair value has not declined. The bank need not obtain either if the book value of the entire property is below the lower of 5 percent of equity capital or $25,000. When book value exceeds fair value, the bank must record the decline in value by a charge against earnings to establish a valuation reserve or to reduce the asset account. When a later appraisal indicates that fair value has increased, the reserve may be reduced, but not by more than the amount provided for that property.

(i) Loans arising from covered transactions must be included in other real estate owned on reports filed pursuant to 12 U.S.C. 161 and accounted for according to this section until at least 10 percent of the covered transaction sales prices has been received by the bank in cash.

(j) If other real estate owned is an unfinished construction or development project, further prudent advances to complete the project may be included in other real estate owned. However, such additional advances may not be capitalized unless the bank maintains on file evidence that the advances will result in a more salable property and are recoverable.

(k) Properties transferred to other real estate owned after December 31, 1977, shall be accounted for according to this ruling. Properties transferred to other real estate owned before January 1, 1978, shall be accounted for according to this ruling or the ruling in effect on the date of the transfer.

Dated: September 11, 1978.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc. 78-26103 Filed 9-15-78; 8:45 am]

[3510-24]

DEPARTMENT OF COMMERCE

the policies of that executive order, EDA is publishing this amendment as a proposed rule and will accept written comments on it on or before October

ments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Proce-

extending from the 5-mile radius area to 6 miles northeast. This control zone is effective during the specific dates and times established in advance by a notice to airmen.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate

radius of Butler-Choctaw County Airport (lat. 32°07'06" N., long. 88°07'42" W.).

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), sec.

[3510-24]

DEPARTMENT OF COMMERCE

Economic Development Administration

[13 CFR Part 309]

GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

Amendment of Labor Standards for Construction Projects

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Proposed rule.

SUMMARY: This amendment revises 13 CFR 309.6 "Labor standards-construction of projects." By deleting subsections (d) and (e). The change results from a joint EDA-HUD (Department of Housing and Urban Development) program to eliminate unnecessary differences between the two agencies' regulations. The intended effect of this amendment is to conform this regulations to approved EDA-HUD standards.

DATE: Comments by October 18, 1978.

ADDRESS: Send comments to Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

Dan Weiss, U.S. Department of Commerce, Room 7001, Washington, D.C. 20230, 202-377-4689.

SUPPLEMENTARY INFORMATION: Section 309.6 lists the labor standards which apply to EDA-assisted construction projects. Subsections (d) and (e) of this section are being deleted. Subsection (d) applied Executive Order 11588 on wage and price stabilization to contractors and subcontractors on EDA projects. This executive order has been rescinded; therefore subsection (d) no longer serves a useful purpose.

Subsection (e) notified contractors and subcontractors of their duty to comply with Executive Order 11246 on equal employment opportunity. This requirement also is contained, more appropriately, in EDA's nondiscrimination regulations, 13 CFR Part 311. Therefore, the deletion of subsection (e) does not affect the enforcement of these requirements.

With these changes, EDA's labor standards regulation will accord with the provisions of the EDA-HUD agreement.

In accordance with the criteria contained in Department of Commerce Administrative Order 218-7, EDA has determined that this amendment is not a significant regulation subject to the requirements of Executive Order 12044. However, in accordance with the policies of that executive order, EDA is publishing this amendment as a proposed rule and will accept written comments on it on or before October 18, 1978.

Accordingly, EDA amends 13 CFR Part 309 by deleting subsections (d) and (e) from § 309.6.

Dated: September 8, 1978.

ROBERT T. HALL,
Assistant Secretary for Economic Development.

[FR Doc. 78-26116 Filed 9-15-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 78-CE-24]

CONTROL ZONE—CLINTON, IOWA

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to designate a part-time control zone at Clinton, Iowa, to serve the Clinton, Iowa, Municipal Airport in order to provide additional controlled airspace protection for aircraft utilizing said airport.

DATE: Comments must be received on or before October 23, 1978.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Mo.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before October 23, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the rules docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Mo. 64106, or by calling 816-374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

THE PROPOSAL

The FAA is considering an amendment to Subpart F, § 71.171 of the Federal Aviation Regulations (14 CFR § 71.171) by designating a control zone at Clinton, Iowa, to serve the Clinton, Iowa, Municipal Airport. To enhance airport usage, a part-time control zone is being designated effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the airman's information manual. The intended effect of this action is to insure segregation of aircraft operating under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR).

Accordingly, the Federal Aviation Administration proposes to amend subpart F, § 71.171 of the Federal Aviation Regulations (14 CFR 71.171) as republished on January 3, 1978 (43 FR 355), by adding the following new control zone:

CLINTON, IOWA

That airspace extending upward from the surface within a 5-mile radius of the Clinton Airport (lat. 41°49'55" N., long. 90°19'45" W.) and within 3 miles each side of Davenport VORTAC 044° radial, extending from the 5-mile radius area to the VORTAC; and within 3 miles each side of the Clinton NDB 327° bearing from the airport, extending from the 5-mile radius area to 8½ miles northwest; and within 2½ miles each side of the 030° bearing from the Clinton Airport, extending from the 5-mile radius area to 6 miles northeast. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the airman's information manual.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Mo., on September 5, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 78-25987 Filed 9-15-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Docket No. 78-SO-57]

DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Proposed Designation of Transition Area, Butler, Ala.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will designate the Butler, Ala., transition area and will lower the base of controlled airspace in the vicinity of the Butler-Choctaw County Airport from 1,200 to 700 feet to accommodate instrument flight rule (IFR) operations. A public use instrument approach procedure has been developed for the Butler-Choctaw County Airport and the additional controlled airspace is required to protect aircraft conducting instrument flight rule (IFR) operations.

DATE: Comments must be received on or before: October 31, 1978.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404-763-7646.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before October 31, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Butler, Ala., 700-foot transition area. This action will provide additional controlled airspace to accommodate aircraft performing IFR operations at Butler-Choctaw County Airport.

DRAFTING INFORMATION

The principal authors of this document are William F. Herring, Airspace and Procedures Branch, Air Traffic Division, and Keith S. May, Office of Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend subpart G, § 71.181 (43 FR 440) of part 71 of the Federal Aviation Administration Regulations (14 CFR 71) by adding the following:

BUTLER, ALA.

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Butler-Choctaw County Airport (lat. 32°07'06" N., long. 88°07'42" W.).

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on September 6, 1978.

WILLIAM J. MCGILL,
Acting Director, Southern Region.

[FR Doc. 78-25985 Filed 9-15-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-CE-23]

TRANSITION AREA—OSKALOOSA, IOWA

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to designate a 700-foot transition area at Oskaloosa, Iowa, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Oskaloosa, Iowa, Municipal Airport, which is based on the Ottumwa, Iowa, VOR, a navigational aid.

DATES: Comments must be received on or before October 23, 1978.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408. The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Mo. An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before October 23, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the rules docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Mo. 64106, or by calling 816-374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

THE PROPOSAL

The FAA is considering an amendment to Subpart F, § 71.171 of the Federal Aviation Regulations (14 CFR § 71.171) by designating a control zone at Clinton, Iowa, to serve the Clinton, Iowa, Municipal Airport. To enhance airport usage, a part-time control zone is being designated effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the airman's information manual. The intended effect of this action is to insure segregation of aircraft operating under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR).

Accordingly, the Federal Aviation Administration proposes to amend subpart F, § 71.171 of the Federal Aviation Regulations (14 CFR 71.171) as republished on January 3, 1978 (43 FR 355), by adding the following new control zone:

CLINTON, IOWA

That airspace extending upward from the surface within a 5-mile radius of the Clinton Airport (lat. 41°49'55" N., long. 90°19'45" W.) and within 3 miles each side of Davenport VORTAC 044° radial, extending from the 5-mile radius area to the VORTAC; and within 3 miles each side of the Clinton NDB 327° bearing from the airport, extending from the 5-mile radius area to 8½ miles northwest; and within 2½ miles each side of the 030° bearing from the Clinton Airport, extending from the 5-mile radius area to 6 miles northeast. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the airman's information manual.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Mo., on September 5, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 78-25987 Filed 9-15-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Docket No. 78-SO-57]

DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Proposed Designation of Transition Area, Butler, Ala.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will designate the Butler, Ala., transition area and will lower the base of controlled airspace in the vicinity of the Butler-Choctaw County Airport from 1,200 to 700 feet to accommodate instrument flight rule (IFR) operations. A public use instrument approach procedure has been developed for the Butler-Choctaw County Airport and the additional controlled airspace is required to protect aircraft conducting instrument flight rule (IFR) operations.

DATE: Comments must be received on or before: October 31, 1978.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404-763-7646.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before October 31, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Butler, Ala., 700-foot transition area. This action will provide additional controlled airspace to accommodate aircraft performing IFR operations at Butler-Choctaw County Airport.

DRAFTING INFORMATION

The principal authors of this document are William F. Herring, Airspace and Procedures Branch, Air Traffic Division, and Keith S. May, Office of Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend subpart G, § 71.181 (43 FR 440) of part 71 of the Federal Aviation Administration Regulations (14 CFR 71) by adding the following:

BUTLER, ALA.

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Butler-Choctaw County Airport (lat. 32°07'06" N., long. 88°07'42" W.).

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on September 6, 1978.

WILLIAM J. MCGILL,
Acting Director, Southern Region.

[FR Doc. 78-25985 Filed 9-15-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-CE-23]

TRANSITION AREA—OSKALOOSA, IOWA

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to designate a 700-foot transition area at Oskaloosa, Iowa, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Oskaloosa, Iowa, Municipal Airport, which is based on the Ottumwa, Iowa, VOR, a navigational aid.

DATES: Comments must be received on or before October 23, 1978.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408. The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Mo. An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION:

hereby amended, but only to the extent necessary to incorporate the revised schedule and dates as contained herein.

SUMMARY OF DEADLINES

September 19, 1978: Requests to testify at public hearings.

October 2, 1978: All written comments.

conducts an initial parole hearing at the outset of confinement (120 days after arrival at a Federal institution); and (2) requiring the setting of a "pre-

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before October 23, 1978 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Mo. 64106, or by calling 816-374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

THE PROPOSAL

The FAA is considering an amendment to subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR Section 71.181) by designating a 700-foot transition area at Oskaloosa, Iowa. To enhance airport usage, a new instrument approach procedure to the Oskaloosa, Iowa, Municipal Airport is being established based on the Ottumwa, Iowa, VOR, a navigational aid. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at and above 700 feet above ground level (AGL) within which aircraft will be provided controlled airspace protection. The intended effect of this action is to insure segregation of aircraft using the new approach procedure under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR).

Accordingly, the Federal Aviation Administration proposes to amend subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), by adding the following new transition area:

OSKALOOSA, IOWA

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Oskaloosa Municipal Airport (latitude 41°13'36" N., longitude 92°29'30" W.) excluding the portion that overlies the Ottumwa, Iowa, transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; Mar. 8, 1978).

Issued in Kansas City, Mo., on September 5 1978.

JOHN E. SHAW,
Acting Director,
Central Region.

[FR Doc. 78-25986 Filed 9-15-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[14 CFR Ch. II]

[EDR-347D, PDR-49D, Docket 32219]

U.S. CORPORATIONS WHICH DO NOT QUALIFY AS A "CITIZEN OF THE UNITED STATES"

Supplemental Advance Notice of Proposed Rulemaking

SEPTEMBER 11, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental advance notice of proposed rulemaking.

SUMMARY: This notice extends until October 23, 1978 the date for filing comments in a rulemaking proceeding involving (1) the correctness of the Board's tentative legal ruling that U.S. corporations are citizens of the United States for the purposes of section 408(a)(4) of the Federal Aviation Act, (2) to determine the extent and nature of the effect of such a ruling, and (3) to formulate possible regulatory solutions through rulemaking procedures for problems which may arise. The extension was requested by British Airways.

DATE: Comments by October 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald H. Horn, Routes Division, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5206.

SUPPLEMENTAL INFORMATION: By advance notice of proposed rulemaking EDR-347/PDR-49, March 9, 1978, (43 FR 10938 March 16, 1978), the Civil Aeronautics Board gave notice of its tentative legal conclusion that U.S. corporations are citizens of the United States for purposes of section 408(a)(4) of the Federal Aviation Act and requested comments on that tentative legal conclusion, including the nature and extent of the problems which may be created by finalizing that tentative conclusion, and what regulatory action might be taken to minimize those problems consistent with statutory objectives. Comments were requested to be filed by May 1, 1978. By EDR-347A/PDR-49A (43 FR 18196, April 28, 1978) the comment date was extended until June 30, 1978. By EDR-347B/PDR-49B (43 FR 29011, July 5, 1978) the comment date was extended until July 31, 1978. By EDR-347C/PDR-49C (43 FR 32308, July 26, 1978) the comment date was extended until September 18, 1978.

On June 26, 1978, British Airways filed a motion for clarification of EDR-347/PDR-49 and requested that the due date for comments in this rulemaking be extended pending action on that motion. As it does not appear that British Airways' motion will be acted upon before the current comment date (September 18, 1978), the undersigned finds good cause to grant the requested extension of time for filing comments. Accordingly, under authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR 385.20(d)), the time for filing comments is extended to October 23, 1978.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324.)

RICHARD B. DYSON,
Acting Associate General
Counsel, Rules Division.

[FR Doc. 78-26220 Filed 9-15-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 305]

RULES FOR USING ENERGY COST AND CONSUMPTION INFORMATION IN LABELING AND ADVERTISING OF CONSUMER APPLIANCES UNDER THE ENERGY POLICY AND CONSERVATION ACT

Revised Schedule for Public Hearings and Submission Dates on Proposed Rulemaking

AGENCY: Federal Trade Commission.

ACTION: Proposed rule; dates changed for public hearings and submissions.

SUMMARY: On July 21, 1978, the Commission published in the FEDERAL REGISTER its notice of proposed rulemaking regarding appliance energy cost labeling. Upon formal and informal requests for extension of time, the presiding officer has rescheduled the public hearings and submission dates that were scheduled in the July 21 notice. The notice of July 21, 1978, is hereby amended, but only to the extent necessary to incorporate the revised schedule and dates as contained herein.

DATES: General written comments, hearing statements and exhibits must be received on or before October 2, 1978. The hearings will begin on October 12, 1978. The deadline for notification of desire to testify at hearings remains September 19, 1978.

ADDRESSES: Hearing location: Federal Trade Commision Building, Room 532, Washington, D.C.

Written comments, exhibits and hearing statements should be submitted, in five copies when feasible, to Christopher W. Keller, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580. These documents will be available for public inspection in the Public Reference Branch, Room 130 of the Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Andrew I. Wolf, 202-724-1453, Attorney, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On July 21, 1978, the Commission published in the FEDERAL REGISTER a notice of proposed rulemaking to consider energy cost labeling of consumer appliances (43 FR 31806). The rulemaking has been undertaken by the Commission pursuant to the Energy Policy and Conservation Act. The notice contained the text of the proposed rule and dates for the submission of written comments, deadline for requests to testify and the date and location of public hearings. The Presiding Officer has determined, pursuant to the authority of section 1.13(c)(1) of the Commission's rules of practice (16 CFR 1.13(c)(1)), that a revision of the schedule and extension of certain deadlines is warranted for the orderly conduct of this proceeding.

Accordingly, the schedule has been revised to allow an additional period for filing written comments and hearing statements; such comments and statements must be received by the presiding officer on or before October 2, 1978. The hearings will begin at 9 a.m. on October 12, 1978, in Room 532 of the Federal Trade Commission Building, Pennsylvania Avenue at Sixth Street NW., Washington, D.C. The deadline for notification of intent to appear at the hearings remains September 19, 1978. (If possible, witnesses addressing a specific appliance category will be scheduled to testify on the same day as other witnesses associated with the same appliance category.)

SUMMARY OF DEADLINES

September 19, 1978: Requests to testify at public hearings.

October 2, 1978: All written comments, hearing statements (testimony) and exhibits.

October 12, 1978: Hearings begin.

Issued: September 12, 1978.

CHRISTOPHER W. KELLER,
Presiding Officer.

[FR Doc. 78-26245 Filed 9-15-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Parole Commission

[28 CFR Part 2]

PAROLE, RELEASE, SUPERVISION, AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Proposed Rulemaking

AGENCY: U.S. Parole Commission.

ACTION: Proposed rule.

SUMMARY: This proposed rule provides that all Federal prisoners eligible for parole would be afforded initial parole hearings within 120 days of their arrival at a Federal institution, with the sole exception that offenders whose sentences include minimum terms of 10 years or more would not be heard until just prior to completion of the minimum term. The proposal also requires the Commission to set a presumptive date of release for each prisoner at the initial hearing, if release were warranted for a date not more than 10 years from the date of the hearing. These proposed modifications are further extensions of the Commission's present early hearing and presumptive date policy, and are designed to provide more certainty in the service of prison terms.

DATE: Comments must be received by November 15, 1978.

ADDRESS: Send comments to the U.S. Parole Commission, 320 First Street NW., Washington, D.C. 20537; Attention: Office of the General Counsel.

FOR FURTHER INFORMATION, CONTACT:

Rockne Chickinell, Office of the General Counsel, telephone 202-724-3143.

SUPPLEMENTARY INFORMATION:

WHAT THE PROPOSAL WOULD DO

These proposed modifications would provide virtually all Federal prisoners eligible for parole with greater certainty in the service of their prison terms by: (1) Broadening the category of prisoners for whom the Commission conducts an initial parole hearing at the outset of confinement (120 days after arrival at a Federal institution); and (2) requiring the setting of a "presumptive date of release" following that initial hearing, provided that release is feasible (under the criteria set forth at 18 U.S.C. 4206) within 10 years of the initial hearing. If more than 10 years of confinement were to be required, a presumptive date would not be set and the prisoner would be given a de novo reconsideration hearing at the 10-year point to see if a presumptive release date could be set at that time. However, in no case would presumptive release be set for a date prior to completion of any court-imposed minimum term of parole ineligibility.

Under the proposal, interim review hearings would be held at the statutorily required intervals of 24 or 18 months, for as long as the prisoner remained in confinement (18 U.S.C. 4208(h)). However, the first interim hearing would be deferred until the prisoner reached parole eligibility, if a minimum term were imposed.

Thus, the proposal would provide prisoners with greater certainty (i.e., determinacy) in the service of their sentences by informing them at the outset of confinement of the actual duration of the prison term they must serve (contingent upon continued good conduct and the development of a suitable release plan). This procedure would facilitate long-range release planning, and avoid the psychological stresses associated with uncertainty as to the ultimate date of release. It is important to note, in addition, that this proposal would be an extension of the Commission's present presumptive release date policy which already covers the major part of the Federal prison population by permitting the setting of presumptive dates up to 4 years in advance of actual release.

IMPLEMENTATION

The procedures described above would apply to all prisoners sentenced on or after the effective date of the final rule. (This would not include sentence modifications under rule 35, Federal Rules of Criminal Procedure, in the case of prisoners sentenced prior to the effective date of the rule.)

Prisoners sentenced prior to the effective date would continue to receive their initial hearings pursuant to the existing rule. The existing rule provides an early parole hearing for all prisoners whose sentences carry no minimum term, and all prisoners with sentences of less than 7 years regardless if there is a minimum term. Prisoners with sentences of 7 years or more who have minimum terms to serve do not receive initial hearings until just prior to completion of the

minimum term. See 28 CFR 2.12 (a) and (b) at 42 FR 39811 (Aug. 5, 1977).

However, at all initial hearings held after the effective date of these rules

(1) Notwithstanding a previously ordered presumptive release date or 10-year reconsideration hearing, interim

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[4910-14]

DEPARTMENT OF TRANSPORTATION

[4910-14]

[33 CFR Part 117]

DISCUSSION OF THE PROPOSED REGULATIONS

Presently, the bridge opens on signal

minimum term. See 28 CFR 2.12 (a) and (b) at 42 FR 39811 (Aug. 5, 1977).

However, at all initial hearings held after the effective date of these rules, a presumptive date would be set pursuant to the proposed procedures (up to 10 years in advance) and not under the existing rule, which carries a 4-year limit. See CFR 2.12(c) at 42 FR 39811 (Aug. 5, 1977).

In the case of a prisoner who has already had his initial hearing, but was continued to a 4-year reconsideration hearing, the Commission would endeavor to set a presumptive date pursuant to the proposed procedures (i.e., up to 10 years in advance) at the next scheduled hearing in that prisoner's case (statutory interim or 4-year reconsideration hearing). An interim hearing in such a case will be conducted in lieu of (and pursuant to the same procedures as), the previously scheduled 4-year reconsideration hearing. The same procedure would be followed in the case of review hearings for prisoners who have not been considered for parole under the existing presumptive date policy.

The texts of the rule changes necessary to effect this policy would be the following:

1. Paragraphs (a) and (b) of § 2.12 would be revised as follows:

§ 2.12 Initial hearings: Setting presumptive release dates.

(a) An initial hearing shall be conducted within 120 days of a prisoner's arrival at a Federal institution or as soon thereafter as practicable, except that in the case of a prisoner with a minimum term of parole ineligibility of 10 years or more, the initial hearing shall be conducted at least 30 days prior to the completion of such minimum term, or as soon thereafter as practicable.

(b) Following initial hearing the Commission shall set a presumptive release date (either by parole or by mandatory release): *Provided*, That such date falls within 10 years of the initial hearing, or set an effective date of parole as defined in § 2.1(h). If release is not found warranted, the Commission shall continue the prisoner to a 10-year reconsideration hearing pursuant to § 2.14(c).

• • • • • •

2. Paragraphs (a) and (c) of § 2.14 would be revised as follows:

§ 2.14 Subsequent proceedings.

(a) *Interim proceedings.* The purpose of an interim proceeding required by 18 U.S.C. 4208(h) shall be to consider any significant developments or changes in the prisoner's status that may have occurred subsequent to the initial hearing.

(1) Notwithstanding a previously ordered presumptive release date or 10-year reconsideration hearing, interim hearings shall be conducted by an examiner panel pursuant to the procedures of § 2.13 (b), (c), (e), and (f) at the following intervals from the date of the last hearing:

(i) In the case of a prisoner with a maximum term or terms of less than 7 years, every 18 months (until released).

(ii) In the case of a prisoner with a maximum term or terms of 7 years or more, every 24 months (until released).

(2) However, in the case of a prisoner with an unsatisfied minimum term, the first interim hearing shall be deferred until the docket of hearings immediately preceding completion of the minimum term.

(3) Following an interim hearing, the Commission may:

(i) Order no change in the previous decision;

(ii) Advance a presumptive release date, or the date of a 10-year reconsideration hearing. However, it shall be the policy of the Commission that once set, a presumptive release date or the date of a 10-year reconsideration hearing shall not be advanced except under clearly exceptional circumstances;

• • • • • •

(c) *Ten-year reconsideration hearings.* A 10-year reconsideration hearing shall be a full reassessment of the case pursuant to the procedures of § 2.13 to determine whether the setting of a presumptive release date would be appropriate at that time.

(1) A 10-year reconsideration hearing shall be ordered following the initial hearing in any case in which a release date is not set.

(2) Following a 10-year reconsideration hearing, the Commission may:

(i) Set a presumptive release date, if such within 10 years of the hearing; or

(ii) Continue the prisoner to a further 10-year reconsideration hearing if no presumptive release date is set.

Dated: September 11, 1978.

CECIL C. MCCALL,
Chairman,
U.S. Parole Commission.

[FR Doc. 78-26165 Filed 9-15-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CDG 78-107]

DRAWBRIDGE OPERATION REGULATIONS

Blynman Canal, Mass.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the city of Gloucester, the Coast Guard is considering changing the regulations governing the drawbridge across the Blynman Canal, Gloucester, Mass., by permitting the draw to remain closed during certain periods. This proposal is being made to accommodate periods of peak vehicular traffic. This action will accommodate the needs of vehicular traffic while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before October 20, 1978.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (obr), First Coast Guard District, 150 Causeway Street, Boston Mass. 02114.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C., 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, First Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant G. S. Karavitis, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

This proposal is being made in an effort to reduce the congestion of both land and water transportation during the tourist season. The Blynman Canal is at the southern portion of the Annisquam River. During the summer months the drive around Gloucester Harbor or a cruise along the Annisquam River are popular attractions. Unrestricted openings of the Blynman Canal drawbridge cause vehicles to back up and unrestricted closures would cause vessels to back up. This proposal, by scheduling bridge openings, is intended to provide for the more orderly passage of vessels and improve vehicular traffic.

The request from the city of Gloucester would have required the draw to open at any time for the passage of commercial fishing vessels. The Coast Guard feels that this is inconsistent with the purpose of the basic request and this portion of the proposal is therefore rejected at this time.

In consideration of the foregoing, it is proposed that Part 117 of title 33 of the Code of Federal Regulations be amended by adding a new § 117.62 immediately after § 117.60 to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.62 Gloucester Harbor (Blynman Canal), Mass., Department of Public Works Highway Bridge.

(a) From May 15 through October 15, from 6 a.m. to 8 p.m., the draw shall open once an hour on the half-hour for no more than 15 minutes for the passage of vessels. At all other times the draw shall open on signal.

(b) The owner of or agency controlling the bridge shall conspicuously post on both the upstream and downstream sides of the bridge a resume of these regulations in such a manner that it can easily be read from an approaching vessel at any time.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5)).

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: September 11, 1978.

J.B. HAYES,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc. 78-26234 Filed 9-15-78; 8:45 am]

[4910-14]

[33 CFR Part 117]

[CGD 78-112]

DRAWBRIDGE OPERATION REGULATIONS

Sheboygan River, Wisconsin

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of Donohue and Associates, Inc., on behalf of the city of Sheboygan, Wis., the Coast Guard is considering changing the regulations governing the Eighth Street bridge across the Sheboygan River. This proposal is being made to accommodate periods of peak vehicular traffic. This action should accommodate the needs of vehicular traffic while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before October 20, 1978.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, Ohio 44199.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Ninth Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant G. S. Karavitis, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

Presently, the bridge opens on signal between 6 a.m. and 10 p.m. daily from 1 May through 30 October and upon two hours advance notice all other times of the year. The proposed operating regulations would require the following 15 and 30 minute opening intervals, between the hours of 6 a.m. and 7 p.m.

15 Minute Intervals

6 a.m. to 8 a.m.
9 a.m. to 12 noon.
1 p.m. to 4 p.m.
6 p.m. to 7 p.m.
7 p.m. to 10 p.m. open on signal.

30 Minute Intervals

8 a.m. to 9 a.m.
12 noon to 1 p.m.
4 p.m. to 6 p.m.

The original request was changed from 15 minute intervals from 6 p.m. to 10 p.m. to 15 minute intervals between 6 p.m. to 7 p.m. and open on signal from 7 p.m. to 10 p.m. in order to give the mariner better service during the twilight hours. Donohue and Associates, Inc., and the city of Sheboygan agree with this change since it is a better service to the mariner and poses no unreasonable delay in vehicular traffic.

The purpose of these regulations is to eliminate vehicle traffic tie-ups during peak traffic hours.

Analysis of the bridge tender logs and traffic counts indicate that the requested operating regulations would not pose an unreasonable restriction to navigation.

In consideration of the foregoing, it is proposed that part 117 of title 33 of the Code of Federal Regulations be amended by revising § 117.652(a) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.652 Sheboygan River, Wis.; Eighth Street Bridge at Sheboygan, Wis.

a. From May 1 through October 30 the draw shall open on signal except that:

(1) From 6 a.m. to 8 a.m., 9 a.m. to 12 noon, 1 p.m. to 4 p.m., and 6 p.m. to 7 p.m. the draw need open to navigation only on the hour, quarter-hour, half-hour, and three-quarters hour.

(2) From 8 a.m. to 9 a.m., 12 noon to 1 p.m. and 4 p.m. to 6 p.m. the draw need open to navigation only on the hour and half-hour.

(3) Public vessels, vessels in distress, and state or local government vessels used for public safety shall be passed through the draw of this bridge as soon as possible at any time even though the closed periods may be in effect. The signal from these vessels is

four blasts of a whistle, horn, or by shouting.

• • • • • •

(Sec. 5, 28 Stat. 362, as amended, sec.

SUPPLEMENTARY INFORMATION:

BACKGROUND

of the seashore were considered, and an extensive public involvement program conducted. The issue of zoning standards was thoroughly aired, and a

opment to only the area within the communities. The proposed regulations are intended to conserve and preserve land and water resources, conso-

formal disposition of those applications by the town or village authority.

The general management plan for Fire Island National Seashore suggests

DRAFTING INFORMATION

The following persons participated in the writing of these regulations: Richard W. Marks and John P. Debo

four blasts of a whistle, horn, or by shouting.

* * * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: September 12, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-26236 Filed 9-15-78; 8:45 am]

[4310-70]

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 28]

FIRE ISLAND NATIONAL SEASHORE, N.Y.

Zoning Standards

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed standards set forth below are a revision of the existing zoning standards (promulgated in 1966) for communities within the boundaries of Fire Island National Seashore. These revisions are necessary to guide private development uses and to promote the protection and development of land within the seashore boundary in a manner consistent with the purposes of Pub. L. 88-587, the 1964 Act authorizing the establishment of the seashore. The authority to implement these standards is set forth in the Act, which directs the Secretary of the Interior to issue regulations, which may be amended from time to time, specifying standards for local zoning ordinances that are consistent with the purposes of the Seashore Act. These revisions reflect and are consistent with the management objectives set forth in the recently approved 1978 General Management Plan for Fire Island National Seashore.

DATES: Written comments, suggestions, or objections regarding this proposal will be accepted until October 18, 1978.

ADDRESS: Comments should be directed to: Superintendent, Fire Island National Seashore, 120 Laurel Street, Patchogue, N.Y. 11772.

FOR FURTHER INFORMATION CONTACT:

Richard W. Marks, Superintendent, Fire Island National Seashore, telephone: 516-289-4810.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The enabling legislation for Fire Island National Seashore provides a special status for the delineated communities (often called "exempt communities") within the seashore boundaries. Under this legislation, existing and future private development in these communities is exempt from condemnation by the National Park Service so long as local zoning authorities have in effect zoning ordinances which are satisfactory to the Secretary of the Interior. To implement this legislation, the Secretary is directed to issue regulations which specify zoning standards consistent with the purposes of the Act, and to subsequently approve local zoning ordinances submitted to him which conform to those standards. Exemption from condemnation is provided the owners of property in the delineated communities only when an approved zoning ordinance is in effect in the appropriate town or village. In addition, in those instances where an approved ordinance is in effect, a property owner's exempted status may be removed if the property is the subject of a variance or special exception which the Secretary determines is inconsistent with the standards.

In the area within the seashore boundaries that is outside of the exempt communities, the Secretary may not, with one exception, acquire improved properties without the consent of the owner for so long as an approved zoning ordinance is in effect and no variances or special exceptions are granted above the objection of the Secretary. The exception to this limitation is in the area extending from Davis Park to the westerly boundary of Smith Point County Park, where the Secretary may acquire improved properties to achieve the purposes of the Act.

The original zoning standards promulgated by the Secretary under the Act were issued in 1966, and are in effect today. Of the four local zoning authorities involved, only the town of Islip submitted a zoning ordinance which received approval by the Secretary. The village of Saltaire submitted an ordinance on which no formal action was taken (pending completion of the general management plan), and the village of Ocean Beach and the town of Brookhaven did not submit ordinances.

With the formal approval of the general management plan in March of 1978, a protracted planning effort spanning about 7 years has reached fruition. During this period numerous options and proposals for management of the seashore were considered, and an extensive public involvement program conducted. The issue of zoning standards was thoroughly aired, and a general consensus reached on an approach that was acceptable to the general public and which satisfied the requirements of the Seashore Act. The general management plan sets forth the basic elements of a revised zoning standard for Fire Island National Seashore, and the impacts of those proposals are discussed in the final environmental statement which accompanies the plan. With a general management plan in hand, and general support of the public for its policies, the National Park Service now anticipates that the four local jurisdictions will move to submit acceptable zoning ordinances to the Secretary for his approval, thus for the first time fully putting into effect the mechanisms for control of private development within the boundaries of the seashore envisioned in the 1964 Seashore Act.

AREAS AFFECTED

These regulations are intended to apply to all privately owned lands within the boundary of Fire Island National Seashore. This includes lands within the "exempted communities" delineated on the official Fire Island National Seashore boundary map numbered OGP-002, dated June 1964, as it may be amended from time to time, and all other lands within the seashore boundaries in Brookhaven and Islip towns which lie outside of these communities.

ZONING STANDARDS

The proposed zoning standards set forth below build upon the foundation of the original zoning standards promulgated in 1966, but are modified and supplemented to provide increased protection for lands within the seashore, consistent with the purposes of the Seashore Act. These standards reflect the intent of the Act to guide the nature of private development rather than prohibit development altogether. The basic elements of the standards include orientation to single family residential use, strict control over increased commercial and industrial uses, protection of the fragile primary dune area, and limitations on population density.

A significant change in format from the existing zoning standards is the elimination of the terms "Seashore District" and "Development District" in the proposed standards. To eliminate redundancy and increase the clarity of the standards, these terms are no longer used. However, the distinction between private lands within and those outside of the "exempt communities" is retained, as it is clear that the Act limits additional private development to only the area within the communities. The proposed regulations are intended to conserve and preserve land and water resources, consonant with the purposes of the Seashore Act. The regulations include standards for acreage, frontage, and setback requirements, maximum percentage of lot occupancy and total floor area, maximum building height, and maximum numbers of kitchens and bathrooms per residence. These standards are intended to guide future residential development along environmentally acceptable patterns, to prevent over development of building lots, to preserve adequate open spaces in residential communities, to protect esthetic values, to discourage multiple dwelling use of residential structures designed for single family uses, and to lessen human impacts on ground water supply and sewage disposal systems. To preserve the traditional character of Fire Island communities and to protect environmental values, the regulations prohibit the construction, conversion, or expansion of multiple dwellings and guest houses, and the construction of inground swimming pools. Increased commercial uses are allowed only by special permit of the town or village board under the proposed regulations, and such applications will be reviewed by the Secretary to determine whether proposed uses are consistent with the purposes of the Seashore Act. The standards also provide for accessory uses consistent with the character of the island communities.

The proposed regulations also require that the towns and villages within the seashore have in effect flood damage prevention regulations, subdivision limitations, specified sign control standards, and general environmental protection controls on burning, dumping, and excavating. These regulations will insure protection of environmental and esthetic values, as well as promote the public health, safety, and general welfare.

Reflecting the increased public and scientific awareness of the important protective functions of dunes, the proposed standards require that each of the towns or villages have in effect a special dune protection district which prohibits construction in the area extending from the mean high tide line to 40' landward of the primary dune crest. This standard is intended to protect Fire Island's fragile dunes from the adverse impacts of construction and related human activities.

The final element of the proposed standards requires that each of the towns and villages adopt certain procedural standards which insure that the seashore is apprised of applications for permits requiring variances, and of the formal disposition of those applications by the town or village authority.

The general management plan for Fire Island National Seashore suggests the creation of a special wetlands district on Fire Island. However, in depth investigation of this issue had led to the conclusion that this suggestion need not be implemented. The provisions of the New York State Tidal Wetlands Act (Article 25 of the Environmental Conservation Law) are intended to regulate and protect the use of coastal wetland resources. As mapped by the New York State Department of Environmental Conservation under § 661.27 of the Tidal Wetlands-Land Use regulations, only one community on Fire Island contains a significant wetland, which is the Clam Pond area in Saltaire; minmal wetlands are found in Point O'Woods and Davis Park. Sections 661.17 (statements by the public) and 661.36 (judicial review) of these regulations, and comparable provisions in the Tidal Wetlands Act, are adjudged to provide sufficient opportunity for National Seashore involvement in wetlands regulation and protection of Fire Island. Therefore the proposed zoning regulations do not specifically address the wetlands issue. In addition, existing seashore authority to condemn property where variances are granted may, in certain situations, provide additional protection for wetland lots, should direct Federal purchase be warranted.

PUBLIC PARTICIPATION

It is the policy of the Department of the Interior, to the extent possible, to permit public participation in the rulemaking processe. Accordingly, interested persons are invited to submit written comments, suggestions, or objections on this proposal. All such comments received will be reviewed to determine whether changes should be made in these regulations. Comments should be directed to the Superintendent, as specified in the address section of this notice. In addition, the Superintendent will be available to meet with interested individuals or groups to discuss the proposed regulations during the public comment period.

IMPLEMENTATION DATE

It is anticipated that the revised regulations will become effective on October 1, 1978.

AUTHORITY

Section 3 of the act of August 25, 1916, 39 Stat. 535, as amended (16 U.S.C. 3); Section 3 of the act of September 11, 1964, 78 Stat. 930 (16 U.S.C. 459(e-2); 245 DM-1 (42 FR 12931) as amended, and National Park Service Order No. 77 (38 FR 7478) as amended.

DRAFTING INFORMATION

The following persons participated in the writing of these regulations: Richard W. Marks and John P. Debo, Fire Island National Seashore; and Peter Koff, Office of the Solicitor, Boston, Mass.

NOTE.—The National Park Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: September 12, 1978.

RICHARD W. MARKS,
Superintendent,
Fire Island National Seashore.

In consideration of the foregoing, it is proposed that Part 28 of Title 36, Code of Federal Regulations, be revised as follows:

Sec.
28.1 Introduction.
28.2 General provision.
28.3 Development standards.
28.4 Variances and exceptions.

AUTHORITY: Secs. of the Act of August 25, 1916, 39 Stat. 535, as amended (16 U.S.C. 3); sec. 3 of the Act of September 11, 1964, 78 Stat. 930 (16 U.S.C. 459(e-2); 245 DM-1 (42 FR 12931) as amended, and National Park Service Order No. 77 (38 FR 7478) as amended.

§ 28.1 Introduction.

(a) In administering, protecting, and developing the Fire Island National Seashore (hereinafter also referred to as the Seashore), and the Secretary of the Interior (hereinafter referred to as the Secretary), are required to be guided by the provisions of the Act of September 11, 1964 (78 Stat. 928), and the applicable provisions of the laws relating to the National Park System. The Secretary, further, may utilize any other statutory authority available to him for the conservation and development of natural resources to the extent he finds that such authority will further the purposes of the said Act of September 11, 1964.

(b) To the extent consistent with the aforesaid Act of September 11, 1964, development and management of the Fire Island National Seashore will be conducted in a manner to assure the conservation of its natural resources and the widest possible public use, understanding and enjoyment of its natural and scientific features. This contemplates a broad range of outdoor recreational activities, including, but not limited to, hiking, boating, swimming, fishing, picnicking, nature study or beachcombing, and any such activities that shall be compatible with wise resource management and the physical capabilities of the seashore.

(c) The Secretary may not acquire by condemnation any privately owned

"improved property" (defined in paragraph (e) of this section), or interests therein within the boundaries of the Seashore, for so long as the appropri-

any zoning ordinances or amendments to approved zoning ordinances submitted to him which conform to the standards set forth. He may not, how-

lineated on the official Fire Island National Seashore boundary map numbered OGP-0002 as it may be amended from time to time, and all other lands

standards for private development within the Seashore.

(e) Within the scope of the standards herein prescribed or as hereafter

(h) There shall be in effect appropriate regulations which lessen the potential for flood and related erosion losses consistent with the Federal In-

is acceptable to the Secretary. If through natural phenomena or causes a lot or lots are so diminished in size that an owner of property situated

"improved property" (defined in paragraph (e) of this section), or interests therein within the boundaries of the Seashore, for so long as the appropriate local zoning agency shall have in force and applicable to such property a duly adopted, valid zoning ordinance that is satisfactory to the Secretary. An exception to this limitation on the power of the Secretary to condemn improved property shall be in the approximately 8-mile area in the town of Brookhaven, from the easterly boundary of Davis Park to the westerly boundary of the Smith Point County Park, where the Secretary may acquire land or improvements by this means if he deems it advisable for carrying out the terms of the Act of September 11, 1964, or to improve the contiguity of park land and ease its administration. Improved property owners within such 8-mile area have certain elections under section 3(e) of that act if their property is taken for these purposes. The Secretary may acquire, by condemnation or other means, any beach or waters and such adjoining land as he determines is necessary for access to the beach or waters.

(d) [Reserved]

(e) As used herein, "improved property" means any building, the construction of which was begun prior to July 1, 1963, together with such amount of land on which said building is situated as the Secretary considers reasonably necessary to the use of said building not, however, to exceed 2 acres in the case of a residence or 10 acres in the case of a commercial or industrial use. The Secretary may exclude from such "improved property" any beach or waters, as well as land adjoining such beach or waters, which he deems necessary for public access thereto.

(f) The regulations in this part are designed to establish minimal standards to which local zoning ordinances for the Fire Island National Seashore must conform if certain improved properties and properties within the delineated communities are to be exempt from acquisition by condemnation. These standards are intended:

(1) To prohibit new commercial or industrial uses of all property within the Seashore, other than uses which the Secretary considers are consistent with the purposes of the act establishing the seashore; and,

(2) To promote the protection and development of the land within the Seashore in keeping with the purposes of that act by means of acreage, frontage, setback requirements, and other such environmental protection controls.

(g) Following promulgation of the regulations in this part in final form, the Secretary is required to approve any zoning ordinances or amendments to approved zoning ordinances submitted to him which conform to the standards set forth. He may not, however, approve any ordinance or amendment thereto which:

(1) Contains any provision that he considers adverse to the protection and development of the area comprising the Seashore; or,

(2) Fails to provide that the Secretary shall receive notice of any variance granted under, or any exception made to, the application of such ordinance or amendment.

(h) Nothing contained in the regulations in this part or in the zoning ordinances or amendments adopted pursuant to such regulations for the area within the Seashore shall preclude the Secretary from exercising his power of condemnation with respect to:

(1) Any property not within the definition of "improved property",

(2) Property within the 8-mile area between the eastern boundary of Davis Park and the westerly boundary of the Smith Point County Park; or,

(3) Any other property—including "improved property" and property within the delineated communities—if the appropriate local zoning agency does not have in force and applicable to such property, zoning ordinances that are satisfactory to the Secretary, or if a property owner fails to comply with the conditions, requirements, and restrictions contained in the regulations in this part and in zoning ordinances approved by the Secretary.

Nor shall these regulations preclude the Secretary from otherwise fulfilling the responsibilities vested in him by the act authorizing establishment of the seashore or by the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented.

§ 28.2 General provisions.

Following issuance of the regulations in this part, the towns and villages wholly or partially within the Seashore boundaries shall submit to the Secretary for his approval, all zoning ordinances and amendments thereto which are in force and applicable to property within the seashore and which demonstrate conformity with the standards in the regulations in this part. The submissions shall include any ordinances and amendments in effect prior to the issuance of these regulations which demonstrate such conformity and any that have been adopted to implement the regulations in this part.

§ 28.3 Development standards.

(a) Definition. These standards shall apply to all privately owned lands within the boundary of Fire Island National Seashore, including lands within the "exempt communities" delineated on the official Fire Island National Seashore boundary map numbered OGP-0002 as it may be amended from time to time, and all other lands within the Seashore boundaries in Brookhaven and Islip towns which lie outside of those communities.

(b) Zoning ordinances in effect or adopted for lands within the seashore boundaries shall conform to the general and specific standards prescribed in the regulations in this part, shall be consistent with the objectives and purposes of the Act of September 11, 1964, (78 Stat. 928), so that to the extent possible under New York law—natural resources and values will be preserved and protected and any uses within the Seashore will be in accord with the purposes of the Seashore. From time to time these standards will be reviewed and, if necessary, revised through the issuance of amended regulations.

(c) To implement the Act the Secretary of the Interior shall approve zoning ordinances submitted to him which include the following minimum standards:

(1) Maximum plot occupancy not to exceed 25 percent for principle structures and 5 percent for accessory structures (storage sheds, decks, swimming pools, tennis courts, etc.), excluding access walks and bicycle racks,

(2) Maximum total floor area (including separate floor levels), not to exceed 30 percent of the total plot area,

(3) Maximum building height not to exceed 28 feet, measured from average ground level to average roofline elevation (excluding chimneys, flagpoles, and other similar projections,

(4) Maximum of one kitchen and two bathrooms per residential structure,

(5) A prohibition on the construction, or expansion of apartment or other multiple dwellings or conversion of existing structures to those purposes.

(6) A prohibition on the construction or expansion of guest houses, or conversion of existing structures to those purposes,

(7) A prohibition on the subdivision of plots into lots which do not meet the requirements of existing zoning ordinances,

(8) A prohibition on the construction of inground swimming or diving pools.

(d) Those provisions relating to acreage, frontage, and setback requirements contained in zoning ordinances of the towns of Brookhaven and Islip and of the villages of Ocean Beach and Saltaire which are in effect on Fire Island as of the date of publication in the FEDERAL REGISTER of these revised regulations are hereby adopted as the acreage, frontage, and setback standards for private development within the Seashore.

(e) Within the scope of the standards herein prescribed or as hereafter amended, permitted principle uses within residentially zoned areas include only construction of detached single family dwellings and churches, schools, community buildings, and other such nonresidential/noncommercial structures. Permitted accessory uses within residentially owned areas include only customary accessory structures such as storage sheds, decks, ramps, etc., and offices for professional occupations such as physicians, dentists, etc., provided such use is by the person residing on the premises, is incidental to residential use, and does not exceed more than ⅓ of the first floor area. Within commercially zoned areas, construction of new commercial and industrial uses or expansion or conversion of existing structures for these purposes, shall be permitted only by special permit of the town or village board. All special permit applications for commercial and industrial uses will be reviewed by the Secretary to determine whether the proposed use is consistent with the purposes of the Act establishing Fire Island National Seashore.

(f) There shall be in effect within the seashore appropriate limitations, requirements or restrictions upon the burning of cover and trash, the excavation, displacement, or removal of sand, and the dumping, storing or piling of refuse, materials, equipment, or other unsightly objects which would detract from the cultural and natural scene.

(g) Signs within the Seashore shall not be self-illumninated; shall be limited in size to one square foot in area in residential zones and limited to four square feet in are in commercial zones; shall be limited in number to one per premises; and shall be located on premises. Nonconforming signs may continue such nonconformity until they are destroyed, structurally altered, reconstructed, changed, or moved, but the period of such nonconformity may not exceed 2 years from the date the zoning ordinance imposing the restrictions contained in this paragraph is approved by the town or village. Noncommercial signs to be used for public information, orientation, or education purposes may be larger, by special permit of the town or village.

(h) There shall be in effect appropriate regulations which lessen the potential for flood and related erosion losses consistent with the Federal Insurance Administration's National Flood Insurance Program criteria for "Land Management and Use," as set forth in 24 CFR Part 1910, subpart A, as it may from time to time be amended.

(i) In the area extending from the mean high tide line to 40 feet landward of the primary natural high dune crest, as defined by Fire Island National Seashore on Suffolk County Property Maps, section numbers 491-498 (Islip), 002 (Ocean Beach), 002-004 (Saltaire), and 985.70-987 (Brookhaven), there shall be in effect zoning regulations which prohibit all construction, including new structures, bulkheads, piles, revetments, decks, swimming pools, and other structures or man made dune stabilization devices (excepting routine maintenance of existing structures, placement of snow fencing, or construction or repair of elevated pedestrian dune crossings for general public access).

(j) It is the clear intention of the act authorizing establishment of the Seashore that all land within its boundaries except certain "improved property" and property within the delineated communities (as defined in § 28.3(a) be acquired by the United States as rapidly as appropriated funds are made available therefore and before future development occurs. Accordingly, unimproved property situated outside of the delineated communities will be subject to acquisition by the Secretary by condemnation in the event it is developed by the owner for any purpose. Additionally, increased or additional commercial or industrial uses are prohibited on property situated outside of the delineated communities. Such developments will likewise be subject to acquisition by the Secretary by condemnation.

(k) No moving, alteration, or improvement of existing residential dwellings or structures appurtenant thereto or beach clubs shall be permitted on property situated outside of the delineated communities unless there is compliance with the acreage, frontage, and setback requirements, the height limitations and maximum plot occupancy, total floor area, and other requirements contained in a zoning ordinance, or amendment thereto, which is acceptable to the Secretary. If through natural phenomena or causes a lot or lots are so diminished in size that an owner of property situated outside of the delineated communities would be unable to comply with the requirements prescribed in this paragraph, for moves, alternations, or improvements such owner may file an application for a variance, as provided in § 28.4, which application will commence review by the Secretary to determine whether or not the proposed use fails to conform to the criteria set forth in these regulations or in the Act, and will, therefore, subject the property to acquisition by condemnation.

§ 28.4 Variances and exceptions.

(a) Zoning ordinances or amendments thereto, for the area comprising the Fire Island National Seashore may provide for the granting of variances, exceptions, and special permits.

(b) Towns and village zoning ordinances in effect on Fire Island shall contain provisions whereby,

(1) A copy of applications for variances, exceptions and special permits are provided by the local zoning authority to the Secretary within 5 working days of their submission by the applicant. The Secretary, within 15 working days of the receipt of such application, shall inform the applicant and the appropriate local zoning authority whether or not the proposed use conforms to the criteria set forth in these regulations, and will, therefore, subject the property to potential acquisition by condemnation. If the application does not confrom to the criteria, the Secretary shall also inform the applicant that should the application be granted, the Secretary may seek to enjoin the development and acquire the property by condemnation, subject to available funds, and

(2) Local zoning authorities provide the Secretary written notice of the dates and times of public hearings to be held concerning such applications.

(c) Pursuant to section 3(d) of the Act of September 11, 1964, every zoning ordinance or amendment thereof, for the area comprising the Fire Island National Seashore shall provide that a town or village that approves or disapproves an application for a variance, exception, or special permit must give notice to the Secretary within 5 working days of such action.

[FR Doc. 78-26164 Filed 9-15-78; 8:45 am]

notices

[6320-01]

CIVIL AERONAUTICS BOARD

[6320-01]

[Docket 32867; Order 78-9-55]

during the Priority and Nonpriority Domestic Service Mail Rate Investigation (docket 23080-2),[4] with modifications which purport to take into ac-

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6110-01]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON JUDICIAL REVIEW

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Judicial Review of the Administrative Conference of the United States, to be held at 10 a.m., Thursday, October 5, 1978 in the fourth floor conference room at Covington and Burling, 888 16th Street NW., Washington, D.C.

The Committee will meet to discuss Professor Frederick Davis' study of whether or not Veterans' Administration determination should be subject to judicial review.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least 2 days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact Jeffrey S. Lubbers, 202-254-7065. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

SEPTEMBER 11, 1978.

[FR Doc. 78-26182 Filed 9-15-78; 8:45 am]

[3410-02]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

GRAIN STANDARDS

Request for Transfer of Designation by the Lubbock Grain Inspection & Weighing, Inc., Lubbock, Tex.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: Notice that the Lubbock Grain Inspection & Weighing, Inc., Lubbock, Tex., has requested transfer of its designation as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended, to Mr. Raymond Anthis, who has filed an application for such designation. This notice also requests comments on the proposed transfer and invites other interested persons to make application for designation as an official agency at Lubbock.

DATE: Comments and/or applications by October 18, 1978.

FOR ADDITIONAL INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street SW., Room 2405, Auditors Building, Washington, D.C. 20250, 202-447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 et seq.) (hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to sections 7 and 7A of the Act, the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing and supervision of weighing of grain, at inland locations where the Administrator determines there is a need for such services (7 U.S.C. 79 and 79a). Under the Act, such designation shall terminate triennially but may be renewed in accordance with the criteria and procedure prescribed (7 U.S.C. 79(g)(1) and 79a(c)).

The Lubbock grain Inspection & Weighing, Inc., Lubbock, Tex., has requested that its designation under the Act to operate as an official agency at Lubbock, Tex., be transferred to Mr. raymond Anthis, the present Chief Inspector of that agency. Mr. Raymond Anthis has applied for designation under section 7(f)(1) of the Act (7 U.S.C. 79(f)(1)) to operate as the official agency at Lubbock, Tex., to be known as the Lubbock Grain Inspection & Weighing, Inc. This application does not preclude other interested persons from making similar application.

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)) provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

Interested persons are hereby given opportunity to submit written views or comments with respect to the requested transfer of official agency designation. All views or comments should be submitted in writing, in duplicate, and mailed to the Director's Office, Compliance Division, Federal Grain Inspection Service, 201 14th Street SW., Room 2405, Auditors Building, Washington, D.C. 20250, not later than October 18, 1978.

Under the provisions of section 7(f)(1), interested persons are also given opportunity to make application for designation to operate as an official agency at Lubbock, Tex., pursuant to the requirements in section 7(f)(1)(A) of the Act, as amended (7 U.S.C. 79(f)(1)(A)) and section 26.96 of the regulations (7 CFR 26.96). Persons wishing to apply for designation to operate as an official agency at Lubbock should contact the Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, for the appropriate forms and mail their applications to the Director's Office at the above cited address, not later than October 18, 1978.

Consideration will be given to the views and comments filed and to any applications submitted and to all other information available to the U.S. Department of Agriculture before a final determination is made with respect to the official agency designation. All views, comments and applications submitted pursuant to this notice will be made available for public inspection at the above Office of the Director during regular business hours (7 CFR 1.27(b)).

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Done in Washington, D.C. on: September 13, 1978.

DR. GALLIART,
Acting Administrator.

[FR Doc. 78-26155 Filed 9-15-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 33237]

CALIFORNIA-ARIZONA LOW FARE ROUTE PROCEEDING

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter will be held on October 31, 1978, at 10 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Pricing and Domestic Aviation will circulate its material on or before October 13, 1978, and the other parties on or before October 24, 1978. The submissions of the other parties shall be limited to points on which they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., September 13, 1978.

FRANK M. WHITING,
Administrative Law Judge.

[FR Doc. 78-26223 Filed 9-15-78; 8:45 am]

[6320-01]

[Docket 32665]

CALIFORNIA/SOUTHWEST-WESTERN MEXICO ROUTE PROCEEDING

Hearing

Notice is hereby given that a hearing in the above-entitled proceeding will be held on October 10, 1978, at 10 a.m. (mountain daylight time) in the Airport Marina Hotel, 2910 Yale Boulevard, Albuquerque, N. Mex., before Administrative Law Judge Stephen J. Gross.

The issues involved in this proceeding are discussed in order 78-5-69 and in the report of the prehearing conference, both of which are in the docket of this proceeding on file in the docket section of the Civil Aeronautics Board.

Dated at Washington, D.C., September 11, 1978.

STEPHEN J. GROSS,
Administrative Law Judge.

[FR Doc. 78-26222 Filed 9-15-78; 8:45 am]

[6320-01]

[Docket 32867; Order 78-9-55]

REEVE ALEUTIAN AIRWAYS, INC.

Petition For Setting of Fair and Reasonable Mail Rate; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 13th day of September 1978.

By this order the Board proposes to establish new final service mail rates for the transportation of mail over the intra-Alaska routes of Reeve Aleutian Airways, Inc. (Reeve) for the period on and after June 17, 1978.

By petition filed June 14, 1978, Reeve asks that the Civil Aeronautics Board fix a fair and reasonable rate of compensation for the transportation of mail by aircraft on its certificated routes consisting of a linehaul rate of $1.46 per great-circle ton-mile and a terminal charge of $0.146 per pound originated effective on and after June 17, 1978, the first day of the Postal accounting period following the filing date of its petition. In support, Reeve states that: (1) Its current linehaul rate of 96 cents per great-circle ton-mile and terminal charge of 12 cents per pound originated[1] were based on its operating results for the year ended September 30, 1975; and, (2) since the fall of 1975, its operating costs have increased substantially. Reeve submits supportive economic justifications for the requested rates increase based on its reported operating results for the year ended March 31, 1978.

In response to a request by the U.S. Postal Service (USPS), the date for the filing of answers to Reeve's petition was extended to August 15, 1978. The USPS filed a timely answer proposing a dual element rate consistng of a linehaul rate of 93.6 cents per great-circle ton-mile and a terminal charge of 22.3 cents per pound originated effective on and afer June 17, 1978. Reeve authorized USP to state that it agrees the rates proposed are fair and reasonable.[2] The proposed rates are derived from the economic data submitted by Reeve, as adjusted by the USPS. In brief, USPS has revised Reeve's mail service cost allocations and excluded the Alaska State income tax.

The rates, proposed by USPS and agreed to by Reeve, are derived from the carrier's reported operating results for the year ended March 31, 1978, the methodology for allocating costs to mail is a combination of general DPFI techniques [3] and procedures developed during the Priority and Nonpriority Domestic Service Mail Rate Investigation (docket 23080-2),[4] with modifications which purport to take into account the unique characteristics of Reeve's intra-Alaska operations.[5] The proposed rates will produce an estimated $438,000 additional annual mail revenue, an increase of 17.4 percent.

After review of all the materials submitted, the contentions of the parties, and the rationale utilized; the Board believes that the proposed service mail rates are fair and reasonable.[6] In reaching this conclusion, we have confined our determination to the particular facts of this case and do not pass upon the particular methodology underlying the cost calculations used in arriving at these rates.

PROPOSED FINDINGS AND CONCLUSIONS

On the basis of the foregoing, the Board tentatively finds that the fair and reasonable rate of compensation to be paid Reeve Aleutian Airways, Inc., by the Postmaster General, pursuant to section 406 of the Federal Aviation Act of 1958, as amended, for the transportation of mail by aircraft over its routes, the facilities used and useful therefor, and the services connected therewith is the sum of a linehaul charge of 93.6 cents per great-circle mail ton-mile and a terminal charge of 22.3 cents per pound originated.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a) and 406 thereof, and the Board's procedural regulations, 14 CFR Part 302,

1. We direct all interested persons, and particularly Reeve Aleutian Airways, Inc. and the Postmaster General, to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rates specified above to be effective on and after June 17, 1978;

2. Further procedures shall be in accordance with the rules of practice, 14 CFR Part 302. If a person objects to the rates or to the related proposed findings and conclusions, he shall file notice thereof within 10 days after the service date of this order and written answer and supporting document within 30 days after the service date of this order;

3. If no person files notice of objection within 10 days, or if a person files

[1] Order 76-9-112, effective on and after March 27, 1976.

[2] Reeve has, however, reserved the right to contest the methodology used by USPS should it find it necessary to do so at a later date.

[3] Domestic Passenger Fare Investigation, docket 21866, specifically, the version 6 updated cost methodology developed in phase 7.

[4] Recouping departure-related aircraft operating costs, i.e., taxiing, ascent and decent, within the terminal element.

[5] E.g., relatively fewer ground handling functions performed for enplaning passengers and baggage as compared to freight and mail.

[6] The costs underlying the agreed rates, as submitted by the parties, are set forth in the Appendix.

a notice and does not file an answer within 30 days after the service date of this order, or if the timely answer raises no material issue of fact, we

7, 1978, at 1405 Curtis Street, Room 1706, Denver, CO 80202.

Persons wishing to attend this meeting should contact the Committee

Regional Office of the Commission, 911 Walnut Street, Room 3103, Kansas City, MO. 64106.

The purpose of this meeting is to

1. WATER RESOURCES PROGRAM

A proposed fifteenth annual water resources program has been prepared

sion's water charges as well as to future users, and will take effect the first day of the month following the date of deliberate impoundment of

project at the company's plant in Robeson Township, Berks County, Pa The treatment facilities will handle an additional 40,000 gallons per day of

a notice and does not file an answer within 30 days after the service date of this order, or if the timely answer raises no material issue of fact, we shall deem all persons to have waived the right to a hearing and all other procedural steps short of an order fixing final service mail rates and the Board may enter an order incorporating the proposed findings and conclusions and fix and determine the rates specified.

4. If a person files a timely notice of objection and answer presenting issues for hearing, we shall limit the issues going to the establishment of the fair and reasonable rates to those specifically raised by such answers except as otherwise provided in 14 CFR 302.307; and

5. We shall serve a copy of this order upon Reeve Aleutian Airways, Inc. and the Postmaster General.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[1]

PHYLLIS T. KAYLOR,
Secretary.

REEVE ALEUTIAN AIRWAYS, INC.

Computation of Linehaul and Terminal Future Period Rates Based on Reported Operating Results for the Year Ended Mar. 31, 1978

Linehaul capacity costs assigned to mail [1]	$1,995,100
As flown mail ton-miles	2,130,600
Linehaul rate per ton-mile	0.936
Terminal costs assigned to mail: [1]	
Departure related capacity costs	$310,455
Taxi costs	173,323
Traffic servicing costs	472,908
Total	956,686
Pounds of mail originated	4,291,600
Terminal rate per pound	$0.223
Linehaul costs	$1,995,100
Terminal costs	956,686
Total mail costs	2,951,786
As flown mail ton-miles	2,130,600
Mail cost per as flown ton-mile	$1.3854

[1] Includes return on investment of 12.35 pct and tax allowance of 48 pct.

[FR Doc. 78-28224 Filed 9-15-78; 8:45 am]

[6335-01]

COMMISSION ON CIVIL RIGHTS

COLORADO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Colorado Advisory Committe (SAC) of the Commission will convene at 9:30 a.m. and will end at 1 p.m. on October 7, 1978, at 1405 Curtis Street, Room 1706, Denver, CO 80202.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Denver, CO 80202.

The purpose of this meeting is to finalize plans and assignments for the Colorado SAC's next project.

Dated at Washington, DC, September 13, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-26216 Filed 9-15-78; 8:45 am]

[6335-01]

KANSAS CITY ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Kansas City Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 1 p.m. on October 14, 1978, Holiday Inn Highrise, Don Quixote Room, 914 Madison, Topeka, Kans. 66607.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Room 3103, Kansas City, Mo. 64106.

The purpose of this meeting is to review the current program activity and conduct program planning for fiscal year 1979.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., September 13, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-26218 Filed 9-15-78; 8:45 am]

[6335-01]

MISSOURI ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil rights, that a planning meeting of the Missouri Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 2 p.m. on October 20, 1978, in the Hilton Airport Plaza Inn, 8801 NW. 112th Street, Kansas City, MO. 64195.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Room 3103, Kansas City, MO. 64106.

The purpose of this meeting is to review the status of Missouri rural town project and program planning for fiscal year 1979.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., September 13, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-26219 filed 9-15-78; 8:45 am]

[6335-01]

NEVADA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference of the Nevada Advisory Committee will convene at 7:30 p.m. and will end at 10:30 p.m. on October 6, 1978, City Commission Chambers, Las Vegas City Hall, 400 Stewart, Las Vegas, Nev. 89101.

Persons wishing to attend this open meeting should contact the Committee chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, Calif. 90012.

This will be a symposium on women's rights and responsibilities.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., September 13, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-26217 Filed 9-15-78; 8:45 am]

[6360-01]

DELAWARE RIVER BASIN COMMISSION

WATER RESOURCES PROGRAM ET AL.

Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, September 27, 1978, commencing at 2 p.m. The hearing will be a part of the Commission's regular September business meeting which is open to the public. Both the hearing and the meeting will be held in the Hall of Flags West Room, Sheraton Hotel, Seventeenth and Kennedy Boulevards, Philadelphia, Pa. The hearing will be held on three subjects as follows:

[1] All Members concurred.

1. WATER RESOURCES PROGRAM

A proposed fifteenth annual water resources program has been prepared in accordance with section 13.2 of the Delaware River Basin Compact. The program comprises a summary discussion of water resources needs in the Basin, and particular current conditions in water supply, pollution control, flood protection and other functional aspects of water management with which the Commission is concerned. The program concludes with a discussion of the various projects to be performed by the Commission during fiscal year 1979 to assist in satisfying water needs in the basin.

Copies of draft water resources program are available from the Commission upon request.

2. WATER CHARGES—RATE CHANGE

In 1964 the Commission, acting on behalf of the four Delaware Basin States, assumed the obligation to repay the Federal Government the investment cost allocated to water supply in Federal reservoirs constructed in the Delaware basin. This commitment was made in accordance with the Water Supply Act of 1958 requiring that non-Federal interests repay water supply costs at Federal reservoirs.

Subsequently, the Commission formulated a water charges program that applies throughout the basin to new surface water users, and to existing surface water users whose taking is in excess of their legal entitlement. The charge was determined to be the weighted average unit cost of water supply stored in Federal reservoirs on behalf of the Commission, and was designed to be recomputed whenever new or additional storage having different unit costs was added to the system. The revenues thus obtained provide the funds for annual repayment to the Federal Government.

The initial charge, reflecting the costs of the first reservoir, Beltzville, was established in 1974 at 4 cents per thousand gallons for consumptive use and four-tenths of a mill for nonconsumptive use. The second reservoir, Blue Marsh, will become operational early in 1979 and will have unit water supply costs about twice that of Beltzville. The present level of charges must therefore be changed to reflect the average unit cost stored in both reservoirs.

Accordingly, the Commission proposes to amend its Administrative Manual, part III, Basin Regulations—Water Supply Charges, so as to provide that the charge for water shall be 6 cents per thousand gallons for consumptive use and six-tenths of a mill for nonconsumptive use. The new rate will apply to those surface water users who are now subject to the Commission's water charges as well as to future users, and will take effect the first day of the month following the date of deliberate impoundment of water supply in Blue Marsh.

Except for an increase in the unit charge for water, as herein noticed, no changes are proposed to be made in the Commission's water supply charges program. The amendment will not affect the existing legal entitlement of any water users nor any other terms or conditions of the Commission's overall water charges program.

Copies of the Commission's Basin Regulations—Water Supply Charges are available from the Commission upon request.

3. PROJECT REVIEW APPLICATIONS

Applications for approval of the following projects are pending before the Commission as amendments to the comprehensive plan pursuant to article 11 of the compact and/or as project approvals pursuant to section 3.8 of the compact:

1. *Pennsville Township (D 78-53 CP).* Well water supply project in Pennsville Township, Salem County, N.J. Designated as well No. 5, the new facility is a replacement well and has a capacity of 1 million gallons per day.

2. *Delaware City (D 78-70 CP).* Well water supply project to augment public water supplies in Delaware City, New Castle County, Del. Designated as well No. 3, the new facility is capable of yielding 450,000 gallons per day.

3. *City of New Castle (D 78-71 CP).* Well water supply project to augment public water supply in the city of New Castle, New Castle County, Del. Designated as the Frenchtown Road well, the new facility is capable of yielding 720,000 gallons per day.

4. *Town of Middletown (D 78-64 CP).* Well water supply project in Middletown, New Castle County, Del. Designated as wells No. 8 and 9, the new facilities are replacement wells and have capacities of 430,000 gallons per day and 275,000 gallons per day, respectively.

5. *Dublin Water Co. (D 76-63 CP).* A well water supply project to augment public water supplies in the company's service area in Upper Dublin Township, Montgomery County, Pa. The application is for approval to withdraw 600,000 gallons per day from well No. 5 and to increase the total average withdrawal from all sources to 1.2 million gallons per day. Adjudicatory hearings on this application have been held by the Commission and a report of the hearing officer filed on June 2, 1978. The application and the recommendations of the Hearing Officer will be considered by the Commission.

6. *Crompton and Knowles Corp. (D 78-38).* An industrial waste treatment project at the company's plant in Robeson Township, Berks County, Pa The treatment facilities will handle an additional 40,000 gallons per day of waste currently disposed of by ocean dumping. Combined with the existing discharge, a total of approximately 340,000 gallons per day will discharge to the Schuylkill River.

7. *Crown American Corp. (D 78-65).* A sewage treatment plant to serve the proposed Schuylkill Shopping Mall, New Castle Township, Schuylkill County, Pa. The facility will provide removal of 90 percent BOD and 88 percent suspended solids from an average wastewater flow of about 50,000 gallons per day. Treated effluent will discharge to Kaufman Run, a tributary of the Schuylkill River.

8. *Crown Zellerbach Corp. (D 78-69).* Well water supply project for use at the corporation's plant in New Castle, New Castle County, Del. Designated as well No. 7, the new facility is a replacement well that is capable of yielding 360,000 gallons per day.

9. *Shell Chemical Co. (D 77-78).* Replacement of a well water supply project at the company's facilities in Lawrence Township, Mercer County, N.J. Existing well No. 2 will be replaced by a new facility providing a yield of 88,000 gallons per day.

10. *Ionac Chemical Co. (D 77-23).* Waste treatment project at the company's plant in Pemberton Township, Burlington County, N.J. New waste treament facilities will be constructed to provide removal of 90 percent BOD from a wastewater flow of 1.8 million gallons per day. Treated effluent will discharge to the Rancocas Creek.

11. *National Railroad Passenger Corp. (Amtrak) (D 77-105).* An industrial waste treatment facility at the company's locomotive fuel handling and containment facilities at 30th and Race Streets in Philadelphia, Pa. The oil separation facilities will provide for a wastewater flow of 144,000 gallons per day. Effluent will discharge to the Schuylkill River by way of existing storm sewers.

12. *B.P. Oil Co., Inc. (D 76-124).* A secondary wastewater treatment facility at the company's refinery in Marcus Hook, Delaware County, Pa. Biological treatment processes will provide removal of 90 percent of BOD from an average wastewater flow of 2.9 million gallons per day. Treated effluent will discharge to Marcus Hook Creek.

13. *Seabrook Bros. & Sons, Inc. (D 78-8).* A waste treatment project at the company's vegetable processing facility in Upper Deerfield Township, Cumberland County, N.J. Vegetable processing and cooling water are screened prior to ultimate discharge on a 56-acre spray field. Approximately 4.3 million gallons per day will be

processed through this waste discharge system.

14. *Yardley Ball Corp. (D 78-54).* A

stitute a major Federal action significantly affecting the quality of the human environment, within the mean-

SUMMARY: The office of competition of the Department of Energy (DOE) gives notice of a public hearing and

subsidize the sale of such motor fuel at retail or wholesale with profits obtained from other operations. Section 301(b) of the Act specifies that the study shall examine:

If warranted by the public comments that are received, the Office of Competition will revise the report before transmitting it to the Congress as required under the Act.

tion at the hearing. The request should contain a phone number where you may be contacted through the day before the hearing. Since it may be necessary to limit the number of per-

processed through this waste discharge system.

14. *Yardley Ball Corp. (D 78-54).* A water supply project at the company's facility in Yardley, Bucks County, Pa. Approximately 190,000 gallons per work day of water will be withdrawn from the Delaware River and used for noncontact cooling processes prior to discharge back to the river.

Documents relating to the above-listed applications may be examined at the Commission's office.

Persons wishing to testify on any of the topics referred to in this notice are requested to notify the Secretary to the Commission prior to the hearing, telephone 609-883-9500.

W. BRINTON WHITALL,
Secretary.

SEPTEMBER 8, 1978.

[FR Doc. 78-26183 Filed 9-15-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

COLUMBIA LNG CORP. AND CONSOLIDATED SYSTEM LNG CO.

[ERA Docket No. 78-004-LNG]

Intent To Prepare an Environmental Impact Statement

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of intent to prepare an environmental impact statement (EIS) in connection with an application to import liquefied natural gas from Iran through existing facilities located at Cove Point, Md.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of its intent to prepare an EIS as part of its evaluation of the joint application of Columbia LNG Corp. and Consolidated System LNG Co. to import liquefied natural gas (LNG) from Iran.

SUPPLEMENTARY INFORMATION: ERA is considering the joint application (ERA docket No. 78-004-LNG) for authorization to import LNG into the United States under section 3 of the Natural Gas Act, as announced by ERA at 43 FR 31962 (July 24, 1978).

The application involves more than a 40-percent increase in the volume of LNG presently authorized at the Cove Point facility, with an associated increase in the number of LNG tanker deliveries. No onsite construction is anticipated. Applicants state that a relatively short pipeline connection will be built in Loudoun County, Va. Since the initial announcement, DOE has determined that the issuance of an order in this proceeding would constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 6, 4321 et seq. Accordingly, ERA intends to prepare an EIS.

Interested persons, agencies, and organizations desiring to submit comments or suggestions for consideration in connection with the preparation of this EIS are invited to do so. DOE encourages commenters to respond as soon as possible in order that suggestions may be reflected in the scope of the EIS. Upon completion of the draft EIS, its availability will be announced in the FEDERAL REGISTER, at which time public comments will again be solicited. All comments will be available for public inspection in the Natural Gas Branch Docket Room, Room 6317, 2000 M Street NW., Washington, D.C. 20461, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday except Federal holidays.

ADDRESS FOR COMMENTS: Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street NW., Room 6318, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street NW., Room 6318, Washington, D.C. 20461, telephone 202-254-9730.

Janine Landow-Esser, Office of General Counsel, 20 Massachusetts Avenue NW., Room 8217, Washington, D.C. 20461, telephone 202-376-4266.

Carol Borgstrom, Office of Environment, 12th and Pennsylvania Avenue NW., Federal Building, Room 7119, Washington, D.C. 20461, telephone 202-566-9760.

Issued in Washington, D.C., on September 11, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-26105 Filed 9-15-78; 8:45 am]

[3128-01]

Office of Policy and Evaluation

MOTOR FUEL MARKETING UNDER TITLE III OF THE PETROLEUM MARKETING PRACTICES ACT

Study of Subsidization

AGENCY: Office of Competition, Department of Energy.

ACTION: Notice of public hearing and opportunity for written comment.

SUMMARY: The office of competition of the Department of Energy (DOE) gives notice of a public hearing and opportunity for submission of written comments concerning the study which the Secretary of Energy is required to conduct under title III of the recently enacted Petroleum Marketing Practices Act. As required by statute, this study will examine the extent to which producers, refiners, and other suppliers of motor fuel at retail or wholesale with profits obtained from other operations, as well as other related issues. The purpose of this proceeding is to obtain comments on the issues involved in this study and the manner in which the study should be conducted.

DATES: Requests to speak on or before September 29, 1978, 4:30 p.m. Oral statements due on or before October 5, 1978, 4:30 p.m. Hearing: October 6, 1978, 9:30 a.m. Written comments due on or before October 16, 1978, 4:30 p.m.

ADDRESSES: Send requests to speak, oral statements, and written comments to: Office of Public Hearing Management, Department of Energy, Room 2313, Box VK, 2000 M Street NW., Washington, D.C. 20461. Hearing location: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William Lane (Office of Competition), Policy and Evaluation, 20 Massachusetts Avenue NW., Room 7127, Washington, D.C. 20545, 202-376-9495.

Robert C. Gillette (Hearing Procedures), Department of Energy, 2000 M Street NW., Room 2214B, Washington, D.C. 20461, 202-254-5201.

Judith Garfield (Office of the General Counsel), Department of Energy, 12th and Pennsylvania Avenue NW., Room 7134, Washington, D.C. 20461, 202-566-2085.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Plans for conducting the study.
III. Specific comments requested.
IV. Public hearing and comment procedures:
A. Written comments
B. Public hearing.

I. BACKGROUND

Section 301(a) of the Petroleum Marketing Practices Act, Pub. L. 95-297 (the "Act"), enacted on June 19, 1978, provides that the Secretary of Energy, in consultation with the Chairman of the Federal Trade Commission and the Attorney General and other agencies as the Secretary deems approprate, shall conduct a study of the extent to which producers, refiners, and other suppliers of motor fuel subsidize the sale of such motor fuel at retail or wholesale with profits obtained from other operations. Section 301(b) of the Act specifies that the study shall examine:

(1) The role of vertically integrated operations in facilitating subsidization of sales of motor fuel at wholesale or retail;

(2) The extent to which such subsidization is predatory and presents a threat to competition;

(3) The profitability of various segments of the petroleum industry;

(4) The impact of prohibiting such subsidization on the competitive viability of various segments of the petroleum industry, on prices of motor fuel to consumers and on the health and structure of the petroleum industry as a whole; and

(5) Such other matters as the Secretary considers appropriate.

Under section 301(d)(1) of the Act, the Secretary shall report to the Congress the results of this study, together with such recommendations for legislative action and such statistical evidence as he considers appropriate, within 18 months after the date of enactment of the Act.

In conducting this study, the Secretary is required under the Act to give appropriate notice and afford interested persons an opportunity to present written and oral data, views, and arguments concerning the study.

II. PLANS FOR CONDUCTING THE STUDY

Within the DOE, the Office of Competition in the Office of Policy and Evaluation will conduct the study of motor fuel marketing subsidization required by the Act. At the present time, the office of competition plans to conduct the study in the following manner.

Following the hearing and opportunity for public comment announced in this notice, the Office of Competition will undertake to collect relevant economic information on potential subsidization and on the profitability and competitive viability of various segments of the petroleum industry. While existing data sources will be used to the maximum extent possible, it will also be necessary to obtain new information from both integrated companies and companies that sell motor fuel at the wholesale and retail level. The Energy Information Administration of the DOE will assist in identifying and obtaining such information. The Office of Competition considers the collection of needed data to be critical to the timing as well as the substance of this study.

After collecting and evaluating the relevant data, the Office of Competition will prepare a draft report and will hold public hearings and receive written comments on the draft report. If warranted by the public comments that are received, the Office of Competition will revise the report before transmitting it to the Congress as required under the Act.

III. SPECIFIC COMMENTS REQUESTED

The Office of Competition is interested in receiving relevant comments on the interrelated issues of subsidization of motor fuel sales, functional profitability of integrated petroleum companies, and the competitive viability of various segments of the petroleum industry. In particular, but without limiting the scope of the information requested, the Office of Competition would like to receive specific comments on the following matters:

(1) In view of the limited time period for conducting the study, what direction should the study take and what areas or issues should be emphasized?

(2) What is the most appropriate methodology to use in conducting the study? What information gathering techniques should be used, and from what sources should information be obtained?

(3) What are the potential problems that may be encountered in conducting the study within the time permitted by the Act, including any problems involved in gathering and evaluating relevant data?

IV. PUBLIC HEARING AND COMMENT PROCEDURES

A. WRITTEN COMMENTS

You are invited to submit written views, data or arguments with respect to the proposed study. Comments should be submitted to the address indicated in the ADDRESSES section of this notice and should be identified on the outside envelope with the designation "Title III Study." Fifteen copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Identify separately any information or data you consider to be confidential and submit it in writing, one copy only. The DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

B. PUBLIC HEARING

1. *Request procedure.* The time and place of the public hearing are indicted in the DATES and ADDRESSES sections of this notice. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the day following the date of the hearing. You may make a written request for an opportunity to make an oral presentation at the hearing. The request should contain a phone number where you may be contacted through the day before the hearing. Since it may be necessary to limit the number of persons making such presentations, you should be prepared to describe your interest in this proceeding; if appropriate, why you are a proper representative of a group or class of persons that has such an interest; and to give a concise summary of your proposed oral presentation.

The DOE will notify each person selected to be heard before 4:30 p.m. on October 3, 1978. Persons selected to be heard should submit 100 copies of their statement to the address indicated in the ADDRESSES section of this notice before 4:30 p.m., October 5, 1978.

2. *Conduct of the hearing.* The Office of Competition reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. Representatives of the Federal Trade Commission and the Attorney General may be members of the hearing panel. This will not be a judicial or evidentiary-type hearing. Only those conducting the hearing may ask questions, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing to the address indicated above for requests to speak before 4:30 p.m. on October 5, 1978. You may also submit any questions, in writing, to the presiding officer at the time of the hearing. The Office of Competition or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and the DOE will retain the entire record of the hearings, including the transcript, which will be made available for inspection at the Free-

dom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m., and 4:30 p.m., Monday through Friday. You may purchase a copy of the tran-

year vehicle or engine from distributing such fuels or fuel additivies in commerce after September 15, 1978. Section 211(f)(4) permits the Administrator to grant a waiver of any section

waiver, and I deny the requested waiver for MMT.[7] All section 211(f) prohibitions and limitations pertaining to MMT remain in effect. In order to prevent dislocation in the market-

Ethyl has presented data and analysis from which it concludes that MMT has no adverse effect on a vehicle's hydrocarbon (HC) emissions,[11] regardless

cle will fail to meet the emission standards with respect to which it has been certified. Taken literally, it would require the testing of every ve-

submitted data also determined an adverse effect existed and quantified the degree of confidence within which we could conclude that MMT had an ad-

dom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m., and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for the DOE to cancel the hearing, every effort will be made to publish advance notice in the FEDERAL REGISTER of such cancellation. Moreover, DOE will notify all persons scheduled to testify at the hearing. However, it is not possible for DOE to give actual notice of cancellations or changes to persons not identified to DOE as participants. Accordingly, if you wish to attend the hearing you should contact the DOE on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

Issued in Washington, D.C., on September 13, 1978.

HARRY L. PEEBLES,
Acting Director of Administration.

[FR Doc. 78-26243 Filed 9-15-78; 8:45 am]

[1505-01]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30152; FRL 954-8]

PESTICIDE PROGRAMS

Receipt of Application To Register a Pesticide Product Containing a New Active Ingredient

Correction

In FR Doc. 78-24019 appearing at page 38085 in the issue for Friday, August 25, 1978, in the first column, the ninth line should read "diethylacetanilide] which has not".

[6560-01]

[FRL 968-6]

IN RE APPLICATIONS FOR MMT WAIVER

Decision of the Administrator

I. INTRODUCTION

Section 211(f)(3) of the Clean Air Act (Act), 42 U.S.C. 7545(f)(3), added by the Clean Air Act Amendments of 1977, Pub. L. 95-95, 91 Stat. 681, prohibits [1] manufacturers of fuels and fuel additives which are not substantially similar to any fuel or fuel additivies utilized in the certification of any model year 1975, or subsequent model year vehicle or engine from distributing such fuels or fuel additivies in commerce after September 15, 1978. Section 211(f)(4) permits the Administrator to grant a waiver of any section 211(f) prohibition or limitation. Methylcyclopentadienyl manganese tricarbonly (MMT) [2] is not substantially similar to any fuel additivies used in certification and is therefore prohibited unless a waiver is granted. [3]

The Administrator may waive the section 211(f) prohibition or limitation if he determines that the applicant for a waiver has established that MMT, a specified concentration of MMT, its emission products, or the emmission products of a specified concentration of MMT, will not cause or contribute to the failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) such that the vehicle will fail to comply with the emission standards with respect to which it has been certified under section 206 of the Act. The Administrator must grant or deny a waiver within 180 days from the receipt of the waiver application or else the waiver will be deemed granted.

A waiver request for MMT was received from the Ethyl Corp. on March 17, 1978, and the expiration of the 180 day review period is September 12, 1978. Additional waiver applications [4] for MMT have been received subsequent to Ethly's and this decision shall be equally applicable to them. Further, as previously stated in the "Guidelines for Fuel Additive Waivers," [5] this decision will be applicable to all manufacturers of fuels containing MMT and to all manufacturers of MMT.

A hearing on the Ethyl waiver request was held on June 27-28, 1978, in Washington, D.C., and the 30-day comment period following the hearing ended on July 28, 1978. [6]

II. SUMMARY OF DECISION

I have determined that the Ethyl Corp., et al., have not met the section 211(f)(4) burden necessary to obtain a waiver, and I deny the requested waiver for MMT. [7] All section 211(f) prohibitions and limitations pertaining to MMT remain in effect. In order to prevent dislocation in the marketing of gasoline, enforcement of the section 211(f)(3) prohibition on the distribution in commerce of MMT and fuel containing MMT will not commence for 45 days from the date of this decision. This delay in enforcement will permit manufacturers to distribute in commerce MMT and gasoline containing MMT until October 27, 1978.

Ethyl has asked that EPA wait unit the Coordinating Research Council (CRC) test program is completed or grant a temporary waiver prior to finally acting on the waiver request. [8] Because of the 180-day period of review, I cannot postpone action on the waiver request as Ethyl suggests. To do so, absent a final decision, would automatically grant the waiver. Further, although I may grant a waiver conditioned on time or other limitations, [9] such granting of a waiver can only be done if the requirements of section 211(f)(4) are met by the applicant. [10] Naturally, Ethyl is free to reapply for a waiver whenever it beleives new data justify such reapplication.

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[1] Sec. 211(f)(1) prohibits, after Mar. 31, 1977, the first introduction into commerce or increase in concentration of controlled fuels and fuel additivies. Sec. 211(f)(2) limits, after Nov. 30, 1977, the use of manganese additives in conncetions in excess of 0.0625 gr of manganese per gallon.

[2] MMT is an octane enchaning gasoline additive currently in widespread use. The concentration of MMT averaged over all U.S. unleaded gasoline will be about 0.03 gr of manganese per gallon (g Mn/gal) in 1978. Ethyl (I), report 3, 1. The citation format used in this decision is explained in note 8, infra.

[3] California has prohibited after Sept. 8, 1977, the sale in California of fuels containing manganese additives. See, 13 Cal. Admin. Code § 2254 (1977).

[4] See note 6, infra.

[5] 43 FR 11258, Mar. 17, 1978.

[6] See, "MMT Waiver Request: Public Hearing," 43 FR 24742 (1978). The public docket (docket No. MSED-211(f)) is available for public inspection in the Public Information Reference Unit, EPA, Room 2922, 401 M Street SW., Washington, D.C. 20460.

[7] Ethyl requested a waiver for MMT at concentration levels of 1/32 and 1/16 gr of manganese per gallon (g Mn/gal). Since no data at any lower levels of usage nor any means of extrapolating data to a lower concentration level was presented, a determination cannot be made for any concentration level other than what was requested. All such applications requested a waiver for MMT in concentrations up to 1/16 g Mn/gal or incorporated by reference Ethyl's data. Therefore, 1/8 g Mn per gallon was deemed not to be a concentration before the Agency for waiver purposes. Ethyl has in fact stated that 1/8 g Mn data are irrelevant to its application. Ethyl (III), IV-2. Further, Ethyl reduced its recommended maximum concentration from 1/8 to 1/16 g Mn/gal in 1977 (Ethyl (T), I-9) and has stated that there is a concentration dependent engine-out MMT effect, Ethyl (T), I-30-34, 101. Herein all public hearing testimony will be cited by inserting a "T" between the testifier and the transcript page number.

[8] Ethyl application for MMT wavier, submitted Mar. 17, 1978, cited herein as Ethyl (I). Ethyl has also made two other major submittals on June 19, 1978, cited as Ethyl (II) and July 28, 1978, cited as Ethyl (III). all other submittals will be cited by manufacturer and date; e.g., the General Motors submittal of July 27, 1978, is cited GM (July 27).

[9] "The Administrator's waiver may be under such conditions, or in regard to such concentrations as he deems appropriate consistent with the intent of this section." S. Rep. No. 95-125, 95th Cong., 1st Sess. 91 (1977).

[10] The Senate report, ID. at 91, states "[T]he Administrator (may) waive or conditionally waive that the prohibitions established by (sec. 211 (f)) *if the applicant has met the requirements of this paragraph (211(f)(4)).*" (Emphasis supplied.)

Ethyl has presented data and analysis from which it concludes that MMT has no adverse effect on a vehicle's hydrocarbon (HC) emissions, [11] regardless of the emission standard for which the vehicle is designed. [12] Based on our analysis of the data submitted by Ethyl and others, I find that Ethyl has failed to establish that MMT will not cause or contribute to the failure of any emission control device or system to achieve compliance by the vehicle with emission standards with respect to which it has been certified. In addition, and although not required by section 211(f)(4), I have determined that MMT will cause or contribute to the failure of vehicles designed to meet the California 0.41 gram per mile (gpm) HC standard. [13]

III. CAUSE OR CONTRIBUTE TO FAILURE OF EMISSION STANDARDS

In order to obtain a waiver for MMT the applicant must establish that MMT, a specified concentration of MMT, its emission products, or the emission products of a specified concentration of MMT will not cause or contribute to the failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Clean Air Act. This burden, which Congress has imposed on the applicant, if interpreted literally, is virtually impossible to meet as it requires the proof of a negative propostion, i.e., that no vehicle will fail to meet the emission standards with respect to which it has been certified. Taken literally, it would require the testing of every vehicle. Recognizing that Congress contemplated a workable waiver provision some mitigation of this stringent burden was deemed necessary. For purposes of the waiver provision, it is recognized that reliable statistical sampling and fleet testing protocols could safely be used to demonstrate that the fuel or fuel additive under consideration would not cause or contribute to failures of emission standards by automobiles in the national fleet. Ethyl and a number of others have submitted fleet testing data in support of or in opposition to the waiver request. [14]

Ethyl's application rests principally on the notion that there is no adverse MMT effect. Ethyl also maintained that MMT does not cause vehicles to fail their emission standards. [15] Ethyl did not evaluate data sets where the control and MMT vehicles exceeded the emission standard to determine if MMT may have contributed to failures. [16] An evaluation of all the reasonably useable data sets, using standard statistical methods, brings us to the conclusion that MMT does cause or contribute to the failure to meet emission standards by the fleet represented by the data cars.

A. ADVERSE EMISSIONS EFFECT ATTRIBUTABLE TO MMT

The statutory requirements for a wavier make it necessary for the applicant to establish that MMT will not cause or contribute to failure. In order to establish this, one need only show that MMT does not have a statisticly significant adverse emissions effect. However, our technical analysis has concluded that there is a high degree of likelihood that an adverse effect exists. [17] Our statistical analysis of the submitted data also determined an adverse effect existed and quantified the degree of confidence within which we could conclude that MMT had an adverse effect. [18] It should be noted that even if the data were inconclusive as to the effect of MMT on the national automobile fleet, the applicant would not have discharged the affirmative nature of the burden which he bears under section 211(f)(4).

B. FAILURE OF VEHICLES

Even if an applicant is unable to establish that no adverse effect results from the use of fuel containing MMT, he may still meet his burden under section 211(f)(4) by establishing that an adverse effect will not cause or contribute to a failure by vehicles to meet their emission standards. A failure due in whole or in part to the use of fuel containing MMT, which occurs at any time during the useful life, of the vehicle is sufficient to deny a waiver. The measure of failure is the emission performance of a vehicle at the tailpipe. [19] Thus, it is not necessary that the failure be directly attributed to a particular effect, such as deposit formation in combustion chambers, or the failure of a particular element of emission control hardware. It is sufficient that tailpipe-out emissions fail to meet certified emission standards, if MMT caused or contributed to such failure.

IV. THE APPLICABLE EMISSION STANDARD

Ethyl has asserted [20] that the emission standard which is applicable in determining failure is the present standards effective through the 1979 model year. [21] This assertion stems from the language of section 211(f)(4) which refers to a vehicle failing to meet the emission standards "with respect to which it *has been* certified pursuant to section 206" (emphasis supplied). The use of the past tense is pointed to by Ethyl to indicate that section 211(f)(4) is only concerned with already certified vehicles (i.e., the in-use fleet). Assuming this interpretation is correct, Ethyl and EPA are only required to be concerned with the effects of MMT on vehicles certified to

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[11] There are three regulated automobile pollutants: hydrocarbons (HC), carbon monoxide (CO), and oxides of nitrogen (NOx). While all of these standards are relevant to a determination of whether to grant or deny a waiver, investigators into the effects of MMT agree that the primary emission problem associated with MMT is HC emissions. GM (T), II-4, GM (June 23), part 1,1; Ethyl (T), I-8, Ethyl (I), report 1, sec. 1,1 and report 2,6; Ford (T), II-84; Chrysler (T), II-138. Therefore, for this decision, the analysis was focused on any HC emission effect due to MMT.

[12] See, e.g., Ethyl (III), pts. IV, V.

[13] This conclusion was arrived at by a technical examination of the submittals, see sec. VI(B), infra, and a statistical analysis of the submitted data, see, sec. VI(A), infra. These sections summarize, "Technical Analysis of the Effects of MMT on Emission Control Systems," EPA Emission Control Technology Division, August 1978, and "Characterization Report: Analysis of MMT Fleet Data to Characterize the Impact of MMT on Tailpipe Emissions," EPA Mobile Source Enforcement Division, September 1978, cited herein as Technical Analysis and Characterization Report, respectively, and included as appendices to this decision.

We also examined vehicles designed to meet a 1.5 gpm HC standard and detected an adverse effect although the limited amount of data prevents any conclusions with high confidence.

[14] Ethyl has not shown that its 30 car test fleet is representative of the national in-use auto fleet. It has also not made a similar showing for the oil company fleet described in Ethyl (I), report 2.

[15] "There clear language of subparagraph (f)(4) thus prescribes a single criterion for application of the waiver authority-whether the fuel-additive *causes* a failure of the emission control system to meet the standards under which the vehicle has been certified pursuant to sec. 206." (Emphasis supplied.) Ethyl (III), III-2.

[16] In this decision, a reference to failure means failure of a vehicle or vehicles to conform to the emission standards with respect to which they have been designed. See note 39, infra.

[17] Technical Analysis at 2, 10, 24. Our technical analysis concluded that no catalyst enhancement occurs, see sec. VI(B)(c), infra, as contended by Ethyl, Ethyl (III), VII, thus this alleged phenomenon would not be a mitigating factor of any observed adverse effect.

[18] See sec. VI, infra, and Characterization Report, 22-26.

[19] This conclusion is derived from the legislative history of sec. 211(f). Conference Report, H.R. Rep. No. 95-564, 95th Cong. 1st Sess. 161 (1977).

[20] Ethyl (III) at III-4, see also, Chemetals (July 28) at 2-4.

[21] 1.5 gr per ml (gpm) HC. Hereafter the grams per mile units will be omitted. Further, frequent use of the phrases "1.5 HC vehicle" and "0.41 HC vehicle" will be made. These phrases refer to vehicles certified to meet the 1.5 gpm HC or the 0.41 gpm California HC standard, respectively.

meet the 1.5 HC standard. [22] An examination of the submitted data reveals that only the GM San Diego Taxi Fleet (15 1977 Chevrolet Novas) and

Despite the above, and although it is not required by section 211(f)(4) to do so, EPA has gone forward and analyzed the California vehicle data to de-

The raising of this issue by Ethyl is confusing for it maintains that the emission standard to be used in deter-

on the certification process. A one-side sign test was used to test the null hypothesis of no adverse MMT effect on

vehicle group was compared to that of the comparable clear-fueled vehicle group using one-sided and Mann-Whitney tests.

than the matching clear-fueled vehicle group?

1/32 g Mn 1/16 g Mn (percent)

meet the 1.5 HC standard.[23] An examination of the submitted data reveals that only the GM San Diego Taxi Fleet (15 1977 Chevrolet Novas) and two pairs of 1977 Chrysler vehicles (318 CID V-8 and 225 CID) [23] were designed and certified to meet a 1.5 HC standard.

Our mitigation of the burdensome "any vehicle" criterion has been to accept representative fleet data.[24] However, before a waiver may be granted EPA should be reasonably certain that the fleets are representative of the national fleet. The number and type of vehicles designed and certified on a 1.5 HC standard for which there were submitted data is patently insufficient upon which to base a waiver decision.[25] Ethyl has not demonstrated that these vehicles represent the national fleet.

A predominant portion of the submitted data was derived from testing California vehicles designed to meet the California 0.41 HC standard, but federally certified to meet the 1.5 HC standard. However, the California vehicles utilized emission control technology which is not representative of the national 1.5 HC fleet vehicles.[26] The inclusion of these vehicles in the 1.5 HC fleet data adds little toward meeting the "any vehicle" criterion.[27] Therefore, Ethyl has failed to meet its burden under 211(f)(4) and a waiver cannot be granted.

[23] This constraint would be related to those vehicles certified under sec. 206 of the Act to Federal standards. This would include the other Federal standards for earlier model years, but no fleet data was presented on such vehicles.

[23] A complete description of the GM San Diego Taxi Fleet can be found in GM (June 23), pt. 2, 45. The Chrysler vehicles are described in Chrysler (June 28), hearing handout. There were additional 1.5 HC vehicles, however they were operated for part or all of the accumulated mileage on fuel containing ⅛ gr of manganese. A description of the data received and the data analyzed is contained in characterization report, 3-4. Ethyl has requested a waiver for $\frac{1}{16}$ gr or $\frac{1}{32}$ gr concentration levels and has stated that ⅛ gr data is irrelevant to its waiver request. See note 7, supra.

[24] Ethyl has not shown that its data was derived from representative fleets. Our analysis, see, Technical Analysis and Characterization Report, was done on all of the useable submitted data. We believe that the fleets incorporated in this data base are more representative than the Ethyl fleets because of the larger numbers of vehicles and greater variety of vehicles. We cannot identify any substantial subgroups which would bias our results against MMT.

[25] See Characterization Report at 2.

[26] See Technical Analysis at 45.

[27] It is conceivable that had Ethyl been able to establish no effect on the more "sensitive" 0.41 vehicles, it would have lent some support to their position that MMT does not adversely affect the less sensitive 1.5 HC vehicles. However, as is discussed below MMT does have an adverse effect on the 0.41 vehicles.

Despite the above, and although it is not required by section 211(f)(4) to do so, EPA has gone forward and analyzed the California vehicle data to determine whether there is an adverse MMT effect and if so, whether such effect will cause such vehicles to fail to meet the 0.41 HC standard. Our interest in 0.41 HC technology is more than academic. The 0.41 HC technology utilized on California vehicles represents a close approximation of the technology to be employed in meeting the stringent 1980 Federal standards.[28] Where the emissions technology is available and imminent, and is reasonably certain to be applied in a prospective model year, the effects of MMT upon such technology should be examined. Any grant of a waiver for the general use of MMT would, due to its widespread use, also necessitate the use of MMT in certification. Thus, the ability of the auto industry to readily produce vehicles if they are required to certify on MMT fuels is a very significant question.

V. Design Changes and Sensitive Vehicles

Ethyl has contended that certain vehicles are "sensitive" to the effects of MMT [29] and has suggested that modification or changes be made to such vehicles to overcome such sensitivity. Ethyl offers no conclusions as to what factors may cause a vehicle to be MMT sensitive but does speculate as to a number of potential factors.[30] In response to a number of vehicle manufacturer assertions that the only manner to compensate for an MMT effect is to retard the spark (resulting in a loss of fuel economy), Ethyl suggests a number of changes that could be made.[31]

The primary thrust of the Ethyl argument is that should there appear to be a adverse MMT effect or should a number of vehicles appear to have an unusual sensitivity to MMT, design changes could easily be performed as a curative measure.[32]

[28] In 1980 the Federal emission standards become, 0.41 gpm HC, 7.0 gpm CO, and 2.0 gpm NOx.

[29] Ethyl (III), IV-2, 6, 7, 8, VI-4; Ethyl (II), report 2, 11. In response to supplementary questions submitted to Ethyl in a letter dated July 7, 1978, relating to the sensitivity of its test fleet Ethyl referred to section IV of Ethyl (III).

[30] Ethyl (II), report 2, 10-11. These factors include the size and shape of the combustion chamber "pocket," squish area, and the location of spark plug, intake, and exhaust valves. In fact Ethyl admits that it does not know what actually causes this sensitivity. Ethyl (T), I-24.

[31] Ethyl (I), report 2, 7; and Ethyl (II), report 2, 11. These recommendations include, redesigning of the exhaust port liners, higher valve spring loads, smaller valve contact seat area, and/or valve rotators.

[32] Ethyl(T), I-129.

The raising of this issue by Ethyl is confusing for it maintains that the emission standard to be used in determining the waiver is the 1.5 HC standard. All of the vehicles certified on this standard are currently in-use or will be introduced within the next few months (1979 model year vehicles). However, modificiations cannot be made on in-use vehicles and further, such modifications would be unnecessary if MMT does not adversely affect emissions as Ethyl contends.

The raising of this issue is apparently an attempt by Ethyl to shift the burden from itself to the vehicle manufacturing industry. The statutory requirements for a waiver state that the applicant must establish that the additive does not cause or contribute to any vehicle's failure to meet the emission standards with respect to which it has been certified.[33] Nowhere is there the requirement that vehicle manufacturers must alleviate such failure by modifications.

If the suggested modifications are offered to illustrate the vehicle manufacturer's ability to meet the 1980, 41 HC standard with MMT use, I must cite the serious concerns raised by the vehicle manufacturer's in contradicting this point. GM has stated [34] that neither it nor Ethyl has defined what modifications will alleviate an MMT effect and the possibility of not certifying some of its more MMT-sensitive engines would be great.

Ford,[35] while agreeing that the Ethyl recommended changes would help alleviate the adverse impact of MMT use, concludes that it does not know what parameters to actually change. Ford further states that it cannot readily make any changes to compensate for MMT usage. Chrysler [36] states that it may be unable to certify its 1980 vehicles on fuel using MMT.

VI. EPA Analysis

A. Statistical Analysis [37]

a. Adverse HC Emissions Effect. In order to determine if MMT-fueled vehicles manifest an adverse effect on tailpipe HC emissions as compared to clear-fueled vehicles, we examined eight characteristics of the data at 0, $\frac{1}{32}$, and $\frac{1}{16}$ g Mn/gallon. These characteristics were:

1. *Deterioration factors.* Deterioration factors (DF) were calculated for each vehicle group and fuel. The DF is used in the EPA certification of prototype vehicles and therefore helps to evaluate the effect MMT might have

[33] See H.R. Rep. No. 950564, 95th Cong., 1st Sess. 161 (1977).

[34] GM (July 27), cover letter.

[35] Ford(T), II-104-107.

[36] Chrysler (July 27).

[37] A complete discussion of the statistical analysis including the data used is located in the characterization report.

on the certification process. A one-side sign test was used to test the null hypothesis of no adverse MMT effect on DF's.

2. *Least squares regression slopes.* Slopes of the least squares regressions lines were calculated for each vehicle group and fuel. The slope of each MMT vehicle group was compared to that of the matching clear-fueled vehicle group to determine, using a one-sided t-test, the probability that the MMT-fueled vehicle group deteriorated faster than the clear-fueled vehicle group. A one-sided sign test was used to test the hypothesis that there was no adverse MMT effect.

3. *Maximum percent of vehicles failing standard.* The maximum percentage of failing vehicles was determined for each vehicle group and fuel over the maximum mileage for which the vehicle group was tested. The maximum percentage failure of each MMT vehicle group was compared to its comparable clear-fueled vehicle group by one-sided sign tests.

4. *Mileage point at which the regression line first exceeds standard.* Using the regression lines, the mileage point at which each MMT and clear-fueled vehicle group first failed its designed HC standard was computed. The mileage point for each MMT vehicle group was compared to its comparable clear-fueled vehicle using a one-sided sign test.

5. *Change in HC emissions from low mile point to 50,000 miles.* Data from vehicles which had not accumulated 50,000 miles were not used in this analysis. The emission levels for the low and 50,000 mile points were taken as the average of data points within 250 miles of the starting and ending mileages. The changes in the emission levels from low to high mileage was computed for each vehicle group. The change in emission levels for each MMT-fueled vehicle group was compared to that of the comparable clear-fueled vehicle group using one-sided sign and Mann-Whitney tests.

6. *Integral tailpipe HC above the initial emissions level.* Total HC emissions increase for each vehicle was computed by approximate integration using averages of actual data points. The total HC emissions increase for each MMT-fueled vehicle group was compared to that of the comparable clear-fueled vehicle group using one-sided sign and Mann-Whitney tests.

7. *Change in emissions from low mileage point to 5,000 miles.* The emission levels for the low and 5,000 mile points were taken as the average of data points within 250 miles of the starting and ending mileages. The changes in the emission level from low to 5,000 miles were computed for each vehicle group and fuel. The change in emission levels for each MMT-fueled vehicle group was compared to that of the comparable clear-fueled vehicle group using one-sided and Mann-Whitney tests.

8. *Comparison of initial emission levels.* The concern was raised that different initial emission levels of the different vehicle groups might mask any MMT effect. Therefore, initial emission levels were compared for each vehicle group and fuel. The average initial emission levels for each MMT-fueled vehicle group was compared to the initial emission levels of the comparable clear-fueled vehicle group using a two-sided Mann-Whitney test.

For each of these measures, matching MMT and clear-fueled vehicles were compared through the same mileage interval point. We used a total of 153 MMT and clear-fueled vehicles, whereas Ethyl's analysis was based primarily on its 30 car test fleet.[38] There was no extrapolation of data beyond a vehicle's maximum mileage interval point. Comparisons were tested for statistical significance by one or more tests, the t-test, sign test, or modified Mann-Whitney (rank sum) test.

The results of this analysis are summarized below.

1. To what degree of confidence can it be stated that a vehicle fueled on MMT will have a greater deterioration factor than its corresponding clear-fueled vehicle?

	½₂ g Mn (percent)	1/16 g Mn (percent)
Deterioration factor	85	88

2. To what degree of confidence can it be stated that a vehicle group fueled on MMT will have a greater slope than its corresponding clear-fueled vehicle group?

	½₂ g Mn (percent)	1/16 g Mn (percent)
Slope	98	99

3. To what degree of confidence can it be stated that at any time during their useful lives a greater number of MMT-fueled vehicles will fail their designed HC standard than their corresponding clear-fueled vehicles?

	½₂ g Mn (percent)	1/16 g Mn (percent)
Confidence of MMT vehicle failure	99	99

4. To what degree of confidence can it be stated that MMT-fueled vehicles will fail to meet their designed HC standard at a point in their useful life earlier than the corresponding clear-fueled vehicles?

	½₂ g Mn (percent)	1/16 g Mn (percent)
Confidence of earlier MMT vehicle failure	99	99

5. To what degree of confidence can it be stated that the increase in the tailpipe HC emissions over a vehicle's useful life will be greater for the MMT-fuled vehicle group than the matching clear-fueled vehicle group?

	½₂ g Mn (percent)	1/16 g Mn (percent)
Confidence of greater HC change due to MMT, sign test	85	98
Mann-Whitney test	99	99

6. To what degree of confidence can it be stated that an MMT-fueled vehicle group will emit more total hydrocarbons over its useful life than the corresponding clear-fueled vehicle group?

	½₂ g Mn (percent)	1/16 g Mn (percent)
Confidence of greater HC emissions due to MMT, sign test	99	99
Mann-Whitney test	99	99

7. To what degree of confidence can it be stated that an MMT-fueled vehicle group will have different initial emissions than their clear-fueled counterparts?

	½₂ g Mn (percent)	1/16 g Mn (percent)
Confidence of difference in initial emission for MMT vehicle groups:		
Sign test	8	28
Mann-Whitney test	0	70

8. To what degree of confidence can it be stated that the increase in tailpipe HC emissions from the low mile point to 5,000 miles will be greater for an MMT-fueled vehicle group than the clear-fueled counterpart?

	½₂ g Mn (percent)	1/16 g Mn (percent)
Confidence of greater HC change due to MMT, sign test	99	82
Mann-Whitney test	97	90

From the above results, I conclude that MMT has a statistically significant adverse HC emissions effect at the ½₂ and 1/16 gram Mn per gallon use levels.

b. Failure of Vehicles Attributable to MMT. In order to determine if the demonstrated adverse effect will cause or contribute to failure of vehicles to meet their HC emission standards at any time during their useful lives, we estimated the percent failure for each vehicle group and fuel and compared the results of each MMT-fueled vehicle group to its matching clear-fueled vehicle group. The analysis was performed looking at individual types of emission systems and then in the aggregate.

In order to provide a frame of reference against which to analyze our data, we treated a failure as occurring when more than 10 percent of a class of vehicles failed to meet their designed emissions standard [39] at any

[38] For a description of the MMT test fleets included in EPA's data base, see characterization report at 5-12 and table 17. EPA has no reason to believe that its database is derived from fleets biased against MMT.

[39] Vehicles manufactured for sale in California are *designed* to meet the California emission standards of .41 gpm HC, 9.0 gpm CO, and 1.5 gpm NOx (1979 standard), although certified as meeting the Federal standards, e.g., 1.5 gpm HC. Although section 211(f)(4) refers to the certified emission standards, we have chosen to analyze the California vehicle data with respect to the .41 HC standard. This choice was made because vehicles designed to a .41 HC standard utilize different emission control technology than vehicles designed to a 1.5 HC standard.

Footnotes continued on next page

point in their useful lives.[40] Thus, when the observed failure rate for a class of vehicles, at any mileage point during their useful lives, exceeds 10 percent, we considered that class of vehicles to have failed the standard. Failure rates were calculated for each vehicle group and fuel at 4,000 mile intervals.

The results of this analysis are summarized below.

1. To what degree of confidence can it be stated that a vehicle group fueled on MMT will have a greater failure rate than its corresponding clear-fueled vehicle group?

	½₂ g Mn (percent)	1/16 g Mn (percent)
Confidence of greater failure rate	99	99

2. To what degree of confidence can it be stated that a vehicle group fueled on MMT will have a greater failure rate than its corresponding clear-fueled vehicle group at any point in their useful lives?

	½₂ g Mn (percent)	1/16 g Mn (percent)
Confidence of greater failure rate	99	99

3. To what degree of confidence can it be stated that MMT-fueled vehicles will fail to meet their designed HC standard at a point in their useful life earlier than the corresponding clear-fueled vehicles?

	½₂ g Mn (percent)	1/16 g Mn (percent)
Confidence of earlier failure	99	99

4. To what degree of confidence can it be stated that the increase in the tailpipe HC emissions over a vehicle's useful life will be greater for the MMT-fueled vehicle group than the matching clear-fueled vehicle group?

	½₂ g Mn (percent)	1/16 g Mn (percent)
Confidence of greater HC change due to MMT, sign test	85	98
Mann-Whitney test	99	99

5. To what degree of confidence can it be stated that an MMT-fueled vehicle group will emit more total hydrocarbons over its useful life than the corresponding clear-fueled vehicle group?

	½₂ g Mn (percent)	1/16 g Mn (percent)
Confidence of greater HC emissions due to MMT, sign test	99	99
Mann-Whitney test	99	99

6. To what degree of confidence can it be stated that an MMT-fueled vehicle group will have different initial emissions than their clear-fueled counterparts?

	½₂ g Mn (percent)	1/16 g Mn (percent)
Confidence of difference in initial emission for MMT vehicle groups:		
Sign test	8	28
Mann-Whitney test	0	70

7. To what degree of confidence can it be stated that the increase in tailpipe HC emissions from the low mile point to 5,000 miles will be greater for an MMT-fueled vehicle group than the clear-fueled counterpart?

	½₂ g Mn (percent)	1/16 g Mn (percent)
Confidence of greater HC change due to MMT, sign test	99	82
Mann-Whitney test	97	90

From the above results, I conclude that MMT has a statistically significant adverse HC emissions effect at the ½₂ and 1/16 gram Mn per gallon use levels.

b. Failure of Vehicles Attributable to MMT. In order to determine if the demonstrated adverse effect will cause or contribute to failure of vehicles to meet their HC emission standards at any time during their useful lives, we estimated the percent failure for each vehicle group and fuel and compared the results of each MMT-fueled vehicle group to its matching clear-fueled vehicle group. The analysis was performed looking at individual types of emission systems and then in the aggregate.

In order to provide a frame of reference against which to analyze our data, we treated a failure as occurring when more than 10 percent of a class of vehicles failed to meet their designed emissions standard [39] at any

[40] This constraint would be related to those vehicles certified under sec. 206 of the Act to Federal standards. This would include the other Federal standards for earlier model years, but no fleet data was presented on such vehicles.

[39] Vehicles manufactured for sale in California are *designed* to meet the California emission standards of .41 gpm HC, 9.0 gpm CO, and 1.5 gpm NOx (1979 standard), although certified as meeting the Federal standards, e.g., 1.5 gpm HC. Although section 211(f)(4) refers to the certified emission standards, we have chosen to analyze the California vehicle data with respect to the .41 HC standard. This choice was made because vehicles designed to a .41 HC standard utilize different emission control technology than vehicles designed to a 1.5 HC standard.

MMT. As there has been no resolution of the theoretical basis of MMT sensitivity, the classification of an engine as being sensitive or insensitive to

Highway, Arlington, Va., and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

[6560-01]

[FRL 968-5]

RECEIPT OF ENVIRONMENTAL IMPACT

point in their useful lives.[40] Thus, when the observed failure rate for a class of vehicles, at any mileage point during their useful lives, exceeds 10 percent such occurrence constitutes a failure. In the case where a clear-fueled vehicle class does not, at a particular mileage point, exceed the 10 percent failure rate, MMT would cause failure if, at the same mileage point, the matching MMT fueled vehicle class exceeds the 10 percent failure rate. Similarly, in the case where a clear-fueled vehicle class exceeded the 10 percent failure rate, at a particular mileage point, MMT would be contributing to failure of that class if, at the same mileage point, it was found that the matching MMT-fueled vehicle class or exceeded the percent failure of the clear-fueled vehicle class or exceeded the 10 percent failure rate at an earlier mileage point than the clear-fueled vehicle class.

EPA has concluded that every vehicle subject to emission standards must meet such standards throughout its useful life.[41] The choice in this instance of a 10 percent criterion for failure is consistent with that conclusion. The choice of a 10 percent criterion is based on our judgement of the vehicle manufacturing industry's ability to mass produce vehicles meeting applicable emission standards and to allow some flexibility due to test variations and unavoidable production aberrations.[42]

1. *Oxidation catalyst vehicles designed to meet the .41 HC standard.* For vehicles equipped with an oxidation catalyst and designed to meet the .41 HC standard we found that 9 out of 10 vehicle groups using ½₂ g Mn fuel exceeded the 10 percent failure level at some mileage point where the corresponding clear-fueled vehicles were below the 10 percent level. Similarly, 16 out of 20 vehicle groups using ½₆ g Mn fuel exceeded, at some mileage point, both the 10 percent failure level and the failure rate of the clear-fueled vehicles.

2. *Three-way catayst vehicles designed for the .41 HC standard.* For vehicles equipped with three way catalysts, we found that 5 out 6 vehicle groups fueled on ½₆ g Mn fuel exceeded the 10 percent failure rate at some point where the clear-fueled vehicles were below the 10 percent failure level. For vehicles using ½₂ g Mn we found that 3 out of 4 vehicle groups exceeded the 10 percent failure rate level at some point where the clear-fueled vehicles were below the 10 percent failure level.

3. 1.5 HC vehicles [43] One out of one ½₂ g Mn fueled vehicle group exceeded the 10 percent failure rate level where the clear-fueled vehicles are below the 10 percent level. Two out of three vehicle groups fueled on ½₆ g Mn exceeded the 10 percent failure rate level where the clear-fueled vehicles were below the 10 percent level at the same mileage point.

From the above discussion we can state with the following confidence that MMT will cause or contribute to the failure of vehicles to meet their designed emission standard:

	½₂ g Mn	½₆ g Mn
	(percent)	
.41 Oxidation catalyst vehicles.....	98	99
.41 three way catalyst vehicles.....	68	89
1.5 vehicles [a].....	.....	.....
All vehicles regardless of designed HC standard or emission controls.....	99	99

[a] No meaningful confidence statements can be made on the basis of a single observation.

From the above analysis, I conclude that MMT in fact causes or contributes to failure of vehicles to meet their designed emission standards.

B. TECHNICAL ANALYSIS

At the MMT waiver hearing and from the submitted information, a number of technical issues were raised which EPA believes should be addressed. Those technical issues were investigated and, where possible, conclusions were reached regarding each issue. The technical issues which were addressed included: the effect of MMT on oxygen (O_2) sensors, catalyst plugging due to MMT, MMT enhancement of catalyst efficiency, vehicle design or automotive components indicative of a vehicle's sensitivity to MMT, and combustion chamber deposits due to MMT and the effects of such deposits.

a. *Oxygen Sensors.*[44] Oxygen sensors are an important component in the three-way catalyst (TWC) emission control systems which have recently come into increased use. Volvo introduced a three-way catalyst system in California in 1977, followed by Saab, Ford, and GM in 1978. Most manufacturers have plans to use three-way catalyst technology to meet future stringent emission control standards.

Recent fleet tests of production TWC systems by Ethyl and the Coordinating Research Council (CRC) have uncovered an MMT effect on these sensors which leads to a decrease in HC control.[46] Upon an examination of the before and after sensor change emissions data, MMT was observed to affect the durability of the oxygen sensors in the TWC systems tested.[47]

EPA has concluded that MMT must be strongly suspected of having an adverse effect on oxygen sensor performance which leads to increased HC emissions from TWC systems.

b. *Combustion Chamber Deposits.*[48] Based on a very limited amount of information, it is EPA's opinion that the lack of an adverse effect on combustion chamber deposits due to the use of MMT has not been established. The only data on combustion chamber deposits presented shows an adverse HC emissions effect due to these deposits.

c. *Catalyst Enhancement.*[49] Ethyl has presented the opinion that MMT may cause an enhancement of oxidation catalyst activity which leads to improved catalyst efficiency. This catalyst enhancement is purported to be a benefit of the use of MMT and a contributing factor towards overcoming the increased engine-out HC emissions observed when MMT is used.

An examination of the data submitted has led EPA to the conclusion that the catalyst "enhancement effect" is at best a weak effect, which does not overcome the negative effect of MMT on engine-out emissions.

d. *Catalyst Plugging.*[50] Early work by Ethyl, GM, Ford, and others showed the potential for catalyst plugging when vehicles were fueled with MMT (usually at the 1/8 g Mn level).[51] Ethyl testified that it had seen no evidence of catalyst plugging at the 1/16 g Mn level.[52] Ethyl has stated that catalyst plugging may occur because of the agglomeration of manganese oxide particles on catalytic converters at high temperatures with plugging tendency decreasing at lower MMT concentrations and lower temperatures.[53] Based on data presented at the waiver hearing by GM, Ford, Toyota, and CRC, I conclude that there is increasing potential for catalyst plugging with continued use of MMT.[54]

e. *MMT Sensitivity.*[55] It has only been recently suspected that different engines may have varied sensitivity to MMT. As there has been no resolution of the theoretical basis of MMT sensitivity, the classification of an engine as being sensitive or insensitive to MMT has been entirely empirical. No information has been provided which would allow an a priori identification of MMT sensitive engines.

VII. FINDINGS AND CONCLUSIONS

I have determined that Ethyl has not established that MMT at the specified concentrations of 1/16 and 1/32 grams of manganese per gallon and the emission products thereof will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Clean Air Act.

Although not required to do so by the Act, I find, based upon our technical and statistical analyses, that MMT has an adverse HC emissions effect at 1/16 and 1/32 grams of manganese per gallon concentrations. This effect was found, with high confidence, for all vehicle groups in EPA's data base. The limited amount of data for 1.5 HC vehicles also showed an adverse effect. However, the data submitted for vehicles certified on a 1.5 HC standard is by any reasonable standard, insufficient to meet the "any vehicle" criterion of section 211(f)(4). I also find that MMT will cause or contribute to the failure of vehicles to meet their designed HC emission standard.

The requests for waivers are denied.

Dated: September 11, 1978.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 78-26096 Filed 9-18-78; 8:45 am]

Footnotes continued from last page

It is believed that more relevant conclusions as to the effects of MMT on the various technologies can be drawn from analyses performed with respect to the designed emission standards.

[40] Useful life is defined in 40 CFR 86.077-2(b), pursuant to section 202(b) of the Clean Air Act, as 5 years or 50,000 miles whichever occurs first.

[41] See "Selective Enforcement Auditing Procedures," 41 Fed. Reg. 31472, 31474 (1976).

[42] Id. at 31474-76.

[43] Although we have determined that, alone, the data on 1.5 HC vehicles is insufficient upon which to grant a waiver, we have analyzed such data individually for purposes of completeness in our analysis.

[44] For a complete discussion, see Technical Analysis at 25-29.

[46] Ethyl(T), I-100-101.

[47] CRC(T), I-204; Chrysler (July 27).

[48] *See* Technical Analysis at 30.

[49] *See* Technical Analysis at 31-35.

[50] *See* Technical Analysis at 37.

[51] Ethyl(T), I-43; CRC(T), I-217; GM(T), II-21; Ford (T), II-85.

[52] Ethyl(T), I-8.

[53] Ethyl(T), I-97.

[54] GM(T), II-18, 20; GM (June 23), Section IV, 110; Toyota (July 14); CRC(T), I-218; Technical Analysis, note 9.

[55] *See* Technical Analysis at 42.

[6560-01]

[FRL970-1; OPP-00075]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

Open Meeting

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a one-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:30 a.m. to 4:30 p.m. on Tuesday, October 3, 1978. The meeting will be held in Room 1112A, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va., and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-766), Room 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va., telephone, 703-557-7560.

SUPPLEMENTARY INFORMATION: In accordance with section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact on health and the environment of regulatory actions under section 6(b) and 25(a) prior to implementation. The purpose of this meeting is to discuss the following topics:

1. Review of FIFRA section 25(c)(3) final regulations on special packaging of pesticides;

2. Introductory briefing on plans by EPA for conditional registration of pesticides; and

3. In addition, the Agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above to be sure that the meeting is still scheduled. Interested persons are permitted to file written statements before or after the meeting, and may upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit copies of a summary no later than September 27, 1978.

Individuals who wish to file written statements are advised to submit copies of statements to the Executive Secretary in a timely manner to ensure appropriate consideration by the panel.

(Sec. 25(d) of FIFRA, as amended (86 Stat. 973; 89 Stat. 751; (7 U.S.C. 136(a) et seq.); and Sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770).)

Dated: September 13, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-26229 Filed 9-15-78; 8:45 am]

[6560-01]

[FRL 968-5]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

Pursuant to the President's Reorganization Plan No. 1, the Environmental Protection Agency is the official recipient for environmental impact statements (EIS) and is required to publish the availibility of each EIS received weekly. The following is a list of environmental impact statements received by the Environmental Protection Agency from August 28, 1978, through September 1, 1978. The date of receipt for each statement is noted in the statement summary. Under the guidelines of the Council on Environmantal Quality the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days; the date of submission of comments is October 23, 1978. The thirty (30) day period for each final statement begins the day the statement is made available to the Environmental Protection Agency and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: September 12, 1978.

WILLIAM D. DICKERSON,
Acting Director,
Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculuture, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

Cowlitz planning unit, land management plan, Lewis and Pierce Counties, Wash., September 1: Proposed is a land management plan for the Cowlitz planning unit, Gifford Pinchot National Forest, Lewis and Pierce Counties, Wash. The plan would affect 124,300 acres of the unit and would include: (1) Classification of 78,290 acres as general forest, (2) wildlife management on 24,140 acres, (3) 7,110 acres added to the wilderness study area, (4) continuance of 550 acres as a natural area, (5) 1,250 acres allocated as an unroaded recreation area, (6) 110 acres of roaded recreation area, (7) 110 acres of developed recreation, and (8) protection of 85 miles of stream. Timber harvest management is included. (USDA-FS-R6-DES-(ADM)-78-13.) (EIS Order No. 80970.)

Greys-Salt River planning unit, Bridger-Teton National Forest, Lincoln County, Wyo., September 1: Proposed is a land management plan for the Greys Salt River planning unit located in Bridger-Teton National Forest, Lincoln County, Wyo. Alternatives

for the management plan include emphasis on: (1) Dispersed recreation with recommendation for wilderness study for roadless areas, (2) dispersed recreation with mini-

width. Adverse effects include the elimination of most of the benthic populations occupying the affected areas. About 242 acres

placement of riprap, and (5) recreational parks and trails. In addition, the existing 0.4-mile diversion channel in Ellicott Creek

tion and Management Act of 1976 (Pub. L. 94-265). This Act extends jurisdiction over fishery resources and establishes a program

water uses in some parts of Maryland's coast while encouraging development in other parts. Maryland coastal area can be divided into two distinct regions; the Atlan-

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. John Hagan, EIS Coordinator, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlan-

for the management plan include emphasis on: (1) Dispersed recreation with recommendation for wilderness study for roadless areas, (2) dispersed recreation with minimum development and no wilderness study of roadless areas, (3) noncommodity key values, (4) commodity key values, (5) balance of all key values (proposed plan), and (6) commodity production regardless of key values. (USDA-FS-R4-DES-ADM-78-8.) (EIS Order No. 80973.)

Draft Supplement

Huston Park land management plan, Medicine Bow National Forest, Carbon County, Wyo., September 1: The statement supplements a final EIS filed in September 1977 concerning a land management plan for the 63,560-acre Huston Park unit located on the Hayden district of the Medicine Bow National Forest, Carbon County, Wyo., the selected alternative has been changed and features: (1) Division of unit into six management units, (2) recreational use, (3) management of stands of trees, (4) domestic livestock use, and (5) wildlife habitat management. Ten alternatives are considered. (USDA-FS-R2-SFES (ADM) FY-77-02.) (EIS Order No. 80974.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attention: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Draft

Kaunakakai Harbor, Molokai, Hawaii, Maui County, Hawaii, August 29: The proposed project plan consists of a deep draft harbor at Kaunakakai Harbor, Maui County, Island of Molokai, Hawaii, capable of serving future waterborne commerce needs of Molokai. Harbor improvements would include general navigational features comprising and entrance channel, harbor basin, protective structures, necessary aids to navigation, and landscaping measures. At present, two harbor concepts are being considered. (Honolulu District.) (EIS Order No. 80946.)

Small Boat Harbor, Olcott Harbor, Niagara County, N.Y. August 31: Proposed is a small boat harbor plan for Olcott Harbor located in Niagara County, N.Y. The plan would provide two breakwaters, one to the west which would protect the existing channel to Eighteen Mile Creek and the other on the ease which would form a large mooring basin and provide sport fishing. Additional mooring spaces would be supplied by the west breakwater. Several new channels will be incorporated with limited dredging which would be disposed of at an upland site. Recreational facilities will be included. (Buffalo District.) (EIS Order No. 80961.)

Final

Mouth of Colorado River, Tex., Matagorda County, Tex., August 29: The proposed project consists of an entrance channel in the gulf, 15 feet deep by 200 feet wide, protected by jetties. The proposed east jetty is a weir type, designed to pass littoral material into an impoundment basin for periodic transfer to the down-drift beach. from the gulf inland to its connection with the gulf Intracoastal Waterway (GIWW), the proposed channel will be dredged to 12 feed in depth and 100 feet in width. Adverse effects include the elimination of most of the benthic populations occupying the affected areas. About 242 acres of terrestrial wildlife habitat will be removed or modified. (Galveston District.) Comments made by: EPA, DOI, DOC, AHP, HEW, USDA, DOT, and State agencies. (EIS Order No. 80949.)

U.S. 321 Highway, Watauga County, N.C., Watauga County, N.C. August 30: Proposed is the improvement of the existing two-land U.S. 321 Highway by widening to a basic four-lane highway. The improvement is 5.3 miles in length between Boone and Blowing Rock in Watauga County, N.C. Widening of the highway will require channel changes of Middle Fork Creek, a tributary of the South Fork of the new river. The channel involves 3,550 feet of the stream. Widening of U.S. 321 will require reconstruction of 500 feet of the Blue Ridge Parkway and a new bridge 200 feet in length which carries parkway traffic over U.S. 321. (Huntington District.) (FHWA-NC-EIS-75-07-F.) Comments made by: EPA, DOI, AHP, HEW, State and local agencies, groups, individuals, and businesses. (EIS Order No. 80951.)

GATX Corp. terminal facility, Delaware River, Gloucester County, N.J., August 30: The General American Transportation Corp. (GATX) has proposed to construct a terminal for the storage and transfer of bulk petroleum products on a 400+ acre tract in West Deptford, N.J. Plans include construction of a tanker and barge docking facility, a tank farm site, a maintenance building, and an office. The initial utilization of tank storage will be for No. 2 fuel oil, naphtha, and methanol. Dredging will result in a temporary increase in turbidity, evaporation losses of product will add to air pollution, and there will be some increase in the chance of a chemical or oilspill into the Delaware. (Philadelphia District.) Comments made by: DOT, HUD, USDA, DOI, DOC, EPA, State and local agencies, and businesses. (EIS Order No. 80956.)

Texas City Channel (Industrial Canal), Galveston, Galveston County, Tex., September 1: The propose action consists of widening of the existing main turning basin, relocation of the basin 85 feet to the east, deepening and widening the industrial canal, deepening of the turning basin at the head of the center of the Industrial Canal to 40 feet, and easing of the bend at the entrance to the industrial canal. All dredging will be accomplished by hydraulic pipeline dredge with dredged material disposal on Snake Island and in adjacent areas of Galveston Bay. Adverse effects include destruction or disturbance of some fish and bottom dwelling organisms, temporart increases in turbidity, and resuspension of toxic materials in the vicinity of the dredge. (Galveston.) Comments made by: DOI, DOC, EPA, CGD, and State and local agencies. (EIS Order No. 80976.)

Draft supplement

Ellicott Creek, flood protection and recreation, Erie County, N.Y., August 30: Proposed is a flood management plan for the Lower Ellicott Creek Basin which will consist of a combination of a major channelization-diversion channel for the towns of Amherst and Tonawanda, Erie County, N.Y. The project will feature: (1) Approximately 1.7 miles of major channelization, (2) construction of a new channel in addition to two diversion channels totaling 1.6 miles, (3) bridge modification and construction, (4) replacement of riprap, and (5) recreational parks and trails. In addition, the existing 0.4-mile diversion channel in Ellicott Creek Park connecting Ellicott and Tonawanda Creeks will be widened. (Buffalo District.) (EIS Order No. 80957.)

Flood control improvements, South Harrisburg, Dauphin County, Pa., September 1: This statement supplements a draft EIS filed in August 1977 concerning flood protection for Paxton Creek and Susquehanna River located in South Harrisburg, Dauphin County, Pa. Features of the proposal include: (1) A 12-foot high flood wall, (2) channel changes and construction of a detention reservoir on Asylum Run, and (3) sizing of Paxton Creek to accommodate the 100-year floodflow as modified by the detention reservoir. Recreational fish and wildlife improvements are associated with project. (Baltimore District.) (EIS Order No. 80965.)

Final supplement

Surfside-Sunset and Newport Beach, Orange County (S-2), Orange County, Calif., August 30: Proposed is a beach nourishment project to restore the eroding Surfside-Sunset Beach shoreline and help maintain the integrity of the Sandy Beach shoreline downcast from Surfside-Sunset Beach. The nourishment beach extends along approximately 6,000 feet of the Surfside-Sunset Sandy Beach shoreline. The nourishment material will be obtained from within a 190-acre subtidal borrow site located about 6,500 feet offshore from the feeder beach. (Los Angeles District.) Comments made by: AHP, DOC, DOI, EPA, DOT, HUD, USN, State and local agencies, and groups. (EIS Order No. 80958.)

CIVIL AERONAUTICS BOARD

Contact: Mr. Ivars V. Mellups, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5205.

Draft

Oakland Service case, docket 30699, August 29: Proposed by the CAB is new and improved authority in following Oakland markets: Albuquerque, Atlanta, Boston, Chicago, Dallas/Fort Worth, Denver, Detroit, Houston, Kansas City, Minneapolis/St. Paul, Philadelphia, Phoenix, Portland, Salt Lake City, and Seattle. This will be considered through the Oakland Service case. The Board has tentatively decided to adopt a policy of awarding permissive, subsidy-ineligible authority in each market where a need for new authority is shown to every fit, willing, and able applicant whose illustrative service proposal indicates that it is prepared to satisfy any part of that need. (EIS Order No. 80947.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-4335.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Draft

Groundfish fishery in the Bering Sea, September 1: The proposed action is to adopt and implement a fishery management plan for the groundfish fishery for the Bering Sea/Aleutian Island area under provisions of title III of The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265). This Act extends jurisdiction over fishery resources and establishes a program for their management. The purpose of the plan is to manage the groundfish fishery in the Bering Sea/Aleutian Island area for the optimum yield, and to allocate harvest between domestic and foreign fishermen. (EIS Order No. 80966.)

Butterfish fishery of the northwest Atlantic Ocean, September 1: Proposed is a management plan for the butterfish fishery of the Northwestern Atlantic Ocean. It replaces the preliminary management plan currently in effect. The objectives of the plan are to: (1) Minimize cost of butterfish and consumers; (2) minimize costs of harvesting butterfish; (3) increase employment opportunities for commercial fishermen; (4) prevent exploitation of the resource beyond that level producing the maximum sustainable yield; (5) minimize costs of enforcement and management of the resources; and (6) maximize marine food resources. (EIS Order No. 80967.)

High seas salmon fishery off the coast of Alaska, September 1: The proposed action is to adopt and implement a fishery management plan for the high seas salmon fishery off the coast of Alaska east of 175° east longitude under provisions of title III of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265). This Act extends jurisdiction over fishery resources and establishes a program for their management. The purpose of the management plan is to manage the ocean salmon resources off the coast of Alaska and the troll fishery on those resources. (EIS Order No. 80969.)

Final

Maine's coastal zone management program, Maine, August 28: The proposed action is the approval of a coastal program application by the State of Maine. The State of Maine is requesting administrative grants to improve environmental conditions, land use planning and management and to carry-out research that will result in recommendations to the legislature for improvement of policies concerning tourism, fisheries, heavy industry, etc. Comments made by: EPA, DOE, HUD, DOT, COE, USDA, DOE, FERC, DOD, DOI, State and local agencies, businesses. (EIS Order No. 80939.)

New Jersey coastal management program, New Jersey, August 30: The action proposed is the approval by DOC of the State of New Jersey's coastal zone management program, bay and ocean shore segment. The funding will be used for various actions which include improvement or development of: (1) Mapping programs, (2) preparation of a coastal handbook, (3) educational and information programs, (4) energy facility siting criteria and policies, (5) beach and waterfront area access, and (6) coastal management enforcement and monitoring programs. Comments made by: DOE, HUD, DOT, DOD, DOC, USDA, DOI, EPA, USA, FERC, NRC, State and local agencies, groups, individuals and businesses. (EIS Order No. 80959.)

Maryland coastal management program, Maryland, August 30: It is proposed that the assistant administrator approve the coastal zone management program for the State of Maryland. Approval would permit implementation grants to be awarded to the State, and require that Federal actions be consistent with the program. The State will condition, restrict, or prohibit land and water uses in some parts of Maryland's coast while encouraging development in other parts. Maryland coastal area can be divided into two distinct regions; the Atlantic coast area which has a shoreline of 31 miles and the Chesapeake Bay area which is characterized by over 4,000 miles of greatly indented shoreline. Comments made by: NRC, USA, DOI, DOT, DOD, DOC, HUD, State and local agencies, groups, individuals and businesses. (EIS Order No. 80960.)

Draft Supplement

Squid fishery of the Northwest Atlantic, September 1: Proposed is a management plan for the Northwest Atlantic squid. The following measures have been proposed: (1) Define management unit as all Loligo and Illex under U.S. jurisdiction, (2) set 1979 optimum yield for Illex as 30,000 metric tons and Loligo at 44,000 metric tons, (3) require valid registration or permit and owner or operator when catching, transporting or delivering squid for sale, (4) restricting foreign fishing to designated areas, (5) require appropriate gear restriction for foreign vessels, (6) require filing of periodic reports on squid catches, (7) incentive measures and (6) annual reassessment of U.S. harvesting capacity. (EIS order No. 80968.)

DEPARTMENT OF DEFENSE

Contact: George Q. Cunney, Jr., Acting Chief, Environmental Office, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, 202-694-4269.

Final

Joint readiness exercise "Gallant Eagle 79", Florida, September 1: The proposed action, directed by the Joint Chiefs and sponsored by the U.S. readiness command is a large-scale, joint readiness exercise (JRX) scheduled to be conducted on and over the Eglin AFB, in Florida. The primary purpose of the project is to provide a simulated combat environment in which to exercise and evaluate the participating commanders, staffs and forces in joint service tactics, techniques and procedures employed by rangers, infantry, unconventional warfare forces and armored forces operating in lightly forested terrain and by tactical air forces operating in a sophisticated air defense environment. Comments made by: COE, NOAA, DOI, EPA, DOC, DOD, USDA, State and local agencies. (EIS Order No. 80963.)

DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, Department of Energy, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, 202-566-9760.

Draft

U.S. spent power reactor fuel, August 29: This generic statement proposes environmental input into decisions on whether, and if so, how to implement the 1977 presidential policy on the interim management of spent fuel. This statement considers various options for governmental involvement in the interim management of domestic spent fuel including the alternative of no Federal role outside the regulatory sphere. Also analyzed are the issues of centralized versus decentralized storage of spent fuel and Degree of Federal Management Control. (DOE/EIS-0015-D). (EIS Order No. 80942.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. John Hagan, EIS Coordinator, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, 404-257-7458.

Final

Cement plant and limestone quarry, permit, Mobile and Monroe Counties, Ala., September 1: The proposed action is the issuance of a NPDES permit and other necessary certificates and permits to the ideal basic industries for construction and operation of a cement plant and limestone quarry. The plant will be located in the Theodore Industrial Park, Mobile County, Ala. on 50 acres and will include docking facility, grinding mills, material storage and mixing piles. The quarry will be located in Monroe County, Ala. on a 4,035 acre site and will consist of in part, docking and loading facilities, clarification basins, limestone storage piles, and fuel tanks. (EPA 904/9-78-005). Comments made by: DOC, HUD, EPA, DOI, DOE, COE, HEW, State and local agencies, groups, individuals and businesses. (EIS Order No. 80972.)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Mr. Richard H. Brown, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202-755-6308.

Draft

Springfield Subdivision, Harris County, Tex., August 28, 1978: Proposed is the issuance of HUD home mortgage insurance as applied for by the First General Realty Corp., of Houston for the Springfield subdivision located in Harris County, Tex. When completed the subdivision, which encompasses approximately 515.3 acres of land, is expected to consist of about 1,770 dwelling units. A total of 86 acres have been held in reserve for the following purposes: (1) Commercial (office/retail) use, (2) recreation, (3) apartments, and (4) church facilities. HUD-R06-EIS-37D.) (EIS Order No. 80936.)

Westbourne subdivision, Harris County Tex., August 29, 1978: The proposed action concerns the issuance of HUD home mortgage insurance for the Westbourne subdivision located in Harris County, Tex. The subdivision is located on 1,500 acres of land and when completed, in approximately 12 years, will contain approximately 7,200 dwelling units. Also included as part of the subdivision are shopping and recreation facilities. (HUD-R06-EIS-7-41D.) (EIS Order No. 80941.)

Paddock subdivision, Harris County, Tex., August 29, 1978: Proposed is the issuance of HUD home mortgage insurance for the Paddock subdivision located in Harris County, Tex. When completed, the subdivision, which encompasses approximately 850 acres, is expected to consist of approximately 3,815 single family and patio homes. Also included are shopping and recreation facilities. (HUD-R06-EIS-39-D.) (EIS Order No. 80944.)

Stone Creek subdivision, Harris County, Tex., August 29, 1978: Proposed is the issuance of HUD home mortgage insurance for the Stone Creek subdivision located in Harris County, Tex. The subdivision encompasses 316 acres of land and will be developed with primarily single-family residential and some patio homes totaling approxi-

mately 1,319 units. When completed, the subdivision is expected to house approximately 4,466 people. (HUD-R06-EIS-78-40.) (EIS Order No. 80950.)

phase II, a single high-rise structure containing 302 units of 10.5 acres. (HUD-R05-EIS-77-14F.) Comments made by: FPC, USDA, State and local agencies, businesses. Comments made by: AHP, USDA, DOC, DOE DOI DOT, EPA, FERC, State and local agencies. (EIS Order No. 80964.

on the east. The project lengths of these alignments range from approximately 7.3 miles to 8.1 miles. (FHWA-FLA-EIS-78-5-

[6712-01]

FEDERAL COMMUNICATIONS

BMPTT-1011 (W59AH), Allentown and Bolivar Relay, N.Y., Board of Cooperative Educational Services of Allegany County. Req: Change primary TV station to

mately 1,319 units. When completed, the subdivision is expected to house approximately 4,466 people. (HUD-R06-EIS-78-40.) (EIS Order No. 80950.)

Homestead planned community, Spokane County, Wash., August 30, 1978: Proposed is the issuance of HUD home mortgage insurance for the Homestead planned community located in Spokane County, Wash. The development will encompass 1,175 acres of land and will consist of community shopping facilities, an industrial park and campus, areas for institutional services, a 2,534-unit residential community, and public services including recreational and educational facilities. (HUD-R10-EIS-78-2D.) (EIS Order No. 80955.)

Final

Bear Creek Village subdivision, Harris County, Tex., August 28: The proposed action is for the Department of Housing and Urban Development to accept for HUD/FHA mortgage insurance purposes the 662-acre Bear Creek Village subdivision located in Harris County, Tex. When completed in approximately 5 years, the subdivision will contain approximately 1,846 single-family homes plus some attached single-family and multifamily housing, and shopping and recreational facilities. Adverse impacts include the loss of agricultural land and an increased demand for fossil fuels through heavy dependence on the automobile for transportation. (HUD-R06-EIS-25F.) Comments made by: EPA, COE, USDA, DOI, State agencies. (EIS Order No. 80933.)

Park Meadows subdivision, Deer Park, Harris County, Tex., August 28: The proposed action is for the Department of Housing and Urban Development to accept for HUD-FHA home mortgage insurance purposes under section 203(b) of title II of the National Housing Act of 1934, some 267 acres of land located in the city of Deer Park, Harris County, Tex. It is proposed that this tract of land be developed into a subdivision composed primarily of single-family dwellings (approximately 1,000 units). (HUD-R06-EIS-78-26F.) Comments made by: AHP, USDA, DOI, COE, EPA, State agencies, groups. (EIS Order No. 80934.)

Farmington subdivision, Knoxville, Knox County, Tenn., August 28: Proposed is the development of Farmington subdivision, a 650-lot single-family subdivision in west Knox County, Tenn. It is located in a sector of Knox County that is growing rapidly. There is a substantial amount of undeveloped land in this area and may be developed for single-family use. The area chosen for study is bounded on the south by Fort Loudon Lake, on the west by Fox Road, on the north by Kingston Pike and Westland Drive and on the east by Wright Ferry Road. The project will be developed on about 310 acres with 85 acres being developed under the early start procedures. (HUD-R04-EIS-77-18F.) Comments made by: EPA, DOI, USDA, HEW, AHP, TVA, DOC, GSA, DOE, State and local agencies. (EIS Order No. 80935.)

Oakland Park Towers development, Troy, Oakland County, Mich., August 28: Oakland Park Towers is proposed for a 21-acre site in southeast Troy, Oakland County, Mich. The project will ultimately contain 800 units, and have a resident population of about 1,500 persons. The current HUD proposal is to obtain approval of mortgage insurance under section 23 of the Housing Act for phase II, a single high-rise structure containing 302 units of 10.5 acres. (HUD-R05-EIS-77-14F.) Comments made by: FPC, USDA, State and local agencies, businesses. (EIS Order No. 80938.)

Cherry Lane Village, Meridian, Ada, County, Idaho, August 29: The action involved is the approval by HUD of an application for mortgage insurance purposes concerning development of Cherry Lane Village, Meridian City, Ada County, Idaho, by the Leaultt Nupacific Co. The planned residential community will have a land area of 330 acres and will include 880 detached and attached single-family homes, 180 units of multifamily homes, 6 acres of commercial area, and a golf course. The development will provide housing for approximately 1,100 families. (HUD-RIO-EIS-78-3F.) Comments made by: COE, AHP, DOI, State agencies. (EIS Order No. 80945.)

Piper's Meadow subdivision, Harris County, Tex., August 29: Proposed is the granting of HUD-FHA mortgage insurance for the development of the 282-acre Piper's Meadow subdivision located in Harris County, Tex. The proposed subdivision will contain approximately 1,000 single-family homes shopping facilities and recreational facilities. Adverse impacts include the loss of agricultural land and an increased demand for fossil fuels through heavy dependence on the automobile for transportation. (HUD-R06-EIS-78-29F.) Comments made by: USDA, COE, EPA, DOI, State agencies, groups. (EIS Order No. 80948.)

DEPARTMENT OF INTERIOR

Contact: Mr Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interiof Building, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Draft

1979 Outer Continental Shelf oil and gas lease sale, southern California, September 1: Proposed is the leasing action for 217 (1,141,818 acres) of Outer Continental Shelf lands in southern California. The tracts are located in the following six general areas offshore: Santa Barbara Channel, Santa Rosa, Santa Barbara Island, San Pedro Bay, Tanner-Cortes, Dana Point-San Diego. Five alternatives are considered which include: (1) Hold the sale in modified form, (2) alternate development scenarios, (3) delay sale, (4) withdraw the sale, and (5) alternate local government stipulations. (EIS Order No. 80975.

Final

Development of coal resources, southwestern Wyoming, Lincoln, Sweetwater, and Unita Counties, Wyo., September 1: The proposed action involves the approval of five coal mining and reclamation plans on existing leases and the mining issuance of right-of-way necessary to develop these five proposed coal mines. These five mines are North Block Mine, Twin Creek Mine, South Haystack Mine, Long Canyon Mine, and Black Butte Mine. Surface ownership on the five proposals include 32,068 acres of public land, 45,259 acres of private land, and 4,207 acres of State land totaling 81,354 project acres containing 357 million tons of recoverable coal reserves. The geographic region consists of 6.3 million acres, includes all of Unita and portions of Lincoln and Sweetwater Counties, Wyo. (FES-78-20.) Comments made by: AHP, USDA, DOC, DOE DOI DOT, EPA, FERC, State and local agencies. (EIS Order No. 80964.

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, P-518, Washington, D.C. 20555, 301-492-8446.

Final Supplement

Allens Creek nuclear generating station unit No. 1, Austin County, Tex., August 30: The proposed action is the issuance of a construction permit to the Houston Lighting & Power Co. for the construction of Allens Creek nuclear generating station, unit 1, located in Austin County, Tex. This final supplemental statement has been prepared to update a FEIS filed with CEQ in November 1974. Major changes in the station design include: (1) Reduction in gross electrical generating capacity; (2) reduction in the number and size of associated facilities; (3) reduction in the cooling lake surface area; (4) addition of an external dam along the northern lake and (5) redesign of waste systems. (NUREG-0470.) (EIS Order No. 80952.)

DEPARTMENT OF TRANSPORATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

Malecon Avenue, PR-14, Ponce, P.R., August 28, 1978: This proposed action involves the extension of Malecon Avenue, PR-14 from its present terminus at the PR-2 bypass northerly to an interchange with existing Arenas Avenue, PR-14. The project, approximately 3.5 kilometers in length, is located in the municipality of Ponce on the South Central coast of Puerto Rico. The Proposed Highway will be a six-lane divided highway, with restricted access at specific intersections and interchanges. Just north of PR-2 bypass, Malecon Avenue will bridge over the recently constructed Rio Portugus diversion channel. A bridge permit may be required, pending determination of jurisdiction by the U.S. Coast Guard. (FHWA-PR-EIS-78-01-D.) (EPA Order No. 80937.)

WI-31, WI-20 to CTH "MM" section, Racine County, Wisc., August 29, 1978: Proposed is the reconstuction of WI-31 to WI-20 to "MM" in Racine County, Wis. Design alternates to implement the proposed action are available and, while requiring additional right-of-way; the existing roadway alignment would be used. Alternate A features twin 36-foot roadways separated by a 24-foot raised median and a curb and gutter system. Alternate B would provide twin 23-foot roadways without a median separation, 6-foot shoulders, and an open ditch drainage system. (FHWA-WISC-EIS-78-02-D.) (EIS Order No. 80943.)

Port Everglades Expressway, construction, Broward County, Fla.: August 30, 1978; This proposal concerns the construction of the Port Everglades Expressway which would extend approximately 8 miles from FL-817 (University Drive) to the proposed FL-A1A in Broward County, Fla. The facility is proposed as a limited access, four and six-lane expressway in the FL-84 corridor. Five alternatives are considered, all of which extend from FL-817 on the west to FL-A1A on the east. The project lengths of these alignments range from approximately 7.3 miles to 8.1 miles. (FHWA-FLA-EIS-78-5-D.) (EIS Order No. 80954.)

Final

FAP Route 409, O'Fallon to Sandoval and St. Clair, Clinton, and Marion Counties, Ill., September 1, 1978: Proposed is the completion of a freeway system known as F-409, which begins at I-64 near O'Fallon, generally parallels U.S. Route 50 across the State, and connects to an already existing freeway in Indiana near Vincennes. It intersects with I-64 on the west, I-57 in the middle, and F-411 near the eastern border of the State. Between I-64 and I-57, the portion from U.S. Route 51 to I-57 has received design approval. This statement covers the remaining portion in this area, that being from I-64 to U.S. Route 51. (FHWA-ILL-EIS-76-05-F.) Comments made by: HUD, DOI, EPA, USDA, COE, DOC, FPC, AHP, DOT, HEW, State and local agencies. (EIS Order No. 80971).

Draft Supplement

FL-9/I-95, from FL-74 to canal C-23, Palm Beach and Martin Counties, Fla., August 30, 1978: This statement supplements a final EIS filed in October 1972. Proposed is the construction of a six-lane rural highway, approximately 34 miles in length, located in Palm Beach and Martin Counties, Fla. The project would be a divided highway with full control of access. It would also be the last link with I-95 along the east coast of Florida, and, if constructed, would provide the user with non-stop travel from north Florida to Miami. Six alternatives are considered. (FHWA-FLA-EIS-78-1-DS.) (EIS Order No. 80953.)

INFORMATION REPORT

The EPA has received the following report which provides supplemental information on proposals which have fulfilled the NEPA process. Copies of the report are available from the originating agency upon request.

U.S. Army, Corps of Engineers, Dr. C. Grant Ash, Office of Environmental Policy Department, Attention: DARN-CWR-P, Office of the Chief of Engineers, 1000 Independence Avenue, SW., Washington, D.C. 20310, 202-693-6795

EPA No., Date Received and Title

80940, August 14, 1978, Supplemental Report, Theodore Ship Channel and Barge Channel Extension, Mobile Bay, Alabama.

OFFICIAL CORRECTION

The EPA published a notice of availability in the FEDERAL REGISTER dated August 7, 1978, for the following EIS as a Housing and Urban Developing project.

Nollwood Development Corp., Austin Lake, Portage, Mich. (EIS Order No. 80816.)

This EIS was prepared by the U.S. Army Corps of Engineers.

[FR Doc. 78-26095 Filed 9-15-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

TELEVISION TRANSLATOR APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: September 11, 1978.

Released: September 13, 1978.

By the Chief, Broadcast Facilities Division:

Notice is hereby given pursuant to § 1.572(c) of the Commission's rules, that on November 2, 1978, the television translator applications listed in the attached appendix will be considered as ready and available for processing. Pursuant to §§ 1.227(b)(1) and 1.519(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on November 1, 1978, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington D.C., by the close of business on November 1, 1978. The attention of prospective applicants is directed to the fact, that some contemplated proposals may not be eligible for consideration with an application appearing in the attached appendix by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to § 1.572(c) of the Commission's rules.

The attention of any party in interest desiring to file pleadings concerning any ending television translator application, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

UHF TV TRANSLATOR APPLICATIONS

BMPTT-1009 (W56AU), Wellsville and Scio, N.Y., Board of Cooperative Educational Services of Allegany County. Req: Change primary TV station to WXXI, Channel 21, Rochester, N.Y.

BMPTT-1010 (W56AV), Rushford, N.Y., Board of Cooperative Educational Services of Allegany County. Req: Add Houghton, N.Y., to present principal community, increase output power to 100 watts, change primary TV station to WXXI, Channel 21, Rochester, N.Y.

BMPTT-1011 (W59AH), Allentown and Bolivar Relay, N.Y., Board of Cooperative Educational Services of Allegany County. Req: Change primary TV station to WXXI, Channel 21, Rochester, N.Y.

BMPTT-1012 (W62AR), Andover, N.Y., Board of Cooperative Educational Services of Allegany County. Req: Change frequency to Channel 61, 752-758 MHz, change primary TV station to WXXI, Channel 21, Rochester, N.Y.

BMPTT-1013 (W62AS), Friendship, N.Y., Board of Cooperative Educational Services of Allegany County. Req: Add Belmont, N.Y. to present principal community, increase output power to 100 watts, change primary TV station to WXXI, Channel 21, Rochester, N.Y.

BMPTT-1014 (W64AJ), Whitesville, N.Y., Board of Cooperative Educational Services of Allegany County. Req: Change primary TV station to WXXI, Channel 21, Rochester, N.Y, increase output power to 10 watts.

BMPTT-1015 (W65AI), Bolivar and Richburg, N.Y., Board of Cooperative Educational Services of Allegany County. Req: Change primary TV station to WXXI, Channel 21, Rochester, N.Y.

BMPTT-1016 (W65AJ), Angelica, N.Y., Board of Cooperative Educational Services of Allegany County. Req: Add Belfast, N.Y. to present principal community, increase output power to 100 watts, change primary station to WXXI, Channel 21, Rochester, N.Y.

BPTT-3629 (new), Morongo Valley, Calif., county of San Bernardino, Service Area 70, TV-2, Morango Valley. Req: Channel 16, 482-488 MHz, 100 watts. Primary: KNXT-TV, Los Angeles, Calif.

BPTT-3630 (new), Morongo Valley, Calif., county of San Berandrino, County Service Area 70, TV-2, Morongo Valley. Req: Channel 14, 470-476 MHz, 100 watts. Primary: KTTV-TV, Los Angeles, Calif.

BPTT-3631 (new), Epng Navajo Compressor Station, 12 miles northwest of Klagetoh, Ariz., El Paso Natural Gas Co. Req: Channel 68, 794-800 MHz, 10 watts. Primary: KOB-TV, Albuquerque, N. Mex.

BPTT-3632 (K74AV), Navajo Compressor Station, Ariz., El Paso Natural Gas Co. Req: Change frequency to Channel 64, 770-776 MHz, decrease output power to 10 watts.

BPTT-3633 (K78CX), El Paso Natural Gas Co., Navajo Compressor Station, Ariz., El Paso Natural Gas Co. Req: Change frequency to Channel 66, 782-788 MHz, decrease output power to 10 watts.

BPTT-7808081A (new), Alexandria, Minn., Selective TV, Inc. Req: Channel 62, 758-764 MHz, 100 watts. Primary: KWCM-TV, Appleton, Minn.

BPTT-7808081B (new), Alexandria, Minn., Selective TV, Inc. Req: Channel 40, 626-632 MHz, 100 watts. Primary: KTHI-TV, Fargo, N. Dak.

BPTT-7808081C (new) Alexandria, Minn., Selective TV, Inc. Req: Channel 36, 602-608 MHz, 100 watts. Primary: KDLO-TV, Florence, S. Dak.

BPTTV-6126 (K10KC), Colstrip, Mont., Colstrip TV Club. Req: Change frequency to Channel 11, 198-204 MHz.

BPTTV-6127 (K12KN), Colstrip, Mont., Colstrip TV Club. Req: Change frequency to Channel 13, 210-216 MHz, increase output power to 10 watts.

BPTTV-6128 (new), Virgin, Utah, Washington County Television Dept. Req: Channel 11, 198-204 MHz, 10 watts. Primary: KORK-TV, Las Vegas, Nev.

nel 11, 198-204 MHz, increase output power to 10 watts.

BPTTV-6131 (K10JE), Beatty, Nev., Beatty Television Maintenance District, county

BPTTV-6133 (new), Beatty, Nev., Beatty Television Maintenance District. Req: Channel 7, 174-180 MHz, 1 watt. Primary: KSHO-TV, Las Vegas, Nev.

ty of some 52,000 persons,[2] has no individualized needs or interests distinguishing it from Greater Baltimore, lacks any significant body of citizens

which necessarily underlay Brinsfield's initial application and subsequent Commission grants of renewed operating authority. Nor are there

[6712-01]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

BPTTV-6128 (new), Virgin, Utah, Washington County Television Dept. Req: Channel 11, 198-204 MHz, 10 watts. Primary: KORK-TV, Las Vegas, Nev.
BPTTV-6129 (K06lJ), Beatty, Nev., Beatty Television Maintenance District, county of Nye. Req: Change frequency to Channel 2, 54-60 MHz.
BPTTV-6130 (K10HT), Oasis, Nev., Beatty Television Maintenance District, county of Nye. Req: Change frequency to Channel 11, 198-204 MHz, increase output power to 10 watts.
BPTTV-6131 (K10JE), Beatty, Nev., Beatty Television Maintenance District, county of Nye. Req: Change frequency to Channel 4, 66-72 MHz.
BPTTV-6132 (K12JO), Oasis Valley, Nev., Beatty Television Maintenance District, county of Nye. Req: Change frequency to Channel 9, 186-192 MHz., increase output power to 10 watts.
BPTTV-6133 (new), Beatty, Nev., Beatty Television Maintenance District. Req: Channel 7, 174-180 MHz, 1 watt. Primary: KSHO-TV, Las Vegas, Nev.
BPTTV-6134 (new), Oasis Valley, Nev., Beatty Television Maintenance District. Req: Channel 13, 210-216 MHz, 10 watts. Primary: KSHO-TV, Las Vegas, Nev.

[FR Doc. 78-26028 Filed 9-15-78; 8:45 am]

[6712-01]

CANADIAN STANDARD BROADCAST STATIONS

Notification List

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the appendix to the recommendations of the North American Regional Broadcasting Agreement Engineering meeting January 30, 1941.

AUGUST 22, 1978.

CANADIAN LIST NO. 376

Call letters	Location	Power, kW	Antenna	Schedule	Class	Antenna height (feet)	Ground system No. of radials	Ground system Length (feet)	Proposed date of commencement of operation
				850 kHz					
(New)	Spaniard's Bay/Harbour, Grace, Newfoundland, N. 47°39'21", W. 53°15'30" (correction of daytime radiation in change list No. 373).	10	DA-N, ND-D-*182.*	U	II	.....	.....	.....	Apr. 21, 1979.
				1110 kHz					
CKJD	Sarnia, Ontario, N. 42°49'49" W. 82°23'30" (in operation on new frequency).	10D/1N	DA/2.....	U	II	.....	.....	.....	
				1150 kHz					
CKIQ	Kelowna, British Columbia, N. 49°50'52", W. 119°27'54" (correction of daytime radiation) (P.O. 10D/1N).	10	DA-N, ND-D-*190.*	U	III	.....	.....	.....	Apr. 7, 1979.
				1230 kHz					
CKLD	Thetford Mines, Quebec, N. 46°05'57", W. 71°16'13" (delete immediately).	1D/0.25N	ND-184.....	U	IV	133	120	320 ave.	
				1250 kHz					
CKJD	Sarnia, Ontario, N. 42°52'12", W. 82°23'50" (delete immediately).	1	DA-2.....	U	III	.....	.....	.....	
				1330 kHz					
CKLD	Thetford Mines, Quebec, N. 46°03'55", W. 71°23'16" (in operation on new frequency).	10	DA-1.....	U	III	.....	.....	.....	
				1570 kHz					
CKTA	Taber, Alberta, N. 49°45'38", W. 112°16'17" (inoperation as notified in change list 333; daytime power increase to 10 kW in list 346 withdrawn).	5	DA-N, ND-D-.191.	U	II	.....	.....	.....	

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

[FR Doc. 78-26168 Filed 9-15-78; 8:45 am]

[6712-01]

[RM-3030]

FM BROADCAST STATIONS

Table of Assignments, Catonsville and Baltimore, Md.; Memorandum Opinion and Order; Denying Petition for Rulemaking

ADOPTED: September 12, 1978.

RELEASED: September 13, 1978.

By the Chief, Broadcast Bureau:

1. Key Broadcasting Corporation, licensee of Station WKTK(FM) in Catonsville, Maryland, has petitioned to amend the FM table of assignments, 47 CFR 73.202, by reallocating FM channel 289 from its present community of license to Baltimore, Md.[1] Key asserts that Catonsville, an unincorporated Baltimore suburban community of some 52,000 persons,[2] has no individualized needs or interests distinguishing it from Greater Baltimore, lacks any significant body of citizens interested in reviving "community spirit," and—for example—possesses ten shopping centers but no major industry. Key recites a series of newspaper articles spanning several decades which purport to describe the absorption of Catonsville into Baltimore, points out that the station was originally licensed to a minister unable to find an unoccupied FM channel in Baltimore, and concludes that the earlier relocation of its transmitter and studio facilities to their present site in the city of Baltimore should now be accompanied by reallocation of its channel to that community.

2. We are not persuaded of the demise of Catonsville as a recognizable community, albeit perhaps a residential "bedroom" community. The petitioner has recited at some length newspaper articles which, while of historical interest, hardly establish the identity of the needs and interests of Catonsville and Baltimore. Indeed, apart from the conclusory statements in newspaper articles, petitioner has made no attempt to support its general assertion that the needs and interests of the two communities coincide. Such agreement would not be dispositive of the allocation question, but absent such a showing we have no reason to assume that a sizable suburban residential community has the same needs and interests of a diverse city such as Baltimore which comprises industry, commerce, shipping and residential elements. Far less would we assume the disappearance of a community on such a basis. Indeed, the most recent newspaper article which addresses the "community" question comments that the label fit Catonsville at that time—1963, 2 years after station WKTK(FM) first went on the air.

3. Station WKTK(FM)'s origins are traced by petitioner to a 1961 application filed by Rev. J. Stewart Brinsfield, who operated the station from 1962 until 1968. While explaining that Brinsfield applied for a Catonsville channel because none were available in Baltimore, the petition does not even address the showing of Catonsville as an independent community with identifiable needs and interests which necessarily underlay Brinsfield's initial application and subsequent Commission grants of renewed operating authority. Nor are there journalistic accounts of Catonsville's asserted demise postdating the 1963 story said to characterize it as a community. Petitioner's conclusory reference to the allocation of channel 289 to Catonsville as "an historical accident" created by use of the protected service contour system of allocations does not address the present status of the community, or distinguish Catonsville from numerous other communities whose present broadcast channels were allocated by that method.

4. As noted, the equivalence of a community's needs and interests with those of another community has not been established here, and even such identification of similar needs is a far cry from the conclusion that a separate community has ceased to exist. Catonsville may lack certain social components found in Baltimore, where Key is licensee of station WBMD(AM), but this observation by itself simply reaffirms the differences between the communities rather than the demise of the smaller one.[3] Because of our conclusion that Catonsville's demise as an identifiable community has not been established, we do not consider the question of the WKTK(FM) transmitter's failure to encompass Baltimore with a city-grade signal.[4]

5. Accordingly, for the reasons set forth above, the petition for rulemaking filed by Key Broadcasting Corp., RM-3030, is denied.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-26172 Filed 9-15-78; 8:45 am]

[1] Key also requests issuance of an order to show cause directing it to establish why its license should not be modified to specify operation on the same channel in Baltimore. This secondary request is mooted by our resolution of the petition for rulemaking. However, it should be noted that while Key requests both a reallocation of channel 289 by rulemaking and a modification of its present license to specify Baltimore as the city of license, the Commission has interpreted the Communications Act to require the opening of such a reallocated channel to competing applications from other interested parties. In effect, this involves a two-step process in which the Commission reassigns a channel and then petitioner and anyone else files an application proposing to serve this new community. The Commission has indicated an unwillingness to modify in lieu of following this procedure. See amendment of section 73.606(b), Television Table of Assignments (Riverside and Santa Ana, Calif.), 65 FCC 2d 920, 923-924 (1977) and *Ashbacker Radio Corp.* v. *FCC*, 326 U.S. 327 (1945).

[2] 1964 estimate by the Metropolitan Baltimore Chamber of Commerce for the Catonsville-Ellicott City area.

[3] No comparison of the needs and interests of the two communities as determined by Key's ongoing ascertainment efforts was submitted as part of the petition.

[4] The only comments on the petition were filed by Peter and John Radio Fellowship, Inc., licensee of station WRBS(FM) in Baltimore. They note that the mileage separation between the transmitting facilities of stations WRBS(FM) and WKTK(FM) is presently 8.22 miles, as opposed to the 15-mile separation required by the Commission's rules (47 CFR 73.207). This variance was approved by Commission action several years ago and is not complained of. Rather, Peter and John assert that station WRBS(FM) has been exploring means to improve its signal coverage for several years and is concerned that relicensing station WKTK(FM) to Baltimore would preclude even the possibility of both stations eventually providing full city-grade coverage over their respective communities of license (consistent with the 15-mile separation requirement). Peter and John do not flatly oppose Key's petition, but instead urge the Commission to directly address the potential IF separation problem. These requests are characterized by Key as unrelated to its petition and we agree.

[6712-01]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 71, "VHF Automated Radiotelephone Systems".

Notice of 12th meeting Tuesday, October 3, 1978—10 a.m. (full day meeting).

Conference Room A-110, 1229-20th Street, NW., Washington, D.C.

AGENDA

1. Call to Order.
2. Administrative Matters.
3. Presentations and Discussions.

John J. Renner, Chairman SC-71, Advanced Technology systems, Inc., 3426 North Washington Boulevard, Arlington, Va. 22201, phone 703-525-2664.

Special Committee No. 70, "Minimum Performance Standards (MPS)—Marine Loran-C Receiving Equipment".

Notice of 12th meeting Thursday, October 5, 1978—10 a.m. (all day meeting).

Conference Room 7200, Nassif (DOT) Building, 400 Seventh Street SW. (at D Street), Washington, D.C.

AGENDA

1. Call to order; Chairman's report.
2. Administrative matters.
3. Discussion on test standards and procedures.
4. Other business.

Captain Alfred E. Fiore, Chairman, SC-70, U.S. Merchant Marine Academy, Kings Point, New York 11024, phone 516-482-8200.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat 1100 L Street NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La; San Francisco,

Summary: Agreement No. T-3155-2, between the Port Authority of New York and New Jersey (Port) and Maersk Container Service Co., Inc. (Maersk), modifies the

After the guaranteed minimum tonnage has been reached revenue will be divided as set forth in the agreement.

Agreement No. 10117-4.

acceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of

Applicant states that the proposed subsidiary would act as agent or broker for the sale of credit life and disability insurance in connection with extensions of credit originated by its

V 43/181 SE 18 78

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone 202-632-6490).

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-26169 Filed 9-14-78; 8:45 am]

[6712-01]

UNIFORM SYSTEM OF ACCOUNTS, CC DOCKET NO. 78-196

Public Meeting on Proposed Revisions

SEPTEMBER 7, 1978.

The staff of the Common Carrier Bureau has become aware that some parties have questions on aspects of the notice of proposed rulemaking on the revision of the uniform system of accounts and financial reporting requirements for telephone companies (parts 31, 33, 42 and 43 of the FCC's rules), FCC 78-453 (released July 21, 1978). Therefore, on September 22, 1978, the staff of the Common Carrier Bureau will hold a public meeting in order to respond to questions about the intent of the Notice.

The meeting will be held in Room A-110, 1229 20th Street NW., Washington, D.C., 20554, at 9:30 a.m. Interested persons having questions relating to this docket should submit 6 copies of all questions to Doug Slotten, Room 546, 1919 M Street NW., Washington, D.C., 20554, by close of business on September 19, 1978. Questions not received by this date will not be considered. The meeting will be open to all, irrespective of whether any questions have been submitted. A summary of the meeting will be entered in the record.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-26167 Filed 9-15-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by October 9, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-5-1(4).
Filing party: Mr. John E. Nolan, Assistant Port Attorney, Port of Oakland, P.O. Box 2064, 66 Jack London Square, Oakland, Calif. 94604.
Summary: Agreement No. T-5-1(4), between the city of Oakland (Port) and Sea-Land Service, Inc. (Sea-Land), modifies the parties' basic agreement providing for the lease of certain land and improvements at Oakland, Calif., to Sea-Land for use as a truck terminal. The purpose of the modification is to enlarge parcel "C" of the leased premises by approximately 56,699 square feet and reduce parcel "E" thereof by approximately 759 squre feet and parcel "F" by approximately 38,978 square feet to provide for the construction of additional improvements made necessary by the revision in the westerly boundary of the demised premises, to increase the land rental for parcel "C" from $1,813.81 to $2,154.02 per month, and to decrease the land rental for parcel "E" from $533.51 to $529.04 per month and parcel "F" from $1,708.53 to $1,474.66 per month.

Agreement No.: T-2590-6.
Filing party: Mr. Francis D. Barrett, Curry & Dolan, 716 Southern Building, Washington, D.C. 20005.
Summary: Agreement No. T-2590-6, between the Albany Port Commission (Port) and United Brands Co. (UBC), modifies the parties' basic agreement providing for the use of certain office space and the preferential use of certain storage space at Transit Shed No. 2, Albany, N.Y. The purpose of the modification is to exercise the fifth option to renew the initial term of the agreement by: (1) Extending the term from December 1, 1978, to November 30, 1979; and (2) increasing the amount of compensation paid to the Port from $25,000 to $26,250.

Agreement No.: T-3155-2.
Filing party: Albert B. Dearden, Deputy Chief, Leases and Operating Agreements Division, Port Authority of New York and New Jersey, One World Trade Center, New York, N.Y. 10048.
Summary: Agreement No. T-3155-2, between the Port Authority of New York and New Jersey (Port) and Maersk Container Service Co., Inc. (Maersk), modifies the basic agreement between the Port and Moller Steamship Co., Inc. (Moller) providing for the 25-year lease of a marine terminal at Port Newark, N.J. The purpose of the modification is to increase the size of the premises, provide for additional contruction, and increase the rental accordingly.

Agreement No. T-3702.
Filing party: H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Wash. 98111.
Summary: Agreement No. T-3702, between Port of Seattle (Port) and Chemical Processors, Inc. (CPI), provides for the 3-year lease of 100 lineal feet of a berthing area located between piers 90 and 91 at Port's terminal 91 complex to be used for the refueling of tugboats and related activities. CPI will build, at its expense, a fence to house its hoses and appurtenances necessary to the fueling operation of various tugs at the premises. As compensation, CPI will pay $1,000 per month as rental, all applicable Port tariff charges and utility charges.

Agreement No. T-3703.
Filing party: Richard L. Landes, Deputy City Attorney, Offices of the City Attorney of Long Beach, City Hall, 333 West Ocean Boulevard, Long Beach, Calif. 90802.
Summary: Agreement No. T-3703, between city of Long Beach (City) and Marine Metals, Inc. (Marine), provides for the 2-year lease to Marine of approximately 211,355 square feet of paved area including 116,403 square feet of warehouse space as described in the agreement. The premises will be used for the storage and distribution of merchandise. As part of the understanding between the parties, it is agreed that Marine will not operate a public terminal or public warehouse on the leased premises in connection with a common carrier by water, as defined in the Shipping Act, 1916. City shall receive as rental for the leased area the sum of $13,000 per month.

Agreement No. T-3705.
Filing party: Richard L. Landes, Deputy City Attorney, Offices of the City Attorney of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, Calif. 90801.
Summary: Agreement No. T-3705, between city of Long Beach (City) and Cooper Stevedoring Co. (Cooper), provides for the 2-year nonexclusive, preferential assignment of certain premises located on berths 9, 10, and 201 at pier A in Long Beach, Calif., to be used in the operation of a marine terminal. Cooper does not have the exclusive right to perform stevedoring services upon the leased premises or the sole and exclusive right to operate a shipping terminal at the port. When the premises are not in use by Cooper, City's general manager may, with Cooper's consent, make temporary or secondary assignments to other persons as provided in the Port of Long Beach tariff. All charges assessed by Cooper will be reasonable and conform as nearly as possible with the charges published in the Port of Long Beach tariff and will be subject to review and control by City. As compensation, Cooper will pay all revenue from dockage, wharfage, and other applicable tariff charges accruing from its operations up to a guaranteed minimum tonnage of 137,000 revenue tons for the first year and 182,000 revenue tons for the second year. After the guaranteed minimum tonnage has been reached revenue will be divided as set forth in the agreement.

Agreement No. 10117-4.
Filing party: David C. Jordan, Esq., Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D.C. 20006.
Summary: Agreement No. 10117-4 would amend article 7 of the U.S. North Atlantic/Spain Rate Agreement to provide that all decisions and actions under the agreement shall be made or taken at meetings, except that decisions and actions on tariff rates (excluding rules and regulations) may alternatively be made or taken outside meetings by the unanimous vote of all parties to the agreement by telephone polls or polls conducted by any other means of communication.

By order of the Federal Maritime Commission.

Dated: September 13, 1978.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc. 78-26201 Filed 9-15-78; 8:45 am]

[6325-01]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

OPEN COMMITTEE MEETINGS

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, October 5, 1978.
Thursday, October 12, 1978.
Thursday, October 26, 1978.

The meetings will convene at 10 a.m., and will be held in Room 5A06A, Civil Service Commission Building, 1900 E Street NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Civil Service Commission thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Chairman of the Civil Service Commission under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Civil Service Commission, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Secretary, Federal Prevailing Rate Advisory Committee, Room 1338, 1900 E Street NW., Washington, D.C. 20415, 202-632-9710.

JEROME H. ROSS,
Chairman, Federal Prevailing Rate Advisory Committee.

SEPTEMBER 1, 1978.

[FR Doc. 78-25166 Filed 9-15-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

CENTURY BANCSHARES CORP.

Formation of Bank Holding Company

Century Bancshares Corp., St. Louis, Mo., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become a bank holding company by acquiring 80 percent or more of the voting shares of North St. Louis Trust Co, St. Louis, Mo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Century Bancshares Corp., St. Louis, Mo., has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and 225.4(b)(2) of the Board's regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of North St. Louis Trust Co., St. Louis, Mo. Notice of the application was published on July 22, 1978, in the St. Louis Daily Record, a newspaper circulated in St. Louis, Mo.

Applicant states that the proposed subsidiary would act as agent or broker for the sale of credit life and disability insurance in connection with extensions of credit originated by its subsidiary bank. Such activities have been specified by the Board in section 225.4(a) of regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 4, 1978.

Board of Governors of the Federal Reserve System, September 8, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-26109 Filed 9-15-78; 8:45 am]

[6210-01]

FAIRBANK BANCSHARES, INC.

Formation of Bank Holding Company

Fairbank Bancshares, Inc., Fairbank, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 85 percent or more of the voting shares of Fairbank State Bank, Fairbank, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be

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received no later than October 12, 1978.

Board of Governors of the Federal

Board of Governors of the Federal Reserve System, September 8, 1978.

GRIFFITH L. GARWOOD,

Social Sciences Training Review Committee.
Social Work Education Review Committee.

Dated: September 7, 1978.

For detailed program information and a copy of the agenda contact Mr. Graham W. Ward, Chief, Health Edu-

Dated: September 12, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Mr. Richard Berenson, Chairman, Brookline, Mass.
Dr. Evelyn Murphy, Lexington, Mass.
Mr. Byron Rushing, Boston, Mass.

received no later than October 12, 1978.

Board of Governors of the Federal Reserve System, September 12, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-26110 Filed 9-15-78; 8:45 am]

[6210-01]

GREENCASTLE INVESTMENT CORP.

Formation of Bank Holding Company

Greencastle Investment Corp., Wilmington, Del., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First Citizens Bank & Trust Co., Greencastle, Ind. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than October 12, 1978.

Board of Governors of the Federal Reserve System, September 12, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-26111 Filed 9-15-78; 8:45 am]

[6210-01]

REPUBLIC OF TEXAS CORP.

Acquisition of Bank

Republic of Texas Corp., Dallas, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Texas State Bank, Austin, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 3, 1978.

Board of Governors of the Federal Reserve System, September 8, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-26112 Filed 9-15-78; 8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Committee Extensions

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces the continuance by the Secretary of Health, Education, and Welfare, with the concurrence of the General Services Administration Committee Management Secretariat, of the following public advisory committees until December 31, 1978:

Alcohol Research Review Committee.
Alcohol Training Review Committee.
Biological Sciences Training Review Committee.
Clinical Program-Projects Research Review Committee.
Clinical Projects Research Review Committee.
Clinical Psychopharmacology Research Review Committee.
Community Alcoholism Services Review Committee.
Continuing Education Review Committee.
Crime and Delinquency Review Committee.
Developmental Problems Research Review Committee.
Drug Abuse Research Review Committee.
Drug Abuse Training Review Committee.
Epidemiologic Studies Review Committee.
Experimental and Special Training Review Committee.
Experimental Psychology Research Review Committee.
Mental Health Services Research Review Committee.
Mental Health Small Grant Committee.
Metropolitan Mental Health Problems Review Committee.
Minority Group Mental Health Programs Review Committee.
Neuropsychology Research Review Committee.
Paraprofessional Manpower Development Review Committee.
Personality and Cognition Research Review Committee.
Preclinical Psychopharmacology Research Review Committee.
Psychiatry Education Review Committee.
Psychiatric Nursing Education Review Committee.
Psychological Sciences Fellowship Review Committee.
Psychology Education Review Committee.
Research Scientist Development Review Committee.
Social Problems Research Review Committee.
Social Sciences Research Review Committee.
Social Sciences Training Review Committee.
Social Work Education Review Committee.

Dated: September 7, 1978.

DAVID F. KEFAUVER,
Acting Deputy Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-26101 Filed 9-18-78; 8:45 am]

[4110-08]

National Institutes of Health

CANCER CONTROL AND REHABILITATION ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Control and Rehabilitation Advisory Committee, National Cancer Institute, October 27, 1978, Blair Building, 1st floor Conference Room, 8300 Colesville Road, Silver Spring, Md. 20910.

The entire meeting will be open to the public from 9 a.m. to adjournment, to review concepts of funding in fiscal year 1979. Attendance by the public will be limited to space available.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014, 301-496-5708 will provide summaries of the meeting and rosters of committee members, upon request.

Mr. H. C. Noyes, Acting Executive Secretary, National Cancer Institute, Blair Building, Room 720, National Institutes of Health, Bethesda, Md. 20014, 301-427-8053 will furnish substantive program information.

Dated: September 7, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-26177 Filed 9-15-78; 8:45 am]

[4110-08]

HIGH BLOOD PRESSURE WORKING GROUP

Meeting

Notice is hereby given of the High Blood Pressure Working Group sponsored by the National Institutes of Health, National Heart, Lung, and Blood Institute, Health Education Branch, November 6, 1978, National Institutes of Health, Building 1, Wilson Hall, Bethesda, Md. 20014.

This meeting will be open to the public from 8:30 a.m. to 5 p.m. to define the priorities, activities, and needs of the participating groups in the National High Blood Pressure Education Program. Attendance by the public will be limited to space available.

For detailed program information and a copy of the agenda contact Mr. Graham W. Ward, Chief, Health Education Branch, National High Blood Pressure Education Program, National Heart, Lung, and Blood Institute, NIH, Building 31, Room 5A10, 9000 Rockville Pike, Bethesda, Md. 20014, 301-496-1051. For the list of participants and meeting summary contact Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, NIH, Building 31, Room 5A03, 9000 Rockville Pike, Bethesda, Md. 20014.

Dated: September 7, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-26178 Filed 9-15-78; 8:45 am]

[4110-89]

Office of Education

WOMEN'S EDUCATIONAL EQUITY ACT PROGRAM

Public Meeting on Regulation Issues

AGENCY: Office of Education, HEW.

ACTION: Notice of public meeting on regulation issues under the pending Women's Educational Equity Act of 1978.

SUMMARY: The purpose of this notice is to announce the date, time, and location for a public meeting on regulation issues.

DATE: October 19, 1978, 9 a.m.-12 noon.

ADDRESS: 400 Maryland Avenue SW., Washington, D.C. NASA Auditorium, room 6104, 6th floor.

FOR FURTHER INFORMATION CONTACT:

Dr. Mary Jane Smalley, room 2147, Federal Office Building 6, 400 Maryland Avenue SW., Washington, D.C. 20202, 202-245-2181.

SUPPLEMENTARY INFORMATION: Final regulations (45 CFR Part 160f), were published in the FEDERAL REGISTER at 42 FR 33009 on June 28, 1977. The Women's Educational Equity Act Program is currently operating under these regulations and will continue in fiscal year 1979. Consultations have been held with interested organizations and individuals concerning the pending Women's Educational Equity Act of 1978. In order to gain greater insight into regulation issues and expand public involvement, there will be a meeting to hear and explore additional views on the implementation of the act.

(Catalog of Federal Domestic Assistance No. 13.565, Women's Educational Equity Act Program.)

Dated: September 12, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-26285 Filed 9-15-78; 8:45 am]

[4110-08]

Public Health Service

NATIONAL INSTITUTES OF HEALTH

Statement of Organization, Functions, and Delegations of Authority

Part H, chapter HN (National Institutes of Health) formerly part 8, chapter 8 (41 FR 52724, Dec. 1, 1976) of the statement of organization, functions, and delegations of authority for the Department of Health, Education, and Welfare (40 FR 22859, May 27, 1975, as amended most recently by 43 FR 4114, Jan. 31, 1978), is amended to reflect the retiling of the Baltimore Cancer Research Center Program as the Baltimore Cancer Research Program in the National Cancer Institute. This change is intended to remedy the confusion in identification of extramural grant supported cancer centers and intramural cancer research programs. There is no change in organizational structure.

Section HN-B, Organization and Functions, is amended as follows: Under the heading National Cancer Institute (HNC), delete the title, Baltimore Cancer Research Center Program (HNC63) and insert the title, Baltimore Cancer Research Program (HNC63).

Dated: September 8, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-26162 Filed 9-15-78; 8:45 am]

[4310-70]

DEPARTMENT OF THE INTERIOR

National Park Service

BOSTON NATIONAL HISTORICAL PARK ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Pub. L. 92-463, that a meeting of the Boston National Historical Park Advisory Commission will be held at 11 a.m. on October 3, 1978, in the fourth floor conference room at 15 State street, Boston, Mass.

The Commission was established by Pub. L. 93-431 to advise the Secretary of the Interior on matters relating to the development of the Boston National Historical Park.

The members of the Advisory Commission are as follows:

Mr. Richard Berenson, Chairman, Brookline, Mass.
Dr. Evelyn Murphy, Lexington, Mass.
Mr. Byron Rushing, Boston, Mass.
Mrs. Katharine Kane, Boston, Mass.
Mr. Maurice O'Shea, Charlestown, Mass.
Ms. Gail Seybold, Boston, Mass.
Mr. Guy Beninati, Boston, Mass.

The matters to be discussed at this meeting include:

1. New initiatives in interpretation.
2. Transportation of visitors by land and/or water.
3. Boundary adjustments at the Charlestown Navy Yard.
4. Progress report on the water-Chelsea connector and gate 4 roadway projects as they affect the navy yard.
5. Progress report on cooperative agreements.
6. Evaluation of 1978 visitor season.
7. Discussion of park administration and operations.

The meeting will be open to the public. However, facilities and space are limited, and it is expected that not more than 25 persons will be able to attend the session. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Hugh D. Gurney, Superintendent, Boston National Historical Park at 617-223-1128. Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the office of the Superintendent, 15 State Street, Boston, Mass.

Dated: September 5, 1978.

JACK E. STARK,
Regional Director, North Atlantic Region.

[FR Doc. 78-26088 Filed 9-15-78; 8:45 am]

[4310-70]

INTENTION TO EXTEND CONCESSION CONTRACT

Pursuant to the provisions of section 5 of the act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice (October 18, 1978), the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with LeConte Lodge, Inc., authorizing it to continue to provide concession facilities and services for the public at Great Smoky Mountains National Park for a period of one (1) year from January 1, 1979, through December 31, 1979.

It has been determined that the proposed extension of this contract does not have potential for causing significant environmental impact and there-

fore preparation of an environmental assessment is not required.

The foregoing concessioner has performed its obligations to the satisfac-

quired due to a substantially greater export demand in 1978 than in previous years. In the case of ethylmorphine, an increased U.S. consumption

[7715-01]

POSTAL RATE COMMISSION

[Docket No. MC78-2]

tions for leave to intervene shall affirmatively state whether or not petitioner requests a hearing or, in lieu thereof, a conference; and further, whether

that ECOM would appear best suited for businesses with large mailing requirements. ECOM is designed to provide highly reliable 2-day service for

[7715-01]

[Docket No. MC78-1]

PARCEL POST CLASSIFICATION MATTERS, 1978

fore preparation of an environmental assessment is not required.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1978, and therefore, pursuant to the act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants LeConte Lodge, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and a preference in the award of the contract, if, thereafter, the offer of LeConte Lodge, Inc., is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before October 18, 1978.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: September 7, 1978.

DANIEL J. TOBIN, Jr.,
Director,
National Park Service.

[FR Doc. 78-26104 Filed 9-18-78; 8:45 am]

[4410-09]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

CONTROLLED SUBSTANCES IN SCHEDULE II

Proposed 1978 Revised Aggregate Production Quotas—Anileridine and Ethylmorphine

Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in schedule I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On May 12, 1978, a notice of the final aggregate production quotas for anileridine and ethylmorphine was published in the FEDERAL REGISTER (43 FR 20565). Since the finalization of these quotas, DEA has been advised by the sole U.S. manufacturer of anileridine and ethylmorphine that additional production of these substances will be necessary in 1978. In the case of anileridine, increased production is required due to a substantially greater export demand in 1978 than in previous years. In the case of ethylmorphine, an increased U.S. consumption in 1978 relative to 1977 requires increased production. In order to allow additional production in 1978, the aggregate production quotas for anileridine and ethylmorphine must be revised. Therefore, the Administrator of the Drug Enforcement Administration, under the authority vested in the Attorney General by section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) and delegated to the Administrator by § 0.100 of Title 28 of the Code of Federal Regulations does hereby propose the following changes of the aggregate production quotas for 1978 for anileridine and ethylmorphine expressed in grams of anhydrous base:

[Production quota]

Basic class	Previously finalized 1978 aggregate	Proposed revised 1978 aggregate
Anileridine	234,000	272,000
Ethylmorphine	23,000	30,000

All interested persons are invited to submit their comments and objections in writing regarding this proposal. Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, U.S. Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative and must be received by October 23, 1978. If a person believes that one or more issues raised by him warrant a full adversary-type hearing, he should so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds, in his sole discretion, warrant a full adversary-type hearing, the Administrator shall order a public hearing in the FEDERAL REGISTER summarizing the issues to be heard and setting the time for the hearing.

Dated: September 11, 1978.

PETER B. BENSINGER,
Administrator.

[FR Doc. 78-26184 Filed 9-15-78; 8:45 am]

[7715-01]

POSTAL RATE COMMISSION

[Docket No. MC78-2]

MAIL CLASSIFICATION SCHEDULE, 1978

Notice of U.S. Postal Service Filing of a Request for a Recommended Decision on Establishing a Third-Class Carrier Route Presort Subclass

SEPTEMBER 13, 1978.

Notice is hereby given that on September 8, 1978, the U.S. Postal Service (Postal Service), pursuant to section 3623 of the Postal Reorganization Act (39 U.S.C. 3623), filed a request with the Postal Rate Commission for a recommended decision on establishing a third-class carrier route presort subclass. This filing has been assigned docket No. MC78-2.

The Postal Service states that its request is filed in accordance with the Commission's rules of practice and contains such information and data which explain the nature, scope, significance, and impact of the proposed carrier route presort subclass. The Postal Service further states that the proposed subclass will be available for mailings of bulk third-class regular rate matter which, inter alia, consists of 10 pieces for each carrier route and a minimum of 2,000 pieces per mailing. Mail qualifying for this subclass will be charged a rate that is 1.5 cents per piece less than nonqualifying bulk third-class regular rate matter. According to the Postal Service, this rate differential is intended to provide for mail service which: (1) Meets the needs of the different categories of mail users, and (2) recognizes cost savings associated with carrier route presorted mail. In addition, the Postal Service made a separate proposal relating to merchandise samples. Specifically, merchandise samples that otherwise fail to meet the size requirements for carrier route presorted mail may benefit from the proposed 1.5 cents discount if detached labels sorted to carrier route are provided.[1]

Hearings will be held on the proposals submitted by the Postal Service in docket No. MC78-2. Any person desiring to be heard with reference thereto and to become a party to the proceeding, or to participate as a party in any hearing thereon, should file a petition for leave to intervene. Petitions for leave to intervene must be filed with the Secretary, Postal Rate Commission, Washington, D.C. 20268, on or before September 29, 1978, and must be in accordance with § 20 of the Commission's rules of practice (39 CFR 3001.20). We direct specific attention to § 20(b) which provides that petitions for leave to intervene shall affirmatively state whether or not petitioner requests a hearing or, in lieu thereof, a conference; and further, whether or not the petitioner intends to participate actively in the hearing.[2] Alternatively, persons seeking limited participation, but who do not wish to become parties may, on or before September 29, 1978, file a written request for leave to be heard as a "limited participator," pursuant to § 19a of the Commission's rules of practice (39 CFR 3001.19a). In addition, persons wishing to express their views informally, and not desiring to become a party or limited participant, may file comments pursuant to § 19b of the Commission's rules, 39 CFR § 3001.19b.

The request of the Postal Service for a recommended decision on establishing a third-class carrier route presort subclass is on file with the Commission and is available for public inspection during regular business hours.

DAVID F. HARRIS,
Secretary.

[FR Doc. 78-26274 Filed 9-15-78; 8:45 am]

[1] The specific changes proposed by the Postal Service are set out, in legislative format, in attachment A to the Service's request.

[2] In this regard, parties who intend to participate actively in this proceeding are encouraged informally and promptly to inform the Postal Service of desired preliminary clarifications of the Postal Service's presentation wherever the participant believes such clarification will expedite this proceeding.

[1] The proposed additions to the DMCS appear in attachment A to the Service's request.

[7715-01]

[Docket No. MC78-3]

MAIL CLASSIFICATION SCHEDULE, 1978

Notice of Filing of Request of the U.S. Postal Service for a Recommended Decision on Establishing an Electronic Computer-Originated Mail Subclass

SEPTEMBER 13, 1978.

Notice is hereby given that on September 8, 1978, the U.S. Postal Service (hereinafter Postal Service or Service), pursuant to 3623 of the Postal Reorganization Act (39 U.S.C. 3623), filed a request with the Postal Rate Commission for a recommended decision on a proposed change to the domestic mail classification schedule (DMCS). The request involves creation of a new subclass of first-class mail to be known as electronic computer-originated mail (ECOM).[1] This request has been assigned docket No. MC78-3.

The Postal Service states that if its request for a waiver of certain filing requirements is granted, its request will be in accordance with the Commission's rules of practice applicable to requests for changes in the domestic mail classification schedule (39 CFR 3001.61-3001.64). It further states that ECOM would appear best suited for businesses with large mailing requirements. ECOM is designed to provide highly reliable 2-day service for computer-originated messages. These messages would be electronically transmitted via a communications common carrier designated to provide the electronic switching requirements. Messages would be received at a post office close to the addressee on high-speed printers and would then be automatically burst, folded, inserted, and sealed in envelopes. From there, the messages would be entered in the mailstream and processed for delivery with first-class mail.

Hearings will be held on the proposal submitted by the Postal Service in docket MC78-3. Any person desiring to be heard with reference thereto and to become a party to the proceeding, or to participate as a party in any hearing thereon, should file a petition for leave to intervene. Petitions for leave to intervene must be filed with the Secretary, Postal Rate Commission, Washington, D.C. 20268, on or before September 29, 1978, and must be in accordance with § 20 of the Commission's rules of practice (39 CFR 3001.20). We direct specific attention to § 20(b) which provides that petitions for leave to intervene shall affirmatively state whether or not petitioner requests a hearing or, in lieu thereof, a conference; and further, whether or not the petitioner intends to participate actively in a hearing.[2] Alternatively, persons seeking limited participation, but who do not wish to become parties may, on or before September 29, 1978, file a written request for leave to be heard as a "limited participator," pursuant to § 19a of the Commission's rules of practice (39 CFR 3001.19a). In addition, persons wishing to express their views informally, and not desiring to become a party or limited participant, may file such a statement pursuant to § 19b of the Commission's rules, 39 CFR 3001.19b.

The request of the Postal Service for a recommended decision on changes in the DMCS is on file with the Commission and is available for public inspection during regular business hours.

DAVID F. HARRIS,
Secretary.

[FR Doc. 28275 Filed 9-15-78; 8:45 am]

[2] Parties who intend to participate actively in this proceeding are encouraged informally and promptly to inform the Postal Service of desired preliminary clarification in the Postal Service's presentation which each participant believes necessary in order to expedite this proceeding.

[7715-01]

[Docket No. MC78-1]

PARCEL POST CLASSIFICATION MATTERS, 1978

Notice of U.S. Postal Service Filing of a Request for a Recommended Decision on Changes in the Domestic Mail Classification Schedule

SEPTEMBER 13, 1978.

Notice is hereby given that on September 8, 1978, the U.S. Postal Service (Postal Service), pursuant to chapter 36 of the Postal Reorganization Act (39 U.S.C. § 3601 et seq.), filed a request with the Postal Rate Commission for a recommended decision on certain proposed changes in the parcel post mail category. This filing has been assigned docket No. MC78-1.[1]

The specific changes proposed by the Postal Service for the parcel post mail category are set out, in legislative format, in attachment A to the Service's request. In its filing, the Postal Service states that the request complies with all the Commission's rules of practice which are applicable, and that it considers the changes proposed therein to be in the public interest and in accordance with the policies of the Postal Reorganization Act. Copies of the Postal Service's request are available for public inspection during regular business hours in the Commission's reading room.

Hearings will be held on the proposal submitted by the Postal Service in docket NO. MC78-1. Any person desiring to be heard with reference thereto and to become a prty to the proceeding, or to participate as a party in any hearing thereon, should file a petition for leave to intervene. Petitions for leave to intervene must be filed with the Secretary, Postal Rate Commission, Washington, D.C. 20268, on or before September 29, 1978, and must be in accordance with § 20 of the Commission's rules of practice (39 CFR § 3001.20). We direct specific attention to § 20(b), which provides that petitions for leave to intervene shall affirmatively state whether or not the petitioner requests a hearing or, in lieu

[1] The Postal Service denominates its filing a request for "a recommended decision on changes in the mail classification schedule as it relates to parcel post," and accordingly the request has been docketed as a mail classification matter. However, certain features of the Postal Service's filing—such as statements of compliance with various portions of the Commission's rules applicable to requests for changes in postal rates or fees—suggest that some aspects of the Service's request may involve this Commission's jurisdiction over changes in postal rates and fees pursuant to 39 U.S.C. § 3622. Therefore, participants in this proceeding should be prepared to treat postal rate issues arising under 39 U.S.C. § 3622 as well as mail classification issues arising under 39 U.S.C. § 3623.

thereof, a conference; and further, whether or not the petitioner intends to participate atively in the hearing.[2]

Robert H. Coven, 202-245-4304.

SUPPLEMENTARY INFORMATION: Major points raised by an comments

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

NOPSI proposes to issue and sell, at competitive bidding, up to $15 million principal amount of its first mortgage bonds of a new series having a term of

thereof, a conference; and further, whether or not the petitioner intends to participate atively in the hearing.[2] Alternatively, persons seeking limited participation, but who do not wish to become parties, may, on or before September 29, 1978, file a written request for leave to be heard as "limited participators," pursuant to § 19a of the Commission's rules of practice (39 CFR 3001.19a). In addition, persons who wish to express their views informally, and do not desire to become parties or limited participators, may file comments pursuant to § 19b of the Commission's rules, 39 CFR 3001.19b.

DAVID F. HARRIS,
Secretary.

[FR Doc. 26273 Filed 9-15-78; 8:45 am]

[7710-12]

POSTAL SERVICE

PREPARATION OF DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR SOUTHEAST INCOMING MAIL CENTERS, BRAINTREE, MASS.

AGENCY: U.S. Postal Service, Real Estate and Buildings Department, Northeast Region.

ACTION: Notice of decision to prepare a draft environmental impact statement (DEIS).

SUMMARY: Public notice is hereby given of the Postal Service's decision to prepare a DEIS for the Southeast Incoming Mail Center proposed for a USPS controlled site located off Granite Street, adjacent to King's Department Store Shopping Center (about 1 mile south of Routes 128 and 37 intersection), Braintree, Mass., and other alternate sites. The proposal would affect the postal operations in the following cities and towns. Braintree, Milton, Quincy, and Weymouth, Mass.

The purpose of this notice is to invite comments from the public, including but not limited to entities of Federal, State, and local government, on potential environmental impacts related to the proposed facility.

DATE: Comments must be received on or before October 12, 1978.

ADDRESS: Written comments should be submitted to Mr. Theodore H. Widman, Supervisor, Design and Construction, U.S. Postal Service, Northeast Region, New England Field Office, Box 324, Lexington, Mass. 02173, for further submission to the independent contract firm preparing the DEIS.

FOR FURTHER INFORMATION CONTACT:

Robert H. Coven, 202-245-4304.

SUPPLEMENTARY INFORMATION: Major points raised by an comments will be included in the DEIS consistent with the USPS regional instruction, "Environmental Assessment and Impact Statement Procedures," dated March 31, 1978, filing No. 861, 1047-RE&B-39. Notice of completion and availability of the DEIS will be published in local newspapers and posted on the bulletin boards of all postal facilities located in and adjacent to the area of potential environmental impact. Public hearings will be held following distribution of the DEIS.

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-26106 Filed 9-15-78; 8:45 am]

[2] Parties who intend to participate actively in these proceedings are encouraged informally and promptly to inform the Postal Service of desired preliminary clarification in the Service's presentation which each participant believes necessary in order to expedite this proceeding.

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 15155; SR-Amex-78-14]

AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

SEPTEMBER 11, 1978.

On July 11, 1978, the American Stock Exchange, Inc. ("Amex"), file with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of proposed rule changes which make necessary modifications to the Amex's constitution and rules for the implementation and operation of an intermarket trading system ("ITS").

Notice of the proposed rule changes, together with the terms of substance of the proposed rule changes, was given by publication of a Commission release (Securities Exchange Act release No. 34-14969, July 14, 1978) and by publication in the FEDERAL REGISTER (43 FR 31478, July 21, 1978). All written statements with respect to the proposed rule changes were filed with the Commission and all written communications relating to the proposed rule changes between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's public reference room.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of sections 6 and 11A, and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule changes be, and they hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-26203 Filed 9-15-78; 8:45 am]

[8010-10]

[Rel. No. 15156; SR-BSE-78-3]

BOSTON STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

SEPTEMBER 11, 1978.

On April 6, 1978, the Boston Stock Exchange, Inc. ("BSE") filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of proposed rule changes (supplemented by amendments No. 1, 2, 3, and 4, filed on Apr. 27, May 26, July 3, and July 5, 1978, respectively) which make necessary modifications to the BSE's rules for the implementation and operation of an intermarket trading system ("ITS").

Notice of the proposed rule changes, together with the terms of substance of the proposed rule changes, was given by publication of a Commission release (Securities Exchange Act release No. 34-14961, July 14, 1978) and by publication in the FEDERAL REGISTER (43 FR 31483, July 21, 1978). All written statements with respect to the proposed rule changes which were filed with the Commission and all written communications relating to the proposed rule changes between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's public reference room.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6 and 11A, and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule changes be, and they hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-26204 Filed 9-15-78; 8:45 am]

[8010-01]

[Rel. No. 20705; 70-6207]

MIDDLE SOUTH UTILITIES, INC., AND LOUISIANA POWER & LIGHT CO.

Proposed Issuance and Sale of Common Stock by a Subsidiary to Its Parent Holding Company

SEPTEMBER 12, 1978.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, La. 70112, a registered holding company, and a wholly owned subsidiary, Louisiana Power & Light Co. ("L.P. & L."), 142 Delaronde Street, New Orleans, La. 70174, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 9(a), 10, and 12(f) of the Act and rules 23, 24, and 43 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

L.P. & L. proposes to issue and sell to Middle South, from time to time through December 31, 1978, up to 3,788,000 shares of its authorized but unissued no-par common stock at an aggregate cash purchase price of $25,000,000. L.P. & L. will use the proceeds of such sales to finance its construction program and for payment in part of short-term borrowings. The sales of common stock will be timed to coincide with L.P. & L.'s needs, which are primarily determined by the nature and pace of construction work. It is stated that each sale will be reported to the Commission by a certificate filed pursuant to rule 24.

As of June 30, 1978, L.P. & L. had issued 49,988,000 shares of its common stock to Middle South for an aggregate cash consideration of $328,900,000. To the extent that funds are required from external sources to acquire the common stock Middle South will obtin such funds through the issuance and sale of its unsecured short-term promissory notes issued under a revolving credit agreement dated as of June 29, 1978, as authorized by the Commission's order dated June 15, 1978 (HCAR No. 20593).

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $3,000, including legal fees of $1,000. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may not later than October 10, 1978, to request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearin thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant's-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-26205 Filed 9-15-78; 8:45 am]

[8010-01]

[Rel. No. 20706; 70-6204]

NEW ORLEANS PUBLIC SERVICE, INC.

Proposal To Issue and Sell First Mortgage Bonds at Competitive Bidding

SEPTEMBER 12, 1978.

Notice is hereby given that New Orleans Public Service, Inc. ("NOPSI"), 317 Baronne Street, New Orleans, La. 70160 an electric utility subsidiary company of Middle South Utilities, Inc., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the Act and rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested parties are referred to said application, which is summarized below, for a complete statement of the proposed transaction.

NOPSI proposes to issue and sell, at competitive bidding, up to $15 million principal amount of its first mortgage bonds of a new series having a term of not less than 5 or more than 30 years. NOPSI will determine, and give notice of, the maturity date of the bonds not later than 11 a.m. on the 3d business day preceding the day fixed for presentation of bids. The interest rate of the bonds, which shall be a multiple of ⅛ of 1 percent, and the price, which will be not less than 98 percent nor more than 101.75 percent of the principal amount thereof, will be determined by competitive bidding. The bonds will be issued under the mortgage and deed of trust dated as of July 1, 1944 ("Indenture") between NOPSI and the Chase Manhattan Bank (N.A.), as trustee; as heretofore supplemented and amended from time to time, and as to be further supplemented by a 10th supplemental indenture to be dated the first day of the calendar month in which the bonds are issued. The bonds will be redeemable at the option of NOPSI, in whole or in part, at any time prior to maturity. The supplemental indenture will include a prohibition, for a period of not more than 5 years, against refunding the bonds directly or indirectly, with funds borrowed at a lower effective interest cost.

The application states that NOPSI will use the net proceeds from the sale of the bonds to repay short-term borrowings, estimated at $10,000,000 at the time the sale proceeds are received, to finance, in part, its 1978 and 1979 construction programs which provide for expenditures estimated at $25,000,000 and $26,750,000, respectively, and for other corporate purposes.

The fees and expenses incurred or to be incurred in connection with the proposed transaction are estimated at $152,000, including legal fees estimated at $42,500, accounting fees estimated at $14,000, rating fees estimated at $4,125 and charges for services of Middle South Services, Inc., estimated at $8,500. The approval of the city of New Orleans is required for the issuance of the bonds. It is stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 6, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securi-

ties and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the

limited partnerships ("Local Limited Partnerships") which own or lease government-assisted rental housing

income; and (2) that he is aware of the risks involved in investing in REAL. He also must represent that some part of his annual income for 1978 will be

prove or disapprove the sale of the project; the right to demand a dissolution of the Local Limited Partnership;

paid for these organization, syndication, acquisition, and selection fees.

During REAL's operational period,

priate in the public interest. Applicants assert that the form of organization of REAL, i.e., a limited partner-

ties and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption form such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-26206 Filed 9-15-78; 8:45 am]

[8010-01]

[Rel. No. 10397; 812-4278]

REAL ESTATE ASSOCIATES, LTD., SONNENBLICK-GOLDMAN CORP. OF CALIFORNIA, AND CHARLES H. BOXENBAUM

Filing of Application

SEPTEMBER 11, 1978.

Notice is hereby given that Real Estate Associates, Ltd. ("REAL"), 1901 Avenue of the Stars, Los Angeles, Calif. 90067, a California limited partnership, and its general partners, Sonnenblick-Goldman Corp. of California and Charles H. Boxenbaum ("General Partners" and, together with REAL, collectively referred to hereinafter as "Applicants"), filed an application on March 6, 1978, and amendments thereto on August 11 and August 28, 1978, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order exempting REAL from all provisions of the Act and rules thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that REAL was formed under the California Limited Partnership Act on September 15, 1977, and is designed to implement the policy of Title IX of the Housing and Urban Development Act of 1968 to provide private investors with a means of acquiring equity interests in government-assisted low- and moderate-income housing. REAL will acquire limited partnership interests in local limited partnerships ("Local Limited Partnerships") which own or lease government-assisted rental housing projects for low- and moderate-income persons.

REAL itself is organized as a limited partnership because a limited partnership is the only form of organization which provides an investor with both liability limited to his capital investment and the ability to claim on his individual tax return the deductions, losses, credits and other tax items a partnership can pass through to its partners. Therefore, REAL will operate as a "two-tier" partnership; i.e., REAL, a limited partnership, will invest in other limited partnerships which, in turn, will be engaged in the development, building, ownership or leasing of government-assisted housing for low- and moderate-income persons.

One of REAL's primary objectives is to pass through to its partners during the early years of the partnership net losses which may be used to offset other taxable income. Another of REAL's primary objectives is to invest in projects which will appreciate in value.

REAL has filed a registration statement under the Securities Act of 1933 covering the sale of 3,000 to 12,500 Units, each consisting of one limited partnership interest. These interests are to be sold only to qualified investors with a minimum subscription of five Units. The minimum investment is $5,000. The General Partners will contribute $12,500, an amount representing approximately 0.4 percent or 0.1 percent of the total capitalization depending upon whether the minimum or maximum number of Units are old. REAL will have a minimum of $2,700,000 and a maximum of $11,250,000 available for investment after deductions for sales commissions and offering expenses.

Offers to sell and sales of the Units to the public are proposed to be effected through E. F. Hutton & Co., Inc. and other selected members of the National Association of Securities Dealers, Inc., none of which will own or owns any interest in the corporate General Partner or will have or has any other material relationship with its directors or officers.

No subscription for Units will be accepted unless the subscribing investor will represent in the Subscription Agreement for Units: (1) That he has a net worth (exclusive of home, furnishings, and automobiles) of at least $25,000 and an annual gross income of at least $25,000, or that he has a net worth (exclusive of home, furnishings, and automobiles) of at least $100,000, or that he is purchasing in a fiduciary capacity for a person or entity which has such net worth and annual gross income; and (2) that he is aware of the risks involved in investing in REAL. He also must represent that some part of his annual income for 1978 will be taxable at the Federal tax rate of 50 percent or more, and that he anticipate some part of his income for the next 6 years will, but for the effect of his investment in the Units or other tax shelters, be taxable at such 50 percent rate. In addition, the Partnership Agreement will require that during the first 5 years following effectiveness of the Registration Statement, each transferee of Units must represent that he meets the suitability standards set forth above.

REAL will be controlled by the General Partners pursuant to a "Partnership Agreement" between the General Partners and limited partners, whereby the limited partners, consistent with their limited liability status, will not be entitled to participate in the control of REAL's business. However, a majority of limited partnership interests will have the right to amend the Partnership Agreement, dissolve REAL, remove one or both of the General Partners and elect successor general partners, and continue REAL upon the death, insanity, retirement or bankruptcy of a General Partner. Also under the Partnership Agreement, each limited partner or his representative is entitled to review the records of REAL at reasonable times, including the register of names, addresses, and number of Units owned by each other limited partner.

The application indicates that REAL will invest not less than 90 percent of its available capital in Local Limited Partnerships which own or lease government-assisted housing projects. REAL may also invest up to 10 percent or its capital in limited partnerships owning other residential projects. REAL has not yet identified any specific Local Limited Partnership or projects in which it proposes to invest. However, the application states that REAL will make its investments in accordance with both detailed criteria for selecting particular projects for investment and certain investment policies which may not be changed without approval by the limited partners owning at least a majority of outstanding Units.

Because REAL will invest only in limited partnership interests, both REAL and the General Partners will have only limited control over the management of the Local Limited Partnerships. However, REAL will have at least a majority and, in many cases, a 90 percent interest in a Local Limited Partnership. Moreover, in negotiating Local Limited Partnership Agreements, the General Partners will endeavor to provide REAL with one or more of the following: the right to approve or disapprove the sale of the project; the right to demand a dissolution of the Local Limited Partnership; and the right to demand the resignation of the local general partner. In addition, REAL's capital contribution to a Local Limited Partnership will be made in stages, and, in most cases, REAL will withhold the major portion of its contribution until the project has been constructed and is operating.

Although the General Partners are engaged in other real estate transactions and manage other similar limited partnerships, REAL will not sell, acquire or lease properties or interests therein to or from the General Partners or their affiliates. Further, the General Partners have undertaken that no new public offerings with the same investment objectives as REAL will be commenced until substantially all funds raised by REAL have been committed to investment or otherwise utilized as described in the REAL prospectus.

The General Partners will be entitled to receive 1 percent of REAL's profits, losses, and distributions subject to the conditions that their 1 percent share of net cash flow will be reduced by the amount of annual management fees which they receive, and that, upon liquidation of REAL, the General Partners will discharge any debt balance in their capital accounts. In addition to their 1 percent participation in REAL's profits, losses and distributions, the General Partners will receive certain fees for overseeing the conduct of REAL's affairs and the continuing operation of each project. Applicants represent that these fees are in substantial conformity with the standards imposed by the Midwest Securities Commissioners and the California Corporations Commissioner.

In the initial period, the General Partners will be paid a fee for the organization and initial management of REAL and the syndication of the Units, aggregating approximately 0.8 percent of invested assets. Invested assets are defined as the sum of the capital contributions anticipated to be made by REAL to the Local Limited Partnerships and the aggregate amount of the nonrecourse mortgage loans on the projects owned by such Local Limited Partnerships attributable to REAL's capital contributions. The General Partners also will receive acquisition and selection fees for their services in connection with the selection, evaluation, negotiation, and acquisition of REAL's investments. The aggregate amount of such fees will equal approximately 1.0 percent of invested assets. Of the proceeds from the sale of the Units, Applicants anticipate that a minimum of $270,000 and a maximum of $1,150,000 will be paid for these organization, syndication, acquisition, and selection fees.

During REAL's operational period, the General Partners will receive, in consideration for their management services, an annual fee in an amount equal to 0.5 percent of invested assets to be paid out of REAL's general funds. As noted above, this annual management fee will be applied against the General Partners' 1 percent share of REAL's net cash flow. Finally, when a project is sold, the General Partners will receive a liquidation fee based upon the net proceeds only after payment to the limited partners of their invested capital in the project, plus an amount sufficient to pay their Federal and State taxes.

REAL states that it will file with the Commission pursuant to section 15(d) of the Securities Exchange Act of 1934 all required annual reports, quarterly reports, and current reports on forms 10-K, 10-Q, and 8-K, as well as any other reports required by such Act. The General Partners will also send each limited partner a year-end report containing financial statements audited by REAL's independent accountants and tax information necessary for the preparation of each limited partner's federal income tax return. In addition, each limited partner will receive a report at least semiannually of REAL's activities and the operational status of its investments, as well as interim reports regarding acquisitions.

Under the California Limited Partnership Act, and under the terms of the Partnership Agreement, the corporate General Partner, which intends to register as an investment adviser under the Investment Advisers Act of 1940, and the individual General Partner, are fiduciaries of REAL and its limited partners. Applicants state that under the Partnership Agreement, the officers and directors of the corporate General Partner and the individual General Partner will be indemnified only when a court finds that such person's conduct fairly and equitably merits indemnity in the amount claimed.

Without conceding that REAL is an investment company as defined in the Act, Applicants request that REAL be exempted from the provisions of the Act pursuant to section 6(c). Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction from any provision of the Act and rule thereunder if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants contend that the exemption of REAL from the provisions of the Act is both necessary and appropriate in the public interest. Applicants assert that the form of organization of REAL, i.e., a limited partnership, which is necessary to limit the liability of private investors investing in subsidized low and moderate income housing, is incompatible with the regulatory framework of the Act. Applicants contend that to discourage the two-tier limited partnership arrangement by application of the Act would eliminate the primary means of attracting private equity capital into government-assisted housing and would frustrate the national policy declared by Congress "to encourage the widest possible participation by private enterprise in the provision of housing for low and moderate income persons."

Applicants state that the exemption would be consistent with the protection of investors and the purposes and policies of the Act. The limited partnership interests in REAL are being sold only to relatively sophisticated investors who will be apprised of the management of the partnership through reports sent to the limited partners and filed with the Commission. Furthermore, Applicants state that the General Partners' discretion to invest the assets of REAL is proscribed by its stated investment policies and objectives, which may be changed only by the vote of the holders of at least a majority of its outstanding Units. With a majority vote, the limited partners will also have the right to dissolve REAL, to amend the Partnership Agreement, and to remove the General Partners.

Applicants further assert that although the involvement of the General Partners in similar past and future partnerships could create a conflict of interest, such potential conflicts are mitigated by the General Partners' undertaking not to make any conflicting new offering until REAL's funds have been committed and to follow prescribed procedures for determining which partnership should make an investment in the event of a conflict. Moreover, Applicants state that the Partnership Agreement prohibits certain transactions between REAL and its General Partners and their affiliates in order to eliminate or significantly mitigate conflicts of interest.

Notice is further given that any interested person may, not later than October 6, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securi-

ties and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address

$1,400,000 of 6¼ percent senior notes of Rand McNally due 1982, purchased in 1967. Thus far Applicant and the Investment Company have each re-

vestment Company of the Outstanding Notes.

Applicant represents that the proposed acquisition of Notes is in no way

ing Notes of Rand McNally, must be considered in assessing the merits of an investment in the Notes. However, in the judgment of the Applicant the

Part 221 was published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2321), and became effective on February 15, 1977. Compliance with

painted with reflective materials. Additionally, D.M. & I.R. currently equips its cabooses with two marker lights and a rotating or flashing

ties and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-26207 Filed 9-15-78; 8:45 am]

[8010-01]

[Rel. No. 10398; 812-4344]

STATE MUTUAL LIFE ASSURANCE CO. OF AMERICA

Filing of Application

SEPTEMBER 12, 1978.

Notice is hereby given that State Mutual Life Assurance Co. of America ("Applicant"), 440 Lincoln Street, Worcester, Mass., a mutual life insurance company organized under the laws of Massachusetts, filed an application on August 3, 1978, for an order, pursuant to section 17(d) of the Investment Company Act of 1940 ("Act") and rule 17d-1 thereunder, permitting Applicant to acquire $2,500,000 in principal amount of a new issue of 9¼ percent senior notes due in 1998 of Rand McNally & Co. ("Rand McNally"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is the investment adviser of State Mutual Securities, Inc. ("Investment Company"), a closed-end investment company registered under the Act. Applicant states that it has made a commitment to purchase at direct placement $2,500,000 principal amount of a new issue of 9¼ percent senior notes due 1998 ("Notes") of Rand McNally. Applicant and the Investment Company each currently hold $1,225,000 principal amount of 8¾ percent senior notes due 1989 of Rand McNally ("Outstanding Notes") issued by Rand McNally in February 1974. In addition, Applicant owns $1,400,000 of 6¼ percent senior notes of Rand McNally due 1982, purchased in 1967. Thus far Applicant and the Investment Company have each received $25,000 of sinking fund principal payments on the Outstanding Notes.

Pursuant to an order of the Commission issued on February 12, 1973 (Investment Company Act Release No. 7665), corrected on February 27, 1973 (Investment Company Act Release No. 7698) and amended by an order issued on July 28, 1976 (Investment Company Act Release No. 9371) (collectively referred to as the "Order"), Applicant is permitted to invest concurrently in each issue of securities purchased by Investment Company at direct placement in an amount equal to that invested in such issue by Investment Company and to exercise warrants, conversion privileges and other rights at the same time and in the same amount as Investment Company. The order is subject to several conditions, one being that once the Applicant and Investment Company have acquired interest in an issuer, neither Applicant nor the Investment Company, unless otherwise permitted by the order of the Commission, may acquire any further interest in such issuer or in any affiliated person of such issuer, or in securities issued by such issuer or affiliated person, other than interests in all respects identical. Applicant asserts that because the Investment Company will not acquire any of the Notes, Applicant may not purchase the Notes unless it first obtains an order of the Commission specifically permitting such purchase. Accordingly, Applicant's commitment is subject to the prior issuance of an order by the Commission permitting such purchase.

Section 17(d) of the Act and rule 17d-1 thereunder provide that it is unlawful for an affiliated person of a registered investment company, acting as principal, to effect any transaction in which such investment company is a joint participant, without the permission of the Commission. Rule 17d-1 provides, in pertinent part, that in passing upon applications for orders granting such permission, the Commission will consider whether the participation of the investment company in such transaction on the basis proposed is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants. Accordingly, Applicant has requested an order, pursuant to section 17(d) of the Act and rule 17d-1, permitting Applicant to acquire $2,500,000 in principal amount of the Notes, notwithstanding the present ownership by Applicant and the Investment Company of the Outstanding Notes.

Applicant represents that the proposed acquisition of Notes is in no way connected with the sale of the Outstanding Notes to Applicant and the Investment Company in 1974 other than by virtue of the fact that Applicant's acquisition of the Outstanding Notes continued a business relationship with Rand McNally which commenced in 1950. Applicant states that neither it nor the Investment Company is an affiliated person, as defined in section 2(a)(3) of the Act, of Rand McNally or an affiliated person of an affiliated person of Rand McNally.

Applicant asserts that Rand McNally will be receiving significant new value in consideration for issuing the Notes, the total issue of which is expected to be $9,500,000, and that $6,500,000 of the proceeds received from the sale of the Notes will be used to repay presently outstanding subordinated debt owed to banks, thereby reducing Rand McNally's reliance upon prime-sensitive debt. Applicant further asserts that the Outstanding Notes owned by the Investment Company will mature prior to the Notes and that the proposed purchase of Notes by Applicant will not materially affect Rand McNally's ability to meet its obligation to the Investment Company on the Outstanding Notes. According to the application, the Notes, ranking pari passu with the Outstanding Notes, will provide Rand McNally with improved financing capability and flexibility. Also, the Notes are nonrefundable from lower cost borrowings for a 10 year period and may be prepaid only at a premium declining in equal annual increments from 9¼ percent in 1979 of the par in 1995. Applicant states that voluntary prepayment of the Notes prior to the maturity of the Outstanding Notes is an unlikely event (most likely to occur at a time when the principal amount of the Outstanding Notes owned by the Investment Company would have been substantially prepaid by required sinking fund payments).

Applicant submits that its proposed acquisition of the Notes is not disadvantageous to the Investment Company and is consistent with the provisions, policies and purposes of the Act. Applicant asserts that the Notes are not an appropriate investment for the Investment Company and that the Investment Company's Board of Directors has voted to decline participation in the proposed acquisition of the Notes because the yield of 9¼ percent on the Notes is inadequate at this time. In addition, the application states that the relative exposure of the Investment Company, which currently has approximately 1.2 percent of its net assets invested in Outstanding Notes of Rand McNally, must be considered in assessing the merits of an investment in the Notes. However, in the judgment of the Applicant the Notes would be an attractive investment for it to acquire. Moreover, Applicant asserts that it would be disadvantaged if it is not permitted to acquire a portion of the Notes.

Notice is further given that any interested person may, not later than October 10, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-26208 Filed 9-15-78; 8:45 am]

[4910-06]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

PETITIONS FOR WAIVER OF RULES REQUIRING REAR END MARKING DEVICES

As required by 45 U.S.C. 431(c) and in accordance with 49 CFR 211.41 and 211.9, notice is hereby given that 11 railroads have submitted waiver petitions to the Federal Railroad Administration (FRA) requesting temporary or permanent waivers of compliance with 49 CFR Part 221 (Rear End Marking Devices—Passenger, Commuter, and Freight Trains). That part requires that certain passenger, commuter and freight trains be equipped with highly visible marking devices located on the trailing end of the rear car of the train.

Part 221 was published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2321), and became effective on February 15, 1977. Compliance with the provisions of that part became mandatory on July 1, 1978 (42 FR 62002).

Each of the railroads seeking a waiver is identified below. A brief discussion of each request for waiver is provided.

Interested persons are invited to participate in these proceedings by submitting written data, views, or comments. The FRA does not anticipate scheduling a public hearing in connection with the aforementioned petitions since the facts do not appear to warrant a hearing. However, a public hearing will be scheduled if requested by an interested person before September 29, 1978.

All communications concerning these petitions must identify the appropriate docket number (e.g., FRA Waiver Petition No. RSRM-78-8) and should be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 2100 Second Street SW., Washington, D.C. 20590. Communications received before October 27, 1978, will be considered by the FRA before final action is taken. Comments received after that date will be considered to the extent practicable.

Detailed information concerning each petition is on file with the docket clerk. Any comments received will also be on file. This material is available for examination by the public during regular business hours in Room 4406, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590.

FRA WAIVER PETITION DOCKET NO. RSRM-78-7

DULUTH, MISSABEE & IRON RANGE RAILWAY

The Duluth, Missabee & Iron Range Railway (D.M. & I.R.) seeks a temporary waiver of compliance with the provisions of 49 CFR Part 221 which require that trains be equipped with highly visible marking devices.

The D.M. & I.R. notes that it is in the process of obtaining approved marker devices and installing such devices. However, production delays have prevented D.M. & I.R. from meeting the July 1, 1978, deadline for installation that is provided for in the regulation. The D.M. & I.R. estimates that it will complete the installation by December 31, 1978, and seeks a temporary waiver of compliance until that date.

In support of the request for additional time to complete the installation of the approved markers, D.M. & I.R. notes that it currently operates cabooses on its railroad that have been painted with reflective materials. Additionally, D.M. & I.R. currently equips its cabooses with two marker lights and a rotating or flashing beacon attached to the top of the cupola.

FRA WAIVER PETITION DOCKET NO. RSRM-78-8

THE FAMILY LINES SYSTEM

The Family Lines System seeks a temporary waiver of compliance with the provisions of 49 CFR Part 221 which require that trains be equipped with highly visible marking devices.

Petitioner notes that the Family Lines System is composed of the Seaboard Coast Line Railroad Co., the Louisville & Nashville Railroad Co., the Georgia Railroad group, and the Clinchfield Railroad. It operates approximately 1,500 cabooses over approximately 18,000 miles of main track in 13 States.

In support of its request, the Family Lines System notes the efforts it has made to comply with part 221 after the publication of the final rule amendment on December 8, 1977. Petitioner indicates that manufacturers did not complete the design and testing of markers which the Family Lines System believed capable of FRA certification until April 1978. During April, petitioner installed a marker for testing on its equipment but that defects were discovered. These problems were not corrected until May. In June, petitioner requested FRA certification of marking devices produced by three manufacturers and FRA action on this request did not occur until August 18, 1978, when FRA approved the request.

Petitioner indicates that the Family Lines System will not be able to start the installation of the approved devices for at least 60 days after certification in order to permit manufacture of the devices. The Family Lines System notes that after receipt of the devices the markers must be installed on approximately 1,140 cars and, according to petitioner, that installation can proceed at a rate of no more than 35 cars per month. At that rate, it will take approximately 36 months to complete the modifications. Notwithstanding these estimates, petitioner seeks a waiver of compliance until July 1, 1980.

FRA WAIVER PETITION DOCKET NO. RSRM-78-9

NORFOLK & WESTERN RAILWAY CO.

The Norfolk & Western Railway Co. (N. & W.) seeks a temporary waiver of compliance with the provisions of 49 CFR Part 221 which require that trains be equipped with highly visible marking devices.

The N. & W. asserts that the devices currently available for installation are

not suitable for its operations. The petitioner believes that the available portable markers that could be installed on its nonelectrified cabooses would require that the caboose be stalled in three cabooses during each working day and that at this rate, it will take 14 months to complete installation. In light of these facts, Union

been developed and consequently decided that is must electrify its cabooses in order to comply with part 221.

waiver of compliance with the provisions of 49 CFR Part 221 which require that trains be equipped with

for an unspecified period of time to complete the installation of its markers.

test procedures proposed by the Boeing Co.; and (5) other business.

Attendance is open to the interested public but limited to space available.

not suitable for its operations. The petitioner believes that the available portable markers that could be installed on its nonelectrified cabooses are heavier than needed and are impractical for use in its operations in the coal fields.

The N. & W. believes that more appropriate devices can be developed in the near future. In view of the time needed for such development and to complete manufacturing and installation of such devices to the N. & W. notes that it will require a 3-year period to achieve compliance with the regulation and the N. & W., therefore, requests a 3-year waiver of compliance.

FRA WAIVER PETITION DOCKET NO. RSRM-78-10

FLORIDA EAST COAST LINE RAILWAY CO.

The Florida East Coast Railway Co. seeks a temporary waiver of compliance with the provisions of 49 CFR Part 221 which require that trains be equipped with highly visible marking devices.

In support of its request, petitioner states that it has been diligent in its efforts to meet the June 31, 1978, deadline. It notes that it had hoped to be the first railroad in the country in full compliance.

Petitioner indicates that shipment of the marking devices by the manufacturer has been delayed because by labor problems experienced by the supplier. As a result, the markers are not available for installation at the present time. Accordingly, petitioner requests an unspecified period of additional time in which to bring its operations into compliance with part 221.

FRA WAIVER PETITION DOCKET NO. RSRM-78-11

UNION PACIFIC RAILROAD CO.

The Union Pacific Railroad Co. seeks a temporary waiver of compliance with the provisions of 49 CFR Part 221 which require that trains be equiped with highly visible marking devices.

In support of its request, Union Pacific notes that a great amount of work is involved in bringing its caboose fleet into compliance. Union Pacific indicates that two marker lights must be installed in each of the 202 cabooses. In addition, 876 light fixtures must be rebuilt for 438 cabooses.

Union Pacific indicates that the marker lights are not ready to be installed at the present time. Union Pacific attributes this delay to time reasonably required to design, manufacture, test, and deliver the devices. Additional delay will result from the inservice testing which Union Pacific is planning to conduct.

Union Pacific estimates that when the markers are ready, they will be installed in three cabooses during each working day and that at this rate, it will take 14 months to complete installation. In light of these facts, Union Pacific requests a 2-year waiver of compliance from the requirements set forth in 49 CFR Part 221.

FRA WAIVER PETITION DOCKET NO. RSRM-78-12

ATLANTA & SAINT ANDREWS BAY RAILWAY CO.

The Atlanta & Saint Andrews Bay Railway Co. (Bay Line) seeks an exemption from compliance with the provisions of 49 CFR Part 221 which require that trains be equipped with highly visible marking devices.

The Bay Line states that it is a short line railroad operating in the northwestern section of the State of Florida. Operations on the railroad generally consist of only two trains each day. These trains normally are operted late in the afternoon and are run in opposite directions. The Bay Line notes that the regulation as currently written does not apply to a railroad that operates only one train at any given time and that reason for this provision is the absence of a second train which might overtake the other train.

The Bay Line operations, according to petitioner, are such that the two trains it operates are moving in opposite directions and, therefore, the second train is not in a position to overtake the other train. Accordingly, the Bay Line seeks a total exemption from compliance with the regulation.

FRA WAIVER PETITION DOCKET NO. RSRM-78-14

CHICAGO & NORTH WESTERN TRANSPORTATION CO.

The Chicago & North Western Transportation Co. (North Western) seeks a temporary waiver of compliance with the provisions of 49 CFR Part 221 which require that trains be equipped with highly visible marking devices.

North Western notes that it began investigating rear end marking devices soon after publication of the final rule which required their installation. North Western determined at that time that passive devices would be more appropriate than self-illuminated devices. Accordingly, it concentrated its investigations on passive devices until December 8, 1977, when an amendment to part 221 was published which indicated that passive devices would not meet FRA criteria.

After learning that self-illuminated devices were required, North Western contacted vendors concerning self-contained battery-operated devices. North Western determined at that time that no suitable self-contained device had been developed and consequently decided that is must electrify its cabooses in order to comply with part 221.

North Western notes that commercial production of devices of the type that it will install did not begin until May 1978 and that they cannot be delivered until 6 months after they are ordered. North Western notes further that due to limited shop capacity and the time reasonably required to electrify the cabooses and install the devices, it cannot be in compliance with part 221 until 6 months to 1 year after the devices are delivered.

In view of the foregoing, North Western requests a 1-year waiver of compliance with the requirements set forth in 49 CFR Part 221.

FRA WAIVER PETITION DOCKET NO. RSRM-78-15

BESSEMER & LAKE ERIE RAILROAD CO.

The Bessemer & Lake Erie Railroad (Bessemer) seeks a permanent waiver of compliance with the provisions of 49 CFR Part 221 which require that trains be equipped with highly visible marking devices. Bessemer seeks the waiver for its Western Allegheny Division.

Bessemer notes that the Western Allegheny Division is a single-track line which extends a distance of 19.7 miles and provides service to several small coal-loading sites. Bessemer indicates that the division was owned by the Pennsylvania Railroad until it was purchased by Bessemer in 1968.

Bessemer notes that this division is operated for all practical purposes as a separate entity and that there is only one connection between this division and the rest of Bessemer's operations. The division connects with Bessemer's main line at Queen Junction. The tracks at the connection are within yard limits and are used for the interchange of empties and loads.

In support of its request, Bessemer notes that the Western Allegheny Division operates only one train at any given time. Bessemer notes further that the method of operation is an absolute block system which prohibits both opposing and following movements.

In view of the method of operation and the fact that only one train is operated at a given time, Bessemer asserts that no benefit would be derived from compliance with part 221. Accordingly, Bessemer requests a permanent waiver for the Western Allegheny Division.

FRA WAIVER PETITION DOCKET NO. RSRM-78-16

PITTSBURGH & LAKE ERIE RAILROAD

The Pittsburgh & Lake Erie Railroad Co. (P. & L.E.) seeks a permanent waiver of compliance with the provisions of 49 CFR Part 221 which require that trains be equipped with highly visible marking devices.

The P. & L.E. indicates that the waiver is sought for yard movements that are made along main line tracks without cabooses. These yard movements are less than 10 miles in length.

In support of its request, petitioner notes that in its judgment compliance with part 221 would be impractical. The nature of its operations are such that in order to have these yard movements comply with part 221, petitioner would equip its trains with portable marking devices. In the opinion of the P. & L.E., however, a suitable portable marker has not yet been developed. Those which have been developed are awkward to handle and would require special modifications.

Petitioner further asserts that compliance is unnecessary. Petitioner states that it will put a block system into operation if the waiver is granted. The block system will operate to prevent following movements from entering the block occupied by the yard movement not displaying a marking device. The P. & L.E. claims that the block system will provide more effective protection against rear end collision than marking devices.

Due to the impracticability of portable markers and to the availability of the block system as an alternative method of protection, petitioner seeks a waiver of compliance with the requirements of part 221 for its yard movements.

FRA WAIVER PETITION DOCKET NO. RSRM-78-17

DETROIT, TOLEDO & IRONTON RAILROAD CO.

The Detroit, Toledo & Ironton Railroad Co. (D.T. & I.) seeks a temporary waiver of compliance with the provisions of 49 CFR Part 221 which require that trains be equipped with highly visible marking devices.

D.T. & I. notes that it is a small class I railroad. It indicates that its economic and engineering resources are limited.

In support of its request, D.T. & I. notes that it is waiting for delivery of marking devices from the manufacturer and that D.T. & I. plans to conduct feasibility tests on the devices when they are delivered. Installation will begin when this testing has been completed but D.T. & I. indicates hat its installation program will be hampered by limited shop capacity.

D.T. & I. asserts that the expense involved in electrifying cabooses and the lack of engineering assistance from the AAR and the FRA have contributed to its inability to comply with part 221 by June 31, 1978. Therefore, the D.T. & I. seeks a waiver of compliance for an unspecified period of time to complete the installation of its markers.

FRA WAIVER PETITION DOCKET NO. RSRM-78-18

THE COLORADO & WYOMING RAILWAY CO.

The Colorado & Wyoming Railway Co. (C&W) seeks a permanent waiver of compliance with the provisions of 49 CFR Part 221 which require that trains be equipped with highly visible marking devices.

The C. & W. indicates that it operates only two trains. One train is operated on its Northern Division, which is located in Wyoming. The other train is operated on its Southern Division, which is located in Colorado.

Petitioner asserts that there is no danger of rear end collisions because each division operates only one train. Accordingly, it indicates that no benefits would be derived from compliance with part 221 and, therefore, seeks a total waiver of compliance.

(Sec. 202, Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431); sec. 1.49(n), regulations of the Office of the Secretary of Transportation (49 CFR 1.49(n).)

Issued in Washington, D.C., on September 12, 1978.

ROBERT H. WRIGHT,
Acting Chairman,
Railroad Safety Board.

[FR Doc. 78-26160 Filed 9-15-78; 8:45 am]

[4910-13]

Federal Aviation Administration

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA) SPECIAL COMMITTEE 138—MINIMUM PERFORMANCE STANDARDS FOR AIRBORNE OMEGA RECEIVING EQUIPMENT

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Special Committee 138 on Minimum Performance Standards for Airborne Omega Receiving Equipment, to be held October 17 and 18, 1978, Conference Room 7 A-B, DOT/Federal Aviation Administration Building, 800 Independence Avenue SW., Washington, D.C., commencing at 9 a.m.

The agenda for this meeting is as following: (1) Chairman's introductory remarks; (2) approval of minutes of first meeting held August 9 and 10, 1978; (3) review equipment test procedures in RTCA document DO-164, "Minimum Performance Standards—Airborne Omega Receiving Equipment"; (4) Consideration of antenna test procedures proposed by the Boeing Co.; and (5) other business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006, 202-296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on September 8, 1978.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 78-26161 Filed 9-15-78; 8:45 am]

[1505-01]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 78-14; Reference: ATF O 1100.95]

AUTHORITY TO SETTLE ALCOHOL, TOBACCO, AND FIREARMS TAX CLAIMS

Delegation Order

Correction

In FR Doc. 78-25614 appearing at page 40971 in the issue for Wednesday, September 13, 1978, the "Notice No." should have read "Notice No. 78-14" as set forth above.

[4810-22]

Office of the Secretary

BICYCLE TIRES AND TUBES FROM THE REPUBLIC OF KOREA

Antidumping; Withholding of Appraisement Notice

AGENCY: U.S. Treasury Department.

ACTION: Withholding of appraisement.

SUMMARY: This notice is to advise the public that there are reasonable grounds to believe or suspect that there are sales of bicycle tires and tubes from the Republic of Korea to the United States at less than fair value within the meaning of the Antidumping Act, 1921. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. Appraisement for the purpose of determining the proper duties applicable to entries of this merchandise will be suspended for 6

months. Interested persons are invited to comment on this action not later than 30 days from the effective date

price, so sales by Korea Inoue Kasei have not been used in arriving at the tentative determination. Additional in-

bicycle manufacturers and replacement distributors in the United States were compared to sales to replacement

on published price lists. From the available information, an adjustment for the variances based upon value, rather than cost, was deemed prefer-

pared were 33.3 percent and 6.5 percent, respectively.

Accordingly, Customs officers are being directed to withhold appraise-

lic of China, except for that merchandise produced by three companies, is being sold to the United States at less than fair value within the meaning of

months. Interested persons are invited to comment on this action not later than 30 days from the effective date of this notice.

EFFECTIVE DATE: September 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Holly Kuga, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On January 13, 1978, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of the Carlisle Tire & Rubber Co. of Carlisle, Pa. indicating a possibility that bicycle tires and tubes from the Republic of Korea are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of February 23, 1978 (43 FR 7496).

For purposes of this notice the term "bicycle tires and tubes" means pneumatic bicycle tires, and tubes therefor, of rubber or plastics, whether such tires and tubes are sold together as units or separately.

TENTATIVE DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the bais of information developed in the Customs investigation and for the reasons noted below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), I hereby determine that there are reasonable grounds to believe or suspect that the purchase price of bicycle tires and tubes from the Republic of Korea is less than fair value, and thereby the foreign market value, of such or similar merchandise.

STATEMENT OF REASONS ON WHICH THIS TENTATIVE DETERMINATION IS BASED

The reasons and bases for the above tentative determination are as follows:

a. *Scope of the investigation.* It appears that 100 percent of all imports of bicycle tires and tubes from the Republic of Korea were produced by Dae Yung Commercial Co., Ltd., Hung A Industrial Co., Ltd., and Korea Inoue Kasei Co., Ltd. In the case of sales by Korea Inoue Kasei, a relationship with the importer within the meaning of section 207 of the Act (19 U.S.C. 166) appears to exist. Insufficient data was available for purposes of making comparisons using exporter's sales price, so sales by Korea Inoue Kasei have not been used in arriving at the tentative determination. Additional information will be requested in this matter, and information received from Korea Inoue Kasei will be verified and analyzed for use in making a final determination in this case. Sales of Dae Yung and Hung A together accounted for 81 percent of the total exports from Korea during the period investigated. The investigation was therefore limited to sales by these two exporters.

b. *Basis of comparison.* For the purpose of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison at this stage of the investigation appears to be between purchase price and the adjusted home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since the sales to the United States, on which this determination is based, appear to have been made to nonrelated customers.

Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used for fair value purposes since such or similar merchandise appears to have been sold in the home market in sufficient quantities to provide an adequate basis for comparison.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning sales to the United States and in the home market during the period September 1, 1977, through February 28, 1978.

c. *Purchase price.* For purposes of this tentative determination, purchase price has been calculated on the basis of the f.o.b. price to the U.S. importer. Sales were made to bicycle mnaufacturers and to replacement distributors in the United States.

Deductions were made on sales to both levels of trade for inland freight, wharfage costs where applicable, and customs brokerage. In accordance with section 203 of the Act (19 U.S.C. 162), an addition was made to purchase price for the rebate of customs duties, a defense tax and a value-added tax incurred on raw material upon the exportation of the merchandise to the United States.

d. *Home market price.* For purpose of this tentative determination, the home market prices have been calculated on the basis of delivered prices to unrelated purchasers in the home market. With regard to Hung A, comparisons were made at the same commercial level of trade found in sales of the merchandise to the United States. With respect to Dae Yung, which did not make sales to bicycle manufacturers in the home market, sales to both bicycle manufacturers and replacement distributors in the United States were compared to sales to replacement distributors in the home market. No level of trade adjustment was made because no suitable basis could be found for making that adjustment.

In the absence of actual sales to bicycle manufacturers in Korea, the preferred basis for making comparisons, as mandated by section 205 of the Act (19 U.S.C. 164), would be bona fide offers to sell to that level of trade. In this case, there is no evidence of offers and past sales that establish a viable basis for determining Dae Yung's sales to bicycle manufacturers in Korea. However, that possibility will be explored before a final determination is made.

Treasury also considered other possibilities for making an adjustment for differences in level of trade: The first based on the relationship between sales in the home market by another manufacturer to bicycle manufacturers and replacement distributors, and the second based upon the price differentials in sales to manufacturers and distributors in third countries by Dae Yung itself. However, neither was found acceptable. As amended by the Trade Act of 1974, the practice of Treasury under the Antidumping Act to use the experience of other manufacturers in fair value calculations has been severely restricted; and it has been Treasury's policy to consider third-country experience only if no adequate home market sales occurred at any level of trade. In any event, in the case of Dae Yung, the Department found no meaningful difference in the prices to the two levels in its sales in third countries.

Adjustments comparable to those recognized for differences in levels of trade might be separately recognized under the circumstance-of-sale provision of § 153.10 of the Customs Regulations (19 CFR 153.10). However, as Dae Yung has not claimed any such adjustments, none will be made at this time.

Adjustments were made, where applicable, to home market sales to replacement distributors for inland freight, rebates, bonuses, and differences in merchandise. Sales to bicycle manufacturers in the home market were adjusted, where appropriate, for inland freight and differences in merchandise.

The adjustment for differences in merchandise was for standard variances in tread and in color of sidewall on certain tires, and in material on certain tubes, sold both in the United States and in the home market. Pursuant to § 153.11, Customs Regulations (19 CFR 153.11), the basis for those adjustments was the difference in the value of the merchandise as indicated

on published price lists. From the available information, an adjustment for the variances based upon value, rather than cost, was deemed preferable since list prices for the identical, differentiated tires and tubes in the home market were both available and followed in practice.

Adjustments were made for rebates because the rebates were properly linked to the volume of merchandise purchased by customers over a specified period of time and appear to have been consistently offered by both manufacturers. The adjustment made for bonuses related to the manufacturer's promotion of sales by distributors during a given period of time. The concept of bonuses is directly analagous to the basis on which rebates are given and was therefore allowed as a deduction from the home market price.

Claims made for interest costs associated with delayed payment on home market sales, and for advertising, bad debt, and entertainment expenses were not allowed because insufficient information was presented to justify making any of those adjustments. In general, the respondents did not show that such costs were allocated to bicycle tires and tubes, nor did they show that those expenses were limited to the home market. Furthermore, they did not prove that such expenses were sufficiently directly related to the sales under consideration, rather than simply general overhead expenses. Consequently, none of those claims were allowed under § 153.10 of the Customs Regulations (19 CFR 153.10).

A claim for advertising expenses incurred on domestic replacement market sales has been made by Hung A and Dae Yung. It was not allowed because no direct relationship between this expense and the sales under consideration has been shown.

Should additional evidence on the above-mentioned claims be forthcoming, adjustments may be deemed appropriate in making the final determination in this case.

e. *Results of fair value comparisons.* Using the above criteria, the purchase price of bicycle tires and tubes was found to be lower than the home market price of such or similar merchandise. Comparisons were made on 81.2 percent of the sales made to the United States during the period under consideration. Margins were found ranging from approximately 6.5 to 116 percent on 94 percent of the sales compared of Dae Yung during the investigation period. Comparisons of the sales made to the United States by Hung A revealed margins ranging from approximately 1 to 66 percent on 39 percent of the sales compared. Weighted average margins for Dae Yung and Hung A on all sales compared were 33.3 percent and 6.5 percent, respectively.

Accordingly, Customs officers are being directed to withhold appraisement of bicycle tires and tubes from the Republic of Korea in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

In accordance with § 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than October 3, 1978. Such request must be accompanied by a statement outlining the issues to be discussed. These issues may be discussed in greater detail in a written brief.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in 10 copies in time to be received by his office not later than October 18, 1978. All persons submitting views or arguments should avoid repetitious and merely cumulative material. Counsel for the petitioner and respondent are also requested to send each other all written submissions, including nonconfidential summaries or approximated presentations of all confidential information.

This notice, which is published pursuant to § 153.35(b), Customs Regulations (19 CFR 153.35(b)), shall become effective on September 18, 1978. It shall cease to be effective 6 months from the date of publication, unless previously revoked.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

SEPTEMBER 11, 1978.

[FR Doc. 78-26179 Filed 9-15-78; 8:45 am]

[4810-22]

BICYCLE TIRES AND TUBES FROM THE REPUBLIC OF CHINA

Antidumping; Withholding of Appraisement Notice, Tentative Exclusion From and Tentative Discontinuance of Antidumping Investigation

AGENCY: U.S. Treasury Department.

ACTION: Withholding of appraisement, tentative exclusion from and tentative discontinuance of investigation.

SUMMARY: This notice is to advise the public that there are reasonable grounds to believe or suspect that bicycle tires and tubes from the Republic of China, except for that merchandise produced by three companies, is being sold to the United States at less than fair value within the meaning of the Antidumping Act, 1921. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. Appraisement for the purpose of determining the proper duties applicable to entries of this merchandise will be suspended for 6 months. Interested persons are invited to comment on this action not later than 30 days from the effective date of this notice.

EFFECTIVE DATE: September 18, 1978.

FOR FURTHER INFORMATION CONTACT:

William T. Trujillo, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On January 13, 1978, information was received in proper form pursuant to §§ 153.26 and 153.27, customs regulations (19 CFR 153.26 and 153.27), from counsel acting on behalf of the Carlisle Tire and Rubber Co. of Carlisle, Pa., indicating that bicycle tires and tubes from the Republic of China are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of February 23, 1978 (43 FR 7496).

For purposes of this notice the term "bicycle tires and tubes" means pneumatic bicycle tires, and tubes therefor, of rubber or plastics, whether such tires and tubes are sold together as units or separately.

TENTATIVE DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the basis of information developed in the Customs investigation and for the reasons noted below, pursuant to § 201(b) of the Act (10 U.S.C. 160(b)), I hereby determine that, with the exception of sales by Nan Kang Rubber and Industrial Corp. Ltd., Hwa Fong Rubber Industrial Co., Ltd., and Kenda Rubber Tire Corp., Ltd., there are reasonable grounds to believe or suspect that the purchase price of bicycle tires and tubes from the Republic of China is less than fair value, and thereby the foreign market value, of

such or similar merchandise. In the case of Nan Kang Rubber and Industrial Corp., and Hwa Fong Rubber Industrial Co., I hereby exclude those

February 28, 1978. The information was received from all of the firms and verified.

Shin for certain advertising costs assumed by that manufacturer on behalf of its distributors. The adjustment for

from that manufacturer indicating that all future sales to the United States will be at not less than fair

[1505-01]

[Vol. No. 105]

1. On page 36188, third column, "MC 14273 (Sub-409F)" should read "MC 114173 (Sub-409F)".

such or similar merchandise. In the case of Nan Kang Rubber and Industrial Corp., and Hwa Fong Rubber Industrial Co., I hereby exclude those companies from this determination. In the case of Kenda Rubber Tire Corp., I hereby tentatively discontinue the investigation.

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

The reasons and bases for the above tentative determination are as follows:

a. *Scope of the investigation.* It appears that 100 percent of the imports of the subject merchandise from the Republic of China during the period of the investigation were manufactured by the following firms:

1. Hwa Fong Rubber Industrial Co., Ltd.
2. Cheng Shin Rubber Industrial Co., Ltd.
3. Kenda Rubber Tire Corp., Ltd.
4. Nan Kang Rubber & Industrial Corp., Ltd.
5. Li Hsin Rubber Industrial Co., Ltd.
6. Tai Yung Rubber Works Co., Ltd.
7. Union Rubber Industrial Co., Ltd.

The investigation was limited to the first four firms, which accounted for approximately 86 percent of the imports during the period of investigation.

b. *Basis of comparison.* For the purpose of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison appears to be, except for Nan Kang, between purchase price and the adjusted home market price of such or similar merchandise. With respect to Nan Kang, the proper basis of comparison appears to be between purchase price and third country price of such or similar merchandise. Purchase price, as defined in § 203 of the Act (19 U.S.C. 162), was used since all export sales to the United States by the four firms appear to have been made to unrelated customers. Home market price, as defined in § 153.2, customs regulations (19 CFR 153.2), was used for fair value purposes when such or similar merchandise appears to have been sold in the home market in sufficient quantities to provide an adequate basis of comparison. Sales for exportation to countries other than the United States, as defined in § 153.3, customs regulations (19 CFR 153.3), were used for fair value purposes when such or similar merchandise appears not to have been sold in the home market in sufficient quantities to provide an adequate basis of comparison.

In accordance with § 153.31(b) customs regulations (19 CFR 153.31(b)), pricing information was sought concerning imports, home market sales and third country sales during the period September 1, 1977, through February 28, 1978. The information was received from all of the firms and verified.

To the extent possible, information received from Li Hsin, Tai Yung and Union Rubber will be analyzed prior to making a final determination in this case.

c. *Purchase Price.* For purposes of this tentative determination, purchase price has been calculated on the basis of sales prices to unrelated United States purchasers, and to trading companies in the Republic of China which export the merchandise to the United States, which deductions made, where applicable, for c.i.f. charges, inland freight charges, commissions, brokerage charges, bank charges and contributions to the Taiwan Rubber Association. An addition was made, where applicable, for duty drawback of Republic of China customs duty paid on imported material used to manufacture the tires and tubes exported to the United States during the investigatory period. Additions were also made for the amount of commodity, stamp and education taxes imposed on sales of this merchandise domestically, which taxes were either rebated or not collected upon exportation.

d. *Home market price.* For the purpose of this tentative determination, the home market price has been calculated on the basis of the selling prices to unrelated purchasers in the Republic of China. Deductions were made, where applicable, for inland freight. Adjustments were made, where applicable, for differences in credit, packing and merchandise and for advertising expenses and rejected merchandise.

The adjustments for differences in credit related to the differences in interest costs incurred by the sellers due to differences in the receipt of payment on sales in the home market as compared with export sales. The adjustment for differences in packing related to different costs associated with packing the merchandise for export and for home consumption. Those adjustments were made in accordance with § 153.10 of the customs regulations (19 CFR 153.10).

The adjustments for differences in merchandise concerned sales by Cheng Shin. Those differences involved standard variances in tread and in color of sidewall on certain tires and in material on certain tubes sold both in the United States and in the home market. The adjustment factor was based upon the differences in the negotiated prices for the identical, differentiated tires and tubes sold in the home market. This adjustment was made in accordance with § 153.11 of the customs regulations (19 CFR 153.11).

The adjustment for advertising expenses was made in the case of Cheng Shin for certain advertising costs assumed by that manufacturer on behalf of its distributors. The adjustment for rejected merchandise concerned a deduction for merchandise returned by home market customers in the case of sales by two manufacturers. These manufacturers did not incur similar claims for rejected merchandise on sales to the United States. Accordingly, adjustments for the foregoing expenses were made in accordance with § 153.10 of the customs regulations (19 CFR 153.10).

Claims were made for adjustments under § 153.10, customs regulations (19 CFR 153.10) for entertainment expenses and bad debt expenses incurred in the home market. These claims have been denied for purposes of this determination due to a lack of sufficient supporting evidence.

A claim for an adjustment was made by Hwa Fong based upon differences in the quantity sold in the two markets. However, the company did not provide any documentation to justify making the adjustment. Moreover, its prices did not appear to vary in direct relationship to quantities, as contemplated by § 153.9(b) of the customs regulations (19 CFR 153.9(b)).

e. *Sales for exportation to countries other than the United States.* Since Nan Kang had no home market sales of such or similar merchandise to form a basis of comparison with its exports to the United States, fair value was calculated on the basis of Nan Kang's sales to the third country (Canada) in which the greatest number of Nan Kang's export sales to countries other than the United States were made. These sales were made from the same price list used for sales to the United States and in both cases actual sales prices appear to ahere to the price list.

f. *Results of fair value comparisons.* Using the above criteria, the purchase price in certain instances appears to be lower than the home market price of such or similar merchandise. Comparisons were made on approximately 86 percent of the subject merchandise sold for export to the United States by all seven producers during the period of investigation. Margins were found on approximately 18 percent of the sales compared, ranging from 0.4 percent to 52.0 percent and resulted in a weighted-average margin of 2.4 percent. Weighted-average margins found with respect to the companies on which comparisons were made are as follows: Cheng Shin 5.1 percent, Kenda 0.5 percent and Hwa Fong 0.23 percent. No margins were found on sales made by Nan Kang. The margins found on sales by Hwa Fong are determined to be de minimis. The margins on sales by Kenda are considered to be minimal in relation to total sales and formal assurances have been received from that manufacturer indicating that all future sales to the United States will be at not less than fair value.

Accordingly, customs officers are being directed to withhold appraisement of bicycle tires and tubes from the Republic of China, except that produced by Nan Kang, Hwa Fong and Kenda, in accordance with § 153.48 customs regulations (19 CFR 153.48).

In accordance with § 153.40, customs regulations (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than October 3, 1978. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than October 18, 1978. All persons submitting written views or arguments should avoid repetitious and merely cumulative material. Counsel for the petitioner and respondents are requested to serve all written submissions, including nonconfidential summaries or approximated presentations of all confidential information, on all other counsel and to file their submissions with the Commissioner of Customs in 10 copies.

This notice, which is published pursuant to §§ 153.35(b), 153.38, and 153.33(b), customs regulations (19 CFR 153.35(b), 153.38, and 153.33(b)), shall become effective September 18, 1978. Withholding of appraisement shall cease to be effective at the expiration of 6 months from the date of publication, unless previously revoked.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

SEPTEMBER 11, 1978.

[FR Doc. 78-26180 Filed 9-15-78; 8:45 am]

[1505-01]

INTERSTATE COMMERCE COMMISSION

[Decisions Volume No. 18]

DECISION-NOTICE

Correction

In FR Doc. 78-22616 appearing at page 36185 in the issue for Tuesday, August 15, 1978, make the following corrections:

1. On page 36188, third column, "MC 14273 (Sub-409F)" should read "MC 114173 (Sub-409F)".

2. On page 36189, third column, "MC 11452 (Sub-167F)" should read "MC 114552 (Sub-167F)".

[1505-01]

[Decision Vol. No. 20]

DECISION-NOTICE

Correction

In FR Doc. 78-23368 appearing at page 37311 in the issue for Tuesday, August 22, 1978, make the following corrections:

1. On page 37313, first column, "MC 94265 (Sub-279F)" should read "MC 94165 (Sub-270F)".

2. On page 37318, third column, "MC 138308 (Sub-52F*)" at the bottom, should read "MC 138308 (Sub-53F*)".

[1505-01]

[Decision Vol. No. 23]

DECISION-NOTICE

Correction

In FR Doc. 78-24410 appearing at page 38966 in the issue for Thursday, August 31, 1978, on page 38973, third column, "MC 13882 (Sub-104F)" should read "MC 138882 (Sub-104F)".

[1505-01]

[Decision Vol. No. 13]

DECISION-NOTICE

Correction

In FR Doc. 78-19938, appearing at page 31258 in the issue of July 20, 1978, on page 31274, in the second column, in the fourth and ninth lines respectively of MC 103926 (Sub-68F), "AK" should read "AR".

[1505-01]

[Decisions Vol. No. 20]

DECISION-NOTICE

Correction

In FR Doc. 78-23367 appearing at page 37301 in the issue for Tuesday, August 22, 1978, under MC 118838 (Sub-28F) in the first column of page 37306, change "NM" to read "MN".

[1505-01]

[Vol. No. 105]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

Correction

In FR Doc. 78-20685, appearing at page 32494 in the issue of July 27, 1978, on page 32498, in the first column, in MC 123407 (Sub-453F) in the third line "Oklahoma" should be corrected to read "Orleans."

[7035-01]

[Notice No. 714]

ASSIGNMENT OF HEARINGS

SEPTEMBER 13, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. this list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 134286 (Sub-53F), Illini Express, Inc., and MC 144364 (Sub-2F), Art Betz, now being assigned October 20, 1978 (1 day), at Des Moines, Iowa, in a hearing room to be later designated.

MC 112520 (Sub-348), McKenzie Tank Lines, Inc., now being assigned October 30, 1978 (1 day), at Birmingham, Ala., in a hearing room to be later designated.

MC 120181 (Sub-8), Main Line Hauling Co., Inc., now being assigned November 6, 1978 (2 days), at Jefferson City, Mo., in a hearing room to be later designated.

MC 93674 (Sub-3), Boyer Truck Line, Inc., now being assigned October 30, 1978 at Denver, Colo. (1 week), in a hearing room to be later designated.

MC 124947 (Sub-98), Machinery Transports, Inc., now being assigned September 15, 1978 (1 day), at San Francisco, Calif., is canceled; application dismissed.

MC-F-13554, Central Transport, Inc.—Purchased (Portion)—Eastern Express, Inc., and MC 118831 (Sub-161F), Central Transport, Inc., now being assigned hearing on November 6, 1978, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 140033 (Sub-43F), Cox Refrigerated Express, Inc., now assigned for hearing on November 28, 1978, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 125433 (Sub-155F), F-B Truck Line Co., now being assigned for pre-hearing conference on October 18, 1978, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 18121 (Sub-19), Advance Transportation Co., and MC 18121 (Sub-20), Advance Transportation Co., now assigned for hearing on September 18, 1978 (2 weeks) publications, to become effective September 28, 1978. Grounds for relief—market competition.

the Commission, commodities in bulk, and commodities requiring special equipment), between Wichita, KS, and

Representative: Arthur Liberstein, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Authority sought to operate as a *common carrier*, by

erations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

Grand Forks, ND 58201. (2) Wiscold, Inc., 11400 West Burleigh Street, P.O. Box 26336, American Potato Co., Bank of America Center, 555 California

V43/181 8 1 SE 18 78 V4

MC 18121 (Sub-19), Advance Transportation Co., and MC 18121 (Sub-20), Advance Transportation Co., now assigned for hearing on September 18, 1978 (2 weeks), at Madison, Wis., are canceled and reassigned for September 18, 1978 (2 weeks), at Madison, Wis., current information conference room, Room 125, Forest Products Laboratory, Walnut Street and continued to September 20, 1978 (8 days), at Waukesha, Wis., County Office Building.

MC 143496 (Sub-1), United Coach Companies of Tidewater, Inc., now being assigned for hearing on November 27, 1978 (1 week), at Norfolk, Va., in a hearing room to be later designated.

MC 4405 (Sub-576F), Dealers Transit, Inc., MC 109397 (Sub-403F), Tri-State Motor Transit Co., now being assigned for hearing on October 23, 1978, at the Offices of Interstate Commerce Commission, Washington, D.C.

MC 116915 (Sub-47F), Eck Miller Transportation Corp., now assigned October 30, 1978, at Dallas, Tex., is canceled and application dismissed.

MC 109533 (Sub-104F), Overnite Transportation, now being assigned for hearing on November 13, 1978, at Cincinnati, Ohio, in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26190 Filed 9-15-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATIONS FOR RELIEF

SEPTEMBER 13, 1978.

These applications for long- and short-haul relief have been filed with the ICC.

Protests are due at the ICC on or before October 3, 1978.

FSA 43601, Western Trunk Line Committee, agent's No. A-2755, rates on common salt, from Lakepoint, Saltair Junction and Solar, Utah, to Cedar Rapids, Davenport, and Des Moines, Iowa, in supplement 227 to its tariff 319-C, ICC A-4369, to become effective October 3, 1978. Grounds for relief—market competition.

FSA 43602, Seatrain Gitmo, Inc., No. 1, general commodities in containers, between rail terminals at U.S. Pacific coast ports and ports in Puerto Rico, in its U.S./PR joint container freight tariff PWC-1, ICC No. 2, to become effective September 29, 1978. Grounds for relief—market competition.

FSA 43603, Southwestern Freight Bureau, agent's No. B-766, rates on paper and paper products, from Neenah, Wis., to Southwestern Territory, in supplement 79 to its tariff 281-J, ICC 5231, to become effective October 7, 1978. Grounds for relief—market competition.

FSA 43604, Southwestern Freight Bureau, agent's No. B-762, rates on silica sand, from Serena, Ill., to Southwestern territory, in supplement 3, tariff 162-Z, ICC 5339, to become effective October 1, 1978. Grounds for relief—market competition.

FSA 43605, Sea-Land Service, Inc., No. 101, rates on general commodities in containers, between rail carrier's terminals at Newport News and Portsmouth, Va., and ports in the Far East, in its tariff No. 201-A, ICC No. 93, and various other tariff publications, to become effective September 28, 1978. Grounds for relief—market competition.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26187 Filed 9-15-78; 8:45 am]

[7035-01]

[Notice No. 167]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 6, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 989 (Sub-31TA), filed July 13, 1978. Applicant: IDEAL TRUCK LINES, INC., P.O. Box 330, Norton, KS 67654. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Wichita, KS, and North Platte, NE, serving the intermediate points of Beloit, Smith Center, Phillipsburg, Norton, and Oberlin, KS, and McCook and all intermediate points in NE located on U.S. Hwy 283 and I-80: (1) From Wichita, KS, over U.S. Hwy 81 to junction with U.S. Hwy 24, then via U.S. Hwy 24 to junction with U.S. Hwy 281, then via U.S. Hwy 281 to junction with U.S. Hwy 36, then via U.S. Hwy 36 to junction with U.S. Hwy 83, then via U.S. Hwy 83 to North Platte, NE, and return over the same route. (2) From Wichita, KS, over U.S. Hwy 81 to junction with U.S. Hwy 24, then via U.S. Hwy 24 to junction with U.S. Hwy 281, then via U.S. Hwy 281 to junction with U.S. Hwy 36, then via U.S. Hwy 36 to junction with U.S. Hwy 283, then via U.S. Hwy 283 to junction I-80, then via I-80 to North Platte, NE, and return over the same route, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 36 statements of support attached to this application which may be examined at the Interstate Commerce Commission in Wahington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 256 Federal Building, and U.S. Courthouse, 444 Southeast, Quincy, Topeka, KS 66683.

MC 2202 (Sub-563TA), filed July 11, 1978. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Boulevard, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of National Presto Industries located at or near Canton, MS as an off-route point in connection with applicant's regular routes, for 180 days. Supporting shipper: National Presto Industries, 3925 North Hastings Way, Eau Claire, WI. Send protests to: Martin P. Monaghan, Jr., Special Agent, Interstate Commerce Commission, Bureau of Operations, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 50307 (Sub-96TA), filed July 13, 1978. Applicant: INTERSTATE DRESS CARRIERS, INC., 247 West 35th Street, New York, NY 10001.

Representative: Arthur Liberstein, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel, and materials, supplies and equipment* used in the manufacture of wearing apparel (except commodities in bulk), between Columbia, SC, Martinsburg, WV; Front Royal and Woodstock, VA; Carlise and York, PA, and New York, NY, for 180 days. The authority requested herein duplicated in part, applicant's authority in docket No. MC 50307 (Sub-71). Applicant will join this authority at New York, NY, and York and Carlisle, PA. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: House of Perfection, Inc., and Perfection Garment Co., Martinsburg, WV 25401. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 51146 (Sub-612), filed July 11, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter* from the facilities of Volkmuth Printers at or near St. Cloud, MN to Jefferson City, MO and Pleasanton, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Volkmuth Printers, P.O. Box 1007, St. Cloud, MN 56301. (Jerry Tomczik). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 51146 (Sub-617TA), filed July 14, 1978. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and container ends*, from Milwaukee, WI, to Norfolk, NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper(s): National Can Corp., 8101 West Higgins Road, Chicago, IL 60631. (John R. Moosburgger). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 64932 (Sub-585TA), filed July 17, 1978. Applicant: ROGERS CARTAGE CO., 10735 South Cicero Avenue, Oak Lawn, IL 60463. Representative: William F. Farrell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, (in bulk, in tank vehicles), from the facilities of Texas Sulphur Products Co., Inc., at or near Ottawa, IL, to all points in IL, IN, IA, MO, MN, WI, OH, PA, MI, KY, NE, SD, and ND, for 180 days. Supporting shipper(s): Texas sulphur Products Co., Inc., Edward A. Krysl, General Sales Manager, Suite 209 Plaza Inn, 116 West Sixth Street, Borger, TX 79007. Send protests to: Lois M. Stahl Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 95876 (Sub-246TA), filed July 14, 1978. Applicant: ANDERSON TRUCKING SERVICE, INC., P.O. Box 1377, 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grain handling, storage and drying equipment, and iron and steel articles*, from Assumption, IL, to points in the United States in and east of MN, IL, KY, TN, MS, ND, and KS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Grain Systems, Inc., Assumption, IL 62510. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 4145 Federal Building and U.S. Court House, 110 South Fourth Street, Minneapolis, MN 55401.

MC 112822 (Sub-458TA), filed July 17, 1978. Applicant: BRAY LINES INC., 1401 North Little Street, P.O. Box 1191, Cushing, OK 74023. Representative: Charles D. Midkiff, 1401 North Little Street, P.O. Box 1191, Cushing, OK 74023. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables and frozen potato products*, from the facilities of Wiscold, Inc., located at or near Beaver Dam and Milwaukee, WI, to points in IL, IN, IA, KS, MI, MN, MO, OH, OK, and PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) International Co-op, P.O. Box 1378, Grand Forks, ND 58201. (2) Wiscold, Inc., 11400 West Burleign Street, P.O. Box 26336, American Potato Co., Bank of America Center, 555 California Street, San Francisco, CA 94014. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Court House Building, 215 Northwest Third, Oklahoma City, OK 73102.

MC 118989 (Sub-199TA), filed July 14, 1978. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, WI 53221. Representative: Rolland K. Draves (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal can ends*, from Milwaukee, WI, Commercial Zone to Norfolk, NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): National Can Corp., 8101 West Higgins Road, Chicago, IL 60631. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 120427 (Sub-18TA), filed July 14, 1978. Applicant: WILLIAMS TRANSFER, INC., P.O. Box 488, 2128 East Highway 30, Grand Island, NE 68801. Representative: John K. Walker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grain storage, drying and handling equipment, iron and steel articles*, items used in the manufacture of grain storage, drying and handling equipment, (1) From Grand Island, NE, to points in CA, ID, MA, ND, OK, OR, TX, and WA; and (2) From Crawfordsville, IN, to points in WI, PA, and LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): W. E. Van Wyhe, Manager Central Division, 1811 West 2nd Street, Webster City, IA 50595. Send protests to: Max H. Johnson, District Supervisor, 284 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 123392 (Sub-78TA), filed July 14, 1978. Applicant: JACK B. KELLEY, INC., Route 1, Box 400, U.S. 66 West at Kelley Drive, Amarillo, TX 79106. Representative: Austin L. Hatchell, Suite 1022, Perry Brooks Building, Austin, TX 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bromine* (in bulk, in tank vehicles), from the facilities of Dow Chemical, U.S.A., in Columbia County,

AR, to points in the United States, on and east of U.S. Hwy 85, for 180 days. Applicants has also filed an underlying ETA seeking up to 90 days of oper-

the facilities of National Can Corp., at Piscataway, NJ, to the facilities of Pabst Brewing Co. at or near Perry, GA, under a continuing contract, or

Representative: Arlyn L. Westergren, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Authority sought to operate as a *contract carrier*, by motor vehicle,

below. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 105, Federal Building and Courthouse, 111 South Wolcott, Casper, WY 82601

and Dresden, TN, to Newark, DE and West Nyack, NY; and (2) from Dresden, TN, to Westminster and Rockville, MD, under a continuing contract, or contracts with W. F. Hall Printing

Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

AR, to points in the United States, on and east of U.S. Hwy 85, for 180 days. Applicants has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dow Chemical U.S.A., 14955 Sprague Road, Strongsville, OH 44136. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206 Federal Building, Amarillo, TX 79101.

MC 123392 (Sub-78TA), filed July 14, 1978. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Barium sulphate*, from Battle Mountain, NV, and Salt Lake City, UT, to Orland, Lodi, and Bakersfield, CA; (2) *Ferro chrome lignosulfonate*, from Rothschild, WI, to Lodi, Bakersfield, CA, and Laredo, TX; and (3) *causticized lignite and regular lignite*, from Williston, ND, to Lodi and Bakersfield, CA, for 180 days. Supporting shipper(s): Owen T. Mulholland, President, Polychem International, Inc., P.O. Box 554, Bakersfield, CA 93302. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 1st Avenue North, Billings, MT 59101.

MC 134183 (Sub-9TA), filed July 14, 1978. Applicant: CHARLES ZUMSTEIN, d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gloves and materials, equipment, and supplies* used in the manufacture, production, sales and distribution thereof, between Eaton, OH, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract, or contracts, with Dayton Flexible Products, for 180 days. Supporting shipper: Dayton Flexible Products, Charles R. Bryant, Traffic Manager, P.O. Box 59, Route 35 West, Eaton, OH 45320. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45320.

MC 135170 (Sub-27TA), filed July 13, 1978. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, MD 21632. Representative: James C. Hardman, 33 LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers*, from the facilities of National Can Corp., at Piscataway, NJ, to the facilities of Pabst Brewing Co. at or near Perry, GA, under a continuing contract, or contracts, with National Can Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Joseph L. Rich, Traffic Manager—Atlantic Region, National Can Corp., 8101 West Higgins Road, Chicago, IL 60631. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, MD 21201.

MC 136343 (Sub-143TA), filed July 13, 1978. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 335, R.F.D. 1, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper bags*, from Toledo, OH, to points in CT, MA, NJ, NY, PA, VT, VA, DE, RI, WV, MD, NH, and ME; and (2) *Paper bags, plastic bags, burlap bags, burlap bagging and wrapping paper*, from Newport News, VA, to points in CT, DE, IL, IN, KY, ME, MD, MA, NH, NJ, NY, OH, PA, RI, TX, VT, and MO, for 180 days. Supporting shipper: Chase Bag Co., 814 Commerce Drive, Oak Brook, IL 60521. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

MC 139495 (Sub-366TA), filed July 17, 1978. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, 1501 East 8th Street, Liberal, KS 67901. Representative: Herbert Alan Dubin, Sullivan & Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, chain, discount and variety stores from the facilities of Vendors Consolidators located at or near North Bergen, NJ to the facilities of the Oklahoma Shippers' Association, Inc., at Oklahoma City, OK. Restricted to shipments moving on bills of lading of the Oklahoma Shippers' Association, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Oklahoma Shippers' Association, Inc., 100 Southeast Third Street, Oklahoma City, OK 73125. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 141538 (Sub-2TA), filed July 14, 1978. Applicant: GEORGE BROS., INC., P.O. Box 492, Sutton, NE 68797. Representative: Arlyn L. Westergren, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Chicago and Hennepin, IL, and their commercial zones to the facilities of York Manufacturing Co., at or near Henderson, NE, under a continuing contract, or contracts, with York Manufacturing Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: J. W. Witcofski, Purchasing Agent, York Manufacturing Co., P.O. Box 188, Henderson, NE 68371. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

MC 142254 (Sub-3TA), filed July 14, 1978. Applicant: FRIEDL FUEL & CARTAGE, INC., 417 West Whitewater Street, Whitewater, WI 53190. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass reinforced concrete panels and accessories* used in the installation and erection of such panels, from Whitewater, WI, to points in IL, IN, and IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midwest Fiber-Concrete Ltd., 814 East Commercial Street, Whitewater, WI 53190. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 142416 (Sub-2TA), filed July 11, 1978. Applicant: HAMILTON TRANSFER STORAGE & FEEDS, INC., Highway 26 West, Torrington, WY 82240. Representative: John H. Lewis, The 1650 Grant Street Building, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between Torrington, WY and Scottsbluff, NE via U.S. Hwy 26, serving all intermediate points in WY, for 180 days. Request waiver of restrictions against tacking and interline. Supporting shipper(s): There are approximately 13 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named

below. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 105, Federal Building and Courthouse, 111 South Wolcott, Casper, WY 82601.

MC 142516 (Sub-14TA), filed July 17, 1978. Applicant: ACE TRUCKING CO., INC. 1 Hackensack Avenue, Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic film on rolls, plastic bags, polyethene and materials and equipment and supplies* used in the manufacture and sale of plastic film on rolls, plastic bags, and polyethene (except commodities in bulk), from Jersey City, Kearny, Elizabeth, NJ, to points in NC, SC, GA, TN, WV, VA, IL, IN, MO, MN, OH, OK, and NY, under a continuing contract, or contracts, with Armin Corp., Jersey City, NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Armin Corp., 301 West Side Avenue, Jersey City, NJ 07305. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 143031 (Sub-6TA), filed July 17, 1978. Applicant: LLOYD PAUL MURPHY, JAMES EDWARD MURPHY, TIMOTHY PAUL MURPHY & ERNEST STEWARD MURPHY, d.b.a. MURPHY & SONS, Route 2, Box 139, Spring City, TN 37381. Representative: H. Stan Guthrie Suite 100, MacLellan Building, Chattanooga, TN 37402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic fiber yarn*, 15 lbs or more density per cubic foot, from the facilities of Chevron Chemical Co. at or near Dayton, TN, to points in CA, GA, NJ, and PA, under a continuing contract, or contracts, with Chevron Chemical Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Chevron Chemical Co., Route 4, Box 113, Piedmont, SC 29673. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 143853 (Sub-4TA), filed July 14, 1978. Applicant: SME EXPRESS, INC., P.O. Box 571, Upland, IN 46989. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, (1) from Corinth, MS, and Dresden, TN, to Newark, DE and West Nyack, NY; and (2) from Dresden, TN, to Westminster and Rockville, MD, under a continuing contract, or contracts, with W. F. Hall Printing Co., for 180 days. Supporting shipper(s): W. F. Hall Printing Co., 4600 Diversey Avenue, Chicago, IL 60639. Send protests to: J. H. Gray District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 143917 (Sub-4TA), filed July 13, 1978. Applicant: SAM YOUNG, INC., P.O. Box 76, R.R. No. 1, Wolcott, IN 47995. Representative: Donald W. Smith, P.O. Box 40695, Indianapolis, IN 46240. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, from the facilities of Griffith Laboratories USA, Inc., at Union City and Los Angeles, CA; Remington, IN; Alsip and Chicago, IL; Lithonia, GA; Union, NJ, and Maryville, TN, to points in the United States (including AK and HI); and (2) *Materials and supplies* used in the manufacture of foodstuffs, from points in the United States (excluding AK and HI), to facilities of Griffith Laboratories USA, Inc., at Union City and Los Angeles, CA, Remington, IN; Alsip and Chicago, IL; Lithonia, GA; Union, NJ, and Maryville, TN, restricted to traffic originating at and destined to the named origins and named destinations in parts 1 and 2 above, under a continuing contract, or contracts, with Griffith Laboratories USA, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Griffith Laborities USA, Inc., 12200 South Central Avenue, Alsip, IL 60658. Send protests to: J. H. Gray District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 145025, filed July 11, 1978. Applicant: CONSIGNOR'S INC., P.O. Box 42, Centerville, OH 45459. Representative: Thomas F. Kilroy, Suite 406 Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Retail store merchandise*, between the facilities of Top Value Enterprises, Inc., in Dayton, OH, on the one hand, and, on the other, all points in AL, GA, LA, FL, and MS, for 180 days; under a continuing contract or contracts with Top Value Enterprises, Inc. Supporting shipper(s): Top Value Enterprises, Inc., William A. Becher, Director of Transportation, 3085 Woodman Drive, Dayton, OH 45420. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 145031 (Sub-1TA), filed July 13, 1978. Applicant: DANNY COCKERELL, d.b.a., D & M TRUCKING, P.O. Box 341, Clay City, IL 61824. Representative: Thomas F. Kilroy, 6901 Old Keene Mill Road, Suite 406 Executive Building, Springfield, VA 22150.

Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, No. I*, expanded, having a density of 2 to 4 pounds; 4 to 6 pounds, 6 to 12 pounds; and 12 pounds or over per cubic foot, *Liquid sound deadner material*, No. I having a density of 15 pounds or greater per cubic foot, *Miscellaneous machinery, printed materials, such as advertising matter*, from Troy MI, and Chicago, IL, to all points in the United States, (exempt AK and HI), under a continuing contract, or contracts, with H. L. Blachford, Inc., for 180 days. Supporting shipper(s): Philip J. Hage, Purchasing Agent, H. L. Blachford, Inc., 1855 Stephenson Hwy, Troy, MI 48084. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 145067 (Sub-1TA) filed July 18, 1978. Applicant: LAWRENCE E. SPAIDE, INC., P.O. Box 111, Avoca, PA 18641. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517.

Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Propane* (in bulk, in tank vehicles), from Marcus Hook and Philadelphia, PA, to Harford Mills, NY, for 150 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Warren Petroleum Co., 4 Corporate Park Drive, Suite 311, White Plains, NY 10604. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, PA 18503.

MC 145158TA, filed July 11, 1978. Applicant: REX TRANSPORT, 598 Hermes Avenue, Encinitas, CA 92024. Representative: Rex L. Austin, 598 Hermes Avenue, Encinitas, CA 92024. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mobile homes*, between points in CA, AZ and NE, for 180 days. Supporting shipper(s): (1) Silvercrest Industries, 14380 Carmenita Road, Norwalk, CA 90650. (2) Hallmark Southwest-Corp., 25525 Redlands Boulevard, Loma Linda, CA 92354. (3) Barrington

Homes, Inc., 6001 20th Street, Riverside, CA 92519. (4) Golden West Homes, 130 North Magnolia, Fullerton, CA 92633. Send protests to: Irene

erned by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there

Adrian, MI, for 180 day. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cabot Corp.,

over irregular routes, transporting: *Pipe, pipe fittings, couplings, connections, and accessories* (except iron or

South 4th Street, Minneapolis, MN 55401.

MC 119726 (Sub-136TA), filed July

Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 134286 (Sub-68TA), filed July 14,

Homes, Inc., 6001 20th Street, Riverside, CA 92519. (4) Golden West Homes, 130 North Magnolia, Fullerton, CA 92633. Send protests to: Irene Carlos Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 145214TA, filed July 18, 1978. Applicant: DONALD M. CAMPBELL, d.b.a., CAMPBELL TRUCKING CO., 3017 Falls Church Lane, Mesquite, TX 75149. Representative: Harry F. Horak, 5001 Brentwood Stain Road, Room 109, Fort Worth, TX 76112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Soil inoculant* (except in bulk, in tank vehicles), from Dallas, TX, to all points in the United States, (except AK and HI), under a continuing contract, or contracts, with SnCorp., Inc., for 180 days. Supporting shipper(s): SnCorp., Inc., 7616 L.B.J. Freeway, Dallas, Tex. 75251. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-26188 Filed 9-15-78; 8:45 am]

[7035-01]

[Notice No. 168]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

September 6, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC field office to which protests are to be transmitted.

Motor Carriers of Property

MC 323 (Sub-4TA), filed July 17, 1978. Applicant: KARL SEIDEN, d.b.a. ROSE TRANSPORTATION CO., 608 New Street, Atlantic City, NJ 08401. Representative: Louis Seiden, 608 New Street, Atlantic City, NJ 08401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value and except high explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Philadelphia, PA, and Vineland, NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Spencer Gifts, Inc., 1050 Black Horse Pike, Atlantic City, NJ 08411. Send protests to: John P. Lynn, Transportation Specialist, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 14215 (Sub-15TA), filed July 14, 1978. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, Stiverson and Alden, 1396 West Fifth Avenue, Columbus, OH 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and iron and steel articles*, from the facilities of Wheeling-Pittsburgh Steel Corp., at Allenport, PA, to points in the lower peninsula of MI, for 180 days. Applicants has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wheeling-Pittsburgh Steel Corp., P.O. Box 118, Pittsburgh, PA 15230. Send protests to: J. A. Niggemyer, District Supervisor, Interstate Commerce Commission, 416 Old Post Office Building, Wheeling, WV 26003.

MC 55896 (Sub-86TA), filed July 11, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty, 20225 Goddard Road, Taylor, MI 48180. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica*, from Tuscola, IL, to Adrian, MI, for 180 day. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cabot Corp., 125 High Street, Boston, MA 02110. Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

MC 59640 (Sub-66TA), filed July 13, 1978. Applicant: PAULS TRUCKING CORP., 3 Commerce Drive, Cranford, NJ 07016. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by home improvement centers and department stores, and *equipment, materials, and supplies* used in the conduct of such businesses for the account of Ames Department Stores, Inc., between Jersey City, NJ; Canton, OH; Worcester, MA, and Rochester, NY, on the one hand, and on the other, points in DE, ME, MD, MA, NH, NJ, NY, NC, PA, VT, VA, and OH, under a continuing contract, or contracts, with Ames Department Stores, Inc., for 180 days. Supporting shipper(s): Ames Department Stores, Inc., 2418 Maine Street, Rocky Hill, CT 06067. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 70083 (Sub-30TA), filed July 17, 1978. Applicant: DRAKE MOTOR LINES, INC., 20 Olney Avenue, Cherry Hill NJ 08002. Representative: Richard Rueda, 20 Olney Avenue, Cherry Hill, NJ 08002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ladies apparel wear and store supplies* (except in bulk), from the facilities of Petrie Stores Corp., at Secaucus, NJ, to the facilities of or utilized by Petrie Stores Corp., at or near Dallas, TX, and Chicago, IL, and their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Petrie Stores Corp., 70 Enterprise Avenue, Secaucus, NJ 07094. Send protests to: John P. Lynn, Transportation Specialist, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 95876 (Sub-245TA), filed July 11, 1978. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, P.O. Box 1377, St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle,

over irregular routes, transporting: *Pipe, pipe fittings, couplings, connections, and accessories* (except iron or steel articles and commodities which because of size or weight require the use of special equipment), from the facilities of ARMCO Steel Corp., Metal Products Division, at or near Springfield, IL, to points in MN, restricted to traffic originating at the above-named facility and destined to the named State, and further restricted against the transportation of oilfield commodities as defined in *Mercer—Oil—Field Commodities*, 74 M.C.C. 459. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority, for 180 days. Supporting shipper(s): ARMCO Steel Corp., Middletown, OH 45043. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Post Office, 110 South Fourth Street, Minneapolis, MN 55401.

MC 105280 (Sub-4TA), filed July 18, 1978. Applicant: CHANDLER TRANSPORT SERVICE, INC., P.O. Box 309, Fleming, CO 80728. Representative: Richard P. Kissinger, Steel Park, Suite 330, 50 South Steele Street, Denver, CO 80209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refined petroleum products*, in packages or containers (except commodities in bulk, in tank vehicles), from the Kansas City, KS-MO commercial zones to points in CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Chevron U.S.A., Inc., 575 Market Street, Room 2510, San Francisco, CA 94120. Send protests to: Rober L. Buchanan, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 114457 (Sub-416TA), filed July 14, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in packages, from the facilities utilized by Atalanta Corp., at Jersey City, NJ; New York, NY; and Philadelphia, PA, to points in the States of OH, MI, MN, IN, WI, and also to Burlington, IA; Chicago, IL; Lawrence, KS, and Los Angeles, CA, for 180 days. Supporting shipper(s): Atalanta Corp., 17-25 Varick Street, New York, NY 10013. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 119726 (Sub-136TA), filed July 13, 1978. Applicant: N. A. B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, Suite 1000, 130 East Washington Street, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, in containers (except in bulk), between the warehouses and storage facilities of Ralston Purina Co., at or near Clinton and Davenport, IA, to points in IN, MI, and OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ralston Purina Co., Checkerboard Square, St. Louis, MO 63188. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 123885 (Sub-26TA), filed July 17, 1978. Applicant: C & R TRANSFER CO., P.O. Box 1010, Rapid City, SD 57701. Representative: James W. Olson, P.O. Box 1552, Rapid City, SD 57709. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete products and accessories*, from Sioux Falls, SD, to Denver, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gage Brothers Concrete Products, Inc., P.O. Box 1526, Sioux Falls, SD 57101 (Glen B. Reinholt, Traffic Manager and Dispatcher). Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

MC 126899 (Sub-121TA), filed July 14, 1978. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Road, P.O. Box 3156, Paducah, KY 42001. Representative: George M. Catlett, 708 McClure Building, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Residual fuel oils*, Nos. 4, 5, and 6; and *asphalt*, from Memphis, TN, to points in AR, MI, and MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Delta Refining Co., 9097 Mallory Station, Memphis, TN 38109. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 134286 (Sub-68TA), filed July 14, 1978. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Charles M. Williams, Suite 350, Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from the plantsite of Inland Storage Distribution Center, located at Kansas City, KS, to points in CT, DE, KY, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Harold Lankford, Manager, International and Domestic Transportation, Inland Storage Distribution Center, P.O. Box 2249, Kansas City, KS 66110. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 136220 (Sub-58TA), filed July 18, 1978. Applicant: ROY SULLIVAN, d.b.a. SULLIVAN'S TRUCKING CO., INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timothy Armstrong, 6161 North May Avenve, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Barite* (in bulk, in dump vehicles), from Blackwater, MO, to the facilities of Sherwin-Williams Co., at Coffeyville, KS, for 180 days. Supporting shipper(s): Sherwin-Williams Co., P.O. Box 855, Coffeyville, KS 67337. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Court House Building, 215 Northwest Third, Oklahoma City, OK 73102.

MC 136315 (Sub-32TA), filed July 11, 1978. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pipe, fittings, values, hydrants, castings, and materials and supplies* used in the installation thereof from the facilities of U.S. Pipe & Foundry Co., at or near Bessemer and Birmingham, AL, and Chattanooga, TN, to points in AR, IS, MO, NE, OK, and TX, for 180 days. Supporting shipper(s): U.S. Pipe & Foundry Co., 3300 First Avenue North, Birmingham, AL 35202. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

MC 139078 (Sub-12TA), filed July 16, 1978. Applicant: MIDCOAST TRUCKING, 131 Beaverbrook Road, Lincoln

an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gentech Industries,

New Castle, IN, to points in CA, CO, ID, IA, KS, MO, NE, OK, OR, UT, and WA, under a continuing contract, or

at or near Ridgeway, VA, on the one hand, and, on the other, points in the United States (except AK and HI), for 180 days. Supporting shipper(s): The

to points in the United States, for 180 days. Supporting shipper(s): (1) Radford College, Radford, VA 23142. (2) Berean Baptist Church, Salem, VA

the Commission on or before October 18, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the

MC 139078 (Sub-12TA), filed July 16, 1978. Applicant: MIDCOAST TRUCKING, 131 Beaverbrook Road, Lincoln Park, NJ 07035. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Empty plastic containers*, from the facilities of Hedwin Corp., in or near Spartanburg, SC to Dallas, TX, and Cincinnati, OH, under a continuing contract, or contracts, with Hedwin Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hedwin Corp., P.O. Box 932, Spartanburg, SC 29304. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 142207 (Sub-20TA), filed July 14, 1978. Applicant: GULF COAST TRUCK SERVICES, INC., P.O. Box 29487, Chef Menteur Highway 7, New Orleans, LA 70189. Representative: Bruce E. Mitchell, Serby & Mitchell, Fifth Floor, Lenox Towers I, 3390 Peachtree Road, Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, iron and steel articles, and nonferrous metals*, from New Orleans, LA, to points in LA, MS, AL, FL, KY, NC, AR, TN, MO, SC, OH, IN, IL, MI, WI, and MN, for 180 days. Supporting shipper(s): (1) Alltransport, Inc., 1318 International Trademart Tower, New Orleans, LA 70130; (2) Schenkers International Forwarders, Inc., 1408 ITM Building, New Orleans, LA 70130; (3) Quast & Co., Inc., Suite 1012 Lykes Center, 300 Poydras Street, New Orleans, LA 70130; (4) M. G. Maher & Co., Inc., 442 Canal Street, New Orleans, LA 70130. Send protests to: Connie A. Guillory, District Supervisor, Interstate Commerce Commission, Bureau of Operations, T-9038, U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

MC 142516 (Sub-13TA), filed July 17, 1978. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sealing tape*, from Linden, NJ, to Chicago, IL; St. Louis, MO; Kansas City, KS; Detroit, MI; Kalamazoo, MI; Atlanta, GA; Covington, GA; Massillon, OH; Pittsburgh, PA; Charlotte, NC; Cincinnati, OH, under a continuing contract, or contracts, with Gentech Industries, Inc., Linden, NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gentech Industries, Inc., 531 Stiles Street, Linden, NJ. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 142516 (Sub-15TA), filed July 17, 1978. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Overhead door hardware and equipment, materials, and supplies*, used in the manufacture and sale of overhead door hardware (except commodities in bulk), between the facilities of J. G. Schmidt Co., Inc., Green Brook, NJ, on the one hand, and, on the other, points in OH, IL, MN, WA, OR, NC, OK, and TX, under a continuing contract, or contracts, with J. G. Schmidt Co., Inc., Green Brook, NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): J. G. Schmidt Co., Inc., 354 U.S. Highway 22, Green Brook, NJ 08812. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 143753 (Sub-2TA), filed July 14, 1978. Applicant: BOLES & FRANKLIN, INC., Route 2, Box 169, Weaverville, NC 28787. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal* (in bulk, in dump vehicles), from points in Bell and Whitley Counties, KY, to points in Roane County, TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Harbert Construction Corp., Route 6, Box 46, Pineville, KY 40977. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 143909 (Sub-4TA), filed July 14, 1978. Applicant: KIRBY TRANSPORT, INC., 6677 North Northwest Highway, Chicago, IL 60631. Representative: Stuart R. Mandel, Mandel & Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron or steel blanks, steel laminations, steel plates, iron or steel plates, strip steel, metal alloys, and nickel-iron chromium alloys, plate, sheet, or strip*, from West Leechburg, Brackenridge, Bagdad, and Coatesville, PA; Wallingford, CT; and New Castle, IN, to points in CA, CO, ID, IA, KS, MO, NE, OK, OR, UT, and WA, under a continuing contract, or contracts, with Allegheny Ludlum Steel Corp., for 180 days. Supporting shipper(s): Chester A. Smith, Supervisor of Transportation Services, Allegheny Ludlum Steel Corp., P.O. Box 565, West Leechburg, PA 15656. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 145007 (Sub-1TA), filed July 17, 1978. Applicant: EARL GAUDIO, ANTON GAUDIO, CHARLES GAUDIO & JOSEPH GAUDIO, d.b.a. GAUDIO TRUCK FUND, 502 South First, Benld, IL 62009. Representative: Joseph Gaudio (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages in bottles, cans and draft cooperate*, from St. Louis, MO, to Benld, IL, under a continuing contract, or contracts, with Hebenstreit Distribution, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): G. Hebenstreit, Owner, Hebenstreit Distribution, 103 North Second Street, Benld, IL 62009. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 145023, filed July 11, 1978. Applicant: C. O. BRUCE & SON, INC., Route 1, Blum, TX 76627. Representative: Billy R. Reid, P.O. Box 9093, Fort Worth, TX 76107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lactic acid*, in bulk, in tank vehicles, from Texas City, TX, to Grandview, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Patco Products, P.O. Box 167, Grandview, MO 64030. Send protests to: Robert J. Kirspel, District Supervisor, Room A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 145032 (Sub-1TA), filed July 14, 1978. Applicant: NATIONAL TRANSPORTATION SERVICES, INC., P.O. Box 3291, Lubbock, TX 79410. Representative: Wilmer B. Hill, Suite 805, 666 11th Street, NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New and used trailers, trailer chassis, and containers* (except those designed to be drawn by passenger automobiles), in truckaway service, and (2) *parts* for the commodities named in (1) above, between the facilities of The Budd Co., Trailer Division, at or near Ridgeway, VA, on the one hand, and, on the other, points in the United States (except AK and HI), for 180 days. Supporting shipper(s): The Budd Co./Trailer Division, Route 100, Downingtown, PA 19335. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206 Federal Building, Amarillo, TX 79101.

MC 145068 (Sub-1TA), filed July 14, 1978. Applicant: D.O.T. TRUCKING, INC., Suite 320, 104 West Marlin, McPherson, KS 67460. Representative: Clyde N. Christey, Suite 110L, 1010 Tyler, Topeka, KS 66612. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Polyurethane foam*, from Newton, KS, and Council Bluffs, IA, to points in CO, MO, OK, and TX, and also between Newton, KS, and Council Bluffs, IA, under a continuing contract, or contracts, with Future Foam, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Future Foam, Inc., P.O. Box 1017, Downtown Station, Omaha, NE 68101. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 145159TA, filed July 13, 1978. Applicant: FREDERICK M. MacPHERSON, d.b.a. RUMAC TRANSPORTATION, 29 Millpond, North Andover, MA 01884. Representative: James F. Martin, Jr., 8 West Morse Road, Bellingham, MA 02019. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from South Volney, NY, to Danvers, MA, restricted to shipments destined to the facilities of the Merrimack Valley Distributing Co., and under a continuing contract, or contracts, with Middlesex Valley Distributing Co., for 180 days. Supporting shipper(s): Middlesex Valley Distributing Co., 50 Prince Street, Danvers, MA 01923. Send protests to: Max Gorenstein District Supervisor, Bureau of Operations, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 121564 (Sub-3TA) filed July 17, 1978. Applicant: ABBOTT BUS LINES, INC., 1703 Granby Street, Roanoke, VA 24012. Representative: Fred W. Abbott, 1703 Granby Street, Roanoke, VA 24012. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in round trip charter operations beginning and ending at points within the Virginia Counties of Roanoke and Montgomery, and extending to points in the United States, for 180 days. Supporting shipper(s): (1) Radford College, Radford, VA 23142. (2) Berean Baptist Church, Salem, VA 24153. (3) Duke and Earls, Inc., 1501 Gilmer Avenue NW, Roanoke, VA 24017. (4) K. R. Hopkins Travel, Inc., 9 West Kirk Avenue, Roanoke, VA 24011. Send protests to: Interstate Commerce Commission, P.O. Box 210, Roanoke, Va 24011.

MC 145090, filed July 11, 1978. Applicant: DENVA E. BOWEN JR. & BILLY J. McDANIEL, d.b.a. B & M SERVICE CO., 1520 Rebecca Drive, Chattanooga, TN 37412. Representative: Denva E. Bowen Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *passengers and their baggage* in the same vehicle with passengers between Chattanooga, TN and Hollywood, AL serving all intermediate points from Chattanooga, TN over I-24 to Haletown exit and junction with U.S. 41 and travel U.S. 41 to U.S. 72 junction, thence over U.S. 72 to Hollywood, AL and return over the same route, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 32 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C. or copies thereof which may be examined at the filed office named below. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-26189 Filed 9-15-78; 8:45 am]

[7035-01]

[Notice No. 106]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before October 18, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s) or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-77729, filed June 30, 1978. Transferee: THREE L CORP., P.O. Box 3, Tama, IA 52339. Transferor: C. E. Hornback, Inc., Second and Siegel, Tama, IA 52339. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in permit MC 105463 (Sub-8), issued March 9, 1973, as follows: Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses, as described, from the facilities of Tama Meat Packing Corp. at Tama, IA, to points in IL, IN, KS, MI, MN, MO, NE, OH, SD, and WI. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

MC-FC-77741, filed June 22, 1978. Transferee: BREMERTON TRANSFER & STORAGE CO., LTD., 221 Bruenn Avenue, Bremerton, WA 90310. Transferor: Bremerton Transfer & Storage Co., Inc., 221 Bruenn Avenue, Bremerton, WA 98310. Representative: George H. Hart, Attorney at Law, 1100 IBM Building, Seattle, WA 98101. Authority sought for purchase by transferee of the operating rights of transferor as set forth in certificate MC 133075 (Sub-1), issued November 3, 1969, as follows: Used household goods, between points in Kitsap, Mason, Pierce, Jefferson, and Grays Harbor Counties, WA, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and con-

tainerization, or unpacking, uncrating, and decontainerization of such traffic. Transferee presently holds no authori-

blood, bonemeal, and alfalfa leaf or meal, from points in that part of MN south of and including Traverse, Ste-

gers and their baggage, and express and newspapers in the same vehicle with passengers, between Leaven-

porary authority under section 210a(b).

H. G. Homme, Jr.,

tinsville, Parkersburg, Huntingdon, and Charleston, WV, on the Ohio River and its tributaries, and passen-

with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof; *earth*

tainerization, or unpacking, uncrating, and decontainerization of such traffic. Transferee presently holds no authority from this Commission. Temporary authority was granted July 11, 1978, under section 210a(b).

MC-FC-77752, filed July 19, 1978. Transferee: L. PARKS, INC., 131 Hubbard Street, Ludlow, MA 01056. Transferor: Robert A. Sweeney, d.b.a. Yankee Motor Lines, 246 Cottage Street, Springfield, MA 01104. Representative: Patrick A. Doyle, Attorney, 60 Robbins Road, Springfield, MA 01104. Authority sought for purchase by transferee of the operating rights of transferor as set forth in certificate of registration MC 120902 (Sub-1) issued January 22, 1964, as follows: General commodities anywhere within the Commonwealth. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77792, filed July 30, 1978. Transferee: MELVIN C. SAUCIER, d.b.a. SAUCIER TRUCKING, Rural Route 2, Box 8, Canton, MO 63248. Tranferor: Carl H. Laeding, Box 96, Lima, IL 63248. Representative: Robert T. Lawley, Attorney at Law, 300 Reisch Building, Springfield, IL 62701. Authority sought for purchase by transferee of the operating rights of transferor as set forth in permit MC 28180 issued August 28, 1972, as follows: Feed, feeding troughs, animal dip, dry-earth paint, and premium articles, from Quincy, IL, to points in that part of MN south of and including the counties of Lac Qui Parle, Swift, Kandiyohi, Meeker, Wright, Sherburne, and Anoka. Restriction: The transportation service authorized must be performed under such contracts or agreements with persons (as defined in section 203(2) of the Interstate Commerce Act) who operate feed and seed business houses, the business of which is the sale of feed and seed; such general merchandise as is dealt in by feed and seed houses, between Minneapolis, MN, on the one hand, and, on the other, points in IA; dried buttermilk and dried skim milk (for animal food), from points in MN to Quincy, IL, and points in IA; seed corn, from Waterville, MN, to points in that part of IA on and north of U.S. Hwy 20; animal and poultry feed, animal and poultry tonics and medicines, feeding troughs, animal dip, dry-earth paint, premium articles, animal and poultry mineral mixtures, insecticides, and advertising matter, from Quincy, IL to points in that part of MN south of and including Traverse, Stevens, Pope, Stearns, Benton, Mille Lacs, Isanti, and Chisago Counties, MN; and grain, mill feeds, soybeans, bean meal, tankage, meat scraps, dried blood, bonemeal, and alfalfa leaf or meal, from points in that part of MN south of and including Traverse, Stevens, Pope, Stearns, Benton, Mille Lacs, Isanti, and Chisago Counties, MN, to Quincy, IL; fertilizer, in bulk, from Winona, MN, to points in IA and WI within 125 miles of Winona, MN, other than incorporated municipalities; animal and poultry feed, animal and poultry tonics and medicines, feed troughs, animal dip, dry-earth paint, animal and poultry mineral mixtures, insecticides, and premiums and advertising matter used in connection with the above-specified commodities, from Quincy, IL, to points in that part of MN north of Traverse, Stevens, Pope, Stearns, Benton, Mille Lacs, Isanti, and Chisago Counties, MN; and returned, damaged and defective shipments of the above commodities; and grain, mill feeds, soybeans, bean meal, tankage, meat scraps, dried blood, bonemeal, and alfalfa meal, from the next above-specified destination points in MN to Quincy, IL. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77803, filed August 3, 1978. Transferee: PAUL JONES, INC., 941 Fairmont Street, P.O. Box 24, Elizabeth, NJ 07206. Transferor: Jefmor Trucking Co., Inc., 941 Fairmont Avenue, P.O. Box 24, Elizabeth, NJ 07206. Representative: Robert B. Pepper, Registered Practitioner, 168 Woodbridge Avenue, Highland Park, NJ 08904. Authority is sought for purchase by transferee of the operating rights of transferor as set forth in permit MC 133660 issued October 1, 1970, as follows: Paint, and materials, equipment, and supplies used in the manufacture or sale of paint, except commodities in bulk, between New York, NY, and Yonkers, NY, on the one hand, and, on the other, points in the United States (except AK and HI), limited to a transportation service to be performed, under contract with Proctor Paint & Varnish Co., Inc., of Yonkers, NY. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77817, filed August 11, 1978. Transferee: KINCAID COACH LINES, INC., 5639 Merriam Drive, Merriam, KS 66203. Transferor: Easton Bus Service, Inc., Easton, KS 66020. Representative: Frank W. Taylor, Jr., Attorney at Law, 1221 Baltimore Avenue, Suite 600, Kansas City, MO 64105. Authority sought for purchase by transferee of a portion of the operating right of transferor, as set forth in certificate MC 112559 (Sub-1), issued June 1, 1971, as follows: Passengers and their baggage, and express and newspapers in the same vehicle with passengers, between Leavenworth, KS, and Kansas City, MO, serving all intermediate points: From Leavenworth over U.S. Hwy 73 (formerly U.S. Hwy 73E), to Lansing, KS, then over an unnumbered hwy to junction KS Hwy 5, then over KS Hwy 5 to junction unnumbered hwy known as Smith Road, then over Smith Road to junction U.S. Hwy 40, then over U.S. Hwy 40 to Kansas City, KS, and then over city streets to Kansas City, MO, and return over the same route. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77818, filed August 10, 1978. Transferee: V. VAN DYKE, d.b.a. VAN DYKE TRUCK LINES, 150 South River Street, Seattle, WA 98108. Transferor: Jovan, Inc., 1344 Dexter Horton Building, Seattle, WA 98104. Representative: V. Van Dyke (address same as above). Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificate MC 142316, issued June 23, 1977, as follows: Machinery, mining equipment, mining supplies, mine ores (except coal, and building materials), between points in that part of MT on and east of a line beginning at Monida Pass, MT, and extending northerly to the international boundary line between the United States and Canada, near Babb, MT, on the one hand, and, on the other, points in MT, ID, OR, and WA; building materials, between points in OR, WA, ID, and that part of MT west of a line extending in a northerly direction from Monida Pass, MT, to the international boundary line between the United States and Canada near Piegan, MT. Transferee is presently authorized to operate as a common carrier under certificate MC 114730. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77824, filed August 24, 1978. Transferee: UNITED OIL OF MAGIC VALLEY, INC., 1992 Kimberly Road, Twin Falls, ID 83301. Transferor: United Oil of Idaho, Inc., 1992 Kimberly Road, Twin Falls, ID 83301. Representatives: John R. Coleman, Attorney, P.O. Box 525, Twin Falls, ID 83301, and Raymond D. Givens, Attorney, P.O. Box 2720, Boise, ID 83701. Authority sought for purchase by transferee of the operating rights of transferor as set forth in certificate MC 140150 (Sub-2) issued July 18, 1975, as follows: Potato starch slurry, in bulk, from Ontario, OR, to Murtaugh, ID. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26191 Filed 9-15-78; 8:45 am]

[7035-01]

[Notice No. 169]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such services has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and willl provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

W-1218 (Sub-6TA). By order entered August 31, 1978, the Motor Carrier Board granted Gateway Clipper, Inc., Pittsburgh, PA, 180 day temporary authority to engage in the business of transportation by water vessel, in interstate commerce, in the transportation of passengers by self-propelled vessel, in charter and special operations, between Pittsburgh, Sewickley, Edgeworth, Leetsdale, Ambridge, Aliquippa, Monaca, Rochester, Beaver, and Midland, PA; East Liverpool, Steubenville, Belaire, Marietta, and Gallipolis, OH; and Wheeling, New Martinsville, Parkersburg, Huntingdon, and Charleston, WV, on the Ohio River and its tributaries, and passengers by self-propelled vessel, in special operations, between Pittsburgh, Brownsville, Monongahela, Charleroi, and Point Marion, PA, and Morgantown and Fairmont, WV, on the Monongahela River. William A. Gray, Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219, for applicant. Any interested person may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

MC 95920 (Sub-48TA), filed May 26, 1978. Applicant: SANTRY TRUCKING CO., 11552 Southwest, Pacific Highway, Portland, OR 97223. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. By order of September 5, 1978, the Motor Carrier Board granted authority to applicant to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and supplies, materials, and equipment* used in the manufacture of malt beverages, (except commodities in bulk), from St. Paul, MN to points in FL, GA, KY, TN, NM and TX: and (2) *Supplies, materials, and equipment* used in the manufacture of malt beverages, from the destinations named in (1) above to St. Paul, MN under a continuing contract, or contracts with Olympia Brewing Co. Notice of this application in the FEDERAL REGISTER on July 3, 1978, inadvertently showed points in MN in lieu of NM. Insofar as authority to serve to and from points in NM is concerned, interested parties may file petitions for reconsideration on or before 15 calendar days from the date of publication of this notice. Send petitions to: Acting Secretary, Interstate Commerce Commission, Washington, DC 20423.

MC 119176 (Sub-18TA), filed December 13, 1977. Applicant: THE SQUAW TRANSIT CO., P.O. Box 9368, Tulsa, OK 74107. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. By order of June 13, 1978, a majority of the Commission, acting on applicant's petition, granted authority to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof; *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells; between points in DE, MD, NJ, NY, RI, and VA on the one hand, and, on the other, points in the United States, including AK, but excluding HI. This grant of authority is broader than that noticed in the FEDERAL REGISTER on January 20, 1978, which showed applicant requested authority to transport these commodities between points in OK, TX, LA, KS, AR, NM, and CO on the one hand, and, on the other, points in ME, NH, VT, CT, RI, MA, NY, NJ, PA, MD, DE, VA, WV, NC, and SC. Send petitions for reconsideration to: The Acting Secretary, Interstate Commerce Commission, Washington, DC 20423 on or before October 18, 1978.

H.G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26193 Filed 9-15-78; 8:45 am]

[7035-01]

[Notice No. 107]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 18, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR Part 1132:

MC-FC 77504. By application filed August 30, 1978, COLE FREIGHT CO., 5445 West 137th Place, Crestwood, IL 60445, seeks temporary authority to transfer a portion of the operating rights of FISCHBACH TRUCKING CO., 921 Sherman Street, Akron, OH 44311, under section 210a(b). The transfer to COLE FREIGHT CO., of a portion of the operating rights of FISCHBACK TRUCKING CO., is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26192 Filed 9-15-78; 8:45 am]

sunshine act meetings

operation was not unlawful (Memo 8131 OGC).

STATUS: Open.

77-84. The staff has recommended that the Commission accept the corrective action plan which Crosman has implemented to deal with a possible defect in certain carbon

standard. At this meeting, the Commission will consider the final version of the proposed amendment.

9. Final rule to exempt certain ink car-

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1-3
Consumer Product Safety Commission	4
Equal Employment Opportunity Commission	5
Federal Energy Regulatory Commission	6
Federal Home Loan Mortgage Corporation	7
Federal Maritime Commission	8
Federal Trade Commission	9, 10
Interstate Commerce Commission	11
Securities and Exchange Commission	12

[6320-01]

1

[M-162, Amdt. 1; Sept. 8, 1978]

CIVIL AERONAUTICS BOARD.

Notice of deletion and addition of item to the September 13, 1978, agenda.

DATE AND TIME: 10 a.m., September 13, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

Delete: 9. Docket 32260, TWA's motion for expedited hearing on St. Louis/Kansas City-Los Angeles-Honolulu authority Docket 32384, Northwest's application for removal of Los Angeles/San Francisco-Honolulu long-haul restriction; Docket 32291, American's application for Los Angeles/San Francisco-Honolulu authority with St. Louis long-haul requirement (Memo 8161, BPDA, ALJ, OGC).

Add: 10a. Docket 30255, Trans-Mediterranean Airways, S.A.L., Foreign Air Carrier Permit, Petition for reconsideration of Order 78-5-67 (granting a renewed and amended permit) requesting deletion of two conditions as inconsistent with the outstanding bilateral agreement (OGC, BIA).

STATUS: OPEN.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Item 9 is being deleted from the September 13, 1978, agenda in order for the staff to have additional time to reconsider its recommendation in the subject memo. The OGC attorney working on item 10a was not informed that the Board's meeting for the week of September 11 would be on Wednesday September 13, 1978, not Thursday September 14, 1978. The staff work was completed on Thursday September 7 and the public target is September 15, 1978. So that the Board can consider this in a timely fashion the following Members have voted that agency business requires the addition of item 10a to the September 13, 1978, agenda and item 9 be deleted from the agenda and that no earlier announcement of these changes was possible:

For deleting item 9—Chairman, Alfred E. Kahn; Member, Richard J. O'Melia; and Member, Elizabeth E. Bailey.
For adding item 10a.—Chairman, Alfred E. Kahn; Member, Richard J. O'Melia (disapproves); and Member, Elizabeth E. Bailey.

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the Federal Register for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-1879-78 Filed 9-14-78; 10:22 am]

[6320-01]

2

[M-162, Amdt. 2; Sept. 12, 1978]

CIVIL AERONAUTICS BOARD.

Notice of addition of items to the September 13, 1978, agenda.

TIME AND DATE: 10 a.m., September 13, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

10b. Docket 33019, Chicago-Midway Expanded Service Proceeding; Order on reconsideration (Memo 7908-F, OGC).

10c. Docket 32786, Philadelphia-Bermuda Nonstop Proceeding, to consider opinion and order prepared in accordance with the instructions of two Board Members.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Docket 33019, Chicago-Midway Expanded Service Proceeding, is a high-priority case which the Board wants to complete as soon as possible. The prehearing conference is scheduled for September 26, and, because the draft order proposes expansion of the case, the parties must have time to file additional pleadings before the prehearing conference. Docket 32786, Philadelphia-Bermuda Nonstop Proceeding was to be acted upon by notation. However, the Board has reconsidered and determined that, since the instructions were given to the staff by two Members in a non-Sunshine session, the decision will receive no public discussion unless the draft opinion and order are acted upon in open meeting. The item must be considered at the September 13 meeting if the Board is to meet its previously announced target date for decision (September 14, 1978). Accordingly, the following Members have voted that agency business requires the addition of these two items and that no earlier announcement of this change was possible:

For adding item 10b—Chairman, Alfred E. Kahn; Member, Richard J. O'Melia (disapproves); and Member, Elizabeth E. Bailey.
For adding item 10c—Chairman, Alfred E. Kahn; Member, Richard J. O'Melia; and Member, Elizabeth E. Bailey.

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the Federal Register for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-1880-78 Filed 9-14-78; 10:22 am]

[6320-01]

3

[M-162, Amdt. 3; Sept. 12, 1978]

CIVIL AERONAUTICS BOARD.

Notice of deletion of items from the September 13, 1978, agenda.

TIME AND DATE: 10 a.m., September 13, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

5. Docket 26291, Petition for immediate restoration of adequate air service for American Samoa (Memo 7651-C, BPDA, OCCR, BIA, OGC).

11. Docket 27831, *Foremost International Tours* v. *Qantas Airways*, Enforcement Proceeding. Petitions for review of an initial decision holding that Qantas' inclusive tour

operation was not unlawful (Memo 8131 OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The staff has requested that item 5 be deleted from the September 13, 1978, agenda. The staff expects to receive additional information and needs additional time to incorporate the new information. Item 11 is being deleted from the September 13 agenda because the staff has not been able to complete the additional analysis of the unfair competition issues previously requested by Members of the Board. Accordingly, the following Members have voted that agency business requires the deletion of items 5 and 11 and that no earlier announcement of these deletions was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the Federal Register for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-1881-78 Filed 9-14-78; 10:22 am]

[6355-01]

4

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: September 21, 1978; 9:30 a.m.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C. 20207.

STATUS: Partly open and partly closed.

MATTERS TO BE CONSIDERED: (See following copy of agenda.)

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Consumer Product Safety Commission, Suite 30, 1111 18th Street NW., Washington, D.C., 20207, 202-634-7700.

Commission meeting, Thursday, September 21, 1978, 9:30 a.m., third floor hearing room, 1111 18th Street NW., Washington, D.C.

AGENDA

A. Open to the public

1. *Recommendation to accept corrective action plan: Crosman Arms pellet pistol, ID 77-84.* The staff has recommended that the Commission accept the corrective action plan which Crosman has implemented to deal with a possible defect in certain carbon dioxide-powered 98 pistols it manufactures. Crosman has revised the design, and has modified the possibly defective pistols. The staff has also recommended that the Commission close this case, and not pursue a timeliness-of-reporting case.

2. *Recommendation to accept corrective action plan: Magnavox Consumer Electronics Co. color television, ID 78-93.* The staff has recommended that the Commission accept the corrective action plan which Magnavox has implemented to deal with a possible shock hazard in certain color television it manufactures. Magnavox has notified dealers, who will make the necessary repairs, and has modified its assembly-line procedures. The staff also recommended that the Commission not pursue a timeliness-of-reporting case.

3. *Recommendation to accept corrective action plan: Gould, Inc. and Airmaster Fan Co. fan motors, ID 78-23.* The staff has recommended that the Commission accept the corrective action plan in this case involving possibly defective insulation in fan motors which Gould manufactures for Airmaster, Gould is notifying customers, and replacing the switch. The staff also recommended that the Commission not pursue a timeliness-of-reporting case.

4. *Recommendation to close possible substantial product hazard case: Airosol Co. engine starting fluid, ID 78-24.* Based on its belief that possibly leaking spray cans manufactured in the fall of 1977 no longer expose consumers to a substantial risk of injury, the staff has recommended that the Commission close this case, and not pursue a timelines-of-reporting case.

5. *Recommendation to close possible substantial product hazard case: Williams Furnace Co. gas wall furnace, ID 78-45.* Based on its belief that these furnaces do not pose a substantial risk of injury to consumers, the staff has recommended that the Commission close this case, and not pursue a timeliness-of-reporting case.

6. *Amendment to toy regulation concerning power cords.* The Commission will consider amendments to 16 CFR Part 1605, Requirements for Electrically-Operated Toys or Other Electrically-Operated Articles Intended for Use by Children. The amendments would specify the minimum size of power cords for electrically-operated toys, and would allow the use of several types of cords for educational and hobby-type products. The Commission previously considered this matter by ballot vote, but did not reach a decision.

7. *Final amendment to the safety standard for architectural glazing materials: Test equipment and procedures.* In October, 1977, the Commission proposed to amend the glazing standard to change the requirements for xenon-arc weathering and also proposed several minor technical amendments to clarify the standard's intent. At this meeting, the Commission will consider the final version of those amendments.

8. *Final amendment to the safety standard for architectural glazing materials: Decorative glazing materials.* In March 1978, the Commission proposed to amend the glazing standard to enlarge the category of decorative glazing materials exempted from the standard. At this meeting, the Commission will consider the final version of the proposed amendment.

9. *Final rule to exempt certain ink cartridges from labeling requirements.* In response to a petition from the Parker Pen Co. (HP 77-4), the Commission, in November 1977 proposed to exempt certain rigid or semi-rigid ink cartridges from labeling requirements of the Federal Hazardous Substances Act. At this meeting, the Commission will consider this proposed exemption. The staff and Commission discussed this matter at the September 13 briefing.

B. Closed to the public

10. *Recommendation to close possible substantial product hazard case: Chance Manufacturing Co. "Yo Yo" amusement ride, ID 78-4.* The staff has recommended that the Commission close this possible substantial product hazard case, and take other enforcement action.

[S-1884-78 Filed 9-14-78; 3:02 pm]

[6570-06]

5

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1823 and 1860-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Wednesday, September 13, 1978.

CHANGE IN THE MEETING: The following item was added to the portion closed to the public: Discussion of Litigation Strategy.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commisson required this change and that no earlier announcement was possible.

In favor of change.—Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; and Ethel Bent Walsh, Commissioner.
Opposed.—None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued September 13, 1978.

[S-1883-78 Filed 9-14-78; 3:02 pm]

[6740-02]

6

SEPTEMBER 14, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 3 p.m., September 14, 1978.

STATUS: Open.

MATTERS TO BE CONSIDERED: Informational budget briefing to the Commission.

(1) Consideration of Proposed Rule and Staff Report on Standards and Certifications.

[S-1864-78 Filed 9-13-78; 10:29 am]

Bureau of Operations.—Joel Burns, Robert Turkington, Richard Shullaw, John Michael, and William Sibbald.
Bureau of Accounts.—James Thomas, Ronald Young, and Richard Berman.

MONDAY, SEPTEMBER 18, 1978
PART II

STATUS: Open.

MATTERS TO BE CONSIDERED: Informational budget briefing to the Commission.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

[S-1887-78 Filed 9-14-78; 3:02 pm]

[6720-02]

7

FEDERAL HOME LOAN MORTGAGE CORPORATION.

TIME AND DATE: 9:30 a.m., September 22, 1978.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Henry Judy, 202-789-4734.

MATTERS TO BE CONSIDERED: Consideration of report on multifamily loans.

No. 184, September 14, 1978.

RONALD A. SNIDER,
Assistant Secretary.

[S-1888-78 Filed 9-14-78; 3:45 pm]

[6730-01]

8

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., September 15, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTER TO BE CONSIDERED: 1. Conditions unfavorable to shipping in the United States/Ecuador trade—Section 19, Merchant Marine Act, 1920.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Assistant Secretary, 202-523-5725.

[S-1882-78 Filed 9-14-78; 10:22 am]

[6750-01]

9

FEDERAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 38991, August 31, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, September 13, 1978.

CHANGES IN THE AGENDA: The Federal Trade Commission has deleted an item from the agenda of its previously announced open meeting of September 13, 1978:

(1) Consideration of Proposed Rule and Staff Report on Standards and Certifications.

[S-1864-78 Filed 9-13-78; 10:29 am]

[6750-01]

10

FEDERAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 38991, August 31, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, September 13, 1978.

CHANGES IN THE AGENDA: The Federal Trade Commission has added an item to the agenda of its previously announced open meeting of September 13, 1978:

(4) Request of Business and Institutional Furniture Manufacturers Association for an Advisory Opinion on the Use of a Mathematical Model to Forecast Industry-wide Furniture Shipment.

[S-1865-78 Filed 9-13-78; 10:29 am]

[7035-01]

11

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 2 p.m., Tuesday, September 19, 1978.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C. 20423.

STATUS: Closed Special Conference (in lieu of Open Special Conference previously scheduled).

A majority of the Commission (Commissioner Clapp was absent and did not participate) voted to close this conference because it is likely to disclose information which if written would be contained in investigatory records compiled for law enforcement purposes, the production of which would interfere with enforcement proceedings, deprive a person of a right to a fair trial, and disclose investigative techniques and procedures, within the meaning of 5 U.S.C. 552(c)(7) (A), (B), and (E). The General Counsel has issued his certificate accordingly.

In addition to the Commission, the following will be in attendance:

Managing Director's Office.—Pierce Quinlan, William Redmond, Esther Friedman, John Kratzke, and Richard Mooers.

Commissioners' Offices.—John O'Brien, Richard Felder, Lucille Streeter, Lawrence Richmond, George Green, Daniel King, and Owen Katzman.

Bureau of Investigations and Enforcement.—Peter Shannon, Lewis Teeple, John Moseman, Clarence Jackson, Stanley Braverman, Joseph Teichert, Robert Gorin, and Raymond Mauk.

Bureau of Operations.—Joel Burns, Robert Turkington, Richard Shullaw, John Michael, and William Sibbald.

Bureau of Accounts.—James Thomas, Ronald Young, and Richard Berman.

Rail Services Planning Office.—Alan Fitzwater.

Office of Communications.—Douglas Baldwin and Emily Stover.

MATTERS TO BE CONSIDERED: Review of compliance program: Report on current investigations and prosecutions, including relationship of headquarters and field.

CONTACT:

Office of Communications, telephone 202-275-7252.

[S-1889-78 Filed 9-14-78; 3:55 pm]

[8010-01]

12

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 40351, September 6, 1978.

STATUS: Open meeting and closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Thursday, September 14, 1978.

CHANGES IN THE MEETING: The following additional item will be considered at an open meeting on Thursday, September 14, 1978, at 10 a.m.:

Consideration of whether or not the Commission should extend the period for receipt of public comments on rules relating to shareholder communications, shareholder participation in the corporate electoral process and corporate governance generally, announced in Securities Exchange Act Release No. 14970. For further information, please contact Barbara Leventhal at 202-755-1750.

The following additional items will be considered at a closed meeting, immediately following the 10 a.m. open meeting, on Thursday, September 14, 1978:

Regulatory matter bearing enforcement implications.

Settlement of injunctive action.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) 17 CFR 200.402(a) (8), (9)(i), and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required consideration of these matters and that no earlier notice thereof was possible.

SEPTEMBER 14, 1978.

[S-1885-78 Filed 9-14-78; 3:02 pm]

federal register

MONDAY, SEPTEMBER 18, 1978
PART II

ENVIRONMENTAL PROTECTION AGENCY

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Federal Certification Test Results for 1978 Model Year

[6560-01]

ENVIRONMENTAL PROTECTION

mi) of hydrocarbons, 15 g/mi of carbon monoxide, and 2.0 g/mi of oxides of nitrogen from the tailpipe.

before the Administrator will grant a certificate of conformity.

Prior to production, light-duty vehi-

The Federal emission test procedure for light-duty vehicles and light-duty trucks is designed to simulate two average trips of 7.5 miles in an urban

fueled heavy-duty engines and durability diesel heavy-duty engines accumulate 1,500 and 1,000 hours of service, respectively. Heavy-duty engines are

betically by manufacturer. The formats of these reports are self-explanatory and require no further comment.

The following light-duty vehicle and

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 968-4]

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Federal Certification Test Results for 1978 Model Year

Section 206(e) of the Clean Air Act, as amended August 1977 (42 U.S.C. 7525), directs the Administrator of the Environmental Protection Agency to announce in the FEDERAL REGISTER the results of certification tests conducted on new motor vehicles and new motor vehicle engines to determine conformity with Federal standards for the control of air pollution caused by motor vehicles.

FEDERAL EMISSION STANDARDS

The regultions that apply to the control of emissions from 1978 model year vehicles, appearing at 40 CFR Part 86, set maximum allowable emission levels for new gasoline-fueled and diesel heavy-duty engines (for use in onhighway trucks and buses), motorcycles, gasoline-fueled and diesel light-duty vehicles (passenger cars), and gasoline-fueled and diesel light-duty trucks.

Heavy-duty engines are required to meet emission standards of 16 grams per brake-horsepower hour (g/bhp-hr) for hydrocarbons (unburned gasoline) plus oxides of nitrogen (measured as NO_x) and 40 g/bhp-hr for carbon monoxide (a poisonous gas). In addition, diesel heavy-duty engines must meet Federal smoke emission standards of 20 percent opacity during acceleration, 15 percent opacity during lugging, and 50 percent opacity during the peaks in either the acceleration or lugging mode. The opacity standards limit the darkness of the exhaust smoke to a light gray haze.

Motorcycles with engine displacements of 50 to 169 cc (class I) are required to meet a hydrocarbon emissions standard of 5 grams per kilometer (5 g/km or 8 g/mi); those with engine displacements of 170 to 750 cc (class II) must meet a standard which falls between 5 and 14 g/km (8 and 22.5 g/mi), the exact level value varying directly with engine displacement; those with engines displacements above 750cc (class III) are required to meet a standard of 14 g/km (22.5 g/mi), the carbon monoxide standard is 17 g/km (27.4 g/mi) for all motorcycles. There is no motorcycle standard for oxides of nitrogen.

Federal exhaust emission standards allow 1978 model year gasoline-fueled and diesel light-duty vehicles to emit no more than 1.5 grams per mile (g/mi) of hydrocarbons, 15 g/mi of carbon monoxide, and 2.0 g/mi of oxides of nitrogen from the tailpipe. Light-duty trucks (less than 6,000 pounds gross vehicle weight) are allowed to emit no more than 2.0 g/mi of hydrocarbons, 20 g/mi of carbon monoxide, and 3.1 g/mi of oxides of nitrogen. The standards for gasoline-fueled vehicles prohibit all crankcase emissions and limit the loss of gasoline by evaporation from the carburetor and fuel tank to no more than 6.0 grams per test.

Prior to the enactment of the August 1977 Clean Air Act Amendments, light-duty vehicles and light-duty trucks intended for sale at altitudes above 4,000 feet were required to demonstrate compliance with emission standards when operated at elevated altitudes. Certain vehicles were consequently tested at high altitude (one test required per engine family). Because the Clean Air Act Amendments now permit all certified light-duty vehicles to be sold at either low or high altitudes, it is no longer possible (or appropriate) to distinguish carlines certified for sale above 4,000 feet. Since the bulk of high-altitude testing was completed prior to the amendments' passage, however, the attached light-duty vehicle and truck report designates those vehicles tested at altitudes above 4,000 feet with an asterisk (*) preceding the model name.

The State of California exhaust emission standards (established under a waiver granted under section 209 of the Clean Air Act) allow 1978 model year gasoline-fueled light-duty vehicles to emit no more than 0.41 g/mi of hydrocarbons, 9 g/mi of carbon monoxide, and 1.5 g/mi of oxides. Gasoline-fueled light-duty trucks must emit no more than 0.9 g/mi of hydrocarbons, 17 g/mi of carbon monoxide, and 2.0 g/mi of oxides of nitrogen. The EPA does not require that a vehicle meet the stricter California standards in order to obtain Federal certification. The test vehicles and carlines that are designed to meet the California standards are identified in the light-duty listing below by a "C" preceding the model name.

FEDERAL CERTIFICATION PROCEDURES

Under the provisions of the Clean Air Act, it is unlawful to offer for sale new motor vehicles or engines which are not in conformity with Federal regulations. Prior to the beginning of each model year, automobile, motorcycle, and heavy-duty engine manufactures apply to the Administrator of the Environmental Protection Agency for a certificate of conformity for each model they wish to produce for that model year. The Federal regulations prescribe a number of requirements which a manufacturer must meet before the Administrator will grant a certificate of conformity.

Prior to production, light-duty vehicle manufacturers are required to provide the Administrator with extensive test data demonstrating the effectiveness and durability of the emission control systems over the useful life of the vehicles (50,000 miles). The data are collected from prototype test vehicles that are selected and tested in accordance with EPA regulations. In addition to the submission of test data on prototype test vehicles, the manufacturers are required to deliver certain test vehicles to the Motor Vehicle Emissions Laboratory at Ann Arbor, Mich. At this facility, the vehicles are retested to assure conformity with the regulations.

The process of selecting vehicles for testing reflects EPA's prior classification of a manufacturer's product line into "engine families"—groups of engines expected to have similar emission characteristics throughout their useful life—and "evaporative emission families"—groups of vehicles which are expected to have similar evaporative emission characteristics throughout their useful life. Vehicles associated with each engine family are divided into two separate fleets. The emission-data fleet vehicles are tested after the accumulation of 4,000 miles. The purpose of the emission-data fleet is to determine the stabilized exhaust emission levels of new motor vehicles. The second fleet, known as the durability-data fleet, is made up of prototype vehicles which are driven for 50,000 miles and tested every 5,000 miles. The durability-data fleet is tested in order to establish "deterioration factors" which are adjustments that account for the decrease in an exhaust emission control system's efficacy over its expected useful life. (Evaporative emission families are also represented by emission-data fleets, but not by durability-data fleets; evaporative emission deterioration factors may instead be derived from a variety of procedures, including bench testing or multivehicle comparison, as well as testing a single vehicle which has run for 50,000 miles.)

Once test data results are obtained from the emission-data vehicles, the emission levels are adjusted by the deterioration factors, in accordance with the procedures specified in the regulations, to determine whether the emission-data vehicle would be in compliance with emission standards over the expected useful life of the vehicle. If all the motor vehicles in an engine family/evaporative emission family combination so tested are found to conform with the regulations, the manufacturer is granted a certificate of conformity.

The Federal emission test procedure for light-duty vehicles and light-duty trucks is designed to simulate two average trips of 7.5 miles in an urban area. The vehicle is operated on a chassis dynamometer through a specified driving schedule. The first trip begins with a cold engine startup, and the second trip begins with a hot engine startup. There is a 10-minute interval between trips. The cold operation trip is weighted 43 percent and the hot operation trip 57 percent to reflect the fact that two of the 4.6 trips made by the average vehicle each day are begun from a cold start. Throughout these tests all emissions through the exhaust pipe are collected and the levels of hydrocarbons, carbon monoxide, and oxides of nitrogen are measured. A vehicle tested for evaporative emissions is placed in a sealed chamber for 1 hour prior to the cold engine startup and 1 hour immediately after the hot engine operation trip. During these periods hydrocarbon emissions attributable to gasoline evaporation are collected and measured.

The motorcycle testing procedure resembles the light-duty vehicle method in that the emissions test is designed to simulate a typical urban trip involving both a hot and cold engine startup, but a single certification vehicle is used to provide both durability and emission data. Each motorcycle is tested at least four times to obtain data for calculation of a deterioration factor: Once at a designated minimum distance (2,500 or 3,500 kilometers, depending on displacement class), once before and once following periodic maintenance, and once at the total test distance (6,000, 9,000, or 15,000 kilometers, depending on displacement class) estimated to represent half the useful life of the vehicle class. The same certification vehicle is then tested again to generate the emission-data results to which the deterioration factor is applied to obtain certification levels. Motorcycles are not tested for evaporative emissions.

The heavy-duty engine testing procedure, like the light-duty vehicle procedure, groups test engines into durability- and emission-data fleets. Instead of simulating a driving cycle, however, the heavy-duty exhaust test measures emissions collected at various engine loadings at two or three constant engine speeds (for gasoline-fueled engines, idle and 2,000 revolutions per minute; for diesel engines, idle, the speed setting corresponding to maximum horsepower, and the speed setting corresponding to maximum torque or 60 percent of the maximum horsepower setting, whichever is higher). Emission-data heavy-duty engines accumulate 125 hours of service on an engine dynamometer before the emission test, and durability gasoline-fueled heavy-duty engines and durability diesel heavy-duty engines accumulate 1,500 and 1,000 hours of service, respectively. Heavy-duty engines are not tested for evaporative emissions.

FEDERAL CERTIFICATION DATA

Listed below are the emission levels of each heavy-duty engine, motorcycle, light-duty vehicle, and light-duty truck which was tested as an emission-data vehicle or engine, as adjusted by the deterioration factors discussed above.

The vehicles and engines listed represent all of the models and configurations certified as of August 1, 1978.

The emission data listed below were obtained from the original emission-data vehicles and engines. In some cases, manufacturers have submitted requests to perform "running changes" on already certified configurations. EPA has authorized manufacturers to make such running changes if a review of the test data and technological information has shown that the proposed modifications do not cause the vehicles or engines to exceed the standards. The data listed below do not indicate the effect of running changes, except where a running change has added a new engine or carline to a previously certified family.

Fuel economy information is not included in this publication. Fuel economy information of 1978 cars and light trucks is available by writing for the EPA/Department of Energy "1978 Gas Mileage Guide" at: Fuel Economy, Pueblo, Colo. 81009. The "1978 Gas Mileage Guide" is also available at new-car dealer showrooms.

The various systems that comprise the test vehicles' exhaust emission control systems are listed individually. The following abbreviations will be used in the subsequent sections of this report:

Exhaust emission control systems:

AIR=air injection.
EGR=exhaust gas recirculation.
EM=engine modification.
FI=fuel injection.
OC=oxidation catalyst.
RC=reduction catalyst.
SPL=smoke puff limiter.
TR=thermal reactor.
TWC=three-way catalyst.
OTR=other.

Evaporative emission control systems:

CAN=carbon canister storage.
CRK=crankcase storage.
NON=none.

Methods of engine air aspiration (heavy-duty diesel engines):

A=aftercooled.
N=natural.
T=turbocharged.

The following heavy-duty and motorcycle reports are arranged alphabetically by manufacturer. The formats of these reports are self-explanatory and require no further comment.

The following light-duty vehicle and truck report is divided into four main sections: Light-duty vehicles, light-duty trucks, diesel light-duty vehicles, and diesel light-duty trucks. Each of the sections is subdivided alphabetically by manufacturer, with each manufacturer's data in turn categorized under "family combinations certified" and "evap-emissions families." The "family combinations certified" section identifies, in the leftmost column of the report, the name of the exhaust emission family/evaporative emission family combination to which EPA issues a certificate, the displacement (measured in cubic inches) of all engines within the combination, and the names of all carlines covered (and certified) by that particular exhaust emission/evaporative emission family combination. (Note that the listing of carlines covered is arranged vertically.) All data arrayed to the left of the "carlines covered" column—i.e., the "vehicle carline represented," "emission control system," etc.—is arranged horizontally, with each line of data describing one of the emission-data vehicles selected and tested by EPA to determine the emission levels achieved by the exhaust emission family portion of the combination. Vehicles which were tested to determine compliance for both the exhaust emission and the evaporative emission components of the combination are marked with an asterisk (*). (A complete listing of all test vehicles belonging to each evaporative emission family is provided in the "evap-emission family" section described below.) Directly beneath this array of exhaust emission data are printed the deterioration factors achieved by both the exhaust emission and evaporative emission family components of the combination. This listing of combination name, carlines covered by the certificate, exhaust emission-data vehicle results, and the combination's deterioration factors will be repeated for as many combinations as the manufacturer has certified.

After the "family combinations certified" section the manufacturer's "evap-emission families" are described in detail. The report prints the name of each evaporative emission family in the "exh-emiss family/evap-emiss fam" column and then describes, for each evaporative emission family, the evaporative emission-data vehicles whose test results have supported certification. Data on the vehicles within each evaporative emission family are arranged horizontally, with each line of the report corresponding to a distinct vehicle configuration.

This publication should not be construed as an endorsement by the Environmental Protection Agency of any manufacturer's vehicles or engines.

NOTICES

This publication should not be construed as an endorsement by the Environmental Protection Agency of any manufacturer's vehicles or engines.

Dated: August 31, 1978.

DAVID G. HAWKINS,
Assistant Administrator, Office of Air, Noise and Radiation.

1978 MODEL YEAR HEAVY-DUTY DIESEL ENGINES

JUN 13, 1978 PAGE 1

MANUFACTURER FAMILY INFORMATION: FAMILY DESIGNATION [MODELS COVERED] [CID'S]	ENGINE AIR ASPIRATION	TEST ENGINE MODEL	TEST ENGINE INFORMATION: EMISSION CONTROL SYSTEM	ENGINE DISPL. (CU. IN.)	RATED TORQUE H.P.	MAXIMUM TORQUE (LBF FT)	CERTIFICATION LEVELS: EXHAUST EMISSIONS: HYDROCARBONS & OXIDES OF NITROGEN (GM/BHP-HR)	CARBON MONOXIDE (GM/BHP-HR)	SMOKE EMISSIONS: ACCEL (%)	LUG (%)	PEAK (%)
CATERPILLAR											
10		3406									
[3406]	TCA		SPL	893	375	1145	0.69	0.00	0.96	0.06	0.00)
[6918]					(DETERIORATION FACTORS:		6	1	10	4	26
11		3406									
[3406]	T		SPL	893	325	1015	0.86	0.00	0.00	0.82	0.45)
[8931]					(DETERIORATION FACTORS:		10	3	12	10	17
12		3406									
[3408]	TCA		SPL	1099	450	1350	0.04	0.19	1.31	0.00	0.00)
[1099]					(DETERIORATION FACTORS:		6	1	19	6	26
13		3408									
[1208]	M		EGR	636	200	490	0.00	0.98	1.06	0.22	4.00)
[636]					(DETERIORATION FACTORS:		5	6	8	8	14
14		3208									
[1106]	TCA		SPL	610	295	820	0.00	0.00	2.71	2.70	3.04)
[6918]					(DETERIORATION FACTORS:		5	2	16	10	26
15		1306									
[3408]	T		SPL	1099	480	1225	0.00	0.12	0.30	0.57	0.04)
[1099]					(DETERIORATION FACTORS:		4	1	14	9	14
16		3406									
[3406]	TCA		SPL	893	350	1165	0.10	0.05	1.13	2.26	1.68)
[8931]			SPL	893	300	1145	9	3	20	13	21
							8	2	17	11	20
3		3406									
[3208]	M		NONE	636	210	905	0.14	0.16	0.00	0.00	1.11)
[636]					(DETERIORATION FACTORS:		9	5	7	5	19

JUN 13, 1978 PAGE 3

1978 MODEL YEAR HEAVY-DUTY DIESEL ENGINES

MANUFACTURER / FAMILY INFORMATION / FAMILY DESIGNATION (MODELS COVERED)	ENGINE AIR (CID'S) ASPIRATION	TEST ENGINE INFORMATION: TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CU.IN.)	MAXIMUM RATED TORQUE H.P. (LBF FT)	CERTIFICATION LEVELS — EXHAUST EMISSIONS: HYDROCARBONS + OXIDES OF NITROGEN (GM/BHP-HR)	CARBON MONOXIDE (GM/BHP-HR)	SMOKE EMISSIONS: ACCEL (%)	LUG (%)	PEAK (%)
CUMMINS										
091 (CPL0026)	M									
		CPL0026	NONE	855	220 6HH	0.47	0.00	0.00	0.00	0.00)
		CPL0026	NONE	855	220 6HH	9	5	6	6	6
		CPL0026	NONE	855	220 6HH	9	5	7	6	10
		CPL0026	NONE	855	240 65H	8	4	8	10	11
052 (CPL0155; CPL0187; CEL0109; CPL0217; CPL0220; CPL0270)	T									
		CPL0155	SPL	855	365 957	12	3	0.00	3	11
					(DETERIORATION FACTORS:	0.00	0.00	0.00	0.00	0.00)
09A (CPL0223; CEL0123)	T									
(855)		CPL 0122	SPL	855	290 910	10	3	12	2	16
					(DETERIORATION FACTORS:	0.00	0.2H	1.22	1.55	0.00)
052A (CPL0299; CPL0277)	T									
(855)		CPL0249	SPL	855	290 910	8	2	R	1	1H
					(DETERIORATION FACTORS:	0.95	0.16	0.00	0.2H	0.00)

JUN 13, 1978 PAGE 2

1978 MODEL YEAR HEAVY-DUTY DIESEL ENGINES

MANUFACTURER / FAMILY INFORMATION / FAMILY DESIGNATION (MODELS COVERED)	ENGINE AIR (CID'S) ASPIRATION	TEST ENGINE INFORMATION: TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CU.IN.)	MAXIMUM RATED TORQUE H.P. (LBF FT)	CERTIFICATION LEVELS — EXHAUST EMISSIONS: HYDROCARBONS + OXIDES OF NITROGEN (GM/BHP-HR)	CARBON MONOXIDE (GM/BHP-HR)	SMOKE EMISSIONS: ACCEL (%)	LUG (%)	PEAK (%)
CATERPILLAR										
3 (320D) (63H)	T									
		320H	NONE	636	210 H85	9	6	7	8	23)
					(DETERIORATION FACTORS:	0.18	0.16	0.00	0.00	1.33)
4 (330D) (63H)	T									
		330H	SPL	63H	250 690	6	1	9	7	15
		330H	SPL	63H	250 690	6	1	11	6	23
					(DETERIORATION FACTORS:	0.08	0.00	0.00	0.21	0.00)
9 (390H) (H91)	T									
		390H	SPL	B93	125 970	7	1	13	6	21
					(DETERIORATION FACTORS:	0.92	0.00	1.3H	0.00	0.0H)

JUN 13, 1978 PAGE 4

1978 MODEL YEAR HEAVY-DUTY DIESEL ENGINES

MANUFACTURER / FAMILY INFORMATION: FAMILY DESIGNATION [MODELS COVERED] (CID'S)	ENGINE AIR ASPIRATION	TEST ENGINE INFORMATION: TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CU.IN.)	RATED H.P.	MAXIMUM TORQUE (LBF FT)	CERTIFICATION LEVELS: EXHAUST EMISSIONS HYDROCARBONS + OXIDES OF NITROGEN (GM/BHP-HR)	EXHAUST EMISSIONS CARBON MONOXIDE (GM/BHP-HR)	SMOKE EMISSIONS ACCEL (%)	SMOKE EMISSIONS LUG (%)	SMOKE EMISSIONS PEAK (%)
CUMMINS											
193 [CPL0184; CPL0247; CPL0302; CPL0314] [1150]	16A										
		CPL0184	SPL	1150	600	1650	(DETERIORATION FACTORS: 1.02 10	0.00 2	0.00 12	0.00 1	0.00) 18
201 [CPL5004] [178]	N										
		CPL5004	NONE	370	149	289	(DETERIORATION FACTORS: 2.03 11	2.32 11	0.00 12	0.00 10	0.00) 17
211 [CPL5001] [504]	N										
		CPL5003	NONE	504	202	387	(DETERIORATION FACTORS: 0.77 11	0.00 7	0.00 10	0.00 6	0.00) 19
		CPL5003	NONE	504	202	387	12	8	9	7	13
221 [CPL5005] [555]	N										
		CPL5005	NONE	555	216	425	(DETERIORATION FACTORS: 0.00 9	0.43 5	3.12 12	3.65 14	3.39) 17
		CPL5005	NONE	555	216	425	10	5	10	11	13
222 [CPL5012; CPL5019] [555]	T										
		CPL5012	NONE	555	240	445	(DETERIORATION FACTORS: 1.96 9	0.00 2	0.00 15	0.00 7	0.00) 18
		CPL5019	NONE	555	220	415	10	3	9	3	14
DAIMLER-BENZ											
31 [OM 314] [231]	N										
		OM 314	NONE	231	80	169	(DETERIORATION FACTORS: 1.49 9	0.68 5	0.53 8	1.17 6	1.28) 6
111 [OM 352] [346]	N										
		OM 352	NONE	346	80	194	(DETERIORATION FACTORS: 0.00 8	2.20 8	1.00 5	1.80 6	1.70) 8
		OM 352	NONE	346	120	245	6	6	8	7	7
		OM 352	NONE	346	120	245	11	7	4	5	6

JUN 13, 1978 PAGE 5

1978 MODEL YEAR HEAVY-DUTY DIESEL ENGINES

MANUFACTURER / FAMILY INFORMATION: FAMILY DESIGNATION [MODELS COVERED] (CID'S)	ENGINE AIR ASPIRATION	TEST ENGINE INFORMATION: TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CU.IN.)	RATED H.P.	MAXIMUM TORQUE (LBF FT)	CERTIFICATION LEVELS: EXHAUST EMISSIONS HYDROCARBONS + OXIDES OF NITROGEN (GM/BHP-HR)	EXHAUST EMISSIONS CARBON MONOXIDE (GM/BHP-HR)	SMOKE EMISSIONS ACCEL (%)	SMOKE EMISSIONS LUG (%)	SMOKE EMISSIONS PEAK (%)
DAIMLER-BENZ											
IV [OM 352 A] [346]	T										
		OM 352 A	SPL	346	145	306	(DETERIORATION FACTORS: 0.36 11	0.00 3	0.00 19	0.00 7	0.00) 25
		CM 352 A	SPL	346	145	306	12	3	13	6	21
CM 355/5 [OM 355/5] [589]	N										
		OM 355/5	NONE	589	180	433	(DETERIORATION FACTORS: 0.00 9	0.61 6	0.03 8	0.00 10	0.00) 11
CM 402 [OM 402] [779]	N										
		CM 402	NONE	779	240	594	(DETERIORATION FACTORS: 0.27 8	0.28 3	0.11 6	1.29 6	0.00) 9
		OM 402	NONE	779	260	610	8	4	9	8	14
CM 403 [OM 403] [974]	N										
		OM 403	NONE	974	300	712	(DETERIORATION FACTORS: 0.51 9	0.22 3	2.05 9	0.90 5	0.35) 15
		CM 403	NONE	974	325	748	8	4	13	11	18
DEUTZ											
F5L 912 [F5L 912] [288]	N										
		F5L 912	EM	288	79	181	(DETERIORATION FACTORS: 0.50 10	0.40 5	0.00 3	0.30 4	0.00) 5
		F5L 912	EM	288	100	214	9	5	6	8	9
GENERAL MOTORS											
12V-71N [12V-71N] [852]	N										
		12V-71N	NONE	852	456	1200	(DETERIORATION FACTORS: 0.00 11	0.43 9	3.69 18	0.00 6	7.81) 36
4L-53N [4L-53N] [212]	A										
		4L-53N	SPL	212	117	270	(DETERIORATION FACTORS: 1.76 11	0.71 12	8.50 15	1.01 11	14.54) 34

1978 MODEL YEAR HEAVY-DUTY DIESEL ENGINES

MANUFACTURER FAMILY INFORMATION:		TEST ENGINE INFORMATION:					CERTIFICATION LEVELS: EXHAUST EMISSIONS		SMOKE EMISSIONS		
FAMILY DESIGNATION [MODELS COVERED] [CID'S]	ENGINE AIR ASPIRATION	TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CU.IN.)	RATED H.P.	MAXIMUM TORQUE (LBF FT)	HYDROCARBONS + OXIDES OF NITROGEN (GM/BHP-HR)	CARBON MONOXIDE (GM/BHP-HR)	ACCEL (%)	LUG (%)	PEAR (%)
GENERAL MOTORS											
4L-53N [4L-53N] [212]	N			(DETERIORATION FACTORS:			1.76	0.71	4.50	1.01	14.58)
		4L-53N	SPL	212	136	282	14	11	10	0	24
4L-53T [4L-53T] [212]	T			(DETERIORATION FACTORS:			0.00	2.10	2.62	2.56	0.13)
		4L-53T	SPL	212	155	379	0	5	12	6	18
		4L-53T	SPL	212	170	402	0	5	12	6	18
6L-71N [6L-71N] [426]	N			(DETERIORATION FACTORS:			1.44	0.00	0.00	0.00	0.00)
		6L-71N	NONE	426	179	550	12	4	3	1	6
		6L-71N	NONE	426	250	610	12	14	19	15	10
6L-71T [6L-71T] [426]	T			(DETERIORATION FACTORS:			0.93	0.00	0.36	0.00	1.87)
		6L-71T	SPL	426	221	645	12	2	2	0	5
		6L-71T-CP	SPL	426	220	772	11	3	10	3	18
6V-53N [6V-53N] [318]	N			(DETERIORATION FACTORS:			2.64	0.00	0.00	0.00	3.02)
		6V-53N	SPL	318	210	440	14	7	13	5	32
		6V-53N	SPL	318	210	440	14	9	7	6	17
6V-71N [6V-71N] [426]	N			(DETERIORATION FACTORS:			0.12	0.37	1.22	1.62	7.45)
		6V-71N	NONE	426	167	510	11	5	5	3	10
		6V-71N	NONE	426	250	610	12	11	19	11	17
		6V-71N	NONE	426	250	610	14	13	15	9	28
6V-71N COACH [6V-71N COACH] [426]	N			(DETERIORATION FACTORS:			0.10	0.00	0.00	0.00	0.00)
		6V-71N COACH	SPL	426	183	530	11	4	2	2	2

1978 MODEL YEAR HEAVY-DUTY DIESEL ENGINES

MANUFACTURER FAMILY INFORMATION:		TEST ENGINE INFORMATION:					CERTIFICATION LEVELS: EXHAUST EMISSIONS		SMOKE EMISSIONS		
FAMILY DESIGNATION [MODELS COVERED] [CID'S]	ENGINE AIR ASPIRATION	TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CU.IN.)	RATED H.P.	MAXIMUM TORQUE (LBF FT)	HYDROCARBONS + OXIDES OF NITROGEN (GM/BHP-HR)	CARBON MONOXIDE (GM/BHP-HR)	ACCEL (%)	LUG (%)	PEAR (%)
GENERAL MOTORS											
6V-92 [6V-92] [552]	N			(DETERIORATION FACTORS:			0.00	0.00	0.21	0.00	5.61)
		6V-92	NONE	552	205	768	12	15	13	13	21
6V-92T [6V-92T] [552]	T			(DETERIORATION FACTORS:			0.79	0.00	0.00	0.04	0.00)
		6V-92T	SPL	552	270	958	11	2	7	2	10
		6V-92T	SPL	552	335	958	12	3	9	1	16
6V-92TA [6V-92TA] [552]	TCA			(DETERIORATION FACTORS:			0.20	0.00	0.19	0.00	0.00)
		6V-92TA	SPL	552	270	826	6	2	15	2	31
		6V-92TA	SPL	552	330	914	7	2	12	5	21
8V-71N [8V-71N] [568]	N			(DETERIORATION FACTORS:			1.21	0.00	1.98	0.00	2.44)
		8V-71N	NONE	568	253	734	12	6	5	3	9
		8V-71N	NONE	568	331	814	12	9	14	7	28
8V-71N COACH [8V-71N COACH] [568]	N			(DETERIORATION FACTORS:			0.39	0.00	1.28	2.63	2.73)
		8V-71N COACH	SPL	568	262	730	11	4	3	4	5
8V-71T [8V-71T] [568]	T			(DETERIORATION FACTORS:			0.92	0.00	0.60	0.22	0.52)
		8V-71T	SPL	568	297	910	11	3	5	1	7
		8V-71T/CP	SPL	568	405	1010	12	5	12	4	14
8V-71TA [8V-71TA] [568]	TCA			(DETERIORATION FACTORS:			0.15	0.00	0.00	0.37	0.00)
		8V-71TA	SPL	568	405	1064	9	3	16	4	28
		8V-71TA	SPL	568	318	941	9	2	14	2	21

JUN 13, 1978 PAGE 8

1978 MODEL YEAR HEAVY-DUTY DIESEL ENGINES

MANUFACTURER / FAMILY INFORMATION: FAMILY DESIGNATION (MODELS COVERED) (CID'S)	ENGINE AIR ASPIRATION	TEST ENGINE INFORMATION: TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CU.IN.)	RATED H.P.	MAXIMUM TORQUE (LBF FT)	CERTIFICATION LEVELS: EXHAUST EMISSIONS: HYDROCARBONS + OXIDES OF NITROGEN (GM/BHP-HR)	EXHAUST EMISSIONS: CARBON MONOXIDE (GM/BHP-HR)	SMOKE EMISSIONS: ACCEL (%)	SMOKE EMISSIONS: LUG (%)	SMOKE EMISSIONS: PEAK (%)
GENERAL MOTORS											
8V-92 (8V-92) [736]	N					(DETERIORATION FACTORS:	0.23	0.00	2.85	1.99	3.36)
		8V-92	NONE	736	380	1025	14	7	11	8	17
8V-92T (8V-921) [736]	T					(DETERIORATION FACTORS:	1.08	0.35	0.80	0.68	9.58)
		8V-92T	SPL	736	430	1186	12	4	12	3	31
		8V-92T CR	SPL	736	365	1223	12	5	20	8	39
8V-92TA (8V-921A) [73A]	TCA					(DETERIORATION FACTORS:	0.89	0.39	0.40	0.00	0.88)
		8V-92TA	SPL	736	440	1230	11	2	14	2	33
						(DETERIORATION FACTORS:	0.89	0.39	0.40	0.00	0.89)
		8V-92TA	SPL	736	400	1152	9	2	8	1	15
INTERNATIONAL HARVESTER											
DT-466 (190 BHP; 190 BHP; 210 BHP; 215 BHP; 220 BHP) [466]	T					(DETERIORATION FACTORS:	0.00	0.71	4.65	2.06	6.69)
		215 BHP	SPL	466	215	515	11	3	18	10	31
		215 BHP	SPL	466	215	515	15	3	12	6	17
DTI-466E (210 BHP; 215 BHP) [466]	TCA					(DETERIORATION FACTORS:	0.00	0.00	0.00	0.00	0.00)
		215 BHP	SPL	466	215	499	10	2	12	6	16
DV-550 (D-150; D-170; E-190) [549]	N					(DETERIORATION FACTORS:	0.49	0.00	2.88	1.37	8.79)
		190 BHP "A"	NONE	549	190	360	9	5	13	15	19
V-800 (280 BHP; 285 BHP; 300 BHP; 350 BHP) [798]	T					(DETERIORATION FACTORS:	0.41	0.00	0.00	0.00	0.00)
		350 "A"	SPL	798	350	820	12	5	15	8	31

JUN 13, 1978 PAGE 9

1978 MODEL YEAR HEAVY-DUTY DIESEL ENGINES

MANUFACTURER / FAMILY INFORMATION: FAMILY DESIGNATION (MODELS COVERED) (CID'S)	ENGINE AIR ASPIRATION	TEST ENGINE INFORMATION: TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CU.IN.)	RATED H.P.	MAXIMUM TORQUE (LBF FT)	CERTIFICATION LEVELS: EXHAUST EMISSIONS: HYDROCARBONS + OXIDES OF NITROGEN (GM/BHP-HR)	EXHAUST EMISSIONS: CARBON MONOXIDE (GM/BHP-HR)	SMOKE EMISSIONS: ACCEL (%)	SMOKE EMISSIONS: LUG (%)	SMOKE EMISSIONS: PEAK (%)
ISUZU											
4BE1 (4BE1) [219]	N					(DETERIORATION FACTORS:	0.00	0.00	3.26	3.29	4.62)
		4BE1A	EM	219	80	153	8	5	8	9	11
6BB1 (6HB1) [329]	N					(DETERIORATION FACTORS:	0.00	0.00	0.97	0.00	0.00)
		6BE1 A	EM	329	120	224	11	4	7	7	7
IVECO-FIAT											
V18300 (8360.05.670) [494]	N					(DETERIORATION FACTORS:	1.94	0.00	0.00	0.00	0.00)
		8160.05.670	EM	494	160	376	12	5	8	11	11
MACK											
IVECO-UNIC 8220 (8220.02.842; 8220.20.841) [584]	N					(DETERIORATION FACTORS:	0.00	0.75	2.10	3.06	2.91)
		8220.02.842	NONE	584	200	470	13	6	6	10	10
MACK T (ENE673E) [672]	N					(DETERIORATION FACTORS:	1.31	0.87	0.00	0.16	0.00)
		ENE673E	NONE	672	180	540	13	7	10	11	14
		ENE673E	NONE	672	180	540	11	7	10	12	14
MACK 3A (ENDT673; ENDT673-854; ENDT"B"673C; ENDTE"B"673C; ENDTE"B"673C 2100 DERATE) [672]	T					(DETERIORATION FACTORS:	0.00	0.18	0.13	0.09	0.00)
		ENDTE"B"673C	NONE	672	250	700	11	4	14	6	21
		ENDT673C	NONE	672	280	721	16	3	13	8	22
MACK 1B (ENDT"B"675; ENDT"B"675 1900 DERATE; ENDT"E"675 1900 DERATE) [672]	T					(DETERIORATION FACTORS:	0.23	0.00	0.00	0.00	3.59)
		ENDT"B"675	SPL	672	235	906	14	1	17	10	34

JUN 13, 1978 PAGE 10

1978 MODEL YEAR HEAVY-DUTY DIESEL ENGINES

MANUFACTURER / FAMILY DESIGNATION [MODELS COVERED] (CID'S)	FAMILY INFORMATION: ENGINE AIR INDUCTION ASPIRATION	TEST ENGINE INFORMATION: TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CU.IN.)	MAXIMUM RATED TORQUE H.P. (LBF FT)	EXHAUST EMISSIONS (GM/BHP-HR) HYDROCARBONS + OXIDES OF NITROGEN	CARBON MONOXIDE	ACCEL (%)	LUG (%)	PEAK (%)	CERTIFICATION LEVELS SMOKE EMISSIONS ACCEL (%)	LUG (%)	PEAK (%)
NISSAN													
SE33 [SD33] (198)	N	SD33	NONE	198	89 137	(DETERIORATION FACTORS: 0.02	N	1.22	5	0.00	7	1.91	9 1.30)
SAAI-SCAN)A													
SCANIA SIE [ENTA77; EOTA77A; ENOTA77; ET4A77] (A75)	T	ET4A77	SPL	A75	210 510	(DETERIORATION FACTORS: 0.38	13	0.23	2	0.00	7	0.00	2 0.00) 16
VOLVO													
T660 [T0A0A] (J3A)	T	T0A0A	SPL	J3A	170 382	(DETERIORATION FACTORS: 0.74	11	0.29	3	0.00	9	1.25	5 0.00) 14
T070 [T070E] (N09)	T	T070E	SPL	N09	205 A92	(DETERIORATION FACTORS: 0.64	12	0.09	3	2.01	7	0.00	3 6.92) 13
E-A800-T (D-A800-T1) (A7B)	T	D-A600-1	SPL	A7B	180 A76	(DETERIORATION FACTORS: 0.00	9	0.43	5	0.66	12	2.31	12 0.00) 18
LET-A65 (LDT-A65-1C) (A7M)	T	LD1-A65-1C	EM	A7B	11A 135	(DETERIORATION FACTORS: 0.00	9	0.00	3	1.99	1A	1.18	9 3.16) 20
		LD1-A65 1C	EM	A7B	11A 135		10		3		16	10	21

JUN 13, 1978 PAGE 11

1978 MODEL YEAR HEAVY-DUTY DIESEL ENGINES

MANUFACTURER / FAMILY DESIGNATION [MODELS COVERED] (CID'S)	FAMILY INFORMATION: ENGINE AIR INDUCTION ASPIRATION	TEST ENGINE INFORMATION: TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CU.IN.)	MAXIMUM RATED TORQUE H.P. (LBF FT)	EXHAUST EMISSIONS (GM/BHP-HR) HYDROCARBONS + OXIDES OF NITROGEN	CARBON MONOXIDE	ACCEL (%)	LUG (%)	PEAK (%)	CERTIFICATION LEVELS SMOKE EMISSIONS ACCEL (%)	LUG (%)	PEAK (%)
MACK													
MACK IC [ENE17M*673C] (672)	T	ENE17M*673C	SPL	672	235 906	(DETERIORATION FACTORS: 0.32	9	0.28	2	2.10	19	0.00	9 3.61) 35
MACK JD [ET*B*673; ET*B*671A 2100 DERATE; ET*D*673A 1800 DERATE] (672)	T												
MACK AF [ENDT*B*865; ENDT*D*866; ENDDT*E*866] (866)	T	ET*E*673	SPL	672	260 775	(DETERIORATION FACTORS: 0.53	12	0.00	2	0.06	6	0.00	5 0.60) 13
MACK 7 [ENDT*D*676; ENDT*B*676 1800 & 1900 DERATES; ET4Z*M*673; ET4Z*B*673A; ET4Z*B*673C; ET4Z*B*676A] (672)	T 16A	ENDT*E*865	SPL	866	322 1100	(DETERIORATION FACTORS: 0.46	13	0.19	3	0.00	11	1.56	15 0.00) 19
MACK 9 [ET*B*100S; ET*D*100SA; ET2*D*100S; ET2*E*100SA] (99R)	T	ENE1676	SPL	672	298 1130	(DETERIORATION FACTORS: 0.99	9	0.29	2	0.00	14	0.72	11 0.00) 28
		ENE1676	SEL	672	29H 1130		9		2		15	12	30
		E12*D*100S	SPL	998	35H 1370	(DETERIORATION FACTORS: 0.29	9	0.00	1	0.93	13	1.62	9 1.90) 21
MACK 9 [ET4Y*E*673A; ET4Y*E*676 (672) 16A													
		ET4Y*E*676	SPL	672	283 1080	(DETERIORATION FACTORS: 1.00	8	0.00	2	0.00	11	2.13	13 -0.00) 16
MISSOURI 6EH5 [6DH50A] (241)	N												
		6DH50A	EM	243	100 163	(DETERIORATION FACTORS: 0.82	6	1.11	5	0.00	5	0.29	5 0.00) 10

JUN 15, 1978 PAGE 1

1978 MODEL YEAR HEAVY-DUTY GASOLINE ENGINES

MANUFACTURER / FAMILY INFORMATION: FAMILY DESIGNATION (MODELS COVERED) (CUBIC INCH DISPLACEMENTS)	TEST ENGINE INFORMATION: TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CU.IN.)	CARB VENTURIS	RATED H.P.	MAXIMUM TORQUE (LBF FT)	CERTIFICATION LEVELS: EXHAUST EMISSIONS (GM/BHP-HR) HYDROCARBONS +OXIDES OF NITROGEN	CARBON MONOXIDE
AMERICAN MOTORS								
I-HD								
[6-258]								
[258]								
	258-2V	EGR	250	2V	(DETERIORATION FACTORS: 120	200	0.00 14	0.00) 16
III-HD								
[360-2V; 360-4V; 401-4V]								
[360; 401]								
					(DETERIORATION FACTORS:		0.00	4.06)
	360-2V	EGR+AIR	360	2V	140	251	12	31
	360-4V	EGR+AIR	360	4V	177	279	11	26
	401-4V	EGR+AIR	401	4V	205	320	8	31
CHRYSLER								
E								
[400-1]								
[400]								
					(DETERIORATION FACTORS:		1.46	0.83)
	400-1	EM	400	2V	165	290	16	22
LA								
[318-1; 318-3]								
[318]								
					(DETERIORATION FACTORS:		0.00	3.30)
	318-1	EM	318	2V	150	230	13	27
	318-3	EM	318	2V	140	250	14	29
LA-1								
[360-1; 360-3]								
[360]								
					(DETERIORATION FACTORS:		0.00	0.00)
	360-1	EGR+AIR	360	2V	170	265	6	17
					(DETERIORATION FACTORS:		0.30	0.00)
	360-1	EM	360	2V	175	285	13	12
	360-3	EM	360	2V	160	260	13	20
LB								
[361-4]								
[361]								
					(DETERIORATION FACTORS:		0.00	2.09)
	361-4	EM	361	2V	150	285	14	18
ME								
[413-3]								
[413]								
					(DETERIORATION FACTORS:		0.00	1.32)
	413-3	EM	413	4V	175	325	15	15

JUN 15, 1978 PAGE 2

1978 MODEL YEAR HEAVY-DUTY GASOLINE ENGINES

MANUFACTURER / FAMILY INFORMATION: FAMILY DESIGNATION (MODELS COVERED) (CUBIC INCH DISPLACEMENTS)	TEST ENGINE INFORMATION: TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CU.IN.)	CARB VENTURIS	RATED H.P.	MAXIMUM TORQUE (LBF FT)	CERTIFICATION LEVELS: EXHAUST EMISSIONS (GM/BHP-HR) HYDROCARBONS +OXIDES OF NITROGEN	CARBON MONOXIDE
CHRYSLER								
RBM								
[440-1; 440-3]								
[440]								
					(DETERIORATION FACTORS:		0.00	0.00)
	440-1	EM	440	4V	220	330	16	23
					(DETERIORATION FACTORS:		2.11	3.25)
	440-3	EGR	440	4V	220	330	8	11
BG								
[225-1]								
[225]								
					(DETERIORATION FACTORS:		0.88	1.78)
	225-1	EM	225	2V	115	175	15	29
FORD								
300								
[300 I.D.; 300 M.D.]								
[300]								
					(DETERIORATION FACTORS:		0.00	0.00)
	300-1V-LD	EM	300	1V	117	227	14	18
	300-1V-LD	EM	300	1V	118	226	14	15
302								
[302]								
[302]								
					(DETERIORATION FACTORS:		0.00	0.00)
	302	EM	302	2V	140	250	12	38
	302	EM	302	2V	140	250	13	29
330/361/391								
[330XD; 361XD; 389XD]								
[330; 361; 391]								
					(DETERIORATION FACTORS:		0.00	1.49)
	330XD-2V	EM	330	2V	140	273	13	9
	361-XE-4V	EM	361	4V	175	280	14	26
	389XD-4V	EM	391	4V	182	309	15	26
					(DETERIORATION FACTORS:		0.00	4.73)
	330XD-2V	EGR+AIR	330	2V	137	272	7	21
	361XD-4V	EGR+AIR	361	4V	170	290	6	11
	389XD-4V	EGR+AIR	391	4V	180	307	6	26
351M/400								
[351M; 400]								
[351; 400]								
					(DETERIORATION FACTORS:		0.00	0.00)
	351M	EGR+AIR	351	2V	150	278	6	12
	400	EGR+AIR	400	2V	169	318	5	19
					(DETERIORATION FACTORS:		0.00	3.03)
	351M	EGR	351	2V	163	267	16	37
	400	EGR	400	2V	169	301	12	27

1978 MODEL YEAR HEAVY-DUTY GASOLINE ENGINES

MANUFACTURER / FAMILY INFORMATION: FAMILY DESIGNATION [MODELS COVERED] (CUBIC INCH DISPLACEMENTS)	TEST INFORMATION: TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CU.IN.)	CARB VENTURIS	RATED H.P.	MAXIMUM TORQUE (LBF FT)	CERTIFICATION LEVELS: EXHAUST EMISSIONS (GM/BHP-HR) HYDROCARBONS *OXIDES OF NITROGEN	CARBON MONOXIDE
FORD								
351W								
[351W]								
[351]								
					(DETERIORATION FACTORS:		0.00	0.00)
	351W-2V	EGR+AIR	351	2V	143	272	5	13
	351W-2V	EM	351	2V	147	275	13	18
460								
[460]								
[460]								
					(DETERIORATION FACTORS:		0.00	0.00)
	460	EM	460	4V	229	378	14	24
	460	EM	460	4V	239	385	15	25
					(DETERIORATION FACTORS:		0.01	0.00)
	460	EGR	460	4V	239	374	6	13
477/534								
[475; 477; 534]								
[477; 534]								
					(DETERIORATION FACTORS:		0.00	0.53)
	475	EM	477	4V	228	390	16	37
	534	EM	534	4V	238	454	15	34
					(DETERIORATION FACTORS:		0.29	5.07)
	477	AIR	477	4V	220	390	7	19
	534	AIR	534	4V	238	454	5	18
GENERAL MOTORS								
GM 111								
[LD4]								
[250]								
					(DETERIORATION FACTORS:		1.37	0.00)
	LD4	EM	250	1V	100	175	12	25
GM 112A								
[L25]								
[292]								
					(DETERIORATION FACTORS:		0.00	0.63)
	L25	EM	292	1V	120	215	6	16
	L25	EM	292	1V	120	215	13	25
	L25	EM	292	1V	130	225	9	15
GM 113								
[GMT; LF4; LD9; LS4]								
[105; 350; 400]								
					(DETERIORATION FACTORS:		2.49	7.67)
	GMT	EM	350	2V	155	255	11	36
	LF4	EM	400	4V	175	290	13	35
	LD9	EM	305	2V	140	235	15	26
	LS9	EM	350	4V	165	255	12	27

1978 MODEL YEAR HEAVY-DUTY GASOLINE ENGINES

MANUFACTURER / FAMILY INFORMATION: FAMILY DESIGNATION [MODELS COVERED] (CUBIC INCH DISPLACEMENTS)	TEST INFORMATION: TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CU.IN.)	CARB VENTURIS	RATED H.P.	MAXIMUM TORQUE (LBF FT)	CERTIFICATION LEVELS: EXHAUST EMISSIONS (GM/BHP-HR) HYDROCARBONS *OXIDES OF NITROGEN	CARBON MONOXIDE
GENERAL MOTORS								
GM 111T								
[GMT; LF4; LS9]								
[350; 400]								
					(DETERIORATION FACTORS:		0.00	4.20)
	LF4	AIR	400	4V	175	290	7	20
	LF9	AIR	350	2V	160	265	7	17
	LS9	AIR	350	4V	160	250	6	15
	LS9	AIR	350	4V	165	255	7	20
GM 119								
[L66; L43]								
[366; 427]								
					(DETERIORATION FACTORS:		0.25	7.10)
	L43	EM	427	4V	220	360	15	37
	L86	EM	366	4V	200	305	13	17
					(DETERIORATION FACTORS:		1.20	0.00)
	L43	AIR	427	4V	220	360	6	18
	L86	AIR	366	4V	195	290	5	26
GM 115								
[LF8]								
[454]								
					(DETERIORATION FACTORS:		0.65	6.11)
	LF8	EGR+AIR	454	4V	250	385	8	16
					(DETERIORATION FACTORS:		1.17	0.00)
	LF8	EM	454	4V	240	370	15	16
GM 117								
[403]								
[403]								
					(DETERIORATION FACTORS:		0.35	0.00)
	403	EM	403	4V	192	318	6	6
	403	EM	403	4V	192	318	13	20
INTERNATIONAL HARVESTER								
FV-8 CALIF								
[AV-404; AV-446]								
[400; 446]								
					(DETERIORATION FACTORS:		0.53	4.83)
	AV-404	EGR+AIR	400	2V	189	123	8	21
	AV-404	EGR+AIR	400	2V	189	121	8	26
	AV-404	EGR+AIR	400	4V	206	138	7	20
	AV-446	EGR+AIR	446	4V	227	182	6	21
FV-8 FED								
[AV-404; AV-446]								
[400; 446]								
					(DETERIORATION FACTORS:		0.00	3.61)
	AV-404	EM	400	2V	180	111	12	26
	AV-404	EM	400	2V	188	111	15	21

JUN 15, 1978 PAGE 5

1978 MODEL YEAR HEAVY-DUTY GASOLINE ENGINES

MANUFACTURER / FAMILY INFORMATION: FAMILY DESIGNATION (MODELS COVERED) (CUBIC INCH DISPLACEMENTS)	TEST ENGINE INFORMATION: TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CU.IN.)	CARB VENTURIS	RATED H.P.	MAXIMUM TORQUE (LBF FT)	CERTIFICATION LEVELS: EXHAUST EMISSIONS (GM/BHP-HR) HYDROCARBONS +OXIDES OF NITROGEN	CARBON MONOXIDE
INTERNATIONAL HARVESTER								
MV-8 FED (MV-404; MV-446) (400; 446)								
					(DETERIORATION FACTORS:		0.00	3.61)
	MV-404	EM	400	4V	210	336	14	30
	MV-446	EM	446	4V	235	385	12	23
V-304 (V-304) (304)								
					(DETERIORATION FACTORS:		0.00	0.00)
	304	EGR	304	2V	140	243	8	34
	304	EGR	304	2V	140	243	11	25
V-345 FED (V-345) (345)								
					(DETERIORATION FACTORS:		3.45	0.00)
	345	EGR	345	2V	158	288	15	26
	345	EGR	345	2V	168	288	13	31
V-345C (V-345) (345)								
					(DETERIORATION FACTORS:		0.00	1.98)
	V-345C	EGR+AIR	345	2V	158	288	6	15
	V-345C	EGR+AIR	345	2V	168	288	6	18
V-392 FED (V-392) (391)								
					(DETERIORATION FACTORS:		0.00	7.57)
	V-392	EM	191	4V	191	307	14	31
V-392C (V-392) (391)								
					(DETERIORATION FACTORS:		1.27	1.38)
	V-392	EGR+AIR	191	4V	191	307	8	17
V-537 CALIF (V-537) (537)								
					(DETERIORATION FACTORS:		1.22	0.79)
	V-537	EGR+AIR	537	2V	203	408	7	18
V-537 FED (V-537) (537)								
					(DETERIORATION FACTORS:		0.00	9.82)
	V-537	EM	537	2V	208	415	11	21
	V-537	EM	537	4V	216	429	13	10

JUN 15, 1978 PAGE 6

1978 MODEL YEAR HEAVY-DUTY GASOLINE ENGINES

MANUFACTURER / FAMILY INFORMATION: FAMILY DESIGNATION (MODELS COVERED) (CUBIC INCH DISPLACEMENTS)	TEST ENGINE INFORMATION: TEST ENGINE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISPL. (CU.IN.)	CARB VENTURIS	RATED H.P.	MAXIMUM TORQUE (LBF FT)	CERTIFICATION LEVELS: EXHAUST EMISSIONS (GM/BHP-HR) HYDROCARBONS +OXIDES OF NITROGEN	CARBON MONOXIDE
INTERNATIONAL HARVESTER								
4-196 FED (4-196) (196)								
					(DETERIORATION FACTORS:		0.00	3.10)
	4-196	EM	196	1V	86	157	14	21
4-196C (4-196) (196)								
					(DETERIORATION FACTORS:		1.12	1.47)
	4-196	EGR+AIR	196	1V	86	157	7	16

JUN 13, 1978 PAGE 1

1978 MODEL YEAR MOTORCYCLES

MANUFACTURER / FAMILY DESIGNATION / [MODELS COVERED] / [CC DISPLACEMENT]	TEST VEHICLE INFORMATION: TEST VEHICLE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISP.& CYCLE (CC)	#CARBS	TRANS	INERTIA WEIGHT CLASS (KG'S)	DRIVE RATIO*	DETERIORATION FACTORS: HYDRO-CARBONS	DETERIORATION FACTORS: CARBON MONOXIDE	CERTIFICATION LEVELS (GM/KM): HYDRO-CARBONS	CERTIFICATION LEVELS (GM/KM): CARBON MONOXIDE
HARLEY DAVIDSON											
V-TWIN											
[FLH; FLT; FX; FXE; FXS; XLCH; XICR; XLH; XLS; XLT]											
[1000; 1200; 1340]											
	FLH	ENG MOD	1207 - 4	1	M-4	490	3.90	1.103	1.000	2.0	13
	FLH	ENG MOD	1339 - 4	1	M-4	490	1.90	1.017	1.000	1.8	10
	XLT	ENG MOD	997 - 4	1	M-4	390	4.22	1.502	1.357	2.9	10
HONDA											
78DP											
[CB400TI; CB400TII; CB400A]											
[395]											
	CB400A	ENG MOD	395 - 4	2	2S	290	2.31	1.000	1.000	0.7	10
78DP											
[CM185T]											
[181]											
	CM185	ENG MOD	181 - 4	1	M-4	220	2.33	1.198	1.028	1.3	12
78DV											
[CX500]											
[497]											
	CX500	ENG MOD	497 - 4	2	M-5	320	3.09	1.118	1.000	2.0	9
78HP											
[CBX]											
[1047]											
	CBX	ENG MOD	1047 - 4	6	M-5	100	2.33	1.071	1.045	2.0	14
78MF											
[CT70; CT90]											
[72; 90]											
	CT70	ENG MOD	72 - 4	1	M-3	160	2.11	1.174	1.000	0.7	9
	CT90	ENG MOD	90 - 4	1	M-4	180	1.00	1.078	1.000	0.7	10
78MV											
[XL75; XL100; XL125; CR125S; CT125]											
[75; 99; 124]											
	XL100	ENG MOD	99 - 4	1	M-5	190	3.50	1.000	1.000	0.7	10
	XL125	ENG MOD	124 - 4	1	M-5	190	3.46	1.000	1.022	0.8	11

JUN 13, 1978 PAGE 2

1978 MODEL YEAR MOTORCYCLES

MANUFACTURER / FAMILY DESIGNATION / [MODELS COVERED] / [CC DISPLACEMENT]	TEST VEHICLE INFORMATION: TEST VEHICLE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISP.& CYCLE (CC)	#CARBS	TRANS	INERTIA WEIGHT CLASS (KG'S)	DRIVE RATIO*	DETERIORATION FACTORS: HYDRO-CARBONS	DETERIORATION FACTORS: CARBON MONOXIDE	CERTIFICATION LEVELS (GM/KM): HYDRO-CARBONS	CERTIFICATION LEVELS (GM/KM): CARBON MONOXIDE
HONDA											
78MV											
[XL75; XL100; XL125; CR125S; CT125]											
[75; 99; 124]											
	XL75	ENG MOD	75 - 4	1	M-4	160	2.57	1.120	1.000	0.7	10
78QF											
[GL1000]											
[1000]											
	GL1000	ENG MOD	1000 - 4	4	M-5	410	3.40	1.000	1.090	2.0	14
78QP											
[CB750K; CB750F; CB750A]											
[750]											
	CB750F	ENG MOD	736 - 4	4	M-5	350	3.07	1.163	1.000	2.0	11
78UV											
[XL250S]											
[249]											
	XL250S	ENG MOD	249 - 4	1	M-5	210	3.79	1.000	1.000	0.9	12
KAWASAKI											
KE100											
[KE100-A7A; KH100-A3A]											
[99]											
	KH100-A3A	ENG MOD	99 - 2	1	M-5	170	2.57	1.010	1.000	3.7	15
KE125											
[KE125-A5A]											
[124]											
	KE125-A5A	ENG MOD	124 - 2	1	M-6	190	3.57	1.006	1.000	3.4	12
KL250											
[KL250-A1A]											
[246]											
	KL250-A1A	ENG MOD	246 - 4	1	M-5	220	2.86	1.000	1.000	0.9	10
KZ1000											
[KZ1000-A2A; KZ1000-E2]											
[1015]											
	KZ1000-A2A	ENG MOD	1015 - 4	4	M-5	370	2.20	1.019	1.000	2.0	11
KZ200											
[KZ200-A1A]											
[198]											
	KZ200-A1A	ENG MOD	198 - 4	1	M-5	220	2.67	1.000	1.000	0.8	10

JUN 13, 1978 PAGE 3

1978 MODEL YEAR MOTORCYCLES

MANUFACTURER / FAMILY DESIGNATION [MODELS COVERED] [CC DISPLACEMENT]	TEST VEHICLE INFORMATION: TEST VEHICLE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISP.& CYCLE (CC)	#CARBS	TRANS	INERTIA WEIGHT CLASS (KG'S)	DRIVE RATIO	DETERIORATION FACTORS: HYDRO-CARBONS	DETERIORATION FACTORS: CARBON MONOXIDE	CERTIFICATION LEVELS (GM/KM): HYDRO-CARBONS	CERTIFICATION LEVELS (GM/KM): CARBON MONOXIDE
KAWASAKI											
KZ650 [KZ650-B2A; KZ650-B1A] [652]	KZ650-B2A	ENG MOD	652 - 4	4	M-5	360	2.63	1.194	1.000	2.0	7
KZ750 [KZ750-3UA] [745]	KZ750-B3A	ENG MOD	745 - 4	2	M-5	350	2.38	1.000	1.018	0.8	9
SUZUKI											
GS100 [GS1000; GS1000E] [997]	GS1000E	ENG MOD	997 - 4	4	M-5	360	4.78	1.000	1.000	1.0	11
GS400 [GS400; GS400E] [398]	GS400	ENG MOD	398 - 4	2	M-6	270	6.50	1.035	1.000	1.2	9
GS550 [GS550; GS550E] [549]	GS550E	ENG MOD	549 - 4	4	M-6	330	6.30	1.240	1.090	2.0	11
GS750 [GS750; GS750E] [748]	GS750E	ENG MOD	748 - 4	4	M-5	350	5.66	1.020	1.108	2.0	11
SP37 [SP370] 370	SP-370	ENG MOD	370 - 4	1	M-5	210	7.24	1.510	1.043	1.9	14
TS125 [TS-125] [123]	TS125	ENG MOD	123 - 2	1	M-5	180	9.14	1.118	1.000	4.1	9
TS185/250 [TS185; TS250] [183; 246]	TS185	ENG MOD	183 - 2	1	M-5	190	8.56	1.011	1.000	4.4	11

JUN 13, 1978 PAGE 4

1978 MODEL YEAR MOTORCYCLES

MANUFACTURER / FAMILY DESIGNATION [MODELS COVERED] [CC DISPLACEMENT]	TEST VEHICLE INFORMATION: TEST VEHICLE MODEL	EMISSION CONTROL SYSTEM	ENGINE DISP.& CYCLE (CC)	#CARBS	TRANS	INERTIA WEIGHT CLASS (KG'S)	DRIVE RATIO	DETERIORATION FACTORS: HYDRO-CARBONS	DETERIORATION FACTORS: CARBON MONOXIDE	CERTIFICATION LEVELS (GM/KM): HYDRO-CARBONS	CERTIFICATION LEVELS (GM/KM): CARBON MONOXIDE
SUZUKI											
TS185/250 [TS185; TS250] [183; 246]	TS250	ENG MOD	246 - 2	1	M-5	210	6.85	1.000	1.000	4.5	8
YAMAHA											
2H0-78 [XS650E; XS650SE] [654]	XS650E	ENG MOD	654 - 4	2	M-5	350	2.00	1.000	1.127	1.3	15
2H3-78 [XS750E; XS750SE] [747]	XS750E	ENG MOD	747 - 4	3	M-5	380	3.58	1.000	1.032	1.6	13
2H4-78 [GT80E] [73]	GT80E	ENG MOD	73 - 2	1	M-4	150	2.93	1.000	1.144	3.2	8
2H5-78 [DT100E] [97]	DT100E	ENG MOD	97 - 2	1	M-5	170	3.21	1.000	1.000	3.8	10
2H0-78 [XT500E] [499]	XT500E	ENG MOD	499 - 4	1	M-5	240	2.75	1.000	1.021	0.5	12

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
ALFA ROMEO - FAMILY COMBINATIONS CERTIFIED:		**EXHAUST EMISSION FAMILY TEST VEHICLES**								
01615*A / E1615*A (120)										
C ALFETTA	C ALFETTA	AIR/FI /OC / / /CRK	120-FI	A-3	3000	3.54	0.33	5.5	0.89	3.5 *
C SPIDER 2000	C ALFETTA	AIR/FI /OC / / /CRK	120-FI	M-5	3000	4.10	0.40	6.1	0.86	2.2 *
	C SPIDER 2000	AIR/FI /OC / / /CRK	120-FI	M-5	2750	4.55	0.33	4.4	0.77	2.3 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/FI /OC / / /	FAMILY 01615*A				(1.385	1.479	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CRK	FAMILY E1615*A				(N/A	N/A	N/A	0.1641
ALFA ROMEO - EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
E1615*A										
	C ALFETTA	AIR/FI /OC / / /CRK	120-FI	A-3	3000	3.54	0.33	5.5	0.89	3.5
	C SPIDER 2000	AIR/FI /OC / / /CRK	120-FI	M-5	2750	4.55	0.33	4.4	0.77	2.3
	C ALFETTA	AIR/FI /OC / / /CRK	120-FI	M-5	3000	4.10	0.40	6.1	0.86	2.2
AMERICAN MOTORS - FAMILY COMBINATIONS CERTIFIED:		**EXHAUST EMISSION FAMILY TEST VEHICLES**								
I-C / E-5A (258)										
C GREMLIN	C PACER	AIR/OC /EGR/ / /CAN	258-1	A-3	3500	3.08	0.31	3.3	1.4	2.1 *
C PACER	C GREMLIN	AIR/OC /EGR/ / /CAN	258-1	M-4	3500	2.73	0.29	3.5	0.89	2.3 *
C PACER WAGON										
C CONCORD										
C CONCORD WAGON										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY I-C				(1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-5A				(N/A	N/A	N/A	0.0)
I-I / E-1 (232,258)										
GREMLIN	CONCORD	AIR/OC /EGR/ / /CAN	232-1	A-3	3500	2.53	0.72	11.	1.8	4.2 *
PACER	PACER	AIR/OC /EGR/ / /CAN	232-1	A-3	3500	2.73	0.59	13.	1.5	3.8 *
PACER WAGON	CONCORD	AIR/OC /EGR/ / /CAN	232-1	M-3	3500	2.73	0.89	14.	1.2	N/A
CONCORD	GREMLIN	AIR/OC /EGR/ / /CAN	232-1	M-3	3000	2.73	0.71	9.8	0.95	3.2 *
CONCORD WAGON	PACER	AIR/OC /EGR/ / /CAN	232-1	M-4	3500	2.53	0.64	8.5	2.0	N/A
	*CONCORD WAGON	AIR/OC /EGR/ / /CAN	258-1	A-3	3500	3.08	0.46	7.4	2.0	N/A

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS! A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
AMERICAN MOTORS - FAMILY COMBINATIONS CERTIFIED:		**EXHAUST EMISSION FAMILY TEST VEHICLES**								
I-I / E-1 (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY I-1				(1.203	1.070	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-1				(N/A	N/A	N/A	0.0)
I-I / E-5 (232,258)										
GREMLIN	CONCORD	AIR/OC /EGR/ / /CAN	232-1	A-3	3500	2.53	0.72	11.	1.8	N/A
PACER	PACER	AIR/OC /EGR/ / /CAN	232-1	A-3	3500	2.73	0.59	13.	1.5	N/A
PACER WAGON	GREMLIN	AIR/OC /EGR/ / /CAN	232-1	M-3	3500	2.73	0.73	9.8	0.95	N/A
CONCORD	CONCORD	AIR/OC /EGR/ / /CAN	232-1	M-3	3500	2.73	0.89	14.	1.2	N/A
CONCORD WAGON	PACER	AIR/OC /EGR/ / /CAN	232-1	M-4	3500	2.53	0.64	8.5	2.0	N/A
	*CONCORD WAGON	AIR/OC /EGR/ / /CAN	258-1	A-3	3500	3.08	0.46	7.4	2.0	2.5 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY I-1				(1.203	1.070	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-5				(N/A	N/A	N/A	0.0)
I-3 / E-2 (258)										
PACER	CONCORD	AIR/OC /EGR/ / /CAN	258-2	A-3	3500	2.73	0.55	12.	1.4	3.2 *
PACER WAGON	PACER	AIR/OC /EGR/ / /CAN	258-2	M-4	3500	2.53	0.91	11.	1.8	3.2 *
CONCORD										
CONCORD WAGON										
GREMLIN										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY I-3				(1.385	1.418	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-2				(N/A	N/A	N/A	0.0)
II-A / E-4 (104)										
CONCORD WAGON	*CONCORD	AIR/OC /EGR/ / /CAN	104-2	A-3	4000	3.15	1.1	7.0	1.2	N/A
CONCORD	CONCORD	AIR/OC /EGR/ / /CAN	104-2	A-3	4000	2.87	0.94	11.	1.4	2.3 *
PACER WAGON										
PACER										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY II-A				(1.376	1.068	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-4				(N/A	N/A	N/A	0.0)

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS! A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1979 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM / (CUBIC INCH DISPLACEMENT) / CAR LINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS.	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
AMERICAN MOTORS -- FAMILY COMBINATIONS CERTIFIED: EXHAUST-EMISSION FAMILY TEST VEHICLES										
III / E-4 (160)										
MATADOR COUPE	MATADOR WAGON	AIR/OC /EGR/ / /CAN	360-2	A-3	4500	2.87	0.66	11.	1.2	N/A
MATADOR SEDAN	MATADOR SEDAN	AIR/OC /EGR/ / /CAN	360-2	A-3	4500	2.87	0.81	12.	1.4	5.8 *
MATADOR WAGON	*MATADOR SEDAN	AIR/OC /EGR/ / /CAN	360-2	A-3	4500	3.15	0.54	6.2	1.9	1.8 *
(EXHAUST DETERIORATION FACTORS FOR - AIR/OC /EGR/ / / FAMILY III)							1.000	1.000	1.033	N/A
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY E-4)							N/A	N/A	N/A	0.0
III-C / E-4 (160)										
C MATADOR COUPE	C MATADOR SEDAN	AIR/OC /EGR/ / /CAN	360-2	A-3	4500	3.15	0.33	2.6	1.3	N/A
C MATADOR SEDAN	C MATADOR WAGON	AIR/OC /EGR/ / /CAN	360-2	A-3	4500	3.15	0.22	1.6	1.2	2.0 *
C MATADOR WAGON										
(EXHAUST DETERIORATION FACTORS FOR - AIR/OC /EGR/ / / FAMILY III-C)							1.017	1.098	1.076	N/A
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY E-4)							N/A	N/A	N/A	0.0
V / E-3 (121)										
GREMLIN	GREMLIN	AIR/OC /EGR/ / /CAN	121-2	A-3	3000	3.31	0.54	8.2	1.4	N/A
C GREMLIN	GREMLIN	AIR/OC /EGR/ / /CAN	121-2	M-4	3000	3.31	1.1	8.3	1.5	3.0 *
(EXHAUST DETERIORATION FACTORS FOR - AIR/OC /EGR/ / / FAMILY V)							1.245	1.063	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY E-3)							N/A	N/A	N/A	0.0
AMERICAN MOTORS -- EVAP-EMISSION FAMILIES: EVAPORATIVE-EMISSION FAMILY TEST VEHICLES										
E-1										
	PACER	AIR/OC /EGR/ / /CAN	232-1	A-3	3500	2.73	0.59	13.	1.5	3.8
	CONCORD	AIR/OC /EGR/ / /CAN	232-1	A-3	3500	2.53	0.72	11.	1.8	4.2
	GREMLIN	AIR/OC /EGR/ / /CAN	232-1	M-3	3000	2.73	0.71	9.8	0.95	3.2
E-2										
	CONCORD	AIR/OC /EGR/ / /CAN	258-2	A-3	3500	2.73	0.55	12.	1.4	3.2
	PACER	AIR/OC /EGR/ / /CAN	258-2	M-4	3500	2.53	0.91	11.	1.8	3.2

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS] A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1979 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM / (CUBIC INCH DISPLACEMENT) / CAR LINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS.	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
AMERICAN MOTORS -- EVAP-EMISSION FAMILIES: EVAPORATIVE-EMISSION FAMILY TEST VEHICLES										
E-3										
	GREMLIN	AIR/OC /EGR/ / /CAN	121-2	M-4	3000	3.31	1.1	8.3	1.5	3.0
E-4										
	CONCORD	AIR/OC /EGR/ / /CAN	304-2	A-3	4000	2.87	0.94	13.	1.4	2.3
	MATADOR SEDAN	AIR/OC /EGR/ / /CAN	360-2	A-3	4500	2.87	0.81	12.	1.4	5.8
	C MATADOR WAGON	AIR/OC /EGR/ / /CAN	360-2	A-3	4500	3.15	0.22	1.6	1.2	2.0
	*MATADOR SEDAN	AIR/OC /EGR/ / /CAN	360-2	A-3	4500	3.15	0.54	6.2	1.9	1.8
E-5										
	*CONCORD WAGON	AIR/OC /EGR/ / /CAN	258-1	A-3	3500	3.08	0.46	7.4	2.0	2.5
E-5A										
	C PACER	AIR/OC /EGR/ / /CAN	258-1	A-3	3500	3.08	0.31	3.3	1.4	2.1
	C GREMLIN	AIR/OC /EGR/ / /CAN	258-1	M-4	3500	2.73	0.29	3.5	0.89	2.3
AUDI -- FAMILY COMBINATIONS CERTIFIED: EXHAUST-EMISSION FAMILY TEST VEHICLES										
AUDI 100C / AUDI 100 (131)										
C 5000	C 5000	FI /OC /EGR/ / /CAN	131-FI	A-3	3000	3.91	0.21	2.0	1.3	N/A
	C 5000	FI /OC /EGR/ / /CAN	131-FI	M-4	3000	4.11	0.20	1.6	1.2	2.3 *
	C*5000	FI /OC /EGR/ / /CAN	131-FI	M-4	3000	4.11	0.34	6.3	0.86	1.9 *
(EXHAUST DETERIORATION FACTORS FOR - FI /OC /EGR/ / / FAMILY AUDI 100C)							1.000	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY AUDI 100)							N/A	N/A	N/A	0.0
AUDI 80CI / AUDI 80 (97)										
C FOX	C DASHER WAGON	FI /OC /EGR/ / /CAN	97-FI	A-3	2500	3.91	0.16	1.1	1.1	1.2 *
C FOX WAGON	C FOX	FI /OC /EGR/ / /CAN	97-FI	M-4	2500	4.11	0.18	1.6	1.2	0.68 *
	C*FOX	FI /OC /EGR/ / /CAN	97-FI	M-4	2500	4.11	0.37	7.0	0.38	0.86 *
(EXHAUST DETERIORATION FACTORS FOR - FI /OC /EGR/ / / FAMILY AUDI 80CI)							1.000	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY AUDI 80)							N/A	N/A	N/A	0.0

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS] A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TR AN S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
AUDI - FAMILY COMBINATIONS CERTIFIED		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
AUDI 80FI / AUDI 80 (97)										
FOX	FOX	FI /EGR/ / / /CAN	97-FI	A-3	2500	3.91	1.2	6.0	1.4	0.91 *
FOX WAGON	DASHER	FI /EGR/ / / /CAN	97-FI	M-4	2500	4.11	1.2	6.2	1.6	0.98 *
	*DASHER	FI /EGR/ / / /CAN	97-FI	M-4	2500	4.11	1.4	12.	1.8	0.67 *
	(EXHAUST DETERIORATION FACTORS FOR -	FI /EGR/ / / /	FAMILY AUDI 80FI				1.000	1.221	1.000	N/A
	(EVAPOR. DETERIORATION FACTORS FOR -	/ / / / /CAN	FAMILY AUDI 80				N/A	N/A	N/A	0.0
AUDI100F / AUDI 100 (131)										
5000	5000	FI /EGR/ / / /CAN	131-FI	A-3	3000	3.91	1.1	6.0	1.9	N/A
	5000	FI /EGR/ / / /CAN	131-FI	M-4	3000	4.11	1.1	7.6	1.9	2.3 *
	(EXHAUST DETERIORATION FACTORS FOR -	FI /EGR/ / / /	FAMILY AUDI100F				1.028	1.000	1.000	N/A
	(EVAPOR. DETERIORATION FACTORS FOR -	/ / / / /CAN	FAMILY AUDI 100				N/A	N/A	N/A	0.0
AUDI - EVAP-EMISSION FAMILIES		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
AUDI 100										
	C 5000	FI /OC /EGR/ / /CAN	131-FI	M-4	3000	4.11	0.20	1.6	1.2	2.3
	5000	FI /EGR/ / / /CAN	131-FI	M-4	3000	4.11	1.3	7.6	1.9	2.3
	C*5000	FI /OC /EGR/ / /CAN	131-FI	M-4	3000	4.11	0.36	6.3	0.86	1.9
AUDI 80										
	C RABBIT	FI /OC /EGR/ / /CAN	89-FI	M-4	2250	3.90	0.14	1.5	1.2	1.2
	RABBIT	FI /EGR/ / / /CAN	89-FI	M-4	2250	3.90	1.1	7.0	1.8	1.1
	FOX	FI /EGR/ / / /CAN	97-FI	A-3	2500	3.91	1.2	6.0	1.4	0.91
	C DASHER WAGON	FI /OC /EGR/ / /CAN	97-FI	A-3	2500	3.91	0.16	1.1	1.1	1.2
	C*FOX	FI /OC /EGR/ / /CAN	97-FI	M-4	2500	4.11	0.37	7.0	0.38	0.86
	DASHER	FI /EGR/ / / /CAN	97-FI	M-4	2500	4.11	1.2	6.2	1.6	0.98
	C FOX	FI /OC /EGR/ / /CAN	97-FI	M-4	2500	4.11	0.18	1.6	1.2	0.68
	*DASHER	FI /EGR/ / / /CAN	97-FI	M-4	2500	4.11	1.4	12.	1.8	0.67

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS; A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TR AN S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
AVANTI - FAMILY COMBINATIONS CERTIFIED		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
GM810L4 / 8BFV (350)										
AVANTI II	AVANTI II	OC /EGR/OTH/ / /CAN	150-4	A-3	4000	3.07	0.49	1.1	1.4	3.8 *
	(EXHAUST DETERIORATION FACTORS FOR -	OC /EGR/OTH/ / /	FAMILY GM810L4				1.217	1.000	1.000	N/A
	(EVAPOR. DETERIORATION FACTORS FOR -	/ / / / /CAN	FAMILY 8BFV				N/A	N/A	N/A	0.0
AVANTI - EVAP-EMISSION FAMILIES		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
8BFV	AVANTI II	OC /EGR/OTH/ / /CAN	350-4	A-3	4000	3.07	0.49	1.1	1.4	3.8
BMW - FAMILY COMBINATIONS CERTIFIED		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
120.8 / EV10 (121)										
C 320 I	C 320 I	AIR/FI /THM/EGR/ /CAN	121-FI	A-3	2750	3.64	0.20	4.7	1.1	1.6 *
	C 320 I	AIR/FI /THM/EGR/ /CAN	121-FI	M-4	2750	3.64	0.25	5.0	1.1	N/A
	C*320 I	AIR/FI /THM/EGR/ /CAN	121-FI	M-4	2750	3.64	0.49	11.	0.75	N/A
	(EXHAUST DETERIORATION FACTORS FOR -	AIR/FI /THM/EGR/ /	FAMILY 120.8				1.000	1.000	1.000	N/A
	(EVAPOR. DETERIORATION FACTORS FOR -	/ / / / /CAN	FAMILY EV10				N/A	N/A	N/A	0.0
120.9 / EV10 (121)										
320 I	320 I	AIR/FI /EGR/ / /CAN	121-FI	A-3	2750	3.64	0.87	9.7	1.4	N/A
	320 I	AIR/FI /EGR/ / /CAN	121-FI	M-4	2750	3.64	1.1	7.8	1.8	0.80 *
	(EXHAUST DETERIORATION FACTORS FOR -	AIR/FI /EGR/ / /	FAMILY 120.9				1.000	1.000	1.000	N/A
	(EVAPOR. DETERIORATION FACTORS FOR -	/ / / / /CAN	FAMILY EV10				N/A	N/A	N/A	0.0
130.8 / EV10 (182)										
C 530 I	530 I	AIR/FI /THM/EGR/ /CAN	182-FI	A-3	3500	3.45	0.38	12.	1.7	N/A
530 I	C*530 I	AIR/FI /THM/EGR/ /CAN	182-FI	A-3	3500	3.45	0.40	7.9	1.3	N/A
	C 530 I	AIR/FI /THM/EGR/ /CAN	182-FI	A-3	3500	3.45	0.34	7.0	1.4	1.4 *

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
HHW = FAMILY COMBINATIONS CERTIFIED:										
EXHAUST-EMISSION FAMILY TEST VEHICLES										
130.8 / EV10 (CONT.)										
	C 530 I	AIR/FI /THM/EGR/ /CAN	182-FI	M-4	3500	3.45	0.19	7.2	1.2	N/A
	530 I	AIR/FI /THM/EGR/ /CAN	182-FI	M-4	3500	3.45	0.32	11.	1.6	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/FI /THM/EGR/ /	FAMILY 130.8				1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EV10				N/A	N/A	N/A	0.0)
133.8 / EV10 (196)										
	633 CSI	733 I	AIR/FI /THM/EGR/ /CAN	196-FI	A-3	4000	3.45	0.31	11.	1.7	0.66 *
C	633 CSI	C 633 CSI	AIR/FI /THM/EGR/ /CAN	196-FI	A-3	4000	3.45	0.32	6.9	1.2	N/A
	733 I	*733 I	AIR/FI /THM/EGR/ /CAN	196-FI	M-4	4000	3.45	0.79	11.	1.3	1.1 *
C	733 I	C 633 CSI	AIR/FI /THM/EGR/ /CAN	196-FI	M-4	4000	3.45	0.17	5.8	1.2	N/A
		733 I	AIR/FI /THM/EGR/ /CAN	196-FI	M-4	4000	3.45	0.32	9.3	1.8	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/FI /THM/EGR/ /	FAMILY 133.8				1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EV10				N/A	N/A	N/A	0.0)
HHW = EVAP-EMISSION FAMILIES:										
EVAPORATIVE-EMISSION FAMILY TEST VEHICLES										
EV10										
	C 320 I	AIR/FI /THM/EGR/ /CAN	121-FI	A-3	2750	3.64	0.20	4.7	1.1	1.6
	320 I	AIR/FI /EGR/ / /CAN	121-FI	M-4	2750	3.64	1.1	7.8	1.8	0.80
C	530 I	AIR/FI /THM/EGR/ /CAN	182-FI	A-3	3500	3.45	0.35	7.0	1.4	1.4
	733 I	AIR/FI /THM/EGR/ /CAN	196-FI	A-3	4000	3.45	0.31	11.	1.7	0.66
	*733 I	AIR/FI /THM/EGR/ /CAN	196-FI	M-4	4000	3.45	0.79	11.	1.3	1.1
JBLMC1 AUSTIN-MORRIS = FAMILY COMBINATIONS CERTIFIED:										
EXHAUST-EMISSION FAMILY TEST VEHICLES										
M/50 / LCAN1 (110)										
MGB	C MGB	AIR/OC /EGR/ / /CAN	110-1	M-4	2750	3.91	0.17	4.1	1.3	N/A
C MGB	C MGB	AIR/OC /EGR/ / /CAN	110-1	M-4	2750	3.91	0.17	4.8	1.6	0.60 *

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
JBLMC1 AUSTIN-MORRIS = FAMILY COMBINATIONS CERTIFIED:										
EXHAUST-EMISSION FAMILY TEST VEHICLES										
M/50 / LCAN1 (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY M/50				1.296	1.585	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY LCAN1				N/A	N/A	N/A	0.020)
JBLMC1 AUSTIN-MORRIS = EVAP-EMISSION FAMILIES:										
EVAPORATIVE-EMISSION FAMILY TEST VEHICLES										
LCAN1	C MGB	AIR/OC /EGR/ / /CAN	110-1	M-4	2750	3.91	0.17	4.8	1.6	0.60
JBLMC1 JAGUAR = FAMILY COMBINATIONS CERTIFIED:										
EXHAUST-EMISSION FAMILY TEST VEHICLES										
V12/50 / XJF1 (326)										
JAGUAR XJ	C JAGUAR XJ	AIR/FI /OC /EGR/ /CAN	326-FI	A-3	4500	3.31	0.35	4.8	1.1	4.3 *
C JAGUAR XJ	JAGUAR XJ	AIR/FI /OC /EGR/ /CAN	326-FI	A-3	4500	3.31	0.73	4.9	1.4	4.8 *
JAGUAR XJS										
C JAGUAR XJS										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/FI /OC /EGR/ /	FAMILY V12/50				1.101	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY XJF1				N/A	N/A	N/A	0.860)
V12/50-1 / XJF1 (326)										
JAGUAR XJ	JAGUAR XJ	AIR/FI /OC /EGR/ /CAN	326-FI	A-3	4500	3.31	0.79	7.2	1.4	N/A
JAGUAR XJS										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/FI /OC /EGR/ /	FAMILY V12/50-1				1.186	1.000	1.350	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY XJF1				N/A	N/A	N/A	0.860)
4.2FI / XJF1 (258)										
C JAGUAR XJ	C JAGUAR XJ	FI /OC / / / /CAN	258-FI	A-3	4500	3.31	0.41	5.8	1.3	2.4 *

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM / (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	T R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
[BLNG] JAGUAR -- FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
4.2FI / XJFI (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR - FI /OC / / / / FAMILY 4.2FI							1.187	1.260	1.827	N/A)
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY XJFI							N/A	N/A	N/A	0.860)
[BLNG] JAGUAR -- EVAP-EMISSION FAMILIES:		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
XJFI										
C JAGUAR XJ	FI /OC / / / /CAN	258-FI	A-3	4500	3.31	0.43	5.8	1.3	2.4
JAGUAR XJ	AIR/FI /OC /EGR/ /CAN	326-FI	A-3	4500	3.31	0.73	4.9	1.4	4.8
C JAGUAR XJ	AIR/FI /OC /EGR/ /CAN	326-FI	A-3	4500	3.11	0.35	4.8	1.1	4.3
[BLNG] TRIUMPH -- FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
RV8/50C / RV8/E1 (215)										
TR	TR	AIR/OC /EGR/ / /CAN	215-2	A-3	3000	3.08	0.30	3.0	1.0	N/A
	TR	AIR/OC /EGR/ / /CAN	215-2	M-5	3000	3.08	0.34	2.8	1.1	1.3 *
(EXHAUST DETERIORATION FACTORS FOR - AIR/OC /EGR/ / / FAMILY RV8/50C							1.000	2.500	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY RV8/E1							N/A	N/A	N/A	0.0)
RV8/50C/C / RV8/E1 (215)										
C TR	C TR	AIR/OC /EGR/ / /CAN	215-2	A-3	3000	3.08	0.32	3.6	0.95	N/A
	C TR	AIR/OC /EGR/ / /CAN	215-2	M-5	3000	3.08	0.21	1.9	0.78	N/A
(EXHAUST DETERIORATION FACTORS FOR - AIR/OC /EGR/ / / FAMILY RV8/50C/C							1.329	1.329	1.177	N/A)
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY RV8/E1							N/A	N/A	N/A	0.0)
SL4/2/50C / SL4/2/E1 (122)										
TR	TR	AIR/OC /EGR/ / /CAN	122-2	A-3	2750	3.27	0.45	1..	1.2	N/A
	TR	AIR/OC /EGR/ / /CAN	122-2	M-4	2750	3.64	0.60	5.9	1.5	N/A
	TR	AIR/OC /EGR/ / /CAN	122-2	M-5	2750	3.90	0.55	5.3	1.2	1.9 *

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM / (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	T R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
[BLNG] TRIUMPH -- FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
SL4/2/50C / SL4/2/E1 (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR - AIR/OC /EGR/ / / FAMILY SL4/2/50C							1.456	1.180	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY SL4/2/E1							N/A	N/A	N/A	0.815)
SL4/2/50C/C / SL4/2/E1 (122)										
C TR	C TR	AIR/OC /EGR/ / /CAN	122-2	M-4	2750	3.64	0.30	5.7	0.74	N/A
	C TR	AIR/OC /EGR/ / /CAN	122-2	M-5	2750	3.90	0.23	6.4	0.74	N/A
(EXHAUST DETERIORATION FACTORS FOR - AIR/OC /EGR/ / / FAMILY SL4/2/50C/C							1.196	1.161	1.042	N/A)
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY SL4/2/E1							N/A	N/A	N/A	0.815)
TC/25C / TC/E2 (91)										
C SPITFIRE	C MIDGET	AIR/OC /EGR/ / /CAN	91-1	M-4	2250	3.72	0.27	3.4	0.67	1.1 *
C MIDGET	C SPITFIRE	AIR/OC /EGR/ / /CAN	91-1	M-4	2250	3.89	0.30	2.2	0.70	1.3 *
(EXHAUST DETERIORATION FACTORS FOR - AIR/OC /EGR/ / / FAMILY TC/25C							1.170	1.218	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY TC/E2							N/A	N/A	N/A	0.316)
TC/50C / TC/E1 (91)										
SPITFIRE	SPITFIRE	AIR/OC /EGR/ / /CAN	91-1	M-4	2250	3.89	0.46	2.0	0.98	1.1 *
MIDGET	MIDGET	AIR/OC /EGR/ / /CAN	91-1	M-4	2250	3.72	0.56	3.4	1.4	1.1 *
(EXHAUST DETERIORATION FACTORS FOR - AIR/OC /EGR/ / / FAMILY TC/50C							1.343	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY TC/E1							N/A	N/A	N/A	0.316)
[BLNG] TRIUMPH -- EVAP-EMISSION FAMILIES:		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
RV8/E1	TR	AIR/OC /EGR/ / /CAN	215-2	M-5	3000	3.08	0.34	2.8	1.1	1.3
SL4/2/E1	TR	AIR/OC /EGR/ / /CAN	122-2	M-5	2750	3.90	0.55	5.3	1.2	1.9

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CANB	TRANS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
GUEC) TROYER - EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
TC/E1										
	SPITFIRE	AIR/OC /EGR/ / /CAN	91-1	M-4	2250	3.49	0.46	2.0	0.98	1.1
	MIDGET	AIR/OC /EGR/ / /CAN	91-1	M-4	2250	3.72	0.56	3.4	1.4	1.1
TC/E2										
	C MIDGET	AIR/OC /EGR/ / /CAN	91-1	M-4	2250	3.72	0.27	3.4	0.67	1.1
	C SPITFIRE	AIR/OC /EGR/ / /CAN	91-1	M-4	2250	3.49	0.30	2.2	0.70	1.3
CHECKER - FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
GMB10F1M / BHBV (250)										
CHECKER	CHECKER	OC /EGR/OTH/ / /CAN	250-1	A-3	4000	3.07	0.44	6.8	2.0	1.3 *
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/OTH/ / /	FAMILY GMB10F1M				1.000	1.000	1.066	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY BHBV				N/A	N/A	N/A	0.0
GMB10F1SMD / BHFV (250)										
C CHECKER	C CHECKER	AIR/OC /EGR/OTR/ /CAN	250-1	A-3	4000	3.07	0.29	2.5	1.4	1.6 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/OTR/ /	FAMILY GMB10F1SMD				1.471	1.070	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY BHFV				N/A	N/A	N/A	0.0
GMB10J4S / BHFV (350)										
C CHECKER	C CHECKER	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	4500	2.72	0.47	2.9	1.1	3.1 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/OTR/ /	FAMILY GMB10J4S				1.113	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY BHFV				N/A	N/A	N/A	0.0
GMB10Y2 / BHCV (305)										
CHECKER	CHECKER	OC /EGR/OTH/ / /CAN	305-2	A-3	4500	2.72	0.51	8.2	2.0	2.9 *
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/OTH/ / /	FAMILY GMB10Y2				1.000	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY BHCV				N/A	N/A	N/A	0.250

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CANB	TRANS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
CHECKER - EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
BHBV	CHECKER	OC /EGR/OTH/ / /CAN	250-1	A-3	4000	3.07	0.44	6.8	2.0	1.3
BHCV	CHECKER	OC /EGR/OTH/ / /CAN	305-2	A-3	4500	2.72	0.51	8.2	2.0	2.9
BHFV	C CHECKER	AIR/OC /EGR/OTR/ /CAN	250-1	A-3	4000	3.07	0.29	2.5	1.4	1.6
	C CHECKER	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	4500	2.72	0.47	2.9	1.1	3.1
CHRYSLER - FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
CD-225-1-EP / E-2 (225)										
VOLARE	C VOLARE	AIR/OC /EGR/ / /CAN	225-1	A-3	4000	2.71	0.64	8.8	1.2	N/A
VOLARE WAGON	C FURY	AIR/OC /EGR/ / /CAN	225-1	A-3	4000	2.71	0.69	8.4	1.2	3.8 *
C VOLARE	C VOLARE	AIR/OC /EGR/ / /CAN	225-1	A-3	4000	3.23	0.40	4.1	1.4	3.4 *
C VOLARE WAGON	C VOLARE	AIR/OC /EGR/ / /CAN	225-1	A-3	4000	3.23	0.54	6.4	1.2	2.2 *
C FURY	C VOLARE WAGON	AIR/OC /EGR/ / /CAN	225-1	M-4	4000	3.21	0.74	3.7	1.7	3.2 *
ASPEN										
ASPEN WAGON										
C ASPEN										
C ASPEN WAGON										
C MONACO										
C DIPLOMAT										
C DIPLOMAT WAGON										
DIPLOMAT										
DIPLOMAT WAGON										
C LEBARON										
C LEBARON WAGON										
LEBARON										
LEBARON WAGON										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY CD-225-1-EP				1.412	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-2				N/A	N/A	N/A	0.0

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS. INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
CHRYSLER - FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**							
CH-360/318-4-GP / F-3 (318,360)									
C FURY	C FURY	AIR/OC /EGR/ / /CAN	318-4	L-3	4500	2.71	0.34	3.4	1.2	N/A
C FURY WAGON	C FURY	AIR/OC /EGR/ / /CAN	318-4	L-3	4500	2.71	0.34	4.5	1.5	1.8 *
C VOLARE	C VOLARE	AIR/OC /EGR/ / /CAN	360-4	A-3	4000	3.21	0.45	5.7	1.2	N/A
C VOLARE WAGON	C•CORDOBA	AIR/OC /EGR/ / /CAN	360-4	A-3	4500	3.21	0.68	8.4	1.5	N/A
VOLARE	C CHRYSLER	AIR/OC /EGR/ / /CAN	360-4	L-3	5000	2.71	0.44	7.9	1.5	1.4 *
VOLARE WAGON	C MONACO WAGON	AIR/OC /EGR/ / /CAN	360-4	L-3	5000	2.71	0.31	5.7	1.4	N/A
C MONACO										
C MONACO WAGON										
C ASPEN										
C ASPEN WAGON										
ASPEN										
ASPEN WAGON										
C DIPLOMAT										
C DIPLOMAT WAGON										
C CHARGER SE/MAG XE										
DIPLOMAT										
DIPLOMAT WAGON										
C LEBARON										
C LEBARON WAGON										
C CORDOBA										
LEBARON										
LEBARON WAGON										
C CHRYSLER										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY CH-360/318-4-GP				1.259	1.354	1.015	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-3				N/A	N/A	N/A	0.814)
CH-360/318-4-GP / E-9 (318,360)										
FURY	C FURY	AIR/OC /EGR/ / /CAN	318-4	L-3	4500	2.71	0.34	3.4	1.2	N/A
FURY WAGON	C FURY	AIR/OC /EGR/ / /CAN	318-4	L-3	4500	2.71	0.34	4.5	1.5	N/A
MONACO	C VOLARE	AIR/OC /EGR/ / /CAN	360-4	A-3	4000	3.21	0.45	5.7	1.2	N/A
MONACO WAGON	C•CORDOBA	AIR/OC /EGR/ / /CAN	360-4	A-3	4500	3.21	0.68	8.4	1.5	3.6 *
CHARGER SE/MAG XE	C MONACO WAGON	AIR/OC /EGR/ / /CAN	360-4	L-3	5000	2.71	0.31	5.7	1.4	N/A
CORDOBA	C CHRYSLER	AIR/OC /EGR/ / /CAN	360-4	L-3	5000	2.71	0.44	7.9	1.5	N/A
CHRYSLER										

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS] A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS. INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
CHRYSLER - FAMILY COMBINATIONS CERTIFIED		**EXHAUST-EMISSION FAMILY TEST VEHICLES**							
CH-360/318-4-GP / E-9 (CONT.)									
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY CH-360/318-4-GP				1.259	1.354	1.015	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-9				N/A	N/A	N/A	0.814)
CH-440-4H-FP / E-9 (440)										
C FURY	C MONACO	AIR/OC /EGR/ / /CAN	440-4	A-3	5000	3.21	0.27	2.8	1.3	3.6 *
C MONACO										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY CH-440-4H-FP				1.524	1.105	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-9				N/A	N/A	N/A	0.814)
CH-440-4S-GP / E-9 (440)										
C CHRYSLER	C CHRYSLER	AIR/OC /EGR/ / /CAN	440-4	A-3	5500	3.21	0.80	3.2	1.6	N/A
CHRYSLER	C•CHRYSLER	AIR/OC /EGR/ / /CAN	440-4	A-3	5500	3.21	1.3	8.7	2.4	4.5 *
	C CHRYSLER	AIR/OC /EGR/ / /CAN	440-4	A-3	5500	2.71	0.93	3.3	1.6	5.0 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY CH-440-4S-GP				1.824	1.286	1.088	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-9				N/A	N/A	N/A	0.814)
CF-105-2-HP / E-5 (105)										
C HORIZON	HORIZON	AIR/OC /EGR/ / /CAN	105-2	A-3	2500	3.48	0.21	5.6	1.3	3.4 *
HORIZON	C HORIZON	AIR/OC /EGR/ / /CAN	105-2	A-3	2500	3.74	0.39	8.3	0.65	4.2 *
C OMNI	OMNI	AIR/OC /EGR/ / /CAN	105-2	M-4	2500	3.37	0.66	7.7	1.3	3.7 *
OMNI	HORIZON	AIR/OC /EGR/ / /CAN	105-2	M-4	2500	3.37	0.51	6.7	1.8	3.2 *
	C HORIZON	AIR/OC /EGR/ / /CAN	105-2	M-4	2500	3.58	0.33	5.6	0.95	3.1 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY CF-105-2-HP				1.315	1.596	1.103	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-5				N/A	N/A	N/A	0.0
FH-360-4-C / E-3 (360)										
VOLARE	VOLARE	OC / / / / /CAN	360-4	A-3	4000	2.71	0.21	3.8	1.8	N/A
FURY	FURY	OC / / / / /CAN	360-4	A-3	4500	3.21	0.45	12.	1.7	N/A
ASPEN	FURY	OC / / / / /CAN	360-4	A-3	4500	2.71	0.26	6.1	1.8	N/A
MONACO	ASPEN	OC / / / / /CAN	360-4	A-3	4000	3.21	0.32	8.4	1.5	2.6 *

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS] A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VEHICLES	TR AN S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
CHRYSLER - FAMILY COMBINATIONS CERTIFIED		EXHAUST-EMISSION FAMILY TEST VEHICLES								
FH-360-4-C / E-3 (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		OC / / / / /	FAMILY FH-360-4-C				1.000	1.420	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-3				N/A	N/A	N/A	0.814)
FH-400-4-AA / E-1										
(400)										
FURY	CORDOBA	AIR/OC / / / /CAN	400-4	L-3	4500	2.45	0.67	4.5	1.4	N/A
MONACO	FURY	AIR/OC / / / /CAN	400-4	L-3	4500	2.45	0.76	5.5	1.9	N/A
CHARGER SE/MAG AF										
CORDOBA										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC / / / /	FAMILY FH-400-4-AA				1.548	1.155	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-3				N/A	N/A	N/A	0.814)
FH-440-4H-D / E-9										
(440)										
FURY	FURY	OC / / / / /CAN	440-4	A-3	5000	2.71	0.56	3.7	1.5	N/A
MONACO	FURY	OC / / / / /CAN	440-4	A-3	5000	2.71	1.1	12.	1.4	N/A
	FURY	OC / / / / /CAN	440-4	A-3	5000	3.21	0.65	5.0	1.5	3.1 *
(EXHAUST DETERIORATION FACTORS FOR -		OC / / / /	FAMILY FH-440-4H-D				1.000	1.000	1.018	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-9				N/A	N/A	N/A	0.814)
FH-440-4S-AA / E-9										
(440)										
CHRYSLER	CHRYSLER	AIR/OC / / / /CAN	440-4	A-3	5500	2.71	1.4	6.1	1.9	3.9 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC / / / /	FAMILY FH-440-4S-AA				1.000	1.000	1.042	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-9				N/A	N/A	N/A	0.814)
FH-225-1-CA / E-2										
(225)										
VOLARE	ASPEN	AIR/OC /EGR/ / /CAN	225-1	A-3	3500	2.71	0.54	8.2	1.5	N/A
FURY	FURY	AIR/OC /EGR/ / /CAN	225-1	A-3	4000	2.71	0.82	11.	1.5	2.2 *
ASPEN	ASPEN	AIR/OC /EGR/ / /CAN	225-1	L-3	3500	2.71	0.76	12.	1.2	N/A
MONACO	VOLARE	AIR/OC /EGR/ / /CAN	225-1	L-3	3500	2.76	0.84	11.	1.6	2.1 *
	VOLARE	AIR/OC /EGR/ / /CAN	225-1	M-3	3500	3.23	0.84	12.	1.6	N/A

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VEHICLES	TR AN S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
CHRYSLER - FAMILY COMBINATIONS CERTIFIED		EXHAUST-EMISSION FAMILY TEST VEHICLES								
FD-225-1-CA / E-2 (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY FD-225-1-CA				1.000	1.000	1.021	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-2				N/A	N/A	N/A	0.0)
FD-225-2-CA / E-1										
(225)										
VOLARE	VOLARE WAGON	AIR/OC /EGR/ / /CAN	225-2	A-3	4000	2.71	0.67	10.	1.9	3.3 *
VOLARE WAGON	ASPEN WAGON	AIR/OC /EGR/ / /CAN	225-2	A-3	4000	2.71	0.70	13.	1.4	3.5 *
ASPEN	ASPEN	AIR/OC /EGR/ / /CAN	225-2	L-3	3500	2.94	0.64	9.3	1.4	N/A
ASPEN WAGON	ASPEN	AIR/OC /EGR/ / /CAN	225-2	L-3	3500	2.94	0.78	14.	1.3	N/A
DIPLOMAT	ASPEN WAGON	AIR/OC /EGR/ / /CAN	225-2	M-4	4000	3.21	0.99	14.	2.0	N/A
DIPLOMAT WAGON										
LEBARON										
LEBARON WAGON										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY FD-225-2-CA				1.005	1.038	1.092	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-1				N/A	N/A	N/A	0.623)
FD-318-2-CA / E-1										
(318)										
VOLARE	LEBARON	AIR/OC /EGR/ / /CAN	318-2	A-3	4500	3.21	0.49	4.6	1.5	N/A
VOLARE WAGON	*MONACO	AIR/OC /EGR/ / /CAN	318-2	A-3	4500	3.21	0.63	13.	1.7	3.5 *
FURY	DIPLOMAT	AIR/OC /EGR/ / /CAN	318-2	A-3	4500	2.45	0.54	8.4	1.4	N/A
ASPEN	FURY	AIR/OC /EGR/ / /CAN	318-2	A-3	4500	2.71	0.54	9.2	2.0	N/A
ASPEN WAGON	LEBARON	AIR/OC /EGR/ / /CAN	318-2	A-3	4500	2.71	0.33	3.9	1.3	N/A
MONACO	LEBARON	AIR/OC /EGR/ / /CAN	318-2	A-3	4000	2.76	0.60	5.4	1.2	4.0 *
DIPLOMAT	LEBARON	AIR/OC /EGR/ / /CAN	318-2	A-3	4000	2.45	0.58	8.9	1.2	N/A
DIPLOMAT WAGON	VOLARE	AIR/OC /EGR/ / /CAN	318-2	A-3	4000	2.71	0.45	6.5	1.7	N/A
LEBARON	DIPLOMAT	AIR/OC /EGR/ / /CAN	318-2	L-3	4500	2.71	0.62	11.	1.3	N/A
LEBARON WAGON	VOLARE WAGON	AIR/OC /EGR/ / /CAN	318-2	L-3	4000	2.45	0.80	14.	1.5	N/A
	VOLARE	AIR/OC /EGR/ / /CAN	318-2	M-4	4000	2.94	0.62	9.5	1.3	2.3 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY FD-318-2-CA				1.049	1.000	1.095	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-1				N/A	N/A	N/A	0.623)
FD-318-2-CA / E-7										
(318)										
VOLARE	FURY	AIR/OC /EGR/ / /CAN	318-2	A-3	4500	2.71	0.54	9.2	2.0	3.2 *
VOLARE WAGON	*MONACO	AIR/OC /EGR/ / /CAN	318-2	A-3	4500	3.21	0.63	11.	1.7	N/A

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	I A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
CHRYSLER - FAMILY COMBINATIONS CERTIFIED		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
FD-318-2-CA / E-7 (CONT.)										
FURY	DIPLOMAT	AIR/OC /EGR/ / /CAN	318-2	A-3	4500	2.45	0.54	8.4	1.4	N/A
ASPEN	LEBARON	AIR/OC /EGR/ / /CAN	318-2	A-3	4000	2.76	0.40	5.4	1.2	N/A
ASPEN WAGON	VOLARE	AIR/OC /EGR/ / /CAN	318-2	A-3	4000	2.71	0.45	6.5	1.7	N/A
MONACO	LEBARON	AIR/OC /EGR/ / /CAN	318-2	A-3	4500	3.21	0.49	4.6	1.5	N/A
DIPLOMAT	LEBARON	AIR/OC /EGR/ / /CAN	318-2	A-3	4000	3.21	0.33	3.9	1.3	N/A
DIPLOMAT WAGON	LEBARON	AIR/OC /EGR/ / /CAN	318-2	A-3	4000	2.45	0.54	8.9	1.2	N/A
CHARGER SE/MAG XE	VOLARE WAGON	AIR/OC /EGR/ / /CAN	318-2	L-3	4000	2.45	0.80	14.	1.5	2.5 *
LEBARON	DIPLOMAT	AIR/OC /EGR/ / /CAN	318-2	L-3	4500	2.71	0.62	11.	1.3	3.2 *
LEBARON WAGON	VOLARE	AIR/OC /EGR/ / /CAN	318-2	M-4	4000	2.94	0.62	9.5	1.3	N/A
CORDOBA										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY FD-318-2-CA				1 1.099	1.000	1.095	N/A 1
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-7				1 N/A	N/A	N/A	0.6231
FD-360-2-CA / E-10										
(360)										
CHRYSLER	MONACO	AIR/OC /EGR/ / /CAN	360-2	A-3	4500	3.21	0.48	7.7	2.0	N/A
	LEBARON	AIR/OC /EGR/ / /CAN	360-2	L-3	4500	2.45	0.67	11.	1.4	N/A
	FURY	AIR/OC /EGR/ / /CAN	360-2	L-3	4500	2.45	0.55	12.	1.8	N/A
	CHARGER SE/MAG XE	AIR/OC /EGR/ / /CAN	360-2	L-3	4500	2.45	0.55	12.	1.8	N/A
	FURY WAGON	AIR/OC /EGR/ / /CAN	360-2	L-3	5000	2.71	0.60	13.	1.4	N/A
	CHRYSLER	AIR/OC /EGR/ / /CAN	360-2	L-3	5000	2.71	0.61	11.	1.7	3.5 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY FD-360-2-CA				1 1.000	1.000	1.000	N/A 1
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-10				1 N/A	N/A	N/A	0.4141
FD-360-2-CA / E-6										
(360)										
VOLARE	MONACO	AIR/OC /EGR/ / /CAN	360-2	A-3	4500	3.21	0.48	7.7	2.0	4.7 *
VOLARE WAGON	CHRYSLER	AIR/OC /EGR/ / /CAN	360-2	L-3	5000	2.71	0.63	11.	1.7	N/A
FURY	CHARGER SE/MAG XE	AIR/OC /EGR/ / /CAN	360-2	L-3	4500	2.45	0.62	11.	1.7	4.0 *
FURY WAGON	FURY WAGON	AIR/OC /EGR/ / /CAN	360-2	L-3	5000	2.71	0.60	13.	1.4	3.9 *
ASPEN	LEBARON	AIR/OC /EGR/ / /CAN	360-2	L-3	4500	2.45	0.67	11.	1.4	5.6 *
ASPEN WAGON	FURY	AIR/OC /EGR/ / /CAN	360-2	L-3	4500	2.45	0.55	12.	1.8	4.4 *
MONACO										
MONACO WAGON										
DIPLOMAT										
DIPLOMAT WAGON										
CHARGER SE/MAG XE										

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	I A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
CHRYSLER - FAMILY COMBINATIONS CERTIFIED		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
FD-360-2-CA / E-6 (CONT.)										
LEBARON										
LEBARON WAGON										
CORDOBA										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY FD-360-2-CA				1 1.000	1.000	1.000	N/A 1
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-6				1 N/A	N/A	N/A	0.8141
FD-400-4-CA / E-1										
(400)										
FURY	MONACO WAGON	AIR/OC /EGR/ / /CAN	400-4	A-3	5000	3.21	0.50	5.3	1.5	N/A
FURY WAGON	CHRYSLER	AIR/OC /EGR/ / /CAN	400-4	L-3	5000	2.71	0.84	8.4	1.4	N/A
MONACO	MONACO	AIR/OC /EGR/ / /CAN	400-4	L-3	4500	3.21	0.44	9.2	1.3	3.9 *
MONACO WAGON	CORDOBA	AIR/OC /EGR/ / /CAN	400-4	L-3	4500	2.45	0.57	7.7	1.7	1.8 *
CHARGER SE/MAG XE										
CORDOBA										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY FD-400-4-CA				1 1.068	1.000	1.028	N/A 1
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-1				1 N/A	N/A	N/A	0.8141
FD-400-4-CA / E-4										
(400)										
CHRYSLER	MONACO WAGON	AIR/OC /EGR/ / /CAN	400-4	A-3	5000	3.21	0.50	5.3	1.5	N/A
	CORDOBA	AIR/OC /EGR/ / /CAN	400-4	L-3	4500	2.45	0.57	7.7	1.7	N/A
	CHRYSLER	AIR/OC /EGR/ / /CAN	400-4	L-3	5000	2.71	0.84	8.4	1.4	3.5 *
	MONACO	AIR/OC /EGR/ / /CAN	400-4	L-3	4500	3.21	0.44	9.2	1.3	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY FD-400-4-CA				1 1.068	1.000	1.028	N/A 1
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-9				1 N/A	N/A	N/A	0.8141
FG-105-2-KA / E-5										
(105)										
HORIZON	HORIZON	AIR/OC /EGR/ / /CAN	105-2	A-3	2500	3.48	0.33	12.	1.4	2.4 *
OMNI	OMNI	AIR/OC /EGR/ / /CAN	105-2	M-4	2500	3.17	0.40	12.	1.7	2.2 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY FG-105-2-KA				1 1.300	1.289	1.154	N/A 1
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E-5				1 N/A	N/A	N/A	0.0 1

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
CHRYSLER - EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
E-1										
	VOLARE WAGON	AIR/OC /EGR/ / /CAN	225-2	A-3	4000	2.71	0.67	10.	1.4	3.3
	ASPEN WAGON	AIR/OC /EGR/ / /CAN	225-2	A-3	4000	2.71	0.70	13.	1.4	3.5
	LEBARON	AIR/OC /EGR/ / /CAN	318-2	A-3	4000	2.76	0.40	5.4	1.2	4.0
	*MONACO	AIR/OC /EGR/ / /CAN	318-2	A-3	4500	3.21	0.63	11.	1.7	3.5
	VOLARE	AIR/OC /EGR/ / /CAN	318-2	M-4	4000	2.94	0.62	9.5	1.3	2.3
F-10										
	CHRYSLER	AIR/OC /EGR/ / /CAN	360-2	L-3	5000	2.71	0.61	11.	1.7	3.5
E-2										
	C VOLARE	AIR/OC /EGR/ / /CAN	225-1	A-3	4000	3.23	0.40	4.1	1.4	3.4
	C*VOLARE	AIR/OC /EGR/ / /CAN	225-1	A-3	4000	3.23	0.58	6.4	1.2	2.2
	C FURY	AIR/OC /EGR/ / /CAN	225-1	A-3	4000	2.71	0.68	8.4	1.2	3.8
	FURY	AIR/OC /EGR/ / /CAN	225-1	A-3	4000	2.71	0.82	13.	1.5	2.2
	VOLARE	AIR/OC /EGR/ / /CAN	225-1	L-3	3500	2.76	0.88	11.	1.6	2.1
	C VOLARE WAGON	AIR/OC /EGR/ / /CAN	225-1	M-4	4000	3.21	0.79	3.7	1.7	3.2
F-3										
	C FURY	AIR/OC /EGR/ / /CAN	318-4	L-3	4500	2.71	0.34	4.5	1.5	3.8
	ASPEN	OC / / / / /CAN	360-4	A-3	4000	3.21	0.32	8.4	1.5	2.6
	C CHRYSLER	AIR/OC /EGR/ / /CAN	360-4	L-3	5000	2.71	0.44	7.9	1.5	3.4
	CHARGER SE/MAG XE	AIR/OC / / / /CAN	400-4	A-3	4500	3.21	0.59	2.2	1.6	4.8
	CORDOBA	AIR/OC /EGR/ / /CAN	400-4	L-3	4500	2.45	0.57	7.7	1.7	3.8
	MONACO	AIR/OC /EGR/ / /CAN	400-4	L-3	4500	3.21	0.44	9.2	1.3	3.9
E-5										
	HORIZON	AIR/OC /EGR/ / /CAN	105-2	A-3	2500	3.48	0.31	12.	1.4	2.4
	HORIZON	AIR/OC /EGR/ / /CAN	105-2	A-3	2500	3.48	0.21	5.6	1.3	3.4
	C HORIZON	AIR/OC /EGR/ / /CAN	105-2	A-3	2500	3.74	0.39	8.3	0.65	4.2
	OMNI	AIR/OC /EGR/ / /CAN	105-2	M-4	2500	3.37	0.40	12.	1.7	2.2
	HORIZON	AIR/OC /EGR/ / /CAN	105-2	M-4	2500	3.37	0.51	6.7	1.8	3.2
	OMNI	AIR/OC /EGR/ / /CAN	105-2	M-4	2500	3.37	0.66	7.7	1.3	3.7
	C HORIZON	AIR/OC /EGR/ / /CAN	105-2	M-4	2500	3.58	0.33	5.6	0.95	3.1
E-6										
	MONACO	AIR/OC /EGR/ / /CAN	360-2	A-3	4500	3.21	0.43	7.7	2.0	4.7
	FURY	AIR/OC /EGR/ / /CAN	360-2	L-3	4500	2.45	0.55	12.	1.8	4.4
	FURY WAGON	AIR/OC /EGR/ / /CAN	360-2	L-3	5000	2.71	0.60	11.	1.4	3.9
	CHARGER SE/MAG XE	AIR/OC /EGR/ / /CAN	360-2	L-3	4500	2.45	0.62	11.	1.7	4.0
	LEBARON	AIR/OC /EGR/ / /CAN	360-2	L-3	4500	2.45	0.67	11.	1.4	5.6

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
CHRYSLER - EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
F-7										
	FURY	AIR/OC /EGR/ / /CAN	318-2	L-3	4500	2.71	0.58	9.2	2.0	3.2
	VOLARE WAGON	AIR/OC /EGR/ / /CAN	318-2	L-3	4000	2.45	0.80	1..	1.5	2.5
	DIPLOMAT	AIR/OC /EGR/ / /CAN	318-2	L-3	4500	2.71	0.62	11.	1.3	3.2
F-9										
	C*CORDOBA	AIR/OC /EGR/ / /CAN	360-4	A-3	4500	3.21	0.64	8.4	1.5	3.6
	CHRYSLER	AIR/OC /EGR/ / /CAN	400-4	L-3	5000	2.71	0.84	8.4	1.4	3.5
	C CHRYSLER	AIR/OC /EGR/ / /CAN	440-4	A-3	5500	2.71	0.93	3.3	1.6	5.0
	C MONACO	AIR/OC /EGR/ / /CAN	440-4	A-3	5000	3.21	0.27	2.8	1.3	3.6
	C*CHRYSLER	AIR/OC /EGR/ / /CAN	440-4	A-3	5500	3.21	1.1	8.7	2.0	4.5
	CHRYSLER	AIR/OC / / / /CAN	440-4	A-3	5500	2.71	1.4	6.1	1.9	3.9
	FURY	OC / / / / /CAN	440-4	A-1	5000	3.21	0.65	5.0	1.5	3.1
EXCALIBUR AUTOS - FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
12R40 / BHFV										
(454) EXCALIBUR	EXCALIBUR	AIR/EGR/OTH/ / /CAN	454-4	A-3	4500	2.73	0.98	8.6	1.9	4.9 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/EGR/OTH/ / /	FAMILY 12R40				(1.100	1.100	1.100	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY BHFV				(N/A	N/A	N/A	0.0)
EXCALIBUR AUTOS - EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
BHFV	EXCALIBUR	AIR/EGR/OTH/ / /CAN	454-4	A-3	4500	2.73	0.98	8.6	1.9	4.9
FERRARI - FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
F 108 AI / EVAP ? (179) FERRARI 308	FERRARI 308	AIR/OC /OTH/ / /CAN	179-8	M-5	3500	3.70	0.74	5.1	1.3	4.2 *

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS! A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB	TRANS MISS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
EXHAUST-EVAP COMBINATIONS CERTIFIED		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
F 106 AE / EVAP 2 (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /OTH/ / /	FAMILY F 106 AE				1.900	1.700	1.200	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVAP 2				N/A	N/A	N/A	0.0
EVAPORATIVE-EVAP-EMISSION FAMILIES		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
EVAP 2										
	FERRARI 308	AIR/OC /OTH/ / /CAN	179-8	M-5	3500	3.70	0.74	5.1	1.3	4.2
E181 - FAMILY COMBINATIONS CERTIFIED		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
128 / EVAP1										
(79)										
128	X1/9	AIR/ / / / /CAN	79-2	M-4	2250	4.42	0.72	8.8	1.5	2.3 *
128 WAGON	128	AIR/ / / / /CAN	79-2	M-4	2250	3.76	0.72	11.	1.4	2.1 *
X1/9	128	AIR/ / / / /CAN	79-2	M-4	2250	3.76	0.73	11.	1.3	2.2 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/ / / / /	FAMILY 128				1.089	1.061	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVAP1				N/A	N/A	N/A	0.0
128-CC1 / EVAP1C										
(79)										
C 128	C 128	AIR/OC / / / /CAN	79-2	M-4	2250	3.76	0.24	3.8	1.2	2.5 *
C 128 WAGON	C X1/9	AIR/OC / / / /CAN	79-2	M-4	2250	4.08	0.16	4.2	1.0	1.4 *
C X1/9	C 128	AIR/OC / / / /CAN	79-2	M-4	2250	3.76	0.20	3.8	1.1	1.9 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC / / / /	FAMILY 128-CC1				1.000	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVAP1C				N/A	N/A	N/A	0.0
132 / EVAP2										
(107)										
131 MIRAFIORI	131 MIRAFIORI	AIR/EGR/ / / /CAN	107-2	A-3	2750	4.44	0.85	12.	1.5	N/A
131 ESTATE WAGON	LANCIA BETA	AIR/EGR/ / / /CAN	107-2	M-5	3000	4.36	1.0	6.9	1.5	N/A
124 SPORT	131 MIRAFIORI	AIR/EGR/ / / /CAN	107-2	M-5	2750	4.10	1.1	9.0	1.2	1.7 *
	124 SPORT	AIR/EGR/ / / /CAN	107-2	M-5	2500	4.30	0.78	8.9	1.2	2.0 *

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS! A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB	TRANS MISS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
E181 - FAMILY COMBINATIONS CERTIFIED		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
132 / EVAP2 (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/EGR/ / / /	FAMILY 132				1.204	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVAP2				N/A	N/A	N/A	0.0
132 / EVAP3										
(107)										
LANCIA BETA	131 MIRAFIORI	AIR/EGR/ / / /CAN	107-2	A-3	2750	4.44	0.85	12.	1.5	N/A
	LANCIA BETA	AIR/EGR/ / / /CAN	107-2	M-5	3000	4.36	1.0	6.9	1.5	1.2 *
	131 MIRAFIORI	AIR/EGR/ / / /CAN	107-2	M-5	2750	4.10	1.1	9.0	1.2	N/A
	124 SPORT	AIR/EGR/ / / /CAN	107-2	M-5	2500	4.30	0.78	8.9	1.2	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/EGR/ / / /	FAMILY 132				1.204	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVAP3				N/A	N/A	N/A	0.0
132-CC1 / EVAP2C										
(107)										
C 131 MIRAFIORI	C LANCIA BETA	AIR/OC /EGR/ / /CAN	107-2	A-3	3000	4.33	0.24	5.0	1.1	N/A
C 131 ESTATE WAGON	C 131 MIRAFIORI	AIR/OC /EGR/ / /CAN	107-2	M-5	2750	4.10	0.22	2.4	1.1	1.6 *
C 124 SPORT	C LANCIA BETA	AIR/OC /EGR/ / /CAN	107-2	M-5	3000	4.36	0.27	2.3	1.2	N/A
	C 124 SPORT	AIR/OC /EGR/ / /CAN	107-2	M-5	2500	4.10	0.38	3.3	0.98	1.6 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY 132-CC1				1.000	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVAP2C				N/A	N/A	N/A	0.0
132-CC1 / EVAP1C										
(107)										
C LANCIA BETA	C LANCIA BETA	AIR/OC /EGR/ / /CAN	107-2	A-3	3000	4.33	0.24	5.0	1.1	N/A
C LANCIA BETA SCORP	C 124 SPORT	AIR/OC /EGR/ / /CAN	107-2	M-5	2500	4.30	0.30	3.3	0.98	N/A
	C LANCIA BETA	AIR/OC /EGR/ / /CAN	107-2	M-5	3000	4.36	0.27	2.3	1.2	2.2 *
	C 131 MIRAFIORI	AIR/OC /EGR/ / /CAN	107-2	M-5	2750	4.10	0.22	2.4	1.1	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY 132-CC1				1.000	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVAP3C				N/A	N/A	N/A	0.0

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS! A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
EVAI = EVAP-EMISSION FAMILIES:		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
EVAP1										
	X1/9	AIR/ / / / /CAN	79-2	M-4	2250	4.42	0.72	8.8	1.5	2.3
	128	AIR/ / / / /CAN	79-2	M-4	2250	3.76	0.73	11.	1.3	2.2
	128	AIR/ / / / /CAN	79-2	M-4	2250	3.76	0.72	11.	1.4	2.1
EVAP2										
	131 MIRAFIORI	AIR/EGR/ / / /CAN	107-2	M-5	2750	4.10	1.1	9.0	1.2	1.7
	124 SPORT	AIR/EGR/ / / /CAN	107-2	M-5	2500	4.10	0.78	8.9	1.2	2.0
EVAP3										
	LANCIA BETA	AIR/EGR/ / / /CAN	107-2	M-5	3000	4.16	1.0	6.9	1.5	3.2
EVAP1C										
	C 128	AIR/OC / / / /CAN	79-2	M-4	2250	3.76	0.24	3.8	1.2	2.5
	C X1/9	AIR/OC / / / /CAN	79-2	M-4	2250	4.08	0.16	4.2	1.8	1.4
	C 128	AIR/OC / / / /CAN	79-2	M-4	2250	3.76	0.20	3.8	1.1	1.9
EVAP2C										
	C 131 MIRAFIORI	AIR/OC /EGR/ / /CAN	107-2	M-5	2750	4.10	0.22	2.4	1.1	1.6
	C 124 SPORT	AIR/OC /EGR/ / /CAN	107-2	M-5	2500	4.30	0.30	3.3	0.98	1.6
EVAP3C										
	C LANCIA BETA	AIR/OC /EGR/ / /CAN	107-2	M-5	3000	4.16	0.27	2.3	1.2	2.2
	C LANCIA BETA SCORP	AIR/OC /EGR/ / /CAN	107-2	M-5	2750	3.93	0.24	2.9	0.95	1.1
EQBU = FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
A250A1X160 / GR G (250)										
C GRANADA C MONARCH	C GRANADA	AIR/OC /EGR/ / /CAN	250-1	A-3	3500	2.47	0.41	2.4	1.2	2.1 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY A250A1X160				1.273	1.088	1.043	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY GR G				N/A	N/A	N/A	0.117)
A250A1X95 / GC G (250)										
GRANADA	GRANADA	OC /EGR/ / / /CAN	250-1	A-3	3500	2.79	1.2	9.3	1.6	N/A

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS. A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
EQBU = FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
A250A1X95 / GC G (CONT.)										
MONARCH	MONARCH	OC /EGR/ / / /CAN	250-1	A-3	3500	2.47	1.0	8.8	1.4	2.2 *
	MONARCH	AIR/OC /EGR/ / /CAN	250-1	M-4	3500	3.00	0.75	5.3	1.4	N/A
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/ / / /	FAMILY A250A1X95				2.105	1.212	1.000	N/A)
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY A250A1X95				1.453	1.442	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY GC G				N/A	N/A	N/A	0.317)
A351M02X160 / LC L (351,400)										
FORD	FORD	AIR/OC /EGR/ / /CAN	351-2	A-3	5000	2.47	0.60	14.	1.1	N/A
MERCURY	C THUNDERBIRD	AIR/OC /EGR/ / /CAN	351-2	A-3	4500	2.50	0.40	11.	0.72	2.8 *
LTD II	LTD II	AIR/OC /EGR/ / /CAN	351-2	A-3	4500	2.50	0.53	13.	1.1	6.0 *
COUGAR/COUGAR XR7	FORD	AIR/OC /EGR/ / /CAN	400-2	A-3	5000	2.47	0.44	6.0	1.7	1.9 *
RANCHERO	FORD WAGON	AIR/OC /EGR/ / /CAN	400-2	A-3	5000	3.00	0.81	8.6	1.4	2.4 *
THUNDERBIRD	CONT. MARK V	AIR/OC /EGR/ / /CAN	400-2	A-3	5000	2.75	0.56	3.6	2.0	1.7 *
FORD WAGON MERCURY WAGON LINCOLN CONT. CONT. MARK V C LTD II C COUGAR/COUGAR XR7 C RANCHERO C THUNDERBIRD C FORD C FORD WAGON C MERCURY C MERCURY WAGON C LINCOLN CONT. C CONT. MARK V										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY A351M02X160				1.426	1.456	1.063	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY LC L				N/A	N/A	N/A	0.0)
F1.6G1X136 / C (98)										
C FIESTA	C FIESTA	AIR/OC /EGR/ / /CAN	98-2	M-4	2000	3.58	0.24	3.2	1.1	N/A

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS. A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	T R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
CODE = FAMILY COMBINATIONS CERTIFIED										
EXHAUST-EMISSION FAMILY TEST VEHICLES										
F1.6G1X136 / C (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY	F1.6G1X136			1.122	1.142	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY	C			N/A	N/A	N/A	0.149)
F1.6G1X136 / NA N										
(98)										
C FIESTA	C FIESTA	AIR/OC /EGR/ / /CAN	98-2	M-4	2000	3.58	0.24	3.2	1.1	1.9 •
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY	F1.6G1A136			1.122	1.142	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY	NA N			N/A	N/A	N/A	0.0)
F1.6M1X95 / C										
(98)										
FIESTA	FIESTA	AIR/OC /EGR/ / /CAN	98-2	M-4	2000	3.58	0.80	6.4	1.8	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY	F1.6M1X95			1.914	1.462	1.060	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY	C			N/A	N/A	N/A	0.149)
F1.6M1X95 / NB N										
(98)										
FIESTA	FIESTA	AIR/OC /EGR/ / /CAN	98-2	M-4	2000	3.58	0.80	6.4	1.8	1.8 •
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY	F1.6M1X95			1.914	1.462	1.060	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY	NB N			N/A	N/A	N/A	0.0)
F2.3A1X160 / HA B										
(140)										
FAIRMONT	C MUSTANG II	AIR/OC /EGR/ / /CAN	140-2	A-3	3000	3.18	0.60	8.6	0.95	N/A
ZEPHYR	C FAIRMONT	AIR/OC /EGR/ / /CAN	140-2	M-4	3000	3.08	0.57	3.7	1.2	1.7 •
MUSTANG II	C MUSTANG II	AIR/OC /EGR/ / /CAN	140-2	M-4	3000	3.18	0.51	3.7	1.2	1.1 •
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY	F2.3A1X160			1.540	1.288	1.161	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY	HA B			N/A	N/A	N/A	0.0)
F2.3A1X95 / BB H										
(140)										
PINTO	MUSTANG II	OC /EGR/ / / /CAN	140-2	A-3	3000	3.18	0.34	6.7	1.9	N/A
PINTO WAGON	BOBCAT	OC /EGR/ / / /CAN	140-2	A-3	2750	3.18	0.33	7.7	1.6	2.0 •
BOBCAT	FAIRMONT	OC /EGR/ / / /CAN	140-2	A-3	3000	3.08	0.54	14.	1.3	1.1 •

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS; A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	T R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
CODE = FAMILY COMBINATIONS CERTIFIED										
EXHAUST-EMISSION FAMILY TEST VEHICLES										
F2.3A1X95 / BB H (CONT.)										
MUSTANG II	FAIRMONT	AIR/OC /EGR/ / /CAN	140-2	M-4	3000	3.08	1.5	9.9	1.4	1.2 •
FAIRMONT	PINTO WAGON	AIR/OC /EGR/ / /CAN	140-2	M-4	3000	3.18	0.66	4.4	1.5	N/A
ZEPHYR	PINTO	AIR/OC /EGR/ / /CAN	140-2	M-4	2750	2.73	0.59	2.8	2.0	1.2 •
BOBCAT WAGON										
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/ / / /	FAMILY	F2.3A1X95			1.014	1.000	1.000	N/A)
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY	F2.3A1X95			1.198	1.004	1.026	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY	BB B			N/A	N/A	N/A	0.0)
F2.3B1TRA0XR80 / NB M										
(140)										
C BOBCAT	C BOBCAT WAGON	AIR/EGR/OC /TWC/ /CAN	140-2	M-4	3000	3.18	0.37	3.0	1.1	N/A
C BOBCAT WAGON	C PINTO WAGON	AIR/EGR/OC /TWC/ /CAN	140-2	M-4	2750	3.18	0.48	4.7	1.1	N/A
C PINTO	C PINTO	AIR/EGR/OC /TWC/ /CAN	140-2	M-4	2750	2.73	0.42	3.4	0.77	1.5 •
C PINTO WAGON										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/EGR/OC /TWC/ /	FAMILY	F2.3B1TRA0XR80			1.060	1.171	1.134	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY	MB M			N/A	N/A	N/A	0.0)
F2.3B1TSR0XR0 / MA M										
(140)										
C PINTO	C BOBCAT	AIR/EGR/OC /TWC/ /CAN	140-2	A-3	3000	3.18	0.19	2.9	0.92	N/A
C PINTO WAGON	C BOBCAT	AIR/EGR/OC /TWC/ /CAN	140-2	A-3	2750	3.18	0.30	3.8	0.68	N/A
C BOBCAT	C BOBCAT WAGON	AIR/EGR/OC /TWC/ /CAN	140-2	M-4	3000	3.18	0.47	2.8	0.66	N/A
C BOBCAT WAGON	C PINTO	AIR/EGR/OC /TWC/ /CAN	140-2	M-4	2750	2.73	0.51	2.0	0.66	1.4 •
(EXHAUST DETERIORATION FACTORS FOR -		AIR/EGR/OC /TWC/ /	FAMILY	F2.3B1TSR0XR0			1.268	1.260	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY	MA M			N/A	N/A	N/A	0.0)
F2.4BV1X160 / EA F										
(171)										
C MUSTANG II	C PINTO WAGON	AIR/OC /EGR/ / /CAN	171-2	A-3	3000	3.40	0.35	4.6	0.79	4.6 •
C PINTO	C MUSTANG II	AIR/OC /EGR/ / /CAN	171-2	A-3	3500	3.40	0.56	6.9	1.0	N/A
C PINTO WAGON										
C BOBCAT										
C BOBCAT WAGON										

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM / (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE NUMBER/SERIES	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TR AN S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
COND = FAMILY COMBINATIONS CERTIFIED: EXHAUST-EMISSION FAMILY TEST VEHICLES										
F2.8BV1X160 / FA E (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY F2.8BV1X160				1.000	1.027	1.023	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY FA F				N/A	N/A	N/A	0.488)
F2.8B1X95 / DA D (17)										
MUSTANG II	MUSTANG II	AIR/OC /EGR/ / /CAN	171-2	A-3	3500	3.40	1.1	8.5	1.3	2.6 *
PINTO WAGON	PINTO WAGON	AIR/OC /EGR/ / /CAN	171-2	A-3	3000	3.40	1.1	6.7	1.3	2.3 *
BOBCAT WAGON	MUSTANG II	AIR/OC /EGR/ / /CAN	171-2	M-4	3500	3.00	0.91	11.	1.6	N/A
PINTO										
BOBCAT										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY F2.8B1X95				1.695	1.284	1.124	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY DA D				N/A	N/A	N/A	0.868)
F200A1X95 / GA G (200)										
FAIRMONT	ZEPHYR WAGON	AIR/OC /EGR/ / /CAN	200-1	M-3	3500	3.08	0.90	7.3	1.5	N/A
ZEPHYR	FAIRMONT	AIR/OC /EGR/ / /CAN	200-1	M-3	3000	3.08	0.98	6.6	1.8	1.8 *
FAIRMONT WAGON										
ZEPHYR WAGON										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY F200A1X95				1.524	1.374	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY GA G				N/A	N/A	N/A	0.317)
F200H1X160 / AC A (200)										
C FAIRMONT	C*FAIRMONT	AIR/OC /EGR/ / /CAN	200-1	A-3	3000	3.08	0.94	11.	1.8	0.86 *
C ZEPHYR										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY F200H1A160				1.347	1.415	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY AC A				N/A	N/A	N/A	0.0
F200H1X95 / AH A (200)										
FAIRMONT	ZEPHYR	AIR/OC /EGR/ / /CAN	200-1	A-3	3000	3.08	0.52	8.8	1.4	N/A
ZEPHYR	FAIRMONT	AIR/OC /EGR/ / /CAN	200-1	A-3	3000	3.08	0.62	15.	1.2	1.0 *

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM / (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE NUMBER/SERIES	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TR AN S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
COND = FAMILY COMBINATIONS CERTIFIED: EXHAUST-EMISSION FAMILY TEST VEHICLES										
F200H1X95 / AH A (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY F200H1X95				1.144	1.152	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY AH A				N/A	N/A	N/A	0.0
F200S1X160 / AA A (200)										
C FAIRMONT	C FAIRMONT	AIR/OC /EGR/ / /CAN	200-1	A-3	3000	3.08	0.46	4.2	1.4	1.3 *
C ZEPHYR										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY F200S1A160				1.342	1.207	1.122	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY AA A				N/A	N/A	N/A	0.0
F302AV1X160 / EA E (302)										
C GRANADA	C GRANADA	AIR/OC /EGR/ / /CAN	302-2	A-3	4000	2.47	0.27	0.65	1.5	3.4 *
C MONARCH	C FAIRMONT	AIR/OC /EGR/ / /CAN	302-2	A-3	3500	2.73	0.34	2.1	1.3	2.4 *
C ZEPHYR WAGON										
C FAIRMONT WAGON										
C FAIRMONT										
C ZEPHYR										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY F302AV1X160				1.212	1.305	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EA E				N/A	N/A	N/A	0.988)
F302AV1X160 / IA I (302)										
C MUSTANG II	C MUSTANG II	AIR/OC /EGR/ / /CAN	302-2	A-3	3500	3.00	0.52	3.1	1.2	1.4 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY F302AV1X160				1.212	1.305	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY IA I				N/A	N/A	N/A	0.988)
F302A1X95 / FA F (302)										
GRANADA	FAIRMONT	AIR/OC /EGR/ / /CAN	302-2	A-3	3500	2.73	0.56	4.6	1.7	3.4 *
MONARCH	MONARCH	AIR/OC /EGR/ / /CAN	302-2	M-4	4000	3.00	0.81	6.8	1.8	2.6 *
FAIRMONT WAGON										
FAIRMONT										
ZEPHYR										
ZEPHYR WAGON										

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM / (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB	TRANS.	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
FORD - FAMILY COMBINATIONS CERTIFIED										
EXHAUST EMISSION FAMILY TEST VEHICLES										
F302A1X95 / FA F (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY	F302A1X95			1.167	1.571	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY	FA F			N/A	N/A	N/A	0.86R)
F302A1X95 / JA - J										
(302)										
MUSTANG II	MUSTANG II	AIR/OC /EGR/ / /CAN	302-2	M-4	3500	3.00	0.81	9.1	1.7	2.6 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY	F302A1X95			1.167	1.571	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY	JA J			N/A	N/A	N/A	0.86R)
F302HV1X136 / EC E										
(302)										
VERSAILLES	VERSAILLES	AIR/OC /EGR/ / /CAN	302-2	A-3	4000	2.75	1.0	4.1	1.7	2.9 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY	F302HV1X136			1.805	1.049	1.009	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY	EC E			N/A	N/A	N/A	0.98R)
F302C2X132 / LA L										
(302)										
LTD II	LTD II	AIR/OC /EGR/ / /CAN	302-2	A-3	4500	2.75	0.51	3.6	1.5	1.8 *
COUGAR/COUGAR XR7	FORD	AIR/OC /EGR/ / /CAN	302-2	A-3	4500	2.75	0.68	3.5	1.8	1.9 *
THUNDERBIRD										
RANCHERO										
FORD										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY	F302C2X132			1.168	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY	LA L			N/A	N/A	N/A	0.0)
F302D1X95 / FB F										
(302)										
GRANADA	GRANADA	OC /EGR/ / / /CAN	302-2	A-3	4000	2.47	0.82	6.7	1.5	2.1 *
MONARCH	FAIRMONT WAGON	OC /EGR/ / / /CAN	302-2	A-3	3500	2.73	1.1	8.0	1.4	3.0 *
FAIRMONT WAGON										
FAIRMONT										
ZEPHYR										
ZEPHYR WAGON										

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS! A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM / (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB	TRANS.	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
FORD - FAMILY COMBINATIONS CERTIFIED										
EXHAUST EMISSION FAMILY TEST VEHICLES										
F302D1X95 / FB F (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/ / / /	FAMILY	F302D1X95			1.316	1.000	1.107	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY	FB F			N/A	N/A	N/A	0.86R)
F302D1X95 / JB J										
(302)										
MUSTANG II	MUSTANG II	OC /EGR/ / / /CAN	302-2	A-3	3500	2.79	1.0	12.	2.0	4.0 *
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/ / / /	FAMILY	F302D1X95			1.316	1.000	1.107	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY	JB J			N/A	N/A	N/A	0.86R)
F351WC2X132 / LA L										
(351)										
LTD II	FORD	OC /EGR/ / / /CAN	351-2	A-3	4500	2.47	0.72	10.	1.8	1.8 *
COUGAR/COUGAR XR7	THUNDERBIRD	OC /EGR/ / / /CAN	351-2	A-3	4500	2.50	0.56	10.	1.9	1.6 *
THUNDERBIRD										
RANCHERO										
FORD										
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/ / / /	FAMILY	F351WC2X132			1.004	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY	LA L			N/A	N/A	N/A	0.0)
F460A2X160 / TOA TO										
(460)										
FORD	LINCOLN CONT.	AIR/OC /EGR/ / /CAN	460-4	A-3	5500	2.75	0.59	9.7	1.7	N/A
FORD WAGON	FORD WAGON	AIR/OC /EGR/ / /CAN	460-4	A-3	5500	2.50	0.50	8.8	1.4	2.9 *
MERCURY	CONT. MARK V	AIR/OC /EGR/ / /CAN	460-4	A-3	5500	2.75	0.40	5.6	1.8	N/A
MERCURY WAGON	CONT. MARK V	AIR/OC /EGR/ / /CAN	460-4	A-3	5000	2.50	0.84	7.5	1.3	2.8 *
CONT. MARK V										
LINCOLN CONT.										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY	F460A2X160			1.162	1.091	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY	TOA TO			N/A	N/A	N/A	0.0)
F460H2X132 / TOH TO										
(460)										
FORD	FORD	AIR/OC /EGR/ / /CAN	460-4	A-3	5000	3.00	0.44	6.6	1.7	2.5 *
MERCURY										

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1979 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED — VEHICLE CARLINE REPRESENTED		EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS.	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
FORD - FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
F460H2X132 / TOH TO (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY F460H2X132				1.323	1.412	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY TOH TO				N/A	N/A	N/A	0.0
351MU2X132 / TNA TN (351-4BA)										
RANCHERO	FORD	AIR/OC /EGR/ / /CAN	351-2	A-3	5000	2.47	0.58	4.7	2.0	N/A
C RANCHERO	LTD II	AIR/OC /EGR/ / /CAN	351-2	A-3	4500	2.40	1.3	8.1	1.4	N/A
LTD II	C FORD WAGON	AIR/OC /EGR/ / /CAN	400-2	A-3	5000	2.75	0.41	4.7	0.84	N/A
C LTD II	MERCURY WAGON	AIR/OC /EGR/ / /CAN	400-2	A-3	5000	3.00	0.48	6.7	1.6	N/A
COUGAR/COUGAR XR7	C FORD	AIR/OC /EGR/ / /CAN	400-2	A-3	5000	2.47	0.61	6.5	1.0	2.4 *
C COUGAR/COUGAR XR7	THUNDERBIRD	AIR/OC /EGR/ / /CAN	400-2	A-3	4500	2.50	0.94	8.7	1.4	N/A
THUNDERBIRD										
C THUNDERBIRD										
FORD										
FORD WAGON										
C FORD										
C FORD WAGON										
MERCURY										
MERCURY WAGON										
C MERCURY										
C MERCURY WAGON										
CONT. MARK V										
C CONT. MARK V										
LINCOLN CONT.										
C LINCOLN CONT.										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY 351MU2X132				1.378	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY TNA TN				N/A	N/A	N/A	0.0
FORD - EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
AA A										
	C FAIRMONT	AIR/OC /EGR/ / /CAN	200-1	A-3	3000	3.08	0.46	4.2	1.4	1.3
AH A										
	FAIRMONT	AIR/OC /EGR/ / /CAN	200-1	A-3	3000	3.08	0.62	15.	1.2	1.0

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS! A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1979 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED — VEHICLE CARLINE REPRESENTED		EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS.	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
FORD - EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
AC A										
	C*FAIRMONT	AIR/OC /EGR/ / /CAN	200-1	A-3	3000	3.08	0.94	11.	1.8	0.86
HA H										
	C FAIRMONT	AIR/OC /EGR/ / /CAN	140-2	M-4	3000	3.08	0.57	3.7	1.2	1.7
	C MUSTANG II	AIR/OC /EGR/ / /CAN	140-2	M-4	3000	3.18	0.51	3.7	1.2	1.1
HR D										
	FAIRMONT	OC /EGR/ / / /CAN	140-2	A-3	3000	3.08	0.54	14.	1.3	1.1
	BOBCAT	OC /EGR/ / / /CAN	140-2	A-3	2750	3.18	0.31	7.7	1.6	2.0
	FAIRMONT	AIR/OC /EGR/ / /CAN	140-2	M-4	3000	3.08	1.5	9.9	1.4	1.2
	PINTO	AIR/OC /EGR/ / /CAN	140-2	M-4	2750	2.73	0.54	2.8	2.0	1.2
C										
	FIESTA	AIR/OC /EGR/ / /CAN	98-2	M-4	2000	3.58	0.84	7.2	1.2	3.2
DA D										
	MUSTANG II	AIR/OC /EGR/ / /CAN	171-2	A-3	3500	3.40	1.1	8.5	1.3	2.6
	PINTO WAGON	AIR/OC /EGR/ / /CAN	171-2	A-3	3000	3.40	1.1	6.7	1.3	2.3
EA E										
	C PINTO WAGON	AIR/OC /EGR/ / /CAN	171-2	A-3	3000	3.40	0.35	4.6	0.79	4.6
EH E										
	C GRANADA	AIR/OC /EGR/ / /CAN	302-2	A-3	4000	2.47	0.27	0.65	1.5	3.4
	C FAIRMONT	AIR/OC /EGR/ / /CAN	302-2	A-3	3500	2.73	0.36	2.1	1.3	2.4
FC F										
	VERSAILLES	AIR/OC /EGR/ / /CAN	302-2	A-3	4000	2.75	1.0	4.1	1.7	2.9
FA F										
	FAIRMONT	AIR/OC /EGR/ / /CAN	302-2	A-3	3500	2.73	0.56	4.6	1.7	1.4
	MONARCH	AIR/OC /EGR/ / /CAN	302-2	M-4	4000	3.00	0.81	6.8	1.8	2.6
FH F										
	FAIRMONT WAGON	OC /EGR/ / / /CAN	302-2	A-3	3500	2.73	1.1	8.0	1.4	1.0
	GRANADA	OC /EGR/ / / /CAN	302-2	A-3	4000	2.47	0.82	6.7	1.5	2.1
GA G										
	FAIRMONT	AIR/OC /EGR/ / /CAN	200-1	M-3	3000	3.08	0.98	6.6	1.8	1.8
GH G										
	C GRANADA	AIR/OC /EGR/ / /CAN	250-1	A-3	3500	2.47	0.41	2.4	1.2	2.1

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB	TRANS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
FORD - EVAP-EMISSION FAMILIES:		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
GC G										
	MONARCH	OC /EGR/ / / /CAN	250-1	A-3	3500	2.47	1.0	8.8	1.4	2.2
IA I										
	C MUSTANG II	AIR/OC /EGR/ / /CAN	302-2	A-3	3500	3.00	0.52	3.1	1.2	3.4
JA J										
	MUSTANG II	AIR/OC /EGR/ / /CAN	302-2	M-4	3500	3.00	0.83	9.1	1.7	2.6
JH J										
	MUSTANG II	OC /EGR/ / / /CAN	302-2	A-3	3500	2.79	1.0	12.	2.0	4.0
LA L										
	LTD II	AIR/OC /EGR/ / /CAN	302-2	A-3	4500	2.75	0.51	3.6	1.5	1.8
	FORD	AIR/OC /EGR/ / /CAN	302-2	A-3	4500	2.75	0.68	3.5	1.8	1.9
LH L										
	FORD	OC /EGR/ / / /CAN	351-2	A-3	4500	2.47	0.72	10.	1.8	1.8
	THUNDERBIRD	OC /EGR/ / / /CAN	351-2	A-3	4500	2.50	0.56	10.	1.9	1.6
LC L										
C	THUNDERBIRD	AIR/OC /EGR/ / /CAN	351-2	A-3	4500	2.50	0.40	11.	0.72	2.8
	LTD II	AIR/OC /EGR/ / /CAN	351-2	A-3	4500	2.50	0.51	11.	1.1	6.0
	CONT. MARK V	AIR/OC /EGR/ / /CAN	400-2	A-3	5000	2.75	0.56	3.6	2.0	1.7
	FORD	AIR/OC /EGR/ / /CAN	400-2	A-3	5000	2.47	0.44	6.0	1.7	1.9
	FORD WAGON	AIR/OC /EGR/ / /CAN	400-2	A-3	5000	3.00	0.81	8.6	1.4	2.4
MA M										
C	PINTO	AIR/EGR/OC /TWC/ /CAN	140-2	M-4	2750	2.73	0.51	2.0	0.66	1.4
MH M										
C	PINTO	AIR/EGR/OC /TWC/ /CAN	140-2	M-4	2750	2.73	0.42	3.4	0.77	1.5
NA N										
C	FIESTA	AIR/OC /EGR/ / /CAN	98-2	M-4	2000	3.58	0.24	3.2	1.1	1.9
NH N										
	FIESTA	AIR/OC /EGR/ / /CAN	98-2	M-4	2000	3.58	0.80	6.4	1.8	3.8
TNA TN										
C	FORD	AIR/OC /EGR/ / /CAN	400-2	A-3	5000	2.47	0.61	6.5	1.0	2.4

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB	TRANS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
FORD - EVAP-EMISSION FAMILIES:		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
TDA TD										
	FORD WAGON	AIR/OC /EGR/ / /CAN	460-4	A-3	5500	2.50	0.58	8.8	1.4	2.9
	CONT. MARK V	AIR/OC /EGR/ / /CAN	460-4	A-3	5000	2.50	0.85	7.5	1.3	2.8
TDH TD										
	FORD	AIR/OC /EGR/ / /CAN	460-4	A-3	5000	3.00	0.48	6.6	1.7	2.5
FOUI HEAVY IND - FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
HU / GU										
(97)										
	SUBARU	AIR/EGR/ / / /CAN	97-2	A-3	2500	3.81	0.69	8.0	1.4	1.8 *
C	SUBARU WAGON	AIR/EGR/ / / /CAN	97-2	M-4	2500	3.89	0.29	4.1	1.1	4.8 *
	SUBARU WAGON	*SUBARU	AIR/EGR/ / / /CAN	97-2	M-4	2500	3.89	0.96	8.3	1.4	5.0 *
C	SUBARU WAGON	SUBARU	AIR/EGR/ / / /CAN	97-2	M-5	2250	3.70	1.2	9.2	1.6	N/A
C	BRAT	SUBARU	AIR/EGR/ / / /CAN	97-2	M-5	2500	3.70	0.91	10.	1.7	N/A
	(EXHAUST DETERIORATION FACTORS FOR -		AIR/EGR/ / / /	FAMILY GU				1.000	1.000	1.000	N/A)
	(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY GU				N/A	N/A	N/A	0.0)
CU / GU										
(97)										
	SUBARU	SUBARU	AIR/EGR/OTH/ / /CAN	97-2	M-5	2250	3.70	1.4	11.	1.9	N/A
	(EXHAUST DETERIORATION FACTORS FOR -		AIR/EGR/OTH/ / /	FAMILY CU				1.000	1.000	1.000	N/A)
	(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY GU				N/A	N/A	N/A	0.0)
FOUI HEAVY IND - EVAP-EMISSION FAMILIES:		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
GU										
	SUBARU	AIR/EGR/ / / /CAN	97-2	A-3	2500	3.81	0.69	8.0	1.4	1.8
C	SUBARU WAGON	AIR/EGR/ / / /CAN	97-2	M-4	2500	3.89	0.29	4.1	1.1	4.8
	*SUBARU	AIR/EGR/ / / /CAN	97-2	M-4	2500	3.89	0.96	8.3	1.4	5.0

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS. A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VEHICLES	T R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GMAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
GENERAL MOTORS - FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
B10A2F / BDCH BHDV (200)										
MALIBU	MALIBU	OC /EGR/OTR/ / /CAN	200-2	A-3	3500	2.73	0.45	8.1	1.4	N/A
MALIBU WAGON	EL CAMINO	OC /EGR/OTR/ / /CAN	200-2	A-3	3500	2.73	0.70	9.3	1.9	1.6 *
EL CAMINO	MALIBU WAGON	OC /EGR/OTR/ / /CAN	200-2	M-3	3500	2.73	0.71	8.5	1.8	N/A
CABALLERO	MALIBU	OC /EGR/OTR/ / /CAN	200-2	M-3	3500	2.73	0.54	4.9	1.8	1.3 *
MONTE CARLO										
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/OTR/ / /	FAMILY B10A2F				1.079	1.000	1.045	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY BDCH BHDV				N/A	N/A	N/A	0.0)
B10F1H / BHHV (250)										
NOVA	NOVA	OC /EGR/OTR/ / /CAN	250-1	A-3	4000	2.73	0.70	11.	1.8	N/A
CAMARO	CHEVROLET	OC /EGR/OTR/ / /CAN	250-1	A-3	4000	2.73	0.44	9.0	1.6	1.6 *
CHEVROLET	NOVA	OC /EGR/OTR/ / /CAN	250-1	M-3	3500	2.73	0.52	5.8	2.0	N/A
	NOVA	OC /EGR/OTR/ / /CAN	250-1	M-3	4000	2.73	0.61	5.9	1.9	1.9 *
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/OTR/ / /	FAMILY B1OF1H				1.000	1.000	1.066	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY BHHV				N/A	N/A	N/A	0.0)
B1OF1SMU / BHHV (250)										
NOVA	C NOVA	AIR/OC /EGR/OTR/ /CAN	250-1	A-3	4000	2.73	0.46	5.0	1.1	N/A
CHEVROLET	C CHEVROLET	AIR/OC /EGR/OTR/ /CAN	250-1	A-3	4000	2.73	0.31	2.7	0.86	2.6 *
CAMARO	C CAMARO	AIR/OC /EGR/OTR/ /CAN	250-1	A-3	4000	2.73	0.40	2.2	1.2	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/OTR/ /	FAMILY B1OF1SMU				1.471	1.078	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY BHHV				N/A	N/A	N/A	0.0)
B10J4S / BFCH BHFV (350)										
C CHEVROLET	C CORVETTE	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	4000	3.55	0.28	0.34	1.3	N/A
C NOVA	C CHEVROLET WAGON	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	4500	2.56	0.34	2.4	1.1	N/A
C PHOENIX	C FIREBIRD	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	4000	2.41	0.31	3.1	1.0	N/A
C OMEGA	*CAMARO	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	4000	3.42	1.3	7.7	1.4	2.6 *
C SKYLARK	CORVETTE	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	4000	3.55	0.87	3.0	1.8	N/A
C EL CAMINO	*CORVETTE	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	4000	3.55	0.85	10.	1.6	N/A
C CABALLERO	C*CHEVROLET WAGON	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	4500	3.08	0.51	12.	1.2	N/A
C CHEVROLET WAGON	CORVETTE	AIR/OC /EGR/OTR/ /CAN	350-4	M-4	4000	3.70	0.81	2.4	1.8	N/A

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS! A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VEHICLES	T R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GMAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
GENERAL MOTORS - FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
B10J4S / BFCH BHFV (CONT.)										
CHEVROLET										
CHEVROLET WAGON										
NOVA										
PHOENIX										
OMEGA										
SKYLARK										
EL CAMINO										
CABALLERO										
MALIBU WAGON										
CUTLAS CRUISER WG										
CENTURY WAGON										
CAMARO										
FIREBIRD										
LEMANS SAFARI WG										
C CAMARO										
C FIREBIRD										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/OTR/ /	FAMILY B10J4S				1.113	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY BFCH BHFV				N/A	N/A	N/A	0.0)
B10J4S / HFVL BHFVL (140)										
C CORVETTE	CORVETTE	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	4000	3.55	0.87	3.0	1.8	N/A
CORVETTE	C CORVETTE	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	4000	3.55	0.28	0.35	1.3	N/A
	*CORVETTE	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	4000	3.55	0.85	10.	1.6	4.8 *
	C FIREBIRD	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	4000	2.41	0.31	3.1	1.0	N/A
	C*CHEVROLET WAGON	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	4500	3.08	0.51	12.	1.2	N/A
	C CHEVROLET WAGON	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	4500	2.56	0.34	2.4	1.1	N/A
	*CAMARO	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	4000	3.42	1.3	7.7	1.4	N/A
	CORVETTE	AIR/OC /EGR/OTR/ /CAN	350-4	M-4	4000	3.70	0.81	2.4	1.8	1.4 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/OTR/ /	FAMILY B10J4S				1.113	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY HFVL BHFVL				N/A	N/A	N/A	0.0)
B10L4 / BFCH BHFV (305,350)										
CHEVROLET	CENTURY WAGON	OC /EGR/OTR/ / /CAN	305-4	A-3	4000	2.41	0.61	9.1	1.4	N/A
NOVA	CUTLAS CRUISER WG	OC /EGR/OTR/ / /CAN	305-4	A-3	4000	2.73	0.67	5.7	1.4	N/A
EL CAMINO	REGAL	OC /EGR/OTR/ / /CAN	305-4	A-3	3500	2.29	0.67	6.0	2.0	4.5 *

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS! A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS.	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
GENERAL MOTORS - FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
B10L4 / BFCH BHFV (CONT.)										
CABALLERO	CHEVROLET	OC /EGR/OTH/ / /CAN	350-4	A-3	4000	2.41	0.46	3.6	1.6	N/A
CAMARO	CORVETTE	OC /EGR/OTH/ / /CAN	350-4	M-4	4000	3.36	0.88	3.4	1.6	N/A
FIREBIRD	CAMARO	OC /EGR/OTH/ / /CAN	350-4	M-4	4000	3.73	0.77	5.1	1.8	2.4 *
CHEVROLET WAGON										
CUTLASS										
CUTLASS SUPREME										
LEMANS										
CENTURY										
REGAL										
CUTLAS CRUISER WG										
LEMANS SAFARI WG										
CENTURY WAGON										
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/OTH/ / /	FAMILY B10L4				1.217	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY BFCH BHFV				N/A.	N/A	N/A	0.0
B10L4 / BFVL BHFVL (305,150)										
CORVETTE	REGAL	OC /EGR/OTH/ / /CAN	305-4	A-3	3500	2.29	0.67	6.0	2.0	N/A
	CENTURY WAGON	OC /EGR/OTH/ / /CAN	305-4	A-3	4000	2.41	0.61	9.1	1.4	N/A
	CUTLAS CRUISER WG	OC /EGR/OTH/ / /CAN	305-4	A-3	4000	2.73	0.67	5.7	1.4	N/A
	CHEVROLET	OC /EGR/OTH/ / /CAN	350-4	A-3	4000	2.41	0.46	3.6	1.6	N/A
	CORVETTE	OC /EGR/OTH/ / /CAN	350-4	M-4	4000	3.36	0.88	3.4	1.6	2.6 *
	CAMARO	OC /EGR/OTH/ / /CAN	350-4	M-4	4000	3.73	0.77	5.1	1.8	N/A
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/OTH/ / /	FAMILY B10L4				1.217	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY BFVL BHFVL				N/A	N/A	N/A	0.0
B10W1 / BABV (9M)										
CHEVETTE	CHEVETTE	OC /EGR/ / / /CAN	98-1	A-3	2250	4.11	0.88	14.	1.3	N/A
	CHEVETTE	OC /EGR/ / / /CAN	98-1	A-3	2500	4.11	0.43	7.5	1.3	2.4 *
	CHEVETTE	OC /EGR/ / / /CAN	98-1	A-3	2250	3.70	0.39	7.8	1.1	5.0 *
	CHEVETTE	OC /EGR/ / / /CAN	98-1	A-3	2500	3.70	1.2	13.	1.1	4.7 *
	CHEVETTE	OC /EGR/ / / /CAN	98-1	M-4	2500	4.11	0.89	9.4	1.7	N/A
	CHEVETTE	OC /EGR/ / / /CAN	98-1	M-4	2250	4.11	0.84	14.	1.5	N/A

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS! A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS.	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
GENERAL MOTORS - FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
B10W1 / BABV (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/ / / /CAN	FAMILY B10W1				1.221	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY BABV				N/A	N/A	N/A	0.0
B10W10 / BABV (9M)										
C CHEVETTE	C CHEVETTE	AIR/OC /EGR/ / /CAN	98-1	A-3	2500	4.11	0.29	5.1	0.96	5.7 *
CHEVETTE	C CHEVETTE	AIR/OC /EGR/ / /CAN	98-1	A-3	2250	3.70	0.27	4.1	0.92	N/A
	C CHEVETTE	AIR/OC /EGR/ / /CAN	98-1	A-3	2500	4.11	0.46	14.	1.0	2.6 *
	C CHEVETTE	AIR/OC /EGR/ / /CAN	98-1	A-3	2500	3.70	0.29	3.3	1.2	2.9 *
	C CHEVETTE	AIR/OC /EGR/ / /CAN	98-1	M-4	2250	4.11	0.34	6.9	0.94	N/A
	C CHEVETTE	AIR/OC /EGR/ / /CAN	98-1	M-4	2500	4.11	0.34	6.2	1.1	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY B10W10				1.000	1.234	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY BABV				N/A	N/A	N/A	0.0
B10Y2 / BCCH BHCV (305)										
CHEVROLET	CHEVROLET	OC /EGR/OTH/ / /CAN	305-2	A-3	4000	2.41	0.52	14.	1.2	N/A
PONTIAC	MALIBU	OC /EGR/OTH/ / /CAN	305-2	A-3	3500	2.29	0.44	8.1	1.9	N/A
MALIBU WAGON	CHEVROLET WAGON	OC /EGR/OTH/ / /CAN	305-2	A-3	4500	2.56	0.49	9.7	1.5	N/A
LEMANS SAFARI WG	MONZA	OC /EGR/OTH/ / /CAN	305-2	M-4	3500	3.08	0.65	5.4	1.6	3.6 *
EL CAMINO	NOVA	OC /EGR/OTH/ / /CAN	305-2	M-4	4000	3.08	0.77	7.4	1.6	1.6 *
CABALLERO										
CENTURY WAGON										
NOVA										
SKYLARK										
CHEVROLET WAGON										
MALIBU										
MONTE CARLO										
LEMANS										
CENTURY										
REGAL										
MONZA										
SUNBIRD										
STANFIRE										
CAMARO										
FIREBIRD										
PHOENIX										

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VEHICLES	T R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
GENERAL MOTORS - FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
A10Y2 / HCCH 8HCV (CONT.)										
OMEGA										
CUTLASS SUPREME										
CUTLASS										
(EXHAUST DETERIORATION FACTORS FOR - OC /EGR/OTH/ / / FAMILY A10Y2							1.000	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY HCCH 8HCV							N/A	N/A	N/A	0.0
A10Y2V / HCCH 8HCV (305)										
C MONZA	C CUTLAS CRUISER WG	AIR/OC /EGR/OTR/ /CAN	305-2	A-3	4000	2.73	0.24	4.3	0.72	N/A
C SUNBIRD	C MALIBU	AIR/OC /EGR/OTR/ /CAN	305-2	A-3	3500	2.29	0.24	4.2	0.83	1.3 *
C STARFIRE	C CAMARO	AIR/OC /EGR/OTR/ /CAN	305-2	A-3	4000	2.41	0.37	4.7	1.2	N/A
C MALIBU WAGON	C GRAND PRIX	AIR/OC /EGR/OTR/ /CAN	305-2	A-3	3500	2.73	0.21	2.2	0.86	2.2 *
C LEMANS SAFARI WG	C CHEVROLET	AIR/OC /EGR/OTR/ /CAN	305-2	A-3	4000	2.41	0.30	4.7	0.88	N/A
C CENTURY WAGON										
C CUTLAS CRUISER WG										
C CAMARO										
C FIREBIRD										
C NOVA										
C PHOENIX										
C EL CAMINO										
C CAVALIERO										
C LESABRE										
C MALIBU										
C LEMANS										
C GRAND PRIX										
C CUTLASS SUPREME										
C CENTURY										
C REGAL										
C MONTE CARLO										
MONZA										
SUNBIRD										
STARFIRE										
MALIBU										
LEMANS										
GRAND PRIX										
CENTURY										
CUTLASS SUPREME										
REGAL										

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VEHICLES	T R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
GENERAL MOTORS - FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
A10Y2V / HCCH 8HCV (CONT.)										
MONTE CARLO										
C CHEVROLET										
C CUTLASS										
CUTLASS										
(EXHAUST DETERIORATION FACTORS FOR - AIR/OC /EGR/OTR/ / FAMILY A10Y2V							1.000	1.000	1.011	N/A
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY HCCH 8HCV							N/A	N/A	N/A	0.0
A20N4EM / BFPB 8HFV (400)										
PONTIAC	PONTIAC SAFARI WG	OC /EGR/OTR/ / /CAN	400-4	A-3	5000	2.56	0.72	9.1	1.6	N/A
PONTIAC SAFARI WG	FIREBIRD	OC /EGR/OTR/ / /CAN	400-4	A-3	4000	3.23	0.61	5.2	1.7	2.8 *
FIREBIRD	PONTIAC SAFARI WG	OC /EGR/OTR/ / /CAN	400-4	A-3	4500	2.56	0.42	4.6	1.9	N/A
	FIREBIRD	OC /EGR/OTR/ / /CAN	400-4	A-3	4000	2.56	0.65	7.0	1.4	1.9 *
	FIREBIRD	OC /EGR/OTR/ / /CAN	400-4	M-4	4000	3.42	0.69	4.8	1.3	N/A
(EXHAUST DETERIORATION FACTORS FOR - OC /EGR/OTR/ / / FAMILY A20N4EM							1.306	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY BFPB 8HFV							N/A	N/A	N/A	0.0
A20S2E / BDP0 8HDV (301)										
GRAND PRIX	LEMANS SAFARI WG	OC /EGR/OTR/ / /CAN	301-2	A-3	4000	2.41	0.59	6.8	1.7	N/A
LEMANS	GRAND PRIX	OC /EGR/OTR/ / /CAN	301-2	A-3	4000	2.29	0.64	7.7	1.6	1.5 *
LEMANS SAFARI WG	PONTIAC SAFARI WG	OC /EGR/OTR/ / /CAN	301-2	A-3	4500	2.56	0.70	8.8	1.5	N/A
PONTIAC	LEMANS	OC /EGR/OTR/ / /CAN	301-2	A-3	3500	2.29	0.54	5.5	1.5	1.6 *
LESABRE										
PONTIAC SAFARI WG										
(EXHAUST DETERIORATION FACTORS FOR - OC /EGR/OTR/ / / FAMILY B20S2E							1.000	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY BDP0 8HDV							N/A	N/A	N/A	0.0
A20S4 / BFPB 8HFV (301)										
GRAND PRIX	GRAND PRIX	OC /EGR/OTR/ / /CAN	301-4	A-3	3500	2.41	0.53	6.1	1.9	N/A
LEMANS	PONTIAC	OC /EGR/OTR/ / /CAN	301-4	A-3	4500	2.73	0.59	7.2	2.0	N/A
LEMANS SAFARI WG	LEMANS	OC /EGR/OTR/ / /CAN	301-4	A-3	4000	2.73	0.57	5.4	1.8	2.2 *
PONTIAC										

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM / (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB	TRANS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
GENERAL MOTORS - FAMILY COMBINATIONS CERTIFIED: EXHAUST-EMISSION FAMILY TEST VEHICLES										
B20S4 / BEPB BHEV (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/OTH/	/	/	FAMILY B20S4		1.157	1.037	1.080	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / /	/	/CAN	FAMILY BEPB BHEV		N/A	N/A	N/A	0.0)
B20X2E / BEP BHEV (151)										
C MONZA	C MONZA	AIR/OC /EGR/OTR/	/CAN	151-2	A-3	3000	2.93	0.38	6.1	1.7	1.9 *
C SUNBIRD										
C SUNBIRD SAFARI WG										
C STARFIRE										
C MONZA WAGON										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/OTR/	/	FAMILY B20X2E				1.301	1.124	1.129	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / /	/	/CAN	FAMILY BEP BHEV			N/A	N/A	N/A	0.0)
B20X2U / BEP BHEV (151)										
MONZA	SUNBIRD	OC /EGR/OTR/	/	/CAN	151-2	A-3	3000	2.73	0.65	13.	1.1	N/A
MONZA WAGON	MONZA	OC /EGR/OTR/	/	/CAN	151-2	A-3	3000	3.08	0.87	13.	1.2	N/A
SUNBIRD	PHOENIX	OC /EGR/OTR/	/	/CAN	151-2	A-3	3500	3.42	0.56	12.	1.7	1.5 *
SUNBIRD SAFARI WG	SUNBIRD SAFARI WG	OC /EGR/OTR/	/	/CAN	151-2	M-4	3000	3.08	0.81	7.7	1.8	1.5 *
STARFIRE	SUNBIRD	OC /EGR/OTR/	/	/CAN	151-2	M-4	3000	2.73	1.0	9.1	1.5	N/A
PHOENIX	SUNBIRD	OC /EGR/OTR/	/	/CAN	151-2	M-5	3000	3.23	0.86	6.4	1.9	1.2 *
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/OTR/	/	/	FAMILY B20X2U			1.145	1.059	1.042	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / /	/	/CAN	FAMILY BEP BHEV			N/A	N/A	N/A	0.0)
B20X6EU / BECL BHEV (151)										
C MONZA	C MONZA WAGON	TWC/EGR/OTR/	/	/CAN	151-2	A-3	3000	2.73	0.38	5.7	1.2	N/A
C SUNBIRD										
C STARFIRE										
C SUNBIRD SAFARI WG										
C MONZA WAGON										
(EXHAUST DETERIORATION FACTORS FOR -		TWC/EGR/OTR/	/	/	FAMILY B20X6EU			1.454	1.221	1.301	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / /	/	/CAN	FAMILY BECL BHEV			N/A	N/A	N/A	0.0)

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM / (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB	TRANS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
GENERAL MOTORS - FAMILY COMBINATIONS CERTIFIED: EXHAUST-EMISSION FAMILY TEST VEHICLES										
B30H2AU / HOPO BHDV (260)										
C CUTLASS SUPREME	C CUTLASS	AIR/OC /EGR/	/	/CAN	260-2	A-3	3500	2.28	0.28	2.4	1.3	1.0 *
CUTLASS SUPREME										
C CUTLASS										
CUTLASS										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/	/	/	FAMILY B30H2AU			1.001	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / /	/	/CAN	FAMILY HOPO BHDV			N/A	N/A	N/A	0.0)
B30H2U / HOPO BHDV (260)										
CUTLASS	CUTLASS	OC /EGR/	/	/	/CAN	260-2	A-3	3500	2.29	0.44	4.6	1.5	N/A
CUTLASS SUPREME	DELTA 88	OC /EGR/	/	/	/CAN	260-2	A-3	4000	2.56	0.61	9.0	1.4	5.0 *
CUTLAS CRUISER WG	CUTLASS	OC /EGR/	/	/	/CAN	260-2	A-3	3500	2.93	0.45	4.4	1.6	N/A
DELTA 88	CUTLAS CRUISER WG	OC /EGR/	/	/	/CAN	260-2	A-3	4000	2.93	0.49	3.9	2.0	4.5 *
	CUTLASS	OC /EGR/	/	/	/CAN	260-2	M-5	3500	2.56	1.1	10.	1.7	N/A
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/	/	/	/	FAMILY B30H2U				1.161	1.024	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / /	/	/	/CAN	FAMILY HOPO BHDV				N/A	N/A	N/A	0.0)
B30N4AU / HFO BHFV (350/400)										
C DELTA 88	C DELTA 88	AIR/OC /EGR/	/	/CAN	350-4	A-3	4000	2.41	0.27	3.6	1.2	N/A
C OLDSMOBILE 98	C RIVIERA	AIR/OC /EGR/	/	/CAN	350-4	A-3	4500	2.41	0.29	4.8	1.1	N/A
C CUSTOM CRUISER WG	C DELTA 88	AIR/OC /EGR/	/	/CAN	403-4	A-3	4500	2.41	0.39	5.6	1.2	4.6 *
C PONTIAC	C PONTIAC SAFARI WG	AIR/OC /EGR/	/	/CAN	403-4	A-3	4500	3.23	0.35	4.3	1.1	N/A
C PONTIAC SAFARI WG	C FIREBIRD	AIR/OC /EGR/	/	/CAN	403-4	A-3	4000	3.23	0.36	4.3	1.4	2.4 *
C LESABRE	C TORONADO	AIR/OC /EGR/	/	/CAN	403-4	A-3	5000	3.07	0.27	3.8	1.3	2.1 *
C ESTATE WAGON												
C RIVIERA												
C FLEETMA												
C TORONADO												
C FIREBIRD												
C CUTLASS SUPREME												
C CUTLAS CRUISER WG												
C CUTLASS												

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB	TR AN S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
GENERAL MOTORS -- FAMILY COMBINATIONS CERTIFIED: EXHAUST-EMISSION FAMILY TEST VEHICLES										
A30M4AU / BF0 8BFV (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR - AIR/OC /EGR/ / / / FAMILY A30M4AU							1.015	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY BF0 8BFV							N/A	N/A	N/A	0.0
A30M4U / BF0 8BFV (350+403)										
CUTLASS SUPREME	OLDSMOBILE 98	OC /EGR/ / / /CAN	350-4	A-3	4500	3.08	1.2	8.4	1.7	5.9 *
CUTLAS CRUISER WG	DELTA 88	OC /EGR/ / / /CAN	350-4	A-3	4000	3.08	1.5	9.5	1.6	N/A
DELTA 88	*FIREBIRD	OC /EGR/ / / /CAN	403-4	A-3	4000	3.08	1.1	8.8	1.4	2.6 *
OLDSMOBILE 98	TORONADO	OC /EGR/ / / /CAN	403-4	A-3	5000	3.07	0.94	4.6	1.6	N/A
CUSTOM CRUISER WG	ESTATE WAGON	OC /EGR/ / / /CAN	403-4	A-3	4500	3.23	0.92	4.7	1.6	N/A
CUTLASS	OLDSMOBILE 98	OC /EGR/ / / /CAN	403-4	A-3	4500	2.41	0.90	5.8	1.9	3.5 *
LESABRE	*TORONADO	OC /EGR/ / / /CAN	403-4	A-3	5000	3.07	0.99	6.3	1.6	N/A
ELECTRA										
RIVIERA										
ESTATE WAGON										
PONTIAC										
PONTIAC SAFARI WG										
CENTURY WAGON										
LEMANS SAFARI WG										
TORONADO										
FIREBIRD										
(EXHAUST DETERIORATION FACTORS FOR - OC /EGR/ / / / FAMILY A30M4U							1.908	1.018	1.017	N/A
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY BF0 8BFV							N/A	N/A	N/A	0.0
A40H2 / HCB 8HCV (196+231)										
LESABRE	REGAL	OC /EGR/OTR/ / /CAN	196-2	A-3	3500	2.73	1.1	15.	1.9	N/A
DELTA 88	MONZA	OC /EGR/OTR/ / /CAN	196-2	A-3	3500	2.73	1.2	11.	2.0	N/A
PONTIAC	MONZA	OC /EGR/OTR/ / /CAN	196-2	M-S	3500	2.93	1.5	12.	1.6	N/A
SKYLARK	MONTE CARLO	OC /EGR/OTR/ / /CAN	231-2	A-3	3500	2.56	0.72	11.	1.3	2.2 *
OMEGA	DELTA 88	OC /EGR/OTR/ / /CAN	231-2	A-3	4000	2.73	0.87	14.	1.9	N/A
PHOENIX	SKYLARK	OC /EGR/OTR/ / /CAN	231-2	M-3	4000	3.08	1.2	11.	1.9	2.3 *
FIREBIRD										
SKYHAWK										
STARFIRE										
SUNBIRD										
CENTURY										

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB	TR AN S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
GENERAL MOTORS -- FAMILY COMBINATIONS CERTIFIED: EXHAUST-EMISSION FAMILY TEST VEHICLES										
A40H2 / HCB 8HCV (CONT.)										
REGAL										
CUTLASS										
CUTLASS SUPREME										
LEMANS										
GRAND PRIX										
MONTE CARLO										
CENTURY WAGON										
CUTLAS CRUISER WG										
LEMANS SAFARI WG										
MONZA										
(EXHAUST DETERIORATION FACTORS FOR - OC /EGR/OTR/ / / FAMILY A40H2							1.853	1.449	1.028	N/A
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY HCB 8HCV							N/A	N/A	N/A	0.0
A40E2L0 / BCB 8HCV (231)										
C LESABRE	C REGAL	AIR/OC /EGR/OTR/ /CAN	231-2	A-3	3500	2.73	0.44	6.7	0.72	N/A
C DELTA 88	C SKYLARK	AIR/OC /EGR/OTR/ /CAN	231-2	A-3	4000	2.56	0.41	7.6	0.92	N/A
C PONTIAC	*DELTA 88	AIR/OC /EGR/OTR/ /CAN	231-2	A-3	4000	3.23	0.74	14.	1.1	3.8 *
C SKYLARK	C LESABRE	AIR/OC /EGR/OTR/ /CAN	231-2	A-3	4000	2.73	0.39	7.5	0.96	N/A
C OMEGA	C STARFIRE	AIR/OC /EGR/OTR/ /CAN	231-2	M-5	3500	2.93	0.46	3.6	0.81	3.9 *
C PHOENIX										
C FIREBIRD										
C SKYHAWK										
C STARFIRE										
C SUNBIRD										
C MONZA										
C CENTURY										
C REGAL										
C CENTURY WAGON										
C CUTLASS SUPREME										
C CUTLAS CRUISER WG										
C LEMANS										
C LEMANS SAFARI WG										
C GRAND PRIX										
C MALIBU										
C MONTE CARLO										
C MALIBU WAGON										
C EL CAMINO										

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED)	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB	VENTURIS	I R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
GENERAL NOTES - FAMILY COMBINATIONS CERTIFIED: EXHAUST-EMISSION FAMILY TEST VEHICLES											
A40E2LU / BCB AHCV (CONT.)											
C CAVALIER											
S YMARK											
STANFIRL											
SUNBIRD											
MONZA											
LESABRE											
DELTA 88											
PONTIAC											
CENTURY											
REGAL											
CENTURY WAGON											
CUTLASS											
CUTLASS SUPREME											
CUTLAS CRUISER WG											
LEMANS											
LEMANS SAFARI WG											
GRAND PRIX											
FIREBIRD											
SKYLARK											
OMEGA											
PHOENIX											
SUNBIRD SAFARI WG											
C MONZA WAGON											
MONZA WAGON											
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/OTR/	/	FAMILY A40E2LU				1 1.103	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CAN	FAMILY BCB AHCV				1 N/A	N/A	N/A	0.0)
A40E3 / BUR AHDV											
(231)											
LESABRE	CENTURY	OC /EGR/OTR/	/	/CAN	231-2	A-3	3500	2.56	1.8	4.6	1.7	2.7 *
CENTURY	LESABRE	OC /EGR/OTR/	/	/CAN	231-2	A-3	4000	2.56	0.90	5.0	2.0	3.2 *
REGAL												
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/OTR/	/	/	FAMILY A40E3				1 1.482	1.000	1.093	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CAN	FAMILY BUR AHDV				1 N/A	N/A	N/A	0.0)

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED)	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB	VENTURIS	I R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
GENERAL NOTES - FAMILY COMBINATIONS CERTIFIED: EXHAUST-EMISSION FAMILY TEST VEHICLES											
A40E5VT / HFNT AHFV											
(231)											
C REGAL	C REGAL	AIR/OC /EGR/OTR/	/CAN	231-04	A-3	3500	2.73	0.39	7.2	1.2	3.9 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/OTR/	/	FAMILY A40E5VT				1 1.018	1.944	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CAN	FAMILY HFNT AHFV				1 N/A	N/A	N/A	0.0)
A40E5VU / HFNT AHFV											
(231)											
LESABRE	REGAL	AIR/OC /EGR/OTR/	/CAN	231-4	A-3	3500	2.73	0.65	7.0	1.4	2.4 *
CENTURY	LESABRE	AIR/OC /EGR/OTR/	/CAN	231-4	A-3	4000	3.08	0.57	5.4	1.7	2.3 *
REGAL											
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/OTR/	/	FAMILY A40E5VU				1 1.421	1.462	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CAN	FAMILY HFNT AHFV				1 N/A	N/A	N/A	0.0)
A40E5VYU / HFNT AHFV											
(231)											
C REGAL	C REGAL	AIR/OC /EGR/OTR/	/CAN	231-4	A-3	3500	2.73	0.41	6.9	1.3	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/OTR/	/	FAMILY A40E5VYU				1 1.463	1.918	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CAN	FAMILY HFNT AHFV				1 N/A	N/A	N/A	0.0)
A40E6YU / HDCL AHDV(CL. LOOP)											
(231)											
C SKYHAWK	C SKYHAWK	TWC/EGR/OTR/	/	/CAN	231-02	A-3	3500	2.56	0.27	8.7	0.94	2.1 *
(EXHAUST DETERIORATION FACTORS FOR -		TWC/EGR/OTR/	/	/	FAMILY A40E6YU				1 1.000	1.295	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CAN	FAMILY HDCL AHDV(CL. LOOP)1				1 N/A	N/A	N/A	0.0)
A40J4U / HFPB AHFV											
(350)											
LESABRE	ELECTRA	OC /EGR/OTR/	/	/CAN	350-4	A-3	4500	2.41	0.80	6.2	1.6	N/A
ESTATE WAGON	LESABRE	OC /EGR/OTR/	/	/CAN	350-4	A-3	4000	3.08	1.0	9.7	1.6	1.9 *
RIVIERA	ESTATE WAGON	OC /EGR/OTR/	/	/CAN	350-4	A-3	4500	3.08	0.89	12.	2.0	N/A
ELECTRA	ELECTRA	OC /EGR/OTR/	/	/CAN	350-4	A-3	4000	2.41	0.80	8.0	1.6	2.5 *
CHEVROLET WAGON												
PONTIAC												
PONTIAC SAFARI WG												
CUSTOM CRUISER WG												

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS.	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
GENERAL MOTORS -- FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
A60J4U / HFPD AHFV (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR - OC /EGR/OTH/ / / FAMILY A60J4U							2.217	1.478	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY HFPD AHFV							N/A	N/A	N/A	0.0
A60J0 / AHA (350)										
C SEVILLE	C SEVILLE	AIR/FI /OC /EGR/ /CAN	350-FI	A-3	4500	2.56	0.42	7.2	1.0	N/A
	C SEVILLE	AIR/FI /OC /EGR/ /CAN	350-FI	A-3	4500	3.08	0.40	5.1	1.3	N/A
(EXHAUST DETERIORATION FACTORS FOR - AIR/FI /OC /EGR/ / FAMILY A60J0							1.300	1.416	1.074	N/A
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY AHA							N/A	N/A	N/A	0.0
A60J0U / AHA (350)										
SEVILLE	*SEVILLE	AIR/FI /OC /EGR/ /CAN	350-FI	A-3	4500	3.08	0.61	14.	1.3	0.98 *
	SEVILLE	AIR/FI /OC /EGR/ /CAN	350-FI	A-3	4500	2.56	0.72	11.	1.7	1.2 *
(EXHAUST DETERIORATION FACTORS FOR - AIR/FI /OC /EGR/ / FAMILY A60J0U							1.000	1.316	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY AHA							N/A	N/A	N/A	0.0
A60V0 / AHA (425)										
CADILLAC	CADILLAC	AIR/FI /OC /EGR/ /CAN	425-FI	A-3	4500	2.28	0.68	11.	1.4	N/A
C CADILLAC	CADILLAC	AIR/FI /OC /EGR/ /CAN	425-FI	A-3	5000	2.28	0.72	11.	1.6	1.6 *
	C CADILLAC	AIR/FI /OC /EGR/ /CAN	425-FI	A-3	5000	2.28	0.34	3.9	1.3	1.4 *
(EXHAUST DETERIORATION FACTORS FOR - AIR/FI /OC /EGR/ / FAMILY A60V0							1.118	1.001	1.052	N/A
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY AHA							N/A	N/A	N/A	0.0
A60V4S / HFC AHFV (425)										
C CADILLAC	C*CADILLAC	AIR/OC /EGR/OTR/ /CAN	425-4	A-3	5000	3.08	0.51	9.6	1.1	5.4 *
LIMOUSINE	C CADILLAC	AIR/OC /EGR/OTR/ /CAN	425-4	A-3	5000	2.73	0.34	3.8	1.2	N/A
CADILLAC	C ELDORADO	AIR/OC /EGR/OTR/ /CAN	425-4	A-3	5500	2.73	0.25	5.1	1.6	5.6 *
ELDORADO	C COMMERCIAL CHASIS	AIR/OC /EGR/OTR/ /CAN	425-4	A-3	5500	3.08	0.34	11.	1.4	2.8 *
(EXHAUST DETERIORATION FACTORS FOR - AIR/OC /EGR/OTR/ / FAMILY A60V4S							1.210	1.117	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY HFC AHFV							N/A	N/A	N/A	0.0

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS.	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
GENERAL MOTORS -- FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
A60V4U / HFC AHFV (425)										
CADILLAC	CADILLAC	OC /EGR/OTH/ / /CAN	425-4	A-3	5000	3.08	0.47	6.1	1.9	3.4 *
	CADILLAC	OC /EGR/OTH/ / /CAN	425-4	A-3	4500	2.28	0.54	9.4	2.0	N/A
(EXHAUST DETERIORATION FACTORS FOR - OC /EGR/OTH/ / / FAMILY A60V4U							1.374	1.591	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY HFC AHFV							N/A	N/A	N/A	0.0
A60V4UE / HFC AHFV (425)										
CADILLAC	CADILLAC	OC /EGR/OTH/ / /CAN	425-4	A-3	4500	2.28	0.61	9.0	1.9	3.1 *
(EXHAUST DETERIORATION FACTORS FOR - OC /EGR/OTH/ / / FAMILY A60V4UE							1.184	1.168	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY HFC AHFV							N/A	N/A	N/A	0.0
GENERAL MOTORS -- EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
ACCH AHCV										
	*DELTA 88	AIR/OC /EGR/OTR/ /CAN	231-2	A-3	4000	3.23	0.74	14.	1.1	3.8
	MONTE CARLO	OC /EGR/OTH/ / /CAN	231-2	A-3	3500	2.56	0.72	11.	1.3	2.2
	SKYLARK	OC /EGR/OTH/ / /CAN	231-2	H-3	4000	3.08	1.2	11.	1.9	2.3
	C STARFIRE	AIR/OC /EGR/OTR/ /CAN	231-2	H-5	3500	2.93	0.46	3.6	0.83	1.9
ACCH AHCV										
	C MALIBU	AIR/OC /EGR/OTR/ /CAN	305-2	A-3	3500	2.29	0.26	4.2	0.83	1.3
	C GRAND PRIX	AIR/OC /EGR/OTR/ /CAN	305-2	A-3	3500	2.73	0.21	2.2	0.86	2.2
	CHEV. VAN	OC /EGR/OTH/ / /CAN	305-2	H-3	4000	3.42	1.2	11.	1.4	1.8
	CHEV. VAN	OC /EGR/OTH/ / /CAN	305-2	H-3	4500	3.42	1.1	8.0	2.7	1.9
	MONZA	OC /EGR/OTH/ / /CAN	305-2	H-4	3500	3.08	0.65	5.4	1.6	3.6
	NOVA	OC /EGR/OTH/ / /CAN	305-2	H-4	4000	3.08	0.77	7.4	1.6	1.6
ADH AHDV										
	LESABRE	OC /EGR/OTH/ / /CAN	231-2	A-3	4000	2.56	0.90	5.0	2.0	3.2
	CENTURY	OC /EGR/OTH/ / /CAN	231-2	A-3	3500	2.56	1.0	4.6	1.7	2.7
AHCH AHDV										
	EL CAMINO	OC /EGR/OTH/ / /CAN	200-2	A-3	3500	2.73	0.78	9.3	1.4	1.6
	MALIBU	OC /EGR/OTH/ / /CAN	200-2	H-3	3500	2.73	0.54	4.9	1.8	1.3

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED — VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTWTS	TRANS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
GENERAL MOTORS -- EVAP-EMISSION FAMILIES:	EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
AOCL AHDV(CL. LOOP)									
C SKYHAWK	TWC/EGR/OTH/ / /CAN	231-02	A-3	3500	2.56	0.27	8.7	0.94	2.1
AOPO AHDV									
DELTA 88	OC /EGR/ / / /CAN	260-2	A-3	4000	2.56	0.63	9.0	1.4	5.M
C CUTLASS	AIR/OC /EGR/ / /CAN	260-2	A-3	3500	2.28	0.20	2.4	1.3	3.6
CUTLAS CRUISER WG	OC /EGR/ / /CAN	260-2	A-3	4000	2.93	0.49	3.9	2.0	4.5
LEMANS	OC /EGR/OTH/ / /CAN	301-2	A-3	3500	2.29	0.54	5.5	1.5	1.6
GRAND PRIX	OC /EGR/OTH/ / /CAN	301-2	A-3	4000	2.29	0.64	7.7	1.6	1.5
AFCL AHFV									
PHOENIX	TWC/EGR/OTH/ / /CAN	151-2	A-3	3500	3.42	0.56	12.	1.7	1.5
C MONZA	AIR/TWC/EGR/OTR/ /CAN	151-2	A-3	3000	2.93	0.38	6.1	1.7	1.9
SUNBIRD SAFARI WG	TWC/EGR/OTH/ / /CAN	151-2	M-4	3000	3.08	0.81	7.7	1.4	1.5
SUNBIRD	TWC/EGR/OTH/ / /CAN	151-2	M-5	3000	3.23	0.86	6.4	1.9	1.2
AFP AHFV									
C MONZA	AIR/OC /EGR/OTH/ /CAN	151-2	A-3	3000	2.93	0.38	6.1	1.7	1.9
PHOENIX	OC /EGR/OTH/ / /CAN	151-2	A-3	3500	3.42	0.56	12.	1.7	1.5
SUNBIRD SAFARI WG	OC /EGR/OTH/ / /CAN	151-2	M-4	3000	3.08	0.81	7.7	1.8	1.5
SUNBIRD	OC /EGR/OTH/ / /CAN	151-2	M-5	3000	3.23	0.86	6.4	1.9	1.2
AFBT AHFV									
C REGAL	AIR/OC /EGR/OTR/ /CAN	231-04	A-3	3500	2.73	0.39	7.2	1.2	3.9
REGAL	AIR/OC /EGR/OTR/ /CAN	231-4	A-3	3500	2.73	0.65	7.0	1.4	2.4
LESABRE	AIR/OC /EGR/OTR/ /CAN	231-4	A-3	4000	3.08	0.57	5.4	1.7	2.3
AFC AHFV									
C ELDORADO	AIR/OC /EGR/OTR/ /CAN	425-4	A-3	5500	2.73	0.25	5.1	1.6	5.6
C•CADILLAC	AIR/OC /EGR/OTR/ /CAN	425-4	A-3	5000	3.08	0.51	9.6	1.1	5.4
CADILLAC	OC /EGR/OTH/ / /CAN	425-4	A-3	5000	3.08	0.47	6.1	1.9	3.4
C COMMERCIAL CHASIS	AIR/OC /EGR/OTR/ /CAN	425-4	A-3	5500	3.08	0.36	13.	1.4	2.8
CADILLAC	OC /EGR/OTH/ / /CAN	425-4	A-3	4500	2.28	0.61	9.0	1.9	3.1
AFCH AHFV									
REGAL	OC /EGR/OTH/ / /CAN	305-4	A-3	3500	2.29	0.67	6.0	2.0	4.5
•GMC VAN	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	5000	3.73	0.52	9.8	1.4	5.3
GMC VAN	OC /EGR/OTH/ / /CAN	350-4	A-3	5000	2.73	0.75	8.3	2.3	3.4
•CAMARO	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	4000	3.42	1.1	7.7	1.4	2.6
CHEV. VAN	OC /EGR/OTH/ / /CAN	350-4	M-3	5000	3.42	1.1	7.6	2.8	2.2
C CHEV. SUBURBAN	AIR/OC /EGR/OTR/ /CAN	350-4	M-4	5500	4.10	0.81	11.	1.4	2.3
CAMARO	OC /EGR/OTH/ / /CAN	350-4	M-4	4000	3.73	0.77	5.1	1.8	2.4
C CHEV. VAN	AIR/OC /EGR/OTR/ /CAN	400-4	A-3	4500	2.76	0.28	4.3	1.4	3.8

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED — VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTWTS	TRANS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
GENERAL MOTORS -- EVAP-EMISSION FAMILIES:	EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
AFCH AHFV (CONT.)									
C CHEV. SUBURBAN	AIR/OC /EGR/OTR/ /CAN	454-4	A-3	5500	4.10	0.29	5.3	2.3	4.9
C CHEV. CAB CHASSIS	AIR/OC /EGR/OTR/ /CAN	454-4	A-3	6000	4.10	0.34	12.	1.7	2.7
AFPB AHFV									
LEMANS	OC /EGR/OTH/ / /CAN	301-4	A-3	4000	2.73	0.57	5.4	1.8	2.2
LESABRE	OC /EGR/OTH/ / /CAN	350-4	A-3	4000	3.08	1.0	9.7	1.6	1.9
ELECTRA	OC /EGR/OTH/ / /CAN	350-4	A-3	4000	2.41	0.89	8.0	1.6	2.5
FIREBIRD	OC /EGR/OTH/ / /CAN	400-4	A-3	4000	2.56	0.65	7.0	1.4	1.9
FIREBIRD	OC /EGR/OTH/ / /CAN	400-4	A-3	4000	3.23	0.61	5.2	1.7	2.M
AFVL AAFVL									
•CORVETTE	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	4000	3.55	0.85	10.	1.6	4.8
CORVETTE	OC /EGR/OTH/ / /CAN	350-4	M-4	4000	3.36	0.80	3.4	1.6	2.6
CORVETTE	AIR/OC /EGR/OTR/ /CAN	350-4	M-4	4000	3.70	0.81	2.4	1.8	3.4
AFO AAFV									
OLDSMOBILE 98	OC /EGR/ / / /CAN	350-4	A-3	4500	3.08	1.2	8.4	1.7	5.9
C DELTA 88	AIR/OC /EGR/ / /CAN	403-4	A-3	4500	2.41	0.39	5.6	1.2	4.6
•FIREBIRD	OC /EGR/ / / /CAN	403-4	A-3	4000	3.08	1.3	M.M	1.4	2.6
C FIREBIRD	AIR/OC /EGR/ / /CAN	403-4	A-3	4000	3.23	0.36	4.3	1.4	2.4
C TORONADO	AIR/OC /EGR/ / /CAN	403-4	A-3	5000	3.07	0.27	3.8	1.3	2.1
OLDSMOBILE 98	OC /EGR/ / / /CAN	403-4	A-3	4500	2.41	0.90	5.8	1.9	1.5
AAHV									
CHEVETTE	OC /EGR/ / / /CAN	98-1	A-3	2500	4.11	0.41	7.5	1.3	2.4
C CHEVETTE	AIR/OC /EGR/ / /CAN	98-1	A-3	2500	4.11	0.29	5.1	0.96	5.7
C•CHEVETTE	AIR/OC /EGR/ / /CAN	98-1	A-3	2500	4.11	0.45	14.	1.0	2.6
C CHEVETTE	AIR/OC /EGR/ / /CAN	98-1	A-3	2500	3.70	0.29	3.3	1.2	2.9
CHEVETTE	OC /EGR/ / / /CAN	98-1	A-3	2500	3.70	1.2	11.	1.1	4.7
CHEVETTE	OC /EGR/ / / /CAN	98-1	A-3	2250	3.70	0.39	7.8	1.1	5.0
AHA									
SEVILLE	AIR/FI /OC /EGR/ /CAN	350-FI	A-3	4500	2.56	0.72	11.	1.7	1.2
•SEVILLE	AIR/FI /OC /EGR/ /CAN	350-FI	A-3	4500	3.08	0.63	14.	1.3	0.90
C CADILLAC	AIR/FI /OC /EGR/ /CAN	425-FI	A-3	5000	2.28	0.34	3.9	1.3	1.4
CADILLAC	AIR/FI /OC /EGR/ /CAN	425-FI	A-3	5000	2.28	0.72	11.	1.6	1.6
AHHV									
C GMC VAN	AIR/OC /EGR/OTR/ /CAN	250-1	A-3	4500	3.08	0.38	6.4	1.7	2.9
CHEVROLET	OC /EGR/OTH/ / /CAN	250-1	A-3	4000	2.73	0.44	9.0	1.6	1.6
C CHEVROLET	AIR/OC /EGR/OTR/ /CAN	250-1	A-3	4000	2.73	0.31	2.7	0.86	2.6
VAN	OC /EGR/OTH/ / /CAN	250-1	M-3	4000	2.73	0.61	5.9	1.9	1.9

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
GENERAL MOTORS -- EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
AHHV (CONT.)										
C CHEV. VAN		AIR/OC /EGR/OTR/	/CAN	250-1	M-3	4500	4.09	0.54	3.8	1.5	1.4
HONDA -- FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
78FH / 78FA (76)										
CIVIC	CIVIC	AIR/ / / /	/CAN	76-2	M-4	2000	4.44	1.1	10.	1.5	1.1 *
	CIVIC	AIR/ / / /	/CAN	76-2	M-5	2000	4.12	1.1	10.	1.6	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/ / / /	/	FAMILY 78FA				1.000	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CAN	FAMILY 78FH				N/A	N/A	N/A	0.0
78FD / 78FD (91, 94)											
C CIVIC	CIVIC WAGON	OTR/ / / /	/CAN	91-3	M-4	2250	4.43	0.95	6.7	1.6	N/A
C CIVIC WAGON	C CIVIC	OTR/ / / /	/CAN	91-3	M-4	2000	4.07	0.48	4.4	1.2	0.96 *
C ACCORD	CIVIC	OTR/ / / /	/CAN	91-3	M-5	2000	3.87	1.1	4.7	1.7	N/A
CIVIC	CIVIC WAGON	OTR/ / / /	/CAN	91-3	5-A	2250	4.12	0.46	5.2	1.4	1.4 *
CIVIC WAGON	ACCORD	OTR/ / / /	/CAN	98-3	M-5	2250	4.27	0.94	6.0	1.5	1.0 *
ACCORD	ACCORD	OTR/ / / /	/CAN	98-3	5-A	2250	4.12	0.42	5.8	1.5	N/A
(EXHAUST DETERIORATION FACTORS FOR -		OTR/ / / /	/	FAMILY 78ED				1.000	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CAN	FAMILY 78FD				N/A	N/A	N/A	0.0
HONDA -- EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
78FH										
	CIVIC	AIR/ / / /	/CAN	76-2	M-4	2000	4.44	1.1	10.	1.5	1.1
78FD										
C CIVIC		OTR/ / / /	/CAN	91-3	M-4	2000	4.07	0.40	4.4	1.2	0.96
CIVIC WAGON		OTR/ / / /	/CAN	91-3	5-A	2250	4.12	0.46	5.2	1.4	1.4
ACCORD		OTR/ / / /	/CAN	98-3	M-5	2250	4.27	0.94	6.0	1.5	1.0

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS! A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
ISUZU -- FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
G1H0Z-H / CRKP (111)										
C OPEL	*OPEL	AIR/OC /EGR/ /	/CRK	111-2	A-3	2500	3.58	0.46	8.2	1.9	3.3 *
OPEL	C OPEL	AIR/OC /EGR/ /	/CRK	111-2	A-3	2500	3.58	0.34	5.5	1.1	N/A
	C OPEL	AIR/OC /EGR/ /	/CRK	111-2	M-4	2500	3.58	0.21	2.4	1.0	N/A
	*OPEL	AIR/OC /EGR/ /	/CRK	111-2	M-5	2500	3.31	0.41	9.1	1.4	N/A
	C OPEL	AIR/OC /EGR/ /	/CRK	111-2	M-5	2500	3.31	0.21	3.3	0.88	3.0 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ /	/	FAMILY G1H0Z-H				2.287	3.031	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CRK	FAMILY CRKP				N/A	N/A	N/A	0.120
G1H0Z-F / CRKP (111)											
OPEL	OPEL	AIR/EGR/ / /	/CRK	111-2	A-3	2500	3.58	0.72	11.	1.3	2.3 *
	OPEL	AIR/EGR/ / /	/CRK	111-2	M-4	2500	3.58	0.98	11.	1.6	N/A
	OPEL	AIR/EGR/ / /	/CRK	111-2	M-5	2500	3.31	0.74	12.	1.6	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/EGR/ / /	/	FAMILY G1H0Z-F				1.000	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CRK	FAMILY CRKP				N/A	N/A	N/A	0.120
ISUZU -- EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
CRKP										
	OPEL	AIR/EGR/ / /	/CRK	111-2	A-3	2500	3.58	0.72	11.	1.3	2.3
	*OPEL	AIR/OC /EGR/ /	/CRK	111-2	A-3	2500	3.58	0.46	8.2	1.9	3.3
	C OPEL	AIR/OC /EGR/ /	/CRK	111-2	M-5	2500	3.31	0.21	3.3	0.88	3.0
LOTUS -- FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
907 / 907 (120)										
C ESPRIT	ELITE/SPRINT	AIR/OC / / /	/CAN	120-2	M-4	2750	4.11	0.35	4.0	1.6	3.0 *
ELITE/SPRINT	C ESPRIT	AIR/OC / / /	/CAN	120-2	M-5	2500	4.10	0.24	2.1	1.3	3.0 *

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS! A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	T R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	NITROGEN OXIDES OF	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
LOTUS - FAMILY COMBINATIONS CERTIFIED:		EXHAUST EMISSION FAMILY TEST VEHICLES								
907 / 907 (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC / / / /	FAMILY 907				1.476	1.140	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 907				N/A	N/A	N/A	0.270)
LOTUS - EVAP-EMISSION FAMILIES:		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
907										
ELITE/SPRINT		AIR/OC / / / /CAN	120-2	M-4	2750	4.11	0.35	4.0	1.6	3.0
C ESPRIT		AIR/OC / / / /CAN	120-2	M-5	2500	4.38	0.24	2.1	1.3	3.0
MASERATI - FAMILY COMBINATIONS CERTIFIED:		EXHAUST EMISSION FAMILY TEST VEHICLES								
SS / SS										
(181)										
MERAK	C MERAK	AIR/THM/ / / /CAN	181-6	M-5	3500	4.17	0.54	7.8	1.3	4.0 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/THM/ / / /	FAMILY SS				1.100	1.100	1.100	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY SS				N/A	N/A	N/A	0.0)
MASERATI - EVAP-EMISSION FAMILIES:		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
SS										
C MERAK		AIR/THM/ / / /CAN	181-6	M-5	3500	4.17	0.54	7.8	1.3	4.0
MERCEDES BENZ - FAMILY COMBINATIONS CERTIFIED:		EXHAUST EMISSION FAMILY TEST VEHICLES								
78/2/VHE/69 / 78/2/EVAP/F14										
(417)										
C M116V(6.9)	C M116V(6.9)	AIR/FI /OC /EGR/ /CAN	417-FI	A-3	4500	2.65	0.32	5.3	1.1	0.71 *
C*M116V(6.9)	C*M116V(6.9)	AIR/FI /OC /EGR/ /CAN	417-FI	A-3	4500	2.65	0.51	8.9	1.4	0.82 *

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS! A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	T R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	NITROGEN OXIDES OF	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
MERCEDES BENZ - FAMILY COMBINATIONS CERTIFIED:		EXHAUST EMISSION FAMILY TEST VEHICLES								
78/2/VHE/69 / 78/2/EVAP/F14 (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/FI /OC /EGR/ /	FAMILY 78/2/VHE/69				1.316	1.593	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 78/2/EVAP/F14				N/A	N/A	N/A	0.0)
78/2A/L4V/23 / 78/2A/EVAP/C1										
(141)										
M8 123(230)	M8 123(230)	AIR/EGR/OC /RC / /CAN	141-1	A-4	3500	3.69	0.45	2.6	1.4	1.0 *
	*M8 123(230)	AIR/EGR/OC /RC / /CAN	141-1	A-4	3500	3.69	0.68	9.2	1.2	2.1 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/EGR/OC /RC / /	FAMILY 78/2A/L4V/23				1.333	1.158	1.100	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 78/2A/EVAP/C1				N/A	N/A	N/A	0.240)
78/2A/L6E/28 / 78/2/EVAP/F12										
(168)										
M8 123(280F)	M8 123(280F)	AIR/FI /EGR/OC /RC /CAN	168-FI	A-4	4000	3.54	0.90	4.3	1.1	0.81 *
	M8 116(280SE)	AIR/FI /EGR/OC /RC /CAN	168-FI	A-4	4000	3.69	1.1	3.3	1.6	N/A
	*M8 123(280F)	AIR/FI /EGR/OC /RC /CAN	168-FI	A-4	4000	3.54	0.96	11.	1.4	0.60 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/FI /EGR/OC /RC /	FAMILY 78/2A/L6E/28				1.406	1.479	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 78/2/EVAP/F12				N/A	N/A	N/A	0.0)
78/2A/L6E/28 / 78/2/EVAP/F14										
(168)										
M8 116(280SE)	M8 116(280SE)	AIR/FI /OC /EGR/ /CAN	168-FI	A-4	4000	3.69	1.1	3.3	1.6	N/A
	M8 123(280F)	AIR/FI /OC /EGR/ /CAN	168-FI	A-4	4000	3.54	0.90	4.3	1.1	N/A
	*M8 123(280F)	AIR/FI /OC /EGR/ /CAN	168-FI	A-4	4000	3.54	0.96	11.	1.4	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/FI /OC /EGR/ /	FAMILY 78/2A/L6E/28				1.406	1.479	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 78/2/EVAP/F14				N/A	N/A	N/A	0.0)
78/2A/VHE/45-107 / 78/2/EVAP/F13C										
(276)										
M8107(450SL/SLC)	M8107(450SL/SLC)	AIR/FI /OC /EGR/ /CAN	276-FI	A-3	4000	3.06	0.55	7.3	1.3	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/FI /OC /EGR/ /	FAMILY 78/2A/VHE/45-107				1.349	1.395	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 78/2/EVAP/F13C				N/A	N/A	N/A	0.0)

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS! A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINE'S COVERED	VEHICLE CARLINE DESCRIPTION	ENGINE DISP.L (CID)	INERTIA WEIGHT CLASS	AXLE RATIO	CATEGORY REPORTING	CANADIAN VEHICLES	OTHER VEHICLES	EVAPORATIVE EMISSIONS (GRAMS/MILE)
EXHAUST EMISSION CERTIFICATION LEVELS								
EXHAUST EMISSIONS (GRAMS/MILE)								
EVAPOR. EMISSIONS								
1978 MODEL YEAR LIGHT-DUTY VEHICLES								
MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINE'S COVERED	VEHICLE CARLINE DESCRIPTION	ENGINE DISP.L (CID)	INERTIA WEIGHT CLASS	AXLE RATIO	CATEGORY REPORTING	CANADIAN VEHICLES	OTHER VEHICLES	EVAPORATIVE EMISSIONS (GRAMS/MILE)
EXHAUST EMISSION CERTIFICATION LEVELS								
EXHAUST EMISSIONS (GRAMS/MILE)								
EVAPOR. EMISSIONS								

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	T R A N S	INERTIA WEIGHT CLASS (LBS)	AALE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
MERCEDES BENZ - EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
7M/2/EVAP/F14 (CONT.)	C•M8116V(6.9)	AIR/FI /OC /EGR/	/CAN 417-FI	A-3	4500	2.65	0.51	4.9	1.4	0.82
7M/2/EVAP/F13C	M8107(450SL/SLC)	AIR/FI /OC /EGR/	/CAN 276-FI	A-3	4000	3.06	0.38	1.7	1.1	0.77
7M/2/EVAP/F13C	M8107(450SL/SLC)	AIR/FI /OC /EGR/	/CAN 276-FI	A-3	4000	3.06	0.30	1.7	1.1	0.77
7M/2/EVAP/F13W	M8107(450SL/SLC)	AIR/FI /OC /EGR/	/CAN 276-FI	A-3	4000	3.06	0.56	7.3	1.4	0.88
MITSUBISHI - FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
463-C / E7A (98)										
C COLT	C SAPPORO	OC /EGR/ / /	/CAN 98-2	A-3	2750	3.91	0.25	7.6	0.98	N/A
C ARROW	C ARROW	OC /EGR/ / /	/CAN 98-2	A-3	2500	3.54	0.36	5.1	1.0	1.9 •
C COLT WAGON	C ARROW	OC /EGR/ / /	/CAN 98-2	M-4	2500	3.91	0.29	3.0	1.0	N/A
COLT	C COLT	OC /EGR/ / /	/CAN 98-2	M-4	2250	3.91	0.36	4.0	1.0	N/A
ARROW	C ARROW	OC /EGR/ / /	/CAN 98-2	M-5	2500	4.22	0.37	6.2	0.94	N/A
C CHALLENGER	C CHALLENGER	OC /EGR/ / /	/CAN 98-2	M-5	2750	4.22	0.40	5.7	1.1	1.7 •
SAPPORO	C•CHALLENGER	OC /EGR/ / /	/CAN 98-2	M-5	2750	4.22	0.54	8.2	1.9	1.3 •
CHALLENGER										
C SAPPORO										
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/ / / /	FAMILY 463-C				1.051	1.003	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CAN FAMILY E7A				N/A	N/A	N/A	0.0
463-F / E7A (98)										
COLT	ARROW	OC /EGR/ / /	/CAN 98-2	A-3	2500	3.54	0.37	6.2	1.2	N/A
LANCER	CHALLENGER	OC /EGR/ / /	/CAN 98-2	A-3	2750	3.91	0.61	11.	1.4	N/A
CELESTE	ARROW	OC /EGR/ / /	/CAN 98-2	M-4	2500	3.91	0.80	4.2	1.3	2.6 •
ARROW	COLT	OC /EGR/ / /	/CAN 98-2	M-4	2250	3.31	0.79	4.2	1.6	N/A
COLT WAGON	SAPPORO	OC /EGR/ / /	/CAN 98-2	M-5	2750	4.22	1.2	9.0	1.6	2.1 •
LANCER WAGON	ARROW	OC /EGR/ / /	/CAN 98-2	M-5	2500	4.22	0.54	7.4	1.4	N/A
CHALLENGER										

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS. A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	T R A N S	INERTIA WEIGHT CLASS (LBS)	AALE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
MITSUBISHI - FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
463-F / E7A (CONT.)										
SAPPORO										
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/ / / /	FAMILY 463-F				1.150	1.105	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CAN FAMILY E7A				N/A	N/A	N/A	0.0
465-C / E7A-1 (122•156)										
C ARROW	C ARROW	OC /EGR/ / /	/CAN 122-2	A-3	2750	3.55	0.17	2.4	1.2	N/A
C CHALLENGER	C ARROW	OC /EGR/ / /	/CAN 122-2	M-5	2500	3.91	0.18	2.8	1.0	2.1 •
C COLT WAGON	C CHALLENGER	OC /EGR/ / /	/CAN 156-2	A-3	3000	3.31	0.12	2.8	1.0	2.5 •
C SAPPORO	C COLT WAGON	OC /EGR/ / /	/CAN 156-2	M-5	3000	3.11	0.17	4.2	0.87	2.7 •
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/ / / /	FAMILY 465-C				1.022	1.001	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CAN FAMILY E7A-1				N/A	N/A	N/A	0.0
465-F / E7A-1 (122•156)										
ARROW	ARROW	OC /EGR/ / /	/CAN 122-2	A-3	2750	3.55	0.29	5.5	1.4	2.3 •
CELESTE	ARROW	OC /EGR/ / /	/CAN 122-2	M-5	2500	3.91	0.32	4.7	1.4	N/A
CHALLENGER	COLT WAGON	OC /EGR/ / /	/CAN 156-2	A-3	3000	3.31	0.18	2.5	1.5	2.3 •
COLT WAGON	SAPPORO	OC /EGR/ / /	/CAN 156-2	M-5	3000	3.31	0.25	3.0	1.6	N/A
LANCER WAGON										
SAPPORO										
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/ / / /	FAMILY 465-F				1.000	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CAN FAMILY E7A-1				N/A	N/A	N/A	0.0
MITSUBISHI - EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
E7A										
	C ARROW	OC /EGR/ / /	/CAN 98-2	A-3	2500	3.54	0.36	5.1	1.0	1.9
	ARROW	OC /EGR/ / /	/CAN 98-2	M-4	2500	3.91	0.80	4.2	1.3	2.6
	C CHALLENGER	OC /EGR/ / /	/CAN 98-2	M-5	2750	4.22	0.40	5.7	1.1	1.7
	C•CHALLENGER	OC /EGR/ / /	/CAN 98-2	M-5	2750	4.22	0.54	8.2	1.9	1.3
	SAPPORO	OC /EGR/ / /	/CAN 98-2	M-5	2750	4.22	1.2	9.0	1.6	2.1

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS MISSION	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
MITSUBISHI - EVAP-EMISSION FAMILIES:		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
E7A-1										
	ARROW	OC /EGR/ / / /CAN	122-2	A-3	2750	3.55	0.24	5.5	1.4	2.3
	C ARROW	OC /EGR/ / / /CAN	122-2	M-5	2500	3.91	0.18	2.8	1.0	2.1
	C CHALLENGER	OC /EGR/ / / /CAN	156-2	A-3	3000	3.31	0.12	2.8	1.0	2.5
	COLT WAGON	OC /EGR/ / / /CAN	156-2	A-3	3000	3.31	0.18	2.5	1.5	2.3
	C COLT WAGON	OC /EGR/ / / /CAN	156-2	M-5	3000	3.11	0.17	4.2	0.87	2.7
NISSAN - FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
A140C / EVP-CARB-2 (85)										
C H-210	C H-210	AIR/OC /EGR/ / /CAN	A5-2	A-3	2500	3.89	0.32	8.4	1.1	3.4 *
C H-210	C H-210	AIR/OC /EGR/ / /CAN	A5-2	A-3	2250	3.89	0.20	3.1	0.92	N/A
C F-10	C H-210	AIR/OC /EGR/ / /CAN	A5-2	A-3	2500	3.89	0.20	2.6	1.1	N/A
C F-10 WAGON	C H-210	AIR/OC /EGR/ / /CAN	A5-2	M-4	2250	3.70	0.65	13.	0.68	2.4 *
	C F-10 WAGON	AIR/OC /EGR/ / /CAN	A5-2	M-4	2250	3.47	0.37	6.3	0.97	2.6 *
	C H-210	AIR/OC /EGR/ / /CAN	A5-2	M-4	2250	3.70	0.20	4.1	0.98	N/A
	C F-10 WAGON	AIR/OC /EGR/ / /CAN	A5-2	M-4	2250	3.47	0.13	2.5	1.0	N/A
	C F-10	AIR/OC /EGR/ / /CAN	A5-2	M-5	2250	3.47	0.28	5.4	1.1	2.6 *
	C H-210	AIR/OC /EGR/ / /CAN	A5-2	M-5	2250	3.70	0.16	3.8	1.1	N/A
	C H-210	AIR/OC /EGR/ / /CAN	A5-2	M-5	2250	3.70	0.34	14.	0.67	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY A140C				1.335	1.418	1.000	N/A)
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY A140C				1.000	1.410	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-CARB-2				N/A	N/A	N/A	0.0)
A140F / EVP-CARB-2 (85)										
H-210	H-210	AIR/EGR/ / / /CAN	A5-2	A-3	2250	3.89	1.2	11.	1.6	N/A
F-10	H-210	AIR/EGR/ / / /CAN	A5-2	M-4	2250	3.70	1.2	8.7	1.3	1.9 *
F-10 WAGON	F-10 WAGON	AIR/EGR/ / / /CAN	A5-2	M-4	2250	3.47	1.1	11.	1.5	2.2 *
	F-10	AIR/EGR/ / / /CAN	A5-2	M-5	2250	3.47	1.1	14.	1.9	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/EGR/ / / /	FAMILY A140F				1.000	1.022	1.008	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-CARB-2				N/A	N/A	N/A	0.0)

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS MISSION	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
NISSAN - FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
A141F / EVP-CARB-2 (85)										
H-210	H-210	AIR/OC /EGR/ / /CAN	A5-2	M-5	2250	3.70	0.68	2.8	1.4	0.99 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY A141F				2.015	1.486	1.082	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-CARB-2				N/A	N/A	N/A	0.0)
L200F / EVP-CARB-1 (119)										
200 SX	200 SX	AIR/EGR/ / / /CAN	119-2	A-3	2750	3.70	1.2	13.	1.4	N/A
510	510	AIR/EGR/ / / /CAN	119-2	A-3	2500	3.54	1.1	10.	1.5	2.3 *
510 WAGON	510 WAGON	AIR/EGR/ / / /CAN	119-2	M-4	2750	3.54	1.2	12.	1.5	N/A
	510	AIR/EGR/ / / /CAN	119-2	M-5	2500	3.54	1.5	11.	1.5	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/EGR/ / / /	FAMILY L200F				1.074	1.077	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-CARB-1				N/A	N/A	N/A	0.180)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-CARB-1				N/A	N/A	N/A	0.0)
L201C / EVP-CARB-1 (119)										
C 200 SX	C 510	AIR/OC /EGR/ / /CAN	119-2	A-3	2750	3.54	0.20	2.4	0.95	N/A
C 510	C 200 SX	AIR/OC /EGR/ / /CAN	119-2	A-3	2750	3.70	0.19	2.6	1.8	3.4 *
C 510 WAGON	C 510 WAGON	AIR/OC /EGR/ / /CAN	119-2	M-4	2750	3.54	0.32	4.0	0.93	2.9 *
	C 510	AIR/OC /EGR/ / /CAN	119-2	M-5	2750	3.54	0.32	6.0	0.96	N/A
	C 510	AIR/OC /EGR/ / /CAN	119-2	M-5	2750	3.54	0.30	4.7	0.88	2.1 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY L201C				1.160	1.006	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-CARB-1				N/A	N/A	N/A	0.180)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-CARB-1				N/A	N/A	N/A	0.0)
L240/280F / EVP-EFI-1 (146,164)										
810	810 WAGON	FI /EGR/ / / /CAN	146-FI	M-4	3000	3.70	1.5	10.	1.8	N/A
810 WAGON	280Z	FI /EGR/ / / /CAN	168-FI	A-3	3000	3.54	1.4	7.2	1.7	N/A
280Z	280Z	FI /EGR/ / / /CAN	168-FI	M-4	3000	3.54	1.4	8.8	1.8	N/A
	280Z	FI /EGR/ / / /CAN	168-FI	M-5	3000	3.54	1.5	10.	1.8	2.0 *
(EXHAUST DETERIORATION FACTORS FOR -		FI /EGR/ / / /	FAMILY L240/280F				1.175	1.170	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-EFI-1				N/A	N/A	N/A	0.0)

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB	T R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
NISSAN - FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
L241/2R1C / EVP-EFI-1 (146.1cu)										
C 810	C 810	FI /OC /EGR/ / /CAN	146-FI	A-3	3000	3.70	0.31	3.4	1.1	2.6 *
C 810 WAGON	C 810 WAGON	FI /OC /EGR/ / /CAN	146-FI	M-4	3000	3.70	0.27	2.2	0.98	2.0 *
C 2R0Z	C 2R0Z	FI /OC /EGR/ / /CAN	168-FI	A-3	3000	3.54	0.33	3.4	1.3	N/A
C*2R0Z	C*2R0Z	FI /OC /EGR/ / /CAN	168-FI	A-3	3000	3.54	0.41	4.9	1.5	2.1 *
C 2R0Z	C 2R0Z	FI /OC /EGR/ / /CAN	168-FI	M-4	3000	3.54	0.29	3.3	1.0	N/A
C 2R0Z	C 2R0Z	FI /OC /EGR/ / /CAN	168-FI	M-5	3000	3.54	0.27	2.9	0.90	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI /OC /EGR/ / /	FAMILY L241/2R1C				1.123	1.088	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-EFI-1				N/A	N/A	N/A	0.0)
NISSAN - EVAP-EMISSION FAMILIES:		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
EVP-CAR8-1										
	510	AIR/EGR/ / / /CAN	119-2	A-3	2500	3.54	1.3	10.	1.5	2.3
	C 200 SX	AIR/OC /EGR/ / /CAN	119-2	A-3	2750	3.70	0.19	2.6	1.0	3.4
	C 510 WAGON	AIR/OC /EGR/ / /CAN	119-2	M-4	2750	3.54	0.32	4.0	0.93	2.9
	PICKUP	AIR/EGR/ / / /CAN	119-2	M-4	2750	4.38	1.4	8.3	2.8	1.7
	C*PICKUP	AIR/OC /EGR/ / /CAN	119-2	M-4	2750	4.38	0.50	4.7	1.3	2.6
	C*510 WAGON	AIR/OC /EGR/ / /CAN	119-2	M-4	2750	3.54	0.27	3.4	0.89	1.1
	C PICKUP	AIR/OC /EGR/ / /CAN	119-2	M-5	2750	4.38	0.42	3.5	1.6	1.9
	C 510	AIR/OC /EGR/ / /CAN	119-2	M-5	2750	3.54	0.30	4.7	0.88	2.1
EVP-CAR8-2										
	C*B-210	AIR/OC /EGR/ / /CAN	B5-2	A-3	2500	3.89	0.32	8.4	1.1	3.4
	B-210	AIR/EGR/ / / /CAN	B5-2	M-4	2250	3.70	1.2	8.7	1.3	1.9
	C*B-210	AIR/OC /EGR/ / /CAN	B5-2	M-4	2250	3.70	0.65	11.	0.68	2.4
	F-10 WAGON	AIR/EGR/ / / /CAN	B5-2	M-4	2250	3.47	1.1	11.	1.5	2.2
	C*F-10 WAGON	AIR/OC /EGR/ / /CAN	B5-2	M-4	2250	3.47	0.37	6.3	0.97	2.6
	C F-10	AIR/OC /EGR/ / /CAN	B5-2	M-5	2250	3.47	0.28	5.4	1.1	2.6
	B-210	AIR/OC /EGR/ / /CAN	B5-2	M-5	2250	3.70	0.60	2.8	1.4	0.99
EVP-EFI-1										
	C 810	FI /OC /EGR/ / /CAN	146-FI	A-3	3000	3.70	0.31	3.4	1.1	2.6
	C 810 WAGON	FI /OC /EGR/ / /CAN	146-FI	M-4	3000	3.70	0.27	2.2	0.98	2.0
	C*2R0Z	FI /OC /EGR/ / /CAN	168-FI	A-3	3000	3.54	0.41	4.9	1.5	2.1
	2R0Z	FI /EGR/ / / /CAN	168-FI	M-5	3000	3.54	1.5	10.	1.8	2.0

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB	T R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
PEUGEOT - FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
XNAC / XNA (120)										
504	C 504	AIR/OC /EGR/ / /CAN	120-2	A-3	3500	3.89	0.62	7.6	1.3	6.0 *
504 WAGON	C 504 WAGON	AIR/OC /EGR/ / /CAN	120-2	M-4	3500	4.11	1.0	5.2	1.2	4.2 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY XNAC				1.000	1.334	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY XNA				N/A	N/A	N/A	0.0)
112.9D / 112 (163)										
604	604	AIR/OC /EGR/ / /CAN	163-3	A-3	3500	3.58	0.61	5.8	1.1	4.0 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY 112.9D				1.219	1.144	1.132	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 112				N/A	N/A	N/A	0.667)
112.9E / 112 (163)										
604	C 604	AIR/OC /EGR/ / /CAN	163-3	A-3	3500	3.58	0.29	2.5	1.0	4.0 *
	C 604	AIR/OC /EGR/ / /CAN	163-3	M-4	3500	3.58	0.32	2.6	1.2	3.6 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY 112.9E				1.217	1.087	1.232	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 112				N/A	N/A	N/A	1.041)
PEUGEOT - EVAP-EMISSION FAMILIES:		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
XNA										
	C 504	AIR/OC /EGR/ / /CAN	120-2	A-3	3500	3.89	0.62	7.6	1.3	6.0
	C 504 WAGON	AIR/OC /EGR/ / /CAN	120-2	M-4	3500	4.11	1.0	5.2	1.2	4.2
112										
	C 604	AIR/OC /EGR/ / /CAN	163-3	A-3	3500	3.58	0.29	2.5	1.0	4.0
	604	AIR/OC /EGR/ / /CAN	163-3	A-3	3500	3.58	0.61	5.8	1.1	4.0
	C 604	AIR/OC /EGR/ / /CAN	163-3	M-4	3500	3.58	0.32	2.6	1.2	3.6

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS. A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VEHICLES	A/N	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
PORSCHE - FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
IV / B (201) C TURBO CARRERA	C 911	AIR/FI /THM/EGR/ /CAN	201-FI	M-4	3000	4.22	0.50	6.1	0.81	2.3 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/FI /THM/EGR/ /	FAMILY IV				1.000	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY B				N/A	N/A	N/A	0.0
IX / B (183) 911	911	AIR/FI /OC / / /CAN	183-FI	M-3	3000	3.86	0.24	2.2	1.4	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/FI /OC / / /	FAMILY IX				1.083	1.055	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY B				N/A	N/A	N/A	0.0
VI / A (121) 924	924	FI /OC /EGR/ / /CAN	121-FI	A-3	3000	3.73	0.33	3.7	1.4	N/A
924	924	FI /OC /EGR/ / /CAN	121-FI	M-4	3000	3.89	0.34	3.3	1.3	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI /OC /EGR/ / /	FAMILY VI				1.094	1.000	1.027	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY A				N/A	N/A	N/A	1.711
VII / A (121) C 924	C 924	AIR/FI /OC /EGR/ /CAN	121-FI	A-3	3000	3.73	0.26	2.5	1.4	N/A
924	C 924	AIR/FI /OC /EGR/ /CAN	121-FI	M-4	3000	3.89	0.25	2.9	1.7	3.4 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/FI /OC /EGR/ /	FAMILY VII				1.072	1.440	1.032	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY A				N/A	N/A	N/A	1.711
VIII / B (183) C 911	C 911	AIR/FI /OC /EGR/ /CAN	183-FI	M-5	3000	3.86	0.18	2.6	0.70	1.8 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/FI /OC /EGR/ /	FAMILY VIII				1.000	1.000	1.040	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY B				N/A	N/A	N/A	0.0
X / C (273) C 928	C 928	AIR/FI /OC /EGR/ /CAN	273-FI	A-3	3500	2.75	0.35	3.6	1.0	N/A
C 928	C 928	AIR/FI /OC /EGR/ /CAN	273-FI	M-5	3500	2.75	0.39	2.2	1.2	2.8 *

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS! A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VEHICLES	A/N	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
PORSCHE - FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
X / C (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/FI /OC /EGR/ /	FAMILY X				1.000	1.169	1.061	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY C				N/A	N/A	N/A	0.0
PORSCHE - EVAP-EMISSION FAMILIES:		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
A	C 924	AIR/FI /OC /EGR/ /CAN	121-FI	M-4	3000	3.89	0.25	2.9	1.7	3.4
B	C 911	AIR/FI /OC /EGR/ /CAN	183-FI	M-5	3000	3.86	0.18	2.6	0.70	1.8
	C 911	AIR/FI /THM/EGR/ /CAN	201-FI	M-4	3000	4.22	0.50	6.1	0.81	2.3
C	C 928	AIR/FI /OC /EGR/ /CAN	273-FI	M-5	3500	2.75	0.39	2.2	1.2	2.8
RENAULT - FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
810R / ECS1 (79) LE CAR	LE CAR	AIR/EGR/ / / /CAN	79-2	M-4	2000	3.63	0.90	12.	1.6	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/EGR/ / / /	FAMILY 810R				1.000	1.038	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY ECS1				N/A	N/A	N/A	1.443
810RC / ECS1 (79) C LE CAR	C LE CAR	AIR/OC /EGR/ / /CAN	79-2	M-4	2000	3.63	0.18	3.1	1.0	3.3 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY 810RC				1.061	1.396	1.001	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY ECS1				N/A	N/A	N/A	1.443
843FIR / ECS2 (101) 17 GORDINI	17 GORDINI	AIR/FI /EGR/ / /CAN	101-FI	M-5	2750	3.77	1.4	11.	1.6	2.2 *

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	T R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
REQUEST = FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
84.8 IN / ECS2 (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/FI /EGR/ / /	FAMILY 84.8IN				: 1.017	1.610	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CAN FAMILY ECS2				: N/A	N/A	N/A	0.700)
84.8INC / ECS2(A)										
(101)										
C 17 GORDINI	C 17 GORDINI	AIR/FI /OC /EGR/	/CAN 101-FI	M-5	2750	3.77	0.36	2.7	1.1	3.6 •
(EXHAUST DETERIORATION FACTORS FOR -		AIR/FI /OC /EGR/ /	FAMILY 84.8INC				: 1.240	1.020	1.224	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CAN FAMILY ECS2(A)				: N/A	N/A	N/A	0.700)
REQUEST = EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
ECS1										
	C LI CAP	AIR/OC /EGR/ /	/CAN 79-2	M-4	2000	3.03	0.18	3.1	1.0	3.1
ECS2										
	17 GORDINI	AIR/FI /EGR/ /	/CAN 101-FI	M-5	2750	1.77	1.4	11.	1.6	2.2
ECS2(A)										
	C 17 GORDINI	AIR/FI /OC /EGR/	/CAN 101-FI	M-5	2750	1.77	0.36	2.7	1.1	3.6
ROLLS-ROYCE = FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
1 / 1										
(412)										
ROLLS-ROYCE/RENT.	C ROLLS-ROYCE/RENT.	AIR/OC /EGR/ /	/CAN 412-2	A-3	5500	3.08	0.26	3.1	1.7	2.4 •
C ROLLS-ROYCE/RENT.										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY 1				: 1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CAN FAMILY 1				: N/A	N/A	N/A	0.574)

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	T R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
ROLLS-ROYCE = EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
1										
	C ROLLS-ROYCE/RENT.	AIR/OC /EGR/ /	/CAN 412-2	A-3	5500	3.08	0.26	3.1	1.7	2.4
SAAB = FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
B120CA / 99-1										
(121)										
C 99	C 99	FI /TWC/OTH/ /	/CAN 121-FI	A-3	3000	3.89	0.20	4.2	0.36	N/A
	C 99	FI /TWC/OTH/ /	/CAN 121-FI	M-4	3000	3.89	0.21	6.8	0.14	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI /TWC/OTH/ / /	FAMILY B120CA				: 1.085	1.745	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CAN FAMILY 99-1				: N/A	N/A	N/A	0.0)
B120PR / 99-1										
(121)										
99	99	AIR/FI /EGR/ /	/CAN 121-FI	A-3	3000	3.89	1.4	7.6	1.4	N/A
	99	AIR/FI /EGR/ /	/CAN 121-FI	M-4	3000	3.89	1.2	8.5	1.5	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/FI /EGR/ / /	FAMILY B120PR				: 1.000	1.000	1.092	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CAN FAMILY 99-1				: N/A	N/A	N/A	0.0)
BS120CA / 99-1										
(121)										
C 99	C 99	FI /TWC/OTH/ /	/CAN 121-FI	M-4	3000	3.89	0.21	2.5	0.85	3.1 •
(EXHAUST DETERIORATION FACTORS FOR -		FI /TWC/OTH/ / /	FAMILY BS120CA				: 1.000	1.000	1.149	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CAN FAMILY 99-1				: N/A	N/A	N/A	0.0)
SAAB = EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
99-1										
	C 99	FI /TWC/OTH/ /	/CAN 121-FI	M-4	3000	3.89	0.21	2.5	0.85	3.1

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VEHICLES	TRANS. CLASS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
SIELLOBO_MEG._LIO_=_FAMILY_COMBINATIONS_CERTIFIED:		**EXHAUST=EMISSION_FAMILY_TEST_VEHICLES**								
907 / SUPER 907 (121)										
SUPER 907	C SUPER 907	AIR/OC / / / /CAN	121-02	M-5	2000	3.73	0.74	4.9	1.2	4.4 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC / / / /	FAMILY 907				1.900	1.700	1.200	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY SUPER 907				N/A	N/A	N/A	0.0)
SIELLOBO_MEG._LIO_=_EVAP-EMISSION_FAMILIES:		**EVAPORATIVE=EMISSION_FAMILY_TEST_VEHICLES**								
SUPER 907	C SUPER 907	AIR/OC / / / /CAN	121-02	M-5	2000	3.73	0.74	4.9	1.2	4.4
IOYO_BOOYO_=_FAMILY_COMBINATIONS_CERTIFIED:		**EXHAUST=EMISSION_FAMILY_TEST_VEHICLES**								
MCTCP / SCA (78)										
C GLC	C GLC	AIR/OC /EGR/ / /CAN	78-2	A-3	2250	4.10	0.24	6.0	0.89	3.1 *
	C GLC	AIR/OC /EGR/ / /CAN	78-2	M-4	2250	3.73	0.24	3.7	1.1	N/A
	C GLC	AIR/OC /EGR/ / /CAN	78-2	M-5	2250	3.73	0.20	3.6	1.0	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY MCTCP				1.345	1.421	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY SCA				N/A	N/A	N/A	0.1701
MFTCP / SCA (78)										
GLC	GLC	AIR/OC /EGR/ / /CAN	78-2	A-3	2250	4.10	0.74	11.	1.1	N/A
	GLC	AIR/OC /EGR/ / /CAN	78-2	M-4	2250	3.73	0.64	12.	1.1	1.4 *
	GLC	AIR/OC /EGR/ / /CAN	78-2	M-5	2250	3.73	0.62	10.	0.99	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY MFTCP				1.494	1.325	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY SCA				N/A	N/A	N/A	0.1701
RREP / SRA (70)										
RX-4	RX-3	AIR/THM/ / / /CAN	70-4	M-5	2500	3.73	0.74	5.7	1.5	1.6 *
C RX-4	RX-4	AIR/THM/ / / /CAN	70-4	A-3	2500	3.73	0.51	5.0	1.2	1.6 *

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VEHICLES	TRANS. CLASS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
IOYO_BOOYO_=_FAMILY_COMBINATIONS_CERTIFIED:		**EXHAUST=EMISSION_FAMILY_TEST_VEHICLES**								
RREP / SRA (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/THM/ / / /	FAMILY RREP				1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY SRA				N/A	N/A	N/A	0.0101
RREP / SRH (80)										
COSMO	COSMO	AIR/THM/ / / /CAN	80-4	M-5	3000	3.64	0.94	7.7	1.7	1.8 *
C COSMO	C RX-4	AIR/THM/ / / /CAN	80-4	M-5	3000	3.64	0.34	2.9	1.1	2.1 *
RX-4										
C RX-4										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/THM/ / / /	FAMILY RREP				1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY SRH				N/A	N/A	N/A	0.060)
RREP / SRC (80)										
RX-4 WAGON	COSMO	AIR/THM/ / / /CAN	80-4	M-5	3000	3.64	0.94	7.7	1.7	N/A
C RX-4 WAGON	C RX-4	AIR/THM/ / / /CAN	80-4	M-5	3000	3.64	0.34	2.9	1.1	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/THM/ / / /	FAMILY RREP				1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY SRC				N/A	N/A	N/A	0.0301
RREP (WITH EGR) / SRA (70)										
C RX-4	C RX-4	AIR/THM/EGR/ / /CAN	70-4	A-3	2500	3.73	0.20	3.7	0.90	1.6 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/THM/EGR/ / /	FAMILY RREP (WITH EGR)				1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY SRA				N/A	N/A	N/A	0.0101
RREP (WITH EGR) / SRH (80)										
COSMO	RX-4 WAGON	AIR/THM/EGR/ / /CAN	80-4	A-3	3000	3.64	0.92	10.	1.6	N/A
C COSMO	C RX-4 WAGON	AIR/THM/EGR/ / /CAN	80-4	A-3	3000	3.64	0.35	4.0	1.2	N/A
RX-4										
C RX-4										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/THM/EGR/ / /	FAMILY RREP (WITH EGR)				1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY SRH				N/A	N/A	N/A	0.060)

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS. TYPE	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
TOYO KOGYO - FAMILY COMBINATIONS CERTIFIED		**EXHAUST-EMISSION FAMILY TEST VEHICLES**									
ARFP (WITH EGR) / SRC											
(80)											
RX-4 WAGON	C RX-4 WAGON	AIR/THM/EGR/ / /CAN	80-4	A-3	3000	3.64	0.35	4.0	1.2	2.7 *
C RX-4 WAGON	RX-4 WAGON	AIR/THM/EGR/ / /CAN	80-4	A-3	3000	3.64	0.92	10.	1.6	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/THM/EGR/ / /			FAMILY BRLP (WITH EGR)		1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN			FAMILY SRC		N/A	N/A	N/A	0.0300
TOYO KOGYO - EVAP-EMISSION FAMILIES		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**									
SCA											
	C GLC	AIR/OC /EGR/ / /CAN	78-2	A-3	2250	4.10	0.24	6.0	0.89	3.1
	GLC	AIR/OC /EGR/ / /CAN	78-2	M-4	2250	3.73	0.64	12.	1.1	1.4
SRA											
	RX-3	AIR/THM/ / / /CAN	70-4	A-3	2500	3.73	0.51	5.0	1.2	1.6
	C RX-1	AIR/THM/EGR/ / /CAN	70-4	A-3	2500	3.73	0.28	3.7	0.90	1.6
	RX-1	AIR/THM/ / / /CAN	70-4	M-5	2500	3.73	0.74	5.7	1.5	1.6
SRB											
	COSMO	AIR/THM/ / / /CAN	80-4	M-5	3000	3.64	0.94	7.7	1.7	1.8
	C RX-4	AIR/THM/ / / /CAN	80-4	M-5	3000	3.64	0.34	2.9	1.1	2.1
SRC											
	C RX-4 WAGON	AIR/THM/EGR/ / /CAN	80-4	A-3	3000	3.64	0.35	4.0	1.2	2.7
TOYOTA - FAMILY COMBINATIONS CERTIFIED		**EXHAUST-EMISSION FAMILY TEST VEHICLES**									
2T-C(C) / EV-C											
(97)											
C COROLLA	C COROLLA	AIR/OC /EGR/ / /CAN	97-2	A-3	2500	4.10	0.14	1.5	0.99	N/A
C COROLLA WAGON	C COROLLA WAGON	AIR/OC /EGR/ / /CAN	97-2	A-3	2500	4.10	0.18	2.6	1.0	2.0 *
	C COROLLA WAGON	AIR/OC /EGR/ / /CAN	97-2	A-3	2500	4.10	0.34	4.0	1.7	2.9 *
	C COROLLA	AIR/OC /EGR/ / /CAN	97-2	M-5	2500	4.10	0.15	2.5	0.84	1.5 *
	C COROLLA	AIR/OC /EGR/ / /CAN	97-2	M-4	2500	3.41	0.21	3.2	1.2	1.2 *

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS. TYPE	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
TOYOTA - FAMILY COMBINATIONS CERTIFIED		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
2T-C(C) / EV-C (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /			FAMILY 2T-C(C)		1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN			FAMILY EV-C		N/A	N/A	N/A	0.0)
2T-C(F) / EV-C										
(97)										
COROLLA	COROLLA	AIR/OC /EGR/ / /CAN	97-2	A-3	2500	3.91	0.67	5.5	1.3	N/A
COROLLA WAGON	COROLLA WAGON	AIR/OC /EGR/ / /CAN	97-2	A-3	2500	4.10	0.56	6.2	1.4	1.7 *
	COROLLA	AIR/OC /EGR/ / /CAN	97-2	M-4	2500	3.73	1.1	6.8	1.3	1.2 *
	COROLLA	AIR/OC /EGR/ / /CAN	97-2	M-5	2500	3.91	0.87	5.9	1.5	1.4 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /			FAMILY 2T-C(F)		1.294	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN			FAMILY EV-C		N/A	N/A	N/A	0.0)
20R(C) / EV-R										
(134)										
C CORONA	C CELICA	AIR/OC /EGR/ / /CAN	134-2	A-3	2750	3.73	0.94E-01	1.2	0.96	N/A
C CORONA WAGON	C CORONA WAGON	AIR/OC /EGR/ / /CAN	134-2	A-3	3000	3.58	0.25	5.4	1.3	N/A
C CELICA	C CORONA WAGON	AIR/OC /EGR/ / /CAN	134-2	A-3	3000	3.58	0.10	2.1	0.86	2.3 *
	C CELICA	AIR/OC /EGR/ / /CAN	134-2	M-4	2750	3.58	0.13	1.7	1.1	N/A
	C CORONA	AIR/OC /EGR/ / /CAN	134-2	M-4	3000	3.58	0.19	2.3	1.0	N/A
	C CELICA	AIR/OC /EGR/ / /CAN	134-2	M-5	2750	3.58	0.13	1.7	1.0	0.95 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /			FAMILY 20R(C)		1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN			FAMILY EV-R		N/A	N/A	N/A	0.0)
20R(F) / EV-R										
(134)										
CORONA	CELICA	AIR/EGR/ / / /CAN	134-2	A-3	2750	3.73	0.51	10.	1.4	N/A
CORONA WAGON	CORONA WAGON	AIR/EGR/ / / /CAN	134-2	A-3	3000	3.58	0.46	8.6	1.5	N/A
CELICA	CELICA	AIR/EGR/ / / /CAN	134-2	M-4	2750	3.58	0.80	11.	1.6	N/A
	CORONA	AIR/EGR/ / / /CAN	134-2	M-4	3000	3.58	0.87	9.2	1.7	1.4 *
	C CELICA	AIR/EGR/ / / /CAN	134-2	M-5	2750	3.58	0.51	11.	1.3	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/EGR/ / / /			FAMILY 20R(F)		1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN			FAMILY EV-R		N/A	N/A	N/A	0.0)

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS! A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS AUTO S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
TOYOTA -- FAMILY COMBINATIONS CERTIFIED:		**EXHAUST EMISSION FAMILY TEST VEHICLES**								
1K-C(F) / EV-K (171)										
COROLLA	COROLLA	AIR/OC /EGR/ / /CAN	71-2	M-4	2250	3.91	0.68	6.8	1.2	1.1 *
	COROLLA	AIR/OC /EGR/ / /CAN	71-2	M-5	2250	4.10	0.64	9.4	1.1	N/A
	(EXHAUST DETERIORATION FACTORS FOR -	AIR/OC /EGR/ / /	FAMILY 1K-C(F)				1.000	1.000	1.000	N/A)
	(EVAPOR. DETERIORATION FACTORS FOR -	/ / / / /CAN	FAMILY EV-K				N/A	N/A	N/A	0.0)
4M / EV-M (156)										
C CRESSIDA	CRESSIDA	AIR/OC /EGR/ / /CAN	156-2	A-4	3000	3.91	0.28	2.1	1.4	1.0 *
C CRESSIDA WAGON	CRESSIDA WAGON	AIR/OC /EGR/ / /CAN	156-2	A-4	3000	3.91	0.34	3.2	1.3	N/A
	C CRESSIDA WAGON	AIR/OC /EGR/ / /CAN	156-2	A-4	3000	3.91	0.31	3.4	1.1	1.6 *
	(EXHAUST DETERIORATION FACTORS FOR -	AIR/OC /EGR/ / /	FAMILY 4M				1.209	1.000	1.000	N/A)
	(EVAPOR. DETERIORATION FACTORS FOR -	/ / / / /CAN	FAMILY EV-M				N/A	N/A	N/A	0.0)
TOYOTA -- EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
EV-L										
C-COROLLA WAGON	AIR/OC /EGR/ / /CAN	97-2	A-3	2500	4.10	0.34	4.0	1.7	2.9
COROLLA WAGON	AIR/OC /EGR/ / /CAN	97-2	A-3	2500	4.10	0.56	6.2	1.4	1.7
C COROLLA WAGON	AIR/OC /EGR/ / /CAN	97-2	A-3	2500	4.10	0.18	2.6	1.0	2.0
COROLLA	AIR/OC /EGR/ / /CAN	97-2	M-4	2500	3.73	1.1	6.8	1.3	1.2
C COROLLA	AIR/OC /EGR/ / /CAN	97-2	M-5	2500	4.10	0.15	2.5	0.84	1.5
COROLLA	AIR/OC /EGR/ / /CAN	97-2	M-5	2500	3.91	0.87	5.9	1.5	1.4
C COROLLA	AIR/OC /EGR/ / /CAN	97-2	M-4	2500	3.91	0.21	3.2	1.2	1.2
EV-K										
COROLLA	AIR/OC /EGR/ / /CAN	71-2	M-4	2250	3.91	0.68	6.8	1.2	1.1
EV-M										
C CRESSIDA WAGON	AIR/OC /EGR/ / /CAN	156-2	A-4	3000	3.91	0.31	3.4	1.1	1.6
CRESSIDA	AIR/OC /EGR/ / /CAN	156-2	A-4	3000	3.91	0.28	2.1	1.4	1.0
EV-N										
C CORONA WAGON	AIR/OC /EGR/ / /CAN	134-2	A-3	3000	3.58	0.18	2.1	0.86	2.3
CORONA	AIR/EGR/ / / /CAN	134-2	M-4	3000	3.58	0.87	9.2	1.7	1.4

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS! A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS AUTO S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
TOYOTA -- EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
EV-R (CONT.)										
C CELICA	AIR/OC /EGR/ / /CAN	134-2	M-5	2750	3.58	0.13	1.7	1.0	0.95
IVR -- FAMILY COMBINATIONS CERTIFIED:		**EXHAUST EMISSION FAMILY TEST VEHICLES**								
IVR 3000M / S01 (182)										
IVR 3000M	IVR 3000M	AIR/OC /EGR/ / /CAN	182-2	M-4	2500	3.31	1.1	5.8	1.4	2.3 *
(EXHAUST DETERIORATION FACTORS FOR -	AIR/OC /EGR/ / /	FAMILY IVR 3000M					1.900	1.700	1.200	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -	/ / / / /CAN	FAMILY S01					N/A	N/A	N/A	0.0)
IVR -- EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
S01										
IVR 3000M	AIR/OC /EGR/ / /CAN	182-2	M-4	2500	3.31	1.1	5.8	1.4	2.3
VOLKSWAGEN -- FAMILY COMBINATIONS CERTIFIED:		**EXHAUST EMISSION FAMILY TEST VEHICLES**								
1 / K (97)										
BEETLE CONVERTIBLE	BEETLE CONVERTIBLE FI /EGR/ / / /CAN	97-FI	M-4	2500	3.88	1.5	11.	1.1	1.4 *
(EXHAUST DETERIORATION FACTORS FOR -	FI /EGR/ / / /	FAMILY 1					1.099	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -	/ / / / /CAN	FAMILY K					N/A	N/A	N/A	0.0)
2 / K (97)										
BEETLE CONVERTIBLEC	BEETLE CONVERTIBLE FI /OC /EGR/ / /CAN	97-FI	M-4	2500	3.88	0.45	6.0	0.78	1.2 *
(EXHAUST DETERIORATION FACTORS FOR -	FI /OC /EGR/ / /	FAMILY 2					1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -	/ / / / /CAN	FAMILY K					N/A	N/A	N/A	0.0)

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1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TR AN S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
VOLKSWAGEN - FAMILY COMBINATIONS CERTIFIED		EXHAUST-EMISSION FAMILY TEST VEHICLES								
37C / 37										
(89, 97)										
C RABBIT	C RABBIT	FI /OC /EGR/ / /CAN	89-FI	A-3	2250	3.76	0.16	2.5	1.2	N/A
C RABBIT	C*RABBIT	FI /OC /EGR/ / /CAN	89-FI	M-4	2250	3.90	0.26	5.7	0.59	N/A
C DASHER	C RABBIT	FI /OC /EGR/ / /CAN	89-FI	M-4	2250	3.90	0.14	1.5	1.2	1.2 *
C DASHER WAGON	C DASHER	FI /OC /EGR/ / /CAN	97-FI	A-3	2500	3.91	0.16	1.1	1.1	1.2 *
C SCIROCCO	C DASHER WAGON	FI /OC /EGR/ / /CAN	97-FI	M-4	2500	4.11	0.37	7.0	0.38	0.86 *
	C*FOX	FI /OC /EGR/ / /CAN	97-FI	M-4	2500	4.11	0.18	1.6	1.2	0.68 *
	C FOX	FI /OC /EGR/ / /CAN	97-FI	M-4	2500	4.11	0.18	1.6	1.2	0.68 *
(EXHAUST DETERIORATION FACTORS FOR -		FI /OC /EGR/ / /	FAMILY 37C				1.012	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 37				N/A	N/A	N/A	0.0
37F / 37										
(89, 97)										
RABBIT	RABBIT	FI /EGR/ / / /CAN	89-FI	A-3	2250	3.76	1.1	7.3	1.7	N/A
DASHER	RABBIT	FI /EGR/ / / /CAN	89-FI	M-4	2250	3.90	1.1	7.8	1.8	1.1 *
DASHER WAGON	FOX	FI /EGR/ / / /CAN	97-FI	A-3	2500	3.91	1.2	6.0	1.4	0.91 *
SCIROCCO	DASHER	FI /EGR/ / / /CAN	97-FI	M-4	2500	4.11	1.1	10.	1.7	N/A
	DASHER	FI /EGR/ / / /CAN	97-FI	M-4	2500	4.11	1.2	6.2	1.6	0.98 *
	*DASHER	FI /EGR/ / / /CAN	97-FI	M-4	2500	4.11	1.4	12.	1.8	0.67 *
(EXHAUST DETERIORATION FACTORS FOR -		FI /EGR/ / / /	FAMILY 37F				1.000	1.221	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY 37				N/A	N/A	N/A	0.0
47 / M										
(89)										
RABBIT	RABBIT	AIR/OC /EGR/ / /CAN	89-1	M-4	2250	3.90	0.35	3.8	1.1	4.5 *
	*RABBIT	AIR/OC /EGR/ / /CAN	89-1	M-4	2250	3.90	0.59	7.7	0.88	3.4 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY 47				1.055	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY M				N/A	N/A	N/A	0.0
VOLKSWAGEN - EVAP-EMISSION FAMILIES		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
K										
	REFLX CONVERTIBLE	FI /EGR/ / / /CAN	97-FI	M-4	2500	3.88	1.5	13.	1.1	1.4
C	REFLX CONVERTIBLE	FI /OC /EGR/ / /CAN	97-FI	M-4	2500	3.88	0.45	6.0	0.78	1.2

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS! A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TR AN S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
VOLKSWAGEN - EVAP-EMISSION FAMILIES		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
M										
	*RABBIT	AIR/OC /EGR/ / /CAN	89-1	M-4	2250	3.90	0.59	7.7	0.88	3.4
	RABBIT	AIR/OC /EGR/ / /CAN	89-1	M-4	2250	3.90	0.35	3.8	1.1	4.5
37										
	RABBIT	FI /EGR/ / / /CAN	89-FI	M-4	2250	3.90	1.1	7.8	1.8	1.1
	C RABBIT	FI /OC /EGR/ / /CAN	89-FI	M-4	2250	3.90	0.14	1.5	1.2	1.2
	C DASHER WAGON	FI /OC /EGR/ / /CAN	97-FI	A-3	2500	3.91	0.16	1.1	1.1	1.2
	FOX	FI /EGR/ / / /CAN	97-FI	A-3	2500	3.91	1.2	6.0	1.4	0.91
	*DASHER	FI /EGR/ / / /CAN	97-FI	M-4	2500	4.11	1.4	12.	1.8	0.67
	DASHER	FI /EGR/ / / /CAN	97-FI	M-4	2500	4.11	1.2	6.2	1.6	0.98
	C FOX	FI /OC /EGR/ / /CAN	97-FI	M-4	2500	4.11	0.18	1.6	1.2	0.68
	C*FOX	FI /OC /EGR/ / /CAN	97-FI	M-4	2500	4.11	0.37	7.0	0.38	0.86
VOLVO - FAMILY COMBINATIONS CERTIFIED		EXHAUST-EMISSION FAMILY TEST VEHICLES								
4CL / E1										
(130)										
C VOLVO SEDAN	C VOLVO SEDAN	FI /TWC/OTH/ / /CAN	130-FI	A-3	3500	3.91	0.41	7.3	0.23	N/A
C VOLVO STAT WGN	C VOLVO SEDAN	FI /TWC/OTH/ / /CAN	130-FI	M-4	3500	3.91	0.22	3.1	0.18	N/A
	C VOLVO SEDAN	FI /TWC/OTH/ / /CAN	130-FI	M-4	3000	3.91	0.28	4.8	0.25	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI /TWC/OTH/ / /	FAMILY 4CL				1.000	1.000	1.138	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E1				N/A	N/A	N/A	0.3791
4FA / E1										
(140)										
VOLVO SEDAN	VOLVO SEDAN	FI /OC /EGR/ / /CAN	130-FI	A-3	3500	3.91	0.71	12.	0.92	1.6 *
VOLVO STAT WGN	VOLVO SEDAN	FI /OC /EGR/ / /CAN	130-FI	M-4	3000	3.91	0.34	2.9	1.4	N/A
	VOLVO STAT WGN	FI /OC /EGR/ / /CAN	130-FI	M-4	3500	3.91	0.42	7.4	0.90	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI /OC /EGR/ / /	FAMILY 4FA				1.000	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY E1				N/A	N/A	N/A	0.3791
6CL / E1										
(163)										
C VOLVO SEDAN	C VOLVO SEDAN	FI /TWC/OTH/ / /CAN	163-FI	A-3	3500	3.54	0.36	3.2	0.76	N/A
C VOLVO STAT WGN	C VOLVO SEDAN	FI /TWC/OTH/ / /CAN	163-FI	M-4	3500	3.73	0.35	4.7	1.1	N/A

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS! A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM / CUBIC INCH DISPLACEMENT / CARLINE'S COVERED	VEHICLE CARLINE / DESCRIBED	EMISSION DESIGNATION	ENGINE DISP.L	I/A	INERTIA WEIGHT CLASS	AXLE RATIO	HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS LOSALS.
EXHAUST DETERIORATION FACTORS FOR - / / / / /CAN FAMILY E-4-1		1 N/A					N/A	N/A	N/A	0.0)
11-1C-C/O / E-4-1 (304)										
C JEEP(CJ-5/CJ-7)	C JEEP(CJ-5/CJ-7)	AIR/OC /6GH/ / /CAN	304-2	H-3	3500	3.54	0.29	2.6	1.9	N/A
C JEEP(CJ-5/CJ-7)		AIR/OC /6GH/ / /CAN	304-2	H-3	3500	3.54	0.26	1.7	2.0	N/A
EXHAUST DETERIORATION FACTORS FOR - / / / / /CAN FAMILY 11-1C-C/O		1 1.000					1.009	1.310	N/A	0.0)
EXHAUST DETERIORATION FACTORS FOR - / / / / /CAN FAMILY E-4-1		1 N/A					N/A	N/A	N/A	0.0)
11-1C-C/O / E-4-1 (304)										
C JEEP(CJ-5/CJ-7)	C JEEP(CJ-5/CJ-7)	AIR/OC /6GH/ / /CAN	304-2	A-3	4000	3.54	0.66	9.1	1.4	2.1
JEEP(CJ-5/CJ-7)		AIR/OC /6GH/ / /CAN	304-2	A-3	4000	3.54	1.0	19.	2.2	N/A
11-1 / E-4-1 (304)										
JEEP(CJ-5/CJ-7)		AIR/OC /6GH/ / /CAN	304-2	A-3	4000	3.54	1.0	19.	2.2	N/A
EXHAUST DETERIORATION FACTORS FOR - / / / / /CAN FAMILY 11-1		1 1.000					1.000	N/A	N/A	N/A)
EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY E-1-1		1 N/A					N/A	N/A	N/A	0.0)
1-1C / E-1-1 (232+/SW)										
JEEP(CJ-5/CJ-7)	POST OFF. VEHICLE	AIR/6H/ / / /CAN	232-1	A-3	3000	3.07	1.1	15.	2.9	N/A
POST OFF. VEHICLE	JEEP(CJ-5/CJ-7)	AIR/6H/ / / /CAN	258-1	A-3	3500	3.54	1.5	15.	2.2	N/A
	JEEP(CJ-5/CJ-7)	AIR/6H/ / / /CAN	258-1	H-3	3500	3.54	1.0	13.	2.3	1.4 •
	JEEP(CJ-5/CJ-7)	AIR/6H/ / / /CAN	258-1	H-4	3500	4.09	1.3	7.8	2.8	N/A
EXHAUST DETERIORATION FACTORS FOR - / / / / /CAN FAMILY 1-1		1 1.000					1.000	1.000	N/A	N/A)
EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY E-1-1		1 N/A					N/A	N/A	N/A	0.0)
1-1C / E-1-1 (232+/SW)										
JEEP(CJ-5/CJ-7)	C POST OFF. VEHICLE	AIR/OC /6GH/ / /CAN	232-1	A-3	3000	3.07	0.65	11.	1.6	1.7 •
C JEEP(CJ-5/CJ-7)	C JEEP(CJ-5/CJ-7)	AIR/OC /6GH/ / /CAN	258-1	H-3	3000	3.54	0.40	6.2	1.9	N/A
C POST OFF. VEHICLE	C JEEP(CJ-5/CJ-7)	AIR/OC /6GH/ / /CAN	258-1	H-4	3500	4.09	0.51	5.2	1.6	N/A
POST OFF. VEHICLE	•JEEP(CJ-5/CJ-7)	AIR/OC /6GH/ / /CAN	258-1	H-4	3500	4.09	0.79	17.	3.0	1.3 •
EXHAUST DETERIORATION FACTORS FOR - / / / / /CAN FAMILY 1-1C		1 1.000					1.000	1.000	N/A	N/A)
EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY E-1-1		1 N/A					N/A	N/A	N/A	0.0)
11-1 / E-4-1 (304)										
JEEP(CJ-5/CJ-7)	JEEP(CJ-5/CJ-7)	AIR/OC /6GH/ / /CAN	304-2	A-3	4000	3.54	1.0	19.	2.2	N/A
C JEEP(CJ-5/CJ-7)	C JEEP(CJ-5/CJ-7)	AIR/OC /6GH/ / /CAN	304-2	A-3	4000	3.54	0.66	9.1	1.4	2.1 •
	•JEEP(CJ-5/CJ-7)	AIR/OC /6GH/ / /CAN	304-2	A-3	4000	4.09	1.0	19.	2.7	1.4 •
	JEEP(CJ-5/CJ-7)	AIR/OC /6GH/ / /CAN	304-2	A-3	4000	3.54	0.92	14.	1.8	N/A
	JEEP(CJ-5/CJ-7)	AIR/OC /6GH/ / /CAN	304-2	A-3	4000	4.09	0.81	13.	2.1	N/A
	JEEP(CJ-5/CJ-7)	AIR/OC /6GH/ / /CAN	304-2	H-3	3500	3.54	1.0	11.	2.1	N/A
EXHAUST DETERIORATION FACTORS FOR - / / / / /CAN FAMILY 11-1		1 1.010					1.211	1.000	N/A	0.0)
EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY E-4-1		1 N/A					N/A	N/A	N/A	0.0)
•NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS A COMPLETE LISTING OF ALL TEST VEHICLES DELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.										

1978 MODEL YEAR LIGHT-DUTY VEHICLES

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM / CUBIC INCH DISPLACEMENT / CARLINE'S COVERED	VEHICLE CARLINE / DESCRIBED	EMISSION DESIGNATION	ENGINE DISP.L	I/A	INERTIA WEIGHT CLASS	AXLE RATIO	HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS LOSALS.
EXHAUST DETERIORATION FACTORS FOR - / / / / /CAN FAMILY 61		1 1.049					1.217	1.992	N/A	N/A)
EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY E1		1 N/A					N/A	N/A	N/A	0.3?9)
6A / E1 (196.)										
VOLVO SEDAN	VOLVO SEDAN	FI /OC /6GH/ / /CAN	163-F1	A-3	3500	3.54	0.91	7.7	1.H	1.1 •
VOLVO STAT WGN	VOLVO STAT WGN	FI /OC /6GH/ / /CAN	163-F1	H-4	3500	3.73	0.56	6.3	1.4	N/A
EXHAUST DETERIORATION FACTORS FOR - FI /OC /6GH/ / / /CAN FAMILY 6A		1 1.000					1.000	1.000	N/A	N/A)
EVAPOR. DETERIORATION FACTORS FOR - / / / / /CAN FAMILY E1		1 N/A					N/A	N/A	N/A	0.?/9)
VOLVO-EVAP-EMISSIONS-EMAILIES1										
EVAPORATIVE-EMISSIONS-FAMILY-TEST-VEHICLES										
VOLVO SEDAN		FI /OC /6GH/ / /CAN	130-F1	A-3	3500	3.91	0.73	12.	0.92	1.6
VOLVO SEDAN		FI /TC/6GH/ / /CAN	163-F1	A-3	3500	3.54	0.91	7.7	1.H	1.1
•NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS A COMPLETE LISTING OF ALL TEST VEHICLES DELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.										

1978 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	I/A/N CLASS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
AMERICAN MOTORS -- EVAP-EMISSION FAMILIES:		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
F-1-T										
	C POST OFF. VEHICLE	AIR/OC /EGR/ / /CAN	232-1	A-3	3000	3.07	0.45	11.	1.6	1.7
	JEEP(CJ-5/CJ-7)	AIR/EGR/ / /CAN	258-1	M-3	3000	3.44	1.0	11.	2.3	1.8
	*JEEP(CJ-5/CJ-7)	AIR/OC /EGR/ / /CAN	258-1	M-4	3500	4.09	0.71	17.	3.0	1.3
F-4-T										
	C JEEP(CJ-5/CJ-7)	AIR/OC /EGR/ / /CAN	304-2	A-3	4000	3.54	0.66	9.1	1.6	2.1
	*JEEP(CJ-5/CJ-7)	AIR/OC /EGR/ / /CAN	304-2	A-3	4000	4.09	1.0	8.2	2.7	1.4
CHRYSLER -- FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
TD-225-2-C / K-1 (225)										
DODGE VAN	DODGE PICKUP	OC /EGR/ / / /CAN	225-2	A-3	4000	3.55	1.1	15.	2.8	N/A
PLYMOUTH VAN	DODGE VAN	OC /EGR/ / / /CAN	225-2	A-3	4000	3.55	0.89	13.	2.9	N/A
	DODGE VAN	OC /EGR/ / / /CAN	225-2	M-3	4000	3.55	0.71	13.	2.6	2.3 *
	DODGE PICKUP	OC /EGR/ / / /CAN	225-2	M-4	4000	3.55	1.5	14.	2.6	N/A
	DODGE VAN	OC /EGR/ / / /CAN	225-2	M-4	4000	3.55	1.4	14.	1.9	N/A
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/ / / /	FAMILY TD-225-2-C				1.000	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY K-1				N/A	N/A	N/A	0.0
TD-225-2-C / K-2 (225)										
DODGE PICKUP	DODGE PICKUP	OC /EGR/ / / /CAN	225-2	A-3	4000	3.55	1.1	15.	2.8	N/A
	DODGE VAN	OC /EGR/ / / /CAN	225-2	A-3	4000	3.55	0.89	13.	2.9	N/A
	DODGE VAN	OC /EGR/ / / /CAN	225-2	M-3	4000	3.55	0.71	13.	2.6	N/A
	DODGE PICKUP	OC /EGR/ / / /CAN	225-2	M-4	4000	3.55	1.5	13.	2.6	4.4 *
	DODGE VAN	OC /EGR/ / / /CAN	225-2	M-4	4000	3.55	1.4	14.	1.9	N/A
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/ / / /	FAMILY TD-225-2-C				1.000	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY K-2				N/A	N/A	N/A	0.270)
TD-225-2-C / K-10 (225)										
DODGE VAN	DODGE VAN	OC /EGR/ / / /CAN	225-2	A-3	4000	3.55	0.89	13.	2.9	N/A
PLYMOUTH VAN	DODGE PICKUP	OC /EGR/ / / /CAN	225-2	A-3	4000	3.55	1.1	15.	2.8	N/A
	DODGE VAN	OC /EGR/ / / /CAN	225-2	M-3	4000	3.55	0.71	13.	2.6	N/A

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS! A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	I/A/N CLASS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
CHRYSLER -- FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
TD-225-2-C / K-10 (CONT.)										
	DODGE VAN	OC /EGR/ / / /CAN	225-2	M-4	4000	3.55	1.4	14.	1.9	2.4 *
	DODGE PICKUP	OC /EGR/ / / /CAN	225-2	M-4	4000	3.55	1.5	13.	2.6	N/A
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/ / / /	FAMILY TD-225-2-C				1.000	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY K-10				N/A	N/A	N/A	0.270)
TD-225-2-KP / K-1 (225)										
C DODGE VAN	C DODGE PICKUP	AIR/OC /EGR/ / /CAN	225-2	A-3	4000	3.55	0.44	5.4	1.8	N/A
C PLYMOUTH VAN	C DODGE VAN	AIR/OC /EGR/ / /CAN	225-2	A-3	4000	3.55	0.26	4.1	1.8	2.0 *
	C DODGE PICKUP	AIR/OC /EGR/ / /CAN	225-2	M-4	4000	3.55	0.44	5.8	1.9	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY TD-225-2-KP				1.000	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY K-1				N/A	N/A	N/A	0.0
TD-225-2-KP / K-2 (225)										
C DODGE PICKUP	C DODGE PICKUP	AIR/OC /EGR/ / /CAN	225-2	A-3	4000	3.55	0.44	5.4	1.8	2.5 *
	C DODGE VAN	AIR/OC /EGR/ / /CAN	225-2	A-3	4000	3.55	0.26	4.1	1.8	N/A
	C DODGE PICKUP	AIR/OC /EGR/ / /CAN	225-2	M-4	4000	3.55	0.44	5.8	1.9	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY TD-225-2-KP				1.000	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY K-2				N/A	N/A	N/A	0.270)
TD-318-2-C / K-1 (318)										
DODGE VAN	DODGE VAN	OC /EGR/ / / /CAN	318-2	A-3	4000	3.21	1.7	20.	2.0	2.2 *
PLYMOUTH VAN	DODGE VAN	OC /EGR/ / / /CAN	318-2	M-3	4500	3.21	1.1	18.	1.8	N/A
	DODGE PICKUP	OC /EGR/ / / /CAN	318-2	M-4	4500	3.21	1.7	20.	2.5	N/A
	DODGE PICKUP	OC /EGR/ / / /CAN	318-2	M-4	4000	3.21	1.6	16.	1.9	N/A
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/ / / /	FAMILY TD-318-2-C				1.000	1.000	1.092	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY K-1				N/A	N/A	N/A	0.0
TD-318-2-C / K-2 (318)										
DODGE PICKUP	DODGE VAN	OC /EGR/ / / /CAN	318-2	A-3	4000	3.21	1.7	20.	2.0	N/A
	DODGE VAN	OC /EGR/ / / /CAN	318-2	M-3	4500	3.21	1.1	18.	1.8	N/A
	DODGE PICKUP	OC /EGR/ / / /CAN	318-2	M-4	4000	3.21	1.6	16.	1.9	2.0 *

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1978 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS.	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
CHRYSLER - FAMILY COMBINATIONS CERTIFIED		EXHAUST-EMISSION FAMILY TEST VEHICLES								
TD-318-2-C / K-2 (CONT.)										
	DODGE PICKUP	OC /EGR/ / / /CAN	318-2	M-4	4500	3.21	1.7	20.	2.5	2.6 *
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/ / / /	FAMILY TD-318-2-C				1.000	1.000	1.092	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY K-2				N/A	N/A	N/A	0.270)
TD-318-2-C / K-10										
(318)										
DODGE VAN	DODGE VAN	OC /EGR/ / / /CAN	318-2	A-3	4000	3.21	1.7	20.	2.0	N/A
PLYMOUTH VAN	DODGE VAN	OC /EGR/ / / /CAN	318-2	M-3	4500	3.21	1.1	14.	1.8	N/A
	DODGE PICKUP	OC /EGR/ / / /CAN	318-2	M-4	4000	3.21	1.6	16.	1.9	N/A
	DODGE PICKUP	OC /EGR/ / / /CAN	318-2	M-4	4500	3.21	1.7	20.	2.5	N/A
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/ / / /	FAMILY TD-318-2-C				1.000	1.000	1.092	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY K-10				N/A	N/A	N/A	0.270)
TD-318/360-4-CP / K-11										
(318,360)										
C DODGE VAN	C DODGE VAN	AIR/OC /EGR/ / /CAN	318-4	A-3	4000	3.21	0.46	4.7	1.5	N/A
DODGE VAN	C PLYMOUTH VAN	AIR/OC /EGR/ / /CAN	318-4	M-3	4500	3.21	0.79	9.3	1.4	3.9 *
C PLYMOUTH VAN	C DODGE PICKUP	AIR/OC /EGR/ / /CAN	318-4	M-4	4000	3.21	0.90	8.1	1.3	N/A
PLYMOUTH VAN	C DODGE VAN	AIR/OC /EGR/ / /CAN	318-4	M-4	4000	3.21	1.4	12.	1.2	N/A
	C DODGE PICKUP	AIR/OC /EGR/ / /CAN	360-4	A-3	4000	2.71	0.41	7.2	1.3	N/A
	C DODGE PICKUP	AIR/OC /EGR/ / /CAN	360-4	A-3	4500	2.71	0.51	12.	1.4	N/A
	C DODGE VAN	AIR/OC /EGR/ / /CAN	360-4	A-3	4500	2.71	0.42	4.6	1.6	4.2 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY TD-318/360-4-CP				1.405	1.20/	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY K-11				N/A	N/A	N/A	1.060)
TD-318/360-4-CP / K-4										
(318,360)										
C DODGE VAN	C DODGE VAN	AIR/OC /EGR/ / /CAN	318-4	A-3	4000	3.21	0.46	4.7	1.5	3.2 *
DODGE VAN	C PLYMOUTH VAN	AIR/OC /EGR/ / /CAN	318-4	M-3	4500	3.21	0.79	9.3	1.4	N/A
C PLYMOUTH VAN	C DODGE VAN	AIR/OC /EGR/ / /CAN	318-4	M-4	4000	3.21	1.4	12.	1.2	N/A
PLYMOUTH VAN	C DODGE PICKUP	AIR/OC /EGR/ / /CAN	318-4	M-4	4000	3.21	0.90	8.1	1.3	N/A
	C DODGE VAN	AIR/OC /EGR/ / /CAN	360-4	A-3	4500	2.71	0.42	4.6	1.6	N/A
	C DODGE PICKUP	AIR/OC /EGR/ / /CAN	360-4	A-3	4500	2.71	0.51	12.	1.4	N/A
	C DODGE PICKUP	AIR/OC /EGR/ / /CAN	360-4	A-3	4000	2.71	0.41	7.2	1.3	N/A

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1978 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS.	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
CHRYSLER - FAMILY COMBINATIONS CERTIFIED		EXHAUST-EMISSION FAMILY TEST VEHICLES								
TD-318/360-4-CP / K-4 (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY TD-318/360-4-CP				1.405	1.20/	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY K-4				N/A	N/A	N/A	0.810)
TD-318/360-4-CP / K-5										
(318,360)										
C DODGE PICKUP	C DODGE VAN	AIR/OC /EGR/ / /CAN	318-4	A-3	4000	3.21	0.46	4.7	1.5	N/A
	C PLYMOUTH VAN	AIR/OC /EGR/ / /CAN	318-4	M-3	4500	3.21	0.79	9.3	1.4	N/A
	C DODGE PICKUP	AIR/OC /EGR/ / /CAN	318-4	M-4	4000	3.21	0.90	8.1	1.3	3.M *
	C DODGE VAN	AIR/OC /EGR/ / /CAN	318-4	M-4	4000	3.21	1.4	12.	1.2	N/A
	C DODGE PICKUP	AIR/OC /EGR/ / /CAN	360-4	A-3	4000	2.71	0.41	7.2	1.3	4.9 *
	C DODGE VAN	AIR/OC /EGR/ / /CAN	360-4	A-3	4500	2.71	0.42	4.6	1.6	N/A
	C DODGE PICKUP	AIR/OC /EGR/ / /CAN	360-4	A-3	4500	2.71	0.51	12.	1.4	4.7 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY TD-318/360-4-CP				1.405	1.20/	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY K-5				N/A	N/A	N/A	1.080)
TD-360-2-A / K-12										
(360)										
DODGE VAN	DODGE PICKUP	OC /EGR/ / / /CAN	360-2	A-3	4000	2.71	1.7	16.	2.4	N/A
PLYMOUTH VAN	DODGE PICKUP	OC /EGR/ / / /CAN	360-2	A-3	4500	2.71	0.86	9.4	2.7	N/A
	DODGE VAN	OC /EGR/ / / /CAN	360-2	A-3	4500	2.71	0.61	8.1	2.9	N/A
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/ / / /	FAMILY TD-360-2-A				1.279	1.000	1.274	(N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY K-12				N/A	N/A	N/A	1.080)
TD-360-2-A / K-7										
(360)										
DODGE VAN	DODGE PICKUP	OC /EGR/ / / /CAN	360-2	A-3	4500	2.71	0.86	9.4	2.7	N/A
PLYMOUTH VAN	DODGE PICKUP	OC /EGR/ / / /CAN	360-2	A-3	4000	2.71	1.7	16.	2.4	N/A
	DODGE VAN	OC /EGR/ / / /CAN	360-2	A-3	4500	2.71	0.61	8.1	2.9	2.7 *
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/ / / /	FAMILY TD-360-2-A				1.279	1.000	1.274	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY K-7				N/A	N/A	N/A	0.810)
TD-360-2-A / K-8										
(360)										
DODGE PICKUP	DODGE VAN	OC /EGR/ / / /CAN	360-2	A-3	4500	2.71	0.61	8.1	2.9	N/A
	DODGE PICKUP	OC /EGR/ / / /CAN	360-2	A-3	4000	2.71	1.7	16.	2.4	4.9 *

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS] A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1979 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER / FAM-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VEHICLES	T R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
CHRYSLER - FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
T0-160-2-A / K-8 (CONT.)	DODGE PICKUP	OC /EGR/ / / /CAN	360-2	A-3	4500	2.71	0.86	9.4	2.7	5.1 *
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/ / / /	FAMILY T0-160-2-A				1.279	1.000	1.278	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY K-8				N/A	N/A	N/A	1.080)
CHRYSLER - EVAP-EMISSION FAMILIES:		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
K-1										
C DODGE VAN		AIR/OC /EGR/ / /CAN	225-2	M-3	4000	3.55	0.26	4.1	1.8	2.0
DODGE VAN		OC /EGR/ / /CAN	225-2	M-3	4000	3.55	0.71	11.	2.6	2.3
DODGE VAN		OC /EGR/ / /CAN	318-2	A-1	4000	3.21	1.7	20.	2.8	2.2
K-11										
C PLYMOUTH VAN		AIR/OC /EGR/ / /CAN	118-4	M-3	4500	3.21	0.49	9.3	1.4	3.9
C DODGE VAN		AIR/OC /EGR/ / /CAN	360-4	A-3	4500	2.71	0.42	4.6	1.8	4.2
K-12										
PLYMOUTH VAN		OC /EGR/ / / /CAN	360-2	A-3	4500	2.71	0.92	9.5	2.3	5.4
PLYMOUTH VAN		OC /EGR/ / / /CAN	360-2	A-3	4500	2.71	1.1	11.	2.6	4.0
K-2										
C DODGE PICKUP		AIR/OC /EGR/ / /CAN	225-2	A-3	4000	3.55	0.44	5.4	1.8	2.5
DODGE PICKUP		OC /EGR/ / / /CAN	225-2	M-4	4000	3.55	1.5	11.	2.6	4.4
DODGE PICKUP		OC /EGR/ / / /CAN	318-2	M-4	4500	3.21	1.7	20.	2.5	2.6
DODGE PICKUP		OC /EGR/ / / /CAN	318-2	M-4	4000	3.21	1.6	1 .	1.9	2.0
K-4										
C DODGE VAN		AIR/OC /EGR/ / /CAN	318-4	A-3	4000	3.21	0.46	4.7	1.5	1.2
K-5										
C DODGE PICKUP		AIR/OC /EGR/ / /CAN	118-4	M-4	4000	3.21	0.90	8.1	1.3	3.8
C DODGE PICKUP		AIR/OC /EGR/ / /CAN	360-4	A-3	4500	2.71	0.53	12.	1.4	4.7
C DODGE PICKUP		AIR/OC /EGR/ / /CAN	360-4	A-3	4000	2.71	0.41	7.2	1.1	4.9
K-7										
DODGE VAN		OC /EGR/ / / /CAN	360-2	A-3	4500	2.71	0.64	8.1	2.9	2.7

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS. A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1979 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER / FAM-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VEHICLES	T R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
CHRYSLER - EVAP-EMISSION FAMILIES:		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
K-8										
DODGE PICKUP		OC /EGR/ / / /CAN	360-2	A-3	4000	2.71	1.7	11.	2.4	4.9
DODGE PICKUP		OC /EGR/ / / /CAN	360-2	A-3	4500	2.71	0.86	9.4	2.7	5.1
K-10										
DODGE VAN		OC /EGR/ / / /CAN	225-2	M-4	4000	3.55	1.4	11.	1.9	2.9
DODGE VAN		OC /EGR/ / / /CAN	318-2	M-3	4500	3.21	1.5	11.	2.6	4.0
FORD - FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
T300C1X100 / TA										
(300)										
PICKUP	VAN (ECO/CLUB WGN)	AIR/OC /EGR/ / /CAN	100-1	A-3	4500	3.25	1.1	18.	1.6	N/A
VAN (ECO/CLUB WGN)	PICKUP	AIR/OC /EGR/ / /CAN	100-1	A-3	4500	2.75	0.83	20.	1.7	N/A
	PICKUP	AIR/OC /EGR/ / /CAN	100-1	M-3	4000	2.75	0.71	14.	1.2	2.9 *
	VAN (ECO/CLUB WGN)	AIR/OC /EGR/ / /CAN	100-1	M-3	4500	3.25	0.97	14.	1.9	1.6 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY T300C1X100				1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY TA				N/A	N/A	N/A	0.317)
T300C1X100 / TM										
(300)										
VAN (ECO/CLUB WGN)	PICKUP	AIR/OC /EGR/ / /CAN	100-1	A-3	4500	2.75	0.81	20.	1.7	2.4 *
PICKUP	VAN (ECO/CLUB WGN)	AIR/OC /EGR/ / /CAN	100-1	A-3	4500	3.25	1.1	18.	1.6	1.8 *
	VAN (ECO/CLUB WGN)	AIR/OC /EGR/ / /CAN	100-1	M-3	4500	3.25	0.97	14.	1.9	N/A
	PICKUP	AIR/OC /EGR/ / /CAN	100-1	M-3	4000	2.75	0.70	14.	1.2	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY T300C1X100				1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY TM				N/A	N/A	N/A	0.129)
T102A1X100 / T102 TD										
(102)										
C PICKUP	C PICKUP	AIR/OC /EGR/ / /CAN	102-2	M-3	4000	2.75	0.61	14.	1.2	N/A
	C PICKUP	AIR/OC /EGR/ / /CAN	102-2	M-1	4000	2.75	0.51	9.1	1.5	2.4 *
	C PICKUP	AIR/OC /EGR/ / /CAN	302-2	M-3	4000	2.75	0.67	12.	1.8	2.1 *

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS. A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM / (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE): HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
FORD -- FAMILY COMBINATIONS CERTIFIED:										
	EXHAUST-EMISSION FAMILY TEST VEHICLES									
T302A1X100 / T002 TD (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY T302A1X100				: 1.167	1.571	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY T002 TD				: N/A	N/A	N/A	0.868)
T302A1X100 / TN01 TN (302)										
C PICKUP	C PICKUP	AIR/OC /EGR/ / /CAN	302-2	M-3	4000	2.75	0.51	9.1	1.5	N/A
PICKUP	C PICKUP	AIR/OC /EGR/ / /CAN	302-2	M-3	4000	2.75	0.67	12.	1.8	N/A
	C PICKUP	AIR/OC /EGR/ / /CAN	302-2	M-3	4000	2.75	0.61	14.	1.7	2.2 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY T302A1X100				: 1.167	1.571	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY TN01 TN				: N/A	N/A	N/A	0.0)
T302D1X100 / T008 TD (302)										
PICKUP	PICKUP	OC /EGR/ / / /CAN	302-2	A-3	4000	2.75	0.84	11.	2.2	2.4 *
	C PICKUP	OC /EGR/ / / /CAN	302-2	A-3	4000	2.75	0.72	8.1	2.1	2.1 *
	PICKUP	OC /EGR/ / / /CAN	302-2	M-3	4000	3.25	1.2	14.	3.0	N/A
	PICKUP	OC /EGR/ / / /CAN	302-2	M-4	4000	2.75	1.1	13.	2.6	2.2 *
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/ / / /	FAMILY T302D1X100				: 1.316	1.000	1.107	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY T008 TD				: N/A	N/A	N/A	0.868)
T302D1X100 / TN07 TN (302)										
PICKUP	C PICKUP	OC /EGR/ / / /CAN	302-2	A-3	4000	2.75	0.72	8.1	2.1	N/A
	PICKUP	OC /EGR/ / / /CAN	302-2	A-3	4000	2.75	0.84	11.	2.2	N/A
	PICKUP	OC /EGR/ / / /CAN	302-2	M-3	4000	3.25	1.2	14.	3.0	1.3 *
	PICKUP	OC /EGR/ / / /CAN	302-2	M-4	4000	2.75	1.1	13.	2.6	N/A
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/ / / /	FAMILY T302D1X100				: 1.316	1.000	1.107	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY TN07 TN				: N/A	N/A	N/A	0.0)
T351MA1X100 / TD10 TD (351,400)										
PICKUP	C PICKUP	AIR/OC /EGR/ / /CAN	351-2	A-3	4500	2.75	1.0	12.	2.1	N/A
	PICKUP	AIR/OC /EGR/ / /CAN	351-2	A-3	4500	2.75	0.70	3.9	3.1	2.2 *
	PICKUP	AIR/OC /EGR/ / /CAN	351-2	M-3	4500	3.00	1.5	14.	2.0	N/A
	C PICKUP	AIR/OC /EGR/ / /CAN	400-2	A-3	4500	3.25	1.2	11.	2.7	N/A

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1978 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM / (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE): HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
FORD -- FAMILY COMBINATIONS CERTIFIED:										
	EXHAUST-EMISSION FAMILY TEST VEHICLES									
T351MA1X100 / TD10 TD (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY T351MA1X100				: 1.322	1.146	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY TD10 TD				: N/A	N/A	N/A	0.868)
T351MA1X100 / TN09 TN (351,400)										
PICKUP	C PICKUP	AIR/OC /EGR/ / /CAN	351-2	A-3	4500	2.75	1.0	12.	2.1	N/A
	PICKUP	AIR/OC /EGR/ / /CAN	351-2	A-3	4500	2.75	0.70	3.9	3.1	N/A
	PICKUP	AIR/OC /EGR/ / /CAN	351-2	M-3	4500	3.00	1.5	14.	2.0	1.8 *
	C PICKUP	AIR/OC /EGR/ / /CAN	400-2	A-3	4500	3.25	1.2	11.	2.7	2.1 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY T351MA1X100				: 1.322	1.146	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY TN09 TN				: N/A	N/A	N/A	0.0)
T351WA1X100 / T004 TD (351)										
VAN (ECO/CLUB WG)	C VAN (ECO/CLUB WG)	AIR/OC /EGR/ / /CAN	351-2	A-3	4500	3.25	0.71	6.3	1.7	N/A
C VAN (ECO/CLUB WG)	VAN (ECO/CLUB WG)	AIR/OC /EGR/ / /CAN	351-2	A-3	4500	2.75	0.85	12.	2.3	2.7 *
	VAN (ECO/CLUB WG)	AIR/OC /EGR/ / /CAN	351-2	A-3	4500	3.25	1.1	12.	2.7	N/A
	VAN (ECO/CLUB WG)	AIR/OC /EGR/ / /CAN	351-2	M-3	4500	3.25	1.2	15.	2.2	3.2 *
	VAN (ECO/CLUB WG)	AIR/OC /EGR/ / /CAN	351-2	M-4	4500	3.00	1.3	14.	1.9	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY T351WA1X100				: 1.485	1.310	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY T004 TD				: N/A	N/A	N/A	0.868)
T351WA1X100 / TN03 TN (351)										
VAN (ECO/CLUB WG)	C VAN (ECO/CLUB WG)	AIR/OC /EGR/ / /CAN	351-2	A-3	4500	3.25	0.71	6.3	1.7	N/A
C VAN (ECO/CLUB WG)	VAN (ECO/CLUB WG)	AIR/OC /EGR/ / /CAN	351-2	A-3	4500	3.25	1.1	12.	2.7	2.6 *
	VAN (ECO/CLUB WG)	AIR/OC /EGR/ / /CAN	351-2	A-3	4500	2.75	0.85	12.	2.3	N/A
	VAN (ECO/CLUB WG)	AIR/OC /EGR/ / /CAN	351-2	M-3	4500	3.25	1.2	15.	2.2	N/A
	VAN (ECO/CLUB WG)	AIR/OC /EGR/ / /CAN	351-2	M-4	4500	3.00	1.1	14.	1.9	2.4 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY T351WA1X100				: 1.485	1.310	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY TN03 TN				: N/A	N/A	N/A	0.0)

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1978 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VEHICLES	I/M CLASS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
EURO-LEVEL-EMISSION FAMILIES:										
EVAPORATIVE-EMISSION FAMILY TEST VEHICLES										
T1										
VAN (ECO/CLUB WG)		AIR/OC /EGR/ / /CAN	300-1	M-1	4500	3.25	0.97	14.	1.9	1.6
PICKUP		AIR/OC /EGR/ / /CAN	300-1	M-1	4000	2.75	0.71	14.	1.2	2.9
T002 ID										
C PICKUP		AIR/OC /EGR/ / /CAN	302-2	M-3	4000	2.75	0.53	9.1	1.5	2.4
C PICKUP		AIR/OC /EGR/ / /CAN	302-2	M-3	4000	2.75	0.67	14.	1.8	2.1
T004 ID										
VAN (ECO/CLUB WG)		AIR/OC /EGR/ / /CAN	151-2	A-3	4500	2.75	0.85	12.	2.3	2.7
VAN (ECO/CLUB WG)		AIR/OC /EGR/ / /CAN	151-2	M-3	4500	3.25	1.2	15.	2.2	3.2
T006 ID										
C PICKUP		OC /EGR/ / / /CAN	302-2	A-3	4000	2.75	0.72	8.1	2.1	2.1
PICKUP		OC /EGR/ / / /CAN	302-2	A-3	4000	2.75	0.84	11.	2.2	2.4
PICKUP		OC /EGR/ / / /CAN	302-2	M-4	4000	2.75	1.3	13.	2.6	2.2
T010 ID										
PICKUP		AIR/OC /EGR/ / /CAN	151-2	A-3	4500	2.75	0.70	3.9	3.1	2.2
TH										
VAN (ECO/CLUB WG)		AIR/OC /EGR/ / /CAN	300-1	A-3	4500	3.25	1.1	18.	1.6	1.8
PICKUP		AIR/OC /EGR/ / /CAN	300-1	A-3	4500	2.75	0.83	20.	1.7	2.4
TN01 TN										
C PICKUP		AIR/OC /EGR/ / /CAN	302-2	M-3	4000	2.75	0.63	14.	1.2	2.2
TN03 TN										
VAN (ECO/CLUB WG)		AIR/OC /EGR/ / /CAN	151-2	A-3	4500	3.25	1.1	12.	2.7	2.6
VAN (ECO/CLUB WG)		AIR/OC /EGR/ / /CAN	151-2	M-4	4500	3.00	1.1	14.	1.9	2.4
TN07 TN										
PICKUP		OC /EGR/ / / /CAN	302-2	M-3	4000	3.25	1.2	14.	3.0	1.3
TN09 TN										
PICKUP		AIR/OC /EGR/ / /CAN	151-2	M-3	4500	3.00	1.5	14.	2.0	1.8
C PICKUP		AIR/OC /EGR/ / /CAN	400-2	A-3	4500	3.25	1.2	11.	2.7	2.1

1978 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VEHICLES	I/M CLASS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
GENERAL MOTORS - FAMILY COMBINATIONS CERTIFIED:										
EXHAUST-EMISSION FAMILY TEST VEHICLES										
812F15U / MHHV (250)										
C CHEV. VAN	C CHEV. PICKUP	AIR/OC /EGR/OTR/ /CAN	250-1	A-3	4000	3.07	0.32	5.2	1.7	N/A
CHEV. VAN	C GMC VAN	AIR/OC /EGR/OTR/ /CAN	250-1	A-3	4500	3.08	0.36	6.4	1.7	2.9 *
C CHEV. PICKUP	C CHEV. PICKUP	AIR/OC /EGR/OTR/ /CAN	250-1	M-3	4500	3.07	0.52	3.5	1.8	N/A
CHEV. PICKUP	C CHEV. VAN	AIR/OC /EGR/OTR/ /CAN	250-1	M-3	4500	4.09	0.54	3.8	1.5	1.4 *
C GMC VAN	C CHEV. VAN	AIR/OC /EGR/OTR/ /CAN	250-1	M-3	4000	4.11	0.52	3.6	1.6	N/A
GMC VAN	C CHEV. PICKUP	AIR/OC /EGR/OTR/ /CAN	250-1	M-4	4500	4.11	0.52	4.0	1.7	N/A
C GMC PICKUP										
GMC PICKUP										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/OTR/ /	FAMILY 812F15U				1.178	1.033	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY MHHV				N/A	N/A	N/A	0.0)
812F15U / MCHV (250)										
C CHEV. PICKUP	C CHEV. PICKUP	AIR/OC /EGR/OTR/ /CAN	250-1	A-3	4000	3.07	0.32	5.2	1.7	N/A
CHEV. PICKUP	C GMC VAN	AIR/OC /EGR/OTR/ /CAN	250-1	A-3	4500	3.08	0.36	6.4	1.7	N/A
C GMC PICKUP	C CHEV. VAN	AIR/OC /EGR/OTR/ /CAN	250-1	M-3	4500	4.09	0.54	3.8	1.5	N/A
GMC PICKUP	C CHEV. PICKUP	AIR/OC /EGR/OTR/ /CAN	250-1	M-3	4500	3.07	0.52	3.5	1.8	N/A
	C CHEV. VAN	AIR/OC /EGR/OTR/ /CAN	250-1	M-3	4000	4.11	0.52	3.6	1.6	N/A
	C CHEV. PICKUP	AIR/OC /EGR/OTR/ /CAN	250-1	M-4	4500	4.11	0.52	4.0	1.7	1.8 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/OTR/ /	FAMILY 812F15U				1.178	1.033	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY MCHV				N/A	N/A	N/A	0.0)
812F1U / MHHV (250)										
CHEV. PICKUP	CHEV. PICKUP	OC /EGR/OTR/ / /CAN	250-1	A-3	4000	3.07	0.65	8.1	2.4	N/A
CHEV. VAN	GMC VAN	OC /EGR/OTR/ / /CAN	250-1	A-3	4500	3.08	0.72	10.	2.8	N/A
GMC PICKUP	CHEV. PICKUP	OC /EGR/OTR/ / /CAN	250-1	M-3	4000	3.07	0.81	9.3	2.4	N/A
GMC VAN	CHEV. PICKUP	OC /EGR/OTR/ / /CAN	250-1	M-3	4000	3.73	0.91	8.7	2.9	N/A
	CHEV. PICKUP	OC /EGR/OTR/ / /CAN	250-1	M-4	4500	3.73	0.98	11.	2.1	N/A
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/OTR/ / /	FAMILY 812F1U				1.557	1.074	1.047	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY MHHV				N/A	N/A	N/A	0.0)
812F1U / MCHV (250)										
CHEV. PICKUP	CHEV. PICKUP	OC /EGR/OTR/ / /CAN	250-1	A-3	4000	3.07	0.65	8.1	2.4	2.0 *

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST VEHICLES. A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	T R A N S.	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
GENERAL MOTORS--FAMILY COMBINATIONS CERTIFIED										
EXHAUST-EMISSION FAMILY TEST VEHICLES										
A12E1U / HCHV (CONT.)										
GMC PICKUP	GMC VAN	OC /EGR/OTH/ / /CAN	250-1	A-1	4500	3.08	0.72	10.	2.8	N/A
	CHEV. PICKUP	OC /EGR/OTH/ / /CAN	250-1	M-3	4000	3.73	0.91	8.7	2.9	N/A
	CHEV. PICKUP	OC /EGR/OTH/ / /CAN	250-1	M-3	4000	3.07	0.81	9.3	2.4	N/A
	CHEV. PICKUP	OC /EGR/OTH/ / /CAN	250-1	M-4	4500	3.73	0.98	11.	2.1	1.6 *
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/OTH/ / /	FAMILY A12E1U				1.557	1.074	1.047	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY HCHV				N/A	N/A	N/A	0.0)
A12J4H / HFCH HHFV (350)										
CHEV. VAN	CHEV. PICKUP	OC /EGR/OTH/ / /CAN	350-4	A-3	4500	3.07	0.66	8.8	1.6	N/A
CHEV. PICKUP	CHEV. PICKUP	OC /EGR/OTH/ / /CAN	350-4	A-3	4500	2.76	0.70	11.	2.0	N/A
GMC VAN	GMC VAN	OC /EGR/OTH/ / /CAN	350-4	A-3	5000	2.73	0.75	8.3	2.3	3.4 *
GMC PICKUP	CHEV. VAN	OC /EGR/OTH/ / /CAN	350-4	M-3	5000	3.42	1.1	7.6	2.0	2.2 *
	CHEV. PICKUP	OC /EGR/OTH/ / /CAN	350-4	M-4	4500	3.40	1.8	20.	2.1	N/A
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/OTH/ / /	FAMILY A12J4B				1.829	1.661	1.008	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY HFCH HHFV				N/A	N/A	N/A	0.0)
A12J4B / HCFV (350)										
CHEV. PICKUP	GMC VAN	OC /EGR/OTH/ / /CAN	350-4	A-3	5000	2.73	0.75	8.3	2.3	N/A
GMC PICKUP	CHEV. PICKUP	OC /EGR/OTH/ / /CAN	350-4	A-3	4500	3.07	0.66	8.8	1.6	N/A
	CHEV. PICKUP	OC /EGR/OTH/ / /CAN	350-4	A-3	4500	2.76	0.70	11.	2.0	2.1 *
	CHEV. VAN	OC /EGR/OTH/ / /CAN	350-4	M-3	5000	3.42	1.1	7.6	2.0	N/A
	CHEV. PICKUP	OC /EGR/OTH/ / /CAN	350-4	M-4	4500	3.40	1.8	20.	2.1	5.8 *
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/OTH/ / /	FAMILY A12J4B				1.829	1.661	1.008	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY BCFV				N/A	N/A	N/A	0.0)
A12K4 / HFCH HHFV (350+400)										
C CHEV. PICKUP	C CHEV. CAB CHASSIS	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	6000	2.76	0.50	12.	1.7	N/A
CHEV. PICKUP	C CHEV. VAN	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	4500	2.76	0.31	5.9	1.5	N/A
C CHEV. VAN	*GMC VAN	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	5000	3.73	0.52	9.8	1.8	5.3 *
CHEV. VAN	C CHEV. PICKUP	AIR/OC /EGR/OTR/ /CAN	350-4	M-3	5000	3.07	0.81	11.	1.3	N/A
C CHEV. UTILITY	C CHEV. SUBURBAN	AIR/OC /EGR/OTR/ /CAN	350-4	M-4	5500	4.10	0.81	11.	1.4	2.3 *
C CHEV. SUBURBAN	C CHEV. VAN	AIR/OC /EGR/OTR/ /CAN	400-4	A-3	4500	2.76	0.28	4.3	1.4	3.8 *
C CHEV. CAB CHASSIS	C CHEV. CAB CHASSIS	AIR/OC /EGR/OTR/ /CAN	400-4	A-3	6000	3.73	0.31	6.4	1.7	N/A

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS! A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	T R A N S.	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
GENERAL MOTORS--FAMILY COMBINATIONS CERTIFIED										
EXHAUST-EMISSION FAMILY TEST VEHICLES										
A12K4 / HFCH HHFV (CONT.)										
C HIGH CUBE VAN										
C STEP VAN										
C FORWARD CNTRL CHAS										
C GMC PICKUP										
GMC PICKUP										
C GMC VAN										
GMC VAN										
C GMC UTILITY										
C GMC SUBURBAN										
C GMC CAB CHASSIS										
C MAGNA VAN										
C VALUE VAN										
C FORWARD CNTRL CHAS										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/OTR/ /	FAMILY A12K4				1.152	1.004	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY HFCH HHFV				N/A	N/A	N/A	0.0)
A12K4 / HCFV (350+400)										
C CHEV. PICKUP	C CHEV. VAN	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	4500	2.76	0.31	5.9	1.5	N/A
C CHEV. CAB CHASSIS	*GMC VAN	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	5000	3.73	0.52	9.8	1.8	N/A
C GMC PICKUP	C CHEV. CAB CHASSIS	AIR/OC /EGR/OTR/ /CAN	350-4	A-3	6000	2.76	0.50	12.	1.7	N/A
C GMC CAB CHASSIS	C CHEV. PICKUP	AIR/OC /EGR/OTR/ /CAN	350-4	M-3	5000	3.07	0.81	11.	1.3	N/A
	C CHEV. SUBURBAN	AIR/OC /EGR/OTR/ /CAN	350-4	M-4	5500	4.10	0.81	11.	1.4	N/A
	C CHEV. VAN	AIR/OC /EGR/OTR/ /CAN	400-4	A-3	4500	2.76	0.28	4.3	1.4	N/A
	C CHEV. CAB CHASSIS	AIR/OC /EGR/OTR/ /CAN	400-4	A-3	6000	3.73	0.31	6.4	1.7	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/OTR/ /	FAMILY A12K4				1.152	1.004	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY BCFV				N/A	N/A	N/A	0.0)
A12N4 / BFCH BHFV (454)										
C CHEV. PICKUP	C CHEV. PICKUP	AIR/OC /EGR/OTR/ /CAN	454-4	A-3	6000	2.76	0.37	14.	1.8	N/A
CHEV. PICKUP	CHEV. PICKUP	AIR/OC /EGR/OTR/ /CAN	454-4	A-3	5000	3.07	0.36	5.5	2.2	N/A
C CHEV. SUBURBAN	CHEV. PICKUP	AIR/OC /EGR/OTR/ /CAN	454-4	A-3	5000	3.73	0.33	5.1	2.1	N/A
C CHEV. CAB CHASSIS	C CHEV. SUBURBAN	AIR/OC /EGR/OTR/ /CAN	454-4	A-3	5500	4.10	0.29	5.3	2.3	4.9 *
C GMC PICKUP	C CHEV. CAB CHASSIS	AIR/OC /EGR/OTR/ /CAN	454-4	A-3	6000	4.10	0.34	12.	1.7	2.7 *
GMC PICKUP	C CHEV. CAB CHASSIS	AIR/OC /EGR/OTR/ /CAN	454-4	M-4	5500	4.10	0.86	12.	1.7	N/A
C GMC SUBURBAN										

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1978 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER / FKH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS. CLASS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
GENERAL MOTORS -- FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
A12X4 / HFCH AHFV (CONT.)										
C GMC CAB CHASSIS										
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/OTH/ /		FAMILY A12X4			1.100	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CAN	FAMILY HFCH AHFV			N/A	N/A	N/A	0.0
A12Y2 / BCCH BHCV (305)										
CHEV. VAN	CHEV. PICKUP	OC /EGR/OTH/ /	/CAN	305-2	A-3	4500	2.76	0.75	6.3	2.8	N/A	
CHEV. PICKUP	CHEV. PICKUP	OC /EGR/OTH/ /	/CAN	305-2	A-3	4500	2.76	0.74	7.4	2.6	N/A	
GMC VAN	CHEV. PICKUP	OC /EGR/OTH/ /	/CAN	305-2	A-3	4500	3.40	0.67	6.4	2.9	N/A	
GMC PICKUP	CHEV. VAN	OC /EGR/OTH/ /	/CAN	305-2	M-3	4000	3.42	1.2	11.	1.4	1.8	*
	CHEV. VAN	OC /EGR/OTH/ /	/CAN	305-2	M-3	4000	3.07	0.86	7.5	1.4	N/A	
	CHEV. VAN	OC /EGR/OTH/ /	/CAN	305-2	M-3	4500	3.42	1.1	8.0	2.7	3.9	*
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/OTH/ /		FAMILY A12Y2			1.215	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CAN	FAMILY BCCH AHCV			N/A	N/A	N/A	0.0
A12Y2 / BCCV (305)										
CHEV. PICKUP	CHEV. PICKUP	OC /EGR/OTH/ /	/CAN	305-2	A-3	4500	3.40	0.67	6.4	2.9	1.8	*
GMC PICKUP	CHEV. PICKUP	OC /EGR/OTH/ /	/CAN	305-2	A-3	4500	2.76	0.75	6.3	2.8	2.3	*
	CHEV. PICKUP	OC /EGR/OTH/ /	/CAN	305-2	A-3	4500	2.76	0.74	7.4	2.6	N/A	
	CHEV. VAN	OC /EGR/OTH/ /	/CAN	305-2	M-3	4000	3.07	0.86	7.5	1.4	N/A	
	CHEV. VAN	OC /EGR/OTH/ /	/CAN	305-2	M-3	4000	3.42	1.2	11.	1.4	N/A	
	CHEV. VAN	OC /EGR/OTH/ /	/CAN	305-2	M-3	4500	3.42	1.1	8.0	2.7	N/A	
(EXHAUST DETERIORATION FACTORS FOR -		OC /EGR/OTH/ /		FAMILY A12Y2			1.215	1.000	1.000	N/A
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / /	/CAN	FAMILY BCCV			N/A	N/A	N/A	0.0
GENERAL MOTORS -- EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
HCCH BHCV										
C MALIBU		AIR/OC /EGR/OTH/	/CAN	305-2	A-3	3500	2.29	0.26	4.2	0.83	1.3	
C GRAND PRIX		AIR/OC /EGR/OTH/	/CAN	305-2	A-3	3500	2.73	0.21	2.2	0.86	2.2	
CHEV. VAN		OC /EGR/OTH/ /	/CAN	305-2	M-3	4500	3.42	1.1	8.0	2.7	3.9	
CHEV. VAN		OC /EGR/OTH/ /	/CAN	305-2	M-3	4000	3.42	1.2	11.	1.4	1.8	
NOVA		OC /EGR/OTH/ /	/CAN	305-2	M-4	4000	3.08	0.77	7.4	1.6	1.6	

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1978 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER / FKH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	TRANS. CLASS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
GENERAL MOTORS -- EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
BCCH BHCV (CONT.)										
	MONZA	OC /EGR/OTH/ /	/CAN	305-2	M-4	3500	3.08	0.65	5.4	1.6	1.6	
HFCH AHFV										
	BIGAL	OC /EGR/OTH/ /	/CAN	305-4	A-3	3500	2.29	0.67	6.0	2.0	4.5	
	*GMC VAN	AIR/OC /EGR/OTH/	/CAN	350-4	A-3	5000	3.73	0.52	9.8	1.8	5.3	
	GMC VAN	OC /EGR/OTH/ /	/CAN	350-4	A-3	5000	2.73	0.75	8.3	2.1	3.4	
	*CAMARO	AIR/OC /EGR/OTH/	/CAN	350-4	A-3	4000	3.42	1.1	7.7	1.4	2.6	
	CHEV. VAN	OC /EGR/OTH/ /	/CAN	350-4	A-3	5000	3.42	1.1	7.6	2.0	2.2	
C	CHEV. SUBURBAN	AIR/OC /EGR/OTH/	/CAN	350-4	M-4	5500	4.10	0.81	11.	1.4	2.3	
	CAMARO	OC /EGR/OTH/ /	/CAN	350-4	M-4	4000	3.73	0.77	5.1	1.8	2.4	
C	CHEV. VAN	AIR/OC /EGR/OTH/	/CAN	400-4	A-3	4500	2.76	0.28	4.3	1.4	3.8	
C	CHEV. SUBURBAN	AIR/OC /EGR/OTH/	/CAN	454-4	A-3	5500	4.10	0.29	5.3	2.3	4.9	
C	CHEV. CAB CHASSIS	AIR/OC /EGR/OTH/	/CAN	454-4	A-3	6000	4.10	0.34	12.	1.7	2.7	
BHBV										
C	CHEVROLET	AIR/OC /EGR/OTH/	/CAN	250-1	A-3	4000	2.73	0.31	2.7	0.86	2.6	
	CHEVROLET	OC /EGR/OTH/ /	/CAN	250-1	A-3	4000	2.73	0.44	9.0	1.6	1.6	
C	GMC VAN	AIR/OC /EGR/OTH/	/CAN	250-1	A-3	4500	3.08	0.38	6.4	1.7	2.9	
C	CHEV. VAN	AIR/OC /EGR/OTH/	/CAN	250-1	M-3	4500	4.09	0.54	3.8	1.5	3.4	
	NOVA	OC /EGR/OTH/ /	/CAN	250-1	M-3	4000	2.73	0.61	5.9	1.9	1.9	
HCHV										
	CHEV. PICKUP	OC /EGR/OTH/ /	/CAN	250-1	A-3	4000	3.07	0.85	8.1	2.4	2.0	
C	CHEV. PICKUP	AIR/OC /EGR/OTH/	/CAN	250-1	M-4	4500	4.11	0.52	4.0	1.7	3.8	
	CHEV. PICKUP	OC /EGR/OTH/ /	/CAN	250-1	M-4	4500	3.73	0.98	11.	2.1	1.6	
BCCV										
	CHEV. PICKUP	OC /EGR/OTH/ /	/CAN	305-2	A-3	4500	3.40	0.67	6.4	2.9	1.8	
	CHEV. PICKUP	OC /EGR/OTH/ /	/CAN	305-2	A-3	4500	2.76	0.75	6.3	2.8	2.3	
BFFV										
	CHEV. PICKUP	OC /EGR/OTH/ /	/CAN	150-4	A-3	4500	2.76	0.70	11.	2.0	2.1	
	CHEV. PICKUP	OC /EGR/OTH/ /	/CAN	150-4	M-4	4500	3.40	1.0	20.	2.1	5.8	
ISUZU -- FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
GIBUZL-F / CHBI (111)										
C LUV PICKUP	C LUV CAB CHASSIS	AIR/OC /EGR/ /	/CHK	111-2	A-3	3000	4.10	0.30	8.3	1.6	1.5	*

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1978 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	R A M S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
ISUZU--FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
G1H0ZL-E / CHKL (CONT.)										
C LUV CAB CHASSIS	C LUV PICKUP	AIR/OC /EGR/ / /CHK	111-2	A-3	2750	4.10	0.34	4.8	1.6	N/A
	C LUV PICKUP	AIR/OC /EGR/ / /CHK	111-2	H-4	2750	4.10	0.34	2.6	1.6	N/A
	C LUV CAB CHASSIS	AIR/OC /EGR/ / /CHK	111-2	H-4	3000	4.10	0.34	5.3	1.5	N/A
	*LUV PICKUP	AIR/OC /EGR/ / /CHK	111-2	H-4	2750	4.10	0.37	14.	0.81	2.9 *
	*LUV CAB CHASSIS	AIR/OC /EGR/ / /CHK	111-2	H-4	3000	4.10	0.47	18.	0.99	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY G1H0ZL-E				1 1.866	1.480	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CHK	FAMILY CHKL				1 N/A	N A	N/A	0.1151
G1H0ZL-F / CHKL (111)										
LUV PICKUP	LUV CAB CHASSIS	AIR/EGR/ / / /CHK	111-2	A-3	3000	4.10	1.2	10.	2.0	N/A
LUV CAB CHASSIS	LUV PICKUP	AIR/EGR/ / / /CHK	111-2	A-3	2750	4.10	1.1	13.	2.1	1.4 *
	LUV CAB CHASSIS	AIR/EGR/ / / /CHK	111-2	H-4	3000	4.10	1.4	8.8	2.9	N/A
	LUV PICKUP	AIR/EGR/ / / /CHK	111-2	H-4	2750	4.10	1.1	10.	2.1	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/EGR/ / / /	FAMILY G1H0ZL-F				1 1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CHK	FAMILY CHKL				1 N/A	N/A	N/A	0.1151
ISUZU--EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
CHKL										
	C LUV CAB CHASSIS	AIR/OC /EGR/ / /CHK	111-2	A-3	3000	4.10	0.30	8.3	1.6	1.5
	LUV PICKUP	AIR/EGR/ / / /CHK	111-2	A-3	2750	4.10	1.1	13.	2.1	1.4
	*LUV PICKUP	AIR/OC /EGR/ / /CHK	111-2	H-4	2750	4.10	0.37	14.	0.81	2.9
NISSAN--FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
TL200C / EVP-CARB-1 (119)										
C PICKUP	C PICKUP	AIR/OC /EGR/ / /CAN	119-2	A-3	2750	4.38	0.31	4.1	1.4	N/A
C DATSUN CAB CHAS	C*PICKUP	AIR/OC /EGR/ / /CAN	119-2	H-4	2750	4.38	0.50	4.7	1.3	2.6 *
	C PICKUP	AIR/OC /EGR/ / /CAN	119-2	H-4	2750	4.38	0.38	2.6	1.7	N/A
	C DATSUN CAB CHAS	AIR/OC /EGR/ / /CAN	119-2	H-4	3500	4.38	0.34	8.6	1.3	N/A
	C PICKUP	AIR/OC /EGR/ / /CAN	119-2	H-5	2750	4.38	0.42	3.5	1.6	1.9 *

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS. A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1978 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	R A M S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
NISSAN--FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
TL200C / EVP-CARB-1 (CONT.)										
	C*PICKUP	AIR/OC /EGR/ / /CAN	119-2	H-5	2750	4.38	0.57	6.9	1.1	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY TL200C				1 1.141	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-CARB-1				1 N/A	N/A	N/A	0.0)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-CARB-1				1 N/A	N/A	N/A	0.1801
TL200F / EVP-CARB-1 (119)										
PICKUP	PICKUP	AIR/EGR/ / / /CAN	119-2	A-3	2750	4.38	1.6	13.	2.2	N/A
DATSUN CAB CHAS	DATSUN CAB CHAS	AIR/EGR/ / / /CAN	119-2	H-4	3500	4.38	1.1	14.	2.2	N/A
	PICKUP	AIR/EGR/ / / /CAN	119-2	H-4	2750	4.38	1.4	8.3	2.8	1.7 *
	PICKUP	AIR/EGR/ / / /CAN	119-2	H-5	2750	4.38	1.7	11.	2.4	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/EGR/ / / /	FAMILY TL200F				1 1.074	1.077	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-CARB-1				1 N/A	N/A	N/A	0.0)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EVP-CARB-1				1 N/A	N/A	N/A	0.1801
NISSAN--EVAP-EMISSION FAMILIES:		**EVAPORATIVE-EMISSION FAMILY TEST VEHICLES**								
EVP-CARB-1										
	PICKUP	AIR/EGR/ / / /CAN	119-2	H-4	2750	4.38	1.4	8.3	2.8	1.7
	C*PICKUP	AIR/OC /EGR/ / /CAN	119-2	H-4	2750	4.38	0.50	4.7	1.3	2.6
	C PICKUP	AIR/OC /EGR/ / /CAN	119-2	H-5	2750	4.38	0.42	3.5	1.6	1.9
TOYO KOGYO--FAMILY COMBINATIONS CERTIFIED:		**EXHAUST-EMISSION FAMILY TEST VEHICLES**								
RCVHT / SCC (110)										
C COURIER PICKUP	C COURIER PICKUP	AIR/OC /EGR/ / /CAN	110-2	H-4	3000	3.64	0.34	9.5	0.95	N/A
C AIRGO PICKUP	C COURIER PICKUP	AIR/OC /EGR/ / /CAN	110-2	H-5	3000	3.64	0.42	10.	0.97	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY RCVHT				1 1.227	1.435	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY SCC				1 N/A	N/A	N/A	0.0)

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS. A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

1979 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	I R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
TOYO BODY - FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
8CWHT / SCC (140)										
C COURIER PICKUP	C COURIER PICKUP	AIR/OC /EGR/ / /CAN	140-2	A-3	3000	3.64	0.32	4.0	1.4	3.0 *
	C COURIER PICKUP	AIR/OC /EGR/ / /CAN	140-2	M-4	3000	3.64	0.39	4.6	1.1	2.5 *
	C COURIER PICKUP	AIR/OC /EGR/ / /CAN	140-2	M-5	3000	1.64	0.41	4.6	1.1	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY 8CWHT				1.231	1.045	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY SCC				N/A	N/A	N/A	0.0)
8FVHT / SCC (110)										
COURIER PICKUP	COURIER PICKUP	AIR/EGR/ / / /CAN	110-2	M-4	3000	3.64	1.5	14.	1.8	0.99 *
R1800 PICKUP	R1800 PICKUP	AIR/EGR/ / / /CAN	110-2	M-5	3000	3.64	1.5	14.	2.1	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/EGR/ / / /	FAMILY 8FVHT				1.000	1.166	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY SCC				N/A	N/A	N/A	0.0)
8FWHT / SCC (140)										
COURIER PICKUP	COURIER PICKUP	AIR/EGR/ / / /CAN	140-2	A-3	3000	3.64	1.5	14.	2.1	N/A
	COURIER PICKUP	AIR/EGR/ / / /CAN	140-2	M-4	3000	3.64	1.5	16.	2.4	N/A
	COURIER PICKUP	AIR/EGR/ / / /CAN	140-2	M-5	3000	3.64	1.5	14.	1.8	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/EGR/ / / /	FAMILY 8FWHT				1.007	1.032	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY SCC				N/A	N/A	N/A	0.0)
TOYO BODY - EVAP-EMISSION FAMILY TEST		EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
SCC										
	COURIER PICKUP	AIR/EGR/ / / /CAN	110-2	M-4	3000	3.64	1.5	14.	1.8	0.99
C COURIER PICKUP	C COURIER PICKUP	AIR/OC /EGR/ / /CAN	140-2	A-3	3000	3.64	0.32	4.0	1.4	3.0
C COURIER PICKUP	C COURIER PICKUP	AIR/OC /EGR/ / /CAN	140-2	M-4	3000	1.64	0.39	4.6	1.1	2.5

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1978 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	I R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
TOYOTA - FAMILY COMBINATIONS CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
2F(C) / EV-F (258)										
C LAND CRUISER	C LAND CRUISER WG	AIR/THM/EGR/ / /CAN	258-2	M-4	4500	4.11	0.55	11.	1.4	2.1 *
C LAND CRUISER WG	C LAND CRUISER	AIR/THM/EGR/ / /CAN	258-2	M-4	4000	4.11	0.43	11.	1.3	1.3 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/THM/EGR/ / /	FAMILY 2F(C)				1.000	1.037	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EV-F				N/A	N/A	N/A	0.035)
2F(E) / EV-F (258)										
LAND CRUISER	*LAND CRUISER	AIR/EGR/ / / /CAN	258-2	M-4	4000	4.11	1.6	19.	2.5	1.1 *
LAND CRUISER WG	LAND CRUISER WG	AIR/EGR/ / / /CAN	258-2	M-4	4500	4.11	1.2	17.	2.3	1.0 *
	LAND CRUISER	AIR/EGR/ / / /CAN	258-2	M-4	4000	4.11	1.2	15.	2.4	0.88 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/EGR/ / / /	FAMILY 2F(E)				1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EV-F				N/A	N/A	N/A	0.035)
20R(TC) / EV-R (134)										
C HILUX	C HILUX	AIR/OC /EGR/ / /CAN	134-2	A-3	2750	4.11	0.17	1.8	1.3	N/A
C HILUX CAB CHASSIS	C HILUX CAB CHASSIS	AIR/OC /EGR/ / /CAN	134-2	M-4	3500	4.11	0.31	6.4	1.6	N/A
	C HILUX	AIR/OC /EGR/ / /CAN	134-2	M-5	3000	4.11	0.25	2.8	1.4	N/A
	C*HILUX	AIR/OC /EGR/ / /CAN	134-2	M-5	3000	4.11	0.27	3.1	1.6	1.1 *
	C HILUX	AIR/OC /EGR/ / /CAN	134-2	M-5	2750	4.11	0.19	2.0	1.3	0.73 *
(EXHAUST DETERIORATION FACTORS FOR -		AIR/OC /EGR/ / /	FAMILY 20R(TC)				1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EV-R				N/A	N/A	N/A	0.0)
20R(TF) / EV-R (134)										
HILUX	HILUX	AIR/EGR/ / / /CAN	134-2	A-3	2750	4.11	0.75	11.	2.3	N/A
HILUX CAB CHASSIS	HILUX CAB CHASSIS	AIR/EGR/ / / /CAN	134-2	M-4	3500	4.11	0.92	14.	2.6	1.7 *
	HILUX	AIR/EGR/ / / /CAN	134-2	M-5	3000	4.11	0.81	11.	2.4	N/A
	HILUX	AIR/EGR/ / / /CAN	134-2	M-5	2750	4.11	0.73	14.	2.0	N/A
(EXHAUST DETERIORATION FACTORS FOR -		AIR/EGR/ / / /	FAMILY 20R(TF)				1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -		/ / / / /CAN	FAMILY EV-R				N/A	N/A	N/A	0.0)

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1978 MODEL YEAR LIGHT-DUTY TRUCKS

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED — VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
TOYOTA -- EVAP-EMISSION FAMILIES:								
EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
EV-F								
C LAND CRUISER	AIR/THM/EGR/ / /CAN	258-2	H-4	4000	4.11	0.41	11.	1.3	1.3
LAND CRUISER	AIR/EGR/ / /CAN	258-2	H-4	4000	4.11	1.2	15.	2.4	0.88
C LAND CRUISER WG	AIR/THM/EGR/ / /CAN	258-2	H-4	4500	4.11	0.55	11.	1.4	2.1
LAND CRUISER WG	AIR/EGR/ / /CAN	258-2	H-4	4500	4.11	1.2	17.	2.3	1.0
*LAND CRUISER	AIR/EGR/ / /CAN	258-2	H-4	4000	4.11	1.4	19.	2.5	1.1
EV-H								
C CORONA WAGON	AIR/OC /EGR/ / /CAN	134-2	A-3	3000	3.58	0.10	2.1	0.46	2.3
CORONA	AIR/EGR/ / /CAN	134-2	M-4	3000	3.58	0.87	9.2	1.7	1.4
HILUX CAB CHASSIS	AIR/EGR/ / /CAN	134-2	M-4	3500	4.11	0.92	1.	2.6	1.7
C*HILUX	AIR/OC /EGR/ / /CAN	134-2	M-5	3000	4.11	0.27	3.1	1.6	1.1
C HILUX	AIR/OC /EGR/ / /CAN	134-2	M-5	2750	4.11	0.19	2.0	1.3	0.73
C CELICA	AIR/OC /EGR/ / /CAN	134-2	M-5	2750	3.58	0.13	1.7	1.0	0.95
VOLKSWAGEN -- FAMILY COMBINATIONS CERTIFIED:								
EXHAUST-EMISSION FAMILY TEST VEHICLES								
10 / L (120)								
C BUS(WG.,KOM.,CAM) C BUS(WG.,KOM.,CAM)	FI /OC /EGR/ / /CAN	120-FI	A-3	3500	4.09	0.64	17.	0.90	N/A
C BUS(WG.,KOM.,CAM)	FI /OC /EGR/ / /CAN	120-FI	M-4	3500	4.57	0.68	12.	1.0	2.5 *
(EXHAUST DETERIORATION FACTORS FOR -	FI /OC /EGR/ / / FAMILY 10					1.078	1.000	1.098	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -	/ / / / /CAN FAMILY L					N/A	N/A	N/A	0.612)
11 / L1 (120)									
C BUS(WG.,KOM.,CAM) C BUS(WG.,KOM.,CAM)	FI /OC / / / /CAN	120-FI	A-3	3500	4.09	0.18	3.3	0.76	N/A
C BUS(WG.,KOM.,CAM)	FI /OC / / / /CAN	120-FI	M-4	3500	4.57	0.22	4.1	0.53	4.9 *
C*BUS(WG.,KOM.,CAM)	FI /OC / / / /CAN	120-FI	M-4	3500	4.57	0.41	8.9	0.32	1.8 *
(EXHAUST DETERIORATION FACTORS FOR -	FI /OC / / / / FAMILY 11					1.017	1.164	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -	/ / / / /CAN FAMILY L1					N/A	N/A	N/A	0.612)
9 / L (120)									
BUS(WG.,KOM.,CAM) BUS(WG.,KOM.,CAM)	FI /EGR/ / / /CAN	120-FI	A-3	3500	4.09	1.1	12.	2.7	N/A
BUS(WG.,KOM.,CAM)	FI /EGR/ / / /CAN	120-FI	M-4	3500	4.57	1.2	12.	2.6	3.0 *

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS) A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

MANUFACTURER / EXH-EMISS FAMILY/EVAP-EMISS FAM (CUBIC INCH DISPLACEMENT) / CARLINES COVERED — VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB VENTURIS	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS): HYDRO-CARBONS
VOLKSWAGEN -- FAMILY COMBINATIONS CERTIFIED:								
EXHAUST-EMISSION FAMILY TEST VEHICLES								
9 / L (CONT.)								
*BUS(WG.,KOM.,CAM)	FI /EGR/ / / /CAN	120-FI	M-4	3500	4.57	1.4	6.9	2.5	4.8 *
(EXHAUST DETERIORATION FACTORS FOR -	FI /EGR/ / / / FAMILY 9					1.000	1.000	1.000	N/A)
(EVAPOR. DETERIORATION FACTORS FOR -	/ / / / /CAN FAMILY L					N/A	N/A	N/A	0.612)
VOLKSWAGEN -- EVAP-EMISSION FAMILIES:								
EVAPORATIVE-EMISSION FAMILY TEST VEHICLES								
L								
C BUS(WG.,KOM.,CAM)	FI /OC /EGR/ / /CAN	120-FI	M-4	3500	4.57	0.68	12.	1.0	2.5
BUS(WG.,KOM.,CAM)	FI /EGR/ / /CAN	120-FI	M-4	3500	4.57	1.2	12.	2.6	3.0
*BUS(WG.,KOM.,CAM)	FI /EGR/ / /CAN	120-FI	M-4	3500	4.57	1.4	6.9	2.5	4.8
L1								
C BUS(WG.,KOM.,CAM)	FI /OC / / /CAN	120-FI	M-4	3500	4.57	0.22	4.1	0.53	4.9
C*BUS(WG.,KOM.,CAM)	FI /OC / / /CAN	120-FI	M-4	3500	4.57	0.41	8.9	0.32	1.8

*NOTE: THIS VEH GENERATED EVAP EMIS AS WELL AS EXH EMIS TEST RESULTS) A COMPLETE LISTING OF ALL TEST VEHICLES BELONGING TO EACH EVAP EMIS FAMILY IS PROVIDED IN THE EVAP EMIS FAMILY SECTION BELOW.

MANUFACTURER / EXHAUST EMISSION FAMILIES (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB	T R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
GENERAL MOTORS -- FAMILIES CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
B30J9 (150)										
DELTA 88	C OLDSMOBILE 98	FI / / / / /NON	350-FI	A-3	4500	2.41	0.78	1.8	1.9	N/A
OLDSMOBILE 98	C CUSTOM CRUISER WG	FI / / / / /NON	350-FI	A-3	5000	2.73	1.3	2.1	1.6	N/A
CUSTOM CRUISER WG										
SEVILLE										
(EXHAUST DETERIORATION FACTORS FOR -		FI / / / / /	FAMILY B30J9				) 1.171	1.186	1.000	N/A)
MERCEDES BENZ -- FAMILIES CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
7A22/L4D/24 (147)										
C MB 123(240D)	C*MB 123(240D)	FI / / / / /NON	147-FI	A-4	3500	3.69	0.25	1.1	1.4	N/A
	C MB 123(240D)	FI / / / / /NON	147-FI	A-4	3500	3.69	0.11	1.0	1.7	N/A
	C MB 123(240D)	FI / / / / /NON	147-FI	A-4	3500	3.69	0.37	1.2	1.4	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI / / / / /	FAMILY 7A22/L4D/24				) 1.000	1.000	1.000	N/A)
7A22/L5D/30 (183)										
C MB 123(300D)	C MB 123(300D)	FI / / / / /NON	183-FI	A	4000	3.46	0.10	1.2	1.9	N/A
	C*MB 123(300D)	FI / / / / /NON	183-FI	A	4000	3.46	0.44	1.4	1.8	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI / / / / /	FAMILY 7A22/L5D/30				) 1.000	1.000	1.000	N/A)
7A22/L5DT/30 (183)										
C MB 116(300SD)	C MB 116(300SD)	FI / / / / /NON	183-FI	A-4	4000	3.07	0.21	0.90	2.0	N/A
	C*MB 116(300SD)	FI / / / / /NON	183-FI	A-4	4000	3.07	0.22	1.2	1.9	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI / / / / /	FAMILY 7A22/L5DT/30				) 1.241	1.122	1.000	N/A)
PEUGEOT -- FAMILIES CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
XD (141)										
C 504	C 504	FI / / / / /NON	141-FI	A-3	3500	3.78	0.67	1.7	1.5	N/A
C 504 WAGON	C 504 WAGON	FI / / / / /NON	141-FI	A-3	3500	4.11	0.56	1.9	1.5	N/A
	C 504	FI / / / / /NON	141-FI	A-4	3500	3.70	0.97	3.1	1.1	N/A

MANUFACTURER / EXHAUST EMISSION FAMILIES (CUBIC INCH DISPLACEMENT) / CARLINES COVERED	VEHICLE CARLINE REPRESENTED	EMISSION CONTROL SYSTEM	ENGINE DISP.& CARB	T R A N S	INERTIA WEIGHT CLASS (LBS)	AXLE RATIO	CERTIFICATION LEVELS: EXHAUST EMISSION (GRAMS/MILE) HYDRO-CARBONS	CARBON MONOXIDE	OXIDES OF NITROGEN	EVAPOR. EMISSIONS (GRAMS) HYDRO-CARBONS
PEUGEOT -- FAMILIES CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
XD (CONT.)										
(EXHAUST DETERIORATION FACTORS FOR -		FI / / / / /	FAMILY XD				) 1.012	1.451	1.262	N/A)
VOLKSWAGEN -- FAMILIES CERTIFIED:		EXHAUST-EMISSION FAMILY TEST VEHICLES								
D (90)										
C RABBIT	C RABBIT	FI / / / / /NON	90-FI	M-4	2250	3.30	0.78	1.0	0.88	N/A
C DASHER	C*RABBIT	FI / / / / /NON	90-FI	M-4	2250	3.40	0.22	0.65	1.2	N/A
C DASHER WAGON	C DASHER	FI / / / / /NON	90-FI	M-4	2500	4.10	0.46	1.0	1.5	N/A
	C RABBIT	FI / / / / /NON	90-FI	M-4	2250	3.40	0.30	1.0	1.4	N/A
(EXHAUST DETERIORATION FACTORS FOR -		FI / / / / /	FAMILY D				) 1.000	1.000	1.308	N/A)

1978 MODEL YEAR LIGHT-DUTY DIESEL ENGINES

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GENERAL MOTORS	EXHAUST EMISSION FAMILY (CFI) VEHICLES										
4120											
1501											
C	CHEV. PICKUP	CHEV. PICKUP	FI	350	A	5000	3.40	0.74	1.8	2.0	N/A
C	CHEV. PICKUP	CHEV. PICKUP	FI	350	A	5000	2.76	0.90	1.8	1.6	N/A
C	GMC PICKUP	CHEV. PICKUP	FI	350	A	5000	2.76	1.10	1.8	1.7	N/A
C	GMC PICKUP	C CHEV. PICKUP	FI	350	A	5000	3.40	0.92	1.9	1.9	N/A
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[FR Doc. 78-25961 Filed 9-15-78; 8:45 am]

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BOOK 2:
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41661—41940

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BOOK 2 OF 2 BOOKS
MONDAY, SEPTEMBER 18, 1978
PART III

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

■

SURFACE COAL MINING AND RECLAMATION OPERATIONS

Proposed Rules for Permanent Regulatory Program

[4310-05]

UNITED STATES DEPARTMENT OF THE INTERIOR

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

[30 CFR Chapter VII]

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

ACTION: Proposed rules.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement is seeking comments on these proposed rules which would implement a nationwide permanent program for the regulation of surface and underground mining operations by the States and the Federal Government as required by the Surface Mining Control and Reclamation Act of 1977 (SMCRA). These proposed rules are intended to strike a balance between protection of the environment and agricultural productivity and the Nation's need for coal as an essential source of energy.

DATES: Comments must be received at the addresses below on or before November 17, 1978, by no later than 5 p.m.

For public hearing dates see Supplementary Information.

ADDRESSES: Written comments must be mailed to: Office of Surface Mining, U.S. Department of the Interior, P.O. Box 7267, Benjamin Franklin Station, Washington, D.C. 20044; or be hand delivered to, and all comments will be available for inspection at: Office of Surface Mining, Room 120, U.S. Department of the Interior, South Building, 1951 Constitution Avenue NW., Washington, D.C. 20240.

For addresses for public hearings see Supplementary Information.

FOR FURTHER INFORMATION CONTACT:

Ron Drake, Special Assistant to the Director, Office of Surface Mining, Department of the Interior, Washington, D.C. 20240; 202-343-5371.

SUPPLEMENTARY INFORMATION: In this document the Office publishes proposed rules to implement the permanent regulatory program under SMCRA. A detailed preamble accompanies the proposed rules to explain the rationale and supporting source material for them, alternatives considered by the agency in developing the proposed rules and changes which have been made since preproposed draft regulations were made available to the public on July 3 and July 21, 1978. Changes reflected in this proposed rulemaking have been made in response to further analysis of source material by the Office, including technical literature, expert evaluation and legislative history of the Act, and in response to public comment received on the preproposed draft rules. The Office is particularly grateful to those who took the time and effort to review the preproposed draft rules and submit comments to the Office. The Office has benefited from those comments. This preamble to the proposed rules highlights some changes which have been made in response to public comment. Other changes will be evident from the content of the proposed rules themselves.

In connection with this rulemaking, the Office has been preparing an environmental impact statement and a regulatory analysis. The availability of drafts of both these documents is being announced through separate FEDERAL REGISTER notices. The Office has considered the material, including source material cited, in the draft environmental impact statement and draft regulatory analysis for purposes of reaching decisions on the content of the proposed regulations. The content of the final environmental impact statement and final regulatory analysis will be carefully considered by officials of the Office and the Department of the Interior before decisions are made on the content of the final regulations.

Within the limits of legal constraints, the Office intends to work as closely as possible with the States, interested groups and organizations, and the public at large during the comment period on these proposed rules. The Office believes strongly the States must take the lead in applying the requirements of the Act and regulations to the coal mining industry. For this reason, the Office is particularly interested in working with the States during the proposed rulemaking comment period to obtain their advice and recommendations concerning how the regulations can best provide for State implementation of this program.

PUBLIC COMMENT PERIOD

The comment period on the proposed rules will extend until November 17, 1978. All written comments must be received at the addresses given above by 5 p.m. on November 17, 1978. Comments received after that hour will not be considered or included in the administrative record for this rulemaking. The Office cannot insure that written comments received or delivered during the comment period to any other locations than specified above will be considered and included in the administrative record for this rulemaking.

AVAILABILITY OF COPIES

Copies of the proposed regulations, draft environmental impact statement and draft regulatory analysis are available for inspection and copies may be obtained at the following offices:

OSM Headquarters, Department of the Interior, Room 120, 1951 Constitution Avenue NW., Washington, D.C. 20240, 202-343-4728.
OSM Region I, First Floor; Thomas Hill Building, 950 Kanawha Boulevard, East Charleston, W.Va. 25301, 304-342-8125.
OSM Region II, 530 Gay Street SW., Suite 500, Knoxville, Tenn. 37902, 615-637-8060.
OSM Region III, Federal Building, U.S. Courthouse, 46 East Ohio Street, Indianapolis, Ind. 46204, 317-269-2609.
OSM Region IV, 601 East 12th Street, Room 1768, Kansas City, Mo. 64116, 816-374-5162.
OSM Region V, Post Office Building, 1832 Stout Street, Denver, Colo. 80205, 303-837-5511.

PUBLIC HEARINGS

Public hearings on the regulations and regulatory analysis will begin on October 24, 1978, and continue through October 27, 1978, as needed to hear all those who wish to testify. The hearings will be held at the following locations and will begin at 9:30 a.m. local time at each location.

Washington—Department of the Interior Auditorium, 18th and C Streets NW., Washington, D.C. 20240.
Knoxville—TVA West Towers Auditorium, 400 Commerce Avenue, Knoxville, Tenn.
Charleston—Charleston Civic Center, Lee and Reynolds Streets, Charleston, W. Va.
Indianapolis—Indiana World War Memorial Auditorium, 431 North Moridian Street, Indianapolis, Ind.
Kansas City—Holiday Inn (Worlds of Fun), 7333 Parvin Road, Kansas City, Mo.
Denver—Room 269, Post Office Building, 1823 Stout Street, Denver, Colo.

Persons wishing to testify at the public hearings on the proposed regulations should contract the appropriate person listed below under public meetings.

Individual testimony at these hearings will be limited to 15 minutes. The hearings will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and facilitate the job of the court reporter. Submission of written statements to the persons identified above for these hearings, in advance of the hearing date whenever possible, would greatly assist Office officials who will attend the hearings. Advance submissions will give these officials an opportunity to consider appropriate questions which could be asked to clarify or illicit more specific information from the person testifying. The record will remain open for receipt of additional written comments until November 17, 1978, for the proposed regulations and draft regulatory analysis.

The public hearings will continue on the days identified above until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and wish to do so will be heard at the end of scheduled speakers. The hearings will end on each day after all people scheduled to testify and persons present in the audience who wish to speak have been heard. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned on any given day unless they are present in the audience at the time all scheduled speakers have been heard.

PUBLIC MEETINGS

Representatives of the Office will be available to meet between September 18, 1978 and November 17, 1978 at the request of members of the public, State representatives, industry officials, labor representatives, and environmental organizations to receive their advice and recommendations concerning the content of the proposed regulations.

Persons wishing to meet with representatives of OSM during this time period may request to meet with Office officials at the Washington office or any of the five regional offices. Persons to contact to schedule such meetings are as follows:

Knoxville—(615) 637-8060, Ed Yates.
Charleston—(304) 342-8125, Jill Bowen.
Indianapolis—(317) 269-2609, Peggy Hinkle.
Kansas City—(816) 374-5162, Raymond Lowrie.
Denver—(303) 837-5421, Donald Crane.
Washington—(202) 343-4953, Pat Foulk.

OSM will be available for such meetings between 9 a.m. and noon and 1 p.m. and 4 p.m., local time, Monday through Friday, excluding holidays, at these locations.

PUBLIC COMMENTS

Written and oral comments should be as specific as possible. The Office will appreciate any and all comments, but those most useful and likely to influence decisions on these regulations will be those which include references to source material including legislative history, technical data and research, and other material which provides a basis for any given recommendation. An explanation of the rationale for each recommendation should also be given. The preamble to the final regulations will reflect consideration of comments received on the proposed rules and draft regulatory analysis.

GAO REVIEW

The Office is considered an independent Federal regulatory agency for purposes of 44 U.S.C. Sections 3502 and 3512 (30 U.S.C. Section 1211(e)). As a result, all of its regulations which impose recordkeeping and reporting requirements on members of the public, as defined by GAO regulations, must be submitted to GAO for clearance (4 CFR Part 10). To assist the Office and GAO in analyzing the recordkeeping and reporting burdens and possible duplication created by these proposed rules, the public is specifically requested to consider sections of the regulations listed below. The Office has identified those sections as imposing recordkeeping and reporting requirements, which, if included in final regulations, must be submitted to GAO for their clearance. Specific comments concerning these recordkeeping and reporting requirements, including cost estimates and man-hour requirements, as well as whether other Federal agency recordkeeping or reporting requirements are being duplicated, would greatly assist the Office in determining whether the requirements should be modified.

The Parts, Sections and Subsections of the proposed rules which the Office has identified as imposing recordkeeping or reporting requirements are listed as follows:

Subchapter A
Sections 700.12, 700.13, 707.11(b);

Subchapter C
Sections 730.4(a)-(b), 731.11, 731.12(a), 731.13, 731.14, 732.14, 732.17(b), 732.17(d);

Subchapter D
Sections 741.11(a), 741.12(b)-(c), 742.11, 742.12, 744.12(c), 744.12(e)(3), 745.11, 745.16(a), 745.17, 745.18(c);

Subchapter F
Sections 760.4(b), 760.4(f), 761.5(a), 764.4(a), 764.13, 769.11 to 769.15;

Subchapter G
Sections 770.4, 771.19, 771.21, 771.23, 771.27, 776.3, 776.11, 776.12, 778.4, 778.12 to 778.21;
Parts 779, 780, 782, 783, 784, 785, 787;
Sections 789.12, 790.12, 791.12, 792.12;

Subchapter J
Sections 800.11(a), 800.12(a), 805.14(b), 806.11, 806.14(a), 807.11, 809.12;

Subchapter K
Sections 811.4(a), 815.4, 815.12(a), 815.12(h)-(i), 815.13, 816.46(c), 816.46(v), 816.50(d), 816.52, 816.53(a), 816.62, 816.64, 816.67, 816.68, 816.71(j), 816.82(a)(4), 816.82(b), 816.87(a), 816.91(d), 816.95(d), 816.97(b), 816.99, 816.117(b), 816.131, 816.133(c), 817.46(c), 817.46(v), 817.49(a), 817.52, 817.53(a), 817.62, 817.68, 817.71(j), 817.82(a)(4), 817.87(a), 817.91(d), 817.95(d), 817.97(b), 817.99, 817.117(b), 817.122, 817.123, 817.125, 817.131(b), 817.133(c), 818.12(a), 821.13(a), 822.14, 825.12(d), 826.12(b), 826.13, 828.12(b), 840.14, 842.12(a), 842.14, 842.15, 843.16(a);

Subchapter M
Sections 850.3(c), 851.11(a)-(c), 851.13, 851.14(d)(ii), 851.15(a).

INTRODUCTION TO PROPOSED RULES

As noted in prior FEDERAL REGISTER notices announcing the availability of preproposed draft regulations, the Office has sought to provide early and meaningful public participation in the development of regulations for the permanent regulatory program. The procedures followed have been consistent with the emphasis placed on public participation in SMCRA and Executive Order 12044. Comments which have not been fully evaluated, and comments received after August 18, 1978, on the preproposed draft rules, will be considered in the context of the public comment period on the proposed rules.

One area of concern to the Office has been the manner in which geological, climatological, hydrological, and other regional variations which might support alternative approaches to achieving the performance standards in the Act and regulations can be accommodated in the State program application and approval process. The preproposed draft regulations provided that the States could submit a petition pursuant to Section 201(g) of the Act demonstrating the basis for including within their State program a regulatory provision departing from specific Federal regulatory requirements while, nevertheless, achieving the same regulatory result. The Office felt that such a process would focus specific attention on requests from the States for variations in their State programs from that required in the Federal regulations.

Comments received on the preproposed draft suggested that the procedures in the draft do not recognize regional variations which would justify different requirements in individual State programs from those contained in the Federal regulations. The purpose of the section 201(g) procedure was not clear to reviewers. The relationship of the procedure to State program variations was not clear. Based on these comments, the procedures for recognizing regional variations in State programs have been changed for purposes of this proposed rulemaking.

Section 731.13 of these proposed rules now provides that States may include in their State program applications, requests for approval of regional variations for substantive and procedural requirements in their State programs. The application would have to provide a rationale and supporting data which would justify a departure from the Federal regulations. Consideration of the request would occur in

the context of the Federal rulemaking for decision on the State program application. The State program application, which must be submitted under the permanent regulatory program, contains in the proposed regulations most of the definitions which apply to the program, only seven performance standards are applicable to surface coal mining and reclamation operations.

cember 13, 1977, are included in this Subchapter.

The application of the permanent regulatory program on Federal lands should receive adequate training and be certified for that purpose only after suitable examination. The regulations in this Subchapter call upon the states for implementation of the programs in Chapter VII.

This section would also recognize that the Director has a responsibility

the context of the Federal rulemaking for decision on the State program application. The State program application requesting departures from the Federal regulations would have to demonstrate that the requested departure is no less stringent than that included in the Federal regulations. The Office believes that this approach provides an easier procedural mechanism and maintains the visibility of any State requests for departures from the Federal regulations. Comments on this approach from the States and others would be helpful.

The proposed rules being published today provide for a full 60-day comment period. Inability to have commented on all or portions of the preproposed draft regulations will not prejudice a person's ability to influence specific provisions in the final regulations by commenting on them during the proposed rulemaking comment period. Significant changes were made by the Office in the final interim regulations published December 13, 1977, based upon comments received during the public comment period on those rules during the fall of 1977. The Office will be equally receptive to comments received during this rulemaking process which provide sound justification for changes in the final rules.

The Office anticipates that requests will be made for extension of the 60-day comment period on the proposed rules. Although the Office is sympathetic, we are compelled by the statutory deadlines and the approaching State legislative sessions in the winter and spring of 1979 to proceed on this schedule as expeditiously as possible. Congress established very tight schedules for implementing the initial and permanent regulatory programs, recognizing that a regulatory program establishing national minimum requirements should not be delayed any longer, as it would be under typical Federal Government rulemaking of this magnitude. The Office has no choice but to act as promptly as it can to fulfill the congressional intent that this program be implemented promptly.

Public comments received on the preproposed draft regulations urged a reorganization of at least two aspects of that draft. Many commenters suggested that all definitions be consolidated and located in one part of the regulations. These commenters reason that having them in one location would be far easier for reference purposes than having them interspersed throughout the various parts of the regulations.

In response to this comment, the proposed rules show a shift in this direction. Part 701 of the regulations, which basically is an introduction to the permanent regulatory program, contains in the proposed regulations most of the definitions which apply to the permanent program. Part 701, however, does not contain all the definitions used in Chapter VII of this Title. Part 700 contains definitions of terms which are used throughout all of the Chapter VII regulations. These include such common words as "Director", "coal", "Act", and other terms that are not unique to the permanent regulatory program. Part 710 of Chapter VII, which was promulgated on December 13, 1977, contains those definitions which apply to operations during the initial regulatory program. Interspersed throughout the remaining Parts of Chapter VII will be definitions of terms which are used in a specific sense in those respective Parts. In most cases they have been left in those specific Parts for purposes of definition because elsewhere in the regulations their meaning will be more general and reflect commonly understood usage.

Other comments were received concerning the organization of Part 816 which covers performance standards for surface mines under the permanent program. In the preproposed draft regulations this Part was organized in a logical mining sequence. On the other hand, Part 817 in the preproposed draft regulations was organized in a topical format. Comments received suggest that the topical format is more useful to the public and, consequently, Part 816 has been reorganized in this format.

General Purpose

The proposed rules are intended to fulfill, when promulgated as final, a congressional mandate that the Secretary promulgate regulations covering a permanent regulatory procedure for surface coal mining and reclamation operations performance standards and establish procedures and requirements for the preparation, submission and approval of State programs or in the alternative development and implementation of Federal programs. The permanent regulatory program is the second and final stage of the phased implementation contemplated by Congress and incorporated in SMCRA. Under the Act and these regulations, States are intended to take the lead in regulating surface coal mining and reclamation operations within their borders. The success of the permanent regulatory program depends upon the willingness and ability of States with coal production to assume this responsibility.

The permanent regulatory program applies in Subchapter K the Act's 25 performance standards in Section 515 to surface coal mining and reclamation operations. Under the interim program, only seven performance standards are applicable to surface coal mining and reclamation operations. The full complement of performance standards will begin to apply to surface coal mining and reclamation operations upon receiving a permit issued under a State or Federal program or, for Federal lands, a Federal lands program. This means that for non-Federal and non-Indian lands, the performance standard should be applicable to surface coal mining and reclamation operations no later than February 3, 1981. This stems from the fact that by June 3, 1980, a Federal program will be implemented in a State if a State program has not been approved. The Act provides that eight months following the implementation of the Federal program or approval of a State program, no surface coal mining and reclamation operations shall be conducted without a new permit issued under either of those programs. If state programs are approved before June 3, 1980, or a Federal program is implemented before that date, the application of the full set of performance standards to surface coal mining and reclamation operations would occur at an earlier date.

Organization

The regulations being proposed at this time are intended to implement the requirements of the Act consistent with its purposes as stated in Section 102, its legislative history and relevant judicial interpretations. The material is organized into subchapters which comprise major portions of Chapter VII of this Title.

Existing Part 700 which is in Subchapter A would be amended by these proposed regulations to include appropriate references to the permanent regulatory program. Part 701 is new and being added to serve as a general guide to the permanent regulatory program. Part 707 in Subchapter A provides regulations implementing a limited exemption from the Act for the extraction of coal which is incidental to Government financed highway or other construction.

Subchapter B of Chapter VII comprises the initial regulatory program and the Parts which were published on December 13, 1977.

Subchapter C describes the process by which States may apply for and obtain approval of regulatory programs. It also includes measures by which a Federal program would be implemented in a State which has not obtained or maintained an approved State program. The grant regulations authorizing distribution of money to the States for development, administration, and enforcement of State programs which were promulgated on December 13, 1977, are included in this Subchapter.

The application of the permanent regulatory program on Federal lands is covered by Subchapter D. The Act calls for promulgation of a Federal lands program which at a minimum, incorporates all the requirements of the Act. In contrast to the State program or Federal program, the Federal lands program becomes effective upon the effective date of the final regulations. Thus, application of the full set of performance standards will apply to surface coal mining and reclamation operations on Federal lands in advance of their application to these operations on non-Federal and non-Indian lands.

The Act provides mechanisms for determining that certain lands may be unsuitable for all or certain types of surface coal mining and reclamation operations by designating them unsuitable for coal mining. Such designations may also be terminated under applicable procedures. These provisions of the Act are implemented through regulations in Subchapter F.

A fundamental difference between the interim and permanent regulatory programs, in addition to that mentioned previously for performance standards, is reflected in Subchapter G. This Subchapter includes all of the requirements for permit applications and approvals to conduct surface coal mining and reclamation operations. The application process applies to surface mining activities, underground mining activities, and special categories of coal mining. Certain procedures are also established for coal exploration, although a formal permit is not required. As part of the two-stage process for phasing in the requirements of SMCRA, Congress determined that during the initial regulatory program States could apply the interim performance standards under their existing State permitting procedures. This, however, is not the case for the permanent regulatory program and the Office expects that significant revisions in State permitting programs will insue from this permanent program.

Inspection and enforcement procedures are an integral and important factor in the success of the regulatory program. The requirements and procedures for inspections and enforcement and the requirements for civil penalties that may follow are covered in Subchapter L. Distinctions are drawn between the inspection and enforcement provisions under State programs and Federal programs.

Subchapter M reflects and implements the congressional determination that persons engaging in or directly responsible for blasting or use of explosives in surface coal mining operations should receive adequate training and be certified for that purpose only after suitable examination. The regulations in this Subchapter call upon the states to take the lead in training, examination and certification of blasters.

SUBCHAPTER A—GENERAL

PART 700 GENERAL

Part 700 introduces the regulations encompassed by Chapter VII of Title 30 of the Code of Federal Regulations. The proposed regulations in Chapter VII implement the Secretary of the Interior's responsibility under the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87, 91 Stat. 445, 30 U.S.C. Section 1201 *et seq.*). The Secretary's general rulemaking authority for regulations in Chapter VII is found in Section 201(c)(2) of the Act. In addition, the following sections of the Act contain rulemaking authority for the regulations in Chapter VII: Sections 304, 412(a), 512, 515 (c) and (d), 516, 517(h), 527, 528, 529, 601(d), 708, 719.

§ 700.1 Scope.

This Section would provide a brief summary of the thirteen Subchapters which compose Chapter VII of Title 30 of the Code of Federal Regulations. It serves as a guide to the reader interested in obtaining a summary of the regulations and contains no substantive provisions.

§ 700.2 Objectives.

This section would set forth a simple statement concerning the objectives of the regulations. The regulations are intended to fulfill the purposes of Section 102 of the Act. The regulations implementing those purposes must be based, however, upon consideration of the language in the substantive provisions of the Act, the legislative history of those provisions, other applicable laws, particularly those recited in Section 702 of the Act, and judicial interpretations.

§ 700.3 Authority.

This section would recite the Secretary's authority under the Act to implement its programs, except where programs and responsibilities are specifically assigned to other agencies by the Act or authority is retained by the States.

§ 700.4 Responsibilities under the Act.

This section would identify the Secretary's authorities derived from the Act which have been delegated to the Director. The delegation is to the Director through the Assistant Secretary, Energy and Minerals, of the Department of the Interior, who is ultimately responsible to the Secretary for implementation of the programs in Chapter VII.

This section would also recognize that the Director has a responsibility to confer with Federal land managing agencies and Federal agencies with jurisdiction over natural resources on Federal lands prior to taking actions which could affect their responsibilities. Recognizing the multifaceted effects of regulating surface coal mining and reclamation operations on Federal lands, this Section recognizes that the Director cannot proceed without considering the effects of actions under these regulations upon responsibilities of other Federal agencies. For instance, land managing agencies such as the Bureau of Land Management and the Forest Service will be particularly concerned about questions of designating lands unsuitable for mining, whether a permit should be issued, or the proper postmining land use. The Department of Energy and the Geological Survey are concerned with conservation of the coal resource and diligent development. The Department of Labor is concerned with the health and safety of the miners. Other agencies specified in this section are concerned with fish and wildlife and related environmental values, air and water pollution and historic and cultural resources.

Section 700.4 would recognize that the States must assume primary responsibility under State programs for regulating coal exploration and surface coal mining and reclamation operations if the regulatory program established by the Act is to be successful. The proposed regulations which implement the Title V regulatory program in the Act are intended to provide the minimum requirements for State programs which will create the uniform level of enforcement throughout the country which is contemplated by the Act.

Consistent with the principle that the States should take the lead in regulating surface coal mining and reclamation operations within their borders, with respect to regulation on Federal lands, subsection (d) would recognize that the Secretary may delegate certain responsibilities and authority to the States pursuant to Section 523(c) of the Act. In response to comments, the word "limited" has been deleted from the pre-posed draft as unnecessary to describe the Federal-State relationship under a cooperative agreement.

Section 700.5 gives definitions for terms which are generally applicable throughout the Act and regulations. Some of the definitions would repeat statutory definitions. Comments on the preproposed draft rules suggested that definitions in this category be deleted. OSM has decided to retain such

definitions here and in Part 701 on the theory that the regulations should be as complete as possible in order that persons using them will not have to

clude reference to extraction of coal from coal refuse piles. Questions have arisen during the interim program as

The process proposed here is basically the same as that specified for the initial regulatory program.

gram is implemented through State or Federal programs, and the Federal lands program all the applicable regulatory requirements and performance

would have primary responsibility for regulating surface coal mining and reclamation operations within its borders. Under such circumstances, per-

which have the same meaning in more than one subchapter of Chapter VII have been moved to Section 701.5. Definitions generally applicable to all

definitions here and in Part 701 on the theory that the regulations should be as complete as possible in order that persons using them will not have to turn constantly to the Act looking for terms defined there and not included in the regulations. Definitions repeating statutory definitions include: "Federal lands," "Federal lands program," "Fund," "Indian lands," "Indian tribe," and "Office," and "mining operations."

"Person." The definition of this term would expand upon the definition in Section 701(19) of the Act. The proposed definition includes Indian tribes in those situations in which an Indian tribe may be conducting surface coal mining and reclamation operations on non-Indian lands. In addition, the governmental agencies listed in Section 524 of the Act would be included because they are subject to regulation when engaged in surface coal mining and reclamation operations. A joint venture would also be added to the definition of "person" on the basis that it is a type of business organization which should be specifically identified in the definition.

"Public office." This definition would be included in the regulations to identify the kind of office in which records required by the Act to be made available to the public will be placed.

"Regulatory authority." The definition of this term in Section 701(22) would be expanded to include situations not covered by the statutory definition. Specifically, the Secretary is defined as the regulatory authority under a Federal lands program. The Federal lands program is a regulatory program in most respects comparable to a State program or a Federal program. For this reason and ease of reference in the regulations, the Secretary is defined as the regulatory authority for a Federal lands program.

"State regulatory authority." The State regulatory authority would be defined as the State agency which has primary responsibility at the State level for administering the regulatory programs. The use of the phrase "primary responsibility" signifies that one State agency is to be designated the regulatory authority for purposes of dealing with the Office under the regulations in this Chapter. The definition does not prevent States from assigning specified responsibilities under the State program to other agencies, provided memoranda of understanding or other working agreements have been established between the regulatory authority and the other State agency or agencies, in order that there will be a uniform, coordinated State program.

The definition of "surface coal mining operations" follows the statutory definition except that it would include reference to extraction of coal from coal refuse piles. Questions have arisen during the interim program as to whether coal extraction from coal refuse piles is regulated under the Act. Analysis of the statute and legislative history has convinced the Office that such extraction is an operation intended to be regulated under the Act. Therefore, it is proposed for explicit inclusion in the definition of surface coal mining operations. (See letter from the Solicitor, Leo Krulitz, to Representative Gus Yatron, dated March 13, 1978.)

Changes have been made in the permit and performance standard provisions of the proposed rules to reflect the Office's interpretation that the phrase "at or near the mine site," used in the statutory definition of "surface coal mining operations," modifies only "loading of coal." The Office interprets the Act as setting no territorial limitation on its jurisdiction over other facilities identified in the definition preceding "loading of coal."

"Resulting from and incident to." Definition of this term in the context of "surface coal mining operations" would be added in order to clarify those operations which are subject to the permit and performance standard requirements of the Act and this Chapter.

§ 700.11 Applicability.

This section proposes to repeat the exemption for those surface coal mining and reclamation operations which are exempted from regulation by the statute. Paragraphs (a) and (b) would repeat the language of the statutory exemptions in Section 528 of the Act. The concept of noncommercial use in (a) is limited based upon applicable legislative history. S. Rep. 95-128, 95th Cong., 1st Sess. 97-98 (1977). For the two-acre exemption in (b), language has been added in response to a comment to clarify that it is to be calculated based upon the expected life of the operation. This language is necessary to eliminate potential abuse of this exemption by persons conducting a series of two acre operations which are in actuality part of a larger mining operation. Paragraph (c) would reference Part 707 of Subchapter A for the regulations governing coal extraction which is an incidental part of Federal, State or local government-financed highway or other construction. Paragraph (d) proposes to include the exemption which appears in the definition of surface coal mining operations in Section 701(28) of the Act.

Section 201(g) of the Act provides a petitioning process for initiation of a proceeding to issue, amend or repeal rules issued under the Act. This process would be incorporated in Section 700.12 of the proposed regulations. The process proposed here is basically the same as that specified for the initial regulatory program.

A change from the initial regulation on petitions would be to place a burden upon the petitioner to present facts, technical justification and legal arguments which support the petition. If the petition concerns an existing rule, it would have to present justifications and arguments not considered in the previous rulemaking. The Director would have authority to reject a petition which did not provide this information and create a reasonable basis for further consideration of the need to issue, amend or repeal a rule. This proposal is also intended to eliminate the need for further consideration of petitions which are frivolous and do not provide a minimum threshold of information meriting the initiation of the administrative process. Without such a threshold, the day-to-day administration of these regulations could be jeopardized by the burden resulting from frivolous and unwarranted petitions.

In response to a comment, language has been added to the proposed rule indicating that the Director's decision on a petition is a final decision for the Department. This has the effect of leaving open the opportunity for a judicial appeal of the decision.

§ 700.13 Prior notice of citizen suits.

This proposed regulation is repeated from the initial program regulations with only minor changes intended for clarification.

§ 700.14 Request for records.

In response to public comment, subsection (a) has been revised to indicate that the records are to be available at the office geographically closest to the area to which the document pertains. OSM does not believe Congress intended new offices to be opened throughout the country in the vicinity of mines simply to make documents available.

§ 700.15 Computation of time.

These proposed regulations are repeated from the initial program regulations with only minor changes intended for clarification.

PART 701—PERMANENT REGULATORY PROGRAM

General Introduction: This part serves as a general introduction to the permanent regulatory program which is being proposed in accordance with the requirements of Section 501(b) of the Act. The permanent regulatory program represents full implementation of the regulatory scheme created by Congress in Title V of the Act. When the permanent regulatory program is implemented through State or Federal programs, and the Federal lands program all the applicable regulatory requirements and performance standards of Title V will apply to coal exploration and to surface coal mining and reclamation operations throughout the country.

The initial regulatory program under the Act was implemented through regulations promulgated on December 13, 1977, and applies to surface coal mining and reclamation operations in a particular State until a State program is approved or a Federal program is implemented in that State under the permanent program. The initial program does not apply all the Act' s performance standards to surface coal mining and reclamation operations, nor does it apply the Act's permit system to those operations.

Under Section 710 of the Act, an initial set of performance standards became applicable to surface coal mining and reclamation operations on Indian lands on December 16, 1977, when regulations were published in the FEDERAL REGISTER. However, Section 710 of the Act does not apply permit application and approval requirements, bonding requirements, and all the performance standards to these operations on Indian lands until 30 months following enactment of the Act. Therefore, regulations applying these requirements to Indian lands are not being proposed at this time.

Part 701 is intended to address matters which are of general applicability to the permanent regulatory program. It would describe the authority of the States and the Office during the permanent program. It proposes definitions of general applicability to all aspects of the permanent regulatory program. Finally, it would establish when the permanent regulations become applicable to coal exploration and to surface coal mining and reclamation operations.

Authority for regulations in this Part is found in the Secretary's general rulemaking authority in Sections 201(c)(2), and 501(b) of the Act. In addition to these sections, authority for Section 701.11 of the regulations in this Part is found in Sections 506, 512, 515 and 516 of the Act.

§ 701.3 Authority.

This Section identifies the respective responsibilities of the Director and of a number of Federal officials whose concurrences must be obtained over portions of the regulations before their final promulgation.

§ 701.4 Responsibility

The State and Federal relationship in the permanent regulatory program is summarized in Section 701.4. A State with an approved State program would have primary responsibility for regulating surface coal mining and reclamation operations within its borders. Under such circumstances, persons conducting coal exploration or surface coal mining and reclamation operations would be subject to regulation by the State regulatory authorities, rather than the Office.

The Federal role in States with an approved program is minimal. The Act does require the Office to evaluate the administration of the State program. (Section 517 of the Act.) To do this the Office would conduct periodic inspections of surface coal mining and reclamation operations in the State to establish whether they are in compliance with the State program. The Office would review permits, inspection reports and enforcement actions of the State regulatory authority to determine whether the State is fulfilling the responsibilities it assumed in its program.

In addition to the role of evaluating State programs, the Office would be required to respond affirmatively to information it receives which creates a reasonable belief that a person may be violating the Act, regulations or any permit condition. (Section 701.4(b)(3).) The process called for by Section 521(a) of the Act and proposed in Part 842 of the regulations would result in the State taking appropriate action when informed of this information by the Office, or the Office proceeding with an inspection and issuing a cessation order under appropriate circumstances.

In connection with its responsibilities for evaluating the administration of a State program, the Office would have the option, when necessary, of taking over enforcement of a State program or substituting a Federal program for the State program. These responsibilities are referred to in Section 701.4 and reference is made to the detailed procedures found in Part 733 which would be followed should such action become necessary.

Section 701.4 would identify the statutory alternative to a State program during the permanent regulatory program. That alternative is a Federal program which would be implemented in a State, if a State fails to have an approved program by June 3, 1980. When a Federal program is implemented in a State, the Office would become the exclusive regulatory authority for all coal exploration and surface coal mining and reclamation operations in that State.

§ 701.5 Defintions.

1. Definitions which apply during the permanent program are found in Section 701.5. In response to comments on the preproposed draft rules, definitions for the permanent program which have the same meaning in more than one subchapter of Chapter VII have been moved to Section 701.5. Definitions generally applicable to all of Chapter VII remain in Part 700. The process of reorganizing the location of definitions will continue during the comment period on the proposed rules.

The Office believes that the words not defined in the regulations have generally accepted meanings that will not lead to ambiguity or misinterpretation. The Office invites suggestions for definitions of words used in the permanent program regulations which have not been defined in this section. In each case, the most helpful suggestions will be those accompanied by the rationale for the proposed definition and its source in technical literature or elsewhere.

2. The principal sources of technical definitions are American Geological Institute, Glossary of Geology, 1972; American Society of Civil Engineers, Nomenclature of Hydraulics, 1962; U.S. Bureau of Mines, Dictionary of Mining, Mineral, and Related Terms, 1968; Bituminous Coal Institute, Glossary of Current and Common Bituminous Coal Mining Terms, 1947; Soil Science Society of America, Glossary of Soil Science Terms, 1970; and Soil Conservation Society of America, Resource Conservation Glossary, 1976.

3. The definitions for the following words or phrases are essentially the same as those in the initial program regulations previously promulgated. (30 CFR 710.5, 42 F.R. 62678 *et seq.*, December 13, 1977): "acid drainage," "acid-forming materials," "combustible material," "compaction," "diversion," "embankment," "ephemeral stream" (which is defined in the initial regulatory program regulations within the definition of "intermittent or perennial stream"), "ground water," "highwall," "hydrologic balance," "impoundment," "intermittent or perennial stream," "leachate," "noxious plants," "overburden," "outslope," "productivity," "recharge capacity," "recurrence interval," "roads," "runoff," "safety factor," "sediment," "sedimentation pond," "slope," "spoil horizons," "spoil," "stabilize," "surface water," "suspended solids," "toxic-forming materials," "toxic mine drainage," "valley fill and head-of-hollow fill," and "water table."

Aquifer is defined as it was in the initial program. Eight separate sources were consulted prior to adopting a definition of the term aquifer. The only substantive difference in the various definitions is the wording; all of the definitions consistently contain the concept that an aquifer is a body of earth materials that can store and transmit water in sufficient quantities for a specific use. The proposed defini-

tion involves the same concept and is consistent with the established definitions. The eight definitions are as follows:

1974 House bill, H.R. 11500, as follows: "The term 'aquifer' means a zone, stratum, or group of strata, that can store and transmit water in sufficient-

Also, "temporary diversions" and "permanent diversions" have the same meanings given them in the body of the initial program regulations. See 30

(d) *Subirrigation*—developed from standard definitions (see Glossary of Geology, American Geological Institute, 1972) and modified to include in-

logy:" San Francisco, W. H. Freeman and Company, 522 pp.

2. Robinson, T. W., 1958, Phreatophytes: U.S. Geological Survey Water-

the end of Section 512(a) of the Act, for which Congress instructed the Secretary to promulgate environmental protection performance standards. In

tion involves the same concept and is consistent with the established definitions. The eight definitions are as follows:

(1) American Geological Institute, 1972, Glossary of Geology: A body of rock that contains sufficient saturated permeable material to conduct ground water and to yield economically significant quantities of ground water to wells and springs;

(2) U.S. Bureau of Mines, 1968, Dictionary of Mining, Mineral, and Related Terms: An underground stratum that will yield water in sufficient quantity to be of value as a source of supply;

(3) Soil Conservation Society of America, 1976, Resource Conservation Glossary: A geologic formation or structure that transmits water in sufficient quantity to supply the needs for a water development; usually saturated sands, gravel, fractures, and cavernous and vesicular rock;

(4) UNESCO, 1970, International Glossary of Hydrology: A porous water bearing bed or stratum of permeable rock, sand, or gravel capable of yielding significant quantities of water;

(5) CRC Press, 1973, Dictionary of Water and Water Engineering: A relatively permeable or fissured deposit which yields useful supplies of water when tapped by a well;

(6) American Public Health Society, American Society of Civil Engineers, American Water Works Association, and Water Pollution Control Federation, 1969, Glossary of Water and Waste Water Control Engineering: A porous water-bearing geologic formation. Generally restricted to materials capable of yielding an appreciable supply of water;

(7) American Society of Civil Engineers, 1962, Nomenclature for Hydraulics: A porous water bearing formation; and

(8) USGS Water-Supply Paper 1988, 1972, Definitions of Selected Ground Water Terms: A formation, group of formations, or part of a formation that contains sufficient saturated material to yield significant quantities of water to wells and springs.

The proposed definition is structured to apply to real and practical situations where a question of hydrological balance is involved. If there is a reasonable likelihood that such a strata has served in the past or will in the reasonable future serve to transmit sufficient quantities of water, then it will be considered an aquifer and treated accordingly. Any other interpretation of the Act and regulations would subvert Congress' clear intent to protect rigorously the water resources in areas of surface mining. Although the Act does not define aquifer, the term was defined in the 1974 House bill, H.R. 11500, as follows: "The term 'aquifer' means a zone, stratum, or group of strata, that can store and transmit water in sufficiently recoverable quantities to be of economic or ecologic value as a source of water. Section 705(29)." The Secretary's definition is thus also in accord with that once considered by the House of Representatives.

The terms "head-of-hollow fill" and "valley fill" are proposed to be redefined to (1) distinguish between fills that are placed at the uppermost reaches of a valley and those which are placed lower in the valley and which involve a substantial upstream drainage area and (2) clarify the distinction between head of hollow fills or valley fills and other fills on relatively flat areas. The differences between valley fills and head-of-hollow fills were implied in the initial regulatory program. The new and separate definitions in 701.5 are based on the location of the fill. Those portions of the definitions used in the initial regulatory program that provided performance standards rather than definition were removed. The minor drainage channel condition for fills in the initial regulatory program has been refined to reflect the need to accommodate placement of excess soil developed from the first cuts of an area mine as well as to accommodate placement of excess soils in relatively flat areas where the stream drainage area is small and wet areas do not exist in the gently sloping or flat fill area. The Office believes that areas with slopes of 20 degrees or more provide less stable conditions for fills and will concentrate surface water runoff to a higher degree than will gently sloping areas. Thus, fills in drainage areas with these steeper slopes are subject to the valley fill and head-of-hollow fill requirements. The Office considers the standards for valley fills and head-of-hollow fills mandatory if any part of the fill area contains seeps or ephemeral channels or if the fill may become partially saturated.

The Office recognizes that a dimensional definition of gullies as well as identification of lesser slopes and the identifications of annual vegetation amounts may facilitate determinations of situations in which valley fill or head-of-hollow fill requirements apply. Therefore, public comment recommending further criteria is solicited. The Office is considering the development of performance standards for fills in areas of low annual precipitation (e.g. less than 26") or geographical areas (e.g. west of the 100th meridian west longitude) or types of mining (e.g. area mining as occurs in parts of the interior western United States and mid western United States) in order to further clarify the requirements.

Also, "temporary diversions" and "permanent diversions" have the same meanings given them in the body of the initial program regulations. See 30 CFR Sections 715.17(c) and 717.17(c), 42 F.R. 62685 and 62697, December 13, 1977.

The definition for "underground mining activities" comes from definitions given for underground mining terms in section 717.11 of the initial program regulations. 30 CFR Section 717.11, 42 FR 62695, December 13, 1977.

The definition of "coal processing waste" is intended to differentiate spoil, overburden and solid waste from the types of material subject to the standards which would be found primarily in Sections 816.81-816.88, 817.81-817.88 and other sections as referenced in Section 812.12 of these regulations. The term appears in the Act in Subsections 515(b)(11) and (13) and 516(b)(4) and (5). This definition appears in the initial program regulations as the definition of "waste." 30 CFR Section 710.5, 42 F.R. 62679, December 13, 1977.

The definition of "mulch" is essentially the same as that in the initial program regulations previously promulgated 30 CFR 715.20(d); 42 F.R. 62691, December 13, 1977. The term "other suitable materials" is used to provide needed flexibility to take advantage of advances in reclamation practices and to overcome a long listing of applicable vegetation, organic wastes, or chemicals. Compost is one of many suitable mulching materials along with bark materials, chemical additives, hay, straw, organic wastes and wood fiber.

The definition of "underground development waste" is based largely on the definition of "refuse" in the regulations promulgated under the Mine Safety and Health Act of 1969, as amended. See 30 CFR Section 77.217(e). The definition of "hydrologic balance" is supported by discussion in the House Committee Report on H.R. 2, H. Rep. No. 95-218, 95th Cong., 1st Sess. 109-113 (1977). The definition remains the same as that used in the initial program.

Section 701.5 includes nine definitions that have special importance to alluvial valley floors. The defined phrases and the sources of the proposed definitions are as follows:

(a) *Alluvial valley floors*—taken from Section 701(1) of the Act.

(b) *Agricultural activities*—developed from generally accepted usage but modified to exclude those agricultural practices that do not derive benefit from subirrigation or the use of flood irrigation.

(c) *Flood irrigation*—developed from generally accepted usage.

(d) *Subirrigation*—developed from standard definitions (see Glossary of Geology, American Geological Institute, 1972) and modified to include indicators of the presence of water based on technical input from reclamation staffs in Montana, Wyoming, Colorado, Utah, and North Dakota during development of the technical guidance paper on alluvial valley floors published at 43 F.R. 38055; on August 25, 1978.

(e) *Arid and semiarid areas*—generally defined in terms of areas of water deficit for normal plant requirements per standard agricultural usage.

(f) *Upland areas*—developed from standard geomorphic usage, Section 701(1) of the Act and field observations conducted for reconnaissance analysis of alluvial valley floors in the development of the aforementioned technical guidance paper.

(g) *Unconsolidated stream-laid deposits holding streams*—developed from the Act, field inspections conducted by the Department and the development of the technical guidance paper.

(h) *Essential hydrologic functions*—developed from the Act, legislative history, and field inspections.

(i) *Undeveloped rangelands*—developed from consultation with technical representatives of State and Federal agencies during the development of the technical guidance paper.

These definitions were developed from the technical guidance paper on alluvial valley floors published at 43 F.R. 38035; August 25, 1978, and

(1) Hardaway, J. E., Kimball, D. B., Lindsay, S. F., Schmidt, J., Erickson, L., March 1977. Subirrigated Alluvial Valley Floors; A Reconnaissance of Their Properties and Occurrence on Coal Resource Lands in the Interior Western United States (U.S. EPA, Region VIII, Denver, Colo.); Proceedings of National Coal Association and Bituminous Coal Research Symposium in Oct. 1977, pp. 61-135.

(2) Malde, H. E., and Boyles, J. M., 1976. Maps of Alluvial Valley Floors and Strippable Coal in 42 7½-Minute Quadrangles, Big Horn, Rosebud, and Powder River Counties, Southeast Montana, U.S.G.S. Open File Report 76-162.

(3) Schmidt, J., 1977. Alluvial Valley Floors in East-Central Montana and Their Relation to Strippable Coal Reserves; Reconnaissance Report, U.S. EPA, Region VIII in cooperation with State of Montana;

The following references were used to develop discussions of the characteristics of unconsolidated stream-laid deposits and subirrigation:

1. Leopold, Luna B., M. Gordon Wolman, and John P. Miller, 1964, "Fluvial Processes in Geomorphology:" San Francisco, W. H. Freeman and Company, 522 pp.

2. Robinson, T. W., 1958, Phreatophytes: U.S. Geological Survey Water-Supply Paper 1423, 84 pp.

3. Schumm, Stanley A., 1977, "The Fluvial System": New York, John Wiley & Sons, 338 pp.

The Department recognizes the possible existence of alluvial valley floors in arid and semiarid areas of Alaska. Not describing these areas in these regulations at this time does not represent a determination that there are no arid and semiarid areas in Alaska. At a later time, these determinations will be made.

No major alternatives to these definitions were considered with the exception of "arid and semiarid." Principal alternatives considered were (1) equating semiarid to 26 inches or less annual precipitation, (2) using precipitation-evaporation comparisons to show water deficits for vegetation, and (3) vegetation communities such as short grasses. Use of these alternatives would result in semiarid boundaries running through certain coal fields such as those in central Texas. Therefore, the Department has selected the 100th meridian west longitude as the eastern limit of alluvial valley floors. This results in eliminating the applicability of Section 515(b)(10)(F) of the Act to "alluvial valley floors" that might otherwise exist east of the 100th meridian. However, surface coal mining and reclamation operations, no matter where conducted, must meet all of the other provisions of Section 515(b)(10).

A definition of half-shrub has been proposed. It appears in sections 816.117 and 817.117 in the context of revegetation, particularly in the West. It is not a commonly used term and, therefore, is proposed to assure uniform usage. The source for the definition is: American Society of Range Management, 1964, "Glossary of Terms Used in Range Management."

The term "coal exploration operation" is proposed to be specifically defined in these regulations, because it is not so defined in the Act, except for the indication in Section 701(28) of the Act that it is not within the category of activities constituting "surface coal mining operations." The basis for the proposed definition is the definition adopted for "exploration" under the Department's regulations covering coal mining on Federal lands, 30 CFR Section 211.2(m), with minor changes in wording to adjust that definition to activities subject to regulation under the Act.

The term "substantially disturb" is proposed to be defined because it is not specifically defined in the Act. The basis for the definition is the list of types of exploration activities, at the end of Section 512(a) of the Act, for which Congress instructed the Secretary to promulgate environmental protection performance standards. In addition to that list, the Office has added blasting and the disposal of earth or other debris. The disposal of earth or debris is proposed to be included within the term "substantially disturb" because of the potential adverse pollution of these activities, if not safely conducted. *Compare:* Sections 515(b)(4), (5), (10), (11), (13), (14) of the Act.

The Office has considered the question of whether the terms "coal exploration operation" and "substantially disturb" should be proposed to exclude specifically cases where persons enter upon lands underlain by coal deposits to conduct scientific research or where very small amounts of coal are removed by hand tools and access to the area is obtained by foot or by limited use of an existing road or other access route. After consideration, the Office has decided not to propose such exclusions, because it is believed that Congress authorized no categorial exemptions from activities otherwise covered by Section 512 of the Act.

Regarding scientific researchers, the Office notes, to the extent that a person conducts only scientific research which is not related to specific plans to locate and describe coal deposits, such research is not within the purview of the term "coal exploration operation," and therefore not subject to Part 776. Where a person conducts "coal exploration operations" which do not "substantially disturb" the land involved, that person will not be subject to the provisions of Part 776 or Part 815.

The Office emphasizes, however, that the definitions proposed for the terms "coal exploration operation" and "substantially disturb" are only tentative and specifically solicits comments about how to define these terms in the final regulations. In particular, the Office is interested in the receipt of comments regarding the duration and total number of coal exploration operations conducted on private lands, the nature of the entities that perform these operations, the magnitude of adverse environmental harm caused by these operations and the prior experience of the States in regulation of those operations.

A "complete Federal program" is a program established under Section 504 of the Act. It may be established if a State does not submit an acceptable State program or upon the complete withdrawal of a State program under Part 733. This program is the way that the Director regulates all coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands within a State.

A "partial Federal program for a State" is a program established by the Director under Section 504 of the Act

ries used by Federal agencies who gather land-use and land cover data.

In view of the variation between al-

their status as regulatory authorities pursuant to approved State programs.

The language in the definition of

tural use of the lands must be considered but recommended a time-frame for defining such intensive use within the range of 10 to 20 years to 16 to 20

ground coal mining operations are to be conducted using the "best technology currently available" (BTCA) to minimize disturbances and adverse im-

could be impacted by operations on the affected area. The adjacent area would extend for varying distances from the affected area depending

A "partial Federal program for a State" is a program established by the Director under Section 504 of the Act upon the partial withdrawal of a State program and by which the Director may regulate appropriate portions of coal exploration and surface coal and reclamation operations on non-Federal and non-Indian lands within a State. The complete and partial Federal programs are to be distinguished from the substituted Federal enforcement of a State program. The Federal programs require more specific procedures and opportunity for public input while the substituted Federal enforcement of a State program is a more expedited procedure with potentially more limited coverage.

The land-use categories defined in Section 701.5 denote the broad use or activity and to a lesser extent the intensity of use or management as it may effect the hydrologic cycle. A land-use change from one land-use category in the premining stage to a different category in the postmining stage constitutes an alternative land use and the permittee must meet the requirements for approval of an alternative post-mining land-use. The Office tentatively selected these categories primarily to insure that (1) the range of agricultural or other nonurban uses will be identified, and (2) the relationship of use intensity and coverage or degree of disturbance of the site will be reflected in the categories.

Recognizing that (1) these categories may be in direct conflict with State or local planning and zoning *e.g.* apartment housing and industry in same category, and (2) it is difficult to develop and document definitional criteria that link land-use categories with effect on hydrologic cycle, the Office did consider other alternative land-use categories. The two primary alternatives include:

1. Land-use categories that are compatible with those traditionally used in State and local planning and zoning documents, including industrial, commercial, residential, agriculture, recreation, forestry, historic preservation, public activities, and grazing; the principle advantage of these categories is that they are the same as those used on approved zoning plans; and

2. Categories that combine both land use and land cover; this alternative could emphasize the agricultural variation in greater detail, such as: cropland, cultivated crops, rangeland, forestland, hayland, pastureland, heavy industry, light industry, public services, residential, impoundments of water, and fish and wildlife habitat and recreation lands; the principle advantage with these categories is that they more closely follow the categories used by Federal agencies who gather land-use and land cover data.

In view of the variation between alternative land-use categories and the importance of these definitions, the Office solicits comments regarding the proposed land-use categories in Section 701.5.

The definition of "performance bond" was developed to meet several goals. The first is to refer to the instrument itself as an indemnity agreement. An indemnity agreement is a legal term of art relating to the guarantee by a party of its promise to do some obligation and, if it fails to do so, to pay a sum of money that is equivalent to the performance of the obligation. In addition, it is always desirable to improve that indemnity agreement with additional guarantees, which leads directly into the various kinds of bonding that might be acceptable under a bonding program. The first acceptable kind of bond would be a bond supported by a surety company's guarantee or agreement to pay the money that is viewed as the equivalent to the performance of the obligation. The second kind of bond is a pledge of collateral or property. In this case, acceptable collateral is either cash negotiable certificates of deposits or public bonds where the regulatory authority will have actual possession and control of such collateral in order to guarantee either the performance by the permittee or that source of money will be available for the regulatory authority itself to complete the obligation. The third kind of potential indemnity agreement contemplated under the Act is the self-bond provision which relates within the definition to the language for other acceptable contractual guarantees. This self-bond concept is discussed in greater detail in the preamble to Subchapter J, but essentially it is an indemnity instrument directly from the permittee pledging to pay a certain sum of money if he fails to comply with the obligations imposed upon the bond instrument. The self-bond agreement is by its nature not supported by a separate surety's guarantee or a pledge of collateral.

This definition also acknowledges that the proposed requirements of this chapter relating to performance bonds for coal mine operations is applicable not only to the Federal regulatory authority should the Federal government have to directly enforce the provisions of the Act, but it is also applicable through an approved State regulatory program which is supported by State law and State regulations. It is necessary that these proposed minimum criteria for bonding of coal mine operations be applicable to both the Federal government in its status as a regulatory authority and to States in their status as regulatory authorities pursuant to approved State programs.

The language in the definition of performance bond relating to faithful performance of the Act, the regulations of this chapter, approved State programs, rules and regulations promulgated thereunder, and the provisions of a permit is intended to recognize the different sources of legal authority that allow full implementation of the regulations of this Subchapter. This phrase will appear throughout these regulations.

The definition of "prime farmland" in Section 701.5 makes reference to the criteria as prescribed by the Secretary of Agriculture as published in the FEDERAL REGISTER on January 31, 1978. Technical literature relied on for the prime farmland definition is:

1. Schmude, K. O., 1977, A perspective on prime farmland. J. Soil and Water Cons. Vol. 32, No. 5, pp. 240–242.

2. United States Department of Agriculture 1978. Soil Conservation Service. Prime and unique farmlands. 7 CFR, Part 657, 43 F.R. No. 21, January 31, 1978.

The definition of prime farmland relates to Sections 507(b)(16), 515(b)(7) and 701(20) of the Act. The prime farmland definition, as required by the Act, is to be used along with the historical use clause in identifying prime farmland relative to these regulations. The intent of the Act is to consider the prime farmlands that have been used for intensive agricultural purposes. The term "cultivated crops" encompasses the definition of intensive agricultural purposes.

The term "historically used for the production of cultivated crops" would be defined as cultivated crop production in 5 or more of the 20 years preceding the surface mining permit application. The 20-year period corresponds to farm mortgage financing. The Office proposes a 5-in-20-year criterion to include land used for cultivation in a long-term crop rotation. For example, lands used as part of a crop cycle for 1 year of row crop out of every 4 years would be covered if that were the practice for the previous 20 years. This is a common practice in midwestern States, in particular, where lands have been historically used for intensive agricultural purposes but, due to crop rotation, land sometimes lies fallow for several growing seasons. Moreover, land which otherwise would be prime farmland should not be excluded from coverage of the Act merely because of sound agricultural use of the land which requires crop rotation to allow the land to regain its prior productivity.

The Office notes that the coal industry commenters on the initial program agreed that historic intensive agricultural use of the lands must be considered but recommended a time-frame for defining such intensive use within the range of 10 to 20 years to 16 to 20 years preceding the date of the permit application. These proposals fail to consider land which would clearly be prime farmland except for crop rotation to allow land to regain its prior productivity. Commenters are invited to propose an alternative scheme which would address this aspect of prime farmland historic use.

The terms "applicant," "permit," "permittee," "reclamation," and "surface mining activities" would be defined consistent with the generally accepted meaning as used in Federal regulations. The terms "auger mining," "topsoil," and "hydrologic region or cycle" are as defined in A Dictionary of Mining, Mineral, and Related Terms published by the U.S. Bureau of Mines in 1968. The terms "coal processing plant," "in situ processing," "precipitation event," "rangeland," and "steep slope" are defined consistent with the generally accepted usage. "Anthracite" would be defined as listed in the Annual Book of ASTM Standards.

The following terms were defined to reflect the intent and conditions of the Act: Approximate original contour, downslope, imminent damage to the health and safety of the public, macro-invertebrate biological community, materially damage water quality or quantity, reference areas, and significant imminent environmental harm to land, air or water resources.

"Special bituminous coal surface mines" would be defined to reflect the language of Section 527 of the Act and its legislative history. H. Rep. No. 95-218, 95th Cong., 1st Sess. 70, 127, 177 (1977); H. Rep. No. 94-45, 94th Cong., 1st Sess. 117 (1975); S. Rep. No. 94-28, 94th Cong., 1st Sess. 222-223 (1975); H. Rep. No. 93-1522, 93rd Cong., 2nd Sess. 86 (1974).

The term "best technology currently available" is utilized in two contexts in the Act. First, under Sections 515 (b)(10)(B)(i) and 516(b)(9)(B), surface and underground coal mining operations are to be conducted to the extent possible using the "best technology currently available" to prevent additional contributions of suspended solids in excess of requirements set by applicable State or Federal law. To the extent that applicable State or Federal laws (effluent limitations for example) are more stringent than currently available technology, the technology must improve equivalently to allow such surface coal mining operations. In this sense, Sections 515(b)(10)(B)(i) and 515(b)(9)(B) are technology forcing.

Second, under Sections 515(b)(24) and 516(b)(11), surface and underground coal mining operations are to be conducted using the "best technology currently available" (BTCA) to minimize disturbances and adverse impacts of the operation on fish, wildlife and related environmental values and achieve enhancement of such resources when practicable.

The proposed definition of "best technology currently available" incorporates the technology forcing aspect of the term. It also defines technology to include more than hardware. For example, techniques and procedures have been included to authorize phasing of mining and reclamation operations. The definition also divides responsibility for determining BTCA between the Office and the state regulatory authority.

The terms "affected area" "permit area," "mine plan area" and "adjacent area" would be defined in connection with each other and should be read together. They are important for purposes of the area coverage of plans and data to be submitted with permit applications, bonding, application of the performance standards and enforcement. The "affected area" would represent a dynamic area, expanding from the lands first disturbed by operations within a permit area to include ultimately all areas disturbed within a permit area or series of permit areas, prior to bond release, covering the life of the mine. Affected area would never include a greater area than covered by a permit or series of permits for the life of the operation.

"Permit area" would be that area specified by a person in his application for a permit. It would include the lands subject to mining operations during the life of the permit. The term of the permit would have a bearing on the size of the permit area. Shorter permit terms generally would mean smaller permit areas.

"Mine plan area" is proposed as the area which a person expects to mine during the life of the operation. The mine plan area could coincide with the initial permit area for a small operation when the life of the mining operation would coincide with the term of the initial permit. For larger operations expected to continue for many years, the mine plan area would be considerably larger than an individual permit area. In such circumstances, the mine plan area concept is important in terms of plans and data to be submitted with the permit application. The regulatory authority would need the plans and data for the lands to be mined during the life of the operation in order to make an informed decision on the permit application.

Generally speaking, "adjacent area" in the context of mining operations would mean the variable size area surrounding the affected area which could be impacted by operations on the affected area. The adjacent area would extend for varying distances from the affected area depending upon whether impacts to air, surface water, ground water, wildlife or other elements are being considered. In terms of plans and data to be submitted with permit applications, adjacent area would be the variable size area surrounding the mine plan area. The size of the adjacent area would depend upon whether plans and data relate to effects of mining on air, surface or underground water quality or quantity, wildlife, cultural resources or other elements.

§ 701.11 Applicability.

For surface coal mining and reclamation operations during the permanent program, the permit provides the triggering device for application of the performance standards. Subsection (a) of this section would repeat the requirements of Section 506(a) of the Act for obtaining permits.

Subsection 701.11(b) would require the performance standards in Subchapter K of Chapter VII to apply to surface coal mining and reclamation operations on the earliest date on which such operations should have a permit. This would be eight months after approval of a State program or implementation of a Federal program, except as provided in Subsection 701.11(a) when a permit application has not been acted upon by the regulatory authority. Subsection (b) proposes that the performance standards would apply to surface coal mining and reclamation operations on the date on which a person should have obtained a permit under these regulations, whether or not that permit had been obtained. Thus, a person attempting to conduct a wild-cat operation without obtaining a permit would nevertheless be subject to the performance standards in Subchapter K. Failure to comply with them would constitute a violation of the regulations, just as failing to obtain a permit would constitute a violation.

Subsection 701.11(c) would provide that the notice or approval requirements for coal exploration operations proposed under Part 776 of Subchapter G go into effect upon approval of a State program or implementation of a Federal program. Because both Section 512 of the Act and the legislative history are silent on the effective date for its requirements, the Office has decided to adopt the applicability and time requirements established by the Act for permits. This provides reasonable time for persons with ongoing coal exploration operations to file the necessary notice or application for approval.

The Act provides no guidance concerning when applicable performance standards should begin to apply to

(8) A May 11, 1971, memorandum from David C. Simms, P.E. Deputy Chief Highway Engineer, Department

cidental part of government-funded construction only, rather than all construction as originally provided in the

tuminous coal seams both in the early phase of design and in the early phase of highway construction. This policy and procedure has been developed in

to the regulatory authority for an exemption. The person would be required to show that the coal extraction qualified for the exemption be-

grams. Subchapter C also identifies procedures for the Office to follow to evaluate State programs and to Federally enforce State programs or with-

The Act provides no guidance concerning when applicable performance standards should begin to apply to coal exploration. Because most coal exploration operations are considerably smaller than a typical surface coal mining operation, the Office believes a reasonable approach would be to apply the applicable performance standards to existing operations two months following approval of a state program or implementation of a Federal program. This approach is within the general rulemaking authority to carry out the purposes of the Act and consistent with these purposes as found in Section 102 of the Act.

PART 707—EXEMPTION FOR COAL EXTRACTION INCIDENTAL TO GOVERNMENT FINANCED HIGHWAY OR OTHER CONSTRUCTION

This Part would establish the minimum criteria and procedures for notifying the regulatory authorities of those operations extracting coal as an incidental part of Federal, State or local Government-financed highway or other construction which are exempt from the requirements of the Act. The regulations limit the scope of the exemption in a manner believed to be consistent with the congressional intent of Section 528 of the Act, and consistent with the overall philosophy of the Act to minimize the environmental impacts and the risks to the public health and safety of surface coal mining operations.

The regulations would insure that only those operations extracting coal incidental to Government-financed construction would be exempt from reclamation requirements of the Act.

Section 528(3) of the Act provides the authority for these regulations. That Section specifically requires that the exemption for coal extraction which is an incidental part of Federal, State or local Government-financed highway or other construction be covered by regulations issued by the regulatory authority. The regulations in Part 707 establish the minimum criteria and procedures.

Relevent legislative history supporting these regulations includes:

(1) H.R. 5988, 93d Cong. Section 203;

(2) 119 Cong. Rec. 1368 (January 18, 1973, discussing Section 203 of H.R. 5988);

(3) S. Rep. No. 93-402, 93d Cong., 1st Sess. 50 (1973);

(4) S. Rep. No. 94-28, 94th Cong., 1st Sess. 223 (1975);

(5) S. 7, 95th Cong., 1st Sess., Section 428(3) (1977);

(6) S. Rep. No. 95-128, 95th Cong., 1st Sess. 98 (1977);

(7) S. Rep. No. 95-493, 95th Cong., 1st Sess. 112 (1977);

(8) A May 11, 1971, memorandum from David C. Simms, P.E. Deputy Chief Highway Engineer, Department of Transporation, Commonwealth of Pennsylvania, to Central Office, Engineering Districts, Engineering Consultants, on the subject of drainage from acid producing bituminous coal seams—policy and procedures (with attachments).

Sections 707.1, Scope, and 707.2, Objectives, set forth what this part is intended to achieve. The conditions under which extraction of coal may be exempted from all requirements of the Act are stated.

The conditions are:

(a) The value of the coal recovered must be less than 50 percent of the cost of the project;

(b) The boundaries must be precisely defined and must not be larger than necessary to accomplish the project;

(c) The financing must involve over 50 percent government funds;

(d) The contractor for the project must follow the rules, regulations and guidelines of the government financing body or agency with regard to environmental protection; and

(e) The financing government agency will notify the regulatory authority of each construction project and include the following specific information:

(i) Amount of government financing,

(ii) The project boundaries,

(iii) The value of the coal to be removed, and

(iv) The agency requirements being followed by the contractor to protect health, safety, and the environment.

Under these conditions, the Congressional intent of this exemption would be satisfied. Significant environmental or social costs of coal extraction would be internalized through reclamation requirements applicable to the government-financed construction.

The legislative history is clear that Congress intended the Section 528(3) exemption to be a narrow one, as established by regulations. The third exemption was not added to Section 528 until the 95th Congressional Committee reports from earlier Congresses stated that exemptions one and two in Section 528 were provided because those classes of surface mining in those exemptions caused very little environmental damage and regulation of them would be burdensome for the regulator and the industry (3) (4). When the third exemption was added in the Senate during the 95th Congress, the Committee continued to use the same language for all three exemptions (6). However, the third exemption added by the Senate was not limited to incidental coal extraction (5). The Conference modified the Senate language to "limit(s) the exemption to extraction of coal as an incidental part of government-funded construction only, rather than all construction as originally provided in the Senate language." (7)

The origins of Congressional thinking on this subject can be found in H.R. 5988 (1)(2). The exemption was noted as being patterned in some ways after Pennsylvania law. Excavations and right-of-way cuts were exempted where Federal, State or local government requires reclamation of the affected area. The Congressional Record summary of the exemptions stated: "The Secretary may identify other activities not subject to the Act and issue regulations further defining the exempted activities taking into consideration their magnitude (in tons and acres) their potential environmental impact, and whether the class, type, or types of activity are already subject to existing Federal, State or local regulatory systems. In identifying and defining other exempted activities, the Secretary is expected to follow a rule of common sense. The purpose of the Act is to insure that social and environmental costs of surface mining are internalized by reclamation. Any activity which inflicts significant costs and which should be accompanied by reclamation should, of course, not be exempted."

"The extraction of coal incidental to certain government-financed construction can be a major project with potential for significant public health and safety and environmental impacts. For this reason, all such extraction cannot be exempted from the Act and these regulations, unless it will be subject to reclamation requirements imposed by the government financing agency. This has been recognized in Pennsylvania."

"The proper handling of situations resulting from the construction of highways through bituminous coal areas will contribute to the elimination of pollution produced in the highway cut section and discharged to the streams of the Commonwealth. This discharge enters local streams through the highway drainage system, disturbs the existing environmental conditions, and produces detrimental effects which must be considered a major problem."

"In order to comply with the intent of existing laws and regulations regarding pollution from bituminous coal seams, this Department has obtained a Bituminous License, a Bituminous Strip Mine Permit and a Mine Drainage Permit on a state-wide basis. Since it is impossible in highway construction to follow the requirements intended solely for the strip mine operator set forth in the laws, it has become necessary to formulate policy and procedures to cope with the problems resulting when encountering bituminous coal seams both in the early phase of design and in the early phase of highway construction. This policy and procedure has been developed in cooperation with the Pennsylvania Department of Environmental Resources, and strict compliance with these procedures will be the responsibility of the contractors during construction."

Contractors conducting government financed construction would be required to have a copy of the government financing agency notification at the site of the coal extraction. This is needed so that regulatory authority inspectors will know that a particular operation is exempt from the regulations of the regulatory authority.

Section 707.5 contains the definitions unique to the terms as used in this Part. They are intended to fulfill the Congressional intent to limit carefully the scope of this exemption.

"Government-financed construction" would be defined in such a way as to exclude from the meaning of that term any government financial contributions to a construction project which are relatively insignificant when compared to the overall construction costs. The government financing agency contribution has been set at greater than 50 percent in order to exempt only those projects in which the government agency has a significant interest. Other indirect means of assistance for construction projects that, do not give the government financing agency a direct and significant interest in the ultimate success and utilization of the construction project, are also excluded from the definition. This definition would minimize the opportunity for abusing this statutory exemption by preventing a person from qualifying for the exemption when the government agency's financial contribution or interest in the project is insignificant.

Section 707.11 specifies the information which would have to be included in the notice of the government financing agency's to the regulatory authority for each construction project. The information is necessary for the regulatory authority to know the scope of the construction project and whether it qualifies for exemption from the Act and the regulations in this Chapter.

The notification requirements are intended to be the minimum information necessary for the regulatory authority to know that the construction qualifies for the exemption. The notification is not intended to be lengthy or burdensome.

Alternative approaches to that now proposed in this part were considered. One alternative approach would require persons conducting coal extraction as an incidental part of government-financed construction to apply to the regulatory authority for an exemption. The person would be required to show that the coal extraction qualified for the exemption because the impacts on public health and safety and the environment were minimal or internalized by requirements imposed by the government financing agency. Another alternative considered was to require the government financing agency to obtain an exemption agreement from the regulatory authority covering all construction projects it financed. The exemption agreement would apply existing agency requirements on terms and conditions negotiated with the regulatory authority to construction, in order to accomplish the purposes of the Act. These approaches were rejected for the proposed rules because the Office believes the purpose of the Act and Congressional intent are better served by a project-by-project notification system which does not require approvals or agreements with the regulatory authority.

Most comments received on the preproposed draft of Part 707 took the position that the Office lacked authority to issue the part. that it went beyond the Act or that it was too burdensome given the nature of the exemption in Section 528(3) of the Act. The Office has carefully considered these comments. The requirements in Part 707 as proposed differ significantly from the draft upon which the comments were based. Because Section 528(3) specifically provides for regulations to implement that exemption, the Office believes that it has ample authority to issue regulations as proposed in Part 707. The regulations now proposed for Part 707 do not extend beyond the authority of the Office, given the purposes of the Act expressed in Section 201 and the Congressional intent behind Section 528(3). In response to the expressed concern about the burden imposed, this proposed rule has tried to reduce the burdens to a minimum, consistent with the need to insure that exempted operations internalize the environmental and public health and safety costs.

SUBCHAPTER C—PERMANENT REGULATORY PROGRAM IN STATES

Subchapter C proposes requirements for permanent regulatory programs in States. State and Federal Programs for States are grouped together in this subchapter in order to identify the required progression from the initial program established by Section 502 to a permanent Federal or State program. Subchapter C identifies procedures for the States and Office to follow in order to submit, review, approve or disapprove, maintain, revise and amend permanent State programs. Subchapter C also identifies procedures for the Office to follow to evaluate State programs and to Federally enforce State programs or withdraw approval of State programs and implement Federal programs in their place. The grant procedures available to develop and maintain programs are included here and remain unchanged from those previously adopted by the Secretary (42 F.R. 62639; December 13, 1977).

PART 730—GENERAL REQUIREMENTS FOR REGULATORY PROGRAMS IN STATES

Section 730.3 proposes general responsibilities for permanent regulatory programs as implemented by the States, the Regional Director, the Director and the Secretary. Submission, review and approval responsibilities are discussed as well as responsibility to maintain programs and to revise and change programs.

Section 730.5 contains definitions of key terms which are used throughout the sections concerning State programs. Section 730.5(a) defines "consistent with" to mean that rules and regulations adopted by the State to implement the provisions of the Act must be the same as or similar to the regulations promulgated under the Act and must achieve the same regulatory result. Consistent with is used in the State program regulation to indicate areas where the State program regulations may vary from those of the Secretary but must still meet the standard prescribed in the Act and the Secretary's regulations. Section 730.5(b) defines "in accordance with" to mean that State laws to implement the provisions of the Act shall be in agreement with and no less stringent than equivalent provisions of the Act. The proposed regulations use "in accordance with" to require that certain areas of State programs duplicate both the standard and the method of achieving the standard as prescribed in the Act and Secretary's regulations. These definitions are used specifically in Part 733 to establish criteria for approval or disapproval of State programs.

Section 504(a) of the Act requires the Secretary to implement a Federal program in a State no later than June 3, 1980 should the State fail to establish a State program. Proposed Section 730.12 requires that a State or Federal program be adopted no later than June 3, 1980 when surface coal mining and reclamation operation are carried out in a State. The Office is aware of several States in which mining is not now occurring but likely to occur in the near future. The Office encourages those States with extractable coal reserves that are not presently being mined to determine whether mining is

likely in the near future and, if so, to propose a State program early enough so that the program can be established

procedures that make up the program With regard to performance standards, variation will be approved for the

Sections 731.14 (a) and (b) require State program submissions to include copies of State laws and regulations.

quired in proposed Section 731.14(g). The Office must be assured that roles to be played by other agencies are firmly established and are adequate to

form the required number of inspections and how the permitting and technical staff will process and evaluate anticipated applications for per-

demonstrate its effectiveness and capabilities in implementing and administering certain provisions of the Act. The Office does not intend to use this

likely in the near future and, if so, to propose a State program early enough so that the program can be established prior to mining. Proposed Sections 730.12 and 731.12(c) allow States to submit programs at a later date as they become aware of proposed mining operations, or, in the alternative, to insure that a Federal program for such States will be implemented.

PART 731—SUBMISSION OF STATE PROGRAMS

Part 731 is intended to establish procedures and requirements for the States to follow in order to submit a State program. State programs will not include regulation of mining on Indian lands. Part 731 also details the content requirements for a program submission.

Section 731.12(a) requires that States submit 3 copies of the proposed program to the Regional Director on or before February 3, 1979. Three copies are required, one for the Office in Washington, one for the Regional office and one to be made available for public inspection. February 3, 1979 is established in Section 503(a) of the Act and program submissions must be made by that date. Earlier versions of the regulations required States to submit programs in a form acceptable to the Office. That requirement was deleted from the proposed regulations. However, there will be a need to reproduce copies of the submission and States should prepare the submission in a reproducible form.

States may petition for an extension of time beyond February 3, 1979 under Section 731.12(b) of the proposed regulations if it is necessary that their legislature act to allow them to submit a proposed State program. This requirement is authorized by Section 504(a) of the Act. The States are required to petition for assumption of responsibility following State's legislative process towards adopting the necessary statutes and regulations under section 731.12(c).

The States are required under Section 731.12(d) to keep sufficient copies of the program to permit public inspection under Section 732.12(a).

Proposed Section 731.13 is proposed to permit the States to request variations from the regulations of this Chapter in order to develop regulatory programs to fit the specific circumstances of each State. This section was developed in response to comments on the draft regulations which showed a need to clarify the extent of variation to be allowed. Variation from the Secretary's methods of achieving standards as contained in the regulations will be acceptable both for achieving performance standards pursuant to Subchapter K and in the systems and procedures that make up the program With regard to performance standards, variation will be approved for the method of achieving the actual standard. Systems and procedures include such areas of a program as permitting, bonding, and inspection. However, no leeway will be permitted in achieving the results and standards specified in the Secretary's regulations. With regard to program systems and procedures, criteria for acceptable variances are closely tied to the requirements contained in the Act. In all cases, variances in the methods of meeting the purposes of the Act will be compared to the regulations developed by the Secretary. The variance proposed must be at least as effective in meeting the purposes of the Act as the approach contained within the Secretary's regulations. The variances must be based on characteristics of a particular State. No variance will be approved unless the State also submits detailed information and analysis that will enable the Office to determine that comparable effectiveness can be achieved.

The proposed regulations under Section 731.14 require all information specifically mentioned under Section 503(a) (1) through (7) of the Act and in addition require that supplemental program information be included in a program submission. The Office believes that the supplemental information is necessary to satisfy Section 503(a) of the Act which requires that the State demonstrate its capability to carry out the provisions of the Act. The Act specifies additional criteria in section 503(b)(4), for approval of a State program, including findings that the State has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards.

Alternatives to requiring the level of detail requested in proposed Section 731.14 range from requiring nothing more than that required in Section 503(a) of the Act to requiring States to undertake costly studies that project future mining demands for the State. Such studies might prove useful in documenting future program needs. Another alternative considered was to require States to obtain a program management analysis to document program efficiency and program structure.

Section 731.14 as it is proposed should provide the Regional Director, Director and the Secretary sufficient information to make the decision to approve or disapprove the program submission as required under Section 732.13. The drafters of this regulation feel that the detail required provides no more information than needed to approve, or disapprove based on criteria listed in the Act.

Sections 731.14 (a) and (b) require State program submissions to include copies of State laws and regulations. The laws and regulations should address each applicable segment of the Act and the regulations of the Secretary. In reviewing the State's laws and regulations the Office will establish a cross index to be sure that each provision of the Act and the Federal regulations is addressed in the State program.

731.14(c) requires the States to submit copies of other laws and regulations directly affecting coal surface mining. Inclusion of other laws and regulations should alert the Office and the State to potentially conflicting State laws and regulations which may cause problems during enforcement of a State program. The Office has encountered several instances of this problem during the initial regulatory program.

The State is required under proposed 731.14(d) to submit a legal opinion of the State Attorney General addressing the State's legal authority to carry out the program. An alternative to this requirement would be to rely on Interior's Solicitors to determine the State's authority. The Office feels that the State Attorney General is in a better position to render this opinion. Proposed Section 731.14(d) also requires the State Attorney General to explain differences between the State laws and regulations and the Act and Secretary's regulations. This requirement should assist the Office in evaluating the State's authority.

Proposed Section 731.14(e) requires the state to submit a copy of the order or statute that authorizes the State to carry out the State program and to administer program grants. Such a designation is required under the grants section of the regulations in Part 735 (previously issued as Part 740). In most cases a grant under Part 735 will directly follow approval of a State program. The designation has, therefore, been required along with the State program submission.

A chart or table of organization of the regulatory agency and other agencies involved in the State program is required under proposed Section 731.14(f). A chart is necessary for the Director to evaluate the mode of operation of the program and thus to assist the Secretary in determining whether to approve or disapprove the program. The chart will be especially useful for the Director and Secretary to determine adequacy of the program in meeting all aspects of the Act in terms of projected workload and time constraints imposed by the Act.

Copies of supporting agreements between the regulatory authority and any other agencies which the regulatory authority must depend on are required in proposed Section 731.14(g). The Office must be assured that roles to be played by other agencies are firmly established and are adequate to the extent relied upon to implement the intent of the Act.

Proposed Section 731.14(h) asks the States to submit narrative descriptions and flow charts for each of the required systems and processes that make up the State program. These descriptions and flow charts will enable the Office to determine the State's capability to implement, administer and enforce the Act. An alternative to requiring detailed descriptions and flow charts would be to require a statement by the State that the State had the systems and procedures necessary to implement, administer and enforce the Act. The Secretary must evaluate the applicability and efficiency of the State systems proposed to be used before he can approve the Program. Without detailed descriptions, such evaluation would not have an adequate foundation and the Secretary's final determination would amount to little more than a subjective belief in a certain State's ability or inability to manage the program.

Proposed Section 731.14(i) requires the States to submit statistical information describing coal mining operations in the State. This information is necessary in order to determine the actual regulatory demand placed on the proposed State program. Past mining statistics are required in order that the Office and the State establish a relationship between program size and number, and size of operations. As an alternative the Office could obtain this data on its own. However, it is important that the State establish mining trends in the State for use in projecting future program needs. Future projections are requested only if they are available through existing studies. The Office does not intend that a State undertake costly new studies to comply with this requirement.

Proposed Section 731.14(j) asks the State for a summary table of existing and proposed program staff. The table should include the entire program staff showing job functions, titles and job experience and training for professional and technical positions. This table will assist the Office in evaluating the overall program. No information is requested for and no assessment will be made of individual employees.

Proposed Section 731.14(k) requires the State to describe how the staffing for the proposed program will be adequate to carry out the projected work loads. The State should address timeliness of required functions under the Act. Descriptions should be included of how the staff inspectors will perform the required number of inspections and how the permitting and technical staff will process and evaluate anticipated applications for permits.

A map showing office locations for the regulatory authority and other involved agencies is required under proposed Section 731.14(l). The State program should be accessible to mine operations and the public affected by mining.

Proposed Section 731.14(m) asks for an explanation of projected use, if any of professional and technical personnel available to the regulatory authority from other agencies. The Office does not promote State programs that are made up with staff from many different agencies. However, in some States with small programs, it will be reasonable for the regulatory authority to employ certain professional and technical personnel from other agencies for functions under the State program. This is especially necessary for States that do not project sufficient workloads to justify fulltime personnel in technical areas. The Office does not envision approval of a State program if the functions of inspection and enforcement are handled by staff other than the regulatory authority staff. Inspection and enforcement must be incorporated within the regulatory authority.

The States are required in proposed Section 731.14(n) to describe the budget for the past year, the present year and the projected budget under an approved State program for the next two years. Budget projections at this stage should allow the Office to properly allocate proposed Federal grants.

Physical resources, including vehicles, office space, laboratories and equipment must be described pursuant to proposed Section 731.14(o). Physical resources will make up an important part of a State program and will provide the Office and the Secretary with information to be used in evaluating the adequacy of the proposed program.

The State is required under proposed Section 731.14(p) to describe, in a narrative form, actions which over the past three years regulated surface coal mining, including a description of the type of enforcement actions available to the regulatory authority and how those actions were utilized. The narrative should also demonstrate actions toward implementing the initial regulatory program under the Act. The reason for requiring this information is inherent in the Act that establishment of a permanent program in a State be considered a two-part process. The initial program as provided in the Act precedes the permanent program and offers the State an opportunity to demonstrate its effectiveness and capabilities in implementing and administering certain provisions of the Act. The Office does not intend to use this information regarding initial program experience in a negative manner but rather to determine a trend towards effective implementation of the requirements affecting surface coal mining and reclamation operations.

Proposed Section 731.14(q) requires a description of special environmental protection performance standards of the State for regulation of anthracite coal mining. Section 529 of the Act provides for separate regulations for anthracite coal mining in a State if the State was regulating anthracite mining on August 3, 1977.

731.14(r) asks the State to describe other programs administered by the regulatory authority. Other programs could be those that interfere with effective implementation and administration and enforcement of the State program. Another reason for identifying other programs of the regulatory authority is so that staff with duties in addition to duties under the Act or program can be properly apportioned in order to meet the requirments of grants pursuant to Section 735. States should attempt to avoid assigning other functions to those assigned to implement and enforcement of the State program under this Act. The Secretary will not approve proposed programs that do not provide the State with sufficient staffing to carry out the provisions of the program. The State submitting a proposed State program should utilize the requirements under Part 731 to provide the Office with a complete picture and description of the State staff and State procedures that will enable the State to regulate coal exploration operations and coal surface mining and reclamation operations in the State according to the Act. Each State program will be different in order to reflect the size and number of mining operations and regional variations and differences.

PART 732—PROCEDURES AND CRITERIA FOR APPROVAL OR DISAPPROVAL OF PROGRAM SUBMISSIONS

Proposed Section 732.11 provides for a review of the program submission by the Regional Director to determine whether the submission is complete. "Complete" is defined to mean that the submission contains all the elements required by Section 731.14 of the regulations. If the Regional Director determines that one or more elements are missing he will be directed to identify the missing elements and return the program to the State. This early review is intended to prevent OSM from performing lengthy and time consuming reviews of incomplete submissions. Incomplete submissions

will not be eligible for approval by the Secretary.

Proposed Section 732.11 also requires the Regional Director to pub-

Section 732.12(b)(1) proposes that the public hearing format and rules of procedure be determined by the Direc-

Public notice is required because the process of approving a State program is considered a Federal rulemaking

ministering the program. This remedial action is intended for extreme circumstances. These provisions are discussed more fully under the portion of

tunity to judge the capability of a State for assuming jurisdiction over the regulation of surface coal mining and reclamation operations.

authority to enforce the prohibition against conflict of interest should it occur. If a State did not have authority to enforce 517(g) it is doubtful that

will not be eligible for approval by the Secretary.

Proposed Section 732.11 also requires the Regional Director to publish notice in the FEDERAL REGISTER that he has received a program submission and that the process of review for completeness is open for public participation. These more formal public review procedures during the review for completeness announce an end to the period of informal discussions between the State and the Office concerning the development of the program which will occur during State program development. From the time of submission on, the process leading to approval or disapproval proposed in the regulations shall be open to all parties and preclude exparte communication.

The Office intends to meet with States early and assist them in developing and submitting complete and adequate programs. These early sessions should assist States in that effort. The proposed procedures stem from the fact that the review and subsequent approval of a State program is considered Federal rulemaking.

Section 732.11(c) provides the State 30 days in which to make changes and additions to submissions which have been returned as incomplete. The States may return the submission to the Regional Director for review. Earlier drafts provided the State 60 days to respond. However, this period is not provided in the Act and seriously affects the State and Office's ability to implement a program as required on or before June 3, 1980. The States should be aware however that Sections 504(a) and 503(c) of the Act, requires the Secretary to implement a Federal program should the State fail to resubmit a State program that has been disapproved. Incomplete submissions once rejected must be considered the same as disapproved programs and the State must resubmit within 30 days in order to keep the Office from initiating a Federal program. The Office recognizes that some incomplete submissions will lack only minor items. These may be submitted after the 30 days allowed up to February 3, 1979 or August 3, 1979, if time for submission is extended under Section 731.12(b) of this subchapter. The Office is interested in comments from the States regarding the provision of an early determination by the Regional Director for completeness of a program submission and the provision for public participation in that review process.

Proposed Section 732.12 requires the Regional Director to hold a public hearing on the submitted program. The public hearing is required by Section 503(b)(3) of the Act.

Section 732.12(b)(1) proposes that the public hearing format and rules of procedure be determined by the Director. Section 732.12 also provides for public review of the submitted program and for public comment period. Section 732.12(c) requires the Director to compile written comments, hearing transcripts and exhibits and forward them to the Secretary along with a recommendation that the Secretary approve or disapprove the State program. The objective of this proposed rule is to insure meaningful public participation in the development of a State program. The Office believes that such public participation is a clear intent of Congress.

Section 503(b) of the Act requires the Secretary to render a decision approving or disapproving the program submission. The Secretary is required under proposed Section 732.13 to consider all relevant information including information obtained from the public hearing and public comments. Section 732.13(b) establishes that approval shall not be granted until the Secretary has obtained concurrence from the Administrator of EPA and until he has solicited and disclosed the views of the EPA and the Department of Agriculture. These requirements follow Section 503(b) (1) and (2) of the Act.

Proposed Section 732.13(a) allows the Secretary to approve or disapprove the program in whole or in part as provided in Section 503(b) of the Act. However, approval in part by the Secretary does not establish a State program for the part approved. Approval in part simply provides assurance to the State that part of the State program is determined acceptable and need not be revised or altered. The remainder of the program must be completed or revised and approved before authority to regulate surface coal mining under the Act is transferred to the State.

Section 732.13(c) requires the Secretary to include findings for his decision and to transmit the findings to the State. This requirement is taken from Section 503(b)(4) of the Act which requires a finding for a portion of the decision. In addition, in the case of disapproval by the Secretary findings are required under Section 503(c) of the Act.

Section 732.13(d) requires the Secretary to issue his decision within 180 days from the date that the Regional Director received a complete program submission. The Act in Section 503(b) allows 6 months for the review after the date that the program was submitted.

The Secretary is required under proposed Section 732.13(e) to publish all decisions approving or disapproving a program in the FEDERAL REGISTER. Public notice is required because the process of approving a State program is considered a Federal rulemaking process and this requirement assures that the public is provided notice of the Secretary's decision.

Proposed Section 732.13(f) provides that a State whose program is disapproved in whole or in part shall have 60 days to submit a revised program. The Secretary is given 60 days in which to approve or disapprove the revised program submission. The revised program is submitted to the Director. Proposed Section 732.13(f) requires the Director to publish the revised submission contents in the FEDERAL REGISTER and provide time for comments. The Director evaluates the revised program submitted and considers comments received and recommends approval or disapproval to the Secretary. The Secretary then issues his decision and publishes it in the FEDERAL REGISTER.

The decision disapproving this revised program is considered the final decision by the Department regarding the State program. If the State program is not approved, Section 504(a) (2) of the Act requires implementation of a Federal program. Proposed Section 732.14 does not provide for another submission until a Federal program has been implemented. Section 732.13 does not provide for the establishment of partial State programs. Section 503(6) and (c) of the Act does provide for thee Secretary to render approval of part of the State program. However, Section 503(c) of the Act also requires the State to revise and resubmit the portion of the program not approved. The Office interprets this to mean that partial State programs were not intended to provide the State with primary regulatory responsibility and a State program. The language of Section 503 of the Act and the definition of State program in Section 701(26) of the Act require that a State be primarily responsible for jurisdiction over most aspects of the Act.

The alternative to providing for complete programs at the initial stage of the permanent program is to allow for enforcement of a permanent program partially by the State and partially by the Office. This alternative would create problems with title IV funding as well as manifest confusion as to which agency was the regulatory authority for what purposes. The proposed regulations therefore require States to assume jurisdiction over regulation of all surface coal mining and reclamation operations. The concept of shared State and Federal regulation and jurisdiction is considered a remedial concept and occurs after a program has been approved in whole and the Secretary finds that the State is not effectively implementing and administering the program. This remedial action is intended for extreme circumstances. These provisions are discussed more fully under the portion of the preamble which addresses Section 733.12 of this subchapter.

Section 732.13(g) provides that a decision by the Secretary approving a program officially establishes a State program in that State. Section 732.13(g) also establishes that program submissions shall not be finally approved unless they can be approved in whole.

Proposed Section 732.14 implements Section 504(a) (2) of the Act and states that once a program submission is disapproved under a final decision by the Secretary pursuant to Section 732.13(f), the State may not submit another program until a Federal program has been implemented in that State. After implementation of a Federal program resubmission of State programs must be made pursuant to Sections 731 and 732 of the regulations.

The criteria upon which the Secretary must base his decision for approval or disapproval of programs is provided in proposed Section 732.15. Criteria for approval of State programs is found in Section 503(a) and (b) of the Act. Other criteria for approval are located elsewhere in the Act. Criteria regarding acceptable enforcement of State programs are found in Section 521(d) of the Act and criteria for State program designation of lands unsuitable are found in Section 522 of the Act. Criteria regarding acceptable variations in State programs are listed under proposed regulation 731.13 and discussed in the preamble which addresses Part 731.

The Secretary is required in proposed Section 732.15(a) to base his decision on information contained in the program submission, public comments received and testimony presented at the public hearing, written comments and other relevant information. The Secretary may not approve the program unless he finds that the program provides for the State to carry out the provisions and meet the purposes of the Act and regulations of the Secretary as provided by Section 503(a).

Under proposed Section 732.15(a)(1) the Secretary is required to find that the State demonstrated a good faith effort under the initial program. This judgement will be made objectively to the extent possible. The Office can compare State inspection reports with Federal inspection reports. State enforcement actions for violations of the initial performance standards can be analyzed. An effort will also be made to evaluate actual success in achieving reclamation under the interim performance standards. The Office must utilize the initial program as an opportunity to judge the capability of a State for assuming jurisdiction over the regulation of surface coal mining and reclamation operations.

Proposed Section 732.15(a)(3) establishes that on the date of the submission the State must have the authority required to implement the Act and program. The alternative to this requirement is to allow the States to develop authority after submission of the State program but prior to the Secretary's decision. Another alternative is to allow the States to develop authority after approval of the State program. Neither of these alternatives would be consistent with Section 503 of the Act and the definition of State program. The Office feels that the Act intended that the permanent program be fully developed and ready for implementation before final approval of a State program. A program development grant covering up to 80% of the costs of developing a program is available under Section 735 of the regulations.

Proposed Section 732.15(a)(3)(i) through (xii) establish specific requirements for a State program. No program can be approved unless the State has authority to impose each requirement. Proposed Section 732.15(a)(3)(vii) requires that a State have the authority to issue enforcement orders in accordance with the Act and consistent with the Secretary's regulations. The provision also requires that State inspectors have the same authority. The Office feels that authority to issue orders at the inspector's level is most important. Too much time is lost in States where official orders must originate from the State capital. The Office believes that the intent of the Act is to establish programs that immediately mitigate the safety and environmental hazards caused by surface mining and reclamation operations.

Generally, each provision with the exception of Section 732.15(a)(3)(xii) is specifically required by the Act to be included in a State program. Proposed Section 732.15(a)(3)(xii) requires a State to have authority to monitor, review and enforce the prohibition against indirect or direct financial interests consistent with Part 705 of these regulations. Section 517(g) of the Act requires that no employee of the State regulatory authority performing any function or duty under the Act shall have a direct or indirect financial interest in any underground or surface coal mining operation. Under the initial regulatory program States were not required to have authority to enforce 517(g) of the Act. They were, however, required to comply with the provision. The Office feels that the intent of Congress in 517(g) was to require States to have authority to enforce the prohibition against conflict of interest should it occur. If a State did not have authority to enforce 517(g) it is doubtful that the requirements of the Act could be fulfilled.

The Secretary is required in proposed Section 732.15(a)(4) to find that the State has and will continue to have sufficient personnel and funding to implement, administer, and enforce the provisions of the program and the requirements of the regulations. This provision implements Section 503 (a)(3) and (b)(4) of the Act. In reviewing program submissions the Office will evaluate program personnel against program functions to ensure that the requirements of the Act can be met. This review will include an analysis of the numbers and types of personnel to ensure that the performance standards in Subsection K can be incorporated into permits and enforced. Many of the performance standards are highly technical in nature. This requires that a State program include sufficient technical personnel to understand the requirements and ensure incorporation of the requirements in all permits. At a minimum the proposed staff should include capability to deal with the land use, engineering, hydrologic, geologic, agronomic and administrative requirements of the Act and regulations. The program should also include provisions to apply and enforce regulations dealing with more specialized areas such as blasting.

Proposed Section 732.15(a)(5) requires the Secretary to find that the State has a State law and regulations in effect that fulfill the requirements of the Act by specifically prescribing some conduct and requiring other under the State law.

Section 102(i) of the Act establishes that it is a purpose of the Act to assure that appropriate procedures are provided for public participation in the development, revision, and enforcement of regulations, standards, reclamation plans, or programs established by the Secretary or any State under this Act. Proposed Section 732.15(a)(5)(v) requires the State to have a system providing for public participation in the development, revision, and enforcement of State regulations and the State program. The regulations do not establish specific public participation procedures but approval by the Secretary will depend on whether the resulting participation at the State level is consistent with the level of participation designed into procedures at the Federal level pursuant to the regulations of this Chapter.

Proposed Section 732.15(a)(5)(vi) requires the Secretary to find that State law provides an administrative review of program actions. Review must be

available to persons who may be adversely affected by the action and at a minimum should be available for enforcement actions in accordance with

not specifically provide for State program amendments. However, the Office feels that amendment provisions must be included to allow pro-

other informal conferences between the Office and the State will be open to the public.

Upon completion of the public hear-

remedial measure and will be adequate to deal with less extreme cases of ineffective program administration.

In evaluating the administration of

504 of the Act. The promulgation, revision and termination provisions shall remain exclusively with the Director to maintain consistency among the

nity for public input, as provided for in Section 102(i) of this Act, while the substituted Federal enforcement of a State program is a more expedited

available to persons who may be adversely affected by the action and at a minimum should be available for enforcement actions in accordance with Section 525 of the Act.

Proposed Section 732.15(a)(5)(vii) requires that the State not have laws or other provisions which are not consistent with the Act or regulations.

Under proposed Section 732.15(b) the Director may establish other criteria pursuant to the regulations to determine whether a State program should be approved. This is considered necessary so that the Office may require that State programs address regional differences and variations.

Proposed Section 732.16(a) provides that the Director may establish terms and conditions for State programs. These terms and conditions are the bases for providing the Office with up to date information on the program in a State.

Under proposed Section 732.17(a) (1) (3) the Director may require State consultation with the Office and require the State to provide the Office with access to books and records. These terms and conditions are necessary to allow the Director to evaluate the administration of an approved State program as required under proposed Section 733.12 of the regulations.

The Director may modify State program terms and conditions to reflect changes in the regulations which support the Act and to reflect changes in the conduct of the program. The Director is required to give notice to the State and hold an informal conference before any terms or conditions are modified. This ability to modify a program is necessary in order to meet unexpected or administrative changes and to allow the Director to adjust the program for smoother coordination with the Office. More significant changes will be processed as an amendment to the State program.

Proposed Section 732.17 provides for the State program to be amended for specific reasons. Amendments may be initiated by the State or by the Office. Amendments under this proposed Section are available so that a program can be adjusted to meet changes in staffing, budgets, and resources of the State regulatory authority and to meet changes in the number or size of State mining operations. Amendments are not intended for use by the Office to address inadequate implementation, administration or enforcement of State programs. Before the amendment process may be utilized, proposed Section 732.17 requires Amendments will not be necessary to address every minor change within a State. Proposed Section 732.17 also provides approval or disapproval procedures for program amendments. The Act does not specifically provide for State program amendments. However, the Office feels that amendment provisions must be included to allow programs to be adjusted to meet changing requirements and needs.

PART 733—MAINTENANCE OF STATE PROGRAMS AND CRITERIA AND PROCEDURES FOR SUBSTITUTING FEDERAL ENFORCEMENT OF STATE PROGRAMS AND WITHDRAWING APPROVAL OF STATE PROGRAMS

Proposed Section 504(a)(3) of the Act requires the Secretary to implement a Federal program if the State fails to implement, enforce or maintain its approved State program. In addition the Act in Sections 504(b) and 521(b) require the Secretary to provide enforcement of that part of a State program not being enforced by the State. It is from these requirements that Section 733.11 has been drafted requiring the States to implement, administer, enforce and maintain their approved State program or invite Federal involvement.

Procedures for substituting Federal enforcement for a State program or withdrawing approval of a State program are contained in Section 733.12. This Section establishes two options for the Secretary to use in dealing with improper administration and enforcement of a State program by a State.

The Director is required in proposed Section 733.12(a) to evaluate at least annually the effectiveness of the administration of a State program. He must also make an evaluation in response to a citizen report that a State is not maintaining its approved program. The proposed regulation requires prompt written notice to States if the evaluation shows ineffective administration of the program. The regulation requires the Director to hold an informal conference with the State if requested. The purpose of the informal conference is to allow the State to explain its position regarding allegations of ineffective administration. If, following the informal conference the Director still believes that the program is not being effectively administered he shall hold a public hearing in order to make a determination whether the State is effectively administering and enforcing the State program. Section 521(b) of the Act provides for this public hearing. The informal conference between the Office and the State is an attempt to solve problems of State administration without first going to a public hearing. However, if the State cannot show at the informal conference that enforcement of the program is actually effective the Director must hold a public hearing on the matter. Although not specifically stated in the regulations this and other informal conferences between the Office and the State will be open to the public.

Upon completion of the public hearing proposed Section 733.12(c) instructs the Regional Director to submit the available information and a recommendation to the Director. If on the basis of information following the hearing the Director finds that there are violations resulting from failure of the State to administer part or all of the State program effectively, the Director has two options:

(1) Substitute direct Federal enforcement of the State program; or

(2) Withdraw approval of the State program in whole or in part.

The first option, substituting Federal enforcement of the State program, implements Section 521(b) of the Act. This section provides for Federal enforcement of State programs that have been implemented and operated past June 3, 1980. Enforcement of all or any part of a State program by the Office under 521(b) of the Act is interpreted to include administration and enforcement of the whole program. Under this option a new permanent program would not be implemented. Instead, the Office would simply run all or part of the approved State program.

The second option under this Part allows the Director to withdraw approval of the State program for reasons listed in proposed Section 733.12. Under this option the Director shall propose, promulgate and implement a Federal program in the same manner as provided in Part 736 of the regulations. Withdrawal under this option can be for all or part of the program. The second option allows the Director to withdraw approval any time following implementation of the program by the State. The Office relies on Section 504(a)(3) of the Act and Senate Report No. 93-402 as an indication that Congress intended that the Secretary to ultimately promulgate and implement a Federal program rather than enforce specific areas of the program if necessary. Section 504(a)(3) requires that a Federal program be implemented no later than June 3, 1980 if a State fails to implement, maintain or enforce its State program. The time deadline is viewed as the initial date that either a Federal or State program must be effective, not as a limitation on the authority of the Secretary or the Office to withdraw approval of a State program and replace it with a Federal program.

Withdrawing approval is designed to be the remedial action available to the Director for extreme cases of ineffective program administration by a State. Enforcement of all or part of a State program by the Director under the first option will be the preferred remedial measure and will be adequate to deal with less extreme cases of ineffective program administration.

In evaluating the administration of State programs as required in proposed Section 733.12 the Director shall base his decision to substitute Federal enforcement or withdraw approval on the adequacy of program resources and processes as enumerated in Section 733.13. The decision will also be based on the adequacy of the program permitting process, program inspection process, adequacy, and enforcement and the overall adequacy of the entire program. These criteria have been established to provide a rational basis for proper evaluation of a State program. In evaluating the program the Regional Director and Director shall, to the extent possible, attempt to quantify program effectiveness or failures.

PART 736—FEDERAL PROGRAMS ON STATE LANDS

The regulations in Part 736 establish the procedural requirements governing Federal programs on State lands. These procedures are necessary where the Office of Surface Mining assumes primary regulatory jurisdiction within a State when that State fails to submit an approved State program or fails to administer or enforce its approved program effectively.

In addition, the regulations specify procedures for terminating a Federal program when primary regulatory jurisdiction is returned to a State under an approved State program.

The intent of these regulations is to provide:

(1) The necessary criteria for implementing jurisdictional transfers;

(2) The procedural steps necessary to ensure orderly jurisdictional transfers; and

(3) The opportunities for public participation required by the Act.

§ 736.3 Responsibility.

Section 736.3 assigns the responsibility of a Federal program for a State to the Director and allows him to delegate this responsibility to the Regional Director. The alternatives are to leave all authority under this Section exclusively with the Director, to give all the authority to the Regional Director, and to allow the Regional Director to delegate his authority to a subordinate. Allowing the authority to remain with the Director could be cumbersome. Currently, it is not known how many States will require a Federal program. In the event that there are a large number of States requiring a Federal program for a State, this delegation is a realistic method for administering the responsibility designated under Sections 201(c) and 504 of the Act. The promulgation, revision and termination provisions shall remain exclusively with the Director to maintain consistency among the Federal programs. Allowing the Regional Director to delegate all the responsibility under this Section places much responsibility at too low a level in OSM and makes it difficult to achieve consistent application of the requirements of the Act on a national basis.

§ 736.4 Authority.

(1) Section 736.4(a) provides the Director with exclusive jurisdiction for the regulation and control of all coal exploration and surface coal mining and reclamation operations taking place on non-Federal and non-Indian lands within such State, as provided in Section 504 of the Act.

(2) Section 736.4(b) vests the Director with the exclusive jurisdiction for the regulation and control of the promulgation, implementation and maintenance of a partial Federal program for a State. This Section provides that the Director will be the regulatory authority for any part of a State program found not to be enforced effectively, while the State regulates only those aspects of the State program not affected by a partial Federal program.

(3) Section 736.4(c) is written in accordance with Section 502(f) of the Act.

§ 736.5 Definitions.

(1) Section 736.5(e) gives a definition of the "termination of a Federal program for a State," as provided for in Section 504(e) of the Act. This term identifies the legal mechanism for returning primary jurisdiction to the State under an approved State program or for returning jurisdiction to a State whose program was withdrawn in part.

§ 736.11 General procedural requirements.

(1) Section 736.11(a)(1) discusses the promulgation of a complete Federal program based on Sections 504(a)(1) and (2) of the Act.

(2) Section 736.11(a)(2) specifies that, as provided for in Sections 201 and 504(a)(3) of the Act, the Director shall promulgate a Federal program upon the withdrawal of approval of a State program. Public participation is encouraged in the development and revision of a Federal program, in accordance with Section 102(i) of the Act. The establishment of a complete or partial Federal program allows for such input.

The procedures established for promulgation of a Federal program are to be distinguished from those for substituted Federal enforcement of a State program. A Federal program requires more specific procedures and opportunity for public input, as provided for in Section 102(i) of this Act, while the substituted Federal enforcement of a State program is a more expedited procedure. One alternative considered was to allow the public to petition for the promulgation of a Federal program. However, the State withdrawal procedures in Section 733 provide criteria for the Director's evaluation of a State program. Consequently, the Director will consider public comment, as provided in Section 733.

(3) Section 736.11(b) provides for the revision of a Federal program, based on Sections 102, 501(b) and 504 of the Act. This provision allows the Office to continue to update any Federal program due to changing circumstances from physical conditions, new technology, new national requirements under the Act or new awareness of environmental affects of coal mining. Also this provision is in keeping with the charge of Section 102(i) for public participation in the process.

(4) Section 736.11(c) provides for the termination of appropriate portions of a Federal program for a State, based on Sections 102, 201, 501(b) and 504 of the Act. The Director may withdraw a Federal program when a State is considered to have the capability to carry out the appropriate provisions of the Act and this Chapter under Part 732. The alternative is to allow partial termination of a Federal program. Such an alternative may not provide enough incentive to the State to obtain an approved State program.

§ 736.12 Public notice requirements.

(1) Based on the authority of Section 102(i) and 504(b) of the Act, Section 736.12(a) requires the Director to publish notice in the FEDERAL REGISTER at least 60 days in advance of the public hearing. Publishing in the FEDERAL REGISTER allows for a wide dissemination of information concerning the Federal program. The sixty day time period provides greater opportunity for public examination than the alternative of thirty days.

(2) Section 736.12(b) provides for public notice in at least one newspaper of general circulation in the coal mining area(s) of the State. Publishing notice in the newspaper(s) allows a wider distribution of information concerning the Federal program or revision and, together with Section 736.14, gives a wider opportunity for public comment. The basis for this authority includes Sections 504(c) and 102(i) of the Act.

§ 736.13 Public comment.

Publication in the newspaper three times within 30 days of the hearing provides notification close enough to the hearing to remind interested persons of the opportunity to attend.

(1) Section 736.13 provides for public comment in the promulgation and revisions of Federal program from the solicitation of comments from other

mulgate or revise a Federal program and publishes any rules for such program.

rived from Sections 102(a), (b), (c), (d), (e), (m); 201(c); 501(b); 503(a); 504(a); 504(b) and 505.

§ 736.23 Effect on State law or regulations.

The authority for this Section is

thority set forth in the two Acts. The apportionment of authority under the two Acts precludes any other alternative with respect to division of responsibility. Section 523(a) of the Act requires that the Secretary has the authority to approve mining operations on Federal lands. Only the Secretary has the authority to approve mining permits.

The permit application requirements

(1) Section 736.13 provides for public comment in the promulgation and revisions of Federal program from the solicitation of comments from other agencies, the publication of notice in the FEDERAL REGISTER and newspapers, public participation in a public hearing, possible extension of the comment period and availability of information concerning the contents of the program and public response to it. Individually and collectively, these Sections derive their authority from Sections 102(i), 201, and 504 of the Act.

(2) Section 736.13(c) provides for a public hearing, as required by 504(c) of the Act.

(3) Section 736.13(c)(1)(i) provides for legislative procedures at the public hearing. The legislative procedures allow for comments from a broadly affected category of persons, whereas the alternative of adjudicatory procedures encompasses a more limited format on who may speak and what they may say. At the legislative hearing, all related information may be considered in any decision concerning the Federal program or revision. All relevant information needs to be elicited for the contents of a Federal program.

As the Office interprets Section 504(b) of the Act, only a legislative hearing is required. See *Vermont Yankee Nuclear Power Commission* v. *NRDC* — U.S. — (April 3, 1978); *South Terminal Corporation* v. *E.P.A.*, 504 F.2d 646 (1st Cir., 1974).

(4) Section 736.13(c)(1)(i) provides that the Regional Director or his designee shall present the contents of the proposed program or revision. This requirement is considered important in keeping the public informed of the contents, so that interested persons can respond accordingly.

(5) Sections 736.13(c)(1)(iii) and (2) are based on Section 102(i) of the Act.

(6) Section 736.13(c)(3) requires that the Regional Director submit all the evidence and recommendations for and against a Federal program or revision and any proposed contents to the Director. The Director, as provided in Section 736.15, thus makes the final decision concerning the program. The alternative is to allow the Regional Director to make the final decision; but, as discussed earlier in this Preamble, the promulgation of a Federal program or revision would require the supervision of the Director to insure some consistency in Federal programs for a State, while allowing the Regional Director to make recommendations in line with the State's relevant physical conditions.

§ 736.14 Director's decision.

Based on the authority of Sections 102, 201, 501(b) and 504 of the Act, the Director determines whether to promulgate or revise a Federal program and publishes any rules for such program.

§ 736.15 Implementation, enforcement and maintenance of a Federal program.

(1) Section 736.15(a) deals with the number of days for the Director to implement, maintain and enforce the provisions of the Federal program. Prior to the promulgation of any proposed Federal program, the Secretary will have provided adequate public notice and will have held a public hearing in the affected State. The need for the Federal program will have been established. Consequently, it was felt that a 30 day time limit would be preferable to other alternatives such as 60 days, 90 days or no time limit at all. The exceptions to the year limitation for designating lands unsuitable in a Federal program are areas so designated by Congress the implementation of a partial Federal program to administer such provisions.

The intent regarding the unsuitability for surface coal mining operations is known for those lands which Congress has already designated, and there is no need for a time delay in such designation. Also, to wait a year for the Federal program to administer the very provisions the State program was not administering would not be consistent with other provisions of the Act. One such provision is Section 102(m), which states that the purpose of the Act is to insure the protection of the public interest through effective control of surface coal mining operations. Impeding the implementation of a designation process and not implementing the intentions of Congress would not seem to protect the public interest.

(2) 736.16(b) allows the permittee to submit the sections of a new application that the Director determines to be relevant, rather than requiring the submission of an entire new application. The additional paper work probably would not produce meaningful results.

§ 736.16 Termination procedures.

This Section determines the procedure through which a Federal program is terminated. Section 504(e) is the basis of this authority.

§ 736.17 Consolidation of procedures.

Section 736.17 allows the Director to consolidate, as appropriate, public notices and hearings. This procedure avoids duplication when appropriate.

§ 736.21 General requirements of a Federal program.

Section 736.21 identifies the difference in the general requirements of a complete or partial Federal program. The authority for this Section is derived from Sections 102(a), (b), (c), (d), (e), (m); 201(c); 501(b); 503(a); 504(a); 504(b) and 505.

§ 736.22 Contents of a Federal program.

(1) Section 736.22(a)(1) requires the Director to take into consideration the State's chemical, geological, hydrological, agronomic and relevant physical conditions. All of the specified physical conditions are considered significant and should be thought about in the promulgation or revision of a Federal program for a State. This authority is derived from Sections 201(c)(9) and 504(a) of the Act.

(2) Section 736.22(a)(2) requires the consideration of relevant Federal laws imposing duties on the Secretary. The reference to four laws is to call attention to these specific laws, but this reference is not intended to exclude other relevant laws. The authority for this Section is derived from Section 102(a) of the Act.

(3) Section 736.22(a)(3) requires more stringent performance standards than those otherwise provided when the State law or regulation is more stringent in land use and environmental control and regulations than the Act or this Chapter.

(3) Section 736.22(b) identifies the minimum provisions for a complete Federal program and appropriate provisions for inclusion in a partial Federal program. This Section, contents of a Federal program, provides the basic guidelines for a Federal program for a State. The alternative considered is to provide detailed regulations delineating as many specific requirements as possible. These regulations are skeletal in design and do not enumerate the specific requirements of a Federal program for a State, since such a Federal program must consider the nature of the individual State's relevant physical conditions and local environmental and agricultural conditions, according to Sections 504(a) and 201(c)(9) of the Act. The authority for Section 736.22(b) is derived from the following Sections: Section 102(a), (b), (c), (d), (e), (i), (m); 201; 501(b); 502(d) and (f) 503(a); 504, 506-519, 521, 522(e) 524, 525, 526(f), 527, 529, 701(28), 702, 711, 713, 716, 717 and 719.

(4) Section 736.22(b)(2) derives its authority from Sections 504(h); 702(a), (b), (c); 713 of the Act and the National Environmental Protection Act. This Section identifies three Acts requiring permits which need to be coordinated with the Act and these regulations. Others could probably be listed here, but the Acts have an important impact on surface coal mining and reclamation operations.

§ 736.23 Effect on State law or regulations.

The authority for this Section is Section 504(g) and 505 of the Act.

Section 736.24 emphasizes provisions in other parts of the regulations concerning the effect of a Federal program on State findings, such as Sections 884.14, 884.16, 886.18 and 740.12 of this Chapter.

SUBCHAPTER D FEDERAL LANDS PROGRAM

PART 740—GENERAL REQUIREMENTS FOR SURFACE COAL MINING AND RECLAMATION ON FEDERAL LANDS

Part 740 sets forth the general definitions and administrative responsibilities for surface coal mining and reclamation operations on Federal lands. The term "mining plan" is defined as a complete mining and reclamation plan approved by the Secretary which complies with the requirements of the Mineral Leasing Act of 1920, as amended, the Surface Mining Control and Reclamation Act of 1977, and all other applicable laws and regulations. This definition is intended to reflect the fact that both of these Acts require mining and reclamation plans to be filed, and that surface coal mining and reclamation may not be conducted unless a mining plan has been approved by the Secretary (30 U.S.C. 207(c) and 30 U.S.C. 1273). Essentially an application for a mining plan approval would contain the information required for a permit to meet the requirements of the Surface Mining Control and Reclamation Act and a mining and operations plan which would meet the requirements imposed by the Mineral Leasing Act, as amended. The requirements for a Mineral Leasing Act which will cover the life of the mine, will be set forth in regulations to be promulgated by the United States Geological Survey in 30 CFR 211 when the regulations in this Subchapter become effective. The first three parts of the application for mining plan approval thus become the "permit application" for the purposes of the Federal Lands Program.

This section also sets forth the responsibilities for review of permit applications among the Office of Surface Mining, the Geological Survey, and the State Regulatory Authority in states which have entered into a State-Federal cooperative agreement. It is proposed that the Office of Surface Mining and the State regulatory authority would be responsible for reviewing the permit application, but the Geological Survey will be responsible for the review of Mineral Leasing Act mining and operations plan which is required to be filed with the permit application. This division is intended to reflect the apportionment of authority set forth in the two Acts. The apportionment of authority under the two Acts precludes any other alternative with respect to division of responsibilities for review of permit applications. The Department believes the proposed method for submission of applications to obtain authorization to conduct operations will facilitate review by the agencies involved and would impose no additional burden on applicants.

Section 512(e) of the Act provides that coal exploration on Federal lands shall be governed by Section 4 of the Federal Coal Leasing Amendments Act of 1975 (90 Stat. 1085 30 U.S.C. 201(b)). Section 4 provides for the issuance of coal exploration licenses, which may only be issued for lands on which a coal lease has not been issued. Regulations governing issuance of coal exploration licenses are found in 30 CFR Part 3507. Coal explorations under licenses are primarily for the purpose of obtaining geological and geophysical data and information upon which to determine whether coal deposits of sufficient quality and quantity exist in an area to justify leasing the lands involved. Under existing Departmental procedures, the Geological Survey is responsible for making such resource determinations and recommending establishment of leasing areas. Accordingly, it is proposed that the Survey will continue to be responsible for supervising the conduct of coal exploration license operations. However, coal exploration operations conducted on leased lands under a permit issued pursuant to this Chapter will be supervised by OSM.

Section 740.4(d) requires the Regional Director to, "consult and obtain the consent of the authorized officer of the surface managing agency with respect to special requirements relating to protection of natural resources." This provision is required by Section 6 of the Federal Coal Leasing Amendments Act of 1975 (90 Stat. 1807 30 U.S.C. 207(c)), which states that, "Where the land involved is under the surface jurisdiction of another Federal agency, that other agency must consent to the terms of such approval."

Section 740.4(f) requires that the Regional Director consult with the authorized representative of the surface managing agency for approval of all bonds. Concurrence on performance bonds is needed to assure that the bond is adequate to protect natural resources not otherwise covered by these regulations and to achieve the desired post-mining land use.

PART 741—PERMITS

Part 741 provides for application for and revision, renewal and cancellation of permits to conduct surface coal mining operations on Federal lands. Only the Secretary has the authority to approve mining permits.

The permit application requirements for the Federal lands program are intended to be identical to that of State programs pursuant to Subchapter G *except* for requirements imposed by other Acts. The preamble to the State permit application process explains the Federal lands permit regulations which are parallel to those of the State program. Those additional requirements will be discussed in the following paragraphs on individual regulations.

Section 741.4(b) provides for joint review of applications for permits, revisions and renewals by the authorized State regulatory authorities and the Regional Directors where cooperative agreements under Section 523(c) of the Act are in effect. A joint review is required because the State will review for compliance with State reclamation standards, and the Regional Director will review the requirements of the National Environmental Policy Act and will incorporate the review and recommendations of other Federal agencies.

Section 741.11(a) requires that all operators of surface coal mining and reclamation operations file a complete permit application not later than two (2) months following the effective date of the regulations in this Subchapter. The legislative history of the Act indicates that Congress intended the effective date of the Federal lands program to be the effective date of the regulations in this Subchapter. The authority for the time periods within which to file an application and obtain a permit contained in Sections 741.11(a) and (b) may be found in Section 506(a) of the Act. These requirements are extended to private lands where both Federal and private lands are included in the same mining plan.

The Department proposes in Section 741.12(d) that the information to be included in the application for mining plan approval shall be identical to that required in Subchapter G. Accordingly, the regulations cross-referenced to pertinent Parts of Subchapter G for the information and data to be included in the application. An alternative, repeating verbatim all of the requirements of this Part was rejected since it would be too highly repetitious and would unduly increase the bulk of the regulations. The same method is proposed for regulations governing the procedure to obtain authorization to conduct special types of mining operations in Section 741.13.

This Section also requires that a Federal lessee protection bond must be submitted to the Regional Director when the applicant cannot obtain written consent of a permittee or

lessee to enter and commence surface coal mining operations on Federal lands. This type of bond is specifically required by Section 715 of the Act to

43 CFR 3504 may apply for the release of that portion of the bond that is already covered by the performance bond issued under Section 742.12(a)

and resource recovery. It is the responsibility of the Mining Supervisor to coordinate inspections through the Regional Director to the maximum

of the Act would leave the States and the public completely uninformed about the procedures for entering into

tion is already assured in other provisions of this Chapter. Such participa-

vites the States and others to comment on the most satisfactory procedure to be followed.

lessee to enter and commence surface coal mining operations on Federal lands. This type of bond is specifically required by Section 715 of the Act to secure payment of any damages to the surface estate. This is a requirement in Section 715 of the Act.

Section 741.14(b) provides for termination of the permit by the Secretary if surface coal mining operations have not commenced within three years, unless extended under specific circumstances. Permits on Federal lands cannot be extended beyond the period allowed for diligent development in accordance with Section 7 of the amended Mineral Leasing Act of 1920. This restriction is found in Section 506(c) of the Surface Mining Act.

Sections 741.16(a), (b) and (c) contain certain criteria for approval of permits. These criteria are the same as prescribed in Part 786, except for the requirements in subparagraph (d), (e) and (f) which require additional findings applicable only to operations on Federal lands.

Section 741.17 contains the requirements for public participation in the permit review process. The requirements are identical to those in Part 787. In practice, the Regional Director will be responsible for providing notice of permit applications, obtaining the views of interested parties and governmental agencies and scheduling conferences and public meetings on applications. These requirements are authorized by Section 513(a) of the Act.

Subpart 741.23 contains provisions whereby a transfer, assignment or sale of the rights granted under a permit may be made upon approval of the Secretary, in accordance with Part 792. The provision in paragraph (e) is intended to clarify the fact that rights granted under a permit are separate and distinct from the leasehold rights granted under a lease issued pursuant to the Mineral Leasing Act. Transfers of leasehold rights must be approved in accordance with Section 30 of the Mineral Leasing Act, as amended (30 U.S.C. 187), which requires Secretarial approval of any assignment or subletting. The regulations in 43 CFR 3506 contain the requirements for obtaining approval of such assignments.

PART 742—BONDS ON FEDERAL LANDS

Lessees are required under 43 CFR 3504 to submit a Federal lease bond to assure compliance with the terms and conditions relating to diligence, production, royalty and rental of a Federal coal lease issued under the Mineral Leasing Act of 1920. The performance bond required by this Part assures compliance with performance standards under SMCRA. These regulations propose that after the effective date of this Subchapter, lessees with existing Federal lease bonds issued under 43 CFR 3504 may apply for the release of that portion of the bond that is already covered by the performance bond issued under Section 742.12(a). After the effective date of this Subchapter, permit applicants will be required to obtain the performance bond required by this Part and a Federal lease bond will continue to be required under 43 CFR 3504. The authority for the Federal lease bond requirement may be found in the Mineral Leasing Act. However, the coverage of the Federal lease bond will be limited to lease terms and conditions to avoid dual bonding.

Section 509 of the Act authorizes acceptance of bonds without separate surety under certain conditions. The regulations of this Part do not contain a provision pursuant to this Section. Standards for protection of public resources have traditionally been set at the highest level, thus precluding self-bonding. Public comment is invited upon whether such a provision should or should not be included.

Subpart 742.13 provides for a Federal lessee protection bond in those instances where Federally-owned coal is to be mined, the surface of the land is subject to a lease or permit not held by the operator, and the applicant is unable to obtain the consent of the permittee or lessee to enter and commence surface coal mining. This provision is authorized by Section 715 of the Act.

Subpart 742.17 requires a liability insurance policy to compensate all persons injured or property damaged as a result of surface coal mining and reclamation operations in accordance with Part 806, except that as proposed this section would prohibit the application on Federal lands of the provision for self-insurance equivalency in Part 806. As in the case of self-bonding, self-insurance is prohibited in the interest of providing the highest possible protection on public lands. Public comment is invited on this provision.

PART 743—INSPECTIONS, ENFORCEMENT, AND CIVIL PENALTIES

Part 743 provides for inspection of surface coal mining and reclamation operations and enforcement of applicable laws and regulations.

The primary responsibility for inspection to assure compliance with environmental protection requirements on Federal lands rests with the Regional Director. These responsibilities may be assumed by a State regulatory authority under a State-Federal Cooperative Agreement entered into pursuant to Part 745 of this Subchapter.

The Mining Supervisor is responsible for inspection to assure compliance with lease terms and conditions relating to coal development, production and resource recovery. It is the responsibility of the Mining Supervisor to coordinate inspections through the Regional Director to the maximum extent practicable. The internal procedure to accomplish this is set forth in a division of responsibility between the Office of Surface Mining, the Geological Survey and the Bureau of Land Management in a document approved July 5, 1978.

PART 744—PERFORMANCE STANDARDS ON FEDERAL LANDS

The purpose of this Part is to set forth unique performance standards applicable to operations on Federal lands which are not found in Subchapter K. These standards relate to obligations imposed by the Mineral Leasing Act, as amended. The public is invited to comment on any additional performance requirements which should be included in this Part. In addition, this Part sets forth the procedures and requirements for temporary or permanent abandonment of operations. As used in this Part, "abandonment" is intended to be synonymous with "suspension" or "termination" of operations.

PART 745—STATE-FEDERAL COOPERATIVE AGREEMENTS

Part 745 provides the criteria and procedures for a Cooperative Agreement between the Secretary and a State including requirements and limitations. The legislative history of the Act indicates that the primary objective of Cooperative Agreements is to take into account mixed sections of the private and Federally owned surface. This ownership pattern has effectively provided State control over alternate sections of land. The purpose of Cooperative Agreements is to bring all such sections into a single regulatory program. The authority for this Part may be found in Section 523(c) of the Act.

Section 523(c) of the Act, unlike other sections, does not prescribe detailed requirements for the State-Federal Cooperative Agreements. Consequently, the Office may be very flexible on the procedures to be followed. Certain provisions are required by the Surface Mining Act or other Acts which prohibit the Secretary of the Interior from delegating his authority.

A number of comments were received on a draft version of this Part suggesting changes and additions, including in one case a complete rewrite of the Part. One commenter suggested that the entire part be deleted from the regulations. The Office has elected not to accept this suggestion for the reason that failure to promulgate regulations implementing Section 523(c) of the Act would leave the States and the public completely uninformed about the procedures for entering into cooperative agreements; the limitations of each agreement; and the terms, conditions or circumstances under which such agreements may be modified or terminated. Although the Office of Surface Mining recognizes that cooperative agreements will be slightly different from State to State in order to take into account differing factors, such as a State's legal authority to regulate operations on Federal lands, it is felt that regulations setting forth minimum standards for cooperative agreements are essential.

Section 745.11, which was titled *General requirements and limitation* in a preproposed draft has been re-titled *Application and Agreement* and reorganized to set forth the data and information which it believes the Office of Surface Mining and the Secretary will need in order to make the determination required by Section 523(c) of the Act that the State has the necessary personnel and funding to fully implement a cooperative agreement. Much of the information is the same as, or similar to, information States are required to file under Part 771, in order to obtain approval of a State program. It is not intended that duplicative information would be collected. Accordingly, Section 745.11(b) would not require States to repeat information which it has already submitted as a part of its State Program application. Comments are requested on the need for additional information or reasons why particular information should not be required.

Section 745.11(c), (d) and (e) would establish procedures for participation by the public and governmental entities in the review of a proposed cooperative agreement. These procedures are similar to the requirements for public participation in various other parts of the regulations and would include a requirement for a public meeting to be held in the State capitol one month after the notice of a request to enter into an agreement is published in the FEDERAL REGISTER and newspapers of general circulation throughout the State. The Office recognizes that some States may elect to request a cooperative agreement at the same time an application for a State program is filed. Accordingly, it proposed that the public meeting requirement in this Part could be combined with the meeting required by Part 732 for a State program. Comments on the proposed procedure for public participation are requested.

The Office has not accepted a comment that cooperative agreements require provisions for citizen participation in inspection and enforcement procedures because citizen participation is already assured in other provisions of this Chapter. Such participation is required as part of the State regulatory program upon which the cooperative agreement is based. Also, not accepted is a suggested requirement that *quarterly* reports to the Regional Director be required concerning the number of State inspections, the number of violation and cessation orders, and the amount of permit fees. The Office has no information before it to justify requiring quarterly reports and believes the nature and timing of reports that should be required can best be resolved as a part of the cooperative agreement.

Section 745.13 recites the authority which the Office believes must be reserved to the Secretary and cannot be delegated to a State under a cooperative agreement. The authority for the reservation in subparagraphs (a), (c), (d), (e), (f), and (i) is found in Section 523(c) of the Surface Mining Act. The reservations in subparagraphs (g), (h), (b), and (l) are required by the Mineral Leasing Act. In addition, the Office has concluded that the authority to prepare environmental impact statements required by the National Environmental Policy Act should not be delegated in light of court decisions, such the opinion in *Conservation Society for Southern Vermont* vs. *Secretary of Transporation* 362 F. Supp. 627.

The Office has not in this draft included one commenter's suggested procedures for modification of agreements which includes detailed provisions for notice of State requests for modifications and hearings because the same subject matter is already covered by the requirements in Section 746.15 that amendments must be adopted by rulemaking.

Section 745.18 provides that permit application fees collected by a State under an agreement shall be retained by the State. Section 705(c) of the Act provides that if a State elects to enter into a cooperative agreement under Section 523(d) of the Act, the Secretary may increase the amount of annual grants by an amount which he determines is approximately equal to the amount the Federal Government would have expended for regulation of operations on Federal lands. Under the proposed provision the Secretary could either (a) allow the State to retain the permit fees and deduct the amount collected from the annual State grant or (b) require the fees to be forwarded to OSM, thereby eliminating any requirement to adjust the amount of annual State grant. The office does not believe there is a legislative history to justify a conclusion that the States are entitled to receive both the fees and the increase in annual State grants. The Office is entirely flexible on this matter and invites the States and others to comment on the most satisfactory procedure to be followed.

SUBCHAPTER F—AREAS UNSUITABLE FOR MINING

Section 522 of the Surface Mining Act establishes a procedure to designate areas unsuitable for all or certain types of coal mining, thereby enabling the State and Federal governments to respond to conflicts which often arise between coal mining and other uses of the land. This Subchapter implements the provisions of Section 522(a)(1) for establishing a State planning process, of 522(a)(2) for mandatory designations when reclamation is infeasible; 522(a)(3) for discretionary designations according to the criteria in 522(a)(3)(A)-(D), 522(a)(4) state process requirements, 522(a)(5) implementation requirements, 522(a)(6) exemptions, 522(c) petitions, 522(d) economic, environmental and resource impact statements, and 522(e) limitations and prohibitions of mining.

Lands covered by the petition process are all private and State-owned lands within a State and all Federal lands as defined in the Act. Additionally, for Federal lands, the Act provides for a Federal coal lands review which is a review process for Federal lands in addition to the petition process. Indian lands are not covered by these regulations. The petition process, the Congressional designations, except where specifically exempt and the Federal coal lands review all apply to the surface effects of underground mining as well as surface mining.

Under the procedures for designation, citizens can petition the regulatory authority to designate certain areas unsuitable for all or certain types of surface or underground coal mining. If the regulatory authority designates an area unsuitable for mining, it is then prohibited from issuing permits for that area. Additionally, there are procedures for citizens to petition the regulatory authority to terminate a designation of unsuitability for mining. If a petition to terminate a designation is successful, the regulatory authority may then issue permits for that area.

The regulatory authority must consider petitions which are filed after a permit application has been filed. Once a permit has been granted however, the regulatory authority cannot retract a permit when a petitioner seeks to designate a permitted area.

The regulatory authority is required to respond to two types of petitions. If a petition alleges that reclamation is not technologically and economically feasible under the standards of the Act, these regulations, or the laws and regulations pursuant to an approved

State or Federal program, and the regulatory authority agrees, the regulatory authority is then required to designate an area unsuitable for all or for all or certain types of surface coal mining operations.

The main issues facing the drafters of these regulations are:

have been included in the definition of person and may petition to have areas designated unsuitable. Previous drafts of these regulations did not contem-

mining pursuant to Section 522 of this Act or is not within an area under study for such designation in an administrative proceeding commenced

planning decisions concerning surface coal mining operations. It also provides in 522(a)(3)(A) that, where coal mining would be incompatible with

States are referred to a Missouri River Basin Commission report, *Designating Areas Unsuitable for Surface Coal Mining: Preliminary Interpretation of*

State or Federal program, and the regulatory authority agrees, the regulatory authority is then required to designate an area unsuitable for all or certain types of surface mining. If a petition seeks to designate certain fragile, historic, renewable resource or natural hazard lands unsuitable for all or certain types of surface mining, the regulatory authority has discretion to designate an area unsuitable if it finds that surface mining operations would:

"be incompatible with existing State or local land use plans or programs"; or

"cause significant damage to important cultural, scientific, and esthetic values and natural systems"; or

"result in a substantial loss or reduction of long range food or fiber productivity"; or

"substantially endanger life and property in areas subject to frequent flooding or unstable geology."

Unlike the permit application process, the designation process is to be applied on a natural *area* basis, rather than a specific mine or site-by-site basis. Congress determined that the area-by-area approach will benefit the coal industry because the industry can learn, in advance of permit application, those areas which are not open to mining or certain mining methods. *Report of the House Committee on Interior and Insular Affairs, Surface Mining Control and Reclamation Act of 1977, p. 95.*

The regulations of this Subchapter are divided as follows:

1. Part 760 explains the general requirements for State programs, Federal programs within States, the petition process, and areas where the Act prohibits or limits surface coal mining operations under certain conditions.

2. Part 761 establishes procedures to be followed in determining whether a proposed surface coal mining operation is prohibited or limited by the requirements of Section 522(e) of the Act. It also contains definitions and procedures to be used in determining whether a proposed surface coal mining operation is exempt from these prohibitions or limitations.

3. Part 762 contains the criteria to be used in determining whether an area (either State or Federal lands) is unsuitable for all or certain types of surface coal mining operations.

4. Part 764 sets forth the minimum requirements for a State program to designate areas unsuitable for all or certain types of surface coal mining operations.

5. Part 765 provides the minimum requirements for a Federal program in a State to designate areas unsuitable for all or certain types of surface coal mining operations.

6. Part 769 contains the process for petitioning Federal lands as unsuitable for all or certain types of surface coal mining operations.

The main issues facing the drafters of these regulations are:

1. Who may petition for designation or termination;

2. How to resolve potential conflicts between the permit process and the designation process when petitions are filed for areas where a permit application is pending;

3. Whether to protect the confidentiality of a petitioner;

4. How to implement Section 522(a)(4)(c) which requires States "to have a method or methods for implementing land use planning decisions concerning surface coal mining operations."

5. How extensive should be the data base and inventory system that a State is required to establish;

6. Whether to require the regulatory authority to hold a fact finding or an adjudicatory hearing;

7. How to define valid existing rights and substantial legal and financial commitment;

8. What judicial review is required after State regulatory authority decisions on petitions;

9. Whether to develop criteria for where designations should be made because reclamation is not technologically and economically feasible;

10. Whether to establish some thresholds for determining when the regulatory authorities would be required to designate areas unsuitable for mining under the discretionary criteria; and

11. Coordination of petitions for Federal-State areas, cross State areas, and Indian lands and other areas.

Who may petition:

The Act states, "Any person having an interest which is or may be adversely affected shall have the right to petition the regulatory authority to have an area designated as unsuitable for surface coal mining operations or to have such a designation terminated." (522)(c).

The definition of "person" partly determines who may petition. The OSM regulations expand on the language of the Act. In the Act, the term, "person" is defined as follows: "individual, partnership, association, society, joint stock company, firm, company, corporation or other business organization." The present draft of the regulations expands the definition of person by incorporating all governmental entities listed in Section 524 of the Act. That Section lists the following entities: "Any agency, unit, or instrumentality of Federal, State, or local government, including any publicly owned utility or publicly owned corporation of Federal, State or local government". Thus, under the present draft, State agencies and local units of government have been included in the definition of person and may petition to have areas designated unsuitable. Previous drafts of these regulations did not contemplate an expanded definition of person; instead it had been left to the States to decide whether to expand the definition.

The other requirement for a petitioner is to have standing. The legislative history indicates Congress intended "an interest which is or may be adversely affected" to be construed to be coterminus with the broadest standing requirements enunciated by the U.S. Supreme Court. See: *Sierra Club* v. *Morton*, 405 U.S. 727 (1972). The legislative history further indicates that where there is doubt, the doubt should be resolved in favor of public participation. (121 Cong. Rec. 13368, May 7, 1975).

A petitioner must state which of his/her activities or interests would be adversely affected by mining the area which is proposed for designation. The regulatory authority must then determine if the petitioner has standing. Where there is doubt, however, the legislative history indicates that Congress intended for the regulatory authority to resolve the doubt in favor of public participation. (*121 Cong. Rec. 13368, May 7, 1975*).

Related to the issue of who may petition is the issue of whether or not a State agency could initiate a designation without petitioning. This procedure would parallel the Federal coal lands review under 522(c). The Act does not explicitly authorize any such procedure, yet the legislative history explicitly states that designations must be initiated by petitions. *S. Rep. No. 128, 95th Cong., 1st Sess. 93 (1977).*

OSM considered two alternative solutions to the issue of who may petition. Leaving the definition of person as it stands in the Act would exclude local governments and State agencies from filing petitions. This solution was rejected because the drafters believe that participation in the process of designating lands unsuitable and terminating designations should be as broad as possible. Permitting State agencies to initiate designations without filing petitions was considered but was rejected because the legislative history (*Ibid*) explicitly states that designations must be pursuant to petitions.

How to resolve potential conflicts between the permit process and the designation process when petitions are filed for areas where a permit application has also been filed.

Section 510(b)(4) of the Act states that no permit may be issued by the regulatory authority unless it finds in writing that "the area proposed to be mined is not included within an area designated unsuitable for surface coal

mining pursuant to Section 522 of this Act or is not within an area under study for such designation in an administrative proceeding commenced pursuant to Section 522(a)(4)(D) or Section 522(c)."

As drafted, these regulations establish the point at which a permit application will be deemed so close to approval that, even if a designation petition is filed, the permit can still be issued in spite of Section 510(b)(4). In this draft that point is by the end of the informal conference period, or if there is no conference, at the end of the comment period. Without some limitation a petitioner could tie up the permit for a mining operation indefinitely by filing repeated petitions, no matter how frivolous.

One alternative considered was not including a time limit for petitions to affect application process. OSM explicitly solicits comment and guidance on how to resolve this problem.

Confidentiality of petitioner.

Section 703 of the Act protects employees from being fired or otherwise suffering discrimination. The Act is unclear how much, if any, similar protection should be afforded a person who files a petition to designate lands unsuitable. The present draft of the regulations requires a petitioner to give his/her name in order to make the petition complete. The present draft of the regulations would afford some measure of confidentiality to a petitioner only if the petition were filed by an organization rather than an individual because an individual's name is not required where an organization files a petition.

OSM considered the alternative of not requiring the petitioner to state his/her name in a petition. This alternative was not adopted because the drafters did not believe that protecting the identity of the petitioner was authorized by the Act. The drafters believe there are countervailing concerns of providing due process for owners of coal whose use of the coal in an area proposed for designation would be affected versus providing some measure of protection for a citizen who exercises his right to petition under the Act. The drafters believe that it is extremely difficult to hide the identity of a petitioner. Attempting to do so might persuade some citizens to petition, believing that their identities were protected when, in fact, their identities might be revealed.

How to implement Section 522(a)(4)(C) which requires States to have, "a method or methods for implementing land use planning decisions concerning surface coal mining operations."

The Act requires each State to have as part of its designation process a method for implementing land use planning decisions concerning surface coal mining operations. It also provides in 522(a)(3)(A) that, where coal mining would be incompatible with land use plans, this incompatibility is grounds for granting a petition to have an area designated unsuitable for mining.

The present draft of the regulations requires only that in implementing a designation decision the regulatory authority not issue permits which would be inconsistent with designations.

This draft does not expand on the implied authority to require States to have land use planning authority because this is a much larger question than regulation of surface coal mining. Nationwide land use planning was rejected by Congress when it defeated proposed legislation for national land use planning. The drafters believe that the Act does not require that a State obtain land use planning authority, but only that it develop a method for implementing designation decisions.

This issue is also important in many States that have statutes prohibiting-*zoning* against mining, because zoning and land use planning are sometimes viewed as synonymous. The drafters of these regulations disagree with this view; instead the drafters maintain that zoning is only one method of implementing land use plans which can be implemented in a variety of ways such as tax policies, and purchasing and receiving easements. Although the drafters considered requiring States to repeal laws prohibiting zoning against mining, this alternative was rejected because the drafters believe zoning and land use planning are not synonymous.

Extent of the requirement for a State to establish a data base and inventory system.

The Act requires that, as part of the approved State program under Section 503(a), a State "must demonstrate that it has developed or is developing a process which includes. . . (B) a data base and an inventory system which will permit proper evaluation of the capacity of different land areas of the State to support and permit reclamation of surface coal mining operations" (522(a)(4))

The present draft of the regulations does not require a complete data base for State program approval and does not spell out detailed minimum requirements for a State data base and inventory system. Instead, this draft restates the language of the Act, provides for the data base to include information relevant to all the criteria to designate lands unsuitable, the Clean Air Act, information from the U.S. Fish and Wildlife Service, and information from State Historic Officers. For additional guidance, the States are referred to a Missouri River Basin Commission report, *Designating Areas Unsuitable for Surface Coal Mining: Preliminary Interpretation of Section 522 of Public Law 95-87* (Missouri River Basin Commission, May 1978). The regulations also provide for adding to the data base as new information becomes available from petitions, publications, experiments, permit applications, mining operations and other sources.

An alternative considered was requiring each State to have an on-line computer-based data system at the time the State applies for State program approval. The drafters rejected this alternative because of the difficulty in anticipating exactly what kinds of data would be required in each State and because of the expense to the State and to OSM. Under Part 740 of the regulations OSM will fund States to establish and maintain data bases. OSM does not intend to fund efforts which would duplicate existing data, however.

Another alternative considered was requiring each petition to be considered on a site-specific basis, with no burden on the State to compare the area proposed for designation with other similar areas in the State. The drafters rejected this alternative because it would not provide any way of comparing the value of the area proposed for designation with other similar areas in the State. The drafters believe there is a burden on the State to establish a measure of uniqueness for areas covered by petitions under the discretionary criteria of Section 522(a)(3). For example, if there is only one spruce bog within a State which also happens to be threatened by mining there would be more reason to designate that one spruce bog unsuitable for mining than if there were 100 spruce bogs within a State, most of which were not threatened by mining. A data base and inventory system should enable the State to measure the uniqueness of areas and resources proposed for designation.

Whether to require the regulatory authority to hold a fact-finding hearing or an adjudicatory hearing

The Act provides that the regulatory authority must hold a "public hearing in the locality of the affected area, after appropriate notice and publication of the date, time, and location of such hearing" (522(c)). The Act does not specify the type of hearing required but it does spell out the kinds of information required of a petitioner: "allegations of facts with supporting evidence which would tend to establish the allegations" (522(c).) Thus, the Act does not require the petitioner to establish at the outset that what is in the petition is fact, but only to provide allegations and supporting evi-

dence. This requirement therefore suggests that the hearing should be legislative and fact-finding, rather than adjudicatory. Consequently, the

schools, churches, community or institutional buildings, public parks or cemeteries.

Valid existing rights has different

reclamation is not technologically and economically feasible.

Section 522(a)(2) of the Act requires the regulatory authority to designate

Coordination of petitions for Federal-State areas, cross-State areas, and Indian lands and other areas.

The Act requires that the designa-

the United States into 2,100 separate geographical "catalog units," with about 700 of those units located in the coal mining areas of the country. Each

avoid duplication and coordinate permit processes under State programs with permits and environmental planning processes required under

dence. This requirement therefore suggests that the hearing should be legislative and fact-finding, rather than adjudicatory. Consequently, the present draft of the regulations requires that the regulatory authority hold a legislative or fact-finding hearing. The drafters of the regulations believe a legislative hearing is consistent with the Act's threshhold requirement for the petitions.

An alternative considered was to require an adjudicatory hearing with cross-examination of witnesses. The drafters rejected this alternative because an adjudicatory hearing would be inconsistent with the threshhold for a complete petition.

The regulations place the burden of gathering facts on the regulatory authority. It must gather all the facts it can before making a decision on a petition. Under Section 764.19 the regulatory authority is required to use information from the data base and inventory system, information provided by other governmental agencies, an economic and environmental report under Section 764.17(b) and any other information submitted to the regulatory authority prior to or in connection with the public hearing in reaching a decision. Thus this draft places a burden on the regulatory authority to make a substantial case for its decision. If a decision is appealed, it is the regulatory authority which must defend that decision in administrative hearings or in court.

Another alternative considered was requiring the burden of proof to be placed on the petitioner. OSM rejected this alternative, believing that placing a burden of proof on the petitioner was inconsistent with the Act's explicit provision that a petitioner need only provide "supporting evidence which would tend to establish the allegations."(522(c).) With the large amount of discretion afforded the regulatory authority it makes little sense to place a burden of proof on the petitioner. However, under these regulations, the petitioner must meet the statutory burden of going forward and cannot trigger the process on nothing more than a request for designation.

How to define valid existing rights and substantial legal and financial commitments.

Section 522(e) of the Act states, "After the enactment of this Act and subject to valid existing rights no surface coal mining operations except those which exist on the date of enactment of this Act shall be permitted" on lands in certain Federal systems, on land which would adversely affect any publicly owned park or place included in the National Register of Historic Sites with certain exemptions, and within certain limits of public roads, occupied dwellings, public buildings, schools, churches, community or institutional buildings, public parks or cemeteries.

Valid existing rights has different meanings depending on whether the land in question is Federal land subject to the Federal mining and leasing laws or is private or State-owned land. The definition of valid existing rights in the proposed regulations reflects this distinction. For Federal lands, a valid existing right does not include having a permit to mine, but includes stages just short of a permit. For State lands a valid existing right includes having all necessary State and Federal permits.

The drafters considered not defining valid existing rights, but rejected this alternative because not defining the term would lead to inconsistencies across the nation. The definition adopted is consistent with Federal mining and leasing law and practice in many States.

Substantial legal and financial commitments applies to all the categories of designations mentioned in 522(a) where the substantial legal and financial commitments were established prior to January 4, 1977.

The drafters considered not defining "substantial legal and financial commitments" but rejected this alternative because a reading of the legislative history made it clear that Congress intended a specific meaning in using this term in the Act. *See: 121 Cong. Rec. 6114, March 11, 1975, p. 6120.*

What judicial review is required after State regulatory authority decisions on petitions.

The Act does not mention judicial review specifically in relationship to Section 522 of the Act, but states in Section 526 that "(e) Action of the State Regulatory Authority pursuant to an approved State program shall be subject to judicial review by a court of competent jurisdiction in accordance with State law."

This draft of the regulations provides for judicial review of questions of determinations concerning valid existing rights and substantial legal and financial commitment in order to settle whether or not certain lands are subject to the designation procedures or the Congressional designation under 522(e).

The drafters considered not requiring separate judicial review of valid existing rights and substantial legal and financial commitment. This alternative was rejected on the grounds that it would be to the advantage of all parties to have those questions settled separately from any designation or permit application proceedings.

Whether to develop criteria for when designations should be made because reclamation is not technologically and economically feasible.

Section 522(a)(2) of the Act requires the regulatory authority to designate an area unsuitable for all or certain types of surface coal mining operations if it determines that reclamation pursuant to the requirements of the Act is not technologically and economically feasible.

The present draft of the regulations does not contain any criteria for reaching this determination other than the language of the Act. The drafters believe there is a burden on State regulatory authorities to collect data relevant to reclamation feasibility for inclusion in the data base to use in these determinations.

The drafters considered developing special criteria for designations in the case of economic and technological infeasibility of reclamation, but decided against this approach because the technology and economics of reclamation are constantly changing, outdating any criteria developed at a fixed point in time. The drafters believe the language of the Act, the regulations, and approved State programs will provide sufficient guidance for making these designation decisions.

Whether to establish some thresholds for determining when the regulatory authorities would be required to designate areas unsuitable for mining under the discretionary criteria.

The Act states that designations pursuant to criteria under 522(a)(3)(A)(B)(C) and (D) are discretionary and should, to be considered "upon petition" and the language of the Act makes it clear that even where the regulatory authority acknowledges that coal mining would damage these categories of lands, it has discretion to disapprove a designation petition, allowing a permit applicant to pursue a permit under the standards established by the Act, the regulations, and an approved State program. The Act establishes no thresholds which would indicate where designations should be made, unlike 522(a)(2) which requires the regulatory authority to designate an area as unsuitable if it determines that reclamation is not possible.

The drafters considered adopting some threshold criteria for requiring a regulatory authority to make designations pursuant to 522(a)(3) but rejected this alternative for two reasons. There is no authority in the Act to do so and there are no threshold criteria which would apply nationwide. Instead of providing for threshold criteria, the Act requires States to adopt all the designation criteria under Section 522 and where discretion is provided under 522(a)(3), to use that discretion on a petition-by-petition basis.

Coordination of petitions for Federal-State areas, cross-State areas, and Indian lands and other areas.

The Act requires that the designation process must be part of every approved State program for non-Federal and non-Indian lands within each State. The Act specifically reserves the designation determinations on Federal lands to the Secretary of the Interior (523(c)) and makes no provisions for designations on Indian lands until the Secretary of the Interior has studied the question of the regulation of surface mining on Indian lands (710(a)).

These regulations are silent on coordination of petition processes for State, Federal, and Indian lands. The drafters solicit comment on this problem in order to ensure that the designation process is orderly and coordinated among the various categories of land ownership or management.

SUBCHAPTER G—SURFACE COAL MINING AND RECLAMATION OPERATIONS PERMITS SYSTEM

PART 770—GENERAL REQUIREMENTS FOR PERMIT SYSTEMS UNDER STATE PROGRAMS

§ 770.5 Definitions.

(1) The term "complete application" is defined to insure that appropriate distinction is made in this Subchapter between: (i) those permit applications which, although filed with the regulatory authority, do not contain all information needed for a final decision to approve or disapprove a permit; and, (ii) those applications which are full and complete for the purpose of a final decision by the regulatory authority.

The consequences of a "complete application" are important, since OSM proposes that the Subchapter's time constraints for action upon an application by the regulatory authority (see Parts 787, 788) begin only with the filing of a "complete application" and that only a "complete application" may be given final consideration for approval/disapproval of a permit. See Sections 510, 514(a) of the Act.

(2) The term "general area" is based upon the requirements of the Act at Section 507(b)(11) and 510(b)(3), that the regulatory authority conduct an assessment of the impact on the hydrologic balance of all anticipated mining in the "general area" around the proposed permit area, prior to issuing or denying a permit. As proposed, the term "general area" would, in general, be delimited according to "catalog units" derived from a national program administered by the Department's Office of Water Data Coordination (OWDC) within the U.S. Geological Survey (USGS). This program has resulted in the division of the United States into 2,100 separate geographical "catalog units," with about 700 of those units located in the coal mining areas of the country. Each "catalog unit" represents a separate surface water sub-basin. The "catalog units" are based on grouping of approximately equal sized surface water sub-basins, with approximately equivalent rainfalls within regional areas. Copies of all these maps are contained in the OSM administrative record and are being published in 1:500,000 maps of each State and will shortly be released by the USGS as a 1:750,000 map of the United States.

The "catalog units" selected are now being used as the basis for segregation of water quality and quantity data stored in the NAWDEX and WATSTORE programs of the USGS. Work is also underway to make the EPA's STORET water data storage system conformable with these units. In addition, the Geography Program of the USGS is publishing 1:250,00 land use maps of the United States which show the "catalog unit" boundaries for close correlation of landuse data and water data.

Papers contained in the OSM Administrative record under Section 701.5 provide further detailed information on the process used to develop the "catalog unit" concept.

As an alternative to the use of "catalog units," OSM considered using approximately 350 larger full basin-sized areas. Those larger units are now used as "accounting units" by the USGS. This alternative has tentatively been rejected, because, the larger units would not provide sufficiently small sizes for meaningful characterization of water quality and quantity data between separate units.

Another alternative considered was to segregate areas into units on the basis of the extent to which the surface waters overlay major coal seams. Due to the lack of any definite relationship between collection of data for determining surface water data characteristics and the extent of underlying coal seam locations, this alternative has also been tentatively rejected.

§ 770.12 Coordination with requirements of other laws.

Authority for this section is found in Sections 102; 201(c)(2), (6), (9), (12); 501(b); 503(a)(4), (6); 505; 508(a)(9); 510(c); 702(a), (b), (c); and 713(a) of the Act; the Endangered Species Act of 1973, 16 U.S.C. Section 1531 et seq; The Fish and Wildlife Coordination Act, 16 U.S.C. Section 661 et seq; The National Historic Preservation Act of 1966, 16 U.S.C. Section 470; Executive Order No. 11593; The Archaeological and Historic Preservation Act of 1974, 16 U.S.C. Section 461. This Section would implement the Act's mandate to avoid duplication and coordinate permit processes under State programs with permits and environmental planning processes required under other State and Federal laws.

It should be noted that, for the Clean Air Act and Clean Water Act, Sections 780.14, 780.19(i), and 784.12(j) of this Subchapter also require that it be indicated in the application how the relevant requirements of those laws will be complied with during the conduct of mining operations. For the requirements of the Endangered Species Act, National Historic Preservation Act, and Archaelogical and Historic Preservation Act, specific additional provisions of Subchapter G would provide more detailed co-ordination requirements in the context of preperation, review and decision of permit applications. *See, e.g.,* Sections 779.12(b), 789.19(c), 779.20, 779.24(i), 780.13(b), 780.13(c)(13), 780.15, 780.23, 780.31, 783.12(b), 783.19(c), 783.20, 783.24, 784.16, 784.20, 784.22(b), 786.15(e) of this Subchapter.

PART 771—GENERAL REQUIREMENTS FOR PERMITS AND APPLICATIONS

§ 771.11 General requirements for permits—Operators.

Authority for this section is Sections 102; 201; 501(b); 502(d); 506(a); 515; and 516 of the Act. This Section would establish the requirement that no person conduct surface coal mining and reclamation operations without a valid permit issued under a regulatory program, on or after eight months from approval of a program, except in the limited circumstance covered by Section 771.13. Section 771.11 is proposed to implement particularly Sections 102 (b), (c), (d), (e) and 506(a) of the Act, so that mining is not conducted under regulatory programs, until after the regulatory authority has determined that the operations will be conducted in compliance with the applicable environmental protection performance standards of Subchapter K.

The Office is aware that the requirement that permits be obtained within eight months from approval of a State or Federal program will make it necessary for those States which obtain approvals of State programs to process large volumes of applications in a short period of time after the date of approval. The Office recognizes the burden that this will place on the industry, the State regulatory agencies, and the public. However, this requirement is expressly mandated under Sections 502(d) and 506(a) of the Act.

§ 771.13 Continued operation under interim permits.

Authority for this section is found at Sections 102 (a), (c), (d), (e); 201(c);

501(b); 502; and 506(a) of the Act. This section is proposed to implement the provision for the exception in Section 506(a), whereby a person may continue mining under a permit issued under a State program which was in force on August 3, 1977, for a period of up to three years from the date of approval of the State program, if the regulatory authority finds that the person has made all reasonable efforts to obtain a permit under the State program in a timely manner. Under paragraph (b)(1), a general requirement for all applications is established. This period is left to the reasonable exercise of the regulatory authority to a longer period under an established time schedule.

The Office emphasizes that the pro-

Parts 778 and 782 would contain detailed requirements for non-technical, legal, financial, compliance and other general information. Parts 779 and 783 would contain detailed requirements for maps, air and water quality data, and other information. Parts 780 and 784 would contain detailed requirements for reclamation plans. Parts 781 and 785 would contain detailed requirements for cultural, historic, archeological, fish and wildlife, soil, vegetation, and hydrologic information. Parts 782 and 786 would contain detailed requirements for operations in alluvial valley floors. Parts 783 and 787 would contain detailed requirements for operations on prime farmlands. Parts 784 and 788 would contain detailed requirements for operations on steep slopes. Parts 785 and 789 would contain detailed requirements for operations on lands unsuitable for mining. Parts 786 and 790 would contain detailed requirements for operations in areas adjacent to areas unsuitable for mining. Parts 787 and 791 would contain detailed requirements for operations on Federal lands. Parts 788 and 792 would contain detailed requirements for non-coal operations. Parts 789 and 793 would contain detailed requirements for operations on Indian lands. Parts 790 and 794 would contain detailed requirements for operations in national forests. Parts 791 and 795 would contain detailed requirements for operations in national parks. Parts 792 and 796 would contain detailed requirements for operations in Federal lands within units of the National Wildlife Refuge System. Parts 793 and 797 would contain detailed requirements for operations in national wild and scenic rivers. Parts 794 and 798 would contain detailed requirements for operations in national recreation areas.

Under paragraph (b)(2), the regulatory authority is required to establish a time schedule for processing applications. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of time schedules for processing applications.

Under paragraph (c), the regulatory authority is required to establish procedures for public participation in the permit application process. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for public participation in the permit application process.

Under paragraph (d), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (e), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (f), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (g), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (h), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (i), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (j), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (k), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (l), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (m), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (n), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (o), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (p), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (q), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (r), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (s), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (t), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (u), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (v), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (w), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (x), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (y), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

Under paragraph (z), the regulatory authority is required to establish procedures for the filing of objections to a permit application and for informal conferences on the objections. The Office recognizes that the regulatory authority will be required to process large volumes of applications in a short period of time after the date of approval of the State program. The Office will provide guidance to the regulatory authorities on the establishment of procedures for the filing of objections to a permit application and for informal conferences on the objections.

501(b); 502; and 506(a) of the Act. This section is proposed to implement the provision for the exception in Section 506(a), whereby a person may continue to conduct surface coal mining and reclamation operations under a permit issued under the initial regulatory program, for the time after the deadline established at Section 771.11 of this Subchapter. This limited extension of time would be available only during the time which the regulatory authority may take to complete processing and review that person's application for a permit under the permanent regulatory program.

Appropriate conditions for the utilization of this exception are proposed to insure both that: (1) exceptions are not abused by persons conducting operations out of compliance with the requirements of the interim program and (2) that they do not attempt to avoid indefinitely the requirements of the permanent regulatory program.

§ 771.15 Continued operations under Federal program permits.

1. Authority for this section is Sections 102; 201(c); 501(b); 504(f); 505; 515; and 516 of the Act. This section is proposed primarily to implement the provisions of Sections 504(f) and 505 of the Act, whereby persons who obtain permits under a Federal program would be allowed to continue operations under those permits after a State program is approved by the Director under Part 732 of Subchapter G, to supercede a Federal program. As provided in Section 504(f) of the Act, Section 771.15 of the regulations would authorize persons who had been issued permits by the Federal program regulatory authority to obtain a substitute permit from the State regulatory authority.

In addition, the State regulatory authority could, subject to procedural safeguards, require persons continuing to operate under Federal permits to obtain revised permits, principally to incorporate additional, more stringent requirements of State laws that may not have been included in the Federal program.

2. *60-Day time limit.* The Office interprets Section 504(f) of the Act to require that the regulations now being proposed specify a time limit within which persons required by the States to meet additional requirements of the State program, after withdrawal of a Federal program, must achieve compliance with the program elements involved. As proposed, Section 771.15 would generally establish a 60-day time period for those compliance obligations, with provisions for extensions of that limit based either upon a showing by the permittee that it was physically impossible to meet a 60-day limit, or, an agreement by the State regulatory authority to a longer period under an established time schedule.

The Office emphasizes that the provision for a 60-day period is only tentative and specifically solicits comments on how this time limit can be alternatively established under Section 504(f) of the Act. In particular, the following alternatives for resolution of this issue will be considered:

(a) Whether OSM should specify a shorter or longer general time limit than 60 days?

(b) Whether OSM should specify that extensions of the time limit may not be allowed?

(c) Whether OSM should restrict extensions to showings of physical impossibility only?

(d) Whether OSM should require that any extension be based on an enforceable State judicial or administrative order and/or include assessment of civil penalties against the operator for the term of the extension?

3. *Hearing requirement.* As proposed, this Section would require that a permittee be provided with an adjudicatory hearing, if additional requirements are to be imposed under the State program. However, this decision is only tentative and the Office solicits comments on whether the hearing required by Section 504(f) of the Act may be legislative rather than adjudicatory. Additionally, the Office solicits comments on whether procedural rules for these hearings, either adjudicatory or legislative, should be specified.

§ 771.17 Compliance with permits.

Authority for this section is Sections 102; 201(c), 501(b); 503(a); 506; 510; 515 (a), (b); and 516 (a), (b) of the Act. This section is proposed to insure that each surface coal mining and reclamation is conducted in compliance with the full range of regulatory requirements established under the Act, including this Chapter, the regulatory program, and the term and conditions included in each permit.

§ 771.19 Permit application filing deadlines.

This section sets forth time tables for filing permit applications with the regulatory authority under an approved regulatory program.

Subsection (a) would implement the deadlines found in Sections 502(d) and 506(a) of the Act. Under Subsection (a), if an operator expects to be mining eight months or more from the time of the approval of a regulatory program, he would have to submit an application for a permit under that program no more than two months after the approval of that program by the Secretary.

Under paragraph (b)(1), a general requirement for all applications is established. This period is left to the reasonable exercise of the regulatory authority's discretion, except that the regulatory program would have to insure that applications be filed far enough in advance of issuance of the permit as to allow for complete compliance with all requirements of this Subchapter.

Under paragraph (b)(2), applications for permit renewals would have to be filed 120 days before the expiration of the original permit, as expressly provided for in Section 506 of the Act. Under paragraph (b)(3), applications for a revision to a permit would have to be filed at least six months before the expected revision, if possible, so as to allow for enough time for compliance with processing requirements. This six months period is based upon an estimation of the average time it would take the regulatory authority to process an application for a revision, allowing for full opportunity for the public participation required by the Act (e.g., newspaper advertisements, opportunity to submit comments/objections, informal conferences).

§ 771.21 Permit application—General requirements for format and contents.

1. Authority for this section is Sections 102; 201; 501(b) 503(a); 504; 507; 508; 510; 515 and 516 of the Act. This section would provide general requirements for all applications for permits under regulatory programs. Applications would be required to contain legal, financial and compliance information, existing site and adjacent area environmental resources information, and reclamation and operation plans. The environmental resources and reclamation and operations plan portions of applications would be required to contain written narratives, maps, cross-sections and other visual displays, cross-referenced to each other. Technical data submitted would have to be referenced and verified, so that the regulatory authority could evaluate the quality of the information. All institutions and governmental agencies consulted by the applicant in preparing the application would be listed, so that the information contained in the application can be easily checked and verified by the regulatory authority.

As is indicated in subsection (a), the Office is proposing to promulgate regulations which segregates requirements for the detailed information required in permit applications into three separate parts for both surface and underground mining activities. These parts are 778 to 780 for surface mining and Parts 782 to 784 for underground mining.

Parts 778 and 782 would contain detailed requirements for non-technical, legal, financial, compliance and other general information. Parts 779 and 783 would contain the requirements for information to describe the proposed permit area, mine plan area and adjacent areas, as they exist prior to mining, so that the regulatory authority is provided with an adequate baseline against which to assess the impact of the proposed operations upon those areas through the information in the operations and reclamation plan filed under Parts 780 or 784.

2. *Level of detail required in applications.* The Office recognizes that these regulations contain requirements that would be quite detailed and comprehensive. As a general matter, many of these requirements are expressly required by the Act, either specifically at Sections 507 or 508, or because Section 510(b) of the Act mandates that the regulatory authority have before it, prior to a final decision on an application, sufficient information upon which to assess whether the detailed requirements of the performance standards of regulatory programs can be complied with during proposed mining operations. The Office does not believe that it has discretion to waive either of these requirements. Congress has provided OSM with no authority for the issuance of variances on a general basis from the requirements of the Act. *Surface Mining Regulation Litigation,* 11ERC 1593, 1599–1600 (D.D.C. 1978) (disposition of motions for preliminary injunctions); *Surface Mining Regulation Litigation,* * * * *F. Supp.* * * * *(D.D.C., 1978)* (Disposition of Motions for Permanent Injunction) *(Mem. Op. at 3, 7, 16).*

Where the Office has been provided with discretion as to permit application requirements, it has considered what level of detail and what quantity of information should be required, on a national basis, to be included in permit applications. Accordingly, many provisions of Parts 778–784 allow for case-by-case determination of the level of detail and quantity of data that will be needed for particular permit applications.

The Office emphasizes that the requirements proposed in Parts 778–780 and 782–784 are tentative and specifically solicits comments on how these requirements can be most easily borne by the States and industry, while at the same time insuring that applications are fully adequate to fulfill the requirements of the Act. The Office is especially interested in comments regarding what level of detail should be required in certain applications by small operations and how to define "small operator" for those purposes.

3. Under Section 785.16 of the permit regulations, a person who qualifies may obtain a variance in steep-slope areas from the requirement to restore the land to approximate original contour. Such a person must also obtain a permit to mine under that section.

Because such operations will result in "industrial, commercial, residential, or public use (including recreational facilities)," the full range of permit and reclamation plan requirements may be unnecessary and may be an impediment to the acomplishment of the beneficial post-mining land use when the area is small and the economics of the change marginal. OSM will consider adopting regulations providing for a simplified permit application process, which will ease the application burden on the developer, while still insuring that permits are issued in full compliance with the Act.

OSM has not yet drafted proposed regulations to accomplish this. Its present analysis is that those regulations would include and exclude the following elements of the full-scale permit process.

Include	Exclude
Part 778	None
Part 779, except	Sections 779.18, 779.19, 779.20, 779.21 779.24(f), 779.26
Part 780, except	780.14, 780.15, 780.19(d), (e)–(h), 780.21(b)(3), (4), 780.37
Part 785 (as applicable), especially Section 785.16.	

OSM solicits comments on whether such a shortened permit procedure is legal, desirable, and, if so, to what type of operations it should apply and what form the shortened permit procedure should take.

4. A concern related to the level of detail to be required in applications was that expressed by some commenters who have suggested that, for small operators, the regulatory authority itself finance and develop the application in full. This alternative has been rejected, first, because, except for the limited purposes authorized under Section 507(b)(17) of the Act and Part 795 of this Subchapter, the Act does not appear to allow for the expenditure of funds under the Act to finance the development of permit applications. Moreover, the Act contemplates that the regulatory authority will review applications developed by the applicant, thereby avoiding a conflict-of-interest in deciding whether the permit should be issued. See Sections 507, 508, 510 of the Act.

§ 771.23 Copies required.

As proposed, this section would leave to the discretion of the regulatory authority, either by rule or case-by-case determination, the number of copies of an application which must be filed with it.

§ 771.25 Permit fees.

Authority for this section is Sections 102; 201(c); 501(b); 503(a); 504; and 507(a) of the Act. This section would implement the requirement of Section 507(a) that fees for permit applications are not to exceed the actual costs of processing, administering and enforcing such permits.

The Office has considered whether Section 507(a) and other relevant sections of the Act impose a floor on the amounts of permit fees that may be charged by regulatory authorities under regulatory programs. Tentatively, the Office believes that the answer to this issue is found in the unambiguous language of Section 507(a), which provides that: "(e)ach application for a * * * permit * * * shall be accompanied by a fee.* * *" (emphasis added). Accordingly, Section 771.25 would require that regulatory authorities charge a minimum permit fee, determined according to the particular requirements of each regulatory program.

For State programs, those requirements are specified in Subchapter C. For Federal programs, specific fee amounts and collection systems would be proposed under the particular Federal program regulations adopted pursuant to Part 736 of Subchapter C, based on the number of mines and expenses to the Office involved in specific States for which Federal programs would have to be implemented.

§ 771.27 Verification of applications.

Authority for this section is found at Sections 102; 201(c); 501(b); 503(a); 504; 507, 508 and 510 of the Act. This section is proposed to insure that all applications contain only that information upon which the applicant is prepared to rely, that the applicant retain ultimate responsibility for representations made in applications, and that applicants be fully cognizant of the obligations they propose to undertake by making applications, should a permit be issued in response to the application.

PART 776—GENERAL REQUIREMENTS FOR COAL EXPLORATION OPERATIONS

Introduction

This part is being proposed to implement the requirements of Section 512 of the Act for the regulation of coal exploration operations on non-Federal and non-Indian lands within States under regulatory programs. Part 776 generally provides for procedures and general standards for the initiation and conduct of these operations. Part 776 is complemented by Part 815 of

Subchapter K, which provides proposed environmental protection performance standards applicable to

definition for "reclamation" for Part 776 is the Office's belief that Congress intended that this term be broadly de-

regulatory authority would be required. It is intended that this application would provide sufficient informa-

of these matters, particularly as to the level of detail needed for adequate plans and whether additional or alternative public participation procedures

allow for a public hearing on its decisions.

The time-limit for requesting and the manner for conducting the hear-

A specific exception to this rule is required by Section 512(b) of the Act, which provides for the confidential treatment of certain information sub-

Subchapter K, which provides proposed environmental protection performance standards applicable to these operations.

The Office is proposing a two-tiered system of procedures which depends upon whether the exploration operation results in the removal of more or less than 250 tons of coal from the exploration area. Neither of the tiers provides for the implementation of a "permit" system, as the Office believes that Congress did not intend that a "permit" as defined in the Act be required for coal exploration. Although Section 512 of the Act is captioned "Coal Exploration Permits," an analysis of the text of Section 512 and its legislative history reveals that Congress, in finally passing SMCRA did not appear to require "permits" for these operations. *See* H.R. Rep. 95-218, 95th Cong., 1st Sess. 61, 173 (1977).

Section 512(a) of the Act generally requires persons conducting coal exploration operations to file a "notice of intention to explore" with the regulatory authority prior to commencing an exploration operation. While subsection 512(a), makes environmental protection standards applicable to such operations, it contains no provision, however, for mandatory regulatory action following receipt of notices of intention to explore. Instead of a uniform permit system, Congress substituted a requirement for prior approval of the regulatory authority only for coal exploration operations involving the removal of more than 250 tons of coal (Section 512(d) of the Act). This is consistent with the policy articulated by the House Committee in eliminating the general permit system to aid small operators. Under Section 512(d), the Office believes Congress did intend that larger exploration operations be carefully scrutinized by the regulatory authority prior to the initiation of those operations.

To implement fully Congress' intent expressed in Sections 512(a) and (d), the Office is proposing to require, first, filing of only a notice of intention to explore for operations which will remove less than 250 tons of coal and, second, prior approval by the regulatory authority for operations removing more than that amount. Detailed explanation of the relevant sections of the proposed regulations follows.

§ 776.4 Definitions.

This section would provide a definition for special use in Part 776. The term "reclamation" is proposed to be specifically defined for Part 776, to distinguish it from the definition of "reclamation" proposed at Section 701.5 of Subchapter A which is applicable to "surface coal mining and reclamation operations." The basis of the definition for "reclamation" for Part 776 is the Office's belief that Congress intended that this term be broadly defined to reflect the full range of responsibilities which persons subject to regulation under the Act must undertake to protect the environment. See Sections 101(c), (e); 102(c), (d); 701(27) of the Act.

§ 776.11 General requirements: Exploration operations of less than 250 tons.

Authority for this section is found at Sections 102(a), (b), (c), (d), (e), (i); 201(c); 501(b); 503(a); 504; 512(a), (b) and (d) of the Act. This section would cover exploration operations which are to remove less than 250 tons of coal and is proposed to implement the requirements of Section 512(a) of the Act. Under this section, persons would be required to file a written notice of intention to explore which would include a map, the period of time of the intended exploration, the basis of the right to enter the property for exploration and a statement of measures that will be taken by the exploring entity to protect the environment.

This information is necessary so that the regulatory authority and the public will know where and how these operations will be conducted. Provision is made to insure that information entitled to confidential treatment under Section 512(b) of the Act is protected, if contained in the notices.

The proposed requirement for including with the notice a statement of measures that will be taken to protect the environment is not intended to require regulatory approval like a permit application, as the operations covered by this section do not need to receive such prior approval. The statement is, instead, intended to be required for review by the regulatory authority to determine whether close surveillance of the actual operation will be needed in the field and so that the affected public is provided with an explanation of potential disruption to the environment.

§ 776.12 General requirements: Operations of more than 250 tons.

Authority for this section is found in Sections 102(a), (b), (c), (d), (e), (i); 201(c); 501(b); 503(a); 504; 512(a), (b), (d); and 515 of the Act, the Endangered Species Act of 1977 (16 U.S.C. 1531 *et seq.*), and regulations adopted under the Endangered Species Act. This section of the proposed regulations would implement the requirements of Subsection 512(a) and (d) of the Act by requiring persons who plan to undertake coal exploration operations involving more than 250 tons of coal to obtain prior, written approval from the regulatory authority.

In order to obtain that approval, the filing of a written application with the regulatory authority would be required. It is intended that this application would provide sufficient information for the regulatory authority to determine whether the criteria of Section 776.13 for approval or disapproval of the application will be met. Included within the minimum types of information which would be required to be contained in applications for approval is identification of both the person making application and the agent of that person who will actually be responsible at the site of exploration, so that the regulatory authority can have a readily available contact, if problems arise with the operation in the field.

The focal point of the application would be the exploration and reclamation operations plan. Information would be required in the plan to describe the existing environmental resources within the proposed exploration area, so that the regulatory authority would have a sufficient baseline upon which to assess the impacts of the proposed operations. Included within the existing site description would be information on those types of environmental resources that may be significantly affected by exploration, particularly surface water features, important fish and wildlife, special historical and cultural resources and the existing land-use of the area.

To explain how the operations will be conducted, the plan would have to provide information on the method of proposed operation, estimated amounts of coal to be removed, reclamation steps to be taken, reclamation schedules to be followed and a description of the legal basis and purpose of entry into the exploration area. This information is needed so that the regulatory authority can assess whether the proposed operations would be conducted according to the environmental protection performance standards of Part 815 of Subchapter K.

Under subsection 776.12(b), public participation in the process of approval and disapproval of applications regarding coal exploration and reclamation operations would have to be provided. This subsection is designed to implement Sections 102(i) and 517 of the Act by providing for fully informed decisions on applications by the regulatory authority. The required procedures are public notice of the filing of the application and the right to submit written comments on the application. The time-limits for the filing comments would be determined under the regulations of the particular regulatory program.

The Office emphasizes that the specific requirements for the contents of applications for approval and public participation are tentative only and specifically solicits comments on both

of these matters, particularly as to the level of detail needed for adequate plans and whether additional or alternative public participation procedures, such as opportunity for an informal conference prior to approval or disapproval of the application, should be included in the final rules.

§ 776.13 Application: Approval or disapproval.

Authority for this section is Sections 102, 201(c), 501(b), 503(a), 512, 515, 517 of the Act; Section 4 and 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*); the National Historic Preservation Act of 1966 (16 USC 470 *et. seq*); *and regulations adopted under the Endangered Species Act.*

This section is proposed mainly to implement Sections 512 (a) and (d) of the Act by specifying criteria for approval or disapproval of applications for conducting coal exploration operations submitted under Section 711.12. The principal criterion would be that, from information contained in the application, the regulatory authority must find whether the operations will comply with the performance standards of Part 815. In addition, findings must be made that interests covered under the Endangered Species Act and the National Historic Preservation Act of 1966 will be adequately protected.

Burden of proof. Under this subsection, the burden of proof would be placed upon the person seeking approval for several reasons. First, general principles of administrative law ordinarily provide for allocating the burden in this fashion. See, *e.g.,* Administrative Procedures Act, 5 U.S.C. 556(d). Second, it is the party in possession of the relevant facts, in this case the applicant, that should be required to bear the burden of persuasion of those facts. Third, the Office believes that, generally under the Act, Congress intended for persons seeking to develop coal mineral resources to bear the burden of establishing that this development would be conducted so as to protect the environment adequately. See, *e.g.,* Sections 102 (c), (d); 510(a)(b); 515(b)(A)(iii) of the Act.

Under subsection 776.13(c), authority is provided for conditioning approvals in order to enable the regulatory authority to tailor environmental protection performance standards to the specifics of the particular exploring entity and site.

§ 776.14 Applications: Notice and hearings.

Authority for this section is Sections 102; 201(c); 501(b); 503(a); 504; 512; and 517 of the Act. This section is proposed to provide for public notice by the regulatory authority of its approval or disapproval under Section 776.13 and for the regulatory authority to allow for a public hearing on its decisions.

The time-limit for requesting and the manner for conducting the hearing, if the regulatory authority decides to allow one, would be left to the discretion of the States under State programs and to the particular requirements of a specific program under Federal programs. The Office will consider whether, alternatively, detailed requirements for the conduct of the hearings should be established in the final rules, similar to those proposed under Part 789 of this Subchapter to implement Section 514 of the Act. Accordingly, the Office specifically solicits comments on the extent to which such requirements should be included in the final rules.

§ 776.15 Coal exploration operation compliance duties.

Authority for this section is Sections 102; 201(c); 501(b); 503(a); 504; 512; 515; 517; 518; and 521 of the Act. Subsection 776.15(a) is proposed to establish the enforceable legal requirements that will be applicable to persons conducting coal exploration operations under regulatory programs. Subsection 776.15(b) is proposed to implement the provisions of Section 512(c) of the Act. Under this subsection, persons conducting coal exploration operations are subject to the full range of sanctions available for violations of applicable legal standards under Section 518 of the Act and the regulations in Subchapter L of this Chapter. Those sanctions include civil penalties for violations of the Act and the regulations or issuance of notices and orders under Section 521 of the Act or a State program. In addition, criminal penalties may be imposed. The standards for acceptable minimum requirements for State program provisions for these sanctions are contained at Part 842 of Subchapter L.

§ 776.17 Public availability of information.

Authority for this section is in Sections 102; 201(c); 501(b); 503(a); 512; and 517 of the Act. This section is proposed principally to implement the provisions of Sections 504; 512(b) and 517(f) of the Act.

Under Section 517(f) of the Act, a general rule is established for information obtained by the regulatory authority. It requires that all such information is ordinarily to be made reasonably available for public inspection and copying, in keeping with the purposes of the Act as expressed at Section 102(i) of the Act. Given this rule, information obtained by the regulatory authority for coal exploration activities conducted under Parts 776 and 815 should generally be made available to the public.

A specific exception to this rule is required by Section 512(b) of the Act, which provides for the confidential treatment of certain information submitted to the regulatory authority for the purposes of protecting a private entity's competitive rights. Section 776.15 is proposed to protect precisely the type of information protected by the statute. In addition, a provision is proposed for administrative procedures to identify and segregate from non-protected information that information which is entitled to protection under Section 512(b) of the Act.

PART 778—SURFACE MINING PERMIT APPLICATION—MINIMUM REQUIREMENTS FOR LEGAL, FINANCIAL, COMPLIANCE AND RELATED INFORMATION

Introduction

Part 778 is intended to set forth the minimum requirements under regulatory programs for non-technical information in permit applications. Information which would be submitted in permit applications under Part 778 would be primarily for the purpose of enabling the regulatory authority and interested members of the public to ascertain the particular nature of the entity which will mine the coal and those entities which have other financial interest and public record ownership interests in both the mining entity and the property which is to be mined. In addition, certain other non-technical information needed for processing and approval/disapproval of the application would also be required.

§ 778.5 Definitions.

Authority for this section is Sections 102; 201(c); 501(b); 503(a); and 507(b)(4) of the Act. This section provides the definition of the term "principal shareholder" which is used in several places in Part 778. The definition is based upon the use of the term "shareholder" in Section 507(b)(4) of the Act, which specifies that permit applications are to identify persons "owning of record 10 percent or more of any class of voting stock." This would be set forth in Section 778.5, in order to avoid repetition of the entire phrase through the rest of the text of the regulations.

§ 778.11 Applicability.

Authority for this section is Sections 102(a); 201(c); 501(b); 503(a); 504; 507(b), (e), (f); 508(a); 510(a), (b), and (c) of the Act. This section explains that Part 778 would apply to permit applications for surface coal mining activities under regulatory programs and not for underground coal mining activities. The corresponding part for underground mining is Part 782 of this Subchapter.

§ 778.12 General.

Authority for this section is Sections 102(a); 201(c); 501(b); 503(a); 507(b), (e), (f); 508(a); 510(a), (b), and (c) of

the applicant will already have that information in its possession, these requirements should pose no additional burdens.

pliance with the Act, resulting in substantial and irreparable environmental harm. The information which would be required under Subsection 778.13(b)

Act, so that the regulatory authority is provided with the information necessary to make the finding required by that section of the Act.

"mine plan area," for each phase of the proposed operations over the estimated life of the mine.

Under Section 506(c) of the Act, a

Under Section 507(b)(6) of the Act, the applicant must identify, in the permit application, the location of where the application will be made

§ 778.12 General.

Authority for this section is Sections 102(a); 201(c); 501(b); 503(a); 507(b), (e), (f); 508(a); 510(a), (b), and (c) of the Act.

§ 778.13 Identification of Interests.

Authority for this section is, in general, Sections 102(a), (b), (c), (d), (e); 201(c); 501(b); 503(a) and 504 of the Act.

The information to be required in applications under Subsection 778.13(a) would be based upon the requirements of Section 507(b)(1) of the Act. Subsection 778.13(a), as proposed, would call for three additional items of information:

First, the equitable owner of record of the property to be mined would have to be named in the application, in order to enable the regulatory authority to locate easily such owners if their interests would be adversely affected by the proposed operations and, in the event of a violation of applicable regulations during the mining process, to locate potentially responsible parties. This requirement should not pose an additional burden on applicants as equitable owners of record could be identified by the same process of searching public property records and at the same time as for legal owners of record which is expressly required by Section 507(b)(1).

Second, the resident agent of the applicant within the state of proposed operations would have to be identified, so that the regulatory authority would have readily identifiable and locatable individual for the purpose of accepting service of legal process during the permit application stage or the operating phase. Most States have similar requirements as a pre-requisite for businesses organized outside the State to conduct business. It should not pose an additional burden on permit applicants.

Third, in order to aid in locating and discussing permit applications and problems which may arise during the conduct of mining operations, the regulatory authority would have to be provided with the telephone number of the entities to be listed in subsection (a).

Subsection 778.13(b) is proposed to implement Section 507(b)(4) of the Act. Subsection 778.13(c) is proposed to implement Section 507(b)(1)(F) of the Act. Subsection 778.13(d) is based upon Section 507(b)(4) of the Act. It would require identification of both, any existing or prior coal mining permits held by the applicant anywhere in the United States and any pending permit applications. Identification of those permits or applications would be required to aid the regulatory authority in contacting those other permit-issuing authorities in other locations. As the applicant will already have that information in its possession, these requirements should pose no additional burdens.

In addition to requiring identification of prior permits and pending applications of the applicant, Subsection 778.13(d) would also require the same information for the entities to be listed in the application under Section 507(b)(4) of the Act and paragraph 778.13(b)(3) of this Subchapter. Those entities are persons who are in a position to exercise significant control over the conduct of an applicant's business affairs and who could be responsible for violations of law incurred by the applicant, for which the applicant is responsible under Section 510(c) of the Act. As a result, information about those persons' histories of compliance with permit obligations would be relevant and useful to the regulatory authority. Because that information would be in the possession of persons who would be closely associated with the applicant, requiring the applicant to produce that information should not pose a significant burden on the industry.

Subsection 778.13(e) is proposed to implement Section 507(b)(2) of the Act. The term "contiguous to" would be used in this section to limit the area around the proposed permit area for which owners of record must be identified, in accordance with the legislative history of Section 507(b)(2).

Subsection 778.13(f) is proposed to aid the regulatory authority in coordinating review of the permit application with the Mine Safety and Health Administration (MSHA), so that any potential conflicts between the regulatory requirements of the Mine Health and Safety Act and the Surface Mining Control and Reclamation Act could be resolved. In addition, identification of the MSHA number will be important in the case of a proposed new coal mine which might constitute a "new source" under the Clean Water Act, 33 U.S. Code 1251, *et seq.*

§ 778.14 Compliance Information.

Authority for this section is, in general, Sections 102; 201(c); 501(b); 503(a), 504 and 507(b) of the Act. Subsection 778.14(a) is proposed to implement Section 507(b)(5) of the act. Subsection 778.13(b) is proposed to implement the requirement under that section of the Act for "a brief explanation of the facts involved." As the Office interprets this provision of the Act, the information regarding suspension, revocation or forfeiture of a permit or mining-related bond or similar security would be relevant to a possible determination, under the provisions of Section 510(c), that a permit not be issued if the applicant has a past history of a pattern of non-compliance with the Act, resulting in substantial and irreparable environmental harm. The information which would be required under Subsection 778.13(b) is designed to insure that a complete understanding of the background of each suspension revocation or forfeiture could be obtained by the regulatory authority.

Subsection 778.14(c) is proposed to provide for the submission to the regulatory authority of the facts needed for determining whether the applicant has met the criteria of Section 510(c) of the Act regarding non-abated violations of any State or Federal air, water or other environmental protection statutes with respect to coal mining operations. As proposed, the list of violations would be limited to those which have been incurred by the applicant in a three (3) year period prior to the date of the application, as specified in Section 510(c) of the Act. In addition, Subsection 778.14(c) would require certain information regarding the origin and subsequent history of each violation identified, so that the regulatory authority can obtain a full and complete understanding of the current status of those violations, prior to making the determination required under Section 510(c) of the Act.

§ 778.15 Entry and Right of Entry and Operation Information.

This section is based upon Sections 102; 201(c); 501(b); 503(a); 507(b)(9); and 510(b)(6) of the Act. Subsection 778.15(a) is proposed to implement Section 507(b)(9) of the Act, requiring that the application contain a statement of the documents upon which the applicant bases the legal right to enter and commence mining operations on the permit area and a statement whether that right is the subject of pending court litigation. In addition, the regulatory authority may require copies of those documents in order to resolve a dispute of fact about whether a legal right claimed by the applicant exists. Of course, because of the proviso clause in paragraph 507(b)(9) of the Act, such a determination of fact would not mean that the regulatory authority was making a legal determination about the right to entry.

The Office has considered whether to require submission with the application of copies of these documents in all cases, as opposed to the routine requirement for a summary description of the documents. Tentatively, the former alternative has been rejected because of the costs of obtaining verbatim copies of these documents in cases where they would not be needed by the regulatory authority because no property dispute existed.

Subsection 778.15(b) is proposed to implement Section 510(b)(6) of the Act, so that the regulatory authority is provided with the information necessary to make the finding required by that section of the Act.

§ 778.16 Relationship to Areas Designated Unsuitable For Mining.

The authority for this section is Sections 102; 201(c); 501(b); 503(a); 504; 510(b)(4); 522 (a), (c), (e)(5), of the Act. Under Section 510(b)(4) of the Act, the regulatory authority is required to make a finding, prior to the issuance of a permit, that the proposed permit area is not within an area designated unsuitable for surface coal mining under Subsection 522 (a) and (d) of the Act. In addition, Section 510(b)(4) precludes the issuance of a permit where a proceeding has been commenced under a process inaugurated under Section 522 (a) and (d) of the Act, to determine whether the proposed permit area is unsuitable.

Subsection 778.16(a) is proposed to provide the regulatory authority with information in the application regarding such unsuitability determination or related pending proceeding. Subsection 778.16(b) is proposed to provide the regulatory authority with information upon which it can determine whether an applicant is entitled to an exemption under Section 510(b)(4) of the Act from the general requirements of Section 510(b)(4), where the applicant can prove that it has made substantial legal and financial commitments prior to January 4, 1977, in relation to the proposed operations. The substantive standards upon which the regulatory authority would decide the issue of entitlement to this exemption are proposed in Subchapter F relating to designation of areas unsuitable to mining. Subsection 778.16(c) is proposed to provide the regulatory authority with the information necessary to allow for the surface mining of coal under the exemption to the general preclusion of mining within 300 feet of an occupied dwelling under Section 522(e)(5) of the Act and Part 761 of Subchapter F.

§ 778.17 Permit Term Information.

Authority for this section is Sections 102; 201(c); 501(b); 503(a); 504; 506(c); and 507(b)(8) of the Act. Subsection 778.17(a) is proposed to implement the requirements of Section 507(b)(8) of the Act. A regulatory authority would need this information, in general, to establish the term of the permit, pursuant to the requirements of Section 506(c) of the Act and proposed Subsection 786.11(b) of this Subchapter. In addition, this information, together with the mapping information required under Parts 779 and 780 of the proposed mine plan area, would be used by the regulatory authority to delineate "permit areas" within the "mine plan area," for each phase of the proposed operations over the estimated life of the mine.

Under Section 506(c) of the Act, a permit may be issued for a term beyond the standard maximum of five (5) years, based upon a demonstration that the applicant meets certain special criteria. Subsection 778.17(b) is proposed in order to make a determination of whether an applicant meets those criteria, as provided in Subsection 786.11(a) of this Subchapter. Particular use of this section would also be intended under applications for concurrent surface and underground mining operations, pursuant to the requirements of Section 515(b)(16) of the Act and Section 785.18 of this Subchapter.

§ 778.18 Personal Injury and Property Damage Protection Insurance Information.

Authority for this section is Sections 102; 201(c); 501(b); 503(a); 504; and 507(f) of the Act. Under Section 507(f) of the Act, an applicant for a permit is required to have certain personal injury and property damage insurance or self-insurability capabilities. Substantive criteria implementing that section of the Act under these regulations are proposed at Section 806.13 of Subchapter J. Section 778.18 is proposed to insure that the regulatory authority would be provided with evidence establishing that the applicant has complied with the requirements of Section 806.13, as required by the Act.

§ 778.19 Identification of Other Licenses and Permits.

Authority for this section is Sections 102; 201(c); 501(b); 503(a); 504; 505; 508(a)(9); 510(c); 702; and 713(a) of the Act. This section is proposed in order to provide the regulatory authority with a complete description of all permits and licenses needed by the applicant to conduct the operations in question under Federal and State laws other than the Act. This information would be needed so that the regulatory authority could insure that the operations, as proposed, would not be inconsistent with the requirements of those other statutes and laws, to enable the regulatory authority to utilize the expertise of other governmental agencies involved in reviewing and approving the proposed operations, and to avoid duplication of effort in the collection and analysis of technical information which may have already been collected or analyzed by another permitting or licensing agency.

§ 778.20 Identification of Location of Public Office for Filing of Application.

Authority for this section is Sections 102 (a) and (i); 201(c); 501(b); 503(a); 504; 507(b)(6) and 507(e) of the Act. Under Section 507(b)(6) of the Act, the applicant must identify, in the permit application, the location of where the application will be made available for public inspection as required under Section 507(e) of the Act. Section 778.20 is proposed to implement section 507(b)(6).

§ 778.21 Newspaper Advertisement and Proof of Publication.

Authority for this section is Sections 102; 201(c); 501(b); 503(a); 504; 507(b)(6); 507(e); and 513(a) of the Act. Under Section 507(b)(6) of the Act, the applicant is required to set forth in the permit application a copy of the newpaper advertisement announcing the filing of the permit application. The minimum standards for acceptable newspaper advertisements would be provided at Section 787.11 of this Subchapter.

Section 778.21 is proposed to implement the requirement of Section 507(b)(6) that a copy of the newspaper application and proof of publication of same be set forth in the permit application. However, inasmuch as Sections 507(b)(6) and 513(a) of the Act do not require completion of publication of the newspaper advertisement until, at a minimum, four (4) weeks after the application has been filed, Subsection 778.21(b) would require only that the copy of the advertisement and proof of publication be filed after the last date of required newspaper publication.

As proposed, copies of the advertisement and proof of publication are to be filed within one week after the last date of newspaper publication. One commenter suggested that this be changed to four weeks, because of alleged delays experienced by the commenter in obtaining proofs of publication from newspapers in rural areas. The office has decided not to adopt this suggestion yet, as it is not clear whether the commenter's experience represents general experience of the industry. Comment is specifically solicited on this problem.

PART 779—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES IN THE PERMIT AND ADJACENT AREAS

Introduction

This Part is proposed to establish the minimum requirements for regulatory program provisions on the information on environmental resources within a proposed mine plan area and adjacent area which must be assembled and submitted to the regulatory authority for surface mining activities. This Part corresponds to Part 783 for underground mining activities. It would provide for submission to the

regulatory authority of enough information to enable it to determine, together with the information required under Part 780, what impacts the pro-

2. Paragraph (a) would require identification of lands to be mined over the life of the mining operation and the timing of mining as it progresses.

may be lessened for some operators by Section 507(c) of the Act, which provides financial assistance for the requirements of this Section of the regu-

Exp. Stat., Recl. Res. Prog., Mont. St. Univ., Bozemen, Montana.

(iv) Rolston and Wiram, 1978, The Need for Selective Placement of Over-

(d) Directions of groundwater movement in aquifers;

(e) Recharge and discharge areas for groundwater systems.

the hydrologic balance of the mining area.

2. Parameters that would be required to be monitored under this sec-

regulatory authority of enough information to enable it to determine, together with the information required under Part 780, what impacts the proposed operations would have on areas within the mine plan area and adjacent areas and whether those operations will be conducted according to the requirements of Part 816 of Subchapter K.

The general structure of this Part has been prepared to describe these information requirements in the following format:

Section 779.11: general pre-mining environmental assessment requirements;

Section 779.12: environmental resource data;

Section 779.13: general requirements for geology and hydrology;

Section 779.14: descriptions of geologic features;

Section 779.15: groundwater hydrology and geology;

Section 779.16: surface and groundwater information;

Section 779.17: alternative water supply information;

Section 779.18: climatological and air quality data;

Section 779.19: vegetation data;

Section 779.20: fish and wildlife resources;

Section 779.21: overburden analysis and topsoil mixtures;

Section 779.22: land use descriptions;

Section 779.23: preparation of maps, plans and cross-sections;

Section 779.24: general map requirements;

Section 779.25: cross-section, maps and plans;

Section 779.26: soil resources descriptions.

§ 779.11 General requirements.

Authority for this section is Sections 102; 201(c); 501(b); 503; 507 (b), (c), (d); 508(a); 510(b); 515; and 522(e) (3), (4), and (5) of the Act; the Endangered Species Act of 1973; Fish and Wildlife Co-ordination Act of 1966; Executive Order 11593; and the Archeological and Historic Preservation Act of 1974. This section presents general requirements for permit applicants to present adequate descriptions of the existing pre-mining environmental resources within and around the proposed mine plan area. This information will enable the regulatory authority to determine whether the applicant can comply with Part 816 of Subchapter K and whether reclamation of those areas will be feasible.

§ 779.12 General environmental resources information.

1. Authority for this section is found in Sections 102; 201(c); 501(b); 503; 507; 508; 508(a)(5); 510 and 522 of the Act.

2. Paragraph (a) would require identification of lands to be mined over the life of the mining operation and the timing of mining as it progresses. Specific authority for this is Sections 507(b)(8) and 508(a)(1) of the act. Paragraph (b) would aid in a similar determination as to Part 816 in general and for determining performance bond requirements under Subchapter J.

3. Paragraph (b) would require identification of the location of certain important cultural, pre-cultural, and natural phenomena in the proposed mine plan area and adjacent areas. Specific authority for this paragraph is Sections 102, 201; 507(b)(13), 508(a)(10), (14); 515(b) (23) and 522(e) of the Act and the National Historic Preservation Act.

One commenter has suggested that "paleontological" descriptions be deleted from this paragraph, because the word was not specifically referenced in the Act. This requirement has not been deleted, because one of the Act's purposes is to broadly protect all "environmental" resources.

4. Paragraph (c) would require the applicant to reveal any interest in lands adjacent to the area to be covered by the proposed mine plan area. Specific authority for this paragraph is Section 508(a)(11) of the Act.

§ 779.13 Description of hydrology and geology: general requirements.

1. Authority for this section is Sections 102; 201(c); 501(b); 503; 507(b); 508(a); and 515(b) of the Act. This Section would require that all applications contain a statement of the geology, hydrology, and water quality and quantity for all lands within and adjacent to the proposed mine plan area, in accordance with the more detailed requirements of sections 779.14–119.17 of this Part.

2. Paragraph (a) would require that information on adjacent areas be provided by the regulatory authority to the extent that it is available. Paragraph (b) would require that, to the extent this information is not available from a State or Federal agency at the time of the filing of an application, the applicant must gather and submit enough data to provide the information. The Office recognize that this will place a burden on applicants for those areas which have not been studied by government agencies, but it is the applicant who is seeking permission to mine. Congress clearly intended that no permits issue until the hydrologic consequences are known. Section 510(b)(3) of the Act. The applicant could choose to wait until a government agency can provide the data, but if he desires not to wait, it is the view of the Office that he must procure the necessary data. This burden may be lessened for some operators by Section 507(c) of the Act, which provides financial assistance for the requirements of this Section of the regulations to applicants whose production will not exceed 100,000 tons per year.

3. Paragraph (c) of Section 779.13 would require that no permit be approved until the information required by paragraphs (a) and (b) is available for incorporation into the application. Section 507(b)(11) of the Act is the principle authority for the requirements of paragraphs (a)–(c).

The information required in this Section will enable the regulatory authority to determine whether the applicant can comply with the requirements of Sections 816.13–15, 816.31–816.39, 816.41–816.57; 816.71–816.73, 816.81–816.88, and 816.91–816.93 of Subchapter K. The technical literature used to develop sections 779.13–779.17 was the same as that used for those sections of Subchapter K, plus additional materials noted below.

§ 779.14 Geology description.

1. Authority for paragraphs (a) and (b)(1) is Sections 102; 201; 507(b)(11), (14) and (15); and 508(a)(12), (13), and (14) of the Act. Authority for paragraph (b)(2) is Sections 102; 201; 507(b)(15); and 508(a)(12)–(14) of the Act. These paragraphs implement the requirements of the Act for geologic information needed for each application.

2. The information to be required under paragraphs (a) and (b)(1) of this Section will enable the regulatory authority to determine whether the applicant can comply with the performance standards of Sections 816.13–816.15, 816.31–816.39, 816.41–816.45; 816.59; 816.61–68; 816.71–73; 816.79; 816.91–816.93 and 816.99 of Subchapter K.

Paragraph (b)(2) allows a waiver of the requirements of paragraphs (a) and (b)(1), upon request of the applicant, where the regulatory authority already has at its disposal sufficient test or core boring data about the proposed mine plan area to make further data collection unnecessary.

2. Additional technical literature relied upon for development of this Section was:

(i) Laboratory Methods Recommended for Chemical Analysis of Mined-Land Spoils and Overburden in Western United States; U.S. Dept. of Agriculture, Agriculture Handbook, No. 525 (1977).

(ii) Field and Laboratory Methods Applicable to Overburdens and Minesoils; U.S. Environmental Protection Agency, (1978), (EPA-600/2-78-054).

(iii) Dollhopf, D. J., et al., 1977, Selective Placement of Coal Stripmine Overburden in Montana, USBM contract report H0262032, Mont. Agri. Exp. Stat., Recl. Res. Prog., Mont. St. Univ., Bozemen, Montana.

(iv) Rolston and Wiram, 1978, The Need for Selective Placement of Overburden and Equipment Considerations, Amer. Min. Cong. Jour., Vol. 64, No. 1, pp. 18–24.

3. Analytical requirements for determining overburden characteristics are highly variable and may demand regional and local specialization. (Dollhopf, 1977; Ralston, 1978; USDA, 1977; USEPA, 1978). In the west, emphasis must be directed toward the identification of undesirable sodic and alkaline soil (Dollhopf, 1977, pp. 48–51 and Rolston, 1978, p. 18). In eastern and midwestern States, strata may contain high percentages of pyritic material (Ralston, 1978, p. 18). These problem materials can have a direct adverse impact on local and regional surface and groundwater quality and the establishment of a vegetative cover, if not properly handled.

§ 779.15 Groundwater hydrology and geology.

(1) Authority for this Section is Sections 102; 201(c); 501(b); 503(a); 507(b), 508(a), 510(b)(3) and 515 of the Act. This Section would require a full description of the groundwater hydrology for the proposed mine plan area and areas beyond the plan area which will probably be affected by the proposed operation. Information collected pursuant to this Section will enable the regulatory authority to determine whether the applicant can comply with Sections 816.13–816.15, 816.31–38, 816.41–816.59, 816.71–816.73; 816.79; 816.81–88; and 816.91–816.93 of Subchapter K.

(2) The occurrence and movement of groundwater in coal producing areas is a very complicated question. Groundwater resources are largely dependent on regional and local geologic conditions; multiple aquifers may exist, each having distinct water bearing characteristics. The chemical quality of the groundwater may change significantly in both unconfined and confined aquifer systems (USGS Professional Paper 427, 1970).

In areas where multiple aquifers exist, the mining operations can easily cause aquifers containing usable water to be polluted by an aquifer containing water of inferior quality, through creating inter-aquifer connections from rock fracturing. Grim & Hill, 1924. Therefore, groundwater resources must be evaluated to determine:

(a) Location and extent of aquifers;

(b) Water bearing characteristics of aquifers;

(c) Chemical quality of the water contained in each aquifer that may be affected by the mining operation;

(d) Directions of groundwater movement in aquifers;

(e) Recharge and discharge areas for groundwater systems.

(3) The occurrence and movement of groundwater is controlled by regional and local geologic conditions; therefore, geologic data coupled with hydrologic data must be carefully evaluated. The following data are believed to be necessary:

(a) Geologic mapping

(b) Maps showing location of water wells and springs;

(c) Depth to water below land surface in wells;

(d) Chemical analyses of water from wells and springs;

(e) Yield characteristics of welis;

(f) Well construction data (depth, perforated intervals, etc.); and

(g) Drillers' logs.

4. In areas where historic groundwater data are not adequate to evaluate the groundwater resources, the regulatory authority may need to require test drilling to provide adequate hydrologic data. These test holes may be necessary for determining water quality in aquifers, location of aquifers, transmissivity and other parameters as required.

Technical literature used to develop this section included that literature used to develop Sections 779.14, 816.13–816.15, 816.41–816.57, 816.71–816.73, 816.79, 816.81–816.88, and 816.91–816.93, and, in addition, the following:

1. Hem, John D., Study and Interpretation of the Chemical Characteristics of Natural Water, USGS WSP 1473, 2nd Edition, 1970, 363 p.

2. Groundwater Subgroup of Water Work Group, Northern Great Plains Resource Program, Shallow Groundwater in Selected Areas in the Fort Union Coal Region, USGS Open-file Report 74-48, 1974.

3. U.S. Geological Survey Professional Paper 427, 1970; Hydrologic Influences of Stripmining.

§ 779.16 Surface and groundwater information.

1. Authority for this Section is Sections 102; 201(c); 501(b); 503(a); 507(b)(10)–(15); 508(a)(12)–(13); 510(b)(3) and 515(b) of the Act. Information collected pursuant to this section would enable the regulatory authority to determine whether the applicant can comply with performance standard of Sections 816.13–816.15, 816.31–816.39; 816.41-816.59, 816.71–816.73, 816.79, 816.81–816.88, 816.91–816.93, and 816.133 of Subchapter K.

Under this section, the applicant would identify surface and groundwater information to establish baseline conditions and to determine specific requirements necessary to successfully minimize adverse impacts to the hydrologic balance of the mining area.

2. Parameters that would be required to be monitored under this section should be regarded as a minimum listing, based on those polluting substances for which specific effluent limits are being proposed at Sections 816.41-816.42 of Subchapter K. Minimum pre-operation sampling frequencies of specific substantees and water flow data are being proposed by expected variations in the components to be monitored. Seasonal variations as a minimum should be elucidated, and in some instances duirnal cycles of certain parameters may need to be determined. This monitoring should last for a minimum of one year, and two years or more may need to be specified by the regulatory authority in some instances, depending upon the amount of historical information. Sampling locations, techniques, preservation, and analyses are other considerations that require proper attention to obtain valid, representative information.

3. Analytical procedures and techniques to be followed in obtaining this water quality information are those contained in the following publications. American Waterworks Association, 1977, *Standard Methods for the Examination of Water and Wastewaters.* U.S. Environmental Protection Agency, *Manual of Methods for Chemical Analyses of Water and Wastes* (EPA 625/6-74-003), and the EPA National Water Quality Analysis Regulations at 40 CFR 136.

4. *Models.* Based upon a preliminary review of technical literature, the office believes that it may be useful to specify that applications be required to contain the results of mathematical modeling of ground and surface water for water quantity (flows) and for total suspended solids/sediment, total dissolved solids, iron, total manganese and acid as these parameters must be evaluated for impact of the proposed operations, prior to issuance of a permit on the hydrologic balance.

"Modeling", in this context, would mean a "... system of postulates, data, and inferences presented as a mathematical description" of the way in which proposed surface coal mining and reclamation operations would impact on ground and surface water. (Webster). The literature reviewed suggests that techniques are now available to model, in a sufficiently predictive manner, the quality and quantity of surface and ground waters through and around coal-mined areas. These techniques should be expected to be improved with the collection across the country of site-specific baseline data. Although the output of the available models may not be of high accuracy in all cases, the offices not aware of any other equally well-orga-

nized mechanism available for predicting cumulative hydrologic impacts over substantial lengths of time.

(o). De Wiest, R. J. M., 1968, "Geohydrology," John Wiley & Sons, N.Y. Chapter 8;

(p). Davis and De Wiest, 1968, "Hy-

mine plan area, the proposed reference area, and certain adjacent areas.

A vegetation map and description

rial Symposium, Oct. 25–29, 1976, Sioux Falls, pp. 213–234.

10. Carter, V., and Burbank, J. H., (1978), "Wetland Classification System (*Pinnas serotina* Erhr.) in Southern Wisconsin Oak Forest," Ecol. Monogr. 41(2):153–177.

(3) Vegetation maps, if required,

adjacent area, including population densities for each species and plans for protection;

(2) Require specific species inven-

nized mechanism available for predicting cumulative hydrologic impacts over substantial lengths of time.

Technical literature reviewed included:

(a). EPA, 1976, "Proceedings of the Conference on Environmental Modeling and Simulation," EPA-600/9-76-018;

(b). R. W. Nelson, "Identification and Evaluation of Specific Techniques and Computer Models Useful in the Analysis of Subsurface Contaminant Migration—Outline of Study II for the Physical and Life Sciences Technology Section, Research Dept., Atlantic Richfield Hanford, Co.;

(c). Nelson, R. W., "Evaluating the Environmental Consequences of Ground Water Contaminations," Computer Services Corp. (Richland, Washington);

(d). Konilcow and Bredihoeft, 1974, "Modeling Flow and Chemical Quality Changes in an Irrigated Stream—Aquifer System." AGU, Water Resources Research;

(e). Gillham and Faroodelen, 1974, "Sensitivity-Analysis of Input Parameters in Numerical Modeling of Steady-State Regional Ground Water Flow," AGU, Water Resources Research;

(f). Gilhar, 1974, "Stochistic Analysis of Phrestic Aquifers," AGU, Water Resources Research;

(g). Kunkel, 1973, "Data Requirements for Modeling a Ground Water System in an Arid Region," USGS WRT 4-73;

(h). Zand, et al., 1976, "Static Transport and Modeling of Water Quality in a Small Stream," Vol. 4; No. 2, Mar.-Apr., 1976, USGS Research, p. 233-240.

(i). Gelhas, L. W. and J. L. Wilson, 1974. "Ground Water Quality Modeling," U12, No. 6, *Ground Water;*

(j). Hundoon, 1974, "Finite Difference As Applied to the Solution of Ground Water Flow Problems," Wyoming Water Resources Research Institute, Laramie, Wy.;

(k). Prickett and Lonnquist, 1971, "Selected Digital Computer Techniques for Ground Water Resource Evaluation," Illinois State Water Survey, Urbana, Ill.;

(l). USEPA and the National Water Well Association, 1976. "Proceedings of the Third National Ground Water Quality Symposium," Special Issue, Vol. 14, No. 6, Nov.-Dec., 1976;

(m). Meyer, C. F. and D. C. Kleinecke, 1968, "Development of Capabilities for Mathematical Modeling of Ground Water Flow By Use of Digital Computers; TEMPO-General Electric Co., Santa Barbara, 68TMP-96;

(n). Bachmad, et al. 1978, "Utilization of Numerical Ground Water Models For Water Resources Mangement," EPA Rpt. 60018-78-012;

(o). De Wiest, R. J. M., 1968, "Geohydrology," John Wiley & Sons, N.Y. Chapter 8;

(p). Davis, and De Wiest, 1969, "Hydrology," John Wiley & Sons, N.Y.;

(q). Poluhainous-Kuching, P., 1972, "Theory of Ground Water Movement," translated by De Wiest, Princeton Univ. Press, Princeton, N.J., Chapters VI and XVI;

(r). Karplus, W. J. 1958, "Anology Simulation-Solution of Fluid Problems," McGraw Hill, N.Y., Part 2.

The Office has not, however, yet formulated the text of specific regulations to address water modeling. It specifically solicits comments on this matter, particularly on the following questions:

1. Whether applicable models have been calibrated and/or verified for use in coal mining situations?

2. What are the costs of using those models in field situations?

3. What levels of accuracy may be expected to be obtained with available models?

Following a final review of the literature and any comments received, the office may propose, as part of the final regulations, specific provisions regarding models.

§ 779.17 Alternative water supply information.

Authority for this Section is Sections 102; 201; 507(b)(11); 508(a)(13); 510(b)(3) and 717(b) of the Act. As proposed, this Section would require identification of water sources that could be used to replace water supply rights which would be damaged by the proposed mining operation, as is required under proposed Section 816.54 of the performance standards.

§ 779.18 Climatological data.

Authority for this Section is Sections 102; 201; 501(b); 503(a); 507(b)(12); and 508(a)(5) of the Act. Here climatological data concerning temperature, precipitation, and air quality would be required, if requested by the regulatory authority. These data may be needed by the regulatory authority, in evaluating whether the applicant will be able to comply with the performance standards of Sections 816.21-.24; 816.31-.38; 816.41-.50; 816.56; 816.65; 816.71-816.73; 816.81-816.88; 816.91-816.97; 816.100-816.117, and 816.133 of Subchapter K.

§ 779.19 Vegetation data.

(1) Authority for this Section is Sections 102; 201; 501(b); 503; 504; 508(a)(2)(B-C); 508(a)(3), (4), (5); 510(b)(2); 515(b)(2); and 515(b)(19) of the Act. This Section would require submission of the location of the proposed vegetation reference area; and, if required by the regulatory authority, a vegetation map of the proposed mine plan area, the proposed reference area, and certain adjacent areas.

A vegetation map and description may be required in the permit application by the regulatory authority for the following reasons:

(i) To assist in evaluation of the natural vegetative capability of the site and to determine if the operations will be conducted in accordance with Sections 816.45-816.46, 816.97, 816.111-816.117, and 816.133 of Subchapter K.

(ii) To quantitatively characterize the vegetation in the reference area and permit area for establishing comparability of the permit area.

(iii) To identify those species of vegetation that may contribute to important post-mining land use values of the permit area, by serving as seed sources for revegetating the land or as important habitat types for fish and wildlife.

(iv) To help in evaluating the present and potential productivity of the site, which must be described in the application under Sections 508(a)(2)-(4) and 515(b)(2) of the Act.

(v) To establish premining site conditions for wildlife and fish habitats.

(2) Technical literature used in the formulation of this Section was:

1. Curtis, J. T., (1959), "The Vegetation of Wisconsin, An Ordination of Plant Communities," Univ. of Wisconsin Press, Madison, 657 p.

2. Goff, F. G., (1967), "Methods Used in Field Investigations of Vegetation and Soils in Milfred, C. J. et al, Soil Resources and Forest Ecology of Menoninee County, Wisconsin," Bulletin 55, Univ. of Wisconsin Geological and Natural History Survey, p. 187-189.

3. Daubenmire, R. F., (1968), "Plant Communities, A Textbook of Plant Synecology," Harper and Row, New York, 300 p.

4. Kuchler, A. W., (1964), "Potential Natural Vegetation of the Coterminous Untied States" (Map and Manual), N. York, Am. Geographic Society, 116 p.

5. ....., (1967), "Vegetation Mapping," New York, Ronald Press Co., 472 p.

6. Braun, E. L., (1950), "Deciduous Forests of Eastern North America," Philadelphia, Blakiston Co.

7. Radford, A. E., (1977), "Natural Area and Diversity Classification System, A Standardized Scheme for Basic Inventory of Species Community and Habitat Diversity," Univ. of N. Carolina Student Stores, Chapel Hill, 70 p.

8. Wharton, C. H., (1978), "Natural Environment of Georgia," Atlanta, Georgia, Dept. of Natural Resources, 227 p.

9. Carter, V. A., et al., (1977), "Wetland Classification and Mapping in Western Tennessee," Proceedings of 2nd Annual William T. Pecora Memorial Symposium, Oct. 25-29, 1976, Sioux Falls, pp. 213-234.

10. Carter, V., and Burbank, J. H., (1978), "Wetland Classification System for the Tennessee Valley Region," TVA Tech. Note, B-24 FFWD, Morris, TN. (In press).

11. Soc. of American Foresters (1940), "Forest Cover Types of Eastern United States," Washington, DC, Report of Committee on Forest Types, p. 39.

12. Costin, H. J., (1958), "Study of Plant Communities," W. H. Freeman & Co., San Francisco.

13. Davis, J. A., (1977), New York Fish and Game Journal Soc., 24 No. 2, An Ecosystem Classification of New York State For Natural Resource Management, p. 129-143.

14. Giles, R. H., (1969), "Wildlife Management Techniques," Wildlife Society, Washington, D.C., Chap. 12-13, p. 119-232.

15. Benton, A. H. and Werner, W. E., (1965), Manual of Field Biology and Ecology, 4th Edition, Minneapolis, Burgess Pub. Co.

16. Pfister, R. D., et al., (1977), "Forest Habitat Types of Montana," USDA - Forest Service, General Technical Report No. INT-34, 174 p.

17. Daubenmire, R. A., (1973), "Comparison of Approaches to the Mapping of Forest Land for Intensive Management," Forestry Chronical 49:87-91.

18. Daubenmire, R. and Daubenmire, J. B., (1968), "Forest Vegetation of Eastern Washington and Northern Idaho," Washington Agricultural Experiment Station Technical Bulletin 60, 104 p.

19. Deitschman, G. H., (1973), "Mapping of Habitat Types Throughout a National Forest," USDA Forest Service General Technical Report INT-11, 14 p., 1973.

20. Cowardin, L., et al., (1977), "Classification of Wetland and Deep Water Habitats of the United States" (An Operational Draft), Fish and Wildlife Service, Dept. of Interior.

21. Wielgolaski, F. A., (1972), "Vegetation Types and Plant Biomass in Tundra," Arct. Alp. Reg. 4:289-306.

22. Arkley, R. J., (1972), "Factor Analysis of Ecosystem Components for the Barrow Intensive Site," 1970, p. 121-127, in S. Bowen (ed) Proc., 1972, U.S. Tundra Biome Symposium, U.S. Tundra Biome, 211 p.

23. Billings, W. D. and H. A. Nooney, (1968), "Ecology of Arctic and Alpine Plants," Biol. Rev. 43:481-530, 1968.

24. Frances, C. J., (1978), *American Birds*, Vol. 32, No. 1, "Understanding Quantitative Surveys of Vegetation."

25. Zedler, P. H., and F. G. Goff, (1973), "Size-Association Analysis of Forest Successional Trend in Wisconsin," Ecol. Monogr. 43:(1);77-94.

26. Anclair, A. N., and Cottam, H., (1971), "Dynamics of Black Cherry (*Pinnas serotina* Erhr.) in Southern Wisconsin Oak Forest," Ecol. Monogr. 41(2):153-177.

(3) Vegetation maps, if required, should be of a scale of 1:24,000 or larger. Mapping units should be chosen using recent aerial photographs, to delineate homogeneous vegetative areas, but units selected should be field checked for accuracy, before transfer to the map. Submitted with application.

(4) Quantitative vegetation sampling, on the ground, is useful in establishing species frequency, density and productivity for vegetation map units. Quantitative sampling techniques differ from rangeland to forest to tundra. The following references from the foregoing list are believed to be most useful in describing quantitative techniques: Numbers 1-4; 6-8; 10-13; 15, 16, 18, 20-26.

§ 779.20 Fish and wildlife resources.

(1) Authority for this Section is Sections 102; 201; 501(b); 503; 506; 507(b)(11); 508(a); 510(b); and 515(b) of the Act. Paragraph (a) of this section would require the results of animal population studies to be submitted in the application. Paragraph (b) would require that the populations shall be studied in the degree of detail specified by the regulatory authority, according to two general types of sources for that information: The first source would be data which may already exist for the immediate or general area of the proposed operations as published in professional journals or other readily available scientific publications. The second source would be from field collection, under guidelines from the regulatory authority, after consultation with State or Federal fish and wildlife agency staffs. This would include original field studies, to the degree necessary to fill gaps in the scientific knowledge obtainable from the literature.

The information to be required by this Section will enable the regulatory authority to determine whether the applicant will be able to comply with Section 816.97 of the performance standards. Guidance for baseline data collection under this Section may be found in "A Systems Approach to Baseline Studies,"; James B. State, *et al.* U.S. Fish and Wildlife Service, Western Energy and Land Use Team, Fort Collins, Colorado, Publication O.B.S. 78-21 (1978).

(2) *Alternatives*: In drafting this Section and section 780.15 of this paragraph the following alternative methods for permit information regarding fish & wildlife were considered:

(i) *Group "A"*:

(1) In all cases, require a detailed survey of every fish and wildlife species present in the mine plan area and adjacent area, including population densities for each species and plans for protection;

(2) Require specific species inventory, habitat discussion and protection plans for species selected by a regulatory authority, after consultation with local fish and wildlife agencies:

(3) Require no detailed data in permit applications, except for an inventory and a plan for protecting any endangered or species existing in the area and any additional information as required by the Endangered Species Act;

(ii) *Group B:*

(4) For all mines require a detailed inventory and a protection plan for all species; and

(5) Only for mines producing more than 100,000 tons annually, require a detailed inventory and a protection plan for all species.

Fish and wildlife habitat can be temporarily damaged or completely destroyed by certain mining practices. In particular, construction of haul roads, sedimentation ponds and coal processing waste banks, as well as the primary stripping activity itself, can disturb nesting and breeding habitat, destroy food forage and disrupt the biological chain. (See technical literature cited for section 816.97). Consequently, the proposed regulations have been drafted to require that fish and wildlife habitat, in general, be protected and that features disrupted by mining activities, such as mining through a stream bed, be returned to its approximate original condition following mining.

"GROUP A"

Alternative 1 of Group "A" would require an indepth survey of all fish and wildlife within the mine plan area and adjacent area. Such a survey would include identification of each and every species, data on each population, discussion of habitat requirements, and a proposed program for achieving complete or better recovery of the existing habitat and species population following mining. Such a survey would have to be conducted by a qualified fish and wildlife research team for each species. Alternative 2 of Group "A" would permit the collection of necessary data with less elaborate field analysis and interpretation. Alternative 3 of Group "A" would be to permit applicants to establish little or no fish and wildlife data base, except in those situations in which endangered species would be involved. The Office has tentatively decided to select alternative two, requiring in-depth field surveys, if no previous literature on fish and wildlife in the vicinity of the operation is available. The first alternative was rejected because of the office's understanding that there exists for many species and

areas, published data that can be used, in lieu of a full field survey to develop information for permit applications. The third alternative was rejected be-

historical land uses, if the pre-mining use is changed within 5 years prior to the beginning of the proposed mining operation. Paragraph (c) would re-

for that use. This could be ameliorated, by using floodproofing and special construction techniques in engineering foundation structures. However, costs,

mining on other functions in the community.)

(e) Sections 507(b)(13); 508(a)(2); 515(b)(2). (Disruption or potential dis-

cants ability to comply with the performance standards of Part 816 could be properly evaluated.

(1) Under paragraph (a), the coal-

(9) The requirement of paragraph (i) is found generally in section 515(b)(14) of the Act. Under this paragraph, slope measurements could be made

areas, published data that can be used, in lieu of a full field survey to develop information for permit applications. The third alternative was rejected because the Act requires protection broadly of fish and wildlife, not just endangered species.

"GROUP B"

Alternatives 4 and 5 involve consideration of what requirements should be established for small operators. The first assumption is that small operators would not be exempt from these application requirements. Detailed fish & wildlife inventory data would be used to define potential stresses on the ecological chain. A protection plan would be required under section 780.15, so that reclamation efforts would be established to provide maximum use of the land and establishment of adequate vegetative cover conducive to supportive habitat. Through proper backfilling and grading of affected areas and stream channels, deteriorated habitat could be regenerated to support fish and wildlife.

Alternative 5 was considered as another choice in that detailed inventories and protection plan under Pact 780 would be required for only mines of production of over 100,000 tons per year. This alternative was not selected, because it is believed that even small mines can significantly and adversely affect fish & wildlife.

The Office however, has not yet decided which of alternatives 4 or 5 to hereby select and specifically solicits comments on both.

§ 779.21 Analyses of selected overburden topsoil mixtures.

Authority for this Section is Sections 102; 201(c); 501(b); 503(a); 507(b); 508(a); 510(b); and 515(b) of the Act. This Section would require that applications contain the results of analyses, trials and tests required by the regulatory authority, where the applicant is proposing to use selected overburden materials instead of, or as a supplement to, topsoil in the proposed reclamation process. This information would be necessary to enable the regulatory authority to determine whether the applicant can comply with Section 816.22 of Subchapter K.

§ 779.22 Land use description.

(1) Authority for this Section is Sections 102; 201(c); 501(b); 503; 504; 507(b)(14); 508(a)(2), (3), (4), (5), (8), (10), (13), (14); 510(b); and 515(b)(2) and (10) of the Act. This Section would require applicants to describe the pre-mining land-use conditions of the lands within the proposed mine plan and adjacent areas. Paragraph (a) states the general requirement. Paragraph (b) would require description of the existing land uses and of historical land uses, if the pre-mining use is changed within 5 years prior to the beginning of the proposed mining operation. Paragraph (c) would require a description of the capability of the land, prior to mining, to support a variety of uses, a description of the pre-mining productivity of the land, and details of whether the land has been previously mined. The information required under this Section would enable the regulatory authority to determine whether the applicant would be able to comply with Section 816.133 of Subchapter K.

(2) Technical literature used in developing this Section was:

1. Toth, R. Criteria in Land Planning and Design. Landscape Architecture 62(1), 1971.

2. Moore, G. T., Emerging Methods in Environmental Design and Planning. M.I.T. Press, Cambridge, Mass. 1968.

3. Johnson, A. H., Berger, J., and McHarg, I. L., Landscape Analysis for Ecologically Sound Land Use Planning. Department of Landscape Architecture and Regional Planning. University of Penna., Phila. Pa. 1978.

4. Thurow, C., Toner, W. and Erley, D., Performance Controls for Sensitive Lands. American Society of Planning Officials Planning Advisory Service. Report Nos. 307, 308. Am. Soc. of Planning Officials, Chicago, Ill. 1975.

5. McHarg, I. L., Design with Nature, Natural History Press. Garden City, New York, 1969.

(3) The information to be required by this section would result in a report of a synthesis of the premining conditions as part of the comprehensive reclamation planning process, including the economic, engineering and legal factors which must be melded into a complete reclamation plan.

The landscape can be thought of as being composed of elements or components—(e.g., soils, geology, vegetation, hydrology, fish and wildlife, physiography (topography) and land use.) Each landscape element may provide opportunities or constraints for certain land uses. Areas which are most suitable for specific uses will have the greatest number of opportunities provided by the landscape and the least number of, or least severe, constraints imposed by the landscape for that particular use. (References 2, 3, 4)

By using an approach of combined analysis of opportunities and constraints, the environmental impacts of the planned uses can be minimized, and the best fit between the land use and the conditions of each specific reclamation site achieved. For example, areas where there is frequent flooding for extended periods provide an obvious constraint to subdivision housing. This property of the landscape lowers the inherent suitability of such areas for that use. This could be ameliorated, by using floodproofing and special construction techniques in engineering foundation structures. However, costs, both economic or ecological, will be incurred for construction and maintenance. This same area may provide little constraint for a golf course, park or agricultural use. The most cost-effective and least environmentally damaging land uses can be identified and developed to a large degree, by the landscape's characteristic properties and capabilities. (Reference 5)

§ 779.23 Maps, plans and cross-sections: preparation.

Authority for this Section is Sections 102; 201(c); 501(b); 503; 504; 507(b) (10), (13), (14), (15); 508(a)(5); and 510(b) of the act. Paragraph (a) of this section would require that maps, plans and cross-sections, to be supplied in the application. Through section 779.25, be prepared by, or under the direction of, certain qualified professionals, so that the quality of these documents can be assured. Paragraph (b) of section 779.23 would require that maps be at an appropriate scale and contain all of the information typical of USGS topographical maps, so that complete information about the area can be obtained by the regulatory authority.

Through years of map making and usage, the USGS 7½ minute maps have developed as the standard for mapping topography and geology. They show enough detail, in general, to provide a baseline for reestablishing the premining topography. High quality map information is necessary to help the regulatory authority evaluate the applicants' ability to comply with essentially all of the performance standards in Part 816.

§ 779.24 Maps: general requirements.

This Section has 13 paragraphs, all of which implement particular requirements of the Act. Specific authority of the Act for each paragraph includes, but is not limited to:

(a) Section 507(a)(1). (Ownership of the surface and subsurface estates would have to be established.)

(b) Section 507(b)(9). (A map showing the areas that the operator can legally mine is needed to determine the maximum extent of the proposed mining operations.)

(c) Sections 507(b)(8); 508(a)(1). (The total impact of the operation on the environment cannot be assessed without knowing the total area to be mined, when and where it is to be done, and any additional areas expected to be mined.)

(d) Sections 507(b)(13) and 522(e)(5). (Identification of structures and their use is need to determine the impact of

mining on other functions in the community.)

(e) Sections 507(b)(13); 508(a)(2); 515(b)(2). (Disruption or potential disruption by the operations of various pipelines, railroads, utilities, irrigation works, wells, etc. must be established, to prevent problems to the surrounding public community and establish any need for relocation or rebuilding of these facilities.)

(f) Sections 507(b)(13); 508(a)(2)(C); 515(b)(9). (Areas selected as the standard for reference when revegation is being evaluated must be located so that a determination of their suitability and representativeness may be established).

(g) Sections 507(b)(11) and (13); 508(a)(13); 515(b)(10). (Surface water flow and users in the affected area need to be established to determine the interruptions that will be caused by mining and the corrections that will be need both during and after mining).

(h) Sections 507(b)(13); 522(e)(4). (Locations of highways and roads on or near the mine need to be established, to prevent disruption of traffic flows, hazards to travelers, and provide for the proper restoration of traffic flow and access after mining).

(i) Sections 507(b)(13); 508(a)(10), (14); 522(e)(3). (The area affected may include sites of recreation, scientific or social significance that must be evaluated to determine whether they should be saved, how the mining should proceed around the site, precautions needed at the site, and reclamation procedures needed to maintain the values associated with the site).

(j) Sections 507(b)(13); 508(a)(10), (14); 515(b)(23); 522(e)(5). (Cemeteries must be identified to plan their relocation or avoidance and prevent exposing mine workers to health hazards).

(k) Section 522(e). (Areas that are established or are being considered for inclusion in National Wild and Scenic River Systems or National Trails System must be located to avoid damage to these irreplaceable national resources).

(l) Sections 507(b)(13) and (14); 508(a)(14). (The location and depth of water, gas and oils is needed to establish premining data on their condition and to be sure they are avoided or properly accounted for during mining).

(m)—Section 508(a)(14).

§ 779.25 Cross-section maps and plans.

Authority for this Section is Sections 102, 201, 501(b), 503, 504, 507(b)(11); 508(a) and 515(b) of the Act. Information which would be required under this section would provide the regulatory authority with complete information about the proposed mining site, so that the applicants ability to comply with the performance standards of Part 816 could be properly evaluated.

(1) Under paragraph (a), the coal seams to be extracted, their nature, depth and thickness would be determined, to establish the amount of material to be removed, the hydrologic effects of removing the seam, and the nature of the final pit floor. From this data the reclamation requirements will be established.

(2) Under paragraph (b), crop lines would be described, to establish the limits of the proposed mining operations. The strike and dip of the seams are useful in estimating the probable extent of the surface operations and the mining method to be used.

(3) The Act does not allow surface mining to take place closer than 500 feet for underground workings without special approval. Under paragraph (c) maps locating the underground workings would provide a basis for assessing the potential physical and environmental hazards of mining in their vicinity. The safe distance for mining near these hazards could then be established.

(4) Under paragraph (d), the premining subsurface hydrologic regime would be established, to determine the changes that mining would cause to the hydrologic balance, to help plan corrections for negative impacts, and set standards for post mining groundwater flows.

(5) Surface water systems, both natural and man-made, would be located under paragraph (e), to help establish water table data, recharge relationships, interruptions to both natural and artificial water courses, possible relocation routes, and post-mining flow paths.

(6) The discharge of industrial waste on or near the mine needs to be established, to determine the effect on groundwater and surface water during and after mining. Under paragraph (f), that information would provide baseline data for original non-mine pollution levels, and allow for the design of systems to control industrial waste flows.

(7) Under paragraphs (g) and (h), previous surface mining activities would be shown, to establish what areas where disturbed by operations other than the proposed one, to locate areas to be handled under abandoned mined lands funds, to assess the present environmental damage of the old workings, and to properly establish reclamation criteria based on the natural condition of the land, not the present disturbed condition.

(8) Environmental control facilities would be identified under paragraph (h) to anticipate, minimize, or avoid the interruption of their operation.

(9) The requirement of paragraph (i) is found generally in section 515(b)(14) of the Act. Under this paragraph, slope measurements could be made from topographic maps. However this paragraph would allow for the use only of maps with 10 feet minimum contour intervals, where slopes are over 20 degrees, and only maps of 5 feet maximum intervals, where slopes are less than 20 degrees. This requirement is based on a need for more detail of slope data than is found on standard 7.5 minute U.S.G.S. maps. U.S.G.S. maps commonly use 20 degree intervals in steep slope areas and 10 degree intervals in less steep areas. This reduces knowledge of vertical variation over substantial horizontal distances, thereby reducing knowledge of the "approximate original contour" which Congress mandated to be reconstructed in most cases. The Office does not believe that the use of more detailed maps for slope measurements will create substantial burden for the industry. Indeed, the use of shorter contour intervals on mining plan maps is already widespread in the industry. (See Memorandum to OSM Administrative Record on "Mine Plans Submitted to E.P.A., Region 8, Denver, Colorado").

(10) In addition to being required by the Act, the paragraphs of Section 779.25 would require information which will enable the regulatory authority to evaluate the applicants' ability to comply with the following Sections of Part 816 of Subchapter K.

(a) 816.61-.68; 816.121-.126; 816.99
(b) 816.50-.55
(c) 816.61-.68; 816.50-.55; 816.121-.126
(d) 816.50-.55; 816.61-.68
(e) 816.41-.59; 816.33-.34
(f) 816.41, .42, .52, .55
(g) 816.21-.25; 816.32; 816.41-.57; 816.111-.117
(h) 816.21-.25; 816.32; 816.41-.57; 816.71-.73; 816.81-.93; 816.111-.116
(i) 816.102.

§ 779.26 Soil resources description.

Authority for this Section is Sections 102; 201; 501(b); 503, 504 and 507(b)(11); 508(a); and 515(b) of the Act. This Section would require the submission of a description of the soil resources of the mine plan area, through a soil survey, to enable the regulatory authority to make determinations under sections 515(b)(2), (4), (5), and (6) of the Act. These determinations would be related to enforcement of the performance standards of Section 816.22(b), (c), and (e), 816.111-816.116 and 816.133 of Subchapter K.

PART 780—SURFACE MINING PERMIT APPLICATION—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

816.60 and 816.61-816.68 of subchapter K.

§ 780.13 Operations plan: Maps and plans.

proposed surface coal mining operation. This Section is intended to assure that proposed surface coal mining operations meet all national

Technical literature: The following technical literature, State laws and regulations and other materials support the Sections of the regulations.

25. 40 C.F.R. Sec. 60.250.
26. Dvorak, *The Environmental Effects of Using Coal for Generating Electricity*, (Draft) Argonne National

broken down into three separate components. The components include:

(a) an air quality review which normally would include air pollution dif-

PART 780—SURFACE MINING PERMIT APPLICATION—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

Introduction

Part 780 is proposed to establish the heart of the permit application; the mining operations and reclamation plan. The regulatory authority will utilize this information, together with the description of the existing environmental resources obtained under Part 779 to predict whether the lands to be mined can be reclaimed and if the operations can be conducted in compliance with the environmental protection performance standards of Part 816, Subchapter K.

§ 780.11 Operation plan: General requirements.

Authority for this Section is Sections 102; 501(b); 503; 507(b); 508(a); 510(b); and 515(b) of the Act. This Section would require that each application contain a description of the proposed mining operations, including a narrative of mining methods and procedures proposed to be used in the operation of the mine. Paragraph (2) of this Section would require the narrative to explain the construction, modification, use and maintenance and removal of certain mine operation facilities.

The requirements of this Section are designed to aid the regulatory authority in determining whether the applicant can meet the following performance standards of Subchapter K:

Sec. 780.11(a)(1)	Sec. 816.62
Sec. 780.11(a)(2)(ii)	Sec. 816.39
Sec. 780.11(a)(iii)	Secs. 816.46, 816.48 and 816.91
Sec. 780.11(a)(iv)	Secs. 816.21-816.24, 816.71-816.73, 816.100-816.106
Sec. 780.11(a)(2)(v)	Secs. 816.32-816.36 and 816.59
Sec. 780.11(a)(2)(vi)	Secs. 816.81-816.88 and 816.91-816.93
Sec. 780.11(a)(2)(vii)	Sec. 816.39
Sec. 780.11(a)(2)(viii)	Secs. 816.41-816.46, 816.50 and 816.56

§ 780.12 Operations plan: Blasting.

Authority for this Section is Sections 507(g) and 508(a)(13) of the Act. This Section requires that each application for a surface mining permit provide a narrative description of the blasting operations to be used in the proposed mining operations. Specific information about the types and amounts of explosives, their handling and use are required in paragraphs (a)-(g). This is necessary for the proper evaluation by the regulatory authority of the possible environmental and public safety consequences of the use of explosives during the proposed mining operation and are needed to determine whether the applicant can meet the performance standards found in Sections 816.41, 816.60 and 816.61-816.68 of subchapter K.

§ 780.13 Operations plan: Maps and plans.

Authority for this Section is Sections 102; 201(b); 501(b); 503; 504; 507(b); 507(g); 508(a); 517; and 522(e)(4) of the Act. In addition to the narrative plans to be required by the preceding Sections, this Section of Part 780 would require each application to include maps and plans relevant to the proposed operation. Some of these maps and plans would have to be prepared by specified professionals as required under Sections 507 and 508 of the Act. Accurate maps and plans are needed by the regulatory authority to properly determine whether the planned operation should be approved, modified, or disapproved.

The requirements of this Section are designed to aid the regulatory authority in determining whether the applicant can meet numerous performance standards. The Subsection of 780.13 and the performance standards are designed to provide information as follows:

Sec. 780.13(a)	Secs. 816.21-816.24, 816.31-816.32, 816.36; 816.38-816.39; 816.41; 816.43-46; 816.49; 816.56; 816.59; 816.71-816.73; 816.79; 816.81; 816.83; 816.87-816.77; 816.91; 816.101; 816.121-816.124; and 816.133.
Sec. 780.13(b)	Sec. 816.124.
Sec. 780.13(c)(1)	Sec. 816.39.
Sec. 780.13(c)(2)	Secs. 816.21-816.24; 816.21-816.24; 816.31-816.32; 816.43-816.46; 816.56; 816.71-816.73; 816.81; 816.83; 816.91-816.93; and 816.99-816.101.
Sec. 780.13(c)(13)	Secs. 816.36; 816.39; 816.81; 816.91; and, 816.95.
Sec. 780.13(c)(4)	Secs. 816.21-816.24; 816.71-816.73; 816.81-816.88; and 816.101-816.105.
Sec. 780.13(c)(5)	Secs. 816.43-816.50; 816.55; 816.83; and, 816.91.
Sec. 780.13(c)(6)	Sec. 816.95.
Sec. 780.13(c)(7)	Secs. 816.39; 816.81; 816.83; 816.86; and 816.91.
Sec. 780.13(c)(8)	Sec. 816.97.
Sec. 780.13(c)(9)	Secs. 816.61; 816.68.
Sec. 780.13(c)(10)	Secs. 816.46; 816.49; 816.91-816.93.
Sec. 780.12(c)(11)	Secs. 816.56; 816.73-816.76; 816.81; 816.91; 816.100-816.106; and 816.133.
Sec. 780.13(c)(12)	Secs. 816.41-816.42; 816.52; 816.95; and 816.97.
Sec. 780.13(c)(13)	Sec. 816.133.

§ 780.14 Air pollution control plan.

Section 780.14 of the proposed regulations would establish the permit application requirements, so that the regulatory authority is provided with comprehensive and reliable information on the air quality impact of the proposed surface coal mining operation. This Section is intended to assure that proposed surface coal mining operations meet all national ambient air quality standards and any other applicable Federal or State air quality standards.

In general, the proposed regulations are structured on both a regional and a projected production level basis. This is proposed, in part, because of the current status of technical literature and air quality regulations in the field. The regulations also recognize the potential variations in air quality impact depending upon climate, geology and operating characteristics of surface coal mining operations in different parts of the country.

Legal authority: Permit application regulations for air quality are supported by Sections 102, 201(c), 501(b), 503(a) and (b), 507(b), 508(a)(9), 515(b)(4), and 515(b)(24) of the Act. Specifically, Congress in Section 515(b)(4) of the Act provides that all operators shall:

(S)tabilize and protect *all surface areas including spoil piles affected by the surface coal mining and reclamation operation* to effectively control erosion and attendant air and water pollution. (Emphasis added)

Thus, if a surface area is affected by surface coal mining and reclamation operations, the operator must effectively control attendant air pollution. The phrase "surface coal mining and reclamation" operation is broadly defined in the Act to mean surface mining operations and all operations necessary and incident to reclamation. Section 701(28), 30 U.S.C. Section 1291. The office believes that haul roads and access roads must be controlled because the definition of the phrase "surface coal mining." includes not only activities conducted on the surface of lands in connection with the surface mine, but also haul roads and access roads.

To implement this performance standard Congress has required that each permit application contain the steps to be taken to comply with applicable air quality laws and regulations. Section 508(a)(9), 30 U.S.C. 1258. The surface mining permit cannot be approved unless the regulatory authority finds in writing that the permit application meets requirements of the Act including the requirement to effectively control air pollution from all surface areas. Sections 515(b)(1)-(2), 30 U.S.C. Sections 1260(b)(1)-(2).

The permit application requirements listed in Subsections 780.14(a), (b) and (c) are the first critical steps in the process of assuring that all surface coal mining operations effectively control air pollution from all surface areas.

Technical literature: The following technical literature, State laws and regulations and other materials support the Sections of the regulations.

Literature Support

1. Axetell, *Survey of Fugitive Dust from Coal Mines*, EPA-908/1-78-003 PEDCO Environmental, Inc., February, 1978.
2. Cook, *Fugitive Dust from Western Surface Coal Mines*, Mathtech, Inc., Oct., 1976.
3. *Evaluation of Fugitive Dust Emissions from Mining*, EPA-68-02-1321 PEDCO Environmental, Inc., June, 1976.
4. Bass, *Impact of Significant Deterioration Proposals upon Western Surface Coal Mining Operations*, PB-253, 254, FEA May, 1976.
5. *Air Quality Effects Analysis of Falkirk Mine*, North Dakota State Department of Health, June, 1977.
6. Mann, *Compilation of Air Pollidant Emission Factors*, Second Edition, 11.2 Fugitive Dust Sources, December, 1975.
7. Craig, *Guide for Wind Erosion Control on Cropland in the Great Plains States*, U.S. Depart. of Agriculture, July, 1964.
8. *A Review of State Regulations for Controlling Fugitive Dust Emissions*, PEDCO Environmental Specialists, August, 1976.
9. *Applicant Information for Air Pollution Emission Permits Coal Mine Operations*, Colorado Department of Health.
10. *Identification of a Feasible Regulation for Controlling Localized Fugitive Dust Emissions*, PEDCO Environmental, Inc., AP42 (undated).
11. *Environmental Assessment of Surface Mining Methods: Head of Hollow Fills and Mountaintop Removal*, Skelly and Loy Interim Report, March, 1977.
12. EPA memorandum on Fugitive Dust from Surface Mines, dated May 15, 1978 (Note: Table of Typical Fugitive Dust Control Measures Observed at Western Coal Mines.)
13. Kimball, *Particulate Emissions Control—Mining and Processing*, EPA draft memorandum, undated.
14. Draft Environmental Statement, Southwestern Wyoming Coal, Vol. 1 and 2, Department of the Interior, April, 1978.
15. Nehring, *Coal Development and Government Regulation in the Northern Great Plains: A Preliminary Report*, R-1981-NSF/RC, August 1976.
21. *Where We Agree*, Report of the National Coal Policy Project, Center for Strategic and International Studies, Georgetown University (1978).
22. The Clean Air Act, as amended (42 U.S.C. 1857 *et seq*).
23. 40 C.F.R. Sec. 50.8.
24. 40 C.F.R. Sec. 51, Appendix B.
25. 40 C.F.R. Sec. 60.250.
26. Dvorak, *The Environmental Effects of Using Coal for Generating Electricity*, (Draft) Argonne National Laboratory, Argonne, Illinois, March 1977.
27. Pomerance, Statement on behalf of Friends of the Earth Public Meeting on Preliminary Proposed Draft Regulations, Washington, D.C., August 3, 1978.
28. Lippmann, Handbook of Physiology Section 9: Reactions to Environmental Agents, Ks, American Physiological Society 1977.
29. Quality Assurance Requirements for Prevention of Significant Deterioration, Air Monitoring EPA (1978).
30. Task Group on Lung Dynamics Committee, Health Physics (1966).
31. Assemblage of Data on Air Quality in Central and Southern Utah and Assessing the Impact of Coal Development in this Region on the Air Quality, Aerovironment, Inc.
32. Air Quality Criteria for Particulate Matter, HEW (1969).
33. Morrow, Airborne Contaminants Environmental Sciences on Interdisciplinary Monograph (1973).

Regional Separation: The proposed regulations separate surface coal mining operations into two regions. For operations west of the 100th meridian west longitude, the regulations have been refined to distinguish between operations with projected production levels exceeding 1 million tons of coal per year and those operations with lesser production levels. The regulations recognize, however, that surface coal mining activities may have production levels less than 1 million tons per year, but the overall air quality impact may be more significant than the impact from a single large mine when mining operations are aggregated with other major emitting facilities in the air quality control region or adjacent regions. In this instance, the regulatory authority is given the discretion to require the same air quality review as that required for single mining operations exceeding 1 million tons of coal per year. In any event a monitoring program and fugitive dust plan would be required.

For operations east of the 100th meridian west longitude, the regulations give the State regulatory authority the discretion to call for an air quality review and monitoring program if the proposed surface coal mining operations, in conjunction with other existing or proposed major emitting facilities would cause or contribute to levels of air pollution in excess of of any national ambient air quality standards or other applicable Federal or State air quality standards.

Structure of regulations. Each subsection of the permit application regulations addressing air quality would be broken down into three separate components. The components include:

(a) an air quality review which normally would include air pollution diffusion modelling;

(b) an ambient air quality monitoring program to accurately ascertain the air quality on a continuing basis in the vicinity of the surface coal mining operation; and

(c) a plan and commitment to employ fugitive dust control practices.

Within the constraint of having to meet national ambient air quality standards and any other applicable Federal or State air quality standards, surface coal mining operators are given the flexibility to select from a wide variety of effective control techniques which are, in part, listed in Sections 816.95(b) and (c) of the performance standards.

Existing operations with production levels in excess of 1 million tons per year include Utah International Navajo mine; Decker Mine No. 1; Peabody Black Mesa; Amax Belle Agriculture; Western Energy Coalstrip; Arch Minerals Seminoe No. 1; Pacific Power and Light Dave Johnson; Arch Minerals Seminoe No.2; Peabody Kayenta; Kemmerrer Sorensen; Peabody Big Sky; and Knife River Beulah. The Office proposes mandatory air quality review to assure that such operations do not result in air pollution in excess of national ambient air quality standards for total suspended particulate matter and other applicable Federal and State air quality standards.

Western surface coal mining operations can create air quality problems principally from increased fugitive dust levels. (Literature Support items 1, 2, 3, 4, 5, 6, 10, 15, 26). In particular, in March of 1978, EPA released a report prepared by PEDCO Environmental, Inc., entitled "Survey of Fugitive Dust from Coal Mines" ("PEDCO Report"). This study shows that western coal mines are "major emitting facilities" (Section 169 of the Clean Air Act defines "major emitting facility" to include 29 industrial sources and any other source with the potential to emit two hundred fifty tons per year of any air pollutant.)

PEDCO evaluated five western surface coal mines for the purpose of determining emission factors for 12 mining operations. Upwind and downwind ambient sampling was performed to develop emission factors for each mining operation. PEDCO said the general ranking of sources in decreasing order is Haul roads; Open storage piles; Dragline; Exposed areas; Fly-ash dump; Front end loader; Topsoil removal; Blasting; Truck dump; Drilling; Shovel/Truck loading; Train loading.

Haul roads were found to be the largest source and generally responsible for twice as much emission as the

next source. At a production rate of 1 million tons of coal per year, PEDCO estimated 1750 ton/yr. of particulate matter would be emitted from a sur-

al primary and secondary ambient air quality can be exceeded. Bass, Impact of Significant Deterioration Proposals upon Western Surface Coal Mining

agreed that fugitive dust can be a problem locally in all coal regions. Report of the National Coal Policy Project, *Where We Agree* (1978)

ently beyond the capability of most States.

4. Require air pollution assessments, monitoring and control as necessary to

habitats where they exist in the proposed permit area.

These statements are necessary to allow the regulatory authority to ob-

written for WELUT as part of EPA's Interagency Energy/Environmental Research and Development Program. Using a detailed, step-by-step ap-

next source. At a production rate of 1 million tons of coal per year, PEDCO estimated 1750 ton/yr. of particulate matter would be emitted from a surface coal mine. (PEDCO Report at 69.)

PEDCO also performed size distribution analyses of the measured particulate matter to allow for assessments of health effects. Particulate less than 10 microns in size is generally considered to be respirable and thus more dangerous to public health. Air Quality Criteria for Particulate Matter, U.S. Department of Health, Education and Welfare, Washington, D.C., Publication Number A-49. January 1969, Lippmann (1977); Task Group on Lung Dynamics Committee (1966); Morrow, (1973). Fifteen percent of the particulate matter was less than 10 microns in size. (PEDCO Report at 56.) Thus, even a small western surface mine emits 265 ton/yr. of respirable particulate matter.

It appears that when surface coal mines are aggregated in a region, the air quality impact could be more pronounced. For instance, the Department of the Interior Draft Environmental Statement for development of coal in southwestern Wyoming analyzes 4 proposed surface coal mines for that region. North Block (1.4 million tons/yr.), Twin Creek (2.5 million tons/yr.), South Haystack (3.0 million tons/yr.) and Black Butte (6.3 million tons/yr.) would, according to PEDCO, combine to increase particulate matter emissions by 7450 tons/yr. Total respirable particulate matter would exceed 1000 tons/yr. The existing and private production plus the proposed four surface mines are projected to produce approximately 30 million tons of coal per year by 1985. This corresponds to an increase of 18,000 tons of particulate matter per year of which approximately 2,700 tons would be respirable.

The PEDCO study included locating high volume samplers approximately 10, 20, 30, and 40 m. downwind of the source. PEDCO also attempted to develop a "fallout function" to assess the deposition rate of the emissions with distance from the sources. However, emission rates did not consistently decrease with distance from the source. Therefore, a published fallout factor was used in developing the emission factors. PEDCO views the emission factors to be valid for air quality impact assessments within 5 km. from the source. According to the consultant, where important air quality impacts occur at greater than a 5 km. distance from the mining operation other emission factors must be adapted. PEDCO did not perform any remote ambient air quality sampling simultaneously. However, other studies have explicitly analyzed the remote ambient air quality impact of western surface mines and concluded that national primary and secondary ambient air quality can be exceeded. Bass, Impact of Significant Deterioration Proposals upon Western Surface Coal Mining Operations, PB-253, 254 FEA May (1976).

For example the proposed surface coal mines for southwestern Wyoming, (North Block (1.4 million tons per year), Twin Creek (2.5 million tons per year), South Haystack (3 million tons per year), Long Canyon (2 million tons per year), and Black Butte (6.3 million ton per year) are projected to exceed the 24 hour primary national ambient air quality standard out to 1.2 miles, (NB3-2) 1.4 miles (TC3-5), 2.4 miles (SH3-2), 2.4 miles (LC 3-2) and 3.8 miles (BB3-2) respectively. (Southwestern Wyoming EIS). Thus, additional control measures may be necessary to assure that the surface mining proceeds without jeopardzing air quality standards.

The Office considered lowering the mandatory air quality review below 1 million tons of coal per year for western surface coal mines. Section 169 of the Clean Air Act defines a "major emitting facility" to include sources with the potential to emit two hundred and fifty tons per year of any pollutant. Using PEDCO's emission factor of 1.2 lb/ton of coal mined, any western coal mine operation with a production level exceeding 425,000 tons per year should require an air quality review. However, the Department recognizes that to some extent portions of the fugitive dust will fall out in the permit area.

The Office considered mandatory air quality review for surface coal mines with production exceeding 3 million tons/yr. and 5 million tons/yr. However, one million tons per year of coal production from a western mine appears to be the most appropriate starting point since such an operation can result in 1,750 tons of particulate matter per year of which 15 percent or 265 tons per year can be respirable. This total emission rate, over six times the Congressional cutoff for a major emitting facility is proposed as a necessary starting point to analyze the air quality impact of large western surface mines.

Regarding application of the regulations in the east and midwest, the PEDCO report explicitly states that the developed emission factors are limited to western surface coal mines. (PEDCO report at 68). However, other studies have evaluated the fugitive dust emissions from eastern and midwestern mines. (Literature support items 3, 6, 8, 11, 26). Moreover, Peabody Coal Company, owner of some of the largest surface coal mines in the midwest and east (River King, Illinois (6.4 million tons/yr.) and Sinclair, Kentucky (3.5 million tons/yr.) has agreed that fugitive dust can be a problem locally in all coal regions. Report of the National Coal Policy Project, *Where We Agree,* (1978).

To assure that State regulatory authorities have the discretion to address such air quality problems in the midwest and east, the Department has proposed in Section 780.14(c) that the regulatory authority can require an air quality review if it determines that the proposed operation in conjunction with other major emitting facilities would cause or contribute to air pollution in excess of any applicable Federal or State air quality standards. Authority for this Subsection of the regulations is explicitly found in Sections 508(a)(9) and 515(b)(4) of the Act.

Alternatives Considered:

1. Exempt fugitive dust from regulation under the Surface Mining Act.

Advantages:

(a) Most States are not prepared for sophisticated surface mining air quality review and monitoring.

(b) The coal industry will support such a regulation.

Disadvantages:

(a) Conflicts with 515(b)(4) of the Surface Mining Act.

(b) Massive amounts of particulate matter will be emitted into the ambient air thereby degrading air quality beyond Clean Air Act standards necessary to protect public health and welfare.

(c) The failure to monitor air quality will possibly mask an air quality problem.

2. Require Best Management Practices to control fugitive dust with the goal or standard of "avoiding a public nuisance" or "good housekeeping."

Advantages:

(a) Avoids sophisticated surface mining air quality review and monitoring.

(c) May be consistent with 515(b)(4) of the Surface Mining Act.

Disadvantages:

(a) No assessment of the public health and welfare problems resulting from particulate matter emissions.

(b) No firm air quality standard to measure compliance.

3. Require air pollution assessments, monitoring and control as necessary to achieve and maintain ambient air quality standards and other applicable Federal or State air quality standards.

Advantages:

(a) Particulate matter emission control is required to the level necessary to protect public health and welfare from adverse air quality impacts (presently may exclude PSD standards).

(b) May be consistent with 515(b)(4) of the Surface Mining Act.

Disadvantages:

(a) Requires monitoring and air quality review which is probably presently beyond the capability of most States.

4. Require air pollution assessments, monitoring and control as necessary to achieve and maintain ambient air quality standards, prevention of significant deterioration standards and other applicable Federal and State air quality standards.

Advantages:

(a) Consistent with 515(b)(4) of the Surface Mining Act and Section 127 of the Clean Air Act.

(b) Implements clear congressional intent embodied in the Clear Air Act and Surface Mining Act.

(c) Assures full panoply of air quality review, monitoring and control.

Disadvantages:

(a) May be inconsistent with EPA's "fugitive dust exemption" for surface coal mines.

(b) Requires monitoring and air quality review which is probably presently beyond the capability of most States.

Option 1 was rejected because it is inconsistent with the Surface Mining Control and Reclamation Act's mandate to regulate attendant air pollution from all surface areas. Option 2 was rejected because it fails to provide a meaningful standard to protect public health and welfare from the air pollution impacts of surface coal mining operations. Option 4 was rejected because, for the present, EPA may not have included surface coal mining operations in Prevention of Significant Deterioration Regulations. *See* 40 C.F.R. Sections 51.24(b)(6), 51.24(l), 51.24(k)(5). Option 3 was selected for the foregoing reasons.

§ 780.15 Fish and Wildlife Plan.

Authority for this Section is sections 102; 205; 501; 503; 504; 507(b); 508(a); and 515(b)(2), (10), (17), (19), (23), (24) of the Act, the Endangered Species Act of 1973; and the Fish and Wildlife Coordination Act. This Section would require applicants for a permit to explain how they plan to minimize adverse impacts of the proposed operation to fish, wildlife and related environmental values. Subsection (a) would require a narrative statement on this subject. Subsection (b) would require the applicant to explain how the best technology currently available will be used, if needed, to minimize impacts of the operation after revegetation of the mine plan area. Subsection (c) would require copies of statements from applicable State and Federal fish and wildlife agencies which have reviewed the proposed impact control measures and monitoring plans. Subsection (d) would require a narrative statement on specific measures, techniques, and monitoring methods to be used to protect or enhance three categories of organisms or habitats where they exist in the proposed permit area.

These statements are necessary to allow the regulatory authority to objectively determine whether the proposed mining operation will adversely affect fish and wildlife resources and whether the applicant can comply with the performance standards of Section 816.97 of Subchapter K.

Under this section the person contemplating surface mining activities would specify how the best technology currently available will be applied to ensure that the best interests of fish and wildlife and related environmental values will be accommodated in mining and reclamation activities. It provides some latitude for the applicant, if he determines that achievement of fish and wildlife is not practicable, to show why, and to show how what he does propose, will minimize adverse impacts on those resources.

State and Federal wildlife agencies are provided an opportunity to comment on the plan's adequacy.

The plan would explain how the applicant will provide for the preservation of (1) threatened or endangered species and their habitats (2) eagles, migratory birds and game animals protected by State or Federal law and (3) unique habitats such as wetlands, riparian areas, and nesting, nursery or wintering areas. For discussion of this on the specifics of the plan, depending on the size of the mine, see the preamble to section 779.20.

Technical literature: Guidance on mitigation of surface mining impacts on fish and wildlife may be found in the document, "An Environmental Guide to Western Surface Mining Part II: Impact, Mitigation and Monitoring," FWS/OBS 78/05 Draft, which assembles information about the effects of surface coal mining on fish and wildlife and recommends ways for mitigating anticipated adverse impacts and for monitoring mitigation success and impact effects. The manual was written for the Western Energy and Land Use Team (WELUT) of the U.S. Fish and Wildlife Service to allow for reasonable decisions for the protection of fish and wildlife resources when drafting federal coal lease stipulations for surface mine development projects. Direct and indirect effects of 36 activities associated with surface mining are traced to the point of ecological impact. Existing stipulations with respect to each activity are evaluated and an approach for developing site-specific stipulations is recommended.

Another publication, "A Systems Approach to Ecological Baseline Studies," FWS/OBS78/21, 1978, defines and standardizes a holistic approach to ecological baseline studies for energy conversion projects in the western United States. The manual was written for WELUT as part of EPA's Interagency Energy/Environmental Research and Development Program. Using a detailed, step-by-step approach, the manual recommends a general process for baseline study design. To help bridge the gap between the general case and the particular, examples from various development projects are included which demonstrate the application of the techniques described.

Additional alternatives considered: One commenter has said the proposed regulations give too much discretionary power to the regulatory authority. According to this commenter without assured input from State wildlife agencies, resource management agencies and citizens, it is more than likely that fish and wildlife will not be protected. Specifically, endangered, rare, critical, and protected species may need special mention to protect species integrity.

OSM, however, proposes that the regulatory authorities be largely responsible for assuring that rare and endangered species and migratory species receive full and adequate protection. The Office has proposed a method to ensure that fish and wildlife values are addressed. Moreover State wildlife agencies will have the opportunity to assume a role of monitoring the impacts of surface mining.

OSM further proposes that, beyond the point of satisfying all the minimum requirements of existing Federal and State laws governing clean air and water standards as well as the environmental standards in the Surface Mining Control and Reclamation Act, including rare and endangered species and migratory bird protection, the States should have the perogative for deciding how far they will go to totally protect all species of fish and wildlife. The Office invites comments on how to divide the responsibility for determining best technology currently available to protect fish and wildlife resources.

§ 780.17 Reclamation plan - Introduction.

Authority for this Section is Sections 102; 201(c); 501(b); 503; 507(c); 508(a); 510(b); 515(b) of the Act. In addition to the operations plan, blasting plan, air pollution control plan, and fish and wildlife plan called for by Sections 780.11-15, each applicant for a permit would be required to submit a reclamation plan designed to demonstrate how the applicant will comply with the environmental protection performance standards of Section 515 of the Act, Subchapter K of these regulations and the regulatory program. Elements of the reclamation plan are specified in Sections 780.19-27.

Sections 780.19-23 are mandated by the Act for all mining operations. Section 780.25 and Section 780.27 will not

apply to all applicants, but will apply to any applicant planning the use of diversion structures in the proposed

(8) Paragraph (g) would require a description with maps, of the measures to be used to seal mine openings

cated permit requirements are designed to implement:

Sec. 780.21(a)..... 816.41

§ 780.25 Reclamation plan: Ponds, impoundments, banks, dams, and embankments.

(1) Authority for this Section is Sec-

structure, persons and property downstream, and the environment.

§ 780.27 Reclamation Plan: Surface

roads. To determine how this will be done, Section 780.37 is being proposed. This section would ensure that transportation facilities within the mine

V 43 / 181 / SEP 18 1978

apply to all applicants, but will apply to any applicant planning the use of diversion structures in the proposed operation or proposing a surface mining operation near an underground mine. Sections 780.31, 780.33 and 780.35 will also not apply to all applicants. Section 780.37 will apply to all applicants.

All of the reclamation plan requirements are necessary to enable the regulatory authority to objectively evaluate the proposed mining and reclamation operation to determine whether the operations will be conducted in compliance with the environmental protection performance standards. *See* Section 510(b)(2) of the Act.

§ 780.19 Reclamation plan—General requirements.

(1) General authority for this Section is Sections 102; 201(c); 501(b); 503; and 507(c) of the Act. Each of the 11 paragraphs of this Section is required by additional Sections of the Act cited below. Each of these paragraphs is intended to provide information for the general purpose expressed under Section 780.17.

(2) Paragraph (a) would require a detailed timetable for the accomplishment of each major step in the reclamation plan. Authority: Section 508(a)(7).

(3) Paragraph (b) would require a detailed estimate of the cost of reclamation for the proposed area with supporting calculations to be used by the regulatory authority to determine the amount of performance bonds needed under Subchapter J. Authority: Sections 508(a)(5); 509(a).

(4) Paragraph (c) would require a plan for backfilling, stabilization, compacting and grading of the proposed area with cross-sections describing the anticipated profiles and surface configuration of the post-mining permit area. Authority: Sections 507(b)(14); 508(a)(5), (10); 515(b)(3), (4), (5), (6), (8), (10), (11), (13), (17), (22).

(5) Paragraph (d) would require a plan for topsoil handling and replacement and revegetation of the proposed permit area, including at least six elements which are enumerated. Authority: Sections 507(b)(14); 508(a)(5), (10); 515(b)(5), (6), (10), (13), (17), (19), (20), (22).

(6) Paragraph (e) would require a description of the measures selected for maximizing the recovery of the coal resource from the proposed area, so that the area will not have to be disturbed in the future. Authority: Sections 508(a)(6); 515(b)(1).

(7) Paragraph (f) would require the submission of information to determine if the requirement of Section 816.103 will be complied with by the applicant. Section 515(b)(14) of the Act.

(8) Paragraph (g) would require a description with maps, of the measures to be used to seal mine openings and case or manage drill or other bore holes in the permit area. Authority: Sections 507(b) (11), (13); 508(a) (5), (13); 515(b)(10)(A).

(9) Paragraph (h) would require a description of how mining equipment and facilities will be removed from the area when their use has ended. Authority: Sections 508(a) (3), (4), (5).

(10) Paragraph (i) would require a description of the steps to be taken during the life of the permit to comply with Federal air and water laws and the State air, water, health and safety laws. Authority: Sections 508(a) (9), (13); 515(b) (4), (8), (10).

Section 780.19 is designed to aid the regulatory authority in determining whether the applicant will be able to meet the many requirements of Subchapters which are identified in the text of the section.

§ 780.21 Reclamation plan: Protection of hydrologic balance.

(1) Authority for this Section is found in Sections 507(b) (11), (13); 508(a) (5), (9), (10), (13); 515(b) (4), (8), (10), (13), (17), (18), (23); 717(b) of the Act. Paragraph (a) would require each plan to contain a narrative, description with supporting materials to assure the protection of the quality and quantity of water and the rights of present use to the water in the mine plan and adjacent areas.

(2) Paragraph (b) would require the description of Subsection (a) to include five subsidiary plans to establish how Sections 816.41–816.57 of Subchapter K will be complied with. Technical literature used in consideration of this Section was that literature also used for Section 816.41–816.57 of Subchapter K.

(3) Regarding the monitoring plan, the Office has considered two alternatives raised by commenters to the proposed monitoring requirements. Those are discussed in detail in the preamble to Section 816.42.

(4) Paragraph (c) would require that the description required by Subsection (a) include a statement (1) of the probable hydrologic consequences of the proposed mining and reclamation operation, listing the parameters to be included in that discussion and (2) the probable cumulative impacts of all anticipated mining in the area around and including the proposed operations area required by Sections 507(b)(11) and 510(b)(3) of the Act.

(5) This Section is designed to aid the regulatory authority determining whether the applicant will be able to meet the applicable performance standards of Part 816. Sections of the performance standards that the indicated permit requirements are designed to implement:

Sec. 780.21(a)	816.41
Sec. 780.21(a)(1)	816.41; 816.42
Sec. 780.21(a)(2)	816.41; 816.51; 816.52
Sec. 780.21(a)(3)	816.41; 816.51; 816.52
Sec. 780.21(b)(1)	816.41-816.44; 816.47
Sec. 780.21(b)(2)	816.41; 816.42
Sec. 780.21(b)(2)(i)	816.42
Sec. 780.21(b)(2)(ii)	816.42
Sec. 780.21(b)(3)	816.41; 816.51
Sec. 780.21(b)(4)	816.42; 816.52
Sec. 780.21(c)(1)	816.41; 816.52
Sec. 780.21(c)(2)	816.41; 816.52
Sec. 780.21(d)	816.41
Sec. 780.21(e)	816.41

§ 780.23 Reclamation plan: Post-mining land uses.

(1) Authority for this Section is Sections 102; 201; 501(b); 503; 504; 508(a)(3), (4), (8); and 515(b)(2) of the Act. This Section sets forth the criteria for the post-mining land use analysis and plan. Paragraph (a) would require each plan to contain a detailed description of the use or uses to which the land will be put following the proposed mining and reclamation operation, with a discussion of possible alternative uses and their relationship to existing land use policies and plans. Paragraph (b) would require that this description:

(a) Explain how the proposed post-mining land use will be achieved;

(b) Give the detailed management plans to be implemented, including, instances in which range land or grazing is the proposed post-mining use;

(c) Provide all the materials needed for approval of an alternative post-mining land use, where a land use different from the premining land use is proposed under Section 816.133.

(d) Show the consideration which has been given to making the entire operation and post-mining land use consistent with the plans of the surface owner and applicable State or local land use plans or programs.

(2) Each of the provisions of this Section is designed to aid the regulatory authority to judge whether the applicant will be able to comply with the performance standards of Section 816.133.

(3) Integration of vegetation map data with other environmental data such as soils and topography provides a systhesis that will be valuable in assessing the result of a proposed action on alternative land uses or alternative designs of proposed land uses.

To the fullest extent possible, the information requirements, especially in the areas of soils, threatened and endangered species habitats and archeological and historical data, should be filled utilizing existing data collected by various State and Federal agencies using standardized data collection techniques. Technical literature used for this section is the same as that used for Section 779.22 of this Subchapter.

§ 780.25 Reclamation plan: Ponds, impoundments, banks, dams, and embankments.

(1) Authority for this Section is Sections 102; 201; 501; 503; 504; 507(b); 515(b)(13), (21); 515(f) of the Act. This Section requires each reclamation plan to include specific elements with maps and cross-sections of all water-holding facilities subject to the approval of the regulatory authority under Subchapter K. These elements must cover the construction, operation, maintenance, and removal of the proposed facilities.

(2) Technical literature used in formulation of this Section included all literature used in developing sections 816.44, 816.49, 816.56, 816.81–816.85, and 816.91, 816.93 of Subchapter K.

(3) The requirements of Section 780.25 are intended to produce a thorough, well-planned design of the structures and facilities covered by this section, with proper maintenance, operational and emergency procedures provided for all aspects of the project.

(4) Paragraph (b) of section 780.25 would specify the design and plan requirements submitted for sedimentation ponds, including any sedimentation ponds intended as permanent impoundments. These requirements parallel existing State and Federal plan requirements.

(5) Paragraph (c) would cover plans for coal waste embankments to meet the standard engineering requirements of the respective performance standards.

(6) Under paragraph (d), the plan requirements for coal processing waste dams would have to reflect items necessary to determine the adequacy of the structure as specified in the Act and the performance standards of these regulations.

A foundation investigation is necessary to assure the stability of the site with respect to the ability of the foundation and soil materials to suitably support the structure. Supervision by qualified persons insures investigation will be conducted in a manner which achieves the proper balance of testing and drilling. Evaluation of springs, speeps and the design of a subdrainage system are standard engineering practice to maintain low phreatic surface and accordingly an acceptable safety factor.

Stability analyses of the embankmant, cut slopes, and natural slopes reduces the potential for failure by delineation of problem areas and initiation of remedial actions. Standard methods for testing and analysis must be utilized to achieve consistency in evaluation.

The potential for subsidence and resultant effects are required to be analysed and addressed in the plan submittal to assure the protection of the structure, persons and property downstream, and the environment.

§ 780.27 Reclamation Plan: Surface mining near underground mining.

Authority for this Section is Sections 102; 201; 501(b); 503; 504; 507(b); 508(a); 515(b); and 515(b) of the Act. This Section would require the application to contain information to enable the regulatory authority to determine whether the operation will be conducted in compliance with the requirements of Section 515(b)(12) of the Act and Section 816.79 of Subchapter K.

§ 780.29 Diversions.

The authority for this Section are found in Sections 102, 201, 501, 503(a), 504, 507(d), 508(a), 510(b) with specific reference to Section 515(b)(10), & 17, 18 and 23) of the Act. A description of all diversions to be constructed within the mine plan area would be required, to enable the regulatory authority to determine how stream channels and overland flow would be controlled in accordance with sections 816.43, 816.44 of Subchapter K.

§ 780.31 Protection of public parks and historic places.

Authority for this Section is Sections 102, 201, 501(b); 503; 504; 507(b); 508(a); 515(b); and 522(e) of the Act. This information would provide the regulatory authority with the basis for administering Section 761.12(f) of proposed Subchapter F.

§ 780.33 Relocation of use of public roads.

Authority for this Section is Sections 102; 201; 501(b); 503; 504; 507(b); 508(a); 515(b); and 522(e) of the Act. This information will enable the regulatory authority to administer the provision of Section 522(e)(4) of the Act and proposed Section 761.12(d) of Subchapter F.

§ 780.35 Disposal of excess spoil.

Authority for this Section is Sections 102; 201; 501; 503; 507; 508; 510; and 515 of the Act.

(1) Plan requirements for disposal of spoil are virtually identical for other fill placement and embankment design. For discussion of the permit requirements, *see* the Preamble for Section 780.25(d).

(2) Literature used to develop this Section was the same as for sections 816.71–816.73 of Subchapter K.

§ 780.37 Transportation facilities.

Legal Authority. This section is based on Sections 102; 201; 501(b); 503; 504; 507(b); 508(a); 510(b); 515(b); and 522(e)(4) of the Act. Movement of coal within the mine plan area, is generally accomplished by one or a combination of truck haulage, conveyor, and railroads. To determine how this will be done, Section 780.37 is being proposed. This section would ensure that transportation facilities within the mine plan area are constructed, used, and maintained in a manner which complies with Sections 816.31–816.39 of Subchapter K.

PART 782—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR LEGAL, FINANCIAL, COMPLIANCE AND RELATED INFORMATION

Part 782 concerning permits for underground mining activities is proposed to correspond to Part 778 for surface mining activities. As such, Part 782 sets forth the minimum requirements for approval of regulatory programs for general, legal, financial and compliance information required to be contained in applications for permits, so that the regulatory authority and the interested public would be provided with a detailed understanding of the nature of the entity which will mine the coal and the nature of the entities which have ownership interests in the property to be mined. Legal authorities for Part 782 are the same as those indicated in the preceding part of this Preamble for Part 778 of this Subchapter, except to the extent that the following differences between underground mining activities has been identified by the Office.

As required by Subsections 516(a) and (d) of the Act, the Office has considered whether distinct differences exist between surface and underground mining as to the permit application contents requirements here involved. The Office has preliminarily concluded that, with the exception of one matter, no such distinct differences exist, because requirements for financial, legal, compliance and other non-technical information do not differ as between surface and underground coal mining. The single distinct difference identified is discussed in detail below. The Office emphasizes that the conclusion regarding distinct differences discussed here is tentative in nature; interested parties are invited to submit comments identifying any other known distinct differences. The Office will account for other distinct differences, if identified, in promulgating the final permanent rules.

As to right of entry and operation information under Section 782.15, the Office has identified differences between surface and underground mining. As the Office understands Section 510(b)(6) of the Act, Congress intended that the regulatory authority determination required under that section be made only with respect to the interest of surface area owners where the actual mining of coal on the surface is involved and not as to un-

derground mine workings. Accordingly, Subsection 782.15(b) would be limited to requiring information regard-

(3). Regarding information on topsoil, land use, and vegetation; Part 783 has been modified from the corre-

(d). Those areas affected by surface operations and facilities, to be defined in Section 701.5 of this Chapter, re-

strength of rock and geometry of failure of rock and soil when subjected to tensile or compressive stress prior to mining. These tests allow characteriza-

780, except to the extent that the following differences between underground mining activities and surface mining activities have been identified.

propose adequate plans for the use of necessary treatment facilities to ensure that mine drainage is discharged out of the underground work-

derground mine workings. Accordingly, Subsection 782.15(b) would be limited to requiring information regarding the right of the applicant to conduct mining operations only where underground mining activities would involve the actual surface mining of coal and the private mineral state to be mined has been severed from the private surface estate. For example, the applicant would be required to explain its right to conduct surface mining during the development of the face-up area for an underground mine or if coal must be mined to develop roads, dams or other facilities on the surface of the ground. The applicant would not, however, have to explain its right to dig in underground workings.

PART 783—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES IN THE MINE PLAN AREAS AND ADJACENT AREAS

Introduction

This Part is proposed to establish the minimum requirments for regulatory program provisions for information on the enviornmental resources within the proposed mine plan area and adjacent area, which must be submitted to the regulatory authority in permit application regarding underground mining activities. This Part would provide for the submission of sufficient information to enable the regulatory authority, to determine, with the information required under Part 784, what impacts the proposed operation would have on areas within the mine plan area and adjacent areas and whether these will be conducted in compliance with the requirements of Part 817 of Subchapter K.

(1). Part 783, for underground mining activities, is proposed to correspond to Part 779. As such, Part 783 sets forth the minimum requirements for approval of regulatory programs for base-line description of environmental resources within the proposed mine plan and adjacent areas. Legal authority and the basis and purpose for Part 783 is the same as for Part 779, except to the extent that the following difference between underground mining activities and surface mining activities have been identified.

(2). The Office has, as required by Section 516 of the Act, considered whether district differences exist between surface and underground mining as to the permit application contents requirements have involved. Some differences have been indentified, which are discussed in more detail below. However, the Office will consider whether other differences exist as a result of comments received and may modify the provision of Part 783 accordingly.

(3). Regarding information on topsoil, land use, and vegetation; Part 783 has been modified from the corresponding provisions of Part 779, to limit application requirements for those items to areas affected by surfact operations and facilities. This has been done because the excavation of underground mine workings will not likely affect soil, vegetation and land uses, except where surface operations and facilities are involved.

§ 783.14 Geology description

(4). (a). Authority for this section is found in Sections 102; 201; 507(b); 508(a); 515(b); and 516 (a) and (d); of the Act. This section would implement the requirements of the Act for geologic information necessary for each application for a permit for underground mining activities.

(b). The information collected pursuant to Paragraph (a) of this Section will enable the regulatory authority to determine whether the applicant can comply with the performance standards of Sections 817.13–817.15, 817.31–817.39; 817.41–817.58; 817.59, 817.61–817.73, 817.81–817.89; 817.91–817.93; 817.99, 817.101–817.103, and 817.121–817.128. Technical literature used is the same as for Sections 779.14, with additional references cited in the following discussion. Paragraph (b) would allow for a waiver of these requirements, pursuant to Section 507 (b)(15) of the Act, when the regulatory authority already has at its disposal sufficient geological data about the proposed mine plan area to make further data collection unnecessary.

(c). The detail to which each applicant would be required to describe the geology of the mine plan area and adjacent area would depend upon the complexity of the region, specific demands on current and future land uses and hydrologic regime, and the proposed method of mining. A fairly elaborate statement, discussing the alternative methods for evaluating the geologic features and the intensity of chemical and physical analyses, will be necessary to produce adequate information.

Consideration was given to establishing the most informative exploration techniques, such as geophysical, geochemical, aeroborne, and number and location of core samples to be required under this Section. It was decided to propose separate requirements for the mine plan area, by division of two distinct operating units when describing the underground coal mining and reclamation operation. These are: (1) those areas affected by surface operations and facilities; and, (2) those lands overlying where extraction of coal will occur, but where no direct land excavation would be expected.

(d). Those areas affected by surface operations and facilities, to be defined in Section 701.5 of this Chapter, require detailed geological analyses for several reasons. The physical properties of the disturbed overburden (consolidated or unconsolidated) must be determined to develop the necessary parameters to design structurally stable surface facilities associated with underground mining activities, such as fills, dams or embankments. Secondly, the chemical content of the disturbed overburden must be established, to ensure that the operations and facilities are conducted so as to prevent deterioration of surface or groundwater resources.

(e). Regarding surface areas which would overlie underground mine workings, it was decided to propose requiring detailed information on the bedrock overburden overlying the proposed mine working area, so that a comprehensive subsidence control plan could be developed. Sufficient geologic data is necessary in that regard, to determine the bearing strength capacity of natural or artificial support structures, as well as the effectiveness of these structures over a period of time or as influenced by inundation of the mine after cessation of operations.

Rock mechanics tests of overburden from the coal to the surface are necessary to establish the stability of the overburden once the coal is removed. Tests specified in Part 784.14(c) as being required, include, but not limited to: triaxial compressive strength tests, grain size analysis, slaking tests in air and water, and angle of internal friction of all major lithologic units overlying the coal. Rock and soil mechanics analysis of the overburden column overlying coal is essential in areas of underground mining, because such an analysis is the only tool available to predict the timing and amount of the onset of subsidence once coal is removed. That subsidence over mined voids will occur is nearly a certainty; all the scientific aid available should be brought to bear on its occurrence.

Triaxial testing is the most reliable test of compressive strength for the purpose at hand, inasmuch as the confining pressure may be varied with the vertical compression. This is desirable, because as *Dunrud and Osterwald (1978, p. 22)* state, "Many • • • rocks (from the Powder River Basin of Wyoming) which were tested for point load strength, were too weak even for confined compressive strength testing • • •" *Lambe and Whitman (1969, p. 36)* state that triaxial testing is preferable to unconfined testing in standard rock and soil mechanics analysis because of its greater dependability.

Grain size analyses and angle of internal friction are necessary to predict

strength of rock and geometry of failure of rock and soil when subjected to tensile or compressive stress prior to mining. These tests allow characterization of bedrock and unconsolidated material (*Dunrud and Osterwald, 1978, p. 22; Bureau of Reclamation, 1973, p. 600*).

Slaking tests, properly called slaking durability index tests, are designed to simulate, in an accelerated way, failures due to wetting, drying, and abrasion of rocks subjected to atmospheric stresses (*Franklin and Chandra, 1972, p. 337*).

The Office requests comment and will work with MHSA to determine whether information already required by MHSA on roof stability would satisfy this requirement in whole or in part.

Technical references used were:

(i) Dunrud, S.R., and Osterwald, F.W., 1978, Effects of coal mine subsidence in the western Powder River Basin, Wyoming: U.S. Geol. Survey Open-File Report 78–473, 71 p.

(ii) Franklin, J.A., and Chandra, R., 1972, The slake durability test: Internat. jour. Rock Mechanics and Mining Sci. v. 9, no. 3, p. 325–338.

(iii) Lambe, T.W., and Whitman, R.V., 1969, Soil Mechanics: New York, John Wiley 553 p.

(iv) U.S. Bureau of Reclamation, 1973, Design of small dams: Dept. Interior, Washington, D.C., 2nd edition, 816 p.

(f). For the area overlying underground mine workings, chemical analysis of the coal seam and lower part of the overburden will be needed to determine whether the coal seam will be acid or iron-bearing, so that appropriate mine drainage controls can be planned for as part of the proposed operations. This information would be obtained through chemical analysis of the coal samples and strata immediately around the seam. The principal elements to be analyzed, initially, include the various combinations of iron sulfide and associated elements. *See U.S. Department of Agriculture Handbook No. 523 of Agriculture Handbook No. 525; U.S.E.P.A. Manual for Testing Overburden and Mine Spoils* 1978.

PART 784—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATIONS PLAN

Introduction

Part 784 for underground mining activities is proposed to correspond to Part 780 for surface mining activities. Part 784 sets forth the minimum requirements for approval of regulatory program provisions for mining operations and reclamation plans. Legal authority for this Part and the basis and purpose is the same as for Part 780, except to the extent that the following differences between underground mining activities and surface mining activities have been identified.

The Office has, as required by Section 516 of the Act, considered whether distinct differences exist between surface and underground mining for these permit application requirements. Some differences have been identified and are discussed in detail below. Also, because the order of individual sections of Part 784 is not the same as for Part 780, appropriate identification and cross-referencing is provided.

The Office will consider whether other differences exist as a result of comments received and may modify the provisions of Part 784 accordingly.

Air Quality Control Plan

1. The Office has tentatively decided not to reqire detailed air quality control plans under Part 784, because of the lack of data on the national and regional impacts of underground mining activities on air quality.

The Office has decided not to require blasting plans for underground mining activities, because of the infrequency of surface blasting associated with those activities.

§ 784.12 General requirements for reclamation and operations plan.

3. The authority, basis and purpose of this section are the same as these for section 780.19 of this Subchapter.

§ 784.13 Protection of hydrologic balance.

4. The authority, basis and purpose of this section are the same as for section 780.21. In addition, this section provides for long-term control of permanent seals of waters inundating abandoned underground mine operations, by requiring appropriate plans as part of the application.

These plans would contain the information needed by the regulatory authority to determine if the proposed operations can be conducted during and after mining, to meet the requirements of sections 817.13–817.15 of Subchapter K.

First, for new mines in acid or iron-bearing coalseams, locations of entries must be specified to preclude gravity discharges. See section 516(b) of the Act. Particularly important for the regulatory authority, will be sufficient soils, geologic and hydrology data to assess whether mine entries can be reasonably expected to hold seals for the long-term period after cessation of mining, in view of the historic experience with the difficulties in maintaining those seals without leakage or collapse.

If these plans cannot establish that drainage will be held within the underground workings, then the applicant would, of course, be required to propose adequate plans for the use of necessary treatment facilities to ensure that mine drainage is discharged out of the underground working in accordance with section 817.42 of Subchapter K.

The following technical literature supports this requirement:

(1) Ciolkosz, E. J. and L. T. Kardos, 1973, *Soil as a Medium for the Renovation of Acid Mine Drainage*, Office of Water Resources Research.

(2) Doyle, 1978 *Mine Sealing, Deep Coal Mining Waste Disposal Technology*, Noyes Data Corporation, Park Ridge, N.J., 1970

(3) Garrett, W.S. and Campbell, L. T., 1961, *Design and Construction of Underground Bulkheads and Water Barriers*, 7th Commonwealth Mining and Metallurgical Congress, Johannesburg, Vol. 3, 1283–1301;

(4) Halleburton Company, *New Mine Sealing Techniques for Water Pollution Abatement*, Federal Water Quality Administration, U.S. Department of Interior.

(5) Holuber and Penrose 1977, *Laboratory Study of Self-Sealing Limestone Plugs for Mine Openings*, EPA 4043019–73–011 and 67012–73–081.

(6) Moebs, N. N. and Krickovic, S., 1970 *Air Sealing Coal Mines to Reduce Water Pollution*, BOM RI 7354;

(7) USEPA, 1975, Criteria for Developing Pollution Abatement Programs for Inactive and Abandoned Mine Sites, EPA–440/9–75–008;

(8) USEPA, 1973, Processes, Procedures and Methods to Control Pollution from Mining Activities, EPA–430/9–73;

§ 784.14 Reclamation and operations plan: Post-mining land uses.

5. The authority basis and purpose of this section are the same as for section 780.23 of this Subchapter.

§ 784.15 Operations and reclamation plan: Ponds, inpoundments, banks and dams and embankments.

6. The authority, basis and purpose of this section are the same as for 780.25 of this Subchapter.

§ 784.16 Protection of public parks and historic places.

The authority, basis and purpose for this section are the same as for Section 780.31 of this Subchapter.

§ 784.17 Relocation or use of public roads.

The authority, basis and purpose for this Section are the same as for section 780.33 of this Subchapter.

§ 784.18 Underground Development Waste.

The authority, basis and purpose of this section are the same as for section 780.35 of this Subchapter.

§ 784.19 "Subsidence Control Plan."

(a). Authority for this Section is Sections 102, 201(c); 501(b); 503(a); 405;

ing and strains imposed on structures and resources,

(v) Measurement of the initial vertical and horizontal location of the sub-

sion, Washington, D.C., and the Pennsylvania Department of Environmental Resources, Harrisburg, Pennsylva-

in Utah and Colorado: U.S. Geological Survey Professional Paper 969, 39 p.

13. Brauner, G., 1973, Subsidence due to underground mining; I. Theory

28. Curtis, S.E., "Talk Presented at the Roof Control Committee Meeting of the American Mining Congress, Pittsburgh, Pa. September 18, 1968."

1970, Sturges and Clark 1970; Michael Baker 1973, p. 349).

6. The requirements of sections 784.25 would be:

§ 784.19 "Subsidence Control Plan."

(a). Authority for this Section is Sections 102, 201(c); 501(b); 503(a); 405; 507(b); 508(a); 510(b); 515(b); and 516 of the Act. Section 784.19 would set out minimum requirements for subsidence control plans in permit applications for underground mining activities. The subsidence control plan must show that the operation will be conducted in compliance with the requirements of Sections 817.121–817.126 of Subchapter K. The application materials are proposed to be required according to the following:

(1) Contain a description of the subsidence control technology to be used,

(2) Be designed according to recognized standards,

(3) Explain how material damage is to be prevented,

(4) Consider relevant geotechnical and land use factors, and

(5) Contain a plan for monitoring subsidence.

The goal of Section 784.19 is to prevent material damage to the land surface by subsidence (Section 516(b) of the Act) and insure that underground mine operators adopt the most technologically and economically feasible measures to control subsidence (Sections 102; 501(b); 516(b)(1), of the Act).

(b). Haphazard mining without consideration of the effects of subsidence can, and has resulted, in substantial material damage to private dwellings, public buildings and utilities, water quality, farmland and enviromental values. Effective control of subsidence requires that mining be conducted according to an organized, comprehensive plan of action, specifically designed to prevent unacceptable damage. The essential details of this plan would be contained in this "subsidence control plan".

(c). The types of technical information that the Office believes are needed to be set forth in an adequate subsidence control plan are based on a review of the literature in the field. This information would include:

(i) The results of a survey of surface structures or resources that might be damaged by subsidence to establish a base-line,

(ii) Determination of the maximum allowable ground lowering and strains which the structures and resources can withstand,

(iii) Design of mine workings to keep ground lowering and strains within allowable limits and/or provisions for surface structures and resources to withstand the induced ground lowering and strains, and/or other provisions to limit subsidence such as backfilling of mine voids,

(iv) Design and installation of a subsidence monitoring network that will allow determination of ground lowering and strains imposed on structures and resources,

(v) Measurement of the initial vertical and horizontal location of the subsidence network to a degree of reasonable precision,

(vi) Monitoring of the subsidence networks during mining to assure maximum allowable ground lowering and strains after mining, including,

(vii) Assessment of subsidence caused damage and implementation of any necessary repairs.

(d). Each of these elements is necessary to prevent subsidence causing material damage (Section 516(b)(1) of the Act) and known technology exists to implement each element. Standards, accepted practice, or known examples are available for each element to aid mine operators in designing subsidence control plans and assure quality control in their implementation. Preparation of plans according to recognized professional standards is necessary to assure that mine operators adopt subsidence control measures that are consistent with known technology and effective in preventing material damage to the extent feasible (Section 516(b)(1) of the Act). Precedent for requiring subsidence control plan standards is provided by the *Pennsylvania Bituminous Mine Subsidence and Land Conservation Act of 1966* (*Ref. 28*).

(e). Well defined standards exist for the surveying requirements of Section 784.19. Standards defining allowable deflections and strains for various types of structures are available in literature (Ref. 3, 4, 24, 26). Although the relationship between mining and the development of surface ground strains has not been precisely defined and additional research is required, remarkably consistent relations are found in European subsidence experience (Ref. 23) which can be applied to American longwall mining. Experience from Pennsylvania (Ref. 29) is believed to be applicable to the standard American room and pillar method of mining. Certification of plans by registered engineers or geologists is necessary to ensure plans are prepared according to professional standards.

(f). Technical literature used to develop Section 784.19 was:

1. Hill and Bates, "Acid Mine Drainage and Subsidence—Health and Ecological Effects of Increased Coal Utilization", Resource Extraction and Handling Division, Industrial Environmental Research Laboratory-Cincinnati, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268, 1977.

2. Michael Baker Co., et al., "A Comprehensive Program for Dealing with Mine Subsidence", ARC Report 73-163-2559, the Pennsylvania State University, Middletown, Pennsylvania, for the Appalachian Regional Commission, Washington, D.C., and the Pennsylvania Department of Environmental Resources, Harrisburg, Pennsylvania, 1976.

3. National Coal Board (British), "Subsidence Engineers Handbook", London, 1966, 1974.

4. Michael Baker Co., Inc., Architectural Measures to Minimize Subsidence Damage, ARC Report 73-111-2551, for the Appalachian Regional Commission, Washington, D.C., and the Pennsylvania Department of Environmental Resources, Harrisburg, Pennsylvania, 1974.

5. HRS-Singer, Inc., "Overview of Subsidence Potential in Pennsylvania Coal Fields", ARC Report 73-111-2552, State College, Pennsylvania, for the Appalachian Regional Commission, Washington, D.C., and the Pennsylvania Department of Environmental Resources, Harrisburg, Pennsylvania, 1975.

6. Grey, R.E., et al., "State of the Art of Subsidence Control", ARC Report 73-111-2559 (prepared by General Analytics, Inc., Monroeville, Pennsylvania), for the Appalachian Regional Commission, Washington, D.C., and the Department of Environmental Resources, Harrisburg, Pennsylvania, 1974, Part 2.

7. Earth Satellite Corp., "Use of Photo Interpretation and Geological Data in the Identification of Surface Damage and Subsidence", ARC Report 73-111-2554, for the Appalachian Regional Commission, Washington, D.C., and the Pennsylvania Department of Environmental Resources, Harrisburg, Pennsylvania, 1975, pages 35-37.

8. Mullin L. Lonergan Associates, Inc., "Local and State Regulatory Powers Dealing with Land Use and Construction in Subsidence Prone Areas", ARC Report 73-163-2557, for the Appalachian Regional Commission, Washington, D.C., and the Pennsylvania Department of Environmental Resources, Harrisburg, Pennsylvania, 1975, Appendix A.

9. U.S. Congress, 95th, 1st session, House Rept. 95-218, 1977, Surface Mining Control and Reclamation Act of 1977, Report of the Committee on Interior and Insular Affairs, House of Representatives, to accompany H.R. 2, p. 126.

10. U.S. Department of Interior, 1976, Final environmental impact statement on surface subsidence control in mining regions: U.S. Bureau of Mines FES 760-58, 90 p.

11. National Coal Board, 1963, Principles of subsidence engineering: Production Department Information Bull 63/240, 21 p., London, UK.

12. Dunrud, C.R.12. Dunrad, C.R. 1976. Some engineering geologic factors controlling coal mine subsidence in Utah and Colorado: U.S. Geological Survey Professional Paper 969, 39 p.

13. Brauner, G., 1973, Subsidence due to underground mining; I. Theory and practices in predicting surface deformation: U.S. Bureau of Mines Info-Circ 8571, 55 p.

14. Battelle Columbus Laboratories, 1975. A systems approach to underground mining: Phase I—Problem analysis and research recommendations, 282 p.

15. Campbell, J. A. L., et al., 1975, How to predict coal mine roof conditions before mining: Mining Engineering, October, p. 37-40.

16. Vandale, A. E., 1967, Subsidence—a real or imaginary problem: Mining Engineering, September, p. 86-88.

17. Horn, G. H., 1977, Memorandum on subsidence requirements-coal: U.S. Geological Survey memo to mining supervisors.

18. Allen, A. S., 1976, Basic questions concerning coal mine subsidence in the United States: Assn. Engr. Geologists Meeting, April 1976, 19 p.

19. Amuedo and Ivey, "Ground Subsidence and Land Use Considerations Over Coal Mines in the Boulder-Weld Coal Field, Colorado", Ameudeo and Ivey Geological Consultants, 1975.

20. G.A.I. Consultants, Inc., "Study and Analysis of Surface Subsidence Over the Mined Pittsburgh Coal Bed", report prepared for U.S. Department of Interior, Bureau of Mines under contract no. J0366047, Monroeville, Pa., July 1977.

21. Wardell, Kenneth, "Ground Subsidence and Control", *Mining Congress Journal*, January, 1969, pp. 36-43.

22. Kratzsch, Helmut, "Reduced Subsidence by Planned Extraction", Bergbau-Archiu (Essen), Vol. 25, No. 5, December 1964, pp. 15-21.

23. Panek, Louis A., "Methods and Equipment for Measuring Subsidence", Third Symposium on Salt, The Northern Ohio Geological Society, Inc., Cleveland, Ohio, 1966.

24. Voight, Barry and Pariseau, William, "State of Predictive Art in Subsidence Engineering", Journal of the Soil Mechanics and Fondation Division, Proceedings of the American Society of Civil Engineers, March, 1970, pp. 721-750.

25. Legget, R.F., Duisburg Harbour Lowered by Controlled Coal Mining", Canadian Geotechnical Journal, 9, 374, 1972, pp. 874-882.

26. Brauner, Gerhard, "Subsidence Due to Underground Mining—2. Ground Movements and Mining Damage", U.S. Bureau of Mines Information Circular 8572, 1973.

27. "Bituminous Mine Subsidence and Land Conservation Act of 1966". Commonwealth of Pennsylvania (Department of Environmental Resources), Harrisburg, Pa.

28. Curtis, S.E., "Talk Presented at the Roof Control Committee Meeting of the American Mining Congress, Pittsburgh, Pa., September 18, 1968," U.S. Department of the Interior, 1976, Final Environmental Impact Statement on Surface Subsidence Control in Mining Regions, U.S. Bureau of Mines.

§ 784.20 Protection of fish and wildlife.

11. The basis and purpose for this section are the same as for Section 780.15 of this Subchapter.

§ 784.21 Diversions.

12. The authority, basis and purpose for this section are the same as for Section 780.29 of this Subchapter.

§ 784.22 Maps and plans.

13. The authority basis and purpose for this section is the same as for Section 780.13 of this Subchapter.

§ 784.23 Transportation Facilities.

14. The authority, basis and purpose of this section is the same as for Section 780.37 of Subchapter K.

§ 784.25 Return of Coal Processing Waste to Abandoned Underground Workings.

15. Authority for this section is Sections 102; 201; 501; 103; 504; 507; 508; 510; 515 and 516 of the Act.

(a). An alternative method for alleviating potential subsidence problems and disposing of coal processing wastes that would otherwise be left on the surface is to use these materials to backfill voids in abandoned underground mines. The waste material provides lateral support to mine pillars and vertical support to the mine roof and overburden, and helps stabilize the surface. The major methods of backfilling are controlled, blind, and pumped slurrying (DOI, 1976).

2. *Controlled flushing* is used in mines in which men can safely enter and gain access to key areas for the filling operations. Generally about one borehole per 4 acres is required for slurry placement (Whaite and Allen, 1975).

3. *Blind Flushing* can be used where abandoned mine openings are inaccessible because of flooding or extensive caving. Granular material is injected into the mine voids by gravity feed. Most blind flushing projects have required hundreds of holes because of the limited amount of material that can be emplaced through any one hole (Whaite and Allen 1975).

4. *Pumped Slurrying.* A new technique for flushing of inaccessible mine workings utilizes pumped slurry injected from the surface. (Condeub, Fleissig, and Associates 1973, Whaite and Allen 1975).

5. *Fly ash* has also been used in subsidence stabilization (Magnuson et al. 1970, Sturges and Clark 1970; Michael Baker 1973, p. 349).

6. The requirements of sections 784.25 would be:

(a) development of a mine back-filling plan;

(b) description of waste material and area to be backfilled;

(c) description of hydrologic factors and

(d) additional application to pneumatic backfilling.

OSM specifically requests comments and will consult with MHSA to determine the safety considerations of each of these practices to the workers at the particular mine and adjacent miners.

7. Bibliography of technical literature used to develop projections:

(a). Baker, Michael Jr., "Analysis of Pollution Control Costs", Prepared for the Appalachian Regional Commission, February 1973, p. 347-349.

(b). Candeub, Fleissing and Associates, Demonstration of a technique for limiting the subsidence of Land Over Abandoned Mines, November 1973, NTIS No. PB212708.

(c). Cochran, William, "Mine Subsidence Extent and Cost of Control in a Selected Area", USBM IC8507, 1971.

(d). Jacobsen et al., "Subsidence Monitoring in Conjunction with Underground Mine Flushing Operations", Final Report USB Contract S0144073, October 1975.

(e). Magnuson et al, "Utilization of Fly Ash for Remote Filling of Mine Voids", Paper presented at the 2nd Ash Utilization Symposium, Pittsburgh March 10-11, 1970.

(f). Sturges and Clark; "Fly Ash—The Answer to Mine Subsidence Protection?", Coal Mining and Processing, April 1970.

(g). Whaite and Allen AS; "Pumped—Slurry Backfilling of Inaccessible Mine Workings For Subsidence Control", USBM IC 8667, 1975.

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

Introduction

(1) In addition to drawing the general distinction between surface and underground mining activities under the Act, Congress also imposed particularized requirements for a number of special categories of coal mining. To account for these special categories in the context of establishing minimum requirements for permit system components of regulatory programs, the Office proposes to promulgate Part 785 of Subchapter G. Because the provisions of Part 785 are interrelated to proposed performance standards applicable to the special categories covered in Subchapter K, the reader is cautioned to carefully review Part 785 together with the preamble and pro-

posed texts for Parts 818 through 828 of Subchapter K.

(2) These special permit requirements are in addition to those general

fication authority would be applicable, and the cut-off of that authority, in any event, early in the permanent regulatory period, the Office has tenta-

785 are not generally construed to be waivers from the other Parts of Subchapter G.

sary additional anthracite permits regulations is proposed at paragraph (c) of Section 785.11.

1. Through Section 711 of the Act, Congress has created a narrow process for granting exemption from compli-

presented with the record necessary to make a determination of whether the criteria for approval of the experimen-

posed texts for Parts 818 through 828 of Subchapter K.

(2) These special permit requirements are in addition to those general permit requirements contained in Subchapter G. Those general requirements apply under Part 785, unless a special permit requirement in this Part is inconsistent with a general requirement. For instance, an applicant seeking a permit under Section 785.17 of this Part containing a variance from approximate original contour would have to meet the requirements of Part 778, but would not, in the map to be filed under Part 780, have to demonstrate how the land to be mined would be restored to its approximate original contour. Instead, it would have to show what alternative post-mining surface configuration would be used.

(3) In selecting the categories of coal mining which are specially regulated in the Act for coverage in Part 785, the Office has decided to propose special permitting regulations for all of those categories covered by the Act, except for coal mines in Alaska. Although special provision is made for Alaskan coal mines at Section 708 of the Act and special environmental protection performance standards for that mining are being proposed by the Office at Part 821 of Subchapter K, the Office does not believe it appropriate to propose special permit regulations for Alaskan mining at this time.

The decision to omit Alaskan coal mining from special permits coverage is primarily based upon the narrowness of special treatment made available for this mining under Section 708 of the Act during the permanent regulatory program. Under Section 708(a) of the Act, the Secretary was directed to contract with the National Academy of Sciences for an in-depth study of Alaskan coal mining to determine whether any of the provisions of the Act should be modified by future act of Congress. This study is to be completed by August 3, 1979.

Under subsections (c) and (d) of section 708, the Secretary is authorized to make certain modifications to the environmental protection provisions of the Act or regulations adopted pursuant thereto. However, as the Office interprets those subsections, they do not necessitate the issuance of special permitting regulations. First, under Section 708(c) the Secretary is authorized to make modifications to environmental provisions of the Act or regulations adopted thereunder for mines in existence for a year prior to the Act, only until 1 year after the completion of reports required under Sections 708(a)-(c) of the Act or 3 years after the date of enactment of the Act (August 3, 1980), whichever comes first. Given the very few mines to which this modification authority would be applicable, and the cut-off of that authority, in any event, early in the permanent regulatory period, the Office has tentatively concluded that special permits regulations under Part 785 are unnecessary for implementation of Section 708(d) of the Act. To the extent that special procedures are needed for implementation of Section 708(d) under the permanent regulatory program, ample provisions to implement that section are being proposed at Part 821 of Subchapter K.

Similarly, regarding the Secretary's authority under Section 708(e) of the Act to promulgate special regulations under Section 501(b) of the Act, the Office believes that sufficient provision to implement that authority is being made by proposal of Part 821. That Part would establish detailed procedural and substantive criteria, by which the types of modifications envisioned under Part 708(e) can be accounted for. In the event, however, that further study of the Alaskan coal issue discloses the need for special permitting requirements, the Office will consider appropriate amendments to Part 785.

As for those special categories of coal mining that the Office has decided warrant special consideration in the permitting processes of regulation programs, a detailed analysis follows for Part 785.

§ 785.3 Responsibilities.

Authority for this section is Sections 102; 201(c); 501(b); 502(a); 507(b); 508(a); 510(b), (d); 515(b), (c), (d), (e); 516; 527; 529 and 711 of the Act. This Section explains the responsibilities of regulatory authorities and persons seeking to operate coal mines covered by Part 785. If a State is to allow any of the special categories of mining contained in Part 785, its State program provisions would have to meet the minimum requirements set forth in this Part for that particular type of mining. It is understood that some States may not allow for any of the special categories of mining and that some may allow only a few of the special categories. Where a Federal program is promulgated by the Secretary for a particular State, the provisions of Part 785 would be the minimum requirements for permitting special categories of mining under that program.

Section 785.3 also explains that, although special treatment is provided in Part 785 for special categories of coal mining, all other provisions of Subchapter G will be applicable to persons who seek to operate a mine in these special categories, unless specific exemption from a particular provision of Subchapter G is provided for in Part 785. This is provided to ensure that the individual sections of Part 785 are not generally construed to be waivers from the other Parts of Subchapter G.

§ 785.11 Anthracite surface coal mining and reclamation operations.

Authority for this section is found in Sections 102; 201(c); 501(b); 503(a); 507(b); 508(a); 510(b); 509; 515(b); 516 and 529 of the Act. This section will apply exclusively to those persons seeking to engage in anthracite surface coal mining and reclamation operations in Pennsylvania under a regulatory program for that State and is proposed to implement Section 529 of the Act.

1. Section 529 of the Act makes applicable to anthracite coal mines special environmental protection performance standards and certain bonding requirements of Pennsylvania law in effect on August 3, 1977, in lieu of the performance standards and equivalent bonding requirements otherwise in effect under the Act. Given the legislative history of that section of the Act and the Office's understanding that such special provisions of State law existed, as of August 3, 1977, only for the Commonwealth of Pennsylvania, the Office proposes to implement Section 529 only with respect to anthracite coal mining in Pennsylvania.

2. Under paragraph (b) of Section 785.11, permits for anthracite coal mining and reclamation operations in Pennsylvania would have to be applied for and issued according to the provisions of the Pennsylvania anthracite regulatory program in effect on August 3, 1977, only insofar as special anthracite environmental protection performance standards and bonding provisions are involved. Under Section 529(a) of the Act, special treatment is afforded for anthracite coal mining only with respect to performance standards and for specified bond limits and the period of responsibility for revegetation.

Thus, the Office is proposing that the permitting of anthracite coal mines in Pennsylvania which would otherwise be required under Subchapter G be modified only to the extent to which the requirements of Subchapter G which depend upon the generally-applicable requirements of Subchapter J (Bonding) and K (Performance Standards) must be modified to account for the special anthracite bonding and performance standards found at Parts 809 and 820 of this Chapter.

3. Under Section 529(a) of the Act, provision is made for the amendment of special anthracite regulations adopted by the Secretary under the Act, to account for changes in the special Pennsylvania anthracite regulatory program after August 3, 1977. Accordingly, authority to adopt necessary additional anthracite permits regulations is proposed at paragraph (c) of Section 785.11.

§ 785.12 Special bituminous surface coal mining and reclamation operations.

1. Authority for this section is Sections 102; 201(c); 501(b); 503(a); 504; 507(b); 508(a); 510(b); 515(b) and 527 of the Act. This section would apply to persons engaging in "special bituminous coal mining" in Wyoming, as defined in Part 701, and would implement Section 527 of the Act. Under that Section, the Secretary is authorized to issue regulations establishing special environmental protection performance standards for mines covered by that section, in lieu of those standards otherwise applicable under Section 515 of the Act. For the permanent regulatory program, the Office is proposing special environmental protection performance standards for "special bituminous coal mines" at Part 825 of Subchapter K. To ensure that permits would be applied for and issued according to those environmental protection performance standards, the Office is proposing Section 785.12.

2. As is the case for anthracite coal mines, the Office emphasizes that by establishing this Section, special treatment for the mines involved is afforded only to the extent that the requirements of Subchapter G were affected by modification of the otherwise applicable environmental protection performance standards of Subchapter K under the provisions of Part 825. Therefore, all other requirements of Subchapter G would apply to the permitting of special bituminous coal mines in Wyoming, except insofar as a modification were needed with respect to Part 825.

3. Under Section 527(b) of the Act, provision is made for the amendment of special bituminous coal mine regulations adopted by the Secretary under the Act, to account for changes in the special Wyoming regulatory program for those mines after August 3, 1977. Authority to adopt necessary additional special bituminous coal mining permits regulations is proposed at paragraph (d) of Section 785.12.

§ 785.13 Experimental practices mining.

Authority for this section is Sections 102; 201(c); 501(b); 503(a); 504; 507(b); 508(a); 510(b); 511(c); 513(a); 515(a),(b); 516; 517 and 711 of the Act. This Section is proposed to implement Section 711 of the Act and would apply to persons who wish to conduct mining under regulatory programs through the use of experimental practices involving deviations from the environmental protection performance standards of Sections 515 and 516 of the Act, Subchapter K, and the regulatory program.

1. Through Section 711 of the Act, Congress has created a narrow process for granting exemption from compliance with otherwise applicable environmental protection performance standards under the Act, to serve either of two purposes, on an experimental basis. One purpose is to encourage advances in mining and reclamation technologies. The other is to allow for a post-mining land use for industrial, commercial, residential or public use (including recreation facilities). However, because these exemptions may be allowed only ". . . in individual cases on an experimental basis, . . .", and only if approved by the Secretary, the Office has concluded that experimental practices should be authorized only under a permit issued in accordance with sufficient protective requirements. Accordingly, the Office proposes to implement Section 711 under regulatory programs by Section 785.13.

The Office believes that experimental practices should be allowed by regulatory authorities only under the precautions afforded by a permit system, in order to ensure for the "individual" determination and Secretarial approval required by the Act. Under a regulatory program permit system, detailed legal, financial, compliance and technical information would have to be presented to the regulatory authority prior to the commencement of operations. *E.g.* Sections 507, 508 of the Act; Parts 778-780; 782-784 of this Subchapter. Careful scrutiny of the proposed operation would be aided under a permitting system, through opportunity for public participation. *E.g.* Sections 513, 514 of the Act; Parts 788, 789 of this Subchapter. It is through these information and procedural requirements that the Office believes Section 711 should be implemented, so as to maximize the possibility of success of experimental practices and to minimize the probability that ill-conceived proposals will be conducted. *See* Section 510(b) of the Act; Section 785.13(d) of the regulations.

2. Paragraphs (a) and (b) describe the scope and objectives of Section 785.13. Under paragraph (c), the term "experimental practices" is defined, because it is used throughout this Section. The Office has proposed this definition upon the basis of the language of Section 711 of the Act, which is interpreted to limit allowable exceptions from the environmental protection performance standards to those conducted on an experimental basis.

3. Under paragraph (e) of Section 785.13, special permit application contents requirements for authorization of the use of experimental practices are proposed, in order that the regulatory authority and the Secretary are presented with the record necessary to make a determination of whether the criteria for approval of the experimental practice under Section 711 of the Act and paragraph (g) of Section 785.13 have been met. Sub-paragraphs (1) through (4) of paragraph (e) are based upon the explicit statutory criteria required for approval of an experimental practice under Section 711. Sub-paragraph (5) is based upon the Office's authority to ensure that all coal mining operations subject to the Act utilize adequate data monitoring and reporting procedures. Section 517 of the Act.

4. Under paragraph (f), it is proposed that an applicant seeking approval of an experimental practice specifically describe the exact nature of the deviation from otherwise applicable standards involved in the newspaper advertisement of the filing of a permit application required by Sections 507(b)(6) and 513(a) of the Act and Section 787.11 of this Subchapter. In addition, the regulatory authority would be required to specifically describe the experimental practices in the notifications issued to public entities and other persons as required by Section 513(a) of the Act and Section 787.11 of this Subchapter. The purpose of these requirements would be to ensure that the goal of the Act of involving maximum public participation in important decisions by the regulatory authority is fulfilled.

5. The criteria for approval or denial of the use of an experimental practice in the course of the regulatory authority's determination of whether to issue or deny a permit are proposed at paragraph (g) of Section 785.13. The burden of proof on original permit applicants will, of course, rest on the applicant as required by Section 510(a) of the Act.

The criteria for approval that are identified at subparagraph (g)(1), by cross-reference to paragraph (e) of Section 785.13, are those criteria specifically required by Section 711 of the Act and the need to ensure adequate data monitoring and reporting under Section 517 of the Act with respect to the use of the experimental practice. The requirement of subparagraph (g)(2) is proposed to ensure that the proposed experimental practice is both well-planned and will meet the purposes of the Act, by allowing for only those operations involving "feasible" reclamation.

Finally, under subparagraph (g)(4), the regulatory authority would be required to specifically condition the permit so as to ensure, for inspection and enforcement purposes, that the approved experimental practice can be clearly identified in the field, adequately surveilled, and is not used in a

fashion more broadly than that intended by Section 711.

6. Under paragraph (h) of Section 785.13, a minimum triennial review of

1. Under paragraph (b) of Section 785.14, the term "steep slope" is to be defined by cross-reference to the definition for that term at Section 701.5 of

ments for mountaintop removal mining which would be included within particular Federal programs.

2. Section 515(c)(3) and (4) estab-

criteria are, in general, explained in the preamble to Section 816.124.

However, it is appropriate to explain here the Office's consideration of one

mines, the Office proposes Section 785.15(c)(3) and (5). Subsection (c)(3) would require that the State regulatory authority make the provisions of

511(c) of the Act to modify a permit, following periodic review, is proposed to be implemented, at subparagraph (d)(2), for special reviews of mountain-

fashion more broadly than that intended by Section 711.

6. Under paragraph (h) of Section 785.13, a minimum triennial review of each experimental practice permit would have to be conducted by the regulatory authority, to ensure that the criteria for authorizing the use of an experimental practice under Section 711 and paragraph (g) of Section 785.13 are, in fact achieved during the actual use of the experimental practice in the course of surface coal mining and reclamation operations.

This provision is intended to be implemented as part of the mandatory periodic review of outstanding permits by regulatory authorities required by Section 511(c) of the Act. If the regulatory authority found it necessary to require a revision or modification to a permit involving an experimental practice, it would be authorized to issue an order to ensure that the revision or modification is made, subject to the permittee's right to a hearing under Section 511(c). The manner and time of the hearing would be largely left to the discretion of the State in developing its State program. For Federal programs, the specific detailed requirements for the hearing would be left for promulgation in the regulations for each particular Federal program. However, the Office will consider whether the final rules for Part 785 should set more detailed minimum requirements on the time and manner of these hearings and specifically solicits comments on this issue.

§ 785.14 Steep slope coal mining.

Authority for this section is sections 102; 201(c); 501(b); 503(a); 504; 507(b); 508(a); 510(b); 515(b)(3), (4), (10), (22) and 515(d) of the Act. This section would apply to persons conducting "steep slope" surface coal mining and reclamation operations under regulatory programs and is proposed to implement Section 515(d) of the Act. Under that section of the Act, "steep slope" coal mines are required to comply with certain environmental protection performance standards, in addition to those required under Section 515(b) of the Act.

To ensure that the permitting of "steep slope" coal mines under regulatory programs is done to fully account for those additional environmental protection performance standards, the Office is proposing special permitting requirements at Section 785.114. Under the permanent regulatory program, the special performance standards for steep slope mines will be established under Part 826 of Subchapter K. The reader should, therefore, review this preamble and proposed Section 785.14 in conjunction with Part 826.

1. Under paragraph (b) of Section 785.14, the term "steep slope" is to be defined by cross-reference to the definition for that term at Section 701.5 of Subchapter A. For the detailed explanation of the basis and purpose of the definition see the preamble to that Section.

2. Under paragraph (a) of Section 785.14, all steep slope mines are covered by the other paragraphs of the section, with three exceptions. The first exception, explained in subparagraph (a)(1), is explicitly provided for by the first half of the proviso clause in the main text of Section 515(d) of the Act. The second exception, for mountaintop removal mining at paragraph (a)(2), is similarly based on the second half of the proviso clause in the main text of Section 515(d). Mountaintop removal mining permits are addressed separately at Section 785.15.

The third exception, which is at subparagraph (a)(3) of Section 785.14, pertains to surface coal mining and reclamation operations which, although conducted on steep slopes, are allowed a variance from the requirement of restoration of the affected area to approximate original contour under Section 515(e) of the Act. The permitting of mines which require these variances are addressed separately in Part 785 at Section 785.16.

3. Under paragraphs (c) and (d) of Section 785.14, the regulatory authority will be required to find, in order to issue a permit, that, in addition to proposing compliance with the general performance standards of Part 816, the applicant has demonstrated in the application that the operation will meet the requirements of the special performance standards applicable to steep slope mines proposed at Section 826.12 of Subchapter K.

§ 785.15 Mountaintop removal mining.

Authority for this section is Sections 102(b),(c),(d),(e); 201(c); 501(b); 503(a); 504; 507(b); 508(a); 510(b); 511(c); 515(b),(2), (3),(4),(10),(17),(21),(22); and 515(c). This section provides for permitting mountaintop removal mining.

1. Under Section 515(c)(1) of the Act, a State program is allowed, but not required to permit mountaintop removal mining. Accordingly, for those States which desire to allow for mountaintop removal mining under their State programs, the Office is proposing Section 785.15 to establish the minimum requirements for the Secretary's approval of the permitting components of those State programs for mountaintop removal. In addition, Section 515(c)(1) of the Act requires that any Federal program contain provisions to permit mountaintop removal mining. Section 785.15 is proposed to provide for minimum permit requirements for mountaintop removal mining which would be included within particular Federal programs.

2. Section 515(c)(3) and (4) establishes special environmental protection performance standards applicable to mountaintop removal mining. The Office is proposing to implement those provisions of the Act through Part 824 of Subchapter K. The reader should, therefore, consider this preamble and proposed Section 785.15 in conjunction with proposed Part 824.

3. The conditions under which a State regulatory authority will be authorized to issue a permit for mountaintop removal mining are proposed at paragraph (c) of Section 785.15. The provisions of subparagraph (c)(1) of this section are based on the express provisions of the main text of Section 515(c)(3) of the Act. The Office emphasizes that the types of post-mining land uses listed at subparagraph (c)(1) are the only uses authorized for mountaintop removal mining under the Act, particularly because Section 515(c) is an exception under which mountaintop removal mining is not required to conform to the Act's general requirement for restoration of the land disturbed by mining to its approximate original contour. As an exception, these provisions are to be strictly construed and the Office does not, therefore, believe that the list of acceptable post-mining land uses at Section 515(c)(3) of the Act could be broadened through administrative interpretation.

4. Four conditions are proposed at subparagraph (c)(1) of Section 785.15 on the approval of an acceptable post-mining land use for mountaintop removal mining. The first condition, at subparagraph (c)(i) is taken verbatim from the text of Section 515(c)(3)(A) of the Act.

The second condition, at section 785.15(c)(1)(ii), requires the applicant to demonstrate that the proposed post-mining use would meet the requirements of the general environmental protection performance standards at section 816.24, for approval of a post-mining use different from the premining use. Section 785.15(c)(1)(ii) is proposed principally to implement the requirements of Section 515(c)(3)(B) of the Act, which requires that an applicant for mountaintop removal mining present, according to seven criteria, specific plans and appropriate assurances in the permit application for its proposed post-mining land use. These criteria are found, as proposed for implementation by the Office, with other requirements for alternative post-mining land uses at Section 816.124, which Section 785.15(c)(1)(ii) adopts by cross-reference. The basis and purpose of those

criteria are, in general, explained in the preamble to Section 816.124.

However, it is appropriate to explain here the Office's consideration of one of the criteria identified at Section 816.124, because concern has been expressed as to that matter only in the context of mountaintop removal mining. This item is the requirement that, prior to issuance of a permit, it must be demonstrated that the proposed post-mining land use is supported by letters of financial commitment from third parties for the development and maintenance of the proposed use. Section 816.124(d). This requirement is identical to a provision of the interim regulatory program (30 CFR Section 715.13(d)(4) and is based on Sections 515(b)(2) and 515(c)(3)(B)(v) of the Act.

In light of comments that obtaining such letters will be very difficult in the southern Appalachian States, the Office has considered its authority for this requirement at Section 816.124. It has concluded, based on a review of the legislative history of the Act, that Congress intended that this requirement must be fulfilled for all mountaintop removal mining prior to the issuance of a permit. *See* H.R. Rep. No. 95-218, 95th Cong., 1st Sess. 94, 124 (1977). The Office's view of this matter has also been sustained by the courts in a challenge to the interim program regulations. *Surface Mining Regulation Litigation*, 11 ERC 1593, 1606 (DDC., 1978). Therefore, the Office proposes to include this requirement for the permanent regulatory program.

The third and fourth conditions for approval of the post-mining land use under paragraph (c) of Section 785.15 are based on the express wording of Sections 515(c)(3)(C) and (D) of the Act and are at Section 785.15(c)(1)(iii)-(iv).

5. Under Section 515(c)(4) of the Act, the regulatory authority is required to insure that permits issued for mountaintop removal mining will include certain special environmental protection performance standards. As explained above, those standards are being proposed at Part 824 of Subchapter K. Therefore, as a condition of issuing a permit, the Office is proposing at Section 785.15(c)(2) that the applicant establish that the proposed mountaintop removal operations be conducted in compliance with Part 824, in place of complying with the general requirement for returning the land to be mined to its approximate original contour.

6. To ensure that the requirements of Part 824 are, in fact, complied with by persons obtaining permits under State programs for mountaintop removal mining and to aid State and Federal inspectors in identifying these mines, the Office proposes Section 785.15(c)(3) and (5). Subsection (c)(3) would require that the State regulatory authority make the provisions of Part 824 a specific written condition of any mountaintop removal permits. Subsection (c)(5) would require that the permit be clearly marked as authorizing mountaintop removal mining. In addition, Section 785.15(c)(4) is proposed to implement the requirements of Section 515(c)(3)(E) of the Act.

7. Under Section 515(c)(6) of the Act, the regulatory authority is required to periodically review mountaintop removal mining permits, unless the applicant affirmatively establishes that the operations involved are being conducted in compliance with all applicable provisions of law, including the terms and conditions of the permit. Under Section 511(c) of the Act, the regulatory authority is generally required to conduct periodic review of all outstanding permits for the same purposes as under Section 515(c)(6). To implement these provisions of the Act, in part, with respect to mountaintop removal mining permits under regulatory programs, the Office proposes to establish paragraph (d). This provision is intended for these permits to supplement proposed Section 790.11 of this Subchapter, the regulation which would generally implement Section 511(c) of the Act.

Under subparagraph (d)(1), the regulatory authority would have to review mountaintop removal mining permits within three years both from the date of original issuance and renewal of the permit, to ensure that mountaintop removal mining receives the continued long-term scrutiny that Congress intended, particularly as to the implementation of the approved post-mining land use and development of the associated valley or head-of-hollow spoil disposal site. Review by the regulatory authority would, of course, have to be conducted prior to these three-year periods under Section 790.11, if the times prescribed by that Section occur earlier with respect to particular permits.

Paragraph (d), as proposed, incorporates the provisions of Section 515(c)(6) of the Act that review by the regulatory authority of mountaintop removal mining permits need not occur, if the permittee demonstrates compliance with all applicable provisions of law. It should be noted, however, that Section 511(c) of the Act contains no similar exemption, and, therefore, when mountaintop removal mining permits would be subject to review under Section 790.11 of this Subchapter, the regulatory authority would have to, in fact, conduct that review.

The legal authority afforded the regulatory authority under Section 511(c) of the Act to modify a permit, following periodic review, is proposed to be implemented, at subparagraph (d)(2), for special reviews of mountaintop removal mining permits under Section 785.15. It is intended that modifications made to those permits under State program provisions implemented pursuant to (d)(2) will be subject to the notice and hearing requirements of Section 790.11, in order to afford appropriate due process protection to the permittee.

8. Under Section 515(c)(5) of the Act, the regulatory authority is required to promulgate certain specific regulations for the issuance of mountaintop removal mining permits. Paragraph (e) of Section 785.15 is proposed to implement that section of the Act.

§ 785.16 Variances from approximate original contour.

Authority for this section is found in Sections 102 (b), (c), (d), (e); 201(c); 501(b); 503(a); 504; 507(b); 508(a); 510(b); 511(c); 512 (b), (2), (c), (4), (21), (22); 515 (d), (e) of the Act. This section concerns permits incorporating variances from approximate original contour in steep slope surface coal mining; and reclamation operations other than mountaintop removal, and is intended to implement Section 515(e) of the Act.

1. Under Section 515(e) of the Act, the regulatory authority is authorized to issue permits incorporating variances from the requirement of restoring the land disturbed by mining to its approximate original contour. Because it is a variance available under section 515(e)(2) from the approximate original contour restoration requirement of Section 515(d)(2), specifically applicable to steep slope surface coal mining, the variance is available only for steep slope surface coal mining and reclamation operations. Therefore, the Office proposes that Section 785.16 be applicable only to steep slope surface coal mining and reclamation operation under regulatory programs.

2. It is recognized that under Section 515(e)(1) of the Act, State programs may, but are not required to, allow for variances for steep slope mining from the requirement of restoration to approximate original contour. However, if such variances are to be allowed by a State, they must conform to the requirements of Section 515(e). Those states that wish to allow for these variances would, therefore, have to include provisions, at a minimum, which meet the requirements of section 785.16. Section 515(e)(1) also provides that only Federal program must allow for variance under that section. Section 785.16 would establish minimum requirements for inclusion in particular Federal programs to govern the award of these variances.

3. The term "steep slope" as used in Section 785.16 has the same meaning as that at Section 515(d)(4) of the Act and also proposed for adoption at Sec-

applicable provisions of the Act and regulations. To implement the conditions imposed by section 515(e) and to ensure that the regulatory authority

erty from flooding in surface mined areas in hilly terrain be reduced in operations conducted under the Act. *See* Sections 101(c); 515(b)(8); 515(b)(10) of

the provisions of Section 826.13 a specific written condition of any permit issued under Section 785.16. Subsection (d)(6) would require that the

following periodic review, is proposed to be implemented at paragraph (f) for special review of permits issued under Section 785.16. It is intended

implement these performance standards on prime farmland the Department proposes to implement Part 823 of Subchapter K.

3. The term "steep slope" as used in Section 785.16 has the same meaning as that at Section 515(d)(4) of the Act and also proposed for adoption at Section 785.14(b) of this subchapter and Section 701.5 of Subchapter A. As in the case of the exceptions given for this term at sections 785.14(a)(1)–(2) and Part 826, the term "steep slope" as used in section 785.16 will not, of course, include these cases where either only an occasional steep slope is encountered or an operation is permitted as mountaintop removal mining. *See* Section 515(d) of the Act.

4. Sections 515(e)(1)–(4) would establish certain special environmental protection performance standards applicable to those steep slope mines which are proposed for variances from the requirement of restoration to approximate original contour. The Office is proposing to implement these performance standards at section 826.13 of subchapter K. This preamble and proposed Section 785.16 should thus be read in conjunction with proposed Section 826.13.

5. Two principal reasons were articulated by Congress for authorizing variances from restoration to approximate original contour under Section 515(e) of the Act. The first, was to allow for use of the land to be mined, after reclamation, ". . . suitable for an industrial, commercial, residential or public use (including recreational facilities)." Sections 515(e) (1), (2), (3), (A) of the Act. Second, was to improve control of the watershed of the land affected by the mining. Sections 515(e) (1), (3)(c) of the Act. Paragraph (e) of Section 785.16 emphasizes those purposes and is proposed to state the objectives of this Section.

6. As Congress stated in section 515(e)(2) of the act, the types of post-mining land uses for which variances may be authorized under section 515(e) are limited to ". . . an industrial, commercial, residential, or public use (including recreational facilities)." As this list is included as a condition to the grant of an exception to the general requirement of restoration of land disturbed by mining to its approximate original contour, this category of post-mining land uses is to be construed narrowly. The Office does not believe this list can be expanded upon and proposes Section 785.16 as limited to the types land-uses specifically identified at Section 515(e)(2) of the Act. *See* sections 785.16(c), (d)(1).

7. Under section 515(e), several specific pre-conditions would be placed upon the grant of a permit incorporating a variance under that Section. Under Section 510(b) of the Act, the regulatory authority is required to find, before issuing any permit, that the applicant has proposed to conduct its operations in compliance with all applicable provisions of the Act and regulations. To implement the conditions imposed by section 515(e) and to ensure that the regulatory authority is provided with the information needed to make the necessary determinations under Section 510(b), the Office proposes paragraph (d) of Section 785.16. This paragraph would establish seven specific pre-conditions to the issuance of a permit under Section 515(e) of that act and Section 785.16 of Subchapter G.

8. The first condition, subsection (d)(1), relates to the proposed post-mining land use for the operations involved. The main text of that subsection is taken from the wording of section 515(e)(2) of the act. Proposed subsection 785.16(e)(i) is based upon the exact wording of Section 515(e)(A) of the act.

In addition, under section 785.16(d)(1)(ii), the applicant must demonstrate that the proposed post-mining land use will meet the requirements of the general environmental protection performance standards proposed at section 816.124, for approval of a post-mining use different from the pre-mining use. Section 785.16(d)(1)(ii) is proposed to implement the requirement of Section 515(3)(B) of the act, requiring a sound design of the post-mining use. This specific criteria is found, as proposed for implementation by the Office, with the other requirements for alternative post-mining land uses at Section 816.124, which Section 785.16(d)(1)(ii) adopts by cross-reference. The basis and purpose of all of those requirements are, in general, explained in the preamble to section 816.124.

9. The second condition to issuance of a permit with a variance under Section 785.16 is as subsection (d)(2) and relates to a demonstration that watershed control of the lands within the proposed permit area will be improved by the proposed operations. This is based upon Sections 515(d)(1) and 515(d)(3)(C) of the Act. As proposed, Section 785.16(d)(2) would identify two specific situations in which watersheds would be deemed "improved". The first is a resulting reduction in the discharge of pollutants from the proposed permit area to ground or surface waters and is based on certain of the environmental protection performance standards of the Act, in which Congress indicated that such a result is beneficial. *See* Sections 515(b)(8)(C); 515(b)(10)(A)(ii), (B)(i); 515(b)(17). The second situation is where flooding hazards within the watershed are reduced by a reduction in peak period discharges from precipitation runoff and is also based on congressional concern, expressed in the Act, that the hazard to the public safety and property from flooding in surface mined areas in hilly terrain be reduced in operations conducted under the Act. *See* Sections 101(c); 515(b)(8); 515(b)(10) of the Act.

These two specific instances under which watershed control would be deemed improved are, of course, tentative and the Office will consider proposals for additional, similar criteria. Those criteria must, however, be those which are reasonably administrable, particularly so that the benefits occurring to watershed control can be practically ascertainable as judged from points before, during, and after steep slope coal mining.

10. The third condition to issuance of a permit under Section 785.16 is proposed at subsection (d)(3), as the requirement of specific written consent of the surface owner to the award of a variance. This is based on the wording of section 515(d)(2), where such written consent is required. As proposed, this requirement would have to be made in a document separate from that proffered by the applicant to meet the conditions of section 510(b)(6) of the Act and Section 778.15 of this Subchapter, regarding the right of the applicant to conduct surface coal mining operations with the permit area, where ownership of the surface and mineral estates have been served. Consent to a variance under Section 785.16 would have to be made separately from that addressed by Sections 510(b)(6) of the Act and 778.15, to ensure that the surface owner is afforded sufficient opportunity to clearly understand the rights involved and to avoid confusion of persons who may review the permit application, including interested members of the public.

11. Under Sections 515(e) (1), (2) and (4), the regulatory authority is required to ensure that permits issued for variances under Section 515(e) will include certain special environmental protection performance standards. As explained above, these standards are being proposed at Section 826.13 of Subchapter K. Therefore, as a condition of issuing a permit, the Office is proposing at Section 785.16(d)(4) that the proposed operation will be conducted in compliance with Section 826.13 of subchapter K, in place of compliance with the general requirement of Section 515(d)(2) of the Act for returning the land to its approximate original contour.

12. To ensure that the requirements of Section 826.13 are, in fact, complied with by persons obtaining permits under regulatory programs with variances under Section 515(e) of the Act, and to aid State and Federal inspectors in identifying these mines, the Office proposes Section 785.16(d)(5)–(6). Subsection (d)(5) would require that the regulatory authority make

the provisions of Section 826.13 a specific written condition of any permit issued under Section 785.16. Subsection (d)(6) would require that the permit be clearly marked as authorizing a variance from approximate original contour. In addition, Section 785.16(d)(7) is proposed to ensure that only those variances authorized by the Act would be approved by the regulatory authority.

13. Under Section 515(e)(6) of the Act, the regulatory authority is required to periodically review permits, including variances under that section, unless the applicant affirmatively establishes that the operations involved are being conducted in compliance with all applicable provisions of law, including the terms and conditions of the permit. Under Section 511(c) of the Act, the regulatory authority is generally required to conduct periodic review of all outstanding permits for the same purposes as under Section 515(e)(6). To implement these provisions of the Act, in part, with respect to permits including variances awarded under Section 515(e) under regulatory programs, the Office proposes to establish paragraphs (e) and (f) of Section 785.16. Paragraph (e) is intended, for these permits, to supplement proposed Section 790.11 of this Subchapter, the regulation which would generally implement Section 511(c) of the Act.

Under paragraph (e), the regulatory authority would have to review all permits within three years both from the date of original issuance and renewal of the permit, so as to ensure that the operations involved receive the continued long-term scrutiny that Congress intended, particularly as to the implementation of the approved post-mining land use and development of any associated valley or head-of-hollow fill spoil disposal site. Review by the regulatory authority would, of course, have to be conducted prior to these three-year periods under either paragraph (e), or section 790.11, if the mid-term of the permit occurs prior to three years. Paragraph (e), as proposed, incorporates the provisions of Section 515(e)(6) of the Act, where review by the regulatory authority of mountaintop removal mining permits need not occur, if the permittee demonstrates compliance with all applicable provisions of law. It should be noted, however, that Section 511(c) of the Act contains no similar exemption and, therefore, when permits including variances under Section 515(e) would be subject to review under Section 790.11 of this Subchapter, the regulatory authority would have to, in fact, conduct that review.

The legal authority afforded the regulatory authority under Section 511(c) of the Act to modify a permit, following periodic review, is proposed to be implemented at paragraph (f) for special review of permits issued under Section 785.16. It is intended that modifications made to those permits under State program provisions implemented pursuant to (f) will be subject to the notice and hearing requirements of Section 790.11, in order to afford appropriate due process protection to the permittee.

14. Under Section 515(e)(5) of the Act, the regulatory authority is required to promulgate certain specific regulations for the issuance of permits authorizing variances from approximate original contour. Paragraph (g) of section 785.16 is proposed to implement that section of the Act.

§ 785.17 Prime farmlands.

Introduction.

(1). This section contains requirements for a permit where land to be mined may be prime farmland. The requirements intended to insure that prime farmland will be identified and adequate plans developed by the person conducting mining operations to ensure return of the land to equal or better agricultural production than before mining. This section provides for a pre-application reconnaissance inspection to determine whether prime farmland may be involved, for a negative determination if prime farmland is not involved, procedures for the application to follow if prime farmland may be involved, a reclamation plan development for mining and restoration of prime farmland and criteria for issuance of a permit for mining of prime farmland.

2. The Department proposes to require operators to comply with performance standards equivalent to Section 515(b)(7) (prime farmlands) for permits issued prior to the date of enactment of the Act, or to any revisions or renewals thereof, or to any existing surface mining operations for which a permit was issued prior to the date of enactment of the Act, if the regulatory authority finds that such mining is being conducted on prime farmlands.

Under the Act, all surface coal mining operations during a Federal or State program must comply with Sections 515(b) (2), (5) and (19). Section 515(b)(2) requires the land to be "restored to a condition capable of supporting the uses which it was capable of supporting prior to any mining or higher or better uses * * *" Section 515(b)(5) requires the topsoil and such other strata be removed, segregated and preserved if such a practice is shown to be more suitable for vegetation requirements. Section 515(b)(19) requires a permanent vegetative cover of the same seasonal variety native to the area of the land to be affected. To implement these performance standards on prime farmland the Department proposes to implement Part 823 of Subchapter K.

3. The Department has considered the applicability of Section 515(d)(2) (Grandfather clause) in the permanent program and determined in light of the requirements of Sections 515(b) (2), (5) and (9) of the Act that this Section was intended to cover solely permit requirements for surface coal mining during the interim regulatory program. This construction of the grandfather clause is consistent with congressional intent, because the requirements imposed by the proposed regulations are believed to not prohibit mining which was ongoing as of August 3, 1977. See also *Surface Mining Regulation Litigation* Civil Action No. 78-162 (Mem. Op at 19) (May 3, 1978). Other statutory authority for this determination is found in Sections 507, 508, 510(b), 511 and 516.

The Department invites comments with supporting data on whether this interpretation of the Act will in fact prohibit any existing surface coal mining.

4. Legal Authority for this section is Sections 102; 201; 501(b); 503(a); 504; 507(b) (11), (16); 508(a) (2), (3), (4), (5), (8), (13); 510(b), (d); and 515(b) (2), (5), (6), (7), (19), (20) of the Act. This section would apply to all surface coal mining and reclamation operations on prime farmlands.

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Parts 701 and 823 of this Chapter, relating to definitions and special environmental protection performance standards, respectively. The reader

in permit applications in some situations for the regulatory authority to determine whether the mine plan area contains prime farmland. Paragraph

(1) The belief that soils removed from small inclusions of prime farmland within a mine plan area might be better used to maintain or improve the

shown to be as effective in restoring the productivity of the prime farmland as the use of the A, B, or C horizons would be. The rationale here

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U.S. Department of Agriculture, 1975, Perspectives on prime farmlands—Background papers for seminar on the retention of prime farmlands, July 16-17, 1975, sponsored by the U.S.D.A. Committee on Land Use: Washington, D.C., U.S. Department of Agriculture, 251 p.

U.S. Department of Agriculture, 1977, Laboratory Methods Recommended for Chemical Analysis of Mined-Land Spoils and overburden in Western United States: U.S. Department of Agriculture: Agriculture Handbook, no. 525, 31 p.

U.S. Environmental Protection Agency, 1978. Field and Laboratory Methods Applicable to Overburdens and Mine soils: U.S. Environmental Protection Agency Report EPA-600/2-78-054, 204 p.

U.S. Soil Conservation service, 1951, Soil Survey Manual—pH, p. 235, 360, 361, 362; organic matter, p. 245-250; texture, p. 297; soil fertility, nitrogen, phosphorous, and potassium, p. 336; U.S. Department of Agriculture, Agriculture Handbook no. 18, 503 p.

U.S. Soil Conservation Service, 1975, Soil Taxonomy—a basic system of soil classification for making and interpreting soil surveys; U.S. Department of Agriculture, Agriculture Handbook no. 436.

U.S. Soil Conservation Service, 1976(b). List of Published Soil Surveys: Washington, D.C., U.S. Soil Conservation service, 16 p. (Duplicated Report).

6. Under Section 510(a) of the Act, the regulatory authority is required to make certain special findings before issuing permits, if the area proposed to be mined contains prime farmland. That Section requires the Secretary, in consultation with the Secretary of Agriculture, to promulgate implementing regulations. Section 785.17 is being proposed as the permit system component of those implementing regulations. In addition, other implementing regulations are being proposed at Parts 701 and 823 of this Chapter, relating to definitions and special environmental protection performance standards, respectively. The reader should consider Section 785.17 closely with the relevant provisions of proposed Parts 701 and 823.

7. Paragraph (a) explains the scope of Section 785.17. As a general rule, Section 510(d)(1) of the Act makes special prime farmland permit provisions applicable to all surface coal mining and reclamation operations on lands which are prime farmlands.

The Office has considered whether underground mining activities should be exempted from the prime farmlands provisions of Section 785.17. Tentatively, the Office has concluded that underground mining activities should not be exempted for the following reasons.

First, it has been suggested that the Office may exempt underground mining activities from the requirements of Section 510(a)(1) of the Act under the provisions of Section 516(d) of the Act, which allow for modifications to the Office's regulations on the basis of distinct differences between surface and underground mining activities. However, with respect to permits, Section 516(d) of the Act limits allowable modifications to ". . . permit *application requirements* (and), permit approval or denial *procedures* . . ." (*emphasis supplied*) which the Office does not believe extends to permit approval or denial criteria. Because Section 510(d) of the Act specifies such criteria, the Office does not believe that it has the authority under Section 516(d) of the Act to exempt underground mining activities from the requirements to be proposed under Section 785.17.

Even assuming that legal authority for an exemption existed, the Office has not been presented with information establishing that sufficiently distinct differences between surface and underground mining activities exist with respect to prime farmland protection. Indeed, upon inquiry by the Office to the U.S. Soil Conservation Service, the Administrator of the Service reported that the adverse effects on prime farmland from underground mining activities have been observed to be severe, particularly from the effects of subsidence. Further, the administrator has reported that prime farmland topsoil can be adequately stockpiled, even for the length of time that surface areas may be disrupted by underground mining activities. *See* letter of R. M. Davis, Administrator, U.S. Soil Conservation Service, June 12, 1978, to W. N. Heine, Director, OSM.

8. Definition of soil survey. Under Section 507(b)(16) of the Act, a soil survey may be needed to be provided

in permit applications in some situations for the regulatory authority to determine whether the mine plan area contains prime farmland. Paragraph (b) of Section 785.17 is proposed to specifically define the term "soil survey" for those purposes. The basis for defining the term is to ensure that commonly-accepted methods, shown to be repeatable and verifiable, are used by regulatory authorities to make accurate and consistent determinations of whether lands proposed to be mined contain prime farmland. As stated in paragraph (b), "soil survey" is defined to mean a map showing the distribution of soils in the mine plan area. The technical criteria to be used to prepare these maps are listed in the technical materials identified in paragraph (b).

9. Pre-application reconnaissance investigation. Section 517(b)(16) of the Act requires the making of a reconnaissance survey to determine whether the application should contain a soil survey. Paragraph (c) of Section 785.17 is proposed to implement this requirement. The particular items of information which would be required to be addressed in the pre-application investigation are those which will enable the regulatory authority to preliminarily determine under paragraph (d) that either no soil survey is needed, because the lands in the mine plan area are clearly not prime farmland and entitled to a negative determination under paragraph (f), or to determine that a soil survey is needed, because the result of the reconnaissance inspection does not clearly exclude the mine plan area from the prime farmland category.

10. Paragraph (d) of section 785.17 is proposed to implement the requirement of Section 507(b)(16) that an application contain a soil survey, if the reconnaissance investigation suggests the mine plan area may contain prime farmland. Based on the results of the survey, the regulatory authority would decide whether the mine plan area definitely contains prime farmland, which would require that under Section 510(d)(1) of the Act the applicant file a plan for restoration of the lands. *See* paragraph (e) of Section 785.17.

11. *Small plots exemption.* The Office is considering as a potential alternative whether mine plan areas containing small parcels of prime farmland or parcels that are clearly economically insignificant could be excluded from detailed soil survey and restoration plan requirements. Under this alternative, the applicant could proceed to file an application merely upon the basis of a reconnaissance inspection, requesting a negative determination. The basis for this alternative would be:

(1) The belief that soils removed from small inclusions of prime farmland within a mine plan area might be better used to maintain or improve the productivity of other portions of the mine plan area, rather than to recreate a small, isolated, and economically unmanageable unit of prime farmland ;

(2) The theory that small isolated parcels of prime farmland which may exist along the periphery of a mine plan area do not have a long-term productive relationship to either the rest of the mine plan area or to adjacent lands.

12. *Restoration plan contents.* Paragraph (e) of Section 785.17 is proposed to implement the provisions of Section 508(a)(5) and 510(d)(1) of the Act. Under this section the applicant would provide a plan for the restoration of prime farmland to be mined.

(a) The regulation would require the plan to identify each soil map unit comprising the prime farmland and contain a description of each unit. The map units and the descriptions which are to be used are those developed by the National Cooperative Soil Survey, which is the only source of such information based on known National standards. This part of the regulations also requires U.S. Soil Conservation Service to review the units and descriptions contained in the plan, which is the logical alternative, since that agency is primarily responsible for developing them.

(b) In order to determine whether the proposed mining operations will be conducted in compliance with the performance standards in Section 823.11, the application must contain a profile description of the A, B, and C horizons, of the topsoil to a depth that collectively constitute the root zone of the locally adapted cultivated crops. The other alternative considered was to require descriptions to a depth of 4 inches or to bedrock, whichever is less, to describe the horizons that constitute the root zone. The first alternative was selected, although the Office recognizes that if only the soil horizons that collectively constitute the root zone of locally adapted cultivated crops are described, the depth of horizons described would be more dependent on the crop grown than on the depth of soil. Thus, for root growth, if one was growing alfalfa for hay or a seed crop, the depth might be 20 feet. For wheat, it might be only 24 inches.

(c) The unique combination of climate and soil characteristics, which are blended together to create prime farmland, are difficult to duplicate. However, a provision is included in 785.17(e)(4) to allow an applicant to submit scientific data to the effect that spoil other than the A, B, or C horizons can be used, when it can be shown to be as effective in restoring the productivity of the prime farmland as the use of the A, B, or C horizons would be. The rationale here would be to allow for the opportunity to reconstruct more productive land with material other than the prescribed A, B, and C horizons, if it can be demonstrated that the substitute material is equally or more productive.

(d) The applicant must include the seeding or cropping procedures for the final graded land, which will adequately control erosion, regardless of the season of the year in which the regrading is completed. This may consist of an annual cover crop to improve soil and aeration and return organic matter to the surface, or the land could be put immediately back into crop production. Under any circumstance, the applicant must show that the planned land treatment will have the effect of returning the productivity of the land to its premining condition, as required by Section 508(c)(2) and 515(b)(2) of the Act.

13. *Criteria for negative determination.* This subsection is authorized by 507(b)(16) of the Act and describes situations where a negative determination of prime farmland can be made. In any activity involving surface mining, a pre-application investigation is necessary to determine if prime farmland, as defined in Section 701.5(8) of this Chapter may be involved. There are essentially five criteria in determining if the land involved does not contain prime farmland. The first four criteria relate to portions of the prime farmland definition that may be determined without the need of a soil survey and the last alternative relates to situations where a soil survey is available.

(a) The first criterion involves the historical use portion of the prime farmland definition (*See* Section 701.5). If a pre-application investigation, as required in Section 785.17(c), determines that the land has not been historically used for cultivated crops a negative determination may be requested, and no additional investigation is required.

(b) If a pre-application investigation determines that the slope of the lands is greater than 10 percent, a negative determination may be requested. This measurement must be made according to the procedures outlined in Sections 779.25(i) or 783.25(i) of the regulations, regarding slope measurements. The definition of prime farmland in Section 701.5 states that soils qualifying as prime farmland are such that the product of K (erodibility factor) times the percent slope is less than 2. The experience of U.S. Soil Conservation Service scientists indicates that all soils on slopes of greater than 10 percent, regardless of rainfall, are ex-

cluded from prime farmland. Soils with K factors less than 2 would not be shown as prime farmland, because their water holding capacity is such

definition would exclude soils which are flooded frequently during the growing season. Section 701.5. Frequently flooded is defined as flooding

that prime farmland be restored to a state capable of agricultural yield equivalent to or higher than that of surrounding prime farmland.

and the performance of those standards will result in the restoration of the mined area to equivalent or higher levels of agricultural yield as

§ 785.19 Alluvial valley floors.

Authority for this section is Sections 102; 201(c); 501(b); 503(a); 504; 507(b)(11), (13); 508(a)(3), (4), (5), (13);

tification and Study of Alluvial Valley Floors,"

(d) Schmidt, J., 1977, "Alluvial Valley Floors in East Central Montana

cluded from prime farmland. Soils with K factors less than 2 would not be shown as prime farmland, because their water holding capacity is such that they would not be identified as prime farmland. Soil Conservation Service scientists have had primary responsibility in the preparation of over 1,000 published soil surveys. Thus, a negative determination with respect to slopes greater than 10 percent is a reasonable situation to consider in a reconnaissance inspection of an area to request a negative determination. If a soil survey is available, the map unit descriptions would verify whether the concerned areas have slopes greater than 10 percent.

(c) If an investigation establishes that the average annual precipitation is 14 inches or less and the land is not irrigated or naturally subirrigated, and has no developed water supply that is dependable and of adequate quality, a negative determination may be requested. This aspect of the pre-application investigation relates to the definition of prime farmland in 701.5 and also the definitions of "subirrigated" in 701.5(a)(4). Soils with aridic or torric moisture regimes are in sections of the country where the average annual precipitation is 14 inches or less. Experience gained in many published USCS Soil Surveys has shown that the commonly grown cultivated crops can not be produced in 7 or more years in areas with 14 inches or less average annual precipitation, unless the soils are irrigated or naturally subirrigated. Therefore, soils with aridic or torric moisture regimes are excluded from the definition of prime farmland, unless they have a developed irrigation water supply that is dependable; and of adequate quality.

The phrase "or naturally subirrigated" is included for those soils where the average annual rainfall is 14 inches or less, but because the soils have a natural zone of saturation that delivers water to the roots from underneath, these soils may have an aquic moisture regime, and therefore may be defined as prime farmland. If the pre-application investigation determines that the average annual precipitation is 14 inches or less, that the soils are not irrigated or naturally subirrigated, and there is no developed water supply that is dependable and of adequate quality, a negative determination of prime farmland may be requested.

(d) The fourth criterion for a negative determination relates to other criteria of prime farmland that may be determined without a soil survey. These are the determination of frequency of flooding of the land involved and the characteristics of the surface layer which are readily determined such as the amount of coarse rock fragment. The prime farmland definition would exclude soils which are flooded frequently during the growing season. Section 701.5. Frequently flooded is defined as flooding occurring more often than once in 2 years. Therefore, if soils subject to flooding are involved and records indicate these soils are subject to frequent flooding, these soils would be excluded from prime farmland.

Also, Section 701.5(8)(3)(ix) pertains to a characteristic of soil that may be determined without a soil survey. This part of the prime farmland definition relates to the amount of rock fragments coarser than 3 inches. Experience has shown that if the amount of rock fragments coarser than 3 inches is greater than 10 percent, the use of equipment necessary for planting, cultivating and harvesting is curtailed unless the coarse rock fragments are removed. The removal of these coarse rock fragments is generally uneconomical.

(e) The fifth criterion for a negative determination would apply when a soil survey of lands within the mine plan area is available and this survey indicates there are no soil map units that have been designated prime farmland by the U.S. Conservation Service. Over 65 percent of the Nation has had soil surveys completed. This includes over 1,000 published soil surveys. The list of published soil surveys is published by the United States Department of Agriculture, Soil Conservation Service and is periodically updated.

14. *Consultation with the Secretary of Agriculture by the Regulatory Authority.* Under Section 510(d)(1) of the Act, the regulatory authority is required to consult with the Secretary of Agriculture before issuing a permit for the mining of prime farmland. Paragraph (g)(1) of Section 785.17 is proposed to implement that requirement.

15. *Permit approval or denial criteria.* Paragraph (g)(2) is proposed to establish the minimum criteria for issuance of a permit authorizing the mining of prime farmland. The first criterion, Subsections 715.17(g)(2)(i)-(ii), is based upon the explicit requirements of Section 510(d)(1) of the Act. The fourth criterion, finding that the applicant will comply with the special environmental protection performance standards for prime farmland of Part 823 of Subchapter K, is also based on Section 510(d)(11) of the Act which requires a showing that the soil reconstruction standards of Section 507(b)(6) of the Act, upon which Part 823 is based, will be met.

The third criterion, at Section 715.17(g)(2)(iii) is that the proposed post-mining land use must be for prime farmland. This is based on the Office's careful examination of the Act's legislative history. That examination reveals that the Act requires that prime farmland be restored to a state capable of agricultural yield equivalent to or higher than that of surrounding prime farmland.

Under Section 510(d)(1) of the Act, a permit may be issued for the mining of prime farmlands, as defined in Section 701(20), only upon a finding that the operator has the technological capability to restore such mined area, within a reasonable time, to equivalent or higher levels of yield as non-mined prime farmland in the surrounding area under equivalent levels of management and can meet the soil reconstruction standards in Section 515(b)(7) of the Act. *See also* 42 Fed. Reg. 62693 (1977) (to be codified in 30 C.F.R. Section 716.7). The Act requires in Section 515(b)(7) that, when prime farmlands are mined, the topsoil and other soil horizons suitable for plant growth be segregated and replaced over spoil material. The Act further provides that a permittee's performance bond shall not be released "until soil productivity for prime farmlands has returned to equivalent levels of yield as non-mined land of the same soil type in the surrounding area under equivalent management practices . . ." Section 519(c)(2).

Both the wording and content of these provisions suggest that the prime farmland is to be restored for agricultural production. Such an interpretation appears unavoidable in light of the soil reconstruction standards based on plant growth, the requirement of restoration of soil productivity and the comparison of the yield after reclamation to the yield of surrounding non-mined prime farmland.

In testimony before the Senate Public Lands and Resources Subcommittee, the Secretary stated that he favored an amendment requiring "restoration of soil productivity for prime agricultural lands." 123 Cong. Rec. S 5862 (daily ed. April 18, 1977). Subsequent discussion in Congress of the prime farmland provisions indicates an intent, similar to that of the Secretary, to avoid loss of the soil productivity of the land and to restore its agricultural yield. 123 Cong. Rec. S 8104, 8108, 8111 (daily ed. May 20, 1977).

After the House and Senate Conferees had agreed upon the final language of the surface mining bill, they explained in the Conference Report the thought behind the prime farmland provisions:

> "It is the intention of the Conferees that the written finding that the regulatory authority is required to make before a permit is granted to mine on prime farmland can be based in part on the expert opinion of the regulatory authority, the operator has the technological capability to perform the soil reconstruction standards of Section 515(b)(7) and the performance of those standards will result in the restoration of the mined area to equivalent or higher levels of agricultural yield as non-mined prime farmland in the surrounding area under equivalent levels of management."

H.R. Rep. No. 493, 95th Cong., 1st Sess. 105 (1977). *See also* 123 Cong. Rec. S 12201 (daily ed. July 18, 1977); 123 Cong. Rec. H 7591 (daily ed. July 21, 1977).

Upon the basis of this legislative history, the Office believes that the Act requires, as a prerequisite to mining on prime farmland, that there be a finding of capability to restore the area to equivalent or higher levels of agricultural yield as prime farmland. Concomitantly, the Act requires actual reclamation of these lands for agricultural use as prime farmlands.

§ 785.18 Surface mining concurrent with underground mining.

Authority for this section is Sections 102, 201; 501(b); 503(a); 504; 507(b); 508(a)(5), (9); 510(b); 511(c); 515(b)(12), (16) of the Act. This section would apply to permit applications for combined surface and underground coal mining, where the applicant desires a variance from the requirement to reclaim the affected land as contemporaneously as practicable so as to conduct underground mining activities. This variance would allow the operator to use part of the highwall established by surface mining to begin his underground operations. Applicants for such a variance would be required to file complete applications for both the surface and underground operations showing why they are necessary for maximum recovery of coal and how they will avoid multiple disturbances of surface lands. The application would have to identify the area for which the variance is sought and the particular regulations from which the variance is sought. The applicant would have to assess the adverse environmental impacts of the variance and show how the spoil not used for contemporaneous backfilling will be stored.

The regulatory authority would be allowed to grant a permit for such a variance, if it finds that the plans are feasible, and coal recovery will be maximized to avoid repeated surface disturbance. It must also be found that there will be no on-site or off-site environmental damage resulting from the delay in reclamation. Liability under the performance bond would have to be continued for the duration of the combined surface and underground coal mining activities. Permits containing such variances shall be reviewed at least once every three years by the regulatory authority.

§ 785.19 Alluvial valley floors.

Authority for this section is Sections 102; 201(c); 501(b); 503(a); 504; 507(b)(11), (13); 508(a)(3), (4), (5), (13); 510(b); 515(b)(2), (10) of the Act. This section would apply to surface coal mining and reclamation operations on or adjacent to alluvial valley floors in arid or semi-arid areas of the country west of the one-hundredth meridian.

(1) Under Section 510(b)(5) of the Act, the regulatory authority is required to make certain specified findings as to whether proposed mining operations would adversely affect alluvial valley floors and uses thereof located west of the 100th meridian. Regulations to implement that section of the Act are being proposed at Section 786.17 of Subchapter G. Under Sections 507(b) and 508(a) of the Act an applicant is required to furnish detailed information in permit applications regarding preservation of the hydrologic balance. Under Section 515(b)(10) of the Act alluvial floors are part of those aspects of the hydrologic balance which are to be protected. To ensure that the regulatory authority is provided with sufficient information to make the findings required under 510(b)(5), and to afford the protection required by Section 515(b)(10) of the Act, the Office is proposing Section 785.19.

Special environmental protection standards for protection of alluvial valley floors are proposed to implement Sections 510(b)(5) and 515(b)(10) of the Act at Part 822 of Subchapter K. Finally, definitions specifically applicable to mining near alluvial valley floors are being proposed at Part 701. The reader should thus consider Section 785.19 together with Section 786.17 and Parts 701 and 822.

(2) Technical literature used in the development of Section 785.19 includes the same technical literature as is cited in the Preamble to Section 701.5, 786.17 and Part 822, and also includes:

(a) Hardaway, J. E., Kimball, D. B., Lindsay, S. F., Schmidt, J., Erickson, L., March 1977. "Subirrigated Alluvial Valley Floors: A Reconaissance of Their Properties and Occurrence on Coal Resource Lands in the Interior Western United States." U.S. EPA, Region VIII, Denver, Colo. in *Papers Presented Before the Fifth Symposium on Surface Mining and Reclamation*, NCA/BCR Coal Conference, pp. 61-135.

(b) Malde, H. E., and Boyles, J. M., 1976. "Maps of Alluvial Valley Floors and Strippable Coal in 42 7½-minute Quadrangles, Big Horn, Rosebud, and Powder River Counties, Southeastern Montana," U.S.G.S. Open File Report 76-162.

(c) Office of Surface Mining, 1978, Guidance Document: "Technical Identification and Study of Alluvial Valley Floors,"

(d) Schmidt, J., 1977, "Alluvial Valley Floors in East Central Montana and their Relation to Strippable Coal Reserves; Reconnaissance Report, U.S. EPA, Region VII, in Cooperation with the State of Montana."

(e) National Academy of Sciences, *Rehabilitation Potential of Western Coal Lands* National Academy of Sciences, A Study for the Energy Policy Project, Washington, 1974.

(f) Cheyenne: *Hydrology of the Upper Cheyenne River Basin* Sediment Sources and Drainage-Basin Characteristics, Geological Survey Water Survey Water Supply Paper 1531, Washington, 1961.

(g) Hardaway, J., Meeting with State and Federal Regulatory Staff regarding technical finance paper on Identification and Study of Alluvial Valley Floors, U.S.E.P.A., August 28, 1978.

(2) Section 785.19 as proposed, would provide for a two-tiered approach to the making of permit applications in areas west of the 100th meridian which are located within a valley holding a stream or within two miles of any stream. First, the applicant would be required to conduct a pre-application reconnaissance inspection in these areas holding a stream or within two miles of a stream, to determine the absence or likely presence of an alluvial valley floor in the vicinity of a proposed mine plan area. The two mile limit would be based on the results of hydrogeologic investigation indicating that groundwater in alluvial valley floor areas has been affected by coal mining at distances of up to two miles (Reference c). The two mile limit is based upon a review of data available to the Office. (Reference (c)). The Office will, however, consider other relevant data that may be submitted to it during the comment period and establish the distance limit for the pre-application inspection appropriately in the final rules. The detailed technical basis for the items which would have to be included within the pre-application investigation under Sections 785.19(c)(1)(i)-(vii) are explained in Reference (c).

Under Section 785.19(c)(2), the regulatory authority would be required to make specific findings before determining that any portion of an alluvial valley floor or stream subject to the pre-application requirements may be excluded from further consideration in the full permit application process. The criteria for those findings are explained in Reference (c). It is expected that the regulatory authority would make these findings prior to receipt of a complete application for a permit for the area involved.

(3) If the results of the pre-application investigation were to indicate that

a valley floor is located within the two-mile range, then the applicant would be required under paragraph (d) of Section 785.19 to develop detailed

posed for those operations at Part 827 of Subchapter K. The reader should consider Section 785.21 together with

clause of Section 506(b) of the Act and is proposed at subsection 786.11(a). Longer permit terms may be granted

permit. This provision is necessary to insure that the regulatory authority's determination that reclamation will be feasible, based upon the materials sub-

§ 786.13 Conditions of Permits: Environment, Public Health and Safety.

This section is proposed to require

§ 786.15 Criteria for Permit Approval or Denial.

Authority for this section is Sections

a valley floor is located within the two-mile range, then the applicant would be required under paragraph (d) of Section 785.19 to develop detailed information for inclusion in the permit application. The basis for the requirements of paragraph (d) are explained at reference (c) and (g).

(4) The data requirements set forth in Section 785.19 are believed to be representative of standard geologic, hydrologic, biologic, and land-use studies necessary to establish characteristics which support the essential hydrologic functions of alluvial valley floors, and determine the effect of the proposed operation on agricultural activities conducted on or adjacent to the proposed mine plan area. As proposed, these requirements would allow the regulatory authority the discretion to provide more detailed guidance regarding the quantity of data to be required.

§ 785.20 Augering operations.

Authority for this section in Sections 102; 201; 501(b); 503; 504; 507(b); 508(a); 510(b); and 515(b) of the Act. Under Section 515(b)(9) of the Act, specific environmental protection performance standards are provided for the permanent regulatory program for surface coal mining and reclamation operations involving augering operations. Those performance standards are being proposed for implementation to ensure that the regulatory authority is provided with sufficient information in permit applications under regulatory programs to determine whether operations proposing to utilize augering will be conducted in compliance with Part 819, Section 780.20 is being proposed.

§ 785.21 Coal processing plants and support facilities not within the permit area for a specific mine.

Authority for this section is Section 102; 201; 501(b); 503; 504; 506; 507(b); 508(a); 510(b); 515; 516 and 701 of the Act. Under Section 701(28)(B) of the Act certain coal processing plants and related support facilities not located within the permit area for a specific mine, but ". . . incident" to the operation of coal mines are defined to be "surface coal mining operations." Under Section 506(a) of the Act, all of those operations must obtain permits under regulatory programs, to operate on and after eight months from approval of those programs. Under Section 515 of the Act, environmental protection performance standards are applicable to those operations. Section 785.21 is being proposed to implement the Act's permit requirements for these operations and to ensure that they will be conducted in compliance with the special environmental protection performance standards being proposed for those operations at Part 827 of Subchapter K. The reader should consider Section 785.21 together with Part 827 and the provisions of Part 701, where the specific extent to which these operations will be covered under the Act are being proposed by appropriate definition.

§ 785.22 In situ activities.

Authority for this section is Sections 102; 201; 501(b); 503(a); 504; 506(a); 507(b); 508(a); 510(b); 515; 516; 517 and 701 of the Act. Under Section 701(28)(A) of the Act, "in situ" mining of coal is deemed to constitute surface coal mining operations and, under Section 560(a) of the Act, can only be operated under regulatory programs pursuant to permits. Under Section 515 of the Act, environmental protection performance standards are applicable to those operations. Section 785.22 is being proposed to implement the Act's permit requirements for these operations and to ensure that they will be conducted in compliance with the special environmental protection performance standards being proposed for those operations at Part 828 of Subchapter K. The reader should consider Section 785.22 together with Part 828.

PART 786—TERMS AND CONDITIONS OF PERMITS AND CRITERIA FOR APPROVAL OR DENIAL OF PERMITS

§ 786.1 Scope; 786.2—Objectives; and 786.4—Responsibility.

Authority for these sections are Sections 102, 201(c); 501(b); 503; 504; 505; 506; 507; 508; 509; 510; 515; 516; 517; and 522(a), (e)(3), (5) of the Act. Part 786 is intended to provide the minimum requirements for regulatory program provisions for permit terms, permit conditions and the substantive criteria to be used by the regulatory authority in deciding whether to issue a permit.

§ 786.11 Permit Terms.

Authority for this section is found generally in Sections 102; 201(c); 501(b); 503(a); 505, and 506 of the Act. This Section provides minimum requirements for permit terms under State programs.

All permits, in general, would be limited to a period not to exceed five years as provided in Section 506(b) of the Act. However, the States would be free to provide for more restrictive permit periods under State programs because the Act preserves from preemption more stringent requirements of State law. See Section 505 of the Act.

One exception would be proposed from the standard five-year term for permits. This is based on the proviso clause of Section 506(b) of the Act and is proposed at subsection 786.11(a). Longer permit terms may be granted under this section, if it is necessary to allow the operator to finance the purchase of equipment to open the mine.

The Office has considered whether an additional exemption from the standard five-year permit term should be allowed for underground mining activities. Upon examination of this issue, it has been tentatively concluded that the Office has no legal authority to allow for such an exemption. Although Subsection 516(d) of the Act authorizes the Office to "modify" the general provision of the Act relating to "permit *application* requirements, (and) permit approval or denial *procedures*" (emphasis supplied), the Office does not believe this extends to allow for modifications of the Act's permit *term* provisions. Permit *term* provisions are believed to be substantive criteria and "procedural" or "application" requirements covered by Subsection 516(d) of the Act.

Under Subsection 786.11(b), a permit would terminate if mining has not commenced within three years after issuance. The regulatory authority could extend the time period, if the opening of the operation were delayed by conditions beyond the control of the operator. Notice of such extensions are to be made to the public. For certain synthetic fuel facilities or major electric generating plants, surface coal mining operations would be deemed to have started at the time of the construction of those facilities. These provisions are required by Section 506(c) of the Act.

Subsection 786.11(c) is proposed to make it clear that permits are subject, during their stated terms to enforcement actions authorized under the Act. The authority for these actions are at Sections 504(d), (f); 511(c); 515(b)(16), (c), (e); 516(c); 517; 518; 519; and 521(a), (b), (d); of the Act.

§ 786.12 Conditions of Permits: General and Right of Entry.

Authority for this section is found at Sections 102; 201; 501(b); 503(a); 504; 506(a); 507; 508; 509; 510; 515; 516; and 517 of the Act. So that all requirements of the Act, this chapter, and regulatory programs will be complied with by persons operating under permits issued by regulatory authorities, Section 776.12 is proposed to require that the regulatory authority place specific conditions in all permits.

Subsection 786.12(a) is proposed to insure that mining operations are conducted according to the representations made to the regulatory authority by way of the materials submitted in the application for the permit, except to the extent that the regulatory authority has otherwise directed in the

permit. This provision is necessary to insure that the regulatory authority's determination that reclamation will be feasible, based upon the materials submitted in a permit application, is not undermined by deviations from representations made in the application during the actual conduct of mining and reclamation operations.

Subsection 786.12(b) is proposed primarily to implement the provisions of Section 517 of the act, requiring that authorized representatives of both the Secretary and the State regulatory authority be provided access to the areas covered by the permit or where records required to be kept by the permit are located, without delay or the need for a search warrant. The provisions of this paragraph are appropriately limited to require that such entries be allowed: (a) Where State or Federal inspectors present "appropriate credentials" and (b) that the entry be for certain specified purposes listed in subparagraphs (1) and (2) of this paragraph.

The Office has considered the question of whether requiring warrantless entries by State and Federal inspectors of permit operations would contravene the Fourth Amendment to the United States Constitution. The Office has concluded, based upon a review of the Act's legislative history and relevant case law, that such entries are lawful. *Surface Mining Regulation Litigation*, F. Supp. ——— (D.D.C., August 24, 1978) (Mem. Op. at 21-24). The Office has also proposed that, for the purposes of the right-of-entry permit condition, the offices' fee collection inspectors be deemed to be "authorized representatives of the Secretary," to allow for the Office to fulfill its responsibilities under Sections 102(h), 201(c); 401; 402; and 403 of the Act, by collection of the fees due under Section 402.

Subsection 786.12(c) is proposed to insure that operations conducted under permits are limited to those operations which were specifically disclosed on maps submitted to the regulatory authority as part of the permit application, under either Part 779-780 for surface mining activities or under Part 782-783 for underground mining activities. This requirement is important for two reasons. First, it is only with respect to those specific lands authorized for mining under a permit that the regulatory authority will have determined that reclamation of the area to be mined will be feasible, within the term of that permit, as required by the Act. Second, under Sections 506(d) and 511(a) of the Act, mining activities outside the boundary of the lands indicated on maps submitted in the permit applications must be made the subject of a new permit application.

§ 786.13 Conditions of Permits: Environment, Public Health and Safety.

This section is proposed to require permits issued by regulatory authorities to be specifically conditioned for the protection of the environment and public health and safety. Authority for this provision is Sections 102; 201; 501(b); 503; 504; 510; 515; 516; and 517 of the Act.

Subsection 786.13(a) would require permittees to take certain actions in the event of noncompliance with any term or condition of the permit, in order to minimize environmental harms.

Under Subsection 786.13(b), permits must be conditioned to insure adequate disposal of solids sludge, filter backwash or other pollutants removed during the course of use of water pollution or air pollution control facilities connected with the permitted surface coal mining and reclamation operations. This provision is based upon a similar provision specified in permits issued pursuant to the Clean Water Act, 33 U.S.C. 1251 *et seq.*, for the National Pollution Discharge Elimination System Permit Program. See 40 CFR Parts 124-125.

Under Subsection 786.13(c), the regulatory authority would be required to provide for any other conditions in the permit which will be needed to further the term and conditions of the permit, the Act, the requirements of this chapter and the applicable regulatory program. This provision is proposed to insure that the regulatory authority conditions permits to account for site-specific factors requiring special attention during the conduct of the permitted operations.

Examples of such conditions would be:

1. Specific effluent limitations on pollutants in addition to, or more stringent than, those listed in the General Effluent Limitations of the Environmental Protection Performance Standards at Sections 816.41 and 817.41;

2. Alternative conditions imposed on a permittee in place of general provisions of the performance standards of subchapter K which may be waived by variances granted for certain special categories of mining under Sections 785.11, 785.12, 785.13, 785.15, 785.16, and 785.18 of this subchapter;

3. Provisions to be incorporated in permits as the result of modifications made to the permit under Part 790 of this subchapter;

4. Conditions under which the regulatory authority may authorize alternative means of achieving a performance standard, where such alternative means are specifically authorized under the provisions of Subchapter K.

§ 786.15 Criteria for Permit Approval or Denial.

Authority for this section is Sections 102(b), (c), (d), (e); 201(c); 501(b); 503(a); 504; 505; 509(a), (b), (c); 510(a), (b); (c); 515(a), (b); 516(a), (b), (d); 517; and 522(a), (e), (1), (3), (4), (5) of the Act. This section would provide the substantive criteria by which a regulatory authority would approve or deny an application for a new or revised permit. This section is proposed principally to implement the requirements of Sections 510(b), (c) and 522(e) of the Act, under which surface coal mining and reclamation operations are to be authorized only under certain limited conditions. The general requirements in the main text of section 786.15 are derived from the text of Section 510(b) of the Act. The most important principle would be that the burden of proof to show entitlement to a permit would rest with the applicant, as expressly provided for in Section 510(b) of the Act.

Subsection 786.15(a) is based on Section 510(b)(1) of the Act and is proposed to insure that all requirements applicable law governing the issuance of a permit have been complied with by the applicant and the regulatory authority. Subsection 786.15(b) is based on Section 510(b)(2) of the Act.

Under Subsection 786.15(c), the requirement of Section 510(b)(3) of the Act would be implemented. First, the regulatory authority would be required to have completed an assessment of the probable cumulative impacts of all anticipated coal mining in the area around the mine plan area on the hydrologic balance of the "general area" around the particular permit area. Second, the regulatory authority would have to determine that the proposed operations under that application have been designed to prevent material damage to the hydrologic balance outside the permit area.

With respect to the general assessment of all anticipated coal mining in the area, the regulatory authority is to utilize the information provided for that task in the application under Section 780.21(c) or 784.13(c) of this Subchapter. This information may, of course, be largely derived from data collection and analysis efforts of State and Federal agencies under Section 507(b)(11) of the Act. The Office has considered how this data is to be assessed and made available to State regulatory authority. A data collection and analysis coordination project initiated by the U.S. Geological Survey is currently underway to provide for these needs and is expected to be a functioning system for the use of regulatory authorities by the time that State programs are implemented in late 1979.

Regarding the term "hydrologic balance," the same definition given that term in the initial regulatory program at Section 710.5 of this Chapter would

such commitments have been made by the applicants are provided for in Subchapter F.

Under Section 522(e)(1), certain im-

posed to implement that provision of the Act in the context of the regulatory authority's decision on issuance or denial of a permit.

of Subchapter K, for surface mining activities and underground mining activities, respectively. To insure that the regulatory authority makes the

Permit application information requirements for these operations are being proposed at Section 785.19 of this Subchapter. The reader of Sec-

floors are being proposed in Subsection 786.17(d). Under that subsection, material damage to the quantity and quality of water supplying alluvial

Regarding the term "hydrologic balance," the same definition given that term in the initial regulatory program at Section 710.5 of this Chapter would be continued under proposed Section 701.5. However, the Office will consider whether additional elements should be added to that definition in the rules, especially for the purposes of the regulatory authority's determination under Subsection 786.15(c). In particular, the Office will consider whether the following factors should be made specific elements of the definition of "hydrologic balance" and, accordingly, solicits comments on these factors:

(1) General and numerical water quality standards adopted under the provisions of Section 303 of the Clean Water Act, as amended 33 U.S.C. section 1313;

(2) Additional quantitative standards expressing the relationship between the chemical, physical, and bacteriological properties of water and the impact of varying degrees of those properties on the public uses of those waters and fish and wildlife using those waters;

(3) Quantitative standards limiting the extent to which the quantities of water in surface and ground systems may be allowed to be disturbed in a given area by coal mining.

Under Sections 522(a) and (d) of the Act, Congress has required that State programs incorporate processes for designation of lands as unsuitable for all or certain types of coal mining. Under Section 522(e), Congress itself specifically prohibited coal mining in several instances. To insure that these provisions are implemented in the permits processes under regulatory programs, of Subsections 786.15 (d) and (e) are proposed. Under these subsections, the regulatory authority must insure that permits are not issued for areas prohibited from being mined under Section 522 of the Act and the regulations being proposed to implement this section at Subchapter F.

Under Section 510 (b)(4) of the Act, Congress specified that no permits are to be issued where either: (i) An area has been designated unsuitable for the type of coal mining involved in an application under a designation process conducted pursuant to Section 522(a), (b), and (d) of the Act, or (ii) where a proceeding for such a designation is already pending.

Paragraphs 786.15(d)(1) and (2) are proposed to implement those provisions of Section 510(b)(4) of the Act. Appropriate allowance has been made for the exemption from the requirement of Section 510(b)(4) for investment in "substantial legal and financial commitments prior to January 4, 1977." The substantive criteria by which a determination of whether such commitments have been made by the applicants are provided for in Subchapter F.

Under Section 522(e)(1), certain important Congressionally-designated lands are prohibited from coal mining. Under Section 522(e)(5), mining is prohibited within specified distances of certain designated structures. Regulations are being proposed to implement those provisions of the Act at Section 761.11(a), (f), (g), of Subchapter F. To account for these prohibitions on mining in regulatory program permit processes, subparagraph (d)(3) of Section 785.16 is being proposed.

Under Section 522(e)(5) of the Act, mining within 300 feet of an occupied dwelling is prohibited, subject to exception by written consent of the owner of the dwelling. Criteria for determining whether that exception should be approved in a particular case are being proposed at Subsections 761.11(e) and 761.12(e) of Subchapter F. To account for this prohibition, subject to an approved exception, in regulatory program permit processes, Paragraph 785.16(d)(5) is proposed.

Under Section 522(e)(4) of the Act, mining which would adversely affect a public park or historical place is prohibited, unless jointly approved by the regulatory authority and agency with jurisdiction to manage the park or historic place. Criteria for determining whether that approval should be granted in a particular case are being proposed at Subsection 761.12(b) of Subchapter F. To account for this prohibition, subject to an approved exception, in regulatory program permit processes, Subsection 786.15(e) is being proposed.

Under Section 510(b)(c) of the Act, the regulatory authority is prohibited from issuing a permit for surface mining activities, where the private mineral estate has been severed from the private surface estate, unless the applicant has submitted appropriate documentation to establish its right to use the surface mining method on the lands involved. Subsection 785.16(f) is proposed to implement this provision through adoption, by cross-reference, of the requirements regarding information required to be contained on applications addressing this issue and specified in Subsections 778.15(b) and 782.15(b) of this Subchapter.

Under Section 510(c) of the Act, the regulatory authority is prohibited from issuing a permit until the applicant has demonstrated that any violations of the Act or other State or federal air, water or other environmental laws, caused by the applicant at another mining operation, have been corrected or are in the process of correction to the satisfaction of the government agency with jurisdiction over the violation. Subsection 786.15(g) is proposed to implement that provision of the Act in the context of the regulatory authority's decision on issuance or denial of a permit.

Under Section 510(c) of the Act, the regulatory authority is prohibited from issuing a permit to an applicant whose pattern of prior willful violations of the Act has resulted in irreparable damage to the environment, so as to indicate an intent not to comply with the provisions of the Act in the future. Subsection 785.16(h) is proposed to implement this provision of the Act. Provision for conducting the hearing required prior to making a determination under Subsection 785.16(h) not to issue a permit is being proposed at Subsection 788.12(d) of this Subchapter.

The mining of contiguous areas under different permits, either by the same or different permittee, can cause special problems if not adequately accounted for. As an example, one permittee could be allowed to divert a stream running through two contiguous permit areas resulting in a discharge, after diversion, into the middle of the second permittee's surface operation area. To insure that such problems are avoided, Subsection 785.16(i) is proposed to require the regulatory authority to determine that operation under a particular permit will not be inconsistent with other operations to be performed in adjacent areas.

Under Section 509(a) of the Act, a permit applicant is required to file a performance bond or other equivalent guarantee with the regulatory authority prior to the issuance of the permit. Regulation implementing Section 509 are being proposed at Subchapter J. To implement the particular provision of Section 509(a) on the posting of the bond prior to issuance of a permit, Subsection 786.15(j) is being proposed.

Under Section 510(d)(1) of the Act, certain specific findings must be made by the regulatory authority before issuing a permit for mining on prime farm land. Special permits regulations are being proposed for mining on prime farm lands under Section 785.17 of this Subchapter. To insure that the regulatory authority makes the specific findings for issuance of a permit that are required under Section 510(c) of the Act and which would be required under Section 785.17, Subsection 786.15(k) is being proposed.

Under Sections 512(b) and 515(b)(2) of the Act, the regulatory authority must find, prior to issuing a permit, that reclamation of the mine plan area will be feasible, including appropriate provision for the postmining land use. Environmental protection performance standards for protection of the postmining land use are being proposed at Sections 816.124 and 817.133

of Subchapter K, for surface mining activities and underground mining activities, respectively. To insure that the regulatory authority makes the specific findings for issuance of a permit that are needed under Section 515(b)(2) of the Act and which would be required under Sections 816.124 or 817.133, Subsection 786.15(l) is being proposed.

Under Parts 816 and 817 of Subchapter K, administration of the environmental protection performance standards system would require numerous prior approvals of the regulatory authority before the conduct of operations. To insure that those approvals are made under regulatory programs, Subsection 786.15(m) is being proposed.

The Office has received comments concerning whether additional criteria should be established to determine the operator's ability to reclaim a mine plan area. The Office invites additional comment on this alternative to address whether the Office should require a showing that the applicant has the necessary machinery and financial capability to reclaim the land.

§ 786.17 Criteria for permit approval or denial: Alluvial valley floors.

1. Authority for this section is Sections 102; 201; 501(b); 503; 504; 506(a); 507(b); 508(a); 510(b); 515(b); and 517 of the Act. Under Section 510(b)(5) of the Act, the regulatory authority is required to make certain specific findings prior to the issuance of a permit authorizing the conduct of surface coal mining and reclamation operations on or adjacent to alluvial valley floors located west of the 100th meridian of the country. Under Section 515(b)(10) of the Act, environmental protection performance standards are provided for the protection of the hydrologic balance, including of alluvial valley floors. Under Section 510(b)(3) of the Act, the regulatory authority is required, prior to the issuance of a permit, to insure that proposed operations have been designed to prevent material damage to the hydrologic balance.

Under Part 822 of Subchapter K, the Office would establish special environmental protection performance standards applicable to surface coal mining and reclamation operations on or adjacent to alluvial valley floors. To implement these provisions of the Act and to insure that operations will be conducted in full compliance with the provisions of Part 822, Section 786.17 is being proposed to provide the substantive criteria by which a regulatory authority is to decide whether to approve of a permit for mining on or adjacent to alluvial valley floors west of the 100th meridian.

Permit application information requirements for these operations are being proposed at Section 785.19 of this Subchapter. The reader of Section 786.17 should, therefore, carefully consider that section together with Section 785.18, Part 822 and certain special definitions applicable to alluvial valley floors being proposed at Section 701.5 of this Chapter.

The substantive criteria by which the regulatory authority is to determine whether a permit can be issued for mining on or adjacent to alluvial valley floors west of the 100th meridian are being proposed in Subsection 786.17(a). Three specific criteria are proposed. The first and second criteria are based upon the language of Sections 510(b)(5)(A) and (B) of the Act. The third criteria, insuring that the proposed operations will be conducted in accordance with the performance standards of Part 822 applicable to alluvial valley floors, is proposed to insure that the goal of feasible reclamation in Section 102 of the Act is implemented with respect to mining on or adjacent to alluvial valley floors.

Subsection 786.17(b) provides for two exceptions, under which applications for permits could be approved by the regulatory authority without regard to the substantive criteria specified at Subsection 786.17(a). These exceptions are specifically authorized under the proviso clause to Section 510(b)(5) of the Act.

Technical literature used to develop proposed Section 786.17 includes the literature cited in the preamble to Section 785.19 and Part 822 and, in addition, the following:

(1) Federal Water Pollution Control Administration, *Water Quality Criteria* (1968);

(2) Moss and Hoffman, Crop-Salt Tolerance-Current Assessment, *Journal of Irrigation and Drainage Division* of *The American Society* of *Civil Engineers* (June, 1977).

Subsection 786.17(c) is being proposed to provide specific guidelines for the use of the regulatory authority in determining the extent of acceptable impact of proposed surface coal mining and reclamation operations on farming in alluvial valley floor situations. As proposed, OSM would establish as a measure of significant impact on farming, a value of 10 percent of decrease in a farm's production capacity for harvestable crops, a 10 percent decrease of the farm's water supply or a combination of these factors which would result in a 10 percent decrease in typical annual productivity.

Specific guidelines for the use of the regulatory authority in determining whether the impact of the proposed operations on the quality or quantity of water in surface or underground water systems supplying alluvial valley floors are being proposed in Subsection 786.17(d). Under that subsection, material damage to the quantity and quality of water supplying alluvial valley floors would be defined as meaning changes in ground water or surface water which are projected to affect adversely the utility and production of sub-irrigated or flood-irrigated agricultural lands. OSM believes it would be preferable to use projected changes in water quality and quantity rather than changes in vegetation as measures of such changes, because projected damage to vegetation can be forecast only by implementing very long-term measurement programs. In contrast, changes in water quantity and quality may be predicted with the use of hydrologic models. OSM is recommending, that the following criteria be used, unless more stringent and site-specific criteria are developed by the regulatory authority under a particular regulatory program:

(1) Increases in total dissolved solids in excess of threshold values projected to result in crop-yield deceases (but in no case would applicable water quality standards be violated);

(2) Increases in the average depth of water saturated zones during the growing season located within the root zones of the alluvial valley floor that would reduce the amount of subirrigable land compared to premining conditions;

(3) Decreases in surface water flows that reduce the size of the alluvial valley floor that is irrigable; and

(4) Changes in surface or ground water systems that are detrimental to agricultural activities through flooding or water logging.

Alternatives to these criteria that were considered in the development of this proposal included:

(1) Merely repeating the language of the Act at Section 510(b)(5) and providing no additional guidance.

(2) Using values of 10 to 20 percent of change in total dissolved solid content of water supplied to alluvial valley floors to determine whether material damage to water and subsequent damage to vegetation was sufficient to deny a permit.

(3) Measuring increases to the saturated zones within the upper six feet of those zones only,

(4) Requiring further definitions by the regulatory authority, and

(5) Allowing no damage to water and agriculturally important vegetation of alluvial valley floors.

The basis for selection of the proposed regulations, as opposed to the above alternatives, was the legislative history of the Act, technical literature cited above and in the preamble to Part 822 and the OSM's understanding of the difficulty of comparing environmental data in a statisticaly signifi-

cant manner. The first alternative has been tentatively rejected because of both the Office's understanding that Congress expected it to provide more

ment this congressional purpose and these provisions of the Act.

§ 787.11 Public notices of filing of permit

way of a public road, subject to two exceptions. Approval of those exceptions may be granted by the regula-

submissions of the applicant. However, further comments on this matter are solicited.

for a conference as provided for in Section 513(b) of the Act. As is indicat-

such alternatives are providing for additional procedural rules governing the conduct of the hearing and provid-

cant manner. The first alternative has been tentatively rejected because of both the Office's understanding that Congress expected it to provide more detailed guidance in implementing the Act through regulations and the existence of certain common criteria used by hydrologists, geologists and land-use planners to determine the impact of industrial activity or agricultural production. The second alternative has not been adopted because of the lack of available data for streams not affected by mining, from which it would be possible to ascertain whether natural changes in total dissolved solids content could be as significant as the percentage values identified in the second alternative. Instead, it is being proposed that industrial damage to water quality be measured according to changes in total dissolved solids in absolute forms, based on data available to the regulatory authority which shows the levels of total dissolved solids that cause crop yields to begin to decline.

The third alternative considered, an assessment of increases for saturated zones within the upper six feet of these zones, only has been tentatively rejected because crops commonly grown in alluvial valley floors, such as alfalfa, have root zones that may be affected at levels deeper than six feet. Alternative four has been rejected as the sole method of implementing Section 510(b)(5) of the Act by regulation; however, discretion is being left to the regulatory authority to determine if more specific criteria should be developed. The fifth alternative of allowing for no changes in water quality, quantity or agricultural productivity under any circumstances has been rejected because of the need to account for normal visibility in environmental data. Instead, quantitative limits, where proposed, are believed to represent variations slightly outside the range of normal fluctuations, as observed during field inspections and measurements of experts detailed to the Office.

PART 787—PUBLIC PARTICIPATION IN PERMIT REVIEW PROCESS

§ 787.1 Scope; § 787.2 Objectives; § 787.4 Responsibility.

Authority for these sections is Sections 102; 201(c); 501(b); 503; 504; 507; 508; 510 (a), (b); 513; 514; 516(a); and 522(e)(4) of the Act. One of Congress' central purposes in adoption of the Act was to insure adequate provision for participation by the public in regulatory programs for surface coal mining and reclamation operations. Section 102(i) of the Act. For the permit process, Congress provided certain key elements for public participation. Part 787 is proposed to implement this congressional purpose and these provisions of the Act.

§ 787.11 Public notices of filing of permit applications.

1. Authority for this section is generally Sections 102; 201(c); 501(b); 503; 504; 510 (a), (b); 513(a); and 517 of the Act. This section would govern notices of the filing of applications required to be made to the public by both applicants and the regulatory authority.

2. Under Subsection 787.11(a), the applicant would be required to run an advertisement of its application in a local newspaper, once a week for four weeks, commencing with the filing of the application with the regulatory authority. The advertisement would have to contain the name and address of the applicant, a map showing the location and boundaries of the proposed operation and other information, the general area around the proposed permit area, the location of the filing with an appropriate public office of a complete copy of the application, and the place to which written objections, comments and requests for informal conferences would be sent. The newspaper advertisement is required by Sections 507(b) and 513(a) of the Act.

Maps in newspaper advertisement. The Office is proposing that a map with certain specified detailed information be included in the newspaper advertisement, to implement the requirement of Section 513(a) of the Act that this notice contain the "precise location and boundaries of the land to be affected." A map, rather than an extended verbal discussion of these items, is proposed for the use of the lay public who may not easily understand the technical, legal, and engineering terminology that the textual description of the location and boundary of a parcel of land generally involves. See H.R. Rep. No. 93-1522, 93rd. Cong, 2d. Sess. at 76, 81 (1974). The type of map called for in the proposed regulation is already required by West Virginia state law (Sections 8, 9, Article 6, Ch. 20, *W. Va. Code*) for newspaper notices of the filing of surface mining permit application with the West Virginia Department of Natural Resources. The Office recognizes that requiring inclusion of a map in the newspaper advertisement may involve additional expense for permit applicants than if no map were required. However, it is believed that this will not be significant on a national basis and would be outweighed by the benefit of better notice to the public. (See Memorandum, B. J. Gregg, USDOI to D. Buente, USDOI, Sept. 1, 1978).

3. Under Section 522(e)(4) of the Act, mining is prohibited within one-hundred feet of the outside right-of-way of a public road, subject to two exceptions. Approval of those exceptions may be granted by the regulatory authority only after notice and opportunity for a public hearing. To provide for a determination of whether an exception should be granted, it is proposed, under Paragraph 787.11(a)(5), that the newspaper advertisement of filing of a permit application explain the basis for the request of the exception.

4. Under Subsection 787.11 (b) and (c), the regulatory authority is to issue written notifications of the receipt of permit applications to various other concerned Federal, State and local governmental agencies, public utilities operations, the Regional Director of the Office and other interested persons for opportunity to submit comments to the regulatory authority. This notification requirement is proposed to implement Sections 102(i), 507(e), 513(a), and 513(b) of the Act. Some States commended past notice of the filing of the application should not be required to be given to other State or Federal agencies. However, Section 513 of the Act requires that this notice be given by the regulatory authority.

5. The applicant is also required by Section 507(e) of the Act, to file a copy of the application at the courthouse of the county or other available public office in the county where the mining is proposed. Appropriate exclusion from this public filing for information entitled to confidential treatment under Sections 507(b)(17), 507(e), and 508(a)(12) of the Act would be provided.

Several comments were received regarding the time limit for filing of a copy of the application with a public office. Some States and industry commenters suggested that this be required only after the regulatory authority makes an initial determination that the application is complete, so that the public does not waste time reviewing incomplete applications. Some public interest commenters suggested that filing of the application be required as early as possible, recommending a point as the same time as the first date of required newspaper advertisement. These commenters suggested that the public be allowed as much time as possible to review permit applications, even if incomplete.

The Office has tentatively decided not to change the rule in light of these comments, because it believes that requiring filing of the application by the last date of newspaper publication strikes a reasonable balance between the public's desire to be afforded as long a comment period as possible and the States' desire to avoid the review of comments on incomplete application which are mooted by subsequent

submissions of the applicant. However, further comments on this matter are solicited.

§ 787.12 Opportunity for submission of written comments on permit applications.

Authority for this section is Sections 102; 201(c); 501(b); 503(a); 504; 510(a), (b); and 513(a) of the Act. All persons to whom notice has been given, either through newspaper advertisement or written notification, are authorized by the Act to file comments concerning the application with the regulatory authority. Section 787.12 is proposed to implement those provisions of the Act. All comments are to be added to the copy of the application open for public inspection, immediately upon receipt by the regulatory authority, so that all interested members of the public can be made aware of issues raised regarding the permit application. As provided by Section 513(a) of the Act, the time limit and manner for submission of these comments would be left to the discretion of the regulatory authority so long as those requirements are reasonable.

Several industry commenters suggested that this section be modified to require that copies of comments be sent to the applicant. The Office agrees that applicants should be provided with opportunity to respond to comments and states further comment on how this can be best accomplished in the final rules.

§ 787.13 Right to file written objectives.

Authority for this section is Sections 102; 201(c); 501(b); 503; 504; 510 (a), (b); and 513(b) of the Act. Under Section 787.13, all interested parties would have the right to file written objections to the issuance of a permit within 30 days of the last publication date of the advertisement. Copies of the objections would be sent by the regulatory authority to the applicant and filed with the copy of the application placed in a public office under Subsection 787.11(d).

§ 787.14 Informal conferences.

Authority for this section is Subsections 102; 201(c); 501(b); 503; 504; 510 (a), (b); 513(b); 516(a); and 522(e)(4) of the Act.

1. Under Section 513(b) of the Act, provision is made for the regulatory authority to conduct an informal conference to determine whether a permit should be issued. Section 787.14 is proposed principally to implement that section of the Act. The procedures for initiating requests of the conference are proposed in Subsection 787.14(a) and are based upon Section 513(b) of the Act. In addition, under Subsection 787.14(b), the regulatory authority would be required to honor requests for a conference as provided for in Section 513(b) of the Act. As is indicated in Section 513(b) of the Act, the conference is to be held within "a reasonable time of the receipt of an objection and request," and no specific time limit would be fixed by the proposed regulation.

2. The location of the conference, public notice for pre-conference discovery procedures, and the purpose for the conference would be determined according to the provisions of proposed paragraphs 787.14(b) (1, 2, 3, and 4). These provisions are based upon Section 513(b) of the Act and its legislative history. The legislative history of the Act indicates that Congress intended that the informal conference not be conducted according to the rules for a formal adjudicatory hearing. Accordingly, Paragraph 787.14(b)(5) is proposed to indicate that the requirements of the Administrative Procedure Act regarding formal adjudicatory hearings are not to be applied to determine the conduct of the informal conference. Additional provisions in Section 787.14 would authorize the regulatory authority to conduct the conference, receive relevant information and maintain a record until release of the applicant's performance bond, if the permit is issued, as provided in Section 513(b) of the Act.

3. Some commenters proposed that issues to be considered at the conference not be limited to those raised in the comments, objections, and requests for informal conferences received by the regulatory authority. However, the regulatory authority must have some method to prepare for the conference and the applicant needs to be adequately informed of what issues it will need to respond to at the conference. Therefore, the Office is soliciting further comment on this question.

4. Subsection 787.14(d) is proposed to implement Section 522(e)(4) of the Act, whereby exceptions to the general prohibition against conducting mining operations within 100 feet of the outside right-of-way of a public road may be authorized by the regulatory authority, subject to opportunity for a public hearing. The regulations providing for the substantive criteria by which such exceptions are to be granted proposed in Subsection 761.12(d) of Subchapter F. Subsection 787.14(d) would allow the regulatory authority to utilize an informal conference for the purposes of satisfying the requirement of a hearing under Subsection 761.12(d).

5. The Office has considered whether minimum requirements regarding the informal conference should be proposed, in addition to those formally identified in Section 787.14. Among such alternatives are providing for additional procedural rules governing the conduct of the hearing and providing for time limits for the actual conduct of the hearing. The Office has tentatively concluded not to propose such additional requirements, based upon its reading of the legislative history of Section 513(b) of the Act as indicating Congressional intent that, aside from the minimum requirements provided by the Act, the conduct of the informal conference was to be left to regulatory discretion, so as to insure that the issues to be considered at such hearings can be most expeditiously and practically resolved.

6. Some commenters suggested that this section be modified to specifically provide that any person may be a "party" to the conference, whether or not that person also has submitted comments, objections, or requests for a conference to the regulatory authority. The Office does not interpret the existing text of this section as precluding the regulatory authority from allowing those persons to become parties and, therefore, believes that no additional language is needed.

§ 787.15 Public availability of information in permit application on file with the regulatory authority.

Authority for this section is Sections 102 (b), (c), (d), (e), (i); 201(c); 501(b); 503(a); 504; 507(b) (17); 507(e); 508(a)(12), (b); 510 (a), (b); and 517 of the Act.

Under Section 517(f) of the Act, a general rule is established for information obtained by the regulatory authority under the Act. This rule is that all of that information is ordinarily to be made reasonably available for public inspection and copying, in keeping with the purposes of the Act in Section 102(i). Further, Sections 507(b)(17) and (e) specifically provide for making publically available information in permit applications filed with the regulatory authority. Therefore, under Sections 102, 507, and 517, all information contained in applications for permits is to be generally made available to the public by the regulatory authority. Subsection 787.15(a) is proposed to implement this requirement.

The Act, however, does provide for certain exceptions to the type of information contained in permit applications that the regulatory authority is required to make available. These exceptions are provided for in Sections 507(b)(17) and 508(a)(12) and (b) of the Act. Paragraphs 787.15(a)(1) through (3) are proposed to implement these exceptions. As exclusions, these are to be interpreted narrowly.

Under Subsection 787.15(b), provision is proposed for adoption of administrative procedures to identify

and segregate, from non-protected information, that information which is entitled to protection under Para-

controlled mining operations with a demonstrated pattern of willful violation of the Act of such nature and du-

508(a); 509; 510(a), (b), (c); 514(a), (b); and 515 of the Act. Under Sections 510(a), (b), (c); 513(a), (b), and 514(a),

close of an informal conference, whichever occurs earlier.

4. After the first stage of implemen-

permit, in order to carry out its administrative, investigative, and enforcement responsibilities under sections

(iv) The filing of *motions* and post-hearing *briefs*, proposed *findings of fact and conclusions of law*; and

and segregate, from non-protected information, that information which is entitled to protection under Paragraphs 785.15(a)(1)–(3).

PART 788—REGULATORY AUTHORITY REVIEW AND DECISIONS ON PERMIT APPLICATIONS

Part 788 is proposed to set forth the procedures that the regulatory authority is to follow after receipt of an application for a permit, to decide whether to grant or deny it and to notify interested parties of that decision.

§ 788.12 Review of Permit Application.

(1). Authority for this Section is Sections 102; 201(c); 501(b); 503; 504; 507; 508(a); 509; 510 (a), (b), (c); 513; 514(a), (b); and 522(e) of the Act. Under the Act, the regulatory authority is required to follow certain procedures for reviewing completed applications for permits. Section 788.12 is proposed to implement those provisions of the Act.

(2). Under Sections 510(a) and 514(a)–(b) of the Act, the regulatory authority is required, prior to granting or denying a permit, to review the permit application materials and the results of public input from required public participation procedures. Paragraph (a) of Section 788.12 is proposed to implement these requirements. Under Section 509(a) of the Act and the regulations being proposed to implement that provision, Subchapter J, the regulatory authority must insure that, prior to issuing a permit, the applicant has filed a satisfactory performance bond or other guarantee. Section 788.12(b) is proposed to implement those provisions during the process of final review of a permit application.

(3). Under Section 510(c) of the Act, the regulatory authority is required to review the application and other relevant information about the applicant, to ascertain whether the applicant is in violation of the Act or other State and Federal air and water environmental statutes. If the regulatory authority learns of the existence of a violation of these laws, as evidenced by issuance of written notification from the governmental agency with jurisdiction over the violation, or from other information, then the regulatory authority is precluded from issuing a permit, unless the applicant submits proof of correction of the violations. Paragraph (c) of Section 788.12 is proposed to insure that the regulatory authority implements these requirements of Section 510(c) of the Act.

(4). Under Section 510(c) of the Act, the regulatory authority is also directed not to issue a permit where the ". . . applicant, or the operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violation of the Act of such nature and duration with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of the Act." This determination is, however, to be made only after opportunity for a hearing. To implement the requirement for this hearing, paragraph (d) of Section 788.12 is proposed to require that the regulatory authority offer opportunity for an adjudicatory hearing as would be provided for in particular regulations of the regulatory program.

(a) In proposing that this hearing be adjudicatory in nature, the Office has reviewed relevant case law. Based on this review, it has tentatively concluded that the individualized nature of the factual determination that will be involved in this circumstance are the types of determinations that the courts have held that due process requires an adjudicatory, as opposed to a legislative, hearing.

(b) The Office has also considered whether the other hearing provisions required under the Act in the permit process could be utilized to satisfy the requirement of a hearing under Section 510(c) of the Act. Based upon a review of the relevant provisions of the Act, the Office has tentatively concluded that these other hearing requirements would not satisfy the provisions of Section 510(c).

As to the informal conference provided for under Section 513(b) of the Act, that hearing would appear not to be applicable in the context of Section 510(c), because, by its own terms, that conference is "informal" and not the "adjudicatory" hearing which due process is thought to require for a Section 510(c) hearing. The hearing provision of Section 514(c) of the Act also appears to be inapplicable, because that is a hearing to be provided *after* the regulatory authority acts on a permit, whereas the hearing under Section 510(c) of the Act is to be afforded *prior* to such a decision.

(c) The Office has also considered whether minimum procedural requirements should be specified in Section 788.12(d), to govern the conduct of the adjudicatory hearing under Section 510(c) of the Act. Similar minimum requirements are proposed to be required for regulatory programs for hearings under Section 514(c) of the Act. *See* Part 789 of this Subchapter. The Office has not yet decided whether to specify such procedural requirements under 788.12(d) and specifically solicits comments on this matter.

§ 788.13 Permit approval or denial actions.

Authority for this Section is Sections 102; 201(c); 501(b); 503; 504; 507; 508(a); 509; 510(a), (b), (c); 514(a), (b); and 515 of the Act. Under Sections 510(a), (b), (c); 513(a), (b), and 514(a), (b) of the Act, the regulatory authority is required to reach a determination of whether to grant or deny a permit on the basis of a thorough review of a complete application and the results of public participation. Following that review, Sections 506(a), 510(a), and 514(a), (b) and (c) of the Act specify time limits and methods by which the regulatory authority is to decide whether to issue or deny a permit and make notification of that decision. Section 788.13 is proposed principally to implement those provisions.

1. Paragraph (a) of Section 788.13 would provide for a check-list of all general requirements that the regulatory authority must insure have been complied with, prior to deciding whether to issue or deny a permit according to the criteria of Section 786.15 and 786.17 of this Subchapter.

2. Paragraph (b) of Section 788.13 would provide the time limits in which the regulatory authority must act to formally grant or deny a permit after the receipt of an application. It is important to note that all of the time limits set forth in this paragraph would commence running only upon the regulatory authority's receipt of a complete application.

3. Under paragraph (b), two separate systems of time limits would be imposed on the regulatory authority. The first, at Section 788.13(b)(1), is to be applied under Sections 506(a) and 514(a) of the Act to those completed applications received by the regulatory authority at the early stages of implementation of the permanent regulatory program.

Under Section 502(d) of the Act and Section 771.19(b)(1) of this subchapter, those persons expecting to operate mines on or after eight months of approval of a regulatory program will be required to file permit applications within two months from the approval of the regulatory program. Under Section 506(a), the regulatory authority is to issue or deny a permit in response to those applications within the eight months period after approval of the program. However, a further time constraint is imposed by Section 514(a) of the Act, requiring the regulatory authority to act on any application within sixty days of the close of an informal conference held under Section 513(b).

As proposed, Section 788.13(b)(1) would implement the requirements of Sections 506(a) and 514(a), by requiring a decision on applications filed within the two months deadline of Section 502(d) of the Act and Section 771.19(b)(1) to be made within eight months of approval of the regulatory program, or within sixty days of the close of an informal conference, whichever occurs earlier.

4. After the first stage of implementation of a regulatory program covered by section 788.13(b)(1), the Act provides for no particular fixed time constraint in which the regulatory authority is to act on an application, except where an informal conference has been held. In general, Section 514(b) of the Act requires that these actions be taken within a "reasonable time." However, where an informal conference has been held, then the regulatory authority is required to act within 60 days of the close of the conference. Section 788.13(b)(2) is proposed to implement these provisions of the Act. It is important to note that, as proposed, those applications filed after the two months deadline from approval of a regulatory program, as required by Section 502(d) of the Act and Section 771.19(b)(1) of this Subchapter, would be covered by the provisions of Section 788.13(b)(2).

The Office is concerned that the phrase "reasonable time" in this context be applied so as to insure that applications are given meaningful review and that adequate opportunity for full public participation is provided. Accordingly, the Office solicits comments on whether safeguards to insure that those ends are achieved should be provided in the final rules.

5. Under Section 510(c) of the Act, the regulatory authority is required to provide opportunity for a hearing prior to disapproving an application, because of the applicant's prior violations of the Act which show a present intent not to comply with the Act. As was explained in the preamble to Section 788.12(d), this hearing would have to be conducted separately from the informal conference procedure. Because a Section 510(c) hearing must, by the terms of that section, be conducted prior to the denial of a permit, the regulatory authority may be precluded for a substantial period of time from taking final action on the application involved, within the time constraints otherwise to be required under Section 788.13(b). As the Office interprets the Act, it is believed that Congress intended that those time constraints not preclude the conduct of a hearing required by Section 510(c) of the Act. Therefore, paragraph (b)(3) of Section 788.13 is proposed to provide for the tolling of the time limits otherwise required for a decision by the regulatory authority under Section 788.13(b).

7. Under Sections 514(a)-(c) of the Act, the regulatory authority is required to give notice of and reasons for its final decision in issuing or denying a permit. In addition, the Office will need to be advised of that decision and provided with a copy of the permit, in order to carry out its administrative, investigative, and enforcement responsibilities under sections 504, 517, 518 and 521 of the Act and Parts 733, 736, and Subchapter L of this Chapter. To implement the requirements of Section 514 and to enable the Office to perform those responsibilities, paragraph (d) of Section 788.13 is proposed.

8. Under Section 506(a) of the Act, the regulatory authority is required to give notice of the issuance of a permit to local governments in the area of the operation. Section 788.13(e) is proposed to implement that Section of the Act.

PART 789—ADMINISTRATIVE AND JUDICIAL REVIEW OF DECISIONS BY REGULATORY ON PERMIT APPLICATIONS

Sections 514 and 526 of the Act provide for opportunities for administrative adjudicatory and for judicial review of final decisions by the regulatory authority on applications for permits and of the regulatory authority's failure to act on applications within the times required by the Act. Part 789 is proposed to implement these provisions of the Act.

§ 789.11 Administrative review.

Authority for this Section is Sections 102; 201(c); 501(b); 503; 504; 510 (a), (b); 514 (c), (d), (e); and 515 of the Act.

1. Under Section 514(c) of the Act, a regulatory program must afford opportunity for an adjudicatory hearing to the applicant or any person whose interest is or may be adversely affected by a final decision of the regulatory authority to grant or deny a permit. The time limit to request such a hearing is specified under Section 514(c) to be within 30 days of notice to the applicant of the decision of the regulatory authority. Paragraph (a) of Section 789.11 is proposed to implement these provisions of the Act.

2. Under Sections 514 (c) and (e) of the Act, minimum rules of procedure and time limits for the conduct and completion of the adjudicatory hearing are specified. Paragraphs (c), (d), and (e) of Section 789.11 are proposed to implement those requirements. The Office is also considering whether additional minimum procedural requirements should be specified for these hearings. Among the matters which might be specified are minimum requirements for:

(i) *Discovery* including the taking of deposition and the use written interrogatories between the parties to the hearing;

(ii) *Intervention;*

(iii) *Rules of evidence;*

(iv) The filing of *motions* and post-hearing *briefs*, proposed *findings of fact and conclusions of law*; and

(v) *Re-consideration and re-hearing.*

Those additional minimum requirements might be modeled according to the similar requirements of the Administrative Procedures Act, 5 USC Sections 554–557, and/or the existing rules for practice and procedure before the Department's Office of Hearing and Appeals in proceedings under the Act, 43 C.F.R. Pt. 4. The Office specifically solicits comments on whether additional minimum requirements for adjudicatory hearings under this Part should be established in the final rules.

3. Under Section 514(d) of the Act, the hearing authority under a regulatory program is authorized to provide for temporary relief, when a hearing is requested under Section 514(e) of the Act. Relief is to be based upon specific findings of the existence of certain conditions. Section 789.11(c) is proposed to implement those provisions of the Act.

The conditions stated at subparagraphs (c)(1) to (3) of Section 789.11 are based on the express language of Section 514(d) of the Act. The fourth condition of paragraph (c)(4) is proposed to make it clear that temporary relief may not include the issuance of a permit, where the action of the regulatory appealed from was the denial, in whole or in part, of a permit.

This condition is proposed on several bases. First, the Office interprets the provisions of Section 102(b), (c), (d), and (e); 201(c); 507, 508 and 510 of the Act to state a general requirement that coal mining not be allowed to be conducted until the applicant has clearly and thoroughly demonstrated, through careful scrutiny by the regulatory authority, that reclamation of the area to be disturbed by the proposed operations will be feasible. The Office feels that only a full adjudicatory hearing on the merits, not merely a temporary relief hearing, can provide for the careful scrutiny needed before a decision is made to reverse a determination of the regulatory authority that reclamation will not be feasible. Second, general principles of administrative law provide that temporary relief is available only to restore the parties to the *status quo* prevailing prior to the governmental decision from which relief is sought, see., e.g., *Virginia Petroleum Jobbers Assoc. FPC* 259 F.2d 921 (DC Cir., 1958). In cases where a permit denial is involved, the *status quo* does not include authorization for surface coal mining and reclamations to proceed under a permit, so that the power to award temporary relief according to the general principles of administrative law

does not allow for temporary issuance of a permit.

the original permit or expand the operations outside of that authorized as the original permit area, then further

legal, financial, compliance and other general information, so that, the regulatory authority could determine

to assure the faithful performance of the Act and the requirements of the permit.

does not allow for temporary issuance of a permit.

§ 789.12 Judicial Review.

Authority for this Section is Sections 102; 201(c); 501(b); 503, 514(f); 520; and 526 of the Act. Under Section 514(f) of the Act, the applicant or any person adversely affected who has participated in administrative proceedings under Section 514(c)-(e) of the Act has the right to seek judicial review, under Section 526 of the Act, of the action of the regulatory authority in issuing or denying a permit, or of the regulatory authority's failure to act on an application within a time limit prescribed by the Act. This right of judicial review is in addition to the right to a citizen suit found in Section 520 of the Act. The right to judicial review is mandated for State programs by Section 526(e) of the Act. For Federal programs, judicial review is provided for permit cases by Sections 526(b)-(c) of the Act. Section 789.12 is proposed to implement those requirements of the Act.

PART 790—PERMIT REVISIONS AND REGULATORY AUTHORITY REVIEW OF OUTSTANDING PERMITS

§ 790.11 Regulatory authority review of outstanding permits.

Authority for this Section is Sections 102; 201(c); 501(b); 503; 504; 509(e); 511(c); 514; 515(b)(16); 515(c); 515(e); and 711 of the Act. Under Section 511(c) of the Act, regulatory authority is to review each permit at least once during its term. Following this review, the regulatory authority is authorized to revise or modify the permit, to assure compliance by the permittee with the Act. Similar, but particularized review, revision and modification power is provided to the regulatory authority for certain special categories of mining by Sections 515(b)(16), 515(c) and 515(e) of the Act. Section 790.11 is proposed to generally implement these requirements, along with similar provisions for special categories of mining at Sections 715.13, 715.15, 715.16 and 715.18 of this Subchapter.

§ 790.12 Permit revisions.

Authority for this Section is Sections 102; 201(c); 501(b); 503; 504; 507; 508(a); 509(a), (e); 510(a), (b), (c); 511(a); 513; 514; and 515(a), (b) of the Act. Under Section 511(a) of the Act, a permittee may apply for a permit revision during the term of its permit, together with a revised reclamation plan. Under Section 511(a)(2) of the Act, however, those revisions are not to be used to extend the area of operation beyond the original extent permit area, except for incidental boundary revisions. Section 790.12 is proposed principally to implement those provisions of the Act.

PART 791—PERMIT RENEWALS

§ 791.1 Scope.

§ 792.2 Objective.

Authority for this Section is Sections 102; 201(c); 501(b); 503(a); 504; 506; 507; 508; 509; 510; 513; 514; and 515 of the Act.

§ 791.11 General requirements.

Authority for this Section is Sections 102; 201; 501(b); 503; 504; and 506(d)(1) of the Act. Under Section 506(d)(1) of the Act, each permit issued under a regulatory programs can be successively renewed, within the boundaries of the original permit area, in order to continue operations within that area. Section 791.11 is proposed to implement that provision of the Act.

§ 791.12 Application for renewals.

Authority for this Section is Sections 102; 201; 501(b); 503; 504; 506(d); 507; 508; 509; 513; and 515 of the Act. To insure that the regulatory authority can make the findings necessary to authorize permit renewals, Section 791.12 is proposed to require that applications for renewals explain any changes in the original application, provide evidence of the permittee's continued satisfaction of self-insurance requirements, and that appropriate public notice be given of the filing of the application.

In addition, Paragraph (b) of Section 791.12 would provide for appropriate distinction between the review of renewal applications proposing an extension to the boundaries of the original permit area and those applications which would merely propose to continue already permitted operations. In addition, paragraph (b) make allowance for the special exemptions authorized under sections 506 and 510 of the Act for renewing certain permits involving mining on or adjacent to alluvial valley floors.

§ 791.13 Terms of renewals.

Under Section 506(d)(3) of the Act, renewals are not to be granted for a term in excess of that authorized by the Act for the original permit. Section 506(b) of the Act provides for maximum permit terms. Section 791.13 would implement those provisions of the Act.

§ 791.14 Approval or denial of renewals.

The criteria for determining whether an application for renewal of a permit should be awarded are provided for in Section 506(d)(1) of the Act, together with provision for establishing the burden of proof in that determination. Section 791.14 is proposed to implement those provisions of the Act.

PART 792—TRANSFER, SALE OR ASSIGNMENT OF RIGHTS GRANTED UNDER PERMITS

Introduction

1. Section 511(b) of the Act provides that:

"No transfer, assignment, or sale of the rights granted under permit issued pursuant to this Act, shall be made without the written approval of the regulatory authority."

This provision could be construed, of itself, to prohibit the transfer, assignment, or sale of rights granted under any permit without the succeeding party first obtaining a new permit from the regulatory authority. Such a construction is, however, negated by the provision of Section 506(b) of the Act that:

"A successor in interest to a permittee who applies for a new permit within 30 days of succeeding to such interest and who is able to obtain the bond coverage of the original permittee may continue surface coal mining and reclamation operations according to the approved mining and reclamation plan of the original permittee until such successors application is granted or denied."

In order to give effect to both of these provisions of the Act, the Office is proposing Part 792, to provide the standards and procedures for transfer, sale, or assignment of rights under permits issued by regulatory authorities under regulatory programs. The scheme being proposed would establish a two-stage process for obtaining regulatory authority approval of any transfer, sale, or assignment of those rights.

First, the person seeking to obtain approval for transfer, assignment, or sale would have to obtain "approval" of the regulatory authority, by establishing that it satisfies the legal, financial, ownership, and compliance requirements originally imposed upon persons making applications for new permits under the Act. Upon satisfaction of these requirements, the regulatory authority would issue written approval for the transfer, assignment, or sale of rights. Assuming that the successor thereafter continued to operate the surface coal mining and reclamation operations involved in the same manner provided for in the mining and reclamation plan approved as part of the original permit, no further approval by the regulatory authority would be required.

However, if the successor wishes to either change the method of operations from that contemplated under

the original permit or expand the operations outside of that authorized as the original permit area, then further approval would have to be obtained from the regulatory authority. That approval would have to be made through application for an issuance of a revision to the existing permit or obtaining a new permit for areas previously not permitted.

The Office believes that this two-stage scheme will adequately protect public health and safety and the environment in accordance with the Act, while avoiding unnecessary regulatory authority approval, as, for example, if a successor-in-interest were required to obtain a new permit in all cases, regardless of whether the method of operations were to changed or expanded.

2. The major alternative considered to the above scheme was to require:

(a) A person seeking to succeed to interests under a permit to obtain prior approval of the regulatory authority for sucession by merely filing certain limited identification data and establishing the ability to obtain the bond coverage of the original permittee; and,

(b) Then in all cases, after approval, to obtain a new permit covering the entire operations.

This alternative has tentatively been rejected by the Office, because it would allow for transfer, sale, or assignment of rights under permits to be made without scrutiny of the nature of the ownership, financial capability, establishment of the right to conduct operations according to state law, and compliance status of the person seeking approval, which the Office believes Congress intended to be enforced prior to persons conducting surface coal mining and reclamation operations. The Office emphasizes, however, that the selection of alternatives made thus far is only tentative and specifically solicits comments as to whether that is best for implementation of the relevant requirements of the Act.

§ 792.11 General requirements.

Authority for this Section is found in Sections 102; 201(c); 501(b); 503; 504; 506(a); 507(b); 508(a); 509; 510; 511(b); 515; and 517 of the Act. This Section would establish the general rules for the transfer, sale, or assignment of rights granted under permits issued by regulatory authorities under regulatory programs.

§ 792.12 Obtaining approval for transfer, assignment or sale of rights.

Authority for this Section is Sections 102; 201(c); 501(b); 503; 504; 506(a); 507(b); 508(a); 509; 510; 511(b); 513; 514; 515; and 517 of the Act. Applications for approval of transfer, sale, or assignment of rights would be required to contain non-technical legal, financial, compliance and other general information, so that, the regulatory authority could determine whether the applicant has the non-technical qualifications required by the Act to operate a surface coal mining and reclamation operation. In addition, adequate public participation in the process of approval or disapproval of the application would be provided for, by newspaper advertisement of the filing of the application and opportunity for the submission of comments to the regulatory authority. The regulatory authority would then proceed to decide whether to approve or deny the application.

§ 792.13 Requirements for new permits for persons succeeding to rights granted under a permit.

Authority for this Section is Sections 102; 201(c); 501(b); 503; 504; 506(a); 507; 508; 509; 510; 511; 513; 514; 515; 517; and 522(e) of the Act. Under Section 506(b) of the Act, persons succeeding to rights under an existing permit must file an application within 30 days of that succession for a new permit. As interperted by the Office, Section 792.13 is proposed to implement that Section, by requiring persons obtaining approval under Section 792.12 to obtain a new or revised permit from the regulatory authority, if the operation were to be changed from those contemplated under the original permit or expounded outside the original permit area.

SUBCHAPTER J—PERFORMANCE BOND AND INSURANCE REQUIREMENTS FOR SURFACE MINING AND RECLAMATION OPERATIONS

The Act requires that all surface coal mining and reclamation operations be bonded before a permit is issued for conducting those operations. The Act also allows the Office to provide regulations for bonding of underground mining and reclamation operations insofar as those operations may impact on the surface. The regulations of this Subchapter have been developed to provide a maximum of economic incentive for operators to conduct surface coal mining and reclamation operations in accordance with the Act, the regulations of this Chapter, or State law and regulations adopted under it, and the conditions of permits issued for those operations.

These regulations are intended to accomplish two major functions:

(1) Provide a set of minimum standards for establishing a system of bonding to be used by the State regulatory authority if there is an approved State program or by the Office if it is the regulatory authority under a Federal program.

(2) Establish procedures and criteria for the release or forfeiture of bonds to assure the faithful performance of the Act and the requirements of the permit.

The minimum standards are based on the requirement of the Act that in the event the operator does not faithfully perform all of the Act's requirements and permit conditions, the bond will be sufficient to reclaim the affected area to those requirements. Therefore, the criteria for acceptable types of bonds, bond amounts, periods of liability, and terms and conditions for bonds that have been established reflect the best judgment of the Office, and the requirements of the Act. The criteria were developed to assure faithful performance of the Act for any area disturbed by surface or underground coal mining activities.

The authority for these regulations is derived from Sections 102, 201(c), 501(b), 509, 507(b)(16), 515(b)(8) and (10), 516(d), 519, and 529 of the Act, relevant portions of the legislative history, and expert opinion from the Office's staff. Where it is appropriate in the following discussion, specific references to applicable authorities will be cited, in addition to the alternatives considered in arriving at the particular rule.

PART 800—GENERAL REQUIREMENTS

This Part proposes general provisions for bonding and requirements of liability insurance imposed on the permittee. More specific provisions are provided in later parts and sections. In addition, this Part takes into cognizance the difference between the legal authority to impose regulations on the Federal regulatory authority and on the State regulatory authority pursuant to an approved State program.

Section 800.11(a) is intended to make it clear that a permittee is required to file bonds prior to the regulatory authority issuing a permit for coal mining on lands within an existing permit area.

Section 800.11(b), based on Section 509(a) of the Act, reflects the concept that a bond obligation may cover a portion of a permit area for one year periods on lands within that area upon which the operator wishes to engage in surface coal mining and reclamation operations during the term of the permit. Liability will attach to each bond posted for each one year increment of mining to be conducted within the term of the permit. Under this approach, an operator may also seek release of his bond obligation in incremental stages after fulfilling the requirements of the permit, Act and applicable regulations. The major alternative considered was to provide liability coverage for an entire permit area while allowing for incremental bonds in lesser amounts for portions of the

permit area. This proposal would have allowed bond amounts to be calculated on smaller portions of the permit area

authority requirements for both surface and underground mining activities.

would not be adequate to complete essential reclamation activities.

The major alternative to the pro-

ered. It was determined that the Act requires bonding to ensure completion of the requirements of Subchapter K

PART 806—FORM, CONDITIONS AND TERMS OF BONDS AND LIABILITY INSURANCE

Section 806.11(a) provides that there

sufficiency for self bonding. Legislative intent may be viewed as relating to continued existence of a coal mine

permit area. This proposal would have allowed bond amounts to be calculated on smaller portions of the permit area but would have required the liability for each bond to cover the entire area under permit. The Office believes the proposed rule presents a regulatory scheme more consistent with the language of the Act and the realities of surety transactions in calculating bond amounts in relation to liability incurred.

Section 800.12 identifies the requirement of Section 507(f) of the Act that an applicant for a permit must also provide a certificate of liability insurance or demonstrate that he can satisfy State and Federal requirements for self-insurance. In addition to satisfying those requirements, he must also, at a minimum, meet the standards for self-insurance proposed by the Office.

Section 800.13 proposes responsibilities for the regulatory authority in conducting its bonding program. It should be noted that each regulatory authority must, as part of their program, meet the minimum provisions of this Subchapter. The bond amount must be based on the estimated actual cost to the regulatory authority for completing all the reclamation requirements of the Act or an approved State program. The amounts will be established by the regulatory authority based on the variables that may occur relating to the costs of reclamation, such as the acreage that may be affected, the estimated high-wall of the pit area, the size of the pit area itself, the inherent problems with water that may arise from the geologic structure that is being mined and various other conditions relevant to the cost of reclamation. The major alternative considered was to require the regulatory authority to establish a rate guideline for bond amounts. The guideline would have been developed by a registered professional engineer and subject to approval by the Office. Although considered, this alternative was not accepted because the Office did not wish to burden the States and require an independent analysis that could encourage variation in the rate structure.

Comments were received suggesting changes which would make the surface and underground bond requirements more consistent. These comments were considered and accepted and the surface and underground requirements were combined in the proposed regulations. Bonding requirements for surface and underground mining are based on the costs necessary to repair damage identified and described in the performance standards of Subchapter K. Part 800 combines objectives, requirements to file a bond, requirements to file a certificate of liability insurance, and regulatory authority requirements for both surface and underground mining activities.

PART 805—AMOUNT AND DURATION OF PERFORMANCE BONDS

This Part proposes criteria for determining the initial amount of either a surface or underground coal mining bond. This Part also sets forth the minimum amount for each bond, the periods of liability, and the ability of the regulatory authority to adjust the bond amount if the permittee or any person with an interest that may be adversely affected makes such a request.

Section 805.11(a) provides the standard the regulatory authority must use to determine the appropriate amount of bond for each surface coal mining and reclamation operation. The Section makes it clear that the amount of such bond must be based on the estimated actual cost to the regulatory authority of completing the appropriate reclamation plan and not on the estimated cost to the permittee since in the event of forfeiture, the regulatory authority will be required to do the work. This is an important distinction because in most cases the cost to the regulatory authority will exceed the cost to the permittee.

Section 805.11(b) proposes to provide a non-exclusive list of factors the regulatory authority should use in making its determination as to bond amount. In addition, the regulatory authority should consider the cost it would incur to reclaim an area for which a bond is forfeited, considering the specific standards in Subchapter K.

Section 805.11(b)(3) was added to provide that the bond will be calculated on the additional cost of the regulatory authority which might arise from applicable public contracting requirements or the requirement to bring additional personnel or equipment to the permit area. This is the law in Pennsylvania and it is based on the experience that these public contracting requirements and the costs of bringing personnel and equipment to a site after abandonment are substantial and may result in cost to the regulatory authority of two, three, or perhaps four times what it might be to a permittee to complete the reclamation requirements. This requirement is believed necessary because the law is directed toward the realistic cost to the regulatory authority to complete the reclamation requirements.

Section 805.11(b)(5) was added to provide for consideration of cost increases which may occur on the basis of increases during the preceding five year period. Failure to consider such increases would result in a bond which would not be adequate to complete essential reclamation activities.

The major alternative to the proposed rule was to propose very specific criteria for both surface and underground mining activities. This was rejected in favor of the approach taken because it is more consistent with the requirement in the Act that all estimated costs be covered by a bond. Moreover, specific performance standards upon which the regulatory authority should base its determination as to an amount are already included in Subchapter K and it is therefore unnecessary to reiterate them here.

Section 805.12 is a statement of the minimum amount for performance bonds for surface coal mining and reclamation operations. This Section follows the basic intent of the Act that bonds shall be used to assure the faithful performance of applicable performance standards in the Act and the regulations of this Chapter. The Section also specifies, as does the Act in Section 509(a), that in no case shall the bond be less that $10,000 for a permit area, even if the estimated actual cost would be less.

Comments were received regarding minimum amounts and the Office considered proposing specific amounts for underground mining activities. The Office has not done so for the reasons previously stated and for the additional reason that costs for reclaiming either surface or underground workings may vary significantly from state to state or region to region.

Section 805.13 provides the period of liability or duration of the bonding obligation. The liability period for surface coal mining activities is required by the Act and is coincident with the period for revegetation under Section 515(b)(20). That period is either 5 or 10 years depending upon the average annual precipitation in the area.

The period of liability for underground mining activity in Section 805.13(c) is to be determined by the regulatory authority but such period must not be less than those minimum standards set forth in Section 805.13(c). These standards parallel the basic requirement in the Act for surface coal mining, but require an additional period of time to ensure the success of any facilities or structures installed to meet the requirements of the approved permit (e.g., mine seals).

Comments were received suggesting the bonding period be changed from 5 years to 2 years in the East and from 10 years to 5 years in the West. These comments were not accepted because the Act is quite specific in its requirements for a 5 or 10 year period of liability for surface mining.

Criteria for determining alternative periods of liability for bonding of underground mining were also considered. It was determined that the Act requires bonding to ensure completion of the requirements of Subchapter K rather than the longer periods of 25-50 years which might be required to control subsidence and mine drainage. The alternative considered was to specify periods of time for liability for various underground mining problems such as mine fires subsidence and seals. The Office believes that at this time the regulatory authority will be in a better position to make a determination of a liability period and has therefore only proposed criteria upon which a liability period could be determined.

Section 805.14 provides for an adjustment of the bond amount in relatively restricted circumstances. Section 805.14(a) reflects the fact that a bond amount might very well be changed by an improved method of mining operation or if the permittee has an accelerated program for reclamation. In that case, the amount of area that is potentially affected by surface mining activity or surface effects of underground mining may be substantially less than might be expected for normal surface or underground coal mining activities. This could justify a reduction in the bond amount. This section also requires, as a result of a comment received, that bond amounts be periodically reviewed to determine whether the original amount remains appropriate. This suggestion provides meaning to the Act's requirement that adjustment may occur from "time to time."

Section 805.14(b) places the requirement on the permittee to prove that his activity justifies a reduction in the amount of the bond. Section 805.14(c) also allows a person who has standing to petition for an adjustment in the bond amount. Section 805.14(d) provides for public participation by requiring the regulatory authority to hold and conduct a hearing on any request for reduction in the bond amount.

The major alternative considered was not to allow for a public or permittee petitioning process, but to allow only the regulatory authority to make appropriate adjustments as is provided in Section 509(e) of the Act. This alternative was rejected in favor of the public participation approach reflected in the proposed rule because of a comment the Office received and Congress' stated purpose in Section 102(i) that the Office provide procedures for public participation in the development or revision of standards promulgated under the Act.

PART 806—FORM, CONDITIONS AND TERMS OF BONDS AND LIABILITY INSURANCE

Section 806.11(a) provides that there are essentially two forms of performance or indemnity bonds which a regulatory authority can or shall offer. The first form is an indemnity agreement from the permittee, cosigned by a corporation licensed to do business in the State where the operation is located and payable to the regulatory authority.

Section 806.11(a)(2) provides that the bond may also take the form of a collateral bond which is an indemnity agreement executed by the permittee or applicant pledging some negotiable securities such as certificates of deposit, bonds from a State or the United States, or cash.

Section 806.11(b) would also allow a self-bond. In essence, a self-bond is an indemnity agreement from the applicant not supported by a separate surety guarantee or by pledge of collateral. It is a contractural promise by the permittee that he will pay a sum certain if the permittee fails to comply with the requirements imposed upon his operation for reclamation and performance. Four requirements are proposed before an applicant can qualify for self-bonding. The first comes from the Act and provides that the applicant must designate a suitable agent to receive service of process. The second requirement is that an applicant demonstrate a history of compliance with this Act and his ability to comply by not having forfeited a performance bond; by not having failed to abate outstanding notices of violation or orders of cessation; by not having demonstrated a pattern of willful violations of the Act; or by not being delinquent in payment of either the reclamation fee required under Subchapter R or a civil penalty assessment under Part 845.

The major alternative considered for criteria to demonstrate a history of compliance with the Act was a system of accumulated civil penalty points over a 10 year period. This approach was rejected because the time period was burdensome and the Office would not be legally justified in requiring States to have a civil penalty points system. It is the Office's view that the Act intends that an operator demonstrate more than a simple financial ability to pay the bond should it have to be forfeited. The Act contains a provision, in Section 509(c), providing that the operator shall have demonstrated a continuous operation sufficient for authorization to self bond. Proof of continuous operation prior to this Act is not indicative of the fact that the operator can in all respects comply with the Federal Act. Congress did not intend that continued existence prior to the Act to demonstrate sufficiency for self bonding. Legislative intent may be viewed as relating to continued existence of a coal mine operator under and pursuant to this Act. That view then, justifies the requirement that the applicant must demonstrate a history of compliance with the requirements of this Act before he qualifies for self-bonding. Self-bonding, if it is not properly regulated, may result in a break of the chain of liability that flows from the moment of permit application until completion of the permit reclamation which, if not carefully regulated, may allow unqualified operators or operators that have no intention whatever of complying with the requirements of the Act to escape the ultimate penalty provided in the law—the forfeiture of the bonds. No time period is specified for demonstrating a history of compliance because this will vary from State to State and operator to operator. However, the Office intends to look at an applicant's compliance record in terms of the criteria in Section 806.11(b)(2) from the beginning of an applicant's responsibility under the Act.

Section 806.11(b)(3) proposes that the applicant must demonstrate a net worth certified by a certified public accountant of no less than twice the total amount of bond obligation on permits issued. The Act provides for a demonstration by the operator of his financial ability to support a promise to pay.

The final requirement for self-bonding in Section 806.11(b)(4), is that the indemnity agreement must be executed by the applicant and those individuals with responsibility for the mining operation, whether it is a corporation, partnership, individual or any other form of ownership. The purpose of this subsection is to bind in this bond agreement not only the applicant but also all those individuals that might have a personal stake or personal authority to make decisions relating to whether or not the applicant does ultimately comply with the Act. If all of the relevant individuals sign, not only in their corporate or partnership capacity, but in their individual capacity as well, there is a tremendous incentive upon all operators who do manage to qualify for self-bonding to comply to the fullest extent with the requirements of the Act.

The alternative of just having an indemnity agreement signed only by a corporate applicant or a partnership is unacceptable in that the liability would only flow to the corporation or the partnership which can be dissolved rather quickly, thereby leaving the regulatory authority without an effective remedy to cover the costs of unfinished reclamation work. In such a case there would be no assets to for-

feit and the regulatory authority would be left with no effective remedy against a defaulting operator.

tal surplus account is an indication of the liquid assets of a surety company. Most States do have a maximum

collateral may be nothing more than a hollow promise at the time of forfeiture.

Section 806.12(f)(7) is the final limitation and provides that the regulatory authority will take in a sufficient

PART 807—PROCEDURES, CRITERIA AND SCHEDULE FOR THE RELEASE OF BONDS

Part 807 proposes procedures for the

operator to complete reclamation. Moreover, if the operator did not complete reclamation, the regulatory au-

feit and the regulatory authority would be left with no effective remedy against a defaulting operator.

Section 806.11(c) implements the Act's requirement in Section 509(c) that the Office approve alternative bonding systems. Any alternative system must meet at a minimum the two main goals of a bonding program. The first goal is to assure that the regulatory authority will have available, in the event of forfeiture, sufficient money to complete the reclamation requirements. Second, a bonding system must provide a substantial economic incentive for the permittee to comply with all reclamation requirements. Either a surety bond or a collateral bond makes the liability for which the operator may ultimately be responsible a significant incentive for him to comply with the Act. In self-bonding, the requirement that the indemnity agreement provide joint and several liability for all individuals involved in a particular operation gives them all a significant incentive to comply with the Act.

The Office invites comments on alternative bonding methods to those proposed. In suggesting alternatives, attention should be directed to specific feasibility studies or risk analyses for each alternative. The office will consider all suggestions in formulating a final rule.

Section 806.12 contains the terms and conditions for bonds. Particular attention should be paid to the requirements for surety bonds which were drafted to prevent any abuse in the system that may leave the regulatory authority without an effective remedy.

Section 806.12(e) contains a number of special conditions which ought to be imposed on surety bonds. The first major requirement is that the bond written by a surety company shall not be cancellable at any time by the surety for any reason, particularly an alleged nonpayment of premium by the operator or for an alleged bankruptcy by the operator. The reason for accepting a surety's co-guarantee is that even if the operator fails in business the regulatory authority will be able to look forward to a financially stable and secure co-guarantor of the bond for purposes of collection at the time of bond forfeiture. In accepting a surety company as a guarantor of a bond the regulatory authority has a right to expect that that promise will be good for as long as the applicable period of liability established for the particular mining activity involved.

The second major restriction on surety bonds relates to the maximum single obligation. In Pennsylvania, the maximum single obligation is defined as ten percent of the capital surplus account. A standard based on the capital surplus account is an indication of the liquid assets of a surety company. Most States do have a maximum single obligation applicable to surety companies in order to assure that a surety company does not engage in the practice of writing bonds grossly in excess of their ability to pay if there is a default. This Section has been drafted to reflect the fact that some States might have other requirements in terms of a maximum single obligation, or might not have any requirement, in which case the ten percent amount would be applicable.

The third major restriction on surety bonds is a requirement that a surety company not write bonds in excess of three times the maximum single obligation for any particular operator. If a company were allowed to write bonds for many permit areas on behalf of a single operator in excess of this amount the surety company would almost surely declare bankruptcy or declare liquidation if operator failed. It should be noted that when an operator fails on one permit, the operator may also default on every bond obligation at every permit site because failures are usually related to a failure in business, bankruptcy or the death of the principle. It seems clear that the total amount of a bond obligation that might be assessed upon default against a particular surety company, if it is not limited to some reasonable amount as proposed, might very well overwhelm the surety and force it into bankruptcy. Such an occurrence would not adequately protect the regulatory authority's need to provide a safe source of funds should an operator fail. In Pennsylvania, 5 surety companies in the last ten years have gone into bankruptcy because they wrote excessive surface mining surety bonds which, when forfeited, rendered them incapable of meeting their other obligations.

Section 806.12(e)(4) was added to allow the regulatory authority to provide in the bond that the amount of the bond shall be confessed to judgment upon forfeiture if confession of judgment is authorized by State law. This will allow the regulatory authority to collect the forfeiture amount without a separate legal proceeding to obtain judgement on the bond amount.

Section 806.12(e)(5) provides that the surety and the permittee or applicant be jointly and severally liable so that the regulatory authority can seek collection of the bond against either or both of these parties.

Section 806.12(f) proposes conditions for collateral bonds. The first requirement, in Section 806.12(f)(1), is that the regulatory authority keep custody of all collateral pledged by the operator. Without possession, the pledge of collateral may be nothing more than a hollow promise at the time of forfeiture.

The second requirement on collateral bonds is that the collateral or securities be valued at current market value and not face value. Bonds may be discounted or otherwise have different values not at all related to the face value of the collateral. In order to properly assess the value of a bond related to the amount required, it is necessary to valuate it at the current market.

The third requirement relates to certificates of deposit and provides that such certificates of deposit must be assigned to the regulatory authority upon the books of the bank issuing such certificates. The assignment on the books of the bank is essential in order to validate the regulatory authority's control over the certificate, not merely for bond forfeiture but also to protect it against third-party creditors which might try to attach or seek to attach such collateral deposited with the regulatory authority.

The fourth requirement on collateral bonds is that certificates of deposit shall not exceed individual certificates in the amount of $40,000. The $40,000 was selected because it is the maximum amount insured by FDIC or by FSLIC.

The fifth limitation requires that banks issuing such certificates of deposit waive all rights of set off or liens against the certificates. Under banking law, the bank does have a right of set off against certificates unless it is waived. In most circumstances an operator will go to a bank from which it has borrowed money to purchase these certificates of deposit in order to do business with one bank. If the bank fails to waive its right of set off or its right to a lien, they may well maintain a prior right upon the forfeiture of an operator because of a failure in business. In most circumstances, the inability of an operator to pay creditors would leave the bank in first position to take the certificates. The regulatory authority must always be in first position to take the certificates upon default and not subject to any other prior creditor claims.

The sixth requirement for collateral is that certificates of deposit be automatically renewable. This is simply a practical requirement. Some certificates may provide for maturity terms as little as 6-months or a year or for as long as 8 years. If the regulatory authority does not get automatically renewable certificates it would be necessary for it to keep passing back and forth certificates, getting new ones, at every point of maturity. The constant churning of these certificates would be an intolerable administrative burden.

Section 806.12(f)(7) is the final limitation and provides that the regulatory authority will take in a sufficient amount of certificates to assure that the bonds can be liquidated for 100 percent of the declared bond amount. One of the implicit limitations on certificates of deposit is the requirement by the Federal Reserve that a penalty be assessed against such certificates of deposit for early withdrawal prior to maturity. This penalty is a ninety-day amount of interest that would otherwise be earned by the certificate. If a certificate is cashed prior to maturity, the bond or certificate could be valued, because of the penalty, between 92% and 95% of its face value.

Section 806.13 is drafted to permit replacement of bonds with other acceptable forms, provided that no operator may replace existing surety or collateral bonds with a self-bond. A self-bond provides substantially less proof or guarantee of payment. Collateral bonding is substantially superior since the regulatory authority already has the cash or value within its possession and need not go through a court proceeding to obtain collection. Although this section does not reflect it, it may be important to require that a company or operator that is subject to enforcement action, not be allowed to exchange collateral bonding for surety bonding while the action is pending. The Office invites comments on such a proposal or similar proposals that may afford additional protection to the regulatory authority.

Section 806.14 provides the terms and conditions for liability insurance. Minimum amounts for coverage are provided although the articulated standard in Section 806.14(a) is that coverage shall be "in an amount adequate to compensate all persons injured on property damaged as a result of surface coal mining and reclamation operations . . ." The alternative considered was not to include minimum amounts because the Act does not speak to this issue. However, the Office believes that minimum coverage, based on prevailing liability insurance practice, should be included to provide a guideline for the regulatory authority. One commenter suggested that the minimum amount for liability coverage should be tied to the highest total amount ever awarded or settled upon as damages to tort claimants for personal or property damage resulting from surface coal mining and reclamation operations. This was considered to be too burdensome. The Office is interested in receiving comments regarding the inclusion of such minimum amounts and, if inclusion is warranted, what minimum amounts should be provided.

PART 807—PROCEDURES, CRITERIA AND SCHEDULE FOR THE RELEASE OF BONDS

Part 807 proposes procedures for the release of bond.

Section 807.11(c) from earlier drafts was rewritten as new paragraphs (c) and (d) to more closely follow the requirements of Sections 519 (b) and (d) of the Act.

Section 807.11(e) refers to hearings for bond release according to State administrative law not State adjudicatory law to clarify that these proceedings are administrative rather than judicial. Section 807.11(e) was also rewritten from previous drafts to change the name of the informal hearing to informal conference which is what the Act provides. One commenter suggested that election of an informal proceeding should not prejudice the rights of nonconsenting parties. This comment was accepted because Section 519(g) of the Act indicates that such a provision was intented.

It should be noted that the use of the phrase "any person with a valid legal interest which might be adversely affected" has been defined in Section 701.5 of this chapter to encompass the concept of legal standing to participate in adjudicatory proceedings. This phrase has been construed as broadly as possible while adhering to the legal principles enunciated by the Supreme Court of the Unites States.

Section 807.12 provides for criteria for bond release. The major requirement is that no bond shall be released until the permittee has complied with all the applicable requirements and standards for reclamation and has met all the conditions of its permit. The second requirement for release of bonds is that the regulatory authority retain, at all times up until final completion and final release of all bonding, at least $10,000 in bond amount and such additional amounts as may be determined by the regulatory authorities to be necessary to cover the costs of remaining reclamation to be done. This requirement is supported by the Act which provides for a minimum bond of not less than $10,000 thereby indicating a Congressional intent to require at least $10,000 to be maintained at all times by the regulatory authority until release is accomplished.

Section 807.13 proposes a release schedule for performance following the requirements of Section 519(c) of the Act. Two additions have been proposed. First, after revegetation has been established, an additional 25% of the bond may be released, for a total of 85% to that point in the reclamation effort. One commenter suggested this was too high a percentage of release at that point in time to provide the economic incentive necessary to an operator to complete reclamation. Moreover, if the operator did not complete reclamation, the regulatory authority would be left with an inadequate amount to complete the reclamation plan. Comments on the merits of either approach are invited.

Second, the Office proposes, in paragraph (c), to hold at least $10,000 of a bond regardless of an operator's eligibility for release under paragraphs (a) and (b). This approach is consistent with other requirements of this subchapter and Section 509(a) of the Act.

PART 808—PERFORMANCE BOND FORFEITURE

Part 808 proposes those provisions for determining bond forfeitures.

Section 808.11 provides the general provisions for determining bond forfeitures and expresses those conditions which will require the regulatory authority to forfeit the bonds. This Section proposes those conditions for which a bond forfeiture is mandatory and those conditions for which forfeiture is discretionary.

Section 808.11 provides general conditions upon which a bond forfeiture might occur or shall occur for failure to comply with the applicable performance standards, or for violating any other condition of the bond. A proviso was added in Section 808.11(b) that the regulatory authority may withhold forfeiture if the permittee agrees to a compliance schedule to remedy the violations of the bond conditions. It is always desirable to get the permittee to comply with his reclamation plan if it is at all possible because the cost to the public if it had to do it is usually in excess of what it would cost a permittee. Moreover, reclamation by the regulatory authority may be delayed for many years for a variety of reasons relating to collection upon the bond or contracting requirements to accomplish the reclamation. Therefore, this section as proposed, provides an incentive for the operator to come forward and agree to a compliance schedule, allowing the regulatory authority to engage in that option rather than compelling it to go to forfeiture.

Section 808.12 specifies procedures which the regulatory authority shall engage in prior to bond forfeiture. These procedures for bond forfeiture simply provide that the regulatory authority send written notification to the permittee and, if it is a surety bond to the surety, of the determination to forfeit and the reasons for such forfeiture.

The Section also requires the regulatory authority to advise the permittee of such rights of appeal that might be available. If no appeal is filed or if an appeal is dismissed, the regulatory authority may proceed with the collec-

tion upon the bond as may be provided by applicable local laws. A forfeiture under this section by the regulatory

with the Act although either of the conditions in paragraphs (b)(1) or (b)(2) have occurred. If he can prove

bonding limits and liability periods for anthracite operations.

been implemented. Additional and more stringent requirements may be found in the State or Federal pro-

Each Part in this Subchapter is organized to parallel the applicable topics as they are contained in the

(c) The regulatory authority might grant a variance for the structure, to the extent it was completed or non-

tion upon the bond as may be provided by applicable local laws. A forfeiture under this section by the regulatory authority is a final decision by the authority, not appealable within the agency or otherwise, except as provided by applicable State or Federal law for such administrative actions.

Finally, this section requires that if an appeal is filed the regulatory authority will defend such action or perhaps reach some kind of compromise with the operator to assure that the required reclamation is performed. An additional requirement was added in Section 808.12(c) that the regulatory authority may forfeit any or all of the bonds or part of bonds deposited for an entire permit area in order to satisfy the obligations of reclamation for a violation at any one particular area or part of an area. This approach will insure the regulatory authority against being caught with a bond of insufficient amount to satisfactorily complete reclamation in an area because the bond was not properly calculated or adjusted. This approach will also help to eliminate economic or business factors from encouraging an operator to abandon a particular site before all work is completed.

Section 808.13 provides criteria for forfeiture. It identifies three areas where forfeiture would be mandatory and other conditions where forfeiture may be involved. The first set of requirements where the bond forfeiture is required are standard. In those three circumstances the bond shall be forfeited because the permittee has indicated an inability to comply with the Act in a major respect, unless it is possible to reach some compliance agreement and schedule with the operator. It may be appropriate to provide that the regulatory authority issue a notice of intent to forfeit in order to allow the mine operator to come forward with a compromise agreement of compliance. Only in the case of a total business failure or death of the principle of the operator will there be no way to effectively reach a compliance agreement. The Office invites comments on whether such a notice of intent should be provided as well as other criteria for triggering a bond forfeiture proceeding.

Section 808.13(b) provides for a permissive declaration of forfeiture of a bond. These provisions reflect problems that have occurred in Pennsylvania. They are indicative of a business failure and the inability of the permittee to comply with the Act. A provision was added so that a permissive bond forfeiture can occur if the permittee cannot demonstrate or prove that it will be able to operate in compliance with the Act. Such a provision operates to place the burden on the permittee to prove that he can comply with the Act although either of the conditions in paragraphs (b)(1) or (b)(2) have occurred. If he can prove continued compliance with the Act, then forfeiture is unlikely. If he cannot make the required showing, the regulatory authority is likely to forfeit the bond. The event of a bond forfeiture gives the regulatory authority a certain amount of leverage to compel some successor in interest, such as a receiver in bankruptcy, to comply with the legal requirements imposed upon the permittee for the operation.

Section 808.14 is a statement of the two bases for determining the forfeiture amount. Section 808.14(a) is simply a general statement that the amount shall be the estimated actual cost to the regulatory authority or its contractor to complete the reclamation plan. Section 808.14(b) provides a different mechanism that may be of greater practical benefit to the regulatory authority when it must act expeditiously. This section allows the regulatory authority to forfeit the entire amount of the bond to which liability is attached, complete the required reclamation, and then return the remaining amount with interest to the surety or to the permittee.

PART 809—BONDING AND INSURANCE REQUIREMENTS FOR ANTHRACITE SURFACE COAL MINING AND RECLAMATION OPERATIONS

This Part sets forth the general requirements for bonding and insuring anthracite surface coal mining and reclamation operations for states which regulated anthracite coal mining by having environmental protection standards in existence as of August 3, 1977. Section 529 of the Act, from which the authority for this Part is derived, is believed to only cover, and thereby exempt, Pennsylvania from certain provisions of the Act and this Chapter. As a result, this Part is only applicable to persons engaging in or seeking to engage in anthracite surface coal mining and reclamation operations in Pennsylvania.

Section 809.12 proposes the requirements for bonding and insuring anthracite coal mining operators in Pennsylvania. Basically, Section 529(a) of the Act requires that all anthracite operations be subject to the general bonding provisions, except for the period of revegetation responsibility and bond limits. In those cases, Pennsylvania law, regulations and administrative guidelines will apply. Section 809.12(a) simply provides the statutory exemption and directs the Pennsylvania regulatory authority to apply its laws, regulations, and guidelines to bonding limits and liability periods for anthracite operations.

SUBCHAPTER K—PERMANENT PROGRAM PERFORMANCE STANDARDS

Parts 810–828 contain the minimum performance standards which must be contained in a State program in order for the program to be approved by the Secretary. These performance standards also represent the minimum standards which will be contained in a Federal program adopted for non-Federal and non-Indian lands within a State.

Parts 810–812 discuss matters of general applicability throughout the Subchapter. Parts 815–828 contain the standards for coal exploration, the different methods of coal mining, those special mining situations identified in the Act as having to meet separate or additional performance standards requirements, coal processing facilities operated independent of mines and *in situ* processing.

The manner in which this Subchapter is to be utilized in developing a State or Federal program is contained in Subchapters C and D, respectively. All operations discussed in Subchapter K will be subject to permit requirements at least as stringent as those contained in Subchapter G upon implementation of a State or Federal Program. All these operations will also be subject to bonding requirements which meet the standards of Subchapter J. Inspection of operations and enforcement of applicable performance standards are governed by Subchapter L and any additional requirements of the approved State program or the applicable Federal program.

The drafters of Subchapter K considered a great deal of technical literature, all existing State regulatory schemes for coal mining, experiences under OSM's interim regulatory program, the legislative history of the Act, experience and expertise of other government agencies, and comments received on prepublication drafts of this Subchapter, in arriving at the version of the proposed rules published today. These sources are detailed in the separate discussions of the various parts of this Subchapter set forth below.

This Subchapter contains minimum performance standards applicable to all persons engaged in coal exploration or surface coal mining and reclamation operations, including the surface effects of underground mining, in situ processing and coal processing facilities operated independent of mines, to the extent the activities occur on non-Federal and non-Indian lands in a State with an approved State program or in which a Federal program has

been implemented. Additional and more stringent requirements may be found in the State or Federal program, in other State laws or in conditions imposed on the operator by the regulatory authority in the permit.

In developing these performance standards, the Office of Surface Mining has attempted to strike a reasonable balance. We have weighed the additional cost and inconvenience to the operator against the necessity to protect against long term environmental damage and potential harm to the public. We believe the obligations imposed by the performance standards are reasonable and necessary to accomplish the intended goals of the Act.

The proposed rules published today contain the minimum performance standards which would be in effect under an approved State program or a Federal program. In drafting this Subchapter, consideration was given to organizing each related group of Sections in a format different from that contained in the version published today. This alternative format would have set forth the standards much as they are proposed today and then have followed each related group of Sections with two additional provisions. The first additional provision would have set forth the minimum objectives to be achieved if a State wished to adopt different detailed requirements from those proposed in the OSM regulations. The second additional provision would have set forth any regional variations which would apply to the performance standard.

The alternative format was rejected primarily because the drafters believe that a more meaningful range of regional variations and criteria for evaluating alternative State proposals can be achieved by eliciting comments to the single standard proposed. OSM encourages the public, in reviewing Subchapter K, to suggest regional variations and criteria for evaluating State suggestions for each of the many standards contained in this Subchapter. Those comments which will be most helpful are those which contain proposed language for the rules and which are accompanied by technical or other literature supporting the proposal. After these regulations are adopted in final form, additional regional variations for alternative means of obtaining the goals of these performance standards can be authorized by amendment to Subchapter K either on OSM's initiative or in response to a petition for rulemaking under Section 700.12 of this Chapter of regulations, or in the rulemaking proceeding which will accompany approval of a State program or adoption of a Federal program.

Each Part in this Subchapter is organized to parallel the applicable topics as they are contained in the Act. OSM considered organizing Parts 816 and 817 differently. This alternative organization would have set forth the performance standards in a manner which parallelled the most common logical mining sequence, dividing each Part into subparts for site preparation, mining, reclamation and permanent abandonment of the minesite. The prepublication drafts distributed by OSM on July 21, 1978, contained Part 816 organized in this alternative fashion. Many comments were received both from within OSM and from the public, objecting to the awkwardness and confusion generated by the logical mining sequence. Most commenters agreed that it would not assist the mine operator to comply with the standards nor would it aid enforcement. After consideration of these comments, the logical mining sequence was abandoned for the topical format contained in these proposed rules.

One significant issue OSM intends to address in its final rules, and which is not adequately treated in the proposed rules published today, is pre-existing non-conforming structures. Public comment on this issue is encouraged.

The following are the structures which might be found on a minesite, either completed or in construction, at the time these regulations go into effect: Roads and associated structures; Impoundments; Sedimentation ponds; Fills; Berms; Benches; Waste banks; Waste dams; Discharge structures; Diversions; Highwalls; Rail loops; Rail sidings; Rail spurs; Refuse areas; Shafts; Spoil piles; Utility lines; Terraces; Drains; Wells; Exploration holes; Boreholes; Barricades; Fences; Bridges; Culverts; Storage areas; Mine buildings; Tipples; Storage or repair facilities; Surge ponds; Processing plants; Slurry pipelines; Conveyors; and other manmade structures or areas disturbed by mining.

Non-compliance on the effective date of a State or Federal program might be regulated in any one or more of the following alternative manners:

(a) The regulatory authority might require that the structure be brought into compliance or demolished as soon as possible, based on a proposed reconstruction or demolition plan submitted by the operator with the permit application and approved by the regulatory authority as consistent with sound engineering practices and the purposes of the Act.

(b) The regulatory authority might require stabilization of the area and cessation of operations until the structure is brought into compliance.

(c) The regulatory authority might grant a variance for the structure, to the extent it was completed or noncomplying construction was committed to, prior to the effective date of the State or Federal program.

(d) The regulatory authority might grant a variance for the structure, to the extent it was completed or noncomplying construction was committed to, on the date these regulations become effective.

Different structures may require different treatment, depending on the feasibility of reconstruction or modification and the environmental effect of the noncompliance and of reconstruction or modification. The public should frame their comments on this issue in terms of the particular structures for which a recommended alternative is proposed. In addition, technical literature and other background material would be useful to the office in evaluating the comments.

OSM has not decided whether to promulgate separate rules for each type of pre-existing nonconforming structure, or a single general rule to cover this subject. However, OSM currently believes that these structures should be required to comply with the requirements of this Subchapter before a permit is issued or as soon as possible thereafter.

PART 810—PERMANENT PROGRAM PERFORMANCE STANDARDS—GENERAL PROVISIONS

PART 811—APPLICABILITY TO REGULATORY PROGRAMS

PART 812—INDEX

These Parts introduce the permanent program performance standards which are contained in Subchapter K.

In Part 810, Section 810.1 briefly summarizes the role of Subchapter K in the permanent program regulations and Section 810.2 highlights major categories of mining activities and their effects which are addressed in Subchapter K. The list is not intended to be exhaustive. Rather, it is provided to enable the reader to obtain an overview of several of the types of mining practices and effects of mining which the Act and this lengthy and highly technical Subchapter seek to address.

Part 811 is intended to enable the reader of the regulations to determine the relationship between the performance standards in this Subchapter and the performance standards requirements which will be implemented under State programs and Federal programs for non-Federal and non-Indian lands. The Office expects that State programs will vary in the degree of stringency imposed on various mining and reclamation activities. In some States, programs existing on the date of these proposed rules impose

some performance obligations which exceed the requirements of this Subchapter. States are in the best position

volved in coal exploration and is intended to prevent degradation of environmental quality and danger to life

person engaged in exploration is selling the coal extracted during purported exploration, the operation should

(May 15, 1978, as revised and effective August 28, 1978).

6. Ohio Rev. Code Ann. Section

markers be placed at the end of the strip area or as otherwise required. (See Montana and Wyoming rules and

816.93, only in Section 816.11, or in both places.

§§ 816.13-816.15 Casing and sealing of

some performance obligations which exceed the requirements of this Subchapter. States are in the best position to evaluate the needs of their mining industry and environment and to determine when standards stricter than those set forth are appropriate. The Office is giving the States latitude to structure the environmental and other performance standards of their programs around their needs based on different physical and environmental circumstances in a State. Any variations, additions, or supplements in the State programs are permissible so long as they are not prohibited by other portions of this Chapter, the Act, or other applicable laws or regulations, and so long as the standards implemented by the State include, at a minimum, standards as stringent as this Chapter.

Section 811.12 provides that the standards of this Subchapter will constitute the minimum standards under a Federal program, which may include additional, more stringent, requirements if appropriate to achieve the purposes of the Act. The Office considered providing that the standards of this Subchapter would be the performance standards under every Federal program, without any variation. However, Section 504(a) of the Act requires each Federal program to "take into consideration the nature of the State's terrain, climate, biological, chemical, and other relevant physical conditions." Accordingly, Federal programs may include more stringent requirements, if conditions require them to meet the purposes of the Act.

Because of the length, complexity and highly technical nature of this proposed Subchapter, the office believes it would be useful to assist the reader with the detailed index system which is contained in Part 812.

Section 812.12 contains an alphabetical list of topics addressed in this Subchapter with citations to the Sections of the Subchapter where they are discussed. The Office has attempted to provide a complete list. However, references may inadvertently been omitted or misstated, and the reader should not rely exclusively on this list.

OSM is particularly interested to know whether this index system is useful to the reader. Also, we would appreciate receiving comments as to how the system might be improved. For example, should there be a similar alphabetic index to the entire Chapter? Also, should the index in Part 812 be expanded to include references to portions of the permit regulations and bonding regulations which relate directly to the performance standards?

PART 815—COAL EXPLORATION

Part 815 proposes minimum perform- ances standards for persons involved in coal exploration and is intended to prevent degradation of environmental quality and danger to life and property during and after coal exploration activities.

The philosophy of this Part is that any person engaged in coal exploration activities must conduct such activities with the least resultant damage to the environment.

Proposed Section 815.4 reflects the requirements of proposed Part 776 and the reader is referred to the discussion of that Part, earlier in this Preamble.

Section 815.11 proposes that persons conducting exploration shall, while onsite possess evidence of their compliance with the notice and authorization requirements for exploration. The Office feels this requirement is necessary to monitor unauthorized exploration.

Subsection 815.12(a) proposes that the exploration operator record the amount of coal removed during exploration, and keep current records and display them upon demand to the regulatory authority.

Proposed Subsection 815.12(c) would require that the operator limit vehicular traffic. The Office realizes that a certain amount of travel by light utility vehicles off established roads is necessary in coal exploration and considers that such travel can be done with reasonable care during dry periods in most areas without significantly damaging the environment. Public comment on this issue is invited.

Subsection 815.16(e) proposes minimum topsoiling and revegetation standards for areas of heavy usage. The Office expects that most true exploration will not require significant topsoiling or revegetation.

Subsection 815.12(h) proposes measurement, to the maximum practicable extent, of important environmental characteristics of the exploration area. The measurements pertain to but are not limited to water quality, revegetation, soils, vegetation, hydrogeology, biology, geology, alluvial valley floors, air quality, meteorology, and surface water flow.

Subsection 815.12(i) proposes that all environmental monitoring data collected during exploration be made available to the regulatory authority. Public comment is solicited on the extent, if any, to which the data should be deemed confidential, and the extent to which it might be available for use during proceedings to designate land unsuitable under proposed Parts 760–765.

Section 815.13 proposes that a person selling coal removed during exploration must have a permit to do so, unless the person has demonstrated to the regulatory authority's satisfaction that the sale is necessary for testing purposes. The Office believes that if a person engaged in exploration is selling the coal extracted during purported exploration, the operation should be under a permit as are all significant commercial mining operations. However, the Office believes that if the person is solely selling extracted coal to a testing company in order to obtain required information, the person should be allowed to do so without having to obtain a permit.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING

Sections 816.1 and 816.2 set forth the scope and objectives of this Part, respectively. Part 816 contains the minimum performance standards which will be applicable under a State or Federal program for surface mining activities. Surface mining includes methods commonly known as contour mining, area mining, and strip mining and removal of coal from waste piles.

§ 816.11 Signs And Markers.

This proposed section specifies requirements for identification and warning signs and for markers of permit perimeter, buffer zones, and topsoil storage piles. The regulations seek to balance the desire to reduce cost and bother to the permittee against the need for ample identification in the interest of citizen participation, inspection by the regulatory authority, employee guidance and protection of the public. Proper markings of perimeters and working areas will be particularly valuable in preventing equipment operators from inadvertently entering areas not authorized for disturbance and should help eliminate arguments over location of perimeters. Properly posted signs and markers reduce hazards to the health and safety of the general public and mine personnel and prevent adverse affects to the environment.

The authority for this Section is found in Sections 102, 201, 501, 503, 504, 515, 517, and 701 of the Act.

Literature on which the requirements are based include:

1. 30 CFR 77.1202.
2. Colorado State Land Reclamation Board, Rules and Regulations promulgated under the Open Mining Reclamation Act of 1973.
3. Maryland Department of Natural Resources, Geological Survey-Bureau of Mines, Bituminous Coal Strip Mine and Auger Mine Regulations of 1973, Section 08.06.01(.03).
4. Montana Department of State Lands, Rules and Regulations promulgated under the Montana Strip and Underground Mine Act of 1978, Section 26–2.10(10).
5. Ohio Department of Natural Resources, Division of Reclamation, Rules Nos. 1501:13-9-01, 1501:13-9-05

(May 15, 1978, as revised and effective August 28, 1978).

6. Ohio Rev. Code Ann. Section 1518.16 (1975).
7. Tennessee State Department of Conservation, Division of Surface Mining, Rules and Regulations, Chapter 0400-3-2.05, 1975.
8. West Virginia Department of Natural Resources, Surface Mining Reclamation Regulations, Chapter 20–6, Series VII, 1973.
9. Wyoming State Department of Environmental Quality, Land Quality Division, Land quality rules and regulations, 1975 (as amended).

Marker dimensions are not specified in OSM's permanent program performance standards. However, signs and markers would be required to be permanently installed and to meet other general criteria of the proposed Section. Several States establish specific marker specifications: 30 CFR 77.1303(g); Maryland, at Section 08.06.01(.03); Ohio Rev. Code Ann. Section 1513.16(b)(1); Tennesse, at Chapter 0400-3-2.05; West Virginia, at Sections 2.27 and 10.09.

The drafters considered requiring identification signs to carry all pertinent permit and approval numbers. However, this alternative was rejected in favor of the proposed Subsection (c) which requires only the current coal mining and reclamation operations permit numbers. Existing State rules and regulations require the posting of similar identification signs. For example, Colorado requires posting of signs during application for a permit (Colorado, 1973). Maryland operations must be identified by posting a monument at the beginning of each operation and as otherwise required (Maryland, at Section 08.06.01(.03) while other States specify actual sign dimensions as found in the following references. Ohio Rev. Code Ann., Section 1513.16(b)(1), and Tennessee at Chapter 0400-3-2.05.

Signs and markers shall be maintained for as long as they serve a purpose. The operator's obligation extends throughout the life of the permit. Such requirements will result in periodic inspections being made to ensure that signs and markers are in place and legible and to insure that the information they convey is correct. This will assist enforcement and make more meaningful all opportunities for citizen involvement in the regulation of mining and regulation activities.

The drafters considered specific requirements for minimum marker spacing but decided to leave responsibility for determining spacing of perimeter markers to the discretion of the regulatory authority so that specific site conditions could be considered. State regulations currently require that markers be placed at the end of the strip area or as otherwise required. (See Montana and Wyoming rules and regulations.)

Buffer zones are to be identified and posted to assure that unnecessary disruption and degradation of stream channels will not occur. The drafters considered requiring buffer zone markers to be posted at no more than 200-foot intervals along the interior boundary of the buffer zone and requiring that the marker say: "Buffer Zone—Limited Access." These specific requirements were rejected in order to permit greater flexibility in type and minimum spacing. Buffer zone markers are deemed necessary to provide notice to equipment operators that special effort is required when mining in the vicinity of streams. It should be noted, however, that the requirement for buffer zone markers does not preclude mining through streams where specifically approved by the regulatory authority under the controlled conditions established in proposed subsection 816.57(a).

Although the proposed requirement for blasting signs, markers, and signals was believed to be excessive during public review of the interim regulations, this requirement will remain intact to provide notification to any person entering the permit area of the potential hazard relating to the use of explosives and flyrock. However, in order to provide for greater flexibility in selecting type and size of marker to be placed, only general guidelines are included in these draft regulations.

Additional safety precautions must be exercised in the immediate vicinity of the blast area. As stated in Tennessee, Chapter 0400–3–2.05, MSHA regulations, 30 CFR 77.1303, the operator must guard those areas in which holes are awaiting firing.

Adequate marking of topsoil storage areas is required around all areas utilized to stockpile topsoil or other designated subsoils pursuant to Section 816.23. Some commenters objected to the requirement for topsoil markers, on the grounds that topsoil storage areas are well known to employees and that disturbance of topsoil storage areas is not currently a significant problem. The Office proposes that topsoil markers continue to be required because these proposed regulations will result in more care in topsoil handling and storage than has previously been the practice.

One commenter has suggested that an additional provision be added in this Section to require a sign on coal processing waste dams, as currently proposed in subsection 816.93(i). Public comment is solicited as to whether the requirement for dam signs should appear only in Section 816.93, only in Section 816.11, or in both places.

§§ 816.13–816.15 Casing and sealing of drilled holes and openings.

Except for the differences noted below, proposed Sections 816.13–816.15 are substantially identical to the proposed underground mining performance standards in Sections 817.13–817.15. The reader is referred to the appropriate portions of the Preamble for Part 817 for information concerning the technical basis, alternatives considered, and statutory authority for these Sections. In addition to the Sections of the Act cited in those portions of the Preamble, these Sections are based on Section 515 of the Act. While the Office considers the effects of improperly protected holes and entryways to be sufficiently similar in surface and underground mining to warrant substantially identical performance standards, public comment is invited on how the differences in the effects of these types of mining should be appropriately reflected in the regulations.

While proposed Section 816.13 requires holes to be closed as they are uncovered in the course of surface mining, Section 817.13 requires all holes in the permit area to be closed. An additional difference is proposed with respect to precautions to be taken in connection with openings to be used for the return of underground waste to mine workings. These distinctions are required by the distinct differences between surface mining and deep mining.

§§ 816.21–816.25 Topsoil.

These Sections contain proposed regulations for achieving the requirements of paragraphs 515(b)(5) and (6) of the Act, as well as certain of the provisions relating to revegetation, protection of the hydrologic balance, minimization of air pollution and prompt reclamation. These Sections require that persons conducting surface mining activities remove topsoil or other approved plant growth material prior to operations, save it for later use in a manner conducive to protecting the primary root medium from contamination and erosion and redistribute it in a manner which will enhance its productivity. Systematic handling and storage practices can protect the soils physical and chemical characteristics necessary to sustain vegetation while it is in storage and after it has been redistributed onto the regraded area. These proposed regulations are intended to minimize water pollution and provide a medium for plant growth capable of returning mined land to a condition and/or use equal to or higher than that prior to mining.

Authority for these regulations is contained in Sections 102, 201, 501, 503, 504, 507, 508, and 515 of the Act.

Planning, prior to handling and placement of overburden materials, may facilitate disposal of large rocks and toxic substances. The objective and Regulations (Sections 26–2.10(10)–s10280(8)(d) and 26–1.10(10)s10340(s) provide for the use of plant growth materials other than topsoil when

surface mining operation is certainly not compatible with full restoration of productive potentials.

soil materials will require the addition of amendments to establish vegetation that can be sustained on the disturbed

though the Office recognizes that there may be objections to specific design criteria as being unnecessary,

Authority for these regulations is contained in Sections 102, 201, 501, 503, 504, 507, 508, and 515 of the Act.

The technical literature used in preparing Sections 816.21–816.25 includes:

1. Aldon, Earl F., *Reclamation of coal-mined land in the Southwest*, Jour. of Soil and Water Cons., Vol. 33, No. 2, 1978, pp. 75–79.

2. Baker, James B. and W. M. Broodfoot, *Site Evaluation for Light Important Southern Hardwoods*, U.S.D.A., Forest Service General Technical Report 80–14, 1977.

3. Carmen, Willard H., *Forest Site Quality Evaluation in the United States*, Advances in Agronomy, Vol. 27, pp. 225–226, Academic Press, Inc., 1975, pp. 225–226.

4. Colorado, Rules and Regulations of the Land Reclamation Board.

5. Lull, Howard, W., U.S.D.A., Forest Service, Misc. Pub. No. 768, 1959.

6. McCormack, Donald E., *Soil Reconstruction: Selecting Materials for Placement in Mine Reclamation*, Mining Congress Journal, 1976.

7. McCormack, Donald E., *Research and Applied Technology Symposium*, 2d, Oct. 22–24, 1974, Louisville, KY.

8. Montana, Rules and Regulations adapted pursuant to Title 50, Chapter 10, R.C.M. 1947.

9. Plass, William T., *Reclamation of Coal-Mined Land in Appalachia*, Jour. of Soil and Water Cons., Vol. 33, No. 2, 1978, pp. 56–61.

10. Power, J. F., R. E. Ries, and F. M. Sandoval, *Reclamation of Coal-Mined Land in the Northern Great Plains*, Jour. of Soil and Water Cons., Vol. 33, No. 2, 1978, pp. 69–74.

11. United States Department of Agriculture Soil Conservation Service, *Soil Taxonomy*, Agricultural Handbook No. 436, and United States Department of Agriculture, Soil Conservation Service, Agriculture Handbook No. 18.

Sections 816.21–816.25, propose procedures to be followed by the permittee to preserve the chemical and physical properties of the soil, reconstruct the disturbed area, and restore the productive capacity of the disturbed area.

Plass, 1978, p. 57, states that "Reclamation begins with an evaluation of the overburden." Powers, et al., 1978, p. 73, write that, "Many reclamation problems can be solved by covering undesirable spoils with good soil." Yields of several crops as affected by thickness of subsoil and topsoil spread over sodic (SAR=26) mine soils are illustrated by Plass, 1978, Table 6, p. 72. McCormack, 1976, p. 19, wrote that, "Burying the A and B horizons under many feet of spoil during the surface mining operation is certainly not compatible with full restoration of productive potential."

Planning, prior to handling and placement of overburden materials, may facilitate disposal of large rocks and toxic substances. The objectionable materials should be carefully buried, while materials suitable for use in the re-establishment of vegetative cover should be properly placed on the area to be restored or segregated for later use. It is important to control the material placed on the surface to serve as the growth medium if the disturbed area is to be successfully revegetated in accordance with proposed Sections 816.111–816.117.

The requirements of proposed Section 816.22 are essential for reconstructing a plant growth medium, soil, that will create the most favorable qualities for plant growth.

Six inches of soil is thought to be a minimum practical depth necessary for root development and essential for the land to be restored to a condition at least capable of supporting its premining use.

Soil profiles vary widely in thickness, from mere films to those many feet thick, and deep layers, say to 6 feet, may need to be examined because of their importance to drainage, etc. (Agriculture Handbook No. 18, p. 174.) Also, plant roots require soil horizons that are able to supply adequate water, air and nutrients (Agriculture Handbook No. 18, p. 249). Thus, the friable nature of the A horizons causes them to be the most favorable material for seed beds among existing materials at most sites.

McCormack, 1976, stated, "In most areas, the A horizon of the natural soil is vastly superior to any underlying soil horizon or geologic strata. Even if it is only 3 or 4 inches thick, careful handling and return of this horizon to the surface is required for most successful reclamation. The soil survey indicates the thickness of the A horizon and properties that are important to reclamation, including texture, structure, organic matter content and pH." To mix the various soil horizon during removal could be counter productive to restoration of the distrubed area to a level at least equal to the premining capability.

The regulatory authority, might require removal and separation of the B horizon or portions of the C horizon or other substrata if necessary to obtain soil productivity.

Plass, 1978, p. 57, states that proper topsoiling may involve the removal and storage of the A, B and C horizons. McCormack, 1976, p. 19, states that "Instances where the geological strata is better suited for the productive growth of plants, although uncommon, do exist in a few areas and should be recognized before final plans for excavating and regrading are made." Similarly, the Montana Rules and Regulations (Sections 26–2.10(10)–s10280(8)(d) and 26–1.10(10)s10340(s) provide for the use of plant growth materials, other than topsoil, when those materials are determined superior in production potential to the topsoil of a disturbed area.

Agriculture Handbook No. 18 states on page 250 that "Some plant roots penetrate to much greater depths than commonly believed." Also, McCormack, 1976, wrote, "Most A horizons are less than 10 inches thick—too thin for a favorable root zone for most plants. Other favorable material must be placed below the A horizon in order to create a favorable root zone several feet in thickness." In most areas the B horizon is more satisfactory in the root zone than is material from geologic strata but McCormack says these materials need evaluation and the one most suited to restoring production should be chosen. The lower horizons ordinarily possess qualities that are less favorable for plant growth. Thus, to mix these materials will ordinarily lessen the productive potential. However, mixing or the use of substitute material would be authorized under Section 816.22 when these practices can be advantageous to the establishment of permanent vegetation and restoring the disturbed area to the premining production potential.

The mixing of topsoil and selected overburden is an acceptable practice when the mixture produces a soil medium more suitable for land use capability and productivity than topsoil. Alternative strata may be used as a growth medium when topsoil is either of inadequate quality or quantity.

Colorado and Montana, in their regulations, recognize the importance, under certain conditions, of providing for the use of overburden other than topsoil. While McCormack states that vertical sections above coal formations generally are widely varied in their suitability for covering a disturbed area, he goes on to state that, "Instances where the geological strata are better suited for the productive growth of plants, although uncommon, do exist in a few areas and should be recognized before final plans for excavating and regrading are made."

All determinations of suitability of various horizons and their appropriate handling ought to be based on previously performed analyses and adequate field trials.

Proposed Section 816.23 is intended to protect the physical and chemical qualities of topsoil while that material is being stored. Plass, 1978, p. 57, writes that "planned placement may segregate material suitable for revegetation," and McCormack, 1976, states that burying the A and B horizons under many feet of spoil during the surface mining operation is certainly not compatible with full restoration of productive potentials.

Under Section 816.24, compaction that restricts root penetration must be avoided during topsoil redistribution since closely packed soil can be relatively impermeable. Scarification of regraded land before the topsoil is replaced is generally the most effective treatment to prevent slippage. The regulations do not make it a mandatory practice. However, measures necessary to eliminate slippage must be undertaken in all cases.

McCormack, 1976, wrote that "of greater importance than any other factor in achieving successful reclamation of surface mined land is the nature of the soil left at the surface after mining. The nature of this soil determines the choices available for plant species." McCormack goes on to say "soils should be reconstructed so as to have a sequence of horizons chosen from the best available soils and geologic strata. This will create the most favorable qualities for plant growth." The topsoil must be uniformly redistributed in a manner that assures placement and compaction compatible with the needs of the species that will be used to restore the disturbed area to its premined potential. The placement of toxic materials on or near the surface will severely restrict the productive capacity of the area.

Lull, 1959, p. 27, found that soil compaction drastically reduced the pore space through which water moves in the soil, thereby reducing infiltration and percolation, increasing runoff, and encouraging erosion. Baker, 1977, said the growth of hardwoods depends on the following soil factors:

(a) Soil physical condition
(b) Moisture availability during growing season
(c) Nutrients available
(d) Aeration.

These same factors must be considered so that the redistributed soil layers will support the vegetation required under Section 816.111–816.117.

Like Section 816.22, Section 816.25 would provide for utilization of the results of soil tests, trials, analyses and surveys required by Sections 779.21 and 779.26 of these proposed regulations. The availability of mineral elements essential to plant growth varies considerably in strata of the overburden. This wide variation in available plant nutrients makes it advisable to sample the surface material to determine if the proposed land use and vegetative plan is feasible. If the strata of the overburden contains good supplies of mineral nutrients, these materials if properly used on the mined and graded lands will provide adequate nutrients. However, some soil materials will require the addition of amendments to establish vegetation that can be sustained on the disturbed area.

§§ 816.31–816.38 Roads and other transportation facilities.

These proposed Sections pertain to the location, construction, drainage and restoration of mine access and haul roads and other transportation facilities such as railroad loops, spurs and sidings. The standards set forth in these Sections are intended to ensure the minimization of the adverse effects to hydrology, fish and wildlife and their habitats, and public and private property as a result of the construction and utilization of mine roads.

The authority to establish these performance standards is found in Sections 102, 201, 501, 503, 504, and 515 of the Act.

The literature, State laws and regulations, and other materials used in preparing these regulations include the following in addition to those works cited in the Preamble sections below which discuss proposed Sections 816.41–816.57:

1. Mudd, S.W., 1968, *Surface Mining*, American Institute of Mining Metallurgical and Petroleum Engineers, New York, N.Y.

2. Parker, P.E., 1965, *Criteria for Designing and Locating Logging Roads to Control Sediment*, Intermountain Forest and Range Experiment Station, U.S. Forest Service, Ogden, Utah.

3. U.S. Department of Agriculture, 1977, *Forest Service General Provisions and Standard Specifications for Construction of Roads and Bridges*

4. U.S. Department of Interior, Bureau of Mines, 1977, *Design of Surface Mine Haulage Roads Manual*, Information Circular 8758.

5. Weigle, W.K., 1965, *Designing Coal Haul Roads for Good Drainage*, U.S. Forest Service, Central States Forest Experiment Station, Berea, Kentucky.

6. West Virginia Department of Natural Resources, Division of Reclamation, (no date), *Drainage Handbook for Surface Mining*, (Revised 1-1-75).

Coal mine access and haul roads were identified in the 1950's and 1960's as being responsible for much of the watershed disturbance associated with surface mining operations. Abandoned roads associated with surface mining contribute substantially to stream sedimentation thus affecting the water quality of streams flowing from mined watersheds. In order to control or substantially reduce these adverse impacts, criteria are required to ensure the proper design, construction, maintanance, and reclamation of roads and other transportation facilities associated with surface mining operations. Although the Office recognizes that there may be objections to specific design criteria as being unnecessary, the criteria being proposed today are in fact necessary since effluent limitations will not apply to all roads. Design and construction specifications will ensure control of erosion and pollution and successful reclamation. Many of the criteria in these proposed Sections are drawn from interim program regulations. 30 CFR 715.17(1)-(m) 42 Fed. Reg. 62688 (December 13, 1977).

In developing these regulations, considerable thought was given to the cost involved to the mine operator. While additional costs will be incurred by the operator under these regulations, some of these costs will be offset by longer equipment life, lower equipment maintenance, higher productivity, lower "lost time" and increased safety.

Paragraph 515(b)(4) of the Act is specific in requiring the operator to conduct operations in a manner to stabilize surface areas to effectively control erosion. Also, paragraph 515(b)(10)(B)(i) of the Act requires the operator to conduct surface coal mining operations in a manner to control or prevent additional contributions of suspended solids to streamflow, or runoff outside the permit area, using the best technology currently available. Accordingly, the proposed rules require that mine access and haul roads shall be located, insofar as possible, on ridges or on available flat and stable slopes, to minimize disturbance to the hydrologic balance. In addition, mine roads may not be located in perennial streams (paragraph 515(b)(18) of the Act). Stream fords are prohibited (paragraph 515(b)(17) of the Act) unless specifically approved by the regulatory authority.

Certain design, construction, and maintenance criteria have been provided in these proposed regulations that will assure that mine roads will comply with paragraph 515(b)(10) of the Act. Guidelines for developing these criteria can be found in sources such as laws and regulations currently mandated by most mining states, design and construction criteria for developing logging roads on National Forest lands and in the road construction standards set forth by the American Association of State Highway and Transportation Officials (AASHTO) for State, Federal and county highways. The standards set by AASHTO were developed to apply for the most part to relatively high speed roads with vehicle design speeds of 35 miles per hour or more which are public requiring asphaltic or concrete surfacing.

In the past, the AASHTO standards have not generally been applied to

mine access or haul roads that connect from the mine site to a public road or highway. The Office believes that the

Under Section 816.34 of the proposed regulations the design and construction criteria for all but the most

this proposed Section will provide adequate basis for meaningful regulatory authority review of plans for the fa-

9. Brakey, S. A., "Acid Mine Drainage: Problem," *Mechanization*, Vol. 18, pp. 87–89, 1954.

1972, Mellon Institute, Pittsburgh, Pa. pp. 19–311).

22. Curtis, Willie R., 1972(b), *Strip-*

ice Research Paper NE-372, 13 p. (Northeastern Forest Experiment Station, Upper Darby, Pa.)

mine access or haul roads that connect from the mine site to a public road or highway. The Office believes that the cost of construction and subsequent reclamation of such roads is not warranted. Adequate environmental and safety protection can be provided for most mine roads by the less stringent standards in the proposed regulations. Some criteria for designing and locating logging roads on National Forest lands are appropriate for mine roads, and these have been adopted for grade, drainage and surfacing requirements. Generally these roads are constructed and designed to meet the environmental conditions in the western States where most of the timber harvesting on National Forest lands occurs. In addition to logging roads standards, much reliance was placed on current State laws and regulations that govern mine access and haul roads.

There are a few coal mining States that allow grades of 20 percent or more for mine roads. The majority of the States, however, have established 15 percent as the maximum grade (Bureau of Mines, 1977). West Virginia does not allow mine haulageways having sustained grades exceeding 10 percent, with maximum grade not to exceed 15 percent for 300 feet. These basically are the gradient requirements for mine roads adopted in proposed Section 816.34.

Many of the requirements of these Sections are based on considerations in technical literature cited in the portions of the Preamble relating to proposed Sections 816.41-816.57. The reader is referred to those portions of the Preamble for further discussions of the hydrologic considerations which led to proposed Sections 816.31-816.38.

Proposed subparagraph 816.32(b)(3)(vi) requires that each layer of embankment material be compacted to achieve a density determined in accordance with American Association of State Highway and Transportation Officials (AASHTO) standard method T 99-74. Although this subsection as proposed, applies to roads that are to remain in place and use for more than 5 years, the Office recognizes that some might consider it too restrictive. For instance, should T 99-74 be applicable to embankment material consisting of rock, broken stone, or fragmented material of such size as to render the placing of 12-inch layers impractical and is the limited variance available under Subparagraph (b)(iv) adequate? The Office solicits comments on alternative methods for determining the desired compaction of embankment layers. Similar comments are solicited for alternative procedures to proposed subparagraph 816.32(b)(2)(vii) relating to moisture content of embankment material.

Under Section 816.34 of the proposed regulations the design and construction criteria for all but the most temporary mine roads require that ditches, cross drains and ditch relief drains be based on a discharge capacity capable of passing the peak runoff from a 10-year 24-hour precipitation event.

The Office recognizes that there are non-complying haul roads and access roads and other transportation facilities. Many of these haul and access roads and other transportation facilities were designed and constructed prior to enactment of the Surface Mining Control and Reclamation Act of 1977. They may not comply with the grade or location requirements, ditching, culvert, or road surfacing standards, or stream crossing or embankment provisions of the proposed permanent regulatory program.

Public comment is solicited as to the extent, if any, it is appropriate that these pre-existing, nonconforming mine roads and other transportation facilities not be required to be reconstructed to meet the design criteria of the regulations. An alternative considered was requiring additional drainage structures for pre-existing roads such as ditches, crossdrains or ditch relief dams in areas of excessive erosion, siltation or sedimentation outside the permit area. Placement of the drainage structures should not cause any major change in the vertical or horizontal alignment of the roads or other transportation facilities. The Office believes that non-complying roads should not be exempt from the provisions of proposed Section 816.38 Restoration of Roads. However, it may be appropriate for the regulatory authority to provide variances for the reclamation of pre-existing roads in areas where fill material is not available for backfilling to original contour or topsoil to meet the standards is not available because they have not been planned for during the design stages of the mine road or other transportation facilities.

§ 816.39 Support facilities and Utility Installation.

Proposed Section 816.39 pertains to facilities that support the mining operation or other public facilities such as pipelines which cross the mining operation.

Authority for proposed Section 816.39 derives from Sections 102, 201, 501, 503, 504, 515, and 701 of the Act.

Public comment is elicited as to whether there are any particular environmental or other risks from the manner in which these facilities are constructed or utilized at minesites which would be the basis for additional specific standards. At this time, the Office believes the general language of this proposed Section will provide adequate basis for meaningful regulatory authority review of plans for the facilities, and for enforcement actions which result in furthering the environmental and other goals of the Act.

§ 816.41-816.57 Hydrologic Balance.

These proposed Sections would require that surface coal mining and reclamation operations be planned and conducted so as to minimize disturbance to the prevailing hydrologic balance. The purpose of these requirements is to ensure that both long-term and short-term adverse changes in the hydrologic balance that could be caused by mining and reclamation activities will be prevented or minimized.

The authority for these Sections is set forth in the Act at Sections 102, 201, 501, 503, 504, 507, 508, 510, 515, 517, 519, 701, and 717.

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Proposed section 816.41 sets forth in general terms the hydrologic requirements for surface mining activities. In light of the testimony presented before Congress during deliberations over the Act, the requirements of the Act and State regulations on the subject, details are provided which are believed to be sufficient to ensure that all surface coal mining and reclamation operations are conducted in an environmentally acceptable manner. The process of surface mining involves a number of changes in land cover, drainage pattern, and nature of the overburden that may markedly alter the hydrology of an area.

Past studies have documented changes in flooding, base flows, sedimentation and water quality in streams draining mined watersheds (Curtis 1972 (a), (b), 1973, 1974, Davis 1967, Gilley et al. 1977, Plass 1975, Simpson 1972). In addition, potential impacts can occur to the groundwater resource and in downstream channel—forming processes although these latter changes are less easily documented and usually become a consideration only when relatively larger areas are mined. These various impacts result because interruptions in one or more components of the hydrologic cycle of an area often affect other components in the system (Gregory and Walling, 1973). For example, the changes in water yield associated with forest cutting can result in stream channel instability problems (Galbraith 1973). Therefore, it is important that the hydrologic balance of an area to be mined be altered as little as possible as a result of surface mining.

The proposed regulations are structured on the premise that the permittee must research and understand the hydrologic balance in the affected area as well as understand the affect of mining on that balance so that operations are planned and conducted to minimize disturbances both on-site and off-site. Since the hydrologic balance may be restored only after long periods of time, it is necessary for the permittee to project long-term implications of the mining.

Proposed Section 816.42 contains minimum water quality standards and effluent limitations which would be required by the Office if the Section is adopted.

In developing these standards, an alternative considered by the drafters in response to public comment was to do no more than incorporate by the reference EPA's Effluent Guidelines and Standards for the Coal Mining Point Source Category under the National Pollution Discharge Elimination System permits program. This alternative was analyzed and rejected for several reasons.

First, the proposed effluent limitations would be applied throughout the entire phase of surface coal mining and reclamation operations, as required for the protection for the hydrologic balance by Section 515 (b)(10) of the Act, whereas EPA's effluent limitations regulations apply only to the active phase of mining operations. The extension of effluent limitations

to discharges from areas disturbed by mining after final grading or active final operations of an underground mine is necessary to ensure protection of the hydrologic balance, including the quality and quantity of surface water, until reclamation is completed. There is no basis in the Act to distinguish between phases in the mining and reclamation operations for the purpose of justifying less stringent requirements.

The effluent limitations proposed would apply to all surface mining operations conducted within "disturbed areas," until such time as the requirements of the Act are met for achieving successful reclamation. Severe water pollution effects occur as a result of discharges from mining operations after the active phase of mining. Therefore, the Office believes that protection of the environment would be significantly impaired by mere adoption of the EPA effluent limitations regulations.

A second reason why this alternatve is not being adopted, is that U.S. EPA's regulations apply only to existing point source discharges of water from mining operations and do not apply to non-point source discharges. Section 515(b)(10) of the Act, however, requires that all impacts resulting from mining on the hydrologic balance be regulated. As was noted by the United States District Court for the District of Columbia in consideration of the interim regulations under the Act, regulation of non-point source pollutional discharges from surface coal mining and reclamation operations is needed under the Act. *Surface Coal Mining Regulation Litigation* ——— F. Supp. ——— (MEM. OP. at 14-15) (D.D.C., 1978). The Office's proposed effluent limitations would apply to non-point source discharges, and provide substantial protection to hydrologic balance on a national basis which would not be afforded by mere adoption of the EPA's effluent limitations regulations.

The third reason why use of the EPA regulations alone is believed to be insufficient in that these regulations do not apply at all to discharges of groundwater. Therefore, the use of those regulations would have major adverse environmental impact as compared to the effluent limitations proposed for adoption by the Office.

A second alternative to the Office's proposed effluent limitations regulations suggested by a commenter was that, rather than specifying effluent limitations based upon total suspended solid discharges of 35 milligrams per liter daily maximum, 70 milligrams per liter daily average on a uniform minimum national base, the Office propose regulations which would establish suspended solid limitations upon the basis of actual impact of each discharge in increasing suspended solid loads on the particular receiving surface waters. This proposal would require that, as to each discharge from mining, a baseline be established on the levels of total suspended solids in the receiving waters above the point of a discharge and limitations be established so as not to allow for loads to "significantly impact" upon receiving waters. Upon consideration, the Office has decided not to adopt this alternative for two reasons.

First, the EPA effluent limitations regulations require for coal mining that discharges be limited on a uniform national basis to not greater than 35 milligrams per liter daily maximum, 70 milligrams per liter daily average for total suspended solids. Under Section 702(a) of the Act, the Office must adopt regulations at least as stringent as those promulgated by EPA. Therefore, the Office does not believe it has legal authority to adopt this proposed alternative. Second, Section 515(b)(10) of the Act requires that discharges of suspended solids from areas disturbed by mining operations be limited by the use of the "best technology currently available." The effluent limitation for total suspended solids under the proposed regulations represent the "best technology currently available," for controlling suspended solids. Establishing effluent limitations merely upon the basis of the quantities of sediment in receiving waters would not represent the use of the "best technology currently available." This represents another basis on which the Office believes it lacks the legal authority to adopt the proposed alternative.

The Surface Mining Control and Reclamation Act of 1977 is broadly intended to protect society and the environment from the adverse effects of coal mining while EPA's effluent guidelines are based on technological capabilities of the industry for protection of water quality and ecology. Consequently, to meet the requirements of the Act to minimize disturbances to the prevailing hydrologic balance, these proposed regulations incorporate those effluent limitations currently promulgated by the EPA, establish maximum limitations for suspended solids for the West, require representative sampling for determining compliance with limitations and identify specific minesite development requirements. Thus, compliance with the proposed regulations should minimize water quality and ecological impacts previously documented. (Curtis, 1973; Curtis, 1974; Dyer and Curtis, 1977; Simpson, 1977; USDA, 1973; USFS, 1972; Gruble and Ryder, 1972; USDOI, 1967; Brayley, 1954; Striffler, 1973; Turner, 1958; Kinney, 1964; Warner, 1973.)

The Office has, in the past, discussed the pertinent regulations and statutes with the EPA and has received that Agency's written concurrence to identical requirements to these regulations as they relate to water quality standards. Both agencies will strive to minimize duplicative efforts in standard setting, permit issuance, monitoring requirements, inspections, and enforcement. The Office notes that EPA has proposed standards of performance for new sources in the coal mining point source category. 42 FR 46932 (Sept. 19, 1977). When EPA adopts final regulations, the Office will incorporate regulations which are at least as stringent.

Operations in compliance with the requirements of an NPDES permit should have little difficulty in complying with the effluent limitations and monitoring requirements of these proposed regulations. The Office's limitations on suspended solids for mines located in the Western states are expected to result in limitations identical to NPDES limitations.

One footnote in the proposed table for effluent limitations makes clear the intent to allow permittees to raise the pH of certain discharges to facilitate meeting the manganese standards. Since the higher pH should be quickly reduced by receiving waters, there should be no adverse impact upon water uses. If this practice is found to have adverse impacts on water quality the standard will be changed.

The regulations would require application of the effluent limitations only to discharges from the disturbed areas and not to discharges from areas the permittee has not disturbed through mining and reclamation. The term "disturbed area" has been carefully defined to exclude areas in which the disturbance is limited to diversion ditches, sedimentation ponds, or access and haul roads when they are constructed, operated, and maintained in accordance with these regulations. These areas have been excluded because installation of treatment facilities necessary to ensure compliance with effluent limitations is not considered by the Office to be cost effective for this type of installation. However, the operator must ensure that runoff and discharges from these areas do not result in degradation of water quality in receiving streams to the extent that applicable water quality standards are violated. Compliance with the requirements for construction, operation, and maintenance of the structures located in these areas should minimize the affects on water quality. If necessary, however, the Office will promulgate more stringent

limitations and requirements in the future to protect water quality.

The extension of effluent limitations

tors of those mines, with negligible additional environmental benefit.

Proposed Section 816.43 provides for

terval, or larger if specified by the regulatory authority.

Additional alternative storm recur-

from erosion until vegetation is established (U.S. EPA 1976a).

Diversions to keep runoff from un-

the water storage capacity decreases. Therefore, additional sediment storage volume must be provided in order to

Sediment storage volume. Subsections 816.46(b)(1) and (2) of the pro-

limitations and requirements in the future to protect water quality.

The extension of effluent limitations to discharges from disturbed areas after final grading is necessary to ensure protection of the hydrologic balance, including the quality and quantity of surface water, until reclamation is completed. However, compliance with the reclamation standards specified in the proposed rules should preclude problems in meeting the effluent limitations during the reclamation period.

Moreover, various State regulatory agencies extend effluent limitations to discharges from lands that have been regarded and planted but which had not yet been released from bond obligations or other permit requirements. It was found that States extend effluent limitations or water quality criteria to all phases of coal mining and reclamation operations. The termination of such requirements is normally tied to release of further permittee responsibility for mining and reclamation and this is often at the time of final bond release. In keeping with this practice, the Office proposes that effluent limitations apply to all surface mining operations conducted within "disturbed areas" until such time as the requirements of this Chapter are met for achieving successful reclamation.

The greater restriction in footnote 3 on total suspended solids in the interior western United States is necessary to minimize disturbances to the hydrologic balance in areas where erosion is extensive, water quality is critical, and soils are irreplaceable. Benoit, 1975; Dollhoph, et al., 1977; Dyer and Curtis, 1977; Gilley, et al., 1977; McWorter, et al., (no date); and Rahn, 1976.

Under proposed Section 816.42, the permittee would be required to install and operate an automatic lime feeder or other acid neutralization facility where the pH of waters discharged from areas disturbed by mining is normally less than 6.0. An exemption, however, would be provided in the proposed regulations for small mines producing less than 500 tons of coal per day so that the regulatory authority could approve of the use of a manual neutralization device, if treatment requirements were small and infrequent. One comment received by the Office proposed that this exemption be eliminated, so that automatic lime treatment or other neutralization devices be used on all effluent discharges with a pH of less than 6.0. Upon analysis of this alternative the Office has decided not to adopt it. Requiring the use of an automatic neutralizing device when, for the small mines involved, manual treatment is sufficient would be an added burden upon the operators of those mines, with negligible additional environmental benefit.

Proposed Section 816.43 provides for protection of the hydrologic balance of the mining area by proposing standards for the diversion and conveyance of surface flow and shallow ground water flow. Diversions represent an important environmental tool. Diversions may not be required in all cases—they will be required where necessary to prevent or minimize water pollution.

The terms "peak runoff" and "recurrence interval" are used as opposed to specifying a time period, since the intent is to design the diversion channels to pass safely maximum runoff rates that may occur in the region. These may vary, for example, from a 6-hour storm in one area to a 24-hour storm in another. It would be necessary for a permittee to identify the peak runoff expected in a 3-year and 10-year period either from extrapolation of flow records or by determining storm rainfall for the appropriate recurrence interval and estimating runoff using accepted methods such as those in USSCS, 1960; USDA, 1961. The periods and recurrence intervals proposed differ from those promulgated in the interim program as a result of comments received by the Office concerning the long record of safe diversion construction of the Soil Conservation Service using the 3- and 10-year recurrence intervals. Some commenters suggested using no fixed recurrence interval for temporary diversions, but this suggestion was rejected as not offering enough specific environmental protection to meet the requirements of Sections 515 and 508 of the Act. The permittee would not be expected to divert flows which exceed the design storm.

Temporary diversions are preferable to permanent diversions in the vast majority of cases; thus, permanent diversions must be approved by the regulatory authority. The intent of the requirement in subsection 816.43(b) remains to minimize additional contributions of suspended sediment to the surface water system.

Alternatives were considered for designing permanent diversions and conveyances of overland flow and shallow ground water flow. The selected criterion specifies using a 10-year recurrence interval storm along with a freeboard based on the formula $F=1+(0.025 \times v \times d)$ unless the regulatory authority specifies a larger storm. This was selected because the Office believes it affords a reasonable degree of environmental protection without undue overdesign. One alternative considered would have required designing permanent diversions for storms with a 100-year recurrence interval, or larger if specified by the regulatory authority.

Additional alternative storm recurrence intervals considered for the design of temporary nonstream diversions included: 10-year, 5-year, 3-year, and 1-year 24-hour rainfall events.

Proposed Section 816.44 is based in large part on Galbraith, 1973 and Pfankuch, 1975. The terms "peak runoff" and "recurrence interval" are used instead of specifying a time period, since the intent is to design the diversion channels to safely pass maximum runoff amounts that may occur in a region. The 10-year and 100-year intervals are used for design, since the 10-year limit is consistent with general practice and affords an effective level of environmental protection for temporary structures and the 100-year period is generally accepted as a basis for design of intermittent and small perennial streams. Illinois Department of Mines and Minerals, 1976, and U.S. SCS, 1971. It will be necessary for a permittee to identify the peak runoff expected in a 10-year and 100-year period either from extrapolation of flow records or by determining rainfall for the appropriate recurrence interval and estimating runoff using accepted procedures, such as those found in USSCS, 1960, or USDC, 1961.

The alternatives considered for the design of permanent and temporary stream channel diversions were the same as considered for overland flow diversions, and the reader is referred to the portions of this Preamble which discussed proposed Section 816.43 (Diversions and conveyances of overland flow and shallow groundwater flows).

Proposed Section 816.45 focuses on the erosion and sediment control measures that are used in conjunction with sedimentation ponds covered in Section 816.46. The emphasis in planning mining operations should be on controlling erosion to minimize the sediment that is received downstream. These erosion and sediment control measures are the basis for establishing credits to be used in reducing the volume of sediment storage that will be needed in the sediment ponds.

Disturbed areas are most vulnerable to erosion when the surface is bare. Erosion can be minimized when this exposure is kept to the shortest practical time and, where practicable, earthwork activities such as diversions and pond construction are not conducted during wet seasons. Final dressing and grading should be done progressively and/or mulching should be done where revegetation may be delayed (U.S. EPA, 1976a). Backfill material can also be shaped to lessen overland runoff as an erosion control measure (Curtis, 1971b; Dollhopf, 1977). Chemical binders and tacks can be used effectively to stabilize bare soil areas

from erosion until vegetation is established (U.S. EPA 1976a).

Diversions to keep runoff from undisturbed areas away from disturbed areas serve to lessen the amount of sediment to be handled and the magnitude of runoff event that must be used to design sediment ponds (U.S. EPA, 1976a, U.S. SCS, 1971). A variety of detention and retention devices may be employed in the disturbed areas to reduce overland flow volumes or velocities and entrap sediment (Tryon et al. no date; U.S. EPA, 1976a; USDADSC, 1971; WVA DNR, 1975).

Section 816.47—*Sedimentation Ponds*: The Office proposes to require sedimentation ponds in conjunction with other sediment control measures as "best technology currently available" to prevent to the extent possible additional contributions of suspended solids to streamflow or runoff outside the permit area. *See* Section 515(b)(10) of the Act. It appears to be well established that sedimentation ponds used with other sediment control measures are "state of the art" for controlling sedimentation from surface coal mining operations. The Environmental Protection Agency has undertaken a number of studies to determine the best methods for controlling sediment laden flow. EPA studies have concluded that sedimentation ponds are the key to controlling sediment. According to EPA, such ponds are "the most effective structures for trapping sediment." The conventional method for controlling sediment that reaches the periphery of the mining operations is through the construction of a sediment retention pond to intercept the surface runoff before it leaves the mining site. *Erosion and Sediment Control—Surface Mining in the Eastern United States*, at 65 (1976). Another EPA study indicates sediment ponds are the last line of defense (treatment) before the water leaves the mine area. Hill, *Sedimentation Ponds—A Critical Review*, at 2 (Oct. 1976). According to one of the leading commentators in the field, sediment ponds should be located as close to the sediment source as possible and before drainageways reach the main stream. Grim and Hill, *Environmental Protection in Surface Mining of Coal*, EPA-670/2-74-093 at 103 (Oct. 1974).

Also, several States, including West Virginia, Pennsylvania, Kentucky and Montana now require sediment ponds as part of the mining operations. Hill, at 13 (1977).

Simply stated, sediment ponds are structures used to slow down water runoff in order to allow sediment particles to settle out. The ponds must provide sufficient water storage volume to detain the runoff long enough for particle settling. As the reservoir fills due to trapped sediment, the water storage capacity decreases. Therefore, additional sediment storage volume must be provided in order to prevent the total volume of the reservoir from falling below the volume required for particle settlement.

To draw down the water in the pond at a controlled rate so as to assure the required water detention time, a pipe is placed through the pond embankment. If the runoff overtops the embankment, erosion could occur which can ultimately lead to pond failure and hazards to life downstream. For this reason, sufficient discharge capacity must be provided from the pond in the form of an emergency spillway to eliminate the possibility of overtopping the embankment on rare precipitation events.

In mountainous areas several small ponds in series may be more desireable because of topographic constraints. Passing water from one pond to another can also improve detention time. Moreover, one small pond can be used to pretreat or remove the bulk of the large particles thus reducing the need to clean out a larger polishing pond. Hill, at 14 (1977).

The mechanics of sediment laden flow are complex. The major factors governing the efficiency of a sediment pond are the geometry of the basin, the inflow hydrograph, the inflow sediment graph, the outlet design, the hydraulic behavior of the flow within the basin, control devices within the basin which minimize short-circuiting, turbulence, and resuspension, the characteristics of the sediment and the settling behavior of the suspended sediment particles and the detention time. Ward, *Simulation of the Sedimentology of Sediment Dentention Basins* at 32 (1977); Oscanyan, *Design of Sediment Basins for Construction Sites* (1975).

In addition to a sediment pond, other sediment control measures which may be necessary to achieve and maintain applicable effluent limitations include the use of vegetative buffers, sediment traps, sand bags, straw bales, and log and pole structures. Grim and Hill, at 102 (1974); *Erosion and Sediment Control Surface Mining in the Eastern United States*, 60-65 (1976).

The Department proposes to allow operators and the regulatory authority to select the mix of sediment control measures to be used in conjunction with sediment ponds to achieve applicable water quality standards.

Legal Authority: Sedimentation pond design criteria are supported by Sections 102, 201(c), 501(b), 503(a) and (b), 515(b)(10), 515(b)(24) and 516 of the Act. *See also Surface Mining Regulation Litigation*, Civil Action No. 78-162 at 3 (Mem. Op. August 24, 1978).

Sediment storage volume. Subsections 816.46(b)(1) and (2) of the proposed regulations provide methods for calculating the required sediment storage capacity to store the expected sediment accumulation in the reservoir during its useful life. Two methods are used for making the computations and both are acceptable in this proposed regulation. First, the operator may use the Universal Soil Loss Equation (USLE), gully erosion rates and the appropriate sediment delivery ratios. The Universal Soil Loss Equation projects the sheet rill and gully erosion from disturbed areas as a function of rainfall energy, soil erodibility characteristics, length and steepness of slope, and the type of cover present. Procedures for making the USLE predictions are well established and accepted by the engineering and scientific community. Meyer, *Sediment Yields from Roadsides: An Application of the Universal Soil Loss Equation*, at 289, (Dec. 1975); Boysens, *A Procedure for Estimating Urban Sediment Yield*, at 3, (Dec. 1975); Haan, *Hydrology and Sediment Control from Surface Mined Areas*, at 5.1 (1978); Wischmeir, *Predicting Rainfall Erosion Losses from Cropland East of the Rocky Mountains*, (1965); USDA, 1975, *Procedure for Computing Sheet and Rill Erosion on Project Areas*, SCS Technical Release No. 5 (Rev.); Heineman, *Volume Weight of Reservoir Sediment*, 181-197 (1962).

The sedimentation pond must be designed to store sediment volume from the drainage area to the pond for a minimum of three years. This minimum design requirement is proposed to assure that ponds have sufficient sediment capacity to last the duration of the surface coal mining and reclamation operation. Hill, *Sedimentation Ponds—A Critical Review*, at 11 (1977). For some area mines the pond may need to collect sediment for more than 3 years. Therefore, it is expected that sediment storage volume will have to be increased to accommodate the additional sediment volume. Hill, at 11 (1977). Alternatively, adequate sediment storage volume may be maintained by more frequent removal of sediment.

The Universal Soil Loss Equation and the gully erosion rates must be used in conjunction with a delivery ratio because some of the sediment eroded from disturbed areas is deposited before reaching the reservoir by natural vegetation, stream channels, and mine pits. The gross erosion from the surface coal mining operation reduced by a delivery ratio quantifies this effect. Procedures for making these calculations are summarized in Haan, at 548 (1978); and USSCS National Engineering Handbook Section 3.

Alternatively, an operator may design the pond with a sediment storage volume of 0.1 acre-feet for each acre of disturbed area within the upstream drainage area. The basis for 0.1 acre-feet for each acre of disturbed area as an initial design requirement is a study by Curtis, *Sediment Yield from Strip mines Watersheds in Eastern Kentucky* (1974). Five settling basins were studied in Breathitt County, Kentucky, to measure the sediment yield from surface mined watersheds. Data collected included disturbed area, storage area, sediment yield, and accumulated precipitation. Based upon this data, Curtis concluded that there was little correlation between sediment yield and the amount of land disturbed during surface mining. In his view, methods of mining and handling the overburden were the major factors controlling sediment yield. Likewise, reclamation measures, including prompt revegatation, were determined to be important to minimize the sediment yield. He then concluded that the design criterion of 0.2 acre-feet for each acre of expected disturbance be retained. This recommendation was qualified, however, to the extent that mining and reclamation methods were refined and improved.

One commenter has submitted updated unpublished data collected by Curtis at the same sites between 1973 and 1977. All the data collected by Curtis is now available for public comment and analysis. The data show considerable disparity in sediment yields depending upon the type of mining operation. A 0.2 acre-feet per acre of disturbed area storage volume requirement is probably justified for operations with poor on-site mining and reclamation methods. Curtis, at 99 (1974).

Based upon this data the Department proposes 0.1 acre-feet per acre of disturbed area as a starting point for determining required storage volume for sediment ponds. If the operator utilizes on-site erosion and sediment control measures, such as prompt and progressive backfilling, prompt revegetation, adequate mulching, and sediment traps, the regulatory authority may approve a sediment storage volume not less than .035 acre-feet for each acre of disturbed area within the upstream drainage area. To obtain the reduction in sediment storage volume, the operator must show the sediment removed by other control methods is equal to the reduction in sediment storage volume. Thus, .035 acre-feet for each acre of disturbed area is proposed as a nationwide minimum sediment storage volume for sedimentation ponds. Simpson, *Westmoreland Resources, Comments on the Interim Final Rules*, (March 23, 1978); National Coal Association, *Comments and data on the proposed interim regulatory program*, Oct. 1977. Robbins, *Comments on the Interim Final Rules*, (March 15, 1978).

Detention time. The pond must also be designed to detain sediment laden water for a period of time sufficient to allow the water to come to rest and clarify itself. This pond "theoretical detention time" is defined as the average time that the design flow is detained within the sediment pond. Haan, *Hydrology and Sediment Control from Surface Mined Areas*, at 6.6 (1978).

The Department proposes that each sediment pond provide a 24-hour theoretical detention time for the water inflow or runoff entering the ponds from a ten-year 24-hour precipitation event. The design storm event is based upon EPA regulations, 42 FR 21380 and the development Document for Interim Final Effluent Limitation Guidelines and New Source Performance Standards. (1976).

The regulatory authority is to determine runoff by considering soil type, ground cover, slope, moisture conditions, and other physical characteristics. A twenty-four hour theoretical detention time is a necessary starting point to capture sediment laden flow from surface coal mining operations. It appears that trap efficiencies greater than 90 percent will be required if water quality standards are to be maintained. Ward, at 30 (1978). Studies of actual pond detention time versus theoretical detention time have shown the actual detention time to be 30 to 70 percent theoretical detention time with most ponds falling into the lower category. Hill, at 11 (1977). Assuming sedimentation ponds are approximately 50 percent efficient, to obtain 94 percent removal efficiency, 12 hours actual detention time or 24 hours theoretical detention time is necessary. Kathuria, at 56 (1976).

Sedimentation ponds designed with a 24 hour theoretical detention time are in routine use. For example, sedimentation ponds in Poland are typically designed with detention times of inflow from one to five days. A study of ponds in Poland show actual detention time to be two to four times less than the theoretical time. Janiak, *Purification of Waters from Lignite Mines*, at 59, May 1975.

The regulatory authority is authorized to approve a theoretical detention time not less than 10 hours when the person engaged in surface coal mining operations has demonstrated that the improvement in sedimentation removal efficiency is equivalent to the reduction in detention time as a result of pond design, size distribution of particles, or specific gravity of particles. The pond effluent must also be shown to achieve and maintain applicable effluent limitations. The 10 hour theoretical detention time specified is proposed as the minimum time necessary to separate by gravitational settling suspended particles that commonly occur from surface mined areas. Generally, single basins which provide an average detention time less than 10 hours, will not meet applicable effluent limitations. Hill, (1977).

The Office proposes to allow the regulatory authority to approve a theoretical detection time less than 24 hours when the person has demonstrated to the regulatory authority that chemical treatment will achieve and maintain the applicable effluent limitations; is harmless to flora and fauna; is planned under the supervision of a registered professional engineer; and the treatment facility is operated by a qualified person approved by the regulatory authority. Chemical treatment or flocculants can be applied to the water to cause the particles to come together with each other or with a heavier chemical to facilitate settling. Fine silts and clays often carry a negative charge, which causes the particles to repel each other and stay in suspension for longer times. Chemical treatment is sometimes necessary to affect negatively charged colloidal particles causing them to become attracted to each other and form larger masses which settle out. Types of coagulant include metal salts (aluminum sulfate, ferrous sulfate, feric chloride), metal hydroxides (aluminum hydroxide, calcium hydroxide), and synthetic polymers or polyelectrolytes (anionic, cationic, nonionic). Selection of the coagulant and the required dosage is an important factor in design of a chemical treatment system. *Erosion and Sediment Control—Surface Mining in the Eastern United States*, at 69 (1976).

The use of chemical flocculating agents is beginning to see more widespread use. In the past, polymer electrolytes and several other chemicals have been widely used in water treatment facilities. Flocculating agents provide an economic solution to meeting water quality goals on large surface mining areas. On three watersheds near Centralia, Washington, water quality was maintained within the applicable effluent limitations for an estimated cost of $10.00 per acre of runoff. Suppliers of chemical agents indicate they are now being widely used throughout the United States. Ward, at 24 (1978). *See also* Ward, at 59 (1977). Janiak, at 67 (1975); Kathuria, at 5 (1976). *See also* H. R. Report No. 95-218 (1977).

In the domestic water treatment field, alum and feric chloride have been used to reduce suspended sediment. In England, wire baskets filled with alum brickettes are placed in the

inflow channels leading to sedimentation ponds. Hill, at 18, 19 (1977).

Dewatering. Subsection 816.46(d) requires a non-clogging dewatering device (which can be a principal spillway) to achieve and maintain the required theoretical detention time. The dewatering device and the principal spillway are required to pass the runoff resulting from a 10 year 24 hour precipitation event without use of the emergency spillway. If the design flow passes through the emergency spillways, there is no practical way to detain it. Thus, the detention time would be inadequate. For this reason, flow through the emergency spillway is restricted to precipitation events exceeding the 10 year 24 hour event. *Erosion and Sediment Control—Surface Mining in the Eastern United States*, Vol. 2 at 55 (1976); Hill, at 17 (1977); Haan, at 6.1–6.27 (1978).

The sediment pond dewatering devices may be designed in a number of ways. One method is to place the inlet of the principal spillway (usually a pipe spillway) at the elevation of the required sediment storage. A second method would be to place the inlet elevation of the principal spillway at an elevation above the required sediment storage elevation. If this latter alternative is selected, sediment cleanout would not be necessary when sediment accumulates to 60 percent of the required sediment volume. However, the reduction in settling storage must not reduce the actual detention time below the theoretical detention time.

Short-circuiting. To assure that actual detention time approaches theoretical detention time, the Department proposes that sedimentation ponds shall be designed, constructed and maintained to prevent short circuiting. Short circuiting is caused by high velocity jet action of incoming water, wave action, inlet and outlet design. Hill, at 10 (1976). The shape of the pond has a major bearing on short circuiting of flow. Teardrop and toothshaped ponds usually have less short circuiting than elongated ponds perpendicular to the inlet. A long, narrow, snake-shaped pond would probably be the best shape. Hill, at 16 (1977). Methods of minimizing short circuiting include baffles, partitioning the pond into chambers, maintaining a length to width ratio of five to one, constructing an energy dissipator at the pond entrance, modifying the inflow, or adding two or more basins in series. *Erosion and Sediment Control—Surface Mining in the Eastern United States*, at 68 (1976). *See also* Ward, at 57 (1977). Janiak, at 59 (1975). Schiebe, *Control of Water Retention Time in Small Reservoirs, ASAE Meeting (1977).*

Sediment removal. Subsection 816.46(h) generally requires sediment removal when the volume of sediment accumulates to 60 percent of the required sediment storage volume. This requirement is necessary to assure that the pond has adequate sediment storage as a reserve for future precipitation events inasmuch as runoff events are not entirely predictable. Additionally, the remaining water volume (40% of required sediment volume) reduces the velocity in flows and decreases the chance for scour and resuspension of previously settled sediment. When resuspension occurs, the concentration of suspended solids in the outflow has been shown to exceed the concentration of the inflow to the pond. *Erosion and Sediment Control—Surface Mining, the Eastern United States*, Vol. 2 at 53 (1976); Hill, at 11, 13, 14 (1976); Kathuria, *Effectiveness of Surface Mine Sedimentation Ponds*, EPA-600/2-76-117 (1976); Haan, at 6.1-6.27 (1978); Oscanyan, *Design of Sediment Basins for Construction Sites* (1975).

General design requirements. A number of other standard design and construction requirements are proposed in the regulations. These include spillway design, required freeboard, allowance for settlement, minimum top width, required embankment side slopes, foundation preparation, fill materials and placing, spreading, and compaction requirements. These are general minimum requirements required in construction of similar sized ponds. USSCS, Practice Standard 378-Pond.

Alternatives considered. The Office considered a number of alternatives to the design criteria proposed for sediment ponds. The Office weighed allowing coal operators to use any sediment control measures to achieve and maintain applicable effluent limitations and control sediment. However, based upon the literature in the field, it appears unlikely that water quality standards will be achieved and maintained without sediment ponds.

Second, the Office considered alternative sediment storage volumes, detention times and dewatering devices for sediment ponds. For example, 0.2 acre-feet per acre of disturbed area was considered as a national standard and preliminarily rejected as unnecessary for all surface coal mining operations. Also, a 10 hour theoretical detention time was rejected as inadequate to achieve water quality standards. In this regard, the literature appears to say that sediment ponds must be designed with trap efficiencies exceeding 90 percent to achieve and maintain water quality goals. Therefore the Office has proposed a 24 hour theoretical detention time corresponding to 94 percent efficiency.

Proposed Section 816.47 is intended to control the release of effluents having relatively high velocities which can scour unprotected channels of receiving streams (USDOI, 1960). Scouring can destroy the aquatic, biotic communities of the receiving stream in the immediate discharge area as a result of physical factors, such as trauma, displacement, and destruction of habitat, and it can adversely impact water quality and ecology for relatively large distances downstream as a result of excessive suspended material. Most biological effects of suspended materials are also physical in character, including asphyxiation by the mechanical blockage of respiration, inhabition of photosynthesis by the obstruction of sunlight, and the irritation of gills, which may render the affected organisms more readily susceptible to infections (Hynes, 1972; and Wibler, 1969).

The proposed regulations identify devices generally applicable for dissipating water energy and preventing scour. Flexibility is provided for use of any method or combination of methods that will preclude channel deepening or enlargement.

Proposed Section 816.48 identifies measures for avoiding acid or other toxic mine drainage which might result in significant degradation of the water quality and ecology of receiving streams (USDOI, 1969; Kinney, 1964; Warner, 1978; Turner, 1958; Braley, 1954; Striffler, 1973). Biological effects may be acute or chronic in nature depending upon many factors including the type and concentration of toxic pollutants contained in the drainage, the biological species exposed to the pollutants, and the time of exposure.

The methods are broad in character and cover the practical options known for avoiding mine drainage, and some State regulations, e.g. Alabama, Tennessee, Virginia, Texas, Louisiana, Maryland, Montana, Ohio, West Virginia, South Dakota, and Illinois, specify similar methods.

Another method which was considered for inclusion is the use of drainage systems under buried spoil material to remove water contacting the problem spoils. However, this method is considered by the Office generally to be impractical because of associated handling, treatment, and time requirements. If appropriate, the regulatory authority could require this method under proposed subsection 816.48(b).

Proposed Section 816.49 sets minimum standards for permanent impoundments. The potential for development of permanent impoundments is greater in a region mined by the area method than in regions mined by the contour method, due to topographic and other limitations associated with the latter method. Consequently, most of the impoundments would probably be located in the cen-

tral and western states and would probably be developed primarily for recreational activities, for wildlife, or

that there was no significant change in the occurrence and movement of ground water as a result of surface

Pegenkopf, Gordon K., Clarence Whitworth, and Wayne A. Van Voast 1977. "Influence of Spoil Material on

coal resource lands in the Interior Western United States: NCA, BCR Symposium, U.S. Environmental Pro-

also essential, requiring sampling in advance of mining.

Monitoring may also be required to

solids/sediment monitoring in the first, second and third streams downstream from discharges from the areas

tral and western states and would probably be developed primarily for recreational activities, for wildlife, or for livestock watering.

The Soil Conservation Service documents that are to be used as the basis for designing permanent dams or ponds were selected because these standards are widely used and accepted. See U.S. Soil Conservation Service, *Earth embankments and foundations* (1976), U.S. Soil Conservation Service *Engineering Standard for Debris Basin for Control of Sediment from Surface Mining Operations in Eastern Kentucky* (1971). The SCS has "built" 1.7 million ponds as of September 30, 1977, and is presently assisting in the design and construction of about 50,000 per year. In addition, they have constructed over 8,000 dams under PL 83-566 and PL 504 programs, Johnson, 1978. SCS standards have proven to be workable and are not so overly restrictive economically as to prohibit construction of small impoundments.

Public comment is solicited on whether the responsibility for maintenance and other safety considerations associated with permanent impoundments should be explicitly accepted by the landowner, or a governmental agency, before the regulatory authority could authorize them. Past experience has not shown this to be a particular problem.

Proposed Section 816.50 provides for ground water protection by prohibiting uncontrolled discharge of water. Uncontrolled discharge has been the source of most documented adverse impacts to date upon water quality and ecology. Control of this water is possible through the proper location, design, construction, and utilization of pits, cuts, auger holes, and other excavations.

Proposed Section 816.51 is intended to protect the recharge capacity of aquifers in the mine area. Uncontrolled mining and reclamation practices can result in significant degredation of infiltration rates, decline in water level and flow from springs, and changes in water-bearing characteristics within any aquifer-recharge area.

The impacts of surface mining on ground water may vary considerably depending on the scope and extent of the resource, infiltration rate, the porosity and permeability of the excavated overburden, the compaction of the backfill in disturbed areas, whether mining operations are above or below the water table, and the extent of ground water use in the recharge areas.

In many areas of the eastern United States, surface mining operations are in geohydrologic areas similar to the area studied by H. T. Hopkins and D. S. Mull and reported in Collier, et al., 1970. In this area, authors concluded that there was no significant change in the occurrence and movement of ground water as a result of surface mining operations.

In the western area of the United States, the effect of surface mining on ground-water resources will be variable as indicated in Northern Great Plains Resource Program, 1974.

Technical literature utilized as support for proposed sections 816.50 and 816.51 includes: Hardaway, Coal Mining and Ground Water (1978); Erosion and Sediment Control in the Eastern U.S. (1976) Hardaway Memorandum Rosebud Mine Trip Report, (July 1976).

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National Academy of Sciences, 1974, Rehabilitation potential of western coal lands—a report to the Energy Policy Project of the. Ford Foundation: Cambridge, Mass., Ballinger Publishing Co., 198 p.;

Pennington, Dennis, 1975. "Relationship of Ground-Water Movement and Strip Mine Reclamation—Natural Coal Association and Bituminous Coal Research, Inc. (pp. 170-178).

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Rahn, Perry H. 1976. "Potential of Coal Strip-Mine Spoils as Aquifers in the Powder River Basin." Project Completion Report prepared for the Old West Regional Commission by the Engineering and Experiment Station, South Dakota School of Mines, Rapid City, South Dakota

Rogowski, A. S., H. B. Pionke, and J. G. Broyan, 1977. "Modeling the Impact of Strip Mining and Reclamation Processes on Quality and Quantity of Water in Mined Areas: A Review Journal or Environmental Quality, Volume 6, July 1977, No. 3.

Van Voast, Wayne A. 1974. "Hydrologic Effects of Strip Coal Mining in Southeastern Montana—Emphasis: One Year of Mining Near Decker." Montana Bureau of Mines and Ecology, Bulletin 93.

Van Voast, Wayne A. and Robert B. Hedges, 1975. "Hydrogeologic Aspects of Existing and Proposed Strip Coal Mines Near Decker, southeastern Montana: Montana Bureau of Mines and Geology Bulletin 97.

Surface coal mining in the Northern Great Plain of the Western United States—an introduction and inventory utilizing aerial photography collected in 1974-75; U.S. Environmental Protection Report OEA 76-1, Rocky Mountain—Prairie Region, Region VIII, 146 p.

U.S. Environmental Protection Agency, 1977(f), EPA comments and analysis of final EIS proposed 20-year plan of mining and reclamation, Westmoreland Resources Tract III—July 26, 1977.

Grim, E. C., and Hill, R. D., 1974. Environmental protection in surface mining of coal: U.S. Environmental Protection Agency Report EPA-670/2-74-093, 277 p.

Hardaway, et al, 1977. Subirrigated alluvial valley floors—a reconnaissance of their properties and occurrence on

coal resource lands in the Interior Western United States: NCA, BCR Symposium, U.S. Environmental Protection Agency, Oct. 1977.

Proposed Section 816.52 would require surface and ground water monitoring where there is a potential that the water resources of the mining area may be adversely impacted by the mining. Adverse impacts of mining upon water resources are well documented. Curtis, 1974; Dyer and Curtis, 1977; Simpson, 1977; USDA, 1973; USFS, 1972; Grubb and Ryder, 1972; USDOI, 1967; Bealey, 1954; Striffler, 1973; Turner, 1958; Kinney, 1964; Warner, 1973. These impacts, however, can be either prevented or minimized through the use of available demonstrated technology at a cost that should be small in comparison to basic production costs: EPA, 1976; ICF, 1977. Monitoring is essential for determining the effectiveness of the technology, forewarning of problems, ensuring that problems are not inadvertently created, and documenting compliance with permit limitations. Monitoring requirements will be identified in the mining permit.

Surface water monitoring requirements should be tailored to the wastewater and available treatment facilities. Wastewaters with highly variable concentrations and quantities of potential contaminants must be sampled more frequently than discharges which have relatively constant or low levels of contaminants. If adequately designed, operated, and maintained, settling ponds and automatic neutralization facilities (for acid waters) will assure that the treated effluent will be relatively constant in character and contain low levels of contaminants, therefore requiring a minimum of monitoring to document compliance with the permit limitations.

Since the provisions of the Federal Water Pollution Control Act and this Act are compatible, the surface water monitoring requirements under both Acts are proposed to be coordinated in accordance with subsection 816.52(b).

Ground water monitoring would be required at only those sites where there is a possibility of disruption or degradation of the ground water system. Ground water systems can be extremely complicated; consequently, to design a monitoring program of value, it is essential that information be available on the basic geohydrological characteristics of the potentially impacted aquifers. Additionally, sampling procedures must be carefully developed to obtain representative samples. Installation of sampling and observation wells may be the only feasible alternative for monitoring many of the potentially impacted aquifers. Establishment of baseline conditions is also essential, requiring sampling in advance of mining.

Monitoring may also be required to measure progress toward restoration of recharge capacity. This monitoring would normally consist of measuring infiltration rates and permeabilities of backfilled materials. Additionally, in providing for the protection of the surface mining area's recharge capacity the regulatory authority might establish monitoring requirements including a combination of consistent criteria from paragraphs (a), (b) and (c) below:

(a) No monitoring of ground water occurrence and movement will be required when—

(1) The regulatory authority determines that occurrence and movement of ground water and spring flows will not be affected by the surface mining;

(2) The mined zone is not a significant water-bearing unit; or

(3) Ground water use in the area affected by surface mining is insignificant.

(b) Periodic monitoring of ground water levels in shallow piezometers might be required when—

(1) The mined zone is a water-bearing unit of some current or potential future use as the source of limited water supply; or

(2) Surface mining lowers water levels, decreases the yield of nearby springs, and degrades infiltration rates.

(c) Periodic monitoring of ground water levels and pumping tests to determine the aquifer characteristics prior to and after surface mining starts might be required when—

(1) The surface mining zone is a significant water-bearing unit of current or potential future use for public, agricultural, industrial or domestic supplies;

(2) Surface mining has significantly lowered the water table, decreased spring flows, and degraded infiltration rates; or

(3) The occurrence and movement of ground water has been affected by the mining.

One comment received proposed that the Office limit monitoring requirements to the procedures established under the EPA's National Pollution Discharge Elimination System (NPDES) permit program. The Office considered this alternative and decided not to adopt it. As is explained in the discussion of the proposal to adopt only the EPA's effluent limitations above, EPA's regulation of water discharges from coal mining covers only point-source discharges during the active operation phase of coal mining to surface waters.

One comment received proposed that all operators be required to conduct continuous total suspended solids/sediment monitoring in the first, second and third streams downstream from discharges from the areas disturbed by a particular operation. Under this proposal, the permittee would be required to monitor the stream beds of total suspended solids in receiving streams into which discharges from a mine immediately occur and the receiving stream into which the immediately receiving stream is a tributary. Suspended solids monitoring would also be required of the succeeding stream into which the first recieving and second receiving stream discharge. Upon analysis of this alternative, the Office decided it warrants further consideration and specifically solicits public comment.

Under Sections 507(b)(11) and 510(b)(3) of the Act and the regulations being proposed at Parts 779, 780 and 783-784 and Section 786.15, monitoring of the kind suggested by this proposal will be needed as a general matter, prior to the issuance of a permit. However, that monitoring will in large part be conducted, for areas outside a proposed mine plan area, not by the permit applicant/operator, but rather by State and Federal agencies who conduct water quality and quantity sampling programs.

On the other hand, while the Act does require monitoring of the impacts on the hydrologic balance of surface coal mining and reclamation operations during the conduct of those operations, it does not specify that the permittee conduct monitoring of surface waters outside the permit/mine plan area. *See* Sections 515(b)(10) and 517 of the Act. The Office believes that it will be necessary for the regulatory authority to insure that total suspended solids/sediment loads in receiving streams of drainage from surface coal mining and reclamation operations be adequately monitored for as far downstream as is needed to assess the impacts of particular and groups of mining operations. Therefore, in order to assure adequate protection of the hydrologic balance as required by the Act, it is believed that monitoring for considerable stretches of streams downstream from the vicinity where surface coal mining and reclamation operations are conducted would be advisable. Discretion, however, is conferred by the Act as to the determination of how far downstream from mining operations these monitoring stations must be located and as to exactly which entities should conduct offsite monitoring in receiving surface waters.

There would appear to be no measurable environmental effects between the choice of specifying that permittees or the regulatory authority or some other government agency conduct downstream sediment monitor-

ing. In any of these events, the necessary monitoring would be accomplished. However, there may be signifi-

signed only for these limited purposes. Since wells intended for potable supply uses are usually subject to in-

mized or prevented. The 100-foot limit is based on typical distances that should be maintained to protect

remaining coal. The regulation would, if adopted, require the operator to conduct mining operations so as to

and safety considerations, by the geometry of the mine workings, and by other factors.

The cumulative effects of the damage inflicted upon the victims of mine blasting have been enormous.

ing. In any of these events, the necessary monitoring would be accomplished. However, there may be significant environmental impact as to the choices between specifying only very general criteria for downstream surface water sediment monitoring, as opposed to specifying that one, two or three downstream streams be monitored. The differing impacts between these two alternatives are dependent, of course, upon the extent to which it is necessary, on a national basis, that sediment transport for mining operations through surface waters be monitored as far as the third downstream stream from mining operations. The Office intends to conduct further analysis of this matter, utilizing the technical literature identified in the Preamble portions which discuss Sections 816.41–816.57 of the proposed regulations and any comments received.

Under Sections 515(b)(10) and 517 of the Act, surface coal mining and reclamation operations are required to be periodically monitored for both surface and ground waters impacts, in order to minimize disturbances to the hydrologic balance both on and off the minesite throughout the entire phase of those operations. The Office believes that it does not have the legal authority to limit monitoring requirements for coal mining merely to those utilized by EPA. In addition, utilization of the agency's monitoring requirements alone, would have a major adverse environmental impact, by the failure to require monitoring of nonpoint source discharges and groundwater impacts at all, and by failing to cover monitoring of point source discharges to surface waters after the active operational phase of mining.

As proposed, OSM's monitoring requirements would not specify particular locations and the exact number of samples to be collected for total suspended solids, in order to assess the impacts upon the waters receiving discharges from areas disturbed by mining. Instead, this matter would be left largely to the discretion of the regulatory authority for determination on a case-by-case basis.

Proposed Section 816.53 provides that, under certain circumstances, the regulatory authority may approve the transfer of exploratory or monitoring wells for use as water wells. Approval of such well transfer will be accompanied by a transfer of primary responsibility for any liability for danger and eventual plugging without release of liability of the mine operator. The Office recognizes that standards for the construction of potable water supply wells generally require construction practices which assure protection from surface pollution, whereas monitoring wells constructed for ground-water data collection are designed only for these limited purposes. Since wells intended for potable supply uses are usually subject to inspection and subject to approval by local public health department officials, it is expected that the regulatory authority may require certification from the local government agency before the well transfer is approved for potable supply use. Stock and irrigation uses, when well yields are sufficient for these purposes, usually do not require inspection and approval.

Proposed Section 816.54 would call for surface mining practices to be performed in such a manner that water is not contaminated, interrupted, or diminished by the mining operations. The replacement of domestic, agricultural, industrial or other legitimate water supply when impaired by the mining operations is required under Section 717 of the Act.

Proposed Section 816.55 provides for protection of the mining area's hydrologic balance by restricting the discharge of waste water, including coal processing waste, into underground mine voids. Use of underground mines for wastewater disposal has the potential of degrading ground water aquifers and stream flow.

However, such practices may be more cost effective than surface disposal facilities for an equivalent degree of environmental protection and, additionally, advantageous in such areas as fire protection, abatement of acid mine drainage, and subsidence control, by filling mine voids through sedimentation of suspended solids, may be provided by the practice. Consequently, the regulations would allow the practice provided that all necessary precautions are taken to assure the protection of the area's water resources. It should be noted that the regulatory authority's approval of such a practice will be based on environmental protection criteria, not economics. The Office considered an outright ban on all discharges into underground mine workings. However, the drafters determined that this might unduly preclude environmentally viable measures such as those authorized under the proposed rules.

Proposed Section 816.57 protects stream channels and contemplates that the regulatory authority would review and evaluate proposals to conduct any operations within 100 feet of a perennial or intermittent stream. Thus, if operations can be conducted within 100 feet of a stream in an environmentally acceptable manner, they may be approved. TVA, 1971; Karr & Schlosser, 1977. This concept does permit the use of erosion and drainage control measures near the channel if approved by the regulatory authority. These exemptions are necessary if the environmental impacts are to be minimized or prevented. The 100-foot limit is based on typical distances that should be maintained to protect stream channels from sedimentation. Site-by-site distance determinations would be impractical and very difficult to enforce. It should be noted that under the proposed rules, an operator could not mine throuh a stream unless it had been diverted around the area of disturbance.

The general rule recognizes that buffer zones are an effective method to be used in conjunction with a sediment pond to prevent sedimentation to streams by runoff from disturbed surface areas (Karr & Schlosser, 1978, 229). *See* also: Grim and Hill, *Environmental Protection in Surface Mining of Coal* (U.S. EPA, 1974); Weigle, *Designing Coal Haul Roads for Good Drainage* (USDA Forest Service, 1965) and *Guidelines for Construction of Mine Roads* (Region X U.S. EPA-Appendix "D" to Grim and Hill, *supra.*) It also recognizes that small streams may have considerable biologic complexity worthy of protection under Section 515(b)(24) of the Act, even if the streams are not perennial (Hynes, H.B.N., 1970, p. 403). However, since even the most ephemeral streams may have a benthic biota, the Office believes that some reasonable level of biological community complexity should exist in streams before they deserve direct protection. The definition of "macroinvertebrate biological community" in Section 701.5 seeks to do this by eliminating from consideration most of the very small forms of stream biota which have brief, ephemeral lifespans, unless they are joined in the biota by longer lived, larger, and complex forms of life which characterize the more permanent streams. (Hynes, *supra*).

Although it would not be necessary to establish the exact gradient of an entire stream channel through which mining has been allowed, it is necessary to reproduce the combination of the average gradient, channel configuration, channel roughness, and channel bank stability in order to minimize disturbances to the sediment transport process. In effect, the gradient must be reestablished to the degree necessary to allow natural fluvial processes to continue, thus, the requirement to maintain the average stream gradient for diversions that are to remain in place after operations are completed.

§ 816.59 Coal recovery.

This Section would address two persistent problems of coal mining: (1). The loss of coal resources when a mining operation does not result in the recovery of all the coal at a particular mining site; and (2). Recurrent environmental degradation when land is reopened for mining to recover the remaining coal. The regulation would, if adopted, require the operator to conduct mining operations so as to maximize resource recovery. This would be accomplished by mining all available coal at a minesite which it is economically feasible to extract.

The authority for this proposed Section is found in Sections 102, 201, 501, 503, 504, 510, and 515 of the Act.

The Office considered including specific language requiring the recovery of all coal economically feasible to be recovered from a site, but did not include such language in the proposed regulations. The proposed regulations would instead be satisfied by a good faith demonstration by the operator to the regulatory authority that all coal which is economically feasible to recover will be mined.

The most commonly mentioned percentages were 85, 90, and 95. These alternatives were not included for three reasons. First, it is difficult to precisely define the amount of coal existing at a site prior to mining, because of variable thickness of seams and partings, variable quality of the coal, and variations in depth of overburden. Second, health and safety considerations may preclude attainment of fixed percentages of recovery. Third, constant variation in thickness of seams, quality of coal, depth of overburden, and mining conditions would require a continuous monitoring and detailed ongoing exploration program which is believed to be beyond the capability of the regulatory authority to undertake or oversee. However, the Office will continue to consider whether fixed percentage recovery standards should be required.

Public comment on an express requirement for recovery of coal economically feasible to recover versus this implied requirement is invited.

A second alternative of requiring a separate list of cost variables and resource figures from the operator was also considered but not included at this time. Public comment is invited on the utility of requiring this information in permit application, for use by the regulatory authority according to a fixed formula for determing economic feasibility of recovery.

The reader's attention is directed to proposed regulations for determining recoverable reserves under a Federal lease, recently published by the United States Geological Survey, 43 Fed. Reg. 29631 (July 10, 1978).

Under the proposed regulations published today, the regulatory authority would monitor the mining operations to assure that the operator is proceeding in compliance with the mining plan and with the determination of recoverable coal. Variations in recoverability may be necessary where dictated by quality of coal resources, by health and safety considerations, by the geometry of the mine workings, and by other factors.

§ 816.61–816.68 Use of explosives.

These Sections are being proposed to protect the safety and property of the public, underground mines, and ground and surface waters outside of permit areas from blasting performed in surface coal mining activities.

Prior to the enactment of Pub. L. 95-87, the Subcommittee on Energy and Environment of the House Committee on Interior and Insular Affairs heard extensive testimony on the extent and the nature of the hazards associated with blasting in surface mining. *Surface Mining Control and Reclamation Act of 1977: Hearings on H.R. 2 before the Subcommittee on Energy and Environment of the House Comm. on Interior and Insular Affairs, 95th Cong., 1st Sess.* (1977). Those hearings indicated that the process by which coal is surface mined required a great deal of blasting to fracture the rock strata which overlies the coal seam.

When explosives are detonated, large amounts of energy are rapidly released by means of a chemical reaction. The most dramatic effect of the release of these vast quantities of energy is the generation of flying debris, rocks, dust, and other materials which, during the blast, can be lofted in the air and dropped directly upon persons and property near strip mine sites. *Ibid.* This "flying debris" can be widespread and has resulted in people being killed by rocks crashing through their roofs. *Id.* at 289, 305, 313. Hearings, *supra,* Appalachian Peoples Service Organization); 211 (Statement of Judy Stephenson, Director, Save Our Mountains, Inc.).

In addition, blasting causes "air blast." The noise and concussions resulting from air blasts produce severe annoyances to people caught in the wake of an air blast pressure wave and often cause damage in forms of:

> "electrical black-outs from destroyed transformers and downed lines, the obstruction of stream beds, damage to structural foundations, damage to sidewalks, cracking or separation of masonry, doors thrown out of plumb, windows cracked by excessive air pressure or concussion, damage to walls and paneling and loosening of cabinet fixtures."

Hearings, *supra* Part II at 284, 13 (Testimony of Center for Science in the Public Interest); Hearings, *supra* Part III at 25 (Testimony of Rev. R. Baldwin Lloyd, Appalachian Peoples Service Organization); 210 (Earl Cheatwood, Alabama Needs Federal Coal Surface Mining Legislation). Hearings, *supra* Part IV at 227 (Testimony of Northern Plains Resource Council.)

The cumulative effects of the damage inflicted upon the victims of mine blasting have been enormous. Property damage in Appalachia alone was estimated at $1.5 billion for the years 1965–1975. Hearings, *supra* Part II at 283. In at least one State, private insurance firms and Federal agencies have denied property insurance and guaranteed loans for prospective purchasers of dwellings near mines as a result of the damage caused by surface mining blasting. *Ibid.*

Sections 816.61-816.68 are proposed under the authority of Section 102, 201, 501, 503, 504, 515, 517 and 719 of the Act.

B. Materials used by OSM to develop these regulations include:

1. Ashley, C., and Parkes, D. B., 1976, *Blasting in Urban Areas: Tunnels & Tunnelling* (British Tunnelling Society), Sept. 1976, p. 60–67.

2. Barnes, Jack (John B.), 1977, *The effects of strip mine blasting on residential structures—Ayshire Mine, Warrick and Vanderburg Counties, Indiana*: Paper presented to the Indiana Academy of Science, Indianapolis, Ind., Oct. 28, 1977, 19 p.

3. Coal Mine Health and Safety Act of 1977 and 75 CFR, Subpart N.

4. Grim, E. and Hill, R., 1974, *Environmental Protection in Surface Coal Mining* (U.S. Environmental Protection Agency, No. 1BB040).

5. Kentucky Department of Mines and Minerals, 1977, Laws and regulations governing explosives and blasting: Lexington, Ky., p. 1.

6. Maryland Geological Survey, Bureau of Mines, 1973, Blasting restrictions (08.06.05.09) and Regulations governing blasting (08.06.05), in Bituminous coal strip mines and auger regulations, Maryland Department of Natural Resources Rules and Regulations, p. 23.

7. Medearis, Kenneth, 1976, *The development of rational damage criteria for low-rise structures subjected to blasting vibrations:* A Report of the National Crushed Stone Association: Kenneth Medearis Associates, Fort Collins, Colo., and Valley Forge, Pa., 94 p. (duplicated report).

8. Miller, P. H., (no date), *Blasting vibrations and air blast*: Park Central, Ill., Atlas Powder Co., 16 p.

9. Nicholls, H. R., Johnson, C. F., and Duvall, W. I., 1971, *Blasting vibrations and their effects on structures*: U.S. Bureau on Mines Bulletin 656, p. 13–29.

10. Old Ben Coal Company, Comments to Office of Surface Mining (1978).

11. Pennsylvania Department of Environmental Resources, Rules and Regulations, Title XXV, Pennsylvania Code, Ch. 211.

V 43 / 181 SEP 18 78

12. Research Energy of Ohio, Inc., Comments to Office of Surface Mining, 1978.

13. Siskind, D. E., 1977, *Structure vibrations from blast produced noise*, in 18th International Rock Mechanics Symposium, June 1977, Keystone, Colo.: Proceedings, p. 1A3-1-1A3-5.

14. Siskind, D. E., Stachura, V. J., and Radcliffe, K. S., 1976, *Noise and vibrations in residential structures from quarry production blasting—measurements at six sites in Illinois*: U.S. Bureau of Mines Report of Investigation RI 8168, 17 p.

15. Siskind, D. E., and Stachura, V. J., 1977, *Recording system for blast noise measurement*: Sound and vibrations Journal, p. 20-23.

16. Siskind, D. E., and Summers, C. R., 1974, *Blast noise standards and instrumentation*: U.S. Bureau of Mines, Environmental Research Program, Technical Progress Report ("TPR 78").

17. University of Maryland, *An Investigation into Delay Blasting*, 1975, NSF Contract APR 75-05171 to the University of Maryland and Subcontract No. M-218907 to Martin Marietta Laboratories.

Section 816.61 contains general requirements for the use of explosives. Under the provisions of proposed Sections 816.61 and 816.64(e) all blasting operations involving the use of more than the equivalent of 5 pounds of TNT would be required to be conducted according to published time schedules.

Five pounds equivalent of TNT has been selected on the basis of blasting experience which shows that charges of this size can cause significant disturbance when used in an improper blast design. Since commercial explosives and blasting agents have approximately the same energy as TNT, the five pound limit would apply to all commercial blasting products.

Section 816.61 would provide for the protection against the adverse effects of blasting by specification of certain minimum training requirements for the personnel used by the industry to conduct blasting operations. Persons working with explosives would be required to be familiar with the Mine Safety and Health Administration (MSHA) regulations, in order to protect the health and safety of workers and the general public. They would also have to be familiar with the Bureau of Alcohol, Tobacco, and Firearms, Department of Treasury regulations to assure that explosives do not fall into unauthorized hands. The proposed requirement for current and valid certificates would be accomplished under the training and certification programs to be instituted under proposed Subchapter M, as part of the permanent regulatory program.

The preblasting survey requirement proposed under Section 816.62 is mandated under Section 515(b)(15)(E) of the Act. That Section of the Act expressly establishes the one-half mile distance requirement. Provision is made for requiring approval by the regulatory authority of those persons actually performing the survey on behalf of the mining operator to insure that the survey procedures will be competently performed. Public comments and suggestions are requested with respect to the minimum standards, if any, which OSM should require be met by a person to be approved by the regulatory authority to conduct preblasting surveys. Such comments should be supported where possible, by appropriate technical literature.

The object of the survey would be twofold. One is to increase communication between the mining entity and the public about blasting operations. Therefore, survey procedures are proposed with a minimum level of formality. The second object of the survey is to provide for the establishment of a preblasting record as to the existing condition of structures and other physical facilities within the survey area, so that operations may be designed to avoid damage and to provide a baseline record against which the effects of the mining-related blasting can be assessed.

Examination of relevant technology thus far has revealed no current, reliable methods for either predicting the weights of individual charges that would prevent damage to structures or determining the condition of structures in terms of resistance to vibration of structural and nonstructural elements. As a result, the procedures for pre-blasting surveys are limited to determining the conditions of relevant structures and to document any preblasting damage. However, because technology for the types of prediction and determination discussed here may be developing for useful application, the Office specifically invites comments and supporting materials as to whether additional or modified procedures from those set forth in the proposed text should be required in the final regulations.

The interim program regulations require the schedule to specify time increments of not more than 4 hours, but not to cover all hours of the working day. The wording in those regulations has been subject to various interpretations. The permanent program regulations propose to leave the number and length of time increments open but restrict the aggregate length of the time increments to four hours per day. This change clarifies the requirement and would still give the mine operator sufficient flexibility to carry out routine blasting activities.

The proposed blasting schedule would inform local residents of their right to a preblasting survey and advise them of how to obtain such a survey. The resident would also be told how the public will be protected from inadvertantly entering the blasting area. Audible blast warnings and all-clear signals would be described. A description of emergency situations which will permit the operator to deviate from the schedule will be part of the schedule.

The Office has considered whether the notice should be required to contain the weight and types of explosives to be used. However, because these will vary with each blast, it was decided that this information need not have to be in the notice. Available information also indicates that it is not possible to predict, in advance, all emergency conditions that can occur when blasting. The notice, therefore, would identify the types of emergencies (defined in Section 816.65) that the regulatory authority has approved for blasting at other than scheduled times.

Under proposed paragraph 816.65(a)(1), blasting would be restricted to daylight hours, with provision for the regulatory authority to further limit the times of blasting. Blasting would be restricted to daylight hours for two reasons.

First, blasting at night significantly increases hazards to mine workers and makes site access-security and protection of the public much more difficult. Second, blasting at night is much more disruptive to the peace and comfort of nearby residents. The overwhelming majority of surface mines already restrict their blasting activities to daylight hours without unduly hampering the efficiency of operations.

The interim program regulations require notification of the meaning of the warning signals to be given only to "persons within the permit area". Because many people may commute to work regularly within the permit area, the proposed permanent program regulations would require notification to these persons so that they may be afforded the same protection as local residents.

Under paragraph 816.65 (a)(4), specific quantitative standards are proposed to control the adverse effects of air blast resulting from blasting in surface mining operations. Air blast is a compression wave that travels through the atmosphere in much the same way as a sound wave. It is caused when energy from the explosion is released directly into the atmosphere or by the movement of the ground surface after blasting. (Miller, (no date), pp. 10-15).

When air blast is audible to the human ear, it is called noise. When air blast creates low frequency energy and is inaudible, it is called concussion. Air blast is measured as an overpressure (air pressure above atmospheric pressure), either in pounds per square inch (psi) or in decibels (dB).

Air blast can cause both structural damage and annoyance to people and animals. Air blast can cause external masonry and internal plaster to crack and can damage windows. The most common effects of air blast are: (1) disturbances created by the rattling of windows, panels and doors which give the impression that the structure is vibrating; and, (2) generation of loud noise which may be beyond human tolerance. High levels of low frequency air blast can cause hearing damage, even though the human hearing system does not register the sensation as sound. Siskind and Summers TPR - 78, pp. 15-16.

The method proposed for controlling air blast is a scale of decibel peak standards. An alternative control considered by the drafters was a requirement for the stemming of all blast holes. Stemming is a procedure where explosives placed in a bore hole are covered with fill material, to damp the blast effect. Miller, (no date) at 14. At the time of the promulgation of the interim performance standards, it was determined that the prescribed amounts of stemming was impossible to comply with under many conditions. See 42 *Fed. Reg.* 62658 (Dec. 13, 1977). No further information on this issue has come to the attention of the Office. However, if such information becomes available, the Office will further consider the advisibility of promulgation of stemming requirements. Accordingly, comments on the use of stemming as a means for the national regulation of air blast are specifically invited.

A decibel scale is a logarithmic scale directly related to overpressure and is the scale commonly used to measure sound and airblast. All airblast instrumentation measures in decibel units. Various instruments respond to different frequency spectra in measuring airblast. To avoid undue restrictions on the type of instrumentation that an operator can use to measure airblast, the Bureau of Mines has developed a table, shown in Paragraph 816.65(a)(6), allowing for variations in instrumentation frequency response. Air blast frequency is measured in Hertz (Hz) which is equivalent to cycles per second.

Airblast levels and appropriate measurement instrumentation specifications are presented in the table. The values were derived from structure response data collected by two ongoing Bureau of Mines research projects ("Airblast Assessment and Control" and "Determination of Criteria for Ground Vibration Damage from Surface Mine Blasting"). These two projects are scheduled to be finished October 1, 1978, and there are plans to publish the complete results of both projects in the fall of 1978.

The Bureau of Mines plotted and analyzed hundreds of structure response, ground vibration, and airblast time histories. The Bureau of Mines derived an appropriate airblast vs. ground vibration equivalence, consistent with the latest data on structure response, damage, and tolerable levels. While further analysis is planned on both the currently existing body of data and additonal measurements, the values in the table are believed to represent the latest state-of-the-art in understanding airblast effects on structures and methods of airblast measurement. (Bureau of Mines summaries of this research have been submitted to the Office and are available in the OSM Administrative Record.)

Two independent approaches were used to derive the values in the table. The more rigorous analysis involved determination of the structure response associated with the already recommended 1.0 inch per second ground vibration. Plots were made of the data within four classes: one-story homes, two-story homes, corner responses (structural), and mid-wall responses (non-structural).

The airblast response data were then similarly analyzed, except that the above four categories were each examined for six frequency intervals, including the four included in the table. The results of this series of comparisons were within a narrow range, probably because the two natural frequencies of structure corners and walls are within fairly narrow ranges.

The mid-wall and corner motions could be controlled by peak-flat (0.1-500 Hz) airblasts of 135 to 137 dB-linear, and C-slow maximums of 109-112 dBC. The corner responses, which are related to potential damage, justified a maximum airblast level of 137 dB-linear, when the most disadvantageous combination of structure response to ground vibration and structure response to airblast was considered. Consequently, the use of 135 dB-linear (0.1 Hz) represents a small safety factor over the ground vibration standard of 1.0 in/sec. This factor was needed to reduce human annoyance factors, due to mid-wall motions and associated rattling. C-weighted-slow responses were similarly analyzed with the maximum value of 109 dBC-slow recommended for the same reason.

A second, independent technique was used to analyze the airblast response data, involving displacement-produced strain which is related to cracking in interior walls. Displacement itself is not a good damage descriptor because of its frequency dependence (unlike particle velocity). However, the structure walls and corners have definite frequency ranges, so an analysis was performed to determine the airblast levels associated with the lowest damage case, 0.016 inches maximum wall displacement. For both mid-walls and gross-structure motions (corners), the most strict values were derived by taking the lowest natural frequencies typically encountered, 12 Hz and 6 Hz, respectively. In all cases, the associated airblast damage level for both one and two story homes equaled or exceeded the 135 dB-linear (0.1 Hz) peak linear and 109 dBC-slow, with most values within a few dB of these limits. The compatible results of these two independent analyses lends considerable strength and validity to the results.

The use of the C-slow scale has been recommended by the Committee on Hearing and Bioacoustics Working Group 69 to the U.S.E.P.A.. It is uncertain whether this method is superior to peak-linear but it does provide a logical alternative airblast monitoring system and is under continuing study.

Siskind, 1974 (TPR-78) was based on a few mine blasts and an analysis of a great deal of other data. The values recommended in the table in Section 816.65(a)(6) are slightly stricter than TPR-78, with the 6 Hz value of 130 dBL in the table corresponding to the recommended absolute minimum damage level of 136 dB-linear (5 Hz) of TPR-78. Consequently, these recommendations should not only prevent airblast damage, but also should reduce annoyance factors.

The industry is believed to be capable of meeting the airblast values, if proper blast designs are utilized. This will require additional care by operators with thin parting layers and other confinement problems, as poorly stemmed charges can easily exceed the values specified. Most mining operations and blast engineering consultants have equipment which has flat frequency response down to 5 Hz, and will be designing to meet the 130 dB criterion.

Proposed Section 816.65(a)(6) has been drafted to indicate that any one of the four specified frequency ranges may be used to characterize airblast.

Under paragraph 816.65(a)(7) the Office proposes to condition the use of explosives within specified distances, upon prior approval of the regulatory authority and other relevant entities. The Office is aware that blasting can be conducted safely within the distances set forth in the proposed regulations. However, the legislative history of the Act and technical studies re-

viewed show that significant adverse effects still continue to occur to persons and property at distances both

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viewed show that significant adverse effects still continue to occur to persons and property at distances both within and beyond those limits being proposed. Accordingly, the Office proposes to establish distance limits to protect public health and safety.

The Office has considered arguments that these restrictions conflict with the provisions of Section 522(e) of the Act, because the proposed regulation's distances are more stringent than those of the Act. Subsections 522(e)(4)-(5) of the Act prohibit any coal mining within 300 feet of certain structures and 100 feet of public roads and cemeteries. However, the Office has decided that the blasting distance restrictions do not conflict with Section 522(e), as was recognized in consideration of a similar regulation under the interim regulatory program. *Surface Mining Regulation Litigation*, 11 ERC 1593, 1603, (D.D.C., 1978). As the court held there, the limitation on blasting by distance restriction, coupled with the requirement of prior approval of the regulatory authority, is within the power of the Office to promulgate under Section 515(b)(15), of the Act because it is not an absolute prohibition on mining as is contained in Section 522(e) of the Act.

The proposed blasting distance restrictions are based on several factors. First, is the recognition that Congress was itself specifically aware that blasting damage can extend far beyond a few hundred feet from the site of the blast. Even early versions of the bill recognized that blasting could cause damage far beyond the permit area. Section 515(b)(15) of the 1974 Act limited the type of explosives and detonating equipment based upon the conditions of the site "so as to prevent (i) injury to persons, (ii) damage to public and private property *outside* the permit area. . . ." (Emphasis supplied.) This subsection remained intact in the final bill. See Section 515(b)(15)(C) of the Act.

During its consideration of the bill in the 1977 session, Congress approved a number of amendments to provide greater protection to residents who lived outside the permit area. One of the amendments, later Section 515(b)(15)(E), provided for a pre-blasting survey upon the request of a resident or owner of a structure within one-half mile of the permit area. In expressing his support for this amendment, Congressman Udall said:

> "This problem has been one of the most troublesome for individuals living in such areas. The gentleman offered several amendments to protect homeowners and to provide notice in case of blasting. I think this is a good amendment and strengthens the bill. 123 Cong. Rec. H. 3825 (April 29, 1977)."

Most significantly, during the hearings conducted by the House Subcommittee prior to the passage of the Act, it was indicated that the Congress expressly expected that the Office would promulgate regulations to establish the type of blasting distance restrictions now being proposed and that such restrictions were already being achieved by the industry. During those hearings, one group testifying proposed additions to the draft Section 515(b)(15) of the Act, including an absolute ban on strip mining within 1000 feet of any occupied dwelling, public building, school, church, community center, public park, or cemetery. This recommendation was based on extensive travel throughout the coal fields and findings that blowouts on the sides of highwalls would throw flyrock out on a neighboring community for a distance of about 1000 feet. *Hearings on H.R. 2 before the Subcommittee on Energy and Environment of the House Committee on Interior and Insular Affairs, 95th Cong., 1st Sess.* (1977), Part II at 286–289. Congressman Seiberling, the Chairman of the Subcommittee, indicated that this should be implemented by way of regulation, rather than amendment of the Act. *Id.*, at 293.

That Subcommittee also heard from one of the largest mining industrial groups in the country on the feasibility of these distance restrictions:

> "We have solved the blasting problem in Pennsylvania. We are closely regulated. Our mine inspector has to approve our blasting procedure and the plan on which we are going to notify the people. . . . The State of Pennsylvania has a standard for the maximum size of a blast for strip mining. We are not permitted to exceed that standard. *When we get closer to buildings and homes than 1,000 feet, we often must reduce that standard.*" Hearings, *supra* Part III at 89 (Statement of W. Harger, President, Western Pennsylvania Surface Mine Operators' Association). (Emphasis added).

In addition to Congress' specific expectation that the Office establish specific distance restrictions on blasting, technical studies received by it show that the proposed limits of 1,000 feet from buildings and 500 feet from other facilities are well within the ranges of damage caused by blasting involved in mining. A study performed by a professor of geology at Indiana State University indicated that there was structural damage caused by blasting to 89 percent of the buildings within a 2½ mile radius of the Ayrshire Mine in Warrick County, Ind. John Barnes, 1977. See 123 Cong. on Residential Structures-Ayrshire Mine (*1977*). *See 123 Cong. Rec. 8133 (May 20, 1977).* Vibration damage to natural scenic formations in the West has been noted as far as one-quarter of a mile (1,320 feet) from the site of the blast. (*Grim and Hill*, 1974, p. 93.) Instrumentation currently in use is capable of measuring noise and vibration in order to assess damage from blast vibrations at distances up to 1,000-feet from the blast. (*Siskind and Stachura*, 1977.)

The distance limitation for blasting within 500 feet of an underground mine is expressly required by Section 515(b)(12) of the Act. The Office is soliciting suggestions on the definition of the active workings of a mine for these purposes. It is not the intent of the Office to prohibit blasting from the vicinity of inactive portions of underground mines, in circumstances where there is no risk of danger to life, property or the environment.

Under the proposed regulations, approval of the regulatory authority for waiver of the distance limits would depend primarily upon the results of a preblasting survey or other appropriate investigation. Similar criteria have been previously upheld for the interim regulatory program in *Surface Mining Regulation Litigation*, supra, 11 ERC at 1603.

The Office considered requiring a waiver from affected landowners before mining within the 1,000-foot distance limit would be approved. However, the landowner is believed to be adequately protected by other portions of the blasting regulations, principally by the requirement that the person conducting blasting demonstrate to the regulatory authority that blasting within the 1,000-foot distance limit can and will be done safely.

The Office has proposed a requirement for flyrock limitations and solicits suggestions on this subject. Bureau of Mines contract report J0366017, by Management Science Associates, identifies flyrock as the major cause of in-mine accidents. A further study has been funded to quantify the flyrock problem. The requirement which is being proposed for flyrock limitation would prohibit rock from being thrown outside the mine property boundaries, would prohibit rock from being thrown more than half the distance from the blast to the nearest dwelling, other inhabited structure, or right-of-way, and would prohibit rock from being thrown past the regulated access zone specified in proposed Section 816.65(a)(4).

To prevent injury to persons and damage to structures within and around the area of operations from the effects of ground vibration caused by blasting, the Office proposes to establish a maximum peak particle velocity limitation of not more than 1 inch per second at the immediate location of those structures.

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Blasting causes large amounts of energy to be released in the form of vibrations; that is, shock waves radiating from the site of the blast. It is this shock wave that fragments the rock near boreholes in which explosives are detonated. As the shock waves travel or propagate, they stabilize and become seismic waves. Seismic waves which propagate through the earth are called body waves. Those which propagate along the surface of the earth or travel to the surface and are reflected back into the earth are called surface waves. (Miller (no date)).

These seismic waves displace the rock or soil particles of which the earth is composed, causing these particles to oscillate. Particle velocity defines ". . . how fast a particle or structure is moved by passing seismic waves, measured in inches (millimeters) per second." (Grim and Hill, 1974 page 94). It is the speed at which the passing seismic waves move the ground under structures that determines the likelihood of damage. *Ibid.*

To prevent such damage, the Office proposes to adopt a regulatory scheme whereby the peak-particle velocity would always be limited at a minimum to 1 inch per second. Allowance is also made for the regulatory authority to reduce this limit in particular cases so as to account for certain listed site-specific characteristics. Subsection 816.65(j). Further, to ease in application of the 1-inch per second limit in the field, blasting vibrations would be considered to be within that limit if a distance-to-charge weight, per delay of explosives, formula set out at Subsection 816.65(m) is followed.

The proposed 1 inch per second peak particle velocity limit is based primarily upon Subsection 515(b) (10) and paragraph 515(b)(15)(c) of the Act and a review of technical materials. Those materials reveal a correlation between damage to structures and ground motion, such that the Office believes it necessary to limit particle velocity to a maximum of 1 inch per second to prevent such damage.

The first study considered by the Office was that of Nicholls, 1971. That study represents the culmination of a 10-year study by the Bureau of Mines to analyze the effects of ground vibrations and air blast on structures. In the course of its work, the Bureau conducted its own experiments and reviewed previously published data in order to establish reliable damage criteria. The Bureau concluded that peak particle velocity was more closely associated with damage to structures than any other single measurement. Nicholls, 1971, p. 22. The Bureau recommended 2 inches per second as a "safe vibration criterion", that is, the point at which, in its view, there "appears" to be a reasonable separation between the safe and the damage zones. Nicholls, 1971, p. 23. The Bureau classed 2 inches per second as a "probability type criterion." BOM 656, p. 24. By this it meant that at a peak particle velocity of 2 inches per second the probability of damage was small. The Bureau acknowledged, however, that "the safe vibration criterion is not a value below which damage will not occur and above which damage will occur." *Ibid.*

Because damage still occurred at the 2-inch per second level, according to Nicholls, the Office finds that a 1-inch per second limit is needed. The 1-inch per second level is derived from Figure 3.7 of Nicholls, 1971, p. 25. As that scattergram indicates, 1-inch per second is the point at which damage did not occur.

In addition, OSM believes that the following factors, when weighed with Nicholls, 1971, further support the selection of a 1-inch per second limit. Many of the complex questions involving damage caused by blasting in coal surface mining were not investigated by the Bureau of Mines. Nicholls, 1971, was based not upon blasting in coal surface mining, but blasting in quarries, at construction sites, and mechanical simulations of actual blast vibrations. Conditions unique to surface coal mining justify a more stringent standard.

Generally, surface mining involves greater amounts of explosives, shots of longer duration, and more frequent firing than does quarrying, for instance. Cumulative effects of repeated blasting, even at low peak particle velocities, could increase the severity of the damage caused by blasting. Barnes, 1977. The geology of the blasting site may affect the propagation of seismic waves. Nicholls, 1971, p. 53; Barnes, 1977, at 13. The frequency of waves and their effect upon structures may be an important factor in determining damage caused by blasting. Medearis, 1976, p. 1. Where the frequencies of the ground vibration and the resonant frequency of the structure being vibrated are the same or nearly the same, there is a greater potential for damage. This seems to be the case in surface mining. Medearis, 1976, p. 53. These factors make surface coal mine blasting potentially more damaging than the blasting on which BOM 656 is based.

In addition to Nicholls, 1971, other technical studies reviewed by the Office support a 1-inch per second limit. The study of Barnes, 1976 investigated damage to structures in the vicinity of surface coal mining operations in Indiana and primarily used the number, length and width of structural cracks as indication of damages. This was essentially the same methodology as was employed by Nicholls and the studies reviewed in Nicholls, 1971. Barnes' observations show that blasting at 2 inches per second may cause damage. Barnes, 1976, at 12.

Ashley and Parkes, 1976 is a study of problems encountered by two British companies in constructing tunnels in urban areas. For protection of property in good repair, those authors recommend a 1-inch per second standard. In addition to technical studies, the Office also notes that at least one of the largest coal producing States adopted a 1-inch per second standard to regulate surface coal mine blasting prior to enactment of the Act. 25 *Pa. Code* Section 211.45.

Compliance with a peak particle velocity of 1, rather than 2 inches per second, involves only the reduction in the maximum weight of explosives in pounds per millisecond delay period. It does not require the installation and use of additional special control equipment. Information provided to the Office by one industry member and an engineering firm indicate that mining operations can be consistently conducted within the 1-inch per second limit. Comments of Old Ben Coal Company, 1978 (112 of 155 blasts had a velocity of less than *0.5* inch per second); Comments of Research Energy of Ohio, Inc. 1978.

Under the proposal, achievement of the 1-inch per second limit may, in general, be made in either of two ways. First, blasting will be deemed to be in compliance with the 1-inch per second limit if conducted according to the standard equation at Subsection 816.65(m). As an alternative, seismograph measurements can be used to establish that blasting is conducted without exceeding the 1-inch per second limit.

The first alternative, use of a standard equation, is based upon a standard formula for determining the weight of explosives that, if detonated at intervals of 8 milliseconds or longer, will not cause peak particle velocities to exceed 1-inch per second at specified distances. This formula was derived from a special study done for the Office by the Bureau of Mines which is available for public inspection in the Washington office and copies of which will be made available for inspection upon request at the regional offices.

Coal mine blast vibration data were analyzed and the scale factor of 60 was derived empirically. The scale factor is defined as the distance from the blast to the structure of interest, divided by the square root of the maximum weight of explosive fired per delay. The table in proposed subsection 816.65(m) correlates the distance and charge weight needed for a scale factor of 60. The table distances are minimum distances which must be maintained between the blast and a

structure for the given charge weight. For instance the distance 300, divided by the square root of 25, the charge weight, equals a scaled distance of 60.

The regulation in proposed subsection 816.67(b), would provide for the use of a lower scaled distance, upon approval of the regulatory authority, if the mine operator can prove, through submission of blasting reports including seismograph records, that this lower scaled distance will not produce vibrations greater than 1 inch per second. Nicholls, 1971 determined that a scaled distance of 50 would protect against vibrations greater than 2 inches per second. The Bureau of Mines study done for the Office determined that the scaled distance of 60 would protect against vibrations greater than 1 inch per second.

A millisecond is 1/1000 of a second. A millisecond delay between explosions is used to prevent vibrations produced by two explosive charges from reinforcing each other and producing higher vibration levels. Nicholls, 1971, determined that a delay interval of 8 milliseconds or greater will prevent such reinforcement. The Office considered raising this minimum delay interval to 17 milliseconds, based on *An Investigation into Delay Blasting*, 1975, the University of Maryland, which showed that delay electric blasting caps can have significant errors in firing time. However, the delay electric blasting caps manufactured by duPont, Atlas, and Hercules, the only domestic manufacturers, all have minimum delay intervals of 25 milliseconds, which will prevent vibration reinforcement even with these inaccuracies. When detonating cord delays are used, they are initiated in a series sequence one after the other. Therefore, the likelihood that two 8 millisecond detonating cord delays will fire within a short enough time period to significantly reinforce each other is very small.

Extending the delay interval to 17 milliseconds would introduce a hazard. Because the delay elements are initiated sequentially on the ground surface, some charges will detonate before all the initiators in a blast have been activated. This increases the possibility of differential burden movement which will separate the charge in the blasthole. This results in undetonated explosive being left in the burden after blasting. This undetonated explosive is prone to detonation by the subsequent activities of heavy equipment. In view of the foregoing discussion, the 8 millisecond delay interval has been retained.

Under the alternative method of implementation of the 1-inch per second limit, seismographic measurements could be used. This could be done in two ways. First, seismograph records of every shot would be obtained. Proposed subsection 816.67(a). Second, seismographs would be used to develop sufficient data to establish that use of a modification to the standard weight-distance equation of Subsection 816.65(m) would still result in compliance with the 1-inch per second limit. Proposed subsection 816.67(b). The latter provision is based on recognition that there may be peculiarities of certain site-specific factors warranting a change from use of the standard equation. All such changes would, however, be first approved by the regulatory authority. If deemed necessary, the regulatory authority could require a seismograph recording of all blasts.

As an additional safeguard, the Office is also proposing an additional peak-particle velocity ground motion limitation on blasting. Subsection 816.65(n). This requirement would prevent structures and persons from being subjected to excessive vibrations which approach steady state. Human beings are known to be more disturbed by steady state vibrations than by brief, impulsive type vibrations. Structures are also more responsive to steady state vibrations, especially when the frequency of the vibration approximates the resonant frequency of the structure.

The Office is also soliciting suggestions on the use of surface delay systems in conjunction with in-hole delays, either electric or nonelectric. Combinations of surface and in-hole delay systems result in more scatter or randomness in initiator firing times. However, in many instances these systems have proved to be very useful in reducing ground vibrations. The Office feels that these systems should be used only where blasting reports, accompanied by seismograph records, demonstrate that a particular delay pattern will not produce peak particle velocities greater than 1 inch per second.

As was discussed above, in conjunction with the 1-inch per second ground motion limit under Section 816.65, the Office proposes to allow the use of seismographs as an alternative to the standard explosives weight-distance formula. It is also proposed under Section 816.67, that the regulatory authority may require persons engaged in blasting to make seismographic recordings, even if the standard formula is being adhered to. This authority is provided to insure that the standard formula factors are effective for limiting ground motion from blasting in all relevant situations and for identifying those cases where additional precautions are needed to preclude damage or injury to the public and the environment from blasting.

Seismograph records may be used to establish the validity of using a modified equation to limit ground vibrations to 1 inch per second. If this proposed Section is adopted, upon receipt of a petition accompanied by appropriate blasting reports and seismograph records, the regulatory authority could approve the use of a scaled distance less than 60 if it has been shown that the reduced scaled-distance will not result in vibrations greater than 1 inch per second. The requirement that the seismograph record contain a calibration signal of the gain setting is to assure that the gain setting used in calculating the vibration level is identical to that used during the recording process.

§ 816.71–816.73 Disposal of excess spoil.

Spoil disposal practices in surface mining over the years have had a major impact on the environment and represented a significant hazard to life and property. The requirements set forth in these Sections of the proposed regulations protect life, property, and the environment by establishing criteria for proper disposal of fill material to achieve adequate drainage control and stability. The requirements in the interim program performance standards are proposed to be broadened to include alternatives of utilizing the West Virginia method of rock core drainage. The use of this method has been controversial it is highly touted in practice by operators, and eyed somewhat skeptically by the engineering profession.

Authority for these proposed Sections is found in Sections 102, 201, 501, 503, 504, 507, 508, 510, and 515 of the Act.

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16. Department of Energy, Mines and Resources, Canada, *Pit Slope Manual—Chapter 9—Waste Embankments* CANMET Report 77-01; Mining Research Laboratories, 1977.

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Slope protection and vegetation of

quence, endangering the structural integrity of the embankment. The rock underdrain fill construction is de-

Hopkins et al., 1975; Huang et al., 1975; Lambe and Whitman, 1969; Leggett, 1962; Leonards, 1972; National

that the spoil density specified in the design certified by a registered professional engineer is being attained

the Act. These rules covered the disposal of spoil from surface mining in areas other than mine workings or ex-

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Applicable State and Federal laws comparable to or containing similar requirements include but are not limited to:

1. 30 USC 801, MSHA regulations
2. 33 USC 1151-75 Water Pollution Control Act
3. Chapter 20, Article 6 *West Virginia Code*—"Surface Mining and Reclamation Control Act"
4. Chapter 20 Article 6C, *West Virginia Code*—"The Coal Refuse Disposal Control Act"
5. "Pennsylvania Clean Streams Law," 35 *Pa. Stat. Anon*, Sec. 691.1 *et seq.*
6. "Solid Waste Management Act," 35 *Pa. Stat. Anon*, Sec. 6001 *et seq.*
7. Title 25 *Pennsylvania Code*, Chs. 95, 97, 101, 125.
8. Ch. 20 Art. 5, *W.Va. Code*, "Water Pollution Control Act"
9. 40 CFR 136. "Protection of the Environment"

Proposed Section 816.71 requires controlled placement utilizing current prudent engineering practices utilized in embankment construction for all types of permanent fills.

Maintaining stability protects the public and the environment from the adverse results of failure. Compatability with surroundings and the approved postmining land use minimizes the adverse effects of mining as required in the Act. American Society of Civil Engineers, 1977; Tromson, 11972; DOE, 1977, 1978; Eliassen, 1969, Greer, 1960; Grin, 1974; National Coal Board, 1970; Skelly and Loy, 1977; Weight, 1966; West Virginia DNR, 1975; and Wood, 1976.

Proper engineering practices require that all organic material be removed to allow for proper foundation preparation before fill placement, and to prevent the existence of weak, unstable zones within the embankment. Topsoil must be stockpiled for later use as required by the American Society of Civil Engineers, 1977; American Society of Civil Engineers, 1972; Bishop, 1973; DOE, 1977; Greer, 1960; Havers, 1971; Huang, 1978; Kimble, 1974; Lambe, 1969; Leonards, 1962; National Coal Board, 1970; USSCS, 1969; Taylor, 1948; Terzaghi, 1967; USBOR, 1973; US Corps of Engineers, 1971; USDA, (no date); USDOI, 1976; USN, 1963; West Virginia DNR, 1975; and Wood, 1976.

Slope protection and vegetation of all unprotected areas should be provided contemporaneously with construction, consistent with standard maintenance procedures for permanent structures under construction. Adams, et al., 1974; Bonny and Frein, 1973; Brundage, 1974; BOM, 1973; Capp, et al., 1975; Capp and Gillmore, 1974; Capp and Adams, 1971; Charmbury and Chubb, 1973; Coalgate et al., 1973; Czapowskyj and Writer, 1970; Czapowskyz and Sowa, 1973; Davidson, 1974; Dean, 1972; Dean and Havens, 1971; Department of Energy (Canada), 1972; D'Appolonia, 1975; Eigenbrod, 1971; Eliassen, 1969; James, 1966; Jones et al., 1973; Leroy, 1972; National ASN Association, 1972; National Coal Board, 1970; Peterson and Geshwind, 1973; Riley and Rinier, 1972; SCS, 1974; Sorrell, 1974; Spirik, 1973; Thompson and Hutnik, 1971; Welsh and Hutnik, 1972; White et al., 1973; and Wood and Thiegood, 1955.

The prohibition against depressions or impoundments is proposed to preserve the structural integrity of the fill by limiting sources of water introduced into the embankment.

Limiting the use of terraces to sites where approved by the regulatory authority as necessary to control erosion or enhance stability is proposed to maintain embankment outslopes compatible with the surroundings.

The use of keyway cuts and buttresses is intended to increase the stability of the embankment where steep foundation conditions necessitate special treatment to resist the sliding movement created by the weight of the fill. Bishop, 1973; Chirionis, 1972, Curry, 1977; DOE, 1977; Huang, 1978; Lambe, 1969; Leggett, 1962; National Coal Board, 1970; Skelly and Loy, 1977; SCS, 1969; Taylor, 1948; Terzaghi and Peck, 1967; USBOR, 1973; U.S. Corps of Engineers, 1971; USN, 1963; Weigle, 1966; and Wood, 1976.

To monitor potentially hazardous changes effectively, frequent inspections are mandatory. The proposed inspection procedure is standard for embankment construction, both in content and frequency. The procedures for maintaining records of inspection, notification of the regulatory authority, and certification of the construction by a registered professional engineer provides quality control records which indicate the close scrutiny necessary to provide for proper construction. (See 30 USC 77.215-3; WV Code; PA Code.)

Proposed Subsection 816.71(l) requires subdrain networks which allow for control of all ground water beneath a disposal area. Lack of control can result in ground water saturating portions of the fill and, as a consequence, endangering the structural integrity of the embankment. The rock underdrain fill construction is designed to keep water from infiltrating into the body of the fill.

The proposed Subsection 816.71(n) requires that the foundation be analyzed to assure the site is or can be utilized without danger of foundation problems during or after construction. Improper foundation treatment could lead to instability and variance from the purpose of the Act. American Society of Civil Engineers, 1977; American Society of Civil Engineers, 1969; Bishop, 1962; Dept. of Energy (Canada), 1972; D'Appolonia, 1975; Forrester and Whittaker, 1976; Hvorslev, 1948; Lambe et al., 1969; Leggett, 1962; Leonards, 1962; National Coal Board, 1970; Taylor, 1948; Terzaghi & Peck, 1967; Terzaghi, 1943; USDOI, 1976; USDOI, 1968; U.S. Navy Bureau of Yards and Docks, 1963; Wood et al., 1976; Thomson et al., 1972; and Department of Energy (Canada), 1977.

Proposed Section 816.72 requires that valley fills shall have a minimum static factor of safety of 1.5. Reduced factor of safety requirements for remote areas were considered as alternatives, but the size and variability of sites and the potential for significant environmental harm negated the validity of the alternative. The 1.5 safety factor was chosen over lower values to insure an adequate margin of safety. A 1.5 safety factor is standard engineering practice for structures located where failure could cause loss of life, property damage, or significant environmental harm. American Society of Civil Engineers, 1977; ASCE, 1969; Bishop, 1973; Bishop 1955; DOE (Canada), 1972; D'Appolonia, 1975; Lambe and Whitman, 1969; Nat. Coal Board, 1970; Taylor, 1948; Terzaghi & Peck, 1967; Terzaghi, 1943; USDOI, 1976; U.S. Navy, 1963; Wood, 1976; Thompson et al., 1972; and DOE (Canada) 1977.

Proposed Subsection 816.72(b) outlines subdrain requirements. The main rock underdrain is constructed to provide passage for water infiltrating the fill. It is a common, accepted engineering and construction practice never to allow surface water to infiltrate a soil mass and to minimize the hydrostatic pressure within the fill. Lateral interceptors ensure collection and transport of all major sources of ground water beneath the disposal area.

The prerequisite for drains in areas of actual or projected seepage implements requirements in Section 515(b)(22)(C) of the Act and parallels standard engineering requirements. American Society of Civil Engineers, 1977; American Society of Civil Engineers, 1972; Ceceigren, 1967; Chassie and Goughnour, 1976; Chironis, 1977; DOE, 1977; Green and Raney, 1975;

Hopkins et al., 1975; Huang et al., 1975; Lambe and Whitman, 1969; Leggett, 1962; Leonards, 1972; National Coal Board, 1970; Skelly and Loy, 1977; SCS, 1969; SCS, 1974; SCS, 1975; Taylor, 1948; Terzaghi and Peck, 1967; Terzaghi, 1943; USBOR, 1973; U.S. Corps. of Engineers, 1971; U.S. Corps of Engineers, 1952; USN, 1963; Weigle, 1966; West Virginia DNR, 1975; and Wood, 1976.

Filters must be provided which are compatible with the fill, the foundation, and each other. This is a standard engineering criterion which premises the potential for blockage of drains by migration of fine materials.

The sizing criteria are derived from standard drain design in texts and publications, and from performance of actual drains in the field. American Society of Civil Engineers, 1977; American Society of Civil Engineers, 1972; Cedergren, 1967; Chassie, 1976; Chironis, 1977; DOE, 1977; Greene and Raney, 1975; Hopkins, et al., 1975; Huang, 1975; Huang, 1978; Lambe 1969; Leggett, 1962; Leonards, 1962; National Coal Board, 1970; Skelly and Loy, 1977; SCS, 1969; SCS, 1974; SCS, 1975; Taylor, 1948; Terzaghi, 1967; Terzaghi, 1943; USBOR.

Subdrain material must be durable to prevent degradation which could lead to blockage and subsequent failure. This is a standard design criterion for drain design and construction. Astin, 1976; Cedergren, 1967; DOE, 1977; Lambe, 1969; Lambe, 1951; Leonards, 1962; SCS, 1969; SCS, 1975; Taylor, 1948; Terzaghi and Peck, 1967; USBOR, 1973; U.S. Corps of Engineers, 1952; USDA (no date); and USN, 1963.

The proposed 18 inch lift requirement is based on additional information which has been gathered on the process of constructing earth-fill structures in a series of horizontal lifts. This information shows that a variety of lift thicknesses was required for fill construction by different methods and contractors. The more conservative requirements allowed lifts only a few inches thick between compactions, the less conservative allowed up to 6 feet. Most authorities agreed that it was the compaction and removal of pore spaces that was important for fill stability. Because the agencies authorizing the construction of earth-fill dams and groins, both of which have possible failure consequences similar to those of fills, require lift thicknesses of 3 to 8 inches and because the agencies have extensive experience and emperical evidence for their decisions, the Office has proposed an 18 inch change of the rule on lift thickness, which varies from the interim program regulations which require 4 foot lifts. If the operator can show by continuous in place density monitoring that the spoil density specified in the design certified by a registered professional engineer is being attained throughout each lift thickness employed, thicker lifts will be allowed not to exceed 4 feet in thickness. American Society of Civil Engineers, 1977; American Society of Civil Engineers, 1972; Astin, (no date); Bishop and Henkel, Goughnour, 1976; Chironis, 1977; Thomson and Podon, 1972; Cummins et al., 1965; Curtis, 1973; Depaid, 1974; DOE, 1977; Denevich et al., 1976; Holtzard Gibbs, 1956; Hvorslev, 1948; Huang et al., 1975; Huang, 1978; Kimble, 1974; Lambe, 1969; Lambe, 1951; May, 1963; Meyerhof, 1970; Superfesky and Williams, 1978; Taylor, 1948; Terzaghi and Peck, 1967; Terzaghi, 1943; USBOR, 1973; U.S. Corp of Engineers, 1971; USN, 1963; and Weigle, 1966; Grim and Hill (1974); Skelly and Loy (1978).

Diversion of runoff is required to prevent the erosion of a coal processing waste disposal area, or other water which could decrease the overall stability of the site. A 6-hour duration storm was considered, but the 24-hour storm produces a peak substantially larger in total volume than the 6-hour hydrograph. American Society of Civil Engineers, 1969; Corps of Engineers, 1952; Department of Energy (Canada), 1972; D'Appolonia, 1975; Good et al., 1970; Leonards, 1962; Marks, 1975; SCS, 1969; SCS, 1975; Terzgaghi, 1967; USDOI, 1976; U.S. Navy Bureau of Yards and Docks, 1963; and West Virginia Department of Natural Resources, (no date). Brater and King, 1976; Chow, 1959; Davis and Sovenson, 1969; Department of Energy (Canada), 1972.

The proposal to allow terraces is intended to break the length of the slope, thus allowing the water to maintain low, nonerosive velocities. All slope values proposed are standard slopes for fill construction which are flat enough to limit or retard erosion. American Society of Civil Engineers, 1972; Chironis, 1977; Aury, 1977; Eliassen, 1969; Greene, 1960; Greene, 1975; Grim, 1974; Kimble, 1974; SCS, 1969; USDA, (no date); and West Virginia DNR, 1975.

A maximum 2:1, 1v:2h outslope limitation is proposed, as also specified by MSHA in 30 CFR 77.214. This slope reflects combinations of accessability and stability.

Proposed Section 816.73 contains the requirement for placing spoil fills in the uppermost reaches of the drainage area to reduce the size of drainage areas necessary to be controlled. The rock-core chimney drain allowance was based on the following course of events. On December 13, 1977, final rules were adopted for the interim surface mining reclamation and enforcement program developed pursuant to the Act. These rules covered the disposal of spoil from surface mining in areas other than mine workings or excavations, and specifically authorized the rock underdrain system of fill construction. Following adoption of rules, the Office received petitions for change of the Federal rules affecting head-of-hollow fills. The Office instituted an investigation of the allegations of the petitions, which result in these proposed revisions of the earlier rules.

Petitions from the State of West Virginia and from coal mine operators in that State alleged that the Office was being too narrow in defining only one construction method for building head-of-hollow fills. They claimed that the "rock-core system" authorized in West Virginia provided as much, or more, protection as the "rock-underdrain system" in the interim program. Several professional engineers have expressed concern with long-term clogging of the rock core by fine-grained sediment in the drainage and in some cases piping (internal erosion) caused by the flow of water within the fill which could lead to instability and potential failure of the fill. To date the Office is not convinced that rock core fills are potentially less stable than the rock underdrain fills. However, it may be that the total rock core described in the West Virginia method is not necessary.

Some engineers have expressed doubt that the rigorous West Virginia construction requirements could be adequately monitored in a State that was just beginning a strict inspection program and that inadequate engineering practices would be more likely to result in failure in the rock core system. It is critical that the rock core maintain its permeability throughout. If one impermeable section is placed or if a section becomes impermeable, the result could be disastrous. On the basis of the investigation, the office is proposing a permanent program revision to the regulations permitting the rock core system of head-of-hollow fills to be used at the discretion of the regulatory authority with adequate inspection and supervision. At the same time, the Office is instituting a formal study through the National Academy of Engineering to investigate, in depth, the potential for failure of the types of head-of-hollow fills.

The rock-core drain system is designed to direct water falling on the surface of the fill to a central rock core by means of surface grading. The rock core extends from the toe to the head of the fill and from the base to the surface of the fill. A system of lateral underdrains will dispose of water from seeps emerging beneath the fill. Filters are provided for the core and subdrains. A drainage pocket of less

than 10,000 gallon capacity at the head of the fill is designed to handle

complete reliance upon MSHA regulations for mines beyond the 500-foot limit. This alternative was rejected be-

Quality Conference, Washington, D.C., June 7-9, 1971, 14 pages.

9. Bishop, A. W., and Henkel, D. J.,

25. Coalgate, J. L., et al "Gob Pile Stabilization, Reclamation, and Utilization," Office of Coal Research, Research and Development Report No. 84, Interior Vol. III, Recovery, Processing, Communication, Contract No. 14-01-0001-450, Department of the Interior, Mining Enforcement and Safety Administration, Contract No. S0133042, 1973.

55. Hebley, H. F., "Control of Gob Pile Fires," Proceedings, 48th Annual Meeting, Air Pollution Control Associ-

than 10,000 gallon capacity at the head of the fill is designed to handle surges from heavy runoff conditions.

The major advantage of the rock core construction appears to be its ability to cope with long-term differential settlement of the fill that results in a surface grade toward the center of the fill, where settlement is usually greatest. In areas where such settlement is unavoidable, the regulatory authority might specify rock core drains as the construction method; in other areas, diversion of the water from the fill might be the preferred construction method. Other criteria such as side hill conditions, shot spacing, or haulage methods could affect the design of the fill. For both cases, the key to preventing erosion is adequate design and construction of diversion and surface drainage systems. In all cases, only the precipation that falls on a fill may run over it. The path such precipitation travels should be the one that minimizes erosion. Lateral interceptors ensure collection and transport of all major sources of ground water beneath the disposal area. This is a standard design criterion for drains and may be found in numerous soil mechanics and engineering references. Greene and Raney, 1975; Skelly and Loy, 1977, 1978; and West Virginia DNR, 1975. In no case may a rock core method be used where there is drainage from above the fill.

§ 816.79 Protection of underground mining.

Proposed Section 816.79 is intended to protect the health and safety of miners working in surface and underground mines adjacent to each other and to assure that economically feasible underground mining is not foreclosed by nearby surface mining activities, causing both a loss of resource recovery and possible environmental degradation.

This Section is proposed under the authority of Sections 102, 201, 501, 503, 504, 515, and 516 of the Act.

As specified in Section 515(b)(12) of the Act, proposed Section 816.79 would create a 500-foot separation of surface mining activity and underground mine workings. Variances from this distance would be left to the discretion of the regulatory authority, the Mine Safety and Health Administration (MSHA) and any appropriate State safety agency. An alternative considered was specifying unique situations where the proximity limitation would be waived, such as recovery of partially mined coal deposits in danger of wastage through mine fires. The Office believes that each case would be different enough to thwart the utility of an extended list of special cases; thus this alternative was rejected. A second alternative considered was the complete reliance upon MSHA regulations for mines beyond the 500-foot limit. This alternative was rejected because the drafters believe that a joint decision on close proximity of surface and underground mining is warranted due to the different mandates of OSM and MSHA.

§§ 816.81–816.88 Coal processing waste.

The increased production of waste from mechanized mining and recent waste structure failures underscore the need for regulation of the siting, construction and reclamation of coal waste piles.

The proposed regulations represent an extension of the Mine Safety and Health Administration (MSHA) regulations on coal refuse under 30 CFR 77.214–77.215 and the current practices of standard engineering.

In addition to disposal under these sections, the proposed permanent program regulations would allow disposal of coal processing waste in fills (proposed paragraph 816.71(k)(1)) and in and behind (proposed Sections 816.91–816.93).

Proposed sections 816.81–816.88 are authorized in the act in sections 102, 201, 501, 503, 504, 506, 507, 508, 510, 515, and 517.

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2. Andreuzzi, F. C., "A Method for Extinguishing and Removing Burning Coal Refuse Banks," IC8485, Bureau of Mines, U.S. Department of the Interior, 1970.

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18. Capp, J. P., and Gillmore, D. W., "Fly Ash From Coal Burning Power Plants: An Aid in Revegetating Coal Mine Refuse and Spoil Banks." First Symposium on Mine and Preparation Plant Conference, National Coal Association, Washington, D.C., October 22–24, 1974, pp. 200–211.

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State and Federal legislation containing similar requirements include:

(1) *30 USC 801* Section 77.214 "Refuse piles".

(2) *30 USC 801* Section 77.215 "Refuse piles; construction requirements".

(3) *33 USC 1151-1175* The Federal Water Pollution Control Act.

(4) Chapter 20 Article 6C, "West Virginia Code", "the Refuse Disposal Control Act."

(5) "Pennsylvania Clean Streams Law", 35 Pa. Stat. Anno. Sec. 691.1 et seq.

(6) "Solid Waste Management Act", 35 Pa. Stat. Anno., Sec. 4001 et seq.

(7) "Pennsylvania Air Pollution Control Act" 35 Pa. Stat. Anno., Sec. 4001 et seq.

(8) Title 25 "Pennsylvania Code", Chs. 95, 97, 101, 125.

(9) Ch. 20 Art. 5, "W.Va. Code", "Water Pollution Control Act."

(10) Ch. 63 "W.Va. Code"; and Amended under Ch. 13, W.Va. Code "W.Va. Air Pollution Control Act".

Controlled placement requirements reflect the current prudent engineering practices utilized in embankment construction for all types of permanent fills. The requirements of proposed Sections 816.71-816.72, incorporated by reference in these proposed Sections, are discussed in an earlier portion of the Preamble. See also Bonny and Frein, 1973, Bureau of Mines, 1973; Comptroller General of U.S. (acting) 1977; Department of Energy (Canada), 1972; D'Appolonia, 1975; D'Appolonia, 1973; Eliassen, 1969; Greer, 1960; Glouee, 1971; Governor's Ad Hoc Committee of Inquiry—West Virginia, 1972; Moulton, 1973; National Coal Board, 1970; U.S. Department of Commerce, 1976; U.S. Department of Interior, 1973; Wood, et al. 1976; Thomas, et al, 1972; and Department of Energy (Canada), 1977.

Allowances made for waste coming from operations outside the permit area under proposed subsection 816.81(b) conforms to practices currently utilized in the industry, and minimizes the number of disposal areas and the subsequent disturbances resulting therefrom.

Inspections are required under Section 816.82. They assure observance of any physical changes which may occur that are or could be detrimental to the integrity of the site, and potentially hazardous to life, property, or the environment in the vicinity of the site. The inspection frequency was chosen because of the large amounts of refuse being produced at any mine or group of mines which consequently leads to rapidly changing configurations of each disposal area. To effectively monitor these changes frequent inspections are mandatory. The inspection procedure is standard for embankment construction, both in content and frequency. Bonny and Frein, 1973; Clough, 1972; Comptroller General of the U.S. (acting), 1977; Dept. of Energy (Canada), 1972; D'Appolonia, 1975; National Coal Board, 1970; U.S.D.O.I., 1975; and Wood, et al., 1976.

The proposed procedures for maintaining records of inspection and notification of the regulatory authority in potential or imminent emergency situations would allow for frequent monitoring or formulation of remedial action in a potentially hazardous condition, and for the instituting of emergency action and subsequent safeguarding of life, property and the environment.

Proposed Section 816.83 addresses required water control measures. Subdrain networks allow for control of all groundwater beneath a disposal area. Lack of control can result in groundwater saturating portions of the fill and as a consequence, endangering the structural integrity of the embankment. Alternatives to properly designed subdrains such as randomly dumped, uncontrolled drains, were considered. The need for permanent drains in a permanent fill, designed to function with a minimum probability of failure, overrode the simplistic approach of undesigned drains. America Society of Civil Engineers, 1969; Cedergren, 1967; Coalgate, et al., 1973; Corps of Engineers, 1952; Department of Energy (Canada), 1972; D'Appolonia, 1976; Harr, 1962; Leonards, 1962; USDOI, 1973; and West Virginia Department of National Resources, (no date).

Coal processing waste is to be placed in lifts not to exceed 8 inches and compacted to a dry density no less than 90% of Standard Proctor. All embankment construction projects must utilize standards. The lift thickness required was determined to be the most suitable for use in placement of coal processing waste without compromising the norms of engineering practice. The 8 inch lift was the accepted alternative over other lift thicknesses because of the type of equipment normally utilized in coal processing waste disposal operation, e.g., bulldozers cannot compact effectively lifts any thicker than 8 inches. The 90 percent Proctor requirement assures prevention of combustion by airflow reduction through the voids.

The Proctor density requirement serves several purposes. It:

(a) Acts as an easily measured standard throughout the industry;

(b) Allows for achievement of a density suitable for long-term stability;

(c) Assists in retarding the movement of airflow, this preventing combustion;

(d) Achieves a surface resistant to significant erosion; and

(e) Accommodates a greater amount of waste in a smaller area.

The extra space for disposal gained by controlled placement tends to outweigh any other alternatives, and is in direct agreement with the intent of the Act to limit areas disturbed by mining. ASCE, 1977; ASCE, 1969; ASTM, 1965; Bishop, 1962; Bishop, 1973; DOE (Canada), 1972; D'Appolonia, 1975; D'Appolonia, 1976; D'Appolonia, 1973; Eliassen, 1969; Geer, 1960; Glover, 1971; Havers and Stubbs, 1971; Lambe and Whitman, 1969; Lambe, 1951; Moulton, 1973; Nat. Coal Board, 1970; Pettibone and Vealv, 1971; SCS, 1969-a; Taylor, 1948; Terzaghi & Peck, 1967; Terzangni, 1943; USDOC, 1976; USDOI, 1973; USDOI, 1976; USDOI, 1974; USDOI, 1975; USDOI, 1968; U.S. Navy, 1963; Wood et al., 1976; Thomson et at., 1972; and DOE (Canada), 1977.

Covering of graded portions of the processing waste disposal area:

(1) Promotes vegetation;

(2) Seals the fill from percolation of surface runoff and further retards airflow;

(3) Keeps reclamation current with construction; and

(4) Limits runoff of water which may otherwise carry materials not in balance with effluent standards.

Alternative thicknesses to the 4-foot standard selected were considered for suitable material cover, but were not supported from past practices or the literature. A proposal for strict requirement of soil only in the cover was rejected due to literature identifying other suitable cover types and sites where availability of soil was a problem. Adams et al., 1974; Beundage, 1974; Calhoun, 2968; Capp et al., 2975; Capp and Gillmore, 1974; Coalgate et al., 1973; Czapowskyj and Writer, 1970; Czapowskrj and Sowa, 1973; Davidson, 1974; Dean and Havens, 1972; Dean and Havens, 1971; DOE (Canada), 1972; D'Appolonia, 1975; Eigenbrod, 1971; Glover, 1971; James, 1966; Jones et al., 1973; Leroy, 1972; Nat. Coal Board, 1970; Peverson and Gschwind, 1973; Sorrell, 1974; Spirik, 1973; Thompson and Hutnik, 1971; Welsh and Hutnik, 1972; White et al., 1973; and Wood and Thirgood, 1955.

Proposed Section 816.86 relates to burning waste. Numerous accidents and deaths in operations in and around burning coal waste necessitate extreme caution when dealing with fire control or other operations to safeguard life, property and the environment. Comp., Gen. of U.S. (acting), 1977; DOE (Canada), 1972; D'Appolonia, 1975; Governors Ad Hoc Comm.

of Inquiry-West Virginia, 1972; Harrington and East, 1948; Hjeblex, 1950; Hodges, 1962; and McNay, 1971.

Literature used in the preparation of the requirements for the disposal of noncoal wastes include:

volume criteria. Those provisions regulate structures to protect miners on mine property, whereas proposed Sec-

9. Bishop, A.W., "The Use of the Slip Circle in the Stability Analyses of Slopes," *Geotechnique*, 1955.

26. Corps of Engineers, "Spillway and Freeboard Requirements for Dams", U.S. Dept. Army, 1975.

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of Inquiry-West Virginia, 1972; Harrington and East, 1948; Hjeblex, 1950; Hodges, 1963; and McNay, 1971.

The list of fire-extinguishment methods used in the Section is not intended to be exhaustive. Literature supporting these methods includes references: Andreuzzi, 1970; Barber, 1972; Coalgate et al., 1973; DOE (Canada), 1972; Dixon, 1967; D'Appolonia, 1975; Harringon and East, 1948; Hebley, 1955; Hebley, 1948; Hebley, 1950; Hebley, 1956; Henderson, 1969; McNay, 1971; Magnuson and Baker, 1974; and Russell, 1964.

Proposed Section 816.87 would allow utilization of "reddog" after approval by the regulatory authority of plans submitted by a qualified engineer. Reddog removal operations have historically been plagued by dust explosions, cut high-wall collapses, loss of equipment and personnel into voids resulting from volume change during burning, etc. The intent of this Section is to protect the operator and persons surrounding areas from these hazards, while also requiring reclamation and other operational procedures consistent with the Act.

Prohibition of the use of coal processing waste offsite without the specific approval of the regulatory authority, limits the use of reddog to those areas where it will not affect the health and safety of the public, or degrade the environment, in keeping with Section 102 of the Act.

Proposed Section 816.88 requires that waste disposal underground must be approved by the regulatory authority and conducted in accordance with a proper plan. This allows for some elimination of above-ground areas and potentially from abatement of subsidence related problems. A plan is required to protect the operator from dangerous situations which might arise in placement of waste into old mine workings and also to insure the operation could not affect the environment by creating down-dip discharges into adjacent watersheds or ground water systems. D'Appolonia, 1975; Glover, 1971; and NAS, 1975.

§ 816.89 Disposal of noncoal wastes.

This proposed Section specifies requirements for the procedures to be followed in disposal of noncoal wastes generated from surface coal mining operations. The utilization of these procedures will minimize environmental degradation caused by improper disposal procedures.

The term "noncoal waste" is used instead of the more general term "residual materials." This was done in an attempt to define more specifically the type of waste described in this Section.

The authority for this proposed Section is found in Sections 102, 201, 501, 503, 504, and 515 of the Act.

Literature used in the preparation of the requirements for the disposal of noncoal wastes include:

1. Brunner, D.R., and Keller, D.J., "Sanitary Landfill Design and Operation," SW-65c, U.S. Environmental Protection Agency, 1972.

2. Sorg, T.J., and Hickman, H.L., Jr., "Sanitary Landfill Facts," SW-4ts, U.S. Department of Health, Education, and Welfare, 1970.

Many types of noncoal wastes are generated from coal mining operations. Specific attention must be given to these solid wastes in order to minimize surface and ground water pollution. Environmentally acceptable methods for the disposal of noncoal wastes include sanitary landfills and industrial waste disposal procedures. Although unlikely, noncoal wastefills can catch on fire (Sorg and Hickman, 1970, page 24). The need exists to maintain an earthen barrier between the disposal site and any coal to minimize any chance of a fire in the coal.

Several options for the handling and disposal of noncoal wastes were considered. First, the alternative of requiring that all such wastes be disposed of on the minesite was considered and rejected on the grounds that environmentally sound offsite disposal should not be precluded.

Another alternative which was reviewed concerned the utilization of surface mines for approved centrally located sites for disposal of noncoal waste by other mines, other industries, and even municipalities, in areas where suitable physiographic and hydrologic conditions did not provide sufficient alternative disposal sites. The proposed regulations do not specifically address this issue, and public comment is solicited on the appropriateness of opening minesites to outsiders for dumping. Commenters should address both the appropriate regulatory scheme to be established and the kinds of expertise the Office would need to develop and adequately enforce the controls imposed.

§ 816.91-816.93 Coal processing waste: dams and embankments.

Recent dam failures have sparked a movement nationwide to evaluate the hazard potential presented by dams. The proposed Sections 816.91-816.93 are intended to prevent the instability and failure of coal processing waste dams leading to excessive sedimentation of surface water systems, contamination of ground and surface water with acid-forming or toxic-forming or otherwise harmful substances, or hazards to life and property, such as the Buffalo Creek failure in 1972. As promulgated in 30 CFR, 77.216, MSHA has regulated water, sediment, or slurry impounding structures which fulfilled minimum size and storage volume criteria. Those provisions regulate structures to protect miners on mine property, whereas proposed Sections 816.91-816.93 would augment the protection of, public health, encompassing safety and environmental protection. If adopted the proposed Sections would pertain to dams and embankments that are totally or partially constructed of coal processing waste or that impound coal processing waste. These provisions would not apply to earth, concrete, or other types of dams which may exist in the permit area unless they are intended to impound coal processing waste. Permanent water impoundments however, would be covered under Section 816.49, and sediment control impounding structures would be regulated under Section 816.46.

These proposed regulations would cover all dams and embankments constructed of coal processing wastes whether temporary or permanent and whether or not they meet size or other criteria of Section 77.216 of this Title. The regulations would apply to all stages of design, location, construction, operation, maintenance, enlargement, modification, removal, or abandonment of the structures.

Authority for the proposed regulations is found in the following Sections of the Act 102, 201, 501, 503, 504, 515 and 517.

Literature utilized in preparation of these Sections includes:

1. Algermissen, S.T., "Seismic Risk Studies in the United States," *Proceedings*, Fourth Conference on Earthquake Engineering, Vol. 1, 1969.

2. American Society of Civil Engineers (ASCE); "Geotechnical Practice for Disposal of Solid Waste Materials"; A.S.C.E. Symposium—March 1977, Ann Arbor, Michigan.

3. American Society of Civil Engineers (ASCE), "Inspection, Maintenance and Rehabilitation of Old Dams," *Proceedings*, Engineering Foundation Conference, September 1973, Published 1974.

4. American Society of Civil Engineers, "Stability and Performance of Slopes and Embankments," August 1969.

5. American Society of Civil Engineers, *Stability of Rock Cuts*, Edited by E.J. Cording, 1972.

6. Barber, G.C., "Preliminary Engineering Analysis of Extinguishing Coal Refuse Pile Fires by Grout Injection Methods," ECI—Soletanche, Inc., 1972.

7. Bishop, A.W., and Henkel, D.J., *The Measurement of Soil Properties in the Triaxial Test*, Edward Arnold, Ltd., London, England, 1962.

8. Bishop, A.W., "The Stability of Tips and Spoil Heaps," *Quarterly Journal of Engineering Geology*, Vol. 6, 1973.

9. Bishop, A.W., "The Use of the Slip Circle in the Stability Analyses of Slopes," *Geotechnique*, 1955.

10. Bonny, J.B., and Frein, J.P., *Handbook of Construction Management and Organization*, Van Nostrand Reinhold Company, 1973.

11. Brater, E.F., and King, H.W., *Handbook of Hydraulics*, McGraw-Hill 1976.

12. Brundage, R.S., "Depth of Soil Covering Refuse (Bog) Vs. Quality of Vegetation," First Symposium on Mine and Preparation Plant Refuse Disposal, Coal and the Environment Technical Conference, National Coal Association, Washington, D.C., October 22-24, 1974.

13. Bureau of Mines, "Methods and Costs of Coal Refuse Disposal and Reclamation," *IC8576*, Bureau of Mines, U.S. Department of the Interior, 1973, 36 pages.

14. Capp, J.P., et al "Coal Waste Stabilization by Enhanced Vegetation," May 1975.

15. Capp, J.P., and Gillmore, D.W., "Fly Ash from Coal Burning Powerplants: An Aid in Revegetation Coal Mine Refuse and Spoil Banks," First Symposium on Mine and Preparation Plant Refuse Disposal, Coal and the Environment Technical Conference, National Coal Association, Washington, D.C., October 22-24, 1974, pp. 200-211.

16. Cassagrande, A., and MacIver, B.N., "Design and Construction of Tailings Dams," Symposium on Stability for Open-Pit Mining, Vancouver, November 1970.

17. Cassagrande, A., "See page through Dams," *Journal*, New England Water Works Association, June 1937.

18. Cedergren, H.R., *Seepage, Drainage and Flow Nets*, John Wiley and Sons, Inc., 1967.

19. Chow, V.T., *Handbook of Applied Hydrology*, McGraw-Hill Book Company, 1964.

20. Chow, V.T., *Open-Channel Hydraulics*, McGraw-Hill Book Company, 1959.

21. Clough, R.H., *Construction Project Management*, John Wiley and Sons, Inc., 1972.

22. Coalgate, J.L., *et al*, "Gob Pile Stabilization, Reclamation, and Utilization," Office of Coal Research, Research and Development Report No. 75, Interim Report No. 1, 1973, 127 pages.

23. Comptroller General of the U.S. (acting) "Actions Needed to Improve the Safety of Coal Mine Waste Disposal Sites," Sept. 1977.

24. Corps of Engineers, "Hydraulic Design of Spillways," Engineer Manual, EM 1110-2-1603, Department of the Army, 1965.

25. Corps of Engineers, "Seepage Control," EM 1110-2-1901, 1952.

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State and Federal legislation and regulations containing similar requirements include:

1. 30 CFR 77.216 "Water, sediment or slurry impoundments and impounding structures; general."
2. 30 CFR 77.216-1 "Water, sediment or slurry impoundments and impounding structures; identification."
3. 30 CFR 77.216-2 "Water, sediment or slurry impoundments and impounding structures; minimum plan requirements; changes or modifications; certification."
4. 30 CFR 77.216-3 "Water, sediment or slurry impoundments; inspection requirements; correction of hazards; program requirements."
5. 33 USC 1151-75 "The Federal Water Pollution Control Act."
6. Chapter 20 Article 5D of the *WV Code*, "The Dam Control Act."
7. Chapter 20 Article 6C, *West Virginia Code*, "The Coal Refuse Disposal Control Act."
8. "Pennsylvania Clean Streams Law," 35 *Pa. Stat. Anon.*, Sec. 6001 et seq.
9. "Pennsylvania Air Pollution Control Act", 35 *Pa. Stat. Anon.*, Sec. 4001 et seq.
10. Title 25 *Pennsylvania Code*, Chs. 95, 97, 101, 125.
11. Ch 20 Art. 5, *WV Code*, "Water Pollution Control Act."
12. Ch. 63 *WV Code*; and Amended under Ch. 13, *WV Code*, "WV Air Pollution Control Act."

Proposed Section 816.91 would adopt inspection requirements by reference to 30 CFR 77.216-3. An inspection program is necessary to discern any changes which could indicate problems developing with the structure.

American Society of Civil Engineers, 1973; Bonny, J. B. and Frein, J. P., 1973; Clough, R. H., 1972; Comptroller General of the U.S. (acting), 1977; E. D'Appolonia, 1975; Sherard, *et al*, 1963; USBR, 1973; W. Va. Dept. of Nat. Resources (no date).

Maintenance of dams is essential to assure their continued stability and proper performance in accordance with the engineering and environmental standards. ASCE, 1973, E. D'Appolonia, 1975; S. Letard, *et al*, 1963; USBR 1973; W. Va. Dept of Nat. Resources, (no date); Dept of Energy, Mines and Resources, Canada, 1977.

Certification annually is currently required by many State and Federal dam control agencies. An alternative to annual certification, such as is currently utilized by the Federal Power Commission Reporting requirements, could be promulgated to allow less frequent certification after the performance of the structure has been proven.

This alternative would require postive evidence of continued coal processing waste dam stability before application to a specific structure. The Office has not adopted this alternative in these proposed regulations, and public comment is solicited on the appropriateness of the alternative in particular circumstances and objective criteria to prevent abuse.

ASCE, 1973; Compt. Gen. of the U.S., 1977; D'Appolonia, E. 1975; Sherard, *et al* 1963; USBR, 1973; USWB, 1963; W. Va. Dept. of Nat. Resources, (no date); DOE, Canada, 1977; WV Code; Pa. Code; 30 CFR 77.216).

Proposed Section 816.92 would require clearing and grubbing, and the removal of organic material and combustibles, a standard construction practice which is required in various regulations, texts and publications pertaining to waste disposal and dam construction. Compt. Gen. of the U.S., 1977; E. D'Appolonia, 1975; R. C. Hirschfield, S. J. Paulous, 1973; Joel D. Justin *et al* 1945; T. W. Lambe and R. V. Whitman, 1969; G. A. Leonards, 1962; MBMRC, 1972; NCB, 1972; Sherard, *et al*, 1963; SCS, 1969; USBR, 1973; USDOC, 1966; W. Va. DNR, (no date); L. E. Woods, *et al* 1976; K. Tetzaghi and R. B. Peck, 1967; USBR, 1978, U.S. DOC, 1976; U.S. DOT, 1973; U.S. DOC, 1973; H. H. Russell, 1964; D. Hartington and J. H. East, 1948; L. M. McNay, 1971; M. O. Magnuson and E. C. Baker, 1974;

The diversion of the 100-year 24-hour storm is appropriate for permanent structures or structures which can constitute hazards to people, property and the environment. Diversion of runoff precludes erosion or other structural problems with the embankment. ASCE 1972; Batter, E. F. and King H. W., 1976; BOM, 1973; Cassagrande, A. and MacIver, B. N., 1970; Corps of Engineers, 1960; D'Appolonia, 1975; Hirschfield, R. C., and Poulous, S. J., 1973; Huorselv, J., 1948; Justin, Joel, D. *et al*, 1945; Kealy, C. D. and Williams, R. E., 1969; Kealy, C. D., et al, (no date); Lambe, T. W., and Whitman, R. V., 1969; Mines Branch Mining and Research Center, 1972; Moulton, Lyle K., 1973; Natl. Coal Board, 1970; Natl. Coal Board, 1973; National Coal Board, 1972; Pettibone, H. C., and Kealy, C. D., 1971; Taylor, D. W., 1948; Terzaghi, K., and Peck, R. B., 1967; Terzaghi, K., 1943; USBR, 1973; USBR, 1968; U.S. DOI, BOM, 1974; U.S. DOI, BOM 1973; USDOI, 1976; USDOIBOM, 1974; USDOIBOM, 1975; W. Va. DNR (no date); Wood, L. E., *et al*, 1976; DOE, Canada, 1977.

The Probable Maximum Precipitation (PMP) is the current design standard utilized by numerous State and Federal agencies as the hydrologic criterion for dams. Alternatives for

1975; Mines Branch Mining Research Center, 1972; Morgenstern and Price, 1965; Nat. Coal Board, 1970; Newmark,

ing the phreatic surface increases the hydraulic gradient through the structure, potentially leading to internal

2. PEDCO Environmental, Inc., *Evaluation of Fugitive Dust Emissions From Mining*, 104-115, June 1976.

§ 816.97 Protection of fish and wildlife.

Proposed Section 816.97 deals with the potential negative impacts of sur-

well as the significant components of the habitat. These components may include lesser forms of invertebrates,

grande, A. and MacIver, B. N., Colgate, J. L. *et al*, 1973; Davis C. V. and Sauerson, FHA 1977; Glover, G. H. 1971; Henderson, F. M., 1969; Hjelmfelt, A. T., Jr. and Cessidy, J. J. 1975; Justin, Joel D. *et al*, 1945 Linsley, R. K. et al., 1955; Linsley, R. K., et al., 1972; MBMRC Centre, 1972; Morris, H. M., 1972; Natl. Coal Board, 1970; Peterka, A. J., 1963; Rouse, H., 1950; Rouse, H., 1967; Sherard, et al., 1963; SCS, 1968; SCS, 1969; USBR, 1973; U.S. DOC, 1976; U.S. DOI, 1976; U.S. DOT, 1975; USWB, 1973; W. Va. DNR, (no date); Wood, L. E. *et al*, 1976; DOE, Canada, 1977. Sediment control would be required to meet both effluent limitations under 33 USC 1151-75 and Section 515(b)(10)(B)(i) & (ii) of the Act.

Under the proposed regulation, slope protection, sediment control, and vegetation of all unprotected areas would be accomplished contemporaneously with construction in line with standard operational procedures for permanent structures under construction. ASCE, 1977; Brundage, R. S., 1974; BOM, 1973; Capp, J. P. *et al*, 1975; Capp, J. P. and Gillmore D. W., 19; Colgate, J. L. *et al*, 1973; Davidson, W. H., 1974; Dean, D. C. and Havens, R., 1972; Dean, D. C. and Havens, S. R., 1971; D'Appolonia, E. 1975; James, A. L., 1966; Leroy, J. C., 1972; Riley, C. V. and Rinier, J. A., 1972; SCS, 1974; Wood, L. E., et al., 1976; DOE, Canada, 1977; Ramsey, J. P., 1970; Martin, J. F., 1974.

Proposed Section 816.93 would prohibit use of waste in dam construction, unless proven as a suitable fill material, in accordance with standard engineering procedure. In accordance with sound practice, material which fails to exhibit the proper strength parameters necessary to achieve stability would not be allowed for use in dam construction. ASCE, 1977; ASCE, 1969; Bishop, A. W., and Henkel, D. J., 1962; Bishop, A. W., 1973; Cassagrande, A. and MacIver, B. N., 1970; Corps of Engineers, 1960; D'Appolonia, 1975; Hirschfield, R. C., and Poulous, S. J., 1973; Huorselv, J., 1948; Justin, Joel, D. *et al*, 1945; Kealy, C. D. and Williams, R. E., 1969; Kealy, C. D., et al, (no date); Lambe, T. W., and Whitman, R. V., 1969; Mines Branch Mining and Research Center, 1972; Moulton, Lyle K., 1973; Natl. Coal Board, 1970; Natl. Coal Board, 1973; National Coal Board, 1972; Pettibone, H. C., and Kealy, C. D., 1971; Taylor, D. W., 1948; Terzaghi, K., and Peck, R. B., 1967; Terzaghi, K., 1943; USBR, 1973; USBR, 1968; U.S. DOI, BOM, 1974; U.S. DOI, BOM 1973; USDOI, 1976; USDOIBOM, 1974; USDOIBOM, 1975; W. Va. DNR (no date); Wood, L. E., *et al*, 1976; DOE, Canada, 1977.

The Probable Maximum Precipitation (PMP) is the current design standard utilized by numerous State

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and Federal agencies as the hydrologic criterion for dams. Alternatives for smaller design storms could be considered on a case-by-case basis if the criteria imposed by Section 816.93(b) can be demonstrated as applicable. ASCE, 1977; Chow, V. T., 1964; Corps of Engineers, 1975; D'Appolonia, 1975; Moulton, Lyle, K., 1973; National Coal Board, 1970; SCS, 1968; SCS, 1969; SCS, 1972; USBR, 1973; USCOLD, 1970; USDOI, 1976; USWB, 1963; W. Va. DNR, (no date); DOE, Canada, 1977.

Properly designed spillways are essential to ensure the hydrologic and subsequently structural adequacy of the structure. Inlet and outlet design allows for safe passage of runoff not stored in the reservoir with a minimum of disturbances and with maximum efficiency. ASCE, 1972; Brater, E. T., and King, H. W., 1976; Chow, V. T., 1964; Chow, V. T., 1959; Corps of Engineers, 1965; Davis, C. V., and Saversol, K. E., 1969; D'Appolonia, 1975; FHA, 1973; FHA, 1977; Henderson, F. M., 1969; Hjelmfelt, A. T., 1975; Hirschfield, R. C., and Poulous, S. J., 1973; Linsley, R. K. *et al*, 1949; Linsley, R. K., *et al* 1955; Morris, H. M., 1972; Newmark, N. M., 1965; Sherard, *et al*, 1963; SCS, 1975; USBPR, 1965; USBPR, 1970; USBR, 1973; USDOI, 1976; USDOTFHA, 1975; W.Va. DNR, (no date); DOE, Canada, 1974.

Three feet is a standard design freeboard utilized between design storm and top of dam elevations. The freeboard is intended to prevent overtopping by waves and also to counter frost action. Corps of Engineers, 1975; D'Appolonia, E., 1975; Hirschfield, R. C., and Poulos, S. J., 1973; USCOLD, 1970; SCS, 1972; U.S. DOA, 1976; USDOI, 1976; W. Va. DNR, (no date). Alternatives for smaller freeboard allowances were considered but rejected because of perceived need for prudence in designing a structure with so great a potential for harm. Dam design factors 100% PMP vs. 80% PMP and respectively 1 and 3 feet of freeboard, are virtually identical.

Factors of safety contained in proposed Subsection 816.93(e) are taken from standards currently used by various State and Federal agencies for construction and long term analyses. Dynamic requirements parallel the works of Algermissen for application of horizontal 'g' loads. Algermissen, 1969; Bishop, 1955; Cassagrande and MacIver, 1970; Cassagrande, 1937; Cedergren, 1967; U.S. Corps of Engineers, 1952; U.S. Corps of Engineers, 1960; D'Appolonia, 1975; D'Appolonia, 1976; Griffiths and King, 1965; Harv, 1962; Hirschfield and Poulos, 1973; Kealy and Soderberg, 1969; Kealy and Williams, 1971; Kealy and Williams, 1970; Kealy, et al., (no date); Lambe, and Whitman, 1969; Lambe, 1952; Marks, 1975; Mines Branch Mining Research Center, 1972; Morgenstern and Price, 1965; Nat. Coal Board, 1970; Newmark, 1965; Sherard, et al., 1963; SCS, 1973; Taylor, 1948; Terzaghi and Peck, 1967; Terrachi, 1943; Tolman, 1937, USBR, 1973; USDOI, 1973; USDOI, 1976; USDOI, 1974; USDOI, 1975; West Virginia Dept. of Natural Resources, (no date); Wood, et al., 1976; U.S. Navy, 1963; and DOE (Canada), 1977.

Foundation design is an integral part of any dam or embankment design. Lack of proper foundation information could lead to several types of physical failure of the structure. ASCE, 1977; ASCE, 1974; Bishop, 1973; Cassagrande and MacIver, 1970; U.S. Corps of Engineers, 1960; D'Appolonia, 1975; Forrester and Whittaker, 1976; Forrester and Whittaker, 1976; General Analytics, Inc., 1969; Hanna, 1973; Hirschfield and Poulos, 1973; Holland, 1965; Hvorslev, 1948; Justin, et al., 1945; Lambe and Whitman, 1969; Leonards, 1962; Taylor, 1948; Terzaghi and Peck, 1967; USBR, 1968; USDOI, 1976; USDOI, 1977; West Virginia Department of Natural Resources, (no date); DOE (Canada), 1977; and U.S. Navy, 1963.

Placing additional fill to allow for settlement during and after construction is a common engineering practice. This would give a final crest elevation of the embankment as designed, allowing for individual settlement after construction. Proper techniques for estimating settlement can be found in any standard text or state-of-the-art publication on dam design. D'Appolonia, 1975; Hirschfield and Poulos, 1973; Justin, et al., 1945; Lambe and Whitman, 1969; Mines Branch Mining Research Centre, 1972; Sherard, et al., 1963; SCS, 1969-a; Taylor, 1948; Terzaghi and Peck, 1967; USBR, 1973; USBR, 1968; West Virginia Dept. of Natural Resources, (no date); Wood, et al., 1976; U.S. Navy, 1963; and DOE (Canada), 1977.

The requirement for 90 percent drawdown of the storm water volume within 10 days is a standard engineering requirement for high-risk dams. This provision allows for evacuation of the storm water held in the reservoir during the design rainfall event, and satisfies two major design functions:

(a) Allows for "back-to-back" design storms. If the storm runoff was to be stored for any period of time, the occurrence of a second design rainfall, or even lesser storm, could overtop the dam embankment and subsequently initiate breaching and failure of the structure.

(b) Drawdown of the storm water precludes the upper portions of the embankment and surrounding natural slopes from achieving steady-state seepage. Therefore, the embankment's phreatic surface remains stable. Raising the phreatic surface increases the hydraulic gradient through the structure, potentially leading to internal erosion and saturation, thus greatly increasing the chances of failure. (D'Appolonia-M.E.S.A.; 1975; Bureau of Reclamation, 1973; Corps of Engineers 1971, 1952; Harr, 1962; USDA, SCS, 1972 USDI, BOM, 1976;

The requirement for signs and markers would be compatible with 30 CFR 77.215 with the standards of Section 816.11 of these regulations, and with 515(b) of the Act.

§ 816.95 Air resources protection.

Proposed Section 816.95 specifies some of the fugitive dust control measures available to coal operators and State regulatory authorities to achieve and maintain national ambient air quality standards and other applicable Federal and State air quality standards. This Section, in conjunction with Section 780.14, is proposed to implement, in particular, Sections 515(b)(4) and 508(a)(9) of the Act. Through the proposals of Sections 780.14 (a), (b), and (c) the operator would be given the flexibility to select appropriate fugitive dust control measures for its proposed surface coal mining operation. If the operator fails to submit an adequate fugitive dust control plan, the regulatory authority would be required to specify necessary fugitive dust control measures including but not limited to measures listed in Section 816.95. In requiring control measures, the regulatory authority would have to consider applicable air quality standards, climate, existing air quality, size and type of operation.

Statutory authority for this Section of the regulations is contained in Sections 102, 201, 501, 503, 507, 508, and 515 of the Act. Technical literature, State laws and regulations, and other materials which support this Section of the regulations are listed in the Preamble discussion to Section 780.14 of the regulations.

Fugitive dust control measure for the critical fugitive dust sources are listed in proposed Section 816.95.

Proposed paragraphs 816.95 (b)(1)-(9) would specify measures to reduce fugitive dust emitted as a result of wind action and vehicle traffic over haul and access roads. (*See* Mann, *Compilation of Air Pollutant Emission Factors* EPA AP-42 Part B. Section 11.2 Fugitive Sources (1975)). Proposed paragraphs 816.95(b)(10)-(20) address other appropriate air pollution control measures.

These proposed Sections find support in the following technical literature and regulations:

1. Report of the National Coal Policy Project, *Where We Agree* 206-207 (1978).

2. PEDCO Environmental, Inc., *Evaluation of Fugitive Dust Emissions From Mining*, 104–115, June 1976.

3. PEDCO Environmental Inc., *Identification of A Feasible Regulation for Controlling Localized Fugitive Dust Emissions*, AP–42 Table 1.1, (undated).

4. PEDCO Environmental Specialists, Inc., *A Review of State Regulations for Controlling Dust Emissions*, August 1976.

5. 40 CFR Section 51 Appendix B.

6. *EPA Table of Typical Fugitive Dust Control Measures Observed at Western Coal Mines.*

7. FEA PB–253, 254 *Impact of Significant Deterioration Proposals Upon West Surface Coal Mining Operations*, 1–3 May 1976.

Alternatives considered to the proposed fugitive dust controls included opacity limitations, mandatory performance standards and required buffer zones. Opacity limitations have not been specified for fugitive dust control because they have not been shown to correlate well with air quality impact from fugitive dust emissions. Mandatory performance standards may not be sufficient to achieve all ambient air quality standards. Buffer zones need not be required if mining operations are properly oriented and controlled. Therefore, the proposed rule gives the operator and ultimately the regulatory authority the flexibility to select from a mix of measures to achieve and maintain air quality standards.

Behind the proposed performance standard is the philosophy that operators should be provided with a wide variety of effective control techniques and should be given the option of selecting the ones that most closely coincide with their operations. Under this proposed regulation the regulatory authority reserves the right to review and supplement control techniques to assure that all Federal and State air quality standards are met. Fugitive dust from surface coal mining operations can be controlled by the mix of specified techniques to attain and maintain all applicable Federal and State air quality standards if this regulation is adopted.

Assessment of compliance should be based upon whether or not the operator is performing those easily observable actions that it has said in writing that it will do. If required ambient air quality monitoring demonstrates that additional control measures are necessary then it is expected that the operator or, if necessary, the regulatory authority, will immediately institute those measures. Surface coal mining operations are to be permitted only if public health and welfare are not jeopardized.

§ 816.97 Protection of fish and wildlife.

Proposed Section 816.97 deals with the potential negative impacts of surface mining activities on fish and wildlife and sets forth measures for prevention of those impacts, or mitigation or, restoration of their habitats to ensure restoration, maintenance or enhancement of fish and wildlife resources.

The Section would place the responsibility on the person engaged in surface mining activities to apply the best technology currently available for compliance with relevant permit provisions, and divulgence to the regulatory authority of information pertaining to natural values of particular concern in the mine plan area. Those values of particular concern are the presence or habitat of threatened or endangered species listed by the State or Secretary, and bald and golden eagles and species otherwise protected by State or Federal law.

The authority for the proposed Section is found in the Act in Sections 102, 201, 501, 503, 504, and 515. Support for the requirements of the Section is found in the Endangered Species Act (16 U.S.C. 1531 *et seq.*), Conservation Programs on Public Lands (16 U.S.C. 670 g, h), the Bald Eagle Act (16 U.S.C. 668 *et seq.*), and the Migratory Bird Treaty Act (U.S.C. 703 *et seq.*).

The following literature was used in drafting this proposed Section:

1. "Environmental Criteria for Electric Transmission Systems (USDI, USDA, 1970).

2. "Powerline Contacts by Eagles and other Large Birds," REA Bulletin 60-10.

3. "An Environmental Guide to Western Surface Mining Part II: Impact, Migigation and Monitoring," FWS/OBS 78/05 Draft made for the U.S.F.W.S. Western Energy and Land Use Team (WELUT), Federal Building; Ft. Collins, Colo. 80521.

4. U.S. Department of the Interior, Fish and Wildlife Service, "Methods for the Assessment and Prediction of Mineral Mining Impacts on Aquatic Communities: A Review and Analysis" FWS/OBS–78/30 (1978) and other works cited therein.

OSM recognizes that the phrase "minimize disturbance and adverse impact . . . on fish and wildlife and related environmental values" is a subjective term, broad in application and open to interpretation. Therefore the public is invited to offer suggestion for applying specificity. As a point of departure we are proposing that it means.

(1) The operator must satisfy the regulatory authority that an adequate assessment has been made of the array of the major bird, reptile, amphibian and fish species in the area, as well as the significant components of the habitat. These components may include lesser forms of invertebrates, insects, arachnids, etc., if they are critical to the existence of a higher form in a given area;

(2) The operation should proceed swiftly and conclude in the shortest feasible time in order to shorten the period of adverse impacts; and

(3) The operator would be required to restore the habitat as near as possible to the premining condition so as to provide that after a reasonable period of time the restored habitat will support a comparable array and abundance of fish and wildlife species as before mining.

Consideration was given to a requirement that a person conducting mining activities, in addition to threatened or endangered species and eagles, also report migratory birds and animals not previously reported to the regulatory authority. Since there are so many migratory species, and since those of special significant would probably have already been identified in the wildlife plan, it was felt that this represented an unreasonable burden on the operator to go beyond the requirement as stipulated.

Since sedmentation is the most serious detriment to aquatic life and since road construction is one of the most serious contributors to sedimentation, access roads have been singled out for consideration in proposed subsection (d). While OSM is not suggesting that all roadways would be fenced, where roads and other artificial barriers may impede the migrations of such large game animals as elk and mule deer moving to or from winter range, special consideration would be given to measures that will facilitate uninterrupted passage.

Comment is solicited as to whether it would be advisable to clarify proposed paragraph (d)(3), or leave the specifics up to the regulatory authorities and the State or Federal program regulations. Not all wildlife can be effectively excluded from ponds unless unreasonable measures are applied; i.e., frogs, snakes and the like cannot be exclosed by fencing. The drafters have in mind open mesh fencing or other deflectors to exclude such animals as waterfowl or deer from water covered with oil, or other toxic materials

Consideration was given to a requirement for paving intermittent streams to secure the banks and retard erosion. This alternative was discarded as unreasonable.

Subsection (c) proposes to incorporate by reference two works on transmission lines. OSM solicits comment as to whether these works are appropriate for incorporation in these National permanent program regulations.

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If not, the choice of appropriate guidelines for construction of power lines, as with other facilities, could in all-

prior to mining and under proper management is to be achieved on the restored area.

The Act and the legislative history indicate that no highwalls are to be left after mining is completed. High-

manner that they see fit. The definition of approximate original contour in the Act looks to the drainage pat-

than terraces to achieve these purposes. Further, the terraces discussed in the proposed regulations are those

Some previously mined areas lack sufficient available spoil or topsoil to achieve postmining conditions which

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If not, the choice of appropriate guidelines for construction of power lines, as with other facilities, could in all cases be up to the regulatory authority.

§ 816.99 Slides and other damage.

This Section proposes requirements necessary to prevent damage caused by slides and erosion. It further specifies those steps that must be taken any time a slide occurs which may have a potential adverse affect on life, property, health, safety, or the environment in the permit area.

The authority for these provisions is found in the Act in Sections 102, 201, 501, 503, 504, and 515.

Literature used in the preparation of these sections includes:

1. Grim, E.C., and Hill, R.D. 1974, Environmental Protection in Surface Mining of Coal: U.S. Environmental Protection Agency Report EPA-670/2-74-093.

OSM solicits comments with respect to special regional, geologic, climatologic, or other objective circumstances which, if identified as being present in the permit area, should lead the regulatory authority to impose special conditions to prevent slides. The technical basis for any suggestions should be provided, if possible, together with proposed requirements on the operator.

§ 816.100 Contemporaneous reclamation.

This proposed Section sets forth a requirement applicable to all phases of reclamation activity.

Authority for this Section is found in the Act in Sections 102, 201, 501, 503, 504, 509, 510, and 515.

OSM considered an alternative approach of attempting to quantify contemporaneousness for all activities and enumerate maximum delay periods after which, if an activity had not been undertaken, this standard would be deemed breached. This alternative approach was rejected in favor of the proposed general language. The alternative selected should allow the regulatory authority needed flexibility to approve mine plans with varying timetables based on specific site conditions. OSM recognizes however, that absence of an objective time measure may make citizen complaints of unjustified delay less effective than perhaps they should be.

§ 816.101–816.105 Backfilling and grading.

Sections 816.101–816.105 are proposed regulations for backfilling and grading of areas disturbed by surface coal mining operations. Disturbed areas are to be reshaped to approximate original contour in a manner that minimizes erosion and water pollution and prevents slides. A level of production equal to that attained prior to mining and under proper management is to be achieved on the restored area.

Authority for these proposed Sections is found in the the Act in Sections 102, 201, 501, 503, 504, and 515.

Literature used in writing these proposed Sections includes the works cited in the foregoing sections of this Preamble relating to disposal of excess spoil (proposed Sections 816.71–816.73), topsoil (proposed Sections 816.21–816.25), hydrologic balance (proposed Sections 816.41–816.57) and the following:

House Committee on Interior and Insular Affairs House Report No. 99–45 (March 6, 1975), p. 151.

Senate Committee on Energy and Natural Resources Senate Report No. 95–128 (May 10, 1977), p. 83. State regulations from all States regulating surface mining.

The proposed contemporaneous backfilling and grading regulations are minimum standards based on State regulations thought to be reasonable and valid for contour mining, open pit mining, and area strip mining.

For contour mining, the operator would be required to rough backfill and grade the area within 60 days of disturbance. The time frame proposed is more stringent than the time frame set forth in the regulations of several States (i.e., Kansas, Montana, Ohio, Pennsylvania, and Tennessee) and less stringent than several others (i.e., Illinois, Kentucky, and Missouri). It is thought to a reasonable prescribed time limit for reshaping the area and minimizing environmental degradation.

The size of the ungraded area would be restricted by the 1,000 linear feet requirement. This proposed regulation is similar to that imposed by the Kentucky regulations and exceeds the distance requirements set forth in the Wyoming regulations. The standard is proposed to minimize water degradation and expedite rehabilitation of the disturbed area.

For open pit mining with thin overburden, OSM believes that the site specific needs of these operations necessitate that the regulatory authority approve a site-specific time frame for rough backfilling and grading that compliments the practical operation needs. The regulatory authority, when approving a time schedule, would be specifically mindful of the environmental significance of establishing time frames that would exceed the amount of time required for practical operation of the mining activities prior to backfilling and regrading.

For area strip mining, the operator would be expected to rough backfill and grade the strip mined area within 90 days of disturbance and at no time shall more than four spoil ridges exist. The Act and the legislative history indicate that no highwalls are to be left after mining is completed. Highwall elimination is mandated in Section 515(b)(3) of the Act as is attainment of the "lowest practicable grade" in cases of inadequate overburden to fully grade to "approximate original contour" to "cover completely the highwall" as required in Section 515(d) of the Act for steep slope areas.

The proposed regulations also reflect the fact that premining slope measurements would be required to take into account natural variations in slopes. In many cases it would be appropriate for the permittee to develop accurate topographic maps for an area prior to any mining and to develop an overlay of the proposed postmining topography where that topography blends in with the surrounding terrain, reestablishes the surface drainage system, and serves the approved postmining land use. Then the final graded slopes would be specifically defined on the approved postmining topographic contour maps, where they may be reviewed as a whole.

The use of topographic maps, aerial photography and other photogrammetric methods of measuring premining and postmining slopes are appropriate only when topographic maps and photographically-produced maps are of sufficient accuracy to ensure adequate measurements. Thus, while maps and photographs might be used in addition to or in place of field measurements, the maps and photographs must be established as accurate by the permittee. Commonly used professional engineering practices are suitable for slope measurements and surveys could still be required by the regulatory authority.

The definition of approximate original contour of the Act supports the use of terraces so long as the terrace is not used as an inappropriate substitute for construction of lower grades. The need to restrict terraces to those situations where such level breaks in the terrain are truly necessary must be emphasized. Smaller diversion ditches are often more suitable than terraces. Further, the terraces discussed in the regulations are those to be left after mining and regrading are completed.

Terraces are often viewed as a means of access rather than for temporary control of erosion. It is the intent of this proposed Section to require that disturbed watersheds be reclaimed to conditions that approximate premining hydrologic conditions with minimal change in water flow and water quality. Such measures as the use of terraces would be permitted when approved by the regulatory authority. Hence, operators would be free to propose terraces as often or in any

manner that they see fit. The definition of approximate original contour in the Act looks to the drainage pattern of the area and the general surface configuration and indicates that the reclaimed area and any terraces used, must conform to these criteria. Proposed terraces should have a well-defined role in supporting the approved postmining land use.

Although the practice of constructing diversion ditches in the form of small terraces on moderate slopes it is not uncommon, it would not be appropriate to leave wide terraces on any slopes unless the access afforded by such terraces is supportive of the approved postmining land use.

The purpose of the proposed dimensional limits on terraces was to create a reasonably accessible land form that supported postmining land uses and to provide erosion stability. Terraces are often used on valley fills and head-of-hollow fills to break up otherwise uninterrupted slopes. Nonetheless, terraces, and other types of fills addressed in this Section, would be reviewed for suitability by the regulatory authority and must be constructed in a manner compatible with the postmining land use.

The static safety factor of 1.3 is an appropriate measure of mass stability that has been accepted by the Corps of Engineers, MSHA, and other agencies. Greater slopes may be used if the safety factor is achieved and erosional stability is assured. Regulatory authorities may specify higher safety factors when necessary, and permittees will be responsible for design and construction that provides more stability. The proposed absolute limit on terrace faces (the outslope of the terrace bench) allows the alternative use of a stability calculation. However, since stability factors can change according to the method of calculation, all calculations would be based on commonly accepted professional engineering practices. If it becomes necessary to specify methods, the Office would do so under these regulations. Width limitations would be established so that terraces would not serve as access roads unless special consideration is given to retention or construction of roads to support the postmining land use and the roads would be in the approved postmining land use plan.

The definition of approximate original contour in the Act supports the concept of not restricting terraces to steep slopes so long as the terrace would not be used as an inappropriate substitute for construction of lower grades. The need to restrict terraces to those situations where such level breaks in the terrain are truly necessary must be emphasized. Smaller diversion ditches are often more suitable than terraces to achieve these purposes. Further, the terraces discussed in the proposed regulations are those to be left after mining and regrading are completed. During operation of the mine steeper outslopes and wider benches could be temporarily constructed if they are safe and in compliance with the Act and proposed regulations. Cut-and-fill terraces would be permissable when compatible with the approved postmining land use.

The natural angle of repose of certain types of natural materials may be too steep to control erosion and increases in total suspended solids; thus, the postmining slopes are likely to be reduced below the angle of repose in most situations.

The proposed regulations would require that the reclaimed areas must be graded to slopes equal to or less than "approximate premining slopes," which would be those slopes determined by the regulatory authority to be stable slopes that provide a land surface capable of supporting the approved postmining land use. The term "approximate premining slopes" is meant to indicate that such slopes must be selected according to the following criteria:

(1) They would not appreciably exceed the maximum slopes measured for the premining surface.

(2) They could be less steep than the natural slopes by that amount necessary to prevent slides, erosion and water pollution, to provide adequate drainage, to cover all acid forming and other toxic materials, and to permit revegetation, and

The "final graded slope," measured after mining and grading, would not necessarily be a uniform slope but is often an overall average slope. Therefore, terraces, roads, and diversion ditches could be included within the slope measurement path provided the overall final graded slope met the criteria set out above. Long, uniform, uninterrupted slopes are not generally desirable since they tend to erode more readily than do rolling, nonuniform slopes.

In order to promote the reclamation of mined areas inadequately reclaimed because much of the previous spoil and waste from the previous mining operation was deposited on the downslope, leaving insufficient material for grading to approximate original contour, the proposed regulations have been developed to reflect reality. These proposed regulations are intended to encourage the reclaiming of poorly reclaimed areas while ensuring an improvement in land quality and perhaps water quality, over and above that left by the previous mining. One of the purposes of the Act is to promote the reclamation of mined areas left without adequate reclamation. Some previously mined areas lack sufficient available spoil or topsoil to achieve postmining conditions which meet all the land configuration and revegetative requirements. Such operations would be required to retain all overburden and spoil material on the bench and to grade completely to eliminate the highwall and maintain a stable slope. The entire mining area would be stabilized and revegetated.

Review of State requirements indicates that 4 feet is usually considered adequate to cover toxic-forming or acid-forming materials. There is limited research which shows 4 feet to be inadequate to prevent upward migration of salts in the semi-arid to arid climates or to protect deep rooting plants which are part of the revegetation plan. The proposed regulation in Section 816.103 specifies 4 feet. A qualifying phrase has been placed in the proposed regulation to address thicker amounts where necessary to guard against salt migration and against exposure by erosion and to provide an adequate plant growth substrata.

The proposed requirements to analyze, and treat or bury coal processing wastes or coal conversion facility waste is believed to be appropriate to the problem. It is necessary to ensure that waste disposal in mine areas are handled in a manner that does not adversely affect the hydrologic balance, especially as the balance relates to water quality.

Before waste materials from a coal processing or conversion facility outside the permit area or from other offsite activities such as municipal wastes, are used for fill material, it would need to be demonstrated to the regulatory authority by hydrological means and chemical and physical analyses that use of these materials will not adversely affect water quality, water flow, and vegetation; would not present hazards to public health and safety; and would not cause instability in the backfilled area. Public comment is solicited as to whether these Sections should include more specific regulation, or prohibitions, against dumping of offsite solid waste. See Preamble discussion of 816.89, Noncoal wastes.

The intent of proposed subsection 816.103(b) is to provide the regulatory authority with a basis for establishing site-specific requirements that would assure stability of backfilled material, selective placement and stability of backfilled material, and selective placement and compaction of backfill material when necessary to prevent erosion and leaching of toxic substances into surface and subsurface water.

§ 816.106 Regarding or stabilizing rills or gullies

This proposed regulation is intended to minimize soil loss and reduce sedimentation by requiring stabilization of rills and gullies that are more than 9 inches deep.

Authority for this proposed Section is found in Sections 102, 201, 501, 503, 504, 507, 508, and 515 of the Act.

The literature used in preparing this Section includes: *Soil Survey Manual:* Agriculture Handbook No. 18, U.S. Department of Agriculture, S.C.S., 1951, pp 503.

Rills and gullies concentrate the runoff water into tiny rivulets and small channels and accelerate erosion. To distinguish between a natural rill or shallow channel through which overland flow is conducted, a maximum acceptable depth of 9 inches is established so as to preclude the formation of large gullies that severely degrade the area. However, the regulatory authority may reduce the size criteria where shallower gullies are disruptive to the post-mining land use or if they cause excessive erosion or sedimentation.

The intent of this proposed provision is to allow stabilization through means other than regarding if such methods produce equal or better results. Thus, the use of straw or the use of small equipment to fill and regrade in a manner that disturbs little additional area may be permissible. Rills and gullies formed along disturbed and reclaimed drainageways would be permitted if adequate stabilizing vegetation has been established.

The soil losses and destruction resulting from rill and gully erosion are illustrated in Figure 48, Soil Survey Manual, page 263.

As an alternative to the 9-inch requirement of this proposed Section, 6-inch and 12-inch depths were considered as well as deletion of the requirement entirely. The 6-inch depth would make it difficult, in some locations, to distinguish between those erosional features requiring repair and features that approximate natural drainage channels in highland (divide) areas. To delete the requirement entirely or increase the depth to 12 inches would in all probability result in excessive loss of plant growth media by erosion. The 9-inch depth is selected because it is the maximum depth that can be stabilized by most grasses, since a large portion of their roots occur in this surface layer (p. 250, Soil Survey Manual).

Comment is solicited on the stabilization of rills and gullies after topsoil has been replaced. Specifically, the Office would like comments to suggest at what point, if any, in the revegetation process a 9-inch rill or gully should no longer be considered to present a sufficient risk of erosion to require elimination, in light of the damage likely to be done by required earthmoving equipment, if any.

§§ 816.111–816.117 Revegetation.

These proposed Sections are intended to prevent land disturbance during mining operations which can result in landslides and cause erosion and water pollution, which deteriorate the environment, and which can be detrimental to the health and well-being of the occupants of the affected area. These proposed revegetation regulations are intended to minimize erosion, reduce toxic runoff, restore the land to its premining productivity or potential, and establish a vegetative cover on disturbed areas.

Authority for these proposed sections is found in 102, 201, 501, 503, 504, 507, 508, 515 and 519 of the Act.

The literature used in preparing the regulations is as follows:

1. Aldon, E.F., "Techniques for establishing native plants on coal mine spoils in New Mexico," in Third Symposium on Surface Mining and Reclamation, Volume I (1975) pp. 21, 26.

2. Aldon, Earl F., "Reclamation of Coal-mined land in the Southwest," Journal of Soil and Water Cons., Vol. 33, No. 2, 1978, pp. 75-79.

3. Aldon, Earl F. and H.W. Springfield, "Reclaiming Coal Mine Spoils in the Four Corners," Reclamation and Use of Disturbed Land in the Southwest, University of Arizona Press, 1977, p. 234.

4. Armiger, W.H. et al, "Revegetation of land disturbed by strip mining of coal in Appalachia," Department of Agriculture, Agricultural Research Service, (1976), p. 8.

5. Environmental Protection Agency, "Processes, procedures, and methods to control pollution from mining activities," (1973) EPA 430/9-73-011, p. 151.

6. Environmental Protection Agency, "Erosion and sediment control: surface mining in the eastern United States," (1976) pp. 81-87.

7. Grandt, Alton F., "Mined-land Reclamation in the Interior Coal Province," Journal of Soil and Water Conservation, Volume 33, No. 2, pp. 62-68.

8. Grim, E.C., and Hill, R.D., "Environmental protection in surface mining of coal," Environmental Protection Agency, 1974, pp. 189-190.

9. "Guidelines for Reclamation of Surface Mined Areas in Utah" U.S. Dept. of Agriculture, S.C.S., Nov. 1972, p. 6.

10. Handbook for Making Resource Inventories, "Methods of Applying Land and Grass Management Principles" USDI, BIA, Chap. III, p. 14, 1961.

11. Heady, Harold F., "Rangeland Management" McGraw-Hill, 1975, p. 350-351.

12. Holton, H.N., 1972, "A concept for disfiltration estimates in watershed engineering" USDA; ARS 41-51, Figures 6, 7, and 8, p. 23, 24 and 25.

12a. House Report No. 95-218, 95th Congress, 1st Session (1977) p. 93.

13. Indiana, General Procedures Respecting the Administration of Chapter 344 Acts of 1967, Effective Jan. 1, 1968, pp. 1-6.

13a. Iowa, State of, "Recommendations for Establishment of Vegetation on Surface Mined Areas" Item 10, Time of Seeding, Land Rehabilitation Advisory Board.

14. "Kentucky Guidelines for Classification, Use and Vegative Treatment of Surface Mine Spoil" U.S. Dept. of Agri., S.C.S., Lexington, Ky., 1973, p. 12.

15. Kranz, B. W., "Benefits in cost and effectiveness of liquid materials use in hydroseeding operations," in Second Research and Applied Technology Symposium on Mined Land Reclamation (1974) p. 163.

16. Merkel, D. L., "Revegetation in the Southwest—its hazards and successes," Department of Agriculture, Soil Conservation Service, 1974, pp. 189-190.

17. Montana Administrative Code, Adopted Rules and Regulations, Pursuant to Title 50, Chap. 10, R.C.M., 1947, pp. 26-48.21 to 26-48.38.

18. "Critical Area Stabilization in New Mexico," New Mexico Inter Agency Range Committee Report for the Critical Area Stabilization Workshop, January 1973, p. 11.

18a. New York, Mined Land Reclamation Mine Operator Handbook, P. III 1-43.

19. Ohio Revised Code, Chapter 1513, Strip Mining and Reclamation of Mined Land, Sec. 1513.16, p. 24.

20. Packer, P. E. and Christensen, G. F., Department of Agriculture Forest Service "Guides for controlling sediment from secondary logging roads" (undated) p. 28.

21. "A Guide for Revegetating Bituminous Strip Mine Spoil in Pennsylvania" Research Committee on Coal Mine Spoil Revegetation in Pennsylvania, p. 21, and Appendices I, II, III and IV.

22. Plass, William T., "Reclamation of Coal-mined Land in Appalachia, Jour. of Soil & Water Cons.," Vol. 33, No. 2, 1978, pp. 56-61.

23. Power, J. F., R. E. Rices, and F.M. Sandoval, "Reclamation of coal-mined land in the Northern Great Plains" Jour. of Soil and Water Cons., Vol. 33, No. 2, 1978, pp. 69-74.

24. Sampson, Arthur W., "Range Management, Principles and Practices" John Wiley & Sons, Inc., 1952, pp. 226, 229 and 232.

25. Stoddart, Laurence A., Arthur D. Smith, and Ihadis W. Box, "Range Management" Third Edition, 1943, 1955 (1975) McGraw-Hill, p. 483.

26. Vallentine, John F., "Range Development and Improvements" Brigham-Young Univ. Press, Provo, Utah, 1971, p. 279.

27. Vogel, Willis G., "The effect of herbaceous vegetation on survival and growth of trees planted on coal-mined spoils" In Proc. Res. & Appl. Technical Symposium on Mined Land Reclamation, March 1978, Pittsburgh, Pa., pp. 197-207. Bituminous Coal Research, Inc., Monroeville, Pa. 1973. Table 1.

28. Vogel, W. G., "All seasons seeding of herbaceous vegetation for cover on Appalachian Strip Mine Spoils." In II Proc. Research and Appl. Technology Symposium on Mined Land Reclamation, Louisville, Kentucky, pp. 175-178. Bituminous Coal Research, Inc., Monroeville, Pa., October 1974, Tables 1, 3, 4, 5.

29. Vogel, W. G., "Requirements and use of fertilizer, lime, and mulch for vegetating acid mine spoils" United States Department of Agriculture, Forest Service Report ARC-71-66-T4, 1974, pp. 260-281.

30. Vogel, W. G., "Use and requirements of lime, fertilizer, and mulch in acid strip mine spoils." In III Proc. Research and Appl. Technology Symposium on Mined Land Reclamation, Louisville, Kentucky, Bituminous Coal Research, Inc., Monroeville, Pa., October 1975, Tables 1, 2, 7.

31. Vogel, Willis G., and Berg, William A., "Fertilizer and herbaceous cover influence establishment of direct-seeded black locust in coal mine spoils" In R.S. Hutnik and Grant Davis (ed.). "Ecology and Reclamation of Devastated Land" Volume 2. Gordon & Breach, NY, pp. 189-198, 1973. Table 1.

32. Wahlquist, B. T., et al., "Mined-land revegetation without supplemental irrigation in the arid Southwest" pp. 29, 31, 32;

33. Woodward, Lowell, W., 1943. "Infiltration capacities of some plant soil complexes of Utah Range Watershed Lands." American Geophysical Union Transactions, pt. II, p. 468-473.

34. Z'Berg-Nejedly Forest Practice Act of 1973 (California Forest Practice Act), Div. 4, Chap. 8, Pub. Res. Code, Article 2. pp. 1-18.

Proposed Section 816.111 would require that the operator, in accordance with the revegetation plan discussed in proposed Subsection 780.19(d), promptly seed or plant all disturbed areas except water areas, road surfaces, and intensive agriculture areas, and achieve a vegetative cover that stabilizes the area from erosion and is similar to the native species of the disturbed area.

One of the principal effects of vegetation is to stabilize the soil surface with respect to erosion. This regulation would require stabilization of the soil with respect to erosion, not prevention of erosion where it would otherwise be a natural process.

The permittee would be required to use technical publications or the results of laboratory and field tests that are approved by the regulatory authority to determine the varieties, species, seeding rates, seeding dates, and planting plans and soil amendment practices essential for establishment and self-regeneration of vegetation.

Under proposed Section 816.112 the requirement for appropriate field trials should be interpreted broadly to include successful experience with species in the area mined or a similar area. Naturalized species that have been in common usage, such as the tree species in the Great Plains, will generally have been demonstrated to be acceptable. However, the operator and the regulatory authority must be mindful of the geographic adaptation of each species since species become established only under conditions similar to those under which it evolved (Sampson, p. 226) and of the many plant species, both introduced and native, which have been used to improve and stabilize the soil (Sampson, p. 229).

In order to avoid the spreading and subsequent propagation of undesirable, noxious and toxic, species the seed or seedlings used in revegetating disturbed areas would be required to meet Federal and applicable State requirements for purity.

These proposed regulations are adapted to meet the need for rapidly establishing vegetative growth and substituting introduced species for native species. Many introduced species, annual and biannual, become established more quickly and provide more abundant growth than perennials and may in some instances be used to advantage in controlling erosion while permanent perennial species become established. Establishment of native species normally occurs over too long a period of time, often requiring 1 to 3 years for establishment, to effectively protect the soil and hydrology (Sampson, Arthur W., 1952, p. 232; Vallentine, John F., 1971, p. 279, and Heady, Harold F., 1975, p. 350-351.) Introduced species, especially annuals, can be used as a "nurse crop" to ameliorate severe conditions such as intense isolation, high surface temperature, and rapid evaporation that make establishment of permanent vegetation difficult on many sites (Plass, 1978). The advantage of using introduced species when reclaiming mined lands is supported by Aldon, p. 76; Grandt, Aldon, p. 64; Plass, p. 58-59; and Power, p. 70.

The requirements of proposed Section 816.113 are intended to assure that there will be no major time lag between completion of regrading and revegetation to the area to be seeded. As stated by Sampson, p. 245, the time of seeding depends upon the method of land preparation and the forage species used. Some severe sites may require the use of annuals such as small grains, grasses or legumes to stabilize the area while perennials become established (Plass, William T., 1978, p. 58). In many locations, suitable species are available and climatic conditions are favorable for establishing seedling, that provide ground cover for erosion control, for a major portion of the year.

This segment of the proposed regulation is required in several state reclamation regulations. (Indiana, p. 5; Montana, p. 47; New York, p. III-37; and Ohio, p. 24). Also, seeding time benefits are recognized in the following State guidelines: Iowa, Item 10; Kentucky, p. 12; New Mexico, p. 11; Pennsylvania p. 21 and appendices I, II, III and IV; and Utah, p. 6.

Under proposed Section 816.114, the mulch requirement is flexible and its necessity, type, benefits, and uses in revegetating a disturbed area would be at the discretion of the regulatory authority. In addition to the use of vegetation residue such as bark, straw, hay and wood fibers the regulatory authority could determine that establishment of annual species provides an in-situ mulch that will protect the site and aid in the establishment of permanent perennial species. Plass, 1978, states that the use of annuals can be beneficial in establishing perennial species. The moisture saving, soil stabilizing and, consequently, seeding establishment benefits of mulching are documented by Vogel, 1974.

Literature recognizing the benefits of mulch are: Grim and Hill, 1974, pp. 189-190; Environmental Protection Agency, 1976, pp. 81-87; Armiger, 1976, p. 8; Aldon, 1975, pp. 21, 26; Wahlquist, undated, pp. 19, 31, 32; Kranz, 1974, p. 163; Merkel, 1974, pp. 189, 190; Packer and Christensen, undated, p. 28; and EPA, 1973, p. 151.

As an alternative to this proposed Section, fixed minimum amounts, as specified by regulation, of mulch were considered but determined inappropriate in view of the varied site needs, and benefits derived from the use of mulch when revegetating and establishing permanent vegetation on a disturbed area. This determination was based in part on the varied mulching requirements of States. Those mulching requirements range from use at the discretion of the State agency to mandatory use on all disturbed lands. *See* Colorado: Proposed Rules and Regulations of the Land Reclamation

Board, Section (V)(D)(5) and (7); Montana: Department of State Lands, Reclamation Division Regulations, Section

tion, productivity, plant cover, plant succession and plant self-generation and these measurements would be

and foundation characteristics, topography, and vegetative cover.

"The description is to serve as a

environmental protection, including erosion control and visual degradation.

Authority for these Sections is found in the Act in Sections 102, 201,

7. Yelverton, C. A. The Role of Local Governments in Urban Geology. In Environmental Planning and Geology

Society of Agronomy, Madison, Wis. 1966.

22. McHarg, I. L. Design with Nature. Natural History Press, Garden

Board, Section (V)(D)(5) and (7); Montana: Department of State Lands, Reclamation Division Regulations, Section 26-2.10(10)-S10350; Ohio: Department of Natural Resources, Division of Reclamation Strip Mining Regulations, Section 1501; 13-15-02: Tennessee; Department of Conservation, Division of Surface Mining Regulations, Section 0400-3-7-.04; West Virginia: Department of Natural Resources Surface Mining Reclamation Regulations, Chapter 20-6, Section 9D; Wyoming: Department of Environmental Quality, Land Quality Rules and Regulations, Chapter II, Section 5.

Proposed Section 816.115 relates to grazing on recently vegetated areas. The purpose of this proposed Section is to incorporate practical livestock control essential to establishment and growth of new seedlings. The need is supported by the work of Aldon and Springfield; Grandt, p. 65; Sampson, p. 232; Vallentine, p. 279; Heady, pp. 350-351; and Stoddart et al., p. 483 and USDI, Bureau of Indian Affairs, Chap. III, p. 14.

Proposed Section 816.116 would be a highly localized and site-specific proposal taking into account geography, climate, soil, and hydrology of the particular area where the mine is located. This Section is structured to—

(1) Incorporate site-specific variations within the permit area;

(2) Evaluate a permanent vegetative cover capable of regeneration and plant success;

(3) Consider site conditions of previously mined areas;

(4) Insure a ground cover for controlling erosion; and

(5) Utilize reference areas.

This regulation is proposed to allow for the flexibility required, as a result of the diverse climatic and soil conditions, to properly measure the different vegetative types that are found in the mining areas.

Reference areas are to be used to obtain a description of the premined vegetative resource both within the permit area and in similar areas adjacent to the area that will be disturbed. The reference areas must be similar to and representative of the geology, soils, slope, and vegetation in the permit area. The areas would be used to measure ground cover, productivity and species diversity that are produced naturally. Any one of a number of vegetation measuring techniques may be authorized by the regulatory authority. When permit areas contain more than one site, as determined by the above factors, it may be necessary to use additional reference areas to assure that vegetative and soil data will be representative of and similar to the area to be restored. The measurements taken from the reference areas will be used to estimate normal vegetation, productivity, plant cover, plant succession and plant self-generation and these measurements would be used, by the regulatory authority, to determine when the disturbed area has been adequately revegetated.

In response to public comment on earlier alternative drafts, the current language emphasizes that species diversity, distribution, seasonal variety, and vigor be evaluated.

These proposed regulations should not be construed as attempting to absolutely prevent soil erosion. Such a goal would be difficult to achieve. They would require that revegetation control erosion which would not otherwise be natural for a properly managed area.

Under these proposed regulations the success of the revegetation pursuant to this scheme would be measured on the basis of reference areas as proposed and approved under proposed Subsection 780.19(2)(d). Thus, if the reference area for a particular mine in the West was properly managed and yet was characterized by sparse vegetation and natural erosion, that is the condition to which the mined area must be reclaimed. If the mined area had been improperly managed, i.e., overgrazed prior to the mining, the operator may not return the area to its mismanaged conditions which would be characterized by sparse ground cover and greater erosion. Rather, the operator must reclaim such an area in reference to a properly managed area approved by the regulatory authority which may require a vegetation cover with less exposure of bare soil and greater capacity to retard erosion than that which the area had prior to mining. This requirement would not mean that land which has irreversibly lost its productivity capacity must be revegetated with reference to a properly managed area, but the irreversibility of damage caused by overgrazing or soil erosion is a determination that would be made by the regulatory authority.

The Act's legislative history makes clear that Congress did not intend for the postmining use of land which had been improperly managed to be limited to its most recent premining use. The legislative history of Section 508(a) of the Act, which sets forth the requirements for a reclamation plan, contains the following explanation regarding the contents of a plan (S. Report No. 95-128, 95th Cong., 1st Session (1977) pp. 76-77):

"The description of the land which will be affected by the proposed mining operation must also include an evaluation of the capability of the site to support a variety of uses prior to any mining disturbance. This description should give consideration to soil and foundation characteristics, topography, and vegetative cover.

"The description is to serve as a benchmark against which the adequacy of reclamation and the degradation resulting from the proposed mining must be measured. It is important that the potential utility which the land had for a variety of uses be the benchmark rather than any single, possibly low value, use which by circumstances may have existed at the time the mining began."

Thus, the Senate Report indicates that Congress intended the postmining use of land to be based on its "potential utility" for a number of uses before mining, not some low use that may have resulted from mismanagement.

The benefits of a 90 percent reclamation of the ground cover of the reference area are well supported by the concept illustrated by Woodward, pp. 468-473, and Holton, Figures 6, 7, and 8, pp. 23-25. The 90 percent statistical confidence level, reduced to 80 percent for shrublands, is based on handbooks in the Directive System of the U.S. Department of Agriculture, Forest Service.

In response to public comments related to the problems associated with the use of reference areas by the small operator, it was considered by the Office that certain small operators might, upon approval of the regulatory authority, be exempt from the use of reference areas when measuring success of revegetation of the disturbed area. To be eligible the small operator would have had to have had a permit for 40 acres or less in an area that receives 26 or more inches of precipitation annually. The final determination of the method to be used when measuring the success of revegetation would have rested under this proposal with the regulatory authority. The regulatory authority might require a more stringent standard than set forth in proposed Subsection 816.116(c) when deemed necessary to prevent pollution, protect quality of the environment and health, safety and general welfare of the public. This alternative was not adopted by OSM, since it was considered that the reference area requirement is not excessive and leads to achievement of important environmental goals.

The proposed Section 816.117 is based on the California Forest Practices Act and similar Acts in Washington and Oregon.

§§ 816.131-816.132 Cessation of operations

These proposed Sections would require persons conducting surface mining who cease operations on either a temporary or permanent basis to eliminate safety hazards and assure

environmental protection, including erosion control and visual degradation.

Authority for these Sections is found in the Act in Sections 102, 201, 501, 503, 504, 509, 510 and 515.

Under the proposed Sections the operator would be required to advise the regulatory authority of his intentions to cease operations. The Office proposes that the operator include in his cessation plans the total acres within the permit area, reclamation completed, and the revegetation to be completed. The operator would be required to eliminate or remove all safety hazards and structures and equipment not involved in the postmining land use.

§ 816.133 Postmining land use

Section 816.133 if adopted would set out minimum requirements for establishment of postmining land use for the permit area. The goal of Section 816.133 is to ensure—

(a) Compatability with adjacent land use and/or local planning and zoning;

(b) Feasibility of postmining land use as related to local and regional needs;

(c) Adequate planning of public facilities;

(d) Financial feasibility of the postmining land use;

(e) The development of a postmining land-use plan that conforms to accepted planning standards, the premining land capability, and that reflects information contained in the resource inventory; and

(f) That postmining land use does not present hazards to public health and safety.

The following Sections of the Act authorize proposed Section 816.133: 102, 201, 501, 503, 504, 508, 515.

The following technical literature was considered in developing this section:

1. Cleckner, E. K. Highest Land Use as a Planning Tool. Appraisal Journal, 215-223, 1969.

2. Rowlson, J. F. Zoning vs Alternative Value. Appraisal Journal, 513-517, 1963.

3. U.S. Dept. of Commerce. Zoning for Small towns and Rural Counties. U.S. Government Printing Office, Washington, D.C. 1970.

4. Barlowe, R. Land Resource Economics: The Political Economy of Rural and Urban Land Resource Use. Prentice-Hall, Inc. Englewood Cliffs, N.J. 1958.

5. Steinbach, S. E. Aesthetic Zoning: Property Values and the Judicial Decision Process. Missouri Law Review, 35, 176-186. 1970.

6. Frye, J. C. Geological Information for Managing the Environment. Illinois Geological survey, Environmental Geology Notes 18, 1967.

7. Yelverton, C. A. The Role of Local Governments in Urban Geology. In Environmental Planning and Geology in the Urban Environment, ed. by Donald R. Nichols and Catherine C. Campbell. U.S. Government Printing Office, Washington, D.C. 1971.

8. Kusler, J. A. Open Space Zoning: Valid Regulation or Invalid Taking. Minnesota Law Review, 57:1, November 1972.

9. Heyman, I. M. Innovative Land Regulation and Comprehensive Planning. Santa Clara Lawyer 13, 1972.

10. Tourbier, J. and Westmacott, R. Water Resources Protection Measures in Land Development: A Handbook. Water Resources Center, University of Delaware, Newark, Delaware. 1974.

11. Leopold, L. B. Hydrology for Urban Land Planning: A Guidebook on the Hydrologic Effects of Urban Land Use. USGS Circular 554. U.S. Government Printing Office, Washington, D.C. 1968.

12. Detwyler, T. R. and Marcus, M. G. Urbanization and the Environment. Duxbury Press. Belmont, Cal. 1972.

13. Livingston and Blayney, Inc. Public Costs are Expensive in Hillside areas. Foothills Environmental Design Study, Report No. 3 to the City of Palo Alto, Calif. Palo Alto Planning Department. Palo Alto, Calif. 1970.

14. Flawn, P. T. Environmental Geology: Conservation, Land-Use Planning, and Resource Management. Harper and Row. New York, NY 1970.

15. Coughlin, R. E. and Hammer, T. R. Stream Quality Preservation Through Planned Urban Development. U.S. Government Printing Office, Washington, D.C. 1973.

16. McComas, M. R., Hinkley, K. C. and Kempton, J. P. Coordinated Mapping of Geology and Soils for Land Use Planning. Illinois Geological Survey. Environmental Geology Notes 29. 1969.

17. Moore, G. T. Emerging Methods in Environmental Design and Planning. M.I.T. Press. Cambridge, Mass. 1968.

18. Johnson, A. H., Berger, J., and McHarg, I. L. Landscape Analysis for Ecologically Sound Land Use Planning. Department of Landscape Architecture and Regional Planning. University of Penna., Phila. PA 1978.

19. Thurow, C., Toner, W. and Erley, D. Performance Controls for Sensitive Lands. American Society of Planning Officials Planning Advisory Service. Report Nos. 307, 308. Am. Soc. of Planning Officials, Chicago, Ill. 1975.

20. Toth, R. Criteria in Land Planning and Design. Landscape Architecture 62(1), 1971.

21. Bartelli, L. J., Klingebiel, A. D., Baird, J. V. Heddleson, M.R. Soil Surveys and Land Use Planning. Soil Science Society of America and American Society of Agronomy, Madison, Wis. 1966.

22. McHarg, I. L. Design with Nature, Natural History Press. Garden City, New York. 1969.

23. Spicer, R. B. Increasing State and Regional Power in the Development Process. ASPO Planning Advisory Service Report No. 255. American Society of Planning Officials, Chicago, Ill. 1970.

In order to minimize the adverse economic and environmental impacts on adjacent lands or the community, postmining land uses should be compatible with adjacent land. Compatability is and has been traditionally determined through planning, zoning and subdivision ordinances at the local and State level. Alternatively these proposed regulations could include no requirements for compatible land use, leaving that function entirely to existing State or local government controls or to market pressures.

Incorporating development of postmining land uses compatable with adjacent land uses through State and local planning institutions has the advantage of providing flexibility to account for local variation in environmental, economic and social conditions and needs. The proposed rule, by requiring the written statement of the authority responsible for land-use planning increases the likelihood of compliance with the governmental aspects of land-use determination. The compatibility requirement is non-specific as this is deemed to be a prerogative of the responsible land-use planning authority. Specific requirements for adjoining or adjacent land use could also have been written into these proposed regulations, but this alternative was rejected as too much of an interference with State and local governments.

Postmining land use plans must be financially feasible and related to local or regional economic needs. Without such attributes there is no assurance of the long term viability of the postmining land use. If there is clearly no trend or market need for a particular land use in the local or regional area, a proposal for that use would not be reflecting local or regional needs. Alternatives considered for establishing the need for a particular land use range from consideration of all Federal, State and local needs through completely ignoring the local or regional economic conditions.

Requiring that the proposed postmining land use reflect the local and regional needs will assist in assuring——

(a) Long term economic stability for the postmining land use; and

(b) That the postmining land use will add to the economic vitality of the existing local community.

Postmining land use plans must contain the provision for any public service needed for the proposed postmin-

By identifying the responsibility for hazard and pollution control early in the planning process, the professional

hierarchy of land uses which will ensure that "higher or better" land uses do, in fact, result when operators

tion 817.11(f)(1) be limited to areas where surface blasting will occur. Further public comment is solicited as to

reduce the discharge of acid mine water. The formation of acid water is a naturally occurring phenomenon

resulting in a mine seal blow-out. Sudden release of large quantities of water can have devastating down-

Postmining land use plans must contain the provision for any public service needed for the proposed postmining land use. For example, where the proposed postmining land use will require additional public services the plan should explain who will be responsible for providing these services. Letters of commitment from local or State parties responsible for planning and maintaining these services will help assure that communities realize the financial implications of these commitments. A schedule of plan implementation is required so that timely development of the proposed land use is assured. Alternatives considered were placing complete responsibility for additional services on the permittee, and elimination of any requirement of determining or identifying additional public services required to assure achievement of the postmining land use. These alternatives were rejected as inconsistent with accepted landuse planning practices.

The provision of requiring letters of commitment from the parties responsible for public services helps assure—

(a) That consideration has been given to public service requirements during development of plans;

(b) There is local understanding of future public service needs of the proposed postmining land use; and

(c) That specific service requirements of the postmining land use can be met within the proposed schedule.

No requirement for financial plans might result in an unsupportable land use. Additional specific detailed requirements and contractual commitments could have been required by the proposed regulations but this might have unduly restricted land use planning with no corresponding environmental or other benefits. Requiring a financial plan for postmining land use has the advantage of—

(a) Helping assure economic soundness of the proposed postmining land use; and

(b) Providing valuable planning information to local and State governments responsible for overall planning and integration of postmining land uses with present and future land uses of the community.

The postmining land use plan must be the result of analysis synthesis and of economic, social and environmental information. The inventory and land use capability synthesis must support the specific proposed postmining land use.

Utilizing professional expertise in plan preparation will help operators speed up the approval process and reduce overall cost because professional planners are familar with the local planning processes.

By identifying the responsibility for hazard and pollution control early in the planning process, the professional engineer, landscape architect or land use planner can effectively design the lowest possible cost solutions to these technical and site specific problems.

Completion of reclamation activities in a timely manner will minimize the adverse environmental effects of mining and will reduce offsite damage as well as damage that may result from natural environmental conditions that occur in the interim between mining and complete reclamation.

Through early review of the plan by State and Federal fish and wildlife agencies and the specific requirement for addressing fish and wildlife concerns in the postmining land use plan, the objectives of preventing impacts to fish and wildlife while minimizing cost and delay to the operator, are achieved. The alternative of no coordination of activities with State agencies would be contrary to policies established by the Act. By specifically addressing this requirement in the planning stage, it will be possible to expedite the review process and ensure effective consideration for fish and wildlife resources.

The plan proposing new postmining land uses that will require continuous or long term maintenance would have to contain written commitments of the mine operator or land owner to provide the maintenance specified in the plan that will be applicable after the release of performance bonds under the proposed rules. The plan would show evidence that the site conditions are capable of supporting the long term use proposed with the management specified. This part of the proposed rules is basically a restatement of the reclamation plan requirements at the performance standards level. Through specification for maintenance in the plan accompanied by the written commitment, the mine operators and/or land owner will have carefully evaluated the feasibility of the proposed postmining land use. This will assure—

(a) Adjoining landowners and local communities that the land is capable of supporting the postmining land use; and

(b) Feasibility of continued maintenance of the postmining land use.

Public comment is solicited with respect to the appropriate manner for determining "higher or better" uses, as set forth in Section 515(b)(2) of the Act and proposed paragraph 816.133(b)(2) of these regulations. While criteria for alternative uses are proposed in Subsection 816.133(c), the Office is interested to know what the public believes would be an appropriate role for the Office in defining the hierarchy of land uses which will ensure that "higher or better" land uses do, in fact, result when operators propose not to restore land to its premining capability.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING

§ 817.1 Scope and objectives

Part 817 proposes the minimum performance standards which would be applicable under a State or Federal program for underground coal mining activities. The organization of this Part parallels that of Part 816, the standards for surface mining, although some modifications were needed to reflect the distinct difference between surface and underground coal mining, including entirely new sections for subsidence (proposed Sections 817.121–817.126).

An alternative drafting organization would have been to propose all the regulations that apply to both surface and underground coal mining in a single Part, regulations applying only to surface mining in a second part, and regulations applying only to underground coal mining in a third part. This alternative was rejected even though it would have resulted in a shorter set of regulations because the office believes that the users of these regulations would rather find everything that applies to them in a single place. Comment is requested on the proposed organization and the alternative.

§ 817.11 Signs and markers

This proposed Section is substantially identical to the corresponding Section of Part 816. The reader is referred to the appropriate portions of this Preamble which discuss Part 816 for information concerning the technical basis, alternatives considered and statutory authority for this Section. In addition to the Sections of the Act cited in those portions of the Preamble, this Section is based on Section 516 of the Act. While the Office considers the appropriate signs and markers requirements to be sufficiently similar in surface and underground mining to warrant substantially identical performance standards, public comment is invited on how the differences in the effects of these types of mining should appropriately be further reflected in the regulations. The reader's attention is directed to proposed Subsection 817.11(c)(1), where the language varies somewhat from the parallel requirement in proposed Section 816.11. In addition, it should be noted that one commenter to the prepublication draft of this Section, suggested that the requirement for blasting signs in Subsection 817.11(f)(1) be limited to areas where surface blasting will occur. Further public comment is solicited as to the need for signs in areas where underground blasting will occur. The office at this time is inclined to modify this Section in accordance with the commenter's proposal.

§ 817.13–817.15 Casing and sealing of drilled holes

These proposed Sections are intended to ensure that boreholes, shafts, wells, and other accesses to underground mines are sealed, filled, cased, lined, or protected so as to ensure and protect: the health, safety, and general welfare of the public, the quality of the environment, and potential land uses.

Authority for these proposed Sections is found in Sections 102, 201, 501, 503, 504, 507, 508, 516, 517, 701, and 717 of the Act.

Following is a list of the technical literature that supports these performance standards:

1. Ciolkosz, E. J. and L. T. Kardos, *Soil as a Medium for the Renovation of Acid Mine Drainage*, Office of Water Resources Research, December 1973.
2. Doyle, William S., *Mine Sealing, Deep Coal Mining Waste Disposal Technology*, Noyes Data Corporation, Park Ridge, N. J., 1976.
3. Garrett, W. S., and Campbell, L. T., *Design & Construction of Underground Bulkheads and Water Barriers*, 7th. Commonwealth Mining & Metalurgical Congress, Johnesburg, Vol. 3, 1283-1301, 1961.
4. Halleburton Company, *New Mine Sealing Techniques for Water Pollution Abatement*, Federal Water Quality Administration, U.S. Department of the Interior, March 1970.
5. Holuber, I. and Penrose, R. G., Jr., *Laboratory Study of Self-Sealing Limestone Plugs for Mine Openings*, EPA-43019-73-011, 1973.
6. HRB-Singer, Incorporated, *Detection of Abandoned Underground Coal mines by Geophysical Methods*, Environmental Protection Agency and the Pennsylvania Department of Environmental Resources, Project 14010EHN, April 1971.
7. Moebs, N. N. & Krickovic, S., *Air Sealing Coal Mines to Reduce Water Pollution*, BOMRI 7354; 1970.
8. Penrose, R. G., Jr. and I. Holubec, *Laboratory Study of Self-Sealing Limestone Plugs for Mine Openings, EPA-67012-73-081, 1973.*
9. Stoddard, C. K., *Abatement of Mine Drainage Pollution by Underground Precipitation, EPA-67012-73-092, 1973.*
10. U.S. Environmental Protection Agency, *Processes, Procedures and Methods to Control Pollution From Mining Activities*, EPA-43019-73-011, 1973.
11. U.S.E.P.A. Criteria For Developing Pollution Abatement Programs for Inactive And Abandoned Mine Sites, EPA-440-9-75-008, 1975.

Proposed Section 817.13 would provide for the sealing or managing of openings to prevent people, animals, and machinery from entering the opening. Sealing can also prevent or reduce the discharge of acid mine water. The formation of acid water is a naturally occurring phenomenon which results from the oxidation of iron pyrites in the presence of water. Coal mining operations disturb the soil and rock material containing the pyrites and can greatly enhance the formation of acid drainage. The acid water draining from the coal mine enters streams and greatly reduces the useability of these waters for human or industrial consumption. Sealing of openings is one method of controlling the production of acid water from mines. An abandoned above drainage drift mine can be sealed, flooding the mine and thus stopping the oxidation of pyrite. Sealing also prevents acid water by preventing the entrance of water and air into the mine.

One alternative that was considered was not to seal or manage the holes at all. This was rejected because the openings present a large potential danger to man and the environment. Passage of water often can be prevented by inserting of drill cuttings, concrete plugs, or other material into the borehole to form a seal.

Proposed Section 817.14 would provide that all mine entries which are temporarily inactive but have a projected useful service be barricaded, fenced, and posted to identify the hazardous nature of the opening. Specific standards for barricades and construction materials to protect the mine entries were considered in the formulation of the regulation. However, the Office elected to propose generalized standards for mine entry protection at this time. Public comment on this issue of general standards versus specific standards for mine entry protection is invited.

The proposed regulation also would require that protective devices be periodically inspected and maintained in good operating condition. Various inspection periods were considered in the formulation of the regulations but no set time period (e.g. monthly, weekly basis) was included because the inspection period depends on the hazard of opening, type of protective device, and condition of the opening. The number of inspections must be frequent enough to ensure that the protective devices are in good operating condition and safe.

Many different types of sealing techniques were considered in the development of proposed Section 817.15 but no specific technique was universally acceptable for sealing all underground openings. Mine sealings may involve construction of a physical barrier across a mine opening to prevent passage of air, water, or persons and wildlife. The ultimate water level behind the seal is, however, seldom controlled, and excessive pressure can build up, resulting in a mine seal blow-out. Sudden release of large quantities of water can have devastating downstream effects. *See Commonwealth v. Barnes and Tucker Co.*, 452 Pa. 77 (1974). Mine seals may be designed to retain large quantities of water, but sealing leakage and failures generally occur from natural zones of weakness such as outcrop fractures. The natural rock and mineral surrounding the seal area is usually fractured, fissured, uneven and unstable. If adopted, the regulation would require that the seal must prevent the flow of water from the openings, except as otherwise authorized by the regulatory authority. Regulatory authorities would have the latitude to require the design of sealing and monitoring programs on a mine-by-mine basis so that catastrophic plug failures are prevented. Of course, if drainage from underground working is unavoidable, despite the use of the best available methods of sealing, then the resulting discharge to any surface or groundwater must be controlled so as to achieve the effluent limitation of section 817.42 of this Part.

§§ 817.21–817.25 Topsoil

These proposed sections are substantially identical to the corresponding Sections of proposed Part 816. The reader is referred to the preceding portions of this Preamble discussing Part 816 for information concerning the technical basis and statutory authority for these Sections. In addition to the Sections of the Act cited in those portions of the Preamble, these proposed Sections are based on Section 516 of the Act. While OSM considers the appropriate topsoil requirements to be sufficiently similar in surface and underground mining to warrant substantially identical performance standards, public comment is invited on how the differences in the effects of these types of mining should appropriately be reflected in the regulations.

§§ 817.31–817.38 Road construction

These Sections are substantially identical to the corresponding Sections of Part 816. The reader is referred to the appropriate portions of the Preamble for Part 816 for information concerning the technical basis, alternatives considered, and statutory authority for these Sections. In addition to the Sections of the Act cited in those portions of the Preamble, these Sections are based on Section 516 of the Act. While OSM considers the appropriate road requirements to be sufficiently similar in surface and underground mining to warrant substantially identical performance standards, public comment is invited on how the differences in the effects of these

types of mining should appropriately be reflected in the regulations.

The outright prohibition on gravity discharges from certain new drift mines is required under paragraph

§§ 817.61–817.68 Use of explosives

Sections 817.61–817.68 are being pro-

ciates, Fort Collins, Colo., and Valley Forge, Pa., 94 p. (duplicated report).
7. Miller, P.H., (no date), *Blasting vibrations and air blast:* Park Central, Ill., Atlas

Proposed Sections 817.61, 817.62, 817.66, 817.67, and 817.68 are substantially identical to proposed Sections 816.66, 816.67, and 816.68. The reader

public comment is invited on how the differences in these types of mining should appropriately be reflected in the regulations. In particular, com-

types of mining should appropriately be reflected in the regulations.

§ 817.39 Support facilities and utility installations

This proposed Section is substantially identical to the corresponding Section of Part 816. The reader is referred to the appropriate portions of the Preamble for Part 816 for information concerning the approach and statutory authority of this Section. In addition to the Sections of the Act cited in those portions of the Preamble, this Section is based on Section 516 of the Act. While OSM considers the appropriate support facility and utility installation requirements to be sufficiently similar in surface and underground mining to warrant substantially identical performance standards, public comment is invited on how the differences in the effects of these types of mining should appropriately be reflected in the regulations.

§§ 817.41–817.57 Hydrologic balance

With the exception of Section 817.50 and a posssible Section 817.51, all of these proposed Sections are substantially identical to their corresponding Section in Part 816. The reader is refered to the appropriate portions of the Preamble for Part 816 for information concerning the technical basis, alternatives considered, and statutory authority. In addition to the Sections of the Act cited in those portions of the Preamble, these Sections of Part 817 are based on Section 516 of the Act. While OSM considers the effects on the hydrologic balance to be sufficiently similar in surface and underground mining to warrant substantially identical performance standards, public comment is invited on how the differences in the effects of these types of mining should appropriately be reflected in the regulations.

Section 817.50 provides for the protection of the mining area's hydrologic balance by requiring that mining operations be conducted so as to preclude uncontrolled discharge of mine water. Uncontrolled discharges (mine drainage) have been a primary cause of adverse impacts upon water quality and ecology in the past (Biesecker and George, 1966; Braley, 1954; Grubb and Ryder, 1972; Sidio and Mackenthun, 1963; Turner, 1958; and Warner, 1973). However, this problem can be controlled in underground mines through the proper location, design, construction, utilization, and sealing of drifts, adits, and slopes (EPA, 1973). Use of these methods to control drainage during the active mining phase is to be supplemented with collection and conveyance of drainage to treatment facilities as necessary to comply with applicable standards and limitations prior to discharge to receiving streams. The outright prohibition on gravity discharges from certain new drift mines is required under paragraph 516(b)(12) of the Act.

The Office considered requiring all drift mines which are opened after the effective date of this Part to comply with proposed subsection 817.50(c), rather than making the requirements applicable only to mines opening after approval of the State or Federal program. The Office believes that until a regulatory authority is identified and approved by the Secretary and empowered to administer a regulatory program, it will be unfair to the operator to make this provision apply, since determination of whether a coal seam involved is "acid-producing" or "iron-producing" would not have been made. Public comment on this issue is solicited, however.

Section 817.51 was originally established to identify requirements necessary to protect the recharge capacity of aquifers affected by the underground mining activities. However, since the structural integrity of water bearing formations should not be significantly affected by underground mining, the recharge capacity of the formations should be maintained without any special precautions. Consequently, Section 817.51 has been omitted from the draft regulations. Comments are solicited as to any requirements that may be needed to protect the recharge capacity of water bearing formations from underground mining activities.

§ 817.59 Coal recovery

This proposed Section addresses two persistent problems of coal development: loss of resource when a mining operation does not recover all the available coal at a mining site and recurrent environmental degradation when a land is reentered after one mining operation to recover such coal. The regulation requires the operator to conduct mining operations so as to maximize resource recovery by mining all available coal at a mine site which it is economically feasible to extract.

The Authority for this proposed Section is found in Sections 102, 201, 501, 503, 507, 510, and 516 of the Act.

Alternatives similar to these considered for proposed Section 816.59 were considered by the drafters, and the reader is invited to refer to the Preamble portion on Section 816.59 for further information on issues considered. In addition to those issues, a more fundamental one might be addressed by commenters, and that is the appropriateness of a coal recovery standard for underground mining. In this regard, the reader is referred particularly to Sections 102(k) and 515(b)(1) of the Act.

§§ 817.61–817.68 Use of explosives

Sections 817.61–817.68 are being proposed as regulations to protect the lives and property of the public, underground mines, and ground and surface waters outside of permit areas, from adverse effects of blasting performed on the surface, where surface blasting is required in the development and support of underground mining operations. The interim regulatory program has no provision for regulating surface blasting required for the development and support of underground mining operations. However, surface activities in support of underground mining often require fairly large blasts for facing up at adit entries for leveling ground for surface structures, and initial blast rounds for shafts and adits. These blasts may present damage and injury hazards equivalent to those of surface mine blasting. To protect the public from the adverse effects of these blasts, Sections 817.61–817.68 are required.

Several Sections of the proposed regulations for surface blasting in support of underground mining are substantially identical to the proposed regulations for surface mine blasting (Sections 816.61–816.68). Rather than repeat the discussion of those Sections, the reader is referred to the appropriate Sections of the surface coal mine performance standard Preamble, which contains the rationale for many of the proposed blasting rules and a discussion of alternatives considered.

Sections 817.61–817.68 are proposed under Sections 102, 201, 501, 503, 504, 516, and 719 of the Act.

Materials used by OSM to develop these regulations include—

1. Ashley, C., and Parkes, D.B., 1976, *Blasting in Urban Areas: Tunnels & Tunnelling* (British Tunnelling Society), Sept. 1976, p. 60–67.
2. Grim, E., and Hill, R., *Environmental Protection in Surface Coal Mining* (U.S. Environmental Protection Agency, No. 1BB040).
3. Barnes, Jack (John B.), 1977, *The 'Effects of Strip Mine Blasting on Residential Structures—Ayrshire' Mine, Warrick and Vanderburgh Counties, Indiana:* Paper presented to the Indiana Academy of Science, Indianapolis, Ind., Oct. 28, 1977, 19 p. (Author is associated with Indiana State University Evansville, Evansville, Ind.)
4. Kentucky Department of Mines and Minerals, 1977, Laws and regulations governing explosives and blasting: Lexington, Ky., p. 1.
5. Maryland Geological Survey, Bureau of Mines, 1973, Blasting restrictions, Regulations governing blasting in Bituminous coal strip mines and auger regulations; Maryland Department of Natural Resources Rules and Regulations, p. 23.
6. Medearis, Kenneth, 1976, *The Development of Rational Damage Criteria for Low-Rise Structures Subjected to Blasting Vibrations*—a report of the National Crushed Stone Association: Kenneth Medearis Associates, Fort Collins, Colo., and Valley Forge, Pa., 94 p. (duplicated report).
7. Miller, P.H., (no date), *Blasting vibrations and air blast:* Park Central, Ill., Atlas Powder Co., 16 p.
8. Nicholas, H.R., Johnson, C.F., and Duvall, W.I., 1971, *Blasting vibrations and their effects on structures:* U.S. Bureau of Mines Bulletin 656, p. 13–29.
9. Old Ben Coal Company, Comments to Office of Surface Mining (1978).
10. Pennsylvania Department of Environmental Resources, Rules and Regulations, Title XXV, Pennsylvania Code, Ch. 211.
11. Siskind, D.E., 1977, *Structure vibrations from blast produced noise,* in 18th International Rock Mechanics Symposium, June 1977, Keystone, Colo.: Proceedings, p. 1A3–1–1A3–5.
12. Siskind, D.E., Stachura, V.J., and Radcliffe, K.S., *Noise and vibrations in residential structures from quarry production blasting—measurements of six sites in Illinois:* U.S. Bureau of Mines Report of Investigation R.I. 8168, p. 17. 1976.
13. Siskind, D.E., and Stachura, V.J., 1977, *Recording system for blast noise measurement:* Sound and vibrations Journal, p. 20–23.
14. Siskind, D.E., and Summers, C.R., 1974, *Blast noise standards and instrumentation:* U.S. Bureau of Mines, Environmental Research Program, Technical Progress Report TPR 78, p. 16, table 4.
15. Coal Mine Health and Safety Act of 1977; 75 CFR, Subpart N.
16. *An Investigation into Delay Blasting,* 1975, NSF Contract APR 75-05171 to the University of Maryland and Subcontract #M-218907 to Martin Marietta Laboratories.

The Office considered including a proposed Section 817.63 to require that underground coal mine blasting be conducted in accordance with appropriate MSHA requirements set forth in CFR 75-Subpart N. However, it was considered that such a requirement would not advance the purposes of the Act and that MSHA could adequately enforce its own requirements. Public comments are elicited on the appropriateness of the alternative the office rejected.

Proposed Section 817.65 states that this Section applies only to blasting conducted on the surface. Rather than require a blasting schedule similar to Section 816.64 of the proposed surface coal mine regulation, this section would require a 24-hour notice prior to any surface blasting in support of underground coal mining. Because of the occasional, sporadic nature of surface blasting in support of underground coal mining, the public will be better served by receiving notification the day before any blasting is done. The mine operator will be relieved of the task of publishing and republishing a blasting schedule. The remainder of Section 817.65 is identical to Section 816.65 proposed for surface coal mine blasting. The reader is referred to that Section portion of the Preamble which discusses proposed Section 816.65 for detailed discussion.

Proposed Sections 817.61, 817.62, 817.66, 817.67, and 817.68 are substantially identical to proposed Sections 816.66, 816.67, and 816.68. The reader is referred to the appropriate portions of the Preamble to Part 816 for detailed discussion.

§§ 817.71–817.73 Disposal of underground development waste and excess spoil

The Office believes that underground development waste disposal operations should be required to be conducted in the same manner as excess spoil disposal in surface mining. Accordingly these proposed Sections are similar in all significant details to proposed Sections 816.71–816.73. The reader may find a discussion of the technical basis, authority, and alternatives considered in the Preamble.

In addition to the Sections of the Act cited in the discussion of Sections 816.71–816.73 these proposed Sections 817.71–817.73 are based on Section 516 of the Act.

The public is requested to comment on any appropriate basis for varying the requirements for underground development waste fills from those proposed for excess spoil in proposed Sections 816.71–816.73.

§§ 817.81–817.88 Coal processing waste

These proposed Sections are substantially identical to the corresponding Sections of Part 816. The reader is referred to the appropriate portions of the Preamble for Part 816 for information concerning the technical basis, alternatives considered, and statutory authority for these Sections. In addition to the Sections of the Act cited in those portions of the Preamble, these Sections are based on Section 516 of the Act. While the Office considers coal processing waste consideration to be sufficiently similar in surface and underground mining to warrant substantially identical performance standards, public comment is invited on how the differences in these types of mining should appropriately be reflected in this portion of the proposed regulations.

§ 817.89 Disposal of non-coal wastes

This proposed Section is substantially identical to the corresponding section of Part 816. The reader is referred to the appropriate portions of the Preamble for Part 816 for information concerning the technical basis, alternatives considered, and statutory authority for this Section. In addition to the Sections of the Act cited in those portions of the Preamble, this Section is based on Section 516 of the Act. While the Office considers the appropriate disposal of noncoal waste to be sufficiently similar in surface and underground mining to warrant substantially identical performance standards, public comment is invited on how the differences in these types of mining should appropriately be reflected in the regulations. In particular, comments are solicited on the appropriateness of the disposal of noncoal waste, both from onsite and from offsite, in abandoned underground workings.

§§ 817.91–817.93 Coal processing waste: Dams and embankments

These proposed Sections are substantially identical to the corresponding Sections of Part 816. The reader is referred to the appropriate portions of the Preamble for Part 816 for information concerning the technical basis, alternatives considered, and statutory authority for these Sections. In addition to the Sections of the Act cited in those portions of the Premble, these Sections are based on Section 516 of the Act. While the Office considers the appropriate coal processing waste dams and embankment considerations to be sufficiently similar in surface and underground mining to warrant substantially identical performance standards, public comment is invited on how the differences in these types of mining should appropriately be reflected in the regulations.

§ 817.95 Air resources protection

This proposed Section is substantially identical to the corresponding Section of proposed Part 816. The reader is referred to the appropriate portions of the Preamble for Part 816 for information concerning the technical basis, alternatives considered, and statutory authority for this Section. The only provision of a substantial nature that was deleted from this Section for underground mining addressed the problem of fugitive dust resulting from wind erosion on spoil piles. This problem is greatly reduced when considering underground mining because less spoil is stored on the surface. As a result, the spoil disposition need not be required to be oriented in the same manner as in surface mining operations. In addition to the Sections of the Act cited in those portions of the Preamble, this Section is based on Section 516 of the Act. While the Office considers the effect on air resources to be sufficiently similar in surface and underground mining to warrant substantially identical performance standards, public comment is invited on how the differences in the effects of these types of mining should appropriately be reflected in the regulations.

§ 817.97 Protection of fish and wildlife

This proposed Section is substantially identical to the corresponding Section of Part 816. The reader is referred to the appropriate portion of the Preamble for Section 816.97 for information concerning the technical basis, al-

ternatives considered, and statutory authority for this Section. In addition to the Sections of the Act cited in

816–101(a), 816.104, and 816.105). The reader is referred to the appropriate portions of the Preamble for Part 816

landowners by reducing subsidence-caused material damage to the land surface, by improving mining methods,

of the Committee on Interior and Insular Affairs, House of Representatives, to accompany H.R. 2, p. 126–10. U.S. Department of Interior, 1976. Final environmental
27. "Bituminous Mine Subsidence and Land Conservation Act of 1966", Commonwealth of Pennsylvania (Department of Environmental Resources), Harrisburg,
1970; Brauner, 1973–a; and Pennsylvania DER, (no date). Therefore, adequate definition of the time and extent of subsidence and the preven-

ternatives considered, and statutory authority for this Section. In addition to the Sections of the Act cited in those portions of the Preamble, this Section is based on Section 516 of the Act. While the Office considers the appropriate fish and wildlife requirements to be sufficiently similar in surface and underground mining to warrant substantially identical performance standards, public comment is invited on how the differences in the effects of these types of mining should appropriately be reflected in the regulations.

§ 817.99 Slides and other damage

This proposed Section is substantially identical to the corresponding Section of Part 816. The reader is referred to the appropriate portions of the Preamble for Part 816 for information concerning this Section. In addition to the Sections of the Act cited in those portions of the Preamble, this Section is based on Section 516 of the Act. While the office considers the risks of slides to be sufficiently similar in surface and underground mining to warrant substantially identical performance standards, public comment is invited on how the differences in these types of mining should appropriately be reflected in this portion of the regulations.

§ 817.100 Contemporaneous reclamation

This proposed Section is substantially identical to the corresponding Section of Part 816. The reader is referred to the appropriate portions of the Preamble for Section 816.100 for information concerning this Section. In addition to the Sections of the Act cited in those portions of the Preamble this Section is based on Section 516 of the Act. While the Office consider the needs for contemporaneous reclamation to be sufficiently similar in surface and underground mining to warrant substantially identical performance standards, public comment is invited on how the differences in the effects of these types of mining should appropriately be reflected in the regulations. In particular, the office solicits public comment on the possibility of enumerating in this proposed Section those long-term structures and sites for which this requirement may need modification.

§§ 817.101–817.103 Backfilling and grading

These proposed Sections are substantially identical to the corresponding Sections of Part 816, except that some of the proposed requirements of Sections 816.101–816.105 have been deleted where the relatively small amount of overburden moved in underground mining has led the Office to conclude that the proposed requirements would be inappropriate (e.g., 816–101(a), 816.104, and 816.105). The reader is referred to the appropriate portions of the Preamble for Part 816 for information concerning the technical basis, alternatives considered, and statutory authority for these Sections of 817. In addition to the Sections of the Act cited in those portions of the Preamble, these Sections are based on Section 516 of the Act. While the Office considers the adverse effects of uncontrolled overburden handling to be sufficiently similar in surface and underground mining to warrant substantially identical performance standards, except where indicated, public comment is invited on how the differences in the effects of these types of mining should appropriately be reflected in the regulations.

§ 817.106 Regrading or stabilizing of rills and gullies

This Section is substantially identical to the corresponding Section of Part 816.106. The reader is referred to the appropriate portions of the Preamble for Part 816 for information concerning the technical basis, alternatives considered, and statutory authority for this Section. In addition to the Sections of the Act cited in those portions of the Preamble, this Section is based on Section 516 of the Act. While the office considers the needs for correction of gullying to be sufficiently similar in surface and underground mining to warrant substantially identical performance standards, public comment is invited on how the differences in the effects of these types of mining should appropriately be reflected in the regulations.

§§ 817.111–817.117 Revegetation

These proposed Sections are substantially identical to the corresponding Section of Part 816. The reader is referred to the appropriate portions of the Preamble for Part 816 for information concerning the technical basis, alternatives considered, and statutory authority for these Sections. In addition to the Sections of the Act cited in those portions of the Preamble, these Sections are based on Section 516 of the Act. While the office considers the needs for revegetation to be sufficiently similar in surface and underground mining to warrant substantially identical performance standards, public comment is invited on how the differences in the effects of these types of mining should appropriately be reflected in the regulations.

§§ 817.121–817.126 Subsidence control

The proposed regulations on subsidence are intended to ensure that underground mining is conducted so as to protect the health and safety of the public, minimize damage to the environment, and protect the rights of landowners by reducing subsidence-caused material damage to the land surface, by improving mining methods, and by maintaining the value and potential of the land.

These Sections are issued under the authority of Sections 102, 201, 501, 503, 504, 510, 516, 517, and 522 of the Act.

Technical literature relied upon in writing these regulations include:

1. "Acid Mine Drainage and Subsidence—Health and Ecological Effects of Increased Coal Utilization," Hill, Ronald D. and Bates, Edward R., Resource Extraction and Handling Division, Industrial Environmental Research Laboratory-Cincinnati, U.S. Environmental Protection Agency, Cincinnati, Ohio 45278, 1977.
2. "A Comprehensive Program for Dealing with Mine Subsidence," ARC Report 73-163-1559, prepared by Michael Baker, Jr., Inc., Beaver Pennsylvania, and the Institute of State and Regional Affairs. The Pennsylvania State University, Middletown, Pennsylvania, for the Appalachian Regional Commission, Washington, D.C., and the Pennsylvania Department of Enviromental Resources, Harrisburg, Pennsylvania, 1976, Chapter 6, pages 49–51.
3. "Subsidence Engineers Handbook", National Coal Board (British), Production Department, London, 1966, 1974.
4. Architectural Measures to Minimize Subsidence Damage, ARC Report 73-111-2551, prepared by Michael Baker, Jr., Inc., Beaver, Pennsylvania, for the Appalachian Regional Commission, Washington D.C., and the Pennsylvania Department of Environmental Resources, Harrisburg, Pennsylvania, 1974.
5. "Overview of Subsidence Potential in Pennsylvania Coal Fields," ARC Report 73-111-2552, prepared by HRB-Singer, Inc., State College, Pennsylvania, for the Appalachian Region Commission, Washington, D.C., and the Pennsylvania Department of Environmental Resources, Harrisburg, Pennsylvania, 1975.
6. Grey, R. E., Gamble, J. C., McLaren, R. J., and Rodgers, D. J., "State of the Art Subsidence Control", ARC Report 73-111-2559 prepared by General Analytics, Inc., Monroeville, Pennsylvania, for the Applachian Regional Commission, Washington, D.C., and the Department of Environmental Resources, Harrisburg, Pennsylvania, 1974, part 2.
7. "Use of Photo Interpretation and Geological Data in the Identification of Surface Damage and Subsidence," ARC Report 73-111-2554, prepared by Earth Satellite Corporation, Washington, D.C., for the Appalachian Regional Commission, Washington, D.C., and the Pennsylvania Department of Environmental Resources, Harrisburg, Pennsylvania, 1975, pages 35–37.
8. "Local and State Regulatory Powers Dealing with Land Use and Construction in Subsidence Prone Areas," ARC Report 73-163-2557, prepared by Mullin L. Lonergan Associates, Inc., Philadelphia, Pennsylvania for the Appalachian Regional Commission, Washington, D.C., and the Pennsylvania Department of Environmental Resources, Harrisburg, Pennsylvania, 1975, Appendix A.
9. U.S. Congress, 95th, 1st session, House Rept. 95-128, 1977, Surface Mining Control and Reclamation Act of 1977, Report of the Committee on Interior and Insular Affairs, House of Representatives, to accompany H.R. 2, p. 126-10. U.S. Department of Interior, 1976, Final environmental impact statement on surface subsidence control in mining regions: U.S. Bureau of Mines FES 76-58, 90 p.
10. U.S. Department of Interior, 1976, Final Environmental impact Statement on Surface subsidence control in mining regions: U.S. Bureau of Mines FES 76-58, 90 p.
11. National Coal Board, 1963, Principles of subsidence engineering: Production Department Information Bull 63/240, 21 p., London, UK.,
12. Dunrud, C. R. 1976, Some engineering geologic factors controlling coal mine subsicence in Utah and Colorado: U.S. Geological Survey Professional Paper 969, 39 p.
13. Brauner, G., 1973, Subsidence due to underground mining: I. Theory and practices in predicting surface deformation: U.S. Bureau of Mines Info-Circ 8571, 55 p.
14. Battelle Columbus Laboratories, 1975, A systems approach to underground mining: Phase I problem analysis and research recommendations, 282 p.
15. Campbell, J. A. L., Petrovic, L. J., Mallis, W. J., and Schulties, C. W., 1975, How to predict coal mine roof conditions before mining: Mining Engineering, October, pp. 37-40.
16. Vandale, A. E., 1967, Subsidence—a real or imaginary problem: Mining Engineering, September pp. 86-88.
17. Horn, G. H., 1977, Memorandum on subsidence requirements—coal: U.S. Geological Survey memo to mining supervisors.
18. Allen, A. S., 1976, Basic questions concerning coal mine subsidence in the United States: Assn. Engr. Geologists Meeting, April 1976, 19 p.
19. Amuedo and Ivey, "Ground Subsidence and Land use considerations over coal mines in the Boulder-Weld Coal Field, Colorado", Amuedo and Ivey Geological consultants, 1975.
20. "Study and Analysis of Surface Subsidence over the mined Pittsburgh coal bed", report prepared for U.S. Department of Interior, Bureau of Mines under contract No. J0366047 by GAI Consultants Inc. Monroeville, Pennsylvania, July 1977.
21. Wardell, Kenneth, "Ground Subsidence and Control", *Mining Congress Journal*, January, 1969, pp.36-43.
22. Kratzsch, Helmut, "Reduced Subsidence by Planned Extraction", Bergbau-Archiu (Essen), Vol, 25, No. 5, December 1964, pp. 15-21.
23. Panek, Louis A., "Methods and Equipment for Measuring Subsidence", Third Symposium on Salt, the Northern Ohio Geological Society, Inc., Cleveland, Ohio, 1966.
24. Voight, Barry and Pariseau, William, "State of Predictive Art in Subsidence Engineering", Journal of the Soil Mechanics and Foundation Division, Proceedings of the American Society of Civil Engineers, March, 1970, pp. 721-740.
25. Legget, R. F., "Duesburg Harbour Lowered by Controlled Coal Mining", Canadian Geotechnical Journal, 9, 374, 1972, pp. 874-382.
26. Brauner, Gerhard, "Subsidence Due to Underground Mining—2. Ground Movements and Mining Damage", U.S. Bureau of Mines Information Circular 8572, 1973-a.

27. "Bituminous Mine Subsidence and Land Conservation Act of 1966", Commonwealth of Pennsylvania (Department of Environmental Resources), Harrisburg, Pa.
28. Curtis, S.E., Talk Presented at the Roof Control Committee Meeting of the American Mining Congress Pittsburgh, Pa., September 18, 1968.
29. Dunrud, C.R., and Osterwald, F.W., 1978, Effects of coal mine subsidence in the western Powder River Basin, Wyoming: U.S. Geol. Survey Open-File Report 78-473, 71 p.
30. Osterwald, F.W., 1961, Deformation and stress around coal mine workings in Sunnyside No. 1 mine, Utah: U.S. Geol. Survey Prof. Paper 424-C, p. C348-353.
31. USGS, 1962, USGS relates geologic structures to bumps and deformation in coal mine workings: Mining Engineering, v. 14, no. 4, p. 63-68.

Section 516(b)(1) of the Act requires underground mine operators to "adopt measures consistent with known technology in order to prevent subsidence caused material damage to the extent technologically and economically feasible, provided that room and pillar mining shall not be prohibited." If no subsidence control measures are adopted there is the possibility of material damage to private dwellings (National Coal Board, 1974; Baker, 1974; Amuedo and Ivey, 1975; Voight and Pariseau, 1970; and Brauner, 1973), public facilities such as schools, bridges (National Coal Board, 1974), gas and electrical utilities (GAI, 1977, sewers (National Coal Board, 1974), water resources such as springs and farmland (Dunrud and Osterwald, 1978).

Clearly, it is desirable to conduct underground mining in a manner such that the time and extent of subsidence can be defined. Damage due to subsidence can occur as much as 100 years after mining (GAI, 1977) due to long term instability of mine pillars indicating the need for proper subsidence control measures in order to "maximize mine stability."

Subsidence effects can extend off the mining site (National Coal Board, 1974; Baker, 1974; HRB-Singer, 1975; and Grey, et al., 1974) at angles (Measured horizontally from the edge of mining) varying from 35b-70b (Brauner, 1973) resulting in damage to structures not directly situated over the mining site. Determination of on and off-site subsidence requires consideration of coal thickness mined, mining geometry and dimensions, and the nature of over and underlying strata (National Coal Board, 1974; Brauner, 1973; GAI 1977; and Voight, 1970). Determination of the effects of subsidence on structures and other facilities requires consideration of subsidence caused ground strains and deflections and the nature of the structures themselves (National Coal Board, 1974; Brauner, 1973 Voight, 1970; Brauner, 1973-a; and Pennsylvania DER, (no date). Therefore, adequate definition of the time and extent of subsidence and the prevention of material damage requires careful consideration of the value and use of the land surface, detailed knowledge of the geologic and mining characteristics of the site (Osterwald, 1961, 1962), and proper attention to geotechnical design principles.

Technology is available to minimize and reduce subsidence-caused material damage for both the standard room and pillar mining method and other methods such as longwall mining which are currently used in this country. Excellent protection of sensitive surface features such as urbanized areas and important historic cultural features, or farmland can be achieved by refraining from mining underneath and adjacent to these features, as, for example, provided for with respect to perennial or intermittent streams in Section 817.57. Such protection is currently required in Pennsylvania for protected structures consisting of public buildings, dwellings, and cemeteries when the mine operator cannot post bond or does not have approved financial statements. Similar protection is required by MSHA for oil and gas wells.

Subsidence control can be achieved for other structures by limitations on coal extraction when using the room and pillar method (Curtis, 1968). Protection of the surface can be achieved when using longwall mining by a variety of techniques. Coal extraction as high as 60-70% has been achieved using longwall panel and pillar systems while significantly limiting subsidence damage (Wardell, 1969). A large portion of a major harbor in Germany was lowered more than 1 meter with minimal damage due to subsidence, by careful control of mining (Legget, 1972). Simultaneous harmonic extraction of superimposed coal seams and special arrangements of the mine workings and overlying structures can be used to limit damage (Brauner, 1973; Kratzsch, 1964; Osterwald, 1961, 1962). Generally longwall mining results in predictable and controlled subsidence that is 90-95% completed by the termination of mining (National Coal Board, 1974; Brauner, 1973; Wardell, 1969; Voight, 1970; and Brauner, 1973-a) whereas room-and-pillar mining, especially at shallow depths, may result in subsidence at a much later date (Amuedo and Ivey, 1975; GAI, 1977; Dunrud and Osterwald, 1978).

A preventative measure to reduce material damage from subsidence is to reinforce or design surface structures to resist the stresses imposed on them by subsidence caused ground movements (National Coal Board, 1974;

Pennsylvania DER, 1974; Voight, 1970; and Brauner, 1973-a). Placement of fill either hydraulically or pneumati-

structures can be designed to resist subsidence by incorporating flexible superstructures, flexible pipelines with

conducting the premining survey and preparing the survey report should be well versed in the appropriate fields of

historic lands, to sites with unique cultural, esthetic, or environmental values, or to lands where there is a dis-

result in inaccurate measurements of elevation, etc., and correspondingly poor subsidence control. It might be

dence is capable of severely damaging buildings, load bearing walls, tall chimneys or other ancillary structures

Pennsylvania DER, 1974; Voight, 1970; and Brauner, 1973-a). Placement of fill either hydraulically or pneumatically behind a longwall face can significantly reduce subsidence (Brauner, 1973) and backfilling through surface bore holes has been used by the U.S. Bureau of Mines in an attempt to limit subsidence over abandoned room and pillar mines (DOI, 1976).

Section 817.123 would require mine operators to inform landowners and other persons, whose property may be affected by subsidence, of the location, dates, probable effects on structures of subsidence, and of the subsidence control measures to be effected by the operator, every 6 months during mining. Provision is made for landowners to request and receive a premining survey of their property. The intent of proposed Section 817.123 is to protect the rights of landowners by providing them with advance information necessary to enable them to protect their property. Persons who may be affected adversely by subsidence and must be informed under the requirements of proposed Section 817.123 include private landowners, tenants, municipalities, public and private utilities, and persons with a legal interest or appurtenance that could be affected adversely by subsidence.

The 6 month notification is provided so that the landowner will be informed of the potential for subsidence damage to his property prior to its being undermined. The 6 month requirement allows a reasonable length of time prior to the likely onset of subsidence so that damage-control measures can be implemented, and adverse effects of subsidence can be mitigated.

Notification of the landowner by the advent of subsidence itself poses a danger to the life and property of the landowner since subsidence may break gas, electrical, and water lines (GAI, 1977), and is clearly unacceptable. Utilities, municipalities, and industries must be advised as to when disruptions are imminent and must be allowed adequate time to protect against loss of power, gas, or water services. If landowners are to assure their rights by means such as insisting that proposed subsidence controls be modified or petitioning to have their land declared unsuitable for underground mining as allowed by Section 522(c) of the Act, then they must be informed of the possibility of subsidence affecting their land prior to its occurrence.

Dwellings or other buildings already constructed may be partially protected against subsidence by reinforcement of sensitive parts such as windows or doors and by isolating the structure from lateral ground movement by ditching around its periphery (National Coal Board, 1974; Pennsylvania DER, 1974; and Voight, 1970). New structures can be designed to resist subsidence by incorporating flexible superstructures, flexible pipelines with telescopic joints, special sliding or rigid raft type foundations and by locating the long axis of the building properly with respect to mining (National Coal Board, 1974; Pennsylvania DER, 1974; Voight, 1970; and Pennsylvania DER, (no date). The requirement to identify mining areas, dates and probable effects of surface subsidence (subsections (a), (b) and (c) of proposed Section 817.123) is necessary for advisement of the landowner so as to enable him to implement precautionary measures.

Proposed Section 817.125, is intended to protect the rights of landowners, by providing for a valid comparison of surface conditions before and after subsidence. If requested by the landowner, a survey shall be conducted of the surface of the landowner's property and a report of the survey prepared by persons approved by the regulatory authority.

To accurately determine whether subsidence has caused material damage to property, to the hydrologic balance, to agricultural productivity, to aquifers, or to fish, wildlife and related environmental values it is necessary to make a valid comparison of conditions existing before and after the land surface has subsided. Premining baseline information and postmining informaiton are necessary in order that a valid assessment of the effects of mining can be made.

Schools, hospitals, public utilities and other public structures also must be surveyed for premining conditions and the report filed with the regulatory authority so as to permit evaluation of damage to public property. Since the public is the landowner of public land, the regulatory agency as a recipient and keeper of all survey reports will maintain a file of reports on public structures.

Specialized geotechnical and architectural skills may be required to assess accurately the condition of structures, springs, wells and other features before mining and to distinguish such damage as may be caused by subsidence and damage caused by natural and other man-made processes. For instance, masonry structures can be cracked by differential stressing, uneven settlement caused by loss of bearing capacity of the foundation, or by tension or compression caused by subsidence (National Coal Board, 1974; Voight, 1970). Springs may go dry from natural fluctuations in rainfall or by subsidence destruction of the aquifer. In order to assure accurate assessment of subsidence damage, accurate record keeping, proper interpretation of premining conditions, and generally reliable results, the persons conducting the premining survey and preparing the survey report should be well versed in the appropriate fields of civil engineering, hydrology, architecture, and geotechnical engineering. For this reason, regulatory authority approval is proposed.

Special attention should be given to springs, wells, reservoirs and other water systems used for human or animal consumption or agriculture in order to accurately assess disturbances to the hydrologic balance, disturbances to fish, wildlife, and related environmental values and, of potential agricultural productivity. Underground mining can disrupt springs (Dunrud, 1976), and subsidence can divert surface water flow and groundwater into mine openings. The addition of moisture to some coals enhances the possibility of spontaneous combustion, giving rise to coal mine fires (Dunrud and Osterwald, 1978).

Section 817.126 would require underground mine operators to consult with surface landowners.

The drafters considered and rejected alternative language which would have required the operator to assume liability for subsidence damage, purchase a non-cancellable property damage insurance policy in favor of the surface owner or offer the landowner the right to purchase the coal underlying his property, in order to preserve the existing natural support for the surface.

Precedent exists for the requirement to offer the right to purchase subsurface support in the Pennsylvania Bituminous Mine Subsidence and Land Conservation Act (Curtis, 1968). However, the option of offering the surface owner an opportunity to purchase adequate coal in place to support his surface structures is not always a viable option; especially in the case of a coal seam several hundred feet below the surface and considering an angle of draw of 30-35°, the value of coal that must be left in place can easily exceed the market value of the surface structure. Accordingly, this alternative was rejected.

The requirement for a subsidence monitoring plan is justified earlier in this Preamble in the discussion of Section 784 as it relates to the subsidence monitoring plan. If the plan is not adhered to there is no assurance that material damage will be prevented.

Under Section 517(b)(1)(c) of the Act the regulatory authority can require the mine operator to "install, use, and maintain any necessary monitoring equipments or methods". Special subsidence monuments and increased precision of subsidence measurement may be required in order to adequately understand the nature of subsidence, and institute measures to prevent material damage to fragile or

historic lands, to sites with unique cultural, esthetic, or environmental values, or to lands where there is a dispute or doubt as to likely subsidence. The number and location of subsidence monuments and the degree of precision of monitoring is dependent on the sensitivity of the surface feature to subsidence ground movements. Some land (e.g. grassland or pasture) may be able to withstand significant lowering in elevation and even surface crackings if the cracks fill in quickly and a high precision of monitoring might not be necessary. Structures may be lowered appreciably without damage in some cases, but extension of only 0.1 foot (National Coal Board, 1974; Pennsylvania DER, 1974, Voight, 1970; and Brauner, 1973-a) can cause cracking of plaster which would be sufficient to materially damage historic buildings or sensitive archeological sites. Lowering the land surface only slightly may flood and destroy vegetation in wildlife refuges or other areas preserved in a natural state when the water table is close to the surface. Thus, unusual monitoring requirements may be necessary at some sites to ensure close control of subsidence or the value and use of these sites might be irreparably damaged.

An initial subsidence report would be submitted within 3 months of the effective date of the State or Federal program for existing underground mines and proposed mines pending permit approval. Documentation of the initial condition of the land surface to include elevation and horizontal location of subsidence monuments and the presence and condition of fish, wildlife or other environmental resources, springs, streams, aquifers or other elements of the hydrologic balance, agricultural resources, and urban areas is necessary to determine the effects of subsidence and thus prevent material damage. If no requirement is made to determine initial surface conditions then the effectiveness of any subsidence control measure adopted would be highly dubious and mine operators would not be meeting the requirement to prevent subsidence causing material damage to the extent technologically and economically feasible because:

(1) determination of the surface condition before subsidence is a requirement of existing subsidence control technology; and

(2) operators would not be able to tell whether they were causing material damage or not.

The 3-month period proposed for determining initial surface conditions may not alow adequate time if regulations are issued in the winter and snow covers areas affected by subsidence, or if the areas are numerous and large. The short period also would tend to result in inaccurate measurements of elevation, etc., and correspondingly poor subsidence control. It might be more logical to require documentation of initial surface condition to be submitted anytime before a mine permit issues. The phrase "comprehensive documentation of horizontal and vertical changes of monuments" may be too vague to be of much use. Public comment on these questions would be welcomed by OSM.

Sections 817.121-817.126 are proposed because subsidence is capable of causing large cracks or sink holes (GAI, 1977; Brauner, 1973-a) which could absorb or deflect streams or substantially increase erosion and suspended particulates (Section 516(b)(9) of the Act) if they formed in the stream bed. Diversion or disruption of stream flow or an increase in suspended particulates could severely damage fish, wildlife, and related environmental values (Section 516(b)(11) of the Act) and infringe on the rights of offsite waters users (Sections 102(b) and 516(b)(7) of the Act). Mining under major impoundments of water could create danger to inhabitants of downstream communities if the stability of impoundment dams were affected. Diversion or loss of water in small impoundments could severely damage fish, wildlife, and related environmental values and users of impoundment water. Drainage of impoundment water into mine workings through cracks or sinkholes could flood mine workings and drown underground miners. It should be noted that mining is safely and routinely done under large bodies of water including impoundments and the ocean, for example, in Nova Scotia.

Subsidence is capable of disrupting spring flow (Dunrud, 1976) and the aquifers feeding springs. Subsidence-caused cracking of underground rock strata could potentially allow exchange of aquifer water and lower quality water from other underground water sources, or contamination of aquifer water by polluted surface sources. Disruption of aquifers supplying water to communities damages the rights of community landowners, and disturbs the hydrologic balance and should be prevented.

Precedent for protecting public buildings is provided by the Pennsylvania Bituminous Mine Subsidence and Land Conservation Act of 1966 (Curtis, 1968). Subsidence is capable of creating danger to inhabitants of urbanized areas and public buildings (Section 516(c) of the Act) by the breaking of gas and electrical lines. Additional dangers are that sinkholes may open up overnight under roads, and they may constitute attractive nuisances in the vicinity of homes, schools, or public playgrounds. Subsidence is capable of severely damaging buildings, load bearing walls, tall chimneys or other ancillary structures of public buildings (National Coal Board, 1974; Pennsylvania DER, 1974; Voight, 1970; and Brauner, 1973-a).

Subsidence may severely damage areas adjacent to the mine site as well as directly above the mine workings since subsidence effects extend upwards from the edge of the mine workings at angles of draw from 35-70° and horizontal ground movements are often greatest at the edge of subsided areas (National Coal Board, 1974; Brauner, 1973; Voight, 1970; and Brauner, 1973-a). Thus mining is prohibited in close proximity to public buildings as well as directly underneath, unless it can be shown the buildings will not be damaged or a hazard created. If undermining of public buildings is not prohibited or closely controlled, severe material damage to public buildings will not be prevented, inhabitants of public buildings may be placed in danger and the rights of public land owners will not be assured.

§§ 817.131-817.132 Cessation of operations

These Sections are substantially identical to the corresponding Sections of Part 816. The reader is referred to the appropriate portions of the Preamble for Sections 817.131-817.132 for information concerning the basis and for these Sections. In addition to the Sections of the Act cited in those portions of the Preamble, these Sections are based on Section 516 of the Act. While the Office considers the needs related to cessation of operations to be sufficiently similar in surface and underground mining to warrant substantially identical performance standards, public comment is invited on how the differences in the effects of these types of mining should appropriately be reflected in the regulations.

§ 817.133 Postmining land use

This Section is substantially identical to the corresponding Section of Part 816. The reader is referred to the appropriate portions of the Preamble for Part 816 for information concerning the technical basis, alternatives considered, and statutory authority for this Section. In addition to the Sections of the Act cited in those portions of the Preamble, this Section is based on Section 516 of the Act. While the Office considers the needs for postmining land use controls to be sufficiently similar in surface and underground mining to warrant substantially identical performance standards, public comment is invited on how the differences in these types of mining

should appropriately be reflected in the regulations.

face and has been so designated by the Act. The laws of all States treat auger

Augering operations may produce water drainage or shifts in the ground

in Parts 816 and 817 of this Subchapter.

ered desirable, the Secretary may apply the proposed performance

mining operations that are located in Alaska and from which coal was mined

should appropriately be reflected in the regulations.

PART 818—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—CONCURRENT SURFACE AND UNDERGROUND MINING

The proposed performance standards in Part 818 are applicable during the permanent regulatory program. They are based on standards in Section 515(b)(16) of the Act which provides for issuance of a variance for specific areas within the reclamation plan from the requirements that reclamation efforts proceed a contemporaneously as practical in order to permit underground mining operations to be conducted prior to reclamation. Any person who conducts or proposes to conduct a combined surface mining and with underground mining operation which cannot conform with the requirement for contemporaneous reclamation must obtain a variance as specified in this Part. Under proposed rule 785.18(f), each permit for which a variance is granted shall be reviewed within 3 years of issuance of the permit and within each 3 year period following a review. The regulatory authority may modify a variance if more stringent measures are necessary to ensure compliance with the objectives set forth in proposed subsection 818.12.

Public comment is solicited on the need, if any, for further guidance to regulatory authorities as to the circumstances under which these variances should be available.

PART 819—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS-AUGER MINING

Section 819.11 proposes performance standards for of auger mining. These standards are established to minimize the adverse environmental effects of auger mining such as, degradation of backfilled areas, surface subsidence and excess erosion of reclaimed lands and to ensure maximum recovery of the coal resource.

The following technical literature was used in preparing this proposed Part:

1. Technology of Auger Mining, USBM Report on contract No. S0241050.

October 1975, 78 pages.

2. Operating Practice Changes and Control Modifications to Improve the Safety of Coal Auger Operations, USBM Report on contract No. H0230010. May 1975.

3. The Use of Auger In Surface Mining of Bituminous Coal, USBM Report of Investigations 5325, March 1957.

Auger mining is a specialized method of mining underground from the surface and has been so designated by the Act. The laws of all States treat auger mining as a surface mining method.

Auger mining has had an unfortunate history of being a high-grading operation with little concern for resource recovery. The Act insists that resource recovery be maximized in the auger operation.

The Act requires that access be available to the reserve left after augering. The 250-foot width was determined to be a reasonable estimate of the width of unmined coal necessary to properly support the entries required for underground mining. This width is a minimum, since common practice would be to place three to four twenty-foot wide entries in the 250 foot section.

The 2,500-foot spacing provides frequent intervals where access for underground mining may be developed, although most operations would use only a few of the 250-foot unmined sections for access.

The increase of 50 feet in the width requirement of the unmined Section for each additional seam worked provides an extra margin of safety for future entries that might be developed. The requirement for locating unmined sections in different seams directly above each other protects the entry support in one seam from the structural degradation that would occur if the seam under an unmined Section were to be augered.

The purpose of limiting surface mining to a minimum of 500 feet from underground operations is to prevent the surface operations from endangering the underground miners through such hazards as degradation of roof support or ventilation, flooding, and equipment breakthrough. This required distance is set forth in the Act at Section 515(b)(12). The surface miner could be exposed to such hazards as explosions, highwall collapse, falls into underground openings, flooding and black damp. The environment could suffer damage from release of toxic water, erosion, hydrologic imbalance and fire.

Auger mining is often done to recover reserves not minable by other means and often occurs after other surface and underground methods reach their limits. If there is an adequate knowledge of the conditions to be encountered the location of underground workings augering should be capable of recovering coal close to the underground areas. In a sample of eight auger operations, four operations regularly penetrated underground workings (USBM, 1957). On the other hand, the Office is aware that augering into underground workings may, in some instances, improve airflow and, hydrologic balance, and reduce water problems or pollution.

Augering operations may produce water drainage or shifts in the ground water flow. Also, the presence of oxygen could encourage the ignition of the coal within the seam.

Much of the water discharged by auger holes is toxic, and its discharge into the environment must be of a very limited duration to prevent damage to the environment. To prevent future problems the seal must be made watertight and permanent. Auger holes not emitting water do not pose an immediate environmental hazard. Therefore, a 30 day period is allowed for sealing the holes.

The Office considered a provision which would have stated that in all those cases where the water quality is acceptable, the hydrologic balance will not be negatively influenced, and the water has a stable drainage area, the plugging requirement would be waived if the hole was backfilled with a porous material that would not contribute to water contamination and a permanent path was established to the stable drainage area to protect the backfill from failing due to excessive amounts of water. This proposal was rejected on the grounds that it violates the requirement for an "impervious" seal, as stated in Section 515(b)(9) of the Act, in all cases except where plugging may create a hazard.

At times it is not possible to protect the environment adequately from the effects of auger mining. In these cases, auger mining cannot be allowed.

Auger mining may disrupt the water flows such that a water-tight seal or porous would be incapable of adequately restoring the water flow or quality or stabilizing the backfill.

Auger mining has been generally considered a secondary recovery method because it is used to "high-grade" reserves, a practice that results in low recovery. Recoveries of 25-35% are common. (USBM, 1975 at page 2). Properly planned and conducted auger mining operations can approach underground recovery levels of around 50% recovery. (USBM, 1975 at page 3). Where auger mining might preclude the future use of higher recovery mining methods by either reducing reserves or degrading the structural integrity of the overburden, its use must be prevented.

Since auger mining is a form of surface mining, it must be conducted according to all applicable regulations, including the performance standards in Part 816.

PART 820—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS-ANTHRACITE

This proposed Part 820 sets forth specific performance standards for anthracite coal mines as an exemption to the performance standards proposed in Parts 816 and 817 of this Subchapter.

The Act requires that State environmental protection standards for anthracite surface coal mines in effect on August 3, 1977, the date of enactment of the Act, be adopted through the issuance of special regulations. The Office believes that Pennsylvania was the only State to have standards in effect on August 3, 1977.

At least 14 laws and regulations have been enacted in Pennsylvania which govern mining and reclamation practices at anthracite coal mines. These laws and regulations appear in Subsection 820.11(a).

In drafting this Part, several different approaches were considered. The existing structure of the proposed standards lists legislation which directly governs the conduct of anthracite surface coal operations. It was proposed by some that these 14 statutes and regulations should be annotated to provide a guide to specific performance standards instead of requiring interested persons to be knowledgable of all 14 laws. Alternatively, the Office might promulgate minimum Federal environmental performance standards incorporating the minimum regulations required by the State. The unannotated listing contained in the proposed draft of this Part was considered acceptable because it will not result in addition of a long, complex set of provisions of limited applicability and because the majority of anthracite is produced in a State which already has specific protection standards in effect.

An issue not explicitly addressed in these proposed regulations is how to regulate anthracite surface coal mining in States which are currently mining or may in the future mine anthracite, but which did not have special performance standards when the Act was enacted. The most straightforward approach would be to impose the minimum performance standards of this Subchapter. The two alternatives are—

(1) To impose environmental protection standards similar to those in Pennsylvania; or

(2) To develop special Federal standards to take into account the unique characteristics of other anthracite deposits. At this time OSM has made a decision not to promulgate additional anthracite regulations.

The Secretary must issue additional regulations as necessary when a State regulating anthracite amends any law or regulations for anthracite mining. If the regulations existing as of August 3, 1977, are made less stringent in any manner, the Secretary may elect to develop specific Federal performance standards to supplement the amended State regulation or, if considered desirable, the Secretary may apply the proposed performance standards for surface mining and underground coal mining.

PART 821—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—CERTAIN MINES IN ALASKA

This Part specifies those variances that are available from the requirements of this Subchapter for certain coal mines in Alaska.

Literature cited for the preparation of the requirements for the variances from the permanent performance standards available for certain mines in Alaska include:

1. Senate Report No. 28; 94th Congress 1st Session; March 5, 1975.

2. "State Surface Mining Laws: A survey, a comparison with the proposed Federal legislation, and background information"; June 1977 95th Congress 1st Session.

3. Congressional Record "Surface Mining Control and Reclamation Act of 1975"; 121 Congress Record 7044; March 18, 1975.

4. House of Representatives Report No. 94-1445; 94th Congress 2nd Session.

There are many special physical, hydrological and climatic conditions that exist in Alaska that are not commonly encountered in other States. Much of the area of the State is tundra, permafrost is abundant, topsoil is often thin or nonexistent, the coal seams often dip 30 degrees or greater. In addition, Alaska has significant coal reserves.

It may be necessary to make minor modifications in the permanent performance standards for certain mines in Alaska. In no manner shall these modifications lower the environmental standards for Alaskan coal mines.

In order to ascertain if, in fact, modifications are needed for Alaskan coal mines, Section 708 of the Act specifies that the Secretary direct a study of surface coal mining operations in Alaska. Within three years after the date of enactment of the Act, the Secretary, based on the findings of the study, is authorized to modify the applicability of any environmental protection provision of the Act, or any regulation issued pursuant thereto, to any surface coal mining operation in Alaska from which coal has been mined during the year preceding enactment of the Act if he determines that it is necessary to ensure the continued operation of such surface coal mining operation.

During that period of time prior to the issuance of any modifications to the regulations, it may be necessary to issue variances to the performance standards of the Act as necessary to ensure continuance of the mining operation. Only those surface coal mining operations that are located in Alaska and from which coal was mined between August 3, 1976, and August 2, 1977 are eligible for variances.

PART 822—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—OPERATIONS IN ALLUVIAL VALLEY FLOORS

Proposed Part 822 contains performance standards for alluvial valley floors that implement the requirements of the Act. The operator would be required to reestablish those geologic, hydrologic, and biologic characteristics that are necessary to support the essential hydrologic functions. It is not intended that all of the characteristics need be reestablished in every case. Rather, only those important to farming or those that control the quality and quantity of water need be reestablished. The Part proposes that the operator monitor the effects of mining and reclamation operations to—

(1) Identify or further describe important geologic, hydrologic, and biologic characteristics; and

(2) Detect conditions signifying interruption, discontinuance, or preclusion of farming or material damage to water.

The procedural requirements developed under Section 822.12, if adopted, would allow the regulatory authority to oversee mining practices that are being employed in alluvial valley floors and to require modification of practices adversely affecting farming or water quality or quantity.

With respect to application procedures and environmental performance standards for alluvial valley floors, OSM considered adding detailed review procedures that would be followed if a "higher or better use" were proposed for alluvial valley floors. These procedures would address the role of State and local planning in reclamation of alluvial valley floors to higher and better uses in accord with Section 515(b)(2) of the act. The Office decided not to propose detailed procedures at this time but invites public comment. The intent of the Act is to avoid interruption, discontinuance, or preclusion of farming on alluvial valley floors large enough to be significant to farming. Section 510(b)(5) is accompanied by the further requirement to preserve and reestablish the essential hydrologic functions of all alluvial valley floors in Section 515(b)(10)(f). Study of the legislative history of the Act leads the Office to conclude that Congress did not intend to promote major changes in land use of alluvial valley floors and that Congress intended the Office's position to be to guide reclamation of mined alluvial valley floors in a manner that preserves the essential hydrologic func-

tions of the alluvial valley floor. Regulatory authorities may choose to

floor in which the surface flow was diverted for the life of the mine and

6. Chapman, A. G. 1967. How strip-land grading affects tree survival and

prior to any drilling, blasting, or mining. Few, if any, of the mining operations can be done without the risk

may cause contamination. The surface of stockpiled materials will be unstable and subject to wind and water ero-

coal seams on mountaintops where it would be feasible to develop alternative land uses, such as industrial, com-

tions of the alluvial valley floor. Regulatory authorities may choose to be more explicit in defining post-mining land uses of mined and reclaimed alluvial valley floors, but compliance with Public Law 95-87 must be ensured.

The Office is considering the addition of a paragraph to Part 785.19 that would provide further guidance to surface coal mining operations that were in production in the year preceding August 3, 1977, were located within or adjacent to an alluvial valley floor, produced coal in commercial quantities during the year preceding August 3, 1977, and had specific permit approval by the State regulatory authority before August 3, 1977, to conduct surface coal mining operations within an alluvial valley floor. This guidance would implement the requirements of Section 506(d)(2) of the Act by requiring that—

"(a) Applications for a renewal of a valid permit which propose to extend surface coal mining operations beyond the boundaries identified in the reclamation plan approved prior to August 3, 1977, and which propose to extend operations that were excluded from compliance with the criteria of Section 786.13 by virtue of compliance with exclusion of Subparagraph 786.13(k)(1), must comply with all the provisions of Section 786.13 for all new areas located outside the previously identified and approved boundaries; and

(b) All existing surface coal mining operations conducted in or adjacent to alluvial valley floors must comply with the requirements of Part 822 on the effective date of these regulations with respect to those lands subject to these regulations. In order to show compliance, the applications for permits would have to satisfy the application requirements of Section 785.19."

The Office is also considering the necessity of adding a paragraph to Section 805.13 which would allow the regulatory authority to extend the period of liability under a reclamation bond when the cumulative effects of mining and reclamation on a stream, stream channel, floodplain, and associated low terraces cannot be determined in the initial 5 or 10 years because major elements of the watershed are still affected by surface coal mining and reclamation operations. The paragraph could read:

"The regulatory authority may determine, based on the magnitude of the disturbance caused by surface coal mining and reclamation operations over time to a surface drainage watershed that a bond shall be held for a longer period and in an amount adequate to regrade and revegetate the watershed to comply with Parts 816 through 826 of this Title.

Such a statement could be appropriate in the case of an alluvial valley floor in which the surface flow was diverted for the life of the mine and vegetation was reestablished, but stream bank instability, progressive compaction and resulting subsidence of regraded soils, and other problems did not occur until after the entire hydrologic system was evaluated at the termination of mining. This might occur if most runoff was diverted from the reclaimed stream channel until the last area was revegetated. The provisions would provide incentives to complete remedial reclamation. Comments addressing this consideration are invited.

The Office considered adding to proposed Section 822.13 a requirement that ground cover and productivity on reclaimed and other affected areas must be 100 percent of ground cover and productivity. While this proposal has not been included in the proposed rule, public comment is invited as to the desirability of such a requirement in furthering the purposes of this Part.

PART 823—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—OPERATIONS ON PRIME FARMLAND

Proposed Part 823 contains regulations for achieving the requirement of Section 515(b)(7) of the Act and would require that persons conducting surface mining activities on prime farmland, as defined in Section 701.5q, to return such land to equal or better productivity than its pre-mining condition. These sections outline procedures for the systematic removal of soil horizons, stockpiling, site preparation prior to restoration, and systematic replacement of soil horizons.

Technical literature relied upon for the proposed prime farmland regulation in 823.1

823.14 is:

1. Aldon, E. F. 1978. Reclamation of coal-mined land in the Southwest. Soil and Water Conservation, Vol. 33 No. 2. pp. 75-79.

2. Aldon, Earl F., and H. W. Springfield. 1973. *Revegetating coal mine spoils in New Mexico: a laboratory study* USDA For. Serv. Res. Note RM-245. 4 p. Rocky Mt. For. and Range Exp. Stn., Fort Collins, Colo.

3. Argonne National Laboratory. 1978. Land reclamation program. Annual Report. July 1976—October 1977. Argonne, III. pp. 78–83.

4. Bennett, O. L. 1971. Grasses and legumes for vegetation of strip-mined areas. W. Va. Univ., Reveg. and Econ. Use of Surface-Mined Land and Mine Refuse Symp. Proc. 1971: 23-25.

5. Bennett, O. L. 1978. Reclamation of lands disturbed by surface mining. 11th Congress, International Society of Soil Science. Symposia Papers. Volume 3. pp. 249–259. Edmonton.

6. Chapman, A. G. 1967. How strip-land grading affects tree survival and growth. Pub. No. 29. School Agr., S. III. University, Carbondale.

7. Grandt, A. F. and Lang, A. L. 1958. Reclaiming Illinois strip coal and with legumes and grasses. Univ. of Ill. Agr. Exp. Sta. Bul. 628, 64 pp., illus.

8. Grandt, A. F. 1978. Mined-land reclamation in the interior coal province. 1978. J. Soil and Water Cons. Vol. 33. No. 2 pp. 62-28.

9. Martin, John, H. 1976. Principals of field crop production, 3rd Ed. McMillam Pub. Co., N.Y., N.Y.

10. Medvick, C. 1969. Selecting plant species for revegetating surface coal mined lands in Indiana—a forty year record. IN: Ecol. and Reclam. of Devastated Land, v. 2. R. J. Hutnik and G. Davis, eds. Gordon and Breach, New York. pp. 65-80.

11. Olson, T. C. 1977. Restoring the productivity of a glacial till soil after topsoil removal. J. of Soil and Water Cons. Vol. 32. No. 3. pp. 130–132.

12. Plass, W. T. 1975. An evaluation of trees and shrubs for planting surface-mine spoils. U.S. Dep. Agr., N.E. For. Exp. Sta. Res. Note NE-317, 8 pp.

13. Plass, W. T. 1972. Chemical soil stabilizers for surface mine reclamation. Northeastern Forest Experiment Station, Forest Products Marketing Laboratory, Princeton, West Virginia.

14. Plass, W. T. 1978. Reclamation of coal-mined land in Appalachia. J. Soil and Water Cons. Vol. 33. No. 2. pp. 56–61.

15. Power, J. F., R. E. Ries, and F. M. Sandoval. 1978. Reclamation of coal-mined land in the Northern Great Plains. J. Soil and Water Cons. Vol. 33. No. 2. pp. 69–74.

16. Ruffner, J. D., and Steiner, W. W. 1969. Evaluation of plants for use on critical sites. In: Ecol. and Reclam. of Devastated Lands, v. 2. R. J. Hutnik and G. Davis, eds. Gordon and Breach, New York. pp. 3-12.

17. Ruffner, Joseph D. 1978. Plant Performance: a Surface Coal Mine Spoil in Eastern United States. USDA, SCS-TP-155.

18. Sandoval, F. M., J. J. Bond, J. F. Power, and W. O. Willis. 1973. Lignite mine spoils in the Northern Great Plains—characteristics and potential for reclamation. In Proc., Res. and Applied Tech. Symposium on Mined-land Reclamation. National Coal Assn., Washington, D.C. pp. 117–133.

19. Vogel, W. G., and Berg, W. A. 1968. Grasses and legumes for cover on acid strip-mine spoils. J. Soil and Water Conserv. 23(3): 89–91.

Proposed Section 823.11 establishes specifications for soil removal, storage, replacement, and reconstruction using minimum standards as set forth in the Act.

Subsection 823.11(b) would require that removal of soil horizons be done prior to any drilling, blasting, or mining. Few, if any, of the mining operations can be done without the risk of contamination of the soil horizons. The overburden should be protected from erosion. The method of protection will vary by geographic location and the nature of the overburden. Ample data exist to permit the development of adequate vegetative erosion control. (Ruffner, 1978), (Bennett, 1971), (Grandt, 1958), (Medvick, 1969), (Plass, 1975), (Ruffner, 1969), (Vogel, 1969), and (Aldon, 1973).

Proposed Sections 823.12 and 823.14 would deal with the removal and replacement of the various horizons. Since prime farmland soils are defined as those having the best combination of physical and chemical properties for plant growth, there will be few circumstances where it will be more desirable to substitute selected overburden material for A and B horizons in soil reconstruction. Where substitute material could be shown to be equal or more favorable for plant growth than the A and B horizons, its use may result in less costly soil reconstruction and possibly a more productive soil.

Removal and replacement of A and B horizons in their original sequence offers the highest potential for creation of a final root zone of depth and quality comparable to that which existed in the natural soil. Power and others (1978) have shown that reconstruction of Williams silt loam, by replacing topsoil and subsoil in separate layers, was superior to mixing the two materials and achieved wheat yields comparable to those on unmined land during the first growing season. Bennett (1978) has concluded that coal can be removed without destroying the potential productivity of the soil and seriously damaging the environment, through adequate guidelines and specific controls. There is conclusive evidence that topsoil (A horizon) replacement can vastly improve plant survival and growth (Sandoval and others, 1973, Alson, 1978; Grandt, 1978; Argonne National Laboratory, 1978). Olson (1977) found that the most rapid means of restoring soil productivity was to replace all or part of the topsoil and concluded that soil productivity is not likely to decline if such procedures are allowed. Plass (1978) concludes that proper topsoiling involves the removal and storage of the A, B, and C horizons.

In accordance with Section 515(b)(7) of the Act, proposed Subsection 823.11(c) seeks to ensure that steps are taken to avoid the mixing of soil horizons if stockpiled. This is best accomplished by total and complete separation. The area for stockpiling needs to be selected carefully to assure it is not in a drainageway where water containing acids and other toxic materials may cause contamination. The surface of stockpiled materials will be unstable and subject to wind and water erosion. Short-lived vegetative cover or mulches can be effective in controlling erosion (Plass, 1972), Ruffner, 1978; Vogel, 1968. The treatment selected should be based on the length of time between stockpiling and replacement.

Compaction resulting from grading spoil and handling topsoil can be detrimental by adversely affecting root penetration (Chapman, 1976) and rate of water movement in the soil, and proposed Subsections 823.14(b) and (c) attempt to address this problem in a flexible manner. Use of suitable equipment and careful handling of soil material at proper moisture content is essential if excess compaction of the soil rooting zone is to be avoided.

A mulch of hay, straw, wood fiber, or chemical mulch, properly applied, can have a significantly beneficial effect on preventing water or wind erosion of the unstable soil materials (Plass, 1972), and accordingly would be encouraged under proposed subparagraph (c)(2).

As would be required under proposed Subsection 823.14(d), whether the reconstructed soil profile is planted directly to a productive crop, or planted for erosion control, the proper plant nutrients are needed. (Aldon, 1978; Bennett, 1971; 1978; Grandt, 1958; Plass, 1978; Power, 1978; Ruffner, 1978; Vogel, 1968; and Martin, 1976).

Site specific recommendations would be determined by having the soil tested. This can be done through local county agriculture agents. Recommendations on appropriate crops for production or erosion control are available from the county agent or the U.S. Soil Conservation Service.

The Office considered the alternative of exempting underground coal mining from the proposed regulation. The Office believes there would be sufficient environmental impact from the underground coal mining operation to warrant coverage in the proposed regulations. Public comment is solicited on the need for further guidance to regulatory authorities as to the circumstances, under which variances should be available.

PART 824—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—MOUNTAINTOP REMOVAL

Part 824 provides the conditions under which persons engaged in the surface mining method known as mountaintop removal could be exempted from the requirement to restore affected areas to their approximate original contour.

The purpose of allowing this variance is to allow extraction of entire coal seams on mountaintops where it would be feasible to develop alternative land uses, such as industrial, commercial, agricultural, residential, or public facility. Following appropriate land use planning standards, this exemption may provide needed development land in some areas while minimizing long-term effects of disturbance from both mining operations and post-mining land use.

During the drafting of this Part, the Office considered an alternative which would have allowed the regulatory authority to grant a variance to persons who intend to remove only portions of the coal seam along a mountain ridge, leaving several isolated nobs or plateaus in the process. The decision was made, however, to propose that a variance be allowed only in those instances where the person intends to remove the entire coal seam and create one level plateau or a gently rolling contour, in accordance with the clear intention of the Act.

Additionally, the Office decided not to propose this alternative because it would not support the objective of maximum coal recovery and would not assure a contour suitable for the development of the required alternative land uses.

The Office solicits comments and suggestions on how regulatory authorities should treat persons who are currently engaged in a mountaintop removal operation that does not meet the conditions for getting a variance and for whom meeting those conditions through a change in operations would not be economically feasible.

The Office would appreciate public comment on appropriate definitions and restrictions on the meanings of the following terms as used in this Part: "mountain," "ridge," "ill," "agricultural" and "public facility use."

PART 825—SPECIAL PERMANENT PROGRAM PERFORMANCE—STANDARDS—SPECIAL BITUMINOUS COAL MINES IN WYOMING

Part 825 proposes regulations for special bituminous coal mines west of the 100th meridian located in the State of Wyoming. These proposed regulations are intended to minimize, as far as practical, any adverse environmental or other effects of these special mines by proposing practicable standards for on-site handling of spoil, elimination of depressions capable of collecting water, creation of impoundments, regrading, and allowing for retention of certain highwalls.

The literature used to draft these proposed regulations includes:

1. *Land Quality Rules and Regulations* (Wyoming) Land Quality Division, Department of Environmental Quality, 1975.

Two classes of special bituminous coal mines are regarded separately by these proposed regulations—those op-

provide safe side slopes for revegetation equipment. If terraces do not interfere with the reclamation they

If permanent water impoundments were authorized under these proposed regulations, the land would be sloped,

backfilled spoil material is required for all portions of the reclaimed land.

Section 826.13 proposes to imple-

of processing fluids injected into the coal-bearing strata.

Technical literature used in prepar-

standards for levels of these contaminants would be promulgated.

The surface activities accompanying

Two classes of special bituminous coal mines are regarded separately by these proposed regulations—those operating prior to January 1, 1972, and those developed after August 3, 1977. Only those parts of the mine within the mine pit would be regulated by Part 825. All other parts of the permit area would meet the standards set by the remainder of this subchapter.

For mines operating prior to January 1, 1972, which meet the conditions of Section 527(a) there is no practicable alternative means of mining the coal or of reclaiming the lands as required by the Act. Therefore highwalls would be allowed to remain if found to be stable by the regulatory authority, benches would be allowed, the mine pit floor would remain and be graded, topsoiled, and seeded, or be part of an approved impoundment. Any on-site spoil piles would have to be graded and contoured to less than 17° unless the regulatory authority determines that steeper slopes would accomplish the desired reclamation. Terraces would be approved by the regulatory authority if it is demonstrated that desired reclamation results would be achieved by their use.

The Office recognizes that the deep open pit type of coal mining has specific areas where adjustments to the general performance standards are warranted. These areas have been specifically identified as backfilling and grading, since it is not possible to completely backfill and return to approximate original contour or blend the pit with the topography in these cases.

The extreme highwalls involved in deep pit mining of coal cannot be adequately backfilled. However, they can be maintained with proper geological engineering techniques. Part of the stabilization may require benching the highwall to catch small rockfalls, control runoff, and maintain the face heights below the critical height for the material. Since highwall stability is a critical part of the reclamation and this is a very non-typical situation the Office has made provision for special reviews and controls at these sites.

The pit floor would probably be incapable of supporting significant plant growth. To reestablish vegetative cover and allow access for equipment, people, and animals, backfilling, topsoiling, and grading are required. Access must be provided to allow the revegetation equipment to operate and provide for future productive use of the land. The water movement in and around the pit must be controlled. Some impoundments can be expected to be of sufficient size to necessitate the use of riprap to control water damage to impoundment structures.

The slope of spoil piles should be maintained at a low angle (17° maximum) to minimize runoff damage and provide safe side slopes for revegetation equipment. If terraces do not interfere with the reclamation they could be used. High slopes could be used with adequate reclamation and an approved post-mining land use.

For mines on lands adjacent to those operating before January 1, 1972, and developed after August 3, 1977, operations within the mine pit would be required to conform to all requirements of Wyoming law. Slope specifications in this Part are taken from the Wyoming Land Quality Rules and Regulations, Chapter II, Section 1(a), as authorized by Section 201(c)(2), except that the regulatory authority would be designated as the deciding authority rather than the administrator of the Wyoming Land Quality Division.

To blend the mined site with its surroundings, the slopes would be cut to no more than the maximum average slope of the surrounding topography if these Sections were adopted. If this practice would disturb a significant amount of land that would not otherwise be disturbed the regulatory authority could allow steeper slopes. The regulatory authority could independently establish the average slope. The operator's determination of average slope must be reviewed and approved or disapproved by the regulatory authority.

For these recently opened special mines, the regulatory authority would retain the right to decide how backfilling, grading, and contouring will be done to meet the future use of the land, since these are special cases and need to be dealt with on an individual basis. The method chosen must be designed to prevent degradation of the hydrologic balance, reduce water pollution, prevent adverse effects from water build up, control erosion, and control water flow to the original drainage system or an approved substitute would have to be developed.

Terraces or benches, check dams and other erosion control techniques may be required to control water damage to reclaimed slopes where long unbroken contouring cannot control the volume generated or handled seepage or stream flow. These structures may need special engineering; therefore, under the proposed regulations, the regulatory authority would examine and evaluate the detailed plans for all such construction.

The object of regulating reclamation is to produce a usable piece of land after mining. To allow indiscriminate filling of depressions with water would produce small intermittent ponds, bogs, and might create overflow situations eroding slopes possibly endangering people. Depressions therefore, would not be allowed by the proposed regulations without proper planning and design.

If permanent water impoundments were authorized under these proposed regulations, the land would be sloped, graded, and contoured to blend topographically with its surroundings. Access would be provided to allow for corrections to be made, revegetation, future access for new land uses and maintenance of the water control structures. It may be very difficult to reclaim all of the highwall in these pits. Therefore one-half of the shoreline would be allowed to remain as stabilized highwall. The stabilization technique would have to be independently verified and approved by the regulatory authority. Since the pit would impound substantial amounts of water, it would probably have an approved post-mining use which would blend with the surroundings, and part of the pit shoreline would have to be reclaimed for these purposes.

Since the State of Wyoming could change its regulations and programs on special bituminous coal mines, leaving some areas without coverage by regulations, the Secretary will provide the necessary additions to meet the Act.

PART 826—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—OPERATIONS ON STEEP SLOPES

A significant portion of the strippable coal reserves, particularly in the Appalachian region, lies under terrain that is dominated by steep slopes. Surface coal mining operations in this type of terrain are particularly subject to the effects of erosion that result in the formation of deep gullies, excessive runoff, mass movement, and sedimentation of the receiving streams. Part 826 proposes regulations for the minimum standards an operator must meet to control the adverse environmental aspects of steep slope mining.

Proposed Section 826.12 provides performance standards similar to those in the interim program regulations at 30 CFR 716.2 (42 Fed. Reg. 62692, December 13, 1977), except that additional drainage channel requirements are provided and minimum slope stability is specified. The drainage channel addition derives from needs perceived by Office inspectors in the field during the interim program. The static safety factor addition comes from further development of thinking on stability since promulgation of the interim program regulations, as reflected in various proposed Sections published today data, including Sections 816.32, 816.46, 816.85, 816.102, and 824. A minimum safety factor of 1.3 is an appropriate measure of stability that has been accepted by the Corps of Engineers, MSHA, and other agencies. This slope stability for

backfilled spoil material is required for all portions of the reclaimed land.

Section 826.13 proposes to implement the variance from the requirement of return to approximate original contour, which is contained in Section 515(e) of the Act. Some commenters have indicated they feel this variance should not be limited to steep slope mining. However, it is clear in Section 515(e)(2) of the Act that the variance applies only to Section 515(d)(2) requirements, which are those applicable to steep slopes.

PART 827—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—COAL PROCESSING PLANTS AND SUPPORT FACILITIES NOT LOCATED AT OR NEAR THE MINESITE OR NOT WITHIN THE PERMIT AREA FOR A MINE

Coal processing plants are usually located at the mine mouth but frequently one central preparation plant may serve several mines as a focal point for coal preparation and shipment to market. The coal is transported to this central plant without removal of the rock and other impurities contained in the run-of-mine coal. Coal may also be shipped by barge, rail, or truck to a site far removed from the mine-site and processed there prior to use. After shipment to the point of use, additional processing may take place. Associated with coal processing plants are coal wastes, waste piles and disposal sites, and other features which can seriously damage the environment and property and are intended to be regulated by the Act. In order to ensure proper protection of the environment and public property in compliance with Section 102 of the Act, the same requirements for permits, bonding, reclamation, performance standards and enforcement apply to coal processing plants and support facilities not located within the permit area for a specific mine.

Public comment is solicited on the structure of this separate Part. The Office considered establishing minimum performance standards for coal processing plants within Part 816, but has determined that separate regulations are probably appropriate. One issue is the extent to which loading facilities near the coal processing plants should be required to be within the permit area.

PART 828—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—IN-SITU PROCESSING

The proposed rules for in-situ processing are intended to provide environmental protection performance standards for operations which use coal in place or recover coal by means of processing fluids injected into the coal-bearing strata.

Technical literature used in preparing this Part includes:

(1) Edgar et al. Support Research on chemical, mechanical, and environmental factors in Underground Gasification Quarterly Report. July 1, 1978, Univ. of Texas at Austin;

(2) Permit Regulations for Process Discharges/In-Situ Mining, Land Quality Department, Department of Environmental Quality, Cheyenne, Wyoming;

(3) Meade, S. W., Ganow, H. C. and Whang T. T., "Groundwater and Subsidence Investigation of the LLL In Site Coal Gasification Experiment", Lawrence Livermore Laboratory, Proceedings of 4th Annual Coal Conversion Symposium, Steamboat Springs, Colorado, July 17-20, 1978, U.S. Dept. of Energy;

(4) McKee, D. D., Fischer, R. Jacob, Jacobsen, T., Weh, and Drever, J, 1978, "Ground water Problems Associated with Licensing of In Situ Uranium and Coal Gasification Operations," LLL Proc. of 4th Annual Coal Conversion Symposium, Steamboat Springs, Colorado, July 17-20, 1978, U.S. Dept. of Energy.

In-situ processing of coal, an undergound method of extracting fluids from coal in place, has many similarities to underground mining, and it is proposed that in-situ processing meet the general performance standards for conventional underground mining.

The Office might separately define each type of processing and promulgate a set of regulations for each. It is the opinion of the Office that in-situ processing is so diverse and developing so rapidly that the development of individual regulations would not now be appropriate considering that the technical expertise in this area is still developing.

A potential major environmental impact from in-situ processing is the contamination of water systems by the processing fluids (Edgar, p. 44). The proposed rules would alleviate this problem by imposing general restrictions on the discharge of processing fluids (Subsection 828.11(a)).

An alternative method to the proposed general restrictions on discharging processing fluids outside the rising zone would be to set the maximum levels for various contaminants in natural water systems. This alternative was not proposed because of the number and variety of potential contaminants. The proposed regulations would allow the regulatory authority to control the discharge of solid, liquid, or gaseous contaminants which may pose some threat to public health, public safety, or to the environment even though no national standards for levels of these contaminants would be promulgated.

The surface activities accompanying in situ mining are quite similar to those of underground mining, though often reduced in scale. Drill pads, roads, pipeline corridors, gathering and pumping facilities, officers, processing facilities, equipment and supply facilities have the potential to disturb the vegetation and soil. Thus, topsoil protection, stabilization of disturbed areas, and revegetation performance standards are required. Further, the potential for subsidence to be caused by in situ processing also appears similar to that posed by conventional, underground mining, Meade, 1978. Therefore, the need for subsidence control, to the extent available technology allows, is likewise necessary.

It is likely that a few of the performance standards contained in the proposed Part 817 would not be used for current types of in situ mining. These would include those for disposal of underground development wastes and excess spoil, disposal of coal processing waste, blasting (surface activities) and perhaps other categories. There is a future potential for use of modified in situ processing, a process that combines underground mining of access drifts, fracturing of pillars of coal, and in situ extraction. This process could result in the creation of waste rock or underground development waste and the application of the performance standards for "underground development wastes." The Office believes that deletion of these performance standards, which might have little use at present, would not be appropriate at this time since a need for their use might arise in the near future.

An alternative approach would be to limit compliance of in situ activities to a select few of the performance standards such as control of subsidence and protection of water quality. The Office does not believe that the requirements of the Act are adequately met if the remainder of the provisions of the performance standards applicable to conventional underground mining are designated as not applicable.

Part 828 proposes additional performance standards tailored to in situ processing. These are tailored in large part after regulations scheduled to be promulgated in Wyoming ("Permit Regulations for Special Process Discharges/In Situ Mining"—Land Quality Department, Department of Environmental Quality, Cheyenne, Wyoming). Wyoming has obtained input from the Texas Railroad Commission in developing these regulations. The performance standards principally address and specify protective measures for control of fluids injected into and removed from the coal. The fluids may

be gaseous or liquid. It is important that these fluids are largely contained within the production interval or

for all existing wells in the area, and similar details that would ensure that adequate data were provided for plan-

ally, Sections 843.18–843.20 deal with the effect of an operator's inability to comply on the validity of notices of

public a clearer idea of what will be required in the State enforcement programs. On the other hand, some flexi-

seems clear that the use of the word "of" instead of "or" can be fairly characterized as a typographical or print-

work multiple shifts and illegal or "wildcat" non-permitted operators frequently work on nights and weekends

be gaseous or liquid. It is important that these fluids are largely contained within the production interval or strata. These fluids will contain hydrocarbons (principally phenols). They may also contain nitrogen compounds, and relatively high concentrations of soluble salts. Thus, the performance standards would require the development of a contingency plan to be followed in the event of excursions of fluids beyond the production zone. It is envisioned that this plan would require the installation and operation of surface and subsurface monitors to reliably measure or warn of increases in concentrations of substances that could be toxic or acid or would otherwise pose a danger to public health or safety in order that corrective measures could be employed. The plan should also describe the corrective measures. In situ processing is somewhat different from conventional underground mining in that when injected fluids are detected to have moved beyond the production zone, it may be possible (depending on the reactivity of the fluid) to "retrieve" much of the fluid by pumping or to neutralize the fluid by flushing out to a surface treatment facility.

The performance standards would require the quality of groundwater both within and adjacent to the mine plan area to be returned to the approximate pre-mining quality. This is appropriate in view of the potential for toxic fluids to be created and the need to minimize disturbance to the hydrologic balance, Meade, 1978 and McKee, 1978).

The performance standards propose a more complex monitoring program for air and water quality if there are changes in the ambient levels of phenols, nitrogen compounds, or oxides of carbon caused by the in situ processing. These are likely contaminants produced by in situ operations (Edgar, pp 47-79).

An alternative to the special performance standards would be reliance on the underground mining activities performance standards (Part 817). This alternative could be accomplished by specifically incorporating the term "in situ processing" in the term "underground mining". The Office did not believe that adequate standards were available in Part 817 to fulfill the requirements of the Act to provide environmental protection performance standards for all phases of coal mining.

Another alternative was to expand the permit application requirements to specifically include identification of waste residues, detailed hydrologic data describing "reservoir" characteristics, specifying distances from the production area for environmental monitoring activities, completion data for all existing wells in the area, and similar details that would ensure that adequate data were provided for planning. It was determined that the permit requirements would not be expanded since individual states could develop more detailed requirements suited to specific needs.

Other alternatives would be to specify a method by which the restoration would be accomplished or to specify the degree to which the restoration must be taken considering the rapid developments in the technology for this area. Both these alternatives were considered premature at this time.

The monitoring procedures proposed would provide the regulatory authority with information and indications of any contamination from in-situ processing. The specific groups of compounds mentioned in the proposal reflect common contaminants in processing fluids (Edgar, pp. 47-49).

SUBCHAPTER L—INSPECTION AND ENFORCEMENT

A brief outline of the major features of the proposed regulations follows:

Part 840 contains the minimum requirements for inspection and enforcement by a State where the State is the regulatory authority under a State program or a cooperative agreement. Included in this Part are provisions relating to the types and frequency of inspections, enforcement authority and the availability of records, reports, inspection materials or information obtained by a State.

Part 842 sets forth the procedures applicable to Federal inspections in the permanent regulatory program. Section 842.11 describes the circumstances under which Federal inspections are to take place as well as the frequency and nature of those inspections. Section 842.12 outlines the requirements for Federal inspections following citizen requests as well as notification to citizens of the results of the inspections. Sections 842.13–842.16 contain rules pertaining to the right of entry of Federal inspectors onto the mine property, informal review by the Regional Director of any alleged inadequate or incomplete Federal inspections and the availability to the public of records or information obtained by the office.

Part 843 relates to Federal enforcement in the permanent program pursuant to Federal programs, the Federal lands program and all State programs being enforced by the Office pursuant to Sections 504(b) or 521(b) of the Act. The regulations in this Part address the specifics of cessation orders, notices of violation, suspension and revocation of permits, service of notices and orders and informal mine site review of notices and orders which require cessation of mining. Additionally, Sections 843.18–843.20 deal with the effect of an operator's inability to comply on the validity of notices of violation, cessation orders and show cause orders; those instances when the Secretary may request the Attorney General to institute civil actions against operators; and the rules relating to the institution of criminal proceedings under the Act.

Part 845 contains regulations regarding the assessment of civil penalties under Section 518 of the Act.

PART 840—INSPECTION AND ENFORCEMENT BY THE STATE REGULATORY AUTHORITY

Section 840.11(a) relates to the minimum frequency of inspections by the State regulatory authority based upon the requirements of Section 517(c) of the Act. This section also sets forth definitions for complete and partial inspections by the State regulatory authority.

Section 840.11(c) outlines minimal requirements for inspections in conformity with Section 517 of the Act. Specifically, Section 840.11(c)(1) requires State inspections to be carried out on an irregular basis, so as to monitor compliance at all operations, including those which operate nights, weekends, or holidays. The purpose for this requirement is to insure that operations which conduct mining operations at non-typical times or hours, such as weekends, holidays or nights will be subjected to routine inspections by State inspection personnel. In other words, States must adjust their inspection schedules to match the production of the regulated operations.

Numerous comments were received regarding the draft language. This language has been changed to reflect the above statement.

Section 840.13 states what must be contained in the penalty and enforcement provisions of State programs and cooperative programs. These requirements are taken from the Act, including Sections 518(i), 503(a) and 521(d), as well as from the legislative history. Many of the requirements made upon the States in Part 840 as to civil and criminal penalties, suspension and revocation of permits, injunctive relief and the forfeiture of bonds are general in nature, echoing the actual language contained in the Act. For example, Section 840.13(a) requires that State and cooperative programs contain civil and criminal penalties which are "no less stringent than those set forth in Section 518 of the Act and in Section 843.20 and Part 845 of this chapter."

An alternative approach which was considered by the Office was to make very specific requirements upon the States as to the content of their enforcement programs. Such an approach would give the States and the public a clearer idea of what will be required in the State enforcement programs. On the other hand, some flexibility may be sacrificed in proceding in this manner. The Office is still considering such an approach and solicits public comment both on the feasibility of this detailed approach and on specific requirements which are recommended for inclusion.

One suggestion which was received was to require the states to allow citizens to accompany state inspectors in the permanent regulatory program. The Office believes that persons who have filed a complaint that leads to an inspection must be allowed to accompany State inspectors under an approved State program and that the right is covered by the general requirements of Section 732.15. The Office solicits comments on whether the regulations should contain more specific statements of this right either in Parts 731, 732 or 840.

Section 840.14 details the requirements for State regulatory authorities to make available to the Office and to the public various records and information. These requirements are based upon provisions contained in Section 517 of the Act. One alternative to Section 840.14(a) which was considered was to require each State regulatory authority to routinely forward to the Office copies of all documents relating to applications for and approvals of existing, new or revised permits and all documents relating to inspection and enforcement actions. The Office considered it more workable and less time-consuming and costly for the States to forward only the material which is requested by the Director or Regional Director. This would allow the individual regions of the Office to determine the specific needs of each region vis-a-vis the State regulatory authorities.

PART 842—FEDERAL INSPECTIONS

Sections 842.11(a) and (b) list the instances in which Federal inspections are to occur in the permanent regulatory program. One of the questions in drafting these provisions was whether Congress intended to waive the 10-day notice requirements where there is adequate proof of either imminent danger or significant, imminent environmental harm (not "imminent danger of significant environmental harm" as stated in Section 521(a)(1) of the Act). Pages 35-38 of Senate Report 95-128 (May 10, 1977) contain the text of Section 421(a)(1) which uses the phrase imminent danger or significant environmental harm. The House Bill, H.R. 2, did not provide for waiver of the 10-day notice to the State regulatory authority. Since no subsequent changes in this language were made, it seems clear that the use of the word "of" instead of "or" can be fairly characterized as a typographical or printing error. Other congressional references to the need of the Secretary to protect against imminent dangers to the public to prevent the occurrence of such disasters as the Buffalo Creek flood disaster lend credence to such an interpretation.

Section 842.11(b)(1)(ii) provides that the Office must inspect when it has notified a State of a possible violation but the State has failed to inform the Office within 10 days that appropriate action has been taken. Under the proposed regulation, if the person supplying the information provides adequate proof that an imminent danger to the public or significant, imminent environmental harm exists and the State has failed to Act, the 10-day notification period is waived. This is based upon Section 521(a)(1) of the Act. It was pointed out that the proposed regulation does not contain the requirement of Section 521(a)(1) that the federal inspection be conducted immediately. This change was made so as to comport with the statute.

Additionally, language was offered by a commenter to state that the "adequate proof" required by Section 521(a)(1) for a federal inspection is the same proof required for a citizen to initiate a federal inspection in the interim program (30 C.F.R. Section 721.13(a)(1)). The suggested language is not required to obtain the desired results since language is already contained in this Section which describes when "adequate proof" is established.

Section 842.11(c) reflects the statutory mandate in Section 517(c) for a minimum frequency of Federal inspections under a Federal program of one partial inspection per month and one complete inspection per calendar quarter.

Section 842.11(d) contains general provisions as to the timing and spacing of Federal inspections. Numerous comments were received objecting to the wording of the draft proposed regulation that inspections be carried out on an irregular basis, including "a reasonable number of inspections on weekends and holidays and at unusual hours." The commenters complained that most operations occur during normal daytime hours and on normal work days and that no purpose would be served in inspecting premises at which no mining was occurring.

Some modification in the language of the proposed regulation was made and the Office will continue to consider the proper wording of this section. The intent of the proposed regulation is to provide for inspections at irregular times and dates so that there will be no advance notice as to when inspections will occur. Many operations work multiple shifts and illegal or "wildcat" non-permitted operators frequently work on nights and weekends to avoid detection. It will be impossible to stop violations from occurring at these operations if inspections are limited to Monday through Friday, 9 to 5.

It is intended that inspections will occur at reasonable hours and times and will merely match the particular operation schedule of the mine in question. The proposed regulation merely affords inspectors the necessary flexibility to inspect in those instances when operations or violations occur at unusual times and/or dates.

Section 842.12 governs those occurrences which will necessitate a Federal inspection as a result of a citizen complaint pursuant to Section 842.11(b)(1). These requirements are based upon the language contained in Sections 517 and 521 of the Act as well as the legislative history of the Act. Consideration was given to requiring all citizen complaints to be initiated by written statements. However, the convenience of the public and the necessity for prompt action in the case of imminent hazards seem to justify the use of oral reports followed by signed written statements.

The comment was made that an oral complaint followed by a written one was in violation of Section 517(b)(1) of the Act if a federal inspection can occur before the written report is received. The Office believes that inspections can occur under those circumstances. It is believed that as long as the inspector receiving the oral complaint requests full information so he can properly evaluate the complaint, the inspection can begin while the written report is on its way. Since a mine is subject to inspection at any time, no prejudice can result if complete information is first obtained in oral form. The necessity to proceed promptly is particularly acute where imminent hazards and rapidly deteriorating conditions are present and can be quickly addressed and remedied.

The requirement contained in Section 842.12(c) that the identity of persons supplying information to the Office shall remain confidential with the Office, if requested, is based upon a belief that some citizens will be reluctant to come forward if they are concerned about harassment, blacklisting or physical abuse. Additional language was inserted, however, to state that disclosure would not be made unless required under the Freedom of Information Act or by other Federal law. The provision regarding confidentiality of persons supplying information to OSM was criticized as not exempting those persons electing to accompany the federal inspector during an inspection. It was reasoned that a person "waives his priviledge of

confidentiality once he enters the mine property." The Office believes that it is reasonable for a mine operator to know who is coming on his property and that it cannot reasonably honor a request for anonymity if the person accompanies the inspector onto another's property. However, the Office solicits further comment as to whether a change in the proposed langauage is appropriate and in accord with the rights of citizens as stated in the Act.

Subsections 842.12 (d) and (e) describe what rights the Office must accord to a complainant if a Federal inspection is conducted as a result of the information provided.

Section 842.13 relates to the right of entry of authorized representatives of the Secretary onto the minesite to conduct inspections pursuant to Section 842.11. Consideration was given to obtaining search warrants for each inspection to be conducted pursuant to Section 842.11. However, this alternative was not proposed because the Office believes it might significantly impair effective enforcement under the Act and because it was deemed legally unnecessary to obtain search warrants prior to entering minesites.

The language of the inspection provisions and pertinent legislative history demonstrate that Congress intended to authorize the Secretary to exercise broad powers to enter minesites to inspect expeditiously and without advance notice. This was deemed essential by Congress to obtain adequate compliance with the Act. Further, the coal industry is a pervasively-regulated industry and, consequently, has impliedly consented to warrantless searches. Also, the areas and equipment to be inspected are located in open areas and are routinely occupied and used by various persons and, therefore, no significant privacy interest is adversely affected by warrantless inspections. Moreover, the United States District Court for the District of Columbia ruled on August 24, 1978, that warrantless inspections may be conducted in the permitted area. However, the reference in the preproposed draft regulation to warrantless inspections of premises in which records are located was deleted.

A change to the language contained in Section 842.13(b) regarding the right of entry to have access to and copy records required under the Act was proposed to add the concept of "relevant records, directly relating to surface coal mining operations." The commenter expressed concern that certain proprietary data, such as geologic information or coal sales contracts might otherwise be subject to inspection. This recommended change is not believed necessary to protect the information about which the commenters were concerned. The only records which may be inspected are those "required under the Act, this Chapter, the applicable program or any permit condition imposed under such program." As such, no idle search or review of records could occur unless specifically authorized by law.

Several commenters stated their belief that Section 517(b)(3) requires inspectors to present their credentials before commencing their inspections, regardless of whether an employee of the operator is present or whether any person requests to see the credentials. If Section 517(b)(3) were so interpreted, it would seriously undermine and impede OSM's ability to enforce the law in that it would enable an operator to prevent an inspection by removing his men from the site while serious environmental or other harm might be occurring. An operator might also delay an inspector long enough to cover up or cease illegal practices, thus avoiding detection. Certain violations are difficult to prove unless they are observed in the commission.

One commenter contends that "for safety and liability reasons," inspectors should be required to present their credentials before commencing inspections. The presentation of credentials would have a minimal effect, if any, on safety and liability. We interpret Section 517(b)(3) as meaning that the operator who encounters the inspector on the permit area is entitled to expect the inspector to present appropriate credentials if requested to do so.

The proposed regulations also provide for informal review by the Regional Director of an alleged inadequate or incomplete Federal inspection or of a decision not to inspect or enforce. The statutory basis for these provisions is found in Section 517(h) of the Act and is discussed in the legislative history.

Comment was received on Section 842.14 relating to adequate and complete inspection review. It was pointed out that Section 517(h)(2) of the Act, upon which this section is based, requires not only Office response to citizen complaints about inadequate or incomplete inspections, but also procedures for adequate and complete inspections whether or not a citizen complains. In other words, there should be management review procedure to assess the adequacy and completeness of inspection. OSM believes that such a review procedure would be in keeping with the wording of Section 517(h)(2) and solicits additional comments on criteria for determining what constitutes an adequate and complete inspection and on language for the regulations to reflect this statutory obligation.

The proposed regulations also provide in Section 842.16 for the availability to the public of all records, reports, inspection materials or other information obtained by the Office. This Section is in accord with the requirements of Section 517(f) of the Act. It is the Office's belief that this section does not prevent the Office from withholding material generated by the preparation of hearings and other special enforcement activity, except as available under discovery and the Freedom of Information Act.

A commenter suggested that this section could be deleted in its entirety without the loss of any person's rights since Section 517 of the Act and the Freedom of Information Act guarantee these rights in any event. Retention of this section was deemed essential to spell out the location and manner of storage of information as well as a statement of what information will not be available. See Section 842.12(b). Additionally, this section will act as guidance to states as far as adoption of similar regulations governing availability of records.

PART 843—FEDERAL ENFORCEMENT

Section 843.11 relates to the circumstances in which cessation orders are to be issued and the requirements of such orders. This section is based upon the wording of Section 521(a)(2), (a)(3), and (a)(5) of the Act and the legislative history relating to cessation orders.

Changes were suggested as to Subsection 843.11(a) and (b) relative to the issuance of cessation orders under Sections 521(a)(2) and (a)(3) of the Act. The commenter suggested that references to ceasing the entire operation, to abating in the most expeditious manner possible and to the use of affirmative obligations be deleted from this section.

The deletion of these provisions is rejected since the proposed language in each instance is taken from the Act. Subsections 521(a)(2) and (a)(3) of the Act provide for cessation of surface coal mining and reclamation operations or any portion thereof. These subsections also require the use of affirmative obligations where cessation of mining will not competely abate the imminent hazard. Section 521(a)(3) of the Act requires abatement in the most expeditious manner possible.

This commenter also requested the deletion of subsection 843.11(c)(2) which requires use of remedial action in orders of cessation issued under Sections 521(a)(2) and 521(a)(3) of the Act. This comment is rejected since such a requirement is contained in Section 521(a)(5) of the Act.

It was also suggested that the word "may" be changed to "shall" in Section 843.11(e) as regards extending the time for abatement if the failure to abate within the time previously set was not caused by the operator's lack of diligence. This comment was not accepted since Section 521(a)(3) of the Act does not require an extension of time to abate a notice of violation in all cases where some minimal amount of diligence is shown. Where diligence and good faith are demonstrated, the Office expects that extensions of time generally will be appropriate.

Subsection 843.11(f) was recommended for change by adding the word "immediately" before the words "terminate a cessation order" under the theory that an inspector should be available immediately upon abatement of a condition, practice or violation. While it is expected that federal inspectors will terminate cessation orders as quickly as possible following abatement, consideration of when the Office is notified that abatement is completed, the driving distance and conditions on the way to the mine site and other variables including whether the order has the effect of cessation of mining must be taken into account. For instance, if the cessation order affects only a small portion of the operation which does not cease actual production of coal, there may be no practical necessity to terminate the order instantaneously upon its abatement. It should be emphasized that the Office expects reinspections and terminations, if appropriate, to take place as quickly as possible so as to minimize adverse impact on the operator after compliance.

One commenter states that in deciding on the affirmative obligation to be imposed in an order, the inspector should be required to take into consideration the costs involved. There is no authority for this in the Act. However, an inspector acting reasonably would not knowingly require an operator to use a more expensive means of abatement if a less expensive method could accomplish the same regulatory result in the same time. If the operator knows of such a method, he should inform the inspector and ask him to modify his order. If the inspector agrees with the operator he should modify his order. However, the affirmative obligation should be aimed at assuring that abatement will be accomplished as promptly as possible because of the imminent danger or harm. If the inspector thinks the method suggested by the operator, though less expensive, will take a longer time to abate the violation, he would be perfectly justified in not modifying the order.

A new Subsection 843.12(b) was suggested which would require tolling of the time for abatement of a violation when an event outside the control of the permittee occurs—such as labor disputes, unavailability of equipment and acts of God. It was argued that the 90-day limit on abatement will create unnecessarily harsh results.

An authorized representative of the Secretary may extend the time for abatement up to 90 days, in situations where failure to abate was not due to an operator's lack of diligence. The Act and legislative history make clear, however, that no extension beyond 90 days may occur. This is not to say, however, that the Secretary cannot take the facts of the case into account when calculating a civil penalty since the statutory criteria of negligence and good faith presumably would be relevant.

Section 843.12 contains provisions pertaining to notices of violation authorized under Section 521(a)(3) of the Act. It is noteworthy that the proposed regulation only allows a Federal inspector to issue a notice of violation as part of the enforcement of a Federal program, Federal lands program or during enforcement of a State program pursuant to Sections 504(b) or 521(b) of the Act. Subsection (d) provides that a violation (which is not an imminent hazard) which is observed during a Federal inspection in connection with evaluation of a State program under Section 842.11(a)(1) or conducted pursuant to Section 842.11(b)(1), should be reported in writing to the State regulatory authority and the person responsible for the violation but that no notice of violation may be issued. An alternative approach which was considered was to provide that a Federal inspector could simply issue a notice of violation to the operator under these circumstances. Comment is invited as to whether the proposal language is a correct interpretation of the Act and the legislative history.

Objection was made to the use of interim steps for abatement in notices of violation. Sections 521(a)(3) (a) (5) provide that notices and orders should set forth with reasonable specificity any remedial action to be taken and a reasonable time period for abatement. This language, especially when read in conjunction with the purposes of the Act, is ample to authorize the use of interim steps and interim times for abatement. The reason why the Act provides not only for penalties, but also for abatement, is to ensure that the violation will be corrected, and in the shortest reasonable time. By specifying interim steps and times for parts of the remedial action, the inspector furthers the objective of gaining abatement in the shortest reasonable time. Normally, interim steps would not be used for cases in which the abatement period was short.

One commenter objected to the interim steps provision because it is unnecessary considering that it had instructed all of its employees to comply with the law and that every responsible operator does the same. Unfortunately such instructions, though to be greatly encouraged, are not always carried out by an operator's employees. Also, this disregards the many operators who do not wish to comply with the law.

The proposed regulations also specify the conditions under which an order to show cause shall issue regarding the suspension and revocation of permits. Consideration was given to a regulatory scheme which would tie the issuance of show cause orders to those instances when an operator exceeded a national or regional norm. Such a scheme is suggested in the legislative history. This approach was not adopted in the draft proposed regulations because it was considered potentially unwieldy and unworkable. Comments are invited, however, as to the national or regional norm approach or to other methods of establishing a pattern of violations which would result in suspension or revocation of a permit.

The proposed language would call for the discretionary issuance of show cause orders by the Director based on certain criteria enumerated in Section 843.13(a)(2). Comments are requested as to these or other possible criteria to guide the Director in the issuance of discretionary show cause orders. In addition, mandatory show cause orders are specified after a certain number of violations in a given period of time. These specific times were proposed based upon some predictions as to the number and frequency of violations which are expected in the permanent regulatory period. Other numbers may be applicable and comments are invited in this regard.

Subsection 843.13(a)(2) was criticized because the commenter believed that a pattern of violations should not hinge on the number of federal inspections within a 12-month period. This comment would be more valuable, however, if some other criteria for establishing a "pattern" of violations were suggested. The Office believes that what constitutes a pattern is still an open question and will examine other suggestions which develop during formal rulemaking.

Additionally, the Office was urged to reconsider its entire approach to suspension and revocation of permits. Again, absent any specific recommendations, it is difficult to evaluate a comment of this type.

Another commenter expressed fears that the Office will apply the pattern of violations provisions as the Mining Enforcement and Safety Administra-

tion (MESA) did under 1969 Coal Mine Health and Safety Act. This comment is inappropriate because Section 521(a)(4) of the Surface Mining Act bears no similarity to any enforcement provision of the 1969 Health and Safety Act. While the term "unwarrantable" appeared in Section 104(c) of the 1969 Act, it was not used in the context of a pattern-of-violations concept or the suspension or revocation of permits. "Unwarranted failure" under Section 521(a)(4) of the Surface Mining Act is defined in Section 701(29) of that Act and will be utilized by the Office in accordance with that definition.

One commenter suggest that "pattern of violation" should be defined as a reliable sample of traits, acts or other observable features characterizing an individual's behavior. The comment is rejected as unnecessary because the definition given in the regulations is adequate and will in fact result in a "reliable sample."

A commenter expressed the hope that inspectors will not abuse their discretion in determining unwarranted failure and suggested that unwarranted failure should be found only where there is substantial negligence on behalf of the company and not when the violation was caused by an individual employee acting contrary to the law or company direction. Regarding substantial negligence, the position argued by the commenter is contrary to the definition of unwarranted failure contained in Section 701(29) of the Act. With regard to the case of an individual acting contrary to the Act, if the position argued were adopted, it would never be possible for a corporation to be found to have violated the Act, because a corporation is an artificial entity which can act only through the acts of its employees and agents.

Section 843.14 relates to requirements regarding the service of notices of violation and cessation orders issued by Federal inspectors. The word "citation" was deleted as being confusing since the 1977 Mine Safety and Health Amendments Act uses the term in a different context.

It was recommended that Section 843.14(a)(2)(i) be amended to clarify that service of notices and orders may only be accomplished by mail if service cannot be made at the mine site. The language of this Section has been modified, however, to make clear that as an alternative to service at the minesite, service may be made by certified mail and that refusal to accept the mail would not defeat service.

Section 845.15 relates to the informal review by the Office of notices and orders which require cessation of mining as specified in Section 521(a)(5) of the Act. As proposed, the regulation would only require informal review to be conducted if the operator requests such a hearing is requested.

The proposed regulations contained in Section 843.15 relate to the hearing within 30 days of receipt of the notice or order. The proposed language states that the hearing will be deemed to be waived unless a request is received in that period. Additionally, the time for hearing will be extended if the request is not received within 21 days of the notification. The Office considered the alternative of conducting such a hearing in every instance regardless of an operator's interest in such a hearing. This alternative was not proposed, however, because experience to date indicates that such a procedure results in an unreasonable waste of manpower. The Office has scheduled numerous minesite review hearings at which no one showed up.

The proposed regulations specify the non-adjudicatory nature of these public hearings and that they are not governed by the Administrative Procedures Act. This is based upon a reading of Section 525 and the language contained in the legislative history of the Act. It is emphasized that this in no way interferes with a party's right to formal review under Section 525(a)(1) of the Act. Moreover, the United States District Court for the District of Columbia in the *Surface Mining Regulation Litigation* held on August 24, 1978, that the Act and the legislative history support the Secretary's interpretation that Section 521(a)(5) of the Act only requires an informal hearing to be conducted.

The draft proposed regulations state in Section 843.18 that inability to comply may not serve as a defense to various enforcement actions but may be used in mitigation of the amount of a civil penalty or in reducing the duration of the suspension of a permit.

Section 843.18 was criticized as being an arbitiary and capricious construction of Section 521(a)(3) of the Act. The commenter raised the same or similar objections to this section as were raised to Section 843.12(b), namely, that the coal industry had historically been exposed to labor disputes, unavailability of equipment and adverse weather conditions. The drafters believe, however, that such occurrences, as well as others, should not necessarily bar enforcement actions for failure to comply with the law. There is authority in the Act and the legislative history to support the view that Congress believed that the only alternative that operators have is to comply or not conduct operations. This interpretation was upheld by the United States District Court for the District of Columbia on August 24, 1978. However, as previously mentioned, unforeseen circumstances can be weighed and considered when the assessment of a civil penalty occurs. These can also be taken into account in extending previously-issued abatement times so long as these do not exceed 90 days.

PART 845—CIVIL PENALTIES

The basic structure of the civil penalty assessment program is a point system which takes into account the four statutory criteria contained in Section 518: History of previous violations at the particular mine; seriousness; negligence; and demonstrated good faith in achieving rapid abatement after notification of the violation.

Various alternatives were considered by the Office for determining *whether* to assess a penalty. First, the Office considered using one specific criterion such as seriousness or negligence for the determination of whether to assess a penalty. Another alternative which the Office explored was judging each violation on a case-by-case basis without specific criteria. These two alternatives were not adopted in the proposed regulations in favor of using the point system both as the determination of *whether* to assess and as to the amount of the assessment. This proposed system contains a threshold number of points above which penalties must be assessed. The Office believes that this system provides a reasonable degree of specificity without eliminating the required flexibility to adjust when appropriate. The Office solicits comments regarding the proposed system or any other assessment system deemed suitable.

The point system contained in the regulations is similar to the system used for years by MSHA and its predecessor, MESA. The main difference between OSM's system and MSHA's system is that the OSM system uses only four criteria compared with MSHA's six, and the values assigned to points are higher under the OSM system than under the MSHA system. So far as can be determined, this system has worked reasonably well in the past.

The Assessment Office is currently making assessments under the point system contained in the interim regulations, which is similar to that proposed for the permanent regulations. While we find the permanent system to be straight-forward and not "mind-boggling" as alleged, we will be looking critically at the operation of the interim system to see if improvements can be made. If future commenters could be more specific about what features of the point system are found difficult to understand or objectionable, OSM would be better able to evaluate them.

The amounts of penalties are to be determined by the same point system. An alternative method which was considered is the setting of proposed civil penalty amounts by the same inspectors who issue the notices and orders. The Office retained the concept of a point system from the initial regulations because it believed that such a system maximizes both consistency and rationality of assessments, given the requirement of Section 518 that the four statutory criteria be considered on each assessment.

The proposed regulations provide for a permissive assessment for each day from the date of issuance of a notice or order to the date set for abatement. In determining whether to make such an assessment, the factors in Section 845.13 are to be considered.

Subsections 845.12(b) and (c) were criticized for several reasons. First, the commenter stated that no threshold cut-off point on mandatory assessment of notices of violation should be established until after OSM has gained a violation and assessment history. Secondly, the commenter felt that if a threshold number must be established, beyond which a penalty shall be established, then a notice of violation with points totalling less than that threshold number should not be assessed in any event.

The drafters believe that sufficient knowledge has been gained in the initial regulatory period to establish a meaningful cut-off level for assessment of notices of violation. Additionally, the Office is contemplating the use of specific criteria for when to assess a penalty when a notice of violation totals less than 30 points. Comments are requested as to whether such criteria would be appropriate and as to what the criteria should be.

One commenter requested that with regard to Section 845.13(b)(1), no history of previous violations should be compiled as to notices of violations which are not assessed. This comment is rejected as being inconsistent with the meaning of history of previous violations. The decision as to whether to assess a penalty is not based on a decision that the violation never occurred or that the notice was erroneously issued but rather that the criteria points were under 30. Therefore, all violations which were validly issued should be counted for purposes of an operator's past history.

A suggestion was made to either delete the final sentence in Section 845.16(a) or to provide that the Director shall not waive the civil penalty formula to either increase or reduce the proposed penalty on the basis of an argument that an increase or reduction could be used to abate violations of the Act. As proposed, the proviso prohibits a reduction only. This comment is not adopted because the purpose of the proviso is to assure that penalties are not lowered on the basis of an economic argument that a lower penalty would result in more money being available to accomplish abatement of violations in the future. Thus, it would be incongruous to insert the word "increase" in the last sentence of Section 845.16(a).

The *procedures* for assessment of civil penalties and the procedure for assessment conference are set out in Sections 845.17 and 845.18 respectively. With regard to the procedure for the assessment conferences, no provision is made for a tolling of the time within which to request a formal hearing. Therefore, the proposed rules require one to pay the amount of the proposed assessment into escrow within 30 days of receipt of the assessment *regardless* of whether one is participating in a conference. Comment is requested as to the proposed conference and hearing procedure.

SUBCHAPTER M—CERTIFICATION AND TRAINING OF BLASTERS AND BLASTER LEARNERS

PART 850—REQUIREMENTS FOR BLASTER CERTIFICATION PROGRAMS

Subchapter M sets out the program requirements and criteria to be followed by the Office and the State regulatory authorities, for the training, examination and certification of persons engaging in or directly responsible for blasting or the use of explosives in surface coal mining operations. The goal of this subchapter is to ensure that blasting operations are conducted by well-trained and competent persons in order to comply with Sections 515 and 719 of the Act. States' training, examination and certification plans must comply with the requirements of this Subchapter and must:

(1) Incorporate an OSM-approved program of instruction in the use of explosives;

(2) Provide for administration of the Office's qualifying examination;

(3) Allow for certification of eligible applicants and for the collection and maintenance of data upon which applicants' certification eligibility has been determined;

(4) Include provisions for the retraining, re-examination and recertification of blasters, and

(5) Specify the conditions under which certified blasters must work, must retain or forfeit their certification, and can appeal a decision to suspend or revoke their certification.

The following sections of the Act relate to Subchapter M: 201, 501, 507, 515 and 719.

BIBLIOGRAPHY OF TECHNICAL LITERATURE

1. "Manufacture, Transportation, Storage, and Use of Explosive Materials," NFPA No. 495, 1973.

2. "Safety in the Transportation, Storage, Handling and Use of Explosives," Publication No. 17, prepared by the Institute of Makers of Explosives, February, 1977.

3. "Suggested Code of Regulations for the Manufacture, Transportation, Storage, Sale, Possession and Use of Explosive Materials," Publication No. 3, prepared by the Institute of Makers of Explosives, August, 1974.

4. "Hard-Rock Mining Apprenticeship Program Launched at Kennecott's Tintic Mines Division," Society of Mining Engineering, June, 1977.

5. Konya, Calvin J., "How to Cope with Blasting Problems in Strip Mining," Coal Mining and Processing, September, 1977.

6. Title 25 Rules and Regulations, Commonwealth of Pennsylvania, Department of Environmental Resources—Subpart D, Article IV, Chapter 210 Use of Explosives.

7. Chapter 19, Article 4 of the Administrative Code relating to transportation, sale, storage and use of explosives in connection with blasting operation, the Fire Department, City of New York.

8. Commonwealth of Kentucky, Department of Mines and Minerals, Laws and regulations governing explosives and blasting, March, 1977.

The regulations in this Part reflect the basic intent of Section 719 of the Act which requires the establishment of training programs and examination and certification procedures for persons engaged in or directly responsible for blasting or the use of explosives in surface coal mining operations. The requirements for a national standard examination in the regulations was used to simplify the certification procedure and create a uniform blaster certification training and examination program nationwide.

These regulations are based on the conclusion that State regulatory agencies, rather than the Office, should perform the training, examination and certification of blasters. This position was taken because the Office believes this approach is more in keeping with the basic finding of the Congress that primary responsibility for regulation of surface mining and reclamation operations should rest with the States. The rationale for this conclusion is that:

(1) The location of the regulatory agencies in local communities throughout the mining regions will make training much more accessible to persons seeking blaster certification; and

(2) Several States already have training programs currently underway which will require in most instances

that persons using explosives will be encouraged to take appropriate steps to ensure the safety of life and proper-

testing to the fact that the applicant is experienced in blasting. Even if a person has experience in blasting, he

ed or revoked to appeal the decision and receive an expeditious hearing. This procedure will ensure that a

sistant Solicitor for Regulatory Programs.

Dated: September 12, 1978.

(k) Subchapter P—Protection of Employees,

(l) Subchapter R—Abandoned Mine

(2) Several States already have training programs currently underway which will require in most instances only small modifications in order to be in compliance with the regulations.

With regard to training, the concept followed in developing these regulations is that the Office will approve the course material. However, the training could be conducted by industry, Federal agencies or State regulatory agencies. The certification examination will be given by the State regulatory authority using a standard test developed by the Office.

Authority to require States to implement a training, examination and certification program is contained in Sections 507, 515 and 719 of the Act.

Responsibility for establishing a national examination has been placed with the Director of the Office. This requirement, which is included in the Act, was placed in the regulations in order to create a more uniform testing program nationwide and to ensure that the test fully meets the proposed uniform guidelines on employee selection procedures (F.R. 65542-65552; December 30, 1977). Once developed and validated, the test could immediately be given to the States for administering to all existing blasters. This would greatly expedite the certification process.

The responsibility for reviewing, approving and monitoring State plans for the certification and training of blasters was placed with the Regional Director in order to assure that State plans are comprehensive, and that the States are following their State plans and these regulations.

The regulations specify that States must submit to the Office, by February 3, 1979, plans for training and certification programs. This was done because Section 719 of the Act did not set out a specific time schedule for these regulations. Therefore, the Office made a decision to incorporate this program within the overall State program submission. By doing it this way, the States can use grant money to assist them in establishing the program. States must ensure that all blasters are certified as of August 3, 1979 and that all provisions in the State plan are implemented. Once a State or Federal program has gone into effect, all persons engaged in blasting operations must be certified.

The Office recognizes that there are numerous factors which contribute to and affect the performance and proficiency of persons using explosives for blasting purposes in surface coal mine operations. As a result of requiring the use of experts as instructors and a course containing specified technical content, the Office believes that blasters will better understand the hazards involved in the use of explosives and that persons using explosives will be encouraged to take appropriate steps to ensure the safety of life and property. Course content reflects the minimum basic requirements for understanding the chemical and physical properties of explosives, and the proper selection, use, and maintenance of explosive material. Such content determination was made on the basis of experience of persons familiar with blasting operations and after consulting the technical references.

These regulations recognize that the States, in most instances, will be the regulatory authorities and therefore provide for the States to conduct the training or allow industry to conduct the training subject to State approval.

Section 805.12 establishes the minimum requirements relating to the use of explosives that will be addressed in the examination for the certification of blasters. Content of the examination, which will be performance-oriented, is based on the content of the training. Questions will be designed to measure the skills and knowledge to be acquired during training. Use of a performance test avoids problems resulting from varying degrees of literacy and unfamiliarity with the English language.

There are also provisions in these regulations for an employee to become a "blaster learner." These provisions were included in the regulations both for the benefit of the employer and the employees. They allow employees an opportunity to learn the trade before having to take the certification examination, and provide the employer some flexibility in building up the blasting components of his organization.

PART 851—MINIMUM REQUIREMENTS FOR CERTIFICATION OF BLASTERS

It is the intent of the regulations in this part to provide individual blasters or prospective blasters with the necessary information regarding requirements that they have to meet in order to become certified, to provide a basic description of the terms and conditions of certification, and the requirements for recertification, to delineate the constraints placed on blasters, and to provide for an appeal procedure.

This section delineates the various steps an individual must go through to become certified. Paramount in the process is the passing of the certification examination. All blasters must pass the examination before they can be certified. There will be no exemption based on previous certification. Experienced blasters need not take the training prior to the examination; however, they are required to present a notarized statement from their employer or other responsible persons attesting to the fact that the applicant is experienced in blasting. Even if a person has experience in blasting, he may elect to take the OSM-approved training prior to applying for the certification examination. In addition to meeting the training and examination requirements of these regulations, each applicant for certification must show proof that they have completed the Health and Safety Training as required by the Mine Health and Safety Administration. This provision is in keeping with the provisions of Public Law 95-164, November 9, 1977, which require each operator of a coal mine to have a health and safety training program approved by the Secretary of Labor. The effective date for certification of blasters is planned to coincide with the dates mandated by the Act for State program submissions and approvals.

This section of the regulations sets the term of certification and the conditions under which the certification will be issued. It also explains the circumstances under which a blaster's certification might be suspended or revoked.

These provisions are included in the regulations to ensure that blasters will keep abreast of the state of the art in the area of blasting and that the regulatory authority will have an opportunity to provide information to blasters with respect to the impact of this program on the public and to provide current information to blasters concerning possible changes in OSM programs generally. The three-year recertification requirement can be met by simply taking the eight-hour refresher course which will include the type of information mentioned above. There will be no mandatory test requirement for the first three-year period of a blaster's certification. However, at the end of each six-year period of a blaster's certification, the blaster must take the standard examination again. The Office believes this is necessary in order to assure that blasters are keeping up with the state of the art in blasting and the changes in Federal and State requirements. The Office believes that this is the only way to confirm this.

These provisions were included in the regulations to assure that blasters understand the importance placed upon the certification requirement, and to discourage them from abusing the certification privileges. They also provide some flexibility in utilizing the assistance of the "blaster learners" who might be assigned to them. However, the use of "blaster learners" is in no way intended to abrogate the responsibility of the certified blasters.

The intent of this provision is to provide an opportunity for a person whose certification has been suspended or revoked to appeal the decision and receive an expeditious hearing. This procedure will ensure that a person has the opportunity to refute any evidence upon which an adverse decision has been based.

REGULATION DRAFTERS

The proposed permanent program regulations have been drafted by a large professional staff in the Office of Surface Mining and on detail from other Federal agencies. Preparation of the regulations has been under the responsibility of Paul Reeves, Acting Deputy Director. Assistant Directors in OSM have been responsible for the preparation and content of particular subchapters:

Dave Maneval, Assistant Director, Technical Services and Research—subchapter A—Part 707, and subchapters G, J, K, and M.
Carl Close, Acting Assistant Director, State and Federal Programs—subchapters C, D, and F.
Dick Hall, Assistant Director, Inspection and Enforcement—subchapter L.
Paul Reeves, Acting Deputy Director—subchapter A.

Attorneys in the Division of Surface Mining, Office of the Solicitor, have participated in the review and drafting of the proposed rules under the supervision of William M. Eichbaum, Associate Solicitor and Peter B. Kelsey, Assistant Solicitor for Regulatory Programs.

Dated: September 12, 1978.

JOAN M. DAVENPORT,
Assistant Secretary, Energy and Minerals.

In consideration of the foregoing it is proposed to:

(1) Recodify 30 CFR, Chapter VII into Subchapters as follows:

(a) Subchapter A—General, containing existing Parts 700, 701, 705, 706, and 707,

(b) Subchapter B—Initial Program Regulations, containing existing Parts 710, 715, 716, 717, 718, 720, 721, 722, 723, 725,

(c) Subchapter C—Permanent Regulatory Programs in States,

(d) Subchapter D—Regulatory Program for Federal Lands,

(e) Subchapter F—Areas Unsuitable for Mining,

(f) Subchapter G—Permits for Surface Coal Mining Operations,

(g) Subchapter J—Performance Bonds for Surface Coal Mining Operations,

(h) Subchapter K—Permanent Program Environmental Performance Standards,

(i) Subchapter L—Permanent Program Inspection and Enforcement Procedures,

(j) Subchapter M—Certification and Training of Blasters,

(k) Subchapter P—Protection of Employees,

(l) Subchapter R—Abandoned Mine Land Reclamation, and

(m) Subchapter S—Mining and Mineral Research Institutes.

(2) Redesignate:

(a) 30 CFR, Chapter VII, Part 830 as Subchapter P, Part 865,

(b) 30 CFR, Chapter VII, Part 837 as Part 870 within Subchapter R,

(c) 30 CFR, Chapter VII, Part 740 as Part 735 within Subchapter C,

(3) Revise 30 CFR Part 700 to read as stated below, and

(4) Amend 30 CFR, Chapter VII to add:

(i) Subchapter A, Parts 701 and 707;
(ii) Subchapter C, Parts 730, 731, 732, 733, and 736;
(iii) Subchapter D, Parts 740, 741, 742, 743, 744, and 745;
(iv) Subchapter F, Parts 760, 761, 762, 764, 765, and 769;
(v) Subchapter G, Parts 770, 771, 776, 778, 779, 780, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, and 792;
(vi) Subchapter J, Parts 800, 805, 806, 807, 808, and 809;
(vii) Subchapter K, Parts 810, 811, 812, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, and 828;
(viii) Subchapter L, Parts 840, 842, 843, and 845; and
(ix) Subchapter M, Parts 850 and 851.

SUBCHAPTER A—GENERAL

PART 700—GENERAL

§ 700.5 Definitions.

As used throughout the regulations of this Chapter, except where other-

(a) Who uses and enjoys any resource of economic, esthetic, or environmental value that may be affected

areas shall also include any adjacent land, the use of which is incidental to any such activities, all lands affected

SUBCHAPTER A—GENERAL

PART 700—GENERAL

Sec.
700.1 Scope.
700.2 Objective.
700.3 Authority.
700.4 Responsibility.
700.5 Definitions.
700.11 Applicability.
700.12 Petitions to initiate rulemaking.
700.13 Notice of citizen suits.
700.14 Availability of records.
700.15 Computation of time.

AUTHORITY: Sections 102, 201, 501(b), 517, 520, 701, Pub. L. 95-87, 91 Stat. 448, 449, 468, 498, 503, 516 (30 U.S.C. 1202, 1211, 1251, 1267, 1270, 1291).

§ 700.1 Scope.

The following regulations in Chapter VII of 30 CFR, consisting of Parts 700–899, establish the procedures through which the Secretary of the Interior will implement the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. section 1201 *et. seq.*)). *Chapter VII is divided into 13 Subchapters.*

(a) Subchapter A contains introductory information intended to serve as a guide to the rest of the Chapter and to the regulatory requirements and definitions generally applicable to all programs and persons covered by the Act.

(b) Subchapter B contains regulations covering the interim regulatory program which apply, prior to the applicability of permanent program regulations, to surface coal mining and reclamation operations and persons.

(c) Subchapter C sets forth regulations covering applications for and decisions on permanent State programs, the process to be followed for substituting a Federal program for an approved State program if necessary, the process for assuming temporary Federal enforcement of an approved State program, and the process for implementation of a Federal program in a State when called for by the Act.

(d) Subchapter D identifies the procedures that apply to surface coal mining and reclamation operations conducted on Federal lands rather than State or private lands and incorporates the performance standards in Subchapter K.

(e) (1) Subchapter F implements the requirements of the Act for—

(i) Designating lands which are unsuitable for all or certain types of surface coal mining operations;

(ii) Terminating designations no longer found to be appropriate; and

(iii) Those lands or areas where the Act states that surface coal mining operations should not be permitted or should be permitted only after specified determinations are made.

(2) This Subchapter does not include regulations governing designation of areas unsuitable for non-coal mining under the terms of section 601 of the Act or the designation of Federal lands under the Federal lands review provisions of subsection 522(b). The Bureau of Land Management is responsible for these regulations, which will be found in Title 43 of the Code of Federal Regulations.

(f) Subchapter G governs applications for and decisions on permits for surface coal mining and reclamation operations on non-Indian and non-Federal lands under a State or Federal program. It also governs coal exploration notification and approval requirements. Additional permit application requirements and decision criteria for special categories of mining are also in this Subchapter. Regulations implementing the experimental practices provision of the Act are also included in Subchapter G.

(g) Subchapter J sets forth requirements for performance bonds and public liability insurance for both surface mining and underground mining activities on non-Federal lands.

(h) Subchapter K sets forth the environmental and other performance standards which apply to coal exploration and to surface coal mining and reclamation operations during the permanent regulatory program. The regulations establish the minimum requirements for operations under State and Federal programs. Performance standards applicable to special mining situations such as anthracite mines, mining in Alaska, alluvial valley floors and prime farmlands are covered.

(i) Subchapter L sets forth the inspection, enforcement, and civil penalty provisions that apply to a State, Federal, or Federal lands program.

(j) Subchapter M sets forth the requirements for the training, examination, and certification of blasters.

(k) Subchapter P sets forth the provisions for protection of employees who initiate proceedings under the Act or testify in any proceedings resulting from the administration or enforcement of the Act.

(l) Subchapter R sets forth the regulations for the abandoned mine land reclamation program. These regulations include the fee collection requirements and the mechanisms for implementing the State and Federal portions of the abandoned mine land reclamation program.

(m) Subchapter S sets forth the regulations that apply to grants for mining and mineral research institutes and grants for mineral research projects.

§ 700.2 Objective.

The objective of Chapter VII is to fulfill the purposes of the Act found in section 102 in a manner which is consistent with the language of the Act, its legislative history, other applicable laws, and judicial interpretations.

§ 700.3 Authority.

The Secretary is authorized to administer each program required by the Act, except for the following requirements:

(a) Provisions of the Act that authorize the Secretary of Agriculture to establish programs for the reclamation of rural lands, identification of prime agricultural lands, and other responsibilities described in the Act. Regulations promulgated by the Secretary of Agriculture are in Title 7 of the Code of Federal Regulations;

(b) Provisions of the Act for which responsibility is specifically assigned to other Federal agencies, including the Department of Labor, the Environmental Protection Agency, the Corps of Engineers, the Council on Environmental Quality and the Department of Energy; and

(c) Authority retained by the States to enforce State law or regulations which are not inconsistent with the Act and regulations in this Chapter, including the authority to enforce more stringent land use and environmental controls and regulations.

§ 700.4 Responsibility.

(a) The Director of the Office of Surface Mining Reclamation and Enforcement, under the general direction of the Assistant Secretary, Energy and Minerals, is responsible for exercising the authority of the Secretary, except for the following:

(1) Approval or disapproval of an initial State program. This exception does not include amendments, modification, withdrawals or suspensions in whole or in part of State programs;

(2) Designation of lands as unsuitable for all or certain types of surface coal mining operations under section 522 of the Act and as unsuitable for non-coal mining under section 601 of the Act.

(b) The Director is responsible for consulting with Federal land-managing agencies and Federal agencies with responsibility for natural resources on Federal lands on actions which may have an effect on their responsibilities.

(c) The States are responsible for the regulation of surface coal mining and reclamation operations under a State program and the reclamation of abandoned mine lands under an approved State Reclamation Plan on non-Federal and non-Indian lands in accordance with procedures in this Chapter.

(d) The Secretary may delegate to a State through a cooperative agreement certain authority relating to the regulation of coal mining on Federal lands.

§ 700.5 Definitions.

As used throughout the regulations of this Chapter, except where otherwise indicated—

Act means the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87).

Coal means combustible carbonaceous rock, classified as anthracite, bituminous, subbituminous, or lignite by A.S.T.M. designation 0-388-66.

Department means the United States Department of the Interior.

Director means the Director, Office of Surface Mining Reclamation and Enforcement, or his representative.

Federal lands means any land, including mineral interests, owned by the United States without regard to how the United States acquired ownership of the lands and without regard to the agency having responsibility for management thereof, except Indian lands: *provided that* for the purposes of the Act, lands or mineral interests east of the one hundredth meridian west longitude owned by the United States and entrusted to or managed by the Tennessee Valley Authority are not subject to sections 714 (Surface owner protection) and 715 (Federal lessee protection) of the Act.

Federal lands program means a program established by the Secretary pursuant to section 523 of the Act to regulate surface coal mining and reclamation operations on Federal lands.

Fund means the Abandoned Mine Reclamation Fund established pursuant to section 401 of the Act.

Indian lands means all lands, including mineral interests and rights-of-way, within the exterior boundaries of any Federal Indian reservation, notwithstanding the issuance of any patent, and all lands, including mineral interests, held in trust for or supervised by an Indian tribe.

Indian tribe means any Indian tribe, band, group or community having a governing body recognized by the Secretary.

Office means the Office of Surface Mining Reclamation and Enforcement established under Title II of the Act.

Regional Director means the Regional Director of the Office or his representative.

Person means an individual, Indian tribe when conducting surface coal mining and reclamation operations on non-Indian lands, partnership, association, society, joint venture, joint stock company, firm, company, corporation, or other business organization and, for purposes of regulations implementing Title V of the Act, all governmental entities listed in section 524 of the Act.

Person whose interests are or may be adversely affected or *person with a valid legal interest* shall include any person:

(a) Who uses and enjoys any resource of economic, esthetic, or environmental value that may be affected by surface coal mining and reclamation operations or any related action of the Secretary or the State regulatory authority; or

(b) Whose property is or may be affected by surface coal mining and reclamation operations or any related action of the Secretary or the State regulatory authority.

Public office means a facility under the direction and control of a governmental entity, which is open to public access on a regular basis during reasonable business hours.

Regulatory authority means the department or agency in each State which has primary responsibility at the State level for administering the Act in the initial program, or the State regulatory authority where the State is administering the Act under an approved State program, or the Secretary in the initial or permanent program where the Secretary is administering the Act, or the Secretary when administering the Federal lands program.

Secretary means the Secretary of the Interior or his representative.

State regulatory authority means the department or agency in each State which has primary responsibility at the State level for administering the initial or permanent State program.

Surface coal mining operations means:

(a) Activities conducted on the surface of lands in connection with a surface coal mine or subject to the requirements of section 516 of the Act, surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal, including extraction of coal from coal refuse piles and such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal for interstate commerce at or near the mine-site: *provided, however,* that such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ per centum of the tonnage of minerals removed for purposes of commercial use or sale or coal exploration subject to section 512 of the Act; and

(b) The areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land, the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage and excavation, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or material on the surface, resulting from or incident to such activities.

Resulting from or incident to means a relation between two events such that when one event occurs the other event will, in the natural sequence of events, also occur.

Surface coal mining and reclamation operations means surface coal mining operations and all activities necessary or incidental to the reclamation of such operations. This term includes the term "surface coal mining operations."

Ton means 2000 pounds avoirdupois (.90718 metric ton).

§ 700.11 Applicability.

This Chapter applies to all coal exploration and surface coal mining and reclamation operations except—

(a) The extraction of coal by a landowner for his own noncommercial use from land owned or leased by him, *provided that* noncommercial use does not include the extraction of coal by one unit of an integrated company or other business or nonprofit entity which uses the coal in its own manufacturing or power plants;

(b) The extraction of coal for commercial purposes where the surface mining and reclamation operation affects two acres or less. Any person who affects or intends to affect more than two acres by surface coal mining and reclamation operations is not exempt from the requirements of this Chapter;

(c) The extraction of coal as an incidental part of Federal, State or local government-financed highway or other construction under Part 707;

(d) The extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ percent of the mineral tonnage removed for commercial use or sale;

(e) The extraction of coal on Indian lands under 25 CFR 177, Subpart B; and

(f) Coal exploration on Federal lands outside the permit area.

§ 700.12 Petitions to initiate rulemaking.

(a) Any person, State or local government may petition the Director to

initiate a proceeding for the issuance, amendment, or repeal of any regulation issued under the Act. The petition

(e) A person giving notice regarding an alleged violation of the Act or any regulation, order, or permit issued

from the computation when the period of prescribed time is seven days or less.

(c) The definitions that apply to those operations.

(d) Under a Federal program, the Office is the regulatory authority for

duction of animal or vegetable life where the use is enhanced or facilitat-

initiate a proceeding for the issuance, amendment, or repeal of any regulation issued under the Act. The petition shall be filed in the Office of the Director, Office of Surface Mining Reclamation and Enforcement, United States Department of the Interior, Washington, D.C. 20240.

(b) The petition shall set forth a concise statement of the facts, technical justification, and law which require issuance, amendment, or repeal of a regulation under the Act and shall indicate whether the petitioner desires a public hearing.

(c) Upon receipt of a petition, the Director shall determine if the petition sets forth facts, technical justification and law which may provide a reasonable basis for issuance, amendment or repeal of a regulation. Facts, technical justification or law previously considered in a petition or rulemaking on the same issue shall not be found to provide a reasonable basis. If the Director determines that the petition has a reasonable basis, a notice shall be published in the FEDERAL REGISTER seeking comments from the public on the proposed change. The Director may hold a public hearing and may conduct an investigation or take other action to determine whether the petition should be granted.

(d) Within 90 days from the date of receipt, the Director shall issue a written decision either granting or denying the petition, which shall constitute the final decision for the Department.

(1) If the petition is granted, the Director shall initiate a rulemaking proceeding.

(2) If the petition is denied, the Director shall notify the petitioner in writing, setting forth the reasons for denial.

§ 700.13 Notice of citizen suits.

(a) A person who intends to initiate a civil action on his own behalf under section 520 of the Act shall give notice of intent to do so in accordance with the regulations of this section.

(b) Notice shall be given by certified mail to the Secretary and the Director in all cases and to the head of the State regulatory authority if a complaint involves or relates to a specific State. A copy of the notice shall be sent by first class mail to the Regional Director if the complaint involves or relates to surface coal mining and reclamation operations in a specific region.

(c) Notice shall be given by certified mail to the alleged violator if the complaint alleges a violation of the Act or any regulation, order, or permit issued under the Act.

(d) Service of notice under this section is complete upon mailing to the last known address of the person being notified.

(e) A person giving notice regarding an alleged violation of the Act or any regulation, order, or permit issued under the Act shall state, to the extent known:

(1) Sufficient information to enable the recipient to identify the provision of the Act, regulation, order, or permit allegedly violated;

(2) The act or omission alleged to constitute a violation;

(3) The person or persons responsible for the alleged violation;

(4) The date, time, and location of the alleged violation;

(5) The name, address, and telephone number of the person giving notice; and

(6) The name, address, and telephone number of legal counsel, if any of the person giving notice.

(f) A person giving notice of an alleged failure by the Secretary or a State regulatory authority to perform a mandatory act or duty under the Act shall state, to the extent known:

(1) The provision of the Act containing the mandatory act or duty allegedly not performed;

(2) Sufficient information to enable the recipient to identify the omission alleged to constitute the failure to perform a mandatory act or duty under the Act;

(3) The name, address, and telephone number of the person giving notice; and

(4) The name, address, and telephone number of legal counsel, if any, of the person giving notice.

§ 700.14 Availability of records.

(a) Records required by the Act to be made available locally to the public shall be retained at the geographically closest office of the appropriate State or Federal regulatory authority having jurisdiction over the area involved.

(b) Other records or documents in the possession of the Office or other Federal agencies may be requested under 43 CFR Part 2, which implements the Freedom of Information Act and the Privacy Act.

§ 700.15 Computation of time.

(a) Except as otherwise provided, computation of time under this Chapter is based on calendar days.

(b) In computing any period of prescribed time, the day on which the designated period of time begins is not included. The last day of the period is included unless it is a Saturday, Sunday, or legal holiday on which the regulatory authority is not open for business, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.

(c) Intermediate Saturdays, Sundays, and legal holidays are excluded from the computation when the period of prescribed time is seven days or less.

PART 701—PERMANENT REGULATORY PROGRAM

Sec.
701.1 Scope.
701.2 Objective.
701.3 Authority.
701.4 Responsibility.
701.5 Definitions.
701.11 Applicability.

AUTHORITY: sections 201, 501, 701, Pub. L. 95-87, 91 Stat. 449, 467, 516 (30 U.S.C. 1211, 1251, 1291).

§ 701.1 Scope.

(a) This Part provides general introductory material for the permanent regulatory program required by the Act.

(b) The following regulations apply to the permanent regulatory program:

(1) Subchapter C on State program application, approval, withdrawal, grants and Federal program implementation;

(2) Subchapter D on surface coal mining and reclamation operations on Federal lands;

(3) Subchapter F on criteria for designating lands unsuitable for surface coal mining operations and the process for designating these lands or withdrawing the designation by the regulatory authority;

(4) Subchapter G on the process for application, approval, denial, revision, and renewal of permits for surface coal mining and reclamation operations, requirements for special categories of these operations, and requirements for coal exploration;

(5) Subchapter J on public liability insurance and performance bonds or other assurances of performance for surface coal mining and reclamation operations;

(6) Subchapter K on performance standards which apply to coal exploration operations, surface coal mining and reclamation operations, and special categories of these operations;

(7) Subchapter L on inspection and enforcement responsibilities and civil penalties; and

(8) Subchapter M on criteria for training, examination, and certification of blasters.

§ 701.2 Objective.

The regulations in this Part give the reader—

(a) A general overview of the regulatory program to be implemented by the State or Federal regulatory authority;

(b) The applicability of that program to coal exploration operations and surface coal mining and reclamation operations; and

(c) The definitions that apply to those operations.

§ 701.3 Authority.

(a) The Secretary is required by section 501(b) of the Act to promulgate regulations which establish the permanent regulatory program created by the Act. The Secretary delegates this rulemaking authority to the Director.

§ 701.4 Responsibility.

(a) A State regulatory authority may assume primary responsibility for regulation of coal exploration and surface coal mining and reclamation operations during the permanent regulatory program upon submission and approval of a State program meeting all applicable requirements of the Act and the regulations of Chapter VII of this Title. After approval of the State program, the State regulatory authority has responsibility for review of and decisions on permits for surface coal mining and reclamation operations, approval of coal exploration which removes from the earth more than 250 tons of coal, inspection of surface coal mining and reclamation operations and coal exploration operations for compliance with the performance standards and enforcement of the State program.

(b) While a State regulatory program is in effect, the Office's responsibility includes, but is not limited to—

(1) Evaluating the administration of the State program through such means as periodic inspections of coal exploration operations and surface coal mining and reclamation operations in the State and review of permits, inspection reports and other reports required to be made available to the Office;

(2) Referring to the State regulatory authority information creating a reasonable belief that any person is in violation of the Act, regulations, or any permit condition or coal exploration approval condition, and initiating an inspection when called for by the Act; and

(3) Issuing cessation orders when a condition, practice or violation exists which creates an imminent danger to the health or safety of the public, or is causing or could reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.

(c) The Office shall implement a Federal program in a State if that State does not have an approved State program by June 3, 1980. The Office shall not implement a Federal program in a State for a period of one year if the State's failure to have an approved program by June 3, 1980, is due to an injunction imposed by a court of competent jurisdiction.

(d) Under a Federal program, the Office is the regulatory authority for all coal exploration and surface coal mining and reclamation operations in that State and performs the functions that a State regulatory authority would perform under an approved State program.

(e) During the period in which a State program is in effect, the Office shall take over responsibility for enforcing permit conditions and issuing new or revised permits and shall issue necessary notices and orders, when required by regulations in Part 733.

(f) The Office shall substitute a Federal program for an approved State program when required by the regulations in Part 733.

§ 701.5 Definitions.

As used in the regulation of coal exploration and surface coal mining and reclamation operations under a State program, Federal program or Federal lands program, the following terms have the specified meanings, unless otherwise indicated.

Acid drainage means water with a pH of less than 6.0 discharged from active or abandoned mines and from areas affected by coal mining operations.

Acid-forming materials means earth materials that contain sulfide minerals or other materials which, if exposed to air, water, or weathering processes, will cause acids that may create acid drainage.

Adjacent area means, for the purpose of permit application, renewal, revision, review and approval, those natural and human resources contiguous to or near a mine plan area which may be impacted by surface coal mining and reclamation operations conducted within a permit area during the life of a mine. "Adjacent area" means, for the purpose of conducting surface coal mining and reclamation operations, those natural and human resources contiguous to or near the affected area which may be impacted by surface coal mining and reclamation operations conducted within a permit area during the life of a mine.

Affected area means, when used in the context of surface mining activities, all natural and human resources within the permit area which are disturbed or utilized during the term of the permit in the course of surface mining activities. When used in the context of underground mining activities, "affected area" means natural and human resources affected during the term of the permit (a) by surface operations or facilities incident to underground mining activities or (b) by underground operations.

Agricultural activities means, with respect to alluvial valley floors, the use of any tract of land for the production of animal or vegetable life where the use is enhanced or facilitated by sub-irrigation or flood irrigation associated with alluvial valley floors. These uses include, but are not limited to, pasturing, grazing, and watering of livestock, and the cropping, cultivation, or harvesting of plants whose production is enhanced or facilitated by the availability of water from subirrigation or flood irrigation, but do not include agricultural practices which do not derive benefit from the availability of water from sub-irrigation or flood irrigation.

Agricultural use means the use of any tract of land for the production of animal or vegetable life. The uses include, but are not limited to, pasturing, grazing, and watering of livestock and the cropping, cultivation or harvesting of plants.

Alluvial valley floors means the unconsolidated stream-laid deposits holding streams where water availability is sufficient for sub-irrigation or flood irrigation agricultural activities but does not include upland areas which are generally overlain by a thin veneer of colluvial deposits composed chiefly of debris from sheet erosion, deposits formed by unconcentrated runoff or slope wash, together with talus, other mass movement accumulation and wind-blown deposits.

Anthracite means coal as listed in D-388 (reapproved 1972), Part 26, 1976 Annual Book of ASTM Standards.

Applicant means any person, company, corporation or other legal entity seeking a permit from a regulatory authority to conduct surface coal mining activities or underground mining activities pursuant to a State program, a Federal program or a Federal lands program.

Approximate original contour means that surface configuration achieved by backfilling and grading of the mined areas so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls, spoil piles and coal refuse piles eliminated. Water impoundments may be permitted where the regulatory authority determines that they are in compliance with 30 CFR 816.49.

Aquifer means a zone, stratum, or group of strata that can store and transmit water in sufficient quantities for a specific use.

Arid and semiarid area means, for the purpose of alluvial valley floors, an area of the interior western United States, west of the one hundredth meridian west longitude, experiencing water deficits, where water use by native vegetation equals or exceeds that supplied by precipitation. All coal

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fields located in North Dakota west of the one hundredth meridian west longitude, all coal fields in Montana, Wy-

Coal processing waste means earth materials which are combustible, physically unstable, or acid-forming or

the amount of water available at the alluvial valley floor is greater than the amount available from direct precipi-

rigated surface is largely covered by a sheet of water.

Ground water means sub-surface

condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abate-

parking and open space that directly relate to the residential use.

(f) *Manufacturing.* Includes all

fields located in North Dakota west of the one hundredth meridian west longitude, all coal fields in Montana, Wyoming, Utah, Colorado, New Mexico, Idaho, Nevada, and Arizona, the Eagle Ross field in Texas, and the Stone Canyon and the Ione fields in California are in arid and semiarid areas.

Auger mining means a method of mining coal at a cliff or highwall by drilling holes laterally into an exposed coal seam from the highwall and transporting the coal along an auger bit to the surface.

Best technology currently available means equipment, devices, systems, methods, or techniques which will (a) prevent, to the extent possible, additional contributions of suspended solids to stream flow or runoff outside the permit area, but in no event shall such technology result in contributions of suspended solids in excess of requirements set by applicable State or Federal laws; and (b) minimize, to the extent possible, disturbances and adverse impacts of the operation on fish, wildlife and related environmental values, and achieve enhancement of such resources where practicable. "Best technology currently available" shall include equipment, devices, methods, or techniques which are currently available anywhere even if such equipment, devices, methods, or techniques are not in routine use. "Best technology currently available" shall include, but not be limited to, sedimentation ponds designed in accordance with Parts 816 and 817 of this Chapter. Within the constraints of the interim and permanent program regulations, the regulatory authority shall have the discretion to determine the best technology currently available on a case-by-case basis.

Coal exploration means the gathering of surface or subsurface geologic, physical, or chemical data by mapping, trenching, drilling, geophysical or other techniques necessary to determine the quality and quantity of overburden and coal of an area and the gathering of environmental data to establish the conditions of the area beginning before surface coal mining and reclamation operations under the requirements of this Subchapter.

Coal processing plant means a collection of facilities where run-of-the-mine coal is prepared for market by chemical or physical processing, separated from its impurities, and loaded for shipment. The processing plant may consist of, but not be limited to, the following support facilities: storage and stockpile facilities; sheds, shops and other buildings; water treatment and water storage facilities; settling basins and impoundments; coal processing and other waste disposal areas; roads, railroads and other transport facilities; and utilities.

Coal processing waste means earth materials which are combustible, physically unstable, or acid-forming or toxic-forming, wasted or otherwise separated from product coal, and slurried or otherwise transported from processing facilities or preparation plants after physical or chemical processing, cleaning, or concentrating of coal.

Combustible material means organic material that is capable of burning either by fire or through oxidation accompanied by the evolution of heat and a significant temperature rise.

Compaction means to increase the density of a material by the reduction of void spaces between the particles generally accomplished by controlled placement and mechanical effort such as repeated application of wheel or roller loads from heavy equipment.

Cultivated crops means those crops that are planted and usually tilled, including small grains, nurseries, orchards, soil crops and other specialty crops, except that cultivated crops shall not include rangeland.

Disturbed area means an area where vegetation, topsoil, or overburden has been removed by surface coal mining operations and until reclamation of those areas is complete and the bond released.

Diversion means a channel, embankment, or other manmade structure constructed for the purpose of diverting water from one area to another. See also "permanent diversion" and "temporary diversion."

Downslope means the land surface between a valley floor and the projected outcrop of the lowest coalbed being mined along each highwall.

Embankment means an artificial deposit of material that is raised above the natural surface of the land and used to contain, divert, or store water, support roads or railways, or other similar purposes.

Ephemeral stream means a stream or the headwater part of a stream that flows for less than 30 consecutive days, which flows only in direct response to precipitation in the immediate watershed, and which has a channel bottom that is always above the local water table.

Essential hydrologic functions means, with respect to alluvial valley floors, the role of the valley floor in collecting, storing, regulating, and making usefully available the natural flow of surface water or ground water or both, for agricultural activities, by reason of its position in the landscape and the physical properties of its underlying materials. Some combination of these functions provides a water supply during extended periods of low precipitation. The role of collecting water includes accumulating runoff and discharge from aquifers such that the amount of water available at the alluvial valley floor is greater than the amount available from direct precipitation. The role of storing water involves limiting the rate of discharge of surface water, holding moisture in soils, and holding ground water in porous materials. The role of regulating the natural flow of surface water results from the characteristic configuration of the channel and the flood plain and adjacent low terraces, and the role of regulating the natural flow of ground water results from the properties of aquifers which control inflow and outflow. The role of making water usefully available for agricultural activities results from the existence of flood plains and terraces where surface and ground water can be provided in sufficient quantities to support the growth of agriculturally useful plants, from the presence of earth materials suitable for the growth of agriculturally useful plants, from the temporal and physical distribution of water rendering it accessible to plants throughout the critical phases of the growth cycle either by flood irrigation or by subirrigation, from the natural control of alluvial valley floors in limiting destructive extremes of stream discharge, and from the erosional stability of earth materials suitable for the growth of agriculturally useful plants. The hydrologic and geologic characteristics that support these essential hydrologic functions are discussed in section 785.19.

Federal program means a program established by the Secretary pursuant to section 504 of the Act to regulate surface coal mining and reclamation operations on lands within a State in accordance with the requirements of the Act.

(a) *Complete Federal program* means a program established by the Director, pursuant to section 504 of the Act prior to June 3, 1980, or upon the complete withdrawal of a State program after June 3, 1980, by which the Director regulates all coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands within a State, in accordance with the Act and this Chapter.

(b) *Partial Federal program* means a program established by the Director pursuant to sections 102, 201 and 504 of the Act upon the partial withdrawal of a State program by which the Director may regulate appropriate portions of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands within a State, in accordance with the Act and this Chapter.

Flood irrigation means, with respect to alluvial valley floors, supplying water to plants by natural overflow or the diversion of flows, in which the irrigated surface is largely covered by a sheet of water.

Ground water means sub-surface water that fills available openings in rock or soil materials such that they may be considered water-saturated.

Half-shrub means a perennial plant with a woody base whose annually produced stems die back each year.

Head-of-hollow fill means a fill structure consisting of any materials other than waste placed in the uppermost reaches of a watershed so as to encroach upon or obstruct to any degree any natural stream channel, other than fills on high land areas with slopes of less than 20 degrees where surface drainage is conducted in minor channels such as rills and gullies which contain flow only in direct response to precipitation events and which rills and gullies are the only form of stream channels throughout the entire fill area. The top surface of the fill, when completed, will be at approximately the same elevation as the adjacent ridge line and no significant area of natural drainage will occur above the fill draining into the fill area.

Highwall means the face of exposed overburden and coal in an open cut of a surface or for entry to an underground coal mine.

Historically used for the production of cultivated crops means lands that have been used for the purpose of cultivated crops for any five years or more out of the 20 years immediately preceding the date of a permit application filed under Subchapter G or Subchapter D of this Chapter.

Hydrologic balance means the relationship between the quality and quantity of inflow to, outflow from, and storage in a hydrologic unit such as a drainage basin, aquifer, soil zone, lake, or reservoir. It encompasses the quantity and quality relationships between precipitation, runoff, evaporation, and the change in ground and surface water storage.

Hydrologic regime means the entire state of water movement in a given area. It is a function of the climate, and includes the phenomena by which water first occurs as atmospheric water vapor, passes into a liquid or solid form and falls as precipitation, moves along or into the ground surface, and returns to the atmosphere as vapor by means of evaporation and transpiration.

Imminent danger to the health and safety to the public means the existence of any condition or practice, or any violation of a permit or other requirements of the Act in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same condition or practice giving rise to the peril, would not expose himself or herself to the danger during the time necessary for abatement.

Impoundment means a closed basin, naturally formed or artificially built, which is dammed or excavated for the retention of water, sediment, or waste.

In situ processes means activities conducted on the surface or underground in connection with in-place distillation, retorting, leaching, or other chemical or physical processing of coal, to include, but not be limited to, in situ gasification, in situ leaching, slurry mining, solution mining, bore hole mining and fluid recovery mining.

Intermittent or perennial stream means a stream or part of a stream that flows continuously during all (perennial) or for at least one month (intermittent) of the calendar year as a result of ground-water discharge or surface runoff. The term does not include an "ephemeral stream."

Land use categories means specific uses or management-related activities, rather than the vegetation or cover of the land. Land uses may be identified in combination when joint or seasonal uses occur. When combined uses are designated, one land use shall be identified as primary and one or more others designated as secondary land uses. For purposes of alternative post-mining land uses, land uses shall include only the following categories as defined below:

(a) *Cropland.* Land used primarily for the production of cultivated and close-grown crops for harvest, alone or in association with sod crops. Land used for facilities in support of cropland farming operations is included.

(b) *Hayland or pasture.* Land used primarily for the long-term production of adapted, domesticated forage plants to be grazed by livestock or cut and cured for livestock feed.

(c) *Grazingland.* Includes both grass lands and forest lands where the indigenous vegetation is actively managed for grazing, browsing or hay production. Land used for facilities in support of ranching operations is included.

(d) *Forestry.* Land used or managed for the long-term production of wood, wood fiber or wood derivative products. Land used for facilities in support of forest harvest and management is included.

(e) *Residential.* Includes single and multiple family housing, mobile home parks, hotels, motels and other residential lodgings. Support facilities include, but are not limited to, vehicle parking and open space that directly relate to the residential use.

(f) *Manufacturing.* Includes all heavy and light industrial uses such as textile, lumber and wood processing, chemical manufacture, petroleum refining, and fabricated metal products manufacture.

(g) *Transportation, communication, and utilities.* Includes all rail, aircraft, marine, and automobile transportation facilities (e.g., railroad tracks, highways, airports), and communications and utilities facilities and supporting rights-of-way.

(h) *Trade.* All wholesale and retail trade, including warehouses, stores, restaurants, and other commercial establishments.

(i) *Services.* Includes all financial, personal, repair, and professional services, and educational, religious, and governmental service facilities.

(j) *Recreation.* Land used for public or private leisure-time recreational use. Includes developed recreation facilities such as parks, camps, and amusements, as well as less intensive uses such as hiking, canoeing, and other undeveloped recreational uses.

(k) *Fish and wildlife management.* Land used for production, protection, and population control (i.e., fishing and hunting) of game species of fish and wildlife.

(l) *Mining and extraction.* Includes all metal ore, coal, crude petroleum, and natural gas mining and extraction and the quarrying of non-metallic minerals. Also includes facilities specifically related to the mining and extraction of these materials.

(m) *Developed water resources.* Includes land used for storing water for beneficial uses such as stockponds, irrigation, fire protection, flood control, or water supply.

(n) *Natural areas.* Land used to protect and maintain specific features or species or to maintain ecological diversity in identified fragile areas. Includes areas designated as sanctuaries or under special management which limits or excludes access (e.g., areas under specific protection as threatened or endangered species habitats).

(o) *Undeveloped land or no current use or land management.* Includes land areas that are undeveloped or if previously developed, not presently used or managed, such as cropland that is no longer in production and is currently idle land.

Macro-invertebrate biological community means an assemblage of 2 or more species of arthropod or molluscan animals adapted to flowing waters for all or part of their life cycles, the life cycles of which are dependent upon a flowing water habitat, and which are reproducing or can reasonably be expected to reproduce in the water body where they are found. The

mature animals must be longer than 2 millimeters at some stage of the part

program or by the Secretary pursuant to a Federal program. For purposes of

Recurrence interval means the interval of time in which a precipitation

Significant, imminent environmental harm to land, air or water resources is determined as follows:

(c) The amount of material removed from the pit is large in proportion to the surface area disturbed.

Surface mining activities means those surface coal mining and reclamation operations incident to the ex-

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mature animals must be longer than 2 millimeters at some stage of the part of their life cycle spent in flowing water habitat.

Materially damage water quality or quantity means with respect to alluvial valley floors, changes in the quality or quantity of surface or ground water which provide some or all of the water that subirrigates or is or may be used for flood irrigation in an alluvial valley floor located in or adjacent to a surface coal mining and reclamation operation.

Mine plan area means those areas, including all natural and human resources, which would be within the cumulative areas permitted during the estimated life of the mine. Other terms defined in this section which relate closely to "mine plan area" include the "permit area," which will always be within or the same as the mine plan area; the "affected area," which will always be within or the same as the permit area; and the "adjacent area," which may surround or extend beyond the "mine plan area," "permit area," or "affected area."

Noxious plants means species that have been included on official State lists of noxious plants for the State in which the surface coal mining and reclamation operation occurs.

Operator means any person engaged in coal mining who removes or intends to remove more than 250 tons of coal from the earth or coal refuse piles by mining within 12 consecutive calendar months in any one location.

Outslope means the exposed area sloping away from a bench or terrace being constructed as a part of a surface coal mining and reclamation operation.

Overburden means material of any nature, consolidated or unconsolidated, that overlies a coal deposit, excluding topsoil.

Perennial stream—See intermittent or perennial stream.

Performance bond means the indemnity instrument in a sum certain, supported by a surety's guarantee, pledge of collateral or other acceptable contractual guarantee, by which the permit applicant assures faithful performance of all the requirements of the Act, the regulations of this Chapter, or a State or Federal program, the rules and regulations promulgated thereunder and the provisions of its permit.

Permanent diversion means a diversion remaining after mining and reclamation which is approved for retention by the regulatory authority and other appropriate State and Federal agencies.

Permit means a permit to conduct surface coal mining and reclamation operations issued by the State regulatory authority pursuant to a State program or by the Secretary pursuant to a Federal program. For purposes of the Federal lands program, permit means the document issued for surface coal mining and reclamation operations on Federal lands after approval of a mining plan by the Director and, where a cooperative agreement pursuant to section 523 of the act has been executed, the State regulatory authority.

Permit area means the area, including all natural and human resources, included within the boundaries specified in a permit, whether or not the areas will be impacted by surface coal mining and reclamation operations, which are designated on the approved maps submitted by the applicant with his permit application and covered by the performance bond required by Subchapter J.

Permittee means a person holding a "permit" to conduct surface coal mining and reclamation operations issued by a State regulatory authority pursuant to a State program or by the Director pursuant to a Federal program or the Secretary pursuant to a Federal lands program.

Precipitation event means a quantity of water resulting from precipitation in a limited period of time. It may be expressed in terms of recurrence intervals, that is the frequency of recurrence of such events within specific probability limits (usually 97% probability that a greater event will not occur). As used in these regulations, "precipitation event" also includes water released at the same rate and volume from snowmelt.

Prime farmlands means lands that have been historically used for the production of cultivated crops and are defined as prime farmland by the Secretary of Agriculture in 7 CFR part 657.

Productivity means the vegetative yield produced by a unit area for a unit of time.

Rangeland means, for purposes of prime farmlands, land on which the natural potential (climax) plant cover is composed principally of native grasses, forbs, and shrubs valuable for forage. This land includes natural grasslands and savannahs, such as prairies, and juniper savannahs as brush lands. Except for brush control, management is primarily achieved by regulating the intensity of grazing and season of use.

Recharge capacity means the ability of the soils and underlying materials to allow precipitation and runoff to infiltrate and reach the zone of saturation.

Reclamation means all actions necessary to comply with the requirements of the Act and regulations in Subchapter K of this Chapter.

Recurrence interval means the interval of time in which a precipitation event is expected to occur once, on the average. For example, the 10-year 24-hour precipitation event would be that 24-hour precipitation event expected to occur on the average once in 10 years. The magnitude of such events is as defined by the Department of Commerce, National Oceanographic and Atmospheric Administration, in Technical Paper No. 40, National Weather Service Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, and subsequent amendments or equivalent regional or rainfall probability information developed therefrom. DOC-NOAA Technical Paper No. 40, mentioned in the previous sentence, is hereby incorporated by reference. This work is incorporated as it exists on the date of adoption of this Part, and notices of changes made in these materials will periodically be published in the Federal Register. DOC-NOAA Technical Paper No. 40 is available for inspection at the Office in the Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

Reference areas means land units of varying size and shape identified and maintained under appropriate management for the purpose of measuring ground cover, productivity and species diversity that are produced naturally. Reference areas must be representative of geology, soils, slope, aspect and vegetation in the permit area.

Roads means all roads, including access and haul roads, constructed, used, reconstructed, improved, or maintained for use in coal exploration or surface coal mining and reclamation operations, including use by coal-hauling vehicles leading to transfer, processing, or storage areas. The term includes any such road used and not graded to approximate original contour within 45 days of construction, other than temporary roads used for topsoil removal and coal haulage roads within the pit area. Roads maintained with public funds such as all Federal, State, county, or local roads are excluded.

Runoff means precipitation that flows overland before entering a defined stream channel and becoming streamflow.

Safety factor means the ratio of the available shear strength to the developed shear stress or the ratio of the sum of the resisting forces to the sum of loading or driving forces, as determined by accepted engineering practices.

Sedimentation pond means any natural or artifical structure or depression used to remove sediment from water and store sediment or other debris.

Significant, imminent environmental harm to land, air or water resources is determined as follows:

(a) An environmental harm is any adverse impact on land, air, or water resources, including but not limited to plant and animal life.

(b) An environmental harm is imminent if a condition, practice or violation exists which—

(1) Is causing such harm or

(2) May reasonably be expected to cause such harm at any time before the end of the reasonable abatement time that would be set under section 521(a)(3) of the Act.

(c) An environmental harm is significant if that harm is appreciable and not immediately reparable.

Slope means average inclination of a surface, measured from the horizontal and normally expressed as a unit of vertical distance to a given number of units of horizontal distance (e.g., 1v to 5h=20 percent=11.3 degrees).

Soil horizons means contrasting layers of soil lying one below the other, parallel or nearly parallel to the land surface. Soil horizons are differentiated on the basis of field characteristics and laboratory data. The three major soil horizons are—

(a) *A horizon.* The uppermost layer in the soil profile, often called the surface soil. It is the part of the soil in which organic matter is most abundant, and where leaching of soluble or suspended particles is the greatest.

(b) *B horizon.* The layer immediately beneath the A horizon and often called the subsoil. This middle layer commonly contains more clay, iron, or aluminum than the A or C horizons.

(c) *C horizon.* The deepest layer of the soil profile. It consists of loose material or weathered rock that is relatively unaffected by biologic activity.

Special bituminous coal surface mines means those bituminous coal surface mines in existence on January 1, 1972, or mines adjoining or having a common boundary with those mines for which development began after August 3, 1977, that are located in the State of Wyoming and that are being mined or will be mined according to the following criteria:

(a) Surface mining takes place on a relatively limited site for an extended period of time. The surface opening of the excavation is at least the full size of the excavation and has a continuous border.

(b) Excavation of the mine pit follows a coal seam that inclines 15 degrees or more from the horizontal, and as the excavation proceeds downward it expands laterally to maintain stability of the pitwall or as necessary to accommodate the orderly expansion of the total mining operation.

(c) The amount of material removed from the pit is large in proportion to the surface area disturbed.

(d) There is no practicable alternative to the deep open-pit method of mining the coal.

(e) There is no practicable way to entirely reclaim the land as required in Subchapter K.

Spoil means overburden that has been removed during surface mining.

Stabilize means any method used to control movement of soil, spoil piles, or areas of disturbed earth by modifying the geometry of the mass, modifying physical or chemical properties or otherwise providing a protective surface coating.

State program means a program established by a State and approved by the Secretary pursuant to section 503 of the Act to regulate surface coal mining and reclamation operations on non-Indian and non-Federal lands within such State according to the requirements of the Act and regulations issued by the Secretary under the Act: *Provided that,* If a cooperative agreement under Part 745 has been entered into, a State program may apply to Federal lands in accordance with the terms of the cooperative agreement.

Steep slope means any slope above 20° or such lesser slope as may be designated by the regulatory authority after consideration of soil, climate, and other characteristics of a region or State.

Sub-irrigation means, with respect to alluvial valley floors, the supplying of water to plants from below or the existence of a semi-saturated or saturated sub-surface whose water is available for use by vegetation. Sub-irrigation may be identified by:

(a) Diurnal fluctuation of the water table, due to the difference in night and daytime evapotranspiration rates;

(b) Increasing soil moisture from a portion of the rooting zone down to a saturated zone, due to capillary action;

(c) Mottling of the soils in the root zones;

(d) Existence of an important part of the root zone within the capillary fringe or water table of an alluvial aquifer; or

(e) An increase in stream flow or a rise in ground water level indicating an increase in available water shortly after the first killing frost on the valley floor.

Substantially disturb means, for purposes of coal exploration, to significantly impact upon land, air or water resources by such activities as blasting, mechanical excavation of land, drilling or altering coal or water exploratory holes or wells, construction or creation of roads and other access routes, and the placement of structures, excavated earth or other debris upon the surface of land.

Surface mining activities means those surface coal mining and reclamation operations incident to the extraction of coal from the earth by removing the materials over the coal seam before recovering the coal and the recovery of coal from a deposit that is not in its original geologic location.

Surface water means water, either flowing or standing, on the surface of the earth.

Suspended solids means organic or inorganic materials, carried or held in suspension in water, that will remain on a 0.45 micron filter.

Temporary diversions means those diversions of streams and overland flow used during mining and reclamation and not approved by the regulatory authority to remain after reclamation as part of the approved post-mining land use.

Topsoil means the A soil horizon, which is the uppermost layer of the three major soil horizons.

Toxic-forming materials means toxic earth materials or wastes which, if acted upon by air, water, weathering, or microbiological processes, are likely to produce chemical or physical conditions in soils or water that are detrimental to biota or uses of water.

Toxic mine drainage means water that is discharged from active or abandoned mines or other areas affected by coal exploration or coal mining and reclamation operations which contains a substance that through chemical action or physical effects is likely to kill, injure, or impair biota commonly present in the area that might be exposed to it.

Underground development waste means waste rock mixtures of coal, shale, claystone, siltstone, sandstone, limestone, or related materials that are excavated, moved, and disposed during development and preparation of areas incident to underground mining activities.

Underground mining activities means a combination of—

(a) Surface operations such as construction, use, and reclamation of new and existing roads, as defined in this section, above-ground repair areas, storage areas, processing areas, shipping areas, areas upon which are sited support facilities including hoist and ventilating ducts, areas utilized for the disposal and storage of waste, and areas on which materials incident to underground mining operations are placed; and

(b) Underground operations such as underground construction, operation, and reclamation of shafts, adits, underground support facilities, and underground mining, hauling, storage, and blasting.

Undeveloped rangelands means, for purposes of alluvial valley floors, lands

where the use is not specifically controlled and managed.

Unconsolidated stream-laid deposits

tion operations as provided for in Part 771 or 741 under the terms of that permit or mining plan pending an ini-

ations which meet the criteria are exempt from the Act and the regulations in this Chapter.

ipal, or local unit of government, or a department, bureau, agency or office of the unit which directly, or through another unit of government, finances

(5) The name of the person conducting the government-financed construction and the person's business address or that of his local registered agent;

ing and submitting a program or program amendment;

(b) Establishing procedures and criteria for the review and approval or

where the use is not specifically controlled and managed.

Unconsolidated stream-laid deposits holding streams means, with regard to alluvial valley floors, all floodplains and terraces, including terraces covered by non-alluvial materials, found in the lower parts of topographic valleys, in which are found perennial streams with stream channels wider than 3 feet in bank-full width or 0.5 foot in bank-full depth, or stream channels shown on a standard USGS 1:24,000 scale topographic quadrangle. In plan view, these terraces, with the active floodplain and channel, form one contiguous unit separated only by minor deposits of non-alluvial materials. Isolated higher terraces, not associated with the valley floor, such as those found along drainage divides, are not included under this definition and are considered upland areas.

Upland areas means, with respect to alluvial valley floors, alluvial fans, pediment surfaces, landslide deposits, and residuum, as well as highland areas, underlain by bedrock, and covered by residual weathered material and debris deposited by sheetwash or rillwash.

Valley fill means a fill-structure consisting of any materials other than waste placed so as to encroach upon or obstruct any natural stream channel, other than fills on highland areas with slopes of less than 20 degrees where surface drainage is conducted in minor channels such as rills and gullies which contain flow only in direct response to precipitation events and which rills and gullies are the only form of stream channels throughout the entire fill area.

Water table means the upper surface of a zone of saturation, where the body of ground water is not confined by an overlying impermeable zone.

§ 701.11 Applicability.

(a) Any person who conducts surface coal mining and reclamation operations on non-Indian and non-Federal lands 8 months after the date upon which a State program is approved or a Federal program is implemented in a State, or who conducts surface coal mining and reclamation operations on Federal lands 8 months after the effective date of Subchapter D of this Chapter, shall have a permit issued pursuant to the State, Federal or Federal lands program. However, if an initial administrative decision has not been made on a permit application timely filed under a State or Federal program or a Federal lands program, and a person has a valid permit issued pursuant to section 502 of the Act during the initial regulatory program or an approved mining plan pursuant to 30 CFR 211, that person may continue surface coal mining and reclamation operations as provided for in Part 771 or 741 under the terms of that permit or mining plan pending an initial administrative decision on the permit application.

(b) The performance standards in Subchapter K of this Chapter shall be effective, according to their terms, for any surface coal mining and reclamation operation required to obtain a permit under the Act on the earliest date upon which the Act and the regulations in this Chapter require that a permit be obtained for such operations.

(c) Any person conducting a coal exploration operation which substantially disturbs the natural land surface, on or after the date on which a State program is approved or a Federal program implemented, shall either file a notice of coal exploration or obtain approval as required by 30 CFR 776.

(d) Coal exploration performance standards in 30 CFR 815 apply in accordance with their terms to coal exploration 2 months after approval of a State program or implementation of a Federal program.

PART 707—EXEMPTION FOR COAL EXTRACTION INCIDENT TO GOVERNMENT FINANCED HIGHWAY OR OTHER CONSTRUCTION

Sec.
707.1 Scope.
707.2 Objective.
707.4 Responsibility.
707.5 Definitions.
707.11 Applicability.
707.12 Government financing agency notification.
707.13 Public notice.
707.14 Conduct of exempt operations.

AUTHORITY: Sec. 102, 201, 501, and 528, Pub. L. 95-87, 91 Stat. 448, 449, 467, and 514 (30 U.S.C. 1202, 1211, 1251, 1278).

§ 707.1 Scope.

This Part establishes the procedures for notifying the regulatory authority of those surface coal mining and reclamation operations which are exempt from the Act and the regulations in this Chapter because the extraction of coal is an incidental part of Federal, State or local government-financed highway or other construction.

§ 707.2 Objective.

(a) The regulations in this Part exempt from the requirements of the Act and the regulations in this Chapter, the extraction of coal which is incidental to government financed construction, provided the coal extraction meets specified criteria intended to ensure that the construction is government financed and that the coal extraction is incidental to it.

(b) Through regulations adopted by the regulatory authority consistent with the Part, coal extraction operations which meet the criteria are exempt from the Act and the regulations in this Chapter.

§ 707.4 Responsibility.

(a) The regulatory authority is responsible for maintaining a public file of all notifications received from a government financing agency of coal extraction which is an incidental part of governmental financed construction.

(b) Persons undertaking extraction of coal which is not exempted from the Act and this Chapter are responsible for obtaining a permit under Subchapter G before beginning the extraction of coal.

(c) Government financing agencies are responsible for notifying the regulatory authority of all coal extraction operations which are an incidental part of government financed construction and including in the notification the information specified in this Part.

(d) Any person carrying on the extraction of coal as an incidental part of government financed construction is responsible for possessing on the site of the coal extraction operation a copy of the notification sent to the regulatory authority by the government financing agency.

§ 707.5 Definitions.

As used in this Part the following terms have the specified meaning unless otherwise indicated:

Extraction of coal, or coal extraction means surface coal mining and reclamation operations, including removal of coal from coal refuse piles.

Extraction of coal as an incidental part means extraction of coal the market value of which is less than 50 percent of the cost of the government-financed construction. For purposes of this definition, only that coal extracted from within the right-of-way, in the case of a road, railroad, utility line or other such construction, or within the boundaries of the area affected by other types of government-financed construction, shall be considered incidental to that construction. Extraction of coal outside the right-of-way or boundary of the affected area of the construction shall be subject to the requirements of the Act and this Chapter.

Construction means activities resulting in a man-made structure or alteration of the landscape, such as earth work, blasting, building, erecting or performing other related work.

Earth work means activities directly affecting the configuration of the land, such as site preparation and clearance, foundation preparation, excavation, grading, reclamation and related work.

Government financing agency means a Federal, State, county, municipal, or local unit of government, or a department, bureau, agency or office of the unit which directly, or through another unit of government, finances construction.

Government financed construction means construction funded in excess of 50 percent by funds appropriated from a government financing agency's budget or obtained from general revenue bonds, but shall not mean government financing agency guarantees, insurance, loans, funds obtained through industrial revenue bonds or their equivalent, or in kind payments.

§ 707.11 Applicability.

(a) Coal extraction which is an incidental part of government-financed construction is exempt from the Act and the regulations in this Chapter only if—

(1) The market value of the coal extracted is less than 50 percent of the total cost of the construction,

(2) The government financing represents more than 50 percent of the total construction costs, and

(3) The coal extracted is removed from within the right-of-way or boundary of the area directly affected by the construction.

(b) Coal extraction which does not satisfy the criteria in paragraph (a) of this section shall not proceed until a permit has been obtained from the regulatory authority pursuant to Subchapter G of this Chapter.

§ 707.12 Government financing agency notification.

(a) A government financing agency which funds construction where extraction of coal is an incidental part of that government-financed construction, shall notify the regulatory authority in advance of any coal extraction operation. Extraction of coal as an incidental part of the government-financed construction which removes less than 250 tons of coal or affects less than two acres during the course of the operation is exempt from the Act and the regulations in this Chapter and may proceed without regard to this Part.

(b) The notification filed with the regulatory authority shall contain—

(1) A description of the construction project;

(2) The exact location of the construction right-of-way or the boundaries of the area which will be directly affected by the construction;

(3) The kind and amount of the government financing including the percentage of the entire construction costs represented by the government financing;

(4) The market value of the coal to be extracted as an incidental part of the government-financed construction;

(5) The name of the person conducting the government-financed construction and the person's business address or that of his local registered agent; and

(6) A copy of the environmental and public health and safety requirements with which the person will be required to comply.

§ 707.13 Public notice.

The regulatory authority shall maintain a copy of the notification on public file, available during all business hours, at its office geographically closest to the site of the construction.

§ 707.14 Conduct of exempt operations.

Persons conducting extraction of coal as an incidental part of government-financed construction which is exempt from the Act and regulations in this Chapter shall possess a copy of the government financing agency notification at the site of the coal extraction.

SUBCHAPTER C—PERMANENT REGULATORY PROGRAMS IN STATES

PART 730—GENERAL REQUIREMENTS FOR REGULATORY PROGRAMS IN STATES

Sec.
730.1 Scope.
730.2 Objectives.
730.4 Responsibilities.
730.5 Definitions.
730.11 Inconsistent or more stringent State laws and regulations.
730.12 Requirement for regulatory programs in States.

AUTHORITY: Secs. 102, 201(c), 501(b), 503, 504, 505, and 521 of Pub. L. 95-87, 91 Stat. 448, 449, 468, 470, 471, 473, and 504 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1255, 1271).

§ 730.1 Scope.

This Subchapter sets forth standards and procedures for the submission, review, approval or disapproval of State programs, including criteria and procedures for amending approved programs, substituting Federal enforcement for State enforcement of the State program or withdrawing approval for those programs not adequately implemented or maintained. Also included are regulations for State program grants and the adoption of a Federal regulatory program in a State which does not have a State program or which has failed to implement, enforce or maintain its approved program consistent with the regulations of this Subchapter.

§ 730.2 Objectives.

The objectives of this Subchapter include—

(a) Establishing criteria and procedures for a State to follow in preparing and submitting a program or program amendment;

(b) Establishing procedures and criteria for the review and approval or disapproval of program submissions and amendments;

(c) Establishing criteria and procedures for substituting Federal enforcement of a State program and withdrawing approval of State programs;

(d) Establishing a grants program to assist States in developing and administering and enforcing State programs; and

(e) Establishing criteria and procedures for the promulgation, review, implementation, administration, and withdrawal of Federal programs.

§ 730.4 Responsibilities.

(a) Each State that wishes to regulate coal exploration and surface coal mining and reclamation operations within its boundaries on non-Federal and non-Indian lands shall submit to the Director a proposed State program under Part 731 of this Subchapter.

(b) Each State that wishes to receive a program development or an administration and enforcement grant shall submit its request to the Regional Director in whose region the State is located under Part 735 of this Subchapter.

(c) The Regional Director shall also receive and review amendments to an approved State program and shall recommend approval or disapproval of such amendments to the Director.

(d) The Director shall review each proposed State program and shall recommend approval or disapproval of a State program to the Secretary.

(e) The Secretary shall approve or disapprove a proposed State program.

(f) The Director shall approve or disapprove amendments to a State program.

(g) The Director shall also either substitute Federal enforcement for a State program or withdraw approval of a State program that is not properly administered, maintained or enforced.

(h) Each State having an approved State program shall implement, administer and enforce it in accordance with the Act, the provisions of the State program as approved by the Secretary, and consistent with the regulations of this Chapter.

(i) The Director shall promulgate and implement a Federal program under Part 736 of this Subchapter for a State that does not have an approved State program or where he has withdrawn approval of a State program that has not been properly administered, maintained or enforced.

§ 730.5 Definitions.

As used in this Subchapter—

(a) *Consistent with* means that a rule or regulation adopted by the State to carry out the provisions of

731.14 Content requirements for program submissions

AUTHORITY: Secs. 102, 201(c), 501(b) and

(b) Describe the alternative approach recommended and provide statutory or regulatory language to be

(g) A copy of supporting agreements between agencies which will have a role in the State program;

State program and the issuance of permits under the State program; and

(16) Providing administrative review

will be regulated in accordance with the requirements of the Act;

(l) A map showing the office loca-

(a) *Consistent with* means that a rule or regulation adopted by the State to carry out the provisions of the Act must be the same as or similar to the regulations promulgated under the Act and must achieve the same regulatory result.

(b) *In accordance with* means that a State law regulating coal exploration and surface coal mining and reclamation operations shall be in agreement with and no less stringent than applicable provisions of the Act.

§ 730.11 Inconsistent or more stringent State laws and regulations.

(a) No State law or regulation shall be superseded by any provision of the Act or the regulations of this Chapter, except to the extent the State law or regulation is less stringent than or precludes implementation of procedures or requirements of the Act or the regulations of this Chapter. The Director shall publish in the FEDERAL REGISTER any State law or regulation which he determines to be inconsistent with the Act or regulations of this Chapter.

(b) Any State law or regulation which provides for more stringent land use and environmental controls and regulations of coal exploration and surface coal mining and reclamation operations than do the provisions of the Act and this Chapter, or which provides for the control and regulation of coal exploration and surface coal mining and reclamation for which no provision is contained in the Act or this Chapter, shall not be construed to be inconsistent with the Act or this Chapter.

§ 730.12 Requirement for regulatory programs in States.

Not later than June 3, 1980, each State in which there are or may be conducted coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian land shall have in place either a State program or a Federal program adopted under this Subchapter. States in which no coal exploration or surface coal mining and reclamation operations are in existence or planned on June 3, 1980, but in which such operations may occur at some later date, shall have a State or Federal program adopted and in place to regulate those operations prior to the commencement of any such operations.

PART 731—SUBMISSION OF STATE PROGRAMS

Sec.
731.1 Scope.
731.6 Eligibility.
731.12 Submission of State programs.
731.13 Alternative procedures and performance standards.
731.14 Content requirements for program submissions

AUTHORITY: Secs. 102, 201(c), 501(b) and 503(a), Pub. L. 95-87, 91 Stat. 448, 449, 468, 470 (30 U.S.C. 1202, 1211, 1251, 1253).

§ 731.1 Scope.

This Part establishes standards and procedures for the preparation and submission of State programs.

§ 731.11 Eligibility.

Any State in which coal exploration and surface coal mining and reclamation operations are conducted or may be conducted may submit a proposed State program to the Regional Director in whose region the State is located.

§ 731.12 Submission of State program.

(a) Each State that wishes to regulate coal exploration and surface coal mining and reclamation operations within its boundaries on non-Federal and non-Indian lands shall submit 3 copies of a proposed program to the Regional Director for the region in which that State is located on or before February 3, 1979.

(b) If an act of the State legislature is necessary before a State may submit a proposed program which includes the necessary State laws and regulations, the Director may extend the date for the initial submission to August 3, 1979, or any earlier date determined to be appropriate by the Director. States seeking such an extension shall submit a written request, including a justification, to the Director no later than February 3, 1979.

(c) States may also submit a proposed program at any time later than June 3, 1980, when—

(1) Implementation of a Federal program under 30 CFR Part 736 has been completed; or

(2) States without prior surface coal mining under the Act become aware of potential new surface coal mining operations.

(d) The State shall retain sufficient copies of the program for public inspection under 30 CFR 732.12(a).

§ 731.13 Alternative procedures and performance standards.

As part of its program submission, a State may request approval for alternatives to the requirements for permitting, bonding, inspection, enforcement and performance standards established in this Chapter where geologic, topographic, climatic, hydrologic and other regional conditions support alternative approaches. For each requirement for which the State proposes an alternative, the State shall—

(a) Describe the requirement from which the variation is requested and the reason for the request;

(b) Describe the alternative approach recommended and provide statutory or regulatory language to be used to implement the alternative, and

(c) Explain how the alternative approach is consistent with this Chapter, including supporting data which demonstrate that use of the proposed alternative will achieve the same or more stringent regulatory results as required by this Chapter.

§ 731.14 Content requirements for program submissions.

The program shall demonstrate that the State has the capability of carrying out the provisions of the Act and achieving its purposes by providing a complete description of the system for implementing, administering and enforcing a State program including, at a minimum—

(a) A copy of the State laws in effect at the time of submission of the program which regulate coal exploration and surface coal mining and reclamation operations;

(b) A copy of any State regulations promulgated to implement and enforce State laws which regulate coal exploration and surface coal mining and reclamation operations;

(c) Copies of (1) other State laws directly affecting the regulation of coal exploration and surface coal mining and reclamation operations, and (2) amendments to existing laws or regulations regulating coal exploration and surface coal mining and reclamation operations which are being considered or are pending;

(d) A legal opinion from the Attorney General of the State stating that the State has the legal authority to implement, administer and enforce the program and to regulate coal exploration and surface coal mining and reclamation operations in accordance with the Act and consistent with this Chapter. The opinion shall include a section by section comparison of the State's laws and regulations with the Act and this Chapter, explaining any differences and their legal effect;

(e) A copy of the legal document which designates one State agency as the regulatory authority and authorizes that agency to implement, administer and enforce a State program and to submit grant applications, and to receive and administer grants under this Subchapter;

(f) A chart describing the existing and proposed structural organization of the agency designated as the regulatory authority and other agencies or applicable divisions or departments of other agencies which will have a role in the State program and indicating coordination between agencies and lines of authority and staffing functions within each agency and between agencies;

(g) A copy of supporting agreements between agencies which will have a role in the State program;

(h) Narrative descriptions and flow charts, indexed according to sections or subsections of the Act and this Chapter, of the proposed systems and processes for—

(1) Receiving applications for new or revised permits, reviewing, approving or disapproving permits or revisions to permits for surface coal mining and reclamation operations, and numbering permits according to a uniform permit-numbering system adopted by the Office;

(2) Assessment of fees for permit applications, provided that—

(i) Fees shall not exceed the actual or anticipated costs of reviewing permit applications and administration and enforcement of such permits; and

(ii) Fees shall not exceed the average estimated costs of the review, administration and enforcement of the permit.

(3) Posting, release and forfeiture of performance bonds, or other equivalent sureties;

(4) Inspecting and monitoring coal exploration and surface coal mining and reclamation operations, including provisions for public participation in the process;

(5) Enforcing the administrative, civil and criminal sanctions of State laws for violation of any requirement relating to the regulation of coal exploration and surface coal mining and reclamation operations;

(6) Enforcing the permanent performance standards consistent with subchapter K of this Chapter;

(7) Assessing civil penalties;

(8) Issuing public notices and holding public hearings;

(9) Coordinating issuance of permits with other State, Federal and local agencies;

(10) Consulting with State and Federal agencies having responsibility for protection or management of endangered or threatened species, historic, cultural, and other environmental values;

(11) Designating lands unsuitable for surface coal mining operations, including provisions for terminating such designations and for public participation in the designation process;

(12) Monitoring, reviewing and enforcing restrictions against direct and indirect financial interests of State employees;

(13) Training, examination and certification of blasters consistent with Subchapter M of this Chapter;

(14) Regulating coal exploration operations;

(15) Providing for public participation in the development, revision and enforcement of State regulations, the State program and the issuance of permits under the State program; and

(16) Providing administrative review of program enforcement actions.

(i) Statistical information describing coal exploration and surface coal mining and reclamation operations in the State, including--

(1) Tonnage of coal produced annually for each of the most recent three years for both underground and surface coal mining operations, according to type of mining, such as contour, area, or mountaintop, and giving the source of the data;

(2) Number of mines producing coal during each of the most recent three years for both underground and surface coal mining operations according to the type of coal produced, i.e., bituminous, anthracite, or lignite;

(3) Acreage permitted by coal exploration and underground and surface coal mining operations during each of the most recent three years;

(4) A map showing the geographic distribution by county of existing underground and surface coal mining and reclamation operations for the period just preceding submission of the program;

(5) Number of applications for permits, revisions, and renewals of permits for surface coal mining and reclamation operations or for coal exploration received annually for each of the most recent three years;

(6) Frequency of State inspections for each permit during the initial regulatory program;

(7) Number of coal exploration and underground and surface coal mining operations under permit being explored or actively mined, the number of operations under permit being actively reclaimed, and the number of permits on which reclamation operations are virtually complete (except for growth of required vegetation at the end of the month preceding submission); and

(8) Projections, if available from existing studies, of the projected annual coal production and geographic distribution of coal exploration and surface coal mining and reclamation operations for the next 5 years or the period encompassed by existing studies, according to tonnage, type of coal produced, and whether production will be by underground or surface mining.

(j) A summary table of existing and proposed program staff showing job functions and titles and required job experience and training;

(k) A description of how the staffing proposed for the State program will be adequate to carry out the functions including permitting and inspection for the work-load projected to ensure that coal exploration and surface coal mining and reclamation operations will be regulated in accordance with the requirements of the Act;

(l) A map showing the office locations of the regulatory authority and other agencies involved in the State program including the number of employees and job functions at each location;

(m) An explanation of projected use, if any, of professional and technical personnel that are available to the regulatory authority from other agencies, including the information required in Section 731.12(i);

(n) A description of the actual budget, including income and expenses used or to be used to administer the regulatory program for the current fiscal year and the prior fiscal year, and the projected annual budget for each of the next two fiscal years assuming supplemental funding pursuant to an approved State program and grants under Part 735 of this Subchapter;

(o) A description of the existing and proposed physical resources for use in the program such as office and laboratory space, vehicles and equipment;

(p) A narrative description of the history and progress of regulation in the State and other information as appropriate which would tend to demonstrate the State's capability to administer a permanent regulatory program;

(q) A description of special environmental protection standards and performance bond provisions, if any, of the State for the purpose of regulating anthracite coal mining as provided in Section 529 of the Act;

(r) A brief description of the other programs administered by the regulatory authority; and

(s) Such other information as the Director may require.

PART 732—PROCEDURES AND CRITERIA FOR APPROVAL OR DISAPPROVAL OF PROGRAM SUBMISSIONS

Sec.
732.1 Scope.
732.4 Responsibility.
732.11 Review by the Regional Director.
732.12 Notice and public hearing requirements.
732.13 Decision by the Secretary.
732.14 Resubmission of State programs.
732.15 Criteria for approval or disapproval of programs.
732.16 Terms and conditions for State programs.
732.17 State program amendments.

AUTHORITY: Secs. 102, 201(c), 501(b), 503, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 521, and 522, Pub. L. 95-87, 91 Stat. 448, 449, 468, 470, 473, 474, 478, 479, 480, 483, 484, 485, 486, 495, 498, 499, 501, 504, and 507 (30 U.S.C. 1202, 1211, 1251, 1253, 1256, 1257, 1258, 1259, 1260, 1261, 1262, 1263, 1264, 1265, 1266, 1267, 1268, 1269, 1271, and 1272).

§ 732.1 Scope.

This Part sets forth policy and pro-

of this Section. If at the expiration of the 30 day period the State has failed

Director, together with a recommended decision from the Regional Direc-

approval of the program in whole or in part. The Secretary shall then either

the approximate costs of review, administration and enforcement of such permits are recovered;

(ii) Provide for civil and criminal sanctions for violation of the State law, regulations, or conditions of per-

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§ 732.1 Scope.

This Part sets forth policy and procedures governing decisions approving or disapproving State program submissions and program amendments, including requirements for public participation.

§ 732.4 Responsibility.

(a) The Regional Director and the Director shall review program submissions, receive public comments, hold public hearings, and the Director shall recommend approval or disapproval of programs to the Secretary. The Secretary shall approve or disapprove programs.

(b) The Regional Director shall review program amendments and recommend approval or disapproval to the Director. The Director shall approve or disapprove program amendments.

§ 732.11 Review by the Regional Director.

(a) Immediately upon receipt of a program, the Regional Director shall publish in the FEDERAL REGISTER and in a newspaper of general circulation in the State a notice meeting the following requirements:

(1) The notice shall include the date of the submission of the program, a summary of its contents and indicate that it is available for review during regular business hours at the office of the Regional Director and that a public file for comments received will be established and open for review.

(2) The notice shall indicate that a review is being performed by the Regional Director to determine whether the program is complete and that the review will be completed 30 days from the date of the submission.

(3) The notice shall afford interested persons and groups 15 days from the date of publication of the notice to submit written comments or to request a public meeting with the Regional Director to discuss the completeness of the program.

(b) Within 30 days after receipt of a program, the Regional Director, after considering written comments and relevant information, shall determine whether the submission contains all of the elements required by Section 731.14 and shall publish his decision in the FEDERAL REGISTER. If the program contains the required elements, the submission is complete.

(c) If one or more required elements are missing, the Regional Director shall identify the missing elements and return the program submission as incomplete.

(d) If the program is returned as incomplete, the State shall have 30 days to make appropriate changes in its submission and return it to the Regional Director for review pursuant to procedures in paragraphs (a) and (b) of this Section. If at the expiration of the 30 day period the State has failed to submit a complete program, the Director shall initiate the process to promulgate and implement a Federal program for that State under Part 736 of this Subchapter. Initiation of this process does not preclude the State from making appropriate changes in its submission and returning it to the Regional Director for review.

§ 732.12 Notice and public hearing requirements.

(a) Upon determination that a program submission is complete, the Regional Director shall publish in the FEDERAL REGISTER and in a newspaper of general circulation in the State a notice meeting the following requirements:

(1) The notice shall include the date of submission of the program, a summary of its contents and indicate that it is available for inspection during regular business hours at the office of the Regional Director and at the central office and each field office of the State agency responsible for the submission. The notice in the FEDERAL REGISTER shall include the complete text of State statutes and regulations.

(2) The notice shall afford interested persons and groups an opportunity to submit, in writing, data and comments on the program. The comment period shall end on a date following the last public hearing held under paragraph (b) of this Section. The date on which the comment period ends shall be in the Federal Register notice.

(3) The notice shall identify the time and location at which the Office will hold the public hearing under paragraph (b) of this Section.

(b) A public hearing shall be held by the Regional Director no sooner than 60 days following the publication of the notice required by paragraph (a) of this Section. The hearing shall be informal and legislative in type.

(1) The format of the hearing and the rules of procedure for each hearing shall be determined by the Regional Director and published in the notice in the FEDERAL REGISTER.

(2) Additional hearings or additional time in which comments may be submitted may be allowed by the Regional Director, if either or both is deemed necessary or appropriate and proper notice is given as provided in paragraph (a) of this Section.

(c) Copies of written comments received shall be available for public inspection and copying at the offices of the Regional Director and the State agency responsible for submission.

(d) Upon completion of the hearing or hearings, the transcript, written presentations, exhibits and any post-hearing comments shall be transmitted by the Regional Director to the Director, together with a recommended decision from the Regional Director.

(e) Upon receipt of the recommendation of the Regional Director, the Director shall consider all relevant information including information obtained from all public hearings and comments, and shall recommend to the Secretary that he approve or disapprove the program in whole or in part. The recommended decision shall include findings which specify the reasons for the recommendation.

§ 732.13 Decision by the Secretary.

(a) After consideration of all relevant information, including information obtained from all public hearings and comments, and, after consideration of the Director's recommendation and findings, the Secretary shall issue a decision in writing either approving or disapproving the program, in whole or in part.

(b) The Secretary shall not approve a program until he has—

(1) Solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed; and

(2) Obtained written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of a State program which relate to air or water quality standards promulgated under the authority of the Federal Water Pollution Control Act, as amended (33 U.S.C. Section 1151-1175), or the Clean Air Act, as amended (42 U.S.C. Section 1857 et seq.).

(c) The decision shall include the findings upon which the decision is based. The decision and findings shall be mailed to the State.

(d) The Secretary shall issue his decision within 180 days of the Regional Director's receipt of a complete program submission under Section 732.11.

(e) All decisions approving or disapproving a program, in whole or in part, shall be published in the FEDERAL REGISTER, indicating, in the event of disapproval, that the State has 60 days to submit a revised program for consideration.

(f) If the Secretary disapproves a program, in whole or in part, the State shall have 60 days from the date of notification to submit a revised program to the Director for reconsideration. The Director shall publish in the FEDERAL REGISTER the contents of the revision and give notice providing a 30-day opportunity for comments. The Director shall consider the revised program and the comments received and recommend to the Secretary approval or disapproval of the program in whole or in part. The Secretary shall then either approve or disapprove the revised program in whole or in part within 60 days from the date of submission and publish the decision in the FEDERAL REGISTER. A decision disapproving the revised program either in whole or in part constitutes the final decision by the Department disapproving that program submission in its entirety.

(g) A decision by the Secretary approving a program submission establishes a State program for the State which submitted it and constitutes the final decision by the Department. A program submission shall not be finally approved unless it can be approved in whole.

§ 732.14 Resubmission of State programs.

If, by a final decision, the program is disapproved, the State may submit another program to the Regional Director at any time after implementation of a Federal program for that State under Part 736 of this Subchapter. Resubmission of State programs shall be made and acted upon pursuant to Sections 732.11, 732.12, 732.13, 732.15 and 732.16.

§ 732.15 Criteria for approval or disapproval of programs.

(a) The Secretary shall not approve the program unless, on the basis of the information obtained from the program submission, comments, testimony at the hearings, written presentations, and other relevant information, he finds that—

(1) The State demonstrated a good faith effort in implementing, administering and enforcing the initial program pursuant to the Act;

(2) The program provides for the State to carry out the provisions and meet the purposes of the Act and regulations of this Chapter to regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands within the State and that alternative approaches proposed pursuant to Section 731.13 of this Subchapter achieve the same or more stringent regulatory results as the regulations of this Chapter;

(3) The State regulatory authority has, on the date of the complete program submission, the authority under State laws and regulations which regulate coal exploration and surface coal mining and reclamation operations—

(i) To implement, administer, and enforce environmental protection performance standards consistent with Subchapter K of this Chapter;

(ii) To implement, administer, and enforce a permit system consistent with the regulations of Subchapter G of this Chapter and to require permit fees with each application such that the approximate costs of review, administration and enforcement of such permits are recovered;

(iii) To control coal mining incidental to government financed construction consistent with Part 707 of this Chapter;

(iv) To regulate coal exploration operations consistent with Parts 776 and 815 of this Chapter;

(v) To implement, administer, and enforce a system of performance bonds and liability insurance, or other equivalent guarantees, consistent with the requirements of Subchapter J of this Chapter;

(vi) To enter, inspect, and monitor all coal exploration and surface coal mining and reclamation operations on non-Indian and non-Federal land within the State consistent with the requirements of Subchapter L of this Chapter;

(vii) To issue, modify, terminate and enforce notices of violation, cessation orders and show cause orders in accordance with Section 521 of the Act and consistent with the requirements of Subchapter L of this Chapter, including the same or similar procedural requirements and including authority for State inspectors to take the issue actions of this paragraph;

(viii) To impose civil penalties for violations of the State law, regulations, or terms and conditions of permits in accordance with Section 518 of the Act and consistent with Part 845 of this Chapter, including the same or similar procedural requirements;

(ix) To designate areas as unsuitable for surface coal mining consistent with Subchapter F of this Chapter;

(x) To cooperate and coordinate with and to provide documents and other information to the Office under the provisions of this Chapter;

(xi) To require the training, examination and certification of persons engaged in or responsible for blasting consistent with Subchapter M of this Chapter; and

(xii) To monitor, review and enforce the prohibition against indirect or direct financial interests consistent with Part 705 of this Chapter;

(4) The State regulatory authority and other agencies having a role in the State program have and will continue to have sufficient technical and administrative personnel and sufficient funding to implement, administer and enforce the provisions of the program, the requirements of paragraph (a) of this Section and other applicable State and Federal laws; and

(5) The State law and regulations in effect at the time of a complete program submission—

(i) Prohibit surface coal mining and reclamation operations without a permit issued by the regulatory authority;

(ii) Provide for civil and criminal sanctions for violation of the State law, regulations, or conditions of permits, including civil and criminal penalties, forfeiture of bonds, suspension or revocation of permits, and the issuance of cease and desist orders by the State regulatory authority and its inspectors;

(iii) Prohibit indirect or direct financial interests in coal mining operations by employees of the State regulatory authority consistent with Part 705 of this Chapter;

(iv) Provide for protection of State employees of the regulatory authority in accordance with the protection afforded Federal employees under Section 704 of the Act;

(v) Provide for public participation in the development, revision and enforcement of State regulations and the State program consistent with public participation required in the Act and regulations of this Subchapter;

(vi) Provide administrative review of program enforcement actions in accordance with Section 525 of the Act; and

(vii) Do not contain provisions inconsistent with those in the Act and the regulations of this Chapter.

(b) The Director may provide for other criteria necessary to meet the provisions of this Chapter in order to determine whether a State has the capability to carry out the provisions of the Act and this Chapter.

§ 732.16 Terms and conditions for State programs.

(a) The Director may establish terms and conditions for the administration and operation of an approved State program as he deems necessary, including but not limited to—

(1) Establishing a system for regularly reporting information collected by the State regulatory authority in the conduct of the State program;

(2) Requiring consultation with the Office on a regular basis with regard to the overall conduct of the State program; and

(3) Providing the Office with access to books and records of the regulatory authority upon request.

(b) The Director may modify the terms and conditions of the State program from time to time after notice to the State and after holding an informal conference, if requested, to reflect changes in the regulations of this Chapter, the conduct of the program or the coordination with the Office.

§ 732.17 State program amendments.

(a) A State program amendment is a written alteration of the provisions, terms or conditions of an approved State program whether accomplished on the initiative of the State regula-

SEP 18 1978

tory authority or the Regional Director.

(b) The State regulatory authority shall promptly notify the Regional Director in writing of any significant events or proposed changes which affect the implementation, administration or enforcement of the approved State program. The Regional Director shall promptly notify the State regulatory authority if, in his opinion, any event or proposed changes in State law, regulations promulgated thereunder or changes in this Chapter or in the conduct of the program, may impair the implementation, administration or enforcement of the approved State program. At a minimum, notification shall be given either the State regulatory authority or the Regional Director regarding—

(1) Changes in the scope or objectives of the State program;

(2) Changes in the authority of the regulatory authority to implement, administer and enforce the approved program;

(3) Changes in the State law and regulations from those contained in the approved State program;

(4) Changes in staffing and resources of the regulatory authority and applicable divisions or departments of other agencies which have a role in approved State program;

(5) Changes in agreements between the regulatory authority and other agencies which have a role in the approved State program;

(6) Changes in funding or budgeting relative to the approved State program; and

(7) Significant changes in the number or size of coal exploration or surface coal mining and reclamation operations in the State.

(c) Within 30 days of receipt of notification in writing of events or proposed changes that may require a State program amendment, or whenever the Regional Director becomes aware of conditions described in this Subsection, the Regional Director shall determine whether a State program amendment is required and notify the State regulatory authority of his decision.

(d) State program amendments may be required—

(1) Whenever changes in the Act or regulations of this Chapter affect the State's authority or ability to implement, administer and enforce the approved program;

(2) Whenever conditions or events change that affect the conduct of the State program, or whenever such conditions or events indicate that the approved State program no longer meets the requirements of the Act or the regulations of this Chapter; or

(3) Whenever State laws or regulations contained in an approved State program are changed by legislative, administrative or judicial action so as to render any regulatory requirement or performance standard less stringent than that contained in the approved State program.

(e) If the Regional Director determines that a State program amendment is required, the State regulatory authority shall, within 10 days after notification of that decision, submit to the Regional Director a written amendment designed to re-establish a State program that meets the requirements of the Act and this Chapter.

(1) If the State regulatory authority does not propose an amendment within 10 days from the receipt of the notice, or the amendment is not approved under this paragraph, the Director shall begin proceedings under Part 733 of this Subchapter to either enforce that Part of the State program affected or withdraw approval, in whole or in part, of the State program and implement a Federal program.

(2) The procedures and criteria for approval or disapproval of an amendment shall be the same procedures and criteria as required in Sections 732.12, 732.13 and 732.15 for approval or disapproval of a State program except that the Regional Director shall publish the required notice, hold the public hearing and recommend approval or disapproval to the Director and the Director shall approve or disapprove the amendment.

PART 733—MAINTENANCE OF STATE PROGRAMS AND CRITERIA AND PROCEDURES FOR SUBSTITUTING FEDERAL ENFORCEMENT OF STATE PROGRAMS AND WITHDRAWING APPROVAL OF STATE PROGRAMS

Sec.
733.1 Scope.
733.4 Responsibilities.
733.11 General requirements for maintaining State programs.
733.12 Procedures for substituting Federal enforcement for a State program or withdrawing approval of State programs.
733.13 Criteria for substituting Federal enforcement for a State program, or withdrawing approval of State programs.

AUTHORITY: Secs. 102, 201, 501(b), 503, 504, 517, and 521 of Pub. L. 95-87, 91 Stat. 448, 449, 468, 470, 471, 498, and 504 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1267, and 1271).

§ 733.1 Scope.

This Part establishes requirements for the maintenance of State programs and procedures for substituting Federal enforcement of State programs and withdrawing approval of State programs.

§ 733.4 Responsibilities.

(a) The State regulatory authority is responsible for implementing, enforcing and maintaining an approved State program, except where the Secretary has assumed, by substitution, this responsibility.

(b) The Regional Director is responsible for monitoring State program maintenance. The Director is responsible for Federally enforcing and maintaining State programs or withdrawing approval of State programs not maintained as provided in the Act or the regulations of this subchapter.

§ 733.11 General requirement for maintaining a State program.

Each State with an approved State program shall administer, implement, enforce and maintain it in accordance with the Act, this Chapter and the provisions of the State program as approved by the Secretary.

§ 733.12 Procedures for substituting Federal enforcement for a State program or withdrawing approval of State programs.

(a) The Regional Director shall evaluate the administration of each State program at least annually and when any person reports that a State is not maintaining its approved State program.

(b) If the Regional Director has reason to believe that a State is not effectively administering any part of its approved State program, he shall promptly notify the State regulatory authority in writing. The Regional Director shall provide sufficient information to allow the State regulatory authority to determine what portions of the program he believes are not being effectively administered and specify the time period for accomplishing remedial actions necessary for effective administration of the State program.

(1) The Regional Director shall provide the State regulatory authority an opportunity for an informal conference if requested within 15 days of receipt of the notification.

(2) If an informal conference is not held or if, following the conference, the Regional Director still has reason to believe, on the basis of information available to him, that the State is failing to administer effectively a part or all of a State program, he shall give notice to the State and to the public specifying the basis for his belief and shall hold a public hearing in the State within 30 days of the notice.

(c) Upon completion of the hearing, the Regional Director shall transmit the information available to him including the hearing transcript, written presentations and written comments to the Director along with a recommendation from the Regional Director to either continue the State program as approved or take action prescribed in either paragraph (d) (1) or (2) of this Section.

(d) If, on the basis of information available to the Office, including the results of the hearing, the Director finds that the State has failed to administer effectively part or all of its approved State program, and that the State has not adequately demonstrated its capability and intent to administer the State program, the Director shall either—

(1) Substitute for the State regulatory authority direct Federal enforcement of all or part of the State program in accordance with paragraph (e) of this Section; or

(2) Withdraw approval of the State program, in whole or in part, in accordance with paragraph (f) of this Section.

(e) Substituted Federal enforcement.

(1) The Director shall give public notice of a finding under paragraph (c) of this Section and specify the extent to which he is instituting direct Federal enforcement of a State program.

(2) During the period beginning with such public notice and ending when the State satisfies the Director that it will enforce the State program effectively, the Director shall enforce and adopt additional regulations as may be required to the extent he has assumed direct Federal enforcement of the State program by—

(i) Enforcement of any permit condition required under the Act;

(ii) Issuance of any new or revised permit pursuant to any additional regulation that the Director may promulgate at the time of assumed enforcement; and

(iii) Conducting inspections and issuance of such notice, orders and assessments of penalties that are necessary for compliance with those permit conditions, the Act, and the State program in accordance with Subchapter L.

(3) In the case of a State permittee who has met his obligations under an existing State permit and who did not willfully secure the issuance of such permit through fraud or collusion, the Director shall give the permittee reasonable time to conform ongoing surface mining and reclamation operations to the requirements of the Act before suspending or revoking the State permit.

(f) Withdrawing approval of State program.

The Director shall give public notice of a finding under paragraph (c) of this Section, specifying the extent to which he is withdrawing approval of a State program. Not later than the issuance of such notice, the Director shall propose promulgation of, and thereafter promulgate and implement a Federal program for the affected State, in accordance with Part 736 of this Subchapter.

§ 733.13 Criteria for substituting Federal enforcement for State programs or withdrawing approval of State programs.

In evaluating the maintenance, administration or enforcement of a State program for purposes of determining whether to substitute direct Federal enforcement of the State program or to withdraw approval of part or all of the program, the Director shall consider the record of the State in fulfilling the conditions of the original approval or adjusting to new circumstances in accordance with requirements of the Act and this Chapter.

PART 736—FEDERAL PROGRAM FOR A STATE

Sec.
736.1 Scope.
736.2 Objectives.
736.3 Responsibility.
736.4 Authority.
736.11 General procedural requirements.
736.12 Public notice requirements.
736.13 Public comment.
736.14 Director's decision.
736.15 Implementation, enforcement and maintenance of Federal program.
736.16 Termination procedures.
736.17 Consolidation of procedures.
736.21 General requirements of a Federal program.
736.22 Contents of a Federal program.
736.23 Federal program effect on State law or regulations.
736.24 Federal program effect on State funding.

AUTHORITY: Secs. 102, 201, 405, 501, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 521, 522, 525, and 705 of Pub. L. 95-87, 91 Stat. 448, 449, 459, 468, 470, 471, 473, 474, 478, 479, 480, 483, 484, 485, 486, 495, 498, 499, 501, 504, 507, 511, and 520 (30 U.S.C. 1202, 1211, 1235, 1251, 1253, 1254, 1255, 1256, 1257, 1258, 1259, 1260, 1261, 1262, 1263, 1264, 1265, 1266, 1267, 1268, 1269, 1271, 1272, 1275, and 1294).

§ 736.1 Scope.

This Part establishes standards and procedures for the promulgation, implementation, revision and withdrawal of a Federal program for a State on non-Federal and non-Indian lands.

§ 736.2 Objectives.

The objectives of this Part are to provide standards and procedures for the Director to follow in the promulgation, implementation, revision and withdrawal of a Federal program on non-Federal and non-Indian lands and to provide maximum public participation in these processes to ensure that the requirements of the Act are met.

§ 736.3 Responsibility.

The Director has the responsibility to promulgate, implement, enforce, maintain, revise and withdraw Federal programs on non-Federal and non-Indian lands in accordance with this Part and Section 504 of the Act.

§ 736.4 Authority.

(a) Promulgation and implementation of a complete Federal program for a State vests the Director with exclusive jurisdiction and makes him the regulatory authority for the regulation and control of all coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands within such State.

(b) Promulgation and implementation of a partial Federal program for a State vests the Director with exclusive jurisdiction and makes him the regulator authority for the regulation and control of those aspects of coal exploration and surface coal mining and reclamation operations covered by such Federal program and on non-Federal and non-Indian lands within such State.

(c) Following the final disapproval of a State program under 30 CFR Part 732, and prior to the promulgation of a complete Federal program for a State under 30 CFR 736.11(a), including judicial review of such Federal program, existing surface coal mining and reclamation operations may continue pursuant to the provisions of Section 502 of the Act and 30 CFR Parts 710, 715, 716, 717, 720, 721, 722, and 723. During this period, no new permits for surface coal mining and reclamation operations shall be issued by the State whose program has been disapproved. Permits which lapse during this period may continue in full force and effect within the specified permit area until promulgation of a Federal program for the State whose program has been disapproved.

§ 736.11 General procedural requirements.

(a) Promulgation

(1) Not later than June 3, 1980, the Director shall promulgate and, subject to the provisions of this Part, implement a Federal program for a State if the Director reasonably expects surface coal mining to exist in a State by June 1985, and the State fails to—

(i) Submit a State program covering surface coal mining and reclamation operations to the appropriate Regional Director within the time provided in 30 CFR Part 731; or

(ii) Resubmit an acceptable State program within 30 days of a notice of incompleteness under 30 CFR 732.11 or within 60 days of a notice of a State program disapproval pursuant to 30 CFR 732.13(f). The Director shall not promulgate a Federal program prior to the expiration of the initial period allowed for submission of a State program as provided in 30 CFR 731.11.

(2) The Director shall promulgate a complete Federal program for a State upon the withdrawal of approval of an entire State program.

(3) The Director shall promulgate a partial Federal program for a State

upon the withdrawal of approval of part of a State program.

(b) Revision. The Secretary may

(b) The Regional Director shall provide an opportunity for interested persons to submit, in writing, data and

promulgation or revision unless the provisions for designation are promulgated because of a State's failure to

cal, hydrological, agronomic and other relevant physical conditions;

(2) Include any provisions that are

ance with the purposes and requirements of the Act and the Federal program. In promulgating or revising a

§ 740.1 Scope and purpose.

This Subchapter is intended to:

(a) Establish the procedures and re-

upon the withdrawal of approval of part of a State program.

(b) Revision. The Secretary may revise a Federal program for a State if necessary to further the purposes of the Act and the regulations adopted under the Act.

(c) Termination. The Director shall terminate appropriate portions of a Federal program for a State upon—

(1) Approval of a State program under 30 CFR Parts 731 and 732 that replaces a complete Federal program for that State; or

(2) Approval of a partial State program under 30 CFR Part 733 that replaces a partial Federal program.

§ 736.12 Public notice requirements.

Prior to the promulgation or revision of a Federal program, the Director shall give public notice as follows:

(a) Notice shall be published in the FEDERAL REGISTER at least 60 days before the date of the hearing required under Section 736.13 and shall include—

(1) A statement of the basis and purposes of the proposed program or revision;

(2) The proposed regulations of the program or revision;

(3) The proposed effective date of the program or revision;

(4) The location of the Regional Office and State Office in the capital city where the text of the proposed program or revision and any supporting evidence may be reviewed or copied;

(5) The date, time and location in the State where the Office will hold at least one public hearing under the supervision of the Regional Director; and

(6) A summary of the format and the rules of procedure of the public hearing, as required under 30 CFR 736.13.

(b) The Regional Director shall publish notice at least once a week for three weeks within the 30 days before the hearing in at least one newspaper of general circulation in the coal mining area of the affected State. This notice shall be identical to the notice required under paragraph (a) of this Section, except that a brief description of the contents of the proposed program or revision may be substituted for the proposed regulations of the program or revision.

§ 736.13 Public comment.

(a) Comments shall be solicited by the Director from the Administrator of the Environmental Protection Agency, the Secretary of Agriculture and the heads of other Federal agencies concerned with or having special expertise relevant to the proposed promulgation or revision of the program.

(b) The Regional Director shall provide an opportunity for interested persons to submit, in writing, data and comments on the proposed promulgation or revision of a Federal program within 60 days after publication of the notice in the FEDERAL REGISTER.

(c) Before promulgation or revision of a Federal program for a State, the Regional Director shall hold at least one public hearing within the State for the purpose of affording interested persons an opportunity to submit data and comments on the proposed Federal program for the State.

(1) The hearings shall consist of—

(i) Procedures that are legislative in type, which include the compilation of an open record of the hearing, and

(ii) Presentation by the Regional Director or his designee of the contents of the proposed program or revision.

(2) Additional hearings or additional time for submitting comments after the hearing may be allowed by the Regional Director as deemed necessary or appropriate.

(3) Upon completion of the hearing or hearings, the Regional Director shall transmit to the Director the hearing transcript, the written presentations, exhibits submitted, public comments and his recommendation concerning the promulgation of a Federal program and any proposed regulations.

(d) Copies of all written comments received under this Section and the transcript of the public hearing shall be made available for public inspection and copying at the office of the appropriate Regional Director and at the State office in the capital city of the State.

§ 736.14 Director's decision.

(a) After considering all available relevant information, including information obtained from the public hearings and written comments, the Director shall decide whether to promulgate or revise a Federal program for the State.

(b) The Director shall publish notice of his decision in the FEDERAL REGISTER, including a statement of the basis and purpose for such decision, the regulations of the Federal program for the State or revision thereof, and the effective date of the program or revision.

§ 736.15 Implementation, enforcement and maintenance of a Federal program.

(a) The Director shall implement, maintain and enforce the provisions of a Federal program or any revision not later than 30 days after the Federal program is promulgated or revised. The provisions of the Federal program for designation of lands as unsuitable, under 30 CFR Part 765 shall not apply for a period of one year following the promulgation or revision unless the provisions for designation are promulgated because of a State's failure to administer adequately a process for designation of lands in a State program under 30 CFR Part 764, and to the extent that a Federal program is implemented under requirements of 30 CFR 761.8.

(b) Permits issued pursuant to a previously approved State program shall be valid but reviewable under a Federal program. Immediately following promulgation of a Federal program, the Director shall review these permits to determine that the requirements of the Act and this Chapter are not violated. If the Director determines that any permit was granted contrary to the requirements of this Act, he shall—

(1) Inform the permittee,

(2) Provide the permittee an opportunity for a hearing,

(3) Provide the permittee a reasonable opportunity to submit that portion of the permit application which the Director determines to be relevant, and

(4) Provide the permittee a reasonable time to conform ongoing surface mining and reclamation operations to the requirements of the Federal program, as prescribed in the Federal program for the State.

§ 736.16 Federal program termination procedures.

Withdrawal of a Federal program shall be accomplished through the procedures for approval of a State program under 30 CFR Part 732.

§ 736.18 Consolidation of procedures.

The Director may consolidate public notices and hearings for the promulgation or revision of a Federal program for a State under this Part, with public notices and hearings for the approval, disapproval or withdrawal of a State program under 30 CFR Parts 732–733.

§ 736.21 General requirements.

(a) Any complete Federal program promulgated or revised by the Director shall include the contents identified in 30 CFR 736.22.

(b) Any partial Federal program shall include all of the contents identified in 30 CFR 736.22 for all aspects of coal exploration and surface coal mining and reclamation operations within the State which are regulated under the partial program.

§ 736.22 Contents of a Federal program.

(a) In promulgating or revising any Federal program for a State, the Director shall—

(1) Consider the nature of that State's soils, topography, terrain, climate and biological, chemical, geological, hydrological, agronomic and other relevant physical conditions;

(2) Include any provisions that are necessary to implement the requirements of the Endangered Species Act of 1973 (16 U.S.C. 531 et seq.), the Fish and Wildlife Coordination Act (16 U.S.C. 661–666c), the National Historic and Preservation Act of 1966 (16 U.S.C. 470), the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a) and other relevant Federal laws imposing duties upon the Secretary; and

(3) Include, if required pursuant to 30 CFR 736.23, any performance standards for the regulation of coal exploration and surface coal mining and reclamation operations more stringent than those otherwise provided in this Chapter and the Act.

(b) Any Federal program for a State, including appropriate portions of a partial Federal program, which is promulgated or revised by the Director shall provide for Federal regulation of coal exploration and surface coal mining and reclamation operations on lands within the State in accordance with the requirements of the Act, including at a minimum the following provisions: 30 CFR Parts 700, 701 and 707; 30 CFR Parts 760, 761, 762 and 765; Subchapter G; Subchapter J; Subchapter K; 30 CFR Parts 842, 843 and 845; and Subchapter M of this Chapter.

(c) For the purpose of avoiding duplication, the Federal program shall include a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations under the Federal program with any other Federal, State or local planning or permit process applicable to such operations in the jurisdiction involved, including but not limited to—

(1) Permit requirements of the Clean Air Act (42 U.S.C. 7401 *et seq.*), Clean Water Act (30 U.S.C. 1251 *et seq.*), and the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 3251–3259);

(2) the applicable requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4332); and

(3) plans approved by the Administrator of the U.S. Environmental Protection Agency under Sections 208 or 303(c) of the Clean Water Act, (33 U.S.C. Section 1288, 1313(c)).

§ 736.23 Federal program effect on State law or regulations.

(a) Whenever a Federal program is promulgated or revised for a State, any statutes or regulations of the State regulating coal exploration or surface mining and reclamation operations subject to the Act shall be preempted and superseded by the Federal program insofar as they are inconsistent, less stringent or preclude compliance with the purposes and requirements of the Act and the Federal program. In promulgating or revising a Federal program for a State, the Director shall set forth any State law or regulation which is pre-empted and superseded by the Federal program.

(b) The provision of any State law or regulation which provides for more stringent land use and environmental control and regulation of coal exploration or surface coal mining and reclamation operations than do the provisions of the Act or any regulation issued under the Act shall not be preempted and superseded by the Secretary and shall be incorporated into the Federal program for the State.

§ 736.24 Federal program effect on State funding.

(a) Upon the withdrawal of a State program and the promulgation and implementation of a complete Federal program for a State, the Director shall not—

(1) Approve, fund or continue to fund a State abandoned mine reclamation program, in accordance with Section 405(c) of the Act and 30 CFR 884.14, 884.16 and 886.18, and

(2) Make any grants to assist the State in administering and enforcing State programs under the Act and 30 CFR 725.11 and 735.12.

(b) Upon the withdrawal of a State program in part and the promulgation and implementation of a partial Federal program for a State, the Director shall not—

(1) Approve, fund or continue to fund a State abandoned mine reclamation program, in accordance with Section 405(c) of the Act and 30 CFR 884.14, 884.16 and 886.18, unless the Director finds in writing that discontinuation of funding would not be consistent with achieving the purpose of the Act, and

(2) Make any grants to assist the State in administering and enforcing State programs under the Act and 30 CFR 725.11 and 735.12, unless the Director finds in writing that discontinuation of funding would not be consistent with achieving the purposes of the act.

SUBCHAPTER D—FEDERAL LANDS PROGRAM

PART 740—GENERAL REQUIREMENTS FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS ON FEDERAL LANDS

Sec.
740.1 Scope and purpose.
740.2 Objectives.
740.4 Responsibilities.
740.5 Definitions.

AUTHORITY: Secs. 102, 201, 523, and 701 of Pub. L. 95-87, 91 Stat. 448, 449, 510, 516 (30 U.S.C. 1202, 1211, 1273, 1291); and 41 Stat. 437, as amended (30 U.S.C. 1832).

§ 740.1 Scope and purpose.

This Subchapter is intended to:

(a) Establish the procedures and requirements for permits to conduct surface coal mining and reclamation operations on Federal lands;

(b) Prescribe the performance standards applicable to mining and reclamation on Federal lands;

(c) Prescribe the requirements for bonds for mining on Federal lands;

(d) Establish the responsibilities and procedure for inspection and enforcement on Federal lands;

(e) Set forth the requirements for State-Federal cooperative agreements with respect to regulation by a State of surface coal mining and reclamations operations on Federal lands within a State under Section 523(c) of the Act;

(f) Set forth the requirements for training, examination and certification of persons engaged in blasting or the use of explosives in surface coal mining operations on Federal lands; and

(g) Define the functions and responsibilities of Federal and State agencies in administering the regulations in this Subchapter.

§ 740.2 Objective.

The objective of this Subchapter is to ensure that coal exploration and surface coal mining and reclamation operations involving Federal coal interests, regardless of surface ownership, comply with the environmental protection requirements of the Act, this Chapter and all other applicable State and Federal laws.

§ 740.4 Responsibilities.

(a) The Secretary is responsible for the approval or disapproval of permit applications.

(b) The Secretary, acting through the Director, is authorized to execute, modify or terminate State-Federal cooperative agreements in accordance with the procedures in 30 CFR 745.

(c) The Secretary, acting through the Director, is responsible for the process of designating areas of Federal lands as unsuitable for all or certain types of surface coal mining operations in accordance with the procedures and requirements of 30 CFR 769.

(d) The Director is responsible for the review and for recommending approval or disapproval of permit applications. In the exercise of this responsibility the Director will consult and obtain the consent of the authorized officer of the surface managing agency with respect to special requirements relating to protection of the non-mineral resources of the lands involved, and the U.S. Geological Survey concerning requirements relating to

development, production and mineral resource recovery aspects.

Operator means any person engaged in coal mining who removes or intends to remove more than 250 tons of coal

that do not have an approved State-Federal cooperative agreement.

(b) In a State where there is an ap-

(1) Issued pursuant to the regulations in this Subchapter, except in compliance with the terms and conditi-

lessee protection bond shall be submitted to the Regional Director according to 30 CFR 742.13.

under the terms and conditions of the lease and the regulations of 43 CFR 3500. With respect to coal to be mined

development, production and mineral resource recovery aspects.

(e) The Director is responsible for approval of authorizations to conduct experimental practices on Federal lands in accordance with Section 741.13(c).

(f) The Regional Directors, with the concurrence of the authorized representative of the surface managing agency, are responsible for approval of performance bonds required in accordance with 30 CFR 742.

(g) The Regional Directors are responsible for inspection and enforcement to ensure compliance with the performance standards of this Chapter in accordance with 30 CFR 744.

(h) Review of the mining and operations plan section of the mining plan is the responsibility of the U.S. Geological Survey, which recommends approval or disapproval to the Secretary.

§ 740.5 Definitions.

As used in this Subchapter, except where otherwise indicated:

Authorized officer means any officer designated by a Federal agency having administrative jurisdiction over Federal lands or minerals to exercise his authority in matters relating to the provisions of this Subchapter.

Authorized state regulatory authority means any State regulatory authority exercising authority to regulate surface coal mining and reclamation operations on Federal lands under a State-Federal cooperative agreement approved under 30 CFR 745.

Lease means a Federal mineral lease, issued by BLM pursuant to the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et. seq.*). The name of the specific instrument is used herein where necessary for precise meaning or fuller explanation.

Lease terms and conditions means all of the standard provisions of a Federal coal lease including provisions relating to lease duration, fees, rentals, royalties, bond, production and record keeping requirements, and lessee rights of assignment, extension and renewal, termination and expiration.

Lease stipulations means site specific requirements relating to protection of the environment and surface and mineral resources included in Federal coal leases in addition to other terms and conditions.

Mining Plan means a complete mining and reclamation plan that complies with the requirements of the Mineral Leasing Act of 1920 as amended, the Surface Mining Control and Reclamation Act of 1977 and all other applicable laws and regulations.

Mining Supervisor means the area Mining Supervisor, Conservation Division, U.S. Geological Survey, or District Mining Supervisor or other subordinate acting under his direction.

Operator means any person engaged in coal mining who removes or intends to remove more than 250 tons of coal from the earth or coal refuse piles by mining within 12 consecutive calender months in any one location.

Surface managing agency means a Federal agency having administrative jurisdiction over the surface of Federal lands or over Federal minerals.

PART 741—PERMITS

Sec.

741 Permits.
741.1 Purpose and scope.
741.4 Responsibilities.
741.11 General obligations.
741.12 Permit applications.
741.13 Permits for special operations.
741.14 Permit terms.
741.15 Conditions of permit.
741.16 Criteria for permit approval or denial.
741.17 Public participation in permit review process.
741.18 Availability of information.
741.19 Permit review processing.
741.20 Review of permit applications.
741.21 Renewal of permits.
741.22 Review of approved permits and permit revisions.
741.23 Transfer, assignment, or sale of rights.
741.24 Revocation of permits.

AUTHORITY: Secs. 102, 201, 506, 507, 508, 509, 510, 511, 513, 514, 515, 516, 517, 522, 523, 527, and 711, Pub. L. 95-87, 91 Stat. 448, 449, 473, 474, 476, 479, 480, 483, 484, 485, 486, 495, 496, 507, 510, 513, 523. (30 U.S.C. 1202, 1211, 1256, 1257, 1258, 1259, 1260, 1261, 1263, 1264, 1265, 1266, 1267, 1272, 1273, 1301); and 41 Stat. 437, as amended (30 U.S.C. 181).

§ 741.1 Purpose and scope.

This Part is intended to:

(a) Ensure that surface coal mining and reclamation operations on Federal lands are conducted only after the Department has determined that reclamation required by the Act is feasible;

(b) Establish regulatory procedures governing the process for making applications for permits on Federal lands and for the review, approval, disapproval of applications by the Department;

(c) Establish a procedure for public participation in the permit review process;

(d) Establish the criteria and procedures for revision or renewal of Federal permits; and

(e) Establish procedures for the revocation of permits.

§ 741.4 Responsibilities.

(a) The Director, acting through the Regional Directors, has the responsibility to receive and review applications for permits, revisions, and renewals and to recommend approval, disapproval or approval upon condition to the Secretary for surface coal mining and reclamation operations in States that do not have an approved State-Federal cooperative agreement.

(b) In a State where there is an approved State-Federal Cooperative Agreement, the authorized State regulatory authority and the Regional Director have the responsibility to jointly review applications for permits, revisions, and renewals and recommend approval, disapproval or approval upon condition to the Secretary under 30 CFR 745.

(c) The Mining Supervisors and the authorized officers of the surface managing agencies and the Regional Directors are responsible for formulating special requirements relating to development, production and resource recovery, the conservation and protection of natural resources, and the post-mining land use to be included in mining and reclamation plans.

§ 741.11 General obligations.

(a) Not later than two months following the effective date of the regulations in this Subchapter, all operators of surface coal mining and reclamation operations on Federal lands and other persons who expect to conduct such operations after eight months from such effective date shall file a complete application for a permit to be issued in accordance with this Subchapter. The application shall cover those areas in which the operator proposes to conduct surface mining and reclamation operations on and after eight months from the effective date.

(1) Except as provided in paragraph (b) of this Section, on or after eight months from the effective date of the regulations in this Subchapter, no person shall conduct surface coal mining and reclamation operations on Federal lands unless such person has first obtained a valid permit issued by the Office under the regulations in this Part.

(ii) Any person who conducts a surface coal mining and reclamation operation which includes both Federal and private lands shall conduct the operation on private lands in accordance with the requirements of this Part.

(b) A person who conducts surface coal mining and reclamation operations under an approved mining plan may conduct the operations beyond the period prescribed in paragraph (a) of this Section, if all of the following conditions are present:

(1) Timely and complete application for a permit has been made in accordance with the provisions of the Act and this Part; and

(2) The Office has not yet rendered an initial decision with respect to the application.

(c) No person shall conduct a surface coal mining and reclamation operation under a permit:

(1) Issued pursuant to the regulations in this Subchapter, except in compliance with the terms and conditions of the permit, the requirements of the lease or license, and any applicable State or Federal regulations; or

(2) Allowed to continue in effect pursuant to paragraph (b) of this Section, except in compliance with all terms and conditions of the permit, the requirements of the lease or license, the Act, and Parts 710, 715, 716, and 717 of this Chapter and State laws and regulations made applicable through a cooperative agreement.

§ 741.12 Permit applications.

(a) *Permit fee.* An application for a permit to conduct surface mining and reclamation operations on Federal lands shall be accompanied by a fee to cover the administrative costs of reviewing the application. The amount of the fee shall be determined by a fee table published by the Director.

(b) *Copies required.* The applicant shall file seven copies of the complete permit application with the Regional Director.

(c) *Contents of applications.*

(1) A permit application shall be submitted as part of a Mining Plan and shall include:

(i) The legal, financial, compliance and related information required by 30 CFR 778 for surface mines or 30 CFR 782 for underground mines;

(ii) The information on environmental resources in the permit and adjacent areas required by 30 CFR 779 for surface mines or 30 CFR 783 for underground mines;

(iii) A reclamation and operation plan for surface mining operations which meets the requirements of 30 CFR 780 or, a reclamation and operation plan for underground operations which meets the requirements of 30 CFR 784; and, in addition, the method of mining, the mining sequence, and the proposed production rate for the life of the mine; and

(iv) A mining and operation plan which covers the life of the mine and meets the requirements of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et. seq.) and 30 CFR 211.

(2) An applicant seeking authorization to conduct special categories of mining shall include in his application, in addition to the information required in paragraph (a) of this Section, all of the information required by 30 CFR 785.

(3) Where the surface of the Federal lands is subject to a lease or permit issued by the Federal government, the application for a permit shall include the written consent of the permittee or lessee to enter and commence surface coal mining operations on such lands. Where written consent cannot be obtained by the applicant a Federal lessee protection bond shall be submitted to the Regional Director according to 30 CFR 742.13.

§ 741.13 Permits for special operations.

(a) Persons seeking to engage in special bituminous surface coal mining shall comply with 30 CFR 785.12.

(b) Persons seeking to conduct experimental practices shall comply with 30 CFR 785.13.

(c) Persons seeking to engage in steepslope mining shall comply with 30 CFR 785.14.

(d) Persons seeking to engage in mountain-top removal operations shall comply with 30 CFR 785.15.

(e) Persons seeking a permit allowing for variances from the requirement in Subchapter K requiring restoration of lands to approximate original contour shall comply with 30 CFR 785.16.

(f) Persons seeking to engage in surface coal mining and reclamation operations on prime farmlands shall comply with 30 CFR 785.17.

(g) Persons seeking to engage in combined surface and underground mining operations shall comply with 30 CFR 785.18.

(h) Persons seeking to engage in surface coal mining and reclamation in or adjacent to alluvial valley floors in arid or semi-arid areas west of the 100th meridian shall comply with 30 CFR 785.19.

§ 741.14 Permit terms.

(a) Each permit to conduct surface coal mining and reclamation operations on Federal lands shall be issued for a fixed term not to exceed five years. If the applicant satisfies the following requirements, a longer specified permit term may be granted:

(1) A longer permit term is reasonably needed to allow the applicant to obtain necessary financing for equipment and opening of the operation and this need is verified, in writing, by the applicant's proposed source for the financing; and

(2) The application is full and complete for the longer term.

(b) A permit shall terminate, if the permittee has not commenced the surface coal mining operation covered by the permit within three years of the issuance of the permit. The Secretary may grant a reasonable extension of time, upon a written showing that the extension of time is necessary because litigation precluding the commencement is threatening substantial economic loss to the permittee, or because of conditions beyond the control and without the fault or negligence of the permittee. An extension of time may not be granted if the effect of such extension would be to extend the term of a Federal coal lease beyond the period allowed for diligent development under the terms and conditions of the lease and the regulations of 43 CFR 3500. With respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facilities, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel or generating facilities is initiated.

§ 741.15 Conditions of permits.

All permits issued under this Part shall reflect consideration of the diverse physical, climatological, and other unique characteristics of the Federal lands in question and shall include the terms and conditions of 30 CFR 786.

§ 741.16 Criteria for permit approval or denial.

(a) No permit or revision application shall be approved, unless the application affirmatively demonstrates and the Secretary finds, in writing, on the basis of information in the application or from information otherwise available, which is documented in the approval and made available to the applicant, that the application meets the criteria for approval of permits set forth in 30 CFR 786.

(b) Subject to valid existing rights, no permit shall be approved which adversely affects any publicly owned park or any place included or eligible for listing in the National Register of Historic Places, unless approved jointly by the Federal, State, or local agency with responsibility for such park or places;

(c) No permit shall be approved to conduct surface coal mining and reclamation operations:

(1) Within 100 feet of the outside right-of-way line of any public road, except:

(i) Where a mine access road or haulage road joins the right-of-way line; or

(ii) Where the Secretary and any necessary State authorities allow the public road to be relocated or the area affected to be within 100 feet of the road, upon the basis of a written finding, made after public notice and opportunity for public hearing in accordance with 30 CFR 741.17, that the interests of the public and each landowner affected shall be protected and upon the completion of any necessary State review; or

(2) Within 300 feet of any occupied dwelling, unless the owner thereof has consented, in writing, to mining closer than 300 feet, nor within 300 feet of any public building, school, church, community or institutional building, public park, or within 100 feet of a cemetery.

(d) No permit shall be approved to conduct surface coal mining and recla-

mation operations until the applicant has submitted the lease bond, performance bond, and Federal lessee protection bond required by 30 CFR 742.

(e) Each permit shall be issued only after the applicant has submitted the lease bond, performance bond, and Federal lessee protection bond required by 30 CFR 742.

(f) Each permit shall be issued only after the applicant has submitted the permit fee required by 30 CFR 741.12(a).

(g) Each permit shall be issued only after the applicant has submitted the information required by 30 CFR 741.12(c).

(h) Each permit shall be issued only after the applicant has submitted the information required by 30 CFR 741.18.

(i) Each permit shall be issued only after the applicant has submitted the information required by 30 CFR 741.19.

(j) Each permit shall be issued only after the applicant has submitted the information required by 30 CFR 741.20.

(k) Each permit shall be issued only after the applicant has submitted the information required by 30 CFR 741.21.

(l) Each permit shall be issued only after the applicant has submitted the information required by 30 CFR 741.22.

(m) Each permit shall be issued only after the applicant has submitted the information required by 30 CFR 741.23.

(n) Each permit shall be issued only after the applicant has submitted the information required by 30 CFR 741.24.

§ 741.17 Public participation in permit review process.

(a) The Regional Director shall provide opportunity for public participation in the review of applications for permits, revisions, renewals, and transfers, assignments, or sales of rights.

(b) The Regional Director shall provide opportunity for public participation in the review of applications for permits, revisions, renewals, and transfers, assignments, or sales of rights, in accordance with the following:

(1) Upon receipt of a complete application for a permit, revision, renewal, or transfer, assignment, or sale of rights, the Regional Director shall circulate copies of the application to the Governor of the State in which the lands are located, to the Mining Supervisor, to the surface managing agency, and to the Regional Director of the Office of Surface Mining Reclamation and Enforcement.

(2) Upon receipt of a complete application for a permit, revision, renewal, or transfer, assignment, or sale of rights, the Regional Director shall publish a notice in the FEDERAL REGISTER and in a newspaper of general circulation in the county in which the lands are located. The notice shall include the following:

(i) The name and address of the applicant;

(ii) The date of filing of the application;

(iii) A description of the lands to be mined, which shall include a map showing the boundaries of the lands and the location of the proposed operations;

(iv) The name of the surface managing agency;

(v) The name of the Regional Director to whom written comments or objections should be addressed;

(vi) The time and place of any public hearing scheduled under paragraph (c) of this Section; and

(vii) The deadline for filing written comments, objections, or requests for public hearing or informal conference under paragraph (c) of this Section.

(3) The Regional Director shall make copies of the application available to the public for inspection and copying at the office of the Regional Director and at the office of the Mining Supervisor.

(c) Any person having an interest which is or may be adversely affected by the decision on the application may submit written comments or objections to the Regional Director within 30 days after publication of the notice required by paragraph (b)(2) of this Section. Any person having an interest which is or may be adversely affected by the decision on the application may request a public hearing or informal conference on the application within 30 days after publication of the notice required by paragraph (b)(2) of this Section. If a request for public hearing or informal conference is made within the 30-day period, the Regional Director shall hold a public hearing or informal conference at a location convenient to the lands to be mined. The Regional Director shall give notice of the date, time, and location of the hearing or conference to the applicant, to persons who submitted written comments or objections, and to persons who requested the hearing or conference, at least two weeks before the scheduled date. The Regional Director shall publish notice of the hearing or conference in the FEDERAL REGISTER and in a newspaper of general circulation in the county in which the lands are located at least two weeks before the scheduled date. Public hearings shall be conducted by a hearing officer authorized by the Secretary. Informal conferences may be conducted by the Regional Director or his designee. The hearing officer or Regional Director may arrange with the applicant, upon the request of any party to the hearing or conference or on his own motion, access to the lands to be mined for the purpose of inspection in connection with the hearing or conference. The hearing officer shall have the authority to administer oaths, subpoena witnesses, and require the production of documents at the hearing. A transcript of the hearing shall be made and shall be available to the public at the office of the Regional Director and at the office of the Mining Supervisor.

§ 741.18 Availability of information.

(a) Except as provided in paragraph (b) of this Section, all information submitted to the Regional Director in connection with a permit application shall be available to the public for inspection and copying at the office of the Regional Director and at the office of the Mining Supervisor.

(b) Upon a showing by any person that information submitted to the Regional Director in connection with a permit application is privileged commercial or financial information, the Regional Director shall keep such information confidential and not available for public inspection if the person requests in writing at the time the information is submitted that it be kept confidential.

§ 741.19 Permit review processing.

(a) The Regional Director shall review each application for a permit, revision, renewal, or transfer, assignment, or sale of rights, to determine whether the application is complete and accurate and whether it complies with the requirements of the Act and this Subchapter.

(b) The Regional Director shall require the applicant to file any information necessary to make the application complete and accurate or to comply with the requirements of the Act or this Subchapter.

(c) The Regional Director shall review each application for a permit, revision, renewal, or transfer, assignment, or sale of rights, to determine whether the proposed operations would be located on any Federal lands within the boundaries of any national park, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act, and National Recreation Areas designated by Act of Congress. No surface coal mining operations shall be conducted on any of the foregoing Federal lands, except that surface coal mining operations may be conducted on such lands if authorized by valid existing rights or by the Act of Congress which established the park, wilderness area, wild and scenic river, recreation area, or system. Where the proposed operations would be located on any of the foregoing Federal lands, the Regional Director shall not approve the application unless it is demonstrated that the operations are authorized by valid existing rights or by the Act of Congress which established the park, wilderness area, wild and scenic river, recreation area, or system.

(d) The Regional Director shall review each application for a permit, revision, renewal, or transfer, assignment, or sale of rights, to determine whether the proposed operations would be located on any Federal lands within the boundaries of Nation-

742.5 Definitions.
742.11 Federal lease bonds.
742.12 Performance bonds.

ment of any damages to crops or tangible improvements.

volved or in an action brought against the operator or upon the bond in a court of competent jurisdiction.

mation operations until the applicant has submitted the lease bond, performance bond, and Federal lessee bond required under 30 CFR 742.

(e) If the operations are on Federal lands in a State having an approved State-Federal cooperative agreement, no permit shall be approved until both the Secretary and the authorized State regulatory authority have concurred in issuance of the permit.

(f) No permit to conduct surface coal mining and reclamation operations shall be approved unless the permit application complies with each requirement of all other applicable Federal laws, including but not limited to, the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq) and the Federal Lands Policy and Management Planning Act of 1976 (43 U.S.C. 1701 et seq.).

§ 741.17 Public participation in permit review process.

The provisions for public participation in the permit review process in 30 CFR 787 shall apply to the review of each application to conduct surface coal mining and reclamation operations under this Subchapter.

§ 741.18 Availability of information.

(a) Information in a permit application on file with the Office shall be open for public inspection and copying at reasonable times upon the written request of the applicant, *Provided* that:

(1) Information in a permit application which pertains only to the analysis of the chemical and physical properties of the coal, except information on a mineral or elemental content which is potentially toxic in the environment, shall be kept confidential and not made a matter of public record; and

(2) Information in exploration or mining and reclamation portions of the application, which is required to be filed with the Regional Director only under Section 508 of the Act and which is not required to be disclosed by the Freedom of Information Act (5 U.S.C. 552(b)), shall be held in confidence by the Regional Director according to 43 CFR Part 2.

(b) Information in a permit application required to be kept confidential under paragraph (a) of this section, shall be clearly identified by the applicant by marking each page of the document with the words "CONFIDENTIAL INFORMATION" at the top of the page. All pages so marked shall be physically separated from other portions of the application.

§ 741.19 Permit review processing.

(a) Upon receipt of an application for a permit, the Regional Director shall, when a permit application or a proposed revision of an approved permit involves operations on Federal lands within the boundaries of National Forest System lands, transmit a copy of the complete application or proposed revision to the Secretary of Agriculture with a request for consent.

§ 741.20 Review of permit applications.

(a) The Director shall review the complete application, written comments, written objections submitted and records of any public meeting held under Section 741.17 and recommend approval, denial or approval upon condition to the Secretary.

(b) Before issuance of the permit, the Regional Director shall require that the applicant file a performance bond or provide other equivalent guarantees in accordance with 30 CFR 742.

(c) If the Regional Director determines that any surface coal mining operation owned or controlled by the applicant is currently in violation of the Act or of any air or water environmental protection law, rule or regulation of the United States, or of any department or agency in the United States, then, before making a decision to approve the application, the Regional Director shall require the applicant to submit proof, satisfactory to the Regional Director, Department or agency which has jurisdiction over such violation, that such violation has been corrected or, is being corrected.

(d) Before any final determination by the Regional Director that the applicant, or the operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violation of the Act of such nature, duration, and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provision of the Act, the applicant or operator shall be afforded an opportunity for an adjudicatory hearing on the determination as provided for in the Federal Lands program.

§ 741.21 Renewal of permits.

Each valid permit issued under this Subchapter shall carry with it the right of successive renewal upon expiration, for areas within the boundaries of the existing permit, in accordance with the requirements of 30 CFR 791. Terms of a permit to conduct operations under a lease issued pursuant to the Mineral Leasing Act, as amended, may not be extended beyond the period allowed for diligent development according to Section 7 of that Act.

§ 741.22 Review of approved permits and permit revisions.

(a) The Regional Director shall, upon the basis of an inspection, complaints received, reports from permittees or other relevant information, review each Federal permit issued and outstanding at a minimum frequency of once each three years from the date of original issuance of the permit and, in any event, at least once during the term of a permit.

(b) Upon the recommendation of the Director, the Secretary may require, by order, supported by written findings, reasonable revision or modification of the permit provisions, in accordance with the procedures in 30 CFR 790.

(c) Where changes or other factors listed in 30 CFR 790 require a permit revision, the permittee may apply for a revised permit in accordance with the requirements of 30 CFR 790. The permittee shall submit seven copies of a permit revision application to the Regional Director.

§ 741.23 Transfer, assignment, or sale of rights.

(a) The provisions of 30 CFR 792 govern the approval by the Secretary of the transfer, assignment or sale of rights granted under a permit issued pursuant to this Subchapter.

(b) Application for transfer, assignment or sale of rights shall be filed with the Regional Director.

(c) The Regional Director, before recommending to the Director approval or disapproval of an application for transfer, assignment or sale of rights, shall obtain the concurrence of the Bureau of Land Management and the Geological Survey.

(d) The Director may authorize the Regional Director to grant the application if the Secretary approves the transfer, assignment or sale.

(e) Approval of a transfer, assignment or sale of rights granted under a permit shall not be construed to constitute a transfer or assignment of leasehold interests. Leasehold interests may only be transferred or assigned in accordance with 43 CFR 3506.

§ 741.24 Revocation of permits.

(a) A permit to conduct surface mining and reclamation operations on Federal lands may be revoked by the Director in accordance with the procedures in 30 CFR 843.13.

(b) If a permit and right to mine under the Act are revoked, the Regional Director shall notify BLM and recommend that action be taken to cancel the Federal lease in accordance with the procedures in 43 CFR Subpart 3523.

PART 742—BONDS AND LIABILITY INSURANCE ON FEDERAL LANDS

Sec.
742.1 Scope.
742.4 Regional Director responsibilities.

742.5 Definitions.
742.11 Federal lease bonds.
742.12 Performance bonds.
742.13 Federal lessee protection bonds.
742.14 Amount and duration of performance bonds.
742.15 Form of bonds.
742.16 Terms and conditions of bonds.
742.17 Terms and conditions for liability insurance.
742.18 Release of bonds.
742.19 Performance bond, forfeiture criteria and procedures.

AUTHORITY: Secs. 102, 201, 507, 509, 519, 523, 715, Pub. L. 95-87, 91 Stat. 448, 449, 474, 479, 501, 510, 525 (30 U.S.C. 1207, 1211, 1257, 1259, 1269, 1273, 1305); and 41 Stat. 437, as amended (30 U.S.C. 181).

§ 742.1 Scope.

This Part sets forth, with respect to Federal lands, the requirements for the bond required for compliance with the terms and conditions of a coal lease, license or permit under the Mineral Leasing Act of 1920, as amended, and the performance and Federal lessee protection bond required under the Surface Mining Control and Reclamation Act of 1977. This Part also sets forth procedures for setting bond amounts, provides for reduction of bond requirements where dual bonding exists and requires bonding to ensure full compliance with the requirements for reclamation of surface coal mining and reclamation operations on Federal lands. This Part also sets forth the requirements for liability insurance for surface coal mining and reclamation operations on Federal lands.

§ 742.4 Regional Director responsibilities.

(a) The Director shall prescribe and furnish the form for filing a performance bond. The Regional Director shall also prescribe terms and conditions for bonds and insurance.

(b) The Director is responsible for determining the amount of the performance and Federal lessee protection bond required for each bonded area, including adjustments to the initial amount from time to time as affected land acreages are increased or decreased or where the cost of future reclamation changes.

(c) The Director is responsible for the release of performance bonds.

(d) The Director shall initiate proceedings for forfeiture of all or part of a bond consistent with 30 CFR 808.

§ 742.5 Definitions.

Federal lease bond means a surety bond payable to the United States required pursuant to 43 CFR 3504 for compliance with the terms and conditions of a Federal coal lease.

Federal lessee protection bond means a bond payable to the United States for use and benefit of a permittee or lessee on Federal lands to secure payment of any damages to crops or tangible improvements.

§ 742.11 Federal lease bonds.

(a) All operators on any Federal lease shall have a Federal lease bond pursuant to this Part. Lessees holding a lease before the effective date of these regulations where the lease is covered by a bond required under 43 CFR 3504, may apply to the authorized officer for release of liability for that portion of the Federal lease bond that covers reclamation requirements.

(b) The authorized officer may release the liability for that portion of the Federal lease bond that covers reclamation requirements if:

(1) The Federal lessee has secured a suitable bond covering the permit area under this part;

(2) There are no pending actions or unresolved claims against existing bonds; and

(3) The authorized officer receives concurrence from the Regional Director and the Mining Supervisor.

(c) Bonding requirements on Federal leases issued pursuant to 43 CFR 3500, after the effective date of these regulations shall not include the performance bond required in this Part.

§ 742.12 Performance bonds.

Each operator of a surface coal mining and reclamation operation on Federal leases shall comply with the performance bond requirements of 30 CFR 800-808. The provisions for self-insurance equivalency under 30 CFR 806.14(d) shall not apply to operations on Federal lands.

§ 742.13 Federal lessee protection bonds.

(a) In those instances where Federally owned coal is to be mined and the surface of the land is subject to a lease or permit issued by the United States and the applicant for a permit is unable to obtain the written consent of the permittee or lessee of the surface to enter and commence surface coal mining operations, the applicant shall submit to the Regional Director with his application a Federal lessee protection bond which meets the requirements of this Section. The Federal lessee protection bond is in addition to the performance bond required by Section 742.12.

(b) The bond shall be payable to the United States for the use and benefit of the permittee or lessee of the surface lands involved.

(c) The bond shall secure payment to the surface estate for any damage which the surface coal mining and reclamation operation causes to the crops, or to tangible improvements of the permittee or lessee of the surface lands.

(d) The amount of the bond shall be determined either by the parties involved or in an action brought against the operator or upon the bond in a court of competent jurisdiction.

§ 742.14 Amount and duration of performance bonds.

The amount and duration of the performance bond for surface mining and reclamation operations on Federal lands shall be in accordance with 30 CFR 805.

§ 742.15 Form of bonds.

The form of the performance bond shall be established by the Regional Director and may include—

(a) A bond executed by the applicant and a corporate surety licensed to do business in the State where the surface or underground coal mining operation is located; or

(b) Cash deposits, negotiable bonds of the United States or State, or negotiable certificates of deposit of any bank organized or transacting business in the United States, if the applicant so chooses.

§ 742.16 Terms and conditions of bonds.

(a) The bond shall be conditioned upon faithful performance of all the requirements of the Act, this Chapter and the permit and shall cover that area under permit upon which the operator will initiate and conduct surface coal mining and reclamation operations with the initial term of the permit in accordance with 30 CFR 806.

(b) The amount of the bond and the requirements for acceptance of a bond may be adjusted from time to time to meet the geological, hydrological and other requirements of additional acreage to be affected under the permit pursuant to the incremental expansion of the surface or underground coal mining and reclamation operation.

(c) Duration of the bond shall be determined under 30 CFR 805.13 and shall apply to each incremental expansion of the surface or underground coal mining operation as it comes under bond.

§ 742.17 Terms and conditions for liability insurance.

The terms and conditions for liability insurance in 30 CFR 806 shall apply to operations on Federal lands except the provisions for self-insurance equivalency in 30 CFR 806.14(d) shall not apply.

§ 742.18 Release of bonds.

(a) A Federal lease bond may be released by the authorized officer, upon satisfactory reclamation of a mine after cessation of operations as determined and approved by the Regional Director and the Mining Supervisor.

(b) A performance bond shall be released in accordance with 30 CFR 807,

terms, conditions, and stipulations and with provisions of an approved explo-

non-field inspection by the Mining Supervisor need not be coordinated with

quirements of the permit and the following additional requirements.

(1) *Surveillance wells.* With the ap-

§ 744.13 Performance standards: Completion of operations and abandonment.

(a) *Temporary abandonment.* In

(2) Upon receipt of this notice the Regional Director, the Mining Supervisor and the appropriate authorized

(b) A performance bond shall be released in accordance with 30 CFR 807, except as provided in this Part.

(c) A Federal lessee protection bond shall be released upon the written consent of the lessee or upon compliance with the requirements of 30 CFR 807.

§ 742.19 Performance bond forfeiture criteria and procedures.

The performance bond on Federal lands shall be subject to foreiture in accordance with 30 CFR 808.

PART 743—INSPECTIONS, ENFORCEMENT, AND CIVIL PENALTIES—FEDERAL LANDS

Sec.
743.1 Scope.
743.2 Objective.
743.4 Responsibilities.
743.11 General obligations.
743.12 Inspections.
743.13 Enforcement.

AUTHORITY: Secs. 102, 201, 517, 518, 521, 523, 525 of Pub. L. 95-87, 91 Stat. 448, 449, 498, 499, 504, 510, and 511 (30 U.S.C. 1202, 1211, 1267, 1268, 1271, 1273, 1275); and 41 Stat. 437, as amended (30 U.S.C. 181).

§ 743.1 Scope.

This Part applies to inspection of surface coal mining and reclamation operations, enforcement of applicable laws and regulations, and assessment of civil penalties on Federal lands.

§ 743.2 Objective.

The objective of this Part is to establish procedures for inspection, enforcement, and assessment of civil penalties by the Office of Surface Mining and other agencies.

§ 743.4 Responsibilities.

(a) The Regional Director is responsible for the inspection and enforcement of all coal exploration within the permit area and surface coal mining and reclamation operations on Federal lands to ensure compliance with all applicable performance standards and requirements of the approved exploration or mining permit and all terms, conditions, and stipulations of a lease, license, or permit issued under the Mineral Leasing Act of 1920 that are incorporated into an approved exploration or mining permit except as provided in paragraphs (b), (c) and (d) of this Section.

(b) The authorized State regulatory authority shall assume the inspection and enforcement functions of the Regional Director that are included in the provisions of a State-Federal cooperative agreement under 30 CFR 745.

(c) The Mining Supervisor is responsible for inspection and enforcement on Federal lands to ensure operator compliance with lease and license terms, conditions, and stipulations and with provisions of an approved exploration or mining permit relating to development, production, and resource recovery, including royalty audits and other non-field inspections.

(d) The authorized officer of the surface managing agency shall inspect leases and permit areas for compliance with terms, conditions, and stipulations relating to the management and protection of non-coal Federal material resources and the post-mining use of affected lands.

§ 743.11 General obligations.

(a) *Right of entry.* The operator shall provide access and means for any authorized representative of the Regional Director, the Mining Supervisor or the authorized officer of the surface managing agency to inspect the surface coal mining and reclamation operation without advance notice to determine whether the operation is in compliance with all applicable laws, regulations, notices and orders, terms and conditions of the lease, permit or license, and the requirements of the approved mining plan.

(b) *Records and Equipment.* Any authorized representative of the Regional Director or the Mining Supervisor may, at reasonable times and without delay, have access to copy any records and to inspect any monitoring equipment or method of operation required under the regulations or an approved mining plan.

(c) *Citizen Request.* The operator shall at all reasonable times allow any authorized representative of the Regional Director to inspect or investigate the operation in response to a citizens request pursuant to 30 CFR 842.12.

§ 743.12 Inspections.

(a) Coal exploration and surface coal mining and reclamation operations on Federal lands shall be inspected under provisions of Part 840 and 842 of this Chapter and in accordance with the responsibilities in Section 743.4. Inspections shall be conducted jointly when more than one agency is involved and it is practical to do so. The Regional Director may enlist the aid of other Federal inspectors when necessary to ensure compliance with an approved exploration or mining permit.

(b)(1) The Regional Director shall coordinate inspections by Federal agencies. When the Mining Supervisor or the authorized officer of the surface managing agency determines that an inspection should be made, they shall notify the Regional Director. To the extent possible, inspections by other Federal agencies shall be scheduled concurrently with inspections by the Office. Royalty audits and other non-field inspection by the Mining Supervisor need not be coordinated with the Regional Director.

(2) The Regional Director shall conduct at least one partial inspection per month and one complete inspection per calendar quarter of each surface coal mining and reclamation operation under his jurisdiction.

(c) The inspections required under this Section shall:

(1) Be carried out on an irregular basis;

(2) Occur without prior notice to the person being inspected or any agent or employee of such person, except for necessary onsite meetings; and

(3) Include the prompt filing of inspection reports adequate to enforce the requirements of this Chapter.

§ 743.13 Enforcement.

(a) The provisions of 30 CFR 843 shall govern actions by the Regional Director to ensure compliance with an approved mining permit and all terms, conditions, and stipulations of a lease, license, or permit issued under the Mineral Leasing Act of 1920, as amended, that are incorporated into such permit.

(b) The Mining Supervisor shall take necessary action to ensure compliance with 30 CFR 211 for exploration outside the permit area, coal development, production and resource recovery.

(c) *Civil penalties.* Civil penalties for the violation of provisions of the Surface Mining Control and Reclamation Act and regulations under the Act shall be assessed by the Regional Director in accordance with 30 CFR 845.

PART 744—PERFORMANCE STANDARDS FOR FEDERAL LANDS

Sec.
744.1 Scope.
744.11 Performance standards: Exploration.
744.12 Performance standards: Mining and reclamation.
744.13 Performance standards: Completion of operations and abandonment.

AUTHORITY: Secs. 102, 201, 508, 515, 516, 517, 519, 523, 701, 717 and 719 of Pub. L. 95-87, 91 Stat. 448, 449, 486, 495, 498, 501, 510, 516, 526 (30 U.S.C. 1202, 1211, 1258, 1265, 1266, 1267, 1269, 1273, 1301, 1307, and 1309); and 41 Stat. 437, as amended (30 U.S.C. 181).

§ 744.1 Scope.

These regulations govern the conduct of all surface coal mining and reclamation operations on Federal lands, regardless of surface ownership.

§ 744.11 Performance standards: Exploration.

(a) Coal exploration activities on Federal lands within a permit area shall be conducted pursuant to the requirements of the permit and the following additional requirements.

(1) *Surveillance wells.* With the approval of the Regional Director, in consultation with the Mining Supervisor, drill holes may be utilized as surveillance wells for the purpose of monitoring the effect of subsequent operations upon the quantity, quality, or pressure of ground water or mine gases.

(2) *Blowout control devices.* When drilling on lands that are valuable or potentially valuable for oil and gas or geothermal resources, the operator shall, when required by the Regional Director, in consultation with the Mining Supervisor, set and cement casing in the hole and install suitable blowout prevention equipment.

(3) *Use of wells by others.* Upon receipt of a written request from the surface owner or the appropriate authorized officer, the Regional Director, in consultation with the Mining Supervisor, may approve the transfer of an exploratory well for further use as a water well. Approval of the well transfer shall be accompanied by a corresponding transfer of responsibility for any liability for damage and eventual plugging. Nothing in this paragraph shall supersede or affect the applicability of any State law requirements with respect to that transfer.

§ 744.12 Performance standards: Mining and reclamation.

(a) All surface coal mining and reclamation on Federal lands shall be conducted pursuant to the performance standards in 30 CFR Subchapter K and any terms and conditions of the lease license or permit.

(b) The operator shall conduct surface coal mining and reclamation operations to maximize the utilization and conservation of the solid fuel resources being recovered so that reaffecting the land in the future through surface coal mining can be minimized; provided that the requirements of the Mineral Leasing Act of 1920, as amended, for maximum economic recovery and diligent development are not diminished by this requirement.

(c) When mining is conducted in areas of known wells or boreholes that may liberate oil, gas, water or other fluid substances, the operator shall promptly notify the Mining Supervisor upon encountering unsuspected wells or bore holes and take no further actions which would disturb the wells or bore holes without the Mining Supervisor's prior approval. To the extent practicable, the Mining Supervisor shall consult with the Regional Director prior to continuation of operations.

§ 744.13 Performance standards: Completion of operations and abandonment.

(a) *Temporary abandonment.* In areas in which there are no current operations, but operations are to be resumed under an approved plan, the operator shall substantially backfill, fence, protect, or otherwise effectively close all surface openings, auger holes, areas prone to subsidence, and surface facilities or workings which are a hazard to people or animals. The operator shall post conspicuous signs prohibiting entrance of unauthorized persons. All such protective measures shall be maintained in a secure condition until the operations are resumed or permanently abandoned.

(b) *Permanent abandonment.*

(1) Before permanent abandonment of exploration or mining operations, all openings and excavations, including water discharge points, shall be closed, backfilled, or otherwise permanently sealed and stabilized in accordance with sound engineering practices and according to the approved plan. Drill holes, trenches, and other excavations for exploration, development, or prospecting shall be abandoned in a manner that protects the surface and not to endanger any present or future underground operations or any deposit of oil, gas, other mineral resources, or ground water.

(2) Methods of abandonment shall be approved in advance by the Regional Director in an approved plan, and may include backfilling, regrading, revegetating, cementing, and capped casing, or combinations of these, or other methods. Reclamation and clean-up of permanently abandoned underground or surface mining operations shall commence without delay following cessation of mining operations. Areas affected by access roads shall be graded, drained, and revegetated in accordance with the approved mining plan and the approved post-mining land use prior to bond release. In the event that access or haul roads are intended to remain after abandonment of the operation, they shall be designed and constructed to be permanently stabilized, using adequate drains, water barriers, and other practices.

(c) *Notice of abandonment.*

(1) Not less than 30 days prior to cessation or abandonment of operations, the operator shall submit to the Regional Director, in duplicate, a notice of his intention to cease or abandon operations, with a statement of the exact number of acres affected by his operation, the extent and kind of reclamation accomplished, and a statement as to the structures and other facilities that are to be removed from or remain on the leased, permitted, or licensed lands.

(2) Upon receipt of this notice the Regional Director, the Mining Supervisor and the appropriate authorized officer shall promptly make a joint inspection to determine whether all operations have been completed in accordance with the terms and conditions of all leases, permits, or licenses, and with the requirements of the approved mining plan. Where the operator has complied with all such terms, conditions and requirements, and the regulations of this Part, the Regional Director shall recommend to the appropriate authorized officer that the appropriate liability of the lease bond be terminated.

(d) *Surface owner participation.* When the surface of lands in a lease, permit, or license is not owned by the United States, the Regional Director shall notify the surface owner and solicit and take into account his comments before recommending to the appropriate authorized officer that the appropriate bond liability be terminated.

(e) *Public participation.* Prior to approval of final abandonment the Regional Director shall comply with the public participation requirements of 30 CFR 807.

PART 745—STATE-FEDERAL COOPERATIVE AGREEMENTS

Sec.
745.1 Scope.
745.2 Objectives.
745.4 Responsibilities.
745.11 Application and agreement.
745.12 Terms.
745.13 Authority reserved by the Secretary.
745.14 Enforcement.
745.15 Amendments.
745.16 Termination.
745.17 Reinstatement.
745.18 State actions under agreements.

AUTHORITY: Secs. 102, 201, 503, 507, 517, 518, 521, and 523 of Pub. L. 95-87, 91 Stat. 448, 449, 470, 474, 498, 499, 504, and 510 (30 U.S.C. 1202, 1211, 1253, 1257, 1267, 1268, 1271, 1273); and 41 Stat. 437, as amended (30 U.S.C. 181).

§ 745.1 Scope.

This part sets forth procedures for the formulation and administration of cooperative agreements under Section 523(a) of the Act, describes provisions which must be included in the agreements, establishes criteria for approval of agreements, and lists authorities and responsibilities reserved to the Secretary.

§ 745.2 Objective.

The objective of this part is to provide for the uniform application of environmental and reclamation standards to surface coal mining operations located within a State through the exercise of regulatory authority by

States with approved State programs over surface coal mining operations on

ulatory authority available for enforcement on Federal lands;

(4) The State will cooperate with the Office of Surface Mining, the U.S. Geological Survey and the surface

terms relating to mining and reclamation procedures;

§ 745.17 Reinstatement.

(a) A State may apply for reinstate-

unsuitable for all or certain types of surface coal mining operations and for

States with approved State programs over surface coal mining operations on Federal lands.

§ 745.4 Responsibilities.

(a) The Secretary is responsible for entering into, revising and terminating cooperative agreements upon request of the State, and for the approval of mining plans on Federal lands.

(b) The Regional Director is responsible for recommending approval or disapproval of cooperative agreements to the Director.

(c) The Director is responsible for recommending approval or disapproval to the Secretary.

§ 745.11 Application and agreement.

(a) The Governor of any State may request that the Secretary enter into a cooperative agreement with the State, if the State has an approved State program or has submitted a program for approval under 30 CFR 731, and has within its borders surface coal mining operations which are being conducted under the terms of a Federal lease.

(b) A request for a cooperative agreement shall be submitted to the Director in writing and, unless previously submitted in the State program plan, shall include the following information:

(1) A copy of the budget of the State regulatory authority;

(2) A summary of the history of the State regulatory authority and a description of its powers and responsibilities other than over surface coal mining and the proportion of its staff assigned to duties not relating to surface coal mining;

(3) The best available figures with respect to the total area of non-Federal surface mineable coal within the State, the number and extent of existing surface coal mining operations, and the expected number and extent of surface coal operations on Federal and non-Federal lands;

(4) An organization chart and description of the staff of the State regulatory authority which states the number and types of technical and professional personnel available for administration of the cooperative agreement, and their disciplines, salaries or the amount reimbursed to other agencies for their services;

(5) A description of the procedures which the State proposes to follow in enforcing its environmental and reclamation standards on Federal lands and a statement of the number of employees listed in paragraph (b)(4) of this section who will be available for such enforcement and the proportion of their time which will be available;

(6) A description of the administrative and backup staff of the State regulatory authority available for enforcement on Federal lands;

(7) A description of the physical facilities of the State regulatory authority available for enforcement on Federal lands including office space, vehicles, laboratory and testing equipment, the cost associated with such facilities;

(8) Proposed terms of the agreement consistent with the requirements of this part; and

(9) A certification by the Attorney General of the State that no statutory, regulatory or policy provisions exist which would limit the capability of the State regulatory authority to fully comply with the requirements of this part and of the proposed cooperative agreement.

(c) The Director shall publish a notice of the request and the terms of the proposed agreement in the FEDERAL REGISTER as proposed rules, and in newspapers of general circulation throughout the State. The notice shall also include:

(1) The date, time and place of the public meeting(s) on the request to be held in compliance with paragraph (d) of this section;

(2) The location of each office of the State regulatory authority and the name of the person in that office from whom a complete copy of the request submitted by the State may be obtained; and

(3) A date not less than 60 days after publication of the notice within which members of the public may submit written comments on the request and the person to whom comments should be addressed;

(d) Not less than 30 days after publication of the notice required in paragraph (c) of this section, a public meeting shall be held in a suitable location in the State requesting the cooperative agreement. This meeting may be combined with public meetings required under 30 CFR 732, if appropriate.

(e) Before the expiration of the comment period, the Director shall consult with the Bureau of Land Management, Fish and Wildlife Service, the U.S. Geological Survey, and other Federal surface managing agencies to obtain their views on the request.

(f) The Director shall recommend to the Secretary that he enter into a cooperative agreement with a State if the Director finds that:

(1) The State has an approved State program.

(2) The State regulatory authority has sufficient budget, equipment and personnel to fully enforce the State's environmental and reclamation standards on all surface mining operations on Federal lands in the State.

(3) The State has the legal authority to administer the cooperative agreement.

(4) The State will cooperate with the Office of Surface Mining, the U.S. Geological Survey and the surface managing agencies in the administration of their responsibilities with respect to surface coal mining operations on Federal lands.

(g) The Secretary shall publish in the FEDERAL REGISTER his decision with respect to a request by a State to enter into a cooperative agreement and the reasons therefor. If he enters into a cooperative agreement, the Secretary shall publish the final terms of the agreement in the FEDERAL REGISTER.

§ 745.12 Terms.

Each cooperative agreement shall include:

(a) Terms obligating the State regulatory authority to enforce the environmental and reclamation standards of the State's approved program on Federal lands and describing each applicable provision of the State's statutes, regulations and policies;

(b) A description of the powers and authority reserved by the Secretary under section 745.13;

(c) A description of the procedures and reasons for modification, suspension or termination of the agreement under the requirements of this Part;

(d) Provisions for reports by the State regulatory authority to the Regional Director;

(e) Terms obligating the State regulatory authority to maintain sufficient personnel and facilities to comply with the terms of the agreement, and to notify the Regional Director of any substantial change in State law, regulations, funding, staff and any other change which would affect the State's ability to administer the cooperative agreement; and

(f) Terms for cooperation among the State regulatory authority, the surface managing agencies, the U.S. Geological Survey and the Office of Surface Mining.

§ 745.13 Authority reserved by the Secretary.

The Secretary shall not delegate to any State, nor shall any cooperative agreement be construed to delegate to any State, authority over or responsibility for—

(a) The designation of Federal lands unsuitable for surface coal mining;

(b) The preparation of environmental impact statements or assessments;

(c) The development of land use management plans;

(d) The regulation of non-coal mining activities on Federal lands;

(e) The determination of when, where and how to lease Federal coal and how much to lease;

(f) The development of the terms for Federal coal leases, including special

terms relating to mining and reclamation procedures;

(g) The evaluation of the coal resource;

(h) Royalties, rents, and bonuses charged in connection with Federal coal leases;

(i) The approval or significant modification of any mine plans on Federal lands;

(j) The enforcement of lease terms, including diligent development and maximum economic recovery requirements;

(k) Approval of post-mining land use plans for Federal lands; and

(l) The release of Federal lease bonds.

§ 745.14 Enforcement.

The State regulatory authority shall inspect and enforce consistent with the provisions of 30 CFR 840–845, and the requirements of the State program on Federal lands leased for coal under the Mineral Leasing Act of 1920 as amended, and pursuant to an approved State-Federal cooperative agreement and the requirements of this Part.

§ 745.15 Amendments.

A cooperative agreement may be amended by mutual agreement of the Secretary and the Governor of a State. Amendments shall be adopted by rulemaking.

§ 745.16 Termination.

(a) *Termination by the State.* A cooperative agreement may be terminated by the State upon written notice to the Secretary, specifying the date upon which the cooperative agreement shall be terminated. The date of termination shall not be less than 90 days from the date of the notice.

(b) *Termination by the Secretary.* A cooperative agreement may be terminated by the Secretary after giving notice to the State regulatory authority and affording the State regulatory authority an opportunity for a meeting in accordance with section 745.11 if the Secretary finds that:

(1) The State regulatory authority has substantially failed to comply with the regulations of this Part or provisions of the cooperative agreement; or

(2) The State regulatory authority has failed to comply with any assurance given by the State upon which approval of the cooperative agreement or grants are based.

(c) *Termination by operation of law.* Any cooperative agreement shall terminate—

(1) When no longer authorized by Federal law or the State laws and regulations; or

(2) Upon termination of a State program.

§ 745.17 Reinstatement.

(a) A State may apply for reinstatement of the cooperative agreement upon providing written evidence that the State has remedied all defects for which the agreement was terminated and is fully capable of complying with the requirements of the cooperative agreement. Any reinstatement shall be by rulemaking.

(b) The Director may recommend approval of the reinstatement to the Secretary if he finds that the State meets all the requirements for the initial approval of a cooperative agreement pursuant to this subchapter.

§ 745.18 State actions under agreements.

This section sets forth the procedures to be followed by the State regulatory authority in the administration of a cooperative agreement.

(a) *Fees.*

(1) Each permit application on Federal lands shall be accompanied by a permit fee to be determined in accordance with 30 CFR 741.12. Annual fees may be assessed consistent with the State program. The fees may be less than, but shall not exceed, the actual or anticipated costs of reviewing the permit application and administering and enforcing the permit.

(2) All permit fees collected shall be retained by the State. The State shall submit reports to the Regional Director on fees collected on Federal lands containing the information and at the times required by the Regional Director.

(b) *Copies of permit application.* The applicant shall file the number of copies required by the regulatory authority and seven (7) copies with the Regional Director. The required copies shall be filed simultaneously and be identical in all particulars.

(c) *Civil penalties.* Assessment of civil penalties on surface coal mining operations conducted on Federal lands shall be determined by the procedures set forth in the cooperative agreement.

SUBCHAPTER F—AREAS UNSUITABLE FOR MINING

PART 760—GENERAL

Sec.
760.1 Scope.
760.2 Objectives.
760.3 Authority.
760.4 Responsibility.

AUTHORITY: Sections 102, 201, 501(b), 510, 522, and 523, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1202, 1211, 1251, 1260, 1272, and 1273).

§ 760.1 Scope.

This subchapter establishes procedures for implementing the requirements of the Act for designating lands unsuitable for all or certain types of surface coal mining operations and for terminating such designations.

§ 760.2 Objectives.

The objectives of this subchapter are to establish—

(a) Procedures for consideration of petitions for the designation of lands as unsuitable for all or certain types of surface coal mining operations, for the termination of these designations, and for public participation in the petition proceedings;

(b) The minimum standards for obtaining, maintaining and analyzing information on the effects of coal development in areas covered by a petition in light of other potential uses and activities;

(c) Procedures for identifying lands on which mining is prohibited or limited by Section 522(e) of the Act; and

(d) Criteria for determining if an area should be designated as unsuitable for all or certain types of surface coal mining operations.

§ 760.3 Authority.

(a) Each State regulatory authority is authorized, under Sections 522 (a) and (c) of the Act, to establish a data base and inventory system and a petition process to designate any non-Federal and non-Indian land areas of the State that are unsuitable for all or certain types of surface coal mining operations.

(b) The Secretary is authorized, under Sections 522(b) and (c) of the Act,—

(1) Conduct a review of Federal lands to determine whether any area on Federal lands is unsuitable for all or certain types of surface coal mining operations;

(2) Establish a process for the public to petition to have an area on Federal lands designated as unsuitable for all or certain types of surface coal mining operations.

(3) Implement, as part of a Federal program for a State, a process for designation of areas unsuitable for surface coal mining operations on non-Federal lands within a State.

§ 760.4 Responsibility.

Section 522 of the Act requires that:

(a) The Secretary shall conduct a review of Federal coal lands to determine whether there are areas which are unsuitable for surface coal mining operations;

(b) In order to be eligible to assume primary regulatory authority, a State shall establish a process that includes a data base and inventory system for designating lands unsuitable for surface coal mining operations which shall be available to the public;

(c) The regulatory authority shall integrate as closely as possible deci-

sions to designate lands as unsuitable for surface coal mining with present and future land-use planning and reg-

must be denied because such operations on those lands are prohibited or limited by section 522(e) of the Act;

activities for which the applicant claims a valid existing right; or

(b) In relation to those lands speci-

regular or temporary basis, for human habitation.

within those national forests west of the 100th meridian, that surface coal mining operations comply with the

rights or if the operation did not exist on August 3, 1977.

sions to designate lands as unsuitable for surface coal mining with present and future land-use planning and regulation processes at the Federal, State, and local levels;

(d) The regulatory authority shall establish a petition process that allows any person having an interest which is or may be adversely affected to petition to have an area designated as unsuitable for surface coal mining operations, or to have the designation terminated;

(e) The regulatory authority shall prohibit or limit surface coal mining operations mining on certain lands and in certain locations designated by Congress in Section 522(e) of the Act;

(f) A person with an interest which is or may be adversely affected may petition the regulatory authority to have an area designated unsuitable for surface coal mining operations, or to have such a designation terminated.

PART 761—AREAS DESIGNATED BY ACT OF CONGRESS

Sec.
761.1 Scope.
761.2 Objectives.
761.3 Authority.
761.4 Responsibility.
761.5 Definitions.
761.11 Areas where mining is prohibited.
761.12 Procedures.

AUTHORITY: Sections 102, 201, 501(b), and 522, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1202, 1211, 1251, and 1272).

§ 761.1 Scope.

This part establishes the procedures to be followed in determining whether a proposed surface coal mining operation can be permitted in light of the prohibitions and limitations in section 522(e) of the Act for those operations on certain Federal, public and private lands.

§ 761.2 Objectives.

The objectives of this part are to implement the prohibitions and limitations of surface coal mining operations on certain Federal, public and private lands under section 522(e) of the Act.

§ 761.3 Authority.

The State regulatory authority or the Secretary under section 522(e) of the Act, is authorized to prohibit or limit surface coal mining operations on certain Federal, public and private lands except for those operations which existed on August 3, 1977, or were subject to valid existing rights on that date.

§ 761.4 Responsibility.

(a) The Secretary shall—

(1) Determine whether any application for a permit for surface coal mining operations on Federal lands, must be denied because such operations on those lands are prohibited or limited by section 522(e) of the Act;

(2) Determine whether an applicant for a permit covering Federal lands either—

(i) Had any valid existing rights on August 3, 1977; or

(ii) Was conducting an existing surface coal mining operation on those lands on August 3, 1977.

(3) Withdraw lands designated unsuitable for all or certain types of surface coal mining operations from leasing.

(b) The State regulatory authority shall—

(1) Meet the requirements of this part and subchapter G on reviewing applications for permits; and

(2) Determine whether an application must be denied because surface coal mining operations on those lands are prohibited or limited by section 522(e) of the Act and whether an applicant for a permit covering such lands either had any valid existing rights on August 3, 1977, or was conducting a surface coal mining operation on those lands within a prohibited area on August 3, 1977.

(c) The Director shall determine—

(1) Whether any application for a permit for surface coal mining operations on non-Federal lands where a Federal program for a State has been implemented must be denied because the operations on those lands are prohibited or limited by section 522(e) of the act; and

(2) Whether an applicant for a permit covering non-Federal lands, where a Federal program for a State has been implemented, either had any valid existing rights on August 3, 1977, or was conducting an existing surface coal mining operation on those lands on August 3, 1977.

§ 761.5 Definitions.

For the purposes of this Part—

Valid existing rights means:

(a) In relation to those lands specified in Sections 552(e) (1) and (2) of the act, valid existing rights means those property rights in existence on August 3, 1977, that were created by a legally binding conveyance, lease, deed, contract or other document which expressly authorizes the applicant to produce coal by surface coal mining operations and the exercise of such rights cannot, under applicable State or Federal law, be conditioned or denied in the manner provided in this part. Interpretation of the terms of the document will be based upon the usage and custom at the time and place where it came into existence and upon a showing by the applicant that the parties to the document actually contemplated a right to conduct the same underground or surface mining activities for which the applicant claims a valid existing right; or

(b) In relation to those lands specified in § 761.11 (c), (d), (e), (f), and (g), valid existing rights means that, on or before August 3, 1977, the person proposing to conduct surface coal mining operations on such lands had been validly issued all State and Federal permits necessary to conduct such operations on those lands.

(c) A mere expectation of a right to conduct surface coal mining operations or the right to conduct underground coal mining does not qualify as a valid existing right to conduct surface mining activities. Examples of rights which along do not constitute valid existing rights include coal exploration permits or licenses, and applications or bids for leases and prospecting permits, and situations where an operator has only applied for a State or Federal permit or has received a permit but its issuance has been stayed and not subsequently affirmed by an administrative or judicial review body.

No significant recreational, timber, economic or other values incompatible with surface coal mining operations means the land included in the permit application or off-site land to be affected by the operations does not have any appreciable, measurable or noteworthy uses, which would be disturbed, hampered, destroyed or eliminated by the impacts of surface coal mining operations and related activities, for—

(a) Recreation, including hiking, boating, camping, skiing or other outdoor activities;

(b) Timber management and silviculture;

(c) Agriculture, aquaculture, or production of other natural, processed or manufactured products which enter commerce;

(d) Scenic, historic, archeologic, esthetic, fish, wildlife or cultural interests.

Surface operations and impacts incident to an underground coal mine means all activities involved in or related to underground coal mining which are either conducted on the surface of the land, produce changes in the land surface or disturb the surface, air or water resources of the area, including all activities listed in section 701(28) of the Act and § 700.5 of this chapter.

Significant forest cover means an existing plant community consisting predominantly of trees and other woody vegetation. The Secretary of Agriculture shall decide on a case-by-case basis whether the forest cover is significant within those national forests west of the 100th meridian.

Occupied dwelling means any building that is currently being used on a

regular or temporary basis, for human habitation.

Public building means any structure that is owned by a public agency or used for public business, meetings or other group gatherings.

Community or institutional building means any structure other than a public building which is used for meetings, gatherings or functions of local civic organizations or other community groups, or functions as an educational, cultural, historic, religious, scientific, correctional, mental-health or physical health care facility; or is used for public services including but not limited to water supply, power generation or sewage treatment.

Surface coal mining operations which exist on the date of enactment means all surface coal mining operations which were being conducted on August 3, 1977.

Public park means an area adopted, dedicated or designated by any Federal, State, or local agency for public recreational use whether or not such use is limited to certain times of days, including any land leased, reserved or held open to the public because of that use.

Public road means any thoroughfare open to the public for passage of vehicles or pedestrians, regardless of whether it is maintained by any Federal, State or local agency.

Cemetery means any area of land where human bodies are interred.

§ 761.11 Areas where mining is prohibited or limited

Subject to valid existing rights on August 3, 1977, or unless surface coal mining operations existed on that date, no surface coal mining operations shall be conducted after August 3, 1977:

(a) On any lands within the boundaries of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act, and National Recreation Areas designated by Act of Congress.

(b) On any Federal lands within the boundaries of any national forest; *provided, however,* that surface coal mining operations may be permitted on such lands, if the Secretary finds that there are no significant recreational, timber, economic, or other values which may be incompatible with such surface mining operations; and

(1) Surface operations and impacts are incident to an underground coal mine; or

(2) The Secretary of Agriculture determines, with respect to lands which do not have significant forest cover within those national forests west of the 100th meridian, that surface coal mining operations comply with the Multiple-Use Sustained Yield Act of 1960, the Federal Coal Leasing Amendments Act of 1975, and the National Forest Management Act of 1976, and the provisions of the Act; *and provided further,* that no surface coal mining operation may be permitted within the boundaries of the Custer National Forest;

(c) Which will adversely affect any public park or any places included on, or eligible for listing in, the National Register of Historic Places, unless approved jointly by the regulatory authority and the Federal, State or local agency with jurisdiction over such park or places after they have jointly determined that:

(1) There is no feasible or prudent alternative to the proposed surface coal mining operation,

(2) The operation includes all possible actions to minimize harm to such park or places from the proposed surface coal mining operation;

(3) The need for the coal outweighs the need for such park or places.

(d) Within 100 feet of the outside right-of-way line of any public road, except:

(1) Where mine access roads or haulage roads join such right-of-way line; or

(2) Where the regulatory authority allows the public road to be relocated or the area affected to be within 100 feet of such road, after

(i) Public notice and opportunity for a public hearing in accordance with § 778.14(d) of this chapter, and

(ii) Making a written finding that the interests of the affected public and landowners will be protected;

(e) Within 300 horizontal feet from any occupied dwelling, unless the owner thereof has provided a written waiver consenting to surface coal mining operations closer than 300 feet;

(f) Within 300 horizontal feet of any public building, school, church, community or institutional building or public park; or

(g) Within 100 horizontal feet of a cemetery.

§ 761.12 Procedures.

(a) Upon receipt of a complete application for a surface coal mining operation permit, the regulatory authority shall review the application to determine whether surface coal mining operations are limited or prohibited under § 761.11 on the lands which would be disturbed by the proposed operation.

(b)(1) Where the proposed operation would be located on any lands listed in §§ 761.11 (a), (f) or (g), the regulatory authority shall reject the application if the applicant has no valid existing rights or if the operation did not exist on August 3, 1977.

(2) If there is any question about whether the proposed operation is located within the boundaries of any of the lands in § 761.11(a) or closer than the limits provided in § 761.11 (f) and (g), the regulatory authority shall transmit a copy of the relevant portions of the permit application to the appropriate Federal, State or local government agency for a determination or clarification of the relevant boundaries or distances, with a notice to the appropriate agency that it must respond within 30 days from receipt of the request.

(c) Where the proposed operation is on Federal lands within the boundaries of any national forest, and the applicant seeks a determination that mining is permissible under § 761.11(b) of this part, the regulatory authority shall transmit a copy of the completed application to the Director, who shall make the determination. Before acting on such permit application, the regulatory authority shall insure that the Director's determination has been received and the findings required by section 522(e)(2) (A) or (B) of the Act have been made.

(d) Where the proposed mining operation is to be conducted within 100 feet of the outside right-of-way line of any public road (except where mine access roads or haulage roads join such right-of-way line) or where the applicant proposes to relocate any public road, the regulatory authority shall—

(1) Require the applicant to obtain the approval of the authority with jurisdiction over the public road to conduct a mining operation within 100 feet of the outside right-of-way line of the public road;

(2) Provide notice in a newspaper of general circulation in the affected locale of a public hearing at least 2 weeks before the hearing;

(3) Provide an opportunity for a fact-finding public hearing at which any member of the public may participate in the locality of the proposed mining operations for the purpose of determining whether the interests of the public and affected landowners will be protected; and

(4) Make a written finding based upon information received at the public hearing within 10 days after completion of the hearing as to whether the interests of the public and affected landowners will be protected from the proposed mining operations.

(e) Where the proposed surface coal mining operations would be conducted within 300 feet of any occupied dwelling, the applicant shall submit with the application a written waiver of the owner and occupant of the dwelling, consenting to such operations within a

closer distance of the dwelling as specified in the waiver. The waiver must be

445 (30 U.S.C. 1201, 1211, 1251, 1253, 1254, 1262, and 1272).

substantial penalty. Investments are "major" if they are substantial both

(b) When the operator to whom the exemption applies no longer controls

§ 764.3 Authority.

(a) The Secretary has authority to

a complete and adequate petition to terminate a designation of an area as unsuitable for all or certain types of

closer distance of the dwelling as specified in the waiver. The waiver must be separate from a lease or deed and must be given knowingly. The applicant must reveal to the regulatory authority all consideration given for the waiver.

(f) Where the proposed surface coal mining operation may adversely affect any public park or any places included on, or eligible for listing in, the National Register of Historic Places, the regulatory authority shall transmit to the Federal, State or local agencies with jurisdiction over or interest in the park or historic place a copy of the completed permit application containing the following:

(1) A request for that agency's approval or disapproval of the operations;

(2) The determinations required in § 761.11(c) and a statement of reasons therefore; and

(3) A notice to the appropriate agency that it must respond within 30 days from receipt of the request. A permit for the operation shall not be issued unless jointly approved by all affected agencies.

(g) If the regulatory authority determines that the proposed surface coal mining operation is not prohibited under section 522(e) of the Act and this part, it may nevertheless designate such lands as unsuitable for all or certain types of surface coal mining operations pursuant to parts 762, 764, 765 or 769.

(h) A determination of a State regulatory authority that a person holds or does not hold a valid existing right, as defined in § 761.5, or operations existing on the date of enactment, as defined in § 761.5, shall be subject to judicial review by a court of competent jurisdiction in accordance with State law, as required by section 526(e) of the Act. A determination of these issues by the Director concerning any Federal lands or under a Federal program for a State shall be subject to judicial review under section 526(a)(2) of the Act.

PART 762—CRITERIA FOR DESIGNATING AREAS AS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS

Sec.
762.1 Scope.
762.4 Responsibility.
762.5 Definitions.
762.11 Criteria for designating lands as unsuitable.
762.12 Additional criteria.
762.13 Land exempt from designation as unsuitable for surface coal mining operations.
762.14 Exploration of land designated as unsuitable for surface coal mining operations.

AUTHORITY. Sections 102, 201, 501(b), 503, 504, 512, and 522 of Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201, 1211, 1251, 1253, 1254, 1262, and 1272).

§ 762.1 Scope.

This part establishes the minimum criteria to be used in determining whether lands should be designated as unsuitable for all or certain types of surface coal mining operations.

§ 762.4 Responsibility.

The regulatory authority shall use the criteria in this part for the evaluation of each petition for the designation of areas as unsuitable for surface coal mining operations.

§ 762.5 Definitions.

For purposes of this Part:

Fragile lands means geographic areas containing natural, ecologic, scientific or esthetic resources that could be damaged or destroyed by surface coal mining operations. Examples of fragile lands include valuable habitats for fish, wildlife, and other environmental values, critical habitats for endangered or threatened species of animals or plants, uncommon geologic formations, areas where mining may cause flooding environmental corridors containing a concentration of ecologic and esthetic features, areas of recreational value due to high environmental quality and buffer zones adjacent to the boundaries of areas where surface coal mining operations are prohibited under Section 522(e) of the Act and Part 761 of this Subchapter.

Historic lands means historic or cultural districts, places, structures or objects, including archeological and paleontological sites, natural historic landmark sites, sites listed in or eligible for listing in a State or National Register of Historic Places, sites having religious or cultural significance to Indian tribes or sites for which historic designation is pending.

Natural hazard lands means areas subject to such natural hazards as landslides, cave-ins, subsidence, large or encroaching sand dunes, severe wind or soil erosion, or frequent flooding, and areas of unstable geology.

Renewable resource lands means aquifers and areas for the recharge of aquifers and other underground waters, areas for agricultural or silvicultural production of food and fiber, grazing lands and areas for the yield of game and commercial or sport fish and other forms of aquaculture.

Substantial legal and financial commitments in a surface coal mining operation means major investments of money in power plants, railroads, coal-handling or storage facilities and other capital intensive improvements and fixed equipment made on the basis of long-term, legally enforceable coal sales contracts which cannot be cancelled except upon payment of a substantial penalty. Investments are "major" if they are substantial both (a) in relationship to the aggregate assets of the proposed operator and the operator's beneficial owners, other than non-controlling shareholders in publicly held corporations, and (b) in relation to the aggregate capital expenditures which reasonably can be anticipated to be made for capital improvements and fixed equipment at the mine site to, and including, completion of all reclamation operations. Costs of the acquisition of the coal in place or of the right to mine it do not constitute "substantial legal and financial commitments."

§ 762.11 Criteria for designating lands as unsuitable.

(a) An area shall be designated as unsuitable for all or certain types of surface coal mining operations if the regulatory authority determines that reclamation is not technologically and economically feasible under the requirements of the Act, the regulations of this Chapter or an approved State program.

(b) An area may be designated as unsuitable for all or certain types of surface coal mining operations if the operations will—

(1) Be incompatible with existing State or local land use plans or programs;

(2) Affect fragile or historic lands in which the operations could result in significant damage to important historic, cultural, ecologic, scientific, or esthetic values or natural systems;

(3) Affect renewable resource lands in which the operations could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products; or

(4) Affect natural hazard lands in which the operations could substantially endanger life and property.

§ 762.12 Additional criteria.

The State regulatory authority and the Secretary may establish more stringent criteria for determining whether lands under their jurisdiction should be designated as unsuitable for surface coal mining operations.

§ 762.13 Land exempt from designation as unsuitable for surface coal mining operations.

(a) The requirements of this Part shall not apply to—

(1) Lands on which surface coal mining operations were being conducted on August 3, 1977, as defined in 30 CFR 761-(5);

(2) Lands under a permit issued pursuant to the Act; or

(3) Lands where substantial legal and financial commitments in surface coal mining operations were in existence prior to January 4, 1977.

(b) When the operator to whom the exemption applies no longer controls the rights to the land, any exemptions from designations of unsuitability no longer apply.

§ 762.14 Exploration on land designated as unsuitable for surface coal mining operations.

(a) Designation of any area as unsuitable for all or certain types of surface coal mining operations pursuant to Section 522 of the Act and regulations of this Subchapter does not prohibit the mineral exploration of the area in accordance with provisions of the Act, the regulations issued under the Act, any approved State of Federal program, and other applicable requirements. Exploration on any lands designated unsuitable for surface coal mining operations must be approved by a State regulatory authority pursuant to Part 30 CFR 776 to insure that exploration does not interfer with any value for which the area has been designated unsuitable for surface coal mining.

PART 764—STATE PROCESSES FOR DESIGNATING AREAS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS

Sec.
764.1 Scope.
764.2 Objectives.
764.3 Authority.
764.4 Responsibility.
764.11 Procedures: General process requirements.
764.13 Procedures: Petitions.
764.15 Procedures: Initial processing, recordkeeping, and notification requirements.
764.17 Procedures: Hearing requirements.
764.19 Procedures: Decision.
764.21 Data base and inventory system requirements.
764.23 Public information.
764.25 Regulatory authority responsibility for Implementation.

AUTHORITY: Sections 102, 201, 503, and 522, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1202, 1211, 1253, and 1272).

§ 764.1 Scope.

This Part establishes minimum procedures to be included in each approved State program for designating land areas in a State as unsuitable for all or certain types of surface coal mining operations and for terminating designations.

§ 764.2 Objective.

The objective of this part is to insure that States wishing to administer the Act on non-Federal and non-Indian lands implement processes to designate lands unsuitable for all or certain types of surface coal mining operations, and for terminating designations, as required under Sections 503(a)(5) and 522 of the Act.

§ 764.3 Authority.

(a) The Secretary has authority to approve State programs, including the procedures to designate lands as unsuitable for all or certain types of surface coal mining operations and for terminating such designations.

(b) The States have authority to develop and include in their State programs procedures consistent with this Part to designate lands unsuitable for all or certain types of surface coal mining operations and to terminate such designations.

§ 764.4 Responsibility.

(a) A person with an interest which is or may be adversely affected may petition the regulatory authority in order to have an area designated unsuitable for all or certain types of surface coal mining operations or to have such a designation terminated.

(b) The regulatory authority shall respond to petitions consistent with the procedures in this Part.

§ 764.11 Procedures: General process requirements.

Each State shall establish a process enabling objective decisions based upon competent and scientifically sound data and other relevant information concerning which, if any, land areas of a State are unsuitable for all or certain types of surface coal mining operations. This process shall include the requirements listed in Sections 764.13-764.25.

§ 764.13 Procedures: Petitions.

(a) *Right to petition.* Any person having an interest which is or may be adversely affected has the right to petition the regulatory authority to have an area designated as unsuitable for surface coal mining operations, or to have an existing designation terminated.

(b) *Designation.* A petitioner shall provide the following information for a complete and adequate petition to designate an area as unsuitable for surface coal mining operations:

(1) The location and approximate size of the area covered by the petition;

(2) Statements or allegations of facts and supporting evidence indicating that the area is unsuitable for all or certain types of surface coal mining operations;

(3) A brief description of how mining of the area has affected or may adversely affect people, land, air, water or other resources;

(4) The petitioner's name, address and telephone number; and

(5) Identification of the petitioner's interest which is or may be adversely affected.

(c) *Termination.* The only information that a petitioner need provide for a complete and adequate petition to terminate a designation of an area as unsuitable for all or certain types of surface coal mining operations:

(1) The location and approximate size of the area covered by the petition;

(2) Statements or allegations of facts, with supporting evidence not contained in the record of the proceeding in which the area was designated unsuitable, which evidence would tend to establish the statements or allegations, and which statements or allegations indicate that the designation of the area as unsuitable for all or certain types of coal mining operations should be terminated based on either—

(i) The nature or abundance of the protected resource or condition or other basis of the designation; or

(ii) Either—

(A) Reclamation being technologically and economically feasible if the designation was based on the criteria found in section 762.11(a) of this Subchapter; or

(B) The resources or condition being protectable during and after mining if the designation was based on the criteria found in section 762.11(b) of this Subchapter;

(3) The petitioner's name, address and telephone number; and

(4) Identification of the petitioner's interest which is or may be adversely affected by the designation.

§ 764.15 Procedures: Initial processing, recordkeeping, and notification requirements.

(a) (1) Within 30 calendar days of receipt of a petition, the regulatory authority shall notify the petitioner by certified mail whether or not the petition is complete according to Section 764.13 (b) or (c).

(2) The regulatory authority shall determine whether any identified or potential coal resources exist in or near the area covered by the petition. The regulatory authority shall determine the coal resources of the area without requiring any showing from the petitioner. If the regulatory authority finds there are not any identified or potential coal resources in the area covered by the petition, the regulatory authority shall return the petition to the petitioner with a statement of its findings.

(3) When considering a petition for an area which was previously and unsuccessfully proposed for designation the regulatory authority shall determine if the new petition presents new allegations of facts. If the petition does not contain new allegations of facts, the regulatory authority shall not consider the petition. The regulatory authority shall return the petitions to the petitioner with a state-

ment of its findings and a reference to the text of the previous designation proceedings where the evidence was

tory authority shall make the record available for public inspection and copying at reasonable cost during all

and the decision is to designate an area as unsuitable for all or certain

cations, experiments, permit applications, mining operations and other sources.

AUTHORITY: Sections 102, 201, 501, 503, 504, and 522, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, and

§ 765.13 Effective date.

(a) The Director shall implement the procedures and criteria of a Feder-

ment of its findings and a reference to the text of the previous designation proceedings where the evidence was considered.

(4) If the regulatory authority determines that the petition is incomplete, it shall return the petition to the petitioner together with a written statement of the reasons for the determination and the categories of information needed to make the petition complete.

(5) The regulatory authority shall notify the person who submits a petition of any request for a permit received which proposes to include any area covered by the petition.

(6) The regulatory authority shall not consider any petitions received after the close of the public comment period for a permit application covering the same area. The regulatory authority shall return the petitions to the petitioner with a statement of why the regulatory authority cannot consider the petition. For the purposes of this Section, close of the public comment period shall mean at the close of any informal conference held under 30 CFR 787.14, or, if no conferences are requested, then at the close of the period for filing written comments and objections under 30 CFR 787.12 and 787.13.

(b)(1) Within two weeks after the determination that a petition is complete, the regulatory authority shall circulate copies of the petition to, and request submittals of relevant information from other governmental agencies, the petitioner, any person with an ownership interest of record in the property and any other person known to the regulatory authority to have an interest in the property.

(2) Within three weeks after the determination that a petition is complete, the regulatory authority shall notify the general public of the receipt of the petition and request submittals of relevant information by a newspaper advertisement running once a week for two consecutive weeks in the locale of the area covered by the petition, in the newspaper of largest circulation in the State and in the official State register of public notices, if any.

(c) Until three days before the regulatory authority holds a hearing under Section 764.17, any person may intervene in the proceeding by filing allegations of facts, with supporting evidence which would tend to establish the allegations, and a short statement identifying the petition or petitions to which the allegations pertain and the intervenor's name, address and telephone number.

(d) Beginning immediately after a complete petition is filed, the regulatory authority shall compile and maintain a record all documents relating to the petition filed with or prepared by the regulatory authority. The regulatory authority shall make the record available for public inspection and copying, at reasonable cost, during all normal business hours in a central location of the county or multi-county area in which the land petitioned is located, and in the main office of the regulatory authority.

§ 764.17 Procedures: Hearing requirements.

(a) Within 10 months after receipt of a complete petition, the regulatory authority shall hold a public hearing in the locality of the affected area, provided that if all petitioners and intervenors so stipulate, a hearing need not be held. The hearing shall be legislative and fact-finding in nature, without cross examination of witnesses. The regulatory authority shall make a verbatim transcript of the hearing.

(b)(2) The regulatory authority shall give notice of the date, time and location of the hearing to:

(i) Local, State and Federal agencies which it reasonable determines may have an interest in its decision;

(ii) The petitioner and the intervenors;

(iii) Any person with a recorded ownership interest in the area covered by the petition; and

(iv) Any other person known to the regulatory authority to have an ownership interest or any other interest in the area covered by the petition.

(2) Notice of the hearing must be sent by certified mail and be postmarked not less than 30 days before the scheduled date of the public hearing.

(c) The regulatory authority shall notify the general public of the date, time, and location of the hearing by placing a newspaper advertisement once a week for two consecutive weeks in the locale of the area covered by the petition and once during the week prior to the scheduled date of the public hearing. The consecutive weekly advertisement must begin between 4 and 5 weeks before the scheduled date of the public hearing.

(d) The regulatory authority may, with the consent of all petitioners and intervenors, consolidate in a single hearing the hearings required for each of several petitions which relate to areas in the same locale.

(e)(1) At least 15 days before the hearing required under paragraph (a) of this section, the regulatory authority shall issue a detailed statement, subject to amendment based on facts presented at the hearing, on the potential coal resources of the area, the demand for coal resources, and the impact of such designation on the environment, the economy and the supply of coal.

(2) If in accordance with paragraph (a) of this section no hearing is held and the decision is to designate an area as unsuitable for all or certain types of surface coal mining operations, this detailed statement shall be issued at least 15 days before the decision is published.

§ 764.19 Procedures: Decision.

(a) In reaching its decision, the regulatory authority shall use—

(1) The information contained in the data base and inventory system;

(2) Information provided by other governmental agencies;

(3) The detailed statement issued under Section 764.17(e); and

(4) Any other relevant information submitted during the comment period.

(b) Within 60 days after completion of the public hearing, or if no public hearing is held then within 12 months after receipt of the complete petition, the regulatory authority shall issue a written decision on the petition, which shall state the basis for the decision. At the same time, the regulatory authority shall send the decision by certified mail to the petitioner, every other party to the proceeding, and to the Regional Director for the region in which the State is located.

(c) The decision of the State regulatory authority with respect to a petition, or the failure of the regulatory authority to act within the time limits set forth in this Section, shall be subject to judicial review by a court of competent jurisdiction in accordance with State law as required by Section 526(e) of the Act.

§ 764.21 Data base and inventory system requirements.

(a) The regulatory authority shall develop a data base and inventory system which will permit evaluation of whether reclamation is feasible in areas covered by petitions.

(b) The regulatory authority shall include in the data base and inventory system information relevant to the criteria in 30 CFR 762.11. Without limitation it must include information the regulatory authority may receive from the United States Fish and Wildlife Service, the State Historic Preservation Officer, and the agency administering the prevention of significant deterioration provisions of the Clean Air Act Amendments of 1977.

(c) The regulatory authority shall add to the data base and inventory system sufficient information on potential coal resources of the State, demand for those resources, the environment, the economy and the supply of coal, to enable the regulatory authority to prepare the statements required by Section 764.17(b).

(d) The regulatory authority shall add to the data base and inventory system relevant information that becomes available from petitions, publications, experiments, permit applications, mining operations and other sources.

§ 764.23 Public information.

(a) The regulatory authority shall make the information and data base system developed under Section 764.21 available to the public for inspection and copying at reasonable cost.

(b) The regulatory authority shall publish a brochure outlining the petition procedures necessary to have an area designated as unsuitable for all or certain types of surface coal mining or to have designations terminated. The brochure must also describe how the inventory and data base system can be used.

(c) The regulatory authority shall make copies of the brochure available to the public and if requested shall advise any person as to the requirements for preparing petitions and complying with the petition procedures.

§ 764.25 Regulatory authority responsibility for implementation.

(a) The regulatory authority shall not issue any surface mining and reclamation operations permits on lands which are designated unsuitable for all surface mining operations. The regulatory authority may issue a permit for surface coal mining and reclamation operations on lands designated unsuitable for certain types of surface coal mining operations only if the permit prohibits the types of operations for which the land was designated unsuitable.

(b) The regulatory authority shall not issue any surface coal mining and reclamation operations permits on lands which are under study or for which a petition to designate them unsuitable has been filed or is pending, as provided in 30 CFR 786.15(d) (1) and (2) and in Section 510(b)(4) of the Act.

(c) The regulatory authority shall maintain a map of areas designated as unsuitable for all or certain types of surface coal mining operations.

(d) The regulatory authority shall make available to any person any information within its control regarding designations except proprietary information on the chemical and physical properties of the coal.

PART 765—DESIGNATING LANDS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS UNDER A FEDERAL PROGRAM FOR A STATE

Sec.
765.1 Scope.
765.3 Responsibility.
765.11 Procedures.
765.12 State variations.
765.13 Effective date.

AUTHORITY: Sections 102, 201, 501, 503, 504, and 522, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, and 1272).

§ 765.1 Scope.

This Part establishes minimum procedures to be included in each Federal program within a State for the designation of land areas in a State as unsuitable for all or certain types of surface coal mining operations and for the termination of such designations.

§ 765.3 Responsibility.

(a) Section 504 of the Act requires the Director to prepare, promulgate and implement an entire Federal program for a State if the State—

(1) Fails to submit a State program within the time allowed;

(2) Fails to submit an acceptable State program within either sixty days of a notice of an incomplete submission or within sixty days of disapproval of a proposed State program; or

(3) Fails to implement, enforce, or maintain an approved State program.

(b) Section 504(g) of the Act also requires the Director to prepare, promulgate, and implement a partial Federal program, if the State fails to implement, enforce, or maintain an approved State program in part.

§ 765.11 Procedures.

At the time a Federal program is promulgated for a State the Director shall develop a process for designating lands unsuitable for all or certain types of surface coal mining operations consistent with the requirements of Parts 761, 762 and 764 of this Subchapter. The Director shall include in that process the procedures, data base, inventory system and public information requirements of Part 764.

§ 765.12 State variations.

When developing the procedures and criteria for designation lands unsuitable for all or certain types of surface coal mining operations in a Federal program for a State, the Director shall consider:

(a) The nature of the State's terrain, climate, coal deposits, biological, chemical and other relevant physical characteristics;

(b) The structure and responsibilities of the State government and local governments within the State including State and local land-use plans;

(c) Standards adopted by a State which are more stringent than the standards of the Act or the regulations under Part 762; and

(d) The structure and responsibilities of the State government and local governments within the State.

§ 765.13 Effective date.

(a) The Director shall implement the procedures and criteria of a Federal program for a State for designating lands unsuitable for all or certain types of surface coal mining one year after a Federal program is implemented for a State, as required by Section 504(a) of the Act.

(b) Where a Federal program is promulgated because of a State's failure to adequately implement and maintain or enforce its program for designating lands unsuitable for all or certain types of coal mining, the designation procedure of a Federal program for the State shall be effective immediately upon implementation of the Federal program.

PART 769—PETITION PROCESS FOR DESIGNATION OF FEDERAL LANDS AS UNSUITABLE FOR ALL OR CERTAIN TYPES OF SURFACE COAL MINING OPERATIONS AND FOR TERMINATION OF PREVIOUS DESIGNATIONS

Sec.
769.1 Scope.
769.3 Authority.
769.4 Responsibility.
769.7 Regulatory Policy.
769.11 Who may submit a petition.
769.12 Where to submit petitions.
769.13 Contents of petitions.
769.14 Petition process prior to hearing.
769.15 Intervention.
769.16 Public information.
769.17 Public hearing.
769.18 Decisions on petitions.

AUTHORITY: Sections 102, 201, 522, and 523, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1202, 1211, 1272 and 1273).

§ 769.1 Scope.

This part establishes minimum procedures for designating Federal lands as unsuitable for all or certain types of surface coal mining operations and for terminating previous designations, based on petitions submitted by any person having an interest which is or may be adversely affected.

§ 769.3 Authority.

Section 522(c) of the Act authorizes the Secretary to establish a process for any person having an interest, which is or may be adversely affected by surface coal mining operations or to have such a designation terminated.

§ 769.4 Responsibility.

(a) The Regional Director shall act on petitions to have Federal lands designated unsuitable for all or certain types of surface coal mining operations or to have these designations terminated pursuant to the criteria set forth in part 762 of this subchapter. Prior to designation, the Regional Director shall consult with appropriate State and local agencies.

(b) The Regional Director for the region in which Federal land proposed

§ 769.12 Where to submit petitions.

Each petition to have an area of

§ 769.14 Procedures prior to hearing.

(a) Within 30 calendar days of re-

establish the allegations, together with a short statement identifying the petition or petitions to which the alle-

for two consecutive weeks in the locale of the area covered by the petition and once during the week prior to the

relevant information submitted prior to or in connection with the hearing.

(b) For all petitions, a final written

V 43 / 181

(b) The Regional Director for the region in which Federal land proposed for designation is located is authorized to receive petitions, conduct public hearings and issue decisions on petitions.

(c) The surface managing agency shall make recommendations for approval or disapproval of petitions based on present and future land use planning and management of public lands.

§ 769.7 Regulatory policy.

(a) The Regional Director shall not issue any permits for surface mining and reclamation operations on Federal lands which are designated unsuitable for all surface mining and reclamation operations. The Regional Director may issue a permit for surface coal mining and reclamation operations on Federal lands designated unsuitable for certain types of surface coal mining and reclamation operations only if the permit prohibits those types of operations for which the Federal lands were designated unsuitable.

(b) The Regional Director shall not issue any surface coal mining and reclamation operations permits on lands which are under study or for which a petition to designate them unsuitable has been filed or is pending, as provided in Sections 786.15(d) (1) and (2) of this chapter.

(b) The Regional Director shall maintain a map of areas designated as unsuitable for all or certain types of surface coal mining operations.

(d) Under the Freedom of Information Act, the Regional Director shall make available to any person any information within its control relating to a petition to designate Federal lands unsuitable for all or certain types of surface coal mining and reclamation operations or to terminate a designation. The Director may not release any information which is proprietary or is confidential under other Federal statutes or regulations.

(e) Once an area of Federal lands is designated as unsuitable for all or certain types of surface coal mining operations, the authorized officer shall condition any permit or lease in a manner so as to limit surface coal mining operations on the designated area.

§ 769.11 Who may submit a petition.

Any person who has an interest which is or may be adversely affected by surface coal mining operations to be conducted on Federal lands may petition the Secretary to have an area designated as unsuitable for all or certain types of surface coal mining operations or to have an existing designation terminated. This right does not apply to areas set aside by other acts.

§ 769.12 Where to submit petitions.

Each petition to have an area of Federal lands designated as unsuitable or to terminate an existing designation shall be submitted to the Regional Director of the region in which the Federal lands are located.

§ 769.13 Contents of petitions.

(a) *Designation.* Each petition for designating areas as unsuitable for all or certain types of surface coal mining operations shall contain the following information:

(1) The location and approximate size of the area covered by the petition;

(2) Statements or allegations of facts, with supporting evidence indicating that the area is unsuitable for all or certain types of surface coal mining operations;

(3) A brief description as to how mining has affected or may adversely affect people, land, air, water or other resources of the area covered by the petition;

(4) A statement of the petitioner's interest which is or may be adversely affected; and

(5) The petitioner's name, address and telephone number.

(b) *Termination.* Petitions to terminate the designation of an area for all or certain types of surface coal mining operations shall contain the following information:

(1) Statements or allegations of facts with supporting evidence indicating that the designation should be terminated. The statements or allegations shall not be contained in the record of the proceeding in which the area was designated unsuitable. The statements or allegations shall concern either—

(i) The nature of abundance of the protected resource or condition or other basis of the designation; or

(ii) Either mining or reclamation technology or economics which would render reclamation technologically and economically feasible where the designation is based on the criteria found in Section 762.11(a) of this Subchapter, or mining or reclamation technology or procedures which would protect the resource or condition during and after mining if the designation is based on the criteria found in Section 762.11(b) of this Subchapter;

(2) The location and approximate size of the area covered by the petition;

(3) Identification of the Federal surface managing agency;

(4) The petitioner's name, address and telephone number; and

(5) A statement of the petitioner's interest which is or may be adversely affected by the designation of Federal lands.

§ 769.14 Procedures prior to hearing.

(a) Within 30 calendar days of receipt of a petition, the Regional Director shall notify the petitioner by certified mail whether or not the petition is complete according to Section 769.13.

(b) If the Regional Director determines that the petition is incomplete, he shall return the petition to the petitioner together with a written statement of the reasons for the determination and the categories of information needed to complete the petition.

(c) The Regional Director shall determine whether any identified or potential coal deposits exist in or near the area covered by the petition. If there are no potential coal deposits in the area covered by the petition, the Regional Director shall reject the petition.

(d) (1) Within two weeks after the determination that the petition is complete, the Regional Director shall send a copy of the petition to the Authorized Officer of the surface managing agency by certified mail for recommendation.

(2) The Authorized Officer of the surface managing agency shall recommend approval or disapproval of the petition within 30 days of receipt of a copy of the petition providing that the area covered by the petition has been included in a completed Federal lands review or within nine (9) months if the area has not been included in a Federal lands review.

(e) Within two weeks after the determination that a petition is complete, the Regional Director shall circulate copies of the petition to, and request submittals of relevant information from the surface managing agency, other interested State, local, or Federal agencies, the petitioner, any person with an ownership interest of record in the property and any intervenors.

(f) (1) The Regional Director shall consider petitions in areas covered by existing land use plans which have specifically considered surface coal mining operations to determine whether:

(i) The petitioner has presented significant new evidence not previously considered, and

(ii) All of the criteria set forth in Part 762 were considered.

(2) Where no new significant evidence is presented and the criteria set forth in Part 762 have been considered, the Regional Director may reject the petition.

§ 769.15 Intervention.

Up to ten days before the Regional Director holds a hearing on a petition under Section 769.17(a)(1), any person may intervene in the proceeding by filing allegations of facts, with supporting evidence which would tend to establish the allegations, together with a short statement identifying the petition or petitions to which the allegations pertain and the intervenor's name, address and telephone number.

§ 769.16 Public information.

(a) Within three weeks after determining that a petition is complete, the Regional Director shall notify the general public of the receipt of the petition and request submittals of relevant information by a newspaper advertisement running once a week for two consecutive weeks in the locale of the area covered by the petition, in the newspaper of largest circulation in the State, in the FEDERAL REGISTER and in the official State register of public notices, if any.

(b) Beginning immediately after a complete petition is filed, the Regional Director shall compile and maintain a record consisting of all documents not otherwise exempt under the Freedom of Information Act, relating to the petition filed with or prepared by the Regional Director. The Regional Director shall make the record available for public inspection and copying, at reasonable costs, during all normal business hours copying, at reasonable costs, at a central location of the county or multi-county area where the land petitioned is located, and at the Regional Office.

§ 769.17 Public hearing.

(a) Within 10 months after receipt of a complete petition, the Regional Director shall hold a public hearing within the locality of the affected area. If all petitioners and intervenors so ageee, a hearing need not be held. The hearing shall be legislative and fact-finding in nature, without cross-examination of witnesses. The Regional Director shall make a verbatim transcript of the hearing.

(b) (1) The Regional Director shall give notice of the date, time and location of the hearing to:

(i) The surface managing agency, local, State and Federal agencies which it reasonably determines may have an interest in its decision;

(ii) The petitioner and the intervenors;

(iii) Any person with an ownership interest of record and to any other person known to the Regional Director to have an ownership interest or any other interest in the area covered by the petition.

(2) Notice of the hearing shall be sent by certified mail and be postmarked not less than 30 days before the scheduled date of the public hearing; and

(3) The Regional Director shall notify the general public of the date, time and location of the hearing by placing an advertisement once a week for two consecutive weeks in the locale of the area covered by the petition and once during the week prior to the scheduled date of the public hearing. The consecutive weekly advertisement must begin between four and five weeks prior to the scheduled date of the public hearing.

(c) The Regional Director may consolidate into a single hearing the hearings required for each of several petitions which relate to areas in the same locale.

(d) Where lands administered by the Department of the Interior and Agriculture are contiguous or intermingled or where one Department's resource management could affect resources or the other Department's land, the Regional Director shall refer a copy of the petition to the Department of Agriculture and shall consider that Department's recommendations about designating those lands unsuitable for all or certain types of surface coal mining, or terminating such designation.

(e) If any petition relates to an area of Federal lands which is the subject of a pending coal mining and reclamations operations permit application, the Regional Director may coordinate the hearing on the petition required under Paragraph (a)(1) of this Section with any informal conference held in accordance with Section 513(b) of the Act. Nothing in this Part shall in any way relieve an applicant for a mining and reclamation operations permit from the burden of establishing that his application is in compliance with the requirements of the applicable State or Federal programs.

(f) At least fifteen days prior to the hearing required under paragraph (a) of this Section, the Regional Director shall issue a detailed statement, subject to amendment based on facts presented at the hearing, on

(1) The abundance of coal resources of the area,

(2) The demand for coal resources, and

(3) The impact of such designation on the environment, the economy and the supply of coal.

(g) If, in accordance with Paragraph (a) of this Section, no hearing is held and the decision is to designate an area as unsuitable for all or certain types of surface coal mining operations, this detailed statement shall be issued at least fifteen (15) days before the decision is published.

§ 769.18 Decisions on petitions.

(a) In reaching his decision, the Regional Director shall use the information and recommendation of the surface managing agency, information provided by other governmental agencies, the detailed statement issued under Section 769.17(f), and any other relevant information submitted prior to or in connection with the hearing.

(b) For all petitions, a final written decision must be issued within 60 days after completion of the public hearing, or if no public hearing is held, then within 12 months after receipt of the complete petition.

(c) The Regional Director shall include in his decision on the petition a statement of reasons for the decision.

(d) The Regional Director shall send the decision and statement required by paragraphs (b) and (c) of this Section by certified mail to the petitioner, the Secretary, the surface managing agency, and to every other party to the proceeding.

(e) If the Regional Director concurs with the recommendation of the surface managing agency, the Regional Director's decision becomes final.

(f) If the Regional Director determines that the recommendation of the surface managing agency is incorrect, he shall so notify the appropriate Regional or State Director of the surface managing agency within 30 days after the public hearing. The decision will at the same time be referred to the Secretary through respective agency heads for resolution and issuance of a final decision within 60 days after the hearing, if any.

SUBCHAPTER G—SURFACE COAL MINING AND RECLAMATION OPERATIONS PERMITS SYSTEM

PART 770—GENERAL REQUIREMENTS FOR PERMIT SYSTEMS UNDER STATE PROGRAMS

Sec.
770.1 Scope.
770.2 Objectives.
770.4 Responsibilities.
770.5 Definitions.
770.6 Organization.
770.11 Applicability.
770.12 Coordination with requirements under other laws.

AUTHORITY: Sections 102, 201, 501, 503, 504, 506, 507, 508, and 510, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1256, 1257, 1258, and 1260).

§ 770.1 Scope.

This Subchapter provides the minimum requirements for the Secretary's approval of the permit system components of regulatory programs for surface coal mining and reclamation operations. These include—

(a) Requirements for obtaining permits;

(b) The timing, development and filing of permit applications;

(c) Regulatory authority review of applications, approval or denial of permits;

(d) Administrative review of regulatory authority decisions on permits;

(e) The terms and conditions of permits;

SE 18 78

(f) Public participation in the permit process;
(g) The renewal and revision of permits;
(h) Requirements for permits for special categories of surface coal mining and reclamation operations; and
(i) Procedures for coal exploration operations under regulatory programs.

§ 770.2 Objectives.

The objectives of this Subchapter are to ensure both that surface coal mining and reclamation operations are conducted only after the regulatory authority has first determined that reclamation is feasible and that all permitted surface coal mining and reclamation operations are conducted so as to fully protect the environment.

§ 770.4 Responsibilities.

(a) Persons seeking to engage in surface coal mining and reclamation operations must submit an application for a permit in accordance with this Subchapter.
(b) The regulatory authority shall review each application for a permit, approving or disapproving each permit application and issuing, conditioning, suspending, or revoking permits and renewals and revisions under an approved regulatory program.

§ 770.5 Definitions.

As used throughout this Subchapter, except where otherwise indicated:
Applicant means a person who seeks to obtain a permit under this subchapter G and the regulatory program.
Application means the documents and other information filed with the regulatory authority under this Subchapter G and the regulatory program for the issuance of a permit.
Complete application means an application for permit which contains all information required under the Act, this Subchapter and a regulatory program.
General area means, with respect to hydrology, the area surrounding a proposed permit area and included within the boundaries of the unit of the Department's Office of Water Data Coordination Catalog which contains the mine. Mine sites which lie in more than one catalog unit or which may affect more than one catalog unit may have a general area larger than one catalog unit, as specified by the regulatory authority.
Property to be mined means the surface and mineral estates on and underneath land which are within the permit area.
Violation notice means any written notification from a governmental entity of a violation of law, whether by letter, memorandum, legal or administrative pleading, or other written communication.

§ 770.6 Organization.

This Subchapter is organized according to separate parts, as follows:
(a) Parts 770 and 771 establish introductory, definitional and other general provisions applicable for all Parts of this Subchapter.
(b) Part 776 establishes procedures regarding coal exploration operations.
(c) Parts 778, 779, and 780 establish specific requirements for permit application contents for surface coal mining activities.
(d) Parts 782, 783, and 784 establish specific requirements for permit application contents for underground coal mining activities.
(e) Part 785 establishes requirements for permits for certain special categories of coal mining.
(f) Parts 786, 787, 788 and 789 establish requirements for the review, issuance, or denial of permits and for public participation in that process.
(g) Parts 790, 791, and 792 establish requirements for the revision, renewal, and transfer, sale or assignment of rights under permits.

§ 770.11 Applicability.

(a) This Subchapter applies to each person who applies for a permit for surface coal mining and reclamation operations or conducts surface coal mining and reclamation operations pursuant to a permit under regulatory programs.
(b) This Subchapter applies to each regulatory authority under a regulatory program and, where specifically provided, to the Director.

§ 770.12 Coordination with requirements under other laws.

Each State program and each Federal program shall, to avoid duplication, provide for a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with:
(a) Any other Federal or State permit process applicable to such operations including, at a minimum, permits required under the:
(1) Clean Water Act, as amended (33 U.S.C. Sec. 1251 et seq.);
(2) Clean Air Act, as amended (42 U.S.C. Sec. 7401 et seq.);
(3) Resource Conservation and Recovery Act (42 U.S.C. Sec. 3251-3259); and
(b) The requirements of any water quality management plans which have been approved by the Administrator of the United States Environmental Protection Agency under Section 208 or Section 303(e) of the Clean Water Act, as amended, 33 U.S.C. Sections 1288, 1313(e).
(c) The applicable requirements of the Endangered Species Act of 1973, 16 U.S.C. Sections 1531 et seq.; the Fish & Wildlife Coordination Act, 16 U.S.C. Section 661 et seq.; The National Historic Preservation Act of 1966 (as amended) (16 U.S.C. Sections 470 et. seq.); Executive Order 11593; and the Archeological and Historic Preservation Act of 1974 (16 U.S.C. Section 461 et. seq.).

PART 771—GENERAL REQUIREMENTS FOR PERMITS AND APPLICATIONS

Sec.
771.1 Scope.
771.2 Objectives.
771.11 General requirements for permits—Operators.
771.13 Continued operation under interim permits.
771.15 Continued operation under Federal program permits.
771.17 Compliance with permits.
771.19 Permit application filing deadlines.
771.21 Permit applications—General requirements for format and contents.
771.25 Permit fees.
771.27 Verification of application.

AUTHORITY: Sections 102, 201, 501, 502, 503, 504, 506, 507, 508, 510, 511, 515 and 516, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. Sections 1202, 1211, 1251, 1252, 1253, 1254, 1255, 1256, 1257, 1258, 1260, 1261, 1265 and 1266).

§ 771.1 Scope.

This Part establishes minimum criteria for general permits and applications requirements for obtaining the Secretary's approval of regulatory programs.

§ 771.2 Objectives.

The objectives of this Part are to insure that all surface coal mining and reclamation operations are conducted only under permits issued in accordance with the requirements of the regulatory program, that all persons make timely application for permits, and to provide general requirements on permit fee systems and the contents of applications.

§ 771.11 General requirements for permits—Operators.

Except as provided for in Section 771.13 on and after 8 months from the date on which a regulatory program is approved by the Secretary, no person shall engage in or carry out on non-Federal or non-Indian lands within a State any surface coal mining and reclamation operations unless that person has first obtained a valid permit issued by the regulatory authority under an approved regulatory program.

§ 771.13 Continued operation under interim permits.

A person conducting surface coal mining operations, under a permit issued by the regulatory authority in accordance with the requirements of section 502 of the Act may conduct these operations beyond the period prescribed in Section 771.11, if all of the following conditions are present:
(a) Timely and complete application for a permit under the permanent regulatory program has been made to the regulatory authority in accordance with the provisions of the Act, this Subchapter and the regulatory program;
(b) The regulatory authority has not yet rendered an initial decision with respect to such application; and
(c) The operations are conducted in compliance with all terms and conditions of the interim permit, the requirements of the Act, Parts 710, 715, 716, and 717 of this Chapter and the State statutes and regulations adopted in accordance with subsection 502 of the Act.

§ 771.15 Continued operation under Federal program permits.

A permit issued by the Regional Director pursuant to a Federal program for a State shall be valid under any superceding State program approved by the Director, provided that:
(a) The Federal permittee has the right to apply to the State regulatory authority for a State permit to supersede the Federal permit;
(b) The regulatory authority shall review a permit issued pursuant to the superseded Federal program to determine that the requirements of the Act and the approved State program are not violated; and
(c) To the extent that the approved State program contains additional requirements not contained in the Federal program for the State, the State regulatory authority shall:
(1) Issue an order requiring the permittee to comply with such additional requirements within 60 days, unless the permittee demonstrates to the State regulatory authority that it is physically impossible to meet such additional requirements within 60 days, or unless the State regulatory authority agrees to a longer period under an established time schedule; and
(2) Notify the permittee in writing of the right to an adjudicatory hearing with respect to such order, in the manner and time provided for in the State program.

§ 771.17 Compliance with permits.

All persons shall conduct surface coal mining and reclamation operations under permits issued pursuant to this Subchapter and a regulatory program and shall comply with the terms and conditions of the permit and the requirements of the Act, this Chapter and the regulatory program.

§ 771.19 Permit application filing deadlines.

(a) *Initial implementation of permanent regulatory programs*
Not later than 2 months following the approval of a regulatory program regardless of litigation contesting that approval, each person who conducts or expects to conduct surface coal mining and reclamation operations after the expiration of 8 months from such approval shall file an application for a permit for those operations.
(b) *Filing deadlines after two months from approval of State programs.*
(1) *General.* Each person who conducts or expects to conduct surface coal mining and reclamation operations shall file a complete application for a permit for those operations within the time established by the regulatory authority.
(2) *Renewal of valid permits.* An application for renewal of a permit shall be filed with the regulatory authority at least 120 days before the expiration of the permit involved.
(3) *Revisions of permits.* Any application for revision of a permit shall be filed with the regulatory authority at least 6 months before the date on which the permittee expects to revise mining or reclamation operations, unless the regulatory authority has determined that a period for review of the application of less than 6 months is appropriate.

§ 771.21 Permit applications—General requirements for format and contents.

(a) An application for a permit to conduct surface coal mining operations shall be filed in the format required by the regulatory authority. The application shall be complete and include, at a minimum, for surface coal mining, all the applicable information required under 30 CFR Parts 778, 779, and 780 and for underground coal mining, all the information required under 30 CFR Parts 782, 783 and 784.
(b) Information set forth in the application shall be current, presented clearly and concisely, and supported by appropriate references to technical and other written material available to the regulatory authority.
(c) All technical data submitted in the application shall be accompanied by—
(1) Names of persons or organizations which collected and analyzed such data;
(2) Dates of the collection and analyses; and
(3) Descriptions of methodology used to collect and analyze the data.
(d) The application shall state the name, address and position of officials of each private or academic research organization or governmental agency consulted by the applicant in preparation of the application regarding information on land-uses, soils, geology, vegetation, fish and wildlife, water quantity and quality, air quality, and cultural and historic features.

§ 771.25 Permit fees.

Each application for a permit under a regulatory program shall be accompanied by a fee, determined according to the requirements of the regulatory program.

§ 771.27 Verification of application.

Each application for a permit shall be verified under oath, by a responsible official of the applicant, that the information contained in the application is true and correct to the best of the official's information and belief.

PART 776—GENERAL REQUIREMENTS FOR COAL EXPLORATION OPERATIONS

Sec.
776.1 Scope.
776.2 Objectives.
776.3 Responsibilities.
776.11 General requirements: Exploration operations of less than 250 tons.
776.12 General requirements: Exploration operations of more than 250 tons.
776.13 Applications: Approval or disapproval.
776.14 Applications: Notice and hearing.
776.15 Coal exploration operations compliance duties.
776.17 Public availability of information.

AUTHORITY: Sections 102, 201, 501, 503, 504, 512, 515, 516, 517, 518, and 521 Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1262, 1265, 1266, 1267, 1268 and 1271).

§ 776.1 Scope.

This Part establishes the minimum requirements for the Secretary's approval of regulatory program coal exploration procedures. This Part applies to the regulatory authority and to any person who conducts or seeks to conduct coal explorations which substantially disturb the natural land surface.

§ 776.2 Objectives.

The objectives of this part are to insure that coal exploration operations are conducted to protect the environment and otherwise meet the requirements of the Act, this Chapter, and the regulatory program.

§ 776.3 Responsibilities.

(a) It is the responsibility of any person conducting or seeking to conduct coal exploration operations under a regulatory program to comply with the requirements of this Part.
(b) It is the responsibility of the regulatory authority to receive notices of intention to explore and applications for approval of exploration, approve

or disapprove the applications, and to issue, condition, suspend or revoke approvals under an approved regulatory

§ 776.15 Coal exploration operations compliance duties.

AUTHORITY: Secs. 102, 201, 501, 503, 504, 506, 507, 508, 510, 515, and 522, Pub. L. 95-87, 91 Stat. 945 (30 USC 1202, 1211, 1251,

(1) Names and addresses of every officer, partner, director or other person performing a function similar to a di-

or disapprove the applications, and to issue, condition, suspend or revoke approvals under an approved regulatory program.

§ 776.11 General requirements: Exploration operations of less than 250 tons.

(a) Any person who intends to conduct coal exploration operations during which less than 250 tons of coal will be removed in any one location shall, prior to conducting the operations, file with the regulatory authority a written notice of intention to explore.

(b) The notice shall include—

(1) A precise description and map at a scale of 1:24,000 or larger of the exploration area;

(2) A statement of the period of intended exploration;

(3) A description of the basis upon which the applicant claims the right to enter such area for the purpose of conducting exploration and reclamation operations; and

(4) A description of the practices proposed to be followed to protect the environment.

(c) The regulatory authority shall, except as provided in Section 776.17, place such notices on public file and make them available for public inspection and copying.

§ 776.12 General requirements: Exploration operations of more than 250 tons.

Any person who intends to conduct coal exploration operations in which more than 250 tons of coal are removed in any one location, shall, prior to conducting the operations, obtain the written approval of the regulatory authority in accordance with the following:

(a) *Application for approval.* Each application for approval shall contain, at a minimum, the following information—

(1) The name, address and telephone number of the applicant;

(2) The name, address and telephone number of the representative of the applicant who will be present at and be responsible for conducting the exploration operations;

(3) An exploration and reclamation operations plan, including—

(i) A narrative description of the proposed exploration area, cross-referenced to the map required under paragraph (a)(5) of this section, including surface topography; geological, surface water, and other physical features; vegetative cover; the distribution and important habitats of fish, wildlife, and plants, including, but not limited to, any endangered or threatened species listed pursuant to Section 4 of the Endangered Species Act of 1973 (16 U.S.C. Sections 1531 et seq); districts, sites, buildings, structures or objects listed on or eligible for listing on the National Register of Historic Places; and cultural resources located within the proposed exploration area;

(ii) A narrative description of the current land use of the area;

(iii) A narrative description of the methods to be used to conduct coal exploration and reclamation operations, including, but not limited to, the types and use of equipment, drilling, blasting, road or other access route construction and excavated earth and other debris disposal activities;

(iv) An estimated timetable for each phase of the exploration and reclamation operations and for completion of those programs;

(v) The estimated amounts of coal to be removed and a description of the methods to be used to determine such amounts;

(vi) A description of the measures to be used to comply with the applicable requirements of Part 815, Subchapter K of this Chapter;

(4) The name and address of the owner of record of the surface and subsurface estate of the area to be explored;

(5) A map in a scale of 1:24,000 or larger showing the areas of land to be substantially disturbed, by the proposed exploration and reclamation operations. The map shall specifically show existing roads, occupied dwellings, and pipelines; proposed location of trenches, roads, and other access routes and structures to be constructed; the location of land excavations to be conducted; water or coal exploratory holes and wells to be drilled or altered; earth or debris disposal areas; current land uses of the area; existing bodies of surface water; historic, topographic, cultural and drainage features; and habitats of any endangered or threatened species listed under Section 4 of Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq); and

(6) If the surface is owned by a person other than the applicant, a description of the basis upon which the applicant claims the right to enter the exploration area for the purpose of conducting exploration and reclamation operations.

(b) *Public notice and opportunity to comment.* Except as provided by Section 781.17, public notice of the application and opportunity to comment shall be provided in accordance with the following:

(1) Public notice of the filing of the application with the regulatory authority shall be posted at a public office in the vicinity of the proposed exploration area;

(2) The public notice shall state the name and business address of the person seeking approval, the date of filing of the application, the address of the regulatory authority at which written comments on the application may be submitted, and a description of the general area of exploration;

(3) Any person shall have the right to file written comments on the application within reasonable time limits established in the regulatory program.

§ 776.13 Applications: Approval or disapproval.

(a) The regulatory authority shall act upon a completed application for approval within a reasonable period of time established in the regulatory program.

(b) The regulatory authority may approve a complete application filed in accordance with this Part, if it finds in writing that the applicant has demonstrated that the exploration and reclamation operations described in the application—

(1) Will be conducted in accordance with the requirements of the Act, 30 CFR Part 815, this Part and the regulatory program;

(2) Will not jeopardize the continued existence of an endangered or threatened species listed pursuant to Section 4 of the Endangered Species Act of 1973 (16 U.S.C. Section 1531 *et seq.*) or result in the destruction or adverse modification of critical habitat of such species, and

(3) Will not adversely affect any cultural resources or districts, sites, buildings, structures, or objects listed or eligible for listing on the National Register of Historic Places, unless the proposed operations have been approved by the agency with jurisdiction over such matters.

(c) Each approval issued by the regulatory authority shall contain conditions necessary to ensure that the exploration operations will be conducted in compliance with the Act, the provisions of 30 CFR Part 815, this Part and the regulatory program.

§ 776.14 Applications: Notice and hearing.

(a) The regulatory authority may hold a hearing on its decision to approve or disapprove application under Section 776.13 in the time and manner provided for in the regulatory program.

(b) The regulatory authority shall notify the applicant, in writing of its decision to approve or disapprove the application. If the application is disapproved, the notice to the applicant shall include a statement of the reason for disapproval. The regulatory authority shall provide public notice of approval or disapproval of each application by publication in a newspaper of general circulation in the general vicinity of the proposed operations.

§ 776.15 Coal exploration operations compliance duties.

(a) All coal exploration and reclamation operations shall be conducted in accordance with the coal exploration operations requirements of the Act, this Part, Part 815 of this Chapter and the regulatory program, and any conditions of the approval for such operations by the regulatory authority.

(b) Any person who conducts any coal exploration operations which substantially disturb the natural land surface in violation of Section 512 of the Act, the provision of this Part, 30 CFR Part 815 or the regulatory program shall be subject to the provisions of Section 518 of the Act, Subchapter L of this Chapter, and the applicable inspection and enforcement provisions of the regulatory program.

§ 776.17 Public availability of information.

(a) Except as provided in paragraph (b), of this section all information submitted to the regulatory authority under this Part shall be made available for public inspection and copying at the local offices of the regulatory authority closest to the mine.

(b) (1) The regulatory authority shall not make information available for public inspection if the person submitting it requests in writing at the time of submission that it not be disclosed and if the regulatory authority determines that the information is confidential.

(2) The regulatory authority shall determine that information is confidential if it concerns trade secrets or is privileged commercial or financial information which relates to the competitive rights of the person intending to conduct exploration operations.

PART 778—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR LEGAL, FINANCIAL, COMPLIANCE AND RELATED INFORMATION

Sec.
778.1 Scope.
778.2 Objectives.
778.4 Responsibilities.
778.5 Definition.
778.11 Applicability.
778.13 Identification of interests.
778.14 Compliance information.
778.15 Right of entry and operation information.
778.16 Relationship to areas designated unsuitable for mining.
778.17 Permit term information.
778.18 Personal injury and property damage insurance information.
778.19 Identification of other licenses and permits.
778.20 Identification of location of public offices of filing of application.
778.21 Newspaper advertisement and proof of publication.

AUTHORITY: Secs. 102, 201, 501, 503, 504, 506, 507, 508, 510, 515, and 522, Pub. L. 95-87, 91 Stat. 945 (30 USC 1202, 1211, 1251, 1253, 1254, 1256, 1257, 1258, 1260, 1265, and 1272).

§ 778.1 Scope.

This Part establishes the minimum requirements regarding the legal, financial, compliance and general information that must be contained in permit applications for surface mining activities except for underground coal mining activities.

§ 778.2 Objectives.

The objective of this Part is to ensure that all relevant information regarding the ownership and control of the person who conducts surface mining activities, the ownership and control of the property to be affected by the operations, the compliance status and history of such persons, and other important information is provided to the regulatory authority under a regulatory program prior to a decision to issue or deny a permit.

§ 778.4 Responsibilities.

It is the responsibility of the permit applicant to provide to the regulatory authority all of the information required by this Part.

§ 778.5 Definition.

As used in this Part *Principal shareholder* means any person who is the owner of record of 10 percent or more of any class of voting stock.

§ 778.11 Applicability.

This part applies to any person who applies for a permit to conduct surface mining activities.

§ 778.13 Identification of interests.

(a) Each application shall contain the names, addresses, and telephone numbers of—

(1) The permit applicant;

(2) Every legal or equitable owner of record of the property to be mined;

(3) The holders of record of any leasehold interest in the property to be mined;

(4) Any purchaser of record under a real estate contract of the property to be mined;

(5) The operator if the operator is a person different from the applicant; and

(6) The resident agent of the applicant who will accept service of process.

(b) Each application shall contain a statement of whether the applicant is a corporation, partnership, single proprietorship, association or other business entity. For businesses other than single proprietorships, the application shall contain the following information, where applicable:

(1) Names and addresses of every officer, partner, director or other person performing a function similar to a director of the applicant;

(2) Name and address of any person who is a principal shareholder of the applicant; and

(3) Names under which the applicant, partner, or principal shareholder previously operated a surface coal mining operation in the United States within the 5 years preceeding the date of application.

(c) If any owner of record, holder of record, purchaser of record or operator identified under paragraph (a) of this section is a business entity other than a single proprietor, the application shall contain the names and addresses of their principals, officers, and resident agents.

(d) Each application shall contain a statement of any current or previous coal mining permits in the United States held by the applicant and by any person identified in paragraph (b)(3) of this section, and of any pending permit application to conduct coal mining operations in the United States. The information shall be listed by permit or application number and shall identify the regulatory authority and State for each such coal mining operation.

(e) Each application shall contain the names and addresses of the owners of record of all surface and subsurface areas contiguous to any part of the proposed permit area.

(f) Each application shall contain the name of the mine, if any, and the Mine Safety and Health Administration identification number for the mine and all sections of the mine.

§ 778.14 Compliance information.

Each permit application shall contain—

(a) A statement of whether the applicant, any subsidiary, affiliate or persons controlled by or under common control with the applicant has—

(1) Had a Federal or State mining permit suspended or revoked in the last 5 years; or

(2) Forfeited a coal mining bond or similar security deposited in lieu of bond.

(b) If a suspension, revocation or forfeiture has occurred, a statement of the facts involved, including—

(1) Identification number and date of issuance of the permit or date and amount of bond or similar security;

(2) Identification of the authority that suspended, revoked or forfeited and the stated reasons for the action;

(3) The current status of the permit, bond or similar security involved;

(4) The date, location and type of any administrative or judicial proceed-

ings initiated concerning the suspension, revocation, or forfeiture; and

the regulatory authority to adjudicate property rights disputes.

simultaneously file a copy of the application for public inspection in accord-

both within the mine plan area and adjacent areas that may be affected by the proposed surface coal mining ac-

(2) If this information is not available from an appropriate Federal or State agency, the applicant shall

patterns throughout the year within the mine plan area and adjacent areas.

(b) Surface water information shall

ings initiated concerning the suspension, revocation, or forfeiture; and

(5) The current status of these proceedings.

(c) A listing of each violation notice received by the applicant involving any coal mining operation pertaining to air or water environmental protection incurred during the 3 years before the application date with a statement about each violation notice, including—

(1) The date of issuance and the issuing regulatory authority, department or agency;

(2) A brief description of the particular violation alleged in the notice;

(3) The date, location and type of any administrative or judicial proceedings initiated concerning the violation, including, but not limited to, proceedings initiated by the applicant to obtain administrative or judicial review of the violations;

(4) The current status of the proceedings and of the violation notice; and

(5) The actions, if any, taken by the applicant to abate the violation.

§ 778.15 Right of entry and operation information.

(a) Each permit application shall contain—

(1) A description of those documents upon which the applicant bases his legal right to enter and begin surface mining operations in the permit area and whether that right is the subject of pending litigation, *Provided*, That nothing in this Chapter gives the regulatory authority the jurisdiction to adjudicate property title disputes; and

(2) If requested by the regulatory authority, certified copies of all documents relied upon by the applicant, except that information that specifies amounts of royalty, rent or other payments for rights to mine the coal need not be provided.

(b) Where the private mineral estate to be mined has been severed from the private surface estate:

(1) A copy of the written consent of the surface owner to the applicant for the extraction of coal by surface mining methods; or

(2) A copy of the document of conveyance that expressly grants or reserves the right to the applicant, or its predecessor-in-interest, to conduct the surface coal mining and reclamation operations; or

(3) If the conveyance does not expressly grant the right to conduct surface coal mining and reclamation operations, documentation that under the applicable State law, the applicant has the legal authority to conduct surface coal mining and reclamation operations, *Provided*, That nothing in this section shall be construed to authorize the regulatory authority to adjudicate property rights disputes.

§ 778.16 Relationship to areas designated unsuitable for mining.

(a) Each application shall contain a statement of whether the proposed permit area is within an area designated unsuitable for surface coal mining under 30 CFR part 764 or under study for designation in an administrative proceeding initiated under that part.

(b) If an applicant claims the exemption in 30 CFR 786.13(d)(2), the application shall contain information supporting the applicant's assertion that it made substantial legal and financial commitments before January 4, 1977, concerning the proposed operations.

(c) If an applicant proposes to conduct surface coal mining and reclamation operations within 300 feet of an occupied dwelling, the application shall include a copy of the written consent of the owner of the dwelling for conducting such operations.

§ 778.17 Permit term information.

(a) Each permit application shall state the anticipated or actual starting and termination date of each phase of the mining and reclamation operation and the number of acres to be disturbed in each phase of mining and over the total life of the permit.

(b) If the applicant proposes to conduct the operations beyond a permit term of 5 years, the application shall contain the information needed for the showing required under 30 CFR 786.11(a).

§ 778.18 Personal injury and property damage insurance information.

Each permit application shall contain either a certificate of insurability or evidence that the self-insurance requirements in 30 CFR 806.12 are satisfied.

§ 778.19 Identification of other licenses and permits.

Each permit application shall contain a list of all other licenses and permits needed by the applicant to conduct the proposed mining operation. This list shall identify each license and permit by—

(a) Type of permit or license;

(b) Name and address of issuing authority;

(c) Identification of applications for permit or license or, if issued, the identification number of the permit or license; and

(d) The date of approval or disapproval by each issuing authority.

§ 778.20 Identification of location of public office for filing of application.

Each complete application shall identify, by name and address, the public office where the applicant will simultaneously file a copy of the application for public inspection in accordance with 30 CFR 787.11(d).

§ 778.21 Newspaper advertisement and proof of publication.

(a) Each application shall contain a copy of the newspaper advertisement and proof of publication of the advertisement in accordance with 30 CFR 787.11(a).

(b) The copy of the newspaper advertisement and proof of publication shall be filed not later than one week after the last date of publication required under 30 CFR 787.11(a).

PART 779—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES IN THE PERMIT AND ADJACENT AREAS

Sec.
779.1 Scope.
779.2 Objectives.
779.4 Responsibilities.
779.11 General requirements.
779.12 General environmental resources information.
779.13 Description of hydrology and geology: General requirements.
779.14 Geology description.
779.15 Ground-water hydrology and geology.
779.16 Surface and ground water information.
779.17 Alternative water supply information.
779.18 Climatological and air quality data.
779.19 Vegetation data.
779.20 Fish and wildlife resources information.
779.21 Analyses of selected overburden or topsoil mixtures.
779.22 Land-use description.
Sec.
779.23 Maps, plans, and cross-sections: Preparation.
779.24 Maps: General requirements.
779.25 Cross-section maps and plans.
779.26 Soil resources description.

AUTHORITY: Secs. 102, 201, 501, 503, 504, 506, 507, 508, 510, 515, and 522, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1256, 1257, 1258, 1260, 1265, and 1272).

§ 779.1 Scope.

This part establishes the minimum requirements for the Secretary's approval of provisions of regulatory programs for the contents of applications for surface coal mining activities related to technical information on the existing site of the mine plan area and adjacent area, except for underground coal mining activities.

§ 779.2 Objectives.

The objectives of this part are to insure that—

(a) Each application provides to the regulatory authority a complete and accurate description of the existing premining environmental resources

both within the mine plan area and adjacent areas that may be affected by the proposed surface coal mining activities.

(b) The description is in a form that enables the regulatory authority to make a decision on each application that serves the purposes of the Act.

§ 779.4 Responsibilities.

(a) It is the responsibility of the applicant to provide all information in the application required by this part, except where specifically exempted in this part.

(b) It is the responsibility of State and Federal Government agencies to provide information for applications as specifically required by this Part.

§ 779.11 General requirements.

Each permit application shall include a description of the existing, premining environmental resources both within the mine plan area and adjacent areas that may be affected by the proposed surface mining activities.

§ 779.12 General environmental resources information.

(a) The applicant shall describe the mine plan area and identify the size, sequence, and timing of the sub-areas for which it is anticipated that individual permits for mining will be requested.

(b) Each description shall identify the location and nature of archeological, paleontological, cultural, historic, and unique geological features within the mine plan area and known features in adjacent areas.

(c) Each description shall include a statement of all lands, interests in lands, options or pending bids on such interests held or made by the applicant which lands are within mine plan areas.

§ 779.13 Description of hydrology and geology: General requirements.

(a) Each application shall contain a description of the geology, hydrology, and water quality and quantity of all lands within the mine plan area, the adjacent area and the general area. The description shall include information on the characteristics of all surface and ground waters within the general area, and any water which will flow into or receive discharges of water from the general area. This statement shall be prepared according to sections 779.13-17 and shall conform to the following requirements:

(b) (1) Information on hydrology, water quality and quantity and geology related to hydrology of areas outside the proposed mine plan area shall be provided by the regulatory authority to the extent that this data is available from an appropriate Federal or State agency.

(2) If this information is not available from an appropriate Federal or State agency, the applicant shall gather and submit this information to the regulatory authority as part of the permit application.

(3) The permit shall not be approved by the regulatory authority until this information is available in the application.

§ 779.14 Geology description.

(a) Each plan shall contain a description of the geology within the mine plan area down to the deepest groundwater aquifer to be disturbed below the lowest coal seam to be mined by the proposed mining and reclamation operations, including all materials to be disturbed by such operations. Geology shall also be described for all strata below the coal seam to the extent that the strata will be disturbed by the proposed operations.

(b) (1) Test borings and core samples from the mine plan area shall be collected and analyzed to provide the following data: Location of subsurface water; logs of the drill holes showing the thickness of the overburden and coal seams; physical property analyses of the overburden and coal seams physical property analyses of the overburden, including size analysis, compaction, and erodibility; chemical analysis of the overburden and strata lying immediately underneath the lowest coal seam to be mined; anlayses of the coal seam(s), including, but not limited to, an analysis of sulfur content.

(2) An applicant may request that the requirement for a statement of the results of the test borings or coal samplings from the permit area be waived by the regulatory authority. The waiver may be granted only if the regulatory authority makes a written determination that the statement is unnecessary because other equivalent information is accessible in a satisfactory form.

§ 779.15 Ground-water hydrology and geology.

Ground-water hydrology shall be fully described, including, but not limited to, the lithology, thickness, depth to water, permeability, transmissibility, production data, quantity and quality of water, and interrelationships with other aquifers and surface waters, for each aquifer to be disturbed or affected by mining.

§ 779.16 Surface and ground-water information.

(a) Each permit application shall set forth surface and ground-water information including the location of all streams, lakes, ponds, wells, and springs, and descriptions of existing surface and underground drainage patterns throughout the year within the mine plan area and adjacent areas.

(b) Surface water information shall include—

(1) Minimum, maximum, and average depth and rate of flow conditions, establishing critical low flows and peak discharge rates of streams for a minimum of one water-year; and

(2) Water quality data establishing the characteristics of such waters in, discharging into, or which will receive flows of surface or ground water from affected areas within the proposed permit area, through all seasonal variations, showing—

(i) Total dissolved solids in milligrams per liter;

(ii) Total suspended solids in milligrams per liter;

(iii) Acidity;

(iv) pH in standard units;

(v) Total and dissolved iron in milligrams per liter;

(vi) Total manganese in milligrams per liter; and

(vii) Such other information as the regulatory authority determines is relevant.

§ 779.17 Alternative water supply information.

Each permit application shall identify—

(a) The sources of water supply that could be developed to replace the water supply of an owner of interest in real property within the mine plan area and adjacent area;

(b) Persons who obtain water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source within the mine plan area and adjacent area; and

(c) The probable extent to which an owner's supply will be affected by contamination, dimunition, or interruption proximately resulting from the proposed surface coal mining and reclamation operations.

§ 779.18 Climatological and air quality data.

When requested by the regulatory authority, the permit application shall contain a statement of the climatological and air quality factors that are representative of the mine plan area including—

(a) The average seasonal precipitation;

(b) The average direction and velocity of prevailing winds;

(c) Seasonal temperatures; and

(d) Total suspended particulates.

§ 779.19 Vegetation data.

(a) The permit application shall contain a statement of the location of lands proposed for use as the reference area by which the success of postmining revegetation within the permit area is to be determined.

(b) This statement shall include a description of the vegetative cover, density and productivity of the refer-

the land-use description under paragraphs (a) and (b) of this section with other environmental resources infor-

ing through or over the proposed mine plan area, including, but not limited to fences, electric power, and telephone

ral surface water, streams, drainways, or irrigation ditches within the proposed mine plan area or adjacent

and reclamation operations. The soil resources description shall also provide adequate information to predict

§ 780.4 Responsibilities.

(a) It is the responsibility of the applicant to provide to the regulatory

(b) This statement shall include a description of the vegetative cover, density and productivity of the reference area. If required by the regulatory authority, the permit application shall include a map of existing vegetation and supporting narrative that delineates and describes those areas of different vegetation or plant communities within the proposed permit and reference areas. This description shall include information adequate to predict the potential for re-establishing vegetation as required by 30 CFR 816.111 through 816.117.

(c) The area to be mapped shall also include sufficient adjacent areas to allow evaluation of vegetation as important habitat for fish and wildlife, for those species of fish and wildlife identified under 30 CFR 779.20.

§ 779.20 Fish and wildlife resources information.

(a) The permit application shall contain a statement of the results of a study of the populations of fish and wildlife species within the mine plan area and adjacent areas.

(b) The species of fish and wildlife shall be studied in the detail required by the regulatory authority, according to—

(1) Published data or other information from secondary sources, as opposed to newly gathered field data; or

(2) Alternative written guidance provided by applicable State and Federal fish and wildlife management agencies.

§ 779.21 Analyses of selected overburden or topsoil mixtures.

Where the applicant proposes to use selected overburden materials instead of, or as a supplement to topsoil in order to comply with the topsoil handling requirements of 30 CFR 816.22, the application shall contain the results of any analyses, trials and tests required by the regulatory authority under that section.

§ 779.22 Land-use description.

(a) The permit application shall contain a statement of the condition, capacity, and productivity of the land within the proposed mine plan area.

(b) The statement shall include a map and supporting narrative of the uses of the land existing at the time of the filing of the application. If the premining use of the land was changed within 5 years before the anticipated date of beginning the proposed operations, the historic use of the land shall also be described. If the land has been previously mined, the uses which preceded mining shall be described.

(c) The statement shall include a land capability and productivity synthesis which includes a compilation of the land-use description under paragraphs (a) and (b) of this section with other environmental resources information required under this part. The synthesis shall provide analysis of:

(1) The capability of the land before any mining to support a variety of uses, giving consideration to soil and foundation characteristics, topography, vegetative covers and the hydrology of the site.

(2) The productivity of the land before mining, with the average yield of food, fiber, forage, or wood products from such lands obtained under high levels of management; and

(3) A statement of whether the land has been previously mined, and, if so, the following information, to the extent obtainable—

(i) The type of mining method used;

(ii) The coal seams or other mineral strata mined;

(iii) The extent of coal or other minerals removed; and

(iv) The dates of past mining.

§ 779.23 Maps, plans, and cross-sections: Preparation.

(a) Maps, plans and cross-sections included in a permit application which are required by section 779.25 shall be prepared by or under the direction of, and certified by a qualified registered professional engineer or professional geologist, with assistance from experts in related fields such as land surveying and landscape architecture.

(b) Maps shall be at an appropriate scale, clearly showing the land within the mine plan area and adjacent areas, and include all the types of information set forth on topographical maps of the U.S. Geological Survey of a scale of 1:25,000 or larger.

§ 779.24 Maps: General requirements.

The description shall include maps, prepared in accordance with section 779.23, showing:

(a) All boundaries of lands and names of present owners of record of lands, both surface and sub-surface, included in the proposed mine plan area and adjacent areas;

(b) The boundaries of land within the proposed mine plan area upon which the applicant has the legal right to enter and begin surface mining operations;

(c) The boundaries of all lands to be mined over the estimated total life of the proposed mining operations, with a description of size, sequence, and timing of the mining of subareas for which it is anticipated that additional permits will be sought;

(d) The location of all buildings on and within 1,000 feet of the proposed mine plan area, with identification of the current use of the buildings.

(e) The location of surface and subsurface improvements within, or passing through or over the proposed mine plan area, including, but not limited to fences, electric power, and telephone lines, pipelines, water, oil or gas wells, drainage tile fields, and other manmade features;

(f) The location and boundaries of proposed reference areas for determining the success of revegetation;

(g) The locations of water-intakes for current users of surface waters flowing into, out of, or which will receive discharges from affected areas in the proposed mine plan area;

(h) Each highway and road located in or within 100 feet of the proposed mine plan area;

(i) All existing public parks, archeological, paleontological, cultural, historical, and unique geological features within the proposed mine plan area and known features in adjacent areas;

(j) Each public or private cemetery located in or within 100 feet of the proposed mine plan area;

(k) Any land within the proposed mine plan area which is within the boundaries of any units of the National System of Trails or the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act; and

(l) Any other information required by the regulatory authority.

§ 779.25 Cross-section maps and plans.

The application shall include cross-section maps and plans prepared in accordance with 30 CFR 779.23 and updated on an annual basis, showing elevation and location of test borings core samplings, monitoring stations for water quality and quantity, air quality, and fish and wildlife used in preparation of the application, and showing the following information—

(a) Nature, depth, and thickness of the various strata of coal to be mined, coal or rider seams above the seam to be mined, overburden, and strata immediately below the lowest coal seam to be mined;

(b) All mineral crop lines and the strike and dip of the coal to be mined within the proposed mine plan area and adjacent areas;

(c) Location and extent of workings of known underground mines, including mine openings to the surface areas affected by such mines, within the proposed mine plan area and adjacent areas;

(d) Location and extent of sub-surface water, if encountered, within the proposed mine plan area or adjacent areas, including, but not limited to: aquifers and piezometric surfaces thereof through seasonal variations, the flow patterns of such sub-surface water, and the estimated elevations and contours of ground-water tables;

(e) Location, elevation and dimensions of springs, constructed or natural surface water, streams, drainways, or irrigation ditches within the proposed mine plan area or adjacent areas;

(f) Location and elevation of discharge of industrial wastes to surface or ground-waters within the proposed mine plan area, or at points in adjacent areas to surface waters which flow into the proposed mine plan area;

(g) Boundaries and elevations of existing or previously surfaced-mined areas within the proposed mine plan area;

(h) Location, elevation and dimensions of existing areas of spoil, waste, refuse and topsoil preservation, dams, other impoundments, and water treatment or air pollution control facilities within the proposed permit area;

(i) Location and depth of water, gas or oil wells within the proposed permit area; and

(j) Sufficient slopes to adequately represent the existing land surface configuration of the mine plan area, measured and recorded according to the following:

(1) Each measurement shall consist of an angle of inclination along the prevailing slope extending 100 linear feet above and below or beyond the coal outcrop or the area to be disturbed; or, where this is impractical, at locations specified by the regulatory authority.

(2) Where the area has been previously mined, the measurements shall extend at least 100 feet beyond the limits of mining disturbances, or any other distance determined by the regulatory authority to be representative of the premining configuration of the land.

(3) Slope measurements shall take into account natural variations in slope so as to provide accurate representation of the, range of natural slopes and shall reflect geomorphic differences of the area to be disturbed.

(4) Slope measurements may be made from existing topographic maps showing contour lines, having sufficient detail and accuracy consistent with the submitted mining and reclamation plan.

(5) Contour lines shall be based on intervals of a maximum of 5 feet where the slope of the land is twenty (20) degrees or less and a maximum of 10 feet where slopes are greater than 20 degrees.

§ 779.26 Soil resources description.

(a) A soil map shall be prepared that delineates those portions of the mine plan area of different soil morphology and soil environment. The soil map shall provide adequate information to establish present and potential productivity levels of the land and to aid in the classification, stockpiling, and use of soil materials during mining and reclamation operations. The soil resources description shall also provide adequate information to predict the potential for reestablishing vegetation and the proposed postmining use.

(b) The applicant shall supply such other information as required by the regulatory authority.

PART 780—SURFACE MINING PERMIT APPLICATION—MINIMUM REQUIREMENT FOR RECLAMATION AND OPERATION PLAN

Sec.
780.1 Scope.
780.2 Objectives.
780.4 Responsibilities.
780.11 Operation plan: General requirements.
780.12 Operation plan: Blasting.
780.13 Operation plan: Maps and plans.
780.14 Air pollution control plan.
780.15 Fish and wildlife plan.
780.17 Reclamation plan: Introduction.
780.19 Reclamation plan: General requirements.
780.21 Reclamation plan: Protection of hydrologic balance.
780.23 Reclamation plan: Post-mining land uses.
780.25 Reclamation plan: Ponds, impoundments, banks, and dams and embankments.
780.27 Reclamation plan: Surface mining near underground mining.
780.29 Diversions.
780.31 Protection of public parks and historic places.
780.33 Relocation or use of public roads.
780.35 Disposal of excess spoil.
780.37 Transportation facilities.

AUTHORITY: Sections 102, 201, 501, 503, 504, 506, 507, 508, 509, 510, 515, 517, and 522, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1256, 1257, 1258, 1259, 1260, 1265, 1267, and 1272.)

§ 780.1 Scope.

This part provides the minimum requirements for the Secretary's approval of provisions of regulatory programs for the mining operations and reclamation plan portions of applications for surface coal mining activities permits, except to the extent that different requirements for those plans are established under part 785 of this subchapter.

§ 780.2 Objectives.

The objectives of this part are to establish the minimum requirements under regulatory programs for the contents of mining and reclamation plan portions of applications for permits, so that the regulatory authority is provided with comprehensive and reliable information on proposed surface coal mining and reclamation operations, and to insure that such operations are allowed to be conducted only in compliance with the Act, this chapter, and the regulatory program.

§ 780.4 Responsibilities.

(a) It is the responsibility of the applicant to provide to the regulatory authority all of the information required by this part, except where specifically exempted in this part.

(b) It is the responsibility of State and Federal governmental agencies to provide information to the regulatory authority where specifically required in this part.

§ 780.11 Operation plan: General requirements.

Each application shall contain a description of the proposed mining operations within the mine plan area, including, at a minimum, the following:

(a) A narrative description of the type and method of coal mining procedures and proposed engineering techniques, anticipated annual and total production of coal, by tonnage, and the major equipment used or proposed to be used for all aspects of such operations.

(b) A narrative explaining the construction, modification, use, maintenance, and removal of the following facilities within the proposed mine plan area:

(1) Major buildings and other facilities;

(2) Utilities services;

(3) Dams and impoundments;

(4) Overburden and topsoil handling and storage areas and structures;

(5) Coal removal, handling, storage, cleaning, and transportation areas and structures;

(6) Waste and refuse removal, handling, storage, transportation, and disposal areas and structures;

(7) Mine facilities and layout; and

(8) Water and air pollution control facilities.

§ 780.12 Operations plan: Blasting.

Each application shall contain a blasting plan for the affected area, explaining how the applicant intends to comply with the requirements of 30 CFR sections 816.61 through 816.68 and including the following information:

(a) Types and approximate amounts of explosives to be used for each type of blasting operation to be conducted;

(b) Description of procedures and plans for recording and reporting to the regulatory authority blasting information to be collected during the operation. The plan shall contain the following information—

(1) Drilling patterns, including size, numbers, depths, spacing, and configuration of holes;

(2) Charge and packing, placement of holes;

(3) Types of fuses and detonation controls; and

(4) Sequence and timing of firing holes.

(c) Description of blasting warning and site access control equipment and procedures;

(10) Locations, design, and construction specifications of each sedimentation pond, permanent water impound-

(i) Cause or contribute to exceedances of any national ambient air quality standard in any air quality

(1) Why it is not practicable to achieve such a condition; and

(c) A plan for backfilling, soil stabilization, compacting, and grading, with cross sections that show the anticipat-

(1) The quality of surface and ground water systems, both within the

(c) Description of blasting warning and site access control equipment and procedures;

(d) Description of types, capabilities, sensitivities, and locations of use of blasting monitoring equipment and procedures; and

(e) Description of plans for recording and reporting to the regulatory authority the results of preblasting surveys, if required, and of the blasting monitoring program.

§ 780.13 Operations plan: Maps and plans.

Each map, plan, and cross-section shall delineate the location on the permit area where the performance standards in 30 CFR 816 apply. Areas that were mined under the initial regulatory program or that were mined before February 3, 1978 shall also be delineated on the map. Each application shall contain maps, plans, and cross-sections of the permit area in accordance with the following provisions:

(a) Maps and plans shall have a scale of 1:25,000 or larger. Cross-sections shall have a scale prescribed by the regulatory authority. The maps, plans, and cross-sections shall show the mining operations to be conducted and the lands to be affected throughout the operation.

(b) Any change in a facility or feature caused by the proposed mining operation shall be described if the facility or feature was shown on the map and plan required by 30 CFR 779.24 and 779.25.

(c) The following shall be shown and, for subparagraphs 5, 6, 10, and 13 of this paragraph the maps and plans shall be prepared by, or under the direction of, and certified by a qualified professional geologist, with assistance from experts in related fields such as land surveying and landscape architecture.

(1) Buildings, utility corridors and facilities to be used within the mine plan area;

(2) The area of land to be affected within the permit area, according to the sequence of mining and reclamation;

(3) Each coal storage, cleaning and loading area;

(4) Each topsoil, overburden, refuse, spoil, and waste storage area;

(5) Each water diversion, collection, conveyance, treatment, storage, and discharge facility to be used;

(6) Each air pollution collection and control facility;

(7) Each source of and facility relating to coal processing and pollution control waste disposal;

(8) Each facility to be used to protect and enhance fish and wildlife and related environmental values;

(9) Each explosive storage and handling facility;

(10) Locations, design, and construction specifications of each sedimentation pond, permanent water impoundment, coal processing waste bank, and coal processing waste dam and embankments in accordance with 30 CFR 780.25 and disposal of excess spoil in 30 CFR 780.35.

(11) Each profile, at cross-sections specified by the regulatory authority, of the anticipated final surface configuration to be achieved for the affected areas;

(12) Location of each water and air quality, and wildlife monitoring point; and

(13) Location and specifications for each facility that will remain on the mine plan area as a permanent feature, after the completion of surface coal mining and reclamation operations.

§ 780.14 Air pollution control plan.

(a) For those operations with projected production rates exceeding 1,000,000 tons of coal per year and located west of the 100th meridian west longitude, the application shall contain an air pollution control plan which includes the following:

(1) An air quality review demonstrating that total suspended particulate matter emissions from the proposed surface coal mining operation, in conjunction with all other applicable particulate matter emission increases or reductions, would not cause or contribute to exceedances of any national ambient air quality standard in any air quality control region; or cause or contribute to exceedances of other applicable Federal or State air quality standards;

(2) An ambient air quality monitoring program to provide adequate annual and 24 hour total suspended particulate matter sampling data to evaluate the ambient air quality impact of the surface coal mining operation. (See 40 CFR 50.7).

(3) A plan for fugitive dust control practices as required under section 816.95, of subchapter K and necessary to achieve and maintain national ambient air quality standards and other applicable Federal and State air quality standards.

(b) For those operations with projected production rates less than or equal to 1,000,000 tons of coal per year and located west of the 100th meridian west longitude, the application shall contain an air pollution plan which includes the following:

(1) An air quality review, if, as determined by the regulatory authority, the applicants proposed surface coal mining operation, in conjunction with other existing and proposed major emitting facilities in the air quality control region or subregion, may:

(i) Cause or contribute to exceedances of any national ambient air quality standard in any air quality control region; or

(ii) Cause or contribute to exceedances of any other applicable Federal or State air quality standard;

(2) An ambient air quality monitoring program to provide adequate annual and 24 hour total suspended particulate matter sampling data to evaluate the ambient air quality impact of the surface coal mining operation. (See 40 CFR 50.7);

(3) A plan for fugitive dust control practices as required under section 816.95 of subchapter K and necessary to achieve and maintain National Ambient Air Quality Standards and other applicable Federal and State air quality standards.

(c) For those operations located east of the 100th meridan west longitude, each application shall contain an air pollution control plan which includes the following:

(1) An air quality review, if, as determined by the regulatory authority, the applicant's proposed surface coal mining operation, in conjunction with other existing or proposed major emitting facilities in the air quality control region or subregion, may:

(i) Cause or contribute to exceedances of any national ambient air quality standard in any air quality control regions, or

(ii) Cause or contribute to exceedances of any other applicable Federal or State air quality standards;

(2) An ambient air quality monitoring program, if, as determined by the regulatory authority, necessary to provide adequate annual and 24 hour total suspended particulate matter sampling data to evaluate the ambient air quality impact of the surface coal mining operation; (See 40 CFR 50.7)

(3) A plan for fugitive dust control practices as required under section 816.95 of subchapter K and necessary to achieve and maintain National Ambient Air Quality Standards and other applicable Federal and State air quality standards.

§ 780.15 Fish and wildlife plan.

Each application shall contain a fish and wildlife plan, which provides:

(a) A statement of how the applicant proposes to use the best technology currently available for the site so that affected areas are reclaimed to a condition which will enhance fish, wildlife, and related environmental values.

(b) If the applicant determines that it will not be practicable to achieve a condition which clearly shows a trend toward enhancement of fish and wildlife resources at the time revegetation has been successfully accomplished under 30 CFR 816.111 through 816.117, the applicant shall state—

(1) Why it is not practicable to achieve such a condition; and

(2) How the condition which is achieved uses the best technology currently available to minimize adverse impacts on fish, wildlife, and related environmental values.

(c) (1) Statements from the applicable State and Federal fish and wildlife agencies on which impact control measures, management techniques, and monitoring methods, if any, are recommended for the site.

(2) If a State or Federal fish and wildlife management agency fails to respond to the applicant's written request for such a statement within 6 weeks, the applicant need not include that statement as part of the application.

(d) A statement explaining how the applicant will utilize impact control measures, management techinques, and monitoring methods to protect or enhance the following, if they are affected by the operation:

(1) Critical habitats of threatened or endangered species of plants or animals listed by the Secretary;

(2) Other species such as eagles, migratory birds or game animals, protected by State or Federal law, and their habitats;

(3) Habitat types of unique value for fish and wildlife, such as wetlands, riparian areas, cliffs supporting raptors, areas offering unique shelter or protection, reproduction and nursery areas, and wintering areas.

§ 780.17 Reclamation plan: Introduction.

Each application shall contain a plan for reclamation of the lands within the permit area and adjacent areas, showing how the applicant will comply with section 515 of the act, subchapter K of this chapter and the environmental protection performance standards of the regulatory program. The plan shall include at a minimum all information required under 30 CFR 780.19 through 780.35. All maps, plans and applicable cross sections shall delineate the location on the permit area where the performance standards of 30 CFR 816 apply. Areas that were mined under the initial regulatory program or that were mined before February 3, 1978 shall also be delineated on the map.

§ 780.19 Reclamation plan: General requirements.

Each plan shall contain:

(a) A detailed timetable for the accomplishment of each major step in the reclamation plan;

(b) A detailed estimate of the cost of reclamation of the proposed operations required to be covered by a performance bond under subchapter J of this chapter, with supporting calculations for the estimates;

(c) A plan for backfilling, soil stabilization, compacting, and grading, with cross sections that show the anticipated soil surface configuration of the permit area in accordance with sections 816.101 through 816.106;

(d) A plan for topsoil handling and replacement and for revegetation of the areas affected by surface mining activities in accordance with sections 816.21 through 816.25 and sections 816.111 through 816.117 including, but not limited to, descriptions of:

(1) Timing of revegetation steps;

(2) Species of plants and trees to be used;

(3) Methods and amounts of seed or numbers of seedlings to be planted per acre;

(4) Mulching techniques;

(5) Irrigation, if appropriate, and pest and disease control measures, if any;

(6) Measures proposed for comparison of revegetation of the permit area with the reference area; and

(7) A soil testing plan for evaluation of the results of topsoil handling and reclamation procedures related to revegetation;

(e) A description of the measures selected for conducting the mining operation so that maximum use and conservation of the coal resource is ensured to minimize the need to remine the land in the future;

(f) A description of measures to be employed to insure that all debris, acid-forming and toxic-forming, or materials constituting a fire hazard are disposed of in accordance with 30 CFR 816.103;

(g) A description, including appropriate cross sections and maps, of the measures to be used to seal mine openings and plug, case or manage drill and other bore holes within the proposed permit area in accordance with 30 CFR 816.11 through 816.14;

(h) A description of how mining and other equipment and facilities will be removed from the permit area when no longer needed in accordance with 30 CFR 816.121–816.122; and

(i) A description of steps to be taken during the term of the permit to comply with the requirements of the Clean Air Act (42 U.S.C. sec. 7401 et seq.), the Clean Water Act (33 U.S.C. sec. 1251 et seq.), and other applicable air and water quality laws and regulations and any applicable health and safety standards.

§ 780.21 Reclamation plan: Protection of hydrologic balance.

(a) Each plan shall contain a detailed description, with appropriate maps and cross section drawings, of the measures to be taken during and after the mining and reclamation process, in accordance with 30 CFR 816, to ensure the protection of:

(1) The quality of surface and ground water systems, both within the mine plan area and adjacent areas, from the adverse effects of the surface coal mining and reclamation operations;

(2) The rights of present users to surface and ground water; and

(3) The quantity of surface and ground water both within the mine plan area and adjacent area from the adverse effects of the surface coal mining and reclamation operation, and to provide alternative sources of water where the protection of quantity cannot be ensured.

(b) The description shall include the following:

(1) A plan for the control of surface and ground water drainage into, through and out of the area to be affected by the mining operation;

(2) A plan for the treatment, where required under subchapter K and the regulatory program, of surface or ground water drainage from the area to be disturbed by the mining operation, and proposed quantitative limits on pollutants in discharges of the drainage according to the more stringent of the following:

(i) Subchapter K and the regulatory program, or;

(ii) Other applicable State and Federal laws;

(3) A plan for the restoration of the water recharge capacity of the mine plan area to its approximate premining condition; and

(4) A plan for the collection, recording, and reporting of ground and surface water quality and quantity data according to the performance standards of subchapter K and the regulatory program and providing for:

(i) Adequate monitoring of all discharge from the affected area;

(ii) Adequate data to describe the likely daily and seasonal variation in discharges from the affected area in terms of water flow, pH, total iron, total manganese, and total suspended solids and, if requested by the regulatory authority, any other parameter characteristic of the discharge;

(iii) Monitoring at appropriate frequencies to measure normal and abnormal variations in concentration;

(iv) An analytical quality control system including standard methods of analysis such as those specified in 40 CFR 136; and

(v) A regular report of all measurements to the regulatory authority within 60 days of sample collection unless violations of permit conditions occur in which case the regulatory authority shall be notified immediately after receipt of analytical results by the permittee. If the discharge is subject to regulations by a Federal or State permit issued in compliance with the Clean Water Act of 1972 (33 U.S.C.

sec. 1251–1378), a copy of the completed reporting form supplied to meet the

(4) The consideration which has been given to making all of the pro-

ment structure and the impounded material. The geotechnical investiga-

to minimize or prevent the impacts in order to obtain approval of the regulatory authority and other agencies under 30 CFR 761.12(f).

(1) The number, location, and depth of borings or test pits shall be determined with respect to the size of the spoil disposal structure and subsurface

782.19 Identification of other licenses and permits.
782.20 Identification of location of public office for filing of application.

sec. 1251-1378), a copy of the completed reporting form supplied to meet the permit requirements may be submitted to the regulatory authority to satisfy the reporting requirements if the data meet the sampling frequency and other requirements of this paragraph.

(c) The description shall include a statement of the:

(1) Probable hydrologic consequences of the proposed mining and reclamation operations, both off and on the mine site with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems under all seasonal conditions, including the contents of dissolved and total suspended solids, total iron, pH, total manganese, and other parameters required by the regulatory authority; and

(2) Probable cumulative impacts of all anticipated mining in the general area around the proposed operations upon the hydrology of the area and particularly upon water availability.

(d) Information required under paragraph (c) with respect to hydrology, water quality and quantity and geology related to hydrology of areas outside the proposed mine plan area shall be provided by the regulatory authority to the extent that this information is available from an appropriate Federal or State agency. If this information is not available from a Federal or State agency, the applicant shall gather and submit this information to the regulatory authority as part of the permit application. The permit shall not be approved by the regulatory authority until this information is available in the application to enable the regulatory authority to make an adequate assessment of the impact on the hydrologic balance under this section.

§ 780.23 Reclamation plan: Post-mining land uses.

(a) Each plan shall, contain a detailed description of the proposed use of the land following reclamation, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses, and the relationship of the proposed use to existing land use policies and plans.

(b) The description of the proposed post-mining land use shall set forth the following:

(1) How the proposed post-mining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use;

(2) Where range or grazing is the proposed post-mining use, the detailed management plans to be implemented;

(3) Where a land use different from the pre-mining land use is proposed, all materials needed for approval of the alternative use under 30 CFR 816.124; and

(4) The consideration which has been given to making all of the proposed surface coal mining and reclamation operation consistent with surface owner plans, and applicable State and local land use plans and programs.

(c) The description shall be accompanied by a copy of the comments concerning the proposed use by the legal or equitable owner of record of the surface of the mine plan area and the State and local government agencies which would have to initiate, implement, approve or authorize the proposed use of the land following reclamation.

§ 780.25 Reclamation plan: Ponds, impoundments, banks, dams and embankments.

(a) *General.* Each plan shall contain a description, map, and cross-section drawing of each temporary and permanent sedimentation pond, permanent water impoundment, coal processing waste bank, and coal processing waste dam and embankment, which shall comply with 30 CFR 816.46, 816.49, 816.56, 816.81-816.85, and 816.91 through 816.93. Each plan shall cover geotechnical investigation, design, construction, operation, maintenance, and removal, if appropriate.

(b) *Sedimentation ponds.*

(1) Sedimentation ponds, whether temporary or permanent, shall be designed according to the criteria in 30 CFR 816.46. Any sedimentation pond or earthen structure which will remain on the mine plan area as a permanent water impoundment shall meet the criteria 30 CFR 816.49 and shall be designed according to the criteria established under Pub. L. 83-566 (16 U.S.C. sec. 1006). Each plan shall contain design specifications based on the appropriate precipitation event and shall be approved by a registered professional engineer.

(2) Each plan shall, at a minimum, comply with the requirements of the Mine Health and Safety Administration, 30 CFR 77.216-2, for designing temporary or permanent sedimentation pond or coal processing waste dams or impoundments.

(c) *Coal processing waste banks.* Coal processing waste banks shall be designed to comply with the requirements of 30 CFR 816.81-816.85 and shall be approved by a registered professional engineer.

(d) *Coal processing waste dams and embankments.* Coal processing waste dams and embankments shall be designed to conform with the criteria in 30 CFR 816.91-816.93. Each plan shall contain the results of geotechnical investigation of the proposed dam or embankment foundation area to determine the structural competence of the bedrock foundation material to support the proposed dam or embankment structure and the impounded material. The geotechnical investigation shall be planned and supervised by an engineer or engineering geologist, according to the following:

(1) The number, location and depth of borings on test pits shall be determined with respect to the size of the dam or embankment, quantity of material to be impounded, and subsurface conditions;

(2) The character of the bedrock and proposed abutment sites and any adverse geologic conditions shall be considered as to the particular dam or embankment site and reservoir site;

(3) Each plan shall identify all springs, seepage, and ground water flow observed or anticipated during wet periods in an area of the proposed dam or embankment;

(4) Consideration shall be given to the possibility of mud flows, rock debris falls or other landslide condition into the dam or embankment or into the impounded material; and

(5) A survey shall be made regarding the potential effects of subsidence of the subsurface strata due to past and future mining operations.

(e) Each plan under paragraphs (b) and (d) of this section shall include a stability analysis of each structure, if the structure is at least 20 feet high and impounds more than 200 acre-feet. The stability analysis shall include, but is not limited to, strength parameters, pore pressures, and long-term seepage conditions. The plan shall also contain a description of each engineering design assumption and calculation with a discussion of each alternative considered in selecting the specific design parameters and construction methods.

§ 780.27 Reclamation plan: Surface mining near underground mining.

For a surface mining operation to be conducted within 500 feet of an underground mine, the plan shall describe the measures to be used to comply with the requirements of the regulatory authority and the Mine Health and Safety Administration as required under 30 CFR 816.79.

§ 780.29 Diversions.

Each application shall contain descriptions, including maps and cross sections, of stream channel diversions and other diversions constructed to control overland flow around or through the mine plan area in compliance with the performance standards of 30 CFR 816.43-816.44.

§ 780.31 Protection of public parks and historic places.

For any public parks or historic places that may be adversely affected by the proposed operations, each plan shall describe the measures to be used

to minimize or prevent the impacts in order to obtain approval of the regulatory authority and other agencies under 30 CFR 761.12(f).

§ 780.33 Relocation or use of public roads.

Each plan shall describe, with appropriate maps and cross section drawings, the measures to be used by the applicant to ensure that the interests of the public and landowners affected are protected if, under 30 CFR 761.12(d), the applicant seeks to have the regulatory authority's approval of:

(a) Conducting the proposed operations within 100 feet of the right-of-way line of any public road, except where mine access or haul roads join such right-of-way; or,

(b) Relocating the public road.

§ 780.35 Disposal of excess spoil.

(a) Each plan shall contain descriptions, including appropriate maps and cross section drawings, of the proposed disposal site and design of the spoil disposal structures which shall comply with the requirements in 30 CFR 816.71-816.73. These plans shall cover the geotechnical investigation, design, construction, operation, maintenance, and removal, if appropriate.

(b) Disposal of excess spoil, whether in a valley or head-of-hollow fill structure, shall be designed to conform with the criteria in 30 CFR 816.71-816.73. Each plan shall contain the results of a geotechnical investigation of the proposed disposal site, including the following:

(1) The character of bedrock and any adverse geologic conditions in the disposal area,

(2) A survey identifying all springs, seepage, and ground water flow observed or anticipated during wet periods in the area of the disposal site;

(3) A survey of the potential effects of subsidence of the subsurface strata due to past and future mining operations;

(4) A technical description of the rock materials to be utilized in the construction of those disposal structures containing rock chimmey cores or underlain by a rock drainage blanket; and

(5) A stability analysis including, but not limited to, strength parameters, pore pressures and long-term seepage conditions. These data shall be accompanied by a description of all engineering design assumptions and calculations and shall be accompanied by the alternatives considered in selecting the specific design parameters and methods.

(c) In steep slope areas where rock-toe buttresses and spoil embankments are required to ensure the stability of the spoil disposal structures, these additional requirements shall be complied with:

(1) The number, location, and depth of borings or test pits shall be determined with respect to the size of the spoil disposal structure and subsurface conditions; and

(2) The engineering parameters utilized to design the rock-toe buttress and spoil embankment shall be determined in accordance with paragraph (b)(5) of this section.

(d) These engineering analyses shall be performed by a registered professional engineer, engineering geologist or other qualified person. All on-site geotechnical investigations shall be supervised by an engineer or engineering geologist.

§ 780.37 Transportation facilities.

Each plan shall contain a description of each road, conveyor or rail system to be constructed, used, or maintained within the mine plan area. The description shall include a map and an appropriate cross section plan and shall include the following:

(a) Specifications for each road width, road gradient, road surface, road cut, fill embankment, culvert, bridge, drainage ditch, and drainage structure.

(b) A report of appropriate geotechnical analysis where approval of the regulatory authority is required for steep cut slopes under 30 CFR 816.32(b)(2).

(c) A description of measures to be taken for alteration or relocation of a natural drainway for approval by the regulatory authority under 30 CFR 816.32(b)(4).

(d) A description of material, other than a rock headwall, to be used for protection of the inlet end of a ditch relief culvert, for approval by the regulatory authority under 30 CFR 816.32(c)(3).

(e) A description of measures to be taken to obtain approval of the regulatory authority for construction of a road embankment over 15 feet in height over a stream under 30 CFR 816.32(d).

PART 782—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR LEGAL, FINANCIAL, COMPLIANCE AND RELATED INFORMATION

Sec.
782.1 Scope.
782.2 Objectives.
782.4 Responsibilities.
782.5 Definitions.
782.11 Applicability.
782.13 Identification of interests.
782.14 Compliance information.
782.15 Right of entry and operation information.
782.16 Relationship to areas designated unsuitable for mining.
782.17 Permit term information.
782.18 Personal injury and property damage insurance information.
782.19 Identification of other licenses and permits.
782.20 Identification of location of public office for filing of application.
782.21 Newspaper advertisement and proof of publication.

AUTHORITY: Secs. 102, 201, 501, 503, 504, 506, 507, 508, 509, 510, 515, 516, and 522 of Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. Secs. 1201, 1211, 1251, 1253, 1254, 1256, 1257, 1258, 1259, 1260, 1265, 1266, 1272).

§ 782.1 Scope.

This part establishes the minimum requirements for the Secretary's approval of regulatory program provisions regarding legal, financial, compliance and general information that must be contained in permit applications for underground mining activities.

§ 782.2 Objectives.

The objective of this part is to ensure that all relevant information regarding the ownership and control of the person who conducts any underground mining activities, the ownership and control of the property to be affected by the operations, the compliance status and history of such persons, and other important information is provided to the regulatory authority before a decision to issue or deny a permit.

§ 782.4 Responsibilities.

It is the responsibility of the permit applicant to provide to the regulatory authority all of the information required by this part.

§ 782.5 Definitions.

As used in this part, principal shareholder means any person who is the owner of record of 10 percent or more of any class of voting stock.

§ 782.11 Applicability.

This part applies to any person who applies for a permit to conduct underground mining activities.

§ 782.13 Identification of interests.

(a) Each application shall contain the names and addresses and telephone numbers of—

(1) The permit applicant;

(2) Every legal or equitable owner of record of the property to be mined;

(3) The holders of record of any leasehold interest in the property to be mined;

(4) Any purchaser of record under a real estate contract of the property to be mined;

(5) The operator, if the operator is a person different from the applicant; and

(6) The resident agent of the applicant who will accept service of process.

(b) Each application shall contain a statement of whether the applicant is

a corporation, partnership, single proprietorship, association or other business entity. For businesses other than

(2) Identification of the authority that suspended, revoked or forfeited and the stated reasons for the action

(2) A copy of the document of conveyance that expressly grants or reserves the right to the applicant, or its

This list shall identify each license and permit by—

(a) Type of permit or license;

§ 783.1 Scope.

This part establishes the minimum requirements for the Secretary's ap-

§ 783.13 Description of hydrology and geology: General requirements.

(a) Each application shall contain a

a corporation, partnership, single proprietorship, association or other business entity. For businesses other than single proprietorships, the application shall contain the following information, where applicable:

(1) Names and addresses of every officer, partner, director or other person performing a function similar to a director of the applicant;

(2) Name and address of any person who is a principal shareholder of the applicant; and

(3) Names under which the applicant, partner, or principal shareholder previously operated a surface mining operation in the United States within the 5 years preceding the date of application.

(c) If any owner of record, holder of record, purchaser of record or operator identified under paragraph (a) of this section is a business entity other than a single proprietor, the application shall contain the names and addresses of their principals, officers, and resident agents.

(d) Each application shall contain a statement of any current or previous coal mining permits in the United States held by the applicant and by any person identified in paragraph (b)(3) of this section and of any pending permit application to conduct coal mining operations in the United States. The statement shall include a list by permit or application number, regulatory authority, and State for each such coal mining operation.

(e) Each application shall contain the names and addresses of the owners of record of all surface and subsurface areas contiguous to any part of the proposed permit area.

(f) Each application shall contain the name of the mine, if any, and the Mine Safety and Health Administration identification number for the mine and all sections of the mine.

§ 782.14 Compliance information.

(a) Each application for permit shall contain a statement of whether the applicant, any subsidiary, affiliate or persons controlled by or under common control with the applicant has:

(1) Held a Federal or State mining permit, which in the 5-year period prior to the date of submission of the application has been suspended or revoked; or

(2) Has forfeited a coal mining bond or similar security deposited in lieu of bond.

(b) If a suspension, revocation or forfeiture has occurred, each application shall contain a statement of the facts involved, including:

(1) Identification, by number and date of issuance, of the permit or date and amount of bond or similar security;

(2) Identification of the authority that suspended, revoked or forfeited and the stated reasons for the action by that authority;

(3) The current status of the permit, bond or similar security involved;

(4) The date, location and type of any administrative or judicial proceedings initiated concerning the suspension, revocation, or forfeiture; and

(5) The current status of these proceedings.

(c) Each application shall contain a schedule listing violation notices of the Act and of any law, rules, or regulation of the United States or of any State or Federal department or agency in the United States pertaining to air or water environmental protection incurred by the applicant, in connection with any coal mining operation during the 3-year period before the application date. The application shall also contain a statement regarding each violation notice including—

(1) The date of issuance and identity of the issuing regulatory authority, department, or agency;

(2) A brief description of the particular violation alleged in the notice;

(3) The date, location and type of any administrative or judicial proceedings initiated concerning the violation, including, but not limited to, proceedings initiated by the applicant to obtain administrative or judicial review of the violations;

(4) The current status of the proceedings and of the violation notice; and

(5) The actions, if any, taken by the applicant to abate the violation.

§ 782.15 Right of entry and operation information.

(a) Each permit application shall contain a description of those documents upon which the applicant loses his legal right to enter and begin underground mining activities in the permit area and whether that right is the subject of pending court litigation. Nothing in this chapter gives the regulatory authority the jurisdiction to adjudicate property title disputes.

(b) If requested by the regulatory authority, each application shall contain a certified copy of each document the applicant relies upon. This does not include information that specifies amounts of royalty, rent or other payments for rights to mine the coal.

(c) For underground mining operations where the associated surface operations involve surface mining of coal and where private mineral estate to be mined has been severed from the private surface estate; the application shall contain—

(1) A copy of the written consent of the surface owner to the applicant for the extraction of coal by surface mining methods; or

(2) A copy of the document of conveyance that expressly grants or reserves the right to the applicant, or its predecessor-in-interest, to conduct the surface coal mining and reclamation operations; or

(3) If the conveyance does not expressly grant the right to conduct surface coal mining and reclamation operations, documentation that under the applicable State law, the applicant has the legal authority to conduct surface coal mining and reclamation operations. Nothing in this paragraph gives the regulatory authority the jurisdiction to adjudicate property rights disputes.

§ 782.16 Relationship to areas designated unsuitable for mining.

(a) Each application shall contain a statement of whether the proposed permit area is within an area designated unsuitable for underground mining activities under 30 CFR Part 764 or under study for designation in an administrative proceeding initiated under that part.

(b) If an applicant claims the exemption in 30 CFR 786.13(d)(2), the application shall contain information supporting the applicant's assertion that it made substantial legal and financial commitments before January 4, 1977, concerning the proposed operations.

(c) If an applicant proposes to conduct surface aspects of underground mining activities within 300 feet of an occupied dwelling, the application shall include a copy of the written consent of the owner of the dwelling for conducting such operations.

§ 782.17 Permit term information.

(a) Each permit application shall contain the anticipated or actual starting and termination date of each phase of the underground mining activities, and the number of acres of surface to be disturbed in each phase of mining and over the total life of the permit.

(b) If the applicant proposes to conduct the activities beyond a permit term of 5 years, the application shall contain the information needed for the showing required under 30 CFR 786.11(a).

§ 782.18 Personal injury and property damage insurance information.

Each permit application shall contain either a certificate of insurance or evidence of satisfaction of other self-insurance requirements according to 30 CFR 806.13.

§ 782.19 Identification of other licenses and permits.

Each permit application shall contain a list of all other licenses and permits needed by the applicant to conduct the proposed mining operation. This list shall identify each license and permit by—

(a) Type of permit or license;

(b) Name and address of issuing authority;

(c) Identification number of application for permit or license or, if issued, the identification number of the permit or license; and

(d) The date of approval or disapproval action by each issuing authority.

§ 782.20 Identification of location of public office for filing of application.

Each application shall identify, by name and address, the public office where the applicant will simultaneously file a copy of the application for public inspection in accordance with 30 CFR 787.11(d).

§ 782.21 Newspaper advertisement and proof of publication.

(a) Each application shall contain a copy of the newspaper advertisement and proof of publication of the advertisement in accordance with 30 CFR 787.11(a).

(b) The copy of the newspaper advertisement and proof of publication shall be filed not later than 1 week after the last date of publication required under 30 CFR 787.11(a).

PART 783—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES IN THE PERMIT AND ADJACENT AREAS

Sec.
783.1 Scope.
783.2 Objectives.
783.4 Responsibilities.
783.11 General requirements.
783.12 General environmental resources information.
783.13 Description of hydrology and geology: General requirements.
783.14 Geology description.
783.15 Ground water hydrology and geology.
783.16 Surface and ground water information.
783.17 Alternative water supply.
783.18 Climatological and air quality data.
783.19 Vegetation data.
783.20 Fish and wildlife resources information.
783.21 Analyses of selected overburden and topsoil mixtures.
783.22 Land use descriptions.
783.23 Maps, plans and cross-sections: Preparation.
783.24 Maps: General requirements.
783.25 Cross section maps and plans.
783.26 Soil resources description.

AUTHORITY: Secs. 102, 201, 501, 503, 504, 506, 507, 508, 509, 510, 515, 516, 517, and 522, Pub. L. 95-87, 91 Stat. 445. (30 U.S.C. 1201, 1211, 1251, 1253, 1254, 1256, 1257, 1258, 1259, 1260, 1265, 1266, 1267, and 1272).

§ 783.1 Scope.

This part establishes the minimum requirements for the Secretary's approval of provisions of regulatory programs for the contents of applications for permits for underground mining activities related to technical information on the existing site of the mine plan area and adjacent areas.

§ 783.2 Objectives.

The objectives of this part are to insure that:

(a) Each application provides to the regulatory authority a complete and accurate description of the existing premining environmental resources both within the mine plan area and adjacent areas that may be affected by the proposed underground mining activities.

(b) The description is in a form that enables the regulatory authority to make a decision on an application that serves the purposes of the act.

§ 783.4 Responsibilities.

(a) It is the responsibility of the applicant to provide all information in the application required by this part, except where specifically exempted in this part.

(b) It is the responsibility of State and Federal Government agencies to provide application information as specifically provided for in this part.

(c) The regulatory authority is responsible for developing and implementing a permit system.

§ 783.11 General requirements.

Each permit application shall include a description of the existing, premining environmental resources both within the mine plan area and adjacent areas that may be affected by the underground mining activities.

§ 783.12 General environmental resources information.

(a) The applicant shall describe the mine plan area, the size, sequence and timing of the subareas for which it is anticipated that individual permits for mining will be requested.

(b) Each description shall identify the location and nature of archeological, paleontological, cultural, historic and unique geological features within the mine plan area and known features in adjacent areas.

(c) Each description shall include a statement of all lands, interests in lands, options or pending bids on such interests held or made by the applicant which lands are within the mine plan area or adjacent area.

(e) The descriptive data required in this section shall be graphically displayed on a map at a scale of 1:25,000 or larger.

§ 783.13 Description of hydrology and geology: General requirements.

(a) Each application shall contain a description of the geology, hydrology, and water quality and quantity of all lands within the mine plan area and adjacent area, and the general area, together with the characteristics of all surface and ground waters within the general area, and that water which will flow into or receive discharges of water from the general area. This statement shall be applicable to sections 783.12-783.17 and shall conform to the following requirements:

(b)(1) Information on hydrology, water quality and quantity and geology related to hydrology of areas outside the proposed mine plan area shall be provided by the regulatory authority to the extent that this data is available from an appropriate Federal or State agency.

(2) If this information is not available from the appropriate Federal or State agency, the applicant shall gather and submit this information to the regulatory authority as part of the permit application.

(3) The permit shall not be approved by the regulatory authority until this information is available in the application.

§ 783.14 Geology description.

(a) Each plan shall contain a description of the geology within the mine plan area down to the deepest ground water aquifer affected below the lowest coal seam to be mined by the proposed underground mining activity. The plan shall include a separate description of the geology for surface areas disturbed for the location of surface support facilities, those surface lands overlying coal to be mined and the coal to be mined.

(1) A plan shall be prepared which describes the overburden geology in those areas to be disturbed for the siting of surface support facilities (face-up area) incident to underground mining activities. The plan shall contain a detailed description of the physical and chemical characteristics of the overburden including the following data resulting from analyses of core or outcrop samples:

(i) The location of areas where subsurface water will be exposed at the face-up area;

(ii) The logs of drill holes showing the lithologic characteristics of the overburden;

(iii) The physical properties of the overburden to be disturbed including size analyses, compaction and erodibility; and

(iv) Chemical analyses of the overburden to locate and identify those horizons which contain potential acid-forming or toxic-forming materials.

(2) A plan shall contain a description of the geology for those surface lands within the mine plan area which are

permit area, through all seasonal variations, showing—

(i) Total dissolved solids in milli-

the potential for reestablishing vegetation as required by 30 CFR 817.111 through 817.117.

of food, fiber, forage, or wood products from such lands obtained under high levels of management; and

charges from affected areas in the mine plan area;

(h) Each highway and road located

cent areas to surface waters which flow into the proposed mine plan area;

(g) Boundaries and elevations of ex-

(2) A plan shall contain a description of the geology for those surface lands within the mine plan area which are underlain by the coal seam to be extracted and the geology of the coal seam itself. The plan shall provide a detailed description of the following:

(i) The depth and classification of the overburden;

(ii) The geologic structure of the overburden;

(iii) A standard rock mechanics analysis of earth materials making up the overburden between the coal and the surface. The analysis shall include but is not limited to, triaxial compressive strength, grainsize analysis, slaking tests in air and in water, and angle of internal friction, for each major lithologic unit overlying the coal;

(iv) Pyritic content and alkalinity potential of the overburden above the coal seam to be mined; and

(v) Pyrite, marcasite and sulfur content of the coal seam.

(b) An applicant may request that the requirements of paragraph (1) and (2)(i-iv) of this section be waived by the regulatory authority. The waiver may be granted only if the regulatory authority makes a written determination that description required is unnecessary because other equivalent information is accessible and in a satisfactory form.

§ 783.15 Ground water hydrology and geology.

Each permit application shall describe the ground water hydrology for the affected area and mine plan area, including, but not limited to the lithology, thickness, depth to water, permeability, transmissivity, production data, quantity and quality of water, and interrelationships with other aquifers and surface waters, for each aquifer to be disturbed or affected by mining.

§ 783.16 Surface and ground water information.

(a) Each permit application shall set forth surface and ground water information including the location of all streams, lakes, ponds, wells and springs, and descriptions of existing surface and underground drainage patterns throughout the year, within the mine plan area and adjacent area.

(b) Surface water information shall include:

(1) Minimum, maximum, and average depth and rate of flow conditions, establishing critical low flows and peak discharge rates of streams for a minimum of 1 water year; and

(2) Water quality data establishing the characteristics of such waters in, discharging into, or which will receive flows of surface or ground water from the affected area within the proposed permit area, through all seasonal variations, showing—

(i) Total dissolved solids in milligrams per liter;

(ii) Total suspended solids in milligram per liter;

(iii) Acidity;

(iv) pH in standard units;

(v) Total and dissolved iron in milligrams per liter;

(vi) Total manganese in milligrams per liter; and

(vii) Such other information as the regulatory authority determines is relevant.

§ 783.17 Alternative water supply.

Each permit application shall identify—

(a) The sources of water supply that could be developed to replace water supplies of an owner of interest in real property within the mine plan area and adjacent areas including:

(1) Persons who obtain supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source within the mine plan area and adjacent area; and

(2) The probable extent to which an owner's supply will be affected, by contamination, dimunition, or interruption proximately resulting from the proposed underground coal mining and reclamation operations and related surface activities.

§ 783.18 Climatological and air quality data.

When requested by the regulatory authority, the permit application shall contain a statement of the climatological and air quality factors that are representative of the mine area, including—

(a) The average seasonal precipitation;

(b) The average direction and velocity of prevailing winds; and

(c) Seasonal temperatures.

§ 783.19 Vegetation data.

(a) The permit application shall contain a statement of the location of lands proposed for use as the reference area, by which the success of post-mining revegetation of lands affected by surface operations and facilities within the mine plan area is to be determined. This statement shall include a description of the vegetative cover, diversity and productivity of the reference area.

(b) If required by the regulatory authority, the permit application shall include a map of existing vegetation and a supporting narrative that delineates and describes those areas of different vegetation or plant communities within the mine plan area and reference areas. This description shall include information adequate to predict the potential for reestablishing vegetation as required by 30 CFR 817.111 through 817.117.

(c) The area to be mapped shall also include sufficient adjacent areas to permit evaluation of vegetation on important habitat for fish and wildlife, for those species of fish and wildlife identified under 30 CFR 783.20.

§ 783.20 Fish and wildlife resources information.

(a) The permit application shall contain a statement of the results of a study of the populations of fish and wildlife species within the mine plan area and adjacent areas.

(b) The species of fish and wildlife shall be studied in the detail required by the regulatory authority, according to—

(1) Published data or other information from secondary sources, as opposed to newly gathered field data; or

(2) Alternative written guidance provided by applicable State and Federal fish and wildlife management agencies.

§ 783.21 Analyses of selected overburden and top soil mixtures.

Where the applicant proposes to use selected overburden materials instead of, or as a supplement to topsoil in order to comply with the topsoil handling requirements of 30 CFR 817.22, the application shall contain the results of any analyses, trials and tests required by the regulatory authority under that section.

§ 783.22 Land use descriptions.

(a) The permit application shall contain a statement of the condition, capacity and productivity of the land within the mine plan area.

(b) The statement shall include a map and supporting narrative of the general uses of the land existing at the time of the filing of the application. If the premining use of the land was changed within 5 years before the anticipated date of beginning the proposed operations, the historic use of the land shall also be described. If the land has been previously mined, the uses which preceded mining shall be described.

(c) The statement shall include a land capability and productivity synthesis which includes a compilation of the land-use description under paragraphs (a) and (b) of this section with other environmental resources information required under this part. The synthesis shall provide analysis of:

(1) The capability of the land before any mining to support a variety of uses, giving consideration to soil and foundation characteristics, topography, and vegetative cover;

(2) The productivity of the land before mining, with the average yield

of food, fiber, forage, or wood products from such lands obtained under high levels of management; and

(3) A statement of whether the land has been previously mined, and, if so, the following information, to the extent obtainable—

(i) The type of mining method used;

(ii) The coal seams or other mineral strata mined;

(iii) The extent of coal or other minerals removed; and

(iv) The dates of past mining; and

(4) Such other information required under Subchapter J of this Chapter.

§ 783.23 Maps, plans, and cross-sections. Preparation

(a) Maps, plans and cross-sections included in a permit application and required by Section 783.25 shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer or professional geologist, with assistance from experts in related fields such as land surveying and landscape architecture.

(b) Maps shall be at an appropriate scale, clearly showing the land within the permit area and adjacent areas, and include all the types of information set forth on topographical maps of the U.S. Geological Survey of a scale of 1:25,000 or larger.

§ 783.24 Maps: General requirements.

The description shall include maps, prepared in accordance with Section 783.23, showing:

(a) All boundaries of lands and names of present owners of record of lands, both surface and sub-surface, included in the proposed mine plan area and adjacent areas;

(b) The boundaries of land within the proposed mine plan area upon which the applicant has the legal right to enter and begin underground mining activities;

(c) The boundaries of all lands to be mined over the estimated total life of the proposed mining operations, with a description of size, sequence and timing of the mining of sub-areas for which it is anticipated that additional permits will be sought;

(d) The location of all buildings in and within 1000 feet of the mine plan area, with identification of the current use of the buildings;

(e) The location of surface and subsurface improvements or the mine plan area including, but not limited to fences, electric power and telephone lines, pipelines, water, oil or gas wells, drainage tile fields, and other manmade features;

(f) The location and boundaries of proposed reference areas for determining the success of revegetation;

(g) The locations of water-intakes for current users of surface waters flowing that may be affected by discharges from affected areas in the mine plan area;

(h) Each highway and road located in or within 100 feet of the proposed mine plan area;

(i) All public parks, existing archeological, paleontological, cultural, historical and unique geological features within the proposed mine plan area and known features in adjacent areas;

(j) Each public or private cemetery located in or within 100 feet of the mine plan area;

(k) Any land within the proposed permit area which is within the boundaries of any units of the National System of Trails or the Wild and Scenic Rivers System, including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act;

(l) Location of all known active or abandoned mines within the mine plan area and adjacent areas;

(m) Any other information required by the regulatory authority.

§ 783.25 Cross-section maps and plans.

The application shall include cross-section maps and plans prepared in accordance with 30 CFR 783.23 and updated on an annual basis, showing elevation and location of test borings, core samplings, monitoring stations for water quality and quantity and fish and wildlife used in preparation of the application, and showing the following information—

(a) Nature, depth, and thickness of the various strata of coal to be mined, coal or rider seams above the seam to be mined, overburden, and strata immediately below the lowest coal seam to be mined;

(b) All mineral crop lines and the strike and dip of the coal to be mined, within the mine plan area and adjacent areas;

(c) Location and extent of workings of known underground mines, including mine openings to the surface areas affected by such mines, within the mine plan area and adjacent areas;

(d) Location and extent of sub-surface water, if encountered, within the proposed mine plan area or adjacent areas, including, but not limited to: aquifers and piezometric surfaces thereof, through all seasonal variations, the flow patterns of such subsurface water, and the estimated elevations and contours of ground-water tables;

(e) Location, elevation and dimensions of springs, constructed or natural drainways of surface water, streams, or irrigation ditches within the proposed mine plan area or adjacent areas;

(f) Location and elevation of discharge of industrial wastes to surface or ground-waters within the proposed mine plan area, or at points in adjacent areas to surface waters which flow into the proposed mine plan area;

(g) Boundaries and elevations of existing or previously surfaced-mined areas within the proposed mine plan area;

(h) Location, elevation and dimensions of existing areas of spoil, waste, refuse and topsoil preservation, dams, other impoundments, and water treatment or air pollution control facilities within the proposed mine plan area;

(i) Location and depth of water, gas or oil wells within the proposed mine plan area; and

(j) Sufficient slopes to adequately represent the existing land surface configuration of the mine plan area, measured and recorded according to the following:

(1) Each measurement shall consist of an angle of inclination along the prevailing slope extending 100 linear feet above and below or beyond the coal outcrop or the area to be disturbed; or, where this is impractical, at locations specified by the regulatory authority.

(2) Where the area has been previously mined, the measurements shall extend at least 100 feet beyond the limits of mining disturbances, or any other distance determined by the regulatory authority to be representative of the premining configuration of the land.

(3) Slope measurements shall take into account natural variations in slope so as to provide accurate representation of the range of natural slopes and shall reflect geomorphic differences of the area to be disturbed.

(4) Slope measurements may be made from existing topographic maps showing contour lines, having sufficient detail and accuracy consistent with the submitted mining and reclamation plan.

(5) Contour lines shall be based on intervals of a maximum of five (5) feet where the slope of the land is twenty (20) degrees or less and a maximum of ten (10) feet where slopes are greater than twenty (20) degrees.

§ 783.26 Soil resources description.

(a) A soil map shall be prepared that delineates those portions of the mine plan area of different soil morphology and soil environment. The soil map shall provide adequate information to establish present and potential productivity levels of the land and to aid in the classification, stockpiling and use of soil materials during mining and reclamation operations. The soil resources description shall also provide adequate information to predict the potential for reestablishing vegetation and the proposed post-mining use.

(b) The applicant shall supply such other information as may be required by the regulatory authority.

(b) It is the responsibility of State and Federal governmental agencies to provide information to the regulatory

reclamation procedures related to revegetation.

(f) A description of the measures se-

regulatory program, of surface or ground water drainage from the mine plan area, and proposed quantitative

and particularly upon water availability.

(d) Information required under para-

drawing, of each temporary and permanent sedimentation pond, permanent water impoundment, coal pro-

(b) The applicant shall supply such other information as may be required by the regulatory authority.

PART 784—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

Sec.

784.1 Scope.
784.2 Objectives.
784.4 Responsibilities.
784.11 Reclamation and operations plan: Introduction.
784.12 Reclamation and operations plan: General requirements.
784.13 Protection of hydrologic balance.
784.14 Reclamation and operations plan: Post-mining land uses.
784.15 Reclamation and operations plan: Ponds, impoundments, banks, and embankments.
784.16 Protection of public parks and historic places.
784.17 Relocation or use of public roads.
784.18 Underground development waste.
784.19 Subsidence control plan.
784.20 Protection of fish and wildlife.
784.21 Diversions.
784.22 Maps and plans.
784.23 Transportation facilities.
784.25 Return of coal processing waste to abandoned underground workings.

AUTHORITY: Secs. 102, 201, 501(b), 503, 504, 506, 507, 508, 509, 510, 515, 516, 517, and 522 of Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201, 1202, 1211, 1251, 1253, 1254, 1256, 1257, 1258, 1259, 1260, 1265, 1266, 1267, 1267 and 1272).

§ 784.1 Scope.

This Part provides the minimum requirements for the Secretary's approval of provisions of regulatory programs for the mining operations and reclamation plans portions of permit applications for underground coal mining activities under those programs, except to the extent that different requirements are established for those plans under Part 785 of this Subchapter.

§ 784.2 Objectives.

The objectives of this Part are to establish the minimum requirements under regulatory programs for the contents of mining and reclamation plan portions of applications for permits, so that the regulatory authority is provided with comprehensive and reliable information on proposed underground coal mining and reclamation operations, and to insure that such operations are allowed to be conducted only in compliance with the Act, this Chapter and the regulatory program.

§ 784.4 Responsibilities.

(a) It is the responsibility of the applicant to provide to the regulatory authority all of the information required by this Part, except where specifically exempted in this Part.

(b) It is the responsibility of State and Federal governmental agencies to provide information to the regulatory authority where specifically required in this Part.

§ 784.11 Reclamation and operations plan introduction.

(a) Each application shall contain a plan of the proposed mining and reclamation operations, showing how the applicant will comply with all applicable requirements of Sections 515 and 516 of the Act, Subchapter K and the regulatory program.

(b) Each map, plan and cross-section shall delineate the location on the permit area where the performance standards in 30 CFR 817 apply. Areas that were mined under the initial regulatory program or that were mined before February 3, 1978 shall also be delineated on the map.

§ 784.12 Reclamation and operations plan: General requirements.

Each plan shall contain—

(a) A narrative description of the type and method of coal mining procedures and proposed engineering techniques' anticipated annual and total production of coal, by tonnage, the major equipment used or proposed to be used for all aspects of the operation, within the proposed mine plan area;

(b) A detailed timetable for the completion of each major step in the reclamation plan;

(c) A detailed estimate of the costs of reclamation of the proposed operations required to be covered by a performance bond under Subchapter J of this Chapter, with supporting calculations for the estimates;

(d) A plan for backfilling, soil stabilization, compacting, and grading and cross-sections that show the anticipated soil surface configuration of the permit area, in accordance with Sections 817.101 through 817.106;

(e) A plan for topsoil handling and replacement and revegetation of the areas affected by surface operations or facilities according to 30 CFR 817.21-817.25 and 817.111-817.116 including, but not limited to, a description of—

(1) Timing of revegetation steps;

(2) Species of plants and trees to be used;

(3) Methods and amounts of seed or numbers of seedlings to be planted per acre;

(4) Mulching techniques;

(5) Irrigation, if appropriate, and pest and disease control measures, if any;

(6) Measures proposed for comparison of revegetation of the permit area with the reference area; and,

(7) A soil testing plan for evaluation of the results of topsoil handling and reclamation procedures related to revegetation.

(f) A description of the measures selected for conducting the mining operation so that maximum use and conservation of the coal resource is ensured to minimize the need to re-mine the land in the future;

(g) A description of measures to be employed to insure that all debris, acid-forming and toxic-forming or materials constituting a fire hazard are disposed of in accordance with 30 CFR 817.103;

(h) A description, including appropriate cross-sections and maps, of the measures to be used to seal mine openings and to plug, case or manage drill and other bore holes within the proposed mine plan area in accordance with 30 CFR 817.13-817.15;

(i) A description of how mining and other equipment and facilities will be removed from the mine plan area when no longer needed, in accordance with 30 CFR 817.11-817.132; and

(j) A description of steps to be taken to comply with the requirements of the Clean Air Act (42 U.S.C. section 7401 et. seq), the Clean Water Act (33 U.S.C. Sections 1251 et. seq), and other applicable air and water quality laws and regulations and any applicable health and safety standards;

§ 784.13 Protection of hydrologic balance.

(a) Each application shall contain a detailed description, with appropriate maps and cross-section drawings, of the measures to be taken during and after the mining and reclamation process, in accordance with 30 CFR 817, to ensure the protection of—

(1) The quality of surface and ground water systems, both within the mine plan area and adjacent area, from the adverse effects of the surface coal mining and reclamation operation;

(2) The rights of present users to surface and ground water;

(3) The quantity of surface and ground water both within the mine plan area and adjacent area from the adverse effects of the surface coal mining and reclamation operation, and to provide alternative sources of water where the protection of quantity cannot be ensured; and

(4) Water quality by locating openings for all new drift mines working acid-producing or iron-producing coal scans in such a manner as to prevent a gravity discharge of water from the mine.

(b) The description shall include the following:

(1) A plan for the control of surface and ground water drainage into, through and out of the area to be affected by the mining operation;

(2) A plan for the treatment, where required under Subchapter K and the

regulatory program, of surface or ground water drainage from the mine plan area, and proposed quantitative limits on pollutants in discharges of the drainage according to the more stringent of the following:

(i) Subchapter K and the regulatory program, or;

(ii) Other applicable State and Federal laws;

(3) A plan for the restoration of the water recharge capacity of the mine plan area to its approximate premining condition; and

(4) A plan for the collection, recording, and reporting of ground and surface water quality and quantity data according to the performance standards of Subchapter K and the regulatory program and providing for—

(i) Adequate monitoring of all discharge from the affected area;

(ii) Adequate data to describe the likely daily and seasonal variations in discharges from the mine plan areas, in terms of water flow, pH, total iron, total manganese, and total suspended solids and, if requested by the regulatory authority, any other parameter characteristic of the discharge;

(iii) Monitoring at appropriate frequencies to measure variations in concentration;

(iv) An analytical quality control system, including standard methods of analysis such as those specified in 40 CFR 136; and

(v) A regular report of all measurements to the regulatory authority within 60 days of sample collection, unless violations of permit conditions occur in which case the regulatory authority shall be notified immediately after receipt of analytical results by the permittee. If the discharge is subject to regulation by a Federal or State permit issued in compliance with the Clean Water Act (33 USC Sections 1251-1378), a copy of the completed reporting form supplied to meet the regulatory authority to satisfy the reporting requirements if the data meets the sampling frequency and other requirements of this paragraph.

(c) The description shall include a statement of the—

(1) Probable hydrologic consequences of the proposed mining and reclamation operations, both off and on the mine plan area with respect to the hydrologic regime, quantity and quality of water in surface and ground water systems under all seasonal conditions, including the contents of dissolved and total suspended solids, total iron, pH, total manganese, and other information required by the regulatory authority; and

(2) Probable cumulative impacts of all anticipated mining in the general area around the proposed mine plan area upon the hydrology of the area and particularly upon water availability.

(d) Information required under paragraph (c) of this Section, shall be provided by the regulatory authority, to the extent that this data is available from a Federal or State agency. If this information is not available from a Federal or State agency, the applicant shall submit this information to the regulatory authority as part of the permit application. The permit shall not be approved by the regulatory authority until this information is in the application.

(e) Each plan shall contain a detailed description, with appropriate drawings, of permanent entry seals and down-slope barriers designed to insure stability under anticipated hydraulic heads developed while promoting mine inundation after mine closure for the mine plan area.

§ 784.14 Reclamation and operations plan: Post-mining land uses.

(a) Each plan shall contain a detailed description of the proposed use of land areas affected by surface operations or facilities following reclamation, including a discussion of the capacity of the reclaimed land to support a variety of alternative uses, and the relationship of the proposed use to existing land use policies and plans.

(b) The description of the proposed post-mining land use shall set forth the following:

(1) How the proposed post-mining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use;

(2) Where range or grazing is the proposed post-mining use, the detailed management plans to be implemented;

(3) Where a land-use different from the pre-mining land use is proposed, all materials needed for approval of the alternative use under 30 CFR 817.133; and

(4) The consideration given to making the proposed surface coal mining and reclamation operation consistent with surface owner plans, and applicable State and local land use plans and programs.

(c) The description shall be accompanied by a copy of the comments concerning the proposed use from the legal or equitable owner of record of the surface of the permit area and the State and local government agencies which would have to initiate, implement, approve or authorize the proposed use of the land following reclamation.

§ 784.15 Reclamation and operations plan: Ponds, impoundments, banks, and embankments.

(a) *General.* Each plan shall contain a description, map and cross-section drawing, of each temporary and permanent sedimentation pond, permanent water impoundment, coal processing waste bank and coal processing waste dam and embankment which shall comply with 30 CFR 817.46, 817.49, 817.56, 817.81-817.85 and 817.91-817.93. Each plan shall cover geotechnical investigation, design, construction, operation, maintenance and removal, if appropriate. Each plan shall at a minimum, comply with the requirements of the Mine Health and Safety Administration, 30 CFR 77.216.2 for designing any sedimentation pond or coal processing waste dam or impoundment. Each permanent water impoundment to remain on the mine plan area after mining shall comply with the design criteria of Pub. L. 83-566 (16 USC Section 1006).

(b) Each sedimentation pond, shall be designed according to the performance standards in 30 CFR 817.48. Any sedimentation pond or earthern structure which remains on the mine plan area as a permanent water impoundment shall meet the standards in 30 CFR 817.49 and shall be designed according to the criteria of Pub.L. 83-566 (16 USC Section 1006).

(c) Coal processing waste banks Coal processing waste banks shall be designed to comply with the requirements of 30 CFR 817.81-.85 and shall be approved by a registered professional engineer.

(d) Coal processing waste dams and embankments Coal processing waste dams and embankments shall be designed to comply with the criteria in 30 CFR 817.91-.93. The plan shall include the results of a geotechnical investigation of the proposed dam or embankment foundation area to determine the structural competence of the bedrock foundation material to support the proposed dam or embankment structure and the impounded material. The geotechnical investigation shall be planned and supervised by an engineer or engineering geologist, according to the following:

(1) The number, location and depth of borings or test pits shall be determined with respect to the size of the dam or embankment, and subsurface conditions.

(2) The character of bedrock and proposed abutment sites and any adverse geologic conditions shall be considered as to the particular dam or embankment site and reservoir site.

(3) Each plan shall identify all springs, seepage, and ground water flow observed or anticipated during wet periods in an area of the proposed dam or embankment.

(4) Each applicant shall consider the possibility of mud flows, rock debris falls or other landslide conditions into the dam or embankment or into the impounding material.

(5) A survey shall be made regarding the potential effects of subsidence of the geological subsurface strata due to

(b) It shall explain how the operations shall be conducted to prevent material damage to the surface to the

any guarantee against damage, or until the area has subsided and stabilized.

(3) Habitat types of unique value for fish and wildlife, such as wetlands, riparian areas, cliffs supporting raptors, areas offering unique shelter or pro-

waste and excess spoil according to 30 CFR 784.18.

(10) Each profile, at cross-sections specified by the regulatory authority,

occurrence of surface effects following backfilling.

(c) The applicant shall describe the

(5) A survey shall be made regarding the potential effects of subsidence of the geological subsurface strata due to past and future mining operations.

(e) Each plan under paragraphs (b) and (d) of this section shall include a stability analysis of each structure if the structure is at least 20 feet high and impounds more than 200 acre-feet. The stability analysis shall include, but not be limited to strength parameters, pore pressures, and long term seepage conditions. The plan shall also contain a description of each engineering design assumption and calculation with a discussion of each alternative considered in selecting the specific design parameters and construction methods.

§ 784.16 Protection of public parks and historic places.

For any public parks or historic places that may be adversely affected by the proposed operation, each plan shall describe the measures to be used to minimize or prevent these impacts, to obtain approval of the regulatory authority and other agencies under 30 CFR 761.12(f).

§ 784.17 Relocation or use of public roads.

Each plan shall describe the measures to be used by the applicant to ensure that the interests of the public and land owners affected are protected, if, under 30 CFR 761.12(d), the applicant seeks to have the regulatory authority's approval of—

(a) Conducting the proposed operations within 100 feet of the right-of-way line of any public road, except where mine access or haul roads join such right-of-way; or

(b) Relocating the public road.

§ 784.18 Underground development waste.

(a) Each plan shall contain a description, including a map and cross-section plan of the proposed disposal method and site for placing underground development waste and spoil generated at surface areas affected by surface operations and facilities. Each plan shall cover the geotechnical investigations, design, construction, operation, maintenance and removal, if appropriate, in compliance with 30 CFR 817.121 through 817.126

§ 784.19 Subsidence control plan.

Each plan shall describe the subsidence control to be used to achieve compliance with requirements of Sections 817.121 through 817.126 of Subchapter K, and shall be prepared in accordance with the following:

(a) The subsidence control plan shall be designed using recognized professional standards, certified by a qualified registered professional mining engineer or engineering geologist, and approved by the regulatory authority.

(b) It shall explain how the operations shall be conducted to prevent material damage to the surface to the extent technologically and economically feasible and maintain the value and use of surface lands within the area of influence. The area of influence is the area above and adjacent to the area to be mined as defined by an angle of draw prescribed by the regulatory authority.

(c) The subsidence control plan shall set forth, but not be limited to, the following considerations:

(1) Geologic description of mine plan area required under 30 CFR 784.14;

(2) Maps and plans required under 30 CFR 784.22;

(3) Geometry, layout and progression of mine plan workings;

(4) Number of seams to be mined, and percent recovery after final mine pass;

(5) Proposed method and degree of back filling planned;

(6) Bearing strength and location of remnant coal pillars and barriers;

(7) Types and placement of artificial support; and

(8) A description of the mining technology to be employed.

(d) Each plan shall contain a proposed subsidence monitoring plan, describing the existing surface areas for which a subsidence control plan is required under this Section, and the methods that will be used to evaluate subsidence during and after the proposed underground mining operation. This plan shall be prepared according to the following:

(1) Measurements shall accurately delineate vertical and horizontal movements due to mine subsidence;

(i) Surveying shall be over lines of monuments installed as directed by the regulatory authority;

(ii) Each monument shall be constructed so that it is not affected by temperature variations, moisture, frost heave, soil creep, or disturbance by animals or people;

(iii) Spacing of monuments shall be such as to adequately provide information on horizontal and vertical movements as directed by the regulatory authority; and

(iv) Surveys shall begin and end at reference benchmarks in stable areas not subject to mine subsidence or other local instability.

(2) Surveying shall be performed by a professional engineer or qualified surveyor using generally accepted surveying methods.

(3) Surveys shall be at time intervals specified by the regulatory authority, but not less than semi-annually in areas of active mining. Upon completion of underground mining resurveying shall be at intervals specified by the regulatory authority and shall be continued at least as long as the life of any guarantee against damage, or until the area has subsided and stabilized.

(4) A survey to document pre-mining conditions shall be made prior to any new underground mining operations.

(5) A visual survey shall be made at least annually to identify and document the presence of tension cracks, fissures, structural offsets, and obvious subsidence damage to buildings, roads, railroads, dams, or other cultural features.

(6) If the person who conducts the underground mining activity is denied reasonable access for surveying by the surface owner of lands subject to subsidence, the regulatory authority may modify the requirements of this section as appropriate.

§ 784.20 Protection of fish and wildlife.

Each application shall contain a fish and wildlife plan, for surface areas to be affected within the mine plan area and adjacent areas, which provides:

(a) A statement of how the applicant proposes to use the best technology currently available for the site so that affected areas are reclaimed to a condition which will enhance fish, wildlife, and related environmental values.

(b) If the applicant determines that it will not be practicable to achieve a condition which clearly shows a trend toward enhancement of fish and wildlife resources at the time revegetation has been successfully completed under 30 CFR 817.111–817.117, the applicant shall state—

(1) Why it is not practicable to achieve such a condition; and

(2) How the condition which is achieved uses best technology currently available to minimize adverse impacts on fish, wildlife, and related environmental values.

(c) (1) Statements from applicable State and Federal fish and wildlife agencies on which impact control measures, management techniques and monitoring methods are recommended for the site.

(2) If a State or Federal fish and wildlife management agency fails to respond to the applicant's written request for this statement within six weeks, the applicant need not include the statement as part of the application.

(d) A statement explaining how the applicant will utilize impact control measures, management techniques and monitoring methods to protect or enhance the following, if they are affected by the operation:

(1) Critical habitats of threatened or endangered species of plants or animals listed by the Secretary;

(2) Other species such as eagles, migratory birds or game animals, protected by State or Federal law, and their habitats;

(3) Habitat types of unique value for fish and wildlife, such as wetlands, riparian areas, cliffs supporting raptors, areas offering unique shelter or protection, reproduction and nursery areas, and wintering areas.

§ 784.21 Diversions.

Each application shall contain descriptions, including maps and cross-section, of stream channel diversions and other diversions constructed to control overland flow around or through the mine plan area in compliance with the performance standards of 30 CFR 817.43–817.44.

§ 784.22 Maps and plans.

Each map, plan and cross-section shall delineate the location in the permit area where the performance standards in of Part 817 of Subchapter K apply. Areas that were mined under the initial regulatory program or that were mined before February 3, 1978 shall also be delineated on the map.

(a) Maps and plans shall have a scale of 1:25,000 or larger. Cross-sections shall have a scale prescribed by the regulatory authority. The maps, plans and cross-sections shall show the mining operations to be conducted and the lands to be affected throughout the operation.

(b) Any change in a facility or feature caused by the proposed mining operations shall be described if the facility or feature was shown on the map and plan required by 30 CFR 783.24–783.25.

(c) The following features shall be shown in the maps, plans and cross-sections:

(1) Each building, and utility corridor and facility to be used within the mine plan area;

(2) The area of land to be affected within the mine plan area, according to the sequence of mining and reclamation;

(3) Each coal storage, cleaning and loading area;

(4) Each topsoil, overburden, refuse, spoil and waste storage area;

(5) Each water diversion, collection, conveyance, treatment, storage and discharge facility to be used;

(6) Each source of and facility relating to coal processing and pollution control waste disposal;

(7) Each facility to be used to protect and enhance fish and wildlife and related environmental values;

(8) Each explosive storage and handling facility;

(9) Location, design and construction specifications for each sedimentation pond, permanent water impoundment, coal processing waste bank and coal processing waste dam and embankment according to 30 CFR 784.15 and disposal of underground development waste and excess spoil according to 30 CFR 784.18.

(10) Each profile, at cross-sections specified by the regulatory authority, of the anticipated final surface configuration to be achieved for the affected areas;

(11) Location of water quality, fish and wildlife, and each subsidence monitoring point;

(12) Location and specifications for each facility that will remain on the mine plan area as a permanent feature, after the completion of surface coal mining and reclamation operations.

§ 784.23 Transportation facilities.

Each plan shall contain a description of each road, conveyor and rail system to be constructed, used or maintained within the mine plan area. The description shall include a map and an appropriate cross-section plan and shall include the following:

(a) Specifications for each road width, road gradient, road surface, road cut, fill embankment, culvert, bridge, drainage ditch, and drainage structure.

(b) A report of appropriate geotechnical analysis where approval of the regulatory authority is required for steep cut slopes under 30 CFR 817.32 (b)(2).

(c) A description of each measure to be taken for alteration or relocation of a natural drainway as required to obtain approval of the regulatory authority under 30 CFR 817.32(b)(4).

(d) Each application shall describe material, other than a rock headwall, to be used for protection of the inlet end of a ditch relief culvert as required to obtain approval of the regulatory authority under 30 CFR 817.32(c)(3).

(e) Each application shall describe each measure to be taken for construction of a road embankment over 15 feet in height over a stream as required to obtain approval under 30 CFR 817.32(d).

§ 784.25 Return of coal processing waste to abandoned underground workings.

(a) Each plan shall describe the design, operation and maintenance of the proposed coal processing waste disposal facility, including flow diagrams and any other necessary drawings and maps, for the approval of the regulatory authority under 30 CFR 817.88.

(b) Each plan shall describe the source and quality of waste to be stowed, area to be backfilled, percent of the mine void to be filled, method of constructing underground retaining walls, influence of the backfilling operation on active underground mine operation, surface area to be supported by the backfill and the anticipated occurrence of surface effects following backfilling.

(c) The applicant shall describe the source of the hydraulic transport mediums, method of dewatering the placed backfill, retainment of water underground, treatment of water if released to surface streams, and the effect on the hydrologic regime.

(d) The plan shall describe each of permanent monitoring well to be located in the backfilled area, the strata underlying the mined coal, and gradient from the backfilled area.

(e) The requirements of paragraphs (a), (b), (c), and (d) of this Section shall also apply to pneumatic backfilling operations, except where the requirements specifying hydrologic monitoring is exempted by the regulatory authority.

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

Sec.
785.1 Scope.
785.2 Objectives.
785.11 Anthracite surface coal mining and reclamation operations.
785.12 Special bituminous surface coal mining and reclamation operations.
785.13 Experimental practices mining.
785.14 Steep slope mining.
785.15 Mountaintop removal mining.
785.16 Permits incorporating variances from approximate original contour restoration requirements.
785.17 Prime farm lands.
785.18 Variances for delay in contemporaneous reclamation requirement in combined surface and underground mining operations.
785.19 Surface coal mining and reclamation operations on areas, or adjacent to areas, including alluvial valley floors in the arid or semi-arid areas west of the 100th meridian.
785.20 Augering.
785.21 Coal processing plants and support facilities not located within the permit area of a specified mine.
785.22 In-situ processing activities.

AUTHORITY: Secs. 102, 201, 501(b), 503, 504, 506, 507, 508, 509, 510, 511, 513, 514, 515, 516, 517, 519, 527, 529, 701, and 711, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1256, 1257, 1258, 1259, 1260, 1261, 1263, 1264, 1265, 1266, 1267, 1269, 1277, 1279, 1291, 1301).

§ 785.1 Scope.

(a) This Part establishes the minimum requirements for permits for special categories of surface coal mining and reclamation operations. These requirements are in addition to the general permit requirements contained in this Subchapter G.

§ 785.2 Objective.

The objective of this Part is to ensure that permits are issued to categories of surface coal mining and reclamation operations only after the regulatory authority receives information

that shows that the operation will be conducted according to the environmental performance standards of the

§ 785.13 Experimental practices mining.

(a) This section applies to any person who conducts or intends to

(5) That the applicant will conduct special monitoring with respect to the experimental practice during and after

reasonable revision or modification of the permit provisions necessary to ensure that the operations involved

quirements of 30 CFR 816.101–816.105 to restore the land disturbed by such mining to their approximate original

ation is conducted in compliance with the requirements of the Act, this Chapter, and the regulatory program.

that shows that the operation will be conducted according to the environmental performance standards of the Act.

§ 785.11 Anthracite surface coal mining and reclamation operations.

(a) This Section applies to any person who conducts or intends to conduct anthracite surface coal mining and reclamation operations in Pennsylvania.

(b) Each person who intends to conduct anthracite surface coal mining and reclamation operations shall apply for and obtain a permit in accordance with the requirements of this Subchapter. The following standards apply to applications for and issuance of permits:

(1) The environmental protection performance standards of 30 CFR 820.

(2) All of the provisions of Subchapter J except the specified bond limits and the period of revegetation responsibility.

(c) If the Pennsylvania anthracite permanent regulatory program is amended with respect to environmental protection performance standards, specified bond limits, or period of revegetation responsibility, the Secretary shall issue regulations necessary to meet the purposes of the Act. Each person who conducts or intends to conduct anthracite surface coal mining and reclamation operations shall comply with the additional regulations.

§ 785.12 Special bituminous surface coal mining and reclamation operations.

(a) This section applies to any person who conducts or intends to conduct special bituminous coal mining and reclamation operations in Wyoming.

(b) Each application for a permit for a special bituminous coal mine operation shall include, as part of the mining operations and reclamation plan, the detailed descriptions, maps and plans needed to demonstrate that the operations will comply with the requirements of the Act and 30 CFR 825.

(c) The regulatory authority may issue a permit for a special bituminous coal mine operation for which a complete application has been filed in accordance with this section, if it finds, in writing, that the operation will be conducted in compliance with the Act and 30 CFR 825.

(d) Upon amendment or revision to the Wyoming regulatory program, regulations, or decisions made thereunder, governing special bituminous coal mines, the Secretary shall issue additional regulations necessary to meet the purposes of the Act.

§ 785.13 Experimental practices mining.

(a) This section applies to any person who conducts or intends to conduct surface coal mining and reclamation operations under a permit authorizing the use of experimental practices on an expermental basis, from the environmental protection performance standards of Subchapter K and a regulatory program.

(b) The purpose of this Section is to provide permit requirements for the permitting of surface coal mining and reclamation operations that encourage advances in mining and reclamation practices or allow post-mining land use for industrial, commercial, residential or public use (including recreational facilities) on an experimental basis.

(c) Experimental practice, as used in this Section, means the use of alternative surface coal mining and reclamation operational practices on an experimental basis. Experimental practices need not comply with the environmental protection performance standards of Subchapter K or a regulatory program if permitted by this Section.

(d) No person shall engage in or maintain any experimental practice, unless the experimental practice is first approved in a permit by the regulatory authority and the Director.

(e) Each person who desires to conduct an experimental practice shall submit a permit application for the approval of the regulatory authority and the Director. The permit application shall contain appropriate descriptions, maps and plans which show—

(1) The nature of the experimental practice requested.

(2) How use of the experimental practice—

(i) Encourages advances in mining and reclamation technology, or

(ii) Allows a post-mining land use for industrial, commercial, residential, or public use (including recreational facilities) on an experimental basis when the results are not otherwise attainable under the approved regulatory program.

(3) That the mining and reclamation operations proposed for use of experimental practices are not larger or more numerous than necessary to determine the effectiveness and economic feasibility of the experimental practices.

(4) That the experimental practice—

(i) Is potentially more, or at least as, environmentally protective during and after the mining and reclamation operations, as those required under Subchapter K and the regulatory program; and

(ii) Will not reduce the protection afforded public health and safety below that provided by the requirements of Subchapter K and the regulatory program.

(5) That the applicant will conduct special monitoring with respect to the experimental practice during and after the operations involved. The monitoring program shall—

(i) Insure the collection and analysis of sufficient and reliable data to enable the regulatory authority and the Director to make adequate comparisons with other surface coal mining and reclamation operations employing similar experimental practices; and

(ii) Include requirements designed to identify, as soon as possible, potential risks to the environment and public health and safety from the use of the experimental practices.

(f) Each application shall contain provisions that invoke the environmental protection performance standards of Subchapter K in the event the objective of the experimental practice is a failure.

(g) All experimental practices sought shall be specifically identified in the newspaper advertisements by the applicant and the written notifications by the regulatory authority required under 30 CFR 787.11.

(h) No permit authorizing an experimental practice shall be issued, unless the regulatory authority first finds, in writing, upon the basis of both a complete application filed in accordance with the requirements of this section and the comments of the Director that—

(1) The experimental practice meets all of the requirements of paragraphs (e)(2) through (e)(5) of this section;

(2) The experimental practice is based on a clearly defined set of objectives which can reasonably be expected to be achieved;

(3) The experimental practice has been specifically approved, in writing, by the Director, based on his findings that all of the requirements of paragraphs (e)(1) through (e)(5) of this section will be met; and

(4) The permit contains conditions which specifically—

(i) Limit the experimental practice authorized to that granted by the regulatory authority and the Director;

(ii) Impose enforceable alternative environmental protection requirements; and

(iii) Require the person to conduct the periodic monitoring, recording and reporting program set forth in the application, with such additional requirements as the regulatory authority or the Director may require.

(i) Each permit which authorizes the use of an experimental practice shall be reviewed at least every 3 years by the regulatory authority, or at least once prior to the middle of the stated permit term. After review, the regulatory authority shall require by order, supported by written findings, any

reasonable revision or modification of the permit provisions necessary to ensure that the operations involved are conducted to fully protect the environment and public health and safety. Any person who is or may be adversely affected by the order shall be provided with an opportunity for a hearing as established in the regulatory program.

§ 785.14 Steep slope mining.

(a) This section applies to any persons who conducts or intends to conduct steep slope surface coal mining and reclamation operations, except—

(1) Where an operator proposes to conduct surface coal mining and reclamation operations on flat or gently rolling terrain, leaving a plain or predominantly flat area, but on which an occasional steep slope is encountered as the mining operation proceeds;

(2) Where a person obtains a permit under the provisions of Section 785.15; or

(3) To the extent that a person obtains a permit incorporating a variance under Section 785.16.

(b) Steep slope, as used in this Section shall have the same meaning as in Section 826.5 of Subchapter K.

(c) Any application for a permit for surface coal mining and reclamation operations covered by this Section shall contain, in addition to all information required under the other provisions of this Subchapter, sufficient information to establish that the operations will be conducted in accordance with the requirements of 30 CFR 826.12.

(d) No permit shall be issued for any operations covered by this section, unless the regulatory authority finds, in writing, that in addition to meeting all other requirements of this Subchapter, the operation will be conducted in accordance with the requirements of 30 CFR 826.12.

§ 785.15 Mountaintop removal mining.

(a) This section applies to any person who conducts or intends to conduct mountaintop removal mining.

(b) Mountaintop removal mining means surface mining activities, where the mining operation removes an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill, except as provided for in Section 824.11(b)(1) of Subchapter K of this Chapter, by removing substantially all of the overburden off the bench and creating a level plateau or a gently rolling contour, with no high walls remaining, and capable of supporting post-mining land-uses in accordance with the requirements of this Section.

(c) The regulatory authority may issue a permit for mountaintop removal mining, without regard to the requirements of 30 CFR 816.101-816.105 to restore the land disturbed by such mining to their approximate original contour, if it first finds, in writing, on the basis of a complete application, that the following requirements are met:

(1) The proposed post-mining land use of the lands to be affected will be an industrial, commercial, agricultural, residential, or public facility (including recreational facilities) and if—

(i) After consultation with the appropriate land-use planning agencies, if any, the proposed land use is deemed by the regulatory authority to constitute an equal or better economic or public use of the affected land compared with the pre-mining use;

(ii) The applicant demonstrates compliance with the requirements for acceptable alternative post-mining land uses of 30 CFR 816.124;

(iii) The proposed use would be compatible with adjacent land uses and existing State and local land use plans and programs; and

(iv) The regulatory authority has provided, in writing, an opportunity of not more than 60 days to review and comment on such proposed use to the governing body of general purpose government in whose jurisdiction the land is located and any State or Federal agency which the regulatory authority, in its discretion, determines to have in interest in the proposed use.

(2) The applicant has demonstrated that in place of restoration of the land to be affected to the approximate original contour under 30 CFR 816.101-816.105, the operation will be conducted in compliance with the requirements of 30 CFR 824.

(3) The requirements of 30 CFR 824 are made a specific condition of the permit.

(4) All other requirements of the Act, this Chapter, and the regulatory program are met by the proposed operations.

(5) The permit is clearly identified for mountaintop removal mining.

(d) (1) All permits granting approval of the regulatory authority for mountaintop removal mining shall be reviewed and modified not more than 3 years from the date of issuance and each renewal thereof, unless the permittee demonstrates and the regulatory authority finds, in writing, that all operations under the permit are proceeding and will continue to be conducted in accordance with the terms of the permit and requirements of the Act, this Chapter, and the regulatory program.

(2) The terms and conditions of a permit for mountaintop removal mining may be modified at any time by the regulatory authority, if it determines that more stringent measures are necessary to insure that the operation is conducted in compliance with the requirements of the Act, this Chapter, and the regulatory program.

(e) The regulatory authority shall promulgate specific regulations to govern the granting of permits in accordance with the provisions of this Section, and may impose any necessary additional requirements.

§ 785.16 Permits incorporating variances from approximate original contour restoration requirements.

(a) This section applies to nonmountaintop removal, steepslope surface coal mining and reclamation operations under a regulatory program where the operation is not to be reclaimed to achieve the approximate original contour required by 30 CFR 826.12(b).

(b) Steep slope as used in this section, shall have the same meaning as in 30 CFR 826.5.

(c) The objective of this section is to allow for steep slope surface coal mining and reclamation operations that—

(1) Improve watershed control of lands within the permit area and on adjacent lands; and

(2) Make land within the permit area, after reclamation, suitable for an industrial, commercial, or public use, including recreational facilities.

(d) The regulatory authority may issue a permit for surface coal mining and reclamation operations incorporating a variance from the requirement for restoration of affected lands to their approximate original contour. The regulatory may issue the permit only if it first finds, in writing, on the basis of a complete application, that the following requirements are met:

(1) The applicant demonstrates that the purpose of the variance is to make the lands to be affected within the permit area suitable for an industrial, commercial, residential, or public, including recreational facilities, post-mining land use if—

(i) The proposed use, after consultation with the appropriate land-use planning agencies, if any, constitutes an equal or better economic or public use; and

(ii) The applicant demonstrates compliance with the requirements for acceptable alternative post-mining land uses of 30 CFR 816.124.

(2) The applicant demonstrates that the watershed of lands within the permit area and adjacent areas will be improved by the operations, through—

(i) A reduction in the amount of total suspended solids or other pollutants discharged to ground or surface waters from the permit area as compared to such discharges prior to mining, so as to improve public or private uses or the ecology of such waters; or

(ii) Reduced flood hazards within the watershed containing the permit

surface coal mining and reclamation operations on prime farmlands, except for areas that were under a coal

(3) When a soil survey for lands within the proposed permit area contains soil mapping units which have

during seasons when vegetation or conservation practices cannot be established due to weather conditions.

operation for the surface mining activities is completed.

(b) The objective of this Section is to

ic, feasible plans for the proposed underground mining operations;

(2) The proposed underground

(ii) Reduced flood hazards within the watershed containing the permit area by reduction of the peak flow discharges from precipitation events or thaws; and

(iii) The appropriate State environmental agency approves the plan.

(3) The applicant shall demonstrate that the owner of the surface of the lands within the permit area has knowingly requested, in writing, as part of the application, that a variance be granted. The request shall be made separately from any surface owner consent given for the operations involved under Section 778.15 and show an understanding that the variance could not be granted without the surface owner's request.

(4) The applicant shall demonstrate that the proposed operations will be conducted in compliance with the requirements of Section 826.13 of Part 826 of Subchapter K.

(5) The requirements of Section 826.13 are made a specific condition of the permit.

(6) The permit is specifically marked as containing a variance from approximate original contour.

(7) All other requirements of the Act, this Chapter, and the regulatory program are to be met by the proposed operations.

(e) (1) Any permits incorporating a variance issued under this section shall be reviewed and modified by the regulatory authority—

(i) Not later than 3 years from the date of its issuance;

(ii) Before each permit renewal;

(iii) Not later than the middle of each permit term.

(2) If the permittee demonstrates to the regulatory authority that the operations involved have been and continue to be conducted in compliance with the terms and conditions of the permit and the requirements of the Act, this Chapter and the regulatory program the review need not be held.

(f) The terms and conditions of a permit incorporating a variance under this section may be modified at any time by the regulatory authority, if it determines that more stringent measures are necessary to insure that the operations involved are conducted in compliance with the requirements of this Act, this Chapter and the regulatory program.

(g) The regulatory authority shall promulgate specific regulations to govern the granting of variances in accordance with the provisions of this Section and may impose additional requirements as it deems to be necessary.

§ 785.17 Prime farmlands.

(a) *Scope.*

This Section applies to any person who conducts or intends to conduct surface coal mining and reclamation operations on prime farmlands, except for areas that were under a coal mining permit approved prior to August 3, 1977.

(b) *Definition.* Soil survey means a field and other investigation, resulting in a map showing the geographic distribution of different kinds of soils and an accompanying report that describes, classifies, and interprets for use such soils. The survey must meet the National Cooperative Soil Survey standards and be conducted according to the procedures set forth in U.S. Department of Agriculture Handbooks 436 (Soil Taxonomy) and 18 (Soil Survey Manual).

(c) *Pre-application investigation of prime farmland.*

(1) Land shall not be considered prime farmland where the applicant can demonstrate one or more of the following situations:

(i) The land has not been historically used for the production of cultivated crops;

(ii) The slope of the land is 10 percent or greater;

(iii) The land is not irrigated or naturally subirrigated, has no developed water supply that is dependable and of adequate quality, and the average annual precipitation is 14 inches or less;

(iv) Other factors exist, such as a very rocky surface, or the land is frequently flooded; or

(v) On the basis of a soil survey of lands within the permit area, there are no soil map units that have been designated prime farmland by the U.S. Soil Conservation Service.

(2) If the pre-application investigation establishes that the lands within the proposed permit area are not prime farmland, the applicant shall submit with the permit application a request for negative determination, in accordance with paragraph (1) of this section.

(d) *Identification of prime farmland.*

(1) If the results of the pre-application investigation suggest that lands within the proposed permit area may be prime farmlands, the applicant shall contact the U.S. Soil Conservation Service, to determine if such lands have a soil survey and whether the applicable soil mapping units have been designated as prime farmlands. If no such soil survey has been made for the lands within the proposed permit area, the applicant shall cause such a survey to be made.

(2) When a soil survey of lands within the proposed permit area contains soil mapping units which have been designated as prime farmlands, the applicant shall submit a permit application, in accordance with paragraph (e) of this section for such designated land.

(3) When a soil survey for lands within the proposed permit area contains soil mapping units which have not been designated, after review by the U.S. Soil Conservation Service, as prime farmland, the applicant shall submit a request for negative determination for non-designated land with the permit application in accordance with paragraph (c) of this section.

(e) *Application contents for prime farmland.*

If land within the proposed permit area is identified as prime farmland under paragraph (d) of this section, the applicant shall submit a plan for the mining and restoration of the land. The plan shall be reviewed by the U.S. Soil Conservation Service and used by the regulatory authority, with other relevant information, to judge the technological capability of the applicant to restore prime farmlands in accordance with Part 823 of Subchapter K. Each plan shall contain, at a minimum—

(1) A mapping unit description of each soil, according to the standards of the National Cooperative Soil Survey and in accordance with the procedures set forth in U.S. Department of Agriculture Handbooks 436 (Soil Taxonomy) and 18 (Soil Survey Manual). The description shall include a representative soil profile description from within the permit area and show the depth and thickness of each of the soil horizons that—

(i) Collectively constitute the root zone of the locally adapted cultivated crops; and

(ii) Are to be removed, stored and replaced.

(2) The proposed method and type of equipment to be used for removal, storage, and replacement of the soil in accordance with 30 CFR 823.

(3) The location of areas to be used for the separate stockpiling of the soil and plans for soil stabilization before redistribution.

(4) If applicable, documentation, such as agricultural school studies or other scientific data from comparable areas, that supports the use of other suitable material, instead of the A, B, or C soil horizon, to obtain on the restored area equivalent or higher levels of yield as non-mined prime farmlands in the surrounding area under equivalent levels of management.

(5) Plans for seeding or cropping the final graded disturbed land and the conservation practices to be used to adequately control erosion and sedimentation and restoration of an adequate soil moisture regime, during the period from completion of regrading until release of the performance bond or equivalent guarantee under Subchapter J. Proper adjustments for seasons must be proposed so that final graded land is not exposed to erosion

during seasons when vegetation or conservation practices cannot be established due to weather conditions.

(6) Available agricultural school studies, company data, or other scientific data for comparable areas that demonstrate that the proposed method of reclamation achieves, within a reasonable time, equivalent or higher levels of yield after mining as existed before mining.

(f) *Consultation with Secretary of Agriculture and Issuance of Permit.*

(1) Before any permit is issued for areas that include prime farmlands, the regulatory authority shall consult with the Secretary of Agriculture. The Secretary of Agriculture provides for review and comment of the proposed method of soil reconstruction in the plan submitted under paragraph (e) of this Section and, if inadequate, shall suggest revisions that will result in a more complete and adequate restoration. The Secretary of Agriculture has assigned his responsibilities under this Section to the Administrator of the U.S. Soil Conservation Service. The Soil Conservation Service shall carry out consultation and review through the State Conservationist located in each State.

(2) A permit for the mining and reclamation of prime farmland may be granted by the regulatory authority, if it first finds, in writing, upon the basis of a complete application, that—

(i) The proposed post-mining land use is prime farmland;

(ii) The permit incorporates as specific conditions the contents of the plan submitted under paragraph (e) of this section, which considers any revisions suggested by the Secretary of Agriculture;

(iii) The applicant has the technological capability to restore the prime farmland, within a reasonable time, to equivalent or higher levels of yield as non-mined prime farmland in the surrounding area under equivalent levels of management; and

(iv) The proposed operations shall be conducted in compliance with the requirements of 30 CFR 823 of and other environmental protection performance standards for prime farmland of the regulatory program.

785.18 Variances for delay in contemporaneous reclamation requirement in combined surface and underground mining operations.

(a) *Scope.* This Section applies to any person who conducts or intends to conduct combined surface coal mining activities and underground coal mining operations where contemporaneous reclamation as required by Section 515(b)(16) is not practicable and a delay is requested to allow underground mining before the reclamation operation for the surface mining activities is completed.

(b) The objective of this Section is to allow for delay in the reclamation activity if it allows the underground mining operations to be conducted to ensure both the maximum practical recovery of coal resources and to avoid multiple disturbances of surface lands or waters.

(c) Any person who conducts surface coal mining and reclamation operations shall comply with the contemporaneous reclamation requirements of Section 515(b)(16) of the Act, these regulations, and the State program unless a variance from those requirements is granted in the permit issued to that person by the regulatory authority.

(d) *Application contents for variances.*

Any person who desires to obtain a variance under this section shall file with the regulatory authority complete applications for both the surface coal mining activities and underground mining activities which are to be combined. The mining and reclamation operation plans for these permits shall contain appropriate narratives, maps and plans, which—

(1) Show why the proposed underground mining operations are necessary or desirable to assure maximum practical recovery of coal;

(2) Show how multiple disturbances of surface lands or waters will be avoided;

(3) Identify the specific surface areas for which a variance is sought and the particular sections of the Act, these regulations, or the State program from which a variance is being sought;

(4) Show how the operation will comply with 30 CFR 818 and with the other applicable requirements of the regulatory program;

(5) Show why the variance sought is necessary for the implementation of the proposed underground mining operations;

(6) Provide an assessment of the adverse environmental damages, if any, that will result if the reclamation proceeded in accordance with Section 515(b)(16) of the Act, these regulations, and the regulatory program; and

(7) Show how off-site storage of spoil will be conducted to comply with the requirements of the Act, 30 CFR 818, and the regulatory program.

(e) *Issuance of permit.*

A permit incorporating a variance under this section may be issued by the regulatory authority, if it first finds, in writing, upon the basis of a complete application filed in accordance with this Section, that—

(1) The applicant has presented, as part of the permit application, specific, feasible plans for the proposed underground mining operations;

(2) The proposed underground mining activities are necessary or desirable to assure maximum practical recovery of the mineral resource and will avoid multiple disturbance of surface land or waters;

(3) The applicant has satisfactorily demonstrated that the applications for the surface mining activities and underground mining operations conform to the requirements of the regulatory program and that all other permits necessary for the underground mining activities have been issued by the appropriate authority;

(4) The surface area of surface coal mining activities proposed for the variance have been shown by the applicant to be necessary for implementing the proposed underground mining activities;

(5) No substantial adverse environmental damage, either on-site or off-site, will result from the delay in completion of reclamation, as practicable, otherwise required by Section 515(b)(16) of the Act, 30 CFR 816.100-816.123 and the regulatory program.

(6) The operations will, insofar as a variance is authorized, be conducted in compliance with the requirements of Part 818 of Subchapter K and the regulatory program;

(7) Provisions for off-site storage of spoil will comply with the requirements of Part 818 of Subchapter K and the regulatory program;

(8) The liability under the bond filed by the applicant with the regulatory authority pursuant to Subchapter J of this Chapter and the regulatory program shall be for the duration of the underground mining activities and until all requirements of Subchapter J and the regulatory program have been complied with; and

(9) The permit for the surface mining activities contains specific conditions—

(i) Delineating the particular surface areas for which a variance is authorized;

(ii) Identifying the particular requirements of Part 818 and the regulatory program which are to be complied with, in lieu of the otherwise applicable provisions of Section 515(b)(16) of the Act, 30 CFR 816.100-816.123 and the regulatory program; and

(iii) Providing a detailed schedule for compliance with the particular requirements of Part 818 and the regulatory program identified under paragraph (e)(9)(i) of this Section.

(f) *Review of permits containing variances.*

Variances granted under permits issued under this Section shall be reviewed by the regulatory authority no later than 3 years from the dates of is-

suance of the permit and any permit renewals.

(iii) Mapping of all lands that were flood irrigated during any 5 years or

burden to determine the effect of mining and reclamation on water quality

water which include, but are not limited to—

not within a permit area of a specific mine. Any person who operates a pro-

suance of the permit and any permit renewals.

§ 785.19 Surface coal mining and reclamation operations on areas or adjacent to areas including alluvial valley floors in the arid or semi-arid areas west of the 100th meridian.

(a) *Scope.* This section applies each person who conducts or intends to conduct surface coal mining and reclamation operations which may affect alluvial valley floors in the arid or semi-arid areas of the United States located west of the 100th meridian.

(b) No person shall engage in surface coal mining and reclamation operations subject to this Section, except under a permit issued by the regulatory authority in accordance with the requirements of 30 CFR 786.17.

(c) *Pre-application reconnaissance investigation and report.*

(1) Before applying for a permit to conduct surface coal mining and reclamation operations within a valley holding a stream or within 2 miles of any stream in the arid or semi-arid areas of the United States located west of the 100th meridian west longitude, the applicant shall submit to the regulatory authority the results of a field investigation of the lands proposed to be affected. The field investigators shall include sufficiently detailed geologic, hydrologic, land use, soils, and vegetation studies on areas determined in consultation with the regulatory authority to enable the regulatory authority to make a determination as to the existence of an alluvial valley floor in or near the proposed permit area. The Secretary may also choose to publish the results of alluvial valley floor mapping in which case all areas so mapped would be considered alluvial valley floors for the purposes of this paragraph. Studies performed during the investigation by the applicant shall include—

(i) Mapping of all unconsolidated stream-laid deposits holding streams including, but not limited to, geologic maps of all unconsolidated deposits, and all stream-laid deposits, maps of streams, delineation of surface watersheds and directions of shallow ground water flows through and into the unconsolidated deposits, topography showing local and regional terrace levels, and topography of terraces, flood plains and channels showing surface damage patterns.

(ii) Mapping of all lands included in the area in accordance with paragraph (i) of this Section and subject to agricultural activities, showing the area in which different types of agricultural lands, such as flood irrigated lands, pasture lands and undeveloped rangeland exist, and accompanied by measurements of vegetation in terms of productivity and type.

(iii) Mapping of all lands that were flood irrigated during any 5 years or more out of the 20 years immediately preceding the date of the field investigation showing the location of each diversion structure, ditch, dam related reservoir, irrigated land, and topography there.

(iv) Documentation that areas identified in paragraph (i) of this Section are, or are not, subirrigated based on appropriate combination of ground water monitoring measured 1 year's site data, soil moisture measurements, and measurements of rooting depth, soil, mottling, and water requirements of vegetation.

(v) Documentation that areas identified in paragraph (i) of this Section are, or are not, flood irrigable based on streamflow, water quality, water yield, soils measurements and topographic characteristics and based on a minimum of 1 year of on-site data.

(vi) Analysis of a series of aerial photographs including color infrared imagery flown at a time of year to show any late summer and fall differences between upland and valley floor vegetative growth and of a scale adequate for reconnaissance identification of areas that may be alluvial valley floors.

(vii) Maps showing farms that could be affected by the mining and, if any farm includes an alluvial valley floor, statements of the type and quantity of agricultural activity performed on the alluvial valley floor and its relationship to the farm's total agricultural activity including an economic analysis.

(2) Based on the studies conducted under Section 785.19(c)(1), the regulatory authority shall make a determination of the extent of any alluvial valley floors within the study area and whether any stream in the study area may be excluded from further consideration as lying within an alluvial valley floor. These determinations shall be based on—

(i) The presence of unconsolidated streamlaid deposits holding streams; and,

(ii) The availability of sufficient water to support agricultural activities by delineation of:

(A) The existence of flood irrigation in the area in question or its historical use;

(B) The capability of an area to be flood irrigated, based on stream-flow water yield, soils, water quality, and topography; or,

(C) Subirrigation of the lands in question derived from the ground water system of the valley floor and not artificially maintained by ponds or reservoirs.

(d) *Application contents for operations affecting designated alluvial valley floors.*

(1) If land within or adjacent to the proposed permit area is identified as an alluvial valley floor and the proposed mining operation may affect that land, the applicant shall submit a complete application for the proposed mining and reclamation to be used by the regulatory authority together with other relevant information as a basis for approval or denial of the permit under Part 786. The complete application shall include detailed surveys and baseline data required by the regulatory authority for a determination of—

(i) The characteristics of the alluvial valley floor which are necessary to preserve the essential hydrologic functions during and after mining;

(ii) The significance of the area to be affected to agricultural activities;

(iii) Whether the operation will cause, or presents an unacceptable risk of causing, material damage to the quantity or quality of surface or ground waters that supply the alluvial valley floor; and

(iv) The effectiveness of proposed reclamation and identification of specific standards of performance against which the requirements of Part 822 of this chapter may be measured, including protection from damage by underground mining such as by a change in quantity or quality of water by such mining.

(2) Information required under this paragraph shall include, but not be limited to—

(i) Geologic data, including geologic structure, and surficial geologic maps, and geologic cross-sections;

(ii) Soils and vegetation data, including a detailed soil survey and chemical and physical analyses of soils, a vegetation map and narrative descriptions of quantitative and qualitative surveys and land use data including an evaluation of crop yields;

(iii) Surveys and data required under this paragraph for areas-designated as alluvial valley floors because of their flood irrigation characteristics, shall also include at a minimum, surface hydrologic data, including streamflow recording for a 1-year period, runoff, and sediment yield, field geomorphic surveys and other geomorphic study, and water quality analyses for a full year;

(iv) Surveys and data required under this paragraph for areas designated as alluvial valley floors because of their subirrigation characteristics, shall also include, at a minimum, geohydrologic data including observation well establishment, water level measurements, ground water contour maps, testing to determine aquifer characteristics that affect waters supplying the alluvial valley floors, well and spring inventories, water quality analyses, and physical and chemical analysis of over-

burden to determine the effect of mining and reclamation on water quality and quantity;

(v) Plans showing how the operation will avoid, during mining and reclamation, the interruption, discontinuance or preclusion of farming on the alluvial valley floors and will not materially damage the quantity or quality of water in surface and ground water systems that supply such valley floors; and

(vi) Such other data as the regulatory authority may require.

(3) The surveys required by this paragraph should identify those geologic, hydrologic, and biologic characteristics of the alluvial valley floor necessary to support the essential hydrologic functions of an alluvial valley floor. Characteristics which support the essential hydrologic functions and which must be included in a complete application include, but are not limited to:

(i) Characteristics supporting the function of collecting water which include, but are not limited to—

(A) the amount and rate of runoff and a water balance analysis with respect to rainfall, evapotranspiration, infiltration and ground water recharge;

(B) the relief, slope, and density of the network of drainage channels;

(C) the infiltration, permeability, porosity and transmissivity of unconsolidated deposits of the valley floor that either constitute the aquifer associated with the stream or lie between the aquifer and the stream; and

(D) other factors that effect the interchange of water between surface streams and ground water systems including the depth to ground water, the direction of ground water flow, the extent to which the stream and associated alluvial ground water aquifers provide recharge to, or are recharged by bedrock aquifers.

(ii) Characteristics supporting the function of storing water which include, but are not limited to—

(A) surface roughness, slope, and vegetation of the channel, flood plain, and low terraces that retard the flow of surface waters;

(B) porosity, permeability, waterholding capacity, saturated thickness and volume of aquifers associated with streams, including alluvial aquifers, perched aquifers, and other water bearing zones found beneath valley floors; and

(C) moisture held in soils or the plant growth medium within the alluvial valley floor, and the physical and chemical properties of the subsoil that provide for sustained vegetation growth or cover during extended periods of low precipitation.

(iii) Characteristics supporting the function of regulating the flow of water which include, but are not limited to—

(A) the geometry and physical character of the valley expressed in terms of the longitudinal profile and slope of the valley and the channel, the sinuosity of the channel, the cross-section, slopes and proportions of the channels, flood plains and low terraces, the nature and stability of the stream banks and the vegetation established in the channels and along the stream banks and flood plains;

(B) the nature of surface flows as shown by the frequency and duration of flows of representative magnitude including low flows and floods; and

(C) the nature of interchange of water between streams, their associated alluvial aquifers and any bedrock aquifers as shown by the rate and amount of water supplied by the stream to associated alluvial and bedrock aquifers (i.e., recharge) and by the rates and amounts of water supplied by aquifers to the stream (i.e., baseflow);

(iv) Characteristics which make water available and which include, but are not limited to—

(A) the presence of land forms including flood plains and terraces suitable for agricultural activities;

(e) Each application for a permit under this Section shall be granted or denied according to the requirements of 30 CFR 786.17. In making a determination according to those criteria, a change in the post-mining land use compared to the land use prior to any mining shall be allowed in or adjacent to alluvial valley floors only when the essential hydrologic functions of the alluvial valley floor will be preserved.

§ 785.20 Augering.

(a) This Section applies to any person who conducts or intends to conduct surface coal mining and reclamation operations utilizing augering operations.

(b) Any application for a permit for operations covered by this Section shall contain, in the mining and reclamation operation plan, the augering methods to be used and the measures to be used to comply with 30 CFR 819.

(c) No permit shall be issued for any operations covered by this Section, unless the regulatory authority finds, in writing, that in addition to meeting all other requirements of this Subchapter, the operation will be conducted in compliance with 30 CFR 819.

§ 785.21 Coal processing plants and support facilities not located within the permit area of a specified mine.

(a) This section applies to any person who conducts or intends to conduct surface coal mining and reclamation operations involving coal processing plants and support facilities not within a permit area of a specific mine. Any person who operates a processing plant or support facility shall have obtained a permit from the regulatory authority under the regulatory program in accordance with the requirements of this Section.

(b) Any application for a permit for operations covered by this Section shall contain in the mining and reclamation plan, specific plans, including descriptions, maps and cross-sections of the construction, operation, maintenance and removal of the processing plants and associated support facilities. The plan shall demonstrate that those operations will be conducted in compliance with 30 CFR 827.

(c) No permit shall be issued for any operation covered by this Section, unless the regulatory authority finds, in writing, that, in addition to meeting all other applicable requirements of this Subchapter, the operations will be conducted in compliance with the requirements of 30 CFR 827.

§ 785.22 In situ processing activities.

(a) This Section applies to any person who conducts or intends to conduct surface coal mining and reclamation operations utilizing in situ processing activities.

(b) Any application for a permit for operations covered by this Section shall be made according to all requirements of this Subchapter applicable to underground mining activities. In addition, the mining and reclamation operations plan for operations involving in situ processing activities shall contain information establishing how those operations will be conducted in compliance with the requirements of 30 CFR 828, including—

(1) Delineation of proposed holes and wells and production zone for approval of the regulatory authority;

(2) Specifications of drill holes and casings proposed to be used;

(3) A plan for treatment, confinement or disposal of all acid-forming, toxic-forming or radioactive gases, solids, or liquids constituting a fire, health, safety or environmental hazard caused by the mining and recovery process; and

(4) Plans for monitoring surface and groundwater and air quality.

(c) No permit shall be issued for operations covered by this Section, unless the regulatory authority first finds, in writing, upon the basis of a complete application made in accordance with paragraph (b) of this Section, that the operation will be conducted in compliance with all requirements of this Subchapter relating to underground mining activities, and 30 CFR 817 and 828.

PART 786—TERMS AND CONDITIONS OF PERMITS AND CRITERIA FOR APPROVAL OR DENIAL OF PERMITS

upon a written showing that such extensions of time are necessary, if—

(i) Litigation precludes the com-

under 30 CFR 779 or 783 and approved for the term of the permit.

damage to the hydrologic balance outside the permit area.

(d) The area within the proposed permit is:

ments of 30 CFR 785.19 for the mining of prime farmland.

(i) The proposed post-mining land use of the permit area has been ap-

hayed, cropped or otherwise harvested lands of the farm.

(d) (1) Materially damage as used in this section means changes in the

PART 786—TERMS AND CONDITIONS OF PERMITS AND CRITERIA FOR APPROVAL OR DENIAL OF PERMITS

Sec.
786.1 Scope.
786.2 Objectives.
786.4 Responsibility.
786.11 Permit terms.
786.12 Conditions of permits: General and right of entry.
786.13 Conditions of permits: Environment, public health and safety.
786.15 Criteria for permit approval or denial: General.
786.17 Criteria for permit approval or denial: Alluvial valley floors.

AUTHORITY: Secs. 201, 501, 503, 505, 506, 507, 508, 509, 515, 516, 517, and 522, Pub. L. 95-87 (30 U.S.C. Sections 1211, 1251, 1255, 1256, 1257, 1258, 1259, 1260, 1265, 1266, 1267, and 1272).

§ 786.1 Scope.

This Part sets forth the minimum requirements for the approval or denial of permits to conduct surface coal mining and reclamation operations and for the terms and conditions of permits issued under regulatory programs.

§ 786.2 Objectives.

The objective of this Part is to provide the minimum requirements for the terms and conditions of permits issued under regulatory programs and the criteria by which regulatory authorities determine whether to approve or deny such permits.

§ 786.4 Responsibility.

The State regulatory authority has the responsibility to approve or deny permits under an approved State program. The Regional Director has the responsibility to approve or deny permits under a Federal program.

§ 786.11 Permit terms.

(a) Each permit shall be issued for a fixed term not to exceed 5 years. A longer fixed permit term may be granted if—

(1) The application is full and complete for the specified longer term; and

(2) The applicant shows that a specified longer term is reasonably needed to allow the applicant to obtain necessary financing for equipment needed for opening of the operation and this need is confirmed, in writing, by the applicant's proposed source for the financing.

(b) (1) A permit shall terminate, if the permittee has not begun the surface coal mining and reclamation operation covered by the permit within 3 years of the issuance of the permit.

(2) The regulatory authority may grant reasonable extensions of time for commencement of these operations upon a written showing that such extensions of time are necessary, if—

(i) Litigation precludes the commencement or threatens substantial economic loss to the permittee, or

(ii) There are conditions beyond the control and without the fault or negligence of the permittee.

(3) With respect to coal to be mined for use in a synthetic fuel facility or specified major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at the time that the construction of the synthetic fuel or generating facility is initiated.

(4) Extensions of time granted by the regulatory authority under subparagraph (b)(2) of this section shall be specifically set forth in the permit and notice of the extension shall be made to the public.

(c) Permits may be suspended, revoked, or modified by the regulatory authority, in accordance with 30 CFR Part 736 and 30 CFR 785.13, 785.15, 785.16, 785.18 and 790.11.

§ 786.12 Conditions of permits: General and right of entry.

Each permit issued by the regulatory authority shall ensure that—

(a) Except to the extent that the regulatory authority otherwise directs in the permit that specific actions be taken, the permittee shall conduct all surface coal mining and reclamation operations as described in the complete application; and

(b) The permittee shall allow the authorized representatives of the Secretary, including, but not limited to, inspectors and fee compliance officers and the State regulatory authority, without advance notice or a search warrant, upon presentation of appropriate credentials, and without delay, to—

(1) Enter upon or through any surface coal mining and reclamation operations to:

(i) Inspect any coal mining and reclamation operation, monitoring equipment, or procedure conducted pursuant to the permit; and

(ii) Collect samples and other relevant information regarding air or water, fish and wildlife, soils, vegetation and other resources protected under the Act, this Chapter and the State program; and

(iii) Obtain access to and copy any records required to be maintained under the terms and conditions of the permit or the regulatory program.

(2) Be accompanied by private persons for the purpose of conducting an inspection in accordance with 30 CFR Parts 840 and 842.

(c) The permittee shall conduct surface coal mining and reclamation operations only on those lands specifically designated on the map submitted under 30 CFR 779 or 783 and approved for the term of the permit.

§ 786.13 Conditions of permits: Environment, public health and safety.

Each permit issued by the regulatory authority shall ensure and shall contain conditions requiring that the—

(a) Permittee shall take all possible steps to minimize any adverse impact to the environment or public health and safety resulting from noncompliance with any term or condition of the permit, including, but not limited to:

(1) Any accelerated or additional monitoring necessary to determine the nature and extent of noncompliance and the results of the noncompliance;

(2) Immediate implementation of measures necessary to comply; and

(3) Warning, as soon as possible after learning of such noncompliance, any person who may be adversely affected by the noncompliance.

(b) The permittee shall dispose of solids, sludge, filter backwash, or pollutants removed in the course of treatment or control of waters or emissions to the air in the manner required by Subchapter K of this Chapter, the regulatory program and which prevents violation of any other applicable State or Federal law.

(c) The permittee shall take other actions that further the terms and conditions of the permit, purposes and provisions of the Act, this Chapter, and the State program.

§ 786.15 Criteria for permit approval or denial: General.

No permit or revision application shall be approved, unless the application demonstrates and the regulatory authority finds, in writing, on the basis of information set forth in the application or from information otherwise available, which is documented in the approval and made available to the applicant, that—

(a) The permit application is accurate and complete and that all requirements of the Act, this Chapter, and the regulatory program have been complied with.

(b) The applicant has demonstrated that surface coal mining and reclamation operations, as required by the Act, this Chapter, and the regulatory program can be accomplished under the mining operations and reclamation plan contained in the permit application.

(c) The assessment of the probable cumulative effect of all anticipated coal mining in the area on the hydrologic balance, as described in 30 CFR 780.21(c) or 784.13(c), has been made by the regulatory authority, and the operations proposed under the application have been designed to prevent

damage to the hydrologic balance outside the permit area.

(d) The area within the proposed permit is:

(1) Not included within an area designated unsuitable for surface coal mining under 30 CFR 764; or

(2) Not within an area under study for designation as unsuitable for coal mining in an administrative proceeding begun under 30 CFR 764 unless the applicant demonstrates that, before January 1, 1977 he has made substantial legal and financial commitments in relation to the operation for which he is applying for a permit; or,

(3) Not on any lands subject to the prohibition or limitation of Section 761.11 (a), (f), or (g); or

(4) Not within 100 feet of the outside right-of-way line of any public road, except as provided for in Section 761.12(d); or

(5) Not within 300 feet from any occupied dwelling, except as provided for in Sections 761.11(e) and 761.12(e).

(e) The proposed operations will not adversely affect any publicly-owned parks or places included or eligible for listing in the National Register of Historic Places, except as provided for in 30 CFR 761.12(b).

(f) For operations involving the surface mining of coal where the private mineral estate to be mined has been severed from the private surface estate, the applicant has submitted to the regulatory authority the documentation required under Section 778.15(b).

(g) The applicant has submitted proof that any violation identified under Section 788.12(c) has been corrected or is in the process of being corrected to the satisfaction of the regulatory authority, department, or agency which has jurisdiction over such violation.

(h) The applicant or the operator, if other than the applicant, does not control and has not controlled mining operations with a demonstrated pattern of willful violations of the Act of such nature, duration, and with such resulting irreparable damage to the environment that indicates an intent not to comply with the provisions of the Act.

(i) Surface coal mining and reclamation operations to be performed under the permit are not inconsistent with other such operations anticipated to be performed in areas adjacent to the proposed permit area.

(j) The applicant has submitted the performance bond or other equivalent guarantee required under Subchapter J and the regulatory program.

(k) The applicant has, with respect to prime farmland, obtained either a negative determination under Section 785.19 or has satisfied the requirements of 30 CFR 785.19 for the mining of prime farmland.

(l) The proposed post-mining land use of the permit area has been approved by the regulatory authority in accordance with the requirements of 30 CFR 816.124 or 817.124.

(m) The regulatory authority has made all specific approvals required under Part 816 or Part 817 of this Chapter.

§ 786.17 Criteria for permit approval or denial: Alluvial valley floors.

(a) No permit or revision application, for surface coal mining and reclamation operations on lands located west of the one hundredth meridian west longitude, shall be approved by the regulatory authority, unless the application demonstrates and the regulatory authority finds, in writing, on the basis of information set forth in the application in accordance with Section 785.18, that—

(1) The proposed operations would not interrupt, discontinue, or preclude farming on alluvial valley floors, unless the premining land use has been undeveloped range land which is not significant to farming on the alluvial valley floors, or unless the area of affected alluvial valley floor is small and provides, or may provide, negligible support for production of one or more farms; and

(2) The proposed operations would not materially damage the quantity or quality of water in surface or underground water systems that supply alluvial valley floors; and

(3) The application establishes that the proposed operations would be conducted in accordance with 30 CFR 822.

(b) This section does not apply to those surface coal mining operations that—

(1) Were in production in the year preceding August 3, 1977, were located in or adjacent to an alluvial valley floor, and produced coal in commercial quantities during the year preceding August 3, 1977; or

(2) Had specific permit approval by the State regulatory authority before August 3, 1977, to conduct surface coal mining operations for an area within an alluvial valley floor.

(c) The significance of the impact of the proposed operations on farming will be based on the importance of the grazed or hayed alluvial valley floor area to one or more farm's production, or any more stringent criteria established by the regulatory authority as suitable for site-specific protection of agricultural activities in alluvial valley floors. The effect of the proposed operations on farming will be concluded to be significant, if they would eliminate, over the life of the mine, 10 percent or more of the grazing area of the farm or 10 percent or more of the hayed, cropped or otherwise harvested lands of the farm.

(d) (1) Materially damage as used in this section means changes in the quality or quantity of the water supply to any portion of an alluvial valley floor, where such changes are caused by surface coal mining and reclamation operations and result in changes in ground water quantity or quality that cause significant and adverse changes in composition, diversity, or productivity of vegetation dependent on subirrigation, or which result in changes in surface water quality and quantity that would limit the adequacy of the water for flood irrigation of the irrigable land acreage existing prior to mining.

(2) Criteria for determining that material damage would occur include, but are not limited to—

(i) Potential increases in the concentration of total dissolved solids of waters supplied to any portion of an alluvial valley floor, as measured by specific conductivity in millimhos, to levels above the threshold value at which crop yields decrease:

(A) As specified in Moss and Hoffman, Crop-Salt Tolerances—Current Assessment, June 1977, Journal of Irrigation and Drainage Division of the American Society of Civil Engineers; unless the applicant demonstrates, through testing related to crops in the locality of the proposed operations, taking into account water relationships, that higher threshold values will not result in crop yield decreases; or,

(B) For types of vegetation not listed pursuant to (A), as specified by the regulatory authority, based upon consideration of observed correlation between total dissolved solid concentrations in water and crop yield declines, taking into account an adequate margin of safety;

(ii) Potential increases in the average depth to water saturated zones (during the growing season) located within one root zone of the alluvial valley floor that would reduce the amount of subirrigable land compared to pre-mining conditions;

(iii) Potential decreases in surface flows that would reduce the amount of irrigable land compared to pre-mining conditions; and

(iv) Potential changes in the surface or ground water systems that reduce the area available to agriculture through flooding or water logging.

(e) For the purposes of this paragraph, a farm or ranch is generally considered to be a coherent land unit with acreage and boundaries in existence prior to August 3, 1977 or, if established after August 3, 1977, with those boundaries based on enhancement of the units' agricultural produc-

tivity and not related to surface coal mining operations.

(ii) Be large enough to allow local residents to readily identify the proposed permit area;

(5) Other persons who have requested, in writing, that the regulatory authority provide notice of proposed sur-

(1) Transmit a copy of them to the applicant; and,

(2) File a copy for public inspection

be accessible to the parties to the conference until final release of the applicant's performance bond pursuant to

1202(i), 1211, 1251, 1253, 1256, 1257, 1258, 1259, 1260, 1261, 1263, 1264, 1267, and 1277(e)).

tivity and not related to surface coal mining operations.

PART 787—PUBLIC PARTICIPATION IN PERMIT REVIEW PROCESS

Sec.
787.1 Scope.
787.2 Objectives.
787.4 Responsibilities.
787.11 Public notices of filing of permit applications.
787.12 Opportunity for submission of written comments on permit applications.
787.13 Right to file written objections.
787.14 Informal conferences.
787.15 Public availability of information in permit applications on file with the regulatory authority.

AUTHORITY: Secs. 102(i), 201, 501, 503, 507, 508, 510, 513, and 522(e), Pub. L. 95-87 (30 U.S.C. Section 1202(i), 1211, 1251, 1253, 1257, 1258, 1260, 1263, and 1272(e)).

§ 787.1 Scope.

This Part establishes the minimum requirements for the Secretary's approval of the provisions of regulatory programs for public participation in the permit process under such programs.

§ 787.2 Objectives.

The objectives of this Part are to provide for broad and effective public participation in the review, issuance or denial of permits by regulatory authorities under regulatory programs.

§ 787.4 Responsibilities.

(a) The regulatory authority and persons attempting to obtain permits under regulatory programs shall fully involve the public throughout the permit process of regulatory programs.

(b) The regulatory authority shall insure that the requirements of this Part are implemented under regulatory programs.

§ 787.11 Public notices of filing of permit applications.

(a) An applicant for a permit shall place an advertisement in a local newspaper of general circulation in the locality of the proposed surface mine, at least once a week for four consecutive weeks. The applicant shall place the advertisement in the newspaper at the same time the permit application is filed with the regulatory authority. The advertisement shall contain, at a minimum, the following information:

(1) the name and business address of the applicant, and

(2) a map describing the exact location and boundaries of the proposed site, which shall—

(i) Identify the area of the proposed operation to correspond with the area proposed under the permit application;

(ii) Be large enough to allow local residents to readily identify the proposed permit area;

(iii) Indicate the north point for the U.S. Geological Survey Quadrangle map in which the proposed operation is contained, and the precise location of the proposed operations; and

(iv) Indicate the names and locations of all streams or other bodies of surface water, roads, and communities shown in the U.S. Geological Survey Quadrangle map for the area in which the proposed operation will occur; and

(3) The location where a copy of the application is available for public inspection under paragraph (c) of this Section; and

(4) The name and address of the regulatory authority to which written comments, objections, or requests for informal conferences on the application may be submitted under Section 787.14.

(5) If an applicant seeks a permit to mine within 100 feet of the outside right-of-way of a public road or to relocate such a road under 30 CFR 761.12(d), the advertisement shall contain a concise statement describing the public road, the particular part to be relocated, where the relocation is to occur, and the duration of the relocation.

(b) Upon receipt of an application for a permit, the regulatory authority shall issue written notification of—

(1) The applicant's intention to surface mine a particularly described tract land,

(2) The application number,

(3) Where a copy of the application may be inspected, and

(4) Where comments on the application may be submitted under Section 787.12 of this Part.

(c) The written notifications shall be sent to—

(1) Federal, State and local government agencies with jurisdiction over or an interest in the area of the proposed operations, including, but not limited to, general governmental entities and fish and wildlife and historic preservation agencies;

(2) Governmental planning agencies with jurisdiction to act with regard to land use, air or water quality planning in the area of the proposed operations;

(3) Sewage and water treatment authorities and water companies, either providing sewage or water services to users in the area of the proposed operations or having water sources or collection, treatment, or distribution facilities located in these areas;

(4) The Federal or State Governmental agencies with authority to issue all other permits and licenses needed by the applicant in connection with operations proposed in the application; and

(5) Other persons who have requested, in writing, that the regulatory authority provide notice of proposed surface coal mining and reclamation operations in the area involved.

(d)(1) The applicant shall make a full copy of his application for a permit available for the public to inspect and copy. This can be done by filing a copy of the application submitted to the regulatory authority with the recorder at the courthouse of the county where the mining is proposed to occur. The regulatory authority may approve filing at another equivalent public office.

(2) The applicant shall file the copy by the last date of newspaper advertisement of the application. The applicant shall file any subsequent revision with the public office at the same time the revision is submitted to the regulatory authority.

(3) The copy filed in the public office does not have to include that information which pertains solely to analysis of the chemical and physical properties of the coal to be mined (except information regarding such mineral or elemental content which is potentially toxic in the environment).

§ 787.12 Opportunity for submission of written comments on permit applications.

(a) Written comments on permit applications may be submitted to the regulatory authority by—

(1) The public entities to whom notification is provided under Section 787.11(c)(1)-(5), with respect to the effects of the proposed mining operations on the environment within their area of responsibility; and,

(2) Other persons to whom notification has been provided under Subsection 787.11(a) and 787.11(c)(6).

(b) These comments shall be submitted to the regulatory authority in the manner and within the reasonable time provided for in the regulatory program.

(c) The regulatory authority shall immediately transmit a copy of all such comments for filing and public inspection at the public office where the applicant filed a copy of the application for permit under Section 787.11(d).

§ 787.13 Right to file written objections.

(a) Any person including an officer or head of any Federal, State, or local government agency or authority shall have the right to file written objections to an initial or revised application for a permit with the regulatory authority, within 30 days after the last publication of the newspaper notice required by Section 787.11(a).

(b) The regulatory authority shall, immediately upon receipt of any written objections—

(1) Transmit a copy of them to the applicant; and,

(2) File a copy for public inspection at the public office where the applicant filed a copy of the application for permit under Section 787.11(d).

§ 787.14 Informal conferences.

(a) *Procedure for requests.* Any person including the officer or head of any Federal, State or local government agency or authority may, in writing, request that the regulatory authority hold an informal conference on any application for a permit. The request shall—

(1) Briefly summarize the issues to be raised by the requestor at the conference;

(2) State whether the requestor desires to have the conference conducted in the locality of the proposed mining;

(3) Be filed not later than 30 days after the last publication of the newspaper advertisement placed by the applicant under Section 787.11(a).

(b) Except as provided in (c) below, if an informal conference is requested in accordance with paragraph (a) of this Section, the regulatory authority shall hold an informal conference within a reasonable time following the receipt of such objections and request. The informal conference shall be conducted according to the following requirements:

(1) If requested under paragraph (a) of this section, it shall be held in the locality of the proposed mining.

(2) The date, time and location of the informal conference shall be advertised by the regulatory authority in a newspaper of general circulation in the locality of the mine at least two weeks prior to the scheduled conference.

(3) If requested, in writing, by a conference requestor in a reasonable time prior to the conference, the regulatory authority may arrange with the applicant to grant parties to the conference access to the mine area for the purpose of gathering information relevant to the conference.

(4) The purpose of the informal conference shall be the examination of issues raised in the written objections, comments, and requests for conferences filed with the regulatory authority on the permit application.

(5) The requirements of Section 554 of Title V of the United States Code shall not apply to the conduct of the informal conference. The conference shall be conducted by a representative of a State regulatory authority, who may accept oral or written statements and any other relevant information from any party to the conference. An electronic or stenographic record shall be made of the conference proceeding, unless waived by all the parties. The record shall be maintained and shall be accessible to the parties to the conference until final release of the applicant's performance bond pursuant to Subchapter J.

(c) If all parties requesting the informal conference stipulate agreement before the requested informal conference and withdraw their request, the informal conference need not be held.

(d) Informal conferences held in accordance with this Section may be used by the regulatory authority as the public hearing on proposed uses of public roads or relocation thereof by the applicant under 30 CFR 761.12(d).

§ 787.15 Public availability of information in permit applications on file with the regulatory authority.

(a) Information contained in permit applications on file with the regulatory authority shall be open for public inspection and copying at reasonable times: *Provided,* That—

(1) Information pertaining to coal seams, test borings, core samplings, or soil samples in permit applications shall be made available for inspection and copying to any person with an interest which is or may be adversely affected; and

(2) Information in permit applications which pertains only to the analysis of the chemical and physical properties of the coal to be mined (excepting information regarding mineral or elemental contents of such coal, which are potentially toxic in the environment) shall, upon the written request of the applicant, be kept confidential and not made a matter of public record; and

(3) Information in the reclamation plan portions of the application, which is required to be filed with the regulatory authority under Section 508 of the Act and which is not on public file pursuant to State law, shall be held in confidence by the regulatory authority upon the written request of the applicant.

(b) The regulatory authority shall provide for procedures to maintain information required to be kept confidential under paragraph (a) separately from other portions of the permit application. This information shall be clearly identified by the applicant and submitted separately from other portions of the application.

PART 788—REGULATORY AUTHORITY REVIEW AND DECISIONS ON PERMIT APPLICATIONS

Sec.
788.1 Scope.
788.2 Objectives.
788.3 Responsibilities.
788.12 Review of permit applications.
788.13 Permit approval or denial actions.

AUTHORITY: Secs. 102(i), 201, 501, 503, 506, 507, 508, 509, 510, 511, 513, 514, 517, and 522(e), Pub. L. 95-87 (U.S.C. Sections 1202(i), 1211, 1251, 1253, 1256, 1257, 1258, 1259, 1260, 1261, 1263, 1264, 1267, and 1277(e)).

§ 788.1 Scope.

This Part establishes the minimum requirements for the Secretary's approval of the provisions of regulatory programs for the review of permit applications and decisions on these applications by regulatory authorities under these programs.

§ 788.2 Objective.

The objective of this Part is to insure timely and thorough review by the regulatory authority of each permit application under a regulatory program.

§ 788.3 Responsibilities.

(a) The applicant has the responsibility of insuring that all information is provided in a complete permit application for the review by the regulatory authority in accordance with this Part and a regulatory program.

(b) The regulatory authority shall conduct timely and thorough reviews of each complete permit application under a State program.

§ 788.12 Review of permit applications.

(a) The regulatory authority shall review the complete application, written comments, written objections submitted and records of any informal conference held under 30 CFR Part 787.

(b) If the regulatory authority decides to approve the application, it shall require that the applicant file the performance bond or provide other equivalent guarantee before the permit is issued, in accordance with the provisions of 30 CFR Subchapter J.

(c) If the regulatory authority determines from either the schedule submitted as part of the application under 30 CFR 778.14(c) or 782.14(c) of this Subchapter, or from other available information, that any surface mining operations owned or controlled by the applicant is currently in violation of the Act, or of any law, rule, or regulation of the United States, or of any State or Federal department or agency pertaining to soil or water environmental protection, the regulatory authority shall require the applicant to submit proof, satisfactory to the regulatory authority, department, or agency which has jurisdiction over such violation, before the issuance of the permit, that the violation—

(1) Has been corrected; or

(2) Is in the process of being corrected.

(d) Before any final determination by the regulatory authority that the applicant, or the operator specified in the application, controls or has con-

trolled mining operations with a demonstrated pattern of willful violation

sions for the processing time in the regulatory program, taking into ac-

AUTHORITY: Secs. 102(i), 201, 501, 503, 514, and 526, Pub. L. 95-87 (30 U.S.C. Sections

operations carried on by the applicant in the general vicinity of the proposed

AUTHORITY: Secs. 102(i), 201, 501, 506, 507, 508, 509, 510, 511, 513, 514, 515, 516, 522(c) and 526(f), Pub. L. 95-87 (30 U.S.C. Secs.

duction of the liability insurance policy the capability of self-insurance, the performance bond or other equiva-

trolled mining operations with a demonstrated pattern of willful violation of the Act of such nature, duration, and with such resulting irreparable damage to the environment that indicates an intent not to comply with the provision of the Act, the applicant or operator shall be afforded an opportunity for an adjudicatory hearing on the determination as provided for in the regulatory program.

§ 788.13 Permit approval or denial actions.

(a) The regulatory authority shall grant, require modification of, or deny all applications for permits under State programs according to the requirements of 30 CFR 786 and on the basis of—

(1) Complete applications for permits and revisions or renewals thereof;

(2) Public participation as provided for by Part 787 of this Subchapter;

(3) Compliance with any applicable provisions of Part 785 of this Subchapter; and

(4) Processing and review of applications as required by this Part.

(b) The regulatory authority shall take action as required under paragraph (a) of this Section, within the following times—

(1) *Initiation of regulatory programs.* Except as provided for in subparagraph (b)(3), a complete application submitted to the regulatory authority within the time required by 30 CFR 771.19(b)(1) shall be processed by the regulatory authority so that a permit is granted or denied—

(i) Within eight months after the date of approval of a regulatory program, unless a State or its regulatory authority is specifically enjoined from submitting a State program, or the regulatory authority is specifically enjoined from implementing a regulatory program but in no case later than February 3, 1981; and,

(ii) If an informal conference has been held pursuant to Part 787 of this Subchapter, within 60 days from the close of the conference.

(2) *Subsequent operation of regulatory programs.* A complete application submitted to the regulatory authority after the time required in 30 CFR 771.19 (b) (1) shall be processed by the regulatory authority, so that a permit is granted or denied within the following times:

(i) If an informal conference has been held under Part 787 of this Subchapter, within 60 days of the close of the conference; or

(ii) If no informal conference has been held under Part 787, then within a reasonable time after the receipt by the regulatory authority of the complete application. The regulatory authority shall determine the time for processing and shall establish provisions for the processing time in the regulatory program, taking into account—

(i) The time needed for proper investigation of the proposed permit and adjacent areas;

(ii) The complexity of the application; and

(iii) Whether written objections or comments to the complete application have been filed with the regulatory authority.

(3) Notwithstanding any of the foregoing provisions of this Section, no time limit under the Act or this Section requiring the regulatory authority to act is considered expired from the time the regulatory authority initiates a proceeding under 30 CFR 788.12(d) until the final decision of the hearing body.

(c) If an informal conference is held under 30 CFR Part 787 the regulatory authority shall, give its written findings to the permit applicant and to each person who is a party to the conference, granting or denying the permit in whole, or in part, and stating the reasons therefor in the decision. The regulatory authority shall simultaneously transmit a copy of such findings and any permit issued to the Regional Director.

(d) If no such informal conference has been held, the regulatory authority shall give its written decision to the permit applicant, granting or denying the permit in whole, or in part, and stating the reasons in the decision. Simultaneously, the regulatory authority shall—

(1) Give a copy of its decision to:

(i) Each person and government official who filed a written objection or comment with respect to the application; and

(ii) Together with a copy of any permit issued, to the Regional Director; and

(2) Publish a summary of its decision in a newspaper or similar periodical of general circulation in the general area of the proposed operation.

(e) Within 10 days after the granting of a permit, the regulatory authority shall notify the local government officials in the local political subdivision in which the area of land to be affected is located that a permit has been issued and shall describe the location of the lands within the permit area.

PART 789—ADMINISTRATIVE AND JUDICIAL REVIEW OF DECISIONS BY REGULATORY AUTHORITY ON PERMIT APPLICATIONS

Sec.
789.1 Scope.
789.2 Objectives.
789.11 Administrative review.
789.12 Judicial review.

AUTHORITY: Secs. 102(i), 201, 501, 503, 514, and 526, Pub. L. 95-87 (30 U.S.C. Sections 1202(i), 1211, 1251, 1253, 1264 and 1276).

§ 789.1 Scope.

This Part provides the minimum requirements for the Secretary's approval of regulatory program provisions for administrative and judicial review of decisions by, or the failure of the regulatory authority to act, on applications for permits.

§ 789.2 Objectives.

The objectives of this Part are to provide for timely and thorough review by administrative and judicial bodies under regulatory programs on decisions of and failures to act by regulatory authorities on permit applications.

§ 789.11 Administrative review.

(a) Within 30 days after the applicant is notified of the final decision of the regulatory authority on the permit application, the applicant or any person with an interest which is or may be adversely affected may request a hearing on the reasons for the final determination.

(b) The regulatory authority shall hold the hearing within 30 days of such request. This hearing shall be of record, adjudicatory in nature, and no person who presided at an informal conference under Section 787.14 of this Subchapter shall either preside at the hearing, or participate in the decision thereon, or in any administrative appeal therefrom.

(c) The hearing authority may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate, pending final determination of the proceeding, if:

(1) All parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;

(2) The person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding; and

(3) The relief is not to adversely affect the public health or safety or cause significant, imminent environmental harm to land, air or water resources; and

(4) The relief sought is not the issuance of a permit where a permit has been denied, in whole or in part, by the regulatory authority.

(d) For the purpose of such hearing, the regulatory authority may administer oaths and affirmations, subpoena witnesses, or written, or printed materials, compel attendance of witnesses, or production of the materials, and take evidence, including, but not limited to, site inspections of the land to be affected and other surface coal mining operations carried on by the applicant in the general vicinity of the proposed operation. A verbatim record of each public hearing required by this Section shall be made, and a transcript made available on the motion of any party or by order of the regulatory authority.

(e) Within 30 days after the hearing, the regulatory authority shall issue and furnish the applicant, and each person who participated in the hearing, with the written decision of the regulatory authority granting or denying the permit, in whole or in part, and stating the reasons for the decision.

§ 789.12 Judicial review.

(a) Any applicant or any person with an interest which is or may be adversely affected and who has participated in the administrative proceedings as an objector shall have the right to appeal as provided in paragraph (b) of this Section, if—

(1) The applicant or person is aggrieved by the decision of the hearing authority in an administrative review proceeding conducted pursuant to Section 789.11 of this Part; or,

(2) If either the regulatory authority or the hearing authority for administrative review under Section 789.11 fails to act within time limits specified in the Act, this Part, or the regulatory program.

(b) (1) *State programs.* Action of the regulatory authority or hearing authority identified in paragraph (a) of this Section shall be subject to judicial review by a court of competent jurisdiction, as provided for in the State program, but the availability of such review is not to be construed to limit the operation of the rights established in Section 520 of the Act.

(2) *Federal programs.* The action of the regulatory authority or hearing authority identified in paragraph (a) of this section is subject to judicial review by the United States District Court for the district in which the surface coal mining and reclamation operations is or would be located, in the time and manner provided for in section 526 (a)(2) and (b) of the Act. The availibility of such review is not to be considered to limit the operations of rights established in Section 520 of the Act.

PART 790—PERMIT REVISIONS AND REGULATORY AUTHORITY REVIEW OF OUTSTANDING PERMITS

Sec.
790.1 Scope.
790.2 Objectives.
790.11 Regulatory authority review of outstanding permits.
790.12 Permit revisions.

AUTHORITY: Secs. 102(i), 201, 501, 506, 507, 508, 509, 510, 511, 513, 514, 515, 516, 522(c) and 526(f), Pub. L. 95-87 (30 U.S.C. Secs. 1202(i), 1211, 1251, 1256, 1257, 1258, 1259, 1260, 1261, 1263, 1264, 1265, 1266, 1272(e) and 1276(f)).

§ 790.1 Scope.

This Part establishes the minimum requirements for the Secretary's approval of regulatory program procedures for revisions to permits previously issued by the regulatory authority under regulatory programs and for affirmative periodic review by the regulatory authority of all permits previously issued under such programs.

§ 790.2 Objectives.

The objectives of this Part are to:

(a) Ensure that all permits for surface coal mining and reclamation operations are efficiently revised, prior to changes in such operations; and

(b) Ensure that all permits issued under regulatory programs are regularly reviewed by the regulatory authority to determine that surface coal mining and reclamation operations under these permits are conducted in compliance with the Act, this Chapter and the regulatory program.

§ 790.11 Regulatory authority review of outstanding permits.

(a) The regulatory authority shall review each permit issued and outstanding under an approved regulatory program during the term of the permit. This review shall occur not later than the middle of the permit term and as required by 30 CFR 785.13, 785.15, 785.16 and 785.18.

(b) After this review, the regulatory authority may, by order, require reasonable revisions or modification of the permit provisions to ensure compliance with the Act, this Chapter and the regulatory program. The permit revision or modification shall be based upon written findings and subject to notice and hearing requirements established under the regulatory program.

§ 790.12 Permit revisions.

(a) During the term of the permit, and within the time prescribed by 30 CFR 771.19(b)(4), the permittee may submit an application for a revision of the permit, together with a revised mining reclamation operations plan, to the regulatory authority.

(b) A revision to a permit shall be obtained—

(1) For changes in the surface coal mining and reclamation operations described in the original application and approved under the original permit;

(2) When required by an order issued under 30 CFR 790.11;

(3) In order to continue operation after the cancellation or material reduction of the liability insurance policy the capability of self-insurance, the performance bond or other equivalent guarantee upon which the original permit was approved; or

(4) As otherwise required under the State program.

(c) The permit revision application shall be filed in accordance with the following:

(1) The permittee shall submit the application to the regulatory authority within the time provided for by 30 CFR 771.19(b)(4);

(2) The scale or extent of permit application information requirements and procedures, including notice and hearings, applicable to revision requests shall be as provided in the State program. Any application for a revision which proposes significant alterations in the operations described in the materials submitted in the application for the original permit under Parts 778, 779, 780, 781, 782, 783, or 785 of this Subchapter or in the conditions of the original permit, shall, at a minimum, be subject to the requirements of Parts 787 and 789 of this Subchapter.

(d) The regulatory authority shall approve or disapprove the complete application for revision, in accordance with the requirements of Parts 786 and 788, within a reasonable time as established in the regulations for the regulatory program.

(e) Any extensions to the area covered by a permit, except for incidental boundary revisions, shall be made by application for a new permit and shall not be approved under this Part.

PART 791—RENEWALS OF PERMITS

Sec.
791.1 Scope.
791.2 Objectives.
791.11 General requirements.
791.12 Applications for renewals.
791.13 Terms of renewals.
791.14 Approval or denial of renewals.

AUTHORITY: Secs. 201, 501, 506, 507, 508, 509, 510, 515, and 516, Pub. L. 95-87 (30 U.S.C. Secs. 1211, 1251, 1256, 1257, 1258, 1259, 1260, 1265 and 1266).

§ 791.1 Scope.

This Part establishes the minimum requirements for the Secretary's approval of regulatory program procedures for the renewal by the regulatory authority of permits previously issued under such programs.

§ 791.2 Objectives.

The objectives of this Part are to provide for the timely and effective review of applications for renewal of permits previously issued by the regulatory programs. This is necessary to allow surface coal mining and reclamation operations under these programs

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to continue, if they comply with the Act, this Chapter and the regulatory program.

§ 791.11 General requirements.

Any valid permit issued pursuant to a regulatory program shall carry with it the right of successive renewal upon expiration, with respect to areas within the boundaries of the existing permit, in accordance with the requirements of this Part.

§ 791.12 Applications for renewals.

(a) *Contents.* Applications for renewals of a permit shall be made within the time prescribed by 30 CFR 771.19(b)(2). Renewal applications shall be in a form and with contents required by the regulatory authority under the regulatory program and in accordance with subparagraph (b)(2) of this Section, including at a minimum, the following:

(1) A statement of the name and address of the permittee, the term of the renewal requested, the permit number, and a description of any changes to the matters set forth in the original application for a permit or prior permit renewals;

(2) A copy of the newspaper notice and proof of publication of same required under Section 787.11(a) of this Subchapter; and,

(3) Evidence that liability insurance policy or adequate self-insurance 30 CFR will be provided by the applicant for the proposed period of renewal.

(b) *Processing and review.*

(1) Application for renewal shall be subject to the requirements of public notification contained in 30 CFR 787.11.

(2) If an application for renewal of a permit includes a proposal to extend the mining and reclamation operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new land areas shall be subject to the full standards applicable to new permit applications under the Act, Parts 771, 778, 779, 780, 782, 783, 784, 785, 786, 787, 788, and 789 of this Subchapter, Subchapter J, and the State program.

(3) If the surface coal mining operations authorized under the original permit were not subject to the standards contained in Sections 510(b)(5)(A) and (B) of the Act and Section 785.19(e) of this Subchapter, because the permittee complies with the exceptions to Section 510(b)(5) of the Act, the portion of the application for renewal of the permit which addresses any new land areas previously identified in the reclamation plan submitted pursuant to Parts 780 or 784 of this Subchapter for the original permit shall not be subject to the standards contained in Sections 501(b)(5)(A) and (B) of the Act and Section 785.19(e) of this Subchapter.

(4) Before finally acting to grant the permit renewal, the regulatory authority shall require any additonal performance bond needed by the permittee to comply with the requirements of 30 CFR 791.14(a)(4) to be filed with the authority.

§ 791.13 Terms of renewals.

Any permit renewal shall be for a term not to exceed the maximum period of 5 years for the original permit established under Section 786.11 of this Subchapter.

§ 791.14 Approval or denial of renewals.

(a) The regulatory authority shall, upon the basis of a complete application for renewal and completion of all procedures required under this Part, issue a renewal of a permit, unless it is established and written findings by the regulatory authority are made that—

(1) The terms and conditions of the existing permit are not being satisfactorily met;

(2) The present surface coal mining and reclamation operation is not in compliance with the environmental protection standards under the Act, Subchapter K of this Chapter, and the regulatory program;

(3) The requested renewal substantially jeopardizes the operator's continuing responsibility on existing permit areas;

(4) The operator has not provided evidence that the performance bond in effect for such operation will continue in full force and effect for any renewal requested in such application, as well as any additional bond the regulatory authority might require pursuant to Subchapter J of this Chapter; or

(5) Any additional revised or updated information required by the regulatory authority has not been provided.

(b) In determining whether to approve or deny a renewal, the burden shall be on the opponents of renewal.

PART 792—TRANSFER, SALE OR ASSIGNMENT OF RIGHTS GRANTED UNDER PERMITS

Sec.
792.1 Scope.
792.2 Objectives.
792.11 General requirements.
792.12 Obtaining approval for transfer, assignment or sale of rights.
792.13 Requirements for new permits for persons succeeding to rights granted under a permit.

AUTHORITY: Secs. 101, 201, 501, 506, 509, 510, and 511, Pub. L. 95-87 (30 U.S.C. Secs. 1201, 1211, 1251, 1256, 1257, 1260, and 1261).

§ 792.1 Scope.

This Part establishes the minimum requirements for the Secretary's approval of regulatory program provisions for the transfer, sale or assignment of rights granted under permits issued under such programs and continuation of operations covered by such permits.

§ 792.2 Objectives.

The objective of this Part is to ensure that no person conducts surface coal mining and reclamation operations through the transfer, sale or assignment of rights granted under regulatory program permits without the prior approval of the regulatory authority. This is necessary to ensure that the environment is fully protected at all times.

§ 792.11 General requirements.

(a) No transfer, assignment, or sale of the rights granted under any permit issued pursuant to a regulatory program shall be made without the prior written approval of the regulatory authority, in accordance with this Part.

(b) Any person who has obtained the prior written approval of the regulatory authority under this Part for the transfer, sale or assignments of rights granted under permits issued to State programs, shall—

(1) If required by Sections 792.12(c)(2)(4), file a complete application with the regulatory authority for a new permit for the surface coal mining and reclamation operation covered by the existing permit within the time prescribed by Section 771.19(b)(3) of this Subchapter, and,

(2) Pending the decision of the regulatory authority on such application; conduct such operation in compliance with the Act, this chapter, the regulatory program, and the terms and conditions of the existing permit.

§ 792.12 Obtaining approval for transfer, assignment or sale of rights.

(a) Any person succeeding by transfer, assignment, or sale to the rights granted by a permit issued under this Subchapter shall, prior to the date of such transfer, assignment or sale—

(1) Obtain the bond coverage of the original permittee; and

(2) Provide the regulatory authority with an application for approval of such proposed transfer, assignment, or sale, including—

(i) The name and address of the existing permittee;

(ii) The name and address of the person, proposing to succeed by such transfer, assignment or sale and the name and address of that person's resident agent;

(iii) For surface mining activities, the same information as is required by 30 CFR 778.13, 778.14, 778.15, 778.16(c), 778.18 and 778.19 for applications for new permits for those activities; or

(iv) For underground mining activities, the same information as is required by 30 CFR 782.13, 782.14, 782.15, 782.16(c), 782.18 and 782.19 for applications for new permits for those activities.

(3) Obtain the written approval of the regulatory authority for transfer, assignment, or sale of rights, according to the criteria of paragraph (c) of this Section.

(b)(1) The person applying for the transfer, assignment or sale of rights granted by a permit shall advertise the filing of the application in a newspaper of general circulation in the locality of the operations involved, indicating the name and address of the applicant, the original permittee, the number and particular geographic location of the permit, and the address of which written comments may be sent under Subsection (b)(2).

(2) Any person including the head of any local, State or Federal government agency may submit written comments on the application for approval to the regulatory authority, within the time required by the regulations of the particular program.

(c) The regulatory authority may, upon the basis of the applicant's compliance with the requirements of paragraph (a) and (b) of this Section, grant written approval for the transfer, sale, or assignment of rights under a permit, if it first finds, in writing, that—

(1) The person seeking approval will conduct the operations covered by the permit in accordance with the criteria specified in 30 CFR 786.15 and 786.17 and the requirements of the Act, this Chapter and the regulatory program;

(2) The applicant for approval will not conduct the operation differently from those approved under the original permit, unless the applicant has applied for and received approval of a new permit from the regulatory authority, in accordance with the requirements of this Subchapter;

(3) The applicant has submitted a performance bond or other guarantee as required by Subchapter J and at least equivalent to the bond or other guarantee of the original permittee; and

(4) The applicant will continue to conduct the operations involved in full compliance with the terms and conditions of the original permit, unless and until it has obtained a new permit in accordance with this Subchapter.

§ 792.12 Requirements for new permits for persons succeeding to rights granted under a permit.

Any person conducting surface coal mining and reclamation operations by approval of the regulatory authority under this Part shall continue to conduct the operations involved according to the terms and conditions of the original permit, until that person has obtained a new or revised permit from the regulatory authority, in accordance with the requirements of this Subchapter.

SUBCHAPTER J—BOND AND INSURANCE REQUIREMENTS FOR COAL SURFACE MINING AND RECLAMATION OPERATIONS

PART 800—GENERAL REQUIREMENTS FOR BONDING OF SURFACE COAL MINING AND OPERATIONS UNDER STATE AND FEDERAL PROGRAMS

Sec.
800.1 Scope.
800.2 Objective.
800.11 Requirement to file a bond.
800.12 Requirement to file a certificate of liability insurance.
800.13 Regulatory authority responsibilities.

AUTHORITY: Secs. 102, 201(c), 501(b), 507, 509, and 519, Pub. L. 95-87, 91 Stat. 448, 449, 468, 474, 477, 479, and 501 (30 U.S.C. 1201, 1211, 1251, 1257, 1259, and 1269).

§ 800.1 Scope.

This Part sets forth the minimum requirements for bonding and insuring surface coal mining and reclamation operations on non-Indian and non-Federal lands under a State program or a Federal program adopted in a State.

§ 800.2 Objective.

The objective of this Part is to set forth the minimum requirements and responsibilities for filing bonds and insurance in accordance with the Act.

§ 800.11 Requirement to file a bond.

(a) After a coal mining and reclamation permit application has been approved but before a permit is issued, the applicant shall file with the regulatory authority a bond for performance payable to the regulatory authority. The performance bond will be conditioned upon the faithful performance of all the requirements of the Act, the regulations of this Chapter, or a State or Federal program, the rules and regulations issued under a State or Federal program and the provisions of its permit. The amount, duration, form, conditions and terms of the performance bond shall conform to Parts 805 and 806 of this Subchapter.

(b) The initial bond shall cover liability for the area of land to be affected within the first year of conducting surface coal mining and reclamation operations under the permit. Incremental bonds for 1-year periods within the term of the permit shall be filed with the regulatory authority on or before 30 days before beginning additional surface coal mining and reclamation operations.

(c) The amount, duration, form, conditions and terms of the performance bond shall conform to 30 CFR 805 and 806.

§ 800.12 Requirement to file a certificate of liability insurance.

(a) Each applicant for a permit shall submit to the regulatory authority, as part of the permit application, a certificate issued by an insurance company authorized to do business in the United States. The certificate shall certify that the applicant has a public liability insurance policy in force for the surface mining and reclamation operations for which the permit is sought. The amount, duration, form, conditions and terms of such insurance shall conform to 30 CFR 806.

(b) The applicant may, instead of purchasing liability insurance, submit evidence that it satisfies applicable State or Federal self-insurance requirements and that self-insurance for liability is otherwise consistent with § 806.14.

§ 800.13 Regulatory authority responsibilities.

(a) The regulatory authority shall prescribe and furnish the form for filing a performance bond.

(b) The regulatory authority shall prescribe terms and conditions for bonds and insurance by regulation. The regulatory authority shall meet, at a minimum, those provisions of 30 CFR 805 and 806.

(c) The regulatory authority shall determine the amount of the bond required for each part of the permit area to be bonded, including adjustments to the initial amount from time to time as affected land acreages are increased or decreased or where the cost of future reclamation changes, according to the minimum requirements of § 805.11(a).

(d) The regulatory authority may accept the bond of the applicant in lieu of a surety or collateral bond if the applicant meets the requirements of § 806.11(b).

(e) The regulatory authority shall release the permittee from his bond and insurance requirements consistent with §§ 807.11, 807.12, and 807.13(a).

(f) The regulatory authority shall cause all or part of a bond to be forfeited consistent with 30 CFR 808.

PART 805—AMOUNT AND DURATION OF PERFORMANCE BOND

Sec.
805.1 Scope.
805.11 Determination of bond amount.
805.12 Minimum amount.
805.13 Period of liability.
805.14 Adjustment of amount.

AUTHORITY: Secs. 102, 201(c), 501(b), 509, and 515, Pub. L. 95-87, 91 Stat. 448, 449, 468, 479, and 491 (30 U.S.C. 1201, 1211, 1251,

cient to assure performance of all the requirements of the Act, the performance standards of 30 CFR 810-828 or a

§ 805.14 Adjustment of amount.

(a) The amount of the bond shall be adjusted by the regulatory authority

AUTHORITY: Secs. 102, 201(c), 501(b), 507(f) and 509, Pub. L. 95-87, 91 Stat. 448, 449, 468, 477 and 479 (30 U.S.C. 1202, 1211, 1251,

(iv) Are delinquent in payment of either the reclamation fee required under Subchapter R of this Chapter

(1) The alternative must assure that the regulatory authority will have available sufficient money to complete

AUTHORITY: Secs. 102, 201(c), 501(b), 509, and 515, Pub. L. 95-87, 91 Stat. 448, 449, 468, 479, and 491 (30 U.S.C. 1201, 1211, 1251, 1259, and 1265).

§ 805.1 Scope.

This Part sets forth the minimum requirements for determining the amounts of performance bonds and the time periods of liability for surface coal mining and reclamation operations.

§ 805.11 Determination of bond amount.

(a) The standard applied by the regulatory authority in determining the amount shall be the estimated actual cost to the regulatory authority if it had to perform the reclamation, restoration and abatement work required, under the Act, the regulations of this Chapter, or a State or Federal program, all regulations promulgated under that State or Federal program and the provisions of the permit.

(b) The amount of a bond required for each permit area, or increments within these areas, shall be determined by the regulatory authority and based upon but not limited to the following:

(1) The estimated cost to the regulatory authority of completing the reclamation plan, the performance standards in 30 CFR 810–828 and the approved permit;

(2) In determining the estimated cost for underground coal mining operations, the following criteria shall be used in addition to those in § 805.11(b)(1):

(i) Estimated cost of replacement of ponds and stream linings; and

(ii) Estimated cost of repair to structures and facilities within the permit area based on history of damage, incidence and repair costs within the region;

(3) The additional cost to the regulatory authority which may arise from applicable public contracting requirements or the requirement to bring personnel and equipment to the permit area after abandonment by the permittee;

(4) All costs necessary, expedient and incident to the satisfactory completion of the requirements of the permit and the performance standards in Subchapter K of this Chapter;

(5) A factor based on cost increases during the preceding 5 years for the types of activities or costs associated with the reclamation to be performed; and

(6) Such other cost information that may be acquired by the regulatory authority.

§ 805.12 Minimum amount.

(a) The amount of the bond for surface coal mining and reclamation operations shall, at a minimum, be sufficient to assure performance of all the requirements of the Act, the performance standards of 30 CFR 810–828 or a State or Federal program, all regulations under a State or Federal program and the provisions of the permit if the work had to be performed by the regulatory authority in the event of forfeiture.

(b) The bond for surface coal mining and reclamation operation shall not be less than $10,000 for the entire area under one permit.

§ 805.13 Period of liability.

(a) *All coal mining operations.* At a minimum, liability under a bond shall continue until all reclamation requirements of the Act, this Chapter and the provisions of the permit have been met.

(b) *Surface coal mining activities.* In addition to the requirement of paragraph (a) of this section, liability under the bond for revegetation shall continue for a period of 5 full years after the last year of augmented seeding, fertilizing, irrigation, or other work required under the performance standards of 30 CFR 810–828 which has achieved compliance with the standards for successful revegetation under 30 CFR 816.55(f), where the average annual precipitation is more than 26 inches or for 10 years where the average annual precipitation is 26 inches or less.

(1) If the regulatory authority approves a long-term intensive agricultural postmining land use in accord with the performance standards of 30 CFR 810–828, the applicable 5- or 10-year period of liability shall commence at the date of initial planting for such long-term intensive agricultural land use.

(2) The regulatory authority may, upon a written finding approving a long-term intensive agricultural land use, grant an exception to the revegetation requirements of 30 CFR 816, but shall not grant exception to the period of liability in § 805.13 (a) or (b).

(c) *Underground coal mining activities.* The period of liability for an underground mine shall continue for a sufficient period to ensure that the requirements of the reclamation plan and approved permit have been successfully met. The regulatory authority shall determine the duration of bond liability based on—

(1) The life of the mine,

(2) The period of time to install any facilities or structures to meet the requirements of the approved permit; and

(3) A period of time to ensure the success of any facilities or structures installed to meet the requirements of the approved permit.

§ 805.14 Adjustment of amount.

(a) The amount of the bond shall be adjusted by the regulatory authority as surface or underground affected area under the permit is increased or decreased, methods of mining operation change, standards of reclamation change, or when the cost of future reclamation changes. The regulatory authority shall notify the permittee of any proposed bond adjustment and provide the opportunity for an informal conference. The regulatory authority shall review each outstanding bond at the time that permit reviews are conducted under 30 CFR 790.3, and re-evaluate those bonds in accordance with the standards in § 805.11.

(b) A permittee may request reduction of the required bond amount upon production of evidence submitted to the regulatory authority proving that the permittee's method of operation or other circumstances will reduce the maximum estimated cost to the regulatory authority to complete the reclamation responsibilities and therefore warrant a reduction of the bond amount.

(c) Any person with a valid legal interest which may be affected by adjustment of the bond or the continued operation of surface coal mining and reclamation operation currently under bond may petition the regulatory authority to alter the bond amount by the submission of evidence that the bond may be insufficient and that review of the bond is warranted.

(d) Upon receipt of a request for reduction or petition for adjustment, the regulatory authority shall hold a hearing, after notice in a newspaper serving the locale of the bonded area for which an adjustment is sought, providing the permittee and persons whose interests are or may be adversely affected an opportunity to comment on the request. The regulatory authority shall notify the permittee and participants at the hearing of its decision within 30 days from the close of the hearing.

(e) The notice shall be in writing, stating the reasons for the decision and informing the permittee or any person whose interests may be adversely affected by the decision and who participated in the hearing of any rights of appeal.

PART 806—FORM, CONDITIONS AND TERMS OF PERFORMANCE BONDS AND LIABILITY INSURANCE

Sec.
806.1 Scope.
806.11 Form of the performance bond.
806.12 Terms and conditions of the bond.
806.13 Replacement of bonds.
806.14 Terms and conditions for liability insurance.

AUTHORITY: Secs. 102, 201(c), 501(b), 507(f) and 509, Pub. L. 95-87, 91 Stat. 448, 449, 468, 477 and 479 (30 U.S.C. 1202, 1211, 1251, 1257, and 1259).

§ 806.1 Scope.

This Part establishes the minimum standards for the form of the bond for surface coal mining and reclamation operations, and the terms and conditions applicable to bonds and liability insurance.

§ 806.11 Form of the performance bond.

(a) The form for the performance bond shall be prescribed by the regulatory authority. The regulatory authority shall offer either of the following forms:

(1) An indemnity agreement executed by the applicant and a corporate surety licensed to do business in the State where the surface or underground coal mining operation is located and payable to the regulatory authority; or

(2) An indemnity agreement executed by the applicant and payable to the regulatory authority pledging cash deposits, negotiable bonds of the United States, State or municipalities, or negotiable certificates of deposit of any bank organized or transacting business in the United States, if the applicant so chooses.

(b) *Self-bond instead of surety or collateral bond.* The regulatory authority may accept an indemnity agreement from the applicant payable to the regulatory authority without separate surety guarantee or pledge of specific collateral, considering the following conditions:

(1) The applicant shall designate a suitable agent to receive service of process.

(2) The applicant shall have demonstrated a history of compliance with the Act, the regulations of this Chapter, or a State or Federal program, rules and regulations promulgated thereunder and the conditions of all permits. For purposes of this subparagraph, an applicant shall be unable to demonstrate a history of compliance if the applicant controls or has controlled surface coal mining and reclamation operations that—

(i) Have forfeited a performance bond which was posted to insure reclamation of a coal surface mining and reclamation operation;

(ii) Have notices of violation or orders of cessation that have not been abated;

(iii) Have demonstrated a pattern of willful violations of the Act of such a nature, duration, and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of the act as described in § 843.13 of this Chapter; or

(iv) Are delinquent in payment of either the reclamation fee required under Subchapter R of this Chapter or a civil penalty assessment under 30 CFR, if a State has adopted it as part of its State program, or if the regulatory authority is the Office.

(3) The applicant has a net worth, certified by a certified public accountant, of no less than twice the total amount of bond obligations on all permits issued to the applicant.

(4)(i) The indemnity agreement shall be executed by the applicant and by—

(A) If the applicant is a publicly held corporation, its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer and by at least the majority of the board of directors or persons performing similar functions;

(B) If the applicant is a foreign person, the indemnity agreement shall also be signed by its authorized representative in the United States, if any;

(C) Its parent corporation and every parent of which it is a subsidiary, whether first-tier, second-tier, or further removed, if any;

(D) If the applicant is a partnership, all of its general partners and their parents;

(E) If the applicant is a married individual, the applicant's spouse; and

(F) If the applicant is a closely held corporation, all of its principal investors, its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer and by at least the majority of the board of directors or persons performing similar functions.

(ii) The name of each person who signs the indemnity agreement shall be typed or printed beneath the signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he or she signs the indemnity agreement.

(iii) The indemnity agreement shall be a binding obligation, jointly and severally, on all who execute it.

(iv) For purposes of paragraph (4)(b) of this section, principal investor means anyone with a 10 percent or more beneficial ownership interest, directly or indirectly, in the applicant.

(v) For the purposes of paragraph (4), parent means owner, direct or indirect, of a 10 percent or more beneficial interest in the applicant or any corporation, partnership or individual which has a 10 percent or more beneficial ownership in the applicant.

(c) The Secretary may approve, as part of a State or Federal program, an alternative bonding system, if it will achieve the following objectives and purposes of the bonding program:

(1) The alternative must assure that the regulatory authority will have available sufficient money to complete the reclamation provisions for all permit areas which may be in default at any time; and

(2) The alternative must provide a substantial economic incentive for the permittee to comply with all reclamation provisions.

§ 806.12 Terms and conditions of the bond.

(a) The bond shall be in an amount determined by the regulatory authority as provided in 30 CFR 805.11 and 805.12.

(b) The bond shall be payable to the regulatory authority.

(c) The bond shall be conditioned upon faithful performance of all of the requirements of the Act, or State law adopted pursuant to a State regulatory program, the rules and regulations promulgated thereunder and the conditions of the permit and shall cover the permit area.

(d) The duration of the bond shall be for the time period provided in 30 CFR 805.13.

(e) Surety bonds shall be subject to the following conditions:

(1) The regulatory authority shall not accept a surety company's bond unless it is agreed that the bond shall not be cancellable by the surety at any time during the period of liability, for any reason including non-payment of premium or bankruptcy of the permittee.

(2) The regulatory authority shall not accept a surety company's bond in excess of the company's maximum single obligation as provided by State law in the State where the permit area is located, unless the surety company satisfies State law for exceeding such limit. In States where no maximum single obligation limit is established by State law, the regulatory authority shall not accept surety bonds in excess of 10 percent of the surety company's capital surplus account as shown on a balance sheet certified by a certified public accountant.

(3) The regulatory authority shall not accept surety bonds from a surety company for any permittee on all permits in excess of three times the company's maximum single obligation as provided by State law or, in the absence of State law, as provided in paragraph (e)(2) of this section.

(4) The regulatory authority may provide in the bond that the amount shall be confessed to judgment upon forfeiture if such procedure is authorized by State law.

(5) The bond shall provide that the surety and the permittee shall be jointly and severally liable.

(f) Collateral bonds shall be subject to the following conditions:

(1) The regulatory authority shall obtain possession of and keep in custody all collateral pledged by the applicant and damage to water wells, and entitled to compensation under the applicable provisions of State law. Minimum requirements shall be established by the regulatory authority.

(2) The bond release application

(d) If no public hearing is requested under paragraph (e) of this section and the regulatory authority disapproves the application for release of

public hearing. The regulatory authority shall:

(1) Inform the permittee, local gov-

filing of the request, if no public hearing or conference has been held.

(2) If there has been a public hear-

(1) The regulatory authority shall obtain possession of and keep in custody all collateral pledged by the applicant until authorized for release or replacement as provided in this Subchapter.

(2) The regulatory authority shall value collateral at its current market value, not face value.

(3) The regulatory authority shall require that certificates of deposit be assigned to the regulatory authority, in writing, and upon the books of the bank issuing such certificates.

(4) The regulatory authority shall not accept an individual certificate for a denomination in excess of $40,000.

(5) The regulatory authority shall require the banks issuing such certificates to waive all rights of setoff or liens which it has or might have against such certificates.

(6) The regulatory authority shall only accept automatically renewable certificates of deposit.

(7) The regulatory authority shall require the applicant to deposit sufficient amounts of certificates of deposit to assure that the regulatory authority will be able to liquidate such certificates prior to maturity, upon forfeiture, for the amount of the bond required by the provisions of this Subchapter.

§ 806.13 Replacement of bonds.

(a) The regulatory authority may allow permittees to replace existing surety or collateral bonds with other surety or collateral bonds, provided, however, that the liability which has accrued against the permittee on the permit area shall be transferred to such replacement bonds.

(b) The regulatory authority shall not allow permittees to replace existing surety or collateral bonds with a self-bond provided in 30 CFR 806.11(b).

(c) The regulatory authority shall not release existing bonds until the permittee has submitted acceptable and approved replacement bonds. A replacement of bonds pursuant to this section shall not constitute a release of bond under 30 CFR 807.

§ 806.14 Terms and conditions for liability insurance.

(a) The regulatory authority shall require the applicant to submit at the time of permit application, a certificate certifying that the applicant has a public liability insurance policy in force for the surface coal mining and reclamation operation for which the permit is sought. The certificate shall provide for personal injury and property damage protection in an amount adequate to compensate all persons injured or property damaged as a result of surface coal mining and reclamation operations, including use of explosives and damage to water wells, and entitled to compensation under the applicable provisions of State law. Minimum insurance coverage for personal injury shall be $300,000 for each injury and $500,000 for each accident. Minimum insurance coverage for property damage shall be $300,000 per accident and $500,000 aggregate.

(b) The policy shall be maintained in full force during the life of the permit or any renewal or extension thereof, including completion of all reclamation and restoration operations under this Chapter.

(c) The policy shall include a rider requiring that the insuror notify the regulatory authority whenever substantive changes are made in the policy, including any termination or failure to renew.

(d) The regulatory authority may accept from the applicant, in lieu of a certificate for a public liability insurance policy, satisfactory evidence from the applicant that it satisfies applicable State self-insurance requirements and the requirements of this section.

PART 807—PROCEDURES, CRITERIA AND SCHEDULE FOR RELEASE OF FERFORMANCE BOND

Sec.
807.1 Scope.
807.11 Procedures for seeking release of bond.
807.12 Criteria for release of bond.
807.13 Schedule for release of bond.

AUTHORITY: Secs. 102, 201(c), 501(b), 507(b)(16), 515(b)(8), (10), and (20), and 519, Pub. L. 95-87, 91 Stat. 440, 449, 468, 477, 488, 489, 491, and 501 (30 U.S.C. 1202, 1211, 1251, 1257, 1265, and 1269)

§ 807.1 Scope.

This Part sets forth the procedures and criteria for release of performance bonds for both surface and underground coal mining activities. This includes the filing, notice and hearing requirements, and the standards by which the application for release shall be evaluated.

§ 807.11 Procedures for seeking release of bond.

(a) The permittee may file a request for release of all or part of the performance bond(s) on deposit with the regulatory authority after reclamation and restoration operations under this Subchapter and Subchapter K of this Chapter have been completed.

(1) Bond release applications may only be filed at times or seasons that allow the regulatory authority to properly evaluate the reclamation alleged to have been completed. The times or seasons appropriate for the evaluation of certain types of reclamation shall be identified in the reclamation plan and approved by the regulatory authority.

(2) The bond release application shall include copies of letters sent to adjoining property owners, surface owners, local governmental bodies, planning agencies, and sewage and water treatment facilities or water companies in the locality of the mine notifying them of his intention to seek release from the bond. These letters shall be sent before the permittee files a request for release of bond.

(b) Within 30 days after filing a request for bond release, the permittee shall advertise the request for release in a newspaper of general circulation in the city or town nearest the mine. A proof of publication of the advertisement shall be submitted to the regulatory authority. The advertisement shall—

(1) Be placed in the newspaper at least once a week for four (4) consecutive weeks;

(2) Show the name of the permittee, including the number and date of the permit;

(3) Show the precise location and the number of acres of the land affected;

(4) Show the total amount of bond in effect and the amount for which release is sought;

(5) Summarize the reclamation and restoration work done, including any back stowing or mine sealing, if applicable, and give the dates of completion;

(6) Describe the reclamation and restoration results achieved as they relate to the approved mining and reclamation plan; and

(7) State that written comments may be submitted to the office of the regulatory authority and provide the address of the office.

(c) The regulatory authority shall inspect and evaluate the reclamation work involved within 30 days after receiving a copy of the newspaper advertisement, or as soon thereafter as weather conditions permit.

(1) The surface owner, agent, or lessee may participate with the regulatory authority in making the bond release inspection.

(2) The regulatory authority shall consider, when making its inspection and evaluation—

(i) Whether the permittee has met the criteria for release of the bond under § 807.12 of this Part;

(ii) The degree of difficulty in completing any remaining reclamation;

(iii) Whether pollution of surface and subsurface water is occurring;

(iv) The probability of future pollution or the continuance of any present pollution of surface and subsurface water; and

(v) The estimated cost of abating any pollution.

(d) If no public hearing is requested under paragraph (e) of this section and the regulatory authority disapproves the application for release of the bond or any portion of it, the regulatory authority shall notify the permittee, in writing, stating the reasons for disapproval consistent with paragraph (c) of this section.

(1) The notice shall recommend corrective actions necessary to secure release of the bond. The notice shall also provide the permittee with an opportunity for a public hearing before the regulatory authority.

(i) If the permittee requests a public hearing, the regulatory authority shall publish notice in the FEDERAL REGISTER or the official State publication, whichever is applicable. The notice shall advertise the date, time and location in the newspaper of general circulation in the locality of the area under bond for which release is sought.

(ii) The hearing shall be held within thirty (30) days of the request in the town or city nearest the area under bond for which release is proposed.

(iii) The hearing shall be legislative in type and conform to the applicable requirements of 5 U.S.C. Section 553 if the regulatory authority is the Office, or the applicable requirements of State law governing administrative hearings if the regulatory authority is the State.

(iv) The regulatory authority shall conduct the hearing and allow all participants an opportunity to comment on the disapproval.

(2) If a public hearing is held at the request of the permittee following disapproval of its request, the permittee shall have the burden of presenting a preponderance of evidence to persuade the regulatory authority that its decision disapproving the request cannot be supported by the reasons given.

(e) Written objections to the proposed bond release and a request for a public hearing may be filed with the regulatory authority by affected persons within thirty (30) days of the last advertisement of the bond release. Affected persons are—

(1) Any person with a valid legal interest which might be adversely affected by bond release; and

(2) The responsible officer or head of any Federal, State or local government agency which—

(i) Has jurisdiction by law or special expertise with respect to any environmental, social or economic impact involved; or

(ii) Is authorized to develop and enforce environmental standards with respect to surface or underground coal mining.

(f) If written objections are filed and a public hearing is requested the regulatory authority shall schedule a public hearing. The regulatory authority shall:

(i) Inform the permittee, local government and the objecting party of the time and place of the hearing;

(ii) Publish notice in the FEDERAL REGISTER or the official State publication and advertise the date, time, and location in a newspaper of general circulation in the locality of the mine twice a week for two (2) consecutive weeks before the hearing; and

(iii) Hold the public hearing within thirty (30) days of the request in the town or city nearest to the area under bond for which release is sought or the State capital, at the option of the objector.

(2) The regulatory authority may subpoena witnesses, and written and printed materials; and compel attendance of witnesses and production of the materials for a hearing. A verbatim record of each public hearing shall be made and the transcript made available on the motion of any party or by order of the regulatory authority.

(3) The hearing, if requested, shall otherwise conform to the applicable requirements of 5 U.S.C. Section 554 if the regulatory authority is the Office, or to the applicable requirements of the State law governing administrative hearings if the regulatory authority is the State.

(g) The applicant and any of the objecting parties may agree to an informal conference to resolve such written objections instead of the hearing under paragraph (e) of this section. The informal conference shall be held in the locality of the permit area for which bond release is sought. The decision to conduct an informal conference shall not prejudice the right of any objecting party who has not agreed to the informal conference instead of a hearing to demand a formal hearing under paragraph (f) of this section

(1) Notice of the informal conference shall be published in the FEDERAL REGISTER or the official State publication, and a newspaper of general circulation in the locality of the scheduled conference at least two weeks before the conference date.

(2) The informal conference shall be held 30 days from the date of notice.

(3) An electronic or stenographic record shall be made of the conference and the record maintained for access by the parties until final release of the bond unless recording is waived by the parties.

(h)(1) The regulatory authority shall notify the permittee and any other interested parties in writing of its decision to release or not to release all or part of the performance bond or deposit within sixty (60) days from the filing of the request, if no public hearing or conference has been held.

(2) If there has been a public hearing or conference held, the notification shall be made to all interested parties within thirty days after conclusion of the conference.

(3) A notice of disapproval shall state reasons for the disapproval, recommend corrective actions necessary to secure the release and notify the applicant of his right to appeal the decision of the regulatory authority.

(4) A notice of approval shall state the reasons for approval and notify interested parties of their right to appeal the decision of the regulatory authority.

(i) The regulatory authority shall notify the town or city nearest to and the county in which the operation is located by certified mail at least thirty (30) days prior to release of all or part of the bond.

§ 807.12 Criteria for release of bond.

(a) The regulatory authority shall not release the bond or any part of it under § 807.13 until it finds that the permittee has met the applicable performance standards under 30 CFR 810-827 for the surface coal mining and reclamation operation, the requirements of its permit and the approved State program.

(b) The regulatory authority shall, at all times until final completion of the permittee's obligations under paragraph (a) of this section and final release of all bonding, retain at least $10,000 in bond amount, and such additional amounts determined by the regulatory authority to be necessary to—

(1) Cover the cost of uncompleted reclamation operations; and

(2) Other uncompleted requirements of the permit, the Act or this Chapter.

§ 807.13 Schedule for release of bond.

The regulatory authority may release the bond or deposit for the area of land affected within each year of the permit term according to the following schedule:

(a) Sixty (60) percent of the bond may be released when the permittee completes backfilling, topsoil replacement, regrading and drainage control of the bonded area in accordance with the approved mining and reclamation plan.

(b) After revegetation has been established according to the approved mining and reclamation plan and the standards for measuring the success of revegetation are met, the regulatory authority may release an additional twenty-five (25) percent of the bond. No part of this remaining portion of bond may be released:

(1) As long as the lands are contributing suspended solids to stream flow

or runoff outside the permit area in excess of the requirements in section 515(b)(10) of the Act and 30 CFR

agrees to a compliance schedule to comply with the violations of the permit or bond conditions.

(2) A creditor of the permittee has attached or executed a judgment against the permittee's equipment,

coal mining and reclamation operations under Section 529(a) of the Act.

AUTHORITY: Secs. 102, 201, 501(b), 503, 504, 512, 515, 516 and 517 of Pub. L. 95-87, 91 Stat. 448, 449, 468, 470, 471, 483, 486, 495,

performance standards applicable under a State or Federal program.

or runoff outside the permit area in excess of the requirements in section 515(b)(10) of the Act and 30 CFR 816.49(b);

(2) Until soil productivity on prime farmlands is returned to equivalent levels of yield for non-mined prime farmland in the surrounding area under equivalent management practices as determined from the soil survey performed under section 507(b)(16) of the Act; and

(3) Unless satisfactory provision in the approved mining and reclamation plan is made for the sound future maintenance by the operator or landowner of any permanent impoundment, which provision is also authorized by the regulatory authority.

(c) The regulatory authority shall not partially release the bond as provided in this section if the remaining bond amount will fall below $10,000.

(d) The regulatory authority shall release the remainder of the bond when the permittee has successfully completed all surface coal mining and reclamation operations in accordance with the approved mining and reclamation plan, the requirements of this Subchapter and 30 CFR parts 810–827 and the applicable liability period under paragraph (a) of this section has expired.

PART 808—PERFORMANCE BOND FORFEITURE CRITERIA AND PROCEDURES

Sec.
808.1 Scope.
808.11 General.
808.12 Procedures.
808.13 Criteria for forfeiture.
808.14 Determination of forfeiture amount.

AUTHORITY: Secs. 102, 201(c), 501(b), 509(a), and 519, Pub. L. 95-87, 91 Stat. 448, 449, 468, 480, and 501 (30 U.S.C. 1202, 1211, 1251, 1259, and 1269).

§ 808.1 Scope.

This Part sets forth the criteria and procedures applicable whenever the regulatory authority initiates a proceeding for the forfeiture of a bond or any part of a bond as a result of the permittee's failure to meet the conditions upon the bond.

§ 808.11 General.

(a) The regulatory authority shall forfeit all or part of a bond for any permit which—

(1) Has not been mined, reclaimed and restored consistent with applicable performance standards of 30 CFR 810–827, the approved reclamation plan, and requirements of the permit; or

(2) Is in violation of any other condition upon the bond.

(b) The regulatory authority may withhold forfeiture if the permittee agrees to a compliance schedule to comply with the violations of the permit or bond conditions.

§ 808.12 Procedures.

(a) In the event forfeiture of the bond is required by § 808.11, the regulatory authority shall—

(1) Send written notification to the permittee, and the surety on the bond, if applicable, of the regulatory authority's determination to forfeit all or part of the bond and all reasons for such forfeiture, including a finding of the amount to be forfeited;

(2) Advise the permittee of any rights of appeal that may be available for that determination under local law if the regulatory authority is the State, or under Federal law, if the regulatory authority is the Office; and

(3) If an appeal is not filed within a time established by the regulatory authority or is unsuccessful, proceed in an action for collection on the bond as provided by applicable laws for the collection of defaulted bonds or other debts, consistent with this section for the amount of the estimated actual costs to the regulatory authority to carry out the performance standards and reclamation requirements for a surface or underground coal mining operation; and

(4) If an appeal is filed, defend the action.

(b) The written determination to forfeit all or part of the bond, including the reasons for forfeiture and the amount to be forfeited, shall be a final decision by the regulatory authority.

(c) The regulatory authority may forfeit any or all bond deposited for an entire permit area in order to satisfy the obligations of section 808.11 and Section 808.14.

§ 808.13 Criteria for forfeiture.

(a) A bond shall be forfeited if the regulatory authority finds that—

(1) The permittee has violated any of the terms or conditions of the bond; or

(2) The permittee has failed to conduct the surface mining and relcamation operation in accordance with the Act, the conditions of the permit within the time periods required by the approved reclamation plan, the State or Federal program, the regulations issued under a State or Federal program or required by the approved reclamation plan; or

(3) The permit for the area under bond has been revoked.

(b) A bond may be forfeited if the regulatory authority finds that—

(1) The permittee has become insolvent, failed in business, filed a petition in bankruptcy or for a receiver, or had a petition in bankruptcy or for a receiver filed against it in any court; or

(2) A creditor of the permittee has attached or executed a judgment against the permittee's equipment, materials, facilities at the permit area or on the collateral pledged to the regulatory authority; and

(3) The permittee cannot demonstrate or prove that it will be able to continue to operate in compliance with the Act.

§ 808.14 Determination of forfeiture amount.

The regulatory authority shall either—

(a) Determine the amount of the bond to be forfeited on the basis of the estimated actal cost to the regulatory authority or its contractor to complete the reclamation plan and other regulatory requirements in accordance with the Act, the regulations of this Chapter, a State or Federal program, and the rules and regulations issued under a State or Federal program, and the requirements of the permit; or

(b) Forfeit the entire amount of the bond for which liability is outstanding, deposit the proceeds thereof in an interest-bearing escrow account for use in the payment of all costs and administrative expenses associated with the completion of reclamation by the authority. Following completion of reclamation by the regulatory authority, the principal balance and accrued interest remaining in the account shall be returned.

PART 809—BONDING AND INSURANCE REQUIREMENTS FOR ANTHRACITE SURFACE COAL MINING AND RECLAMATION OPERATIONS

Sec.
809.1 Scope.
809.2 Objective.
809.3 Responsibilities.
809.11 Applicability.
809.12 Requirements.

AUTHORITY: Sections 102, 201(c), 501(b), 507(f), 507(b)(16), 509, 515(b)(8) and (10), 519 and 529, Pub. L. 95-87, 91 Stat. 445, 449, 468, 477, 479, 488, 489, 501 and 514 (30 U.S.C. 1202, 1211, 1251, 1257, 1259, 1265, 1269 and 1279).

§ 809.1 Scope.

This Part sets forth the applicability and general requirements for bonding and insuring anthracite surface coal mining and reclamation operations where such operations were regulated by environmental protection standards of the State in which they are located on or before August 2, 1977.

§ 809.2 Objective.

The objective of this Part is to provide minimum standards for bonds and insurance for anthracite surface coal mining and reclamation operations under Section 529(a) of the Act.

§ 809.3 Responsibilities.

All persons seeking to engage in or engaging in anthracite surface coal mining and reclamation operations subject to Section 785.11 and Part 820 of this Chapter and every regulatory authority regulating anthracite surface coal mining and reclamation operations shall comply with the bonding and insurance requirements of this Part.

§ 809.11 Applicability.

This Part applies to any person seeking to engage in or engaging in anthracite surface coal mining and reclamation operations in Pennsylvania.

§ 809.12 Requirements.

(a) All of the provisions of this Subchapter shall apply to bonding and insuring anthracite surface coal mining and reclamation operations in Pennsylvania, provided that:

(1) Specified bond limits shall be determined by the regulatory authority in accordance with applicable provisions of Pennsylvania law, rules and regulations promulgated thereunder, and implementing policies of the Department of Environmental Resources, State of Pennsylvania.

(2) The period of liability for responsibility under each bond shall be established for those operations in accordance with applicable laws of the State of Pennsylvania, rules and regulations promulgated thereunder, and implementing policies of Pennsylvania's Department of Environmental Resources.

(b) Upon amendment of the Pennsylvania permanent regulatory program with respect to specified bond limits and period of revegetation responsibility for anthracite surface coal mining and reclamation operations, any person engaging in or seeking to engage in those operations shall comply with additional regulations the Secretary may issue as are necessary to meet the purposes of the Act.

(c) Nothing in this Part shall exempt anthracite surface coal mining and reclamation operations from the requirements under this chapter, except as set forth in Section 785.11 and Part 820 of this Chapter.

SUBCHAPTER K—PERMANENT PROGRAM PERFORMANCE STANDARDS

PART 810—PERMANENT PROGRAM PERFORMANCE STANDARDS—GENERAL PROVISIONS

Sec.
810.1 Scope.
810.2 Objectives.
810.3 Authority.
810.4 Responsibility.

AUTHORITY: Secs. 102, 201, 501(b), 503, 504, 512, 515, 516 and 517 of Pub. L. 95-87, 91 Stat. 448, 449, 468, 470, 471, 483, 486, 495, and 498 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1262, 1265, 1266, and 1267).

§ 810.1 Scope.

(a) This Subchapter sets forth the minimum performance standards to be implemented under a regulatory program before it will be approved by the Secretary; and

(b) This Subchapter sets forth requirements to be used in developing regulatory programs for coal exploration operations and surface coal mining and reclamation operations.

§ 810.2 Objectives.

The objective of this Subchapter is to ensure that coal exploration operations and surface coal mining and reclamation operations are conducted in a manner which is compatible with the environmental, social, and esthetic needs of the Nation. This requires—

(a) Protection of the health, safety, and general welfare of mine workers and the public;

(b) Maximum use and conservation of the solid fuel resource being recovered so that reaffecting the land through future surface coal mining operations can be minimized;

(c) Prompt reclamation of all disturbed areas to conditions that are capable of supporting the premining land uses or higher or better land uses;

(d) Reclamation of land disturbed by surface coal mining operations as contemporaneously as practicable with mining operations;

(e) Minimizing, to the extent possible using the best technology currently available, of disturbances and adverse impacts on fish, wildlife, and other related environmental values, and enhancement of such resources where practicable;

(f) Revegetation which achieves a prompt vegetative cover and recovery of productivity levels compatible with approved land uses;

(g) Minimum disturbance to the prevailing hydrologic balance at the minesite and in associated off-site areas, and to the quality and quantity of water in surface and groundwater systems;

(h) Protection of fragile and historic lands where surface coal mining operations could result in significant damage to important historic, cultural, scientific, or esthetic values; and

(i) Confinement of surface coal mining and reclamation operations and spoil disposal areas within the permit area.

§ 810.3 Authority.

The Secretary shall promulgate minimum coal exploration and surface mining and reclamation operations performance standards applicable under a State or Federal program.

§ 810.4 Responsibility.

(a) Under the general direction of the Assistant Secretary, Energy and Minerals, the Director shall ensure that performance standards at least as stringent as the standards established by the Secretary are implemented and enforced under every State and Federal program.

(b) Each regulatory authority under an approved State program is responsible for implementing and enforcing performance standards which are at least as stringent as the standards in this Subchapter.

(c) Each person conducting surface coal mining and reclamation operations is responsible for complying with performance standards which are at least as stringent as the standards in this Subchapter.

PART 811—PERMANENT PROGRAM PERFORMANCE STANDARDS—APPLICABILITY TO STATE AND FEDERAL PROGRAMS

Sec.
811.1 Scope.
811.2 Objective.
811.10 Applicability to State programs.
811.11 Applicability to Federal Programs.

AUTHORITY: Secs. 102, 201, 501(b), 503, 504, 505, 512, 515, 516 and 517 of Pub. L. 95-87, 91 Stat. 448, 449, 468, 470, 471, 473, 483, 486, 495, and 498 (30 USC 1202, 1211, 1251, 1253, 1254, 1255, 1262, 1265, 1266, and 1267).

§ 811.1 Scope.

This Part sets forth how the performance standards of this Subchapter are to be used in the development of every regulatory program.

§ 811.2 Objective.

The objective of this Part is to explain the manner in which the performance standards contained in this Subchapter are to be used as the basis for developing the performance standards applicable under each regulatory program.

§ 811.10 Applicability to State programs.

To be eligible for approval by the Secretary, a State program must contain performance standards at least as stringent as the performance standards of this Subchapter and must comply with all the requirements of 30 CFR 730–734.

§ 811.11 Applicability to Federal programs.

(a) If a State fails to submit a program for approval or to implement or maintain an approved State program, the Secretary shall implement a Federal program which shall include performance standards at least as strin-

gent as the minimum performance standards of this Subchapter.

(b) A Federal program for a State shall take into consideration the nature of that State's terrain, climate, biological, chemical, and other relevant physical conditions and shall be promulgated in accordance with Part 736 of this Title.

(c) If a Federal program is implemented for a State which has existing statutes or regulations that interfere with the achievement of the purposes and requirements of the Act and the Federal program, those statutes or regulations shall, so far as they interfere with the achievement of the purposes and requirements of the Act and Federal program, be preempted and superceded by the Federal program. The Secretary shall set forth those State statutes or regulations in accordance with 30 CFR 736.23.

PART 812—PERMANENT PROGRAM PERFORMANCE STANDARDS—INDEX

Sec.
812.1 Scope.
812.2 Objectives.
812.11 Parts containing performance standards.
812.12 Alphabetic index to performance standards.

AUTHORITY: Secs. 102, 201, 501(b), 515 and 516 of Pub. L. 95-87, 91 Stat. 448, 449, 468, 486, and 495 (30 USC 1202, 1211, 1251, 1265 and 1266).

§ 812.1 Scope.

This Part contains an index to the minimum performance standards of this Subchapter.

§ 812.2 Objectives.

The objectives of this Part are to—

(a) Assist any person who conducts or intends to conduct coal exploration or surface coal mining and reclamation operations in determining which performance standards apply to the operations.

(b) Improve the understanding of these minimum performance standards to increase compliance; and

(c) Provide interested parties with a simple reference system to this Subchapter.

§ 812.11 Parts containing performance standards.

(a) Coal exploration—Part 815

(b) General extraction methods:

(1) Surface—Part 816

(2) Underground—Part 817

(c) Geographical locations:

(1) Alaska—Part 821

(2) Alluvial valley floors—Part 822

(3) Special bituminous coal mines in Wyoming—Part 825

(d) Chemical properties of coal: Anthracite mines—Part 820

(e) Combination of general extraction methods: Concurrent surface and underground—Part 818

(f) Special surface mining methods:

(1) Auger mining—Part 819

(2) Mountaintop removal—Part 824

(3) Steep slope mining—Part 826

(g) Soil quality: Prime farmland—Part 823

(h) Other activities:

(1) Coal processing off the mine permit area—Part 827

(2) In situ processing—Part 828

§ 812.12 Alphabetic index to performances.

The subjects addressed in the minimum performance standards of this Subchapter are discussed in the Parts or Sections indicated in the following index.

Item	Regulation			
Abandonment	816.53	816.133	817.131	817.133
	816.131	817.71(p)	817.132	827.12(m)
	816.132			
Acid mine drainage	710.5	816.55	817.50	817.55
	816.50			
Acid-forming material	710.5	816.72(b)	817.35	817.72(b)
	816.36	816.103	817.41	817.103
	816.41	816.104	817.43	824.11(b)
	816.43	816.105	817.48	828.11(c)
	816.48			
Affected area	816.38	816.132	817.46(u)	817.132
	816.46(u)	817.38	817.52(b)	824.11
	816.52(b)			
Agriculture or agricultural activities	816.54	817.54	822.2	822.13
	816.62(b)	817.62(b)	822.211	822.14
	816.111(b)	817.111(b)	822.12	824.11(a)
	816.133	817.133		
Air resources or air quality	815.12(n)	816.95	817.36	827.12(i)
	816.31	817.31	817.95	828.12
	816.36			
Alaska	812.11	Part 821		
Alluvial valley floors	812.11	Part 822		
Angle of repose	816.102(a)	816.105	817.102(a)	
Anthracite mines	812.11	Part 820		
Approximate original contour	816.38	816.105	819.11(d)	825.2
	816.71	817.38	824.1	826.12(b)
	816.104	817.71	824.11	826.13(a)
Aquifer	815.12(h)	816.52	817.52	822.11(a)
	816.50	817.50	817.126(b)	828.11(d)
Arid and semiarid areas	822.1			
Auger holes	819.11			
Berms	816.71(e)	817.71(e)		
Auger mining	812.11	Part 819		
Backfilling and grading/ regrading	815.12	816.82	817.24(a)	817.95(b)
	816.15	816.85(c)	817.31	817.100
	816.22(c)	816.95(b)	817.43(c)	817.101
	816.24(a)	816.100	817.44(c)	817.102
	816.31	816.101	817.45	817.103
	816.43(c)	816.102	817.46(s)	817.131
	816.44(c)	816.103	817.52(b)	824.11(b)
	816.45	816.104	817.71	825.2
	816.46(s)	816.105	817.72(e)	825.11(b)
	816.52(b)	816.131	817.73(b)	825.12(c)
	816.71	817.15	817.82	826.12
	816.72(e)	817.22(c)	817.85(c)	826.13
	816.73(b)			
Benches	816.71(e)	817.71(e)	824.11(b)	826.13(a)
	816.102	817.102	825.11(b)	
Best technology currently available:	810.2(e)	816.39	816.97	817.43(c)
	815.12	816.43(c)	817.31	817.44(a)
	816.31	816.44(a)	817.36	817.45
	816.36	816.45	817.39	817.97
Blasting	816.11	816.65	817.13	817.67
	816.13	816.67	817.61	817.68
	816.61	816.68	817.62	817.95(b)
	816.62	816.95(b)	817.65	823.11(a)
	816.64	817.11		
Boreholes	815.12(g)	816.14	817.13	817.15
	816.13	816.15	817.14	
Buffer zones	816.11	817.11	817.126	
	816.57	817.57		
Burning	816.86	816.95(b)	817.87	817.95(b)
	816.87	817.86		
Casing and sealing requirements	815.12(g)	816.14	817.13	817.15
	816.13	816.15	817.14	828.11(b)
Cessation of operations	816.131	817.131	817.132	821.1
	816.132			
Coal processing plants	816.39	817.39	Part 827	
Coal processing waste	816.14	816.85	817.46(o)	817.86
	816.46(o)	816.86	817.51(b)	817.87
	816.51	816.87	817.17(k)	817.88
	816.55(b)	816.88	817.81	817.91
	816.71(k)	816.91	817.82	817.92
	816.81	816.92	817.83	817.93
	816.82	816.93	817.85	827.12
	816.83	817.14		
Coal processing waste bank or pile	816.82	816.85	817.83	817.85
	816.83	817.82		
Coal removal	816.59	817.59	817.95(b)	818.12
	816.95(b)			
Combustible material	816.89	816.92(a)	817.91(b)	817.92(a)
	816.91(b)	817.89		
Concurrent surface and underground mining	812.11	Part 818		
Contour mining	816.101(a)			
Culverts	815.12	816.38	817.32	817.102(b)
	816.32	816.102(b)	817.38	
Dams	816.49	817.49	817.123(b)	
Dams (constructed of coal processing waste)	816.91	816.93	817.92	817.93
	816.92	817.91		
Discharge into underground mines	816.55	817.55		
Discharge structures	816.32	816.47	817.32	817.47
Disturbed area	810.2	816.71(d)	817.45	817.113
	816.42	816.92(c)	817.46	816.133
	816.45	816.113	817.52(b)	826.12(b)
	816.46	816.133	817.71(d)	827.12
	816.52(b)	817.42	817.92(c)	
Ditches	816.34	816.72(d)	817.35	817.72(d)
	816.35	816.83	817.42	817.83
	816.42	816.91(b)	817.71(d)	817.91(b)
	816.71(d)	817.34		
Diversions	815.12(f)	816.71(d)	817.43	817.72(d)
	816.43	816.72(d)	817.44	817.83
	816.44	816.83	817.47	817.92
	816.47	816.92	817.71(d)	827.12(h)
Downslope	826.12(a)			
Drainage	816.24(b)	816.72	817.32(b)	817.83
	816.31	816.73	817.34	817.85(c)
	816.32(b)	816.83	817.41	817.133
	816.34	816.85(c)	817.42	819.11(b)
	816.41	816.104	817.46	822.11
	816.42	816.133	817.71	826.12(e)
	816.46	817.24(b)	817.72	826.13(a)
	816.71	817.31	817.73	
Drill holes	815.12	816.13	817.13	828.11(b)
Dry streams	816.31	817.31		
Effluent limitations	815.12(k)	816.46	817.41	817.53(b)
	816.41	816.53(b)	817.42	817.71(a)
	816.42	816.71(a)	817.46	827.12(d)
Embankments	816.34(d)	816.46	817.34(d)	817.46
Embankments (constructed of coal processing waste)	816.89(c)	816.92	817.89(c)	817.92
	816.91	816.93	817.91	817.93
Exploration	812.1	Part 815	816.72(a)	817.72(a)
	812.11			
Exploration holes	815.12	816.14	817.13	817.15
	816.13	816.15	817.14	
Farming	822.12			
Fire hazards	816.86	816.97(d)	817.95(b)	819.11(a)
	816.87	817.86	817.97(d)	828.11(c)
	816.95(b)	817.87		
Fish and wildlife	810.2(e)	816.36	817.13	817.46
	815.12	816.39	817.15	817.97
	816.13	816.46	817.31	817.133
	816.15	816.97	817.32	827.12(j)
	816.31	816.133	817.36	828.11(c)
	816.32	817.12	817.39	

Item	Regulation			
Fugitive dust	816.95	817.95	827.12(i)	
Grades	816.32(b)	816.102	817.83	817.102
	816.34	816.104	817.46	824.11(b)
	816.46	816.105	817.73(b)	825.11(b)
	816.73(b)	817.32(b)		
Grazing	816.115	817.115	822.13	
Ground water	810.2	816.51	817.41	817.89(a)
	815.12(g)	816.52	817.43	817.101(b)
	816.13	816.55(i)	817.46	817.126(b)
	816.14	816.71(a)	817.50	819.11(a)
	816.41	816.89(a)	817.51	822.14
	816.43	816.101(b)	817.52	826.13(a)
	816.48	817.13	817.65(i)	826.11
	816.50	817.14	817.71(a)	826.12
Head of hollow fills	816.43	816.71	817.43	817.71
	816.51	816.73	817.51	817.73
Highwalls	816.101(b)	816.105	824.11	826.12(b)
	816.102	817.101(b)	825.2	826.13(a)
	816.104(b)	817.102	825.11(b)	
Hydrologic balance	810.2(g)	816.50	817.41	817.52
	815.12	816.51	817.42	817.53
	816.32(b)	816.52	817.43	817.54
	816.41	816.53	817.44	817.55
	816.42	816.54	817.45	817.56
	816.43	816.55	817.46	817.57
	816.44	816.56	817.47	817.95(j)
	816.45	816.57	817.48	819.11(d)
	816.46	816.65(j)	817.49	822.11
	816.47	816.104(b)	817.50	826.11(b)
	816.48	816.105	817.51	
	816.49	817.32(b)		
Impoundment	816.49	816.104(b)	817.89(c)	825.11(b)
	816.71(g)	817.49	817.93	825.12(c)
	816.89(c)	817.71(g)	817.126(a)	827.12(e)
	816.93			
In situ processing	Part 828			
Industrial	816.54	817.54	824.11	826.13(a)
	816.116	817.116		
Intermittent or perennial streams	815.12(f)	816.57	817.44	817.97(d)
	816.31	816.97(d)	817.57	817.126(a)
	816.44	817.31		
Leachate	816.71(a)	816.89(a)	817.83(a)	817.89(a)
	816.83(a)	817.71(a)		
Monitoring systems	815.12	816.91(c)	817.38	817.97
	816.13	816.95	817.52	817.125
	816.14	816.97	817.53(b)	817.131
	816.38	816.131	817.67	817.132
	816.52	816.132	817.91(c)	822.12
	816.53(b)	817.13	817.95	822.14
	816.67	817.14		
Mountaintop removal	812.11	Part 824		
Mulch	816.34	816.71(c)	817.34	817.71(c)
	816.41	816.91(b)	817.41	817.91(b)
	816.45(f)	816.95(b)	817.45(f)	817.95(b)
	816.46	816.114	817.46	817.114
Non-coal waste	816.89	817.89	827.12(g)	
Noxious plants	816.112	817.112		
Nutrients and soil amendments	816.25	817.25	823.14	
Open pit mining	816.101(a)	825.5	825.11	825.12(c)
Outslope	816.72	816.102(b)	817.73	824.11(b)
	816.73	817.72	817.102(b)	
Overburden	815.12(h)	816.102	816.116	817.101(a)
	816.22(e)	816.104	817.22(e)	817.102
	816.50	816.105	817.50	817.116
	816.101(a)			
Overburden	815.12(h)	816.101(a)	816.116	817.101(a)
	816.22(e)	816.102	817.22(e)	817.102
	816.50	816.104	817.50	817.116
	816.52	816.105	817.52	
Permanent divisions	816.43	816.56	817.44	817.56
	816.44	817.43		
Permanent impoundments	816.46(u)	816.56	817.49	827.12(e)
	816.49	817.46(u)	817.56	
Permanent seals	816.15	817.15		
Postmining land use	816.22	816.102(b)	817.31	817.112
	816.24(b)	816.104	817.32	817.113
	816.25	816.111	817.38	817.114
	816.31	816.112	817.41	817.116(a)
	816.32	816.113	817.46(u)	817.117
	816.36	816.114	817.50	817.132
	816.41	816.116(a)	817.51	817.133
	816.46(u)	816.117	817.52(b)	824.2
	816.50	816.132	817.71(g)	824.11(b)
	816.51	816.133	817.101(b)	825.11(b)
	816.52(b)	817.22	817.102(b)	825.12(c)
	816.71(g)	817.24(b)	817.111	
	816.101(b)	817.25		
Pre-blasting survey	816.62	816.65(f)	817.62	
Pre-mining survey	817.122	817.125		
Precipitation (event)	816.34	816.73(d)	817.43(b)	817.73(c)
	816.42(b)	816.73(c)	817.43	817.92(b)
	816.43	816.92(b)	817.44(b)	817.93
	816.44(b)	816.93	817.46	826.13(a)
	816.46	817.34	817.72(d)	
Prime farmland	812.11	817.111(a)	Part 823	827.12(o)
	816.111(a)			
Public notice	816.84	817.84	817.122	821.13
Railroads and other facilities	816.31	816.39	817.36	817.39
	816.36	817.31		
Reclamation	810.2	817.46	818.11	824.2
	816.46	817.71(a)	818.12	826.2
	816.71(a)	817.89	819.11	826.11(a)
	816.89	817.97	820.11	826.12(b)
	816.97	817.100	822.12	826.13(b)
	816.100	817.111	822.14	827.11
	816.111	817.131	823.11	827.12
	816.131	817.132	823.14	
	816.132	818.1		
Records	816.52(b)	816.66	817.67	817.68
	816.67	817.52(b)		
Recovery of coal	810.2(b)	816.59	817.59	818.2(b)
	811.3(c)	816.95(b)	817.95(b)	818.12
Recharge capacity	816.51	816.52	817.51	817.52
Recurrence interval	816.43	816.92(b)	817.44	817.92(b)
	816.44(b)	817.43		
Refuse banks	816.51	817.51		
Reports	816.52	816.65	817.62	817.123(c)
	816.53	817.52	817.65	817.125(c)
	816.62	817.53		
Revegetation	810.2	816.95(b)	817.38	817.111
	815.12(e)	816.100	817.42	817.112
	816.25	816.111	817.43(c)	817.113
	816.38	816.112	817.44(c)	817.114
	816.42	816.113	817.45	817.115
	816.43(c)	816.114	817.46	817.116
	816.44(c)	816.115	817.71	817.117
	816.45	816.116	817.89	817.131
	816.46	816.117	817.95(b)	824.11(c)
	816.71	816.131	817.100	827.12(m)
	816.89	817.25		
Rills and gullies	816.46(s)	816.106	817.46(s)	817.106
Road cuts and embankments	816.32(b)	817.32(b)		
Roads	816.12	816.36	817.31	817.102(b)
	816.11	816.95(b)	817.32	817.111
	816.22(c)	816.97(d)	817.34	817.117
	816.31	816.102(b)	817.35	817.133(b)
	816.32	816.111	817.36	817.13(a)
	816.34	816.117	817.38	826.12(b)
	816.35	817.11	817.95(b)	
	816.36	817.22(c)	817.97(d)	

Item	Regulation			
Runoff	815.12	816.46	817.31	817.46
	816.31	816.52	817.34	817.52
	816.34	816.71(a)	817.36	817.71(a)
	816.36	816.72(d)	817.39	817.72(d)
	816.39	816.73	817.41	817.73
	816.41	816.89	817.43	817.89
	816.43	816.92(b)	817.44	817.92(b)
	816.44	816.93(b)	817.45	817.93(b)
	816.45			
Safety factor	816.32(b)	816.102(b)	817.72(a)	824.11(b)
	816.46(q)	816.104(b)	817.93	826.12
	816.72(a)	817.32(b)	817.102(b)	826.13(a)
	816.93	817.46(q)		
Sealing and casing requirements	815.12(g)	816.14	817.13	817.15
	816.13	816.15	817.14	
Sediment	816.45	816.46	817.45	817.46
Sediment control measures	816.43(c)	816.46	817.45	817.46
	816.45	817.43(c)		
Sediment control structures	816.34	816.92(c)	817.45	817.92(c)
	816.45	817.34	817.72(d)	827.12
	816.72(d)			
Sedimentation	815.12	816.46	817.31	817.106
	816.31	816.106	817.46	
Sedimentation ponds	816.42	816.47	817.42	817.47
	816.46	816.56	817.46	817.56
Seismograph	816.65(o)	816.68	817.67	817.68
	816.67	817.65(o)		
Signs and markers	816.11	816.93	817.57	827.12(a)
	816.57	817.11	817.93	
Slides	816.43	817.43	817.99	827.12(k)
	816.99			
Slopes	816.24(b)	816.82(a)	817.34	817.83
	816.32	816.83	817.46	817.92(c)
	816.34	816.92(c)	817.71	817.101(b)
	816.46	816.101(b)	817.72	817.102
	816.71	816.102	817.73	825.11(b)
	816.72	817.24(b)	817.82(a)	826.12(f)
	816.73	817.32		
Soil horizons	815.12(e)	817.22	823.11	823.14
	816.22			
Special bituminous coal mines	812.11	Part 825		
Spoil	816.48	816.95(b)	817.50	817.101
	816.50	816.101	817.52	817.102
	816.52	816.102	817.71	824.11(b)
	816.71	816.104	817.72	825.11(b)
	816.72	816.105	817.73	826.12
	816.73	817.48	817.95(b)	826.13(a)
State and Federal programs	810.1	Part 811	824.11(a)	
Steep slope mining	816.102(c)	817.102(c)	Part 826	
Stream channel diversions	815.12	816.44	817.44	
Stream crossings	815.12	816.34(d)	817.32	817.34(d)
	816.32			
Subsoil	815.12(e)	816.22	817.22	
Subsidence	817.121	817.123	817.125	817.126
	817.122	817.124		
Support facilities	815.12	816.39	817.39	827.11
Surface mining	Part 816			
Surface owner protection	817.124			
Surface water	815.12	816.71(a)	817.46	817.92(b)
	816.13	816.72(d)	817.52	818.16
	816.41	816.83(a)	817.55	819.11(a)
	816.48	816.89(a)	817.71(a)	822.14
	816.50	816.92(b)	817.72(d)	826.13(a)
	816.52	817.13	817.83(a)	826.11
	816.55	817.41	817.89(a)	826.12
Suspended solids	815.12	816.43(c)	817.36	817.44(a)
	816.31	816.44(a)	817.39	817.46(v)
	816.36	816.46(v)	817.42(a)	817.55
	816.39	816.55	817.43(c)	826.13(a)
	816.42(a)	817.31		
Temporary diversions	815.12(f)	816.44	817.43	817.44
Temporary impoundments	816.49	817.49		
Temporary seals	816.14	817.14		
Terraces	816.71	816.101(b)	817.72(e)	817.102(b)
	816.72(e)	816.102(b)	817.73(b)	825.11(b)
	816.73(b)	817.71	817.101(b)	815.12(c)
Topsoil	815.12	816.71	817.22	817.82(a)
	816.11	816.72	817.23	817.100
	816.21	816.82(a)	817.24	817.106
	816.22	816.100	817.25	817.114
	816.23	816.106	817.32(b)	817.116
	816.24	816.114	817.38	817.133
	816.25	816.116	817.43	825.11(b)
	816.32(b)	816.133	817.71	826.13(a)
	816.38	817.11	817.72	827.12(m)
	816.43	817.21		
Topsoil redistribution	816.22	816.24	817.23	817.24
	816.23	817.22		
Topsoil removal	815.12(d)	816.22	817.21	817.22
	816.21			
Topsoil storage	815.12(e)	816.23	817.23	
Toxic-forming material	816.35	816.103	817.41	817.103
	816.41	816.104	817.43	819.11(b)
	816.43	816.105	817.48	824.11(b)
	816.48	817.35	817.72(b)	826.11(c)
	816.72(b)			
Toxic mine drainage	816.50	817.50		
Transfer of wells	816.53	817.53		
Transportation facilities	816.31	816.36	817.31	817.36
Treatment facilities	815.12	816.56	817.48	817.56
	816.48			
Tree stocking	816.117	817.117		
Underground development waste	816.55(b)	817.55(b)	817.72	817.73
	817.14	817.71		
Underground mining	Part 817			
Underground mine protection	816.79			
Underground openings	816.13	816.15	617.14	817.15
	816.14	817.13		
Utilities: lines and installation	816.35	816.97(c)	817.62	817.123(b)
	816.39	817.35	817.97(c)	819.11(e)
	816.62	817.39		
Valley fills	816.43	816.72	817.51	817.72
	816.51	816.73	817.71	817.73
	816.71	817.43		
Vegetation, vegetative cover or vegetative material	810.2	816.83(c)	817.24(a)	817.95(b)
	816.22	816.91	817.32(b)	817.102(c)
	816.23	816.99	817.35	817.103
	816.24(a)	816.95(b)	817.41	817.106
	816.32(b)	816.102(c)	817.43	817.111
	816.35	816.103	817.45(a)	817.114
	816.41	816.106	817.46	817.117
	816.43	816.111	817.48	817.133
	816.45(a)	816.114	817.71(c)	822.14
	816.46	816.117	817.81(b)	823.11(f)
	816.48	816.133	817.83(c)	827.12(m)
	816.71(c)	817.22	817.91	
	816.81(b)	817.23	817.92	
Water rights replacement	816.54	817.54	827.12(f)	
Water treatment facilities	815.12	816.43	817.41	817.44(c)
	816.41	816.44(c)	817.42	817.56
	816.42	816.56	817.48	827.12
Wells	815.12(g)	816.52(a)	817.14	817.53
	816.13	816.53	817.15	817.62(b)
	816.14	816.62(b)	817.52(a)	827.12(f)
	816.15	817.13		

PART 815—PERMANENT PROGRAM PERFORMANCE STANDARDS—COAL EXPLORATION

Sec.
815.1 Scope.
815.2 Objectives.
815.4 Responsibility of persons conducting coal exploration.
815.11 Required documents.
815.12 Performance standards for coal exploration operations.
815.13 Requirement for a permit.

AUTHORITY: Secs. 102, 201, 503, 504, 506, 512, 515, 516 and 517 of Pub. L. 95-87, 91 Stat. 448, 449, 468, 470, 471, 473, 483, 486, 495 and 498 (30 USC 1202, 1211, 1251, 1253, 1254, 1256, 1262, 1265, 1266, 1267).

§ 815.1 Scope.

This Part sets forth minimum performance standards required for coal exploration operations which are not conducted within an area covered by a permit issued for surface coal mining and reclamation operations.

§ 815.2 Objectives.

The objectives of this Part are to:

(a) Provide any person who conducts or intends to conduct coal exploration with the minimum performance standards under a State or Federal program; and

(b) Prevent degradation of the environmental quality during and following the conduct of coal exploration operations.

§ 815.4 Responsibility of persons conducting coal exploration.

At least 30 days prior to commencing exploration, each person who conducts or intends to conduct coal exploration operations shall file with the regulatory authority a notice of intention to explore. If more than 250 tons of coal are to be removed during exploration, the person engaged in the coal exploration shall obtain the written approval from the regulatory authority for the notice of intention to explore. Each person who conducts exploration activities shall comply with the reclamation procedures described in the notice of intention.

§ 815.11 Required documents.

(a) Each person who conducts any coal exploration operation shall, while in the exploration area, possess the following:

(1) If 250 or less tons of coal are removed during exploration, a receipt from the regulatory authority as evidence of the filing of a notice of intention to explore as required by CFR 776.11(a); or

(2) If more than 250 tons are to be removed during exploration, written approval of the regulatory authority for the activities granted under 30 CFR 776.11.

(b) Upon the request of any agent or employee of the regulatory authority, each person who conducts coal exploration operations shall immediately present the receipt or necessary written approval to the agent or employee so that the agent or employee may read and copy the contents of the receipt or approval.

§ 815.12 Performance standards for coal exploration operations.

Any exploration activity shall comply at a minimum with the performance standards of this Subchapter.

(a) The person who conducts exploration shall record the cumulative amount of coal removed during coal exploration by drilling, coring, trenching, mining or other techniques. This record shall be kept up to date and available to the regulatory authority at the exploration site.

(b) The person who conducts exploration shall not remove more than 250 tons of coal during exploration without the specific written approval of the regulatory authority.

(c) Vehicular travel on other than established public or private graded and surfaced roads shall be limited by the person who conducts coal exploration to that absolutely necessary to conduct the exploration. Travel shall be confined to graded and surfaced roads during and following periods of precipitation when vehicles would cause excessive damage to vegetation or rutting of the land surface, or when vehicles could become immobilized in soft earth materials and cause excessive disturbance.

(d) Any new road in the exploration area shall be constructed, utilized, maintained and restored in accordance with the following requirements:

(1) Roads shall be located, so far as possible, on the flattest and most stable available slopes to minimize erosion.

(2) Vehicles shall not enter an active stream channel unless specific crossing locations are first approved by the regulatory authority as temporary routes across small streams and they do not adversely affect sedimentation. All other stream crossings shall be made using bridges, culverts, or other structures designed, constructed, and maintained to minimize disturbance to water quality and quantity.

(3) Topsoil shall be removed, under paragraph (e) of this section, before use of a surface area as a road if that use may cause substantial damage to fish, wildlife and related environmental values or to site productivity.

(4) Each new road shall be designed, constructed, and maintained to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area. Permanent roads constructed or modified during exploration and remaining after exploration activities are completed shall be designed, constructed, and maintained in accordance with 30 CFR 816.31-816.38.

(5) Each existing road affected by exploration shall be used and maintained by the person who conducts exploration only in compliance with applicable Federal, State and local requirements.

(e)(1) The entire "A" horizon of the soil and as much other subsoil and unconsolidated earth materials as are necessary to meet the revegetation requirement of paragraph (m) of this section shall be removed before:

(i) Disturbance of an area by off-road travel which may cause substantial damage to fish, wildlife and related environmental values or to site productivity;

(ii) Construction of roads;

(iii) Any drilling that involves construction of a drill pad or flat surface and disposal of large amounts of drilling fluid or cuttings; and

(iv) Establishment of office facilities, storage facilities, repair facilities, or testing facilities.

(2) Removed topsoil shall be stored under the requirements of Section 816.23 and shall be redistributed under the requirements of 30 CFR 816.24, as soon as the coal exploration is complete. If the person engaged in exploration submits a permit application under 30 CFR 778-791, topsoil redistribution may be deferred until action is taken on the application by the regulatory authority.

(f) With the exception of small and temporary diversions of overland flow of water around new roads, drill pads, and support facilities, no ephemeral, intermittent or perennial streams shall be diverted during coal exploration. Overland flow of water shall be diverted in a manner that prevents, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area and which causes no violations of applicable State or Federal requirements.

(g) Each drill hole, borehole, well, or other drilled excavation created during the exploration shall either be plugged and capped with at least 10 feet of cement or shall be managed to prevent water pollution and mixing of ground and surface waters and to ensure the safety of people, livestock, wildlife, and machinery in each area where these openings could be a hazard. If a mining permit that requires compliance with 30 CFR 816.13 and 816.14 has not been approved the person who conducts coal exploration shall not leave any open holes. Each excavation encountering ground water shall be filled, plugged, or otherwise

closed to prevent adverse changes in water quality or quantity, in accordance with a plan approved by the regulatory authority before the exploration operation begins.

(h) The person who conducts coal exploration shall, to the maximum extent practicable, measure important environmental characteristics of the exploration area during coal exploration so as to minimize environmental damage and to provide adequate information for a mining permit application if the person submits an application under 30 CFR 778-791. The measurements to be considered include, but are not limited to, overburden characteristics that could affect water quality and revegetation, soils characteristics, vegetation, hydrogeologic conditions, aquifer characteristics, important hydrologic, biologic and geologic characteristics of stream valleys west of the 100th meridian west longitude, air quality, meteorological data where necessary, surface water flow data, and biological data.

(i) The person who conducts exploration shall make available to the regulatory authority all environmental monitoring data collected during coal exploration.

(j) No habitats of unique value for fish, wildlife and other related environmental values shall be disturbed during exploration activities.

(k) All water discharged or affected by coal exploration shall use treatment facilities approved by the regulatory authority and shall meet the effluent limitations of 30 CFR 816.42(a) upon leaving the exploration site.

(l) All facilities and equipment shall be removed from the exploration area promptly after they are no longer needed for exploration activities with the exception of those facilities and equipment that the regulatory authority determines shall remain to:

(1) Provide additional environmental quality data;

(2) Reduce or control the on- and off-site effects of the exploration activities;

(3) Facilitate future mining under an approved mining and reclamation plan and permit.

(m) Revegetation of areas disturbed by coal exploration operations shall be performed by the person who conducts exploration in accordance with 30 CFR 816.111-816.115.

§ 815.13 Requirement for a permit.

If coal extracted during exploration is sold commercially, the person who conducts in the operation must have obtained a permit for the operation under 30 CFR 778-791 unless the person who conducts the exploration has demonstrated, and the regulatory authority has determined, that the sale is to test coal properties necessary for the development of operations for which a permit application may be submitted.

PART 816—PERMANENT PROGRAM ENVIRONMENTAL PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

Sec.
816.1 Scope.
816.2 Objectives.
816.11 Signs and markers.
816.13 Casing and sealing of drilled holes: General requirements.
816.14 Casing and sealing of drilled holes: Temporary.
816.15 Casing and sealing of drilled holes: Permanent
816.21 Topsoil: General requirements.
816.22 Topsoil: Removal.
816.23 Topsoil: Storage.
816.24 Topsoil: Redistribution.
816.25 Topsoil: Nutrients and soil amendments.
816.31 Roads and associated structures: General requirements.
816.32 Road construction: Location.
816.33 Road construction: Erosion control.
816.34 Road construction: Drainage.
816.35 Road construction: Surfacing.
816.36 Other transportation facilities.
816.38 Restoration of roads.
816.39 Support facilities and utility installation.
816.41 Hydrologic balance: General requirements.
816.42 Hydrologic balance: Water quality standards and effluent limitations.
816.43 Hydrologic balance: Diversion and conveyance of overland flow and shallow ground water flow.
816.44 Hydrologic balance: Stream channel diversions.
816.45 Hydrologic balance: Sediment control measures.
816.46 Hydrologic balance: Sedimentation ponds.
816.47 Hydrologic balance: Discharge structures.
816.48 Hydrologic balance: Acid-forming and toxic-forming spoil.
816.49 Hydrologic balance: Permanent and temporary impoundments.
816.50 Hydrologic balance: Ground water protection.
816.51—Hydrologic balance: Protection of ground water recharge capacity.
816.52 Hydrologic balance: Surface and ground water monitoring.
816.53 Hydrologic balance: Transfer of wells.
816.54 Hydrologic balance: Water rights and replacement.
816.55 Hydrologic balance: Discharge of water into underground mines.
816.56 Hydrologic balance: Postmining rehabilitation of sedimentation ponds, diversions, impoundments, and treatment facilities.
816.57 Hydrologic balance: Stream buffer zones.
816.59 Coal recovery.
816.61 Use of explosives: General requirements.
816.62 Use of explosives: Preblasting survey.
816.64 Use of explosives: Public notice of blasting schedule.
816.65 Use of explosives: Surface blasting requirements.
816.67 Use of explosives: Seismograph measurements.
816.68 Use of explosives: Records of blasting operations.
816.71 Disposal of excess spoil: General requirements.
816.72 Disposal of excess spoil: Valley fills.
816.73 Disposal of excess spoil: Head-of-hollow fills.
816.79 Protection of underground mining.
816.81 Coal processing waste: General requirements.
816.82 Coal processing waste banks: Site inspection.
816.83 Coal processing waste banks: Water control measures.
816.85 Coal processing waste banks: Construction requirements.
816.86 Coal processing waste: Burning.
816.87 Coal processing waste: Burned waste utilization.
816.88 Coal processing waste: Return to underground workings.
816.89 Disposal of non-coal wastes.
816.91 Coal processing waste: Dams and embankments: General requirements.
816.92 Coal processing waste: Dams and embankments: Site preparation.
816.93 Coal processing waste: Dams and embankments: Construction.
816.95 Air resources protection.
816.97 Protection of fish, wildlife and related environmental values.
816.99 Slides and other damage.
816.100 Contemporaneous reclamation.
816.101 Backfilling and grading: General requirements.
816.102 Backfilling and grading: General grading requirements.
816.103 Backfilling and grading: Covering coal and acid- and toxic-forming materials.
816.104 Backfilling and grading: Thin overburden.
816.105 Backfilling and grading: Thick overburden.
816.106 Regrading or stabilizing rills and gullies.
816.111 Revegetation: General requirements.
816.112 Revegetation: Use of introduced species.
816.113 Revegetation: Timing.
816.114 Revegetation: Mulching.
816.115 Revegetation: Grading.
816.116 Revegetation: Standards for success.
816.117 Revegetation: Tree stocking for forest land.
816.131 Cessation of operations: Temporary.
816.132 Cessation of operations: Permanent.
816.133 Post-mining land use.

AUTHORITY: Secs. 102, 201, 501, 503, 504, 508, 515, 517, 519, 701, 717, and 719 of Pub. L. 95-87, 91 Stat. 448, 449, 467, 470, 471, 478, 486, 498, 501, 516, 526 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1258, 1265, 1267, 1269, 1291, 1307, 1309).

§ 816.1 Scope.

This Part sets forth the minimum performance standards for surface mining activities. Performance standards for other mining activities are set forth in Parts 817-828 of this Subchapter.

§ 816.2 Objectives.

This Part is intended to ensure that all surface mining activities are conducted in a manner which preserves

§ 816.13 Casing and sealing of drilled holes: General requirements.

Each exploration hole, other borehole, well or other exposed under-

mining, or other surface disturbance of the areas.

(b) *Materials to be removed.* All topsoil shall be removed unless use of al-

best available material to support the vegetation, and that the tests and analyses were conducted under his or

mining activities shows, through appropriate tests, and the regulatory authority approves, that no harm will be

§ 816.32 Road construction: Location.

(a) All roads shall be located insofar as possible on ridges or on the flattest

§ 816.2 Objectives.

This Part is intended to ensure that all surface mining activities are conducted in a manner which preserves and enhances environmental and other values in accordance with the Act.

§ 816.11 Signs and markers.

(a) *Specifications.* Each sign and marker required to be posted under this Part shall—

(1) Be of a uniform design throughout the operation that can be seen and read easily;

(2) Be made of durable material; and

(3) Conform to each local ordinance and code.

(b) *Duration of maintenance.* Each person who conducts surface mining activities shall maintain each sign and marker during all activities to which they pertain.

(c) *Mine and permit identification signs.*

(1) Each person who conducts surface mining activities shall display identification signs at each point of access to the permit area from public roads.

(2) The signs shall show the name, business address, and telephone number of the person who conducts the surface mining activities and the identification number of each current permit authorizing surface mining activities.

(3) Each sign shall not be removed until after the release of all bonds.

(d) *Perimeter markers.* Each person who conducts surface mining activities shall clearly mark the perimeter of the permit area before submitting a permit application.

(e) *Buffer zone markers.* Each person who conducts surface mining activities shall mark each buffer zone, as required by Section 816.57 of this Part. Each buffer zone marker shall be designed and placed in the same manner as the perimeter markers. Each buffer zone marker shall be located along the boundary of the buffer zone.

(f) *Blasting signs.* If blasting is conducted incident to surface mining activities, the person who conducts these activities shall conspicuously display—

(1) Signs reading "Blasting Area" at the edge of blasting areas along roads within the permit area; and

(2) Signs clearly explaining the blasting warning and all-clear signals at all entrances to the permit area from a public road or highway.

(g) *Topsoil markers.* Where topsoil or other vegetation-supporting material is required to be segregated and stockpiled under Section 816.23, the person who conducts the surface mining activities shall clearly mark the stockpiled material.

§ 816.13 Casing and sealing of drilled holes: General requirements.

Each exploration hole, other borehole, well, or other exposed underground opening shall be cased, sealed, or otherwise managed to prevent pollution and mixing of surface or ground water, and to ensure the safety of people, livestock, wildlife, and machinery in the area where these openings could be a hazard. Each exploration hole, borehole, well, or other underground opening that is uncovered or exposed by mining activities within the permit area shall be permanently closed, in a manner approved by the regulatory authority, unless the opening is approved for monitoring. This Section does not apply to holes drilled and used for blasting.

§ 816.14 Casing and sealing of drilled holes: Temporary.

Each exploration hole, other borehole, well and other exposed underground opening which has been identified in the approved mining and reclamation plan to be used for return of coal processing waste or water to underground workings or to be used to monitor ground water conditions shall be temporarily sealed before use and shall be protected during use by barricades or fences or other protective devices approved by the regulatory authority. Any barricade, fence, or other protective device shall be periodically inspected and maintained in good operating condition by the person who conducts the surface mining activities.

§ 816.15 Casing and sealing of drilled holes: Permanent.

Each exploration hole, other borehole, well, and other exposed underground opening to the surface shall be capped, sealed, or backfilled, as required by the regulatory authority consistent with 30 CFR 75.1711. Closure measures shall be of a permanent design to prevent access to the mine workings by people and animals and to prevent the flow of water.

§ 816.21 Topsoil: General requirements.

(a) Before disturbance of an area, topsoil and subsoils to be saved under Section 816.22 shall be removed from the area as a separate operation and segregated from other material.

(b) After removal, topsoil shall either be immediately redistributed in accordance with Section 816.24 or stockpiled pending redistribution, if permissible under Section 816.23.

§ 816.22 Topsoil: Removal.

(a) *Timing.* Topsoil shall be removed after the vegetative cover that would interfere with the use of the topsoil is cleared from all areas to be affected but before any drilling, blasting, mining, or other surface disturbance of the areas.

(b) *Materials to be removed.* All topsoil shall be removed unless use of alternative materials is approved by the regulatory authority to be segregated in accordance with paragraph (e) of this Section. If use of alternative materials is approved, all materials to be redistributed shall be removed.

(c) *Additional material to be removed in thin topsoil situations.* If the topsoil is less than 6 inches, a 6 inch layer that includes the A horizon and the unconsolidated materials immediately below the A horizon, or the A horizon and all unconsolidated material if the total available is less than 6 inches, shall be removed and the mixture segregated and replaced as the surface soil layer.

(d) *Subsoil segregation.* The B horizon and portions of the C horizon or other underlying layers demonstrated to have qualities for root development comparable to the B or C horizons shall be segregated and replaced as subsoil if the regulatory authority determines that this segregation and replacement is necessary or desirable to ensure soil productivity consistent with the approved post-mining land use.

(e) *Topsoil substitutes and supplements.* Selected overburden materials may be substituted for, or used as a supplement to, topsoil where the resulting soil medium is equal to or more suitable for vegetation, and if all the following requirements have been met:

(1) It is demonstrated to the regulatory authority by the results of chemical and physical analyses of overburden and topsoil that the selected overburden materials or an overburden and topsoil mixture is more suitable for restoring land capability and productivity and that it is the best available material to support and sustain the approved vegetation. These analyses shall include determinations of pH, sulfide content that when oxidized will lower the pH, percent organic material, nitrogen, phosphorus, potassium, texture class, water-holding capacity, and such other analyses as required by the regulatory authority. The regulatory authority may also require that results of field-site trials or greenhouse tests be used to demonstrate the feasibility of using such overburden materials.

(2) The chemical and physical analyses and the results of field-site trials and greenhouse tests submitted to the regulatory authority shall be accompanied by a certification from a qualified soil scientist or agronomist, stating, on the basis of the test results, that the proposed substitute material is equal to or more suitable for sustaining the vegetation than is the available topsoil, that the substitute material is the best available material to support the vegetation, and that the tests and analyses were conducted under his or her supervision and used standard testing procedures.

(3) The tests and analyses shall be conducted by a laboratory approved by the regulatory authority.

(4) The alternative material shall be removed, segregated, and replaced in compliance with the requirements for topsoil under this Section.

(f) *Limits on topsoil removal area.* Where the removal of vegetative material, topsoil or other materials may result in erosion which may cause air or water pollution, the person who conducts surface mining activities shall—

(1) Limit the size of the area from which topsoil is removed at any one time;

(2) Redistribute the surface soil layer at a time when the physical and chemical properties of topsoil can be protected and erosion can be minimized; and

(3) Take such other measures as the regulatory authority may approve or require to control erosion.

§ 816.23 Topsoil: Storage.

(a) The topsoil and other materials removed under Section 816.22 shall be stockpiled only when it is impractical to promptly redistribute such materials on regraded areas.

(b) The stockpiled materials shall be placed on a stable area within the permit area where the materials shall not be disturbed or exposed to excessive water or wind erosion, or to contaminants which lessen the capability to support vegetation before they can be redistributed.

(1) Stockpiles shall be selectively placed and protected from wind and water erosion, unnecessary compaction, and contamination by undesirable materials either by—

(i) An effective cover of nonnoxious, quick-growing annual and perennial plants, seeded or planted during the first normal period for favorable planting conditions; or

(ii) Other methods demonstrated to and approved by the regulatory authority to provide equal protection.

(2) Unless approved by the regulatory authority, stockpiled topsoil and other materials shall not be moved until required for redistribution on a regraded area.

§ 816.24 Topsoil: Redistribution.

(a) After final grading and before the replacement of topsoil and other materials segregated in accordance with Section 816.23, regraded land shall be scarified or otherwise treated to eliminate slippage surfaces and to promote root penetration. If the person who conducts the surface mining activities shows, through appropriate tests, and the regulatory authority approves, that no harm will be caused to the topsoil and vegetation, the scarification may be conducted after topsoiling.

(b) Topsoil and other materials shall be redistributed in a manner that—

(1) Achieves an approximate uniform, stable thickness consistent with the post-mining land uses, slopes, agricultural aspects and surface drainage system;

(2) Prevents excess compaction of the topsoil; and

(3) Protects the topsoil from wind and water erosion before and after it is seeded and planted.

§ 816.25 Topsoil: Nutrients and soil amendments.

Nutrients and soil amendments in the amounts determined by soil tests shall be applied to the redistributed surface soil layer so that it supports the post-mining land use approved by the regulatory authority, and meets the revegetation requirements of Sections 816.111–816.117. All soil tests shall be conducted by a laboratory approved by the regulatory authority and certified by a qualified agronomist or soil scientist.

§ 816.31 Roads and associated structures: General requirements.

(a) Each person who conducts surface mining activities shall design, construct, utilize, maintain, and reclaim all roads, road rights-of-way, and associated structures to meet the requirements of Sections 816.32–816.35, 816.38, and 816.95 to control or prevent erosion and siltation, air and water pollution, and damage to public or private property.

(1) To the extent possible using the best technology currently available, roads, road rights-of-way, associated structures, and other transportation facilities shall not cause damage to fish, wildlife, and related environmental values and shall not cause additional contributions of suspended solids to streamflow, or to runoff outside the permit area. In no event shall contributions of suspended solids be in excess of limitations set by applicable State or Federal law.

(2) All roads shall be removed and the land affected regraded and revegetated in accordance with the requirements of Section 816.38 unless—

(i) Retention of the road is approved as part of the approved post-mining land use or as being necessary to control erosion adequately;

(ii) The necessary maintenance is assured; and

(iii) All drainage shall be controlled according to Section 816.34.

§ 816.32 Road construction: Location.

(a) All roads shall be located insofar as possible on ridges or on the flattest and most stable available slopes to minimize erosion. Except as otherwise specifically authorized in this Section, no part of any road shall be located in the channel of a perennial stream. Stream fords are prohibited unless they are specifically approved by the regulatory authority as temporary routes across non-flowing streams that will not adversely affect sedimentation or fish, wildlife and related environmental values and that will not be used for coal haulage. All other stream crossings shall be made using bridges, culverts, or other structures designed, constructed, and maintained to meet the requirements of this Section. Roads shall not be constructed in a manner that increases erosion or causes additional downstream sedimentation or flooding.

§ 816.33 Road construction: Erosion control.

In order to control erosion and subsequent disturbance of the hydrologic balance, roads shall be designed, constructed, and maintained in compliance with the following:

(a) *Vertical alinement.* Except where the regulatory authority requires lesser grades to control erosion, road grades shall be as follows:

(1) The overall grade shall not exceed 1*v*:10*h* (10 percent).

(2) The maximum grade shall not exceed 1*v*:6.5*h* (15 percent).

(3) There shall not be more than 300 feet of grade exceeding 10 percent within any consecutive 1,000 feet of road constructed.

(4) The road surface shall be sloped toward the ditch line at the minimum rate of one-half inch per foot of surface width or crowned at the minimum rate of one-half inch per foot of surface width as measured from the centerline of the road.

(b) *Road cuts.* This paragraph applies to roads that are to remain in place and be used for more than 5 years or that are to remain as part of the approved post-mining land use. Cut slopes shall not be steeper than specifically authorized by the regulatory authority. The regulatory authority shall not authorize slopes steeper than 1*v*:1.5*h* in unconsolidated materials or 1*v*:0.25*h* in rock except that steeper slopes may be specifically authorized by the regulatory authority if geotechnical analysis demonstrates that a minimum safety factor of 1.5 can be maintained.

(c) *Road embankments.* This paragraph applies to roads that are to remain in place and be used for more than 5 years or that are to remain as part of the approved post-mining land use. Embankment sections shall be

constructed in accordance with the following provisions:

(1) All vegetative materials and top-

content is within 4 percent of the optimum moisture content determined in accordance with AASHTO T-99

In percent	Spacing of culverts, in

limitations set by applicable State or Federal law.

(b) Control and minimize diminution

under, or through the permit area, unless otherwise approved by the owner and the regulatory authority.

maintained until drainage from the disturbed area has met the ambient surface water quality requirements of

constructed in accordance with the following provisions:

(1) All vegetative materials and topsoil shall be removed from the embankment foundation to ensure stability and no vegetative materials or topsoil shall be placed beneath or in any road embankment.

(2) When an embankment is to be placed on side slopes exceeding 1*v*:5*h* (20 percent) the existing ground shall be plowed, stepped, and keyed in a manner which ensures the stability of the fill. The minimum dimensions of the keyway shall be 10 feet wide and 2 feet deep below the toe of fill. No material shall be placed, or allowed to slide, below the toe.

(3) Material containing by volume less than 25 percent of rock larger than 6 inches in greatest dimension shall be spread in successive horizontal layers not exceeding 12 inches in thickness before compaction.

(4) Where the material for an embankment consists of rock, broken stone, or fragmented material of a size that makes placing in 12-inch layers impossible under paragraph (c)(3) of this section, the embankment shall be constructed in layers less than 24 inches in thickness, provided the individual pieces are placed so that there is no nesting and all the voids are filled with finer material.

(5) Each layer of the embankment shall be completed, leveled, and compacted before the succeeding layer is placed. Loads of material shall be leveled as placed and kept smooth. The successive layers shall be compacted evenly by routing the hauling and leveling equipment over the layers already in place and by distributing the travel over the entire width of the embankment. This routine shall be continued until no visual horizontal movement of the embankment material is apparent.

(6) Successive lifts shall not be placed until the previous layer is compacted to achieve a density throughout the preceeding lift of at least 90 percent of the maximum dry density determined in accordance with the American Association of State Highway and Traffic Officers (AASHTO) T-99. The AASHTO technical specification T-99 mentioned in this paragraph is hereby incorporated by reference. This work is incorporated as it exists on the date of adoption of this Part and notices of changes made in these materials will periodically be published in the FEDERAL REGISTER. AASHTO technical specification T-99 is available for inspection at OSM's office in OSM regional offices and in OSM's office in the Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

(7) Material shall be placed in an embankment only when its moisture content is within 4 percent of the optimum moisture content determined in accordance with AASHTO T-99.

(8) Embankment slopes shall not be steeper than 1*v*:2*h* (50 percent).

(9) The minimum safety factor for all embankments shall be 1.25, or such higher safety factor as the regulatory authority may specify.

(d) *Natural drainage.* Natural drainways shall not be altered or relocated for the purposes of road construction without the prior approval of the regulatory authority. The regulatory authority may approve alterations and relocations only if—

(1) The natural drainage is not blocked;

(2) No damage occurs to the hydrologic balance; and

(3) There is no adverse impact on adjoining landowners.

§ 816.34 Road construction: Drainage.

(a) *General.*

(1) Each road shall be designed, constructed, and maintained to have adequate drainage using structures such as, but not limited to, ditches, cross drains, and ditch relief drains. For roads that are to be maintained for more than 1 year, the water-control system shall be designed to safely pass the peak runoff from a 10-year 24-hour precipitation event or greater if required by the regulatory authority. Drainage pipes and culverts shall be constructed to avoid plugging or collapse and erosion at inlets and outlets. Drainage ditches shall be placed at the toe of all cut slopes formed by construction of roads. Trash racks and debris basins shall be installed in the drainage ditches wherever debris from the drainage area could impair the functions of drainage and sediment control structures.

(2) All drainage from roads and associated drainage structures shall pass through sediment control devices such as sediment ponds, sediment traps, vegetation filter strips, vegetated drains, straw dikes, mulches, check dams, and dugout ponds.

(b) *Ditches.* A ditch shall be provided on both sides of a through-cut and on the inside shoulder of a cut-fill section, with ditch relief cross-drains being spaced according to grade. Water shall be intercepted before reaching a switchback or large fill and drained safely away in accordance with this Section. Water on a fill or switchback shall be released below the fill, using conduit or riprapped channels, and shall not be discharged onto the fill.

(c) *Culverts.* Ditch relief culverts shall be installed according to the following provisions:

(1) Road grade:

In percent	Spacing of culverts, in ft, not more than—
2 to 5	800
6 to 10	300
11 to 15	200

(2) Each culvert shall be adequate to safely pass the peak runoff from a 10-year 24-hour precipitation event and shall cross the road at not less than a 30° angle downgrade. The culvert may be designed to carry less than the peak runoff if the ditch will remain stable.

(3) The inlet end shall be protected by a rock headwall or other material approved by the regulatory authority and the outlet end shall be placed below the toe of the fill with an apron of rock riprap or other approved material.

(4) The culvert shall be covered by compacted fill to a minimum depth of 1 foot or half the culvert diameter, whichever is greater.

(5) The culvert shall be capable of sustaining design loads.

(d) *Stream crossings.* Drainage structures are required for stream channel crossings. Drainage structures shall not affect the normal flow or gradient of the stream. In designing drainage structures consideration shall be given to the time of year the stream is crossed and the length of time the structure is used. Embankments constructed across streams shall not exceed 15 feet in height, measured on the upstream side, unless approved by the regulatory authority. Stream crossings which have drainage areas greater than 100 acres shall be designed to safely pass the 100-year storm or larger event as specified by the regulatory authority.

§ 816.35 Road construction: Surfacing.

Roads shall be surfaced with rock or other material approved by the regulatory authority as sufficiently durable. Toxic or acid-forming substances shall not be used. Vegetation shall not be cleared for more than the width necessary for road and associated ditch construction, to serve traffic needs and for utilities.

§ 816.36 Other transportation facilities.

Railroad loops, spurs, sidings, or other transport facilities shall be designed, constructed, maintained, and reclaimed to—

(a) Prevent, to the extent possible using the best technology currently available—

(1) Damage to fish, wildlife and related environmental values; and

(2) Additional contributions of suspended solids to streamflow or runoff outside the permit area. In no event shall contributions be in excess of

limitations set by applicable State or Federal law.

(b) Control and minimize diminution or degradation of water quality and quantity.

(c) Control and minimize erosion and siltation.

(d) Control and minimize air pollution.

(e) Prevent damage to public or private property.

§ 816.38 Restoration of roads.

(a) Unless the regulatory authority approves retention of the road as suitable for the approved post-mining land use, immediately after a road becomes no longer needed for operations, reclamation, or monitoring—

(1) The road shall be closed to vehicular traffic;

(2) All bridges and culverts shall be removed;

(3) Cross drains, dikes, and water bars shall be constructed to prevent erosion;

(4) Road surfaces shall be scarified and covered with topsoil; and

(5) The area affected shall be returned to approximate original contour and revegetated in accordance with Sections 816.111–816.117.

(b) Unless otherwise authorized by the regulatory authority, all road surfacing materials shall be removed and handled or conveyed and disposed of in accordance with Section 816.89.

§ 816.39 Support facilities and utility installations.

(a) The support facilities required for or used incidental to the operation of the mine, including but not limited to mine buildings, coal loading facilities at or near the mine site, coal storage facilities, equipment storage facilities, sheds, shops, and other buildings, shall be designed, constructed, and located to prevent or control erosion and siltation, water pollution, or damage to public or private property and shall comply with all the environmental and other performance standards of this Part. Support facilities shall be designed, constructed, maintained, and used in a manner which prevents, to the extent possible using the best technology currently available—

(1) Damage to fish, wildlife and related environmental values;

(2) Additional contributions of suspended solids to streamflow or runoff outside the permit area. In no event shall such contributions be in excess of limitations set by applicable State or Federal law.

(b) All surface mining activities shall be conducted in a manner which prevents damage, destruction, or disruption of services provided by oil, gas, and water wells; oil, gas, and coal-slurry pipelines; railroads; and electric and telephone lines which pass over, under, or through the permit area, unless otherwise approved by the owner and the regulatory authority.

§ 816.41 Hydrologic balance: General requirements.

(a) Surface mining activities shall be planned and conducted to minimize disturbance to the prevailing hydrologic balance in order to prevent long-term adverse changes in the hydrologic balance that could result from those activities, on both the mine plan and affected areas.

(b) Changes in water quality and quantity, in the depth to ground water, and in the location of surface water drainage channels shall be minimized so that the approved post-mining land use of the disturbed land is not adversely affected.

(c) In no case shall applicable Federal and State water quality statutes, regulations, standards, or effluent limitations be violated.

(d) Operations shall be conducted to minimize water pollution and, where necessary, treatment methods shall be used to control water pollution.

(1) A person who conducts surface mining activities shall emphasize mining and reclamation practices that will prevent or minimize water pollution and changes in flow in preference to the use of water treatment facilities.

(2) Practices to control and minimize pollution include, but are not limited to—

(i) Stabilizing disturbed areas through land shaping;

(ii) Diverting runoff;

(iii) Achieving quickly germinating and growing stands of temporary vegetation;

(iv) Regulating channel velocity of water;

(v) Lining drainage channels with rock or vegetation;

(vi) Mulching;

(vii) Selectively placing and sealing acid-forming and toxic-forming materials; and

(viii) Selectively placing waste materials in backfill areas.

(3) If these practices are not adequate to meet the hydrologic requirements of this Part, the person who conducts the surface mining activities shall operate and maintain the necessary water treatment facilities for as long as treatment is required.

§ 816.42 Hydrologic balance: Water quality standards and effluent limitations.

(a) All surface drainage from the disturbed area, including disturbed areas that have been graded, seeded, or planted, shall be passed through a sedimentation pond or a series of sedimentation ponds before leaving the permit area. Sedimentation ponds and other treatment facilities shall be maintained until drainage from the disturbed area has met the ambient surface water quality requirements of Section 816.52 and the revegetation requirements of Sections 816.111–816.117. The regulatory authority may grant exemptions from this requirement only when the disturbed drainage area within the total disturbed area is small and if the person who conducts the surface mining activities demonstrates to the regulatory authority that sedimentation ponds and treatment facilities are not necessary to meet the effluent limitations of this Section and maintain water quality in downstream receiving waters. For the purposes of this Section, disturbed area shall not include those areas in which only diversion ditches, sedimentation ponds, or roads are installed in accordance with this Part and the upstream area is not otherwise disturbed by the person who conducts the surface mining activities. Sedimentation ponds required by this Section shall be constructed in accordance with Section 816.46 in appropriate locations before beginning any surface mining activities in the affected drainage area. Discharges from areas disturbed by surface mining activities shall comply with all applicable Federal and State laws and regulations and, at a minimum, the following numerical effluent limitations:

Effluent limitations, in milligrams per liter (mg/l) except for pH

Effluent characteristics[1]	Maximum allowable[2]	Average of daily values for 30 consecutive discharge days[2]
Iron, total	7.0	3.5
Manganese, total[3]	4.0	2.0
Total suspended solids[4]	70.0	35.0
pH	Within range of 6.0 to 9.0[5]	

[1] To be determined according to collection and analytical procedures adopted by the Environmental Protection Agency's regulations for wastewater analyses (40 CFR 136).

[2] Based on representative sampling.

[3] The manganese limitations shall not apply to untreated discharges which are alkaline as defined by the Environmental Protection Agency (40 CFR 434).

[4] In Arizona, Colorado, Montana, New Mexico, North Dakota, South Dakota, Utah, and Wyoming, total suspended solids limitations will be determined on a case-by-case basis, but they must not be greater than 45 mg/l (maximum allowable) and 30 mg/l (average of daily value for 30 consecutive discharge days) based on a representative sampling.

[5] Where the application of neutralization and sedimentation treatment technology results in inability to comply with the manganese limitations set forth, the regulatory authority may allow the pH level in the discharge to exceed to a small extent the upper limit of 9.0 in order that the manganese limitations will be achieved.

(b) A discharge from the disturbed areas is not subject to the effluent limitations of this Section if—

ilar linings shall not be used unless specifically required by the regulatory authority to prevent seepage or to protect the stability of the embankment.

moved in accordance with the following requirements:

(1) The longitudinal profile of the

proper mining and reclamation methods and sediment control practices, singly or in combination. Sediment

equal to the reduction in sediment storage volume.

(c) *Detention time.* Sedimentation

rate to achieve and maintain the required theoretical detention time. The dewatering device shall not be located

(b) A discharge from the disturbed areas is not subject to the effluent limitations of this Section if—

(1) The discharge is demonstrated by the discharger to have resulted from a precipitation event larger than a 10-year 24-hour precipitation event or from a snowmelt of equivalent volume; and

(2) The discharge is from facilities designed, constructed, and maintained in accordance with the requirements of this Part.

(c) Adequate facilities shall be installed, operated, and maintained to treat any water discharged from the disturbed area so that it complies with applicable Federal and State laws or regulations and the limitations of this Section. If the pH of water to be discharged from the disturbed area is less than 6.0, an automatic lime feeder or other automatic neutralization process approved by the regulatory authority shall be installed, operated, and maintained. The regulatory authority may authorize the use of a manual system if it finds that—

(1) Small and infrequent treatment requirements to meet applicable standards do not require use of an automatic neutralization process;

(2) The mine normally produces less than 500 tons of run-of-mine coal per day; and

(3) Timely and consistent treatment is ensured.

§ 816.43 Hydrologic balance: Diversions and conveyance of overland flow and shallow ground water flow.

Overland flow including flow through litter, and shallow ground water flow from undisturbed areas may be diverted away from disturbed areas by means of temporary or permanent diversions if required or approved by the regulatory authority as necessary to minimize erosion and to prevent or remove water from contact with acid-forming or toxic-forming materials. The following requirements shall be met for all diversions and for all collection drains that are used to transport water into water-treatment facilities.

(a) Temporary diversions shall be constructed to pass safely the peak runoff from a precipitation event with a 3-year recurrence interval, or a larger event if specified by the regulatory authority.

(b) To protect fills and property and to avoid danger to public health and safety, permanent diversions shall be constructed to pass safely the peak runoff from a precipitation event with a 10-year recurrence interval, or a larger event if specified by the regulatory authority. Permanent diversions shall be constructed with gently sloping banks that are stabilized by vegetation. Asphalt, concrete, or other similar linings shall not be used unless specifically required by the regulatory authority to prevent seepage or to provide stability.

(c) Diversions shall be designed, constructed, and maintained in a manner which prevents additional contributions of suspended solids to streamflow and to runoff outside the permit area, to the extent possible using the best technology currently available. Appropriate sediment control measures for these diversions shall include, but not be limited to, maintenance of appropriate gradients, channel lining, revegetation, roughness structures, and detention basins.

(d) No diversion shall be constructed on or pass through existing slides or located so as to increase the potential for slides.

(e) When no longer needed, each temporary diversion shall be removed and the affected land regraded, topsoiled, and revegetated in accordance with Sections 816.24, 816.25, 816.101, and 816.111–816.117.

(f) Diversion design shall incorporate the following:

(1) Any channel lining shall be designed using standard engineering practices to safely pass the design velocities. Riprap shall comply with the requirements of Section 816.72(b)(5).

(2) The design freeboard shall be no less than calculated using the following equation:

$$f=1+(0.025\times v\times d)$$

Where f=freeboard, in feet, v=design velocity, in feet per second, and d=depth of flow, in feet. Additional freeboard protection shall be provided for transition of flows and for critical areas such as swales and curves.

(3) Energy dissipators shall be installed at discharge points where diversions intersect with natural streams.

(4) Excess excavated material not necessary for diversion channel geometry or regrading of the channel shall be disposed of in accordance with 30 CFR 816.71–816.73.

(5) Topsoil shall be handled in compliance with 30 CFR 816.21–816.25.

§ 816.44 Hydrologic balance: Stream channel diversions.

(a) Flow from perennial and intermittent streams within the permit area may be diverted if—

(1) The diversions are approved by the regulatory authority as necessary to comply with other performance standards in this Subchapter; and

(2) The diversions comply with local, State, and Federal statutes and regulations.

(b) When streamflow is allowed to be diverted, the new stream channel shall be designed, constructed, and removed in accordance with the following requirements:

(1) The longitudinal profile of the stream, the channel and the floodplain shall be designed and constructed to remain stable and to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or to runoff outside the permit area. In no event shall the contributions be in excess of requirements set by applicable State or Federal law. Erosion control structures such as channel lining structures, retention basins, and artificial channel roughness structures shall be used in diversions only when approved by the regulatory authority as being necessary to control erosion. These structures shall be approved for permanent diversions only where they are stable and will require infrequent maintenance.

(2) Channel, bank, and flood-plain configurations shall be adequate to pass safely the peak runoff of a 24-hour precipitation event with a 10-year recurrence interval for temporary diversions and a 100-year recurrence interval for permanent diversions, or larger events as specified by the regulatory authority.

(c) When no longer needed to achieve the purpose for which they were authorized, all temporary stream channel diversions shall be removed and the affected land regraded and revegetated in accordance with the requirements of Sections 816.24, 816.25, 816.101, and 816.111–816.117. At the time diversions are removed, downstream water treatment facilities previously protected by the diversion shall be modified or removed to prevent overtopping or failure of the facilities. In no case shall this requirement relieve the person who conducts the surface mining activities from maintenance of the treatment facility if otherwise required under this Part or the permit.

§ 816.45 Hydrologic balance: Sediment control measures.

Appropriate sediment control measures shall be designed, constructed, and maintained to prevent additional contributions of sediment to streamflow or to runoff outside the permit area and to minimize erosion to the extent possible using the best technology currently available. Sediment control measures include practices carried out within and adjacent to the disturbed area. The sedimentation storage capacity of practices in and downstream from the disturbed area shall reflect the degree to which successful mining and reclamation techniques are applied to reduce erosion and control sediment. Sediment control measures consist of the utilization of proper mining and reclamation methods and sediment control practices, singly or in combination. Sediment control methods include but are not limited to—

(a) Disturbing the smallest practicable area at any one time during the mining operation through progressive backfilling, grading, and timely revegetation;

(b) Shaping the backfill material to promote a reduction in the rate and volume of runoff, in accordance with the requirements of Section 816.101;

(c) Retaining sediment within disturbed areas;

(d) Diverting runoff away from disturbed areas;

(e) Diverting runoff using protected channels or pipes through disturbed areas so as not to cause additional erosion;

(f) Using straw dikes, riprap, check dams, mulches, vegetative sediment filters, dugout ponds, and other measures that reduce overland flow velocity, reduce runoff volume, or trap sediment;

(g) Building and maintaining sedimentation ponds; and

(h) Treating with chemicals.

§ 816.46 Hydrologic balance: Sedimentation ponds.

(a) *General requirements.* Sedimentation ponds shall be used individually or in series and shall—

(1) Be constructed before any disturbance of the disturbed area to be drained into the pond;

(2) Be located as near as possible to the disturbed area and out of perennial streams; and

(3) Meet all the criteria of this Section.

(b) *Sediment storage volume.* Sedimentation ponds shall provide a sediment storage volume equal to—

(1) The accumulated sediment volume from the drainage area to the pond for a minimum of 3 years. Sediment storage volume shall be determined using the Universal Soil Loss Equation, gully erosion rates, and sediment delivery ratio converted to sediment volume using the sediment density, or other empirical methods established by the regulatory authority and based upon actual sedimentation pond studies; or

(2) 0.1 acre-foot for each acre of disturbed area within the upstream drainage area or a greater amount based upon sediment yield to the pond if required by the regulatory authority. The regulatory authority may approve a sediment storage volume of no less than .035 acre-foot for each acre of disturbed area within the upstream drainage area if the person who conducts the surface mining activities demonstrates that sediment removed by other sediment control measures is equal to the reduction in sediment storage volume.

(c) *Detention time.* Sedimentation ponds shall provide a 24 hour theoretical detention time for the water inflow or runoff entering the pond from a 10 year 24-hour precipitation event. Runoff diverted in accordance with Sections 816.43 and 816.44, away from the disturbed drainage areas and not passed through the sedimentation pond need not be considered in sedimentation pond design. In determining the runoff volume, the characteristics of the mine site, reclamation procedures, and onsite sediment control practices shall be considered.

(1) The regulatory authority may approve a theoretical detention time of not less than 10 hours, when the person who conducts the surface mining activities demonstrates that—

(i) The improvement in sediment removal efficiency is equivalent to the reduction in detention time as a result of pond design. Improvements in pond design may include but are not limited to pond configuration, in-flow and outflow facility locations, baffles to decrease in-flow velocity and short-circuiting, and surface areas; and

(ii) The pond effluent is shown to achieve and maintain applicable effluent limitations.

(2) The regulatory authority may approve a theoretical detention time of not less than 10 hours when the person who conducts the surface mining activities demonstrates that the size distribution or the specific gravity of the suspended matter is such that applicable effluent limitations are achieved and maintained.

(3) The regulatory authority may approve a theoretical detention time of less than 24 hours to any level of detention time when the person who conducts the surface mining activities demonstrates to the regulatory authority that the chemical treatment process to be used—

(i) Will achieve and maintain the effluent limitations;

(ii) Is harmless to fish, wildlife and related environmental values;

(iii) Is planned under the supervision of a registered professional engineer; and

(iv) Shall be operated by a qualified person approved by the regulatory authority.

(4) The calculated theoretical detention time and all supporting documentation and drawings used to establish the required detention times under paragraphs (c)(1)–(3) of this section shall be included in the permit application.

(d) *Dewatering.* The water storage resulting from inflow shall be removed by a nonclogging dewatering device or a spillway approved by the regulatory authority, and shall have a discharge rate to achieve and maintain the required theoretical detention time. The dewatering device shall not be located at a lower elevation than the maximum elevation of the design sedimentation storage volume.

(e) Each person who conducts surface mining activities shall design, construct, and maintain sedimentation ponds to prevent short-circuiting.

(f) The design, construction, and maintenance of a sedimentation pond or other sediment control measures in accordance with this Section shall not relieve the person from compliance with applicable effluent limitations.

(g) There shall be no out-flow through the emergency spillway during the passage of the runoff resulting from the 10 year 24-hour precipitation event through the sedimentation pond.

(h) Sediment shall be removed from sedimentation ponds when the volume of sediment accumulates to 60 percent of the required sediment storage volume. With the approval of the regulatory authority, additional permanent water storage may be provided above that required for sediment storage if the person who conducts the surface mining activities demonstrates that applicable effluent limitations will be achieved and maintained. Upon the approval of the regulatory authority for those cases where additional permanent water storage is provided above that required for sediment under paragraph (b) of this Section, sediment removal may be delayed until the remaining volume of permanent storage has decreased to 40 percent of the required sediment storage provided the theoretical detention time is maintained.

(i) An appropriate combination of principal and emergency spillways shall be provided to discharge safely the runoff from a 25-year 24-hour precipitation event, or larger event as specified by the regulatory authority. The elevation of the crest of the emergency spillway shall be a minimum of 1.0 foot above the crest of the principal spillway. Emergency spillway grades and allowable velocities shall be as specified by the regulatory authority.

(j) The minimum elevation at the top of the settled embankment shall be 1.0 foot above the water surface in the reservoir with the emergency spillway flowing at design depth.

(k) The constructed height of the dam shall be increased a minimum of 5 percent over the design height to allow for settlement unless it has been demonstrated to the regulatory authority that the material used and the design will ensure against all settlement.

(l) The minimum top width of the embankment shall not be less than the

V 43 / 181 SE 18 78

quotient of $(H+35)/5$ where H is the height of the embankment as measured from the upstream toe of the embankment.

(m) The upstream and downstream side slopes of the settled embankment shall not be less than 1*v*:5*h* with neither slope steeper than 1*v*:2*h*. Slopes shall be designed to be stable in all cases, even if flatter side slopes are required.

(n) The embankment foundation area shall be cleared of all organic matter, all surfaces sloped to no steeper than 1*v*:1*h*, and the entire foundation surface scarified.

(o) The fill material shall be free of sod, large roots, other large vegetative matter, and frozen soil, and in no case shall coal-processing waste be used.

(p) The placing and spreading of fill material shall be started at the lowest point of the foundation and the fill brought up in horizontal layers of such thickness as required by the regulatory authority to facilitate compaction. Compaction shall be conducted as specified by the regulatory authority in order to achieve stability.

(q) If a sedimentation pond has an embankment that is more than 20 feet in height, as measured from the upstream toe of the embankment to the crest of the emergency spillway, or has a storage volume of 20 acre-feet or more, the following additional requirements shall be met:

(1) An appropriate combination of principal and emergency spillways shall be provided to safely discharge the runoff resulting from a 100-year 24-hour precipitation event, or a larger event if specified by the regulatory authority.

(2) The embankment shall be designed and constructed with a static safety factor of at least 1.5 or such higher safety factor as designated by the regulatory authority to ensure stability.

(3) Appropriate barriers shall be provided to control seepage along conduits that extend through the embankment.

(r) Each pond shall be designed and inspected during construction under the supervision of, and certified after construction by, a registered professional engineer.

(s) The entire embankment including the surrounding areas disturbed by construction shall be graded, fertilized, seeded, and mulched in accordance with Sections 816.111–816.117 immediately after the embankment is completed, provided that the active, upstream face of the embankment where water will be impounded may be riprapped or otherwise stabilized. Areas in which the vegetation is not successful or where rills and gullies develop shall be repaired and revegetated in accordance with Sections 816.106 and 816.111–816.117.

(t) All ponds, including those not meeting the size or other criteria of 30 CFR 77.216(a), shall be examined for structural weakness, erosion, and other hazardous conditions in accordance with the inspection requirements contained in 30 CFR 77.216–3. Each person who conducts surface mining activities shall deliver to the regulatory authority any report or notification required under 30 CFR 77.216–3 whether or not the pond meets the criteria of 30 CFR 77.216(a).

(u) Each sedimentation pond shall be removed and the affected land regraded and revegetated in accordance with Sections 816.101, 816.102, and 816.111–816.117, unless approved by the regulatory authority for retention as being compatible with the approved postmining land use. If the regulatory authority approves retention, the sedimentation pond shall meet all the requirements for permanent impoundments in Section 816.49.

§ 816.47 Hydrologic balance: Discharge structures.

Discharges from sedimentation ponds and diversions shall be controlled, using energy dissipators, surge ponds, riprap channels, and other devices where necessary, to reduce erosion and prevent deepening or enlargement of stream channels and to minimize disturbances to the hydrologic balance. Discharge structures shall be designed according to standard engineering design procedures.

§ 816.48 Hydrologic balance: Acid-forming and toxic-forming spoil.

Drainage from acid-forming and toxic-forming spoil into ground and surface water shall be avoided by—

(a) Identifying, burying, and treating where necessary, spoil which, in the judgment of the regulatory authority, may be detrimental to vegetation or that may adversely affect water quality if not treated or buried. This material shall be buried, treated, or disposed of in accordance with the provisions of paragraph (c) of this Section;

(b) Preventing water from coming into contact with acid-forming and toxic-forming spoil in accordance with Section 816.103, or such other measures as the regulatory authority may require; and

(c) Burying or otherwise treating all acid-forming or toxic-forming spoil within 30 days after it is first exposed on the mine site, or within a lesser period if required by the regulatory authority. Temporary storage of the spoil may be approved by the regulatory authority upon a finding that burial or treatment within 30 days is not feasible and that storage will not result in any material risk of water pollution or other environmental damage. If storage is approved it shall be limited to the period until burial or treatment first becomes feasible. Stored acid-forming or toxic-forming spoil shall be placed on impermeable material and protected from erosion and contact with surface water.

§ 816.49 Hydrologic balance: Permanent and temporary impoundments.

(a) Permanent impoundments are prohibited unless authorized by the regulatory authority. Each person who conducts surface mining activities shall demonstrate to the regulatory authority that each permanent impoundment meets the following requirements:

(1) The quality of the impounded water is suitable on a permanent basis for its intended use and discharges from the impoundment will not degrade the quality of receiving waters below the water quality standards under applicable State and Federal law.

(2) The level of water will be adequately stable so as to support the intended use.

(3) Adequate safety and access to the impounded water will be provided for proposed water users.

(4) Water impoundments will not result in the diminution of the quality or quantity of water used by adjacent or surrounding landowners for agricultural, industrial, recreational or domestic uses.

(5) The impoundment dam construction plan and maintenance program shall be designed to achieve stability with an adequate factor of safety compatible with that of structures constructed and maintained under 16 U.S.C. 1006 Pub. L. 83-566 Standards for structures built under this law are contained in the Soil Conservation Service Practice Standard 378, "Ponds," and Technical Release No. 60, "Earth Dams and Reservoirs," and are hereby incorporated by reference. These standards are available in all OSM offices. These materials are incorporated as they exist on the adoption of this Part, and notices of changes in these materials will be published periodically in the FEDERAL REGISTER.

(6) The size of the impoundment is adequate for its intended purposes.

(7) The impoundment will be suitable for the approved post-mining land use.

(b) Temporary impoundments of water in which the water is impounded by a dam shall meet the requirements of Section 816.46 (e)–(u).

§ 816.50 Hydrologic balance: Ground water protection.

(a) Backfilled materials shall be placed so as to minimize contamination of ground water systems with acid, toxic, or otherwise harmful mine drainage, to minimize adverse off-site, effects of mining on ground water systems, and to support approved postmining land uses.

(b) To control the effects of mine drainage, pits, cuts, and other mine excavation or disturbances shall be located, designed, constructed, and utilized in such manner as to prevent or control discharge of acid, toxic, or otherwise harmful mine drainage waters into ground water systems and to prevent adverse impacts on such ground water systems or on approved postmining land uses.

(c) The regulatory authority may require physical, chemical and mineralogical and chemical analyses of proposed backfill materials, spoil, aquifers, overburden, mine waters, surface waters, ground waters, or other materials.

§ 816.51 Hydrologic balance: Protection of ground water recharge capacity.

Surface mining activities shall be conducted in a manner that facilitates reclamation which will restore approximate pre-mining recharge capacity through restoration of the capability of the reclaimed areas as a whole, excluding coal processing waste and refuse disposal areas and fills, to transmit water to the ground water system. The recharge capacity shall be restored to a condition which—

(a) Supports the approved postmining land use;

(b) Minimizes disturbances to the prevailing hydrologic balance in the permit area and in adjacent areas; and

(c) Provides a rate of recharge at least equal to the pre-mining recharge rate.

§ 816.52 Hydrologic balance: Surface and ground water monitoring.

(a) *Ground water.*

(1) Ground water levels, infiltration rates, subsurface flow and storage characteristics, and the quality of ground water shall be monitored in the manner required by the regulatory authority to determine the effects of surface mining activities on the recharge capacity of reclaimed lands and on the quantity and quality of water in ground water systems at the minesite and in adjacent areas.

(2) When operations may affect the ground water system, ground water levels and ground water quality shall be periodically monitored using measurements from a sufficient number of wells and mineralogical and chemical analyses of aquifer, overburden, and spoil material adequate to reflect changes in ground water quantity and quality resulting from these operations. The monitoring shall be adequate to plan for modification of surface mining activities if necessary to minimize disturbance of the hydrologic balance.

(3) As specified and approved by the regulatory authority, the person who conducts surface mining activities shall conduct additional hydrologic tests, including drilling, infiltration tests, and aquifer tests and the results shall be submitted to the regulatory authority to demonstrate compliance with Section 816.51.

(b) *Surface water.*

(1) Surface water monitoring shall be conducted in accordance with the monitoring program submitted under 30 CFR 780.21 (b)(4) and approved by the regulatory authority. Monitoring shall—

(i) Be adequate to measure accurately and record water quantity and quality of the discharges from the permit area;

(ii) In all cases in which analytical results of the sample collections indicate a violation of a permit condition or applicable standard has occured, result in the operator notifying the regulatory authority immediately. Where a National Pollutant Discharge Elimination System (NPDES) permit effluent limitation has been violated, the person who conducts the surface mining activities shall forward a copy of the Discharge Monitoring Report, EPA Form 3320–1, concurrently with notification of the violation;

(iii) Result in regular reports of all samples to the regulatory authority within 60 days of the end of each 60 day sample collection period; or

(iv) If the discharge for which water monitoring reports are required, is subject to regulation by a National Pollutant Discharge Elimination System (NPDES) permit issued under the Clean Water Act of 1977 (30 U.S.C. 1251–1378) which includes equivalent reporting requirements and requires filing of the water monitoring reports within 90 days or less of sample collection, the person who conducts the surface mining activities shall submit to the regulatory authority on the same time schedule as required by the NPDES permit or within 90 days following sample collection, whichever is earlier, either—

(A) A copy of the completed reporting form filed to meet NPDES permit requirements; or

(B) A letter identifying the State or Federal government official with whom the reporting form was filed to meet NPDES permit requirements and the date of filing.

(2) After disturbed areas have been regraded and stabilized according to this Part, the person who conducts surface mining activities shall monitor surface water flow and quality. Data from this monitoring shall be used to demonstrate that the quality and quantity of runoff without treatment is consistent with the requirement of this Section to minimize disturbance to the prevailing hydrologic balance and with the requirements of this Part to attain the approved post-mining land use. These data shall provide a basis for approval by the regulatory authority for removal of water quality or flow control systems and for determining when the requirements of this Section are met. The regulatory authority shall determine the nature of data, frequency of collection, and reporting requirements.

(3) Equipment, structures, and other devices necessary to measure and sample accurately the quality and quantity of surface water discharges from the affected area shall be properly installed, maintained, and operated and shall be removed when no longer required.

§ 816.53 Hydrologic balance: Transfer of wells.

(a) An exploratory or monitoring well may only be transferred for further use as a water well with the prior approval of the regulatory authority. The surface owner shall submit a written request to the regulatory authority for approval of any well transfer.

(b) Upon an approved transfer of a well, the transferee shall—

(1) Assume primary liability for damages to persons or property from the well;

(2) Plug the well when necessary, but in no case later than abandonment of the well; and

(3) Assume primary responsibility for compliance with Sections 816.13-816.15 with respect to the well.

(c) Upon an approved transfer of a well, the transferor shall—

(1) Be secondarily liable for damages;

(2) Be secondarily liable for plugging the well; and

(3) Be secondarily liable for compliance with Section 816.13-816.15 with respect to the well.

(d) Nothing in this Section shall be deemed to supersede or affect the applicability of any State law requirements with respect to a well transfer.

§ 816.54 Hydrologic balance: Water rights and replacement.

Any person who conducts surface mining activities shall replace the water supply of an owner of interest in real property who obtains all or part of his supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where the water supply has been affected by contamination,

diminution, or interruption resulting from the surface coal mining activities.

§ 816.59 Coal recovery.

Surface mining activities shall be conducted so as to maximize the utili-

and other water systems used for human, animal, or agricultural purposes and to the quantity and quality

(c) *Public notice of changes to blasting schedules.* Before blasting in areas or at times not in a previous schedule,

Lower frequency limit of measuring system, Hz (+3dB)	Maximum level in dB

(4) These restrictions shall apply to material which travels along the ground surface as well as that which travels through the air.

diminution, or interruption resulting from the surface coal mining activities.

§ 816.55 Hydrologic balance: Discharge of water into an underground mine.

Surface water shall not be diverted into underground mine workings unless the person who conducts the surface mining activities demonstrates to the satisfaction of the regulatory authority that the diversion will—

(a) Abate water pollution or otherwise eliminate public hazards resulting from underground mining; and

(b) Be discharged as a controlled flow meeting the water quality requirements of Section 816.52 for pH and total suspended solids except that the total suspended solid concentrations may be exceeded only if the suspended material is approved by the regulatory authority or is limited to—

(1) Coal processing waste;

(2) Fly ash from a coal-fired facility;

(3) Sludge from acid drainage treatment facility;

(4) Flue gas desulfurization sludge;

(5) Inert materials used for stabilizing underground mines or;

(c) Underground mine development wastes; and

(7) The discharge will not cause, result in or contribute to a violation of applicable water quality standards; and

(d) Minimize disturbance to the hydrologic balance.

§ 816.56 Hydrologic balance: Post-mining rehabilitation of sedimentation ponds, diversions, impoundments, and treatment facilities.

Before abandoning the permit area, the person who conducts the surface mining activities shall restore all permanent sedimentation ponds, diversions, impoundments, and treatment facilities to meet the original design criteria for the permanent structures and impoundments.

§ 816.57 Hydrologic balance: Stream buffer zones.

(a) No land within 100 feet of a perennial stream or a stream with a macro-invertebrate biological community shall be disturbed by surface mining activities except in accordance with Section 816.44 unless the regulatory authority specifically authorizes surface mining activities closer to or through such a stream upon finding—

(1) That the original stream channel will be restored; and

(2) During and after the mining, the water quantity and quality from the stream section within 100 feet of the surface mining activities shall not be adversely affected.

(b) The area not to be disturbed shall be designated a buffer zone and marked as specified in Section 816.11.

§ 816.59 Coal recovery.

Surface mining activities shall be conducted so as to maximize the utilization and conservation of the coal so that reaffecting the land in the future through surface coal mining operations is minimized.

§ 816.61 Use of explosives: General requirements.

(a) Each person who conducts surface mining activities shall comply with all applicable local, State, and Federal laws and regulations and the requirements of Sections 816.61-816.68 in the storage, handling, preparation, and use of explosives.

(b) Blasting operations that use more than the equivalent of 5 pounds of TNT shall be conducted according to a time schedule approved by the regulatory authority.

(c) All blasting operations shall be conducted by experienced, trained, and competent persons who understand the hazards involved. Each person responsible for blasting operations shall—

(1) Have demonstrated a knowledge of, and shall comply with, MSHA safety requirements and U.S. Department of Treasury security requirements;

(2) Be capable of using mature judgment in all situations;

(3) Be in good physical condition and not addicted to intoxicants, narcotics, or other similar types of drugs;

(4) Possess current knowledge of the local, State, and Federal laws and regulations applicable to the work; and

(5) Possess a valid certificate of completion of training and qualification as required by 30 CFR 850 and 851.

§ 816.62 Use of explosives: Pre-blasting survey.

(a) On the request to the regulatory authority by a resident or owner of a man-made dwelling or structure that is located within one-half mile of any part of the permit area, the person who conducts the surface mining activities shall conduct a pre-blasting survey of the dwelling or structure and submit a report of the survey to the regulatory authority and to the person requesting the survey.

(b) Each person who conducts surface mining activities shall utilize personnel approved by the regulatory authority to conduct the survey to determine the condition of the dwelling or structure and to document any pre-blasting damage and other physical factors that could reasonably be affected by the blasting. Assessments of structures such as pipes, cables, transmission lines, and wells and other water systems shall be limited to surface condition and readily available data. Special attention shall be given to the pre-blasting condition of wells and other water systems used for human, animal, or agricultural purposes and to the quantity and quality of the water.

(c) A written report of the survey shall be prepared and signed by the person who conducted the survey. The report shall include recommendations of any special conditions or proposed adjustments to the blasting procedure which should be incorporated into the blasting plan to prevent damage. Copies of the report shall be provided to the person requesting the survey and to the regulatory authority.

§ 816.64 Use of explosives: Public notice of blasting schedule.

(a) *Blasting schedule publication.* (1) Each person who conducts surface mining activities shall publish a blasting schedule at least 10 days, but not more than 20 days, before beginning a blasting program in which explosives that use more than the equivalent of 5 pounds of TNT are detonated. The blasting schedule shall be published in a newspaper of general circulation in the locality of the blasting site.

(2) Copies of the schedule shall be distributed by mail to local governments and public utilities and by mail or delivered to each residence within one-half mile of the permit area described in the schedule. Copies sent to residences shall be accompanied by information advising the owner or resident how to request a pre-blasting survey.

(3) The person who conducts the surface mining activities shall republish and redistribute the schedule by mail at least every 3 months.

(b) *Blasting schedule contents.* (1) A blasting schedule shall not be so general as to cover all working hours but shall identify as accurately as possible the location of the blasting sites and the time periods when blasting will occur.

(2) The blasting schedule shall contain at a minimum—

(i) Identification of the specific areas in which blasting will take place. Each specific blasting area described shall be reasonably compact and not larger than 300 acres;

(ii) Dates and time periods when explosives are to be detonated. That such periods shall not exceed an aggregate of 4 hours in any one day;

(iii) Methods to be used to control access to the blasting area;

(iv) Types of audible warnings and all-clear signals to be used before and after blasting; and

(v) A description of emergency situations referred to in Section 816.65(a)(2) which have been approved by the regulatory authority for blasting at times other than those described in the schedule.

(c) *Public notice of changes to blasting schedules.* Before blasting in areas or at times not in a previous schedule, the person who conducts the surface mining activities shall prepare a revised blasting schedule according to the procedures in paragraphs (a) and (b) of this Section.

§ 816.65 Use of explosives: Surface blasting requirements.

(a) All blasting shall be conducted between sunrise and sunset. The regulatory authority may specify more restrictive time periods based on public requests or other considerations including the proximity to residential areas.

(b) Blasting shall be conducted at times announced in the blasting schedule, except in those emergency situations approved by the regulatory authority where rain, lightning, other atmospheric conditions, or operator or public safety require unscheduled detonation.

(c) Warning and all-clear signals of different character that are audible within a range of one-half mile from the point of the blast shall be given. Each person within the permit area and each person who resides or regularly works within one-half mile of the permit area shall be notified of the meaning of the signals through appropriate instructions. These instructions shall be periodically delivered or otherwise communicated in a manner which can be reasonably expected to inform such persons of the meaning of the signals. Each person who conducts surface mining activities shall maintain signs in accordance with Section 816.11(f).

(d) Access to the blasting area shall be regulated to protect the public and livestock from the effects of blasting. Access to the blasting area shall be controlled to prevent unauthorized entry at least 10 minutes before each blast and until an authorized representative of the person who conducts the surface mining activities has reasonably determined—

(1) That no unusual circumstances, such as imminent slides or undetonated charges, exist; and

(2) That access to and travel in or through the area can safely resume.

(e) Areas in which charged holes are awaiting firing shall be guarded, barricaded and either posted or flagged against unauthorized entry.

(f)(1) Airblast shall be controlled so that it does not exceed the values specified below at any dwelling, public building, school, church, or commercial or institutional building, unless such building is owned by the person who conducts the surface mining activities, is not leased to any other person and is located within the permit area:

Lower frequency limit of measuring system, Hz (+3dB)	Maximum level in dB
0.1 Hz or lower—flat response	135peak.
2 Hz or lower—flat response	132 peak.
6Hz or lower—flat response	130 peak.
C=weighted, slow response	109 C.

(2) In all cases except the C-weighted slow, the systems used shall have a flat frequency response of at least 500 Hz at the upper end. The C-weighted shall meet the standard American National Standards Institute (ANSI) S1.4-1971 specifications. The ANSI S1.4-1971 is hereby incorporated by reference. This work is incorporated as it exists on the date of adoption of this Part, and notice of changes made in these materials will periodically be published in the FEDERAL REGISTER. ANSI S1.4-1971 is available for inspection in OSM regional offices and in OSM's office in the Department of Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

(3) The person who conducts blasting may satisfy the provisions of this Section by meeting any of the four specifications in the chart in paragraph (f)(1) of this Section.

(g) Except where lesser distances are approved by the regulatory authority, based upon a pre-blasting survey or other appropriate investigation, blasting shall not be conducted within—

(1) 1,000 feet of any building used as a dwelling, school, church, hospital, or nursing facility;

(2) 500 feet of facilities including, but not limited to, disposal wells, petroleum or gas-storage facilities, municipal water-storage facilities, fluid-transmission pipelines, gas or oil-collection lines, or water and sewage lines; and

(3) 500 feet of the active workings of an underground mine except with the concurrence of the Mine Safety and Health Administration.

(h) Flyrock from blasting shall be restricted as follows:

(1) No flyrock shall be cast beyond the line of property owned or leased by the person who conducts the surface mining activities without the consent of the landowners of adjacent areas.

(2) No flyrock shall be cast more than half the distance from the blast to the nearest dwelling, public building, school, church, commercial or institutional building, road or railroad. This shall not apply to any structure or right-of-way on land owned by the person who conducts the surface mining activities and not leased to any other person.

(3) No flyrock shall be cast beyond the area of regulated access required under paragraph (d) of this Section.

(4) These restrictions shall apply to material which travels along the ground surface as well as that which travels through the air.

(i) Blasting shall be conducted to prevent injury to persons, damage to public or private property outside the permit area, adverse impacts on any underground mine, and change in the course, channel, or availability of ground or surface waters outside the permit area.

(j) In all blasting operations, except as otherwise authorized in this Section, the maximum peak particle velocity shall not exceed 1 inch per second at the location of any dwelling, public building, school, church, or commercial or institutional building. The regulatory authority may reduce the maximum peak particle velocity allowed if it determines that a lower standard is required because of density of population or land use, age or type of structure, geology or hydrology of the area, frequency of blasts, or other factors.

(k) The maximum peak particle velocity does not apply to property within the permit area that is owned by the person who conducts the surface mining activities and is not leased to any other person.

(l) An equation for determining the maximum weight of explosives that can be detonated within any 8-millisecond period is in paragraph (m) of this Section. If the blasting is conducted in accordance with this equation, the velocity is deemed to be within the 1-inch-per-second limit.

(m) (1) The maximum weight of explosives to be detonated within any 8 millisecond period may be determined by the formula $W = (D/60)^2$ where W = the maximum weight of explosives, in pounds, that can be detonated in any 8-millisecond period, and D = the distance, in feet, to the nearest dwelling, school, church, or commercial or institutional building.

(2) For distances between 300 and 5,000 feet, solution of the equation results in the following maximum weight:

Distance, in feet (D)	Maximum weight in pounds (W)
300	25
350	34
400	44
500	69
600	100
700	136
800	178
900	225
1,000	278
1,100	336
1,200	400
1,300	469
1,400	544
1,500	625
1,600	711
1,700	803
1,800	900
1,900	1,002
2,000	1,111

Distance, in feet (D)	Maximum weight in pounds (W)

(2) Not owned nor leased by the person who conducts the surface mining activities.

the site. All disturbed areas including diversion ditches that are not riprapped shall be vegetated upon com-

(iii) Demonstrated to be consistent with the design stability of the fill.

(2) Wastes other than coal process-

Rock used in underdrains shall meet the requirements of paragraph (a)(5) of this section. The minimum size of

(e) The tops of the fill and any terrace constructed to stabilize the face shall be graded no steeper than 1v:20h

Distance, in feet (D)	Maximum weight in pounds (W)
2,500	1,736
3,000	2,500
3,500	3,403
4,000	4,444
4,500	5,625
5,000	6,944

(n) If on a particular site the peak particle velocity exceeds one-half inch per second after a period of 1 second following the maximum ground particle velocity, the blasting procedures shall be revised to limit the ground motion.

(o) Electric or non-electric delay systems combining surface delays with in-hole delays may be used to reduce vibrations if approved by the regulatory authority. Requests to use such systems shall be accompanied by blasting reports and seismograph records of test blasting on the site showing that the delay pattern does not produce peak particle velocities in violation of this Section.

§ 816.67 Use of explosives: Seismographic measurements.

(a) Where a seismograph is used to monitor the velocity of ground motion and the peak particle velocity limit of 1 inch per second is not exceeded, the equation in Section 816.66(m) need not be used. If the equation is not being used, a seismograph record shall be obtained for each shot.

(b) The use of a modified equation to determine maximum weight of explosives for blasting operations at a particular site may be approved by the regulatory authority on receipt of a petition accompanied by reports including seismograph records of test blasting on the site. In no case shall the regulatory authority approve the use of a modified equation where the peak particle velocity of 1 inch per second required in Section 816.66(j) would be exceeded.

(c) The regulatory authority may require a seismograph record of any or all blasts.

§ 816.68 Use of explosives: Records of blasting operations.

A record of each blast, including seismograph reports, shall be retained for at least 3 years and shall be available for inspection by the regulatory authority and the public on request. The record shall contain the following data:

(a) Name of the person conducting the blast.

(b) Location, date, and time of blast.

(c) Name, signature, and license number of blaster-in-charge.

(d) Direction and distance, in feet, to the nearest dwelling, school, church, or commercial or insitutional building either—

(1) Not located in the permit area; or

(2) Not owned nor leased by the person who conducts the surface mining activities.

(e) Weather conditions.

(f) Type of material blasted.

(g) Number of holes, burden, and spacing.

(h) Diameter and depth of holes.

(i) Types of explosives used.

(j) Total weight of explosives used.

(k) Maximum weight of explosives detonated within any 8 millisecond period.

(l) Maximum number of holes detonated within any 8 millisecond period.

(m) Methods of firing and type of circuit.

(n) Type and length of stemming.

(o) Mats or other protections used.

(p) Type of delay detonator and delay periods used.

(q) Seismographic records, where required, including the calibration signal of the gain setting and—

(1) Seismographic reading, including exact location of seismograph and its distance from the blast;

(2) Name of the person taking the seismograph reading; and

(3) Name of the person and firm analyzing the seismographic record.

§ 816.71 Disposal of excess spoil: General requirements.

(a) Spoil not required to achieve the approximate original contour shall be hauled or conveyed to and placed in designated disposal areas within a permit area other than mine working or excavations, only if the disposal areas are authorized for such purposes in the approved mining and reclamation permit and only in accordance with Sections 816.71-816.73. The spoil shall be placed in a controlled manner to ensure—

(1) That leachate and surface runoff will not degrade surface or ground waters or exceed the effluent limitations of Section 816.42;

(2) Stability of the fill; and

(3) That the land mass is suitable for reclamation and revegetation compatible with the natural surroundings.

(b) The fill shall be designed using recognized professional standards, certified by a registered professional engineer, and approved by the regulatory authority.

(c) All vegetative and organic materials shall be removed from the disposal area and the topsoil shall be removed, segregated, and replaced under Sections 816.21-816.23 before spoil is placed in the disposal area. If approved by the regulatory authority, organic material may be used as mulch or may be included in the topsoil to control erosion, to promote growth of vegetation, or to increase the moisture retention of the soil.

(d) Slope protection shall be provided to minimize surface erosion at the site. All disturbed areas including diversion ditches that are not riprapped shall be vegetated upon completion of construction.

(e) The disposal areas shall be located on the most moderately sloping and naturally stable areas available as approved by the regulatory authority. If such placement provides additional stability and prevents mass movement, fill materials suitable for disposal shall be placed upon or above a natural terrace, bench, or berm.

(f) The spoil shall be hauled or conveyed and placed in a controlled manner, concurrently compacted as necessary to ensure mass stability and prevent mass movement, covered, and graded to allow surface and subsurface drainage to be compatible with the natural surroundings, to ensure long-term stability.

(g) The final configuration of the fill must be suitable for postmining land uses approved in accordance with Section 816.124 except that no depressions or impoundments shall be allowed on the completed fill.

(h) Terraces shall not be constructed unless approved by the regulatory authority.

(i) Where the slope in the disposal area exceeds $1v:2.8h$ (36 percent), or such lesser slope as may be designated by the regulatory authority based on local conditions, keyway cuts (excavations to stable bedrock), or rock toe buttresses shall be constructed to stabilize the fill. The slope of original ground at the toe of the fill shall not exceed $1v:5h$ (20 percent).

(j) The fill shall be inspected for stability by a registered engineer or other professional specialist approved by the regulatory authority during critical construction periods and at least quarterly throughout construction to ensure removal of all organic material and topsoil, placement of underdrainage systems, proper installation of surface drainage systems, proper placement and compaction of fill materials, and proper revegetation. The registered engineer or other qualified professional specialist shall provide to the regulatory authority a certified report within 2 weeks after each inspection that the fill has been constructed as specified in the design approved by the regulatory authority, and a copy of the report shall be retained at the minesite by the person who conducts the surface mining activities.

(k) (1) Coal processing wastes shall not be disposed of in head-of-hollow fills, and may only be disposed of in other excess spoil fills if such waste is—

(i) Placed in accordance with section 816.85;

(ii) Demonstrated to be nontoxic and nonacid forming; and

(iii) Demonstrated to be consistent with the design stability of the fill.

(2) Wastes other than coal processing wastes shall be disposed of in accordance with section 816.89.

(l) The disposal area shall not contain springs, natural watercourses, or wet-weather seeps unless lateral drains are constructed from the wet areas to the underdrains in a manner that prevents infiltration of the water into the spoil pile.

(m) If any portion of the fill interrupts, obstructs, or encroaches upon any natural drainage channel, the entire fill is classified as a valley or head-of-hollow fill and must be designed and constructed in accordance with the requirements of sections 816.72 and 816.73, respectively.

(n) The foundation and abutments of the fill shall be stable under all conditions of construction and operation. Sufficient foundation investigation and laboratory testing of foundation materials shall be performed in order to determine the design requirements for stability of the foundation. Analyses of foundation conditions shall include the effect of underground mine workings, if any, upon the stability of the structure.

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(q) Excess spoil may be returned to underground workings only in accordance with a spoil disposal program approved by the regulatory authority under 30 CFR 784.14.

§ 816.72 Disposal of excess spoil: Valley fills.

Valley fills shall meet all of the requirements of section 816.71 and the additional requirements of this section.

(a) The fill shall be designed to attain a long-term static factor of safety of 1.5 based upon data obtained from subsurface exploration, geotechnical testing, foundation design, and accepted engineering analyses.

(b) A subdrainage system for the fill shall be constructed in accordance with the following:

(1) A system of underdrains constructed of durable rock shall—

(i) Be installed along the natural drainage system;

(ii) Extend from the toe to the head of the fill; and

(iii) Contain lateral drains to each area of potential drainage or seepage.

(2) A filter system to insure the proper functioning of the rock underdrain system shall be designed and constructed using standard geotechnical engineering.

(3) In constructing the underdrains, no more than 10 percent of the rock may be less than 12 inches in size and no single rock may be larger than 25 percent of the width of the drain. Rock used in underdrains shall meet the requirements of paragraph (a)(5) of this section. The minimum size of the main underdrain shall be:

Total amount of fill material	Predominant type of fill material	Minimum size of drain, in feet	
		Width	Height
Less than 1,000,000 yd³	Sandstone	10	4
Do.	Shale	16	8
More than 1,000,000 yd³	Sandstone	16	8
Do.	Shale	16	

(5) Rock used shall not have less than 50 percent wear in 500 revolutions in the Los Angeles Rattler Test (AASHTO T-96-70), shall not have less than 15-percent weight loss in 5 cycles of the Sodium Sulfate Test (ASTM C088, AASHTO T-1-4), and shall not contain less than 30 percent by volume of clay or clay minerals as determined by standard petrologic analytical tests, and shall not be acid-forming or toxic-forming.

(c) (1) Spoil shall be hauled or conveyed and placed in a controlled manner and concurrently compacted as specified by the regulatory authority in lifts no thicker than 18 inches in order to—

(i) Achieve the densities designed to ensure mass stability;

(ii) Prevent mass movement;

(iii) Avoid contamination of the rock underdrain or rock core; and

(iv) Prevent formation of voids.

(2) The person who conducts the surface mining activities may use lifts of greater thickness than required under paragraph (c)(1) of this section if he has demonstrated to the regulatory authority by density monitoring tests that the density throughout the thickness of the lift is equal to or greater than the density specified in the design referred to in paragraph (a) of this section, except that in no event shall lift thickness exceed 4 feet.

(d) Surface water runoff from the area above the fill shall be diverted away from the fill and into stabilized diversion channels designed to pass safely the runoff from the 24-hour duration 100-year frequency storm or larger event specified by the regulatory authority. Sediment control structures shall be provided at the discharge of the diversion ditch before entry into the natural watercourse in accordance with section 816.46. Surface runoff from the fill surface shall be diverted to stabilized channels off the fill which will safely pass runoff from a 24-hour duration, 100-year frequency storm. Diversion design shall comply with the requirements of section 816.43(f).

(e) The tops of the fill and any terrace constructed to stabilize the face shall be graded no steeper than $1v:20h$ (5 percent). The vertical distance between terraces shall not exceed 50 feet.

(f) Drainage shall not be directed over the outslope of the fill.

(g) The outslope of the fill shall not exceed $1v:2h$ (50 percent). The regulatory authority may require a flatter slope.

§ 816.73 Disposal of excess spoil: Head-of-hollow fills.

Disposal of spoil in the head-of-hollow fill shall meet all standards set forth in sections 816.71 and 816.72 and the additional requirements of this section.

(a) The fill shall be designed to completely fill the disposal site approved by the regulatory authority to the approximate elevation of the ridgeline. A rock-core chimney drain may be utilized instead of the subdrain and surface diversion system required for valley fills. If the crest of the fill is not approximately at the same elevation as the low point of the adjacent ridgeline, the fill must be designed as specified in section 816.72, with diversion of runoff around the fill.

(b) The alternative rock-core chimney drain system shall be designed and incorporated into the construction of head-of-hollow fills as follows:

(1) The fill shall have along the vertical projection of the main buried stream channel or rill a vertical core of durable rock at least 16 feet thick which shall extend from the toe of the fill to the head of the fill and from the base of the fill to the surface of the fill. A system of lateral rock underdrains shall connect this rock core to each area of potential drainage or seepage in the disposal area. Rocks used in the rock core and underdrains shall meet the requirements of section 816.72(b).

(2) A filter system to ensure the proper functioning of the rock core shall be designed and constructed using standard geotechnical engineering methods.

(3) The grading may drain surface water away from the outslope of the fill and toward the rock core. The maximum slope of the top of the fill shall be $1v:33h$ (3 percent). Instead of the requirements of section 816.71(g), a drainage pocket may be maintained at the head of the fill during and after construction to intercept surface runoff and discharge the runoff through or over the rock drain if stability of the fill is not impaired. In no case shall this pocket or sump have a potential for impounding more than 10,000 cubic feet of water. Terraces on the fill shall be graded with a 3- to 5-

percent grade toward the fill and a 1-percent slope toward the rock core.

(c) The drainage control system shall be capable of safely passing the runoff from a 24-hour 100-year storm, or larger event, as specified by the regulatory authority.

§ 816.79 Protection of underground mining.

(a) No surface coal mining activities shall be conducted within 500 feet of active or abandoned underground mines except to the extent that—

(1) The nature, timing, and sequence of the operations are jointly approved by the regulatory authority and the Mine Safety and Health Administration and the State agency, if any, responsible for the safety of mine workers; and

(2) The activities result in improved resource recovery, abatement of water pollution, or elimination of hazards to the health and safety of the public.

(b) The vertical distance between surface and underground mines working separate seams shall be sufficient to protect the health and safety of the workers and to prevent surface water from entering the underground workings.

(c) All mines plans shall be designed to protect the disturbed surface areas, including spoil disposal sites so as not to endanger any present or future operations of either surface or underground mines.

§ 816.81 Coal processing waste: General requirements.

(a) All coal processing waste shall be hauled or conveyed and placed in new and existing disposal areas which shall be within the permit area and which are approved by the regulatory authority for this purpose. The coal processing waste disposal area shall be designed, constructed, and maintained—

(1) In accordance with sections 816.71 and 816.72, the provisions of this section and sections 816.82-816.88; and

(2) To prevent combustion.

(b) Coal processing waste materials from activities outside the permit area such as other mines or abandoned mine waste piles may be disposed of in permit areas only if approved by the regulatory authority. The approval shall be based on a showing by the person who conducts surface mining activities, using hydrologic, geologic physical, and chemical analysis, that disposal of these materials does not—

(1) Adversely affect water quality, water flow, or vegetation;

(2) Create public health hazards; or

(3) Cause instability in the disposal areas.

§ 816.82 Coal processing waste banks: Site inspection.

(a) All coal processing waste disposal sites shall be inspected by an engineer or other person approved by the regulatory authority.

(1) The inspection shall occur at least once each week beginning within 7 days after preparation of the disposal area begins and terminating when the coal processing waste bank has been graded, covered in accordance with section 816.85 and topsoil has been distributed on the bank in accordance with section 816.24 or for such longer period as the regulatory authority may require.

(2) The inspections shall include such observations and tests as may be necessary to evaluate the potential hazard to human life and property, and to ensure that all organic material and topsoil have been removed and that proper construction and maintenance are occurring in accordance with the plan submitted under 30 CFR 780.35 and approved by the regulatory authority.

(3) The engineer or other approved inspector shall consider steepness of slopes, seepage, and other visible factors which could indicate potential failure and shall consider the results of failure with respect to the threat to human life and property.

(4) Copies of the inspection findings shall be maintained at the mine site.

(b) If any inspection discloses that a potential hazard exists, the regulatory authority shall be informed promptly of the finding and of the procedures formulated for public protection and remedial action in the event of an emergency. If adequate emergency procedures cannot, for any reason, be formulated or implemented, the regulatory authority shall be notified immediately. The regulatory authority shall then notify the appropriate emergency agencies that emergency procedures are required for the coal processing waste area.

§ 816.83 Coal processing waste banks: Water control measures.

(a) A properly designed subdrainage system shall be provided and shall—

(1) Comply with the provisions of sections 816.71 and 816.72; and

(2) Be covered so as to protect against the entrance of surface water or leachate from the coal processing waste.

(b) All surface drainage from the area above the coal processing waste bank and from the crest and face of the waste disposal area shall be diverted in accordance with section 816.72(d).

(c) Slope protection shall be provided to minimize surface erosion at the site. All disturbed areas including diversion ditches that are not riprapped shall be vegetated upon completion of construction.

(d) All water discharged from a coal processing waste bank shall comply with section 816.42.

§ 816.85 Coal processing waste banks: Construction requirements.

(a) The coal processing waste banks shall be constructed in compliance with sections 816.71 and 816.72 and this section.

(b) Coal processing waste banks shall have a minimum static factor of safety of 1.5.

(c) Compaction requirements during construction or modification of all coal processing waste banks shall meet the requirements of this paragraph, instead of those specified in section 816.72(c). The coal processing waste shall be—

(1) Spread in layers no more than 8 inches in thickness; and

(2) Compacted to attain 90 percent of the maximum dry density to prevent spontaneous combustion and to provide the strength required for stability of the coal processing waste bank. Dry densities shall be determined in accordance with AASHTO T-99, or equivalent.

(d) Following grading of the coal processing waste bank, the site shall be covered with a minimum of 4 feet of the best available non-toxic and non-combustible material in accordance with section 816.22(e) and in a manner that does not impede flow from subdrainage systems.

§ 816.86 Coal processing waste: Burning.

(a) Coal processing waste fires shall be extinguished by the person who conducts the surface mining activities in accordance with a plan approved by the regulatory authority.

(b) Extreme caution shall be taken in all attempts to extinguish burning wastes to insure that no hazards will exist to equipment operators or other persons working or living in the vicinity of the site.

(c) Acceptable techniques for extinguishing burning wastes, include, but are not limited, to the following—

(1) Quenching with surface applications of water;

(2) Isolation of burning wastes by excavation;

(3) Exclusion of oxygen by blanketing or sealing with water, foam or other materials; and

(4) Injecting water or slurry to isolate and quench the wastes.

§ 816.87 Coal processing waste: Burned waste utilization.

(a) Before the person who conducts the surface mining activities may remove burned coal processing waste or other materials from a disposal area, approval shall be obtained from the regulatory authority. A plan regarding the method of removal, with maps and appropriate drawings to illustrate the proposed sequence of the operation and method of compliance with this part, shall be submitted to the regulatory authority. Consideration shall be given in the plan to potential hazards which may be created to persons working or living in the vicinity of the structure. The plan shall be certified by a qualified engineer.

(b) Burned coal processing waste may be utilized for off-site construction purposes with the approval of the regulatory authority.

§ 816.88 Coal processing waste: Return to underground workings.

Coal processing waste may be returned to underground mine workings only in accordance with the waste disposal program approved by the regulatory authority under 30 CFR 780.35.

§ 816.89 Disposal of noncoal wastes.

(a) Noncoal wastes including, but not limited to, grease, lubricants, paints, flammable liquids, garbage, abandoned mining machinery, timber and other combustibles generated during surface mining activities shall be placed and stored in a controlled manner in a designated area to insure that leachate and surface runoff do not degrade surface or ground water, fires are prevented, and the area remains stable and is suitable for reclamation and revegetation compatible with the natural surroundings.

(b) The final disposal of noncoal wastes shall be in a designated disposal site. The solid waste disposal site shall be designed and constructed with appropriate water barriers on the bottom and sides of the designated site. The wastes shall be routinely compacted and covered to prevent combustion and wind born waste. When the disposal is completed or when the surface mining activities are completed, a minimum of 2 feet of soil cover shall be placed over the site. The operation of the disposal site shall be conducted in accordance with all local, State, and Federal requirements.

(c) At no time shall the person who conducts the surface mining activities allow any solid waste material to be deposited at refuse embankments or impoundment sites nor shall the person who conducts surface mining activities allow any excavation for solid waste disposal to be located within 8 feet of any coal outcrop or coal storage area.

§ 816.91 Coal processing waste: Dams and embankments: General requirements.

Sections 816.91-816.93 apply to existing and proposed dams and embankments constructed of coal processing waste or intended to impound coal processing waste.

(a) All dams and embankments including those not meeting the size or other criteria of 30 CFR 77.216(a), shall be routinely inspected by a registered professional engineer, or someone under the supervision of a registered professional engineer, in accordance with Mine Safety and Health Review Commission regulations in 30 CFR 77.316-3.

(b) All dams and embankments subject to this section shall be routinely maintained. Vegetative growth shall be cut where necessary to facilitate inspection and repairs. Ditches and spillways shall be cleaned. Any combustible materials present on the surface, other than that used for surface stability such as mulch or dry vegetation, shall be removed and any other appropriate maintenance procedures followed.

(c) All dams and embankments subject to this section shall be inspected and certified annually as having been constructed and modified in accordance with current prudent engineering practices to minimize the possibility of failures. Any changes in the geometry of the dam or embankment shall be highlighted and included in the annual certification report. These certifications shall include a report on—

(1) Existing and required monitoring procedures and instrumentation;

(2) The average and maximum depths and elevations of any impounded waters over the past year;

(3) Existing storage capacity of the dam or embankment;

(4) Any fires occurring in the material over the past year; and

(5) Any other aspects of the dam or embankment affecting stability.

(d) A person who conducts surface mining activities shall submit to the regulatory authority plans for any enlargements, reductions in size, reconstruction, or other modification of impounding structures. The regulatory authority shall have approved the plans before alterations begin.

§ 816.92 Coal processing waste: Dams and embankments: Site preparation.

Before coal processing waste is placed at a dam or embankment:

(a) Clearing and grubbing of all trees, shrubs, grasses, and other organic material shall be performed and all combustibles shall be removed and stockpiled in accordance with the requirements of this part.

(b) All surface drainage shall be diverted away from the crest and downstream face of the dam or embankment. Diversion ditches shall be designed, constructed, utilized, and maintained to prevent blockage and to pass the peak runoff from a 24-hour precipitation event with a 100-year recurrence interval unless greater event is specified by the regulatory authority. Sediment control structures shall be provided at each discharge of each diversion ditch before entry into natural watercourses in accordance with sections 816.41-816.55.

(c) Slope protection shall be provided to minimize surface erosion at the site and sediment control structures shall be required. All disturbed areas including diversion ditches that are not riprapped shall be vegetated upon completion of construction.

§ 816.93 Coal processing waste: Dams and embankments: Construction.

(a) Waste shall not be used in the construction of dams and embankments unless demonstrated through appropriate engineering analysis to have no adverse effect on stability, and approved by the regulatory authority.

(b) The design of the dam or embankment shall be based on the flood from the probable maximum precipitation event unless the person who conducts the surface mining activities shows that the failure of the dam or embankment would not cause loss of life or severely damage property or the environment, in which case and depending on site conditions, a design to safely pass the flow from a 100-year precipitation event may be specified by the regulatory authority.

(c) One or more spillways shall be provided for the dam or embankment to pass that portion of the design storm that cannot be safely stored. Spillways and outlet works shall be designed to provide adequate protection against erosion. Inlets shall be protected against blockage.

(d) The design freeboard distance between the lowest point on the embankment crest and the maximum water elevations shall be at least 3 feet.

(e) Dams and embankments shall have minimum safety factors as follows:

Case	Loading condition	Minimum safety factor
I	End of construction	1.3
II	Partial pool with steady seepage saturation.	1.5
III	Steady seepage from spillway or decant crest.	1.5
IV	Earthquake (cases II and III with seismic loading).	1.0

(f) The dam or embankment foundation and abutments shall be stable under all conditions of construction and operation of the impoundment. Sufficient foundation investigations and laboratory testing shall be performed to determine the factors of safety of the dam or embankment for all loading conditions in paragraph (e)

of this section and for all increments of construction.

and railroad cars to reduce loss of material to wind and spillage;

(9) Substituting of conveyor systems

hancement of such resources where practicable.

(b) A person who conducts surface

(7) Avoid perennial stream channels or restore them to their former longitudinal profile and cross section con-

mining activities shall notify the regulatory authority by the fastest available means and shall comply with any

that have not been restored to the standards of this part and sufficient spoil is not available. The person who

of this section and for all increments of construction.

(g) Allowances shall be made for settlement of the dam or embankment and the foundation so that the freeboard will be maintained.

(h) Dams or embankments created for impounding waste materials shall be subject to a minimum drawdown criteria that allows the facility to be evacuated by spillways or decants of 90 percent of the volume of water stored during the designed precipitation event within 10 days.

(i) For each dam and embankment a permanent identification sign, at least 6 feet high shall—

(1) Show the permit number for the surface coal mining and reclamation operations;

(2) Show the name of the person operating or controlling the dam; and

(3) Be located on or immediately adjacent to each dam.

§ 816.95 Air resources protection.

(a) *Fugitive dust.* Each person who conducts surface mining activities shall plan and employ fugitive dust control measures as an integral part of site preparation, coal mining, and reclamation operations. The regulatory authority shall specify the control measures appropriate for use in planning, according to applicable Federal and State air quality standards, climate, existing air quality in the area affected by mining, and the available control technology.

(b) *Control measures.* The fugitive dust control measures to be used, depending on applicable Federal and State air quality standards, the climate, existing air quality, size of the operation, and type of operation shall include, but not be limited to—

(1) Periodic watering of unpaved roads with the minimum frequency of watering specified according to quantitative standard approved by the regulatory authority;

(2) Chemical stabilization of unpaved roads with nontoxic soil cement or dust palliatives mixed into the upper 1 or 2 inches or more of the road surface;

(3) Paving of roads;

(4) Prompt removal of coal, rock, soil, and other dust-forming debris from roads and frequent scraping and compaction of unpaved roads to stabilize the road surface;

(5) Restricting the speed of vehicles to reduce the length and size of any fugitive dust caused by travel;

(6) Revegetating, mulching, or otherwise stabilizing the surface of all areas adjoining roads that are sources of fugitive dust;

(7) Restricting the travel of vehicles on other than established roads;

(8) Enclosing, covering, watering or otherwise treating loaded haul trucks and railroad cars to reduce loss of material to wind and spillage;

(9) Substituting of conveyor systems for haul trucks and covering of conveyor systems when conveyed loads are subjected to wind erosion;

(10) Minimizing the area of disturbed land;

(11) Prompt revegetation of regraded lands;

(12) Use of alternatives for coal-handling methods, restriction of dumping procedures, wetting of disturbed materials during handling, and compaction of disturbed areas;

(13) Orienting mining operations so as to place temporary spoil piles or ridges perpendicular to prevailing winds to reduce wind erosion;

(14) Planting of special windbreak vegetation at critical points in the permit area;

(15) Control of dust from drilling using water sprays, hoods, dust collectors, or other controls;

(16) Restricting the areas to be blasted at any one time to reduce fugitive dust;

(17) Restricting activities causing fugitive dust during periods of air stagnation;

(18) Extinguishing any areas of burning or smoldering coal and periodically inspecting for burning areas whenever the potential for spontaneous combustion is high;

(19) Reducing the period of time between initially disturbing the soil and revegetating or other surface stabilization; and

(20) Restricting fugitive dust at spoil and coal transfer and loading points with water sprays, negative pressure systems and baghouse filters, chemicals, or other practices.

(c) *Additional measures.* Where the regulatory authority determines that application of fugitive dust control measures listed in paragraph (b) of this section is insufficient to achieve and maintain applicable Federal and State air-quality standards, the regulatory authority may require additional measures and practices as necessary to insure compliance with all applicable air-quality standards.

(d) *Monitoring.* Air monitoring equipment shall be installed and monitoring shall be conducted in accordance with the air quality monitoring program submitted under 30 CFR 780.14(a)(2) and as approved by the regulatory authority.

§ 816.97 Protection of fish, wildlife, and related environmental values.

(a) Any person conducting surface mining activities shall, to the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable.

(b) A person who conducts surface mining activities shall promptly report to the regulatory authority the presence in the permit area of any critical habitat of a threatened or endangered species listed by the Secretary, any plant or animal listed as threatened or endangered by the State, or any bald or golden eagle, of which the person engaged in surface mining activities becomes aware and which was not previously reported to the regulatory authority.

(c) A person who conducts surface mining activities shall insure that the design and construction of telephone lines, electric power lines, distribution lines, and other transmission facilities on the permit area are in accordance with the guideline set forth in "Environmental Criteria for Electric Transmission System" (USDI, USDA (1970)) or in such alternative guidance manuals as may be approved by the regulatory authority. Distribution lines shall be designed and constructed in accordance with REA Bulletin 61-10 "Powerline Contracts by Eagles and Other Large Birds" or in such alternative guidance manuals as may be approved by the regulatory authority. The two works named in this paragraph are hereby incorporated by reference. These materials are incorporated as they exist on the date of adoption of this part, and notices of changes in these materials will periodically be published in the FEDERAL REGISTER. These two works are available at all OSM regional offices and at the OSM office in Washington, D.C. and on file at the Office of the Federal Register.

(d) Each person who conducts surface mining activities shall to the extent possible using the best technology currently available—

(1) Locate and operate haul and access roads so as to avoid or minimize impacts to important fauna species or other species protected by State or Federal law;

(2) Fence roadways where specified by the regulatory authority to guide locally important wildlife to roadway underpasses or overpasses and construct the necessary passages. No new barrier shall be created in known and important fauna migration routes;

(3) Fence, cover, or use other appropriate methods to exclude fauna from ponds which contain hazardous concentrations of toxic-forming materials;

(4) Restore, enhance, or avoid habitats of unique value for fauna;

(5) Restore, enhance, or maintain natural riparian vegetation on the banks of streams, lakes, and other wetland areas;

(6) Avoid intermittent stream channels or restore them to natural, meandering shapes of the same gradient;

(7) Avoid perennial stream channels or restore them to their former longitudinal profile and cross section considering fauna habitats (usually a pattern of riffles, pools, and drops rather than a uniform depth);

(8) Advise all permanent and contractual personnel of pertinent State and Federal laws and regulations pertaining to fauna resources;

(9) Not use persistent pesticides on the area during surface mining and reclamation activities;

(10) Make every effort to prevent, control, and suppress range, forest, and coal fires;

(11) If fauna habitat is to be a primary or secondary postmining land use, the operator shall in addition to the requirements of 30 CFR 816.111-816.117—

(i) Select plant species to be used on reclaimed areas based on the following criteria—

(A) Their proven nutritional value for fauna,

(B) Their uses as cover for fauna, and

(C) Their ability to support and enhance fauna habitat after release of bonds; and

(ii) Distribute flora groupings to maximize benefit to fauna. Flora should be grouped and distributed in a manner which optimizes edge effect, cover, and other benefits for fauna;

(12) Where row crops are to be the primary land use, surround fields with rows of trees or hedges suitable for reducing wind, retaining moisture, and providing habitat for birds and other small animals and where desirable, intersperse trees, other vegetation types, and fence rows, throughout the harvested area to break up large blocks of monoculture and to diversify habitat types to make them more suitable for small animals. Wetlands shall be preserved or created rather than drained or otherwise permanently abolished; and

(13) Where the primary land use is to be residential, public service, or industrial land use, intersperse reclaimed lands with greenbelts utilizing species of grass, shrubs and trees useful as food and cover for birds and small animals.

§ 816.99 Slides and other damage.

(a) An undisturbed natural barrier shall be provided beginning at the elevation of the lowest coal seam to be mined and extending from the outslope for such distance as determined by the regulatory authority to assure stability. The barrier shall be retained in place to prevent slides and erosion.

(b) At any time a slide occurs which may have a potential adverse affect on life, property, health, safety, or the environment in the permit area, the person who conducts the surface mining activities shall notify the regulatory authority by the fastest available means and shall comply with any remedial measures required by the regulatory authority.

§ 816.100 Contemporaneous reclamation.

Reclamation efforts including backfilling, grading, topsoil replacement and revegetation, on all land that is disturbed by surface mining activities shall occur as contemporaneously as practicable with mining operations.

§ 816.101 Backfilling and grading: General requirements.

(a) *Timing of backfilling and grading.*

(1) *Contour mining.* Rough backfilling and grading shall follow coal removal by not more than 60 days or 1,000 linear feet.

(2) *Open pit mining with thin overburden.* Rough backfilling and grading shall occur in accordance with the time schedule approved by the regulatory authority.

(3) *Area strip mining.* Rough backfilling and grading shall be completed within 90 days and shall not be more than four spoil ridges behind the pit being worked, the spoil from the active pit being considered the first ridge.

(b) *Method for backfilling and grading.*

(1) Except as specifically exempted in this subchapter, all disturbed areas shall be returned to approximate original contour. Each person who conducts surface mining activities shall haul or convey, backfill, compact (where advisable to insure stability or to prevent leaching) and grade all spoil to eliminate all highwalls, spoil piles, and depressions.

(2) Backfilled material shall be placed to minimize adverse effects on ground water, to minimize off-site effects and to support the approved postmining land use.

(3) The postmining graded slope need not be of uniform slope.

(4) Cut-and-fill terraces may be used only in those situations expressly identified in section 816.102.

§ 816.102 Backfilling and grading: Grading requirements.

(a) The final graded slopes shall not exceed in grade either the approximate premining slopes or any lesser slopes approved by the regulatory authority based on consideration of soil, climate, or other characteristics of the surrounding area. Postmining final graded slopes need not be uniform but shall approximate the general nature of the premining topography. The requirements of this section may be modified by the regulatory authority where the surface mining activities are reaffecting previously mined lands that have not been restored to the standards of this part and sufficient spoil is not available. The person who conducts surface mining activities shall, at a minimum—

(1) Retain all overburden and spoil on the solid portion of existing or new benches; and

(2) Backfill and grade to the most moderate slope possible to eliminate the highwall which does not exceed the angle of repose or such lesser slope as is necessary to achieve a minimum static safety factor of 1.3. In all cases the highwall shall be eliminated.

(b) On approval by the regulatory authority in order to conserve soil moisture, ensure stability, and control erosion on final graded slopes, cut-and-fill terraces may be allowed if the terraces are compatible with the approved postmining land use and are appropriate substitutes for construction of lower grades on the reclaimed lands. The terraces shall meet the following requirements:

(1) The width of the individual terrace bench shall not exceed 20 feet unless specifically approved by the regulatory authority as necessary for stability, erosion control, or roads included in the approved post-mining land use plan.

(2) The vertical distance between terraces shall be as specified by the regulatory authority to prevent excessive erosion and to provide long-term stability.

(3) The slope of the terrace outslope shall not exceed $1v:2h$ (50 percent). Outslopes which exceed $1v:2h$ (50 percent) may be approved if they have a minimum static safety factor of more than 1.3 and provide adequate control over erosion and closely resemble the surface configuration of the land prior to mining. In no case may highwalls be left as part of terraces.

(4) Culverts and underground rock drains shall be used on the terrace only when approved by the regulatory authority.

(c) Small depressions may be constructed if they—

(1) Are approved by the regulatory authority to minimize erosion, conserve soil moisture, or promote vegetation;

(2) Do not restrict normal access; and

(3) Are not inappropriate substitutes for lower grades on the reclaimed lands.

(d) All operations on slopes above 20 or on lesser slopes that the regulatory authority defines as steep slopes shall meet the provisions of 30 CFR Part 826.

(e) All final grading, preparation of overburden before replacement of topsoil, and placement of topsoil, in accordance with section 816.24, shall be done along the contour to minimize

subsequent erosion and instability. If such grading, preparation, or placement along the contour is hazardous to equipment operators, then grading, preparation, or placement in a direction other than generally parallel to the contour may be used. In all cases, grading, preparation, or placement shall be conducted in a manner which minimizes erosion and provides a surface for replacement of topsoil which will minimize slippage.

§ 816.103 Backfilling and grading: Covering coal and acid- and toxic-forming materials.

(a) *Cover.*

(1) A person who conducts surface mining activities shall cover, with a minimum of 4 feet of the best available nontoxic and noncombustible material, all exposed coal seams remaining after mining and any acid forming or toxic forming combustible materials, or any other materials identified by the regulatory authority, that are exposed, used, or produced during mining;

(2) If necessary, these materials shall be treated to neutralize toxicity in order to prevent water pollution and sustained combustion, and to minimize adverse effects on plant growth and land uses;

(3) Where necessary to protect against upward migration of salts, exposure by erosion, to provide an adequate depth for plant growth, or otherwise to meet local conditions, the regulatory authority shall specify thicker amounts of cover using nontoxic material; or

(4) Acid-forming or toxic-forming material shall not be buried or stored in proximity to a drainage course so as to cause or pose a threat of water pollution.

(b) *Stabilization.* Backfilled materials shall be selectively hauled or conveyed and compacted wherever necessary to prevent leaching of acid-forming and toxic-forming materials into surface or ground waters and wherever necessary to insure the stability of the backfilled materials. The method of compacting material and the design specifications shall be approved by the regulatory authority before the acid-forming or toxic-forming materials are covered.

§ 816.104 Backfilling and grading: Thin overburden.

(a) The provisions of this section apply only where the final thickness is less than 0.8 of the initial thickness. Initial thickness is the sum of the overburden thickness and coal thickness. Final thickness is the product of the overburden thickness times the bulking factor to be determined for each mine area. The provisions of this section apply only when operations cannot be carried out to comply with the requirements of section 816.101 to achieve the approximate original contour.

(b) In surface mining activities carried out continuously in the same limited pit area for more than 1 year from the day coal-removal operations begin and where the volume of all available spoil and suitable waste materials over the mine plan area is demonstrated to be insufficient to achieve approximate original contour, surface mining activities shall be conducted to meet, at a minimum, the following standards—

(1) Haul or convey, backfill, and grade, using all available spoil and suitable waste materials from the entire mine area, to attain the lowest practicable stable grade, to achieve a static safety factor of 1.3, and to provide adequate drainage and long-term stability of the regraded areas and to cover all acid-forming and toxic-forming materials.

(2) Eliminate highwalls by grading or backfilling to stable slopes not exceeding $1v:2h$ (50 percent), or such lesser slopes as the regulatory authority may specify to reduce erosion, maintain the hydrologic balance, or allow the approved postmining land use.

(3) Haul or convey, backfill, grade, and revegetate in accordance with sections 816.111–816.117 to achieve an ecologically sound land use compatible with the prevailing land use in unmined areas surrounding the permit area; and

(4) Haul or convey, backfill, and grade to ensure the impoundments are constructed only where—

(i) It has been demonstrated to the regulatory authority's satisfaction that all requirements of sections 816.41–816.56 have been met; and

(ii) The impoundments have been approved by the regulatory authority as suitable for the approved postmining land use and as meeting the requirements of this part and all other applicable Federal and State laws and regulations.

§ 816.105 Backfilling and grading: Thick overburden.

(a) The provisions of this section apply only where the final thickness is greater than 1.2 of the initial thickness. Initial thickness is the sum of the overburden thickness and coal thickness. Final thickness is the product of the overburden thickness times the bulking factor to be determined for each mine area. The provisions of this section apply only when operations cannot be carried out to comply with the requirements of section 816.101 to achieve the approximate original contour.

(b) In surface mining activities where the volume of spoil over the mine plan area is demonstrated to be more than sufficient to achieve the approximate original contour surface coal mining operations shall be conducted to meet at a minimum the following standards—

(1) Haul or convey, backfill, and grade all spoil and wastes not required to achieve approximate original contour in the permit area to the lowest practicable grade but not more than the angle of repose and to cover all acid-forming and other toxic materials;

(2) Haul or convey, backfill, and grade excess spoil and wastes only within the permit area and dispose of such materials in conformance with sections 816.71–816.73;

(3) Haul or convey, backfill, and grade excess spoil and wastes to maintain the hydrologic balance in accordance with sections 816.41–816.57 and to provide long-term stability by preventing slides, erosion and water pollution.

(4) Haul or convey, backfill, grade, and revegetate wastes and excess spoil to achieve an ecologically sound land use approved by the regulatory authority as compatible with the prevailing land uses in unmined areas surrounding the permit area.

(5) Eliminate all highwalls and depressions by backfilling with spoil and suitable waste materials; and

(6) Meet the revegetation requirements of sections 816.111–816.117 for all disturbed areas.

§ 816.106 Regrading or stabilizing rills and gullies.

When rills or gullies deeper than 9 inches form in areas that have been regraded and topsoiled, the rills and gullies shall be filled, graded, or otherwise stabilized and the area reseeded or replanted according to sections 816.111–816.117. The regulatory authority shall specify that rills or gullies of lesser size be stabilized if the rills or gullies are disruptive to the approved postmining land use or may result in additional erosion and sedimentation.

§ 816.111 Revegetation: General requirements.

(a) Each person who conducts surface mining activities shall establish on all affected land a diverse, effective, and permanent vegetative cover of species native to the area of disturbed land or species that supports the approved postmining land use. For areas designated as prime farmland, the reclamation requirements of 30 CFR Part 823 shall apply.

(b) All revegetation shall be in compliance with the plan approved by the regulatory authority and shall be carried out in a manner that encourages a prompt vegetative cover and recovery of productivity levels compatible with the approved postmining land use.

(1) All disturbed land, except water areas and surface areas of roads that are approved as a part of the postmining land use, shall be seeded or planted to achieve a vegetative cover of the same seasonal variety native to the area of disturbed land.

(2) The vegetative cover shall be capable of stabilizing the soil surface with respect to erosion.

(3) Vegetative cover shall be considered of the same seasonal variety when it consists of a mixture of species of equal or superior utility for the intended land use when compared with the utility of naturally occurring vegetation during each season of the year.

(4) If both the premining and postmining land use is intensive agriculture, planting of the crops normally grown will meet the requirement of paragraph (b)(1) of this section.

§ 816.112 Revegetation: Use of introduced species.

Introduced species may be substituted for native species only if approved by the regulatory authority after appropriate field trials have demonstrated that the introduced species are of equal or superior utility for the approved postmining land use, or are necessary to achieve a quick, temporary, and stabilizing cover. Introduced species shall meet the requirements of applicable State and Federal seed or introduced species statutes, and shall not include poisonous or toxic species.

§ 816.113 Revegetation: Timing.

Seeding and planting of disturbed areas shall be conducted during the first normal period for favorable planting conditions after final preparation. The normal period for favorable planting shall be that planting time generally accepted locally for the type of plant materials selected. Any disturbed areas, except water areas and surface areas of roads approved for the post-mining land use, which have been final graded and topsoiled shall be mulched as required by section 816.114 and seeded, if required by the regulatory authority, with a temporary cover of small grains, grasses, or legumes to control erosion until an adequate permanent cover is established.

§ 816.114 Revegetation: Mulching.

(a) Suitable mulch shall be used on all regraded and topsoiled areas to control erosion, to promote germination of seeds, and to increase the moisture retention of the soil. Mulch shall be anchored to the soil surface to ensure effective protection of the soil and vegetation.

(b) Annual grasses and grains such as oats, rye, and wheat may be used instead of mulch when the regulatory authority determines that they will provide adequate stability and that they will later be replaced by species approved for the post-mining land use.

§ 816.115 Revegetation: Grazing.

When the approved post-mining land use is range or pasture land, the reclaimed land shall be used for livestock grazing at a stocking rate equal to or less than approved by the regulatory authority for at least the last two full years of liability required under section 816.116 (b).

§ 816.116 Revegetation: Standards for success.

(a) Success of revegetation shall be measured by techniques approved by the regulatory authority on the basis of reference areas approved by the regulatory authority. This is to adjust for natural differences between the pre-mining years and post-mining years. Management of the reference area shall be comparable to that which is required for the approved post-mining land use of the mine plan area.

(b) (1) The ground cover and productivity of living plants on the revegetated area shall be equal to the ground cover and productivity of living plants on the same approved reference area before mining for—

(i) Each year of a period of 5 full consecutive years after the last year of augumented seeding, fertilizing, irrigation, or other major work that ensures success in areas of more than 26.0 inches average annual precipitation; or

(ii) Each year of a period of 10 full consecutive years after the last year of augumented seeding, fertilizing, irrigation, or other major work that ensures success in areas of less than or equal to 26.0 inches average annual precipitation.

(2) For purposes of paragraph (b)(1)(i) and (ii) of this section, the average annual precipitation shall be determined either—

(i) By interpolation, using standard interpolation techniques, from "Mean Annual Precipitations," Map, p. 97, The National Atlas of the United States, U.S. Department of the Interior, Geological Survey, 1970. This work is hereby incorporated by reference as it exists on the date of adoption of this Subchapter. Notices of changes in this Atlas will periodically be published in the FEDERAL REGISTER. The Atlas is available at all OSM offices and is on file in the Office of the Federal Register; or

(ii) Based on 10 years of continuous and reliable precipitation records from stations located in or adjacent to the permit area.

(3) The ground cover or productivity shall be considered equal if it is at least 90 percent of the ground cover or productivity of the reference area with 90 percent statistical confidence and with 80 percent statistical confidence on shrublands for any significant portion of the mined area. A lower percentage of ground cover and productivity may be authorized by the regulatory authority under the following standards:

(i) For previously mined areas that are not reclaimed to the performance standards in this Subchapter, the ground cover of living plants for the areas shall not be less than can be supported by the best available topsoil and overburden in the mine plan area and in no case less than that existing before redisturbance;

(ii) For areas to be developed for industrial or residential use less than 2 years after regrading is completed the ground cover of living plants shall not be less than required to control erosion; and

(iii) Success in revegetation of cropland shall be determined on the basis of crop production from the mined area compared to the reference area. Crop production from the mined area shall be equal to that of the approved reference area for a minimum of two growing seasons. Production shall not be considered equal if it is less than 90 percent of the production of the reference area for any significant portion of the mined area.

(c) The person who conducts surface mining activities shall—

(1) Maintain any necessary fences and proper management practices; and

(2) Conduct periodic measurements of vegetation, soils, and water prescribed or approved by the regulatory authority to identify conditions during the applicable period of liability specified in paragraph (b) of this section.

(d) For permit areas 40 acres or less in size in locations with an average annual precipitation of more than 26 inches, the following performance standards, when approved by the regulatory authority, may be used instead of reference areas to measure success of revegetation on sites that are disturbed. These standards shall be met for a minimum of 5 full consecutive years.

(1) Areas planted only in herbaceous species shall sustain a vegetative ground cover of 70 percent for 5 full consecutive years.

(2) Areas planted with a mixture of herbaceous and woody species shall sustain a herbaceous vegetative ground cover of 50 percent for 5 full consecutive years and 400 woody plants per acre after 5 years. On steep slopes, the minimum number of woody plants shall be 600 per acre.

(3) For purposes of this section, herbaceous species means grasses, legumes, and nonleguminous forbs;

(ii) Stand size;
(iii) Stand condition;
(iv) Site and species relations; and

§ 816.132 Cessation of operations: Permanent.

(a) Each person who intends to per-

policies and plans is submitted to the regulatory authority before surface

post-mining cropland use, where the cropland would require continuous

817.54 Hydrologic balance: Water rights and replacement.
817.55 Hydrologic balance: Discharge of

(3) For purposes of this section, herbaceous species means grasses, legumes, and nonleguminous forbs; woody plants means woody shrubs, trees and vines; and ground cover means the area of ground covered by the combined aerial parts of vegetation and the litter that is produced naturally onsite, expressed as a percentage of the total area of measurement.

§ 816.117 Revegetation: Tree stocking for forest land.

This section sets forth forest resource conservation standards for reforested operations to ensure that a cover of trees of commercial species, sufficient to adequately use the available growing space, is established after surface mining activities.

(a) The following are the minimum acceptable stocking standards for areas east of the 100th meridian west longitude as measured 5 years after planting:

(1) The area shall contain an average point count of 600 trees per acre, to be computed as follows:

(i) 600 established trees of commercial species per acre at least 3 years of age each one to count as one toward meeting the stocking requirement; and

(ii) Root crown or root sprouts over 1 foot in height shall count as one toward meeting the stocking requirement.

(2) Rock areas, permanent roads, and surface water drainage ways in forest land shall not require stocking.

(3) A "countable tree" means a tree that can be used in calculating the degree of stocking under the following criteria:

(i) The tree shall be in place at least 3 growing seasons.

(ii) The tree shall be alive and healthy.

(iii) The tree shall have at least one-third of its length in live crown.

(iv) The tree shall be a commercial species which the regulatory authority determines will produce commercial trees physiologically suited for the area.

(4) Stocking means a measure of the degree to which space is occupied by well-distributed countable trees.

(b) The following are the minimum performance standards for areas west of the 100th meridian west longitude where shelterbelts, wildlife habitat, commercial forest land, or other forest land are the approved post-mining land use.

(1) A pre-mining- and post-mining vegetation inventory of trees, shrubs, and half-shrubs shall be conducted on established reference areas according to methods approved by the regulatory authority. This inventory shall contain, but not be limited to—

(i) Site quality;

(ii) Stand size;

(iii) Stand condition;

(iv) Site and species relations; and

(v) Appropriate forest land utilization considerations.

(2) Appropriate trees, shrubs, and half-shrubs on the revegetated area shall be measured using the approved methods after the vegetation has been established according to the approved mining and reclamation plan. The density, number per unit area, of live woody plants which have been in place at least 3 years on the rehabilitated area shall be equal to or greater than 90 percent of the density of live woody plants of the same life form (trees vs. shrubs and half-shrubs) on the reference area with 90 percent statistical confidence. When this ground cover requirement is met, the 5 or 10 year responsibility period required in section 816.116 shall begin.

(3) Upon expiration of the 5 or 10 year responsibility period and at the time of request for bond release, each person who conducts surface mining activities shall provide documentation required in paragraph (b)(2) of this section showing that the woody plants established on the rehabilitated site meet the requirements of the approved mining and reclamation plan. Species diversity, distribution, seasonal variety, vigor, and regenerative capacity of the vegetation of the revegetated area shall be evaluated on the basis of the results which could reasonably be expected using the methods of revegetation in the approved mining and reclamation plan.

§ 816.131 Cessation of operations: Temporary.

(a) Each person who conducts surface mining activities shall, in areas in which there are no current operations, but in which operations are to be resumed under an approved plan, effectively support and close all surface access openings to underground operations, and secure surface facilities. Temporary abandonment shall not relieve a person of his obligation to comply with provisions of the approved mining and reclamation operations permit.

(b) Before temporary cessation of operations and reclamation, each person who conducts surface mining activities shall submit to the regulatory authority a notice of intention to cease or abandon operations and reclamation. This notice shall include a statement of the exact number of acres affected in the permit area, the extent and kind of reclamation accomplished, and identification of the regrading, revegetation, environmental monitoring, and water treatment activities that will continue during the temporary cessation.

§ 816.132 Cessation of operations: Permanent.

(a) Each person who intends to permanently cease surface mining activities shall close or backfill or otherwise permanently reclaim all affected areas in accordance with this Chapter and the plan approved by the regulatory authority.

(b) All equipment, structures, or other facilites not required for continued surface mining activities and monitoring unless approved as suitable for the post-mining land use, shall be removed and the affected land reclaimed.

§ 816.133 Post-mining land use.

(a) *General.* All affected areas shall be restored in a timely manner—

(1) To conditions that are capable of supporting the uses which they were capable of supporting before any mining; or

(2) To higher or better uses achievable under criteria and procedures of this section.

(b) *Determining pre-mining use of land.* The pre-mining uses of land to which the post-mining land use is compared shall be those uses which the land previously supported if the land had not been previously mined and had been properly managed.

(1) The post-mining land use for land that has been previously mined and not reclaimed shall be judged on the basis of the highest and best use that can be achieved and is compatible with surrounding areas.

(2) The post-mining land use for land that has received improper management shall be judged on the basis of the pre-mining use of surrounding lands that have received proper management.

(3) If the premining use of the land was changed within 5 years of the beginning of mining, the comparison of post-mining use to pre-mining use shall include a comparison with the historic use of the land as well as its use immediately preceding mining.

(c) Before permanent abandonment, the permit area shall be restored, in a timely manner, either to conditions capable of supporting the uses they were capable of supporting before any mining or to conditions capable of supporting approved alternative land uses. Alternative land uses may be approved by the regulatory authority after consultation with the landowner or the land-management agency having jurisdiction over the lands, if the following criteria are met:

(1) The proposed post-mining land use is compatible with adjacent land use and, where applicable, with existing local, State, or Federal land use policies and plans; a written statement of the views of the authorities with statutory responsibilities for land use

policies and plans is submitted to the regulatory authority before surface mining activities began; any required approval of local, State, or Federal land management agencies, including any necessary zoning or other changes required for the land use, is obtained and remains valid throughout the surface mining activities;

(2) Specific plans are prepared and submitted to the regulatory authority which show the feasibility of the post-mining land use as related to needs, projected land use trends, and markets and that include a schedule showing how the proposed use will be developed and achieved within a reasonable time after mining and be sustained. The regulatory authority may require appropriate demonstrations to show that the planned procedures are feasible, reasonable, and integrated with mining and reclamation, and that the plans will result in successful reclamation;

(3) Provision of any necessary public facilities is ensured as evidenced by letters of commitment from parties other than the person who conducts surface mining activities, as appropriate, to provide the public facilities in a manner compatible with the plans submitted under 30 CFR 780.23. The letters shall be submitted to the regulatory authority before surface mining activities begin;

(4) Specific and feasible plans are submitted to the regulatory authority which show that financing and attainment and maintenance of the post-mining land use are feasible and are supported by letters of commitment from parties other than the person who conducts the surface mining activities;

(5) Plans for the post-mining land use are designed under the general supervision of a registered professional engineer, or other appropriate professional, who will ensure that the plans conform to applicable accepted standards for adequate land stability, drainage, and vegetative cover, and esthetic design appropriate for the post-mining use of the site;

(6) The proposed use will neither present actual or probable hazard to public health or safety nor will it pose any actual or probable threat of water flow diminution or pollution;

(7) The use will not involve unreasonable delays in reclamation;

(8) Necessary approval of measures to prevent or mitigate adverse effects on fish, wildlife and related environmental values is obtained from the regulatory authority and appropriate State and Federal fish and wildlife management agencies before surface mining activities begin; and

(9) Proposals to change pre-mining land uses of range, fish and wildlife forest land, hayland, or pasture to a post-mining cropland use, where the cropland would require continuous maintenance such as seeding, plowing, cultivation, fertilization, or other similar practices to be practicable or to comply with applicable Federal, State, and local laws, are reviewed by the regulatory authority to ensure that—

(i) There is a firm written commitment by the person who conducts surface mining activities or by the landowner or land manager to provide sufficient crop management after release of applicable performance bonds to assure that the proposed post-mining cropland use remains practical and reasonable;

(ii) There is sufficient water available and committed to maintain crop production; and

(iii) Topsoil quality and depth are sufficient to support the proposed use.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

Sec.
817.1 Scope.
817.2 Objectives.
817.11 Signs and markers.
817.13 Casing and sealing of underground openings: General requirements.
817.14 Casing and sealing of underground openings: Temporary.
817.15 Casing and sealing of underground openings: Permanent.
817.21 Topsoil: General requirements.
817.22 Topsoil: Removal.
817.23 Topsoil: Storage.
817.24 Topsoil: Redistribution.
817.25 Topsoil: Nutrients and soil amendments.
817.31 Roads and associated structures: General requirements.
817.32 Road construction: Location.
817.33 Road construction: Erosion control.
817.34 Road construction: Drainage.
817.35 Road construction: Surfacing.
817.36 Other transportation facilities.
817.38 Restoration of roads.
817.39 Support facilities and utility installations.
817.41 Hydrologic balance: General requirements.
817.42 Hydrologic balance: Water quality standards and effluent limitations.
817.43 Hydrologic balance: Diversions and conveyance of overland flow and shallow ground water flow.
817.44 Hydrologic balance: Stream channel diversions.
817.45 Hydrologic balance: Sediment control measures.
817.46 Hydrologic balance: Sedimentation ponds.
817.47 Hydrologic balance: Discharge structures.
817.48 Hydrologic balance: Acid-forming and toxic-forming materials.
817.49 Hydrologic balance: Permanent and temporary impoundments.
817.50 Hydrologic balance: Ground water protection.
817.52 Hydrologic balance: Surface and ground water monitoring.
817.53 Hydrologic balance: Transfer of wells.
817.54 Hydrologic balance: Water rights and replacement.
817.55 Hydrologic balance: Discharge of water into an underground mine.
817.56 Hydrologic balance: Post-mining rehabilitation of sedimentation ponds, diversions, impoundments, and treatment facilities.
817.57 Hydrologic balance: Stream buffer zones.
817.59 Coal recovery.
817.61 Use of explosives: General requirements.
817.62 Use of explosives: Preblasting survey.
817.65 Use of explosives: Surface blasting requirements.
817.67 Use of explosives: Seismograph measurements.
817.68 Use of explosives: Records of blasting operations.
817.71 Disposal of underground development waste and excess spoil: General requirements.
817.72 Disposal of underground development waste and excess spoil: Valley fills.
817.73 Disposal of underground development waste and excess spoil: Head-of-hollow fills.
817.81 Coal processing waste: General requirements.
817.82 Coal processing waste banks: Site inspection.
817.83 Coal processing waste banks: Water control measures.
817.85 Coal processing waste banks: Construction requirements.
817.86 Coal processing waste: Burning.
817.87 Coal processing waste: Burned waste utilization.
817.88 Coal processing waste: Return to underground workings.
817.89 Disposal of non-coal wastes.
817.91 Coal processing waste: Dams and embankments: General requirements.
817.92 Coal processing waste: dams and embankments. Site preparation.
817.93 Coal processing waste: Dams and embankments: Construction.
817.95 Air resources protection.
817.97 Protection of fish, wildlife and related environmental values.
817.99 Slides and other damage.
817.100 Contemporaneous reclamation.
817.101 Backfilling and grading: General requirements.
817.102 Backfilling and grading: General. grading requirements.
817.103 Backfilling and grading: Covering coal and acid- and toxic-forming materials.
817.106 Regrading or stabilizing rills and gullies.
817.111 Revegetation: General requirements.
817.112 Revegetation: Use of introduced species.
817.113 Revegetation: Timing.
817.114 Revegetation: Mulching.
817.115 Revegetation: Grazing.
817.116 Revegetation: Standards for success.
817.117 Revegetation: Tree stocking for forest land.
817.121 Subsidence control: General requirements.
817.122 Subsidence control: Public notice.
817.123 Subsidence control: Pre-mining survey.
817.124 Subsidence control: Surface owner protection.
817.125 Subsidence control: Monitoring.

817.126 Subsidence control: Buffer zones.
817.131 Cessation of operations: Temporary.

(f) *Blasting signs.* If blasting is conducted incident to underground mining activities, the person who conducts surface mining activities shall, at each entrance to the permit area from a public road or highway, place conspicuous signs which state that explosives are in use and which state the meaning of the audible blast warning signal and the location where a copy of the regulatory authority's blasting schedule is available.

(g) *Records of blasting operations.* A record of each blast shall be retained for a period of at least 3 years and shall be available for inspection by the regulatory authority upon request. The record shall contain the following data:

(1) Name of the operator conducting the blast.

(2) Location, date, and time of the blast.

(3) Name, signature, and certification number of the blaster conducting the blast.

(4) Direction and distance in feet to the nearest dwelling, school, church or commercial or institutional building neither owned nor leased by the person who conducts the surface mining activities.

(5) Weather conditions, including those which may cause possible adverse blasting effects.

(6) Type of material blasted.

(7) Number of holes, burden and spacing.

(8) Diameter and depth of holes.

(9) Types of explosives used.

(10) Total weight of explosives used per hole.

(11) Maximum weight of explosives detonated within any 8 millisecond period.

(12) Initiation system.

(13) Type and length of stemming.

(14) Mats or other protections used.

(15) Seismograph records, where required, including reference point and distance to the nearest dwelling, school, church or commercial or institutional building neither owned nor leased by the person who conducts the surface mining activities, and the maximum particle velocity and the seismograph system frequency range recorded in each component.

(16) Type of detonation.

(17) Remarks, including any unusual occurrences noted during blasting.

(h) *Seismographic measurements.* (1) Seismographic measurements shall be made for each blast, except as provided in paragraph (h)(2) of this section, unless the regulatory authority requires a different procedure based on the proximity of the blasting to structures and the geology of the site.

(2) A seismograph record shall be obtained for each blast that is conducted within 1,000 feet of any dwelling, school, church or commercial or institutional building neither owned nor leased by the person who conducts the surface mining activities. If the regulatory authority determines that a greater distance than 1,000 feet is necessary to protect such structures from damage, a seismograph record shall be obtained for each blast that is conducted within the greater distance specified by the regulatory authority.

(3) The seismograph shall be operated and located so as to record the particle velocity of the ground motion caused by the blasting at the nearest dwelling, school, church or commercial or institutional building neither owned nor leased by the person who conducts the surface mining activities, or at any other location specified by the regulatory authority.

(4) The seismograph shall be operated and located so as to record particle velocity in each component direction.

(5) The seismograph shall be operated and located so as to record particle velocity in each component direction.

(6) The seismograph shall be operated and located so as to record particle velocity in each component direction.

(7) The seismograph shall be operated and located so as to record particle velocity in each component direction.

(8) The seismograph shall be operated and located so as to record particle velocity in each component direction.

(9) The seismograph shall be operated and located so as to record particle velocity in each component direction.

(10) The seismograph shall be operated and located so as to record particle velocity in each component direction.

(11) The seismograph shall be operated and located so as to record particle velocity in each component direction.

(12) The seismograph shall be operated and located so as to record particle velocity in each component direction.

(13) The seismograph shall be operated and located so as to record particle velocity in each component direction.

(14) The seismograph shall be operated and located so as to record particle velocity in each component direction.

(15) The seismograph shall be operated and located so as to record particle velocity in each component direction.

(16) The seismograph shall be operated and located so as to record particle velocity in each component direction.

(17) The seismograph shall be operated and located so as to record particle velocity in each component direction.

(1) It is demonstrated to the regulatory authority by the results of chemical and physical analyses of overburden and by the results of trial backfilling that the proposed backfilling and grading operations will not cause the formation of toxic drainage;

(2) All toxic-forming materials will be adequately covered with nontoxic material; and

(3) The backfilling and grading will not create a hydrologic regime that will adversely affect the water quality or quantity of surface water drainage or ground water supplies.

(b) *Cut-and-fill terraces.* Cut-and-fill terraces may be allowed by the regulatory authority only in those areas where the operator demonstrates that the terraces are needed to conserve soil moisture, control erosion, or to facilitate the functional use of the land after reclamation.

(c) *Final highwalls.* Final highwalls may be left in place after mining is completed only if the operator demonstrates that it is impossible to reclaim the highwall by backfilling and grading to the approximate original contour. The highwall shall be covered with nontoxic and nonacid-forming material, and the highwall shall be stable.

§ 817.106 Regrading or stabilizing rills and gullies.

Rills and gullies which form in areas that have been regraded and topsoiled and which exceed 9 inches in depth shall be filled, regraded, or otherwise stabilized and the area retopsoiled and revegetated in accordance with §§ 817.22 and 817.111-817.116. Rills and gullies which form in areas that have been regraded and topsoiled and which are nine inches or less in depth shall be stabilized and the topsoil shall be redistributed and revegetated in accordance with §§ 817.22 and 817.111-817.116.

§ 817.111 Revegetation: General requirements.

(a) Each person who conducts surface mining activities shall establish on all areas affected by surface mining activities a vegetative cover that is in accordance with this section and sufficient for the approved post-mining land use, except that areas to be used for industrial, commercial, residential, or public purposes shall be stabilized and protected from erosion.

(b) Introduced species may be planted in mixture with native species to diversify revegetation, provide for wildlife habitat, control erosion, or stabilize the area during the period of establishment. Introduced species shall be compatible with the approved post-mining land use.

(c) Each person who conducts surface mining activities shall select, prepare, and plant the vegetative species in accordance with the approved mining and reclamation plan. The species and amounts per acre of seeds and seedlings shall be those approved by the regulatory authority.

(d) Each person who conducts surface mining activities shall protect vegetation from excessive fire, insects, disease, and grazing.

§ 817.112 Revegetation: Use of introduced species.

(a) Introduced species may be planted in mixture with native species to diversify revegetation, provide for wildlife habitat, control erosion, or stabilize the area during the period of establishment. Introduced species shall be compatible with the approved post-mining land use.

(b) Each person who conducts surface mining activities shall select, prepare, and plant the vegetative species in accordance with the approved mining and reclamation plan. The species and amounts per acre of seeds and seedlings shall be those approved by the regulatory authority.

(c) Each person who conducts surface mining activities shall protect vegetation from excessive fire, insects, disease, and grazing.

§ 817.113 Revegetation: Timing.

(a) Each person who conducts surface mining activities shall establish on all areas affected by surface mining activities a vegetative cover that is in accordance with this section and sufficient for the approved post-mining land use, except that areas to be used for industrial, commercial, residential, or public purposes shall be stabilized and protected from erosion.

(b) Introduced species may be planted in mixture with native species to diversify revegetation, provide for wildlife habitat, control erosion, or stabilize the area during the period of establishment. Introduced species shall be compatible with the approved post-mining land use.

(c) Each person who conducts surface mining activities shall select, prepare, and plant the vegetative species in accordance with the approved mining and reclamation plan. The species and amounts per acre of seeds and seedlings shall be those approved by the regulatory authority.

(d) Each person who conducts surface mining activities shall protect vegetation from excessive fire, insects, disease, and grazing.

§ 817.114 Revegetation: Mulching.

(a) Each person who conducts surface mining activities shall establish on all areas affected by surface mining activities a vegetative cover that is in accordance with this section and sufficient for the approved post-mining land use, except that areas to be used for industrial, commercial, residential, or public purposes shall be stabilized and protected from erosion.

(b) Introduced species may be planted in mixture with native species to diversify revegetation, provide for wildlife habitat, control erosion, or stabilize the area during the period of establishment. Introduced species shall be compatible with the approved post-mining land use.

(c) Each person who conducts surface mining activities shall select, prepare, and plant the vegetative species in accordance with the approved mining and reclamation plan. The species and amounts per acre of seeds and seedlings shall be those approved by the regulatory authority.

(d) Each person who conducts surface mining activities shall protect vegetation from excessive fire, insects, disease, and grazing.

§ 817.115 Revegetation: Grazing.

(a) Each person who conducts surface mining activities shall establish on all areas affected by surface mining activities a vegetative cover that is in accordance with this section and sufficient for the approved post-mining land use, except that areas to be used for industrial, commercial, residential, or public purposes shall be stabilized and protected from erosion.

(b) Introduced species may be planted in mixture with native species to diversify revegetation, provide for wildlife habitat, control erosion, or stabilize the area during the period of establishment. Introduced species shall be compatible with the approved post-mining land use.

(c) Each person who conducts surface mining activities shall select, prepare, and plant the vegetative species in accordance with the approved mining and reclamation plan. The species and amounts per acre of seeds and seedlings shall be those approved by the regulatory authority.

(d) Each person who conducts surface mining activities shall protect vegetation from excessive fire, insects, disease, and grazing.

§ 817.116 Revegetation: Standards for success.

(a) Each person who conducts surface mining activities shall establish on all areas affected by surface mining activities a vegetative cover that is in accordance with this section and sufficient for the approved post-mining land use, except that areas to be used for industrial, commercial, residential, or public purposes shall be stabilized and protected from erosion.

(b) Introduced species may be planted in mixture with native species to diversify revegetation, provide for wildlife habitat, control erosion, or stabilize the area during the period of establishment. Introduced species shall be compatible with the approved post-mining land use.

(c) Each person who conducts surface mining activities shall select, prepare, and plant the vegetative species in accordance with the approved mining and reclamation plan. The species and amounts per acre of seeds and seedlings shall be those approved by the regulatory authority.

(d) Each person who conducts surface mining activities shall protect vegetation from excessive fire, insects, disease, and grazing.

§ 817.117 Revegetation: Tree stocking for forest land.

This section sets forth forest resource conservation standards for reforested operations to ensure that a cover of trees of commercial species, sufficient to adequately use the available growing space, is established after surface mining activities.

(a) The following are the minimum acceptable stocking standards for areas east of the 100th meridian west longitude as measured 5 years after planting:

(1) The area shall contain an average point count of 600 trees per acre, to be computed as follows:

(i) 600 established trees of commercial species per acre at least 3 years of age each one to count as one toward meeting the stocking requirement; and

(ii) Root crown or root sprouts over 1 foot in height shall count as one toward meeting the stocking requirement.

(2) Rock areas, permanent roads, and surface water drainage ways in forest land shall not require stocking.

(3) A "countable tree" means a tree that can be used in calculating the degree of stocking under the following criteria:

(i) The tree shall be in place at least 3 growing seasons.

(ii) The tree shall be alive and healthy.

(iii) The tree shall have at least one-third of its length in live crown.

(iv) The tree shall be a commercial species which the regulatory authority determines will produce commercial trees physiologically suited for the area.

(4) Stocking means a measure of the degree to which space is occupied by well-distributed countable trees.

(b) The following are the minimum performance standards for areas west of the 100th meridian west longitude where shelterbelts, wildlife habitat, commercial forest land, or other forest land are the approved post-mining land use.

(1) A pre-mining- and post-mining vegetation inventory of trees, shrubs, and half-shrubs shall be conducted on established reference areas according to methods approved by the regulatory authority. This inventory shall contain, but not be limited to—

(i) Site quality;

(ii) Stand size;

(iii) Stand condition;

(iv) Site and species relations; and

(v) Appropriate forest land utilization considerations.

(2) Appropriate trees, shrubs, and half-shrubs on the revegetated area shall be measured using the approved methods after the vegetation has been established according to the approved mining and reclamation plan. The density, number per unit area, of live woody plants which have been in place at least 3 years on the rehabilitated area shall be equal to or greater than 90 percent of the density of live woody plants of the same life form (trees vs. shrubs and half-shrubs) on the reference area with 90 percent statistical confidence. When this ground cover requirement is met, the 5 or 10 year responsibility period required in section 816.116 shall begin.

(3) Upon expiration of the 5 or 10 year responsibility period and at the time of request for bond release, each person who conducts surface mining activities shall provide documentation required in paragraph (b)(2) of this section showing that the woody plants established on the rehabilitated site meet the requirements of the approved mining and reclamation plan. Species diversity, distribution, seasonal variety, vigor, and regenerative capacity of the vegetation of the revegetated area shall be evaluated on the basis of the results which could reasonably be expected using the methods of revegetation in the approved mining and reclamation plan.

817.126 Subsidence control: Buffer zones.
817.131 Cessation of operations: Temporary.
817.132 Cessation of operations: Permanent.
817.133 Post-mining land use.

AUTHORITY: Sections 102, 201, 501, 503, 504, 507, 508, 516, 517, 519, 701, 717 and 719, Pub. L. 95-87, 91 Stat. 448, 449, 467, 470, 471, 474, 478, 495, 498, 501, 516, 526 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1257, 1258, 1266, 1267, 1269, 1291, 1307, 1309).

§ 817.1 Scope.

This Part sets forth the minimum performance standards for underground mining activities.

§ 817.2 Objectives.

This part is intended to ensure that all underground mining activities are conducted in a manner which preserves and enhances environmental and other values in accordance with the Act.

§ 817.11 Signs and markers.

(a) *Specifications.* Each sign and marker required to be posted under this Part shall—

(1) Be of a uniform design throughout the operation that can be seen and read easily;

(2) Be made of durable material; and

(3) Conform to each local ordinance and code.

(b) *Duration of maintenance.* Each person who conducts underground mining activities shall maintain signs and markers during all activities to which they pertain.

(c) *Mine and permit identification signs.*

(1) Each person who conducts underground mining activities shall display identification signs at all points of access from each public road and highway to surface areas associated with underground mining activities.

(2) The signs shall show the name, business address, and telephone number of the person who conducts underground mining activities and the identification number of each current permit authorizing underground mining activities.

(3) Each sign shall not be removed until after the release of all bonds.

(d) *Perimeter markers.* Each person who conducts underground mining activities shall clearly mark the perimeters of all areas affected by surface operations or facilities before submitting a permit application.

(e) *Buffer zone markers.* Each person who conducts underground mining activities shall mark all buffer zones, as required by section 817.57. Each buffer zone marker shall be designed and placed in the same manner as the perimeter markers. Each buffer zone marker shall be located along the boundary of the buffer zone.

(f) *Blasting signs.* If blasting is conducted incident to underground mining activities, the person who conducts those activities shall conspicuously display:

(1) Signs reading "Blasting Area" at the edge of blasting areas along roads within the permit area; and

(2) Signs clearly explaining the blasting warning and all-clear signals at all entrances to the permit area from each public road or highway.

(g) *Topsoil markers.* Where topsoil or other vegetation-supporting material is required to be segregated and stockpiled under section 817.23, the person who conducts the underground mining activities shall clearly mark the stockpiled material.

§ 817.13 Casing and sealing of underground openings: General requirements.

Each borehole, shaft, well, or other underground opening shall be cased, lined, or otherwise managed to prevent pollution and mixing of surface or ground water, and to ensure the safety of people, livestock, wildlife, and machinery in the area where these openings could be a hazard. Each borehole and well that is within the permit area shall be permanently closed, in a manner approved by the regulatory authority unless the opening is approved for monitoring. This section does not apply to holes drilled and used for blasting, in the area affected by surface operations.

§ 817.14 Casing and sealing of underground openings: Temporary.

(a) Each mine entry which is temporarily inactive but has a projected useful service under the approved mine plan shall be protected by barricades or other covering devices, shall be fenced, and signs shall be posted to prevent access into the entries and to identify the hazardous nature of the opening. Any barricade, fence, or other protective device shall be periodically inspected and maintained in good operating condition by the person who conducts the underground mining activities.

(b) Each borehole, shaft, or well which has been identified in the approved mining and reclamation plan to be used for the return of underground development waste, coal processing waste or water to the underground workings or to be used to monitor ground water conditions shall be temporarily sealed prior to use.

§ 817.15 Casing and sealing of underground openings: Permanent.

When no longer needed for mining, each shaft, drift, adit, tunnel, exploratory hole, entryway, or other opening to the surface shall be capped, sealed or backfilled, as required by the regulatory authority consistent with 30 CFR 75.1711 except as otherwise approved by the regulatory authority. Closure measures shall be of a permanent design to prevent access to the mine workings by people and animals and to prevent the flow of water except as otherwise approved by the regulatory authority.

§ 817.21 Topsoil: General requirements.

(a) Before disturbance of areas affected by surface operations or facilities, topsoil and subsoils to be saved under section 817.22 shall be removed from the area as a separate operation and segregated from other material.

(b) After removal, topsoil shall either be immediately redistributed in accordance with section 817.24 or stockpiled pending redistribution, if permissible under section 817.23.

§ 817.22 Topsoil: Removal.

(a) *Timing.* Topsoil shall be removed from areas to be affected by surface operations after the vegetative cover that would interfere with the use of the topsoil is cleared but before any drilling for blasting, mining, or other surface disturbance of areas designated for mine entries, superstructures, coal processing facilities, roads, storage areas, and other major structures incident to underground mining.

(b) *Materials to be removed.* All topsoil shall be removed unless use of alternative materials is approved by the regulatory authority to be segregated in accordance with paragraph (e) of this section. If use of alternative material is approved, all materials to be redistributed shall be removed.

(c) *Additional material to be removed in thin topsoil situations.* If the topsoil is less than 6 inches, a 6 inch layer that includes the A horizon and the unconsolidated materials immediately below the A horizon, or the A horizon and all unconsolidated material if the total available is less than 6 inches, shall be removed and the mixture segregated and replaced as the surface soil layer.

(d) *Subsoil segregation.* The B horizon and portions of the C horizon or other underlying layers demonstrated to have qualities for root development comparable to the B or C horizons shall be segregated and replaced as subsoil if the regulatory authority determines that the segregation and replacement is necessary or desirable to ensure soil productivity consistent with the approved post-mining land use.

(e) *Topsoil substitutes and supplements.* Selected overburden materials may be substituted for, or used as a supplement to, topsoil where the resulting soil medium is equal to or more suitable for vegetation, and if all the following requirements have been met:

(1) It is demonstrated to the regulatory authority by the results of chemical and physical analyses of overburden and topsoil that the selected overburden materials or an overburden and topsoil mixture is more suitable for restoring land capability and productivity and that it is the best available material to support and sustain the approved vegetation. These analyses shall include determinations of pH, sulfide content that when oxidized will lower the pH, percent organic material, nitrogen, phosphorus, potassium, texture class, and water-holding capacity, and such other analyses as required by the regulatory authority. The regulatory authority may also require that results of field-site trials or greenhouse tests be used to demonstrate the feasibility of using such overburden materials.

(2) The chemical and physical analyses and the results of field-site trials and greenhouse tests submitted to the regulatory authority shall be accompanied by a certification from a qualified soil scientist or agronomist stating, on the basis of the test results, that the proposed substitute material is equal to or more suitable for sustaining the vegetation than is the available topsoil, that the substitute material is the best available material to support the vegetation, and that the tests and analyses were conducted under his or her supervision and used standard testing procedures.

(3) The tests and analyses shall be conducted by a laboratory approved by the regulatory authority.

(4) The alternative material shall be removed, segregated, and replaced in compliance with the requirements for topsoil under this section.

(f) *Limits on topsoil removal area.* Where the removal of vegetative material, topsoil, or other materials may result in erosion which may cause air or water pollution, the person who conducts underground mining activities shall—

(1) Limit the size of the area from which topsoil is removed at any one time;

(2) Redistribute the surface soil layer at a time when the physical and chemical properties of topsoil can be protected and erosion can be minimized; and

(3) Take such other measures as the regulatory authority may approve or require.

§ 817.23 Topsoil: Storage.

(a) The topsoil and other materials removed under section 817.22 shall be stockpiled only when it is impractical to promptly redistribute such materials on regraded areas.

(b) The stockpiled materials shall be placed on a stable area within the permit area where the materials shall not be disturbed or exposed to excessive water or wind erosion, or contaminants which lessen their capability to support vegetation before they can be redistributed.

(1) Stockpiles shall be selectively placed and protected from wind and water erosion, unnecessary compaction, and contamination by undesirable materials either by—

(i) An effective cover of nonnoxious, quick-growing annual and perennial plants, seeded or planted during the first normal period for favorable planting conditions; or

(ii) By other methods demonstrated to and approved by the regulatory authority to provide equal protection.

(2) Unless approved by the regulatory authority, stockpiled topsoil and other materials shall not be moved until required for redistribution on a disturbed area.

§ 817.24 Topsoil: Redistribution.

(a) After final grading and before the replacement of topsoil and other materials segregated in accordance with section 817.23, regraded land shall be scarified or otherwise treated to eliminate slippage surfaces and to promote root penetration. If the person who conducts underground mining activities shows, through appropriate tests, and the regulatory authority approves that no harm will be caused to the topsoil and vegetation, the scarification may be conducted after topsoiling.

(b) Topsoil and other materials shall be redistributed in a manner that—

(1) Achieves an approximate uniform, stable thickness consistent with the post-mining land uses, slopes, aspects, and surface drainage system.

(2) Prevents excess compaction of the topsoil; and

(3) Protects the topsoil from wind and water erosion before and after it is seeded and planted.

§ 817.25 Topsoil: Nutrients and soil amendments.

Nutrients and soil amendments in the amounts determined by soil tests shall be applied to the redistributed surface soil layer so that it supports the post-mining land use approved by the regulatory authority and meets the revegetation requirements of sections 817.11–817.17. All soil tests shall be performed by a laboratory approved by the regulatory authority and certified by a qualified agronomist or soil scientist.

§ 817.31 Roads and associated structures: General requirements.

(a) Each person who conducts underground mining activities shall design, construct, utilize, maintain, and reclaim all roads, road rights-of-way, and associated structures to meet the requirements of sections 817.32–817.35, 817.38, and 817.95 to control or prevent erosion and siltation, air and water pollution, and damage to public or private property.

(1) To the extent possible using the best technology currently available, roads, road rights-of-way, associated structures, and other transportation facilities shall not cause damage to fish, wildlife and related environmental values and shall not cause additional contributions of suspended solids to streamflow, or to runoff outside the permit area. In no event shall contributions of suspended solids be in excess of limitations set by applicable State or Federal law.

(2) All roads shall be removed and the land affected regraded and revegetated in accordance with the requirements of section 817.38 unless—

(i) Retention of the road is approved as part of the approved post-mining land use or as being necessary to control erosion adequately;

(ii) The necessary maintenance is assured; and

(iii) All drainage shall be controlled according to section 817.34.

§ 817.32 Road construction: Location.

(a) All surface roads shall be located insofar as possible on ridges or on the flattest and most stable available slopes to minimize erosion. Except as otherwise specifically authorized in this section, no part of any road shall be located in the channel of a perennial stream. Stream fords are prohibited unless they are specifically approved by the regulatory authority as temporary routes across non-flowing streams that will not adversely affect sedimentation or fish, wildlife and related environmental values and that will not be used for coal haulage. All other stream crossings shall be made using bridges, culverts, or other structures designed, constructed, and maintained to meet the requirements of this section. Roads shall not be constructed in a manner that increases erosion or causes additional downstream sedimentation or flooding.

§ 817.33 Road construction: Erosion control.

In order to control erosion and subsequent disturbance of the hydrologic balance, roads shall be designed, constructed, and maintained in compliance with the following:

(a) *Vertical alignment.* Except where the regulatory authority requires lesser grades to control erosion, road grades shall be as follows:

(1) The overall grade shall not exceed $1v:10h$ (10 percent).

(2) The maximum grade shall not exceed $1v:6.5h$ (15 percent).

(3) There shall not be more than 300 feet of grade exceeding 10 percent

within any consecutive 1,000 feet of road constructed.

eling equipment over the layers already in place and by distributing the travel over the entire width of the em-

installed in the drainage ditches wherever debris from the drainage area could impair the functions of drainage

storm or larger event as specified by the regulatory authority.

storage facilities, equipment storage facilities, sheds, shops, and other buildings, shall be designed, construct-

(iii) Achieving quickly germinating and growing stands of temporary vegetation;

within any consecutive 1,000 feet of road constructed.

(4) The road surface shall be sloped toward the ditch line at the minimum rate of one-half inch per foot of surface width or crowned at the minimum rate of one-half inch per foot of surface width as measured from the centerline of the road.

(b) *Road cuts.* This paragraph applies to roads that are to remain in place and in use for more than 5 years or that are to remain as part of the approved post-mining land use. Cut slopes shall not be steeper than specifically authorized by the regulatory authority. The regulatory authority shall not authorize slopes steeper than $1v:1.5h$ in unconsolidated materials or $1v:0.25h$ in rock, except that steeper slopes may be specifically authorized by the regulatory authority if geotechnical analysis demonstrates that a minimum safety factor of 1.5 can be maintained.

(c) *Road embankments.* This paragraph applies to roads that are to remain in place and in use for more than 5 years or that are to remain as part of the approved post-mining land use. Embankment sections shall be constructed in accordance with the following provisions:

(1) All vegetative materials and topsoil shall be removed from the embankment foundation to ensure stability, and no vegetative materials or topsoil shall be placed beneath or in any road embankment.

(2) When an embankment is to be placed on side slopes exceeding $1v:5h$ (20 percent) the existing ground shall be plowed, stepped, and keyed in a manner which ensures the stability of the fill. The minimum dimensions of the keyway shall be 10 feet wide and 2 feet deep below the toe of fill. No material shall be placed, or allowed to slide, below the toe.

(3) Material containing by volume less than 25 percent of rock larger than 6 inches in greatest dimension shall be spread in successive horizontal layers not exceeding 12 inches in thickness before compaction.

(4) Where the material for an embankment consists of rock, broken stone, or fragmented material of a size that makes placing in 12-inch layers impossible under paragraph (c)(3) of this section, the embankment shall be constructed in layers less than 24 inches in thickness, provided the individual pieces are placed so that there is no nesting and all the voids are filled with finer material.

(5) Each layer of the embankment shall be completed, leveled, and compacted before the succeeding layer is placed. Loads of material shall be leveled as placed and kept smooth. The successive layers shall be compacted evenly by routing the hauling and leveling equipment over the layers already in place and by distributing the travel over the entire width of the embankment. This routine shall be continued until no visual horizontal movement of the embankment material is apparent.

(6) Successive lifts shall not be placed until the previous layer is compacted to achieve a density throughout the preceding lift thickness of at least 90 percent of the maximum dry density determined in accordance with American Association of State Highway and Traffic Officers (AASHTO) T-99. The AASHTO technical specification T-99 mentioned in this paragraph is hereby incorporated by reference. This work is incorporated as it exists on the date of adoption of this Part and notices of changes made in these materials will periodically be published in the FEDERAL REGISTER. AASHTO technical specification T-99 is available for inspection at OSM's Offices in OSM regional offices and in OSM's Office in the Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

(7) Material shall be placed in an embankment only when its moisture content is within 4 percent of the optimum moisture content determined in accordance with AASHTO T-99.

(8) Embankment slopes shall not be steeper than $1v:2h$.

(9) The minimum safety factor for all embankments shall be 1.25, or such higher safety factor as the regulatory authority may specify.

(d) *Natural drainage.* Natural drainways shall not be altered or relocated for the purposes of road construction without the prior approval of the regulatory authority. The regulatory authority may approve alterations and relocations only if—

(1) The natural drainage is not blocked;

(2) No damage occurs to the hydrologic balance; and

(3) There is no adverse impact on adjoining landowners.

§ 817.34 Road construction: Drainage

(a) *General.* (1) Each road shall be designed, constructed, and maintained to have adequate drainage using structures such as, but not limited to, ditches, cross drains, and ditch relief drains. For roads that are to be maintained for more than 1 year, the water-control system shall be designed to safely pass the peak runoff from a 10-year 24-hour precipitation event or greater if required by the regulatory authority. Drainage pipe and culverts shall be constructed to avoid plugging or collapse and erosion at inlets and outlets. Drainage ditches shall be placed at the toe of all cut slopes formed by construction or roads. Trash racks and debris basins shall be installed in the drainage ditches wherever debris from the drainage area could impair the functions of drainage and sediment control structures.

(2) All drainage from roads and associated drainage structures shall pass through sediment control devices such as sedimentation ponds, sediment traps, vegetation filter strips, vegetated drains, straw dikes, mulches, check drains, and dugout ponds.

(b) *Ditches.* A ditch shall be provided on both sides of a through-cut and on the inside shoulder of a cut-fill section, with ditch relief cross-drains being spaced according to grade. Water shall be intercepted before reaching a switchback or large fill and drained safely away in accordance with this section. Water on a fill or switchback shall be released below the fill, using conduit or riprapped channels, and shall not be discharged onto the fill.

(c) *Culverts.* Ditch relief culverts shall be installed according to the following provisions:

(1) Road grade:

Grade percent	Spacing of culverts, in feet, not more than—
2 to 5	800
6 to 10	300
11 to 15	200

(2) Each culvert shall be adequate to safely pass the peak runoff from a 10-year 24-hour precipitation event and shall cross the road at not less than a 30° angle downgrade. The culvert may be designed to carry less than the peak runoff if the ditch will remain stable.

(3) The inlet end shall be protected by a rock headwall or other material approved by the regulatory authority and the outlet end shall be placed below the toe of the fill with an apron of rock riprap or other approved material.

(4) The culvert shall be covered by compacted fill to a minimum depth of 1 foot or half the culvert diameter, whichever is greater.

(5) The culvert shall be capable of sustaining design loads.

(d) *Stream crossings.* Drainage structures are required for stream channel crossings. Drainage structures shall not affect the normal flow or gradient of the stream. In designing drainage structures, consideration will be given to the time of year the stream is crossed and the length of time the structure is used. Embankments constructed across streams shall not exceed 15 feet in height, measured on the upstream side, unless approved by the regulatory authority. Stream crossings which have drainage areas greater than 100 acres shall be designed to safely pass the 100-year storm or larger event as specified by the regulatory authority.

§ 817.35 Road construction: Surfacing.

Roads shall be surfaced with rock or other material approved by the regulatory authority as sufficiently durable. Toxic or acid-forming substances shall not be used. Vegetation shall not be cleared for more than the width necessary for road and associated ditch construction, to serve traffic needs, and for utilities.

§ 817.36 Other transportation facilities.

Railroad loops, spurs, sidings, or other transport facilities shall be designed, constructed, maintained, and reclaimed to—

(a) Prevent, to the extent possible using the best technology currently available—

(1) Damage to fish, wildlife and related environmental values; and

(2) Additional contributions of suspended solids to streamflow or runoff outside the permit area. In no event shall contributions be in excess of limitations set by applicable State or Federal law.

(b) Control and minimize diminution or degradation of water quality and quantity.

(c) Control and minimize erosion and siltation.

(d) Control and minimize air pollution.

(e) Prevent damage to public or private property.

§ 817.38 Restoration of roads.

(a) Unless the regulatory authority approves retention of the road as suitable for the approved post-mining land use immediately after a road becomes no longer needed for operations, reclamation, or monitoring—

(1) The road shall be closed to vehicular traffic;

(2) All bridges and culverts shall be removed;

(3) Cross drains, dikes, and water bars shall be constructed to prevent erosion;

(4) Road surfaces shall be scarified and covered with topsoil; and

(5) The area affected shall be returned to approximate original contour and revegetated in accordance with sections 817.111–817.117.

(b) Unless otherwise authorized by the regulatory authority, all road surfacing materials shall be removed and handled or conveyed and disposed of in accordance with section 817.89.

§ 817.39 Support facilities and utility installations.

(a) The support facilities required for or used incidentally to the operation of the mine, including but not limited to mine buildings, coal loading facilities at or near the mine site, coal storage facilities, equipment storage facilities, sheds, shops, and other buildings, shall be designed, constructed, and located to prevent or control erosion and siltation, water pollution, or damage to public or private property and shall comply with all the environmental and other performance standards of this Part. Support facilities shall be designed, constructed, maintained, and used in a manner which prevents, to the extent possible using the best technology currently available—

(1) Damage to fish, wildlife and related environmental values;

(2) Additional contributions of suspended solids to streamflow or runoff outside the permit area. In no event shall such contributions be in excess of limitations set by applicable State or Federal law.

(b) All underground mining activities shall be conducted in a manner which prevents damage, destruction, or disruption of services provided by oil, gas, and water wells; oil, gas, and coal-slurry pipelines; railroads; and electric and telephone lines which pass over, under, or through the permit area, unless otherwise approved by the owner and the regulatory authority.

§ 817.41 Hydrologic balance: General requirements.

(a) Underground mining activities shall be planned and conducted to minimize disturbance to the prevailing hydrologic balance in order to prevent long-term adverse changes in the hydrologic balance that could result from those activities, on both the mine plan and affected areas.

(b) Changes in water quality and quantity, in the depth to ground water, and in the location of surface water drainage channels shall be minimized so that the approved post-mining land use of the disturbed land is not adversely affected.

(c) In no case shall applicable Federal and State water-quality statutes, regulations, standards or effluent limitations be violated.

(d) Operations shall be conducted to minimize water pollution and, where necessary, treatment methods shall be used to control water pollution.

(1) Each person who conducts underground mining activities shall emphasize mining and reclamation practices that will prevent or minimize water pollution and changes in flow in preference to the use of water treatment facilities.

(2) Practices to control and minimize pollution include, but are not limited to—

(i) Stabilizing disturbed areas through land shaping;

(ii) Diverting runoff;

(iii) Achieving quickly germinating and growing stands of temporary vegetation;

(iv) Regulating channel velocity of water;

(v) Lining drainage channels with rock or vegetation;

(vi) Mulching;

(vii) Selectively placing and sealing acid-forming and toxic-forming materials;

(viii) Designing mines to prevent gravity drainage of acid waters;

(ix) Sealing;

(x) Controlling subsidence; and

(xi) Preventing acid mine drainage.

(3) If these practices are not fully adequate to meet the hydrologic requirements of this Part, the person who conducts the underground mining activities shall operate and maintain the necessary water treatment facilities for as long as treatment is required.

§ 817.42 Hydrologic balance: Water quality standards and effluent limitations.

(a) All drainage from the disturbed area, including disturbed areas that have been graded, seeded, or planted, shall be passed through a sedimentation pond, a series of sedimentation ponds, or a treatment facility before leaving the permit area. Any discharge from underground workings to surface waters shall also be passed through a sedimentation pond, a series of sedimentation ponds, or a treatment facility. Sedimentation ponds and treatment facilities for the disturbed area before being discharged into an underground working shall be maintained until drainage from the disturbed area has met the ambient surface water quality requirements of section 816.52 and the revegetation requirements of sections 817.111–817.117. Sedimentation ponds and treatment facilities for discharges from the underground mine shall be maintained until the discharge meets the effluent limitations of this section without treatment or until the discharge has ceased. The regulatory authority may grant exemptions from this requirement only when the disturbed drainage area within the total disturbed area is small, if there is no discharge from the underground mine, and if the person who conducts the underground mining activities demonstrates to the regulatory authority that sedimentation ponds and treatment facilities are not necessary to meet the effluent limitations of this section and maintain water quality in downstream receiving waters. For the purposes of this section, disturbed area shall not include those areas affected by surface operations in which only diversion ditches, sedimentation ponds, or roads are installed in accordance with this Part, and the upstream area is not other-

wise disturbed by the person who conducts the underground mining activi-

or regulations or the limitations of this section. If the pH of water to be

(d) No diversion shall be constructed on or pass through existing slides or

tures such as channel lining structures, retention basins, and artificial channel roughness structures shall be

(c) Retaining sediment within disturbed areas;

(d) Diverting runoff away from dis-

cal detention time for the water inflow or runoff entering the pond from a 10-year 24-hour precipitation event plus

wise disturbed by the person who conducts the underground mining activities. Disturbed areas shall not include the area affected by underground operations unless those areas are also affected by fills, support facilities, or other major activities incident to underground mining activities. Sedimentation ponds required by this section shall be constructed in accordance with section 817.46 in appropriate locations before beginning any underground mining activities in the affected drainage area. Area in order to control sedimentation or otherwise treat discharges from areas disturbed by underground mining activities shall comply with all applicable Federal and State laws and regulations and, at a minimum, the following numerical effluent limitations:

Effluent limitations, in milligrams per liter (mg/l), except for pH

Effluent characteristics [1]	Maximum allowable [2]	Average of daily values for 30 consecutive days [3]
Iron, total	7.0	3.5
Manganese, total	4.0	2.0
Total suspended solids [4]	70.0	35.0
pH [5]	Within the range 6.0 to 9.0.	

[1] To be determined according to collection and analytical procedures adopted by the United States Environmental Protection Agency's regulations for waste water analyses 40 CFR 136.

[2] Based on representative sampling.

[3] The manganese limitation shall not apply to untreated discharges which are alkaline as defined by the Environmental Protection Agency (40 CFR 434).

[4] In Arizona, Colorado, Montana, New Mexico, North Dakota, South Dakota, Utah, and Wyoming, total suspended solids limitations will be determined on a case-by-case basis, but they must not be greater than 45 mg/l (maximum allowable) and 30 mg/l (average of daily value for 30 consecutive discharge days) based on a representative sampling.

[5] Where the application of neutralization and sedimentation treatment technology results in inability to comply with the manganese limitations set forth, the regulatory authority may allow the pH level in the discharge to exceed to a small extent the upper limit of 9.0 in order that the manganese limitations will be achieved.

(b) A discharge from the disturbed area is not subject to the effluent limitations of this section if—

(1) The discharge is demonstrated by the discharger to have resulted from a precipitation event larger than a 10-year 24-hour precipitation event or from a snowmelt of equivalent volume; and

(2) The discharge is from facilities designed, constructed, and maintained in accordance with the applicable requirements of this Part.

(c) Adequate facilities shall be installed, operated, and maintained to treat any water discharged from the disturbed area or discharged from the underground mine so that it complies with applicable Federal and State laws or regulations or the limitations of this section. If the pH of water to be discharged from the disturbed area or mine is less than 6.0, an automatic lime feeder or other automatic neutralization process approved by the regulatory authority shall be installed, operated, and maintained. The regulatory authority may authorize the use of a manual system if it finds that—

(1) Small and infrequent treatment requirements to meet applicable standards do not require use of an automatic neutralization process;

(2) The mine normally produces less than 500 tons of run-of-mine coal per day; and

(3) Timely and consistent treatment is ensured.

§ 817.43 Hydrologic balance: Diversions and conveyance of overland flow and shallow ground water flow.

Overland flow including flow through litter, and shallow ground water flow from undisturbed areas may be diverted away from disturbed areas by means of temporary or permanent diversions if required or approved by the regulatory authority as necessary to minimize erosion and to prevent or remove water from contact with acid-forming and toxic-forming materials. The following requirements shall be met for all diversions and for all collection drains that are used to transport waters into water-treatment facilities.

(a) Temporary diversions shall be constructed to pass safely the peak runoff from a precipitation event with a 3-year recurrence interval, or a larger event is specified by the regulatory authority.

(b) To protect fills and property and to avoid danger to public health and safety, permanent diversions shall be constructed to pass safely the peak runoff from a precipitation event with a 10-year recurrence interval, or a larger event if specified by the regulatory authority. Permanent diversions shall be constructed with gently sloping banks that are stabilized by vegetation. Asphalt, concrete, or other similar linings shall not be used unless specifically required by the regulatory authority to prevent seepage or to provide stability.

(c) Diversions shall be designed, constructed, and maintained in a manner which prevents additional contributions of suspended solids to streamflow and to runoff outside the permit area, to the extent possible using the best technology currently available. Appropriate sediment control measures for these diversions shall include, but not be limited to, maintenance of appropriate gradients, channel lining, revegetation, roughness structures, and detention basins.

(d) No diversion shall be constructed on or pass through existing slides or located so as to increase the potential for slides.

(e) When no longer needed, each temporary diversion shall be removed and the affected land regraded, topsoiled, and revegetated in accordance with sections 817.24, 817.25, 817.101, and 817.111–817.117.

(f) Diversion design shall incorporate the following:

(1) Any channel lining shall be designed using standard engineering practices to safely pass the design velocities. Riprap shall comply with the requirements of paragraph 817.72(b)(5).

(2) The design freeboard shall be no less than calculated using the following equation $f=1+0.025vd$. Where f=freeboard in feet; v=design velocity, in feet per second; and d=depth of flow, in feet. Additional freeboard protection shall be provided for transition of flows and for critical areas such as swales and curves.

(3) Energy dissipators shall be installed at discharge points where diversions intersect with natural streams.

(4) Excess excavated material not necessary for diversion channel geometry or regrading of the channel shall be disposed of in accordance with 30 CFR 817.71–817.73.

(5) Topsoil shall be handled in accordance with 30 CFR 817.21–817.25.

(g) Diversions shall not be constructed or operated to divert water into underground mines without the approval of the regulatory authority under section 817.55.

§ 817.44 Hydrologic balance: Stream channel diversions.

(a) Flow from perennial and intermittent streams within the permit area may be diverted if—

(1) The diversions are approved by the regulatory authority as necessary to comply with other performance standards in this Subchapter; and

(2) The diversions are in compliance with local, State, and Federal statutes and regulations.

(b) When streamflow is allowed to be diverted, the new stream channel shall be designed, constructed, and removed in accordance with the following requirements:

(1) The longitudinal profile of the stream, the channel, and the flood plain shall be designed and constructed to remain stable and to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or to runoff outside the permit area. In no event shall the contributions be in excess of requirements set by applicable State or Federal law. Erosion control structures such as channel lining structures, retention basins, and artificial channel roughness structures shall be used in diversions only when approved by the regulatory authority as being necessary to control erosion. These structures shall be approved for permanent diversions only where they are stable and will require infrequent maintenance.

(2) Channel, bank, and flood-plain configurations shall be adequate to pass safely the peak runoff of a 24-hour precipitation event with a 10-year recurrence interval for temporary diversions and a 100-year recurrence interval for permanent diversions, or larger events as specified by the regulatory authority.

(c) When no longer needed to achieve the purpose for which they are authorized, all temporary stream channel diversions shall be removed and the affected land regraded and revegetated in accordance with the requirements of Sections 817.24, 817.25, 817.101, and 817.111–817.117. At the time diversions are removed, downstream water treatment facilities previously protected by the diversion shall be modified or removed to prevent overtopping or failure of the facilities. In no case shall this requirement relieve the person who conducts the underground mining activities from maintenance of the treatment facility if otherwise required under this Part or the permit.

§ 817.45 Hydrologic balance: Sediment control measures.

Appropriate sediment control measures shall be designed, constructed, and maintained to prevent additional contributions of sediment to streamflow or to runoff outside the permit area, to minimize erosion areas, to the extent possible using the best technology currently available. Sediment control measures include practices carried out within and adjacent to the disturbed area. The sedimentation storage capacity of practices in and downstream from the disturbed areas shall reflect the degree to which successful mining and reclamation techniques are applied to reduce erosion and control sediment. Sediment control measures consist of the utilization of proper mining and reclamation methods and sediment control practices, singly or in combination. Sediment control methods include but are not limited to—

(a) Disturbing the smallest practicable area at any one time during the mining operation through progressive backfilling, grading, and timely revegetation;

(b) Shaping the backfilled material to promote a reduction of the rate and volume of runoff in accordance with the requirements of Section 817.101.

(c) Retaining sediment within disturbed areas;

(d) Diverting runoff away from disturbed areas;

(e) Diverting runoff using protected channels or pipes through disturbed areas so as not to cause additional erosion;

(f) Using straw dikes, riprap, check dams, mulches, vegetative sediment filters, dugout ponds, and other measures that reduce overland flow velocity, reduce runoff volume, or trap sediment;

(g) Building and maintaining sedimentation ponds;

(h) Treating with chemicals; and

(i) Treating mine drainage in underground sumps.

§ 817.46 Hydrologic balance: Sedimentation ponds.

(a) *General requirements.* Sedimentation ponds shall be used individually or in series and shall—

(1) Be constructed before any disturbance of the disturbed area to be drained into the pond;

(2) Be located as near as possible to the disturbed area and out of perennial streams wherever possible;

(3) Be constructed prior to any discharge from the underground mine; and

(4) Meet all the criteria in this Section.

(b) *Sediment storage volume.* Sedimentation ponds shall provide a sediment storage volume equal to—

(1) The accumulated sediment volume from the drainage area to the pond for a minimum of 3 years or the life of the pond, whichever is greater. Sediment storage volume shall be determined using the Universal Soil Loss Equation, gully erosion rates, and sediment delivery ratio converted to sediment volume using the sediment density or other empirical methods established by the regulatory authority and based upon actual sedimentation pond studies; or

(2) 0.1 acre-foot for each acre of disturbed area within the upstream drainage area or a greater amount if required by the regulatory authority. The regulatory authority may approve a sediment storage volume of not less than 0.035 acre-foot for each acre of disturbed area within the upstream drainage area if the person who conducts the underground mining activities has demonstrated that sediment removed by other sediment control measures is equal to the reduction in sediment storage volume; and

(3) The accumulated sediment volume necessary to retain sediment for 1 year in any discharge from the underground mine passing through the pond.

(c) *Detention time.* Sedimentation ponds shall provide a 24 hour theoretical detention time for the water inflow or runoff entering the pond from a 10-year 24-hour precipitation event plus the average inflow from the underground mine. Runoff diverted in accordance with Sections 817.43 and 817.44 away from the disturbed drainage areas and not passed through the sedimentation pond, need not be considered in sedimentation pond design. In determining the runoff volume, the characteristics of the mine site, reclamation procedures, and on-site sediment control practices shall be considered.

(1) The regulatory authority may approve a theoretical detention time of not less than 10 hours, when the person who conducts the underground mining activities demonstrates that—

(i) The improvement in sediment removal efficiency is equivalent to the reduction in detention time as a result of pond design. Improvements in pond design may include but are not limited to pond configuration, in-flow and outflow facility locations, baffles to decrease in-flow velocity, and short-circuiting, and surface areas; and

(ii) The pond effluent is shown to achieve and maintain applicable effluent limitations.

(2) The regulatory authority may approve a theoretical detention time of not less than 10 hours when the person who conducts the underground mining activities demonstrates that the size distribution or the specific gravity of the suspended matter is such that applicable effluent limitations are achieved and maintained.

(3) The regulatory authority may approve a theoretical detention time of less than 24 hours to any level of detention time when the person who conducts the underground mining activities demonstrates to the regulatory authority that the chemical treatment process to be used—

(i) Will achieve and maintain the effluent limitations;

(ii) Is harmless to fish, wildlife and related environmental values;

(iii) Is planned under the supervision of a registered professional engineer; and

(iv) Shall be operated by a qualified person approved by the regulatory authority.

(4) The calculated theoretical detention time and all supporting documentation and drawings used to establish the required detention times under paragraphs (c) (1)–(3) of this section shall be included in the permit application.

(d) *Dewatering.* The water storage resulting from inflow shall be removed by a nonclogging dewatering device or a spillway approved by the regulatory authority, and shall have a discharge rate to achieve and maintain the required theoretical detention time. The

dewatering device shall not be located at a lower elevation than the maximum elevation of the design sedimentation storage volume.

design will ensure against all settlement.

(1) The minimum top width of the embankment shall not be less than the

where water is being impounded may be riprapped or otherwise stabilized. Areas in which the vegetation is not successful or where rills and gullies de-

days after they are first exposed on the mine site, or within a lesser period if required by the regulatory authori-

(b) Temporary impoundments of water in which the water is impounded in a dam shall meet the require-

(2) When operations may affect the ground water system, ground water levels and ground water quality shall

V 43/181 SE 18 78

dewatering device shall not be located at a lower elevation than the maximum elevation of the design sedimentation storage volume.

(e) Each person who conducts underground mining activities shall design, construct, and maintain sedimentation ponds to prevent short-circuiting.

(f) The design, construction, and maintenance of a sedimentation pond or other sediment control measures in accordance with this Section shall not relieve the person from compliance with applicable effluent limitations.

(g) There shall be no out-flow through the emergency spillway during the passage of the runoff resulting from 10-year 24-hour precipitation event through the sedimentation pond regardless of the volume of water and sediment present from the underground mine during the runoff.

(h) Sediment shall be removed from sedimentation ponds when the volume of sediment accumulates to 60 percent of the required sediment storage volume. With the approval of the regulatory authority, additional permanent sediment storage may be provided above that required for storage if the person who conducts the underground coal mine operations demonstrates that applicable effluent limitations will be achieved and maintained. Upon the approval of the regulatory authority for those cases where additional permanent storage is provided above that required for sediment under paragraph (b) of this section, sediment removal may be delayed until the remaining volume of permanent storage has decreased to 40 percent of the required sediment storage.

(i) An appropriate combination of principal and emergency spillways shall be provided to discharge safely the runoff from a 25-year 24-hour precipitation event, or larger event as specified by the regulatory authority, plus any inflow from the underground mine. The elevation of the crest of the emergency spillway shall be a minimum of 1.0 foot above the crest of the principal spillway. Emergency spillway grades and allowable velocities shall be as specified by the regulatory authority.

(j) The minimum elevation of the top of the settled embankment shall be 1.0 foot above the water surface in the reservoir with the emergency spillway flowing at design depth. For embankments subject to settlement, this 1.0 foot minimum elevation requirement shall apply at all times including the period after settlement.

(k) The constructed height of the dam shall be increased a minimum of 5 percent over the design height to allow for settlement unless it has been demonstrated to the regulatory authority that the material used and the design will ensure against all settlement.

(l) The minimum top width of the embankment shall not be less than the quotient of $(H+35)/5$ where H is the height of the embankment as measured from the upstream toe of the embankment.

(m) The upstream and downstream side slopes of the settled embankment shall not be less than $1v{:}5H$ with neither slope steeper than $1v{:}2h$. Slopes shall be designed to be stable in all cases, even if flatter side slopes are required.

(n) The embankment foundation area shall be cleared of all organic matter, all surfaces sloped to no steeper than $1v{:}1h$, and the entire foundation surface scarified.

(o) The fill material shall be free of sod, large roots and other large vegetative matter, and frozen soil, and in no case shall coal processing waste be used.

(p) The placing and spreading of fill material shall be started at the lowest point of the foundation and the fill brought up in horizontal layers of such thickness as required by the regulatory authority to facilitate compaction. Compaction shall be conducted as specified by the regulatory authority in order to achieve stability.

(q) If a sedimentation pond has an embankment that is more than 20 feet in height, as measured from the upstream toe of the embankment to the crest of the emergency spillway, or has a storage volume of 20 acre-feet or more, the following additional requirements shall be met:

(1) An appropriate combination of principal and emergency spillways shall be provided to safely discharge the runoff resulting from a 100-year 24-hour precipitation event, or a larger event if specified by the regulatory authority plus any in-flow from the underground mine.

(2) The embankment shall be designed and constructed with an acceptable static safety factor of at least 1.5 or such a higher safety factor as designated by the regulatory authority to ensure stability.

(3) Appropriate barriers shall be provided to control seepage along conduits that extend through the embankment.

(r) Each pond shall be designed and inspected during construction under the supervision of, and certified after construction by, a registered professional engineer.

(s) The entire embankment including the surrounding areas disturbed by construction shall be graded, fertilized, seeded, and mulched in accordance with Sections 817.111–817.117 immediately after the embankment is completed, provided that the active upstream face of the embankment where water is being impounded may be riprapped or otherwise stabilized. Areas in which the vegetation is not successful or where rills and gullies develop shall be repaired and revegetated in accordance with Sections 817.106 and 817.111–817.117.

(t) All ponds, including those not meeting the size or other criteria of 30 CFR 77.216(a), shall be examined for structural weakness, erosion, and other hazardous conditions in accordance with the inspection requirements contained in 30 CFR 77.216-3. Each person who conducts underground mining activities shall deliver to the regulatory authority any report or notification required under 30 CFR 77.216-3 whether or not the pond meets the criteria of 30 CFR 77.216(a).

(u) Each sedimentation pond shall be removed and the affected land regraded and revegetated in accordance with Sections 817.101, 817.102 and 817.111–817.117, unless approved by the regulatory authority for retention as compatible with the approved post-mining land use. If the regulatory authority approves retention, the sedimentation pond shall meet all the requirements for permanent impoundments in Section 816.49.

§ 817.47 Hydrologic balance: Discharge structures.

Discharges from sedimentation ponds and diversions shall be controlled, using energy dissipators, surge ponds, riprap channels, and other devices where necessary to reduce erosion and prevent deepening or enlargement of stream channels and to minimize disturbances to the hydrologic balance. Discharge structures shall be designed according to standard engineering design procedures.

§ 817.48 Hydrologic balance: Acid-forming and toxic-forming materials.

(a) Drainage from acid-forming and toxic-forming underground development waste and spoil, if any, into ground and surface water shall be avoided by—

(1) Identifying, burying, and treating, where necessary, such materials which, in the judgment of the regulatory authority, may be detrimental to vegetation or that may adversely affect water quality if not treated or buried. This material shall be buried, treated or disposed of in accordance with the provisions of paragraph (c) of this Section;

(b) Preventing water from coming into contact with acid-forming and toxic-forming materials in accordance with Section 817.103, or other measures as the regulatory authority may require; and

(c) Burying or otherwise treating all acid- or toxic-forming underground development waste and spoil within 30

days after they are first exposed on the mine site, or within a lesser period if required by the regulatory authority. Temporary storage of such materials may be approved by the regulatory authority upon a finding that burial or treatment within 30 days is not feasible and that storage will not result in any material risk of water pollution or other environmental damage. If storage is approved it shall be limited to the period until burial or treatment first becomes feasible. Stored acid- and toxic-forming underground development waste and spoil materials shall be placed on impermeable material and protected from erosion and contact with surface water.

§ 817.49 Hydrologic balance: Permanent and temporary impoundments.

(a) Permanent impoundments are prohibited unless authorized by the regulatory authority. Each person who conducts underground mining activities shall demonstrate to the regulatory authority that each permanent impoundment meets the following requirements:

(1) The quality of the impounded water is suitable on a permanent basis for its intended use and discharges from the impoundment will not degrade the quality of receiving waters below water quality standards under applicable State and Federal law.

(2) The level of water will be adequately stable so as to support the intended use.

(3) Adequate safety and access to the impounded water will be provided for proposed water users.

(4) Water impoundments will not result in the diminution of the quality or quantity of water used by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses.

(5) The impoundment dam construction and maintenance program shall be designed to achieve stability with an adequate factor of safety compatible with structures constructed and maintained under 16 U.S.C. 1006 Pub. L. 83-566. Standards for structures built under this law are contained in the Soil Conservation Service Practice Standard 378, "Pond," and Technical Release No. 60, "Earth Dams and Reservoirs," and are hereby incorporated by reference. These standards are available in all OSM offices. These materials are incorporated as they exist on the date of adoption of this Part, and notices of changes in these materials will be published periodically in the FEDERAL REGISTER.

(6) The size of the impoundment is adequate for its intended purposes.

(7) The impoundment will be suitable for the approved post-mining land use.

(b) Temporary impoundments of water in which the water is impounded in a dam shall meet the requirements of Section 817.46(e)–(q).

§ 817.50 Hydrologic balance: Ground water protection.

(a) To control mine drainage, surface entries, and accesses to underground workings, including adits and slopes, shall be located, designed, constructed, and utilized in such a manner as to prevent or control gravity discharge of water from the mine.

(b) Gravity discharge of water from an underground mine, other than a drift mine subject to paragraph (c) of this Section, may be allowed by the regulatory authority if—

(1) The discharge satisfies the water effluent limitations of 30 CFR 817.42 and all applicable State and Federal water quality standards;

(2) The person who conducts the underground mining activities demonstrates to the regulatory authority that changes in the hydrologic balance are minimal and post-mining land uses will not be adversely affected; and

(3) The discharge conveys mine wastes to a treatment facility in the permit area and the following conditions are met—

(i) All water discharged from the treatment facility meets the effluent limitations established in Section 817.42 and all applicable State and Federal water quality standards; and

(ii) Consistent maintenance of the treatment facility is ensured for the anticipated period of gravity discharge.

(c) Notwithstanding anything to the contrary in paragraphs (a) and (b) of this section, all openings for drift mines first used after the implementation of a State or Federal program and which are located in acid-producing or iron-producing coal seams, shall be located in such a manner as to prevent any gravity discharge from the mine.

(d) The regulatory authority may require physical, chemical and mineralogical analyses of coal bearing strata, aquifers, underground development wastes, spoil, mine wastes or other materials.

§ 817.52 Hydrologic balance: Surface and ground water monitoring.

(1) *Ground water.* Ground water levels, infiltration rates, subsurface flow and storage characteristics, and the quality of ground water shall be monitored in the manner required by the regulatory authority to determine the effects of underground mining activities on the recharge capacity of reclaimed lands and on the quantity and quality of water in ground water systems at the mine site and in adjacent areas.

(2) When operations may affect the ground water system, ground water levels and ground water quality shall be periodically monitored using measurements from a sufficient number of wells and mineralogical and chemical analyses of aquifer, overburden, and spoil material adequately to reflect changes in ground water quantity and quality resulting from these operations. The monitoring shall be adequate to plan for modification of the underground mining activities if necessary to minimize disturbance to the hydrologic balance.

(3) As specified and approved by the regulatory authority, the person who conducts the underground mining activities shall conduct additional hydrologic tests, including drilling, infiltration tests and aquifer tests, and the results shall be submitted to the regulatory authority to demonstrate compliance with Section 817.51.

(b) *Surface water.*

(1) Surface water monitoring shall be conducted in accordance with the monitoring program submitted under 30 CFR 784.13(b)(4) and approved by the regulatory authority. Monitoring shall—

(i) Be adequate to measure accurately and record water quantity and quality of discharges from the permit area;

(ii) In all cases in which analytical results of the sample collections indicate a violation of a permit condition or applicable standard has occurred, result in the operator notifying the regulatory authority immediately. Where a National Polluant Discharge Elimination System (NPDES) permit effluent limitation has been violated, the person who conducts the underground mining activities shall forward a copy of the Discharge Monitoring Report, EPA Form 3320-1, concurrently with notification of the violation;

(iii) Result in regular reports to the regulatory authority within 60 days of the end of each 60 day sample collection period; or

(iv) If the discharge for which water monitoring reports are required, is subject to regulation by a National Pollutant Discharge Elimination System (NPDES) permit issued under the Clean Water Act of 1977 (30 U.S.C. 1251-1378) which includes equivalent reporting requirements and requires filing of the water monitoring reports within 90 days or less of sample collection, the person who conducts the underground mining activities shall submit to the regulatory authority on the same time schedule as required by the NPDES permit or within 90 days following sample collection, whichever is earlier, either—

(A) A copy of the completed reporting form filed to meet NPDES permit requirements; or

(B) A letter identifying the State or Federal Government official with

§ 817.54 Hydrologic balance: Water rights and replacement.

817.44 unless the regulatory authority specifically authorizes underground mining activities closer to or through

the regulatory authority and to the person requesting the survey.

(b) Each person who conducts underground mining activities shall utilize personnel approved by the regula-

Access to the blasting area shall be controlled to prevent unauthorized entry at least 10 minutes before each blast and until an authorized repre-

concurrence of the Mine Safety and Health Administration.

(i) Flyrock from blasting shall be restricted as follows:

(B) A letter identifying the State or Federal Government official with whom the reporting form was filed to meet NPDES permit requirements and the date of filing.

(2) After disturbed areas have been regraded and stabilized according to this Part, the person who conducts underground mining activities shall monitor surface water flow and quality. Data from this monitoring shall be used to demonstrate that the quality and quantity of runoff without treatment is consistent with the requirement of this Section to minimize disturbance to the prevailing hydrologic balance and with the requirements of this Part to attain the approved postmining land use. These data shall provide a basis for approval by the regulatory authority for removal of water quality or flow control systems and for determining when the requirements of this Section are met. The regulatory authority shall determine the nature of data, frequency of collection, and reporting requirements.

(3) Equipment, structures, and other devices necessary to measure and sample accurately the quality and quantity of surface water discharges from the affected area, shall be properly installed, maintained, and operated and shall be removed when no longer required.

§ 817.53 Hydrologic balance: Transfer of wells.

(a) An exploratory or monitoring well may only be transferred for use as a water well with the prior approval of the regulatory authority. The surface owner shall submit a written request to the regulatory authority for approval of any well transfer.

(b) Upon an approved transfer of a well, the transferee shall—

(1) Assume primary liability for damages to persons or property from the well;

(2) Plug the well when necessary, but in no case later than abandonment of the well; and

(3) Assume primary responsibility for compliance with Sections 817.13–817.15 with respect to the well.

(c) Upon transfer of a well, the transferor shall—

(1) Be secondarily liable for damages;

(2) Be secondarily liable for plugging the well; and

(3) Be secondarily liable for compliance with Section 816.13–816.15 with respect to the well.

(d) Nothing in this Section shall be deemed to supersede or affect the applicability of any State law requirements with respect to a well transfer.

§ 817.54 Hydrologic balance: Water rights and replacement.

Any person who conducts in underground mining activities shall replace the water supply of an owner of interest in real property who obtains all or part of his supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where the water supply has been affected by contamination, diminution, or interruption resulting from the underground mining activities.

§ 817.55 Hydrologic balance: Discharge of water into an underground mine.

Water from an underground mine shall not be discharged into other underground mine workings unless the person who conducts the underground mining activities demonstrates to the satisfaction of the regulatory authority that the discharge—

(a) Abates water pollution or otherwise eliminates public hazards resulting from underground mining activities;

(b) Is conveyed as a controlled flow; and

(c) Meets the water quality requirements of 817.42 for pH and total suspended solids except that the total suspended solid concentrations may be exceeded if the suspended material is approved by the regulatory authority or is limited to—

(1) Coal processing waste;

(2) Underground mine development waste;

(3) Fly ash from a coal-fired facility;

(4) Acid mine drainage sludge;

(5) Flue gas desulfurization sludge; or

(6) Inert materials used for stabilizing underground mines; and

(d) The discharge will not cause, result in, or contribute to a violation of applicable water quality standards.

(e) Minimizes disturbance to the hydrologic balance.

§ 817.56 Hydrologic balance: Post-mining rehabilitation of sedimentation ponds, diversions, impoundments and treatment facilities.

Before abandoning the permit area, the person who conducts the underground mining activities shall restore all permanent sedimentation ponds, diversions, impoundments and treatment facilities to meet the original design criteria for permanent structures or impoundments.

§ 817.57 Hydrologic balance: Stream buffer zones.

(a) No surface or underground area within 100 feet of a perennial stream or a stream with a macro-invertebrate biological community shall be disturbed by underground mining activities except in accordance with Section 817.44 unless the regulatory authority specifically authorizes underground mining activities closer to or through such a stream upon finding—

(1) That the original stream channel will be restored; and

(2) During and after the mining, the water quantity and quality from the stream section within 100 feet of the underground mining activities shall not be adversely affected.

(b) The area not to be disturbed shall be designated a buffer zone and marked as specified in Section 817.11.

§ 817.59 Coal recovery.

Underground mining activities shall be conducted so as to maximize the utilization and conservation of the coal so that reaffecting the land in the future through surface coal mining operations is minimized.

§ 817.61 Use of explosives: General requirements.

(a) Each person who conducts underground mining activities shall comply with all applicable local, State, and Federal laws and regulations and the requirements of Sections 816.61–816.68, in the storage, handling, preparation, and use of explosives.

(b) Blasting operations at areas affected by surface operations and facilities that use more than the equivalent of 5 pounds of TNT shall be conducted according to a time schedule approved by the regulatory authority.

(c) All blasting operations shall be conducted by experienced, trained, and competent persons who understand the hazards involved. Each person responsible for blasting operations shall—

(1) Have demonstrated a knowledge of, and shall comply with, MSHA safety requirements and U.S. Department of Treasury security requirements;

(2) Be capable of using mature judgment in all situations;

(3) Be in good physical condition and not addicted to intoxicants, narcotics, or other similar types of drugs;

(4) Possess current knowledge of the local, State, and Federal laws and regulations applicable to the work; and

(5) Possess a valid certificate of completion of training and qualification as required by 30 CFR 850 and 851.

§ 817.62 Use of explosives: Pre-blasting survey.

(a) On the request to the regulatory authority by a resident or owner of a man-made dwelling or structure that is located within one-half mile of any part of the permit area, the person who conducts the underground mining activities shall conduct a pre-blasting survey of the dwelling or structure and submit a report of the survey to the regulatory authority and to the person requesting the survey.

(b) Each person who conducts underground mining activities shall utilize personnel approved by the regulatory authority to conduct the survey to determine the condition of the dwelling or structure and to document any pre-blasting damage and other physical factors that could reasonably be affected by the blasting. Assessments of structures such as pipes, cables, transmission lines, and wells and other water systems shall be limited to surface condition and readily available data. Special attention shall be given to the pre-blasting condition of wells and other water systems used for human, animal, or agricultural purposes and to the quantity and quality of the water.

(c) A written report of the survey shall be prepared and signed by the person who conducted the survey. The report shall include recommendations of any special conditions or proposed adjustments to the blasting procedure which should be incorporated into the blasting plan to prevent damage. Copies of the report shall be provided to the person requesting the survey and to the regulatory authority.

§ 817.65 Use of explosives: Surface blasting requirements.

(a) The provisions of this Section apply only to blasting conducted on the surface.

(b) A resident or owner of a man-made dwelling or structure that is located within one-half mile of any area affected by surface operations or facilities shall be notified 24 hours prior to any blasting event required for facing-up operations.

(c) All blasting shall be conducted between sunrise and sunset. The regulatory authority may specify more restrictive time periods based on public requests or other considerations including the proximity to residential areas.

(d) Warning and all-clear signals of different character that are audible within a range of one-half mile from the point of the blast shall be given. Each person within the permit area and each person who resides or regularly works within one-half mile of the permit area shall be notified of the meaning of the signals through appropriate instructions. These instructions shall be periodically delivered or otherwise communicated in a manner which can reasonably be expected to inform such persons of the meaning of the signals. Each person who conducts underground mining activities shall maintain signs in accordance with Section 817.11(f).

(e) Access to the blasting area shall be regulated to protect the public and livestock from the effects of blasting. Access to the blasting area shall be controlled to prevent unauthorized entry at least 10 minutes before each blast and until an authorized representative of the person who conducts the underground mining activities has reasonably determined—

(1) That no unusual circumstances, such as imminent slides or undetonated charges, exist; and

(2) That access to and travel in or through the area can safely resume.

(f) Areas in which explosives are awaiting firing shall be guarded, barricaded and either posted or flagged against unauthorized entry.

(g) (1) Airblast shall be controlled so that it does not exceed the values specified below at any dwelling, public building, school, church, or commercial or institutional building, unless such building is owned or leased by the person who conducts the underground mining activities and is located within the permit area:

Lower Frequency Limit of Measuring System, Hz (±3 dB)	Maximum Level in dB
0.1 Hz or lower—flat response	135 peak.
2 Hz or lower—flat response	132 peak.
6 Hz or lower—flat response	130 peak.
C-weighted, slow response	109°C.

(2) In all cases except the C-weighted slow, the systems used must have a flat frequency response of at least 500 Hz at the upper end. The C-weighted must meet the standard ANSI S1.4-1971 specifications. The ANSI S1.4-1971 is hereby incorporated by reference. This work is incorporated as it exits on the date of adoption of this Part, and notice of changes made in these materials will periodically be published in the FEDERAL REGISTER. ANSI S1.4-1971 is available for inspection in OSM regional offices and in OSM's office in the Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

(3) The person who conducts blasting may satisfy the provisions of this section by meeting any one of the four specifications in the chart in paragraph (g)(1) of this Section.

(h) Except where lesser distances are approved by the regulatory authority based upon a pre-blasting survey or other appropriate investigations, blasting shall not be conducted within—

(1) 1,000 feet of any building used as a dwelling, school, church, hospital, or nursing facility;

(2) 500 feet of facilities including, but not limited to, disposal wells, petroleum or gas-storage facilities, municipal water-storage facilities, fluid-transmission pipelines, gas or oil-collection lines, or water and sewage lines; and

(3) 500 feet of the active workings of an underground mine except with the concurrence of the Mine Safety and Health Administration.

(i) Flyrock from blasting shall be restricted as follows:

(1) No flyrock shall be cast beyond the line of property owned or leased by the person who conducts the underground mining activities without the consent of the landowners of adjacent areas.

(2) No flyrock shall be cast more than half the distance from the blast to the nearest dwelling, public building, school, church, commercial or institutional building, road, or railroad. This shall not apply to any structure or right-of-way on land owned by the person who conducts the underground mining activities and not leased to any other person;

(3) No flyrock shall be cast beyond the area of regulated access required under paragraph (e) of this Section; and

(4) These restrictions shall apply to material which travels along the ground surface as well as that which travels through the air.

(j) Blasting shall be conducted to prevent injury to persons, damage to public or private property outside the permit area, adverse impacts on any underground mine, and change in the course, channel, or availability of ground or surface waters outside the permit area.

(k) In all blasting operations, except as otherwise authorized in this Section, the maximum peak particle velocity shall not exceed 1 inch per second at the location of any dwelling, public building, school, church, or commercial or institutional building. The regulatory authority may reduce the maximum peak particle velocity allowed if it determines that a lower standard is required because of density of population or land use, age or type of structure, geology or hydrology of the area, frequency of blasts, or other factors.

(l) The maximum peak particle velocity does not apply to property within the permit area that is owned by the person who conducts the underground mining activities and is not leased to any other person.

(m) An equation for determining the maximum weight of explosives that can be detonated within any 8-millisecond period is in paragraph (n) of this Section. If the blasting is conducted in accordance with this equation, the velocity is deemed to be within the 1 inch per second limit.

(n) (1) The maximum weight of explosives to be detonated within any 8 millisecond period may be determined by the formula $W=(D/60)^2$ where W=the maximum weight of explosives, in pounds, that can be detonated in any 8-millisecond period, and D=the distance, in feet, to the nearest

dwelling, school, church, or commercial or institutional building.

(2) For distances between 300 and 5,000 feet, solution of the equation re-

(c) The regulatory authority may require a seismograph record of any or all blasts.

(1) That leachate and surface runoff will not degrade surface or ground waters or exceed the effluent limitations of Section 817.42;

terly throughout construction to ensure removal of all organic material and topsoil, placement of underdrainage systems, proper installation of surface drainage systems, proper placement

(4) Scientific or engineering studies demonstrate that the fill poses an unreasonable threat of failure.

(p) Modification required under paragraph (a) of this Section may in-

shall not contain less than 30 percent by volume of clay or clay minerals as determined by standard petrologic analytical tests, and shall not be acid-

dwelling, school, church, or commercial or institutional building.

(2) For distances between 300 and 5,000 feet, solution of the equation results in the following maximum weight:

Distance, in feet (D):	Max. weight, in pounds (W)
300	25
350	34
400	44
500	69
600	100
700	136
800	178
900	225
1,000	278
1,100	338
1,200	400
1,300	469
1,400	544
1,500	625
1,600	711
1,700	803
1,800	900
1,900	1,002
2,000	1,111
2,500	1,736
3,000	2,500
3,500	3,403
4,000	4,444
4,500	5,625
5,000	6,944

(o) If on a particular site the peak particle velocity exceeds one-half inch per second after a period of 1 second following the maximum ground particle velocity, the blasting procedures shall be revised to limit the ground motion.

(p) Electric or electric delay systems combining surface delays with in-hole delays may be used to reduce vibrations of approved by the regulatory authority. Requests to use such systems shall be accompanied by blasting reports and seismograph records of test blasting on the site showing that the delay pattern does not produce peak particle velocities in violation of this Section.

§ 817.67 Use of explosives: Seismographic measurements.

(a) Where a seismograph is used to monitor the velocity of ground motion and the peak particle velocity limit of 1 inch per second is not exceeded, the equation in Section 817.65(n) need not be used. If the equation is not being used, a seismographic record shall be obtained for each shot.

(b) The use of a modified equation to determine maximum weight of explosives for blasting operations at a particular site may be approved by the regulatory authority on receipt of a petition accompanied by reports including seismograph records of test blasting on the site. In no case shall the regulatory authority approve the use of a modified equation where the peak particle velocity of 1 inch per second required in Section 817.65(k) would be exceeded.

(c) The regulatory authority may require a seismograph record of any or all blasts.

§ 817.68 Use of explosives: Records of blasting operations.

A record of each blast, including seismograph reports, shall be retained for at least 3 years and shall be available for inspection by the regulatory authority and the public on request. The record shall contain the following data:

(a) Name of the person conducting the blast.

(b) Location, date, and time of blast.

(c) Name, signature, and license number of blaster-in-charge.

(d) Direction and distance, in feet, to the nearest dwelling, school, church, or commercial or institutional building either—

(1) Not located in the permit area; or

(2) Not owned nor leased by the person who conducts the underground mining activities.

(e) Weather conditions.

(f) Type of material blasted.

(g) Number of holes, burden, and spacing.

(h) Diameter and depth of holes.

(i) Types of explosives used.

(j) Total weight of explosives used.

(k) Maximum weight of explosives detonated within any 8 millisecond period.

(l) Maximum number of holes detonated within any 8 millisecond period.

(m) Methods of firing and type of circuit.

(n) Type and length of stemming.

(o) Mats or other protections used.

(p) Type of delay detonator and delay periods used.

(q) Seismographic records, where required, including the calibration signal of the gain setting and—

(1) Seismograph reading, including exact location of seismograph and its distance from the blast;

(2) Name of the person taking the seismograph reading; and

(3) Name of person and firm analyzing the seismograph record.

§ 817.71 Disposal of underground development waste and excess spoil: General requirements.

(a) Underground development waste and spoil not required to achieve the approximate original contour and which cannot be used as backfill in the underground mine shall be hauled or conveyed to and placed in designated disposal areas within a permit area other than mine working or excavations, only if the disposal areas are authorized for such purposes in the approved mining and reclamation permit and only in accordance with Sections 817.71–817.73. The material shall be placed in a controlled manner to ensure—

(1) That leachate and surface runoff will not degrade surface or ground waters or exceed the effluent limitations of Section 817.42;

(2) Stability of the fill; and

(3) The land mass is suitable for reclamation and revegetation compatible with the natural surroundings.

(b) The fill shall be designed using recognized professional standards, certified by a registered professional engineer, and approved by the regulatory authority.

(c) All vegetative and organic materials shall be removed from the disposal area and the topsoil shall be removed, segregated and replaced under Sections 817.21–817.23 before spoil is placed in the disposal area. If approved by the regulatory authority, organic material may be used as mulch or may be included in the topsoil to control erosion, to promote growth of vegetation or to increase the moisture retention of the soil.

(d) Slope protection shall be provided to minimize surface erosion at the site. All disturbed areas including diversion ditches that are not riprapped shall be vegetated upon completion of construction.

(e) The disposal areas shall be located on the most moderate sloping and naturally stable areas available as approved by the regulatory authority. If such placement provides additional stability and prevents mass movement, fill materials suitable for disposal shall be placed upon or above a natural terrace, bench, or berm.

(f) The fill materials shall be hauled or conveyed and placed in a controlled manner, concurrently compacted as necessary to ensure mass stability and prevent mass movement, covered, and graded to allow surface and sub-surface drainage to be compatible with the natural surroundings, to ensure long-term stability.

(g) The final configuration of the fill must be suitable for post-mining land uses approved in accordance with Section 816.124 except that no depressions or impoundments shall be allowed on the completed fill.

(h) Terraces shall not be constructed unless approved by the regulatory authority.

(i) Where the slope in the disposal area exceeds 1v:2.8h (36 percent), or such lesser slope as may be designed by the regulatory authority based on local conditions, keyway cuts (excavations to stable bedrock), or rock toe buttresses shall be constructed to stabilize the fill. The slope of original ground at the toe of the fill shall not exceed 1v:5h (20 percent).

(j) The fill shall be inspected for stability by a registered engineer or other professional specialist approved by the regulatory authority during critical construction periods and at least quarterly throughout construction to ensure removal of all organic material and topsoil, placement of underdrainage systems, proper installation of surface drainage systems, proper placement and compaction of fill materials, and proper revegetation. The registered engineer or other qualified professional specialist shall provide to the regulatory authority a certified report within 2 weeks after each inspection that the fill has been constructed as specified in the design approved by the regulatory authority, and a copy of the report shall be retained at the minesite by the person who conducts the underground mining activities.

(k)(1) Coal processing waste shall not be disposed of in head of hollow fills and may be disposed of in underground development waste or excess spoil fills if such waste is—

(i) Placed in accordance with Section 817.85;

(ii) Demonstrated to be non-toxic and non-acid forming; and

(iii) Demonstrated to be consistent with the design stability of the fill.

(2) Wastes other than coal processing wastes shall be disposed of in accordance with Section 817.89.

(l) The disposal area shall not contain springs, natural water courses, or wet weather seeps unless lateral drains are constructed from the wet areas to the underdrains in a manner that prevents infiltration of the water into the spoil pile.

(m) If any portion of the fill interrupts, obstructs, or encroaches upon any natural drainage channel, the entire fill is classified as a valley or head-of-hollow fill and must be designed and constructed in accordance with the requirements of Sections 817.72 and 817.73, respectively.

(n) The foundation and abutments of the fill shall be stable under all conditions of construction and operation. Sufficient foundation investigations and laboratory testing of foundation materials shall be performed in order to determine the design requirements for stability of the foundation. Analyses of foundation condtions shall include the effect of underground mine workings, if any, upon the stability of the structure.

(o) The regulatory authority shall direct the person who conducts the underground mining activities to modify the fill to mitigate potential harm, if the regulatory authority determines that—

(1) The fill construction does not meet the requirements set out in this or following Sections, if applicable;

(2) The fill is not constructed in accordance with satisfactory engineering standards;

(3) The fill poses an imminent threat of failure; or

(4) Scientific or engineering studies demonstrate that the fill poses an unreasonable threat of failure.

(p) Modification required under paragraph (o) of this Section may include regrading, change of construction technique, abandonment, or removal of the fill.

(q) Underground development waste and excess spoil way be returned to underground workings only in accordance with the program submitted to and approved by the regulatory authority under 30 CFR 784.18.

§ 817.72 Disposal of underground development waste and excess spoil: Valley fills.

Valley fills shall meet all of the requirements of Section 817.71 and the additional requirements of this Section.

(a) The fill shall be designed to attain a long-term static factor of safety of 1.5, based upon data obtained from subsurface exploration, geotechnical testing, foundation design, and accepted engineering analyses.

(b) A sub-drainage system for the fill shall be constructed in accordance with the following:

(1) A system of underdrains constructed of durable rock shall—

(i) Be installed along the natural drainage system;

(ii) Extend from the toe to the head of the fill; and

(iii) Contain lateral drains to each area of potential drainage or seepage.

(2) A filter system to ensure the proper functioning of the rock underdrain system shall be designed and constructed using standard geotechnical engineering.

(3) In constructing the underdrains, no more than 10 percent of the rock may be less than 12 inches in size and no single rock may be larger than 25 percent of the width of the drain. Rock used in underdrains shall meet the requirements of paragraph (a) (5) of this Section.

(4) The minimum size of the main underdrain shall be:

Total amount of fill material	Predominant type of fill material	Minimum size of drain, in feet	
		Width	Hgt.
Less than 1 million cubic yards.	Sandstone..	10	4
Do	Shale	16	8
More than 1 million cubic yards.	Sandstone..	16	8
Do	Shale	16	16

(5) Rock used shall not have less than 50 percent wear in 500 revolutions in the Los Angeles Rattler Test (AASHTO T-96-70), shall not have less than 15 percent by weight loss in 5 cycles of the Sodium Sulfate Test (ASTM C-88, AASHTO T-104), and shall not contain less than 30 percent by volume of clay or clay minerals as determined by standard petrologic analytical tests, and shall not be acid-forming or toxic-forming.

(c)(1) Underground development waste and excess spoil shall be hauled or conveyed and placed in a controlled manner and concurrently compacted as specified by the regulatory authority in lifts no thicker than 18 inches in order to—

(i) Achieve the densities designed to ensure mass stability;

(ii) Prevent mass movement;

(iii) Avoid contamination of the rock underdrain or rock core; and

(iv) Prevent formation of voids.

(2) The person who conducts the underground mining activities may use lifts of greater thickness than required under paragraph (c) (1) of this Section if he has demonstrated to the regulatory authority by density monitoring tests that the density throughout the thickness of the lift is equal to or greater than the density specified in the design referred to in paragraph (a) of this Section, except that in no event shall lift thickness exceed 4 feet.

(d) Surface water runoff from the area above the fill shall be diverted away from the fill and into stabilized diversion channels designed to pass safely the runoff from the 24-hour duration 100-year frequency storm or larger event specified by the regulatory authority. Sediment control structures shall be provided at the discharge of the diversion ditch before entry into the natural water course in accordance with Section 817.46. Surface runoff from the fill surface shall be diverted to stabilized channels off the fill which will safely pass runoff from a 24-hour duration, 100-year frequency storm. Diversion design shall comply with the requirements of Section 817.43(f).

(e) The tops of the fill and any terrace constructed to stabilize the face, shall be graded no steeper than lv:20h (5 percent). The vertical distance between terrace shall not exceed 50 feet.

(f) Drainage shall not be directed over the outslope of the fill.

(g) The outslope of the fill shall not exceed lv:2h (50 percent). The regulatory authority may require a flatter slope.

§ 817.73 Disposal of underground development waste and excess spoil: Head-of-hollow fills.

Disposal of underground development waste and excess spoil in the head-of-hollow fill shall meet all standards set forth in Sections 817.71 and 817.72 and the additional requirements of this Section.

(a) The fill shall be designed to completely fill the disposal site approved by the regulatory authority to the ap-

proximate elevation of the ridgeline. A rock-core chimney drain may be utilized instead of the subdrain and surface diversion system required for

(b) Coal processing waste materials from activities outside the permit area such as other mines or abandoned mine waste piles may be disposed of in

§ 817.83 Coal processing waste banks: Water control measures.

(a) A properly designed sub-drainage system shall be provided and shall—

(c) Acceptable techniques for extinguishing burning wastes may include, but are not limited to the following—

(1) Quenching with surface applica-

be placed over the site. The operation of the disposal site shall be conducted in accordance with all local, State, and Federal requirements.

tory authority shall have approved the plans before alterations begin.

§ 817.92 Coal processing waste: Dams and

proximate elevation of the ridgeline. A rock-core chimney drain may be utilized instead of the subdrain and surface diversion system required for valley fills. If the crest of the fill is not approximately at the same elevation as the low point of the adjacent ridgeline, the fill must be designed as specified in Section 817.72, with diversion of runoff around the fill.

(b) The alternative rock-core chimney drain system shall be designed and incorporated into the construction of head-of-hollow fills as follows:

(1) The fill shall have along the vertical projection of the main buried stream channel or rill, a vertical core of durable rock at least 16 feet thick which shall extend from the toe of the fill to the head of the fill and from the base of the fill to the surface of the fill. A system of lateral rock underdrains shall connect this rock core to each area of potential drainage or seepage in the disposal area. Rocks used in the rock core and underdrains shall meet the requirements of Section 817.72(b).

(2) A filter system to insure the proper functioning of the rock core shall be designed and constructed using standard geotechnical engineering methods.

(3) The grading may drain surface water away from the outslope of the fill and toward the rock core. The maximum slope of the top of the fill shall be lv:33h (3 percent). Instead of the requirements of Section 817.71(g), a drainage pocket may be maintained at the head of the fill during and after construction to intercept surface runoff and discharge the runoff through or over the rock drain if stability of the fill is not impaired. In no case shall this pocket or sump have a potential for impounding more than 10,000 cubic feet of water. Terraces on the fill shall be graded with a 3- to 5-percent grade toward the fill and a 1-percent slope toward the rock core.

(c) The drainage control system shall be capable of safely passing the runoff from a 24-hour 100-year frequency storm, or larger event, as specified by the regulatory authority.

§ 817.81 Coal processing waste banks: General requirements.

(a) All coal processing waste shall be hauled or conveyed and placed in new and existing disposal areas which shall be within the permit area and which are approved by the regulatory authority for this purpose. The coal processing waste disposal area shall be designed, constructed and maintained—

(1) In accordance with Sections 817.71 and 817.72, the provisions of this Section and Sections 817.82-817.88; and

(2) To prevent combustion.

(b) Coal processing waste materials from activities outside the permit area such as other mines or abandoned mine waste piles may be disposed of in permit areas only if approved by the regulatory authority. The approval shall be based on a showing by the person who conducts underground mining activities, using hydrologic, geologic, physical, and chemical analyses, that disposal of these materials does not—

(1) Adversely affect water quality, water flow, or vegetation;

(2) Create public health hazards; and

(3) Cause instability in the disposal areas.

§ 817.82 Coal processing waste banks: Site inspection.

(a) All coal processing waste disposal sites shall be inspected by an engineer or other person approved by the regulatory authority.

(1) The inspections shall occur at least once each week beginning within 7 days after preparation of the disposal area begins and terminating when the coal processing waste bank has been graded, covered in accordance with Section 817.85 and topsoil has been distributed on the bank in accordance with Section 817.24 or for such longer period as the regulatory authority may require.

(2) The inspections shall include such observations and tests as may be necessary to evaluate the potential hazard to human life and property, to ensure that all organic material and topsoil have been removed and that proper construction and maintenance are occurring in accordance with the plan submitted under 30 CFR 780.35 and approved by the regulatory authority.

(3) The engineer or other approved inspector shall consider steepness of slopes, seepage, and other visible factors which could indicate potential failure and shall consider the results of failure with respect to the threat to human life and property.

(4) Copies of the inspection findings shall be maintained at the mine site.

(b) If any inspection discloses that a potential hazard exists, the regulatory authority shall be informed promptly of the finding and of the action procedures formulated for public protection and remedial action in the event of an emergency. If adequate emergency procedures cannot, for any reason, be formulated or implemented then the regulatory authority shall be notified immediately. The regulatory authority shall then notify the appropriate emergency agencies that emergency procedures are required for the coal processing waste area.

§ 817.83 Coal processing waste banks: Water control measures.

(a) A properly designed sub-drainage system shall be provided and shall—

(1) Comply with the provisions of Sections 817.71 and 817.72.

(2) Be covered so as to protect against the entrance of surface water or leachate from the coal processing waste.

(b) All surface drainage from the area above the coal processing waste bank and from the crest and face of the waste disposal area shall be diverted in accordance with Section 817.72(d).

(c) Slope protection shall be provided to minimize surface erosion at the site. All disturbed areas including diversion ditches that are not riprapped shall be vegetated upon completion of construction.

(d) All water discharged from a coal processing waste bank shall comply with the regulations of Section 817.42.

§ 817.85 Coal processing waste banks: Construction requirements.

(a) The coal processing waste banks shall be constructed in compliance with Sections 817.71 and 817.72 and this Section.

(b) Coal processing waste banks shall have a minimum static factor of safety of 1.5.

(c) Compaction requirements during construction or modification of all coal processing waste banks shall meet the requirements of this paragraph, instead of those specified in Section 817.72(c). The coal processing waste shall be—

(1) Spread in layers no more than 8 inches in thickness; and

(2) Compacted to attain 90 percent of the maximum dry density in order to prevent spontaneous combustion and to provide the strength required for stability of the coal processing waste bank. Dry densities shall be determined in accordance with ASSHTO T-99, or equivalent.

(d) Following grading of the coal processing waste bank, the site shall be covered with a minimum of 4 feet of the best available non-toxic and non-combustible material in accordance with Section 817.22(e) and in a manner that does not impede flow from sub-drainage systems.

§ 817.86 Coal processing waste: Burning.

(a) Coal processing waste fires shall be extinguished by the person who conducts the underground mining activities, in accordance with a plan approved by the regulatory authority.

(b) Extreme caution shall be taken in all attempts to extinguish burning wastes to ensure that no hazards will exist to equipment operators or other persons working or living in the vicinity of the site.

(c) Acceptable techniques for extinguishing burning wastes may include, but are not limited to the following—

(1) Quenching with surface applications of water;

(2) Isolation of burning wastes by excavation;

(3) Exclusion of oxygen by blanketing or sealing with water, foam or other materials; and

(4) Injecting water or slurry to isolate and quench the wastes.

§ 817.87 Coal processing waste: Burned waste utilization.

(a) Before the person who conducts the underground mining activities may remove burned coal processing waste or other materials or refuse from a disposal area, approval shall be obtained from the regulatory authority. A plan regarding the method of removal, with maps and appropriate drawings to illustrate the proposed sequence of the operation and methods of compliance with this Part, shall be submitted to the regulatory authority. Consideration shall be given in the plan to potential hazards which may be created to persons working or living in the vicinity of the structure. The plan shall be certified by a qualified engineer.

(b) Burned coal processing waste may be utilized for offsite construction purposes with the approval of the regulatory authority.

§ 817.88 Coal processing waste: Return to underground workings.

Coal processing waste may be returned to underground mine workings only in accordance with the waste disposal program approved by the regulatory authority under 30 CFR 780.35.

§ 817.89 Disposal of non-coal wastes.

(a) Non-coal wastes including, but not limited to, grease, lubricants, paints, flammable liquids, garbage, abandoned mining machinery, timber and other combustables generated during underground mining activities shall be placed and stored in a controlled manner in a designated area to ensure that leachate and surface runoff do not degrade surface or ground water, fires are prevented, and the area remains stable and is suitable for reclamation and revegetation compatible with the natural surroundings.

(b) The final disposal of non-coal wastes shall be in a designated disposal site. The solid waste disposal site shall be designed and constructed with appropriate barriers on the bottom and sides of the designated site. The wastes shall be routinely compacted and covered to prevent combustion and wind born waste. When the disposal is completed or when the underground mining activites are completed, a minimum of 2 feet of soil cover shall be placed over the site. The operation of the disposal site shall be conducted in accordance with all local, State, and Federal requirements.

(c) At no time shall the person who conducts allow any solid waste material to be deposited at refuse embankments or impoundment sites nor shall the person who conducts the underground mining activities allow any solid waste disposal excavation to be placed within 8 feet of any coal outcrop or coal storage area.

§ 817.91 Coal processing waste: Dams and embankments: General requirements.

Sections 817.91–817.93 apply to existing and proposed dams and embankments constructed of coal processing waste or intended to impound coal processing wastes.

(a) All dams and embankments including those not meeting the size or other criteria of 30 CFR 77.216(a), shall be routinely inspected by a registered professional engineer, or someone under the supervision of a registered professional engineer, in accordance with Mine Safety and Health Review Commission regulations in 30 CFR Section 77.316-3.

(b) All dams and embankments subject to this section shall be routinely maintained. Vegetative growth shall be cut where necessary to facilitate inspection and repairs. Ditches and spillways shall be cleaned. Any combustible materials present on the surface, other than that used for surface stability such as mulch or dry vegetation, shall be removed and any other appropriate maintenance procedures followed.

(c) All dams and embankments subject to this section shall be inspected and certified annually as having been constructed and modified in accordance with current prudent engineering practices to minimize the possibility of failures. Any changes in the geometry of the dam or embankment shall be highlighted and included in the annual certification report. These certifications shall include a report on—

(1) Existing and required monitoring procedures and instrumentation;

(2) The average and maximum depths and elevations of any impounded waters over the past year;

(3) Existing storage capacity of the dam or embankment;

(4) Any fires occurring in the material over the past year; and

(5) Any other aspects of the dam or embankment affecting stability.

(d) A person who conducts underground mining activities shall submit to the regulatory authority plans for any enlargements, reductions in size, re-construction or other modification of impounding structures. Except where change is required to eliminate an emergency condition, the regulatory authority shall have approved the plans before alterations begin.

§ 817.92 Coal processing waste: Dams and embankments: Site preparation.

Before coal processing waste is placed at a dam or embankment:

(a) Clearing and grubbing of all trees, shrubs, grasses, and other organic material shall be performed and all combustibles shall be removed and stockpiled in accordance with the requirements of this Part.

(b) All surface drainage shall be diverted away from the crest and downstream face of the dam or embankment. Diversion ditches shall be designed and constructed, utilized, and maintained to prevent blockage and to pass the peak runoff from a 24-hour precipitation event with a 100-year recurrence interval unless greater event is specified by the regulatory authority. Sediment control structures shall be provided at the discharge of each diversion ditch before entry into natural water courses in accordance with Sections 817.4–817.55.

(c) Slope protection shall be provided to minimize surface erosion at the site and sediment control structures shall be required. All disturbed areas including diversion ditches that are not riprapped shall be vegetated upon completion of construction.

§ 817.93 Coal processing waste: Dams and embankments: Construction.

(a) Waste shall not be used in the construction of dams and embankments unless demonstrated through appropriate engineering analysis to have no adverse effect on stability, and approved by the regulatory authority.

(b) The design of the dam or embankment shall be based on the flood from the probable maximum precipitation event unless the person who conducts the underground mining activities shows that the failure of the dam or embankment would not cause loss of life or severely damage property or the environment, in which case and depending on site conditions, a design to safely pass the flow from a 100-year precipitation event may be specified by the regulatory authority.

(c) One or more spillways shall be provided for the dam or embankment to pass that portion of the design storm that cannot be safely stored. Spillways and outlet works shall be designed to provide adequate protection against erosion. Inlets shall be protected against blockage.

(d) The design freeboard distance between the lowest point on the embankment crest and the maximum water elevations shall be at least 3 feet.

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(e) Dams and embankments shall have minimum safety factors as follows:

Case	Loading condition	Minimum safety factor
I	End of construction	1.3
II	Partial pool with steady seepage saturation.	1.5
III	Steady seepage from spillway or decant crest.	1.5
IV	Earthquake (cases II and III with seismic loading).	1.0

(f) The dam or embankment foundation and abutments shall be stable under all conditions of construction and operation of the impoundment. Sufficient foundation investigations and laboratory testing shall be performed to determine the factors of safety of the dam or embankment for all loading conditions in paragraph (e) of this Section and for all increments of construction.

(g) Allowances shall be made for settlement of the dam or embankment and the foundation so that the freeboard will be maintained.

(h) Dams or embankments created for impounding waste materials shall be subject to a minimum drawdown criteria that allows the facility to be evacuated by spillways or decants of 90 percent of the volume of water stored during the designed precipitation event within 10 days.

(i) For each dam and embankment a permanent identification number, at least 6 feet high shall—

(1) Show the permit number for the underground coal mining and reclamation operations;

(2) Show the name of the person operating or controlling the dam; and

(3) Be located on or immediately adjacent to each dam.

§ 817.95 Air resources protection.

(a) *Fugitive dust.* Each person who conducts underground mining activities shall plan and employ fugitive dust control measures as an integral part of site preparation, coal mining, and reclamation operations. The regulatory authority shall specify the control measures appropriate for use in planning, according to applicable Federal and State air quality standards, climate, existing air quality in the area affected by mining, and the available control technology.

(b) *Control measures.* The fugitive dust control measures to be used, depending on applicable Federal and State air quality standards, the climate, existing air quality, size of the operation, and type of operation shall include, but not be limited to—

(1) Periodic watering of unpaved roads with the minimum frequency of watering specified according to a quantitative standard approved by the regulatory authority;

(2) Chemical stabilization of unpaved roads with nontoxic soil cements or dust pallatives mixed into the upper 1 or 2 inches or more of the road surface;

(3) Paving of roads;

(4) Prompt removal of coal, rock, soil, and other dust-forming debris from roads and frequent scraping and compaction of unpaved roads to stabilize the road surface;

(5) Restricting the speed of vehicles to reduce the length and size of any fugitive dust caused by travel;

(6) Revegetating, mulching, or otherwise stabilizing all areas adjoining roads that are sources of fugitive dust;

(7) Restricting the travel of vehicles on other than established roads;

(8) Enclosing, covering, watering or otherwise treating loaded haul trucks and railroad cars to reduce loss of material to wind and spillage;

(9) Substituting of conveyor systems for haul trucks and covering of conveyor systems when conveyed loads are subjected to wind erosion;

(10) Minimizing the area of disturbed land;

(11) Prompt revegetation of regraded lands;

(12) Use of alternatives for coal-handling methods, restriction of dumping procedures, wetting of disturbed materials during handling, and compaction of disturbed areas;

(13) Planting of special windbreak vegetation at critical points in the permit area.

(14) Control of dust from drilling using water sprays, hoods, dust collectors, or other controls;

(15) Restricting the areas to be blasted at any one time to reduce fugitive dust;

(16) Restricting activities causing fugitive dust during periods of air stagnation;

(17) Extinguishing any areas of burning or smoldering coal and periodically inspecting for burning areas whenever the potential for spontaneous combustion is high; and

(18) Reducing the period of time between initially disturbing the soil and revegetating or other surface stabilization.

(19) Restricting fugitive dust at spoil and coal transfer and loading points with water sprays, negative pressure systems and baghouse filters, chemicals, or other practices.

(c) *Additional measures.* Where the regulatory authority determines the application of fugitive-dust control measures listed in paragraph (b) of this Section is insufficient to achieve and maintain applicable Federal and State air quality standards, the regulatory authority may require additional measures and practices as may be necessary to ensure compliance with all applicable air quality standards.

(d) *Monitoring.* Air-monitoring equipment shall be installed and monitoring shall be conducted in accordance with the air-quality monitoring program submitted to and as approved by the regulatory authority.

§ 817.97 Protection of fish, wildlife and related environmental values.

(a) Any person conducting underground mining activities shall, to the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife and related environmental values, and achieve enhancement of such resources where practicable.

(b) A person who conducts underground mining activities shall promptly report to the regulatory authority the presence in the permit area of any critical habitat of a threatened or endangered species listed by the Secretary, any plant or animal listed as threatened or endangered by the State, or any bald or golden eagle, of which the person conducting underground mining activities becomes aware and which was not previously reported to the regulatory authority.

(c) A person who conducts underground mining activities shall ensure that the design and construction of telephone lines, electric power lines, distribution lines, and other transmission facilities on the permit area are in accordance with the guideline set forth in "Environmental Criteria for Electric Transmission System" (USDI, USDA (1970)) or in such alternative guidance manuals as may be approved by the regulatory authority. Distribution lines shall be designed and constructed in accordance with REA Bulletin 61-10 "Powerline Contacts by Eagles and Other Large Birds" or in such alternative guidance manuals as may be approved by the regulatory authority. The two works named in this paragraph are hereby incorporated by reference. These materials are incorporated as they exit on the date of adoption of this Part, and notices of changes in these materials will periodically be published in the Federal Register. These two works are available at all OSM Regional Offices and at the OSM Office in Washington, D.C. and on file at the Office of the Federal Register.

(d) Each person who conducts underground mining activities shall to the extent possible using the best technology currently available—

(1) Locate and operate haul and access roads so as to avoid or minimize impacts to important fauna species or other species protected by State or Federal law;

(2) Fence roadways where specified by the regulatory authority to guide locally important wildlife to roadway underpasses or overpasses and construct the necessary passages. No new barrier shall be created in known and important fauna migration routes;

(3) Fence, cover, or use other appropriate methods to exclude fauna from ponds which contain hazardous concentrations of toxic-forming materials;

(4) Restore, enhance, or avoid habitats of unique value for fauna;

(5) Restore, enhance, or maintain natural riparian vegetation on the banks of streams, lakes, and other wetland areas;

(6) Avoid intermittant stream channels undisturbed or restore them to natural, meandering shapes of the same gradient;

(7) Avoid perennial stream channels undisturbed or restore them to their former longitudinal profile and cross section including fauna habitat (usually a pattern of riffles, pools, and drops rather than a uniform depth).

(8) Advise all permanent and contractual personnel of pertinent State and Federal laws and regulations pertaining to fauna resources;

(9) Not use persistent pesticides on the area during underground mining and reclamation activities;

(10) Make every effort to prevent, control, and suppress range forest and coal fires;

(11) If fauna habitat is to be a primary or secondary post-mining land use, the operator shall, in addition to the requirements of 30 CFR 816.111-816.117—

(i) Select plant species to be used on reclaimed areas based on the following criteria—

(A) Their proven nutritional value for fauna;

(B) Their uses as cover for fauna; and

(C) Their ability to support and enhance fauna habitat after release of bonds; and

(ii) Distribute flora groupings to maximize benefit to fauna. Flora should be grouped and distributed in a manner which optimizes edge effect, cover, and other benefits for fauna;

(12) Where row crops are to be the primary land use, surround fields with rows of trees or hedges suitable for reducing wind, retaining moisture and providing habitat for birds and other small animals and where desirable intersperse trees, wetlands, other vegetation types, and fence rows, throughout the harvested area to break up large blocks of monoculture and to diversify habitat types to make them more suitable for small animals. Wetlands shall be preserved or created rather than drained or otherwise permanently abolished; and

(13) Where the primary land use is to be residential, public service, or industrial land use, intersperse reclaimed lands with greenbelts utilizing species of grass, shrubs and trees useful as food and cover for birds and small animals.

§ 817.99 Slides and other damage.

At any time a slide occurs which may have a potential adverse effect on life, property, health, safety, or the environment in the permit area, the person who conducts the underground mining activities shall notify the regulatory authority by the fastest available means and shall comply with any remedial measures required by the regulatory authority.

§ 817.100 Contemporaneous reclamation.

Reclamation efforts including backfilling, grading, topsoil replacement and revegetation or all areas affected by surface operations shall occur as contemporaneously as practicable with mining operations.

§ 817.101 Backfilling and grading: General requirements.

(a) Surface areas disturbed incident to underground mining activities shall be backfilled and graded in accordance with the time schedule approved by the regulatory authority.

(b) Backfilling and grading. (1) All areas affected by surface operations shall be returned to approximate original contour. Each person who conducts underground mining activities shall haul or convey, backfill, and compact (where advisable to ensure stability or to prevent leaching) and grade all spoil to eliminate all highwalls, spoil piles, and depressions.

(2) Backfilled material shall be placed to minimize adverse effects on ground water to minimize offsite effects and to support the approved post-mining land use.

(3) The post-mining graded slope need not be uniform.

(4) Cut-and-fill terraces may be used only in those situations expressly identified in Section 817.102.

§ 817.102 Backfilling and grading: General grading requirements.

(a) The final graded slopes shall not exceed in grade either the approximate pre-mining slope or any lesser slopes approved by the regulatory authority based on consideration of soil, climate, or other characteristics of the surrounding area. Post-mining final graded slopes need not be uniform but shall approximate the general nature of the pre-mining topography. The requirements of this Section may be modified by the regulatory authority where the underground mining activities are reaffecting previously mined lands that have not been restored to the standards of this Part and sufficient spoil is not available. The person who conducts underground mining activities shall, at a minimum—

(1) Retain all overburden and spoil on the solid portion of existing or new benches; and

(2) Backfill and grade to the most moderate slope possible to eliminate the highwall which does not exceed the angle of repose or such lesser slopes as is necessary to achieve a minimum static safety factor of 1.3. In all cases the highwall shall be eliminated.

(b) On approval by the regulatory authority and in order to conserve soil moisture, ensure stability, and control erosion on final graded slopes, cut-and-fill terraces may be allowed if the terraces are compatible with the approved post-mining land use and are appropriate substitutes for construction of lower grades on the reclaimed lands. The terraces shall meet the following requirements:

(1) The width of the individual terrace bench shall not exceed 20 feet unless specifically approved by the regulatory authority as necessary for stability, erosion control, or roads included in the approved post-mining land use plan.

(2) The vertical distance between terraces shall be as specified by the regulatory authority to prevent excessive erosion and to provide long-term stability.

(3) The slope of the terrace outslope shall not exceed $1v:2h$ (50 percent). Outslopes which exceed $1v:2h$ (50 percent) may be approved if they have a minimum static safety factor of more than 1.3 and provide adequate control over erosion and closely resemble the surface configuration of the land prior to mining. In no case may highwalls be left as part of terraces.

(4) Culverts and underground rock drains shall be used on the terrace only when approved by the regulatory authority.

(c) Small depressions may be constructed if they—

(1) Are approved by the regulatory authority to minimize erosion, conserve soil moisture or promote vegetation;

(2) Do not restrict normal access; and

(3) Are not inappropriate substitutes for lower grades on the reclaimed lands.

(d) All operations on slopes above 20° or on lesser slopes that the regulatory authority defines as a steep slope shall meet the provisions of 30 CFR Part 826.

(e) All final grading, preparation of overburden before replacement of topsoil, and placement of topsoil, in accordance with Section 817.24, shall be done along the contour to minimize

subsequent erosion and instability. If such grading, preparation or placement along the contour is hazardous to equipment operators then grading,

result in additional erosion and sedimentation.

§ 817.111 Revegetation: General require-

disturbed areas, except water areas and surface areas of roads approved for the post-mining land use, which have been final graded and topsoiled

(2) For purposes of paragraphs (b)(1)(i) and (ii) of this section, the average annual precipitation shall be determined either—

§ 817.117 Revegetation: Tree stocking for forest land.

This Section sets forth forest resource conservation standards for re-

woody plants which have been in place at least 3 years on the rehabilitated area shall be equal to or greater than 90 percent of the density of live woody

subsequent erosion and instability. If such grading, preparation or placement along the contour is hazardous to equipment operators then grading, preparation or placement in a direction other than generally parallel to the contour may be used. In all cases, grading, preparation, or placement shall be conducted in a manner which minimizes erosion and provides a surface for replacement of topsoil which will minimize slippage.

§ 817.103 Backfilling and grading: Covering coal and acid- and toxic-forming materials.

(a) *Cover.* (1) A person who conducts underground mining activities shall cover, with a minimum of 4 feet of the best available non-toxic and non-combustible material all exposed coal seams remaining after mining and any acid-forming, or toxic-forming, combustible materials, or any other materials identified by the regulatory authority, that are exposed, used, or produced during mining.

(2) If necessary, these materials shall be treated to neutralize toxicity in order to prevent water pollution and sustained combustion, and to minimize adverse effects on plant growth and land uses.

(3) Where necessary to protect against upward migration of salts, exposure by erosion, to provide an adequate depth for plant growth, or to otherwise meet local conditions, the regulatory authority shall specify thicker amounts of cover using non-toxic material.

(4) Acid-forming or toxic-forming material shall not be buried or stored in proximity to a drainage course so as to cause or pose a threat of water pollution.

(b) *Stabilization.* Backfilled materials shall be selectively hauled or conveyed and compacted wherever necessary to prevent leaching of acid-forming and toxic-forming materials into surface or ground waters and wherever necessary to ensure the stability of the backfilled materials. The method of compacting material and the design specifications shall be approved by the regulatory authority before the acid-forming and toxic-forming materials are covered.

§ 817.106 Regrading or stabilizing rills and gullies.

When rills or gullies deeper than 9 inches form in areas that have been regraded and topsoiled the rills and gullies shall be filled, graded, or otherwise stabilized and the area reseeded or replanted the areas according to Sections 817.111–817.117. The regulatory authority shall specify that rills or gullies of lesser size be stabilized if the rills or gullies are disruptive to the approved post-mining land use or may result in additional erosion and sedimentation.

§ 817.111 Revegetation: General requirements.

(a) Each person who conducts underground mining activities shall establish on all areas affected by surface operations and facilities diverse, effective, and permanent vegetative cover of species native to the area of affected land or species that supports the approved post-mining land uses. For areas designated as prime farmlands, the reclamation requirements of 30 CFR Part 823 shall apply.

(b) All revegetation shall be in compliance with the plan approved by the regulatory authority and shall be carried out in a manner that encourages a prompt vegetative cover and recovery of productivity levels compatible with the approved post-mining land use.

(1) All disturbed lands, except water areas and surface areas of roads that are approved as a part of the post-mining land use, shall be seeded or planted to achieve a vegetative cover of the same seasonal variety native to the area of disturbed land.

(2) The vegetative cover shall be capable of stabilizing the soil surface with respect to erosion.

(3) Vegetative cover shall be considered of the same seasonal variety when it consists of a mixture of species of equal or superior utility for the intended land use when compared with the utility of naturally occurring vegetation during each season of the year.

(4) If both the pre-mining and the post-mining land use is intensive, agriculture, planting of the crops and normally grown will meet the requirement of paragraph (b)(1) of this Section.

§ 817.112 Revegetation: Use of introduced species.

Introduced species may be substituted for native species only if approved by the regulatory authority after appropriate field trials have demonstrated that the introduced species are of equal or superior utility for the approved post-mining land use, or are necessary to achieve a quick, temporary, and stabilizing cover. Introduced species shall meet applicable State and Federal seed or introduced species statutes, and shall not include poisonous or toxic species.

§ 817.113 Revegetation: Timing.

Seeding and planting of disturbed areas shall be conducted during the first normal period for favorable planting conditions after final preparation. The normal period for favorable planting shall be that planting time generally accepted locally for the type of plant materials selected. Any disturbed areas, except water areas and surface areas of roads approved for the post-mining land use, which have been final graded and topsoiled shall be mulched as required by Section 817.114 and seeded, if required by the regulatory authority, with a temporary cover of small grains, grasses, or legumes to control erosion until an adequate permanent cover is established.

§ 817.114 Revegetation: Mulching.

(a) Suitable mulch shall be used on all regraded and topsoiled areas to control erosion, to promote germination of seeds, and to increase the moisture retention of the soil. Mulch shall be anchored to the soil surfaces to ensure effective protection of the soil and vegetation.

(b) Annual grasses and grains such as oats, rye, and wheat may be used instead of mulch when the regulatory authority determines that they will provide adequate stability and that they will later be replaced by species approved for the post-mining land use.

§ 817.115 Revegetation: Grazing.

When the approved post-mining land use is rangeland or pastureland, the reclaimed land shall be used for livestock grazing at a stocking rate equal to or less than approved by the regulatory authority for at least the last two full years of liability required under Section 817.116(b).

§ 817.116 Revegetation: Standards for success.

(a) Success of revegetation shall be measured by the techniques approved by the regulatory authority on the basis of the reference areas approved by the regulatory authority. This is to adjust for natural differences between the pre-mining years and post-mining years. Management of the reference area shall be comparable to that which is required for the approved post-mining land use of the mine plan area.

(b) The ground cover and productivity of living plants on the revegetated area shall be equal to the ground cover and productivity of living plants on the same approved reference area before mining for:

(i) Each year of a period of 5 full consecutive years after the last year of augumented seeding, fertilizing, irrigation, or other major work that ensures success in areas of more than 26.0 inches average annual precipitation; or

(ii) Each year of a period of 10 full consecutive years after the last year of augmented seeding, fertilizing, irrigation, or other major work that ensures success in areas of less than or equal to 26.0 inches average annual precipitation.

(2) For purposes of paragraphs (b)(1)(i) and (ii) of this section, the average annual precipitation shall be determined either—

(i) By interpolation, using standard interpolation techniques, from "Mean Annual Precipitations," Map, p. 97, The National Atlas of the United States, U.S. Department of the Interior, Geological Survey, 1970. This work is hereby incorporated by reference as it exists on the date of adoption of this Subchapter. Notices of changes in this atlas will periodically be published in the Federal Register. The atlas is available at all OSM offices and is on file in the Office of the Federal Register; or

(ii) Based on 10 years of continuous and reliable precipitation records from stations located in or adjacent to the permit area.

(3) The ground cover shall be considered equal if it is at least 90 percent of the ground cover or productivity of the reference area with 90 percent statistical confidence and with 80 percent statistical confidence on shrublands for any significant portion of the mined area. A lower percentage of ground cover and productivity may be authorized by the regulatory authority under the following standards:

(i) For previously mined areas that are not reclaimed to the performance standards in this subchapter, the ground cover of living plants for the areas shall not be less than can be supported by the best available topsoil and overburden in the mine plan area and in no case less than that existing before redisturbance;

(ii) For areas to be developed for industrial or residential use less than 2 years after regrading is completed the ground cover of living plants shall not be less than required to control erosion; and

(iii) Success in revegetation of cropland shall be determined on the basis of crop production from the mined area compared to the reference area. Crop production from the mined area shall be equal to that of the approved reference area for a minimum of two growing seasons. Production shall not be considered equal if it is less than 90 percent of the production of the reference area for any significant portion of the mined area.

(c) The person who conducts underground mining activities shall:

(1) Maintain any necessary fences and proper management practices; and

(2) Conduct periodic measurements of vegetation, soils, and water prescribed or approved by the regulatory authority to identify conditions during the applicable period of liability specified in paragraph (b) of this Section.

§ 817.117 Revegetation: Tree stocking for forest land.

This Section sets forth forest resource conservation standards for reforested operations to ensure that a cover of trees of commercial species, sufficient to adequately use the available growing space, is established after underground mining activities.

(a) The following are the minimum acceptable stocking standards for areas east of the 100th meridian west longitude as measured 5 years after planting:

(1) The area contains an average point count of six hundred trees per acre, to be computed as follows:

(i) 600 established trees of commercial species per acre at least 3 years of age each, each one to count as one toward meeting the stocking requirements; and

(ii) Root crown or root sprouts over one foot in height shall count as one toward meeting the stocking requirement.

(2) Rock areas, permanent roads, and surface water drainage ways in forest land shall not require stocking.

(3) A "countable tree" means a tree that can be used in calculating the degree of stocking under the following criteria:

(i) The tree shall be in place at least three growing seasons;

(ii) The tree shall be alive and healthy;

(iii) The tree shall have at least one-third of its length in live crown;

(iv) The tree shall be a commercial species which the regulatory authority determines will produce commerical trees physiologically suited for the area.

(4) Stocking means a measure of the degree to which space is occupied by well-distributed countable trees.

(b) The following are the minimum standards for areas west of the 100th meridian west longitudes where shelterbelts, fauna habitat, commercial forestland, or other forestlands are to be used for post-mining land use.

(1) A pre-mining and post-mining vegetation inventory of trees, shrubs and half-shrubs shall be conducted on established reference areas according to methods approved by the regulatory authority. This inventory shall contain, but not be limited to—

(i) Site quality;

(ii) Stand size;

(iii) Stand condition;

(iv) Site and species relations; and

(v) Appropriate forest/land utilization considerations.

(2) Appropriate trees, shrubs and half-shrubs on the revegetated area shall be measured using the approved methods after the vegetation has been established according to the approved mining and reclamation plan. The density, number per unit area, of live woody plants which have been in place at least 3 years on the rehabilitated area shall be equal to or greater than 90 percent of the density of live woody plants of the same life form (trees vs. shrubs and half-shrubs) on the reference area with ninety (90) percent statistical confidence. When this ground cover requirement is met, the five or ten year responsibility period required in Section 817.116 shall begin

(3) Upon expiration of the five or ten year responsibility period and at the time of request for bond release, each person who conducts underground mining activities shall provide documentation required in paragraph (a) of this section showing that the woody plants established on the rehabilitated site meet the requirements of the approved mining and reclamation plan. Species diversity, distribution, seasonal variety, vigor and regenerative capacity of the vegetation of the revegetated area shall be evaluated on the basis of the results which could reasonably be expected using the methods of revegetation in the approved mining and reclamation plan.

§ 817.121 Subsidence control: General requirements.

Underground mining activities shall be planned and conducted so as to prevent subsidence from causing material damage to the surface, to the extent technologically and economically feasible, and so as to maintain the value and foreseeable use of surface lands. This may be accomplished by leaving adequate coal in place, backfilling, or other measures to support the surface or by mining in such a manner that provides for planned and controlled subsidence.

§ 817.122 Subsidence control: Public notice.

The mining schedule shall be published in a newspaper of general circulation in the area of the mine and distributed by mail to all owners of property or residents within the affected and adjacent areas at least every 6 months during active mining operations. The mining schedule shall contain at a minimum:

(a) Identification of specific areas in which mining will take place;

(b) Dates of mining activities that could cause subsidence and affect specific structures;

(c) The probable surface effects on structures;

(d) Measures to be taken to prevent or control adverse surface effects; and

(e) The opportunity for surface owners to request a pre-mining survey of dwellings and structures.

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§ 817.123 Subsidence control: Pre-mining survey.

(a) On a request to the regulatory authority by an owner of any dwelling or structure within the mine plan area and adjacent area likely to be affected by subsidence, the operator shall conduct a pre-mining survey of the dwelling or structure and shall submit a report of the survey to the regulatory authority. A pre-mining survey shall be conducted of all public buildings including but not limited to churches, schools, hospitals, and public utilities or municipal public service operations including highways, dams, and cemeteries.

(b) Personnel approved by the regulatory authority shall be used to conduct the survey to determine the condition of the dwelling or structure and to document any pre-mining damage and determine other physical factors that could reasonably be affected by subsidence resulting from mining. Assessments of structures such as roads, dams, pipelines, cables, transmission lines, and wells, ditches, and other water systems shall be limited to surface condition and other readily available data. Special attention shall be given to the pre-mining condition of springs, wells, reservoirs, and other water systems used for human, animal, or agricultural purposes and to quantity and quality of the water.

(c) A written report of the survey shall be prepared and signed by the person who conducted the survey and prepared the written report. The report shall include recommendations of any special conditions or proposed adjustments to the subsidence control procedures outlined in Section 817.122 which should be adopted to prevent material damage. Copies of the report shall be provided to the surface owner requesting the survey and to the regulatory authority.

§ 817.124 Subsidence control: Surface owner protection.

Each person who conducts underground mining activities, unless that person is the owner of overlying surface and adjacent lands subject to subsidence damage or holds a valid and specific waiver of surface damage for such lands from the present owner, shall consult with the owner of any dwelling or structure on such lands before conducting any underground mining activities.

§ 817.125 Subsidence control: Monitoring.

(a) Each person who conducts underground mining activities shall comply with the subsidence monitoring plan approved by the regulatory agency under 30 CFR 784.19.

(b) The regulatory authority may require the establishment of special monuments near sensitive structures and may require special measurements at different time and precision limits.

(c) An initial subsidence report shall be submitted to the regulatory authority with the permit application, and for mines in existence on the date of implementation of a State or Federal program no later than 8 months after the date of such implementation. The report shall describe the condition of the surface overlying each mine and nearby lands subject to subsidence due to underground mining activities at the time of the initial survey. This report shall be updated annually on the basis of additional surveys and shall contain comprehensive documentation of horizontal and vertical changes of monuments.

(d) If reasonable access for surveying is denied by the surface owner of lands subject to subsidence, the regulatory authority may modify the requirements of this Section as appropriate.

(e) If, on the basis of a detailed study of subsurface conditions, the regulatory authority determines that subsidence will be negligible, the monitoring requirements may be modified but shall, in any event, require detailed surveys before and after mining, or as specified in paragraph (c) of this Section.

§ 817.126 Subsidence control: Buffer zones.

(a) Underground mining activities shall not be conducted beneath or adjacent to any intermittent or perennial stream, or impoundment having a storage volume of 20 acre-feet or more, unless the regulatory authority on the basis of detailed subsurface information determines that subsidence will not cause material damage to the water body and associated structures. If subsidence exceeds the limitations approved in the mining permit, additional support or backfill material shall be placed to prevent additional subsidence from occurring.

(b) Underground mining activities beneath any aquifer that serves as the sole source of water supply to any municipal water system shall be conducted so as to avoid disruption of the aquifer and consequent exchange of ground water between the aquifer and other strata. The regulatory authority may prohibit mining in the vicinity of such aquifers or may limit the percentage of coal extraction in the interest of protecting water supplies.

(c) Underground mining activities shall not be conducted beneath or in close proximity to any public buildings including but not limited to churches, schools, hospitals, courthouses and government offices unless the regulatory authority on the basis of detailed subsurface information determines that subsidence will not cause material damage to these structures and specifically authorizes the mining.

§ 817.131 Cessation of operations: Temporary.

(a) Each person who conducts underground mining activities shall in areas in which there are no current operations, but operations are to be resumed under an approved plan, effectively support and close all surface access openings to underground operations, and secure surface facilities. Temporary abandonment shall not relieve a person of his obligation to comply with provisions of his approved mining and reclamation operations permit.

(b) Before temporary cessation of operations and reclamation, each person who conducts underground mining activities shall submit to the regulatory authority a notice of intention to cease or abandon operations and reclamation. This notice shall include a statement of the exact number of acres affected in the permit area, the extent and kind of reclamation accomplished, and identification of the regrading, revegetation, environmental monitoring, and water treatment activities that will continue during the temporary cessation.

§ 817.132 Cessation of operations: Permanent.

(a) The person who conducts underground mining activities shall close or backfill or otherwise permanently reclaim all affected areas in accordance with this Chapter and according to the plan approved by the regulatory authority.

(b) All equipment, structures, or other facilities not required for continued underground mining activities and monitoring unless approved as suitable for the post-mining land use, shall be removed and the affected lands reclaimed.

§ 817.133 Post-mining land use.

(a) *General.* All affected areas shall be restored in a timely manner—

(1) To conditions that are capable of supporting the use which they were capable of supporting before any mining;

(2) To higher or better uses achievable under criteria and procedures of this Section.

(b) *Determining pre-mining use of land.* The pre-mining uses of land to which the post-mining land use is compared shall be those uses which the land previously supported if the land had not been previously mined and had been properly managed.

(1) The post-mining land use for land that has been previously mined and not reclaimed shall be judged on the basis of the highest and best use that can be achieved and is compatible with surrounding areas.

(2) The post-mining land use for land that has received improper management shall be judged on the basis of the pre-mining use of surrounding lands that have received proper management.

(3) If the pre-mining use of the land was changed within 5 years of the beginning of mining, the comparison of post-mining use to pre-mining use shall include a comparison with the historic use of the land as well as its use immediately preceding mining.

(c) Before permanent abandonment, the permit area shall be restored, in a timely manner, either to conditions capable of supporting the uses they were capable of supporting before any mining or to conditions capable of supporting approved alternative land uses. Alternative land uses may be approved by the regulatory authority after consultation with the landowner or the land-management agency having jurisdiction over the lands, if the following criteria are met:

(1) The proposed post-mining land use is compatible with adjacent land use and, where applicable, with existing local, State, or Federal land use policies and plans. A written statement of the views of the authorities with statutory responsibilities for land use policies and plans shall have been submitted to the regulatory authority before underground mining activities began. Any required approval of local, State, or Federal land management agencies, including any necessary zoning or other changes required for the land use, shall have been obtained and shall remain valid throughout the underground mining activities.

(2) Specific plans shall be prepared and submitted to the regulatory authority which show the feasibility of the post-mining land use as related to needs, projected land use trends, and markets and that include a schedule showing how the proposed use will be developed and achieved within a reasonable time after mining and be sustained. The regulatory authority may require appropriate demonstrations to show that the planned procedures are feasible, reasonable, and integrated with mining and reclamation, and that the plans will result in successful reclamation.

(3) Provision of any necessary public facilities shall be ensured as evidenced by letters of commitment from parties other than the person who conducts underground mining activities, as appropriate, to provide them in a manner compatible with the plans submitted under 30 CFR 780.15. The letters shall be submitted to the regulatory authority before surface mining activities begin.

(4) Specific and feasible plans are submitted to the regulatory authority which show that financing and attainment and maintenance of the post-mining land use are feasible and are supported by letters of commitment from parties other than the person who conducts the underground mining activities.

(5) Plans for the post-mining land use shall have been designed under the general supervision of a registered professional engineer, or other appropriate professional, who will ensure that the plans conform to applicable accepted standards for adequate land stability, drainage, and vegetative cover, and esthetic design appropriate for the post-mining use of the site.

(6) The proposed use or uses will neither present actual or probable hazard to public health or safety nor will they pose any actual or probable threat of water flow diminution or pollution.

(7) The use or uses will not involve unreasonable delays in reclamation.

(8) Necessary approval of measures to prevent or mitigate adverse effects on fish, wildlife and related environmental values shall have been obtained from the regulatory authority and appropriate State and Federal fish and wildlife management agencies before surface mining activities begin.

(9) Proposals to change pre-mining land uses of range, fish and wildlife habitat, forestland, hayland, or pasture to a post-mining cropland use, where the cropland would require continuous maintenance such as seeding, plowing, cultivation, fertilization, or other similar practices to be practicable or to comply with applicable Federal, State, and local laws, have been reviewed by the regulatory authority to ensure that—

(i) There is a firm written commitment by the person who conducts underground mining activities or by the landowner or land manager to provide sufficient crop management after release of applicable performance bonds to ensure that the proposed post-mining cropland use remains practical and reasonable;

(ii) There is sufficient water available and committed to maintain crop production; and

(iii) Topsoil quality and depth are sufficient to support the proposed use.

PART 818—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—CONCURRENT SURFACE AND UNDERGROUND MINING

Sec.
818.1 Scope.
818.2 Objective.
818.4 Responsibility of regulatory authority.
818.11 Applicability.
818.12 Criteria for a variance to remain valid.
818.13 Review of variance.
818.15 Compliance with variance terms.
818.16 Additional performance standards.
818.18 Limits of variance.

AUTHORITY: Secs. 102, 201, 501, 503, 504, 506, 508, 515, 516, Pub. L. 95-87, 91 stat. 448, 449, 467, 470, 471, 473, 478, 486, 495 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1256, 1258, 1565, 1266).

§ 818.1 Scope.

This Part sets forth the minimum performance standards each person who combines surface mining activities with underground mining activities shall comply with under a variance from the requirement that reclamation efforts proceed as contemporaneously as practicable for specific areas within the reclamation plan.

§ 818.2 Objective.

The objective of this Part is to ensure the maximum practicable recovery of mineral resources and to avoid multiple disturbances of the surface areas.

§ 818.4 Responsibility of regulatory authority.

The regulatory authority shall review and grant or deny requests for variances from the requirement that reclamation efforts proceed as contemporaneously as practicable in accordance with 30 CFR 785.18.

§ 818.11 Applicability.

A variance applies only to those specific areas within the reclamation plan that the applicant shows to be necessary for implementing the proposed concurrent operations and that the regulatory authority approves. The variance is effective for any area only for the time necessary to facilitate the underground mining authorized.

§ 818.12 Criteria for a variance to remain valid.

A variance from the requirement that reclamation proceed as contemporaneously as practicable for specific areas within the permit area is valid for combined surface mining and underground mining activities if the following criteria are met:

(a) Each person who conducts these activities submits to the regulatory authority specific, feasible plans for the proposed underground mining activities.

(b) The underground mining activities are necessary or desirable to ensure maximum practical recovery of the mineral resource and avoid multiple disturbance of the surface areas.

(c) The plan for the underground mining activities conforms to the requirements for underground mining in 30 CFR 817 and the permits necessary for the underground mining activities have been issued by the regulatory authority.

SEP 18 1978

(d) The specific areas within the reclamation plan which are proposed to be included in the variance are necessary for the proposed underground mining activities.

(e) No substantial adverse environmental damage, either on-site or off-site, results from the delay in completion of reclamation otherwise required in 30 CFR 816 and 817; and

(f) Provisions for the off-site storage of spoil will comply with 30 CFR 816.71–816.73.

§ 818.13 Review of variance.

The regulatory authority shall review each variance granted under this Part not more than three years from the date the permit is issued. The regulatory authority shall decide whether to renew, revise, or revoke the variance, based on the permittee's compliance with the terms of the variance.

§ 818.15 Compliance with variance terms.

(a) Each person who conducts operations under a variance issued under 30 CFR 785.18 shall comply with all applicable performance standards in this Subchapter and any State or Federal program in effect, except to the extent that—

(1) Non-compliance is specifically authorized in the permit variance; and

(2) Non-compliance is necessary to achieve the purposes for which the variance is granted.

(b) Each person who conducts operations under a variance issued under 30 CFR 785.18 shall comply with each term and condition of the variance as set forth in the permit.

§ 818.16 Additional performance standards.

In addition to the performance standards of 30 CFR 816 and 817, each person who conducts combined operations shall comply with the following performance standards:

(a) A 500-foot barrier pillar of coal shall be maintained between the surface and underground operations in any one seam. The regulatory authority and the Mine Safety and Health Administration may approve a lesser distance after a finding by the regulatory authority that the approved operations result in—

(1) Improved resources recovery;

(2) Abatement of water pollution; or

(3) Elimination of hazards to the health and safety of the public.

(b) The vertical distance between surface and underground mines working separate seams shall be sufficient to provide for the health and safety of the workers and to prevent surface water from entering the underground workings.

(c) No operations under a variance granted under 30 CFR 785.18 shall reduce the protection provided public health and safety below the level of protection required for surface coal mining and reclamation operations conducted without a variance.

§ 818.18 Limits of variance.

A variance under this Part shall apply only to those portions of the permit area identified in the permit variance terms.

PART 819—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—AUGER MINING

Sec.
819.1 Scope.
819.2 Objectives.
819.11 Auger mining: Additional performance standards.

AUTHORITY: Secs. 102, 201, 501, 503, 504, 510, 515, 517, 701 Pub. L. 95-87, 91 stat. 448, 449, 467, 470, 471, 480, 486, 498, 516 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1260, 1265, 1267, 1291).

§ 819.1 Scope.

This Part sets forth additional performance standards for auger mining, which is a surface mining extraction method under the Act and performance standards of this Subchapter.

§ 819.2 Objectives.

The objectives of this Part are to—

(a) Prevent the additional adverse environmental effects of auger mining; and

(b) Prevent any unnecessary loss of coal reserves.

§ 819.11 Auger mining: Additional performance standards.

(a) Any auger mining associated with a surface coal mining operation shall be conducted to maximize recoverability of mineral reserves remaining after mining and reclamation operations are complete. Each person who conducts auger mining activities shall leave areas of undisturbed coal to provide access for future underground mining unless the regulatory authority determines that it is not practicable to recover the remaining coal reserves. Unmined sections shall be—

(1) A minimum of 250 feet wide at any point between the auger openings to the full depth of the auger holes;

(2) No more than 2,500 feet apart measured from the center of one unmined section to the center of the next unmined section unless a greater distance is set forth in the reclamation plan approved by the regulatory authority;

(3) In multiple seam mining, the unmined section shall be increased in width by 50 feet for each subjacent workable seam and the centers of all unmined sections shall be aligned vertically; and

(4) No auger hole shall be closer than 500 feet in horizontal distance to any abandoned or active underground mine except as approved by the regulatory authority and the Mine Safety and Health Administration after a finding by the regulatory authority that the approved operation results in improved resources recovery, abatement of water pollution, or elimination of hazards to the health and safety of the public.

(b) In order to prevent pollution of surface and ground water and to reduce fire hazards, each auger hole, except as provided by paragraph (c) of this section, shall be plugged so as to prevent discharge of water and access of air to the coal as follows:

(1) Each auger hole discharging water containing toxic or acid-forming material shall be plugged within 72 hours after completion by backfilling and compacting noncombustible and impervious material into the hole to a depth sufficient to form a water-tight seal.

(2) Each auger hole not discharging water shall be sealed as in paragraph (b) (1) of this Section to close the opening within 30 days following completion.

(c)(1) An auger hole need not be plugged if the regulatory authority finds—

(i) the impoundment of the water which would result from plugging the hole may create a hazard to the environment or public health or safety;

(ii) that drainage from the auger hole will not pose a threat of pollution to surface water; and

(iii) The requirements of paragraph (c)(2) of this section are met.

(2) For every hole meeting the requirements of paragraph (c)(1) of this section, an internal drainage system of durable non-degradable rock shall be installed from the auger hole through the backfill and exit into a stable channel approved by the regulatory authority to allow dissipation of water pressure and to prevent saturation of the backfill.

(d) The regulatory authority shall prohibit auger mining in the permit area if it determines that—

(1) Sealing auger holes will not eliminate water pollution or instability of fills;

(2) The prohibition is necessary to maximize the utilization and conservation of the solid fule resources; or

(3) Subsidence resulting from auger mining may disturb or damage powerlines, pipelines, buildings, or other facilities.

(e) In addition to meeting the requirements of this Part, each person who conducts auger mining activities shall meet each requirement of Part 816 including, but not limited to, the requirement to return the disturbed

areas to approximate original contour and to maintain the hydrologic balance and water quality.

PART 820—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—ANTHRACITE MINES IN PENNSYLVANIA

Sec.
820.1 Scope.
820.2 Objective.
820.11 Performance standards: Anthracite mines in Pennsylvania.

AUTHORITY: Secs. 102, 201, 501, 503, 504, 529, Pub. L. 95-97, 91 Stat. 448, 449, 467, 470, 471, 514 30 (U.S.C. 1202, 1211, 1251, 1253, 1254, 1279).

§ 820.1 Scope.

This Part contains performance standards for surface coal mining and reclamation operations conducted at anthracite coal mines located in Pennsylvania.

§ 820.2 Objective.

This Part implements Subsection 529(a) of the Act, which requires the Secretary to adopt special performance standards for anthracite mines regulated by environmental protection standards of a State.

§ 820.11 Performance standards: Anthracite mines in Pennsylvania.

(a) Anthracite surface coal mining and reclamation operations in Pennsylvania shall comply with all the Pennsylvania environmental protection provisions for anthracite coal mining in effect on August 3, 1977, instead of the provisions of this Subchapter. These Pennsylvania provisions include, but are not limited, to—

(1) The Pennsylvania Anthracite Strip Mining and Conservation Act, June 27, 1947, P.L. 1095, as amended through August 3, 1977, 52 P.S. Section 681.1 *et seq* (Purdons 1966, 1978 Supp.) and regulations adopted thereunder;

(2) The Pennsylvania Coal Refuse Disposal Control Act, September 24, 1968, P.L. 1040, No. 318, as amended through August 3, 1977, 52 P.S. Section 30.51 *et seq.* (Purdons 1966, 1978 Supp.)

(3) The Pennsylvania Surface Mining Conservation and Reclamation Act, May 31, 1945, P.L. 1198, as amended through August 3, 1977, 52 P.S. 1396.1 *et seq.* (Purdons 1966, 1978 Supp.) and regulations adopted thereunder;

(4) The Pennsylvania Anthracite Coal Mine Act of 1965, P.L. No 346, as amended through August 3, 1977, 52 P.S. Section 70.101 *et seq.* (Purdons 1966, 1978 Supp.) and regulations adopted thereunder;

(5) The Pennsylvania Clean Streams Law, as amended through August 3, 1977, 35 P.S. Sections 691.1 *et. seq.* and regulations adopted thereunder;

(6) The Pennsylvania Gas Operations, Well-Drilling, Petroleum and Coal Mining Act, P.L. 756, Nov. 30, 1965, as amended through August 3, 1977, 52 P.S. Section 2101 *et seq.* (Purdons 1966, 1978 Supp.) and regulations adopted thereunder;

(7) Provisions regulating the discharge of coal, culm or refuse into streams under P.L. 640, June 27, 1913, as amended through August 3, 1978 52 P.S. Section 631 *et seq.* (Purdons 1966, 1978 Supp.) and regulations adopted thereunder;

(8) Regulation of coal stripping under P.L. 133, June 18, 1941, as amended through August 3, 1978, 52 P.S. Section 1471 *et seq.* (Purdons 1966, 1978 Supp.) and regulations adopted thereunder;

(9) Regulation of subsidence under P.L. 1198, May 22, 1921, as amended through August 3, 1977, 52 P.S. Section 661 *et seq.* (Purdons 1966, 1978 Supp.) and regulations adopted thereunder;

(10) Regulation of subsidence under Pub. L. 1538, Sept. 20, 1961, as amended through August 3, 1977 (52 P.S. Section *et seq.* (Purdons 1966, 1978 Supp.) and regulations adopted thereunder;

(11) The establishment of mine safety zones under P.L. 1994, Dec. 22, 1959, as amended through August 3, 1978, 52 P.S. Section 3101 *et seq.* (Purdons 1966, 1978 Supp.) and regulations adopted thereunder; and

(12) All Pennsylvania statutes and regulations relating to the prevention or control of air pollution in effect on August 3, 1978.

(b) If Pennsylvania's regulatory program or regulations for anthracite coal mining and reclamation operations in effect on August 3, 1977, are amended, the Secretary, upon receipt of a notice of amendment, shall issue additional regulations as necessary to meet the purposes of this Act.

(c) Anthracite coal mines in Pennsylvania shall comply with all the requirements of this Chapter except—

(1) The performance standards in Subchapter K; and

(2) Where specifically exempted within the regulations.

PART 821—VARIANCES FROM PERMANENT PROGRAM PERFORMANCE STANDARDS—CERTAIN MINES IN ALASKA

Sec.
821.1 Scope.
821.2 Objective.
821.11 Alaska: Operations eligible for a variance.
821.12 Alaska: Expiration of variance.
821.13 Alaska: Procedure for obtaining variance.
821.14 Alaska: Scope of variance.

AUTHORITY: Sections 102, 201, 501, 503, 504, 512, 515, 516, 701, 708, 716 Pub. L. 95-87, 91 Stat. 448, 449, 467, 470, 471, 482, 486, 495, 516, 521, 526 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1562, 1265, 1266, 1291, 1298, 1306).

§ 821.1 Scope.

This Part sets forth the variances from the performance standards of Subchapter K for certain mines in Alaska.

§ 821.2 Objective.

This Part is intended to ensure that during the time period set forth in 30 CFR 821.12, enforcement of the performance standards of this Subchapter need not cause cessation of the operation of Alaska mines which were in operation during the year prior to August 3, 1977.

§ 821.11 Alaska: Operations eligible for a variance.

Variances from the performance standards of this Subchapter may be granted to a person who conducts surface coal mining and reclamations operations—

(a) Which are located in Alaska;

(b) From which coal was mined between August 3, 1976, and August 2, 1977; and

(c) For which the Secretary determines that the variance is necessary to ensure continued operation.

§ 821.12 Alaska: Expiration of variance.

Each variance granted under this Part shall expire on the earlier of the following:

(a) One year after the Secretary makes the report on the findings of the Alaska Coal Mine Study to the President and Congress as required under Section 708 of the Act; or

(b) August 3, 1980.

§ 821.13 Alaska: Procedure for obtaining variance.

(a) Any person who conducts a surface coal mining and reclamation operation in Alaska may petition the Secretary to modify the applicability of a performance standard to that operation. The petition shall be in writing and shall clearly identify—

(1) The performance standard involved;

(2) The alternative methods to be used to protect the environment and the public health and safety;

(3) The reasons for the request for modification, with full descriptions of—

(i) The effect that continued compliance with the performance standard would have on mining and reclamation; and

(ii) The effect that the proposed modification would have on the envi-

ronment and the public health and safety.

(4) The location of the mine;

(b) If the Secretary determines that

§ 822.2 Objectives.

This Part establishes the minimum performance and reclamation standards to preserve either the existing or

systems that supply alluvial valley floors. If environmental monitoring shows that the surface coal mining operation is causing material damage to

(e) Monitoring shall be performed during operations to identify characteristics of the alluvial valley floor not identified in the permit application

(2) Separately remove the B horizon of the soil or a combination of B horizon and underlying C horizon or other suitable soil material that will create a

(2) Protects the surface layer from wind and water erosion before it is seeded or planted.

(e) Apply nutrients and soil amend-

ronment and the public health and safety.

(4) The location of the mine;

(b) If the Secretary determines that the petition presents reasonable justification for modifying the performance standard, he shall publish a notice of intent to modify the applicability of the performance standard and to hold a hearing in accordance with paragraph (c) of this Section. The notice shall be published in the FEDERAL REGISTER and in a newspaper of general circulation in the area of Alaska where the coal mine is located.

(c) The Secretary shall hold a public hearing on the petition in Alaska and any person may testify for or against the proposed modification.

(d) The Secretary shall publish his decision in the FEDERAL REGISTER and in the same newspaper in which the original notice was published, after the Secretary—

(1) Considers public comment;

(2) Obtains the concurrence of the Administrator of the United States Environmental Protection Agency; and

(3) Consults with the Governor of Alaska.

§ 821.14 Alaska: Scope of variance.

No variance shall waive the applicability of the performance standards of this Subchapter more than is necessary to insure continuation of the mining operation. Except as specifically modified by a variance granted under this Part, each performance standard of this Subchapter shall apply to each surface coal mining and reclamation operation in Alaska.

PART 822—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—OPERATIONS IN ALLUVIAL VALLEY FLOORS

Sec.
822.1 Scope.
822.2 Objectives.
822.11 Alluvial valley floors: Hydrologic functions.
822.12 Alluvial valley floors: Farming and water quality.
822.13 Alluvial valley floors: Maintenance of agricultural uses.
822.14 Alluvial valley floors: Monitoring.

AUTHORITY: Sections 162, 201, 501, 503, 504, 506, 508, 510, 515, 516, 517 and 701 Pub. L. 95-87, 91 Stat. 448, 449, 467, 470, 471, 473, 478, 480, 486, 495, 498, 516 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1256, 1258, 1260, 1265, 1266, 1267, 1291).

§ 822.1 Scope.

This Part governs surface coal mining and reclamation operations on or which affect alluvial valley floors in the arid and semi-arid areas located west of the 100th meridian west longitude.

§ 822.2 Objectives.

This Part establishes the minimum performance and reclamation standards to preserve either the existing or potential agricultural uses and productivity of alluvial valley floors during and after mining.

§ 822.11 Alluvial valley floors: Hydrologic functions.

(a) Each person who conducts, surface coal mining and reclamation operations in or adjacent to alluvial valley floors shall plan and conduct the operations to preserve the essential hydrologic functions of the alluvial valley floors throughout the mining and reclamation process.

(b) During mining, the essential hydrologic functions of alluvial valley floors shall be preserved along reaches of alluvial valley floors not disturbed. These functions shall be preserved by maintaining those geologic, hydrologic, and biologic characteristics of the alluvial valley floor that support the functions.

(c) After mining, the essential hydrologic functions of alluvial valley floors shall be preserved in affected and adjacent areas of alluvial valley floors by reestablishing those geologic, hydrologic, and biologic characteristics of the alluvial valley floor that are necessary to support these functions.

(d) The characteristics that support the essential hydrologic functions of alluvial valley floors are those in 30 CFR 785.19 and those other geologic, hydrologic, or biologic characteristics identified during pre-mining investigations or monitoring conducted during the surface coal mining and reclamation operation.

§ 822.12 Alluvial valley floors: Farming and water quality.

(a) Surface coal mining and reclamation operations shall not interrupt, discontinue, or preclude farming on alluvial valley floors, unless—

(1) The pre-mining land use is undeveloped rangeland which is not significant to farming; or

(2) The area of affected alluvial valley floor is small and provides or may provide negligible support for production from one or more farms.

(b) If environmental monitoring shows that a surface coal mining operation is interrupting, discontinuing, or precluding farming on alluvial valley floors, the operation shall cease until remedial measures are taken by the person who conducts the operation. The remedial measures shall be approved by the regulatory authority.

(c) Each person who conducts surface coal mining and reclamation operations shall plan and conduct the operations so that no material damage is caused to the quality or quantity of water in surface or underground water systems that supply alluvial valley floors. If environmental monitoring shows that the surface coal mining operation is causing material damage to water that supplies alluvial valley floors, the operation shall cease until remedial measures are taken by the person who conducts the operation. The remedial measures shall be approved by the regulatory authority.

(d) This section does not apply to a surface coal mining operation under an initial permit issued under a State or Federal program which satisfies paragraph (e) of this Section, or to those portions of a surface coal mining operation under a renewal permit under a State or Federal program which were previously identified in a reclamation plan under the State or Federal program and which satisfy paragraph (e) of this Section.

(e) This section shall not apply to an operation that:

(1) Was in production in the year preceding August 3, 1977, was located in or adjacent to an alluvial valley floor, and produced coal in commercial quantities during the year preceding August 3, 1977; or

(2) Had obtained specific permit approval by the State regulatory authority before August 3, 1977, to conduct surface coal mining operations for an area within an alluvial valley floor.

§ 822.13 Alluvial valley floors: Maintenance of agricultural uses.

The person who conducts surface coal mining and reclamation operations shall ensure that the agricultural utility and the level of productivity of alluvial valley floors is reestablished and maintained after mining.

§ 822.14 Alluvial valley floors: Monitoring.

(a) The person who conducts surface coal mining and reclamation operations shall install, maintain, and operate an environmental monitoring system on all alluvial valley floors affected by the operations in order to show that the agricultural utility and production and the potential for agricultural utility and production are being maintained.

(b) The monitoring system shall result in sufficient numbers of hydrologic and biologic measurements to demonstrate that the important characteristics have been identified so that the essential hydrologic functions may be reestablished.

(c) The monitoring shall include ground water and surface water quantity and quality, vegetation measurements, and soil analyses.

(d) The monitoring shall be performed at a frequency which is adequate to indicate longer term trends that could affect agricultural use of the alluvial valley floors.

(e) Monitoring shall be performed during operations to identify characteristics of the alluvial valley floor not identified in the permit application and to evaluate the importance of all characteristics.

(f) All monitoring data collected shall routinely be made available to the regulatory authority.

PART 823—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—OPERATIONS ON PRIME FARMLAND

Sec.
823.1 Scope.
823.2 Objective.
823.11 Prime farmland: Special requirements.
823.12 Prime farmland: Soil removal.
823.13 Prime farmland: Soil stockpiling.
823.14 Prime farmland: Soil replacement.

AUTHORITY: Sections 102, 201, 501, 503, 504, 506, 508, 510, 515, 516, 517, 701 Pub. L. 95-87, 91 Stat. 448, 449, 467, 470, 471, 473, 478, 480, 486, 495, 498, 516 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1256, 1258, 1260, 1266, 1267, 1291).

§ 823.1 Scope.

This Part sets forth special performance standards for surface coal mining and reclamation operations on prime farmland.

§ 823.2 Objective.

The objective of this Part is to minimize the effects of mining upon prime farmland so that the land will have equal productivity after mining and is not lost as a resource.

§ 823.11 Prime farmland: Special requirements.

Each person who conducts surface coal mining and reclamation operations on prime farmland shall meet the following requirements:

(a) A permit shall be obtained under 30 CFR 785.17.

(b) Each soil horizon to be used in the reconstruction of the soil shall be removed before drilling, blasting, or mining in a manner that prevents mixing or contaminating the soil horizon with undesirable material. Where removal of soil horizons results in erosion that may cause air and water pollution, the regulatory authority shall specify methods of treatment to control erosion of exposed overburden.

§ 823.12 Prime farmland: Soil removal.

(a) Each person who conducts surface coal mining and reclamation operations on prime farmland shall—

(1) Separately remove the entire A horizon or other suitable soil materials which will create a final soil having an equal or greater productive capacity than that which existed prior to mining.

(2) Separately remove the B horizon of the soil or a combination of B horizon and underlying C horizon or other suitable soil material that will create a reconstructed root zone of equal or greater productive capacity than that which existed before mining.

(3) Separately remove the underlying C horizons or other strata, or a combination of horizons or other strata, to be used instead of the B horizon. These combinations shall be of equal or greater thickness and equal to or more favorable for plant growth than the B horizon. When replaced these combinations shall create in the reconstructed soil a final root zone of comparable depth and quality to that which existed in the natural soil.

(b) The minimum depth of soil and soil material to be reconstructed shall be 48 inches unless the regulatory authority specifies a greater depth because of uniquely favorable soil horizons at greater depths.

§ 823.13 Prime farmland: Soil stockpiling.

If stockpiling of soil horizons is allowed by the regulatory authority instead of immediate replacement, the A horizon and B horizon shall be stored separately. These stockpiles shall be placed within the permit area where they are not disturbed or exposed to excessive water or wind erosion before the stockpiled horizons can be redistributed. Stockpiles in place for more than 30 days shall meet the requirements of Section 816.23.

§ 823.14 Prime farmland: Soil replacement.

Each person who conducts surface coal mining and reclamation operations on prime farmland shall meet the following requirements when replacing soil:

(a) Replace the soil material on land graded to the final contour;

(b) Scarify the final graded land before the soil material is replaced;

(c) Replace the B horizon or other suitable soil material specified in Sections 823.12(a)(2) and (a)(3), in a manner that avoids excessive compaction of overburden and to a thickness comparable to the root zone that existed in the soil before mining.

(d) Replace the A horizon or other suitable soil materials, specified in Section 823.12(a)(1) as the final surface soil layer. This surface soil layer shall equal the thickness of the original soil as determined in 30 CFR 785.17(e)(1) and be replaced in a manner that—

(1) Prevents excessive compaction of both the surface layer and underlying material and reduction of permeability to less than 0.06 inch per hour in the upper 20 inches of the reconstructed soil profile; and

(2) Protects the surface layer from wind and water erosion before it is seeded or planted.

(e) Apply nutrients and soil amendments as needed to establish quick vegetative growth.

PART 824—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—MOUNTAINTOP REMOVAL

Sec.
824.1 Scope.
824.2 Objectives.
824.11 Mountaintop removal: Performance standards.

AUTHORITY: Sections 102, 201, 501, 503, 504, 506, 508, 510, 515, 517, 701 Pub. L. 95-87, 91 Stat. 448, 449, 467, 470, 471, 474, 478, 480, 486, 498, 516 (30 U.S.C. 1202, 1211, 1251, 1253, 1354, 1256, 1258, 1260, 1265, 1267, 1291).

§ 824.1 Scope

This Part sets forth an alternate method of surface mining that grants an exception to the approximate original contour performance standard requirement.

§ 824.2 Objectives.

The objectives of this Part are to—

(a) Enhance coal recovery;

(b) Reclaim the land to equal or higher economic post-mining use; and

(c) Protect and enhance environmental and other values under the Act.

§ 824.11 Mountaintop removal: Performance standards.

(a) Under an approved State program or under a Federal program, surface coal mining and reclamation operations may be granted a variance from the requirements of this Subchapter for restoring affected areas to approximate original contour, if—

(1) The regulatory authority grants an exemption from the requirement to restore to approximate original contour in accordance with 30 CFR 785.15;

(2) The entire coal seam running through the upper fraction of a mountain, ridge, or hill is removed by removing all of the overburden and creating a level plateau or gently rolling contour with no highwalls remaining;

(3) An industrial, commercial, agricultural, residential, or public facility (including recreational facilities) use is proposed and approved for the affected land;

(4) The alternative land use criteria of Section 816.33 are met; and

(5) All applicable performance standards other than the requirement to restore to approximate original contour are met.

(b) Surface coal mining and reclamation operations conducted under this variance shall comply with the following standards:

(1) An outcrop barrier of sufficient width, consisting of the toe of the lowest coal seam, and its associated

AUTHORITY: Sections 102, 201, 501, 503, 504, 508, 510, 515, 527, 701 Pub. L. 95-87, 91 Stat. 448, 449, 467, 470, 471, 478, 480, 486, 513, 516 (30 U.S.C. 1202, 1211, 1251, 1253,

(1) In the final mine area, highwalls shall be allowed to remain if found to be stable by the regulatory authority;

(ii) Measurements of individual slopes, locations at which measurements are made, and the average natu-

PART 826—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—OPERATIONS ON STEEP SLOPES

(d) Material in excess of that required by the grading provisions of this Part shall be disposed of in ac-

(1) An outcrop barrier of sufficient width, consisting of the toe of the lowest coal seam, and its associated overburden, shall be retained to prevent slides and erosion.

(2) The final graded top plateau slopes on the mined area shall be less than 1*v*:5*h* so as to create a level plateau or gently rolling configuration and the outslopes of the plateau shall not exceed 1*v*:2*h*, except where engineering data substantiates and the regulatory authority finds that a minimum static safety factor of 1.5 will be attained.

(3) The resulting level or gently rolling contour shall be graded to drain inward from the outslope except at specific points where it drains over the outslope in stable protected channels.

(4) Natural watercourses shall not be damaged.

(5) All waste and acid-forming or toxic-forming materials, including the strata immediately below the coal seam shall be covered with non-toxic spoil to prevent pollution and achieve the post-mining land use.

(6) Spoil shall be placed on the mountaintop bench as is necessary to achieve the post-mining land use approved under paragraphs (a)(3) and (a)(4) of this Section. All excess spoil material not retained on the mountaintop shall be placed in accordance with the standards of 30 CFR 816.71-816.73 and 816.52.

(c)(1) Each permit which grants approval for mountaintop removal shall be reviewed not more than 3 years from the date the permit was issued, unless the person who conducts the operation affirmatively demonstrates and the regulatory authority finds that all operations are proceeding in accordance with the terms of the permit and applicable requirements of the Act and this Part.

(2) Each permit which grants approval for mountaintop removal may be modified by the regulatory authority if it determines that more stringent measures are necessary to:

(i) Prevent or control slides or erosion;

(ii) Prevent damage to natural water courses;

(iii) Avoid water pollution; or

(iv) Ensure successful revegetation.

PART 825—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—SPECIAL BITUMINOUS COAL MINES IN WYOMING

Sec.
825.1 Scope.
825.2 Objective.
825.11 Performance standards: Special bituminous coal mines operating prior to January 1, 1972.
825.12 Performance standards: Special bituminous coal mines developed after August 3, 1977.
825.13 Changes in Wyoming program.

AUTHORITY: Sections 102, 201, 501, 503, 504, 508, 510, 515, 527, 701 Pub. L. 95-87, 91 Stat. 448, 449, 467, 470, 471, 478, 480, 486, 513, 516 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1258, 1260, 1277, 1291).

§ 825.1 Scope.

(a) This Part sets forth special requirements for certain bituminous coal surface mines located west of the 100th meridian west longitude, which existed on January 1, 1972, or are immediately adjacent thereto and for which development began after August 3, 1977, in accordance with Section 527 of the Act.

(b) Unless specifically modified by this Part, each performance standard of this Subchapter applies to these mines.

§ 825.2 Objective.

The objective of this Part is to minimize any adverse environmental effect of special bituminous coal mines located west of the 100th meridian west longitude by providing—

(a) Special standards for on-site handling of spoil;

(b) Elimination of depressions capable of collecting water;

(c) Creation of improvements and regrading to approximate original contour; and

(d) Allowing for retention of certain stable highwalls.

§ 825.11 Performance standards: Special bituminous coal mines operating before January 1, 1972.

(a) This Section contains special performance standards for those portions of special bituminous coal mines, as defined in 30 CFR 701.5, which—

(1) Were approved for operation before January 1, 1972, including the orderly expansion of such a mine pit to the extent authorized by State law;

(2) Have actually been producing coal since January 1, 1972;

(3) Because of past duration of mining are committed to a mode of operation that warrants an exception to some of the provisions of this Subchapter; and

(4) Involve the mining of more than one seam and mining has been initiated on the deepest coal seam contemplated to be mined in the current operation.

(b) Operations subject to this Section shall at a minimum meet the general performance standards of this Subchapter for all operations conducted on the permit area outside the mine pit and for those operations associated with spoil storage areas. All the standards of this Subchapter apply to the mine pit for requirements for backfilling and grading. Special requirements for backfilling and grading the mine pit area are as follows:

(1) In the final mine area, highwalls shall be allowed to remain if found to be stable by the regulatory authority;

(2) Benches may be constructed if approved by the regulatory authority in the approved mining plan;

(3) The exposed pit floors shall be sloped and graded to provide access to the area;

(4) Topsoil shall be replaced in accordance with 30 CFR 816.24;

(5) The floor of the pit shall be seeded according to the requirements of 30 CFR 816.111-816.117 and 816.102;

(6) Where water impoundments are included as part of the mine plan, riprap may be used if necessary to prevent erosion; and

(7) Spoil piles shall be graded and contoured with no more than the overall slope of 17 degrees allowed, and terraces may be used to break the slope when it can be shown that terraces will accomplish the required reclamation. For the post-mining land use, steeper slopes may be permitted upon approval of the regulatory authority, if it can be demonstrated that this method provides the required results.

§ 825.12 Performance standards: Special bituminous coal mines developed after August 3, 1977.

(a) This Section applies to those special bituminous coal mines, as defined in 30 CFR 701.5, which are developed after August 3, 1977, on lands immediately adjacent to portions of mines subject to Section 825.11.

(b) Operations subject to this section shall comply with all requirements of Wyoming law.

(c) Operations subject to this section shall, at a minimum, meet the general performance standards of this Subchapter for all operations conducted on the permit area outside the mine pit and for the operations associated with spoil storage areas. The standards of 30 CFR Part 816 apply to the mine pit except for the requirements for backfilling and grading.

(d) Special requirements for backfilling and grading the mine pit area are as follows:

(1) *Slope specifications.* Slope specifications for the post-mining land use shall be based on an average of the natural slopes measured in the immediate area of the mine-site. The maximum inclination of the slopes in the reclaimed area shall not be greater than this average slope.

(i) Slopes steeper than the average of the natural slopes may be approved by the regulatory authority if it can be demonstrated that returning the affected area to a slope equal to or less than the average natural slope would greatly increase the amount of disturbed land.

(ii) Measurements of individual slopes, locations at which measurements are made, and the average natural slope as determined from the individual slope measurements shall be submitted for approval to the regulatory authority.

(2) *Post-mining land uses that do not include permanent water impoundments.*

(i) The final mine area shall be backfilled, graded, and contoured to the extent necessary to return the land to the use approved by the regulatory authority.

(ii) All backfilling, grading, and contouring shall preserve the original drainage system or provide substitute drainage systems approved by the regulatory authority.

(iii) Terraces or benches may be used only if it can be demonstrated that contouring methods do not provide the required results. Detailed plans of dimensions and design of the terraces or benches, check dams, erosion prevention techniques, and slopes of the terraces or benches and their intervals shall be submitted to the regulatory authority for approval before construction.

(iv) Depressions that will accumulate water shall not be allowed unless they are approved under paragraph (d)(3) of this Section.

(3) *Post-mining land uses that include permanent water impoundments.*

(i) The exposed mine pit area shall be sloped, graded, and contoured to blend with the topography of the surrounding terrain and to provide access to the area. Where necessary to prevent erosion, riprap shall be used.

(ii) If the person who conducts the surface mining activities demonstrates that the pitwall can be stabilized by terracing or other techniques, the regulatory authority may approve leaving the stabilized pitwall along one-half of the proposed shoreline, as measured along the circumference. The remaining part of the shoreline shall be graded and contoured to blend with the topography of the surrounding terrain and to provide access to the area. Detailed explanations of the techniques to be used to stabilize the pitwall shall be submitted for approval to the regulatory authority.

§ 825.13 Changes in Wyoming program.

In the event of an amendment or revision to the State of Wyoming's regulatory program, regulations, or decisions made thereunder governing special bituminous coal mines, the Secretary shall issue additional regulations as necessary to meet the purposes of the Act.

PART 826—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—OPERATIONS ON STEEP SLOPES

Sec.
826.1 Scope.
826.2 Objective.
826.11 Applicability.
826.12 Steep slopes: Performance standards.
826.13 Steep slopes: Limited variances.

AUTHORITY: Secs. 102, 201, 501, 503, 504, 508, 510, 515, 701 Pub. L. 95-87, 91 Stat. 448, 449, 467, 470, 478, 480, 486, 467, 470, 478, 480, 486, 516 (U.S.C. 1202, 1211, 1251, 1253, 1258, 1260, 1265, 1291).

§ 826.1 Scope.

This Part provides special environmental performance standards for operations on steep slopes.

§ 826.2 Objective.

The objective of this Part is to ensure adequate environmental protection during surface coal mining and reclamation operations on steep slopes.

§ 826.11 Applicability.

(a) Any surface coal mining and reclamation operations on steep slopes shall meet the performance standards of this Part.

(b) The standards of this Part do not apply to:

(1) Mining conducted on a flat or gently rolling terrain with an occasional steep slope through which the mining proceeds and leaves a plain or predominatly flat area; or

(2) That part of operations granted a variance under Section 515(e) of the Act and Section 826.13.

§ 826.12 Steep slopes: Performance standards.

(a) Spoil, waste materials, or debris, including that from clearing and grubbing or haul road construction, and abandoned or disabled equipment, shall not be placed or allowed to remain on the downslope.

(b) The highwall shall be completely covered with compacted spoil and the disturbed area graded to comply with the provisions of 30 CFR 816.101-816.108 including, but not limited to, the return of the site to approximate original contour. The person who conducts the surface coal mining and reclamation operation must demonstrate to the regulatory authority, using standard geotechnical analysis, that the minimum static factor of safety for the stability of all portions of the reclaimed land is at least 1.3.

(c) Land above the highwall shall not be disturbed unless the regulatory authority finds that the disturbance facilitates compliance with the requirements of this Part such as for construction of diversions.

(d) Material in excess of that required by the grading provisions of this Part shall be disposed of in accordance with the requirements of 30 CFR Sections 816.71-816.73.

(e) Woody materials shall not be buried in the backfilled area. Woody materials may be chipped and distributed over the surface of the backfill as mulch if special provision is made for their use and when approved by the regulatory authority.

(f) Unlined or unprotected drainage channels shall not be constructed on backfills constructed under this Part unless approved by the regulatory authority as stable and not subject to erosion.

§ 826.13 Steep slopes: Limited variances.

(a) *Conditions for approval.* Under every Federal program or any approved State program which includes appropriate procedures, persons may be granted variances from the approximate original contour requirements of Section 826.12(b) if the following standards are met:

(1) The highwall shall be completely backfilled with spoil material, which has a static factor of safety of at least 1.3 using standard geotechnical analyses.

(2) The watershed control of the area within which the mining occurs shall be improved by reducing the peak flow from a precipitation or thaw and reducing the total suspended solids or other pollutants in the surface water discharge during a precipitation or thaw. The total volume of flow during every season of the year shall not vary in a way that adversely affects the ecology of any surface water or any existing or planned public or private use of surface or ground water.

(3) Land above the highwall may be disturbed for a horizontal distance which is not greater than one-half the highwall height if the regulatory authority finds that the disturbance is necessary to—

(i) Blend the solid highwall and the backfilled material;

(ii) Control surface runoff; or

(iii) Provide access to the area above the highwall.

(4) The landowner shall have requested in writing, as part of the permit application, that the variance be granted.

(5) The regulatory authority shall make a finding that the approved post-mining land use constitutes an equal or better economic or public use. The post-mining land use shall consist only of one of the following land uses:

(i) Industrial.

(ii) Commercial.

(iii) Residential.

(iv) Public use, including recreational facilities.

(6) The backfilling, grading, and placement of spoil shall be designed and certified by a qualified registered

§ 827.12 Coal processing plants: Performance standards.

Construction, operation, maintecilities, water storage facilities, and any structure or system related to the coal processing plant shall comply with 30 CFR 816

fish, wildlife and related environmental values, and threats to the public

inspection per month of each surface coal mining and reclamation operation

contain civil and criminal penalties which are no less stringent than those

(6) The backfilling, grading, and placement of spoil shall be designed and certified by a qualified registered professional engineer in conformance with professional standards established to ensure the stability, drainage, and surface configuration necessary for the intended use of the site.

(7) Only the amount of spoil as is necessary to achieve the post-mining land use, ensure the stability of spoil retained on the bench, and meet all other requirements of the Act and this Chapter shall be placed off the mine bench. All spoil not retained on the bench shall be placed in accordance with Section 816.71–816.73 and Section 816.101–102.

(b) *Review of variances.* (1) Within the six months before the third anniversary of the issuance of the permit, the person who conducts the surface coal mining and reclamation operation shall demonstrate to the regulatory authority that the proposed development is proceeding in accordance with the terms of the reclamation plan.

(2) If the person who conducts the surface coal mining and reclamation operation fails to comply with paragraph (b)(1) of this Section, the regulatory authority shall, not later than 3 years after the date of issuance of the permit, review the variance to determine whether it should be revoked, revised, or renewed.

PART 827—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—COAL PROCESSING PLANTS AND SUPPORT FACILITIES NOT LOCATED AT OR NEAR THE MINESITE OR NOT WITHIN THE PERMIT AREA FOR A MINE

Sec.
827.1 Scope.
827.11 Applicability.
827.12 Coal processing plants: Performance standards.

AUTHORITY: Secs. 102, 201, 501, 503, 504, 508, 510, 515, 517, 701 Pub. L. 95-87, 91 Stat. 448, 449, 467, 479, 471, 480, 486, 498, 516 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1260, 1265, 1267, 1291).

§ 827.1 Scope.

This Part sets forth requirements for coal processing plants and their support facilities not located at or near the mine site or not within the permit area for a mine, to ensure the protection of public property and the environment, in accordance with the Act.

§ 827.11 Applicability.

Each person who conducts surface operations consisting of operation of a coal processing plant or support facility which is not located within the permit area for a specific mine shall obtain a permit to conduct the operation.

§ 827.12 Coal processing plants: Performance standards.

Construction, operation, maintenance, modification, reclamation, and removal activities at coal processing plants and associated facilities not located within the permit area for a specific mine shall comply with the following performance standards:

(a) Signs and markers for the coal processing plant, coal processing waste disposal area, and water treatment facilities shall comply with Section 816.11 of this Part, and with all State, Federal, local, or other ordinances and codes.

(b) Roads, transport, and associated structures shall be constructed, maintained, and reclaimed in accordance with Sections 816.31–816.36.

(c) Any stream or channel realignment shall comply with Section 816.44.

(d) Any disturbed area related to the coal processing plant or associated facilities shall have sediment control structures in compliance with Sections 816.45 and 816.46, and all discharges from these structures shall meet the effluent limitations of Section 816.42 and any other State or Federal law applicable to water quality.

(e) Permanent impoundments associated with coal processing plants shall meet the standards of Section 816.49. Dams constructed of or impounding coal processing waste shall comply with Sections 816.91–816.93.

(f) Use of wells and the preservation of water rights shall comply with Sections 816.53 and 816.54.

(g) Disposal of coal processing waste, solid waste, and any excavated materials shall comply with Sections 816.81–816.88, 816.89, and 816.71–816.73, respectively.

(h) Discharge structures for diversions and sediment control structures shall comply with Section 816.47.

(i) Air pollution control measures associated with fugitive dust emissions shall comply with Section 816.95 and all other applicable State or Federal air pollution control requirements and limitations.

(j) Fish, wildlife and related environmental values shall be protected in accordance with Section 816.97.

(k) Slide areas and other surface stabilization shall comply with Section 816.99.

(l) Each person who operates coal processing plants and associated structures shall comply with Section 816.79, to minimize adverse effects upon or resulting from nearby underground operations.

(m) Reclamation operations shall contain provisions for proper topsoil, revegetation, and abandonment in accordance with Sections 816.111–816.117, 816.121–816.124, and 816.56.

(n) Conveyors, buildings, storage bins or stockpiles, water treatment facilities, water storage facilities, and any structure or system related to the coal processing plant shall comply with 30 CFR 816.

(o) Any coal processing plant or associated structures located on prime farmland shall meet the requirements of 30 CFR 823.

PART 828—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—IN-SITU PROCESSING

Sec.
828.1 Scope.
828.2 Objectives.
828.11 In-situ processing: Performance standards.
828.12 In-situ processing: Monitoring.

AUTHORITY: Secs. 102, 201, 501, 503, 504, 510, 515, 517, 701; Pub. L. 95-87, 91 Stat. 448, 449, 467, 470, 471, 480, 486, 498, 516 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1260, 1265, 1267, 1291).

§ 828.1 Scope.

This Part sets forth special environmental performance standards for in situ processing activities.

§ 828.2 Objectives.

This Part is intended to ensure that all in-situ processing activities are conducted in a manner which preserves and enhances environmental values in accordance with the Act. This Part provides additional performance standards to reflect the nature of in-situ processing.

§ 828.11 In-situ processing: Performance standards.

(a) The person who conducts in-situ processing activities shall comply with 30 CFR Part 817 and this Section.

(b) In situ processing activities shall be planned and conducted to minimize disturbance to the prevailing hydrologic balance by—

(1) Avoiding discharge of fluids into holes or wells other than as approved by the regulatory authority;

(2) Injecting process recovery fluids only into geologic zones or intervals approved as production zones by the regulatory authority;

(3) Avoiding annular injection between the wall of the drill hole and the casing; and

(4) Preventing discharge of process fluid into surface waters.

(c) Each person who conducts in-situ processing activities shall submit for approval, and follow after approval, a plan that ensures that all acid-forming, toxic-forming, or radioactive gases, solids, or liquids constituting a fire, health, safety, or environmental hazard and caused by the mining and recovery process are promptly treated, confined, or disposed of in a manner that prevents contamination of ground and surface waters, damage to fish, wildlife and related environmental values, and threats to the public health and safety.

(d) Each person who conducts in-situ processing activities shall prevent flow of the process recovery fluid—

(1) Horizontally beyond the affected area identified in the permit; and

(2) Vertically into overlying or underlying aquifers.

(e) Each person who conducts in-situ processing activities shall restore the quality of affected ground water in the mine plan and adjacent area, including ground water above and below the production zone, to the approximate pre-mining levels or better to ensure that the potential for use of the ground water is not diminished.

§ 828.12 In-situ processing: Monitoring.

(a) Each person who conducts in-situ processing activities shall monitor the quality and quantity of surface and ground water and the subsurface flow and storage characteristics, in a manner approved by the regulatory authority to measure changes in the quantity and quality of water in surface and ground water systems in the mine plan area and in adjacent areas.

(b) Air quality monitoring shall be conducted in accordance with the air quality monitoring program approved by the regulatory authority and shall include periodic measurement of windspeed, direction, and temperature and of those air quality indicators specified by the regulatory authority in consultation with the appropriate air quality control authority.

(c) Environmental monitoring shall measure, at a minimum, any increases in ambient levels of phenols, nitrogen compounds, and carbon compounds.

PART 840—STATE REGULATORY AUTHORITY INSPECTION AND ENFORCEMENT

Sec.
840.1 Scope.
840.11 Inspections by State regulatory authority.
840.12 Right of entry.
840.13 Enforcement authority.
840.14 Availability of records.

AUTHORITY: Secs. 102, 201, 501(b), 503, 517, 518, 521, and 523 of Pub. L. 95-87, 91 Stat. 448, 449, 468, 470, 498, 499, 504, 510 (30 U.S.C. 1202, 1211, 1251, 1253, 1267, 1268, 1271, 1273).

§ 840.1 Scope.

This Part sets forth the minimum requirements for inspection and enforcement by a State, where a State is the regulatory authority under a State program or a cooperative agreement.

§ 840.11 Inspections by State regulatory authority.

(a) The State regulatory authority shall conduct, on at least one partial inspection per month of each surface coal mining and reclamation operation under its jurisdiction. A partial inspection is an on-site review of a person's compliance with some of the permit conditions and requirements imposed under the State program or the cooperative agreement during which the inspector collects evidence with respect to every violation of any such condition or requirement he observed.

(b) The State regulatory authority shall conduct at least one complete inspection per calendar quarter of each surface coal mining and reclamation operation under its jurisdiction. A complete inspection is an on-site review of a person's compliance with all permit conditions and requirements imposed under the State program or the cooperative agreement, within the entire area disturbed or affected by surface coal mining and reclamation operations, including the collection of evidence with respect to every violation of any such condition or requirement.

(c) The inspections required under paragraphs (a) and (b) of this section shall:

(1) Be carried out on an irregular basis so as to monitor compliance at all operations, including those which operate nights, weekends, or holidays;

(2) Occur without prior notice to the person being inspected or any agent or employee of such person, except for necessary on-site meetings; and

(3) Include the prompt filing of inspection reports adequate to enforce the requirements of and to carry out the terms and purposes of the applicable program, the regulations and the Act.

§ 840.12 Right of entry.

(a) Within its jurisdiction, the State regulatory authority shall have statutory authority that grants its representatives a right of entry to, upon, and through any surface coal mining and reclamation operation without advance notice or search warrant, upon presentation of appropriate credentials.

(b) The State regulatory authority shall have statutory authority that authorizes its representatives to inspect any monitoring equipment or method of operation and to have access to and copy any records required under the State program or the cooperative program or a permit issued the program. The statutory authority shall provide that the representatives may exercise such rights at reasonable times, without advance notice or a search warrant, upon presentation of appropriate credentials.

§ 840.13 Enforcement authority.

(a) Each State program and each cooperative agreement program shall contain civil and criminal penalties which are no less stringent than those set forth in Section 518 of the Act and in 30 CFR 843.20 and Part 845.

(b) The enforcement provisions of each State program and cooperative agreement program shall contain sanctions no less stringent than those set forth in Section 521 of the Act and in 30 CFR 843.11, 843.12, 843.19, Part 808, and subchapter G.

(c) Each State program and each cooperative program shall contain procedural rights relating to the penalties and sanctions in paragraphs (a) and (b) of this section which shall be consistent with those provided in 30 CFR 843 and 845 and subchapter G.

(d) Nothing in the Act or this Part shall be construed as eliminating any additional enforcement rights or procedures which are available under State law to a State regulatory authority but which are not specifically enumerated in Section 518 and Section 521 of the Act.

§ 840.14 Availability of records.

(a) Each State regulatory authority shall make available to the Director and the Regional Director, upon request, copies of all documents relating to applications for and approvals of existing, new, or revised permits and all documents relating to inspection and enforcement actions.

(b) Copies of all records, reports, inspection materials, or information obtained by the State under a State program or a cooperative program, except information mentioned in paragraphs (c) and (d) of this section shall be immediately made available to the public in the area of mining so that they are conveniently available to residents in the area of mining. Copies shall be deemed conveniently available if they are furnished upon request within 5 days, in the case of a county or multi-county location, or 24 hours, in the case of a State or central location.

(c) Information as to coal seams, test borings, core samplings, or soil samples which is required under a State program or a cooperative program under Section 507(b)(17) of the Act and pertains only to analysis of the chemical and physical properties of the coal, except information regarding mineral or elemental content which is potentially toxic in the environment, shall be kept confidential and shall not be made a matter of public record.

(d) In order to protect preparation for hearings and enforcement proceedings, the Director and the State regulatory authority may enter into agreements regarding procedures for the special handling of investigative and enforcement reports and other materials.

PART 842—FEDERAL INSPECTIONS

Sec.
842.1 Scope.

minent environmental harm exists and that the State regulatory authority has failed to act.

(c) The Office, when acting as the

facts that are credible and would, if true, be sufficient to show a violation of the Act, this chapter, any applicable program or any permit condition

ing equipment or method of operation required under the Act, this Chapter, the applicable program or any permit condition imposed under such program.

nated by the Office, in the area of mining so that they are conveniently available to residents in the area of mining. All such copies shall be deemed conveniently available if they

plicable program, or any permit condition imposed under any such program, which:

(i) Creates an imminent danger to the health or safety of the public; or

PART 842—FEDERAL INSPECTIONS

Sec.
842.1 Scope.
842.11 Federal inspections.
842.12 Citizens' requests for federal inspections.
842.13 Right of entry.
842.14 Review of inspections.
842.15 Review of decisions not to inspect or enforce.
842.16 Availability of records.

AUTHORITY: Secs. 102, 201, 501(b), 504, 507, 517, 518, 521 and 523 of Pub. L. 95-87, 91 Stat. 448, 449, 468, 471, 474, 499, 504, 510 (30 U.S.C. 1202, 1211, 1251, 1254, 1257, 1267, 1268, 1271, 1273).

§ 842.1 Scope.

This Part sets forth general procedures governing Federal inspections under the permanent regulatory program.

§ 842.11 Federal inspections.

(a) Authorized representatives of the Secretary shall conduct inspections of surface coal mining and reclamation operations as are necessary:

(1) To evaluate the administration of approved State programs and cooperative programs;

(2) To develop or enforce Federal programs and Federal lands programs;

(3) To enforce those requirements and permit conditions imposed under a State program or cooperative program not being enforced by a State, under Section 504(b) or section 521(b) of the Act; and

(4) To determine whether the citations issued during an inspection authorized under this section have been complied with.

(b) An authorized representative of the Secretary shall immediately conduct a Federal inspection to enforce any requirement the Act, this Chapter, any State, Federal, cooperative or Federal lands program or any permit condition imposed under such program:

(1) When the authorized representative has reason to believe, on the basis of information available, other than information resulting from a previous Federal inspection, that such a violation exists and—

(i) There is no State regulatory authority; or

(ii) The authorized representative has notified the State regulatory authority of the possible violation and within 10 days after notification the State regulatory authority has failed to take appropriate action to have the violation corrected and to inform the authorized representative that it has taken such action or has a valid reason for its inaction; or

(iii) The person supplying the information provides adequate proof that an imminent danger to the public health and safety or a significant imminent environmental harm exists and that the State regulatory authority has failed to act.

(c) The Office, when acting as the regulatory authority under a Federal program or a Federal lands program and when enforcing a State program or a cooperative program in whole or in part pursuant to Section 504(b) or section 521(b) of the Act, shall conduct inspections of all surface coal mining and reclamation operations under its jurisdiction. These inspections shall average at least:

(1) One partial inspection per month of each surface coal mining and reclamation operation under its jurisdiction. A partial inspection is an onsite review of a person's compliance with some of the permit conditions and requirements imposed under the applicable program, during which the inspector collects evidence with respect to every violation of any such condition or requirement he observed; and

(2) One complete inspection per calendar quarter. A complete inspection is an onsite review of a person's compliance with all permit conditions and requirements imposed under the applicable program within the entire area disturbed or affected by surface coal mining and reclamation operations, including the collection of evidence with respect to every violation of any such condition or requirement.

(d) The inspections required under paragraph (c) shall—

(1) Be carried out on an irregular basis so as to monitor compliance at all operations, including those which operate nights, weekends, or holidays;

(2) Occur without prior notice to the person being inspected or any of his agents or employees, except for necessary onsite meetings; and

(3) Include the prompt filing of inspection reports adequate to enforce the requirements of and to carry out the terms and purposes of the applicable program, any permit condition imposed under such program, this Chapter and the Act.

§ 842.12 Citizens' requests for Federal inspections.

(a) A citizen may request a Federal inspection under 30 CFR 842.11(b) by furnishing to an authorized representative of the Secretary—

(1) A signed written statement giving the authorized representative reason to believe a violation exists, and a phone number and address where the citizen can be contacted; or

(2) An oral report, followed by a signed written statement, giving that information, phone number and address.

(b) The information provided under paragraph (a) of this section shall be considered as furnishing reason to believe a violation exists if it alleges facts that are credible and would, if true, be sufficient to show a violation of the Act, this chapter, any applicable program or any permit condition imposed under such program.

(c) The identity of any person supplying information to the Office relating to a possible violation or imminent danger or harm shall remain confidential with the Office if requested by such person, unless disclosure is required under the Freedom of Information Act (5 U.S.C. Section 552) or other Federal law;

(d) If a Federal inspection is conducted as a result of information provided to the Office by a citizen as described in paragraph (a) of this section, the person who provided the information shall be notified when the inspection is to occur and be allowed to accompany the authorized representative of the Secretary during the inspection. Such person has a right of entry to, upon and through the surface coal mining and reclamation operations about which he supplied information, but only if he is in the presence of and is under the control, direction and supervision of the authorized representative while on the mine property.

(e) Within 10 days of the Federal inspection, or, if there is no inspection, within 15 days of receipt of the citizen's written statement, the Office shall send the citizen the following:

(1) If an inspection was made, a description of the enforcement action taken, which may consist of copies of the Federal inspection report and all notices of violation and cessation orders issued as a result of the inspection or an explanation of why no enforcement action was taken;

(2) If no Federal inspection was conducted, an explanation of the reason why; and

(3) An explanation of the citizen's right, if any, to informal review of the action or inaction of the Office under 30 CFR 842.14.

(f) The Office shall give copies of all materials in paragraphs (e)(1) and (2) of this Section to the person inspected, except that the name of the citizen shall be removed unless disclosure of the citizen's identity is permitted under paragraph (c) of this section.

§ 842.13 Right of entry.

Each authorized representative of the Secretary conducting a Federal inspection under 30 CFR 842.11:

(a) Shall have a right of entry to, upon, and through any surface coal mining and reclamation operations without advance notice or a search warrant, upon presentation of appropriate credentials; and

(b) May, at reasonable times and without delay, have access to and copy any records, and inspect any monitoring equipment or method of operation required under the Act, this Chapter, the applicable program or any permit condition imposed under such program.

§ 842.14 Review of adequacy and completeness of inspections.

Any person who is or may be adversely affected by a surface coal mining operation may notify the Regional Director in writing of any alleged failure on the part of the Office to make adequate and complete Federal inspections as provided in 30 CFR 842.11(c) and (d). The notification shall include sufficient information to create a reasonable belief that 30 CFR 842.11(c) and (d) are not being complied with and to demonstrate how the person is or may be adversely affected. The Regional Director shall within 15 days of receipt of the notification determine whether 30 CFR 842.11(c) and (d) are being complied with, and if not, shall immediately order a Federal inspection to remedy the noncompliance. The Regional Director shall also furnish the complainant with a written statement of the reasons for his determination and the actions, if any, he has taken.

§ 842.15 Review of decision not to inspect or enforce.

(a) Any person who is or may be adversely affected by a surface coal mining operation may ask the Regional Director to informally review an authorized representative's decision not to inspect or take appropriate enforcement action with respect to any violation alleged by that person in a request for Federal inspection under Section 842.12. The request for review shall be in writing and shall include a statement of how the person is or may be adversely affected and why the decision merits review.

(b) The Regional Director shall conduct the review and inform the person in writing of the results of the review within 30 days of his receipt of the request.

(c) Informal review under this Section shall not affect any right to formal review under Section 525 of the Act or to a citizen's suit under Section 520 of the Act.

§ 842.16 Availability of records.

(a) Copies of all records, reports, inspection materials, or information obtained by the Office under Title V of the Act, this chapter, a Federal program or a Federal lands program, or a State program being enforced by the Office under Sections 504(b) or 521(b) of the Act, except information in paragraph (b) of this section, shall be immediately made available to the public at Regional, district and field offices of the Office, or other locations designated by the Office, in the area of mining so that they are conveniently available to residents in the area of mining. All such copies shall be deemed conveniently available if they are provided upon request within 5 days, in the case of a district, field or other local office, and 24 hours in the case of a Regional or central office.

(b) Information as to coal seams, test borings, core samplings, or soil samples which is required under Section 507(b)(17) of the Act, and pertains only to the analysis of the chemical and physical properties of the coal, except information regarding mineral or element content which is potentially toxic in the environment, shall be kept confidential and shall not be made a matter of public record.

PART 843—FEDERAL ENFORCEMENT

Sec.
843.1 Scope.
843.5 Definitions.
843.11 Cessation orders.
843.12 Notices of violation.
843.13 Suspension or revocation of permits.
843.14 Notices of violation and cessation orders.
843.15 Informal mine site hearing.
843.16 Formal review of citations.
843.17 Failure to give notice and lack of reasonable relief.
843.18 Inability to comply.
843.19 Injunctive relief.

AUTHORITY: Secs. 102, 201, 501(b), 503, 504, 510, 517, 518, 521, 523, 525 and 701 of Pub. L. 95-87, 91 Stat. 448, 449, 468, 470, 471, 480, 498, 499, 504, 510, 511, and 516 (30 U.S.C. 1202, 1211, 1251, 1253, 1254, 1260, 1267, 1268, 1271, 1273, 1275, and 1291).

§ 843.1 Scope.

This Part sets forth general rules regarding enforcement by the Office of the Act, this Chapter, all Federal programs, the Federal lands program, all State programs being enforced by the Office under Section 504(b) or Section 521(b) of the Act, and all permit conditions imposed under any of these programs. Civil penalties in connection with notices of violation and cessation orders issued under this Part are set forth in 30 CFR 845.

§ 843.5 Definitions.

Authorized representative of the Secretary means a person designated by the Secretary as his authorized representative to act with respect to matters mentioned in this Chapter.

§ 843.11 Cessation orders.

(a)(1) An authorized representative of the Secretary shall immediately order a cessation of surface coal mining and reclamation operations or of the relevant portion, if he finds, on the basis of any Federal inspection, any condition or practice or any violation of the Act, this Chapter, any applicable program, or any permit condition imposed under any such program, which:

(i) Creates an imminent danger to the health or safety of the public; or

(ii) Is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.

(2) If the cessation ordered under paragraph (a)(1) of this section will not completely abate the imminent danger or harm in the most expeditious manner possible, the authorized representative of the Secretary shall impose affirmative obligations on the person to whom it is issued to abate the condition, practice, or violation. The order shall specify the time by which abatement shall be accomplished and may require, among other things, the use of existing or additional personnel and equipment.

(b)(1) An authorized representative of the Secretary shall immediately order a cessation of surface coal mining and reclamation operations, or of the relevant portion, when a notice of violation has been issued under 30 CFR 843.12(a) and the permittee fails to abate the violation within the abatement period fixed or subsequently extended by the authorized representative.

(2) A cessation order issued under this paragraph shall require the person to whom it is issued to take all steps the authorized representative of the Secretary deems necessary to abate the violations covered by the order in the most expeditious manner possible.

(c) A cessation order issued under paragraphs (a) or (b) of this section shall be in writing, shall be signed by the authorized representative who issues it and shall set forth with reasonable specificity: (1) the nature of the violation; (2) the remedial action or affirmative obligation required, if any; (3) the time established for abatement including interim steps, if appropriate; and (4) a reasonable description of the portion of the surface coal mining and reclamation operation to which it applies. The order shall remain in effect until the condition, practice or violation has been abated or until vacated, modified or terminated in writing by an authorized representative of the Secretary.

(d) Reclamation operations and other activities intended to protect public health and safety and the environment shall continue during the period of any order unless otherwise provided in the order.

(e) An authorized representative of the Secretary may modify, terminate or vacate a cessation order for good cause, and may extend the time for abatement if the failure to abate within the time previously set was not

caused by lack of diligence on the part of the person to whom it was issued.

(f) An authorized representative of the Secretary shall terminate a cessa-

regulatory authority and the person responsible for the violation, so that appropriate enforcement action can be taken by the State regulatory authori-

the permit area within any 12-month period.

(b) The Director shall not issue a show cause order if he finds that to do

§ 843.14 Notices of violation and cessation orders.

(a) A notice of violation or cessation

(1) Is informed in the notice or order that he will be deemed to have waived a mine site hearing unless he requests one in writing within 30 days after he

843.11 or 843.12 or a person having an interest which is or may be adversely affected by the issuance, modification, vacation or termination of a notice or

caused by lack of diligence on the part of the person to whom it was issued.

(f) An authorized representative of the Secretary shall terminate a cessation order, by written notice to the person to whom the order was issued, when he determines that all conditions, practices or violations listed in the order have been abated. Termination shall not affect the right of the Assessment Office to assess civil penalties for those violations under 30 CFR 845.

§ 843.12 Notices of violation.

(a)(1) An authorized representative of the Secretary shall issue a notice of violation if, on the basis of a Federal inspection carried out during the enforcement of a Federal program or Federal lands program or during Federal enforcement of a State program under Sections 504(b) or 521(b) of the Act, he finds a violation of the Act, this Chapter, the applicable program, or any permit condition imposed under such program, which does not create an imminent danger or harm for which a cessation order shall be issued under 30 CFR 843.11.

(2) A notice of violation issued under this section shall be in writing, shall be signed by the authorized representative who issues it, and shall set forth with reasonable specificity:

(i) The nature of the violation;

(ii) The remedial action required which may include interim steps;

(iii) A reasonable time for abatement which may include time for accomplishment of interim steps; and

(iv) A reasonable description of the portion of the surface coal mining and reclamation operation to which it applies.

(b) An authorized representative of the Secretary may extend the time set for abatement or for accomplishment of an interim step if the failure to meet the time previously set was not caused by lack of diligence on the part of the person to whom it was issued. The total time for abatement under a notice of violation, including all extensions, shall not exceed 90 days from the date of issuance.

(c) If the person to whom the notice was issued fails to meet any time set for abatement or for accomplishment of an interim step, the authorized representative shall issue a cessation order under 30 CFR 843.11(b).

(d) When, on the basis of a Federal inspection conducted to evaluate an approved State program under 30 CFR 842.11(a)(1) or conducted under 30 CFR 842.11(b)(1) as a result of State inaction, an authorized representative of the Secretary finds a violation for which a notice of violation cannot be issued under this Section, the authorized representative shall give written notice of the violation to the State regulatory authority and the person responsible for the violation, so that appropriate enforcement action can be taken by the State regulatory authority. The State regulatory authority shall, within 10 days of receipt of the notice, give written notice to the authorized representative of the action it has taken and plans to take with respect to the violation.

(e) An authorized representative of the Secretary shall terminate a notice of violation by written notice to the person to whom it was issued, when he determines that all violations listed in the notice of violation have been abated. Termination shall not affect the right of the Assessment Office to assess civil penalties for those violations under 30 CFR Part 845 (civil penalties).

§ 843.13 Suspension or revocation of permits.

(a)(1) Except as provided in paragraph (b) of this section, the Director shall issue an order to a permittee requiring him to show cause why his permit and his right to mine under the Act should not be suspended or revoked, if the Director determines that a pattern of violations of any requirements of the Act, these regulations, or any permit conditions by the permittee exists or has existed, and that the violations were willful or were caused by the permittee's unwarranted failure to comply with such requirements or conditions. A willful violation is a violation resulting from an intentional act or omission. Unwarranted failure to comply means the failure of the permittee to prevent the occurrence of any violation due to indifference, lack of diligence, or lack of reasonable care.

(2) The Director may determine that a pattern of violations exists or has existed, based on two or more Federal inspections of the permit area within any 12-month period, after considering the circumstances, including:

(i) The number of violations, on more than one occasion, of one or more provisions of the Act, this Chapter, the applicable program or the permit, which relate to the same general topic;

(ii) The number of violations, on more than one occasion, of one or more provisions of the Act, this Chapter, the applicable program or the permit, which are not related to the same general topic; and

(iii) The extent to which the violations were isolated departures from lawful conduct.

(3) The Director shall determine that a pattern of violations exists if he finds that there were violations of provisions of the Act, this Chapter, the applicable program or the permit relating to the same general topic during three or more Federal inspections of the permit area within any 12-month period.

(b) The Director shall not issue a show cause order if he finds that to do so would not further enforcement of the Act.

(c) At the same time as the issuance of the order, the Director shall:

(1) File a copy of the order to show cause with the Office of Hearings and Appeals and the State regulatory authority, if any;

(2) If practicable, publish notice of the order, including a brief statement of the procedure for intervention in the proceeding, in a newspaper of general circulation in the area of the mine; and

(3) Post the notice at the regional, district or field office closest to the mine site.

(d) If the permittee files an answer to the show cause order and requests a hearing under 43 CFR Part 4, a public hearing shall be provided as set forth in that Part. The Office of Hearings and Appeals shall give thirty days' written notice of the date, time and place of the hearing to the Director, the permittee, the State regulatory authority, if any, and any intervenor. Upon receipt of the notice the Director shall publish it, if practicable, in a newspaper of general circulation in the area of the mine, and shall post it at the Regional, district or field office closest to the mine site.

(e) Within sixty days after the hearing, and within the time limits set forth in 43 CFR Part 4, the Office of Hearings and Appeals shall issue a written determination as to whether a pattern of violations exists and, if appropriate, an order. If the Office of Hearings and Appeals revokes or suspends the permit and the permittee's right to mine under the Act, the permittee shall immediately cease surface coal mining operations on the permit area and shall:

(1) If the permit and the right to mine under the Act are revoked, complete reclamation within the time specified in the order; or

(2) If the permit and the right to mine under the Act are suspended, complete all affirmative obligations to abate all conditions, practices or violations, as specified in the order.

(f) An order issued under this Section by the Office of Hearings and Appeals or by a court, upon review of that order, may assess against either party, at the request of any person, a sum equal to the aggregate amount of all costs and expenses including attorneys' fees, reasonably incurred by that person for or in connection with his participation in proceedings under this section including any judicial review thereof, as the Office of Hearings and Appeals or the court deems proper.

§ 843.14 Notices of violation and cessation orders.

(a) A notice of violation or cessation shall be served on the person to whom it is directed or his designated agent promptly after issuance, as follows:

(1) By tendering a copy at the mine site to the designated agent or to the individual who, based upon reasonable inquiry by the authorized representative, appears to be in charge of the surface coal mining or reclamation operation referred to in the notice or order. If no such individual can be located at the mine site, a copy may be tendered to any individual at the mine site who appears to be an employee of the person to whom the notice or order is issued. Service shall be complete upon tender of the notice or order.

(2) As an alternative to paragraph (a)(1) of this section, service may be made by sending a copy of the notice or order by certified mail or by hand to the person to whom it is issued or his designated agent. Service shall be complete upon tender of the mail and shall not be incomplete because of refusal to accept.

(b) A show cause order may be served on the person to whom it is issued in either manner provided in paragraph (a)(2) of this section.

(c) Designation by any person of an agent for service of notices and orders shall be made in writing to the appropriate regional, district or field office of the Office.

(d) The Office shall furnish copies of notices and orders to the State regulatory authority, if any, promptly after their issuance. The Office may furnish copies to any person having an interest in the surface coal mining and reclamation operation or the permit area, such as the owner of the fee, a corporate officer of the permittee or the bonding company.

§ 843.15 Informal mine site hearing.

(a) Except as provided in paragraphs (b) and (c), a notice of violation or cessation order which requires cessation of mining, expressly or by necessary implication, shall expire within 30 days after it is served unless an informal public hearing has been held within that time at or reasonably close to the mine site so that it may be viewed during the hearing. For purposes of this section, mining means extracting coal from the earth or coal waste piles and transporting it within or from the permit area.

(b) Paragraph (a) of this section shall not apply if the condition, practice or violation in question has been abated or if the mine site hearing has been waived.

(c) The mine site hearing shall be deemed waived if the person to whom the notice or order is issued:

(1) Is informed in the notice or order that he will be deemed to have waived a mine site hearing unless he requests one in writing within 30 days after he has actual notice of the notice or order; and

(2) Fails to request a mine site hearing within that time.

(d) The person to whom the notice or order is issued shall be deemed to have consented to an extension of time for the mine site hearing if his request is received on or after the 21st day after he has actual notice of the notice or order. The extension of time shall equal to the number of days elapsed after the 21st day.

(e) The Office shall give notice of the time, place and subject matter of the mine site hearing, at least five days in advance of the hearing to:

(1) The person to whom the notice or order was issued,

(2) Any person who filed a report which led to that notice or order; and

(3) The State regulatory authority, if any.

(f) The Office shall also, at least five days before the hearing, post notice of the hearing at the regional, district or field office closest to the mine site, and publish it, to the extent practicable, in a newspaper of general circulation in the area of the mine.

(g) Section 554 of Title 5 of the United States Code, regarding requirements for formal adjudicatory hearings, shall not govern mine site hearings. A mine site hearing shall be conducted by a representative of the Office, who may accept oral or written arguments and any other relevant information from any person attending.

(h) Within five days of the close of the mine site hearing, the Office shall affirm, modify, or vacate the notice or order in writing. The decision shall be sent to—

(1) The person to whom the notice or order was issued;

(2) Any person who filed a report which led to the notice or order; and

(3) The State regulatory authority, if any.

(i) The granting or waiver of a mine site hearing shall not affect the right of any person to request formal review under Sections 518(b), 525, 521(a)(4) of the Act.

(j) At such hearings no evidence as to statements made or evidence produced at a mine site hearing shall be introduced as evidence or to impeach a witness. Expiration of a notice or order shall not affect the Director's right to assess civil penalties for the violations mentioned in the notice or order under 30 CFR 845, civil penalties.

§ 843.16 Formal review of citations.

(a) A person issued a notice of violation or cessation order under 30 CFR 843.11 or 843.12 or a person having an interest which is or may be adversely affected by the issuance, modification, vacation or termination of a notice or order, may request review of that action by filing an application for review and request for hearing, under 43 CFR Part 4, within 30 days after receiving notice of the action.

(b) The filing of an application for review and request for a hearing under this Section shall not operate as a stay of any notice or order, or of any modification, termination or vacation of either.

§ 843.17 Failure to give notice and lack of reasonable relief.

No notice of violation, cessation order or order revoking or suspending a permit may be vacated in an administrative review proceeding for failure to give the notice to the State regulatory authority required under 30 CFR 842.11(b)(1)(ii) or because it is subsequently determined that the Office did not have information sufficient, under 30 CFR 842.11(b)(1)(i), to justify an inspection.

§ 843.18 Inability to comply.

(a) No order to show cause, cessation order or notice of violation issued under this Part may be vacated because of inability to comply.

(b) Unless caused by lack of diligence, inability to comply may be considered only in mitigation of the amount of civil penalty under 30 CFR 845 and of the duration of the suspension of a permit under 30 CFR 842.16(d).

§ 843.19 Injunctive relief.

The Office may request the Attorney General of the United States to institute a civil action for relief, including a permanent or temporary injunction, restraining order or any other order, in the district court of the United States for the district in which the surface coal mining and reclamation operation is located or in which the person to whom the notice of violation or order has been issued has his principal office, whenever that person or his agent in violation of the Act, this Chapter, any applicable program, or any permit condition imposed under that program:

(a) Violates or fails or refuses to comply with any order or decision of the Secretary or an authorized representative of the Secretary under the Act, this Chapter or any applicable program for which the Office is the regulatory authority;

(b) Interferes with, hinders or delays the Secretary or an authorized representative of the Secretary;

(c) Refuses to admit an authorized representative of the Secretary to a mine;

(d) Refuses to permit inspection of a mine by an authorized representative of the Secretary;

(e) Refuses to furnish any required

(c) The Assessment Office may assess a penalty for a violation assigned 30 points or less under the point system described in 30 CFR

follows: failure to remove topsoil is a violation of the topsoil standard in 30 CFR 816.22; however, delay in and failure of revegetation and resulting

(C) A greater degree of fault than negligence means reckless, knowing or intentional conduct.

(iii) In calculating points to be as-

Points	Dollars	Points	Dollars
27	700	28	800
29	900	30	1,000

CFR 845.12, the Assessment Office shall assess a civil penalty for a minimum of two separate days.

(d) Refuses to permit inspection of a mine by an authorized representative of the Secretary;

(e) Refuses to furnish any required information or report;

(f) Refuses to permit access to or copying of any required records; or

(g) Refuses to permit inspection of monitoring equipment.

PART 845—CIVIL PENALTIES

Sec.

845.1 Scope.
845.2 Objective.
845.11 How assessment are made.
845.12 When penalty will be assessed.
845.13 Point system for penalties.
845.14 Determination of amount of penalty.
845.15 Assessment of separate violations for each day.
845.16 Waiver of use of formula to determine civil penalty.
845.17 Procedures for assessment of civil penalties.
845.18 Procedures for assessment conference.
845.19 Request for hearing.
845.20 Final assessment and payment of penalty.

AUTHORITY: Secs. 102, 201, 501(b), 517, 518, 521, 523 and 525 of Pub. L. 95-87, 91 Stat. 448, 449, 468, 498, 499, 504, 510, and 511 (30 U.S.C. 1202, 1211, 1251, 1267, 1268, 1271, 1273 and 1275.)

§ 845.1 Scope.

This Part covers the assessment of civil penalties under Section 518 of the Act with respect to cessation orders and notices of violation issued under Part 843 (Federal enforcement).

§ 845.2 Objective.

Civil penalties are assessed under Section 518 of the Act and this Part to deter violations and to ensure maximum compliance with the terms and purposes of the Act on the part of the coal mining industry.

§ 845.11 How assessment are made.

The Assessment Office shall review each notice of violation and cessation order in accordance with the assessment procedures described in 30 CFR 845.12, 845.13, 845.14, 845.15, and 845.16 to determine whether a civil penalty will be assessed, the amount of the penalty, and whether each day of a continuing violation will be deemed a separate violation for purposes of the total penalty assessed.

§ 845.12 When penalty will be assessed.

(a) The Assessment Office shall assess a penalty for each violation contained in a cessation order.

(b) The Assessment Office shall assess a penalty for each violation contained in a notice of violation, if the violation is assigned 31 points or more under the point system described in 30 CFR 845.13.

(c) The Assessment Office may assess a penalty for a violation assigned 30 points or less under the point system described in 30 CFR 815.13. In determining whether to assess a penalty, the Assessment Office shall consider the factors listed in 30 CFR 845.13.

§ 845.13 Point system for penalties.

(a) The Assessment Office shall use the point system described in this section to determine the amount of the penalty and, in the case of notices of violation, whether a mandatory penalty should be assessed as provided in 30 CFR 845.12(b).

(b) Points shall be assigned as follows:

(1) *History of previous violations.* The Assessment Office shall assign up to 30 points based on the history of previous violations. One point shall be assigned for each past violation contained in a notice of violation. Five points shall be assigned for each violation, but not a condition or practice, contained in a cessation order. The history of previous violations, for the purpose of assigning points, shall be determined and the points assigned with respect to a particular surface coal mining operation. Points shall be assigned as follows:

(i) Except as provided in paragraph (b)(1)(ii) of this section, only violations for which notices or orders were issued within 1 year preceding the violation under consideration shall be counted;

(ii) A violation which is the subject of pending administrative or judicial review shall not be counted until termination of such review, and the period of time during which the violation was under review shall not be counted in computing the one-year period;

(iii) No violation for which the notice or order has been vacated shall be counted; and

(iv) Each violation shall be counted without regard to whether it led to a civil penalty assessment.

(2) *Seriousness.* The Assessment Office shall assign up to 30 points based on the seriousness of the violation, according to the following schedules:

(i) *Probability of occurrence.* The Assessment Office shall assign up to 15 points based on the probability of the occurrence of the event which a violated standard is designed to prevent. Points shall be assessed as follows:

Probability of occurrence	Points
None or insignificant	0–4
Unlikely	5–9
Likely	10–14
Occurred	15

An example of the concept of the phrase "the event which a violated standard is designed to prevent" is as follows: failure to remove topsoil is a violation of the topsoil standard in 30 CFR 816.22; however, delay in and failure of revegetation and resulting environmental harm are events which the topsoil standard in 30 CFR 816.22 is designed to prevent.

(ii) *Extent of potential or actual damage.* The Assessment Office shall assign up to 15 points based on the extent of the potential or actual damage, in terms of area and impact on the public or environment, as follows:

(A) If the damage or impact which the violated standard is designed to prevent would remain within the permit area, the Assessment Office shall assign zero to seven points depending on the duration and extent of the damage or impact.

(B) If the damage or impact which the violated standard is designed to prevent would extend outside the permit area, the Assessment Office shall assign eight to fifteen points depending on the duration and extent of the damage or impact.

(iii) *Alternative.* In the case of a violation of an administrative requirement, such as a requirement to keep records, the Assessment Office shall, as an alternative to paragraphs (i) and (ii), assign up to 15 points for seriousness based upon the extent to which enforcement is obstructed by the violation.

(3) *Negligence.* (i) The Assessment Office shall assign up to 25 points based on the degree of fault of the person to whom the citation was issued in causing or failing to correct the violation, condition or practice which led to the citation, either through act or omission. Points shall be assessed as follows:

(A) A violation which occurs through no negligence shall be assigned no penalty points for negligence;

(B) A violation which is caused by negligence shall be assigned 12 points or less, depending on the degree of negligence;

(C) A violation which occurs through a greater degree of fault than negligence shall be assigned 13 to 25 points depending on the degree of fault.

(ii) In determining the degree of negligence involved in a violation and the number of points to be assigned, the following definitions apply:

(A) No negligence means an inadvertent violation which was unavoidable by the exercise of reasonable care.

(B) Negligence means failure to prevent or correct a violation due to indifference, lack of diligence, or lack of reasonable care, or the commission of an act which results in a violation with indifference, lack of diligence or lack of reasonable care.

(C) A greater degree of fault than negligence means reckless, knowing or intentional conduct.

(iii) In calculating points to be assigned for negligence, the actions of all persons working on the mine site shall be attributed to the person to whom the citation was issued.

(4) *Good faith in attempting to achieve compliance.* (i) The Assessment Office shall subtract or add points based on the degree of good faith of the person to whom the citation was issued in attempting to achieve rapid compliance after notification of the violation. Points shall be assigned as follows:

Degree of Good Faith	Points
Rapid compliance	−1 to −10
Normal compliance	0
Lack of good faith	1 to 10

(ii) The following definitions shall apply under paragraph (b)(4)(i) of this section:

(A) *Rapid compliance* means that the person to whom the citation was issued took extraordinary measures to abate the violation in the shortest possible time and that abatement was achieved before the time set for abatement.

(B) *Normal compliance* means the person to whom the citation was issued abated the violation within the time given for abatement.

(C) *Lack of good faith* means the person to whom the citation was issued did not show diligence in attempting to abate the violation and the violation was not timely abated.

(iii) If the consideration of this criterion is impractical because of the length of the abatement period, the assessment may be made without considering this criterion, and may be reconsidered if the person to whom the citation was issued so requests within 10 days after the violation has been abated.

§ 845.14 Determination of amount of penalty.

The Assessment Office shall determine the amount of any civil penalty by converting the total number of points assigned under 30 CFR 845.13 to a dollar amount according to the following schedule:

Points	Dollars	Points	Dollars
1	20	2	40
3	60	4	80
5	100	6	120
7	140	8	160
9	180	10	200
11	220	12	240
13	260	14	280
15	300	16	320
17	340	18	360
19	380	20	400
21	420	22	440
23	460	24	480
25	500	26	600
27	700	28	800
29	900	30	1,000
31	1,100	32	1,200
33	1,300	34	1,400
35	1,500	36	1,600
37	1,700	38	1,800
39	1,900	40	2,000
41	2,100	42	2,200
43	2,300	44	2,400
44	2,400	45	2,500
46	2,600	47	2,700
48	2,800	49	2,900
50	3,000	51	3,100
52	3,200	53	3,300
54	3,400	55	3,500
56	3,600	57	3,700
58	3,800	59	3,900
60	4,000	61	4,100
62	4,200	63	4,300
64	4,400	65	4,500
66	4,600	67	4,700
68	4,800	69	4,900
70 and above	5,000.		

§ 845.15 Assessment of separate violations for each day.

(a) The Assessment Office may assess separately a civil penalty for each day from the date of issuance of the notice of violation or cessation order to the date set for abatement of the violation. In determining whether to make such an assessment, the Assessment Office shall consider the factors listed in 30 CFR 845.13 and the extent to which the person to whom the citation was issued gained any economic benefit as a result of a failure to comply.

(b) Whenever a violation has not been abated within the abatement period set in the citation, a civil penalty of not less than $750 shall be assessed for each day during which such failure continues, except that if the person to whom the notice or order was issued initiates review proceedings with respect to the violation the abatement period shall be extended as follows:

(1) If the Secretary orders suspension of the abatement requirements of the notice or order in a proceeding under section 525 of the Act, after determining that the person to whom the citation was issued will suffer irreparable loss or damage from the application of the requirements, the period permitted for abatement shall not end until the date on which the authorized representative of the Secretary issues a final order with respect to the violation in question; and

(2) If a court orders the suspension of the abatement requirements of the notice or order in a proceeding under section 526 of the Act, the period permitted for abatement shall not end until the date on which the court issues a final order with respect to the violation.

(c) For any violation which continues for two or more days and which is assigned more than 70 points under 30 CFR 845.12, the Assessment Office shall assess a civil penalty for a minimum of two separate days.

§ 845.16 Waiver of use of formula to determine civil penalty.

(a) The Director, upon his own initiative or upon written request received within 10 days of issuance of a notice of violation or a cessation order, may elect to waive in whole or in part the use of the formula contained in 30 CFR 845.13 to set the civil penalty if he determines that a waiver will further the enforcement objectives of the Act. However, the Director shall not waive the use of the formula and reduce the proposed assessment on the basis of an argument that a reduction in the proposed penalty could be used to abate violations of the Act.

(b) If the Director waives the use of the formula in whole or in part, he shall give a written explanation of the basis for the assessment made to the person to whom the notice or order was issued.

§ 845.17 Procedures for assessment of civil penalties.

(a) Within 10 days of service of a notice or order, the person to whom it was issued may submit written information about the violation to the Assessment Office and to the inspector who issued the citation. The Assessment Office shall consider any information so submitted in determining the facts surrounding the violation and the amount of the penalty.

(b) The Assessment Office shall serve a copy of the proposed assessment and of the worksheet showing the computation of the proposed assessment on the person to whom the citation was issued, by certified mail, within 30 days of the issuance of the citation. If the mail is tendered at the address of that person set forth in the sign required under 30 CFR 816.11, or at any address at which that person is in fact located, and he refuses to accept delivery of or to collect such mail, the requirements of this paragraph shall be deemed to have been complied with upon such tender.

§ 845.18 Procedure for assessment conference.

(a) The Assessment Office shall arrange for a conference to review the proposed assessment upon written request of the person to whom the citation was issued if the request is received within 15 days from the date the proposed assessment is mailed. That person may submit additional material for consideration during the conference, and the Assessment Office may contact him to discuss the assessment prior to the conference, if necessary to expedite the review.

(b) The Assessment Office shall assign a conference officer to hold the assessment conference. He shall con-

vided in paragraph (c)) within 30 days from receipt of the proposed assessment, except that:

assessed all or part of the escrowed amount, with interest from the date of payment into escrow to the date of the

person working on Federal lands after February 3, 1979.

(3) Monitoring approved State training courses, examinations and certifi-

duct all training to meet the requirements of this part, or that training courses will be conducted by surface coal mine operators under the supervi-

(i) Important rock and explosives properties;

(ii) Design of blast holes;

(iii) Pattern design, surface blasting,

(b) The Assessment Office shall assign a conference officer to hold the assessment conference. He shall consider all relevant information on the violation presented by the person to whom the citation was issued and may recalculate the proposed penalty higher or lower in the manner provided in 30 CFR 845.13 or vacate the proposed penalty. The Assessment Office shall serve any notice of modification or vacation of the proposed penalty assessment on the person to whom the citation was issued, in the manner provided in 30 CFR 845.17(b). The reasons for every change in a proposed assessment shall be fully documented in the file.

(c) The Assessment Office shall post notice of the time and place of the conference at the regional, district or field office closest to the mine at least 5 days before the conference. Any person shall have a right to attend and participate in the conference.

(d) If the issues are resolved, the conference officer shall prepare a settlement agreement to be signed by the conference officer on behalf of the Assessment Office and by the person assessed. If full payment is not received by the Assessment Office within 30 days after the date of signing, the Assessment Office shall enter the agreed-upon amount as a final order of the Secretary or shall rescind the agreement and reinstate the original proposed assessment.

(e) If a settlement agreement is entered into, the person assessed will be deemed to have waived all rights to further review of the violation or penalty in question, except as otherwise expressly provided in the settlement agreement. The settlement agreement shall contain a clause to this effect.

(f) A reduction of a proposed civil penalty assessment of more than 25 percent and more than $500 shall not be final and binding on the Secretary until approved by the Director or his designee.

(g) The conference officer may terminate the conference when he determines that the issues cannot be resolved or that the person assessed is not diligently working toward resolution of the issues.

(h) The Assessment Office shall notify the Office of Hearings and Appeals when a conference is terminated, the proposed penalty is raised or lowered, a settlement agreement has been entered into, or the proposed penalty has been paid in full.

§ 845.19 Request for hearing.

(a) The person assessed may contest the proposed penalty or the fact of the violation by submitting a petition and an amount equal to the proposed penalty to the Office of Hearings and Appeals (to be held in escrow as provided in paragraph (c)) within 30 days from receipt of the proposed assessment, except that:

(1) The fact of the violation may not be contested if it has been decided under an appeal filed under 30 CFR 843.16;

(2) If the conference officer raises the penalty as provided in 30 CFR 845.18(b), the person assessed shall submit the difference to the Office of Hearings and Appeals to be held in escrow as provided in paragraph (c), within 30 days of the modification of the proposed assessment or waive his right to further review under this Section; and

(3) If the conference officer lowers the penalty, the Assessment Office shall refund the difference to the person assessed with interest, as provided in 30 CFR 845.20(d).

(b) If a conference under 30 CFR 845.18 has been requested:

(1) The hearing shall be deferred until—

(i) The Assessment Office notifies the Office of Hearings and Appeals that the conference has been terminated, or the proposed penalty has been reduced; or

(ii) If the proposed penalty has been raised, the difference is submitted as provided in paragraph (a)(2) of this section.

(2) The hearing shall be waived if a settlement agreement is entered into as provided in 30 CFR 845.18(e).

(c) The Office of Hearings and Appeals shall transfer all funds submitted under paragraph (a) to the Assessment Office, which shall hold them in escrow pending completion of the review process, at which time it shall disburse them as provided in 30 CFR 845.20.

§ 845.20 Final assessment and payment of penalty.

(a) If the person to whom a citation is issued fails to request a hearing as provided in 30 CFR 845.19, the proposed assessment shall become a final order of the Secretary and the penalty assessed shall become due and payable upon expiration of the time to request a hearing.

(b) If any party requests judicial review of a final order of the Secretary, the proposed penalty shall continue to be held in escrow until completion of the review. Otherwise, subject to paragraph (d) of this section, the escrowed funds shall be transferred to the Assessment Office in payment of the penalty, and the escrow shall end.

(c) If administrative and judicial review terminates in an order reducing or eliminating the proposed penalty assessed under this part, the Assessment Office shall within 30 days of receipt of the order refund to the person assessed all or part of the escrowed amount, with interest from the date of payment into escrow to the date of the refund at the rate of 6 percent or at the prevailing Department of the Treasury rate, whichever is greater.

(d) If the review terminates in an order increasing the penalty, the person to whom the citation was issued shall pay the difference to the Assessment Office within 10 days after receipt of the order.

SUBCHAPTER M CERTIFICATION AND TRAINING OF BLASTERS AND BLASTER LEARNERS

REQUIREMENTS FOR BLASTER CERTIFICATION PROGRAM

Sec.
850.1 Scope.
850.2 Objectives.
850.3 Responsibility.
850.5 Definitions.
850.11 Training Programs.
850.12 Examinations.

AUTHORITY: Secs. 102, 201, 501(b), 515, 719, of Pub. L. 95-87, 91 Stat. 448, 449, 468, 486 and 526 (30 U.S.C. 1202, 1211, 1251, 1265 and 1309).

§ 850.1 Scope.

This part establishes program requirements and criteria for the training, examination and certification of persons engaging in or directly responsible for blasting or the use of explosives in surface coal mining and reclamation operations.

§ 850.2 Objectives.

The objectives of this part are:

(a) To establish minimum requirements and criteria for a training course in the use of explosives to ensure that blasting operations are conducted by well trained persons, and

(b) To establish standard examination and certification requirements to assure that blasting operations are conducted by competent persons.

§ 850.3 Responsibility.

(a) The Director is responsible for establishing a national examination for persons engaged in or directly responsible for blasting or the use of explosives in surface coal mining and reclamation operations and requirements governing the administration of that examination.

(b) Each Regional Director of the Office is responsible for:

(1) Reviewing and approving training, examination and certification programs proposed in a State program submitted under 30 CFR 731.

(2) Establishing and conducting Federal training courses and examining and certifying qualified blasters or blaster learners, in a State which does not have an approved State program after August 3, 1979, or for each person working on Federal lands after February 3, 1979.

(3) Monitoring approved State training courses, examinations and certification programs to ensure compliance with the requirements of this Part.

(c) Each State is responsible for:

(1) Preparing and submitting to the Regional Director on or before February 3, 1979, a State plan for the training, examination, and certification of blasters and blaster learners within a State program submitted under 30 CFR 731, which meets the requirements of this part, or notifying the Director of an intention not to submit a plan;

(2) Requiring that any person engaging in or directly responsible for blasting or use of explosives in surface coal mining and reclamation operations in the State shall, on and after the approval of a State program, be certified by the State or Federal government;

(3) Conducting training programs, holding examinations, and certifying blasters and blaster learners under an approved State plan;

(4) Approving and monitoring training programs conducted by any surface coal mine operator to ensure compliance with the requirements of State regulations where the program is authorized under an approved State program; and

(5) Collecting, maintaining and providing the Office with data on course attendance, test results and other information the Office may require.

(d) Any person who intends to be directly responsible for the conduct of blasting or use of explosives in surface coal mining and reclamation operations shall obtain a blaster's certification after approval of a State plan or implementation of a Federal program for certification before conducting these activities.

(e) Any person who intends to engage in, but not be directly responsible for the conduct of, blasting or using explosives in surface coal mining and reclamation operations shall obtain a blaster learners certificate after approval of a State plan or implementation of a Federal program for certification before engaging in these activities.

§ 850.5 Definitions.

Blaster means any person engaging in or responsible for conducting blasting or use of explosives in surface coal mining and reclamation operations.

Blaster learner means any person engaging in blasting or using explosives on surface coal mining and reclamation operations under the direct supervision of a certified blaster.

§ 850.11 Training programs.

A State program may provide that the State regulatory authority conduct all training to meet the requirements of this part, or that training courses will be conducted by surface coal mine operators under the supervision of the State. In either case the training course must be approved by the Office and at a minimum meet the requirements of this section.

(a) Each Instructor shall have a thorough knowledge of the subject matter they teach and have had practical field experience in its application.

(b) The course of training for blaster learners shall be the course required by the Mine Health and Safety Administration, and an introductory course in blasting and the use of explosives as approved by the Office.

(c) The course of training for blasters shall, at a minimum, include instruction in:

(1) The storage, transportation and use of explosives for blasting purposes;

(2) The design and layout of blast patterns, including proper use of delays;

(3) Loading of boreholes;

(4) Priming and boosting;

(5) Tamping and stemming;

(6) Blasting with detonating cord and other nonelectrical initiating systems;

(7) The use of blasting machines;

(8) The use of testing machines;

(9) The hazards and dangers involved in the use of explosives for blasting purposes;

(10) The chemical and physical properties of explosives;

(11) Ground vibrations and methods of monitoring and control;

(12) Air blast and methods of monitoring and control;

(13) Electrical blasting hazards;

(14) The need for accurate reports and blasting logs; and

(15) Any other subject matter that a State or the Office may require.

(c) On the job training shall be encouraged to the extent possible.

§ 850.12 Examinations.

(a) Examinations for blasters and blaster learners shall be conducted as needed by:

(1) The State regulatory authority in each State where there is an approved State program; and

(2) The Office in each State where there is a Federal program and for operations on Federal lands where there is no cooperative agreement between the State and the Office.

(b) The examination for blasters shall be a written examination established by the Office and shall include questions related to:

(1) Explosive energy;

(i) Types of explosives;

(ii) Selection of explosives; and

(iii) Explosive properties.

(2) Blast design:

(i) Important rock and explosives properties;

(ii) Design of blast holes;

(iii) Pattern design, surface blasting, including timing of blast holes with delay intervals and spacing burden and stemming; and

(iv) Controlled blasting techniques.

(3) Loading boreholes:

(i) Priming and boosting; and

(ii) Decking.

(4) Initiation systems:

(i) Electric;

(ii) Detonating cord;

(iii) Shock tube;

(iv) Gas detonation; and

(v) Additional initiation systems, as developed.

(5) Ground vibrations, air blast and fly rock monitoring and control.

(i) Monitoring and control.

(6) Secondary blasting.

(7) Current Federal and State blasting regulations.

(8) Such other matters as the State or the Office may require.

(c) Examinations for blaster learners shall be those prescribed and utilized in the introducotry blasting course required by the Office and the Mine Health and Safety Administration.

PART 851—MINIMUM REQUIREMENTS FOR CERTIFICATION OF BLASTERS

Sec.
851.1 Scope.
851.11 Certification procedures.
851.12 Terms and conditions of certification.
851.13 Recertification.
851.14 Restrictions.
851.15 Appeals.

AUTHORITY: Secs. 102, 201, 501(b), 515, and 719 of Pub. L. 95-87, 91 Stat. 448, 449, 468, 486 and 526 (30 U.S.C. 1202, 1211, 1251, 1265 and 1309).

§ 851.1 Scope.

This Part sets forth the minimum requirements that a person responsible for conducting blasting or use of explosives on surface coal mining and reclamation operations shall meet in order to become certified as a blaster by the State regulatory authority or the Office. It also provides a basic description of the terms and conditions of certification, the requirements for recertification, the minimum restriction on a Blaster's Certification and the procedures for appealing a decision with regard to suspension or revocation of a Blaster's Certification.

§ 851.11 Certification procedures.

(a) Each applicant for Blaster's certification shall be required to pass a qualifying examination established by the Office according to the requirements of 30 CFR 850.12. Each applicant may use one of the following con-

ditions as a prerequisite for taking the certification examination:

(1) A signed notorized statement

cate of certification to any duly authorized representative of the regulatory authority or the Office.

(c) The certified blaster-in-charge shall fire all blasts. When more than one certified blaster is engaged in the preparation for a blast, the operation's

V 43 / 181
SEP 18 78

ditions as a prerequisite for taking the certification examination:

(1) A signed notorized statement from the applicant's employer or other responsible person's certifying that the applicant is experienced in blasting; or

(2) Completion of a course in blasting approved by the Office, according to the requirements of 30 CFR 850.11.

(b) Applicants failing to qualify in the examination may reapply for examination by submitting a new application to the examining authority.

(c) Each applicant for blaster's certification must show proof of completion of the Mine Health and Safety training as required by the Mine Health and Safety Administration prior to being certified.

(d) Each applicant for blaster's certification shall have at least two years experience in blasting as applicable to surface coal mining operation.

(e) Each applicant for a Blaster's certification shall be notified in writing whether they have qualified or failed to qualify in the examination for Blaster's certification, within 30 days from the date of the examination.

(f) If the applicant qualifies in the examination, the State regulatory authority or the Office may grant certification if the application shows that all other requirements are met.

§ 851.12 Terms and conditions of certification.

(a) Certification shall be for a period of 3 years.

(b) A certificate of certification shall be issued only to an individual qualified in accordance with the requirements of section 850.12(c) of this part and shall bear his name, address, photograph, and signature.

(c) Each blaster or blaster learner shall, upon request, exhibit his certificate of certification to any duly authorized representative of the regulatory authority or the Office.

(d) After appropriate notice and an opportunity for an appeal, according to the requirements in section 851.15, the regulatory authority of the Office may suspend or revoke the certification of a blaster or blaster learner for any of the following reasons:

(1) Non-compliance with any order of the regulatory authority;

(2) Violation of the provisions of any State or Federal explosive law or regulation, or proof that false information was willfully given or a misrepresentation was willfully made to obtain the certification; or

(3) The Blaster or learner is an unlawful user of, or is addicted to, alcohol, narcotics, or other dangerous drugs.

§ 851.13 Recertification.

(a) Each blaster or blaster learner may apply for recertification every three (3) years to the regulatory authority or the Office. Before being recertified, blasters must complete an 8 hour refresher course required by the Office.

(b) Each blaster or blaster learner who fails to obtain recertification every 3 years may be required to apply for re-examination by submitting proper application accompanied by the appropriate fee, if required. In any event, re-examination is required every six years.

(c) Any individual whose certification has been suspended shall be required to pass a qualifying examination before being recertified.

§ 851.14 Restrictions.

(a) A blaster or blaster learner certification shall not be assigned or transferred.

(b) A blaster shall not delegate their responsibility to any individual who is not a certified blaster.

(c) The certified blaster-in-charge shall fire all blasts. When more than one certified blaster is engaged in the preparation for a blast, the operation's management shall designate the blaster-in-charge.

(d)(1) The blaster-in-charge shall be on the actual site of the blasting operation and shall directly supervise each blasting crew which may not exceed 6 learners per crew. The blaster-in-charge shall not be responsible for nor supervise more than one crew at any one time.

(2) The blaster-in-charge may authorize learners to perform general blasting operations, to load and unload explosives, prepare explosives for use in blasting, transport explosives at or near the job site, charge explosives into drill holes, tamp, or otherwise prepare explosives for detonation. However, each of these duties shall be performed only after instructions from and under the direct supervision of the blaster-in-charge. The blaster-in-charge has the full responsibility for all blasting including keeping of blasting logs and records, the blasting related activities of the learners in his charge, and for ensuring that all persons under his supervision have the necessary training to safely perform their duties.

§ 851.15 Appeals.

(a) Any person whose certification has been suspended or revoked may, within 30 days from the date of notice of this action, appeal the decision to the Director, The appeal shall contain a statement of the decision being appealed and facts upon which the requested reversal or modification of the decision is based.

(b) The Director shall take appropriate action on the appeal within 30 days from receipt of the appeal.

[FR Doc. 78-26350 Filed 9-5-78; 11:32 am]

V 43/181

SEE 18 78 V4

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V 43/181 SEP 78

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V 43 / 182 SE 19 78

Vol. 43—No. 182
9-19-78
PAGES
41941-42232

Federal register

TUESDAY, SEPTEMBER 19, 1978

highlights

SUNSHINE ACT MEETINGS 42100

NATIONAL PORT WEEK
Presidential proclamation 41941

FEDERAL EMERGENCY MANAGEMENT AGENCY
Reorganization plan 41943

FAMILY PLANNING SERVICES
HEW/PHS proposes changes in regulations governing the award and administration of grants; comments by 11-3-78 42019

BLACK LUNG BENEFITS
Labor/Benefits Review Board issues rules revising rules of practice and procedure relating to implementation of the Black Lung Benefits Reform Act of 1977 and the Black Lung Benefits Revenue Act of 1977; effective 10-19-78 (Part IV of this issue) 42144

TRANSPORTATION FOR ELDERLY AND HANDICAPPED PERSONS
DOT/UMTA rules to amend Transbus procurement requirements to require ramp or lift at front door; effective 9-14-78 . 41987

DISASTER LOANS
SBA issues proposal setting forth procedures for requesting disaster declarations and time limit for request; comments by 11-20-78 42016

COMMUNITY DEVELOPMENT PROCEDURES BLOCK GRANT PROGRAM
HUD/Secy proposes to amend and revise environmental review procedures; comments by 10-19-78 (Part VIII of this issue) 42220

ANIMAL WELFARE ACT
USDA/APHIS proposes standards and regulations for the humane handling, care, treatment, and transportation of marine mammals; comments by 11-20-78 (Part VII of this issue) .. 42200

PRIVACY ACT
CSA and Labor publish systems of records..... 42116

PHYSICIAN LABELING FOR ANTIPSYCHOTIC DRUGS
HEW/FDA extends time for comments on precaution statement; comments by 10-18-78..... 42042

SURFACE COAL MINING AND RECLAMATION OPERATIONS
Interior/OSMRE announces public briefing on 9-22-78 on proposed permanent program regulations 42018

CONTINUED INSIDE

V 43 / 182 SEP 19 78 VOL

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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Public Briefings: "How To Use the Federal Register."	523-5235
Code of Federal Regulations (CFR)	523-3419
	523-3517
Finding Aids	523-5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523-5233
Weekly Compilation of Presidential Documents.	523-5235
Public Papers of the Presidents	523-5235
Index	523-5235
PUBLIC LAWS:	
Public Law dates and numbers	523-5266
	523-5282
Slip Laws	523-5266
	523-5282
U.S. Statutes at Large	523-5266
	523-5282
Index	523-5266
	523-5282
U.S. Government Manual	523-5230
Automation	523-3408
Special Projects	523-4534

HIGHLIGHTS—Continued

SUBSTITUTES FOR MILK, CREAM, AND CHEESE
HEW/FDA proposes standards of identity and labeling requirements; comments by 11-27-78 (Part III of this issue) 42118

FOOD STANDARDS
HEW withdraws proposal for establishing a common or usual name for filled milk products; effective 9-19-78 (Part III of this issue) 42118
HEW/FDA reopens comment period on proposed revision on standards of identity for skim milk and pasteurized process cheese and cheese products; comments by 11-27-78 (2 documents) (Part III of this issue) 42126

CHEESES AND RELATED PRODUCTS
HEW/FDA proposes to revise and update standards of identity for nine cheeses and appropriate cross-referenced standards; comments by 11-27-78 (Part III of this issue) 42127

ELECTRIC UTILITY STEAM GENERATING UNITS
EPA proposes standards of performance to limit emissions and announces public hearings, 11-29 and 11-30-78; comments by 11-20-78 (2 documents) (Part V of this issue) 42154, 42183

GRADUATED PAYMENT MORTGAGES
FRS requests comments by 10-19-78 on a proposed official staff interpretation approving the use of certain tables and accompanying instructions 41993

COPYRIGHT CLAIMS
Library of Congress/Copyright Office rules on registration and deposit requirements; effective 9-19-78 41975

PRIMARY ALUMINUM INDUSTRY
EPA proposes to amend standards of performance for new stationary sources; hearing 10-16-78; comments by 11-20-78 (Part VI of this issue) 42186

ADVISORY COMMITTEES
USDA requests comments by 10-4-78 on proposal to establish a Citizens Advisory Committee on Equal Opportunity 42025

CANADIAN CRUDE OIL
DOE/ERA publishes notice for allocation period commencing 10-1-78 42028

MEETINGS—
HEW/Federal Council on the Aging: Long Term Care Committee, 10-13-78 42041
Secy: National Conference on Health Research Principles, 10-3 and 10-4-78 42044
NFAH/NEA: Visual Arts Advisory Panel, 10-12-78 42049
NRC: ACRS Subcommittee on Regulatory Activities, 10-4-78 42049
NSF: Subcommittee for the Review of Nuclear Science, 10-5 through 10-7-78 42049

HIGHLIGHTS—Continued

Office of Science and Technology Policy: Intergovernmental, Science, Engineering, and Technology Advisory Panel, 10-6-78 42050
SBA: Region IV—Advisory Council Meeting, 10-5 and

HEARINGS—
HEW/HCFA: Pharmaceutical Reimbursement Board, 10-18 and 10-19-78 42045

contents

V 43 / 182 SEP 1978 V 4

Office of Science and Technology Policy: Intergovernmental, Science, Engineering, and Technology Advisory Panel, 10–6–78 42050
SBA: Region IV—Advisory Council Meeting, 10–5 and 10–6–78 42054
Region VI—Advisory Council Meeting, 10–27–78 42054
State: Shipping Coordinating Committee—Subcommittee on Safety of Life at Sea, 10–19–78 42055
Study Group 4, U.S. Organization for the International Telegraph and Telephone Consultative Committee, 10–11–78 42055
United States Section Advisory Committee, 10–4–78 42055

HEARINGS—

HEW/HCFA: Pharmaceutical Reimbursement Board, 10–18 and 10–19–78 42045

SEPARATE PARTS OF THIS ISSUE

Part II, Labor and CSA 42106
Part III, HEW/FDA 42118
Part IV, Labor 42144
Part V, EPA 42154
Part VI, EPA 42186
Part VII, USDA/APHIS 42200
Part VIII, HUD 42220

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing: September 13, 1978]

H.J. Res. 773 ..... Pub. L. 95–364
Authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning September 17, 1978, as "National Port Week." (Sept. 15, 1978; 92 Stat. 598) Price: $.50.

H.R. 8342 ..... Pub. L. 95–365
To amend title 5, United States Code, to provide for the application of local withholding taxes to Federal employees who are residents of such locality. (Sept. 15, 1978; 92 Stat. 599) Price: $.50.

H.R. 8771 ..... Pub. L. 95–366
To amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system, and for other purposes. (Sept. 15, 1978; 92 Stat. 600) Price: $.50.

contents

THE PRESIDENT

Proclamations
Port Week, National 41941

Reorganization Plans
Federal Emergency Management Agency, establishment... 41943

EXECUTIVE AGENCIES

AGING, FEDERAL COUNCIL

Notices
Meetings:
Long Term Care Committee .. 42041

AGRICULTURAL MARKETING SERVICE

Rules
Lemons grown in Ariz. and Calif 41949

Proposed Rules
Milk marketing orders:
Middle Atlantic 41990

Notices
Tobacco inspection and price support services; hearing 42024

AGRICULTURE DEPARTMENT

See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Food and Nutrition Service; Forest Service.

Notices
Committees, establishment, renewals, terminations, etc.:
Equal Opportunity Citizens Advisory Committees 42025

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Proposed Rules
Animal welfare:
Transportation, handling, care, and treatment of marine mammals; standards 42200

ARMY DEPARTMENT

See also Engineers Corps.

Notices
Privacy Act; systems of records 42026

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Notices
Meetings:
Visual Arts Advisory Panel 42049

CIVIL SERVICE COMMISSION

Rules
Excepted service:
Temporary boards and commissions; Marine Mammal Commission 41947

COMMERCE DEPARTMENT

See Maritime Administration; National Technical Information Service.

COMMODITY CREDIT CORPORATION

Proposed Rules
Loan and purchase programs:
Tobacco 41991

COMMODITY FUTURES TRADING COMMISSION

Rules
Commodity Exchange Act regulations:
Exchange procedures for disciplinary, summary and membership denial actions .. 41950

COMMUNITY SERVICES ADMINISTRATION

Notices
Privacy Act; systems of records; annual publication 42116

COPYRIGHT OFFICE, LIBRARY OF CONGRESS

Rules
Claims registration:
Deposit requirements 41975

DEFENSE DEPARTMENT

See Army Department; Engineers Corps.

ECONOMIC REGULATORY ADMINISTRATION

Notices
Canadian allocation program:
Crude oil, October through December 1978 42028
Fuel burning installations, early planning process identification report; completion requirement 42034

Notices
Rulemaking docket system 42035

EMPLOYMENT AND TRAINING ADMINISTRATION

Notices
Employment transfer and business competition determinations; financial assistance applications 42048
Employment transfer and business competition determinations; financial assistance applications; correction 42048

ENERGY DEPARTMENT

See also Economic Regulatory Administration; Federal Energy Regulatory Commission.

Notices
International atomic energy agreements; civil uses; subsequent arrangements:
West Germany 42035

ENGINEERS CORPS

Rules
Real property:
Relocation assistance and real property acquisition policies 41975

ENVIRONMENTAL PROTECTION AGENCY

Proposed Rules
Air pollution; standards of performance for new stationary sources:
Aluminum industry, primary.. 42186
Electric utility steam generating units 42154
Electric utility steam generating units; hearing 42183
Air quality implementation plans; approval and promulgation; various States, etc.:
New Jersey 42018

Notices
Environmental statements; availability, etc.:
Agency statements, weekly receipts 42036
Pesticides; tolerances, registration, etc.:
Botran 75W 42039
Cyhexatin 42038
TEPP 42037

FEDERAL COMMUNICATIONS COMMISSION

Rules
Aviation services;
Editorial amendments; deletion of obsolete effective dates 41986
Frequencies, certain; use for ships and aircraft 41986
Frequency allocations and radio treaty matters:
Editorial changes 41985
Public safety radio services:
Interconnection of private land mobile radio systems with public, switched, telephone network; correction... 41987

FEDERAL ENERGY REGULATORY COMMISSION

Rules
Practice and procedure:
CFR correction 41965

FEDERAL INSURANCE ADMINISTRATION

Rules
Flood insurance; communities eligible for sale:
Kansas et al 41966

Flood insurance; special hazard areas:
CONTENTS

FOOD AND NUTRITION SERVICE

Rules

Notices
Authority delegations:

LIBRARY OF CONGRESS

See Copyright Office, Library of Congress.

Meetings:
Reactor Safeguards Advisory Committee 42049
Reactor Safeguards Advisory

Meetings; advisory councils:
Louisville 42054
New Orleans 42054

V 43 / 182 SEP 1978

Flood insurance; special hazard areas:
Alabama et al 41969

Proposed Rules

Flood elevation determinations:
California; correction 42018

FEDERAL MARITIME COMMISSION

Notices

Agreements filed, etc 42040

FEDERAL RESERVE SYSTEM

Proposed Rules

Truth in lending:
HUD/FHA section 245 graduated payment mortgages, annual percentage rate computation; official staff interpretation 41993

Notices

Applications, etc.:
Newman Bancshares, Inc 42040
North Kossuth Investment Co 42040

FEDERAL TRADE COMMISSION

Proposed Rules

Consent orders:
International Brotherhood of Teamsters (local 959); extension of time 42017

FOOD AND DRUG ADMINISTRATION

Rules

Animal drugs, feeds, and related products:
Virginiamycin 41965

Proposed Rules

Cheeses and related cheese products:
Identity standards; international 42127
Pasteurized process cheese; identity standards; reopening of comment period 42127
Skim milk cheese; identity standards; reopening of comment period 42126
Color additives:
Ferric ammonium ferrocyanide; correction 42017
Food labeling:
Filled milk products; common name, esablishment; withdrawal 42118
Human drugs:
Over-the-counter drugs; skin protectant drug products; monograph establishment; correction 42018
Milk, cream, cheese and cheese related products, substitutes; identity standards .. 42118

Notices

Human drugs:
Antipsychotic drugs; labeling; precaution statement; extension of comment period .. 42042

FOOD AND NUTRITION SERVICE

Rules

Food distribution; donation for U.S. and territories, etc.:
School lunch program, National; schools' donated-food preferences; correction 41947
Food stamp program:
State agencies and eligible households participation, retroactive relief 41947

FOREST SERVICE

Notices

Timber sale and disposal:
Lumber Price Trends Index 42024

GENERAL ACCOUNTING OFFICE

Notices

Regulatory reports review; proposals, approvals, etc. (FCC, FTC, NRC) 42041

GEOLOGICAL SURVEY

Notices

Oil and gas operations:
Contract research and development program, inquiry 42047

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Food and Drug Administration; Health Care Financing Administration; National Institutes of Health; Public Health Service; Social Security Administration.

Notices

Meetings:
Health Research Principles, National Conference 42044

HEALTH CARE FINANCING ADMINISTRATION

Notices

Amoxicillin, etc.; maximum allowable costs, hearings, correction 42045

HEARINGS AND APPEALS OFFICE, INTERIOR DEPARTMENT

Rules

Surface mining control and reclamation; procedures 41974

HERITAGE CONSERVATION AND RECREATION SERVICE

Notices

Historic Places National Register; additions, deletions, etc.:
Alabama et al 42047

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See also Federal Insurance Administration.

Proposed Rules

Community Development block grant program; environmental review procedures 42091

Notices

Authority delegations:
Assistant Secretary; Neighborhoods, Voluntary Associations and Consumer Protection Office; lead-based paint poisoning prevention 42045

INTERIOR DEPARTMENT

See Geological Survey; Hearings and Appeals Office, Interior Department; Heritage Conservation and Recreation Service; Land Management Bureau; Surface Mining Reclamation and Enforcement Office.

INTERSTATE COMMERCE COMMISSION

Notices

Consideration of rates in operating rights application proceedings (general policy statement), change of policy .. 42096
Hearing assignments 42095
Motor carriers:
Exemptions; agricultural cooperative transportation, filing notices 42095
Irregular route property carriers; gateway elimination 42096
Meat packing industry; emergency temporary authority .. 42096
Permanent authority applications (2 documents) ... 42059, 42069
Permanent authority applications; correction 42057
Property broker special licensing; applications 42097
Railroad services abandonment:
Atchison, Topeka & Santa Fe Railroad Co 42057
Consolidated Rail Corp 42060
Norfolk & Western Railway Co 42078
St. Louis-San Francisco Railway Co 42089

LABOR DEPARTMENT

See also Employment and Training Administration.

Rules

Benefits Review Board, establishment, operation, and practice and procedure rules 42144

Notices

Privacy Act; systems of records; annual publication 42106

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
New Mexico (2 documents) 42045, 42046

Environmetal statements; availability, etc.:
Outer Continental Shelf; Gulf of Mexico; oil and gas lease sale 42046

LIBRARY OF CONGRESS

See Copyright Office, Library of Congress.

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; list of requests (2 documents) 42051, 42052

MARITIME ADMINISTRATION

Notices

Applications, etc.:
Swannee River Finance, Inc., et al 42025
Construction-differential and operating-differential subsidies; Sealift Readiness program participation requirements 42025

NATIONAL INSTITUTES OF HEALTH

Notices

Carcinogenesis bioassay reports; availability:
Estradiol Mustard 42042
ICRF-159 42042
Trimethylphosphate 42043

NATIONAL SCIENCE FOUNDATION

Notices

Meetings:
Physics Advisory Committee . 42049
Science resources program; manpower, funding, and output analysis 42049

NATIONAL TECHNICAL INFORMATION SERVICE

Notices

Inventions, Govenment-owned; availability for licensing (2 documents) 42026

NUCLEAR REGULATORY COMMISSION

Notices

Applications, etc.:
Public Service Co. of New Hampshire et al.; republication 42050
Meetings:
Reactor Safeguards Advisory Committee 42049
Reactor Safeguards Advisory Committee; correction 42050

POSTAL SERVICE

Rules

Organization and administration:
Research and Technology Group, establishment 41984

PUBLIC HEALTH SERVICE

Proposed Rules

Grants:
Family planning services 42019

Notices

Organization, functions, and delegations of authority:
Health, Office of Assistant Secretary for 42043

SCIENCE AND TECHNOLOGY POLICY OFFICE

Notices

Meetings:
Intergovernmental Science, Engineering, and Technology Advisory Panel 42050

SMALL BUSINESS ADMINISTRATION

Proposed Rules

Disaster loans:
Disaster declaration request procedures and time limits .. 42016

Notices

Applications, etc.:
BBS Equities Ltd 42052
Benson Investment Co., Inc ... 42052
Corporate Capital, Inc 42053
First Wall Street Small Business Investment Co., Inc 42053
Florists Capital Corp 42053
Percival Capital Corp 42053
Disaster areas:
California 42052
Indiana 42054
Loans, handicapped assistance, local development company, and business; waiver of administrative ceiling 42054
Meetings; advisory councils:
Louisville 42054
New Orleans 42054

SOCIAL SECURITY ADMINISTRATION

Proposed Rules

Old age, survivors, and disability insurance:
Recodification, advance notice 42017

STATE DEPARTMENT

Notices

Meetings:
International Commission for Conservation of Atlantic Tunas, U.S. National Section Advisory Committee 42055
International Telegraph and Telephone Consultative Committee 42055
Shipping Coordinating Committee 42055

SURFACE MINING RECLAMATION AND ENFORCEMENT OFFICE

Proposed Rules

Surface coal mining reclamation and enforcement operations; permanent regulatory programs; public briefing 42018

TRANSPORTATION DEPARTMENT

See Urban Mass Transportation Administration.

TREASURY DEPARTMENT

Notices

Notes, Treasury:
T-1980 series 42055

URBAN MASS TRANSPORTATION ADMINISTRATION

Rules

Elderly and handicapped persons transportation; buses with ramps or lifts 41987

list of cfr parts affected in this issue

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR

PROCLAMATIONS:
4596 41941

REORGANIZATION PLANS:
No. 3 of 1978 41943

5 CFR
213 41947

7 CFR
250 41947
271 41947
910 41949

PROPOSED RULES:
1004 41990
1464 41991

9 CFR

PROPOSED RULES:
1 42200
3 42200

12 CFR

PROPOSED RULES:
226 41993

13 CFR

PROPOSED RULES:
123 42016

16 CFR

PROPOSED RULES:
13 42017

17 CFR
8 41950

18 CFR
1 41965

20 CFR
801 42114
802 42114

PROPOSED RULES:
4047 42017

21 CFR
556 41965
558 41965

PROPOSED RULES:
73 42017
102 42118
131 42118
133 (4 documents) 42118, 42126, 42127
347 42018

24 CFR
1914 41966
1915 41967

PROPOSED RULES:
58 42220
1917 42018

30 CFR
301 41974
302 41974

30 CFR—Continued
PROPOSED RULES:
Ch. VII 42018

32 CFR
641 41975

37 CFR
202 41975

39 CFR
221 41984
224 41984

40 CFR

PROPOSED RULES:
52 42018
60 (3 documents) 42154, 42183, 42186

42 CFR

PROPOSED RULES:
59 42019

47 CFR
2 41985
87 (2 documents) 41986
89 41987

49 CFR
609 41987

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.

1 CFR
Ch. I 39069

3 CFR

EXECUTIVE ORDERS:
12024 (See EO 12078) 39741
12078 39741

MEMORANDUMS:
September 8, 1978 40449

PROCLAMATIONS:
4591 39561
4592 39739
4593 40197
4594 40451
4595 41013
4596 41941

REORGANIZATION PLANS:
No. 3 of 1978 41943

5 CFR
213 ..... 39069, 39070, 39951–39953, 40453, 41947

7 CFR
2 ..... 39953, 41371
245 39070
250 ..... 39070, 41947
271 41947
282 ..... 39074, 39075
301 40528
330 39953
401 41371
908 39743
910 ... 39080, 39319, 39954, 41372, 41949
911 39319
915 39321
927 39323
931 39323
932 39743
993 40199
1004 ..... 39744, 39745, 41990
1036 40801
1071 39325
1073 39326
1097 39328
1102 39328
1104 39329
1106 39331
1108 39333
1120 39334
1126 39335
1132 39337
1133 39955
1138 39338
1435 39563
1464 41991
1701 41181
1823 ..... 39746, 40199
1955 41373

PROPOSED RULES:
6 ..... 39110, 40530
17 40872
722 39117
918 40027

7 CFR—Continued
PROPOSED RULES—Continued
948 40027
965 40028
981 39393
1079 40028
1126 40030
1427 39118
1701 ..... 40036, 41215
1822 41215
1940 41047–41049
1944 41215

8 CFR
108 40879
236 40801

PROPOSED RULES:
108 40879

9 CFR
54 41103
91 39080
94 39956
113 41185
355 39340

PROPOSED RULES:
1 42200
3 42200
92 40037
317 39394
318 ..... 39119, 39394
319 39394

10 CFR
35 39747
51 41373
73 41187
205 ..... 39080, 40200
212 40682

PROPOSED RULES:
51 39801
210 41224
211 ..... 40233, 41224
212 ..... 40233, 41224
430 40192
1004 40530

12 CFR
202 39341
217 41015
226 ..... 40210, 41015

PROPOSED RULES:
7 41406
226 41993

13 CFR
107 39563
Ch. IV 40803

PROPOSED RULES:
123 42016
130 39394
309 41408

14 CFR
39 ..... 39346–39348, 39748, 39750, 41016, 41374–41376
71 ..... 39439, 39750–39753, 40211–40213, 41017, 41018, 41381–41383
73 ..... 40214, 40215
75 39753–39755
97 41019
221 39536
241 40454
298 41187
302 ..... 39536, 41021
385 40803
399 39522

PROPOSED RULES:
Ch. II 41410
39 40232
71 ..... 39803, 40237, 41051, 41408, 41409
73 ..... 39803, 39804
223 39805
250 39806
298 39587
380 ..... 39807, 40880

15 CFR

PROPOSED RULES:
500 41230

16 CFR
1 39083
13 ..... 39350, 40454
1209 39564

PROPOSED RULES:
13 ..... 39120, 40536, 40537, 40882, 41233, 42017
305 41410
451 41051
1209 39564

17 CFR
1 39956
8 41950
111 41192
210 ..... 40688, 41022
211 40730
230 ..... 41193, 41383
239 39554
249 39554
270 39553
274 39553

PROPOSED RULES:
210 ..... 40724, 40726
229 40720
230 41235
239 41052
270 39396

18 CFR
1 ..... 39982, 41965
3 40217
4 40217

18 CFR—Continued
16 40217
131 40217

25 CFR
11 40804
41 41388

37 CFR
202 41975
302 40225

42 CFR
36 41214
54a 40386
57 39380

46 CFR
502 41040
510 40524
512 40524

49 CFR—Continued
1008 41040
1033 ..... 39103, 39104, 39794–39796, 41403

16 CFR—Continued
16 40217
131 40217
PROPOSED RULES:
1 ..... 39122, 40037

19 CFR
153 40804
PROPOSED RULES:
6 40238
177 41236

20 CFR
416 39564
801 41990
802 41990
901 39756
PROPOSED RULES:
404 ..... 39266, 42017
416 41054
620 39124
653 39124

21 CFR
430 41194
431 ..... 41194, 41195
510 39086
514 41195
520 ..... 39084, 39085
522 40455
524 40455
556 41965
558 ..... 39086, 39350, 41965
561 ..... 40456, 41385, 41386
PROPOSED RULES:
73 42017
102 42118
131 42118
133 ..... 42118, 42126, 42127
145 39126
310 39126
314 39126
337 39544
347 42018
436 40038
469 40038
1308 40884

23 CFR
17 41387
PROPOSED RULES:
625 40539

24 CFR
221 39570
841 41198
886 40402
1914 ..... 41028, 41030, 41966
1915 41967
1916 39572
1917 ..... 39351–39360, 39573–39582, 39761–39771, 39983–39987, 41204
1920 39771–39774
PROPOSED RULES:
58 42220
201 39593
570 41369
1917 ..... 39129–39141, 41237, 42018
3500 ..... 39701, 40539

25 CFR
11 40804
41 41388
43k 40457
54 39361
178 40458
258 39086

26 CFR
1 ..... 40219, 40459, 41204
48 41388
301 ..... 40219, 40459
PROPOSED RULES:
1 ..... 39142, 39822, 41237
31 ..... 39142, 39149
301 39142

28 CFR
PROPOSED RULES:
2 41411

29 CFR
1601 39775
1610 40222
1910 39087
2520 41205
PROPOSED RULES:
1601 39831

30 CFR
41 39988
70 40760
71 40760
301 41974
302 41974
PROPOSED RULES:
55 40766
56 40766
57 40766
Chapter VII 41662, 42018

31 CFR
51 40223
223 39088

32 CFR
42 39988
581 40498
641 41975
902 39089
931 39101
1288 40806
1804 39776
PROPOSED RULES:
47 40884

33 CFR
3 40224
117 ..... 39777, 41032, 41389, 41390
161 ..... 39994, 40224
PROPOSED RULES:
89 39946
117 ..... 41412, 41413
126 39832
183 41056

36 CFR
214 40998
1207 40808
PROPOSED RULES:
28 41414

37 CFR
202 41975
302 40225
303 40498
305 40501

38 CFR
2 39364
14 39365
PROPOSED RULES:
3 40239
21 39832
36 ..... 39150, 39833

39 CFR
111 ..... 39583, 39995, 40810
221 41984
224 41984
PROPOSED RULES:
111 39593
266 41391

40 CFR
2 39997
51 40009
52 ..... 39366, 40009–40011, 41032–41039
65 ..... 40015, 40226
81 ..... 39101, 40412, 40436, 40502
125 40859
180 ..... 41206, 41391–41396
600 39367
730 41206
PROPOSED RULES:
35 40742
52 ..... 39151, 39152, 40009–40011, 40240, 40245, 42018
60 ..... 42154, 42183, 42186
65 ..... 39152, 39153, 39397, 39834, 40015, 40247, 40248, 40539, 41238, 41239
81 40436
125 39282
130 40742
131 40742
151 39276
162 39644
180 ..... 40249, 41240
233 39398

41 CFR
Ch. I 40015, 41044
Ch. 18 40018
Ch. 101 40019
3-56 39778
5B-2 40227
14-1 ..... 39377, 39787, 41207
14-2 ..... 39378, 39788
14-3 39788
14-4 39378
14-7 39379
14-12 39379
14-18 39379
14-30 39380
14-55 39380
101-37 40228
PROPOSED RULES:
101-20 40250

42 CFR
36 41214
54a 40386
57 39380
58 ..... 39384, 40862
PROPOSED RULES:
59 42019
110 40376
405 39155
449 39155

43 CFR
26 41004
428 41396
6000 40734
6010 40734
6200 40734
6220 40734
6250 40734
6260 40734
6270 40734
6290 40734
8000 40734
8200 40734
8300 40734
8340 40734
8350 40734
8360 40734
8370 40735
PROPOSED RULES:
420 41241

45 CFR
5b 40229
801 39387
PROPOSED RULES:
177 41056
1340 39593

46 CFR
502 41040
510 40524
512 40524
542 39102
PROPOSED RULES:
151 40250
153 40250
157 41178
531 39399
536 39399

47 CFR
2 41985
73 ..... 39388, 39584, 39704, 40250, 40251, 41400
74 ..... 39704, 41401
87 ..... 41214, 41986
89 41987
PROPOSED RULES:
1 41241
31 ..... 39385, 40886
33 ..... 39385, 40886
42 ..... 39385, 40886
43 ..... 39385, 40886
63 40541
73 ..... 39400, 39593, 39594, 40250, 40251, 40887, 40888, 41241
83 40889

49 CFR
172 39789
173 39791
175 39792
176 39792
177 41401
179 39792
192 39389
571 39390
581 40229
609 41987

49 CFR—Continued
1008 41040
1033 ..... 39103, 39104, 39794–39796, 41403
1056 39798
PROPOSED RULES:
Ch. X 39157
172 39835
173 39835
192 39401
195 39402
571 ..... 39835, 41056
1033 40891
1060 41242
1121 41245
1307 39157
1309 39157
1310 39157
1320 ..... 39404, 41059
1322 ..... 39404, 41059

50 CFR
20 39186
26 ..... 39798, 41042
32 ..... 39105–39107, 39584, 39585, 39799, 39800, 40021–40024, 40232, 40524, 40867, 41042, 41043, 41404
33 41044
216 40025
285 ..... 39107, 41044
611 39586
651 ..... 39108, 41405
652 40527
662 40868
810 39306
PROPOSED RULES:
17 41060
32 40893
230 40045
611 ..... 41062, 41244
652 39161

FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

Pages	Date	Pages	Date	Pages	Date
39069–39317	Sept. 1	39951–40195	8	41013–41179	14
39319–39560	5	40197–40448	11	41181–41369	15
39561–39738	6	40449–40799	12	41371–41940	18
39739–39950	7	40801–41011	13	41941–42232	19

presidential documents

V 43 / 182 SEP 1978

presidential documents

[3195-01]

Title 3—The President

PROCLAMATION 4596

National Port Week, 1978

By the President of the United States of America

A Proclamation

Since the days of its early settlement, the United States has been dependent on water transportation for its trade. Populations tended to locate around harbors, which rapidly became the economic centers of the New World. Now there are some 170 commercial seaports in this country, as well as numerous inland ports on our navigable inland waterways. The result has been the creation of a network of ocean and inland ports that includes many of the country's most important centers of industry, distribution, finance, and education.

Ports provide the vital link between land and water carriers. The port industry contributes enormously to the Nation's economy. It facilitates international trade, employs significant numbers of people, provides substantial personal and business incomes, and generates revenues for State and local governments.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, in order to remind Americans of the importance of the port industry of the United States to our national life, do hereby designate the seven calendar days beginning September 17, 1978, as "National Port Week." I invite the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of September, 1978, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States the two hundred and third.

Jimmy Carter

[FR Doc. 78-26421 Filed 9-15-78; 3:25 pm]

V 43 / 182 SEP 1978

V 43 / 182 SEP 19 78 V 43

[3195-01]

REORGANIZATION PLAN NO. 3 OF 1978

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 19, 1978, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

PART I. Federal Emergency Management Agency

Section 101. Establishment of the Federal Emergency Management Agency.

There is hereby established as an independent establishment in the Executive Branch, the Federal Emergency Management Agency (the "Agency").

Section 102. The Director.

The Agency shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter prescribed by law for level II of the Executive Schedule.

Section 103. The Deputy Director.

There shall be within the Agency a Deputy Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter prescribed by law for level IV of the Executive Schedule. The Deputy Director shall perform such functions as the Director may from time to time prescribe and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the Office of the Director.

Section 104. Associate Directors.

There shall be within the Agency not more than four Associate Directors, who shall be appointed by the President, by and with the advice and consent of the Senate, two of whom shall be compensated at the rate now or hereafter prescribed by law for level IV of the Executive Schedule, one of whom shall be compensated at the rate now or hereafter prescribed by law for level V of the Executive Schedule and one of whom shall be compensated at the rate now or hereafter prescribed by law for GS-18 of the General Schedule. The Associate Directors shall perform such functions as the Director may from time to time prescribe.

Section 105. Regional Directors.

There shall be within the Agency ten regional directors who shall be appointed by the Director in the excepted service and shall be compensated at the rate now or hereafter prescribed by law for GS-16 of the General Schedule.

Section 106. Performance of Functions.

The Director may establish bureaus, offices, divisions, and other units within the Agency. The Director may from time to time make provision for the

performance of any function of the Director by any officer, employee, or unit of the Agency.

Reorganization Plan or by recess appointment, as the case may be. The President may authorize any such person to receive the compensation attached to the Office in respect of which that person so serves, in lieu of other

performance of any function of the Director by any officer, employee, or unit of the Agency.

PART II. Transfer of Functions

Section 201. Fire Prevention.

There are hereby transferred to the Director all functions vested in the Secretary of Commerce, the Administrator and Deputy Administrator of the National Fire Prevention and Control Administration, and the Superintendent of the National Academy for Fire Prevention and Control pursuant to the Federal Fire Prevention and Control Act of 1974, as amended, (15 U.S.C. 2201 through 2219); exclusive of the functions set forth at Sections 18 and 23 of the Federal Fire Prevention and Control Act (15 U.S.C. 278(f) and 1511).

Section 202. Flood and Other Matters.

There are hereby transferred to the Director all functions vested in the Secretary of Housing and Urban Development pursuant to the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended, (42 U.S.C. 2414 and 42 U.S.C. 4001 through 4128), and Section 1 of the National Insurance Development Act of 1975, as amended, (89 Stat. 68).

Section 203. Emergency Broadcast System.

There are hereby transferred to the Director all functions concerning the Emergency Broadcast System, which were transferred to the President and all such functions transferred to the Secretary of Commerce, by Reorganization Plan Number 1.

PART III. General Provisions

Section 301. Transfer and Abolishment of Agencies and Officers.

The National Fire Prevention and Control Administration and the National Academy for Fire Prevention and Control and the positions of Administrator of said Administration and Superintendent of said Academy are hereby transferred to the Agency. The position of Deputy Administrator of said Administration (established by 15 U.S.C. 2204(c)) is hereby abolished.

Section 302. Incidental Transfers.

So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate agency, or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of any agencies abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

Section 303. Interim Officers.

The President may authorize any persons who, immediately prior to the effective date of this Plan, held positions in the Executive Branch to which they were appointed by and with the advice and consent of the Senate, to act as Director, Deputy Director, and Associate Directors of the Agency, until those offices are for the first time filled pursuant to the provisions of this

Reorganization Plan or by recess appointment, as the case may be. The President may authorize any such person to receive the compensation attached to the Office in respect of which that person so serves, in lieu of other compensation from the United States.

Section 304. Effective Date.

The provisions of this Reorganization Plan shall become effective at such time or times, on or before April 1, 1979, as the President shall specify, but not sooner than the earliest time allowable under Section 906 of Title 5, United States Code.

[FR Doc. 78-26463 Filed 9-18-78; 8:45 am]

LEGISLATIVE HISTORY:

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 25: June 19, Presidential message transmitting Reorganization Plan No. 3 of 1978 to Congress. (Also printed as House Document No. 95-356.)

HOUSE REPORT No. 95-1523 accompanying H. Res. 1242 (Comm. on Government Operations).

SENATE REPORT No. 95-1141 accompanying S. Res. 489 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 124 (1978):
June 19, H. Res. 1242, resolution of disapproval, introduced in House and referred to Committee on Government Operations.
June 22, S. Res. 489, resolution of disapproval, introduced in Senate and referred to Committee on Governmental Affairs.
Sept. 14, H.Res. 1242 rejected by House.

rules and regulations

rules and regulations

This section of the FEDERAL REGISTER contoins regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment continues the exception under Schedule A of all positions on the staff of the Marine Mammal Commission, with the provision that this authority is not to exceed September 30, 1981.

EFFECTIVE DATE: September 1, 1978

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3199(o)(1) is amended as set out below:

§ 213.3199 Temporary boards and commissions.

. . . . . .

(o) *Marine Mammal Commission.*

(1) Not to exceed September 30, 1981, all positions on the staff of the Commission.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-26211 Filed 9-18-78; 8:45 am]

[1505-01]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amdt. 41]

PART 250—DONATION OF FOODS FOR USE IN UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION

Miscellaneous Amendments

Correction

In FR Doc. 78-24718 appearing at page 39070 in the issue for Friday, September 1, 1978, in the third column of page 39072, eight lines from the top, ". . . agencies under § 1250.3 (n-3) . . ." should have read ". . . agencies under § 250.3 (n-3) . . .".

[3410-30]

[Amdt. No. 135]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program; Retroactive Relief

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule, which applies only to members of the plaintiff class in *Aiken* v. *Obledo*, 442 F. Supp. 628 (E.D. Cal. 1977), establishes by regulation procedures for granting retroactive food stamp benefits to households eligible for retroactive relief under the court order issued in *Aiken*. In addition to the methods specified in a February 3, 1978, telegram issued to State agencies, the regulation provides that, at State agency option, households may receive their entire entitlement to retroactive benefits in the form of a lump sum of food coupons. Also, the regulation will require that State agencies provide retroactive benefits based on current food stamp allotment tables to all members of the *Aiken* class who have not already received or begun to receive such benefits based on previously effective allotment tables. These additional procedures will speed delivery of benefits to the plaintiff class and will greatly simplify benefit calculation, reconciliation of issuance documents and reporting for State agencies.

EFFECTIVE DATE: September 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Susan D. McAndrew, Acting Chief, Program Standards Branch, Program Development Division, Office of Family Nutrition Programs, 500 12th Street SW., Washington, D.C. 20250—202-447-8918.

SUPPLEMENTAL INFORMATION: Court ordered procedures for granting retroactive food stamp benefits to members of the plaintiff class in *Aiken* whose benefits were unlawfuly denied or delayed were published at 43 FR 6286 et seq. (February 14, 1978). These procedures, sent by telegram dated February 3, 1978, to all State Welfare Commissioners and all FNS Regional Administrators, required that State agencies issue retroactive benefits to *Aiken* class members as follows: (1) a currently eligible household will receive its food coupon allotment at no or reduced cost until its retroactive entitlement is exhausted; (2) a household currently eligible at zero purchase will receive up to 150 percent of its food coupon allotment until its retroactive entitlement is exhausted; or (3) a currently ineligible household will receive up to 100 percent of the food coupon allotment for its household size at no cost until its retroactive entitlement is exhausted.

In addition, the telegram set out requirements for notification of potential class members, for processing claims filed under the court order and for reporting information on applicants for benefits and the dollar amount of benefits paid out.

State agencies now report technical problems in complying with the requirement to provide lost benefits in the form of food coupons to households currently ineligible for participa-

tion and with computing such benefits with the food coupon allotment tables in effect at the time benefits were gramed to authorize only the current food coupon allotment tables. As the *Aiken* order covers certification ac- all households, whether eligible or ineligible, in the form of a lump sum of food coupons. Currently eligible

To ease the transition to the lump sum method, the regulation allows the State agency to continue to use the

hold size until its retroactive entitlement is exhausted; or

(*d*) At the option of the State agency, all households whether eligi- *Aiken*. The State agency may, after adopting the lump sum method, restore *Aiken* benefits to a household by the monthly adjustment method only

tion and with computing such benefits with the food coupon allotment tables in effect at the time benefits were denied or delayed. Also, State agencies are currently devoting considerable staff time and administrative funds in preparing for the implementation of the Food Stamp Act of 1977. It is felt that a prolonged period of application processing and benefit delivery by the monthly adjustment method will adversely affect States' ability to orderly implement the new Act.

Massachusetts and Maine have highlighted the difficulties associated with issuance of retroactive benefits to ineligible households.[1] Both States have automated systems for issuance and reconciliation of Authorization to Purchase (ATP) cards. These systems are programed to issue ATP cards only in amounts authorized by the current issuance tables (and up to 150 percent of such amounts as required by 7 CFR 271.1(q)(5)(iii)). Issuance of ATP cards in amounts reflecting noncurrent coupon allotments requires hand preparation of these cards and further requires hand reconciliation once they are transacted. This manual process is costly, time consuming and inherently error-prone. Massachusetts is significantly adversely affected by the requirement to grant retroactive benefits to ineligible households, as its issuance system is automated to such an extent that there is no staff available to conduct a hand issuance and reconciliation operation. The only alternative is a costly rewrite of the computer program which could take months to implement.

Both States have suggested that use of the current food coupon allotment tables to issue lost benefits to ineligible households would enable States to use their current automatic data processing (ADP) systems to issue and reconcile ATP cards issued under the *Aiken* order. Thus the costly manual system or extensive reprograming could be avoided. Benefit calculation could be simplified as the worker could use one issuance table rather than one or more of the seven which have been issued since August 1974.

The Department agrees that State agencies will encounter problems issuing lost benefits to ineligible households. The degree of difficulty experienced will depend on the ADP capabilities of the State agency, the availability of staff to conduct a manual operation, and the number of claims from currently ineligible households. Virtually all of the State and local agencies that use ADP systems to issue and reconcile ATP cards are programed to authorize only the current food coupon allotment tables. As the *Aiken* order covers certification actions dating back as early as August 1974, we can anticipate that a significant percentage of the plaintiff class may not be currently eligible for program benefits. The Department feels that the increased *benefit* costs of paying retroactived benefits according to the current tables will be more than offset by savings in *administrative* costs that will accrue through use of cost effective ADP systems. It is also evident that, in those States which have already paid or begun to pay retroactive benefits to individual households based on previously effective allotment tables, a requirement that the States seek out such households and recalculate their retroactive benefits based on current allotment tables would constitute a heavy and unwarranted administrative burden on the States, since they have already provided the affected households with the precise amount in benefits which were lost at the time of denial or delay. Accordingly, after receiving court approval, the Department has adopted in this final rule the requirement that current allotment tables be used in calculating the retroactive benefits to be paid to *Aiken* class members who have not already received or begun to receive such benefits based on allotment tables in effect at the time benefits were lost.

The Vermont State agency has suggested, for purposes of the *Aiken* court order only, that retroactive benefits be paid to all households, whether currently eligible or ineligible, in one lump sum of food coupons. It was felt that this method would speed delivery of benefits to the plaintiff class, improve accountability over *Aiken* issuances, and allow States to complete action on claims made under *Aiken* will in advance of implementation of the Food Stamp Act of 1977. In response to an informal poll, many State agencies reported that they would adopt the lump sum method if offered this option in lieu of the monthy adjustment method.

With the approval of the *Aiken* court, this suggestion has also been adopted in the final rule. We feel the lump sum restoration method, together with the requirement to compute benefits in accordance with the current allotment tables, will result in significant cost savings to State and local governments and will also be beneficial to the members of the plaintiff class. The provisions of the final regulation are discussed in detail below.

The regulation continues the restoration methods mandated by the February 3, 1978, telegram; however, an optional provision allows State agencies to pay out retroactive benefits to all households, whether eligible or ineligible, in the form of a lump sum of food coupons. Currently eligible households will also receive their regular food coupon allotments. Adoption of the lump sum option is not mandated, as some State agencies might not be able to timely implement this method due to staff resources being assigned to implementation of the 1977 Act or lengthy State APA procedures. Regardless of the method used to restore benefits, the regulation requires that the State agency use the current food coupon allotment tables to determine the amount of retroactive benefits owed to a household. As noted above, the regulation does not result in any further entitlement to retroactive benefits being provided to households who have already received or begun to receive benefits under the *Aiken* order.

The regulation requires preparation of a special issuance document which is specifically identifiable as relating to the *Aiken* order. In a machine (ATP) system, any number of ATP cards may be issued to set up a lump sum issuance of coupons to a household. For example, a single person household entitled to 2 month's retroactive benefits could receive a single ATP authorizing issuance of $108 in food coupons or it could receive two ATP cards, each authorizing issuance of $54 in food coupons. The State agency may choose the most administratively feasible method based on its operational capabilities. In a manual system (HIR card), the State agency may prepare an HIR card for each application approved or it may enter each issuance on a single HIR card. Issuance of food coupons authorized by these special documents are to be reported as regularly authorized issuances on Form FNS-250, Food Coupon Accountability Report, and other related accountability reports. Separate identification of *Aiken* issuance will facilitate preparation of the report on *Aiken* activities due November 1, 1978.

When a household has filed more than one application for retroactive *Aiken* benefits, the State agency may restore benefits for each application as it is approved, restore the full amount only after all applications have been approved, or restore benefits for any number of applications as they are approved. It is up to the State agency to detemine which method will be the most feasible and cost effective in terms of its own operation. State agencies that adopt the lump sum restoration method must alert issuance agents that special issuance documents are being issued as unusual coupon allotments and transactions of multiple ATP cards are authorized.

[1] Under current rules, ineligible households entitled to retroactive benefits cannot have these benefits restored until they again become eligible for program benefits. However, under the *Aiken* order, such relief to ineligible households was required.

To ease the transition to the lump sum method, the regulation allows the State agency to continue to use the monthly adjustment method for households which have already begun to receive *Aiken* benefits. Even if a State decides to issue the remaining entitlement as a lump sum, there is no need to recompute the amount of benefits owing. Further, the regulation allows State agencies to use the monthly adjustment method to restore benefits if a household so requests. For example, a household may state that it is unable to safeguard a larger than normal food coupon allotment.

It is the policy of this Department to give the public and State agencies an opportunity to comment on regulatory changes before issuance. However, because of the need for timely implementation to benefit both claimants under *Aiken* and State agencies, the Department has decided that it is contrary to the public interest to give notice of proposed rulemaking. As the only *mandatory* procedural change is a simplification of the benefit calculation, implementation of the amendment is set at 30 days from the date of publication in the FEDERAL REGISTER. No time is set for implementation of the *optional* procedures; however, we expect that States wishing to use them will implement as soon as possible to gain the maximum benefit.

Accordingly, 7 CFR Part 271 is amended by adding a new subparagraph to §271.1(q) as follows:

* * * * * *

§271.1 General terms and conditions for State agencies.

* * * * * *

(q) *Restoration of lost benefits.* * * *

* * * * * *

(8) *Restoration of benefits under the Aiken, et al. v. Obledo, et al. court order.* (i) *Method of restoration.* Members of the class eligible to receive retroactive relief under the terms of the court order issued in *Aiken, et al. v. Obledo, et al.* shall receive retroactive food stamp benefits as follows:

(*a*) A currently eligible household shall receive its food coupon allotment at no or reduced cost until its retroactive entitlement is exhausted;

(*b*) A currently eligible household participating with no purchase requirement shall receive up to 150 percent of its food coupon allotment until its retroactive entitlement is exhausted;

(*c*) A currently ineligible household shall receive up to 100 percent of the food coupon allotment for its household size until its retroactive entitlement is exhausted; or

(*d*) At the option of the State agency, all households, whether eligible or ineligible, shall receive their entire retroactive entitlement in the form of a lump sum of food coupons. Eligible households will also receive their regular food coupon allotment.

(ii) *Computation of entitlement.* Regardless of the method used to restore retroactive benefits due under the *Aiken* order, the State agency shall use the current monthly food coupon allotment tables to determine the amount of retroactive benefits to be paid the household. Households which have already received or begun to receive retroactive benefits computed with the issuance tables in effect at the time of the delay or denial of benefits are not entitled to receive any additional benefits under this regulation.

(iii) *Preparation of issuance documents.* A special issuance document, either an ATP in a machine system or an HIR card in a manual system, shall be prepared for lump sum restoration under *Aiken.* The document shall be coded *"Aiken v. USDA"* either in print or with the appropriate computer code. In a machine system, any number of ATP cards may be issued to effect the issuance of a lump sum of coupons. In a manual system, one HIR card may be used to record issuances from any number of applications filed by a household. These documents shall be considered as regular authorized issuances for the Form FNS-250, Food Coupon Accountability Report, and other related accountability reports. Because the State agency must file a summary report of benefits restored under *Aiken,* a separate monthly tally should be kept so that this report can be prepared.

(iv) *Multiple applications for benefits.* If a household has filed more than one application for retroactive *Aiken* benefits, the State agency may do any one of the following: Restore the full amount for each application as it is approved; restore the full amount only after all applications have been approved; or restore the full amount for any number of applications as they are approved.

(v) *Issuance agent alert.* The State agency shall alert issuance agents that special issuance documents are being issued and that unusual coupon allotments and transactions of multiple ATP cards are authorized.

(vi) *Transition to lump sum method.* If a State agency decides to use the lump sum restoration method, it may do so for all households at the same time, or it may continue to make monthly adjustments for households which have already begun to receive restoration of lost benefits under *Aiken.* The State agency may, after adopting the lump sum method, restore *Aiken* benefits to a household by the monthly adjustment method only if it so requests.

(vii) *Implementation.* This regulation shall be implemented no later than 30 days after the date of publication in the FEDERAL REGISTER.

(78 Stat. 703, as amended (7 U.S.C. 2011-2026).)

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Dated: August 1, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-26367 Filed 9-18-78; 8:45 am]

[3410-02]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Regulation 163]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Minimum Size Requirement

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh California-Arizona lemons shipped to market to be at least 1.82 inches in diameter (size 235's in cartons). This requirement is needed to provide orderly marketing in the interest of producers and consumers.

EFFECTIVE DATES: September 24, 1978, through September 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: on August 28, 1978, notice was published in the FEDERAL REGISTER (43 FR 38411) inviting written comments on proposed minimum diameter requirements for shipments of 1978-79 season lemons, under marketing order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. None were received. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Shipments of lemons from the production area are now in progress and such shipments are regulated by size through September 23, 1978, under

container may measure smaller than 1.82 inches in diameter.

(b) As used in this section, "handle," "handler," "district," "district 2," and

plinary actions for possible rule violations within the disciplinary jurisdiction of the exchange.[1] The Commis-

procedures for certain of the general requirements now contained in §§ 1.51(a) (4), (5), and (7) of the Commission's regulations, 17 CFR §§1.51(a)

requirements of § 1.51 and not to supplant them, the Commission has determined not to amend § 1.51.

The Commission agrees that uni-

forcement staff has concluded that a reasonable basis exists for finding such violation. (See §§ 8.07 and 8.09.) These two provisions are indicative of

Shipments of lemons from the production area are now in progress and such shipments are regulated by size through September 23, 1978, under lemon regulation 111 (42 FR 48869), which requires such lemons to be at least 1.82 inches in diameter. This regulation, which would become effective September 24, 1978, would continue in effect this size requirement. The volume and size composition of the lemon crop in California and Arizona is such that ample supplies of the more desireable sizes are available to satisfy the demand in domestic fresh markets. The regulation is designed to permit shipment of ample supplies of lemons of acceptable sizes, maturity, and juice content in the interest of both growers and consumers, and is necessary to maintain orderly marketing conditions and provide consumer satisfaction. Sales opportunities for smaller fresh lemons in domestic markets are quite limited, as they have relatively low juice yields. Lemons failing to meet the minimum size requirement could be shipped to fresh export markets, left on the trees to attain further growth, or utilized in processing. The regulation is consistent with the objective of the act of promoting orderly marketing and protecting the interest of consumers.

After consideration of all relevant matter presented, including the proposal in the notice and other available information, it is hereby found that the following regulation is in accordance with this marketing agreement and order and will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this regulation unitl 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning this regulation was published in the FEDERAL REGISTER, and no objection to the regulation or its effective date was received; (2) the regulatory provisions are the same as those contained in the notice and are currently in effect through September 23, 1978; and (3) compliance with this regulation will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time hereof.

§ 910.463 Lemon regulation 163.

Order. (a) From September 24, 1978, through September 22, 1979, no handler shall handle any lemons grown in district 1, district 2, or district 3 which are of a size smaller than 1.82 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the lemons in any type of container may measure smaller than 1.82 inches in diameter.

(b) As used in this section, "handle," "handler," "district," "district 2," and "district 3" shall have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated September 13 1978, to become effective September 24, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-26282 Filed 9-18-78; 8:45 am]

[6351-01]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 8—EXCHANGE PROCEDURES FOR DISCIPLINARY, SUMMARY, AND MEMBERSHIP DENIAL ACTIONS

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission has adopted part 8 of its regulations under the Commodity Exchange Act, as amended. Part 8 contains minimum standards to be followed by each exchange in establishing procedures for enforcing its rules and for taking membership responsibility actions. Among other things, these regulations prescribe requirements for commencing investigations of possible rule violations, establish fair disciplinary procedures, and specify the records to be kept by an exchange in carrying out its rule enforcement responsibilities. A separate subpart has been reserved for rules which are expected to be adopted on the subject of membership denial actions.

EFFECTIVE DATE: Part 8 shall become effective on January 17, 1979.

FOR FURTHER INFORMATION CONTACT:

Barbara R. Stern, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, telephone 202-254-5208.

SUPPLEMENTARY INFORMATION: On February 25, 1977, The Commission published proposed regulations governing the procedures to be followed by an exchange in taking disciplinary actions for possible rule violations within the disciplinary jurisdiction of the exchange.[1] The Commission indicated that the rules were intended to accomplish three objectives: (1) To promote the prompt and thorough investigation and prosecution of exchange rule violations; (2) to insure that disciplinary proceedings are conducted fairly; and (3) to provide sufficient records to facilitate the Commission's rule enforcement inspections and Commission review of specific exchange disciplinary and access denial actions conducted pursuant to section 8c of the Commodity Exchange Act, as amended, 7 U.S.C. 1 et seq. (1976.[2]

The Commission received comments from the 10 exchanges which have been designated as contract markets for various commodities under section 5 of the Act and from one futures commission merchant. After carefully considering all of the comments, the Commission has determined that the regulations should be adopted, but with certain modifications. Among these are changes in wording and organization which are designed to make the regulations clearer and easier to use. Other revisions generally afford an exchange wider latitude in establishing procedures for adjudicating possible rule violations. In addition, the requirements under subpart C have been amended to provide for procedures that are more appropriate to those cases where summary action is permitted. The Commission has also determined that the prescribed disciplinary procedures should not be applicable to membership denial actions. The Commission intends, however, to adopt separate rules governing membership denial actions which will become subpart D of this part.

The comments and amendments to Part 8 are included in the discussion below, which also provides an overview of the adopted regulations. Explanation has been provided for those sections which are new or which, judging from the comments received appear to have generated special concern. The discussion is not intended to cover all of the details of the adopted regulations.

COMMENTS ON AND REVISIONS OF PART 8

ORGANIZATION

Part 8 is divided into four subparts. Subpart A contains general provisions which set forth the scope of the rules and define terms as used in Part 8. Subpart B contains the disciplinary procedure which is to be utilized by an exchange in investigating and adjudicating possible rule violations within the exchange's disciplinary jurisdiction. This subpart provides specific

[1] 42 FR 11142 (Feb. 25, 1977).
[2] Id.

procedures for certain of the general requirements now contained in §§ 1.51(a) (4), (5), and (7) of the Commission's regulations, 17 CFR §§1.51(a) (4), (5), and (7) (1977). Subpart C contains procedures which may be used for taking summary action in specified circumstances. One type of summary procedure is designed to permit an exchange to take immediate action in situations where time is a critical factor. A second kind of summary action may be used for very minor violations where a full proceeding would be unduly burdensome and seems inappropriate in view of the violation and sanction. Subpart D has been reserved for regulations concerning membership denial actions, which are expected to be adopted at a later date.

GENERAL COMMENTS

The comments received from the exchanges generally reflected a view that the Commission's proposed regulations were overly complex and formal. Many exchanges argued that uniformity of procedures should not be a goal in and of itself and that each exchange should be given more discretion to fashion a disciplinary procedure tailored to its particular needs. One exchange suggested that the Commission should merely require each exchange to adopt rules requiring prompt and fair handling of member disciplinary procedures as an alternative to promulgating a set of regulations applicable to all 10 exchanges. Another exchange suggested that the Commission adopt an exemptive regulation which would permit the Commission to waive strict application of its rules whenever an exchange has demonstrated substantial compliance with the general principles of rule enforcement.

Part 8 was proposed, in part, in response to staff findings amd recommendations based on observations made during the Commission's contract market rule enforcement inspections. The proposed regulations were intended to correct deficiencies, some of which were severe, in existing exchange rule enforcement programs. The Commission has continued its program of rule enforcement inspections and its recent experience reaffirms the earlier conclusion that minimum requirements are essential for effective regulation. Accordingly, the Commission has determined that most of the requirements in the proposed regulations, particularly those pertaining to investigations and recordkeeping, should be adopted.

At the time Part 8 was proposed the Commission intended to amend § 1.51 to delete therefrom any provision which duplicated or overlapped with the part 8 regulations as adopted. Since part 8 is intended to amplify the requirements of § 1.51 and not to supplant them, the Commission has determined not to amend § 1.51.

The Commission agrees that uniformity of procedures should not be and is not the primary goal of the adopted regulations. The adopted regulations have been designed to provide each exchange with as much flexibility as possible. An exchange is free to establish procedures within the regulatory framework. It is emphasized that the adopted regulations set forth minimum standards to be followed by an exchange in establishing a disciplinary procedure. As is stated in § 8.01, the regulations do not preclude an exchange from adopting rules containing additional standards of practice and procedure consistent with the regulations, and some exchanges already have such rules. One exchange, for example, provides parties under investigation with notice of the investigation although the adopted regulations do not require notice until a person is charged with a violation. The examples below further demonstrate the flexibility of part 8, particulary in the adjudicatory stage of the disciplinary procedure. Many exchanges objected to the proposed mandatory default provisions where a respondent failed to deny charges or to request a hearing. The adopted regulations permit an exchange that wishes to do so to conduct a hearing on charges of a rule violation whether or not one is requested by a person charged with the violation. (See §§ 8.14 and 8.15.) In addition, under subpart C providing for summary action, an exchange may establish a procedure for imposing sanctions for violations of rules of decorum, submission of records, or other similar activities. (See § 8.27.) This is in contrast to the proposed regulations, which would have required an exchange to provide an opportunity for a full hearing and appeal, no matter how minor the violation or sanction.

One exchange was critical of the Commission's statement that the regulations had been drafted to permit exchanges to retain a "certain" amount of discretion in handling their rule enforcement obligations. This exchange emphasized the need to be able to judge disciplinary matters within its jurisdiction on the facts before it. The Commission did not intend by using the work "certain" to imply that an exchange's discretion was to be severely limited. Each exchange is clearly responsible for its own self-regulation. For example, an exchange's enforcement staff may close an investigation if it determines that no reasonable basis exists for finding a violation and the disciplinary committee may choose not to charge a person with a rule violation even though the enforcement staff has concluded that a reasonable basis exists for finding such violation. (See §§ 8.07 and 8.09.) These two provisions are indicative of the wide discretion given an exchange under the adopted regulations. Moreover, they demonstrate that exchange discretion is not limited merely to procedural matters involved in adjudicating possible violations, but that it goes to what is perhaps the essential aspect of rule enforcement by authorizing each exchange to determine which cases should or should not be adjudicated.[3] Prosecutorial discretion, however, should not and cannot relieve an exchange of the statutory obligation to enforce its rules as part of its self-regulatory responsibilities.

One exchange asserted that the Commission's regulations will significantly increase the costs of its rule enforcement program. The commenter appeared to be primarily concerned with the obligation to complete investigations within the time period prescribed in the proposed regulations and to submit periodic status reports to the Commission on cases where longer investigations are necessary. As will be discussed further, the Commission has extended the period for completing investigations from 3 months to 4 and has deleted the proposed periodic status reporting requirement. More importantly, however, the Commission believes that an adequate enforcement staff which can effectively police trading practices and promptly investigate potential violations is critical to the protection of the public interest. As the Commission states in guideline II:

> The mere fact that an exchange, because of its method of financing, does not have sufficient resources to fund an adequate enforcement program does not justify its not having an adequate program. It is the obligation of every contract market to make whatever modifications in its self-financing scheme as are necessary to enable it to adequately fund an enforcement program which will protect the public interest.[4]

The Commission also believes that even though the new hearing and recordkeeping requirements may increase the cost of disciplinary actions, the need for fundamental fairness and complete records outweighs the burden any such additional costs may impose on an exchange.

Finally, three exchanges requested that the Commission hold hearings before adopting final regulations. For

[3] The fact that these decisions will be subject to Commission oversight both during rule enforcement inspections and when the Commission reviews records of exchange actions required to be forwarded to the Commission does not mimimize the breadth of an exchange's discretion in this area.
[4] Contract market rule enforcement program, guideline II, May 13, 1975, CCH Com. Fut. L. Rep., par. 6430.

several reasons, the Commission has determined that public hearings on its proposals are not necessary. Ample opportunity to comment on the proposed

gives an exchange the authority to adopt rules and practices in addition to those required by part 8, so long as they are not inconsistent with these

pursuant thereto to the Commission for its approval. The Commission recognizes that prior to these regulations an exchange may have adopted rules

ENFORCEMENT STAFF

Seven exchanges commented on the requirements of § 8.05 relating to the

business conduct committee are much more aware of the nuances of trading and are able to discern quickly whether certain evidence warrants further

their duties by concern for job security. However, there will not be a problem if, as is required, the enforcement staff is truly independent. In further-

several reasons, the Commission has determined that public hearings on its proposals are not necessary. Ample opportunity to comment on the proposed regulations has already been provided. The formal comment period in the FEDERAL REGISTER was 60 days; the Commission also accepted and considered comments submitted after that period by exchanges that were unable to meet that deadline. In addition, all of the exchanges have expressed their views and the Commission has carefully evaluated their suggestions and comments. In many cases the regulations as adopted reflect changes recommended by the exchanges. Finally, the Commission emphasizes that the adopted regulations do not embody any startling or novel concepts and in many ways codify the views previously expressed by the Commission.[5]

MISCELLANEOUS COMMENTS

The Commission received several comments concerning the proposed regulations published as part 9,[6] which will implement the notice requirement in section 8c of the act concerning reporting by an exchange of expulsions, suspensions, disciplinary actions, and access denial actions. These comments will be considered in conjunction with comments received on part 9 before final regulations thereunder are adopted.

One exchange indicated that it did not consider as binding a statement which appeared only in the preamble to and not in the text of the regulations. The Commission wishes to make clear that the narrative portion of the FEDERAL REGISTER notice announcing the proposal or adoption of regulations contains the Commission's views on the purpose and meaning of its rules. It is offered as further guidance and explanation of the requirements of a regulation and, as such, should be accorded significant weight by affected persons. Failure to adhere to a Commission interpretation may result in enforcement action for violation of the regulation.

SUBPART A—GENERAL PROVISIONS

SCOPE OF RULES

As has been discussed in great detail above, many exchanges argued in their comments that part 8 should give an exchange more discretion to fashion a disciplinary system tailored to its particular needs. In response to these comments, § 8.01 as adopted gives an exchange the authority to adopt rules and practices in addition to those required by part 8, so long as they are not inconsistent with these regulations.

IMPLEMENTING EXCHANGE RULES

One exchange commented that there was little need for an exchange to adopt and promulgate rules of its own when it was required by law to follow the Commission's standards in the part 8 regulations, many of which are detailed enough to stand alone. The Commission believes that this comment has merit with respect to certain of the regulations. It has therefore added a new section, § 8.02, to the regulations as adopted.

Section 8.02(a) specifies those regulations for which exchanges must adopt implementing rules (§§ 8.11, 8.13, 8.15, 8.17, 8.18, and 8.20 of subpart B and §§ 8.26 and 8.28 of subpart C). Each exchange should have specific rules implementing these regulations, since they permit an exchange to choose among several alternative approaches and it is important for a person subject to a disciplinary action to know exactly what his rights and obligations are under that exchange's procedures. For example, some of these regulations require an exchange to take or permit a specific action "promptly." Wherever possible the implementing exchange rule should specify what that period of time is.

In addition, section 8.02(a) requires each exchange to submit all rules required to be adopted pursuant thereto by the effective date of the part 8 regulations. Of course, an exchange applying for contract market designation pursuant to section 6 of the Act subsequent to the effective date of the regulations will have to submit its required part 8 rules at the time of its application.

The Commission wishes to point out that, in contrast to the regulations specified in § 8.02(a), there are other part 8 regulations which do not require the submission of implementing rules but must nonetheless be strictly followed (§§ 8.05, 8.06, 8.07, 8.08, 8.09, and 8.12). For example, while each exchange must have an enforcement staff and a disciplinary committee (§§ 8.05 and 8.08), it need not submit to the Commission rules establishing them.

Certain of the Part 8 regulations provide that a disciplinary procedure is permitted if it is authorized by the rules of an exchange (§§ 8.10, 8.14, 8.16, and 8.20 of subpart B and § 8.27 of subpart C). Section 8.02(b) gives an exchange discretion to adopt rules implementing any or all of these regulations.

Sections 8.02 (a) and (b) require each exchange to submit all rules adopted pursuant thereto to the Commission for its approval. The Commission recognizes that prior to these regulations an exchange may have adopted rules that comply with various sections of Part 8. The prohibition in §§ 8.02 (a) and (b) against putting into effect a rule submitted pursuant thereto prior to Commission approval does not apply to existing exchange rules which are required to be enforced in accordance with § 1.53 or which have been submitted to and approved by the Commission pursuant to section 5a(12) of the Act.

DEFINITIONS

The term "disciplinary procedure" in § 8.03(d) has been amended to refer only to the investigation and adjudication of possible rule violations and the imposition of penalties under subpart B. It does not include the taking of summary action, which is now subject to the procedures set forth in subpart C, or to the adjudication of membership denial actions which, as noted above, is to be governed by a separate set of procedures to be adopted as subpart D.

The term "exchange" in § 8.03(f) replaces the term "contract market," used in the proposed regulations, in order to be consistent with section 8c of the Act and with regulations proposed as part 9.

The term "penalty" in § 8.03(i) has been modified, as discussed below, to refer only to sanctions imposed pursuant to a finding that a violation has been committed or the terms of a settlement agreement.[7] Thus, a warning letter does not constitute a penalty if it is issued in accordance with § 8.07(c) but does constitute a penalty if it is issued after a finding that a violation has been committed.

The term "respondent" in § 8.03(l) has been amended for clarification to include a person who is subject to a summary action under subpart C as well as a person served with a notice of charges under subpart B.

The following new definitions were added to § 8.03 to clarify the adopted regulations: (b) "Charge or charges," (j) "person(s) within the jurisdiction of an exchange," (k) "record of the proceeding," and (n) "violation."

RECORD RETENTION

All reports and records required to be made under these regulations are subject to the general record retention and inspection provisions contained in § 1.31.

[5] One of the areas which generated considerable discussion is the requirement that an exchange maintain an independent enforcement staff to investigate and prosecute possible rule violations. (See § 8.05.) The regulation, however, is consistent with guideline II, a Commission policy statement issued nearly 3 years ago.

[6] 42 FR 30473 (June 14, 1977).

[7] Under § 8.16(c), a settlement agreement must specify the rule violations the disciplinary committee has reason to believe were committed. However, a respondent may be permitted to accept a penalty without either admitting or denying the rule violations upon which the penalty is based.

ENFORCEMENT STAFF

Seven exchanges commented on the requirements of § 8.05 relating to the composition and functions of the enforcement staff. Section 8.05 requires each exchange to have an enforcement staff which is authorized to investigate and prosecute possible rule violations, and precludes exchange members and persons whose interests would conflict with enforcement duties from serving on the staff. It also prohibits persons with trading privileges from directing or controlling the staff's operations. While not specifically stated in § 8.05, the Commission assumes that the members of the enforcement staff, like all other employees of the exchange, will operate under the chief executive officer of the exchange.

The comments ranged from requests for clarification to strong objection. In general, the strong objections were voiced by those exchanges whose present systems conflict with the regulation either because members now participate in investigating and/or prosecuting possible violations or because their enforcement staffs, operate under the direct supervision of exchange members as an adjunct of an exchange committee. These exchanges argued that their present systems are workable and effective and that if the enforcement staff is restricted to nonmembers it will suffer from a lack of expertise which members provide by virtue of their experience with exchange operations.

The requirements of § 8.05 concerning the composition of the enforcement staff reflect an important policy. In guideline II the Commission advises that "each exchange has the obligation of having a suitable staff engaged in actively and continuously looking for possible violations * * *." Elaborating upon the term "suitable staff," the Commission states that an exchange could not meet its rule enforcement obligations by utilizing member officers or committees as its sole enforcement staff. Guideline II further recommends that a "suitable staff" could consist of exchange employees or persons hired on a contract basis to conduct an exchange rule enforcement program. The Commission continues to believe that an independent enforcement staff is best able to investigate trading activities as they occur, since such persons are not preoccupied with or constrained by their own participation or interest in the market during trading periods. Accordingly, § 8.05(a) provides that the enforcement staff must be comprised of employees of the exchange and/or persons hired on a contract basis.

One exchange commented that members who are actively engaged in trading in the pit and who are on a business conduct committee are much more aware of the nuances of trading and are able to discern quickly whether certain evidence warrants further investigation. Where a member is witness to a questionable incident, it is expected that he will furnish such information to the enforcement staff and, when necessary, will be subsequently interviewed by it. It is the Commission's view that anyone with reason to believe that a violation has been or will be committed should report that information to the enforcement staff. Members serving on a business conduct committee have an even greater responsibility in this regard.

The Commission wishes to make clear that the prohibition against a member serving on an enforcement staff or supervising its activities is not so broad as to pevent the staff from seeking members' expert advice in appropriate circumstances. The Commission expects that members' invaluable expertise will be available to the enforcement staff. This prohibition is not intended to impugn to any degree the propriety of such member assistance. It is designed to prevent possible conflicts of interest by insuring a working distance between an enforcement staff and exchange members.

Certain exchanges criticized the Commission's statement in proposed part 8 that the vigorous and thorough investigation and prosecution of rule violations is best accomplished by persons with no inherent conflicts of interest. Those exchanges argued that there would be a greater conflict of interest if staff persons investigate and prosecute rule violations than if other members assume those duties. They reasoned that an employee on the enforcement staff of an exchange would have to look to the exchange, to the governing board or to a committee of exchange members for his job security and advancement. In contrast, they asserted, a member can act vigorously against another member without concern that it will affect his business or his future.

The Commission emphasizes that the adoption of the requirements of part 8 is not intended to question, in any way, the integrity or honesty of the exchange community. Rather, the Commission has endeavored to devise standards for disciplinary procedures in which potential conflicts of interest will be minimized. Because members may be subject to exchange disciplinary action, the investigation and prosecution of possible rule violations should be performed by nonmembers to eliminate any potential conflicts of interest. The Commission is indeed concerned by exchange comments that members of the enforcement staff may be influenced in carrying out their duties by concern for job security. However, there will not be a problem if, as is required, the enforcement staff is truly independent. In furtherance of that requirement and in recognition of the fact that some members of the enforcement staff may serve concurrently in a market surveillance or other nondisciplinary administrative role, the Commission has amended § 8.05 of the adopted regulations to provide that when carrying out an enforcement responsibility, a member of the enforcement staff may not operate under the direct supervision or control of any person with trading privileges or any exchange body composed of such persons.[8] The Commission will reexamine this issue from time to time and will amend the regulation if appropriate.

Some exchanges asked the Commission to distinguish between the power of a disciplinary committee to direct the activities of the enforcement staff and the function of a disciplinary committee in an oversight role which involves regular review and evaluation of the enforcement staff's performance and includes reports to the board of governors. Neither the statement in the preamble of the proposed regulations nor the present requirements of § 8.05 prohibits general committee oversight of the enforcement staff, provided that such oversight does not involve direct participation in or supervision of day-to-day activities of the staff. In fact, the Commission views general operation and performance evaluations of the enforcement staff by exchange committees as fully consistent with an exchange's obligation under § 8.05(b) to insure the effective and diligent enforcement of all rules within its disciplinary jurisdiction. However, to a large extent committee review of enforcement staff performance can be accomplished by careful study of the staff's completed reports and recommendations under § 8.07. It need not require extensive involvement in the staff's enforcement activities.

Finally, one exchange asked whether the disciplinary committee was precluded from directing the enforcement staff to conduct an investigation. As adopted, § 8.06(a)(2) requires the enforcement staff to commence an investigation upon receipt of information

[8] Although the prohibition against members supervising the enforcement staff was not set forth in the text of the proposed regulations, the Commission stated in the preamble: "This prohibition against member participation on the enforcement staff extends not only to their direct participation but also to any supervisory capacity as well; that is, the enforcement staff may not operate under the direction of a contract market committee such as a Business Conduct Committee which is composed of members." 42 FR 11142 (February 25, 1977).

which, in its judgment, indicates a possible basis for finding that a violation has occurred or will occur. As stated

As adopted, § 8.06(a)(2) provides that an investigation must be commenced upon the discovery or receipt of credible information by an exchange. The

whether it is frivolous or not. An adequate investigation should include, where appropriate, examining records

there should be little work overlap if an exchange has promptly undertaken its task and pursues it thoroughly. But even with diligent exchange action,

ments, unavailability of persons with information who may be away on business or vacations, and the volume of work that an enforcement staff may

staff which may be examined by the Commission during its periodic inspections of the exchange's rule enforcement procedures.

which, in its judgment, indicates a possible basis for finding that a violation has occurred or will occur. As stated above, exchange members have an affirmative duty to report to the staff information concerning possible rule violations. The provision in § 8.05 that the enforcement staff may not operate under the direction or control of persons with trading privileges is not intended to alter this duty in any way. But it does mean that a procedure in which an investigation must be authorized by a committee of members before the enforcement staff may take action will not be permitted.

INVESTIGATIONS

Section 8.06(a) requires each exchange to establish and maintain a disciplinary procedure which requires the enforcement staff to conduct investigations of possible rule violations within the disciplinary jurisdiction of the exchange. The regulation provides in general that such an investigation must be commenced (1) upon the request of the Commission, its Executive Director or his delegee or (2) upon the discovery or receipt of information by the exchange which indicates a possible rule violation has occurred or will occur. The enforcement staff must commence its investigation promptly and, as stated above, without further authorization from any exchange official or entity.

As adopted, § 8.06(a)(1) provides that an investigation must be commenced not only upon the request of the Commission but, in addition, upon the request of its Executive Director or his delegee. Such delegee could be the General Counsel, the Director of the Division of Enforcement, or the Director of the Division of Trading and Markets. The Commission cautions that the foregoing examples are given for illustrative purposes only; they are not meant to be all-inclusive.

One exchange commented that it believed that a request by the Commission for the commencement of an investigation should be in writing and should include a statement giving the basis for the request. As a practical matter, § 8.06(a)(1) requests normally will be made in writing.

The Commission wishes to make clear that § 8.06(a)(1) refers to requests to commence an investigation. Neither it nor any other part 8 regulation affects in any way the authority given the Commission and its staff under the Act to make routine requests for information on surveillance or other matters. Such requests will continue to be treated as general in nature. Similarly, nothing in the part 8 regulations should be construed to alter the full inspection powers given the Commission and its staff under the Act.

As adopted, § 8.06(a)(2) provides that an investigation must be commenced upon the discovery or receipt of credible information by an exchange. The broad language of the adopted regulation is intended to cover both those situations specified in the proposed regulation and all other appropriate cases.

Accordingly, while no longer explicitly stated in the regulation, an investigation continues to be required upon receipt of a complaint from a customer, exchange member, or any other person. Adequate investigation of such complaints should consist of a meaningful inquiry into every complaint which, if true, would constitute a violation of exchange rules or conduct inconsistent with just and equitable principles of trading, or which otherwise would be detrimental to the exchange. An investigation should be made in all instances unless the exchange has sufficient knowledge concerning the matter complained of to determine it is clearly unworthy of belief.

Similarly, an investigation must commence upon receipt of appropriate information from or request by an exchange official. Failure of an exchange to apprise its enforcement staff of a possible rule violation would be a failure to act pursuant to, and therefore a violation of, § 1.51

The enforcement staff must investigate all credible charges and significant indications of violations, regardless of how they come to the attention of an exchange. This is true whether such matters are brought to the attention of the exchange by members, by anonymous charges, by press reports, or by any other source. Further, the enforcement staff itself should take affirmative action to be alert to any indications of a possible rule violation. For example, information that a person holding membership on two exchanges has been found by one exchange to have violated a rule would likely be grounds under § 8.06(a)(2) for an investigation by the enforcement staff of the other exchange to determine whether similar violations may have been committed by the member at the second exchange, but not grounds for a summary type action.

It is the present practice of one exchange to distinguish between those matters that require an investigation and those that are accorded the lesser treatment of an inquiry. The Commission emphasizes that an investigation is required in all of the situations encompassed by § 8.06(a). The scope and kind of investigation which is conducted, however, is a matter of enforcement staff discretion. The regulation is intended to insure that the staff will, at a minimum, take a long enough look at each case to determine whether it is frivolous or not. An adequate investigation should include, where appropriate, examining records and documents, interviewing members and their employees and agents, and making whatever other inquiries may have a bearing on the matter.

One exchange commented that it is wasteful for both the Commission and an exchange to investigate the same transaction or conduct at the same time. It therefore recommended that an exchange not be required to conduct an investigation where the Commission staff is investigating the same transaction or conduct unless the Commission staff specifically so requests. Similarly, the exchange suggested that the Commission should defer proceeding with an investigation while an exchange investigation is in progress unless either an ongoing violation is involved or the exchange requests the Commission to act.

The language of section 5a(8) of the Act unconditionally requires each contract market to enforce all of its rules approved by the Commission under section 5a(12) of the Act. Underscoring the importance of this obligation, section 6b specifically refers to a contract market's failure to enforce its rules as grounds for the issuance of a Commission cease-and-desist order and the assessment of civil penalties of up to $100,000 for each violation.[9] The fact that the Commission may be investigating a situation which falls within the disciplinary jurisdiction of an exchange does not excuse that exchange from meeting its statutory obligation to enforce its own rules. Of course, in the normal course of the Commission's investigative efforts and those of the several exchanges, situations will arise in which the most productive and effective action will involve a cooperative effort. In meeting its obligations to carry out the purposes of the Act, the Commission will seek to take advantage of all such opportunities. In rare situations, the Commission may want to assume full investigative responsibility for a particular matter. However, a Commission policy which would excuse exchanges from any of their self-regulatory responsibilities would be inconsistent with the Commission's obligations.

The Commission must carry out its own statutory duty to regulate and oversee trading on the exchanges and, thus, will continue to examine those matters deemed appropriate for Commission investigation. Of course, the need to allocate the Commission's limited resources most efficiently means

[9] See secs. 5a(8) and 6b of the Act, 7 U.S.C. 7a(8) and 13a (1976). In addition, § 1.53 of the regulations requires each contract market to enforce those of its rules in effect as of July 18, 1975 unless such rules have been disapproved by the Commission pursuant to sec. 5a(12).

there should be little work overlap if an exchange has promptly undertaken its task and pursues it thoroughly. But even with diligent exchange action, there nevertheless may be occasions when the Commission finds that it is necessary to commence an investigation while an exchange is proceeding with its own investigation.[10] This decision continues to be a matter of Commission discretion.

Paragraph (b) of § 8.06 provides that investigations shall be completed within 4 months, unless there exists significant reason to extend them beyond such period. The following three amendments were made in this section as a result of exchange comments: The period for completing investigations, previously 3 months, was increased to 4 months; the "significant reason" exemption replaces that of "complexity" contained in the proposed regulation; and the periodic reporting requirement for incompleted investigations was deleted.

Several exchanges requested that the period for completing investigations be extended to 6 months. They argued that the proposed investigation period was too short, and that the paperwork required for investigations pending after 3 months would divert the enforcement staff from completing its work. In response to these comments, § 8.06(b) now requires that investigations be completed within 4 months.[11] If as a general practice an exchange cannot complete most investigations within 4 months, its enforcement staff may not be adequate to carry out that exchange's enforcement responsibilities. The 4-month period thus serves as a general guideline for completing exchange investigations.

A number of exchanges commented that extended investigations often result from factors other than "complexity." They cited as examples delays in transmitting needed documents, unavailability of persons with information who may be away on business or vacations, and the volume of work that an enforcement staff may be engaged in at any given time. The Commission agrees that valid reasons other than "complexity" may prevent an enforcement staff from promptly completing an investigation. Accordingly, § 8.06(b) contains a broad exemption from the 4 month requirement for an investigation for which there exists significant reason to extend it beyond the prescribed period.

Several exchanges objected to the proposed periodic reporting requirement for investigations not completed within the time prescribed by the regulation on the grounds that is would create burdensome and unnecessary additional costs. While the Commission has deleted this reporting requirement from the regulation as adopted, it reiterates its position as stated in guideline II that the capstone of any effective rule enforcement program is a procedure which results in the taking of prompt, effective disciplinary action. Accordingly, the Commission reminds the exchanges that in the course of its rule enforcement inspections it will be looking closely at those cases where investigations lasted more than 4 months, and for evidence in their files of significant reason for such duration.

The Commission has determined not to adopt paragraph (c) of the proposed regulation on investigations, which pertained to an exchange's obligation to respond to a complaint. The proposed regulation gave discretion to an exchange to provide that if a complainant wanted a response, his complainant had to be in writing. While this provision has not been adopted by the Commission, pursuant to § 8.01 an exchange has the authority to provide in its disciplinary rules that a complaint must be in writing before it must provide the complaint with a response. However, the adoption of such a rule would not relieve the exchange of its self-regulatory responsibility to investigate all credible charges and significant indications of violations, regardless of how they are brought to its attention.

INVESTIGATION REPORTS

At the conclusion of an investigation, § 8.07 of the adopted regulations requires the enforcement staff to prepare a written investigation report. This report will serve two purposes. First, it will provide the disciplinary committee with the basis upon which to decide whether to issue changes of a violation. Second, it will serve as a record of the investigation and resultant conclusions by the enforcement staff which may be examined by the Commission during its periodic inspections of the exchange's rule enforcement procedures.

Several exchanges were concerned about the "conclusions and recommendations" proposed to be included in an enforcement staff report. One exchange believed it was inappropriate for the enforcement staff to recommend sanctions in its report. This exchange urged that any recommendation be limited to a general statement that the disciplinary committee should hear the case. In response to these comments, § 8.07(a) now requires that the investigation report must contain a summary of any complaint, the relevant facts, the enforcement staff's conclusions as to whether a reasonable basis exists for finding a violation and a recommendation as to whether the disciplinary committee should proceed with the matter.

The Commission wishes to make clear that an enforcement staff conclusion that a reasonable basis for finding a violation does or does not exist is not a determination that a violation has or has not occurred. Rather, it is a threshold finding of whether a sufficient basis exists to merit proceeding with the case. Thus, under § 8.07(a), if the enforcement staff concludes a reasonable basis exists for finding a violation, its report must be submitted promptly to the disciplinary committee. Under § 8.07(b), if the enforcement staff concludes that no reasonable basis exists for finding a violation, the investigation report becomes part of the case file and the file there after may be closed. Although § 8.07(b) does not require the enforcement staff to send its report to the disciplinary committee in these case, pursuant to § 8.01 an exchange may include this requirement in its rules if it so desires.

As adopted, paragraphs (a) and (b) of § 8.07 have been amended to require that the enforcement staff also include in each investigation report the reason why the investigation was conducted. This requirement may be satisfied by a simple statement that the investigation was initiated at the request of the disciplinary committee or because a customer complaint was received. The provision was added in order to provide the Commission with information on what proportion of investigations are commenced pursuant to Commission and exchange requests and customer or member complaints as compared to the number which are initiated directly by the enforcement staff. This information will aid the Commission in its evaluation of an exchange's responsiveness to customer complaints.

The Commission does not intend for the investigation report requirement to be unnecessarily burdensome. For example, many investigation files may

[10] For example, the remedies available to the Commission and an exchange are different and the situation may require a remedy which belongs exclusively to the Commission. Under sec. 6c of the Act, if a person has engaged, is engaging, or is about to engage in any action or practice constituting a violation of any provision of the Act or a Commission regulation or order, the Commission may bring an action to enjoin such act and enforce compliance with the provision in question. The scope or purpose of a Commission investigation may differ from that of an exchange. The Commission's investigation may be only part of its overall rule enforcement inspection or it may be an investigation conducted pursuant to sec. 8 of the Act for the purpose of apprising Congress of developments in a matter in which it is interested.

[11] Section 8.06 was adopted, in part, in response to recommendations by the Comptroller General that the Commission should establish and enforce standards for completing investigations made by commodity exchanges. Comptroller General of the United States, Report to the Congress, Improvement needed in the Regulation of Commodity Futures Trading 39 (June 24, 1975).

appropriately be closed with a one page memorandum and many customer complaint files probably can be

present disciplinary procedure followed by some exchanges divides among two or more groups those func-

any reason, not to adjudicate a possible violation brought to its attention by an investigation report, that deci-

sometimes charged with engaging in conduct that is detrimental to the best interests of the exchange or is inconsistent with just and equitable princi-

sentation could include, if desired by the respondent, preparing documents, assisting with discovery, negotiating settlements, presenting evidence, in-

hearing on the penalty before it may be imposed.

DENIAL OF CHARGES AND RIGHT TO

appropriately be closed with a one page memorandum and many customer complaint files probably can be closed merely with a copy of the letter of response, so long as these documents contain full information regarding the final disposition of the matter and the reasons therefor.

A new paragraph (c) has been added to § 8.07, which permits an exchange to issue a warning letter without an express finding that a violation has been committed. Proposed part 8 included a warning letter in the definition of a penalty. As such this letter could not, under the proposed regulations, be sent until there in fact had been a finding that a violation had occurred. Several exchanges provided examples where a disciplinary proceeding would be inappropriate but where a warning or cautionary letter might have a remedial effect—such as a situation in which it was strongly suspected that a rule had been violated but probative evidence was at that time lacking. The Commission agrees that warning letters may have a prophylactic effect in this and other situations. Therefore, a warning letter issued under § 8.07(c) will not be considered a penalty because it will not be issued pursuant to a finding that a violation has been committed. A warning letter will be considered a penalty, however, if it is issued pursuant to a finding by the disciplinary committee that a violation has occurred.

DISCIPLINARY COMMITTEE

Under the regulations as proposed and as adopted, each exchange is required to establish one or more disciplinary committees to perform the following functions: (1) Determining what action should be taken after the enforcement staff submits an investigation report of a possible violation (§ 8.07); (2) accepting offers of settlement (§ 8.16); (3) hearing evidence (§ 8.17); (4) determining whether a violation has been committed (§§ 8.14 and 8.18); and (5) assessing and imposing appropriate penalties (§§ 8.14 and 8.18). The disciplinary committee may consist of exchange members and/or employees; however, no enforcement staff member may serve on a disciplinary committee. This provision is a counter-part to § 8.05(a), which prohibits persons on a disciplinary committee from serving on or directing the operations of the enforcement staff. As previously indicated, these provisions are designed to insure fair treatment to a respondent and to eliminate potential conflicts of interest.

Pursuant to the regulations, the various functions of the "disciplinary committee" may be retained by the exchange board of governors or may be delegated, in full or in part, to one or more bodies of the exchange. The present disciplinary procedure followed by some exchanges divides among two or more groups those functions required of the disciplinary committee. Section 8.08 permits an exchange to divide the disciplinary committee's responsibilites on either a functional or subject matter basis. For example, one "disciplinary committee" may have the authority to determine whether there is sufficient evidence of a violation to go forward with a notice of charges, while another "disciplinary committee" may thereafter hear evidence, make a decision, and assess a penalty. An exchange could also establish a "disciplinary committee" to handle floor violations and another to handle violations of financial requirements.

REVIEW OF INVESTIGATION REPORT

Section 8.09 requires the disciplinary committee to review the investigation report prepared by the enforcement staff and to determine whether to adjudicate the possible violation. In the event the committee determines that additional investigation or evidence is needed, it must promptly direct the enforcement staff to conduct its investigation further. After receipt and review of a completed report, the committee could determine to go forward with the case, could disagree with the enforcement staff regarding whether information had been adduced which indicates a reasonable basis exists for finding a violation, or could determine that even though the staff had presented evidence which indicates a reasonable basis exists for finding a violation, the violation is one which, in light of all of the circumstances, should not be adjudicated.

One exchange objected on the grounds of vagueness to the standard in the proposed regulation that the disciplinary committee take action on an investigation report within "a reasonable period of time." The Commission has accordingly amended the regulation to provide that the disciplinary committee must act within a reasonable period of time not to exceed 30 days.

In response to other exchange comments, § 8.09(a) has been amended to make clear that the disciplinary committee has the perogative not to issue a notice of charges even if the enforcement staff has recommended such action and has concluded that a reasonable basis exists for finding that a violation has occurred. As adopted, the regulation provides that if the disciplinary committee determines that no reasonable basis exists for finding a violation or that prosecution is otherwise unwarranted, it may direct that no further action be taken. Section 8.09(a) further provides that if the disciplinary committee determines, for any reason, not to adjudicate a possible violation brought to its attention by an investigation report, that decision must be in writing and contain a statement of the reasons therefor. While the section as adopted does not explictly require the transmission of the determination to the Commission, an exchange would be required to comply with a Commission request for the determination in the event one is made.

PREDETERMINED PENALTIES

Section 8.10 gives an exchange discretion to adopt rules which set specific maximum penalties for particular violations. Unlike the proposed regulation, it does not also authorize the disciplinary committee to set penalties for other violations on an ad hoc basis in advance of a hearing.

Comments on the concept of predetermined penalties were mixed. Some exchanges argued that it would be a mistake to set penalties before the facts have been presented and the gravity of the offense determined. The Commission points out, however, that predetermined penalties are designed to expedite the disciplinary procedure and their use is entirely a matter of exchange discretion. Furthermore, § 8.10 gives the disciplinary committee discretion in each case whether to employ the predetermined penalty. For example, where a respondent continuously violates a rule for which a predetermined penalty has been established, the disciplinary committee has the discretion to impose a greater penalty with a more remedial effect. However, if the predetermined penalty is employed, the disciplinary committee is restricted to imposing it or some appropriate lesser penalty after a hearing on a denied charge for which a respondent is found to have committed the violation charged.

NOTICE OF CHARGES

Once the disciplinary committee has determined that a matter is one which should be adjudicated, the enforcement staff would assume the role of prosecutor, preparing the notice of charges and proceeding with the hearing when one is requested by the respondent.

Section 8.11 sets forth the requirements concerning the minimum information which must be included in a notice charging a person with a violation. One exchange objected to the provision requiring it to specify the rules alleged to have been violated (or about to be violated). The Commission does not feel this comment has merit, as it believes it is a fundamental right of a respondent to know which rules he is charged with violating. This exchange stated that a respondent does not always violate a specific rule but is

sometimes charged with engaging in conduct that is detrimental to the best interests of the exchange or is inconsistent with just and equitable principles of trade. The Commission agrees that an exchange may enforce general standards for professional conduct and practices. It is suggested that those exchanges which wish to enforce general professional standards adopt rules setting forth such standards.

RIGHT TO REPRESENTATION

Section 8.12 differs from the proposed regulation in two significant respects. First, the right to representation now commences with the service of a notice of charges. Second, a respondent no longer is limited to representation by legal counsel. The regulation as adopted provides for representation by an attorney or any other representative of the respondent's choosing.

Several exchanges commented that the provision in the proposed regulation which would have allowed representation in every aspect of the disciplinary procedure was too broad. They argued that participation by counsel could impede an investigation and could result in more protracted and costly proceedings. The Commission believes these comments have some merit. More importantly, the Commission has concluded that fairness does not require that a person whose conduct is under investigation have the right to be represented during that investigation. Rather, the Commission believes that the fundamental rights of a respondent will be adequately protected by affording him the right to be represented upon being charged with a violation and thereafter throughout the remainder of the proceeding. Section 8.12 as adopted reflects this belief. The Commission points out that while the adopted regulations do not provide for a right to be represented during an investigation, an exchange is not precluded from providing such a right.

One exchange objected to the right to representation in the adjudicatory stage of the proceeding. However, as the Commission has stated, it is necessary to insure a respondent's fundamental rights.

The Commission is aware that representation by an attorney may not be suitable in all situations. For example, a respondent associated with a futures commission merchant might find it more appropriate to be represented by the chief executive officer of his organization. Accordingly, § 8.12 now allows a respondent to be represented by legal counsel or any other person of his choosing.

The representation afforded under § 8.12 should not be construed to mean merely providing advice. Such representation could include, if desired by the respondent, preparing documents, assisting with discovery, negotiating settlements, presenting evidence, including examining and cross-examining witnesses, oral argument and any other assistance requested by the respondent.

ANSWER TO CHARGES

Section 8.13 requires that each person charged with a violation be given the opportunity to answer the charges. Under the proposed regulations failure to deny a charge or to file an answer was deemed as admission of a charge. Three exchanges objected to the rigidity of this provision. One exchange asserted that a respondent should have the right to refuse to answer and the exchange should have the burden of proving that a violation has occurred before a penalty is levied. Two other exchanges also argued that the requirement to answer a notice of charges is frivolous inasmuch as they require a hearing to be conducted following every issuance of charges, regardless of whether a respondent has requested a hearing. To provide each exchange with flexibility in this area, the Commission has amended the regulation to provide that an answer to charges is permitted but not required. In addition, § 8.13 gives each exchange discretion to adopt default provisions for failure to file an answer on a timely basis or failure to deny expressly all charges contained in a notice of charges.

ADMISSION OR FAILURE TO DENY CHARGES

Paragraph (a) of § 8.14 permits an exchange to adopt rules which allow the disciplinary committee to impose penalties when a respondent admits the charges or fails to deny them. Subparagraph (a)(1) restricts the disciplinary committee to imposing the predetermined penalty, where applicable, or an appropriate lesser penalty.

Paragraph (a) leaves to the discretion of each exchange whether to provide for a hearing where a respondent admits the charges or fails to deny them. For example, one exchange contemplates using a system in which a hearing on the charges is mandatory. Under this system, when a respondent fails to answer a notice of charges or defaults at a hearing, the disciplinary committee is nevertheless required to hear evidence submitted in support of the charges and to determine an appropriate sanction based upon the evidence.

Paragraph (b) of § 8.14 requires the disciplinary committee to promptly advise the respondent in writing of any penalty imposed pursuant to paragraph (a) for charges admitted or not specifically denied and that, where appropriate, he is entitled to request a hearing on the penalty before it may be imposed.

DENIAL OF CHARGES AND RIGHT TO HEARING

Section 8.15 provides that a respondent must be given an opportunity for a hearing on charges denied or on a penalty imposed pursuant to § 8.14(a)(2). Under the proposed regulations, the scope of a hearing was limited to those charges denied or penalties for which a hearing was requested. This limitation is no longer mandatory under the adopted regulations. Thus, for example, an exchange which prefers to conduct a hearing on all of the charges in the notice of charges, including those admitted by a respondent, is free to do so.

One exchange commented that a respondent who failed to request a hearing on charges in the notice should not be entitled to a hearing on a penalty set by the disciplinary committee under § 8.14(a)(2). The Commission disagrees. If a respondent charged with a relatively minor violation failed to answer the charge, under § 8.14(a)(2) the disciplinary committee could set a penalty which to the respondent seemed to be disproportionate to the offense. Accordingly, a respondent should be given an opportunity for a hearing on a penalty set under § 8.14(a)(2).

SETTLEMENT OFFERS

Section 8.16 provides in general that an exchange may adopt rules which permit a respondent to submit a written offer of settlement to the disciplinary committee at any time after the investigation report is completed. If the offer of settlement is accepted, the disciplinary committee is required to issue a written decision specifying the rule violations it has reason to believe were committed and any penalty to be imposed. If the offer is withdrawn by the respondent or rejected by the committee, the respondent cannot be deemed to have made any admissions therein. As is discussed below, § 8.16 varies significantly from the proposed regulation.

Many exchanges were critical of the proposed provisions for settlement, contending that the procedure was too rigid and cumbersome. They objected to the proposed requirements that: (1) An offer of settlement could not be submitted before a notice of charges was issued; (2) the enforcement staff had to be involved in the negotiation of settlement agreements; (3) findings and conclusions of rule violations had to be made; and (4) sanctions had to be adequate to deter future violations.

The Commission agrees that the proposed involvement of the enforcement staff in settlement negotiations is unnecessary and has deleted such

involvement from the regulation as adopted. The Commission similarly agrees with the objection to the proposed requirement that an offer of set-

The use of the terms "fair" and "due process" in the proposed regulation evoked objections from several ex-

relevant to charges contained in the notice of charges but which would not be relied upon by the enforcement staff in presenting its case.

proceeding was unusually complex or an appeal seemed likely, a stenographic record or tape recording could be re-

DECISION

Section 8.18 provides that at the conclusion of a hearing the disciplin-

Commission's experience in reviewing the notices of disciplinary action required to be provided to the Commis-

involvement from the regulation as adopted. The Commission similarly agrees with the objection to the proposed requirement that an offer of settlement could not be submitted before a notice of charges was issued. Accordingly, settlement may now commence after the investigation report is completed.

The Commission has also deleted from the regulation the specific requirement to impose a penalty sufficient enough to deter future violations, which was objected to on the ground of vagueness. However, this deletion should not be interpreted to mean that an inadequate penalty would be appropriate. In imposing a penalty pursuant to § 8.16 the disciplinary committee must take into consideration the same factors it would employ in setting a penalty after a hearing. These factors are discussed in the text under § 8.18.

The Commission stated in the preamble to the proposed regulations that "[a]ny settlement agreed to by the disciplinary committee would constitute an exchange disciplinary action under section 8c(1)(A) of the Act as if the matter were fully adjudicated." [12] Because settlements are disciplinary actions which are subject to Commission review under section 8c(2) of the Act, it is necessary to have a record of the reasons for such actions taken by an exchange. In accordance with new § 8.16(b), an exchange may adopt rules which permit a respondent to accept a penalty without either admitting or denying the rule violations upon which the penalty is based. Pursuant to new § 8.16(c), the disciplinary committee must specify in its decision the rule violations it has reason to believe were committed. These new provisions may expedite the disciplinary procedure by encouraging settlement without sacrificing information which is critical to the Commission's oversight responsibilities.

Section 8.16(d) broadens the scope of protection given to a respondent in the event an offer of settlement proves unsatisfactory. As adopted, it provides that if the offer is withdrawn by the respondent or rejected by the disciplinary committee, the respondent cannot be deemed to have made any admissions by reason of the offer and otherwise cannot be prejudiced thereby.

The Commission emphasizes that the submission of an offer of settlement is not reason to suspend compliance with the requirement of § 8.17(a)(3) that a hearing be promptly convened.

HEARING

Substantial comment was received on the requirements for a hearing. The use of the terms "fair" and "due process" in the proposed regulation evoked objections from several exchanges. They argued that these terms would invite litigation and were unnecessary in view of the Commission's authority to review exchange actions under section 8 of the Act. One exchange also commented that the term "due process" was not applicable to private action. The Commission believes that the right to a fair hearing is so fundamental that this principle must be embodied in the regulations, despite any exchange fears of additional litigation. Moreover, it is not sufficient that an exchange action may be subject to Commission review; a respondent is entitled to a fair hearing in the first instance. However, the regulation as adopted replaces the term "due process" with that of "fair hearing."

Other commenters were unsure of the meaning of "disinterested" members of a disciplinary committee. The Commission has amended § 8.17(a)(1) by providing a more specific conflict of interest standard. The regulation now prohibits a member from serving on the hearing panel if he or any firm with which he is affiliated has a financial, personal, or other direct interest in the matter under consideration.

Seven exchanges took issue with the proposed discovery provision under which a respondent could examine all relevant documents in the possession or under the control of the exchange which were to be relied upon by the enforcement staff in presenting its case, or which were relevant to the notice of charges or could lead to relevant evidence. The greatest objection was voiced against the right to examine documents which could lead to relevant evidence. These exchanges were concerned that this provision would be used to delay the proceedings or to seek confidential documents in exchange files which were unrelated to the disciplinary action. They stated that the provision was not necessary to protect the rights of a person charged with a violation and pointed out that the rules of practice governing proceedings before the Commission do not contain such a provision. The Commission has deleted the requirement that a respondent be given access to documents which may lead to relevant evidence, primarily because the rights of a respondent appear to be adequately protected without access to such information.

Two exchanges would have narrowed access even further, by limiting discovery to those documents to be relied upon by the enforcement staff in presenting its case. The Commission disagrees with this suggestion. Such a narrow provision might be used to suppress exculpatory evidence which is relevant to charges contained in the notice of charges but which would not be relied upon by the enforcement staff in presenting its case.

The futures commission merchant which commented presented a rather different view from that expressed by the exchanges. It suggested that discovery be expanded to permit a respondent to serve up to 20 interrogatories on the exchange, to be answered or objected to within 30 days. The commenter also proposed that objections should be accompanied by reasons, and that if the enforcement staff and respondent were unable to resolve their differences, the matter should be submitted to the disciplinary committee. Additional provisions would permit a respondent to file exceptions if the disciplinary committee sustained the objections.

The Commssion does not believe that the use of interrogatories is necessary for a fair proceeding. A respondent is adequately protected if he is entitled to discover from the exchange all books, documents, or other tangible evidence which are relevant to his case, as provided for in § 8.17(a)(2), and is assured of the presence of all witnesses and the right to examine and cross-examine such persons at a hearing, as provided for in §§ 8.17(a)(7)–(9). The Commission believes, however, that these comments, from a person who like other futures commission merchants may be the subject of a disciplinary proceeding, underscore the need for the procedures provided in these regulations which have been developed to assure the rights of a respondent by establishing minimum standards of procedural and substantive fairness.

The Commission has also added § 8.17(a)(7) to the regulations. This section requires persons within the exchange's jurisdiction who are called as witnesses to appear at the hearing and to produce evidence. An exchange must also make a reasonable effort to secure the presence of all other persons called as witnesses whose testimony would be relevant. This provision insures that a respondent will be able to call witnesses whose testimony is material to his defense, and conversely enables the enforcement staff, which lacks subpena power, to call hostile witnesses who might otherwise be unwilling to testify.

The Commission had specifically requested comments concerning the type of record required to be made of the hearing. One exchange commented that the Commission should not specify the kind of record but should leave that decision to each exchange. Two exchanges stated that in most instances a summary record, perhaps in the form of minutes of the proceeding, would be adequate. However, where a proceeding was unusually complex or an appeal seemed likely, a stenographic record or tape recording could be required unless waived by the respondent, in which event a summary record would be made. Two exchanges recommended that a stenographic record be kept but only transcribed if the action were appealed. They further suggested that if a regulation requiring a stenographic record were adopted, it should provide that the party requesting the transcription should bear its cost.

Because of the need for an accurate and complete record, the adopted regulations provide that where a respondent has requested a hearing, the record of the proceeding must be a substantially verbatim record that is capable of being accurately transcribed. This standard clearly does not permit a summary record. It does, however, leave to each exchange's discretion the specific type of record it wishes to develop. Thus, an exchange may use a hand- or machine-made stenographic record or an electronic tape recording supervised by an individual having a proficiency in the area. In order to minimize costs, § 8.17(a)(10) further provides that the record need not be transcribed unless the transcript is requested by the respondent or Commission staff, or the decision is appealed to the board of appeals or is reviewed by the Commission.

In addition, the Commission has provided in § 8.17(a)(10)(i) that the exchange rules may provide that the cost of transcribing the record shall be borne by a respondent who appeals a decision to the board of appeals, or whose application for Commission review of the disciplinary action has been granted under section 8c of the Act. An exchange, in its discretion, may adopt a policy of compensating respondents for transcript expenses in the event that the appellate body decides in the respondent's favor. Where the board of appeals or the Commission undertakes review on its own or where the Commission staff has requested a copy of the recording, the exchange must pay the cost of transcription.

To complement § 8.17(a)(9), the Commission has also added § 8.17(b). This section provides that an exchange may adopt a rule providing for the summary imposition of sanctions upon any person within its jurisdiction whose actions are impeding the progress of the hearing. Such a rule could authorize sanctions upon a witness who fails to appear at a hearing without good cause or upon a person at a hearing who engages in disruptive conduct.

DECISION

Section 8.18 provides that at the conclusion of a hearing the disciplinary committee must render a written decision based upon the weight of the evidence contained in the record of the proceeding. The decision must include the following: (1) The notice of charges or a summary; (2) the respondent's answer, if any, or a summary; (3) a brief summary of the evidence produced at the hearing or, if appropriate, incorporation by reference to the investigation report; (4) a statement of findings and conclusions with respect to each charge, including the specific rules which the respondent is found to have violated; and (5) a declaration of any penalty imposed and the effective date of such penalty.

The Commission received one comment that the section was too detailed and should be revised to provide only that the committee render a decision in writing based upon the record. Another commenter urged that the requirement for a summary of the evidence be deleted.

The decision serves two functions. First, it serves to apprise the respondent of the conclusion of the disciplinary committee on each of the charges. Second, the decision is a concise record of the proceeding which can be reviewed by the Commission as part of its oversight of exchange enforcement programs and can assist in determining whether formal review of the action under section 8c of the Act may be appropriate.

It is essential for these purposes that the decision be based upon a fair and constant standard and include not only the issues and any penalties imposed, but also the reasons for the decision. A respondent is entitled to know the basis of any finding or conclusion that he violated exchange rules so that he may determine whether to request an appeal, if appeal is permitted by the exchange rules, or to petition the Commission for review. Accordingly, the adopted regulations provide in § 8.18 that the decision must be based upon the weight of the evidence contained in the record of the proceeding and contain a brief summary of the evidence and findings and conclusions concerning each charge.

One exchange asserted that there was little chance that the Commission will require a summary of the evidence in reviewing a disciplinary proceeding and therefore the convenience of using the information on an occasional basis must be weighed against the burden on the exchange. The Commission staff anticipates reviewing the summary of the evidence in every instance in which the disciplinary committee determines pursuant to a hearing that a violation has occurred. The Commission's experience in reviewing the notices of disciplinary action required to be provided to the Commission under section 8c(1)(B) of the Act has shown that the notices are generally inadequate for determining whether a review proceeding should be initiated by the Commission in accordance with section 8(c)(2) of the Act. This was one of the primary reasons for requiring the disciplinary committee to summarize the evidence and to include the summary in the decision. [13]

The Commission does understand the concern that requiring a summary of the evidence in all cases could impose an unnecessary burden on an exchange. Accordingly, § 8.18(c) allows an exchange in appropriate circumstances to incorporate by reference relevant portions of the investigation report instead of summarizing the same evidence presented at the hearing.

The proposed regulations provided a separate section which set forth the standards to be followed by the disciplinary committee in setting penalties. The Commission has determined not to adopt such a regulation. However, that is not to say that these same standards should not be employed.

One of these standards requires the disciplinary committee to consider whether the penalty will be sufficiently remedial to deter future violations in view of the size of the respondent's business and other factors. One exchange questioned whether this would require a disciplinary committee to be more lenient in the imposition of penalties if a respondent's business is small. The Commission wishes to clarify that this provision is not meant to imply that small businesses should necessarily be treated more leniently. Rather, the provision is intended to address the situation in which a standard penalty is inadequate because a respondent finds that it is more profitable to engage in the violation and pay a fine than to refrain from the violative act or practices, particularly where there has been a continued pattern of violative conduct.

Another of these standards requires the disciplinary committee to consider the impact of the penalty on the respondent's business. One exchange asked whether this requirement would preclude an exchange from expelling a member. This is not the purpose or intention of the standards. If an expul-

[12] 42 FR 11144-11145 (Feb. 25, 1977).

[13] Note that under the proposed regulations for Commission review of exchange disciplinary or other adverse actions, part 9, the Commission specifically provided that a copy of the decision issued under Part 8 may serve as the notice of disciplinary action under § 9.11(a). Further, paragraph (c) of that section states that the Division of Trading and Markets may request additional information regarding the disciplinary action taken. 42 FR 30476 (June 14, 1977).

sion is an appropriate penalty under the circumstances, clearly the exchange should take that action.

The Commission wishes to point out

Each exchange must adopt a rule specifying the standard of review to be applied by the board of appeals in making its decision. What that standards and that the Commission is reviewing final decisions.

SUBPART C—SUMMARY PROCEDURE

ate for such hearings and the enforcement staff would not have been involved at any stage of the committee deliberations which culminated in the

to take summary action against members on the floor who are violating an exchange's rules of decorum. Such action is within the scope of § 8.27.

SUBPART D—DENIAL OF MEMBERSHIP [RESERVED]

In proposing part 8, the Commission specifically sought comment on the

sion is an appropriate penalty under the circumstances, clearly the exchange should take that action.

The Commission wishes to point out that the adopted provisions regarding assessment of penalties have been structured to give an exchange flexibility. It may establish pre-set penalties in its rules for certain violations (§ 8.10), may summarily impose a penalty for charges admitted or not specifically denied subsequent to the notice of charges (§ 8.14(a)) or may establish a penalty after a hearing on the case (§ 8.18). However, no penalties may be imposed until there is a finding based upon an admission or failure to deny charges, a settleent agreement, or the record of the proceeding, that a respondent has committed a violation. Thus, for example, the fact that a person having membership on two exchanges has been sanctioned by one exchange for violating its rules provides no basis in and of itself for the imposition of a penalty on such person by the other exchange.

APPEAL

Section 8.19 provides that an exchange may adopt rules which permit a respondent to appeal promptly an adverse decision of a disciplinary committee in all or certain classes of cases. If the exchange rules permit appeal, they must provide for the establishment of a board of appeals and contain the minimum standards governing appeals set forth in § 8.19. In addition, the exchange rules may authorize the board of appeals to initiate review of a disciplinary committee decision and may provide that an appeal or review proceeding be conducted before all or a panel of such board.

The adopted regulation differs significantly from the proposed regulation. Most importantly, the right to appeal a disciplinary committee decision is now entirely discretionary with each exchange. Some exchanges commented that the proposed right to appeal all adverse decisions would be unduly burdensome and time-consuming. The Commission agrees, and in adopting § 8.19 has left to the discretion of each exchange the determination of whether appeals shall be permitted and, if they are, which cases shall be appealable.

Section 8.19(b) now provides that an exchange may authorize any body or committee to perform the appellate review function. The proposed regulation required the board of governors to hear all appeals. The regulation was modified because the board of governors of an exchange may lack the time, in view of its other duties, to act as the appellate body in all cases where exchange review of a disciplinary committee decision is permitted.

Each exchange must adopt a rule specifying the standard of review to be applied by the board of appeals in making its decision. What that standard will be has been left to the discretion of each exchange. However, the Commission cautions that the standard of review must be set forth clearly in the rule and that it must not be capable of arbitrary or inconsistent application.

One exchange asked if under the regulations the disciplinary committee's function could be limited to making findings and conclusions as to whether a violation had been committed, with the board of appeals setting and imposing penalties. If the rules of an exchange provide for appeal, such an arrangement would be permitted under § 8.08, which states that each exchange shall establish one or more disciplinary committees to determine whether violations have been committed and to set and impose penalties. In the above example, the board of appeals would be serving as the disciplinary committee when it sets and imposes penalties.

FINAL DECISION

Section 8.20 is new. It requires each exchange to establish rules setting forth when a decision rendered pursuant to Subpart B becomes the final decision of the exchange and is not subject to further review under the exchange's own disciplinary procedures. Since § 8.19 provides exchanges wide discretion in permitting appeals of adverse decisions, the determination of when a decision becomes final can only be made by an exchange after it determines whether, and to what extent, to permit appeals. Accordingly, it is appropriate that each exchange, and not the Commission, establish rules regarding the finality of decisions rendered pursuant to its disciplinary procedures.

In commenting on the proposed regulations, one exchange noted that they did not recognize that the board of governors may be acting as the disciplinary committee in the first instance. This is the type of situation to which § 8.20 addresses itself. It is quite likely that if the rules of an exchange permit appeal, they will provide that under such circumstances the decision of the disciplinary committee is final and unappealable within the exchange's disciplinary procedure.

Any person who is suspended, expelled, disciplined or denied access by exchange action is permitted under section 8c of the Act to petition for Commission review of such action. The purpose of § 8.20 is to ensure that a respondent availing himself of section 8c has exhausted all of his remedies under exchange disciplinary procedures and that the Commission is reviewing final decisions.

SUBPART C—SUMMARY PROCEDURE

MEMBER RESPONSIBILITY ACTIONS

Section 8.25 of the adopted regulations authorizes an exchange to take immediate, summary action upon a reasonable belief that such action is necessary to protect the best interests of the marketplace. Unlike the proposed regulation, it does not specifically set forth when such action would be appropriate. Instead, the necessity of such action has been left to the discretion of each exchange.

Two exchanges urged the Commission to adopt, for the purposes of these regulations, the definition of "emergency" which appears in § 1.41(a)(4). They reasoned this would eliminate any potential confusion regarding what could be considered appropriate circumstances for an exchange to take summary action. Such an amendment to the regulation as adopted is unnecessary, since the broad language of § 8.25 includes those provisions of §1.41 which would be applicable in defining the circumstances in which summary action by an exchange against persons within its jurisdiction would be appropriate.[14]

One exchange expressed concern that the regulation as proposed would not permit an exchange to take action to enforce its minimum capital rules. Clearly, the regulation as adopted authorizes such action.

PROCEDURE FOR MEMBER RESPONSIBILITY ACTIONS

The Commission agrees with several exchanges' comments that it would be inappropriate to apply the requirements of subpart B to hearings held subsequent to summary actions by an exchange. Accordingly, § 8.26 of subpart C details the special notice requirements applicable when an exchange takes a summary action, and specifically sets forth those disciplinary proceeding requirements which are applicable to hearings required subsequent thereto. Furthermore, in consideration of the special nature of member responsibility actions, the particular requirements of the form and content of the decision resulting from such hearings are contained in § 8.26(c).

Two exchanges objected to the requirement contained in § 8.17(a)(5), and made applicable to membership responsibility actions by § 8.26(c), that the enforcement staff present the charges at the hearing held subsequent to the summary action taken by an exchange. These exchanges argued that since the formal disciplinary proceeding requirements were inappropriate for such hearings and the enforcement staff would not have been involved at any stage of the committee deliberations which culminated in the summary action being taken, the committee which authorized the summary action should be the body responsible for presenting the charges at the hearing. The Commission has already noted that the requirements governing such hearings are substantially reduced from those imposed on subpart B disciplinary proceedings. These reduced requirements do not, however, lessen the importance of involvement by the enforcement staff. The Commission's position as to the purpose of requiring a truly independent enforcement staff has been explained previously above in the discussion of § 8.05 as an attempt to avoid potential conflicts of interest. It is the opinion of the Commission that the participation of the enforcement staff in a hearing held pursuant to § 8.26(c) is necessary at this stage to insure a thorough review of any evidentiary material already developed by the committee and an objective, vigorous presentation of the full facts and circumstances of the case. Nothing in this requirement is intended to prohibit participation by committee members in the development of the case in an advisory capacity or as witnesses at the hearing.

[14] See 17 CFR § 1.41(a)(4)(ii)(f) and (g).

One exchange strongly opposed the proposed requirement, adopted in § 8.26, for a hearing after summary action is taken. However, the Commission believes that fundamental principles of fairness require that a person who is the subject of a summary action be afforded an opportunity to be heard on the matter. Like that of § 8.18, the decision rendered pursuant to such a hearing is to be based upon the weight of the evidence contained in the record of the proceeding. And, in accordance with § 8.19, the rules of an exchange may permit an appeal from the decision.

VIOLATIONS OF RULES REGARDING DECORUM, SUBMISSION OF RECORDS, OR OTHER SIMILAR ACTIVITIES

Section 8.27 of the adopted regulations provides that an exchange may adopt rules governing the summary imposition of minor penalties for violations of rules regarding decorum, attire, submission of records, or other similar activities. Unlike the proposed regulation, it does not require that such rules provide for a right to representation, hearing, decision, and appeal. Instead, § 8.02(b) now gives to each exchange the discretion to adopt such rules as it deems appropriate to implement § 8.27.

The six exchanges commenting on this section of the proposed regulations agreed that committees such as floor or pit committees should be able to take summary action against members on the floor who are violating an exchange's rules of decorum. Such action is within the scope of § 8.27.

Two of these exchanges objected to the proposed regulation on the grounds that it would have the effect of reducing enforcement of exchange rules by curtailing the authority of the floor or pit committees to deal in summary fashion with objectionable conduct by members unrelated to decorum, such as trading practices which disrupt or are inconsistent with orderly trading. The regulations are not intended to preclude floor or pit committees from taking necessary action in appropriate circumstances. However, to the extent disruptive activities or similar trade practice abuses might be part of more serious or systematic efforts which affect the integrity of the marketplace, the Commission believes the matter requires the more thorough proceedings prescribed under subpart B. Floor or pit committees may take summary action against persons for disruptive or disorderly trading practices only to the extent such action would be appropriate under § 8.25 or § 8.27.

The second area of major objection by exchanges to the proposed regulation concerned the right of appeal from a summary action imposed for a violation of a rule of decorum. Several exchanges stated that an unqualified right of appeal would result in an inordinate number of appeals which were frivolous in nature or related only to minor infractions, such as abusive language. One exchange also expressed the view that no appeals should be permitted below a certain dollar amount in fines. The Commission believes these comments have merit. As stated above, the adopted regulation leaves to the discretion of each exchange whether to permit appeals from an action taken pursuant to § 8.27. Such discretion will be exercised when the exchange adopts implementing rules pursuant to § 8.02(b).

FINAL DECISION

Since §§ 8.26 and 8.27 give discretion to exchanges to determine whether to provide for appeal, a new § 8.28 has been adopted. This regulation requires each exchange to establish rules setting forth when a decision rendered pursuant to subpart C becomes the final decision of the exchange and is not subject to further review under the exchange's own disciplinary procedures.

The purpose of § 8.28 is analagous to that of § 8.20, previously discussed above.

SUBPART D—DENIAL OF MEMBERSHIP [RESERVED]

In proposing part 8, the Commission specifically sought comment on the type of procedure which would be appropriate for membership denial actions, which the Commission considers denials of access subject to Commission review under section 8c of the Act.[15] The regulations as proposed would have required an exchange to follow the disciplinary procedure in determining that an application for membership should not be granted. The Commission, however, recognizes that procedures which are appropriate for determining whether a person has committed a disciplinary-type violation may not be appropriate for determining whether a person should be accepted as a member of an exchange. Accordingly, the Commission asked commenters to suggest how the proposed regulations might be modified or what other regulations might be adopted to achieve appropriate safeguards for persons who are denied exchange membership without requiring a proceeding pursuant to subpart B.

The Commission received comments on this issue from nine exchanges. The commenters unanimously recommended that procedures for membership denial actions not be identical to disciplinary procedures. One exchange voiced strong objection to the Commission's interpreting denials of membership as denials of access, asserting that the latter phrase was intended to affirm the legal right of an exchange to bar nonmembers from trading privileges on its facilities and from physical entry to its premises for security and other reasons. Nevertheless, this exchange indicated that its present practice is to permit an applicant to appear personally at an informal hearing before its board of governors whenever there are significant questions concerning his application. The exchange indicated further that such applicants have occasionally been represented by counsel. One exchange stated that no specific rules of procedure were necessary. Other exchanges proposed various procedures if an application is initially disapproved by the committee on membership, including a hearing before the board of governors and written notice to the applicant stating the reasons for denial in the event the board sustains the membership committee decision. One exchange also recommended that the notice of the denial of membership, required to be given to the Commission under section 8c of the Act, be declared confidential to protect the applicant and the exchange. This exchange expressed concern that it may be unfair to the applicant not to grant

[15] See 42 FR 30472 n. 1 (June 14, 1977).

confidential treatment to the notice containing the reasons for disapproval, since these reasons could reflect negatively on the applicant's character and

Sec.
8.16 Settlement offers.
8.17 Hearing.

tion of appropriate penalties under subpart B of this part.

(e) "Enforcement staff" means that

this part 8 or any rule adopted pursuant thereto, a member of the enforcement staff may not operate under the

of the investigation file which thereafter may be closed.

(c) In addition to the action required

is employed, it shall be stated in the notice of charges. In such case, after a hearing on a denied charge where a re-

confidential treatment to the notice containing the reasons for disapproval, since these reasons could reflect negatively on the applicant's character and reputation. The Commission was also urged to permit an exchange to require that an applicant relinquish his right to sue the exchange, its members and employees for any statements concerning the applicant's qualification for membership made in connection with a membership denial action. It was argued that neither an exchange nor its members should be liable when they attempt in an honest manner to apply standards for membership and are obligated by law to disclose the reasons for disapproval of membership.

The Commission agrees with the views expressed by its Office of General Counsel that an exchange has the burden of insuring that there are sufficient grounds upon which to deny an application for membership and that an applicant must be given an opportunity to rebut the reasons which were the basis of the denial.[16]

The Commission has considered the foregoing comments and has determined that membership denial actions should not be subject to the same procedures which are required for adjudicating rule violations. As indicated above, certain modifications of the proposed regulations have been made to reflect this determination.

The Commission has also determined that it is appropriate to adopt regulations which will set standards for the procedures to be used by an exchange in membership denial actions. Subpart D of part 8 has been reserved for that purpose.

This notice of rulemaking is issued under the authority of sections 5a, 8a(5), and 8c of the Act, 7 U.S.C. 7a, 12a(5), and 12c (1976).

In consideration of the foregoing, the Commission hereby amends 17 CFR chapter I by adding a new part 8 as follows:

Subpart A—General Provisions

Sec.
8.01 Scope of rules.
8.02 Implementing exchange rules.
8.03 Definitions.

Subpart B—Disciplinary Procedures

8.05 Enforcement staff.
8.06 Investigations.
8.07 Investigation reports.
8.08 Disciplinary committee.
8.09 Review of investigation report.
8.10 Predetermined penalties.
8.11 Notice of charges.
8.12 Right to representation.
8.13 Answer to charges.
8.14 Admission or failure to deny charges.
8.15 Denial of charges and right to hearing.

[16] CFTC staff interpretative letter 76-23, CCH Comm. Fut. L. Rep. ¶ 20,229.

Sec.
8.16 Settlement offers.
8.17 Hearing.
8.18 Decision.
8.19 Appeal.
8.20 Final decision.

Subpart C—Summary Procedure

8.25 Member responsibility actions.
8.26 Procedure for member responsibility actions.
8.27 Violations of rules regarding decorum, submission of records or other similar activities.
8.28 Final decision.

Subpart D—[Reserved]

AUTHORITY: Secs. 5a, 8a(5) and 8c of the Act, 7 U.S.C. 7a, 12a(5) and 12c (1976).

Subpart A—General Provisions

§ 8.01 Scope of rules.

This part sets forth the standards to be followed by an exchange in establishing procedures for investigating and adjudicating possible rule violations within the disciplinary jurisdiction of the exchange, for taking summary action in member responsibility cases and in cases involving violations of rules regarding decorum, submission of records or other similar activities, and for adjudicating membership denial determinations. Nothing in this part shall be construed to prohibit an exchange from adopting additional rules and practices not inconsistent with those set forth herein.

§ 8.02 Implementing exchange rules.

(a) Each exchange shall submit to the Commission for its approval rules implementing the following regulations: §§ 8.11, 8.13, 8.15, 8.17, 8.18 and 8.20 of subpart B and §§ 8.26 and 8.28 of subpart C. Any such rule not previously submitted to the Commission shall not be put into effect prior to Commission approval.

(b) An exchange may adopt rules implementing any or all of the following regulations: §§ 8.10, 8.16 and 8.19 of subpart B and § 8.27 of subpart C. Each rule so adopted and not previously submitted to the Commission shall be submitted to the Commission for its approval and shall not be put into effect prior to Commission approval.

§ 8.03 Definitions.

For purposes of this part:

(a) "Board of appeals" means that body provided for in § 8.19.

(b) "Charge" or "charges" means any charge or charges contained in the notice of charges.

(c) "Disciplinary committee" means that body or bodies provided for in § 8.08.

(d) "Disciplinary procedure" means the rules of an exchange governing the investigation and adjudication of possible rule violations and the imposition of appropriate penalties under subpart B of this part.

(e) "Enforcement staff" means that body provided for in § 8.05.

(f)) "Exchange" means any board of trade which has been designated as a contract market for one or more commodities pursuant to section 5 of the Act.

(g) "Investigation report" means the report required by § 8.07.

(h) "Notice of charges" means the notice required by § 8.11.

(i) "Penalty" means any restriction, limitation, censure, fine, expulsion, suspension, revocation, reprimand, cease and desist order, sanction or any other disciplinary action for any amount or of any definite or indefinite period imposed upon any person within the disciplinary jurisdiction of an exchange upon a finding by the disciplinary committee that a violation has been committed or pursuant to the terms of a settlement agreement.

(j) "Person(s) within the jurisdiction of an exchange" means any exchange employee, staff member or official, any member or person with membership privileges or any person employed by or affiliated with a member or person with membership privileges, including any agent or associated person, and any other person under the supervision or control of the exchange or of any member.

(k) "Record of the proceeding" means all testimony, exhibits, papers and records produced at or filed in a disciplinary or summary proceeding or served on a respondent or an exchange.

(l) "Respondent" means any person named in a notice of charges who has been served with such notice or who is the subject of a summary action.

(m) "Rule(s) of an exchange" means any constitutional provision, article of incorporation, bylaw, rule, regulation, resolution, interpretation, stated policy or instrument corresponding thereto.

(n) "Violation" means any violation within the disciplinary jurisdiction of the exchange.

Subpart B—Disciplinary Procedure

§ 8.05 Enforcement staff.

(a) Each exchange shall establish an adequate enforcement staff which shall be authorized by the exchange to initiate and conduct investigations, to prepare reports incident to such investigations and to prosecute possible rule violations within the disciplinary jurisdiction of the exchange. The enforcement staff shall consist of employees of the exchange and/or persons hired on a contract basis. It may not include either members of the exchange or persons whose interests conflict with enforcement duties. When carrying out any responsibility under this part 8 or any rule adopted pursuant thereto, a member of the enforcement staff may not operate under the direction or control of any person or persons with trading privileges.

(b) Each exchange is responsible for assuring the effective and diligent enforcement of all rules within its disciplinary jurisdiction, regardless of whether its enforcement staff consists of employees or persons hired on a contract basis.

§ 8.06 Investigations.

(a) Each exchange shall establish and maintain a disciplinary procedure which requires the enforcement staff of the exchange to conduct investigations of possible rule violations within the disciplinary jurisdiction of the exchange. Such an investigation shall be commenced:

(1) Upon the receipt of a request from the Commission, its Executive Director or his delegee, or

(2) Upon the discovery or receipt of information by the exchange which, in the judgment of the enforcement staff, indicates a possible basis for finding that a violation has occurred or will occur.

(b) Each enforcement staff investigation shall be completed within four months, unless there exists significant reason to extend it beyond such period. If for any reason the enforcement staff closes an investigation before determining whether a reasonable basis exists for finding that a violation has occurred, the staff shall fully set forth the reasons for so closing the investigation in its report.

§ 8.07 Investigation reports.

(a) The enforcement staff shall submit a written investigation report to the disciplinary committee of the exchange in every instance in which the enforcement staff has determined from surveillance or from an investigation that a reasonable basis exists for finding a violation. The investigation report shall include the reason the investigation was initiated, a summary of the complaint, if any, the relevant facts, the enforcement staff's conclusions and a recommendation as to whether the disciplinary committee should proceed with the matter.

(b) If after conducting an investigation the enforcement staff has determined that no reasonable basis exists for finding a violation, it shall prepare a written report including the reason the investigation was initiated, a summary of the complaint, if any, the relevant facts, the enforcement staff's conclusions and, if applicable, any recommendation that the disciplinary committee issue a warning letter in accordance with paragraph (c) of this section. The report shall become part of the investigation file which thereafter may be closed.

(c) In addition to the action required to be taken under either paragraph (a) or (b) of this section, the rules of an exchange may authorize the enforcement staff to issue a warning letter to a person under investigation or to recommend that the disciplinary committee issue such a letter. A warning letter issued in accordance with this section is not a penalty or an indication that a finding of a violation has been made. A copy of such warning letter issued by the enforcement staff shall be included in the investigation report required by paragraph (a) or (b) of this section.

§ 8.08 Disciplinary committee.

Each exchange shall establish one or more disciplinary committees which shall be authorized by the exchange to determine whether violations have been committed, to accept offers of settlement and to set and impose appropriate penalties. Each such disciplinary committee shall consist of one or more members of the exchange or persons on the staff of the exchange; however, persons on the enforcement staff may not serve on a disciplinary committee.

§ 8.09 Review of investigation report.

The disciplinary committee shall promptly review each investigation report. In the event the disciplinary committee determines that additional investigation or evidence is needed, it shall promptly direct the enforcement staff to conduct its investigation further. Within a reasonable period of time not to exceed 30 days after the receipt of a completed investigation report, the disciplinary committee shall take one of the following actions:

(a) If the disciplinary committee determines that no reasonable basis exists for finding a violation or that prosecution is otherwise unwarranted, it may direct that no further action be taken. Such determination must be in writing and contain a brief statement setting forth the reasons therefor.

(b) If the disciplinary committee determines that a reasonable basis exists for finding a violation which should be adjudicated, it shall direct that the person alleged to have committed the violation be served with a notice of charges and shall proceed in accordance with the rules of this subpart.

§ 8.10 Predetermined penalties.

An exchange may adopt rules which set specific maximum penalties for particular violations. If the rules of an exchange establish predetermined penalties, the disciplinary committee shall have discretion in each case whether to employ the predetermined penalty. If the predetermined penalty is employed, it shall be stated in the notice of charges. In such case, after a hearing on a denied charge where a respondent is found to have committed the violation charged, the disciplinary committee shall impose the predetermined penalty or an appropriate lesser penalty.

§ 8.11 Notice of charges.

The notice of charges shall:

(a) State the acts, practices, or conduct in which the person is alleged to have engaged;

(b) State the rule alleged to have been violated (or about to be violated);

(c) State the predetermined penalty, if any;

(d) Prescribe the period within which a hearing on the charges may be requested;

(e) Advise the person charged that:

(1) He is entitled, upon request, to a hearing on the charges;

(2) If the rules of the exchange so provide, failure to request a hearing within the period prescribed in the notice, except for good cause, shall be deemed a waiver of the right to a hearing; and

(3) If the rules of the exchange so provide, failure in an answer to deny expressly a charge shall be deemed to be an admission of such charge.

§ 8.12 Right to representation.

Upon being served with a notice of charges the respondent shall have the right to be represented by legal counsel or any other representative of his choosing in all succeeding stages of the disciplinary proceeding.

§ 8.13 Answer to charges.

The respondent shall be given a reasonable period of time to file an answer to the charges. The rules of an exchange may provide that:

(a) The answer must be in writing and include a statement that the respondent admits, denies or does not have and is unable to obtain sufficient information to admit or deny each allegation. A statement of a lack of sufficient information shall have the effect of a denial of an allegation.

(b) Failure to file an answer on a timely basis shall be deemed an admission of all allegations contained in the notice of charges.

(c) Failure in an answer to deny expressly a charge shall be deemed to be an admission of such charge.

§ 8.14 Admission or failure to deny charges.

(a) The rules of an exchange may provide that if the respondent admits or fails to deny any of the charges the disciplinary committee may find that the rule violation alleged in the notice of charges for which the respondent admitted or failed to deny any of the

charges has been committed. If the exchange rules so provide, then:

(1) The disciplinary committee shall impose a penalty no greater than the

either admitting or denying the rule violations.

(d) The respondent may withdraw his offer of settlement at any time

transcribed; however, it need not be transcribed unless the transcript is requested by Commission staff or the respondent, the decision is appealed

period of time after the decision has been rendered.

(b) No member of the board of appeals shall serve on an appeal or

sel or any other representative of his choosing in all proceedings subsequent to the summary action taken pursuant to § 8.25.

[6740-02]

Title 18—Conservation of Power and Water Resources

charges has been committed. If the exchange rules so provide, then:

(1) The disciplinary committee shall impose a penalty no greater than the predetermined penalty, if any, stated in the notice of charges for the corresponding violation found to have been committed.

(2) If no predetermined penalty was stated, the disciplinary committee shall impose a penalty for each violation found to have been committed.

(b) The disciplinary committee shall promptly notify the respondent in writing of any penalty to be imposed pursuant to paragraph (a) of this section and shall advise him that he may request a hearing on such penalty within a reasonable period of time, which shall be stated in the notice, but that except for good cause shown no hearing shall be permitted on a penalty imposed pursuant to subparagraph (a)(1) of this section.

(c) The rules of an exchange may provide that if a respondent fails to request a hearing within the period of time stated in the notice he shall be deemed to have accepted the penalty.

§ 8.15 Denial of charges and right to hearing.

In every instance where the respondent has requested a hearing on a charge which is denied, or on a penalty set by the disciplinary committee under § 8.14(a)(2), he shall be given an opportunity for a hearing in accordance with the requirements of § 8.17. The exchange rules may provide that, except for good cause, the hearing shall be concerned only with those charges denied and/or penalties set by the disciplinary committee under § 8.14(a)(2) for which a hearing has been requested.

§ 8.16 Settlement offers.

(a) The rules of an exchange may permit a respondent to submit a written offer of settlement to the disciplinary committee at any time after the investigation report is completed. The disciplinary committee may accept the offer of settlement, but may not alter its terms unless the respondent agrees.

(b) The rules of an exchange may provide that the disciplinary committee, in its discretion, may permit the respondent to accept a penalty without either admitting or denying the rule violations upon which the penalty is based.

(c) If an offer of setlement is accepted by the disciplinary committee, it shall issue a written decision specifying the rule violations it has reason to believe were committed and any penalty to be imposed. Where applicable, the decision shall also include a statement that the respondent has accepted the penalties imposed without either admitting or denying the rule violations.

(d) The respondent may withdraw his offer of settlement at any time before final acceptance by the disciplinary committee. If an offer is withdrawn after submission, or is rejected by the disciplinary committee, the respondent shall not be deemed to have made any admissions by reason of the offer of settlement and shall not be otherwise prejudiced by having submitted the offer of settlement.

§ 8.17 Hearing.

(a) The following minimum requirements shall apply to any hearing required by this subpart:

(1) The hearing shall be fair and shall be conducted before members of the disciplinary committee. The hearing may be conducted before all of the members of the disciplinary committee or a panel thereof, but no member of the disciplinary committee may serve on the committee or panel if he or any person or firm with which he is affiliated has a financial, personal, or other direct interest in the matter under consideration.

(2) The respondent shall be entitled in advance of the hearing to examine all books, documents, or other tangible evidence in the possession or under the control of the exchange which are to be relied upon by the enforcement staff in presenting the charges contained in the notice of charges or which are relevant to those charges.

(3) The hearing shall be promptly convened after reasonable notice to the respondent.

(4) The formal rules of evidence need not apply; nevertheless, the procedures for the hearing may not be so informal as to deny a fair hearing.

(5) The enforcement staff shall be a party to the hearing and shall present its case on those charges and penalties which are the subject of the hearing.

(6) The respondent shall be entitled to appear personally at the hearing.

(7) The respondent shall be entitled to cross-examine any persons appearing as witnesses at the hearing.

(8) The respondent shall be entitled to call witnesses and to present such evidence as may be relevant to the charges.

(9) The exchange shall require persons within its jurisdiction who are called as witnesses to appear at the hearing and to produce evidence. It shall make reasonable efforts to secure the presence of all other persons called as witnesses whose testimony would be relevant.

(10) If the respondent has requested a hearing, a substantially verbatim record of the hearing shall be made and shall become a part of the record of the proceeding. The record must be one that is capable of being accurately transcribed; however, it need not be transcribed unless the transcript is requested by Commission staff or the respondent, the decision is appealed under § 8.19, or is reviewed by the Commission pursuant to section 8c of the Act or part 9 of this chapter. In all other instances a summary record of a hearing is permitted.

(i) The rules of an exchange may provide that the cost of transcribing the record of the hearing shall be borne by a respondent who requests the transcript, appeals the decision pursuant to § 8.19, or whose application for Commission review of the disciplinary action has been granted under part 9 of this chapter. In all other instances, the cost of transcribing the record shall be borne by the exchange.

(b) The rules of an exchange may provide that a penalty may be summarily imposed upon any person within its jurisdiction whose actions impede the progress of a hearing.

§ 8.18 Decision.

Promptly following a hearing conducted in accordance with § 8.17, the disciplinary committee shall render a written decision based upon the weight of the evidence contained in the record of the proceeding and shall provide a copy to the respondent. The decision shall include:

(a) The notice of charges or a summary of the charges;

(b) The answer, if any, or a summary of the answer;

(c) A brief summary of the evidence produced at the hearing or, where appropriate, incorporation by reference of the investigation report;

(d) A statement of findings and conclusions with respect to each charge, including the specific rules which the respondent is found to have violated; and

(e) A declaration of any penalty imposed and the effective date of such penalty.

§ 8.19 Appeal.

The rules of an exchange may permit a respondent to appeal promptly an adverse decision of a disciplinary committee in all or in certain classes of cases. Such rules may require a respondent's notice of appeal to be in writing and to specify the findings, conclusions, and/or penalty to which objection is taken. If the rules of an exchange permit appeal, they shall provide for the following:

(a) The exchange shall establish a board of appeals which shall be authorized to hear appeals of respondents. In addition, the rules of an exchange may provide that the board of appeals may, on its own initiative, order review of a decision by the disciplinary committee within a reasonable period of time after the decision has been rendered.

(b) No member of the board of appeals shall serve on an appeal or review panel if such member participated in any prior stage of the disciplinary proceeding or if he or any person or firm with which he is affiliated has a financial, personal, or other direct interest in the matter. The rules of an exchange may provide that the appeal or review proceeding may be conducted before all of the members of the board of appeals or a panel thereof. Except for good cause shown, the appeal or review shall be conducted solely on the record before the disciplinary committee, the written exceptions filed by the parties, and the oral or written arguments of the parties.

(c) Promptly following the appeal or review proceeding, the board of appeals shall issue a written decision and shall provide a copy to the respondent. The decision shall include a statement of findings and conclusions with respect to each charge or penalty reviewed, including the specific rules which the respondent was found to have violated by the disciplinary committee, and a declaration of any penalty imposed and the effective date of such penalty.

§ 8.20 Final decision.

Each exchange shall establish rules setting forth when a decision rendered pursuant to this subpart B shall become the final decision of such exchange.

Subpart C—Summary Actions

§ 8.25 Member responsibility actions.

An exchange may suspend at any time, or take other summary action against, a person subject to its jurisdiction upon a reasonable belief that such immediate action is necessary to protect the best interest of the marketplace.

§ 8.26 Procedure for member responsibility actions.

An action pursuant to § 8.25 shall be taken in accordance with an exchange procedure which provides for the following:

(a) The respondent shall, whenever practicable, be served with a notice before the action is taken. If prior notice is not practicable, the respondent shall be served with a notice at the earliest possible opportunity. The notice shall:

(1) State the action,

(2) Briefly state the reasons for the action, and

(3) State the effective time and date and the duration of the action.

(b) The respondent shall have the right to be represented by legal counsel or any other representative of his choosing in all proceedings subsequent to the summary action taken pursuant to § 8.25.

(c) The respondent shall promptly be given opportunity for a subsequent hearing. The hearing shall be fair and shall be held before one or more persons authorized by the exchange to conduct hearings pursuant to this section. The hearing shall be conducted in accordance with the requirements set forth in §§ 8.17(a)(4)–(9) and (b).

(d) Promptly following the hearing provided for in paragraph (c) of this section, the exchange shall render a written decision based upon the weight of the evidence contained in the record of the proceeding and shall provide a copy to the respondent. The decision shall include:

(1) A description of the summary action taken,

(2) The reasons for the summary action,

(3) A brief summary of the evidence produced at the hearing,

(4) Findings and conclusions,

(5) A determination that the summary action should be affirmed, modified or reversed, and

(6) A declaration of any action to be taken pursuant to the determination specified in paragraph (d)(5) of this section and the effective date and duration of such action.

(e) The rules of an exchange may permit the respondent to appeal promptly an adverse decision. Such rules shall be established in accordance with the requirements set forth in § 8.19.

§ 8.27 Violations of rules regarding decorum, submission of records or other similar activities.

An exchange may adopt rules which permit the enforcement staff or a designated committee of officials to summarily impose minor penalties against persons within its jurisdiction for violating rules regarding decorum, attire, the timely submission of accurate records required for clearing or verifying each day's transactions or other similar activities.

§ 8.28 Final decision.

Each exchange shall establish rules setting forth when a decision rendered pursuant to this subpart C shall become the final decision of such exchange.

Issued in Washington, D.C., by the Commission on September 14, 1978.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc. 78-26348 Filed 9-19-78; 8:45 am]

[6740-02]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION; DEPARTMENT OF ENERGY

PART 1—RULES OF PRACTICE AND PROCEDURE

CFR Correction

AGENCY: Federal Energy Regulatory Commission.

ACTION: CFR correction.

SUMMARY: This document makes technical changes to paragraph (c) of § 1.36 of Title 18 of the Code of Federal Regulations revised as of April 1, 1977. This correction is necessary because there are now two subparagraphs designated as (15).

FOR FURTHER INFORMATION CONTACT:

Lois Cashell, 202-275-4166.

In 18 CFR § 1.36(c), revised as of April 1, 1977, the second subparagraph numbered (15) should be corrected to read:

(16) Any reasonably segregable portion of a record after deletion of the portions which are exempt under this section.

The subparagraph numbered (16) should be renumbered as (17).

Dated: September 13, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26256 Filed 9-18-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Virginiamycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed

by Smith Kline Animal Health Products for additional uses of virginiamycin in swine feeds. Concurrently, this final rule revises the regulation re-

1. In part 556, § 556.750 is revised to read as follows:

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

quires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisi-

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public inter-

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

by Smith Kline Animal Health Products for additional uses of virginiamycin in swine feeds. Concurrently, this final rule revises the regulation regarding tolerances for safe residues of virginiamycin to reflect residue levels based on relative consumption rates of edible tissues.

EFFECTIVE DATE: September 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Smith Kline Animal Health Products, Division of Smith Kline Corp., 1500 Spring Garden Street, Philadelphia, Pa. 19101, filed supplemental NADA's (95-513, 91-467) providing for the safe and effective use of virginiamycin for addition to the feed of swine weighing from 120 pounds to market weight at 5 to 10 grams (g) per ton for increased rate of weight gain and at 5 g per ton for improved feed efficiency.

The Agency is revising the current tolerance for residues of virginiamycin in edible swine tissues, taking into consideration the following relevant factors:

1. Probable consumption of food bearing or containing residues of the drug.
2. The cumulative effect of consumption of residues of such drug in food.
3. Safety factors appropriate for the use of the drug.

On the basis of these factors, the current tolerance of 0.1 part per million (p.p.m.) for negligible residues is revised to provide for 0.4 p.p.m. in kidney, skin, and fat, 0.3 p.p.m. in liver, and 0.1 p.p.m. in muscle. This approval does not constitute a reaffirmation of the safety and effectiveness of the previously approved conditions of use of the drug.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Parts 556 and 558 are amended as follows:

1. In part 556, § 556.750 is revised to read as follows:

§ 556.750 Virginiamycin.

Tolerances are established for negligible residues of virginiamycin in edible tissues of swine as follows:

(a) 0.4 part per million in kidney, skin, and fat.

(b) 0.3 part per million in liver.

(c) 0.1 part per million in muscle.

2. In Part 558, § 558.635 is amended by revising paragraph (f)(4) and adding new paragraph (f)(5) to read as follows:

§ 558.635 Virginiamycin.

* * * * *

(f) * * *

(4) *Amount per ton.* Administer 10 grams per ton from weaning to 120 pounds body weight followed by 5 grams per ton to market weight.

(i) *Indications for use.* Increased rate of weight gain and improved feed efficiency.

(ii) *Animal weight.* For continuous use from weaning to market weight.

(5) *Amount per ton.* Administer 10 grams per ton from weaning to 120 pounds body weight followed by 5 to 10 grams per ton to market weight.

(i) *Indications for use.* Increased rate of weight gain and improved feed efficiency for swine up to 120 pounds body weight; increased rate of weight gain for swine from 120 pounds to market weight.

(ii) *Animal weight.* For continuous use from weaning to market weight.

Effective date. This regulation is effective September 19, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: September 11, 1978.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-26107 Filed 9-18-78; 8:45 am]

[4210-01]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-4482]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the national flood insurance program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the national flood insurance program (NFIP) at: P.O. Box 34294, Bethesda, Md. 20034, phone 800-638-6620.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The national flood insurance program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in some of these communities by publishing a flood hazard boundary map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
Kansas	McPherson	Unincorporated areas	Aug. 30, 1978, emergency	June 28, 1977	200214-A
New York	Livingston	Livonia, village of	do	Jan. 10, 1975	361458
Mississippi	Union	Myrtle, town of	Sept. 1, 1978, emergency	Jul. 29 1977	280295-A
Nebraska	Antelope	Clearwater, village of	do	Apr. 2, 1976	310262
New York	Jefferson	Adams, town of	do	May 31, 1974 and May 7, 1976.	360324-B
Do	Essex	Elizabethtown, village of	do	Jan. 24, 1975	361491
Pennsylvania	Berks	Centerport, borough of	Aug. 31, 1978, emergency	Nov. 22, 1974	420129
Florida	Indian River	Unincorporated areas	July 14, 1972, emergency July 3, 1978, regular, Aug. 1, 1978, suspended, Aug. 31, 1978, reinstated.	Dec. 20, 1974	120119-A
North Carolina	Wake	Garner, town of	Nov. 29, 1974, emergency, July 3, 1978, regular, July 3, 1978, suspended Aug. 31, 1978, reinstated.	Jul. 19, 1974	370240-B
Arkansas	Cross	Unincorporated areas	Sept. 4, 1978, emergency	June 7, 1977	050056-A
Louisiana	Allen Parish	do	do	do	220009-A
Wisconsin	Lafayette	Shullsburg, city of	do	May 17, 1974 and May 28, 1976.	550230-A
Michigan	Huron	Caseville, township of	Nov. 9, 1973, emergency, Dec. 1, 1977, regular, July 17, 1978, suspended, Sept. 1, 1978, reinstated.	Jan. 17, 1975	260257-A

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26083 Filed 9-18-78; 8:45 am]

[4210-01]

[Docket No. FI 4483]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the national flood insurance program (NFIP). The identification of such areas is to provide guidance to communities on the reduction of property losses, by the adoption of appropriate flood plain management, or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The date listed in the 8th column of the table or 30 days after the date of this FEDERAL REGISTER publication (Oct. 19, 1978), whichever is later.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, requires the purchase of flood insurance as a condition of Federal financial assistance of insurable property if such assistance is:

(1) For acquisition and construction of buildings as defined in part 1909 of title 24 of the Code of Federal Regulations, and

(2) For buildings located in a special flood hazard area identified by the Secretary of Housing and Urban Development.

For communities participating in the NFIP (see the 5th column in the table for a community's program status), this requirement applies on the date listed in the 8th column. For communities not participating in the program, section 202 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area effective 1 year from the hazard identification date (the date in the 8th column of the table).

This 30-day period before the map action becomes effective does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of 6 months to establish that it is not seriously flood prone or that such flood hazards

as may have existed have been corrected by floodworks or other flood control methods. The 6 months period

Similarly, the 1 year period a community has to enter the program under section 201(d) of the Flood Disaster

This identification is made in accordance with Part 1915 of Title 24 of the Code of Federal Regulations as au-

State, county, community name and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository

as may have existed have been corrected by floodworks or other flood control methods. The 6 months period shall be considered to begin 30 days after the date of publication in the FEDERAL REGISTER (Oct. 19, 1978) or the effective date of the flood hazard boundary map, whichever is later.

Similarly, the 1 year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the FEDERAL REGISTER (Oct. 19, 1978) or the effective date of the flood hazard boundary map, whichever is later.

This identification is made in accordance with Part 1915 of Title 24 of the Code of Federal Regulations as authorized by the national flood insurance program (42 U.S.C. 4001-4128).

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table:

§ 1915.3 List of communities with special hazard areas (FHBMs in effect).

State, county, community name and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Alabama, Monroe, Monroe County,[1] 0001A-0018A.	010325	N-5	I	F	Aug. 16, 1978	Aug. 18, 1978	Judge Opha Lee Biggs, P.O. Box 665, Monroeville, Ala. 36460, 205-743-3782.
Georgia, Tattnall, Tattnall County,[1] 0001A-0009A.	130471	N-5	I	F	do	do	Frank McCall, Chairman, County Commission, P.O. Box 25, Reidsville, Ga. 30453, 912-557-4336.
Illinois, Vermilion, city of Danville, 0001B-0002B.	170662	E-8, 11, 12, 14	I	F	May 17, 1974, Nov. 1, 1975.	do	Clark Baker, city engineer, 402 North Hazel, Danville, Ill. 61832, 217-446-0803.
Illinois, Cook, village of Matteson, 0001B.	170123	E-8, 11, 12, 14	I	F	Apr. 12, 1974, June 25, 1976.	do	Joseph T. Feehery, vice president, 3625 West 215th Street, Matteson, Ill. 60443, 312-748-1559.
Indiana, White, White County,[1] 0002A-0003A, 0005A-0006A, 0008A.	180447	N-5	I	F	Aug. 16, 1978	do	Charles Krecek, director of planning and zoning department, P.O. Box 851, Monticello, Ind. 47960, 219-583-7355.
Michigan, Menominee, township of Menominee, 0001A-0006A.	260702	N-5	I, C	F	do	do	Arthur Ostrenga, township supervisor, R.R. No. 1, Wallace, Mich. 49893, 906-863-6840.
North Carolina, Harnett, Harnett County,[1] 0001A-0008A.	370326	N-5	I	F	do	do	M. H. Brock, manager, P.O. Box 758, Lillington, N.C. 27546, 919-893-2091.
North Carolina, Randolph, Randolph County,[1] 0001A-0012A.	370195	E-10, 11, 12, 14	I	F	Jan. 3, 1975	do	Frank Boling, manager, Courthouse, 145 Worth St., Asheboro, N.C. 27203, 919-629-2131.
North Carolina, Columbus, town of Tabor City, 0001B.	370070	E-8, 11, 12, 14	I	F	June 7, 1974, Mar. 28, 1975.	do	R. C. Soles, mayor, 4th St., Tabor City, N.C. 28463, 919-653-3458.
Tennessee, Smith, town of South Carthage, 0001B.	470183	E-11, 12, 14	I	F	Aug. 23, 1974, Aug. 15, 1975.	do	L. B. Franklin, mayor, P.O. Box 28, South Carthage, Tenn. 37030, 615-735-2727.
Idaho, Cassia, city of Malta, 0001A	160197A	N-11, 12	I	F	Dec. 13, 1974	Aug. 22, 1978	Hon. Wallace Briggs, mayor, City Hall, Malta, Idaho 83343, 208-642-2529.
Kansas, unincorporated area, Marion County, 0001A-0012A.	200593A	N-5, 9	I	F	Aug. 22, 1978	do	Mr. M. P. Thompson, Jr., Chairman, Board of County Commissioners, County Courthouse, Marion, Kans. 66861, 316-382-2185.
Massachusetts, Berkshire, town of West Stockbridge, 01A-02A,04A-06A, 08A.	250045A	E-10, 11, 12	I	F	July 26, 1974	do	Mr. Leo Angelini, chairman, Board of Selectmen, Main St., West Stockbridge, Mass. 01266, 413-232-8539.
New Mexico, unincorporated area, Otero County, 0001A-0002A, 0004A-0010A, 0012A-0016A, 0018A-0019A, 0021A-0028A, 0032A-0035A, 0037A, 0039A-0043A, 0047A-0052A, 0054A-0068A.	350044A	E-8,11,12	I	F	Aug. 9, 1974	do	Ms. Virginia Yearly, administrative assistant, County Courthouse, Box 1749, Alamogordo, N. Mex. 88310, 505-437-7427.
Pacific territory, unincorporated territory, Truk District, 0001A-0004A.	750005A	N-5	C	F	Aug. 22, 1978	do	Mr. Adrian P. Winkel, High Commissioner, Office of the High Commissioner, Capitol Hill, Saipan, Mariana Islands 96950.
South Dakota, McPherson, city of Eureka, 01A.	460173A	N-11, 12	I	F	July 16, 1978	do	Hon. Fred Aman, mayor, 613 Seventh St., Eureka, South Dakota 57437, 605-284-2441.
Texas, unincorporated area, Hunt County, 0001A-0014A.	480363A	N-5, 9	I	F	Aug. 22, 1978	do	Hon. Ed Terrell, county judge, Office of the County Judge, County Courthouse, Greenville, Tex. 75401.
Illinois, Lee, Lee County,[1] 0004B, 0007B.	170413	E-10, 11, 12, 14	I	F	Jan. 10, 1975, June 2, 1978.	Aug. 26, 1978	John E. Stouffer, clerk, P.O. Box 385, Courthouse, Dixon, Ill. 61021, 815-288-3309.
Illinois, Whiteside, Whiteside County,[1] 0001A-0009A.	170687	E-5	I	F	Aug. 26, 1978	do	Kenneth Murphy, county zoning officer, Courthouse, Morrison, Ill. 61270, 815-772-7201.

State, county, community name and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Minnesota, Lake of the Woods, Lake of the Woods County, 0001B, 0003B-0004B, 0006B-0008B.[1]	270654	E-10, 11, 12, 14	I	F	Nov. 11, 1977	do	Dean Iribeck, auditor, Courthouse, Baudette, Minn. 56623, 218-634-2836.
North Carolina, Johnston, Johnston County,[1] 0001A-0012A.	370138	E-10, 11, 12, 14	I	F	Jan. 3, 1975	do	Kramer Jackson, County Administrator, P.O. Box 1049, Smithfield, N.C. 27577, 919-934-5969.
North Carolina, Wilkes, Wilkes County, 0001A, 0003A-0011A.	370256	E-10, 11, 12, 14	I	F	Dec. 20, 1974	do	John T. Barber, County manager, Wilkes County Office Bldg., Wilkesboro, N.C. 28697, 919-667-5111.
Ohio, Crawford, Crawford County,[1] 0002B, 0004B, 0006B.	390811	N-11, 14	I	F	Jan. 20, 1978	do	Richard Shealy, chairman, county commission, Courthouse, Bucyrus, Ohio 44820, 419-562-5876.
Ohio, Logan, village of DeGraff, 0001A.	390609	E-8, 11, 12, 14	I	F	July 18, 1975	do	Charles Roby, mayor, Village Hall, DeGraff, Ohio 43318, 513-585-5072.
Tennessee, Grundy, Grundy County,[1] 0001A-0003A, 0005A.	470250	N-5	I	F	Aug. 25, 1978	do	Roy Partin, judge, Courthouse, judges office, Altamont, Tenn. 37301, 615-692-3718.
Virginia, Albemarle, Albemarle County,[1] 0002A-0011A.	510006	E-5	I	F	do	do	Guy Agnor, county administrator, County Office Bldg., Courthouse Square, Charlottesville, Va. 22901, 804-296-5841.
Iowa, Wright, City of Woolstock, 0001A.	190827A	N-11, 12	I	F	June 25, 1976	Aug. 29, 1978	Hon. Robert Kastler, mayor, P.O. Box 57, Woolstock, Iowa 50599, 515-839-5710.
Oklahoma, Beckman, city of Elk City, 0001B.	400010B	E-8, 11, 12	I	F	May 24, 1974, June 18, 1976.	do	Mr. Bois Marable, city manager, P.O. Box 527, Elk City, Okla. 73644, 405-225-3230.
Wyoming, unincorporated area, Teton County, 0001A-0020A, 0022A-0030A, 0032A-0033A.	560094A	E-5	I	F	Aug. 29, 1978	do	Mr. William Ashley, chairman, Board of County Commissioners, County Courthouse, Jackson, Wyo. 83001, 307-733-4430.
Wyoming, unincorporated area, Washakie County, 0009A.	560089A	N-5	I	F	do	do	Mr. Robert A. Swander, chairman, Office of County Commissioners, Worland, Wyo. 82401, 307-347-3131.
Alabama, Marengo, Marengo County,[1] 0001A-0012A.	010156	E-5	I	F	Sept. 1, 1978	Sept. 1, 1978	James A. William, engineer, Courthouse, Linden, Ala. 36748, 205-295-5226.
Florida, Jackson, Jackson County,[1] 0001A-0013A.	120125	E-10, 11, 12, 14	I	F	Dec. 13, 1974	do	Thomas Tyus, chairman, County Board, P.O. Drawer 510, Marianna, Fla. 32446, 904-482-2501.
Indiana, Carroll, Carroll County,[1] 0001A-0006A.	180019	E-10, 11, 12, 14	I	F	Oct. 18, 1974	do	Ray Myers, zoning administrator, County Courthouse, Planning Commission, Delphi, Ind. 46923, 317-564-4468.
Indiana, Noble, town of Rome City, 01	180385A	E-12, 14	I	F	July 11, 1975	do	Fred Lamble, director, Noble County Planning Commission, Courthouse, Albion, Ind. 46701, 219-636-7217.
Kentucky, Pike, Pike County,[1] 0001B-0004B, 0006B, 0007B, 0009B, 0010B.	210298	E-11, 12, 14	I	F	Sept. 9, 1977	do	Wayne T. Rutherford, judge, Courthouse, Main St., Pikeville, Ky. 41501, 606-432-2553.
Minnesota, Polk, city of Beltrami, 0001B.	270362	E-11, 12, 14	I	F	Aug. 23, 1974, Oct. 17, 1975.	do	T. D. Anderson, mayor, City Hall, Beltrami, Minn. 56517, 218-926-3495.
Minnesota, Swift, city of Kerkhoven, 01.	270472B	E-12, 14	I	F	May 3, 1974, Nov. 21, 1975.	do	William Doering, mayor, City Hall, Kerkhoven, Minn. 56252, 612-264-2581.
Mississippi, Simpson, city of Mendenhall, 0001B.	280159	E-8, 11, 12, 14	I	F	June 14, 1974, Oct. 17, 1975.	do	Ray Layton, mayor, P.O. Box 487, Mendenhall, Miss. 39114, 601-847-1212.
North Carolina, Rutherford, Rutherford County[1] 0002A-0008A.	370217	E-10, 11, 12, 14	I	F	Jan. 10, 1975	do	Max Padgett, manager, Courthouse, Rutherford, N.C. 28671, 704-287-3647.
South Carolina, Greenwood, Abbeville, Laurens, town of Ware Shoals, 0001A.	450248	N-5	I	F	Sept. 1, 1978	do	G. H. Frederick, Jr., mayor, P.O. Box 510, Ware Shoals, S.C. 29692, 803-456-2121.
Tennessee, Morgan, Morgan County,[1] 0001A-0008A.	470139	N-10, 11, 12, 14.	I	F	Jan. 17, 1975	do	J. D. McCartt, judge, Courthouse, P.O. Box 387, Wartsburg, Tenn. 37887, 615-346-6288.
Wisconsin, Eau Claire, city of Altoona, 0001B.	550126	E-8, 11, 12, 14	I	F	Jan. 9, 1974, June 18, 1976.	do	Eugene M. Taras, P. E., director of public works, 1303 Lynn Ave., Altoona, Wis. 54720, 715-834-2808.
Alaska, unorganized borough, city of Aniak, 0001A.	020033A	E-5	I	F	Sept. 5, 1978	Sept. 5, 1978	Hon. Anna L. Ivan, mayor, P.O. Box 24, Aniak, Alaska 99557, 907-675-4326.

State, county, community name and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository

State, county, community name and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository

State, county, community name and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
California, Fresno, city of Clovis, 0001C.	060044C	N-11, 12, 15	I	F	Aug. 23, 1977, May 16, 1978.	do	Mr. Leon P. Lancaster, director of public works, 1033 Fifth St., Clovis, Calif. 93612, 209-298-8061.
California, Fresno, city of Orange Cove, 0001B.	060052B	E-11, 12	I	F	May 10, 1974, Apr. 11, 1975.	do	Hon. Kenneth E. Mason, mayor, 555 Sixth St., Orange Cove, Calif. 93646, 209-626-4488.
Iowa, Wright, city of Goldfield, 0001A	190584A	N-8, 11, 12	I	F	June 25, 1976	do	Mr. Clarence H. Cooper, city clerk, Office of City Clerk, Goldfield, Iowa 50542, 515-825-3613.
Iowa, Monona, city of Whiting, 0001A.	190684A	N-11, 12	I	F	July 2, 1976	do	Ms. Dorothy Carlson, city clerk, City Hall, Whiting, Iowa 51063, 712-458-2414.
Louisiana, De Soto Parish, town of Logansport, 0001A.	220336A	N-8, 11, 12	I	F	Aug. 15, 1975	do	Hon. M. P. Wells, mayor, Town Hall, Logansport, La. 71049, 318-697-5359.
New Mexico, Taos, town of Taos, 0001B.	350080B	E-8, 11, 12	I	F	May 17, 1974, May 28, 1976	do	Hon. Phillip Cantu, Jr., mayor, P.O. Drawer "M", Taos, N. Mex. 87571, 505-758-4283.
North Dakota, McKenzie, city of Alexander, 0001A..	380055A	E-11, 12	I	F	Dec. 13, 1974	do	Hon. Edward J. Taylor, Mayor, City Hall, Alexander, N. Dak. 58831, 701-828-3338.
North Dakota, Grand Fork, city of Emerado, 0001A.	380034A	E-12	I	F	Sept. 10. 1976	do	Hon. Joe Bader, mayor, City Hall, Emerado, N. Dak. 58228, 701-594-2672.
South Dakota, Pennington, town of Hill City, 0001A.	460116A	E-8, 11, 12	I	F	Apr. 23, 1976	do	Mr. William A. Wyman, attorney at law, Suite 212, 624 Sixth St., Rapid City, S. Dak. 57701. 605-342-4164.
South Dakota, Edmunds, city of Ipswich, 0001B.	460184B	N-8, 11	I	F	Nov. 5, 1976, Feb. 14, 1978.	do	Hon. Peter Geffre, mayor, City Hall, Ipswich, S. Dak. 57451, 605-426-4291.
South Dakota, Turner, city of Marion, 01A.	460197A	N-12	I	F	July 2, 1976	do	Mr. Don Tieszen, city clerk, City Hall, Marion, S. Dak. 57043, 605-648-3721.
Pennsylvania, Lycoming, township of Susquehanna, 01-03.	420659C	E-8, 11, 12, 14	I	F	Oct. 12, 1973, Oct. 24, 1975, July 1, 1977.	Sept. 8, 1978	Richard D. Forsburg, Sr., secretary, R. D. No. 4,Williamsport, Pa. 17701, 717-326-0356.
South Carolina, Anderson, town of Williamston, 0001B.	450020	E-11, 12, 14	I	F	May 31, 1974, Nov. 14, 1975.	do	Marion Middleton, mayor, 43 East Main St., Williamston, S.C., 29697, 803-847-7473.
Wisconsin, Iron, Iron County,[1] 0001A-0010A.	550182	E-10, 11, 12, 14	I	F	Feb. 14, 1975	do	Mr. Kinney, zoning administrator, Courthouse, Hurley, Wis. 53534, 715-561-2695.
Minnesota, Morrison, city of Pierz, 01.	270301B	E-11, 12, 14	I	F	June 7, 1974, Apr. 18, 1975.	do	Leander Meyer, mayor, City Hall, Pierz, Minn. 56364, 612-468-6388.
Minnesota, Traverse, city of Wheaton, 01.	270611A	E-12, 14	I	F	Oct. 25, 1974	do	Edward Barlage, mayor, City Hall, Wheaton, Minn. 56296, 612-563-4110.
Mississippi, Clarke, village of Pachuta, 01.	280219A	N-11, 12, 14	I	F	Nov. 8, 1974	do	L. C. Rhoden, mayor, P.O. Box 27, Pachuta, Miss. 39347, 601-776-6015.
Ohio, Lawrence, village of Athalia, 01.	390696A	E-12, 14	I	F	Aug. 1, 1975	do	Kenneth L. Dillon, mayor, Village Hall, Athalia, Ohio 45699, 614-886-6171.
Ohio, Muskingum, village of New Concord, 01.	390847A	N-5	I	F	Sept. 8, 1978	do	L. Coleman Knight, mayor, Lakeside Drive, New Concord, Ohio 43762, 614-826-4173.
Minnesota, Wadena, city of Aldrich, 0001A.	270492	N-12, 14	I	F	Feb. 7, 1975	do	Ervin Kroesch, mayor, City Hall, Aldrich, Minn. 56434, 218-445-5181.
Minnesota, Lac Qui Parle, city of Boyd, 01.	270240A	E-11, 12, 14	I	F	Oct. 25, 1974	do	Ronald Stone, mayor, City Hall, Boyd, Minn. 56218, 612-855-2242.
Minnesota, Wabasha, city of Kellogg, 01.	270655A	N-11, 12, 14	I	F	Jan. 31, 1975	do	William LaVigne, mayor, City Hall, Kellogg, Minn. 55945, 507-767-4403.
Minnesota, Morrison, Cass, city of Motley, 0001B.	270300	N-11, 12, 14	I	F	Aug. 2, 1974, Dec. 19, 1975.	do	Bill Postel, mayor, City Hall, Motley, Minn. 56466, 218-352-6200.
Illinois, Macon, Macon County[1] 0001A-0007A.	170926	N-5	I	F	Sept. 8, 1978	do	William M. Tangney, clerk, 253 East Wood St., Decatur, Ill. 62523, 217-429-5106.
Illinois, McLean, McLean County,[1] 0001A-0014A.	170931	N-5	I	F	do	do	Bambridge Peterson, county administrator, Courthouse, Bloomington, Ill. 61701, 309-827-5311
Illinois, Vermilion, village of Rossville, 01.	170968A	N-5	I	F	do	do	Terry Prillaman, vice president, 113 East Attica, Rossville, Ill. 60963, 217-748-6914.
Kentucky, Logan, city of Adairville, 0001A.	210353	N-5	1	F	do	do	George Arnold, mayor, City Hall, Adairville, Ky. 42202, 502-539-6731.

State, county, community name and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Kentucky, Montgomery, city of Jeffersonville, 0001A.	210358	N-5	I	F	do	do	Ray Bartley, city president, Route No. 2, Jeffersonville, Ky. 40334, 606-498-5907.
Alabama, Clarke, city of Thomasville, 0001A-0002A.	010041	E-11, 12, 14	I	F	Aug. 1, 1975	do	John D. McDonald, mayor, P.O. Box 127, Thomasville, Ala. 36784, 205-636-5827.
Alabama, Bibb, town of West Blocton, 0001A.	010014	E-8, 11, 12, 14	I	F	Nov. 8, 1974	do	Frank Ferrire, mayor, P.O. Box 187, West Blocton, Ala. 35184, 205-938-7632.
Georgia, Effingham, municipality of Springfield, 0001A.	130427	E-11, 12, 14	I	F	Apr. 4, 1975	do	Doris Flythe, mayor, P.O. Box 1, Springfield, Ga., 31329, 912-754-6666.
Illinois, Sangamon, village of Divernon, 01.	170949A	N-5	I	F	Sept. 8, 1978	do	Sherman Parker, vice president, Village Hall, Divernon, Ill. 62530, 217-628-3416.
California, Humboldt, city of Arcata, 0001B.	060061B	E-8, 11, 12	C	F	June 28, 1974, Dec, 5, 1975	Sept. 12, 1978	Mr. Roger A. Storey, city manager, 736 F St., Arcata, Calif. 95521, 707-822-5951.
California, Colusa, city of Williams, 0001B.	060024B	E-11, 12	I	F	Mar. 29, 1974, Oct. 10, 1975	do	Hon. L. Glen Manor, mayor, 810 E St., Williams, Calif. 95987, 916-473-5421.
Colorado, Logan, town of Iliff, 0001A..	080207A	N-12	I	F	Dec. 27, 1974	do	Hon. Joe Gerk, mayor, town of Iliff, Box 167, Iliff, Colo. 80736 303-522-8163.
Maine, Oxford, town of Upton, 0001A-0002A.	230342A	E-5	I	F	Sept. 12, 1978	do	Mr. Fred S. Judkin, town selectman, Town Hall, Upton, Maine 04261, 207-533-2183.
South Dakota, unincorporated area, Roberts County, 0001A-0004, 0006A-0007A.	460286A	N-5, 9	I	F	do	do	Mr. Leroy Larson, chairman, Board of County Commissioners, County Courthouse, Sisseton, S. Dak. 57262, 605-698-7336.
Alabama, St. Clair, town of Branchville, 01.	010372A	N-5	I	F	Sept. 15, 1978	Sept. 15, 1978	E. O. Crocker, Jr., mayor, Route 1, Box 28, Branchville, Ala. 35120, 205-629-2453.
Alabama, Elmore, city of Millbrook, 0001A.	010370	N-5	I	F	do	do	Reginold Minter, mayor, Box C, Millbrook, Ala. 36054, 205-285-6428.
Florida, Okaloosa, town of Shalimar, 0001A.	120579	E-5	C	F	do	do	Curtis Bullock, Jr., mayor, P.O. Box 815, Shalimar, Fla. 32579, 904-651-5723.
Georgia, Madison, municipality of Danielsville, 0001A.	130479	N-5	I	F	do	do	Andrew Griffith, mayor, P.O. Box 39, Danielsville, Ga. 30635, 404-795-2189.
Georgia, Madison, municipality of Ila, 0001A.	130481	N-5	I	F	do	do	Joe Smith, mayor, Office of the Mayor, Ila, Ga. 30647, 404-795-2300.
Georgia, Laurens, municipality of Montrose, 0001A.	130482	N-5	I	F	do	do	W. L. Cook, mayor, P.O. Box 38, Montrose, Ga. 31065, 912-376-4512.
Illinois, Ogle, village of Hill Crest, 01..	170956A	N-5	I	F	do	do	Kathleen Anderson, vice president, R.R. No. 1, Rochelle, Ill. 61068, 815-562-7770.
Illinois, Franklin, village of West City, 0001A.	170872	E-8, 11, 12, 14	I	F	Mar. 28, 1975	do	J. B. Kearny, president, 1000 Blakely St., Benton, Ill. 62812, 618-439-4272.
Indiana, Marion, city of Indianapolis, 0001B-0006B.	180159	E-8, 11, 12, 14	I	F	May 17, 1974, Sept. 24, 1976.	do	William Abrams, principal planner, division of planning and zoning 2041 City County Bldg., Indianapolis, Ind. 46204, 317-633-3434.
Kentucky, Ohio, City of Hartford, 0001A.	210357	N-5	I	F	Sept. 15, 1978	do	Hayward Spinks, mayor, 114 Washington, Hartford, Ky., 42347, 502-298-3612.
Minnesota, Koochiching, city of Big Falls, 0001B.	270234	E-11, 14	I	F	Aug. 30, 1974, July 25, 1975.	do	Richard Graham, mayor, City Hall, Big Falls, Minn. 56627, 218-276-4141.
Minnesota, Morrison, city of Bowlus, 01.	270293A	N-12, 14	I	F	Oct. 25, 1974	do	Roger Benusa, mayor, City Hall, Bowlus, Minn. 56314, 612-584-5267.
Minnesota, Winona, city of Rollingstone, 01.	270530B	E-11, 12, 14	I	F	Aug. 2, 1974, Oct. 31, 1975.	do	Lawrence Green, mayor, City Hall, Rollingstone, Minn. 55969, 507-689-2231.
Mississippi, Pontotoc, Pontotoc County,[1] 0001A-0009A.	280234	E-10, 11, 12, 14	I	F	Nov. 29, 1974	do	Grady O. Baker, president, board of supervisors, P.O. Box 209, Pontotoc, Miss. 38863, 601-489-3451.
North Carolina, Franklin, Franklin County,[1] 0001A-0003A, 0005A-0011A.	370377	N-5	I	F	Sept. 15, 1978	do	Bobby Strickland, county chairman, 113 Market St., Louisburg, N.C. 27549, 919-496-5994.
Ohio, Richland, village of Butler, 01....	390605A	E-11, 12, 14	I	F	July 25, 1975	do	Glen Shock, mayor, Elm St., Butler, Ohio 44822, 419-883-2481.
Ohio, Pickaway, city of Circleville, 0001B.	390447	E-8, 11, 14	I	F	April 12, 1974, Nov. 28, 1975.	do	Frank E. Barnhill, mayor, 127 South Court St., Circleville, Ohio 43113, 614-474-8142.

State, county, community name and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository

[4310-10]

Title 30—Mineral Resources

Interior Board of Surface Mining and Reclamation Appeals, with authority to exercise appellate and other review functions of the Secretary under the

State, county, community name and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Ohio, Guernsey, village of Cumberland, 01.	390824A	N-5	I	F	Sept. 15, 1978...	...do...	James E. Keys, mayor, Route No. 1, Cumberland, Ohio 43732, 614-638-2141.
Ohio, Fulton, village of Fayette, 01.	390829A	N-5	I	F	...do...	...do...	James I. Marlatt, mayor, Village Hall, Fayette, Ohio 43521, 419-237-2661.
Ohio, Belmont, village of Holloway, 01.	390028B	E-11, 14	I	F	Aug. 23, 1974, Aug. 29, 1975.	...do...	John Stewart, mayor, Holloway, Ohio 43985, 614-968-3535.
South Carolina, Hampton, town of Luray, 01.	450242A	N-5	I	F	Sept. 15, 1978...	...do...	J. D. Rouse, mayor, P.O. Box 185, Luray, S.C. 29932, 803-626-2207.
Tennessee, Shelby, city of Germantown, 0001A-0002A.	470353	E-5	I	F	...do...	...do...	W. A. Nance, mayor, P.O. Box 28140, Germantown, Pa. 38138, 901-754-7726.
Tennessee, Obion, town of Samburg, 01.	470379A	N-5	I	F	...do...	...do...	Joe Byrd, mayor, P.O. Box 117, Samburg, Tenn. 38254, 901-538-9291.
Tennessee, Wilson, city of Watertown, 01.	470380A	N-5	I	F	...do...	...do...	R. B. Beckwith, mayor, Public Square, Watertown, Tenn. 37184, 615-237-3326.
Wisconsin, Barron, Barron County,[1] 0001A-0012A.	550568	E-5	I	F	...do...	...do...	Dale Thorsbakken, zoning administrator, Courthouse, Barron, Wis. 54812, 715-537-5566.
Arkansas, St. Francis, town of Caldwell, 0001B.	050185B	E-11, 12	I	F	Nov. 1, 1974, Oct. 10, 1975.	Sept. 19, 1978...	Hon. Mrs. John C. Lindsey, Jr., mayor, Town Hall, Caldwell, Ark. 72322, 501-633-1183.
Colorado, Pueblo, town of Boone, 0001B.	080148B	N-11, 12	I	F	Sept. 6, 1974, Jan. 9, 1976.	...do...	Hon. Ralph E. Wyant, mayor, P.O. Box 13, Boone, Colo. 81025, 303-947-3311.
Colorado, Logan, city of Sterling, 0001A.	080294A	E-8, 11, 12, 15	I	F	Sept. 19, 1978...	...do...	Mr. Marvin McElwain, city manager, P.O. Box 590, Sterling, Colo. 80751, 303-522-2757.
Colorado, Eagle, town of Vail, 0001A-0002A.	080054A	E-5	I	F	...do...	...do...	Hon. John. A. Dobson, mayor, Office of Mayor, 75 South Frontage Rd. West, P.O. Box 100, Vail, Colo. 81657, 303-476-5613.
Iowa, Sioux, city of Chatsworth, 0001A.	190509A	N-11, 12	I	F	Aug. 13, 1976...	...do...	Mr. Franklin Hemmelrick, city clerk, City Hall, Chatsworth, Iowa 51011, 712-552-1871.
Iowa, Jackson, city of Green Island, 0001B.	190159B	N-6, 11, 12	I	F	Oct. 25, 1974, Apr. 23, 1976.	...do...	Hon. Wayne Rohling, mayor, City Hall, Green Island, Iowa, 319-682-7401.
Kansas, Franklin, city of Lane, 0001A.	200103A	N-11, 12	I	F	Dec. 27, 1974...	...do...	Hon. Homer White, mayor, City Hall, Lane, Kans. 66042, 913-294-5331.
North Dakota, Walsh, city of Fordville, 0001A.	380170A	N-11,12	I	F	June 4, 1976...	...do...	Hon. Donald Casement, mayor, City Hall, Fordville, N. Dak. 58231, 701-229-3295.
Oregon, Columbia, city of Clatskanie, 0001B.	410035B	E-8, 11, 12	I	F	Dec. 7, 1973, Nov. 21, 1975.	...do...	Hon. George E. Long, mayor, P.O. Box 9, Clatskanie, Oreg. 97016, 503-728-2623.
Texas, Colorado, Colorado County Water Control Improvement District No. 2, 0001A.	481489A	E-5	I	F	Sept. 19, 1978...	...do...	Mr. David Schiurrin, Colorado County W.C.I.D. No. 2, P.O. Box 317, Garwood, Tex., 713-836-7937.

[1] Unincorporated areas.

FINAL LIST CODES:
1. Conversion to regular program with FIRM (elevations determined).
2. Conversion to regular program with FIRM (no elevations determined).
3. Conversion to regular program with no special flood hazard areas—no FIRM.
4. Conversion to regular program with no special flood hazard areas—no FIRM; recission of FHBM effective on same date as conversion.
5. Initial FHBM.
6. Revision—change of elevation; revised FIRM.
7. Revision—change of zone designation; revised FIRM.
8. Revision—corporate limit changes.
9. Revision—drafting corrections; printing errors.
10. Revision—curvilinear.
11. Revision—add flood hazard area.
12. Revision—reduce flood hazard area.
13. Revision—FEDERAL REGISTER omission.
14. Revision—refunds possible.
15. Attention! A previous map (or maps) has been rescinded or withdrawn for this community. This may have affected the sequence of suffixes.

R—Regular program; E—Emergency program; N—not in program.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1969), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26084 Filed 9-18-78; 8:45 am]

[4310-10]

Title 30—Mineral Resources

CHAPTER III—BOARD OF SURFACE MINING AND RECLAMATION APPEALS, DEPARTMENT OF THE INTERIOR

PART 301—PROCEDURES UNDER SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977

PART 302—PROCEDURES UNDER FEDERAL METAL AND NONMETALLIC MINE SAFETY ACT OF 1966

Revision and Revocation of Procedural Rules

SEPTEMBER 8, 1978.

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Final rule.

SUMMARY: This action amends the heading to chapter III of Title 30, Code of Federal Regulations, and revises part 301 to provide a cross reference to subpart L of 43 CFR Part 4, which contains procedural regulations applicable to adjudicatory proceedings before administrative law judges and the Interior Board of Surface Mining and Reclamation Appeals. It also revokes part 302 of chapter III of title 30, which is now obsolete. The amendments are technical in nature and will reflect organizational changes made as a result of recent mining legislation.

EFFECTIVE DATE: September 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Ms. Frances A. Patton, Special Assistant to the Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-557-1500.

SUPPLEMENTARY INFORMATION: The Department has established the Interior Board of Surface Mining and Reclamation Appeals, with authority to exercise appellate and other review functions of the Secretary under the Surface Mining Control and Reclamation Act of 1977, 91 Stat. 445, 30 U.S.C. 1201 et seq., and has promulgated regulations applicable to adjudicatory proceedings before administrative law judges and the Interior Board of Surface Mining and Reclamation Appeals, in surface mining control and reclamation matters, within 43 CFR Part 4, Subpart L—Special Rules Applicable to Surface Coal Mining Hearings and Appeals. Also, the Department has abolished the Interior Board of Mine Operations Appeals, effective March 9, 1978, upon the creation of the Federal Mine Safety and Health Review Commission, pursuant to the Federal Mine Safety and Health Act of 1977, 83 Stat. 742, 30 U.S.C. 801 et seq. Accordingly, as shown below, this action effects the necessary revision of part 301, and amendment to the heading of Chapter III, Title 30 of the Code of Federal Regulations, to cross reference to regulations applicable to surface coal mining hearings and appeals within the jurisdiction of administrative law judges and the Interior Board of Surface Mining and Reclamation Appeals. Additionally, the cross reference in part 302, pertaining to regulations formerly applicable to hearings, appeals and other review proceedings before the Interior Board of Mine Operations Appeals, now obsolete, is revoked.

The author of this document is Ms. Frances A. Patton, Office of Hearings and Appeals.

Because these amendments involve technical changes only, no purpose would be served in obtaining public comment pursuant to 5 U.S.C. 553. The amendments are, therefore, made effective as of the date of their publication in the FEDERAL REGISTER.

1. The heading to Chapter III, Title 30 of the Code of Federal Regulations,

is amended, and Part 301 of that chapter is revised, to read:

SUMMARY: The present regulation, which provides procedural guidance to Corps of Engineers field personnel on

(c) • • •

(5) Even though the dwelling being acquired may be located on a tract

[1410-03]

Title 37—Patents, Trademarks, and Copyrights

is amended, and Part 301 of that chapter is revised, to read:

§ 301.1 Cross reference.

For special rules applicable to hearings, appeals, and other review procedures relating to surface mining control and reclamation within the jurisdiction of administrative law judges and the Interior Board of Surface Mining and Reclamation Appeals, Office of Hearings and Appeals, see subpart L of part 4 of subtitle A—Office of the Secretary of the Interior, of title 43 of the Code of Federal Regulations. Subpart A of part 4 and all of the general rules in subpart B of part 4 not inconsistent with the special rules in subpart L of part 4 are also applicable to such hearings, appeals and other review proceedings.

(Sec. 201, Pub. L. 95-87, 91 Stat. 445, 30 U.S.C. 1201 et seq.)

Part 302 [Removed]

2. Part 302 of chapter III, Title 30 of the Code of Federal Regulations, is revoked.

Dated: September 8, 1978.

JAMES A. JOSEPH,
Acting Secretary of the Interior.

[FR Doc. 78-26354 Filed 9-18-78; 8:45 am]

[3710-08]

Title 32—National Defense

CHAPTER V—DEPARTMENT OF THE ARMY

[EP 405-1-2; formerly ER 405-1-663]

PART 641—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: The present regulation, which provides procedural guidance to Corps of Engineers field personnel on the implementation of Pub. L. 91-646 and information to the public concerning the Army's relocation program, is being amended to clarify procedures, update application procedures, and clarify the intent of corps regulations. The amendments will benefit the public by simplifying the application procedure and making the regulations easier to read and understand.

EFFECTIVE DATE: August 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Garland P. Thompson, 202-693-6786 or write to: Chief, Policy and Operations Branch, Homeowners Assistance Division, Real Estate Directorate, Office of the Chief of Engineers, Washington, D.C. 20314.

In consideration of the above, 32 CFR Part 641 is amended by revising §§ 641.4(a), 641.63(c), 641.104(c)(5), and 641.252(a) as set forth below:

§ 641.4 Basic policy and procedural requirements.

* * * * *

(a) A written notice of intention to acquire must be given to each individual family, business or farm operation to be displaced. Such notice shall by served personally or be certified (or registered) first-class mail at the earliest possible time. (See figure 6-1)

* * * * *

§ 641.63 Nonallowable moving expenses and losses.

* * * * *

(c) Improvements to the replacement site, except when required by law in connection with the movement and reinstallation of personal property referred to in § 641.62(a)(6).

* * * * *

§ 641.104 Differential payment for replacement housing.

* * * * *

(c) * * *

(5) Even though the dwelling being acquired may be located on a tract larger than the average residential lot in the area or on a tract whose value is based on a higher and better use than residential, section 203 of the Act requires that the replacement housing payment be based on the "acquisition cost" of the dwelling. This means that a portion of the purchase price paid for the entire property must be attributed to the dwelling and homesite. In such cases, the appraiser will be requested to insert a statement in the appraisal report reading substantially as follows:

"The total appraised value of this property is $X, of which $Y constitutes the appraised value of the dwelling and homesite." The sum of $Y will be considered the "acquisition cost" of the dwelling for the purpose of calculating section 203 benefits. However, if the eventual purchase price of the entire property should exceed the Government's appraised value, a proportionate share of any increase over the entire property's appraised value will be applied to the dwelling unless there is evidence justifying a different acquisition cost for the dwelling in relation to the value of the tract.

* * * * *

§ 641.252 Application.

(a) The application to be used in processing claims for relocation assistance is comprised of various forms developed by the General Services Administration and approved by the Office of Management and Budget, standard forms 262 through 267 (figure 6-4). Although these forms are self-explanatory, the District Engineer will render such assistance to the applicant as may be necessary for their completion. The application, when submitted to the District Engineer, must be accompanied by supporting invoices, receipts or other items to substantiate payment for each item in the amount claimed.

* * * * *

Since these regulations only provide procedural guidance to Corps of Engineers field personnel on the implementation of Pub. L. 91-646, notice of proposed rulemaking and the procedures thereto are considered unnecessary.

NOTE.—The Chief of Engineers has determined that this rule does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107. (Pub. L. 90-483.)

Dated: September 8, 1978.

For the Chief of Engineers:

THORWALD R. PETERSON,
Colonel, Corps of Engineers,
Executive Director, Engineer Staff.

[FR Doc. 78-26281 Filed 9-18-78; 8:45 am]

[1410-03]

Title 37—Patents, Trademarks, and Copyrights

CHAPTER II—COPYRIGHT OFFICE, LIBRARY OF CONGRESS

[Docket RM 78-2]

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

Deposit Requirements

AGENCY: Library of Congress, Copyright Office.

ACTION: Final regulations.

SUMMARY: This notice is issued to inform the public that the Copyright Office of the Library of Congress is adopting amendments to §§ 202.19, 202.20, and 202.21 of our regulations. The effect of the amendments is: (i) To liberalize the deposit requirements for certain types of three-dimensional works; (ii) to provide expressly for the means of termination of continuing arrangements under which the Copyright Office has granted a request for special relief as an exception to the general deposit requirements; (iii) to permit the deposit of only one copy of musical compositions in certain cases; (iv) to permit the deposit of photographs or similar identifying reproductions in the case of unpublished pictorial and graphic works; (v) to clarify the deposit requirements for machine-readable works; (vi) to clarify the meaning of a "complete copy" in the case of motion pictures; (vii) to liberalize the deposit requirements for works reproduced in or on sheetlike materials; (viii) to liberalize the requirements governing the size and mounting of photographic transparencies deposited as identifying material, and to revise certain requirements concerning separate drawings of the copyright notice appearing in identifying material; (ix) to clarify the definition of a "complete" copy or phonorecord; (x) to clarify the deposit requirements for registration of works published in separable parts; and (xi) to add clarifying provisions concerning the deposit of works appearing on containers, wrappers, holders, and similar receptacles.

DATES: The regulations, as amended, are effective on September 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Jon Baumgarten, General Counsel, U.S. Copyright Office, Library of Congress, Washington, D.C. 20559, 703-557-8731.

SUPPLEMENTARY INFORMATION: Under 17 U.S.C. 407 the owner of copyright, or of the exclusive right of

quirement that identifying material be submitted in lieu of actual copies of three-dimensional works does apply to

The Copyright Office is continuing an active study of all of its processing and recordkeeping activities, and a

the regulations permit the deposit of one copy in the case of musical compositions published "only by rental,

clear the deposit requirements for registration of machine-readable works published abroad. We are therefore re-

the requirement of mounting for transparencies that are 3" x 3" inches or smaller, but not to make mounting an

SUPPLEMENTARY INFORMATION: Under 17 U.S.C. 407 the owner of copyright, or of the exclusive right of publication, in a work published with notice of copyright in the United States is required to deposit copies of the work in the Copyright Office for the use or disposition of the Library of Congress. Section 408 of the statute also requires deposit of material in connection with applications for copyright registration of unpublished and published works. After establishing general rules governing the nature of the required deposit, section 408 authorizes the Register of Copyrights to prescribe regulations governing "the nature of the copies or phonorecords to be deposited" and to "require or permit * * * the deposit of identifying material instead of copies or phonorecords * * *."

On January 4, 1978, we published in the FEDERAL REGISTER (43 FR 763) final regulations implementing the deposit requirements of sections 407 and 408. Those regulations, among other things, generally required the deposit of "identifying material," such as photographs or drawings, instead of actual copies of three-dimensional works. This requirement was designed to improve our records of copyright registrations and to reduce the substantial administrative costs and burdens faced by the Copyright Office in handling and storing material of a wide variety of shapes and sizes.

After reconsideration in the light of our experience under those regulations, on March 21, 1978 (43 FR 11701) we made several interim changes in their application to three-dimensional works.[1] Those changes:

(1) Amended §§ 202.20(b)(2) and 202.20(c)(2)(ix) to remove the requirement that an applicant submit photographs or similar reproductions of uncopyrightable three-dimensional articles (for example, yarn and knitting needles) as a condition to registration of two-dimensional works (for example, instructions or illustrations) with which they are packaged;

(2) Amended § 202.20(d)(1) to permit the deposit of actual copies of three-dimensional works, instead of photographs or the like, as "special relief" in particular cases;

(3) Amended § 202.20(c)(2)(ix) to make clear that, unless special relief is asked for and granted, the general requirement that identifying material be submitted in lieu of actual copies of three-dimensional works does apply to boxed or similarly contained works; and

(4) Amended § 202.21 in several respects: To liberalize the requirements governing the minimum size of identifying material, thereby permitting the deposit of inexpensive photographs of works; to make clear that the entire section, as amended, pertains to the deposit of identifying material of both published and unpublished works; and to make clear that, where drawings of a copyright notice must be submitted as part of identifying material, the drawing need not be of the same size as the material reproducing the work itself.

Interested parties were given until April 28, 1978, to comment on the interim amendments. No comments were received on the specific changes noted above, and they are adopted as final.

Our ongoing experience with deposits of three-dimensional works has prompted us to make another liberalizing amendment. Under the regulations as issued, applicants for registration of works consisting of multiple three-dimensional parts were required to deposit identifying material showing each copyrightable part, instead of actual copies of the work. This meant that, for example, in the case of a board game, the applicant would have to prepare and submit a number of photographs or drawings showing each separate copyrightable piece composing the game, including all copyright notices on the various parts.

We believe that, in cases where the work consists of multiple parts that are contained in a box or similar container of reasonable size, the substantial burden on the applicant in preparing multiple photographs or other identifying reproductions probably outweighs the problems caused the Copyright Office in processing and storing the deposit. We are therefore amending § 202.20(c)(2)(ix) to exempt from the requirement for the submission of identifying material, works consisting of multiple parts that include among the copyrightable elements of the work, in addition to any copyrightable elements on the box or other container, three or more three-dimensional, physically separable parts, and that are packaged and published in a box or similar container with flat sides and with dimensions of no more that 12 x 24 x 6 inches. The most typical examples of this type of material are board games, but other examples include model kits, and certain kinds of craft kits. We have also added a new paragraph (H) to § 202.20(c)(2)(i) to permit the deposit of only one copy in these cases.

The Copyright Office is continuing an active study of all of its processing and recordkeeping activities, and a major focus of the study involves the costs (both direct and hidden) of creating, maintaining, preserving, and accessing deposit records. The handling and storage of bulky material, even if boxed, involves very substantial costs, and we must therefore consider these amendments as experimental for the time being. We will be monitoring their effect on our costs and operations and, depending upon our findings, we may have to consider returning to the requirement for identifying material. In any event, the Office distinctly prefers the deposit of identifying material in these cases, even where the deposit of a boxed copy is permitted.

This change in our regulations has considerable practical importance but, since it is primarily a liberalization of a procedural requirement imposed on the public by the Copyright Office, we are issuing it as final with this notice. The same is true of several other amendments which, on the basis of our experience with the deposit regulations over the past several months, are needed to liberalize or clarify the requirements. Specifically:

(1) *Special relief.* In developing the deposit regulations it became apparent that it would not be possible to establish categorical rules, exemptions, or alternatives to cover all cases where the general deposit provisions might cause unnecessary hardship. Accordingly, §§ 202.19(e) and 202.20(d) permit requests to be made for "special relief" in particular cases. Our original intent was to consider requests for special relief on a case-by-case basis. In some cases, however, there have been requests for ongoing or continuous relief applicable to a specific copyright owner, aimed at particular categories of works or particular circumstances encountered by that owner. In order for the Copyright Office to grant special relief on an ongoing basis where warranted in these cases, while at the same time reserving the right to insist upon the general deposit requirements if circumstances later change, we are adding a termination provision to both sections. Although the right of termination was implicit in the reference to grants of relief upon "such conditions as the Register (of Copyrights) may determine" in the original regulations, we believe we should prevent confusion and unnecessary paperwork by stating this principle expressly. To avoid any possible question, the amendment provides that a termination of special relief will not affect the validity of any earlier deposit.

(2) *Musical compositions published by rental, lease, or lending.* Sections 202.19(d)(2)(v) and 202.20(c)(2)(i)(F) of the regulations permit the deposit of one copy in the case of musical compositions published "only by rental, lease, or lending (rather than sale) of copies." Sections 202.19(b)(2) and 202.20(b)(2) define a "complete" copy in these cases as a full score or a conductor's score. These provisions were made in response to public comments pointing out that in musical rental cases only a limited number of copies exist for distribution, and that application of the normal requirement for two copies of the full score and parts would be unjustifiably burdensome and expensive.

The wording of the regulation as issued presented a technical problem. In cases where a musical work had been published both in the form of a rental score and in the form of phonorecords, the regulations, in combination with the Library of Congress "Best Edition" criteria, seemed to require the deposit of two copies of the score. This was not intended, and we are revising the regulations to make clear that only one copy is required in these cases.

(3) *Unpublished pictorial and graphic works.* Section 202.20(c)(2)(iv) of the regulations permits the deposit of identifying reproductions, instead of actual copies, of both published and unpublished pictorial and graphic works only where an "individual author" is the copyright owner. This provision, which parallels a provision in section 407(c) of the statute, was intended primarily to give individual artists the option of depositing photographs of their published prints under certain circumstances, but to withhold this option from a copyright owner (employer-for-hire or transferee) who is not the author of the published work, thus requiring deposit of copies of the actual print for the collections of the Library of Congress in these cases. The same considerations do not apply to unpublished works however, and we are therefore amending the section to allow the deposit of photographs or like reproductions of all unpublished pictorial or graphic works, including those in which copyright is owned by an employer-for-hire or transferee of the author.

(4) *Machine-readable works.* Section 202.20(c)(2)(vii) of the regulations specifies the deposit requirements for registration of machine-readable computer programs, automated data bases, and the like. In these cases, visually perceptible deposits are necessary for examining purposes, but the entire work need not be deposited in visual form; the regulations require only specified portions of the work to be deposited. However, as issued, the regulations on this point were limited to machine-readable works published in the United States, thus leaving unclear the deposit requirements for registration of machine-readable works published abroad. We are therefore revising the section to remove the reference to publication in the United States.[2]

(5) *Motion pictures.* We are also amending §§ 202.19(b)(2) and 202.20(b)(2) to clarify the meaning of a "complete copy" in the case of motion pictures. To be considered complete, and therefore acceptable for registration, a copy of a motion picture must be clean, undamaged, undeteriorated, and free of splices; both the copy itself and its physical housing must be free of any defects that would interfere with the performance of the work or that would cause mechanical, visual, or audible defects or distortions. (Deposit copies of motion pictures that are returned under the Library's Motion Picture Agreement are subject to the requirements of that agreement.)

(6) *Works reproduced in or on sheetlike materials.* Section 202.20(c)(2)(viii) requires that the deposit for a work reproduced in or on sheetlike materials which consists of a repeated pictorial or graphic design show the complete design and at least one repetition. However, on the basis of experience, we feel that the nature of a work reproduced in this fashion is sufficiently revealed by a deposit which shows the complete design and at least part of one repetition. We are liberalizing this section of the regulations accordingly.

(7) *Deposit of identifying material instead of copies.* Section 202.21(c) requires that transparencies, when submitted as identifying material in lieu of copies, must be 35 mm in size and fixed in cardboard, plastic, or similar mounts. Our experience has shown that it is too restrictive to require all transparencies to be 35 mm. The regulation has been amended to require photographic transparencies to be "at least" 35 mm, thus giving depositors the option of depositing larger transparencies if they prefer.

To facilitate handling and storage, we prefer all transparencies to be fixed in cardboard, plastic, or similar mounts. We recognize, however, that it could be unjustifiably burdensome to require the mounting of large transparencies in all cases. We have therefore amended the regulation to retain the requirement of mounting for transparencies that are 3" x 3" inches or smaller, but not to make mounting an absolute requirement for larger transparencies. However, the amended regulation reserves to the Office the right to require mounting in particular cases for transparencies larger than 3" x 3".

We have also sought to clarify the requirements governing the separate drawing or similar reproduction of the copyright notice, which must accompany identifying material in certain cases. Under amendments of paragraphs (c) and (e) of § 202.21, the separate drawing need not be uniform in size with the other pieces of identifying material, but it must be no smaller than 3" x 3" and no larger than 9" x 12". We have dropped the provision requiring that the dimensions of the notice be shown on the drawing, since this additional requirement seems, in practice, to be more trouble than it is worth.

(8) *Definition of "complete" copy or phonorecord.* The deposit regulations necessarily contain two definitions of "complete" copy or phonorecord: One in § 202.19(b)(2) for purposes of satisfying the mandatory deposit requirements of section 407 of the statute, and another in § 202.20(b)(2) for purposes of satisfying the registration requirements of section 408. Although these two definitions interrelate, there are significant differences between them.

The amendments we are making in the definition of "complete" copy or phonorecord in § 202.20(b)(2) add substantially to the length of that paragraph. For the sake of clarity and consistency, we have recast the paragraph somewhat, and have organized it under six subheadings: unpublished works; published works; contributions to collective works; sound recordings; musical scores; and motion pictures.

(9) *Works published in separable parts.* As part of the revision of the definition of "complete" copy or phonorecord in § 202.20(b)(2), we have dealt with the general question of works published in separable parts, where only certain elements are deposited for registration. In the case of published works other than sound recordings, the amendment makes clear that, if the work is subject to the mandatory deposit requirements of section 407, registration under section 408 requires deposit of one or two "complete" copies, including "all elements comprising the unit of publication of the best edition of the work, including elements that, if considered separately, would not be copyrightable subject matter or would otherwise be exempt from mandatory deposit requirements * * *." However, if the work is not subject to the mandatory deposit requirements, the amendment generally con-

[1] In a separate proceeding (docket RM 78-3) we also amended the deposit regulations to reflect the availability of the Library of Congress "Motion Picture Agreement." That agreement (i) provides for the return of published motion pictures to depositors under certain conditions; and (ii) establishes certain rights and obligations of the Library of Congress with respect to such works. See 43 FR 12320 (Mar. 24, 1978; interim regulations) and 43 FR 31132 (July 20, 1978; final regulations).

[2] In § 202.19(c)(5), which provides a complete exemption from the mandatory deposit requirements, we have retained the reference to "published in the United States." The mandatory deposit requirements of sec. 407 of the statute apply only to works published in the United States. Sec. 202.19(c)(5) of the regulations is intended to grant an exemption in the situation where a work has been published abroad in hard-copy form, but has been published in the United States only in machine-readable form.

V 43 / 182 SE 19 78

siders a copy or phonorecord "complete" even if some elements of the unit of publication are missing, under

choreographic works and pantomimes for registration on the basis of a deposit copy notated in Sutton Move-

questions and problems that have arisen. For this reason we would welcome any suggestions or comments

Part 202 of 37 CFR Chapter II is amended by revising §§ 202.19, 202.20, and 202.21 to read as follows:

(2) A "complete" copy includes all elements comprising the unit of publication of the best edition of the work,

phonorecords. This category does not exempt the owner of copyright, or of the exclusive right of publication, in a

siders a copy or phonorecord "complete" even if some elements of the unit of publication are missing, under two conditions: (1) The deposit must contain everything for which the applicant is seeking registration; and (2) the separation of the missing elements must not leave the deposit physically marred or garbled.

(10) *Containers and other receptacles.* A special problem arises with respect to containers, wrappers, holders, and other receptacles, where the only material for which copyright registration is sought appears on the receptacle. Many of these works are exempt from the mandatory deposit requirements and therefore, under the amendment of § 202.20(b)(2), could be considered "complete" for purposes of registration without their contents. For example, an envelope containing hairnets should be deposited without the hairnets, and a slipcase containing stationery could be deposited without the stationery.

However, there are a number of cases—book jackets and record sleeves are common examples among many—where there is no exemption from the mandatory deposit requirements, but it would be burdensome or unfair to require the author or other owner of copyright in the material appearing on the jacket or other receptacle to deposit the complete unit of publication. To solve this problem we have added a special exception covering containers, wrappers, holders, and other receptacles.

A related problem arises wih respect to three-dimensional containers and holders such as boxes, cases, and cartons. Where the material for which registration is sought is printed on a label attached to the container, the label can be removed and deposited for registration separately. However, where the copyrighted work is printed or otherwise reproduced directly on the container, the applicant will generally be required to deposit identifying material rather than a three-dimensional copy.

Our experience with the deposit regulations suggests that an exception should be made where the empty container on which the copyrighted work appears can be readily opened, folded, slit at the corners, or in some other way made adaptable for flat storage. We have therefore amended § 202.20(c)(2)(ix) to permit the applicant to deposit an actual copy rather than identifying material in cases of this sort.

Two comments were received in response to our March 21 notice on matters other than those dealt with in the specific interim amendments contained in that notice. One of these comments urged that we amend the regulations to state that we accept choreographic works and pantomimes for registration on the basis of a deposit copy notated in Sutton Movement Shorthand. Under the new Copyright Act it is clear that choreography and mime are proper subject matter of copyright if they are "fixed" in some tangible medium, 17 U.S.C. 102. This medium may consist of a copy in any form of "written" notation, including (but not limited to) Sutton Movement Shorthand, Labanotation, Benesh notation, and other forms of notation, pictorial or narrative description of movements; or it may take the form of film, videotape, videodisk, hologram, or any other method of recording dance or mime cinematographically. The coined word "choreology" covers, among other things, the writing down of dances by various means, and the fixation envisioned by the law would include any form of written record of a choreographic work made by a "choreologist."

So far in our experience with registering choreographic works and pantomimes under the new law, we have not felt it necessary to lay out specific deposit requirements for these works in our regulations. For unpublished choreographic works and pantomimes the general requirement is for deposit of "one complete copy"—that is, a copy "representing the entire copyrightable content of the work for which registration is sought." For published works in these classes, the Library of Congress "Best Edition" criteria [3] are applicable, and within these criteria the depositor may deposit whatever form or copy it believes best to represent the work.

Although we are not now amending our deposit regulations to add a provision dealing with choreographic works and pantomimes, we plan to review this question on the basis of experience in the future, and to consider any questions and problems that have arisen. For this reason we would welcome any suggestions or comments from depositors of choreographic works and pantomimes deriving from their experience under the new copyright law.

A second comment in response to our March 21 notice requested that we exempt "multiple weekly television series by other than the major producers or networks" from the deposit requirements of section 407 of the Act. This comment also suggests that "a single half hour program during any year should (be considered to) cover the deposit requirement for the entire year," apparently for the purposes of both sections 407 and 408.

We recognize that further regulatory provisions are needed to implement section 407(b) of the statute (dealing with unpublished transmission programs) and section 113 of the statute's transitional and supplementary provisions (establishing the American Television and Radio Archives in the Library of Congress). A number of policy decisions, some of which depend upon available funding, remain to be made. Meanwhile, the determining factor in considering exemptions from the statutory deposit requirements are the general acquisition policies of the Library of Congress.

Where television serial installments are distributed in such manner that they fall within the statutory definition of "publication," the Library of Congress does want to add them to its collections and thereby build an archival record of our country's television heritage. The burden upon the copyright owner is lessened by our reduction of the normal two-copy deposit requirement to one copy and, even more so, by the availability of the Motion Picture Agreement (see footnote 1, above). Moreover, in some cases these works are not "published" under the Act. In these cases, the mandatory deposit provisions of section 407 are not applicable and, in seeking registration under section 408, the copyright owner may deposit "identifying material" (a description of the motion picture with either an audio cassette or other phonorecord, or a set of frame enlargements or similar reproductions) in lieu of an actual copy of the work under § 202.21(g) of our regulations.

The deposit regulations are amended as stated, and are set forth in full below.

BARBARA RINGER,
Register of Copyrights.

Approved:

WILLIAM J. WELSH,
Acting Librarian of Congress.

[3] The Library's "Best Edition" criteria for published works are set out at 43 FR 766. Within these criteria: (i) If a choreographic work or pantomime is published in the form of both "written notation" and film (or videotape or disk), the written notation must be deposited (Best Edition Statement, par. VIIIB); (ii) if such a work is published only in the form of a written notation, or in the form of different written notations, there is no preference among the Laban, Sutton, Benesh, or other forms and the depositor may choose that form it has available or believes best to represent the work; and (iii) if such a work is published only in the form of film, videotape, or videodisk copies, certain preferences between film and tape, and among film gages and tape formats, are established (Best Edition Statement, par. III). The "Best Edition" criteria deal only with works that are fixed and published in varying formats or editions. Nothing in these criteria requires the creator of a choreographic work or pantomime to choose any particular form in which to fix or publish a work.

Part 202 of 37 CFR Chapter II is amended by revising §§ 202.19, 202.20, and 202.21 to read as follows:

§ 202.19 Deposit of published copies of phonorecords for the Library of Congress.

(a) *General.* This section prescribes rules pertaining to the deposit of copies and phonorecords of published works for the Library of Congress under section 407 of title 17 of the United States Code, as amended by Pub. L. 94-553. The provisions of this section are not applicable to the deposit of copies and phonorecords for purposes of copyright registration under section 408 of title 17, except as expressly adopted in § 202.20 of these regulations.

(b) *Definitions.* For the purposes of this section:

(1) (i) The "best edition" of a work is the edition, published in the United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes.

(ii) Criteria for selection of the "best edition" from among two or more published editions of the same version of the same work are set forth in the statement entitled "Best Edition of Published Copyrighted Works for the Collections of the Library of Congress" (hereafter referred to as the "Best Edition Statement") in effect at the time of deposit. Copies of the Best Edition Statement are available upon request made to the Acquisitions and Processing Division of the Copyright Office.

(iii) Where no specific criteria for the selection of the "best edition" are established in the Best Edition Statement, that edition which, in the judgment of the Library of Congress, represents the highest quality for its purposes shall be considered the "best edition". In such cases: (A) When the Copyright Office is aware that two or more editions of a work have been published it will consult with other appropriate officials of the Library of Congress to obtain instructions as to the "best edition" and (except in cases for which special relief is granted) will require deposit of that edition; and (B) when a potential depositor is uncertain which of two or more published editions comprises the "best edition", inquiry should be made to the Acquisitions and Processing Division of the Copyright Office.

(iv) Where differences between two or more "editions" of a work represent variations in copyrightable content, each edition is considered a separate version, and hence a different work, for the purpose of this section, and criteria of "best edition" based on such differences do not apply.

(2) A "complete" copy includes all elements comprising the unit of publication of the best edition of the work, including elements that, if considered separately, would not be copyrightable subject matter or would otherwise be exempt from mandatory deposit requirements under paragraph (c) of this section. In the case of sound recordings, a "complete" phonorecord includes the phonorecord, together with any printed or other visually perceptible material published with such phonorecord (such as textual or pictorial matter appearing on record sleeves or album covers, or embodied in leaflets or booklets included in a sleeve, album, or other container). In the case of a musical composition published in copies only, or in both copies and phonorecords; (i) if the only publication of copies in the United States took place by the rental, lease, or lending of a full score and parts, a full score is a "complete" copy; and (ii) if the only publication of copies in the United States took place by the rental, lease, or lending of a conductor's score and parts, a conductor's score is a "complete" copy. In the case of a motion picture, a copy is "complete" if the reproduction of all of the visual and aural elements comprising the copyrightable subject matter in the work is clean, undamaged, undeteriorated, and free of splices, and if the copy itself and its physical housing are free of any defects that would interfere with the performance of the work or that would cause mechanical, visual, or audible defects or distortions.

(3) The terms "copies", "collective work", "device", "fixed", "literary work", "machine", "motion picture", "phonorecord", "publication", "sound recording", and "useful article", and their variant forms, have the meanings given to them in section 101 of title 17.

(4) "Title 17" means title 17 of the United States Code, as amended by Pub. L. 94-553.

(3) *Exemptions from deposit requirements.* The following categories of material are exempt from the deposit requirements of section 407(a) of title 17:

(1) Diagrams and models illustrating scientific or technical works or formulating scientific or technical information in linear or three-dimensional form, such as an architectural or engineering blueprint, plan, or design, a mechanical drawing, or an anatomical model.

(2) Greeting cards, picture postcards, and stationery.

(3) Lectures, sermons, speeches, and addressses when published individually and not as a collection of the works of one or more authors.

(4) Literary, dramatic, and musical works published only as embodied in phonorecords. This category does not exempt the owner of copyright, or of the exclusive right of publication, in a sound recording resulting from the fixation of such works in a phonorecord from the applicable deposit requirements for the sound recording.

(5) Literary works, including computer programs and automated data bases, published in the United States only in the form of machine-readable copies (such as magnetic tape or disks, punched cards, or the like) from which the work cannot ordinarily be visually perceived except with the aid of a machine or device. Works published in a form requiring the use of a machine or device for purposes of optical enlargement (such as film, filmstrips, slide films and works published in any variety of microform), and works published in visually perceivable form but used in connection with optical scanning devices, are not within this category and are subject to the applicable deposit requirements.

(6) Three-dimensional sculptural works, and any works published only as reproduced in or on jewelry, dolls, toys, games, plaques, floor coverings, wallpaper and similar commercial wall coverings, textile and other fabrics, packaging material, or any useful article. Globes, relief models, and similar cartographic representations of area are not within this category and are subject to the applicable deposit requirements.

(7) Prints, labels, and other advertising matter published in connection with the rental, lease, lending, licensing, or sale of articles of merchandise, works of authorship, or services.

(8) Tests, and answer material for tests, when published separately from other literary works.

(9) Works first published as individual contributions to collective works. This category does not exempt the owner of copyright, or of the exclusive right of publication, in the collective work as a whole, from the applicable deposit requirements for the collective work.

(10) Works first published outside the United States and later published in the United States without change in copyrightable content, if: (i) Registration for the work was made under 17 U.S.C. 403 before the work was published in the United States: or (ii) registration for the work was made under 17 U.S.C. 406 after the work was published in the United States but before a demand for deposit is made under 17 U.S.C. 407(d).

(11) Works published only as embodied in a soundtrack that is an integral part of a motion picture. This category does not exempt the owner of copyright, or of the exclusive right of publication, in the motion picture,

from the applicable deposit requirements for the motion picture.

(12) Motion pictures that consist of

(iv) In any case where an individual author is the owner of copyright in a published pictorial or graphic work

clusive right of publication in the work, and shall set forth specific reasons why the request should be grant-

and format of the copy or phonorecord deposited, together with the date of receipt.

paper, the entire section including the contribution;

(iv) *Sound recordings.* In the case of

for registration of claim to copyright under section 408 of title 17 shall consist of:

from the applicable deposit requirements for the motion picture.

(12) Motion pictures that consist of television transmission programs and that have been published, if at all, only by reason of a license or other grant to a nonprofit institution of the right to make a fixation of such programs directly from a transmission to the public, with or without the right to make further uses of such fixations.

(d) *Nature of required deposit.* (1) Subject to the provisions of paragraph (d)(2) of this section, the deposit required to satisfy the provisions of section 407(a) of title 17 shall consist of (i) in the case of published works other than sound recordings, two complete copies of the best edition; and (ii) in the case of published sound recordings, two complete phonorecords of the best edition.

(2) In the case of certain published works not exempt from deposit requirements under paragraph (c) of this section, the following special provisions shall apply:

(i) In the case of published three-dimensional cartographic representations of area, such as globes and relief models, the deposit of one complete copy of the best edition of the work will suffice in lieu of the two copies required by paragraph (d)(1) of this section.

(ii) In the case of published motion pictures, the deposit of one complete copy of the best edition of the work will suffice in lieu of the two copies required by paragraph (d)(1) of this section. Any deposit for a published motion picture must be accompanied by a separate description of its contents, such as a continuity, pressbook, or synopsis. The Library of Congress may, at its sole discretion, enter into an agreement permitting the return of copies of published motion pictures to the depositor under certain conditions and establishing certain rights and obligations of the Library with respect to such copies. In the event of termination of such an agreement by the Library it shall not be subject to reinstatement, nor shall the depositor or any successor in interest of the depositor be entitled to any similar or subsequent agreement with the Library, unless at the sole discretion of the Library it would be in the best interests of the Library to reinstate the agreement or enter into a new agreement.

(iii) In the case of any published work deposited in the form of a hologram, the deposit shall be accompanied by: (A) Two sets of precise instructions for displaying the image fixed in the hologram; and (B) two sets of identifying material in compliance with § 202.21 of these regulations and clearly showing the displayed image.

(iv) In any case where an individual author is the owner of copyright in a published pictorial or graphic work and (A) less than five copies of the work have been published, or (B) the work has been published and sold or offered for sale in a limited edition consisting of no more than three hundred numbered copies, the deposit of one complete copy of the best edition of the work or, alternatively, the deposit of photographs or other identifying material in compliance with § 202.21 of these regulations, will suffice in lieu of the two copies required by paragraph (d)(1) of this section.

(v) In the case of a musical composition published in copies only, or in both copies and phonorecords, if the only publication of copies in the United States took place by rental, lease, or lending, the deposit of one complete copy of the best edition will suffice in lieu of the two copies required by paragraph (d)(1) of this section.

(vi) In the case of published multimedia kits that are prepared for use in systematic instructional activities and that include literary works, audiovisual works, sound recordings, or any combination of such works, the deposit of one complete copy of the best edition will suffice in lieu of the two copies required by paragraph (d)(1) of this section.

(e) *Special relief.* (1) In the case of any published work not exempt from deposit under paragraph (c) of this section, the Register of Copyrights may, after consultation with other appropriate officials of the Library of Congress and upon such conditions as the Register may determine after such consultation: (i) Grant an exemption from the deposit requirements of section 407(a) of title 17 on an individual basis for single works or series or groups of works; or (ii) permit the deposit of one copy or phonorecord, or alternative identifying material, in lieu of the two copies or phonorecords required by paragraph (d)(1) of this section; or (iii) permit the deposit of incomplete copies or phonorecords, or copies or phonorecords other than those normally comprising the best edition.

(2) Any decision as to whether to grant such special relief, and the conditions under which special relief is to be granted, shall be made by the Register of Copyrights after consultation with other appropriate officials of the Library of Congress, and shall be based upon the acquisition policies of the Library of Congress then in force.

(3) Requests for special relief under this paragraph shall be made in writing to the Chief, Acquisitions and Processing Division of the Copyright Office, shall be signed by or on behalf of the owner of copyright or of the exclusive right of publication in the work, and shall set forth specific reasons why the request should be granted.

(4) The Register of Copyrights may, after consultation with other appropriate officials of the Library of Congress, terminate any ongoing or continuous grant of special relief. Notice of termination shall be given in writing and shall be sent to the individual person or organization to whom the grant of special relief had been given, at the last address shown in the records of the Copyright Office. A notice of termination may be given at any time, but it shall state a specific date of termination that is at least 30 days later than the date the notice is mailed. Termination shall not affect the validity of any deposit earlier made under the grant of special relief.

(f) *Submission and receipt of copies and phonorecords.* (1) All copies and phonorecords deposited in the Copyright Office will be considered to be deposited only in compliance with section 407 of title 17 unless they are accompanied by: (i) An application for registration of claim to copyright, or (ii) a clear written request that they be held for connection with a separately forwarded application. Copies or phonorecords deposited without such an accompanying application or written request will not be connected with or held for receipt of separate applications, and will not satisfy the deposit provisions of section 408 of title 17 or § 202.20 of these regulations. Any written request that copies or phonorecords be held for connection with a separately forwarded application must appear in a letter or similar document accompanying the deposit; a request or instruction appearing on the packaging, wrapping or container for the deposit will not be effective for this purpose.

(2) All copies and phonorecords deposited in the Copyright Office under section 407 of title 17, unless accompanied by written instructions to the contrary, will be considered to be deposited by the person or persons named in the copyright notice on the work.

(3) Upon request by the depositor made at the time of the deposit, the Copyright Office will issue a certificate of receipt for the deposit of copies or phonorecords of a work under this section. Certificates of receipt will be issued in response to requests made after the date of deposit only if the requesting party is identified in the records of the Copyright Office as having made the deposit. In either case, requests for a certificate of receipt must be in writing and accompanied by a fee of $2. A certificate of receipt will include identification of the depositor, the work deposited, and the nature

and format of the copy or phonorecord deposited, together with the date of receipt.

§ 202.20 Deposit of copies and phonorecords for copyright registration.

(a) *General.* This section prescribes rules pertaining to the deposit of copies and phonorecords of published and unpublished works for the purpose of copyright registration under section 408 of title 17 of the United States Code, as amended by Pub. L. 94-553. The provisions of this section are not applicable to the deposit of copies and phonorecords for the Library of Congress under section 407 of title 17, except as expressly adopted in § 202.19 of these regulations.

(b) *Definitions.* For the purposes of this section:

(1) The "best edition" of a work; has the meaning set forth in § 202.19(b)(1) of these regulations.

(2) A "complete" copy or phonorecord means the following:

(i) *Unpublished works.* Subject to the requirements of paragraph (vi) of this § 202.20(b)(2), a "complete" copy or phonorecord of an unpublished work is a copy or phonorecord representing the entire copyrightable content of the work for which registration is sought;

(ii) *Published works.* Subject to the requirements of paragraphs (iii) through (vi) of this § 202.20(b)(2), a "complete" copy or phonorecord of a published work includes all elements comprising the applicable unit of publication of the work, including elements that, if considered separately, would not be copyrightable subject matter. However, even where certain physically separable elements included in the applicable unit of publication are missing from the deposit, a copy or phonorecord will be considered "complete" for purposes of registration where: (A) The copy or phonorecord deposited contains all parts of the work for which copyright registration is sought; and (B) the removal of the missing elements did not physically damage the copy or phonorecord or garble its contents; and (C) the work is exempt from the mandatory deposit requirements under section 407 of title 17 of the United States Code and § 202.19(c) of these regulations, or the copy deposited consists entirely of a container, wrapper, or holder, such as an envelope, sleeve, jacket, slipcase, box, bag, folder, binder, or other receptacle acceptable for deposit under paragraph (c)(2) of this section;

(iii) *Contributions to collective works.* In the case of a published contribution to a collective work, a "complete" copy or phonorecord is the entire collective work including the contribution or, in the case of a newspaper, the entire section including the contribution;

(iv) *Sound recordings.* In the case of published sound recordings, a "complete" phonorecord has the meaning set forth in § 202.19(b)(2) of these regulations;

(v) *Musical scores.* In the case of a musical composition published in copies only, or in both copies and phonorecords: (i) If the only publication of copies took place by the rental, lease, or lending of a full score and parts, a full score is a "complete" copy; and (ii) if the only publication of copies took place by the rental, lease, or lending of a conductor's score and parts, a conductor's score is a "complete" copy;

(vi) *Motion pictures.* In the case of a published or unpublished motion picture, a copy is "complete" if the reproduction of all of the visual and aural elements comprising the copyrightable subject matter in the work is clean, undamaged, undeteriorated, and free of splices, and if the copy itself and its physical housing are free of any defects that would interfere with the performance of the work or that would cause mechanical, visual, or audible defects or distortions.

(3) The terms "copy," "collective work," "device," "fixed," "literary work," "machine," "motion picture," "phonorecord," "publication," "sound recording," "transmission program," and "useful article," and their variant forms, have the meanings given to them insection 101 of title 17.

(4) A "secure test" is a nonmarketed test administered under supervision at specified centers on specific dates, all copies of which are accounted for and either destroyed or returned to restricted locked storage following each administration. For these purposes a test is not marketed if copies are not sold but it is distributed and used in such a manner that ownership and control of copies remain with the test sponsor or publisher.

(5) "Title 17" means title 17 of the United States Code, as amended by Pub. L. 94-553.

(6) For the purposes of determining the applicable deposit requirements under this § 202.20 only, the following shall be considered as unpublished motion pictures: motion pictures that consist of television transmission programs and that have been published, if at all, only by reason of a license or other grant to a nonprofit institution of the right to make a fixation of such programs directly from a transmission to the public, with or without the right to make further uses of such fixations.

(c) *Nature of required deposit.* (1) Subject to the provisions of paragraph (c)(2) of this section, the deposit required to accompany an application for registration of claim to copyright under section 408 of title 17 shall consist of:

(i) In the case of unpublished works, one complete copy or phonorecord.

(ii) In the case of works first published in the United States before January 1, 1978, two complete copies or phonorecords of the work as first published.

(iii) In the case of works first published in the United States on or after January 1, 1978, two complete copies or phonorecords of the best edition.

(iv) In the case of works first published outside of the United States, whenever published, one complete copy or phonorecord of the work as first published. For the purposes of this section, any works simultaneously first published within and outside of the United States shall be considered to be first published in the United States.

(2) In the case of certain works, the special provisions set forth in this clause shall apply. In any case where this clause specifies that one copy or phonorecord may be submitted, that copy or phonorecord shall represent the best edition, or the work as first published, as set forth in paragraph (c)(1) of this section.

(i) *General.* In the following cases the deposit of one complete copy or phonorecord will suffice in lieu of two copies or phonorecords: (A) Published three-dimensional cartographic representations of area, such as globes and relief models; (B) published diagrams illustrating scientific or technical works or formulating scientific or technical information in linear or other two-dimensional form, such as an architectural or engineering blueprint, or a mechanical drawing; (C) published greeting cards, picture postcards, and stationery; (D) lectures, sermons, speeches, and addresses published individually and not as a collection of the works of one or more authors; (E) published contributions to a collective work; (F) musical compositions published in copies only, or in both copies and phonorecords, if the only publication of copies took place by rental, lease, or lending; (G) published multimedia kits that are prepared for use in systematic instructional activities and that include literary works, audiovisual works, sound recordings, or any combination of such works; and (H) works exempted from the requirement of depositing identifying material under § 202.20(c)(2)(ix)(B)(5) of these regulations.

(ii) *Motion pictures.* In the case of published motion pictures, the deposit of one complete copy will suffice in lieu of two copies. The deposit of a copy or copies for any published or unpublished motion picture must be ac-

companied by a separate description of its contents, such as a continuity, pressbook, or synopsis. The Library of

entire page or pages upon which it appears may be submitted in lieu of the entire larger work. In the case of

files, representative portions of each separate data file consisting of either 50 complete data records from each

ing cases the deposit must consist of identifying material complying with § 201.21 of these regulations instead of

by this section exceeds ninety-six inches in any dimension, identifying material complying with § 202.21 of

deposit provisions of this section if they are accompanied by an application for registration of claim to copy-

companied by a separate description of its contents, such as a continuity, pressbook, or synopsis. The Library of Congress may, at its sole discretion, enter into an agreement permitting the return of copies of published motion pictures to the depositor under certain conditions and establishing certain rights and obligations of the Library of Congress with respect to such copies. In the event of termination of such an agreement by the Library, it shall not be subject to reinstatement, nor shall the depositor or any successor in interest of the depositor be entitled to any similar or subsequent agreement with the Library, unless at the sole discretion of the Library it would be in the best interests of the Library to reinstate the agreement or enter into a new agreement. In the case of unpublished motion pictures (including television transmission programs that have been fixed and transmitted to the public, but have not been published), the deposit of identifying material in compliance with § 202.21 of these regulations may be made and will suffice in lieu of an actual copy.

(iii) *Holograms.* In the case of any work deposited in the form of a hologram, the copy or copies shall be accompanied by: (A) Precise instructions for displaying the image fixed in the hologram; and (B) photographs or other identifying material complying with § 202.21 of these regulations and clearly showing the displayed image. The number of sets of instructions and identifying material shall be the same as the number of copies required.

(iv) *Certain pictorial and graphic works.* In the case of any unpublished pictorial or graphic work, deposit of identifying material in compliance with § 202.21 of these regulations may be made and will suffice in lieu of deposit of an actual copy. In the case of a published pictorial or graphic work, deposit of one complete copy, or of identifying material in compliance with § 202.21 of these regulations, may be made and will suffice in lieu of deposit of two actual copies where an individual author is the owner of copyright, and either: (A) Less than five copies of the work have been published; or (B) the work has been published and sold or offered for sale in a limited edition consisting of no more than 300 numbered copies.

(v) *Commercial prints and labels.* In the case of prints, labels, and other advertising matter published in connection with the rental, lease, lending, licensing, or sale of articles of merchandise, works of authorship, or services, the deposit of one complete copy will suffice in lieu of two copies. Where the print or label is published in a larger work, such as a newspaper or other periodical, one copy of the entire page or pages upon which it appears may be submitted in lieu of the entire larger work. In the case of prints or labels physically inseparable from a three-dimensional object, identifying material complying with § 202.21 of these regulations must be submitted rather than an actual copy or copies except under the conditions of paragraph (c)(2)(ix)(B)(*6*) of this section.

(vi) *Tests.* In the case of tests, and answer material for tests, published separately from other literary works, the deposit of one complete copy will suffice in lieu of two copies. In the case of any secure test the Copyright Office will return the deposit to the applicant promptly after examination: *Provided,* That sufficient portions, description, or the like are retained so as to constitute a sufficient archival record of the deposit.

(vii) *Machine-readable works.* In cases where an unpublished literary work is fixed, or a published literary work is published only in the form of machine-readable copies (such as magnetic tape or disks, punched cards, or the like) from which the work cannot ordinarily be perceived except with the aid of a machine or device,[4] the deposit shall consist of:

(A) For published or unpublished computer programs, one copy of identifying portions of the program, reproduced in a form visually perceptible without the aid of a machine or device, either on paper or in microform. For these purposes, "identifying portions" shall mean either the first and last 25 pages or equivalent units of the program if reproduced on paper, or at least the first and last 25 pages or equivalent units of the program if reproduced in microform, together with the page or equivalent unit containing the copyright notice, if any,

(B) For published and unpublished automated data bases, compilations, statistical compendia, and other literary works so fixed or published, one copy of identifying portions of the work, reproduced in a form visually perceptible without the aid of a machine or device, either on paper or in microform. For these purposes: (*1*) "identifying portions" shall mean either the first and last 25 pages or equivalent units of the work if reproduced on paper, or at least the first and last 25 pages or equivalent units of work if reproduced on microform, or, in the case of automated data bases comprising separate and distinct data files, representative portions of each separate data file consisting of either 50 complete data records from each file or the entire file, whichever is less; and (*2*) "data file" and "file" mean a group of data records pertaining to a common subject matter, regardless of the physical size of the records or the number of data items included in them. (In the case of revised versions of such data bases, the portions deposited must contain representative data records which have been added or modified.) In any case where the deposit comprises representative portions of each separate file of an automated data base as indicated above, it shall be accompanied by a typed or printed descriptive statement containing: The title of the data base; the name and address of the copyright claimant; the name and content of each separate file within the data base, including the subject matter involved, the origin(s) of the data, and the approximate number of individual records within the file; and a description of the exact contents of any machine-readable copyright notice employed in or with the work and the manner and frequency with which it is displayed (e.g., at user's terminal only at sign-on, or continuously on terminal display, or on printouts, etc.). If a visually perceptible copyright notice is placed on any copies of the work (such as magnetic tape reels) or their container, a sample of such notice must also accompany the statement.

(viii) *Works reproduced in or on sheetlike materials.* In the case of any unpublished work that is fixed, or any published work that is published, only in the form of a two-dimensional reproduction on sheetlike materials such as textile and other fabrics, wallpaper and similar commercial wall coverings, carpeting, floor tile, and similar commercial floor coverings, and wrapping paper and similar packaging material, the deposit shall consist of one copy in the form of an actual swatch or piece of such material sufficient to show all elements of the work in which copyright is claimed and the copyright notice appearing on the work, if any. If the work consists of a repeated pictorial or graphic design, the complete design and at least part of one repetition must be shown. If the sheetlike material in or on which a published work has been reproduced has been embodied in or attached to a three-dimensional object, such as wearing apparel, furniture, or any other three-dimensional manufactured article, and the work has been published only in that form, the deposit must consist of identifying material complying with § 202.21 of these regulations instead of a copy.

(ix) *Works reproduced in or on three-dimensional objects.* (A) In the following cases the deposit must consist of identifying material complying with § 201.21 of these regulations instead of a copy or copies: (*1*) Any three-dimensional sculptural work, including any illustration or formulation of artistic expression or information in three-dimensional form. Examples of such works include statues, carvings, ceramics, moldings, constructions, models, and maquettes; and (*2*) any two-dimensional or three-dimensional work that, if unpublished, has been fixed, or, if published, has been published only in or on jewelry, dolls, toys, games, or any three-dimensional useful article.

(B) In the following cases. the requirements of paragraph (A) of this § 202.20(c)(2)(ix) for the deposit of identifying material shall not apply: (*1*) Works that are reproduced by intaglio or relief printing methods on two-dimensional materials such as paper or fabrics; (*2*) three-dimensional cartographic representations of area, such as globes and relief models; (*3*) works that have been fixed or published in or on a useful article that comprises one of the elements of the unit of publication of an educational or instructional kit which also includes a literary or audiovisual work, a sound recording, or any combination of such works; (*4*) published works exempt from the deposit of copies under section 407 of title 17 and § 202.19(c) of these regulations, where the "complete" copy of the work within the meaning of paragraph (b)(2) of this section consists of a reproduction of the work on two-dimensional materials such as paper or fabrics; (*5*) published works consisting of multiple parts that are packaged and published in a box or similar container with flat sides and with dimensions of no more than 12 x 24 x 6 inches, and that include among the copyrightable elements of the work, in addition to any copyrightable element on the box or other container, three or more three-dimensional, physically separable parts; and (*6*) works reproduced on three-dimensional containers or holders such as boxes, cases, and cartons, where the container or holder can be readily opened out, unfolded, slit at the corners, or in some other way made adaptable for flat storage, and the copy, when flattened, does not exceed 96 inches in any dimension.

(x) *Soundtracks.* For separate registration of an unpublished work that is fixed, or a published work that is published, only as embodied in a soundtrack that is an integral part of a motion picture, the deposit of identifying material in compliance with § 202.21 of these regulations will suffice in lieu of an actual copy or copies of the motion picture.

(ix) *Oversize deposits.* In any case where the deposit otherwise required by this section exceeds ninety-six inches in any dimension, identifying material complying with § 202.21 of these regulations must be submitted instead of an actual copy or copies.

(d) *Special relief.* (1) In any case the Register of Copyrights may, after consultation with other appropriate officials of the Library of Congress and upon such conditions as the Register may determine after such consultation: (i) Permit the deposit of one copy or phonorecord, or alternative identifying material, in lieu of the one or two copies or phonorecords otherwise required by paragraph (c)(1) of this section; (ii) permit the deposit of incomplete copies or phonorecords, or copies or phonorecords other than those normally comprising the best edition; or (iii) permit the deposit of an actual copy or copies, in lieu of the identifying material otherwise required by this section.

(2) Any decision as to whether to grant such special relief, and the conditions under which special relief is to be granted, shall be made by the Register of Copyrights after consultation with other appropriate officials of the Library of Congress, and shall be based upon the acquisition policies of the Library of Congress then in force and the archival and examining requirements of the Copyright Office.

(3) Requests for special relief under this paragraph may be combined with requests for special relief under § 202.19(e) of these regulations. Whether so combined or made solely under this paragraph, such requests shall be made in writing to the Chief, Examining Division of the Copyright Office, shall be signed by or on behalf of the person signing the application for registration, and shall set forth specific reasons why the request should be granted.

(4) The Register of Copyrights may, after consultation with other appropriate officials of the Library of Congress, terminate any ongoing or continuous grant of special relief. Notice of termination shall be given in writing and shall be sent to the individual person or organization to whom the grant of special relief had been given, at the last address shown in the records of the Copyright Office. A notice of termination may be given at any time, but it shall state a specific date of termination that is at least 30 days later than the date the notice is mailed. Termination shall not affect the validity of any deposit or registration earlier made under the grant of special relief.

(e) *Use of copies and phonorecords deposited for the Library of Congress.* Copies and phonorecords deposited for the Library of Congress under section 407 of title 17 and § 202.19 of these regulations may be used to satisfy the deposit provisions of this section if they are accompanied by an application for registration of claim to copyright in the work represented by the deposit, or connected with such an application under the conditions set forth in § 202.19(f)(1) of these regulations.

§ 202.21 Deposit of identifying material instead of copies.

(a) *General.* Subject to the specific provisions of paragraphs (f) and (g) of this section, in any case where the deposit of identifying material is permitted or required under § 202.19 or § 202.20 of these regulations for published or unpublished works, the material shall consist of photographic prints, transparencies, photostats, drawings, or similar two-dimensional reproductions or renderings of the work, in a form visually perceivable without the aid of a machine or device. In the case of pictorial or graphic works, such material shall reproduce the actual colors employed in the work. In all other cases, such material may be in black and white or may consist of a reproduction of the actual colors.

(b) *Completeness; number of sets.* As many pieces of identifying material as are necessary to show clearly the entire copyrightable content of the work for which deposit is being made, or for which registration is being sought, shall be submitted. Except in cases falling under the provisions of § 202.19(d)(2)(iii) or § 202.20(c)(2)(iii) with respect to holograms, only one set of such complete identifying material is required.

(c) *Size.* All pieces of identifying material (except separate drawings or similar reproductions of copyright notices deposited under the second sentence of paragraph (e) of this section) must be of uniform size. Photographic transparencies must be at least 35 mm in size and, if such transparencies are 3 x 3 inches or less, must be fixed in cardboard, plastic, or similar mounts to facilitate identification, handling, and storage. The Copyright Office prefers that transparencies larger than 3 x 3 inches be mounted in a way that facilitates their handling and preservation, and reserves the right to require such mounting in particular cases. All types of identifying material other than photographic transparencies must be not less than 3 x 3 inches and not more than 9 x 12 inches, but preferably 8 x 10 inches. Except in the case of transparencies, the image of the work must be either lifesize or larger, or if less than lifesize must be large enough to show clearly the entire copyrightable content of the work.

(d) *Title and dimensions.* At least one piece of identifying material must,

[4] Works published in a form requiring the use of a machine or device for purposes of optical enlargement (such as film, filmstrips, slide films, and works published in any variety of microform), and works published in visually perceptible form but used in connection with optical scanning devices, are not within this category.

on its front, back, or mount, indicate the title of the work and an exact measurement of one or more dimen-

[7710-12]

Title 39—Postal Service

"three" in lieu thereof; delete paragraphs (c)(3) and (c)(7), and redesignate paragraphs (c)(4), (c)(5), and (c)(6) as paragraphs (c)(3), (c)(4), and

ducts original research to develop and promote new concepts and approaches to systems and mechanization for the

SUPPLEMENTARY INFORMATION:

Adopted: September 7, 1978.

nications from the scenes of events to cable television studios or headends.

on its front, back, or mount, indicate the title of the work and an exact measurement of one or more dimensions of the work.

(e) *Copyright notice.* In the case of works published with notice of copyright, the notice and its position on the work must be clearly shown on at least one piece of identifying material. Where necessary because of the size or position of the notice, a separate drawing or similar reproduction shall be submitted. Such reproduction shall be no smaller than 3 x 3 inches and no larger than 9 x 12 inches, and shall show the exact appearance and content of the notice, and its specific position on the work.

(f) For separate registration of an unpublished work that is fixed, or a published work that is published, only as embodied in a soundtrack that is an integral part of a motion picture, identifying material deposited in lieu of an actual copy or copies of the motion picture shall consist of: (1) A transcription of the entire work, or a reproduction of the entire work on a phonorecord; and (2) photographs or other reproductions from the motion picture showing the title of the motion picture, the soundtrack credits, and the copyright notice for the soundtrack, if any. The provisions of paragraphs (b), (c), (d), and (e) of this § 202.21 do not apply to identifying material deposited under this paragraph (f).

(g) In the case of unpublished motion pictures (including transmission programs that have been fixed and transmitted to the public, but have not been published), identifying material deposited in lieu of an actual copy shall consist of either: (1) An audio cassette or other phonorecord reproducing the entire soundtrack or other sound portion of the motion picture, and a description of the motion picture; or (2) a set consisting of one frame enlargement or similar visual reproduction from each 10-minute segment of the motion picture, and a description of the motion picture. In either case the "description" may be a continuity, a pressbook, or a synopsis but in all cases it must include: (i) The title or continuing title of the work, and the episode title, if any: (ii) the nature and general content of the program; (iii) the date when the work was first first and whether or not fixation was simultaneous with first transmission; (iv) the date of first transmission, if any; (v) the running time; and (vi) the credits appearing on the work, if any. The provisions of paragraphs (b), (c), (d), and (e) of this § 202.21 do not apply to identifying material submitted under this paragraph (g).

(17 U.S.C. 407, 408, 702.)

[FR Doc. 78-26108 Filed 9-18-78; 8:45 am]

[7710-12]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

SUBCHAPTER D—ORGANIZATION AND ADMINISTRATION

PART 221—GENERAL PRINCIPLES OF ORGANIZATION

PART 224—GROUPS AND DEPARTMENTS

Establishment of Research and Technology Group

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This document reflects the establishment of the Research and Technology Group, which is headed by a Senior Assistant Postmaster General who is a member of the Executive Committee. This group is composed of the International Electronics Message System Office, the Research and Development Laboratories (previously called the Research and Development Department), and the Office of Strategic Planning. Of these component offices, only the first-named office, the International Electronics Message System Office, is a new office. The other two offices were previously part of the administration group.

EFFECTIVE DATE: September 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Paul J. Kemp, 202-245-4638.

Accordingly, 39 CFR is amended as follows:

1. In § 221.5 redesignate paragraph (d)(1)(vii), (viii), (ix) and (x) as (d)(1)(viii), (ix), (x) and (xi) respectively, and add new paragraph (d)(1)(vii) and revise the first sentence of paragraph (a) to read as follows:

§ 221.5 Groups and departments.

(a) Postal Service Headquarters is primarily divided into five groups—Administration, Employee and Labor Relations, Finance, Operations, and Research and Technology. • • •

• • • • • •

(d)(1) • • •

(vii) The Senior Assistant Postmaster General, Research and Technology;

• • • • • •

2. In § 224.1 strike out the word "four" in the first and second sentences of paragraph (c) and insert "three" in lieu thereof; delete paragraphs (c)(3) and (c)(7), and redesignate paragraphs (c)(4), (c)(5), and (c)(6) as paragraphs (c)(3), (c)(4), and (c)(5) respectively; and revise paragraph (a) to read as follows:

§ 224.1 Administration group.

(a) The administration group is headed by the Senior Assistant Postmaster General, Administration, who reports to the Deputy Postmaster General. The administration group has responsibility for the following functions: Procurement and supply, real estate and buildings, customer services, international postal affairs, and the judicial officer.

• • • • • •

§§ 224.5-224.9 [Redesignated as] §§ 224.6-224.10.

3. Redesignate §§ 224.5, 224.6, 224.7, 224.8, and 224.9 as §§ 224.6, 224.7, 224.8, 224.9 and 224.10 respectively; and add new § 224.5 reading as follows:

§ 224.5 Research and Technology Group.

(a) The Research and Technology Group is headed by the Senior Assistant Postmaster General, Research and Technology, who reports to the Postmaster General. It has overall responsibility for the direction of strategic planning, applied research and development of new technology, and the design of new systems and equipment.

(b) The Research and Technology Group is divided into three units whose heads report to the Senior Assistant Postmaster General, Research and Technology:

(1) *Office of Strategic Planning.* The Office of Strategic Planning is responsible for:

(i) Providing top management with information on trends and developments which may impact on the Postal Service during the period of 5-15 years in the future;

(ii) Identifying and evaluating economic, political, social, technical, and market trends and events impacting on the USPS;

(iii) Identifying potential future needs, problems, threats, or opportunities to aid top management in strategic policy decisions;

(iv) Augmenting or redefining Postal Service goals as needed for review and concurrence by the Board of Governors; and

(v) Developing a projection of long-range business targets as a basis for setting operational objectives.

(2) *Research and development laboratories.* The research and development laboratories is headed by the Executive Director, Research and Development. It is responsible for development and application of new technology to mail handling problems. It conducts original research to develop and promote new concepts and approaches to systems and mechanization for the collection, processing and delivery of mail. It monitors new developments over a broad spectrum of technology and assesses them for possible application to Postal Service functions. It is also responsible for the design and development of new equipment, and equipment modifications. It operates the Postal Laboratory conducting research, test, and evaluation programs.

(3) *International Electronics Message System Office.* The International Electronics Message System Office is responsible for exploring potential new international electronic message systems, and negotiating and monitoring contracts to demonstrate the feasibility of international transmission of electronic messages.

(39 U.S.C. 401(a).)

ROGER P. CRAIG,
Deputy General Counsel.

PAUL J. KEMP,
Alternate Liaison Officer for the U.S. Postal Service.

[FR Doc. 78-26343 Filed 9-18-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Editorial Amendments

AGENCY: Federal Communications Commission.

ACTION: Final rule (editorial amendments).

SUMMARY: The Federal Communications Commission amends its general rules and regulations relating to frequency allocations and radio treaty matters. The amendments are editorial in nature and are necessary to reflect amendments made to other regulations and which were inadvertently omitted at the time.

EFFECTIVE DATE: September 22, 1978

ADDRESS: Federal Communications Commission, 2025 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Fred Thomas/George Sarver, Office of Chief Engineer, 202-632-6350.

SUPPLEMENTARY INFORMATION:

Adopted: September 7, 1978.

Released: September 11, 1978.

In the matter of editorial amendments to part 2 of the Commission's rules and regulations.

1. Amendment of §§ 2.1 and 2.106 of the Commission's rules is necessary to reflect amendments to §§ 74.602, 78.5 and 78.18 of the rules, adopted in Docket Nos. 15586, 16424, and 20539. The § 2.106 amendments were inadvertently omitted in the Commission's orders in those dockets.

2. Accordingly, *It is ordered,* pursuant to authority contained in sections 4(i), 5(d) and 303(r) of the Communications Act of 1934, as amended, that effective September 22, 1978, §§ 2.1 and 2.106 of the rules are amended as set forth in the appendix. Because the amendments are editorial in nature, the prior notice and effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553, do not apply.

FEDERAL COMMUNICATIONS COMMISSION,
RICHARD D. LICHWARDT,
Executive Director.

APPENDIX

In Part 2 of Chapter I of Title 47 of the Code of Federal Regulations, §§ 2.1 and 2.106 are amended as follows:

1. In § 2.1 the definitions for the cable television relay service and the cable television relay service stations are amended to read as follows:

§ 2.1 Definitions.

• • • • • •

Cable Television Relay Service (CARS). A fixed mobile service the stations of which are used for the transmission of television and related audio signals, signals of standard and FM broadcast stations, signals of instructional television fixed stations, and cablecasting from the point of reception to a terminal point from which the signals are distributed to the public.

Cable Television Relay Service Station. A fixed or mobile station in the cable television relay service.

• • • • • •

2. Further § 2.1 is amended by adding in alphabetical order the following definition for cable television relay service pickup station:

§ 2.1 Definition.

• • • • • •

Cable Television Relay Service Pickup Station. A land mobile CARS station used for the transmission of television signals and related communications from the scenes of events to cable television studios or headends.

• • • • • •

§ 2.106 [Amended.]

3. Section 2.106, of the table of frequency allocations, is amended by deleting footnote designator NG11 in the bands 1990-2110 MHz, 6875-7125 MHz and 12.95-13.2 GHz, by deleting the text of footnote NG11 following the table, by amending the text of footnote NG53, by adding new footnote designator NG118 in bands 1990-2110 MHz, 6875-7125 MHz, 12.7-12.75 GHz, 12.75-12.95 GHz and 12.95-13.2 GHz, by adding in proper numerical sequence the text of footnote NG118 following the table, by adding "Television intercity relay" as a primary class of station to the bands 1990-2110 MHz, 6875-7125 MHz and 12.95-13.2 GHz and by changing "community antenna relay" to "cable television relay" in the 12.7-12.75 and 12.75-12.95 band, as shown below:

• • • • • •

Band (MHz) 7	Service 8	Class of station 9
1990-2110 (NG118)	• • •	Television pickup. Television STL. Television intercity relay.
• • • • •		
6875-7125 (NG118)	• • •	Space. Television pickup. Television STL. Television intercity relay.

• • • • • •

Band (GHz) 7	Service 8	Class of station 9
12.7-12.75	• • •	Cable television relay. (NG53) Earth. Television intercity relay. Television pickup. (NG53) Television STL.
12.75-12.95 (NG118)	• • •	Cable television relay. (NG53) Television intercity relay. Television pickup. (NG53) Television STL.
12.95-13.2 (NG118)	•••	Television intercity relay. Television pickup. Television STL.

• • • • • •

NG53. In the band 12.7-12.95 GHz television pickup stations and CARS pickup sta-

tions shall be assigned channels on a coequal basis and shall operate on a secondary basis to stations operating in accordance with the Table of Frequency Allocations.

20, 1962 from type acceptance requirements. Since the aviation services have no current authorizations in the

January 1, 1974, shall be applicable to the offset carrier frequency when employed. Prior to the use of offset tech-

1. Part 83 (stations on shipboard in the maritime services) of our rules contains a provision that permits aircraft to use certain maritime mobile

purposes only and the frequency 156.8 MHz may be used for distress, safety and calling purposes only.

unless advised to the contrary will be effective November 15, 1978. The authority for this action is found in Sections 4(i) and 303 of the Communica-

tions shall be assigned channels on a co-equal basis and shall operate on a secondary basis to stations operating in accordance with the Table of Frequency Allocations.

• • • • •

NG118. Television translator relay stations may be authorized to use frequencies in this band on a secondary basis to stations operating in accordance with the Table of Frequency Allocations.

• • • • •

[FR Doc. 78-26202 Filed 9-18-78; 8:45 am]

[6712-01]

PART 87—AVIATION SERVICES

Editorial Amendments Deleting Obsolete Dates and Provisions in Part 87 of the rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission amends its regulations relating to aviation services by deleting obsolete dates and provisions which are no longer applicable. The amendments are editorial in nature and the effect is to update the current regulations.

EFFECTIVE DATE: September 26, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT:

Kemp J. Beaty, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

In the matter of editorial amendment to delete obsolete dates and provisions in Part 87 of the Commission's rules; Order.

Adopted: September 11, 1978.

Released: September 12, 1978.

1. Sections 87.295(c) and 87.331(g) of our rules contain dates that have passed and are no longer applicable to our rules. Originally these dates "grandfathered" certain practices to allow for an orderly change from one procedure to another.

2. Section 87.77(d)(6) contains a provision regarding the type acceptance of transmitters in the 10550-10680 MHz band. This section exempted certain transmitters in use prior to July 20, 1962 from type acceptance requirements. Since the aviation services have no current authorizations in the 10550-10680 MHz band, this section is no longer needed in our rules. Any new station must be equipped with a type accepted transmitter.

3. We are deleting these obsolete dates and sections from our rules. Therefore, under the authority of sections 4(i) and 303(c) and (r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules, we are amending §§ 87.77(d)(6), 87.295(c) and 87.331(g) as shown below. Since this amendment is editorial in nature, the public notice, procedure and effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553, are not applicable.

4. Regarding questions on matters covered in this document contact Kemp J. Beaty, telephone 202-632-7197.

5. In view of the above, *it is ordered*, That the rule amendment set forth below is adopted effective September 26, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
R. D. LICHTWARDT,
Executive Director.

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended to read as follows:

1. In § 87.77, paragraph (d)(6) is deleted and designated [Reserved].

§ 87.77 Acceptability of transmitters for licensing.

• • • • •

(d) • • •

(6) [Reserved]

• • • • •

2. In § 87.295, paragraph (c) is amended to read as follows:

§ 87.295 Continental U.S. (excluding Alaska).

• • • • •

(c) A telecommunications system of interconnected aeronautical enroute stations which provides communications over an area of air route(s) may employ the offset carrier technique. The use of the offset carrier technique is limited to discrete VHF Carrier frequencies grounded around a frequency listed in paragraph (b) of this section. The carrier frequencies of the individual transmitters of such systems shall not be offset with respect to the authorized frequency by more than ±8 kHz. The tolerance set forth in § 87.65 for transmitters first authorized after January 1, 1974, shall be applicable to the offset carrier frequency when employed. Prior to the use of offset techniques, the Commission must be notified by letter as to the precise offset from the authorized frequency.

3. § 87.331, paragraph (g), footnotes (2) and (3) are amended to read as follows:

§ 87.331 Frequencies available.

• • • • •

(g) • • •

[2]This frequency is available only to stations used in itinerant operations which require that the station be transferred temporarily from time to time to various locations.

[3]Assignments for ground mobile operations on these frequencies will be limited to an area within a 200 mile radius of an associated flight test station at a fixed point.

• • • • •

[FR Doc. 78-26291 Filed 9-18-78; 8:45 am]

[6712-01]

PART 87—AVIATION SERVICES

Editorial Amendments Concerning Availability of Frequencies

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: We are amending our rules concerning aircraft stations to indicate the availability of certain maritime mobile VHF frequencies for communications between ship and aircraft. Our rules, concerning ships, were previously amended to permit these communications and our aircraft rules should indicate this availability. This action will accomplish the amendment.

EFFECTIVE DATE: September 28, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Kemp J. Beaty, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

ORDER

Adopted: September 13, 1978.

Released: September 13, 1978.

In the matter of editorial amendment of § 87.183 of the Commission's rules.

1. Part 83 (stations on shipboard in the maritime services) of our rules contains a provision that permits aircraft to use certain maritime mobile VHF frequencies (§ 83.351(b)(76)). However, this provision is not included in part 87 (aviation services).

2. We are amending § 87.183(j) to reflect the availability of these frequencies and the conditions applicable to the use of maritime mobile VHF frequencies by aircraft. Therefore, under the authority of sections 4(i) and 303(c) and (r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules, we are amending § 87.183(j) as shown below. Since this amendment is editorial in nature, the public notice, procedure, and effective date provisions of 5 U.S.C. 553 do not apply.

3. Regarding questions on matters covered in this document contact Kemp J. Beaty, telephone 202-632-7197.

4. In view of the above, *it is ordered*, That the rule amendment set forth below is adopted effective September 28, 1978.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
R. D. LICHTWARDT,
Executive Director.

Part 87 of chapter I of title 47 of the Code of Federal Regulations is amended to read as follows:

In § 87.183, paragraph (j)(3) is added to read as follows:

§ 87.183 Frequencies available.

• • • • •

(j) • • •

(3) The frequencies 156.3, 156.375, 156.4, 156.425, 156.450, 156.525, 156.625, 156.8 and 156.9 MHz may be used by aircraft stations to communicate with ship stations under these conditions:

(i) The altitude of aircraft stations shall not exceed 1000 feet, except for reconnaissance aircraft participating in icebreaking operations where an altitude of 1500 feet is allowed;

(ii) The mean power of aircraft station transmitters shall not exceed five watts; however, a power of one watt or less shall be used to the maximum extent possible;

(iii) Aircraft stations shall use intership frequencies only;

(iv) Communications of an aircraft station shall be brief and limited to operations in which stations of the maritime mobile service are primarily involved and where direct communications between the aircraft and ship or coast station is required;

(v) The frequency 156.3 MHz may be used by aircraft stations for safety purposes only and the frequency 156.8 MHz may be used for distress, safety and calling purposes only.

• • • • • •

[FR Doc. 78-26280 Filed 9-18-78; 8:45 am]

[6712-01]

[Docket No. 20846]

PART 89—PUBLIC SAFETY RADIO SERVICES

Prescribing Policies and Regulations To Govern Interconnection of Private Land Mobile Radio Systems With the Public, Switched, Telephone Network; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; corrections.

SUMMARY: The Federal Communications Commission corrects a final rule relating to the interconnection of private land mobile radio systems with the public, switched, telephone network published at 43 FR 38396, August 28, 1978. The correction adds a provision relating to reporting requirements which are contained in part 89 and General Accounting Office clearance and effectiveness.

EFFECTIVE DATE: October 16, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John B. Letterman, Industrial and Public Safety Rules Division, Federal Communications Commission, Washington, D.C. 20554, telephone 202-632-6497.

In the matter of amendment of parts 89, 91, 93, and 95 (General Mobile Radio Service, only) of the Commission's rules to prescribe policies and regulations to govern interconnection of private land mobile radio systems with the public, switched, telephone network; correction.

Released: September 12, 1978.

The first report and order in docket No. 20846 (FCC 78-622), adopted August 17, 1978, and released August 23, 1978 (43 FR 38396, August 28, 1978), is corrected to read as follows:

1. On page 38403, first column, paragraph 60 is corrected to read:

"60. Accordingly, *it is ordered*, effective October 16, 1978, That Parts 89, 91, 93, and 95 of the Rules are amended as shown in Appendix B, attached hereto. The reporting requirement specified in Section 89.951(e) is adopted subject to GAO clearance and unless advised to the contrary will be effective November 15, 1978. The authority for this action is found in Sections 4(i) and 303 of the Communications Act of 1934, as amended."

2. On page 38404, third column, in § 89.907(b), the third line, is corrected to read: "by private or leased wire line or fixed".

3. On page 38406, first column, in § 89.953, the third line, is corrected to read: "complished either manually, by a con-".

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO.
Secretary.

[FR Doc. 78-26278 Filed 9-18-78; 8:45 am]

[4910-57]

Title 49—Transportation

CHAPTER VI—URBAN MASS TRANSPORTATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 609—TRANSPORTATION FOR ELDERLY AND HANDICAPPED PERSONS

Amendment To Permit Ramp or Lift at Front Door

AGENCY: Urban Mass Transportation Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: New, standard, full-sized urban transit buses ordered with financial assistance from the Urban Mass Transportation Administration (UMTA) after September 30, 1979, must, in accordance with UMTA regulation, be procured by using the Transbus Procurement Requirements bid package. The technical specifications section of that package previously required, among other features, a mandatory front door ramp for boarding and exiting. The specification has been changed to require either a front door ramp or a front door lift. This amendment revises the existing UMTA regulation to reflect this change to the specifications. The preamble to this regulation also announces that the Transbus technical specifications will require a tandem rear axle and that, at a later date, the September 30, 1979, mandate date will probably have to be extended.

EFFECTIVE DATE: This amendment is effective September 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles J. Daniels, Chief, Bus Technology Development Program (UTD-21), Urban Mass Transporta-

tion Administration, Department of Transportation, Washington, D.C. 20590, telephone 202-426-4035.

larger tires, wheels, and power transmission components that would be used with a single rear axle, in contested bus manufacturers will have the opportunity to compete for contracts.

The Transbus specification has therefore been revised to provide for a purchaser-specified choice, to be indi-

§ 609.15 Buses.

(a) Effective with procurement solicitations containing UMTA-approved

tion Administration, Department of Transportation, Washington, D.C. 20590, telephone 202-426-4035.

SUPPLEMENTAL INFORMATION: The attorney-drafter of this regulation is Michael S. Bates, Office of UMTA Chief Counsel.

BACKGROUND

On May 19, 1977, Secretary of Transportation Brock Adams announced his decision to mandate the "Transbus." Transbus is the result of a major Urban Mass Transportation Administration (UMTA) research project to develop an improved, low floor, transit bus that would attract mass ridership, be accessible to those elderly and handicapped persons for whom the high floor and steps of current buses provide serious obstacles, and encourage continued competition among the manufacturers of transit buses. The mandate requires the use of the Transbus Procurement Requirements bid document for all federally assisted procurements of new, standard, full-sized urban transit buses advertised after September 30, 1979. In accordance with the Secretary's decision statement, the complete Transbus Procurement Requirements bid document was issued by UMTA in June 1977.

On September 9, 1977, UMTA's regulations on transportation for elderly and handicapped persons were amended to reflect the Transbus mandate (42 FR 48339, September 23, 1977).

The mandate specifically applied only to federally assisted bus procurements advertised after September 30, 1979. However, UMTA determined that the best method of implementing the mandate was to encourage voluntary Transbus procurements well in advance of that date.

In preparation for the first procurement, UMTA undertook to refine the Transbus Procurement Requirements document in ways that would make timely delivery more likely or improve the bus but would not compromise the basic requirements of the mandate. On March 21, 1978, UMTA published a notice (43 FR 11779) which invited comments on a proposed revision of the original June 1977 specification.

REAFFIRMATION OF TANDEM REAR AXLE

The March 1978 specifications proposed a change from the June 1977 specifications to require a single rear axle instead of a tandem rear axle. It was hoped that this suggested change would reduce costs and make the bus available earlier without compromising the major features of the Transbus mandate or causing significant problems in the design of the bus.

A variety of comments on the proposed single rear axle Transbus specifications was received. Because of the larger tires, wheels, and power transmission components that would be used with a single rear axle, in conjunction with the required low (22 inch) floor at the front door, a sloped interior floor (either a single slope or a double slope), would result. Many resisted the single slope floor version because of the higher rear entrance with an extra interior step that would result. The double slope version, which was generally preferred by transit operators, would not have had the high rear entrance problem, but it would require major redesign by manufacturers and could not be achieved on a schedule significantly shorter than the tandem rear axle bus.

In addition, it was likely that the exterior of the single rear axle bus would be higher in the rear than in the front, and at least some of the inward-facing, longitudinal seats over the forward wheel-wells would be somewhat higher from the floor than standard, again because of the larger tires in conjunction with the low floor at the front door.

Finally, transit operators and some manufacturers expressed concern that a single rear axle Transbus would exceed Federal and many State and local axle weight limits.

UMTA believes that the possibilities that the single rear axle approach seemed to offer in terms of earlier availability, proven components, and lower costs justified the time and effort of proposing such a design for comment. However, in view of what has been learned through the public comment process, we firmly believe that the shortcomings of the single rear axle design would make it an unsatisfactory, interim approach.

As a result, UMTA is convinced that the original tandem rear axle requirement should not be changed. Therefore, the Transbus Procurement Requirements document, which UMTA is releasing for use in the first procurement provides for the original tandem rear axle requirement.

EFFECTIVE DATE OF THE MANDATE

Doubt remains over the actual time required by manfacturers to produce Transbus. Two bus manufacturers have informed us that they do not now believe they can actually begin delivery of Transbuses by early 1981 as had originally been estimated. UMTA believes that the best method at this time to resolve these doubts is to conduct a procurement within the very near future which will require firm bids and firm delivery dates.

Until this process has been completed and firm delivery dates established, the current mandate date of September 30, 1979 will be retained. UMTA also intends to encourge additional early procurements so that all interested bus manufacturers will have the opportunity to compete for contracts.

HANDICAPPED ACCESSIBILITY FEATURES

As a result to the Transbus research and development program in 1976, the recommended Transbus specification permitted either a front door ramp or a door lift for Transbus. A strong preference for the ramp expressed by representatives of the handicapped and elderly at the Department's March 15, 1977 Transbus hearing and in written comments to the docket, as well as the perceived advantages of the ramp over the lift, convinced the Secretary to require a front door ramp in the Transbus mandate in May of 1977. The September 1977 revision of the UMTA regulation, 49 CFR 609.15 (42 FR 48339, September 23, 1977), to reflect the Secretary's mandate referenced the mandatory ramp provision of that mandate.

As a result of public review of the June 1977 and March 1978 versions of the Transbus Procurement Requirements, the Transbus specification has undergone the most thorough review—by way of comments, critique, and suggestions by transit operators, manufacturers, groups representing the elderly and handicapped, and other interested members of the public—ever afforded a bus specification. Comments received as part of this process, including some received as formal comments to the UMTA docket in response to the March 21, 1978 FEDERAL REGISTER invitation, have raised questions about the desirability of the ramp in certain cases. Many have, for example, raised questions regarding the desirability of a ramp in communities with few curbs. In addition, a coalition of 13 organizations of the handicapped and elderly with an active membership of over 5 million has issued a paper supporting the incorporation into the specifications of a local option for a front door lift or ramp. Additionally, wheelchair lift technology appears to be maturing, and improvements can be expected to continue over the next few years. Thus it can be anticipated that both ramps and lifts will be viable options when the first Transbuses are delivered.

After examining the comments and developments described above, we are now persuaded that the ramp and the lift should be allowed as alternatives by local choice for the front entrance. The low floor design of Transbus makes the ramp approach possible and the lift approach simpler. The Department continues to believe that the ramp will prove to be superior in most situations, but feels it appropriate to defer to local choice to accommodate varying needs and circumstances.

The Transbus specification has therefore been revised to provide for a purchaser-specified choice, to be indicated in the bid request document, of either a ramp or a lift at the front entrance. The following amendment to our existing regulation reflects that change in the specification.

Accordingly, 49 CFR 609.15(a) is revised to read as set forth below.

Issued in Washington, D.C. on September 14, 1978.

RICHARD S. PAGE,
Urban Mass Transportation Administrator.

§ 609.15 Buses.

(a) Effective with procurement solicitations containing UMTA-approved specifications issued after September 30, 1979, UMTA grantees may procure new, standard, full-size urban transit buses only if the procurement solicitation utilizes UMTA's bid package entitled "Transbus Procurement Requirements", which requires a stationary floor height of not more than 22 inches, an effective floor height including a kneeling feature of not more than 18 inches, and a front door ramp or front door lift for boarding and exiting.

• • • • •

[FR Doc. 78-26288 Filed 9-18-78; 8:45 am]

proposed rules

PROPOSED BY MICHAELS DAIRIES, INC.

PROPOSAL NO. 4

Office of the Market Administrator, Middle Atlantic Marketing Area.

Procedural matters are not subject

SUPPLEMENTARY INFORMATION: Section 106 of the Agricultural Act of 1949, as amended, requires that the 1978 crop of burley tobacco be sup-

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1004]

[Docket No. AO-160-A55]

MILK IN THE MIDDLE ATLANTIC MARKETING AREA

Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider industry proposals to amend certain provisions of the Middle Atlantic milk order. The proposed changes would permit a federation of cooperative associations to operate a pool reserve processing plant, reduce the pooling requirements for both distributing plants and reserve processing plants, and relax diversion provisions. Another proposal would require regulated handlers who buy certain milk from another Federal order market to pay not less than the applicable Middle Atlantic order prices for the milk. Proponents contend that the proposed changes are needed to reflect changed supply-demand conditions and methods of handling the market's reserve milk supplies and to assure orderly milk marketing in the area.

DATE: October 3, 1978.

ADDRESS: Holiday Inn—Center City, 1800 Market Street, Philadelphia, 19103.

FOR FURTHER INFORMATION CONTACT:

Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6273.

SUPPLEMENTAL INFORMATION: Notice is hereby given of a public hearing to be held at the Holiday Inn—Center City, 1800 Market Street, Philadelphia, Pa. 19103, beginning at 9:30 a.m., on October 3, 1978, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Middle Atlantic marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (CFR Part 900.12(d)) with respect to proposals 1 through 4.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY PENNMARVA DAIRYMEN'S FEDERATION, INC.

PROPOSAL NO. 1

Revise § 1004.7 (a) and (d) as follows:

§ 1004.7 Pool plant.

* * * * *

(a) A plant from which during the month a volume not less than 40 percent of its receipts described in paragraph (a) (1) or (2) of this section is disposed of as class I milk (except filled milk) and a volume not less than 15 percent of such receipts is disposed of as route disposition (other than as filled milk) in the marketing area:

* * * * *

(d) A reserve processing plant operated by a cooperative association or federation of cooperative associations at which milk from dairy farmers or member cooperatives is received if the total of fluid milk products (except filled milk) transferred from such federation or cooperative association plant(s) to, and the milk of member cooperative or member producers physically received at pool plants pursuant to § 1004.7(a) is not less than 40 percent of the total milk of members of the federation or of member producers during the month: *Provided,* That in the case of a cooperative association that owns and operates both a reserve processing plant and a pool plant pursuant to § 1004.7(a), the provisions of this paragraph shall have been met so long as the volume of the cooperative's member milk pooled at the reserve processing plant does not exceed the volume of sales of class I milk (except filled milk) from the cooperative's pool distributing plant, plus the milk of member producers received directly at pool plants pursuant to § 1004.7(a) of other handlers during the month; *And provided further,* That a cooperative or federation of cooperatives operating a pool reserve processing plant qualified pursuant to this paragraph shall notify the market administrator each month, at the time of filing reports pursuant to § 1004.30 in the detail prescribed by the market administrator, with respect to any receipts from member dairy farmers delivering to such plant not meeting the health requirements for disposition as fluid milk in the marketing area.

* * * * *

PROPOSAL NO. 2

Establish a § 1004.19 as follows:

§ 1004.19 Federation.

Federation means a cooperative formed by two or more cooperative agricultural associations and duly incorporated under the laws of a State.

PROPOSAL NO. 3

Revise the following provisions to require that regulated handlers pay not less than Middle Atlantic order minimum prices for milk received by transfer from a plant pooled under another Federal order by a cooperative association.

§ 1004.73 [Amended]

(a) In § 1004.73(c), after the words "pool plant" add the following: "under this part or any other Federal Order".

§ 1004.79 [Amended]

(b) In § 1004.79, after the words "producer milk" add the following: "or milk from a cooperative association pooled under another Federal Order and".

(c) In § 1004.79, after the words "1004.9(c)" add the following: "or under another Federal Order".

PROPOSED BY MICHAELS DAIRIES, INC.

PROPOSAL NO. 4

§ 1004.12 [Amended]

Reduce the limits on diversions to nonpool plants by amending § 1004.12(d) as follows:

Place a period after the words "nonpool plant", and delete the remainder of § 1004.12(d) including subsections (1) and (2) in their entirety.

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 5

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, P.O. Box 710, Alexandria, Va. 22313, or from the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.
Office of the Administrator, Agricultural Marketing Service.
Office of the General Counsel.
Dairy Division, Agricultural Marketing Service (Washington office only).
Office of the Market Administrator, Middle Atlantic Marketing Area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on September 14, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR Doc. 78-26283 Filed 9-18-78; 8:45 am]

Commodity Credit Corporation

[7 CFR Part 1464]

TOBACCO PLAN PROGRAM

Proposed 1978 Crop Grade Loan Rates—Burley Tobacco

AGENCY: Commodity Credit Corp., USDA.

ACTION: Proposed rule.

SUMMARY: The Commodity Credit Corp. (USDA), is considering the grade loan rates to be applied to the various grades of 1978-crop burley tobacco to provide price support as required by the Agricultural Act of 1949, as amended. You are invited to submit views and recommendations concerning the proposed rates.

DATES: Written comments must be received by November 3, 1978, in order to be sure of consideration.

ADDRESS: Send comments to Acting Director, Price Support and Loan Division, ASCS, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

R. P. Hieronymus, 202-447-6695.

SUPPLEMENTARY INFORMATION: Section 106 of the Agricultural Act of 1949, as amended, requires that the 1978 crop of burley tobacco be supported at the level of 124.7 cents per pound. It is anticipated that price support will be provided through loans to producer associations which will receive the tobacco from the producers and make price support advances to the producers for the tobacco received. The price support advances would be based on the proposed grade loan rates, which would average the required level of support when weighted by the estimated grade percentages, in accordance with section 403 of the act. The price support advances to producers would be the amounts determined by multiplying the pounds of each grade received by the respective grade loan rate less 1 cent per pound which the producers' associations are authorized to deduct and to apply against overhead costs.

PROPOSED RULE

Accordingly, it is proposed that 7 CFR Part 1464 be amended by revising § 1464.21 to read as follows effective for the 1978 crop of burley tobacco:

§ 1464.21 1978 Crop Burley Tobacco, type 31, loan schedule [1]

[1] The loan rates listed are applicable to burley tobacco which is tied in hands or packed in bales and which is eligible tobacco as defined by the regulations. Only the original producer is eligible to receive advances. Tobacco graded "U" (unsound), "W" (wet), "No-G" (no grade), or scrap will not be accepted. Cooperatives are authorized to deduct $1 per hundred pounds to apply against overhead costs.

[Dollars per hundred pound, farm sales weight]

Loan	Loan	Loan

[Dollars per hundred pound, farm sales weight]

Grade	Loan Rate	Grade	Loan Rate	Grade	Loan Rate
B1F	139	B3GR	113	C1F	139
B2F	137	B4GR	111	C2F	137
B3F	135	B5GR	108	C3F	135
B4F	132			C4F	132
B5F	128	T3F	131	C5F	128
		T4F	125		
B1FR	138	T5F	118	C3K	124
B2FR	136			C4K	120
B3FR	134	T3FR	128	C5K	114
B4FR	131	T4FR	124		
B5FR	127	T5FR	115	C3M	130
				C4M	128
B1R	135	T3R	122	C5M	119
B2R	133	T4R	119		
B3R	131	T5R	113	C3V	126
B4R	128			C4V	123
B5R	122	T4D	110	C5V	117
		T5D	106		
B4D	115			C4G	113
B5D	110	T4K	109	C5G	106
		T5K	105		
B3K	125			X1L	138
B4K	123	T4VF	118	X2L	136
B5K	117	T5VF	111	X3L	134
				X4L	129
B3M	129	T4VR	111	X5L	124
B4M	123	T5VR	107		
B5M	113			X1F	138
		T4GF	106	X2F	136
B3VF	130	T5GF	102	X3F	134
B4VF	124			X4F	129
B5VF	121	T4GR	104	X5F	123
		T5GR	99		
B3VR	125			X4M	124
B4VR	120	C1L	139	X5M	112
B5VR	116	C2L	137		
		C3L	135	X4G	111
B3GF	118	C4L	132	X5G	103
B4GF	116	C5L	128		
B5GF	112				
M1F	116	M3FR	112	N1F	100
M2F	115	M4FR	110		
M3F	114	M5FR	106	N1R	98
M4F	112			N2R	92
M5F	110	N1L	104		
		N2L	97	N1G	91
				N2G	83

Prior to making any determination, the Department will give consideration to comments, views and recommendations submitted in writing to the acting director, Price Support and Loan Division.

All written submission will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday in Room 3741, South Building, USDA, 14th and Independence Avenue SW., Washington D.C., 20013.

NOTE: CCC has determined that this document does not contain a significant proposal having major economic consequences for the general economy requiring preparation of a regulatory analysis under Executive Order 12044.

Based on an assessment of the environmental impacts of the proposed action, it has also been determined that an Environmental Impact Statement need not be prepared since the proposals will have no significant effect on the quality of the human environment.

Signed at Washington, D.C. on September 12, 1978.

STEWART N. SMITH,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 78-26166 Filed 9-18-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

[12 CFR Part 226]

[Reg. Z; FC-0154]

COMPUTATION OF ANNUAL PERCENTAGE RATES FOR HUD/FHA SECTION 245 GRADUATED PAYMENT MORTGAGES

Proposed Official Staff Interpretation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed official staff interpretation.

SUMMARY: The Board is publishing for comment a proposed official staff interpretation approving the use of certain tables and accompanying instructions prepared by the U.S. Department of Housing and Urban Development to be used to compute the annual percentage rate on graduated payment mortgages under the HUD/FHA section 245 Experimental Financing Program. The proposed interpretation is intended to assist in computation of the annual percentage rate in such mortgages.

DATE: Comments must be received on or before October 19, 1978.

ADDRESS: Comments including reference to FC-0154 to Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3867.

SUPPLEMENTARY INFORMATION: (1) In order to assist in the computation of annual percentage rates in graduated payment mortgages made under the HUD/FHA section 245 Experimental Financing Program, the Board staff proposes to approve use of tables and accompanying instructions prepared by the Actuarial Division of the U.S. Department of Housing and Urban Development.

The Board staff has reviewed the tables and instructions prepared by HUD and has determined that they yield accurate annual percentage rates. The staff would appreciate any comments the public might have on this matter, particularly regarding whether the instructions and tables, which are attached to the proposed official staff interpretation, are clear, understandable, and easy to use.

(2) To aid in the consideration of this matter, interested persons are invited to submit relevant data, comments or arguments. All such materials should be submitted in writing to Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and should be received not later than October 19, 1978. Such information will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

(3) Pursuant to the authority granted in 15 U.S.C. 1640(f), the Board staff proposes to issue the following official staff interpretation:

MR. CHESTER C. FOSTER,
Acting Director, Actuarial Division, Department of Housing and Urban Development, , Washington, D.C.

DEAR MR. FOSTER: This letter is in response to our recent correspondence and conversations concerning proper computation of the annual percentage rate for graduated payment mortgages made under the Department of Housing and Urban Development's FHA Section 245 Experimental Financing Program. You have requested that the Board staff review and verify that the attached tables, when used in accordance with the attached instructions, yield an accurate annual percentage rate for purposes of Regulation Z.

The staff has reviewed the attached materials and concludes that, subject to the limitations set forth below, use of the tables in accordance with the instructions which accompany them results in an accurate annual percentage rate.

It should be noted that this approach may be used only when the first payment period, i.e., the period from the date on which the finance charge begins to accrue to the date of the first payment, falls within the ranges described in the minor irregularities provisions of Regulation Z, § 226.5(d) and Interpretation § 226.503. This means that the first payment must be due not more than 62 days after consummation of the loan in order for use of the tables to yield an accurate annual percentage rate. Use of this method also presumes that the monthly payments have been properly calculated using HUD Handbood 4240.2, dated October 27, 1976. Finally, we note that these tables and instructions cannot be used for graduated payment plans involving private mortgage insurance premiums, unless such insurance premiums are computed in the same manner as the FHA mortgage insurance premiums involved in the Section 245 Graduated Payment Mortgage program.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(2) of the regulation, and it is strictly limited to the situation discussed herein.

Sincerely,

NATHANIEL E. BUTLER,
Associate Director.

Attachments.

Board of Governors of the Federal Reserve System, September 5, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

INSTRUCTIONS FOR COMPUTING ANNUAL PERCENTAGE RATES FOR COMPLIANCE WITH REGULATION Z

These instructions are to be used in conjunction with the attached annual percentage rate tables prepared by the Actuarial Division, Office of Housing and Urban Development. The tables are applicable only to FHA-insured 30-year level payment and graduated payment (section 245) loans where the annual mortgage insurance premium (MIP) is one-half of 1 percent.

The annual percentage rate (APR) computation in the tables assumes that the closing takes place exactly 1 month prior to the due date of the first payment. The following three examples show how to adjust the net proceeds when the date of closing is not 1 month prior to the first payment, in order to provide a more accurate APR.

NOTE.—For purposes of this computation, closings must be not more than 62 days before the due date of the first payment.

Example No. 1—*Closings held more than 1 month prior to due date of first payment and interim interest collected at closing.*

(a) Contract interest rate—8¾ percent.
(b) Loan type—GPM Plan V.
(c) Due date of first payment—June 1, 1978.
(d) Date of closing—April 10, 1978.
(e) Loan amount—$42,000.
(f) Prepaid finance charges—$2,311.44.
(g) Net proceeds (e-f)—$39,688.56.
(h) Initial mortgage interest (also included in (f))—$211.44.

Compute adjusted net proceeds per $100 of face.

$39,688.56 (net proceeds from (g)) plus $211.44 (initial mortgage interest from (h)) times 100, divided by $42,000 (loan amount from (e)) equals 95.000.

Find closest net proceeds per hundred from the APR table for 8¾ percent interest and column for GPM Plan V.

Closest net proceeds per hundred—95.036.

Read across for APR—9 80 percent.

Example No. 2—*Closing held more than 1 month prior to due date of first payment*

TABLES SHOWING ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS FOR FHA-INSURED LEVEL

Read across for APR—9 80 percent.

Example No. 2—*Closing held more than 1 month prior to due date of first payment and interim interest collected with the first payment or 1 month prior to first payment.*

(a) Contract interest rate—8½ percent.
(b) Loan type—GPM Plan III.
(c) Due date of first payment—May 1, 1978.
(d) Date of closing—March 17, 1978.
(e) Loan amount—$20,000
(f) Prepaid finance charges—$1,200.
(g) Net proceeds (e–f)—$18,800
(h) Initial mortgage interst (not included in (f))—$69 86.

Compute adjusted [1] net proceeds per $100 of face.

$18,800 (net proceeds from (g)) times 100 divided by $20,000 (loan amount from (e)) equals 94.00.

Find closest net proceeds per hundred from the APR table for 8½ percent interest and column for GPM Plan III.

Closest net proceeds per hundred—93 972.
Read across for APR 9 67 percent.

Example No. 3—*Closing is held less than 1 month prior to due date of first payment and interest from date 1 month prior to first payment date to the closing date is rebated to purchaser at closing.*

(a) Contract interest rate—8½ percent.
(b) Loan type—GPM Plan II.
(c) Due date of first payment -April 1, 1978.
(d) Date of closing—March 11, 1978.
(e) Loan amount– $35,000.
(f) Prepaid finance charges –$1,843.49.
(g) Net proceeds (e-f) $33,156 51
(h) Initial mortgage interest paid to bor rower at closing or credited to closing costs (Note: In this example, interest (h) has been deducted from prepaid charges (f)). -$81 51.

Compute adjusted net proceeds per $100 of face.

$33,156 51 (net proceeds from (g)) plus $81 51 (initial mortgate interest from (h)) times 100 divided by $35,000 (loan amount from (e)) equals 94.500.

Find closest net proceeds per hundred from the APR table for 8½ percent interest and column for GPM Plan II

Closest net proceeds per hundred 94.507
Read across for APR -9 62 percent.

[1] When interim mortgage interest is col lected (or rebated) at any time other than at closing, it has not been deducted from net proceeds (g) and therefore it is not necessary to add it to (or subtract it from, in the case of rebate) the net proceeds before determining the APR.

TABLES SHOWING ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS FOR FHA-INSURED LEVEL PAYMENT AND GRADUATED PAYMENT MORTGAGE AMORTIZATION PLANS AUTHORIZED UNDER SECTION 245

Description of the Graduated Payment Mortgage (GPM) Plans Shown in the Accompanying Tables

PLAN	DESCRIPTION
I	5 years of increasing payments at 2-1/2 percent each year
II	5 years of increasing payments at 5 percent each year
III	5 years of increasing payments at 7-1/2 percent each year
IV	10 years of increasing payments at 2 percent each year
V	10 years of increasing payments at 3 percent each year

Prepared by:
Actuarial Division
Office of Housing
Department of Housing
and Urban Development

NT	V
.613	
.519	
.425	
.331	
.237	
.144	
.051	
.957	
.864	
.771	
.679	
.586	
.494	
.401	
.309	
.217	
.125	
.033	
.942	
.850	
.759	
.667	
.576	
.485	
.395	
.304	
.213	
.123	
.033	
.943	
.853	
.763	
.673	
.584	
.494	

OUNT	V
	92.082
	91.995
	91.908
	91.821
	91.734
	91.647
	91.561
	91.475
	91.388
	91.302
	91.216
	91.131
	91.045
	90.959
	90.874

TABLE 1

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 7.75 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V	APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V
8.25	99.999	99.999	99.999	99.999	99.999	99.999	8.60	96.837	96.767	96.703	96.643	96.686	96.613
8.26	99.906	99.905	99.903	99.901	99.902	99.900	8.61	96.749	96.678	96.611	96.549	96.594	96.519
8.27	99.814	99.810	99.806	99.803	99.805	99.801	8.62	96.661	96.588	96.520	96.456	96.502	96.425
8.28	99.721	99.715	99.710	99.704	99.708	99.702	8.63	96.573	96.498	96.428	96.363	96.410	96.331
8.29	99.629	99.621	99.614	99.607	99.611	99.603	8.64	96.486	96.409	96.337	96.270	96.318	96.237
8.30	99.537	99.527	99.517	99.509	99.515	99.504	8.65	96.399	96.320	96.246	96.178	96.227	96.144
8.31	99.445	99.433	99.422	99.411	99.418	99.406	8.66	96.311	96.231	96.155	96.085	96.136	96.051
8.32	99.353	99.339	99.326	99.313	99.322	99.307	8.67	96.224	96.142	96.064	95.993	96.044	95.957
8.33	99.261	99.245	99.230	99.216	99.226	99.209	8.68	96.137	96.053	95.974	95.900	95.953	95.864
8.34	99.170	99.152	99.135	99.119	99.130	99.111	8.69	96.050	95.964	95.883	95.808	95.862	95.771
8.35	99.078	99.058	99.039	99.022	99.034	99.013	8.70	95.964	95.875	95.793	95.716	95.771	95.679
8.36	98.987	98.965	98.944	98.925	98.939	98.915	8.71	95.877	95.787	95.703	95.624	95.681	95.586
8.37	98.896	98.872	98.849	98.828	98.843	98.817	8.72	95.791	95.698	95.613	95.533	95.590	95.494
8.38	98.805	98.779	98.754	98.731	98.748	98.720	8.73	95.704	95.610	95.523	95.441	95.500	95.401
8.39	98.714	98.686	98.659	98.635	98.652	98.623	8.74	95.618	95.522	95.433	95.349	95.410	95.309
8.40	98.623	98.593	98.565	98.539	98.557	98.525	8.75	95.532	95.434	95.343	95.258	95.320	95.217
8.41	98.533	98.500	98.470	98.442	98.462	98.428	8.76	95.446	95.346	95.254	95.167	95.230	95.125
8.42	98.442	98.408	98.376	98.346	98.368	98.331	8.77	95.360	95.259	95.164	95.076	95.140	95.033
8.43	98.352	98.316	98.282	98.250	98.273	98.235	8.78	95.274	95.171	95.075	94.985	95.050	94.942
8.44	98.262	98.223	98.188	98.155	98.178	98.138	8.79	95.189	95.084	94.986	94.894	94.960	94.850
8.45	98.172	98.131	98.094	98.059	98.084	98.042	8.80	95.103	94.997	94.897	94.804	94.871	94.759
8.46	98.082	98.040	98.000	97.964	97.990	97.945	8.81	95.018	94.909	94.808	94.713	94.782	94.667
8.47	97.992	97.948	97.907	97.868	97.896	97.849	8.82	94.933	94.822	94.719	94.623	94.693	94.576
8.48	97.902	97.856	97.813	97.773	97.802	97.753	8.83	94.848	94.735	94.631	94.533	94.604	94.485
8.49	97.813	97.765	97.720	97.678	97.708	97.657	8.84	94.763	94.649	94.542	94.443	94.515	94.395
8.50	97.723	97.673	97.627	97.583	97.614	97.562	8.85	94.678	94.562	94.454	94.353	94.426	94.304
8.51	97.634	97.582	97.534	97.489	97.521	97.466	8.86	94.594	94.476	94.365	94.263	94.337	94.213
8.52	97.545	97.491	97.441	97.394	97.428	97.371	8.87	94.509	94.389	94.277	94.173	94.249	94.123
8.53	97.456	97.400	97.348	97.300	97.334	97.276	8.88	94.425	94.303	94.189	94.084	94.160	94.033
8.54	97.367	97.309	97.255	97.205	97.241	97.180	8.89	94.340	94.217	94.102	93.994	94.072	93.943
8.55	97.278	97.219	97.163	97.111	97.148	97.085	8.90	94.256	94.131	94.014	93.905	93.984	93.853
8.56	97.190	97.128	97.071	97.017	97.056	96.991	8.91	94.172	94.045	93.926	93.816	93.896	93.763
8.57	97.101	97.038	96.979	96.923	96.963	96.896	8.92	94.088	93.959	93.839	93.727	93.808	93.673
8.58	97.013	96.948	96.886	96.830	96.870	96.802	8.93	94.004	93.874	93.752	93.638	93.721	93.584
8.59	96.925	96.857	96.795	96.736	96.778	96.707	8.94	93.921	93.788	93.665	93.549	93.633	93.494

TABLE 1(CONT)

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 7.75 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V	APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V
8.95	93.837	93.703	93.578	93.461	93.546	93.405	9.10	92.599	92.438	92.288	92.148	92.250	92.082
8.96	93.754	93.618	93.491	93.372	93.458	93.316	9.11	92.517	92.355	92.203	92.061	92.165	91.995
8.97	93.671	93.533	93.404	93.284	93.371	93.227	9.12	92.436	92.272	92.118	91.975	92.080	91.908
8.98	93.587	93.448	93.317	93.196	93.284	93.138	9.13	92.355	92.188	92.033	91.889	91.995	91.821
8.99	93.504	93.363	93.231	93.108	93.197	93.049	9.14	92.273	92.105	91.949	91.803	91.910	91.734
9.00	93.421	93.278	93.144	93.020	93.111	92.961	9.15	92.192	92.023	91.864	91.717	91.825	91.647
9.01	93.339	93.194	93.058	92.932	93.024	92.872	9.16	92.111	91.940	91.780	91.631	91.740	91.561
9.02	93.256	93.109	92.972	92.844	92.938	92.784	9.17	92.031	91.857	91.696	91.545	91.656	91.475
9.03	93.173	93.025	92.886	92.757	92.851	92.696	9.18	91.950	91.775	91.612	91.460	91.571	91.388
9.04	93.091	92.941	92.800	92.669	92.765	92.607	9.19	91.869	91.693	91.528	91.374	91.487	91.302
9.05	93.009	92.857	92.715	92.582	92.679	92.520	9.20	91.789	91.610	91.444	91.289	91.403	91.216
9.06	92.927	92.773	92.629	92.495	92.593	92.432	9.21	91.708	91.528	91.360	91.204	91.319	91.131
9.07	92.844	92.689	92.543	92.408	92.507	92.344	9.22	91.628	91.446	91.277	91.119	91.235	91.045
9.08	92.763	92.605	92.458	92.321	92.421	92.257	9.23	91.548	91.364	91.193	91.034	91.151	90.959
9.09	92.681	92.521	92.373	92.234	92.336	92.169	9.24	91.468	91.283	91.110	90.949	91.067	90.874

TABLE 2

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 8.00 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V	APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V
8.50	99.999	99.999	99.999	99.999	99.999	99.999	8.85	96.882	96.813	96.748	96.688	96.732	96.659
8.51	99.908	99.906	99.904	99.902	99.904	99.901	8.86	96.796	96.724	96.658	96.596	96.641	96.566
8.52	99.817	99.813	99.809	99.805	99.808	99.804	8.87	96.709	96.636	96.568	96.504	96.550	96.474
8.53	99.726	99.719	99.714	99.709	99.712	99.706	8.88	96.623	96.548	96.477	96.412	96.460	96.381
8.54	99.635	99.627	99.619	99.612	99.617	99.608	8.89	96.537	96.459	96.387	96.320	96.370	96.289
8.55	99.544	99.534	99.524	99.515	99.522	99.511	8.90	96.450	96.371	96.298	96.229	96.279	96.196
8.56	99.453	99.441	99.430	99.419	99.427	99.414	8.91	96.364	96.284	96.208	96.137	96.189	96.104
8.57	99.363	99.348	99.335	99.323	99.332	99.317	8.92	96.279	96.196	96.118	96.046	96.099	96.012
8.58	99.272	99.256	99.241	99.227	99.237	99.220	8.93	96.193	96.108	96.029	95.955	96.009	95.921
8.59	99.182	99.164	99.147	99.131	99.142	99.123	8.94	96.107	96.021	95.940	95.864	95.920	95.829
8.60	99.092	99.072	99.053	99.035	99.048	99.027	8.95	96.022	95.933	95.850	95.773	95.830	95.737
8.61	99.002	98.980	98.959	98.939	98.953	98.930	8.96	95.936	95.846	95.761	95.683	95.741	95.646
8.62	98.912	98.888	98.865	98.844	98.859	98.834	8.97	95.851	95.759	95.673	95.592	95.651	95.555
8.63	98.822	98.796	98.772	98.749	98.765	98.738	8.98	95.766	95.672	95.584	95.502	95.562	95.463
8.64	98.733	98.704	98.678	98.653	98.671	98.642	8.99	95.681	95.585	95.495	95.411	95.473	95.372
8.65	98.643	98.613	98.585	98.558	98.578	98.546	9.00	95.596	95.498	95.407	95.321	95.384	95.282
8.66	98.554	98.522	98.492	98.463	98.484	98.450	9.01	95.511	95.412	95.318	95.231	95.295	95.191
8.67	98.465	98.431	98.399	98.369	98.390	98.354	9.02	95.427	95.325	95.230	95.141	95.207	95.100
8.68	98.376	98.340	98.306	98.274	98.297	98.259	9.03	95.342	95.239	95.142	95.052	95.118	95.010
8.69	98.287	98.249	98.213	98.180	98.204	98.164	9.04	95.258	95.152	95.054	94.962	95.030	94.920
8.70	98.198	98.158	98.120	98.085	98.111	98.069	9.05	95.174	95.066	94.966	94.873	94.942	94.829
8.71	98.109	98.067	98.028	97.991	98.018	97.974	9.06	95.089	94.980	94.878	94.783	94.854	94.739
8.72	98.021	97.977	97.936	97.897	97.925	97.879	9.07	95.005	94.895	94.791	94.694	94.766	94.650
8.73	97.933	97.887	97.843	97.803	97.833	97.784	9.08	94.922	94.809	94.703	94.605	94.678	94.560
8.74	97.844	97.796	97.751	97.710	97.740	97.690	9.09	94.838	94.723	94.616	94.516	94.590	94.470
8.75	97.756	97.706	97.660	97.616	97.648	97.595	9.10	94.754	94.638	94.529	94.427	94.502	94.381
8.76	97.668	97.616	97.568	97.522	97.555	97.501	9.11	94.671	94.552	94.442	94.339	94.415	94.291
8.77	97.580	97.527	97.476	97.429	97.463	97.407	9.12	94.587	94.467	94.355	94.250	94.328	94.202
8.78	97.493	97.437	97.385	97.336	97.372	97.313	9.13	94.504	94.382	94.268	94.162	94.241	94.113
8.79	97.405	97.347	97.293	97.243	97.280	97.219	9.14	94.421	94.297	94.182	94.074	94.154	94.024
8.80	97.318	97.258	97.202	97.150	97.188	97.125	9.15	94.338	94.212	94.095	93.986	94.067	93.935
8.81	97.230	97.169	97.111	97.057	97.097	97.032	9.16	94.255	94.128	94.009	93.898	93.980	93.847
8.82	97.143	97.080	97.020	96.965	97.005	96.938	9.17	94.172	94.043	93.922	93.810	93.893	93.758
8.83	97.056	96.991	96.929	96.872	96.914	96.845	9.18	94.090	93.959	93.836	93.722	93.807	93.670
8.84	96.969	96.902	96.839	96.780	96.823	96.752	9.19	94.007	93.874	93.750	93.634	93.720	93.581

TABLE 2(CONT)

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 8.00 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V	APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V
9.20	93.925	93.790	93.654	93.547	93.634	93.493	9.35	92.703	92.542	92.391	92.251	92.356	92.187
9.21	93.843	93.706	93.570	93.460	93.548	93.405	9.36	92.623	92.460	92.307	92.165	92.271	92.101
9.22	93.760	93.622	93.483	93.372	93.462	93.317	9.37	92.543	92.378	92.224	92.080	92.187	92.015
9.23	93.678	93.538	93.407	93.285	93.376	93.230	9.38	92.462	92.296	92.140	91.995	92.103	91.929
9.24	93.597	93.455	93.322	93.198	93.290	93.142	9.39	92.382	92.214	92.057	91.910	92.019	91.844
9.25	93.515	93.371	93.237	93.112	93.205	93.055	9.40	92.302	92.132	91.973	91.825	91.936	91.758
9.26	93.433	93.288	93.152	93.025	93.119	92.967	9.41	92.222	92.050	91.890	91.740	91.852	91.673
9.27	93.352	93.204	93.067	92.938	93.034	92.880	9.42	92.143	91.969	91.807	91.655	91.769	91.588
9.28	93.270	93.121	92.982	92.852	92.949	92.793	9.43	92.063	91.888	91.724	91.571	91.685	91.503
9.29	93.189	93.038	92.897	92.766	92.863	92.706	9.44	91.983	91.806	91.641	91.487	91.602	91.418
9.30	93.108	92.955	92.812	92.680	92.778	92.619	9.45	91.904	91.725	91.558	91.402	91.519	91.333
9.31	93.027	92.872	92.728	92.593	92.694	92.533	9.46	91.825	91.644	91.475	91.318	91.436	91.248
9.32	92.946	92.789	92.644	92.508	92.609	92.446	9.47	91.746	91.563	91.393	91.234	91.353	91.163
9.33	92.865	92.707	92.559	92.422	92.524	92.360	9.48	91.666	91.482	91.311	91.150	91.270	91.079
9.34	92.784	92.624	92.475	92.336	92.440	92.273	9.49	91.588	91.402	91.228	91.066	91.188	90.994

TABLE 3

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 8.25 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V
8.75	99.999	99.999	99.999	99.999	99.999	99.999
8.76	99.909	99.907	99.905	99.904	99.905	99.903
8.77	99.819	99.815	99.812	99.808	99.811	99.806
8.78	99.730	99.724	99.718	99.713	99.716	99.710
8.79	99.640	99.632	99.624	99.617	99.622	99.614
8.80	99.551	99.540	99.531	99.522	99.529	99.518
8.81	99.461	99.449	99.438	99.427	99.435	99.422
8.82	99.372	99.358	99.344	99.332	99.341	99.326
8.83	99.283	99.267	99.251	99.237	99.248	99.231
8.84	99.194	99.176	99.159	99.143	99.154	99.135
8.85	99.105	99.085	99.066	99.048	99.061	99.040
8.86	99.016	98.994	98.973	98.954	98.968	98.945
8.87	98.928	98.904	98.881	98.860	98.875	98.850
8.88	98.840	98.813	98.789	98.766	98.783	98.755
8.89	98.751	98.723	98.696	98.672	98.690	98.660
8.90	98.663	98.633	98.604	98.578	98.598	98.566
8.91	98.575	98.543	98.513	98.484	98.505	98.471
8.92	98.487	98.453	98.421	98.391	98.413	98.377
8.93	98.399	98.363	98.329	98.298	98.321	98.283
8.94	98.312	98.274	98.238	98.204	98.229	98.189
8.95	98.224	98.184	98.146	98.111	98.137	98.095
8.96	98.137	98.095	98.055	98.018	98.046	98.001
8.97	98.050	98.006	97.964	97.926	97.954	97.908
8.98	97.963	97.916	97.873	97.833	97.863	97.815
8.99	97.876	97.828	97.782	97.740	97.772	97.721
9.00	97.789	97.739	97.692	97.648	97.681	97.628
9.01	97.702	97.650	97.601	97.556	97.590	97.535
9.02	97.616	97.561	97.511	97.464	97.499	97.442
9.03	97.529	97.473	97.421	97.372	97.408	97.350
9.04	97.443	97.385	97.331	97.280	97.318	97.257
9.05	97.357	97.297	97.241	97.188	97.227	97.165
9.06	97.271	97.209	97.151	97.097	97.137	97.072
9.07	97.185	97.121	97.061	97.005	97.047	96.980
9.08	97.099	97.033	96.972	96.914	96.957	96.888
9.09	97.013	96.945	96.882	96.823	96.867	96.796

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V
9.10	96.928	96.858	96.793	96.732	96.777	96.705
9.11	96.842	96.771	96.704	96.641	96.688	96.613
9.12	96.757	96.683	96.615	96.551	96.598	96.522
9.13	96.672	96.596	96.526	96.460	96.509	96.430
9.14	96.587	96.509	96.437	96.370	96.420	96.339
9.15	96.502	96.422	96.348	96.279	96.331	96.248
9.16	96.417	96.336	96.260	96.189	96.242	96.157
9.17	96.332	96.249	96.172	96.099	96.153	96.067
9.18	96.248	96.163	96.083	96.009	96.065	95.976
9.19	96.163	96.076	95.995	95.919	95.976	95.885
9.20	96.079	95.990	95.907	95.830	95.888	95.795
9.21	95.995	95.904	95.819	95.740	95.800	95.705
9.22	95.911	95.818	95.732	95.651	95.711	95.615
9.23	95.827	95.732	95.644	95.562	95.623	95.525
9.24	95.743	95.647	95.557	95.473	95.536	95.435
9.25	95.659	95.561	95.469	95.384	95.448	95.346
9.26	95.576	95.476	95.382	95.295	95.360	95.256
9.27	95.492	95.390	95.295	95.206	95.273	95.167
9.28	95.409	95.305	95.208	95.118	95.186	95.077
9.29	95.326	95.220	95.121	95.029	95.098	94.988
9.30	95.243	95.135	95.035	94.941	95.011	94.899
9.31	95.160	95.050	94.948	94.853	94.924	94.810
9.32	95.077	94.966	94.862	94.765	94.838	94.722
9.33	94.994	94.881	94.775	94.677	94.751	94.633
9.34	94.912	94.797	94.689	94.589	94.664	94.545
9.35	94.829	94.712	94.603	94.501	94.578	94.456
9.36	94.747	94.628	94.517	94.414	94.492	94.368
9.37	94.665	94.544	94.432	94.326	94.406	94.280
9.38	94.582	94.460	94.346	94.239	94.320	94.192
9.39	94.501	94.376	94.260	94.152	94.234	94.105
9.40	94.419	94.293	94.175	94.065	94.148	94.017
9.41	94.337	94.209	94.090	93.978	94.062	93.929
9.42	94.255	94.126	94.005	93.891	93.977	93.842
9.43	94.174	94.042	93.920	93.805	93.891	93.755
9.44	94.092	93.959	93.835	93.718	93.806	93.668

TABLE 3(CONT)

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 8.25 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V
9.45	94.011	93.876	93.750	93.632	93.721	93.581
9.46	93.930	93.793	93.665	93.546	93.636	93.494
9.47	93.849	93.710	93.581	93.460	93.551	93.407
9.48	93.768	93.628	93.496	93.374	93.466	93.320
9.49	93.687	93.545	93.412	93.288	93.382	93.234
9.50	93.607	93.463	93.328	93.202	93.297	93.148
9.51	93.526	93.380	93.244	93.117	93.213	93.061
9.52	93.446	93.298	93.160	93.031	93.129	92.975
9.53	93.365	93.216	93.076	92.946	93.045	92.889
9.54	93.285	93.134	92.993	92.861	92.961	92.804
9.55	93.205	93.052	92.909	92.776	92.877	92.718
9.56	93.125	92.970	92.826	92.691	92.793	92.632
9.57	93.045	92.889	92.742	92.606	92.709	92.547
9.58	92.966	92.807	92.659	92.521	92.626	92.461
9.59	92.886	92.726	92.576	92.436	92.543	92.376

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V
9.60	92.806	92.645	92.493	92.352	92.459	92.291
9.61	92.727	92.563	92.410	92.268	92.376	92.206
9.62	92.648	92.482	92.328	92.183	92.293	92.121
9.63	92.569	92.401	92.245	92.099	92.210	92.037
9.64	92.490	92.321	92.163	92.015	92.128	91.952
9.65	92.411	92.240	92.081	91.932	92.045	91.868
9.66	92.332	92.159	91.998	91.848	91.962	91.784
9.67	92.253	92.079	91.916	91.764	91.880	91.699
9.68	92.175	91.999	91.834	91.681	91.798	91.615
9.69	92.096	91.918	91.752	91.597	91.716	91.531
9.70	92.018	91.838	91.671	91.514	91.634	91.448
9.71	91.939	91.758	91.589	91.431	91.552	91.364
9.72	91.861	91.679	91.508	91.348	91.470	91.280
9.73	91.783	91.599	91.426	91.265	91.388	91.197
9.74	91.705	91.519	91.345	91.183	91.307	91.114

TABLE 4

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 8.50 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT							NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT					
	LEVEL	GPM PLANS						LEVEL	GPM PLANS				
APR	PMT	I	II	III	IV	V	APR	PMT	I	II	III	IV	V
9.00	99.999	99.999	99.999	99.999	99.999	99.999	9.35	96.972	96.902	96.837	96.776	96.822	96.750
9.01	99.911	99.909	99.907	99.905	99.906	99.904	9.36	96.888	96.816	96.749	96.686	96.734	96.659
9.02	99.822	99.818	99.814	99.811	99.813	99.809	9.37	96.804	96.730	96.661	96.597	96.646	96.569
9.03	99.734	99.727	99.722	99.716	99.720	99.714	9.38	96.720	96.644	96.573	96.507	96.558	96.479
9.04	99.645	99.637	99.630	99.622	99.628	99.619	9.39	96.636	96.558	96.486	96.418	96.470	96.389
9.05	99.557	99.547	99.537	99.529	99.535	99.525	9.40	96.552	96.473	96.398	96.329	96.382	96.299
9.06	99.469	99.457	99.445	99.435	99.443	99.430	9.41	96.468	96.387	96.311	96.240	96.294	96.210
9.07	99.381	99.367	99.354	99.341	99.351	99.336	9.42	96.385	96.302	96.224	96.151	96.207	96.120
9.08	99.293	99.277	99.262	99.248	99.258	99.241	9.43	96.302	96.216	96.137	96.062	96.119	96.031
9.09	99.206	99.187	99.170	99.154	99.166	99.147	9.44	96.218	96.131	96.050	95.974	96.032	95.941
9.10	99.118	99.098	99.079	99.061	99.075	99.053	9.45	96.135	96.046	95.963	95.885	95.945	95.852
9.11	99.031	99.009	98.988	98.968	98.983	98.959	9.46	96.052	95.961	95.876	95.797	95.858	95.763
9.12	98.944	98.919	98.896	98.875	98.891	98.866	9.47	95.969	95.877	95.790	95.709	95.771	95.674
9.13	98.856	98.830	98.805	98.782	98.800	98.772	9.48	95.887	95.792	95.704	95.621	95.684	95.586
9.14	98.769	98.741	98.715	98.690	98.708	98.679	9.49	95.804	95.707	95.617	95.533	95.597	95.497
9.15	98.683	98.652	98.624	98.597	98.617	98.586	9.50	95.721	95.623	95.531	95.445	95.511	95.409
9.16	98.596	98.563	98.533	98.505	98.526	98.492	9.51	95.639	95.539	95.445	95.357	95.424	95.320
9.17	98.509	98.475	98.443	98.413	98.435	98.399	9.52	95.557	95.455	95.359	95.270	95.338	95.232
9.18	98.423	98.386	98.352	98.321	98.345	98.307	9.53	95.475	95.371	95.273	95.182	95.252	95.144
9.19	98.336	98.298	98.262	98.229	98.254	98.214	9.54	95.393	95.287	95.188	95.095	95.166	95.056
9.20	98.250	98.210	98.172	98.137	98.163	98.121	9.55	95.311	95.203	95.102	95.008	95.080	94.968
9.21	98.164	98.122	98.082	98.045	98.073	98.029	9.56	95.229	95.119	95.017	94.921	94.994	94.881
9.22	98.078	98.034	97.992	97.954	97.983	97.937	9.57	95.147	95.036	94.932	94.834	94.909	94.793
9.23	97.992	97.946	97.903	97.862	97.893	97.845	9.58	95.066	94.952	94.846	94.747	94.823	94.706
9.24	97.907	97.858	97.813	97.771	97.803	97.753	9.59	94.984	94.869	94.761	94.661	94.738	94.618
9.25	97.821	97.771	97.724	97.680	97.713	97.661	9.60	94.903	94.786	94.676	94.574	94.653	94.531
9.26	97.735	97.683	97.634	97.589	97.623	97.569	9.61	94.822	94.703	94.592	94.488	94.567	94.444
9.27	97.650	97.596	97.545	97.498	97.534	97.477	9.62	94.741	94.620	94.507	94.402	94.482	94.357
9.28	97.565	97.509	97.456	97.407	97.444	97.386	9.63	94.660	94.537	94.423	94.315	94.398	94.271
9.29	97.480	97.422	97.367	97.317	97.355	97.295	9.64	94.579	94.454	94.338	94.229	94.313	94.184
9.30	97.395	97.335	97.279	97.226	97.266	97.203	9.65	94.498	94.372	94.254	94.144	94.228	94.097
9.31	97.310	97.248	97.190	97.136	97.177	97.112	9.66	94.417	94.289	94.170	94.058	94.144	94.011
9.32	97.225	97.161	97.102	97.046	97.088	97.022	9.67	94.337	94.207	94.086	93.972	94.059	93.925
9.33	97.141	97.075	97.013	96.956	96.999	96.931	9.68	94.257	94.125	94.002	93.887	93.975	93.839
9.34	97.056	96.988	96.925	96.866	96.911	96.840	9.69	94.176	94.043	93.918	93.801	93.891	93.753

TABLE 4(CONT)

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 8.50 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT							NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT					
	LEVEL	GPM PLANS						LEVEL	GPM PLANS				
APR	PMT	I	II	III	IV	V	APR	PMT	I	II	III	IV	V
9.70	94.096	93.961	93.834	93.716	93.807	93.667	9.85	92.908	92.746	92.594	92.452	92.562	92.394
9.71	94.016	93.879	93.751	93.631	93.723	93.581	9.86	92.829	92.666	92.512	92.369	92.480	92.310
9.72	93.936	93.797	93.667	93.546	93.639	93.495	9.87	92.751	92.586	92.431	92.286	92.398	92.226
9.73	93.856	93.716	93.584	93.461	93.556	93.410	9.88	92.673	92.506	92.349	92.203	92.316	92.143
9.74	93.777	93.634	93.501	93.376	93.472	93.325	9.89	92.595	92.426	92.268	92.120	92.234	92.059
9.75	93.697	93.553	93.418	93.292	93.389	93.239	9.90	92.517	92.346	92.186	92.037	92.153	91.976
9.76	93.618	93.472	93.335	93.207	93.306	93.154	9.91	92.440	92.267	92.105	91.954	92.071	91.893
9.77	93.538	93.390	93.252	93.123	93.222	93.069	9.92	92.362	92.187	92.024	91.872	91.990	91.810
9.78	93.459	93.309	93.169	93.038	93.139	92.984	9.93	92.284	92.108	91.943	91.789	91.909	91.727
9.79	93.380	93.229	93.087	92.954	93.057	92.900	9.94	92.207	92.029	91.863	91.707	91.828	91.644
9.80	93.301	93.148	93.004	92.870	92.974	92.815	9.95	92.130	91.950	91.782	91.625	91.747	91.561
9.81	93.222	93.067	92.922	92.786	92.891	92.731	9.96	92.053	91.871	91.701	91.543	91.666	91.478
9.82	93.143	92.987	92.840	92.703	92.809	92.646	9.97	91.975	91.792	91.621	91.461	91.585	91.396
9.83	93.065	92.906	92.758	92.619	92.726	92.562	9.98	91.898	91.714	91.541	91.379	91.504	91.313
9.84	92.986	92.826	92.676	92.535	92.644	92.478	9.99	91.822	91.635	91.460	91.297	91.424	91.231

TABLE 5

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 8.75 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT							NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT					
	LEVEL	GPM PLANS						LEVEL	GPM PLANS				
APR	PMT	I	II	III	IV	V	APR	PMT	I	II	III	IV	V
9.25	99.999	99.999	99.999	99.999	99.999	100.000	9.60	97.016	96.946	96.880	96.819	96.866	96.794
9.26	99.912	99.910	99.908	99.906	99.908	99.906	9.61	96.933	96.861	96.794	96.731	96.779	96.705
9.27	99.825	99.821	99.817	99.813	99.816	99.812	9.62	96.850	96.776	96.707	96.642	96.692	96.616
9.28	99.737	99.731	99.726	99.720	99.724	99.718	9.63	96.767	96.691	96.620	96.554	96.605	96.527
9.29	99.650	99.642	99.635	99.628	99.633	99.625	9.64	96.684	96.607	96.534	96.466	96.519	96.438
9.30	99.564	99.553	99.544	99.535	99.542	99.531	9.65	96.602	96.522	96.448	96.378	96.432	96.350
9.31	99.477	99.465	99.453	99.442	99.451	99.438	9.66	96.519	96.438	96.362	96.290	96.346	96.261
9.32	99.390	99.376	99.363	99.350	99.360	99.345	9.67	96.437	96.354	96.276	96.203	96.259	96.173
9.33	99.304	99.287	99.272	99.258	99.269	99.252	9.68	96.355	96.269	96.190	96.115	96.173	96.085
9.34	99.217	99.199	99.182	99.166	99.178	99.159	9.69	96.273	96.186	96.104	96.028	96.087	95.997
9.35	99.131	99.111	99.092	99.074	99.088	99.066	9.70	96.191	96.102	96.018	95.940	96.001	95.909
9.36	99.045	99.023	99.002	98.982	98.997	98.974	9.71	96.109	96.018	95.933	95.853	95.915	95.821
9.37	98.959	98.935	98.912	98.890	98.907	98.881	9.72	96.027	95.934	95.847	95.766	95.829	95.733
9.38	98.873	98.847	98.822	98.799	98.817	98.789	9.73	95.946	95.851	95.762	95.679	95.744	95.646
9.39	98.787	98.759	98.732	98.707	98.727	98.697	9.74	95.864	95.767	95.677	95.592	95.658	95.558
9.40	98.702	98.671	98.643	98.616	98.637	98.605	9.75	95.783	95.684	95.592	95.506	95.573	95.471
9.41	98.616	98.584	98.554	98.525	98.547	98.513	9.76	95.701	95.601	95.507	95.419	95.488	95.384
9.42	98.531	98.497	98.464	98.434	98.457	98.422	9.77	95.620	95.518	95.422	95.333	95.402	95.297
9.43	98.446	98.409	98.375	98.343	98.368	98.330	9.78	95.539	95.435	95.338	95.247	95.318	95.210
9.44	98.361	98.322	98.286	98.253	98.278	98.239	9.79	95.458	95.352	95.253	95.160	95.233	95.123
9.45	98.276	98.235	98.197	98.162	98.189	98.147	9.80	95.378	95.270	95.169	95.074	95.148	95.036
9.46	98.191	98.148	98.109	98.072	98.100	98.056	9.81	95.297	95.187	95.085	94.988	95.063	94.950
9.47	98.106	98.062	98.020	97.981	98.011	97.965	9.82	95.216	95.105	95.000	94.903	94.979	94.863
9.48	98.021	97.975	97.932	97.891	97.922	97.874	9.83	95.136	95.023	94.916	94.817	94.894	94.777
9.49	97.937	97.889	97.843	97.801	97.834	97.783	9.84	95.056	94.940	94.832	94.731	94.810	94.691
9.50	97.853	97.802	97.755	97.711	97.745	97.693	9.85	94.976	94.858	94.749	94.646	94.726	94.605
9.51	97.768	97.716	97.667	97.621	97.657	97.602	9.86	94.895	94.776	94.665	94.561	94.642	94.519
9.52	97.684	97.630	97.579	97.532	97.568	97.512	9.87	94.816	94.695	94.581	94.476	94.558	94.433
9.53	97.600	97.544	97.491	97.442	97.480	97.422	9.88	94.736	94.613	94.498	94.391	94.475	94.348
9.54	97.516	97.458	97.404	97.353	97.392	97.332	9.89	94.656	94.531	94.415	94.306	94.391	94.262
9.55	97.432	97.372	97.316	97.263	97.304	97.242	9.90	94.576	94.450	94.332	94.221	94.307	94.177
9.56	97.349	97.287	97.229	97.174	97.216	97.152	9.91	94.497	94.369	94.249	94.136	94.224	94.092
9.57	97.265	97.201	97.141	97.085	97.129	97.062	9.92	94.417	94.287	94.166	94.052	94.141	94.006
9.58	97.182	97.116	97.054	96.996	97.041	96.973	9.93	94.338	94.206	94.083	93.967	94.058	93.921
9.59	97.099	97.031	96.967	96.908	96.954	96.883	9.94	94.259	94.125	94.000	93.883	93.975	93.837

TABLE 5(CONT)

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 8.75 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT							NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT					
	LEVEL	GPM PLANS						LEVEL	GPM PLANS				
APR	PMT	I	II	III	IV	V	APR	PMT	I	II	III	IV	V
9.95	94.180	94.044	93.917	93.799	93.892	93.752	10.10	93.008	92.845	92.693	92.551	92.663	92.495
9.96	94.101	93.964	93.835	93.715	93.809	93.667	10.11	92.930	92.766	92.612	92.469	92.582	92.413
9.97	94.022	93.883	93.753	93.631	93.726	93.583	10.12	92.853	92.687	92.532	92.386	92.501	92.330
9.98	93.943	93.802	93.670	93.547	93.644	93.498	10.13	92.776	92.608	92.451	92.304	92.420	92.247
9.99	93.865	93.722	93.588	93.463	93.561	93.414	10.14	92.699	92.530	92.371	92.223	92.340	92.165
10.00	93.786	93.642	93.506	93.380	93.479	93.330	10.15	92.623	92.451	92.291	92.141	92.259	92.083
10.01	93.708	93.562	93.425	93.296	93.397	93.246	10.16	92.546	92.373	92.211	92.059	92.179	92.000
10.02	93.630	93.482	93.343	93.213	93.315	93.162	10.17	92.469	92.294	92.131	91.978	92.098	91.918
10.03	93.552	93.402	93.261	93.130	93.233	93.078	10.18	92.393	92.216	92.051	91.896	92.018	91.836
10.04	93.474	93.322	93.180	93.047	93.151	92.995	10.19	92.316	92.138	91.971	91.815	91.938	91.755
10.05	93.396	93.242	93.098	92.964	93.069	92.911	10.20	92.240	92.060	91.891	91.734	91.858	91.673
10.06	93.318	93.162	93.017	92.881	92.988	92.828	10.21	92.164	91.982	91.812	91.653	91.778	91.591
10.07	93.240	93.083	92.936	92.798	92.906	92.744	10.22	92.088	91.904	91.732	91.572	91.699	91.510
10.08	93.163	93.004	92.855	92.716	92.825	92.661	10.23	92.012	91.827	91.653	91.491	91.619	91.429
10.09	93.085	92.924	92.774	92.633	92.744	92.578	10.24	91.936	91.749	91.574	91.410	91.540	91.347

TABLE 6

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 9.00 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT							NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT						
	LEVEL	GPM PLANS						LEVEL	GPM PLANS					
APR	PMT	I	II	III	IV	V	APR	PMT	I	II	III	IV	V	
9.50	99.999	99.999	99.999	100.000	99.999	100.000	9.85	97.059	96.989	96.923	96.862	96.910	96.838	
9.51	99.913	99.911	99.909	99.908	99.909	99.907	9.86	96.977	96.905	96.838	96.774	96.824	96.750	
9.52	99.827	99.823	99.819	99.816	99.819	99.814	9.87	96.895	96.821	96.752	96.687	96.738	96.662	
9.53	99.741	99.735	99.730	99.724	99.728	99.722	9.88	96.813	96.738	96.667	96.600	96.653	96.574	
9.54	99.656	99.647	99.640	99.633	99.638	99.630	9.89	96.732	96.654	96.581	96.513	96.567	96.487	
9.55	99.570	99.560	99.550	99.541	99.548	99.538	9.90	96.650	96.571	96.496	96.427	96.482	96.399	
9.56	99.484	99.472	99.461	99.450	99.458	99.446	9.91	96.569	96.488	96.411	96.340	96.396	96.312	
9.57	99.399	99.385	99.371	99.359	99.369	99.354	9.92	96.488	96.405	96.326	96.253	96.311	96.225	
9.58	99.314	99.298	99.282	99.268	99.279	99.262	9.93	96.407	96.322	96.242	96.167	96.226	96.138	
9.59	99.229	99.210	99.193	99.177	99.190	99.171	9.94	96.326	96.239	96.157	96.081	96.141	96.051	
9.60	99.144	99.123	99.104	99.086	99.100	99.079	9.95	96.245	96.156	96.073	95.994	96.056	95.964	
9.61	99.059	99.037	99.016	98.996	99.011	98.988	9.96	96.165	96.074	95.988	95.908	95.972	95.878	
9.62	98.974	98.950	98.927	98.905	98.922	98.897	9.97	96.084	95.991	95.904	95.823	95.887	95.791	
9.63	98.890	98.863	98.838	98.815	98.833	98.806	9.98	96.004	95.909	95.820	95.737	95.803	95.705	
9.64	98.805	98.777	98.750	98.725	98.745	98.715	9.99	95.923	95.827	95.736	95.651	95.718	95.618	
9.65	98.721	98.690	98.662	98.635	98.656	98.624	10.00	95.843	95.744	95.652	95.566	95.634	95.532	
9.66	98.636	98.604	98.574	98.545	98.567	98.534	10.01	95.763	95.662	95.568	95.480	95.550	95.446	
9.67	98.552	98.518	98.486	98.455	98.479	98.443	10.02	95.683	95.581	95.485	95.395	95.466	95.360	
9.68	98.468	98.432	98.398	98.366	98.391	98.353	10.03	95.603	95.499	95.401	95.310	95.382	95.275	
9.69	98.384	98.346	98.310	98.276	98.303	98.263	10.04	95.523	95.417	95.318	95.225	95.298	95.189	
9.70	98.301	98.260	98.222	98.187	98.215	98.173	10.05	95.444	95.336	95.234	95.140	95.215	95.103	
9.71	98.217	98.175	98.135	98.098	98.127	98.083	10.06	95.364	95.254	95.151	95.055	95.131	95.018	
9.72	98.133	98.089	98.047	98.008	98.039	97.993	10.07	95.285	95.173	95.068	94.970	95.048	94.933	
9.73	98.050	98.004	97.960	97.919	97.951	97.903	10.08	95.205	95.092	94.985	94.886	94.965	94.848	
9.74	97.967	97.918	97.873	97.831	97.864	97.814	10.09	95.126	95.011	94.902	94.801	94.882	94.763	
9.75	97.884	97.833	97.786	97.742	97.777	97.724	10.10	95.047	94.930	94.820	94.717	94.799	94.678	
9.76	97.801	97.748	97.699	97.653	97.689	97.635	10.11	94.968	94.849	94.737	94.633	94.716	94.593	
9.77	97.718	97.663	97.612	97.565	97.602	97.546	10.12	94.889	94.768	94.655	94.549	94.633	94.508	
9.78	97.635	97.579	97.526	97.477	97.515	97.457	10.13	94.810	94.688	94.572	94.465	94.550	94.424	
9.79	97.552	97.494	97.439	97.388	97.428	97.368	10.14	94.732	94.607	94.490	94.381	94.468	94.339	
9.80	97.470	97.409	97.353	97.300	97.342	97.280	10.15	94.653	94.527	94.408	94.297	94.385	94.255	
9.81	97.387	97.325	97.267	97.212	97.255	97.191	10.16	94.575	94.447	94.326	94.214	94.303	94.171	
9.82	97.305	97.241	97.181	97.124	97.169	97.102	10.17	94.497	94.366	94.244	94.130	94.221	94.087	
9.83	97.223	97.157	97.095	97.037	97.082	97.014	10.18	94.418	94.286	94.163	94.047	94.139	94.003	
9.84	97.141	97.073	97.009	96.949	96.996	96.926	10.19	94.340	94.206	94.081	93.964	94.057	93.919	

TABLE 6(CONT)

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 9.00 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT							NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT						
	LEVEL	GPM PLANS						LEVEL	GPM PLANS					
APR	PMT	I	II	III	IV	V	APR	PMT	I	II	III	IV	V	
10.20	94.262	94.127	93.999	93.880	93.975	93.836	10.35	93.106	92.943	92.791	92.648	92.762	92.595	
10.21	94.185	94.047	93.918	93.797	93.894	93.752	10.36	93.030	92.865	92.711	92.567	92.683	92.514	
10.22	94.107	93.967	93.837	93.715	93.812	93.669	10.37	92.954	92.787	92.632	92.486	92.603	92.432	
10.23	94.029	93.888	93.756	93.632	93.731	93.585	10.38	92.878	92.710	92.552	92.405	92.523	92.351	
10.24	93.952	93.809	93.675	93.549	93.649	93.502	10.39	92.802	92.632	92.473	92.324	92.443	92.269	
10.25	93.874	93.729	93.594	93.467	93.568	93.419	10.40	92.726	92.554	92.394	92.243	92.364	92.188	
10.26	93.797	93.650	93.513	93.384	93.487	93.336	10.41	92.650	92.477	92.315	92.163	92.285	92.107	
10.27	93.720	93.571	93.432	93.302	93.406	93.254	10.42	92.575	92.400	92.236	92.082	92.205	92.026	
10.28	93.643	93.492	93.352	93.220	93.325	93.171	10.43	92.499	92.322	92.157	92.002	92.126	91.945	
10.29	93.566	93.414	93.271	93.138	93.244	93.088	10.44	92.424	92.245	92.078	91.921	92.047	91.864	
10.30	93.489	93.335	93.191	93.056	93.164	93.006	10.45	92.349	92.168	91.999	91.841	91.968	91.783	
10.31	93.412	93.256	93.111	92.974	93.083	92.923	10.46	92.274	92.091	91.921	91.761	91.890	91.703	
10.32	93.335	93.178	93.031	92.892	93.003	92.841	10.47	92.198	92.015	91.842	91.681	91.811	91.622	
10.33	93.259	93.100	92.951	92.811	92.923	92.759	10.48	92.124	91.938	91.764	91.601	91.732	91.542	
10.34	93.182	93.021	92.871	92.729	92.843	92.677	10.49	92.049	91.861	91.686	91.522	91.654	91.462	

TABLE 7

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 9.25 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V	APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V
9.75	99.999	99.999	99.999	100.000	99.999	100.000	10.10	97.101	97.031	96.965	96.904	96.953	96.881
9.76	99.914	99.912	99.911	99.909	99.910	99.908	10.11	97.020	96.948	96.881	96.818	96.868	96.794
9.77	99.830	99.826	99.822	99.818	99.821	99.817	10.12	96.940	96.866	96.796	96.732	96.784	96.708
9.78	99.745	99.739	99.733	99.728	99.732	99.726	10.13	96.859	96.783	96.712	96.646	96.699	96.621
9.79	99.661	99.652	99.645	99.638	99.643	99.635	10.14	96.779	96.701	96.628	96.560	96.615	96.535
9.80	99.576	99.566	99.557	99.548	99.555	99.544	10.15	96.698	96.619	96.544	96.474	96.530	96.449
9.81	99.492	99.480	99.468	99.458	99.466	99.453	10.16	96.618	96.537	96.460	96.389	96.446	96.362
9.82	99.408	99.394	99.380	99.368	99.378	99.363	10.17	96.538	96.455	96.377	96.303	96.362	96.276
9.83	99.324	99.308	99.292	99.278	99.289	99.272	10.18	96.458	96.373	96.293	96.218	96.278	96.190
9.84	99.240	99.222	99.204	99.188	99.201	99.182	10.19	96.379	96.291	96.210	96.133	96.194	96.105
9.85	99.156	99.136	99.117	99.099	99.113	99.092	10.20	96.299	96.210	96.126	96.048	96.111	96.019
9.86	99.073	99.050	99.029	99.010	99.025	99.002	10.21	96.219	96.128	96.043	95.963	96.027	95.934
9.87	98.989	98.965	98.942	98.920	98.937	98.912	10.22	96.140	96.047	95.960	95.878	95.944	95.848
9.88	98.906	98.879	98.854	98.831	98.850	98.822	10.23	96.061	95.966	95.877	95.793	95.860	95.763
9.89	98.822	98.794	98.767	98.742	98.762	98.733	10.24	95.981	95.885	95.794	95.709	95.777	95.678
9.90	98.739	98.709	98.680	98.653	98.675	98.643	10.25	95.902	95.804	95.711	95.624	95.694	95.593
9.91	98.656	98.624	98.593	98.565	98.587	98.554	10.26	95.823	95.723	95.628	95.540	95.611	95.508
9.92	98.573	98.539	98.506	98.476	98.500	98.465	10.27	95.744	95.642	95.546	95.456	95.528	95.423
9.93	98.490	98.454	98.420	98.388	98.413	98.376	10.28	95.666	95.561	95.464	95.372	95.446	95.339
9.94	98.408	98.369	98.333	98.299	98.326	98.287	10.29	95.587	95.481	95.381	95.288	95.363	95.254
9.95	98.325	98.285	98.247	98.211	98.240	98.198	10.30	95.509	95.400	95.299	95.204	95.281	95.170
9.96	98.243	98.200	98.161	98.123	98.153	98.109	10.31	95.430	95.320	95.217	95.120	95.198	95.085
9.97	98.160	98.116	98.074	98.035	98.066	98.021	10.32	95.352	95.240	95.135	95.037	95.116	95.001
9.98	98.078	98.032	97.988	97.947	97.980	97.932	10.33	95.274	95.160	95.053	94.953	95.034	94.917
9.99	97.996	97.948	97.902	97.860	97.894	97.844	10.34	95.195	95.080	94.971	94.870	94.952	94.833
10.00	97.914	97.864	97.817	97.772	97.808	97.756	10.35	95.117	95.000	94.890	94.787	94.870	94.750
10.01	97.832	97.780	97.731	97.685	97.722	97.668	10.36	95.040	94.920	94.808	94.704	94.788	94.666
10.02	97.751	97.696	97.645	97.598	97.636	97.580	10.37	94.962	94.841	94.727	94.621	94.707	94.582
10.03	97.669	97.613	97.560	97.510	97.550	97.492	10.38	94.884	94.761	94.646	94.538	94.625	94.499
10.04	97.587	97.529	97.475	97.423	97.464	97.404	10.39	94.807	94.682	94.565	94.455	94.544	94.416
10.05	97.506	97.446	97.389	97.336	97.379	97.317	10.40	94.729	94.602	94.484	94.372	94.462	94.332
10.06	97.425	97.363	97.304	97.250	97.293	97.229	10.41	94.652	94.523	94.403	94.290	94.381	94.249
10.07	97.344	97.279	97.219	97.163	97.208	97.142	10.42	94.575	94.444	94.322	94.207	94.300	94.167
10.08	97.263	97.197	97.135	97.076	97.123	97.055	10.43	94.497	94.365	94.241	94.125	94.219	94.084
10.09	97.182	97.114	97.050	96.990	97.038	96.968	10.44	94.420	94.286	94.161	94.043	94.138	94.001

TABLE 7(CONT)

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 9.25 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V	APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V
10.45	94.344	94.208	94.080	93.961	94.058	93.918	10.60	93.203	93.040	92.887	92.744	92.861	92.694
10.46	94.267	94.129	94.000	93.879	93.977	93.836	10.61	93.128	92.963	92.809	92.664	92.782	92.613
10.47	94.190	94.051	93.920	93.797	93.897	93.754	10.62	93.053	92.886	92.730	92.584	92.703	92.533
10.48	94.113	93.972	93.840	93.715	93.816	93.671	10.63	92.978	92.809	92.652	92.504	92.624	92.452
10.49	94.037	93.894	93.760	93.634	93.736	93.589	10.64	92.903	92.733	92.573	92.424	92.546	92.372
10.50	93.961	93.816	93.680	93.552	93.656	93.507	10.65	92.828	92.656	92.495	92.344	92.467	92.292
10.51	93.884	93.738	93.600	93.471	93.576	93.426	10.66	92.753	92.580	92.417	92.265	92.389	92.212
10.52	93.808	93.660	93.520	93.390	93.496	93.344	10.67	92.679	92.503	92.339	92.185	92.311	92.132
10.53	93.732	93.582	93.441	93.309	93.416	93.262	10.68	92.604	92.427	92.261	92.106	92.233	92.052
10.54	93.656	93.504	93.361	93.228	93.336	93.181	10.69	92.530	92.351	92.183	92.026	92.155	91.972
10.55	93.580	93.426	93.282	93.147	93.257	93.099	10.70	92.456	92.275	92.106	91.947	92.077	91.892
10.56	93.505	93.349	93.203	93.066	93.177	93.018	10.71	92.381	92.199	92.028	91.868	91.999	91.813
10.57	93.429	93.272	93.124	92.985	93.098	92.937	10.72	92.307	92.123	91.951	91.789	91.921	91.733
10.58	93.354	93.194	93.045	92.905	93.019	92.856	10.73	92.233	92.048	91.873	91.710	91.844	91.654
10.59	93.278	93.117	92.966	92.824	92.940	92.775	10.74	92.160	91.972	91.796	91.632	91.766	91.575

TABLE 8

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 9.50 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V	APR	LEVEL PMT	GPM PLANS I	II	III	IV	V
10.00	99.999	99.999	99.999	100.000	100.000	100.000	10.35	97.142	97.072	97.007	96.945	96.995	96.924
10.01	99.916	99.914	99.912	99.910	99.912	99.910	10.36	97.063	96.991	96.923	96.860	96.912	96.838
10.02	99.832	99.828	99.824	99.821	99.824	99.820	10.37	96.983	96.910	96.840	96.775	96.828	96.753
10.03	99.749	99.743	99.737	99.732	99.736	99.730	10.38	96.904	96.828	96.757	96.690	96.745	96.667
10.04	99.666	99.657	99.650	99.643	99.648	99.640	10.39	96.825	96.747	96.674	96.606	96.662	96.582
10.05	99.582	99.572	99.563	99.554	99.561	99.550	10.40	96.746	96.666	96.591	96.521	96.578	96.497
10.06	99.499	99.487	99.476	99.465	99.474	99.461	10.41	96.667	96.585	96.509	96.437	96.495	96.412
10.07	99.417	99.402	99.389	99.376	99.386	99.372	10.42	96.588	96.504	96.426	96.353	96.413	96.327
10.08	99.334	99.317	99.302	99.288	99.299	99.283	10.43	96.509	96.424	96.344	96.268	96.330	96.242
10.09	99.251	99.233	99.215	99.199	99.212	99.194	10.44	96.430	96.343	96.261	96.184	96.247	96.158
10.10	99.168	99.148	99.129	99.111	99.126	99.105	10.45	96.352	96.263	96.179	96.100	96.165	96.073
10.11	99.086	99.064	99.043	99.023	99.039	99.016	10.46	96.273	96.182	96.097	96.017	96.082	95.989
10.12	99.004	98.979	98.956	98.935	98.952	98.927	10.47	96.195	96.102	96.015	95.933	96.000	95.905
10.13	98.922	98.895	98.870	98.847	98.866	98.839	10.48	96.117	96.022	95.933	95.849	95.918	95.820
10.14	98.839	98.811	98.784	98.759	98.780	98.750	10.49	96.039	95.942	95.851	95.766	95.836	95.736
10.15	98.758	98.727	98.698	98.672	98.693	98.662	10.50	95.961	95.862	95.769	95.682	95.754	95.653
10.16	98.676	98.643	98.613	98.584	98.607	98.574	10.51	95.883	95.782	95.688	95.599	95.672	95.569
10.17	98.594	98.559	98.527	98.497	98.521	98.486	10.52	95.805	95.703	95.606	95.516	95.590	95.485
10.18	98.512	98.476	98.442	98.409	98.435	98.398	10.53	95.727	95.623	95.525	95.433	95.508	95.402
10.19	98.431	98.392	98.356	98.322	98.350	98.310	10.54	95.650	95.544	95.444	95.350	95.427	95.318
10.20	98.349	98.309	98.271	98.235	98.264	98.223	10.55	95.572	95.464	95.363	95.267	95.346	95.235
10.21	98.268	98.226	98.186	98.148	98.179	98.135	10.56	95.495	95.385	95.282	95.185	95.264	95.152
10.22	98.187	98.143	98.101	98.062	98.093	98.048	10.57	95.418	95.306	95.201	95.102	95.183	95.069
10.23	98.106	98.060	98.016	97.975	98.008	97.961	10.58	95.341	95.227	95.120	95.020	95.102	94.986
10.24	98.025	97.977	97.931	97.889	97.923	97.873	10.59	95.264	95.148	95.039	94.938	95.021	94.903
10.25	97.944	97.894	97.847	97.802	97.838	97.786	10.60	95.187	95.069	94.959	94.855	94.940	94.820
10.26	97.864	97.811	97.762	97.716	97.753	97.700	10.61	95.110	94.991	94.878	94.773	94.860	94.738
10.27	97.783	97.729	97.678	97.630	97.669	97.613	10.62	95.033	94.912	94.798	94.691	94.779	94.655
10.28	97.703	97.646	97.593	97.544	97.584	97.526	10.63	94.957	94.834	94.718	94.610	94.699	94.573
10.29	97.622	97.564	97.509	97.458	97.500	97.440	10.64	94.880	94.755	94.638	94.528	94.618	94.491
10.30	97.542	97.482	97.425	97.372	97.415	97.353	10.65	94.804	94.677	94.558	94.446	94.538	94.409
10.31	97.462	97.400	97.341	97.286	97.331	97.267	10.66	94.727	94.599	94.478	94.365	94.458	94.327
10.32	97.382	97.318	97.257	97.201	97.247	97.181	10.67	94.651	94.521	94.398	94.284	94.378	94.245
10.33	97.302	97.236	97.174	97.116	97.163	97.095	10.68	94.575	94.443	94.319	94.202	94.298	94.163
10.34	97.222	97.154	97.090	97.030	97.079	97.009	10.69	94.499	94.365	94.239	94.121	94.218	94.082

TABLE 8(CONT)

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 9.50 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V	APR	LEVEL PMT	GPM PLANS I	II	III	IV	V
10.70	94.423	94.287	94.160	94.040	94.139	94.000	10.85	93.298	93.135	92.982	92.839	92.957	92.791
10.71	94.348	94.210	94.081	93.959	94.059	93.919	10.86	93.224	93.059	92.904	92.759	92.880	92.712
10.72	94.272	94.132	94.001	93.879	93.980	93.837	10.87	93.150	92.983	92.827	92.680	92.802	92.632
10.73	94.196	94.055	93.922	93.798	93.901	93.756	10.88	93.076	92.908	92.750	92.601	92.724	92.553
10.74	94.121	93.978	93.843	93.717	93.821	93.675	10.89	93.002	92.832	92.672	92.523	92.647	92.473
10.75	94.046	93.901	93.765	93.637	93.742	93.594	10.90	92.928	92.756	92.595	92.444	92.569	92.394
10.76	93.970	93.824	93.686	93.557	93.663	93.513	10.91	92.855	92.681	92.518	92.365	92.492	92.315
10.77	93.895	93.747	93.607	93.476	93.584	93.433	10.92	92.781	92.606	92.441	92.287	92.415	92.236
10.78	93.820	93.670	93.529	93.396	93.506	93.352	10.93	92.708	92.530	92.364	92.208	92.338	92.157
10.79	93.745	93.593	93.450	93.316	93.427	93.272	10.94	92.634	92.455	92.287	92.130	92.261	92.078
10.80	93.671	93.517	93.372	93.236	93.348	93.191	10.95	92.561	92.380	92.211	92.052	92.184	92.000
10.81	93.596	93.440	93.294	93.157	93.270	93.111	10.96	92.488	92.305	92.134	91.974	92.107	91.921
10.82	93.521	93.364	93.216	93.077	93.192	93.031	10.97	92.415	92.230	92.058	91.896	92.030	91.843
10.83	93.447	93.287	93.138	92.997	93.114	92.951	10.98	92.342	92.156	91.981	91.818	91.954	91.765
10.84	93.372	93.211	93.060	92.918	93.035	92.871	10.99	92.269	92.081	91.905	91.740	91.877	91.686

TABLE 9

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 9.75 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V	APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V
10.25	99.999	99.999	100.000	100.000	100.000	100.000	10.60	97.183	97.113	97.048	96.986	97.037	96.966
10.26	99.917	99.915	99.913	99.911	99.913	99.911	10.61	97.105	97.033	96.965	96.902	96.955	96.881
10.27	99.835	99.831	99.827	99.823	99.826	99.822	10.62	97.027	96.953	96.883	96.818	96.872	96.797
10.28	99.752	99.746	99.741	99.735	99.740	99.733	10.63	96.948	96.873	96.801	96.735	96.790	96.713
10.29	99.670	99.662	99.655	99.647	99.653	99.645	10.64	96.870	96.793	96.720	96.651	96.708	96.628
10.30	99.589	99.578	99.569	99.560	99.567	99.557	10.65	96.792	96.713	96.638	96.568	96.626	96.545
10.31	99.507	99.494	99.483	99.472	99.481	99.469	10.66	96.714	96.633	96.556	96.484	96.544	96.461
10.32	99.425	99.411	99.397	99.385	99.395	99.380	10.67	96.637	96.553	96.475	96.401	96.462	96.377
10.33	99.343	99.327	99.312	99.297	99.309	99.292	10.68	96.559	96.473	96.393	96.318	96.380	96.293
10.34	99.262	99.244	99.226	99.210	99.223	99.205	10.69	96.481	96.394	96.312	96.235	96.299	96.210
10.35	99.181	99.160	99.141	99.123	99.138	99.117	10.70	96.404	96.315	96.231	96.152	96.217	96.126
10.36	99.099	99.077	99.056	99.036	99.052	99.029	10.71	96.327	96.235	96.150	96.069	96.136	96.043
10.37	99.018	98.994	98.971	98.949	98.967	98.942	10.72	96.249	96.156	96.069	95.987	96.055	95.960
10.38	98.937	98.911	98.886	98.863	98.882	98.855	10.73	96.172	96.077	95.988	95.904	95.974	95.877
10.39	98.856	98.828	98.801	98.776	98.797	98.768	10.74	96.095	95.998	95.907	95.822	95.893	95.794
10.40	98.775	98.745	98.716	98.690	98.712	98.680	10.75	96.018	95.919	95.827	95.740	95.812	95.711
10.41	98.695	98.662	98.632	98.603	98.627	98.594	10.76	95.941	95.841	95.746	95.657	95.731	95.629
10.42	98.614	98.580	98.547	98.517	98.542	98.507	10.77	95.865	95.762	95.666	95.575	95.651	95.546
10.43	98.534	98.497	98.463	98.431	98.457	98.420	10.78	95.788	95.684	95.586	95.493	95.570	95.464
10.44	98.453	98.415	98.379	98.345	98.373	98.334	10.79	95.712	95.605	95.505	95.412	95.490	95.381
10.45	98.373	98.333	98.295	98.259	98.288	98.247	10.80	95.635	95.527	95.425	95.330	95.410	95.299
10.46	98.293	98.251	98.211	98.173	98.204	98.161	10.81	95.559	95.449	95.345	95.248	95.329	95.217
10.47	98.213	98.169	98.127	98.088	98.120	98.075	10.82	95.483	95.371	95.266	95.167	95.249	95.135
10.48	98.133	98.087	98.043	98.002	98.036	97.989	10.83	95.407	95.293	95.186	95.086	95.169	95.053
10.49	98.053	98.005	97.960	97.917	97.952	97.903	10.84	95.331	95.215	95.106	95.004	95.090	94.972
10.50	97.974	97.923	97.876	97.832	97.868	97.817	10.85	95.255	95.137	95.027	94.923	95.010	94.890
10.51	97.894	97.842	97.793	97.747	97.785	97.731	10.86	95.179	95.060	94.948	94.842	94.930	94.809
10.52	97.815	97.761	97.709	97.662	97.701	97.646	10.87	95.103	94.982	94.868	94.761	94.851	94.727
10.53	97.736	97.679	97.626	97.577	97.618	97.560	10.88	95.028	94.905	94.789	94.681	94.771	94.646
10.54	97.656	97.598	97.543	97.492	97.534	97.475	10.89	94.952	94.827	94.710	94.600	94.692	94.565
10.55	97.577	97.517	97.460	97.407	97.451	97.390	10.90	94.877	94.750	94.631	94.519	94.613	94.484
10.56	97.498	97.436	97.378	97.323	97.368	97.305	10.91	94.802	94.673	94.552	94.439	94.534	94.403
10.57	97.419	97.355	97.295	97.238	97.285	97.220	10.92	94.727	94.596	94.474	94.359	94.455	94.322
10.58	97.341	97.274	97.212	97.154	97.202	97.135	10.93	94.652	94.519	94.395	94.278	94.376	94.241
10.59	97.262	97.194	97.130	97.070	97.120	97.050	10.94	94.577	94.443	94.317	94.198	94.297	94.161

TABLE 9(CONT)

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 9.75 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V	APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V
10.95	94.502	94.366	94.238	94.118	94.219	94.080	11.10	93.392	93.229	93.076	92.932	93.053	92.887
10.96	94.427	94.289	94.160	94.038	94.140	94.000	11.11	93.319	93.154	92.999	92.854	92.976	92.809
10.97	94.353	94.213	94.082	93.959	94.062	93.920	11.12	93.246	93.079	92.922	92.776	92.899	92.730
10.98	94.278	94.137	94.004	93.879	93.984	93.840	11.13	93.173	93.004	92.846	92.698	92.823	92.652
10.99	94.204	94.060	93.926	93.799	93.905	93.760	11.14	93.100	92.930	92.770	92.620	92.746	92.573
11.00	94.129	93.984	93.848	93.720	93.827	93.680	11.15	93.027	92.855	92.693	92.542	92.670	92.495
11.01	94.055	93.908	93.770	93.641	93.749	93.600	11.16	92.954	92.781	92.617	92.464	92.593	92.417
11.02	93.981	93.832	93.693	93.562	93.672	93.521	11.17	92.882	92.706	92.541	92.387	92.517	92.339
11.03	93.907	93.757	93.615	93.482	93.594	93.441	11.18	92.809	92.632	92.465	92.309	92.441	92.261
11.04	93.833	93.681	93.538	93.403	93.516	93.362	11.19	92.737	92.558	92.390	92.232	92.365	92.183
11.05	93.759	93.605	93.460	93.325	93.439	93.282	11.20	92.664	92.484	92.314	92.155	92.289	92.106
11.06	93.686	93.530	93.383	93.246	93.361	93.203	11.21	92.592	92.410	92.238	92.077	92.213	92.028
11.07	93.612	93.454	93.306	93.167	93.284	93.124	11.22	92.520	92.336	92.163	92.000	92.138	91.951
11.08	93.539	93.379	93.229	93.089	93.207	93.045	11.23	92.448	92.262	92.087	91.923	92.062	91.873
11.09	93.465	93.304	93.152	93.010	93.130	92.966	11.24	92.376	92.188	92.012	91.847	91.987	91.796

TABLE 10

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 10.00 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V	APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V
10.50	99.999	99.999	100.000	100.000	100.000	100.000	10.85	97.224	97.154	97.088	97.026	97.078	97.007
10.51	99.918	99.916	99.914	99.913	99.914	99.912	10.86	97.146	97.074	97.007	96.943	96.997	96.924
10.52	99.837	99.833	99.829	99.826	99.829	99.825	10.87	97.069	96.995	96.926	96.861	96.915	96.840
10.53	99.756	99.750	99.744	99.739	99.743	99.737	10.88	96.992	96.916	96.845	96.778	96.834	96.757
10.54	99.675	99.667	99.659	99.652	99.658	99.650	10.89	96.915	96.837	96.764	96.695	96.753	96.674
10.55	99.594	99.584	99.575	99.566	99.573	99.563	10.90	96.838	96.758	96.683	96.613	96.672	96.591
10.56	99.514	99.502	99.490	99.479	99.488	99.476	10.91	96.761	96.680	96.603	96.531	96.592	96.509
10.57	99.433	99.419	99.406	99.393	99.404	99.389	10.92	96.684	96.601	96.522	96.449	96.511	96.426
10.58	99.353	99.337	99.321	99.307	99.319	99.302	10.93	96.608	96.522	96.442	96.367	96.430	96.344
10.59	99.273	99.254	99.237	99.221	99.234	99.216	10.94	96.531	96.444	96.362	96.285	96.350	96.261
10.60	99.192	99.172	99.153	99.135	99.150	99.129	10.95	96.455	96.366	96.282	96.203	96.270	96.179
10.61	99.112	99.090	99.069	99.049	99.066	99.043	10.96	96.379	96.288	96.202	96.121	96.189	96.097
10.62	99.032	99.008	98.985	98.963	98.981	98.957	10.97	96.303	96.210	96.122	96.040	96.109	96.015
10.63	98.953	98.926	98.901	98.878	98.897	98.870	10.98	96.226	96.132	96.042	95.958	96.029	95.933
10.64	98.873	98.844	98.818	98.792	98.813	98.784	10.99	96.151	96.054	95.963	95.877	95.949	95.851
10.65	98.793	98.763	98.734	98.707	98.730	98.699	11.00	96.075	95.976	95.883	95.796	95.870	95.769
10.66	98.714	98.681	98.651	98.622	98.646	98.613	11.01	95.999	95.898	95.804	95.715	95.790	95.688
10.67	98.634	98.600	98.567	98.537	98.562	98.527	11.02	95.923	95.821	95.724	95.634	95.710	95.606
10.68	98.555	98.518	98.484	98.452	98.479	98.442	11.03	95.848	95.743	95.645	95.553	95.631	95.525
10.69	98.476	98.437	98.401	98.367	98.396	98.356	11.04	95.772	95.666	95.566	95.472	95.552	95.444
10.70	98.397	98.356	98.318	98.282	98.312	98.271	11.05	95.697	95.589	95.487	95.392	95.472	95.363
10.71	98.318	98.275	98.235	98.198	98.229	98.186	11.06	95.622	95.512	95.408	95.311	95.393	95.282
10.72	98.239	98.194	98.153	98.113	98.146	98.101	11.07	95.547	95.435	95.329	95.231	95.314	95.201
10.73	98.160	98.114	98.070	98.029	98.063	98.016	11.08	95.472	95.358	95.251	95.150	95.235	95.120
10.74	98.081	98.033	97.988	97.945	97.981	97.931	11.09	95.397	95.281	95.172	95.070	95.157	95.039
10.75	98.003	97.953	97.905	97.861	97.898	97.847	11.10	95.322	95.204	95.094	94.990	95.078	94.959
10.76	97.924	97.872	97.823	97.777	97.815	97.762	11.11	95.247	95.128	95.015	94.910	95.000	94.878
10.77	97.846	97.792	97.741	97.693	97.733	97.678	11.12	95.172	95.051	94.937	94.830	94.921	94.798
10.78	97.768	97.712	97.659	97.609	97.651	97.594	11.13	95.098	94.975	94.859	94.750	94.843	94.718
10.79	97.690	97.632	97.577	97.525	97.569	97.509	11.14	95.024	94.899	94.781	94.671	94.765	94.638
10.80	97.612	97.552	97.495	97.442	97.487	97.425	11.15	94.949	94.822	94.703	94.591	94.686	94.558
10.81	97.534	97.472	97.413	97.358	97.405	97.341	11.16	94.875	94.746	94.625	94.512	94.608	94.478
10.82	97.456	97.392	97.332	97.275	97.323	97.258	11.17	94.801	94.670	94.548	94.433	94.531	94.398
10.83	97.379	97.313	97.250	97.192	97.241	97.174	11.18	94.727	94.595	94.470	94.353	94.453	94.319
10.84	97.301	97.233	97.169	97.109	97.160	97.090	11.19	94.653	94.519	94.393	94.274	94.375	94.239

TABLE10(CONT)

ANNUAL PERCENTAGE RATES INCLUDING MORTGAGE INSURANCE PREMIUMS
FOR FHA INSURED LEVEL PAYMENT AND GPM AMORTIZATION PLANS
WITH A CONTRACT RATE OF 10.00 PERCENT, .5 PERCENT INSURANCE PREMIUM AND 30 - YEAR TERM

APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V	APR	NET PROCEEDS PER HUNDRED DOLLARS OF FACE AMOUNT LEVEL PMT	GPM PLANS I	II	III	IV	V
11.20	94.579	94.443	94.315	94.195	94.297	94.160	11.35	93.484	93.321	93.168	93.024	93.147	92.982
11.21	94.505	94.368	94.238	94.116	94.220	94.080	11.36	93.412	93.247	93.092	92.946	93.071	92.904
11.22	94.432	94.292	94.161	94.038	94.143	94.001	11.37	93.340	93.173	93.016	92.869	92.995	92.827
11.23	94.358	94.217	94.084	93.959	94.065	93.922	11.38	93.268	93.099	92.941	92.792	92.920	92.749
11.24	94.285	94.142	94.007	93.880	93.988	93.843	11.39	93.196	93.026	92.866	92.715	92.844	92.672
11.25	94.212	94.067	93.930	93.802	93.911	93.764	11.40	93.124	92.952	92.790	92.638	92.769	92.595
11.26	94.138	93.992	93.853	93.724	93.834	93.686	11.41	93.052	92.879	92.715	92.562	92.693	92.518
11.27	94.065	93.917	93.777	93.645	93.758	93.607	11.42	92.981	92.805	92.640	92.485	92.618	92.441
11.28	93.992	93.842	93.700	93.567	93.681	93.528	11.43	92.909	92.732	92.565	92.409	92.543	92.364
11.29	93.919	93.767	93.624	93.489	93.604	93.450	11.44	92.838	92.659	92.490	92.332	92.468	92.287
11.30	93.847	93.693	93.548	93.411	93.528	93.372	11.45	92.766	92.586	92.416	92.256	92.393	92.210
11.31	93.774	93.618	93.471	93.334	93.451	93.294	11.46	92.695	92.513	92.341	92.180	92.318	92.134
11.32	93.701	93.544	93.395	93.256	93.375	93.215	11.47	92.624	92.440	92.266	92.104	92.243	92.057
11.33	93.629	93.469	93.319	93.178	93.299	93.138	11.48	92.553	92.367	92.192	92.028	92.169	91.981
11.34	93.556	93.395	93.243	93.101	93.223	93.060	11.49	92.482	92.294	92.118	91.952	92.094	91.905

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[FR Doc. 78-26173 Filed 9-18-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

period from the occurrence of a disaster provides sufficient time for State authorities to survey the damage and

later the declaration is made, the more accurate damage assessments can be. We also recognize that Farmers Home

the SBA Regional Office having jurisdiction over that State within 60 days of the occurrence of the disaster. The

and Pennsylvania Avenue NW., Washington, D.C. 20580.

these changes is that children born out of wedlock who have the right to inherit their parent's property under

[8025-01]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 123]

DISASTER LOANS

Procedure for Requesting Disaster Declarations and Time Limit for Request

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: SBA issued a regulation § 123.1(a) on March 31, 1977 (42 FR 17102), setting forth the criteria for an SBA disaster declaration. However, the procedure to be followed in requesting a declaration was not included. The procedure as set forth in this rule would be the same as has been followed except that a time limitation of 60 days after the occurence of the disaster in which the request will be accepted is included. Although requests for drought declarations must be submitted within 60 days of the occurrence of the drought, loans will not be processed for partial losses until the harvesting of the affected crop is completed in order that damage assessments will be accurate. Total losses will be processed when a disaster is declared.

DATE: Comments should be forwarded by November 20, 1978.

ADDRESS: Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Richard L. Wray, Financial Analyst, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, 202-653-6470.

SUPPLEMENTARY INFORMATION: SBA's statutory authority for making physical disaster loans is limited to repair and replacement of the damaged property and certain limited refinancing. See 42 U.S.C. 4451(a) (2) and (3). Delays in seeking a declaration based on a physical disaster deny victims of a disaster the speedy financial assistance intended by the program and also result in difficulty in determining the actual damage suffered for which SBA assistance may be available. This difficulty ensues because of repairs which may have been made, removal of damaged and destroyed property, and postdisaster damage which is not eligible for SBA assistance. These factors make it difficult for both the disaster victim and SBA to determine the legal amount of a loan. The agency has determined that a 60-day period from the occurrence of a disaster provides sufficient time for State authorities to survey the damage and request needed assistance from SBA, while the effects of the disaster will still be evident for loss verification by the SBA. In practice, most requests are presently received within 2 or 3 weeks of the disaster and the amendment will affect very few requests. The Administrator retains authority to make an exception to the 60-day requirement but does not expect to exercise it except in most unusual circumstances to avoid undue hardship to disaster victims. This regulation would also state the procedure which will continue to be followed in forwarding the request for a disaster declaration from the Governor of a State to the Administrator of SBA for decision. SBA has carefully considered the impact of the proposed regulation limiting the time within which SBA disasters may be requested. By insuring that early efforts are made to have a disaster declared, victims are more apt to receive assistance soon after the disaster when it is needed most rather than after months of delay. This will also help to prevent claims for nonrelated damage which cannot be covered by an SBA loan. No changes are being made in the criteria which must be met before SBA declares a disaster nor is any additional information being required from the Governors than is presently submitted with their requests. The proposed regulation will simply serve to advise the public of the necessity for determining the extent of damage and whether it meets SBA's disaster declaration criteria while the damage is ascertainable and help may be most urgently needed. If no request for a declaration is received, no disaster assistance is available from SBA either for physical or economic injury. In proposing this regulation, SBA recognizes that determining when a drought has reached sufficient proportions to constitute a disaster is a real problem. We have considered defining the occurrence to be when the moisture level in the soil reaches minus 2.5, the measurement used by the Presidential Drought Committee in 1977; we have considered using the dates during which it can be established that irreversible damage has been done to the growing crop and after which no amount of moisture will restore the crop; we have considered making no declarations until the normal harvest season is over so that the actual damage in the drought-stricken area can be ascertained along with the damage suffered by individual farmers. However, we believe that early determinations may be helpful to farmers in planning for remedial measures they may take and in arranging needed financing but the later the declaration is made, the more accurate damage assessments can be. We also recognize that Farmers Home Administration assistance on an individual basis is available and that SBA assistance may not be necessary by harvest season.

SBA is requesting comments on the alternatives suggested above or other factors which can be used in finalizing this regulation.

SBA intends, in those cases in which a disaster occurs over a period of several days, to use the first date to determine the interest rate for that disaster and the last date as the date on which the 60-day period for requesting a declaration begins to run.

The proposed regulation would have no effect on procedures utilized by the Federal Disaster Assistance Administration or the Department of Agriculture or SBA's operations in response to major or agricultural disasters.

The proposed regulation would also formalize existing instructions that applications for loans for partial crop losses will not be processed or approved until after the normal harvest season for that crop. Total losses will be processed will be processed as at present upon declaration of a disaster area. This makes SBA procedure comparable to procedures established by Farmers Home Adminstration (FmHA) and allows SBA to process a loan for the actual damage incurred rather than an estimated loss and eliminates paperwork for both the applicant and SBA. SBA disaster declarations will allow for the time between the incident date and the normal harvest date so that no eligible applicants will be denied the opportunity to apply for a loan.

SBA has determined that no ecomomic impact statement is required since these proposed regulations formalize existing procedures.

SBA will continue to evaluate the changes proposed and implemented to determine their effect on disaster loan recipients and make such changes as will promote efficiency in the delivery of program benefits.

Pursuant to the authority of sections 5(b)(6) (15 U.S.C. 634(b)) and 7(b)(1) (15 U.S.C. 636(b)) of the Small Business Act, as amended, part 123 of chapter I, title 13 of the Code of Federal Regulations would be amended as follows:

1. Section 123.1(a) would be amended by adding a new paragraph (3) as follows:

§ 123.1 General.

(a) *Disaster loan authority.* • • •

(3) When the Governor of a State desires SBA to issue a disaster declaration with respect to a physical disaster in that State, such request with supporting documentation shall be sent to the SBA Regional Office having jurisdiction over that State within 60 days of the occurrence of the disaster. The Regional Office will evaluate the request and forward it, with a recommendation for decline or approval to the Associate Administrator for Operations, who will forward it to the Administrator with a recommendation for approval or decline. The Administrator will take final action and if the request is approved, publish a notice of disaster declaration in the FEDERAL REGISTER. The Administrator may in case of undue hardship extend the filing time for requests.

2. Section 123.2(a)(2)(i) would be amended by adding a sentence to the existing paragraph so that the paragraph as amended would read as follows:

§ 123.2 Eligibility.

(a) • • •

(2) • • •

(i) Assistance may be extended for full or partial farm product losses (crop losses or dead livestock) which have been suffered as a result of a physical disaster. However, no loans will be approved for partial crop losses until the normal harvest season has passed in order that the actual loss will have been ascertained.

• • • • • •

(Catalog of Federal Domestic Assistance 59.008, Physical Disaster Loans.)

Dated: September 12, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-26287 Filed 9-18-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 781 0013]

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN, AND HELPERS OF AMERICA, LOCAL UNION 959

Extension of Time

AGENCY: Federal Trade Commission.

ACTION: Comment period extended for 61 days.

SUMMARY: The period of time for filing comments on the consent agreement has been extended for 61 days to November 15, 1978.

DATES: Comments must be received on or before November 15, 1978.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

William C. Erxleben, Director, Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Building, 915 Second Avenue, Seattle, Wash. 98174, 206-442-4655.

SUPPLEMENTARY INFORMATION: The consent agreement and analysis to aid public comment were published in the FEDERAL REGISTER on Wednesday, July 19, 1978, 43 FR 31022.

By letter dated September 1, 1978, the National Labor Relations Board has requested the Commission to extend the comment period to November 15, 1978, in order to facilitate filing of comments by the Board. Accordingly, notice is hereby given that the Commission has extended the comment period for an additional 61 days to and including November 15, 1978.

By direction of the Commission dated September 13, 1978.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-26349 Filed 9-18-78; 8:45 am]

[4110-07]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 404]

[Reg. No. 4]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Old-Age, Disability, Dependents' and Survivors' Insurance Benefits

AGENCY: Social Security Administration, HEW.

ACTION: Notice of Decision to Recodify Regulations.

SUMMARY: The Social Security Administration is planning to recodify into one subpart, its current regulations on the requirements for social security benefits under Title II of the Social Security Act. These regulations describe what is required to qualify for benefits, what the benefit rates are, when a person's right to benefits begins and ends, and how family relationship determinations are made. The recodified regulation will accomplish the following goals:

(1) Provide rules in one subpart that are clearer, simpler, and meet the Department's "Operation Common Sense" standards.

(2) Reflect in the regulations two changes in the program which have resulted from court decisions. One of these changes is that children born out of wedlock who have the right to inherit their parent's property under the inheritence laws of the State where the worker has permanent residence are assumed to meet the dependency requirement for child's benefits. The other change is that the divorced husband of a worker may receive husband's benefits.

(3) Include in the regulations to provisions of the Social Security Amendments of 1977. One of these provisions, effective for months after December 1978, permits widows and widowers who remarry at age 60 or later to continue to receive their full widow's or widower's benefit. The other provision also effective for months after December 1978, reduces from 20 years to 10 years, the time a divorced spouse must have been married to the worker to qualify for wife's, husband's, or widow's benefits.

This recodified regulation will affect Subparts D and L of 20 CFR Part 404. The Department has classified the recodified regulation as policy significant.

FOR FURTHER INFORMATION CONTACT:

Ray Worley, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 20235, telephone: 301-594-5744.

Date: July 26, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

[FR Doc. 78-26263 Filed 9-18-78; 8:45 am]

[1505-01]

Food and Drug Administration

[21 CFR Part 73]

[Docket No. 77C-0208]

LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

Ferric Ammonium Ferrocyanide

Correction

In FR Doc. 78-22657 appearing at page 36110 in the issue for Tuesday, August 15, 1978, in the fifth line of the "Summary" paragraph, change "cobait" to read "cobalt", and in the first column of page 36111, three lines from the bottom of the first full paragraph, change "cobait" to "cobalt".

[1505-01]

[21 CFR Part 347]

[4210-01]

DEPARTMENT OF HOUSING AND

ACTION: Information briefing on proposed permanent program regulations.

SUMMARY: The Office of Surface

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

SUPPLEMENTAL INFORMATION: On July 6, 1978 the State of New Jersey submitted to the Environmen-

ii. Population density of the surrounding area;

iii. Dispersion characteristics of the source;

[1505-01]

[21 CFR Part 347]

[Docket No. 78N-0021]

SKIN PROTECTANT DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Establishment of a Monograph; Notice of Proposed Rulemaking

Correction

In FR Doc. 78-21164 appearing at page 34628 in the issue for Friday, August 4, 1978, make the following corrections:

(1) On page 34632, in the first column, in paragraph "c.", in the first line, "petition" should be corrected to read "partition".

(2) Also on page 34632, in the first column, under the heading "III. SKIN PROTECTANTS, A. GENERAL COMMENTS", in the first paragraph, in the first line, insert the word "very" after the word "their".

(3) On page 34632, in the third column, in the second paragraph in the discussion of "a. *Allantoin.*", in the third line, the word "prisma" should be "prisms".

(4) On page 34636, in the first column, in the first full paragraph, in the 8th line, insert "glove" immediately before the word "powders".

(5) Also on page 34636, in the middle column, in the list of references, the citation "OTC Volume 060137" should be preceded by the number "(3)".

(6) On page 34637 in the middle column, in the first full paragraph, in the 17th line from the bottom of the paragraph, "urination of defecation" should read "urination or defecation".

(7) On page 34640, in the middle column, in the 5th paragraph, in the 6th line, insert "sodium" immediately before bicarbonate".

(8) On page 34642, in the first column, under "CATEGORY I LABELING", in paragraph (6), in the fourth line, the word "and" should be "any".

(9) On page 34643, in the third column, in the first full paragraph, in the third line from the bottom of the paragraph, insert "such" immediately before "as".

(10) On page 34644, in the middle column, in the third line from the top, "coalgulum" should be corrected to read "coagulum".

(11) Also on page 34644, in the middle column, in the fourth line from the top, the word "benefical" should be "beneficial".

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4361]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Orange County, Calif.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 35492 of the FEDERAL REGISTER of August 10, 1978, on proposed flood elevation determinations for Orange County, Calif.

EFFECTIVE DATE: August 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The following correction is made:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
(Lower) Santiago Creek.	Southern Pacific RR—25 ft**.	278

**Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26154 Filed 9-18-78; 8:45 am]

[4310-05]

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[30 CFR Chapter VII]

Public Briefing on Proposed Permanent Program Regulations

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Information briefing on proposed permanent program regulations.

SUMMARY: The Office of Surface Mining announces that it will hold a public information briefing to highlight sections of the proposed permanent program regulations and answer questions concerning their format and the procedures which will be followed during and subsequent to the public comment period on the proposed rules.

DATE: September 22, 1978.

ADDRESS: The public information briefing will be held in the Department of the Interior Auditorium, 18th and C Streets NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Patricia Foulk, Public Affairs Office, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240; 202-343-4719.

SUPPLEMENTARY INFORMATION: The Office of Surface Mining will hold a public information briefing between the hours of 10 and 12 noon on Friday, September 22, 1978. The purpose of this public briefing is to highlight provisions in the proposed permanent program regulations, published in the FEDERAL REGISTER on September 18, 1978, and respond to questions which members of the audience may have concerning the format of the regulations and the procedures to be followed during the public comment period and preparation of the final regulations. Members of the press and all interested individuals are invited to attend. Walter N. Heine, P.E., Director, Office of Surface Mining, and members of his staff will be present to conduct the information briefing and respond to questions. A court reporter will be present to prepare a verbatim transcript of the briefing session for use by the Office in preparing final regulations.

This meeting is intended to assist interested members of the public at an early stage in the public comment period to understand the major concepts and the structural format of the proposed permanent program regulations. The Office hopes that as a result of this public briefing the public will be better able to understand and comment during the public comment period on the proposed permanent program regulations.

Dated: September 15, 1978.

PAUL L. REEVES,
Acting Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 78-26462 Filed 9-18-78; 10:05 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 970-2]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Proposed Revision to the New Jersey State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency is proposing approval of two requests from the State of New Jersey to revise its air quality implementation plan. One request will be to incorporate into the implementation plan changes made by the State to its regulation, "Sulfur in Coal." The other request will be to incorporate into the implementation plan a Consent Judgment that requires that the Atlantic City Electric Co.'s Units No. 1 and No. 2 at its B.L. England Generating Station comply with the States applicable particulate emission requirements by 1981. With one exception, the changes in the State's sulfur-in-coal regulation only serve to reorganize and clarify the provisions of the regulation. The only substantive change made by the State has the effect of allowing an increase in the sulfur content of coal burned at the Atlantic City Electric Co. B.L. England Generating Station, Units 1 and 2, located in Cape May County.

DATES: Comments must be received on or before October 19, 1978.

ADDRESS: All comments should be addressed to: Eckardt C. Beck, Regional Administrator, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y. 10007.

Copies of the proposal are available for public inspection during normal business hours at:

U.S. Environmental Protection Agency, Region II Office, Air Programs Branch, Room 908, 26 Federal Plaza, New York, N.Y. 10007.

U.S. Environmental Protection Agency, Central Docket Section, Room 2903 B Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

New Jersey Department of Environmental Protection, John Fitch Plaza, P.O. Box 2807, Trenton, N.J. 08625.

FOR FURTHER INFORMATION CONTACT:

Wiliam S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y. 10007, 212-264-2517.

SUPPLEMENTAL INFORMATION: On July 6, 1978 the State of New Jersey submitted to the Environmental Protection Agency (EPA) two proposed revisions to its State Implementation Plan (SIP). The State requested that certain changes it made to its regulation, N.J.A.C. 7:27-10.1 et seq., "Sulfur in Coal," and a Consent Judgment by which Units 1 and 2 of the Atlantic City Electric Co.'s B.L. England Generating Station would be required to comply with the State's applicable particulate emission requirements by 1981 be approved by IPA for incorporation into the SIP. A public hearing had been held on these two revisions by New Jersey on April 21, 1978.

With one exception, all of the changes to the New Jersey regulation made by the State only serve to reorganize and clarify its provisions. The one substantive change to the regulation appears at subsection 10.2(d) and concerns the sulfur content of bituminous coal which may be used in Atlantic, Cape May, Cumberland, and Ocean Counties, N.J. in steam or electric power generating facilities.

Bituminous coal burning facilities in this area of the State were limited to the use of coal with a maximum sulfur content by weight of 1.5 percent, as prescribed in subsection 10.2(c) of the previous regulation. However, existing steam or electric power facilities in this area may now be authorized by the New Jersey Department of Environmental Protection (NJDEP) to use, for a period not exceeding 5 years, bituminous coal with a maximum sulfur content of 3.5 percent, by weight. Such authorization is based on the following conditions which appear in subsection 10.2(d):

1. The person responsible for the use of bituminous coal demonstrates that bituminous coal, containing 1 percent sulfur or less by weight and suitable for use in the specific steam or electric power generating facility, is not reasonably available in sufficient quantities; and

2. Sulfur dioxide levels in the ambient atmosphere will at no time exceed or jeopardize the ambient air quality standards set forth in subchapter 13 of this chapter; and

3. The sulfur content of the coal burned by the facility represents the minimum sulfur content coal which can be used by the facility and is reasonably available in sufficient quantity; and

4. The person responsible for the use of bituminous coal agrees to such monitoring and reporting requirements as the Department may deem appropriate to insure compliance with the conditions set forth in this subsection; and

5. The person responsible for the use of bituminous coal submits to the Department for such authorization an application which considers and addresses as a minimum, in addition to the above, the following criteria:

i. Physical surroundings of the coal fired steam or electric power generating facility;

ii. Population density of the surrounding area;

iii. Dispersion characteristics of the source;

iv. Topography of the immediate vicinity;

v. Esthetic or nuisance effects.

The effect of this change will be to allow the Atlantic City Electric Co. to use 3.5 percent sulfur content bituminous coal at its B.L. England powerplant, units 1 and 2. This plant is located at Beesley's Point in Cape May County, N.J., an area which is currently attaining primary and secondary ambient air quality standards for both sulfur dioxide and particulate matter.

As a part of its implementation plan revision request, New Jersey submitted to EPA a study done to evaluate the effects on ambient air quality of the proposed changes to "Sulfur in Coal." Based on EPA's review of this report and other technical material provided by the State, EPA has determined that the proposed revision, to "Sulfur in Coal," if approved, will not result in the contravention of any applicable ambient air quality standard.

The Consent Judgment between the Atlantic City Electric Co., and NJDEP which involves a joint enforcement effort by NJDEP and EPA provides compliance schedules for particulate emissions from Units 1 and 2 at the B.L. England Generating Station. These compliance schedules require the company to issue purchase orders for control equipment for particulate emissions by September 1978 and ultimately to comply with applicable particulate emission requirements by 1981. At the time of the July 6, 1978 submittal the Consent Judgment had not been finally approved, but on August 7, 1978 the State submitted a copy of the fully executed Judgment.

EPA finds the compliance schedules in Consent Judgment to be approvable but points out that they are summary in nature. The specific detailed substance of these schedules is provided in the following three references which are available along with the copies of the proposal for public inspection:

1. Letter dated December 6, 1977 from J. L. Jacobs, Atlantic City Electric Co., to H. Wortreich, NJDEP.

2. Detailed compliance schedule and accompanying explanatory material provided by Atlantic City Electric Co. to representatives of EPA at a November 29, 1977 meeting attended by the parties.

3. Final report prepared by GCA for EPA entitled "ESECA Compliance Schedule Evaluation" and dated July 1978.

EPA also points out that after July 1, 1979 failure by the company to accomplish any increment by the date called for in the compliance schedules may be cause for the company to be subject to a noncompliance penalty under section 120 of the Clean Air Act.

In view of the preceding remarks concerning the air quality impact of the revised "Sulfur-in-Coal" regula-

copying at the above address on weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5

planning services, in an otherwise approvable project which offers a broad range of services.

the Secretary to utilize his experience and expertise in making discretionary

a national standard or index. Of the comments recommending a specific

grant programs, and (2) national data are available with respect to individ-

V 43/182 SEP 1978 V 43

In view of the preceding remarks concerning the air quality impact of the revised "Sulfur-in-Coal" regulation and the acceptability of the compliance schedules in the Consent Judgment, EPA proposes to approve these revisions.

This notice is issued as required by section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted as to whether the proposed revisions to the New Jersey State Implementation Plan should be approved or disapproved. The Administrator's decision regarding approval or disapproval of these proposed plan revisions will be based on whether they meet the requirements of section 110(a)(2)(A)-(K) of the Clean Air Act and EPA regulations in 40 CFR part 51.

(Secs. 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7601).)

Dated: September 13, 1978.

ECKARDT C. BECK,
Regional Administrator,
Environmental Protection Agency.

[FR Doc. 78-26241 Filed 9-18-78; 8:45 am]

[4110-84]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 59]

GRANTS FOR FAMILY PLANNING SERVICES

Proposed Rulemaking

AGENCY: Public Health Service, HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Assistant Secretary for Health proposes changes in the regulation governing the award and administration of grants for family planning services. The proposed regulation, in fulfillment of statutory amendments, requires projects to offer natural family planning methods; raises the income levels below which individuals may receive services without charge; and assures local and regional entities that have been consolidated into larger projects, a voice in the decisionmaking of the consolidated grantee.

DATE: Comments must be received by November 3, 1978.

ADDRESSES: Written comments, preferably in triplicate, should be sent to the Director, Division of Policy Development, Bureau of Community Health Services, Health Services Administration, Room 6-17, 5600 Fishers Lane, Rockville, Md. 20857. All comments received in timely response to this notice will be considered and will be available for public inspection and copying at the above address on weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

FURTHER INFORMATION CONTACT:

Mr. Samuel Taylor, Public Health Advisor, Office for Family Planning, Bureau of Community Health Services, Room 7-49, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, telephone 301-443-2430.

SUPPLEMENTARY INFORMATION: This Notice sets forth proposals for implementing the amendments to title X of the Public Health Service Act (42 U.S.C. 300 et seq.) for the administration of grants for family planning services. The statute, as amended, requires the Secretary to issue regulations to implement these amendments. On April 11, 1977, the Secretary published a Notice of Intent to issue proposed rules and invited public comments. Summaries of the substantive comments received in response to that Notice and proposed changes to the regulation are set forth below.

1. Pub. L. 94-63 amended section 1001(a) of the Public Health Service Act (42 U.S.C. 300) to require that the range of family planning methods offered by family planning projects include natural family planning methods.

Sixty-six comments were received regarding natural family planning services under title X of the Act. Most of the comments urged that the regulation be amended to permit direct grant assistance to organizations which offer only natural family planning methods. This suggestion was rejected as contrary to the statute.

The statutory amendment states that family planning projects "shall offer a broad range of acceptable and effective family planning methods (including natural family planning methods)." The amendment reinforces the original requirement in the Family Planning Services and Population Research Act of 1970 that each project offer comprehensive family planning services. Therefore, grants cannot be made to entities which propose to offer only one method or a limited scope of methods, regardless of whether the single method is natural family planning or a particular intervention type. This requirement is consistent with the legislative intent to enable persons to make informed choices on the methods which best suit their needs and are compatible with their personal beliefs.

It should be noted, however, that a facility or entity offering only natural family planning methods can receive assistance under title X by participating, as a provider of natural family planning services, in an otherwise approvable project which offers a broad range of services.

2. There were recommendations to omit the requirement for medical services (e.g., a physician's examination, laboratory services, and referral to other medical facilities when indicated) as a component when providing natural family planning services. The requirement that projects offer a broad range of family planning methods is designed to assure that an individual seeking services is given sufficient information to make an informed choice of method. Medical services are necessary to assure that each individual may be fully informed. The requirement for a medical examination and other appropriated medical services is, therefore, retained.

3. Several comments recommended revision of data reporting requirements for the natural family planning components of projects so that more accurate data regarding current use of such methods would be available. Requiring specific data elements is inappropriate in regulations; therefore, no change in the regulation is necessary.

4. Several comments recommended inclusion of a definition of "natural family planning methods." This recommendation was not accepted because it is felt that, for program implementation, the term is adequately understood, and a definition at the present time might prove to be unduly restrictive as research in this area makes new information available.

5. Section 1001(b) of the act, as amended, assures local and regional entities of the right to apply directly for title X grants, and requires the Secretary by regulation to "fully provide for and protect such right." The legislative history shows that the intent of this provision is to prevent "systematic" consolidation of grantees. As the Secretary does not intend to undertake further extensive consolidation, and the present regulation fully protects the right of local and regional entities to apply directly for such assistance, no regulatory revision is necessary to protect this right.

One respondent requested that the regulation contain specific evaluation and award criteria to fulfill the requirement that the Secretary "fully provide for and protect" the right of local or regional entities to apply for title X grants, and implied that the lack of more detailed grant review and evaluation criteria effectively diminishes the right to apply and fairly complete. The six review criteria set forth in the regulation include four contained in the statute. The criteria are constructed to provide an adequate standard by which to judge among competing applicants, and thus permit

the Secretary to utilize his experience and expertise in making discretionary judgments based on varying and competing circumstances and interests. Yet the criteria are sufficiently explicit to provide prospective applicants with guidance on the project elements which are significant in making funding decisions. Therefore the present criteria are being retained. The respondent also objected to the absence of an appeals mechanism for unsuccessful initial applicants. In accordance with Department policy, because title X grants are discretionary project grants, no appeals procedure is provided for unsuccessful initial applicants.

The legislative history of section 1001(b) of the act, as amended, shows the further intent to assure local and regional entities of the right to participate in consolidation decisions which would affect their operations, as well as to assure potential and existing subgrantees of the right to participate in the ongoing decisionmaking of their respective consolidated grantees. Views were solicited as to the need for additional requirements to assure such participation.

Most responses to this issue favored a general approach so as to permit flexibility in arrangements for securing appropriate participation. Therefore it is proposed to require documentation in applications that entities which are potential subgrantees have been given an opportunity to participate in consolidation decisions, and existing (or potential) subgrantees are to be given the opportunity to participate in the ongoing decisionmaking of their respective consolidated grantees.

6. Pub. L. 94-63 amended section 1006(c) of the act to require that the Secretary define the term "low-income family" so as to ensure that economic status will not be a deterrent to participation in the programs assisted under title X. By statute, low-income individuals are the priority group to receive family planning services and may not be charged for such services. The present regulatory definition places low income at fixed dollar levels, for example, $5,000 annual income for a family of four. The legislative history of the amendment shows that it was intended that the levels be raised to dollar amounts which are more appropriate in today's economy. To revise these dollar levels, it was proposed in the Notice of Intent (NOI) that one approach could be for the Secretary to tie the income cut-off to an annually revised national standard or index. Alternative proposals and comments were invited.

Twenty-four comments were received, the majority of which supported the approach of defining "low income" by trying an income cut-off to a national standard or index. Of the comments recommending a specific level, most favored using 150 percent of the income levels established by the Community Services Administration (CSA) Income Poverty Guidelines.

Several comments recommended use of 80 percent of a State's median income, an income criterion used under title XX of the Social Security Act; and one writer urged that the Bureau of Labor Statistics (BLS) income levels be used as the standard instead of the CSA data.

These latter proposals were not accepted. Defining "low income" as 80 percent of each State's median income represents levels significantly higher than 150 percent of the CSA levels, and, therefore would tend to dilute the statutory priority. Because of the statutory prohibition on charges, adopting such a level could result in having persons who are able to pay receive services without charge, thereby using scarce resources inappropriately. In addition, it should be noted that, under title XX, 80 percent of each State's median income is not set forth as a criterion for "low income" but rather, as a ceiling above which individuals must be charged. State title XX agencies are not prohibited from charging persons with annual incomes below this level, and several States do charge such individuals for family planning services. The BLS levels also are too high for the purpose of the title X program, and, unlike the availability of nationwide data with respect to the CSA levels, national data are not available on the number of persons with incomes below the BLS levels. Such information would be needed to assure that program resources are utilized effectively.

A recommendation to delete income eligibility requirements for family planning services in low-income areas was also rejected. The statute imposes the requirement that procedures be established to define "low income" so as to assure that low-income persons receive priority for services and receive services without charge.

The Secretary has therefore concluded that "low income" is appropriately defined as 150 percent of the CSA Income Poverty Guidelines for the purpose of implementing the title X program. Defining "low income" at the 150 percent level provides a reasonable cut-off to assure that economic status will not be a deterrent to participation in the program, and it represents a significant increase over the levels set forth in the present regulation. This appears to be the most feasible current approach because (1) it provides uniformity in the administration of the progran and is compatible with eligibility criteria for several other Public Health Service (PHS) grant programs, and (2) national data are available with respect to individuals at or below the 150 percent level.

It is recognized that all measures of poverty and "low income" have serious limitations, and adoption of the CSA Income Poverty Guidelines as an index for implementing the family planning program does not mean that this measure is regarded as superior; simply, it is considered the most suitable within the statutory framework and the aims of the program.

Several comments recommended that the income eligibility and priority levels of the various PHS programs be consolidated. The Department is sensitive to this concern and is striving to bring about more uniformity. The differing goals and statutory bases of the various programs, however, often preclude consolidation or uniformity.

7. Seventeen comments were received in regard to payment for services. Although several respondents recommended waiving fees for certain groups. such as unemancipated minors, students, and persons with excessive medical expenses, the majority recommended inclusion of general criteria for such waivers on the basis that a detailed listing could be burdensome and limit flexibility. This recommendation was accepted and the regulatory language has been revised to reflect a general approach rather than a detailed enumeration of specific economic or other circumstances which would constitute the basis for a waiver. For the purpose of the program, individuals who do not meet the established income cut-offs, but who are nevertheless unable to pay for family planning services, would be considered "low income" if their economic or other circumstances warrant such a determination (e.g., teenageers who do not have access to their parents' income would be considered "low income" on the basis of their own resources).

Several comments recommended that voluntary contributions from low-income patients be authorized. Although both the statute and the regulation prohibit the imposition of fees with regard to low-income familes, There are no restrictions on receiving voluntary contributions. Thus, no change in the regulation is necessary.

8. In the NOI, the Secretary proposed, as a matter of policy, to require grantee assurance, without exception, that family planning services be available without discrimination on the basis of age, sex, or marital status. The present regulation prohibits such discrimination except when grantees can receive a waiver by demonstrating "good cause" for such a waiver. Public views were solicited in the NOI as to what problems would be created if the

exception for "good cause" were eliminated.

unable, for good cause shown, to pay for family planning services.

out application of any discounts. Where the cost of services is to be re-

the Project Director or his designee on the project staff.

(2) Evidence that local and regional entities (including existing and poten-

ral to other medical facilities when medically indicated.

(7) Provision for social services relat-ed to family planning, including coun-

(12) A description of the standards and qualifications which will be required for personnel (including the project director) and facilities used in

exception for "good cause" were eliminated.

The majority of the respondents objected to removal of the exception with respect to age discrimination. It was felt that legal problems could be created for physicians practicing in States with laws requiring parental consent for a minor to receive such services. In view of this potential conflict, the Secretary has retained the present regulatory provision which prohibits discrimination on the basis of age but does authorize a waiver for "good cause."

9. Several comments recommended the inclusion of regulatory procedures for notifying State agencies of Federal grants to entities in their statewide areas, so that planning can be more effective in regard to the need for services. Current program policy reflects the applicability of Part I of Office of Management and Budget (OMB) Circular No. A-95 and Title XV of the Public Health Service Act (which relates to review and approval by appropriate health planning agencies at local and State levels), although title XV was enacted after the publication of the present regulation. The revised regulation states the applicability of OMB Circular No. A-95 and title XV to family planning grants administered under title X.

The Secretary proposes to amend 42 CFR Part 59 as set forth below.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: April 25, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: September 11, 1978.

HALE CHAMPION,
Acting Secretary.

42 CFR Part 59 is proposed to be amended as follows:

1. Section 59.2(e) is revised to read as follows:

§ 59.2 Definitions.

* * * * *

(e) "Low-income family" means a social unit composed of one or more individuals living together as a household whose total annual income does not exceed 150 percent of the most recent applicable "CSA Income Poverty Guideline" issued by the Community Services Administration (45 CFR 1060.2), except that "low-income family" also includes members of families whose annual family income exceeds this amount but who, as determined by the project director, are unable, for good cause shown, to pay for family planning services.

* * * * *

§ 59.4 [Amended]

2. Section 59.4(c) is revised to read as follows:

* * * * *

(c) An applicant must indicate that prior to submission of the application, it has notified both the State and the Areawide A-95 Clearinghouse of its intent to apply for Federal assistance, in accordance with the requirements of OMB Circular No. A-95 Revised. Applications will not be formally reviewed without Clearinghouse comment or verification that no comments were made within the applicable period available to the Clearinghouses for comment.

* * * * *

3. Section 59.4 is amended by adding a new paragraph (d) to read as follows:

* * * * *

(d) An application must contain evidence that the applicable requirements of section 1513(e) of the Act relating to review and approval by the appropriate health planning agencies have been met.

4. Section 59.5 is revised to read as follows:

§ 59.5 Project requirements.

(a) An approvable application must contain the following:

(1) Assurances satisfactory to the Secretary that:

(i) Priority in the provision of services will be given to persons from low-income families; and

(ii) No charge will be made for services provided to any person from a low-income family except to the extent that payment will be made by a third party (including a Government agency) which is authorized or is under legal obligation to pay this charge. Charges will be made for services to persons other than those from low-income families in accordance with a schedule of discounts based on ability to pay, except that

(A) Charges to persons from families whose annual family income exceeds 250 percent of the CSA Income Poverty Guidelines will be made in accordance with a schedule of fees designed to recover the reasonable cost of providing services; and

(B) Where a third party (including a Government agency) is authorized or legally obligated to pay for services, effort will be made to obtain the appropriate third-party payments without application of any discounts. Where the cost of services is to be reimbursed under Title XIX or Title XX of the Social Security Act, a written agreement with the Title XIX or Title XX agency is required.

(iii) The project will not provide abortion as a method of family planning;

(iv) Acceptance by any individual of services provided by the project will be solely on a voluntary basis and no individual will be subjected to any coercion to receive services or to employ any particular method of family planning, and acceptance of services will not be a prerequisite to eligibility for, or receipt of, any other service or any other program of the applicant;[2] and

(v) Services will be made available in a manner which protects the dignity of the individual.

(2) Provisions for a broad range of acceptable and effective medically approved methods of family planning including natural family planning methods. (A facility or entity offering only natural family planning methods, or any other single method of family planning, can participate in a project as long as the entire project offers a broad range of family planning services.)

(b) In addition to the requirements of paragraph (a) of this section, an approved application must contain each of the following unless the Secretary determines that the applicant has established good cause for its omission:

(1) Assurances satisfactory to the Secretary that:

(i) Services will be made available without the imposition of any durational residency requirement or requirement that a physician has referred the patient;

(ii) Services will be made available without regard to religion, creed, age sex, parity, or marital status;

(iii) Family planning medical services will be performed under the direction of a physician with special training or experience in family planning; and

(iv) All services purchased for project participants will be authorized by

[2] Section 205 of Pub. L. 94-63 provides as follows:

"Any: (1) officer or employee of the United States, (2) officer or employee of any State, political subdivision of a State, or any other entity, which administers or supervises the administration of any program receiving Federal financial assistance, or (3) persons who receive, under any program receiving Federal assistance, compensation for services, who coerces or endeavors to coerce any person to undergo an abortion or sterilization procedure by threatening such person with the loss of, or disqualification for the receipt of, any benefit or service under a program receiving Federal financial assistance shall be fined not more than $1,000 or imprisoned for not more than one year, or both."

the Project Director or his designee on the project staff.

(2) Evidence that local and regional entities (including existing and potential subgrantees), which have previously provided or propose to provide family planning services to the area proposed to be served by the applicant, have been given an opportunity to participate to the maximum extent feasible in the development of the application to the extent that it relates to the consolidation of their service areas or health resources or would otherwise affect their operations.

(3) Provision for an opportunity for participation by existing or potential subgrantees to the maximum extent feasible in the ongoing policy decision-making of the project.

(4) Provisions of an opportunity for participation by persons broadly representative of all significant elements of the population to be served and by others in the community knowledgeable about the community's needs for family planning services, in the development, implementation, and evaluation of the project.

(5) Provision for preservice and in-service training for all project personnel.

(6) Provisions for medical services related to family planning, including physician's consultation, examination, prescription, and continuing supervision; laboratory examination; contraceptive supplies; and necessary referral to other medical facilities when medically indicated.

(7) Provision for social services related to family planning, including counseling, referral to and from other social and medical service agencies, and ancillary services which may be necessary to facilitate clinic attendance.

(8) Provision for diagnostic and treatment services for infertility.

(9) Provisions for coordination and use of referral arrangements with other providers of health care services, with local health and welfare departments, hospitals, voluntary agencies, and health services projects supported by other Federal programs.

(10) Provisions for informational and educational programs designed to achieve community understanding of the objective of the program, to inform the community of the availability of services and to promote continued participation in the project by persons to whom family planning services may be beneficial.

(11) In cases where the project will provide family planning services by contract or other similar arrangements with the actual provider of services, a plan which establishes rates and methods of payment for medical care. These payments must be made under agreements with a schedule of rates and payment procedures maintained by the grantee. The grantee must be prepared to prove that rates are reasonable and necessary.

(12) A description of the standards and qualifications which will be required for personnel (including the project director) and facilities used in carrying out the project.

5. Section 59.6(b) is revised to read as follows:

§ 59.6 Evaluation and grant awards.

* * * * *

(b)(1) The Secretary will determine the amount of any award on the basis of his determination of project costs (which shall be based on his estimate of the total costs necessary for the performance of the project) except that no grant may be made for a project for less than 90 percent of the project's costs as so determined, unless the grant is to be made for a project for which a grant was made under section 1001 of the Act for the fiscal year ending June 30, 1975, for less than 90 percent of its costs. In that case, the grant shall be made for a percentage of project costs which shall not be less than the percentage of costs for which the fiscal year 1975 was made.

(2) No grant may be made for an amount equal to 100 percent of the project's estimated costs.

* * * * *

[FR Doc. 78-26262 Filed 9-18-78; 8:45 am]

notices

is appropriate to establish the differential for replacement indices in existing timber sale contracts. This 24-month period will properly alleviate

River SPA Finance, Inc., and Suwannee River Phosphate Finance, Inc.:

The following language in the first paragraph of the notice of applica-

$157,000,000: *Provided*, That no funds authorized by this paragraph may be paid to subsidize the construction of any vessel which will not be offered for enrollment in

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

TOBACCO INSPECTION; THOMAS B. HALL, JR., AND MARVIN E. INGE, JR.

Public Hearing Regarding Application

Notice is hereby given of a public hearing to be held in the Conference Room of the Agricultural Building, Commerce Street, Kenbridge, Va. 29344, beginning at 10 a.m., e.s.t., on October 26, 1978, upon the application of Mr. Thomas B. Hall, Jr., T/A Virginia Dark Fired Tobacco Growers' Marketing Association, Inc., Farmville, Va., and Mr. Marvin E. Inge, Jr., T/A Planters Warehouse, Blackstone, Va., for tobacco inspection and price support services. Such public hearing will be conducted and evidence received pursuant to the concurrent and identical policy statements and regulations governing the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets (37 FR 24693, June 18, 1976).

Done at Washington, D.C., this 14th day of September 1978.

P. R. "BOBBY" SMITH,
Assistant Secretary for Marketing Services.

[FR Doc. 78-26284 Filed 9-18-78; 8:45 am]

[3410-11]

Forest Service

LUMBER PRICE INDEX TRENDS, PONDEROSA PINE

Final Policy

AGENCY: Forest Service, USDA.

ACTION: Final policy.

SUMMARY: This policy sets forth Forest Service procedures for the replacement of the current ponderosa pine index used for adjustment of contract rates in timber sale contracts with two new indices based on geographical areas.

FOR FURTHER INFORMATION CONTACT:

M. E. Chelstad or George M. Leonard, Timber Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, 202-447-4051.

SUPPLEMENTARY INFORMATION: On July 13, 1978, the Chief, Forest Service, published a Notice of Intent (43 FR 30086) which set forth procedures for replacing the single Western Wood Products Association (WWPA) ponderosa pine index with two indices based on geographical areas. These indices are used by Government agencies in the appraisal of public timber and to adjust prices paid for timber under certain timber sale contracts.

DISCUSSION OF RESPONSES TO NOTICE: Respondents suggested that holders of existing contracts be given the option of retaining the current index or converting to the appropriate replacement index. Western Wood Products Association proposes to discontinue publication of the present index. When this index becomes unavailable, existing contract language authorizes substitution of an acceptable index.

These differentials are:

Twenty-four month average indices (weighted) second quarter calendar year 1977 through second quarter calendar year 1978.

	Board feet (thousands)	Per 1,000 board feet
Ponderosa pine (1971 basis)	4,506,129.847	$286.87
Ponderosa pine, Coast-North Inland (1975-78 basis)	3,870,577.587	286.40
Per 1,000 difference		−0.47
Ponderosa pine (1971 basis)	4,506,129.847	286.87
Ponderosa pine, Rocky Mountain (1975-78 basis)	604,993.392	234.98
Per 1,000 difference		−51.89
Ponderosa pine (1971 basis)	4,506,129.847	286.87
Whitewoods (1974-75 basis)	1,864,180.867	178.88
Per 1,000 difference		−107.99

IMPLEMENTATION OF REPLACEMENT INDICES: The formula to adjust present contract base indices for ponderosa pine is:

New Base Index=(weighted 24-month average for replacement index)−(weighted 24-month average current index)+(present contract base index).

Transition of present contracts to the appropriate new index will be made during the fourth quarter of 1978.

New sale offerings advertised after October 1, 1978, will use the appropriate new indices.

Publication of the Ponderosa Pine Index (1971 Basis) will be discontinued after September 30, 1978, because continued publication would provide misleading price trends at an unnecessary administrative expense.

Some respondents suggested that because the Regional Forester in Denver has decided that new timber sales on the Black Hills National Forest should utilize the WWPA Whitewoods Index, the replacement index for ponderosa pine on existing contracts there should be the WWPA Whitewoods Index. To provide consistency of application in the use of WWPA indices in the appraisal of timber and adjustment of prices paid for timber under certain existing contracts in the Black Hills appraisal zone, the Ponderosa Pine Index (1971 Basis) in the contracts may be replaced with the WWPA Whitewoods Index (1974-75 Basis).

It was suggested that the period of time selected to calibrate the index change give due consideration to any bias resulting from seasonal variances.

In the opinion of the Forest Service, new indices are satisfactory indicators of market price trends of lumber if appropriate changes are made in present contract base indices, so that the same stumpage rates result under the new basis as under the old basis over a representative changeover period. It has been determined that the 24-month period, June 1976 through June 1978 is appropriate to establish the differential for replacement indices in existing timber sale contracts. This 24-month period will properly alleviate any seasonal bias.

Holders of existing contracts that are subject to base index changes will be notified in writing of the change by the appropriate Forest Service official.

Dated: September 12, 1978.

JOHN L. MCGUIRE,
Chief, Forest Service.

[FR Doc. 78-26268 Filed 9-18-78; 8:45 am]

[3410-01]

Office of the Secretary

CITIZENS ADVISORY COMMITTEE ON EQUAL OPPORTUNITY

Intent To Establish

Notice is hereby given that the Secretary of Agriculture proposes to establish a Citizens Advisory Committee on Equal Opportunity. The Committee will provide an impartial review of the Department's efforts to promote equal opportunity and will recommend needed changes in the Department's rules, regulations and orders to assure discrimination-free activities.

The Secretary has determined that establishment of the Committee is necessary and in the public interest in connection with the duties imposed on the Department of Agriculture by law.

Comments of interested persons concerning the establishment of this Committee may be submitted to the Director, Office of Equal Opportunity, Room 247-E, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, by October 4, 1978.

All written comments made pursuant to this notice will be available for public inspection at the above office during regular business hours.

JOAN S. WALLACE,
Assistant Secretary for Administration.

SEPTEMBER 13, 1978.

[FR Doc. 78-26267 Filed 9-18-78; 8:45 am]

[3510-15]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-603, Sub. 1]

Amendment to Applications

Notice is hereby given that the notice titled docket S-603 as published in the FEDERAL REGISTER on April 26, 1978 (43 FR 47856), is modified as follows to reflect an amendment dated August 25, 1978, filed on behalf of Suwannee River Finance, Inc., Suwannee River SPA Finance, Inc., and Suwannee River Phosphate Finance, Inc.:

The following language in the first paragraph of the notice of applications (docket No. S-603) is deleted:

• • • that will engage in the carriage of liquid phosphoric acid from ports on the east coast and gulf coast of the United States to destinations in the Union of Soviet Socialist Republics, directly or by transshipment, and the carriage of liquid and dry bulk cargoes in the foreign to foreign commerce or the U.S. import commerce on the return voyage in such ports in the United States • • •.

The following language is substituted in lieu of the deleted language:

• • • that will engage in the carriage of liquid and dry bulk cargoes in the export and import foreign commerce of the United States and between foreign ports • • •.

Interested parties may inspect this amendment to the applications described in docket No. S-603 in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Any person, firm, or corporation having an interest in such application and who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit such views and comments in writing, in triplicate, to the Secretary, Maritime Subsidy Board, by the close of business on September 25, 1978. The Maritime Subsidy Board will consider such views and comments and take such actions with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By order of the Maritime Subsidy Board.

Dated: September 13, 1978.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc. 78-26228 Filed 9-18-78; 8:45 am]

[3510-15]

MARITIME APPROPRIATION AUTHORIZATION ACT FOR FISCAL YEAR 1979

Notice is hereby given the Pub. L. 95-298 (92 Stat. 339), the Maritime Appropriation Authorization Act for fiscal year 1979, provides as follows with regard to construction-differential and operating-differential subsidy:

SEC. 2. Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce, for the fiscal year 1979, as follows: (1) For acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, not to exceed $157,000,000: *Provided*, That no funds authorized by this paragraph may be paid to subsidize the construction of any vessel which will not be offered for enrollment in a Sealift Readiness program approved by the Secretary of Defense: *Provided further*, That in paying the funds authorized by this paragraph, the construction subsidy rate otherwsie applicable may be reduced by 5 percent unless the Secretary of Commerce, in his discretion, determines that the vessel to be constructed is part of an existing or future vessel series;

(2) For payment of obligations incurred for operating-differential subsidy, not to exceed $262,800,000: *Provided*, That no funds authorized by this paragraph may be paid for the operation of any vessel which is not offered for participation in a Sealift Readiness program approved by the Secretary of Defense; • • •

A sealift readiness program has been established by the Military Sealift Command (MSC), Department of the Navy, for liner and for bulk cargo vessel operators, and the program has been approved by the Secretary of Defense.

By separate correspondence, current holders of operating-differential subsidy (ODS) contracts as well as former contract holders with open ODS accounts that could be settled and paid in fiscal year 1979, have been advised of the requirements of the program, the procedure for the submittal of vessel offers to the MSC, and that the offers are to be made prior to September 29, 1978.

With respect to construction-differential subsidy (CDS), applicants for CDS to aid in the construction of new vessels or reconstruction of existing vessels must, prior to the award of CDS, agree to offer such vessels to the MSC for enrollment in the sealift readiness program before CDS can be awarded which would obligate all or part of the $157,000,000 in CDS funds authorized for fiscal year 1979 by Pub. L. 95-298. Current and prospective CDS applicants may obtain information regarding the requirements of the sealift readiness program and the procedure for submittal of vessel offers to the MSC either from the Secretary, Maritime Administration, Department of Commerce, Washington, D.C. 20230, or the Commander, Military Sealift Command, Department of the Navy, Washington, D.C. 20390.

By order of the Maritime Subsidy Board, Maritime Administration.

Dated: September 13, 1978.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc. 78-26227 Filed 9-18-78; 8:45 am]

[3510-04]

National Technical Information Device

GOVERNMENT-OWNED INVENTIONS

Patent 981,176: Dual Frequency Acoustic Gas Composition Analyzer; filed September 16, 1974; patented September 21, 1976.

U.S. DEPARTMENT OF THE INTERIOR, Branch

filed September 8, 1975; patented October 12, 1976.

Patent 3,985,921: Treatment of Wood With Butylene Oxide; filed June 18, 1975; pat-

dressed to the System Manager identified in the system of records.

FOR FURTHER INFORMATION CONTACT:

Confirmation Rosters—Tests, separation lists, and correspondence or documents containing similar or related information.

At other locations buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly

[3510-04]

National Technical Information Device

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent 3,981,144: Dual Stage Supersonic Diffuser; filed October 28, 1975; patented September 21, 1976.
Patent 3,981,264: Droplet Impact Recorder; filed January 16, 1975; patented September 21, 1976.
Patent 3,981,450: In-Flight Modulating Thrust Reverser; filed September 22, 1975; patented September 21, 1976.
Patent 3,981,467: Launch Lock Device; filed October 17, 1975; patented September 21, 1976.
Patent 3,981,588: Means and Method for Determining Meridian Location and Azimuth; filed August 5, 1974; patented September 21, 1976.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Services Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

Patent 3,953,607: Method of Controlling Insects Using 7 Ethoxyl-1-(p-Ethylphenoxyl)-3, 7-Dimethyl-2-Octene; filed November 26, 1974; patented April 27, 1976.
Patent 3,978,932: Apparatus and Method for Obtaining Undisturbed Soil Core Samples; filed January 28, 1975; patented September 7, 1976.
Patent 3,981,100: Highly Absorbant Starch-Containing Polymeric Compositions; filed September 8, 1975; patented September 21, 1976.
Patent 3,983,067: Diacetal Derivatives of Polyunsaturated Fatty Esters as Primary Plasticizers for Polyvinylchloride; filed July 1, 1974; patented September 28, 1976.
Patent 3,984,361: Preparation of Starch Graft Polymer Latexes by Sonification; filed May 30, 1975; patented October 5, 1976.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014.

Patent 981,176: Dual Frequency Acoustic Gas Composition Analyzer; filed September 16, 1974; patented September 21, 1976.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets, Washington, D.C. 20240.

Patent 3,949,353: Underground Mine Surveillance System; filed June 23, 1975; patented April 6, 1976.
Patent 3,971,226: Prestresses Roof Support System; filed October 31, 1975; patented July 27, 1976.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent 3,982,178: Method of Determining Adequacy of Substrate Memory Wire During the Plating Process; filed January 29, 1975; patented September 21, 1976.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent 3,965,096: Ultraviolet and Thermally Stable Polymer Compositions; patented June 22, 1976.

[FR Doc. 78-26247 Filed 9-18-78; 8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Services Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

Patent 3,960,902: Synthetic Hormones for Insect Control; filed July 2, 1975; patented June 1, 1976.
Patent 3,970,688: Synthetic Hormones for Insect Control; filed July 2, 1975; patented July 20, 1976.
Patent 3,975,560: Phosphorus and Nitrogen Containing Resins for Flameproofing Organic Textiles; filed August 22, 1974; patented August 17, 1976.
Patent 3,982,014: Arthropod Maturation Inhibitors; filed March 24, 1975; patented September 21, 1976.
Patent 3,985,616: Immobilization of Enzymes with a Starch-Graft Copolymer; filed September 8, 1975; patented October 12, 1976.
Patent 3,985,921: Treatment of Wood With Butylene Oxide; filed June 18, 1975; patented October 12, 1976.
Patent 3,986,259: Rotary Bark Hack; filed April 17, 1976; patented October 19, 1976.
Patent 3,987,058: Preparation and Uses of Stable, Bound Stationary Phases; filed February 27, 1975; patented October 19, 1976.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent 3,915,695: Method for Treating Reactive Metals in a Vacuum Furnace; filed January 8, 1974; patented October 28, 1975.
Patent 3,924,675: Energy Absorber for Sodium-Heated Heat Exchanger; filed May 3, 1973; patented December 9, 1975.
Patent 3,928,027: Nonswelling Alloy; filed August 20, 1974; patented December 23, 1975.
Patent 3,934,239: Adjustable Electronic Load-Alarm Relay; filed September 27, 1974; patented January 20, 1976.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014.

Patent 3,983,118: Production of N5-Methyltetrahydrohomofolic Acid and Related Reduced Derivatives of Homofolic Acid; filed August 16, 1974; patented September 28, 1976.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240.

Patent 3,977,312: Parachute Stopping for Mine Ventilation Use; filed October 31, 1975; patented August 31, 1976.

[FR Doc. 78-26248 Filed 9-18-78; 8:45 am]

[3710-08]

DEPARTMENT OF DEFENSE

Department of the Army

PRIVACY ACT OF 1974

New System of Records

AGENCY: Department of the Army, DOD.

ACTION: Notice of a new system of records.

SUMMARY: The Department of the Army proposes to add a new system of records to its inventory subject to the Privacy Act of 1974.

DATES: This system shall be effective as proposed without further notice in 30 calendar days from the date of this publication (October 19, 1978) unless comments are received on or before October 19, 1978, which would result in a contrary determination and require republication for further comments.

ADDRESS: Any comments, including written data, views or arguments concerning this system should be addressed to the System Manager identified in the system of records.

FOR FURTHER INFORMATION CONTACT:

Mr. Guy B. Oldaker, Administrative Management Directorate, The Adjutant General Center, Department of the Army, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20314, telephone 202-693-0973.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices as prescribed by the Privacy Act of 1974, 5 U.S.C. 552a, Pub. L. 93-579, have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28255 (42 FR 50396), September 28, 1977; FR Doc. 77-32975 (42 FR 50999), November 15, 1977; FR Doc. 78-1855 (43 FR 3151), January 23, 1978; FR Doc. 78-9239 (43 FR 14713), April 7, 1978; FR Doc. 78-9713 (43 FR 15353), April 12, 1978; FR Doc. 78-17146 (43 FR 26606), June 21, 1978; FR Doc. 78-17737 (43 FR 27882), June 27, 1978; FR Doc. 78-18880 (43 FR 29600), July 10, 1978; FR Doc. 78-19614 (43 FR 30594), July 17, 1978; FR Doc. 78-21772 (43 FR 34520), August 4, 1978; FR Doc. 78-23953 (43 FR 38070), August 25, 1978.

The Department of the Army has submitted a new system report for this system on August 17, 1978, under the provisions of 5 U.S.C. 552a(o) of the Privacy Act.

MAURICE W. ROCHE,
Director Correspondence and Directives Washington Headquarters Services Department of Defense.

SEPTEMBER 13, 1978.

A1014.08cDAAG

System name:

College Transcript Registry System

System location:

Primary System: American College Testing Program (ACT), P.O. Box 168, Iowa City, Iowa 52240.

Decentralized Segments: Education Directorate, The Adjutant General Center (TAGCEN), Forrestal Building, Washington, D.C. 20314; Army Education Center, Fort Eustis, Va. 23604; and Army Education Center, Fort Polk, La. 71459.

Categories of individuals covered by the system:

All military personnel assigned or attached to Forts Eustis and Polk who have participated in the Army Continuing Education System and who have attended Army service schools.

Categories of records in the system:

Records include Education Services Officer File, Course/Test File, Soldier File, Confirmation Rosters—Courses, Confirmation Rosters—Tests, separation lists, and correspondence or documents containing similar or related information.

The Soldier File contains the following information: name, social security number (SSN), date of birth, racial/ethnic data (optional), sex (optional), pay grade, unit number, primary and secondary military occupational specialties, and record of each course or test the individual has taken—in the form of course/test number, test scores, and education services officer identification code.

Separation lists contain home addresses.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Purpose of the system is to provide a transcript, properly authenticated and endorsed by an independent agency recognized by the academic institutions, to the individual or to academic institutions, or other agencies designated by the affected member to allow advanced placement of the individual in an educational program, which precludes a retake of basic college courses; for verification of training and experiences recognized by the civilian labor market; and to conduct research.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are stored on computer magnetic tapes and drums at ACT and TAGCEN.

Paper records in file folders, cards in card files, and computer printouts may be filed at any/all locations participating in the system.

Retrievability:

Records are retrieved by SSN and name or by one, or a combination of, data elements contained in the system.

Safeguards:

At ACT the physical security of the registry data is guarded in a variety of ways. Data are collected and distributed via first class mail. The data-collection forms are retained in security containers for a year after the data have been entered into the system. All programs and data files are kept in a secure environment, which includes closed-circuit video monitoring, the use of identification cards and passes, with restricted areas (such as the tape library) open only to certain employees. The building also includes fire detection and suppression equipment.

At other locations buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained.

Retention and disposal:

Data-collection forms and related correspondence are destroyed 1 year after data are transferred to the register. The individual record will be dropped from the active register when there are too few event segments (records of courses/tests taken) for an individual in any given quarter or the individual is separated from the Army. No data for persons with too few event segments will be kept. Data on separated individuals will be stored on an inactive register, retained at ACT for 3 years, transferred to TAGCEN, held for 10 years and destroyed. (This retention period is subject to approval by the National Archives and Records Service.)

System manager(s) and address:

The Adjutant General, Headquarters, Department of the Army (HQDA), The Pentagon, Washington, D.C. 20310.

Notification procedure:

Information may be obtained from: HQDA (DAAG-ED), Forrestal Building, Washington, D.C. 20314, telephone: 202-693-7748.

Record access procedures:

Transcript requests from individuals should be addressed to Education Services Officer at Fort Eustis or Fort Polk, as applicable.

Written request for information should contain the full name of the individual, SSN, current address, and telephone number.

Visits are permitted to the Education Directorate, TAGCEN (DAAG-ED), Forrestal Building, Washington, D.C. 20314, and at the Army Education Centers at posts where data are maintained.

For personal visits, the individual should be able to give sufficient identification, i.e., military identification card, driver's license, and give some verbal information that could be verified with his/her records.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

Record source categories:

Completed forms from individuals, forms from Education Services Officers at Forts Eustis and Polk which include: Department of the Army (DA) Form 4540, Apprenticeship Applica-

V 43 / 182 SEP 19 78

tion; DA Form 1821, Army Continuing Education System; DA Form 669, Educational Development Record; DA Form 2171, Request for Tuition Assistance; and VA Form 22-1990, Request for Educational Assistance; U.S. Army Military Personnel Center (MILPERCEN) Officer Master Files (OMF) and Enlisted Master Files (EMF).

Systems exempted from certain provisions of the act:

None.

[FR Doc. 78-26372 Filed 9-18-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

CANADIAN CRUDE OIL ALLOCATION PROGRAM

Allocation Notice for the October 1 Through December 31, 1978, Allocation Period

In accordance with the provisions of the Mandatory Canadian Crude Oil Allocation Regulations, 10 CFR Part 214, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby publishes the allocation notice specified in § 214.32 for the allocation period commencing October 1, 1978.

The issuance of Canadian crude oil rights for the October 1, 1978, allocation period to refiners and other firms is set forth in the appendix to this notice. As to this allocation period, the appendix lists: (1) The name of each refiner and other firm to which rights have been issued; (2) the base period volume[1] of Canadian crude oil for each first or second priority refinery; (3) the base period volume of Canadian light and heavy crude oil, respectively, for each first or second priority refinery; (4) the nominations to ERA for Canadian light and heavy crude oil, respectively, of each refiner or other firm; (5) the number of rights for Canadian light and heavy crude oil, respectively, expressed in barrels per day, issued to each such refiner or other firm; and (6) the specific first or second priority refineries for which rights are applicable.

The issuance of Canadian crude oil rights is made pursuant to § 214.31, which provides that rights may be issued to refiners or other firms that own or control a first or second priority refinery based on the number of barrels of Canadian light and heavy crude oil, respectively, included in the refinery's volume of crude oil runs to stills or consumed or otherwise utilized by a facility during the base period, November 1, 1974, through October 31, 1975. These calculations have been made and are shown on a barrels per day basis.

The listing contained in the appendix also reflects any adjustments made by ERA to base period volumes to compensate for reductions in volumes due to unusual or nonrecurring operating conditions or to reflect current operating conditions as provided by § 214.31(d).

Based on its review of the affidavits, supplemental affidavits and reports filed pursuant to Subpart D of Part 214, and other information available to the agency, ERA has designated each refinery or other facility listed in the appendix as a first or second priority refinery as defined in § 214.21. If a refinery or other facility has not been designated as a priority refinery by ERA, such refinery or other facility is not entitled to process or otherwise consume Canadian crude oil subject to allocation under the program.

As provided by § 214.31(e), in the allocation period commencing October 1, 1978, each refinery or other firm which has been issued Canadian crude oil rights for light and heavy crude oil, respectively, is entitled to process, consume or otherwise utilize in the priority refinery or refineries specified in the appendix to this notice a number of barrels of Canadian light and heavy crude oil, respectively, subject to allocation under Part 214, equal to the number of rights specified in the appendix.

The Canadian National Energy Board (NEB) has advised ERA that the total volumes of Canadian light and heavy crude oil authorized for export to the United States, and therefore subject to allocation under Part 214, for the 3-month allocation period commencing October 1, 1978, will be as follows: The average export level for Canadian light crude oil will be 55,000 barrels per day (B/D) for October, November, and December. The average export level for Canadian heavy crude oil will be 110,000 B/D for October, 127,000 B/D for November, and 139,000 B/D for December. For purposes of determining allocations of Canadian heavy crude oil, it has been assumed that the average export level will be 125,315 B/D for the 3 months. Any change in the export levels for Canadian light crude oil, including condensate, and Canadian heavy crude oil anticipated for this allocation period will be reflected in revised allocations that will be issued in a supplemental allocation notice or notices.

The NEB has formally advised ERA of the following operational constraint with respect to the export of Canadian light crude oil for the allocation period: 50 B/D of light crude oil through the Union Oil pipeline from the Reagan field in Canada to the Thunderbird refinery (second priority) at Cut Bank, Montana.

ERA has given effect to this operational constraint in the allocations set forth in the appendix.

Allocation of Canadian Light Crude Oil

The authorized export level for Canadian light crude oil for this allocation period is 55,000 B/D. The adjusted base period volumes of Canadian light crude oil for all first priority refineries nominating for light crude oil total 136,678 B/D. Accordingly, with the exception of allocations of light crude oil required by the operational constraint, no allocations of light crude oil are shown for second priority refineries. The export level of light crude oil, as adjusted to reflect the operational constraint, was allocated among first priority refineries nominating for light crude oil on a pro rata basis in the following manner. First, an allocation factor of 0.402040[2] was applied to each first priority refinery's adjusted base period volume of light crude oil. Second, the resulting allocation for Consumers Power Co. was reduced to conform to their nomination for light crude oil for their first priority facility. Third, the allocation factor was recomputed[3] to reflect these adjustments and was reapplied to each first priority refinery's (excluding Consumers Power's Marysville facility) adjusted base period volume of light crude oil to arrive at the final allocations.

Allocation of Canadian Heavy Crude Oil

The authorized export level for Canadian heavy crude oil for October, November, and December 1978, is an average of 125, 315 B/D. First priority refineries nominating for heavy crude oil have been allocated a total of 106,553 B/D of Canadian heavy crude oil, which was calculated by combining their respective base period volumes of Candian light and heavy crude oil or their nominations for heavy crude oil,

[1] Base period volume for the purposes of this notice means average number of barrels of Canadian crude oil included in a refinery's crude oil runs to stills or consumed or otherwise utilized by a facility other than a refinery during the base period (November 1, 1974, through October 31, 1975) on a barrels per day basis.

[2] 0.402040 = Adjusted export level for Canadian light crude oil (55,000 B/D less 50 B/D to Thunderbird refinery = 54,950 B/D), divided by sum of adjusted base period volumes of Canadian light crude oil for first priority refineries nominating for Canadian light crude oil (136,678 B/D).

[3] The factor as recomputed is 0.488699 = Adjusted export level for light crude oil (54,950 B/D, less allocation to Consumers Power Marysville facility (1,500 B/D) = 53,450 B/D), divided by sum of first priority refineries' (excluding Consumers Power) adjusted base period volumes of light crude oil (109,372 B/D).

whichever was less, and subtracting their allocations of light crude oil. In no case do the allocations of heavy crude oil to first priority refineries exceed their nominations for heavy crude oil.

The remaining supply of Canadian heavy crude oil, 18,762 B/D, was allocated among second priority refineries nominating for heavy crude oil on a pro rata basis by applying an allocation factor of 0.978155 [4] to each second priority refinery's base period volume of heavy crude oil to arrive at the final allocations for heavy crude oil.

On or prior to the 13th day preceding each allocation period, each refiner or other firm that owns or controls a first priority refinery shall file with ERA the supplemental affidavit specified in § 214.41(b) to confirm the continued validity of the statements and representations contained in the previously filed affidavit or affidavits, upon which the designation for that priority refinery is based. Each refiner or other firm owning or controlling a first or second priority refinery shall also file the periodic report specified in § 214.41(d)(1) on or prior to the 13th day preceding each allocation period, provided, however, that the information as to estimated nominations specified in § 214.41(d)(1)(i) is not required to be reported.

Within 30 days following the close of each 3-month allocation period, each refiner or other firm that owns or controls a priority refinery shall file the periodic report specified in § 214.41(d)(2) certifying the actual volumes of Canadian crude oil and Canadian plant condensate included in the crude oil runs to stills of or consumed or otherwise utilized by each such priority refinery (specifying the portion thereof that was allocated under Part 214) for the allocation period.

This notice is issued pursuant to Subpart G of ERA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before 30 days from the publication of this notice.

Issued in Washington, D.C., on September 13, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-26215 Filed 9-18-78; 8:45 am]

[4] 0.978155 = Export level of Canadian heavy crude oil available to second priority refineries (18,762 B/D), divided by base period volume of Canadian heavy crude oil of second priority refineries nominating for heavy crude oil (19,181 B/D).

APPENDIX

CANADIAN ALLOCATION PROGRAM

RIGHTS - October 1, 1978 to December 31, 1978
(Barrels Per Day)

Priority	Refiner/Refinery	Base Period Volumes: Total Canadian Runs	Base Period Volumes: Canadian Light Crude Oil	Base Period Volumes: Canadian Heavy Crude Oil	Nominations: Light	Nominations: Heavy	Allocation: Light	Allocation: Heavy
	AMOCO							
II	Whiting, Ind.	26,751	25,560	1,191	0	0	0	0
II	Casper, Wyo.	2,991	2,991	0	0	0	0	0
II	Mandan, N.D.	8,995	8,995	0	0	0	0	0
II	Sugar Creek, Mo.	317	317	0	0	0	0	0
	ARCO							
II	Cherry Point, Wash.	34,225	34,225	0	0	0	0	0
	ASHLAND							
II	Buffalo, N.Y.	36,752	32,033	4,719	0	0	0	0
II	Findlay, Ohio	2,198	33	2,165	0	0	0	0
I	St. Paul Park, Minn.	14,707 1/	13,127 1/	1,580 1/	40,000	22,170	6,415	22,170 2/
	CLARK							
II	Blue Island, Ill.	18,764	18,764	0	0	0	0	0
	CONSUMERS POWER							
I	Essexville, Mich.	13,872	13,872	0	0	0	0	0
I	Marysville, Mich.	27,306	27,306	0	1,500	0	1,500	0
	CONTINENTAL							
I	Billings, Mont.	25,994	25,994	0	25,994	0	12,703	0
II	Denver, Colo.	4,639	4,639	0	4,638	0	0	0
II	Ponca City, Ok.	1,188	1,188	0	1,188	0	0	0
I	Wrenshall, Minn.	20,651	20,651	0	20,651	0	10,092	0
	CRA							
II	Coffeyville, Kan.	318	318	0	0	0	0	0
II	Phillipsburg, Kan.	173	173	0	0	0	0	0
II	Scottsbluff, Neb.	401	401	0	0	0	0	0

Priority	Refiner/Refinery	Base Period Volumes: Total Canadian Runs	Base Period Volumes: Canadian Light Crude Oil	Base Period Volumes: Canadian Heavy Crude Oil	Nominations: Light	Nominations: Heavy	Allocation: Light	Allocation: Heavy
	CRYSTAL							
II	Carson City, Mich.	1,104	1,104	0	0	0	0	0
	DOW CHEMICAL, U.S.A.							
II	Bay City, Mich.	2,767	2,767	0	0	0	0	0
	ENERGY COOPERATIVE							
II	East Chicago, Ind.	10,804	10,267	537	0	0	0	0
	EXXON							
I	Billings, Mont.	15,908	15,908	0	16,000	0	7,774	0
	FARMERS UNION							
I	Laurel, Mont.	13,439	13,439	0	13,500	0	6,568	0
	GLADIEUX							
II	Fort Wayne, Ind.	774	774	0	0	0	0	0
	GULF							
II	Toledo, Ohio	13,253	13,253	0	0	0	0	0
	HUSKY							
II	Cheyenne, Wyo.	4,865	4,865	0	0	0	0	0
II	Cody, Wyo.	806	806	0	0	0	0	0
	KOCH							
I	Pine Bend, Minn.	44,383 1/	3,396 1/	40,987 1/	0	95,000	0	74,383 2/
	LAKE SUPERIOR D.P.							
I	Ashland, Wisc.	125	125	0	0	0	0	0
	LAKESIDE							
II	Kalamazoo, Mich.	1,240	1,240	0	0	0	0	0
	LAKETON							
II	Laketon, Ind.	141	10	131	0	0	0	0
	LITTLE AMERICA							
II	Casper, Wyo.	2,248	2,248	0	0	0	0	0
II	Sinclair, Wyo.	709	709	0	0	0	0	0

Priority	Refiner/Refinery	Total Canadian Runs	Base Period Volumes: Canadian Light Crude Oil	Base Period Volumes: Canadian Heavy Crude Oil	Nominations: Light	Nominations: Heavy	Allocation: Light	Allocation: Heavy
	MARATHON							
II	Detroit, Mich.	10,301	10,159	142	19,022	0	0	0
	MOBIL							
II	Buffalo, N.Y.	24,995	24,995	0	0	4,314	0	0
II	Ferndale, Wash.	45,444	45,444	0	0	7,844	0	0
II	Joliet, Ill.	14,606	2,132	12,474	0	12,842	0	12,202
	MURPHY							
I	Superior, Wisc.	25,625	20,253	5,372	10,000	10,000	9,898	10,000
	NCRA							
II	McPherson, Kan.	836	836	0	0	0	0	0
	PESTER REFINING CO.							
II	El Dorado, Kan.	196	196	0	0	0	0	0
	PHILLIPS							
II	Great Falls, Mont.	1,222	1,222	0	0	0	0	0
II	Kansas City, Kan.	3,352	3,105	247	0	0	0	0
	ROCK ISLAND							
II	Indianapolis, Ind.	1,063	1,063	0	0	0	0	0
	SHELL							
II	Anacortes, Wash.	55,919	55,919	0	0	0	0	0
II	Wood River, Ill.	8,673	8,673	0	0	0	0	0
	SOHIO							
II	Toledo, Ohio	29,182	29,182	0	0	0	0	0
	SUN							
II	Toledo, Ohio	16,427	16,427	0	0	0	0	0
	TENNECO							
II	Chalmette, La.	1,767	1,767	0	0	0	0	0

Priority	Refiner/Refinery	Total Canadian Runs	Base Period Volumes: Canadian Light Crude Oil	Base Period Volumes: Canadian Heavy Crude Oil	Nominations: Light	Nominations: Heavy	Allocation: Light	Allocation: Heavy
	TEXACO							
II	Anacortes, Wash.	41,229	41,229	0	0	0	0	0
II	Casper, Wyo.	1,380	1,380	0	0	0	0	0
II	Lockport, Ill.	1,244	1,244	0	0	0	0	0
	TEXAS AMERICAN							
II	West Branch, Mich.	2,011	2,011	0	0	0	0	0
	THE REFINERY CORP.							
II	Commerce City, Colo.	174	174	0	0	0	0	0
	THUNDERBIRD							
II	Cut Bank, Mont.	554	554	0	50	0	50 3/	0
	TOTAL PETROLEUM							
II	Alma, Mich.	9,727	3,020	6,707	0	8,000	0	6,560
	UNION OIL OF CALIF.							
II	Lemont, Ill.	11,711	11,711	0	10,000	20,000	0	0
	UNITED REFINING							
II	Warren, Pa.	9,917	9,789	128	0	0	0	0
	WYOMING REFINING CO.							
II	New Castle, Wyo.	676	676	0	0	0	0	0
	TOTAL PRIORITY I	202,010	154,071	47,939	127,645	127,170	54,950	106,553
	TOTAL PRIORITY II	469,029	440,588	28,441	34,898	53,000	50	18,762
	TOTAL I&II	671,039	594,659	76,380	162,543	180,170	55,000	125,315

1/ Adjusted.
2/ Adjustments to base period volumes not given effect in allocation of Canadian heavy crude oil.
3/ Operational constraint.

[3128-01]

ENERGY SUPPLY AND ENVIRONMENTAL

(b) A "combustion gas turbine unit" is a combination of a rotary engine driven by a gas under pressure that is created by the combustion of a fuel

construction funds for the MFBI by responsible officials.

(i) The "Report" is Form FEA C-607-S-O consisting of three parts:

Report on or before the 15th day of the month subsequent to the month in which it meets such requirements.

If any information previously sub-

U-236 (89.2 percent enriched as oxide) to the Max Planck Institute in West Germany where the material will be used as targets for nuclear physical examination.

rulemakings that are currently pending before ERA or have been completed by ERA subsequent to activation of the Department of Energy on October

[3128-01]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Requirements To Complete DOE Early Planning Process Identification Report

Pursuant to section 13 of the Federal Energy Administration Act of 1974 (FEAA), as amended, 15 U.S.C. 761 et seq., the Department of Energy (DOE) [1] hereby gives notice of the requirement that each Major Fuel Burning Installation (MFBI) which on or after December 27, 1976 was in or has thereafter entered, or which hereafter enters, the "reporting interval" and meets the "design firing rate requirements" as hereafter specified, complete and submit to DOE the "Major Fuel Burning Installation-Early Planning Process Identification Report" (Report), FEA Ferm C-607-S-O. Notice of this requirement for filing was previously given by the Federal Energy Administration (FEA) in the FEDERAL REGISTER (42 FR 6622) on February 3, 1977. The present notice pertains to all MFBI's which are currently in, or about to enter, the early planning process, as well as to those MFBI's which have not complied with the February 3, 1977 notice, but upon which the continuing responsibility to file rests.

The purpose of the reporting requirement is to enable DOE to identify MFBI's, including individual combustors, which should be considered for the issuance of Construction Orders pursuant to section 2(c) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended, 15 U.S.C. 791 et seq. A Construction Order would require the MFBI to be designed and constructed with the capability of using coal as its primary energy source.

For the purposes of this reporting requirement—

(a) A "combined cycle unit" is an electric power generation unit that consists of a combination of one or more combustion gas turbine units and one or more steam turbine units with the required energy input of the steam turbine(s) provided by and approximately matched to the energy in the exhaust gas from the combustion gas turbine unit(s). Use of small amounts of supplemental firing for the steam turbine does not preclude the unit from being a combined cycle unit;

(b) A "combustion gas turbine unit" is a combination of a rotary engine driven by a gas under pressure that is created by the combustion of a fuel, usually natural gas or a petroleum product, with an electric power generator driven by such engine;

(c) The "foundation" is the base supporting an MFBI consisting of pilings, a concrete pad or an equivalent structure;

(d) A "Major Fuel Burning Installation" is an installation or unit other than a powerplant that has or is a fossil-fuel fired boiler, burner or other combustor of fuel or any combination of combustors at a single site, that has individually or in combination, a design firing rate of 100 million Btu/hr. or greater, and includes any person who owns, leases, operates, controls or supervises any such installation or unit. Combustion gas turbines and combined cycle units are excluded from this classification;

(e) A "powerplant" is a fossil-fuel fired steam electric generating unit that produces electric power for purposes of sale or exchange; and includes any person who owns, leases, operates, controls or supervises any such unit;

(f) A "person" is any association, firm, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any entity however organized, including charitable, educational or other eleemosynary institutions, and the Federal Government, including cooperations, departments, Federal agencies, and other instrumentalities, and state and local governments, and includes any officer, director, owner, or duly authorized representative thereof. DOE may treat as a person:

(1) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls,

(2) A parent and its consolidated entities,

(3) An unconsolidated entity, or

(4) Any part of a person.

(g) The "preliminary feasibility study" is that analysis, formal or otherwise, which concludes that new, additional, or replacement capacity appears to be required and which precedes the managerial decision to initiate the design of an MFBI;

(h) The "reporting interval" is that period which commences upon completion of a preliminary feasibility study for the MFBI and ends upon completion of the foundation for MFBI. If no preliminary feasibility study can be identified, the reporting interval commences at the earlier of 1) the formation of a contract, express or implied, for design of the MFBI, or if such design is not to be performed in accordance with a contract, the date the managerial decision to initiate design work is made, or 2) the approval of construction funds for the MFBI by responsible officials.

(i) The "Report" is Form FEA C-607-S-O, consisting of three parts: Schedules A-1, A-2, and A-3.

(1) Schedule A-1 identifies the responding company and facility. One Schedule A-1 must accompany each submission. If the reporting requirements do not apply to the MFBI at this time, however, only Schedule A-1 is to be completed and filed by the MFBI, indicating this fact.

(2) Schedule A-2 specifically identifies the MFBI and includes such information as combustor designation, combustor capacity and type, i.e. whether it is a boiler, burner or other type of unit, primary energy souce capability, combustor design and construction schedule, and significant impediments to designing and constructing the subject combustor with coal-burning capability.

(3) Schedule A-3 gathers financial and coal availability information pertaining to the specific MFBI. This schedule is not furnished to responding MFBI's with Schedules A-1 and A-2 as it will not be applicable to all responding facilities and will be required to be filed only upon specific DOE request. Forms for filing will be furnished by DOE at the time the request is made, and filing must be accomplished within 30 days after the MFBI's receipt of the request.

Each MFBI which meets the design firing rate requirements (detailed below), which was in the reporting interval as of December 27, 1976 or has thereafter entered the reporting interval, and which has not yet been reported to DOE, is required to file a Schedule A-2 of the Report within 30 days of the date of this notice. Each MFBI which meets the design firing rate requirements and which hereafter enters the reporting interval is required to file a Schedule A-2 of the Report on or before the 15th day of the month subsequent to the month that the reporting interval is entered.

Filing of Schedule A-2 is required if the MFBI has (1) a design firing rate of 100 million Btu/hr. or greater, or (2) a design firing rate of 50 million Btu/hr. or greater and a design firing rate of 100 million Btu/hr. or greater when taken in the aggregate with other combustors at the same location which have design firing rates of 50 million Btu/hr. or greater and which entered the reporting interval on or after December 27, 1976.

If an MFBI enters the reporting interval but does not initially meet the design firing rate requirements on that date, but subsequently meets the design firing rate requirements due to the entrance into the reporting interval of other qualifying MFBI's at the same location, it is required to file the Report on or before the 15th day of the month subsequent to the month in which it meets such requirements.

If any information previously submitted to DOE, or hereafter submitted to DOE, on FEA Form C-607-S-0, Schedules A-1, A-2, and/or A-3, changes, revised schedules must be submitted to DOE within 30 days of such change.

Copies of the Report, FEA Form C-607-S-0, are available from DOE at the address below. Detailed filing requirements and instructions are contained with the forms.

Completed Reports, requests for forms, and questions should be addressed to: Mrs. Ellen Russell, Division of Coal Utilization, Department of Energy, Room 7202, 2000 M Street NW., Washington, D.C. 20461, telephone 202-254-8310.

Issued in Washington, D.C., on September 14, 1978.

LINCOLN E. MOSES,
Administrator, Energy Information Administration, Department of Energy.

[FR Doc. 78-26344 Filed 9-18-78; 8:45 am]

[1] Effect Oct. 1, 1977, the responsibility for implementing the Energy Supply and Environmental Coordination Act was transferred by Executive Order No. 12009 from the Federal Energy Administration to the Department of Energy pursuant to the Department of Energy Organization Act, Pub. L. No. 95-91 (42 U.S.C. 7101).

[3128-01]

Office of Assistant Secretary for International Affairs

PEACEFUL USES OF ATOMIC ENERGY

Proposed Subsequent Arrangement; Government of the United States and the European Atomic Energy Community (EURATOM)

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of proposed "subsequent arrangements" under which DOE will enter into contractual arrangements for the furnishing of the following material under the additional agreement for cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning the peaceful uses of atomic energy.

Application No., Countries, and Description of Material

MS—EU—330—91—United States to West Germany—500 mg of uranium containing U-236 (89.2 percent enriched as oxide) to the Max Planck Institute in West Germany where the material will be used as targets for nuclear physical examination.

MS—EU—330—90—United States to Belgium—1 g of plutonium containing Pu-239 (99.1 percent enriched) and 250 mg of plutonium containing Pu-241 (93.22 percent enriched to Bureau Central de Mesures Nucleaires in Geel, Belgium, for use in fernary fission studies, fission fragment, kinetic energy, and mass distribution measurements.

MS—EU—330—89—United States to Belgium—10 g of uranium containing U-235 (99.94 percent enriched); 8 g of plutonium containing Pu-240 (98.3 percent enriched) to the Bureau Central de Mesures Nucleaires in Geel, Belgium, for use as synthetic mixtures in spikes and reference material in mass spectrometry.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security of the United States.

These subsequent arrangements will take effect no sooner than October 4, 1978.

Dated: September 13, 1978.

For the Department of Energy.

HAROLD D. BENGELSDORF,
Director for Nuclear Affairs, International Programs.

[FR Doc. 78-26272 Filed 9-18-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

RULEMAKING DOCKET SYSTEM

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Rulemaking Docket System.

SUMMARY: The Economic Regulatory Administration (ERA) hereby gives notice that it has established a docket system for completed, current and future rulemakings. The system is intended to provide the public with a means of readily identifying completed and current rulemakings and public records related thereto.

Attached as an appendix to this notice is a list of docket numbers of rulemakings that are currently pending before ERA or have been completed by ERA subsequent to activation of the Department of Energy on October 1, 1977. "ERA" in the docket number identifies the rulemaking as being within the jurisdiction and authority of the Economic Regulatory Administration. The letter "R" designates that it is a rulemaking action, and will distinguish it from adjudicatory and other proceedings that will later be incorporated into this docket system. The first digit or set of digits in the docket number refers to the calendar year in which the particular rulemaking was initiated, which in general means the year in which the notice of proposed rulemaking (or notice of inquiry, if that was the initiating document) was published in the FEDERAL REGISTER. The second digit or set of digits in the docket number refers to the sequence in which the document initiating the rulemaking was issued in a particular year.

Thus, "ERA-R-77-2" refers to the second rulemaking initiated in 1977 by ERA (or a predecessor agency).

We have also indicated on the attached list for each docket item the most recent date on which a significant notice (notice of inquiry, notice of proposed rulemaking (NOPR), final rule, etc.) was published in the FEDERAL REGISTER and have indicated those rulemakings which have been completed.

We will periodically publish lists of new docket numbers and indicate the status of all docketed rulemakings.

You may obtain further public information relating to any current rulemaking appearing on the docket list, including copies of rulemaking documents, press releases, and supplementary analyses, if any, by contacting the Public Information Office, Economic Regulatory Administration, Room B-110, 2000 M Street NW., Washington, D.C 20461, telephone 202-634-2170.

Issued in Washington, D.C., September 13, 1978.

DOUGLAS G. ROBINSON,
Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

APPENDIX

Docket No.	Rulemaking	Publication date of most recent significant notice
ERA-R-76-1	Amendments to the east coast residual fuel oil entitlements program	June 20, 1978 (further NOPR).
ERA-R-77-1	Incentives for tertiary enhanced crude oil recovery	Aug. 1, 1978 (final rule and NOPR).
ERA-R-77-2	Production and sale of imputed stripper well crude oil from unitized properties.	Aug. 1, 1978 (final rule).
ERA-R-77-3	Amendments to allow the allocation of additional increased costs to gasoline.	Feb. 17, 1977 (NOPR).
ERA-R-77-4	Amendments to the entitlements program for crude oil produced in California.	June 20, 1978 (final rule).
ERA-R-77-5	General revision of NGL processors' price regulations	June 9, 1977 (NOPR)
ERA-R-77-6	Amendments to include certain petroleum substitutes in the entitlements program.	May 18, 1978 (final rule and NOPR).

APPENDIX

Docket No.	Rulemaking	Publication date of most recent significant notice

tective equipment. DBCP is widely used by growers to control nematodes on crops and has been found to reduce sperm counts in men exposed to it and has been found to

mortgage insurance for the Westgate Heights Subdivision, Albuquerque, Bernalillo County, N. Mex. When completed, the subdivision, which encompasses approxi-

emptions to the Idaho and Washington State Departments of Agriculture (hereafter referred to as "Idaho" and "Washington") to use TEPP (tetraeth-

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APPENDIX

Docket No.	Rulemaking	Publication date of most recent significant notice
ERA-R-77-7	Motor gasoline decontrol	June 28, 1978 (notice of environmental assessment).
ERA-R-77-8	Crude oil resellers price rule	Dec. 29, 1977 (final rule and NOPR).
ERA-R-77-9	General revision of NGL allocation regulations	August 16, 1978 (FERC notice of hearing).
ERA-R-77-10	Coal conversion (ESECA) program revision	Aug. 31, 1977 (NOPR).
ERA-R-77-11	Special State set-aside procedures for middle distillate	Nov. 18, 1977 (final rule).
ERA-R-77-12	Amendments to the entitlements program relating to naphtha feedstocks imported into Puerto Rico.	Dec. 7, 1977 (final rule).
ERA-R-77-13	Computation of refiners' landed costs: Timing	Feb. 10, 1978 (final rule).
ERA-R-77-14	Canadian allocation and buy/sell program	Feb. 14, 1978 (final rule).
ERA-R-78-1	Revision of remedial order procedural regulations	May 8, 1978 (FERC notice of hearing).
ERA-R-78-2	Entitlements treatment for certain Alaskan refiners	Jan. 30, 1978 (NOPR).
ERA-R-78-3	Small refiner bias	Feb. 10, 1978 (NOI).
ERA-R-78-4	Standby crude oil pricing and allocation regulation	Feb. 15, 1978 (NOPR).
ERA-R-78-5	Kerosene-base jet fuel decontrol	June 27, 1978 (NOPR).
ERA-R-78-6	Aviation gasoline decontrol	Do.
ERA-R-78-7	International oil allocation	Feb. 16, 1978 (NOPR).
ERA-R-78-8	Recordkeeping requirements relating to international voluntary agreements.	Mar. 28, 1978 (final rule).
ERA-R-78-9	Price rules for blends of covered and synthetic products	June 5, 1978 (final rule).
ERA-R-78-10	Procedural regulations for natural gas imports	Sept. 1, 1978 (final rule).
ERA-R-78-11	Fee-free allocations under the mandatory oil import program	May 3, 1978 (final rule).
ERA-R-78-12	Simplified crude oil price control program	Apr. 11, 1978 (NOI).
ERA-R-78-13	Nonrefining uses of old oil	Apr. 21, 1978 (NOI).
ERA-R-78-14	Contingency gasoline rationing program	June 28, 1978 (NOPR).
ERA-R-78-15	Standby product allocation and pricing program	July 10, 1978 (NOPR).

[FR Doc. 78-26242 Filed 9-18-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 970-5]

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Receipt

Pursuant to the President's Reorganization Plan No. 1, the Environmental Protection Agency is the official recipient for environmental impact statements (EIS's) and is required to publish the availability of each EIS received weekly. The following is a list of environmental impact statements received by the Environmental Protection Agency from September 4, 1978 through September 8, 1978. The date of receipt for each statement is noted in the statement summary. Under the Guidelines of the Council on Environmental Quality the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days; the date of submission of comments is October 30, 1978. The thirty (30) day period for each final statement begins the day the statement is made available to the Environmental Protection Agency and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: September 14, 1978.

WILLIAM D. DICKERSON,
Acting Director,
Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, room 412 A, Washington, D.C. 20250, 202-447-4423.

RURAL ELECTRIC ADMINISTRATION

Draft

Cajun electric coal-fired powerplant, Pointe Coupee County, La., September 8, 1978: Proposed is the construction and operation of a new steam electric generating facility by the Cajun Electric Power Cooperative. The project will be located at the Big Cajun No. 2 site, Pointe Coupee Parish, La. The principal features of the project are: (1) a nameplate rating of 565 MW, (2) fuel obtained from two deposits of western sub-bituminous coal, (3) production of 4,300,000 lbs per hour of steam, (4) limit oxides of nitrogen emissions to maximum of 0.7 lbs per million Btu heat input, (5) particulate removal treatment, (6) water supplied from the Mississippi River, (7) tie-in lines from the switchyard to existing distribution systems. (USDA-REA-EIS (ADM)-78-11-D.) (EIS order No. 80987.)

SOIL CONSERVATION SERVICE

Final

Rural clean water program, September 8, 1978: This statement analyzes alternative methods of administration of the rural clean water program (RCWP), which provides financial assistance for implementing plans under the clean water act of 1977. The purpose of RCMP is to control nonpoint sources of pollution on private rural lands. Selected high priority areas will be eligible for special technical assistance and cost-sharing to rural land users applying best management practices to improve water quality. Participation in the program is voluntary. Comments made by: DOC, USDA, EPA, State agencies, groups, individuals and businesses (EIS Order No. 80981.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Edward Vest, Environmental Protection Agency, Region VII, 1735 Baltimore Street, Kansas City, Mo. 64108, 816-374-2921.

Final

Ottumwa Generating Station, NPDES permit, Iowa, September 5, 1978: Proposed is the issuance of a new source NPDES permit for discharge of wastewaters from Iowa Southern Utilities' proposed Ottumwa generating station (OGS). The proposed site for the 727 MW coal-fired steam-electric generating station is located adjacent to the Des Moines River, approximately 8 miles northwest of Ottumwa, Iowa. OGS will utilize a closed-cycle cooling system and will require makeup water at a rate of 17 c.f.s. at maximum load conditions. Total discharge to the Des Moines River is estimated to be 1.4 c.f.s. at maximum load conditions. The Des Moines River will be impacted by water withdrawal and wastewater discharge. (EPA-907/9-78-001.) Comments made by: DOI, DOT, DOC, HUD, State and local agencies, groups, individuals and businesses.) (EIS Order No. 80977.)

Contact: Mr. Jeff Kempter, Environmental Protection Agency, Special Pesticide Review Division (TS-971), 401 M Street SW., Washington, D.C. 20460, 202-755-8053.

Final

Dibromochloropropane, registration cancellation, September 8, 1978: This statement announces the EPA Administrator's intent to cancel the registrations of all dibromochloropropane (DBCP) for a number of vegetables and use restriction of DBCP on certain vegetables and fruits to certified applicators wearing specified pro-

tective equipment. DBCP is widely used by growers to control nematodes on crops and has been found to reduce sperm counts in men exposed to it and has been found to cause cancer in laboratory animals. The Administrator waived all external review of and comment upon the proposed action in accordance with section 6(B) of the Federal Insecticide, Fungicide, and Rodenticide Act. (EIS Order No. 80997.)

Contact: Mr. Wallace Stickney, Environmental Protection Agency, Region I, John F. Kennedy Federal Building, room 2203, Boston, Mass. 02203, 617-223-4635.

Draft Supplement

Wastewater collection and treatment facilities, Dukes County, Mass., September 8, 1978: This statement supplements a draft EIS filed in September 1977, concerning wastewater collection and treatment facilities for Tisbury, Oak Bluffs, and West Tisbury, Dukes County, Mass. The statement considers a construction program of: (1) Wastewater collection facilities in Tisbury, (2) a secondary treatment/nightsoil composting facility on site located between Vineyard Haven and Lake Tashmoo, and (3) implementation of nonstructural measures to improve on-lot wastewater disposal. (EIS Order No. 80993.)

DEPARTMENT OF ENERGY

Contact: Mr. Robert Stern, Office of NEPA Affairs, Department of Energy, 1200 Pennsylvania Avenue NW., room 7119, Washington, D.C. 20461, 202-566-9760.

Draft

230-KV electrical transmission line, Miles City, several counties in Montana, North Dakota, South Dakota, September 6, 1978: Proposed is the construction of a 328-mile, 230kV transmission line between Miles City and Baker, Mont., Hettinger, N. Dak., and New Underwood, S. Dak., in Custer and Fallon Counties in Montana, Adams, Bowman, and Slope Counties in North Dakoka, and Meade, Pennington, and Perkins Counties in South Dakota. Wood-pole, H-frame structures with three conductors and two overhead static wires are planned. Four alternatives are considered which include: (1) Nonconstruction, (2) buried cable, (3) an alternate terminal point at South Dakota end of line, and (4) other potential alternate routes. (DOE/EIS-0025D.) (EIS Order No. 80983.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202-755-6308

Draft

Three Lakes Subdivision, Harris County, Tex., September 5, 1978: Proposed is the issuance of home mortgage insurance for the Three Lakes Subdivision located in Harris County, Tex. The proposed development plan for the project provides for the construction of approximately 1,665 single-family homes and encompasses approximately 370 acres. This proposal was submitted by Homecraft Land Development, Inc., on behalf of Home Land, Inc. (HUD-RO6-EIS-78-42-D.) (EIS Order No. 80979.)

Westgate Heights Subdivision, Albuquerque, Bernalillo County, N. Mex., September 6, 1978: Proposed is the issuance of home mortgage insurance for the Westgate Heights Subdivision, Albuquerque, Bernalillo County, N. Mex. When completed, the subdivision, which encompasses approximately 904 acres, is expected to consist of single-family, multifamily, and apartment housing units, as well as schools, churches, commercial, park and recreation facilities. The proposal was submitted by the Associated Investment Co. (HUD-RO6-EIS-78-38D.) (EIS Order No. 80980.)

SECTION 104(h)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

Citron-Date housing project, McCully, Honolulu County, Hawaii, September 5, 1978: Proposed is the issuance of block grant funds for the construction of a seven-story multifamily tower over a two-level parking structure, to be known as the Citron-Date housing project located in McCully, Honolulu County, Hawaii. The project will contain 99 units and 107 parking spaces. Three alternatives are considered which include: (1) Retain in present use, (2) develop as higher density residential, (3) develop as single family residential. (EIS Order No. 80978.)

East Temple residential project, Bell County, Tex., September 6, 1978: Proposed is a multiyear project under the community development block grant program located in Temple, Bell County, Tex. The project, to be known as the East Temple residential project, will encompass approximately 115 acres of land, and will consist of the construction of a single-family residential subdivision of about 450 units for low- and moderate-income homebuyers. Also included is the expansion of Wilson Park, and the dedication of right-of-way for the extension of a major thoroughfare. (EIS Order No. 80982.)

Port/Marina project, Richmond, Contra Costa, Calif., September 6, 1978: Proposed is a marina/port development project which encompasses 935 acres within a redevelopment project located in Richmond, Contra Costa County, Calif. The marina portion of the project includes a 2,000-berth marina for small boats; 2,000-4,000 new residential units; new commercial uses; parking; and a significant amount of recreational space. The port element includes construction of one to four container berths; a support area and the interfacing of rail, water, and land transportation. (HUD-RO5.) (EIS Order No. 80984.)

[FR Doc. 78-26353 Filed 9-18-78; 8:45 am]

[6560-01]

[FRL 969-8, OPP-180232]

IDAHO AND WASHINGTON STATE DEPARTMENTS OF AGRICULTURE

Issuance of Specific Exemptions To Use TEPP To Control Twospotted Spider Mite on Hop Crop

The Environmental Protection Agency (EPA) has granted specific exemptions to the Idaho and Washington State Departments of Agriculture (hereafter referred to as "Idaho" and "Washington") to use TEPP (tetraethyl pyrophosphate) for the control of twospotted spider mites which are threatening the commercial hop crop in one county in Idaho and three counties in Washington. These exemptions were granted in accordance with, and are subject to, the provisions of 40 CFR Part 166, which precribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to Idaho and Washington, the twospotted spider mite (*Tetranychus urticae* Koch) is normally present in Idaho and Washington hopyards. Current climatic and growing conditions are ideal for pest population buildup now. Although several miticides are registered for use on hops, Idaho and Washington State University entomologists alleged that none of the registered miticides were viable options for one or more of various reasons: (1) The spider mites were resistant to the other miticides; (2) aerial applications were precluded because of ineffectiveness or labeling restrictions; and/or (3) the required preharvest interval excluded application at the time required. Ground pesticide applications were not feasible because of possible damage to hop foliage, lodged hops, and irrigation equipment. According to Idaho and Washington, TEPP has prevented economic damage to the commercial hop crop by this pest in previous years.

The Washington infestation was to have been controlled by the specific exemption to use Carzol granted earlier this year. However, Washington claimed that sufficient supplies of Carzol were unavailable for the two to three treatments necessary to effect season-long mite control. Thus, the emergency still exists.

Both Idaho and Washington requested permission to use 2 pounds of actual TEPP per acre in a single aerial application. In Idaho, application will be made on 1,000 acres of commercial hops in Canyon County; in Washington, application will be made on 20,000 acres limited to Yakima, Benton, and Pierce Counties.

Idaho stated that potential losses which could result without an effective miticide program could be $1 million. The State of Washington produces about 71 percent of the national

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hop crop; Washington stated that the potential economic loss from a major outbreak of the twospotted spider mite could reach $10,000,000, repre-

actual TEPP may be applied in Washington;

4. A 3-day preharvest interval will be observed;

tin hydroxide) on 1,200 acres of eggplants to control twospotted spider mites (*Tetranychus urticae*) in New Jersey. This exemption was granted in

twospotted spider mites on eggplants has occurred or is likely to occur; (b) resistance has developed to the pesti-

[6560-01]

[FRL 969-6; OPP-180230]

North Carolina and Virginia because it was considered to be most efficacious for control of *S. sclerotiorum*. In addition, Botran 75W is registered for the

hop crop; Washington stated that the potential economic loss from a major outbreak of the twospotted spider mite could reach $10,000,000, representing one-third of Washington's hop production and 20 percent of the U.S. production.

Idaho and Washington cited the following factors which contribute to relatively low probability of exposure of man to harmful residues of TEPP from hops: (1) Raw hops are never consumed by humans and hops are kiln-dried following harvest; (2) one-fourth pound of hops is added to each 31 gallons of beer, a 1:1,000 dilution by weight; (3) fermentation in the brewing vats results in additional breakdown of pesticide residues; and (4) a 2-pound application on hops presents less residue potential to humans than applications on six other food crops which have tolerances of 0.01 ppm. The dilution of 1 to 1,000 would allow establishment of a tolerance adequate to protect human health. Idaho and Washington further stated that all data reviewed indicated no residue transfer from a 3-day preharvest interval to finished beer.

However, TEPP exhibits acute toxicity to fish and wildlife species, especially avian species. The Office of Endangered Species, U.S. Department of the Interior, has reported that the American peregrine falcon (*Falco peregrinus anatum*), an endangered species, is endemic within the counties proposed for treatment.

After reviewing the applications and other available information, EPA has determined that (a) pest outbreaks of twospotted spider mites have occurred or are about to occur; (b) there is no pesticide presently registered and available for use to control the twospotted spider mite in Idaho and Washington State; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the twospotted spider mites are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, Idaho and Washington have been granted specific exemptions to use the pesticides noted above until September 30, 1978, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following restrictions:

1. Aerial applications of TEPP are limited to one at the rate of 2 pounds of active ingredient per acre;

2. Total acreage treated shall not exceed 1,000 acres in Idaho and 20,000 acres in Washington;

3. A maximum of 2,000 pounds of actual TEPP may be applied in Idaho and a maximum of 40,000 pounds of actual TEPP may be applied in Washington;

4. A 3-day preharvest interval will be observed;

5. Treatment area is limited to the three counties in Washington and the one county in Idaho listed in this notice;

6. Idaho and Washington are responsible for monitoring the aerial applications of TEPP in their respective States;

7. Liaison shall be established between the Idaho Departments of Agriculture and Fisheries and Game and the Washington State Departments of Agriculture and Fisheries and Game in their respectives States to minimize any adverse effects on fish and wildlife resources:

8. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with these exemptions;

9. All applicable directions, restrictions, and precautions on the EPA-registered label will be observed;

10. All precautions will be taken to avoid or minimize spray drift to nontarget areas;

11. Hops with residue levels not exceeding 0.1 ppm of TEPP may be offered in interstate commerce. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action;

12. If the twospotted spider mite is likely to continue to be a pest of hops in Idaho and Washington, these States and their concerned growers must pursue tolerances for TEPP and/or Carzol through regular channels; and

13. Idaho and Washington must submit final reports on their respective programs to EPA by September 30, 1979.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.).)

Dated: September 12, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-26230 Filed 9-18-78; 8:45 am]

[6560-01]

[FRL 969-7; OPP-180231]

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

Issuance of a Specific Exemption To Use Cyhexatin To Control Twospotted Spider Mites

The Environmental Protection Agency (EPA) has granted a specific exemption to the New Jersey Department of Environmental Protection (hereafter referred to as the "Applicant") to use cyhexatin (tricyclohexyltin hydroxide) on 1,200 acres of eggplants to control twospotted spider mites (*Tetranychus urticae*) in New Jersey. This exemption was granted in accordance with, and is subject to, provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, twospotted mites cause considerable damage to the eggplant crop; mites pierce the leaf epidermis with their mouth parts and suck sap, initially causing the leaf to appear stippled with yellow spots. Heavy infestations result in yellow-colored leaves that eventually become nonproductive and drop from the plant causing loss in plant vigor and crop yield reduction. Hot and dry weather accelerates mite buildup.

According to the Applicant, mite resistance to EPA-registered products, such as ethion, naled, malathion, and mevinphos, has caused these products to be ineffective. The Applicant further claims that although carbophenothion and oxydemetonmethyl are EPA-registered and somewhat effective, the preharvest interval of 7 days is incompatible with harvesting every 3 to 4 days.

Based on 1977 data, the Applicant reports that growers experienced an economic loss of $225 per acre on acreage where mite control was not practiced. Although with currently EPA-registered miticides the loss may be reduced by 50 percent, the Applicant feels that the use of cyhexatin may reduce losses to a very low level.

The Applicant proposes to use a maximum of 3,840 pounds of Plictran 50W Miticide, a cyhexatin formulation manufactured by Dow Chemical Co., EPA Reg. No. 464-363. State-certified private or commercial applicators will make a maximum of four applications by air or ground at a rate of 0.4-pound active ingredient (a.i.) per acre on a maximum of 1,200 acres.

EPA has found that adequate data are available to support the request. Permanent tolerances for cyhexatin have been established in a range from 0.05 part per million (ppm) to 60 ppm. Residue data indicate that residues of cyhexatin and its organotin metabolite under this use would not be expected to exceed 0.5 ppm. EPA has imposed a 3-day preharvest interval.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of twospotted spider mites on eggplants has occurred or is likely to occur; (b) resistance has developed to the pesticides presently registered and available for use to control this pest in New Jersey; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if these mites are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until October 1, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Plictran 50W Miticide, EPA Reg. No. 464-363, manufactured by Dow Chemical Co., is authorized;

2. Applications may be made by ground or air at a rate of 0.4 pound cyhexatin per acre;

3. A maximum of 1,200 acres of eggplant crop may be treated;

4. A maximum of 3,840 pounds Plictran 50W may be applied;

5. A maximum of four applications may be made and a preharvest interval of 3 days must be observed;

6. Applications shall be made by State-certified private or commercial applicators;

7. A residue level of cyhexatin not exceeding 0.5 ppm in or on eggplants has been determined as adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

8. All label precautions shall be followed;

9. The EPA shall be informed immediately of any adverse effects to man or the environment resulting from this use;

10. The Applicant shall be responsible for insuring that all provisions of this specific exemption are followed; and

11. A final report summarizing the results of this program shall be submitted to EPA by December 31, 1978.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.).)

Dated: September 12, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-26231 Filed 9-18-78; 8:45 am]

[6560-01]

[FRL 969-6; OPP-180230]

NORTH CAROLINA DEPARTMENT OF AGRICULTURE AND VIRGINIA DEPARTMENT OF AGRICULTURE AND COMMERCE

Issuance of Specific Exemptions To Use Botran 75W To Control Sclerotinia Blight of Peanuts

The Environmental Protection agency (EPA) has granted specific exemptions to the North Carolina Departmnent of Agriculture and the Virginia Department of Agriculture and Commerce (hereafter referred to as "North Carolina" and "Virginia") to use Botran 75W for the control of *Sclerotinia* blight on 53,000 acres of peanuts in North Carolina and on 52,000 acres of peanuts in Virginia. These exemptions were granted in accordance with, and are subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the applications on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to North Carolina and Virginia, the *Sclerotinia* blight which is caused by the plant pathogen *Sclerotinia sclerotiorum* (syn. *S. minor*) is a relatively new disease on peanuts in the United states, being first reported in 1971. *S. Sclerotiorum* invades the taproot, lateral branches, and pegs at the soil ine and eventually causes rotting of the peanut pods. Losses in yield in excess of 50 percent have been reported in North Carolina and Virginia due to this pathogen, the applicants stated. In Virginia, the applicant stated that nine major peanut-growing counties located in the southeastern part of the State are likely to be subject to infection by this pest. The total acreage in these counties is 104,000; however, only 50 percent (52,000) of this acreage has been designated for treatment.

There are no EPA-registered fungicides for the control of *S. sclerotiorum* on peanuts. Several fungicides have been tested and shown to be effective for the control of *Sclerotinia* blight on peanuts. Pentachloronitrobenzene (PCNB) when used at maximal label rates did control *S. sclerotiorum* in some instances, but not in others. Multiple applications of Benomyl also provided adequate control. Neither of these fungicides is registered although PCNB has a registration for peanut pod rot complex. For the control of this pest, Botran 75W was chosen by North Carolina and Virginia because it was considered to be most efficacious for control of *S. sclerotiorum*. In addition, Botran 75W is registered for the control of *Sclerotinia* on several vegetable crops (beans, celery, cucumbers, lettuce, onions, and potatoes).

North Carolina will use Botran 75W (EPA Reg. No. 1023-36), containing the active ingredient 2,6-dichloro-4-nitroaniline, once at a dosage rate of 4 to 5 pounds of product per acre or twice at a dosage rate of 2.66 pounds of product per acre. If two applications are made, they will be made 10 to 14 days apart. Applications of Botran will be made by peanut growers. The diagnosis of this plant pathogen must be made before Botran 75W is applied. The product should be applied in 30 to 50 gallons of water over the row using a flat-type spray nozzle (floodjet nozzle or equivalent) that produces large droplets rather than a mist and with a pressure high enough to drive the chemical to the soil surface. Thorough coverage of the peanut plant and soil is essential. Copies of this procudure will be furnished to dealers marketing Botran.

Virginia proposes essentially the same program as North Carolina on a total of 52,000 acres in the following counties: Brunswich, Dinwiddie, Greenville, Isle of Wight, Prince George, Southampton, Suffolk City, Surry, and Sussex. If split applications are made in Virginia, they will be at a dosage rate of 2 to 2.5 pounds of product in 25 to 50 gallons of water.

North Carolina estimates that yield losses can be reduced by 60 to 75 percent with proper application of Botran 75W. In 1976, North Carolina estimated losses due to *S. sclerotiorum* at $1.8 million; in 1977 at $450,000. Virginia estimates that peanut yield losses of $3 million could occur without a suitable control program.

This use of Botran 75W will not pose a threat to the public health, since the residue expected to occur on peanut meat and hulls (less than 0.1 part per million (ppm)) is insignificant. It is recommended that treated peanut vines or hay should not be used as livestock feed items.

After reviewing the applications and other available information, EPA has determined that (a) pest outbreaks of *Sclerotinia* blight have occurred or are about to occur in North Carolina and Virginia; (b) there is no pesticide presently registered and available for use to control this pest in North Carolina and Virginia; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this

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use. Accordingly, North Carolina and Virginia have been granted specific exemptions to use the pesticide noted above until September 30, 1978, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the folowing conditions:

1. Botran 75W (EPA Reg. No. 1023-36) may be applied either at a dosage rate of 4 to 5 pounds of product (3 to 3.75 pounds active ingredient) per acre or as a split application, 10 to 14 days apart at a dosage rate in North Carolina of 2 to 2.66 pounds of product (1.5 to 2.0 pounds active ingredient) per acre and in Virginia at a dosage rate of 2.25 pounds of product (1.5 to 1.88 pounds active ingredient) per acre. The product should be applied in North Carlina in 30 to 50 gallons of water and in Virginia in 25 to 50 gallons of water over the row using a flat-type spray nozzle that produces large droplets rather than a mist and with sufficient pressure to drive the fungicide to the soil surface;

2. Fifty-three thousand acres of peanuts located in the North Carolina coastal plain and 52,000 acres of peanuts in the Virginia counties previously listed may be treated;

3. Applications may be made by peanut growers;

4. The use of Botran 75W in conjunction with these specific exemptions is authorized only when personnel of the North Carolina Department of agriculture or county extension personnel in North Carolina, or personnel of the Virginia Cooperative Extension Service in Virginia determine the presence of *Sclerotinia* blight in a given growing area;

5. The North Carolina Extension Service recommendations and the Virginia Cooperative Extension Service recommendations concerning application methods and equipment must be made available to growers in the respective States;

6. A residue level of 2,6-dichloro-4-nitroaniline in or on peanut meat and hulls not exceeding 0.1 ppm has been deemed adequate to protect the public health, The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare, has been advised of this action;

7. Botran-treated peanut vines or hay must not be used as livestock feed items. A minimum preharvest interval of 30 days must be observed;

8. Botran 75W is toxic to fish. Care must be taken to prevent contamination of water by cleaning of equipment or disposal of waste or containers. It may not be applied under conditions favoring sheet runoff;

9. All label directions, precautions, and restrictions must be adhered to;

10. The EPA shall be immediately informed of any adverse effects resulting from the use of Botran 75W in conjunction with these exemptions; and

11. North Carolina and Virginia are each required to submit a full report summarizing the results of this program in their respective States to the EPA by March 31, 1979.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: September 12, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-26232 Filed 9-18-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, PR. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, by October 9, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-3708.

Filing party: A. J. Boyle, Vice President, International Terminal operating Co. Inc., 17 Battery Place, New York, N.Y. 10004.

Summary: Agreement No. T-3708, between I.T.O. Corp. of Baltimore (ITO) and Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Line, Ltd., Nippon Yusen Kaisha and Yamashita-Shinnihon Steamship Co. Ltd. (the Lines), is a renewable, 1-year container terminal stevedore and LCL service agreement. The agreement provides that ITO will furnish the Lines terminal, stevedore, and container freight station services in connection with the Lines' containerships calling at Dundalk Marine Terminal, Baltimore, Md. The Lines will compensate ITO in accordance with a schedule of rates agreed upon by both parties and filed with the Federal Maritime Commission.

By order of the Federal Maritime Commission.

Dated: September 14, 1978.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc. 78-26345 Filed 9-18-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

NEWMAN BANCSHARES, INC.

Formation of Bank Holding Company

Newman Bancshares, Inc., Tuscola, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 94 percent of the voting shares of First State Bank of Newman, Newman, Ill. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than October 11, 1978.

Board of Governors of the Federal Reserve System, September 12, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-26259 Filed 9-18-78; 8:45 am]

[6210-01]

NORTH KOSSUTH INVESTMENT CO.

Formation of Bank Holding Co.

North Kossuth Investment Co., Swea City, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent of the voting shares of Swea City State Bank, Swea City, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve bank, to be received not later than October 5, 1978.

Board of Governors of the Federal Reserve System, September 12, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-26258 Filed 9-18-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on September 13, 1978. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC, FTC, and NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before October 10, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review staff, 202-275-3532.

FEDERAL COMMUNICATIONS COMMISSION

The FCC requests clearance of revisions to form P, Annual Report of Miscellaneous Common Carriers. Form P is used for obtaining operating and financial data from miscellaneous and specialized common carriers. Due to the recent expansion of the microwave radio service brought about by the entry of the specialized carriers, a revision to form P was found to be necessary. The form is being revised to permit more detailed breakdowns of the carriers' assets structure, revenues, expenses, and returns and also to bring the form into conformity with generally accepted accounting practices and with systems of accounts now applied to the telecommunications industry. The form is required by sections 219(a), 303(j), 303(r), and 308(b) of the Communications Act of 1934, as amended, and sections 1.785, 21.3000, and 43.21 of the FCC rules and regulations. The FCC estimates approximately 100 respondents will complete the report and that respondent burden will average 15 hours per response.

FEDERAL TRADE COMMISSION

The FTC requests clearance of a new, voluntary, single-time questionnaire to be sent to 20,000 households in 24 States who participate in the Market Facts Consumer Mail Panel. The questionnaire will gather information to assist the Commission in making policy decisions related to the duplication of eyeglass lenses. Questionnaires will be sent to individuals who wear eyeglasses to determine if, when, and why they had a lens or pair of lenses duplicated and dates of eye examinations. The FTC estimates respondent burden will average 10 minutes per questionnaire.

The FTC requests clearance of a new, voluntary, single-time questionnaire to be sent to 10,000 households who participate in the market facts consumer panel. The questionnaire will gather information to assist the Commission in making policy decisions related to contact lenses. Questionnaires will be sent to current and former users of contact lenses to obtain information on costs to consumers, source of purchase, and for former users, the reason for no longer wearing contact lenses. The FTC estimates respondent burden will average 10 minutes per questionnaire.

The FTC requests clearance of a new, voluntary, single-time questionnaire to be sent to 14,000 households who participate in the market facts consumer mail panel. The questionnaire will gather information for the purpose of assessing the impact of corrective advertising for Listerine brand mouthwash. Questionnaires will be sent to the mail panel to ascertain their beliefs and usage patterns of several brands of mouthwash. The FTC estimates respondent burden will average 20 minutes per questionnaire.

NUCLEAR REGULATORY COMMISSION

The NRC requests clearance of revisions to 10 CFR Part 20, Personnel Exposure and Monitoring Reports, specifically sections 20.407 and 20.408. The revision to section 20.407(a) will require each person described in section 20.408 to submit within the first quarter of each calendar year reports covering the preceding calendar year containing the total number of individuals for whom personnel monitoring was required during the calendar year. Section 20.407(b) will require a statistical summary report of the personnel monitoring information recorded by the licensee for individuals for whom personnel monitoring was either required or provided, as described in paragraph (a) of this section, indicating the number of individuals whose total whole body exposure recorded during the previous calendar year was in each of certain specified exposure ranges. Section 20.408 has been revised only to specify the four categories of licensees required to report. The NRC estimates that in addition to the 450 licensees currently required to report under these sections, respondents will now include 8,200 additional licensees for a period of 2 years and reporting burden will average 1.4 hours per annual report.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-26328 Filed 9-18-78; 8:45 am]

[4110-92]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Federal Council on the Aging

LONG-TERM CARE COMMITTEE

Meeting

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93-29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress, on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. app. 1, sec. 10, 1976) that the Council's Committee on Long Term Care will hold a meeting on Friday, October 13, from 9:30 a.m. to 5 p.m., in Room 4254, HEW North Building, 330 Independence Avenue SW., Washington, D.C. 20201.

The agenda will consist of consideration of mandated studies and followup of the Committee's recommendations to the Council on the Development of policy alternative for long-term care.

Further information on the Council may be obtained from the FCA Secretariat, Federal Council on the Aging. Washington, D.C. 20201, telephone

202-245-0441. FCA meetings are open for public observation.

sis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the

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[4110-08]

REPORT ON BIOASSAY OF TRIMETHYLPHOSPHATE FOR POSSIBLE CARCINOGENICITY

[4110-85]

Public Health Service

mental conditions. These drugs elevate prolactin levels in both animals and man, but the role of prolactin in

body weight for mice. The vehicle used for the test chemical consisted of 0.05 percent polysorbate 80 in phos-

V 4 3 / 1 8 2 SE 1978 V4

202-245-0441. FCA meetings are open for public observation.

NELSON H. CRUIKSHANK,
Chairman, Federal Council on the Aging.

SEPTEMBER 13, 1978.

[FR Doc. 78-26260 Filed 9-18-78; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 77N-0437; DESI Nos. 9149, 11020, 11127, and 12486]

PHYSICIAN LABELING FOR ANTIPSYCHOTIC DRUGS

Extension of Time for Comments on Precaution Statement

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice extends the comment period announced in a previous FEDERAL REGISTER notice in order to permit sufficient time for all interested persons to submit comments on the proposed precaution statement for certain antipsychotic drugs and on the design and initiation of epidemiological studies of them.

DATE: Comments by October 18, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with docket No. 77N-0437, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Written comments to Ann Greenstein, Division of Neuropharmacological Drug Products (HFD-120), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of August 18, 1978 (43 FR 36696), the Director of the Bureau of Drugs proposed that the physician labeling for antipsychotic drugs, except for lithium carbonate, be revised to include under the precaution section the following statement:

"The chronic administration of antipsychotic drugs in rodents induces the development of mammary neoplasms under the appropriate experimental conditions. These drugs elevate prolactin levels in both animals and man, but the role of prolactin in human mammary tumorigenesis is uncertain. Studies conducted to date have not shown an association between chronic administration of antipsychotic drugs and mammary tumors in human beings, but the available evidence is considered too limited to be conclusive at this time. Inasmuch as a fraction of human breast tumors appears to be prolactin-dependent, periodic breast examinations are advised, especially in patients with a previously detected breast cancer or in those with a strong family history of breast cancer."

Interested persons were invited to submit comments by September 18, 1978, on the proposed statement, and on the design and initiation of epidemiological studies involving the chronic administration of these drugs.

The Food and Drug Administration has received a request from the Pharmaceutical Manufacturers Association to extend the comment period to October 18, 1978. The request argues that the comment period ending on September 18, 1978, does not provide its member companies sufficient time to analyze the action proposed by FDA and to submit comments.

The Director of the Bureau of Drugs is concerned that all interested persons have sufficient time to analyze the proposal and submit well-documented comments. Thus, he hereby extends the comment period to October 18, 1978.

Dated: September 13, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-26363 Filed 9-18-78; 8:45 am]

[4110-08]

National Institutes of Health

REPORT ON BIOASSAY OF ESTRADIOL MUSTARD FOR POSSIBLE CARCINOGENICITY

Availability

Estradiol mustard (CAS 22966-79-6) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay of the experimental anticancer drug estradiol mustard for possible carcinogenicity was conducted by administering the chemical by gavage to Sprague-Dawley rats and B6C3F1 mice.

Groups of 35 rats and 34-36 mice of each sex were administered estradiol mustard at one of the following doses, either 0.62 or 1.25 mg/kg body weight for rats and either 15 or 30 mg/kg body weight for mice. The vehicle used for the test chemical consisted of 0.05 percent polysorbate 80 in phosphate-buffered saline. The rats and mice were dosed three times per week for 52 weeks, then observed for an additional 30-34 weeks. Controls consisted of groups of 10 rats and 15 mice of each sex that were not administered the chemical (untreated controls) and also of groups of 10 rats of each sex, 14 male mice, and 16 female mice administered the vehicle alone (vehicle controls). Pooled controls were also used. All surviving rats were killed at 84-86 weeks and all surviving mice at 82-86 weeks.

Mean body weights of male rats and male and female mice administered estradiol mustard were lower throughout the greater part of the study than those of corresponding vehicle or untreated controls; mean body weights of dosed female rats were unaffected. Administration of the test chemical had no significant effect on the survival of either male or female rats. A large number of dosed mice died prior to the end of the study. The numbers of dosed male mice which were at risk as long as 52 weeks were sufficient, however, for development of tumors appearing up to that time. Time-adjusted analysis and life-table analyses were applied to data obtained with the mice.

It is concluded that under the conditions of this bioassay, estradiol mustard administered in a buffered saline vehicle was not carcinogenic in Sprague-Dawley rats. Estradiol mustard was carcinogenic in both male and female B6C3F1 mice, inducing lymphoma, sarcoma of the myocardium, elveolar adenoma, or carcinoma, and squamous-cell carcinoma of the stomach.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: August 18, 1978.

THOMAS E. MALONE,
Ph. D., Acting Director, National Institutes of Health.

[FR Doc. 78-26175 Filed 9-18-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF ICRF-159 FOR POSSIBLE CARCINOGENICITY

Availability

ICRF-159 (CAS 21416-87-5) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay of the experimental anticancer drug ICRF-159 for possible carcinogenicity was conducted by administering the compound by intraperitoneal injection to Sprague-Dawley rats and B6C3F1 mice.

Groups of 35 rats and 35 mice of each sex were injected three times per week with ICRF-159 in buffered saline at one of the following doses, either 48 or 96 mg/kg body weight for the rats and either 40 or 80 mg/kg body weight for the mice. Both rats and mice were dosed for 52 weeks, then observed for 29-34 additional weeks. Untreated-control and vehicle-control groups each consisted of 10 rats and 15 mice of each sex; pooled-control groups consisted of the 10 vehicle controls of each sex of the rats combined with 30 vehicle controls of each sex of rats from similar bioassays of three other chemicals and the 15 vehicle controls of each sex of the mice combined with 30 vehicle controls of each sex of mice from similar bioassays of two other chemicals. All surviving rats were killed at 81-86 weeks; all surviving mice, at 86 weeks.

Mean body weights were depressed in rats and mice administered ICRF-159, and mortality was dose related among male and female rats and male mice. The high mortality among the male rats may have been associated with inflammatory lesions observed in the lungs, the liver, and the pleural and peritoneal cavities. Sufficient numbers of female rats and of both male and female mice were at risk for development of late-appearing tumors. In the male rats, time-adjusted analysis of the incidence of tumors was used for determining statistical significance.

It is concluded that under the conditions of this bioassay, ICRF-159 was carcinogenic for female Sprague-Dawley rats, producing uterine adenocarcinomas, and was also carcinogenic for female B6C3F1 mice, producing lymphomas.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: August 18, 1978.

THOMAS E. MALONE, PH.D.,
Acting Director, National Institutes of Health.

[FR Doc. 78-26174 Filed 9-18-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF TRIMETHYLPHOSPHATE FOR POSSIBLE CARCINOGENICITY

Availability

Trimethylphosphate (CAS 512-56-1) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassy of trimethylphosphate for possible carciongenicity was conducted by administering the compound by gavage to Fischer 344 rats and B6C3F1 mice.

Groups of 50 rats and 50 mice of each sex were administerd trimethylphosphate in distilled water three times per week at one of two doses, either 50 or 100 mg/kg body weight for the rats and either 250 or 500 mg/kg body weight for the mice. Vehicle controls consisted of groups of 20 rats and 20 mice of each sex. The rats were dosed for 104 weeks and the mice for 103 weeks. All surviving rats were killed at week 105 and all surviving mice at week 103.

Mean body weights of dosed male and female rats and female mice were slightly lower than those of the corresponding vehicle controls throughout the study; mean body weights of the male mice were comparable to those of the vehicle controls. Survival rates of both rats and mice were high, and adequate numbers of animals were at risk for the development of later-appearing tumors.

It is concluded that under the conditions of this bioassay, trimethylphosphate was carcinogenic in female B6C3F1 mice, inducing adenocarcinomas of the uterus/endometrium. Trimethylphosphate was associated with the induction of benign fibromas of the subcutaneous tissue in male Fischer 344 rats. No evidence of carcinogenicity of the compound was obtained in female rates or in male mice.

Single copies of the report are available form the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: August 18, 1978.

THOMAS E. MALONE,
Ph. D., Acting Director, National Institutes of Health.

[FR Doc. 78-26176 Filed 9-18-78; 8:45 am]

[4110-85]

Public Health Service

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

Statement of Organization, Functions, and Delegations of Authority

Part H, chapter HA (Office of the Assistant Secretary for Health) of the statement of organization, functions, and delegations of authority (38 FR 18571, July 12, 1973, as amended by 42 FR 61317, December 2, 1977, and most recently amended by 43 FR 33965, August 2, 1978) is amended to reflect a relocation of the Office of Health Maintenance Organizations (OHMO) from the Office of Health Programs to a staff office reporting directly to the Assistant Secretary for Health in order to provide additional emphasis and visibility. Also, reflected is a reorganization of OHMO in order to facilitate the development and expansion of health maintenance organizations (HMO's) as a desirable alternative for health care services delivery.

Under Section HA-10 Organization, add Office of Health Maintenance Organizations (HA2) as item 11, and renumber items 11, 12, and 13 to read 12, 13, and 14, respectively.

Under Section HA-20 Functions, change the code designation of Office of Health Maintenance Organizations from "(HAS4)" to "(HAS2)"; remove the current functional statement for the Office of Health Maintenance Organizations (HA2) and place after the Office on Smoking and Health (HAG). Delete in their entirety, the functional statements for the Division of Health Maintenance Organizations Development (HAS41) and the Division of Health Maintenance Organizations Qualification and Compliance (HAS42).

Insert the following statements after the Office of Health Maintenance Organizations (HA2):

Office of Program Support (HA2-1). (1) Plans, organizes, and directs a comprehensive program of general administrative, fiscal, and related management services, including the formulation and implementation of management policies, procedures, systems, and practices; (2) manages, coordinates, and implements for the central and regional offices all phases of the budget formulation, presentation, and execution process, and prepares budget plans and advice of allowances for grants and direct operations; (3) interprets fiscal directives from Congress and HEW as they affect OHMO; (4) coordinates OHMO personnel activities for civil service and commissioned corps personnel, including special consultant and expert activities; (5) provides correspondence management for control of written communi-

cations and action documents, including substantive policy review and followup to insure timely and appropri-

Division of Program Promotion (HA23). (1) Develops national promotion strategies and provides assistance

guidelines and regulations related to HMO compliance.

Dated: September 8, 1978.

and will form the basis for the later development of a multiyear strategy for health research in the Depart-

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ations and Consumer Protection. However, since research remains a major function of the Secretary under the Act, and since all research done by the

cations and action documents, including substantive policy review and followup to insure timely and appropriate action and clearances; (6) tracks and reports on progress in meeting program objectives; (7) manages the administrative aspects of OHMO contract activities; and (8) develops and monitors manpower management and work planning systems for the HMO central office staff.

Division of Development (HA21). (1) Encourages the development and expansion of HMO's, in coordination with the Division of Program Promotion, by providing and monitoring grants, contracts, loans, and loan guarantees to public, nonprofit, and private entities to pursue HMO planning and development activities; provides advice and assistance as needed to HMO's and entities seeking HMO status to enhance developmental activities; (2) establishes standards and procedures for HMO grant reviews and awards; (3) establishes standards and procedures for all loan applications, awards, and reviews; (4) directs and coordinates the HMO grant and loan management activities in the headquarters/regional offices; (5) conducts regular analyses for adequacy of developmental activities for individual HMO projects and prepares quarterly reports projecting the potential for success of developmental activities for budget planning purposes; (6) analyzes needs and develops forecasts for the national grant and loan/loan guarantee programs; and (7) performs congressional, HEW, and other intergovernmental liaison related to development activities.

Division of Qualification (HA22). (1) Establishes qualification standards, and determines the acceptability of entities seeking to become "qualified HMO's"; (2) refines review procedures as necessary to facilitate the qualification process; (3) coordinates and insures consistency of regional office activities related to the qualification process; (4) assists the Office of the General Counsel in the development of legal actions concerning HMO qualification status; (5) performs congressional, HEW, and other intergovernmental liaison related to qualification activities; (6) provides technical assistance to HMO's developed through public and private resources, in the fields of medical care organization, quality assurance, financial management, marketing, legal assistance, and health care administration; (7) develops policy and regulations related to HMO qualification; (8) evaluates impact of policies, legislation, and regulation on ability of projects to become qualified; and (9) provides guidance as to interpretation of policy guidelines and regulations related to qualification.

Division of Program Promotion (HA23). (1) Develops national promotion strategies and provides assistance to Federal, State, public, and private agencies and organizations to encourage the identification of potential areas for HMO development; (2) analyzes national needs to assess potential HMO development geographically and by sponsor; (3) generates an annual national HMO report to Congress; (4) coordinates Federal promotional activities with national professional and trade organizations, and business and labor communities to promote effective joint actions beneficial to HMO development; (5) develops, edits, and evaluates promotional educational and guidance materials and information pertinent to communicating and understanding HMO concepts, operations, and performance; (6) coordinates publication and distribution of public information materials and reports; and (7) coordinates promotional activities performed by regional offices.

Division of Compliance (HA24). (1) Assures the continuing compliance of HMO's with the statutory requirements of the HMO law; (2) assures compliance by employers with a mandatory offering of the HMO alternative in employee health benefits plans; (3) assists the Office of the General Counsel in the development of legal actions against HMO's and employers considered not to be in compliance with applicable standards and regulatory requirements; (4) reviews standards, procedures, and reporting requirements for monitoring of HMO's that receive financial assistance under grants, loans, and loan guarantees; (5) establishes and updates standards and procedures for compliance monitoring of qualified HMO's, and prepares status reports for internal and external use; (6) assures consistency of regional office activities related to compliance monitoring; (7) assures compliance by loan recipients with the legislative requirement for fiscal viability; (8) utilizes computerized data systems to maintain and monitor national HMO activity and statistics; (9) establishes and maintains liaison with concerned State and local regulatory and monitoring agencies; (10) provides technical assistance to qualified HMO's developed through public and private resources, in the fields of medical care organization, quality assurance, financial management, marketing, legal assistance, and health care administration; (11) develops policy and regulaions related to HMO compliance; (12) evaluates impact of policy; legislation, and regulation on ability of qualified HMO's to remain in compliance; and (13) provides guidance as to interpretation of policy guidelines and regulations related to HMO compliance.

Dated: September 8, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-26226 Filed 9-18-78; 8:45 am]

[4110-12]

Office of the Secretary

NATIONAL CONFERENCE ON HEALTH RESEARCH PRINCIPLES

Meeting

Notice is hereby given of the National Conference on Health Research Principles to be held on October 3-4, 1978, at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Md.

The National Conference is part of a new open process which has been initiated by the Secretary of Health, Education, and Welfare, and which is designed to solicit public advice in developing principles of a multiyear strategy to guide DHEW health research activities. All agencies engaging in health research within the Department, the Office of the Assistant Secretary for Health, and other Department staff offices are involved in the Secretary's initiative. The Director of the National Institutes of Health has been asked to take the lead in coordinating this effort.

Approximately 1,000 professional societies and health organizations as well as other Federal departments and agencies have been asked for their suggestions on the principles the Department should adopt. The comments received from the health community, the public, and other Federal agencies have been considered in formulating a statement of proposed DHEW health research principles to be presented to the National Conference.

The Conference will be open to the public and will serve both as a forum to elicit additional public advice and to revise the proposed DHEW principles based on a consideration of oral and written public testimony. The Conference will be structured around five major areas: Fundamental research, clinical applications and health services research, health regulation and promotion, research capability, and unifying concepts. Five panels will receive and consider testimony from preregistered witnesses on these five focuses. There will be two brief plenary sessions to open and close the Conference. Attendance by the public will be limited by the space available. The Conference will result in a draft report of health research principles for the Department. This report will be distributed widely for public comment and will form the basis for the later development of a multiyear strategy for health research in the Department.

Members of the public are invited to provide written comments on the statement of proposed DHEW health research principles which will be available in mid-September. Comments received by September 29 will be considered during the Conference. Written comments received after September 29 will be incorporated as part of the public record and considered during subsequent stages of the process. Individuals who wish to receive a copy of the statement of proposed DHEW health research principles for purposes of providing written comments or who want further information on Conference arrangements may write or telephone Mr. Kurt Habel, Office of the Director, National Institutes of Health, Building 1, Room 205, Bethesda, Md. 20014, 301-496-1454.

Dated: September 11, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

[FR Doc. 78-26261 Filed 9-18-78; 8:45 am]

[4110-35]

Health Care Financing Administration

PHARMACEUTICAL REIMBURSEMENT BOARD

Proposed MAC's and Announcement of Public Hearing

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Correction of notice.

SUMMARY: In FR document No. 78-24487, appearing in the FEDERAL REGISTER on August 31, 1978, at page 38941, an error occurred in the proposed Maximum Allowable Cost (MAC) limit on amoxicillin oral suspension 250mg/5cc. The proposed limit should read $.0465 instead of $.0461.

FOR FURTHER INFORMATION CONTACT:

Peter Rodler, Executive Secretary, Pharmaceutical Reimbursement Board, 3076 Switzer Building, 330 C Street SW., Washington, D.C. 20201, 202-472-3820.

Dated: September 15, 1978.

PETER RODLER,
Executive Secretary Pharmaceutical Reimbursement Board.

[FR Doc. 78-26465 Filed 9-18-78; 10:27 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-78-533]

ASSISTANT SECRETARY FOR NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS AND CONSUMER PROTECTION

Delegation of Authority

AGENCY: Department of Housing and Urban Development.

ACTION: Delegation of authority.

SUMMARY: The Secretary is delegating to the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection all of her authority under the Lead Based Paint Poisoning Prevention Act, except the Secretary's authority with respect to research, which shall be exercised by the Assistant Secretary for Policy Development and Research in consultation with the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Rebecca Johnson, Office of the Deputy Assistant Secretary for Regulatory Functions, Department of Housing and Urban Development, Room 3234, Washington, D.C. 20410, telephone 202-755-6526.

SUPPLEMENTARY INFORMATION: Under sections 301, 302, and 401 of the Lead Based Paint Poisoning Prevention Act, as amended, 42 U.S.C. 4801 et seq., the Secretary of Housing and Urban Development is required to carry out research to determine the nature and extent of lead paint poisoning in the United States, to establish procedures to eliminate the hazards of lead-based paint poisoning in certain existing housing, and to take steps and to impose such conditions as may be necessary to prohibit the use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government or with Federal assistance. The primary responsibility for this program has to date been vested in the Assistant Secretary for Policy Development and Research.

With the establishment of the Office of the Deputy Assistant Secretary for Regulatory Functions under the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, the Secretary has determined that the responsibility for assuring the implementation of the requirements of the Act should be carried out by the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection. However, since research remains a major function of the Secretary under the Act, and since all research done by the Department of Housing and Urban Development is carried out under the auspices of the Assistant Secretary for Policy Development and Research, the Secretary has determined that the responsibility for carrying out required research shall be vested in the Assistant Secretary for Policy Development and Research in consultation with the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

Accordingly, the Secretary delegates authority as follows:

SECTION A. *Authority delegated.* The Secretary delegates to the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection all of her power and authority under the Lead Based Paint Poisoning Prevention Act, as amended, 42 U.S.C. 4801 et seq., except that the Secretary directs that her authority under section 301(a) of the Act, 42 U.S.C. 4821(a) shall be exercised by the Assistant Secretary for Policy Development and Research, in consultation with the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

SEC. B. *Authority excepted.* The power to sue and be sued is excepted from the authority delegated under section A.

SEC. C. *Authority to redelegate.* The Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection is authorized to redelegate to employees of the Department and to agents of the Department any of the power and authority delegated under section A of this delegation except the power to issue rules and regulations.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).)

Issued at Washington, D.C., September 11, 1978.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc. 78-26255 Filed 9-18-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 34437 and 34495]

NEW MEXICO

Applications

SEPTEMBER 8, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as

amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for two 4½ inch natural gas pipeline rights-of-way

proved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly

In accordance with 43 CFR 3301.4, a public hearing will be held beginning at 9 a.m. on November 7, 1978, in the

final environmental statement will be prepared.

ARNOLD E. PETTY,
Acting Director,

should be submitted by September 29, 1978.

RONALD M. GREENBERG
Acting Keeper of the

IDAHO

Ada County

Boise, *Central Warm Springs Historic District,* 511-635 and 740 Warm Springs Ave.

amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for two 4½ inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 7 W.,
Sec. 17, lots 4, 8 and NE¼SE¼.
T. 31 N., R. 10 W.,
Sec. 34, lot 7.

These pipelines will convey natural gas across 0.475 of a mile of public lands in Rio Arriba and San Juan Counties, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Mineral Operations.

[FR Doc. 78-26249 Filed 9-18-78; 8:45 am]

[4310-84]

[NM 34489, 34491, 34504, 34505]

NEW MEXICO

Notice of Applications

SEPTEMBER 8, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Co. has applied for three 4-inch and one 6-inch pipeline and related facilities rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 16 S., R. 24 E.
Sec. 25, SE¼NE¼, NE¼SW¼ and N½SE¼.
T. 19 S., R. 24 E.,
Sec. 21, NE¼NE¼;
Sec. 27, NE¼NW¼;
Sec. 28, S½NW¼.
T. 16 S., R. 25 E.,
Sec. 30, lot 2 and E½NW¼.
T. 18 S., R. 28 E.,
Sec. 12, W½NE¼.

These pipelines will convey natural gas across 2.297 miles of public lands in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-26277 Filed 9-18-78; 8:45 am]

[4310-84]

OUTER CONTINENTAL SHELF OFFSHORE GULF OF MEXICO

Availability of Draft Environmental Statement and Holding of Public Hearing Regarding Proposed Oil and Gas Lease Sale No. 58

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement relating to a proposed Outer Continental Shelf (OCS) oil and gas lease sale of 110 tracts consisting of 215,743 hectares (532,885 acres) of submerged lands on the OCS in the western and central Gulf of Mexico.

Single copies of the draft environmental statement can be obtained from the Office of the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Suite 841, Hale Boggs Federal Building, 500 Camp Street, New Orleans, La. 70130, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the draft environmental statement will also be available for review in the following public libraries: Austin Public Library, 401 West Ninth Street, Austin, Tex.; Houston Public Library, 500 McKinney, Houston, Tex.; Rosenburg Library, 2310 Sealy, Galveston, Tex.; Dallas Public Library, 1954 Commerce Street, Dallas, Tex.; Brazoria County Library, 410 Brazoport Boulevard, Freeport, Tex.; La Ratama Library, 505 Mesquite Street, Corpus Christi, Tex.; Texas Southmost College Library, 80 Fort Brown Street, Brownsville, Tex.; New Orleans Public Library, 219 Loyola Avenue, New Orleans, La.; Louisiana State Library, Baton Rouge, La.; Lafayette Public Library, 301 West Congress Street, Lafayette, La.; Calcasieu Parish Library System, Downtown Branch, Lake Charles, La.; Harrison County Library, 21st Avenue and Beach, Gulfport, Miss.; Mobile Public Library, 701 Government Street, Mobile, Ala.; and Montgomery Public Library, 445 South Lawrence Street, Montgomery, Ala.

In accordance with 43 CFR 3301.4, a public hearing will be held beginning at 9 a.m. on November 7, 1978, in the BLM Conference Room, Suite 841, Hale Boggs Federal Building, 500 Camp Street, New Orleans, La. 70130, for the purpose of receiving comments and suggestions relating to the proposed lease sale. Should expressed public interest warrant it, the hearing may extend into a second day.

The hearing will provide the Secretary with additional information from public and private groups to help evaluate fully the potential effects of the proposed offering of 110 tracts on the total environment, aquatic resources, esthetics, recreation, and other resources in the entire area during the exploration, development, and production phases of the OCS leasing program. The hearing will also provide the Secretary with the opportunity to receive additional comments and views of interested State and local agencies.

Interested individuals, representatives, or organizations, and public officials wishing to testify at the public hearing are requested to contact the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, at the above address by 4:15 p.m., November 3, 1978. Written comments from those unable to attend the hearing also should be addressed to the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management at the above address. The Department will accept written testimony and comments on the draft environmental statement until November 14, 1978. This should allow ample time for those unable to testify at the hearing to make their views known and for the submission of supplemental materials by those presenting oral testimony. Time limitations make it necessary to limit the length of oral presentations to ten (10) minutes. An oral statement may be supplemented, however, by a more complete written statement which may be submitted to the Manager, New Orleans Outer Continental Shelf Office, at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the hearing record. To the extent that time is available after presentation of oral statements by those who have given advance notice, others present will be given an opportunity to be heard.

After all testimony and comments have been received and analyzed, a final environmental statement will be prepared.

ARNOLD E. PETTY,
Acting Director,
Bureau of Land Management.

Approved: September 19, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant,
Secretary of the Interior.

[FR Doc. 78-26257 Filed 9-18-78; 8:45 am]

[4310-31]

Geological Survey

RESEARCH AND DEVELOPMENT PROGRAM IN OCS OIL AND GAS OPERATIONS

Presentation of Selected Projects

The U.S. Geological Survey is presenting to the public a summary of selected projects from its contract research and development program in OCS oil and gas operations on November 14 and 15, 1978. Ten principal investigators from the universitites, Government laboratories, and private companies will present their projects which are in the fields of monitoring and inspection of offshore structures, well control, and pollution prevention. Following the technical sessions, an open discussion of the research program will be held.

Attendance is limited, and invitations will be sent to those who apply first. Interested parties should write to Mr. John B. Gregory, Research Program Manager, Branch of Marine Oil and Gas Operations, Conservation Division, 620 National Center, Reston, Va. 22092, telephone 703-860-7531.

DON E. KASH,
Acting Director.

[FR Doc. 78-26250 Filed 9-18-78; 8:45 am]

[4310-03]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before September 8, 1978. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by September 29, 1978.

RONALD M. GREENBERG
Acting Keeper of the National Register.

ALABAMA

Perry County

Marion, *President's House, Marion Institute,* 110 Brown St.

Wilcox County

Camden, *Wilcox County Courthouse Historic District,* irregular pattern along Broad St.

CALIFORNIA

Mariposa County

El Portal vicinity, *Merced Grove Ranger Station,* N of El Portal
Wawona vicinity, *Anderson, George, Cabin,* N of Wawona in Yosemite National Park
Wawona vicinity, *Clark, Galen, Homestead Site,* W of Wawona in Yosemite NP
Wawona vicinity, *Mariposa Grove Museum,* SE of Wawona in Yosemite NP

San Francisco County

San Francisco, *Fort Mason,* Bounded by Van Ness Ave., Bay St., Laguna St., and San Francisco Bay

Tehama County

Mineral, *Part Headquarters, Lassen Volcanic NP,* Off CA 36

Tuolumne County

Lee Vining vicinity, *Tioga Pass Entrance Station,* SW of Lee Vining in Yosemite NP
Lee Vining vicinity, *Tuolumne Meadows,* SW of Lee Vining in Yosemite NP
Lee Vining vicinity, *Tuolumne Meadows Ranger Stations and Comfort Stations,* SW of Lee Vining in Yosemite NP

FLORIDA

Dade County

Coral Gables, *Coral Gables Congregational Church,* 3010 DeSoto Blvd.

Gadsden County

Quincy, *Quincy Historic District,* Courthouse Sq. and environs

Hamilton County

Jasper, *United Methodist Church,* Central Ave. and 5th St.

Lee County

Pineland vicinity, *Josslyn Island Site,* S of Pineland

Leon County

Tallahassee vicinity, *Johnson-Caldwell House,* Old Bainbridge Rd.

Liberty County

Bristol vicinity, *Yon Mound and Village Site,* W of Bristol

GEORGIA

Glynn County

Brunswick, *Brunswick Old Town Historic District,* Bounded by 1st, Bay, New Bay, H and Cochran Sts.

IDAHO

Ada County

Boise, *Central Warm Springs Historic District,* 511-635 and 740 Warm Springs Ave.

Blaine County

Carey vicinity, *Fish Creek Dam,* NE of Carey

Jefferson County

Roberts, *Hotel Patrie,* U.S. 91

Shoshone County

Murray, *Murray Courthouse,* Main St.

ILLINOIS

Cook County

Chicago, *Bach, Emil, House,* 7415 N. Sheridan Rd.

INDIANA

Kosciusko County

Warsaw, *Kosciusko County Jail,* Main and Indiana Sts.

Lake County

Lowell, *Halsted, Melvin A., House,* 201 E. Main St.

Montgomery County

Crawsfordsville, *Schlemmer, Otto, Building,* 129-131 N. Green St.

IOWA

Dallas County

Perry, *Perry Volunteer Fire Department Engine House,* 1208 1st St.

Winnebago County

Forest City, *Thompson, Charles J., House,* 336 N. Clark St.

Winneshiek County

Decorah vicinity, *Birdsall Lime Kiln,* NE of Decorah

MASSACHUSETTS

Bristol County

Attleboro, *Robinson, Capt. Joel, House,* 111 Rocklawn Ave.

Essex County

Beverly, *Odd Fellows' Hall,* 188-194 Cabot St.

NEW MEXICO

Santa Fe County

Santa Fe, *Digneo-Valdes House,* 1231 Paseo de Peralta

NEW YORK

Onondaga County

Syracuse, *Amos Block,* 210-216 W. Water St.

OREGON

Jackson County

Ashland, *Taverner, George, House,* 912 Siskiyou Blvd.
Rock Point, *White, John B., House,* 86 N. River Rd.

Linn County

Brownsville, *Brown, John and Amelia, Farmhouse,* SE of Brownsville on OR 228

Multnomah County

of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing

Old Indiana Development Corp., Washington Township-Boone County, Ind.—Theme Park.
Macsi (Mass and Cost Savers, Inc.), Hannibal, Mo.—Magnesium diecastings.

the parties of record at the address stated in paragraph 3.

puts of scientific and technological activities, and for related studies. Most awards are expected to be in the $25,000 to $50,000 range.

Authority to close meeting: This determination was made by the Director, NSF, pursuant to provisions of section 10(d) of the Federal Advisory Committee Act.

Linn County

Brownsville, *Brown, John and Amelia, Farmhouse*, SE of Brownsville on OR 228

Multnomah County

Portland, *First Unitarian Church of Portland*, 1011 SW. 12th Ave.

TENNESSEE

Carter County

Johnson City vicinity, *Hunt, Henson, House*, SE of Johnson City on Brookdale Rd.

WISCONSIN

Jefferson County

Fort Atkinson, *Jones Dairy Farm*, Jones Ave.

WYOMING

Big Horn County

Lovell vicinity, *Mason-Lovell Ranch*, SE of Lovell

[FR Doc. 78-25990 Filed 9-18-78; 8:45 am]

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration of the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within 2 weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 18th day of September 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING SEPTEMBER 15, 1978

NAME OF APPLICANT AND LOCATION OF ENTERPRISE AND PRINCIPAL PRODUCT OR ACTIVITY

Village Properties, Inc., Carrabassett Valley, Maine—Ski resort.
The Rochester Corp., Culpeper, Va.—Manufacture of electromechanical cable.
Inter Hex Corp., Washington, Pa.—Manufacture of prefabricated housing.
Brodhead Nail Co., Swannanoa, N. C.—Manufacture of steel nails.
Liberty Pump & Surfacing Co., Inc., Liberty, Miss.—Fabricating and repairing pump components.
Better Backers, Inc., Chatsworth, Ga.—Application of secondary backing to tufted carpets.
Hilton, Inc., Panama City Beach, Fla.—Motel.
Liberty Folder Corp., Sidney, Ohio—Manufacture of paper folding equipment.
Dunham Lehr, Inc., Richmond, Ind.—Manufacture of form machinery and stoves.
Old Indiana Development Corp., Washington Township-Boone County, Ind.—Theme Park.
Macsi (Mass and Cost Savers, Inc.), Hannibal, Mo.—Magnesium diecastings.
Dakota Poultry Processors, Inc., Watertown, S. Dak.—Dressing poultry
Sun Fun, Inc., Sedona, Ariz.—Restaurant.
NAMCO, Inc., Sioux City, Iowa—Manufacture of form and construction machinery.

[FR Doc. 78-26292 Filed 9-18-78; 8:45 am]

[4510-30]

STATE OF NEW HAMPSHIRE DEPARTMENT OF EMPLOYMENT SECURITY

Correction to Rules of Procedure

This notice announces a correction to the rules of procedure applicable to the hearing for the Department of Employment Security of the State of New Hampshire to be held, pursuant to the last and first sentences of section 3304(c) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(c)), at 9:30 o'clock in the morning on September 14, 1978, in courtroom C, seventh floor, Vanguard Building, 1111 20th Street NW., Washington, D.C.

The correction involves two sentences inadvertently omitted from rule of procedure No. 14 and a related grammatical revision necessitated by the insertion of such omitted sentences. Accordingly, rule of procedure No. 14, as published in the FEDERAL REGISTER on August 18, 1978, (vol. 43, No. 161, page 36722), is hereby deleted. Substituted therefor is the corrected rule of procedure No. 14, as follows:

* * * * *

14. The presiding administrative law judge shall prepare a recommended decision containing his findings of fact and conclusions of law on or before October 16, 1978. In the event that evidence is offered and admitted which is relevant to any constitutional issue properly raised under these rules, findings of fact shall be made with respect to such evidence. No conclusions of law regarding the constitutionality of any Federal statute shall be made. The presiding administrative law judge shall promptly certify to the Secretary of Labor his recommended decision and the entire record of the proceedings, and mail a copy of his certified and recommended decision to each party of record and to each interested party permitted to participate in the proceedings. Additionally, the presiding administrative law judge shall telephone each of the parties of record to advise that a copy of the recommended decision may be picked up by the parties of record at the address stated in paragraph 3.

* * * * *

Signed at Washington, D.C., on September 14, 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-26264 Filed 9-18-78; 8:45 am]

[7537-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

VISUAL ARTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Visual Arts Advisory Panel to the National Council on the Arts will be held on October 12, 1978, from 9:30 a.m. to 5 p.m. at the University of Pennsylvania, University Museum, Mosaic Gallery, 33rd and Spruce Streets, Philadelphia, Pa.; and October 13-14, 1978, from 9:30 a.m. to 5 p.m. at the University of Pennsylvania, Benjamin Franklin Room, Houston Hall, 34th and Spruce Streets, Philadelphia, Pa.

This meeting will be open to the public on a space available basis. The topic for discussion will be policy; guidelines; question and answer period with the public.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 78-26251 Filed 9-18-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

DIRECTORATE FOR SCIENTIFIC, TECHNOLOGICAL, AND INTERNATIONAL AFFAIRS

Program for the Analysis of Science Resources: Personnel, Funding, Impacts, and Outputs

Summary: The National Science Foundation announces its ongoing program for the analysis of science resources: Personnel, funding, impacts, and outputs. Awards will be for in-depth analyses and integration of data on scientific and technical personnel, the funding of scientific and technological activities, for development of new measures of the impacts and outputs of scientific and technological activities, and for related studies. Most awards are expected to be in the $25,000 to $50,000 range.

Proposals received after February 2, 1979, are not likely to be considered for funding until the 1980 fiscal year. For copies of the Program Announcement, request: Program for the Analysis of Science Resources, NSF 78-47 or contact the following individuals in Division of Science Resources Studies, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550: Funding—Norman Friedman, telephone 202-634-4625; personnel—Morris Cobern, telephone 202-634-4655; impacts and outputs—Donald Buzzelli, telephone 202-634-4682.

This is a revision of notice No. 7555-01, which appeared in the FEDERAL REGISTER of April 26, 1978. Respondents to that notice will receive this program announcement with no further request.

M. REBECCA WINKLER,
Committee Management Coordinator.

SEPTEMBER 14, 1978.

[FR Doc. 78-26347 Filed 9-18-78; 8:45 am]

[7555-01]

SUBCOMMITTEE FOR THE REVIEW OF NUCLEAR SCIENCE

Closed Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

ADVISORY COMMITTEE FOR PHYSICS; SUBCOMMITTEE FOR THE REVIEW OF NUCLEAR SCIENCE.

Date and time: October 5-7, 1978; 9 a.m. to 5 p.m. each day.
Place: Rooms 340 and 341, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Laura P. Bautz, Senior Staff Associate, Division of Physics, Room 341, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4175.
Purpose of subcommittee: To provide program oversight concerning NSF support for research in nuclear science.
Agenda: To review NSF Nuclear Science Section documentation as part of the program oversight function.
Reason for closing: The meeting will deal with a review of grants and declinations in which the subcommittee will review materials containing the names of applicant institutions and principal investigators and privileged information from the files pertaining to the proposals. The meeting will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Director, NSF, pursuant to provisions of section 10(d) of the Federal Advisory Committee Act.

M. REBECCA WINKLER,
Committee Management Coordinator.

SEPTEMBER 14, 1978.

[FR Doc. 78-26346 Filed 9-18-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON REGULATORY ACTIVITIES

Meeting

The ACRS Subcommittee on Regulatory Activities will hold an open meeting on October 4, 1978, in Room 1046, 1717 H Street NW., Washington, D.C. 20555. Notice of this meeting was published in the FEDERAL REGISTER on August 15, 1978 (43 FR 36152).

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977 (56972), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

WEDNESDAY, OCTOBER 4, 1978

MEETING WILL COMMENCE AT 8:45 A.M.

The Subcommittee will hear presentations from the NRC staff and will hold discussions with this group pertinent to the following:

(1) Regulatory Guide 1.134, Revision 1, "Medical Evaluation of Personnel Requiring Operator Licenses."

(2) Regulatory Guide 1.28, Revision 2, "Quality Assurance Program Requirements (Design & Construction)."

(3) Regulatory Guide 1.104, Revision 1, "Overhead Crane Handling Systems for Nuclear Power Plants."

(4) Revisions to Appendices to 10 CFR, Part 50:

a. Appendix G, "Fracture Toughness Requirements."

b. Appendix H, "Reactor Vessel Surveillance Program Requirements."

(5) Draft Regulatory Guide 1.35, Draft 1, Revision 3, "Inservice Inspection of Ungrouted Tendons in Prestressed Concrete Containments."

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(6) Draft Regulatory Guide 1.35.1, Draft 1, "Determination of Prestressing Forces for Inspection of Prestressed Concrete Containments."

(7) Draft Regulatory Guide 1.XXX, Draft 1, "Nuclear Analysis and Design of Concrete Radiation Shielding for Nuclear Power Plants."

(8) Draft Regulatory Guide 1.XXX, Draft 1, "Ultrasonic Testing of Reactor Vessel Welds During Inservice Inspection."

Other matters which may be of a predecisional nature relevant to reactor operation of licensing activities may be discussed following this session.

Persons wishing to submit written statements regarding Regulatory Guides 1.134, Revision 1; 1.28, Revision 2; and 1.104, Revision 1, may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. However, to insure that adequate time is available for full consideration of these comments at the meeting, it is desirable to send a readily reproducible copy of the comments as far in advance of the meeting as practical to Mr. Gary R. Quittschreiber (ACRS), the Designated Federal Employee for the meeting, in care of ACRS, Nuclear Regulatory Commission, Washington, D.C. 20555, or telecopy them to the Designated Federal Employee, 202-634-3319, as far in advance of the meeting as practical. Such comments shall be based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee, Mr. Gary R. Quittschreiber, telephone 202-634-3267, between 8:15 a.m. and 5 p.m, e.d.t.

Dated: September 14, 1978.

JOHN C. HOYLE,
Advisory Committee,
Management Officer.

[FR Doc. 78-26279 Filed 9-18-78; 8:45 am]

[1505-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON IMPROVED SAFETY SYSTEMS

Meeting

Correction

In FR Doc. 78-26073, appearing on page 41316 in the issue for Friday, September 15, 1978, the meeting time, now reading "8:30 a.m.", should read, "9:00 a.m.".

[7590-01]

[Docket Nos. 50-443-A and 50-444-A]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE, ET AL., SEABROOK STATION, UNITS 1 AND 2

Notice of Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Public Service Co. of New Hampshire, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed on May 15, 1978, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information adds Massachusetts Municipal Wholesale Electric Co., Vermont Electric Cooperative, Inc., Maine Public Service Co., Taunton Municipal Lighting Plant Commission, and Bangor Hydro-Electric Co. as possible co-owners of the Seabrook Station, units 1 and 2.

The information was filed by Public Service Co. of New Hampshire, the United Illuminating Co., Central Maine Power Co., Central Vermont Public Service Corp., the Connecticut Light & Power Co., Fitchburg Gas & Electric Light Co., Montaup Electric Co., New Bedford Gas & Edison Light Co., New England Power Co., Vermont Electric Power Co., Inc., Massachusetts Municipal Wholesale Electric Co., Vermont Electric Cooperative, Inc., Maine Public Service Co., Taunton Municipal Lighting Plant Commission, Bangor Hydro-Electric Co., and town of Hudson, Mass., Light & Power Department in connection with their application for construction permits and operating licenses for the Seabrook Station, units 1 and 2. The site for this plant is located in Rockingham County, N.H.

The original antritrust portion of the application was submitted on July 9, 1973, and Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters, was published in the FEDERAL REGISTER on August 9, 1973 (38 FR 21522). The notice of hearing was published in the FEDERAL REGISTER on August 9, 1973 (38 FR 21519).

Copies of the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Exeter Public Library, Front Street, Exeter, N.H.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the Massachusetts Municipal Wholesale Electric Co., Vermont Electric Cooperative, Inc., Maine Public Service Co., Taunton Municipal Lighting Plant Commission, and Bangor Hydro-Electric Co. presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before November 6, 1978.

Dated at Bethesda, Md., this 21st day of August 1978.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch No. 4, Division of Project Management.

[FR Doc. 78-24769 Filed 9-18-78; 8:45 am]

[7555-02]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

INTERGOVERNMENTAL, SCIENCE, ENGINEERING, AND TECHNOLOGY ADVISORY PANEL

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

INTERGOVERNMENTAL SCIENCE, ENGINEERING, AND TECHNOLOGY ADVISORY PANEL; HUMAN RESOURCES TASK FORCE

Date: October 6, 1978.
Place: New Executive Office Building, 726 Jackson Place NW., room 3104, Washington, D.C.
Type of meeting: Open.
Contact person: Mr. Louis Blair, Office of Science and Technology Policy, Executive Office of the President, telephone: 202-395-4596. Anyone who plans to attend should contact Mr. Blair by October 4, 1978.
Purpose of the panel: The Intergovernmental Science, Engineering, and Technology Advisory Panel was established to identify State, regional, and local government problems which research and technology may assist in resolving or ameliorating and to help develop policies to transfer research and development findings.
Minutes of the meeting: Executive minutes of the meeting will be available from Mr. Blair.
Tentative agenda: (1) Overview of selected Department of Labor R & D programs of concern to State and local governments; (2) overview of selected information dissemination programs in the Department of Health, Education, and Welfare; (3) discussion of future Task Force activities.

WILLIAM J. MONTGOMERY,
Executive Officer, Office of Science and Technology Policy.

SEPTEMBER 14, 1978.

[FR Doc. 78-26327 Filed 9-18-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 12, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reveiwer listed.

NEW FORMS

U.S. COMMISSION ON CIVIL RIGHTS

Readership Survey, CCR 20, single time, persons and organizations with interest in civil rights, 500 responses, 165 hours, Laverne V. Collins, 395-3214.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Network for General Consumer Reaction, SSA-2955, single time, network mechanism, 1,000 responses, 167 hours, Reese, B. F., Human Resources Division, 395-3211.

Health Care Financing Administration (medicare), Medicaid Quality Control Statistical Summary Reports, HCFA 302 through 312, semi-annually, XIX State agencies, 3,928 responses, 3,928 hours, Richard Eisinger, 395-3214.

DEPARTMENT OF COMMERCE

Bureau of the Census, Agriculture Supplement to the National Annual Housing Survey, AHS-2A, single time, households in 461 PSU design, 60,000 responses, 1,000 hours, Office of Federal Statistical Policy and Standards, 673-7977.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, a Process and Management Study of ESEA, title IV Consolidation, 566, single time, Sea's, Lea's and Nonpublic Schools, 5,276 responses, 4,537 hours, Human Resources Division, Laverne Collins, 395-3532.

NATIONAL SCIENCE FOUNDATION

Survey of Urban Cultural/Recreation facilities, single time, Parks and Recreation Dept. (48 SMSA's) all national accredited museums and zoos, 700 responses, 700 hours, Office of Federal Statistical Policy and Standards, 673-7977.

Observation Protocol, on occasion, College and Public School Science Teachers, 20 responses, 20 hours, Warren Topellus, 395-6134.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development, Application for Federal Assistance, Community Development Program, and Assurances, HUD-6757, 7015, and 7015.12, on occasion, federally assisted new communities, 50 responses, 250 hours, Budget Review Division, 395-4775.

REVISIONS

VETERANS' ADMINISTRATION

Application for Dependency and Indemnity Compensation or Death Pension By Widow/er or Child, 21-534, on occasion, veterans; dependents, 175,000 responses, 306,250 hours, Caywood, D. P., 395-3443.

Information From Remarried Widow/er, 21-4103, on occasion, remarried widow/er, 43,500 responses, 14,500 hours, Caywood, D. P., 395-3443.

Request for Information Concerning Unreimbursed Family Medical Expenses, 21-8416A, on occasion, claimant, 175,000 responses, 43,750 hours, Caywood, D. P., 395-3443.

REVISIONS

VETERANS ADMINISTRATION

Statement of Termination of Marital Relationship, 21-8796, on occasion, claimants for death benefits, 5,000 responses, 1,666 hours, D. P. Caywood, 395-3443.

Veterans Supplemental Application for Assistance in Acquiring Specially Adapted Housing, 26-4555c, on occasion, veterans, 200 responses, 50 hours, D. P. Caywood, 395-3443.

DEPARTMENT OF AGRICULTURE

Food and nutrition service food stamp accountability report, FNS-250, monthly, all food stamp issuing agents and bulk storage and transfer points, 69,600 responses, 278,400 hours, C. A. Ellett, 395-6132.

DEPARTMENT OF COMMERCE

Bureau of Census, annual trade survey: 1978, b-450 and 451, other (see sf-83), merchant wholesalers, 13,000 responses, 6,500 hours, C. Louis Kincannon, 395-3211.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, application for strengthening developing institutions, oe-1049-1, annually, lhe's 150 responses, 24,000 hours, Laverne V. Collins, 395-3214.

Social Security Administration, state's quarterly report of wages paid, ssa-3963 and 3963a, quarterly, subdivisions of all 50 states, 240,000 responses, 1,440,000 hours, B. F. Reese, 395-3211.

Office of Education, application for federal assistance (nonconstruction programs) instruction for right-to-read program, oe-295, annually, LEA's state community service agencies, 300 responses, 6,000 hours, Budget Review Division, 395-4775.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration, motorist sanction severity survey, single-time, licensed drivers, A. Strasser, 395-6132.

EXTENSIONS

ENVIRONMENTAL PROTECTION AGENCY

Study of Human Tissue Heavy Metal Burden in Nonferrous Smelter Communities, single-time, household and individuals in seven smelter communities, 1,800 responses, 3,600 hours, Office of Federal Statistical Policy and Standard, 673-7956.

DEPARTMENT OF DEFENSE

Department of the Navy Inquiry (references of candidates for commissions in naval service), NAVCRUIT, 1110/28, on occasion, former schools and employers, 850,000 responses, 425,000 hours, Marsha Traynham, 395-3773.

DEPARTMENT OF THE NAVY

Unit Price Analysis—Basic Construction (ships), NAVSEA 4280/2 and 4280/2A, on occasion, private shipyards, 38 responses, 800 hours, Office of Federal Statistical Policy and Standard, 673-7956.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management, schedule of charges and project information—housing for the elderly (non-profit), HUD-92458A, on occasion, owners of HUD-assisted projects, 165 responses, 165 hours, D. P. Claywood, 395-3443.

Housing Production and Mortgage Credit Application for Subdivision Feasibility Analysis, FHA-2250, on occasion, subdivision developer, 5,000 responses, 2,500 hours, D. P. Claywood, 395-3443.

Housing Management, requirements for preparation of financial reports, statement of profit and loss, HUD-92408, 92410, and 92410-nh, on occasion, all multifamily housing projects, 14,000 responses 14,000 hours, D. P. Claywood, 395-3443.

DAVID R. LEUTHOLD
Budget and Management Officer.

[FR Doc. 78-26418 Filed 9-18-78; 8:45 am]

[3110-01]

CLEARANCE OF REPORTS

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Florida Boulevard, Baton Rouge, La. 70806. A branch office will be maintained at 12 Bank Street, Summit, N.J. 07901.

loans for physical damage until the close of business on November 13, 1978, and for economic injury until the close of business on June 13, 1979

ability and financial soundness in accordance with the Act and Regulations.

Notice is further given that any in-

[8025-01]

[License No. 09/09-0211]

FLORISTS CAPITAL CORP.

V 43 / 182 SEP 1978 V4

[3110-01]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 13, 1978 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, ABC Task Force on National Blood Data Center, single-time, blood service establishments, 200 responses, 90 hours, Office of Federal Statistical Policy and Standard, 673-7956.

Office of the Secretary, Research Design for C-9-77-0008 (Evaluation of the Effectiveness of HEW Program Delivery to Samoans in three geographic locations), OS-9-78, single-time, Samoa Evaluation Project, 736 responses, 883 hours, Raynsford, R., 395-3814.

Public Health Service, National Research Service Award Institutional Grant Application, PHS-6025, on occasion, organizations engaged in research and/or training, 2,000 responses, 80,000 hours, Richard Eisinger, 395-3214.

Public Health Service, Research Fellowship Application, PHS-416-1, 2, 3, 5, 7, 9, 11, and 16, on occasion, individual fellowship applicants and awardees, 32,400 responses, 48,725 hours, Richard Eisinger, 395-3214.

DEPARTMENT OF LABOR

Employment and Training Administration, Study of Win/Job Corps Demonstration Program, MT-296, single-time, present and former Parti. In spec. dol job training program, 140 responses, 70 hours, Strasser, A., 395-6132.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Financial Status, Performance, and State Advisory Council Reports for Title IV, ESEA, P.L. 93-380, OE-535-1 through 3, annually, sea's, 59 responses, 3,540 hours, Laverne V. Collins, 395-3214.

EXTENSIONS

DEPARTMENT OF COMMERCE

Departmental and Other Request for: Name Check—Identification Record Check, CD-227, on occasion, applicants for financial assistance, 10,000 responses, 5,000 hours, C. Louis Kincannon, 395-3211.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development, Statement of Financial Condition Cost Control Statement, supplemental grants CDA letter No. 8, HUD-7010 & 7011, Monthly, local agencies with model cities grants, 1,800 responses, 7,200 hours, Caywood, D. P., 395-3443.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management, Application for Trustee Deed by Native Indian or Eskimo of Alaska, 2560-6, on occasion, Indian or Eskimo applicants, 100 responses, 50 hours, Ellett, C. A., 395-6132.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration, Survey of Public Perceptions on Highway Safety annually, adult drivers in national sample, 1,500 responses, 375 hours, Strasser, A., 395-6132.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-26419 Filed 9-18-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0333]

BBS EQUITIES, LTD.

Notice is hereby given that BBS Equities, Ltd. (BBS), Suite 2400 Gateway One, Newark, N.J. 07102, pursuant to the provisions of § 107.105 of the Regulations governing small business investment companies (13 C.F.R. § 107.105 (1978)), has surrendered its license to operate as a small business investment company (SBIC).

BBS was incorporated under the laws of the State of New Jersey to operate solely as an SBIC under the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), (the Act), and it was issued license number 02/02-0333 by the Small Business Administration on September 23, 1977.

On September 7, 1978, SBA approved the merger of BBS into Venturtech Capital, Inc., an SBIC located at Suite 706, Republic Tower, 5700 Florida Boulevard, Baton Rouge, La. 70806. A branch office will be maintained at 12 Bank Street, Summit, N.J. 07901.

Under the authority vested by the act and the rules and regulations promulgated thereunder, the surrender of the license of BBS is hereby accepted and accordingly, BBS is no longer licensed to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 13, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-26334 Filed 9-18-78; 8:45 am]

[8025-01]

[License No. 04/04-0147]

BENSON INVESTMENT CO., INC.

Issuance of License

On June 16, 1978, a notice was published in the FEDERAL REGISTER (43 FR 26172), stating that an application had been filed by Benson Investment Co., Inc., 406 South Commerce Street, Geneva, Ala. 36340, with the Small Business Administration, pursuant to § 107.102 of the Regulations governing small business investment companies (SBIC).

Interested parties were given until the close of business July 3, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, the SBA issued License No. 04/04-0147 to Benson Investment Co., Inc., to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 8, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-26335 Filed 9-18-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1523]

CALIFORNIA

Declaration of Disaster Loan Area

Sonoma County, Calif., constitutes a disaster area because of damage resulting from a fire which occurred on August 9, 1978, through August 20, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on November 13, 1978, and for economic injury until the close of business on June 13, 1979 at: Small Business Administration, District Office, 211 Main Street, 4th floor San Francisco, Calif. 94105 or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 13, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-26336 Filed 9-18-78; 8:45 am]

[8025-01]

[License No. 04/04-0150]

CORPORATE CAPITAL, INC.

Application for a License as a Small Business Investment Company (SBIC)

Notice is hereby given of the filing of an application with the Small Business Administration, pursuant to § 107.102 of the Regulations (13 C.F.R. 107.102 (1978)), under the name of Corporate Capital, Inc., 2001 Broadway, Riviera Beach, Fla. 33404, for a license to operate in the State of Florida as an SBIC under the provisions of the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers and directors are as follows:

Jerry Thomas, Sea Oats, Beach Road, Jupiter, FL, Chairman of the Board, President and Director.

Vernon F. Raedisch, 3490 La Jardin Court, Apartment C-2, Greenacres City, FL 33463, Vice President, Treasurer and Director.

Patrick M. Gordon, 359 Green Briar Drive, Lake Park, FL, Secretary and Director.

Major stockholders and percentage of ownership are:

First Marine Bank & Trust Co. of the Palm Beaches, FL, 49 percent.

First Marine National Bank & Trust Co. of Lake Worth, FL, 35 percent.

First Marine National Bank & Trust Co., Jupiter/Tequesta, FL, 16 percent.

First Marine Banks, Inc., a registered bank holding company, is the major stockholder of the above mentioned banks. No one individual or corporation owns 10 percent or more of First Marine Banks, Inc., stock.

The Applicant will begin operations with a capitalization of $1,266,000 which will be a source of long-term loans and venture capital for diversified small business concerns. In addition to financial assistance, the Applicant intends to render management consulting services to its clients.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is further given that any interested person may, not later than October 4, 1978, submit written comments on the proposed company to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Riviera Beach, Fla.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 7, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-26337 Filed 9-18-78; 8:45 am]

[8025-01]

FIRST WALL STREET SMALL BUSINESS INVESTMENT CO., INC.

Issuance of License To Operate as a Small Business Investment Compnay

On May 3, 1978, a notice of application for a license as a Small Business Investment Co. was published in the FEDERAL REGISTER (43 FR 19093) stating that an application had been filed with the Small Business Administration (SBA) pursuant to section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1978)) for a license as a small business investment company by New Court Ventures, Inc., One Rockefeller Plaza, New York, N.Y. 10020.

Interested parties were given until the close of business May 18, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information and the facts with regard thereto, SBA on August 31, 1978, issued License No. 02/02-0330 to First Wall Street Small Business Investment Co., Inc., to operate as a small business investment company.

(Catalogue of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: September 8, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-26338 Filed 9-18-78; 8:45 am]

[8025-01]

[License No. 09/09-0211]

FLORISTS CAPITAL CORP.

Notice of Issuance of Small Business Investment Company License

On December 23, 1977, a notice of application for a license as a small business investment company was published in the FEDERAL REGISTER (Vol. 42, No. 247) stating that an application had been filed with the Small Business Administration pursuant to section 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1977)), for a license to operate as a small business investment company by Florists Capital Corp., 10524 West Pico Boulevard, Los Angeles, Calif. 90064.

Interested parties were given until the close of business on January 9, 1978, to submit their comments. No comments were received.

Notice is hereby given that pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information and facts with regard thereto, SBA issued License No. 09/09-0211 to Florists Capital Corp. on August 28, 1978.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 8, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-26339 Filed 9-18-78; 8:45 am]

[8025-01]

[Proposed License No. 02/02-0352]

PERCIVAL CAPITAL CORP.

Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1977)), under the name of Percival Capital Corp., 2 West 46th Street, New York, N.Y. 10036, for a license to operate as a small business investment company, under the provisions of the Small Business Investment Act of 1958, as amended (Act), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and stockholders are as follows:

NAME AND TITLE

George Augustus Simpson (Son), 103 Park Avenue, Suite 1110, New York, N.Y. 10017, President, Director.

tor, U.S. Small Business Administration, 188 Federal Office Building, 600 Federal Place, Louisville, Ky. 40202, 502-352-5978.

[8025-01]

LOCAL DEVELOPMENT COMPANY LOANS, HANDICAPPED ASSISTANCE LOANS, AND

[4710-01]

DEPARTMENT OF STATE

[CM-8/103]

Radiocommunications of the Intergovernmental Maritime consultative Organization (IMCO) to be held in London in the fall of 1979. In particular, the working group will discuss the

Dated: September 11, 1978.

RICHARD H. HOWARTH,
Vice Chairman,
U.S. CCITT National Committee.

V 43 / 182 SEP 1978

Name and Title
George Augustus Simpson (Son), 103 Park Avenue, Suite 1110, New York, N.Y. 10017, President, Director.
Dr. George Augustus Simpson (Father), 3619 Percival Avenue, Miami, Fl. 33133, Treasurer, Director, 70 percent.
Dr. Harold Ramsey, 3201 Dorchester Road, Baltimore, Md. 21215, Secretary, 30 percent.

The applicant proposes to commence operations with a capitalization of $505,000 derived from the sale of 10 shares of common stock. Dr. Simpson will be the purchaser of 7 shares and Dr. Ramsey 3 shares.

The applicant will conduct its operations principally in the State of New York, expect to provide financing in the form of long-term loans or by purchasing equity securities in small concerns engaged in both the servicing or manufacturing business, and to those who are not sufficiently strong economically to obtain bank financing or other standard types of financing and, will employ a management advisor.

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operations of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than October 4, 1978, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communications should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 8, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-26340 Filed 9-18-78; 8:45 am]

[8025-01]

REGION IV—ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Louisville, Ky., will hold a public meeting from 9 a.m. to 5 p.m. on Thursday, October 5, 1978, and from 9 a.m. to noon on Friday, October 6, 1978, at the Executive Inn Rivermont, One Executive Boulevard, Owensboro, Ky., to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call R. B. Blankenship, District Director, U.S. Small Business Administration, 188 Federal Office Building, 600 Federal Place, Louisville, Ky. 40202, 502-352-5978.

Dated: September 13, 1978.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-26341 Filed 9-18-78; 8:45 am]

[8025-01]

REGION VI—ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of New Orleans, will hold a public meeting at 9:30 a.m., on Friday, October 27, 1978, Plaza Tower Building, 1001 Howard Avenue, 17th Floor, New Orleans, La., to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Joseph M. Conrad, District Director, U.S. Small Business Administration, 1001 Howard Avenue, Suite 1724, New Orleans, La. 70113-504-589-2744.

Dated: September 8, 1978.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-26342 Filed 9-18-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1525]

INDIANA

Declaration of Disaster Loan Area

Blackford County and adjacent counties within the State of Indiana constitute a disaster area as a result of damage caused by severe thunderstorm and flash flooding which occurred on August 18, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 13, 1978, and for economic injury until the close of business on June 11, 1979 at: Small Business Administration, District Office, Federal Building, Fifth Floor, 575 North Pennsylvania Street, Indianapolis, Ind., or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 11, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-26270 Filed 9-18-78; 8:45 am]

[8025-01]

LOCAL DEVELOPMENT COMPANY LOANS, HANDICAPPED ASSISTANCE LOANS, AND BUSINESS LOANS

Waiver of Administrative Ceilings

SBA has adopted administrative ceilings limiting the amount of financial assistance generally available to applicants for local development company loans (LDC), handicapped assistance loans (HAL) and regular business loans. (§§ 108.502-1(d)(3), 118.31(a)(1) and 122.5(b) of Title 13 CFR.)

SBA has also adopted regulations authorizing the waiver of the applicable ceilings upon a determination by SBA that the particular loan furthers a "National Agency of Regional program objective." (§§ 108.502-1(d)(4), 118.31(a)(2) and 122.5(c).) These sections further provide that SBA may publish from time to time standards or examples illustrating National, agency, or regional objectives, and that SBA will not recognize any such objective until it has been published in the FEDERAL REGISTER.

In accordance with the above-cited regulations, the following examples of National, agency and regional objectives are published. To justify waiver of the applicable administrative ceiling, it must appear to SBA's satisfaction that any two of the listed objectives will be advanced by the loan in question. The objectives are:

1. Construction of medical facilities, the need for which has been certified by appropriate local authority;
2. Conservation or production of energy;
3. Creation or preservation of jobs;
4. Performance of a specific Government contract;
5. Stimulation of the economy of a labor surplus area;
6. Conservation of natural resources;
7. Improvement of mass transit facilities;
8. Economic development or depressed urban or rural areas;
9. Assistance to broadcasting and cable TV operations;
10. Revitalization of SBA-designated neighborhood business areas;
11. Assistance to businesses for the primary purpose of exporting goods and/or services. "Primary" is defined as at least 50 percent of the total loan disbursement will be used directly for exporting.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-26286 Filed 9-18-78; 8:45 am]

[4710-01]

DEPARTMENT OF STATE

[CM-8/103]

ADVISORY COMMITTEE TO U.S. SECTION OF THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS

Meeting

Notice is hereby given, pursuant to the provisions of Pub. L. 92-463, that a meeting of the Advisory Committee to the U.S. Section of the International Commission for the Conservation of Atlantic Tunas will be held on October 4, 1978, in the Woodward Room of the National Wildlife Federation, 1412 16th Street, Washington, D.C., at 9 a.m.

The meeting will be open to the public and the public may participate in the discussion subject to the instructions of the Committee Chairman. Subjects to be discussed include: Review of the status of the stocks and research concerning Atlantic bluefin tuna; review of the status of stocks and research concerning billfish; review of the status of stocks and research concerning yellowfin, skipjack, albacore, and bigeye tunas; report on SCRS officers' meeting; report of bilateral discussions and their impact on foreign fishing for Atlantic bluefin tuna in the Gulf of Mexico and Northwest Atlantic; discussion of preliminary positions for ICCAT concerning bluefin, bigeye, and albacore tunas; and other business.

Requests for further information on the meeting should be Directed to Mr. Brian Hallman, OES/OFA/FA, Room 3214, Department of State, Washington, D.C. 20520. Mr. Hallman may be reached by telephone on 202-632-1073.

Dated: September 11, 1978.

JOHN D. NEGROPONTE,
Deputy Assistant Secretary for Oceans and Fisheries Affairs.

[FR Doc. 78-26252 Filed 9-18-78; 8:45 am]

[4710-07]

[CM-8/101]

SHIPPING COORDINATING COMMITTEE; SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on Radiocommunications of the Shipping Coordinating Committee's Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 1:30 p.m. on October 19, 1978, in Room 8442 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

The purpose of the meeting is to prepare position documents for the 20th session of the subcommittee on Radiocommunications of the Intergovernmental Maritime consultative Organization (IMCO) to be held in London in the fall of 1979. In particular, the working group will discuss the following topics:

Results of the 19th session.
Code of safety requirements for mobile offshore drilling units.
Operational standards for shipboard radio equipment.
Revision of Resolution A.283(VIII) Maritime Distress System.

Requests for further information should be directed to Lt. R. F. Carlson, U.S. Coast Guard (G-OTM/74), Washington, D.C. 20590, telephone 202-426-1345.

The Chairman will entertain comments from the public as time permits.

Dated: September 5, 1978.

RICHARD K. BANK,
Chairman, Shipping Coordinating Committee.

[FR Doc. 78-26254 Filed 9-18-78; 8:45 am]

[4710-07]

[CM-8/102]

STUDY GROUP 4 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Meeting

The Department of State announces that study group four of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on October 11, 1978 at 10 a.m. in room 6802 of the Department of Commerce, 14th Street NW. (between E Street and Constitution Avenue), Washington, D.C. This study group deals with matters in telecommunications relating to the development of international digital data transmission services.

The agenda for the October 11 meeting will include consideration of the following:

1. Late contributions to the meeting of CCITT study group XVII in Geneva, November 21-29, 1978;
2. U.S. participation at the study group XVII meeting;
3. Other business.

All participants are requested to use the main entrance to the Department of Commerce on 14th Street NW. Members of the general public who desire to attend the meeting on October 11 will be admitted up to the limit of the meeting room.

Requests for further information should be directed to Mr. Richard H. Howarth, State Department, Washington, D.C. 20520, telephone 202-632-1007.

Dated: September 11, 1978.

RICHARD H. HOWARTH,
Vice Chairman, U.S. CCITT National Committee.

[FR Doc. 78-26253 Filed 9-18-78; 8:45 am]

[4810-40]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circular; Public Debt Series—No. 22-78]

SERIES T-1980

Treasury Notes of September 30, 1980

SEPTEMBER 14, 1978.

1. INVITATION FOR TENDERS

1. 1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,684,000,000 of United States securities, designated Treasury Notes of September 30, 1980, Series T-1980 (CUSIP NO. 912827 JB 9). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2. 1. The securities will be dated October 2, 1978, and will bear interest from that date, payable on a semiannual basis on March 31, 1979, and each subsequent 6 months on September 30 and March 31, until the principal becomes payable. They will mature September 30, 1980, and will not be subject to call for redemption prior to maturity.

2. 2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2. 3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2. 4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000,

to submit tenders for their own account.

3. 5. Tenders will be received without deposit for their own account from

competitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. RESERVATIONS

5. 3. Registered securities tendered as deposits and in payment for allotted securities are not required to be as-

pending delivery of the definitive securities.

6. 2. The Secretary of the Treasury

sion, Section of Dockets, by requesting docket No. AB 52 (SDM).

H. G. HOMME, JR.

V 43 / 182 SEP 19 78

2. 4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2. 5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3. 1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, September 20, 1978. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, September 19, 1978.

3. 2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3. 3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3. 4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3. 5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commerical bank or a primary dealer.

3. 6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of 1 percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to 3 decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3. 7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4. 1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5. 1. Settlement for allotted securities must be made or completed on or before Monday, October 2, 1978, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Thursday, September 28, 1978, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Wednesday, September 27, 1978, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5. 2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5. 3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5. 4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5. 5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6. 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6. 2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

[FR Doc. 78-27276 Filed 9-14-78; 2:10 pm]

[1505-01]

INTERSTATE COMMERCE COMMISSION

[Decisions Vol. No. 21]

DECISION-NOTICE

Correction

In FR Doc. 78-23368 appearing on page 37311 in the issue of Tuesday, August 22, 1978, on page 37313 in the 1st column. the 1st full paragraph, the 14th line should read, "MC 94265 (Sub-279F), * * * the facilities of Virga's Pizza Crust of * * *".

[7035-01]

[AB 52 (SDM)]

ATCHISON, TOPEKA & SANTA FE RAILWAY CO.

Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in title 49 of the Code of Federal Regulations, Part 121.23, that the Atchison, Topeka & Santa Fe Railway Co., has filed with the Commission its amended system diagram map in docket No. AB 52 (SDM). The maps reproduced here in black and white are reasonable reproductions of that amended system diagram map and the Commission on July 17, 1978, received a certificate of publication as required by said regulation which is considered the effective date on which the amended system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State-designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 52 (SDM).

H. G. Homme, Jr.,
Acting Secretary.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY CO.

DESCRIPTIONS OF LINE TO ACCOMPANY THE REVISED SYSTEM DIAGRAM AND DETAIL MAP

Category (1)

All lines or portions of lines which the carrier anticipates will be the subject of an abandonment or discontinuance application to be filed within the 3-year period following the date upon which the diagram, or any amended diagram, is filed with the Commission.

Map Code (Index No. 8)—Texas

(a) Skellytown to White Deer, a 10.4 mile industrial spur on the Second District, also referred to as the Skellytown spur.

(b) Located entirely in the State of Texas.
(c) Located entirely in Carson County.
(d) Skellytown spur connecting at White Deer, Main Line Milepost 512.8.
(e) Agency Station at White Deer (Main Line Milepost 512.8).

Category (1)

All lines or portions of lines which the carrier anticipates will be the subject of an abandonment or discontinuance application to be filed within the 3-year period following the date upon which the diagram, or any amended diagram, is filed with the Commission.

Map Code (Index No. 10)—Arizona

(a) Williams to Grand Canyon; entire Grand Canyon District 63.79 miles.
(b) Located entirely in the State of Arizona.
(c) Located entirely in Coconino County.
(d) Milepost 0.0 to 63.79.
(e) No agency stations on segment.

Category (2)

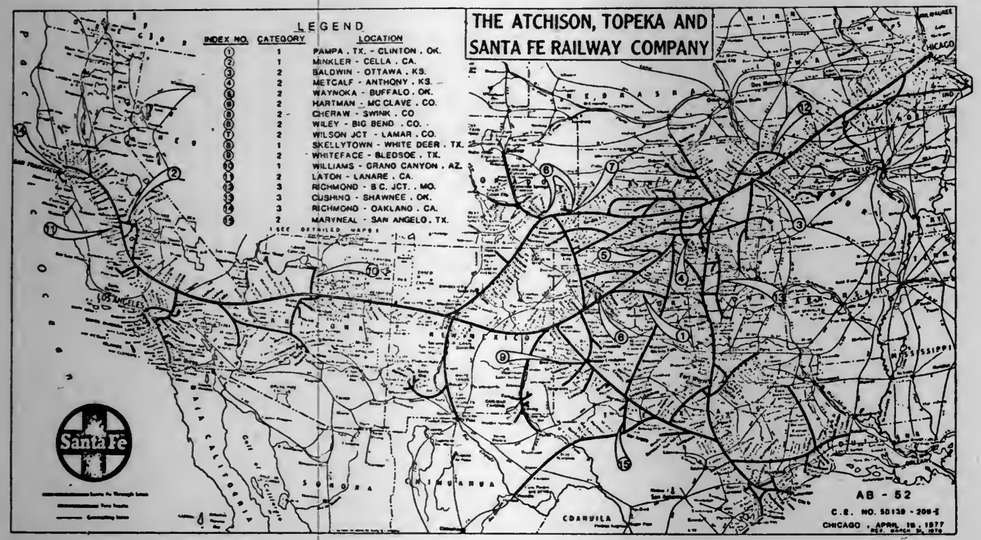
All lines or portions of lines potentially subject to abandonment which the carrier has under study and believes may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenues.

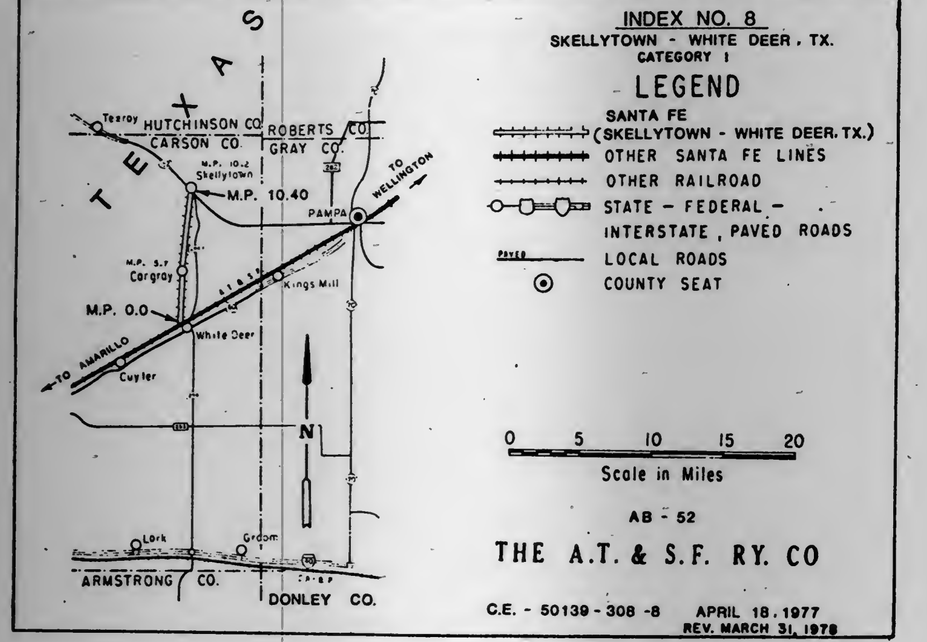
Map Code (Index No. 15)—Texas

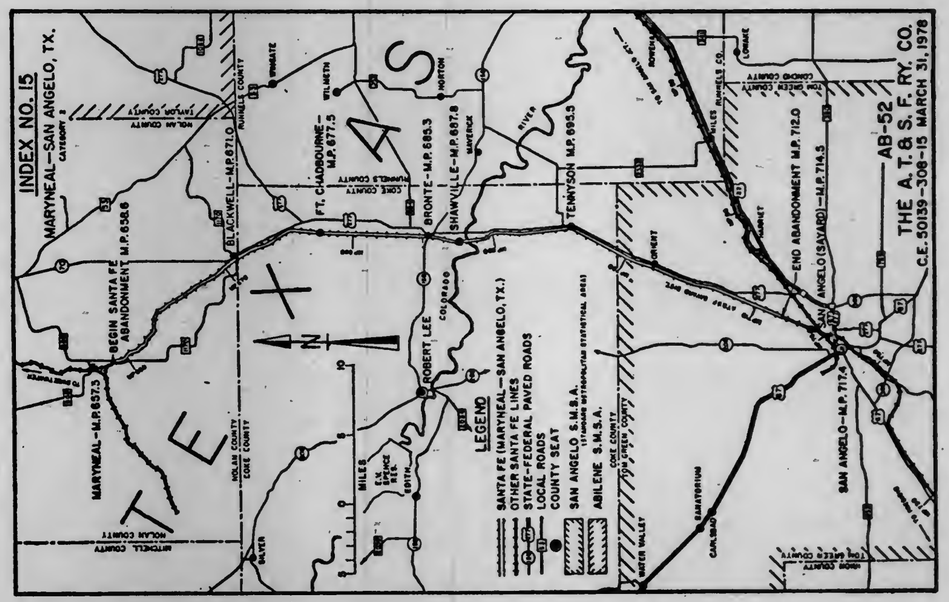
(a) Maryneal to San Angelo, a 53.4 mile segment of the Sayard District.
(b) Located entirely in the State of Texas.
(c) Located in Nolan, Coke, and Tom Green County.
(d) Milepost 658.6 to 712.0.
(e) Agency stations at Maryneal (Milepost 657.3), Sayard (Milepost 714.5) and San Angelo (Milepost 717.4).

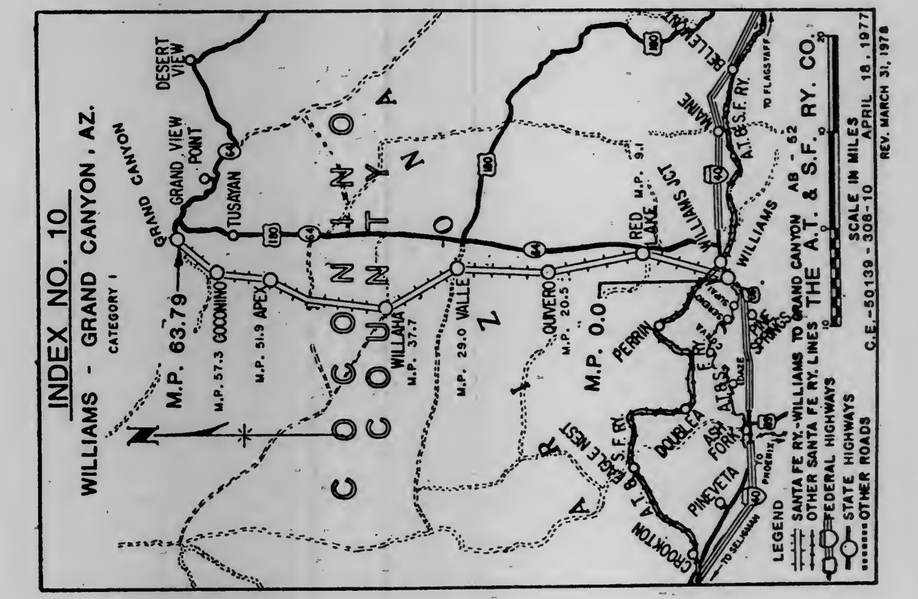
[FR Doc. 78-26199 Filed 9-18-78; 8:45 am]

V 43 / 182









SE 19 78

[7035-01]

[AB 167 (SDM)]

CONSOLIDATED RAIL CORP.

Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Consolidated Rail Corp., has filed with the Commission its amended color-coded system diagram map in docket No. AB 167 (SDM). The maps reproduced here in black and white are resonable reproductions of that amended system diagram map and the Commission on August 28, 1978, received a certificate of publication as required by said regulation which is considered the effective date on which the amended system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 167 (SDM).

H. G. HOMME, Jr.,
Acting Secretary.

NOTICE

Consolidated Rail Corp. (Conrail) hereby gives public notice that it is filing with the Interstate Commerce Commission (ICC) an amendment to the system diagram map which it filed December 1, 1977, pursuant to ICC regulations (49 CFR §§ 1121.22 to 1121.23). Specifically, the Utica Branch between mile post 202.6 at Chenango Forks and mile post 231.0 at Norwich in Broome and Chenango Counties, N.Y. with freight stations at Greene, Brisben, and Oxford, has been reclassified from category 2 to category 5.

The Commission requires that a railroad company, when filing a system diagram map, place its rail lines in one of five categories. They are:

Category 1—Rail lines or portions thereof which Conrail anticipates will be the subject of abandonment or discontinuance applications within the next 3 years.

Category 2—Rail lines or portions thereof which Conrail has under study and believes may be the subject of future abandonment applications.

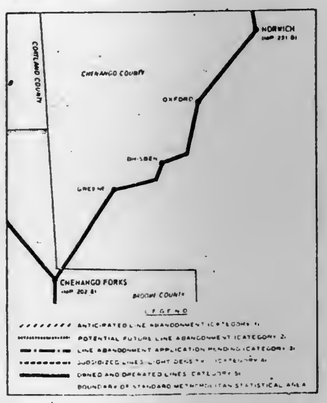
Category 3—Rail lines that are now the subject of pending abandonment or discontinuance applications.

Category 4—Rail line which are operated by Conrail under subsidy contracts with State agencies and/or shippers. (Conrail does not own these rail lines. They were excluded from the Conrail system when the bankrupt railroads of the Northeast/Midwest were re-structured.).

Category 5—All Conrail lines not placed in categories 1 through 4.

ICC regulations require that the system diagram map be accompanied by line descriptions, including, in the case of categories 1, 2, and 3, the names of the States and counties in which each line is located.

Below you will find a revised map covering the Conrail lines in this area and showing the categories in which these lines are now placed.



[FR Doc. 78-26197 Filed 9-18-78; 8:45 am]

[7035-01]

[Decisions Volume No. 30]

DECISION-NOTICE

SEPTEMBER 7, 1978.

The following applications are governed by Special Rule 247 of the Commission's Rules of Practice (49 CFR § 100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission on or before October 19, 1978. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its applicaton shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is not a major Federal action significantly affecting the quality of the human environment.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, Review Board No. 3, Membes Parker, Fortier, and Hill.

H. G. HOMME, Jr.,
Acting Secretary

MC 14252 (Sub-33F), filed July 10, 1978. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Road, Columbus, OH 43227. Representative: William C. Buckham (same address as applicant). To operate as a *common carrier, by motor vehicle, transporting: General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Terre Haute, IN and Danville, IL; from Terre Haute over U.S. Hwy 41 to Lyford, then over IN Hwy 163 to Clinton, then over IN Hwy 63 to junction U.S. Hwy 136, then over U.S. Hwy 136 to Danville, and return over the same route, serving all intermediate points, and the off route points of Cayuga, Covington, and Kingman, IN; (2) between Terre Haute, IN and Dana, IN; from Terre Haute over U.S. Hwy 41 to junction IN Hwy 63, then over IN Hwy 63 to junction IN Hwy 163, then over IN Hwy 163 to junction IN Hwy 71, then over IN Hwy 71 to Dana, IN, and return over the same route, serving all intermediate points, and the off route point of St. Bernice, IN; and (3) between Terre Haute, IN and Clinton, IN; from Terre Haute over U.S. Hwy 40 to West Terre Haute, then over U.S. Hwy 150 to junction unnumbered Hwy approximately 8 miles north of junction U.S. Hwys 40 and 150, then over unnumbered Hwy to Clinton, and return over the same route, serving all intermediate points. (Hearing site: Indianapolis, IN, or Springfield, IL.)

MC 23618 (Sub-34F), filed August 15, 1978. Applicant: McALLISTER TRUCKING CO., a corporation, d.b.a. MATCO, P.O. Box 2377, Abilene, TX 79604. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *prefabricated metal buildings,* knockeddown, or in sections from Houston, TX, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Houston or Dallas, TX.)

MC 29328 (Sub-6F), filed August 14, 1978. Applicant: SCHIEK MOTOR EXPRESS, INC., a Delaware corporation, 90 Casseday Avenue, Joliet, IL 60432. Representative: Eugene L. Colin, One North LaSalle Street, Chicago, IL 60602. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe and fittings,* and *materials* used in the installation of plastic pipe, from the facilities of Johns-Manville Sales Corp., at or near Wilton, IA, to points IL, IN, and WI; (2) *building materials and cement pipe,* from the facilities of Johns-Manville Sales Corp., at or near Waukegan, IL, to points in IN and MO; and (3) *insulation board,* from the facilities of Johns-Manville Perlite Corp., at or near Rockdale, IL, to points in IN, IA, MO, and WI. (Hearing site: Chicago, IL.)

MC 48958 (Sub-158F), filed August 10, 1978. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., A Nebraska Corporation, 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Brass, bronze, or copper rods,* drawn or extruded, *billets, bars, rough cast, cakes, cathodes, ingots, pigs, and slabs,* from the facilities of Inspiration Consolidated Copper Co., at or near Globe, Inspiration, and Miami, AZ, to Hoisington, KS. (Hearing site: Phoenix, AZ.)

MC 61231 (Sub-126F), filed July 26, 1978. Applicant: EASTER ENTERPRISES, INC. d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel tanks, storage bins,* and *materials* used in the construction of iron and steel tanks and storage bins, from the facilities of (1) Trico Industries, Inc., Columbian Steel Tank Division, at or near Kansas City, MO, and (2) Butler Manufacturing Co., at or near Kansas City MO, to points in AZ, CO, ID, IL, IN, IA, MI, MN, MT, NE, ND, NM, OK, SD, TX, WA, WI, and WY. (Hearing site: Kansas City, MO.)

MC 89084 (Sub-6F), filed July 14, 1978. Applicant: INTERSTATE 32670. Representative: Arnold L. Burke, 180 North LaSalle Street, Chi-

facture, distribution, and sale of glass containers, in the reverse direction.

United States (except AK and HI). (Hearing site: Washington, DC.)

porting: (1) *Iron and steel articles,* from the facilities of Northwestern

the commodities in (1) above, in the reverse direction. (Hearing site: Port-

MC 89084 (Sub-6F), filed July 14, 1978. Applicant: INTERSTATE HEAVY HAULING, INC., 12986 Northeast Whitaker Way, Portland, OR 97220. Representative: Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, OR 97210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting contractors' *equipment and machinery* which by reason of size or weight requires the use of special equipment, and contractors' *equipment and machinery parts*, between points in OR, WA, and CA. (Hearing site: Portland, OR.)

MC 93649 (Sub-22F), filed August 14, 1978. Applicant: GAINES MOTOR LINES, INC., P.O. Box 1549, Hickory, NC 28601. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textiles and textile products*, from points in GA, to points in CT, DE, MD, MA, NJ, NY, PA, and RI. (Hearing site: New York, NY.)

MC 104140 (Sub-205F), filed August 14, 1978. Applicant: OSBORNE TRUCK LINE, INC., 516 North 31st Street, Birmingham, AL 35202. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Alluminum and aluminum products;* and (2) *materials and equipment* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of Reynolds Metals Co., at or near Listerhill and Sheffield, AL, on the one hand, and, on the other, points in AL, AR, CT, DE, IA, KY, LA, ME, MD, MA, MI, MN, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TX, VT, VA WV, WI, and DC. (Hearing site: Birmingham, AL.)

MC 105813 (Sub-244F), filed July 24, 1978. Applicant: BELFORD TRUCKING CO., INC., 1759 Southwest 12th Street, P.O. Box 2009, Ocala, FL 32670. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts*, and *articles* distributed by meat packing houses, as described in sections A and C of Appendix I to the report in Descriptions In Motor Carreir Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from Wilmington, NC, to points in FL. (Hearing site: Chicago, IL.)

MC 105813 (Sub-245F), filed July 28, 1978. Applicant: BELFORD TRUCKING CO., INC., 1759 Southwest 12th Street, P.O. Box 2009, Ocala, FL 32670. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts*, and *articles* distributed by meat packinghouses, as described in sections A and C of Appendix I to the report in Descriptions In Motor Carreir Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from Nebraska City, NE, to points in AL, FL, GA, MS, NC, SC, and TN. (Hearing site: Chicago, IL.)

MC 106398 (Sub-823F), filed August 16, 1978. Applicant: NATIONAL TRAILER CONVOY, INC, 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant), to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cast iron pipe and fittings;* and (2) *accessories for cast iron pipe*, from the facilities of McWane Cast Iron Pipe Co., at or near Birmingham, AL, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Birmingham, AL.)

NOTE.—In view of the findings in MC 106398 (Sub-741) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 106603 (Sub-180F), filed July 31, 1978. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., P.O. Box 8099, Grand Rapids, MI 49508. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, hardboard, and composition board*, from Camden, NJ, to points in IL, IN, IA, KY, MI, MO, OH, PA, TN, WV, and WI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 106674 (Sub-332F), filed July 13, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers* and *closures for glass containers*, from the facilities of Glass Containers Corp., at or near Gas City and Indianapolis, IN, to points in AL, AR, GA, IL, KY, LA, MI, MS, MO, OH, and TN; and (2) *materials, equipment, and supplies used in the manufacture, distribution, and sale of glass containers*, in the reverse direction. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 107012 (Sub-274F), filed July 12, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, (1) from points in SC, to points in AL, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, NH, NJ, NY, NC (except Claremont, NC), OH, PA, RI, TN, VT, VA, WV, and DC, (2) from points in NC, to points in AL, CT, DE, FL, GA, IA, IL, IN, KY, LA, MA, MD, ME, MI, MN, MS, ND, NH, NJ, NY, OH, PA, RI, SC, SD, TN, VA, VT, WV, and DC, (3) from points in Hamblen County, TN, to points in AL, FL, GA, IA, KY, LA, MN, NC (except Claremont, NC), ND, SC, and VA, (4) from points in VA, to points in AL, CT, DE, FL, GA, KY, LA, MA, MD, ME, MS, NC (except Claremont, NC), NH, NJ, NY, PA, RI, SC, TN, VT, and DC, and (5) from Galax, Roanoke, Damascus, Stanleytown, Bassett, Pulaski, and Martinsville, VA, to points in AR, CO, IA, IL, IN, KS, MI, MN, ND, NM, OH, OK, SD, and TX, restricted in (1) through (5) to the transportation of traffic originating at or destined to the facilities of the J. C. Penney Co., and against the transportation of new furniture from High Point and Hudson, NC, and points in Lincoln and Catawba Counties, NC, to Wilmington, DE, Baltimore, MD, Freeport, NY, points in the New York, NY, commercial zone as defined by the Commission in 1 MCC 665, and those in PA, NJ, SC, VA, WV, and DC. (Hearing site: Chicago, IL, New York, NY.)

MC 107403 (Sub-1105F), filed July 31, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sugar, corn syrup, and high fructose corn syrup with blends of liquid sugar*, from Supreme, LA, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 107403 (Sub-1106F), filed July 28, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Peachtree City, GA, to points in the

United States (except AK and HI). (Hearing site: Washington, DC.)

MC 107743 (Sub-47F), filed July 28, 1978. Applicant: SYSTEM TRANSPORT, INC., P.O. Box 3456 T.A., Spokane, WA 99220. Representative: J. Michael Alexander, 136 Wynnewood Professional Building, Dallas, TX 75224. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Harris Tube, at or near Los Angeles, CA, to points in OR, WA, and ID. (Hearing site: Los Angeles, CA, or Seattle, WA.)

MC 109692 (Sub-63F), filed July 12, 1978. Applicant: GRAIN BELT TRANSPORTATION CO., a corporation, Route 13, Kansas City, MO 64161. Representative: Warren H. Sapp, P.O. Box 16047, Kansas City, MO 64112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors*, and *farm, industrial, construction, and excavating machinery*, and (2) *parts, attachments, and accessories* for the commodities in (1) above, from the facilities of J. I. Case Co., Inc., at or near Burlington, IA, to points in AZ, AR, LA, MS, NM, OK, and TX. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 109692 (Sub-65F), filed July 13, 1978. Applicant: GRAIN BELT TRANSPORTATION CO., a corporation, Route 13, Kansas City, MO 64161. Representative: Warren H. Sapp, P.O. Box 16047, Kansas City, MO 64112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products*, and *lumber mill products*, the facilities of Weyerhaeuser Co., at or near West Memphis, AR, to points in CO, IL, IN, IA, KS, MI, MN, MO, NE, NM, ND, OK, SD, TX, and WI. (Hearing site: Chicago, IL, or Kansas City, MO.)

MC 111231 (Sub-244F), filed July 24, 1978. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. To operate as a *common carrier*, by motor vehicle, over irreguar routes, transporting: *Cheese, cheese products*, and *synthetic cheese*, from the facilities of L. D. Schreiber Cheese Co., Inc., at or near Carthage and Monett, MO, to La Grange, GA. (Hearing site: Chicago, IL, or Washington, DC.)

MC 111231 (Sub-245F), filed July 26, 1978. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: John C. Everett, P.O. Box A, 140 East Buchanan, Prairie Grove, AR 72753.To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from the facilities of Northwestern Steel & Wire Co. at or near Sterling and Rock Falls, IL, to points in AR, LA, MS, TN, MO, OK, and TX; and (2) *equipment, materials, and supplies* used in the manufacture and distribution of commodities named in (1) above, in the reverse direction. (Hearing site: Sterling or Rock Falls, IL.)

MC 112617 (Sub-402F), filed July 24, 1978. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Road, P.O. Box 21395, Louisville, KY 40221. Representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irreguar routes, transporting: *Petroleum pitch*, in bulk, in tank vehicles, from Catlettsburg, KY, to points in AL, AR, CT, DE, FL, GA, IA, IL, IN, LA, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WI, WV, and DC. (Hearing site: Louisville, KY, or Washington, DC.)

MC 113434 (Sub-103F), filed May 8, 1978, and previously noticed in the FEDERAL REGISTER issue of June 15, 1978. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, MI 49423. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed, feed ingredients, additives, and materials and supplies* used in the manufacture and distribution of animal feed (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near Mattoon, IL, on the one hand, and, on the other, points in IN, MI, OH, PA, and WV, restricted to the transportation of traffic originating at or destined to the facilities of Kal Kan Foods, Inc., at or near Matton, IL. This republication corrects the destination state "WI" to read "WV". (Hearing site: Chicago, IL, or Washington, DC.)

MC 113855 (Sub-439F), filed July 10, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., a North Dakota corporation, 2450 Marion Road SE., Rochester, MN 55901. Representative: Richard P. Anderson, 502 First National Bank Building, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Logging, forestry, and construction equipment*, (b) *canopies, cabs, contractors' equipment, and safety guards*, (c) *attachments* for the commodities described in (a) and (b) above, and (d) *parts* for the commodities described in (a), (b), and (c) above, from Eugene, OR, to points in the United States (including AK but excluding HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Portland, OR, or Seattle, WA.)

MC 114552 (Sub-169F), filed July 13, 1978. Applicant: SENN TRUCKING CO., a corporation, P.O. Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of National Steel Corp., at or near (a) Steubenville, OH, and (b) Weirton, WV, to points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX, and VA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 114632 (Sub-175F), filed July 17, 1978. Applicant: APPLE LINES INC., P.O. Box 287, Madison, SD 57042. Representative: Michael L. Carter (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs* (except commodities in bulk), (1) between Chicago, IL, and New Hampton, IA, and (2) between Chicago, IL, and New Hampton, IA, on the one hand, and, on the other, points in CT, MA, NJ, and NY, restricted to the transportation of traffic originating at and destined to the indicated points. (Hearing site: Chicago, IL, or Minneapolis, MN.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 114632 (Sub-176F), filed July 17, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: Michael L. Carter, (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Battle Creek, MI, and Lancaster and Sharonville, OH, to Clearfield, UT. (Hearing site: St. Louis or Kansas City, MO.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 114897 (Sub-127F), filed July 17, 1978. Applicant: WHITFIELD TANK LINES, INC., a Delaware corporation, 485 Coates Drive, P.O. Box 12278, El Paso, TX 79912. Representative: J. E. Gallegos, 215 Lincoln Avenue, P.O. Box 2228, Santa Fe, NM 87501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, (1) from El Paso, TX, and points in NM and AZ, to points in TX, and (2) between points in NM. (Hearing site: El Paso, TX, or Santa Fe, NM.)

MC 114969 (Sub-83F), filed August 16, 1978. Applicant: PROPANE TRANSPORT, INC., P.O. Box 232,

Milford, OH 45150. Representative: James R. Stiverson, 1396 West Fifth Avenue, P.O. Box 1409, Columbus, OH 43216. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, from the facilities of Rubbermaid, Inc., at or near Wooster, OH, to points in the United States (except AK and HI). (Hearing site: Portland, OR, or Washington, DC.)

Battery boxes, from Indianapolis, IN, and Philadelphia, MS, to points in AL, AR, GA, IL, IN, KY, LA, MS, MO, NC, OH, SC, TN, TX, VA, and WV. (Hearing site: Atlanta, GA.)

MC 115162 (Sub-297F), filed July 17, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from the facilities of Welch Forest Products, at or near East Camden, AR, to points in MS, NC, SC, TN, and VA. (Hearing site: Atlanta, GA.)

Milford, OH 45150. Representative: James R. Stiverson, 1396 West Fifth Avenue, Columbus, OH 43212. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from the facilities of Ashland Oil, Inc., at or near Catlettsburg, KY, to the facilities of Ashland Oil, Inc., at Canton, OH. (Hearing site: Washington, DC, or Columbus, OH.)

NOTE.—Certificate shall be limited, in point of time, to a period expiring 5 years from the date of issuance of the certificate.

MC 115648 (Sub-30F), filed August 14, 1978. Applicant: LOCK TRUCKING, INC., P.O. Box 278, Wheatland, WY 82201. Representative: Ward A. White, P.O. Box 568, Cheyenne, WY 82001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from the facilities of American Salt Co., at or near Grantsville, UT, to points in Platte County, WY. (Hearing site: Cheyenne, WY, or Denver, CO.)

MC 115904 (Sub-115F), filed June 8, 1978, and previously noticed as Sub-102F in the, FEDERAL REGISTER of August 22, 1978. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, ID 83401. Representative: Irene Warr, 430 Judge Building, Salt Lake, UT 84111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Moulded rubber and plastic products*, and (2) *materials, equipment, and supplies* used in the manufacture, and distribution of the commodities named in (1) above, between the facilities of Entek Corp. of America, at or near Irving, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX, or Washington, DC.)

NOTE.—The purpose of this republication is to show the correct docket number as MC 115904 (Sub-115F).

MC 115904 (Sub-116F), filed June 12, 1978, and previously noticed as Sub-102F in the FEDERAL REGISTER of July 25, 1978. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, ID 83401. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, (1) from Chicago, IL; Wilmington, DE; Canonsburg, PA; Jersey City and Camden, NJ; New Orleans, LA; Savannah, GA; and Houston, TX, to those points in the United States in and east of AZ, CO, ND, NE, and SD, and (2) from Los Angeles, CA, to points in AZ, CA, CO, and NM. (Hearing site: Portland, OR, or Washington, DC.)

NOTE.—The purpose of this republication is to show the correct docket number as MC 115904 (Sub-116F).

MC 116254 (Sub-210F), filed July 10, 1978. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated metal articles, and iron and steel articles*, from Stafford, KS, and Tulsa, OK, to points in RI, CT, OK, TX, NE, KS, MN, IA, MO, AR, LA, MS, AL, GA, CO, FL, NC, SC, TN, KY, WV, VA, MD, DE, PA, OH, IN, IL, WI, MI, NJ, NY, VT, NH, ME, MA, and DC. (Hearing site: Kansas City, KS, or Washington, DC.)

MC 116763 (Sub-425F), filed July 31, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petfood, animal feed, fish feed, and poultry feed* (except commodities in bulk), from Muscatine, IA, to points in AL, AR, CT, DE, FL, GA, IL, IA, IN, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 116763 (Sub-426F), filed July 31, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pulpboard products*, from Germantown, WI, to points in AR, IL, IN, IA, KS, KY, MD, MI, MO, NC, OH, OK, PA, TN, VA, TX, and WV, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of pulpboard products, in the reverse direction. (Hearing site: Milwaukee, WI.)

MC 116763 (Sub-427F), filed July 31, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from the facilities of Bowater Southern Paper Corp., at or near Calhoun, TN, to points in CT, IA, ME, MA, MN, NH, NJ, NY, PA, and VT, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of paper and paper products, in the reverse direction. (Hearing site: Chattanooga, TN.)

MC 117119 (Sub-699F), filed August 10, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: M. M. Geffon, P.O. Box 338, Willingboro, NJ 08046. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except in bulk), from Easton, PA, to points in ID, IL, LA, MN, OK, UT, and WY, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Columbus, OH, or Washington, DC.)

MC 117883 (Sub-229F), filed August 3, 1978. Applicant: SUBLER TRANSFER, INC., 1 Vista Drive, Versailles, OH 45380. Representative: Neil E. Hannan, P.O. Box 62, Versailles, OH 45380. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from the facilities of United Products Co., at or near Gaithersburg, MD, to points in IN, IL, IA, KS, KY, MN, MI, MO, OH, and WI, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 118159 (Sub-281F), filed August 7, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except in bulk), from Easton, PA, to points in ID, IL, LA, MN, OK, UT, and WY, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Columbus, OH, or Washington, DC.)

MC 118159 (Sub-283F), filed August 17, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., a Louisiana corporation, P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except in bulk), from points in GA, to points in the United States (except AK and HI). (Hearing site: Atlanta, GA.)

Battery boxes, from Indianapolis, IN, and Philadelphia, MS, to points in AL, CT, DE, GA, IN, KS, KY, MA, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, and WI; and (2) *equipment and materials* used in the manufacture and distribution of battery boxes, in the reverse direction. (Hearing site: Chicago, IL.)

MC 118159 (Sub-284F), filed August 17, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., a Louisiana corporation, P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by grocery and food business houses and drugstores (except frozen commodities and commodities in bulk), (1) from Atlanta, GA, to points in AL, AR, KY, LA, and TN, and (2) from Houston, TX, to points in AR, LA, MS, and OK. (Hearing site: Chicago, IL.)

MC 118159 (Sub-285F), filed August 18, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., a Louisiana corporation, P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, Fl 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in or used by manufacturers, converters, and distributors of cellulose materials and products and paper products (except commodities in bulk), from points in FL, GA, NC, SC, and VA, to points in AL, AR, CT, DE, FL, GA, KS, KY, LA, ME, MD, MA, MS, MO, NH, NJ, NY, NC, OK, PA, RI, SC, TN, TX, VT, VA, WV, and DC; and (2) *equipment and materials* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Atlanta, GA.)

MC 118159 (Sub-286F), filed August 18, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., a Louisiana corporation, P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Traffic control products* and *equipment and materials* used in the maintenance and installation of traffic control products, from the facilities of Pave-Mark Corp., at Atlanta, GA, to points in the United States (except AK and HI); and (2) *equipment and materials* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Atlanta, GA.)

MC 119654 (Sub-53F), filed July 13, 1978. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Apple juice, vinegar, and water*, in containers, from Coloma and Hartford, MI, to points in IL, IN, OH, and WI; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 123061 (Sub-99F), filed July 24, 1978. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 310 South Main, Salt Lake City, UT 84101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from points in Toole County, UT, to points in CA. (Hearing site: Salt Lake City, UT, or Boise, ID.)

MC 124887 (Sub-60F), filed July 24, 1978. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Wheeling-Pittsburgh Steel Corp., at or near (a) Canfield, Martins Ferry, Mingo Junction, Steubenville, and Yorkville, OH, (b) Allenport and Monessen, PA, and (c) Beechbottom, Benwood, and Wheeling, WV, to points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX, and VA. (Hearing site: Jacksonville or Tallahassee, FL.)

MC 124887 (Sub-61F), filed July 25, 1978. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* and *cross ties*, from points in GA, to ponts in AL, FL, SC, NC, and TN. (Hearing site: Jacksonville or Tallahassee, FL.)

MC 124887 (Sub-62F), filed July 25, 1978. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood* and *hardboard paneling*, from the facilities of Welch Forest Products, at or near East Camden, AR, to points AL, FL, GA, MS, NC, SC, TN, and VA. (Hearing site: Jacksonville or Tallahassee, FL.)

MC 125254 (Sub-44F), filed July 13, 1978. Applicant: MORGAN TRUCKING CO., P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, container accessories, and materials, equipment, and supplies* used in the manufacture and distribution of glass containers and container accessories (except in bulk, in tank vehicles), between the facilities of Brockway Glass Co., Inc., in (a) Washington County, PA, (b) Muskingum County, OH, and (c) Madison County, IN, on the one hand, and, on the other, points in Johnson, Linn, Clinton, Scott, and Muscatine Counties, IA. (Hearing site: Des Moines, IA, or Pittsburgh, PA.)

MC 128007 (Sub-126F), filed July 24, 1978. Applicant: HOFER, INC., 20th and Bypass, P.O. Box 583, Pittsburgh, KS 66762. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Architectural and structural metals*, and *accessories* for architectural and structural metals, from points in Crawford County, KS, to points in the United States (except AK and HI); and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction. (Hearing site: Kansas City, MO.)

MC 128273 (Sub-313F), filed July 27, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, in containers, from Sugar Land, TX, to points in the United States (except AK, HI, and TX). (Hearing site: Houston, TX, or Washington, DC.)

MC 128343 (Sub-42F), filed August 2, 1978. Applicant: C-LINE, INC., Tourtellot Hill Road, Chepachet, RI 02814. Representative: Ronald N. Cobert, Suite 501, 1730 M Street NW., Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials, plastic products*, and *supplies* used in the manufacture and distribution of plastic materials and plastic products, (except commodities in bulk), between Hemingway, SC, Jerome, ID, Halls, TN, and North Smithfield, RI, on the one hand, and, on the other, ports of entry on the international boundary line between the

V 43 182 SEP 1978

V. 43 / 182 SEP 1978

United States and Canada, at points in ND, under a continuing contract with Tupperware Co., of Woonsocket, RI. (Hearing site: Providence, RI, or Boston, MA.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 128648 (Sub-13F), filed August 17, 1978. Applicant: TRANS-UNITED, INC., a Texas corporation, 425 West 152d Street, P.O. Box 2081, East Chicago, IN 46312. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Water heaters and parts for water heaters;* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of water heaters, (a) from the facilities of Bradford-White Corp., at or near Middleville, MI, and Vernon, CA, to points in the United States (except AK and HI), and (b) from Toledo, OH, to Vernon, CA, under a continuing contract with Bradford-White Corp., of Philadelphia, PA. (Hearing site: Chicago, IL.)

MC 133119 (Sub-137F), filed August 7, 1978. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, Akron, IA 51001. Representative: A. J. Swanson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts* and *articles* distributed by meat packinghouses, (except hides and commodities in bulk), as described in section A and C of Appendix I to the report in Description in Motor Carrier Certificates, 61 MCC 209 and 766, from St. Louis, MO, to points in AL, AR, GA, GL, KY, LA, MS, NC, SC, TN, Dakota County, NE, and Lyon County, KS, restricted to the transportation of traffic originating at the named orgins and destined to the indicated destinations. (Hearing site: St. Louis, MO, or Omaha, NE.)

MC 133221 (Sub-31F), filed July 24, 1978. Applicant: OVERLAND CO., INC., 1991 Buford Hwy, Lawrenceville, Ga. 30245. Representative: Alvin Button (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polystyrene products*, from the facilities of Dolco Packaging Corp., at or near Dallas, TX, to those points in the United States on and east of U.S. Hwy 85. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 133591 (Sub-48F), filed July 28, 1978. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastics* and *plastic articles*, (except commodities in bulk), from the facilities of Union Carbide Corp., at or near Rogers, AR, to Salt Lake City, UT. (Hearing site: Kansas City, MO, or Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 133689 (Sub-214F), filed August 11, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric ranges* and *microwave ovens*, and (2) *such commodities* as are used in the manufacture and distribution of the commodities in (1) above, between the facilities of Litton Microwave Cooking Products, Litton Systems, Inc., at Minneapolis, MN, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MS, MO, NE, NH, NJ, NY, NC, OH, PA, RI, SC, SD, TN, VT, VA, WV, WI, and DC. (Hearing site: St. Paul, MN.)

MC 134282 (Sub-20F), filed July 17, 1978. Applicant: ENNIS TRANSPORTATION CO., INC., P.O. Drawer 776, Ennis, TX 75119. Representative: William D. White, Jr., 2505 Republic National Bank Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, building, and insulation materials* (except iron and steel articles and commodities in bulk), between the facilities of CertainTeed Corp., in Dallas County, TX, and points in AR, LA, OK, MS, and MN. (Hearing site: Dallas, TX, or New Orleans, LA.)

MC 135082 (Sub-73F), filed July 11, 1978. Applicant: ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road NE., Albuquerque, NM 87125. Representative: Randall R. Sain (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paint and insulation materials*, from Phoenix, AZ, to points in CA, CO, ID, MT, NV, NM, OK, OR, TX, UT, and WA. (Hearing site: Albuquerque, NM, or Phoenix, AZ.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 135643 (Sub-7F), filed July 27, 1978. Applicant: SAFE TRANSPORT, INC., 610 Cooper Street, Hamilton, IL 62341. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid asphalt and liquid residual fuel oils*, from Meredosia, IL, to Kirksville, MO, under a continuing contract with Kirksville Emulsified Asphalt, Inc., of Kirksville, MO. (Hearing site: St. Louis, MO, or Chicago, IL)

MC 136343 (Sub-149F), filed August 3, 1978. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment, and supplies* used in the manufacture of woodpulp, woodpulp boards, and wrapping paper (except commodities in bulk), from points in GA, AL, SC, and NC, to the facilities of the Chesapeake Corp. of Virginia, at or near West Point, VA, restricted to the transportation of traffic originating at the indicated origins and destined to the named destination facilities. (Hearing site: Norfolk, VA, or Washington, DC.)

MC 136464 (Sub-39F), filed July 10, 1978. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washingotn, DC 20005. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Textiles, textile products, and materials and supplies used in the manufacture and sale of textiles and textile products*, from the facilities of J. P. Stevens & Co., Inc., at or near Clemson, SC, to points in CA, under a continuing contract with J. P. Stevens & Co., Inc., of Greensboro, NC. Hearing site: Greensboro, NC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 136981 (Sub-9F), filed May 3, 1978, previously noticed in the FEDERAL REGISTER issue of June 29, 1978. Applicant: BLAIR CARTAGE, INC., 13658 Auburn Road, P.O. Box 52, Newbury, OH 44065. Representative: Lewis S. Witherspoon, 88 East Broad Street, Columbus, OH 43215. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by wholesale, retail, and chain grocery and food business houses, from the plant site of the Clorox Co., at or near Chicago, IL, to Cleveland, OH, and points in IN; and (2) *animal litter*, from Kansas City, MO, to Chicago, IL, under a continuing contract, or contracts, with the Clorox Co., of Oakland, CA. (Hearing site: Cleveland, OH.) The republication indicates the correct location of the Clorox Co.

NOTE.—The carrier must satisfy the Commission that its operations will not result in objectionable dual operations because of its authority under MC 134798.

MC 138157 (Sub-72F), filed May 8, 1978, and previously noticed in the

FEDERAL REGISTER issue of June 15, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37410. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor vehicle parts and accessories, and materials, equipment, and supplies* used in the manufacture and distribution of motor vehicle parts and accessories (except commodities in bulk, in tank vehicles), (a) from the facilities of Maremont Corp., at or near Loudon and Ripley, TN, to those points in the United States in and east of MN, IA, MO, AR, and TX, and (b) from Harvey, IL, and Bayonne, NJ, to Loudon and Ripley, TN; and (2) (i) *commodities* named in (1) above (except commodities in bulk, in tank vehicles), and (ii) *empty trailers*, between Knoxville, Alcoa, and Oak Ridge, TN, on the one hand, and, on the other, the facilities of Maremont Corp., at or near Loudon, TN, restricted in (2)(i) above to the transportation of traffic having a subsequent movement by rail, in (2)(ii) above to the transportation of traffic having a prior movement by rail and destined to the named destination points, or having a subsequent movement by rail and originating at the named origin points, in (1) and (2) above against the transportation of traffic which because of size or weight require the use of special equipment, and in (1) and (2)(i) above to the transportation of traffic originating at or destined to the named points. Condition: Applicant must request cancellation of its authority in MC 134150 (Sub-3) prior to issuance of a certificate in this matter. (Hearing site: Chicago, IL.)

NOTE.—This republication modifies the exceptions and restrictions previously noticed. Applicant states the purpose of this application is to convert the contract carrier authority held by it in MC 134150 (Sub-3) to common carrier authority. Dual operations may be at issue in this proceeding.

MC 138313 (Sub-39F), filed August 3, 1978. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street SW., Great Falls, MT 59404. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper bags and packaging materials*, from ports of entry on the international boundary line between the United States and Canada, in ID and MT, and points in OR and WA, to the facilities of American Colloid Co., in (1) Butte County, SD, (2) Bowman County, ND, (3) WY, and (4) MT. (Hearing site: Washington, DC.)

MC 138882 (Sub-106F), filed July 13, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, particleboard, wood turnings, and laminated or solid squares*, from points in CA, WA, and OR, to points in ID, TX, OK, AR, and AL. (Hearing site: Temple, TX, or Montgomery, AL.)

MC 138882 (Sub-107F), filed July 12, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 537, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the facilities of Scotch Lumber Co., at or near Fulton, AL, to points in FL, GA, IL, IN, ID, IA, LA, KY, MI, MN, MS, MO, NC, OH, SC, SD, TN, TX, and WI. (Hearing site: Birmingham or Montgomery, AL.)

MC 139273 (Sub-3F), filed July 31, 1978. Applicant: KINGS COUNTY TRUCK LINES, a corporation, P.O. Box 1016, Tulare, CA 93274. Representative: Manuel Espinola (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream, ice cream mix, ice milk, water ice, and sherbet*, from the facilities of Dreyer's Grand Ice Cream, Inc., at or near San Leandro and Sacramento, CA, to Carson City, Reno, and Sparks, NV, under a continuing contract with Dreyer's Grand Ice Cream, Inc., of Oakland, CA. (Hearing site: San Francisco or Fresno, CA.)

MC 139923 (Sub-46F), filed August 2, 1978. Applicant: MILLER TRUCKING CO., INC., P.O. Drawer "D", Stroud, OK 74079. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper processing machines and meat processing machines*, from Park Forest, IL, and Plymouth, IN, to points in CA, CO, NE, OR, TX, and WA. (Hearing site: Chicago, IL, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140123 (Sub-6F), filed July 31, 1978. Applicant: GRAHAM TRANSFER, INC., Route 2, Box 44, Linden, TN 37096. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel tubing, steel coils, and steel bars*, from Chicago, IL, to the facilities of Linden Products Co., at or near Linden, TN. (Hearing site: Nashville, TN.)

MC 140511 (Sub-7F), filed July 26, 1978. Applicant: AUTOLOG CORP., a Delaware corporation, 319 West 101st Street, New York, NY 10025. Representative: Larsh B. Mewhinney, 555 Madison Avenue, New York, NY 10022. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Used motor vehicles*, in secondary movements, in truckaway service; and (2) *baggage, sporting equipment*, and *personal effects* moving with the commodities named in (1) above, between Chicago, IL, Detroit, MI, Cleveland, Columbus, and Cincinnati, OH, Indianapolis, IN, Darlington, SC, High Point, NC, Fredericksberg, VA, points in NY, NJ, MA, CT, PA, DE, and MD, on the one hand, and, on the other, Atlanta, GA, Columbia and Darlington, SC, and points in FL. (Hearing site: New York, NY.)

MC 140829 (Sub-130F), filed August 16, 1978. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery* (except in bulk, in tank vehicles), from Lufkin, TX, to Baltimore, MD, Philadelphia, PA, New York, NY, and points in NJ, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140829 (Sub-131F), filed August 16, 1978. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, U.S. Hwy. 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Orange juice, grapefruit juice*, and *lemonade* (except in bulk, in tank vehicles), from the facilities of World Citrus, Inc., at Winston-Salem, NC to points in IN, KY, MN, MO, and OH, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140829 (Sub-132F), filed August 16, 1978. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, U.S. Hwy. 20, Sioux City, IA 51102. Repre-

sentative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, and (2) *malt beverage containers, packaging material, pallets*, and *scrap malt beverage containers* (except commodities in bulk, in tank vehicles), between Golden, CO, on the one hand and, on the other, points in IA and MO, restricted to the transportation of traffic originating at and destined to the named points. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 141402 (Sub-16F), filed July 17, 1978. Applicant: LINCOLN FREIGHT LINES, INC., Box 427, Lapel, IN 46015. Representative: Normal R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated paper cartons*, between Zanesville, OH, on the one hand, and, on the other, Lapel, IN, under contract with Brockway Glass Co., of Lapel, IN. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 141781 (Sub-8F), filed July 26, 1978. Applicant: LARSON TRANSFER & STORAGE CO., INC., 950 West 94th Street, Minneapolis, MN 55431. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Periodicals, from Minneapolis, MN, to Des Moines, IA, and Omaha, NE. (Hearing site: Minneapois or St. Paul, MN.)

NOTE.—Dual operations may be involved in this proceeding.

MC 143233 (Sub-3F), filed July 28, 1978. Applicant: DENNY TRANSPORT. INC., 3405 Industrial Parkway, Jeffersonville, IN 47130. Representative: C. Edward Glasscock, 1600 Citizens Plaza, Louisville, KY 40202. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry milk products*, from the facilities of DMI, Inc., at or near Louisville, KY, to points in the United States (except KY, HI, and AK); and (2)(a) *soy flour and corn flour*, and (b) *milk powder* otherwise exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act when transported in mixed loads with soy flour and corn flour, from points in the United States (except AK, HI, and KY), to the facilities of DMI, Inc., at Louisville, KY, under a continuing contract in (1) and (2) (a) and (b) above with DMI, Inc., of Louisville, KY. (Hearing site: Louisville, KY, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 143849 (Sub-1F), filed August 14, 1978. Applicant: CLYNE SPARKS WRECKER SERVICE, INC., 3404 Cazassa, Memphis, TN 38116. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Disabled vehicles and trailers* (except trailers designed to be drawn by passenger vehicles), and (2) *replacement vehicles and trailers* (except trailers designed to be drawn by passenger vehicles), in (1) and (2) above, by use of wrecker equipment only, between points in Shelby County, TN, on the one hand, and, on the other, points in AL, AR, KY, LA, MS, MO, TN, and TX. (Hearing site: memphis, TN.)

MC 144013 (Sub-2F), filed August 1, 1978. Applicant: CARLEY'S BEST MOVERS, INC., 405 Douglas Street, Hammond, IN 46320. Representative: Michael F. Sheehan, Jr., 1 East Wacker Drive, Suite 2530, Chicago, IL 60601. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Lake, Porter, and LaPorte Counties, IN, restricted to the transportation of shipments having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such shipments, under a continuing contract with the Department of Defense, of Washington, D.C. (Hearing site: Chicago, IL.)

MC 144419 (Sub-1F), filed August 17, 1978. Applicant: MELBOURNE EAU GALLIE MOVING & STORAGE CO., INC., 1348 South Morningside Drive, Melbourne, FL 32901. Representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Brevard, Osceola, Orange, Indian River, Martin, Okeechobee, Palm Beach, Volusia, and St. Lucie Counties, FL, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. (Hearing site: Jacksonville, FL.)

NOTE.—The person or persons who it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 144603 (Sub-5F), filed July 28, 1978. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, P.O. Box 1597, Maryland Heights, MO 63043. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used television tubes*, from points in the United States (except AK and HI), to Van Nuys, CA. Condition: The person or persons who it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Los Angeles, CA.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 144622 (Sub-8F), filed July 17, 1978. Applicant: GLENN BROS. MEAT CO., INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip Glenn (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials handling equipment, dock lift equipment, flat sheets, and casting steel*, (1) from Little Rock, AR, to points in the United States (except AK and HI and (2) from Chicago, IL, and Birmingham, AL, to Little Rock, AR. (Hearing site: Little Rock, AR, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 144724 (Sub-1F), filed July 13, 1978. Applicant: WALTER J. SHEETS & SON, INC., 100 Bittle Cove, Lewisburg, WV 24901. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building blocks and brick*, from Roanoke, VA, to Lewisburg, WV; (2) *lumber*, from points in GA, NC, SC, and VA, to Lewisburg, WV; and (3) (a) *lumber, wood chips, and sawdust, and* (b) *bark* otherwise exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act when transported in mixed loads with lumber, wood chips, and sawdust, (a) between the facilities of J. P. Hamer Lumber Co., in WV, KY, and VA, and (b) from the facilities of J. P. Hamer, in WV, to points in GA, IL, IN, KY, NY, NC, OH, PA, SC, TN, VA, and WV, under a continuing contract in (1) and (2) above with S. J. Neathawk Lumber Inc., of Lewisburg, WV, and in (3) above with J. P. Hamer Lumber Co., of Kenova, WV. (Hearing site: Charleston, WV.)

MC 144779 (Sub-2F), filed August 1, 1978. Applicant: AHA, INC., Box 513, Panguitch, UT 84759. Representative: Nida Mae Jensen (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Precut cabinet parts* from Center, TX, to Cedar City, UT; (2) *forest products and lumber products*, from Panguitch, UT, to points in TX, and (3) *flat steel*, from Los Angeles and Pittsburg, CA, to Cedar City, UT. (Hearing site: Salt Lake City, UT.)

MC 144879 (Sub-1F), filed July 25, 1978. Applicant: D & J TRANSFER CO., a corporation, Sherburn, MN 56171. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale and retail farm, home, and hardware supply business houses (except foodstuffs and commodities in bulk), from those points in the United States in and east of ND, SD, NE, CO, OK, and TX, to Spencer, Spirit Lake, and Webster City, IA, restricted to the transportation of traffic originating at the indicated origins and destined to the facilities of Schmidt Distributors, Inc., doing business as Shopper's Supply, at or near Spencer, Spirit Lake, and Webster City, IA. (Hearing site: Sioux City, IA, or Omaha, NE.)

NOTE.—Dual operations may be involved in this proceeding.

MC 144933 (Sub-1F), filed July 28, 1978. Applicant: CONTRACT TRANSPORT CO., a corporation, 83 Progress Avenue, Springfield, MA 01101. Representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Rochester and Fulton, NY, to Auburn, MA, under a continuing contract with Atlas Distributing Corp., of Auburn, MA. (Hearing site: Hartford, CT, or Boston, MA.)

MC 144989 (Sub-1F), filed August 16, 1978. Applicant: ANTHONY DREW SOSEBEE, d.b.a. BLUE RIDGE, MOUNTAIN CONTRACT CARRIER, P.O. Box 403, Dalton, GA 30720. Representative: S. H. Rich, Route 2, Box 68B, Blairsville, GA 30512. To operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: (1) *Carpets, carpeting, rugs, and bedspreads*, between the facilities of Cavalier Carpets, Inc., at Dalton, GA, and the facilities of Lawtex Industries, Inc., at Calhoun and Dalton, GA, and Piedmont, AL, on the one hand, and, on the other, Phoenix, AZ, and points in CA, and (2) *materials* used in the manufacture of carpets, carpeting and rugs, from Phoenix, AZ, and points in CA, to the facilities of Cavalier Carpets, Inc., at Dalton, GA, and the facilities of Lawtex Industries, Inc., at Calhoun and Dalton, GA, and Piedmont, AL, under continuing contracts in (1) and (2) above, with Cavalier Carpets, Inc., and Lawtex Industries, Inc., both of Dalton, GA. (Hearing site: Dalton or Atlanta, GA.)

MC 145022 (Sub-2F), filed July 17, 1978. Applicant: MARSH BROS. TRUCKING SERVICE, INC., 1811 Howell Avenue., Dayton, OH 45407. Representative: Jerry B. Sellman, 50 West Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Clay, Kenton, Magoffin, Powell, and Wolfe Counties, Ky, to points in OH and IN. (Hearing site: Columbus, OH, or Washington, DC.)

MC 145068 (Sub-2F), filed July 26, 1978. Applicant: D.O.T. TRUCKING, INC., 104 West Marlin, Suite 320, McPherson, KS 67460. Representative: Clyde N. Christy, Kansas Credit Union Building, 1010 Tyler, Suite 110L, Topeka, KS 66612. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Polyurethane form*, from Newton, KS, and Council Bluffs, IA, to points in CO, MO, OK, and TX, and (2) between Newton, KS, and Council Bluffs, IA, under a continuing contract with Future Foam, Inc., of Omaha, NE. (Hearing site: Kansas City, KS.)

MC 145113F, filed July 28, 1978. Applicant: PLANTATION FOODS, INC., 3130 Cholson Road, P.O. Box 887, Waco TX 76703. Representative: Gerry Prestridge, P.O. Box 1148, Austin, TX 78767. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cotton and synthetic fiber piece goods*, from Opelika, AL, Augusta, Chickamauga, Rossville, and Trion, Ga, Elizabethton, TN, Lyman, Bishopville, Blacksburg, Graniteville, Orangeburg, Rockhill, and Spartanburg, SC, Concord and Kingston, NC, Newark, East Rutherford, Fairlawn, and Elizabeth, NJ, Rochester and College Point, NY, Putnam and Rockville, CT, and Fall River and Lawrence, MA, to Cleburne, TX, under a continuing contract with Walls Industries, Inc., of Cleburne, TX. (Hearing site: Dallas, TX.)

MC 145199 (Sub-1F), filed August 4, 1978. Applicant: WESTERFELD TRUCK LEASING, INC., Rural Route 10, Greensburg, IN 47240. Representative: Robert W. Loser, 1009 Chamber of Commerce Building, Indianapolis, IN 46294. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, (1) between the facilities of, KB Specialty Foods, at or near Greensburg, IN, on the one hand, and, on the other, Atlanta, GA, Charleston, WV, Little Rock, AR, Memphis and Nashville, TN, Salem and Roanoke, VA, Houston and Dallas, TX, Irwin and Pittsburgh, PA, and points in IL, KY, MI, MO, and OH, and (2) from the facilities of the Kroger Co., at Cincinnati, OH, to St. Louis, MO, Indianapolis, IN, Louisville, KY, and Detroit, MI, under a continuing contract with the Kroger Co., of Cincinnati, OH. (Hearing site: Indianapolis, IN, or Cincinnati, OH.)

MC 145208 (Sub-1F), filed August 14, 1978. Applicant: ONEY ENTERPRISES, INC., P.O. Box 2978, Milan, NM 87020. Representative: James E. Snead, P.O. Box 2228, Santa Fe, NM 87501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, in dump trucks, form Reid, NM, to Ambrosia Lake, NM, restricted to the transportation of traffic having a prior movement by rail in interstate commerce, under a continuing contract with Morton Salt Co., a Division of Morton-Norwich, of Chicago, IL. (Hearing site: Santa Fe or Albuquerque, NM.)

MC 145229F, filed August 14, 1978. Applicant: JAMES D. BASOLO and HAROLD W. FULLERTON, a partnership, d.b.a. J & H, P.O. Box 2670, Missoula, MT 59806. Representative: Walter Anno (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from Los Angeles and Van Nuys, CA, Vancouver, Tacoma, and Seattle, WA, and Milwaukee, WI, to points in MT; and (2) *malt beverage containers*, in the reverse direction. (Hearing site: Missoula or Billings, MT.)

NOTE.—The person or persons who it appears may be engaged in common control must either file an aplication under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

PASSENGER AUTHORITY

MC 144383 (Sub-2F), filed August 1, 1978. Applicant: LOWERY ASSOCIATES, INC., 722 Allendale Street, Baltimore, MD 21229. Representative: Junious Lowery, Jr. (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, between points in MD, VA, DE, PA, and DC, under a continuing contract with Consolidated Rail Corp., of Baltimore, MD. (Hearing site: Baltimore, MD, or Washington, DC.)

BROKER AUTHORITY

MC 130512F, filed July 7, 1978. Applicant: PERCIVAL TOURS, INC.,

Continental Bank Building, Fort Worth, TX 76102. Representative:

and shall include the certification required in that section.

First National Bank Building, Fargo, ND 58102. To operate as a *common*

erate as a *common carrier*, by motor vehicle, irregular routes, transporting:

MC 55896 (Sub-83F), filed July 12, 1978. Applicant: R-W SERVICE

FETT CO., a corporation, 1515 Busha Highway, Marysville, MI 48084. Repre-

Continental Bank Building, Fort Worth, TX 76102. Representative: Harold E. Mesirow, 1220 19th Street NW., Washington, DC 20036. To engage in operations, in interstate or foreign commerce, as a *broker*, at Forth Worth, TX, in arranging for the transportation by motor vehicle, of: *Passengers and their baggage*, in the same vehicle with passengers, in round trip special and charter operations, between points in the United States (including AK and HI, but excluding IL, IN, IA, KY, MI, MN, ID, NE, ND, OH, SD, and WI). (Hearing site: Forth Worth, TX, or Washington, DC.)

NOTE.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in Tauck Tours, Inc., Extension, New York, NY, 54 MCC 291 (1954).

[FR Doc. 78-26196 Filed 9-18-78; 8:45 am]

[7035-01]

[Decisions Vol. No. 31]

DECISION-NOTICE

SEPTEMBER 11, 1978.

The following applications are governed by Special Rule 247 of the Commission's Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission on or before October 19, 1978. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is not a major Federal action significantly affecting the quality of the human environment.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones (Review Board Member Carleton not participating).

H. G. HOMME, Jr.,
Acting Secretary.

MC 4405 (Sub-580F), filed August 7, 1978. Applicant: DEALERS TRANSIT, INC., 522 South Boston, Tulsa, OK 74103. Representative: Alan Foss, 502 First National Bank Building, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* the transportation of which, because of size or weight, requires the use of special equipment or handling, from the facilities of Rockcastle Steel Corp. in Rockcastle County, KY, to points in the United States (except AK and HI). (Hearing site: Louisville, KY.)

MC 4687 (Sub-20F), filed July 25, 1978. Applicant: BURGESS & COOK, INC., P.O. Bos 458 Fernandina Beach, FL 32304. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation and insulation materials*, (except commodities in bulk), from Leeds, AL, to points in FL and GA. (Hearing site: Jacksonville, FL, or Birmingham, AL.)

MC 9325 (Sub-76F), filed July 31, 1978. Applicant: K LINES, INC., 17765 Southwest Boones Ferry Road, Lake Oswego, OR 97034. Representative: John G. McLaughlin, Suite 1440, 200 Market Building, Portland, OR 97201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and fertilizer ingredients*, in bulk, in tank or hoppertype vehicles, from the ports of entry on the international boundary line between the United States and Canada in ID and those in WA on and east of U.S. Hwy 97 to points in OR, WA, and ID. (Hearing site: Spokane, WA.)

NOTE.—Applicant states that traffic is originating at points in the Province of BC, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its appropriate complementary Canadian authority or explaining why no such Canadian authority is necessary. The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from Points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 11207 (Sub-439F), filed July 25, 1978. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, irregular routes, transporting: *Iron and steel articles* (except commodities in bulk and those which because of size or weight require the use of special equipment), from the facilities of (a) Florida Wire & Cable Co., at Jacksonville, FL, and (b) Wire Mill, Inc., at Sanderson, FL, to points in AL, AR, GA, IL, IN, KY, LA, MO, MS, NC, OH, OK, SC, TN, TX, VA, and WV. (Hearing site: Jacksonville, FL, or Birmingham, AL.)

MC 30837 (Sub-485F), filed July 10, 1978. Applicant: KENOSHA AUTO TRANSPORT CORP. 4314 39th Avenue, Kenosha, WI 53142. Representative: Paul F. Sullivan, 711 Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles, trucks, and buses*, as defined in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, in secondary movements, in truckaway service, from Earnest, PA, and points within 20 miles thereof, to points in CT, DE, MD, NJ, NY, PA, and DC, restricted to the transportation of traffic having a prior movement by rail or truck from the facilities of Jeep Corp., a subsidiary of American Motors Corp., at Toledo, OH, and South Bend, IN. (Hearing site: Washington, DC, or Detroit, MI.)

MC 35890 (Sub-50F), filed August 22, 1978. Applicant: BLODGETT FURNITURE SERVICE, INC., 5650 Foremost Drive SE., Grand Rapids, MI 49508. Representative: Ronald C. Nesmith, P.O. Box 4403, Chicago, IL 60680. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic and expanded plastic articles* from the facilities of E. I. du Pont de Nemours & Co., at or near Wurtland, KY, to points in CT, DE, IL, MD, MA, MI, NJ, NY, PA, RI, and WI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 42487 (Sub-876F), filed July 13, 1978. Applicant: CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97028. To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Dallas, TX, and Birmingham, AL, over Interstate Hwy 20, serving no intermediate points, as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Washington, DC.)

MC 55896 (Sub-83F), filed July 12, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty (same address as applicant). To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Edgerton, WI, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Detroit, MI.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 55896 (Sub-85F), filed July 12, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile body parts and iron and steel articles*, between Marion, IN, and Hamilton, OH. (Hearing site: Indianapolis, IN.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 57239 (Sub-34F), filed August 3, 1978. Applicant: RENNER'S EXPRESS, INC., 1350 South West Street, Indianapolis, IN 46206. Representative: Roland Rice, 501 Perpetual Building, 1111 E Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Household appliances*, and (2) *parts and accessories* for household appliances, from Louisville, KY, to those points in MI on and south of MI Hwy 21, restricted to the transportation of shipments originating at the named origin. (Hearing site: Louisville, KY, or Indianapolis, IN.)

MC 57275 (Sub-15F), filed June 20, 1978. Applicant: SCHADE REFRIGERATED LINES, INC., P.O. Box 14407, Phoenix, AZ 85063. Representative: A. Michael Bernstein, 1441 East Thomas Road, Phoenix, AZ 85014. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Photographic equipment and materials*, in vehicles equipped with mechanical refrigeration, between points in AZ. (Hearing site: Phoenix, AZ.)

MC 58152 (Sub-24F), filed July 13, 1978. Applicant: OGDEN & MOFFETT CO., a corporation, 1515 Busha Highway, Marysville, MI 48084. Representative: Walter N. Bieneman, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. To operate as a *common carrier*, by motor vehicle, transporting *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Kalamazoo and Detroit, MI, over Interstate Hwy 94, serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Washington, DC.)

MC 60014 (Sub-86F), filed July 14, 1978. Applicant: AERO TRUCKING, INC., an Ohio corporation, Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plasterboard joint systems;* and (2) *materials and supplies* used in the installation and distribution of the commodities in (1) above, from Milford, VA, to points in ME, NH, VT, MA, and RI. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 61592 (Sub-423F), filed July 21, 1978. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: E. A. DeVine, P.O. Box 737, Moline, IL 61265. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Composition board*, from Coldwater, MI, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of composition board (except commodities in bulk), in the reverse direction. (Hearing site: Chicago, IL.)

MC 63417 (Sub-159F), filed July 25, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). To operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Synthetic fiber and synthetic yarn*, between Chattanooga, Nashville, and Old Hickory, TN, and Seaford, DE, on the one hand, and, on the other, points in VA. (Hearing site: Roanoke, VA, or Washington, DC.)

MC 63417 (Sub-160F), filed July 26, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *microfoam*

and microfoam articles, from Wurtland, KY, to points in DE, GA, MD, NJ, NY, OH, PA, WV, and DC. (Hearing site: Roanoke, VA, or Washington, DC.)

MC 85788 (Sub-11F), filed August 18, 1978. Applicant: JACOBSEN TRANSFER, INC., P.O. Box 47, Fairmont, NE 68354. Representative: Thomas B. Sehon, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts, and articles distributed by meat packinghouses,* as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates; 61 MCC 209 and 766 (except hides and commodities in bulk), (1) from the facilities of Sunflower Beef Packers, Inc., at or near York, NE, to points in CO, IN, KY, OH, and SD; and (2) from Lexington, NE, to points in CO, IN, IA, MN, SD, and those in MO south of U.S. Hwy 50. (Hearing site: Omaha, NE.)

NOTE.—DUAL OPERATIONS ARE INVOLVED IN THIS PROCEEDING.

MC 995540 (Sub-1030F), filed August 14, 1978. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk): (1) from the facilities of Crackin' Good Bakers, Inc., at or near Valdosta, GA, to Ft. Worth, TX, and points in FL, KY, AL, and LA, and (2) from the facilities of Deep South Products, Inc., at or near Gainesville, GA, to Ft. Worth, TX, Jacksonville, Miami, Orlando, Pompano, and Tampa, FL, Louisville, KY, and New Orleans, LA. (Hearing site: Jacksonville, FL, or Washington, DC.)

MC 98952 (Sub-54F), filed July 7, 1978. Applicant: GENERAL TRANSFER CO., a Delaware corporation, 2880 North Woodford Street, Decatur, IL 62526. Representative: Paul E. Steinhour, 918 East Capitol Avenue, Springfield, IL 62701. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by food and drug business houses; and (2) *equipment, materials, and supplies* used in the conduct of such businesses (except commodities in bulk); from Chicago, IL, to points in IN, KY, MI, MO, OH, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations (Hearing site: Springfield or Chicago, IL.)

MC 102150 (Sub-13F), filed August 21, 1978. Applicant: JENSEN TRANSPORT, INC., P.O. Box 368, Albert Lea, MN 56007. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials,* in bulk, from the facilities of Land O'Lakes, Agricultural Service Division, at or near Mason City, IA, to points in MN, WI, ND, SD, and NE. (Hearing site: Minneapolis, MN, or Des Moines, IA.)

MC 105566 (Sub-172F), filed July 10, 1978. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Heating and air-conditioning equipment, parts, and accessories* (except commodities which because of size or weight require the use of special equipment), from Nashville, TN, to points in AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY. (Hearing site: Nashville, TN.)

MC 105566 (Sub-173F), filed July 10, 1978. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Chemicals* in containers, between the facilities of Air Products & Chemicals, Inc., at or near City of Industry and Los Angeles, CA, Pace and Tampa, FL, Atlanta, GA, Chicago, IL, Calvert City, KY, San Gabriel, LA, Elkton, MD, Finderne, Middlesex, Paulsboro, and South Brunswick, NJ, Cleveland, OH, Portland, OR, and Pasadena, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 106647 (Sub-43F), filed July 27, 1978. Applicant: CLARK TRANSPORT CO., INC., Rural Route 1, Box 14C, Junction Routes 83 and 30, Chicago Heights, IL 60411. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Motor vehicles,* in initial movements, in truckaway service, from Chicago, IL, to points in DE, MD, VA, and DC. (Hearing site: Chicago, IL, or Detroit, MI.)

MC 107012 (Sub-272F), filed July 12, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gary M. Crist (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Kitchen cabinets,* from the facilities of International Paper Co., at or near Kansas City, KS, to points in AL, AR, CO, MO, NE, OK, TN, and TX. (Hearing site: Kansas City, KS, or Washington, DC.)

MC 107012 (Sub-276F), filed July 17, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Glass fiber reinforced plastic articles,* and (2) *accessories* for glass fiber reinforced plastic articles, from the facilities of Owens-Corning Fiberglas, at or near Huntsville, AL, to points in AZ, AR, CA, CO, ID, IA, KS, LA, MN, MT, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY. (Hearing sites: Toledo, OH, or Washington, DC.)

MC 108119 (Sub-94F), filed August 17, 1978. Applicant: E. L. MURPHY TRUCKING CO., a corporation, P.O. Box 43010, St Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier,* over irregular routes, transporting: (1) *Industrial oil and gas burners, rotary blowers, air heaters,* and (2) *parts and controls* for the commodities in above, between the facilities of Coen Co., in Alameda, San Mateo, and Santa Clara Counties, CA, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). (Hearing site: San Francisco or Los Angeles, CA.)

MC 109692 (Sub-64F), filed July 12, 1978. Applicant: GRAIN BELT TRANSPORTATION CO., a corporation, Route 13, Kansas City, MO 64161. Representative: Warren H. Sapp, P.O. Box 16047, Kansas City, MO 64161. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Solar energy heating and cooling systems,* (2) *woodburning heating appliances,* and (3) *parts, materials, supplies, and accessories* used in the manufacture, distribution, installation, and operation of the commodities in (1) and (2) above, between the facilities of Valmont Industries, Inc., at or near Valley, NE, on the one hand, and, on the other, points in AZ, AR, CO, IL, IN, IA, KS, LA, MI, MN, MO, NE, NM, ND, OH, OK, SD, TX, and WI. (Hearing site: Omaha, NE, or Kansas City, MO.)

MC 111231 (Sub-236F), filed July 24, 1978. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: John C. Everett, P.O. Box A, 140 East Buchanan, Prairie Grove, AR 72753. To operate as a *common carrier,* by

motor vehicle, over irregular routes, transporting: *Iron and steel articles,* between St. Louis, MO, on the one hand, and, on the other, points in OK. (Hearing site: St. Louis, MO, or Chicago, IL.)

NOTE.—Tacking is authorized at St. Louis, MO, with carrier's authority in MC 111231 (Sub-41), issued January 26, 1960, to provide a through service transporting steel and steel products from points in MO.

MC 111981 (Sub-26F), filed July 26, 1978. Applicant: ROBIDEAU'S EXPRESS, INC., Front Street and Oregon Avenue, Philadephia, PA 19148. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), between the facilities of Campbell's Soup Co., Inc., W. L. Wheatley, Inc., and Pepperidge Farms, Inc., in DE, MD, NJ, and PA, on the one hand, and, on the other, points in CT, VA, DE, MD, NJ, NY, PA, and DC. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 114045 (Sub-507F), filed August 7, 1978. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (same address as above). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Chemicals, chemical coatings, and adhesives* (except in bulk), in vehicles equiped with mechanical refrigeration, from Euless, TX, to points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Dallas, TX.)

MC 114312 (Sub-32F), filed July 20, 1978. Applicant: ABBOTT TRUCKING, INC., Route 3, Delta, OH 43515. Representative: David A. Turano, Suite 1800, 100 East Broad, Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fertilizer,* from Lancaster, PA, to points in OH, IN, IL, MI, and WI. (Hearing site: Columbus, OH, or Washington, DC.)

MC 114552 (Sub-172F), filed July 17, 1978. Applicant: SENN TRUCKING CO., a corporation, P.O. Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Aluminum and steel tanks;* (2) *parts* for aluminum and steel tanks; and (3) *materials, equipment, and supplies* used in the installation of aluminum and steel tanks (except commodities in bulk), from the facilities of Pittsburgh-Des Moines Steel Co., at or near Birmingham, AL, to points in FL, GA, KY, LA, MS, NC, SC, and TN, restricted to the transportation of traffic originating at the named origin. (Hearing site: Birmingham, AL.)

MC 115826 (Sub-330F), filed July 10, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, CO 80217. Representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in and used by manufacturers and distributors of alcoholic beverages (except commodities in bulk, in tank vehicles), between the facilities of Heublein, Inc., at or near Paducah, KY, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: New York, NY, or Washington, DC.)

MC 115826 (Sub-331F), filed July 13, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, CO 80217. Representative: Howard Gore (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses,* as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Limon Packing Co., at or near Limon, CO, to points in the United States (except AK and HI). (Hearing site: Denver, CO.)

MC 115904 (Sub-105F), filed June 21, 1978. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, ID 83401. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1)(a) *Aluminum and aluminum products* (except commodities in bulk), and (b) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk), between the facilities of Alumax, Inc., Alumax Mill Products, Inc., Alumax Fabricated Products, Inc., Kawneer Co., Inc., Decater Aluminum Co., Inc., Alumax Pacific Corp., Alumax Irrigation Products, Inc., South Bend Screw Products, Inc., Berrien Tool and Die Co., Lebanon Industries, Alumax Foils, Inc., Alumax Extrusions, Inc., Apex International Alloys, Inc., Hillyard Aluminum Recovery Co., Intalco Aluminum Corp., and Eastalco Aluminum Co., at or near Casa Grande, AZ, Long Beach, Romoland, Santa Fe Springs, Riverside, Visalia, and Woodland, CA, Loveland, CO, Boise and Twin Falls, ID, Chicago, Morris, and St. Charles, IL, Franklin, Bicknell, and Bristol, IN, McPherson, KS, Montevideo, MN, St. Louis, MO, Hernando, MS, Cleveland, OH, Tulsa and Checotah, OK, Stayton and Umatilla, OR, Denison and Mansfield, TX, Spokane and Ferndale, WA, and Marshfield, WI, on the one hand, and, on the other, those points in the United States in and west of OH, IN, IL, MO, AR, and MS (except AK and HI); and (2) *zinc and zinc alloys* (except in bulk), between the facilities of Alumax, Inc., Alumax Mill Products, Inc., Alumax Fabricated Products, Inc., Kawneer Co., Inc., Decater Aluminum Co., Inc., Alumax Pacific Corp., Alumax Irrigation Products, Inc., South Bend Screw Products, Inc., Berrien Tool and Die Co., Lebanon Industries, Alumax Foils, Inc., Alumax Extrusions, Inc., Apex International Alloys, Inc., Hillyard Aluminum Recovery Co., Intalco Aluminum Corp., and Eastalco Aluminum Co., at or near Long Beach, CA, Chicago, IL, Cleveland, OH, and Checotah, OK, on the one hand, and, on the other, those points in the United States in and west of OH, IL, IN, MO, AR, and MS (except AK and HI). (Hearing site: Washington, DC, or Los Angeles, CA.)

MC 116254 (Sub-21F), filed July 13, 1978. Applicant: CHEM—HAULERS, INC., P.O. Box 339, Florence, AL 35630. Representative: Randy C. Luffman (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cleaning compounds,* in bulk, in tank vehicles, from Montgomery, AL, to Oklahoma City, OK. (Hearing site: Montgomery, AL, or Atlanta, GA.)

MC 177068 (Sub-100F), filed August 18, 1978. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, Rochester, MN 55901. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber and composition board,* from Arden, WA, to points in IN and IL, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Seattle, WA.)

MC 117730 (Sub-23F), filed August 17, 1978. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Silica sand,* from Mt. Horeb, WI, to points in IL, IN, and WI; and (2) *filter aggregates,* from Muscatine, IA, Eau Claire, WI, and Pottsville, PA, to points in IL, IN, and WI. (Hearing site: Chicago, IL.)

MC 117786 (Sub-23F), filed July 12, 1978. Applicant: RILEY WHITTLE,

INC., P.O. Box 19038, Phoenix, AZ 85009. Representative: Thomas F.

Canada. Condition: Prior receipt from applicant of an affidavit setting forth

MC 123778 (Sub-39F), filed August 18, 1978. Applicant: JALT CORP.,

Scotch Plains, NJ 07076. To operate as a *contract carrier,* by motor vehicle,

the facilities of General Metalcraft Co., at or near Dover, DE, to Bentonpolicy statement should be modified, and is in communication with appropriate Canadi-

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INC., P.O. Box 19038, Phoenix, AZ 85009. Representative: Thomas F. Kilroy, Suite 406 Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* (except in bulk, in tank vehicles), from Lawrenceburg, IN, Bardstown, Claremont, Frankfort, Lawrenceburg, Louisville, and Owensboro, KY, Baltimore and Relay, MD, Detroit, MI, St. Louis, MO, Edison, NJ, Cincinnati, OH, and Lynchburg, TN, to points in AZ, CA, CO, and NV. (Hearing site: Chicago, IL.)

MC 117786 (Sub-24F), filed July 12, 1978. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoeniz AZ 85009. Representative: Thomas F. Kilroy, Suite 406 Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs*, from Cincinnati, OH, to Los Angeles, CA, Dallas, TX, Atlanta, GA, and Chicago, IL. (Hearing site: Cincinnati, OH.)

MC 117815 (Sub-293F), filed August 7, 1978. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Representative: Dewey Marselle, 405 Southeast 20th Street, Des Moines, IA 50317. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except bulk), from the facilities of Campbell Soup Co., at or near Napoleon, OH, to points in IL, IA, KS, MN, MO, NE, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL, or Detroit, MI.)

MC 118806 (Sub-63F), filed July 3, 1978. Applicant: ARNOLD BROS. TRANSPORT, LTD., 851 Lagimodiere Boulevard, Suite 200, Winnepeg, MB, Canada R2S 3K4. Representative: Bernard J. Kompare, Suite 1600, 10 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by agricultural equipment and lawn and leisure products dealers (except commodities in bulk), between the ports of entry on the international boundary line between the United States and Canada in MI and NY, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic (a) moving in foreign commerce, and (b) originating at or destined to the facilities of White Farm Equipment, a division of White Motor Co. of Canada Ltd., in the Provinces of ON, PQ, NB, NS, NF, and PE, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary.

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect. (Hearing site: Chicago, IL.)

MC 119789 (Sub-488F), filed July 3, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: Lewis Coffey (same address as applicant), To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Snow removal equipment* and *cleaning compounds*, from Girard, PA, to points in the United States (except AK and HI). (Hearing site: Pittsburgh, PA.)

MC 119988 (Sub-155F), filed August 18, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail, department, and variety stores (except commodities in bulk), from points in AL, AR, CA, CT, FL, IL, IN, IA, KY, LA, ME, MD, MA, MI, MO, MS, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WA, WV, and WI, to the facilities of Value Mart, Inc., at or near Hattiesburg, MS, and Atlanta, GA. (Hearing site: Jackson, MS, or Washington, DC.)

MC 121496 (Sub-12F), filed July 12, 1978. Applicant: CANGO CORP., Suite 2900, 1100 Milan Building, Houston, TX 77002. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except bromine), in bulk, in tank vehicles, from the facilities of Dow Chemical USA, in Columbia County, AR, to points in IL, KY, KS, LA, MO, MS, OK, TN, and TX. (Hearing site: Houston, TX.)

MC 123778 (Sub-39F), filed August 18, 1978. Applicant: JALT CORP., d.b.a. UNITED NEWSPAPER DELIVERY SERVICE, P.O. Box 398, Woodbridge, NJ 07095. Representative: Morton E. Kiel, Fifth World Trade Center, Suite 6193, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magazines*, from Edison, NJ, to Wilmington, DE, and points in CT, NJ, those in NY on and east of NY Hwy 14, those in MD and PA on and east of U.S. Hwy 15, and DC under a continuing contract with R. R. Donnelly, Inc., of Chicago, IL. (Hearing site: New York, NY.)

MC 124896 (Sub-62F), filed July 12, 1978. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3485, Wilson, NC 27893. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Basket, hampers, and covers* for baskets and hampers, from points in Northampton and Hertford Counties, NC, to points in FL, GA, SC, and TN. (Hearing site: Washington, DC.)

MC 127042 (Sub-223F), filed July 17, 1978. Applicant: HAGEN, INC., P.O. Box 98, Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tessar (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Buffalo Lake, MN, to points in CA, OR, and WA. (Hearing site: Minneapolis, MN.)

MC 128746 (Sub-41F), filed July 13, 1978. Applicant: D'AGATA NATIONAL TRUCKING CO., a corporation, 3240 South 61st Street, Philadelphia, PA 19153. Representative: Edward J. Kiley, Suite 501, 1730 M Street NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the facilities of Midland Glass Co., Inc., at or near Cliffwood, NJ, to the facilities of Midland Glass Co., Inc., in Onondaga and Oswego Counties, NY, restricted to the transportation of traffic destined to the indicated destinations. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 129455 (Sub-32F), filed August 7, 1978. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except in bulk), from the facilities of Amoco Chemcial Corp., at or near (1)(a) Willow Springs, Joliet, and Wood River, IL, and (b) Texas City and Chocolate Bayou, TX, to points in CA, WA, OR, VA, MD, DE, PA, NJ, NY, CT, RI, MA, VT, NH, ME, and DC, (2) Chocolate Bayou and Texas City, TX, to points in IN, IL, and WI, and (3) New Castle, DE, to points in IL, IN, TX, and CA, under a continuing contract with Amoco Chemical Corp., of Chicago, IL. (Hearing site: New York, NY.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 129701 (Sub-7F), filed July 31, 1978. Applicant: JASPER FURNITURE FORWARDING, INC., P.O. Box 146, Huntingburg, IN 47542. Representative: Orville G. Lynch, P.O. Box 364, Westfield, IN 46074. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Evansville and Indianapolis, IN, Louisville, Owensboro, and Princeton, KY, Cincinnati, OH, Chicago, IL, and the facilities of Soundesign Corp., at or near Santa Claus, IN, restricted to the transportation of traffic having a prior or subsequent movement by rail. (Hearing site: Indianapolis, IN.)

MC 134477 (Sub-257F), filed July 14, 1978. Applicant: SCHANNO TRANSPORTATION, INC., Five West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of John Morrell & Co., at St. Paul, MN, to points in GA, KY, NC, SC, and TN, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Minneapolis, MN.)

MC 135070 (Sub-10F), filed August 22, 1978. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal cabinets and parts and accessories for metal cabinets*, from the facilities of General Metalcraft Co., at or near Dover, DE, to Bentonville, AR, Wichita, KS, Denver, CO, El Paso, TX, and Phoenix, AZ. (Hearing site: Wichita, KS, or Amarillo, TX.)

MC 136161 (Sub-15F), filed July 28, 1978. Applicant: ORBIT TRANSPORT, INC., P.O. Box 163, Spring Valley, IL 61362. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mill supplies, windows, sashes, and doors*, and (2) *materials* used in the manufacture and installation of the commodities named in (1) above, between Oglesby, IL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 136605 (Sub-57F), filed May 23, 1978. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: W. E. Seliski (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel buildings, and materials and equipment* used in the manufacture, erection, and distribution of steel buildings, from the facilities of Miracle Span Steel Buildings, Inc., at or near Watertown, SD, and Fort Madison, IA, to points in MT, ID, UT, and NV. (Hearing site: Billings, MT.)

MC 136605 (Sub-65F), filed July 24, 1978. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prefabricated steel buildings*, and (2) *parts, components, and accessories* for prefabricated steel buildings, from the facilities of Star Manufacturing Co., at or near Oklahoma City, OK, to points in WA, OR, ID, and MT. Condition: Prior receipt from applicant of an affadavit setting forth its appropriate complementary Canadian authority or explaning why no such Canadian authority is necessary. (Hearing site: Seattle, WA, or Billings, MT.)

NOTE.—Applicant states that shipments to the ports of entry on the international boundary line between the United States Canada at points in MT, ID, and WA are destined to points in the Provinces of AB and BC, Canada. The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Application for Operating Authority to Handle Traffic to and from Points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition of restriction was imposed, as being null and void and having no force or effect.

MC 136605 (Sub-67F), filed August 7, 1978. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant): To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel, aluminum, and nickel tanks*, knockeddown, (2) *used construction equipment* used in the installation of the commodities in (1) above, and (3) *fuel distribution tanks*, from the facilities of Brown Minneapolis Tank Co., at or near St. Paul, MN, to those points in the United States in and west of ND, SD, NE, KS, OK, and TX (except AK and HI). (Hearing site: Minneapolis, MN, or Billings, MT.)

MC 136881 (Sub-3F), filed July 24, 1978. Applicant: GARRITY TRUCKING, INC., 110 Main Street, Fortville, IN 46040. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Powdered glass*, from Cleveland, OH, and Jackson, MS, (2) *silica sand*, from Wedron, IL, (3) *abrasive materials*, from Niagara Falls, NY, and Westfield and North Grafton, MA, (4) *cleaning compounds*, from Alsip, IL, to the facilities of Indiana Machinery & Supply, Inc., at or near Fortville, IN, under a continuing contract with Indiana Machinery & Supply, Inc., of Fortville, IN. (Hearing site: Indianapolis, IN.)

MC 138304 (Sub-14F), filed July 14, 1978. Applicant: NATIONAL PACKERS EXPRESS, INC., an Illinois corporation 3445 Patterson Plank Road, North Bergen, NJ 07047. Representative: Craig B. Sherman, Barnett Bank Building, 1108 Kane Concourse, Bay Harbor Islands, FL 33154. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt* and *salt products*, from St. Clair, MI, and Akron, OH, to points in PA, NY, MD, DE, NJ, CT, MA, RI, and DC. (Hearing site: New York, NY, or Washington, DC.)

MC 138404 (Sub-11F), filed July 14, 1978. Applicant: DALE FOWLER AND MERLE THRAPP, a partnership, d.b.a. D & M TRANSPORT, Box 38, Sprague ville, IA 52074. Representative: Dale Fowler (same address as applicant.) To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cattle hides, and meat scraps* (except in bulk), from Ma-

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quoketa, IA, to points in IA, IL, IN, KY, MI, MN, MO, ME, MA, NH, SC, NC, FL, VT, DE, OH, PA, WV, WI, NY, TN, and VA. (Hearing site: Washington, DC.)

MC 139906 (Sub-14F), filed July 13, 1978. Applicant: INTERSTATE CONTRACT CARRIER CORP., 2156 W. 2200 So., P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Compressed gas cylinders, and ammunition* (except explosives), from the facilities of Norris Industries, at or near Los Angeles, CA, to those points in the United States in and east of ND, SD, WY, UT, and NM. (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140612 (Sub-48F), filed July 17, 1978. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs,* between Plover, WI, on the one hand, and, on the other, points in IA, IL, IN, MO, AR, MN, KY, TN, OH, LA, MI, NE, TX, AZ, and CA, restricted to the transportation of traffic originating at or destined to the facilities of Termicold Corp., at or near Plover, WI. (Hearing site: Madison, WI.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140820 (Sub-8F), filed August 18, 1978. Applicant: A & R TRANSPORT, INC., 2996 North Illinois 17, Rural Route No. 3, Ottawa, IL 61350. Representative: James R. Madler, 120 West Madison Street, Suite 718, Chicago, IL 60602. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Sand,* in bulk, from points in LaSalle County, IL, to Lawerenceburg, IN. (Hearing site: Chicago, IL.)

MC 141804 (Sub-118F), filed July 13, 1978. Applicant: WESTERN EXPRESS, Division, of Interstate Rental Inc., a Nevada corporation, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Computer paper, printed forms,* and (2) *materials and equipment* used in the manufacture of the commodities in (1) above, between points in Orange, Los Angeles, and San Diego Counties, CA, on the one hand, and, on the other, Tulsa, OK, Dallas and Houston, TX, and those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Los Angeles or San Francisco, CA.)

MC 142559 (Sub-34F), filed August 16, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Personal care products, chewing gum, cough drops, and candies,* (1) from Milford and Orange, CT, Rockford and Chicago, IL, Boston, MA, New York, NY, and Lititz and Philadelphia, PA, to Atlanta, GA, and (2) from Milford and Orange, CT, Boston, MA, New York, NY and Lititz and Philadelphia, PA, to Chicago, IL. (Hearing site: New York, NY.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 142559 (Sub-36F), filed August 21, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Furnaces and central air conditioning units,* and (2) *materials, equipment and supplies* used in the installation and operation of the commodities in (1) above (except commodities in bulk), from Utica, NY, to points in the United States (except AK, CT, HI, ME, MA, NH, NY, RI, and VT). (Hearing site: Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 143059 (Sub-20F), filed August 17, 1978. Applicant: MERCER TRANSPORTATION CO., a Texas corporation, P.O. Box 35610, Louisville, KY 40232. Representative: Clayte Binion, 1108 Continental Building, Ft. Worth, TX 76102. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Pipe,* from Wagoner, OK, St. Louis, MO, and Bellevue, OH, to points in the United States (except AK and HI), and (2) *materials and supplies* used in the manufacture of pipe, in the reverse direction. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 143059 (Sub-21F), filed August 17, 1978. Applicant: MERCER TRANSPORTATION CO., a Texas corporation, P.O. Box 35610, Louisville, KY 40232. Representative: Clayte Binion, 1108 Continental Life Building, Ft. Worth, TX 76102. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Pipe, valves, pipe fittings,* and *fire hydrants,* between Birmingham and Decatur, AL, Louisville, KY, and Kenner, LA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Birmingham, AL, or Washington, DC.)

MC 144041 (Sub-17F), filed July 28, 1978. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle NE., Atlanta, GA 30345. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastic pipe* and *pipe fittings,* from Social Circle, GA, to points in IL, WI, MI, IN, WV, DE, PA, NY, NJ, CT, RI, MA, ME, VT, NH, and DC. (Hearing site: Atlanta, GA, or Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 144380 (Sub-2F), filed August 16, 1978. Applicant: ROBERT J. RATHWAY and WILLIAM C. PAULL, JR., a partnership, d.b.a. B&B EQUIPMENT CO., R.D. No. 2, Box 169A, Perryopolis, PA 15473. Representative: John A. Pillar, 205 Ross Street, Pittsburgh, PA 15219. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Coal,* from points in Fayette, Greene, Washington, and Westmoreland Counties, PA, and Monongalia County, WV, to points in OH and WV under continuing contracts with Gallatin Fuels, Inc., Mon West, Inc., and Utility Fuels, Inc., all of Uniontown, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 144386 (Sub-2F), filed July 14, 1978. Applicant: WILLIAM B. BLANEY, JOHN D. BLANEY, JR., and JAMES M. BLANEY, d.b.a. BLANEY FARMS, R.D. No. 1, Box 218B, Perryopolis, PA 15473. Representative: Robert D. Kalinoski, 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Salt and salt products* (except in bulk), from the facilities of Diamond Crystal Salt Co., Inc., at or near Akron, OH, to points in MD, PA, and WV. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 144622 (Sub-6F), filed July 14, 1978. Applicant: GLENN BROS. MEAT CO., INC., P.O. Box 9343, Little Rock, AR 72209. Representative: Phillip Glenn (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Charcoal briquettes, hickory chips, and fireplace logs* (1) from Cotter, AR, to points in MS, LA, AL, OK, KS, NE, CO, IL, IA, MN, SD, ND, AZ, NM, and CA, and (2) from Burnside, KY, to points in IN, IL, OH, MI, and WI. (Hearing site: Louisville, KY, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 144622 (Sub-7F), filed July 14, 1978. Applicant: GLENN BROS. MEAT CO., INC., P.O. Box 9343, Little Rock, AR 72209. Representative: Phillip Glenn (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Industrial chemicals,* from Decatur, IN, Newark and Piscataway, NJ, Panama City, FL, Philadelphia, PA, St. Louis, MO, Everett, MA, Syracuse, NY, and Lake Charles and Donaldsonville, LA, to Berkeley and Los Angeles, CA. (Hearing site: Los Angeles, CA, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 144661 (Sub-2F), filed July 11, 1978. Applicant: F. A. MILLER, INC., P.O. Box 401, Rexburg, ID 83440. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill products, and particleboard,* from points in OR, WA, those in ID in and north of Idaho County, and those in MT in and west of Glacier, Pondera, Teton, Lewis and Clark, Jefferson, and Madison Counties, to points in CO, UT, and WY. (Hearing site: Boise or Idaho Falls, ID.)

NOTE.—The person or persons who appear to be engaged in common control must either file and application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 144809 (Sub-3F), filed August 16, 1978. Applicant: POSEY TRUCK LINES, INC, Route 2, Box 219, Taft, TN 38488. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Equipment and materials* used in the manufacture of appliances and heating and air conditioning units, between the facilities of Amana Refrigeration, Inc., at or near Fayetteville, TN, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, IA, KY, MI, OH, MO, and TN, and (2) *appliances* and *heating and air conditioning units,* between the facilities of Amana Refrigeration, Inc., at or near Fayetteville, TN, on the one hand, and, on the other, points in AR, IL, IN, IA, KY, MI, MO, and OH, under a continuing contract in (1) and (2) above, with Amana Refrigeration, Inc., of Amana, OH. (Hearing site: Nashville, TN.)

MC 144899 (Sub-1F), filed August 21, 1978. Applicant: EAST COAST HOT SHOT SERVICE, INC., Davisville Road, North Kingstown, RI 02854. Representative: Robert L. Cope, Suite 501, 1730 M Street NW., Washington, DC 20036. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials,* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and (2) *machinery, materials, equipment* and *supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof, between North Kingstown, RI, on the one hand, and, on the other, points in AR, CT, DE, GA, IL, IN, LA, MD, MA, MI, MS, NC, NJ, NY, OH, OK, PA, RI, SC, TX, VA, and WV. (Hearing site: Providence, RI, or Washington, DC.)

MC 144976F, filed June 29, 1978. Applicant: CARDINAL CARRIER CORP., 300 Third Ave., New York, NY 10017. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Record album covers, sleeves, and labels,* and (2) *materials and equipment* used in the manufacture and sale of the commodities named in (1) above, (a) between Great Neck, NY, on the one hand, and, on the other, Richmond, Indianapolis, Lawrence, and Terre Haute, IN, Nashville, TN, Jacksonville, Pinckneyville and Morton Grove, IL, Paterson, Ancora, Cranford, Mountainside, Somerdale and Lakewood, NJ, Dayton, OH, Philadelphia and Olyphant, PA, Winchester, VA, Elizabeth, Ky, and Concord, NH, and (b) between Terre Haute, IN, on the one hand, and on the other, Nashville, TN, Jacksonville, Pinckneyville and Morton Grove, IL, Philadelphia and Olyphant, PA, Winchester, VA, Gloversville, NY, and Brookfield, WI, points in NJ, and Nassau and Suffolk Counties, NY, under a continuing contract with Ivy Hill Communications, Inc., of Great Neck, NY. (Hearing site: New York, NY, or Washington, DC.)

MC 145082F, filed July 17, 1978. Applicant: JANNEY INDUSTRIES, INC., 1119 Beaver Street, Bristol, PA 19007. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Lighting fixtures,* from the facilities of Keystone Lighting Corp., at or near Bristol, PA, to points in the United States (except AK, HI, and PA); and (2) *materials and supplies* used in the manufacture distribution of lighting fixtures, in the reverse direction, under a continuing contract with Keystone Lighting Corp., of Bristol, PA. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 145087F, filed July 13, 1978. Applicant: REY L. VALTIER, d.b.a. R. L. V. TRUCKING, 433 Fraser Avenue, Los Angeles, CA 90022. Representative: Rey L. Valtier (same address as applicant). To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Scaffolding equipment,* between points in AZ, CA, CO, ID, KS, MT, NE, ND, NM, NV, OK, OR, SD, TX, UT, WA, and WY, under a continuing contract with Kwikform America, Inc., of Irvine, CA. (Hearing site: Los Angeles, CA.)

MC 145091F, filed July 26, 1978. Applicant: YOUNG CONTRACT CARRIER, INC., P.O. Box 954, 8609 South 109 Road, Alamosa, CO 81101. Representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele Street, Denver, CO 80209. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Lumber,* (a) from points in CO to points in KS, OK, TX, and NM, (b) from points in NM, to points in CO, KS, OK, and TX, and (c) from points in WY, to points in CO, KS, OK, TX, and NM; (2) *wood pallets,* from points in Alamosa County, CO, to points in Bernalillo County, NM; (3) *building materials,* (a) from points in Lincoln, Carter, and Caddo Counties, OK, to points in CO, and (b) from points in Bernalillo County, NM, to points in CO; and (4) *reinforcing bars,* from the facilities of Border Steel Rolling Mills at or near El Paso, TX, to points in CO, under a continuing contract with Young Wholesale Lumber & Supply, Inc., of Alamosa, Co. (Hearing site: Denver, CO.)

MC 145111F, filed July 27, 1978. Applicant: HASTINGS TRUCKING, INC., 907 Holland, Galena Park, TX 77547. Representative: Dan Felts, P.O. Box 2207, Austin, TX 78768. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Sand and gravel,* in bulk, in dump vehicles, between points in TX, on the one hand, and, on the other, points in LA. (Hearing site: Houston, TX, or New Orleans, LA.)

MC 145121F, filed July 26, 1978. Applicant: FULMER BROTHERS INTERNATIONAL, INC., 5325 South Orange Blossom Trail, Orlando, FL 32809. Representative: Harry S. Dent, P.O. Box 528, Columbia, SC 29202. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Preserved foodstuffs,* between the facilities of Duffy-Mott Co., Inc., at or near Williamson, Hamlin, and Holley, NY, and Aspers and Hanover, PA, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MS, OK, SC, TN, and TX, under a continuing contract with Duffy-Mott

Co., Inc., of New York, NY. (Hearing site: Jacksonville, FL, or Atlanta, GA.)

MC 145238F, filed August 21 1978. Applicant: CHAPMAN TRUCKING, INC., 2346 South Lynhurst, Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, between points in IL, IN, KY, OH, and WV. (Hearing site: Indianapolis, IN.)

MC 145250 (Sub-1F), filed August 21, 1978. Applicant: ROBERT R. MACKEN AND LOIS M. MACKEN, a partnership, d.b.a. MACKEN TRANSFER, P.O. Box 1832, Ames, IA 50010. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric instruments* for water analysis equipment, and (2) *equipment, materials, and parts* used in the manufacture of the commodities in (1) above, between the facilities of Hach Chemical Co. at Ames, IA, and Berthoud and Loveland, CO, under a continuing contract with Hack Chemical Co., of Loveland, CO. (Hearing site: Des Moines, IA, or Omaha, NE.)

MC 145258F, filed August 21, 1978. Applicant: WALLACE TRANSFER LTD., 405 Industrial Avenue, Vancouver, BC, Canada V6A 2P9. Representative: George LaBissoniere, 1100 Norton Building, Seattle, WA 98104. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), in containers, between the ports of entry on the international boundary line between the United States and Canada at or near Blaine, Lynden, and Sumas, WA, on the one hand, and, on the other, those points in WA in and west of Whatcom, Skagit, Snohomish, King, Pierce, Lewis, and Skamania Counties, restricted to the transportation of traffic moving in foreign commerce and originating at or destined to points in BC, Canada, under continuing contracts with (1) Empire Stevedoring Co., Ltd., of Vancouver, Canada, and (2) Furness Interocean Canada, Ltd., of Vancouver, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary.

NOTE. (1) The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect. (2) In view of the *Geraci* and *Toto* policies (*see, e.g.*, 43 FR 33945) (8-2-78), applicant must satisfy the Commission that its operations will not result in objectionable private and for-hire operations. (Hearing site: Seattle, WA.)

BROKER AUTHORITY

MC 130509F, filed June 20, 1978, previously published in the FEDERAL REGISTER issue of August 17, 1978. Applicant: ROBERT LAMBERT, d.b.a., LAMBERT'S TOURS, 404 East Main Street, Suite 2-A, Ventura, CA 93001. Representative: Michael S. Rubin, 256 Montgomery Street, 5th floor, San Francisco, CA 94104. To engage in operations, in interstate or foreign commerce, as a *broker*, at Ventura, CA, in arranging for the transportation by motor vehicle, of: *Passengers and their baggage*, in special and charter operations, between Ventura, CA, on the one hand, and, on the other, points in the United States (including AK and HI). (Hearing site: Ventura or Los Angeles, CA.)

NOTE.—The purpose of the republication is to show both round trip and one-way operations.

PASSENGER AUTHORITY

MC 118044 (Sub-3F), filed June 27, 1978. Applicant: KEESHIN CHARTER SERVICE, INC., 705 South Jefferson Street, Chicago, IL 60607. Representative: Charles A. Webb, 1250 Connecticut Avenue NW., Suite 600, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle as passengers, in special and charter operations, beginning and ending at points in IL, MI, IN, OH, MN, KY, TN, FL, GA, CA, AL, NV, CO, KS, IA, MO, TX, WI, and DC, and extending to points in the United States, including AK (except HI). (Hearing site: Chicago, IL.)

MC 144460 (Sub-1F), filed July 18, 1978. Applicant: SHOMER SHABOS BUS CORP., 18 Phyllis Terrace, Monsey, NY 10952. Representative: Sidney J. Leshin, 575 Madison Avenue, New York, NY 10022. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at Monsey, NY, and extending to points in Kings and New York Counties, NY, under continuing contracts with (1) Cong. Menachem Tzadik, of Brooklyn, NY, (2) Cong. Tifereth Israel, of Monsey, NY, (3) Cong. Beth Yitzchock, of Monsey, NY, (4) Cong. Bais Yitzchok Kasirer, of Monsey, NY, and (5) Cong. Khal Torat Chaim, of Monsey, NY. (Hearing site: New York, NY.)

MC 145008 (Sub-2F), filed August 17, 1978. Applicant: WESTERN SAFARIS, INC., d.b.a. HEART OF AMERICA TOURS, 3379 Wedgewood Drive, El Paso, TX 79925. Representative: D. Paul Stafford, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, limited to the transportation of not more than 20 passengers (excluding the driver) in one vehicle at one time, in one-way and round trip special operations, in camping and sightseeing tours, from El Paso, TX, Denver, CO, and Los Angeles and San Francisco, CA, to points in AZ, CA, CO, NM, NV, TX, and UT, and return. (Hearing site: Los Angeles or San Francisco, CA.)

[FR Doc. 26195 Filed 9-18-78; 8:45 am]

[7035-01]

[AB 10 (SDM)]

NORFOLK & WESTERN RAILWAY CO.

Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Norfolk & Western Railway Co., has filed with the Commission its amended color-coded system diagram map in docket No. AB 10 (SDM). The maps reproduced here in black and white are reasonable reproductions of that amended system diagram map and the Commission on August 28, 1978, received a certificate of publication as required by said regulation which is considered the effective date on which the amended system diagram map was filed.

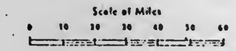
Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State-designated agency. Copies of the map also may be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 10 (SDM).

H. G. HOMME, Jr.,
Acting Secretary.

SYSTEM DIAGRAM MAP
NORFOLK AND WESTERN RAILWAY COMPANY

including the following lines:

Akron, Canton and Youngstown Railroad Company
Chesapeake Western Railway Company
Lake Erie and Fort Wayne Railroad Company
Lorain and West Virginia Railway Company
New Jersey, Indiana and Illinois Railroad Company
Norfolk, Franklin and Danville Railway Company
Pittsburgh and West Virginia Railway Company
Wabash Railroad Company
Wheeling and Lake Erie Railway Company



LEGEND

(1) Lines anticipated will be subject of abandonment application within 3 years.

(2) Lines potentially subject to abandonment.

(3) Abandonment applications pending before Commission.

(4) Lines which are being operated under the Rail Service continuation provisions of Section 1a(6) (a) of the Act or of Section 304(c) (2) of the Regional Rail Reorganization Act of 1973.

(5) All other lines or portions of lines which the carrier owns, and operates, directly or indirectly.

(6) Trackage Rights.

(7) STANDARD METROPOLITAN STATISTICAL AREAS

1	Norfolk, Virginia Beach, Portsmouth, VA-NC	22	Cincinnati, OH-KY-IN
2	Petersburg, Colonial Heights, Hopewell, VA	23	Hamilton-Middleton, OH
3	Lynchburg, VA	24	Muncie, IN
4	Roanoke, VA	25	Fort Wayne, IN
5	Raleigh, Durham, NC	26	Indianapolis, IN
6	Greensboro, Winston-Salem, High Point, NC	27	Anderson, IN
7	Kingsport, Bristol, TN-VA	28	Lafayette-West Lafayette, IN
8	Huntington-Ashland, WV-KY-OH	29	South Bend, IN
9	Pittsburgh, PA	30	Chicago, IL
10	Wheeling, WV-OH	31	Gary-Hammond-East Chicago, IN
11	Steubenville-Weirton, OH-WV	32	Champaign-Urbana-Rantoul, IL
12	Buffalo, NY	33	Decatur, IL
13	Erie, PA	34	Bloomington-Normal, IL
14	Cleveland, OH	35	Peoria, IL
15	Canton, OH	36	Springfield, IL
16	Akron, OH	37	St. Louis, MO-IL
17	Lorain-Elyria, OH	38	Columbia, MO
18	Columbus, OH	39	Kansas City, MO-KS
19	Toledo, OH-MI	40	Des Moines, IA
20	Detroit, MI	41	Omaha, NB-IA
21	Lima, OH		

Note 1 Numbers designating SMSA's on maps enclosed in hexagon.

Numerical identification of lines in Categories 1 thru 4 (in accordance with 49 CFR 1121.20(b)) on NW system diagram map, interrelated state maps, and as listed and described on separate statement accompanying the maps and marked for identification as Appendix A.

CATEGORY 1

1-1 Lorain & West Virginia Railway Company
1-4 Easterly Portion of Gary District
1-5 Westerly Portion of Gary District
1-6 Carey to Delphos (AC&Y)
1-7 Kokomo to Frankfort
1-8 Ottumwa Branch
1-9 Pittsfield Branch
1-10 Portion of Champaign Branch

CATEGORY 2

NW has none in this category.

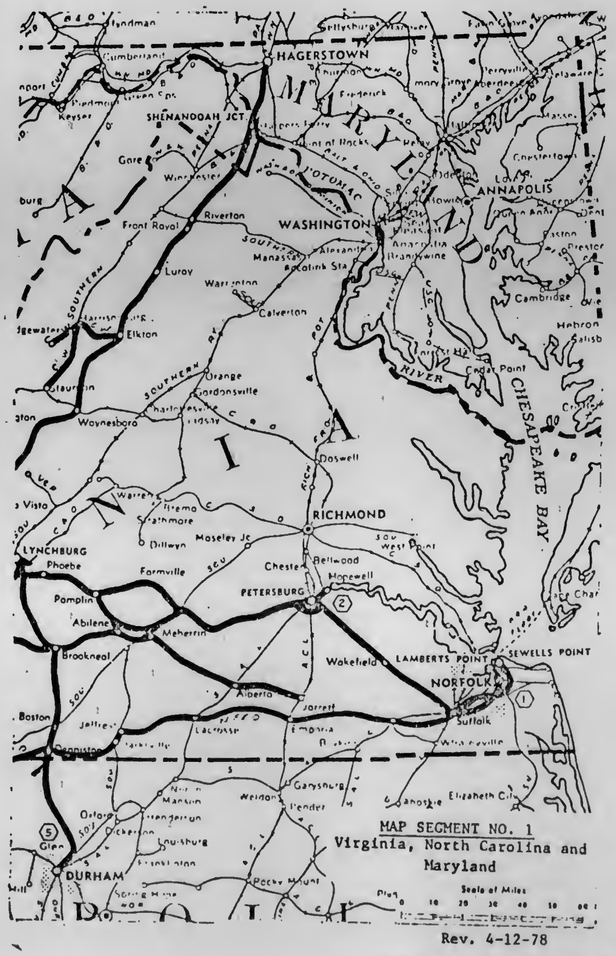
CATEGORY 3

3-3 Keokuk Branch
3-4 Streator Branch
3-7 Connersville Branch
3-8 Rushville Branch
3-9 Portion of Steubenville Branch

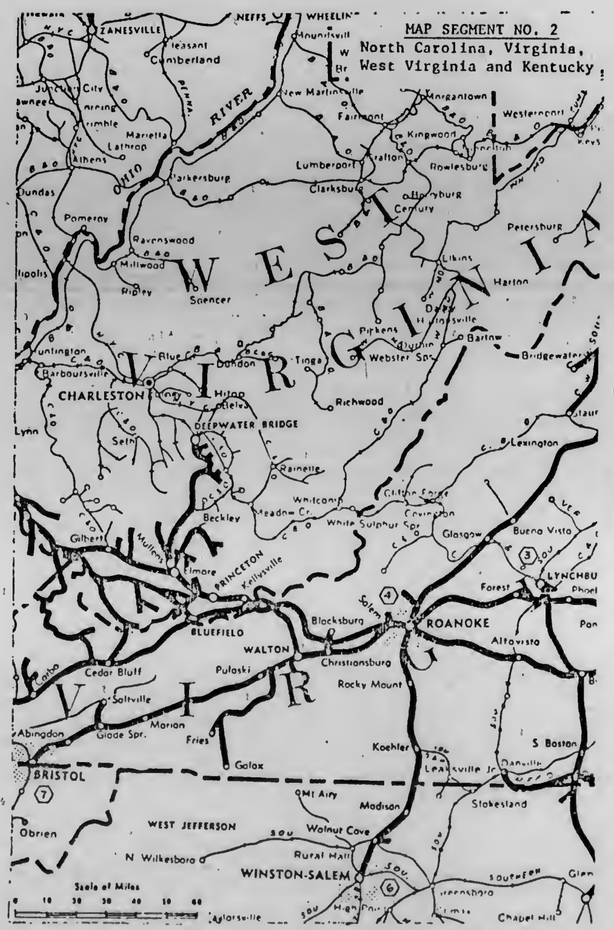
CATEGORY 4

NW has none in this category.

Rev. 4-12-78



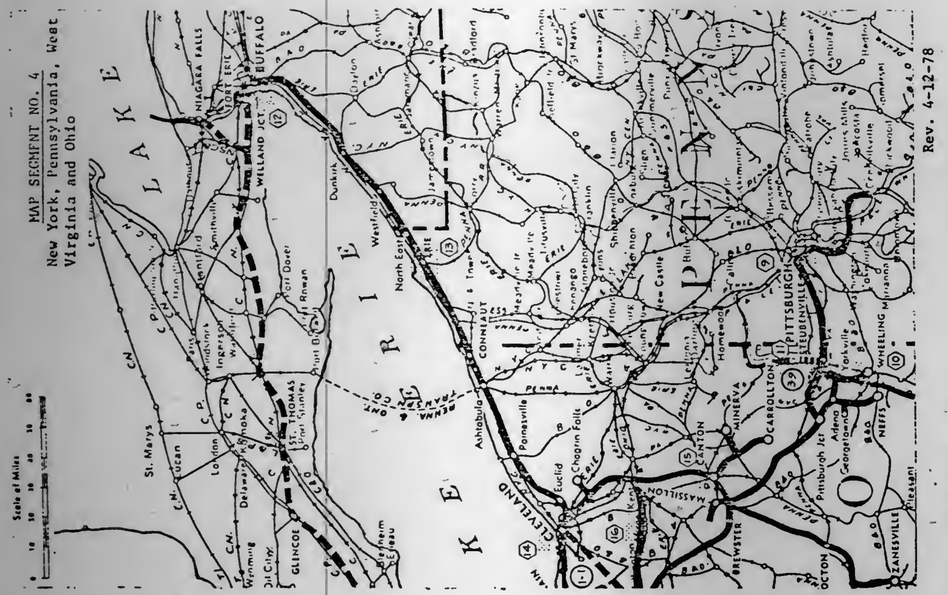
MAP SEGMENT NO. 1
Virginia, North Carolina and Maryland

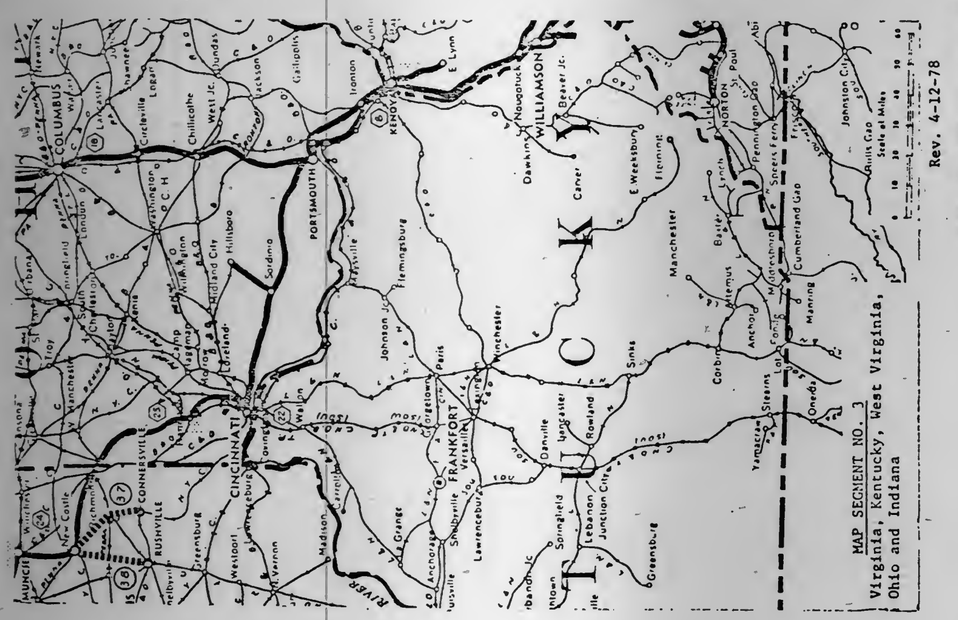


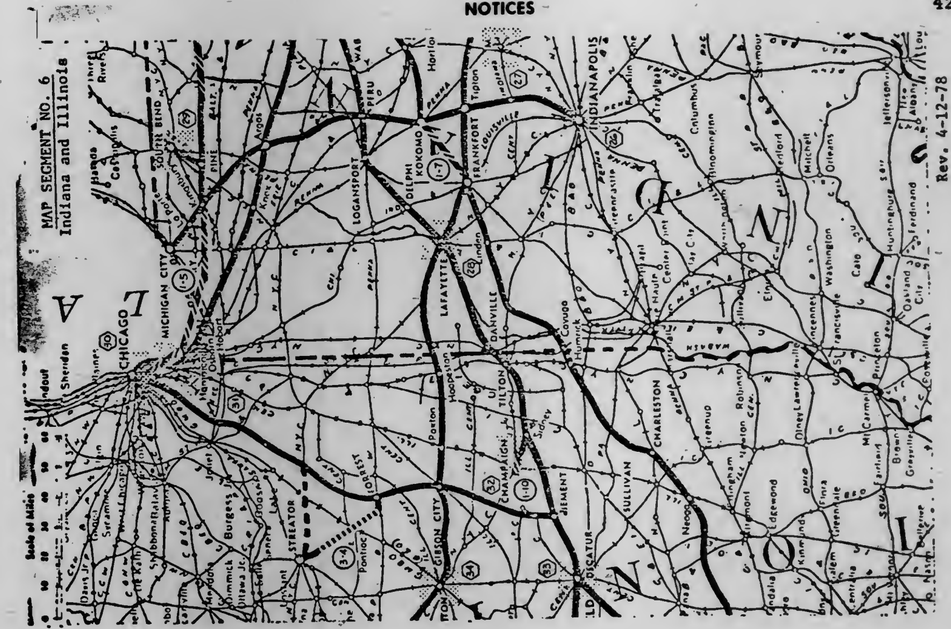
MAP SEGMENT NO. 2
North Carolina, Virginia, West Virginia and Kentucky

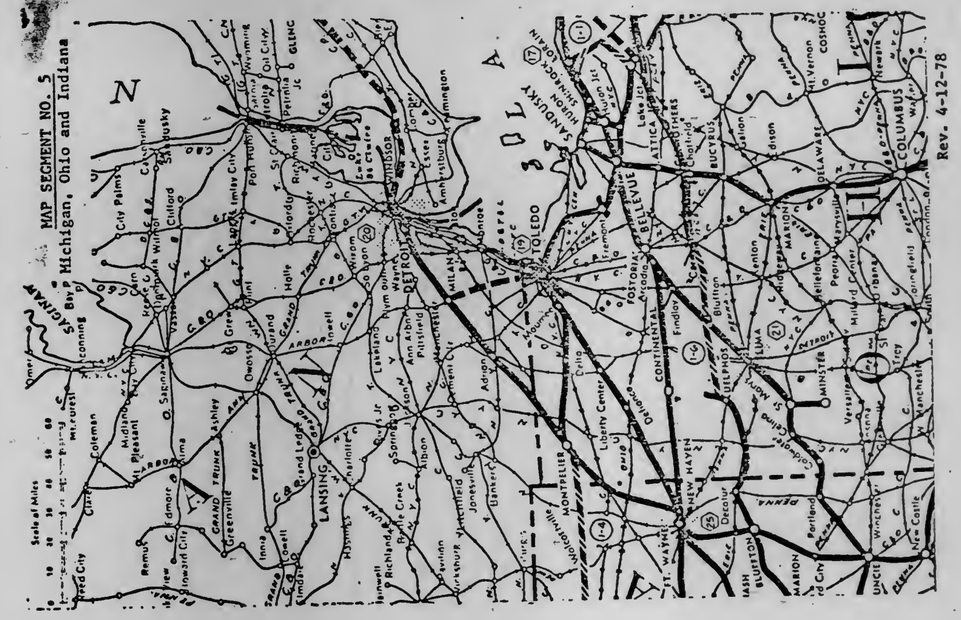
Rev. 4-12-78

V 43 \ 182 SE 19 78 V 4



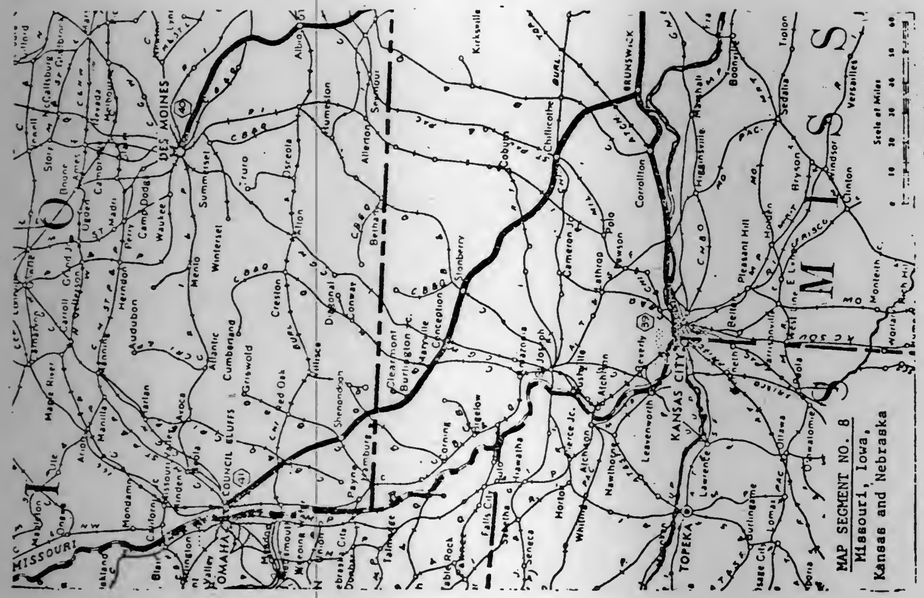


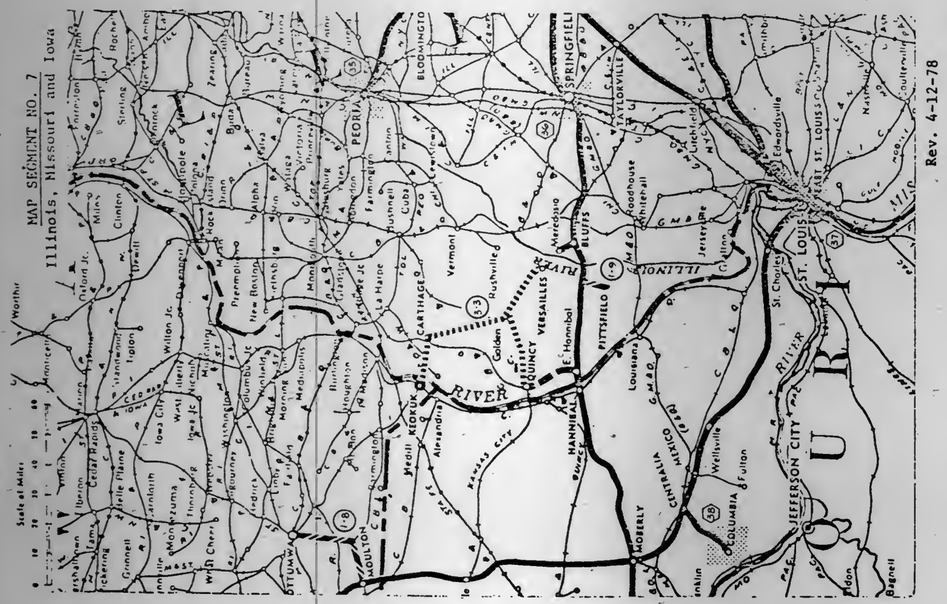




Appendix A
Page 1 of 4 Pages
(Revised 4/12/78)

V 43 / 182 SE 19 78 V 43





Appendix A
Page 1 of 4 Pages
(Revised 4/12/78)

I.C.C. DOCKET NO. AB-10

NORFOLK AND WESTERN RAILWAY COMPANY

RED - Lines or Portions thereof anticipated to be the subject of an abandonment or discontinuance application to be filed within the three year period following date diagram is filed with the Commission

(a) CARRIER'S DESIGNATION	(b) STATE	(c) COUNTY(IES)	(d) MILEPOSTS DELINEATING EACH LINE	(e) AGENCY OR TERMINAL STATIONS	
				STATION	M.P.
(1- 1) Lorain and West Virginia Railway Company	Ohio	Lorain	M.P. 0.0 to 25.25, incl.	*Lake Junction	0.0
				South Lorain	25.0
(1- 4) Easterly Portion, Gary District	Ohio	Williams	M.P. 98.5 to 170.5, incl.	*Pergo, OH	98.5
	Indiana	Steuben		*Edon, OH	105.3
		Lagrange		*Hamilton, IN	113.2
		Elkhart		*Ashley-Hudson	121.4
				*Helmer	126.5
				*South Milford	131.8
				*Wolcottville	136.8
				Topeka	146.0
				*Stony Creek	151.4
				*Millersburg	154.1
				*Benton	158.0
				*New Paris	161.4
				*Foraker	166.5
				*Wakarusa	170.5
(1- 5) Westerly Portion, Gary District	Indiana	LaPorte	M.P. 200.3 to 246.7, incl.	*Dillon	200.3
		Porter		*Kingsbury	207.3
		Lake		*Hagee	209.6
				*Westville	217.2
				*Crocker	230.5
				*Willow Creek	233.7
				*Gary	241.1
				*Tolleston	243.4
			Trackage Rights over B&O-CT Railroad - M.P. 246.7 to 252.4, incl.	*Clark Jct.	246.7
				*State Line Junction	252.4

*Denotes non-agency stations.

Appendix A
Page 2 of 4 Pages
(Revised 4/12/78)

(a) CARRIER'S DESIGNATION	(b) STATE	(c) COUNTY(IES)	(d) MILEPOSTS DELINEATING EACH LINE	(e) AGENCY OR TERMINAL STATIONS	
				STATION	M.P.
(2- 1) Lorain and West Virginia Railway Company	Ohio	Lorain	M.P. 0.0 to 25.25, incl.	*Lake Junction	0.0
				South Lorain	25.0
(2- 4) Easterly Portion, Gary District	Ohio	Williams	M.P. 98.5 to 170.5, incl.	*Pergo, OH	98.5
	Indiana	Steuben		*Edon, OH	105.3
		Lagrange		*Hamilton, IN	113.2
		Elkhart		*Ashley-Hudson	121.4
				*Helmer	126.5
				*South Milford	131.8
				*Wolcottville	136.8
				Topeka	146.0
				*Stony Creek	151.4
				*Millersburg	154.1
				*Benton	158.0
				*New Paris	161.4
				*Foraker	166.5
				*Wakarusa	170.5
(2- 5) Westerly Portion, Gary District	Indiana	LaPorte	M.P. 200.3 to 246.7, incl.	*Dillon	200.3
		Porter		*Kingsbury	207.3
		Lake		*Hagee	209.6
				*Westville	217.2
				*Crocker	230.5
				*Willow Creek	233.7
				*Gary	241.1
				*Tolleston	243.4
			Trackage Rights over B&O-CT Railroad - M.P. 246.7 to 252.4, incl.	*Clark Jct.	246.7
				*State Line Junction	252.4

*Denotes non-agency stations.

Appendix A
Page 3 of 4 Pages
(Revised 4/12/78)

(a) CARRIER'S DESIGNATION	(b) STATE	(c) COUNTY(IES)	(d) MILEPOSTS DELINEATING EACH LINE	(e) AGENCY OR TERMINAL STATIONS	
				STATION	M.P.
(3- 1) Lorain and West Virginia Railway Company	Ohio	Lorain	M.P. 0.0 to 25.25, incl.	*Lake Junction	0.0
				South Lorain	25.0
(3- 4) Easterly Portion, Gary District	Ohio	Williams	M.P. 98.5 to 170.5, incl.	*Pergo, OH	98.5
	Indiana	Steuben		*Edon, OH	105.3
		Lagrange		*Hamilton, IN	113.2
		Elkhart		*Ashley-Hudson	121.4
				*Helmer	126.5
				*South Milford	131.8
				*Wolcottville	136.8
				Topeka	146.0
				*Stony Creek	151.4
				*Millersburg	154.1
				*Benton	158.0
				*New Paris	161.4
				*Foraker	166.5
				*Wakarusa	170.5
(3- 5) Westerly Portion, Gary District	Indiana	LaPorte	M.P. 200.3 to 246.7, incl.	*Dillon	200.3
		Porter		*Kingsbury	207.3
		Lake		*Hagee	209.6
				*Westville	217.2
				*Crocker	230.5
				*Willow Creek	233.7
				*Gary	241.1
				*Tolleston	243.4
			Trackage Rights over B&O-CT Railroad - M.P. 246.7 to 252.4, incl.	*Clark Jct.	246.7
				*State Line Junction	252.4

*Denotes non-agency stations.

V 43/182 SEP 1978

Appendix A
Page 2 of 4 Pages
(Revised 4/12/78)

I.C.C. DOCKET NO. AB-10

NORFOLK AND WESTERN RAILWAY COMPANY

RED - Lines or Portions thereof anticipated to be the subject of an abandonment or discontinuance application to be filed within the three year period following date diagram is filed with the Commission

(a) CARRIER'S DESIGNATION	(b) STATE	(c) COUNTY(IES)	(d) MILEPOSTS DELINEATING EACH LINE	(e) AGENCY OR TERMINAL STATIONS STATION	M.P.
(1- 6) Akron, Canton and Youngstown Railroad Company (Carey-Delphos)	Ohio	Putnam Allen Hancock Wyandot	M.P. 1.76 to 53.0	Delphos	1.76
				*Rushmore	5.8
				*Riner	8.2
				*Vaughnsville	11.4
				Columbus Grove	17.1
				*Pandora	22.4
				*Bluffton	27.7
				*Janera	36.1
				*Arlington	40.0
				*Mt. Blanchard	45.1
				*Pretts	47.9
				*Fisher	53.5
(1- 7) Kokomo-Frankfort	Indiana	Howard Clinton	M.P. 183.3 to 203.5, incl.	Kokomo	183.3
				*Middletons	186.4
				*Russiaville	190.4
				*Forest	194.6
				*Michigantown	199.0
				Frankfort	203.5
(1- 8) Ottumwa Branch	Iowa	Appanoose Davis Wapello	M.P. 243.07 to 278.81, incl.	Moulton	243.07
				*West Grove	250.6
				*Bloomfield	258.1
				*Belknap	263.7
				*Carbon	269.2
				*So. Ottumwa	278.0
				Ottumwa	278.81
(1- 9) Pittsfield Branch	Illinois	Pike	M.P. 482.1 to 488.1, incl.	*Maysville	482.1
				*Pittsfield	488.1
(1-10) Portion of Champaign Branch	Illinois	Champaign	M.P. 336.1 to 338.9, incl.	*Urbana	336.1
				Champaign	338.9

*Denotes non-agency stations.

Appendix A
Page 3 of 4 Pages
(Revised 4/12/78)

I.C.C. DOCKET NO. AB-10

NORFOLK AND WESTERN RAILWAY COMPANY

YELLOW - Lines or Portions thereof for which an abandonment or discontinuance application is pending before the Commission on the date the diagram is filed with the Commission

(a) CARRIER'S DESIGNATION	(b) STATE	(c) COUNTY(IES)	(d) MILEPOSTS DELINEATING EACH LINE	(e) AGENCY OR TERMINAL STATIONS STATION	M.P.
(3- 3) Keokuk Branch	Illinois	Adams	Trackage Rights over BN, Inc., between Quincy and Golden, Illinois, 28.39 miles.	No Stations Served	
	Illinois	Adams Brown Hancock	M.P. 478.99 to 533.43, incl.	*Versailles, IL	479.0
				*Hersman	485.4
				*Mt. Sterling	488.0
	Iowa	Lee		*Tinewell	494.0
				*Clayton	498.9
				*Blacks	503.1
				*Golden	505.6
				*Chatton	508.5
				*Bowen	514.3
				*Denver	519.0
				*Bentley	522.9
				*Carthage	528.0
			Trackage Rights and/or Jointly Owned Trackage between Elvaston and Keokuk	Elvaston	533.4
				Hamilton	539.9
				Keokuk, IA	541.2
(3- 4) Streator Branch	Illinois	Livingston	M.P. 7.25 to 34.38, incl.	*Champlin	9.1
				*Lodemia	11.0
				*McDowell	12.8
				*Pontiac	16.8
				*Rowe	21.3
				*Cornell	26.3
				*Manville	31.2
(3- 7) Connersville Branch	Indiana	Fayette Wayne Henry	M.P. 0.0 to 23.5, incl.	Connersville	0.0
				*Beesons	5.3
				*Milton	10.0
				*Cambridge City	11.8
				*New Lisbon	17.9
				New Castle	23.5

*Denotes non-agency stations.

Appendix A
Page 4 of 4 Pages
(Revised 4/12/78)

[7035-01]

[AB 9 (SDM)]

Lines for which abandonment applications are pending before the Interstate Commerce Commission:

(c) Located in the Missouri county of Christian.
(d) Railroad mileposts A-250.1 to A-257.6.
(e) Agency station at Springfield, Mo. (mi-

Appendix A
Page 4 of 4 Pages
(Revised 4/12/78)

I.C.C. DOCKET NO. AB-10

NORFOLK AND WESTERN RAILWAY COMPANY

YELLOW - Lines or Portions thereof for which an abandonment or discontinuance application is pending before the Commission on the date the diagram is filed with the Commission

(a) CARRIER'S DESIGNATION	(b) STATE	(c) COUNTY(IES)	(d) MILEPOSTS DELINEATING EACH LINE	(e) AGENCY OR TERMINAL STATIONS	
				STATION	M.P.
(3 -8) Rushville Branch	Indiana	Henry Rush	M.P. 1.92 to 24.13, incl.	New Castle	1.92
				*Spiceland	7.7
				*Dunreith	10.1
				*Mays	14.2
				*Sexton	17.2
				Rushville	24.13
(3- 9) Portion of Steubenville Branch	Ohio	Jefferson	M.P. 13.15 to 13.63, incl.	Steubenville	13.6

*Denotes non-agency stations.

[FR Doc. 78-26200 Filed 9-18-78; 8:45 am]

[7035-01]

[AB 9 (SDM)]

ST. LOUIS-SAN FRANCISCO RAILWAY CO.

Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the St. Louis-San Francisco Railway Co., has filed with the Commission its amended color-coded system diagram map in Docket No. AB 9 (SDM). The maps reproduced here in black and white are reasonable reproductions of that amended system diagram map and the Commission on August 21, 1978, received a certificate of publication as required by said regulation which is considered the effective date on which the amended system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State-designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting Docket No. AB 9 (SDM).

H. G. Homme, Jr.,
Acting Secretary.

AB-9—First Amended Line Descriptions for the St. Louis-San Francisco Railway Co.

Lines for which abandonment applications are pending before the Interstate Commerce Commission:

Alabama

(a) Cochrane to York, Ala. (AB-9 (Sub-No. 12)).
(b) Located wholly within the State of Alabama.
(c) Located within the Alabama counties of Pickens and Sumpter.
(d) Railroad mileposts RA-686.46 to RA-728.
(e) Agency stations at Aliceville, Ala. (milepost R-680), and York, Ala. (milepost RA-732).

Missouri

(a) East Lynne to Bolivar, Mo. (Highline) (AB-9 (Sub-No. 9)).
(b) Located wholly within the State of Missouri.
(c) Located within the Missouri counties of Cass, Johnson, Henry, St. Clair, Hickory, and Polk.
(d) Railroad mileposts D-52.0 to D-153.0.
(e) Agency stations at Clinton, Mo. (milepost D-087) and Weaubleau, Mo. (milepost D-132).

Lines which this carrier anticipates will be the subject of an abandonment application to be filed within 3 years:

Missouri

(a) Willow Springs to Winona, Mo.
(b) Located wholly within the State of Missouri.
(c) Located in the Missouri counties of Howell and Shannon.
(d) Railroad mileposts S-294.3 to S-322.6.
(e) Agency station at Willow Springs, Mo. (milepost S-294).
(a) Kissick to Ozark, Mo.
(b) Located wholly within the State of Missouri.
(c) Located in the Missouri county of Christian.
(d) Railroad mileposts A-250.1 to A-257.6.
(e) Agency station at Springfield, Mo. (milepost MP-239), serves trackage.
(a) Kennett to Holcomb, Mo.
(b) Located wholly within the State of Missouri.
(c) Located in the Missouri county of Dunklin.
(d) Railroad mileposts TB-231.5 to TB-242.5.
(e) Agency station at Hayti, Mo. (milepost T-213), serves trackage.

Oklahoma

(a) Poteau to Hugo, Okla.
(b) Located wholly within the State of Oklahoma.
(c) Located in the Oklahoma counties of Le Flore.
(d) Railroad milepost M.P. 445.0 to MP 558.5.
(e) Agency station at Antlers, Okla. (milepost M.P. 542).

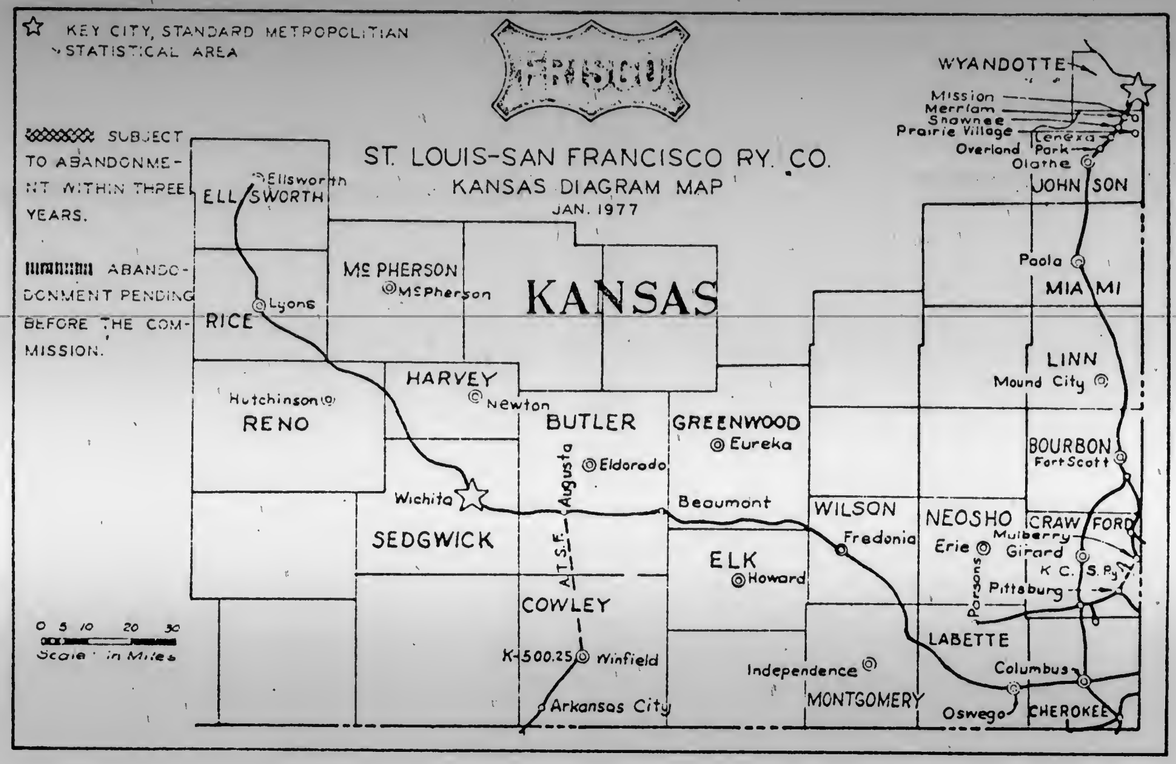
Lines owned and controlled by St. Louis-San Francisco Railway Co. and for which an abandonment application is pending before the Interstate Commerce Commission:

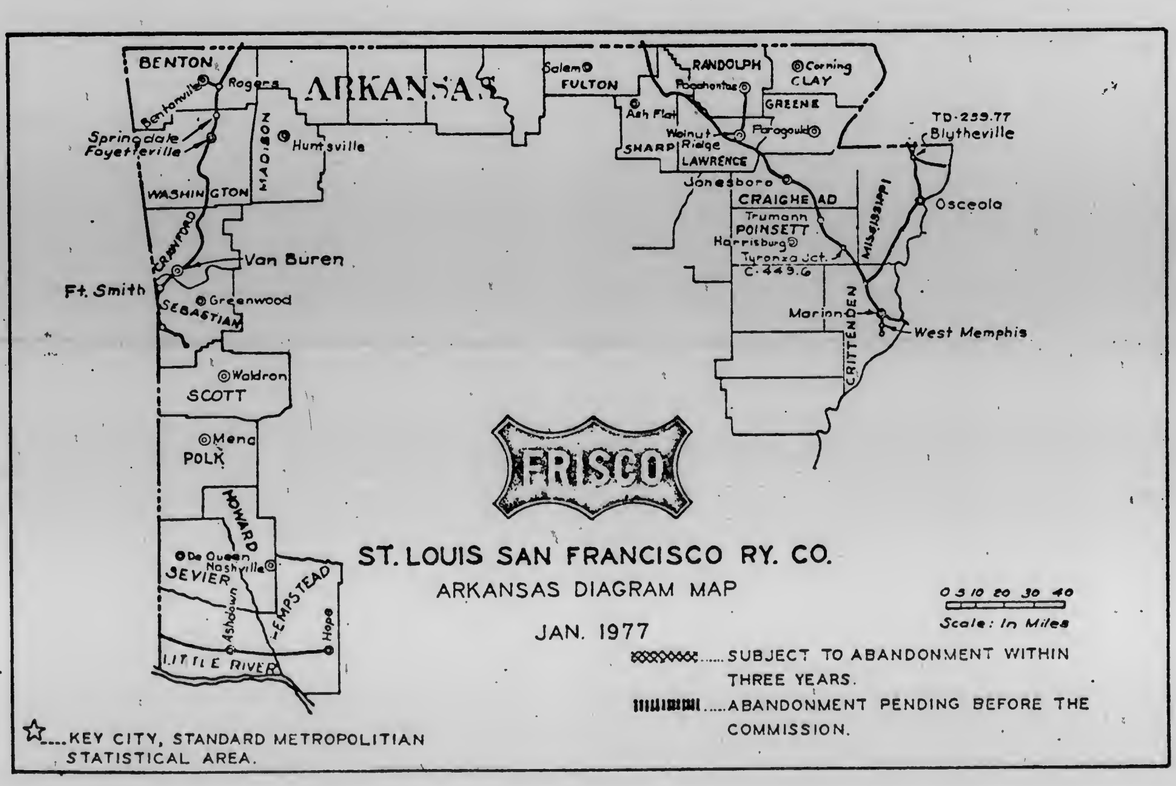
Texas

(Quanah, Acme, & Pacific Railway Co.)

(a) Acme to Floydada, Tex. (AB-109 (Sub-No. 1F)).
(b) Located wholly within the State of Texas.
(c) Located in the Texas counties of Hardeman, Cottle, Motley, and Floyd.
(d) Railroad mileposts M.P.G. 728 to 833.2.
(e) Agency stations at Paducah and Floydada, Tex.

[FR Doc. 78-26198 Filed 9-19-78; 8:45 am]


KEY CITY, STANDARD METROPOLITIAN STATISTICAL AREA
SUBJECT TO ABANDONMENT WITHIN THREE YEARS.
ABANDONMENT PENDING BEFORE THE COMMISSION.
FRISCO
ST. LOUIS-SAN FRANCISCO RY. CO.
KANSAS DIAGRAM MAP
JAN. 1977
KANSAS
WYANDOTTE
Mission
Merriam
Shawnee
Prairie Village
Lenexa
Overland Park
Olathe
JOHNSON
Ellsworth
ELLSWORTH
McPHERSON
McPherson
Lyons
RICE
Paola
MIAMI
LINN
Mound City
HARVEY
Newton
Hutchinson
RENO
BUTLER
Eldorado
Augusta
GREENWOOD
Eureka
BOURBON
Fort Scott
Wichita
Beaumont
WILSON
Fredonia
NEOSHO
CRAWFORD
Mulberry
Erie
Girard
K.C.S.Ry.
SEDGWICK
A.T.S.F.
ELK
Howard
Parsons
Pittsburg
COWLEY
LABETTE
K-500.25
Winfield
Independence
Columbus
Arkansas City
MONTGOMERY
Oswego
CHEROKEE
0 5 10 20 30
Scale in Miles


ARKANSAS
BENTON
Rogers
Bentonville
Springdale
Fayetteville
MADISON
Huntsville
WASHINGTON
CRAWFORD
Van Buren
Ft. Smith
Greenwood
SEBASTIAN
Waldron
SCOTT
Mena
POLK
HOWARD
De Queen
Nashville
SEVIER
LITTLE RIVER
Ashdown
LAFAYETTE
Hope
Salem
FULTON
RANDOLPH
Pocahontas
Corning
CLAY
GREENE
Ash Flat
SHARP
Walnut Ridge
Paragould
TD-259.77
Blytheville
LAWRENCE
Jonesboro
CRAIGHEAD
Osceola
Trumann
POINSETT
Harrisburg
Tyronza Jct.
C-449.6
MISSISSIPPI
Marion
CRITTENDEN
West Memphis
FRISCO
ST. LOUIS SAN FRANCISCO RY. CO.
ARKANSAS DIAGRAM MAP
JAN. 1977
0 5 10 20 30 40
Scale: In Miles
.....SUBJECT TO ABANDONMENT WITHIN THREE YEARS.
.....ABANDONMENT PENDING BEFORE THE COMMISSION.
....KEY CITY, STANDARD METROPOLITIAN STATISTICAL AREA.

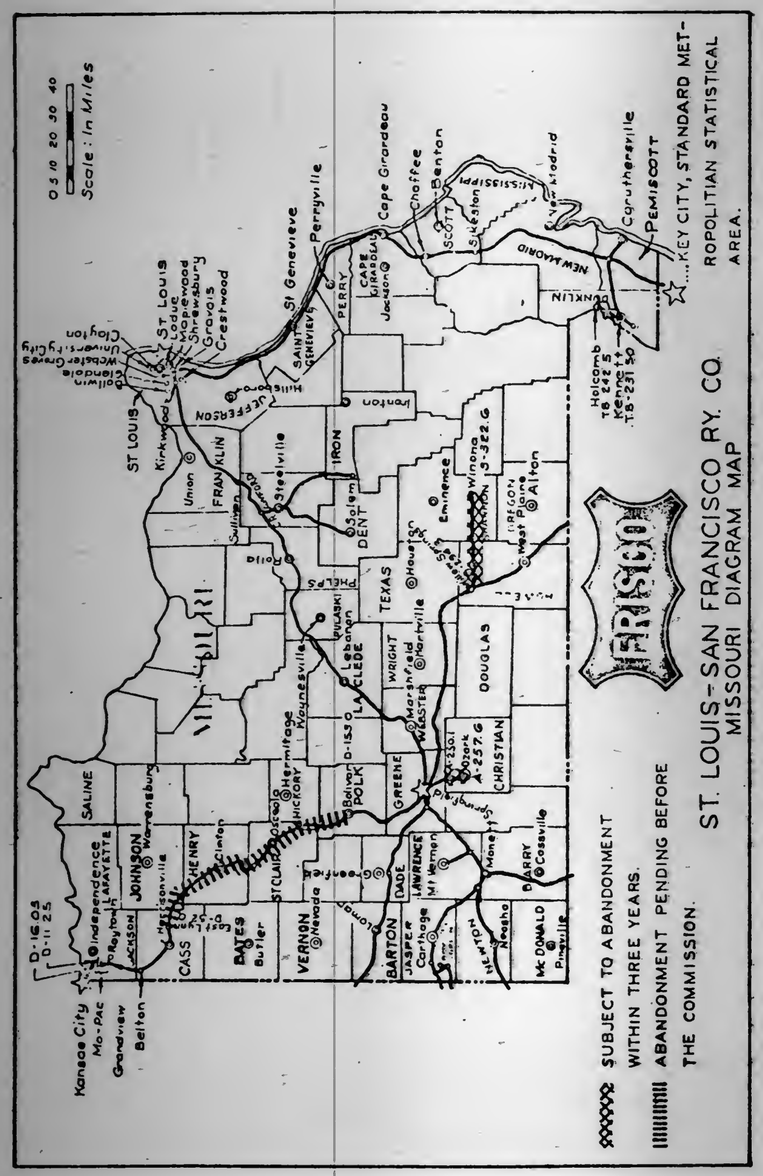
[7035-01]

AGRICULTURAL COOPERATIVE

Principal mailing address—P.O. Box 116, Minneapolis, Minn. 55440.

Where are records of your motor transportation maintained—P.O. Box 116, Minne-

MC 140829 (Sub-87F), Cargo Contract Carrier Corp. is assigned for hearing October 11, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219



[7035-01]

AGRICULTURAL COOPERATIVE

Intent To Perform Interstate Transportation for Certain Nonmembers

SEPTEMBER 14, 1978.

The following Notices were filed in accordance with section 208(b)(5) of the Interstate Commerce Act provided for under 49 CFR 1047.23. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOp 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Complete legal name of cooperative association or federation of cooperative associations—Big Sky Farmers & Ranchers Marketing Cooperative of Montana.

Principal mailing address—7777 Industry Avenue, Pico Rivera, Calif. 90660.

Where are records of your motor transportation maintained—7777 Industry Avenue, Pico Rivera, Calif. 90660.

Person to whom inquiries and correspondence should be addressed—Harold Goolsbee, Jr., General Manager, 7777 Industry Avenue, Pico Rivera, Calif. 90660.

(2) Complete legal name of cooperative association or federation of cooperative associations—Cape Henlopen Farm Lines Co-Operative.

Principal mailing address—Route 14, West, Milford, Del. 19963.

Where are records of your motor transportation maintained—P.O. Box 304, Milford, Del. 19963.

Person to whom inquiries and correspondence should be addressed—John M. Brown, P.O. Box 304, Milford, Del. 19963.

(3) Complete legal name of cooperative association or federation of cooperative associations—Federated Co-op Transport.

Principal mailing address—P.O. Box 353, Hooperston, Ill. 60942.

Where are records of your motor transportation maintained—P.O. Box 353, Hooperston, Ill. 60942.

Person to whom inquiries and correspondence should be addressed—C. M. Haworth, P.O. Box 353, Hooperston, Ill. 60942.

(4) Complete legal name of cooperative association or federation of cooperative associations—Land O' Lakes, Inc.

Principal mailing address—P.O. Box 116, Minneapolis, Minn. 55440.

Where are records of your motor transportation maintained—P.O. Box 116, Minneapolis, Minn. 55440.

Person to whom inquiries and correspondence should be addressed—Harold Hoelscher, P.O. Box 116, Minneapolis, Minn. 55440.

(5) Complete legal name of cooperative association or federation of cooperative associations—North Pacific Canners & Packers, Inc.

Principal mailing address—P.O. Box 02113, Portland, Oreg. 97202.

Where are records of your motor transportation maintained—P.O. Box 02113, Portland, Oreg. 97202.

Person to whom inquiries and correspondence should be addressed—R. V. Hokanson, P.O. Box 02113, Portland, Oreg. 97202.

(6) Complete legal name of cooperative association or federation of cooperative associations—The Arkansas Rice Growers Cooperative Association d.b.a. Riceland Foods.

Principal mailing address—P.O. Box 927, Stuttgart, Ark. 72160.

Where are records of your motor transportation maintained—P.O. Box 927, Stuttgart, Ark. 72160.

Vice President for Finance—Leland L. Carle, P.O. Box 927, Stuttgart, Ark. 72160.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-26332 Filed 9-18-78; 8:45 am]

[7035-01]

[Notice No. 714]

ASSIGNMENT OF HEARINGS

SEPTEMBER 14, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 113678 (Sub-741F), Curtis, Inc., is assigned for hearing October 2, 1978, at New York, NY, and will be held at Room D-2206, Federal Building, 26 Federal Plaza.

MC 140511 (Sub-5), Autolog Corp., is assigned for hearing October 5, 1978, at New York City, NY, and will be held at Room D-2206, Federal Building, 26 Federal Plaza.

MC 115331 (Sub-449F), Truck Transport Inc., is assigned for hearing October 12, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 134755 (Sub-137F), Charter Express, Inc., is assigned for hearing October 11, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 140829 (Sub-87F), Cargo Contract Carrier Corp., is assigned for hearing October 11, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 142299 (Sub-2), Truck Rail Truck Service Co., Inc., now being assigned for hearing on November 13, 1978 (5 days), at Chicago, IL, in a hearing room to be later designated.

MC 52657 (Sub-742), Arco Auto Carriers, Inc., now being assigned for hearing on November 20, 1978 (1 day), at Chicago, IL, in a hearing room to be later designated.

MC 134922 (Sub-259F), B. J. Mcadams, Inc., now being assigned for hearing on November 21, 1978 (1 day), at Chicago, IL, in a hearing room to be later designated.

MC 104221 (Sub-25F), Econo Lines, Inc., transferred to Modified Procedure.

MC 119226 (Sub-103F), Liquid Transport Corp., is assigned for hearing October 17, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 113855 (Sub-417F), Internation Transport, Inc is assigned for hearing October 17, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 139495 (Sub-332F), National Carriers, Inc., is assigned for hearing October 16, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 139495 (Sub-334F), National Carriers, Inc., is assigned for hearing October 16, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 128270 (Sub-28F), Rediehs Interstate, Inc., is assigned for hearing October 11, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 138890 (Sub-7F), Moodie, Inc., is assigned for hearing October 10, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 138890 (Sub-8F), Moodie, Inc., is assigned for hearing October 10, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 139482 (Sub-37F), New Ulm Freight Lines, Inc., is assigned for hearing October 10, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 113678 (Sub-723F), Curtis, Inc., is assigned for hearing October 19, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 112304 (Sub-133F), Ace Doran Hauling & Rigging Co., is assigned for hearing October 19, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 19157 (Sub-48), McCormack's Highway Transportation, Inc., is assigned for hearing October 18, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 124947 (Sub-106F), Machinery Transports, Inc., is assigned for hearing October 18, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 126473 (Sub-32F), Harold Dickey Transport, Inc. is assigned for hearing October

13, 1978 at Chicago, IL and will be held at Room 1319 E. M. Dirksen Building, 219 South Dearborn Street.

[7035-01]

[Ex Parte No. MC-64]

that such tariff publications quote rates, fares, and charges no lower than those of existing rail, water, or motor

FEDERAL REGISTER. Issuance of a certificate in this proceeding will be withheld for a period of 30 days from the

ments must be mailed to: Broker Entry Staff, Room 2379, Interstate Commerce Commission, Washington,

COMMENTS: All interested persons are invited to comment. Comments should be filed with the Office of Pro-

13, 1978 at Chicago, IL and will be held at Room 1319 E. M. Dirksen Building, 219 South Dearborn Street.

MC 142827 (Sub-4), De Marie Trucking, Inc. is assigned for hearing October 13, 1978 at Chicago, IL and will be held at Room 1319 E. M. Dirksen Building, 219 South Dearborn Street.

MC 123407 (Sub-449F), Sawyer Transport, Inc. is assigned for hearing October 12, 1978 at Chicago, IL and will be held at Room 1319 E. M. Dirksen Building, 219 South Dearborn Street.

MC 144009 Allstates Transworld Van Lines, Inc., is assigned for hearing October 2, 1978 at St. Louis, MO and will be held at Courtroom 313 third floor, U.S. Courthouse and Customs Building, 1114 Market Street.

MC 123115 (Sub-19F), Packer Transportation Co., is assigned for hearing October 2, 1978 at Carson City, NV and will be held at Room 302 Federal Building, 705 North Plaza Street.

MC 108633 (Sub-15), Barnes Freight Line, Inc. is assigned for hearing October 2, 1978 at Atlanta, GA and will be held at Room 556 Federal Building, 275 Peachtree Street NW.

MC 144011, Hall Systems, Inc., now assigned September 25, 1978, at Birmingham, AL, is postponed to September 27, 1978 (8 days), in the Sheraton Motor Inn-Downtown, 300 North 10th Street., Birmingham, AL.

FF-510F, Rocky Mountain Express, Inc., now being assigned for hearing on November 28, 1978 (4 days), at San Francisco, CA, in a hearing room to be later designated.

MC 144149, Rim Investment, Inc., d.b.a. B & C Transportation, now being assigned for hearing on December 11, 1978 (2 days), at San Francisco, CA, in a hearing room to be later designated.

MC 144170, Nationwide Truck Lines, Inc., now being assigned for hearing on December 6, 1978 (3 days), at San Francisco, CA, in a hearing room to be later designated.

MC 125433 (Sub-145), F-B Truck Line Co., now being assigned for hearing on December 4, 1978 (1 day), at San Francisco, CA, in a hearing room to be later designated.

MC 115826 (Sub-282), W. J. Digby, Inc., now being assigned, for hearing on December 13, 1978 (3 days), at San Francisco, CA, in a hearing room to be later designated.

MC 123407 (Sub-447F), Sawyer Transport, Inc., now being assigned for hearing on December 5, 1978 (1 day), at San Francisco, CA, in a hearing room to be later designated.

MC-F 13434 and MC 1403 (Sub-4), Central Transfer Co.—Purchase (Portion)—Robert Emanuel and Margaret Emanuel d.b.a. Emanuel's Express, now being assigned continued hearing on September 26, 1978 (4 days) in Room 2609, Court House 600 Market Street, Philidelphia, PA.

MC 112520 (Sub-347), McKenzie Tank Lines, Inc., now assigned for hearing on September 25, 1978, at Atlanta, GA is canceled and application dismissed.

MC 117765 (Sub-238), Hahn Truck Line, Inc., now assigned for hearing on October 17, 1978, at Chicago, IL is canceled and Transferred to Modified Procedure.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26331 Filed 9-18-78; 8:45 am]

[7035-01]

[Ex Parte No. MC-64]

GENERAL TEMPORARY ORDER TO TRANSPORT MEAT BY MOTOR VEHICLE

Decided: August 30, 1978. In the matter of General Order No. 14, Section 210a(a).

Unique characteristics of the meatpacking industry call for modification of our normal practice in handling requests for emergency temporary authority. There is an immediate and urgent need for additional motor carrier service to temporarily supplement the transportation system of the Nation.

To meet this need, the Commission will provide a more flexible way for applicants to obtain temporary authority to render the required motor carrier service.

It is ordered:

Pursuant to section 210a(a) of the Interstate Commerce Act (49 U.S.C. 310a(a)), applications for temporary authority to transport meat by motor vehicle shall, for a period of 90 days, be governed by the following procedures to expedite the filing and processing of those applications:

(1) A meatpacker, upon failing to find a carrier authorized to perform the needed peak service, may file a verified statement to that effect in support of an applicant for ETA to provide the service. The district supervisor receiving the application will accept the statement as evidence of the matters recited, and will make a recommendation without following the usual procedure of notifying other district offices. Other carriers will not be contacted.

(2) If, in its verified statement supporting an ETA application, the packer reports a failure to obtain a commitment after contacting carriers authorized to serve the need, the district supervisor receiving the application will seek specific reasons for the carriers' negative response to the packer. The district supervisor will then make a recommendation based on all known data.

(3) In an ETA application, where the supporting packer cannot pinpoint the time or destination of the shipment(s), but can, on the basis of prior experience, show a likely time period up to 30 days and a likely destination area in designated States, the field staff and Commission, respectively, will consider that showing in making a recommendation and rendering a decision.

This expedited procedure is available upon condition that the applicant carrier complies with all applicable requirements concerning tariff publications, evidence of security for the protection of the public, and designation of agents for service of process, and that such tariff publications quote rates, fares, and charges no lower than those of existing rail, water, or motor carriers in the territory in which the operations are to be authorized.

Service performed under temporary authority granted pursuant to this procedure shall in no way constitute evidence or a showing warranting future issuance of a certificate of public convenience and necessity or permit, as provided in section 207(a) of the Act (49 U.S.C. 307(a)) and section 209(b) of the Act (49 U.S.C. 309(b)).

This decision shall become effective October 1, 1978.

Notice of this decision shall be given to motor carriers, other parties of interest, and to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Murphy, Brown, Stafford, Gresham, and Clapp.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26329 Filed 9-18-78; 8:45 am]

[7035-01]

[MC 111320 (Sub-68G)]

KEEN TRANSPORT, INC.

Extension—Gateway Elimination (Hudson, OH)

Decided: September 6, 1978. Upon consideration of the record in this proceeding and of:

(1) Petition of applicant, filed June 26, 1978, for reconsideration;

(2) Reply by Home Transportation Co., Inc., protestant, filed July 10, 1978;

(3) Petition of Home Transportation Co., Inc., protestant, filed July 10, 1978, for reconsideration;

(4) Late-tendered reply by applicant, to the petition in (3) above submitted for filing August 1, 1978.

In a decision served June 9, 1978 we accepted an amendment of the authority sought by applicant and granted authority encompassing the scope of the amendment. Protestant Home points out that the effect of these actions was to grant authority in part I(33) (formerly part I(w')) broader than originally sought by applicant as set forth in the FEDERAL REGISTER notice. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and could be prejudiced by the lack of proper notice of the authority described in our previous decision, a notice of the authority actually granted in that part will be published in the

FEDERAL REGISTER. Issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of that publication during which period any proper party in interest may file a petition to reopen or for any other appropriate relief setting forth in detail the precise manner in which it has been prejudiced.

It is ordered: The late-tendered pleading in (4) above is accepted for filing inasmuch as it is only 1-day late and its admission will not prejudice any party to the proceeding.

Except as noted above, the petitions are denied because the findings of Appellate Division 2 are in accordance with the evidence and the applicable law.

If applicant does not comply with the appropriate requirements set forth in the Code of Federal regulations (49 CFR 1043, 1044, and 1307) within 90 days after the date of service of this decision, the grant of authority will be void, and the application will stand denied.

By the Commission, Division 2, acting as an appellate division, Commissioners Stafford, Murphy, and Clapp. Commission Murphy not participating.

H. G. HOMME, Jr.,
Acting Secretary.

APPENDIX

SERVICE AUTHORIZED IN PART I(33)

To transport self-propelled roadbuilding equipment and parts thereof, in driveway and truckaway service, from points in Illinois to points in Kentucky, Louisiana, Michigan, North Carolina, South Carolina, and Tennessee.

CONDITION

The above service authorization is subject to prior publication in the FEDERAL REGISTER of a notice of the authority actually granted in this portion of the application.

[FR Doc. 78-26333 Filed 9-18-78; 8:45 am]

[7035-01]

[Notice No. 25]

SPECIAL PROPERTY BROKERS

SEPTEMBER 13, 1978.

The following applicants seek to participate in the property broker special licensing procedure under 49 CFR 1045A authorizing operations as a broker at any location, in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of property (except household goods), between all points in the United States including AK and HI. Any interested person shall file an original and one (1) copy of a verified statement in opposition limited in scope to matters regarding applicant's fitness within 30 days after this notice. Statements must be mailed to: Broker Entry Staff, Room 2379, Interstate Commerce Commission, Washington, D.C. 20423. Opposing parties shall serve one (1) copy of the statement in opposition concurrently upon applicant's representative, or applicant if no representative is named.

If an applicant is not otherwise informed by the Commission, it may commence operation 45 days after this notice.

B-78-96, filed August 25, 1978. Applicant: DISTRIBUTION CENTERS, INC., 1310 Dublin Road, Columbus, OH 43215. Representative: Stanley E. McCormick, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209.

B-78-97, filed August 25, 1978. Applicant: FOUR WINDS FORWARDING, INC., 7035 Convoy Court, San Diego, CA 92111. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, D.C. 20036.

B-78-100, filed August 24, 1978. Applicant: FOUR WINDS VAN LINES, INC., 7035 Convoy Court, San Diego, CA 92111. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, D.C. 20036.

B-78-101, filed August 28, 1978. Applicant: PAD CONSULTANTS, 4582 Timothy Lane, Canal Winchester, OH 43110. Representative: Kathleen L. Maher, 100 East Broad Street, Columbus, OH 43215.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26330 Filed 9-18-78; 8:45 am]

[7035-01]

[Ex Parte No. MC-116]

CONSIDERATION OF RATES IN OPERATING RIGHTS APPLICATION PROCEEDINGS (GENERAL POLICY STATEMENT)

Proposed Change of Policy

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed issuance of policy statement.

SUMMARY: The Commission proposes to issue a general policy statement governing the consideration of rates in operating rights application proceedings. The Commission believes that parties should have the option of placing rate levels in issue in operating rights cases. The ability of an applicant to offer the shipping public lower rates based on operating efficiencies is a factor that should be considered in determining whether there is need for additional service. The consideration of rates in operating rights application proceedings represents a change in policy. Accordingly, interested persons will be permitted to file comments before a final policy statement is adopted and issued.

COMMENTS: All interested persons are invited to comment. Comments should be filed with the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423.

DATES: Comments must be received within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, or Harvey Gobetz, 202-275-7693.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Entry Control Task Force, in its report submitted July 6, 1977, entitled "Improving Motor-Carrier Entry Regulation," recommended to the Chairman of the Commission that rates, at the option of applicant, be made a consideration in operating rights application proceedings. The report stated:

> One of the most common criticisms of the Commission's decision-making process in the operating rights area is its refusal to take into account the rates proposed to be charged by the applicant. Shippers and carriers alike offer the opinion that many, and perhaps a majority, of applications for authority to serve existing sources of traffic are based on the support of shippers who anticipate a rate advantage * * *.

The Commission served a Notice of Proposed Rulemaking on February 24, 1978 (43 FR 7675). Numerous comments were received. Upon consideration of the comments, the Commission has decided not to promulgate specific regulations. Rather, the Commission has decided to issue a general policy statement setting forth guidelines for the consideration of rates in operating rights application proceedings.

By recognizing rates as a factor in motor carrier operating rights application proceedings, we seek to have this underlying issue dealt with explicitly. Furthermore, by allowing carriers who can operate more efficiently to enter the market through introduction of rate considerations, we believe that increased efficiency by all carriers will be encouraged with resultant benefits to the national economy.

Past Commission policy has been that rates are generally not a matter for consideration in common carrier application proceedings unless existing rates are so high as to constitute a virtual embargo. *Porter Transp. Co. Common Carrier Application*, 74 MCC 675 (1958), *H. L. & F. McBride Extension—Ohio*, 62 MCC 779 (1954); or where the rate benefit is attributable to differences between two modes of transportation, *Schaffer Transportation Co.* v. *United States*, 355 U.S. 83,

78 S. Ct. 173, 2 L. Ed. 2d 117 (1957); *I. C. C.* v. *J-T Transport Co.*, 368 U.S. 81, 82 S. Ct. 204, 7 L. Ed. 2d 147 (1961). In the Commission. *Schaffer, supra; J-T Transport Co. supra.*

There is an analogy between consid-

dustry. On the contrary, the consideration of rates in operating rights application proceedings will encourage

carriers; (2) attempts, if any, by those supporting the application to negotiate reduced rates with existing carri-

case-by-case basis, from the requirement that applicants fulfill their rate commitment. Rate relief may be ex-

statement should include more than a mere threat to impose conditions. I favor the required imposition of a meaningful holddown

78 S. Ct. 173, 2 L. Ed. 2d 117 (1957); *I. C. C.* v. *J-T Transport Co.*, 368 U.S. 81, 82 S. Ct. 204, 7 L. Ed. 2d 147 (1961). In all other respects, the prevailing view has been that, if shippers are dissatisfied with existing rates, the proper place to test the legality of those rates is in a complaint proceeding, and not in an application proceeding. See *American Trucking Ass'n.* v. *United States*, 326 U.S. 77, 86-87, 65 S. Ct. 1499, 89 L. Ed. 2065 (1945); *Auclair Transportation, Inc.* v. *United States*, 221 F. Supp. 328, 333-334 (D. Mass. 1963), *aff'd per curiam*, 376 U.S. 514, 84 S. Ct. 966, 11 L. Ed. 2d 968 (1964).

Section 207(a) of the Interstate Commerce Act, 49 U.S.C. 307(a), provides in pertinent part that a proposed common carrier service shall be authorized to the extent it "is or will be required by the present or future public convenience and necessity." Nowhere does the act define the term "Public convenience and necessity." It is therefore clear that Congress intended the Commission to have broad discretion in determining where "public convenience and necessity" lies. That discretion, however, must be exercised in conformity with the provisions of the National Transportation Policy, 49 U.S.C. preceding section 1.

The National Transportation Policy requires the Commission to "recognize and preserve" the different modes of transportation; and "to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers." The courts have generally stated that competition between different modes of transportation, *I.C.C.* v. *Parker*, 326 U.S. 60, 65 S. Ct. 1490, 89 L. Ed. 2051 (1945), as well as competition within the same mode of transportation, *Bowman Transportation, Inc.* v. *Arkansas-Best Freight, Inc.*, 419 U.S. 381, 95 S. Ct. 438, 42 L. Ed. 2d 447 (1974), is a relevant factor to be considered by the Commission in determining whether the grant of an application would further the National Transportation Policy. *Trans-American Van Service, Inc.* v. *United States*, 421 F. Supp. 308, 321-322 (1976).

Cases where a carrier sought to provide service to an area already served by basically the same type of transportation, only at a lower rate, have been distinguished from cases where an applicant carrier seeks to compete for traffic now handled exclusively by a different mode of transportation. See *Carl Subler Trucking, Inc., Extension—Southern States*, 77 MCC 707 (1958). In the latter situation it has been held that the rate benefit attributable to differences between the two modes of transportation is an "inherent advantage" of the competing type of carrier and must be considered by the Commission. *Schaffer, supra; J-T Transport Co. supra.*

There is an analogy between consideration of the inherent advantages of different modes of transportation and consideration of the level of rates assessed by carriers of the same mode. Competition within a mode is just as important as competition between modes. If lower rates to be offered by an applicant are based on efficient operations, this is a relevant factor for the Commission to consider in reaching ultimate findings concerning competition and the sound economic condition of the industry. *Trans-American, supra*, 421 F. Supp. at 327-328.

We believe that the inability or unwillingness of existing carriers to offer rates competitive with the proposed service, either for lack of interest in the traffic, or because of the inefficiency or unsuitability of their operations, may well indicate a public need for additional service. Accordingly, applicants in their presentations may show that rates are an issue between supporting shippers and existing carriers. Upon doing so they can expect the Commission to treat this as one factor in determining public convenience and necessity.

The Commission believes that, in some cases, rates are already an underlying issue in operating rights proceedings. In such cases, the parties have generally addressed the nature of the proposed service rather than the level of the proposed rates. See *Robinson Common Carrier Application*, 126 MCC 180 (1976); *Maxwell Co., Ext.—Chicago to Cincinnati*, 112 MCC 235 (1970); *Dieckbrader Express, Inc., Extension—Massillon, Ohio*, 103 MCC 540 (1967); and *Vancouver Airline Limousines Ext.—Charter Operations*, 71 MCC 101 (1957). Although the Commission has often recognized the efficiencies and economies that would flow from a proposed service innovation, it has generally not considered the direct benefits which would accrue to the shipper from having a lower rate available. For example, shippers who support a "no frills" or less inclusive service than that offered by existing carriers, are often actually seeking a less costly service at lower rates. We believe that the time has come to deal directly with rates when rate issues are raised in operating rights proceedings.

The National Transportation Policy requires that the Commission promote "safe, adequate, economical, and efficient service" while avoiding unfair or destructive competitive practices. That goal can be furthered by considering rate issues in operating rights cases. We do not believe that the consideration of rate matters will result in the development of destructive competitive practices in the motor carrier industry. On the contrary, the consideration of rates in operating rights application proceedings will encourage economic and efficient service.

PROPOSED POLICY STATEMENT

1. *General.* The Commission's policy is to permit any party in an application proceeding for permanent motor carrier authority for the transportation of either passengers or property to raise the issue of rates. The introduction of rate considerations in an operating rights case is optional, not mandatory. By making rates an optional factor in our determination of public convenience and necessity in common carrier application proceedings, we seek to insure that the parties have the opportunity to make all relevant factors a part of the record on which our conclusions are based. In this statement, "rates" includes all rates, fares, and charges.

2. *Notice of reliance on rate considerations.* Applicants electing the option of placing rates in issue must attach to the application form a brief statement that they intend to offer rates lower than those presently available from existing motor carriers, together with a tentative schedule of the proposed rates and charges for the complete service involved. Public notice of an applicant's reliance, in part, on rate issues will be given by publication in the FEDERAL REGISTER. Protestants wishing to raise rate issues in challenging an application must so indicate in their protests, along with the basis of their challenge. If the issue is raised by a protestant, applicant has no obligation to introduce evidence on the subject.

3. *Burden of proof.* If an applicant elects to place rates in issue, it has the burden of proof as to all aspects of public convenience and necessity, including its ability to perform the proposed service at rates lower than those of other carriers. However, an applicant in an operating rights case need not assume the burden of establishing that such rates will be just and reasonable and otherwise lawful. Rather, an applicant's evidence should relate to its ability to offer the proposed service at a lesser rate than existing carriers based on efficiency of operations, increased productivity, or other relevant considerations. This policy does not prejudge the lawfulness or change any evidential burden regarding initial rates and will not impair the right of any person to protest a rate after it is filed with the Commission.

4. *Rate evidence.* Evidence to be submitted by an applicant in support of its proposed rates should include, but need not be limited to, the following: (1) a comparison of applicant's proposed rates, fares, and charges with those maintained by existing motor carriers; (2) attempts, if any, by those supporting the application to negotiate reduced rates with existing carriers; (3) a showing that the low rates will not impair applicant's financial fitness; and (4) a narrative description of Applicant's operational efficiencies or advantages which enable it to provide lower rates. The weight to be accorded the rate factor will vary on a case-by-case basis, according to the strength of applicant's evidence as determined by the Commission.

5. *Fulfilling the rate commitment.* Applicants that depend upon rates to support a proposed service should fulfill their rate commitment. If necessary, the Commission may impose an express requirement that they do so. For example, the Commission may grant a limited term certificate for an appropriate period, such as 1 to 3 years. The Commission may also require periodic compliance reports, allowing the applicant to petition for permanent authority only at the end of the term. At such time, applicant would have to prove that it has provided satisfatory service at the proposed rate level. In other cases, when appropriate, the Commission may impose a rate holddown condition in the certificate. In some cases, other conditions may be appropriate. Applicants relying on rate evidence should be aware that the Commission may impose such restrictions upon a grant of authority and may also impose sanctions, such as revocation of the authority, upon violation of a restriction. Furthermore, whenever there is a restriction upon the authority, the issuance of the certificate may be postponed until the date the proposed rate actually becomes effective.

6. *Relief from rate commitments.* The Commission will allow relief, on a case-by-case basis, from the requirement that applicants fulfill their rate commitment. Rate relief may be expressly provided in the initial grant of authority, or may be permitted upon later petition by the carrier. The Commission may permit increases in the proposed rate, for example, to the extent of general rate increases or probable but unpredictable cost increases, such as substantial increases in the cost of fuel.

The Commission requests comments by any interested party on this announced policy and procedural safeguards.

Dated: August 30, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Murphy, Brown, Stafford, Gresham, and Clapp. Commissioner Stafford concurring in part and dissenting in part. Commissioner Murphy dissenting.

H.G. HOMME, Jr.,
Acting Secretary.

Commissioner Stafford, concurring in part, dissenting in part:

This policy statement recognizes a fact of life that the Commission heretofore has not really acknowledged. The truth is that a significant number of applications are based on the promise of lower rates.

If a shipper wishes to base its choice of a carrier solely or primarily on the prospect of lower rates and if the carrier is capable of operating at a lower rate than its competitors, then I agree that the rates issue deserves consideration.

I am concerned, however, that this new policy will be subject to abuse by carriers who promise lower rates but who will not abide by that promise for very long after they receive a certificate. The majority takes the position that applicants "should fill their rate commitment. If necessary, the Commission may impose an express requirement that they do so." I believe the policy statement should include more than a mere threat to impose conditions. I favor the required imposition of a meaningful holddown or other appropriate restriction against rate increases in any grant of authority that relies on a promise of lower rates. I suggest that an appropriate term should be at least 1 and possibly 3 years.

Consistent with the above, item 6 on sheet 7 should indicate that relief from rate commitments will be granted sparingly. The Commission should state that it will not look with favor upon such requests. It should also be made clear that repeated requests for relief may adversely affect a carrier's subsequent applications where it proposes a lower rate. If a carrier receives several grants of authority based on lower rates, and then seeks relief from our holddown conditions, it is an indication that rates should not have been the basis for a grant. In future application proceedings of that carrier, this issue may be raised and it should receive appropriate weight.

One final point worth noting about the notice is that the real beneficiaries of this policy statement will not be the small shippers who need rate relief the most. No matter what incentives the Commission may offer, the large shipper will always receive a better rate than the small shipper. I am concerned that this policy statement may widen the rate differences that already exist.

Commissioner Murphy, dissenting:

I believe that the Commission is embarking on a perilous journey which will encumber rather than ease the mounting caseload now troubling the Commission. Moreover, the majority's reliance upon lower rates as a basis for a claim of efficiency of operations is misplaced.

In the final analysis, rate matters should be excluded from applications for operating authority except in those limited circumstances where an embargo is present.

Accordingly, I respectfully dissent from the majority decision and rely upon my separate expression in this matter, served February 27, 1978. In any event, after the comments are received, I believe it is imperative that the Commission hold oral argument in this matter.

[FR Doc. 78-26445 Filed 9-18-78; 8:45 am]

sunshine act meetings

discuss this exemption. (Closed—exemption 9, possible frustration of agency action.)

[7550-01]

Walter Magee, 202-634-1410.

WALTER MAGEE,

V 43 / 182 SEP 1978

sunshine act meetings

This section of the FEDERAL REGISTER contoins notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1, 2
Commodity Futures Trading Commission	3
Consumer Product Safety Commission	4
Federal Maritime Administration	5
Federal Reserve System	6
National Mediation Board	7
Nuclear Regulatory Commission	8
Occupational Safety and Health Review Commission	9
Renegotiation Board	10
United States Railway Association	11

[6320-01]

1

CIVIL AERONAUTICS BOARD.

[M-162 Amdt. 4; Sept. 13, 1978]

NOTICE OF DELETION OF ITEMS FROM THE SEPTEMBER 13, 1978, AGENDA

TIME AND DATE: 10 a.m., September 13, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 4. Docket 30332, IATA agreements proposing increases in North Atlantic cargo rates to compensate for cost increases (Memo No. 8176, BPDA, BIA).

10b. Dockets 33019, 33108, 33116, 33117, 33118, 33122, 33123, 33129, 33132, 31542, 33135, 33138, 33140, 33146, 33147, 33148, 33149, 33152, 33153, 33154, 33156, 33157, and 33178; Chicago-Midway Expanded Service Proceeding; (Memo No. 7909-F, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The staff needs additional time to review Item 4. Item 10b was deleted from the September 13, 1978 agenda in order to allow Member O'Melia additional time to review. Accordingly, the following Members have voted that agency business requires the deletion of Item 4 and 10b from the September 13, 1978 agenda and that no earlier announcement of these changes was possible:

Chairman Alfred E. Kahn
Member Richard J. O'Melia
Member Elizabeth E. Bailey

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the FEDERAL REGISTER for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-1890-78 Filed 9-15-78; 10:31 am]

[6320-01]

2

[M-164; Sept. 13, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m.—September 20, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.

2. Docket 24048, Application of Braniff Airways, Inc., and Braniff International Corp. for approval of interaffiliate transfer of A-B Aircraft, Inc. (Memo 7835-A, BPDA, OGC, BAS).

3. Docket 31633, to amend Allegheny's certificate by removing its one-step restriction between Cleveland and Rochester (Memo 7759-B, BPDA, OGC).

4. Docket 32994, Allegheny's Exemption, Charleston, W. Va.-Pittsburgh, Pa. (Memo 8180, BPDA).

5. Docket 32873, American's Application and motion for Hearing on Reno-Chicago authority (Memo 8179, BPDA).

6. Letter to Congressman Jerome A. Ambro in reply to his inquiry on J.R. 13181, a bill to reinstate Board jurisdiction over the reasonableness of air cargo carriers' liability rules and practices (Memo 8182, BPDA).

7. Docket 30332, IATA agreements proposing varying increases in North Atlantic cargo rates through September 30, 1979 to compensate for cost increases. Pan American and TWA support the agreements in their entirety while Seaboard supports the increases with some exceptions. Both the Air Freight Forwarders Association and the Ad Hoc Committee for the Development of Air Freight oppose some of the structural aspects of the agreements (Memo 8176, BPDA, BIA).

8. Dockets 28337, 28999, and 32746, applications of Braniff, Allegheny, and American to serve various U.S.-Canada routes (Memo 8178, BIA, OGC, BALJ).

9. Docket 33019, 33108, 33116, 33117, 33118, 33122, 33123, 33129, 33132, 31542, 33135, 33138, 33140, 33146, 33147, 33148, 33149, 33152, 33153, 33154, 33156, 33157, and 33178, *Chicago-Midway Expanded Service Proceeding* (Memo 7909-F, OGC).

10. Docket 28903, *Enforcement Proceeding against Alaska Airlines, Inc., Gerald L. Johnson and C. James England.* BOE's motion to dismiss this proceeding against the only remaining respondent, C. James England, on the grounds that recent liberalization of the Board's charter regulations has greatly reduced the incentive for the type of single entity charter violations that are the subject of this proceeding (Memo No. 6256-A, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

[S-1891-78 Filed 9-15-78; 10:31 am]

[6351-01]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., September 22, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 8th Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1897-78 Filed 9-15-78; 3:30 pm]

[1505-01]

4

CONSUMER PRODUCT SAFETY COMMISSION.

In Sunshine Act Meeting document S-1799-78 published at page 40099 in the issue for Friday, September 8, 1978, and announcing a meeting for September 13, 1978, in the middle column, item 3 under the agenda should read as follows:

"3. *Final rule to exempt certain ink cartridges from labeling requirements.* In response to a petition from the Parker Pen Co. (HP77-4), the Commission, in November 1977 proposed to exempt certain rigid or semirigid ink cartridges from labeling requirements of the Federal Hazardous Substances Act. At this meeting, the Commission will discuss this exemption. (Closed—exemption 9, possible frustration of agency action.)

[6730-01]

5

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: September 14, 1978; 43 FR 41160.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., September 20, 1978.

CHANGES IN THE MEETING: Addition of the following items to the Open Session.

2. Concordia International Forwarding Corp.—Application for independent ocean freight forwarder license.

3. Conditions unfavorable to shipping in the United States/Ecuador trade—Section 19 Merchant Marine Act, 1920.

ADDITIONAL CHANGES IN THE MEETING: Time and Date of Meeting changed from September 20, 1978—10 a.m. to September 21, 1978—2 p.m.

[S-1896-78 Filed 9-15-78; 1:38 pm]

[6210-01]

6

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Friday, September 22, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20331.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchases, under competitve bidding, of computer equipment within the Federal Reserve System.

2. Proposed acquisition of real property by a Federal Reserve Bank.

3. Proposed rescission of a Board policy prohibiting payment of extra compensation to Reserve Bank employees.

4. Proposed salary structure adjustments at several Federal Reserve Banks.

5. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

6. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board: 202-452-3204.

Dated: September 15, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[S-1893-78 Filed 9-15-78; 10:31 am]

[7550-01]

7

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, October 4. 1978.

PLACE: Board hearing room, 8th floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of Board actions taken by notation voting during the month of September 1978.

2. Amendment of NMB Rules to delete the note to section 1206.4(b), 29 CFR 1206.4(b), currently excepting unrepresented crafts or classes from the time limits on applications contained in section 1206.4(b).

3. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rowland K. Quinn, Jr., Executive Secretary; 202-523-5920.

(Date of Notice: September 13, 1978).

[S-1895-78 Filed 9-15-78; 11:46 am]

[7590-01]

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of September 11 (changes) and week of September 18.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONTINUED:

Thursday, September 14 (Additional Item)

2:00 p.m.—Review of ALAB-488 (Seabrook). (Approx. 45 min.) (Closed—Tentative.)

Tuesday, September 19

2:30 p.m.—Discussion of Personnel Matters (Approx. 1 hr.) (Closed—Exemption 6.)

Wednesday, September 20

9:30 a.m.—1. Briefing on Reactor Licensing Schedules (Approx. 1 hr.) (Public Meeting.)

2. Affirmation Items (10 min.) (Public Meeting.) a. Alternatives in Burial of Low Level Wastes. b. Improving Nuclear Power Plant Licensing.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

SEPTEMBER 13, 1978.

[S-1886-78 Filed 9-14-78; 3:02 p.m.]

[7600-01]

9

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m., September 28, 1978.

PLACE: Room 101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicated process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Lottie Richardson, 202-634-4015.

Date: September 15, 1978.

[S-1894-78 Filed 9-15-78; 11:46 am]

[7910-01]

10

RENEGOTIATION BOARD.

DATE AND TIME: Thursday, September 28, 1978; 10 a.m.

PLACE: Conference room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 3 are open to public observation. Matters 4 and 5 are not applicable for status.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held September 19, 1978, and other Board meeting, if any.

2. Recommended determination of excessive profits and clearance: ABC Management Services, Inc., fiscal years ended June 30, 1974 and 1975.

3. Recommended determination of excessive profits: DeLong Corp., fiscal year ended December 31, 1969.

4. Approval of agenda for meeting to be held October 10, 1978.

5. Approval of agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20447, 202-254-8277.

Dated: September 15, 1978.

GOODWIN CHASE,
Chairman.

[S-1898-78 Filed 9-15-78; 3:30 pm]

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[8240-01]

11

UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: September 21. 1978, 9 a.m.

PLACE: Caucus Room, Loew's l'Enfant Plaza Hotel, 480 l'Enfant Plaza East SW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS OR ITS EXECUTIVE COMMITTEE

Portions open to the public (9 a.m.):

1. Briefing on administrative matters.
2. Briefing on Regional Rail Reorganization Act of 1973 and Railroad Revitalization and Regulatory Reform Act of 1976.
3. Discussion of role of association.

Portions closed to the public (10 a.m.):

4. Review of Conrail proprietary and financial information for monitoring and investment purposes.
5. Consideration of internal personnel matters.
6. Litigation report.

CONTACT PERSON FOR MORE INFORMATION:

Alex Bilanow, 202-426-4250.

[S-1892-78 Filed 9-15-78; 10:31 am]

federal register

TUESDAY, SEPTEMBER 19, 1978
PART II

DEPARTMENT OF LABOR

COMMUNITY SERVICES ADMINISTRATION

■

PRIVACY ACT OF 1974

Annual Publication

federal

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[4510-23]

DEPARTMENT OF LABOR

Office of the Secretary

PRIVACY ACT ISSUANCES

Notices of Incorporation by Reference

Agency: Office of the Secretary

Action: Incorporation by Reference of Privacy Act Issuances

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation" and to publish in full the systems that this agency has amended since publication of the 1977 Compilation; and to add systems of records previously published by the Department of the Interior which have been transferred to the Department of Labor under the Mine Safety and Health Amendments Act, 1977, Public Law 95-164.

For further information contact: Sofia P. Petters, 523-8065.

Pursuant to 5 U.S.C. 552 (a)(e)(4), section 3 of the Privacy Act of 1974, the Department of Labor hereby publishes notice of its systems of records currently maintained pursuant to the Privacy Act of 1974. The systems were previously published at 42 FR 49654 (September 27, 1977); 43 FR 25206 (June 9, 1978); and 43 FR 29042 (July 5, 1978); and in Volume II of the 1977 Privacy Act Issuances Compilation. This notice reflects an incorporation by reference of systems of records published in the 1977 Privacy Act Issuances Compilation, two systems which were not published in full in the Compilation, amendments to existing systems and two new systems published since the 1977 Compilation. This notice also includes notice of systems of records transferred from the Department of the Interior to the Department of Labor under mine safety and health program.

Since publication of the 1977 annual notice of systems of records at 43 FR 49654 (September 27, 1977), the Department of Labor has published at 43 FR 25206 (June 9, 1978) two new systems of records; DOL/ESA-23, Office of Workers' Compensation Programs Investigation Files, and DOL/ESA-24, Office of Workers' Compensation Programs, Longshoremen's and Harbor Workers' Compensation Act Special Fund System. DOL/ESA-23 contains investigatory records compiled by the Division of Investigation, a new devision within the Office of Workers' Compensation Programs. DOL/ESA-24 is a system, which was segregated from the DOL/ESA-15 and established as a new system because of a change in location. DOL/ESA-15 has been amended to reflect this change.

DOL/OSHA-1, Discrimination Complaint File, was amended at 43 FR 29042 (July 5, 1978) to exempt this system of records under paragraph (k)(2) of the Privacy Act as investigatory material compiled for civil law enforcement purposes.

The Department of Labor is also republishing two systems of records: DOL/ETA-4, Bureau of Apprenticeship and Training National Industry and DOL/ETA-5, ESARS 2, which were indexed in the 1977 Compilation, but were not published in full in the body of the text.

The Department of Labor also publishes notice of 15 systems of records which have been transferred from the Department of the Interior to the Department of Labor under the authority of the Federal Coal Mine Health and Safety Act as amended by the Federal Mine Safety and Health Amendments Act of 1977, Public Law 95-164. The systems of records published by the Department of the Interior on April 11, 1977 and included in Volume VI of the 1977 Privacy Act Compilation are published in full with charges necessitated by the transfer of the mine safety and health program from the Department of the Interior to the Department of Labor.

The Department of the Interior published 16 systems of records for the mine safety program. One system of records, Interior/EMS-11, National Mine Health and Safety Academy Records, is not being published by the Department of Labor as that function remains with the Department of the Interior.

The changes in the notice of systems of records and the new systems of records are as follows:

DOL/ESA-15: Office of Workers' Compensation Programs, Longshoremen and Harbor Workers' Compensation Case File—amended.

DOL/ESA-23: Office of Workers' Compensation Act Investigation Files—new system.

DOL/ESA-24: Office of Workers' Compensation Act Special Fund System—new system, segregated from ESA-15.

DOL/OSHA-1: Discrimination Complaint File—amended.

DOL/ETA-4: Bureau of Apprenticeship and Training, National Industry—republished.

DOL/ETA-5: ESARS 2—republished.

DOL/MSHA-1: Coal and Metal and Nonmetal Mine Accident and Injury—new system.

DOL/MSHA-2: Identification cards—new system.

DOL/MSHA-3: Metal and Nonmetal Mine Safety and Health Management Information—new system.

DOL/MSHA-4: Employee Conduct Investigations—new system.

DOL/MSHA-5: Payroll Records—new system.

DOL/MSHA-6: Travel—new system.

DOL/MSHA-7: Travel Advance File—new system.

DOL/MSHA-8: Accident and Injury Records—new system.

DOL/MSHA-9: Clearance Records—new system.

DOL/MSHA-10: Coal Mine Health and Safety Special Investigations—new system.

DOL/MSHA-12: Property Control—new system.

DOL/MSHA-13: Coal Mine Respirable Dust Program—new system.

DOL/MSHA-14: Coal Mine Noise Level Program—new system.

DOL/MSHA-15: Health and Safety Training Records Including Qualification and Certification Data—new system.

DOL/MSHA-16: Employee Locator System—new system.

This notice fulfills the annual notice requirements of the Privacy Act for 1978.

Dated: August 29, 1978.

Ray Marshall,
Secretary of Labor.

APPROVAL OF DIRECTOR

The notices of systems of records of this agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on July 13, 1978. Published below is the full text of systems of records that this agency has amended since publication of the 1977 Compilation.

DOL/ESA-15

System name: Office of Workers' Compensation Programs, Longshoremen's and Harbor Workers' Compensation Act Case Files.

System location: Most files are located in District Offices but cases involving special issues may be in the National Office.

Categories of individuals covered by the system: The system maintains records of injury, occupational disease and death of employees working in private industry who are covered by the provisions of the Longshoremen's and Harbor Workers' Compensation Act and related acts.

Categories of records in the system: Records include: reports of injury by employees and employers, authorization for medical care; medical reports; medical and transportation bills; formal orders for or against payment of compensation; vocational evaluations, rehabilitation plans and awards and vocational progress reports; vital statistics such as birth, marriage, death certificates; enrollment and attendance records at educational institutions.

Authority for maintenance of the system: 33 U.S.C. 901 et. seq. (20 CFR 701 et. seq.) 36 U.S.C. 501 et. seq., 42 U.S.C. 1951 et. seq., 43 U.S.C. 1331 et. seq., 5 U.S.C. 8171 et. seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure to the employer at the time of the injury or the onset of the occupational illness and to any party providing the employer with workers' compensation insurance coverage; doctors and medical service providers for the purpose of obtaining medical evaluations, physical rehabilitation or other services; public or private agencies to whom the injured worker has been referred for vocational rehabilitation services; contractors providing automated data processing services for the Department of Labor; and labor unions and other voluntary associations of which the claimant is a member acting on behalf of the individual member.

Storage: This information is maintained as written records and documents in letter size manual files stored in 4 and 5 drawer file cabinets, located in the several District Offices.

Notification procedure: Contact System Manager.

Record access procedures: Any individual seeking information about a case in which he/she is a party of interest may write or telephone the OWCP District Office and arrangement will be made

SEP 19 1978

to provide review of the file, consonant with restrictions defined as a Routine Use.

Contesting record procedures: Contact Systems Manager.

Record source categories: The system obtains information from injured employees, their qualified dependents, employers, insurance carriers, physicians, medical facilities, educational institutions, attorneys, State and Federal vocational rehabilitation agencies and Members of Congress.

DOL/ESA-23

System name: Office of Workers' Compensation Programs Investigation Files

System location: U.S. Department of Labor, Employment Standards Administration, Office of Workers' Compensation Programs (OWCP), Division of Investigation, Washington, D.C. 20210, and ESA Regional Offices.

Categories of individuals covered by the system: Individuals filing claims for workers' compensation benefits under (1) the Federal Employees' Compensation Act, as amended and extended (5 U.S.C. 8101 et. seq.) (except 8149 as it pertains to the Employees' Compensation Appeals Board) (2) the Longshoremen's and Harbor Workers' Compensation Act as amended and extended (33 U.S.C. 901 et. seq.) (except 33 U.S.C. 921(b) as it applies to the Benefits Review Board) and (3) Title IV, Section 415 and Part C, of the Federal Coal Mine Health and Safety Act of 1969, as amended by the Black Lung Benefits Act of 1972, 30 U.S.C. 901 et. seq.; individuals providing medical and other services to OWCP; employees of insurance companies and of medical and other services providers to OWCP; and other persons suspected of violations of law under the above Acts and related civil and criminal provisions as well as respondents, witnesses and other individuals involved in investigations and enforcement actions instituted by the Department of Labor.

Categories of records in the system: The system contains information gathered by OWCP in connection with investigations by it into possible violations of Federal law, whether civil or criminal including (1) the Federal Employees' Compensation Act and related Acts, (2) the Longshoremen's and Harbor Workers' Compensation Act and related Acts, and (3) Title IV, Section 415 and Part C, of the Federal Coal Mine Health and Safety Act of 1969, as amended by the Black Lung Benefits Act of 1972, 30 U.S.C. 901 et. seq. Such information may be derived from materials filed with the Department of Labor, other Federal, State and local departments and agencies, court records, medical records, insurance records, records of employers, articles from publications published financial data, corporate information, bank information, telephone data, statements of witnesses, information received from Federal, State, local and foreign regulatory and law enforcement organizations, and from other sources. This record also contains the work product of the Department of Labor, and other government personnel and consultants involved in the investigations.

Authority for maintenance of the system: 5 U.S.C. 8101 et seq. 20 CFR 1.1 et seq.; 33 U.S.C. 901 et seq., 20 CFR 701 et seq.; 36 U.S.C. 501 et seq., 42 U.S.C. 1951 et seq.; 43 U.S.C. 1331 et seq.; 5 U.S.C. 8171 et seq.; 30 U.S.C. 901 et seq.; 20 CFR 715 et seq.; 20 CFR 720.1 et seq.; 20 CFR 725.1 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are made available to other Federal agencies and State and local agencies conducting similar or related investigations and to the Justice Department in that agency's determination regarding potential litigation and during the course of actual litigation. Records may be disclosed to contractors providing automated data processing services for the Department of Labor. Records may also be disclosed in any proceeding where the Federal Employees' Compensation Act and related Acts, Longshoremen's and Harbor Workers' Compensation Act and related Acts, Title IV Section 415 and Part C, of the Federal Coal Mine Health and Safety Act of 1969, as amended by the Black Lung Benefits Act of 1972 is in issue or in which the Secretary of Labor, any past or present Federal employee or consultant directly or indirectly involved in investigations or other enforcement activities under the above Acts, is a party or otherwise involved in an official capacity.

Retrievability: Records are indexed by name.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: To be determined.

System manager(s) and address: Associate Director, Division of Investigation, Office of Workers' Compensation Programs, 200 Constitution Avenue NW., Washington, D.C. 20210.

Notification procedure: Contact Systems Manager.

Record access procedures: Contact Systems Manager.

Contesting record procedures: Contact Systems Manager.

Record source categories: Record from OWCP claim and payment files (DOL/ESA-6, 7, 8, 11, 13, 15, and 24) and from employees, insurers, service providers and parties interviewed during the course of an investigation.

Systems exempted from certain provisions of the act: (a) Criminal law enforcement. In accordance with paragraph 3(j)(2) of the Privacy Act, information maintained in investigation files in the Division of Investigation of the Office of Workers' Compensation Programs of the Employment Standards Administration is exempt from all provisions contained in 5 U.S.C. 552a except those requirements set forth in paragraphs (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11) and paragraph (i) of the Act. The disclosure of information contained in the criminal investigative files, including the names of persons or agencies to whom the information has been transmitted, would substantially compromise the effectiveness of the Division's investigations. Knowledge of such investigations could enable subjects to take such action as is necessary to prevent detection of criminal activities, conceal evidence, or to escape prosecution. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses, and their respective families, and could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained would impede significantly the effectiveness of the division's investigatory activities, and in addition, may often preclude the apprehension and successful prosecution of persons engaged in fraud of the Federal workers' compensation programs. (b) Other law enforcement. In accordance with paragraph 3(k)(2) of the Privacy Act, investigatory material compiled for law enforcement purposes other than material declared exempt under paragraph 3(j)(2) of the Act, which is maintained in investigation files of the Division of Investigation of the Office of Workers' Compensation Programs of the Employment Standards Administration is exempt from paragraphs (c)(3), (d), (e)(4), (G), (H), and (I), and paragraph (f) of 5 U.S.C. 552a. The disclosure of information contained in civil investigative files, including the names of persons and agencies to whom the information has been transmitted, would substantially compromise the effectiveness of the Division's investigations. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence, or otherwise escape civil enforcement action. Disclosure of this information could lead to the intimidation of, or harm to informants, witnesses, and their respective families, and, in addition, could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained would also impede significantly the effectiveness of the Division's investigatory activities.

DOL/ESA-24

System name: Office of Workers' Compensation Programs, Longshoremen's and Harbor Workers' Compensation Act Special Fund System

System location: Division of Longshore and Harbor Workers' Compensation, Room C4315, 200 Constitution Avenue NW., Washington, D.C. 20210.

Categories of individuals covered by the system: Persons receiving compensation and related benefits under the Longshoremen's and Harbor Workers' Compensation Act.

Categories of records in the system: Bills, vouchers, and records of payment for compensation and related benefits under the Longshoremen's and Harbor Workers' Compensation Act.

Authority for maintenance of the system: 33 U.S.C. 901 et seq. (20 CFR 701 et seq.), 36 U.S.C. 501 et seq., 42 U.S.C. 1951 et seq., 43 U.S.C. 1331 et seq.; 5 U.S.C. 8171 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure of payment information to insurance carriers or self-insurers under the Longshoremen's and Harbor Workers' Compensation Act in instances of verification of payment.

Storage: The information is maintained as written records and documents in letter size manual files stored in four and five drawer cabinets.

Retrievability: By name of payee.

Safeguards: Files are locked at night and maintained during working hours under the constant supervision of OWCP personnel.

Retention and disposal: To be determined.

System manager(s) and address: Associate Director, OWCP, Division of Longshore and Harbor Workers Compensation, U.S. Department of Labor, 200 Constitution Avenue NW., Room C4315, Washington, D.C. 20210.

Notification procedure: Contact System Manager.

Record access procedures: Contact System Manager.

Contesting record procedures: Contact System Manager.

Record source categories: Insurers and self-insurers under the Longshoremen's and Habor Workers' Compensation Act and parties providing covered benefits and service to approved claimants under the Act.

DOL/OSHA-1

System name: Discrimination Complaint File.

System location: For Standard Federal Region I through V, at the following address; Operations Review Office, U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building, Room 1110A, Charles Center, 31 Hopkins Plaza, Baltimore, Md. 21201, for Standard Region VI through X, at the following address: Operations Review Office, U.S. Department of Labor, Occupational Safety and Health Administration, Room 3100, Federal Office Building, 909 First Avenue, Seattle, Wash. 93174.

Categories of individuals covered by the system: Individuals who have filed complaints pursuant to section 11(c) of the Occupational Safety and Health Act.

Categories of records in the system: Case files compiled in connection with investigations of discrimination complaints.

Authority for maintenance of the system: Section 11(c) of the Occupational Safety and Health Act (Pub. L. 91-596).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None.

Storage: Manual files.

Retrievability: By complainant's name or case identification number.

Safeguards: Locked file cabinets.

Retention and disposal: Retained for 3 years after completion of investigation then forwarded to GSA Records Center.

System manager(s) and address: Operations Review Officer at address where system is located.

Notification procedure: To Systems Managers at above address.

Record access procedures: As above.

Contesting record procedures: As above.

Record source categories: Complaints filed by individuals alleging discrimination and information compiled in connection with investigations of alleged acts of discrimination.

Systems exempted from certain provisions of the act: In accordance with paragraph (k)(2) of the Privacy Act, investigatory material compiled for law enforcement purposes which is maintained in the Discrimination Complaint File is exempt from paragraphs (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of 5 U.S.C. 552a.

Disclosure of information contained in this file could threaten investigators, witnesses, informants and their families with adverse consequences and could hinder effective enforcement of the Occupational Safety and Health Act. In order to conduct effective investigations it is necessary to guarantee the confidentiality of information being collected. Release of such information would constitute a breach of the guarantee of confidentiality, could lead to the intimidation, harassment of dismissal from employment of those involved, and would discourage those contacted in future investigations from cooperating with investigators.

Two systems of records were not published in full in the 1977 Compilations. These systems were included in the DOL index. The full text of the systems is published below.

DOL/ETA—4

System name: Bureau of Apprenticeship and Training. National Industry.

System location: Bureau of Apprenticeship and Training. Room 5414. Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213.

Categories of individuals covered by the system: Apprentices.

Categories of records in the system: Program Sponsor.

Authority for maintenance of the system: Public Law 308 (Fitzgerald Act)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None

Storage: Manual Files—programs and apprentice registration cards for apprentices.

Retrievability: Program sponsor name, apprentice's name and apprenticeable occupation.

Safeguards: Standard file cabinets with locks.

Retention and disposal: Retain three years and commit to Archives.

System manager(s) and address: Director, Office of National Industry Promotion, Room 5414, Patrick Henry Building, 601 D Street NW., Washington, D.C.

Notification procedure: As above.

Record access procedures: As above.

Contesting record procedures: As above.

Record source categories: Program Sponsor.

DOL/ETA—5

System name: ESARS 2 Sample File.

System location: Room 2821, GAO Building, 441 G Street NW., Washington, D.C.; Room 4410 Patrick Henry Building, 601 D Street NW., Washington, D.C.

Categories of individuals covered by the system: Employment Service Applicants.

Categories of records in the system: Characteristics of individual such as age, sex, race and ES Services provided to him.

Authority for maintenance of the system: 29 U.S.C. 49, et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None.

Storage: Magnetic Tape.

Retrievability: By region, State, SSN.

Safeguards: Routine computer precautions limiting access to authorized expenditure codes.

Retention and disposal: 5 years. Destroyed by scratching tape.

System manager(s) and address: Chief, Division of ADP Systems, Patrick Henry Bldg., Room 4410, 601 D Street, NW., Washington, D.C. 20213.

Notification procedure: As above.

Record access procedures: As above.

Contesting record procedures: As above.

Record source categories: All records came from the State Employment Service Offices in the 50 States, P.R. and D.C.

The Federal Coal Mine Health and Safety Act, 30 U.S.C. 801 et seq., was amended by the Federal Mine Safety and Health Amendments Act of 1977, Public Law 95-164. Under these amendments certain functions formerly under the responsibility of the Department of the Interior were transferred to the Department of Labor. These functions are now being carried out by the Mine Safety and Health Administration, MSHA, of the Department of Labor. The Department of Labor now publishes those systems of records which were transferred to the Department of Labor from the Department of the Interior, with such amendments as are necessary to reflect their transfer. All systems of records published as Interior/EMS by the Department of the Interior on April 11, 1977, and in Volume VI of the 1977 Privacy Act compilation are hereby published by the Department of the Interior except for Interior/EMS-11, National Mine Health and Safety Academy Records, which will continue to be published by the Department of the Interior.

DOL/MSHA—1

System name: Coal and Metal and Nonmetal Mine Accident and Injury.

System location: Health and Safety Analysis Center, Technical Support Center, 730 Simms Street, Lakewood, Colo. 80215.

Categories of individuals covered by the system: Individual workers in the coal and metal and nonmetal mining industries.

Categories of records in the system: These records contain accident, injury, fatality, and occupational illness data which includes the individual miner's name, social security number, date and time of accident or injury, place of accident or injury, man-hours worked, name of mine, and mine identification number and type and cause of accident, injury or illness.

Authority for maintenance of the system: Section 103 of Public Law 91-173 as amended by Public Law 95-164.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to determine probable cause of accidents, injuries, and illnesses and (b) to provide a statistical analytic data base for allocation of MSHA and other resources to reduce occupational injuries and illnesses. Disclosures outside the Department of Labor may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license; (3) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual—in file folders; computer—disk pack.

Retrievability: indexed by mine identification number, name of mine, individual's name, and social security number. Retrieved by manual search, frequently used information maintained on computer printouts.

Safeguards: Computer—in accordance with the National Bureau of Standards publication "Computer Security Guidelines for Implementing the Privacy Act of 1974". Manual—file cabinets. During working hours records are accessible only to authorized personnel.

Retention and disposal: Source document are retained for up to 3 years and then transferred to Federal Records Center. Tapes are retained indefinitely for historical purposes. Microfilm records are held for 5 years and then disposed of.

System manager(s) and address: Chief, Health and Safety Analysis Center, 730 Simms Street, Lakewood, Colo. 80215.

Notification procedure: Inquiries regarding the existence of records should be addressed to the system manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required.

Record access procedures: To see your records write the systems manager or the offices cited under "Records Location." Describe as specifically as possible the records sought.

Contesting record procedures: To request corrections or the removal of material from your files, write the systems manager.

Record source categories: Information in these records is obtained from accident, injury, illness and fatality reports submitted by mine operators.

DOL/MSHA—2

System name: Identification Cards

System location: Mine Safety and Health Adminstration, Branch of Records Management, 4015 Wilson Blvd., Arlington, Va. 22203.

Categories of individuals covered by the system: Individuals who require identification for the purpose of carrying out their activities work. Individuals who have been appointed by the Secretary as Duly Authorized Representatives (DAR) to administer the provisions of Public Law 91-173 as amended by Public Law 95-164.

Categories of records in the system: Contain individual's name; some DAR records contain a statement of an individual's qualifications (e.g., education, work experience, training, etc.) as a justification for being appointed as a DAR.

Authority for maintenance of the system: Employee identification cards—5 U.S.C. 3101. DAR identification cards—Section 505 of Public Law 91-173 as amended by Public Law 95-164.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) issuance of identification cards; (2) transfer to the U.S. Department of Justice in the event of litigation involving the records or the subject matter of these records; (3) transfer, in the event there is an indicated violation or potential violation of a statute, regulation, rule, order, or license, whether civil, criminal or regulatory in nature, to the appropriate agencies, whether Federal, State, local, or foreign, charged with the responsibility of investigaion or prosecuting such violation or charged with enforcing or implementing the statute, regulation, rule, order, or license violated or potentially violated; (4) disclosure to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses. If necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit; (5) disclosure to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Continuous listing maintained in manual form on 8 x 10.5 inch paper filed in manila folders, and stored in file cabinets.

Retrievability: Indexed by name and number issued.

Safeguards: Records are kept in a locked file cabinet and only those employees who work with the records have access to them.

Retention and disposal: Records are maintained until a notice of change or employment is terminated and destroyed when no longer needed.

System manager(s) and address: Records Management Officer, Division of Management Services, MSHA, 4015 Wilson Blvd., Arlington, Va. 22203.

Notification procedure: Inquiries regarding records in this system should be addressed to the system manager. Such requests must be submitted in writing and signed by the requester.

Record access procedures: A request for access may be addressed to the system manager. The request must be in writing and be signed by the requester.

Contesting record procedures: A petition for amendment shall be addressed to the system manager.

Record source categories: Information is obtained from individuals and personnel records as needed.

DOL/MSHA—3

System name: Metal and Nonmetal Mine Safety and Health Management Information

System location: (1) Office of the Administrator for Metal and Nonmetal Mine Safety and Health, U.S. Department of Labor, 4015 Wilson Blvd., Arlington, Va. 22203. (2) Substantially all district and subdistrict offices (See Appendix for addresses.)

Categories of individuals covered by the system: Individual metal and nonmetal miners who are covered by the Federal Mine Safety and Health Amendments Act of 1977, Public Law 91-173 as amended by Public Law 95-164; MSHA personnel.

Categories of records in the system: Contains records on metal and nonmetal mine safety and health activities which include annual manpower and activity plans, mine and mill locations, metal and nonmetal mine inspection personnel time and activity, inspections, citations, and orders against operators, personal exposure data on personnel exposure of miners and MSHA Personnel to radiation, dust, noise and other contaminants, and comprehensive health surveys on individual operations.

Authority for maintenance of the system: Public Law 91-173 as amended by Public Law 95-164; 29 U.S.C. 668.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to determine the workload work scheduling and performance of mine inspection personnel; (b) to maintain records on violations of health and safety standards and regulations; (c) to determine contaminant exposure level; (d) employment data relative to metal and nonmetal mine workers, e.g., number of workers, etc. Disclosures outside the Department of Labor may be made (1) to the National Institute of Occupational Safety and Health and the Environmental Protection Agency information resulting from special health studies; (2) to provide State agencies applicable inspection reports, surveys on personnel exposure and special health studies; (3) to furnish unions and company officials inspection reports containing exposure data pertaining to members and employees, respectively; (4) to the U.S. Department of Justice when related to litigation or anticipated litigation; (5) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rules, regulation, order or license; (6) from the

record of an individual in response to an inquiry from a congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and

Systems exempted from certain provisions of the act: Under the specific exemption authority provided by 5 U.S.C. 552a(k)(2), exempting this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) and

the Bureau of Mines, ADP. All other official payroll data are disposed of in accordance with General Records Schedule No. 2, FPMR 101-11.4.

Notification procedure: To determine whether records are maintained on you in this system, write to the system manager or to the office cited under System Location.

V 43 / 182 SEP 19 78

record of an individual in response to an inquiry from a congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer—information from source documents to punch cards to disk storage for processing, final storage on magnetic tape. Manual—8 x 10.5 inch report forms in standard file cabinets.

Retrievability: Computerized and manual records are indexed by mine identification number for operators, by authorized representative number for individuals.

Safeguards: Computer—In accordance with the National Bureau of Standards publication, "Computer Security Guidelines for Implementing the Privacy Act of 1974." Manual—locked file cabinets. During working hours records are accessible only to authorized personnel.

Retention and disposal: Computer—tapes are retained indefinitely. Punch cards and source documents are destroyed after 90 days. Manual—retained indefinitely.

System manager(s) and address: Thomas J. Shepich, Metal and Nonmetal Mine Safety and Health, 4015 Wilson Blvd., Arlington, Va. 22203.

Notification procedure: To determine whether the records are maintained on you in this system, write to the system manager, or to the offices cited under Records Location.

Record access procedures: To see your records write the system manager or the office cited under Records Locatlon. Describe as specifically as possible the records sought.

Contesting record procedures: To request corrections or the removal of material from your files, write the system manager.

Record source categories: MSHA inspection personnel and individual mine operators submit reports and information in accordance with prescribed procedures.

DOL/MSHA—4

System name: Employee Conduct Investigations

System location: Mine Safety and Health Administration, Office of Internal Affairs, U.S. Department of Labor, 4015 Wilson Blvd., Arlington, Va. 22203.

Categories of individuals covered by the system: Any MSHA employee against whom any allegation of misconduct, illegal acts, conflict of interest, etc. has been made.

Categories of records in the system: Contains the name, organization, allegation and other pertinent information relating to the individual involved. It also contains the investigative report associated with the case including interviews and other confidential data gathered by investigators.

Authority for maintenance of the system: 5U.S.C. 301, 7301, Executive Order 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to determine facts and circumstances relative to allegations. Disclosures outside the Department of Labor may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigations; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual; and (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual—in manila file folders

Retrievability: Filed by name in alphabetical order. Retrieved by manual search.

Safeguards: Stored in GSA approved 3-way combination safe.

Retention and disposal: Reports of completed investigations are disposed of after 30 years. Matters not subjected to full field investigations are disposed of after 15 years. Destruction is by shredding or burning under supervision.

System manager(s) and address: Chief, Office of Internal Affairs, MSHA, 4015 Wilson Blvd., Arlington, Va. 22203.

Systems exempted from certain provisions of the act: Under the specific exemption authority provided by 5 U.S.C. 552a(k)(2), exempting this system from the following provisions of the Privacy Act; 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) and the portions of 29 CFR 70a which implement these provisions.

DOL/MSHA—5

System name: Payroll Records

System location: Mine Safety and Health Administration, Branch of Finance, P.O. Box 25367, 730 Simms Street, Lakewood, Colo. 80215.

Categories of individuals covered by the system: Current MSHA employees and those formerly employed by MSHA within the last 3 years.

Categories of records in the system: A variety of documents which set forth or effect an employees annual wage rate, leave, biweekly earnings, payroll deductions, and disposition of earnings. Hard copy records consist of folders of action type documents for each employee: These records are source documents for data records on computer tape for payroll purposes.

Authority for maintenance of the system: 5 U.S.C. 5101, et seq., Budget and Accounting Procedures Act of 1950, as amended, 31 U.S.C. 66a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to provide information and accounting records regarding employees pay and leave for the automated payroll data file; (b) to inform each MSHA office of the composition of the labor cost changes by reporting total payroll changes for each individual made to various cost accounts within the finance system. This reporting is made every 2 weeks on a regular payroll cycle. Disclosures outside the Department of Labor may be made (1) to provide States with pay data relative to plans for unemployment compensation; (2) to the Department of the Treasury for preparation of (a) payroll checks and (b) payroll deduction and other checks to Federal, State, and local government agencies, non-governmental organizations and individuals; (3) to the Internal Revenue Service, the Social Security Administration and to State, commonwealth, territorial and local governments for tax purposes; (4) to the Civil Service Commission in connection with the Civil Service Retirement System; (5) Federal Employees Government Life Insurance, and Health Benefits Program; (6) to carriers of health insurance benefits; (7) to labor unions for dues; (8) to charitable institutions for charity contributions; (9) to courts and court representatives requesting earnings and deductions information for alimony and child support under Public Law 93-579; (10) to another Federal agency to which employee had transferred; (11) to provide SSN for use in identifying MSHA employee travel advance accounts which are maintained in travel advance file; (12) to the U.S. Department of Justice when related to litigation or anticipated litigation; (13) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license; (14) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual; (15) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; (16) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of security clearance, contract, license, grant or other benefit.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained manually in file folders, and automated on computer magnetic tape, microfiche, microfilm, and punched cards.

Retrievability: File folders are maintained by name and all others by social security number.

Safeguards: Files are kept in locked metal filing cabinets which are posted with the appropriate Privacy Act warning. During working hours only authorized personnel have access to the files. Computer: Safeguards as described in the National Bureau of Standards booklet, "Computer Security Guidelines for Implementing the Privacy Act of 1974," and procedures developed by MSHA under GSA Circular E-34.

Retention and disposal: Punched cards are destroyed after 1 year. Magnetic tapes are erased and reused in accordance with schedule of retention agreed to by the Chief, Division of Budget and Finance, and the Chief, Division of Automatic Data Processing, MSHA, and

the Bureau of Mines, ADP. All other official payroll data are disposed of in accordance with General Records Schedule No. 2, FPMR 101-11.4.

System manager(s) and address: Chief, Branch of Finance, MSHA. P.O. Box 25367, 730 Simms Street, Lakewood, Colo. 80215.

Notification procedure: Inquiries regarding records in this system should be addressed to the system manager. Such request must be submitted in writing and signed by the requester.

Record access procedures: To see your records write the systems manager or the office cited under System Location. Describe as specifically as possible the records sought.

Contesting record procedures: To request corrections or the removal of material from your files, write the system manager.

Record source categories: Information in this system of records comes from individual to whom it applies or is derived from information he supplied. Payroll leave regulations are all established by public law and the effect upon the individual is in accordance with such public laws and regulations. Generally, most payroll source data are echo records of official personnel actions.

DOL/MSHA—6

System name: Travel

System location: (1) Mine Safety and Health Administration, Branch of Finance, P.O. Box 25367, 730 Simms Street, Lakewood, Colo. 80215. Input documents supplied by all facilities of the Mine Safety and Health Administration.

Categories of individuals covered by the system: All persons traveling for or in behalf of MSHA on official business.

Categories of records in the system: Voucher file consists of copies of paid travel vouchers, SF-1012, which serve to reimburse travelers for expenses incurred in connection with official travel and travel anthorizations, MSHA Form 1000-3, which authorizes employee to incur expenses. Travelers home address and SSN are likely to be found on these two forms.

Authority for maintenance of the system: 5 U.S.C. 5701, et seq., GSA regulations, FPMR 101-7 dated May 1973, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) as backup entry data for obligation and disbursements in the automated finance system of MSHA; (b) as an audit file for researching historical data; (c) for travel cost information which is reported to each MSHA office as part of the detailed composition of monthly expense reports for cost accounts within the finance system. Only data pertinent to individual MSHA offices are available to that office. Disclosures outside the Department of Labor may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statue, regulation, rule, order or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statue, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, contract, license, grant, or other benefits; (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant, or other benefit.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders in steel filing cabinets in Branch of Finance.

Retrievability: Vouchers are filed by bureau voucher number and alphabetically by traveler name. Travel authorizations are filed by transaction number. Retrieved by manual search.

Safeguards: Files are kept in locked metal filing cabinets which are posted with the appropriate Privacy Act warning. During working hours only authorized personnel have access to the files. Computer: Safeguards as described in the National Bureau of Standards booklet, "Computer Security Guidelines for Implementing the Privacy Act of 1974," and procedures developed by MSHA under GSA circular E-34.

Retention and disposal: Disposition is in accordance with General Records Schedule No. 6, FPMR 101-11.4.

System manager(s) and address: Chief, Branch of Finance, MSHA, P.O. Box 25367, 730 Simms Street, Lakewood, Colo. 80215.

Notification procedure: To determine whether records are maintained on you in this system, write to the system manager or to the office cited under System Location.

Record access procedures: To see your records write the system manager or the office cited under System Location. Describe as specifically as possible the records sought.

Contesting record procedures: To request corrections or the removal of material from your files, write the system manager.

Record source categories: Travel vouchers are submitted by the traveler after incurring expenses of official travel pursuant to a signed travel authorization. Each voucher is a request for payment based on the tavelers record of official expenses. Input documents are supplied by all facilities of MSHA.

DOL/MSHA—7

System name: Travel Advance File

System location: Mine Safety and Health Administration, Branch of Finance, P.O. Box 25367, 730 Simms Street, Lakewood, Colo. 80215.

Categories of individuals covered by the system: All MSHA employees who have outstanding travel advances or who have closed travel advances.

Categories of records in the system: File consists of automatic data tape files of travel advance transactions retrieved on the basis of social security numbers, and forms filed in alphabetical order by surname, whereon employees request and receive advances of funds for the purpose of paying travel expenses incurred in the performance of official Government business. These forms also include a record of repayment against an advance, whether by set-off on travel vouchers or repaid by check, money order, etc.

Authority for maintenance of the system: 5 U.S.C. 5701 et seq., GSA regulations FPMR 101-7.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to provide an accounting record of obligation due to the U.S. Government from employees who have cash advances to defray expenses incurred in official travel. Payments to the traveler and repayments to the Government are reflected in this record; (b) to serve as a source file of hard copy documents for entries for travel advances in the Automated Finance System; and (c) computer listings are produced monthly of outstanding travel advances for supporting accounts receivable. Listings are also produced with a computer analysis to assist in the control and proper utilization of travel advances. Listings are produced in alphabetical order by name of traveler. Computer generated verification notices are mailed to individual travelers on a quarterly basis. Disclosures outside the Department of Labor may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license; (3) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, contract, license, grant, or other benefit; (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of security clearance, contract, license, grant or other benefit.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file boxes in the Branch of Finance and on magnetic tape in the Division of A.D.P.

Retrievability: Files are indexed alphabetically by employee name and retrieved by manual search.

Safeguards: Files are kept in locked metal filing cabinets which are posted with the appropriate Privacy Act warning. During working hours only authorized personnel have access to the files. Computer: Safeguards as described in the National Bureau of Standards booklet, "Computer Security Guidelines for Implementing the Privacy Act of 1974," and procedures developed by MSHA under GSA circular E-34.

Retention and disposal: Disposition is in accordance with General Records Schedule 9 FPMR 101-11.4

System manager(s) and address: Chief, Branch of Finance, MSHA, P.O. Box 25367, 730 Simms Street, Lakewood, Colo. 80215.

Notification procedure: To determine whether records are maintained on you in this system, write to the system manager or to the office cited under System Location.

Record access procedures: To see your records write the system manager or the office cited under System Location. Describe as specifically as possible the records sought.

Contesting record procedures: To request corrections or the removal of material from your files, write the system manager.

Record source categories: Information for this system originates with the traveler who specifies the need of a travel advance on MSHA Form 1000-8, the request is concurred in by signature of a responsible supervisory official. Repayment entries on the file are as a result of actions taken by the individual to liquidate his travel advance.

DOL/MSHA—8

System name: Accident and Injury Records

System location: Office of Mine Safety and Health Administration Employee Safety Manager, U.S. Department of Labor, 4015 Wilson Blvd., Arlington, Va. 22203.

Categories of individuals covered by the system: Any MSHA employee who has had an on-the-job accident or injury.

Categories of records in the system: Records contain investigative information pertaining to any accident or injury an employee of MSHA is involved in.

Authority for maintenance of the system: 5 U.S.C. 7902, Sections 6 and 19 of the Occupational Safety and Health Act of 1970, 29 U.S.C. 668, Executive Order 11807.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to identify deficiencies in the Employee Safety Programs that must be corrected in order to maintain a safe and healthy work environment; (b) adjudication of tort, employee, and similar claims against the Government. Disclosures outside the Department of Labor may be made (1) to General Services Administration when a GSA motor vehicle is involved in an accident; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, and/or license; (4) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual; (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license contract, grant, or other benefit.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in manila folders.

Retrievability: Indexed by assigned accident number.

Safeguards: Folders kept in locked filing cabinets.

Retention and disposal: Reports are kept for 5 years and then destroyed.

System manager(s) and address: MSHA Employee Safety Manager, U.S. Department of Labor, 4015 Wilson Blvd., Arlington, Va. 22203.

Notification procedure: Inquiries regarding records in this system should be addressed to the systems manager. Such requests must be submitted in writing and be signed by the requester.

Record access procedures: To see your records write the systems manager or the office cited under System Location. Describe as specifically as possible the records sought.

Contesting record procedures: A petition for amendment should be addressed to the systems manager.

Record source categories: Reports are completed by the individual employees and their supervisors.

DOL/MSHA—9

System name: Clearance Records

System location: MSHA, Branch of Records Management, 4015 Wilson Blvd., Arlington, Va. 22203.

Categories of individuals covered by the system: Employees and prospective employees of MSHA on whom a security investigation has been conducted by the CSC or FBI.

Categories of records in the system: Records pertain to loyalty checks, character evaluations, and other information resulting from investigation by the CSC or NACI's.

Authority for maintenance of the system: Executive Order 10450.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Information used to determine qualifications of individuals for employment in sensitive positions with MSHA. (2) Transfer to the Department of Justice in the event of litigation involving the records or the subject matter of the records. (3) Transfer, in the event there is indicated a violation or potential violation of a statute, rule, regulation, order, or license, whether civil, criminal or regulatory in nature, to the appropriate agencies, whether Federal, State, local, or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, regulation, rule, order, or license violated or potentially violated. (4) Disclosure to a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (5) Disclosure to a Federal agency, in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in manila file folders.

Retrievability: Filed alphabetically by last name.

Safeguards: Files are kept in an approved three-way combination safe and only employees who have security clearance and are responsible for the system have access.

Retention and disposal: Records are kept as long as the individual is employed and then the records are destroyed.

System manager(s) and address: MSHA, Chief, Branch of Records Management, 4015 Wilson Blvd., Arlington, Va. 22203.

Notification procedure: Inquiries regarding records in this system should be addressed to the system manager. Such requests must be submitted in writing and be signed by the requester.

Record access procedures: A request for access may be addressed to the system manager. The request must be in writing and be signed by the requester.

Contesting record procedures: A petition for amendment should be addressed to the system manager.

Record source categories: Loyalty checks, inquiries, field investigations reports, and other Government agencies.

DOL/MSHA—10

System name: Coal Mine Health and Safety Special Investigations

System location: Office of the Administrator—Coal Mine Safety and Health, Mine Safety and Health Administration, U.S. Department of Labor, 4015 Wilson Boulevard, Arlington, Va. 22203 and some of the Coal Mine Safety and Health offices (see Appendix for address).

Categories of individuals covered by the system: Any individual alleged to have committed or have information concerning willfull or knowing violations of the Federal Mine Safety and Health Act of 1977 and the Coal Mine Health and Safety Act of 1969 and related section of the U.S. Code.

Categories of records in the system: Contains name, address, telephone number, social security number, occupation, place of employment, and other identifying data along with the type of allegation. This material includes interviews and other confidential data gathered by the investigator.

Authority for maintenance of the system: Investigations conducted pursuant to Sections 103, 105(c) and 110 of Public law 91-173 or amended by Public Law 95-164.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to determine validity of allegations and (b) for use in determining amount of civil penalty assessments against individuals and operators. Disclosures outside of the Department of Labor may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a

violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license; (3) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; and (5) to Federal, State, or local agncies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant, or other benefit.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual: In manila file folders.

Retrievability: Filed by docket and status of case, indexed by name of mine, docket number, and date of receipt. Retrieved by manual search.

Safeguards: Maintained in locked file cabinets. Accessed only by authorized personnel.

Retention and disposal: Retained for 5 years then transferred to Federal Records Center. Destroy after 10 years.

System manager(s) and address: Administrator, Coal Mine Safety and Health, Room 814, Ballston Tower 03, 4015 Wilson Blvd., Arlington, Va. 22203.

Systems exempted from certain provisions of the act: Under the specific exemption authority provided by 5 U.S.C. 552a(k)(2) exempting this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) and the portions of 29 CFR, 70a which implement these provisions.

DOL/MSHA—12

System name: Property Control

System location: (1) Mine Safety and Health Administration, Chief, Division of Management Services, 4015 Wilson Blvd., Arlington, Va. 22203, (2) Substantially all field offices in lists of field offices in Appendix.

Catcgories of individuals covered by the system: Any person who has responsibility for MSHA property; who have reserved parking spaces assigned, or who have submitted invention reports and all records directly related to property control functions.

Categories of records in the system: Contains information indicating what property, including equipment, application for motor vehicle operator's license, keys, motor pool vehicles, requests for assignment of carpool or reserved parking spaces, and transportation request books, for which the employee has custody and/or responsibility. A list is maintained of inventions by case numbers. In addition, all other records directly related to property control functions.

Authority for maintenance of the system: Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 483(b)(1).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is the identification and control of MSHA property. Disclosure outside the Department of Labor may be made (1) to the U.S. Department of Justice when related to litigation or anticiapted litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, or license, to appropriate Federal, State, local or foreign agencies responsible for investigation or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license; (3) disclosure from the record of an individual in response to an inquiry from a congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are kept in manual form in file folders or cards indexes, microfiim cassettes, and computer disks.

Retrievability: Indexed by alphabetical order or control number. Entire file retrieved by manual search; frequently used information maintained on computer printouts.

Safeguards: Computer: In accordance with the National Bureau of Standards publication "Computer Security Guidelines for Implementing the Privacy Act of 1974." Manual: File cabinets. During working hours records are accessible only to authorized personnel.

Retention and disposal: In accordance with the General Records Schedule.

System manager(s) and address: Chief, Division of Management Services, MSHA, 4015 Wilson Blvd., Arlington, Va. 22203.

Notification procedure: To determine whether the records are maintained on you in this system, write to the systems manager or to the offices cited under Records Location.

Record access procedures: To see your records write the systems manager or the offices cited under Records Location. Describe as specifically as possible the records sought.

Contesting record procedures: To request corrections or the removal of material from your files, write the systems manager.

Record source categories: MSHA employees and any property control records maintained by MSHA.

DOL/MSHA—13

System name: Coal Mine Respirable Dust Program

System location: Coal Mine Safety and Health Activity, MSHA, U.S. Department of Labor, 4015 Wilson Blvd., Arlington, Va., 22203, and substantially all coal mine safety and health offices listed in Appendix.

Categories of individuals covered by the system: Individual coal miners for whom personal dust samples have been submitted for analysis.

Categories of records in the system: Contains data concerning mine identification, mine section, name of individual sampled, social security number, date of sample, and concentration of respirable dust contained in the personal sampler.

Authority for maintenance of the system: Title II of Public Law 9-173, Federal Coal Mine Health and Safety Act of 1969, as amended by Public Law 95-164 206.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to determine respirable dust levels in every active working mine to insure compliance with dust level standards. Disclosures outside the Department of Labor may be made (1) of respirable dust data to the U.S. Department of HEW in accordance with provisions of Public Law 91-173 as amended by Public Law 95-164; (2) of special studies relative to occupational types, mining methods, ventilation, etc., (3) to furnish mine operators with information relevant to the respirable dust program as it applies to their operations as required by the law; (4) to the U.S. Department of Justice when related to litigation or anticipated litigation; (5) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license; (6) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer on diskettes and mag tape.

Retrievability: Indexed by mine identification number and social security number frequently used information is maintained on computer printouts.

Safeguards: Records are stored in locked steel cabinets in locked rooms with access being granted only to duly authorized personnel.

Retention and disposal: Analysis forms are mailed to Denver and microfilmed. The forms and the microfilm record are maintained indefinitely. Computer tapes are purged periodically and computer output is utilized in the districts indefinitely.

System manager(s) and address: Chief, Division of Health, Coal Mine Safety and Health, MSHA, 4015 Wilson Blvd., Arlington, Va. 22203.

Notification procedure: To determine whether the records are maintained on you in this system, write to the system manager.

Record access procedures: To see your records write the system manager. Describe as specifically as possible the records sought.

Contesting record procedures: To request corrections or the removal of material from your files, write the system manager.

Record source categories: Mine operators submit the information used in this system.

DOL/MSHA—14

System name: Coal Mine Noise Level Program

System location: (1) Coal Mine Safety and Health Activity, MSHA, U.S. Department of Labor, 4015 Wilson Blvd., Arlington, Va. 22203.

(2) Substantially all Coal Mine Safety and Health Offices listed in Appendix.

Categories of individuals covered by the system: Individual coal

grams; (e) to verify that individuals have completed required training; (f) statistical reporting of training data in various formats for a variety of uses, e.g., reporting to Congress, publications, etc. Disclo-

cerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. (6) Disclosure to a Federal agency, in response to its request, in connection with the hiring or retention of

Record access procedures: Individuals may write the system manager at the address indicated above for information concerning the procedures involved in gaining access to records in this system.

Contesting record procedures: A petition for amendment shall be in

(2) Substantially all Coal Mine Safety and Health Offices listed in Appendix.

Categories of individuals covered by the system: Individual coal miners for whom noise level samples have been submitted for analysis.

Categories of records in the system: Contains data concerning mine identification, mine section, name of individual sampled, social security number, date of sample, and noise level data.

Authority for maintenance of the system: Title II of Public Law 91-173, Federal Coal Mine Health and Safety Act of 1969 as amended by Public Law 95-164.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are: (a) determine noise levels in every active working mine to insure compliance with noise level standards; (b) special studies relative-to occupational types mining methods, ventilation, etc. Disclosures outside the Department of Labor may be made (1) to furnish mine operators with information relevant to the noise program as it applies to their operations as required by the law; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license; (4) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Currently noise level data is entered onto a form which is sent to District Offices for manual processing and filing in manila folders. All district offices utilize diskettes and minicomputers to process the data.

Retrievability: Data is indexed by mine identification number, name of mine, name of operator, name of individual, and individual social security number.

Safeguards: Maintained in locked file cabinet. Accessed only by authorized personnel.

Retention and disposal: Forms and diskettes are retained indefinitely in District offices.

System manager(s) and address: Chief, Division of Health, Coal Mine Safety and Health, MSHA, 4015 Wilson Blvd., Arlington, Va. 22203.

Notification procedure: To determine whether the records are maintained on you in this system, write to the system manager.

Record access procedures: To see your records write the system manager. Describe as specifically as possible the records sought.

Contesting record procedures: To request correction or the removal of material from your files, write the systems manager.

Record source categories: Mine operators submit the information used in this system.

DOL/MSHA—15

System name: Health and Safety Training Records including Qualification and Certification Data

System location: Qualification and Certification Unit, Education and Training, Mine Safety and Health Administration, 730 Simms Street, Lakewood, Colo. 80215.

Categories of individuals covered by the system: Contains training data on miners, mining industry personnel, and Federal employees who have taken MSHA approved training courses. Also individuals certified and qualified as required by regulations.

Categories of records in the system: Contains name, social security number, mine ID number, training course, certification and/or qualification, instructor's name, and other relevant data.

Authority for maintenance of the system: Section 317(i) and 502 of Public Law 91-173 as amended by Public Law 95-164.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) maintain records of training of individual miners, mining industry personnel, and State and Federal employees who have taken MSHA approved training courses; (b) issue certificates or certification cards to individuals who become qualified or certified under the law, as appropriate; (c) issue certification cards to instructors authorizing them to teach MSHA approved training courses; (d) provide information to monitor and/or expand safety training programs; (e) to verify that individuals have completed required training; (f) statistical reporting of training data in various formats for a variety of uses, e.g., reporting to Congress, publications, etc. Disclosures outside of the Department of Labor many be made (1) to coal companies requesting information to verify training required by law; (2) to Unions requesting information on training status of its members; (3) to coal operators associations requiring training for policy and programming utilization; (4) to the U.S. Department of Justice when related to litigation or anticipated litigation; (5) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local,or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license; (6) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Input forms to key tape to magnetic taps in the computer system. Microfilm records are stored in the Qualification and Certification Unit.

Retrievability: Computerized records are indexed by mine identification and individual social security numbers. Microfilm records are retrieved on basis of mine identification numbers, date, and course.

Safeguards: Computer safeguards as described in the National Bureau of Standards booklet "Computer Security Guidelines for Implementing the Privacy Act of 1974" and procedures developed by MSHA under GSA Circular E-34. Files are posted with the appropriate Privacy Act warning. During working hours only authorized personnel have access to take files.

Retention and disposal: Computer records are maintained on yearly historical file. Reporting outputs are discarded after they have served their purpose. Microfilm records are being maintained indefinitely for historical file purposes.

System manager(s) and address: Education Specialist, Qualification and Certification Unit, Education and Training, P.O. Box 25367, 730 Simms Street, Lakewood, Colo. 80215.

Notification procedure: Inquiries regarding records in this system should be addressed to the system manager. Such requests must be submitted in writing and be signed by the requester.

Record access procedures: To see your records write the system manager. Describe as specifically as possible the records sought.

Contesting record procedures: To request corrections or the removal of material from your files, write the system manager.

Record source categories: An individual on whom the record is maintained, instructors of the training courses, mine inspection personnel, mine operators, State personnel and miner's representatives or organizations who provide training courses required by MSHA.

DOL/MSHA—16

System name: Employee Locator System

System location: Mine Safety and Health Administration, Branch of Records Management, 4015 Wilson Blvd., Arlington, Va. 22203.

Categories of individuals covered by the system: Current employees of MSHA.

Categories of records in the system: Records contain name, title, office address, organization symbol, business telephone number, reason for preparation (i.e. new listing, change of address or location, separation).

Authority for maintenance of the system: 5 U.S.C. 301, 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Used to assist callers in locating MSHA employees and for the use of other employees of MSHA who have a need for the records in the performance of their duties. (2) Used to compile agency telephone directory. (3) Transfer to the Department of Justice in the event of litigation involving the records or the subject matter of these records. (4) Transfer in the event there is an indicated violation or potential violation of a statute, regulation, rule, order, or license, whether civil, criminal or regulatory in nature, to the appropriate agencies, whether Federal, State, local, or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, regulation, rule, order, or license violated or potentially violated. (5) Disclosure to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. (6) Disclosure to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation to an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on DI-28 forms on a 3 inch by 5 inch file box.

Retrievability: Records are filed alphabetically by name.

Safeguards: File is kept in a locked cabinet and only those employees who work with the records have access to them.

Retention and disposal: Records are maintained until a notice of change or employment is terminated. Records are destroyed when no longer needed.

System manager(s) and address: Chief, Branch of Records Management, Mine Safety and Health Administration, 4015 Wilson Blvd., Arlington, Va. 22203.

Notification procedure: Inquiries regarding records in this system should be addressed to the system manager. Such requests must be submitted in writing and signed by the requester.

Record access procedures: Individuals may write the system manager at the address indicated above for information concerning the procedures involved in gaining access to records in this system.

Contesting record procedures: A petition for amendment shall be in writing and addressed to the system manager.

Record source categories: Information is from individual employees.

LOCATION OF NOTICES IN 1977 COMPILATION

Notices of this agency's systems of records appear in Volume II of the 1977 Compilation at 42 FR 49654. The price of this volume is sixty dollars and fifty cents.

AVAILABILITY OF 1977 COMPILATION

"Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be examined at the central headquarters and all field offices of this agency. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

[FR Doc. 78-25186 Filed 9-18-78; 8:45 am]

[6315-01]

COMMUNITY SERVICES

Region IV

Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee. 101 Marietta Street, NW., Atlanta, Geor-

TUESDAY, SEPTEMBER 19, 1978
PART III

V 43 / 182 SE 19 78

[6315-01]

COMMUNITY SERVICES ADMINISTRATION

PRIVACY ACT ISSUANCES

Notice of Incorporation by Reference

Agency: Community Services Administration.

Action: Incorporation by reference of Privacy Act issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation" and to publish in full the systems that this agency has amended since publication of the 1977 Compilation.

Dates: This document fulfills the annual notice requirements of the Privacy Act for 1978.

For further information contact: Alan O. Mann, Privacy Act Officer, Community Services Administration, 1200 19th Street, NW., Room 413, Washington, D.C. 20506. Telephone (202) 254-5300.

APPROVAL OF THE DIRECTOR

The notices of systems of records of this agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on August 14, 1978.

Published below is the full text of the "Geographical Guidance for Accessing Systems of Records" to reflect changes in the Regional Office addresses and telephone numbers. Other than these changes none of this agency's systems of records have been amended since the 1977 Compilation.

Geographical Guidance for Accessing Systems of Records

Many CSA systems of records are maintained wholly or partially in the CSA Regional Offices. To facilitate access to such records, a listing of the CSA Regional Offices, the States served thereby, their addresses and telephone numbers are provided:

Region I

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont. John F. Kennedy Federal Building, Room E400, Boston, Massachusetts 02203 (617) 223-4080.

Region II

New Jersey, New York, Puerto Rico, Virgin Islands. 26 Federal Plaza, 32nd Floor, New York, New York 10007 (212) 264-1900.

Region III

Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia. Gateway Building, 3535 Market Street, Room 2260, Philadelphia, Pennslyvania 19104 (215) 596-1000.

Region IV

Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee. 101 Marietta Street, NW., Atlanta, Georgia 30323 (404) 221-2717.

Region V

Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin. 300 South Wacker Drive, 24th Floor, Chicago, Illinois 60606 (312) 353-5987.

Region VI

Arkansas, Louisiana, New Mexico, Oklahoma, Texas. 1200 Main Street, Room M130, Dallas, Texas 75202 (214) 767-6125.

Region VII

Iowa, Kansas, Missouri, Nebraska. 911 Walnut Street, Room 1720, Kansas City, Missouri 64106 (816) 374-3361.

Region VIII

Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming. Federal Building, 1961 Stout Street, Room 1234, Denver, Colorado 80294 (303) 837-4767.

Region IX

Arizona, California, Guam, Hawaii, Nevada, Pacific Trust Territories. 450 Golden Gate Avenue, Box 36008, San Francisco, California 94102 (415) 556-4000.

Region X

Alaska, Idaho, Oregon, Washington. Arcade Plaza Building, Mail Stop 105A, 1321 Second Avenue, Seattle, Washington 98101 (206) 442-4910.

AVAILABILITY OF 1977 COMPILATION

"Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be examined at the central headquarters and all field offices of GSA. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full test of a particular records system published in the 1977 compilation, for a nominal fee.

Location of Notices in 1977 Compilation

Notices of this agency's systems of records appear in Volume V of the 1977 Compilation at pages 53430-53434 (42 FR 53430). The price of this volume is eight dollars.

John Gabusi,
Assistant Director for Management.

[FR Doc. 78-25522 Filed 9-18-78; 8:45 am]

Federal Register

TUESDAY, SEPTEMBER 19, 1978

PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

FILLED MILK PRODUCTS; MILK, CREAM, AND CHEESE SUBSTITUTES; SKIM MILK CHEESE FOR MANUFACTURING; AND CHEESE AND RELATED CHEESE PRODUCTS

Identity Standards

V 4 3 1 1 8 2

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 102]

[Docket No. 78N-0090]

FILLED MILK PRODUCTS COMMON OR USUAL NAME

Withdrawal of Proposal and Termination of Rulemaking Proceedings

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of proposal.

SUMMARY: The Food and Drug Administration is withdrawing the proposal to establish a common or usual name for filled milk products and is terminating the rulemaking proceeding. The proposal would have established by regulation a common or usual name for filled milk products. The Commissioner of Food and Drugs is proposing elsewhere in this issue of the FEDERAL REGISTER a standard of identity for milk and cream substitutes and cheese substitutes.

EFFECTIVE DATE: This action is effective September 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Eugene T. McGarrahan, Bureau of Foods (HFF-415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: Under the U.S. district court decision in *Milnot Co. v. Richardson*, 350 F. Supp. 221 (S.D. Ill., 1972), holding the Filled Milk Act unconstitutional, the Commissioner concluded that appropriate labeling for filled milk products should be promptly considered and a regulation promulgated to govern the common or usual name of these products. Accordingly, a proposal to amend part 102 (21 CFR 102) by adding new § 102.18 to establish a common or usual name for filled milk products was published in the FEDERAL REGISTER of August 2, 1973 (38 FR 20748). Interested persons were invited to comment particularly on the suitability and meaning of the word "filled" in the name of the food.

A total of 250 comments were received in response to the proposal. Of this total, 233 comments either opposed adoption of the proposal as published or questioned the advisability of promulgating regulations governing the common or usual name of these products, and 17 comments favored the proposal as published or on condition that it provide for proof of nutritional equivalency. Stating that the meaning of the word "filled" is not comprehensible and could mislead consumers, 192 comments opposed the use of the term in the name of the food. They also opposed the use of the words "milk" and "cream" in the name of the food because of possible consumer confusion with the traditional product. Six comments favored the terminology as set out in the proposal. Twenty-one comments considered filled milk products to be imitation milk products which should be so labeled. Fourteen comments suggested using names with prefixes such as "mello" or suffixes such as "ine," as in various State regulations for non-milkfat-based products. Also suggested were names such as "modified," "blend," "blended," "substitute," "vegetable fat drink," and "nondairy product."

Since publication of the filled milk products proposal, the Commissioner has observed that many new substitute dairy foods, including cheese substitutes, have been marketed. These foods are made to resemble standardized dairy foods by complete or partial replacement of milkfat and/or milk protein with vegetable fats and proteins. Because the filled milk products proposal provides for the replacement of only milkfat with any fat or oil other than milkfat and does not mention milk protein, it lacks the provisions necessary for regulation of all of the new substitute dairy foods.

Therefore, in view of the adverse comments received on the proposal, and because it does not contain provisions consistent with those necessary for regulation of various other substitute dairy foods, the need for which is demonstrated by recent industry petitions to establish a standard of identity and/or a common or usual name regulation for cheese substitutes, the Commissioner concludes the proposal to establish a common or usual name for filled milk products is no longer necessary and rulemaking proceedings on the matter are terminated.

The Commissioner is proposing elsewhere in this issue of the FEDERAL REGISTER a standard of identity for milk and cream substitutes and cheese substitutes providing for both fat and protein replacement.

This action is taken under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055-1056, as amended, 70 Stat. 919, 72 Stat. 948 (21 U.S.C. 341, 371) and under authority delegated to the Commissioner (21 CFR 5.1)).

Dated: September 8, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-25818 Filed 9-18-78; 8:45 am]

[4110-03]

[21 CFR Parts 131 and 133]

[Docket No. 75P-0121]

SUBSTITUTES FOR MILK, CREAM, AND CHEESE

Standards of Identity

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposal would establish standards of identity for milk and cream substitutes and cheese substitutes. The proposed standards of identity would (1) establish descriptive names for milk and cream substitutes, and cheese and cheese product substitutes, (2) permit the use of any safe and suitable optional ingredients in their formulation, (3) establish compositional requirements including requirements for nutritional equivalence to the foods which they simulate, and (4) establish appropriate labeling requirements. These standards of identity are being proposed because of the introduction of many new dairy food substitutes and in response to petitions from the cheese industry. Any regulation issued on the basis of this proposal will reflect the Commissioner's consideration of relevant information presented at the food labeling hearings announced in the FEDERAL REGISTER of June 9, 1978.

DATES: Comments by November 27, 1978. Proposed compliance for products initially introduced into interstate commerce: One year after the date of issuance of a regulation.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Eugene T. McGarrahan, Bureau of Foods (HFF-415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs, on his own initiative, proposes to establish definitions and standards of identity for milk and cream substitutes (foods made in semblance of standardized milk and cream foods). He also proposes to establish, on his own initiative and in consideration of petitions from the National Cheese Institute, 110 North Franklin Street, Chicago, Ill. 60606; Anderson Clayton Foods Co., One Main Place, Dallas, Tex. 75250; and Fisher Cheese Co., Wapakoneta, Ohio 45895, definitions and standards of identity for cheese and cheese product substitutes (foods made in semblance of cheese, cheese products, pasteurized process cheese, and pasteurized process cheese products).

SEP 19 78

The Commissioner has observed that many new dairy food substitutes, made in semblance of standardized dairy foods, have been introduced in markets recently. This increase in dairy food substitutes is due in part to a relaxation of restrictions on such foods since (1) the Filled Milk Act of 1923 (42 Stat. 1486), 21 U.S.C. 61-64, was declared unconstitutional by the U.S. District Court for the Southern District of Illinois in *Milnot Co. v. Richardson*, 350 F. Supp. 221 (S.D. Ill., 1972) and (2) the Filled Cheese Act of June 6, 1896 (29 Stat. 253) (26 U.S.C. 4831-4836) was repealed on October 6, 1974, by the 93d Congress (88 Stat. 1466).

The repeal of the Filled Cheese Act and the Filled Milk Act was recommended by the White House Conference on Food, Nutrition, and Health in December 1969. Consumers had expressed the desire for modified milk and cheese foods made with vegetable fats, but the development of such foods was inhibited by the restrictive nature of these acts.

The Filled Milk Act prohibited the shipment of any filled milk or cream in interstate commerce. The Filled Milk Act defined "filled milk" as "any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milkfat, so that the resulting food is in imitation or semblance of milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated." This definition, however, was not intended to include any distinctive proprietary food compound which would not be readily mistaken in taste for milk or cream, or where such food was intended for feeding infants and young children.

By taxing the filled cheese and its producers and distributors, the Filled Cheese Act, which was administered by the Internal Revenue Service, sought to control and identify filled cheeses made in semblance of natural cheese. The Filled Cheese Act defined filled cheese as "all substances made from milk or skimmed milk, with the admixture of butter, animal oil or fats, vegetable, or any other oils or compounds foreign to such milk and made in imitation and semblance of cheese."

As a result of the repeal of the filled Cheese Act and the declaration of the Filled Milk Act as unconstitutional, filled cheese foods and filled milk foods are now subject solely to provisions of the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act and move freely in interstate commerce as nonstandardized foods. In view of the change in the regulatory status of these foods and the recent increase in sales of dairy food substitutes, the Commissioner believes that the establishment of standards of identity for these and other foods made in semblance of standardized milk, cream, cheese, and foods made of cheese, will promote honesty and fair dealing in the interest of consumers.

MILK AND CREAM SUBSTITUTES

The Commissioner of Food and Drugs published in the FEDERAL REGISTER of May 18, 1968 (33 FR 7456) a notice of proposed rulemaking to establish standards of identity and quality for imitation milks and creams. Based on comments received in response to that proposal, a revised proposal that was limited to imitation milks was published in the FEDERAL REGISTER of October 9, 1969 (34 FR 15657). All comments received in response to this second proposal were opposed to adoption of the proposal as published. In addition the Commissioner became aware that the production of imitation milks was declining. The Commissioner, therefore, concluded that standards should not be established at that time and a notice of withdrawal of the October 9, 1969, proposal was published in the FEDERAL REGISTER of June 3, 1970 (35 FR 8584).

A third proposal to regulate milk substitutes was published in the FEDERAL REGISTER of August 2, 1973 (38 FR 20748). The proposal sought to establish the common or usual name, "filled ——," for the foods defined by the Filled Milk Act, the blank being filled in with the name of the counterpart milk or cream food as designated in part 131 (21 CFR Part 131). Comments on this proposal suggested that the term "filled" in "filled milk" is meaningless to most consumers and that it might be misleading by implying that something is missing in the traditional dairy food and that the "filled" dairy food is more complete. In view of these and other relevant comments, that proposal is being withdrawn. A notice of withdrawal of that proposal appears elsewhere in this issue of the Federal Register.

The Commissioner has reviewed the comments submitted in response to the imitation milk and filled milk proposals and he is proposing to establish a definition and standard of identity which will govern the composition and labeling of milk and cream substitutes. The Commissioner has observed the market and notes that many new dairy food substitutes are being sold with potentially misleading labeling. Many of these substitutes bear fanciful names while others have adopted "imitation" dairy food labeling. Also, some milk and cream substitute foods contain partial or total milk protein replacements as well as milkfat replacements. The Commissioner believes that a standard of identity that would encompass both types of substitutes should be established for these foods. Accordingly, he is proposing to establish such a standard in new § 131.300 Milk and cream substitutes as set out below.

CHEESE SUBSTITUTES

The Commissioner of Food and Drugs has received three petitions from representatives of the cheese industry proposing the establishment of regulations to govern the nomenclature, composition, and labeling of cheese substitutes. He has also received two letters of comment suggesting common or usual names for these foods. A brief summary of these petitions and comments follows. The petitions and letters of comment are on file with the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

The National Cheese Institutes (NCI), 110 North Franklin Street, Chicago, Ill. 60606, submitted a petition dated June 10, 1975 (docket No. 75P-0121) proposing the establishment of a standard of identity for cheese analogs under the name "Golana" in part 133 (21 CFR Part 133). The NCI petition stated that the name "Golana" was selected because it was pleasant sounding, easily pronounced, and not related to another food. Golana is also "analog" spelled backward. The NCI rejected the word "cheese" as a root word on the ground that such terms might be confused with names of natural cheeses. Further, NCI suggested that the word "analog" was more applicable than words such as "alternate," "substitute," or "imitation," because analog connotes something having properties corresponding to something else, but different in origin. "Imitation," the petition noted, already has been defined in the Code of Federal Regulations and would connote nutritional inferiority, while "substitute" or "alternate" suggests the food is intended to serve in place of another. The NCI petition argued that these foods should stand on their own merits and not ride on the coattails of the foods which they simulate.

Briefly, the petition for the standard of identity for Golana defines a cheese

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analog as the food made in semblance of cheese or a cheese product in which safe and suitable nonmilk ingredients supplement or replace any or all nutritive milk components. The proposed standard would also establish nutritional equivalency requirements for Golana and a system of nomenclature for Golana-type foods based on the degree of semblance to the cheese simulated, including its nutritional equivalency to that food. For example, a Golana simulating mozzarella cheese that conforms to the organoleptic and physical properties, as well as to the established fat and moisture requirements for mozzarella cheese, and contains the required levels of protein and nutrients proposed in the standard of identity for Golana would be named "Golana mozzarella cheese analog." A cheese analog that does not conform to the organoleptic and physical properties, and the fat and moisture requirements for a specific cheese variety, but is nutritionally equivalent to cheddar cheese, would be named simply "Golana cheese analog." However, a food that conforms to the organoleptic and physical properties of a cheese analog, but fails to conform to the organoleptic and physical properties and the compositional requirements of a specific cheese variety, and is not nutritionally equivalent to cheddar cheese would be named "Imitation Golana."

The Anderson Clayton Foods Co., One Main Place, Dallas, Tex. 75250, submitted a petition dated August 13, 1975 (docket No. 75P-0233) proposing the establishment of a common or usual name regulation for cheese substitutes in 21 CFR Part 102, under the name "Cheesana Cheese Substitutes." A second petition dated November 28, 1975 (docket No. 75P-0354) proposing the establishment of a common or usual name regulation for these foods under the name "Cheese and cheese product substitutes" was submitted by the Fisher Cheese Co., P.O. Box 409, Wapakoneta, Ohio 45895. Both firms manufacture cheese substitute-type foods. In both petitions, the proposed common or usual names would reference the type of standardized or recognized cheese variety simulated, e.g., "Cheesana Cheddar Cheese Substitute" or "Cheddar Cheese Substitute," followed by an informative statement defining the distinguishing characteristic of the food such as "contains vegetable oil." Both petitions recommended establishing nutritional equivalency requirements for cheese substitutes but neither would require that the cheese substitute conform to the established fat and moisture requirements of the cheese being simulated.

Two letters from industry representatives suggested common or usual names for cheese substitutes. One comment stated that the name should inform the consumer of the basic nature of the substitute. The comment further suggested the use of a phrase such as "Highly Polyunsaturated Filled —— Cheese" be adopted for filled cheeses which provide a minimum of 30 percent polyunsaturates of total fats, with a total polyunsaturated/saturated fat ratio of at least 1:1 and maximum cholesterol level of 15 milligrams/100 grams product. Filled cheeses which do not meet these standards would simply be designated as "Filled —— Cheese." In both cases, the blank would be filled in with the type of filled cheese, e.g., "cheddar." The second comment suggested that names such as "nondairy imitation cheese" or "nondairy cheese replacement" be used instead of a contrived or arcane name that would be confusing to consumers and that would require extensive advertising to establish the food's identity.

The Commissioner has considered both comments and has decided that the names suggested would not be generally applicable to all types of cheese substitutes. As indicated above, the use of the term "filled"to refer to substitutes containing replacements for milkfat may be confusing to consumers and may cause some consumers to think filled dairy products are superior to traditional dairy products. The suggested phrase "Highly Polyunsaturated Filled —— Cheese" could imply tht the food is a special dietary food. Nomenclature for special dietary foods is beyond the scope of this proposal. The names "nondairy imitation cheese" and "nondairy cheese replacement" would not accurately describe the nature of all cheese and cheese product substitutes since many substitutes use milk solids and milk derived ingredients, such as casein, whey or modified whey, milkfat, or lactose as components of the food.

Standards of Identity Versus Common or Usual Name Regulations

Both standards of identity and common or usual name regulations establish the name of the food, which identifies and describes the food's basic nature. In addition to establishing the name of the food, the common or usual name regulation may require that the name of the food include the percentage of any characterizing ingredient when the proportion of such ingredient has a material bearing on the price or when the label or appearance of the food may otherwise create an erroneous impression that such ingredient is present in an amount greater than is actually the case. The intended purpose is to provide consumers with relevant information about an important aspect of the food's composition in the labeling so that informed purchasing decisions can be made.

In addition to providing for informative labeling, standards of identity provide a further measure of consumer protection by defining the composition of the food, prescribing the mandatory ingredients as well as the optional ingredients, and establishing the amounts or relative proportions of these ingredients in the food. Most standards of identity require that the common or usual name of all optional ingredients be declared on the label unless exempted by the Federal Food, Drug, and Cosmetic Act or by other regulations. Standards of identity are established to promote honesty and fair dealing in the interest of consumers. They serve to eliminate confusion in those cases where it would be difficult for the consumer to determine, solely on the basis of informative labeling, the relative merits of a variety of products superficially resembling one another.

The standards of identity governing natural cheeses do not provide for variations from the established levels or ranges of minimum fat and solids content or the maximum allowable moisture content, although these standards may allow for variations in the manufacturing process as long as the resultant cheese exhibits the same physical and chemical properties. The composition of the ingredients, the types of organisms used, and the manufacturing process contribute to the uniqueness of a given cheese variety. The differences in total and relative amounts of fat, milk solids-not-fat, and moisture present in cheese ingredients are basic reasons that one cheese variety is distinct from another. Each natural cheese standard of identity thus insures the integrity of the natural cheese by setting limits on its fat, milk solids-not-fat, and moisture content.

Common or usual name regulations would not restrict the composition of cheese substitutes, except as is required for nutritional content. Manufacturers would be free to vary the fat content of these foods to suit consumer's preferences and pocketbooks. In a nationwide survey of consumers conducted by the U.S. Department of Agriculture, "Homemakers' Opinions on Dairy Products and Imitation Foods" (Marketing Research Report No. 995, May 1973), the majority of the homemakers polled thought that, generally, imitation foods were cheaper, contained fewer calories, were more convenient and easier to use, and had better keeping characteristics than genuine dairy foods. The majority also felt that genuine dairy foods had superior taste, food value, and purity or absence of additives compared to the imitation.

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Hence, cheese substitutes, if regulated by a common or usual name regulation as petitioned for by Fisher Cheese Co. or by Anderson Clayton Foods, might not be inconsistent with consumer expectations. This could be so even though such cheese substitutes would not have to meet fat content requirements or possess the same organoleptic and physical characteristics as the standardized cheese, provided that the cheese substitutes cost less and effectively served the purposes for which they were designed. Further, absence of specific compositional requirements would allow more flexibility in developing new cheese substitutes.

A common or usual name regulation could require that the amount and type of protein and fat in the substitute food be included in the labeling. These foods also would be required to bear nutritional labeling. With such labeling supplementing an appropriate product name, it is doubtful that these foods would be mistaken for genuine dairy foods. However, each of these requirements also may be accomplished by standards of identity.

A standard of identity such as that petitioned for by NCI could include a requirement that the moisture, solids, and fat values for the substitute food be equivalent to those of the food being simulated. This compositional requirement would assure the consumer of uniformity of composition and would prevent the debasement of foods as costs of ingredients increase.

The adoption of a standard of identity also would serve a regulatory function. Consumers' ability to distinguish one cheese variety from another or one food made with cheese from another by taste and sight varies because the determination is subjective. The only objective, practical way to determine whether a specific cheese variety or specific food made with cheese is properly labeled as to variety or type is to analyze the food for fat, solids, and moisture content. With such objective analyses and subjective organoleptic evaluations, a regulatory agency can make a determination concerning label claims.

A standard of identity for cheese substitutes would also be more consistent with the ongoing revisions of part 133 (21 CFR Part 133). In the FEDERAL REGISTER of October 4, 1977 (42 FR 53970) the Commissioner published a proposal that would revise the current pasteurized process cheese, cheese food, and cheese spread standards of identity and group them into two categories—process cheese and cheese products.

Under that proposed revision, all pasteurized process cheeses would remain in one standard of identity category and retain their current nomenclature except that use of the term "pasteurized" in the name would be optional. All pasteurized process cheese foods and pasteurized process cheese spreads, which are generally distinguished from pasteurized process cheese by their lower fat and solids and higher moisture contents, would be grouped into a second category—"pasteurized process cheese products." The terms "pasteurized" and "process" in the names of pasteurized process cheese products would be optional. The proposed revision would require label declaration of the percent of milkfat contained in process cheese and process cheese products. In that proposal the Commissioner reasoned that closely related foods differing primarily in percent of fat and moisture could best be identified by labeling the percentage of fat rather than by different names, such as "food" or "spread." The proposed revision would also require nutritional and complete ingredient labeling.

A similar labeling approach would be equally appropriate for cheese substitutes. A standard of identity for cheese substitutes, as well as one for milk and cream substitutes, could require label declaration of the percent and type of fat used and/or the type of protein ingredients used in the food if other than milk protein. In addition, the standards of identity could be sufficiently flexible to allow for some variability within the compositional requirements. Thus, the standards of identity for the substitutes could establish moisture, solid, and fat content requirements consistent with the standards of identity for the foods they simulate, yet allow for variations in those compositional requirements, within limits, established in the standards, and/or with required label declaration.

The provision permitting the composition of certain foods to vary within certain limits appears in several standards of identity although label declaration may not always be required. Although most cheese standards of identity include minimum levels of fat and solids, the standards of identity for part-skim cheese foods and Neufchatel cheese permit the fat content to vary within a specified range. Further, in view of trends indicating consumer preferences for low fat dairy foods, and the need for economical, yet nutritious foods, it seems only logical to permit the fat content of cheese substitutes to differ from that of the standardized foods they simulate, as long as consumers are not misled.

Establishing a standard of identity for cheese substitutes with adequate requirements for label declaration of ingredients in part 133 (21 CFR Part 133) is a logical extension of the proposed revision of the process cheese and cheese products standards of identity. This approach would keep all nomenclature specifically identifiable with cheese type foods together in one part of the Code of Federal Regulations. Moreover, in view of the fact that dairy foods generaly are regulated by standards of identity, it would seem reasonable to regulate vegetable fat substitutes for these foods in a like manner. The Commissioner maintains that this approach is least disruptive and most consistent with current regulations and policies. Similarly, a standard of identity for mild and cream substitutes could be established in part 131 (21 CFR Part 131) with the standards of identity for milk and cream. Standards of identity for these dairy foods are generally preferred by industy and have served the public well for many years. A consistent and systemized regulatory approach to one general type of food lends itself to better understanding and acceptance by industry and the public. Accordingly, the Commissioner concludes that standards of identity for milk, cream, and cheese substitutes will promote honesty and fair dealing in the interest of consumers.

Other Requirements

The three petitions for cheese substitutes indicate an intent to utilize the name of the standardized food being simulated as part of the name of the substitute food. The Commissioner has considered the use of the names of specific cheese varieties in the names of cheese substitutes. He believes such use appears reasonable and would promote honesty and fair dealing in the interest of consumers. This is particularly true if broad compositional requirements for nutritional equivalency are established for cheese substitutes as set out in this proposed rule. If broad compositional requirements (e.g., moisture and fat levels) as well as requirements are not applied, consumers could find that a certain food claiming to be a substitute for a specific cheese or cheese product does not resemble that food in physical attributes or composition.

The Commissioner maintains that, if the name of the substitute food includes the name of the traditional food it simulates, the substitute food should be reasonably similar to the traditional food. Thus, the substitute food should be nutritionally equivalent to the traditional food and should have similar levels of fat and moisture, as well as similar physical attributes such as color, body, and texture. The Commissioner is aware that regardless of the fat and moisture content, the flavor and texture of cheese substitutes would probably differ in some respects from natural cheeses because vegetable fats and proteins have their

own unique organoleptic properties. However, a requirement for similarity would insure that the characteristics of the cheese substitute resemble those of the traditional food used in the name of the cheese substitute.

NOMENCLATURE

A scheme for establishing the nomenclature for cheese substitutes is shown in the chart below. The scheme provides for: (1) Cheese substitutes that comply with the compositional requirements for fat and moisture content of the cheeses which they simulate, and (2) those that do not comply with the established fat and moisture contents of such cheeses. The name of the cheese substitute that conforms to the required fat and moisture levels for a standardized cheese product simulated would consist of the name of the cheese simulated followed by the term "substitute." In the case of a cheese substitute that does not conform to the established fat and moisture levels for the cheese simulated, the name of the food would consist of the name of the cheese simulated followed by the terms "product substitute." The term "product" is used to indicate a variation in the fat content and is consistent with the use of the term in the proposed pasteurized process cheese standards revision. In addition, a declaration of the type of fat contained and the percent by weight of the total fat in the cheese substitute would be required in the name of the substitute. Further, the Commissioner proposes that the name be accompanied by an additional statement, as applicable, which identifies other nonmilk ingredients used to replace milk protein in the manufacture of the cheese substitute.

The Commissioner notes that the declaration of the percent of milkfat in cheeses is not required by the standards of identity for most cheeses. However, he believes that the declaration of the percent of fat in cheeses is of interest to consumers for comparison purposes and is recommending that these foods be labeled with the percent of milkfat by weight contained in the food. He further notes that the declaration of the percent of milkfat will trigger nutritional labeling of the product in accordance with § 101.9(a) (21 CFR 101.9(a)) of this chapter. The proposed system of nomenclature in the chart below incorporates this recommendation for declaration of the percent of milkfat in natural cheeses, as well as certain provisions of the proposed revisions in the nomenclature of the pasteurized process cheese and pasteurized process cheese foods and spreads.

The proposed regulation would require that cheese substitutes that are nutritionally inferior to the cheese which they simulate be labeled with the term "imitation," in accordance with section 403 of the act and § 101.3(e) (21 CFR 101.3(e)) of the regulations. The proposed system of nomenclature would provide adequately for cheese substitutes already being marketed. Further, it would eliminate the need for manufacturers to alter formulations of existing foods in order to comply with the required fat and moisture levels in standarized cheese and cheese products.

Cheese Substitutes Nomenclature Based on Consideration of Composition

Standardized cheese	Cheese substitute
——cheese——pct fat.	——cheese substitute——pct vegetable fat and milkfat.
The first blank is filled in with the name of the standardized cheese variety and the second blank is filled in with the percent of milkfat in the cheese. Declaration of percent fat is recommended but not required unless stated in the standard of identity for the cheese.	The first blank is filled in with the name of the cheese being simulated, if it meets the fat and moisture requirements of the standardized food. The second blank is filled in with the percent of fat in the cheese substitute.
For example: Cheddar cheese 30 pct milkfat.	For example: Cheddar cheese substitute, 30 pct vegetable fat and milkfat.
Pasteurized process cheese——pct fat.	Pasteurized process cheese substitute——pct vegetable fat and milkfat. The blank is filled in with the percent of fat in the food.
For example: Pasteurized process cheese, 33 pct milkfat.[1]	For example: Pasteurized process cheese substitute, 33 pct vegetable fat and milkfat.[1]
——cheese product.	——cheese product substitute.
——pct milkfat.	——pct vegetable fat and milkfat.
The first blank is filled in with the name of the standardized food when the fat and moisture content requirements are optionally variable, or when the fat and moisture content varies from that of the standardized food. The word "product" in the name further indicates that a compositional variation exists.	The first blank is filled in with the name of the food simulated and the second blank is filled in with the percent of fat in the food.
For example: Pasteurized process cheese product, 10 pct milkfat.[2]	For example: Pasteurized process cheese product substitute, 10 pct vegetable fat and milkfat.[2]

[1] Use of the term "pasteurized" is optional.
[2] Use of the terms "pasteurized" and "process" is optional.

The Commissioner maintains that the requirements for the composition of cheese substitutes should remain flexible as long as the foods are formulated from safe and suitable ingredients. However, a cheese substitute should be nutritionally equivalent to the food simulated.

This proposal defines nutritional equivalence for cheese substitutes which are intended to substitute for cheeses and cheese products. The Commissioner believes that it would be impracticale to establish nutrient profiles for each food for which a cheese substitute may be developed. Consequently this proposal identifies the nutritional qualities in terms of vitamins, minerals, and protein content and quality, which must be met in cheese substitutes simulating cheeses that fall into one of four categories of cheese and cheese products. The proposed categories, the first three of which are based upon the average protein levels and the other on minimum protein levels present in the foods comprising the categories, are: (1) Cream cheese (Neufchatel cheese and cream cheese), 8–10 percent protein, 9 percent average; (2) cottage cheese (cottage cheese, lowfat cottage cheese, and dry curd cottage cheese), 12–17 percent protein, 14 percent average; (3) all other natural cheeses (e.g., bleu, cheddar, gruyere, mozzarella, swiss, etc.), 19–30 percent protein, 24 percent average; and (4) process cheese, 23 percent minimum protein, and cheese products (process cheese food, process cheese spread, and natural cheese products which do not comply with established fat and moisture contents), 16 percent protein and higher levels, 16 percent minimum. The protein values were calculated from data obtained from U.S. Department of Agriculture Handbook No. 8–1, "Composition of Foods. Dairy and Egg Products. Raw, Processed, Prepared," 1976. The minimum value used for cheese products is based on the protein content for process cheese spreads which have a lower protein content than process cheese foods. Since this category will also encompass cheese substitutes which simulate other natural cheeses but which may exceed the maximum moisture content of the standardized cheese and which would contain a

lower percent of total solids, this lower protein content, 16 percent, is being proposed as appropriate for this category of foods. The Commissioner specifically requests information on the appropriateness of this minimum protein requirement for cheese product substitutes, since data on cheese products are limited. Further, in order for substitutes to maintain nutritional equivalence to the cheese or cheese product simulated, the proposed regulation includes a requirement for the nutritional quality of the protein used in the formulation of the substitute foods. If the cheese or cheese product substitute is made with milk protein or protein of vegetable origin, the protein efficiency ratio (PER) must be at least 100 percent that of casein.

The proposed vitamin and mineral requirements for cheese and cheese product substitutes have been based primarily on average values for the various cheeses in each category and are expressed in terms of amounts of these nutrients per gram of protein to be contained in the food. For the most part, these vitamins and minerals are those which are present in measurable amounts, i.e., in amounts equal to or greater than 2 percent of the U.S. recommended daily allowance (U.S. RDA) for that nutrient in a 1-ounce serving of the cheese.

Vitamin A has been included in the nutrient profiles for all cheese and cheese product substitutes except cottage cheese type products. Vitamin A is not present in lowfat and dry curd cottage cheese in measurable amounts. A serving of cottage cheese, however, contains approximately 3½ percent of the U.S. RDA for vitamin A. In using the averaging concept for establishing nutrient levels (i.e., the average of the values for a nutrient for the foods comprising a particular category), the average value for vitamin A for cottage cheese type products is less than 2 percent of the U.S. RDA. Hence, no requirement for vitamin A has been included in the cottage cheese nutrient profile. Similar calculations were used to determine the proposed requirements for other nutrients, such as riboflavin, pantothenic acid, vitamins B_6 and B_{12}, folacin, calcium, phosphorus, and zinc.

A requirement for zinc has been included in all of the nutrient profiles for cheese substitutes except cream cheese. These are 0.03 mg zinc for cottage cheese, 0.10 mg for process cheese and natural cheeses, and 0.15 mg for cheese products, provided the cheese substitutes are made with milk protein. If the protein component in the cheese substitute is primarily of vegetable origin, the proposed zinc requirement is twice the proposed requirement for substitutes made with milk protein. The increased level of zinc is necessary because the presence of phytate and other mineral-binding components in foods made from protein of vegetable origin decreases the bioavailability of zinc.

The phosphorus content of process cheese and cheese products is normally higher than that of natural cheese because of the phosphate-containing emulsifiers which may be used in their manufacture. Consequently, a higher level of phosphorus has been proposed for nutritional equivalence for cheese substitutes simulating process cheese and process cheese products.

Although no U.S. RDA has been established for potassium, this nutrient has been included in the nutrient profiles for cottage cheese and for the milk foods. Potassium occurs at significant levels in these foods and is essential for human nutrition. The Commissioner maintains that milk and cottage cheese substitutes should provide levels of potassium consistent with those in milk and cottage cheese. The proposed levels for potassium have been based on data obtained from U.S. Department of Agriculture Handbook 8-1.

Nutrient profiles are proposed for six categories of milk foods. Four of these categories differ primarily by the fat content of the class of foods, i.e., whole milk, lowfat milk, skim milk, and cream. Separate categories were established for sweetened condensed milk and cultured buttermilk because certain nutrients present in the other four categories are not present in sweetened condensed milk or cultured buttermilk at the level of 2 percent of the U.S. RDA per serving or portion of those foods. Those nutrients which are not present in measurable amounts in these foods are vitamin C, niacin, vitamin B_6, and folacin in a 1-fluid-ounce portion of sweetened condensed milk and folacin and vitamin A in a one-cup portion of cultured buttermilk.

The Commissioner proposes that, where a standard of identity for a substitute for milk food contains provisions for the required or optional addition of vitamin A and/or vitamin D, such provisions will be consistent with the provisions for the addition of vitamin A and/or vitamin D in the standard of identity for the food simulated.

Vitamin A is the only nutrient in cream foods which is present at a level of 2 percent of the U.S. RDA. Hence the proposed nutrient profile for cream foods provides for a minimum level of vitamin A in International Units of vitamin A per gram of fat. The other nutrient profiles for milk foods express the requirement for vitamin A in grams of protein present in the food.

The proposed protein levels for milk food substitutes are based on average protein levels for milk foods obtained from U.S. Department of Agriculture Handbook 8-1. If the milk food substitute is made with milk protein and/or protein of vegetable origin, the protein efficiency ratio (PER) of the finished food must be equal to that of milk, i.e., 108 percent of that of casein (Chapman, D. G., Raul Castillo, and J. A. Campbell, "Evaluation of Protein in Foods," "Can. J. Biochem. Physiol.," 37, 679 (1959)). No attempt has been made to provide for protein fortified lowfat milk and skim milk substitute foods. However, manufacturers may increase protein levels in these substitute foods consistent with provisions in the standards of identity for lowfat milk in § 131.135 (21 CFR 131.135) and for skim milk in § 131.145 (21 CFR 131.145).

Having considered the comments received on cheese and cheese product substitutes and present marketing trends of new dairy product substitutes, the Commissioner believes that the establishment of standards of identity for milk and cream substitutes in new § 131.300 and cheese substitutes in new § 133.300 will promote honesty and fair dealing in the interest of consumers.

In a notice published in the FEDERAL REGISTER of June 9, 1978 (43 FR 25296), the Food and Drug Administration, the U.S. Department of Agriculture, and the Federal Trade Commission announced a series of five public hearings to discuss several issues related to food labeling, including ingredient labeling, nutrition labeling, and imitation foods. The last of these hearings is scheduled for October 25-26, 1978. Because the Commissioner intends to take into consideration all relevant information presented at the hearings in developing a regulation based upon this proposal, the Commissioner has scheduled the comment period on this proposal to extent beyond the last of the hearings; comments may be submitted on or before November 27, 1978.

The Commissioner proposes that all products initially introduced into interstate commerce on or after 1 year following the issuance of a regulation based upon this proposal shall comply with the regulation, except for any provisions that may be stayed by the filing of proper objections.

The Commissioner has considered the environmental effects of the issuance or amendment of food standards and has concluded in § 25.1(d)(4) (21 CFR 25.1(d)(4)) that food standards are not major agency actions significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required for this proposal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401,

701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated

(ii) Nutrient profile for substitutes simulating lowfat milk foods:

[Percent by weight]

(v) Nutrient profile for substitutes simulating sweetened condensed milk:

Percent

the total solids content as determined by the method "Total Solids, Method I—Official Final Action," section 16.032.

shall accompany the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half the

(iii) Nutrient profile for substitutes simulating other natural cheeses such as cheddar, swiss, mozzarella, blue, and edam:

701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Parts 131 and 133 as follows:

1. Part 131 is amended by adding new § 131.300 as follows:

§ 131.300 Milk and cream substitutes.

(a) *Description.* A milk or cream substitute is a food made in semblance of a standardized food as otherwise defined in this part in which safe and suitable nonmilk ingredients replace all or part of the nutritive milk components of the milk or cream foods simulated, whether or not the food is fluid, concentrated, dried, or in frozen form. The milk or cream substitute shall be pasteurized, ultrapasteurized, or sealed in a container and so processed by heat, either before or after sealing, as to prevent spoilage. The milk or cream substitute shall possess similar physical and organoleptic properties to the food simulated and the fat and solids-not-fat content of the milk or cream substitute shall meet the milk-fat and milk solids-not-fat requirements contained in the standard of identity of the counterpart milk or cream food. In addition, the milk or cream substitute shall meet the requirements in paragraph (b) of this section.

(b) *Nutritional equivalency.* A milk or cream substitute that is nutritionally inferior to the milk or cream food it simulates shall be labeled as an "imitation" milk or cream substitute, as required by § 101.3(e) of this chapter. For purposes of § 101.3(e)(2) of this chapter, a milk or cream substitute shall be considered nutritionally equivalent to the food being simulated if it meets all of the following applicable requirements:

(1) *Nutrient profiles for substitutes simulating milk and cream foods.* (i) Nutrient profile for substitutes simulating whole milk foods:

[Percent by weight]

Foods:	Minimum protein content
Milk	3.3
Evaporated milk	6.8
Dry whole milk	26.0
Plain whole milk yogurt	3.5
Other nutrients:	**Amount per gram of protein**
Calcium, milligrams	36.0
Magnesium, milligrams	3.5
Phosphorus, milligrams	29.0
Potassium, milligrams	46.0
Zinc, milligrams	.13
Vitamin C, milligrams	.26
Thiamine, milligrams	.01
Riboflavin, milligrams	.04
Pantothenic acid, milligrams	.10
Vitamin B_6, milligrams	.01
Folacin, micrograms	1.6
Vitamin B_{12}, micrograms	.09
Vitamin A, international units	36.0

(ii) Nutrient profile for substitutes simulating lowfat milk foods:

[Percent by weight]

Foods:	Minimum protein content
Lowfat milk, 0.5 to 2 percent fat	3.3
Plain lowfat yogurt, 0.5 to 2 percent fat	3.5
Lowfat dry milk, 5.0 to 19.9 percent fat	29.0
Other nutrients:	**Amount per gram of protein**
Calcium, milligrams	36.0
Magnesium, milligrams	3.7
Phosphorus, milligrams	29.0
Potassium, milligrams	47.0
Zinc, milligrams	.13
Vitamin C, milligrams	.26
Thiamine, milligrams	.01
Riboflavin, milligrams	.04
Pantothenic acid, milligrams	.10
Vitamin B_6, milligrams	.01
Folacin, micrograms	1.6
Vitamin B_{12}, micrograms	.11
Vitamin A, international units	[1]16.9

[1]The value, 18.9 international units, for vitamin A is applicable to substitutes for lowfat yogurt and other nonstandardized lowfat milk products except lowfat dry milk. A lowfat dry milk substitute shall contain added vitamins A and D such that, when prepared according to label directions, each quart contains 400 international units of vitamin D and not less than 2,000 international units of vitamin A.

(iii) Nutrient profile for substitutes simulating skim milk foods:

[Percent by weight]

Foods:	Minimum protein content
Skim milk	3.4
Evaporated skimmed milk	7.6
Nonfat dry milk	35.0
Other nutrients:	**Amount per gram of protein**
Calcium, milligrams	36.0
Magnesium, milligrams	3.3
Phosphorus, milligrams	28.0
Potassium, milligrams	48.0
Zinc, milligrams	.12
Vitamin C, milligrams	.20
Thiamine, milligrams	.01
Riboflavin, milligrams	.04
Pantothenic acid, milligrams	.10
Vitamin B_6, milligrams	.01
Folacin, micrograms	1.3
Vitamin B_{12}, micrograms	.09
Vitamin A, international units	[1]
Vitamin D, international units	[1]

[1]As required by the standard of identity for the food simulated. An evaporated skimmed milk substitute shall contain added vitamins A and D such that each fluid ounce of the food contains 25 international units of vitamin D and not less than 125 international units of vitamin A.

(iv) Nutrient profile for substitutes simulating cultured buttermilk:

	Percent by weight
Minimum protein content	3.3
Other nutrients:	**Amount per gram of protein**
Calcium, milligrams	35.0
Magnesium, milligrams	3.3
Phosphorus, milligrams	27.0
Potassium, milligrams	46.0
Zinc, milligrams	.13
Ascorbic acid, milligrams	.30
Thiamine, milligrams	.01
Riboflavin, milligrams	.05
Pantothenic acid, milligrams	.08
Vitamin B_6, milligrams	.01
Vitamin B_{12} micrograms	.07

(v) Nutrient profile for substitutes simulating sweetened condensed milk:

	Percent by weight
Minimum protein content	7.9
Other nutrients:	**Amount per gram of protein**
Calcium, milligrams	36.0
Magnesium, milligrams	3.2
Phosphorus, milligrams	32.0
Potassium, milligrams	47.0
Zinc, milligrams	.12
Thiamine, milligrams	.01
Riboflavin, milligrams	.05
Pantothenic acid, milligrams	.10
Vitamin B_{12} micrograms	.06
Vitamin A, international units	41.0

(vi) Nutrient profile for substitutes simulating cream:

	Amount per gram of fat
Nutrient: Vitamin A, international units	37.7

(2) The zinc requirement is doubled if the protein component of the milk substitute is obtained primarily from vegetable protein products.

(3) The protein efficiency ratio (PER) of the protein component of the milk substitute shall be at least 108 percent of that of casein.

(4) Substitutes for milk foods, in addition to the vitamin requirements established in paragraph (b)(1) of this section, are also required to contain an additional amount of vitamin A or vitamin D equivalent to that of the food simulated when the food simulated is required by an applicable standard of identity to contain these added vitamins in a prescribed amount. Further, if the standard of identity for the food simulated provides for the optional addition of vitamins A and/or D, then the food substitute simulating that food will contain vitamins A and/or D in an amount equivalent to that prescribed in the applicable standard of identity for the food simulated.

(5) Compliance with the requirements for other nutrients in this paragraph will be deemed to have been met if reasonable overages of vitamins and minerals, within limits of good manufacturing practice, are present to insure that the required levels are maintained throughout the life of the food under customary conditions of distribution and storage.

(c) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975.[1]

(1) *Fat content.* "Fat—Official Final Action," sections 16.052, 16.114, 16.129, 16.156, and 16.157, as appropriate.

(2) *Moisture content.* "Moisture—Official Final Action," section 16.149.

(3) *Solids-not-fat content.* Calculated by subtracting the fat content from

[1]Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

the total solids content as determined by the method "Total Solids, Method I—Official Final Action," section 16.032.

(4) *Protein content.* "Nitrogen—Official Final Action," section 16.036.

(5) *Protein efficiency ratio.* "Biological Evaluation of Protein Quality—Official Final Action," sections 43.183 through 43.187.

(6) Analyses for other nutrients shall be carried out in accordance with Association of Official Analytical Chemists (AOAC) methods when available or by other recognized methods.

(d) *Nomenclature.* (1) The name of the food that substitutes for, or that is made in semblance of, a standardized milk or cream food and that complies with the definition for such food as set forth in paragraph (a) of the section shall be "—— substitute," the blank being filled in with the name of the food simulated, e.g., "lowfat milk substitute." The name of the food shall be accompanied by a descriptive phrase identifying the nonmilk ingredients used to replace the milk components.

(2) When required by the standard of identity for the food simulated, the name of the milk or cream substitute shall be accompanied by a declaration of the amount of fat, e.g., "—— percent fat," or "—— percent vegetable and milkfat," as appropriate, the blank being filled in with the whole number closest to the actual fat content of the food.

(3) If vitamins A and/or D are added to a milk food substitute at levels above those required by paragraph (b)(1) of this section, the name of the milk food substitute shall be accompanied by a phrase such as "vitamin A" or "vitamin A added," or "vitamin D" or "vitamin D added," or "vitamins A and D," or "vitamins A and D added," as appropriate. The word "vitamin" may be abbreviated "vit." Vitamin A and/or D requirements indicated in paragraph (b)(1) of this section by a footnote also cause the name of that food to be accompanied by one of the applicable phrases in this subparagraph.

(4) The name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The declaration of the amount of fat, when applicable, and the descriptive phrase shall be in letters not less than one-half the height of the largest type appearing in the name of the food.

(5) The name of the food shall be accompanied by a declaration indicating the presence of any characterizing flavoring, in the manner specified in § 101.22 of this chapter.

(6) If the food has been ultra-pasteurized, the word "ultrapasteurized" shall accompany the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half the height of the largest type appearing in such name.

(e) *Label declaration.* Each of the ingredients used shall be declared on the label as required by the applicable sections of part 101 of this chapter.

2. Part 133 is amended by adding a new § 133.300 as follows:

§ 133.300 Cheese substitutes.

(a) *Description.* A cheese substitute is a food made in semblance of a standardized cheese variety, process cheese, cheese product, or other standardized foods made of cheese in which safe and suitable nonmilk ingredients replace all or part of the nutritive milk components normally found in the food being simulated. The cheese substitute shall possess similar physical and organoleptic properties and may meet the fat and moisture requirements set forth in the standard of identity for the food being simulated where such requirements exist. In addition, the cheese substitute shall meet the requirements set out in paragraph (b) of this section.

(b) *Nutritional equivalency.* A cheese substitute that is nutritionally inferior to the cheese or cheese product being simulated shall be labeled "imitation" as required by § 101.3 of this chapter. For purposes of this chapter, a cheese substitute is considered to be nutritionally equivalent to the food being simulated if it meets all of the following applicable requirements.

(1) *Nutrient profile for substitutes simulating cheese and cheese products.* (i) Nutrient profile for substitutes simulating cream cheese and neufchatel cheese:

	Percent by weight
Minimum protein content	9
Other nutrients:	**Amount per gram of protein**
Calcium, milligrams	9.0
Riboflavin, milligrams	0.02
Vitamin A, international units	146.0

(ii) Nutrient profile for substitutes simulating cottage cheese, lowfat cottage cheese, and dry curd cottage cheese:

	Percent by weight
Minimum protein content	14
Other nutrients:	**Amount per gram of protein**
Calcium, milligrams	4.0
Potassium, milligrams	6.0
Zinc, milligrams	.03
Riboflavin, milligrams	.01
Pantothenic Acid, milligrams	.02
Vitamin B_6, milligrams	.01
Folacin, micrograms	1.0
Vitamin B_{12}, micrograms	.05

(iii) Nutrient profile for substitutes simulating other natural cheeses such as cheddar, swiss, mozzarella, blue, and edam:

	Percent by weight
Minimum protein content	24
Other nutrients:	**Amount per gram of protein**
Calcium, milligrams	28.0
Phosphorus, milligrams	19.0
Zinc, milligrams	.10
Riboflavin, milligrams	.02
Vitamin B_{12}, micrograms	.05
Vitamin A, international units	39.0

(iv) Nutrient profile for substitutes simulating process cheese and cheese products:

[Percent by weight]

Foods:	Minimum protein content
Process cheese substitute	23
Cheese product substitute	16
Other nutrients:	**Amount per gram of protein**
Calcium, milligrams	30.0
Phosphorus, milligrams	30.0
Potassium, milligrams	14.0
Zinc, milligrams	.15
Riboflavin, milligrams	.02
Pantothenic acid, milligrams	.03
Vitamin B_6, milligrams	.01
Vitamin B_{12}, micrograms	.05
Vitamin A, international units	44.0

(2) The zinc requirement is doubled if the protein component of the cheese substitute is obtained primarily from vegetable protein products.

(3) The protein efficiency ratio (PER) of the protein component of the cheese or cheese product substitute shall be at least 100 percent of that of casein.

(4) Compliance with the requirements for other nutrients in this paragraph will be deemed to have been met if reasonable overages of vitamins and minerals, within limits of good manufacturing practice, are present to insure that the required levels are maintained throughout the life of the food under customary conditions of distribution and storage.

(c) *Method of analysis.* The following reference methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975.[1]

(1) *Fat content.* "Fat—Official Final Action," section 16.230.

(2) *Moisture content.* "Moisture—Official Final Action," sections 16.217, 16.218, or 16.219 through 16.222, as appropriate.

(3) *Protein content.* "Nitrogen—Official Final Action," section 16.226.

(4) *Protein efficiency ratio.* "Biological Evaluation of Protein Quality—Official final Action," sections 43.183 through 43.187.

(5) Analyses for other nutrients shall be carried out in accordance with Association of Official Analytical Chemists (AOAC) methods when

available or by other recognized methods.

(d) *Nomenclature.* (1) The name of

cipitating wood smoke, and any characterizing spice in the manner specified in § 101.22 of this chapter.

comment period on a proposed rule that would amend the standards of identity for skim milk cheese for manufacturing. This action is based on re-

Interested persons may, on or before November 27, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of October 4, 1977 (42 FR 53970), the Commissioner

[4110-03]

[21 CFR Part 133]

V 4 3 / 1 8 2

available or by other recognized methods.

(d) *Nomenclature.* (1) The name of the food that substitutes for or that is made in semblance of a standardized cheese variety, process cheese, cheese product, or other standardized food made of cheese and that complies with the definition for such food set forth in paragraph (a) of this section shall be "—— substitute," the blank being filled in with the name of the food simulated as provided for in the standard of identity for that food, e.g., "cheddar cheese substitute," or "process swiss cheese substitute." The name of the food shall be accompanied by a descriptive phrase identifying the nonmilk ingredients, if used in the food, to replace the milk protein. The name of the food shall also be accompanied by a declaration of the amount and type(s) of fat in the cheese substitute, e.g., "—— percent vegetable fat and milkfat," the blank being filled in with the whole number closest to the actual fat content of the food.

(2) In cases where the fat and moisture content requirements of the standardized food being simulated are optionally variable, e.g., in process cheese products, or when the fat and moisture contents of the cheese substitute vary from that the standardized food simulated, and the food complies with the definition for such food as required in paragraph (a) of this section, the name of the food shall be "—— product substitute," the blank being filled in with the name of the food simulated, e.g., "process cheddar cheese product substitute." The name of the food shall be accompanied by a descriptive phrase identifying any nonmilk ingredients used in the food to replace the milk protein. The name of the food shall also be accompanied by a declaration of the amount and type(s) of fat in the cheese product substitute, e.g., "—— percent vegetable fat and milkfat," the blank being filled in with the whole number closest to the actual fat content of the food.

(3) The use of the term "pasteurized" in the name of process cheese substitutes and the terms "pasteurized" and "process" in the name of cheese product substitutes is optional.

(4) The name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The declaration of fat content, when required, and the descriptive phrase shall be in letters not less than one-half the height of the largest type appearing in the name of the food.

(5) The name of the food shall be accompanied by a declaration indicating the presence of any characterizing flavoring, including smoke and substances prepared by condensing or precipitating wood smoke, and any characterizing spice in the manner specified in § 101.22 of this chapter.

(6) The word "cheese" or any varietal name of a cheese or food made of cheese shall not appear on the label except as permitted by this section. Words or phrases suggesting possible uses of the cheese substitute, such as "for pizza" or "for salads," or descriptive phrases such as "sliced" or "sharp," may appear on the label, but shall be separate from the name of the food.

(e) *Label declaration.* The common or usual name of each of the ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

Interested persons may, on or before November 27, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the hearing clerk docket numbers found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: September 8, 1978.

DONALD KENNEDY,
Commissioner of Food and Drugs.

NOTE.—Incorporation by reference approved by the Director of the Office of the Federal Register on March 11, 1976, and is on file in the Federal Register Library.

[FR Doc. 78-25816 Filed 9-18-78; 8:45 am]

[4110-03]

[21 CFR Part 133]

[Docket No. 77P-0071]

SKIM MILK CHEESE FOR MANUFACTURING

Proposal To Amend Identity Standards; Reopening of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening the comment period on a proposed rule that would amend the standards of identity for skim milk cheese for manufacturing. This action is based on requests from industry. The reopened comment period will run concurrently with the comment periods for two proposed rules published elsewhere in this issue of the FEDERAL REGISTER: The proposed rule to establish standards of identity for milk, cream, and cheese substitutes and the proposed rule to revise the standards of identity for nine natural cheeses based on the international standards for these foods.

DATE: New deadline for comments November 27, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Eugene T. McGarrahan, Bureau of Foods (HFF-415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of October 4, 1977 (42 FR 53979), the Commissioner of Food and Drugs proposed to amend the identity standard for skim milk cheese for manufacturing. Comments were to be filed on the proposal by December 5, 1977.

Subsequently, the Commissioner received several requests from industry for extension of the comment period on the proposal. In view of two other related proposals the agency planned to issue, the Commissioner decided not to extend the comment period at that time but rather, to reopen the comment period on publication of the new proposals. These new proposals which would: (1) establish standards of identity for milk, cream, and cheese substitutes (docket No. 75P-0121), and (2) revise the standards of identity for nine natural cheeses based on a review of the recommended international standards for these foods (docket No. 77N-0331), are published elsewhere in this issue of the FEDERAL REGISTER.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))), and under authority delegated to the Commissioner (21 CFR 5.1), the comment period on the proposal for skim milk cheese for manufacturing is hereby reopened and shall run concurrently with the comment periods established for the proposals for milk, cream, and cheese substitutes and for the nine natural cheeses.

Interested persons may, on or before November 27, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the hearing clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 8, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-25817 Filed 9-18-78; 8:45 am]

[4110-03]

[21 CFR Part 133]

[Docket No. 77P-0070]

PASTEURIZED PROCESS CHEESE AND CHEESE PRODUCTS

Proposed Revision of Definition and Standards of Identity; Reopening of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening the comment period on a proposed rule that would revise the standards of identity for pasteurized process cheese and pasteurized process cheese products. This action is based on requests from industry. The reopened comment period will run concurrently with the comment periods for two proposed rules published elsewhere in this issue of the FEDERAL REGISTER: The proposed rule to establish standards of identity for milk, cream, and cheese substitutes and the proposed rule to revise the standards of identity for nine natural cheeses based on the international standards for these foods.

DATE: New deadline for comments November 27, 1978.

ADDRESS: Written comments to Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Eugene T. McGarrahan, Bureau of Foods (HFF-415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of October 4, 1977 (42 FR 53970), the Commissioner of Food and Drugs proposed revision of the standards of identity for pasteurized process cheese and other pasteurized process cheese products. Comments were to be filed on the proposal by January 3, 1978.

Subsequently, the Commissioner received several requests from industry for extension of the comment periods on the proposal. In view of two other related proposals the agency planned to issue, the Commissioner decided not to extend the comment period at that time but rather, to reopen the comment period on publication of the new proposals. These new proposals which would: (1) establish standards of identity for milk, cream, and cheese substitutes (docket No. 75P-0121), and (2) revise the standards of identity for nine natural cheeses based on a review of the recommended international standards for these foods (docket No. 77N-0331), are published elsewhere in this issue of the FEDERAL REGISTER.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), the comment period on the proposal for pasteurized process cheese and other pasteurized process cheese products is hereby reopened and shall run concurrently with the comment periods established for the proposals for milk, cream, and cheese substitutes and for the nine natural cheeses.

Interested persons may, on or before November 27, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the hearing clerk docket number found in brackets in the hearing of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 8, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-25820 Filed 9-18-78; 8:45 am]

[4110-03]

[21 CFR Part 133]

[Docket No. 77N-0331]

CHEESES AND RELATED CHEESE PRODUCTS

Proposal Based on International Standards

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposal would revise and update the standards of identity for nine cheese and appropriate cross-referenced standards. In addition, amendments to the nine cheese standards are proposed to bring them into closer conformance with international standards recommended by the Codex Alimentarius Commission. Any regulation issued on the basis of this proposal will reflect the Commissioner's consideration of relevant information presented at the food labeling hearings announced in the FEDERAL REGISTER on June 9, 1978.

DATES: Comments by November 27, 1978. Proposed compliance for products initially introduced into interstate commerce: One year after the date of issuance of a regulation.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Eugene T. McGarrahan, Bureau of Foods (HFF-415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) is proposing to revise the standards of identity for blue cheese, cheddar cheese, edam cheese, gouda cheese, gruyere cheese, limburger cheese, provolone cheese, samsoe cheese, swiss cheese, and the cross-referenced cheeses—cheddar cheese for manufacturing, low sodium cheddar cheese, and swiss cheese for manufacturing. The purpose of these revisions is to: (1) Provide for full ingredient declaration; (2) relax recipe requirements to permit use of safe and suitable ingredients that do not change the basic identity of the food or adversely affect the physical or chemical characteristics; and (3) amend compositional requirements to be consistent with the "recommended international standards" (hereinafter referred to as Codex standards), where it will promote honesty and fair dealing in the consumers' interest.

All FDA regulations concerning human food were reorganized under

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Subchapter B—Food for Human Consumption, published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302), the Commissioner of Food and Drugs (the Commissioner) proposed to revise the standards of identity for blue cheese, cheddar cheese, edam cheese, gouda cheese, gruyere cheese, limburger cheese, provolone cheese, samsoe cheese, swiss cheese, and the cross-referenced cheeses—cheddar cheese for manufacturing (21 CFR 133.113), low sodium cheddar cheese (21 CFR 133.116), and swiss cheese for manufacturing (21 CFR 133.185), and swiss and emmentaler cheese (21 CFR 133.195) and, by cross-reference, cheddar cheese for manu-

chemical properties of the cheese. The Commissioner, therefore, is proposing to allow the use of specific classes of

expression of fat content has little or no meaning to the average consumer. Moreover, the actual fat content of a cheese may vary from the minimum

AOAC method in § 133.5. All cheese standards included in this proposal that now refer to the cheddar cheese

deleting the provision for the addition of smoke flavor since the smoke-flavored cheese would be subject to the

V 43 / 182 SEP 19 78 V4

Subchapter B—Food for Human Consumption, published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302). For the convenience of the reader, the following table lists the former designation of the sections in recodified subchapter B that would be affected by this proposal.

New section:	Old section:
133.3	19.499
133.106	19.565
133.113	19.500
133.114	19.502
133.116	19.503
133.138	19.555
133.142	19.560
133.149	19.543
133.152	19.575
133.181	19.590
133.185	19.544
133.195	19.540
133.196	19.542

The Joint Food and Agriculture Organization/World Health Organization (FAO/WHO) Committee of Government Experts on the Code of Principles Concerning Milk and Milk Products, an auxiliary body of the Codex Alimentarius Committee, has submitted standards of identity for 34 natural cheeses to the United States for consideration of acceptance. The United States has 11 corresponding standards of identity, and the 9 included in this document cover the principal cheeses used in this country. The remaining two (cottage cheese and cream cheese) will not be considered in this document, because they are subject to further revision by Codex.

The Commissioner is taking the opportunity presented by the U.S. obligation to consider Codex standards for adoption to revise and update the standards of indentity for nine cheeses for which there are also Codex standards and to revise appropriate cross-referenced standards. The proposed revision is in keeping with recent vevisions of other standards of indentity to provide consumers with more complete ingredient information and to accommodate changes in the availability of ingredients as well as technological advances. The other 23 Codex standards will be considered for acceptance at a later date.

The Commissioner believes that the proposed changes will promote honesty and fair dealing in the interest of consumers and will facilitate international trade.

REVISION OF EXISTING STANDARDS OF IDENTITY

The Commissioner proposes that the standards of indentity for blue cheese (21 CFR 133.106), cheddar cheese (21 CFR 133.113), edam cheese (21 CFR 133.138), gouda cheese (21 CFR 133.142), gruyere cheese (21 CFR 133.149), limburger cheese (21 CFR 133.152), provolone cheese (21 CFR 133.181), samsoe cheese (21 CFR 133.185), and swiss and emmentaler cheese (21 CFR 133.195) and, by cross-reference, cheddar cheese for manufacturing (21 CFR 133.114), low sodium cheddar cheese (21 CFR 133.116), and swiss cheese for manufacturing (21 CFR 133.196) be revised. The revisions would (1) adopt the use of functional group designations for safe and suitable optional ingredients, where appropriate, and require that all ingredients be declared on the label by their common or usual name in accordance with part 101 (21 CFR part 101); (2) provide for the use of various forms of milk, nonfat milk, and cream; (3) require that a label declaration of fat content accompany the name of the food; and (4) delete the methods of analysis from the individual standards and establish a new § 133.5, titled "Methods of analysis."

The Commissioner is of the opinion that it is unduly restrictive to limit a manufacturer's choices of ingredients by specifically listing each optional ingredient that may be used. He believes that the use of functional group designation of optional ingredients benefits the consumer by allowing a manufacturer to select less expensive or more readily available ingredients that are equally appropriate for a functional purpose. Safety and suitability of ingredients chosen from a functional group are governed by the definition of "safe and suitable" in § 130.3(d) (21 CFR 130.3(d)) in conjunction with appropriate food additive regulations established under parts 170, 171 and 172 (21 CFR parts 170, 171 and 172). The Commissioner believes that the use of safe and suitable functional categories will minimize any future need to amend the standards to provide for additional specific ingredients. Therefore, wherever practicable, he is proposing the use of functional group terminology, established by § 170.3 (21 CFR 170.3), for safe and suitable optional ingredients.

The Commissioner is further proposing that various forms of milk, nonfat milk, and cream be provided for. The existing cheese standards specify that the basic ingredient for cheese manufacture is fluid cow's milk which may have the fat of solids-not-fat levels adjusted by removing milkfat or adding cream, nonfat milk, concentrated skim milk of nonfat dry milk. The Commissioner believes that, technologically, alternate forms of milk, nonfat milk, and cream, i.e., concentrated, dried, and reconstituted forms, can be used to produce the same cheese as produced from fluid cow's milk. Further, he is of the opinion that provision for alternate forms of these milk products would be consistent with the provision in the existing standards for alternate manufacturing procedures that do not adversely affect the physical and chemical properties of the cheese. The Commissioner, therefore, is proposing to allow the use of specific classes of optional dairy ingredients, i.e., "milk," "cream," and "nonfat milk." He is also proposing definitions for the class designations "milk," "cream," and "nonfat milk" in the definitions section, § 133.3.

The Commissioner is aware of consumers' desire to be informed of the ingredients used in the foods they consume. In accordance with the policy set forth in § 101.6 (21 CFR 101.6), the Commissioner proposes to amend the standards of identity for the nine cheeses and the cross-referenced cheeses to require label declaration of optional ingredients in accordance with part 101. All ingredients in these cheeses are optional ingredients, with the exception of salt (except in the cross-referenced cheese, low sodium cheddar (§ 133.116)). While cheese must contain forms of milk, nonfat milk or cream, the manufacturer has the option of choosing, within specific classes of milk products, those forms he prefers to use. Section 403(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(k)) specifically exempts cheese from any label declaration of optional artificial coloring. Salt, a mandatory ingredient in most of the cheeses, also is exempt from the ingredient statement requirement. However, the Commissioner urges manufacturers to declare the presence of these ingredients when used.

The standards of identity for blue cheese (§ 133.106), provolone cheese (§ 133.181), and swiss cheese (§ 133.195) provide for the use of the optional ingredient benzoyl peroxide to bleach milk products. These existing standards require that use of benzoyl peroxide be declared on the label by the statement "Milk bleached with benzoyl peroxide." Under this proposed revision, benzoyl peroxide is an optional ingredient and as such must be declared in the ingredient statement of the cheese. The Commissioner advises that its use maybe declared either as "benzoyl peroxide" or "—— bleached with benzoyl peroxide" with the appropriate name(s) of the milk products filling the blank.

The Commissioner is also proposing that the milkfat content of each cheese be declared, by weight, on the label. In conjunction with this, it is proposed that the minimum milkfat requirements in each of the subject cheese standards of identity be expressed on an "as is" basis, i.e., the percentage by weight of the finished food. Currently minimum milkfat requirements are expressed on a "dry basis" as a percentage of the solid matter in the cheese, i.e., excluding the moisture content. The Commissioner is of the opinion that such an

expression of fat content has little or no meaning to the average consumer. Moreover, the actual fat content of a cheese may vary from the minimum, upward. The Commissioner is of the opinion that the phrase "contains —— % fat," based on the weight of the finished food including moisture, with the whole number nearest the actual milkfat content of the cheese filling the blank and accompanying the name of the food, would more fully inform the consumer about the food.

Regarding other changes in the existing standards, the Commissioner is proposing to delete the definition of "safe and suitable" from the "Definitions" section (§ 133.3) and add definitions for "pasteurized" and "ultrapasteurized," in addition to the definitions for classes of dairy ingredients named above. "Safe and suitable" is already defined in § 130.3(d). Definition of the other terms he proposes to include in § 133.3 would eliminate the needless repetition of each term in each standard of identity. For the same reason, the Commissioner proposes that a new § 133.5, titled "methods of analysis" be established. This section will include the methods of analysis for milkfat, moisture, and phosphatase contents referred to in each of the standards. The other standards in part 133 will be revised to refer to §§ 133.3 and 133.5 at a later date.

The Commissioner is also proposing that all cheese standards of identity included in this proposal provide for a mixmum allowable phenol equivalent value. The existing standards of identity for blue cheese (§ 133.106), gruyere cheese (§ 133.149), limburger cheese (§ 133.152), samsoe cheese (§ 133.185), and swiss cheese (§ 133.195) do not include a specific maximum allowable phenol equivalent value. The standards for the other four cheeses do include a specific value. The phenol equivalent value indicates whether proper pasturization procedures were followed when a cheese purports to be made from pasteurized milk products. A phenol equivalent value above the maximum allowed for a specific cheese that claims to be made from pasteurized milk products might indicate that improper pasteurization times and/or temperatures were used. The phenol equivalent value is determined by the "Fesidual Phosphatase" test described in section 16.245 of the 12th edition of "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC). This entire test procedure is now included in the standard of identity for cheddar cheese (§ 133.113). When the new § 133.5, Methods of analysis, is established, the procedure will be removed from the cheddar cheese standard and replaced with a reference to the AOAC method in § 133.5. All cheese standards included in this proposal that now refer to the cheddar cheese standard for the method of determining the phenol equivalent value will be amended to refer to the new § 133.5. All the cheese standards not covered by this proposal will be similarly amended in the future.

The AOAC procedure also includes a table of cheese varieties and types and corresponding phenol equivalent values. These values were established from data obtained after the hearings to establish standards of identity for cheeses and were first published in the 6th edition of "Official Methods of Analysis of the Association of Official Agricultural Chemists" in 1950. From 1950 to 1975 the values were considered experimental by the AOAC, and they were constantly reviewed and updated. In the 12th edition of the AOAC (1975) the term "experimental" was dropped from the values, indicating that these values are recognized as valid. Therefore, the Commissioner is proposing that the phenol equivalent values from the AOAC be accepted for those five cheeses for which the standards that do not now include maximum allowable phenol equivalent values and to retain the values in the standards that do contain them since these values already correspond to the AOAC values.

To ensure that cheeses made from unpasteurized milk products are cured for the length of time specified by each standard of identity, the Commissioner points out that, in accordance with § 101.100(f) (21 CFR 101.100(f)), uncured bulk cheese must be clearly marked with the date the curing process begins.

The Commissioner is further proposing that the provision for hydrogen peroxide/catalase treatment of milk be eliminated from the standards of identity for cheddar cheese (§ 133.113), swiss cheese (§ 133.195), and the cross-referenced cheeses—cheddar cheese for manufacturing (§ 133.114), low sodium cheddar cheese (§ 133.116), and swiss cheese for manufacturing (§ 133.196). He is not aware that this method is in common use and particularly asks for comment on this point.

The standard of identity for provolone cheese (§ 133.181) states that provolone cheese may be smoked, or it may have added to it a clear aqueous solution prepared by condensing or precipitating wood smoke in water. If the food is not smoked, the standard requires that the name of the food include the words "not smoked." If a clear aqueous solution of wood smoke is added, the words "with added smoke flavoring" must immediately follow the name.

The Commissioner is retaining the provision for optional smoking, but is deleting the provision for the addition of smoke flavor since the smoke-flavored cheese would be subject to the requirements of § 133.193 Spiced, flavored standardized cheeses (21 CFR 133.193). Further, he is proposing to delete the words "not smoked" when the food is not smoked and instead is proposing that, if the food is smoked, the work "smoked" shall accompany the name of the food.

Since the name "pasta filata" more correctly refers to a class of cheeses than to a specific variety, the Commissioner is proposing to delete the alternative name "pasta filata" from the standard of identity for provolone cheese (§ 133.181).

Certain standards of identity subject to this proposal do not provide for specific dimensions, weights, or shapes of the cheese, or for coatings that may be applied to the surface before curing. The standards for blue cheese, edam cheese, gouda cheese, and provolone cheese contain provisions for coatings, shapes, or both, while the standard for samsoe cheese provides for specific shape, weight, and dimensions. Traditionally, such cheeses have been produced in distinctive shapes or sizes, and/or have been covered with paraffin of one color or another. The Commissioner recognizes that some consumers may identify the type of cheese by its dimensions, weight, shape, or coating color, but he believes that the name and ingredient labeling requirements of the standards assure the consumer of being adequately informed of the variety of cheese. Therefore, the Commissioner is proposing to remove provisions for coatings and/or cheese shapes from the standards of identity for blue cheese, edam cheese, and gouda cheese; the provisions for specific shapes from the standard of identity for provolone cheese; and the provisions for shape, weight, and dimensions form the standard of identity for samsoe cheese. These changes will allow the use of new manufacturing and packaging techniques as they are developed.

The existing standards of identity for gruyere cheese and swiss cheese provide for the optional use of propionic acid-producing bacterial cultures. The Codex standards for emmentaler cheese (C-9) and gruyere cheese (C-10) require the addition of propionic acid-producing bacterial cultures.

The Commissioner is of the opinion that this type of culture is essential for proper eye-formation characteristic of these two cheese varieties. He, therefore, proposes that propionic acid-producing bacterial cultures, in addition to lactic acid-producing bacterial cultures, be required in the manufacture of gruyere cheese and swiss cheese.

In the cross-referenced standard for low sodium cheddar cheese, the Commissioner is proposing to delete para-

part 101 (21 CFR Part 101) and are applicable to all products entered into interstate commerce is the United

4.4 Rind.
4.4.1 Consistency: No actual rind, but a semihard surface.
4.4.2 Appearance: Greasy to dry.

suffix corresponding to the fat percentage, e.g., "Edelpilzkase 45%."

The use of food colors shall be indicated on the label.

The whey is run off and the process of "cheddaring" (which may take place in a separate container) continues, during which the curd is cut into blocks, which are turned

4.5.2 Color: Yellowish.
4.6 Holes.
4.6.1 Distribution: Few, all over the inte-

V 43 / 182 SE 1978 V4

In the cross-referenced standard for low sodium cheddar cheese, the Commissioner is proposing to delete paragraph (b), which prohibits the use of sodium sorbate. He considers this prohibition to be unnecessary since the low sodium cheddar cheese standard contains a maximum sodium limit.

CODEX ALIMENTARIUS RECOMMENDED INTERNATIONAL STANDARDS

The United States, as a member nation of FAO/WHO, is under treaty obligation to consider acceptance of all Codex standards. The rules of procedure of the Codex Alimentarius Commission permit acceptance of a recommended standard in one of three ways: Full acceptance; target acceptance; or acceptance with specified deviations. A participating country which concludes that it cannot accept the standard in full is requested to indicate the ways in which its requirements differ from the recommended international standard. Member nations of the Codex Alimentarius Commission are requested to notify the Technical Secretary, Committee on the Code of Principles Concerning Milk and Milk Products, Animal Production and Health Division, FAO, Rome, Italy, of their decision. When a sufficient number of governments accept these standards, the Secretariat of the Committee will notify the Codex Alimentarius Commission and request the publication of the accepted standards as worldwide standards by the Commission.

The United States is now considering acceptance of Codex standards of identity for nine natural cheeses. The nine Codex standards and corresponding U.S. standards are as follows:

	Codex	United States
Blue-veined	C-32	133.106
Cheddar	C-1	133.113
Edam	C-4	133.138
Gouda	C-5	133.142
Gruyere	C-10	133.149
Limburger	C-12	133.152
Provolone	C-15	133.181
Samsoe	C-7	133.185
Swiss or Emmentaler	C-9	133.195

Based on the treaty obligation and the policy set forth in § 130.6 (21 CFR 130.6), the Commissioner proposes to amend the compositional requirements of the standards of identity for these nine cheeses, wherever practicable, to effect consistency with the Codex standards.

The Codex standards include certain labeling requirements that are not considered a part of food standards of identity under section 401 of the Federal Food, Drug, and Cosmetic Act. Such requirements are authorized by other sections of the act, the Fair Packaging and Labeling Act, and regulations promulgated thereunder in part 101 (21 CFR Part 101) and are applicable to all products entered into interstate commerce is the United States.

The Codex standards also reference specific methods of sampling in FAO/WHO Standard B-1, "Sampling Methods for Milk and Milk Products," paragraphs 2 and 7 (CAC/M1-1973).[1] Such sampling methods are not specifically designated in the U.S. standards of identity for cheeses and cheese products. However, these FAO/WHO sampling methods have been published in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th ed., 1975, the source of the referenced methods of analysis for cheese and cheese products contained in the U.S. standards of identity.

Although the individual Codex standards are similar to corresponding U.S. standards, including proposed revisions, significant variations do exist in several instances which merit discussion. The texts of the Codex Recommended International Standards under consideration follow:

Appendix V-3.

STANDARD No. C-32, STEP 7

Submitted to Governments for Acceptance

INTERNATIONAL STANDARD FOR CERTAIN BLUE-VEINED CHEESES

1. *Scope.* This standard applies to the following varieties of blue-veined cheese: Danablu, Edelpilzkase, Adelost, Blue Cheese.

2. *Depositing countries:* Denmark, Federal Republic of Germany, Sweden, United States of America.

3. *Raw Materials.*

3.1 Kind of milk: Cow's milk.

3.2 Authorized additions:

3.2.1 Necessary additions: Cultures of harmless lactic acid producing bacteria (starter); rennet or other suitable coagulating enzymes; sodium chloride; and cultures of *penicillium roqueforti.*

3.2.2 Optional additions: Water; calcium chloride, maximum 200 mg/kg of the milk used; *beta*-carotene maximum 600 mg/kg of cheese; chlorophyll copper complex; riboflavin (lactoflavin); and harmless preparations of enzymes capable of aiding in the curing or flavor development (weight of solids of such substance added, not to exceed 0.1 percent of weight of milk used).

4. *Principal characteristics of the cheese ready for consumption.*

4.1 Type.

4.1.1 Consistency: Semi-hard to soft.

4.1.2 Short description: Blue-veined semi-hard cheese mainly ripened by internal mold growth.

4.2 Shapes: (a) Flat cylindrical; (b) flat square; and (c) flat rectangular.

4.3 Dimensions and weights.

4.3.1 Dimensions: Height: approximately 8 to 15 cm.

4.3.2 Weights: 2 to 6 kg.

4.3.2.1 Weights of "Danablu": Flat cylindrical: 2.75 to 3.25 kg; flat square and flat rectangular: approximately 4 kg.

[1] "Code of Principles Concerning Milk and Milk Products, International Standards and Standard Methods of Sampling and Analysis for Milk Products," 7th ed.

4.4 Rind.

4.4.1 Consistency: No actual rind, but a semihard surface.

4.4.2 Appearance: Greasy to dry.

4.4.3 Color: Whitish.

4.5 Body.

4.5.1 Texture: Suitable for cutting and spreading.

4.5.2 Color: White to yellowish with blue-green veins of mold.

4.6 Holes.

4.6.1 Distribution: Scarce.

4.6.2 Shape: Irregular.

4.6.3 Size: Various.

4.6.4 Appearance: With blue-green molds.

4.7/4.8 Minimum fat content in dry matter and maximum moisture content:

[Percent]

	A	B	C
Minimum fat in dry matter	50	60	45
Maximum moisture content	48	48	55
Minimum dry matter content	52	52	45

The minimum fat content in dry matter and maximum moisture content for Danablu are restricted to those given under A and B.

4.9 Other principal characteristics: Cheese has distinct piquant flavor resulting from fat breakdown. Not to be sold to the consumer at less than 6 weeks of age.

METHOD OF MANUFACTURE

5.1 Method of coagulation: Rennet or other suitable coagulating enzymes; addition of a lactic acid starter.

5.2 Heat treatment: None, or slightly heated after cutting, ladled out in bags or molds.

5.3 Fermentation procedure: Lactic acid and mold fermentation.

5.4 Maturation procedure: Pierced with needles to develop growth of molds; stored humid at a temperature from 2° to 12° C; some surface mold.

5.5 Other principal characteristics: None.

SAMPLING AND ANALYSIS

6.1 Sampling: According to FAO/WHO Standard B.1, "Sampling Methods for Milk and Milk Products," clause 7.2(b), "Sampling by means of a trier"; reference is made to clauses 7.2.2.3 and 7.2.2.5.

6.2 Determination of fat content: According to FAO/WHO Standard B.3, "Determination of the Fat Content of Cheese and Processed Cheese Products."

MARKING AND LABELING

Only cheese conforming with this standard may be designated: (a) "Danablu," or "Edelpilzkase," or "Blue Cheese," or "Adelost," or (b) a combination of the designation "Blue-veined cheese" with the designations given in (a), e.g., "Adelost—blue-veined cheese."

It shall be labeled in conformity with the appropriate sections of Article 4 of FAO/WHO Standard A.6, "General Standard for Cheese" except that Danablu not produced in the country of origin must be marked with the name of the producing country even when sold in the home market.

The cheese mentioned under "B" and "C" in 4.7/4.8 may be designated as mentioned under (a) or (b) above provided that the designation is accompanied by the prefix or suffix corresponding to the fat percentage, e.g., "Edelpilzkase 45%."

The use of food colors shall be indicated on the label.

STANDARD No. C-1 (1966)

INTERNATIONAL INDIVIDUAL STANDARD FOR CHEDDAR

1. *Designation of cheese:* Cheddar.

2. *Depositing country:* United Kingdom (country of origin).

3. *Raw materials.*

3.1 Kind of milk: Cow's milk.

3.2 Authorized additions.

3.2.1 Necessary additions: Cultures of harmless lactic acid producing bacteria (starter); rennet or other suitable coagulating enzymes; and sodium chloride.

3.2.2 Optional additions: Calcium chloride, maximum 200 mg/kg of the milk used; annattoo* and beta carotene, singly or in combination, maximum 600 mg/kg of cheese; sorbic acid and its sodium and potassium salts, maximum 1,000 mg/kg calculated as sorbic acid; a preparation of safe and suitable enzymes of animal or plant origin capable of aiding in the curing or development of flavor of Cheddar cheese may be added during the procedure, in such quantity that the weight of the solid of such preparation is not more than 1,000 mg/kg of the milk used.

4. *Principal characteristics of the cheese ready for consumption.*

4.1 Type (consistency): Hard pressed.

4.2 Shape: Cylindrical or block (cuboid).

4.3 Dimensions and weights: Various.

4.4 Rind.

4.4.1 Consistency: Hard.

4.4.2 Appearance: Smooth, may be coated with wax or cloth wrapped.

4.4.3 Color: Pale straw through dark straw to orange; rindless blocks may be in airtight, flexible film.

4.5 Body.

4.5.1 Texture: Firm, smooth, and waxy.

4.5.2 Color: Uniform, pale straw through dark straw to orange.

4.6 Holes: Gas holes should be absent; none to few mechanical openings.

4.7 Minimum fat content in dry matter: 48 percent.

4.8 Maximum moisture content: 39 percent. Minimum dry matter content: 61 percent.

4.9 Other principal characteristics: Normally consumed mild from 3 months or mature up to 12 months or more. Flavor typical of the variety, varying in intensity from mild to sharp and typical of ripening controlled by lactic acid producing bacteria.

5. *Method of manufacture.*

5.1 Method of coagulation: Rennet or other suitable coagulating enzymes.

5.2 Heat treatment.

5.2.1 Heat treatment of the milk: Milk for cheesemaking may be raw, heat treated or pasteurized to 161° F (71.7° C) for 15 seconds.

5.2.2 Heat treatment of the coagulum: The curd is subsequently cut and scalded to 100°-106° F (37.5°-40° C) depending on the season.

5.3 Fermentation procedure: 1.0-2.5 percent lactic starter is added to the milk, to give a ripening period of up to 2 hours before rennetting.

5.4 Maturation procedure: After scalding the curd, it is stirred until slight acid development, customarily 0.18 or 0.19 percent expressed as lactic acid, is reached.

*Temporarily endorsed.

The whey is run off and the process of "cheddaring" (which may take place in a separate container) continues, during which the curd is cut into blocks, which are turned and progressively piled. During this process the curd is kept warm and the drainage of whey, together with the development of acidity, results in the curd becoming compressed, smooth, and elastic. When a substantial acidity which may reach 0.90 percent expressed as lactic acid has been reached, the curd is milled.

About 2.0-2.5 percent salt is added to the curd to give 1.5-1.8 percent salt in the cheese.

The curd is then mixed and molded. The cheeses are stored and subsequently graded. They may mature in store for 3-12 months according to temperature of the store and degree of maturity required.

6. *Sampling and analysis.*

6.1 Sampling: According to FAO/WHO Standard B.1, "Sampling Methods for Milk and Milk Products," paragraph 7, "Sampling of Cheese."

6.2 Determination of fat content: According to FAO/WHO Standard B.3, "Determination of the Fat Content of Cheese and Processed Cheese Products."

7. *Marking and labeling.* Only cheese conforming with this standard may be designated "Cheddar." It shall be labeled in conformity with the appropriate sections of Article 4 of FAO/WHO Standard A.6, "General Standard for Cheese."

STANDARD No. C-4 (1966)

INTERNATIONAL INDIVIDUAL STANDARD FOR EDAM

1. *Designation of cheese:* Edam.[1]

2. *Depositing country:* The Netherlands (country of origin).

3. *Raw materials.*

3.1 Kind of milk: Cow's milk.

3.2 Authorized additions: Cultures of harmless lactic acid producing bacteria (starter); rennet or other suitable coagulating enzymes; sodium chloride; calcium chloride, maximum 200 mg/kg of the milk used; annatto* and beta carotene, singly or in combination maximum 600 mg/kg of cheese; sodium and potassium nitrate, maximum 200 mg/kg of the milk used**; and water.

4. *Principal characteristics of the cheese ready for consumption.*

4.1 Type (consistency): Semihard.

4.2 Shape: (a) Spherical, slightly flattened at the top and the bottom, and (b) flat block with square and/or rectangular side (not being a loaf) and with or without rind.

4.3 Dimensions and weights.

4.3.1 Dimensions: Depend on the shapes (4.2) and weights (4.3.2).

4.3.2 Weights: (a) Spherical (as under 4.2.a) 1.7 to 2.5 kg, and (b) flat block (as under 4.2.b) not less than 10 kg.

4.4 Rind.

4.4.1 Consistency: Hard.

4.4.2 Appearance: Dry, often coated with paraffin, wax, plastic, or a film of vegetable oil; coatings yellow or red.

4.4.3 Color: Yellowish.

4.5 Body.

4.5.1 Texture: Firm, suitable for cutting.

[1] Or such other synonym (e.g., Edamski) derived from the name Edam as will clearly indicate this variety.

*Temporarily endorsed.

**Subject to endorsement.

4.5.2 Color: Yellowish.

4.6 Holes.

4.6.1 Distribution: Few, all over the interior of the cheese, distributed regularly as well as irregularly.

4.6.2 Shape: More or less round.

4.6.3 Size: Varying from rice to pea.

4.6.4 Appearance: Not defined.

4.7 Minimum fat content in the dry matter: 40 percent.

4.8 Maximum moisture content: 46 percent. Minimum dry matter content: 54 percent.

4.9 Other principal characteristics: Edam cheese is not normally consumed before it is 5 weeks old.

5. *Baby Edam, loaf Edam,* baby loaf Edam.*

5.1 *Baby Edam.* Small cheeses complying with the requirements for Edam cheese, except those under 4.3.2, 4.8, and 4.9, may be designated as "Baby Edam" provided they comply with the following:

5.1.1 Weights: From 0.840 to 1.100 kg.

5.1.2 Maximum moisture content: 47 percent. Minimum dry matter content: 53 percent.

5.1.3 Other principal characteristics: "Baby Edam" is not normally consumed before it is 3 weeks old.

5.2 *Loaf Edam.* Loaf-shaped cheeses, complying with the requirements for Edam cheese, except those under 4.2 and 4.3.2, may be designated as "Loaf Edam" provided they comply with the following:

5.2.1 Shape: Loaf shaped, length of the long side more than twice that of the shortest.

5.2.2 Weights: 2.0 to 5.0 kg.

5.3 *Baby Loaf Edam.* Loaf-shaped cheeses, complying with the requirements for Edam cheese, except those under 4.2, 4.3.2, 4.8, and 4.9 may be designated as "Baby Loaf Edam" provided they comply with the following:

5.3.1 Shape: Loaf shaped, length of the long side more than twice that of the shortest.

5.3.2 Weights: 0.400 to 1.100 kg.

5.3.3 Maximum moisture content: 47 percent. Minimum dry matter content: 53 percent.

5.3.4 Other principal characteristics: "Baby Loaf Edam" is not ready for consumption before it is 3 weeks old.

6. *Method of manufacture.*

6.1 Method of coagulation: Rennet or other suitable coagulating enzymes.

6.2 Heat treatment: The curd is heated with or without addition of warm water.

6.3 Fermentation procedure: Chiefly lactic acid.

6.4 Maturation procedure: Maturation during storage at a temperature preferably between 10° and 20° C.

6.5 Other principal characteristics: Salted in brine after manufacture.

7. *Sampling and analysis.*

7.1 Sampling: According to FAO/WHO Standard B.1, "Sampling Methods for Milk and Milk Products," clauses 7.2(a) and 7.2.1, "Sampling by cutting." To obtain the required representativity in the case of Edam in loaf form, special attention should be paid—when cutting the slice—to the proportions of rind, heart, etc.

7.2 Preparation of the sample: According to FAC/WHO Standard B.1, "Sampling Methods for Milk and Milk Products," clause 7.4, "Treatment of samples."

7.3 Determination of fat content: According to FAO/WHO Standard B.3, "Determi-

nation of the Fat Content of Cheese and Processed Cheese Products."

8. *Marking and labelling.* Only cheese con-

4.7 Minimum fat content in the dry matter: 48 percent.

4.8 Maximum moisture content: 43 per-

bacteria; rennet or other suitable coagulating enzymes; sodium chloride; and water.

3.2.2 Optional additions: None.

4. *Principal characteristics of the cheese*

STANDARD No. C-12 (1968)

INTERNATIONAL INDIVIDUAL STANDARD FOR LIMBURGER

5.2 Heat treatment: Little or no heat applied during the manufacturing procedure.

5.3 Fermentation procedure: Lactic acid

smoked cheese. Minimum dry matter content: 53 percent for unsmoked cheese; 55 percent for smoked cheese.

nation of the Fat Content of Cheese and Processed Cheese Products."

8. *Marking and labelling.* Only cheese conforming with this standard may be designated "Edam." It shall be labelled in conformity with the appropriate sections of Article 4 of FAO/WHO Standard A.6, "General Standard for Cheese." The cheese mentioned under 5.1 may be designated "Edam," *Provided,* That the designation is accompanied by the prefix "Baby." The cheese mentioned under 5.2 may be designated "Edam," *Provided,* That the designation is accompanied by the prefix "Loaf." The cheese mentioned under 5.3 may be designated "Edam," *Provided,* That the designation is accompanied by the prefix "Baby Loaf."

STANDARD No. C-5 (1966)

INTERNATIONAL INDIVIDUAL STANDARD FOR GOUDA

1. *Designation of cheese:* Gouda.[1]

2. *Depositing country:* The Netherlands (country of origin).

3. *Raw materials.*

3.1 Kind of milk: Cow's milk.

3.2 Authorized additions: Cultures of harmless lactic acid producing bacteria (starter); rennet or other suitable coagulating enzymes; sodium chloride; water; calcium chloride, maximum 200 mg/kg of the milk used; annatto* and beta carotene, singly or in combination; maximum 600 mg/kg of cheese; sodium and potassium nitrate, maximum 200 mg/kg of the milk used.**

4. *Principal characteristics of the cheese ready for consumption.*

4.1 Type (consistency): Semihard.

4.2 Shape: (a) Cylindrical, with convex sides, curving smoothly into the flat top and bottom; the rate height/diameter varying from one-fourth to one-third; (b) flat block with square and/or rectangular sides (not being a loaf) and with or without rind; and (c) loaf, the length of the long side more than twice that of the shortest.

4.3 Dimensions and weights.

4.3.1 Dimensions: (a) Cylindrical, with convex sides (as under 4.2.a): Fixed by prescribed shape (4.2.a) and weights (4.3.2.a); (b) flat block (as under 4.2.b) fixed by prescribed shape (4.2.b) and weight (4.3.2.b); and (c) loaf (as under 4.2.c) fixed by prescribed shape (4.2.c) and weights (4.3.2.c).

4.3.2 Weights: (a) Cylindrical, with convex sides (as under 4.2.a): From 2.5 to 30 kg; (b) flat block (as under 4.2.b): Not less than 10 kg; and (c) loaf (as under 4.2.c): From 2.5 to 5 kg.

4.4 Rind.

4.4.1 Consistency: Hard.

4.4.2 Appearance: Dry or coated with either wax, a suspension of plastic, or a film of vegetable oil.

4.4.3 Color: Yellowish.

4.5 Body.

4.5.1 Texture: Firm, suitable for cutting.

4.5.2 Color: Straw colored.

4.6 Holes.

4.6.1 Distribution: From few to plentiful, all over the interior of the cheese, distributed regularly as well as irregularly.

4.6.2 Shape: More or less round.

4.6.3 Size: Varying from a pin's head to a pea.

4.6.4 Appearance: Not defined.

4.7 Minimum fat content in the dry matter: 48 percent.

4.8 Maximum moisture content: 43 percent. Minimum dry matter content: 57 percent.

4.9 Other principal characteristics: Gouda cheese is not normally consumed before it is 5 weeks old.

5. *Baby Gouda.* Small cheeses complying with the requirements for Gouda cheeses—except those under 4.2, 4.3, 4.8, and 4.9—may be designated as "Baby Gouda," provided they comply with the following:

5.1 Shape: Cylindrical with convex sides, curving smoothly into the flat top and bottom; the rate height/diameter is about one-half.

5.2 Dimensions and weights.

5.2.1 Dimensions: Fixed by prescribed shape (5.1) and weights (5.2.2).

5.2.2 Weights: From 0.180 to 1.500 kg.

5.3 Maximum moisture content: 45 percent. Minimum dry matter content: 55 percent.

5.4 Other principal characteristics: Baby Gouda is not normally consumed before it is 3 weeks old.

6. *Method of manufacture.*

6.1 Method of coagulation: Rennet or other suitable coagulating enzymes.

6.2 Heat treatment: The curd is heated with or without the aid of warm water.

6.3 Fermentation procedure: Chiefly lactic acid.

6.4 Maturation procedure: Maturation during storage at a temperature preferably between 10° and 20° C.

6.5 Other principal characteristics: Salted in brine after manufacture.

7. *Sampling and analysis.*

7.1 Sampling: According to FAO/WHO Standard B.1, "Sampling Methods for Milk and Milk Products," clauses 7.2(a) and 7.2.1, "Sampling by cutting." To obtain the required representativity in the case of Gouda in loaf form and other rectangular blocks, special attention should be paid—when cutting the slice—to the proportions of rind, heart, etc.

7.2 Preparation of the sample: According to FAO/WHO Standard B.1, "Sampling Methods for Milk and Milk Products," clause 7.4, "Treatment of samples."

7.3 Determination of fat content: According to FAO/WHO Standard B.3, "Determination of the Fat Content of Cheese and Processed Cheese Products."

8. *Marking and labelling.*

Only cheese conforming with this standard may be designated "Gouda." It shall be labeled in conformity with the appropriate sections of Article 4 of FAO/WHO Standard A.6, "General Standard for Cheese." The cheese mentioned under 5 may be designated "Gouda," *Provided,* That the designation is accompanied by the prefix "Baby."

STANDARD No. C-10 (1967)

INTERNATIONAL INDIVIDUAL STANDARD FOR GRUYERE

1. *Designation of cheese:* Gruyere, Greyerzer, Gruviera.

2. *Depositing countries:* Switzerland and France (countries of origin).

3. *Raw materials.*

3.1 Kind of milk: Cow's milk.

3.2 Authorized additions.

3.2.1 Necessary additions: Cultures of harmless lactic acid producing bacteria (starter) and of proprionic acid-producing bacteria; rennet or other suitable coagulating enzymes; sodium chloride; and water.

3.2.2 Optional additions: None.

4. *Principal characteristics of the cheese ready for consumption.*

4.1 Type (consistency): Hard.

4.2 Shape: Round loaf or blocks.

4.3 Dimensions and weight.

4.3.1 Dimensions: Diameter: 40–65 cm, and height: 9–13 cm.

4.3.2 Weight: Minimum 20 kg.

4.4 Rind.

4.4.1 Consistency: Hard.

4.4.2 Appearance: Covered with smear.

4.4.3 Color: Golden yellow to brown.

4.5 Body.

4.5.1 Texture: Sliceable.

4.5.2 Color: Ivory to light yellow.

4.6 Holes.

4.6.1 Distribution: Regular, scarce to plentiful.

4.6.2 Shape: Round.

4.6.3 Diameter: Mainly from 0.5 to 1.0 cm.

4.6.4 Appearance: Mat to brilliant.

4.7 Minimum fat content in the dry matter: 45 percent.

4.8 Maximum moisture content: 38 percent. Minimum dry matter content: 62 percent.

4.9 Other principal characteristics.

4.9.1 Taste and flavor: More or less tangy.

4.9.2 Ready for consumption: The cheese is ready for consumption at a minimum age of 80 days from the day of manufacture.

4.9.3 Storing ability: The cheese should normally maintain its characteristics for a minimum of 1 month at a temperature of 15° C from the time it is ready for consumption.

5. *Method of manufacture.*

5.1 Method of coagulation: Rennet or other suitable coagulating enzymes.

5.2 Heat treatment: After cutting the curd to particles about the size of wheat grains, heating to 50° C as a minimum.

5.3 Fermentation procedure: Lactic acid fermentation and propionic acid fermentation taking place throughout the cheese at 14° C minimum for a minimum of 4 weeks.

5.4 Maturation procedure: Proteolysis due to action of enzymes of lactic acid bacteria and smear organisms at succeeding temperatures between 10° and 20° C.

5.5 Other principal characteristics.

5.5.1 Treatment of milk: Use of raw milk.

5.5.2 Treatment with cooking salt: The cheeses are salted by immersion in salt solution and/or dry-salted on the surface. During maturation, the surface of the cheeses is salted and smeared at intervals.

6. *Sampling and analysis.*

6.1 Sampling: According to FAO/WHO Standard B.1, "Sampling Methods for Milk and Milk Products," clause 7.2(b), "Sampling by means of a trier." Reference is made to clauses 7.2.2.1 and 7.2.2.5.

6.2 Determination of fat content: According to FAO/WHO Standard B.3, "Determination of the Fat Content of Cheese and Processed Cheese Products."

7. *Marking and labeling.* Only cheese conforming with the standard may be designated "Gruyere," "Greyerzer," or "Gruviera." It shall be labeled in conformity with the appropriate sections of Article 4 of FAO/WHO Standard A.6, "General Standard for Cheese," except that Gruyere not produced in the countries of origin must be marked with the name of the producing country even when sold on the home market.

[1] Or such other synonym (e.g., Goudycki) derived from the name Gouda as will clearly indicate this variety.

* Temporarily endorsed.

** Subject to endorsement.

STANDARD No. C-12 (1968)

INTERNATIONAL INDIVIDUAL STANDARD FOR LIMBURGER

1. *Designation of cheese:* Limburger.[1]

2. *Depositing countries:* Federal Republic of Genmany, United States of America. (Country of origin: Belgium.)

3. *Raw materials.* 3.1 Kind of milk: Cow's milk.

3.2 Authorized additions.

3.2.1 Necessary additions: Cultures of harmless lactic acid producing bacteria (starter) and cultures of Bacterium linens; rennet or other suitable coagulating enzymes; and sodium chloride.

3.2.2 Optional additions: Calcium chloride, maximum 200 mg/kg of the milk used; beta carotene, maximum 600 mg/kg of the cheese; sodium and potassium nitrate, maximum 200 mg/kg of the milk used.** riboflavin (Lactoflavin); and safe and suitable enzymes to assist in flavor development.

4. *Principal characteristics of the cheese ready for consumption.*

4.1 Type.

4.1. Consistency: Soft.

4.1.2 Short description: A soft surface ripened cheese carrying a rather intensive aromatic flavor. Usually consumed at 3-6 weeks.

4.2 Shape (usual): Cubical or rectangular.

4.3 Dimensions and weight.

4.3.1 Dimensions (usual): Approximately 6x6 cm and varying in height.

4.3.2 Weight (usual): Maximum 1 kg.

4.4 Rind.

4.4.1 Consistency: Elastic.

4.4.2 Appearance: Smear developed by red and yellow smear organisms.

4.4.3 Color: Reddish-brown.

4.5 Body.

4.5.1 Texture: Soft but still sliceable.

4.5.2 Color: Ivory to yellow.

4.6 Holes.

4.6.1 Distribution: Few, irregularly distributed.

4.6.2 Shape: Irregular.

4.6.3 Size: Up to the size of a barley grain.

4.6.4 Appearance: Shiny.

4.7/4.8 Limits for fat in dry matter, moisture and dry matter contents:

Limburger

[Percent]

	A	B	C	D	E
		20	30	40	45
Minimum fat in dry matter	50	20	30	40	45
Maximum moisture content	50	65	62	58	53
Minimum dry matter content	50	35	38	42	47 47

4.9 Other principal characteristics: Typical flavor developed by red and yellow smear-producing bacteria during the ripening period of at least 2 weeks.

5. *Method of manufacture.*

5.1 Method of coagulation: Rennet or other suitable coagulating enzymes.

5.2 Heat treatment: Little or no heat applied during the manufacturing procedure.

5.3 Fermentation procedure: Lactic acid fermentation with subsequent smear development.

5.4 Maturation procedure: Ripened at 12-16° C for approximately 2 weeks.

5.5 Other principal characteristics: cheese is melted from the surface before curing or salted in brine. The rind is regularly rubbed with brine during curing.

6. *Sampling and analysis.*

6.1 Sampling: According to FAO/WHO Standard B.1, "Sampling Methods for Milk and Milk Products," clauses 7.2 (a), "Sampling by cutting," or 7.2 (c), "Taking a complete cheese as a sample."

6.2 Determination of fat content: According to FAO/WHO Standard B.3, "Determination of the Fat Content of Cheese and of Processed Cheese Products."

7. *Marking and labeling.* Only cheese conforming with this standard may be designated "Limburger"; it shall be labeled in conformity with the appropriate sections of Article 4 of FAO/WHO Standard A.6, "General Standard for Cheese."

The cheese mentioned under B, C, D, and E in 4.7 and 4.8 may be designated "Limburger" provided that the designation is accompanied by a prefix corresponding to the fat percentage, e.g., 30 percent Limburger.

STANDARD No. C-15 (1968)

INTERNATIONAL INDIVIDUAL STANDARD FOR PROVOLONE

1. *Designation of cheese:* Provolone.

2. *Depositing countries:* Italy (county or origin). United States of America.

3. *Raw materials.*

3.1 Kind of milk: Cow's milk.

3.2 Authorized additions.

3.2.1 Necessary additions: Cultures of harmless lactic acid-producing bacteria (starter); rennet (calf, lamb, or kid, liquid or paste) or other suitable coagulating enzymes; and sodium chloride.

3.2.2 Optional additions: Smoke**; hexamethylenetetramine, maximum 600 mg/kg of the liquid used to work the curd**; calcium chloride, maximum 200 kg/kg of the milk used; fast green FCF (Color Index 42053)**; brilliant blue FCF (Color Index 42090)**; indigotine FCF (Color Index 73015)**; safe and suitable enzymes to assist in flavor development; and benzoyl peroxide as a bleach.**

4. *Principal characteristics of the cheese ready for consumption.*

4.1 Type: Provolone is a "pasta filata" cheese which is used as a table or grating cheese and may be consumed either fresh or aged.

4.2 Shape: Various.

4.3 Dimensions and weights: Various.

4.4 Rind.

4.4.1 Appearance: Commonly covered with vegetable fat and/or oil, paraffin and/or plastic film.

4.4.2 Color: Natural color rind yellow to brown.

4.5 Body.

4.5.1 Texture: Fibrous or smooth.

4.5.2 Color: White to yellow straw.

4.6 Holes: A few holes and splits permitted.

4.7 Minimum fat content in the dry matter: 45 percent.

4.8 Maximum moisture content: 47 percent for unsmoked cheese; 45 percent for smoked cheese. Minimum dry matter content: 53 percent for unsmoked cheese; 55 percent for smoked cheese.

4.9 Other principal characteristics: Sweetish, buttery taste after ripening 2 to 3 months, strong or piquant taste after aging when rennet from kid is used.

5. *Method of manufacture.*

5.1 Method of coagulation: Calf's rennet for "sweet curd" and lamb or kid's rennet for "strong cheese," or other suitable coagulating enzymes.

5.2 Heat treatment of the coagulum: Curd is placed in hot water or hot whey and kneaded and stretched until smooth and free from lumps.

5.3 Fermentation procedure: The milk is subjected to the action of lactic acid produced by bacteria present in the milk or added as a starter thereto. After the proper ripening period is reached, rennet or another suitable enzyme is added to coagulate the milk.

5.4 Maturation procedure: The coagulated curd is cut, stirred, and heated to promote and regulate the separation of whey from the curd. The whey is drained off, the curd is matted and cut, immersed in hot water and kneaded and stretched until it is smooth and free from lumps. The curd is then cut and placed in molds. During molding the surface is kept warm to properly seal the surface. The molded curd is then firmed by immersion in cold water before salting.

5.5 Other principal characteristics: Cheese is salted by immersion in brine. Some shapes may be encased in ropes or twine before drying. The surface may be paraffined or waxed. The cheese may be smoked.

6. *Sampling and analysis.*

6.1 Sampling: According to FAO/WHO Standard B.1, "Sampling Methods for Milk and Milk Products," paragraph 7, "Sampling of Cheese."

6.2 Determination of fat content: According to FAO/WHO Standard B.3 "Determination of the Fat Content of Cheese and of Processed Cheese Products."

7. *Marking and labeling.* Only cheese conforming with this standard may be designated "Provolone." It shall be labeled in conformity with the appropriate sections of Article 4 of FAO/WHO Standard A.6, "General Standard for Cheese."

STANDARD No. C-7 (1966)

INTERNATIONAL INDIVIDUAL STANDARD FOR SAMSOE

1. *Designation of cheese:* Samsoe (in Danish: Samso).

2. *Depositing country:* Denmark (country of origin).

3. *Raw materials.*

3.1 Kind of milk: Cow's milk.

3.2 Authorized additions.

3.2.1 Necessary additions: Cultures of harmless lactic acid-producing bacteria (starter); rennet or other suitable coagulating enzymes; and sodium chloride.

3.2.2 Optional additions: Calcium chloride, maximum 200 mg/kg of the milk used; annatto* and beta carotene, singly or in combination, maximum 600 mg/kg of cheese; sodium and potassium nitrate, maximum 200 mg/kg of the milk used**; water; and cumin seed.

4. *Principal characteristics of the cheese ready for consumption.*

[1] Or such synonyms derived from this name as will clearly indicate this variety.

** Subject to endorsement.

* Temporarily endorsed.

** Subject to endorsement.

4.1 Type (consistency): Hard.

4.2 Shape: (a) Flat cylindrical; (b) flat square; and (c) rectangular.

The cheese mentioned under 4.7/4.8B may be designated "Samsoe," *Provided,* That the designation is accompanied by the prefix 30

4.9.1 Taste and flavor: Mild, nutlike, more or less pronounced.

4.9.2 Ready for consumption: Minimum

levels than provided for in the existing standards for these foods are currently produced and marketed in the

Further, the Commissioner is not proposing to accept Codex maximum moisture levels where such levels are

§ 133.3 Definitions.

(a) "Milk" means the lacteal secretion, practically free from colostrum,

4.1 Type (consistency): Hard.
4.2 Shape: (a) Flat cylindrical; (b) flat square; and (c) rectangular.
4.3 Dimensions and weights.
4.3.1 Dimensions: (a) Flat cylindrical: Diameter 44 cm approximately; (aa) "Mini-Samsoe": Diameter 9 cm approximately; (b) flat square: side 38 cm approximately; and (c) rectangular: Various.
4.3.2 Weights: (a) Flat cylindrical: 14 kg approximately; (aa) "Mini-Samsoe": 0.25 kg approximately; (b) flat square: 14 kg approximately; and (c) rectangular: Various.
4.4 Rind.
4.4.1 Consistency: Hard.
4.4.2 Appearance: Dry, with or without wax or plastic coating.
4.4.3 Color: Yellow.
4.5 Body.
4.5.1 Texture: Firm, suitable for cutting.
4.5.2 Color: Yellowish.
4.6 Holes.
4.6.1 Distribution: From few to plentiful, evenly distributed.
4.6.2 Shape: Round.
4.6.3 Size: Varying from pea to cherry.
4.6.4 Appearance: Smooth.
4.7/4.8 Limits for fat in dry matter, moisture and dry matter contents:

Samsoe

[Percent]

	A	B	C
		30	Mini
Minimum fat in dry matter...	45	30	45
Maximum moisture content..	44	52	48
Minimum dry matter content	56	48	52

4.9 Other principal characteristics: Samsoe cheese is normally not exported or sold to consumers before it is at least 6 weeks old. "Mini-Samsoe" is normally not exported or sold before it is at least 3 weeks old.
5. *Method of manufacture.*
5.1 Method of coagulation: Rennet or other suitable coagulating enzymes; addition of a lactic acid starter.
5.2 Heat treatment: Slightly heated after cutting.
5.3 Fermentation procedure: Chiefly lactic acid and slightly prepressed.
5.4 Maturation procedure: Humid to dry, at a temperature between 10° and 20° C.
5.5 Other principal characteristics: Salted, normally in brine.
6. *Sampling and analysis.*
6.1 Sampling: According to FAO/WHO Standard B.1, "Sampling Methods for Milk and Milk Products," clause 7.2(b), "Sampling by means of a trier"; reference is made to clauses 7.2.2.3 and 7.2.2.5. "Mini-Samsoe" is sampled according to clause 7.2(c), "Taking a complete cheese as a sample."
6.2 Determination of fat content: According to FAO/WHO Standard B.3, "Determination of the Fat Content of Cheese and Processed Cheese Products."
7. *Marking and labeling.* Only cheese conforming with this standard may be designated "Samsoe." It shall be labeled in conformity with the appropriate sections of Article 4 of FAO/WHO Standard A.6, "General Standard for Cheese," except that Samsoe not produced in the country of origin must be marked with the name of the producing country even when sold on the home market.

The cheese mentioned under 4.7/4.8B may be designated "Samsoe," *Provided,* That the designation is accompanied by the prefix 30 percent. The cheese mentioned under 4.3.1(aa) and 4.3.2(aa) and 4.7/4.6C may be designated "Samsoe," *Provided,* That the designation is accompanied by the prefix "Mini."

The name "30 percent Samsoe" may only be used to designate cheeses which are both manufactured and marketed in countries where it is traditional and whose legislation provides for the use of the same designation for cheeses for which different minimum fat contents are specified, *Provided,* That one of the minimum fat contents so specified is above 45 percent.

STANDARD NO. C-9 (1967)

INTERNATIONAL INDIVIDUAL STANDARD FOR EMMENTALER

1. *Designation of cheese:* Emmentaler, Emmental.
2. *Depositing countries:* Switzerland (country of origin), Finland, France, United States of America.
3. *Raw materials.*
3.1 Kind of milk: Cow's milk.
3.2 Authorized additions.
3.2.1 Necessary additions: Cultures of harmless lactic acid-producing bacteria (starter) and of propionic acid producing bacteria; rennet or other suitable coagulating enzymes; sodium chloride; and water.
3.2.2 Optional additions: Calcium chloride, maximum 200 mg/kg of the milk used, and cupric sulphate, maximum 15 mg/kg cheese expressed as copper.
4. *Principal characteristics of the cheese ready for consumption.*
4.1 Type: 4A (round loaf)—Hard cheese; 4B (block)—Hard cheese; 4C (rindless block)—Hard cheese.
4.2 Shape: 4A (round loaf)—Round loaf; 4B (block)—Rectangular block; 4C (rindless block)—Rectangular block.
4.3 Dimensions and weights.
4.3.1 Height: 4A (round loaf)—12 to 30 cm; 4B (block)—12 to 30 cm; 4C (rindless block)—12 to 30 cm.
4.3.2 Diameter: 4A (round loaf)—70 to 100 cm.
4.3.3 Weight: 4A (round loaf)—minimum 50 kg; 4B (block)—minimum 30 kg; 4C (rindless block)—minimum 30 kg.
4.4 Rind.
4.4.1 Consistency: 4A (round loaf)—Hard; 4B (block)—Hard; 4C (rindless block)—Soft.
4.4.2 Appearance: 4A (round loaf)—Dry; 4B (block)—Dry; 4C (rindless block)—Like inside.
4.4.3 Color: 4A (round loaf)—Golden yellow to brown; 4B (block)—Golden yellow to brown; 4C (rindless block)—Ivory to light yellow.
4.5 Body.
4.5.1 Texture: Sliceable.
4.5.2 Color: Ivory to light yellow.
4.6 Holes.
4.6.1 Distribution: Regular, scarce to plentiful.
4.6.2 Shape: Round.
4.6.3 Diameter: Mainly 1-3 cm.
4.6.4 Appearance: Mat to brilliant.
4.7 Minimum fat content in dry matter: 45 percent.
4.8 Maximum moisture content: 40 percent. Minimum dry matter content: 60 percent.
4.9 Other principal characteristics.
4.9.1 Taste and flavor: Mild, nutlike, more or less pronounced.
4.9.2 Ready for consumption: Minimum of 60 days from day of manufacture.
4.9.3 Storing ability: The cheese should normally maintain its characteristics for a minimum of 1 month at a temperature of 15° C from the time it is ready for consumption.
5. *Method of manufacture.*
5.1 method of coagulation: Rennet or other suitable coagulating enzymes.
5.2 Heat treatment: After cutting the curd to particles about the size of wheat grains, heating to 50° C as a minimum.
5.3 Fermentation procedure: Lactic acid fermentation and propionic acid fermentation taking place throughout the cheese at 20° C minimum, for a minimum of 3 weeks.
5.4 Maturation procedure: Proteolysis due to action of microbial enzymes at succeeding temperatures between 10° and 25° C.
5.5 Other principal characteristics: Treatment with cooking salt; the cheeses are salted by immersion in salt solution and/or dry-salted on the surface; during maturation, except in the case of rindless block, the surface of the cheese is washed, cleaned and salted at intervals.
6. *Sampling and analysis.*
6.1 Sampling: According to FAO-WHO Standard B.1, "Sampling Methods for Milk and Milk Products," clause 7.2(b) "Sampling by means of a trier." Reference is made to clauses 7.2.2.1 and 7.2.2.5.
6.2 Determination of fat content: According to FAO/WHO Standard B.3, "Determination of the Fat Content of Cheese and Processed Cheese Products."
7. *Marking and labeling.* Only cheese conforming with this standard may be designated "Emmentaler" or "Emmental." It shall be labeled in conformity with the appropriate sections of Article 4 of FAO/WHO Standard A.6, "General Standard for Cheese," except that Emmentaler not produced in the country of origin must be marked with the name of the producing country even when sold on the home market.

The following discussion sets forth the significant differences between the Codex standards and U.S. standards with proposed revisions. Following each point is the Commissioner's proposed action. The Commissioner is of the opinion that the proposed changes are reasonable, will benefit international trade, and will promote honesty and fair dealing in the interest of consumers.

1. *Variable fat levels.* Codex standards for blue cheese (C-32), limburger cheese (C-12), and samsoe cheese (C-7) provide for variable fat levels within each standards. These standards require that the fat content, on a dry basis, accompany the name of the food.

The Commissioner recognizes the desirability of providing for lower-fat cheeses, thus giving consumers more choices in the marketplace. He therefore proposes to adopt the Codex provisions for variable fat levels for blue cheese limburger cheese, and samsoe cheese. In addition, he is aware that cheddar cheese and swiss cheese having higher moisture and lower fat

levels than provided for in the existing standards for these foods are currently produced and marketed in the United States as "imitation" foods. Therefore, he also is proposing variable fat levels for these cheeses. If interest in providing for variable fat levels in the other cheese standards included in this proposal exists, the Commissioner would like to receive comments to this effect, accompanied by information and/or data in support of suggested fat levels for each cheese. Elsewhere in this document the Commissioner is proposing that a declaration of milk fat content, by weight, accompany the name of the food.

2. *Optional ingredients.* Many of the Codex standards provide for the use of such optional ingredients as sodium and potassium nitrates, sodium dihydrogen phosphate, disodium hydrogen phosphate, cupric sulfate, and hexamethylenetetramine.

The Commissioner is unaware of the need in cheese manufacturing practice in the United States for the above-named chemicals.

The Codex standards list all permitted optional ingredients individually, rather than by a functional group designation.

The Commissioner believes that the proposed revision of the U.S. standards to provide for the use of functional groups of safe and suitable ingredients rather than individually naming each approved ingredient from the functional group simplifies the standards and eliminates the need to amend the standards each time a food additive petition is submitted and approved which is applicable to a standard of identity for a cheese variety.

3. *Minimum milk fat and maximum moisture levels.* In certain instances, the minimum milk fat or maximum moisture levels permitted by the Codex standards differ from those in the U.S. standards.

Wherever the minimum, milk fat level is higher in the Codex standard than in the corresponding U.S. standard, the Commissioner is proposing retention of the latter. The Commissioner understands that milk now produced in the United States is not as high in milk fat as the milk of several years ago. To meet higher milk fat minimums, cheese manufacturers would have to use increased amounts of milk fat, the higher cost being borne by consumers. Since consumer interest seems to be directed to lower-fat foods and the minimum milk fat levels specified in the U.S. standards would not hinder a manufacturer from producing a higher-fat cheese, the Commissioner finds no justification for proposing acceptance of the higher milk fat minimums set by the Codex standards.

Further, the Commissioner is not proposing to accept Codex maximum moisture levels where such levels are higher. He believes this action would have the effect of lowering the quality of the cheeses, because water would displace more valuable constitutents such as milk fat and milk solids-not-fat.

4. *Phenol equivalent value.* The Codex standards do not include maximum phenol equivalent values to be used as indicators of effective pasteurization.

As discussed earlier, the Commissioner proposes to retain or to provide for maximum allowable phenol equivalent values in each standard. When pasteurized milk products are used, he is of the opinion that the phenol equivalent value, as determined by the phosphatase test described in the proposed § 133.5, serves as an indicator of effective pasteurization procedures.

In a notice published in the FEDERAL REGISTER of June 9, 1978 (43 FR 25296), the Food and Drug Administration, the U.S. Department of Agriculture, and the Federal Trade Commission announces a series of five public hearings to discuss several issues related to food labeling, including ingredient labeling, nutrition labeling, and imitation foods. The last of these hearings is scheduled for October 25-26, 1978. Because the Commissioner intends to take into consideration all relevant information presented at the hearings in developing a regulation based upon this proposal, the Commissioner has scheduled the comment period on this proposal to extend beyond the last of the hearings; comments may be sumbitted on or before November 27, 1978.

The Commissioner proposes that all products initially introduced into interstate commerce on or after 1 year following the date of issuance of a regulation based upon this proposal shall comply with the regulation, except for any provisions that may be stayed by the filing of proper objections.

The Commissioner has considered the environmental effects of the issuance or amendment of food standards and has concluded in § 25.1(d)(4) (21 CFR 25.1(d)(4)) that food standards are not major agency actions significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required for this amendment.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that part 133 be amended as follows:

1. By revising § 133.3 to read as follows:

§ 133.3 Definitions.

(a) "Milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows; concentrated milk, reconstituted milk, and dry whole milk. Water, in a sufficient quantity to reconstitute concentrated and dry forms, may be added.

(b) "Nonfat milk" means skim milk, concentrated skim milk, reconstituted skim milk, and nonfat dry milk. Water, in a sufficient quantity to reconstitute concentrated and dry forms, may be added.

(c) "Cream" means cream, reconstituted cream, dry cream, and plastic cream. Water, in a sufficient quantity to reconstitute concentrated and dry forms, may be added.

(d) "Pasteurized" when used to describe a dairy ingredient means that every particle of such ingredient shall have been heated in properly operated equipment to one of the temperatures specified in the table of this paragraph and held continuously at or above that temperature for the specified time (or other time/temperature relationship which has been demonstrated to be eqivalent thereto in microbial destruction):

Temperature:	Time
145° F[1]	30 min.
161° F[1]	15 s.
191° F	1 s.
204° F	0.05 s.
212° F	0.01 s.

[1]If the dairy ingredient has a fat content of 10 percent or more, the specified temperature shall be increased by 5° F.

(e) "Ultrapasteurized" when used to describe a dairy ingredient means that such ingredient shall have been thermally processed at or above 280° F for at least 2 seconds.

2. By adding new § 133.5, to read as follows:

§ 133.5 Methods of analysis.

Moisture, milk fat, and phosphatase levels in cheeses will be determined by the following methods of analysis from "Official Methods of Analysis of the Association of Official analytical Chemists," 12th ed., 1975.[2]

(a) Moisture content—"Moisture, Method I—Official Final Action," § 16.217.

(b) Milk fat content—"Fat—Official Final Action," § 16.230.

(c) Phenol equivalent value—"Residual Phosphatase—Official Final Action," § 16.245.

3. By revising § 133.106, to read as follows:

§ 133.106 Blue cheese.

(a) *Description.* (1) Blue cheese is the food prepared by the procedure

[2]Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

set forth in paragraph (a)(4) of this section, or by any other procedure which produces a finished cheese

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

and maximum moisture contents, by weight, shall conform to either of the fat/moisture combinations in para-

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, applied to

(d) If a salt substitute as provided for in paragraph (a) of this section is used, the label shall bear the statement "_____ added as a salt substi-

(3) *Other optional ingredients.* (i) Coloring.

(ii) Calcium chloride in an amount

V 43 / 182 SEP 1978

set forth in paragraph (a)(4) of this section, or by any other procedure which produces a finished cheese having the same physical and chemical properties. It is characterized by the presence of bluish-green mold throughout the cheese. The minimum milk fat and maximum moisture contents, by weight, shall conform to any one of the fat/moisture combinations in paragraph (a)(2) of this section. Each minimum fat/maximum moisture content combination will result in the maximum percent moisture on a fat-free basis by weight, and minimum percent total solids by weight, indicated. The dairy ingredients used may be pasteurized. Blue cheese is at least 60 days old.

(2) Any one of the following minimum milk fat/maximum moisture combinations may be used:

[Figures in percent]

Minimum fat	31	26	20
Maximum moisture	48	48	55
Moisture on a fat-free basis	70	65	69
Total solids	52	52	45

(3) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of blue cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(4) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be bleached, warmed, and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is cut into smaller portions and allowed to stand for a time. The mixed curd and whey is placed in forms permitting further drainage. While being placed in forms, spores of the mold *Penicillium roquefortii* are added. The forms are turned several times during drainage. When sufficiently drained, the shaped curd is removed from the forms and salted with dry salt or brine. Perforations are then made in the shaped curd, and it is held at a temperature of approximately 50° F, at 90 to 95 percent relative humidity, until the characteristic mold growth has developed. During storage the surface of the cheese may be scraped to remove surface growth of undesirable microorganisms. Antimycotics may be applied to the surface of the whole cheese. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Blue or green color in an amount to neutralize the natural yellow color of the curd.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages or to the surface of the bulk cheese during curing.

(v) Benzoyl peroxide or a mixture of benzoyl peroxide with potassium alum, calcium sulfate, and magnesium carbonate used to bleach the dairy ingredients. The weight of the benzoyl peroxide is not more than 0.002 percent of the weight of the milk being bleached, and the weight of the potassium alum, calcium sulfate, and magnesium carbonate, singly or combined, is not more than six times the weight of the benzoyl peroxide used. If milk is bleached in this manner, vitamin A is added to the curd in such quantity as to compensate for the vitamin A or its precursors destroyed in the bleaching process, and artificial coloring is not used.

(c) *Nomenclature.* (1) The name of the food is "blue cheese."

(2) The following phrase, in letters not less than one-half the height of the letters used in the name of the food, shall accompany the name of the food wherever it appears on the principal display panel or panels: "Contains —% fat", the blank being filled in with the whole number closest to the actual fat content, by weight, of the food.

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

4. By revising § 133.113, to read as follows:

§ 133.113 Cheddar cheese.

(a) *Description.* (1) Cheddar cheese is the food prepared by the procedure set forth in paragraph (a)(4) of this section, or by any other procedure which produces a finished cheese having the same physical and chemical properties. The minimum milkfat and maximum moisture contents, by weight, shall conform to either of the fat/moisture combinations in paragraph (a)(2) of this section. Each minimum fat/maximum moisture content combination will result in the maximum percent moisture on a fat-free basis by weight, and minimum percent total solids by weight, indicated. If the dairy ingredients used are not pasteurized, the cheese is cured at a temperature of not less than 35° F for at least 60 days.

(2) Either of the following minimum milkfat/maximum moisture combinations may be used:

[Figures in percent]

Minimum fat	31	24
Maximum moisture	39	41
Moisture on a fat-free basis	57	54
Total solids	61	59

(3) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of cheddar cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(4) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is so cut, stirred, and heated with continued stirring, as to promote and regulate the separation of whey and curd. The whey is drained off, and the curd is matted into a cohesive mass. The mass is cut into slabs, which are so piled and handled as to promote the drainage of whey and the development of acidity. The slabs are then cut into pieces, which may be rinsed by sprinkling or pouring water over them, with free and continuous drainage; but the duration of such rinsing is so limited that only the whey on the surface of such pieces is removed. The curd is salted, stirred, further drained, and pressed into forms. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Coloring.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages.

(c) *Nomenclature.* (1) The name of the food is "cheddar cheese".

(2) The following phrase, in letters not less than one-half the height of the letters used in the name of the food, shall accompany the name of the food wherever it appears on the principal display panel or panels: "Contains —% fat", the blank being filled in with the whole number closest to the actual fat content by weight of the food.

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

5. By revising § 133.114, to read as follows:

§ 133.114 Cheddar cheese for manufacturing.

Cheddar cheese for manufacturing conforms to the definition and standard of identity prescribed for cheddar cheese by § 133.113, except that the milk is not pasteurized, curing is not required, and the provisions of paragraph (b)(3)(iv) of that section do not apply.

6. By revising § 133.116, to read as follows:

§ 133.116 Low sodium cheddar cheese.

Low sodium cheddar cheese is the food prepared from the same ingredients and in the same manner prescribed in § 133.113 for cheddar cheese and complies with all the provisions of § 133.113, including the requirements for label statement of ingredients, except that:

(a) Salt is not used. Any safe and suitable ingredient or combination of ingredients that contains no sodium and that is recognized as a salt substitute may be used.

(b) It contains not more than 96 milligrams of sodium per pound of finished food.

(c) The name of the food is "low sodium cheddar cheese". The letters in the words "low sodium" shall be of the same size and style of type as the letters in the words "cheddar cheese", wherever such words appear on the label.

(d) If a salt substitute as provided for in paragraph (a) of this section is used, the label shall bear the statement "———— added as a salt substitute", the blank being filled in with the common name or names of the ingredient or ingredients used as a salt substitute.

(e) Low sodium cheddar cheese is subject to § 105.69 of this chapter.

7. By revising § 133.138, to read as follows:

§ 133.138 Edam cheese.

(a) *Description.* (1) Edam cheese is the food prepared by the procedure set forth in paragraph (a)(3) of this section or by any other procedure which produces a finished cheese having the same physical and chemical properties. The minimum milkfat content is 22 percent by weight, and the maximum moisture content is 45 percent by weight. At these milkfat and moisture levels, the maximum moisture on a fat-free basis will be 58 percent by weight, and the minimum total solids will be 55 percent by weight. If the dairy ingredients used are not pasteurized, the cheese is cured at a temperature of not less than 35° for at least 60 days.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of edam cheese is not more than 3 micrograms, as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. After coagulation the mass is cut into small cube-shaped pieces with sides approximately three-eighths-inch long. The mass is stirred and heated to about 90° F, and so handled by further stirring, heating, dilution with water or salt brine, and salting as to promote and regulate the separation of curd and whey. When the desired curd is obtained, it is transferred to forms permitting drainage of whey. During drainage the curd is pressed and turned. After drainage the curd is removed from the forms and is salted and cured. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedures.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clothing enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Coloring.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages.

(c) *Nomenclature.* (1) The name of the food is "edam cheese."

(2) The following phrase, in letters not less than one-half the height of the letters used for the name of the food, shall accompany the name of the food wherever it appears on the principal display panel of panels: "Contains — percent fat," the blank being filled in with the whole number closest to the actual fat content, by weight, of the food.

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat," as appropriate.

8. By revising § 133.142, to read as follows:

§ 133.142 Gouda cheese.

Gouda cheese conforms to the definition and standard of identity and complies with the requirements for label declaration of ingredients prescribed for edam cheese by § 133.138, except that the minimum milkfat content is 25 percent by weight and the maximum moisture content is 45 percent by weight. At these milkfat and moisture levels, the maximum moisture on a fat-free basis will be 60 percent by weight, and the minimum total solids will be 55 percent by weight.

9. By revising § 133.149, to read as follows:

§ 133.149 Gruyere cheese.

(a) *Description.* (1) Gruyere cheese is the food prepared by the procedure set forth in paragraph (a)(3) of this section or by any other procedure which produces a finished cheese having the same physical and chemical properties. It contains small holes or eyes. It has a mild flavor, due in part to the growth of surface-curing agents. The minimum milkfat content is 27 percent by weight, and the maxi-

mum moisture content is 39 percent by weight. At these milkfat and moisture levels, the maximum moisture on

the whole number closest to the actual fat content, by weight, of the food.

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat," as appropriate.

10. By revising § 133.150, to read as follows:

§ 133.150 Havarti cheese.

(a) *Description.* (1) Havarti cheese is the food prepared by the procedure set forth in paragraph (a)(3) of this section or by any other procedure which produces a finished cheese having the same physical and chemical properties. The minimum milkfat content is 25 percent by weight, and the maximum moisture content is 44 percent by weight. At these milkfat and moisture levels, the maximum moisture on a fat-free basis will be 60 percent by weight, and the minimum total solids will be 55 percent by weight. If the dairy ingredients used are not pasteurized, the cheese is cured at a temperature of not less than 35° F for at least 60 days.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of havarti cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. After coagulation the mass is cut into small cube-shaped pieces with sides approximately three-eighths-inch long. The mass is stirred and heated to about 90° F, and so handled by further stirring, heating, dilution with water or salt brine, and salting as to promote and regulate the separation of curd and whey. When the desired curd is obtained, it is transferred to forms permitting drainage of whey. During drainage the curd is pressed and turned. After drainage the curd is removed from the forms and is salted and cured. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedures.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Coloring.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages.

(c) *Nomenclature.* (1) The name of the food is "havarti cheese."

(2) The following phrase, in letters not less than one-half the height of the letters used for the name of the food, shall accompany the name of the food wherever it appears on the principal display panel of panels: "Contains — percent fat," the blank being filled in with the whole number closest to the actual fat content, by weight, of the food.

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat," as appropriate.

V 43 / 182 SEP 1978 V 4

mum moisture content is 39 percent by weight. At these milkfat and moisture levels, the maximum moisture on a fat-free basis will be 53 percent by weight, and the minimum total solids will be 61 percent by weight. The dairy ingredients used may be pasteurized. The cheese is at least 90 days old.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of gruyere cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed and is subjected to the action of lactic acid-producing and propionic acid-producing bacterial cultures. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is cut into particles similar in size to wheat kernels. For about 30 minutes the particles are alternately stirred and allowed to settle. The temperature is raised to about 126° F. Stirring is continued until the curd becomes firm. The curd is transferred to hoops or forms, and pressed until the desired shape and firmness are obtained. The cheese is surface-salted while held at a temperature of 48° to 54° F for a few days. It is soaked for 1 day in a saturated salt solution. It is then held for 3 weeks in a salting cellar and wiped every 2 days with brine cloth to insure growth of biological curing agents on the rind. It is then removed to a heating room and held at progressively higher temperatures, finally reaching 65° F with a relative humidity of 85 to 90 percent, for several weeks, during which time small holes, or so-called eyes, form. The cheese is then stored at a lower temperature for further curing. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Calcium chloride in an amount not more than 0.002 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(ii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iii) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages.

(c) *Nomenclature.* (1) The name of the food is "Gruyere cheese".

(2) The following phrase, in letters not less than one-half the height of the letters used in the name of the food, shall accompany the name of the food wherever it appears on the principal display panel or panels: "Contains —% fat", the blank being filled in with the whole number closest to the actual fat content, by weight, of the food.

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

10. By revising § 133.152, to read as follows:

§ 133.152 Limburger cheese.

(a) *Description.* (1) Limburger cheese is the food prepared by one of the procedures set forth in paragraph (a)(4) of this section, or by any other procedure which produces a finished cheese having the same physical and chemical properties. The minimum milkfat and maximum moisture contents, by weight, shall conform to any one of the fat/moisture combinations in paragraph (a)(2) of this section. Each minimum fat/maximum moisture content combination will result in the maximum percent moisture on a fat-free basis by weight, and minimum percent total solids by weight, indicated. If the dairy ingredients used are not pasteurized, the cheese is cured at a temperature of 35° F for at least 60 days.

(2) Any one of the following minimum milkfat/maximum moisture combinations may be used.

[Figures in percent]

Minimum fat	25	21	17	11	7
Maximum moisture	50	53	58	62	65
Moisture on a fat-free basis	67	67	70	70	70
Total solids	50	47	42	38	35

(3) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of Limburger cheese is not more than 4 micrograms as determined by the method described in § 133.5.

(4) One of the following procedures may be followed for producing Limburger cheese:

(i) One or more of the dairy ingredients, unpasteurized, specified in paragraph (b)(1) of this section is warmed to about 92° F and subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is cut into cubes with sides approximately one-half inch long. After a few minutes the mass is stirred and heated, gradually raising the temperature to 96° to 98° F. The curd is then allowed to settle, most of the whey is drained off, and the remaining curd and whey dipped into molds. During drainage the curd may be pressed. It is turned at regular intervals. After drainage the curd is cut into pieces of desired size and dry-salted at intervals for 24 to 48 hours. The cheese is then cured with frequent applications of a weak brine solution to the surface, until the proper growth of surface-curing organisms is obtained. It is then wrapped and held in storage for development of as much additional flavor as is desired. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(ii) One or more of the dairy ingredients specified in paragraph (b)(1) of this section is pasteurized, brought to a temperature of 89° to 90° F after pasteurization, and is subjected to the action of a lactic acid-producing bacterial culture. The procedure is then the same as in paragraph (a)(4)(i) of this section, except that heating is to 94° F. After most of the whey is drained off, salt brine at a temperature of 66° to 70° F is added, so that the pH of the curd is about 4.8. The mixed curd, whey, and brine is dipped into molds, and the remaining procedure specified in paragraph (a)(1)(i) of this section is followed.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Coloring.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) by weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(c) *Nomenclature.* (1) The name of the food is "Limburger cheese".

(2) The following phrase, in letters not less than one-half the height of the letters used in the name of the food, shall accompany the name of the food wherever it appears on the principal display panel or panels: "Contains —% fat", the blank being filled in with

the whole number closest to the actual fat content, by weight, of the food.

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declard as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

11. By revising § 133.181, to read as follows:

§ 133.181 Provolone cheese.

(a) *Description.* (1) Provolone, a pasta filata or stretched curd-type cheese, is the food prepared by the procedure set forth in paragraph (a)(3) of this section, or by any other method which produces a finished cheese having the same physical and chemical properties. It has a stringy texture. The minimum milkfat content is 25 percent by weight, and the maximum moisture content is 45 percent by weight. At these milkfat and moisture levels, the maximum moisture on a fat-free basis will be 60 percent by weight, and the minimum total solids will be 55 percent by weight. If the dairy ingredients used are not pasteurized, the cheese is cured at a temperature of 35° F for at least 60 days.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of Provolone cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be bleached, warmed, and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is cut, stirred, and heated so as to promote and regulate the separation of whey from the curd. The whey is drained off, and the curd is matted and cut, immersed in hot water, and kneaded and stretched until it is smooth and free from lumps. Antimycotics may be added to the curd during the kneading and stretching process. Then it is cut and molded. During the molding the curd is kept sufficiently warm to cause proper sealing of the surface. The molded curd is then firmed by immersion in cold water, salted in brine, and dried. It is given some additional curing. Provolone cheese may be smoked, and one or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Blue or green color in an amount to neutralize the natural yellow color of the curd.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) by weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages or added to the curd during the kneading and stretching process.

(v) Benzoyl peoxide or a mixture of benzoyl peroxide with potassium alum, calcium sulfate, and magnesium carbonate used to bleach the dairy ingredients. The weight of the benzoyl peroxide is not more than 0.002 percent of the weight of the milk being bleached, and the weight of the potassium alum, calcium sulfate, and magnesium carbonate, singly or combined, is not more than six times the weight of the benzoyl peroxide used. If milk is bleached in this manner, vitamin A is added to the curd in such quantity as to compensate for the vitamin A or its precursors destroyed in the bleaching process, and artificial coloring is not used.

(c) *Nomenclature.* (1) The name of the food is "provolone cheese". The name of the food may include the common name of the shape of the cheese, such as "salami provolone".

(2) The following words or phrases, in letters not less than one-half the height of the letters used in the name of the food, shall accompany the name of the food wherever it appears on the principal display panel or panels:

(i) "Contains —% fat", the blank being filled in with the whole number closest to the actual fat content, by weight, of the food.

(ii) "Smoked" if the food has been smoked.

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

12. By revising § 133.185, to read as follows:

§ 133.185 *Samsoe cheese.*

(a) *Description.* (1) Samsoe cheese is the food prepared by the procedure set forth in paragraph (a)(4) of this section or by any other procedure which produces a finished cheese having the same physical and chemical properties. It has a small amount of eye formation of approximately uniform size of about five-sixteenths inch (8 millimeters). The minimum milkfat and maximum moisture contents, by weight, shall conform to either of the fat/mositure combinations in paragraph (a)(2) of this section. Each minimum fat/maximum moisture content combination will result in the maximum percent moisture on a fat-free basis by weight, and minimum percent total solids by weight, indicated. The dairy ingredients used may be pasteurized. Samsoe is cured at not less than 35° F for at least 60 days.

(2) Either of the following minimum milkfat/maximum moisture combinations may be used:

[Figures in percent]

Minimum fat	27	14
Maximum moisture	41	52
Moisture on a fat-free basis	56	60
Total solids	59	48

(3) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of samsoe cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(4) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. After coagulation the mass is cut into small cube-shaped pieces with sides approximately three-eighths inch (1 centimeter). The mass is stirred and heated to about 102° F, and so handled by further stirring, heating, dilution with water, and salting as to promote and regulate the separation of curd and whey. When the desired curd is obtained, it is transferred to forms permitting drainage of whey. During drainage, the curd is pressed. After drainage, the curd is removed from the forms and is further salted by immersing in a concentrated salt solution for about 3 days. The curd is then cured at a temperature of from 60° to 70° F for 3 to 5 weeks to obtain the desired eye forma-

tion. Further curing is conducted at a lower temperature. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may

solids content by weight, indicated. The dairy ingredients used may be pasteurized. Swiss cheese is at least 60 days old.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, applied to

comments, and shall be identified with the hearing clerk docket number found in brackets in the heading of

ing this determination is on file with the hearing clerk, Food and Drug Administration.

V 4 3 / 1 8 2

tion. Further curing is conducted at a lower temperature. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Coloring.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) by weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages.

(c) *Nomenclature.* (1) The name of the food is "Samsoe cheese".

(2) The following phrase, in letters not less than one-half the height of the letters used in the name of the food, shall accompany the name of the food wherever it appears on the principal display panel or panels: "Contains —% fat", the blank being filled in with the whole number closest to the actual fat content, by weight, of the food.

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "notfat milk and milkfat", as appropriate.

13. By revising § 133.195, to read as follows:

§ 133.195 Swiss and emmentaler cheese.

(a) *Description.* (1) Swiss cheese, Emmentaler cheese, is the food prepared by the procedure set forth in paragraph (a)(4) of this section, or by any other procedure which produces a finished cheese having the same physical and chemical properties. It has holes or eyes developed throughout the cheese. The minimum milkfat and maximum moisture contents, by weight, shall conform to any one of the milkfat/moisture combinations in paragraph (a)(2) of this section. Each minimum fat/maximum moisture combination will result in the maximum percent moisture on a fat-free basis by weight, and minimum total solids content by weight, indicated. The dairy ingredients used may be pasteurized. Swiss cheese is at least 60 days old.

(2) Any one of the following minimum milkfat/maximum moisture combinations may be used:

[Figures in percent]

Minimum fat	25	20	15
Maximum moisture	41	44	47
Moisture on a fat-free basis	55	55	55
Total solids	59	56	53

(3) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of Swiss cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(4) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be bleached, warmed, and is subjected to the action of lactic acid-producing and propionic acid-producing bacterial cultures. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is cut into particles similar in size to wheat kernels. For about 30 minutes the particles are alternately stirred and allowed to settle. The temperature is raised to about 126° F. Stirring is continued until the curd becomes firm. The acidity of the whey at this point, calculated as lactic acid, does not exceed 0.13 percent. The curd is transferred to hoops or forms and pressed until the desired shape and firmness are obtained. The cheese is then salted by immersing it in a saturated salt solution for about 3 days. It is then held at a temperature of about 50° to 60° F for a period of 5 to 10 days, after which it is held at a temperature of about 75° F until it is approximately 30 days old, or until the so-called eyes form. Salt, or a solution of salt in water, is added to the surface of the cheese at some time during the curing process. The cheese is then stored at a lower temperature for further curing. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Coloring.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) by weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages.

(v) Benzoyl peroxide or a mixture of benzoyl peroxide with potassium alum, calcium sulfate, and magnesium carbonate used to bleach the dairy ingredients. The weight of the benzoyl peroxide is not more than 0.002 percent of the weight of the milk being bleached, and the weight of the potassium alum, calcium sulfate, and magnesium carbonate, singly or combined, is not more than six times the weight of the benzoyl peroxide used. If milk is bleached in this manner, vitamin A is added to the curd in such quantity as to compensate for the vitamin A or its precursors destroyed in the bleaching process, and artificial coloring is not used.

(c) *Nomenclature.* (1) The name of the food is "Swiss cheese", or alternatively, "Emmentaler cheese".

(2) The following phrase, in letters not less than one-half the height of the letters used in the name of the food, shall accompany the name of the food wherever it appears on the principal display panel or panels: "Contains —% fat", the blank being filled in with the whole number closest to the actual fat content, by weight, of the food.

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

14. By revising § 133.196, to read as follows:

§ 133.196 Swiss cheese for manufacturing.

Swiss cheese for manufacturing conforms to the definition and standard of identity prescribed for Swiss cheese by § 133.195, except that the holes, or eyes, have not developed throughout the entire cheese, and the provisions of paragraph (b)(3)(v) of that section do not apply; however, the labeling requirements of paragraph (d) of that section do apply.

Interested persons may, on or before November 27, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of

SEP 19 78

comments, and shall be identified with the hearing clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the hearing clerk, Food and Drug Administration.

Dated: September 8, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

NOTE.—Incorporation by reference provisions approved by the Director of the Office of the Federal Register on March 11, 1976. Material incorporated is on file in the FEDERAL REGISTER library.

[FR Doc. 78-25821 Filed 9-18-78; 8:45 am]

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federal register

TUESDAY, SEPTEMBER 19, 1978
PART IV

DEPARTMENT OF LABOR

Benefits Review Board

■

ESTABLISHMENT AND OPERATION OF THE BOARD AND RULES OF PRACTICE AND PROCEDURE

[4510-27]

Title 20—Employees' Benefits

delay in effective date are inapplicable. However, to afford interested persons adequate notice, the effective time will begin anew upon action by the administrative law judge on a request for reconsideration and the

Signed this 25th day of August 1978 at Washington, D.C.

cates otherwise, the following definitions apply:

(1) "Acts" means the several Acts

§ 801.3 Applicability of this part to 20 CFR Part 802.

Part 802 of title 20, Code of Federal

[4510-27]

Title 20—Employees' Benefits

CHAPTER VII—BENEFITS REVIEW BOARD, DEPARTMENT OF LABOR

PART 801—ESTABLISHMENT AND OPERATION OF THE BOARD

PART 802—RULES OF PRACTICE AND PROCEDURE

Final Rules

AGENCY: Department of Labor.

ACTION: Final rules.

SUMMARY: These final rules revise the regulations contained in Part 801, Establishment and Operation of the Board, and Part 802, Rules of Practice and Procedure, to reflect changes in definitions and requirements of these parts and to reflect the Benefits Review Board's current review authority in view of enactment of the Black Lung Benefits Reform Act of 1977 and the Black Lung Benefits Revenue Act of 1977.

EFFECTIVE DATE: This amendment takes effect October 19, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gerson, Senior Board Attorney, Benefits Review Board, U.S. Department of Labor, 1111 20th Street NW., Washington, D.C. 20036, telephone 202-653-5106.

SUPPLEMENTARY INFORMATION: These amended regulations are issued pursuant to Secretary's Order No. 38-72 and are applicable to all appeals from decisions or orders with respect to claims under (1) the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.), (2) the Defense Base Act (42 U.S.C. 1651 et seq.), (3) the District of Columbia Workmen's Compensation Act (36 D.C. Code 501 et seq.), (4) the Outer Continental Shelf Lands Act (43 U.S.C. 1331), (5) the Nonappropriated Fund Instrumentalities Act (5 U.S.C. 8171 et seq.), and (6) title IV, section 415 and part C of the Federal Mine Safety and Health Act of 1977 (Pub. L. 95-164, 91 Stat. 1290) (formerly the Federal Coal Mine Health and Safety Act, hereinafter, FCMHSA, of 1969) as amended by the Black Lung Benefits Reform Act of 1977 (92 Stat. 95), and the Black Lung Benefits Revenue Act of 1977 (92 Stat. 11).

Inasmuch as the revised regulations contained herein consist of rules of practice and procedure, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable. However, to afford interested persons adequate notice, the effective date is delayed until October 19, 1978.

The revisions of parts 801 and 802 clarify the requirements of particular sections, add provisions to fill gaps in the former rules, and establish additional procedures which have developed informally since these parts were originally promulgated. Additionally, changes have been made to reflect the Benefits Review Board's authority in black lung benefits appeals. The major changes concern the filing of notices of appeal with the Board, provisions for cross-appeals and protective appeals, fee request requirements, motion requirements including motion for reconsideration, computation of time periods, and relaxation of rules for unrepresented parties. Specifically, the changes in part 801 and part 802 are, among others, as follows:

1. Sections 801.2(a)(10) and 802.201(a) have been clarified to confirm the standing of the Secretary in appeals before the Board.

2. The prohibition in § 802.201(a) with respect to the adjudication of claims filed under the Federal Coal Mine Health and Safety Act prior to July 1, 1973, has been deleted to conform to provisions of section 15 of the Black Lung Benefits Reform Act of 1977.

3. The language of paragraphs (a) and (b) of § 802.203 has been amplified to make clear that fees for services may be approved only where the pursuit of an appeal or a defense is successful. Additionally, new paragraphs (c), (d), and (e) of this section have been added specifying the contents of fee applications, and a new paragraph (f) has been added which prohibits contracts pertaining to fees.

4. Section 802.204 has been amended so as to require that all notices of appeal be filed with the Benefits Review Board rather than the deputy commissioner. This change, it is expected, will reduce the overall appeal time by permitting the Board to immediately process appeals without waiting for the deputy commissioner to forward the notice of appeal and the record in the case. Petitioners are required to send a copy of the notice of appeal to the deputy commissioner.

5. Paragraph (a) of § 802.205 adds new provisions for cross-appeals and protective appeals, and paragraph (b) of that section provides timeframes for such cross-appeals and protective appeals. Paragraph (c) has been modified to accommodate cross-appeals and protective appeals.

6. A new § 802.205A has been added. This section provides that a timely motion to reconsider renders an appeal premature and subject to dismissal. Under this new section, appeal time will begin anew upon action by the administrative law judge on a request for reconsideration and the filing of a new notice of appeal. This new section clears up procedural problems which have arisen when an administrative law judge's decision has been followed both by a motion to reconsider that decision and an appeal to the Board.

7. A new § 802.218 sets forth requirements for the filing of motions generally and responses thereto.

8. A new § 802.219 provides procedural rules and requirements when parties are not represented by counsel.

9. Additional provisions establish office hours for the submission of documents and for public inspection of records (§ 801.304), provide the manner in which the date of mailing of a notice of appeal is established (§ 802.206(b)), provide for more detailed information to be set forth in a notice of appeal (§ 802.207), clarify who may intervene (§ 802.213), and specify the manner of service and the form of papers submitted to the Board (§ 802.215).

10. Changes in § 802.216 relating to the waiver of time limitations have been made so as, among other things, to limit the number of enlargements in ordinary cases to one extension per party.

11. A new § 802.220 specifies the manner in which time periods are computed.

12. Section 802.401 clarifies that the Board may, but is not compelled to, grant a petitioner's motion to dismiss, and that the granting of such motion shall be with prejudice.

13. Sections 802.304, 802.305, 802.307, 802.308 clarify and modify procedures relating to oral argument.

14. Paragraph (b) has been added to § 802.217 providing for show cause orders when a petition for review has not been timely submitted, a new § 802.404(b) provides for per curiam decisions, and a new § 802.303(c) allows the Board to advance an appeal on the docket without waiting for a request by a party.

Accordingly, pursuant to 5 U.S.C. 301, Reorganization Plan No. 6 of 1950, 15 FR 3174, 33 U.S.C. 901 et seq., 30 U.S.C. 901 et seq., part 801 and part 802 of title 20 of the Code of Federal Regulations, as amended to date, are hereby revised and read as set forth below.

Signed this 25th day of August 1978 at Washington, D.C.

SAMUEL J. SMITH,
Chairman, Benefits Review Board.
JULIUS MILLER,
Member, Benefits Review Board.
ISMENE M. KALARIS,
Member, Benefits Review Board.

Approved this 11th day of September 1978 at Washington, D.C.

ROBERT J. BROWN,
Under Secretary of Labor.

PART 801—ESTABLISHMENT AND OPERATION OF THE BOARD

Sec.
801.1 Purpose and scope of this part.
801.2 Definitions and use of terms.
801.3 Applicability of this part to 20 CFR Part 802.

ESTABLISHMENT AND AUTHORITY OF THE BOARD

801.101 Establishment.
801.102 Review authority.
801.103 Organizational placement.
801.104 Operational rules.

MEMBERS OF THE BOARD

801.201 Composition of the Board.
801.202 Interim appointments.
801.203 Disqualification of Board members.

ACTION BY THE BOARD

801.301 Quorum; votes.
801.302 Procedural rules.
801.303 Location of Board's proceedings.
801.304 Business hours.

REPRESENTATION

801.401 Representation before the Board.
801.402 Representation of Board in court proceedings.

AUTHORITY: 5 U.S.C. 301, Reorganization Plan No. 6 of 1950, 15 FR 3174, 33 U.S.C. 901 et seq., 30 U.S.C. 901, et seg.

INTRODUCTORY

§ 801.1 Purpose and scope of this part.

This part 801 describes the establishment and the organizational structure of the Benefits Review Board of the Department of Labor, sets forth the general rules applicable to operation of the Board, and defines terms used in this chapter.

§ 801.2 Definitions and use of terms.

(a) For purposes of this chapter, except where the content clearly indicates otherwise, the following definitions apply:

(1) "Acts" means the several Acts listed in §§ 801.102 and 802.101 of this chapter, as amended and extended, unless otherwise specified.

(2) "Board" means the Benefits Review Board established by section 21 of the LHWCA (33 U.S.C. 921) as described in § 801.101, and as provided in this part and Secretary of Labor's Order No. 38-72 (38 FR 90).

(3) "Chairman" or "Chairman of the Board" means Chairman of the Benefits Review Board.

(4) "Secretary" means the Secretary of Labor.

(5) "Department" means the Department of Labor.

(6) "Judge" means an administrative law judge appointed as provided in 5 U.S.C. 3105 and subpart B of 5 C.F.R. part 930 (see 37 FR 16787), who is qualified to preside at hearings under 5 U.S.C. 557 and is empowered by the Secretary to conduct formal hearings whenever necessary in respect of any claim for benefits or compensation arising under the Acts. The term also includes a hearing officer appointed pursuant to Pub. L. 94-504 who is authorized to conduct formal hearings and adjudicate claims for benefits under title IV of the Federal Mine Safety and Health Act, as amended; except that a person appointed pursuant to Pub. L. 94-504 shall not be considered an administrative law judge for any period after March 1, 1979.

(7) "Chief Administrative Law Judge" means the Chief Administrative Law Judge of the Department of Labor.

(8) "Director" means the Director of the Office of Workers' Compensation Programs of the Department of Labor (hereinafter OWCP).

(9) "Deputy commissioner" means a person appointed as provided in sections 39 and 40 of the LHWCA or his designee, authorized by the Director to make decisions and orders in respect to claims arising under the Acts.

(10) "Party" or "Party in Interest" means the Secretary or his designee and any person or business entity directly affected by the decision or order from which an appeal to the Board is taken.

(11) "Day" means calendar day.

(b) The definitions contained in this part shall not be considered to derogate from the definitions of terms in the respective Acts.

(c) The definitions pertaining to the Acts contained in the several parts of chapter VI of this title 20 shall be applicable to this chapter as is appropriate.

§ 801.3 Applicability of this part to 20 CFR Part 802.

Part 802 of title 20, Code of Federal Regulations, contains the rules of practice and procedure of the Board. This part 801, including the definitions and usages contained in § 801.2, is applicable to part 802 of this chapter as appropriate.

ESTABLISHMENT AND AUTHORITY OF THE BOARD

§ 801.101 Establishment.

By Pub. L. 92-576, 86 Stat. 1251, in an amendment made to section 21 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 921), there was established effective November 26, 1972, a Benefits Review Board, which is composed of members appointed by the Secretary of Labor.

§ 801.102 Review authority.

The Board is authorized, as provided in 33 U.S.C. 921(b), as amended, to hear and determine appeals raising a substantial question of law or fact taken by any party in interest from decisions or orders with respect to claims for compensation or benefits arising under the following Acts, as amended and extended:

(1) The Longshoremen's and Harbor Workers' Compensation Act (LHWCA), 33 U.S.C. 901 et seq.;

(2) The Defense Base Act (DBA), 42 U.S.C. 1651 et seq.;

(3) The District of Columbia Workmen's Compensation Act (DCWCA), 36 D.C. Code 501 et seq.;

(4) The Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1331 et seq.;

(5) The Nonappropriated Fund Instrumentalities Act (NFIA), 5 U.S.C. 8171 et seq.;

(6) Title IV, Section 415 and Part C of the Federal Mine safety and Health Act of 1977 (Pub. L. 95-164, 91 Stat. 1290) (formerly the FCMHSA of 1969) as amended by the Black Lung Benefits Reform Act of 1977 (92 Stat. 95), and the Black Lung Benefits Revenue Act of 1977, Pub. L. 95-227, 92 Stat. 11.

§ 801.103 Organizational placement.

As prescribed by the statute, the functions of the Benefits Review Board are quasi-judicial in nature and involve review of decisions made in the course of the administration of the above statutes by the Employment Standards Administration in the Department of Labor. It is accordingly found appropriate for organizational purposes to place the Board in the Office of the Under Secretary and it is hereby established in that Office,

which shall be responsible for providing necessary funds, personnel, supplies, equipment, and records services

him or her. Notice of any objection which a party may have to any Board member who will participate in the

§ 801.402 Representation of Board in court proceedings.

Except in proceedings in the Su-

Subpart D—Completion of Board Review

DISMISSALS

802.401 Dismissal by application of party.

801 of this chapter are fully applicable to this part 802.

§ 802.103 Powers of the Board.

insurance carrier, and specify the nature and extent of the injury.

Subpart B—Prereview Procedures

which shall be responsible for providing necessary funds, personnel, supplies, equipment, and records services for the Board.

§ 801.104 Operational rules.

The Under Secretary may promulgate such rules and regulations as may be necessary or appropriate for effective operation of the Benefits Review Board as an independent quasi-judicial body in accordance with the provisions of the statute.

MEMBERS OF THE BOARD

§ 801.201 Composition of the Board.

(a) The Board is composed of three members appointed by the Secretary from among individuals who are especially qualified to serve thereon.

(b) The member designated by the Secretary as Chairman of the Board shall serve as chief administrative officer of the Board.

(c) The two remaining members shall be the associate members of the Board.

(d) All members of the Board shall serve indefinite terms to be determined in the discretion of the Secretary.

§ 801.202 Interim appointments.

(a) *Acting Chairman.* In the event that the Chairman of the Board is temporarily unavailable to perform his or her duties as prescribed in this chapter VII, he, she, or the Board shall designate one associate member to serve as Acting Chairman for the duration of the Chairman's absence.

(b) *Temporary members.* In the event that a member of the Board is temporarily unable to carry out his or her responsibilities because of disqualification, illness, or for any other reason, the Under Secretary of Labor may, in his or her discretion, appoint a qualified individual to serve in the place of such member for the duration of that member's inability to serve.

§ 801.203 Disqualification of Board members.

(a) During the period in which the Chairman or the other members serve on the Board, they shall not consider any matter in which they were involved prior to such period nor shall they be involved, other than as Board members, in any matter being considered by the Board. After completion of their service on the Board, they shall not become involved in any matter which had been considered by them as Board members.

(b) No Board member shall conduct or participate in any proceeding in a case in which he or she is prejudiced or partial with respect to any party, or where he or she has any interest in the matter pending for decision before him or her. Notice of any objection which a party may have to any Board member who will participate in the proceeding shall be made by such party at the earliest opportunity. The Board member shall consider such objection and shall, in his or her discretion, either proceed with the case or withdraw.

ACTION BY THE BOARD

§ 801.301 Quorum; votes.

For the purpose of carrying out its functions under the Acts, two members of the Board shall constitute a quorum, and official action can be taken only on the concurring vote of at least two members.

§ 801.302 Procedural rules.

Procedural rules for performance by the Board of its review functions and for insuring an adequate record for any judicial review of its orders, and such amendments to the rules as may be necessary from time to time, shall be promulgated by the Benefits Review Board with the approval of the Under Secretary. Such rules shall incorporate and implement the procedural requirements of section 21(b) of the Longshoremen's and Harbor Workers' Compensation Act.

§ 801.303 Location of Board's proceedings.

The Board shall hold its proceedings in Washington, D.C., unless for good cause the Board orders that proceedings in a particular matter be held in another location.

§ 801.304 Business hours.

The office of the Clerk of the Board at Washington, D.C., shall be open from 9 a.m. to 5:30 p.m. on all days, except Saturdays, Sundays, and legal holidays, for the purpose of receiving notices of appeal, petitions for review, other pleadings, motions, and other papers.

REPRESENTATION

§ 801.401 Representation before the Board.

On any issues requiring representation of the Secretary, the Director, Office of Workers' Compensation Programs, a deputy commissioner, or an administrative law judge before the Board, such representation shall be provided by attorneys designated by the Solicitor of Labor. Representation of all other persons before the Board shall be as provided by the rules of practice and procedure promulgated under § 801.302 (see part 802 of this chapter).

§ 801.402 Representation of Board in court proceedings.

Except in proceedings in the Supreme Court of the United States, any representation of the Benefits Review Board in court proceedings shall be by attorneys designated by the Solicitor of Labor.

PART 802—RULES OF PRACTICE AND PROCEDURE

Subpart A—General Provisions

INTRODUCTORY

Sec.
802.101 Purpose and scope of this part.
802.102 Applicability of part 801 of this chapter.
802.103 Powers of the Board.
802.104 Consolidation; severance.
802.105 Stay of payment pending appeal.

Subpart B—Prereview Procedures

COMMENCING APPEAL: PARTIES

802.201 Who may file an appeal.
802.202 Appearances, attorney, legal counsel.
802.203 Fees for services.

NOTICE OF APPEAL

802.204 Place for filing notice of appeal.
802.205 Time for filing.
802.205A Effect of motion for reconsideration on time for appeal.
802.206 When a notice of appeal is considered to have been filed in the office of the Clerk of the Board.
802.207 Contents of notice of appeal.
802.208 Transmittal of record to the Board.

INITIAL PROCESSING

802.209 Acknowledgment of notice of appeal.
802.210 Petition for review.
802.211 Response to petition for review.
802.212 Reply briefs.
802.213 Intervention.
802.214 Additional briefs.
802.215 Service and form of papers.
802.216 Waiver of time limitations for filing.
802.217 Failure to file papers; order to show cause.
802.218 Motions to the Board.
802.219 Party not represented by an attorney; informal procedure.
802.220 Computation of time.

Subpart C—Procedure for Review

ACTION BY THE BOARD

802.301 Scope of review.
802.302 Docketing of appeals.
802.303 Decision; no oral argument.

ORAL ARUGMENT BEFORE THE BOARD

802.304 Purpose of oral argument.
802.305 Request for oral argument.
802.306 Action on request for oral argument.
802.307 Notice of oral argument.
802.308 Conduct of oral argument.
802.309 Absence of parties.

Subpart D—Completion of Board Review

DISMISSALS

802.401 Dismissal by application of party.
802.402 Dismissal by abandonment.

DECISION OF THE BOARD

802.403 Issuance of decisions; service.
802.404 Scope and content of Board decisions.
802.405 Remand.
802.406 Finality of Board decisions.

RECONSIDERATION

802.407 Reconsideration of Board decisions—generally.
802.408 Notice of request for reconsideration.
802.409 Grant or denial of request.

JUDICIAL REVIEW

802.410 Judicial review of Board decisions.
802.411 Certification of record for judicial review.

AUTHORITY: 5 U.S.C. 301, Reorganization Plan No. 6 of 1950, 15 FR 3174, 33 U.S.C. 901 et seq., 30 U.S.C. 901 et seq.

Subpart A—General Provisions

INTRODUCTORY

§ 802.101 Purpose and scope of this part.

(a) The purpose of part 802 is to establish the rules of practice and procedure governing the operation of the Benefits Review Board.

(b) Except as otherwise provided, the rules promulgated in this part apply to all appeals taken by any party from decisions or orders with respect to claims for compensation or benefits under the following Acts:

(1) The Longshoremen's and Harbor Workers' Compensation Act (LHWCA), 33 U.S.C. 901 et seq.;

(2) The Defense Base Act (DBA), 42 U.S.C. 1651 et seq.;

(3) The District of Columbia Workmen's Compensation Act (DCWCA), 36 D.C. Code 501 et seq.;

(4) The Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1331 et seq.;

(5) The Nonappropriated Fund Instrumentalities Act (NFIA), 5 U.S.C. 8171 et seq.;

(6) Title IV, section 415 and part C of the Federal Mine Safety and health Act of 1977 (Pub. L. 95-164, 91 Stat. 1290) (formerly the FCMHSA of 1969), as amended by the Black Lung Benefits Reform Act of 1977 (92 Stat. 95) and the Black Lung Benefits Revenue Act of 1977 (92 Stat. 11).

§ 802.102 Applicability of part 801 of this chapter.

Part 801 of this chapter VII sets forth rules of general applicability covering the composition, authority, and operation of the Benefits Review Board and definitions applicable to this chapter. The provisions of part 801 of this chapter are fully applicable to this part 802.

§ 802.103 Powers of the Board.

(a) *Conduct of proceedings.* Pursuant to section 27(a) of the LHWCA, the Board shall have power to preserve and enforce order during any proceedings for determination or adjudication of entitlement to compensation or benefits or for liability for payment thereof, and to do all things in accordance with law which may be necessary to enable the Board to effectively discharge its duties.

(b) *Contumacy.* Pursuant to section 27(b) of the LHWCA, if any person in proceedings before the Board disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, the Board shall certify the facts to the Federal district court having jurisdiction in the place in which it is sitting (or to the U.S. District Court for the District of Columbia if it is sitting in the District) which shall thereupon in a summary manner hear the evidence as to the acts complained of, and, if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the court, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process or in the presence of the court.

§ 802.104 Consolidation; severance.

(a) Cases may be consolidated for purposes of an appeal upon the motion of any party or upon the Board's own motion where there exist common parties, common questions of law or fact or both, or in such other circumstances as justice and the administration of the Acts require.

(b) Upon its own motion, or upon motion of any party, the Board may, for good cause, order any proceeding severed with respect to some or all issues or parties.

§ 802.105 Stay of payment pending appeal.

As provided in section 14(f) of the LHWCA and sections 415 and 422 of the Black Lung Benefits Act, the payment of the amounts required by an award of compensation or benefits shall not be stayed or in any way delayed pending final decision in any proceeding before the Board unless so ordered by the Board. No stay shall be issued unless irreparable injury would otherwise ensue to the employer, coal mine operator or insurance carrier. Any order of the Board permitting any stay shall contain a specific finding, based upon evidence submittted to the Board and identified by reference thereto, that irreparable injury would result to such employer, operator or insurance carrier, and specify the nature and extent of the injury.

Subpart B—Prereview Procedures

COMMENCING APPEAL: PARTIES

§ 802.201 Who may file an appeal.

(a) *A party.* Any party adversely affected by a decision or order issued pursuant to one of the Acts may appeal that decision or order to the Board by filing a notice of appeal pursuant to this subpart. (See § 802.205 (b) and (c) for exceptions to this general rule.) A party who files a notice of appeal shall be deemed the petitioner.

(b) *Representative parties.* In the event that a party has not attained the age of 18, is not mentally competent, or is physically unable to file and pursue or defend an appeal, the Board may permit any legally appointed guardian, committee, or other appropriate representative to file and pursue or defend the appeal, or it may in its discretion appoint such representative for purposes of the appeal. The Board may require any legally appointed representative to submit evidence of that person's authority.

§ 802.202 Appearances, attorneys, legal counsel.

(a) Any party or intervenor or any representative duly authorized pursuant to § 802.201(b) may appear before and/or submit written argument to the Board by attorney or any other duly authorized person, including any representative of an employee organization. For each instance in which appearance before the Board is made by some person other than the party or his legal guardian, committee, or representative, there shall be filed with the Chairman of the Board a statement in writing, signed by the party to be represented, authorizing such assistance or representation.

(b) Any individual petitioner or respondent or his duly authorized representative pursuant to § 802.201(b) or an officer of any corporate party or a member of any partnership or joint venture which is a party may participate in the appeal on his or her own behalf, or on behalf of such business entity.

§ 802.203 Fees for services.

(a) No fee for services rendered on behalf of a claimant in the successful pursuit or successful defense of an appeal shall be valid unless approved pursuant to 33 U.S.C. 928, as amended.

(b) All fees for services rendered in the successful pursuit or successful defense of an appeal on behalf of a claimant shall be subject to the provisions and prohibitions contained in 33 U.S.C. 928, as amended.

(c) A fee application shall be complete in all respects, containing all of the following specific information:

appeal by filing a notice of appeal within 14 days of the date on which the first notice of appeal was filed, or within the time prescribed by para-

ministrative law judge or deputy commissioner is filed, any appeal to the Board, whether filed prior to or subse-

(8) The name and address of the attorney or other person, if any, who is representing the petitioner.

§ 802.211 Response to petition for review.

Within 30 days after the receipt of a petition for review, each party upon

or prior to the date on which the paper is due.

(c) Any request for an enlargement

(c) A fee application shall be complete in all respects, containing all of the following specific information:

(1) A complete statement of the extent and character of the necessary work done;

(2) The professional status of each person who performed services on behalf of the claimant (e.g., attorney; law clerk; or paralegal);

(3) The number of hours devoted by each person who performed services on behalf of the claimant and the dates on which such services were performed in each category of work;

(4) The normal billing rate for each person who performed services on behalf of the claimant. This rate shall be based on what is reasonable and customary in the area where the services were rendered for a person of that particular professional status.

(d) Any fee approved shall be reasonably commensurate with the necessary work done and shall take into account the quality of the representation, the complexity of the legal issues involved, the amount of benefits awarded, and when the fee is to be assessed against the claimant, shall also take into account the financial circumstances of the claimant. A fee shall not necessarily be computed by multiplying time devoted to work by an hourly rate.

(e) No contract pertaining to the amount of a fee shall be recognized.

(f) A fee application shall be served on all other parties. Any party may respond to the application within 10 days of his receipt of the application. The response shall be filed with the Board and served on all other parties.

NOTICE OF APPEAL

§ 802.204 Place for filing notice of appeal.

Any notice of appeal shall be sent by mail or otherwise presented to the Clerk of the Board in Washington, D.C. A copy shall be served on the deputy commissioner who filed the decision or order being appealed and on all other parties by the party who files a notice of appeal. Proof of service of the notice of appeal on the deputy commissioner and other parties shall be included with the notice of appeal.

§ 802.205 Time for filing.

(a) A notice of appeal, other than a cross-appeal or a protective appeal, must be filed within 30 days from the date upon which a decision or order has been filed in the office of the deputy commissioner pursuant to section 19(e) of the LHWCA or in such other office as may be established in the future (see §§ 702.349 and 725.478 of this title).

(b) (1) If a timely notice of appeal is filed by a party, any other party may initiate a cross-apppeal or protective appeal by filing a notice of appeal within 14 days of the date on which the first notice of appeal was filed, or within the time prescribed by paragraph (a) of this section, whichever period last expires.

(2) When a decision or order is favorable to a party (i.e., the prevailing party), but contains findings of fact or conclusions of law, or both, which are adverse to him or her, the prevailing party may become potentially aggrieved when the other party, who is in fact aggrieved, files a notice of appeal pursuant to paragraph (a) of this section. Therefore, the prevailing party may file an appeal pursuant to paragraph (b) of this section to protect its right to challenge the adverse findings of fact or conclusions of law, or both, in the same proceeding.

(c) Failure to file within the period specified in paragraph (a) or (b) of this section (whichever is applicable) shall foreclose all rights to review by the Board with respect to the case or matter in question. Any untimely appeal will be summarily dismissed by the Board for lack of jurisdiction.

§ 802.205A. Effect of motion for reconsideration on time for appeal.

(a) A timely motion for reconsideration of a decision or order of an administrative law judge or deputy commissioner shall suspend the running of the time for filing a notice of appeal.

(b) (1) In a case involving a claim filed under the Longshoremen's and Harbor Workers' Compensation Act or its extensions (see § 802.101(b)(1)–(5)), a timely motion for reconsideration for purposes of paragraph (a) of this section is one which is filed not later than 10 days from the date the decision or order was filed in the office of the deputy commissioner.

(2) In a case involving a claim filed under title IV of the Federal Mine Safety and Health Act, as amended (see § 802.101(b)(6)), a timely motion for reconsideration for purposes of paragraph (a) of this section is one which is filed not later than 30 days from the date the decision or order was served on all parties by the administrative law judge and considered filed in the office of the deputy commissioner (see §§ 725.478 and 725.479 (b), (c) of this title).

(c) If a motion for reconsideration is granted, the full time for filing an appeal commences on the date the subsequent decision or order on reconsideration is filed as provided in § 802.205.

(d) If a motion for reconsideration is denied, the full time for filing an appeal commences on the date the order denying reconsideration is filed as provided in § 802.205.

(e) If a timely motion for reconsideration of a decision or order of an administrative law judge or deputy commissioner is filed, any appeal to the Board, whether filed prior to or subsequent to the filing of the timely motion for reconsideration, shall be dismissed as premature. Following final action by the administrative law judge or deputy commissioner pursuant to either paragraph (c) or (d) of this section, a new notice of appeal shall be filed with the Clerk of the Board by any party who wishes to appeal.

§ 802.206 When a notice of appeal is considered to have been filed in the office of the Clerk of the Board.

(a) *Date of receipt.* (1) Except as otherwise provided in this section, a notice of appeal is considered to have been filed only as of the date it is received in the office of the Clerk of the Board.

(2) Notices of appeal submitted to any other agency or subdivision of the Department of Labor or of the U.S. Government or any State government shall be promptly forwarded to the office of the Clerk of the Board. The notice shall be considered filed with the Clerk of the Board as of the date it was received by the other governmental unit if the Board finds that it is in the interest of justice to do so.

(b) *Date of mailing.* If the notice of appeal is sent by mail and the fixing of the date of delivery as the date of filing would result in a loss or impairment of appeal rights, it will be considered to have been filed as of the date of mailing. The date appearing on the postmark (when available and legible) shall be prima facie evidence of the date of mailing. If there is no postmark or it is not legible, other evidence, such as, but not limited to, certified mail receipts, certificate of service and affidavits, may be used to establish the mailing date.

§ 802.207 Contents of notice of appeal.

(a) A notice of appeal shall contain the following information:

(1) The full name and address of the petitioner;

(2) The full name of the injured, disabled, or deceased employee;

(3) The full names and addresses of all other parties, including, among others, beneficiaries, employers, coal mine operators, and insurance carriers where appropriate;

(4) The case file number which appears on the decision or order of the administrative law judge;

(5) The claimant's OWCP file number;

(6) The date of filing the decision or order being appealed;

(7) Whether a motion for reconsideration of the decision or order of the administrative law judge has been filed by any party (see § 802.209); and

(8) The name and address of the attorney or other person, if any, who is representing the petitioner.

(b) Paragraph (a) of this section notwithstanding, any written communication which reasonably permits identification of the decision from which an appeal is sought and the parties affected or aggrieved thereby, shall be sufficient notice for purposes of § 802.205.

(c) In the event that identification of the case is not possible from the information submitted, the Clerk of the Board shall so notify the petitioner and shall give the petitioner a reasonable time to produce sufficient information to permit identification of the case. For purposes of § 802.205, the notice shall be deemed to have been filed as of the date the insufficient information was received.

§ 802.208 Transmittal of record to the Board.

Upon receipt of a copy of the notice of appeal or upon request of the Board, the deputy commissioner or other office having custody of such record shall immediately forward to the Clerk of the Board the official record of the case, which record includes the transcript or transcripts of all formal proceedings with exhibits, all decisions and orders rendered in the case.

INITIAL PROCESSING

§ 802.209 Acknowledgement of notice of appeal.

Upon receipt by the Board of a notice of appeal, the Clerk of the Board shall as expeditiously as possible notify the petitioner and all other parties and the Solicitor of Labor, in writing, that a notice of appeal has been filed.

§ 802.210 Petition for review.

(a) Within 30 days after the receipt of an acknowledgment of a notice of appeal issued pursuant to § 802.209, the petitioner shall submit a petition for review to the Board and shall serve copies of it, together with accompanying documents, on all parties and the Solicitor of Labor. A petition for review shall contain a statement indicating the specific contentions of the petitioner and describing with particularity the substantial questions of law or fact to be raised by the appeal. Failure to submit a petition for review within the 30-day period described in this section may, in the discretion of the Board, cause the appeal to be deemed abandoned (see § 802.402).

(b) Each petition for review shall be accompanied by supporting brief, memorandum of law, or other statement.

§ 802.211 Response to petition for review.

Within 30 days after the receipt of a petition for review, each party upon whom it was served may submit to the Board a brief, memorandum, or other statement in response to it.

§ 802.212 Reply briefs.

Within 20 days after the receipt of a brief, memorandum, or statement submitted in response to the petition for review pursuant to § 802.211, any party upon whom it was served may file a brief, memorandum, or other statement in reply to it.

§ 802.213 Intervention.

(a) If a person or legal entity shows in a written petition to intervene that his, her, or its rights are affected by any proceeding before the Board, the Board may permit that person or legal entity to intervene in the proceeding and to participate within limits prescribed by the Board.

(b) The petition to intervene shall state precisely (1) the rights affected, and (2) the nature of any argument he, she, or it intends to make.

§ 802.214 Additional briefs.

Additional briefs may be filed or ordered in the discretion of the Board and shall be submitted within time limits specified by the Board.

§ 802.215 Service and form of papers.

(a) All papers filed with the Board, including notices of appeal, petitions for review, briefs and motions, shall be secured at the top and shall have a caption, title, signature of the party (or his attorney or other representative), date of signature, and certificate of service.

(b) For each paper filed with the Board, the original and three legible copies shall be submitted.

(c) A copy of any paper filed with the Board shall be served on each party and the Solicitor of Labor, by the party submitting the paper.

(d) Any paper required to be given or served to or by the Board or any party shall be served by mail or otherwise presented. All such papers served shall be accompanied by a certificate of service.

§ 802.216 Waiver of time limitations for filing.

(a) The time periods specified for submitting papers described in this part, except that for submitting a notice of appeal, may be enlarged for a reasonable period when in the judgment of the Board an enlargement is warranted.

(b) Any request for an enlargement of time pursuant to this section shall be directed to the Clerk of the Board and must be received by the Clerk on or prior to the date on which the paper is due.

(c) Any request for an enlargement of time pursuant to this section shall be submitted in writing in the form of a motion, shall specify the reasons for the request, and shall specify the date to which an enlargement of time is requested.

(d) Absent exceptional circumstances, no more than one enlargement of time shall be granted to each party.

(e) Absent a timely request for an enlargement of time pursuant to this section and the Board's granting that request, any paper submitted to the Board outside the applicable time period specified in this part shall be accompanied by a separate motion stating the reasons therefore and requesting that the Board accept the paper although filed out of time.

(f) When a paper filed out of time is accepted by the Board, the time for filing a response shall begin to run from the date of a party's receipt of the Board's order disposing of the motion referred to in paragraph (e) of this section.

§ 802.217 Failure to file papers; order to show cause.

(a) Failure to file any paper when due pursuant to this part, may, in the discretion of the Board, constitute a waiver of the right to further participation in the proceedings.

(b) When a petition for review and brief has not been submitted to the Board within the time limitation prescribed by § 802.210, or within an enlarged time limitation granted pursuant to § 802.216, the petitioner shall be ordered to show cause to the Board why his or her appeal should not be dismissed pursuant to § 802.402.

§ 802.218 Motions to the Board.

(a) An application to the Board for an order shall be by motion in writing. A motion shall state with particularity the grounds therefor and shall set forth the relief or order sought.

(b) A motion shall be a separate document and shall not be incorporated in the text of any other paper filed with the Board, except for a statement in support of the motion. If this paragraph is not complied with, the Board will not consider and dispose of the motion.

(c) If there is no objection to a motion in whole or in part by another party to the case, the absence of an objection shall be stated on the motion.

(d) The rules applicable to service and form of papers, § 802.215, shall apply to all motions.

(e) Within 10 days of the receipt of a copy of a motion, a party may file a written response with the Board.

(f) As expeditiously as possible following receipt of a response to a

with any pending case shall refer to the docket number of that case.

(b) *Inspection of docket; publication*

determine whether the request shall be granted or denied.

the proceeding. In such event, argument on behalf ot other parties may be heard and the case shall be regard-

§ 802.404 Scope and content of Board decisions.

(a) In its decision the Board shall

§ 802.406 Finality of Board decisions.

A decision rendered by the Board pursuant to this subpart shall become final 30 days after the issuance of such

V 43 / 182 SEP 1978

(f) As expeditiously as possible following receipt of a response to a motion or expiration of the response time provided in paragraph (e) of this section, the Board shall issue a dispositive order.

§ 802.219 Party not represented by an attorney: informal procedure.

If a party to an appeal is not represented by an attorney, the Board may prescribe an informal procedure in such case to be followed by such party.

§ 802.220 Computation of time.

(a) In computing any period of time prescribed or allowed by these rules, by direction of the Board, or by any applicable statute which does not provide otherwise, the day from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.

(b) Whenever a paper is served on the Board or on any party by mail, paragraph (a) of this section will be deemed complied with if the envelope containing the paper is postmarked within the time period allowed, computed as in paragraph (a) of this section. If there is no postmark, or it is not legible, other evidence, such as, but not limited to, certified mail receipts, certificate of service and affidavits, may be used to establish the mailing date.

(c) A waiver of the time limitations for filing a paper, other than a notice of appeal, may be requested by proper motion filed in accordance with §§ 802.216 and 802.218.

Subpart C—Procedure for Review

Action by the Board

§ 802.301 Scope of review.

The Benefits Review Board is not empowered to engage in a de novo proceeding or unrestricted review of a case brought before it. The Board is authorized to review the findings of fact and conclusions of law on which the decision or order appealed from was based. Such findings of fact and conclusions of law may be set aside only if they are not, in the judgment of the Board, supported by substantial evidence in the record considered as a whole or in accordance with law.

§ 802.302 Docketing of appeals.

(a) *Maintenance of dockets.* A docket of all proceedings shall be maintained by the Board. Each proceeding shall be assigned a number in chronological order upon the date on which a notice of appeal is received, Correspondence or further applications in connection with any pending case shall refer to the docket number of that case.

(b) *Inspection of docket; publication of decision.* The docket of the Board shall be open to public inspection. The Board shall publish its decisions in a form which is readily available for inspection, and shall allow the public to inspect its decisions at the permanent location of the Board.

Oral Argument Before the Board

§ 802.303 Decision; no oral argument.

(a) In the event that no oral argument is ordered pursuant to § 802.306, the Board shall proceed to review the record of the case as expeditiously as possible after all briefs, supporting statement, and other pertinent documents have been received.

(b) Each case shall be considered in the order in which it becomes ready for decision, regardless of docket number, although for good cause shown, upon the filing of a motion to expedite by a party, the Board may advance the order in which a particular case is to be considered.

(c) The Board may advance an appeal on the docket on its own motion if the interests of justice would be served by so doing.

§ 802.304 Purpose of oral argument.

Oral argument may be held by the Board in any case:

(a) When there is a novel issue not previously considered by the Board; or

(b) When in the interests of justice oral argument will serve to assist the Board in carrying out the intent of any of the Acts; or

(c) To resolve conflicting decisions by administrative law judges on a substantial question of law.

§ 802.305 Request for oral argument.

(a) During the pendency of an appeal, but not later than the expiration of 20 days from the date of receipt of the response brief provided by § 802.211, any party may request oral argument. The Board on its own motion may order oral argument at any time.

(b) A request for oral argument shall be submitted in the form of a motion, specifying the issues to be argued and justifying the need for oral argument (see § 802.218).

(c) The party requesting oral argument shall set forth in the motion suggested dates and alternate cities convenient to the parties when and where they would be available for oral argument.

§ 802.306 Action on request for oral argument.

As expeditiously as possible after the date upon which a request for oral argument is received, the Board shall determine whether the request shall be granted or denied.

§ 802.307 Notice of oral argument.

(a) In cases where a request for oral argument has been approved or where oral argument has been ordered, the Board shall give all parties a minimum of 30 days' notice, in writing, by mail, of the scope of argument and of the time when, and place where, oral argument will be held.

(b) Once oral argument has been scheduled by the Board, continuances shall not be granted except for good cause shown by a party, such as in cases of extreme hardship or where attendance of a party or his or her representative is mandated at a previously scheduled judicial proceeding. Unless the ground for the request arises thereafter, requests for continuances must be received by the Board at least 15 days before the scheduled date of oral argument, must be served upon the other parties and must specify good cause why the requesting party cannot be available for oral argument.

(c) The Board may cancel or reschedule oral argument on its own motion at any time.

§ 802.308 Conduct of oral argument.

(a) Oral argument shall be held in Washington, D.C., unless the Board orders otherwise, and shall be conducted at a time reasonably convenient to the parties. For good cause shown, the Chairman or Acting Chairman may, in his or her discretion, postpone an oral argument to a more convenient time.

(b) The proceedings shall be conducted under the supervision of the Chairman or Acting Chairman, who shall regulate all procedural matters arising during the course of the argument.

(c) Within the discretion of the Board, oral argument shall be open to the public and may be presented by any party, representative, or duly authorized attorney. Presentation of oral argument may be denied by the Board to a party who has not significantly participated in the appeal prior to oral argument.

(d) The Board shall determine the scope of any oral argument presented and shall so inform the parties in its notice scheduling oral argument pursuant to § 802.307.

(e) The Board in its discretion shall determine the amount of time allotted to each party for argument and rebuttal.

§ 802.309 Absence of parties.

The unexcused absence of a party or his or her authorized representative at the time and place set for argument shall not be the occasion for delay of

the proceeding. In such event, argument on behalf ot other parties may be heard and the case shall be regarded as submitted on the record by the absent party. The Chairman or Acting Chairman may, with the consent of the parties present, cancel the oral argument and treat the appeal as submitted on the written record.

Subpart D—Completion of Board Review

Dismissals

§ 802.401 Dismissal by application of party.

(a) At any time prior to the issuance of a decision by the Board, the petitioner may move that the appeal be dismissed. If granted, such motion for dismissal shall be granted with prejudice to the petitioner.

(b) At any time prior to the issuance of a decision by the Board, any party or representative may move that the appeal be dismissed.

§ 802.402 Dismissal by abandonment.

(a) Upon motion by any party or representative or upon the Board's own motion, an appeal may be dismissed upon its abandonment by the party or parties who filed the appeal. Within the discretion of the Board, a party may be deemed to have abandoned an appeal if neither the party nor his representative participates significantly in the review proceedings.

(b) An appeal may be dismissed on the death of a party only if the record affirmatively shows that there is no person who wishes to continue the action and whose rights may be prejudiced by dismissal.

Decision of the Board

§ 802.403 Issuance of decisions; service.

(a) The Board shall issue written decisions as expeditiously as possible after the completion of review proceedings before the Board. The transmittal of the decision of the Board shall indicate the availability of judicial review of the decision under section 21(c) of the LHWCA when appropriate.

(b) The original of the decision shall be filed with the Clerk of the Board. A copy of the Board's decision shall be sent by certified mail or otherwise presented to all parties to the appeal and the Director. The record on appeal, together with a transcript of any oral proceedings, any briefs or other papers filed with the Board, and a copy of the decision shall be returned to the appropriate deputy commissioner for filing.

(c) Proof of service of Board decisions shall be certified by the Clerk of the Board or by another employee in the office of the Clerk of the Board who is authorized to certify proof of service.

§ 802.404 Scope and content of Board decisions.

(a) In its decision the Board shall affirm, modify, or set aside the decision or order appealed from, and may remand the case for action or proceedings consistent with the decision of the Board. The consent of the parties shall not be a prerequisite to a remand ordered by the Board.

(b) In appropriate cases, such as where the issues raised on appeal have been thoroughly discussed and disposed of in prior cases by the Board or the courts, or where the findings of fact and conclusions of law are both correct and adequately discussed, the Board in its discretion may issue a brief, summary decision in writing, disposing of the appeal.

(c) In cases which cannot be disposed of as in paragraph (b) of this section, a full, written decision discussing the issues and applicable law shall be issued.

802.405 Remand.

(a) *By the Board.* Where a case is remanded such additional proceedings shall be initiated and such other action shall be taken as is directed by the Board. Upon completion of all action deemed appropriate, a decision in writing shall be issued by the administrative law judge or deputy commissioner to whom the case was remanded as expeditiously as possible which contains findings of fact and conclusions of law, or when so directed by the Board, the case shall be returned to the Board by the administrative law judge with a recommended decision. A copy of the recommended decision shall be mailed by the Board to each party at his or her last known address. When a recommended decision is issued, each party shall be notified of his or her right to file with the Board within 20 days from the date of mailing of the recommended decision, briefs, or other written statements of exceptions and allegations as to applicable fact and law. Upon request of any party made within such 20-day period, a reasonable enlargement of time for filing such briefs or statements may be granted and upon a showing of good cause such period may be extended, as appropriate.

(b) *By a court.* Where a case has been remanded by a court, the Board may proceed in accordance with the court's mandate to issue a decision or it may in turn remand the case to an administrative law judge or deputy commissioner with instructions to take such action as is ordered by the court and any additional necessary action and upon completion thereof to return the case with a recommended decision to the Board for its action.

§ 802.406 Finality of Board decisions.

A decision rendered by the Board pursuant to this subpart shall become final 60 days after the issuance of such decision unless a written petition praying that the order be modified or set aside, pursuant to section 21(c) of the LHWCA, is filed in the appropriate U.S. court of appeals prior to the expiration of the 60-day period herein described, or unless a timely request for reconsideration by the Board has been filed as provided in § 802.407.

Reconsideration

§ 802.407 Reconsideration of Board decisions—generally.

(a) Any party in interest may, within 10 days from the filing of a decision pursuant to § 802.403(b), request reconsideration of such decision.

(b) Failure to file a request for reconsideration shall not be deemed a failure to exhaust administrative remedies.

§ 802.408 Notice of request for reconsideration.

(a) In the event that a party requests reconsideration of a decision or order, he or she shall do so in writing, in the form of a motion, stating the supporting rationale for the request, and include any material pertinent to the request.

(b) The request shall be sent by mail, or otherwise presented, to the Clerk of the Board. Copies shall be served on all other parties.

§ 802.409 Grant or denial of request.

All requests for reconsideration shall be reviewed by the Board and shall be granted or denied in the discretion of the Board.

Judicial Review

§ 802.410 Judicial review of Board decisions.

(a) Within 60 days after a decision by the Board has been filed pursuant to § 802.403(b), any party adversely affected or aggrieved by such decision may file a petition for review with the appropriate U.S. court of appeals pursuant to section 21(c) of the LHWCA.

(b) The Director, OWCP, as designee of the Secretary of Labor responsible for the administration and enforcement of the statutes listed in § 802.101, shall be deemed to be the proper party on behalf of the Secretary of Labor in all review proceedings conducted pursuant to section 21(c) of the LHWCA.

§ 802.411 Certification of record for judicial review.

The record of a case including the record of proceedings before the Board shall be transmitted to the appropriate court pursuant to the rules of such court.

[FR Doc. 78-25952 Filed 9-18-78; 8:45 am]

V 43 / 182 SEP 1978

TUESDAY, SEPTEMBER 19, 1978
PART V

V 43/182 SE 19 78 V4

federal register

TUESDAY, SEPTEMBER 19, 1978
PART V

ENVIRONMENTAL PROTECTION AGENCY

ELECTRIC UTILITY STEAM GENERATING UNITS

Proposed Standards of Performance and Announcement of Public Hearing on Proposed Standards

[6560-01]

ENVIRONMENTAL PROTECTION

This proposal sets forth the full, or uniform control alternative and sets forth other alternatives for comment mulgated rule and EPA responses to significant comments, the contents of the docket will serve as the record in

opacity levels higher than 20 percent, while at the same time demonstrating compliance with the particulate costs, energy requirements, and environmental impacts. EPA has concluded that the proposed emission limits chosen cheaper high-sulfur coal if the same control equipment were required for all coals. In such a case, a partial

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 60]

[FRL 967-1]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Electric Utility Steam Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The proposed standards of performance would limit emissions of sulfur dioxide (SO_2), particulate matter, and nitrogen oxides (NO_x) from new, modified, and reconstructed electric utility steam generating units capable of combusting more than 73 megawatts (MW) heat input (250 million Btu/hour) of fossil fuel. A new reference method for determining continuous compliance with SO_2 and NO_x standards is also proposed. The Clean Air Act Amendments of 1977 require EPA to revise the current standards of performance for fossil fuel-fired stationary sources. The intended effect of this proposal is to require new, modified, and reconstructed electric utility steam generating units to use the best demonstrated systems of continuous emission reduction and to satisfy the requirements of the Clean Air Act Amendments of 1977.

The principal issue associated with this proposal is whether electric utility steam generating units firing low-sulfur-content coal should be required to achieve the same percentage reduction in potential SO_2 emissions as those burning higher sulfur content coal. Resolving this question of full versus partial control is difficult because of the significant environmental, energy, and economic implications associated with each alternative. The Administrator has not made a decision on which of the alternatives should be adopted in the final standard and solicits additional data on these impacts before promulgating the final regulation.

The conference report for the Clean Air Act Amendments of 1977 says in pertinent part:

> • • • In establishing a national percent reduction for new fossil fuel-fired sources, the conferees agreed that the Administrator may, in his discretion, set a range of pollutant reduction that reflects varying fuel characteristics. Any departure from the uniform national percentage reduction requirement, however, must be accompanied by a finding that such a departure does not undermine the basic purposes of the House provision and other provisions of the act, such as maximizing the use of locally available fuels.

This proposal sets forth the full, or uniform control alternative and sets forth other alternatives for comment as well. It should be noted that the Clean Air Act provides that new source performance standards apply from the date they are proposed and it would be easier for powerplants that start construction during the proposal period to scale down to partial control than to scale up to full control should the final standard differ from the proposal.

The final decision on the appropriate level of control will be made only after analyses are completed and public comments evaluated. Because the decision will require a careful balancing of environmental, energy, and economic impacts, the Administrator believes that extensive public involvement is essential. Comments on the factual basis for the standards and suggestions on the interpretation of data are actively solicited.

DATES: *Comments.* Comments must be received on or before November 20, 1978.

Public hearing. A separate notice is published in today's FEDERAL REGISTER announcing the time and place of a public hearing on the proposed standards.

ADDRESSES: *Comments.* Comments should be submitted to Jack R. Farmer, Chief, Standards Development Branch (MD-13), Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, N.C. 27711.

Background information. The background information documents (refer to section on studies) for the proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park N.C. 27711, telephone 919-541-2777. In addition, a copy is available for inspection in the Office of Public Affairs in each Regional Office, and in EPA's Central Docket Section in Washington, D.C.

Docket. Docket No. OAQPS-78-1, containing all supporting information used by EPA in developing the proposed standards, is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at EPA's Central Docket Section, room 2903B, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this proposed rulemaking. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process. Along with the statement of basis and purpose of the promulgated rule and EPA responses to significant comments, the contents of the docket will serve as the record in case of judicial review (section 307(d)(a)).

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Director, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone 919-541-5271.

SUPPLEMENTARY INFORMATION: Summary of proposed standards; rationale; background; applicability; SO_2 standards; particulate matter standards; NO_x standards; studies; performance testing; and miscellaneous.

Summary of Proposed Standards

APPLICABILITY

The proposed standards would apply to electric utility steam generating units that are capable of firing more than 73 MW (250 million Btu/hour) heat input of fossil fuel and for which construction is commenced after September 18, 1978.

SO_2 EMISSIONS

The proposed SO_2 standards would limit SO_2 emissions to 520 ng/J (1.2 lb/million Btu) heat input for solid fuel (except for 3 days per month) and 340 ng/J (0.80 lb/million Btu) for liquid and gaseous fuel (except for 3 days per month). Also, uncontrolled SO_2 emissions from solid, liquid, and gaseous fuel would be required to be reduced by 85 percent. Compliance with the SO_2 emission limitation and percent reduction would be determined on a 24-hour daily basis. The 85-percent requirement would apply at all times except for 3 days per month, when only a 75-percent SO_2 reduction requirement would apply. The percent reduction requirement would not apply if SO_2 emissions into the atmosphere are less than 86 ng/J (0.20 lb/million Btu) heat input.

The percent reduction would be computed on the basis of overall SO_2 removed by all types of SO_2 and sulfur removal technology including flue gas desulfurization (FGD) systems and fuel pretreatment systems (such as coal cleaning, coal gasification, and coal liquefaction). Sulfur removed by a coal pulverizer or in bottom ash and flyash would also be included in the computation.

PARTICULATE MATTER EMISSIONS

The proposed particulate matter emission standard would limit emissions to 13 ng/J (0.030 lb/million Btu) heat input. The proposed opacity standard would limit the opacity of emissions to 20 percent (6-minute average). If an affected facility exhibits opacity levels higher than 20 percent, while at the same time demonstrating compliance with the particulate matter standard, then a source-specific opacity standard may be established under 40 CFR 60.11(e).

NO_x EMISSIONS

The proposed NO_x emission standards vary according to fuel characteristics as follows:

(1) 210 ng/J (0.50 lb/million Btu) heat input from the combustion of subbituminous coal, shale oil, or any solid, liquid, or gaseous fuel derived from coal.

(2) 260 ng/J (0.60 lb/million Btu) heat input from the combustion of bituminous coal.

In addition, separate standards are being proposed for gaseous and liquid fuels not derived from coal, lignite from certain areas, and coal refuse.

Rationale

SO_2 STANDARDS

Under section 111(a) of the Act, a standard of performance must reflect the degree of emission limitation and percentage reduction achievable through the application of the best technological system of continuous emission reduction taking into consideration cost and any nonair quality health and environmental impacts and energy requirements. In addition, credit is to be given for any cleaning of the fuel, or reduction in pollutant characteristics of the fuel, after mining and prior to combustion.

The 1977 amendments substantially changed the criteria for regulating new powerplants by requiring the application of technological methods of control to minimize SO_2 emissions and to maximize the use of locally available coals. Under the statute, these goals are to be achieved through revision of the standards of performance for new fossil fuel-fired stationary sources to specify (1) an emission limitation and (2) a percentage reduction requirement. According to legislative history accompanying the amendments, the percentage reduction requirement should be applied uniformly on a nationwide basis, unless the Administrator finds that varying requirements applied to coals of differing characteristics will not undermine the objectives of the House bill and other Act provisions.

The principal issue to be resolved in this rulemaking is whether a plant burning low-sulfur coal should be required to achieve the same percentage reduction in potential SO_2 emissions as those burning higher sulfur content coals.

Prior to framing alternative SO_2 standards, EPA evaluated control technology in terms of performance, costs, energy requirements, and environmental impacts. EPA has concluded that the proposed emission limits and control efficiencies are achievable with well-designed, maintained, and operated flue gas desulfurization systems but has not determined whether uniform application of these requirements is necessary to satisfy section 111 of the Act. EPA's final decision on this issue must be based on an assessment of the national, regional, and local environmental (air, water, and solid waste), economic, and energy impacts of both the uniform percentage reduction requirement and the other alternatives under consideration.

Toward this end, EPA performed extensive analyses of the potential impacts associated with each of the alternatives at the national, regional, and plantsite levels. Economic models were used for the purpose fo forecasting the nature of the utility industry in future years. Evaluation of the data revealed that the results predicted by the model were very sensitive to such assumptions as the rate of growth predicted for the industry, coal and oil prices, and transportation costs. Forecasts which assume low growth in electricity demand and high oil and rail transportation prices resulted in modeled estimates which show relatively small differences in the impacts of the alternatives at the national level. On the other hand, if assumptions of high growth in demand for electricity are combined with low oil and rail transportation prices, more significant economic, energy, and environmental impacts are predicted.

The Agency believes that it would be inappropriate to make a decision on the choice between the full and partial control alternatives without additional analyses of the modeling results. The model is being refined, with particular emphasis being placed on the assumptions used. Comment on the appropriateness of the selected assumptions and the relative significance of environmental, energy, and economic impacts are invited.

At the plant level, the partial control alternative would result in substantiallymore SO_2 emissions than full control when low-sulfur coal is fired. For example, a Western plant burning low-sulfur coal could emit as much as four times as much SO_2 under the partial control alternative as under full control. However, there are many plant locations where the cost of mandated emission control equipment can be an important factor in the utility's choice of coal to be fired. If partial control is permitted when low-sulfur coal is burned, the lower capital and operating costs associated with the control equipment may justify a decision to use more expensive low-sulfur coal. The same plant might have chosen cheaper high-sulfur coal if the same control equipment were required for all coals. In such a case, a partial control approach could result in lower emissions than a full control approach. For example, a 500 MW low-sulfur coal plant with partial control might emit 10,000 tons per year while the same plant burning high-sulfur coal under full control might emit some 15,000 tons per year.

The benefits of such shifts from high- to low-sulfur coal must be compared to the costs associated with foregoing increased local coal production. When considering local coal impacts, it must be noted that coal production will increase over current levels in all areas of the country under all control aternatives. This means local coal production impacts will affect the level of new production rather than displace existing production. The Administrator seeks comment on the relative significance of new coal production versus existing coal production as it pertains to the consideration of coal impacts in the final decision.

The economic impact of the standard can be viewed in a number of ways, depending on the economic measures selected and the manner in which they are used. While the capital and operating costs of control can be shown to be significant in absolute terms (e.g., billions of dollars), they can also be shown to be relatively small when compared to the hundreds of billions of dollars in new capital investment planned by the industry or to the approximately $100 billion annual revenue requirement projected for 1990. If the impact is considered in terms of monthly cost to the average consumer, the alternatives do not appear to have a major impact. However, when computed as a total cost to an average family over a 30- to 40-year period, the impacts can appear much more significant. In view of this, the Administrator solicits comments on which economic indicators are most appropriate and how the comparisons should be made.

A consideration in establishing the new source performance standards for powerplants is their relationship to the prevention of significant deterioration (PSD) program. Since virtually all new powerplants will have to comply with both the standards of performance and PSD requirements, concern has been expressed that the case-by-case best available control technology review under PSD creates the potential for prolonged public debate as to the adequacy of the control proposed for a given source. The likelihood of such debate, and the associated delays, would increase if a less stringent standard of performance is adopted. Consideration must also be given to the impact that a source complying

with the revised standard of performance will have on the air quality increment. A source with lower emissions

ing the use of scrubbers is that a single scrubber may be able to control both SO_2 and particulate matter.

plants are expected to be built. The recently promulgated limitations for lignite combustion (43 FR 9276) have

amended, require EPA to revise the standards of performance for fossil-fuel-fired electric utility steam gener-

more than one-third of its maximum electrical generating capacity. Any steam that could be sold to produce

for the purpose of selling more than one-third of its electrical output capacity to the general public. Electric

with the revised standard of performance will have on the air quality increment. A source with lower emissions will use less of the available increment, thus providing a greater margin for growth. As mentioned above, the impact of this standard can be either to increase or to decrease emission rates for a given plant depending on the selection of the coal to be fired. In view of the above, the Administrator solicits comments as to how much weight should be given to PSD considerations when establishing the final standard of performance requirement.

PARTICULATE MATTER STANDARDS

The proposed standards would limit the emissions of particulate matter to 13 ng/J (0.03 lb/million Btu) heat input and would require a 99-percent reduction in uncontrolled emissions from solid fuels and a 70-percent reduction for liquid fuels. No particulate matter control would be necessary for units firing gaseous fuels alone, and thus a percent reduction would not be required. The 20-percent opacity (6-minute average) standard that is currently applicable to steam electric generating units (40 CFR Part 60, Subpart D) would be retained under the proposed standard to insure proper operation and maintenance of the particulate matter control system.

The proposed standards are based on the performance of a well designed and operated baghouse or electrostatic precipitator (ESP). EPA has determined that these control systems are the best adequately demonstrated systems of continuous emission reduction (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact, and energy requirements).

This determination was reached after analyzing emission test results from steam generators firing both high- and low-sulfur coal and employing either ESP's or baghouses. Although the baghouse data were based on units of less than 44 MW, EPA has concluded that there are no technological barriers that would preclude their application on larger units. In addition, a number of large instalations are now under construction, and a 350-MW facility equipped with a baghouse for particulate emission control recently began operation.

EPA considered a standard of 21 ng/J (0.05 lb/million Btu) which could be met by wet particulate matter scrubbers in addition to baghouses and ESPs, but rejected this option because using scrubbers could increase emissions of fine particulate matter. A 21 ng/J standard would result in 60 percent higher emissions which could have an adverse effect on visibility. On the other hand, an advantage to allowing the use of scrubbers is that a single scrubber may be able to control both SO_2 and particulate matter.

It should be noted that there were no plants available for testing at which a well designed ESP or baghouse was followed by an FGD system; thus, the proposed standards are based on emission measurements taken at the particulate matter control device discharge prior to any FGD unit. Since there is the potential for an FGD system to affect particulate emissions, EPA is continuing to assess this situation. Of particular concern is the potential contribution of sulfuric acid mist to the measured particulate matter emissions. This issue is discussed in more detail under the particulate matter standards section of this preamble. EPA solicits comments and available data on this matter.

The proposed limit of 13 ng/J (0.03 lb/million Btu) will effectively preclude the use of ESPs on facilities using low sulfur coal and require baghouse control. DOE and the utility industry believe that baghouse technology has not been demonstrated sufficiently to require its use on utility size facilities. Because of this, DOE recommends that the standard be no less than 21 ng/J (0.05 lb/million Btu) while the industry recommends a standard of 34 ng/J (0.08 lb/million Btu). EPA requests comments on this this recommendation as well as on EPA's proposal.

NO_x STANDARDS

The proposed NO_x standards for different fuels are based on the emission limitations achievable through combustion modification techniques. Combustion modification limits NO_x formation in the boiler by reducing flame temperatures and by minimizing the availability of oxygen during combustion. The levels to which NO_x emissions can be reduced with combustion modification depend upon the type of fuel burned, boiler design, and boiler operating practice.

When considering these factors, EPA concluded that a uniform standard could not be applied to all fossil fuels or boiler types. In addition, EPA took into consideration the adverse side effects of low NO_x operation such as boiler tube wastage. As a result, different requirements were developed for bituminous and subbituminous coals.

The limitations for coal-derived liquid and gaseous fuels and shale oil are based on limits achievable with subbituminous coals. The limitations for liquid and gaseous fuels are the same as those promulgated in 1971 under 40 CFR part 60 subpart D for large steam generators. These requirements were not reexamined since few, if any, new oil- or gas-fired power plants are expected to be built. The recently promulgated limitations for lignite combustion (43 FR 9276) have been incorporated into these regulations without change because no new data have become available since their promulgation. Similarly, the exemption for combustion of coal refuse has also been retained.

BACKGROUND

In December 1971, under section 111 of the Clean Air Act, the Administrator promulgated standards of performance to limit emissions of SO_2, particulate matter, and NO_x from new, modified, and reconstructed fossil-fuel-fired steam generators (40 CFR 60.40 et seq.). Since that time, the technology for controlling these emissions has improved, but emissions of SO_2, particulate matter, and NO_x continue to be a national problem. In 1976, steam electric generating units contributed 24 percent of the particulate matter, 65 percent of the SO_2, and 29 percent of the NO_x emissions on a national basis.

The utility industry is expected to have continued and significant growth; approximately 300 new fossil-fuel-fired power plant boilers are to begin operation within the next 10 years. Associated with utility growth is the continued long-term increase in utility coal consumption from some 650 million tons/year in 1975 to between 1,400 and 1,800 million tons/year in 1990. Under the current performance standards for power plants, national SO_2 emissions are projected to increase approximately 15 to 16 percent between 1975 and 1990.

Impacts will be more dramatic on a regional basis. For example, in the absence of more stringent controls, utility SO_2 emissions are expected to increase tenfold to over 2 million tons by 1990 in the West South Central region of the country (Texas, Oklahoma, Arkansas, and Louisiana).

EPA was petitioned on August 6, 1976, by the Sierra Club and the Oljato and Red Mesa Chapters of the Navaho Tribe to revise the SO_2 standard so as to require a 90 percent reduction in SO_2 emissions from all coal-fired power plants. The petition included information to support the claim that advances in technology since 1971 called for a revision of the standard, and EPA agreed to investigate the matter thoroughly. On January 27, 1977 (42 FR 5121), EPA announced that it had initiated a study to complete the technological, economic, and other documentation needed to determine to what extent the SO_2 standard for fossil-fuel-fired steam generators should be revised.

On August 7, 1977, President Carter signed into law the Clean Air Act Amendments of 1977. The provisions under section 111(b)(6) of the Act, as amended, require EPA to revise the standards of performance for fossil-fuel-fired electric utility steam generators within 1 year after enactment.

After the Sierra Club petition of August 1976, EPA initiated studies to review the advancement made on pollution control systems at power plants. These studies were continued following the amendment of the Clean Air Act. In order to meet the schedule established by the Act, a preliminary assessment of the ongoing studies was made in late 1977. A National Air Pollution Control Techniques Advisory Committee (NAPCTAC) meeting was held on December 13 and 14, 1977, to present EPA preliminary data. The meeting was open to the public and comments were solicited.

The Clean Air Act Amendments of 1977 required the standards to be revised by August 7, 1978. When it appeared that EPA would not meet this schedule, the Sierra Club filed a complaint on July 14, 1978, with the U.S. District Court for the District of Columbia requesting injunctive relief to require, among other things, that EPA propose the revised standards by August 7, 1978. A consent order was developed and issued by the court requiring the EPA Administrator to (1) deliver the proposal package to the office of the Federal Register by September 12, 1978, and (2) promulgate the final standards within 6 months after proposal

The purpose of this proposal is to respond to the petition of the Navaho Tribe and Sierra Club, and to initiate the rulemaking required under section 111(b)(6) of the Act.

APPLICABILITY

The proposed standards would apply to all electric utility steam generating units (1) capable of firing more than 73 MW (250 million Bty/per hour) heat input of fossil fuel (approximately 25 MW of electrical energy output) and (2) for which construction is commenced after September 18, 1978.

On December 23, 1971, EPA promulgated, under subpart D of 40 CFR Part 60, standards of performance for fossil-fuel-fired steam generators used in electric utility and large industrial applications. The proposed standards will not apply to electric utility steam generating units originally subject to those standards (subpart D) unless the affected facilities are modified or reconstructed.

ELECTRIC UTILITY STEAM GENERATING UNITS

An electric utility steam generating unit is defined as any steam electric generating unit that is physically connected to a power distribution system and is constructed for the purpose of selling for use by the general public more than one-third of its maximum electrical generating capacity. Any steam that could be sold to produce electrical power for sale is also included when determining applicability of the standard.

INDUSTRIAL FACILITIES

Industrial steam electric generating units with heat input above 73 MW that are constructed for the purpose of selling more than one-third of their maximum electrical generation capacity (or steam generating capacity used to produce electricity for sale) would be covered under the proposed standards. Industrial steam generating units with a heat input above 73 MW that produce only steam or that were constructed for the purpose of selling less than one-third of their electric generation capacity are not covered by the proposed standards, but will continue to be covered under subpart D.

COGENERATION

Electric cogeneration units (steam generating units that would produce steam used for electric generation and process heat) would be considered electric utility steam generating units if they: (1) Were capable of combusting more than 73 MW of fossil fuel and (2) would be physically connected to a power distribution system for the purpose of selling for use by the general public more than one-third of their maximum electrical generating capacity. Cogeneration facilities that would produce power only for "in-house" industrial use would be considered industrial boilers and would be covered under subpart D if applicable.

RESOURCE RECOVERY UNITS

Steam electric generating units that combust nonfossil fuels such as wood residue, sewage sludge, waste material, or municipal refuse (either aone or in combination with fossil fuel) would only be covered by the proposed standards if the steam generating unit is capable of firing more than 73 MW of fossil fuel. If only municipal refuse were fired and the unit was not capable of being fired with more than 73 MW of fossil fuel, the unit would be considered an incinerator and the standards under subpart E would apply. Similarly, the standards under subpart O for sewage treatment plants would apply if only sewage sludge were burned.

COMBINED-CYCLE GAS TURBINES

The proposed standards would cover boiler emissions from electric utility combined-cycle gas turbines that are capable of being fired with more than 73 MW (250 million Btu-hour) heat input of fossil fuel in the steam generator, and where the unit is constructed for the purpose of selling more than one-third of its electrical output capacity to the general public. Electric utility combined-cycle gas turbines that use only turbine exhaust gas to heat a steam generator (waste heat boiler) or that are not capable of being fired with more than 73 MW of fossil fuel in the steam generator would not be covered by the proposed standards.

ISSUES ON APPLICABILITY

Noncontinental areas. There are several island areas that would be affected by the proposed standards. Because ot the unique characteristics of these areas, it is expected that all of their future power plants will use oil rather than coal. The issue is whether these new oil-fired units should be subject to the proposed 85 percent reduction, which would effectively require the use of FGD or equivalent systems, or to allow the use of low sulfur oil. After considering the costs of requiring FGD systems in light of the limited land area available for sludge disposal, EPA has decided to propose an exeption for these facilities from the 85 percent reduction requirement. They would have to comply with the proposed SO_2 limit for oil-fired facilities of 340 ng/J (0.80 lb/million Btu) as well as all other proposed standards (see section 4.4 of EPA 450/2-78-007a-1).

Anthracite coal and Alaskan coal. The proposed standards would cover facilities combusting low sulfur anthracite coal or Alaskan coal in the same manner as all other coals.

EPA realizes, however, there are arguments in favor of allowing less stringent standards because of unique factors for both coals.

With respect to Alaskan coal, it is argued that the unique climatic conditions in Alaska coupled with the very low sulfur content of the coal makes it unreasonable to apply the same percent reduction requirement for SO_2 emissions to power plants located in that State. Anthracite is also low in sulfur content, but it is more expensive to produce than other locally available coals. In view of this, proponents of anthracite argue that if control cost were reduced through a less stringent standard, anthracite could then compete with locally available high sulfur content bituminous coal (see section 4.7.2 of EPA 450/2-78-007a-1).

Emerging technologies. Various groups expressed concern that if the proposed standards were rigidly applied, the development of new and promising technologies might be discouraged. They suggested that the innovative technology waiver provisions under the Clean Air Act Amendments of 1977 are not adequate to encourage certain capital-intensive, front-end

control technologies. Under the innovative technology waiver provisions (section 111(j) of the Act) the Admin-

Technology	Pollutant	MW Equivalent
4. Maximum control level of 86 ng/J (0.20 lb/million Btu) heat input 24-hour average.		

docket for review (see listing set forth later in this preamble).

ponents, proper selection of construction materials, appropriate sparing, good operating practices, and good

equipped with at least one spare module. The proposed standards would not require plants having capac-

control technologies. Under the innovative technology waiver provisions (section 111(j) of the Act) the Administrator may grant waivers for a period of up to 7 years from the date of issuance of the waiver or up to 4 years from the start of operation of a facility, whichever is less. Although this amount of time may be sufficient to amortize the cost of tail-gas control devices that do not achieve their design control level, it does not appear to be sufficient for amortization of high-capital-cost, front-end control technologies. For most front-end control technologies, modification or retrofit may be economically unreasonable.

To mitigate the potential impact on emerging front-end technologies, EPA proposes to establish slightly less stringent requirements for initial full-scale demonstration plants. This should insure that these standards do not preclude the development of new front-end technologies and should compensate for problems that may arise when applying them to commercial-scale facilities. The 85 percent SO_2 control requirement and the 210-ng/J NO_x standard will provide developers of new technologies a clear environmental control objective for commercial facilities. However, if the Administrator subsequently finds that a given emerging technology (taking into consideration all areas of environmental impact, including air, water, solid waste, toxics, and land use) offers superior overall environmental performance, alternative standards would then be established by the Administrator.

Under the proposal, the Administrator (in consultation with the Department of Energy) would issue commercial demonstration permits for the first three full scale demonstration facilities of each of the technologies listed in the following table. These technologies have been shown to have the potential to achieve the standards established for commercial facilities. Under such permits, an 80 percent SO_2 control level (24-hour average) or a 300 ng/J (0.70 lb/million Btu) NO_x emission limitation for liquid fuel derived from bituminous coals would be established. If the Administrator (in consultation with the Department of Energy) finds that additional demonstration of a given technology is necessary, additional permits may be issued. No more than 15,000 MW equivalent electrical capacity would be allocated for the purpose of commercial demonstrations under this proposal. This capacity would be allocated as follows:

Technology	Pollutant Equivalent	MW electrical capacity
Solvent-refined coal	SO_2	6,000–10,000
Fluidized bed combustion (atmospheric).	SO_2	400–3,000
Fluidized bed combustion (pressurized).	SO_2	200–1,200
Coal liquefaction	NO_x	750–10,000

The capacity is presented in ranges because of uncertainty as to the amount that will be required for any one technology. This use of ranges should not be construed to mean that more than 15,000 MW would be allocated for purposes of commercial demonstration permits.

It should be noted that these permits would only apply to the application of this standard and would not supercede the new source review procedures and prevention of significant deterioration requirements under section 110 of the Act.

Finally, concern has been expressed as to whether emerging technologies should be required to comply with the proposed particulate standard. Since this concern is based on the same arguments that have been offered in regard to conventional technologies, consideration of special provisions will be tied to the final decision on the particulate emission limitation.

Modifications. The question has been raised whether the use of shale oil coal-based fuels such as coal/oil mixtures or solvent-refined coal in a boiler originally designed for oil firing is considered a modification under 40 CFR 60.14(c). In response, EPA proposes that shifting an existing oil-fired steam generator to coal/oil mixtures, shale oil, or coal-derived fuels, would not be considered a modification and the facility would not be subject to the proposed standards.

SO_2 Standards

General Requirements. The proposed standards for SO_2 emissions would require:

1. Reduction of potential SO_2 emissions for solid, liquid, and gaseous fuels by 85 percent (24-hour average control efficiency) except for 3 days per month when no less than 75 percent is allowed.
2. Maximum allowable emissions from solid fuel of 520 ng/J (1.2 lb/million Btu) heat input 24-hour average except for the 3 days per month when the 75 percent is allowed.
3. Maximum allowable emissions from liquid or gaseous fuels of 340 ng/J (0.80 lb/million Btu) heat input 24-hour average except for 3 days per month.
4. Maximum control level of 86 ng/J (0.20 lb/million Btu) heat input 24-hour average.

DISCUSSION

The proposed standards are based on emission levels and the percentage reduction achievable with a well designed, operated, and maintained flue gas desulfurization (FGD) system. EPA believes the following types of FGD systems are capable of achieving the proposed standards: lime, limestone, Wellman-Lord, magnesium oxide, and double alkali. In determining that FGD is the best system of continuous emission reduction that has been adequately demonstrated for removal of SO_2, EPA assessed the costs of achieving the proposed standards and the nonair quality health and environmental impacts and energy requirements. Although the proposed standards are based on the performance of FGD systems, the use of other systems should not be discouraged. In this regard, a number of emerging technologies show promise.

The proposed percentage reduction requirement would apply to the combustion of all fossil fuels unless the emission level of 86 ng/J (0.20 lb/million Btu) is constantly attained (24-hour average basis). In effect, this means that all coal-fired and residual-oil-fired plants would be required to install FGD or equivalent SO_2 emission control systems. On the other hand, the emission level of 86 ng/J would permit certain clean fuels, such as wood waste, to be burned without FGD or at a very low percentage of reduction.

The emission limitations of 520 ng/J (1.2 lb/million Btu) for solid fuels and 340 ng/J (0.80 lb/million Btu) for liquid and gaseous fuels would place a maximum limit on SO_2 emissions regardless of percentage of SO_2 reduction attained and thus restrict the amount of sulfur in the fuel fired.

In determining that FGD systems were adequately demonstrated and that they could attain the proposed limitations, EPA has conducted a number of studies either directly or through consultants. To evaluate the relative performance of FGD systems, EPA has conducted tests at various sites. Several absorber designs and absorbents were tested at the Shawnee 10-MW test facility, emission tests were performed at various full-scale operations, and performance results from other test facilities and scrubber installations were surveyed, both in the United States and Japan. A detailed summary of the results from these studies is provided in section 4.2 of the supplement to the Background Information document for SO_2 (EPA 450/2-78-007a-1). In addition, all of the study reports are available in the docket for review (see listing set forth later in this preamble).

PERCENTAGE REDUCTION REQUIREMENT

In establishing the percentage reduction requirement for potential SO_2 emissions for solid, liquid, and gaseous fuels, EPA considered the SO_2 removal efficiency of prototype, pilot-scale, and commercial-scale FGD systems. EPA's considerations included measured variability of percentage reduction, effects of scrubber and coal sulfur variability on performance, effects of a spare module on scrubber reliability, and effects of design changes and maintenance practices on scrubber reliability.

To establish the variation of FGD system removal efficiency and the effects of varying sulfur content of coal on measured 24-hour-average SO_2 removals, EPA obtained continuous monitoring data from the Cane Run and Bruce Mansfield powerplants. These data were analyzed to establish the geometric standard deviations. Based on these analyses, EPA projected the mean SO_2 removal needed to comply with the proposed percentage reduction requirement. At the 99.99 percent confidence level, EPA concluded that an FGD system that could achieve a 92 percent long-term (30 days or more) mean SO_2 removal would comply with the proposed 85 percent (24-hour average) requirement.

With respect to long-term SO_2 removal efficiency, EPA has concluded that with certain practical changes in design, operation, and maintenance practices, lime/limestone FGD systems can achieve long-term SO_2 removal of 92 percent. FGD technologies employing more reactive absorbents such as magnesium oxide, additive magnesium-oxide-enriched lime, and sodium-based liquors can achieve SO_2 removal levesls of greater than 92 percent. For a more detailed discussion of these findings, please refer to section 4.2 of EPA 450/2-78-007a-1.

FGD AVAILABILITY

With respect to conditions that may affect FGD availability, EPA has investigated such problems as:

1. Formation of scale in the absorber and associated equipment in lime and limestone systems leading to plugging and reduced capacity.
2. Plugging of mist eliminators, lines, and some types of absorbers.
3. Failure of ancillary equipment such as pumps, piping, pH-sensing equipment, reheaters, centrifuges, fans, and duct and stack linings.
4. Inadequate absorbent make-up preparation.

EPA has concluded that these problems can and have been solved through the improved design of components, proper selection of construction materials, appropriate sparing, good operating practices, and good maintenance. As a result, the availability of full-scale scrubbing facilities has increased steadily. (See EPA 600/7-78-032b.) When determining FGD availability, one must recognize that FGD systems are composed of FGD modules, each of which is a separate scrubbing system. Because FGD modules are not generally manufactured in sizes over 125-MW capacity, large powerplants use multiple FGD modules in parallel. When FGD modules, even those averaging 90 percent availability, are integrated into an FGD system, the probability that all modules in the system will be simultaneously available diminishes in proportion to the number of modules; therfore, spare FGD modules will be needed in most instances. Such spares were included in EPA's estimates of FGD costs. Even when high FGD module availabilities are attained, the FGD module will not be in service some of the time because of regularly scheduled maintenance operations or repairs needed to restore loss of scrubbing efficiency. Although the amount of time for such maintenance can be considerable (even continuous), there should be little adverse impact on plant operation. With spares, a module can be rotated out of operation for maintenance even at full electrical load conditions. Several plants now in operation employ such a system. At reduced electrical loads, all FGD modules will not be needed for SO_2 control. Periodically, the entire plant is taken out of service for servicing non-FGD system related components providing an opportunity for scheduled FGD maintenance.

EPA acknowledges that even with a good maintenance program and use of spare FGD modules it may not be possible to maintain complete FGD system control for a portion of a plant's operating hours. At these times, the proposed standards would require that the electric generating load be shifted to an alternative electric generating plant. This procedure is necessary to prevent bypassing of uncontrolled SO_2 emissions to the atmosphere.

Load shifting is normally feasible, but it will not be possible when emergency conditions exist. Emergency conditions are considered to be periods when a powerplant and other electrical generating equipment owned by the associated utility company are being operated at full operating capacity less the capacity equal to the largest single unit in the system. Under emergency conditions, the proposed standards would allow flue gas to be bypassed around an inoperable FGD module provided the facility is equipped with at least one spare module. The proposed standards would not require plants having capacity of less than 125 MW to have a spare module. Bypassing an FGD unit except under emergency conditions would be a violation of the standards.

The emergency condition provisions are necessary to maintain the electric utility's capability to meet electric demand when excess generating reserves are not available. A minimal amount of spinning reserves must be kept separate from the load shifting procedures to prevent "blackouts." Please refer to section 4.6 of EPA 450/2-78-007a-1 for a more detailed discussion of this matter.

ENVIRONMENTAL IMPACTS

A major consideration with respect to nonregenerable FGD systems is the disposal of sludge and contamination from wastewater; therefore, EPA had its consultants examine these potential problems in detail.

With respect to sludge disposal, the consultant examined a number of parameters including the quantification of solid wastes that would be generated by different regulatory options, plant sizes, coal sulfur contents, and scrubbing processes. In addition, untreated wastes were characterized by effects of scrubbing process variables on sludge chemistry, trace element content, and physical and chemical properties. Finally, the environmental impacts and costs of various disposal processes and practices were assessed. ("Controlling SO_2 Emissions from Coal-Fired Steam Electric Generators: Solid Waste Impact," EPA 600/7-78-044.)

From a companion analysis ("Review of New Source Standards for SO_2 Emissions from Coal-Fired Utility Boilers," vol. 1, sec. 3), it is estimated that under the 85-percent reduction requirement the quantity of sludge generated will increase from some 12 million metric tons dry basis (current standard) to some 55 million metric tons dry basis in 1995. These figures are conservative since they assume a high-growth rate in electrical demand (5.8 percent through 1985, and 5.5 percent thereafter). The quantity of sludge generated would be less under regulatory options that do not require a uniform application of the 85-percent reduction requirement.

To estimate the cost of sludge disposal, EPA assumed that dewatered sludge would be fixed with lime and fly ash and be impounded in a clay-lined pond. Based on this assumption, EPA estimates that the cost of disposal would be some $19 per dry metric ton including land costs.

In addition, a field disposal study, which has been underway for 3 years at TVA's Shawnee powerplant site,

has not revealed any significant problems from impoundment of treated FGD wastes

option for reducing SO_2, depending on the particular characteristics of the coal being used.

day exemption coincident with the 3 days of 75-percent control in the percent reduction standard. However, the

less expensive than applying full scrubbing to high-sulfur coal and that emissions from a plant burning low-sulfur coal would be up to four times

also suggested an alternative SO_2 standard. The industry proposal contemplates a sliding scale percentage production standard for sulfur-dioxide

proposed standards, EPA has performed extensive analyses of the potential national impacts associated

V 43 / 182 SEP 1978

has not revealed any significant problems from impoundment of treated FGD wastes.

EPA has concluded from these studies that sludge can be disposed of in an environmentally sound manner at reasonable costs. EPA will continue to evaluate the costs and effectiveness of alternative disposal methods as part of the economic analyses to be conducted during the proposal period. Comments on alternative control methods are invited.

With respect to the potential water pollution impact, EPA's consultant examined alternative standards in terms of their effects on the quality and quantity of powerplant waste-water effluents, and the amount of water consumption. In addition, alternative SO_2 control systems were examined relative to their impact on the above. The potential environmental effects of SO_2 control on effluents were also examined, and alternative treatment processes were evaluated.

The water pollution impact report "Controlling SO_2 Emissions from Coal-Fired Steam Electric Generators: Water Pollution Impact," EPA 600/7-78-045, concluded that in the aggregate the volume and quality of waste streams from SO_2 control systems are affected very little by alternative standards and that all effluent streams can be treated to acceptable levels using proven, commercially available technologies. Similarly, a more stringent standard would have little effect on water demand when compared to total plant consumptive water use.

ALTERNATIVE TECHNOLOGY

A potential alternative to wet FGD systems is dry SO_2 scrubbing. One of the more effective designs incorporates the use of a spray dryer and baghouse. In this system a spray dryer (similar to a wet SO_2 scrubber) is used with lime, soda ash, or other reactants to scrub SO_2 from the flue gases. Because of the minimal use of water in the spray dryer (by design), no additional reheating is required. Following the spray dryer, a baghouse is used to collect all particulate matter (including SO_2 reactants).

Spray drying has been tested at pilot plants, and it may be capable of achieving 85 percent removal with lime, soda ash, and other reactants. Due to cost considerations, the system is principally limited to coals with less than 1.5-percent sulfur if lime is used. Full-sized spray-drying units for powerplant application have been ordered and are expected to begin operation in the early 1980's. (Refer to sec. 4.3 of EPA 450/2-78-007a-1.)

In addition, a combination of physical cleaning of the fuel in conjunction with FGD systems may be a viable option for reducing SO_2, depending on the particular characteristics of the coal being used.

MAXIMUM ALLOWABLE EMISSION LIMITATION

In selecting the proposed maximum allowable emission limitation, EPA had to take into consideration two primary factors: FGD performance and the impact of the limitation on high-sulfur coal reserves. In effect, FGD performance determines the maximum sulfur content of coals that can be fired in achieving compliance with the maximum allowable emission limitation. To estimate coal sulfur content which can be used, EPA projected SO_2 emissions based upon minimum FGD system performance (i.e., 75 percent SO_2 removal 3 days per month) and maximum daily average sulfur content. Two alternative maximum allowable emission levels were considered: (a) 520 ng/J with three exemptions per month that would be coincident with the proposed percentage reduction requirement, and (b) 520 ng/J with no exemptions.

An analysis of national and regional coal production in 1990 was performed for each option. There would be no significant differences in total national production with either option. The analysis included use of cleaned, midwestern coal when coal cleaning would be necessary to attain compliance with the limitation. Sufficient reserves would be available to satisfy national demand with either option. However, on a regional basis a limitation without exemptions could have the potential of dislocating some coal production in the Midwest.

Under either option, midwestern coal production would increase to about 300 million tons; however, the use of some coal reserves in this area would be restricted by the limitation without exemptions. In the States of Ohio, Illinois, and in western Kentucky, 60 or more percent of reserves might be restricted even if coal cleaning were used.

On the other hand, this analysis may overstate the potential impacts since coal mixing or other methods of reducing the maximum daily average coal sulfur content were not fully considered. In view of this, the Agency will continue to examine the need for exemptions and the appropriateness of more stringent maximum emission levels such as 410 ng/J (1.0 lb/million Btu) or 340 ng/J (0.80 lb/million Btu) during the comment period. (See section 4.7.1 of EPA 450/2-78-007a-1 for a more detailed discussion.)

Based on our present estimates of the potential impact upon midwestern coal reserves and production, EPA has proposed that the maximum allowable emission limitation should have a 3-day exemption coincident with the 3 days of 75-percent control in the percent reduction standard. However, the Agency specifically requests comments on the level of the emission limit and the appropriateness of the 3-day exemption.

MAXIMUM CONTROL LEVEL

Under the proposed SO_2 standard, a maximum control level would be established. Compliance with that control level would constitute compliance with the percentage reduction requirement. In developing the proposed standard, EPA has considered two alternatives. The first would establish the level of 86 ng/J (0.20 lb/million Btu). The second would establish a higher level. Values from 215 ng/J (0.50 lb/million Btu) to 340 ng/J (0.80 lb/million Btu) have been considered.

In essence, these options focus on the question of whether a powerplant burning low-sulfur coal should be required to achieve the same percentage reduction as those burning high-sulfur coal. The emission level of 86 ng/J would require virtually all coal-fired plants to reduce potential emissions by 85 percent. In addition, it would require the installation of FGD systems on oil-fired powerplants. Therefore, this option is commonly referred to as full scrubbing or full control. On the other hand, an emission level in the range of 215-340 ng/J would permit plants firing low-sulfur coal to reduce their emissions by less than 85 percent, hence the term partial scrubbing.

Proponents of partial scrubbing have argued that adoption of a limitation in the range of 215-340 ng/J would reduce scrubber costs and permit bypassing of a portion of the flue gas and thus alleviate the need for plume reheat and associated energy costs. since low-sulfur coal inherently emits less SO_2, proponents of partial scrubbing maintain that these benefits can be obtained by partial scrubbing without a significant increase in emissions nationally. Finally, it is argued that since coal-fired units would be cheaper to build and operate if partial scrubbing were allowed, less dependence would be placed on existing oil-fired units and turbines, and a significant saving of oil would be realized.

On the other hand, proponents of full control have maintained that plants firing low-sulfur coal should be subject to the same reduction requirement as those burning high-sulfur coal. They argue that the statutory requirements and legislative history of section 111 of the Clean Air Act Amendments of 1977 require a uniform percentage reduction requirement. They also point out that applying full scrubbing to low-sulfur coal is technologically less demanding and less expensive than applying full scrubbing to high-sulfur coal and that emissions from a plant burning low-sulfur coal would be up to four times greater under partial scrubbing than under full control. Finally, it is argued that adoption of full control will tend to promote the use of locally available, higher sulfur content coals, particularly in the Midwest.

ALTERNATIVE SO_2 STANDARDS

The following alternative standards for SO_2 have been suggested by DOE:

1. Eighty-five percent reduction of potential SO_2 emissions during each calendar month.

2. A maximum control level of 340 ng/J (0.80 lb SO_2/million Btu), not to be exceeded during any 24-hour period.

3. A minimum of 33-percent reduction of potential SO_2 emissions. The alternative standards would have the following operational characteristics:

Monthly averaging. There would be no daily restriction on the percent reduction in potential SO_2 emissions. The requirement would be that the total sulfur emissions summed over each calendar month be no more than 15 percent of the total sulfur content of the coal consumed. There would be no restriction on bypassing some or all of the flue gas, so long as the monthly percent reduction requirement is met. If the monthly requirement is not met, enforcement penalties would be applied on the basis of the number of individual 24-hour periods during which the percent reduction was less than 85 percent.

Maximum control level of 340 ng/J (0.80 lb SO_2/million Btu). Under this alternative, a sliding-scale-percent reduction would be required; the full 85-percent reduction would be required only when high-sulfur coals were used. Only the minimum percent reduction requirement would be enforced for 24-hour periods when SO_2 emissions would be 340 ng/J or less. Any 24-hour period when emissions are greater than 340 ng/J and reduction is less than 85 percent will be a violation of the percent reduction requirement. There would be no waivers or exemption for this daily requirement.

Minimum percent reduction requirement of 33 percent. Regardless of whether the resulting emissions would be lower than the 340 ng/J (0.80 lb/million Btu) emissions requirement, 33-percent reduction in potential SO_2 emissions would be required. This would assure that continuous emissions reduction technology is applied to all coals, including those with the lowest naturally occurring sulfur content.

In addition to the DOE proposal, the utility industry, through the Utility Air Regulatory Group (UARG), has also suggested an alternative SO_2 standard. The industry proposal contemplates a sliding scale percentage production standard for sulfur-dioxide emissions under which the required percent reduction declines as sulfur content in the coal declines. Under the industry proposal, there would be a ceiling of 1.2 pounds of sulfur dioxide and the required percent reduction would range between 85-percent removal on a coal with uncontrolled emissions[1] of 8 pounds to 20-percent removal on coals with uncontrolled emissions of 1 pound or less. Specifically, for coals with uncontrolled emissions of 5.0 pounds of sulfur dioxide or greater, the constraining emissions limit would be 1.2 pounds of sulfur dioxide. For coals with uncontrolled sulfur-dioxide emissions of 5 pounds of sulfur dioxide, percent removal would be 76 percent and, in the range between 5 pounds and 4 pounds of uncontrolled emissions, percent removal would decline by 0.1 percentage point for each 0.1-pound decrease in uncontrolled emissions. For coals with uncontrolled emissions of 4 pounds of sulfur dioxide, percent removal would be 75 percent and, between 4 pounds and 3 pounds of uncontrolled emissions, percent removal would decline by 0.9 percentage point for each 0.1 pound decrease in uncontrolled emissions. For coals with 3 pounds of uncontrolled emissions, percent removal would be 66 percent, and between 3 pounds of sulfur dioxide and 2 pounds of sulfur dioxide, percent removal would decline by 1.3 percentage points for each 0.1-pound decrease in uncontrolled emissions. At 2 pounds of uncontrolled emissions percent removal would be 53 percent, and between 2 pounds and 1 pound of uncontrolled emissions, percent removal would decline by 3.3 percentage points for each 0.1 pound decline in uncontrolled emissions. For coals with 1 pound or less of uncontrolled emissions percent removal would be 20 percent.

Compliance with these sulfur-dioxide standards would be determined on a 30-day average. Industry has also recommended that consideration be given to establishing an emission ceiling of 1.5 pounds for coal with uncontrolled emissions over 8 pounds.

Comments on these alternative standards are invited.

ANALYSES OF ALTERNATIVES

In order to determine the appropriate form and level of control for the proposed standards, EPA has performed extensive analyses of the potential national impacts associated with the alternative standards. The Agency employed economic models to forecast the structure and operating characteristics of the utility industry in future years. These models project the environmental, economic, and energy impacts of alternative standards for the electric utility industry. The major analytical efforts were a preliminary analysis completed in April 1978 and a revised assessment completed in August 1978. While these analyses are preliminary and subject to change, the issues examined and the results obtained are summarized in this section and in the following tables. Further details of the analyses can be found in "Background Information for Proposed SO_2 Emission Standards-Supplement," EPA 450/2-78-007a-1.

Impacts analyzed. The environmental impacts of the alternative standards were examined by projecting pollutant emissions. The emissions were estimated nationally and by geographic region for each plant type, fuel type, and age category. The Agency is also evaluating the significance of waste products generated by the control technologies and their environmental impacts.

The economic and financial effects of the alternatives were examined. This assessment included an estimation of the utility capital expenditures for new plant and pollution control equipment as well as the fuel costs and operating and maintenance expenses associated with the plant and equipment. These costs were examined in terms of annualized costs and annual revenue requirements. The impact on consumers was determined by analyzing the effect of the alternatives on average consumer costs and average monthly residential bills. The alternatives were also examined in terms of cost per ton of SO_2 removal. Finally, the present value costs of the alternatives were calculated.

The effects of the alternative proposals on energy production and consumption were also analyzed. National coal use was projected and broken down in terms of production by geographic region and consumption by region. The amount of western coal shipped to the Midwest and East was also estimated. In addition, utility consumption of oil and gas was analyzed.

Major assumptions. Two types of assumptions have an important effect on the results of the analyses. The first group involves the model structure and characteristics. The second group includes the assumptions used to specify future economic conditions.

[1] Uncontrolled emissions of sulfur dioxide are defined as twice the sulfur content of the coal measured in pounds per million Btu. For the purposes of this standard, sulfur content of the coal can be measured at the plant for unwashed coals and at the mine prior to washing, for washed coals. In calculating percent removal, sulfur content of the flue gas as it leaves the stack is compared with the uncontrolled emissions of the coal.

The utility model selected for this analysis can be characterized as a cost minimizing economic model. In meeting demand, it determines the most

studies. The August analysis used a lower growth projection which is more in line with current estimates of demand growth.

maximum control level required on a 24-hour basis.

The projected SO_2 emissions from utility boilers are shown by plant type

the new plants. The latter figures are shown to illustrate the effect of changes in the amount of new capacity and variations in the utilization of

creases under all but the 340 ng/J (0.80 lb/million Btu) option. Western coal shipped east is lower under all options than under the current standard.

This increase varies, depending on the assumptions modeled, from $300 million to $2 billion or a 1- to 2-percent

The utility model selected for this analysis can be characterized as a cost minimizing economic model. In meeting demand, it determines the most economic mix of plant capacity and electric generation for the utility system, based on a consideration of construction and operating costs for new plants and variable costs for existing plants. It also determines the optimum operating level for new and existing plants. This economic-based decision criteria should be kept in mind when analyzing the model results. These criteria imply, for example, that all utilities base decisions on lowest costs and that neutral risk is associated with alternative choices.

Such assumptions may not represent the utility decisionmaking process in all cases. For example, the model assumes that a utility bases supply decisions on the cost of constructing and operating new capacity versus the cost of operating existing capacity. Environmentally, this implies a tradeoff between emissions from new and old sources. The cost minimization assumption implies that in meeting the standard a new powerplant will fully scrub high-sulfur coal if this option is cheaper than fully or partially scrubbing low-sulfur coal. Often the model will have to make such a decision, especially in the midwest where utilities can choose between burning local high or imported western low-sulfur coal. The assumption of risk neutrality implies that a utility will always choose the low-cost option. Utilities, however, may perceive full scrubbing as involving more risks and pay a premium to be able to partially scrub the coal. On the other hand, they may perceive risks associated with long-range transportation of coal, and thus opt for full control even though partial control is less costly. Comments are solicited regarding the use of a cost optimization model to simulate utility decisions.

The assumptions used in the analyses to represent economic conditions in a given year have a significant impact on the final results reached. The major assumptions used in the EPA analyses are shown in table 1 and the significance of these parameters is summarized below. Comments are solicited regarding the assumptions used.

The growth rate in demand for electric power is very important since this rate determines the amount of new capacity which will be needed and thus directly affects the emission estimates and the projections of pollution control costs. A high electric demand growth rate results in a larger emission reduction associated with the proposed standards and also results in higher costs. The April analysis used a relatively high-growth rate consistent with last year's national energy policy studies. The August analysis used a lower growth projection which is more in line with current estimates of demand growth.

The nuclear capacity assumed to be installed in a given year is also important to the analysis. Because nuclear power is less expensive, the model will predict construction of new nuclear plants rather than new coal plants. Hence, the nuclear capacity assumption affects the amount of new coal capacity which will be required to meet a given electric demand level. In practice, there are a number of constraints which limit the amount of nuclear capacity which can be constructed. The assumptions used in the EPA analyses assume high (April) and moderate (August) growth in nuclear capacity.

The oil price assumption has a major impact on the amount of predicted new coal capacity, emissions, and oil consumption. Since the model makes generation decisions based on cost, a low oil price relative to the cost of building and operating a new coal plant will result in more oil-fired generation and less coal utilization. This results in less new coal capacity which reduces capital costs but increases oil consumption and fuel costs because oil is more expensive per Btu than coal. This shift in capacity utilization also affects emissions, since an existing oil plant generally has a higher emission rate than a new coal plant even when only partial control is allowed on the new plant.

Coal transportation and mine labor rates both affect the delivered price of coal. The assumed transportation rate is generally more important to the predicted consumption of low-sulfur coal since that is the coal type which is most often shipped long distances. The assumed mining labor cost is more important to eastern coal costs and production estimates since this coal production is generally much more labor intensive than western coal. The model does not incorporate the Agency's PSD regulations or forthcoming requirements to protect and enhance visibility. These requirements may be important factors for new powerplants.

Summary of results. The results of the EPA analyses which were completed in April and August 1978 are presented in tables 2 through 8 and discussed below. Four alternative standards were evaluated. Each of the options presented includes 85-percent control of inlet SO_2 (24-hour average), except for 3 days per month, a maximum SO_2 emission limit of 520 ng/J (1.2 lb/million Btu) except for 3 days per month, a particulate matter standard of 13 ng/J (0.03 lb/million Btu), and the proposed NO_x standards. The partial control options in the tables represent alternative levels for the maximum control level required on a 24-hour basis.

The projected SO_2 emissions from utility boilers are shown by plant type and geographic region in tables 2 through 5. Table 2 details the 1990 national SO_2 emissions resulting from different plant types and age groups. As is expected, the proposed standards result in a significant reduction of SO_2 emissions as compared to the current standards. This reduction ranges from 10 to 12 percent depending on the alternative examined and the assumptions used. The emissions from new plants directly affected by the standards are reduced by up to 73 percent. However, the model predicts that the proposed standards will delay the construction of new plants (note the total coal capacity changes) causing existing coal- and oil-fired plants to be utilized more than they would have been without the proposed standards. This causes an increase in emissions from existing plants which offsets part of the reduction achieved by new plants. As discussed above, this shift in capacity utilized is predicted by the costs minimiization model as a result of increased pollution control cost for new coal-fired plants. This shift in the generation mix has important implications for the decisionmaking process. For example, if a national energy policy phases out oil use for electric power generation, then the April study's prediction (table 6) of increased oil use in 1990 (over 1975 levels) will not be allowed to occur. With such a policy, oil consumption impacts would be similar to those shown for the August analysis in table 6.

A summary of the projected 1990 regional SO_2 emissions under the alternative control levels is shown in table 3. The combined emissions in the East and Midwest are reduced about 7 percent as compared to predictions under the current standards. These emissions are not affected greatly by the various control options, although there is a slight increase shown under the 340 ng/J (0.80 lb/million Btu) option in the April analysis. The combined emissions in the west south-central and west regions show a greater variation on a percentage basis. In the analysis, the full control and 210 ng/J (0.50 lb/million Btu) options both result in a 36-percent reduction from emission levels under the current standards, while the 340 ng/J (0.80 lb/million Btu) option results in a 28-percent decrease.

Regional emissions from the new plants directly affected by the proposed standards are shown for the years 1990 and 1995 in tables 4 and 5. These tables also project the coal consumption and emission factors (million tons of SO_2 per quadrillion Btu) for

the new plants. The latter figures are shown to illustrate the effect of changes in the amount of new capacity and variations in the utilization of the new capacity. As noted above, the 1990 emissions from new plants drop dramatically under the proposed standards to a level only about one-third that which would result under the current standards. This emission reduction is due in part to lower emission factors and in part to reduced coal consumption predicted by the model. Coal consumption in the East is virtually unchanged, but in the Midwest coal consumption in new plants drops by one-third as a result of the proposed standards. In the west south-central and west regions coal consumption drops 5 to 10 percent which is about the same as the decline in national coal consumption at new plants. The reduced coal consumption in new plants results from a delay in new plant construction due to the increased cost of generation from new coal plants. Reduced coal consumption by new plants means a shift to more coal and oil burned in existing plants or new turbines, and this causes the increase in emissions from existing and oil-fired plants which was mentioned earlier. Table 5 shows that in 1995 the emission reduction due to the proposed standards is still of the same magnitude as the 1990 reduction. Also, since coal capacity is similar under all options by 1995, the coal consumption impact of the proposed standards is less pronounced. Changes in coal consumption in 1995 are almost entirely due to variations in the utilization of the new plants.

Table 6 illustrates the effect of the proposed standards on 1990 national coal production, western coal shipped east, and utility oil and gas consumption. This table shows some large differences between the two analyses which are caused by different model assumptions. For example, in the model, higher oil prices decrease oil demand and increase coal use. Increasing transportation costs increases the delivered price of western coal and reduces demand. These two factors along with the lower growth rate account for most of the difference in fuel use estimates between the April and August results. However, the conclusions drawn from the analyses are similar. For example, in terms of coal production, both analyses show that total production will increase in all regions of the country as compared to 1975 levels.

Compared to production under the current standards, the April analysis predicts an increase in eastern coal production under all but the 340 ng/J (0.80 lb/million Btu) option. Midwestern production increases under all options, and western production decreases under all but the 340 ng/J (0.80 lb/million Btu) option. Western coal shipped east is lower under all options than under the current standard, but is still 14 to 20 times higher than 1975 levels. Finally, the April analysis projects that oil consumption by utilities would be increased by the proposed standards. The increase varies from 300,000 barrels per day for the full control option to 100,000 barrels per day for the 210 ng/J (0.50 lb/million Btu) and 340 ng/J (0.80 lb/million Btu) options.

The August figures predict a smaller increase in 1990 eastern coal production than would be expected under the current standards. Midwestern production increases by 15 to 43 million tons and western production decreases up to 56 million tons. The amount of western coal shipped east is reduced by 30 million tons by both full control and 210 ng/J (0.50 lb/million Btu) options, and is essentially unchanged by the higher options. Due to the high assumed oil price, oil consumption is reduced from current levels, but the 1990 difference between the options and the current standards is still an increase of 200,000 to 300,000 barrels per day. This increased oil consumption results from the predicted shift toward existing oil-fired plants and turbines as a result of higher pollution control costs for new coal plants. Table 8 shows that as high oil prices are assumed (August analysis), there is no difference in 1995 oil consumption among the options. Finally, the DOI/DOE coal leasing study (see "Other Studies") shows a difference of about 50,000 barrels per day in 1990 between full and partial scrubbing.

The economic effects of the proposed standards are shown in table 7 for 1990. Utility capital expenditures between 1979 and 1990 increase under all options as compared to the $500 to $750 billion estimated to be required in the absence of a change in the standard. The capital estimates in tables 7 and 8 are increments over the expenditures under the current standard and include both plant capital (for new capacity) and pollution control expenditures. As shown in table 2, the model estimates total industry capacity is to be 10 GW to 15 GW greater under the partial control option, and the cost of this extra capacity makes the total utility capital expenditures higher under the 210 ng/J (0.50 lb/million Btu) and 340 ng/J (0.80 lb/million Btu) options, even though pollution control capital is lower than under the full control option.

Annualized cost includes a levelized capital charge, fuel costs, and operation and maintenance costs associated with utility equipment. All of the options cause an increase in annualized cost over the current standards. This increase varies, depending on the assumptions modeled, from $300 million to $2 billion or a 1- to 2-percent increase over the $90 to $100 billion.

The average monthly residential electric bill is predicted to increase only slightly by any of the options, up to a maximum 2-percent increase shown for full control in the April analysis. The large total increase in the monthly bill over 1975 levels is due in large part to a more than 50-percent increase in the amount of electricity used by each customer. Pollution control expenditures, including those to meet the current standards, account for about 15 percent of the increase in the average monthly bill while the remainder of the cost increase is due to capacity expansion and general cost escalations.

The average monthly bill is determined by estimating utility revenue requirements which are a function of capital expenditures, fuel costs, and operation and maintenance costs. Therefore, due to changes in the pattern of expenditures, the selection of the specific year examined has an impact on the costs shown. For example, the August analysis shows slightly higher cost in 1990 for the partial control options as compared to full control. This is due to the larger amount of new capacity and the higher associated capital costs under these options. By 1995, the amount of new coal capacity under each option has approximately equalized, and the estimates show full control to be most expensive but by only 12 cents a month over the average bill under the 340 ng/J (0.80 lb/million Btu) option (table 8).

The incremental costs per ton of SO_2 removal are also shown in table 7. The figures are determined by dividing the change in annualized cost by the change in annual emissions, as compared to the current standards. These ratios are a measure of the cost effectiveness of the options, where lower ratios represent a more efficient resource allocation. All the options result in higher cost per ton than the current standards with the full control option being the most expensive.

Another measure of cost effectiveness is the average dollar-per-ton cost at the plant level. This figure compares total pollution control cost with total SO_2 emission reduction for a model plant. This average removal cost varies depending on the level of control and the coal sulfur content. The range for full control is from $260 per ton on high-sulfur coal to $1,600 per ton on low-sulfur coal. The partial scrubbing range is from $900 per ton on low-sulfur coal to $2,000 per ton on very low sulfur coal.

The economic analysis also estimated the present value cost in order to facilitate comparison of the options by

reducing the streams of capital, fuel, and operation and maintenance expenses to one number. A present value

tion, depreciation, interest, taxes, and other indirect flows were excluded. This second type of present value

use, control, equipment, and variation in capacity utilization. In general, full control results in slightly lower emis-

Table 1. COMPARISON OF ASSUMPTIONS

April 1978 and August 1978

V 43 / 182

reducing the streams of capital, fuel, and operation and maintenance expenses to one number. A present value estimate allows expenditures occurring at different times to be evaluated on a similar basis by discounting the expenditures back to a fixed year. Two types of present value costs have been estimated in the analysis.

First, an estimate was made of the present value of costs which will be faced by the consumers. Essentially, this represents the present value of utility revenue requirements. This calculation for the August results shows a 1990 present value of $26 billion for the full control option and $15 billion for the 340 ng/J (0.80 lb/million Btu) option as compared to the current standards.

Second, an "economic" or "real resource" present value was estimated. Real resource present value is designed to measure the level of national resources committed to the standards. In computing this resource commitment, construction costs, labor costs, and other resource costs were considered, but financing flows and transfer payments were excluded. Thus, allowance for funds during construction, depreciation, interest, taxes, and other indirect flows were excluded. This second type of present value figure gives an estimate of the costs to society of the options. The calculation of this value based on the August analysis results in a 1990 present value of $9.8 billion for full control and $10.4 billion for the 340 ng/J (0.80 lb/million Btu) option. Both types of present value costs were estimated as an increment over the current standards for the years 1990 and 1995. These figures include capital costs of plants installed through that date and operation and maintenance costs for 30 years after the cutoff date. Comments are solicited regarding the calculation and use of present values for this decision. Comments are also solicited on the appropriateness of using present value costs to the utility or present value resources costs to society.

A summary of the 1995 impacts of the proposed standards is shown in table 8 based on the August analysis. The total coal capacity figure shows that by 1995 all the options have equal capacity. Thus, the options reflect differences in amount of low-sulfur coal use, control, equipment, and variation in capacity utilization. In general, full control results in slightly lower emissions, less Western coal shipped East, higher capital expenditures, and slightly higher average residential bills than would result under the partial control options.

Other studies. In addition to the studies described above, EPA is aware of three other major studies of the impacts resulting from several recommended standards for powerplants. One of these studies was performed as a joint effort of the Departments of the Interior and Energy for studying coal leasing policies. Another analysis was done by the Department of Energy, and the third study was sponsored by a segment of the electric utility industry. These studies were performed for the purpose of analyzing the impacts of their respective recommended standards along with the EPA options discussed above. The results of these studies have been considered by EPA in developing the proposed standards. More detail on the results of these studies is given in the supplement to the background document (EPA 450/2-78-007a-1).

SEP 19 1978

Table 1. COMPARISON OF ASSUMPTIONS
April 1978 and August 1978

Assumption	April	August
Growth rates	1975-1985: 5.8%/yr 1985-1995: 5.5%	1975-1985: 4.8%/yr 1985-1995: 4.0%
Nuclear capacity	1985: 108 GW 1990: 177 1995: 302	1985: 97 GW 1990: 167 1995: 230
Oil prices ($ 1975)	1985: $13/bbl 1990: $13 1995: $13	1985: $15/bbl 1990: $20 1995: $28
General inflation rate	5.5%/yr	5.5%/yr
Annual emissions @ 0.5 floor	0.5 lb SO_2/million Btu	0.32 lb SO_2/million Btu
Coal transportation	Increases at general inflation rate	Increases at general inflation rate plus 1%
Coal mining labor costs	Increases at general inflation rate	Increases at general inflation rate plus 1%
Miscellaneous	A number of miscellaneous changes were made between the April 1978 study and the August 1978 study. These changes were either corrections or refinements of values used in the April study. Examples of these changes included revisions to the level of SIP control assumed in the model, revisions to the scrubbing costs, changes in the assumptions regarding industrial coal consumption, and changes to the coal supply curves used in the April study.	

Table 2. SUMMARY OF NATIONAL 1990 SO_2 EMISSIONS FROM UTILITY BOILERS[a]
(million tons)

Plant Category	1975 Actual	Level of Control: Current Standards		Full Control		Partial Control: 210 ng/J		Partial Control: 290 ng/J		Partial Control: 340 ng/J	
		APR	AUG	APR	AUG	APR	AUG	APR	AUG	APR	AUG
SIP/NSPS Plants[b]	—	16.8	16.0	17.2	16.2	16.9	16.2	—	16.1	16.7	16.1
New Plants[c]	—	4.2	4.4	1.5	1.2	2.1	1.3	—	1.5	3.3	1.8
Oil/Gas Plants	—	2.3	1.1	2.5	1.4	2.3	1.2	—	1.2	2.3	1.2
Total National Emissions	18.6	23.3	21.4	21.1	18.9	21.3	18.8	—	18.9	22.3	19.1
Total Coal Capacity (GW)	205	465	451	444	428	460	439	—	440	460	444

SOURCE: Background Information for Proposed SO_2 Emission Standards - Supplement, EPA 450/2-78-007a-1, Chapters 2 and 3, August 1978.

[a]Results of EPA analyses completed in April 1978 and August 1978.

[b]Plants subject to existing state regulations or the current NSPS of 1.2 lb SO_2/million Btu.

[c]Plants subject to the revised standards.

Table 3. SUMMARY OF 1990 REGIONAL SO_2 EMISSIONS FOR UTILITY BOILERS[a] (million tons)

	1975 Actual	Current Standards		Full Control		Partial Control 210 ng/J		290 ng/J		340 ng/J	
		APR	AUG	APR	AUG	APR	AUG	APR	AUG	APR	AUG
Total National Emissions	18.6	23.3	21.4	21.1	18.9	21.3	18.8	–	18.9	22.3	19.1
Regional Emissions											
East[b]	9.1	10.8	10.2	9.7	9.0	9.6	9.0	–	8.9	10.2	9.0
Midwest[c]	8.8	8.7	7.8	8.5	7.6	8.4	7.6	–	7.6	8.6	7.6
West South Central[d]	0.2	2.6	2.3	1.8	1.5	2.0	1.4	–	1.5	2.3	1.6
West[e]	0.5	1.3	1.3	1.1	0.8	1.2	0.9	–	0.9	1.3	1.0
Total Coal Capacity (GW)	205	465	451	444	428	460	439	–	440	460	444

SOURCE: Background Information for Proposed SO_2 Emission Standards-Supplement, EPA 450/2-78-0071-1, Chapters 2 and 3, August 1978.

[a]Results of EPA analyses completed in April 1978 and August 1978.
[b]New England, Middle Atlantic, South Atlantic, and East South Central Census Regions.
[c]East North Central and West North Central Census Regions.
[d]West South Central Census Region.
[e]Mountain and Pacific Census Regions.

Table 4. SUMMARY OF 1990 SO_2 EMISSIONS BY PLANTS SUBJECT TO THE PROPOSED STANDARDS: AUGUST 1978 ANALYSIS

	Current Standards	Full Control	Partial Control 210 ng/J	290 ng/J	340 ng/J
East[a]					
Total New Plant Emissions (million tons)	2.1	0.7	0.7	0.7	0.8
Coal Consumption (10^{15} Btu)	3.47	3.41	3.43	3.48	3.47
Emission Factor (#S/10^6 Btu)[b]	0.60	0.21	0.21	0.22	0.23
Midwest[c]					
Total New Plant Emissions (million tons)	0.60	0.2	0.2	0.2	0.2
Coal Consumption (10^{15} Btu)	1.17	0.79	0.80	0.81	0.81
Emission Factor (#S/10^6 Btu)[b]	0.48	0.21	0.21	0.23	0.26
West South Central[d]					
Total New Plant Emissions (million tons)	1.2	0.2	0.3	0.4	0.5
Coal Consumption (10^{15} Btu)	1.93	1.67	1.97	1.96	1.95
Emission Factor (#S/10^6/Btu)[b]	0.60	0.14	0.14	0.18	0.24
West[e]					
Total New Plant Emissions (million tons)	0.6	0.1	0.2	0.2	0.3
Coal Consumption (10^{15} Btu)	1.25	1.19	1.18	1.19	1.24
Emission Factor (#S/10^6/Btu)[b]	0.40	0.09	0.14	0.19	0.24

SOURCE: Background Information for Proposed SO_2 Emission Standards - Supplement, EPA 450/2-78-007a-1, Chapter 3, August 1978.

[a]New England, Middle Atlantic, South Atlantic, and East South Central Census Regions.
[b]Ratios may not be obtained exactly from figures shown here due to rounding.
[c]East North Central and West North Central Census Regions.
[d]West South Central Census Region.
[e]Mountain and Pacific Census Regions.

Table 5. SUMMARY OF 1995 SO_2 EMISSIONS BY PLANTS SUBJECT TO THE PROPOSED STANDARDS: AUGUST 1978 ANALYSIS

	Current Standards	Full Control	Partial Control 210 ng/J	290 ng/J	340 ng/J
East[a]					
Total New Plant Emissions (million tons)	4.0	1.3	1.3	1.4	1.5
Coal Consumption (10^{15} Btu)	6.73	6.39	6.47	6.49	6.67
Emission Factor (#S/10^6 Btu)[b]	0.60	0.21	0.21	0.21	0.22
Midwest[c]					
Total New Plant Emissions (million tons)	1.2	0.4	0.4	0.5	0.5
Coal Consumption (10^{15} Btu)	2.21	1.94	1.92	1.99	2.00
Emission Factor (#S/10^6 Btu)[b]	0.53	0.21	0.21	0.23	0.26
West South Central[d]					
Total New Plant Emissions (million tons)	1.6	0.4	0.4	0.5	0.7
Coal Consumption (10^{15} Btu)	2.63	2.77	2.73	2.70	2.68
Emission Factor (#S/10^6 Btu)[b]	0.60	0.15	0.15	0.19	0.25
West[e]					
Total New Plant Emissions (million tons)	1.1	0.2	0.3	0.4	0.5
Coal Consumption (10^{15} Btu)	2.28	2.32	2.29	2.27	2.27
Emission Factor (#S/10^6 Btu)[b]	0.44	0.09	0.13	0.19	0.22

SOURCE: Background Information for Proposed SO_2 Emission Standards - Supplement, EPA 450/2-78-007a-1, Chapter 3, August 1978

[a]New England, Middle Atlantic, South Atlantic, and East South Central Census Regions.
[b]Ratios may not be obtained exactly from figures shown here due to rounding.
[c]East North Central and West North Central Census Regions.
[d]West South Central Census Region.
[e]Mountain and Pacific Census Regions.

TABLE 6. SUMMARY OF IMPACTS ON FUELS IN 1990[a]

	1975 Actual	Current Standards		Full Control		Partial Control 210 ng/J		290 ng/J		340 ng/J	
		APR	AUG	APR	AUG	APR	AUG	APR	AUG	APR	AUG
U.S. Coal Production (million tons)											
East	396	441	465	467	449	464	450	–	450	418	449
Midwest	151	298	275	375	318	353	316	–	294	307	290
West	100	1027	785	870	736	938	752	–	779	1055	784
TOTAL	647	1767	1525	1711	1502	1755	1517	–	1523	1780	1523
Western coal shipped east (million tons)	21	455	149	299	118	346	117	–	147	429	152
Oil/gas consumption in power plants (million bbl/day)	3.1	3.0	1.2	3.3	1.5	3.1	1.4	–	1.4	3.1	1.4

SOURCE: Background Information for Proposed SO_2 Emission Standards - Supplement, EPA 450/2-78-007a-1, Chapter 2 & 3, August 1978

[a]Results of EPA analyses completed in April 1978 and August 1978.

Table 7. SUMMARY OF 1990 ECONOMIC IMPACTS[a]

Particulate Matter Standards

The proposed standards would limit the emissions of particulate matter to 13 ng/J (0.03 lb/million Btu) heat input. This level is based on the performance of a well-designed and well-operated electrostatic precipitator (ESP) firing coal with a sulfur content greater than 1 percent and had a hot side ESP with a specific collection area greater than 89 square meters per actual cubic meter per second (452 ft²/1000 acfm). The Agency is currently conducting a test program to test a 350-MW powerplant controlled with a baghouse which recently began operation. Since baghouses are designed and constructed in modules rather than as one single unit,

Table 7. SUMMARY OF 1990 ECONOMIC IMPACTS[a]

	Level of Control									
	Current Standards		Full Control		Partial Control 210 ng/J		290 ng/J		340 ng/J	
	APR	AUG	APR	AUG	APR	AUG	APR	AUG	APR	AUG
Average monthly residential bills ($/month)	45.31	43.89	46.39	44.22	46.20	44.48	-	44.38	45.47	44.38
Incremental Utility capital expenditures, cumulative 1976-1990 ($ billions)	-	-	10	0	15	8	-	4	3	5
Incremental Annualized cost ($ billions)	-	-	2.0	1.9	1.3	1.7	-	1.3	0.3	1.1
Incremental Cost of SO_2 Reduction ($/ton)	-	-	885	754	640	642	-	511	303	485

SOURCE: Background Information for Proposed SO_2 Emission Standards - Supplement, EPA 450/2-78-007a-1, Chapters 2 & 3, August 1978.

[a]Results of EPA analyses completed in April 1978 and August 1978.

Table 8. SUMMARY OF 1995 IMPACTS: AUGUST 1978 ANALYSIS

	1975 Actual	Level of Control: Current Standards	Full Control	Partial Control 210 ng/J	290 ng/J	340 ng/J
National Emissions (million tons)	18.6	23.3	18.5	18.5	18.7	19.0
New Plant Emissions[a] (million tons)	–	7.9	2.4	2.5	2.8	3.2
U.S. Coal Production (million tons)	647	1865	1865	1858	1868	1866
Western Coal Shipped East (million tons)	21	210	130	133	190	196
Oil/Gas Consumption (million bbl/day)	3.1	0.8	0.9	0.9	0.9	0.9
Incremental Cumulative Capital Expenditures (1975 $ billion)	–	–	32	26	20	19
Incremental Annualized Cost (1975 $ billion)	–	–	2.6	2.3	2.0	1.9
Average Monthly Residential Bill (1975 $/month)	–	45.34	46.22	46.13	46.12	46.10
Total Coal Capacity (GW)	198	587	580	580	580	580

SOURCE: Background Information for Proposed SO_2 Emission Standards-Supplement, EPA 450/2-78-007a-1, Chapter 3, August 1978.

[a]Plants subject to the revised standards.

PARTICULATE MATTER STANDARDS

The proposed standards would limit the emissions of particulate matter to 13 ng/J (0.03 lb/million Btu) heat input and would require a 99-percent reduction in uncontrolled emissions from solid fuels and a 70-percent reduction for liquid fuels. No particulate matter control would be necessary for units firing gaseous fuels alone, and thus a percent reduction would not be required for gaseous fuels. The 20-percent opacity (6-minute average) standard that is currently applicable to steam electric generating units (40 CFR Part 60, Subpart D) would be retained under the proposed standards. An opacity standard is proposed to insure proper operation and maintenance of the particulate matter control system. If an affected facility were to comply with all applicable standards except opacity, the owner or operator may request the Administrator under 40 CFR 60.11(e) to establish a source specific opacity standard for that affected facility.

The proposed standards are based on the performance of a well designed and operated baghouse or electrostatic precipitator (ESP). EPA has determined that these control systems are the best adequately demonstrated systems of continuous emission reduction (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements).

EPA has evaluated data from more than 50 emission test runs conducted at eight baghouse-equipped, coal-fired steam generating units. The data from two tests exceeded the proposed standard, however, it is EPA's judgment that the emission levels at the two units which had measured emission levels above the proposed standards could be reduced to below the proposed standards through an improved maintenance program. EPA believes that baghouses with an air-to-cloth ratio of 0.6 actual cubic meters per minute per square meter (2 ACFM/ft²) would achieve the proposed standards at pressure drops of less than 1.25 kilopascals (5 in. H_2O). EPA has concluded that this air/cloth ratio and pressure drop are reasonable when considering cost, energy, and nonair quality impacts.

EPA collected emission data from 21 ESP-equipped, coal-fired steam generating units. The nominal sulfur content of the coals being fired ranged from 0.4 percent to 1.9 percent. None of the 21 units tested were designed to achieve an emission level equal to or below the proposed standard of 13 ng/J (0.03 lb/million Btu) heat input; however, emissions from 9 of the 21 units were below the proposed standard. All of the units tested which were firing coal with a sulfur content greater than 1 percent and had a hot side ESP with a specific collection area greater than 89 square meters per actual cubic meter per second (452 ft²/1,000 ACFM), or a cold side ESP with a specific collection area greater than 85 square meters per actual cubic meter per second (435 ft²/1,000 ACFM), had emission levels below the proposed standards. EPA evaluated emission levels from units burning relatively low-sulfur coal because it is more difficult for an ESP to collect particulate matter emissions generated by the combustion of low-sulfur coal than high-sulfur coal. ESP's require a larger specific collection area when applied to units buring low-sulfur coal than to units burning high-sulfur coal, because the resistivity of the fly ash is higher with low-sulfur coal. To meet the proposed standard, EPA believes that an ESP used on low-sulfur coal would have to have a specific collection area from around 130 (hot side) to 200 (cold side) square meters per actual cubic meter per second (650 to 1,000 ft² per 1,000 ACFM) while an ESP used on high-sulfur coal (3.5 percent sulfur) would only require around 72 square meters per actual cubic meter per second (360 ft² per 1,000 ACFM).

ESP's have been traditionally used to control particulate emissions from powerplants. High-sulfur coal produces fly ash with a low electrical resistivity which can be readily collected with an ESP. However, low-sulfur coal produces fly ash with high electrical resistivity, which is more difficult to collect. The problem of high electrical resistivity fly ash can be reduced by using a hot side ESP (ESP located before combustion air preheater) when firing low-sulfur coal. Higher fly ash collection temperatures improve ESP performance by reducing fly ash resistivity for most types of low-sulfur coal (for example, increasing the fly ash collection temperature from 177° C (350° F) to 204° C (400° F) can reduce electrical resistivity of fly ash from low-sulfur coal by approximately 50 percent).

While EPA believes that ESP's can be applied to high-sulfur coal at reasonable costs to meet the proposed standards, it recognizes that applying a large, high efficiency ESP to a facility using low-sulfur coal to meet the proposed standards will be more expensive. In view of this, EPA believes that a baghouse control system could be applied on utility-size facilities firing low-sulfur coal at a lower cost than an ESP. Although the largest baghouse-controlled coal-fired steam generator for which EPA has particulate matter emission data is 44 MW, several larger installations are currently under construction, and EPA plans to test a 350-MW powerplant controlled with a baghouse which recently began operation. Since baghouses are designed and constructed in modules rather than as one larger unit, there should be no technological barriers to scaling them up to a utility sized facility. Twenty-four baghouse-equipped coal-fired utility steam generators are scheduled to be operating by the end of 1978 and an additional 30 units are planned to start operation after 1978. About two-thirds of these planned units will be larger than 150-MW electrical output capacity, and more than one-third of these planned baghouse systems will be for units being fired with coal containing more than 3 percent sulfur. EPA therefore believes that baghouses have been adequately demonstrated for even the largest utility-sized facility.

EPA collected emission test data from seven coal-fired steam generators controlled by wet particulate matter scrubbers. Data from five of the seven resulted in emission levels less than 21 ng/J heat input (0.05 lb/million Btu). Data from only one of the seven were less than 13 ng/J (0.02 lb/million Btu) heat input. In view of this, EPA believes that wet particulate matter scrubbers would not be capable of complying with the proposed standards under most conditions.

EPA considered proposing the standard at a level of 21 ng/J (0.05 lb/million Btu) in order to allow the application of wet particulate matter scrubbers in addition to baghouses and ESP's. This option was rejected, because EPA believes that allowing scrubbers would cause an increase in the emissions of fine particulate matter without compensating advantages. In addition to 60 percent higher emissions, a particulate matter scrubber would require three times as much energy to operate as a dry control system, and would also increase water consumption and waste water treatment requirements. An increase in fine particulate emissions would have an adverse effect on visibility. The primary suggested advantage to allowing the use of scrubbers for particulate matter control would be to allow a single scrubber to control both SO_2 and particulate matter emissions which would result in a cost savings.

The Department of Energy (DOE) and others believe that the proposed standard of 3 ng/J (0.03 lb/million Btu) will preclude the use of ESP's on facilities using low-sulfur coal and require baghouse control which they believe has not been demonstrated on utility-size facilities. Because of this, DOE recommends that the standard be no less than 21 ng/J (0.05 lb/million Btu). The Utility Air Regulatory Group (UARG) also maintains that baghouses have not been adequately

demonstrated, particularly when firing high-sulfur coal. They further believe that ESP's cannot achieve the proposed standard of 13 ng/J at reasonable costs. They also believe that the proposed standard would require the use of flue gas conditioning systems to control acid mist formation. However, if sulfuric acid mist is formed in the flue gases, there is a potential for its interference with the particulate matter

EPA is requesting comments on the proposed level of the particulate matter standard and the basis for the standard.

cluded in the proposed standards as a result of provisions in the 1977 Amendments. As with the proposed particulate matter standard, the per-

proposed level of 260 ng/J heat input for Eastern bituminous coals would be reasonable even though emission data alone would tend to support a lower

used for coal could also be used to limit NO_x emissions from shale oil combustion. Consequently, EPA proposes to limit NO_x emissions from

demonstrated, particularly when firing high-sulfur coal. They further believe that ESP's cannot achieve the proposed standard of 13 ng/J at reasonable cost. In view of this, UARG recommends an emission limitation of 34 ng/J (0.08 lb/million Btu). In doing so, they maintain a 34-ng/J standard would encourage baghouses but not eliminate precipitators from use.

EPA has investigated the possibility that FGD control systems affect particulate matter emissions. Three possible mechanisms were investigated: (1) FGD system sulfate carryover from the scrubber slurry, (2) particulate matter removal by the FGD system, and (3) particulate matter generation by the FGD system through condensation of sulfuric acid mist (H_2SO_4).

To address the first mechanism, EPA obtained data from three different steam generators that were all equipped with FGD systems and that had low particulate matter emission levels at the FGD inlet. The data from all three facilities indicated that particulate emissions did not increase through the FGD system. Proper mist eliminator design and maintenance is important in preventing scrubber liquid entrainment which could cause the outlet particulate loading to exceed inlet particulate loading.

In relation to the second mechanism, FGD system removal of particulate matter, the data from the three FGD systems available to EPA indicated that particulate matter emissions were reduced by the FGD systems in all three cases. That is, the particulate matter discharge concentration from the FGD system was less than the concentration at the FGD inlet. This property has been particularly noted at steam generators equipped with ESP's upstream of FGD systems.

The third mechanism is the potential condensation of sulfuric acid mist (H_2SO_4) from sulfur trioxide (SO_3) in the flue gas. At a typical steam generator, 97 to 99 percent of the fuel sulfur is converted to SO_2 and 1 to 3 percent is converted to SO_3. Typical stack gas temperatures at a coal-fired steam generator without an FGD system are between 150° C and 200° C (300° F to 400° F). At these temperatures, most SO_3 remains in a gaseous state and does not form sulfuric acid. At lower temperatures, water vapor condenses and combines with SO_3 to form sulfuric acid. The dewpoint temperature for sulfuric acid ranges between 120° C (250° F) and 175° C (350° F). The lower temperature would correspond to low-sulfur coal and higher temperature would correspond to high-sulfur coal.

Available test data indicate that an FGD system would remove about 50 percent of the SO_3 in the flue gas and thus reduce the potential for sulfuric acid mist formation. However, if sulfuric acid mist is formed in the flue gases, there is a potential for its interference with the particulate matter performance test. Under method 5, a sample is extracted at a probe temperature of about 160° C (320° F). This assures that SO_3 does not condense on the sampling filter when sampling powerplants that do not have FGD systems. However, when sampling powerplants with FGD systems (particularly when combusting high-sulfur coal), there is a potential for sulfuric acid mist to form at the reduced flue gas temperatures. If acid mist forms, it may interact within the sampling train to form sulfate compounds that are not vaporized at the 160° C (320° F) sampling temperature. Also, sulfuric acid mist may remain deposited within the test probe itself. In either case, the net result could be a high measurement of particulate matter.

EPA obtained data from three FGD equipped powerplants to determine acid mist formation potential. All of these plants were firing low-sulfur coal. The data indicate that SO_3 conversion to sulfuric acid mist is not a problem. EPA believes these data support the conclusion that an FGD system on low-sulfur coal-fired powerplants does not increase particulate emissions through sulfuric acid formation. Thus, EPA believes compliance with the proposed particulate matter standard is demonstrated to be achievable when firing low-sulfur coal.

In a case where an FGD system is used with higher sulfur coal, sufficient data have not become available to fully assess the effect of sulfuric acid formation on measured particulate matter. The proposed standard is based on emission test data at the particulate matter control device discharge prior to any FGD system. EPA plans to continue investigating this subject and will consider any data availabale on the impact of sulfuric acid mist on the particulate matter standard.

The 1977 amendments require that EPA specify, in addition to an emission limitation, a percent reduction in uncontrolled emission levels for fossil fuel-fired stationary sources. The proposed standard would require a 99-percent reduction for solid fuels and a 70-percent reduction for liquid fuels. Because of the difficulty of sampling particulate matter upstream of the control device (due to the complex particulate matter sampling conditions), the proposed standard would not require direct performance testing for the particulate matter emission reduction level. The percent reduction is not controlling, and performance testing for the emission limitation would satisfy the requirements for performance testing.

EPA is requesting comments on the proposed level of the particulate matter standard and the basis for the standard.

NO_x

The proposed NO_x emission standards are based on emission levels achievable with a properly designed and operated steam generator which utilizes combustion modification techniques to reduce NO_x formation. The proposed standards are as follows:

(1) 86 ng/J heat input (0.20 lb/million Btu) from the combustion of any gaseous fuel, except gaseous fuel derived from coal;

(2) 130 ng/J heat input (0.30 lb/million Btu) from the combustion of any liquid fuel, except shale oil and liquid fuel derived from coal;

(3) 210 ng/J heat input (0.50 lb/million Btu) from the combustion of subbituminous coal, shale oil, or any solid, liquid, or gaseous fuel derived from coal;

(4) 340 ng/J (0.80 lb/million Btu) from the combustion in a slag tap furnace of any fuel containing more than 25 percent, by weight, lignite which has been mined in North Dakota, South Dakota, or Montana;

(5) Combustion of a fuel containing more than 25 percent, by weight, coal refuse would be exempt from the NO_x standards and monitoring requirements;

(6) 260 ng/J (0.60 lb/million Btu) from the combustion of any solid fuel not specified under (3), (4), or (5);

(7) Percent reductions in uncontrolled NO_x emission levels would be required; however, the percent reduction would not be controlling, and compliance with the NO_x emission limits (ng/J) would assure compliance with the percent reduction requirements. the National Appeals Board

Most new electric utility steam generating untis are expected to burn pulverized coal. Consequently, the NO_x studies used to develop the propcsed standards have concentrated on the combustion of pulverized coal. The proposed standards for pulverized coal are based on the application of combustion modification techniques (i.e., staged combustion, low excess air, and reduced heat release rate) which EPA has concluded represent the best demonstrated system of continuous emission reduction (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact, and energy requirements) for electric utility power plants.

The proposed standards would require continuous compliance (based on a 24-hour average), except during periods of startup, shutdown, or malfunction as provided under 40 CFR 60.8. Percent reduction requirements are included in the proposed standards as a result of provisions in the 1977 Amendments. As with the proposed particulate matter standard, the percent reductions for NO_x are not controlling, and compliance testing for the NO_x emission limitations (ng/J) would satisfy all compliance testing requirements for NO_x.

Combustion modification techniques limit the formation of NO_x in the boiler by reducing flame temperatures and by minimizing the availability of oxygen during combustion. Elevated temperatures and high oxygen levels would otherwise enhance the formation of NO_x. The levels to which NO_x emissions can be reduced with combustion modifications depend on the type of fuel burned, the boiler design, and boiler operating practices. All four of the major boiler manufacturers utilize combustion modification techniques in their modern units; however, some manufacturers' techniques may be more effective than others.

EPA has conducted NO_x emmission tests at six modern electric utility steam generating units which burn pulverized coal, representing two of the major boiler manufacturers. These tests indicate that during low NO_x operation of modern units, emission levels below 210 ng/J heat input (0.50 lb/million Btu) are easily attainable. If the potential side effects associated with low NO_x operation were not considered, it would be reasonable to establish an NO_x emission limit for pulverized coal-fired units at 210 ng/J heat input.

The side effects EPA has considered include: Boiler tube wastage (corrosion); slagging; increased emissions of particulates, carbon monoxide, polycyclic organic matter, and other hydrocarbons; boiler efficiency losses; carbon loss in the ash; low steam temperatures; and possible operating hazards (including boiler explosions). In EPA's judgment only boiler tube wastage could be a potential problem at NO_x emission levels necessary to meet a standard of 210 ng/J.

Tube wastage is the deterioration of boiler tube surfaces due to the corrosive effects of ash in the presence of a reducing atmosphere. A reducing atomsphere often results from operation of a boiler under conditions required to minimize NO_x emissions. The severity of tube wastage is believed to vary with several factors, but especially with the quality of the coal burned. For example, high sulfur Eastern coal generally causes more of a tube wastage problem than low sulfur Western coal. Serious tube wastage can shorten the life of a boiler and result in expensive repairs.

Because of the potential problem from tube wastage, EPA does not believe that an emission limit below the proposed level of 260 ng/J heat input for Eastern bituminous coals would be reasonable even though emission data alone would tend to support a lower limit. For low rank Western coals, however, there is a much smaller tube wastage potential at low NO_x levels, and a lower emission limit is justified. Hence, EPA is proposing an emission limit of 210 ng/J heat imput for units burning low rank Western coals. These coals are classified in the proposed standards as subbituminous, according to ASTM methods. EPA believes that the proposed distinction made between low rank Western (subbituminous) coal and other coals represents the best method for distinguishing between coals with low and high tube wastage potentials.

Although most new utility power plants will fire pulverized coal, other fuels may also be burned. Emission limits for these fuels are also proposed.

The proposed NO_x emission limits for units which burn liquid and gaseous fuels are at the same levels as the emission limits originally promulgated in 1971 under subpart D for large steam generators which burn oil and gas. EPA did not conduct a detailed study of combustion modification or NO_x flue gas treatment for oil- or gas-fired boilers because few, if any, oil- or gas-fired electric utility power plants are expected to be built in the future.

Several studies have been conducted which indicate that emissions from the combustion of liquid and gaseous fuels which are derived from coal, such as solvent refined coal and low Btu synthetic gas, may exceed the proposed emission limits for liquid fuels (130 ng/J) and gaseous fuels (86 ng/J). The reason is because fuels derived from coal will have fuel bound nitrogen contents which approach the levels found in coal rather than in natural gas and oil. Based on limited emission data from pilot-scale facilities and on the known emission characteristics of coal, EPA believes that an achievable emission limit for solid, liquid, of gaseous fuels derived from coal would be 210 ng/J (0.50 lb/million Btu). Tube wastage of other boiler problems are not expected to occur from boiler operation at levels as low as 210 ng/J when firing these fuels because of their low sulfur and ash contents.

Very little is known about the emission characteristics of shale oil. However, since shale oil typically has a higher fuel-bound nitrogen content than fuel oil, it may be impossible for a well-controlled unit burning shale oil to achieve the proposed NO_x emission limit for liquid fuels. Shale oil does have a similar nitrogen content to coal, and it is reasonable to expect that the emission control techniques used for coal could also be used to limit NO_x emissions from shale oil combustion. Consequently, EPA proposes to limit NO_x emissions from units burning shale oil to 210 ng/J, the same limit proposed for subbituminous coal. There is no evidence that tube wastage or other boiler problems would result from operation of a boiler at 210 ng/J when shale oil is burned.

The combustion of coal refuse was exempted from the subpart D standards because the only furnace design believed capable of burning coal refuse, the slag tap furnace, inherently produces NO_x emissions in excess of the NO_x standard. Since no new information has become available, EPA would continue the coal refuse exemption under the proposed standards.

The proposed emission limits for lignite combustion were developed earlier as amendments to the original standards under subpart D. Since no new information on NO_x emission rates resulting from lignite combustion in electric utility power plants has become available, the lignite limits have been incorporated into these proposed standards without revision.

While EPA believes that the proposed emission limitations for bituminous and subbituminous coals can be achieved without adverse effects, UARG recommends that the present NO_x emission limitation of 300 ng/J (0.7 lb/million Btu) be retained. In so doing, they argue that the potential adverse side effects that may result from operating a boiler under conditions required to meet the proposed standards have not been adequately studied over the long term. They also expressed concern that the proposed standards could have an anticompetitive effect, since they believe there may be only one boiler vendor who could meet the proposed standards on a continuous basis. Finally, they question whether there is sufficient continuous monitoring experience to warrant basing compliance on continuous monitoring results.

Studies

The background information including environmental and economic assessments for the proposed standards is divided into 4 documents, each with a title and a document number as follows:

"Electric Utility Steam Generating Units: Background Information for Proposed NO_x Emission Standards," EPA 450/2-78-006a;

"Electric Utility Steam Generating Units: Background Information for proposed Particulate Matter Emission Standards," EPA 450/2-78-006a;

"Electric Utility Steam Generating Units: Background Information for Proposed SO_2 Emission Standards," EPA 450/2-78-007a; and

"Electric Utility Steam Generating Units: Background Information for Proposed SO_2

Emission Standards—Supplement," EPA 450/2-78-007a-1.

Much of the supporting information within the background information

small, medium, and large power plants for emission rates with and without flue gas reheat. The study also examined the estimated SO_2 concentrations

mining compliance with the proposed opacity standard.

A continuous monitoring system for opacity would be required in the stack

Operation of a second monitoring system would mean that the source owner would have a second system in operation at all times. Conducting the

dix A). The owner or operator of the electric utility who would use the credit would be responsible for insuring that the EPA method 19 proce-

ed health and welfare standards are being violated. In this respect, section 173 of the act requires that a new or modified source constructed in an area

Emission Standards—Supplement," EPA 450/2-78-007a-1.

Much of the supporting information within the background information documents was obtained from consultant studies sponsored by EPA. Reports covering these studies are included in the docket at EPA headquarters and are available for inspection during normal office hours at each EPA regional office. The titles of the consultant studies are as follows:

1. "Flue Gas Desulfurization Systems: Design and Operating Parameters, SO_2 Removal Capabilities, Coal Properties and Reheat."
2. "Flue Gas Desulfurization System Capabilities for Coal-Fired Steam Generators."
3. "Boiler Design and Operating Variables Affecting Uncontrolled Sulfur Emissions from Pulverized Coal-Fired Steam Generators."
4. "Effects of Alternative New Source Performance Standards on Flue Gas Desulfurization System Supply and Demand."
5. "Evaluation of Physical Coal Cleaning as an SO_2 Emission Control Technique."
6. "The Impact of Modification/Reconstruction of Steam Generators on SO_2 Emissions."
7. "The Energy Requirements for Controlling SO_2 Emissions from Coal-Fired Steam/Electric Generators."
8. "The Solid Waste Impact of Controlling SO_2 Emissions from Coal-Fired Steam-Electric Generators."
9. "Water Pollution Impact of Controlling SO_2 Emissions from Coal-Fired Steam/Electric Generators."
10. "Particulate and Sulfur Dioxide Emission Control Costs for Large Coal-Fired Boilers."
11. "Review of New Source Performance Standards for SO_2 Emissions from Coal-Fired Utility Boilers."
12. "The Effect of Flue Gas Desulfurization Availability on Electric Utilities."
13. "Effects of Alternative New Source Performance Standards for Coal-Fired Electric Utility Boilers on the Coal Markets and Utility Capacity Expansion Plans."
14. "Flue Gas Desulfurization System Manufacturers Survey."
15. "Assessment of Manufacturer Capacity to Meet Requirements for Particulate Control in Utility and Industrial Boilers."
16. "Flue Gas Desulfurization Cost for Large Coal-Fired Boilers, August 10, 1978."
17. "The Ability of Electric Utilities with FGD to Meet Energy Demands."

In addition to the consultant studies, EPA studies were performed. One study involved the installation and operation of continuous SO_2 monitors on the inlet and outlet of commercial-scale FGD units. The purposes of the study were to determine: (1) The statistical characteristics of coal-fired boiler and FGD operation, (2) the variability of SO_2 inlet concentrations, (3) the ability of FGD to "damp out" SO_2 variability, and (4) SO_2 emissions as a function of averaging period.

A second EPA study included a diffusion modeling analysis to estimate the maximum ground-level concentration of SO_2 that would occur around small, medium, and large power plants for emission rates with and without flue gas reheat. The study also examined the estimated SO_2 concentrations that would occur around multi-boiler facilities. Surface and upper-air meteorological data for eight different geographical areas were used in the study.

EPA has also supplemented the economic, energy, and environmental impact assessment set forth in the background information document for the SO_2 standard (EPA 450/2-78-007a) by conducting two additional analyses. The first was initiated in February 1978, and results became available in late April. The second, which was completed in August, used revised assumptions pertaining to utility growth rates, oil prices, etc. The results of these studies are presented in sections 2 and 3 of the "Electric Utility Steam Generating Units: Background Information for Proposed SO_2 Emission Standards—Supplement," EPA 450/2-78-007a-1.

EPA has also taken into consideration studies prepared by other Governmental Agencies. One study is "The Demand for Western Coal and its Sensitivity to Key Uncertainties," draft report, 2nd edition, June 1978, which assessed the potential impact of this proposal on coal demand. This report was prepared by a consultant for the Department of Interior and the Department of Energy. In addition the analysis of alternative standards prepared by the Department of Energy, and transmitted to EPA by Mr. John F. O'Leary, Deputy Secretary, on July 6 and August 11, 1978, was also considered.

A task force of American experts in scrubber technology visited Japan to evaluate Japanese scrubber performance. The findings (Maxwell, Elder and Morasky, "Sulfur Oxides Control Technology in Japan," June 30, 1978) were also considered by EPA.

Performance Testing

PARTICULATE STANDARDS

Compliance with the proposed particulate matter standards would be determined by using EPA method 5 operated at a filter temperature up to 160°C (320°F). As an option, EPA method 17 may be used for stack gas temperature less than 160°C. EPA method 3 would be used to determine oxygen or carbon dioxide concentrations. These concentration measurements would then be used to compute particulate emissions in units of the standard as specified in proposed EPA method 19.

Compliance with opacity standards could be determined at any time by visual observations using EPA method 9. Except during startups, shutdowns, and malfunctions, all data from visual observations would be ued for determining compliance with the proposed opacity standard.

A continuous monitoring system for opacity would be required in the stack except when firing only gaseous fuels. The opacity data from the continuous monitor would not be used to determine compliance with the opacity standard. It would be used to assist in assuring the particulate matter control system is properly operated and maintained.

SO_2 AND NO_x STANDARDS

Performance tests. Compliance with the proposed SO_2 and NO_x standards would be determined using the data obtained from the required continuous monitoring systems. If an FGD system were used for SO_2 control, continuous SO_2 emission monitors would be required both upstream and downstream of the FGD system and used to determine compliance with the proposed 85 percent SO_2 reduction. As an option, compliance with the proposed SO_2 standards could be determined using both an "as fired" fuel sampler to determine the sulfur content and heating value of the fuel fired to the boiler, and a continuous SO_2 emission monitor after the FGD system to measure SO_2 emissions discharged into the atmosphere. In addition to crediting the SO_2 removed by the FGD system, this option would provide credit for sulfur removed by coal pulverizers and by the bottom ash and fly ash. The SO_2 percent reduction requirement and emission limitation would both be based on emission levels averaged over a 24-hour (daily) period. If fuel is treated prior to combustion to reduce SO_2 emissions, a sulfur removal credit would also be allowed. Procedures for determining sulfur removal credits are proposed under § 60.48a with EPA method 19.

Performance testing to determine compliance with the NO_x emission limitation (ng/J) would be determined on a continuous basis through the use of a continuous NO_x emission monitor. NO_x emission data would be averaged over a 24-hour (daily) period. Performance testing to determine compliance with the percent reduction requirements for NO_x would not be required. An affected facility would be assumed to be in compliance with the NO_x reduction requirements provided the facility is in compliance with the applicable NO_x emission limitation.

When the NO_x or SO_2 continuous monitoring system fails to operate properly, the source owner or operator would obtain emission data by:

1. Operation of a second monitoring system, or
2. Conducting manual tests using EPA reference methods during the period the continuous monitoring system is inoperative.

Operation of a second monitoring system would mean that the source owner would have a second system in operation at all times. Conducting the manual tests would mean that the source owner would have trained manpower available on an immediate basis to collect samples while the continuous monitoring system is inoperative. Manual test runs would be required on an hourly basis.

Since compliance with the proposed SO_2 and NO_x standards would be determined by continuous monitors, EPA is currently developing additional quality assurance procedures. These procedures would not change the present performance specifications for continuous monitoring systems, but would provide additional periodic field tests to assure the accuracy of the monitoring data. Appendix E under 40 CFR Part 60 is being reserved for these additional quality assurance procedures. Electric utility powerplants that would be subject to the proposed standard would be subject to the quality assurance procedures under appendix E when completed. This should not pose a problem since new sources affected by this proposed action are not expected to begin operation until about 1984.

Fuel pretreatment. Pretreatment of a fuel to remove sulfur or increase heat content would be credited toward the SO_2 percent reduction requirement. For example, by pretreatment of a 2.3 percent sulfur fuel (equivalent to 1,000 ng/J) to 1.7 percent sulfur (750 ng/J; 25 percent sulfur removal), the FGD system SO_2 control requirement would be reduced from 85 percent to 80 percent (750 ng/J reduced to 150 ng/J). An 85 percent emission reduction (1,000 ng/J to 150 ng/J) would be necessary for an FGD system if the fuel were fired untreated.

Fuel pretreatment credits would be given for removal of sulfur from fuel, including the resulting increase in fuel heat content. Examples of the type of equipment or processes for which credit would be given are:

1. Physical coal cleaning.
2. Solvent-refining of coal.
3. Liquification of coal.
4. Gasification of coal.

Rotary breakers or coarse screens used to separate rock and other material from raw coal prior to processing or shipment are considered an integral part of the coal mining process and would not be considered as fuel pretreatment (see section 4.5.2.2 of EPA 450/2-78-007a-1).

The proposed standard would not require fuel to be pretreated before firing but would allow credit for pretreatment if used. The amount of sulfur removed by a fuel pretreatment process would be determined following procedures in EPA method 19 (appendix A). The owner or operator of the electric utility who would use the credit would be responsible for insuring that the EPA method 19 procedures are followed in determining SO_2 removal credit for pretreatment equipment.

Miscellaneous

As prescribed by section 111, establishment of standards of performance for electric utility steam generating units was preceded by the Administrator's determination that these sources contribute significantly to air pollution which causes or contributes to the endangerment of public health or welfare. In accordance with section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues, and on the proposed test methods.

Under EPA's "new" sunset policy for reporting requirements in regulations, the reporting requirements in this regulation will automatically expire 5 years from the date of promulgation unless EPA takes affirmative action to extend them. To accomplish this, a provision automatically terminating the reporting requirements at that time will be included in the text of the final regulations.

It should be noted that standards of performance for new fossil fuel fired stationary sources established under section 111 of the Clean Air Act reflect:

> • • • application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. [Section 111(a)(1)]

Although there may be emission control technology available that can reduce emissions below those levels required to comply with standards of performance, this technology might not be selected as the basis of standards of performance due to costs associated with its use. Accordingly, standards of performance should not be viewed as the ultimate in achievable emission control. In fact, the Act requires (or has potential for requiring) the imposition of a more stringent emission standard in several situations.

For example, applicable costs do not play as prominent a role in determining the "lowest achievable emission rate" for new or modified sources located in nonattainment areas, i.e., those areas where statutorily-mandated health and welfare standards are being violated. In this respect, section 173 of the act requires that a new or modified source constructed in an area which exceeds the National Ambient Air Quality Standard (NAAQS) must reduce emissions to the level which reflects the "lowest achievable emission rate" (LAER), as defined in section 171(3), for such category of source. The statute defines LAER as that rate of emission which reflects:

> (A) The most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or
>
> (B) The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event can the emission rate exceed any applicable new source performance standard (section 171(3)).

A similar situation may arise under the prevention of significant deterioration of air quality provisions of the Act (part C). These provisions require that certain sources (referred to in section 169(1)) employ "best available control technology" (as defined in section 169(3)) for all pollutants regulated under the Act. Best available control technology (BACT) must be determined on a case-by-case basis, taking energy, environmental and economic impacts, and other costs into account. In no event may the application of BACT result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard established pursuant to section 111 (or 112) of the Act.

In all events, State implementation plans (SIPs) approved or promulgated under section 110 of the Act must provide for the attainment and maintenance of national Ambient Air Quality Standards designed to protect public health and welfare. For this purpose, SIPs must in some cases require greater emission reductions than those required by standards of performance for new sources.

Finally, States are free under section 116 of the Act to establish even more stringent emission limits than those established under section 111 or those necessary to attain or maintain the NAAQS under section 110. Accordingly, new sources may in some cases be subject to limitations more stringent than EPA's standards of performance under section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

EPA will review this regulation 4 years from the date of promulgation. this review will include an assessment of such factors as the need for integration with other programs, the exis-

tence of alternative methods, enforceability, and improvements in emission control technology.

Subpart Da—Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978

(b) "Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-

ment which is owned by the utility company and which is being operated or is capable of being operated (includ-

§ 60.42a Standard for particulate matter.

(a) On and after the date on which the performance test required to be

(2) The affected facility is located in a noncontinental area.

(3) The affected facility is operated under an SO commercial demonstra-

tence of alternative methods, enforceability, and improvements in emission control technology.

Executive Order 12044, dated March 24, 1978, whose objective is to improve Government regulations, requires executive branch agencies to prepare regulatory analyses for regulations that may have major economic consequences. The proosed standards meet the criteria for preparation of a regulatory analysis as outlined in the Executive order. Therefore, a regulatory analysis has been prepared as required. The analysis is contained in the background information documents for the proposed standards. The regulatory analysis is not being published as a separate document because the work was begun before the President's Executive order was published. However, in order to present a better understanding of the analyses contained in the background information documents, a summary of the analyses is included in the preamble. The summary discusses in detail the alternatives considered.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for revisions determined by the Administrator to be substantial. The Administrator has determined that the proposed amendments are substantial and has prepared an economic impact assessment and included the required information in thebackground information documents.

Dated: September 11, 1978.

DOUGLAS M. COSTLE,
Administrator.

It is proposed that 40 CFR Part 60 be amended by revising the heading and § 60.40 of Subpart D, by adding a new Subpart Da, by adding a new reference method to Appendix A, and by reserving Appendix E as follows:

1. The heading for Subpart D is revised to read as follows:

Subpart D—Standards of Performance for Fossil-Fuel-Fired Steam Generators Constructed After August 17, 1971

2. Section 60.40 is amended by adding paragraph (a)(3) as follows:

§ 60.40 Applicability and designation of affected facility.

(a) • • •

(3) Is not subject to the provisions of Subpart Da.

• • • • • •

(Sec. 111, 301(a) of the Clean Air Act as amended (42 U.S.C. 7411, 7601(a)).)

3. A new Subpart Da is added as follows:

Subpart Da—Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978

Sec.

60.40a Applicability and designation of affected facility.
60.41a Definitions.
60.42a Standard for particulate matter.
60.43a Standard for sulfur dioxide.
60.44a Standard for nitrogen oxides.
60.45a Commercial demonstration permit.
60.46a Compliance provisions.
60.47a Emission monitoring.
60.48a Compliance determination procedures and methods.
60.49a Reporting requirements.

AUTHORITY: Sec. 111, 301(a) of the Clean Air Act as amended (42 U.S.C. 7411, 7601(a)), and additional authority as noted below.

Subpart Da—Standards of Performance for Electric Utility Steam Generating Units for Which Contruction Is Commenced After September 18, 1978

§ 60.40a Applicability and designation of affected facility.

(a) The affected facility to which this subpart applies is each electric utility steam generating unit:

(1) Which is capable of combusting more than 73 megawatts (250 million Btu/hour) heat input of fossil fuel (either alone or in combination with any other fuel); and

(2) For which construction or modification is commenced after September 18, 1978.

(b) This subpart applies to electric utility combined cycle gas turbines that are capable of combusting more than 73 megawatts (250 million Btu/hour) heat input of fossil fuel in the steam generator. Only emissions resulting from combustion of fossil fuel in the steam generator are subject to this subpart. (The gas turbine emissions are subject to Subpart GG.)

§ 60.41a Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act and in subpart A of this part.

(a) "Steam generating unit" means any furnace, boiler, or other device used for combusting fuel for the purpose of producing steam (including fossil fuel-fired steam generators associated with combined cycle gas turbines; nuclear steam generators are not included). A steam generating unit includes the following systems:

(1) Fuel combustion system (including bunker, coal pulverizer, crusher, stoker, and fuel burners, as applicable).

(2) Combustion air system.

(3) Steam generating system (firebox, boiler tubes, etc.).

(4) Draft system (excluding the stack).

(b) "Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its maximum design electrical output capacity to an electrical distribution system for sale. Any steam distribution system that is constructed for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

(c) "Fossil fuel" means natural gas, petroleum, coal, and any form of solid, liquid, or gaseous fuel derived from such material for the purpose of creating useful heat.

(d) "Subbituminous coal" means coal that is classified as subbituminous A, B, or C according to the American Society of Testing and Materials' (ASTM) Standard Specification for Classification of Coals by Rank D388–66.

(e) "Lignite" means coal that is classified as lignite A or B according to the American Society of Testing and Materials' (ASTM) Standard Specification for Classification of Coals by Rank D388–66.

(f) "Coal refuse" means waste products from coal mining, physical coal cleaning, and coal refining operations (e.g. culm, gob, or other rejects) containing coal, ash matrix material, clay, and organic and inorganic material.

(g) "Potential combustion concentration" means the theoretical emissions (ng/J, lb/million Btu) that would result from combustion of a fuel in an uncleaned state (without emission control systems) and:

(1) For particulate matter is:

(i) 3,000 ng/J heat input (7.0 lb/million Btu) for solid fuel; and

(ii) 75 ng/J heat input (0.17 lb/million Btu) for liquid fuels.

(2) For sulfur dioxide is determined under § 60.48a(b).

(3) For nitrogen oxides is:

(i) 290 ng/J heat input (0.67 lb/million Btu) for gaseous fuels;

(ii) 310 ng/J heat input (0.72 lb/million Btu) for liquid fuels; and

(iii) 990 ng/J heat input (2.3 lb/million Btu) for solid fuels.

(h) "Combined cycle gas turbine" means a stationary gas turbine system where heat is recovered from the exhaust gases by passing the exhaust gases through a steam generating unit. fossil fuel may also be combusted in the steam generating unit.

(i) "Utility company" means the largest organization, business, or governmental entity that owns the affected facility (e.g. a holding company with operating subsidiary companies).

(j) "System capacity" means the sum of the rated electrical output capacity of all electric generating equipment which is owned by the utility company and which is being operated or is capable of being operated (including fossil-fuel-fired steam generators, internal combustion engines, gas turbines, and nuclear power plants). The electrical generating capacity of electric generating equipment under multiple ownership is prorated based on ownership.

(k) "System emergency reserves" means the rated capacity of the single largest steam electric generating unit (including fossil-fuel-fired steam generators, internal combustion engines, gas turbines, and nuclear power plants) owned by the utility company. The electric generating capacity of electric generation equipment under multiple ownership is prorated based on ownership.

(l) "Available system capacity" means the capacity determined by subtracting the system load and the system emergency reserves from the system capacity.

(m) "Spinning reserve" means the sum of the unutilized capacity of all units of the utility company that are synchronized to the power distribution system and that are capable of immediately accepting additional load. The electrical generating capacity of electric generation equipment under multiple ownership is prorated based on ownership.

(n) "Emergency condition" means that period of time:

(1) When the electric generation load on an affected facility with a malfunctioning flue gas desulfurization system cannot be shifted because all available system capacity is being operated, or

(2) When all available system capacity is not being utilized and electric generation load is being shifted as quickly as possible from the affected facility to:

(i) One or more electric generating units held in spinning reserve, or

(ii) Another electrical generation system through the purchase of electric power.

(o) "Noncontinental areas" means the State of Hawaii, the Virgin Islands, Guam, American Samoa, and the Commonwealths of Puerto Rico and the Northern Mariana Islands.

(p) "Commercial demonstration plant" means:

(1) An affected facility commercially demonstrating an emerging technology, or

(2) Any of the affected facilities that combust the coal-derived fuel produced at a commercial demonstration coal conversion plant, demonstrating an emerging technology.

(q) "24-hour period" means the period of time between 12:01 a.m. and 12:00 midnight.

§ 60.42a Standard for particulate matter.

(a) On and after the date on which the performance test required to be conducted under § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected facility any gases which contain particulate matter in excess of:

(1) 13 ng/J heat input (0.03 lb/million Btu) derived from the combustion of solid, liquid, or gaseous fuel;

(2) 1 percent of the potential combustion concentration (99 percent reduction) when combusting solid fuel; and

(3) 30 percent of potential combustion concentration (70 percent reduction) when combusting liquid fuel.

(b) On and after the date the particulate matter performance test required to be conducted under § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected facility any gases which exhibit greater than 20 percent opacity, except for one 6-minute period per hour of not more than 27 percent opacity.

§ 60.43a Standard for sulfur dioxide.

(a) On and after the date on which the initial performance test required to be conducted under § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected facility any gases which contain sulfur dioxide in excess of:

(1) 340 ng/J heat input (0.80 lb/million Btu) derived from the combustion of any liquid or gaseous fuel;

(2) 520 ng/J heat input (1.2 lb/million Btu) derived from the combustion of any solid fuel except as provided under paragraph (b) of this section; and

(3) 15 percent of the potential combustion concentration (85 percent reduction) when combusting solid, liquid, or gaseous fuel, except as provided under paragraphs (b) and (c) of this section.

(b) The sulfur dioxide emissions allowed under paragraph (a) of this section may be exceeded up to three 24-hour periods during any calendar month, however, the sulfur dioxide emissions must be reduced to less than 25 percent of the potential combustion concentration (75 percent reduction) at all times.

(c) The requirements under paragraph (a)(3) of this section do not apply when any of the following conditions are met:

(1) The sulfur dioxide emitted to the atmosphere is less than 86 ng/J heat input (0.20 lb/million Btu).

(2) The affected facility is located in a noncontinental area.

(3) The affected facility is operated under an SO_2 commercial demonstration permit issued by the Administrator in accordance with the provisions of § 60.45a.

(d) For purposes of determining compliance with provisions of paragraph (a)(3) of this section, any reduction in potential sulfur dioxide emissions resulting from the following may be credited in accordance with § 60.48a(b):

(1) Fuel pretreatment.

(2) Coal pulverizers.

(3) Bottom ash and fly ash interaction.

(e) When different fuels are combusted simultaneously, the applicable standard is determined by proration using the following formula:

$$PS_{so_2} = \frac{x(340) + y(520)}{100}$$

where:

PS_{so_2} is the prorated standard for sulfur dioxide when combusting different fuels simultaneously (ng/J heat input).

x is the percentage of total heat input derived from the combustion of gaseous and liquid fuel.

y is the percentage of total heat input derived from the combustion of solid fuel.

§ 60.44a Standard for nitrogen oxides.

(a) On and after the date on which the initial performance test required to be conducted under § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected facility any gases which contain nitrogen oxides in excess of:

(1) 86 ng/J heat input (0.20 lb/million Btu) derived from the combustion of any gaseous fuel, except gaseous fuel derived from coal;

(2) 130 ng/J heat input (0.30 lb/million Btu) derived from the combustion of any liquid fuel, except shale oil and liquid fuel derived from coal;

(3) 210 ng/J heat input (0.50 lb/million Btu) derived from the combustion of:

(i) Subbituminous coal,

(ii) Shale oil, or

(iii) Any solid, liquid, or gaseous fuel derived from coal; except as provided under paragraph (c) of this section.

(4) 260 ng/J heat input (0.60 lb/million Btu) derived from the combustion of any solid fuel not specified under paragraphs (a)(3), (a)(5) or (b) of this section;

(5) 340 ng/J heat input (0.80 lb/million Btu) derived from the combustion in a slag tap furnace of any fuel containing more than 25 percent, by weight, lignite which has been mined in North Dakota, South Dakota, or Montana;

(6) 75 percent of the potential combustion concentration (25 percent re-

V 43 / 182 SEP 19 78

duction) when combusting gaseous fuel;

(7) 70 percent of the potential combustion concentration (30 percent reduction) when combusting liquid fuel; and

(8) 35 percent of the potential combustion concentration (65 percent reduction) when combusting solid fuel.

(b) Combustion of a fuel containing more than 25 percent, by weight, coal refuse is exempt from both the provisions of § 60.47a(a)(3) and paragraph (a) of this section.

(c) The requirements under paragraph (a) of this section do not apply when an affected facility is operated under an NO_x commercial demonstration permit issued by the Administrator in accordance with the provisions of § 60.45a.

(d) When two or more fuels, except as provided under paragraphs (a)(5) or (b) of this section, are combusted simultaneously, the applicable standard is determined by proration using the following formula:

$$PS_{NO_x} w(86)+x(130)+y(210)+z(260)/100$$

where:

PS_{NO_x} is the applicable standard for nitrogen oxides when multiple fuels are combusted simultaneously (ng/J heat input);
w is the percentage of total heat input derived from the combustion of fuels subject to the 86 ng/J heat input standard;
x is the percentage of total heat input derived from the combustion of fuels subject to the 130 ng/J heat input standard;
y is the percentage of total heat input derived from the combustion of fuels subject to the 210 ng/J heat input standard; and
z is the percentage of total heat input derived from the combustion of fuels subject to the 260 ng/J heat input standard.

§ 60.45a Commercial demonstration permit.

(a) An owner or operator of an affected facility proposing to demonstrate an emerging technology may apply to the Administrator for a commercial demonstration permit. The Administrator will issue a commercial demonstration permit in accordance with paragraph (d) of this section. Commercial demonstration permits may only be issued by the Administrator, and this authority will not be delegated.

(b) An owner or operator who is issued an SO_2 commercial demonstration permit by the Administrator is not subject to the SO_2 control requirements under § 60.43a(a)(3) but must, as a minimum, reduce SO_2 emissions to 20 percent of the potential combustion concentration (80 percent SO_2 control on a 24-hr basis)

(c) An owner or operator who is issued an NO_x commercial demonstration permit by the Administrator is not subject to the NO_x control requirements under § 60.44a but must, as a minimum, reduce NO_x emissions to 300 ng/J heat input (0.70 lb/million Btu; 24-hour average).

(d) Commercial demonstration permits may not exceed the following equivalent MW electrical generation capacity for any one technology category, and the total equivalent MW electrical generation capacity for all commerical demonstration plants may not exceed 15,000 MW.

Technology	Pollutant	Equivalent MW electrical capacity
Solvent refined coal (I)	SO_2	6,000-10,000
Fluidized bed combustion (atmospheric).	SO_2	400-3,000
Fluidized bed combustion (pressurized).	SO_2	400-1,200
Coal liquifaction	NO_x	750-10,000
Total allowable for all technologies.		15,000

§ 60.46a Compliance provisions.

(a) Compliance with the particulate matter emission limitation under § 60.42(a)(1) constitutes compliance with the percent reduction requirements for particulate matter under § 60.42a(a) (2) and (3).

(b) Compliance with the nitrogen oxides emission limitation under § 60.44a(a)(1), (2), (3), (4), and (5) as applicable, constitutes compliance with the percent reduction requirements under §60.44a(a)(6), (7), and (8).

(c) Following the initial performance tests for sulfur dioxide and nitrogen oxides required under §60.8, each 24-hour period constitutes a separate performance test. The nitrogen oxides emission standards under §60.44a apply at all time except during periods of startup, shutdown, or malfunction. The sulfur dioxide emission standards under §60.43a apply at all times except during periods of startup, shutdown, or when both emergency conditions exist and the procedures under paragraph (d) of this section are implemented.

(d) During emergency conditions an affected facility with a malfunctioning flue gas desulfurization system may continue operation if sulfur dioxide emissions are minimized by:

(1) Continued operation of all operable flue gas desulfurization system modules,

(2) Only by-passing flue gases around totally inoperable flue gas desulfurization system modules, and

(3) Designing, constructing, and operating a spare flue gas desulfurization system module in affected facilities larger than 365 MW heat input (1,250 million Btu/hr).

§60.47a Emission monitoring.

(a) The owner or operator of an affected facility shall install, calibrate, maintain, and operate a continuous monitoring system for measuring the opacity of emissions discharged to the atmosphere, except where gaseous fuel is the only fuel combusted. If opacity interference exists in the stack (for example, from the use of an FGD system), the opacity is monitored upstream of the interference (at the inlet to the FGD system). If opacity interference is experienced at all locations (both at the inlet and outlet of the sulfur dioxide control system), alternate parameters indicative of the particulate matter control system's performance are monitored (subject to the approval of the Administrator).

(b) The owner or operator of an affected facility shall install, calibrate, maintain, and operate a continuous monitoring system for measuring sulfur dioxide emissions, except where natural gas is the only fuel combusted, as follows:

(1) Sulfur dioxide emissions are monitored at both the inlet and outlet of the sulfur dioxide control device.

(2) For a facility which qualifies under the provisions of §60.43a(c), sulfur dioxide emissions are only monitored as discharged to the atmosphere.

(3) An "as fired" fuel monitoring system (upstream of coal pulverizers) meeting the requirements of method 19 (Appendix A) may be used to determine potential sulfur dioxide emissions in place of a continuous sulfur dioxide emission monitor at the inlet to the sulfur dioxide control device as required under paragraph (b)(1) of this section.

(4) If a facility which complies with §60.43a(a) solely through the provisions under §60.43a(d), then sulfur dioxide emissions are only monitored at the outlet of the sulfur dioxide contol device.

(c) The owner or operator of an affected facility shall install, calibrate, maintain, and operate a continuous monitoring system for measuring nitrogen oxides emissions discharged to the atmosphere.

(d) The owner or operator of an affected facility shall install, calibrate, maintain, and operate an oxygen or carbon dioxide monitoring system to measure the oxygen or carbon dioxide content of the flue gas at each location where sulfur dioxide or nitrogen oxides emissions are monitored.

(e) The owner or operator of an affected facility shall operate continuous emission monitoring systems during all periods the affected facility is operated except for the following:

(1) A maximum of sixty (60) minutes each day for daily zero and calibration checks or adjustments.

(2) A maximum of eight (8) hours per month for routine maintenance.

(f) During periods of operation of the affected facility when continuous monitoring systems (and spare monitoring systems if used) are not operable, the owner or operator of the affected facility shall conduct performance tests consisting of manual testing each hour until the continuous monitor system is returned to service. Each hourly test is performed as follows:

(1) Reference methods 3, 6, and 7, as applicable, are used. The sampling location(s) are the same as those used for the continuous monitoring system.

(2) For method 6, the minimum sampling time shall be 20 minutes and the minimum sampling volume 0.02 dscm (0.71 dscf) for each sample. The arithmetic mean of two samples taken at approximately 30-minute intervals constitutes one run. The arithmetic mean of the runs obtained during a 24-hour period is reported as the average for that period. For determination of FGD removal efficiency, inlet and outlet sampling is conducted simultaneously.

(3) For method 7, each run consists of at least four grab samples taken at approximately 15-minute intervals. The arithmetic mean of the four samples constitutes the 1-hour run. The arithmetic mean of the runs obtained during a 24-hour period is reported as the average for that period.

(4) For method 3, the oxygen or carbon dioxide sample is obtained simultaneously at the same location in the duct as the samples collected using methods 6 and 7. For method 7, the oxygen sample is obtained using the grap sampling and analysis procedures of method 3.

(5) For each run using method 19 in appendix A to this part, the emissions expressed in ng/J (lb/million Btu) are determined. The arithmetic mean of the runs performed during a 24-hour period is reported as the average for that period.

(g) The following procedures are used for monitoring system performance evaluations under §60.13(c) and calibration checks under §60.13(d):

(1) Reference method 6 or 7, as applicable, is used for conducting performance evaluations of sulfur dioxide and nitrogen oxides continuous monitoring systems.

(2) Sulfur dioxide or nitrogen oxides, as applicable, is used for preparing calibration gas mixtures under performance specification 2 of appendix B to this part.

(3) For affected facilities burning only fossil fuel, the span value for a continuous monitoring system for measuring opacity is between 60 and 80 percent and for a continuous monitoring system measuring nitrogen oxides is determined as follows:

[Parts per million]

Fossil fuel	Span value for nitrogen oxides
Gas	500
Liquid	500
Solid	1,000
Combinations	500 $(x+y)$+1,000z

where:

x=the fraction of total heat input derived from gaseous fossil fuel,
y=the fraction total heat input derived from liquid fossil fuel, and
z=the fraction of total heat input derived from solid fossil fuel.

(4) All span values computed under paragraph (b)(3) of this section for burning combinations of fossil fuels are rounded to the nearest 500 ppm.

(5) For affected facilities burning fossil fuel, alone or in combination with non-fossil fuel, the span value of the sulfur-dioxide continuous monitoring system at the inlet to the sulfur-dioxide-control device is 200 percent of the potential emissions of the fuel fired, and at the outlet of the sulfur-dioxide-control device is 50 percent of potential emissions. When the percent fuel sulfur content changes by 0.5 (24-hour average) or more, the continuous monitoring system shall be respanned.

(Sec. 114, Clean Air Act as amended (42 U.S.C. 7414).)

§ 60.48a Compliance determination procedures and methods.

(a) The following procedures and reference methods are used to determine compliance with the standards for particulate matter under § 60.42a:

(1) Method 3 is used for gas analysis when applying method 5 or method 17.

(2) Method 5 is used for determining particulate matter emissions and associated moisture content. Method 17 may be used for stack gas temperatures less than 160° C (320° F).

(3) For method 5 or method 17, method 1 is used to select the sampling site and the number of traverse sampling points. The sampling time for each run is at least 120 minutes and the minimum sampling volume is 1.7 dscm (60 dscf) except that smaller sampling times or volumes, when necessitated by process variables or other factors, may be approved by the Administrator.

(4) For method 5, the probe and filter holder heating system in the sampling train is set to provide a gas temperature no greater than 160° C (320° F).

(5) For determination of particulate emissions, the oxygen or carbon-dioxide sample is obtained simultaneously with each run of method 5 or method 17 by traversing the duct at the same sampling location. Method 1 is used for selection of the number of traverse points except that no more than 12 sample points are required.

(6) For each run using method 5 or method 17, the emission rate expressed in ng/J is determined using the oxygen or carbon-dioxide results and particulate results obtained under this section, and using the dry F-factor and dry basis emission rate calculation procedure contained in method 19 (appendix A).

(b) The following procedures and methods are used to determine compliance with the sulfur dioxide standard under § 60.43a:

(1) Determine the percent of potential combustion concentration (percent PCC) emitted to the atmosphere as follows:

(i) Determine the percent sulfur reduction achieved by any fuel pretreatment using the procedures in method 19 (appendix A; optional procedure). Calculate the average percent reduction on a quarterly basis using fuel analysis data.

(ii) Determine the percent sulfur dioxide reduction achieved by any sulfur dioxide control system using continuous sulfur dioxide emission monitors or an "as fired" fuel monitor (optional procedure) in conjunction with a continuous sulfur-dioxide-emission monitor and following the procedures in method 19 (appendix A). If 24 hours of data are not available (such as during startup or shutdown), all available valid data are averaged for each 24-hour period.

(iii) Determine atmospheric sulfur dioxide emissions as a percent of the potential combustion concentration (percent PCC) as follows: Use the results obtained in paragraphs (b)(1) (i) (optional) and (ii) of this section and the procedures in method 19 (appendix A) to calculate the overall percent reduction (percent R_o) of the potential sulfur dioxide emissions. Results are calculated for each 24-hour period using the quarterly average percent sulfur reduction determined for fuel pretreatment from the previous quarter and the sulfur dioxide reduction for each 24-hour period determined for each day in the current quarter. Calculate the percent of potential combustion concentration emitted to the atmosphere using the following equation:

$$\text{Percent PCC} = 100 - \text{percent } R_o$$

(2) Determine sulfur dioxide and nitrogen oxides emission rates using method 19 (appendix A). Emission rates are calculated for each 24-hour period and shall be considered to constitute a three-run performance test. If 24 hours of data are not available in a 24-hour period (such as during startup or shutdown), all available valid data for the period are averaged.

(c) The procedures and methods outlined in method 19 (appendix A) are

used in conjunction with the 24-hour nitrogen-oxides emission data collected under § 60.47a to determine compli-

(1) Indicating if conditions of §§ 60.41a(n) and 60.46a(d) were met during each period; and

(2) Listing the:

analyzed for sulfur and heat content, and the percent sulfur dioxide (ng/Joule, lb/million Btu) reduction is calculated on a dry basis. (Optional procedure.)

2.2.1 Sample collection. Use ASTM D 270* following the practices outlines for continuous sampling for each gross sample representing each fuel lot.

3.1 Sampling. Determine SO_2 and CO_2 or O_2 oxygen concentrations at the inlet and outlet of the sulfur dioxide control system according to methods specified in the appli-

$$I_s = \frac{2.0(\%S_f)}{GCV} \times 10^7 \quad \text{for S.I. units.}$$

used in conjunction with the 24-hour nitrogen-oxides emission data collected under § 60.47a to determine compliance with the applicable nitrogen oxides standard under § 60.44a.

(d) Electric utility combined cycle gas turbines are performance tested for particulate matter, sulfur dioxide, and nitrogen oxides using the procedures of method 19 (appendix A). The sulfur dioxide and nitrogen oxides emission rates from the gas turbine used in method 19 (appendix A) calculations are determined when the gas turbine is performance tested under subpart GG. The potential uncontrolled particulate matter emission rate from a gas turbine is defined as 17 ng/J (0.04 lb/million Btu) heat input.

(Sec. 114, Clean Air Act as amended (42 U.S.C. 7414).)

§ 60.49a Reporting requirements.

(a) For sulfur dioxide, nitrogen oxides, and particulate matter emissions, the performance test data from the initial performance test and from the performance evaluation of continuous monitors are submitted to the Administrator.

(b) For sulfur dioxide and nitrogen oxides, all emission data (24-hour daily average) collected subsequent to the initial performance test are submitted to the Administrator. The required data include the following information for each 24-hour period:

(1) Calendar date;

(2) Sulfur dioxide and nitrogen oxides emission rates (ng/J or lb/million Btu, 24-hour average);

(3) Percent reduction of the potential combustion concentration of sulfur dioxide (24-hour average) (not required for nitrogen oxides);

(4) Number of hours of valid emission data collected during each 24-hour daily period;

(5) Identification of periods when emissions exceed the applicable standards under either § 60.43a or § 60.44a;

(6) Identification of periods of startup or shutdown that resulted in emissions exceeding the applicable standards under either § 60.43a or § 60.44a;

(7) Identification of periods when control system malfunction resulted in emissions in excess of applicable nitrogen oxides standards under § 60.44a;

(8) Identification of "F" factor used for calculations, and type of fuel combusted; and

(9) Identification of periods when any continuous monitoring systems are not operating and identification of pollutant to be monitored.

(c) If any standards under § 60.43a are exceeded during emergency conditions because of control system malfunction, the owner or operator of the affected facility shall submit a signed statement:

(1) Indicating if conditions of §§ 60.41a(n) and 60.46a(d) were met during each period; and

(2) Listing the:

(i) Time periods the emergency condition existed;

(ii) Electrical output and demand on the owner's or operator's electric utility system and the affected facility;

(iii) Amount of power purchased from the interconnected reliability council during the emergency period;

(iv) Percent reduction in emissions achieved;

(v) Atmospheric emission rate (ng/J) of the pollutant discharged; and

(vi) Actions taken to correct control system modification.

(d) If fuel pretreatment credit toward the sulfur dioxide emission standard under § 60.43a is claimed, the owner or operator of the affected facility shall submit a signed statement:

(1) Indicating what percentage cleaning credit was taken for the calendar quarter, and whether the credit was determined in accordance with the provisions of § 60.48a and method 19 (appendix A); and

(2) Listing the quantity heat content and date each pretreated fuel shipment was received during the previous quarter, the name and location of the fuel pretreament facility, and the total quantity and total heat content of all fuels received at the affected facility during the previous quarter.

(e) For the purposes of the reports required under § 60.7, periods of excess emissions are defined as all 6-minute periods during which the average opacity exceeds the applicable opacity standard under § 60.42a(b). Opacity levels in excess of the applicable opacity standard and the date of such excesses are submitted to the Administrator each calendar quarter.

(f) The owner or operator of an affected facility shall submit the written reports required under this section and subpart A to the Administrator for every calendar quarter. All quarterly reports shall be postmarked by the 30th day following the end of each calendar quarter.

(Sec. 114, Clean Air Act as amended (42 U.S.C. 7414).)

4. Appendix A to part 60 is amended by adding new reference method 19 as follows:

APPENDIX A—REFERENCE METHODS

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METHOD 19. DETERMINATION OF SULFUR-DIOXIDE REMOVAL EFFICIENCY AND PARTICULATE, SULFUR DIOXIDE AND NITROGEN OXIDES EMISSION RATES FROM ELECTRIC UTILITY STEAM GENERATORS

1. Principle and applicability.

1.1 Principle.

1.1.1 Fuel samples from before and after fuel pretreatment systems are collected and analyzed for sulfur and heat content, and the percent sulfur dioxide (ng/Joule, lb/million Btu) reduction is calculated on a dry basis. (Optional procedure.)

1.1.2 Sulfur dioxide and oxygen or carbon dioxide concentration data obtained from sampling emissions upstream and downstream of sulfur-dioxide-control devices are used to calculate sulfur-dioxide removal efficiencies. (Minimum requirement.) As an alternative to sulfur-dioxide monitoring upstream of sulfur-dioxide-control devices, fuel samples may be collected in an as-fired condition and analyzed for sulfur and heat content. (Optional procedure.)

1.1.3 An overall sulfur dioxide emission reduction efficency is calculated from the efficiency of fuel pretreatment systems and the efficiency of sulfur dioxide control devices.

1.1.4 Particulate, sulfur dioxide, nitrogen oxides, and oxygen or carbon dioxide concentration data obtained from sampling emissions downstream from sulfur dioxide control devices are used along with F factors to calculate particulate, sulfur dioxide, and nitrogen-oxides emission rates. F factors are values relating combustion gas volume to the heat content of fuels.

1.2 Applicability. This method is applicable for determining sulfur removal efficiencies of fuel pretreatment and sulfur-dioxide-control devices and the overall reduction of potential sulfur dioxide emissions from electric utility steam generators. This method is also applicable for the determination of particulate, sulfur dioxide, and nitrogen oxides emission rates.

2. *Determination of sulfur-dioxide removal efficiency of fuel pretreatment systems* (optional).

2.1 Solid fossil fuel.

2.1.1 Sample increment collection. Use ASTM D 2234,* type I, conditions A, B, or C, and systematic spacing. Determine the number and weight of increments required per gross sample representing each coal lot according to table 2 or paragraph 7.1.5.2 of ASTM D 2234.* Collect one gross sample for each raw coal lot and one gross sample for each product coal lot.

2.1.2 ASTM lot size. For the purpose of section 2.1.1, the product coal lot size is defined as the weight of product coal produced from one type of raw coal. The raw coal lot size is the weight of raw coal used to produce one product coal lot. Typically, the lot size is the weight of coal processed in a 1-day (24 hours) period. If more than one type of coal is treated and produced in 1 day, then gross samples must be collected and analyzed for each type of coal. A coal lot size equaling the 90-day quarterly fuel quantity for a specific powerplant may be used if representative sampling can be conducted for the raw coal and product coal.

NOTE.—Alternate definitions of fuel lot sizes may be specified subject to prior approval of the Administrator.

2.1.3 Gross sample analysis. Determine the percent sulfur content (percent S) and gross calorific value (GCV) of the solid fuel on a dry basis for each gross sample. Use ASTM 2013* for sample preparation, ASTM D 3177* for sulfur analysis, and ASTM D 3173* for moisture analysis. Use ASTM D 3176* or D 2015* for gross calorific value determination.

2.2 Liquid fossil fuel.

*Use the most recent revision or designation of the ASTM procedure specified.

2.2.1 Sample collection. Use ASTM D 270* following the practices outlines for continuous sampling for each gross sample representing each fuel lot.

2.2.2 Lot size. For the purposes of section 2.2.1, the weight of product fuel from one pretreatment facility and intended as one shipment (shipload, bargeload, etc.) is defined as one product fuel lot. The weight of each crude liquid fuel type used to produce one product fuel lot is defined as one inlet fuel lot.

NOTE.—Alternate definitions of fuel lot sizes may be specified subject to prior approval of the Administrator.

2.2.3 Sample analysis. Determine the percent sulfur content (percent S) and gross calorific value (GVC). Use ASTM D 240* for the sample analysis. This value can be assumed to be on a dry basis.

2.3 Calculation of sulfur-dioxide removal efficency due to fuel pretreatment. Calculate the percent sulfur dioxide reduction due to fuel pretreatment using the following equation:

$$\%R_f = 100\left[1 - \frac{\%S_o/GCV_o}{\%S_i/GCV_i}\right]$$

Where:

$\%R_f$=Sulfur dioxide removal efficiency due pretreatment; percent.
$\%S_o$=Sulfur content of the product fuel lot on a dry basis; weight percent.
$\%S_i$=Sulfur dioxide content of the inlet fuel lot on a dry basis; weight percent.
GCV_o=Gross calorific value for the outlet fuel lot on a dry basis; kJ/kg (Btu/lb).
GCV_i=Gross calorific value for the inlet fuel lot on a dry basis; kJ/kg (Btu/lb).

NOTE.—If more than one fuel type is used to produce the product fuel, use the following equation to calculate the sulfur content per unit of heat content of the total fuel lot, %S/GCV:

$$\%S/GCV = \sum_{k=1}^{n} Y_k\,(\%S_k/GCV_k)$$

Where:

Y_k=The fraction of total mass input derived from each type, k, of fuel.
$\%S_k$=Sulfur content of each fuel type, k, on a dry basis; weight percent.
GCV_k=Gross calorific value for each fuel type, k, on a dry basis; kJ/kg (Btu/lb).
n=The number of different types of fuels.

3. *Determination of sulfur removal efficiency of the sulfur dioxide control device.*

3.1 Sampling. Determine SO_2 and CO_2 or O_2 oxygen concentrations at the inlet and outlet of the sulfur dioxide control system according to methods specified in the applicable subpart of the regulations.

(NOTE.—The downstream data are used to calculate the SO_2 emission rate. See section 5.) The inlet sulfur dioxide concentration may be determined through fuel analysis (optional, see section 3.3).

3.2 Calculation. Calculate the percent removal efficiency using the following equations as applicable:

$$\%R_{g(O_2)} = 100\left[1 - \frac{SO_{2do}}{SO_{2di}}\left(\frac{20.9 - \%O_{2di}}{20.9 - \%O_{2do}}\right)\right]$$

$$\%R_{g(CO_2)} = 100\left[1 - \left(\frac{SO_{2do}}{SO_{2di}} \times \frac{\%CO_{2di}}{\%CO_{2do}}\right)\right]$$

Where:

$\%R_s(O_2)$=Sulfur dioxide removal efficiency of the sulfur dioxide control device, O_2-based calculation; percent.
$\%R_s(CO_2)$=Sulfur dioxide removal efficiency of the sulfur dioxide control device, CO_2-based calculation; percent.
SO_{2d}=SO_2 concentration, dry basis; ppmv.
$\%CO_{2d}$=CO_2concentration, dry basis; bolume percent.
$\%O_{2d}$=CO_2 concentration, dry basis; volume percent.
i=Inlet.
o=Outlet.

NOTE.—For devices measuring concentration on a wet basis, appropriate equations which account for moisture differences are approved in principle. See the appropriate paragraph in section 5.3. Methods for measuring moisture content are subject to approval of the Administrator.

3.3 As-fired fuel analysis (optional procedure). If the owner or operator of an electric utility steam generator chooses to determine the sulfur dioxide input rate at the inlet to the sulfur dioxide control device through an as-fired fuel analysis in lieu of data from a sulfur dioxide control system inlet gas monitor, fuel samples must be collected in accordance with the applicable paragraph in section 2. The sampling can be conducted upstream of any fuel processing, e.g., plant coal pulverization. For the purposes of this section, fuel lot size is defined as the weight of fuel consumed on one day (24 hours) and is directly related to the exhaust gas monitoring data at the outlet of the sulfur dioxide control system.

3.3.1 Fuel analysis. Fuel samples must be analyzed for sulfur content and gross calorific value. The ASTM procedures for determining sulfur content are defined in the applicable paragraphs of section 2.

3.3.2 Calculation of sulfur dioxide input rate. The sulfur dioxide input rate determined from fuel analysis is calculated by:

$$I_s = \frac{2.0(\%S_f)}{GCV} \times 10^7 \qquad \text{for S.I. units.}$$

$$I_s = \frac{2.0(\%S_f)}{GCV} \times 10^4 \qquad \text{for English units.}$$

Where:

I_s=Sulfur dioxide input rate from as-fired fuel analysis, ng/J (lb/million Btu).
$\%S_f$=Sulfur content of as-fired fuel, on a dry basis; weight percent.
GCV=Gross calorific value for as-fired fuel, on a dry basis; kJ/kg (Btu/lb).

3.3.3 Calculation of sulfur dioxide emission reduction using as-fired fuel analysis. The sulfur dioxide emission reduction efficiency is calculated using the sulfur input rate from paragraph 3.3.2 and the sulfur dioxide emission rate, E_{so2}, determined in the applicable paragraph of Section 5.3. The equation for sulfur dioxide emission reduction efficiency is:

$$\%R_{g(f)} = 100 \times \left(1.0 - \frac{E_{SO_2}}{I_s}\right)$$

Where:

$\%R_{g(f)}$=Sulfur dioxide removal efficiency of the sulfur dioxide control system using as-fired fuel analysis data; percent.
E_{so2}=Sulfur dioxide emission rate from sulfur dioxide control system; ng/J (lb/million Btu).
I_s=Sulfur dioxide input rate from as-fired fuel analysis; ng/J (lb/million Btu).

4. *Calculation of overall reduction in potential sulfur dioxide emission.*

4.1 The overall percent sulfur dioxide reduction calculation uses the sulfur dioxide concentration at the inlet to the sulfur dioxide control device as the base value. Any sulfur reduction realized through fuel cleaning is introduced into the equation as an average percent reduction, $\%R_f$.

4.2 Calculate the overall percent sulfur reduction as:

$$\%R_o = 100[1.0 - (1.0 - \tfrac{\%R_f}{100})\,(1.0 - \tfrac{\%R_g}{100})]$$

Where:

$\%R_o$=Overall sulfur dioxide reduction; percent.
$\%R_f$=Sulfur dioxide removal efficiency of fuel pretreatment from Section 2; percent. Refer to applicable subpart for definition of applicable averaging period.

$\%R_o$=Sulfur dioxide removal efficiency of sulfur dioxide control device either O_2 or CO_2-based calculation or calculated from fuel analysis and emission data, from

carbon dioxide generated to the calorific value of the fuel combusted. When pollutant and oxygen concentrations have been determined in section 5.1, wet or dry F fac-

$\%R_g$ = Sulfur dioxide removal efficiency of sulfur dioxide control device either O_2 or CO_2-based calculation or calculated from fuel analysis and emission data, from Section 3; percent. Refer to applicable subpart for definition of applicable averaging period.

5. *Calculation of particulate, sulfur dioxide, and nitrogen oxides emission rates.*

5.1 Sampling. Use the outlet SO_2 and O_2 or CO_2 concentrations data obtained in section 3.1. Determine the particulate, NO_x, and O_2 or CO_2 concentrations according to methods specified in an applicable subpart of the regulations.

5.2 Determination of an *F* factor. Select an average *F* factor (section 5.2.1) or calculate an applicable *F* factor (section 5.2.2). If combined fuels are fired, the selected or calculated *F* factors are prorated using the procedures in section 5.2.3. *F* factors are ratios of the gas volume released during combustion of a fuel divided by the heat content of the fuel. A dry *F* factor (F_d is the ratio of the volume of dry flue gases generated to the calorific value of the fuel combusted; a wet *F* factor (F_w) is the ratio of the volume of wet flue gases generated to the calorific value of the fuel combusted; and the carbon *F* factor (F_c) is the ratio of the volume of carbon dioxide generated to the calorific value of the fuel combusted. When pollutant and oxygen concentrations have been determined in section 5.1, wet or dry *F* factors are used. (F_o factors and associated emission calculation procedures are not applicable and may not be used after wet scrubbers; F_c or F_d factors and associated emission calculation procedures are used after wet scrubbers.) When pollutant and carbon dioxide concentrations have been determined in section 5.1, F_c factors are used.

5.2.1 Average F factors. Table 1 shows average F_d, F_w, and F_c factors (scm/J, scf/million Btu) determined for commonly used fuels. For fuels not listed in table 1, the F factors are calculated according to the procedures outlined in Section 5.2.2 of this section.

5.2.2 Calculating an F factor. If the fuel burned is not listed in table 1 or if the owner or operator chooses to determine an F factor rather than use the tabulated data, F factors are calculated using the equations below. The sampling and analysis procedures followed in obtaining data for these calculations are subject to the approval of the Administrator and the Administrator should be consulted prior to data collection. For SI Units:

$$F_d = \frac{227.0(\%H) + 95.7(\%C) + 35.4(\%S) \times 8.6(\%N) - 28.5(\%O)}{GCV}$$

$$F_w = \frac{347.4(\%H)+95.7(\%C)+35.4(\%S)+8.6(\%N)-28.5(\%O)+13.0(\%H_2O)^{**}}{GCV_w}$$

$$F_c = \frac{20.0(\%C)}{GCV}$$

For English Units:

$$F_d = \frac{10^6[3.64(\%H)+1.53(\%C)+0.57(\%S)+0.14(\%N)-0.46(\%O)]}{GCV}$$

** The $\%H_2O$ term may be omitted if %H and %O include the unavailable hydrogen and oxygen in the form of H_2O.

TABLE 1. F FACTORS FOR VARIOUS FUELS

Fuel-Type	F_d dscm/J	F_d dscf/10^6 Btu	F_w wscm/J	F_w wscf/10^6 Btu	F_c scm/J	F_c scf/10^6 Btu
Coal						
Anthracite[a]	2.72×10^{-7}	(10140)	2.84×10^{-7}	(10680)	0.486×10^{-7}	(1810)
Bituminous[a]	2.64×10^{-7}	(9820)	2.87×10^{-7}	(10680)	0.486×10^{-7}	(1810)
Lignite	2.66×10^{-7}	(9900)	3.22×10^{-7}	(12000)	0.515×10^{-7}	(1920)
Oil[b]	2.48×10^{-7}	(9220)	2.78×10^{-7}	(10360)	0.384×10^{-7}	(1430)
Gas						
Natural	2.35×10^{-7}	(8740)	2.86×10^{-7}	(10650)	0.279×10^{-7}	(1040)
Propane	2.35×10^{-7}	(8740)	2.75×10^{-7}	(10240)	0.322×10^{-7}	(1200)
Butane	2.35×10^{-7}	(8740)	2.80×10^{-7}	(10430)	0.338×10^{-7}	(1260)
Wood	2.49×10^{-7}	(9280)	----------	------	0.494×10^{-7}	(1840)
Wood Bark	2.59×10^{-7}	(9640)	----------	------	0.499×10^{-7}	(1860)

[a] As classified according to ASTM D 388-66

[b] Crude, residual, or distillate

$$F_w = \frac{10^6[5.57(\%H)+1.53(\%C)+0.57(\%S)+0.14(\%N)-0.46(\%O)+0.21(\%H_2O)^*]}{GCV_w}$$

CONVERSION FACTORS FOR CONCENTRATION

From—	To—	Multiply
ng/J	lb/million Btu	2.326×10^{-3}
lb/million Btu	ng/J	430
ng/scm	lb/scf	6.243×10^{-11}
lb/scf	ng/scm	1.602×10^{10}
ng/scm	ppm	$\frac{0.387}{M}$
ppm	ng/scm	$2.590 \times 10^9 M$
lb/scf	ppm	$\frac{6.243 \times 10^{-2}}{M}$
ppm	lb/scf	$1.660 \times 10^{-10} M$

(i) B_{ws} = 0.027. This factor may be used as a constant value at any location.

(ii) B_{ws} = Highest monthly average of B_{ws} which occurred within a calendar year at the nearest Weather Service Station.

5.3.2 Carbon Dioxide-Based F Factor Procedure.

5.3.2.1 Dry Basis. When both the percent carbon dioxide ($\%CO_{wd}$) and the pollutant rate from the steam generator is calculated as:

ards of performance for electric utility steam generating units which are proposed in this issue of the FEDERAL REG-

$$F_w = \frac{10^6[5.57(\%H)+1.53(\%C)+0.57(\%S)+0.14(\%N)-0.46(\%O)+0.21(\%H_2O)^*]}{GCV_w}$$

$$F_c = \frac{10^6[0.321(\%C)]}{GCV}$$

Where:

F_d, F_w, and F_c have the units of scm/J or scf/million Btu; %H, %C, %S, %N, %O, and %H_2O are the concentrations by weight (expressed in percent) of hydrogen, carbon, sulfur, nitrogen, oxygen, and water from an ultimate analysis of the fuel; and GCV is the gross calorific value of the fuel in kJ/kg or Btu/lb and consistent with the ultimate analysis. Follow ASTM D 2015* for solid fuels, D 240* for liquid fuels, and D 1826* for gaseous fuels as applicable in determining GCV.

5.2.3 Combined fuel firing F factor. For affected facilities firing combinations of fossil fuels or fossil fuels and wood residue, the F_d, F_w, and F_c factors determined by Sections 5.2.1 or 5.2.2 of this section shall be prorated in accordance with the applicable formula as follows:

$$F_d = \sum_{k=1}^{n} x_k F_{dk} \text{ or}$$

$$F_w = \sum_{k=1}^{n} x_k F_{wk} \text{ or}$$

$$F_c = \sum_{k=1}^{n} x_k F_{ck}$$

*The %H_2O term may be omitted if %H and %O include the unavailable hydrogen and oxygen in the form of H_2).

Where:

x_k=The fraction of total heat input derived from each type of fuel, k.
n=The number of fuels being burned in combination.

5.3 Calculation of emission rate. Select from the following paragraphs the applicable calculation procedure and calculate the particulate, SO_2, and/NO_x emission rate. The values in the equations are defined as:

E=Pollutant emission rate, ng/J(lb/million Btu).
C=pollutant concentration, ng/scm(lb/scf).

NOTE.—It is necessary in some cases to convert measured concentration units to other units for these calculations. Use the following table for such conversions:

CONVERSION FACTORS FOR CONCENTRATION

From—	To—	Multiply by—
g/scm	ng/scm	10^9
mg/scm	ng/scm	10^6
lb/scf	ng/scm	1.602×10^{13}
ppm(SO_2)	ng/scm	2.660×10^6
ppm(NO_2)	ng/scm	1.912×10^6
ppm(SO_2)	lb/scf	1.660×10^{-7}
ppm(NO_2)	lb/scf	1.194×10^{-7}

5.3.1 Oxygen-based F factor procedure.

5.3.1.1 Dry basis. When both percent oxygen (%O_{2d}) and the pollutant concentration (C_d) are measured in the flue gas on a dry basis, the following equation is applicable:

$$E = C_d F_d \left[\frac{20.9}{20.9 - \%O_{2d}}\right]$$

5.3.1.2 Wet basis. When both the percent oxygen (%O_{2w}) and the pollutant concentration (C_w) are measured in the flue gas on a wet basis, the following equations are applicable: (NOTE.—F_w factors are not applicable after wet scrubbers.)

(a) $$E = C_w F_w \left[\frac{20.9}{20.9(1 - B_{wa}) - \%O_{2w}}\right]$$

where:

B_{wa}=Proportion by volume of water vapor in the ambient air. Approval may be given for determination of B_{wa} by on-site instrumental measurement provided that the absolute accuracy of the measurement technique can be demonstrated to be within +0.7 percent water vapor. In lieu of actual measurement, B_{wa} may be estimated as follows:

NOTE.—The following estimating factors are selected to assure that any negative error introduced in the term

$$\left(\frac{20.9}{20.9(1 - B_{wa}) - \%O_{2ws}}\right)$$

will not be larger than −1.5 percent. However, positive errors, or over-estimation of emissions, of as much as 5 percent may be introduced depending upon the geographic location of the facility and the associated range of ambient moisture.

(i) B_{wa}=0.027. This factor may be used as a constant value at any location.
(ii) B_{wa}=Highest monthly average of B_{wa} which occurred within a calendar year at the nearest Weather Service Station.
(iii) B_{wa}=Highest daily average of B_{wa} which occurred within a calendar month at the nearest Weather Service Station, calculated from the data for the past 3 years. This factor shall be calculated for each month and may be used as an estimating factor for the respective calendar month.

(b) $$E = C_w F_d \left[\frac{20.9}{20.9 (1 - B_{ws}) - \%O_{2w}}\right]$$

where:

B_{ws}=Proportion by volume of water vapor in the stack gas.

This equation is approved in principle. Approval for actual practice is contingent upon demonstrating the ability to accurately determine B_{ws} such that any absolute error in B_{ws} will not cause an error of more than ± 1.5 percent in the term:

$$\left(\frac{20.9}{20.9(1 - B_{ws}) - \%O_{2ws}}\right)$$

5.3.1.3. Dry/Wet basis. When the pollutant concentration (C_w) is measured on a wet basis and the oxygen concentration (%O_{2d}) or measured on a dry basis, the following equation is applicable:

$$E = \left[\frac{C_w F_d}{(1 - B_{ws})}\right]\left[\frac{20.9}{20.9 - \%O_{2d}}\right]$$

NOTE.—See section 5.3.1.2 on the usage of B_{ws}. When the pollutant concentration (C_d) is measured on a dry basis and the oxygen concentration (%O_{2d}) is measured on a wet basis, the following equation is applicable:

$$E = C_d F_d \left[\frac{20.9}{20.9 - \frac{\%O_{2w}}{(1 - B_{ws})}}\right]$$

5.3.2 Carbon Dioxide-Based F Factor Procedure.

5.3.2.1 Dry Basis. When both the percent carbon dioxide (%CO_{2d}) and the pollutant concentration (C_d) are measured in the flue gas on a dry basis, the following equation is applicable:

$$E = C_d F_c \left(\frac{100}{\%CO_{2d}}\right)$$

5.3.2.2 Wet basis. When both the percent carbon dioxide (%CO_{2w}) and the pollutant concentration (C_w) are measured on a wet basis, the following equation is applicable:

$$E = C_w F_c \left(\frac{100}{\%CO_{2w}}\right)$$

5.3.2.3 Dry/Wet basis. When the pollutant concentration (C_w) is measured on a wet basis and the percent carbon dioxide (%CO_{2d}) is measured on a dry basis, the following equation is applicable:

$$E = \left[\frac{C_w F_c}{(1 - B_{ws})}\right]\left[\frac{100}{\%CO_{2d}}\right]$$

NOTE.—See section 5.3.1.2 on the limitation on the usage of B_{ws}.

When the pollutant concentration (C_d) is measured on a dry basis and the percent carbon dioxide (%CO_{2w}) is measured on a wet basis, the following equation is applicable:

$$E = C_d (1 - B_{ws}) F_c \left(\frac{100}{\%CO_{2w}}\right)$$

5.4 Calculation of emission rate from combined cycle-gas turbine systems. For gas turbine-steam generator combined cycle systems, the emissions from supplemental fuel fired to the steam generator or the percentage reduction in potential SO_2) emissions cannot be determined directly. Using measurements from the gas turbine exhaust (performance test, subpart GG) and the combined exhaust gases from the steam generator, calculate the emission rates for these two points following the appropriate paragraphs in section 5.3 (NOTE.—F_w factors shall not be used to determine emission rates from gas turbines because of the injection of steam or to calculate emission rates after wet scrubbers; F_d or F_c factor and associated calculation procedures are used to combine effluent emissions according to the procedure in paragraph 5.2.3.) The emission rate from the steam generator is calculated as:

$$E_{sg} = \frac{E_c - X_{gt} E_{gt}}{X_{sg}}$$

where

E_{sg}=Pollutant emission rate from steam generator effluent, ng/J (lb/million Btu).
E_c=Pollutant emission rate in combined cycle effluent; ng/J (lb/million Btu).
E_{gt}=Pollutant emission rate from gas turbine effluent; ng/J (lb/million Btu).
X_{sg}=Fraction of total heat input from supplemental fuel fired to the steam generator.
X_{gt}=Fraction of total heat input from gas turbine exhaust gases.

NOTE.—The total heat input to the steam generator is the sum of the heat input from supplemental fuel fired to the steam generator and the heat input to the steam generator from the exhaust gases from the gas turbine.

5.5 Effect of wet scrubber exhaust, direct-fired reheat fuel burning. Some wet scrubber systems require that the temperature of the exhaust gas be raised above the moisture dew-point prior to the gas entering the stack. One method used to accomplish this is direct-firing of an auxiliary burner into the exhaust gas. The heat required for such burners is from 1 to 2 percent of total heat input of the steam generating plant. The effect of this fuel burning on the exhaust gas components will be less than ± 1.0 percent and will have a similar effect on emission rate calculations. Because of this small effect, a determination of effluent gas constituents from direct-fired reheat burners for correction of stack gas concentrations is not necessary.

APPENDIX E—[RESERVED]

5. Appendix E is added to part 60 and reserved.

(Sec. 111, 114, and 301(a), Clean Air Act as amended (42 U.S.C. 7411, 7414, and 7601(a)).

[FR Doc. 78-26005 Filed 9-18-78; 8:45 am]

[6560-01]

[40 CFR Part 60]

[FRL 967-2]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Public hearing on Proposed Standards for Electric Utility Steam Generating Units

AGENCY: Environmental Protection Agency.

ACTION: Hearing on proposed rule.

SUMMARY: This document announces a public hearing on the standards of performance for electric utility steam generating units which are proposed in this issue of the FEDERAL REGISTER.

DATES: Hearing date: November 29-30, 1978. See Supplementary Information for additional information.

ADDRESSES: Hearing held: GSA Auditorium, 18th and F Streets NW., Washington, D.C. See Supplementary Information for additional information.

FOR FURTHER INFORMATION CONTACT:

Mr. Don R. Goodwin, Director, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone 919-541-5271.

SUPPLEMENTARY INFORMATION: In accordance with section 307(d)(5) of the Clean Air Act, a public hearing on the standards of performance for electric utility steam generating units which are proposed in this issue of the FEDERAL REGISTER will be held as follows:

Date: November 29-30, 1978.

Place: GSA Auditorium, 18th and F Streets NW., Washington, D.C.

Time: 9 a.m. to 4 p.m.

Persons wishing to make oral presentations, which will be limited to 15 minutes each, should notify EPA by November 17, 1978, by contacting Ms. Shirley Tabler, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone 919-541-5421. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to Jack R. Farmer, Chief, Standards Development Branch (MD-13), Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, N.C. 27711.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at the U.S. Environmental Protection Agency's Central Docket Section, Room 2903B, Waterside Mall, 401 M Street SW., Washington, D.C. 20460 (Docket No. OAQPS-78-1).

PURPOSE

As a result of a suit brought by the Sierra Club, the Agency is under a

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court order to promulgate final regulations within 6 months of today's proposal. This is also the maximum period of time for promulgation permitted by section 307(d)(1) of the Clean Air Act. To comply with the schedule set forth in the court's order, but at the same time to maximize the public's involvement in the rulemaking, the Agency will provide over 14 weeks for public input.

The public involvement period will be structured as follows: Written comments may be submitted by any interested member of the public for a period of 60 days. Following the public comment period, 2 days of hearings will be held. The hearings will be legislative in nature with Agency officials empaneled to receive testimony and ask questions of all witnesses. Persons interested in testifying at the hearing should advise the Agency as instructed above. Though no cross-examination will take place at the hearings, written questions directed at witnesses testifying at the hearing may be submitted to the panel by members of the audience.

It is the expectation of the Agency that the hearing testimony will concentrate on clarifying, supplementing, and rebutting previously submitted written statements. The Agency recognizes that interested persons will require a period of time prior to the hearing to read the written submissions of other interested parties so that an informed comment may be made at the public hearing. In addition, all written comments received will be placed in the docket (docket No. OAQPS-78-1) as soon after receipt as practicable. All comments received will be on file no later than 2 calendar days after the close of the 60-day comment period. The docket is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at EPA's Central Docket Section, Room 2903B, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

As required by section 307(d)(5)(iv), the record of the public hearing will remain open for 30 days after completion of the hearing to provide an opportunity for any member of the public to submit rebuttal and supplementary information on the data presented at the hearing. Upon completion of this 30-day period, the record will be closed in order to provide sufficient time for the Administrator to carefully weigh all evidence submitted and to make the final decision on the basis of the formal record.

Dated: September 11, 1978.

DAVID G. HAWKINS,
Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 78-26006 Filed 9-18-78; 8:45 am]

federal register

TUESDAY, SEPTEMBER 19, 1978
PART VI

ENVIRONMENTAL PROTECTION AGENCY

PRIMARY ALUMINUM INDUSTRY

Standards of Performance for New Stationary Sources; Public Hearing

[6560-01]

ENVIRONMENTAL PROTECTION

ronmental Protection Agency, Research Triangle Park, N.C. 27711, telephone 919-541-5271.

gated on January 26, 1976 (41 FR 3826), and shortly thereafter petitions for review were filed by four U.S. alu-

the current standard, allowing a certain number of monthly tests to exceed the current standard based on

Air Act to require additional testing if necessary.

It is important to emphasize that

(2) primary and bake plant emissions are much less variable than secondary emissions; and (3) the cost of primary

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 60]

[FRL 915-5]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Primary Aluminum Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed amendments would require primary aluminum plant performance tests to be conducted at least once each month, allow potroom emissions to be above the level of the current standard (but not above a higher limit of 1.25 kg/Mg (2.5 lb/ton)) if an owner or operator can establish that the emission control system was properly operated at the time the excursion above the current standard occurred, revise the reference method for determining fluoride emissions from potroom roof monitors, and clarify some provisions in the existing standard. These amendments are being proposed in response to arguments raised by four aluminum companies who filed petitions for review of the standard of performance. The intended effect of the proposed amendments is to account for the inherent variability of fluoride emissions from the aluminum reduction process and to require monitoring of fluoride emissions to insure proper operation and maintenance of the pollution control systems.

A public hearing will be held to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments must be received on or before November 20, 1978. *Public hearing.* The public hearing will be held on October 16, 1978, beginning at 9:30 a.m. and ending at 4:30 p.m. *Request to speak at hearing.* Persons wishing to attend the hearing or present oral testimony should contact EPA by October 11, 1978.

ADDRESSES: *Comments.* Comments should be submitted to Jack R. Farmer, Chief, Standards Development Branch (MD-13), Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, N.C. 27711.

Public hearing. The public hearing will be held at Waterside Mall, Room 3906, 401 M Street SW., Washington, D.C. 20460. Persons wishing to present oral testimony should notify Mary Jane Clark, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone 919-541-5271.

Standard support document. The support document for the proposed amendments may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, N.C. 27711, telephone 919-541-2777. Please refer to Primary Aluminum Background Information: Proposed Amendments (EPA-450/2-78-025a).

Docket. The docket, number OAQPS-78-10, is available for public inspection and copying at the EPA Central Docket Section (A-130), Room 2903B, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Director, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone 919-541-5271.

SUPPLEMENTARY INFORMATION:

Proposed Amendments

It is proposed to amend Subpart S—Standards of Performance for Primary Aluminum Plants by requiring that performance tests be performed at least once each month during the life of an affected facility. Previously, performance tests were required only as provided in 40 CFR 60.8(a) (i.e., within 60 days after achieving the maximum production rate, but not later than 180 days after initial start- up and at other times as may be required by the Administrator under section 114 of the Clean Air Act). The proposed amendments would also allow potroom emissions to be above the level of the current standard (0.95 kg/Mg (1.9 lb/ton) for prebake plants and 1.0 kg/Mg (2.0 lb/ton) for Soderberg plants), but not above 1.25 kg/Mg (2.5 lb/ton), if an owner or operator can establish that the emission control system was properly operated and maintained at the time the excursion above the current standard occurred. Emissions may not be above 1.25 kg/Mg under any condition. Other amendments would (1) clarify Reference Method 14 procedures; (2) clarify the definition of "potroom group;" (3) replace English and metric units of measure with the International System of Units (SI); (4) allow the owner or operator of a new facility to apply to the Administrator for an exemption from the monthly testing requirement for primary and anode bake plant emissions; and (5) clarify the procedure for determining the rate of aluminum production for fluoride emission calculations.

Background

A standard of performance for new primary aluminum plants was promulgated on January 26, 1976 (41 FR 3826), and shortly thereafter petitions for review were filed by four U.S. aluminum companies. The principal argument raised by the petitioners was that the standard was too stringent and could not be consistently complied with by modern, well-controlled facilities. (Facilities which commenced construction prior to October 23, 1974, are not affected by the standard.) Following discussions with the petitioning aluminum companies, EPA conducted an emission test program at the Anaconda Aluminum Co. plant in Sebree, Ky. The Sebree plant is the newest primary aluminum plant in the United States, and its emisssion control system conforms with what EPA has defined as the best technological system of continuous emission reduction for new facilities. The purpose of the test program was to aid EPA in its reevaluation of the standard by expanding the emission data base. The test results were available in August of 1977 and indicated that there is some probability that the result of a performance test conducted at a modern, well-controlled plant would be above the existing standard. EPA has concluded that this justifies revising the standard.

Rationale

EPA's decision to amend the existing standard is based primarily on the results of the Sebree test program. The test results may be summarized as follows: (1) The measured emissions were variable, ranging from 0.43 to 1.37 kg/Mg (0.85 to 2.74 lb/ton) for single test runs; and (2) emission variability appeared to be inherent in the production process and beyond the control of plant personnel. Since the Sebree plant represents the latest technology for the aluminum industry, EPA expects that new plants covered by the standard may also exhibit emission variability.

An analysis performed by EPA on the results of the nine Sebree test runs indicates that there is about an 8-percent probability that a performance test would violate the current standard. (A performance test is defined in 40 CFR 60.8(f) as the arithmetic mean of three separate test runs, except in situations where a run must be discounted or canceled and the Administrator approves using the arithmetic mean of two runs.) The petitioners have estimated chances of violation ranging from about 2.5 to 10 percent. Although the Sebree data base is not large enought to permit a thorough statistical analysis, EPA believes it is adequate to demonstrate a need for revising the current standard.

EPA considered a number of possible solutions to the emission variability problem including raising the level of the current standard, allowing a certain number of monthly tests to exceed the current standard based on an expected failure rate, and specifying an equipment standard in place of the current emission standard. These and other possible solutions were rejected because they did not satisfy the following criteria: The revised standard (1) must be enforceable, (2) must provide for the variability of emissions, and (3) must not allow emission levels to be higher than indicated by the Sebree plant, which employs the best system of emission reduction.

The solution EPA proposes is to amend Subpart S to allow a performance test to be above the current standard provided the owner or operator submits to EPA a report clearly demonstrating that the emission control system was properly operated and maintained during the excursion above the standard. The report would be used as evidence that the high emission level resulted from random and uncontrollable emission variability, and that the emission variability was entirely beyond the control of the owner or operator of the affected facility. Under no circumstances, however, would performance test results be allowed above 1.25 kg/Mg (2.5 lb/ton). EPA believes that emissions from a plant equipped with the proper control system which is properly operated and maintained would be below 1.25 kg/Mg at all times.

Within 15 days of receipt of the results of a performance test which fall between the current standard and 1.25 kg/Mg, the owner or operator of the affected facility would be required to submit a report to the Enforcement Division of the appropriate EPA Regional Office indicating that all necessary control devices were on-line and operating properly during the performance test, describing the operation and maintenance procedures followed, and setting forth any explanation for the excess emissions. EPA requests comments on additional criteria to be used by the Regional Offices to determing whether the control devices were properly operated and maintained during the performance test.

The proposed amendments would also require, following the initial performance test required under 40 CFR 60.8(a), additional performance testing at least once each month during the life of the affected facility. During visits to existing plants, EPA personnel have observed that the emission control systems are not always operated and maintained as well as possible. EPA believes that good operation and maintenance of control systems is essential and expects the monthly testing requirement to help achieve this goal. The Administrator has the authority under section 114 of the Clean Air Act to require additional testing if necessary.

It is important to emphasize that the following operating and maintenance procedures are exemplary of good control of emissions and should be implemented at all times: (1) Hood covers should fit properly and be in good repair; (2) if equipped with an adjustable air damper system, the hood exhaust rate for individual pots should be increased whenever hood covers are removed from a pot (the exhaust system should not be overloaded by placing too many pots on high exhaust); (3) hood covers should be replaced as soon as possible after each potroom operation; (4) dust entrainment should be minimized during materials handling operations and sweeping of the working aisles; (5) only tapping crucibles with functional aspirator air return systems (for returning gases under the collection hooding) should be used; and (6) the primary control system should be regularly inspected and properly maintained. EPA believes that the proposed amendments are clearly achievable provided the control system is properly designed and installed and, as a minimum, the six procedures noted above are emplemented.

The proposed amendments affect not only prebake designs, such as the Sebree plant, but also Soderberg plants. Available data for existing plants indicate that Soderberg and prebake plants have similar emission variability. Thus, EPA feels justified in extrapolating its conclusions about the Sebree prebake plant to cover Soderberg designs. It is unlikely that any new Soderberg plant will be built due to the high cost of emission control for these designs. However, existing Soderberg plants may be modified to such an extent that they would be subject to these regulations.

Under the proposed amendments anode bake plants would be subject to the monthly testing requirement, but emissions would not be allowed under any circumstances to be above the level of the current bake plant standard. Since there is no evidence that bake plant emissions are as variable as potroom emissions, there is no need to excuse excursions above the bake plant standard.

The proposed amendments would allow the owner or operator of a new plant to apply to the Administrator for an exemption from the monthly testing requirement for the primary control system and the anode bake plant. EPA believes that the testing of these systems as often as once each month may be unreasonable given that (1) The contribution of primary and bake plant emissions to the total emission rate is minor, averaging about 2.5 and 5 percent, respectively; (2) primary and bake plant emissions are much less variable than secondary emissions; and (3) the cost of primary and bake plant emissions sampling is high. An application to the Administrator for an exemption from monthly testing would be required to include (1) evidence that the primary and bake plant emissions have low variability; (2) an alternative testing schedule; and (3) a representative value for primary emissions to be used in total fluoride emission calculations.

EPA estimates the costs associated with monthly performance testing to average about $4,000 for primary tests, $5,000 for secondary tests, and $4,000 for bake plant tests. These estimates assume that (1) Testing would be performed by plant personnel; (2) each monthly performance test would consist of the average of 3 24-hour runs; (3) sampling would be performed by two crews working 13-hour shifts; (4) primary control system sampling would be performed at a single point in the stack; and (5) Sebree inhouse testing costs would be representative of average costs for other new plants. Although these assumptions may not hold for all situations, EPA believes they provide a representative estimate of what testing costs would be for new plants.

Also amended is the procedure for determining the rate of aluminum production. Previously, the rate was based on the weight of metal tapped during the test period. However, since the weight of metal tapped does not always equal the weight of metal produced, undertapping or overtapping during a test period would result in erroneous porduction rates. EPA believes it would be more reasonable to judge the weight of metal produced according to the average weight of metal tapped during a 30-day period (720 hours) prior to and including the test date. The 3-day period would allow for overtapping and undertapping to average out, and this would give a more accurate estimate of the true production rate.

Other amendments would (1) clarify the definition of potroom group to cover situations where two potroom segments are ducted to a common control system; (2) incorporate use of the International System of Units (SI); and (3) make minor editorial changes in the regulations.

Method 14

The proposed amendments to Reference Method 14 would update the test method to reflect EPA's experiences at the Sebree test program. Also, the amendments would make Method 14 consistent with recent revisions of Methods 1 through 8 (42 FR 41754). The intended effect of the proposed amendments is to clarify testing proce-

dures and to improve the reliability of the test method.

The principal amendments would be

A verbatim transcript of the hearing and written statements will be available for public inspection and copying

emission control. In fact, the act requires (or has potential for requiring) the imposition of a more stringent

ly, new sources may in some cases be subject to limitations more stringent than EPA's standards of performance

3. Section 60.192 is amended by revising paragraph (a) and adding paragraph (b) to read as follows:

(d) By deleting the word "tons" in redesignated paragraph (g)(3) and inserting in its place "Mg;"

dures and to improve the reliability of the test method.

The principal amendments would be as follows: (1) More detailed anemometer specifications and calibration procedures would be delineated; (2) a performance check of each anemometer and each recorder (or counter) would be required following each test series (i.e., following each series of test runs as required for a performance test under 40 CFR 60.8(f)); (3) data adjustment procedures would be included for anemometers and recorders (or counters) that fail the performance check; (4) to be consistent with the new definition of "potroom group" more specific guidelines would be included for both the location of the sampling manifold and the number and location of the propeller anemometers; (5) for convenience, each Method 14 test run could be divided into "sub-runs"; (6) the use of a separate Method 13 train for each sub-run would be allowed, provided that the sampling nozzle size for all trains is the same; (7) a procedure would be included for calculating the fluoride concentration when more than one sampling train is used; (8) the tester would be allowed greater freedom as to the method by which velocity estimates are made for setting isokinetic flow; (9) the limits of acceptable isokinetic results would be more clearly defined, and a data adjustment procedure would be included for cases where the results are outside these limits; (10) the number and location of points for the Method 13 sampling runs would be determined according to the revised Method 1; (11) the use of a Type S pitot tube for making manifold intake nozzle adjustments would be disallowed; (12) the use of a differential pressure gauge conforming to the specifications of the revised Method 2 would be required for manifold intake nozzle velocity measurements; and (13) calibration of the thermocouple would be required after each test series, using the procedure outlined in the revised Method 2.

Due to the complexity of the amendments, the entire test method has been rewritten and is presented in revised form.

Public Hearing

A public hearing will be held to discuss the proposed standards in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address above. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to Mr. Jack R. Farmer at the address above.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (address same as above).

Miscellaneous

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this rulemaking. The principal purposes of the docket are (1) to allow members of the public and industries involved to identify and participate in the rulemaking process, and (2) to serve as the record for judicial review. The docket is required under section 307(d) of the Clean Air Act, as amended, and is available for public inspection and copying at the address above.

The proposed amendments would not alter the applicability date of Subpart S. Subpart S applies to all new primary aluminum plants for which construction or modification began after the original proposal date (October 23, 1974).

As prescribed by section 111 of the Clean Air Act, promulgation of the original standard of performance (41 FR 3826) was preceded by the Administrator's determination that primary aluminum plants contribute significantly to air pollution which causes or contributes to the endangerment of public health or welfare. In accordance with section 117 of the act, publication of the original proposed standard (39 FR 37739) was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues, and on the revised test method.

It should be noted that standards of performance for new sources established under section 111 of the Clean Air Act reflect:

> [T]he degree of emission limitation and the percentage reduction achievable through application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated (section 111(a)(1).)

Although there may be emission control technology available that can reduce emissions below those levels required to comply with standards of performance, this technology might not be selected as the basis of standards of performance due to costs associated with its use. Accordingly, standards of performance should not be viewed as the ultimate in achievable emission control. In fact, the act requires (or has potential for requiring) the imposition of a more stringent emission standard in several situations.

For example, applicable costs do not necessarily play as prominent a role in determining the "lowest achievable emission rate" for new or modified sources located in nonattainment areas, i.e., those areas where statutorily-mandated health and welfare standards are being violated. In this respect, section 173 of the act requires that a new or modified source constructed in an area which exceeds the National Ambient Air Quality Standard (NAAQS) must reduce emissions to the level which reflects the "lowest achievable emission rate" (LAER), as defined in section 171(3), for such category of source. The statute defines LAER as that rate of emissions which reflects:

> (A) The most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable or
>
> (B) The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event can the emission rate exceed any applicable new source performance standard (section 171(3).)

A similar situation may arise under the prevention of significant deterioration of air quality provisions of the act (Part C). These provisions require that certain sources (referred to in section 169(1)) employ "best available control technology" (as defined in section 169(3)) for all pollutants regulated under the act. Best available control technology (BACT) must be determined on a case-by-case basis, taking energy, environmental and economic impacts, and other costs into account. In no event may the application of BACT result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard established pursuant to section 111 (or 112) of the act.

In all events, State implementation plans (SIP's) approved or promulgated under section 110 of the act must provide for the attainment and maintenance of National Ambient Air Quality Standards designed to protect public health and welfare. For this purpose, SIP's must in some cases require greater emission reductions than those required by standards of performance for new sources.

Finally, States are free under section 116 of the act to establish even more stringent emission limits than those established under section 111 or those necessary to attain or maintain the NAAQS under section 110. Accordingly, new sources may in some cases be subject to limitations more stringent than EPA's standards of performance under section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

The major costs incurred by the proposed amendments are associated with the periodic emission testing requirement. EPA believes that these costs are reasonable and would have a negligible impact on: (1) Potential inflationary or recessionary effects; (2) competition with respect to small business; (3) consumer costs; and (4) energy use. The Administrator has determined that the proposed amendments are not "substantial" and do not require preparation of an Economic Impact Assessment.

Dated: September 8, 1978.

DOUGLAS M. COSTLE,
Administrator.

It is proposed to amend Part 60 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart A—General Provisions

1. Section 60.8 is amended by revising paragraph (d) to read as follows:

§ 60.8 Performance tests.

* * * * * *

(d) The owner or operator of an affected facility shall provide the Administrator 30 days prior notice of any performance test, except as specified under other subparts, to afford the Administrator the opportunity to have observers present.

* * * * * *

Subpart S—Standards of Performance for Primary Aluminum Plants

2. Section 60.191 is amended by deleting paragraph (i) and by revising paragraphs (d) and (f) as follows:

§ 60.191 Definitions.

* * * * * *

(d) "Potroom group" means an uncontrolled potroom, a potroom which is controlled individually, or a group of potrooms or potroom segments ducted to a common control system.

* * * * * *

(f) "Aluminum equivalent" means an amount of aluminum which can be produced from a Mg of anodes produced by an anode bake plant as determined by § 60.195(g).

* * * * * *

3. Section 60.192 is amended by revising paragraph (a) and adding paragraph (b) to read as follows:

§ 60.192 Standards for fluorides.

(a) On and after the date on which the initial performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected facility any gases containing total fluorides, as measured according to § 60.8, above:

(1) 1.0 kg/Mg (2.0 lb/ton) of aluminum produced for potroom groups at Soderberg plants; except that emissions between 1.0 kg/Mg and 1.25 kg/Mg (2.5 lb/ton) will be considered in compliance if the owner or operator demonstrates that exemplary operation and maintenance procedures were used with respect to the emission control system and that proper control equipment was operating at the affected facility during the performance test;

(2) 0.95 kg/Mg (1.9 lb/ton) of aluminum produced for potroom groups at prebake plants; except that emissions between 0.95 kg/Mg and 1.25 kg/Mg (2.5 lb/ton) will be considered in compliance if the owner or operator demonstrates that exemplary operation and maintenance procedures were used with respect to the emission control system and that proper control equipment was operating at the affected facility during the performance test; and

(3) 0.05 kg/Mg (0.1 lb/ton) of aluminum equivalent for anode bake plants.

(b) Within 15 days of receipt of the results of a performance test which fall between the 1.0 kg/Mg and 1.25 kg/Mg levels in paragraph (a)(1) of this section or between the 0.95 kg/Mg and 1.25 kg/Mg levels in paragraph (a)(2) of this section, the owner or operator shall submit a report indicating whether all necessary control devices were on-line and operating properly during the performance test, describing the operation and maintenance procedures followed, and setting forth any explanation for the excess emissions, to the Director of the Enforcement Division of the appropriate EPA Regional Office.

4. Section 60.195 is amended as follows:

(a) By redesignating paragraphs (a) through (g) as (c) through (i) respectively;

(b) By deleting in redesignated paragraphs (g)(1), (h), and (i) the words "metric ton" wherever they appear and inserting in their place "Mg;"

(c) By deleting "(a)" in redesignated paragraph (e) and inserting in its place "(c);"

(d) By deleting the word "tons" in redesignated paragraph (g)(3) and inserting in its place "Mg;"

(e) By deleting "§ 60.195(d)" in redesignated paragraph (h) and inserting in its place "§ 60.195(f);"

(f) Be deleting "§ 60.195(e)" in redesignated paragraph (i) and inserting in its place "§ 60.195(g);"

(g) By adding new paragraphs (a) and (b), and by revising redesignated paragraph (f) as follows:

§ 60.195 Test methods and procedures.

(a) Following the initial performance test as required under §60.8(a), an owner or operator shall conduct a performance test at least once each month during the life of the affected facility, except when malfunction prevent representative sampling, as provided under § 60.8(c). The owner or operator shall give the Administrator at least 7 days advance notice of each test. The Administrator may require additional testing under section 114 of the Clean Air Act.

(b) An owner or operator may petition the Administrator to establish an alternative testing requirement that requires testing less frequently than once each month for a primary control system or an anode bake plant. If the owner or operator shows that emissions from the primary control system or the anode bake plant have low variability during day-to-day operations, the Administrator may establish such an alternative testing requirement. The alternative testing requirement shall include a testing schedule and, in the case of a primary control system, the method to be used to determine primary control system emissions for the purpose of performance tests. The Administrator shall publish the alternative testing requirement in the FEDERAL REGISTER.

* * * * * *

(f) The rate of aluminum production is determined by dividing 720 hours into the weight of aluminum tapped from the affected facility during a period of 30 days prior to and including the final run of a performance test.

* * * * * *

(Sec. 111, 114, 301(a) of the Clean Air Act as amended (42 U.S.C. 7411, 7414, 7601(a)).)

Appendix A—Reference Methods

5. Method 14 is revised to read as follows:

14—Determination of Fluoride Emissions From Potroom Roof Monitors of Primary Aluminum Plants

1. *Principle and applicability.*

1.1 *Principle*—Gaseous and particulate fluoride roof monitor emissions are drawn into a permanent sampling manifold

through several large nozzles. The sample is transported from the sampling manifold to ground level through a duct. The gas in the

above) between output signal and shaft rpm; also, each anemometer must be equipped with a suitable readout system.

For the purpose of recording velocity, "continuous" shall mean one readout per 15-minute or shorter time interval. A constant

through several large nozzles. The sample is transported from the sampling manifold to ground level through a duct. The gas in the duct is sampled using Method 13A or 13B—Determination of Total Fluoride Emissions from Stationary Sources. Effluent velocity and volumetric flow rate are determined with anemometers permanently located in the roof monitor.

1.2 *Applicability*—This method is applicable for the determination of fluoride emissions from stationary sources only when specified by the test procedures for determining compliance with new source performance standards.

2. *Apparatus.*

2.1 *Velocity measurement apparatus.*

2.1.1 *Anemometers*—Propeller anemometers, or equivalent. Each anemometer shall meet the following specifications: (1) Its propeller shall be made of polystyrene, or similar material of uniform density. To insure uniformity of performance among propellers, it is desirable that all propellers be made from the same mold; (2) the propeller shall be properly balanced, to optimize performance; (3) when the anemometer is mounted horizontally, its threshold velocity shall not exceed 15 m/min (50 fpm); (4) the measurement range of the anemometer shall extend to at least 600 m/min (2,000 fpm); (5) the anemometer shall be able to withstand prolonged exposure to dusty and corrosive environments; one way of achieving this is to continuously purge the bearings of the anemometer with filtered air during operation; (6) all anemometer components shall be properly shielded or encased, such that the performance of the anemometer is uninfluenced by potroom magnetic field effects; (7) a known relationship shall exist between the electrical output signal from the anemometer generator and the propeller shaft rpm, at minimum of three rpm settings between 60 and 1800 rpm; note that one of the three rpm settings shall be within 25 percent of 60 rpm. Anemometers having other types of output signals (e.g., optical) may be used, subject to the appoval of the Administrator. If other types of anemometers are used, there must still be a known relationship (as described above) between output signal and shaft rpm; also, each anemometer must be equipped with a suitable readout system.

2.1.2 *Installation of anemometers*—2.1.2.1 If the affected facility consists of a single, isolated potroom (or potroom segment), install at least one anemometer for every 85 meters of roof monitor length. If the length of the roof monitor divided by 85 meters is not a whole number, round the fraction to the nearest whole number to determine the number of anemometers needed. For monitors that are less than 130 m in length, use at least two anemometers. Divide the monitor cross-section into as many equal areas as anemometers and locate an anemometer at the centroid of each equal area.

2.1.2.2 If the affected facility consists of two or more potrooms (or potroom segments) ducted to a common control device, install anemometers in each potroom (or segment) that contains a sampling manifold. Install at least one anemometer for every 85 meters of roof monitor length of the potroom (or segment). If the potroom (or segment) length divided by 85 is not a whole number, round the fraction to the nearest whole number to determine the number of anemometers needed. If the potroom (or segment) length is less than 130 m, use at least two anemometers. Divide the potroom (or segment) monitor cross-section into as many equal areas as anemometers and locate an anemometer at the centroid of each equal area.

2.1.2.3 At least one anemometer shall be installed in the immediate vicinity (i.e., within 10 m) of the center of the manifold (see § 2.2.1). Make a velocity traverse of the width of the roof monitor where an anemometer is to be placed. This traverse may be made with any suitable low velocity measuring device, and shall be made during normal process operating conditions. Install the anemometer at a point of average velocity along this traverse.

2.1.3 *Recorders*—Recorders, equipped with suitable auxiliary equipment (e.g. transducers) for converting the output signal from each anemometer to a continuous recording of air flow velocity, or to an integrated measure of volumetric flowrate. For the purpose of recording velocity, "continuous" shall mean one readout per 15-minute or shorter time interval. A constant amount of time shall elapse between readings. Volumetric flow rate may be determined by an electrical count of anemometer revolutions. The recorders or counters shall permit identification of the velocities or flowrate measured by each individual anemometer.

2.1.4 *Pitot tube*—Standard-type pitot tube, as described in § 2.7 of Method 2, and having a coefficient of 0.99 ± 0.01.

2.1.5 *Pitot tube (optional)*—Isolated, Type S pitot tube, as described in § 2.1 of Method 2. The pitot tube shall have a known coefficient, determined as outlined in § 4.1 of Method 2.

2.1.6 *Differential pressure gauge.*—Inclined manometer or equivalent, as described in § 2.2 of Method 2.

2.2 *Roof monitor air sampling system.*

2.2.1 *Sampling ductwork*—A minimum of one manifold system shall be installed for each 'potroom group' (as defined in Subpart S, § 60.191). The manifold system and connecting duct shall be permanently installed to draw an air sample from the roof monitor to ground level. A typical installation of duct for drawing a sample from a roof monitor to ground level is shown in figure 14-1. A plan of a manifold system that is located in a roof monitor is shown in figure 14-2. These drawings represent a typical installation for a generalized roof monitor. The dimensions on these figures may be altered slightly to make the manifold system fit into a particular roof monitor, but the general configuration shall be followed. There shall be eight nozzles, each having a diameter of 0.40 to 0.50 meters. Unless otherwise specified by the Administrator, the length of the manifold system from the first nozzle to the eighth shall be 35 meters or eight percent of the length of the potroom (or potroom segment) roof monitor, whichever is greater. The duct leading from the roof monitor manifold shall be round with a diameter of 0.30 to 0.40 meters. As shown in figure 14-2, each of the sample legs of the manifold shall have a device, such as a blast gate or valve, to enable adjustment of flow into each sample nozzle.

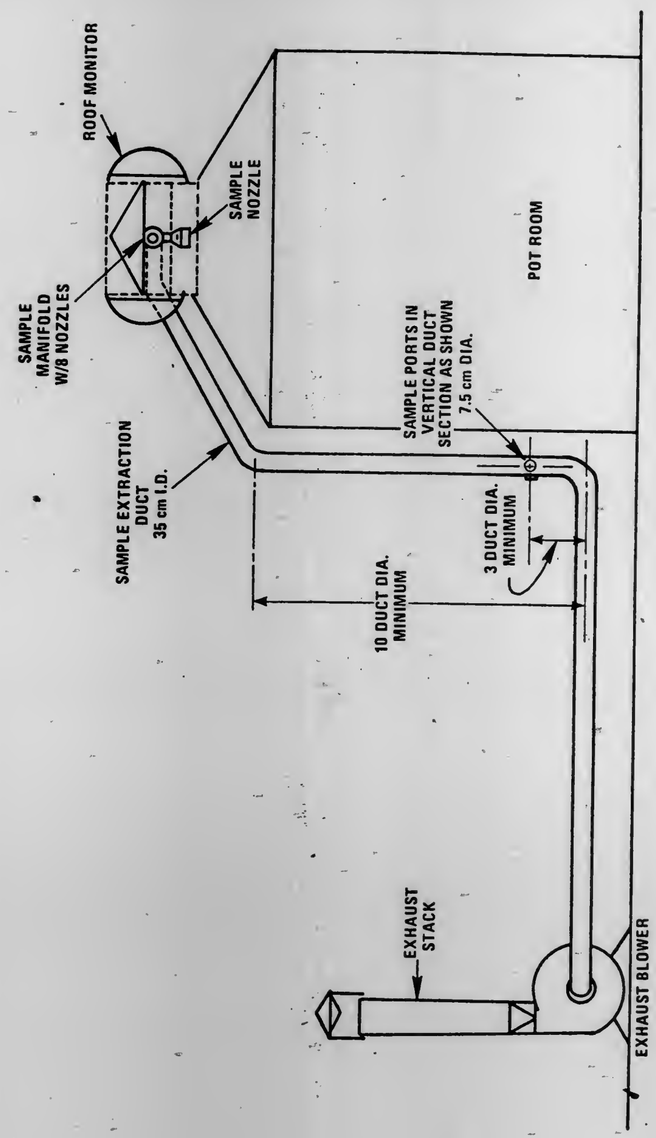

Figure 14-1. Roof monitor sampling system.

The manifold shall be located in the immediate vicinity of one of the propeller anemometers (see § 2.1.2.3) and as close as possible to the midsection of the potroom (or potroom segment). Avoid locating the manifold system in the direct path of any roof openings. Design the manifold system so that the sample is withdrawn isokinetically from the roof monitor. Design the sampling probe and its placement in the roof monitor so that the sample is withdrawn from a point that is representative of the average velocity in the roof monitor. Design the manifold system so that the static pressure in the manifold is sufficiently high to prevent water vapor condensation and to minimize particulate deposition within the manifold system. Design the manifold system so that the velocity of the gas entering the sampling nozzles is sufficiently high to minimize particulate deposition within the nozzles. Design the manifold system so that it has a minimum number of bends and so that sharp bends and abrupt changes in duct cross-section are avoided. Figure 14-2 shows a manifold system which has been found to be satisfactory for most roof monitors.

2.3 *Temperature measurement apparatus.*

2.3.1 *Temperature sensor*—Thermocouple, or equivalent, to measure the temperature of the gas stream within ± 1.5 percent of the minimum absolute temperature measured. Install the temperature sensor at the exit end of the duct, shielded and positioned to avoid radiation effects. Alternatively, the temperature sensor may be installed at the inlet to the exhaust blower.

2.3.2 *Signal Transducer*—Transducer, to change the thermocouple voltage output to a temperature readout.

2.3.3 *Temperature Readout*—Potentiometer, or equivalent, with an accuracy of ± 1.5 percent of the minimum absolute temperature measured.

2.4 *Volumetric flow rate calculation.* Calculate the volumetric flow rate using the specifications outlined in § 2.3 of Method 2.

2.3.2 *Signal Transducer*—Transducer, to change the thermocouple voltage output to a temperature readout.

2.3.3 *Temperature Readout*—Potentiometer, or equivalent, with an accuracy of ± 1.5 percent of the minimum absolute temperature measured.

2.4 *Volumetric flow rate calculation.* Calculate the volumetric flow rate using the specifications outlined in § 2.3 of Method 2.

3. *Reagents.* None required.

4. *Procedure.*

4.1 *Velocity measurement.* Measure the velocity of the gas stream in the roof monitor with the anemometers installed as specified in § 2.1.2. Record the velocity measurements at least once every 15 minutes. Alternatively, record the number of revolutions of each anemometer for each 15-minute period. Record the temperature of the gas stream at least once every hour.

4.2 *Volumetric flow rate calculation.* Calculate the volumetric flow rate using the method outlined in § 4.3 of Method 2.

5. *Calibration.* Maintain a record of the calibration of each anemometer and temperature sensor, and the method of calibration.

6. *Reserved.*

7. *Reserved.*

8. *Reserved.*

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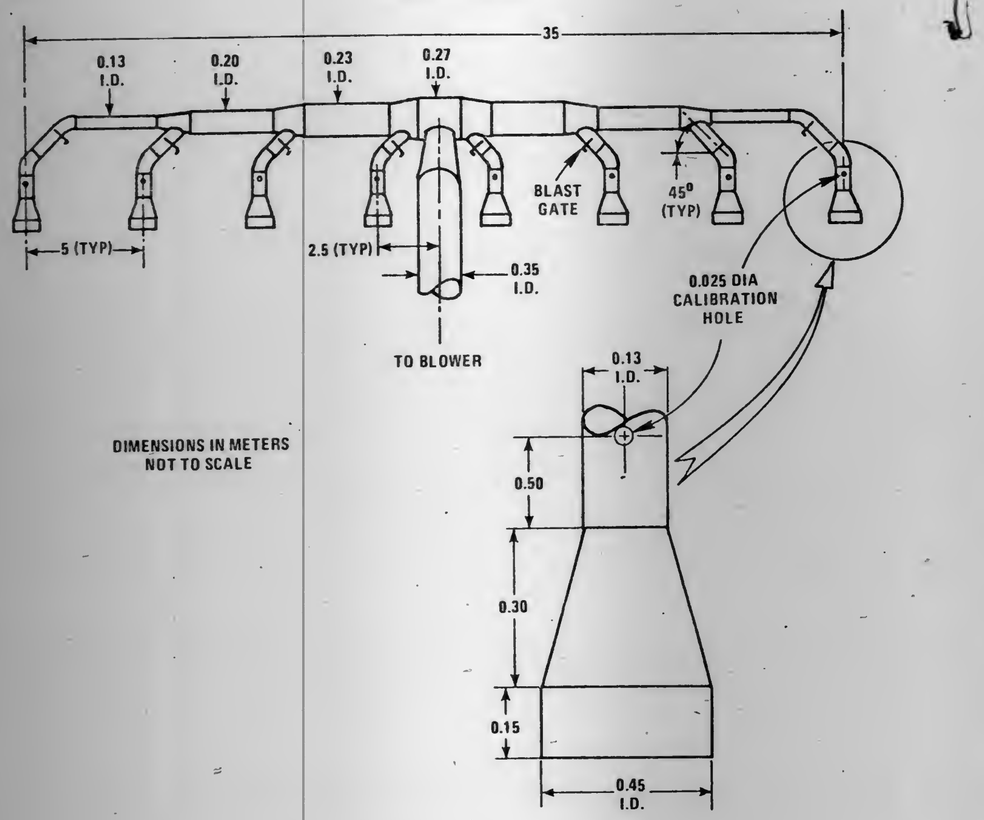

Figure 14-2. Sampling manifold and nozzles.

The manifold shall be located in the immediate vicinity of one of the propeller anemometers (see § 2.1.2.3) and as close as possible to the midsection of the potroom (or potroom segment). Avoid locating the manifold near the end of a potroom or in a section where the aluminum reduction pot arrangement is not typical of the rest of the potroom (or potroom segment). Center the sample nozzles in the throat of the roof monitor (see fig. 14-1). Construct all sample-exposed surfaces within the nozzles, manifold and sample duct of 316 stainless steel. Aluminum may be used if a new ductwork system is conditioned with fluoride-laden roof monitor air for a period of six weeks prior to initial testing. Other materials of construction may be used if it is demonstrated through comparative testing that there is no loss of fluorides in the system. All connections in the ductwork shall be leak free.

Locate two sample ports in a vertical section of the duct between the roof monitor and exhaust fan. The sample ports shall be at least 10 duct diameters downstream and three diameters upstream from any flow disturbance such as a bend or contraction. The two sample ports shall be situated 90° apart. One of the sample ports shall be situated so that the duct can be traversed in the plane of the nearest upstream duct bend.

2.2.2 *Exhaust fan*—An industrial fan or blower shall be attached to the sample duct at ground level (see fig. 14-1). This exhaust fan shall have a capacity such that a large enough volume of air can be pulled through the ductwork to maintain an isokinetic sampling rate in all the sample nozzles for all flow rates normally encountered in the roof monitor.

The exhaust fan volumetric flow rate shall be adjustable so that the roof monitor air can be drawn isokinetically into the sample nozzles. This control of flow may be achieved by a damper on the inlet to the exhauster or by any other workable method.

2.3 *Temperature measurement apparatus.* 2.3.1 *Thermocouple*—Install a thermocouple in the roof monitor near the sample duct. The thermocouple shall conform to the specifications outlined in § 2.3 of Method 2.

2.3.2 *Signal Transducer*—Transducer, to change the thermocouple voltage output to a temperature readout.

2.3.3 *Thermocouple Wire*—To reach from roof monitor to signal transducer and recorder.

2.3.4 *Recorder*—Suitable recorder to monitor the output from the thermocouple signal transducer.

2.4 *Sampling train*—Use the train described in Methods 13A and 13B.

3. *Reagents.*

3.1 *Sampling and analysis.* Use reagents described in Method 13A or 13B.

4. *Calibration.*

4.1 *Propeller anemometers.* 4.1.1 *Initial calibration*—Anemometers which meet the specifications outlined in § 2.1.1 need not be calibrated, provided that a reliable performance curve relating anemometer signal output to air velocity (covering the velocity range of interest) is available from the manufacturer. For the purposes of this method, a "reliable" performance curve is defined as one that has been derived from primary standard calibration data, with the anemometer mounted vertically. "Primary standard" data are obtainable by: (1) Direct calibration of one or more of the anemometers by the National Bureau of Standards (NBS); (2) NBS-traceable calibration; or (3) Calibration by direct measurement of fundamental parameters such as length and time (e.g., by moving the anemometers through still air at measured rates of speed, and recording the output signals). If a reliable performance curve is not available from the manufacturer, such a curve shall be generated, using one of the three methods described immediately above.

4.1.2 *Recalibration*—Extended field use of propeller anemometers can cause deterioration of some of the anemometer components, thus affecting performance. Therefore, a performance-check of each anemometer shall be made before (optional) and after (mandatory) each test series. The performance-check shall be done as outlined in § 4.1.2.1 through 4.1.2.3, below. Alternatively, the tester may use any other suitable method, subject to the approval of the Administrator, that takes into account the signal output, propeller condition and threshold velocity of the anemometer.

4.1.2.1 Check the signal output of the anemometer by using an accurate rpm generator (see fig. 14-3) or synchronous motors to spin the propeller shaft at each of the three rpm settings described in § 2.1.1 above (specification No. 7), and measuring the output signal at each setting. If, at each setting, the output signal is within ±5 percent of its original value, the anemometer can continue to be used. If the anemometer performance is unsatisfactory, the anemometer shall either be replaced or repaired.

4.1.2.2 Check the propeller condition, by visually inspecting the propeller, making note of any significant damage or warpage; damaged or deformed propellers shall be replaced.

4.1.2.3 Check the anemometer threshold velocity as follows: With the anemometer mounted as shown in figure 14-4(A), fasten a known weight (a straight-pin will suffice) to the anemometer propeller, at a fixed distance from the center of the propeller shaft. This will generate a known torque; for example, a 0.1 g weight, placed 10 cm from the center of the shaft, will generate a torque of 1.0 g-cm. If the known torque causes the propeller to rotate downward, approximately 90° (see fig. 14-4(B)), then the known torque is greater than or equal to the starting torque; if the propeller fails to rotate approximately 90°, the known torque is less than the starting torque. By trying different combinations of weight and distance, the starting torque of a particular anemometer can be satisfactorily estimated. Once an estimate of the starting torque has been obtained, the threshold velocity of the anemometer (for horizontal mounting) can be estimated from a graph such as figure 14-5. If the horizontal threshold velocity is acceptable [<16.7m/min (55 fpm), when this technique is used], the anemometer can continue to be used. If the threshold velocity of an anemometer is found to be unacceptably high, the anemometer shall either be replaced or repaired.

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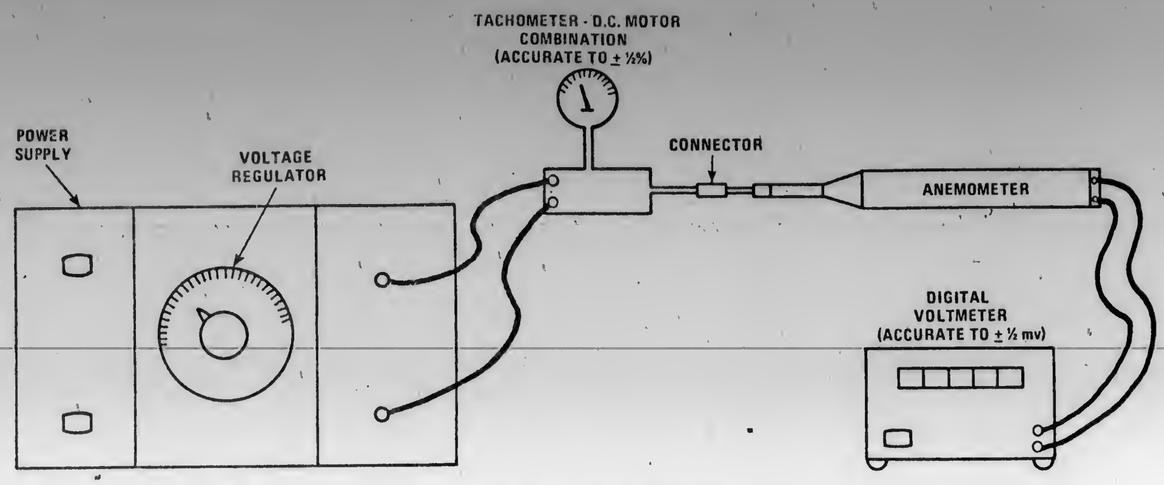

Figure 14-3. Typical RPM generator.

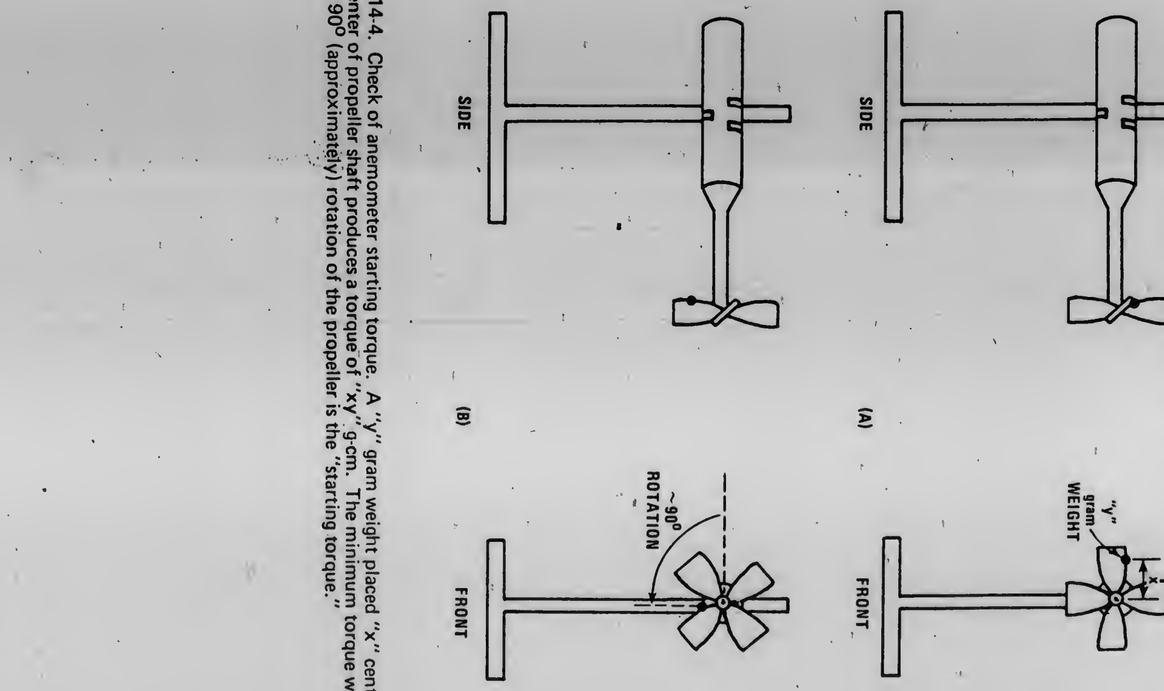

Figure 14-4. Check of anemometer starting torque. A "y" gram weight placed "x" centimeters from center of propeller shaft produces a torque of "xy" g-cm. The minimum torque which produces a 90° (approximately) rotation of the propeller is the "starting torque."

4.1.2.4 If an anemometer fails the post-test performance-check (i.e., if repair or replacement of any anemometer components is necessary), proceed as follows: (1) Calibrate the anemometer as received (i.e., before repair or replacement), (2) repair or replace components as necessary, (3) calibrate the repaired anemometer, and (4) report both sets of calibration data. If the anemometer, as received, is found to be out of calibration, by an average amount greater than 5 percent for the three calibration points, proceed as follows: (1) Based on the results of the post-test calibration, adjust the data from the test runs in accordance with the anemometer manufacturer's instructions, or (2) void the test runs. If adjustment is selected, the corrected data shall be used to calculate the particulate emission rate. If the anemometer, as received, is found to be out of calibration by an average amount greater than 10 percent for the three calibration points, void the test runs.

4.1.2.5 Isokinetic Nest. Verify that the correct average stream velocity has been achieved, by performing a pitot tube traverse of the sample duct isokinetically into the manifold nozzles.

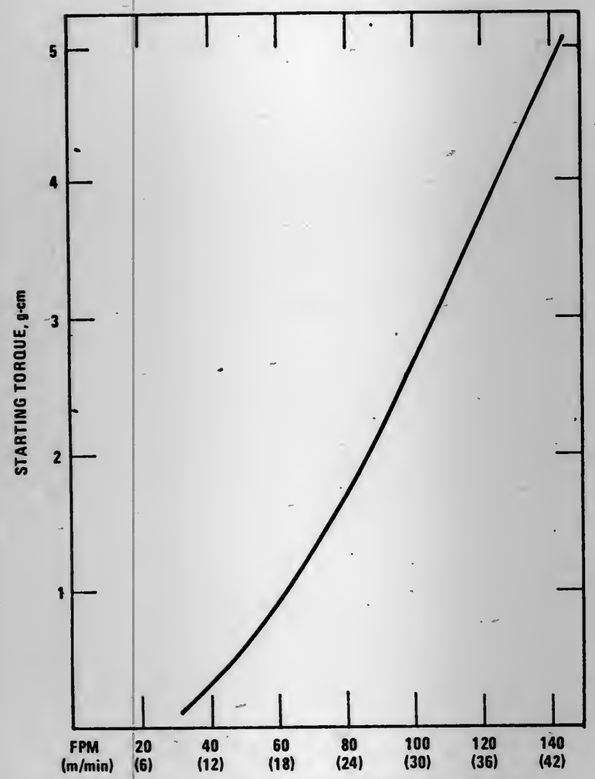

Figure 14-5. Typical curve of starting torque vs horizontal threshold velocity for propeller anemometers. Based on data obtained by R.M. Young Company, May, 1977.

4.1.2.4 If an anemometer fails the post-test performance-check (i.e., if repair or replacement of any anemometer components is necessary), proceed as follows: (1) Calibrate the anemometer (before repairing it), using one of the three methods described in section 4.1.1, above. Alternatively, the anemometer may be calibrated against another propeller anemometer that meets the specifications of section 2.1.1 (a detailed procedure is described in Citation 1 of section 7); (2) referring to the calibration curve obtained in step (1), recalculate (for each run) the average velocity (v) for the anemometer, using the data print-out obtained during the test series; (3) Compare each recalculated value of v against the reported value. If the recalculated value of v is less than the reported value, no adjustment in the reported overall average velocity for the run shall be made. If, however, the recalculated value of v exceeds the reported value, replace the reported value of v with the recalculated value, and then recompute the overall average velocity (and total flowrate).

NOTE.—If the anemometer located in the section of the roof monitor containing the sampling manifold fails the performance check, additional emission rate adjustments may be necessary (see section 6.1).

4.2 *Manifold Intake Nozzles.*—Adjust the exhaust fan to draw a volumetric flow rate (refer to equation 14-1) such that the entrance velocity into each manifold nozzle approximates the average effluent velocity in the roof monitor. Measure the velocity of the air entering each nozzle by inserting a standard pitot tube into a 2.5 cm or less diameter hole (see fig. 14-2) located in the manifold between each blast gate (or valve) and nozzle. Note that a standard pitot tube is used, rather than a type S, to eliminate possible velocity measurement errors due to cross-section blockage in the small (0.13 m diameter) manifold leg ducts. The pitot tube tip shall be positioned at the center of each manifold leg duct. Take care to insure that there is no leakage around the pitot tube, which could affect the indicated velocity in the manoifold leg. If the velocity of air being drawn into each nozzle is not the same, open or close each blast gate (or valve) until the velocity in each nozzle is the same. Fasten each blast gate (or valve) so that it will remain in this position and close the pitot port holes. This calibration shall be performed when the manifold system is installed.

NOTE.—It is recommended that this calibration be repeated at least once a year.

4.3 *Thermocouple.*—After each test series, the thermocouple shall be calibrated, using the procedures outlined in section 4.3 of method 2.

4.4 *Recorders and/or Counters.*—After each test series, check the calibration of each recorder and/or counter that was used (see section 2.1.3). Check the recorder or counter calibration at a minimum of three points, approximately spanning the range of velocities observed during the test series, use the calibration procedures recommended by the manufacturer, or other suitable procedures (subject to the approval of the Administrator). If a recorder or counter is found to be out of calibration, by an average amount greater than 5 percent for the three calibration points, proceed as follows: (1) Based on the results of the post-test calibration check, recalculate (for each run) the average velocity (v) for the anemometer that was connected to the recorder during the test series. If a particular recalculated value of v is less than the reported value, no adjustment in the reported overall average velocity for the run shall be made. If, however, the recalculated value of v is greater than the reported value, replace the reported value of v with the recalculated value, and recompute the overall average velocity (and total flowrate).

NOTE.—If the malfunctioning recorder or counter was connected to the anemometer in the section of the roof monitor containing the sampling manifold, additional emission rate adjustments may be necessary (see § 6.1).

5. *Procedure.*

5.1 *Roof Monitor Velocity Determination.* 5.1.1 *Velocity estimate(s) for setting isokinetic flow*—To assist in setting the flow in the manifold sample nozzles to isokinetic, the anticipated average velocity in the section of the roof monitor containing the sampling manifold shall be estimated prior to each test run. The tester may use any convenient means to make this estimate (e.g., the velocity indicated by the anemometer in the section of the roof monitor containing the sampling manifold may be continuously monitored during the 24-hour period prior to the test run.

If there is question as to whether a single estimate of average velocity is adequate for an entire test run (e.g., if velocities are anticipated to be significantly different during different potroom operations), the tester may opt to divide the test run into two or more "sub-runs," and to use a different estimated average velocity for each sub-run (see § 5.3.2.2).

5.1.2 *Velocity determination during a test run.*—During the actual test run, record the velocity or volumetric flowrate readings of each propeller anemometer in the roof monitor. readings shall be taken for each anmometer every 15 minutes or at shorter equal time intervals (or continuously).

5.2 *Temperature recording.* Record the temperature of the roof monitor every 2 hours during the test run.

5.3 *Sampling.* 5.3.1 *Preliminary air flow in duct.*—During the 24 hours preceding the test, turn on the exhaust fan and draw roof monitor air through the manifold duct to condition the ductwork. Adjust the fan to draw a volumetric flow through the duct such that the velocity of gas entering the manifold nozzles approximates the average velocity of the air exiting the roof monitor in the vicinity of the sampling manifold.

5.3.2 *Isokinetic sample rate adjustment(s)*—5.3.2.1 *Initial adjustment.*—Prior to the test run (or first sub-run, if applicable; see §§ 5.1.1 and 5.3.2.2), adjust the fan to provide the necessary volumetric flowrate in the sampling duct, so that air enters the manifold sample nozzles at a velocity equal to the appropriate estimated average velocity determined under § 5.1.1, Equation 14-1 gives the correct stream velocity needed in the duct at the sampling location, in order for sample gas to be drawn isokinetically into the manifold nozzles. Nest, verify that the correct average stream velocity has been achieved, by performing a pitot tube traverse of the sample duct (using either a standard or type S pitot tube); use the procedure outlined in method 2.

$$V_d = \frac{\pi (D_n)^2}{(D_d)^2} (V_m) \frac{1 \text{ minute}}{60 \text{ sec}} \quad \text{(Equation 14-1)}$$

Where:

V_d = Desired velocity in duct at sampling location, meters/sec.

D_n = Diameter of a roof monitor manifold nozzle, meters.

D_d = Diameter of duct at sampling location, meters.

V_m = Average velocity of the air stream in the roof monitor, meters/minute, as determined under § 5.1.1.

5.3.2.2 *Adjustments during run.*—If the test run is divided into two or more "sub-runs" (see § 5.1.1), additional isokinetic rate adjustment(s) may become necessary during the run. Any such adjustment shall be made just before the start of a sub-run, using the procedure outlined in § 5.3.2.1 above.

NOTE.—Isokinetic rate adjustments are not permissible during a sub-run.

5.3.3 *Sample train operation.*—Sample the duct using the standard fluoride train and methods described in methods 13A and 13B. Determine the number and location of the sampling points in accordance with method 1. A single train shall be used for the entire sampling run. Alternatively, if two or more sub-runs are performed, a separate train may be used for each sub-run; note, however, that is this option is chosen, the area of the sampling nozzle shall be the same (±2 percent) for each train. If the test run is divided into sub-runs, a complete traverse of the duct shall be performed during each sub-run.

5.3.4 *Time per run.*—Each test run shall last 8 hours or more; if more than one run is to be performed, all runs shall be of approximately the same (±10 percent) length. If question exists as to the representativeness of an 8-hour test, a longer period may be selected. Conduct each run during a period when all normal operations are performed underneath the sampling manifold. During the test period, all pots in the potroom group shall be operated such that emissions are representative of normal operating conditions in the potroom group.

5.3.5 *Sample recovery.*—Use the sample recovery procedures described in method 13A or 13B.

5.4 *Analysis.*—Use the analysis procedures described in method 13A or 13B.

6. *Calculations.*

6.1 *Isokinctic sampling check.* 6.1.1 Calculate the mean velocity (V_m) for the sampling run, as measured by the anemometer in the section of the roof monitor containing the sampling manifold. If two or more sub-runs have been performed, the tester may opt to calculate the mean velocity for each sub-run.

6.1.2 Using equation 14-1, calculate the expected average velocity (V_d) in the sam-

pling duct, corresponding to each value of V_m obtained under § 6.1.1.

6.1.3 Calculate the actual average velocity in the sampling duct for each run or sub-run, using the data obtained under § 5.1.1.

sampling train was used throughout the run, calculate the average fluoride concentration for the roof monitor using equation 13A-5 of method 13A.

where:

Q_m = Average volumetric flow from roof monitor at standard conditions on a dry

TUESDAY, SEPTEMBER 19, 1978
PART VII

V 43 / 182 SE 19 78

pling duct, corresponding to each value of V_m obtained under § 6.1.1.

6.1.3 Calculate the actual average velocity (v_s) in the sampling duct for each run or sub-run, according to equation 2-9 of method 2, and using data obtained from method 13.

6.1.4 Express each value of v_s from § 6.1.3 as a percentage of the corresponding V_d value from § 6.1.2.

6.1.4.1 If v_s is less than or equal to 120 percent of V_d, the results are acceptable (note that in cases where the above calculations have been performed for each sub-run, the results are acceptable if the average percentage for all sub-runs is less than or equal to 120 percent)

6.1.4.2 If v_s is more than 120 percent of V_d, multiply the reported emission rate by the following factor:

$$\frac{100\,\frac{v_s}{V_d} - 120}{1 + \frac{v_s}{200}}$$

6.2 *Average velocity of roof monitor gases.* Calculate the average roof monitor velocity using all the velocity or volumetric flow readings from § 5.1.2.

6.3 *Roof monitor temperature.* Calculate the mean value of the temperatures recorded in § 5.2.

6.4 *Concentration of fluorides in roof monitor air (in mg F/m³).* 6.4.1 If a single sampling train was used throughout the run, calculate the average fluoride concentration for the roof monitor using equation 13A-5 of method 13A.

6.4.2 If two or more sampling trains were used (i.e., one per sub-run), calculate the average fluoride concentration for the run, as follows:

$$\overline{C}_s = \frac{\sum_{i=1}^{n} (F_t)_i}{\sum_{i=1}^{n} (V_{m(std)})_i} \qquad \text{(Equation 14-2)}$$

where:

C_s = Average fluoride concentration in roof monitor air, mg F/dscm.

$(F_t)_i$ = Total fluoride mass collected during a particular sub-run, mg F (from equation 13A-4 of method 13A or equation 13B-1 of method 13B).

$(V_{m(std)})_i$ = Total volume of sample gas passing through the dry gas meter during a particular sub-run, dscm (see equation 13A-1 of method 13A).

n = Total number of sub-runs.

6.5 Average volumetric flow from the roof monitor of the potroom(s) (or potroom segment(s)) containing the anemometers is given by equation 14-3.

$$Q_m = \frac{V_{mt}\,(A)\,(M_d)\,P_m\,(293°K)}{(T_m + 273°)\,(760\ mm\ Hg)} \qquad \text{(Equation 14-3)}$$

where:

Q_m = Average volumetric flow from roof monitor at standard conditions on a dry basis, m³/min.

A = Roof monitor open area, m².

V_{mt} = Average velocity of air in the roof monitor, meters/minute, from § 6.2.

P_m = Pressure in the roof monitor; equal to barometric pressure for this application, mm Hg.

T_m = Roof monitor temperature, °C, from § 6.3.

M_d = Mole fraction of dry gas, which is given by:

$$M_d = \frac{100 - 100(B_{ws})}{100}$$

NOTE.—B_{ws} is the proportion by volume of water vapor in the gas stream, from equation 13A-3, method 13A.

7. *Bibliography.* 1. A Simplified Procedure for Conducting Post-Test Calibration Checks of Propeller Anemometers. U.S. Environmental Protection Agency, Emission Measurement Branch, Research Triangle Park, N.C. July 1978.

2. Shigehara, R. T. A Guideline for Evaluating Compliance Test Results (Isokinetic Sampling Rate Criterion). U.S. Environmental Protection Agency, Emission Measurement Branch, Research Triangle Park, N.C. August 1977.

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federal register

TUESDAY, SEPTEMBER 19, 1978
PART VII

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

federal

ANIMAL WELFARE ACT

Proposed Standards and Regulations for the Humane Handling, Care, Treatment, and Transportation of Marine Mammals

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[3410-34]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Parts 1 and 3]

ANIMAL WELFARE ACT

Proposed Standards and Regulations for the Humane Handling, Care, Treatment, and Transportation of Marine Mammals

AGENCY: Animal and Plant Health Inspection Service (USDA).

ACTION: Proposed rule.

SUMMARY: This document proposes regulations and standards under the Animal Welfare Act which would remove warmblooded aquatic animals or marine mammals from the list of species of warmblooded animals exempted by regulation and would bring them under the jurisdiction and protection of the Animal Welfare Act. The Marine Mammal Commission has recommended that the Secretary of Agriculture adopt certain standards under the Animal Welfare Act to govern the humane handling, care, treatment, and transportation of marine mammals. Regulations and standards were first proposed and published in the FEDERAL REGISTER on August 19, 1977. Comments and recommendations were received from the public and the Marine Mammal Commission. This Department has evaluated the comments and recommendations and has decided to modify the proposal of August 19, 1977, and to republish it as a proposed amendment to the regulations and standards under the Animal Welfare Act to govern the humane handling, care, treatment, and transportation of marine mammals.

DATE: Comments on or before November 20, 1978.

ADDRESSES: Comments to Deputy Administrator, USDA, APHIS, VS, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782. Comments are available for inspection at the above address during regular hours of business (8 a.m. to 4:30 p.m. Monday through Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Dr. Dale F. Schwindaman, Senior Staff Veterinarian, Animal Care Staff, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782, telephone number 301-436-8271.

SUPPLEMENTARY INFORMATION: On August 19, 1977, the Animal and Plant Health Inspection Service (APHIS) published a proposed rulemaking under the Animal Welfare Act (42 FR 42044) which proposed standards and regulations for the humane handling, care, treatment, and transportation of marine mammals when maintained in captivity. This proposed rulemaking would amend Parts 1 and 3, Subchapter A, Chapter I, of the Code of Federal Regulations. The Animal Welfare Act, as amended (7 U.S.C. 2131 et seq.), requires the Secretary to promulgate regulations and to set standards governing the humane handling, care, treatment, and transportation of animals by dealers, research facilities, exhibitors, and operators of auction sales. Such standards must include such specific areas as (1) handling, (2) housing, (3) feeding, (4) watering, (5) sanitation, (6) ventilation, (7) transportation, (8) shelter from extremes of temperature, (9) adequate veterinary care, and (10) separation of species, to provide the animals with the minimum essentials to maintain them in a state of good health.

Following publication of the proposed rulemaking on August 19, 1977 (42 FR 42044), a 60-day period was designated for the purpose of inviting public comment. During the comment period, three informal public hearings were held at different locations within the United States to provide the public the opportunity to voice its opinion regarding the proposed rulemaking. A notice regarding two of these meetings was announced in the FEDERAL REGISTER on September 13, 1977 (42 FR 45934). The first meeting was held on September 26, 1977, in Los Angeles, Calif., and the second in Miami Springs, Fla. on September 29, 1977. A third meeting was announced in the FEDERAL REGISTER on October 4, 1977 (42 FR 53968). It was held in College Park, Md., on October 18, 1977. The proceedings of all three meetings were recorded, and all the discussions and comments are a matter of public record. Written comments were also received during the comment period and are on file and available to the public.

At the end of the comment period there were 49 letters and written statements received with regard to the proposed rulemaking. In summary, the comments from the private sector of the public, including individuals who apparently do not have any direct interest in marine mammals consist of the following: One was opposed to APHIS' proposals as being much too lenient; there were 14 which generally agreed with the proposals and suggested that a few areas be strengthened, and there was one which agreed but indicated that extensive changes should be made. Comments from the various animal welfare groups consisted of one which was opposed to all the proposed standards as being too mild, and four which agreed with the standards as written. Most comments came from the industry such as zoos, circuses, universities, research facilities, and others who will be primarily affected by the new requirements. None of these agreed with the proposal as written. There were two which opposed any form of regulation over marine mammals. Fourteen agreed with the basic concept of the proposal but strongly urged modifications. The Marine Mammal Commission supported the basic concept of the proposal but noted that the provisions of the proposed regulations were not consistent with those it had recommended to the Department in 1975. It recommended that the Department modify the provisions to make them consistent with its recommendations. In order to more fully discuss such recommendations, the representatives of the Commission requested a meeting with the Department prior to publication of this proposal. Such a meeting was held on July 20 and 21, 1978, in Departmental offices of USDA.

The various comments that were received with regard to the proposed rulemaking and the recommendations of the Marine Mammal Commission were evaluated by this Department, and it was determined that several areas needed extensive revision. Therefore, the Department has decided to redraft the original proposal and to republish the regulations and standards as a proposed rulemaking.

Notice is hereby given in accordance with the administrative provisions in 5 U.S.C. 553, that, pursuant to the provisions of the Animal Welfare Act (7 U.S.C. 2131 et seq.), the Department of Agriculture is proposing (1) to amend the regulations under the Act (9 CFR 1.1) to revise the definition of "animal" to include marine mammals, to add the term "pool" to the definition of "primary enclosure", and to define the term "minimum horizontal dimension"; and (2) to provide new standards (9 CFR 3.1 et seq.) regarding the humane handling, care, treatment, and transportation of marine mammals.

These proposed standards and regulations would apply for the humane handling, care, and treatment of all marine mammals maintained in captivity. All facilities which house marine mammals in captivity would be required to comply with the proposed standards and regulations unless they are granted written permission by the Secretary to maintain a facility which does not meet every requirement of the standards and regulations. Such

permission would only be granted upon written application and upon the submission of all the information requested by the Secretary regarding the facility seeking such permission.

It is proposed herein that facilities housing marine mammals be allowed to obtain such permission to operate under license even though they may not be in full compliance with the standards for two reasons. The first of these is that there may be existing facilities containing healthy and well kept marine mammals, which do not meet the proposed requirements in every respect. The area of marine mammal care is relatively new to the Department and some of the requirements of the standards may go substantially beyond the requirements of the Animal Welfare Act, i.e., minimum standards for the humane handling, care, and treatment of marine mammals. It would therefore be unfair for the Department to demand that such facilities immediately comply with every standard or face administrative or criminal action for failure to do so. During the time period in which deviation from the requirements would be allowed (a maximum period is 4 years from the effective date of the regulations and standards), the Department would have an opportunity to further research the various aspects of marine mammal care, and to amend the requirements when deemed appropriate. The second reason for proposing to allow permission for deviation from the standards is a purely economic and practical one. If a facility needs to make extensive structural changes to come into full compliance, it may need enough time to be able to accomplish this task since renovation or new construction could entail a great amount of money as well as time. An exemption to deviate from the standards would also be granted by the Secretary in cases where a facility wishes to experiment in the area of maintaining marine mammals in captivity.

A request for permission to operate a facility that deviates from the proposed standards, or a facility which requests a temporary exemption to experiment with basic husbandry practices of maintaining marine mammals in captivity, would not be considered a right. The Secretary could deny such requests if he determines that granting them would be harmful or detrimental to the good health and well-being of the marine mammal involved.

The standards and regulations would become effective 90 days after publication as a final rulemaking in the FEDERAL REGISTER. It is proposed herein that within that 90-day period all facilities housing marine mammals be required to apply to the Deputy Administrator of APHIS to have their marine mammal facilities inspected by Department inspectors. A facility already licensed by the Department as an exhibitor or as a research facility having marine mammal housing areas which are in compliance with the Act would need no further license. Facilities not licensed by the Department would be issued a license provided they were in compliance with all the standards and regulations.

Any facility not totally in compliance at the time of the inspection would have the opportunity to obtain permission from the Secretary to operate as a licensee under the Act. Such permission would be in writing and all existing deficiencies would be listed thereon. A timetable would be required to be submitted to the Secretary, by the applicant, for correction of such deficiencies: *Provided, however,* That any facility having such serious deficiencies that the good health and well-being of the marine mammals contained therein are in jeopardy, would be required to immediately correct such deficiencies. A maximum of 4 years from the effective date of these standards and regulations would be granted for extensive new or renovative construction to bring the facility into total compliance with the Act. A determination would have to be made by representatives of the Secretary at the time of the first inspection, as to the priorities of correcting the deficiencies.

On evaluating the comments received, there appears to be some confusion under what authority this Department is proposing these regulations and standards. There is also some question regarding the duplication of authority of other Government departments or agencies in regulating marine mammals. The authority to promulgate the regulations and to set standards for the humane handling, care, treatment, and transportation of captive marine mammals by dealers, research facilities, exhibitors, and operators of auction sales was given to the Secretary of Agriculture by the 1970 Amendments to the Animal Welfare Act (Pub. L. 91-579). Such authority was extended to cover carriers and intermediate handlers by the Animal Welfare Act Amendments of 1976 (Pub. L. 94-279). The Secretary temporarily exempted warmblooded aquatic animals or marine mammals by regulation and is now prepared to remove them from exemption.

Under provisions of the Marine Mammal Protection Act of 1972) Pub. L. 92-522), the administrative responsibility for regulating marine mammals in the wild, and those removed from the wild and held in captivity after the effective date of the Act, was given by Congress to the Departments of Commerce and the Interior. Those Departments have prescribed the regulations that apply to such animals. Such authority is exercised through a permit system whereby permits to obtain new marine mammals or replacements from the wild are issued, provided that the applicants for such permits comply with provisions of these permits with respect to the handling and care of the animals. The authority of the Department of Agriculture extends to marine mammals held in captivity regardless of when they were taken. There appears to be some overlap and duplication of effort between the two Acts, but in fact, they dovetail very nicely and each agency has its own area of responsibility. The Departments of Commerce and the Interior have indicated their interest to enter into an agreement with USDA for purposes of regulating the maintenance in captivity of marine mammals that would otherwise be subject to their jurisdiction and regulations when these proposed regulations and standards become effective.

The Marine Mammal Commission, created by the Marine Mammal Protection Act of 1972, was given the responsibility of studying and recommending to the Secretaries of Commerce and the Interior, and to other Federal officials, such steps as it deems necessary or desirable for the protection and conservation of marine mammals. It has recommended that the Secretary of Agriculture remove marine mammals from the list of species exempted by regulation from coverage under the Animal Welfare Act and adopt certain standards and regulations for their humane handling, care, treatment, and transportation. Such recommendation and supporting technical data have been used as the basis for proposing these proposed amendments to the regulations and standards under the Animal Welfare Act. Prior to obtaining this data and other information regarding marine mammals, this Department did not have sufficient information on which it could base such regulations and standards.

In developing the proposed standards, this Department relied on information and recommendations from many sources, including the Marine Mammal Commission, and also added numerous paragraphs so that the proposed standards would conform to the present standards which apply to all other warmblooded species covered by the Animal Welfare Act. This is especially true with respect to the transportation standards which are required by the 1976 Amendments to the Animal Welfare Act and which would apply to common carriers and intermediate handlers.

The proposed regulations and standards apply to several orders and many species of marine mammals which

have significant differences with respect to their biological and behavioral requirements. In all cases, the goal of the proposed regulations and stand-

This type of primary enclosure would usually consist of a natural inlet which is fenced to house marine mammals. The water in such an enclosure

Another comment regarding the original proposal consisted of a request for the deletion of part of a sentence, i.e., "to restrict the entrance of

diately around the pool in order to allow for complete drainage which would facilitate thorough cleaning. Furthermore, that proposal stated

mammals. Therefore, although no specific temperature range is required by this proposal, it is proposed herein that the air and water temperatures in

As was stated in the previous proposal, marine mammals come from a great variety of climatic conditions, from equatorial waters to the polar ice

have significant differences with respect to their biological and behavioral requirements. In all cases, the goal of the proposed regulations and standards is to provide each individual marine mammal with at least minimum acceptable conditions consistent with its good health and well-being, in reference to its physical requirements and behavioral characteristics. It should be understood, however, that the Department is still developing new information regarding the proper procedure for maintaining marine mammals in captivity and that the standards and regulations proposed herein may, in some instances, be more or less than the minimum required. As new information regarding marine mammals is acquired, the Department expects to amend the standards and regulations accordingly.

Standards relating to the humane handling, care, treatment, and transportation of animals currently covered by the Animal Welfare Act are contained in 9 CFR part 3, subparts A, B, C, D, and E. The individual subparts are oriented to similar kinds or classes of animals and have many sections which are equally applicable to the humane handling, care, and treatment of all animals. It is proposed that subpart E of the standards be redesignated as subpart F and be renumbered accordingly, and that a new subpart E be added to the standards containing the minimum standards for marine mammals.

Discussion of Comments

Comments Regarding Facilities, Health, and Husbandry

There were several comments received stating that the proposed requirement, "that the surfaces within the primary enclosure pool and the area immediately surrounding the pool should provide a nonporous, waterproof finish, free of cracks or imperfect junctures," was impossible. The Department does not intend to say that cracks and imperfect junctures would not occur, but if cracks appeared or if there were settling or upheavals, then these would be required to be repaired as part of a regular ongoing maintenance program. Furthermore, it would be expected that an effort would be made to avoid or minimize such imperfections during construction. Broken cement is unsightly and indicates neglect, as well as being a health hazard to the animals, as it is difficult if not impossible to clean properly.

With regard to primary enclosures in general, the Marine Mammal Commission pointed out that in the original proposal there were no provisions for facilities commonly found in coastal areas which house marine mammals in tidal basins, bays, and estuaries. This type of primary enclosure would usually consist of a natural inlet which is fenced to house marine mammals. The water in such an enclosure is circulated naturally by tidal action or currents.

It is the determination of this Department that this type of primary enclosure would be required to meet or exceed the proposed standards and regulations with regard to the minimum space requirements of both the pool and resting areas, depth of the water (at the lowest tide), and the applicable sanitation regulations. Very little construction is actually done in a natural primary enclosure pool other than the fence. Therefore, it is proposed herein that such pools be exempt from the surface, construction, and drainage requirements proposed herein. However, the support facilities surrounding the primary enclosure would be required to meet or exceed all the proposed standards and regulations, and the fence and the enclosure itself would be required to meet the standards with respect to protection of the marine mammals from injury.

Facilities constructed near a source of natural water, and using the water for pool water in the primary enclosure, would be required to meet or exceed all parts of the proposed standards and regulations. Water quality would be required to be monitored and the discharge of the drainage effluent would be required to meet local, State, and Federal requirements for waste disposal.

Modern day pollution of natural waterways is a real problem, and facilities utilizing natural water would have to continually monitor the water quality to assure the water used in the primary enclosure pool is not harmful or detrimental to the good health and well-being of the marine mammals housed therein.

It is proposed that the area immediately surrounding the pool, especially in primary enclosures for pinnipeds, can be any surface such as rocks, sand, dirt, etc., as long as it can be properly cleaned.

One comment stated that the proposal would require a sterile exhibit and that no provisions for any "decorations" or "furniture" were made. This was not the intent of the regulations. Rocks, logs, or any other objects would be allowed to be placed in the enclosure for decoration or for the comfort or entertainment of the marine mammals, as long as such objects could be cleaned on a daily basis along with the rest of the interior of the enclosure. These objects would not be allowed to occupy space in the enclosure which is necessary to meet the minimum resting and social activity requirements of the animals.

Another comment regarding the original proposal consisted of a request for the deletion of part of a sentence, i.e., "to restrict the entrance of other animals" (§ 3.100(a)(1)), when describing the general construction requirements for primary enclosures, because in natural enclosures that are located in tidal basins or near bays and estuaries, small fish swim in and out of the enclosures. The Department does not intend to restrict the desirable or unobjectionable animals, such as small fish, gulls, or other birds, from entering the enclosure but intends to prevent the entrance of unwanted animals. This clarification is therefore reflected in this proposal.

There were several comments that the first proposal did not allow for public feeding or for petting pools whereby the public is allowed to actually touch the captive marine mammals. The proposed regulations did not prohibit public feeding or petting pools but stated that in the event there were no effective physical barriers to keep the public from injuring the animals or the animals from injuring the public, then close or constant supervision must be maintained at all times when there would be marine mammal/public contact. This means an employee or attendant would need to be physically present to exercise such supervision at the exhibit during the contact period.

There were numerous comments that emergency backup equipment at facilities would be expensive and unnecessary to provide for the animals in case of failure of the primary source. It was not intended that both power and water sources be present at all times on the premises. The regulation as proposed would allow for portable powerplants to be brought in for emergency use. Water could be hauled in, or any method could be used to bring in water for swimming, drinking, or cleaning purposes as long as the animals were not caused to suffer because of the failure. Although the power and water failure would not present an immediate problem to the animals, it would be very difficult to maintain water quality and provide for proper cleaning if the failure lasted for an extended period. Therefore, it is proposed herein that written contingency plans be provided to the Department for approval concerning supplying power and water in the event of an emergency failure of the primary sources. The plan must be capable of being implemented before the health and well-being of the marine mammal is jeopardized.

With regard to drainage, the former proposal stated that not only must proper drainage be present at the primary enclosure pool but also at the resting and social activity areas immediately around the pool in order to allow for complete drainage which would facilitate thorough cleaning. Furthermore, that proposal stated that the area immediately around the pool be sloped or graded toward drains to prevent soiled or contaminated water from reentering the pool. It was also proposed that all water, whether splashed from the pool, rainwater, or water used for cleaning purposes, should drain away from the pool and be disposed of in a manner that complies with all applicable State, Federal, and local antipollution laws.

Several comments were received regarding these proposed requirement, some stating that there are many well-operated facilities in which all drainage slopes toward the pool, this being especially true in closed systems that continually recirculate saltwater. Most localities prohibit the discharge of saltwater into public drainage systems as a violation of the antipollution laws. Therefore, all saltwater must be recovered for recirculation. Facilities with this type of drainage must have extremely efficient filtration systems with fast turnover or recirculation rates in order to maintain proper water quality standards. After giving these factors due consideration, the Department proposes to relax the proposed drainage requirements to allow the drainage to reenter the pool provided that proper water quality can be maintained.

There were several comments received with regard to the proposed requirements for indoor housing of marine mammals. Most of the comments concerned the ambient air and water temperatures in such housing. Eleven of the comments were of the opinion that the proposed temperature ranges were unnecessary. After due consideration of the comments received, the Department has determined not to impose the temperature ranges, as previously proposed. The reason for this decision is due to the number of adverse comments received stating that certain species of marine mammals cannot tolerate the upper proposed temperature range and other species cannot tolerate the lower proposed temperature range, and that even experts in the field do not agree that an optimum temperature can be found for all marine mammals.

Since the maximum and minimum acceptable temperatures for every known species of marine mammal have not been documented by scientific research, they are not available to the Department whereby they can be incorporated into the standards and regulation for each species. Nevertheless, this Department realizes that maintaining appropriate ambient air and water temperatures is vital to the good health and well-being of marine mammals. Therefore, although no specific temperature range is required by this proposal, it is proposed herein that the air and water temperatures in indoor facilities shall be sufficiently regulated by heating or cooling to protect the marine mammals from extremes of temperature, to provide for their good health and well-being and to prevent their discomfort, in accordance with currently accepted practices as cited in appropriate professional journals or reference guides depending entirely upon the species housed therein.

Marine mammals are air breathing animals and proper ventilation is very important to assure that they are provided an adequate quantity of air of good quality.

There were two comments that the proposed air space of 2.44 meters (8 feet) over the pools of water was excessive and that there could be less air space, provided that the flow of air in such space was increased. The technical and scientific advisers to the Department agree that the average minimum height requirement over the pool could be lowered to 1.83 meters (6 feet) if the air movement is such that it satisfies all minimum standards for ventilation. It is therefore proposed herein that the space over pools be not less than an average of 1.83 meters (6 feet) from the level of the water in the pool to the ceiling and that ventilation of indoor housing facilities be adequate to provide a flow of fresh air for the marine mammals.

The proposed standards regarding lighting in indoor facilities remain unchanged in this proposal. It is proposed herein that indoor facilities for marine mammals must have sufficient light provided by natural or artificial means so that animal caretakers can observe the marine mammals both in and out of the primary enclosure pool of water to detemine their general health and condition and so that they can observe and maintian good sanitary conditions. Lighting must also be sufficient in distribution and intensity for adequate inspection purposes. It also appears that lighting in indoor facilities is necessary to simulate the approximate lighting conditions existing in nature, allowing for certain periods of darkness and daylight.

The major comments concerning outdoor facilities were with regard to the amonut of ice in pools, shade from excessive sunlight, and shelter from inclement weather. Ten comments were received with regard to allowing ice in the pool for some species of marine mammals and not for others, twelve comments stated that there is no need to provide shade, and three comments stated that there is no need to provide shelter from inclement weather.

As was stated in the previous proposal, marine mammals come from a great variety of climatic conditions, from equatorial waters to the polar ice caps. There is also a great range of climatic conditions within the United States. Outdoor facilities are completely dependent upon local environmental conditions. Marine mammals have adapted to the most hostile environments in the world, and their natural habitats are very stark with little, if any, protection from adverse weather conditions. If their environment becomes too undesirable, the marine mammal can escape to the sea or migrate to more suitable environmental living conditions. Captive marine mammals have no such natûral escape route available to them. Therefore, artificial protection must be provided for use by the marine mammal in captivity when the need to do so arises. The protection is especially important in the case of marine mammals which, because of their age, illness, or any other debilitating condition, cannot adequately regulate their body temperature. For these reasons, the Department intends to continue to require that some sort of shelter be provided when necessary to protect the animals from either the sun or from inclement weather. Outdoor facilities would be required to be designed in a manner which would allow marine mammals contained therein to adapt to the variations of climatic conditions which exist in the geographical area where they are kept. If the local climatic conditions of the outdoor facility vary form the conditions in which they were previously housed, the marine mammals will have to be acclimated to their new environment before being placed in such outdoor housing facilities.

Originally, it was proposed that water in pools in primary enclosures be kept free of ice. Pools in outdoor facilities which are covered with ice can deny marine mammals access for exercise, drinking, body temperature regulation, or can obstruct their free access to the surface to obtain sufficient air for normal breathing. However, after considering various factors and after consulting with the Marine Mammal Commission, this Department has decided to modify the original proposal. It is therefore proposed that pools of water in outdoor facilities for cetaceans and sea otters be kept free of ice. It is further proposed that outdoor pools in polar bear and ice dwelling pinniped enclosures shall be kept sufficiently free of solid ice so as to not interfere with free access to the pool by the animals by preventing their entry or exit from the pool. It is also proposed that sirenians and warm water dwelling pinnipeds shall not be house in pools where water tempera-

ture cannot be maintained within the temperature range to meet their needs.

The Marine Mammal Commission

that has been collected by its scientific advisory committee and which has been used as a basis for the proposed space requirements for marine mam-

the tail fluke. In the case of a narwhale, if a tusk is present or will potentially develop, the measurement shall be based on the average adult

that, as more cetaceans are added to the pool, volume requirements could be met by only deepening the pool; eventually there would not be enough

for pinnipeds. One stated that there should be a limit of 10 pinnipeds per enclosure. This is considered to be an option of management. As long as

length squared times 1.5. The second largest pinniped would be given a minimum dry space of its own length squared, plus 40 percent, or its own

V 43 / 182 SEP 1978

ture cannot be maintained within the temperature range to meet their needs.

The Marine Mammal Commission has recommended that no marine mammal should be maintained alone. The Commission makes this recommendation because most marine mammals are gregarious and do not easily adapt to isolation. It may be desirable to keep several individuals of a species for more normal socialization, breeding, and for establishing normal species specific behavioral patterns. But it is the opinion of the Department that the imposition of such a requirement would be unnecessarily restrictive. This Department has no authority over the permit system of obtaining new or replacement marine mammals. The Department cannot prosecute a licensee for having a single marine mammal if other government agencies do not issue permits to obtain additional marine mammals. However, in order to encourage keeping more than one marine mammal in an enclosure, the Department has made the proposed minimum space requirements for marine mammals, with the exception of pinnipeds and polar bears, sufficiently large to hold at least two animals.

Many comments were received with regard to the proposed space requirements. Some of the general comments were that marine mammal space requirements should not be lumped together but should be determined for each individual species. Some suggested that the Department should also consider the purpose of the housing, such as training, research, isolation, performing arenas,and other functions when setting space requirements. Others felt there should be considerable space for exercise. All the comments were considered, and it is the opinion of the Department that most were valid. The problem is presented of proposing minimum space requirements under which marine mammals can be housed, while taking into consideration their good health and well-being. Many experts and humane organizations feel that more than the minimum should be provided, but the Animal Welfare Act speaks in terms on minimum requirements. Therefore, only the essential factors must be considered to assure that handling, care, treatment, and means of transportation are adequate to maintain the marine mammal in a state of good health.

Space requirements for the wide range of marine mammals are quite variable. The Marine Mammal Commission, in its advisory capacity to all agencies of the Federal Government with regard to marine mammals, has furnished this Department with its recommendations from information that has been collected by its scientific advisory committee and which has been used as a basis for the proposed space requirements for marine mammals. Such information appears to provide an adequate basis for setting space requirements which would be sufficient to assure the good health and well-being of captive marine mammals.

Regarding the comments advising different space requirements for different species, it should be noted that there are more than 100 species of marine mammals, and valid scientific data regarding the minimum requirements is not available regarding every species. Therefore, the Department has no choice other than "lumping" species of marine mammals together. However, consideration was given to the different orders of marine mammals.

The Marine Mammal Commission has specifically recommended that the order Cetacea (whales, dolphins, porpoises) be divided into two groups. This recommendation is, therefore, being adopted in this proposal. The Marine Mammal Commission's justification for such division is based upon the activity patterns of certain species of cetaceans, requiring more space for the more active species. Most cetaceans are grouped in a category designated as group I. Certain othe genera and species listed in § 3.104(b) of the standards proposed herein have been designated as Group II.

The four factors which must be considered when determining minimum space requirements for cetaceans are as follows: The minimum horizontal dimension (MHD), the depth, the surface area of the pool, and the volume of the pool.

MHD has been designated to mean the diameter of a circular pool, or in the case of a square, rectangular, oblong or other shape pool, the diameter of the largest circle that can be inserted within the confines of such pool. The MHD for each marine mammal is calculated to give it adequate freedom of movement in the pool horizontally. It is proposed herein that the MHD for a pool housing marine mammals cannot be less than the MHD required for the longest species of marine mammal contained therein.

It is also proposed that the primary enclosure for cetaceans (e.g., whales, porpoises, and dolphins) need consist of only a pool of water. The reason for this is that cetaceans spend all of their time in water. It is proposed that all group I cetaceans must be provided a pool of water with an MHD which is at least two times the average adult length of the longest cetacean to be contained therein, as measured from the tip of its lower jaw to the notch in the tail fluke. In the case of a narwhale, if a tusk is present or will potentially develop, the measurement shall be based on the average adult length from the tip of the tusk to the notch in the tail fluke. It is also proposed that group II cetaceans must be provided a pool with an MHD of four times the average adult length of the longest group II cetacean to be housed therein. If both group I and group II cetaceans are to be housed in the same enclosure pool, the MHD requirement must be determined for both groups and the MHD must be equal to or greater than the larger of the two.

The minimum depth of a primary enclosure pool for cetaceans would be required to be at least one-half the average adult length of the longest species of cetacean housed therein regardless of group I or II status, as measured from the tip of its lower jaw to the notch of its tail fluke. Computing proper depth, using this criteria, would allow the cetacean to be completely covered with water and still allow for vertical freedom of movement. It is therefore proposed that the minimum depth of a pool housing cetaceans shall not be less than 1.52 meters (5 feet) or one-half the average adult length of the longest species of cetacean housed therein, whichever is greater. Regardless of the total number of cetaceans to be housed in the pool, the minimum depth shall not be allowed to be less than the minimum determined for the average adult length of the longest species of cetacean housed therein. A pool of such depth which meets the required MHD and surface area would be considered to contain a sufficient volume of water for one or two group I cetaceans of one to four group II cetaceans.

The volume requirement for a pool of water containing two group I cetaceans or for four group II cetaceans would be calculated using the MHD and depth requirements described above. It is proposed herein that one-half the required MHD squared, times 0 (3.14), times the required depth would result in the volume required by the standards. Dividing this volume by two would result in the volume necessary for each group I cetacean, and dividing it by four would result in the volume necessary for each group II cetacean. The volume which would be required to be added to a pool containing additional cetaceans (more than two group I cetaceans or more than four group II cetaceans) may be obtained by expanding the lateral dimensions, by deepening the pool, or by a combination of the two.

One comment received was that the proposed regulations made no provisions for surface area requirements available to the cetaceans for breathing space. There was some concern

that, as more cetaceans are added to the pool, volume requirements could be met by only deepening the pool; eventually there would not be enough surface area for all the cetaceans to be on the surface at the same time to be able to breathe. This proposal obviates that problem by requiring that a pool containing cetaceans must also have a minimum surface area. This would be determined by dividing the average adult length of each cetacean in the pool by two and squaring this amount, then by multiplying the answer by 0 (3.14) times 1.5, which is the safety factor discussed below. The sum of the results of this computation for all cetaceans to be housed in a pool would represent the required surface area of the pool. It is not likely all cetaceans would be on the surface at the same time, but if that should occur they would all have room for breathing. A safety factor is also considered advisable to allow a little more than the cetaceans' own area. Therefore, it is proposed herein that a factor of 1.5 be arbitrarily used, since this would give each cetacean its own area plus 50 percent.

There were several comments received regarding space requirements for sirenians. Some stated the MHD need not be more than 1½ times the body length. Others commented that the 1.52 meters (5 feet) minimum was too deep for newborn sirenians. Others said that 1.52 meters (5 feet) was not deep enough as sirenians breed in a vertical position and feed in a diagonal position. After giving due consideration to all the comments, it has been decided to propose that the space requirements for sirenians be computed in the same manner as the space requirements for group I cetaceans, in that the MHD be based on two times the average adult length of a sirenian, as measured from the tip of the muzzle to the notch in the midline of the tail in the dugong, and from the tip of the muzzle to the most distal point in the midline of the rounded tail of the manatee. There are only two genera of sirenians, both being similar in size. Therefore for the purposes of these regulations, the average adult length would be essentially the same for both species.

It is therefore proposed herein that the depth of the pool holding sirenians cannot be less than one-half the average adult length of a sirenian or 1.52 meters (5 feet), whichever is greater. There may be areas in the pool that are less than 1.52 meters (5 feet), but this should not be included when computing MHD, volume, or depth. Surface area requirements for sirenians would be the same as for cetaceans.

There were few comments in regard to the proposals of space requirements for pinnipeds. One stated that there should be a limit of 10 pinnipeds per enclosure. This is considered to be an option of management. As long as management can properly meet the space and water quality requirements and can maintain the animals in a state of good health, the Department will not propose to restrict the number of pinnipeds that may be housed in the same enclosure. Most comments received stated that a minimum depth of 1.52 meters (5 feet) was not necessary and that the depth in the pool should be less. There was another comment stating that no ramp was necessary for the pinniped to leave the pool since pinnipeds can jump or pull themselves out of the water if the resting area is close to the water's edge.

After due consideration of all comments received, it is proposed herein that the space requirements for pinnipeds remain essentially the same in this proposal, with the exception of depth and ramp requirements. It is therefore proposed that the space requirements for a primary enclosure housing pinnipeds (e.g., seals, sea lions, and walruses) should include a pool of water as well as a dry area for resting and social activities, as they spend much of their time out of the water. The space allowed for each pinniped for freedom of movement, mating, postural adjustments and sleep would be determined by its size and by the number of pinnipeds sharing the same enclosure. A pinniped appears to require a minimum dry area at least 50 percent larger than its own length squared. As more pinnipeds are added to the primary enclosure less space should be allotted per animal because of the greater amount of communal space available. It is proposed that this be accomplished by reducing the multiplier of 50 percent for the first animal by 10 percentage points for each additional animal. The effect of this would be that the space requirement starting with animal number six and every additional animal would be figured by squaring its average adult length.

In computing the minimum dry space requirements for pinnipeds, it is proposed that the average adult length of each pinniped housed in the primary enclosure shall be ascertained by measuring it from the tip of its nose to the tip of its tail in a horizontal or extended position. The measurements should then be arranged in descending order from the largest pinniped, based on its average adult length for each species represented, which would be animal number one, to the smallest pinniped at the end. The largest pinniped would be given a minimum dry space of its own length squared, plus 50 percent, or its own length squared times 1.5. The second largest pinniped would be given a minimum dry space of its own length squared, plus 40 percent, or its own length squared times 1.4. The third largest pinniped would be given a minimum dry space of its own length, plus 30 percent, or its own length squared times 1.3. This would be continued to the fifth largest pinniped which would receive a minimum dry space equal to its own length squared, plus 10 percent, or its own length squared times 1.1. For all additional pinnipeds (more than five) added to the primary enclosure, the space would be determined by allotting each such pinniped a minimum dry space equal to its own average adult length squared. The sum of such figures for each pinniped in a primary enclosure would represent the minimum dry resting and social activity area required.

A pool of water whose MHD is twice the average adult length of the longest species of pinniped contained therein appears to have sufficient surface area for two such pinnipeds. However, additional surface area would be required when more than two pinnipeds are housed in the same primary enclosure. Pinnipeds spend one-half or less of their time in the water, and, therefore, rarely would all pinnipeds in a primary enclosure be in the pool of water at one time. It is, therefore, proposed that when more than two pinnipeds are housed in the same primary enclosure, the minimum surface area of the pool must be two-thirds of the dry resting and social activity area required for such pinnipeds. For purposes of calculation, it is proposed that the minimum depth of the pool shall not be less than 0.91 meters (3 feet) or one-half the length of the longest species of pinniped contained therein, whichever is greater. This is a change from the 5 feet in the prior proposal which is deemed to be justified by the comments. Any part of the pool less than 0.91 meters (3 feet) deep would not be considered in the calculation for either the dry resting area or pool size. There were some comments stating that the proposed resting and social activity area was excessive, but the proposed space requirements were just slightly more than would be needed for the pinnipeds to turn around if all of them were out of the water. The comment regarding the proposed requirement of a ramp for entering and leaving the pool was considered valid, and, therefore, that requirement has been deleted from this proposal. There were no comments concerning the size of the pool being either too small or too large.

A few comments were also received with regard to the proposed space requirements for polar bears. One

person commented that the pool should be bigger than proposed. Another thought that the proposed den size was too large. However, most agreed with the space requirements. Therefore, it is proposed that these proposed requirements remain essentially the same. It is proposed herein that a minimum dry resting area of 37.16 square meters (400 square feet) be provided for one or two polar bears and an additional 3.72 square meters (40 square feet) for each additional polar bear contained in a primary enclosure. It is also proposed that the den shall be at least 1.83 meters (6 feet) in width and depth and 1.52 meters (5 feet) in height (which is 1 foot less than the previous proposal), which would allow sufficient space for one polar bear to make normal postural adjustments. A separate den would be required for each adult female of breeding age as a private enclosure. It is also proposed that sufficient shade, other than the den, be provided in a primary enclosure containing polar bears. It is further proposed that the pool in any primary enclosure for polar bears be a minimum of 2.44 meters (8 feet) by 3.66 meters (12 feet) and at least 1.52 meters (5 feet) deep.

Sea otters appear to need a dry resting area and a pool of water in their primary enclosures. It is necessary for sea otters to have a pool of water to keep their hair coat wet at all times for proper grooming and for insulation of the body, as they spend most of their time in the water. They cannot regulate their body temperatures properly if the hair coat is allowed to dry. These animals when wet will usually die of exposure or hypothermia if the hair coat becomes soiled or hyperthermia if the hair coat is allowed to dry. Objective data concerning the minimum space requirements for sea otters is not available to the Department at this time. Therefore, the following minimum space requirements are proposed since this Department has no information that would indicate that such proposals are not reasonable, necessary, appropriate, or adequate for sea otters. The MHD of a pool of water for sea otters shall be at least twice the average adult length of the longest sea otter contained therein, as measured from the tip of its nose to the tip of its tail. It is also proposed that the minimum depth of the pool shall not be less than 0.91 meters (3 feet). The volume of water in such a pool would appear to be sufficient for one or two sea otters. It is also proposed that the minimum dry resting area for one or two sea otters be equal to the minimum surface area of the pool required for such sea otters.

When more than two sea otters are housed in the same primary enclosure, both the dry resting area and the pool volume would have to be increased, based on the average adult length of the sea otters. The additional minimum volume of water necessary to contain more than two otters would be calculated by multiplying the surface area of the pool by 0.91 meters or 3 feet (minimum depth of pool), and dividing the result by two. The resulting answer would represent the additional minimum volume of water the pool must contain for such sea otters. The surface area of a pool containing sea otters would be calculated in the same manner as the surface area of a pool containing cetaceans, which has been previously discussed. It is further proposed that the minimum dry resting area for two sea otters, which shall be computed as specified in § 3.104(f) of this proposal, be increased by one-half the square of the average adult length of each additional sea otter times 0 (3.14), when more than two such animals are contained in an enclosure.

Several comments were received with regard to the feeding of marine mammals. Some of the comments requested that the Department specify the kind of fish to be fed to captive marine mammals, require the food be vitamin fortified, and require extensive records of individual food intake. Most of these comments deal with husbandry or curatorial matters, and the Department does not wish to interfere as these are considered management responsibilities. The Department would require that marine mammals be maintained in a state of good health and would make this the responsibility of management.

Some comments requested that the food be allowed to come to ambient temperature before freezing. It is this Department's opinion that it would be risky to allow this because bacterial contamination and decomposition would be well advanced since thawing frozen fish or other food usually takes some time, and the surface thaws considerably sooner than the deeper portions.

It has come to the attention of this Department that frozen food may be thawed up to 24 hours prior to feeding without causing adverse effects. Therefore, the 18-hour time period for thawing of food, which was originally proposed, will be changed to 24 hours in this proposal, and the time would start running when the food is removed from the freezer. The food would be allowed to warm slightly but only immediately before feeding and not for an extended period of time. This would be to assure that no ice remains in the food since there is some opinion that ice in food could cause digestive upsets in marine mammals.

The Department is also deleting the term "competent" before the word "employee" in this proposal as it is hard to define a competent employee. Management of the facility would be responsible for assuring that the animals are properly fed and it is expected that this task would be entrusted to an employee who is capable of assuming the responsibility.

There were some comments that no provision was made to allow public feeding. The Department proposes to relax this restriction and allow public feeding provided it is closely supervised. The facility would still have the responsibility of assuring that each marine mammal receives a proper diet and that no foreign bodies or nonfood objects are given to the animals either maliciously or accidentally by the participating public. Close or constant supervision would be required to be maintained at all times when there is marine mammal/public contact. This would mean that an employee would need to be physically present to exercise such supervision during the contact period. The food given to the animals would be required to be obtained from the facility housing the marine mammals.

Water quality is extremely important for marine mammals and at least minimum standards need to be maintained for the good health and well-being of the animals. Marine mammals are air breathing animals, and it is not necessary for the water to contain sufficient oxygen for respiratory functions as there is no gaseous exchanges between marine mammals and the water.

Several comments were received indicating that polar bears should have less restrictive standards for water in pools that the other marine mammals. Pools for polar bears are generally smaller than pools of other marine mammals, and they are usually drained, cleaned, and refilled with water on a routine schedule. There is usually a continual flow of new water into the pool and the overflow is discharged. There is generally no attempt to reclaim the water by filtration. For these reasons, APHIS did not originally propose that the water quality standards for polar bears be the same as for other marine mammals, but simply required that the water quality would have to be maintained in such a manner as would be necessary to keep the polar bears in a state of good health. The Marine Mammal Commission has recommended that no special exemptions be allowed for polar bear pools. Therefore, this Department, being in agreement with that recommendation, is proposing herein that polar bear pools meets the same water quality requirements as for other marine mammals.

Some comments indicated that coliform count and chemical monitoring are not necessary in pools that receive

sea water directly from bays and estuaries. This appears to be true with respect to chemical monitoring, with the exception of chemicals that are added to maintain water quality, but is not true with respect to coliform count. It is proposed that both of these should still be done routinely to assure the proper quality of water if chemicals are added. This is especially true in light of the fact that some bays and estuaries are badly contaminated with human waste and sewage; therefore, coliform counts are important to assure that the water meets the compliance which are proposed herein.

Requests were also received that minimum and maximum levels of all chemical additives be specified in the standards. This is a function of management, as the Department would allow chemicals to be added to the water to assist in maintaining proper water quality and to control excessive algae and moss. These chemical additives, regardless of which ones are used, would not be allowed to be toxic or strong enough to cause the marine mammals injury or discomfort, and chemical monitoring is the only way to determine strength and effective levels of the chemicals.

It was also pointed out in some comments that eye infections, corneal opacities, poor hair coat, or contamination of surface wounds on the animals are not necessarily a sign of poor water quality, as was indicated by the former proposal. It is true that water quality can be substandard and still not cause the marine mammals to exhibit these conditions. It is also true that certain animals can exhibit some of these conditions and still have the proper water quality. If there is an isolated animal or two with a problem, it is probably not due to the water quality, but if most, or all, or the animals have similar conditions to some degree, then water quality must be suspected and that would be the starting place when trying to diagnose the etiology of the conditions. However, the Department must agree that a general statement that any of the above conditions automatically mean that the water quality is unacceptable if not valid. This proposal has therefore deleted such statement.

There were other comments that normal sea water can contain as much as 36 parts per thousand of salt and not be harmful to marine mammals. There was also a comment by the Marine Mammal Commission that there should be no minimum level of salt since it is proposed to allow fresh water to be used if the individual marine mammal species can tolerate fresh water over an extended period of time. These comments were considered to be valid and the part of this proposal dealing with salinity has been amended accordingly.

With respect to water quality, it is further proposed herein that the purity of water in closed systems be assured by keeping the coliform bacteria count below 1,000 MPN (most probable number) per 100 ml. of water and that filtration systems be used to filter out particulate material. All marine mammals defecate in the water of their pool, and the filtration system must be able to circulate the water through the filters to keep it free from excrement as well as dirt or other debris that gains entry to the pool. It is proposed that the filtration of recirculated water, or the addition of new water, be at a rate which is sufficient to maintain proper water quality at all times. It is also proposed that when salinized water is used, it be within the range of the salinity of normal sea water not exceeding 36 parts per thousand. Further, it is proposed that the pH of the water be monitored to assure that it approximates the pH of normal sea water. Chemicals that are added to the pool to control bacteria or algae must not be so strong as to adversely affect the quality of the water to the point that it might be harmful or cause discomfort to the marine mammals.

About the only comments received that are concerned with the proposed sanitation standards were comments by several persons that algae is not harmful to marine mammals and is, in fact, beneficial in small amounts. This Department did not intend to completely prohibit algae or moss. However, any algae or moss which is present must be kept under control. Therefore, the sanitation standards which appeared in the original proposal are proposed herein without change.

These standards are necessary to assure that the facility which houses marine mammals is maintained in a clean and sanitary condition so as not to pose a health hazard to the marine mammals contained therein, or to the employees who work at the facility, or to the viewing public.

Standards regarding pest control which appears in the original proposal are also part of this proposal.

The only comments received with regard to employees were requests that the type of training requirements be clarified. The type of training, be it academic or on-the-job training, will not be specified by this Department. The responsible officials of a facility which houses and maintains marine mammals must assure that their employees have sufficient training to do the job assigned and that captive marine mammals are not caused to suffer because of improperly trained employees. What is required by the proposed regulations (both these and the ones of August 19, 1977) is that employees taking care of the marine mammals must be under the supervision of an experienced marine mammal caretaker.

With respect to the subject of separation of animals, it is proposed that marine mammals that are not compatible shall not be housed in the same primary enclosure. In addition to the separation of imcompatible species, there should also be separation among the same species if the good health and well-being of any animal contained therein is in jeopardy. It is also proposed that marine mammals that are incompatible with other animals shall not be housed near animals that would cause them stress or discomfort or would interfere with their good health. On the advice of the Marine Mammal Commission, the Department has also added to this proposal the requirement that marine mammals be given access to other animals.

Those commenting on the proposed regulations and standards also mentioned veterinary care of marine mammals. Those comments were considered and appropriate action was taken where necessary. It was recommended that pools used for isolation or treatment, or for any reason as short-term holding pools, need not meet the lateral and depth dimensions of a permanent housing pool. This Department feels these comments are reasonable and accepts the recommendation. There were also some comments that yearly blood tests be required, but in the opinion of this Department, such activity should be a responsibility of management and the veterinary care program. The Marine Mammal Commission, in its advisory capacity, recommended that a thorough and complete necropsy be required following the death of any marine mammal in captivity. After carefully considering the recommendation, this Department has decided that such a necropsy would be useful in determining the cause of death, monitoring the health, and determining the adequacy of veterinary care of the animals. It is therefore proposed that a complete necropsy must be conducted by a veterinarian on all marine mammals that die in captivity. A necropsy report would have to be prepared by the veterinarian performing the necropsy. This report would be required to be kept by the management of the facility where the animal died for 2 years so that it could be presented to Department inspectors on request.

COMMENTS REGARDING TRANSPORTATION STANDARDS

Section 13 of the Animal Welfare Act (7 U.S.C. 2143) requires the Secretary to promulgate standards to

govern the humane handling, care, treatment, and transportation of animals by dealers, research facilities,

tions, it is the decision of this Department to propose that circuses and traveling shows meet the same re-

move with great difficulty. Therefore, it is proposed that cetaceans and sirenians be transported in well padded

humane and better for heat dissipation and ventilation. It was interpreted

perts in the field of transporting marine mammals must determine

sirenians would be required to be kept moist in transit or protected by some substance such as lanolin to keep it

V 4 3 / 1 8 2

govern the humane handling, care, treatment, and transportation of animals by dealers, research facilities, and exhibitors. Provisions of the Animal Welfare Act Amendments of 1976 (Pub. L. 94-279), enacted on April 22, 1976, also require the Secretary of Agriculture to promulgate standards to govern the transportation in commerce, and the handling, care, and treatment in connection therewith, by intermediate handlers and carriers of animals consigned by any dealer, research facility, exhibitor, operator of an auction sale, or other person, or any department, agency, or instrumentality of the United States or of any State or local government, for transportation in commerce. The Secretary was also given authority to promulgate such rules and regulations as he determines necessary to assure humane treatment of animals in the course of their transportation in commerce, including requirements such as those with respect to containers, feed, water, rest, ventilation, temperature, and handling.

The proposed transportation standards contained herein have been written to provide marine mammals with the same general protection and care as that proposed for all other species of animals covered by the Animal Welfare Act and published in the FEDERAL REGISTER on August 19, 1977, at 42 FR 42044.

The Marine Mammal Commission and other sources of expertise in transporting marine mammals have offered suggestions which were helpful in writing the proposed standards. In drafting the proposed standards contained herein, the Department has given careful consideration to the various suggestions and recommendations. For the sake of uniformity and consistency, it has followed the same format and imposed similar regulations on common carriers and intermediate handlers that transport marine mammals as those that have been promulgated for all other warmblooded animals covered by the Animal Welfare Act.

Special provisions were being considered for marine mammals which are part of traveling shows and are not permanently housed in stationary facilities. There were numerous comments to the effect that circuses and other traveling animal acts which exhibit marine mammals were not properly covered in the original proposal. The Marine Mammal Commission, as well as members of humane groups, have recommended to the Department that no special allowances be made for these animals and the regulations and standards as proposed should apply to all marine mammals covered by the Animal Welfare Act. After a thorough consideration of these recommendations, it is the decision of this Department to propose that circuses and traveling shows meet the same requirements as other exhibitors.

Most shipments of marine mammals will be consigned to private transporting concerns that specialize in transporting marine mammals. These business concerns should have the experience and the equipment to assure the safe delivery of the marine mammals to their destinations. It appears that very few marine mammals would be transported by the normal common carrier or intermediate handler. However, the proposed transportation standards for marine mammals would apply to all dealers, exhibitors, research facilities, carriers, and intermediate handlers.

There were several comments about consignments to normal common carriers and intermediate handlers and the obligations and responsibilities of the carriers. One comment was that no marine mammal should be transported unaccompanied at any time. Some comments suggested that prior arrangements should be made requiring the consignee to meet the shipment on arrival at its destination. Suggestions were also made that a 24-hour telephone number be required on the waybill so the carriers and intermediate handlers can notify the consignee immediately on arrival anytime day or night. The original proposed standards and regulations require that the carrier must attempt to notify the consignee as soon as possible after the arrival of the animal at the final terminal, and if unable to do so, must try at least once every 6 hours. A comment was received that the 6-hour requirement should be reduced to no more than 4 hours. After carefully considering this suggestion, it is proposed to lower that requirement to 4 hours.

As was done in the original proposal, requirements for primary enclosures used in transporting the different orders of marine mammals are divided into two categories in this proposal. Pinnipeds and the marine carnivores (polar bears and sea otters) are in one category, and it is proposed that they can be shipped in crates similar to those that are used in transporting other zoo animals. It is important that these animals be given sufficient space in the primary enclosure used for transportation to assure that they have room to move or lie down in normal postural positions without impeding their appendages. The second category includes the cetaceans and sirenians, and it is proposed that they be transported in devices which are designed to support their body weight and provide easy access to the animals by employees to administer their needs in transit. Without the buoyancy of water, these marine mammals move with great difficulty. Therefore, it is proposed that cetaceans and sirenians be transported in well padded straps, slings, harnesses, or other devices for body support that are designed to protect the animal while in transit and to allow attendants to administer to their needs. The proposed standards for transporting cetaceans and sirenians take into account the need of these animals to be supported and protected from injury during transportation. There was a comment from one person that straps, slings, harnesses, etc., are not used in transporting cetaceans and sirenians, and the animals he transports are place on a foam rubber pad and no restraining devices are used whatsoever. The Department considers a foam rubber pad a form of body support. Furthermore, some devices would have to be used in getting the animals in and out of the transporting conveyance. A large cetacean, totally unrestrained, could be dangerous to itself and the conveyance if allowed to thrash about for any reason.

There were several comments that the proposed ventilation requirements of the primary enclosures used to transport marine mammals, other than cetaceans and sirenians, were not adequate. It was the opinion of those commenting that due to the body temperature regulating capacity of marine mammals, in that they have a tendency toward overheating, the proposed 8-percent ventilation on two ends of the enclosure was not sufficient. It is agreed that this is a valid consideration and, therefore, it is proposed to increase the ventilation requirements to at least 15 percent on each side of all four sides of the enclosure. This should provide adequate ventilation for the animal contained therein in both a prone and standing position.

Comments were also received regarding the proposed requirement that female marine mammals in season (estrus) shall not be transported in the same primary enclosure with any male marine mammals. It was commented that it is not easy to determine if a marine mammal is in season. It is agreed that this is difficult. Therefore, it is proposed herein that female marine mammals shall not be transported in the same primary enclosure with a sexually mature male.

Some comments also stated that the proposed size of the primary enclosure used to transport pinnipeds was too large and extensive. They stated that pinnipeds seldom, if ever, fully extend their body and flippers in all directions. It was also stated that a small primary enclosure was better since the animal would not have room to move about excessively and injure itself. It is the determination of APHIS that the larger primary enclosure is more

SEP 19 78

humane and better for heat dissipation and ventilation. It was interpreted by some who commented that contact with supporting framework or other solid structures during transportation was prohibited by the proposed regulations and standards, whereas the Department's intent was that these solid objects, if capable of causing injury, should be padded or eliminated.

A few comments were received regarding the primary conveyance used to transport marine mammals. One person thought that the proposed regulation concerning the animal cargo space and the prevention of engine exhaust fumes and gases was too restrictive. It was argued that there should be some allowances since there was no way to completely prevent any exhaust fumes from entering, especially when the doors to the cargo space are open when loading and unloading cargo. It was not intended that there would be absolutely no tolerances and that any exhaust fumes or gases were prohibited. It was intended that every precaution be taken to protect the animal cargo space from being filled with exhaust fumes and gases that could reach such concentration that would make the animals ill or even cause their death. The Department, therefore, proposes that the ingress of exhaust fumes and gases cannot exceed that ordinarily contained in the passenger or operator compartment of the primary conveyance.

A comment was also received regarding the proposed requirement of positioning animals in the primary conveyance in such a manner that in an emergency they could be removed from the conveyance in a 5-minute period. It was pointed out that certain marine mammals are extremely large and heavy and that special animal handling equipment is required to move these animals. Therefore, it is proposed herein that marine mammals be positioned in a conveyance in such a way that in emergencies they can be femoved from the primary conveyance as soon as possible.

Most comments received were directed toward not feeding or watering the marine mammal during transit. Some stated that feeding or watering might result in the animal vomiting, and in certain animals, this could be very detrimental if not fatal. Another commented that feeding results in a problem of fecal contamination that can be minimized by fasting. The primary concern of the Department, however, in proposing regulations for feeding and watering while in transit is to assure that the marine mammal arrives at its destination in the best physical condition possible. It is true that denying the animal food and water while in transit is not necessarily cruel and inhumane treatment. Experts in the field of transporting marine mammals must determine what is best for the animal to assure that it does not suffer harm or injury during transportation. This is one of the reasons for proposing that an attendant accompany certain types of marine mammal shipments (shipments involving sirenians, cetaceans, and sea otters, and also shipments lasting more than 12 hours) so the condition of the animal can be closely observed.

Marine mammals are generally not fed while in transit and, in most cases, it is an accepted practice to actually fast the animals for a short period prior to shipment. The sea otter is an exception to this general rule in that it should have food available while in transit. Some comments were received indicating that sea otters should not be fed while in transit because of possible problems with sanitation inside the primary enclosure. However, on the recommendation of the Marine Mammal Commission, this Department has determined to propose that sea otters have food available while in transit.

Some comments expressed a desire that all shipments of marine mammals should be accompanied by an attendant. This was not proposed because when certain marine mammals are confined in strong, secure primary enclosures during shipments an attendent cannot monitor or service their in transit needs as he would not have access to the animal. If prolonged or extended shipping periods of more than 12 hours in transit occur, then it is proposed that all marine mammals are to be accompanied by an attendent.

Another comment presented the idea that the reason cetaceans and sirenians should have freedom of movement of the pectoral flippers is primarily for regulating the body temperature by waving or moving the flippers and not for relieving pressure on the rib cage which might interfere with the animal's breathing ability, as was claimed by the Department. This may be true to a certain extent. However, it is determined that relieving pressure on certain parts of the marine mammal's body when out of the water for an extended period of time is still the primary consideration in requiring freedom of movement of the flippers.

Therefore, in consideration of the above comments, it is proposed that an attendent be required to accompany shipments of cetaceans, sirenians, and sea otters because of the required special handling, feeding, and watering, or because of problems encountered due to their size, It is proposed that other marine mammals are to be so accompanied only during prolonged shipments. The skin of cetaceans and sirenians would be required to be kept moist in transit or protected by some substance such as lanolin to keep it from drying. It is also important that the pectoral fins of both cetaceans and sirenians have full mobility during transit. Periodic positional adjustments would have to be made when cetaceans and sirenians are transported in straps, slings, harnesses, or other body supports to prevent pressure necrosis of the skin over bony prominences or other points where extreme pressure is concentrated from the weight of the animal. It is proposed that restraining straps, securing the cetacean or sirenian to the sling, harness, or other device, shall be tight enough to restrain the marine mammal, but not so tight that they become irritating to the animal. Struggling and thrashing about would have to be minimized to prevent overheating of the marine mammal.

Sea otters must keep their hair coat wet for proper insulation and temperture control of their body. They will not groom their fur if it dries or becomes soiled with feces. It is therefore proposed that at least on-half of a primary enclosure used to transport sea otters shall be leakproof and contain sufficient crushed ice or water to provide the sea otter contained therin with moisture necessary to allow each sea otter to keep its hair coat wet. The ice or water would also serve to prevent feces and urine from contaminating the hair coat. it is also proposed that a dry area be available in the primary enclosure used to transport a sea otter so the animal can get out of the ice and water for resting or grooming purposes.

With regard to terminal facilities, the only comments received questioned the necessity of providing protection from the snow and cold weather in the case of arctic or ice dwelling marine mammals. These were considered valid and this proposal provides exceptions for ice dwelling marine mammals. There were no comments that objected to providing shelter from sunlight.

It is proposed that the indoor animal holding area be provided with fresh air either by means of windows, doors, vents, or air conditioning and be ventilated so as to minimize drafts, odors, and moisture condensation. The ambient or air temperature would not be allowed to fall below 7.2° C (45° F) except in certain cases, and would not be alowed to exceed 29.5° C (85° F) at any time. This is the temperature range which is being required for the transporation of all other animals under the Animal Welfare Act. Proposing different temperature ranges for marine mammals would impose an unfair hardship on terminal facilities since it might necessitate different

holding areas for marine mammals. The indoor animal holding area would be required to be cleaned and sanitized in the manner prescribed in § 3.107 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation, and to prevent disease hazards.

It is further proposed herein that carriers and intermediate handlers, in transporting live marine mammals from the indoor animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the indoor animal holding area of the terminal facility, including loading and unloading procedures, must provide shelter from sunlight when sunlight is likely to cause overheating or discomfort. It is also proposed that the terminal facility provide shelter from snow. Transporting devices would be required to be covered to provide protection for live marine mammals during snow. The terminal facility would also be required to provide the marine mammal with shelter from cold weather. Transporting devices would have to be covered to provide protection for live marine mammals when the atmospheric or outdoor temperature falls below 10° C (50° F) unless the marine mammal is an ice dwelling animal and can safely tolerate lower temperatures.

There were no comments received with regard to handling marine mammals at terminal facilities. The Department proposes that carriers and intermediate handlers should be responsible for moving live marine mammals from the indoor animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the indoor animal holding area of the terminal facility as expeditiously as possible. This proposal also contains a provision stating that care shall be exercised to avoid handling of the primary enclosure in a manner which may cause physical or emotional trauma to the live marine mammal contained therein. There is also a provision which states that primary enclosures housing live marine mammals shall not be tossed, dropped, or needlessly tilted and shall not be stacked in a manner which may result in their falling.

It is possible to encounter a wide variation of temperature ranges during transportation, and the ambient temperature extremes need to be controlled in order to prevent discomfort to the marine mammal and to protect the health and well-being of the animal. Marine mammals are generally more affected by hot temperatures than they are by cool or cold temperatures.

One comment received was that the proposed temperature of 35° C (95° F) within primary enclosures was too warm for marine mammals and that the allowable temperature should not exceed 29.4° C (85° F). Considering the problem of body temperature regulations and heat dissipation, due to the subcutaneous blubber layer of most marine mammals, is it proposed that the temperature around the marine mammal within the primary enclosure during transportation shall not exceed 29.4° C (85° F) for a period of more than 45 minutes nor fall below 7.2° C (45° F) for a period of more than 45 minutes unless the person transporting the marine mammal knows that is is acclimated to such higher or lower temperatures.

A detailed explanation of the proposed regulations and standards dealing with marine mammals also accompanied the original proposal of August 19, 1977. Anyone desiring additional information regarding this proposal should refer to that proposal, which appeared in Vol. 42, No. 161, of the FEDERAL REGISTER on Friday, August 19, 1977.

PART 1—DEFINITION OF TERMS

Accordingly, it is proposed that the regulations and standards (9 CFR 1.1 et seq.) be amended as follows:

1. It is proposed that the second sentence in § 1.1(n) of the regulations (9 CFR 1.1(n)) be amended to delete the words "aquatic animals," following the word "birds" and before the word "rats".

2. It is proposed that § 1.1(gg) of the regulations (9 CFR 1.1(gg)) be amended by inserting a comma after the word "compartment" and adding the word "pool" immediately thereafter and before the word "or".

3. It is proposed that a new definition for minimum horizontal dimension (MHD) be added to the end of § 1.1 of the regulations (9 CFR 1.1) to read as follows:

§ 1.1 Definition.

* * * * *

(qq) "Minimum horizontal dimensions" (MHD) means the diameter of a circular pool of water, or in the case of a square, rectangular, oblong or other shape pool, the diameter of the largest circle that can be inserted within the confines of such a pool of water.

PART 3—STANDARDS

4. It is proposed that the Table of Contents in Part 3—Standards of Title 9, Code of Federal Regulations, be amended by making present Subpart E of the Table of Contents, Subpart F, and renumbering §§ 3.11 to 3.114 thereof to §§ 3.125 through 3.138, respectively, and by adding a new Subpart E as follows:

Subpart E—Specifications for the Humane Handling, Care, Treatment, and Transportation of Marine Mammals.

FACILITIES AND OPERATING STANDARDS

Sec.
3.100 Special considerations regarding compliance.
3.101 Facilities, general.
3.102 Facilities, indoor.
3.103 Facilities, outdoor.
3.104 Space requirements.

ANIMAL HEALTH AND HUSBANDRY STANDARDS

3.105 Feeding.
3.106 Water quality.
3.107 Sanitation.
3.108 Employees.
3.109 Separation.
3.110 Veterinary care.
3.111 Handling.

TRANSPORTATION STANDARDS

3.112 Consignments to carriers and intermediate handlers.
3.113 Primary enclosures used to transport marine mammals.
3.114 Primary conveyances (motor vehicle, rail, air, and marine).
3.115 Food and water requirements.
3.116 Care in transit.
3.117 Terminal facilities.
3.118 Handling.
3.119 Ambient temperature within primary enclosures.

5. It is proposed that present Subpart E of Part 3—Standards (9 CFR Part 3, Subpart E) would be redesignated as Subpart F and §§ 3.100 to 3.114 thereof would be renumbered as §§ 3.125 through 3.138, respectively, and a new Subpart E would be added to read as follows:

Subpart E—Specifications for the Humane Handling, Care, Treatment, and Transportation of Marine Mammals

FACILITIES AND OPERATING STANDARDS

§ 3.100 Special considerations regarding compliance.

(a) All persons subject to the Animal Welfare Act who maintain marine mammals in captivity must comply with the provisions of this subpart, unless they are granted permission by the Secretary to deviate from one or more of the provisions. The provisions of this subpart shall not apply, however, in emergency circumstances where compliance with one or more provisions would not serve the best interest of the marine mammals concerned.

(b) From the effective date of the regulations and standards of this subpart, all facilities housing marine mammals which are not in full compliance with the standards shall have 60 days during which they may apply to the Secretary for written permission to operate as a licensee or registrant under the Act: Provided, however, That:

(1) Application is made to the Secretary, in writing, listing in detail all areas of deviation from the requirements of this subpart, the time period requested for each deviation, and the justification for such request.

(2) The Secretary shall deny any such application if he determines that allowing it would be detrimental to the health and well-being of the marine mammals concerned.

(3) Such permission to deviate from the provisions of this subpart shall not be granted for a period exceeding 4 years from the effective date of these provisions.

(c) Any person desiring to deviate from the requirements of this subpart for the purpose of experimentation in the areas of husbandry and care of marine mammals may apply to the Secretary for written permission to do so: Provided, however, That:

(1) Application is made to the Secretary, in writing, listing in detail all areas of deviation from the requirements of this subpart, the time period requested for each deviation, and the justification for such request.

(2) The Secretary shall deny any such application if he determines that allowing it will be detrimental to the health and well-being of the marine mammals concerned.

§ 3.101 Facilities, general.

(a) *Construction requirements.* (1) Housing facilities for marine mammals shall be structurally sound and shall be maintained in good repair, to protect the animal from injury, to contain the animals, and to restrict the entrance of unwanted animals.

(2) All marine mammals shall be provided with protection from abuse and harassment by the viewing public by the use of a sufficient number of employees to supervise the viewing public, or by physical barriers, such as fences, walls, glass partitions, or distance, or both.

(3) Any primary enclosure pool, including ramps for entering or leaving the pool, shall be constructed of materials having a nonporous, waterproof finish, which shall facilitate proper cleaning and disinfection, and which shall be maintained in good repair as part of a regular ongoing maintenance program.

(4) Facilities which utilize natural areas such as tidal basins, bays, or estuaries for housing marine mammals shall be exempt from the waterproof finish, nonporous surface construction, and drainage requirements of paragraphs (a)(3) and (c)(1) of this section, but they must meet the minimum standards with regard to space, depth, and sanitation. Water quality must be monitored as in other facilities.

(b) *Water and power supply.* Reliable and adequate sources of water and electric power shall be provided by the facility housing marine mammals. Written contingency plans must be submitted to and approved by Veterinary Services regarding emergency sources of water and electric power in the event of failure of the primary sources, if such failure could be detrimental to the good health and well-being of the marine mammals housed therein.

(c) *Drainage.* (1) Adequate drainage shall be provided for all primary enclosure pools and shall be located so as to rapidly eliminate all of the water contained in such pools when necessary for cleaning the pools or for other purposes. Drainage effluent from primary enclosure pools shall be disposed of in a manner that complies with all applicable Federal, State, and local pollution control laws.

(2) Drainage shall be provided for primary enclosures and areas immediately surrounding pools. Drains shall be located so as to rapidly eliminate excess water (except in pools). Such drainage effluent shall be disposed of in a manner that complies with all applicable Federal, State, and local pollution control laws.

(d) *Storage.* Supplies of food shall be stored in facilities which adequately protect such supplies from deterioration, molding, or contamination by vermin. Refrigerators and freezers shall be used for perishable food. No substances which are known to be or may be toxic or harmful to marine mammals shall be stored or maintained in the marine mammal food storage or food preparation areas.

(e) *Waste disposal.* Provision shall be made for the removal and disposal of animal and food wastes, dead animals, trash, and debris. Disposal facilities shall be so provided and operated as to minimize vermin infestation, odors, and disease hazards. All waste disposal procedures must comply with all applicable Federal, State, and local laws pertaining to pollution control, protection of the environment, and public health.

(f) *Washroom facilities.* Facilities such as washrooms, basins, showers, or sinks, shall be provided to maintain cleanliness among the marine mammal caretakers.

§ 3.102 Facilities, indoor.

(a) *Ambient temperature.* The air and water temperatures in indoor facilities shall be sufficiently regulated by heating or cooling to protect the marine mammals from extremes of temperature, to provide for their good health and well-being and to prevent discomfort, in accordance with the currently accepted practices as cited in appropriate professional journals or reference guides, depending upon the species housed therein. Rapid changes in air and water temperatures shall be avoided.

(b) *Ventilation.* Indoor housing facilities shall be ventilated by natural or artificial means to provide a flow of fresh air for the marine mammals and to minimize the accumulation of chlorine fumes, harmful gases, or other objectionable odors. A vertical air space averaging at least 1.83 meters (6 feet) shall be maintained in all primary enclosures housing marine mammals, including over their pools of water.

(c) *Lighting.* Indoor housing facilities for marine mammals shall have ample lighting, by natural or artificial means, or both, of a quality, distribution, and duration which is optimum for the species involved. Such lighting shall provide uniformly distributed illumination of sufficient light intensity to permit routine inspections, and to permit adequate observation and cleaning of all parts of the primary enclosure including any den areas. Lighting of primary enclosures shall be designed so as to prevent overexposure of the marine mammals contained therein to excessive illumination.

§ 3.103 Facilities, outdoor.

(a) *Environmental temperatures.* Marine mammals shall not be housed in outdoor facilities unless the air and water temperature ranges which they may encounter during the period they are so housed do not adversely affect their health and comfort. A marine mammal shall not be introduced to an outdoor housing facility until it is acclimated to the air and water temperature ranges which it will encounter therein. The surface of the water in pools in outdoor primary enclosures shall be kept sufficiently free of solid ice when housing polar bears and ice dwelling species of pinnipeds so as to allow entry and exit of the animals. Water in pools in outdoor primary enclosures shall be kept free of ice when housing cetaceans and sea otters. No sirenian or warm water dwelling pinnipeds shall be housed in outdoor pools where water temperature cannot be maintained within the temperature range to meet their needs.

(b) *Shelter.* Natural or artificial shelter which is appropriate to the local climatic conditions for the species concerned, shall be provided for all marine mammals kept outdoors to afford them protection and to prevent discomfort to such animals due to weather conditions or to direct sunlight.

§ 3.104 Space requirements.

(a) *General.* Primary enclosures, including pools of water housing marine mammals, shall be constructed and maintained so as to provide sufficient space, both horizontally and vertically, and so as to allow each marine

mammal contained therein, to make normal postural and social adjustments with adequate freedom of movement, in or out of the water.

tip of the lower jaw to the notch in the tail fluke. (iii) In a pool where a mixture of both group I and group II cetaceans are to be housed, the MHD must be satisfied. The additional volume needed shall be based on the number and kind of cetaceans housed therein and shall be determined in the

TABLE II*.—*Group II Cetaceans*

Average adult length	MHD	Minimum required depth	Volume of water required for each additional cetacean, exceeding four—

mammal contained therein, to make normal postural and social adjustments with adequate freedom of movement, in or out of the water.

(b) *Cetaceans.* Primary enclosures housing cetaceans shall contain a pool of water and may consist entirely of a pool of water. In computing the minimum space requirements in a pool holding cetaceans, four factors must be considered. These are the MHD, the depth, the volume, and the surface area. For the purposes of this subpart, cetaceans have been divided into the following groups:

Group I cetaceans. This group shall consist of all cetaceans except those specified in Group II below.

Group II cetaceans. This group shall consist of the following genera and species of cetaceans.

Genera, Species and Common Name

Delphinus—all species— common dolphin.
Lissodelphis—all species—right whale dolphin.
Stenella—plagiodon—spotted dolphin.
Stenella—attenuata—spotted porpoise.
Stenella—coeruleoalba—blue-white porpoise (striped dolphin).
Stenella—Longirostris—spinner porpoise.
Phocoenoides—dalli—Dall's porpoise.

(1) *The required minimum horizontal dimension (MHD)* of a primary enclosure pool shall be based on the average adult body length of the longest species of cetacean housed therein. (i) The MHD of a pool for Group I cetaceans shall be two times the body length of an average adult of the longest species of cetacean to be housed therein, measured from the tip of its lower jaw to the notch in the tail fluke.[3] (ii) The MHD of a pool for Group II cetaceans shall be four times the body length of an average adult of the longest species of cetacean to be housed therein as measured from the tip of the lower jaw to the notch in the tail fluke. (iii) In a pool where a mixture of both group I and group II cetaceans are to be housed, the MHD must be computed on the basis of both the average adult length of the longest species of group I cetacean and of the longest species of group II cetacean, and the required MHD shall be either two times the body length of an average adult of the longest species of group I cetacean to be housed therein or four times the body length of an average adult of the longest species of group II cetacean to be housed therein, whichever is greater. (iv) The pool size may also be required to be adjusted to assure there is adequate surface area available to all cetaceans housed in a pool, and to increase the volume when more cetaceans are added to a pool. The pool size can be increased to allow for more surface area or volume, but cannot be less than the MHD requirement as stated in subparagraph (1), (ii), and (iii) of this paragraph. Examples of MHD for group I cetaceans are shown in table I, and for group II cetaceans in table II.

(2) *The minimum depth requirements* for primary enclosure pools for all cetaceans shall be one-half the body length of the average adult of the longest species to be housed therein, regardless of the group I or group II classification, or 1.52 meters (5 feet), whichever is the greater, and can be expressed as d=L/2 or 5 feet, whichever is greater.

(3) *Pool volume.* A pool of water housing cetaceans which satisfies the MHD for either group I or group II cetaceans and which meets the minimum depth requirements, and surface area requirements discussed in paragraph (b)(4) of this section, shall have a sufficient volume of water to hold either two group I cetaceans or four group II cetaceans. If additional cetaceans of the same group are to be added to a pool, or in case the pool is to hold a mixture of group I and II cetaceans, the volume, as well as the surface area, necessary for each cetacean (if mixed), or for each additional group I or II cetacean (if not mixed), must be satisfied. The additional volume needed shall be based on the number and kind of cetaceans housed therein and shall be determined in the following manner. (i) The minimum volume of water (space) required for the first one or two group I cetaceans is based upon the formula:

Volume=(2 × average adult length of the longest species of cetacean/2)² × 0 × depth

(½ body length or 5 feet, whichever is greater, or $V=L^2 \times 0 \times d$. Volume divided by two would equal the volume required for each additional cetacean of group I. The volume requirements for each additional group I cetacean, more than two, are given in Table I. (ii) The minimum volume of water (space) required to maintain as many as four group II cetaceans is based upon the following formula:

Volume=(4 × average adult length of the longest species of cetacean/2)² × 0 × depth

(½ body length or 5 feet, whichever is greater), or $V=2L^2 \times 0 \times d$. Volume divided by four would be the volume required for each additional group II cetacean. The volume requirements for each additional group II cetacean. The volume requirements for each additional group II cetacean are given in Table II. (iii) When a mixture of both group I and group II cetaceans are housed together, the MHD must be satisfied as stated in § 3.103(b)(1), and the minimum depth cannot be less than required in § 3.103(b)(2). If additional volume is required when more cetaceans are added, this may be done by enlarging the pool in its lateral dimensions or by increasing the depth to allow for the increased volume of water, but the surface area requirements discussed below must also be met.

(4) *The minimum surface area* requirements are computed for each cetacean housed in the pool, regardless of group I or group II classification, based upon the following formula:

Surface area=(average adult body length/2)² × 0 × 1.5, or SA=L/2 × 0 × 1.5.

Surface area requirements are given in table III.

[3] The body length of a *Monodon monoceros* (narwhal) is measured from the tip of the upper incisor tooth to the notch in the tail fluke. If the upper incisor is absent or does not extend beyond the front of the head, then it is measured like other cetaceans, from the tip of the lower jaw to the notch in the tail fluke. Immature males should be anticipated to develop the "tusk" (usually left incisor tooth) beginning at sexual maturity.

TABLE I*.—*Group I Cetaceans*

Average adult length		MHD		Minimum required depth		Volume of water required for each additional cetacean, exceeding two—	
Meters	Feet	Meters	Feet	Meters	Feet	Cubic meters	Cubic feet
1.83	6	3.66	12	1.52	5	8.00	282.60
2.13	7	4.27	14	1.52	5	10.89	384.65
2.44	8	4.88	16	1.52	5	14.22	502.40
2.74	9	5.49	18	1.52	5	17.99	635.85
3.05	10	6.10	20	1.52	5	22.22	785.00
3.66	12	7.32	24	1.83	6	38.39	1,356.48
4.27	14	8.53	28	2.13	7	60.96	2,154.04
4.88	16	9.75	32	2.44	8	90.99	3,215.36
5.49	18	10.97	36	2.75	9	129.56	4,578.12
6.10	20	12.19	40	3.05	10	177.72	6,280.00
6.71	22	13.41	44	3.36	11	236.55	8,358.68
7.32	24	14.63	48	3.66	12	307.11	10,851.84
7.92	26	15.85	52	3.96	13	390.46	13,797.18
8.53	28	17.07	56	4.27	14	487.67	17,232.30

*All calculations are rounded off to the nearest hundredth. In converting the length of cetaceans from feet to meters, 1 foot shall equal .3048 meter. Due to rounding of meter figures as to the length of the cetacean, the correlation of meters to feet in subsequent calculations of MHD and additional volume of water required per cetacean, over two, may vary slightly from a strict feet to meters ratio. Cubic meters is based on: 1 cubic foot = 0.0283 cubic meter.

TABLE II*.—*Group II Cetaceans*

Average adult length		MHD		Minimum required depth		Volume of water required for each additional cetacean, exceeding four—	
Meters	Feet	Meters	Feet	Meters	Feet	Cubic meters	Cubic feet
1.52	5	6.10	20	1.52	5	11.11	392.50
1.83	6	7.32	24	1.52	5	16.00	565.20
2.13	7	8.53	28	1.52	5	21.77	769.30
2.44	8	9.75	32	1.52	5	28.44	1,004.80
2.74	9	10.97	36	1.52	5	35.99	1,271.10
3.05	10	12.19	40	1.52	5	44.43	1,570.00

*Converting cubic feet to cubic meters is based on: 1 cubic foot = 0.0283 of a cubic meter.

TABLE III.—*Minimum Surface Area Required for Each Cetacean*

Average adult length of each cetacean		Surface area required for each cetacean		Average adult length of each cetacean		Surface area required for each cetacean	
Meters	Feet	Square meters*	Square feet	Meters	Feet	Square meters*	Square feet
1.52	5	2.73	29.44	4.27	14	21.44	230.79
1.83	6	3.94	42.39	4.88	16	28.00	301.44
2.13	7	5.36	57.70	5.49	18	35.44	381.51
2.44	8	7.00	75.36	6.10	20	43.76	471.00
2.74	9	8.86	95.38	6.71	22	52.94	569.91
3.05	10	10.94	117.75	7.32	24	63.01	678.24
3.35	11	13.24	142.48	7.92	26	73.95	796.00
3.66	12	15.75	169.56	8.53	28	85.76	923.16

*Square meter = square feet/9 × 0.8361.

(c) *Sirenians.* Primary enclosures housing sirenians shall contain a pool of water and may consist entirely of a pool of water. The minimum pool size requirements, for MHD, depth, and volume shall be calculated by using the same formulas as used for group I Cetaceans (table I) and surface area in table III, in paragraph (b) of this section, based on the average adult length of such sirenians as measured from the tip of the muzzle to the notch in the tail fluke of dugongs and from the tip of the muzzle to the most distal point in the rounded tail of the manatee. This size pool shall be adequate for one or two sirenians.

(d) *Pinnipeds.* (1) Primary enclosures housing pinnipeds shall contain a pool of water and a dry resting or social activity area that must be close enough to the surface of the water to allow easy access for entering or leaving the pool. (2) The minimum size of the dry resting or social activity area of the primary enclosure for pinnipeds (exclusive of the pool of water) shall be based on the average adult length of each pinniped contained therein, as measured in a horizontal or extended position in a straight line from the tip of its nose to the tip of its tail. The minimum size of the dry resting and social activity area shall be computed using the following method:

List all pinnipeds contained in a primary enclosure by average adult length in descending order from the longest species of pinniped to the shortest species of pinniped. Square the average adult length of each pinniped. Multiply the average adult length squared of the longest pinniped by 1.5, the second longest by 1.4, the third longest by 1.3, the fourth longest by 1.2, and the fifth longest by 1.1, as indicated below. Square the average adult length of the sixth pinniped and all additional pinnipeds. Add the figures obtained for all the pinnipeds in the primary enclosure to determine the required minimum dry resting and social activity area required for such pinnipeds.

1st pinniped (average adult length)² × 1.5 = resting and social activity area required.
2nd pinniped (average adult length)² × 1.4 = resting and social activity area required.
3rd pinniped (average adult length)² × 1.3 = resting and social activity area required.
4th pinniped (average adult length)² × 1.2 = resting and social activity area required.
5th pinniped (average adult length)² × 1.1 = resting and social activity area required.
Over 5 (average adult length)² × 1.0 = resting and social activity area required for each additional animal.

Total minimum dry resting and social activity area for all pinnipeds housed in a primary enclosure.

(3) The minimum surface area of a pool of water for pinnipeds shall be at least two-thirds of the total minimum dry resting and social activity area required for the pinnipeds contained therein. The pool of water shall be at least 0.91 meters (3 feet) deep or one-half the length of the longest pinniped contained therein, whichever is greater. Parts of the pool less than 0.91 meters (3 feet) deep cannot be used in the calculation of either the resting and social activity area or as part of the pool.

(e) *Polar bears.* Primary enclosures housing polar bears shall consist of a pool of water, a dry resting and social activity area, and a den. A minimum of 37.16 square meters (400 square feet) of dry resting and social activity area shall be provided for one or two polar bears, with an additional 3.72 square meters (40 square feet) of dry resting

and social activity area for each additional polar bear. The dry resting and social activity area shall be provided with enough shade to accommodate all

for sea otters shall be based on the average adult length of each sea otter contained therein, as measured from the tip of its nose to the tip of its tail. The minimum volume of water re-

ANIMAL HEALTH AND HUSBANDRY STANDARDS

§ 3.105 Feeding.

be conducted in a manner which will minimize contamination and which will assure that the food retains nutritive value and wholesome quality. The

maintain the required water quality and to prevent health hazards to the marine mammals contained therein.

(3) The wall and bottom surfaces of

when they are maintained in isolation for such purposes as medical treatment or training and given special attention.

V 43 / 182 SE 19 78

and social activity area for each additional polar bear. The dry resting and social activity area shall be provided with enough shade to accommodate all of the polar bears contained in such primary enclosure at the same time. The pool of water shall be at least 2.44 meters (8 feet) by 3.66 meters (12 feet) with a minimum depth of 1.52 meters (5 feet), with the exception of any entry and exit area. This size pool shall be adequate for two polar bears. For each additional bear, the surface area of the pool must be increased by 3.72 square meters (40 square feet). The den shall be at least 1.83 meters (6 feet) in width and depth and not less than 1.52 meters (5 feet) in height. It will be so positioned that the viewing public shall not be visible from the interior of the den. A separate den shall be provided for each adult female of breeding age in the same primary enclosure.

(f) *Sea otters.* (1) Primary enclosures for sea otters shall consist of a pool of water and a dry resting area. The MHD of the pool of water for sea otters shall be at least twice the length of the average adult sea otter contained therein as measured from the tip of its nose to the tip of its tail and the pool shall be not less than 0.91 meters (3 feet) deep. When more than two sea otters are housed in the same primary enclosure, additional dry resting area as well as pool volume is required to accommodate the additional sea otters (table IV).

(2) The minimum volume of water required for a primary enclosure pool for sea otters shall be based on the average adult length of each sea otter contained therein, as measured from the tip of its nose to the tip of its tail. The minimum volume of water required in the pool shall be computed using the following method. Multiply the square of the length of the average adult sea otter by 0 (3.14) and multiply the total by 0.91 meters (3 feet). This volume is satisfactory for one or two sea otters. For more than two sea otters, multiply one-half of the square of the length of the third average adult sea otter, and each additional sea otter (when more than two), by 0 (3.14), then multiply by 0.91 meters (3 feet).

(3) The minimum dry resting area required for one or two sea otters shall be based on the average adult length of each sea otter contained therein, as measured from the tip of its nose to the tip of its tail. The minimum dry resting area for one or two sea otters shall be computed using the following method. Square the length of the average adult sea otter and multiply the total by 0 (3.14). When the enclosure is to contain three sea otters, the additional dry resting area for the third animal shall be computed as follows. Multiply one-half of the square of the average adult length of the third sea otter by 0 (3.14). If more than three sea otters are to be kept in a primary enclosure, obtain the sum of one-half of the square of the average adult length of each additional sea otter (starting with otter number 3), and multiply this sum by 0 (3.14). Additional dry resting and social activities area is given in table IV.

TABLE IV *.—*Additional Space Required for Each Sea Otter More Than Two in a Primary Enclosure*

Length of sea otter		Resting area		Pool volume	
Meters	Feet	Square meters	Square feet	Cubic meters	Cubic feet
0.91	3.0	1.30	14.13	1.18	42.39
1.07	3.5	1.80	19.23	1.64	57.70
1.22	4.0	2.34	25.12	2.13	75.36
1.37	4.5	2.95	31.79	2.68	95.38
1.52	5.0	3.63	39.25	3.30	117.75
1.68	5.5	4.43	47.49	4.03	142.48

* All calculations are rounded off to the nearest hundredth. A conversion factor of 1 foot equals .3048 meter is used in converting the length of the sea otter from feet to meters. Due to rounding of meter figures as to the length of the sea otter, the correlation of meters to feet in subsequent calculations of additional resting area and pool volume required per sea otter, more than two, may vary slightly from a strict feet to meter ratio.

ANIMAL HEALTH AND HUSBANDRY STANDARDS

§ 3.105 Feeding.

(a) The food for marine mammals shall be wholesome, palatable, and free from contamination, and shall be of sufficent quantity and nutritive value to maintain all of the marine mammals in a state of good health. The diet shall be prepared with consideration for age, species, condition, size, and type of marine mammal being fed. Marine mammals shall be offered food at least once a day, except as directed by veterinary treatment or professionally accepted practices.

(b) Food receptacles, if used, shall be located so as to be accessible to all marine mammals in the same primary enclosure and shall be placed so as to minimize contamination of the food contained therein. Such food receptacles shall be cleaned and sanitized after each use.

(c) Food, when given to each marine mammal individually, shall be given by an employee responsible to management who has the necessary knowledge to assure that each marine mammal receives an adequate quantity of food to maintain it in good health. Such employee is required to have the ability to recognize deviations from a normal state of good health in each marine mammal so that the food intake can be adjusted accordingly. Public feeding shall be only permitted if it is done in the presence and under the supervision of an employee. Such employee must assure that the marine mammals are receiving the proper amount and type of food. Only food supplied by the facilities where the marine mammals are kept shall be fed to such mammals by the public.

(d) Food preparation and handling shall be conducted so as to minimize bacterial or chemical contamination and to assure the wholesomeness and nutritive value of the food. Frozen fish or other frozen food shall be stored in freezers which are maintained at a maximum temperature of −15° C (5° F). Thawing of the frozen food shall be conducted in a manner which will minimize contamination and which will assure that the food retains nutritive value and wholesome quality. The thawed product shall be kept iced or refrigerated until a reasonable time before feeding. All foods shall be fed to the marine mammals within 24 hours following the removal of such foods from the freezers for thawing.

§ 3.106 Water Quality.

(a) *General.* The primary enclosure shall not contain water which would be detrimental to the health of the marine mammal contained therein.

(b) *Bacterial standards.* (1) The coliform bacteria count of the primary enclosure pool shall not exceed 1,000 MPN (most probable number) per 100 ml. of water. Should a coliform bacterial count exceed 1,000 MPN, two subsequent samples may be taken at 48-hour intervals and average with the first sample. If such average count does not fall below 1,000 MPN, then the water in the pool shall be deemed unsatisfactory.

(2) When the water is chemically treated, the chemicals shall be added so as not to cause harm or discomfort to the marine mammals.

(3) Water samples shall be taken and tested at least weekly for coliform count and at least daily for pH and any chemical additives (e.g. chlorine and copper) that are added to the water to maintain water quality standards. Records must be kept concerning when all such samples were taken and the results of the tests. Records of all such test results shall be kept for a 1-year period and must be made available for inspection purposes on request.

(c) *Salinity.* Primary enclosure pools of water shall be salinized for marine cetaceans and harp seals as well as for those other marine mammals which require salinized water for their good health and well-being. The salinity of the water in such pools shall be maintained within a range of 15-36 parts per thousand.

(d) *Filtration and water flow.* Water quality must be maintained by filtration, chemical treatment, or other means so as to comply with the water quality standards specified in this section.

§ 3.107 Sanitation.

(a) *Primary enclosures.* (1) Animal and food waste in areas other than the pool of water shall be removed from the primary enclosure at least daily, and more often when necessary to prevent contamination of the marine mammals contained therein and to minimize disease hazards.

(2) Particulate animal and food waste, trash, or debris that enter the primary enclosure pool of water shall be removed as often as necessary to maintain the required water quality and to prevent health hazards to the marine mammals contained therein.

(3) The wall and bottom surfaces of the primary enclosure pool of water shall be cleaned as often as necessary to maintain proper water quality.

(b) *Food preparation areas and food receptacles.* Containers, such as buckets, tubs, and tanks, as well as utensils, such as knives and cutting boards, or any other equipment which has been used for holding, thawing or preparing food for marine mammals shall be cleaned and sanitized after each feeding, if the marine mammals are fed once a day, and at least daily if the marine mammals are fed more than once a day. Kitchens and other food handling and preparation areas shall be cleaned at least once daily and sanitized at least once every week. Sanitizing shall be accomplished by washing with hot water (82° C, 180° F, or higher) and soap or detergent in a mechanical dishwasher, or by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant, or by cleaning all soiled surfaces with live steam.

(c) *Housekeeping.* Buildings and grounds, as well as exhibit areas, shall be kept clean and in good repair. Fences shall be maintained in good repair. Primary enclosures housing marine mammals shall not have any loose objects, sharp projections, and/or edges which may cause injury or trauma to the marine mammals contained therein.

(d) *Pest control.* A safe and effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained. Insecticides or other such chemical agents shall not be applied in a primary enclosure housing marine mammals except when deemed essential by an attending veterinarian.

§ 3.108 Employees.

A sufficient number of adequately trained employees shall be utilized to maintain the prescribed level of husbandry practices set forth in this subpart. Such practices shall be under the supervision of a marine mammal caretaker who has a background in marine mammal husbandry or care. Training of marine mammals shall be done by experienced trainers without physical punishment or abuse being used or inflicted upon the marine mammals.

§ 3.109 Separation.

Marine mammals which are not compatible shall not be housed in the same enclosure. Marine mammals shall not be housed near animals that would cause them stress or discomfort, or interfere with their good health. Captive marine mammals must be given access to other animals except when they are maintained in isolation for such purposes as medical treatment or training and given special attention.

§ 3.110 Veterinary Care.

(a) Programs of disease prevention, parasite control, euthanasia, and adequate veterinary care for all marine mammals shall be established and maintained under the supervision of an attending veterinarian.

(b) Marine mammals shall be observed daily by the person in charge of the care of the marine mammals or by someone working under his direct supervision. Sick or diseased, stressed, injured, or lame marine mammals shall be provided with adequate veterinary care or humanely destroyed, when necessary, unless such action is inconsistent with the research purposes for which the marine mammal was obtained and is being held.

(c)(1) In the case of a research facility, the program of adequate veterinary care shall include the appropriate use of anesthetic, analgesic, or tranquilizing drugs, when such use would be proper in the opinion of the attending veterinarian of the research facility. The use of these three classes of drugs shall be in accordance with currently accepted veterinary medical practice as cited in appropriate professional journals or reference guides which shall produce in the individual subject animal as high a level of tranquilization, anesthesia, or analgesia as is consistent with the protocol or design of the experiment.

(2) It shall be incumbent upon each research facility through its Animal Care Committee and attending veterinarian to provide guidelines and consultation to research personnel with respect to the type and amount of tranquilizers, anesthetics, or analgesics recommended as being appropriate for each species of marine mammals used by that institution.

(d) Newly acquired marine mammals shall be isolated from resident marine mammals until such newly acquired marine mammals can be reasonably determined to be in good health. Any communicable disease condition in a newly acquired marine mammal must be remedied before it is placed with other resident marine mammals.

(e) Any primary enclosure containing a marine mammal with an infectious or contagious disease shall be cleaned and sanitized in the manner prescribed by the attending veterinarian. No additional animals shall be introduced into the primary enclosure prior to such cleaning and sanitizing procedures. Any marine mammal exposed to a diseased animal shall be isolated for observation for an appropriate period of time as determined by the attending veterinarian.

(f) Temporary holding facilities with adequately and properly designed pools, tanks, restraining devices or primary enclosures shall be provided for isolation, medication, and treatment of marine mammals. The pools, tanks and primary enclosures may be less than minimum size in both lateral dimensions and depth when used in special situations when prescribed by the professional staff for temporary usage.

(g) A complete necropsy must be conducted by a veterinarian on all marine mammals that die in captivity. A necropsy report must be prepared by the veterinarian listing all pathologic lesions observed and giving the apparent cause of death. All diagnostic tests conducted on post mortem specimens shall be listed in the report, and the results of each test recorded. The management of the facility, at which the marine mammal died, must maintain these necropsy records for a period of 2 years and present them to the Department inspectors when requested.

§ 3.111 Handling.

(a) Handling marine mammals shall be done as expeditiously and carefully as possible in a manner that does not cause unnecessary discomfort, overheating, behavioral stress, or physical harm. Care should also be exercised to avoid harm to the handlers of such marine mammals.

(b) Marine mammals, to which the public is afforded direct contact, shall only be displayed for periods of time and under conditions consistent with the animals' good health and well-being. A responsible attendant must be present at all times during periods of public contact.

(c) During public display, all marine mammals must be handled so that there is minimal risk of harm to the public or to the marine mammal, with sufficient distance allowed, or barriers placed between the marine mammal and the viewing public to assure safety to both the public and the marine mammal. Performing marine mammals shall be allowed a rest period between performances at least equal to the time for one performance.

TRANSPORTATION STANDARDS

§ 3.112 Consignments to carriers and intermediate handlers.

(a) Carriers and intermediate handlers shall not accept any marine mammal presented by any person or by any department, agency, or instrumentality of the United States or of any State or local government for transportation, in commerce, more than 4 hours prior to the scheduled departure of the primary conveyance on which it is to be transported.

(b) Carriers and intermediate handlers shall attempt to notify the consignee immediately on arrival, and if unsuccessful, at least once every 4 hours following the arrival of any marine mammal at the animal holding area of the terminal cargo facility. The time, date, and method of notification to the consignee and the person notifying the consignee shall be noted on one of the documents accompanying the marine mammal.

§ 3.113 Primary enclosures used to transport marine mammals.

(a) Primary enclosures, which are used to transport marine mammals other than cetaceans and sirenians, shall (1) be constructed from materials of sufficient structural strength to contain the marine mammals; (2) be constructed from material that is durable, nontoxic, and cannot be chewed, and/or swallowed; (3) be able to withstand the normal rigors of transportation; (4) have interiors which are free from any protrusions that could be injurious to the marine mammals contained therein; (5) be constructed so that no parts of the contained marine mammals shall be exposed to the outside of the enclosures in such a way which may cause injury to the animals or to persons who are nearby or who handle the enclosures; (6) have openings which provide access into the enclosures which shall be secured with locking devices of a type which cannot be accidentally opened; (7) have such openings located in a manner which makes them easily accessible at all times for emergency removal of any live marine mammal contained therein; (8) have air inlets at heights which will provide cross ventilation at all levels (particularly when the marine mammals are in a prone position) and located on all four sides of the enclosures, and such ventilation openings shall be not less than 15 percent of the total surface area of each side of the enclosures; (9) have projecting rims or other devices placed on the ends and sides of any enclosures which have ventilation openings to provide a minimum air circulation space of 1.9 centimeters (0.75 inches) between the enclosures and any adjacent cargo or conveyance wall; and (10) be equipped with adequate handholds or other devices on the exterior of the enclosures which shall enable them to be lifted without unnecessary tilting and which will insure that the persons handling the enclosures will not come in contact with any marine mammal contained therein.

(b) Straps, slings, harnesses, or other devices, if used for body support or restraint, when transporting marine mammals such as cetaceans and sirenians shall (1) be designed so as not to prevent access to such mammals by attendants during transportation for the purpose of administering in transit care; (2) be equipped with special padding to prevent trauma or injury at critical weight pressure points on the body of the marine mammals; and (3) be capable of keeping the animals from thrashing about and causing injury to themselves or their attendants, and yet be adequately designed so as not to cause injury to the animals.

(c) Primary enclosures used to transport live marine mammals shall be large enough to assure that (1) in the case of polar bears and sea otters, there is sufficient space to turn about freely in a stance whereby all four feet are on the floor and the animal can sit in an upright position and lie in a natural position; (2) in the case of pinnipeds, each animal has sufficient space to lie in a natural position; and (3) in the case of cetaceans and sirenians, each animal has sufficient space for support of its body in slings, harnesses, or other supporting devices, if used (as prescribed in paragraph (b) of this section) without causing injury to such cetaceans or sirenians due to contact with the primary enclosure.

(d) Marine mammals transported in the same primary enclosure shall be of the same species and maintained in compatible groups. Marine mammals which have not reached puberty shall not be transported in the same primary enclosure with adult marine mammals other than their dams. Female marine mammals shall not be transported in the same primary enclosure with any mature male marine mammals.

(e) Before being used to transport marine mammals, primary enclosures, if previously used, shall be cleaned and sanitized in the manner prescribed for food preparation areas and food receptacles in § 3.107(b) of these standards.

(f) Primary enclosures used to transport marine mammals shall be clearly marked on the top and on one or more sides with the words "Wild Animal" in letters not less than 2.5 cm. (1 inch) in height, and with arrows or other markings, to indicate the correct upright position of the container.

(g) Documents accompanying the shipment shall be attached in an easily accessible manner to the outside of a primary enclosure which is part of such shipment.

§ 3.114 Primary conveyances (motor vehicle, rail, air and marine).

(a) The animal cargo space of primary conveyances used in transporting live marine mammals shall be constructed in a manner which will protect the health and assure the safety and comfort of the marine mammals contained therein at all times.

(b) The animal cargo space shall be constructed and maintained in a manner which will prevent the ingress of engine exhaust fumes and gases in excess of that ordinarily contained in the passenger compartments.

(c) No marine mammal shall be placed in an animal cargo space that does not have a supply of air sufficient for normal breathing for each live animal contained therein, and the primary enclosures shall be positioned in the animal cargo spaces of primary conveyances in such a manner that each marine mammal contained therein shall have access to sufficient air for normal breathing.

(d) Primary enclosures shall be positioned in primary conveyances in such a manner that in an emergency the live marine mammals can be removed from the conveyances as soon as possible.

(e) The interiors of animal cargo spaces in primary conveyances shall be kept clean.

(f) Live marine mammals shall not knowingly be transported with any material, substance or device which may be injurious to the health and well-being of such marine mammals unless proper precaution is taken to prevent such injury.

§ 3.115 Food and water requirements.

(a) Those marine mammals which require drinking water shall be offered potable water within 4 hours prior to being transported in commerce or offered for transportation in commerce. Such marine mammals shall be watered as often as necessary and appropriate to the species involved to prevent excessive dehydration which would jeopardize the good health and well-being of the animals.

(b) Marine mammals shall not be transported for more than a period of 36 hours without being offered food. When an attendant is required to accompany a shipment of marine mammals, as provided in § 3.115 of these standards, such marine mammals shall be fed during transit when necessary to provide for their good health and well-being.

§ 3.116 Care in transit.

(a) An attendant or employee of the shipper or receiver of any marine mammal being transported, in commerce, knowledgeable in the area of marine mammal care, shall accompany cetaceans, sirenians, and sea otters during periods of transportation to provide for their good health and well-being, to observe such marine mammals and to determine whether they need veterinary care and to obtain any needed veterinary care as soon as possible. No cetacean or sirenian in need of veterinary care shall be transported in commerce, unless such transportation is for the purpose of obtaining such care.

(b) An attendant or other employee of the shipper or receiver of cetaceans or sirenians being transported, in commerce, shall provide for such cetaceans and sirenians during periods of transport by (1) keeping the skin moist with intermittent spraying of water or protecting it by applying a nontoxic emollient, such as lanolin, to prevent drying of the skin; (2) assuring that the pecoral flippers shall be allowed freedom of movement at all times; (3) making adjustments in the position of such marine mammals at 30-minute intervals to prevent necrosis of the skin at weight pressure points; and (4) calming such marine mammals to avoid struggling, thrashing, and other unnecessary activity which may cause overheating or physical trauma.

(c) One-half of the area in a primary enclosure used to transport sea otters shall be a dry area for resting and grooming, and the other half shall be a leakproof portion which shall contain sufficient crushed ice or water to provide each sea otter contained therein with moisture necessary to allow each sea otter to maintain its hair coat by preventing it from drying and to minimize soiling of the hair coat with urine and fecal material. No sea otter in need of veterinary care shall be transported in commerce, unless such transportation is for the purpose of obtaining such care.

(d) Polar bears and pinnipeds need not be accompanied by an attendant or other employee of the shipper or receiver, unless the period of transportation will exceed 12 hours in duration. During surface transportation, it shall be the responsibility of the carrier to inspect polar bears and pinnipeds unaccompanied by an attendant at least every 2 hours to determine whether they need veterinary care and to provide any needed veterinary care as soon as possible. When transported by air, live polar bears and pinnipeds, unaccompanied by an attendant, shall be inspected by the carrier at least every 2 hours if the animal cargo space is accessible during flight. If the animal cargo space is not accessible during flight, the air carrier shall inspect such live unattended pinnipeds and polar bears whenever loaded and unloaded and whenever the animal cargo space is otherwise accessible to determine whether such unattended live animals need veterinary care, and the carrier shall provide any needed veterinary care as soon as possible. No polar bear or pinniped in need of veterinary care shall be transported in commerce, unless such transportation is for the purpose of obtaining such care.

(e) During the course of transportation, in commerce, live marine mammals shall not be removed from their primary enclosure unless it is necessary to place them into another primary enclosure or other facility, or unless an emergency situation arises making removal of marine mammals from the primary enclosure necessary.

§ 3.117 Terminal facilities.

(a) *Indoor facilities.* Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All live animal shipments shall be maintained in the same animal holding area of a terminal facility of any carrier or intermediate handler at any one time. All animal holding areas shall be cleaned and sanitized often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation, and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live marine mammals shall be provided with fresh air by means of windows, doors, vents, or air conditioning and shall be ventilated or have its air circulated by means of fans, blowers, or an air conditioning system in a manner that will minimize drafts, odors, and moisture condensation. The ambient temperature around any marine mammal shall not be allowed to exceed 29.5° C (85° F) at any time, nor to fall below 7.2° C (45° F), unless the marine mammal is an ice dwelling species and can tolerate temperatures below the stated minimum.

(b) *Outdoor facilities.* Carriers and intermediate handlers, in transporting, loading, and unloading, live marine mammals from indoor animal holding areas of terminal facilities to pri- mary conveyances and from primary conveyances to indoor animal holding areas of terminal facilities, shall provide the following:

(1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the marine mammals from the direct rays of the sun.

(2) *Shelter from snow.* Transporting devices shall be covered to provide protection for the marine mammals during snow, except to ice dwelling marine mammals which can tolerate cold weather conditions.

(3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for the marine mammals when the atmospheric or outdoor temperature falls below 10° C (50° F) unless the marine mammal is an ice dwelling species and can tolerate temperatures below the stated minimum.

§ 3.118 Handling.

(a) Carriers and intermediate handlers are responsible for moving live mammals are acclimated to lower or higher temperatures.

All written submissions made pursu-

TUESDAY, SEPTEMBER 19, 1978
PART VIII

§ 3.118 Handling.

(a) Carriers and intermediate handlers are responsible for moving live marine mammals from indoor animal holding areas of terminal facilities to primary conveyances and from primary conveyances to indoor animal holding areas of terminal facilities as expeditiously as possible.

(b) Care shall be exercised to avoid handling primary enclosures in a manner that may cause injury or stress to live marine mammals contained therein.

(c) Primary enclosures housing live marine mammals shall not be tossed, dropped, or needlessly tilted and shall not be stacked in a manner which may result in their falling.

§ 3.119 Ambient temperature within primary enclosures.

The ambient temperature or the temperature surrounding the animal within the primary enclosure used to transport live marine mammals shall not exceed 29.5° C (85° F) for a period of more than 45 minutes and shall not fall below 7.2° C (45° F) for a period of more than 45 minutes unless the person transporting such live marine mammals knows that such live marine mammals are acclimated to lower or higher temperatures.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 703, Hyattsville, Md., during regular hours of business (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 14th day of September 1978.

NOTE.—The Department has determined that this document does not contain a major requirement preparation of an economic impact statement under Executive Order 11821 and OMB Circular A-107. However, an economic impact statement has been drafted and a copy of said draft statement may be obtained by writing to the Deputy Administrator, USDA, APHIS, VS, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782.

PIERRE A. CHALOUX,
Deputy Administrator,
Veterinary Services.

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federal register

TUESDAY, SEPTEMBER 19, 1978
PART VIII

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Environmental Review Procedures

[4210-01]

DEPARTMENT OF HOUSING AND

gram's operation over the last several years. In part, the proposed changes are the result of suggestions received

ommended that projects below a certain cost be exempt.

In addition to comments in response

housing. For such projects located in non-SMSA counties, and for projects in SMSA counties but outside a de-

sions about project selection and design. Therefore, HUD has supplied separate definitions of "project" and

ERR, will now have to include basic elements prescribed by HUD.

The use of HUD formats or other

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 58]

[Docket No. R-78-572]

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Environmental Review Procedures; Proposed Amendments and Revision

AGENCY: Community Planning and Development, HUD.

ACTION: Proposed rule.

SUMMARY: HUD is soliciting comments on proposed amendments to the environmental review responsibilities of community development block grant applicants who apply for funds under title I of the Housing and Community Development Act of 1974, as amended (the Act). The changes proposed would require the applicant to use HUD or HUD approved formats in its various environmental review procedures, and provide HUD the option of commenting on the applicant's environmental review process as well as the environmental quality of individual projects. Other changes would exempt certain activities from environmental review, clarify the circumstances when a prior environmental review may be used in connection with a proposed community development block grant action, and establish a system of flexible thresholds for automatically requiring an EIS. These changes are developed to address the need for changes in the review procedures that have become apparent from the operation of the program over the last several years.

COMMENTS DUE: October 19, 1978.

ADDRESS: Comments should be addressed to: Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard H. Broun, Office of Environmental Quality, Room 7258, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410; telephone 202-755-6308.

SUPPLEMENTARY INFORMATION: The changes proposed in this notice have been developed to address the need for changes in the environmental review procedures for the community development block grant program that have become apparent from the program's operation over the last several years. In part, the proposed changes are the result of suggestions received from an advance notice of proposed rulemaking which was published in the FEDERAL REGISTER on May 16, 1977. Additional suggestions for amendments to the regulations resulted from the HUD audit carried out by the Office of Inspector General in 1975 and 1976, an audit performed by the General Accounting Office (GAO) in 1977, and a report issued by the Council on Environmental Quality (CEQ) in 1977. The general operating experiences of HUD staff at headquarters, regional, and field levels have also been incorporated into the proposed amendments in order to make them more consistent with the environmental review procedures for other HUD programs. The changes proposed in these regulations have been the subject of consultation with the Council on Environmental Quality as required by section 104(h) of the Act. The intent of the proposed changes and the major issues involved are as follows:

AUTHORITIES AND RESPONSIBILITIES

The basic authorities listed in § 58.1(a)(3) have been revised to include Executive Orders 11990 on wetlands, and 11988 on floodplain management, both issued on May 24, 1977, Safe Drinking/Water Act of 1974 and the Endangered Species Act of 1973. A new § 58.23 contains provisions for complying with the Executive orders on wetlands and floodplain management.

Section 58.5 has been revised to make it clear that applicants' responsibilities include compliance with applicable laws and regulations pertaining to historic preservation and archeology as well as the recently issued Executive orders relating to flood-plain management and wetlands. Section 58.5(b)(3) has been amended to clarify that under section 104(h) of the Act HUD can delegate the environmental review responsibility only to units of general purpose government.

EXEMPTIONS OF ACTIVITIES FROM ENVIRONMENTAL REVIEW

A substantial number of commenters recommended that HUD expand the number of exempt activities presently listed in § 58.21. The most significant activities recommended for exemption were: Reconstruction or improvement of existing facilities, rehabilitation, land acquisition, recreation facilities, playgrounds, parks, social service type projects, engineering and design costs, and emergency demolition and repair projects. A few commenters recommended exempting all activities except new construction. Six commenters recommended that projects below a certain cost be exempted.

In addition to comments in response to HUD's notice, studies by CEQ, GAO, and HUD as well as the program experience of HUD personnel have shown that certain kinds of eligible block grant activities are such that they do not involve environmental consequences which significantly affect the quality of the human environment. The current regulations require the block grant applicant to complete the requirements of part 58, including the time periods for comments and the release of funds for all activities.

After extensive analysis, including consultation with the Council on Environmental Quality, HUD proposes to amend § 58.21 to provide certain exemptions from environmental review procedures.

Accordingly, environmental studies, planning and design, administration, payments of urban renewal project loans, and payments for notes guaranteed under section 108 of the Act may be exempt from environmental review procedures. In addition, projects consisting solely of acquisition, construction, reconstruction, or installation of certain types of public facilities; interim assistance, single purpose grants in the small cities program for imminent threat to public health or safety; certain types of public services; and certain types of rehabilitation of buildings which meet specific criteria are exempt from the environmental review process. However, projects in this second category must comply as appropriate with other separate statutes and regulations such as the National Historical Preservation Act.

PROJECTS REQUIRING AN ENVIRONMENTAL IMPACT STATEMENT

Several sources indicated a need for HUD to provide more indicators of projects likely to be environmentally significant. HUD proposes to expand § 58.25 to reclassify those additional projects which because of their size or scale are automatically deemed to be major Federal actions significantly affecting the quality of the human environment and, therefore, requiring preparation of an EIS. The automatic thresholds in this section augment and do not replace qualitative factors which may lead an applicant, under § 58.15, to conclude that an EIS is required.

Section 58.25(a) establishes a system of variable EIS thresholds applicable to various types of housing actions. The threshold system is the same as HUD is proposing for its housing programs. The thresholds relate to certain projects which would remove, demolish or substantially rehabilitate existing housing, or provide sites for

housing. For such projects located in non-SMSA counties, and for projects in SMSA counties but outside a defined "urbanizing belt", the threshold is 500 units. For projects located within the "urbanizing belt", the thresholds vary from 500 to 2500 units depending upon the total population of the SMSA county itself. The variable thresholds are presented in table 1. They are being made applicable to other HUD programs and replace a single threshold of 500 units which HUD concluded did not distinguish among the size, population, or density of development characteristics of various project areas in the United States and which did not recognize differences in the local ability to absorb and serve new or changed development.

Section 58.25(b) states that in calculating the threshold for projects which provide sites for hospitals and nursing homes, the term "bed" shall be substituted for "housing units".

A new § 58.25(c) has been provided to correct some of the confusion which has ensued from the application of the 100 acre threshold for water and sewer projects in the 1975 version of § 58.25(b) and to link this threshold with the residential threshold in § 58.25(a). In general, the new language provides that, where a new or enlarged water or sewer line provides additional capacity which would permit undeveloped or partially developed land to absorb new residential and/or nonresidential development, the amount of new development shall be applied to the thresholds of § 58.25(a) to determine whether an EIS will be required. The threshold will be calculated by the standard flows per unit and the increase in flow converted to the number of housing units.

USE OF PRIOR ENVIRONMENTAL REVIEWS

Section 58.19 has been retitled and amended to cover various circumstances when, in consideration of a proposed project level action, a prior environmental review may be used. The conditions under which a prior environmental impact statement may be used in lieu of a new EIS are completely rewritten and moved from § 58.19(c) to § 58.19(b). The new subsection is identical to proposed HUD environmental regulations applicable to programs other than CDBG.

COMPREHENSIVE AND EARLY EVALUATION

Several sources indicated that a proliferation of environmental reviews of individual activities has occurred in some CDBG localities. As a result environmental workload has increased, but the quality of the reviews has been inadequate because they were narrowly focused. Reviews often have had little relationship to local decisions about project selection and design. Therefore, HUD has supplied separate definitions of "project" and "activity" at § 58.3 and has considerably amplified the guidance on timing of review and on cumulative impact and aggregation at §§ 58.5 and 58.15.

HUD RECEIPT AND REVIEW OF EIS'S

Current regulations on the distribution of applicant EIS to Federal agencies do not provide for furnishing a copy to HUD. this exception has made it difficult for HUD to monitor, provide technical assistance, and improve environmental performance in the localities whose projects most significantly affect the environment. HUD now proposes to receive and review CDBG EIS's in the same manner as other Federal agencies. HUD may critique the actions of the applicant and make recommendations for modifications of proposed actions or for consideration of alternative activities. This revision is responsive to comments of the Council on Environmental Quality. Appropriate revisions have been made at §§ 58.17 and 58.27.

APPLICANT INTERACTION WITH HUD

A new subsection has been added to § 58,27. The new material describes HUD's role in commenting on or otherwise responding to the environmental review process of applicants, and is responsive to comments received from the Council on Environmental Quality (CEQ) and the General Accounting Office (GAO). It specifies that HUD may notify the applicant of defects in its environmental actions and make recommendations for correction. Such a notification will place the applicant on notice that a request for release of funds and certification of the applicant may be rejected by HUD, unless the defect is remedied to HUD's satisfaction. This revision will also clarify HUD's new role in EIS review.

REQUIRED USE OF HUD FORMATS

The poor quality of the Environmental Review Record (ERR) prepared and maintained by many CDBG applicants has been the subject of comment from the Council on Environmental Quality, the General Accounting Office, HUD's own auditors, HUD field staff, and from non-Federal sources. ERR's have been cited as omitting significant information and procedural steps needed to demonstrate that an environmental review adequate to comply with this part has been performed. Therefore, HUD has revised § 58.11 to require that applicants use the format contained in HUD-399-CPD, Environmental Reviews at the Community Level, or such other format as may be acceptable to HUD. The description of the project, which has often been defective in the ERR, will now have to include basic elements prescribed by HUD.

The use of HUD formats or other formats acceptable to HUD for findings of no significant effect on the environment, notices of intent to file an EIS, and notices of intent to request release of funds will be required. This revision is responsive to comments which indicated that local practice has frequently produced inadequate information. Appropriate revisions have been made in §§ 58.16, 58.17, and 58.30.

TIME PERIODS

Several commenters recommended that all time periods be counted by calendar days. Section 58.2 has been revised accordingly. The change simplifies the counting of days.

COMBINING OF NOTICE PERIODS

Thirty-two commenters recommended that the 15-day notice of finding of no significant effect and the 5-day notice of intent to request release of funds be combined. This has been accomplished by a change which permits the applicant to publish the two notices together. The period for the notice of intent to request release of funds has been changed from 5 business days to seven (7) calendar days. The periods for the two notices may run concurrently. Thus, at the end of the 15-day period for comment on the notice of finding of no significant effect, the applicant, if its funding is unchallenged, may request the release of funds.

PUBLICATION AND DISSEMINATION OF NOTICES

In response to complaints that notices have been placed in obscure and little read legal or commercial journals, § 58.17(b) has been revised to indicate that a notice of intent to request release of funds and notice of finding of no significant effect must be published at least once in a newspaper which is a source of general news used by the general public or published in some other manner most likely to inform residents.

PERMISSIBLE BASES FOR OBJECTING TO RELEASE OF FUNDS

The bases for objections to the request for release of funds are currently procedural only. Part 58.31 has been amended to allow HUD to reject an applicant's release for funds for a project which HUD determines to have a defective environmental review process or to be environmentally unsound. Other Federal agencies may submit a finding to HUD that an applicant's project is environmentally unsound.

CERTIFYING OFFICER OF APPLICANT

Several commenters recommended

Accordingly, HUD proposed to amend and revise Title 24, Part 58 to read as follows:

national policy, goals, and procedures for protecting and enhancing environmental quality. NEPA, as implemented

contract the categories of actions that would be subject to environmental identification and review procedures.

(3) *Other applicable authority.* The

diminished protection of the environment. The policies of NEPA, in addition to other responsibilities set out in section 2 and Title I of NEPA, require

State or a unit of general local government to undertake a community development program in whole or in part,

CERTIFYING OFFICER OF APPLICANT

Several commenters recommended that provision be made for delegating signature authority for purposes of environmental reviews and release of funds. HUD recognizes that for a multiactivity CDBG program signatures by the chief executive officer may be required with unnecessary frequency. Therefore a definition of "Certifying Officer of Applicant" has been supplied at § 58.3, and this officer is cited at relevant places in the revised regulation.

The Department wishes to solicit comment on changing § 58,17 to require at least one public hearing for an Environmental Impact Statement. The present regulations in § 58.17 (c) and (d) state that the applicant shall determine whether or not it will conduct a hearing or hearings and include the procedures and factors to be considered if a hearing is held. There has been comment that the optional nature of the public hearing does not provide for needed public input in the environmental review process and that requiring at least one public hearing on an EIS would result in better public review and comment. In commenting, the reader should be conscious of the relationship between the environmental procedures and the regulations for the CDBG program which require at least two public hearings prior to application submission. The Department will evaluate all comments received and shall make any needed adjustments in the final regulation.

* * * * *

With respect to the above proposed amendments, interested persons are invited to participate in the making of the final rule by submitting written comments or views on the proposed amendments. To facilitate HUD's review of written comments, reviewers are requested to clearly identify the amendment to which the comments are addressed. Comments should be filed with the Rules Docket Clerk, Room 5216, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. All relevant comments received on or before the date specified above will be considered before adoption of the final rule. Copies of comments will be available for examination during business hours at the above address.

A finding of inapplicability with respect to environmental impact has been prepared in accordance with the Department's environmental procedures. A copy of this finding is available for inspection and copying in the Office of the Rules Docket Clerk at the above address.

* * * * *

Accordingly, HUD proposed to amend and revise Title 24, Part 58 to read as follows:

PART 58—ENVIRONMENTAL REVIEW PROCEDURES FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Subpart A—General Policy and Responsibilities

Sec.
58.1 Purpose and authority.
58.2 Time periods.
58.3 Terminology.
58.4 [Reserved]
58.5 General policy.
58.6 [Reserved]

Subpart B—Environmental Reviews by Applicants Under Title I

58.7 [Reserved]
58.8 [Reserved]
58.9 Financial assistance for environmental review.
58.10 [Reserved]
58.11 Evironmental review record.
58.12 [Reserved]
58.13 [Reserved]
58.14 [Reserved]
58.15 Steps to commence environmental review process.
58.16 Steps to complete environmental review process where level of clearance finding is that the request for release of funds for project is not an action which may significantly affect the environment (no EIS).
58.17 Steps to complete environmental review process where level of clearance finding is that the request for release of funds is an action which may significantly affect the environment (EIS required).
58.18 Limitation on action pending clearance.
58.19 Use of prior environmental reviews.
58.20 Financial settlements of urban renewal projects.
58.21 Exempt activities.
58.22 [Reserved]
58.23 Floodplains and wetlands.
58.24 Historic preservation.
58.25 Projects requiring an EIS.
58.26 [Reserved]
58.27 Interaction of applicant with HUD and Federal agencies.
58.28 [Reserved]
58.29 [Reserved]

Subpart C—Releases of Funds for Particular Projects

58.30 Release of funds upon certification.
58.31 Objections to release of funds.
58.32 Effect of approval of certification.

AUTHORITY: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General Policy and Responsibilities

§ 58.1 Purpose and authority.

(a) *Authority—(1) Basic law.* The National Environmental Policy Act of 1969 (Pub. L. 91-190, 42 U.S.C. 4321 et seq.) (hereinafter "NEPA") establishes national policy, goals, and procedures for protecting and enhancing environmental quality. NEPA, as implemented by Executive Order 11514 and the Guidelines of the Council on Environmental Quality, 40 CFR Part 1500 (hereinafter "CEQ," as to the Council, and "CEQ Guidelines") requires in section 102(2)(c), in addition to other responsibilities, that all agencies of the Federal Government prepare detailed environmental impact statements on proposals for major Federal actions significantly affecting the quality of the human environment.

(2) *Section 104(h) of title I (of the Housing and Community Development Act of 1974* (Pub. L. 93-383, 42 U.S.C. 5301 et seq.) (hereinafter "section 104(h)" and "Title I" respectively) authorizes a procedure under which applicants with approved applications for assistance under Title I assume for specific projects the environmental review and decisionmaking responsibilities that would apply to the HUD Secretary were he to undertake such projects as Federal projects. The procedure eliminates the necessity for Federal environmental impact statements at the time of the initial application. At the same time, however, the procedure is intended to assure that NEPA policies and protection of the environment continue undiminished. Under the procedure applicants are to certify prior to any commitment of Title I funds for particular projects (other than funds for general planning or environmental study purposes) that they have met all of their environmental responsibilities in accordance with regulations issued by HUD Secretary, after consultation with CEQ. Approval of such certification by the Secretary under section 104(h) discharges the responsibilities he may otherwise have had under NEPA with respect to the specific projects covered by the certification. The Secretary is to wait 15 days after receipt before acting upon such a certification, thus giving those who may wish to challenge a certification an opportunity to take appropriate action. That challenge can include suit against the certifying officer or applicant who for purposes of enforcing NEPA has consented to accept the jurisdiction of the Federal courts. Such challenge may also include a request that the Secretary reject the certification. The Secretary will consider a request for rejection of the certification only if such request is grounded on certain bases, as set forth in § 58.31(b). Under section 104(h) cities, counties and other units of general local government assume only those responsibilities which would apply if the HUD Secretary were to undertake the projects proposed for assistance as Federal projects. Thus, these regulations neither expand nor

contract the categories of actions that would be subject to environmental identification and review procedures.

(3) *Other applicable authority.* The environmental review process must also take into account, where applicable, the criteria, standards, policies and regulations under the subsections below. The process should also consider the relationship of a project funded under Title I and the requirements of these authorities, to anticipated requests for other Federal assistance, particularly housing, to which these authorities may apply. An explanation of how these authorities are taken into account and considered shall be documented in the environmental review record prior to the applicant's submission of the certification and request for release of funds required by § 58.30.

(i) *Historic properties.* The National Historic Preservation Act of 1966 (Pub. L. 89-665); Preservation of Historic and Archeological Data Act of 1974 (Pub. L. 93-291) and regulations which may hereafter be issued; Executive Order 11593, Protection and Enhancement of the Cultural Environment, 1971; Procedures for Protection of Historic and Cultural Properties, Advisory Council on Historic Preservation, 36 CFR Part 800.

(ii) *Noise.* HUD Handbook 1390.2, Noise Abatement and Control, Department Policy, Responsibilities and Standards, 1971.

(iii) *Flood plain.* Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and implementing regulations; Title 24, Chapter X, Subchapter B, National Flood Insurance Program; and Executive Order 11988.

(iv) *Coastal zones and wetlands.* Coastal Zone Management Act of 1972 (Pub. L. 92-583), Executive Order 11990 and applicable State legislation or regulations.

(v) *Air quality.* Clean Air Act (Pub. L. 90-148), as amended; and applicable U.S. Enviromental Protection Agency implementing regulations.

(vi) *Water quality.* Federal Water Pollution Control Act (Pub. L. 92-500), section 1424(e) of the Safe Drinking Water Act of 1974 (Pub. L. 93-523) and applicable U.S. Environmental Protection Agency implementing regulations.

(vii) *Wildlife.* Fish and Wildlife Coordination Act (Pub. L. 85-624).

(viii) *Endangered species.* The Endangered Species Act of 1973 (Pub. L. 93-205) and as applicable Department of the Interior and Department of Commerce implementing regulations.

(b) *Purpose.* These regulations implement the requirements of section 104(h), which is intended to assure that the policies of NEPA are most effectively implemented in connection with the expenditure of funds under Title I, and to assure to the public undiminished protection of the environment. The policies of NEPA, in addition to other responsibilities set out in section 2 and Title I of NEPA, require the use of all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

(1) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) Assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) Preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

§ 58.2 Time periods.

All time periods in this part shall be counted in calendar days. The first day of a time period begins at 12:01 a.m. local time of the first day following the action which initiates it.

§ 58.3 Terminology.

For the purposes of this part, the following terminology shall apply:

Actions which may significantly affect the quality of the human environment. Those actions for which section 102(2)(c) of NEPA would require the preparation of an environmental impact statement (EIS). Applicants assuming NEPA responsibilities pursuant to Title I and these regulations shall review each project proposed for fund release under Title I in accordance with the environmental review process described in these regulations in order to determine whether the applicant's request to HUD for the release of Title I funds would constitute an action, were the applicant a Federal agency, which may significantly affect the quality of the human environment.

Applicant. The applicant is the State or unit of general local government which makes application pursuant to the provisions of subpart D or subpart E of 24 CFR Part 570. One or more public agencies, including existing local public agencies, may be designated by the chief executive officer of a State or a unit of general local government to undertake a community development program in whole or in part, but only the State or unit of general local government may be the applicant under the subparts cited above, and under this Part 58. Upon execution of its grant agreement with HUD, an applicant becomes a "recipient" under 24 CFR Part 570. As used in this Part 58, the term "applicant" includes "recipient" under Part 570, where the context so requires.

Certifying officer. The term "certifying officer" means the chief executive or another officer of the applicant authorized, in accordance with applicable local law, to execute the certification and request for release of funds specified at § 58.30, to consent to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969, and to consent on behalf of the applicant to accept the jurisdiction of the Federal courts for the enforcement of NEPA responsibilities as such official.

Environmental impact. Any alteration of exiting environmental conditions, or creation of a new set of environmental conditions, adverse or beneficial, caused or induced in whole or in part, directly or indirectly, by a proposed project under Title I.

Environmental impact statement (EIS). A written statement, propared in accordance with NEPA and CEQ guidelines using such format as may be acceptable to HUD, describing any alteration of environmental conditions or creation of a new set of environmental conditions, adverse or beneficial, caused or induced by the action or set of actions under consideration, and the alternatives to such action or group of actions. The statement should include a quantitative measure of magnitude and a qualitative measure of importance of the environmental impacts.

Environmental review and environmental review process. The entire process for compliance by the applicant with NEPA under this part with respect to a project funded under Title I.

Level of clearance finding. The applicant's determination pursuant to § 58.15(d) as to which of the two levels of environmental clearance applies.

Activity. As used in this part, "activity" means both those actions funded or authorized to be funded with Title I assistance and those related actions which are not so funded or not authorized to be so funded. In the context of environmental review, it is not the source of funds for an activity, but the nature of the activity and its relationship to other activities which is relevent. Where the term "eligible activity" is used in this part, it means an activity which is eligible for Title I as-

sistance pursuant to 24 CFR parts 570 and 571.

Project. The term "project", as used in this part, means an activity or a

(v) At least ninety percent (90%), by estimated cost, of all relocation payments have been made;

(vi) With respect to each park, play-

§ 58.4 [Reserved]

§ 58.5 General policy.

(a) *Applicants to assume environ-*

assume and carry out the environmental responsibilities hereunder. If an applicant believes it may lack legal capacity to assume and carry out envi-

which should be implemented when the project is undertaken, in order to protect or enhance environmental quality or minimize adverse environ-

compass the entire multi-year scope of activities and shall not be limited to those activities scheduled for any given year. This subsection applies to

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sistance pursuant to 24 CFR parts 570 and 571.

Project. The term "project", as used in this part, means an activity or a group of integrally related activities, designed by the applicant to accomplish, in whole, or in part, a specific goal. Geographically or functionally related activities designed to accomplish a specific goal, irrespective of the funding sources of those activities, shall be grouped together for consideration as a single project. Because of the interrelationships of the activities comprising the project, the project as a whole shall be subject to a single environmental review in accordance with this part. A project may take a number of years to complete and may require funds in addition to the amount provided in a single program year.

SMSA. A standard metropolitan statistical area as defined by the Office of Management and Budget.

SMSA county. Within a SMSA, a county or county equivalent as listed in the P-25 series, population estimates and projections, published by the Bureau of the Census.

Urbanizing belt. Urbanizing belts are identified as the delineated urbanized areas, as defined by the Bureau of the Census, plus a two-mile zone around the outer boundaries of such areas. In cases where this two-mile zone borders or includes a portion of an incorporated place lacking census tracts, or, when the two-mile zone borders or includes a portion of a census tract, the next outer boundary of such incorporated place or census tract may be used to delineate the outer limit of the urbanizing belt. In no case shall the urbanizing belt extend beyond the SMSA boundary.

Urban renewal project. A project as defined in § 110(c) of the Housing Act of 1949, as amended, or a neighborhood development program as defined in § 131(b) of the Housing Act of 1949, as amended.

Substantial completion. As applied to an urban renewal project, this term means that:

(i) Ninety percent (90%) or more of site improvement work has been completed and the remainder is under contract;

(ii) Ninety percent (90%) or more of demolition work has been completed and the remainder is under contract;

(iii) Relocation of all occupants of at least ninety-eight percent (98%) of the housing units in the relocation workload, or of all but five (5) such housing units, whichever is the lesser, has been completed;

(iv) Relocation for at least ninety-five percent (95%) of all cases in the nonresidential relocation workload, or for all but ten (10) such cases, whichever is the lesser, has been completed;

(v) At least ninety percent (90%), by estimated cost, of all relocation payments have been made;

(vi) With respect to each park, playground, public building or other public facility to be provided as a noncash local grant-in-aid:

A. All land necessary for the provision thereof has been conveyed to or is in the ownership of the providing entity or is covered by an unconditional purchase, or similar, agreement,

B. All necessary planning agency or other public body approvals have been obtained,

C. All, or virtually all, of the funds necessary for the provision thereof have been authorized by the governing body of the providing entity and all and any necessary bond referendums or other public approvals have been obtained,

D. Complete working drawings and specifications have been prepared for the construction thereof and firm supportable estimates of the costs incident to provision thereof have been developed, and

E. A firm assurance exists of timely completion and, in any event, of completion within five (5) years from the date of the assurance;

(vii) With respect to dwelling units not to be demolished, at least ninety-five percent (95%) comply with applicable codes and at least seventy-five percent (75%) comply with applicable property rehabilitation standards established for the urban renewal project: *Provided,* that in any event, project activities may be deemed complete in regard to dwelling units not to be demolished where the following conditions exist:

A. Area decline has been arrested and stability and self-generating renewal assured,

B. Public facilities and services have been, and will continue to be, provided to support continued stability,

C. Local financial institutions are making property loans in the area, and

D. The community will continue an adequate level of code enforcement activities in the area;

(viii) All project land acquisition has been completed; and

(ix) An amount equal to the HUD approved land disposition value of all acquired project land has been credited to the urban renewal project account(s): *Provided,* that for all project land actually sold, the full sale price thereof shall be so credited and for all leased or unsold project land, the full amount of the HUD approved estimate of the disposition value thereof shall be so credited from community development block grants or local funding sources.

§ 58.4 [Reserved]

§ 58.5 General policy.

(a) *Applicants to assume environmental responsibilities.* Except as provided at paragraph (b) of this section, all applicants for assistance under Title I shall be required to assume responsibility for carrying out all of the provisions of NEPA relating to particular projects for which the release of funds is sought. This shall include assuming all applicable responsibilities relating to such projects for compliance with the National Historic Preservation Act of 1966, as amended; the Preservation of Historic and Archeological Data Act of 1974, as amended; Executive Order 11593, May 13, 1971, Protection and Enhancement of the Cultural Environment; Procedures for Protection of Historic and Cultural Properties, Advisory Council on Historic Preservation, 36 CFR Part 800; Executive Order 11988, May 24, 1977, relating to Floodplain Management; Executive Order 11990, May 24, 1977, relating to Protection of Wetlands; Section 1424(e) of the Safe Drinking Water Act of 1974; the Endangered Species Act of 1973; and other regulations and orders issued relative to any of the foregoing. In assuming such responsibility, the applicant's certifying officer shall carry out the responsibilities of the "responsible Federal official" as that term is used in NEPA and applicable regulations thereunder. Such responsibilities include, where applicable, the conduct of environmental reviews; decisionmaking and action as to environmental issues; preparation and circulation of draft and final EIS's; and assumption of lead agency responsibilities for preparation of such statements in behalf of Federal agencies when such agencies consent to such assumption. The certifying officer shall be subject to the jurisdiction of the Federal courts pursuant to section 104(h); such certifying officer of the applicant shall not be represented by the Department of Justice in court, but reasonable defense costs, including the fees of attorneys and experts, incurred in environmental litigation may be funded from the applicant's grant amounts.

The carrying out of all environmental review responsibilities shall be documented in the environmental review record prior to the applicant's submission of the certification and release of funds required by § 58.30.

The certification described at § 58.30 must be submitted to HUD by the applicant prior to the release of funds for any such project as evidence of the assumption of the responsibilities set forth above.

(b) *Exception.* (1) Each applicant shall, prior to submitting an application, review its legal capacity to assume and carry out the environmental responsibilities hereunder. If an applicant believes it may lack legal capacity to assume and carry out environmental review responsibilities hereunder, then it shall submit to the HUD official authorized to receive the application the legal opinion of its attorney in support of such claim and shall consult with said HUD official in order to obtain appropriate instructions. Such claim shall be made prior to submitting an entitlement or discretionary application. Discretionary applicants shall submit such claim to HUD with the preapplication, if a preapplication is required. HUD will review such claim and approve or disapprove it.

(2) If an applicant's claim of lack of legal capacity has been approved by HUD, then HUD will complete an environmental assessment, including an EIS if appropriate, pursuant to HUD Handbook 1390.1, as amended, before the application is approved, or in those cases where a preapplication is required, before the applicant is invited to submit a full application.

(3) Community associations, other applicants which are eligible for assistance pursuant to 24 CFR section 570.403(b)(4) unless such applicant is also described in the first sentence of 24 CFR section 570.3(v), and private developers approved under Title VII of the Housing and Urban Development Act of 1970 or Title IV of the HUD Act of 1968, are considered by HUD to lack the legal capacity to assume or carry out environmental review responsibilities.

(c) *Environmental review process.* The environmental review process consists of a study by the applicant of each project to identify any environmental impacts of actions proposed to be taken by the applicant which are to be supported, in whole or in part, by Title I funds.

(d) *Determination of impact.* In the environmental review process, the applicant must arrive at a determination as to whether or not any proposed project will result in any environmental impact; or will itself be affected by the environment; the nature, magnitude and extent of any such impact; whether or not any changes could be made in the project as proposed, or alternatives to such project could be adopted, to eliminate or minimize adverse impacts; and the level of environmental clearance which is appropriate. Such determination is largely a matter of judgment on the part of the applicant, involving evaluation of available facts, pursuant to the procedures and guidelines contained in this part.

(e) *Conditions and safeguards.* If the applicant's environmental review process reveals conditions or safeguards which should be implemented when the project is undertaken, in order to protect or enhance environmental quality or minimize adverse environmental impacts, then such conditions or safeguards shall be set forth in the environmental review record and the applicant shall use all appropriate means to assure that those conditions and safeguards are implemented.

(f) *Decision not to implement.* If, through the environmental review process, the applicant concludes that the proposed project should not be implemented in whole or in part, then the applicant may reprogram to another eligible project, in accordance with the applicable provisions of 24 CFR 570.305.

(g) *Scope and timing of environmental reviews.* Applicants shall carry out their environmental review responsibilities for projects as defined at § 58.3 in accordance with the following:

(1) *Timing.* To the greatest extent possible, the environmental review of proposed projects shall be carried out concurrently with the formulation of the applicant's community development program and the preparation of the application for Title I funds. Environmental review shall commence at the earliest possible point in the development of a project. When a project is formulated, it shall be reviewed for environmental considerations in order to identify and evaluate expected or potential environmental impacts, to devise changes and modifications to eliminate or mitigate adverse impacts, and to explore alternatives. By developing and carrying out its environmental review as part of the overall program and application formulation process, the applicant can considerably shorten the time between program development and program implementation.

(2) *Cumulative impact and aggregation.* The cumulative effects of related actions must be considered together. Activities which are individually small may, in the aggregate, have cumulatively large effects on the environment, especially when a number of such activities will take place at or about the same general time and in the same general location. Also, a series of actions taking place over extended periods of time can, in the aggregate, have a cumulative effect upon the environment much greater than the effect of each individual action considered separately. All individual actions which are related either geographically or functionally, or are logical parts of a composite of contemplated actions, shall be grouped and shall be deemed by the applicant to be a project and must be evaluated as a whole in a single, comprehensive environmental review. The environmental review of a multi-year project shall encompass the entire multi-year scope of activities and shall not be limited to those activities scheduled for any given year. This subsection applies to all projects and activities, except that for exempt activities defined at § 58.21(a) the applicant may, but is not required to, apply these aggregation requirements.

(3) *Illustrations.* Where an applicant proposes to acquire a parcel of land, relocate its occupants, clear the site by demolition, then develop the site, or dispose of it for development by others, then all of these activities must be viewed as comprising a single project, for purposes of environmental review. Where an applicant proposes to undertake a number of small activities, such as street, water, and sewer improvements in a given neighborhood, the applicant shall aggregate all such geographically or functionally related activities and view them as a single project for environmental review purposes and shall evaluate their cumulative environmental impact. This applies even if the activities are to occur over a period of years and even if some of the activities are to be funded by other than Title I funds or carried out by someone other than the applicant.

§ 58.6 [Reserved]

§ 58.7 [Reserved]

§ 58.8 [Reserved]

§ 58.9 Financial assistance for environmental review.

Applicants may utilize Federal financial assistance to enable them to carry out environmental review pursuant to this part, in accordance with the provisions of 24 CFR 570.205, 570.206(h), 570.301 and 571.205 and 571.206(h). The costs of environmental reviews include any costs incurred in complying with any of the authorities mentioned at § 58.1(a)(3) of this part.

§ 58.10 [Reserved]

§ 58.11 Environmental review record.

Applicants shall prepare and maintain a written record of the environmental review pertaining to each project, which shall be designated the "Environmental Review Record," and shall be available for review as part of the project proposal at the request of interested agencies, groups or individuals. The environmental review record, shall be prepared and maintained in accordance with format I, contained in HUD-399-CPD, Environmental Reviews at the Community Level, or such other format as may be acceptable to HUD. It shall include all material required by this part and format I and any other material rele-

SEP 19 78

V 43 / 182 SEP 19 78

vant to the actions taken pursuant to this part.

§ 58.12 [Reserved]

§ 58.13 [Reserved]

§ 58.14 [Reserved]

§ 58.15 Steps to commence environmental review process.

The manner in which the applicant carries out the environmental review process, including the concurrent historic preservation review, and other reviews required by the authorities set forth in § 58.1(a) and the responsibilities assumed pursuant to § 58.5(a), is largely within the discretion of the applicant. However, the process should start as early in the planning and program development process as possible, should be completed while alternatives can still reasonably be considered and action taken to enhance environmental quality and shall include the following steps:

(a) *Determine existing conditions.* Existing environmental conditions and trends which are likely to occur absent implementation of the proposed project should be identified. Such information is an essential data base from which to assess and evaluate any effects of the project.

(b) *Identify environmental impacts.* An identification of the nature, magnitude, and extent of all environmental impacts of the project, whether beneficial or adverse, should be identified.

(c) *Examine identified impacts.* As to all environmental impacts of the proposed project which are identified:

(1) *Possible project modification.* Examine the project and consider ways in which the project or external factors relating to the project could be modified in order to eliminate or minimize any adverse environmental impacts and enhance environmental quality. The examination should include consideration in light of the policies set forth in § 58.1(b) of both positive and negative effects of any such modification in relation to design, use, location, cost, and timing of the proposed project and its implementation.

(2) *Alternatives.* Examine alternatives to the project itself which would eliminate or minimize environmental impacts or enhance environmental quality. The examination should include consideration of both positive and negative effects of any such alternatives in relation to design, use, location, cost, and timing, and consideration of the effect of no project.

(d) *Level of clearance finding.* Having completed each of the foregoing steps that may be applicable in the environmental review process, the applicant shall make one of the two level of clearance findings set forth below:

(1) *Finding that request for release of funds for project is not an action which may significantly affect the quality of human environment.* If the environmental review process of the applicant results in a finding by the applicant that the request for release of funds for the proposed project is not an action which may significantly affect the quality of the human environment, then a document stating this finding and the facts and reasons supporting the finding shall be prepared by the applicant and included in the environmental review record. The document shall set forth sufficient information to demonstrate that the applicant has complied with each step in the environmental review process.

(2) *Finding that request for release of funds for project is an action which may significantly affect the quality of the human environment.* If an EIS is required by § 58.25, or if the environmental review process of the applicant results in a finding by the applicant that the request for release of funds for the proposed project is an action which may significantly affect the quality of the human environment, then a document stating this finding shall be prepared by the applicant and included in the environmental review record. An EIS is required for each action which may have such significant effect.

§ 58.16 Steps to complete environmental review process where level of clearance finding is that the request for the release of funds for project is not an action which may significantly affect the environment (no EIS).

The following procedure shall be followed where the level of clearance finding is that specified in § 58.15(d)(1):

(a) *Notice of finding of no significant effect.* The applicant shall prepare a notice of finding of no significant effect on the environment using format VI of HUD-399-CPD, Environmental Reviews at the Community Level, or such other format as may be acceptable to HUD.

(b) *Publication and dissemination.* The notice of finding of no significant effect on the environment shall be published and disseminated in the same manner as a notice of intent to file an EIS, as described as § 58.17(b) and will provide at least 15 days from the date of initial publication for public comment. The applicant may, at the same time of publication of the above notice, also publish the notice required by § 58.30(a). In such case, both notices shall be published and disseminated in the manner specified at § 58.17(b).

(c) *Completion.* Following publication and dissemination of the notice of finding of no significant effect on the environment and the expiration of any time fixed for comments, the environmental review process shall be complete, unless further proceedings are found by the applicant to be necessary, due to responses to such notice, or otherwise.

§ 58.17 Steps to complete environmental review process where level of clearance finding is that the request for the release of funds for project is an action which may significantly affect the environment (EIS required).

The following procedure shall be followed where the level of clearance finding is that specified in § 58.15(d)(2):

(a) *Notice of intent to file an EIS.* As soon as practicable, the applicant shall prepare a notice of intent to file an EIS using format V of HUD-399-CPD, Environmental Review at the Community Level, or such other format as may be acceptable to HUD.

(b) *Publication and dissemination.* Copies of the notice of intent to file an EIS shall be sent to the local news media, individuals and groups, including low- and moderate-income neighborhood groups, known to be interested in the applicant's activities, local, state, and Federal agencies, including the headquarters and appropriate Regional Office of the Environmental Protection Agency, The HUD Area Office, the appropriate A-95 clearinghouses, and others believed appropriate by the applicant. Such notice shall be published at least once in a newspaper of general circulation in the affected community. If such newspaper is of a type specializing in the publication of legal, real estate, commercial, or other notices, listings, and advertisements and is not of a type subscribed to and read by the general public as a source of news of general public interest, then such notice shall also be published at least once in easily readable type in the nonlegal section of a newspaper of general circulation, and where appropriate in a minority and non-English language newspaper of general circulation where such exists. The applicant also shall make reasonable efforts to provide the notices, in the form of press releases to neighborhood newspapers or periodicals serving low- and moderate-income neighborhoods.

(c) *Public hearings—Procedure.* Prior to the preparation and distribution of a draft EIS, the applicant shall determine whether or not it will conduct a hearing or hearings at which members of the public may be heard respecting the preparation and contents of the draft EIS. The applicant should also determine whether or not separate public hearings shall be held concerning the draft EIS, or whether such public hearings shall be combined with other public hearings pertaining to the application of the applicant. All such public hearings concerning a draft EIS shall be preceded by a notice of public hearing, which shall be published and disseminated in the same manner as a notice of intent to file an EIS as set forth in § 58.17(b), at least 15 days prior to such hearing, and which shall: (1) State the date, time, place, and purpose of the hearing; (2) describe the project, its estimated costs, and the project area; (3) state that persons desiring to be heard on environmental issues will be afforded the opportunity to be heard; (4) state the name and address of the applicant and the certifying officer of the applicant; and (5) state where the draft EIS can be obtained, whether in person or by mail, and any charges that may apply.

(d) *Public hearings—Factors to consider.* The determination of whether or not public hearings shall be held prior to distribution of a draft EIS or after such distribution, or at any other time during the environmental review process, shall be within the reasonable discretion of the applicant. In determining whether or not to hold such public hearings on environmental issues, either separately, or in combination with other proceedings relating to the application of the applicant, the following factors should be considered: (1) The magnitude of the projects, in terms of economic costs, the geographic area involved, and the uniqueness of size of commitment of the resources involved; (2) the degree of interest in or controversy concerning the projects, as evidenced by requests from the public, or from Federal, State, or local authorities, for information, or that a hearing be held; (3) the complexity of the issues and the likelihood that information will be presented at the hearing which will be of assistance to the applicant in carrying out its environmental responsibilities respecting the particular projects; (4) the extent to which public involvement has been achieved with respect to environmental concerns through other means, such as other public hearings, citizen participation in the development of the applicant's community development program and in formulation of its application, meeting with citizen representatives, and written comments on the particular projects.

(e) *Draft EIS.* A draft Eis shall be prepared in accordance with CEQ guidelines (40 CFR Part 1500). Copies of the draft EIS shall be sent by the applicant to the HUD Area Office, The HUD Regional Office, and the HUD Library, Eighth Floor, U.S. Department of Housing and Urban Development, Washington, D.C. 20410 (one copy each), to the U.S. Environmental Protection Agency (EIS) (five copies to the appropriate Regional Office and five copies to the Office of Federal Activities (OFA), Room 537, West Tower, 401 M Street SW., Washington, D.C. 20460), and simultaneously to Federal agencies whose areas of jurisdiction of law or special expertise are involved, to the applicable OMB-designated A-95 clearinghouses, to appropriate local agencies and entities, including local and area planning agencies, and groups or individuals known by the applicant to have an interest in the proposed action of the applicant. The CEQ guidelines (appendix II) set forth a listing of the Federal agency jurisdictions and special expertise. Copies shall also be made available to the public at the offices of the applicant and at public libraries and either copies, or summaries, of the draft EIS, must be made available, upon request, to persons who request them. Upon filing of the draft EIS with EPA, a notice that the applicant has prepared a draft EIS will be published by EPA in the FEDERAL REGISTER. Commencing on the date of such publication, there shall be a minimum review period of 45 days for the draft EIS, plus any extensions thereof initiated or granted by the applicant. A draft EIS must be on file with EPA at least 90 days prior to submission to HUD of a certification and request for release of funds for the particular projects pursuant to § 58.30.

(f) *Final EIS.* A final EIS shall be prepared in accordance with CEQ guidelines (40 CFR Part 1500). The final EIS must take into account and must respond to the comments received as the result of circulation of the draft EIS. The final EIS, including all comments received and the applicant's responses thereto, shall be filed with the HUD Area Office, the HUD Regional Office, and the HUD Library, Eighth Floor, U.S. Department of Housing and Urban Development, Washington, D.C. 20410 (one copy each), with EPA (five copies to the Regional Office and five copies to OFA/EPA as noted in (e) above) and simultaneously sent to all agencies and individuals who commented on the draft EIS, to the Environmental Protection Agency, A-95 clearinghouses, appropriate Federal, State, regional, and local agencies, and shall be made available to the public. A final EIS must be on file with EPA not less than 30 days prior to submission to HUD of a certification and request for release of funds for the particular project pursuant to § 58.30. If the final EIS is filed within 90 days after publication by EPA in the FEDERAL REGISTER of notice of receipt of the draft EIS, then the minimum 30-day period for review of the final EIS, and the 90-day period provided for in § 58.17(e) will run concurrently, to the extent that they overlap.

§ 58.18 Limitation on action pending clearance.

During the environmental review process and pending completion of the appropriate environmental clearance procedures, the applicant may not use any funds to take any action with respect to the project under review where such action might have an adverse environmental effect, would limit choices among competing alternatives, or might alter the environmental premises on which the pending clearance is based in such fashion that the validity of the conclusions to be reached would be affected. Except as to exempt activities under § 58.21, no Title I funds will be released for a project until the Secretary shall approve said release of funds and the related certification. (See §§ 58.30, 58.31, and 58.32.) No Title I funds may be used to reimburse project costs subject to this part which have been incurred in advance of the Secretary's approval of the release of such funds and the related certification.

58.19 Use of prior environmental reviews.

(a) *Procedures for updating EIS's.* The following procedures shall be followed when new information becomes available or circumstances change during the process of environmental reviews.

(1) If information arises after a draft EIS has been transmitted for circulation, but prior to the expiration date for receipt of comments, then a copy of any revision, amendment, addendum to the draft EIS, or other issuance, shall be transmitted to all parties to whom the draft EIS was transmitted, and to all parties who have commented thereon, and, where appropriate, the applicant shall extend the time for comment on the draft EIS.

(2) If the time for comments on the draft EIS has expired, but the final EIS has not been circulated, then any revision, amendment or addendum to the draft EIS shall be transmitted to all parties to whom the draft EIS was transmitted and to all parties who commented thereon, and a reasonable time for receipt of comments shall be fixed and allowed. The final EIS shall then reflect the additional factors and contain the comments and responses respecting them.

(3) If the final EIS has been circulated, then it shall be revised and reissued or an addendum thereto shall be prepared and distributed, as appropriate, to all parties to whom the final EIS was distributed and to others who have commented thereon. Such revision or addendum shall be subject to the same review and comment proce-

V 43 1 182 SEP 19 78

dures, including those respecting time, as the final EIS which is being updated.

(b) *Use of prior environmental impact statements.* Where any final environmental impact statement has been listed in the FEDERAL REGISTER for a project or where an areawide or similar broad scale final EIS has been so listed and the EIS anticipated a subsequent project requiring an environmental clearance, then no new EIS is required for that subsequent project if the conditions set forth below in subparagraphs (1), (2), (3), and (4) are met.

(1) The environmental review record contains a decision based on a finding that the proposed project is not a new major Federal action significantly affecting the quality of the human environment.

(2) In addition to the content prescribed elsewhere in this section, the decision shall include:

(i) References to the prior EIS and its evaluation of the environmental factors affecting the proposed subsequent action subject to NEPA;

(ii) An evaluation of any environmental factors which may not have been previously assessed, or which may have significantly changed;

(iii) An analysis showing that the proposed project is consistent with the location, use, and density assumptions for the site and with the timing and capacity of the circulation, utility, and other supporting infrastructure assumptions in the prior environmental impact statement;

(iv) Documentation showing that where the previous EIS called for mitigating measures or other corrective action, these are completed to the extent reasonable given the current state of development.

(3) The prior final environmental impact statement has been kept current in the following ways:

(i) The EIS has been filed or updated within five (5) years; and

(ii) The EIS has been updated in accordance with significant revisions made to the underlying assumptions (covering at least those items in § 58.19(b)(2)(iii) above) as may be stated in the comprehensive plan or major elements thereof or other public policy revisions; and

(iii) The EIS has been updated to reflect new environmental issues and data or legislation and implementing regulations which the Department of Housing and Urban Development has determined to have significant environmental impact on the areas covered by the prior EIS.

(4) There is no litigation pending in connection with the prior EIS, and no final judicial finding of inadequacy of the prior EIS has been made.

(c) *Requirement for new environmental review.* A project which is a continuation of a previously commenced activity or activities for which no environmental review has been completed or for which a prior EIS does not meet the requirements of § 58.19(b) must be subjected to an original or updated environmental review under this part. Such review shall be carried out with respect to the entire project to the extent that the entire project or portions of it could still be altered in light of environmental considerations.

§ 58.20 Financial settlement of urban renewal projects.

(a) *Project undertaken to facilitate early financial settlement.* If an applicant proposes to submit an application for financial settlement of an urban renewal project prior to substantial completion thereof pursuant to 24 CFR 570.804, which will be coupled with a proposal to use Title I grants pursuant to 24 CFR 570.801 for the purpose of facilitating such financial settlement, the latter proposal shall be deemed a project which is subject to the following additional requirements and conditions:

(1) Section 58.19(b) shall be inapplicable to such project;

(2) The environmental review for such project shall include an assessment of the environmental consequences of the financial settlement of the urban renewal project prior to substantial completion thereof;

(3) The applicant shall include the following sentence with the notice required by § 58.30(a):

> Applicant will use the project to establish a financial basis, and will apply to the Secretary of HUD for financial settlement prior to substantial completion of the (*identify urban renewal project or NDP*) pursuant to 24 CFR 570.803 and 570.804.

(b) *Financial settlement prior to substantial completion of urban renewal project involving surplus of capital grant funds.* A financial settlement pursuant to 24 CFR 570.803 and 570.804 of an urban renewal project prior to substantial completion thereof which would result in a surplus of capital grant funds, $500 or more of which will be devoted to eligible Title I activities other than exempt activities under § 58.21 together with the proposed use(s) of the surplus shall be deemed a project and shall be subject to the following additional requirements and conditions:

(1) Section 58.19(b) shall be inapplicable to such project;

(2) The environmental review for such project shall include an assessment of the environmental consequences of the financial settlement of the urban renewal project prior to substantial completion thereof, and of the proposed use(s) of the surplus except any use(s) set forth in § 58.21;

(3) The application for financial settlement pursuant to 24 CFR 570.803 and 570.804 and use of the surplus resulting therefrom shall be treated as a request for release of funds and shall be subject to the requirements of subpart C of this part. However, the applicant shall use the following sentence in lieu of the first sentence set forth after the word "indicated" in § 58.30(a)(6):

> (*Name of applicant*) will apply for financial settlement prior to substantial completion of (*identify urban renewal project or NDP*) and will undertake certain activities, all as described above, with surplus capital grant funds resulting from financial settlement.

(4) The surplus of capital grant funds resulting from such financial settlement may be used for a project which consists entirely of exempt activities under § 58.21 and/or activities which are subjected to environmental assessment pursuant to § 58.20(b) without further compliance with this part.

(c) *HUD environmental review of certain financial settlements.* Prior to acting upon any application submitted pursuant to 24 CFR 570.803 and 570.804 for financial settlement of an urban renewal project which is not substantially completed and for which the environmental consequences of financial settlement prior to substantial completion thereof have not been assessed by the applicant pursuant to § 58.20 (a) or (b), HUD shall itself conduct an assessment of the environmental consequences of the proposed financial settlement. However, if HUD finds that the applicant should have conducted an environmental assessment pursuant to § 58.20 (a) or (b) but failed to do so, the application for financial settlement shall be rejected and the applicant shall be required to comply with the environmental assessment requirements of § 58.20 (a) or (b) as appropriate, on a catchup basis, as a condition precedent to resubmission of its application.

(d) *Financial settlement after substantial completion of urban renewal project.* Notwithstanding any other provision of this part an assessment of the environmental consequences of financial settlement pursuant to 24 CFR 570.803 and/or 570.804, or an urban renewal project which is substantially completed, is not required. However, the applicant or HUD, as appropriate, shall prepare and maintain in its records a written finding as to the substantial completion of the urban renewal project.

§ 58.21 Exempt activities.

(a) The following activities (to the extent eligible for assistance under

Title I) may be, but are not required to be, treated as separate projects for the purpose of environmental review and are exempt from the requirements of this part:

(1) Environmental studies or assessments.

(2) Activities authorized by section 105(a)(12) of Title I and 24 CFR 570.205 and 571.205.

(3) Administrative costs as provided by 24 CFR 570.206 and 571.206.

(4) The payment, under authority of section 105(a)(10) of Title I, of principal and interest on outstanding urban renewal project loans as defined in 24 CFR 570.800(b) where such payment is not covered by § 58.20 or where such payment is not associated with a change in the related urban renewal project.

(5) The payment, under authority of section 108(c) of Title I, of principal and interest due on notes or other obligations guaranteed pursuant to section 108; and the repayment, under authority of section 108(e), due the United States as a result of guarantees made pursuant to section 108.

(b) Projects (see definition at § 58.3 and aggregation requirements of § 58.5(g)) which consist solely of the following kinds of activities shall also be exempt from the requirements of this part:

(1) Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements eligible under §§ 570.201(c) and 571.201(c) and economic development activities authorized pursuant to §§ 570.203 and 571.203, subject to the following limitations:

(i) Acquisition for continued use. The article to be acquired is in place and will be retained in the same use that existed at the time of acquisition, without change in size, capacity, or character.

(ii) Acquisition, construction, reconstruction, or installation for replacement or upgrading. The article will replace or upgrade a substantially identical original article, without changing its use, size, capacity, or location (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving streets, and modification of buildings to provide access for elderly and handicapped persons).

(iii) Acquisition, construction, reconstruction, or installation to furnish or equip. The article will furnish or equip a site (other than furnishings and personal property prohibited by §§ 570:207(b)(2) and 571.207(b)(2)) where its placement and use is consistent with the use of that site and the action will not change the use, size, capacity, or character of the site (e.g., landscaping, street furniture, equipping established parks and playgrounds).

(2) Interim assistance eligible under § 570.201(f) and single purpose grants for imminent threats to public health or safety pursuant to § 570.432.

(3) Public services which:

(i) Are in support of a neighborhood strategy area program which consists entirely of activities exempt under this part; or

(ii) Are a continuation of services after completion of concentrated physical development activities of a neighborhood strategy area program pursuant to § 570.201(e)(1); or

(iii) Are provided by nonprofit or similar organizations in accordance with §§ 570.204(c)(4) and 571.204(c)(4) where the services are not part of a block grant funded physical development project.

(4) Rehabilitation of buildings and improvements as set forth in §§ 570.202 and 571.202, except paragraph (f), provided that:

(i) Unit density is not increased more than 20 percent; or

(ii) The project does not involve change in use from residential to nonresidential use or from one class of nonresidential use to another class of use; or

(iii) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

(5) Combinations of the above categories.

(c) *Other program requirements not affected.* The exemption of activities or projects from environmental review procedures, pursuant to this section, does not relieve the applicant from compliance with the historic preservation requirements of § 58.24, the flood plains and wetland requirements of § 58.23, other authorities set forth at § 58.1(a)(3), the responsibilities assumed pursuant to § 58.5(a), and other applicable program requirements set forth at 24 CFR Parts 570 and 571. Documentation of compliance with these other requirements shall be contained in the environmental review record.

§ 58.22 [Reserved]

§ 58.23 Flood plains and wetlands.

Applicants must comply with the requirements of section 2(a) of Executive Order 11988 on flood plain management and with sections 2 and 5 of Executive Order 11990 on protection of wetlands. In so doing, applicants shall use the flood plain management guidelines prepared by the U.S. Water Resources Council and published February 10, 1978, at 43 FR 6030. The following procedures apply where either of the Executive orders is applicable.

(a) *Early public review.* In carrying out the requirements of section 2(a)(4) of Executive Order 11988 and of section 2(b) of Executive Order 11990, applicants shall publish a notice providing opportunity for early public review as soon as it is determined that a project is proposed to be located in a flood plain or wetland as defined by the respective Executive order. Such notice may be brief, but shall: (1) Identify the affected project; (2) set forth the facts and reasons for such proposed project; (3) state that the applicant has additional information on the proposal available and where such information may be obtained; (4) indicate that comments may be submitted to the applicant until a certain date which shall not be less than 15 days following its first publication and dissemination; (5) state the name and address of the applicant and the certifying officer of the applicant; and (6) be dated as of the time it is first published and disseminated. Copies of this notice shall be published and disseminated in the same manner as a notice of intent to file an EIS as described at § 58.17(b).

(b) *Notice of explanation.* The notice of explanation of why a project is proposed to be located in a flood plain as required by section 2(a)(2)(ii) and 2(a)(3) of Executive Order 11988 may be published and distributed at the same time as the notice required by § 58.30(a). In such cases the notices shall be published and disseminated in the manner specified at § 58.17(b).

(c) *Certification.* Submission by the applicant of the certification form required by § 58.30(c) shall also be considered certification that the requirements of Executive Orders 11988 and 11990 have been met by the applicant.

§ 58.24 Historic preservation.

Applicants must comply with the following requirements relating to the Preservation of Historic and Archeological Data Act of 1974, section 106 of the National Historic Preservation Act of 1966 and Executive Order 11593 whenever any property or district included in or found by the Secretary of the Interior pursuant to 36 CFR Part 800 to be eligible for inclusion in the National Register provided for by such Act, is in the boundaries, or within the vicinity of, a project which is to be funded, in whole or in part, by Title I funds.

(a) As part of the environmental review process each project shall be examined in accordance with the procedures for protection of historic and cultural properties (36 CFR Part 800) for the purpose of identifying any National Register and National Register-eligible properties and determining whether or not the project may affect the property. If the property is not affected by the project, the applicant shall so state, in the environmental review record.

(b) If the project will affect the property, the applicant, as part of the environmental review process, shall carry out the procedures set forth at 36 CFR Part 800.

§ 58.25 Projects requiring an EIS.

Preparation and dissemination of an EIS is required pursuant to § 58.15(d)(2) and for the following types of projects:

(a) *Residential projects.* Residential projects which would remove, demolish, convert, or substantially rehabilitate existing housing units, or which would construct or install housing units, or which would provide sites for housing units, in a quantity which equals or exceeds the applicable threshold as follows:

(1) Five hundred units for projects which are to be located outside a standard metropolitan statistical area (SMSA), or which are to be located within an SMSA county but beyond the urbanizing belt as defined in (3) below; or

(2) For projects which are to be located in the urbanizing belt of an SMSA county as defined in (3) below, the applicable threshold is that number in table 1 opposite the population range that fits the SMSA county in which the project is to be located;

(3) Urbanizing belts are identified as the delineated urbanized areas, as defined by the Bureau of the Census, plus a 2-mile zone around the outer boundaries of such areas. In cases where this 2-mile zone borders or includes a portion of an incorporated place lacking census tracts, or, when the 2-mile zone borders or includes a portion of a census tract, the next outer boundary of such incorporated place or census tract, may be used to delineate the outer limit of the urbanizing belt. In no case shall the urbanizing belt extend beyond the SMSA boundary.

Also, when an applicant can document that significant development has occurred beyond, but contiguous to, the defined urbanized area, HUD may approve redefinition of the urbanizing area plus a 2-mile belt beyond.

TABLE 1.—*Automatic EIS Thresholds Appicable to Housing Projects*

[For use in connection with § 58.25(a)]

SMSA county population range	Automatic threshold (units)
1,500,000 = plus	2,500
1,000,000 to 1,499,999	2,100
750,000 to 999,999	1,800
800,000 to 749,999	1,500
500,000 to 599,999	1,200
400,000 to 499,999	1,000
300,000 to 399,999	900
200,000 to 299,999	800
100,000 to 199,999	700
50,000 to 99,999	600

TABLE 1.—*Automatic EIS Thresholds Appicable to Housing Projects*—Continued

[For use in connection with § 58.25(a)]

SMSA county population range	Automatic threshold (units)
Under 50,000	500

NOTE.—The thresholds are applied to population figures for an SMSA county or county equivalent (independent city) based on the latest Bureau of the Census population estimates published in the P-25 Series of Current Population Reports. Although the initial application of these thresholds will be to population data for 1975, revised figures may be used as they become available for subsequent years. Where the population estimate for a given SMSA county indicates that there has been a loss in population since the last decennial census, the census figures from that decennial census may be used.

(b) *Hospitals and nursing homes.* Projects which provide a site or sites for hospitals and nursing homes shall utilize the thresholds set forth above in § 58.25(a) and table 1 therein, except that the term "bed" shall be substituted for the term "housing unit."

(c) *Water and sewer projects.* Water and sewer projects capable of supporting additional residential development in partially developed and undeveloped areas at an estimated scale which meets the applicable thresholds in table 1. For nonresidential or mixed used areas, that portion of the hydraulic capacity allocable to additional development shall be converted into the equivalent number of housing units, using standard flows per unit for design assumptions, and the results compared with table 1 for determining whether the threshold is met or exceeded. In determining net potential development, the applicant shall consider the basic design assumptions used in determining the hydraulic capacity of the project and the land uses contemplated within the service area. Allowances may be made for significant factors such as standby water capacity for fire flow or the storm water of combined sewers which do not directly support new development, and for present development which is to be connected to or served by the project. However, the development potential of existing open areas along water or sewer lines as well as for the target service area must be included in the threshold calculation. The threshold calculation shall also be documented in the environmental review record.

(d) *Transitional EIS requirement.* The system of flexible EIS thresholds set forth in (a), (b), and (c) above is applicable upon the effective date of these regulations. However, since some environmental reviews will be in process when this change in thresholds becomes effective, the following transition rules shall apply to those situations where an EIS would have been required under the previous thresholds but will not be required under the new flexible thresholds:

(1) Where a draft EIS has been published for public comment, the EIS process, including the issuance of a final EIS, shall be completed or the termination process described in (3) below shall be completed before the release of funds actions prescribed by § 58.30 are taken.

(2) Where a notice of intent to file an EIS has been published pursuant to § 58.17(a) but a draft EIS has not been published for public comment, the EIS process shall be completed or the termination process described in (3) below shall be completed before the release of funds actions prescribed by § 58.30 are taken.

(3) Where an EIS already in process is to be terminated, as provided by subparagraph (1) or (2) above, the applicant shall make the level of clearance finding set forth at § 58.15(d)(1) that a request for release of funds for the project is not an action which may significantly affect the quality of the human environment; shall give full consideration to all comments which may have been received in response to a notice of intent to file an EIS or in response to a draft EIS; shall comply with the requirements of § 58.16; and shall publish a notice of intent to terminate an EIS. Such notice shall be published and disseminated in the same manner as a notice of intent to file an EIS as described at § 58.17(b). The notice may be brief but shall identify the name, character, site, and location of the project for which further processing of an EIS is to be terminated, set forth the circumstances and reasons for discontinuing further EIS processing, indicate that the finding required by this subsection has been completed and indicate where and when it is available for public review, describe how any comments received in response to a notice of intent to file an EIS or in response to a draft EIS where considered, and state that the applicant proposes to submit the request for release of funds for the project under consideration in no less than fifteen (15) calendar days from the date the notice is published. This notice may be combined with the notices required by §§ 58.16(a) and by 58.30(a).

§ 58.26 [Reserved]

§ 58.27 Interaction of applicant with HUD and Federal agencies.

(a) *Interaction with agencies other than HUD.* Where a project is to be jointly funded by one or more Federal agencies other than HUD and by HUD under Title I, and the preparation of an EIS is required by this part, a single agency, either the applicant or the other Federal agency, should assume responsibility as the "lead agency" for the preparation and clearance of an EIS, with the other agencies providing assistance. In the event that the regulations of none of the Federal agencies other than HUD require an EIS for such project, but the applicant determines under this part that an EIS is required then the applicant shall assume the "lead agency" role, or shall otherwise prepare an EIS, which shall comprehend the actions of the other Federal agency or agencies related to the project, as provided in the CEQ guidelines, 40 CFR 1500.7(b).

(b) *Joint reviews—Designation of lead agency.* All determinations respecting joint environmental review or designation of a "lead agency" to perform an environmental review shall be made and agreed upon between the applicant and any Federal agency involved, where practicable. In the event an applicant and a Federal agency are unable to reach such agreement, the applicant shall notify HUD, and HUD, with the advice and assistance of CEQ, will seek to obtain such agreement.

(c) *Interaction with HUD.* With respect to environmental matters, HUD has a dual relationship with applicants which applicants must recognize.

(1) *HUD as commenting agency.*

(i) HUD at all times reserves the right to review and comment upon the applicant's implementation of this part.

(ii) The applicant shall respond to HUD as a commenting and reviewing agency and interact with it in accordance with this part.

(2) *HUD responses to applicant's environmental review process.*

(i) In commenting on or otherwise responding to the applicant's implementation of this part, HUD will treat the applicant as if the applicant were another Federal agency. This means HUD may fully criticize the actions of the applicant, where deemed appropriate, and may make recommendations for modification of proposed actions or for new alternatives not addressed, which would enhance environmental quality or reduce adverse environmental impacts.

(ii) In all cases wherein HUD submits comments to the applicant respecting a draft EIS prepared by the applicant, such HUD comments and the response of the applicant thereto, shall be set forth in their entirety in the final EIS.

(iii) HUD may reject an applicant's environmental certification and request for release of funds for a project on grounds that the applicant's environmental process was defective or that the project is environmentally unsound. In either case, HUD shall notify the applicant of its possible rejection or denial and the reasons for it and may indicate means by which the procedural or environmental defect may be corrected. HUD's notification may be made through comments made in the course of review or by other written means. It will constitute formal notice that failure to correct the specified defect to HUD's satisfaction may result in HUD's rejection of the applicant's certification and request for the release of funds.

§ 58.28–58.29 [Reserved]

Subpart C—Releases of Funds for Particular Projects

§ 58.30 Release of funds upon certification.

An applicant which has completed all applicable environmental review and clearance requirements as provided in this Part with respect to a proposed project and which desires to submit a request to HUD for the release of Title I funds for the project, shall comply with the following:

(a) *Publication of notice.* An applicant, at least 7 calendar days prior to submitting the request for release of funds and certification, shall publish and disseminate, a notice to the public doing so in the same manner as a notice of intent to file an EIS, as described at § 58.17(b), using format VII of HUD-399-CPD, Environmental Reviews At The Community Level, or such other format as may be acceptable to HUD. An applicant may publish this notice at the same time as that required by § 58.16(b).

(b) *Request for release of funds.* A request for release of funds pursuant to this part shall be addressed to the HUD officer authorized to receive the application of applicant, shall be executed by the certifying officer and may be submitted with or as part of an application, or at any time after submittal of an application. Such request shall in all cases be accompanied by the certification of the applicant as stated at § 58.30(c) and shall:

(1) State the name and address of the applicant;

(2) State that the applicant requests the release of funds for particular projects, identify such projects; and

(3) Be accompanied by the certification described in paragraph (c).

(c) *Certification.* A certification pursuant to this part shall be addresses to the HUD officer authorized to receive the application of applicant, and shall:

(1) State the name and address of the applicant and be executed by the certifying officer;

(2) Specify that the applicant has fully carried out its responsibilites for environmental review decisionmaking and action pertaining to the projects named in the request for release of funds;

(3) Specify the levels of all environmental clearances carried out by the applicant in connection with each project pertaining to the certification;

(4) Specify the dates upon which any statutory or regulatory time period for review, comment, or other response or action in regard to each such environmental clearance commenced and has expired, or will expire, and that with the expiration of each statutory or regulatory time period the applicant is in compliance with the requirements of this part;

(5) Specify that the certifying officer is authorized to consent to assume the status of a responsible Federal official, under NEPA, insofar as the provisions of NEPA apply to the HUD responsibilities for environmental review, decision making and action assumed and carried out by the applicant, and that the certifying officer by so consenting, such officer assumes the responsibilities, where applicable, for the conduct of environmental reviews, decision making, and action as to environmental issues; preparation and circulation of draft and final EIS's; and assumption of lead agency responsibilities for preparation of such statements on behalf of Federal agencies other than HUD when such agencies consent to such assumption;

(6) Specify that the certifying officer is authorized to consent, on behalf of the applicant, to accept the jurisdiction of the Federal courts, for the enforcement of all responsibilities referred to in § 58.30(c)(5); and that the certifying officer so consents on behalf of the applicant and himself in his official capacity only;

§ 58.31 Objections to release of funds.

HUD shall not approve the release of funds for any project until fifteen (15) calendar days have elapsed from the time HUD shall have received the applicant's request for the release of such funds and the certification pertaining thereto or the time specified in the notice published pursuant to § 58.30(a), whichever shall be the later time. Applicants shall not commit any funds which are the subject of any request for the release of funds to any project rior to HUD's approval of such request. Any person or agency, including HUD, may object to an applicant's request for the release of funds and the certification pertaining thereto, but HUD will consider such objections only if the conditions and procedures set forth in this section are satisfied. HUD can refuse the request and certification on any grounds set forth in paragraph (b) or (e) of this section. Any decision by HUD approving or disapproving the request for the release of funds and the certification pertaining thereto shall be final.

(a) *Time for objecting.* HUD must receive objections within fifteen (15) days from the time HUD shall have re-

(7) That another Federal agency has submitted a written finding to HUD that an applicant's project is unsatisfactory from the standpoint of public

(5) Indicate that a copy of the objections has been mailed or delivered to the chief executive officer of the applicant.

V 43 / 182 SEP 1978

(a) *Time for objecting.* HUD must receive objections within fifteen (15) days from the time HUD shall have received the applicant's request for the release of funds and the certification pertaining thereto, or the time specified in the notice published pursuant to § 58.30(a), whichever shall be the later time.

(b) *Permissible bases.* (1) That the certification was not, in fact, executed by the certifying officer of the applicant;

(2) That the applicant has failed to make one of the two level of clearance findings pursuant to § 58.15(d), or to make the decision required by § 58.19(b), for the project, as applicable;

(3) That with regard to a project for which the level of clerance finding in § 58.15(d)(1) was made, the applicant has omitted one or more of the steps set forth at: § 58.15(a); § 58.15(b); § 58.15(c)(1); § 58.15(c)(2); § 58.16(a); or § 58.16(b);

(4) That with regard to a project for which the level of clearance finding in § 58.15(d)(2) was made, the applicant has omitted one or more of the steps set forth at: § 58.17(a); § 58.17(b); § 58.17(c) only if applicant has decided to conduct a public hearing as a part of its environmental review of the project; § 58.17(e); or § 58.17(f);

(5) That with respect to a property listed on the National Register of Historic Places, or found to be eligible by the Secretary of the Interior pursuant to 36 CFR Part 800 for inclusion in such Register, and which is affected by the project, no opportunity was given to the Advisory Council on Historic Preservation or its Executive Director to review the effect of the project on the property in accordance with the procedures set forth at 36 CFR Part 800; or,

(6) That with respect to a project for which the applicant has decided that § 58.19(b) applies, the applicant has failed to include in the environmental review record the written decision required pursuant to § 58.19(b) or that the applicant's decision is not supported by facts specified by the objecting party;

(7) That another Federal agency has submitted a written finding to HUD that an applicant's project is unsatisfactory from the standpoint of public health or welfare or environmental quality. This finding shall set forth at least the following:

(i) The Federal agency basis for stating that the applicant's project will have potentially adverse environmental impacts which would cause the violation of national environmental standards or policies of would be of such a severity, geographical scope, duration, or importance as precedent as to warrant HUD's disapproving the release of funds and the certification pertaining thereto;

(ii) The Federal agency's consultations with the applicant and the basis for failure to reach a satisfactory agreement;

(iii) Factual evidence that the project is environmentally unsound;

(iv) Recommendations for mitigation, alternatives, or other courses of action needed to make the project environmentally acceptable.

(c) *Public and agency objections.* The only bases upon which HUD will consider the objection of any person or agency to the certification of an applicant, or to the approval by HUD of such certification, are set forth at § 58.31 (b) and (e). Other objections will not be considered by HUD; but may be addressed to the applicant, and the certifying officer of the applicant.

(d) *Procedure.* A person or agency objecting to an applicant's request for the release of funds and the certification pertaining thereto shall:

(1) Submit such objection in writing, to the HUD officer authorized to receive the application of the applicant;

(2) Specify the name, address, and telephone number of the person or agency submitting the objection, and be signed by the person or authorized official of the agency;

(3) Be dated when signed;

(4) Specify the bases for objection, and the facts or legal authority relied upon in support of the objection;

(5) Indicate that a copy of the objections has been mailed or delivered to the chief executive officer of the applicant.

(e) *HUD-initiated objections.* HUD may object to an applicant's request for release of funds and the certification pertaining thereto and may disapprove such request upon any of the following bases:

(1) Those listed in § 58.31(b);

(2) That the environmental review process is defective;

(3) That the project is environmentally unsound;

(4) That the applicant has not mitigated or corrected the procedural or environmental quality defects identified by HUD in accordance with § 58.27.

§ 58.32 Effect of approval of certification.

(a) NEPA responsibilities of HUD. The approval by HUD of the certification of an applicant is deemed to satisfy the responsibilities of the Secretary under NEPA insofar as those responsibilities relate to the applicant and releases of funds under Title I for projects which are covered by such certification.

(b) *Public and agency redress.* Persons and agencies seeking redress in relation to environmental assessments covered by an approved certification shall deal with the applicant and not with HUD. It shall be the policy of HUD, following the approval of a certification, not to respond to inquires and complaints seeking such redress, and only to refer such inquiries and complaints to the applicant and the certifying officer of the applicant. Other remedies for noncompliance, in addition to those stated in this part, are set forth at 24 CFR 570.913.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., on September 8, 1978.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc. 78-26290 Filed 9-18-78; 8:45 am]

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V 43 1 8 2 S E 1 9 7 8

V 43 / 183

SE 20 78

UMI

Vol. 43—No. 183
9-20-78
BOOK 1:
PAGES
42233–42507

BOOK 2:
PAGES
42509–42724

federal register

BOOK 1 OF 2 BOOKS

WEDNESDAY, SEPTEMBER 20, 1978

highlights

HOW TO USE THE FEDERAL REGISTER

SAINT PAUL, MINNESOTA, WORKSHOPS

October 2 and 3, 1978

See inside cover for details.

SUNSHINE ACT MEETINGS 42347

NATURALIZATION BASED ON MILITARY SERVICE
Executive order 42237

COMMEMORATIVE PRESIDENTIAL PROCLAMATIONS
Executive order 42235

AIRPORT AND AIRWAY DEVELOPMENT ACT OF 1970
Executive order authorizing certain functions 42233

OCCUPATIONAL SAFETY AND HEALTH
HEW/PHS announces field research projects for remainder of 1978 42306

PREVENTION OF CHILDHOOD LEAD-BASED PAINT POISONING
HEW/CDC announces availability of report 42306

WATER POLLUTION
EPA establishes rules on availability of funds to States for management of the Construction Grants Program; effective 10–1–78 42251
EPA proposes to identify pollutants for calculation of total maximum daily loads; comments by 11–6–78 42303

PESTICIDES
EPA establishes temporay tolerances for pendimethalin 42297
EPA establishes temporary tolerance exemption for *Phytophora citrophthora* MWV isolate 42297

FEDERAL PRISONERS
Justice/Parole proposes to clarify parole procedures; comments by 11–15–78 42282

CONTINUED INSIDE

V 43 / 183 SEP 20 78 V 43

SAINT PAUL, MINNESOTA, WORKSHOPS

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WHAT: In cooperation with the Minnesota State Metropolitan Council of the Twin Cities Area, free public workshops (approximately 2½ hours) to present:

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2. Difference between legislation and regulations.
3. Relationship of Federal Register and the Code of Federal Regulations.
4. Important elements of a typical Federal Register document.
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Finding Aids	523-5227
Public Briefings: "How To Use the Federal Register."	523-3517
Code of Federal Regulations (CFR)	523-3419 523-3517
Finding Aids	523-5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523-5233
Weekly Compilation of Presidential Documents.	523-5235
Public Papers of the Presidents	523-5235
Index	523-5235
PUBLIC LAWS:	
Public Law dates and numbers	523-5266 523-5282
Slip Laws	523-5266 523-5282
U.S. Statutes at Large	523-5266 523-5282
Index	523-5266 523-5282
U.S. Government Manual	523-5230
Automation	523-3408
Special Projects	523-4534

HIGHLIGHTS—Continued

POSTAL PROCUREMENT
PS amends rules on intellectual property rights other than patents; effective 10-20-78 ... **42249**

POSTAL SERVICE RECORDS
PS amends rules on release of information; effective 9-20-78 ... **42250**

CERTAIN ELECTRICAL SOUND EQUIPMENT AND ELECTRONIC MUSICAL INSTRUMENTS FROM JAPAN
Treasury/Customs issues final countervailing duty determination; effective 9-20-78 ... **42328**

AERONAUTICAL EMERGENCY FREQUENCIES
FCC terminates proceeding on monitoring of emergency locator transmitter signals ... **42285**

SORBATES FROM JAPAN
ITC determines no injury to U.S. industry ... **42313**

COST ACCOUNTING STANDARDS
CASB provides criteria for accounting for insurance costs for defense contractors and subcontractors; effective 7-10-78 ... **42239**

PRIVACY ACT
DOD publishes annual notice of systems of records (Part II of this issue) ... **42373**
Treasury publishes annual notice of systems of records (Part III of this issue) ... **42510**

MEETINGS—
FCC: Private Land Mobile Advisory Committee, 10-13-78 ... **42305**
NRC: Reactor Safeguards Advisory Committee, 10-5 through 10-7-78 ... **42314**
SBA: Region I Advisory Council, 10-3-78 ... **42326**
Region IX Advisory Council, 10-4-78 ... **42326**
USDA/FS: Pacific Crest National Scenic Trail Advisory Council, Northern California Subgroup, 10-14-78 ... **42287**
SEA: Joint Council on Food and Agricultural Sciences, 10-11 through 10-13-78 ... **42287**
National Agricultural Research and Extension Users Advisory Board, 10-10 and 10-11-78 ... **42287**

CHANGED MEETINGS—
HEW/OE: Accreditation and Institutional Eligibility Advisory Committee, 10-3 and 10-4-78 ... **42306**

CANCELLED MEETINGS—
Federal Prevailing Rate Advisory Commission, 9-21-78 ... **42306**

SEPARATE PARTS OF THIS ISSUE
Part II, DOD ... **42373**
Part III, Treasury ... **42509**

contents

CONTENTS

FEDERAL MARITIME COMMISSION
Notices
Casualty and nonperformance, certificates:
Chandris Lines, Inc. ... 42319
Hellenic Lines Ltd. ... 42319
Tennessee Valley Authority ... 42319
Toledo Edison Co. et al ... 42319
Meetings:
Reactor Safeguards Advisory

INTERNAL REVENUE SERVICE
Notices
Authority delegations:
Director, Security Standards

V 43 / 183 SEP 20 78

contents

THE PRESIDENT

Executive Orders

Airport and Airway Development Act of 1970, authorizing certain functions 42233
Commemorative Presidential proclamations 42235
Naturalization requirements based on military service 42237

EXECUTIVE AGENCIES

AGRICULTURAL MARKETING SERVICE

Rules

Oranges (Valencia) grown in Arizona and California 42247

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Forest Service; Science and Education Administration; Soil Conservation Service.

AIR FORCE DEPARTMENT

Rules

Public relations:
Non-Government group, information activities; correction 42249

ALCOHOL, TOBACCO AND FIREARMS BUREAU

Notices

Authority delegations:
Assistant Director (Regulatory Enforcement); production of volatile fruit-flavor concentrates 42327

CENTER FOR DISEASE CONTROL

See Disease Control Center.

COMMERCE DEPARTMENT

See Industry and Trade Administration.

COST ACCOUNTING STANDARDS BOARD

Rules

Cost accounting standards:
Insurance cost accounting..... 42239

CUSTOMS SERVICE

Notices

Countervailing duty petitions and preliminary determinations:
Electrical sound equipment and electronic musical instruments from Japan 42328
Tariff reclassification petitions:
Battery-operated clock movements; inquiry; extension of time 42327

DEFENSE DEPARTMENT

See also Air Force Department.

Notices

Privacy Act; systems of records; annual publication..... 42373

DISEASE CONTROL CENTER

Notices

Committees; establishment, renewals, terminations, etc.:
Childhood Lead-Based Paint Poisoning Prevention ad hoc Advisory Committee; final report, availability..... 42306
Occupational safety and health field research projects; list 42306

ECONOMIC REGULATORY ADMINISTRATION

Notices

Crude oil, domestic; allocation program:
Refiners buy/sell list; October through March; correction .. 42291

ENERGY DEPARTMENT

See Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.

ENVIRONMENTAL PROTECTION AGENCY

Rules

Freedom of information; confidentiality of business information; correction 42251
Grants; State and local assistance:
State management assistance grants..... 42251

Proposed Rules

Air quality implementation plans; approval and promulgation; various States, etc.:
Louisiana..... 42282
Air quality implementation plans; enforcement by State and Federal Governments after statutory deadlines:
Iowa..... 42283

Notices

Pesticide applicator certification and interim certification; State plans:
Oklahoma..... 42302
Pesticide registration applications (2 documents) ... 42298, 42300
Pesticides; tolerances, registration, etc.:
Pendimethalin 42297
Phytophora citrophthora MWV isolate 42297
Water pollution control:
Pollutants suitable for calculation of total maximum daily loads, identification; inquiry..... 42303

FEDERAL COMMUNICATIONS COMMISSION

Proposed Rules

Aviation services:
Emergency frequencies; monitoring of emergency locator transmitter signals 42285

Notices

Meetings:
Private Land Mobile Advisory Committee 42305

FEDERAL ENERGY REGULATORY COMMISSION

Notices

Hearings, etc.:
Columbia LNG Corp. et al 42291
Washington Water Power Co. 42292

FEDERAL HOME LOAN BANK BOARD

Notices

Applications, etc.:
Western & Southern Life Insurance Co 42305

FEDERAL INSURANCE ADMINISTRATION

Proposed Rules

Flood elevation determinations:
California 42261
Colorado (2 documents)..42261, 42262
Connecticut..... 42262
Florida 42264
Idaho (2 documents) 42264, 42265
Illinois (4 documents) ... 42266, 42267
Kansas 42268
Maine (3 documents)..... 42268–42270
New Hampshire (3 documents)..... 42273–42275
New Jersey (4 documents)..... 42275–42277
New York 42278
North Dakota (2 documents) . 42278
Maryland (2 documents) 42270, 42271
Massachusetts (2 documents)..... 42271, 42272
Michigan..... 42273
Ohio (4 documents) 42279–42281

FEDERAL MARITIME COMMISSION

Notices

Casualty and nonperformance, certificates:
Compania de Vapores Realma S.A. et al (2 documents) 42305

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Notices

Meeting; cancellation 42306

FISH AND WILDLIFE SERVICE

Rules

Hunting:
Cabeza Prieta National Wildlife Refuge, Ariz. et al..... 42258
Swanquarter National Wildlife Refuge, N.C 42260

FOREST SERVICE

Notices

Meetings:
Pacific Crest National Scenic Trail Advisory Council 42287

GENERAL SERVICES ADMINISTRATION

Rules

Property management; Federal:
Federal catalog system; supply support requests 42257

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Disease Control Center; Public Health Service.

Notices

Meetings:
Accreditation and Institutional Eligibility Advisory Committee, agenda revision..... 42306
Privacy Act; systems of records 42307

HEARINGS AND APPEALS OFFICE, ENERGY DEPARTMENT

Notices

Applications for exception:
Cases filed 42293

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Insurance Administration

INDUSTRY AND TRADE ADMINISTRATION

Notices

Scientific articles; duty free entry:
University of Alabama et al ... 42288
University of Kansas et al..... 42289

INTERIOR DEPARTMENT

See Fish and Wildlife Service; Land Management Bureau; Surface Mining Reclamation and Enforcement Office.

INTERNAL REVENUE SERVICE

Notices

Authority delegations:
Director, Security Standards and Evaluation Division; security clearances..... 42328

INTERNATIONAL COMMUNICATIONS AGENCY

Rules

Cultural exchange programs of foreign countries; participation by Federal employees 42247

INTERNATIONAL TRADE COMMISSION

Notices

Import investigations:
Sorbates from Japan 42313

INTERSTATE COMMERCE COMMISSION

Rules

Railroad car service orders; various companies:
Madison Railway 42257

Notices

Fourth section applications for relief 42329
Motor carriers:
Irregular route property carriers; gateway eliminations..... 42329
Permanent authority applications; corrections (2 documents)..... 42329
Rail carriers:
Disaster application, tunnel fire, Island Mountain, Calif 42345

JUSTICE DEPARTMENT

See Parole Commission.

LAND MANAGEMENT BUREAU

Notices

Authority delegations:
New Mexico State Office, Records Section Chief 42312
Outer Continental Shelf:
Oil and gas lease sales; southern California; hearings 42312

NUCLEAR REGULATORY COMMISSION

Notices

Applications, etc.:
Braun, C. F. & Co 42315
Carolina Power & Light Co 42315
Commonwealth Edison Co. et al 42316
Consumers Power Co. (2 documents)..... 42316
Fluor-Pioneer, Inc 42317
Power Authority of State of New York 42317
Public Service Co. of Oklahoma..... 42317
Stone & Webster Engineering Corp. (3 documents) .. 42318, 42319
Tennessee Valley Authority ... 42319
Toledo Edison Co. et al..... 42319
Meetings:
Reactor Safeguards Advisory Committee 42314
Regulatory guides; issuance and availability 42320

PAROLE COMMISSION

Proposed Rules

Prisoners, youth offenders, and juvenile delinquents: parole, release, etc.:
Federal prisoners, parole of ... 42282

POSTAL SERVICE

Rules

Information, release of:
Availability of records..... 42250
Intellectual property rights other than patents; acquisition and management 42249

Notices

Rates and fees:
Environmental negative declarations; correction (3 documents)..... 42320

PUBLIC HEALTH SERVICE

Notices

Occupational safety and health field research projects; list 42306

SCIENCE AND EDUCATION ADMINISTRATION

Notices

Meetings:
Agricultural Research and Extension Users National Advisory Board 42287
Food and Agricultural Sciences Joint Council 42287

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
American Electric Power Co., Inc 42320
American Electric Power Co., Inc., et al 42321
Bourns, Inc..... 42322
Culligan International Co 42322
Educators Life Insurance Co. of America et al 42323
Glendale Federal Savings & Loan Association..... 42324
Mervyn's 42324
Ryan Homes, Inc 42325
Self-regulatory organizations; proposed rule changes:
Boston Stock Exchange, Inc .. 42322
National Securities Clearing Corp 42325

SMALL BUSINESS ADMINISTRATION

Notices

Applications, etc.:

STATE DEPARTMENT

Rules

TEXTILE AGREEMENTS IMPLEMENTATION COMMITTEE

Notices

Cotton, wool and man-made tex-

list of cfr parts affected in this issue

SMALL BUSINESS ADMINISTRATION

Notices

Applications, etc.:
Capital Investment Co. of Washington 42326
Disaster areas:
Michigan 42326
Pennsylvania 42326
Tennessee 42327
Meetings; advisory councils:
Hartford 42326
San Francisco 42326

SOIL CONSERVATION SERVICE

Notices

Environmental statements on watershed projects; availability, etc.:
Buck Creek, Ala 42287

CONTENTS

STATE DEPARTMENT

Rules

Cultural exchange programs of foreign countries; participation by Federal employees 42247

SURFACE MINING RECLAMATION AND ENFORCEMENT OFFICE

Proposed Rules

Surface coal mining reclamation and enforcement operations; permanent regulatory program; correction 42282

TEXTILE AGREEMENTS IMPLEMENTATION COMMITTEE

Notices

Cotton, wool and man-made textiles:
Philippines 42290

TREASURY DEPARTMENT

See also Alcohol, Tobacco and Firearms Bureau; Customs Service; Internal Revenue Service.

Rules

Records disclosure; locations of IRS offices 42249

Notices

Privacy Act; systems of records; annual publication 42510

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR

EXECUTIVE ORDERS:
10536 (Revoked by EO 12079) 42233
11030 (Amended by EO 12080) .. 42235
12079 42233
12080 42235
12081 42237

4 CFR

416 42239

7 CFR

908 42247

22 CFR

64 42247
516 42247

24 CFR

PROPOSED RULES:
1917 (34 documents) ... 42261–42281

28 CFR

PROPOSED RULES:
2 42282

30 CFR

PROPOSED RULES:
Ch. VII 42282

31 CFR

1 42249

32 CFR

837 42249

39 CFR

224 42249
265 42250
602 42249

40 CFR

2 42251
35 42251
PROPOSED RULES:
52 42282
65 42283

41 CFR

101–30 42257

47 CFR

PROPOSED RULES:
87 42285

49 CFR

1033 42257

50 CFR

32 (2 documents) 42258, 42260

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING SEPTEMBER

The following numerical guide is a list of parts of each title of the Code

18 CFR—Continued

PROPOSED RULES:
1 ..... 39122, 40037

25 CFR

11 40804
41 41388
43k 40457

37 CFR

202 41975
302 40225
303 40408

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.

1 CFR
Ch. I 39069

3 CFR
EXECUTIVE ORDERS:
10536 (Revoked by EO 12079) 42233
11030 (Amended by EO 12080) .. 42235
12024 (See EO 12078) 39741
12078 39741
12079 42233
12080 42235
12081 42237
MEMORANDUMS:
September 8, 1978 40449
PROCLAMATIONS:
4591 39561
4592 39739
4593 40197
4594 40451
4595 41013
4596 41941
REORGANIZATION PLANS:
No. 3 of 1978 41943

4 CFR
416 42239

5 CFR
213 ..... 39069, 39070, 39951-39953, 40453, 41947

7 CFR
2 ..... 39953, 41371
245 39070
250 ..... 39070, 41947
271 41947
282 ..... 39074, 39075
301 40528
330 39953
401 41371
908 ..... 39743, 42247
910 ..... 39080, 39319, 39954, 41372, 41949
911 39319
915 39321
927 39323
931 39323
932 39743
993 40199
1004 ..... 39744, 39745, 41990
1036 40801
1071 39325
1073 39326
1097 39328
1102 39328
1104 39329
1106 39331
1108 39333
1120 39334
1126 39335
1132 39337
1133 39955
1138 39338
1435 39563
1464 41991
1701 41181
1823 ..... 39746, 40199
1955 41373

7 CFR—Continued
PROPOSED RULES:
6 ..... 39110, 40530
17 40872
722 39117
918 40027
948 40027
965 40028
981 39393
1079 40028
1126 40030
1427 39118
1701 ..... 40036, 41215
1822 41215
1940 41047-41049
1944 41215

8 CFR
108 40879
236 40801
PROPOSED RULES:
108 40879

9 CFR
54 41103
91 39080
94 39956
113 41185
355 39340
PROPOSED RULES:
1 42200
3 42200
92 40037
317 39394
318 ..... 39119, 39394
319 39394

10 CFR
35 39747
51 41373
73 41187
205 ..... 39080, 40200
212 40682
PROPOSED RULES:
51 39801
210 41224
211 ..... 40233, 41224
212 ..... 40233, 41224
430 40192
1004 40530

12 CFR
202 39341
217 41015
226 ..... 40210, 41015
PROPOSED RULES:
7 41406
226 41993

13 CFR
107 39563
Ch. IV 40803
PROPOSED RULES:
123 42016
130 39394
369 41408

14 CFR
39 ..... 39346-39348, 39748, 39750, 41016, 41374-41376
71 ..... 39439, 39750-39753, 40211-40213, 41017, 41018, 41381-41383
73 ..... 40214, 40215
75 39753-39755
97 41019
221 39536
241 40454
298 41187
302 ..... 39536, 41021
385 40803
399 39522
PROPOSED RULES:
Ch. II 41410
39 40233
71 ..... 39803, 40237, 41051, 41408, 41409
73 ..... 39803, 39804
223 39805
250 39806
298 39587
380 ..... 39807, 40880

15 CFR
PROPOSED RULES:
500 41230

16 CFR
1 39083
13 ..... 39350, 40454
1209 39564
PROPOSED RULES:
13 ..... 39120, 40536, 40537, 40882, 41233, 42017
305 41410
451 41051
1209 39564

17 CFR
1 39956
8 41950
111 41192
210 ..... 40688, 41022
211 40730
230 ..... 41193, 41383
239 39554
249 39554
270 39553
274 39553
PROPOSED RULES:
210 ..... 40724, 40726
229 40720
230 41235
239 41052
270 39396

18 CFR
1 ..... 39982, 41965
3 40217
4 40217
16 40217
131 40217

18 CFR—Continued
PROPOSED RULES:
1 ..... 39122, 40037

19 CFR
153 40804
PROPOSED RULES:
6 40238
177 41236

20 CFR
416 39564
801 41990
802 41990
901 39756
PROPOSED RULES:
404 ..... 39266, 42017
416 41054
620 39124
653 39124

21 CFR
430 41194
431 ..... 41194, 41195
510 39086
514 41195
520 ..... 39084, 39085
522 40455
524 40455
556 41965
558 ..... 39086, 39350, 41965
561 ..... 40456, 41385, 41386
PROPOSED RULES:
73 42017
102 42118
131 42118
133 ..... 42118, 42126, 42127
145 39126
310 39126
314 39126
337 39544
347 42018
436 40038
469 40038
1308 40884

22 CFR
64 42247
516 42247

23 CFR
17 41387
PROPOSED RULES:
625 40539

24 CFR
221 39570
841 41198
886 40402
1914 ..... 41028, 41030, 41966
1915 41967
1916 39572
1917 ..... 39351-39360, 39573-39582, 39761-39771, 39983-39987, 41204
1920 39771-39774
PROPOSED RULES:
58 42220
201 39593
570 41369
1917 ..... 39129, 39141, 41237, 42018, 42261-42281
3500 ..... 39701, 40539

25 CFR
11 40804
41 41388
43k 40457
54 39361
178 40458
258 39086

26 CFR
1 ..... 40219, 40459, 41204
48 41388
301 ..... 40219, 40459
PROPOSED RULES:
1 ..... 39142, 39822, 41237
31 ..... 39142, 39149
301 39142

28 CFR
PROPOSED RULES:
2 ..... 41411, 42282

29 CFR
1601 39775
1610 40222
1910 39087
2520 41205
PROPOSED RULES:
1601 39831

30 CFR
41 39988
70 40760
71 40760
301 41974
302 41974
PROPOSED RULES:
55 40766
56 40766
57 40766
Ch. VII 41662, 42018, 42282

31 CFR
1 42249
51 40223
223 39088

32 CFR
42 39988
581 40498
641 41975
837 42249
902 39089
931 39101
1288 40806
1804 39776
PROPOSED RULES:
47 40884

33 CFR
3 40224
117 ..... 39777, 41032, 41389, 41390
161 ..... 39994, 40224
PROPOSED RULES:
89 39946
117 ..... 41412, 41413
126 39832
183 41056

36 CFR
214 40998
1207 40808
PROPOSED RULES:
28 41414

37 CFR
202 41975
302 40225
303 40498
305 40501

38 CFR
2 39364
14 39365
PROPOSED RULES:
3 40239
21 39832
36 ..... 39150, 39833

39 CFR
111 ..... 39583, 39995, 40810
221 41984
224 ..... 41984, 42249
265 42250
602 42249
PROPOSED RULES:
111 39593
266 41391

40 CFR
2 ..... 39997, 42251
35 42251
51 40009
52 ..... 39366, 40009-40011, 41032-41039
65 ..... 40015, 40226
81 ..... 39101, 40412, 40436, 40502
125 40859
180 ..... 41206, 41391-41396
600 39367
730 41206
PROPOSED RULES:
35 40742
52 ..... 39151, 39152, 40009-40011, 40240, 40245, 42018, 42282
60 ..... 42154, 42183, 42186
65 ..... 39152, 39153, 39397, 39834, 40015, 40247, 40248, 40539, 41238, 41239, 42283
81 40436
125 39282
130 40742
131 40742
151 39276
162 39644
180 ..... 40249, 41240
233 39398

41 CFR
Ch. I 40015, 41044
Ch. 18 40018
3-56 39778
5B-2 40227
14-1 ..... 39377, 39787, 41207
14-2 ..... 39378, 39788
14-3 39788
14-4 39378
14-7 39379
14-12 39379
14-18 39379
14-30 39380
14-55 39380
Ch. 101 40019
101-30 42257
101-37 40228
PROPOSED RULES:
101-20 40250

42 CFR
36 41214
54a 40386

46 CFR—Continued
512 40524
542 39102

49 CFR—Continued
PROPOSED RULES:
Ch. X 39157

reminders

42 CFR

36	41214
54a	40386
57	39380
58	39384, 40862

PROPOSED RULES:

59	42019
110	40376
405	39155
449	39155

43 CFR

26	41004
428	41396
6000	40734
6010	40734
6200	40734
6220	40734
6250	40734
6260	40734
6270	40734
6290	40734
8000	40734
8200	40734
8300	40734
8340	40734
8350	40734
8360	40734
8370	40735

PROPOSED RULES:

420	41241

45 CFR

5b	40229
801	39387

PROPOSED RULES:

177	41056
1340	39593

46 CFR

502	41040
510	40524
512	40524
542	39102

PROPOSED RULES:

151	40250
153	40250
157	41178
531	39399
536	39399

47 CFR

2	41985
73	39388, 39584, 39704, 40250, 40251, 41400
74	39704, 41401
87	41214, 41986
89	41987

PROPOSED RULES:

1	41241
31	39385, 40886
33	39385, 40886
42	39385, 40886
43	39385, 40886
63	40541
73	39400, 39593, 39594, 40250, 40251, 40887, 40888, 41241
83	40889
87	42285

49 CFR

172	39789
173	39791
175	39792
176	39792
177	41401
179	39792
192	39389
571	39390
581	40229
609	41987
1008	41040
1033	39103, 39104, 39794-39796, 41403, 42257
1056	39798

49 CFR—Continued

PROPOSED RULES:

Ch. X	39157
172	39835
173	39835
192	39401
195	39402
571	39835, 41056
1033	40891
1060	41242
1121	41245
1307	39157
1309	39157
1310	39157
1320	39404, 41059
1322	39404, 41059

50 CFR

20	39186
26	39798, 41042
32	39105-39107, 39584, 39585, 39799, 39800, 40021-40024, 40232, 40524, 40887, 41042, 41043, 41404, 42258, 42260
33	41044
216	40025
285	39107, 41044
611	39586
651	39108, 41405
652	40527
662	40868
810	39306

PROPOSED RULES:

17	41060
32	40893
230	40045
611	41062, 41244
652	39161

FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

Pages	Date
39069-39317	Sept. 1
39319-39560	5
39561-39738	6
39739-39950	7
39951-40195	8
40197-40448	11
40449-40799	12
40801-41011	13
41013-41179	14
41181-41369	15
41371-41940	18
41941-42232	19
42233-42724	20

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

EPA—State implementation plans:
Nevada 36932; 8-21-78

Improving Government Regulations: Next Week's Deadlines for Comments on Agency Proposals

CPSC—Comments by 9-25-78 ..... 32392; 7-28-78

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—
Peaches (fresh) grown in Georgia; proposed qualification requirements and nomination procedure for public members of the Industry Committee; comments by 9-25-78 ..... 40027; 9-8-78

Farmers Home Administration—
Contracts for construction on projects financed with loans and/or grants; alternate form of surety; bank letter of credit or a cash bond; comments by 9-25-78 ..... 37983; 8-25-78
Equal credit opportunity; receiving and processing applications; comments by 9-29-78 ..... 38707; 8-30-78

Rural Electrification Administration—
Flood Plains and Wetlands procedures; Exhibit G to REA Bulletin 20-21:320-21; implementation of Executive Orders 11988 and 11990; comments by 9-28-78 ..... 38585; 8-29-78

CIVIL AERONAUTICS BOARD

Permission for air taxi operators and commuter air carriers to operate special regulation charters; reply comments by 9-27-78 ..... 30295; 7-14-78

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—
Frozen fried scallops; U.S. standards for grades; comments by 9-25-78 . 32318; 7-26-78

DEFENSE DEPARTMENT

Office of the Secretary—
Ready Reserve; screening procedures; comments by 9-27-78 ..... 38430; 8-28-78

ENERGY DEPARTMENT

Economic Regulatory Administration—
Emergency Standby Mandatory Crude Oil and Refinery Yield Programs; comments by 9-29-78 ..... 38848; 8-31-78

Federal Energy Regulatory Commission—
Delegations of authority; various office directors; comments by 9-25-78 . 36433; 8-17-78
Rules of practice and procedure, revision; comments by 9-29-78 .. 39122; 9-1-78

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans: various States—
Arizona, Pima County; comments by 9-25-78 ..... 38049; 8-25-78
California, Great Basin Unified Air Pollution Control District; comments by 9-25-78 ..... 38049; 8-25-78
Mississippi; comments by 9-29-78. 36735; 8-30-78
Utah; comments by 9-27-78 ..... 39152; 9-1-78
Revision of national ambient air quality standard for photochemical oxidants; comment period extended to 9-24-78. 30315; 7-14-78
[Originally published at 43 FR 26962, June 22, 1978]

FEDERAL COMMUNICATIONS COMMISSION

International record carrier's scope of operations in U.S.; updating of applications for additional gateways; comments by 9-29-78 ..... 34167; 8-3-78
Permitting use of offset channels in Domestic Public Land Mobile Radio Service in the MHz band; reply comment period extended to 9-29-78..... 35969; 8-14-78
[Originally published at 43 FR 28007, June 28, 1978]
Remote control units used in conjunction with marine VHF radiotelephones; capability of reducing power output to one watt or less; reply comments by 9-5-78... 35512; 8-10-78

FEDERAL HOME LOAN BANK BOARD

Federal Savings and Loan Insurance Corporation; fidelity bond requirements; comments by 9-30-78 ..... 36107; 8-15-78

FEDERAL RESERVE SYSTEM

Truth in lending; interest reduction on time deposits used to secure loans; comments by 9-29-78 ..... 38849; 8-31-78
Truth in lending; official staff interpretation; open end credit account—specific disclosures requirements; comments by 9-28-78 ..... 38572; 8-29-78

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—
Family contribution schedules for basic educational opportunity grants program; comments by 9-28-78 35964; 8-14-78
Student assistance programs; general provisions; comments by 9-25-78 . 35624; 8-10-78

Food and Drug Administration—
Canned pears, standard of quality; comments by 9-25-78 ..... 32143; 7-25-78
Hearing aids; exemption from preemption of State and local requirements; comments by 9-26-78 ..... 33180; 7-28-78
Medical Devices, procedures for development of standards; comments by 9-25-78 ..... 32264; 7-25-78

Health Care Financing Administration—
Medicare and medicaid; lowest charge level for services, supplies, and equipment; comments by 9-25-78 .... 32294; 7-28-78

INTERIOR DEPARTMENT

Fish and Wildlife Service—
Closing National Wildlife Refuges; administrative provisions; comments by 9-25-78 ..... 37733; 8-24-78

INTERSTATE COMMERCE COMMISSION

C.O.D. shipments; handling of funds by motor common carriers; comments by 9-25-78 ..... 32314; 7-26-78
Economically disadvantaged persons; licensing for transportation of government traffic; comments by 9-25-78 ... 32314; 7-26-78

JUSTICE DEPARTMENT

Immigration and Naturalization Service—
Nonimmigrant students; admission for duration of status; comments extended to 9-25-78 ..... 38414; 8-28-78
[Originally published at 43 FR 32306, 7-28-78]
Submission of aircraft/vessel reports (Form I-92) for direct flights, U.S.—Canada; comments by 9-26-78 32741; 7-28-78

LIBRARY OF CONGRESS

Copyright Office—
Coin-operated phonorecord players; recordation and certification; comments by 9-25-78 ..... 37451; 8-23-78

NUCLEAR REGULATORY COMMISSION

Strategic special nuclear material; physical protection of plants and materials; comments by 9-25-78 ..... 35321; 8-9-78

SECURITIES AND EXCHANGE COMMISSION

Uniform and integrated reporting requirements and management remuneration; amendments to disclosure forms and regulations; comments by 9-29-78 ..... 34415; 8-3-78

TRANSPORTATION DEPARTMENT

Coast Guard—
Ventilation of boats; proposed minimum safety standards; comments by 9-25-78 ..... 32606; 7-27-78

Federal Aviation Administration—
Air carriers and commercial operators of large aircraft and scheduled air carriers with helicopters; requirements applicable to training programs, operations, dispatching, records and reports; comments by 9-25-78 ..... 35518; 8-10-78
[Originally published at 43 FR 20448, 5-11-78]

V 43 / 183 SEP 20 78 V 4

TREASURY DEPARTMENT
Customs Service—
Information required on invoices for footwear; comments by 9–26–78. 32819; 7–28–78
Internal Revenue Service—
Interest related to exempt-interest dividends; comments by 9–26–78 ... 32823; 7–28–78

VETERANS ADMINISTRATION
Medical benefits for former members of the Armed Forces of Poland and Czechoslovakia; comments by 9–25–78 ..... 38046; 8–25–78

Next Week's Meetings

ADMINISTRATIVE CONFERENCE OF UNITED STATES
Committee on Grants, Benefits, and Contracts, Washington, D.C. (open), 9–26–78 ..... 40253; 9–11–78

AGRICULTURE DEPARTMENT
Forest Service—
National Forest Management Act Committee of Scientists, Denver, Colo. (open), 9–28 and 9–29–78 ..... 40895; 9–13–78
Rural Electrification Administration—
Big Rivers' Project (open), Cloverport, Ky., 9–26–78..... 40046; 9–8–78
Big Rivers' Project (open), Calhoun, Ky., 9–27–78..... 40046; 9–8–78
Big Rivers' Project (open), Uniontown, Ky., 9–28–78..... 40046; 9–8–78
Soil Conservation Service—
RCA National Meetings, Atlanta, Ga. (9–25–78), and Schiller Park, Ill. (9–26–78)..... 36495; 8–17–78

ANTITRUST LAWS AND PROCEDURES, NATIONAL COMMISSION FOR THE REVIEW
Working Group on the Empirical Case Studies Project, Washington, D.C. (open), 9–26–78 ..... 40324; 9–11–78

ARTS AND HUMANITIES, NATIONAL FOUNDATION
Humanities Panel Advisory Committee, Washington, D.C. (closed), 9–25 and 9–29–78 (2 documents)..... 40325; 9–11–78
Humanities Panel Advisory Committee, Washington, D.C. (closed), 9–25–78. 38954; 8–31–78

CHILD, INTERNATIONAL YEAR OF THE, 1979, NATIONAL COMMISSION
Meeting, Washington, D.C., 9–28 and 9–29–78 ..... 40082; 9–8–78

CIVIL RIGHTS COMMISSION
Connecticut Advisory Committee, Hartford, Conn. (open), 9–26–78 ..... 49405; 9–5–78
Maine Advisory Committee, Agusta, Maine (open), 9–25–78 ..... 39405; 9–5–78
Missouri Advisory Committee, Kansas City, Mo. (open), 9–27–78 ..... 39406; 9–5–78
Vermont Advisory Committee, Montpelier, Vt. (open), 9–27–78 ..... 39406; 9–5–78
Virginia Advisory Committee, Richmond, Va. (open), 9–27–78 ..... 38068; 8–25–78

COAL INDUSTRY, PRESIDENT'S COMMISSION
Meeting (open), Washington, D.C., 9–29–78 ..... 41105; 9–14–78

COMMERCE DEPARTMENT
Industry and Trade Administration—
East-West Trade Advisory Committee, Washington, D.C. (open), 9–27–78. 40901; 9–13–78
Maritime Administration—
U.S. Merchant Marine Academy Advisory Board, New York, N.Y. (open), 9–26–78 ..... 38613; 8–29–78
National Oceanic and Atmospheric Administration—
North Pacific Fishery Management Council (open), Sitka, Alaska, 9–27 through 9–29–78..... 35091; 8–8–78
Western Pacific Regional Fishery Management Council, Honolulu, Hawaii, 9–25–78..... 39408; 9–5–78
Office of the Secretary—
Economic Advisory Board (open), Washington, D.C., 9–26–78 .... 35091; 8–8–78
United States Travel Service—
Travel Advisory Board, Washington, D.C. (open), 9–26–78 ..... 34830; 8–7–78—39849; 9–7–78

DEFENSE DEPARTMENT
Army Department—
Board of Visitors, U.S. Military Academy, West Point, N.Y. (open), 9–28 and 9–30–78 ..... 40272; 9–11–78
Navy Department—
Board of Visitors to the U.S. Naval Academy, Annapolis, Md., 9–27–78. 32851; 7–28–78
Office of the Secretary—
Defense Science Board Task Force on Strategic Planning Experiment in the Maritime Balance Area, Arlington, Va. (closed), 9–29–78 ..... 40276; 9–11–78
Wage Committee, Washington, D.C. (closed), 9–26–78 ..... 30851; 7–18–78

ENERGY DEPARTMENT
Conservation and Solar Applications Food Industry Advisory Committee, Washington, D.C. (open), 9–25–78 ..... 39605; 9–6–78
National Petroleum Council Subcommittee on Unconventional Gas Sources, Houston, Tex. (open), 9–26–78 ..... 39410; 9–5–78
Energy Research Office—
High Energy Physics Advisory Panel (open), Washington, D.C., 9–24–78. 39411; 9–5–78

ENVIRONMENTAL PROTECTION AGENCY
Administrator's Toxic Substances Advisory Committee, Washington, D.C. (open), 9–29–78 ..... 40910; 9–13–78

FEDERAL COMMUNICATIONS COMMISSION
National Industry Advisory Committee, Amateur Radio Services Subcommittee, Washington, D.C. (open), 9–29–78. 39606; 9–6–78

FEDERAL PREVAILING RATE ADVISORY COMMITTEE
Washington, D.C. (partially open), 9–28–78 ..... 38471; 8–28–78

FINE ARTS COMMISSION
Washington, D.C. (open), 9–26–78 ... 38614; 8–29–78

GENERAL SERVICES ADMINISTRATION
Regional Public Advisory Panel on Architectural and Engineering Services, Chicago, Ill. (open), 9–25 and 9–26–78. 40318; 9–11–78
Regional Public Advisory Panel on Architectural and Engineering Services, Region 10 (open), Auburn, Wash., 9–29–78. 39426; 9–5–78

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Alcohol, Drug Abuse, and Mental Health Administration—
Psychological Sciences Fellowship Review Committee, Rockville, Md. (partially open), 9–29 and 9–30–78 ..... 36691; 8–18–78
Education Office—
Extension and Continuing Education National Advisory Council, New Orleans, La. (open), 9–27 through 9–29–78. 39429; 9–5–78
National Advisory Council for Career Education, Washington, D.C. (open), 9–25 and 9–26–78 ..... 39608; 9–6–78
Federal Council on the Aging—
Meeting, Washington, D.C. (open), 9–26 and 9–27–78 ..... 39176; 9–1–78
Policy Development and Program Evaluation Committee, Washington, D.C. (open), 9–25–78 ..... 36003; 8–14–78
Food and Drug Administration—
Allergenic Extracts Panel, Rockville, Md. (open), 9–28 and 9–29–78 ..... 36692; 8–18–78
Antimicrobial Panel, Rosslyn, Va. (open), 9–29 and 9–30–78 ..... 39426; 9–5–78 [Originally published at 43 FR 36692, Aug. 18, 1978]
Contraceptives and Other Vaginal Drug Products Panel, Bethesda, Md. (open), 9–28 through 9–30–78 ..... 36692; 8–18–78
Drug Abuse Advisory Committee, Oxford, Miss. (open), 9–28 and 9–29–78. 36692; 8–18–78
Hepatotoxicity Subcommittee of the Gastrointestinal Drugs Advisory Committee, Rockville, Md. (open), 9–25–78.. 36692; 8–18–78
Miscellaneous Internal Drug Products Panel, Bethesda, Md. (open), 9–29 through 10–1–78..... 36692; 8–18–78
Neurological Section of the Respiratory and Nervous System Devices Panel, Washington, D.C. (open), 9–29–78. 36692; 8–18–78
National Institutes of Health—
Advisory committees, Bethesda, Md. (closed), 9–27 and 9–28–78..... 36005; 8–14–78

Committee to Coordinate Toxicology and Related Programs, Bethesda, Md. (open), 9–25 and 9–26–78 ..... 37220; 8–22–78
Mammalian Cell Lines Committee, Bethesda, Md. (partially open), 9–28–78. 35111; 8–8–78
National Arthritis, Metabolism, and Digestive Diseases Advisory Council, Bethesda, Md. (open), 9–25–78 ..... 37221; 8–22–78
Workshop on Graduate Education in Pediatric Hematology-Oncology, Bethesda, Md. (open), 9–26 and 9–27–78 . 30358; 7–14–78

INTERIOR DEPARTMENT
Land Management Bureau—
Boise District Grazing Advisory Board, Boise, Idaho (open), 9–26–78.... 36517; 8–17–78
California Desert Conservation Area Advisory Committee, San Bernardino, Calif. (open), 9–27 and 9–29–78 ..... 37224; 8–22–78
Worland District Grazing Advisory Board, Worland, Wyo. (open), 9–28–78. 36701; 8–18–78
National Park Service—
Golden Gate National Recreation Area Advisory Commission, San Francisco, Calif. (open), 9–27–78 ..... 40321; 9–11–78
Ozark National Scenic Riverways Advisory Commission, Van Buren, Mo. (open) 9–29–78 ..... 38948; 9–31–78

LABOR DEPARTMENT
Labor Statistics Bureau—
Business Research Advisory Council's Committee on Economic Growth, Washington, D.C. (open), 9–28–78..... 40069; 9–8–78

NATIONAL CREDIT UNION ADMINISTRATION
National Credit Union Board, Washington, D.C. (open), 9–26 and 9–27–78 .... 38474; 8–28–78

NUCLEAR REGULATORY COMMISSION
Commercial nuclear power reactors; security personnel training; equipment requirements; Atlanta, Ga. (open), 9–27–78. 38370; 8–28–78
Reactor Safeguards Advisory Committee, Subcommittee on Safeguards and Security, Washington, D.C. (closed), 9–26–78. 40330; 9–11–78

SMALL BUSINESS ADMINISTRATION
Region III Advisory Council, Pittsburgh, Pa. 9–28–78 ..... 37782; 8–24–78
Region IV Advisory Council, Nashville, Tenn. (open), 9–26–78 ..... 36153; 8–15–78
Region IV Advisory Council, Columbus, Miss. (open), 9–29–78 ..... 37294; 8–22–78
Region VI Advisory Council, Houston, Tex. (open), 9–25–78 ..... 38655; 8–29–78
Region VI Advisory Council, Albuquerque, N. Mex. (open), 9–27–78 ..... 39204; 9–1–78
Region VII Advisory Council, St. Louis, Mo. (open), 9–27–78 ..... 38656; 8–29–78
Region IX Advisory Council, Los Angeles, Calif. (open), 9–25 and 9–26–78 (2 documents) 38656; 8–29–78
Region X Advisory Council, Seattle, Wash. (open), 9–28–78 ..... 39204; 9–1–78

STATE DEPARTMENT
Agency for International Development—
Board for International Food and Agricultural Development, Washington, D.C. (open), 9–28–78..... 37782; 8–24–78
Office of the Secretary—
Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR), Tinton, N.J. (open), 9–26–78 ..... 36746; 8–18–78
Transnational Enterprises Advisory Committee, Washington, D.C. (open), 9–26–78 ..... 37506; 8–23–78

TRANSPORTATION DEPARTMENT
Coast Guard—
Coast Guard Merchant Vessel Personnel License Testing Program, Oklahoma City, Okla. (open), 9–26 and 9–27–78 ..... 36547; 8–17–78
National Boating Safety Advisory Council Canoe Subcommittee, Chicago, Ill. (open), 9–27–78..... 37787; 8–24–78
Federal Aviation Administration—
Radio Technical Commission for Aeronautics (RTCA); Special Committee 139—Airborne Equipment Standards for Microwave Landing System (open), 9–28 and 9–29–78 ..... 39881; 9–7–78
National Highway Traffic Safety Administration—
National Highway Safety Advisory Committee, Linthicum, Md. (open) 9–25 through 9–27–78 ..... 38965; 8–31–78

TREASURY DEPARTMENT
Internal Revenue Service—
Art Advisory Panel, Washington, D.C. (closed), 9–26 and 9–27–78..... 34569; 8–4–78

VETERANS ADMINISTRATION
Health Manpower Grants Review Committee, Washington, D.C. (open), 9–25–78 36026; 8–14–78
Station Committee on Educational Allowances, Fargo, N. Dak. (open), 9–28–78 ..... 39626; 9–6–78

Next Week's Public Hearings

ENERGY DEPARTMENT
Economic Regulatory Administration—
Emergency Standby Mandatory Crude Oil and Refinery Yield Programs, Washington, D.C. 9–26–78..... 38848; 8–31–78 [Corrected at 43 FR 40233, Sept. 11, 1978]

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Food and Drug Administration—
Food labeling, Washington, D.C., 9–27 and 9–28–78..... 25296; 6–9–78

INTERNATIONAL TRADE COMMISSION
Certain attache cases, Washington, D.C. 9–27–78 ..... 37014; 8–21–78
Telephone terminal and switching equipment industry study, Washington, D.C., 9–26–78 ..... 37497; 8–23–78—26597; 6–20–78

NUCLEAR REGULATORY COMMISSION
Review of NRC decommissioning policy, Atlanta, Ga., 9–25 through 9–27–78. 34564; 8–4–78
Review of NRC decommissioning policy, Albuquerque, N. Mex., 9–28 through 9–30–78 ..... 34564; 8–4–78

TRANSPORTATION DEPARTMENT
Federal Highway Administration—
Hours of service of truck and bus drivers; proposed revision of Federal motor carrier safety regulations, Homewood, Ill., 9–25 through 9–29–78 ..... 38609; 8–29–78

TREASURY DEPARTMENT
Internal Revenue Service—
Income tax; Contributions in aid of construction for certain utilities, Washington, D.C., 9–27–78 ..... 35735; 8–11–78
Office of the Secretary—
Solicitation by practitioners before the Internal Revenue Service; proposed revision of provisions, Washington, D.C., 9–26–78 ..... 38045; 8–25–78 [First published at 43 FR 25695; 6–14–78]

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

[Last Listing: September 13, 1978]

Documents Relating to Federal Grants Programs

This is a list of documents relating to Federal grants programs which were published in the FEDERAL REGISTER during the previous week.

Rules Going Into Effect:
HEW/PHS—Grants for alcohol abuse and alcoholism prevention, treatment, and rehabilitation services and national alcohol research centers; effective 9–11–78 ..... 40386; 9–11–78
Interior—Grants to States for establishing youth conservation corps programs; effective 10–1–78 ..... 41004; 9–13–78
USDA/FMHA—Community domestic water and waste disposal systems; development grants; increase in percentage of eligible project development cost; effective 10–1–78; comments by 10–11–78 40199; 9–11–78

FS—Grants to States for establishing youth conservation corps programs; effective 10–1–78 ..... 40998; 9–13–78

Deadlines for Comments on Proposed

Meetings:
ACUS—Committee on Grants, Benefits, and Contracts, Washington, D.C. (open), 9–26–78 ..... 40253; 9–11–78

Humanities Panel, Washington, D.C. (closed), September and October meetings (11 documents) 40325–40326; 9–11–78; 40577; 9–12–78

presidential documents

[3195–01]

V 43 / 183 SEP 20 78

FS—Grants to States for establishing youth conservation corps programs; effective 10–1–78 ..... 40998; 9–13–78
Deadlines for Comments on Proposed Rules:
EPA—Water quality grants programs; program modifications; comments by 11–13–78; hearing 10–24–78. 40742; 9–12–78
HEW/PHS—Grants for public health traineeships for students in schools of public health and in other graduate public health programs; comments by 11–13–78. 40862; 9–13–78
HUD/CPD—Community Development Block Grants; rehabilitation assistance and program benefit; comments by 10–16–78 ..... 41369; 9–15–78
USDA/FmHA—Rural housing loans and grants; update of regulations; comments by 10–16–78 ..... 41215; 9–15–78
Other Items of Interest:
HEW/HSA—Maternal and Child Health Research Grants Review Committee; reestablishment 41285; 9–15–78
OE—Basic educational opportunity grant program; award of multiple data entry contracts; letters indicating interest by 9–30–78 ..... 40319; 9–11–78
OE—Grants under the Teacher Corps Program; suggested questions to consider in preparing an application. 41286; 9–15–78
Justice/LEAA—Internship program for criminal justice education and training; proposed guideline change; comments by 9–25–78 ..... 40939; 9–13–78

Meetings:
ACUS—Committee on Grants, Benefits, and Contracts, Washington, D.C. (open), 9–26–78 ..... 40253; 9–11–78
HEW/ADAMHA—Personality and Cognition Research Review Committee, Rockville, Md. (partially open), 10–27–78. 41087; 9–14–78
HSA—Maternal and Child Health Research Grants Review Committee, Rockville, Md. (partially open), 10–4 through 10–6–78 ..... 40548; 9–12–78
NIH—Cellular and Molecular Basis of Disease Review Committee, Bethesda, Md. (partially open), 10–30 and 10–31–78 ..... 40921; 9–13–78
Division of research grants; meetings of study sections for September through November 1978 ..... 40921; 9–13–78
National Advisory Child Health and Human Development Council, Bethesda, Md. (partially open), 10–13 and 10–14–78 ..... 40923; 9–13–78
National Cancer Institute advisory committees; discussion of contract proposals and grant applications; October meetings 40924; 9–13–78
Neurological Disorders Program—Project Review A Committee, Bethesda, Md. (partially open), 10–19 through 10–21–78 ..... 40923; 9–13–78
Neurological Disorders Program—Project Review B Committee, St. Louis, Mo. (partially open), 11–2 through 11–4–78 ..... 40923; 9–13–78
NFAH—Dance Advisory Panel, Cambridge, Mass. (partially open), 10–1 through 10–4–78 ..... 40325; 9–11–78
Humanities Panel, Washington, D.C. (closed), September and October meetings (11 documents) 40325–40326; 9–11–78; 40577; 9–12–78
NSF—Advisory Committee for Science Education, Washington, D.C. (open), 9–28 and 9–29–78 ..... 40577; 9–12–78
Behavioral and Neural Sciences, Linguistics Subcommittee, Washington, D.C. (closed), 11–2 and 11–3–78 ..... 40578; 9–12–78
Behavioral and Neural Sciences Advisory Committee, Psychobiology Subcommittee, Washington, D.C. (closed), 10–12 and 10–13–78 ..... 41314; 9–15–78
DOE/NSF Nuclear Science Advisory Committee, 1978 Instrumentation Subcommittee, Washington, D.C. (open), 10–7 and 10–8–78 ..... 41316; 9–15–78
Environmental Biology Advisory Committee, Ecological Sciences Subcommittee, Washington, D.C. (closed), 10–12 and 10–13–78 ..... 41314; 915–78
Physiology, Cellular, and Molecular Biology Advisory Committee, Developmental Biology Subcommittee, Washington, D.C. (closed), 11–2 through 11–4–78 40578; 9–12–78
Polar Programs Advisory Committee, Biology and Medicine Subcommittee, Washington, D.C. (partially open), 10–3–78 ..... 41314; 9–15–78
Science and Society Advisory Committee, Public Understanding of Science, Washington, D.C. (partially open), 10–5 and 10–6–78 ..... 40578; 9–12–78
Social Sciences Advisory Committee, Sociology Subcommittee, Washington, D.C. (partially open), 9–15–78 ... 41315; 9–15–78

presidential documents

[3195–01]

Title 3—The President

Executive Order 12079 • **September 18, 1978**

Authorizing Certain Functions of Heads of Departments and Agencies Under the Airport and Airway Development Act of 1970 To Be Performed Without the Approval of the President

By the authority vested in me by section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. The authority vested in the heads of departments and agencies by Section 23(b) of the Airport and Airway Development Act of 1970 (84 Stat. 232; 49 U.S.C. 1723(b)), with the approval of the President and the Attorney General of the United States, to perform any acts and to execute any instruments necessary to make any conveyance requested by the Secretary of Transportation under Section 23(a) of that Act may be exercised by such heads of departments and agencies without the approval of the President.

SEC. 2. Executive Order No. 10536 of June 9, 1954, as amended, is revoked.

Jimmy Carter

THE WHITE HOUSE,
September 18, 1978.

[FR Doc. 78-26599 Filed 9-19-78; 11:11 am]

V 43 / 183 SEP 20 78

V 43 / 183

[3195-01]

Executive Order 12080 • **September 18, 1978**

Commemorative Presidential Proclamations

By the authority vested in me as President by the Constitution of the United States of America, and in order to simplify the procedures for the processing of approved commemorative proclamations, Section 4 of Executive Order No. 11030, as amended, is further amended by adding thereto the following new sentence:

"Notwithstanding the provisions of Section 2, the Director shall transmit any approved commemorative proclamations to the President.".

Jimmy Carter

THE WHITE HOUSE,
September 18, 1978.

[FR Doc.78-26600 Filed 9-19-78; 11:12 am]

SEP 20 1978

V 43 / 183 S E 20 78

[3195-01]

Executive Order 12081 • **September 18, 1978**

Termination of Expeditious Naturalization Based on Military Service

By the authority vested in me as President of the United States of America by Section 329 of the Immigration and Nationality Act, as amended by Sections 1 and 2 of the Act of October 24, 1968 (82 Stat. 1343; 8 U.S.C. 1440), and by the authority of Section 3 of that Act of October 24, 1968 (82 Stat. 1344; 8 U.S.C. 1440e), it is hereby ordered that the statutory period of Vietnam hostilities which began on February 28, 1961, shall be deemed to have terminated on October 15, 1978, for the purpose of ending the period in which active-duty service in the Armed Forces qualifies for certain exemptions from the usual requirements for naturalization, including length of residence and fees.

Jimmy Carter

THE WHITE HOUSE,
September 18, 1978.

[FR Doc. 78-26601 Filed 9-19-78; 11:13 am]

V 43 / 183 SEP 20 78 V 4

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[1620-01]

Title 4—Accounts

CHAPTER III—COST ACCOUNTING STANDARDS BOARD

PART 400—DEFINITIONS

PART 416—ACCOUNTING FOR INSURANCE COSTS

Cost Accounting Standards

AGENCY: Cost Accounting Standards Board.

ACTION: Final rule.

SUMMARY: This standard provides criteria for the measurement of insurance costs, the assignment of such costs to cost accounting periods, and the allocation of insurance costs to cost objectives. It is intended to resolve recurring problems involving the accounting for insurance premiums, self-insurance provisions, and insurance reserves, and the allocation of insurance costs among corporate segments. It is one of a series of cost accounting standards which the Board is promulgating "to achieve uniformity and consistency in the cost accounting principles followed by defense contractors and subcontractors under Federal contracts." (See section 719(g) of the Defense Production Act of 1950, as amended.) Any contractor receiving an award of a contract subject to the rules, regulations, and standards of the Cost Accounting Standards Board on or after the effective date of this standard will be required to follow it in accordance with the provisions of § 416.80.

EFFECTIVE DATE: July 10, 1979.

FOR FURTHER INFORMATION CONTACT:

Paul McClenon, Project Director, Cost Accounting Standards Board, 441 G Street NW., Room 4836, Washington, D.C. 20548, 202-275-5537.

SUPPLEMENTARY INFORMATION:

(1) BACKGROUND

Work on a potential standard on accounting for insurance costs was initiated for a number of reasons; these included (1) differences between armed services procurement regulation (ASPR) provisions governing self-insurance and Financial Accounting Standards Board (FASB) statement No. 5, (2) Armed Services Board of Contract Appeals (ASBCA) cases or other disputes related to insurance accounting, and (3) knowledge of unresolved problems obtained by discussions with contractors and audit agencies.

A statement of issues related to accounting for insurance and a preliminary draft standard were developed by the staff and circulated to contractors, agencies, and others. Responses to these staff papers and to the FEDERAL REGISTER publications of October 5, 1977, and May 15, 1978, and information obtained in subsequent meetings with respondents and other interested persons were considered in developing the standard which is being promulgated today. Twenty-nine comments were received in response to the most recent FEDERAL REGISTER publication. All comments have been considered by the Board and those addressing areas of significance are discussed below, together with explanations of the changes made in the cost accounting standard being promulgated today from the proposal published in the FEDERAL REGISTER of May 15, 1978.

Ten respondents said that the proposed standard was acceptable as written, or they suggested only minor word changes.

The Board wishes to take this opportunity to express its appreciation for the helpful suggestions and constructive criticisms it has received, and for the time devoted to assisting the Board in this endeavor by the many organizations and individuals involved.

(2) COVERAGE OF STANDARD

One respondent said that the standard should be limited in its application to significant problem areas rather than treating all insurance and insurance-related costs in a general fashion. As stated in the prefatory remarks which accompanied the May 15, 1978, FEDERAL REGISTER publication, in its research, the Board did not find that accounting practices depended upon the type of risk or insurance. Therefore this standard, applicable to the major problems, is also appropriate for all other insurance.

One respondent suggested that the standard deal with the subject of premiums paid to "captive" insurers. The Board reiterates its belief, which it stated in the May 15, 1978, FEDERAL REGISTER publication, that the technique for accounting for premium costs should not be influenced by questions of the reasonableness of the amounts paid. Consequently, no change in this regard has been made in the May 15, 1978, proposal.

(3) SELF-INSURANCE AS A COST

Three respondents suggested that the proposed standard failed to properly distinguish between self-insurance and the absence of insurance. The Board recognizes that there may indeed be differences in the amount of planning involved, but there is no difference in the principle applicable to cost measurement. "Absence of insurance" is in fact one kind of self-insurance. The respondents said that a contractor who does not purchase insurance or set up a funded reserve to cover possible losses does not incur a cost and that, in such situations, actual losses are a part of entrepreneurial risk taking and should come directly from profit. For the reasons set forth below the Board does not agree.

A contractor who acquires assets is exposed to two types of risks—static risks and dynamic risks. Static risks are the risks which are inherent in the ownership of the assets; dynamic risks result from the decision to utilize the assets for the production of specific goods or services. Static risks are the same for all owners of similar assets in similar circumstances; e.g., the risk that property of a given type in a given location will be destroyed or damaged. Consequently, they are normally predictable by mathematical methods and can be insured against. Dynamic risks are a function of managerial judgment, e.g., whether a proposed product can be produced for a profit. Dynamic risks are not normally predictable or insurable; they generate a profit or loss, depending on management's ability to forecast costs and markets; they are the true entrepreneurial risks. Static risks, because they can be measured, predicted, and quantified, are properly subject to treatment as costs rather than as entrepreneurial risks.

From a cost accounting standpoint, the decision to purchase insurance or self-insure is not one of cost versus no-cost. Rather it is a decision between two alternative methods of accounting for costs. Insurance premiums are costs of the period for which the insurance is purchased. Self-insurance charges are costs of the period in which the insured events occur. Thus, the decision to self-insure is a decision to defer the recognition of costs to the period in which the insured events occur. Such a decision is not appropriate for cost accounting purposes.

The Board has decided to retain the ing a special self-insurance charge in such circumstances.

to avoid the necessity of employing actuaries to perform computations which other actuaries have already

of home-office reinsurance agreements; they were concerned about after-the-fact disagreement as to

same cost objective, the problem would not be one of allocating costs to that cost objective. Rather it would be

the standard provide a transition mechanism to deal with the newly recognized liability. Therefore, the stand-

From a cost accounting standpoint, the decision to purchase insurance or self-insure is not one of cost versus no-cost. Rather, it is one of certainty versus uncertainty. A contractor who self-insures will be subject to cost variations in any short time period as compared to one who purchases insurance, but in the long run their costs should be substantially the same, and their product or service must be priced to cover the same long-term cost.

Whether a contractor should be required to make deposits in a fund to provide for replacement of assets in the event of loss is not a consideration in determining the costs of self-insurance.

(4) ACCOUNTING FOR SELF-INSURANCE

When the business entity purchases insurance coverage from an underwriter, the cost to the business—for the static risk—is the premium. When the business entity does not purchase insurance, the best method of assignment of cost to current activities is a matter of possible disagreement.

A contractor who self-insures can recognize the cost of self-insurance for product pricing purposes in either of two ways: (1) By recognizing actual losses as they occur and allocating them to the products of some time period, usually the cost accounting period in which the loss occurred; or (2) by estimating the long-term average loss per time period and allocating it to the products of each time period. The second method is conceptually preferable in that it allocates the costs of all losses to the products of all time periods without regard to the particular chance distribution of actual losses among time periods.

The proposals which were published in the October 5, 1977, and May 15, 1978, FEDERAL REGISTER included criteria for selecting between the two approaches to recognizing the costs of self-insurance. A charge which would represent the projected average loss was required except in those situations where the actual losses in a cost accounting period could be expected to serve as a good representative of the long-term average loss for that period. The recognition of actual losses, rather than the use of a predetermined charge, would be expected where many units are exposed to loss and the maximum loss related to any one unit would be relatively small. Examples are the losses falling within the deductible portion of the automobile collision coverage for a fleet of vehicles, the deductible portions of property and casualty coverage where the size of the deductible is nominal in relation to the total exposure to risk for that coverage, and the worker's compensation claims of a large work force. There would be little point in calculating a special self-insurance charge in such circumstances.

The Board has decided to retain the requirement for the use of a self-insurance charge, as contained in the FEDERAL REGISTER proposals. A reasonable assignment of cost should be made to products of each period in which there is exposure to the risk. The cost of each loss should be allocated to all work accomplished in the facility where it occurred (and successor facilities over the life of the enterprise, not just to the work of the day, month, or year in which the loss happened to occur. this can be accomplished by charging each period with a self-insurance charge which is equal to the projected average loss.

The standard also retains the provision of the FEDERAL REGISTER proposals which permitted the recognition of actual losses in those limited circumstances, as described above, in which the actual losses in any cost accounting period may be expected not to differ significantly from the projected average loss for that period.

Several respondents were concerned as to the possible consequences if a self-insurance charge were to be made, and, subsequently, actual losses differed substantially from the projected average loss. The self-insurance charge is, of necessity, an estimate. If the estimate is made in a reasonable and supportable manner, then the fact that actual losses depart significantly in either direction from the projected average loss is not a basis for adjusting the costs of that cost accounting period. However, the standard provides that contractor's actual loss experience shall be reviewed regularly and that self-insurance charges for subsequent periods shall reflect experience, as would premiums for purchased insurance. Similarly, if the situation were one in which it had been determined that actual losses were to be used because they were not expected to differ significantly from the projected average loss, and actual losses did, in fact, differ significantly, the actual losses would be nonetheless the measure of the cost.

(5) LIMITATION ON SELF-INSURANCE CHARGE

The proposals which were published in the FEDERAL REGISTER provided that the self-insurance charge plus insurance administration expenses could be equal to, but could not exceed, the cost of comparable purchased insurance plus the associated administration expenses. Several respondents saw this as a question of allowability. It is, however, not a limit on allowability; it permits the cost of comparable purchased insurance to be used as one means of estimating the projected average loss. The provision is intended to avoid the necessity of employing actuaries to perform computations which other actuaries have already performed for the insurance company in setting the premium. the standard has been modified to express this intention more clearly.

Other respondents were concerned that a company which calculated a self-insurance charge based on, say, a 5-year moving average of its own loss experience would encounter problems if it were to incur a large loss; this would raise its average above the cost of comparable purchased insurance and thereby preclude the recovery of the excess over time. Again, the Board intended the limitation to apply only where the cost of comparable purchased insurance is used as a convenient method of estimating the projected average loss. The standard specifically requires that the contractor's own loss experience be reviewed regularly and that self-insurance charges for future periods reflect such experience in the same manner as would purchased insurance. It should be noted that the cost of future insurance premiums would also be expected to reflect, to some degree, the unfavorable loss experience of the contractor.

Several respondents were concerned that the standard would require them to obtain quotations for insurance premiums for comparison with proposed self-insrance charges, and they questioned the feasibility of obtaining such quotations. The standard only requires such a quotation if the self-insurance charge is to be estimated thereby; it would not be required if, for example, the charge were to be based only on a projection of the contractor's own experience.

(6) TERMINOLOGY

Several respondents suggested that, in the definition of "actual cash value," the phrase "replacement cost less depreciation" could lead to confusion because the type of depreciation intended thereby was not clear. The phrase was intended to imply replacement of the destroyed asset with one in the same physical condition. The definition has been modified to make this intention clearer.

One respondent suggested that the provisions of § 416.50(a)(1)(v) relative to "insurance coverage on retired lives" should be applicable to all types of insurance, rather than being limited to life insurance. the Board intended that this phrase provide for all types of insurance for retired persons. The term "retired lives" has accordingly been replaced by the term "retired persons."

Two respondents asked that the standard define or prescribe criteria for determining when a loss is considered to be "catastrophic" for purposes

of home-office reinsurance agreements; they were concerned about after-the-fact disagreement as to whether a particular loss was "catastrophic" and thereby to be allocated in part to the home office, or "noncatastrophic" and to be absorbed entirely by the segment. the Board believes that what constitutes "catastrophic loss" depends on the individual circumstances of each contractor. The determination should be made at the time the internal loss-sharing policy is established and should be revised, as necessary, for changes in future circumstances. Obviously, a catastrophic loss would be one which would be very large in relation to the average loss per occurrence for that exposure, and losses of that magnitude would be expected to occur infrequently.

(7) PREMIUMS AND REFUNDS

The proposed standard provided that a premium refund or dividend would become an adjustment to the pro rata premium cost for the earliest cost accounting period in which the refund or dividend is actually or contructively received. However, the standard permitted the contractor the option of using estimated net premiums instead. One respondent suggested that the standard permit the shifting of adjustments to prior years for purposes of overhead analysis. This proposed change would not assure consistent measurement of cost; it has therefore not been adopted.

(8) DIRECT CHARGING OF PREMIUMS

Paragraph 416.50(a)(1)(ii) provides that where insurance is purchased specifically for, and directly allocated to, a single final cost objective, the premiums need not be prorated. One respondent was concerned that if the final cost objective included requirements for two or more customers and the insurance premium were not prorated over the policy period, the cost might be charged only to the earliest units of production. They suggested that the provision be qualified by limiting it to only those final cost objectives which include requirements for a single customer. If the need for the insurance were to be occasioned by only one customer's requirements, the cost should be allocated to only that customer's units regardless of the production sequence. If the requirement is common to all customers' units, it should be allocated to all units.

The accounting principle here is the same as the one for specialized materials, which are charged directly to a final cost objective at the time of acquisition. If costs within a final cost objective, either for materials or for purchased insurance, were to be inappropriately related among the customers whose work is accumulated in the same cost objective, the problem would not be one of allocating costs to that cost objective. Rather it would be a problem of the method of analyzing costs within that final cost objective, a subject not being dealt with here.

(9) DEPOSITS AND RESERVES

Insurance agreements frequently provide for substantial amounts to be held by the insurer for various contingencies. Such amounts may be negotiated in advance or may represent the unrefunded excess of premiums over losses; in either event they are not arrived at by actuarial computations of known risks. The contractor typically retains a significant amount of interest in, and control over, such funds. FASB statement No. 5 provides that amounts which do not represent transfers of risk from the insured to the insurer are deposits and should be accounted for as such. The proposed standard required that anything which would be a deposit under that statement be treated as a deposit for contract costing purposes. In addition, the standard required that "reserves" held by the insurer for the account of the contractor would be regarded as deposits unless they met stated criteria.

These special criteria included a prohibition against recapture of the reserve or fund so long as any beneficiary remained alive. Two commentators urged that this test be modified. The Board intended to assure that the cost had indeed been incurred, but there was no intention to tie up excess reserves for long periods. The provision has been modified accordingly.

One respondent pointed out that group insurance carriers in recent years have required that premium stabilization reserves be established on medium-size experience-rated programs to smooth the experience so it will be similar to a large group. He said that the contractor has no more right to these reserves than the monthly premium he pays on the policy. He therefore suggested that the reserves required by the insurance carrier should not be required to be treated as deposits unless these reserves are treated as deposits for financial statement purposes. The Board does not agree; such reserves are negotiated amounts and the contractor does in fact have some influence over them. Cost measurement is improved if these amounts are treated as deposits until settled.

Some respondents previously pointed out that where a contractor changes from a pay-as-you-go program for retired persons to a pre-funded program, or initially establishes a prefunded program, a liability arises to those employees who have already retired. The respondents suggested that the standard provide a transition mechanism to deal with the newly recognized liability. Therefore, the standard which was proposed in the May 15, 1978, FEDERAL REGISTER provided, and the standard being promulgated today provides that, for a transition from a pay-as-you-go plan to a terminal-funded plan, or on the initial establishment of a terminal funded plan, the actuarial present value of benefits applicable to employees already retired shall be amortized over a period of 15 years.

Two respondents inquired as to the Board's reason for not providing a similar provision for transitions to fully prefunded level-premium or entry-age-normal plans. The actuarial premium computations for such plans implicitly allow for appropriate amortization of the liability for past service; therefore, an explicit provision for this purpose is unnecessary.

Two respondents asked for some liberalization of the 15-year amortization requirement; one suggested that the period be negotiable depending upon the circumstances which occasioned the change, as for example, when a segment is abolished and many employees take immediate retirement. The 15-year period was chosen to be comparable to the amortization period for actuarial gains and losses contained in CAS 413. To permit the amortization period to be negotiated on a case-by-case basis would reduce uniformity. It might also create an incentive to make such changes at times when one of the parties could be expected to benefit. The Board does not accept the suggestion.

(10) RELATIONSHIP TO OTHER STANDARDS

One respondent was concerned about the realtionship of this standard to two other cost accounting standards, CAS NO. 412, composition and measurement of pension cost, and CAS No. 415, accounting for costs of deferred compensation. The respondent was concerned especially about health insurance carried for retired employees of a contractor; he felt that there might be confusion as to whether such insurance should be considered a form of deferred compensation, a part of a pension plan, or a part of an insurance program.

The Board believes that these standards provide ample criteria for determining which standard is applicable to any given cost. In particular, the question of whether a benefit, such as insurance provided to retired persons, is an integral part of a pension plan and thereby governed by CAS No. 412 or is a part of an insurance program and thereby governed by CAS No. 416 is a question of fact in each given instance. Moreover, application of either stand-

ard to this element would result in substantially the same amounts of allocable cost.

loss. The Board did not so intend; the term "incurred loss" has been eliminated.

spect to central payments or accruals made by a home office on behalf of its segments, CAS 403 requires that these

nouncements on the subject of materiality will provide sufficient guidance.

(15) RENEGOTIATION

may not be a normal part of such accounting records. The "records" provision of the standard recognizes both the need for such data and the prob-

anticipated increased disagreements. The Board has provided remarks about materiality in various public pronouncements. The Board believes

ard to this element would result in substantially the same amounts of allocable cost.

(11) AMOUNT OF A LOSS

The proposal which was published in the October 5, 1977, FEDERAL REGISTER provided, in part, that "the amount of an incurred loss shall be measured by the net book value of property destroyed . . ." A number of respondents disagreed with this provision and suggested that the proper measure of the loss was "fair value," "replacement cost," "replacement cost, net of depreciation," and "replacement cost if replaced and net book value if not replaced." After considering these comments, the Board concluded that the measure of the loss should be the economic value of the asset destroyed, and that this value was best described as "actual cash value"; consequently, the May 15, 1978, FEDERAL REGISTER proposal incorporated "actual cash value."

Three respondents have again asked that the standard recognize replacement cost as the measure of the loss, on the grounds that the asset would probably be replaced with a new asset and that the cost of insurance premiums which would provide for replacement cost coverage would be allowable. The Board believes that the measure of the loss is the economic value of the asset destroyed, and this may bear little relationship to the economic value of the asset which is acquired to replace it. In this connection it should also be noted that CAS No. 409 requires the treatment of a gain on involuntary conversion of an asset as a recovery of past depreciation or, alternatively, treatment as a reduction in the cost basis of the replacement asset. The Board has, accordingly, retained the use of "actual cash value" as one of the major measures of loss.

Contract audit agencies have reported that contractors sometimes charge the maximum potential loss for contract costing purposes but report a lesser amount for published financial statements; therefore, the proposed standard provided that where the amount of the loss is uncertain, the estimate of the loss shall be the amount includible in published financial statements. Three respondents suggested that this requirement be deleted because the amount reported for financial statement purposes might be too conservative. The Board continues to believe that the guidance contained in FASB statement No 5 and interpretation No. 14 thereto permits an objective measure of the loss. The Board, therefore, retains the requirement.

One respondent was concerned about whether use of the term "incurred loss" in § 416.50(a)(3) was intended to mean something other than an actual loss. The Board did not so intend; the term "incurred loss" has been eliminated.

Two respondents asked the Board to clarify the references to "published financial statements" contained in the previously proposed standards. One of these respondents pointed out that not all published financial statements are necessarily prepared in accordance with generally accepted accounting principles; the other pointed out that a loss may be required to be reported in a published financial statement under conditions where it is not accruable therein as a liability. In order to clarify its intent, the Board has replaced the phrase "published financial statements," whenever it appeared in the proposed standard, with the phrase "statements prepared in accordance with generally accepted accounting principles" and the standard now refers to the amount which would be "includible as an accrued liability" in such statements.

(12) PRESENT VALUE OF FUTURE LOSSES

On respondent objected to the requirement for discounting amounts of losses to be paid in the future at a rate different from that contained in existing procurement regulations. As it stated in the prefatory remarks which accompanied the May 15, 1978, FEDERAL REGISTER publication, the Board believes that the additional computational effort involved in using a rate for contract costing different from that required by the various States is not warranted. Where no rate is prescribed by a State, the use of the rate determined by the Secretary of the Treasury pursuant to Pub. L. 92-41, 85 Stat 97, as required by the standard, is consistent with the Board's requirement in CAS 415 to use that rate in discounting deferred compensation awards.

(13) ALLOCATION OF INSURANCE COSTS FROM A HOME OFFICE TO SEGMENTS

The October 5, 1977, proposal contained criteria for the allocation of insurance costs from a home office to segments. Various respondents questioned the need for such additional guidance on the grounds that the provisions of CAS 403 are adequate for this purpose. The Board concurred in this belief and omitted the related provisions from the May 15, 1978, proposal. Two respondents to that proposal suggested that the provisions of CAS 403 are too general and further guidance is needed to insure that such allocations will reflect significant differences in segment loss experience.

CAS 403 requires that home office expenses shall be allocated on the basis of the beneficial or casual relationship between supporting and receiving activities. Specifically, with respect to central payments or accruals made by a home office on behalf of its segments, CAS 403 requires that these shall be allocated directly to segments to the extent that they can be identified. CAS 403 provides further that payments or accruals which cannot be identified with individual segments are to be allocated by means of an allocation base representative of the factors on which the total payment is based. If there are significant differences in segment loss experience, then these differences would be identifiable and would be required by CAS 403 to be reflected in the allocation of the related home office premium cost or refund. The Board therefore continues to believe that additional guidance for such allocations in this standard is not necessary.

(14) MATERIALITY OF LOSSES AND INSURANCE ADMINISTRATION EXPENSES

The standard permits a contractor to recognize immaterial amounts of self-insured losses and insurance administration expenses as part of other expense categories rather than as "insurance expense." Two respondents were concerned that what is a "material" cost will be the subject of controversy.

The Board recognizes that some contractors may elect to purchase all of their insurance services from an insurance company or outside agencies; such services as claims processing or payment, risk analysis, loss prevention activities, etc. may be billed separately or included in the premium. Other contractors may elect to provide some or all of these services themselves. The standard recognizes this diversity of practice by stating, in § 416.40, that the amount of the insurance cost is the sum of the projected average loss plus the insurance administration expenses.

Where a contractor purchases substantially all of its insurance services and the cost is included in the premium, the allocation of the costs of such services automatically follows the allocation of the premium. In such situations, if immaterial amounts of in-house costs, such as portions of various individuals' salaries or allocable space costs, are not explicitly recognized as insurance administration expenses, the accuracy of cost allocation is not significantly impaired. On the other hand, if a contractor establishes a claim processing department to process group insurance claims for a large work force, and the costs of such a group are material, then the Board believes that uniformity will be better served by requiring that such costs be allocated in the same manner as the costs of the related insurance. The Board believes that its previous pronouncements on the subject of materiality will provide sufficient guidance.

(15) RENEGOTIATION

One respondent was concerned that contractors will have difficulty in following the standard while reporting to the Renegotiation Board, which is bound by law to allow items in accordance with chapter 1 of the Internal Revenue Code. This concern applies both to the election to account for refunds, dividends, and additional assessments on the basis of estimated net premiums, authorized in § 416.50(a)(1)(vi), and the use of a self-insurance charge in lieu of the recognition of actual losses. In both instances the standard could result in the recognition, as contract cost, of amounts which would not be recognized for tax purposes.

Other cost accounting standards have required the selection of specific cost measurement techniques from among the many which might have been available under the Internal Revenue Code. The respondent suggested that the proposal on insurance is different in that it can result in the use of a method of contract cost accounting which is not permitted for tax accounting purposes.

The Board recognizes that the Renegotiation Board is indeed bound by law to recognize those elements of cost which are identified in the Internal revenue Code. Measurement of the amounts of such costs to be recognized in any particular period, however, should be done in accordance with the best available accounting techniques. Where this standard recognizes a self-insurance charge in lieu of actual losses, the Renegotiation Board will also obtain a better measure of contractual profits by following the standard than by following the tax measurement. The Renegotiation Board, as a relevant Federal agency, can arrange for the application of this standard as it has for various others which have required reconciliations between tax reporting and contract costing. No exemption is, therefore, being made for renegotiation.

(16) RECORDS

A contractor who elects to make a self-insurance charge should be expected to provide sufficient documentation to support the amount of the charge. In addition, the standard requires that the contractor's own loss experience be evaluated regularly. Finally, the standard requires the identification of losses to the segment in which they occur. While the cost of losses is already reflected in the contractor's formal accounting records, the data on loss frequency, amount, and location which may be necessary to comply with the proposed standard may not be a normal part of such accounting records. The "records" provision of the standard recognizes both the need for such data and the probable memorandum nature of the records. The requirement to maintain such records was contained in the October 5, 1977, proposal but was inadvertently omitted from the May 15, 1978, FEDERAL REGISTER proposal. It has been reinstated in the standard now being promulgated.

(17) ILLUSTRATIONS

One respondent suggested that the dollar amounts used in illustrations were unrealistic and would serve as guidelines for unrealistic rulings in practice. As the Board has stated on previous occasions, the use of dollar amounts in illustrations is intended to improve the understandability of the illustration. Such dollar amounts are not intended to establish criteria for use in actual situations.

(18) COSTS AND BENEFITS

The Board's objective, with respect to uniformity, is to achieve comparability among entities operating under like circumstances. As applied to the measurement of insurance costs, there should be similar reported costs where there are similar exposures to risk. The Board has recognized the need to provide guidance on the determination of contract charges under self-insurance programs, especially under circumstances where the likelihood is that actual losses in a given period will differ materially from the long-term projected average. This standard will provide for increased uniformity in this field.

Consistency pertains to the use, by any one entity, of cost accounting practices which permit comparability of contract results under similar circumstances over periods of time. The decision whether to purchase insurance or to self insure is comparable to a make or buy decision. A change in the method of providing for the risks (which risks continue unchanged) is not a change in circumstances of the sort which should destroy comparability over time. This standard provides the basis for consistency in measuring insurance costs even when there are shifts between purchased insurance and self-insurance.

Only three respondents suggested that the implementation costs of the standard would be excessive or would exceed the benefits. One of these foresaw increased administrative costs but did not offer any specifics. The concerns of the others appeared to lie primarily in two areas—the lack of a definition of "materiality" in relation to insurance costs and the lack of specific procedural guidance in estimating a self-insurance charge. They therefore anticipated increased disagreements. The Board has provided remarks about materiality in various public pronouncements. The Board believes that these comments are sufficient and that the concerns in this regard are unwarranted.

A self-insurance charge is an estimate, and the Board has consistently refrained from dictating detailed estimating procedures. A contractor must, of necessity, estimate many costs, and the degree of sophistication and complexity of the estimating process is a matter for discussion between the contractor and procurement and audit personnel.

The standard provides for several methods of recognizing the costs of self-insurance. First, the contractor may recognize actual losses in those situations in which the distribution of actual losses may be expected to not differ significantly from the projected average loss. This is a matter which should be readily determinable from the nature of the exposure to risk; this will normally be expected where there are many units exposed to loss and the potential loss per unit is low in relation to the total exposure, as, for example, with worker's compensation, group insurance, and deductible portion of property and casualty insurance which is nominal in relation to the total exposure. In most such cases, contractors already charge actual losses, so no change will be necessary. Second, the contractor may use the premium cost of purchased insurance for comparable coverage as the basis for the self-insurance charge. This method would be appropriate when, for example, the contractor proposed to substantially increase a deductible provision for property and casualty insurance; he might propose to make a self-insurance charge equal to the premium reduction for the decreased coverage. Only in the event that neither of these two methods is appropriate would the contractor have to resort to the third method, that of actuarial review of his own or industry experience to develop a self-insurance charge. Under these circumstances, the Board believes that the majority of contractors will already be in compliance with the proposed standard and the costs of compliance for the remainder should not be significant. Therefore, the standard should have no significant inflationary impact.

Four respondents suggested that, if the majority of contractors would not have to change in order to comply with the standard, then the problems were not sufficient to justify the standard. The Board recognizes that, although the insurance problems resolved by this standard are likely to be encountered only by a minority of contractors, when they are encountered

they are of substantial importance and their resolution in a uniform and consistent manner will be beneficial in

Sec.
416.10 General applicability.
416.20 Purpose.
416.30 Definitions.

chapter are applicable to this standard: None.

§ 416.40 Fundamental requirement.

(D) If payments to accomplish the stated objectives of the reserve or fund are made from a source other than the reserve or fund, the pay-

equal to, but shall not exceed, the cost of comparable purchased insurance plus the associated insurance administration expenses. However, the con-

nized. Alternatively, where settlement will consist of a series of payments over an indefinite time period, as in worker's compensation, the contractor

they are of substantial importance and their resolution in a uniform and consistent manner will be beneficial in contract costing.

In summary, the Board finds that this standard will increase the uniformity and consistency of measurement of the cost of insurance related to negotiated defense contracts. The standard will eliminate, or materially reduce, the problems listed in the Board's prefatory remarks with the May 15, 1978 publication. The Board finds that the costs of implementation will be slight and that there will be no inflationary impact.

* * * * *

There is also being published today an amendment to part 400, definitions, to incorporate in that part terms defined in § 416.30(a) of this cost accounting standard.

Title 4, Code of Federal Regulations, chapter III is amended as follows:

1. Section 400.1(a) is amended by inserting the following definitions in alphabetical order:

§ 400.1 Definitions.

(a) * * *

Actual cash value. The cost of replacing damaged property with other property of like kind and quality in the physical condition of the property immediately prior to the damage.

* * * * *

Insurance administration expenses. The contractor's costs of administering an insurance program, e.g., the costs of operating an insurance or risk-management department, processing claims, actuarial fees, and service fees paid to insurance companies, trustees, or technical consultants.

* * * * *

Projected average loss. The estimated long-term average loss per period for periods of comparable exposure to risk of loss.

* * * * *

Self-insurance. The assumption or retention of the risk of loss by the contractor, whether voluntarily or involuntarily. Self-insurance includes the deductible portion of purchased insurance.

* * * * *

Self-insurance charge. A cost which represents the projected average loss under a self-insurance plan.

* * * * *

2. Part 416 is added to read as follows:

Sec.
416.10 General applicability.
416.20 Purpose.
416.30 Definitions.
416.40 Fundamental requirement.
416.50 Techniques for application.
416.60 Illustrations.
416.70 Exemptions.
416.80 Effective date.

AUTHORITY: 84 Stat. 796, Sec. 103, 50 U.S.C. App. 2168.

§ 416.10 General applicability.

General applicability of this cost accounting standard is established by § 331.30 of the Board's regulations on applicability, exemption, and waiver of the requirement to include the cost accounting standards contract clause in negotiated defense prime contracts and subcontracts (4 CFR 331.30).

§ 416.20 Purpose.

The purpose of this standard is to provide criteria for the measurement of insurance costs, the assignment of such costs to cost accounting periods, and their allocation to cost objectives. The application of these criteria should increase the probability that insurance costs are allocated to cost objectives in a uniform and consistent manner.

§ 416.30 Definitions.

(a) The following definitions of terms which are prominent in this standard are reprinted from part 400 of this chapter for convenience. Other terms which are used in this standard and are defined in part 400 of this chapter have the meanings ascribed to them in that part unless the text demands a different definition or the definition is modified in paragraph (b) of this section.

Actual cash value. The cost of replacing damaged property with other property of like kind and quality in the physical condition of the property immediately prior to the damage.

Insurance administration expenses. The contractor's costs of administering an insurance program, e.g., the costs of operating an insurance or risk-management department, processing claims, actuarial fees, and service fees paid to insurance companies, trustees, or technical consultants.

Projected average loss. The estimated long-term average loss per period for periods of comparable exposure to risk of loss.

Self-insurance. The assumption or retention of the risk of loss by the contractor, whether voluntarily or involuntarily. Self-insurance includes the deductible portion of purchased insurance.

Self-insurance charge. A cost which represents the projected average loss under a self-insurance plan.

(b) The following modifications of definitions set forth in part 400 of this chapter are applicable to this standard: None.

§ 416.40 Fundamental requirement.

(a) The amount of insurance cost to be assigned to a cost accounting period is the projected average loss for that period plus insurance administration expenses in that period.

(b) The allocation of insurance costs to cost objectives shall be based on the beneficial or causal relationship between the insurance costs and the benefiting or causing cost objectives.

§ 416.50 Techniques for application.

(a) Measurement of projected average loss.

(1) For exposure to risk of loss which is covered by the purchase of insurance or by payments to a trusteed fund, the premium or payment, adjusted in accordance with the following criteria, shall represent the projected average loss:

(i) The premium cost applicable to a given policy term shall be assigned pro rata among the cost accounting periods covered by the policy term, except as provided in subparagraphs (ii) through (vi) of this paragraph. A refund, dividend or additional assessment shall become an adjustment to the pro rata premium costs for the earliest cost accounting period in which the refund or dividend is actually or constructively received or in which the additional assessment is payable.

(ii) Where insurance is purchased specifically for, and directly allocated to, a single final cost objective, the premium need not be prorated among cost accounting periods.

(iii) Any part of a premium or payment to an insurer or trustee, or any part of a dividend or premium refund retained by an insurer or trustee which would be includable as a deposit in published financial statements prepared in accordance with generally accepted accounting principles shall be accounted for as a deposit for the purpose of determining insurance costs.

(iv) Any part of a premium or payment to an insurer or to a trustee, or any part of a dividend or premium refund retained by an insurer, for inclusion in a reserve or fund established and maintained on behalf of the insured or the policyholder or trustor, shall be accounted for as a deposit unless the following conditions are met: (A) The objectives of the reserve or fund are clearly stated in writing;

(B) Measurement of the amount required for the reserve or fund is actuarially determined and is consistent with the objectives of the reserve or fund;

(C) Payments and additions to the reserve or fund are made in a systematic and consistent manner; and

(D) If payments to accomplish the stated objectives of the reserve or fund are made from a source other than the reserve or fund, the payments into the reserve or fund are reduced accordingly.

(v) If an objective of an insurance program is to prefund insurance coverage on retired persons, then, in addition to the requirements imposed by subparagraph (iv) of this paragraph:

(A) Payments must be made to an insurer or trustee to establish and maintain a fund or reserve for that purpose;

(B) The policyholder or trustor must have no right of recapture of the reserve or fund so long as any active or retired participant in the program remains alive unless the interests of such remaining participants are satisfied through adequate reinsurance or otherwise; and

(C) The amount added to the reserve or fund in any cost accounting period must not be greater than an amount which would be required to apportion the cost of the insurance coverage fairly over the working lives of the active employees in the plan. If a contractor establishes a terminal-funded plan for retired persons or converts from a pay-as-you-go plan to a terminal-funded plan, the actuarial present value of benefits applicable to employees already retired shall be amortized over a period of 15 years.

(vi) The contractor may adopt and consistently follow a practice of determining insurance costs based on the estimated premium and assessments net of estimated refunds and dividends. If this practice is adopted, then any difference between an estimated and actual refund, dividend, or assessment shall become an adjustment to the pro rata net premium costs for the earliest cost accounting period in which the refund or dividend is actually or constructively received or in which the additional assessment is payable.

(2) For exposure to risk of loss which is not covered by the purchase of insurance or by payments to a trusteed fund, the contractor shall follow a program of self-insurance accounting according to the following criteria:

(i) Except as provided in paragraph (a)(2) (ii) and (iii) of this section actual losses shall not become a part of insurance costs. Instead, the contractor shall make a self-insurance charge for each period for each type of self-insured risk which shall represent the projected average loss for that period. If insurance could be purchased against the self-insured risk, the cost of such insurance may be used as an estimate of the projected average loss; if this method is used, the self-insurance charge plus insurance administration expenses may be equal to, but shall not exceed, the cost of comparable purchased insurance plus the associated insurance administration expenses. However, the contractor's actual loss experience shall be evaluated regularly, and self-insurance charges for subsequent periods shall reflect such experience in the same manner as would purchased insurance. If insurance could not be purchased against the self-insured risk, the amount of the self-insurance charge for each period shall be based on the contractor's experience, relevant industry experience, and anticipated conditions in accordance with accepted actuarial principles.

(ii) Where it is probable that the actual amount of losses which will occur in a cost accounting period will not differ significantly from the projected average loss for that period, the actual amount of losses in that period may be considered to represent the projected average loss for that period in lieu of a self-insurance charge.

(iii) Under self-insurance programs for retired persons, only actual losses shall be considered to represent the projected average loss unless a reserve or fund is established in accordance with § 416.50(a)(1)(v).

(iv) The self-insurance charge shall be determined in a manner which will give appropriate recognition to any indemnification agreement which exists between the contracting parties.

(3) In measuring actual losses under paragraph (a)(2) of this section:

(i) The amount of a loss shall be measured by (A) The actual cash value of property destroyed; (B) amounts paid or accrued to repair damage; (C) amounts paid or accrued to estates and beneficiaries; and (D) amounts paid or accrued to compensate claimants, including subrogation. Where the amount of a loss which is represented by a liability to a third party is uncertain, the estimate of the loss shall be the amount which would be includable as an accrued liability in financial statements prepared in accordance with generally accepted accounting principles.

(ii) If a loss has been incurred and the amount of the liability to a claimant is fixed or reasonably certain, but actual payment of the liability will not take place for more than 1 year after the loss is incurred, the amount of the loss to be recognized currently shall not exceed the present value of the future payments, determined by using a discount rate equal to that prescribed for settling such claims by the State having jurisdiction over the claim. If no such rate is prescribed by the State, then the rate shall be equal to the interest rate as determined by the Secretary of the Treasury pursuant to Pub. L. 92-41, 85 Stat. 97, in effect at the time the loss is recognized. Alternatively, where settlement will consist of a series of payments over an indefinite time period, as in worker's compensation, the contractor may follow a consistent policy of recognizing only the actual amounts paid in the period of payment.

(4) The contractor may elect to recognize immaterial amounts of self-insured losses or insurance administration expenses as part of other expense categories rather than as "insurance costs."

(b) Allocation of insurance costs:

(1) Where actual losses are recognized as an estimate of the projected average loss, in accordance with § 416.50(a)(2), or where actual loss experience is determined for the purpose of developing self-insurance charges by segment, a loss which is incurred in a given segment shall be identified with that segment. However, if the contractor's home office is, in effect, a reinsurer of its segments against catastrophic losses, a portion of such catastrophic losses shall be allocated to, or identified with, the home office.

(2) Insurance costs shall be allocated on the basis of the factors used to determine the premium, assessment, refund, dividend, or self-insurance charge, except that insurance costs incurred by a segment or allocated to a segment from a home office may be combined with costs of other indirect cost pools if the resultant allocation to each final cost objective is substantially the same as it would have been if separately allocated under this provision.

(3) Insurance administration expenses which are material in relation to total insurance costs shall be allocated on the same basis as the related premium costs or self-insurance charge.

(c) Records. The contractor shall maintain such records as may be necessary to substantiate the amounts of premiums, refunds, dividends, losses, and self-insurance charges, paid or accrued, and the measurement and allocation of insurance costs. Memorandum records may be used to reflect any material differences between insurance costs as determined in accordance with this standard and as includable in financial statements prepared in accordance with generally accepted accounting principles.

§ 416.60 Illustrations.

(a) Contractor A pays a companywide property and casualty insurance premium for the policy term July 1, 1980, to July 1, 1983, and includes the entire amount as cost in its cost accounting period which ended December 31, 1980. This is a violation of § 416.50(a)(1)(i) in that only one-sixth of the policy term fell within the cost accounting period which ended De-

cember 31, 1980, and therefore only one-sixth of the premium should have been included in cost in that cost ac-

tired persons or by reducing the deposits to the fund by an equivalent amount in accordance with § 416.50(a)(1)(iv)(D). This practice would also comply with the requirement of

other reasonable method of estimating the projected average loss in order to determine the self-insurance charge.

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

§ 908.881 Valencia Orange Regulation 581.

Order. (a) During the period September 15, 1978, through January 15,

International Communication Agency under Reorganization Plan No. 2 of 1977, as amended, the functions of the

V 43/183 SE 20 78

cember 31, 1980, and therefore only one-sixth of the premium should have been included in cost in that cost accounting period.

(b) Contractor B has a retrospectively rated worker's compensation insurance program. The policy term corresponds with the contractor's cost accounting period. Premium refunds are normally received and applied in the following cost accounting period. The contractor's practice is to include the entire gross premium in insurance cost in the cost accounting period in which it is paid and to credit the refund against insurance cost in the cost accounting period in which it is received. This practice conforms with § 416.50(a)(1)(i). The contractor could also, under the provisions of § 416.50(a)(1)(vi), have followed a consistent practice of estimating such refunds in advance and including the estimated net premium in insurance cost.

(c) Contractor C establishes a self-insured program of life insurance for active and retired persons. The contractor pays death benefits directly to the beneficiaries of deceased employees and includes such payments in insurance costs at the time of payment. This practice complies with § 416.50(a)(2)(iii) which requires that only the actual losses be recognized unless a trusteed reserve or fund is established in accordance with § 416.50(a)(1)(v).

(d) Instead of paying death benefits directly, contractor D purchases annual group term life insurance on active and retired persons and charges the premiums to insurance costs (with proper recognition for refunds and dividends). Contractor D's retired persons wish to be protected against possible discontinuance of the program. Contractor D, therefore, establishes a trusteed fund. As each employee retires, contractor D deposits in the fund an amount which is equal to the premium on a paid-up policy for that employee, and he advises the trustee that the fund is to be used to continue to pay premiums on retired persons in the event the program is discontinued. The contractor also continues to purchase group term insurance on both active employees and retired persons and charges both the premiums and the deposits to insurance costs. This practice does not comply with § 416.50(a)(1)(iv)(D) which requires that if payments to accomplish the stated objectives of the reserve or funds are made from a source other than the reserve or fund, the payments into the fund shall be reduced accordingly.

NOTE.—In this instance the contractor could comply with the standard by paying from the fund that portion of the group term premium which represented the retired persons or by reducing the deposits to the fund by an equivalent amount in accordance with § 416.50(a)(1)(iv)(D). This practice would also comply with the requirement of § 416.50(a)(1)(v)(C) that the amount added to the fund not be greater than an amount which would be required to fairly allocate the cost over the working lives of the active employees in the plan.

(e) Contractor E wishes to provide assurance of his life insurance program continuance to both active and retired employees. He establishes a trusteed fund in accordance with § 416.50(a)(1) (iv) and (v) and thereafter pays into the fund each year for each active employee an actuarially determined amount which will accumulate to the equivalent of the premium on a paid-up life insurance policy at retirement. He charges the annual payments to insurance costs. Benefits are paid directly from the fund (or the fund is used to pay the annual premiums on group term life insurance for all employees). This practice also complies with the requirement of § 416.50(a)(1)(v)(C) that the amount added to the fund not be greater than an amount which would be required to fairly allocate the cost over the working lives of the active employees in the plan.

(f) Contractor F has a fire insurance policy which provides that the first $50,000 of any fire loss will be borne by the contractor. Because the risk of loss is dispersed among many physical units of property and the average potential loss per unit is relatively low, the actual losses in any period may be expected not to differ significantly from the projected average loss. Therefore, the contractor intends to let the actual losses represent the projected average loss for this exposure to risk. Property with an actual cash value of $80,000 is destroyed in a fire. The contractor charges the $50,000 of the loss not covered by the policy to insurance costs for contract costing purposes. The practice complies with the requirement of § 416.50(a)(2). However, had the contractor's plan been to make a self-insurance charge for such losses, then any difference between the self-insurance charge and actual losses in that cost accounting period would not have been allocable as an insurance cost.

(g) Contractor G is preparing to enter into a Government contract to produce explosive devices. The contractor is unable to purchase adequate insurance protection and must act as a self-insurer. There is a significant possibility of a major loss, against which the Government will not undertake to idemnify the contractor. The contractor, therefore, intends to make a self-insurance charge for this exposure to risk. The contractor may, in accordance with § 416.50(a)(2)(i), use data obtained from other contractors or any other reasonable method of estimating the projected average loss in order to determine the self-insurance charge.

(h) Contractor H purchases liability insurance for all of its motor vehicles in a single, company-wide policy which contains a $50,000 deductible provision. However, the company's management policy provides that when a loss is incurred in a segment, only the first $5,000 of the loss will be charged to the segment; the balance of the loss will be absorbed at the home-office level and reallocated among all segments. Because the risk of loss is dispersed among many physical units and the maximum potential loss per occurrence is limited, the actual losses in any cost accounting period may be expected not to differ significantly from the projected average loss. Therefore, the contractor intends to let the actual losses represent the projected average loss for this exposure to risk. An analysis of the loss experience shows that many past losses exceeded $5,000. Contractor H's practice of allocating the loss in excess of $5,000 to the home office is a violation of § 416.50(b)(1)(ii). The limit of $5,000 cannot realistically be considered a measure of a "catastrophic" loss when losses frequently exceed this amount, and the use of a limit this low would obscure segment loss experience.

§ 416.70 Exemptions.

None for this standard.

§ 416.80 Effective date.

(a) The effective date of this standard is July 10, 1979.

(b) This standard shall be followed by each contractor on or after the start of his next cost accounting period beginning after the receipt of a contract to which this cost accounting standard is applicable.

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc. 78-26410 Filed 9-19-78; 8:45 am]

[3410-02]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 581, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Amendment of Size Regulation

AGENCY: Agricultural Marketing Service.

ACTION: Final rule.

SUMMARY: This amendment lowers the minimum size requirements applicable to fresh shipments of California-Arizona Valencia oranges grown in districts 1, 2, and 3 of the production area from 2.32 inches in diameter to 2.20 inches in diameter. The amendment recognizes current and prospective market conditions for Valencia oranges and is consistent with the size composition of the crop remaining for fresh shipment.

EFFECTIVE DATE: September 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTAL INFORMATION: *Findings.* (1) Pursuant to the amended marketing agreement, and order No. 908 (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation of the committee established under the marketing agreement and order, and upon other information, it is hereby found that the amendment of the size regulation, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The amendment reflects the Department's appraisal of the current and prospective market conditions for Valencia oranges. Less restrictive size requirements on fresh shipments are consistent with the size composition of the crop remaining for fresh shipment.

(3) It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act; and this amendment relieves restrictions on the handling of Valencia oranges grown in Arizona and designated part of California.

The provisions of § 908.881 (Valencia orange regulation 581; 43 FR 13492) are revised to read as follows:

§ 908.881 Valencia Orange Regulation 581.

Order. (a) During the period September 15, 1978, through January 15, 1979, no handler shall handle any Valencia oranges grown in district 1, 2, or 3 of the production area which are of a size smaller than 2.20 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the Valencia oranges contained in any type of container may measure smaller than 2.20 inches in diameter.

(b) As used in this section, "handle," "handler," "district 1," "district 2," and "district 3" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

Dated: September 15, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-26435 Filed 9-19-78; 8:45 am]

[4710-01]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

SUBCHAPTER G—INTERNATIONAL EDUCATIONAL AND CULTURAL EXCHANGE

[Dept. Reg. 108.758]

PART 64—PARTICIPATION BY FEDERAL EMPLOYEES IN CULTURAL EXCHANGE PROGRAMS OF FOREIGN GOVERNMENTS

Transfer of Departmental Regulation

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: Part 64, chapter I, of title 22 of the Code of Federal Regulations is deleted from chapter I and transferred to chapter V of title 22, Code of Federal Regulations, International Communication Agency. The educational and cultural affairs program is no longer under the jurisdiction of the Secretary of State.

EFFECTIVE DATE: September 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Gladys Poticher, 202-632-7968.

SUPPLEMENTARY INFORMATION: As a result of the establishment of the International Communication Agency under Reorganization Plan No. 2 of 1977, as amended, the functions of the Department of State's Bureau of Educational and Cultural Affairs and the U.S. Information Agency were consolidated into a new International Communication Agency (ICA), effective April 1, 1978. Functions formerly vested in the Secretary of State in the cultural exchange area are now transferred to the International Communication Agency.

(22 U.S.C. 2658.)

Dated: September 8, 1978.

K. E. MALMBORG,
Assistant Legal Adviser for Management.

[FR Doc. 78-26368 Filed 9-19-78; 8:45 am]

[8230-01]

CHAPTER V—INTERNATIONAL COMMUNICATION AGENCY

PART 516—PARTICIPATION BY FEDERAL EMPLOYEES IN CULTURAL EXCHANGE PROGRAMS OF FOREIGN COUNTRIES

AGENCY: International Communication Agency.

ACTION: Final rule.

SUMMARY: This rule adds a new part regarding participation by Federal employees in cultural exchange programs of foreign countries to chapter V to reflect the transfer of functions to the International Communication Agency. The transfer was legislatively mandated by Reorganization Plan No. 2 of 1977 which provides for the transfer of the functions of the United States Information and Educational and Exchange Act of 1948, as amended, and the functions of the Mutual Educational and Cultural Exchange Act of 1961, as amended, from the Secretary of State and the President to the Director of the International Communication Agency.

EFFECTIVE DATE: September 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard H. Swan, Assistant General Counsel, Office of General Counsel, International Communication Agency, Washington, D.C. 20547, 202-724-9220.

SUPPLEMENTARY INFORMATION: As a result of the establishment of the International Communication Agency, the functions formerly vested in, or delegated to, the Secretary of State in the cultural exchange area have been transferred or delegated to the International Communication Agency

V 4

(ICA). ICA has assumed overall responsibility for the participation by Federal employees in cultural exchange programs of foreign govern-

crease mutual understanding between the people of the United States and the people of the other countries by means of educational and cultural ex-

office or headquarters of the foreign government.

§ 516.5 Criteria for approval of program.

allow time for interested parties to take part in the rulemaking process.

However, the addition of the new part is administrative in nature and

room 1002, 90 Church Street, New York, N.Y. 10007.

Location: Same as mailing address.

MID-ATLANTIC REGION

Dated: September 13, 1978.

WILLIAM J. BECKHAM, Jr.
Assistant Secretary (Administration).

(ICA). ICA has assumed overall responsibility for the participation by Federal employees in cultural exchange programs of foreign governments, and all related procedures.

Part 516 is added to 22 CFR chapter V to read as follows:

Sec.
516.1 Purpose.
516.2 Definitions.
516.3 Submission of application.
516.4 Contents of application.
516.5 Criteria for approval of program.
516.6 Request for further information.
516.7 Approval of application.
516.8 Obligation of employee to advise agency.
516.9 Termination of approval.
516.10 Grant not to constitute a gift.

AUTHORITY: Sec. 108A (Pub. L. 94-350, 90 Stat. 823) added to the Mutual Educational and Cultural Exchange Act, as amended, 75 Stat. 527-28, 22 U.S.C. 2451 et seq.; and under Executive Orders 11034 and 12048, as amended, Reorganization Plan No. 2 of 1977 and the Continuity Order (Continuity of Operations) of April 1, 1978 (43 FR 15371).

§ 516.1 Purpose.

This part sets forth the procedures for the application for approval of a cultural exchange program of a foreign government, so that Federal employees may participate in such program; the grant and termination of such approval; and related procedures.

§ 516.2 Definitions.

For the purpose of this part:

(a) "Federal employee" means: (1) An employee as defined by section 2105 of title 5, United States Code; (2) an individual employed by, or occupying an office or position in, the government of a territory or possession of the United States or the District of Columbia; (3) a member of a uniformed service; (4) the President and Vice President; and (5) a Member of the Senate or the House of Representatives, a Delegate from the District of Columbia in Congress, and the Resident Commissioner from Puerto Rico in Congress.

(b) A "foreign government" means a foreign government and an official agent or representative thereof; a group of governments and an official agent or representative thereof; an international organization composed of governments, and an official agent or representative thereof.

(c) A program of the "type described in section 102(a)(2)(i) of the Act" means a cultural exchange program involving "visits and interchanges between the United States and other countries of leaders, experts in fields of specialized knowledge or skill, and other influential or distinguished persons."

(d) The "purpose stated in section 101 of the Act" is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of the other countries by means of educational and cultural exchange; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations, and the contributions being made toward a peaceful and more fruitful life for people throughout the world; to promote international cooperation for educational and cultural advancement; and thus to assist in the development of friendly, sympathetic, and peaceful relations between the United States and the other countries of the world."

(e) "Director" means the Director of the International Communication Agency.

(f) "Agency" means the International Commnication Agency.

(g) "Act" means the Mutual Educational Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.).

(h) "Member of the family or household" of a Federal employee means a relative of the employee by blood, marriage, or adoption or any person who is a resident of the household of the employee.

§ 516.3 Submission of application.

A foreign government intending to provide grants or other assistance to facilitate the participation of Federal employees in a program of cultural exchange shall submit to the Agency an application for approval of the program through its embassy, mission, or office at Washington, D.C. If there is no embassy, mission, or office at Washington, D.C., of the foreign government the application may be submitted by the home office or headquarters of the foreign government. The application shall be addressed to the director.

§ 516.4 Contents of application.

The foreign government shall provide information in the application showing that its program meets the criteria set forth in § 516.5, and shall include in such application the following:

(a) Name and description of the program and the provisions of legislation or regulation authorizing the program;

(b) Number of annual U.S. citizen participants expected, including the number of U.S. Federal employees;

(c) Average duration of stay abroad;

(d) Agency of the foreign government responsible for the program;

(e) Name and address of contact in the United States with whom communication may be made with respect to the program; in the absence of such a contact in the United States, the name and address of a contact in the home office or headquarters of the foreign government.

§ 516.5 Criteria for approval of program.

To obtain approval of its program of cultural exchanges, a foreign government is required to show that:

(a) The cultural exchange program is of the type described in section 102(a)(2)(i) of the Act;

(b) The cultural exchange program is conducted for a purpose comparable to the purpose stated in section 101 of the Act; and

(c) A grant under such program will not provide assistance with respect to any expenses incurred by or for any member of the family or household of such Federal employee.

§ 516.6 Request for further information.

The Agency may request the foreign government to supply additional information.

§ 516.7 Approval of application.

The Director shall review the application and if satisfied that the criteria of § 516.5 are met shall inform the foreign government of the approval of its program.

§ 516.8 Obligation of employee to advise agency.

Any Federal employee receiving any offer of a grant or other assistance under a cultural exchange program approved by the Director shall advise the employee's agency of such offer and shall not accept such offer unless the employee's agency states that it has no objection to such acceptance. In the case of the Agency, an employee shall advise the Associate Director for Management who may, after consultation with appropriate officials of the Agency, furnish a "no objection" statement.

§ 516.9 Termination of approval.

If at any time it appears to the Director that the purpose of a program which has been approved has been changed so that it no longer meets the criteria set forth in § 516.5 or that the program is being misused, the Director may terminate such approval, or suspend such approval pending the supplying of additional information. However, a termination or suspension shall not affect a grant which has been made under a previously approved program.

§ 516.10 Grant not to constitute a gift.

A grant made under an approved program shall not constitute a gift for purposes of 22 CFR 10.735-203 and section 7342 of Title 5, United States Code.

It is the general policy of the International Communication Agency to

allow time for interested parties to take part in the rulemaking process.

However, the addition of the new part is administrative in nature and was mandated by law. Therefore, the rulemaking process, involving comment and public procedure, is waived, and this new part will become effective September 20, 1978.

Issued at Washington, D.C.

JOHN E. REINHARDT,
Director, International Communication Agency.

[FR Doc. 78-26369 Filed 9-19-78; 8:45 am]

[4810-25]

Title 31—Money and Finance: Treasury

SUBTITLE A—OFFICE OF THE SECRETARY OF THE TREASURY

PART 1—DISCLOSURE OF RECORDS

Amendment to Regulations

AGENCY: Treasury Department.

ACTION: Final rule.

SUMMARY: The purpose of these amendments to part 1 of the Department of the Treasury regulations is to reflect the current offices and addresses of the Internal Revenue Service which have changed due to reorganization of this constituent unit. These changes are of administrative nature and do not require prior notice or public comment.

DATE: These changes are effective immediately.

FOR FURTHER INFORMATION CONTACT:

Marcus Farbenblum, Chief, FOI Branch, Internal Revenue Service, 202-566-4441.

Part 1, subtitle A of title 31 of the Code of Federal Regulations is amended, effective immediately, by updating subpart A, appendix B and subpart C, appendix B, as follows:

1. In subpart A, appendix B, paragraphs 2, 3, and 4 are revised to read as follows:

2. *Public reading rooms.* Public reading rooms for the Internal Revenue Service are maintained at the following locations:

NATIONAL OFFICE

Mailing address: Director, Disclosure Operations Division, Internal Revenue Service, P.O. Box 388, Ben Franklin Station, Washington, D.C. 20044.
Location: 1111 Constitution Avenue NW., Room 1567, Washington, D.C. 20224.

NORTH ATLANTIC REGION

Mailing address: Freedom of Information Reading Room, Internal Revenue Service, room 1002, 90 Church Street, New York, N.Y. 10007.
Location: Same as mailing address.

MID-ATLANTIC REGION

Mailing address: Freedom of Information Reading Room, Internal Revenue Service, P.O. Box 12805, Philadelphia, Pa. 19106.
Location: Federal Office Building, 600 Arch Street.

SOUTHEAST REGION

Mailing address: Freedom of Information Reading Room, Internal Revenue Service, P.O Box 926, Atlanta, Ga. 30301.
Location: 275 Peachtree Street NE., Atlanta, Ga. 30303.

MIDWEST REGION

Mailing address: Freedom of Information Reading Room, Internal Revenue Service, 230 South Dearborn Street, Room 2896, Chicago, Ill. 60604.
Location: Same as mailing address.

CENTRAL REGION

Mailing address: Freedom of Information Reading Room, Internal Revenue Service, P.O. Box 1699, Cincinnati, Ohio 45201.
Location: Room 7106, Federal Office Building, 550 Main Street.

SOUTHWEST REGION

Mailing Address: Freedom of Information Reading Room, Internal Revenue Service, 1100 Commerce Street, Room 13E10, Dallas, Tex. 75222.
Location: Same as mailing address.

WESTERN REGION

Mailing address: Freedom of Information Reading Room, Internal Revenue Service, 450 Golden Gate Avenue, Box 36040, San Francisco, Calif. 94105.
Location: Same as mailing address.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(g) as to whether to grant requests for records of the Internal Revenue Service will be made by those officials specified in 26 CFR 601.702.

4. . . .

Requests may be delivered personally to the Director of the Disclosure Division in the Office of the Chief Counsel, in the Internal Revenue Building, located at 1111 Constitution Avenue NW., Washington, D.C.

2. In subpart C, appendix B is amended as follows:

APPENDIX B [AMENDED]

a. Paragraph (d) (8) and (10) are amended by deleting "Chief, Disclosure Staff, Attention: CP:D" and "Chief, Disclosure Staff" and replacing with "Director, Disclosure Operations Division, Attention: TX:D" and "Director, Disclosure Operations Division", respectively.

b. Subparagraph (11) is amended by deleting "Chief, Disclosure Staff" and replacing with "Director, Disclosure Operations Division."

* * * * *

Dated: September 13, 1978.

WILLIAM J. BECKHAM, Jr.
Assistant Secretary (Administration).

[FR Doc. 78-26371 Filed 9-19-78; 8:45 am]

[1505-01]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER C—PUBLIC RELATIONS

PART 837—SUPPORT OF NONGOVERNMENT GROUPS

Final Rule

Correction

In FR Doc. 78-22331, appearing at page 35477 in the issue of August 10, 1978, on page 35478, in the summary, in the second line, "France" should be corrected to read "Force."

[7710-12]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

SUBCHAPTER D—ORGANIZATION AND ADMINISTRATION

PART 224—GROUPS AND DEPARTMENTS

SUBCHAPTER H—PROCUREMENT SYSTEM FOR THE U.S. POSTAL SERVICE: INTELLECTUAL PROPERTY RIGHTS OTHER THAN PATENTS

PART 602—INTELLECTUAL PROPERTY RIGHTS OTHER THAN PATENTS

Policy Concerning the Acquisition and Management of Intellectual Property Other Than Patents

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: These regulations promulgate the Postal Service's policy concerning the acquisition and management of intellectual property (other than patents), set out the function of the Postal Service's Intellectual Property Rights Board, and describe the procedure by which requests for the use of intellectual property are processed. The information is provided to inform potential licensees and the general public.

EFFECTIVE DATE: October 20, 1978.

FOR FURTHER INFORMATION CONTACT:

William J. Jones, 202-245-4603.

SUPPLEMENTARY INFORMATION: On July 6, 1978, the Postal Service published in the FEDERAL REGISTER for

comment, 43 FR 29135, proposed amendments modifying part 224 of Title 39, Code of Federal Regulations,

plications for use of Postal Service intellectual property. It periodically reviews the intellectual property rights

The Postal Service has determined that it is necessary to make three changes to 39 CFR 265.6(d). The pur-

other requests from law enforcement agencies should be submitted in writing to the postmaster as in paragraph

[6560-01]

[FRL-951-8a]

management assistance grants and the administration of its sections 208(b)(4), 402, and 404 programs centered around three concerns. First, the

comment, 43 FR 29135, proposed amendments modifying part 224 of Title 39, Code of Federal Regulations, and adding new part 602 of that title, both dealing with the intellectual property rights (other than patents) of the Postal Service. The comment period expired on September 5, 1978; no comments were received. Accordingly, the Postal Service hereby adopts the amendments proposed without change.

SUBCHAPTER H—PROCUREMENT SYSTEM FOR THE U.S. POSTAL SERVICE: INTELLECTUAL PROPERTY RIGHTS OTHER THAN PATENTS

* * * * *

§ 224.1 [Amended]

1. Amend paragraph (c)(1) of § 224.1 by inserting immediately after the fourth sentence:

* * * * *

(c) * * *

(1) * * * It manages the Postal Service's intellectual property. * * *

2. Revise the heading of subchapter H and add new part 602 to read as follows:

Sec.
602.1 General principles.
602.2 Intellectual Property Rights Board.
602.3 Requests for use.

AUTHORITY: 39 U.S.C. 401(5).

§ 602.1 General principles.

It is the policy of the Postal Service to secure full ownership rights for its intellectual properties other than patents (hereinafter, intellectual properties) having significant economic or other business value, except when to do so would be contrary to the best interest of the Postal Service. Intellectual property rights shall be acquired and managed so as to:

(a) Promote the economic, operational, and competitive well-being of the Postal Service;

(b) Limit restrictions on the use of Postal Service intellectual property to a minimum consistent with its statutory obligations;

(c) Assure that all potential users are treated fairly;

(d) Give due regard to other relevant considerations.

§ 602.2 Intellectual Property Rights Board.

In accordance with the foregoing policy, the Postal Service Intellectual Property Rights Board, with the approval of the Assistant Postmaster General, Procurement and Supply Department, formulates the program for the management of the Postal Service's rights in intellectual property. It identifies intellectual properties in which the Postal Service should secure its rights. It receives and makes recommendations for the disposition of applications for use of Postal Service intellectual property. It periodically reviews the intellectual property rights portfolio to determine the extent of the utilization of protected properties and recommends relinquishment of ownership when it considers ownership no longer desirable. It is advised by the Office of Contracts of performance under license agreements and makes recommendations for corrective measures when necessary. In consultation with the Law Department, it recommends appropriate action against unauthorized use of intellectual property.

§ 602.3 Requests for use.

(a) Requests for the use of intellectual property shall be addressed to:

Chairman, Intellectual Property Rights Board, Office of Contracts, U.S. Postal Service, Washington, D.C. 20260.

Requests should be accompanied by sufficient information concerning the requester and the use requested to allow reasoned consideration by the Board.

(b) Each request shall be considered in a timely fashion by the Board in accordance with the policy established herein. Requests favorably considered by the Board shall be submitted to the Assistant Postmaster General, Procurement and Supply Department, for approval.

(c) Approved requests contemplating a permissive (no fee) use of the intellectual property will be evidenced by a letter of permission furnished the requester on behalf of the Board.

(d) Approved requests contemplating a contractual (fee) use of the intellectual property shall be forwarded to the Office of Contracts, Procurement and Supply Department, for the negotiation of a satisfactory license agreement.

(e) Each license agreement shall be subject to legal review.

(f) Requesters shall be promptly advised of requests which are not approved.

(39 U.S.C. 401.)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-26411 Filed 9-19-78; 8:45 am]

[7710-12]

PART 265—RELEASE OF INFORMATION

Availability of Records

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This notice announces the amendment of Postal Service regulations concerning the availability to the public of Postal Service records. The Postal Service has determined that it is necessary to make three changes to 39 CFR 265.6(d). The purpose of the first change is to eliminate confusion in the field offices regarding the release of information from boxes being used for business purposes. Questions have arisen as to whether the name or address appearing on the application for release of records must be a "business" name or address. Because that point is irrelevant to the disclosure, the Postal Service is changing the word "business" to "recorded" in the first sentence of § 265.6(d)(4). The second change is necessary to provide a clarification as to the extent of information that may be disclosed. The third change provides a limited exception for law enforcement agencies to the requirement that requests for records be in writing.

EFFECTIVE DATE: September 20, 1978.

ADDRESS: Comments on these regulations are welcome and will be considered with a view toward making changes in the regulations in the future. Written comments should be directed to the Records Officer, U.S. Postal Service, Washington, D.C. 20260. Copies of all written comments received are available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 3211.

FOR FURTHER INFORMATION CONTACT:

Mr. John E. Finlay, 202-245-4142.

Accordingly, the Postal Service hereby adopts the following revisions of Title 39, Code of. Federal Regulations:

In § 265.6 delete in the first sentence of paragraph (d)(4) the word "business" the first time it appears and insert the word "recorded" in lieu thereof; insert in paragraph (d)(5) immediately after the word "boxholder" the phrase "or other recorded information about the boxholder"; and add new paragraph (d)(5)(iv) to read as follows:

§ 265.6 [Amended]

* * * * *

(d) * * *
(5) * * *

(iv) A law enforcement agency, for oral requests made through the Inspection Service, but only after the Inspection Service has confirmed that the information is needed in the course of a criminal investigation. (All other requests from law enforcement agencies should be submitted in writing to the postmaster as in paragraph (d)(5)(i) of this section.)

(39 U.S.C. 401.)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-26412 Filed 9-19-78; 8:45 am]

[1505-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 947-3]

PART 2—PUBLIC INFORMATION

General Provisions; Confidential Business Information

Correction

In FR Doc. 78-25341 appearing at page 39997 in the issue for Friday, September 8, 1978, make the following changes:

(1) On page 40002, middle column, in the 12th line of § 2.301 (b)(1)(i), "* * * Act, 42 U.S.C. 7412, (b) of determining * * *" should have read "* * * Act, 42 U.S.C. 7412, (B) of determining * * *".

(2) In paragraph (c) of § 2.301, the fourth through sixth lines should have read, "* * * apply without change to information to which this section applies."

(3) In the third column of the page, in paragraph (h)(2)(ii)(A), five lines from the bottom, "* * * contractor of subcontractor * * *" should read "contractor or subcontractor * * *, and in the next to the last line, "* * * contract of subcontract * * *" should have read "* * * contract or subcontract * * *".

(4) In paragraph (h)(2)(ii)(B), in the fourth line, "* * * of subcontract from * * *" should have read "* * * or subcontract from * * *". Also, in the fifth line, "* * * contractor's of subcontractor's * * *" should have read "* * * contractor's or subcontractor's * * *".

[6560-01]

[FRL-951-8a]

PART 35—STATE AND LOCAL ASSISTANCE

Subpart F—State Management Assistance Grants

AGENCY: Environmental Protection Agency.

ACTION: Rule.

SUMMARY: This final regulation implements section 205(g) of the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 (the Act). These regulations make funds available to States to manage the construction grants program, and, as needed, to hire qualified staff and provide training necessary to carry out delegated functions.

DATES: Effective Date: October 1, 1978. Actions taken after April 24, 1978, and before October 1, 1978, are subject to the interim final regulations published on April 25, 1978, in the FEDERAL REGISTER.

ADDRESS: Comments submitted on these regulations may be inspected at the Public Information Reference Unit, EPA Headquarters, Room 2922, Waterside Mall, 401 M Street SW., Washington, D.C., between 8 a.m. and 4:30 p.m. on business days. EPA-prepared summaries of the comments are also available.

FOR FURTHER INFORMATION CONTACT:

Mr. Albert Pelmoter, Chief, Program Policy Branch (WH-547), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone 202-426-8902.

SUPPLEMENTARY INFORMATION: Extensive public involvement was obtained in the development of these regulations. It is described at length in the preamble to 40 CFR Part 35, Subpart E, Grants for Construction of Treatment Works, which is published as a final rule on this date in the FEDERAL REGISTER.

In drafting these regulations, substantive issues arose in connection with (1) interfacing a State's construction management assistance grants with its sections 402, 404, and 208(b)(4) programs; (2) maintaining continuity in a State construction grants program in the face of uncertain timing of Federal appropriations; and (3) satisfying public participation requirements for delegation of the construction grants program. A discussion of these topics and issues follows.

1. Interfacing of programs. Discussions of the interface between State management assistance grants and the administration of its sections 208(b)(4), 402, and 404 programs centered around three concerns. First, the need for a separate grant for managing the State's construction grants program; second, the timing of the release of 205(g) funds for administering sections 402, 404, and 208(b)(4) programs; and third, the need to maintain current levels of a State's financial support for existing water pollution control programs.

a. *Separate grants.* The thrust of this new legislative amendment is to decentralize the management of the construction grants program, i.e., to shift the management from the Federal Government has been performing this management function since the inception of the program in 1956, this shift represents a major operational change. We must insure that, in carrying out the provisions of section 205(g), the national characteristics of this program will be maintained, high standards of conduct will not be compromised and, in the long run, applicants and grantees will benefit by the removal of one layer of government from the grant approval process.

The purpose of these regulations is to implement section 205(g) of the Act and thus make funds available to States to manage the construction grants program, and, as needed, to hire qualified staff and provide training necessary to effectively carry out delegated functions.

Section 205(g)(1) of the Act authorizes the Administrator to reserve each fiscal year a sum not to exceed 2 percent of the allotment made to each State for construction grants. Sums so reserved shall be available for making grants to States under section 205(g)(2) to cover the reasonable costs of administering any aspects of the construction grants program which the Administrator delegates to a State. Section 205(g)(2) also provides that these funds may also be used to increase the amount made available to the States for administering an approved program under sections 402, 404, or 208(b)(4) of the Act and managing waste treatment construction grants for small communities. Reserved funds that are not used for making State management assistance grants by the end of the 2-year allotment period will be added to the construction grant amounts last allotted to a State and shall be immediately available for awarding grants for the construction of wastewater treatment projects.

The delegation agreement is to be the mechanism for implementation of the construction management assistance grant program and shall address both the functions to be delegated and

the State's capability to conduct those functions.

These regulations also provide that State programs funded under § 35.913

States are expected to begin negotiating delegation agreements with EPA regional officials as soon as possible so that the award of construction man-

Two commenters felt that more specific guidance should be given to EPA regional offices for making State competency assessments. EPA has pro-

sible, integrate a variety of programs under the Clean Water Act, the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and

Sec.
35.1030-5 Implementation of the delegation agreement.
35.1030-6 State assurance.
35.1030-7 Regional administrator determi-

tor's determination of the amount of grant funds reasonably necessary to provide for the management of the ultimate delegation of the construction

V 43 / 183 SEP 20 1978

the State's capability to conduct those functions.

These regulations also provide that State programs funded under § 35.913 prior to April 25, 1978, may continue to be funded under that regulation through April 24, 1979, or until a construction management assistance grant is awarded to the State, whichever occurs first.

Section 205(g) funds for use in administering sections 208(b)(4), 402, and 404 programs are to be awarded in conjunction with sections 106 and 208 State grants. Amendment of these grants will facilitate use of section 205(g) funds since the basic mechanism for providing support for permit and planning activities, together with regulations governing their conduct, already exist in the sections 106 and 208 grant programs. EPA currently is amending regulations governing the sections 106 and 208 grant programs, which will be governed by new regulations in subpart G of this part. These regulations were published as proposed in the FEDERAL REGISTER on September 12, 1978 (43 FR 40742). Until published as final, references in the State management assistance grants regulations to subpart G shall be considered references to §§ 35.200 through 35.236 and 35.551 through 35.570.

b. *Timing.* The language and the legislative history of section 205(g) clearly establish that the State's management of the construction grants program is the first priority for the use of section 205(g) funds. Funds in excess of those required to manage properly the construction grants program are to be made available for administering sections 208(b)(4), 402, and 404 activities as necessary. Accordingly, these regulations provide that the award of the construction management assistance grant is a first order of priority and that funds in support of a substantial delegation would have to be made available through that grant prior to increasing section 106 and 208 grants with section 205(g) funds. Therefore, before section 205(g) moneys will be made available for section 106 or 208 grant program purposes, the level of funding required for proper management of a State's construction grants program must be determined.

However, it is important to recognize that upon receipt of section 205(g) grant funds, most States will be in a position to release section 106 grant funds which were being used to support construction grant management activities. Since these funds would be immediately available to support additional activities customarily funded under the section 106 grant (e.g., permitting, planning, etc.), plans for using the released funds should be described in the delegation agreement.

States are expected to begin negotiating delegation agreements with EPA regional officials as soon as possible so that the award of construction management assistance grants can be expedited.

c. *State level of support.* Funds provided to State under section 205(g) must not be used to reduce the level of Federal or State expenditures on water pollution control programs; rather, these funds will be used to supplement (not supplant) State funding. To do otherwise would be contrary to congressional intent. These regulations contain a provision to assure that this intent is met.

2. Continuity. In order to assure continuity in State programs from one fiscal year to the next, funds obligated under construction management assistance grants shall be available for expenditure for a period of 5 years. The grant may be amended annually as subsequent allotments are appropriated by Congress. We believe that States will have sufficient funding stability to hire, train, and maintain qualified staff under this provision regardless of the timing or amounts of future congressional appropriations.

The award of a construction management assistance grant after the execution of a delegation agreement between the State and EPA constitutes the State's obligation of the funds under the State management assistance grant for purposes of the requirements of 205(g)(1).

3. Public participation. Section 35.1033 of these regulations provides for public participation during the development, review, and approval of a new delegation agreement or modification of an existing agreement and requires public hearing to be conducted on a draft delegation agreement whenever the regional administrator determines that there is significant interest in such a hearing. States already operating under delegation agreements which are under § 35.913 must conduct a public hearing or public meeting on the first application for a construction management assistance grant. In addition, these regulations provide that any interested citizen adversely affected by a State decision or omission under a delegation agreement may appeal to the Regional Administrator for review of the State's determination.

Following publication in the FEDERAL REGISTER on April 25, 1978, EPA received formal comments on the interim State management assistance regulations. Numerous comments pertained to certain text wordings which were felt to be lacking in clarity. The text has been edited to provide necessary clarifications. Significant issues raised by other commenters are addressed below.

Two commenters felt that more specific guidance should be given to EPA regional offices for making State competency assessments. EPA has provided guidance in program operations memorandum 78-5 issued June 16, 1978.

Two commenters took issue with the use of the word "all" in the limitations on award paragraph (§ 35.1016). "The" has been substituted for the word "all" in the revised text.

A third issue pertained to the need to allow a State to contract with other organizations in the State to provide assistance programs for small communities where the State finds an organization capable of providing such service and desires to use this service. EPA concurs and the regulations have been revised to reflect this option.

A fourth comment pertained to the need for procedures clarifying the role of the States and regional office in the event of a dispute. EPA and the State recognize this need and are developing such procedures in conjunction with delegation agreements under preparation.

Other significant comments suggested the following:

a. Delete § 35.1030-3(g) which allows the regional administrator to intercede and impose a Federal oversight on a project in which he determines that an overriding Federal interest exists. This provision is needed to assure that EPA has the capability to meet its basic stewardship responsibilities under the Act. Therefore, no change was made in the regulation as proposed.

b. Change the word "shall" to "may" in connection with the requirement to hold public meetings prior to the end-of-year reviews. EPA does not feel that this should be an optional requirement. Therefore, no change was made in the regulations as proposed.

c. Remove from § 35.1045 the phrase "unilaterally amend the delegation agreement." EPA agrees. Such language was determined to be superfluous since the remainder of the sentence containing that phrase has the same effect.

d. Clarify the statement in § 35.1033(d), which provides that the State's performance of delegated functions should comply with all applicable Federal public participation requirements, because it is too general. EPA's proposed public participation regulations, which were published on August 7, 1978 (43 FR 34794) address this matter.

In these and other regulations currently under review and revision, EPA intends to include the concept of a State/EPA agreement. The agreement will provide a way for EPA Regional Administrators and States to coordinate and, to the maximum extent feasible, integrate a variety of programs under the Clean Water Act, the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and other laws administered by EPA. Since this subpart governs only the portion of the State/EPA Agreement relating to State management assistance grants for delegated programs under section 205(g) of the Act, other programs included in the State/EPA Agreement will be governed by the applicable provisions found elsewhere in this chapter. This regulation requires State delegation agreements to be integrated into the State/EPA Agreements. Beginning in fiscal year 1980, State programs funded under section 205(g) of the Act will be part of the State/EPA Agreement and the State/EPA Agreement must be completed before execution of the delegation.

This regulation reflects current EPA strategy to delegate to capable and willing States those functions and authorities which we think we can legally delegate under the Clean Water Act. In addition, we are actively exploring a number of other strategies for increasing the role of the States in management of the construction grants program in future years. Before implementing any new strategies, we will inform and consult with interested parties and the public.

These regulations do not impose economic costs large enough to necessitate preparation of an economic impact analysis under Executive Order 12044.

Effective Date. This subpart will be effective on October 1, 1978, unless otherwise specified in particular sections. Good cause exists for an effective date prior to 30 days after publication in the FEDERAL REGISTER because many of the requirements are made effective by the 1977 Act on October 1, 1978, and because of the need to start these interrelated requirements together to insure program continuity.

Dated: September 15, 1978.

DOUGLAS M. COSTLE,
Administrator.

40 CFR Part 35 is amended by revising subpart F to read as follows:

Subpart F—State Management Assistance Grants

Sec.
35.1000 Purpose and scope.
35.1005 Policy.
35.1010 Application for grant.
35.1015 Eligibility for funding.
35.1016 Limitations on award.
35.1020 Grant amount and award.
35.1025 Payment.
35.1030 Delegation agreement.
35.1030-1 Scope of delegation agreement.
35.1030-2 Certification procedures.
35.1030-3 Limitation upon delegation.
35.1030-4 Terms of delegation agreement.
35.1030-5 Implementation of the delegation agreement.
35.1030-6 State assurance.
35.1030-7 Regional administrator determination.
35.1030-8 Amendments.
35.1030-9 Right of review; appeal.
35.1033 Public participation.
35.1035 Adherence to budget estimates.
35.1040 Program evaluation and reporting.
35.1045 Reduction of grant amount; suspension or termination of grants.
35.1050 Disputes.

AUTHORITY.—Sec. 205(g) of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

Subpart F—State Management Assistance Grants

§ 35.1000 Purpose and scope.

(a) These regulations establish policies and procedures for grants under section 205(g) of the Clean Water Act, as amended (the Act). That section authorizes the Administrator each fiscal year to reserve either up to 2 percent of the allotment made to each State under section 205 of the Act, or $400,000, whichever is greater, to make State management assistance grants. These regulations supplement the EPA general grant regulations in part 30, of this chapter and other requirements in this part 35.

(b) Construction management assistance grants will be awarded to States for reasonable costs of administering any elements of the construction grant program under sections 201, 203, 204, and 212 of the Act of managing waste treatment construction grants for small communities.

(c) Financial assistance to States under section 205(g) of the Act for administering the permit program under sections 402 and 404 of the Act and the statewide waste treatment management planning program under section 208(b)(4) may be provided to the States in conjunction with grants under subpart G of this part and will be administered under those regulations. Regional Administrators will coordinate the funding of construction management assistance grants with grants under subpart G of this part consistent with requirements of paragraph (d) of this section.

(d) Financial assistance will be granted under this subpart for the administration of section 402, 404, and 208(b)(4) programs under subpart G of this part only after a construction management assistance grant has been awarded to provide for the management of a substantial portion of the construction grant program as determined by the regional administrator. The amount of funds that will be made available under a section 205(g) grant for these programs will be limited to those funds remaining in the reserved portion of each State's allotment after the regional administrator's determination of the amount of grant funds reasonably necessary to provide for the management of the ultimate delegation of the construction grant program under this subpart.

§ 35.1005 Policy.

EPA's policy is to decentralize management of the wastewater treatment construction grant program to the maximum extent possible consistent with the environmental objectives of the Act and with prudent fiscal management. This is to be accomplished through formal delegation agreements between the regional administrator and those States which are capable of managing the program and are ready and willing to carry out the program within the spirit of Federal laws and policies governing its conduct. These agreements will specify the functions which the State will perform and certify to EPA, thereby preventing Federal-State duplication in the management of the construction grant program and increasing operating efficiency. The construction management assistance grant can provide compensation to States for the reasonable cost of performing the functions specified in the delegation agreement.

§ 35.1010 Application for grant.

Application for a grant shall be made on EPA Form 5700-31, Application for Federal Assistance (short form). Part III, Program Narrative Statement, will reference the delegation agreement.

§ 35.1015 Eligibility for funding.

(a) Grants may be awarded to cover the allowable costs of administering functions which are necessary to manage the construction grant program and which are identified in the delegation agreement. Funds to carry out delegated functions may be supplemented to meet costs of preparing to administer other functions which the regional administrator determines will be subsequently delegated to the grantee. An application may be made by the State water pollution control agency or another agency designated by the Governor.

(b) Construction management assistance grant funds may also be used for administering that segment of a State's construction grant program implemented without Federal assistance if the regional administrator determines that the program segment is administered consistent with subpart E of this part and this chapter.

§ 35.1016 Limitations on award.

(a) Maintenance of effort.

(1) No construction management assistance grant will be awarded in any fiscal year unless the regional administrator is satisfied that the expenditure

of non-Federal funds for recurrent expenses of its water pollution control program under section 106 of the act in that year will be at least equal to

State/EPA agreement. Beginning in fiscal year 1980, State programs funded under section 205(g) of the Act will be part of the State/EPA agreement and the State/EPA agreement

the Act, and will be immediately available for funding the construction of treatment works in the same manner and to the same extent as the last al-

(2) *Step 2.* Subagreements, subagreement cost analysis, user charge and industrial cost recovery systems, plans, and specifications for construction

(a) Award of step 1, step 2, step 3, and step 2+3 grant assistance and amendments;

(b) Review of projects to determine

delegation agreement may be extended.

§ 35.1030-5 Implementation of the delega-

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of non-Federal funds for recurrent expenses of its water pollution control program under section 106 of the act in that year will be at least equal to those same expenditures during fiscal year 1977. But, if the regional administrator determines that a reduction in State expenditures is attributable to a general nonselective reduction in the programs of the executive branch agencies of the State, this limitation may be waived to the extent of the general nonselective reduction.

(2) The limitation in paragraph (a)(1) of this section does not apply to a construction management assistance grant awarded in any fiscal year for which, as of April 25, 1978, a State budget for environmental protection which contains lower recurrent expenditures than those of fiscal year 1977, was (i) already adopted by the State legislature, or (ii) already formally submitted to the State legislature by the Governor, provided that the State makes no further reduction in that budget. Where this exception is used, subsequent grants awarded to the State are subject to the level of effort requirements of paragraph (a)(1) of this section.

(b) Upon award of the construction management assistance grant, unexpended section 106 funds (State and Federal) committed to activities which will be covered under the construction management assistance grant will be reprogramed. The delegation agreement shall discuss the reprograming of these funds which will occur under subpart G of this part. The regional administrator will review the reprograming for approval in accordance with priorities established by the Agency. Such funds shall be used for the:

(1) Water quality management programs under sections 208 and 303, including nonpoint source regulatory programs and dredged or fill programs under section 208(b)(4);

(2) Conduct of a continuing planning process, including waste load allocations and the update of water quality standards;

(3) Development of data required for section 305(b) reports;

(4) Conduct of section 402 activities, including program development assistance and approval, support of enforcement litigation, permitting, and compliance monitoring;

(5) Conduct of section 404 regulatory programs to control the discharge of dredged or fill material; and

(6) Conduct of other activities as may be required under section 106.

(c) In fiscal year 1979, the regional administrator and the State must develop the State/EPA agreement sufficiently before executing a delegation agreement under this subpart so that the latter will be consistent with the State/EPA agreement. Beginning in fiscal year 1980, State programs funded under section 205(g) of the Act will be part of the State/EPA agreement and the State/EPA agreement must be completed before execution of the delegation agreement.

§ 35.1020 Grant amount and award.

(a) As provided in § 35.915-1(a), the Administrator may reserve up to 2 percent of each State's fiscal year allotment for construction grants or $400,000, whichever is greater, for State management assistance grants. Within these limits, the regional administrator may award a construction management assistance grant for 100 percent of the estimated allowable cost of:

(1) Managing, or preparing to manage, under § 35.1030-5, any aspect of sections 201, 203, 204, and 212 of the act which the Administrator has delegated to the State;

(2) Obtaining and reviewing information on behalf of the regional administrator necessary for his determination under the Clean Water Act and other Federal statutes; and

(3) Performing other essential functions associated with managing the construction grant program as noted in § 35.1030-1.

(b) State programs funded under § 35.913 before April 25, 1978, may continue to be funded under that provision through April 24, 1979, or until a construction management assistance grant is awarded under these regulations, whichever occurs first.

(c) States charging fees under § 35.913, with the approval of the Administrator, may be reimbursed for efforts carried out under those agreements for the period after September 30, 1977, and before the date of award of an initial construction management assistance grant. This reimbursement is applicable only if the State demonstrates that insufficient funds were available under § 35.913 to support its delegated activities during that period.

(d) Funds for State management assistance grants may be obligated by a grant award at any time during the 2-year period in which the construction grant allotment is available for obligation.

(e) Funds from initial and subsequent construction management assistance grants which have been awarded will remain available for expenditure for a period not to exceed 5 years from the date of award of each grant.

(f) Unobligated balances in paragraph (d) of this section and unliquidated balances in paragraph (e) of this section remaining at the end of the period for which they are available will be added to the amount last allotted to a State under section 205(c) of the Act, and will be immediately available for funding the construction of treatment works in the same manner and to the same extent as the last allotment.

§ 35.1025 Payment.

Payment under construction management assistance grants will normally be made in accordance with anticipated expenditures under § 30.615 of this subchapter. Payment may be made in advance or by letter of credit, under § 30.615-1 (b) or (c), as the regional administrator determines.

§ 35.1030 Delegation agreement.

(a) A delegation agreement between the regional administrator and the State water pollution control agency, or another agency designated by the Governor, must be executed prior to the award of the initial construction management assistance grant. The grant agreement incorporates the delegation agreement. Following the end-of-year review (see § 35.1040(b)), the delegation agreement may be revised and the grant agreement amended as necessary.

(b) Notwithstanding the existence of delegation agreements previously approved under § 35.912, no construction management assistance grant will be awarded unless the regional administrator approves a new delegation agreement meeting the requirements of this subpart. The State may include in its new delegation agreement those elements of its prior agreement which the regional administrator determines will meet the requirements of this subpart.

§ 35.1030-1 Scope of delegation agreement.

(a) *Development of State capability.* The delegation agreement shall specify the State organization responsible for implementing the delegation agreement and the goals and timetable for staffing that organization to accept responsibility for the effective administration of the construction grant program.

(b) *Delegation of grant management activities.* The regional administrator may delegate to the State agency authority to review and certify grant documents required before and after grant award and to perform grant review and management activities, which may include the following:

(1) *Step 1.* Preapplication conference, plan of study, subagreements, subagreement cost analysis, infiltration/inflow analysis, facility plan, environmental assessment and related documents, public participation, relocation plans, cost-effectiveness analysis, and analysis of BPWTT and innovative and alternative wastewater treatment technology application;

SEP 20 78

(2) *Step 2.* Subagreements, subagreement cost analysis, user charge and industrial cost recovery systems, plans, and specifications for construction, preliminary plan of operation, and the plan and schedule for the Operation and Maintenance Manual;

(3) *Step 3.* Subagreements, subagreement cost analysis, bid solicitation and contract documents, contract change orders and amendments, draft and final operation and maintenance manuals, final plans of operation, interim and final inspections, sewer use ordinances, and audits.

(c) *Small community assistance.* In addition, the delegation agreement may include State authority to act as the manager of waste treatment construction grant programs of small communities. In this capacity, the State, with the approval of the community, would serve as the community's contracting agent and undertake responsibilities such as (1) negotiating and administering planning, design and construction subagreements; (2) providing technical advice (especially on cost-effective and innovative alternatives); and (3) assisting grantees in exercising their resident engineering responsibilities. Where the State finds that an organization already exists within that State which is capable of immediately performing the assistance, it may elect to enter into an annually renewable contract with that organization for the service. Contract costs will be grant eligible if plans for the contracting are set forth in the delegation agreement and the regional administrator approves the provisions of the contract in advance of its execution.

§ 35.1030-2 Certification procedures.

The State shall furnish a written certification to the regional administrator, on a project-by-project basis, stating that applicable Federal requirements within the scope of authority delegated to the State under the delegation agreement have been met. The certification must be supported by documentation specified in the delegation agreement which will be made available to the regional administrator upon his request. The regional administrator shall accept the certification unless he determines that the State has failed to adequately establish the basis for its certification or that applicable requirements have not been met.

§ 35.1030-3 Limitation on delegation.

The regional administrator shall retain responsibility and primary authority, notwithstanding the provisions of any delegation agreement, for the following:

(a) Award of step 1, step 2, step 3, and step 2+3 grant assistance and amendments;

(b) Review of projects to determine whether environmental impact statements will be required under the National Environmental Policy Act of 1969, 42 U.S.C. 4321, and the preparation and issuance of such statements or of negative declarations required by Part 6 of this chapter;

(c) Civil rights determinations, and enforcement, related to the Civil Rights Act of 1964 and Executive Order 11246 and other Federal requirements related to discrimination;

(d) Final dispute determinations under § 35.960;

(e) Determinations of protests under § 35.939(e);

(f) Resolution of construction grant audit exceptions;

(g) Determination that an overriding Federal interest exists in a particular project which requires greater Federal oversight or participation; and

(h) Final determinations under Federal statutes other than the Clean Water Act.

§ 35.1030-4 Terms of delegation agreement.

(a) The delegation agreement shall cover State activities necessary for the orderly implementation of the construction management assistance program, including:

(1) The designation and maintenance of an organizational unit within the State agency responsible for the implementation of the program;

(2) The determination of necessary staffing and the hiring and training of new personnel;

(3) The establishment of an accounting system and audit process, acceptable to the regional administrator, which will properly identify and relate State costs to the conduct of delegated functions;

(4) The scheduling for the assumption of delegated functions over the terms of the agreement;

(5) The detailed estimates of program costs for the initial year, and general estimates for succeeding years;

(6) The plan for corrrelating the implementation of the construction management assistance program with relevant activities under subpart G of this part;

(7) The proposed detailed procedures to be followed by the State in carrying out each delegated function; and

(8) The frequency, method and extent of EPA reviews.

(b) The term of the delegation agreement and the budget shall generally be 5 years. However, as subsequent construction management assistance is awarded, the term of the delegation agreement may be extended.

§ 35.1030-5 Implementation of the delegation agreement.

After the Regional Administrator approves the delegation agreement, the construction management assistance grant may be awarded. Upon receipt of the award, the State will promptly proceed to carry out the delegated functions and, as necessary, to hire staff and organize in accordance with the terms of the delegation agreement.

§ 35.1030-6 State assurance.

In the delegation agreement, the State agency will assure the Regional Administrator that in performing its management responsibilities under the delegation agreement, it will execute its responsibilities in conformance with the intent and substance of all applicable Federal laws, regulations, orders, policy issuances, and guidelines.

§ 35.1030-7 Determination of competence.

The Regional Administrator shall evaluate the State's organizational unit charged with implementing the agreement with respect to: Numbers, levels, technical expertise, and training of existing and proposed staff; management and organization; and the quality of past efforts in the construction grant program. Based on this review, the Regional Administrator shall determine the capability of the State to carry out the functions identified in the delegation agreement. Until the Regional Administrator affirmatively determines the State's capability, no delegation agreement shall be executed.

§ 35.1030-8 Amendments.

The delegation agreement may be amended at any time by mutual agreement in writing, and funding adjustments will be reflected in grant amendments.

§ 35.1030-9 Right of review; appeal.

An aggrieved applicant or grantee may request the Regional Administrator to review findings, recommendations, and certifications made and actions taken by the State agency under the delegation agreement in accordance with procedures established in or issued under the delegation agreement. The Regional Administrator may also review such findings, recommendations, certifications, and actions on his own initiative. As provided in § 35.1050, a Regional Administrator's final decision in such matters may be appealed.

§ 35.1033 Public participation.

(a) *New and revised agreements.* Public participation during the development, review, and approval of the delegation agreement shall be in accordance with the requirements of section 101(e) of the Act, Part 25 of this chapter, and this subpart.

(1) Informal consultation with members of the public shall take place while the draft delegation agreement is being negotiated. This consultation may involve any of the following:

(i) Task forces;
(ii) Public meetings;
(iii) Advisory groups;
(iv) Workshops or conferences;
(v) Contact with interested citizens and public interest groups.

(2) A copy of the draft delegation agreement shall be available and distributed to the public 45 days before its approval by EPA, together with a fact sheet adequately describing, in laymen's language, the importance of the functions being considered for delegation. If a public hearing is held, the draft agreement and fact sheet shall be available 30 days prior to the hearing. These time periods may overlap.

(3) A public hearing must be held by the Regional Administrator on a draft delegation agreement if he determines that significant public controversy or substantial interest in a public hearing exists. In a large State, hearings should be held at more than one location. The purpose of the hearing will be to determine:

(i) The adequacy of the State program for the proposed delegation; and

(ii) Any conditions that should be imposed to insure that the delegated responsibilities will be implemented in compliance with the Act and applicable regulations.

(4) Following the public hearing, EPA shall prepare a summary of major issues raised at the hearing, and the manner in which the issues were resolved. This "summary of Agency responsiveness" shall be mailed to all participants of the hearing.

(b) *Substantial amendments.* Amendments to the delegation agreement involving delegation of substantial authority (e.g., facilities planning) shall be subject to the public participation requirements of paragraph (a) of this section.

(c) *Existing delegation agreements.* States operating under former delegation agreements and charging fees under former § 35.913 as of December 27, 1977, shall be subject to the following public participation requirements:

(1) The State shall hold a public hearing or public meeting on the State's first grant application for a construction management assistance grant. A fact sheet outlining the functions already delegated and those to be delegated under the proposed agreement shall be distributed to the public 30 days prior to the public hearing. The fact sheet and the hearing should solicit public input on the adequacy of the terms of the grant and the delegation agreement.

(2) Subsequent grant applications that involve amendments to the delegation agreement which delegate substantial new functions shall also be subject to the public hearing or meeting requirements described in paragraph (c)(1) of this section.

(3) Whenever a Regional Administrator determines that the public hearing or meeting requirements described in paragraphs (c)(1) and (c)(2) of this section have been met prior to the execution of the delegation agreement, a requirement for further public meetings or hearings may be waived.

(d) *Public participation in delegated programs.* (1) The State's performance of delegated construction grant program functions and activities shall comply with all applicable Federal public participation requirements.

(2) The State must assure that the delegation agreement and the State's construction grant program provides for adequate resources, including competent personnel, to oversee public participation requirements.

(e) *Citizen request for regional administrator review.* Nothing in this subpart or the terms of the delegation agreement shall preclude interested citizens who have been adversely affected by a State agency's decision or omission under the delegation agreement to request the Regional Administrator to review or investigate the circumstances resulting in the State agency's decision or action. The regional administrator will respond promptly to written complaints and will hold a public meeting if he considers it appropriate.

§ 35.1035 Adherence to budget estimates.

(a) Grant expenditures shall be based on costs incurred in the conduct of delegated functions and in the hiring and training of staff personnel under the provisions of the delegation agreement and shall be consistent with the budget approved in the grant agreement and the terms of the delegation agreement. Other expenditures are not allowable costs.

(b) If rebudgeting of funds among program elements becomes necessary, the provisions of § 30.610 of this subchapter apply.

§ 35.1040 Program evaluation and reporting.

The regional administrator will monitor the performance of the State under the delegation agreement. In addition, each regional administrator shall review and evaluate each State delegation program as follows:

(a) *Mid-year evaluation.* Semiannually, the regional administrator will conduct reviews in order to insure that State expenditures under the construction management assistance grant are directly related to the conduct of activities and functions delegated to that State under the delegation agreement.

(b) *End-of-year review.* Annually, the Regional Administrator will conduct an evaluation with appropriate State officials to review the accomplishments of the program year, the consistency of the year's activities with the delegation agreement, and the work projected for the next program period. This evaluation will also apply to State grant programs discussed in § 35.1015(b). Upon completion of this evaluation the delegation agreement may be renewed. The renewal will reflect changes resulting from the evaluation and will be the basis for approving subsequent construction management assistance. The regional administrator shall hold a public meeting (which may be in conjunction with any other relevant State hearing or meeting), or workshop, in order to obtain public input regarding this review.

§ 35.1045 Reduction of grant amount; suspension or termination of grants.

If the regional adminstrator's evaluation of the State agency's management of the program or performance of any of the activities authorized by the delegation agreement reveals that the State agency will not achieve agreed goals or that the agency's performance is otherwise unsatisfactory, the regional administrator shall seek to achieve satisfactory performance through mutual agreement. If agreement is not reached, the regional administrator may disallow costs associated with continued performance of such activities. He may reduce the grant amount on a proportional basis or suspend or terminate the grant, in whole or in part, in accordance with § 30.915 or § 30.920 of this subchapter and any other provisions in the delegation agreement. As provided in § 35.1050 a regional administrator's final decision in such matters may be appealed.

§ 35.1050 Disputes.

The regional administrator's determinations on denials of applications for a State management assistance grant and on disputes arising under a State management assistance grant, including suspension or termination of grant assistance, shall be final and conclusive unless appealed by the applicant or grantee or State within 30 days from the date of receipt of such final determination in accordance with the "disputes" provisions of part 30 subpart J of this subchapter.

[FR Doc. 78-26449 Filed 9-19-78; 8:45 am]

[6820-24]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amdt. E-228]

PART 101-30—FEDERAL CATALOG SYSTEM

Supply Support Requests

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation provides policy pertaining to supply support as a result of the revision and redesignation of GSA Form 1303, Request for Federal Cataloging/Supply Support Action, to Standard Form 1303, Request for Federal Cataloging/Supply Support Action. This amendment takes the necessary action to update the FPMR.

EFFECTIVE DATE: September 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Management Control Division, Office of the Executive Director, Federal Supply Service, General Services Administration, Washington, D.C. 20406, 703-557-1914.

The table of contents for part 101-30 is amended to add §§ 101-30.101-17, 101-30.101-18, 101-30.305, and 101-30.404-1 and revise 101-30.404 as follows:

Sec.
101-30.101-17 Supply support.
101-30.101-18 Supply support request.
101-30.305 Exemptions from the system.
101-30.404 Supply support.
101-30.404-1 Consolidation of supply support requests.

Subpart 101-30.1—General

Sections 101-30.101-17 and 101-30.101-18 are added as follows:

§ 101-30.101-17 Supply support.

"Supply support" means the functions performed by the supply manager to provide requesting (using) activities with a Government source and method of supply for an item; e.g., GSA stock program, Federal supply schedule program, GSA's buy-on-demand program, or GSA's authorizing an agency to purchase locally.

§ 101-30.101-18 Supply support request.

"Supply support request" means a request from an activity to a supply manager; e.g., a request to GSA to provide that activity with supply support for an item.

Subpart 101-30.3—Cataloging Items of Supply

Section 101-30.305 is added as follows:

§ 101-30.305 Exemptions from the system.

When an agency believes that the benefits of the Federal catalog system may be realized without formal participation, a request for an exemption shall be submitted to the General Services Administration (FFL), Washington, D.C. 20406. After reviewing the request for an exemption, GSA will inform the requesting agency of the decision and will provide instructions for implementation. The request for an exemption shall include, but not be limited to, the following information:

(a) Number of items repetitively procured, stored, distributed, or issued.

(b) Number of items currently used having national stock numbers.

(c) Identification system planned or in use other than the Federal catalog system.

(d) Whether procurement is centralized.

(e) Description of any catalogs published. If none, so state.

(f) Whether supply support is received from another agency including the name of the agency and category of item involved; e.g., electronics.

(g) Cost differential between submitting a request for cataloging action and identifying the item under the agency's current or planned system.

Subpart 101-30.4—Use of the Federal Catalog System

1. Section 101-30.400 is revised as follows:

§ 101-30.400 Scope of subpart.

This subpart prescribes the policies and procedures governing the dissemination of Federal catalog data, the conversion to and use of the Federal catalog system by Federal agencies, and the requesting of supply support from Government supply managers.

2. Section 101-30.404 is revised and retitled to read as follows:

§ 101-30.404 Supply support.

Civilian agencies requiring supply support on an item of supply shall request this action by preparing Standard Form 1303, Request for Federal Cataloging/Supply Support Action (illustrated at § 101-30.4901-1303), and submitting the form to the General Services Administration (FFLD), Washington, D.C. 20406. Guidance on the preparation of supply support requests is contained in the GSA Handbook, Federal Catalog System—Logistics Data (FPMR 101-30.3), issued by the Commissioner, Federal Supply Service.

3. Section 101-30.404-1 is added as follows:

§ 101-30.404-1 Consolidation of supply support requests.

Requests for supply support should be consolidated in one focal point within each agency or activity. On the basis of the total consolidated agency or activity requirement; i.e., annual demand, GSA can determine the most economical and efficient method of supply support.

(Section 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

Dated: September 6, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-26361 Filed 9-19-78; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1338]

PART 1033—CAR SERVICE

Madison Railroad, Division of City of Madison Port Authority Authorized To Operate Over Tracks Formerly Operated by Madison Railway Co., Inc.

Decided September 15, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1338).

SUMMARY: The Madison Railway Co., Inc., has operated a line of railroad between Madison, Ind., and North Vernon, Ind., under an operating agreement with the State of Indiana. This operating agreement has been canceled, and the State has entered into an operating agreement with the Madison Railroad, Division of City of Madison Port Authority to operate this line of railroad. Service order No. 1338 authorizes the Madison Railroad, Division of City of Madison Port Authority to operate this line, pending disposition of its application

to operate as the designated operator in order to provide uninterrupted rail service to shippers on this line.

from, or via these lines which were formerly in effect on such traffic when routed via MRY, until tariffs

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of

on any motorized vehicle or its attachments is prohibited. An uncased firearm means any firearm not encased in a holster, scabbard, or gun case (soft

retrieval of kill must be by foot. The use of horses on the refuge is prohibited.

San Andres National Wildlife

Conservation special permit only. The management unit will be closed to all other public use during the gun deer hunt. (3) The open season for gun

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to operate as the designated operator in order to provide uninterrupted rail service to shippers on this line.

DATES: Effective 11:59 p.m., September 15, 1978. Expires 11:59 p.m., October 15, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Madison Railway Co., Inc. (MRY) has operated approximately 24 miles of railroad between Madison, Ind., and North Vernon, Ind., under an operating agreement with the State of Indiana (State). The State has terminated its operating agreement with MRY effective September 15, 1978, and has entered into an agreement with Madison Railroad, Division of City of Madison Port Authority (MRR). The operation of this line by the MRR has been authorized by State of Indiana Public Service Commission in an order dated August 29, 1978. An application seeking authority to operate as the designated operator of this line will be filed by the MRR. If service over this line is not continued, numerous shippers on the line will be left without essential railroad service.

It is the opinion of the Commission that an emergency exists requiring the operation by MRR over tracks formerly operated by MRY in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered,

§ 1033.1338 Service Order 1338.

(a) *Madison Railroad, Division of City of Madison Port Authority authorized to operate over tracks formerly operated by Madison Railway Co., Inc.* The Madison Railroad, Division of City of Madison Port Authority is authorized to operate over tracks formerly operated by Madison Railway Co., Inc. (MRY), between Madison, Ind., and North Vernon, Ind., a distance of approximately 24 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Nothing herein shall be considered as a prejudgment of the MRR seeking authority to operate over these aforementioned tracks.

(d) *Rates applicable.* Inasmuch as this operation by the MRR over tracks previously operated by the MRY is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via MRY, until tariffs naming rates and routes specifically applicable via the MRR become effective.

(e) In transporting traffic over these lines, the MRR and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:59 p.m., September 15, 1978.

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 15, 1978, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. 1 (10-17).)

A copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-26436 Filed 9-19-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Certain National Wildlife Refuges in Arizona, California, New Mexico, Oklahoma, and Texas

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain national wildlife refuges in the States of Arizona, California, New Mexico, Oklahoma, and Texas is compatible with the objectives for which these areas were established, will utilize a renewable national resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting season for hunting deer, desert bighorn sheep, and wapiti (elk).

EFFECTIVE DATES: September 20, 1978, through December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

The refuge manager at the address or telephone number listed below in the body of these special regulations.

GENERAL CONDITIONS

Hunting on portions of the following refuges shall be in accordance with applicable State and Federal regulations. Portions of refuges which are open to big game hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges are listed on hunting leaflets available at the individual refuge headquarters. Vehicular travel is restricted to designated roads and trails.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Listed big game species may be hunted on the following refuges:

ARIZONA

Cabeza Prieta National Wildlife Refuge, P.O. Box 418, Ajo, Ariz. 85321, telephone 602-387-6483, desert bighorn sheep; and Havasu National Wildlife Refuge, P.O. Box A, Needles, Calif. 92363, telephone 714-326-3853, desert bighorn sheep; and Kofa National Wildlife Refuge, P.O. Box 1032, Yuma, Ariz. 85464, telephone 602-261-2619, mule deer and desert bighorn sheep.

Special conditions (Cabeza Prieta, Havasu, and Kofa Refuges): (1) Hunting of mule deer and/or desert bighorn sheep is permitted but only by those holding a valid permit from the Arizona Game and Fish Department for the species being hunted. The permit must be for the period (season) and area being hunted. (2) Possession or transportation of a loaded firearm or strung bow within or on any motorized vehicle or its attachments is prohibited. A loaded firearm means any firearm containing any cartridge or ammunition in its chamber, magazine, or clip. (3) Possession or transportation of an uncased firearm within or on any motorized vehicle or its attachments is prohibited. An uncased firearm means any firearm not encased in a holster, scabbard, or gun case (soft or hard). (4) Possession of weapons is permitted only by those legally hunting on the refuge and weapons are restricted to those legal for use in the permitted hunt being engaged in by a particular hunter.

ARIZONA AND CALIFORNIA

Cibola National Wildlife Refuge, P.O. Box AP, Blythe, Calif. 92225, telephone 714-922-4433, mule deer (archery and gun seasons).

Special conditions: (1) Hunting is prohibited within one-fourth (¼) mile of any occupied dwelling or 250 yards of any field farmworker. (2) Possession of handguns and/or rimfire firearms is prohibited. Rifled firearms of legal caliber for hunting deer may be possessed on the refuge but only during the legal "gun" deer hunting season. (3) Shotguns of legal bore may be possessed on the refuge but only for use in hunting small game, dove, and migratory waterfowl during legal seasons for these species. Possession of shot shells loaded with shot of greater than size "BB" is prohibited.

Imperial National Wildlife Refuge, Box 2217, Martinez Lake, Ariz. 85364, telephone 602-783-3400, mule deer; (gun seasons only; there will be no archery deer season on this refuge).

Special condition: (1) Except as provided under the special regulations covering the hunting of small game, doves, and migratory waterfowl on the Imperial National Wildlife Refuge, possession of any firearms other than a legal deer hunting firearm, as defined by State hunting regulations, is prohibited. Legal deer hunting firearms may be possessed on the refuge only during legal "gun" deer hunting seasons.

NEW MEXICO

Bitter Lake National Wildlife Refuge, P.O. Box 7, Roswell, N. Mex. 88201, telephone 505-622-6755, mule deer.

Special condition: (1) Vehicles are not permitted in the wilderness area; otherwise, vehicles are restricted to established roads and trails.

Bosque del Apache National Wildlife Refuge, P.O. Box 1246, Socorro, N. Mex. 87801, telephone 505-835-1828, mule deer.

Special conditions: (1) Only the State stratified modern firearms deer season will be opened on the refuge. (2) All hunters must leave the refuge by one (1) hour after sunset. (3) Overnight camping is prohibited. (4) Center-fire rifles chambered for a center-fire cartridge are the only legal weapons for the hunt. (5) Hunting and retrieval of kill must be by foot. The use of horses on the refuge is prohibited.

San Andres National Wildlife Refuge, care of Bosque del Apache National Wildlife Refuge, P.O. Box 1246, Socorro, N. Mex. 87801, telephone 505-835-1828, mule deer and desert bighorn sheep.

Special conditions: (1) Hunting of mule deer and/or desert bighorn sheep is permitted but only by those holding a valid permit from the New Mexico Department of Game and Fish for the species being hunted and for the special refuge hunt. (2) Hunters must check into the area in accordance with instructions from the department of game and fish and/or the refuge manager. (3) No entry into the hunting area from the west will be permitted north of the Rope Springs road. Hunters will not be permitted to enter the hunting area from the east side of the San Andres Reguge except at the discretion of officers in charge. (4) Officers-in-charge may restrict the numbers of hunters entering any particular local area. If required by the military firing schedule, hunters will be cleared from all areas where their safety is endangered. (5) Each hunting party will camp within an assigned area and within 100 feet of the road.

OKLAHOMA

Salt Plains National Wildlife Refuge, Route 1, Box 49, Jet, Okla. 73749, telephone 405-626-4794, white-tailed deer.

Special conditions: (1) An archery hunt, a primitive rifle hunt, and a modern gun hunt for deer will be conducted on the Salt Plains Refuge, with participants to be selected by the Oklahoma Department of Wildlife Conservation through its application-special permit system. (2) Permitted hunters must check in at the refuge office prior to entering the assigned hunting area and must check out at the refuge office upon leaving the area. (3) Shooting hours on the refuge will end each day at sunset.

Tishomingo National Wildlife Refuge, P.O. Box 248, Tishomingo, Okla. 73460, telephone 405-371-2402, white-tailed deer.

Special conditions: (1) The open season for archery deer (either sex) hunting on the Tishomingo Wildlife Management Unit (all zones) extends from October 14 through November 5, 1978, inclusive. No special permits are required. The management unit will be closed to all other public use during the archery deer hunt. (2) The open season for gun deer (antlerless only) hunting on the Tishomingo Wildlife Management Unit (all zones) extends from November 13 through November 14, 1978, inclusive. Hunting will be by Oklahoma Department of Wildlife Conservation special permit only. The management unit will be closed to all other public use during the gun deer hunt. (3) The open season for gun deer (antlerless only) hunting on Tishomingo National Wildlife Refuge extends from November 13 through November 14, 1978, inclusive. Hunting will be by Oklahoma Department of Wildlife Conservation special permit only. Hunters will be assigned hunt areas within the area of the refuge open to deer hunting. Hunters holding permits to hunt in an area accessible only by boat will furnish their own boat transportation and will depart from Nida Point boat ramp on the morning of each hunt day. The Tishomingo National Wildlife Refuge will be closed to all other public use on November 13 and 14, 1978. (4) Hunters, upon entering or leaving, shall report at designated checking stations as may be established for the regulation of hunting activities and shall furnish information pertaining to their hunting, as required.

Wichita Mountains Wildlife Refuge, P.O. Box 448, Cache, Okla. 73527, telephone 405-429-3222, wapiti (elk).

Special conditions: (1) Hunting of wapiti (elk) is permitted on the Wichita Refuge but only by those holding a valid permit from the Oklahoma Department of Wildlife Conservation for this special hunt. (2) Except as provided in special condition (3) below, the applicable portions of the Quanah-Elk Mountain Unit will be closed to all public use except elk hunting during the hunt period. (3) Authorized hunters may retain approved, unloaded hunting rifles and camp overnight (in Camp Doris only) during the period when the Quanah-Elk Mountain Unit is closed to all other public use. Such camping hunters may be accompanied by, but not to exceed, one (1) camping companion who will be confined to Camp Doris or refuge headquarters during the hunt period unless authorized by the refuge manager or his agent to assist with the removal of game. (4) Authorized hunters will comply with all official written refuge rules and regulations issued at mandatory hunter briefings. Violation of any of these rules or regulations or of any Federal or State hunting law will terminate the hunt of the person(s) so involved.

TEXAS

Aransas National Wildlife Refuge, P.O. Box 68, Austwell, Tex. 77950, telephone 512-286-3559, white-tailed deer and feral hogs.

Special conditions: (1) Archery hunting of white-tailed deer and feral hogs is permitted on the Aransas Refuge during the following periods: September 21 through September 25, September 29 through October 2, and October

6 through October 8, all in calendar year 1978. (2) The bag limit per hunter for the total season (three segments) shall be in accordance with all applicable State regulations subject to the following conditions:

panied by an adult 21 years of age or older.

NOTE.—The Fish and Wildlife Service has

proposed rules

6 through October 8, all in calendar year 1978. (2) The bag limit per hunter for the total season (three segments) is three (3) deer of either sex but not to include more than two (2) buck deer. There is no limit as to the number of feral hogs that may be taken. (3) All hunters must check in and out of the hunt area at the refuge entrance on Texas Farm Road 2040. (4) A valid 1978-79 Texas hunting license is required of each participant. A current State archery tag is also required. (5) All hunting arrows must bear, in a non-water-soluble medium, the name and address of the user. (6) No target, field, or practice arrows are permitted on the refuge. (7) No deer may be removed from the refuge without a metal transportation seal being attached to the carcass by a refuge officer. (8) In the event of the arrival of whooping cranes, the refuge or any portion thereof may be immediately closed to hunting.

Laguna Atascosa National Wildlife Refuge, P.O. Box 2683, Harlingen, Tex. 78550, telephone 512-423-8328, white-tailed deer.

Special conditions: (1) Archery hunting of white-tailed deer is permitted on the Laguna Atascosa National Wildlife Refuge from 30 minutes before sunrise until 2 p.m. d.s.t. during the period of October 1 through October 15, 1978. (2) Only longbows and arrows legal for use in taking deer may be possessed on the refuge. All other weapons are prohibited. (3) The bag limit per person for the season is two (2) deer of either sex. (4) Hunters must check in and out each day of the hunt at the Laguna Atascosa Hunter Check Station, which will be open from 5 a.m. until 2 p.m. daily during the hunt. Required permits will be issued and collected at this point. Failure to check out will result in the loss of future hunting privileges. (5) Any game taken in the hunt must be checked out of the refuge at the hunter check station. (6) Vehicles will not be permitted off designated refuge tour roads. (7) Archery equipment must be left at the check station prior to trailing wounded deer into closed areas or prior to any trailing of wounded game after 2 p.m. (8) The use of horses and/or dogs is not permitted. (9) The construction of permanent blinds is not permitted. (10) Hunters under 16 years of age must be accompanied by an adult 21 years of age or older.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

The primary author of this document is Joshua J. Harman, Albuquerque Regional Office, telephone 505-766-2036.

GORDON H. HANSEN,
Acting Regional Director,
Albuquerque, N. Mex.

SEPTEMBER 12, 1978.

[FR Doc. 78-26362 Filed 9-19-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Swanquarter National Wildlife Refuge, N.C., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening of hunting on Swanquarter National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: December 6, 1978 through January 20, 1979.

FOR FURTHER INFORMATION CONTACT:

Steven W. Frick, Refuge Manager, Mattamuskeet National Wildlife Refuge, Route 1, Box N-2, Swanquarter, N.C. 27885, telephone 919-926-4021.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Hunting is permitted on the Swanquarter National Wildlife Refuge, N.C., only on the areas designated by signs as being open to hunting. These areas comprising 7,055 acres are delineated on maps available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, Room 279, Federal Building, Asheville, N.C. 28801. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) A refuge hunt permit will be required of everyone, regardless of age, wishing to hunt the refuge.

(2) Only ducks and coots may be taken in accordance with State and Federal regulations. Shooting of swans, geese, canvasbacks, redheads, or other wildlife is prohibited.

(3) Hunting is restricted to steel shot shells. No lead or other toxic shell will be permitted in the hunting area.

(4) Hunting season: December 6, 1978 through January 20, 1979.

(5) Shooting hours: One-half hour before sunrise until sunset. Hunters may enter hunting area 1 hour prior to legal shooting time and must be out of the area 1 hour after legal shooting time.

(6) All guns must be encased and/or dismantled while traveling within the refuge.

(7) No permanent or seasonal blinds will be allowed on the hunt area. Temporary blinds, carried in and out daily, or made of native vegetation are permissible.

(8) Hunters are not permitted to hunt from floating or beached water crafts.

(9) Hunters will not be permitted to hunt closer than 100 yards apart.

(10) The use of retrievers is permissible and encouraged, but dogs must be under firm control at all times.

(11) Hunters under the age of 16 must be under close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 12, 1978.

WILLIAM C. HICKLING,
Area Manager.

[FR Doc. 78-26420 Filed 9-19-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4484]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Patterson, Stanislaus County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Patterson, Stanislaus County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 344 West Las Palmas Avenue, Patterson, Calif. Send comments to: Mr. Jack Osteen, City Manager, City of Patterson, P.O. Box 667, Patterson, Calif. 95363.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Patterson, Calif, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lateral D Canal.....	Intersection of Northmead Way and North 3d St.	97
	Intersection of North 2d St. and J St.	97

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26118 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4485]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for The Town of Jamestown, Boulder County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Jamestown, Boulder County, Colo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Clerk's Office, Town Hall, Main Street, Jamestown, Colo. Send comments to: Hon. Robert Godsoe, Mayor, town of Jamestown, Box 273, Jamestown, Colo. 80455.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Jamestown, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter require-

ments on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to

second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other informa-

Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance

which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-

Source of flooding	Location	Elevation in feet, national geodetic vertical	Source of flooding	Location	Elevation in feet, national geodetic vertical

ments on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
James Creek	13th St.—30 ft*	6881
	Main St.—20 ft*	6912
	Road—20 ft*	6938
Little James Creek	Ward St.—70 ft*	6977
	Main St.—20 ft*	7168
Unnamed Tributary to Little James Creek.	100 ft upstream of confluence with Little James Creek.	7261
	500 ft upstream of confluence with Little James Creek.	7311

*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26119 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4486]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Lafayette, Boulder County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Lafayette, Boulder County, Colo.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 201 East Simpson, Lafayette, Colo. Send comments to: Hon. Roy Roberts, Mayor, city of Lafayette, City Hall, 201 East Simpson, Lafayette, Colo. 80026.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Lafayette, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Coal Creek	South 120th St.—50 ft*	5142
	Burlington Northern RR.—100 ft*.	5147
Rock Creek	South 120th St.—at centerline.	5152

*Upstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26120 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4487]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of East Hartford, Hartford County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of East Hartford, Hartford County, Conn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, 740 Main Street, East Hartford, Conn. Send comments to: The Honorable Richard Balckstone, Mayor, Town of East Hartford, Town Hall, 740 Main Street, East Hartford, Conn. 06108.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of East Hartford, Conn., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980,

which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Just upstream of footbridge, 1,250 ft downstream of Walnut St.	64
	Just upstream of Walnut St.	66
	Just upstream of dam, 2,000 ft upstream of Walnut St.	73
	3,450 ft upstream of Walnut St.	73
Pewterpot River	Mouth at Keeney Cove	29
	At Glastonbury-East Hartford Expressway.	32
	At bridge, 200 ft upstream of Brewer St.	35
	3,250 ft upstream of Brewer St.	38
	260 ft downstream of south branch confluence.	43
	At confluence of south branch.	49
	650 ft upstream of south branch confluence.	49
	900 ft downstream of Forbes St.	53
	130 ft downstream of Forbes St.	55
	Just upstream of Forbes St.	59
	770 ft upstream of Forbes St.	59
	Just upstream of bridge, 2,250 ft upstream of Forbes St.	66
	4,100 ft upstream of Forbes St.	68
Willow Brook	Mouth at Connecticut River.	29
	Just upstream of dam, 1,150 ft upstream of Main St.	33
	At downstream end of the Pratt & Whitney Aircraft Corp. culvert.	33
	At the upstream end of the Pratt & Whitney Aircraft Corp. culvert.	44
	Just upstream of the Rentschler Field culvert.	46
	Just upstream of Silver Lane.	48
	At the downstream end of Cumberland Dr. culvert.	49
	Just downstream of the footbridge, 340 ft upstream of Cumberland Dr.	50
	Just upstream of the footbridge, 550 ft downstream of Ginger Lane.	53
	Just downstream of the Willow Brook diversion structure.	55
	800 ft upstream of the Willow Brook diversion strucutre.	57
	100 ft downstream of the shopping center access road.	59
	Just upstream of the shopping center access road.	63
	Just upstream of Forbes St.	72
	1,100 ft upstream of Forbes St.	76
Porter Brook	At the downstream corporate limits.	26
	475 ft downstream of Forbes St.	29
	Confluence of Hills Pond Branch.	42
	1,200 ft upstream of Forbes St.	43
	1,750 ft downstream of Hill St.	45
	900 ft downstream of Hill St.	49
	Just upstream of Hill St.	53
	4,780 ft upstream of Hill St.	58
	2,150 ft downstream of Farnham Dr. branch confluence.	61
	Just upstream of Farnham Dr. branch confluence.	70
Hills Pond Brook	Mouth at Porter Brook	42
	1,250 ft downstream of the culvert near Gourman Park.	45
	Just upstream of the culvert near Gourman Park.	55
	600 ft upstream of the culvert near Gourman Park.	55
Farnham Dr. Branch.	Mouth at Porter Brook	70
	1,150 ft upstream of the mouth at Porter Brook.	76
	Downstream end of the Mulcahy Dr. culvert.	62
	Just upstream of Oak St	101
	800 ft upstream of Oak St.	101
South Branch	Mouth at Pewterpot River.	49
	Just upstream of Roxbury Rd.	52
	Just upstream of Forbes St.	58
	1,500 ft upstream of Forbes St.	59
	Just upstream of dam, 1,150 ft downstream of Brewer St.	73
	Just upstream of Brewer St.	80
	Just upstream of bridge, 800 ft upstream of Brewer St.	84
	Just upstream of of footbridge, 500 ft downstream of Grande Rd.	90
	Just upstream of Grande Rd.	98
	Just upstream of bridge, 500 ft downstream of Oak St.	101
	130 ft downstream of Oak St.	103
	Just upstream of Oak St	114
	600 ft upstream of Oak St.	114

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26121 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal,

gation of authority to Federal Insurance Administrator, 43 FR 7719.)

42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the

Source of flooding	Location	Elevation in feet, national

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[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4488]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Naples, Collier County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Naples, Collier County, Fla. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 735 Eighth Street, South Naples, Fla. Send comments to: Mr. George Patterson, City Manager, City of Naples, City Hall, 735 Eight Street, South, Naples, Fla. 33940.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Naples, Fla., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gulf of Mixico	Neopolitan Way (entire street).	12
	Crayton Rd. between Harbour Dr. and Mooring Line Dr.	12
	Coral Dr. (entire street).	11
	Admiralty Parade East (entire street).	11
	18th Ave. South between 4th St. and 8th St.	10
	8th St. between 12th Ave. South and 8th Ave. South.	9

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26122 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4489]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Mullan, Shoshone County, Idaho

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Mullan, Shoshone County, Idaho. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Mullan, Idaho. Send comments to: Hon. Lonnie Greer, Mayor, City of Mullan, P.O. Box 475, Mullan, Idaho 83846.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Mullan, Idaho, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Fork Coeur d'Alene River.	River St. (downstream crossing)—10 ft*.	3,235
	5th St.—100 ft*	3,281

*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26123 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4490]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Shoshone County, Idaho

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Shoshone County, Idaho. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at County Commissioner Office, Wallace, Idaho. Send comments to: Mr. Darryl Petersen, Chairman, Shoshone County Commissioners, P.O. Box 1049, Wallace, Idaho 83873.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Shoshone County, Idaho, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bear Creek	100 ft upstream of confluence with St. Joe River.	2,182
	Unnamed road—10 ft*	2,185
	Unnamed road—20 ft**	2,189
Beaver Creek	Cedar Creek Rd.—50 ft**.	2,380
Big Creek	1st crossing access road—50 ft**.	2,571
	1st crossing Big Creek Rd.—50 ft**.	2,588
	2d crossing access road—50 ft**.	2,604
	2d crossing Big Creek Rd.—50 ft**.	2,612
	Diversion Dam—40 ft*	2,678
	Diversion Dam—20 ft**	2,684
Canyon Creek	1st crossing access road—80 ft**.	2,784
	2d crossing access road—60 ft**.	2,967
	Railroad—20 ft**	3,069
Coeur d'Alene River.	300 ft upstream of County Line.	2,150
	Union Pacific RR.—50 ft**.	2,173
	1st crossing County Rd.—100 ft**.	2,179
	2d crossing County Rd.—50 ft**.	2,201
	3d crossing County Rd.—50 ft**.	2,342
	4th crossing County Rd.—50 ft**.	2,376
	5th crossing County Rd.—100 ft**.	2,391
Eagle Creek	Unnamed road—50 ft**	2,534
French Gulch	I-90—100 ft**	2,161
	U.S. Highway 10—20 ft**.	2,164
	1st crossing driveway—80 ft**.	2,183
	2d crossing driveway—60 ft**.	2,187
	3d crossing driveway—20 ft**.	2,193
	4th crossing driveway—20 ft**.	2,209
	5th crossing driveway—20 ft**.	2,216
North Fork Coeur d'Alene River.	Unnamed road—20 ft**	2,200
Pine Creek	Union Pacific RR. bridge—50 ft*.	2,187
	Union Pacific RR. bridge—50 ft**.	2,195
	I-90 bridge—20 ft**	2,198
	Ohio Ave. bridge—50 ft**.	2,244
	1st crossing Pine Creek Rd.—40 ft*.	2,285
	1st crossing Pine Creek Rd.—30 ft**.	2,290
	2d crossing Pine Creek Rd.—20 ft*.	2,312
	2d crossing Pine Creek Rd.—30 ft**.	2,316
	3d crossing Pine Creek Rd.—100 ft**.	2,329
	4th crossing Pine Creek Rd.—30 ft*.	2,361
	4th crossing Pine Creek Rd.—20 ft**.	2,365
	5th crossing Pine Creek Rd.—20 ft*.	2,380
	5th crossing Pine Creek Rd.—30 ft**.	2,384
	6th crossing Pine Creek Rd.—100 ft**.	2,394
	Ross Gulch Rd.—50 ft**.	2,433
	7th crossing Pine Creek Rd.—80 ft**.	2,548
Placer Creek	1st crossing driveway—20 ft**.	2,793
	4th crossing driveway—20 ft**.	2,800
	Placer Creek Rd.—20 ft**.	2,841
Prichard Creek	500 ft upstream of confluence with Eagle Creek.	2,535
South Fork Coeur d'Alene.	200 ft upstream of confluence with Pine Creek.	2,188
	County bridge—100 ft*	2,226
	County bridge—50 ft**	2,231
	Elizabeth Park Rd.—50 ft**.	2,344
	Big Creek Rd.—50 ft**	2,406
	1st crossing I-90—20 ft**	2,441
	Terror Gulch Rd.—50 ft**.	2,462
	Two Mile Creek Rd.—100 ft*.	2,503
	Two Mile Creek Rd.—50 ft**.	2,509
	Nuckols Gulch Rd.—50 ft**.	2,563
	2d crossing I-90—50 ft**.	2,610
	Revenue Gulch Rd.—80 ft**.	2,633
	3d crossing I-90—50 ft**.	2,645
	Private Drive—50 ft**	2,665
	1st crossing Union Pacific RR.—50 ft**.	2,699
	1st crossing access road—50 ft**.	2,706
	4th crossing I-90—60 ft**.	2,825
	5th crossing I-90—50 ft**.	3,179
	6th crossing I-90—50 ft**.	3,299
	2d crossing access road—20 ft**.	3,322
	U.S. Highway 10—50 ft**.	3,345
	South Fork Rd.—30 ft*	3,377
	South Fork Rd.—50 ft**	3,385
	Service road—50 ft**	3,451
St. Joe River	440 ft upstream of confluence with Bear Creek.	2,183

* Downstream of centerline.
** Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33

FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance

[4210-01]

[24 CFR Part 1917]

may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

are available for review at the City Hall, Harvard, Ill. Send comments to: The Honorable William R. LeFew, Mayor, City of Harvard, City Hall, 201

Source of flooding	Location	Elevation in feet, national geodetic

FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26124 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4491]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Decatur, Macon County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Decatur, Macon County, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's Office in the City Hall, Decatur, Ill. Send comments to: Hon. Elmer Walton, Mayor of Decatur, 707 East Wood Street, Decatur, Ill. 62523.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Decatur, Macon County, Ill., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sangamon River	Confluence of Stevens Creek.	605
	A. E. Staley Bridge	619
	Nesbitt Bridge (upstream).	625
Stevens Creek	West Main St	604
	Westlawn Ave	620
	Mound Rd	628
	Interstate 72	645
Spring Creek	Hill Ave. (downstream)	624
	Monroe St	632
	Neeley Ave	648
	Timber Beam Bridge	650
	Interstate 72	665
Big Creek	Lake Decatur	619
	Baltimore Ave. (upstream).	623
	State Route 121	624
Tributary No. 1	Lost Bridge Rd	623
	Upstream study limits	638
Tributary No. 2	Lake Ridge Ave. (upstream).	623
Tributary No. 3	Concrete slab bridge	620
Tributary No. 4	Private road	629
Tributary No. 5	Mound Rd	660

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 1, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26125 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4492]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Golf, Cook County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Golf, Cook County, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Hall, 1 Briar Road, Golf, Ill. Send comments to: The Honorable Alan J. Helverson, Village President, Village of Golf, Village Hall, 1 Briar Road, Golf, Ill. 60029.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Golf, Ill., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Fork, North Branch, Chicago River.	South corporate limits	623
	North corporate limits	624

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26126 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4493]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Harvard, McHenry County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Harvard, McHenry County, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Harvard, Ill. Send comments to: The Honorable William R. LeFew, Mayor, City of Harvard, City Hall, 201 West Front Street, Harvard, Ill. 60033.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Harvard, Ill., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mokeler Creek	1,450 ft downstream of Route 173 at western corporate limit.	911
	400 ft downstream of Route 173 at sewage disposal pond.	914
	660 ft downstream of Eastmann St.	917
	60 ft upstream of Eastmann St.	921
	Just downstream of Marengo Parkway.	923
	130 ft upstream of Marengo Parkway.	924
	100 ft upstream of Route 173, second crossing.	926
	50 ft upstream of U.S. Route 14.	930
	50 ft downstream of Jefferson St.	931
	70 ft upstream of Jefferson St.	933
	200 ft downstream of Chicago & Northwestern RR.	935
	75 ft upstream of Chicago & Northwestern RR.	937
	120 ft. downstream of Kennedy Dr. (eastern Corporate limits).	937

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 6, 1978.

GLORIA N. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26127 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4494]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Watseka, Iroquois County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Watseka, Iroquois County, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Watseka, Ill. Send comments to: Hon. Ernest Grove, Mayor of Watseka, 228 East Walnut, Watseka, Ill. 60970.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street

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SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Watseka, Iroquois County, Ill., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Iroquois River	At the confluence of Sugar Creek.	624
	At the upstream corporate limits.	624
Sugar Creek	At the confluence with Iroquois River.	624
	Lafayette St. (upstream)	624
	Corporate limits (1,700 ft upstream of Lafayette St.).	625
	Corporate limits (5,900 ft upstream of Lafayette St.).	628
	Corporate limits (11,200 ft upstream of Lafayette St.).	629
	Corporate limits (23,500 ft upstream of Lafayette St.).	632
	Corporate limits (26,150 ft upstream of Lafayette St.).	632

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26128 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4495]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of North Newton, Harvey County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of North Newton, Harvey County, Kans. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, North Newton, Kans. Send comments to: The Honorable Hartzel Schmidt, Mayor, City of North Newton, City Hall, North Newton, Kans. 64114.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of North Newton, Kans., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sand Creek	Just upstream of East 24th St.	1,433
	Corporate limits, 800 ft upstream from East 24th St.	1,435
	Corporate limits, 2,376 ft downstream from Interstate 135.	1,436

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26129 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4496]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for The Town of Dover-Foxcroft, Piscataquis County, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Dover-Foxcroft, Piscataquis County, Maine. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Office, 34 East Main Street, Dover-Foxcroft, Maine. Send comments to: Mr. Owen Pratt, Town Manager, Town of Dover-Foxcroft, Town Office, 34 East Main Street, Dover-Foxcroft, Maine 04426.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Dover-Foxcroft, Maine, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Piscataquis River	Atkinson Rd.—100 ft*	310
	Essex St.—175 ft**	322
	Essex St.—25 ft*	341
	Main Central RR.—100 ft*.	357
Davee Brook	Railroad Ave.—10 ft*	348
	Autumn St.—60 ft*	367
	North St. (upstream crossing)—centerline.	375
Dunham Brook	Lincoln St.—60 ft*	345
	North St.—20 ft*	352
	Mechanic St.—30 ft*	361
	Forest St.—40 ft*	370
Black Stream	Bear Hill Rd.—centerline.	443
Branns Mill Pond	Upstream of Black Stream.	444

*Upstream from centerline.
**Downstream from centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26130 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4497]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Randolph, Kennebec County, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Randolph, Kennebec County, Maine. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Randolph Town Office, Water Street, Randolph, Maine. Send comments to: Mr. John Lasselle, Chairman, Board of Selectmen, Town of Randolph, Randolph Town Office, Water Street, Randolph, Maine 04345.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Randolph, Maine, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kennebec River	Randolph-Gardiner Bridge—20 ft*.	28
Togus Stream	State Route 27 Bridge—20 ft*.	26
	Transmission Line Crossing—30 ft*.	30
	Barber Rd. Bridge—40 ft*.	74

*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Oakland Creek	Upstream corporate limits	1,433
	Downstream corporate limits	1,433
Youghiogheny River	Upstream corporate limits	1,433
	Downstream corporate limits	1,433

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26131 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4498]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Westernport, Allegany County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Westernport, Allegany County, Md. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Westernport City Hall, Box 266, Westernport, Md. 21562. Send comments to: Honorable James Wills, Mayor of Westernport, City Hall, Box 266, Westernport, Md. 21562.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Westernport, Allegany County, Md., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Georges Creek	Upstream corporate limits	1,433
	Downstream corporate limits	1,433
Potomac River	Upstream corporate limits	1,433
	Downstream corporate limits	1,433

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

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Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26131 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4498]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Sangerville, Piscataquis County, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Sangerville, Piscataquis County, Maine. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Office, Sangerville, Maine. Send comments to: Mr. William Starbaird, Town Manager, Town of Sangerville, Town Office, Sangerville, Maine 04479.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Sangerville, Maine, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Manhanock Pond..	Areas adjacent to shore .	449
Center Pond.....	Areas adjacent to shore..	506
Carlton Stream	Old Dunbarton Dam—100 ft*.	394
	Old Dunbarton Dam—100 ft**.	402
	Numberall Inc. Dam—100 ft*.	414
	Numberall Inc. Dam—100 ft**.	431
	Dover Stove Company Dam—100 ft*.	435
	Dover Stove Company Dam—100 ft**.	446
	State Route 23-20 ft**....	447
Piscataquis River ..	Lows Bridge—20 ft**.....	379
	State Route 23-20 ft**....	386

*Downstream of centerline.
**Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 1, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26132 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4499]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Oakland, Garrett County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Oakland, Garrett County, Md. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Garrett County Planning Commission, 323 Oak Street, Oakland, Md. 21550. Send comments to: Hon. H. D. Swartzentruber, Mayor of Oakland, 109 South Third Street, Oakland, Md. 21550.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Oakland, Garrett County, Md., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Youghiogheny River.	Confluence of an unnamed tributary 770 ft upstream from 3d St. Bridge.	2,382
	3d St. bridge upstream ...	2,381
	Oak St. bridge, 240 ft upstream.	2,379
	Confluence of Wilson Run.	2,376
	Oakland Rosedale Rd bridge upstream.	2,373
	Corporate limits 80 ft downstream from Oakland Rosedale bridge.	2,372
Bradley Run	Fairway Dr	2,382
	Oakland Rosedale Rd.....	2,382
	Corporate limits 55 ft downstream from Chessie System.	2,371

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26133 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4500]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Westernport, Allegany County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Westernport, Allegany County, Md. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Westernport City Hall, Box 266, Westernport, Md. 21562. Send comments to: Honorable James Wills, Mayor of Westernport, Box 266, Westernport, Md. 21562.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Westernport, Allegany County, Md., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
George's Creek.....	Confluence with North Branch Potomac River.	916
	Upstream side of State Route 36.	917
	Upstream side of Chessie System, State Route 135.	919
	Upstream side of Washington St., State Route 325.	924
	Upstream side of Chessie System.	931
	700 ft upstream of Chessie System.	935
	Upstream side of Waverly St.	948
	830 ft upstream of Waverly St.	958
	1,650 ft upstream of Waverly St.	968
	2,450 ft upstream of Waverly St.	979
	2,750 ft upstream of Waverly St.	983
North Branch Potomac River.	Downstream corporate limits.	900
	350 ft downstream of State Route 36.	910
	State Route 36 (upstream side).	917
	Upstream corporate limits.	920

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26134 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4502]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Seekonk, Bristol County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Seekonk, Bristol County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Clerk's Office, Town Hall, Seekonk, Mass. Send comments to: The Honor-

able Earl H. Bradley, Chairman, Board of Selectmen, Town of Seekonk, 100 Peck Street, Seekonk, Mass. 02771, At-

layer of insurance on existing buildings and their contents.

[4210-01]

[24 CFR Part 1917]

to mean the community must change any existing ordinances that are more stringent in their flood plain manage-

able Earl H. Bradley, Chairman, Board of Selectmen, Town of Seekonk, 100 Peck Street, Seekonk, Mass. 02771, Attention: John F. Langwell, Executive Secretary.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Seekonk, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ten Mile River	1,300 ft downstream of Fall River Ave.	22
	Upstream side of Fall River Ave.	42
	Upstream side of Turner Reservoir Dam.	51
	Upstream side of Newman Ave.	52
	2,000 ft upstream of Armistice Blvd.	60
	Corporate limit near Central Ave.	67
	800 ft downstream of Dye Factory Dam.	69
	Just downstream of Dye Factory Dam.	73
	Just upstream of Dye Factory Dam.	78
	Just upstream of Pond St.	78
Oak Hill Stream	At northern corporate limit.	79
	Just upstream of Borden Ave.	85
	Just downstream of Bishop Ave.	86
	Just upstream of Bishop Ave.	88
	500 ft upstream of Bishop Ave.	93
	Just upstream of ConRail.	105
Coles Brook	At western corporate limit (mouth at Central Pond).	52
	Just downstream of Newman Ave.	53
	Just upstream of Newman Ave.	57
	Just upstream of Talbot Way.	59
	1,800 ft upstream of Talbot Way.	60
Runnins River	Just downstream of School St.	10
	550 ft downstream of Highland Ave.	11
	Just upstream of Highland Ave.	12
	Just downstream of Interstate 195.	13
	Just downstream of County St.	14
	Just upstream of County St.	17
	Just downstream of Burrs Pond Dam.	18
	Just upstream of Burrs Pond Dam.	30
	Just downstream of Old Grist Mill Dam.	33
	Just upstream of Old Grist Mill Dam.	40
	Just downstream of Pleasant St.	44
	Just upstream of Pleasant St.	46
	Just upstream of Taunton Ave.	47
	Just downstream of Ledge Rd.	53
	Just upstream of Ledge Rd.	57
	Just downstream of Greenwood Ave.	60
	Just upstream of Greenwood Ave.	63

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26135 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4503]

Proposed Flood Elevation Determination for the Town of Stow, Middlesex County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Stow, Middlesex County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Clerk's Office, Town Hall, Stow, Mass. Send comments to: The Honorable jack Clayton, Chairman, Board of Selectmen, Town of Stow, Town Hall, Stow, Mass. 01775, Attention: Catherine A. Desmond, Administrative Assistant.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Stow, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second

layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Assabet River	White Pond Rd. at east corporate limit.	180
	At Sudbury Rd.	181
	4,000 ft downstream from Gleasondale Rd. (Route 62).	182
	Upstream at private road located 450 ft above Gleasondale Rd.	184
	Upstream of Waterfall Dam located 800 ft above Gleasondale Rd.	195
	At southern corporate limit.	198
Branch No. 3, Assabet River.	At confluence with Assabet River.	195
	0.3 mile upstream of confluence.	196
	Downstream side of Hudson Rd. and Randall St.	200
	Upstream side of Hudson Rd. and Randall St.	203
	0.2 mile upstream of Hudson Rd. and Randall St.	204
	At Goshen Lane	215
	Upstream side of Athens St.	226
Boons Pond and Branch.	At confluence with Assabet River.	182
	Upstream side of Boons Pond Dam at Barton Rd.	190
Elizabeth Brook	At Brookside Cemetery Rd.	192
	At Fletchers Pond Dam.	197
	Upstream side of Gleasondale Rd.	199
	Upstream at Wheeler St	201
	At Wheeler Pond	208
	Upstream side of Great Rd.	215
	At Hiley Brook Rd	219
	At Delaney St.	220
Branch No. 2, Elizabeth Brook.	0.125 mile downstream of Great Rd.	196
	At Great Rd	200
	At Crescent St.	204

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26136 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4504]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of St. Clair Shores, Macomb County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of St. Clair Shores, Macomb County, Mich. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 27600 Jefferson Avenue, St. Clair Shores, Mich. Send comments to: Mr. Frank McPharlin, City Manager, City of St. Clair Shores, City Hall, 27600 Jefferson Avenue, St. Clair Shores, Mich. 48081.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of St. Clair Shores, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake St. Clair	Hoffman and Jefferson Ave.	578.5
	Port St.—300 ft east of Jefferson Ave.	578.5
	Eleven Mile Rd—800 ft east of Jefferson Ave.	578.5
	Bayview Dr.—300 ft east of Jefferson Ave.	578.5

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26137 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4500]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Amherst, Hillsborough County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Amherst, Hillsborough County, N.H. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed

Source of flooding	Location	Elevation in feet, national

the town of Deering, Hillsborough County, N.H. These base (100-year) flood elevations are the basis for the

[4210-01]

[24 CFR Part 1917]

ment requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal,

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Amherst, N.H. Send comments to: Mrs. Ann Snow, Chairman, Board of Selectmen, Town of Amherst, Box 481, Amherst, N.H. 03301.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Amherst, N.H., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Souhegan River	Boston Post Bridge	216
	State Highway 122	220
	State Highway 101	221
Beaver Brook	Merrimack Rd. Bridge	218
	State Highway 101—100 ft*.	226
	Boston Post Rd	229
	Horace Greeley Highway (State Highway 101).	240
	Mack Hill Rd. Bridge—50 ft*.	247
	New Boston Rd. (downstream crossing).	300
	New Boston Rd. (upstream crossing).	330
Joe English Brook	Railroad abutment construction.	237
	State Highway 101 bridge—100 ft*.	246
	Brook Rd. Bridge	324
Baboosic Brook	Camp Rd. Bridge	235
	Railroad abutment construction.	237
Pulpit Brook	Unnamed Road culvert	248
	Unnamed Road bridge (most upstream crossing).	276
Witches Brook	Most downstream corporate limits.	193
	Most upstream corporate limits.	199
Caesar's Brook	Small footbridge over dam—5 ft*.	267
	Mont Vernon Rd. Bridge—26 ft*.	293
Holts Brook	Unnamed Road culvert	222
	Merrimack Rd. culvert	222
Sherburn Mill	Thorntons Ferry Rd. Bridge.	211
	Upham Rd. culvert	230
	Baboosic Spring Rd. culvert—50 ft*.	244
	Linch Farm Rd. culvert	246
Betty's Brook	Pine Rd. Bridge—50 ft**.	246
	State Highway 101 culvert (upstream crossing)—25 ft*.	267
Parkhurst Brook	School House Rd	256
Peacock Brook	Confluence with Witches Brook.	198
	State Highway 122 bridge.	221

*Upstream from centerline.
**Downstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26138 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4506]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Deering, Hillsborough County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Deering, Hillsborough County, N.H. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Office, Deering, N.H. Send comments to: The Honorable Whitney S. Yeaple, Chairman, Board of Selectmen, Town of Deering, Town Office, Post Office, Hillsboro, N.H. 03244.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Deering, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Contoocook River	North corporate limit	592
	0.2 miles upstream of north corporate limit.	594
	Just downstream of 2d New Hampshire turnpike.	598
	1.6 miles upstream of 2d New Hampshire turnpike.	600
	Southwest corporate limits.	603
Piscataquog River	East corporate limits	658
	0.4 mile upstream of east corporate limits.	660
	Just downstream of State Route 149.	665
	Just upstream of State Route 149.	669
	Just downstream of Bartlett Hill Rd.	670
	Just upstream of Bartlett Hill Rd.	671
	0.3 miles upstream of Bartlett Hill Rd.	676
	Just downstream of Dirt Rd Bridge.	714
	0.02 mile upstream of Dirt Rd Bridge.	723
	Just downstream of dam near Camp Rd.	742
	Just upstream of dam near Camp Rd.	745
	0.24 mile upstream of dam near Camp Rd.	780
	Just downstream of beaver made dam.	789
	Just upstream of beaver made dam.	791
	0.5 mile upstream of beaver made dam.	800
	0.01 mile downstream of Francestown Rd.	827
	Just upstream of Francestown Rd.	834
	Just downstream of beaver made dam.	839
	Just upstream of beaver made dam.	843
	Just upstream of Pleasant Pond Rd.	845
	0.9 mile upstream of Pleasant Pond Rd.	852
	1.1 miles upstream of Pleasant Pond Rd.	864
	0.4 mile downstream of Reservoir Rd.	899
	0.08 mile downstream of Reservoir Rd.	901
	Just upstream of Reservoir Rd.	911
	Just downstream of Deering Reservoir Dam.	921
	Deering Reservoir	921

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26139 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4507]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Salem, Rockingham County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Salem, Rockingham County, N.H. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Office, Salem, N.H. Send comments to: Hon. William T. Knightly, Chairman, Board of Selectmen, Town of Salem, Town Office, 33 Geremonty Drive, Salem, N.H. 03079.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Salem, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Spickett River	Southern corporate limits.	112
	At Boston and Maine RR.	113
	Just upstream of State Route 28.	114
	0.25 miles downstream from Bridge St.	118
	Upstream side of Bridge St.	120
	Upstream side of Town Farm Rd.	122
	Just downstream of north Main St.	126
	Just downstream of Wheeler Dam.	127
	Just upstream of Wheeler Dam.	162
	At North Main St. 1.7 miles upstream of Wheeler Dam.	162
Policy brook/ Unnamed Brook.	Inlet to Rockingham Park inlet.	124
	At Boston and Maine RR.	126
	Just upstream of State Route 28.	127
	At Main St.	127

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26140 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4508]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Dover, Morris County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in

the town of Dover, Morris County, N.J. These base (100-year) flood elevations are the basis for the flood plain

Source of flooding	Location	Elevation in feet, national

rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Office, Dover, N.J. Send comments to: Mr. Joseph Gallo, Chairman, Board of Commissioners, Town of Dover, Town Office, 37 North Sussex Street, Dover, N.J. 07801.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Dover, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

V 43 / 183 SEP 20 78 V 43

the town of Dover, Morris County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 37 North Sussex Street, Dover, N.J. 07801. Send comments to: Honorable John Rice, Mayor, town of Dover, Town Hall, 37 North Sussex Street, Dover, N.J. 07801.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Dover, N.J., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rockaway River	Blackwell St.—50 ft*	556
	Mercer St.—30 ft*	556
	Union St.—50 ft*	561
	Essex St.—50 ft*	565
	Warren St.—50 ft*	570
	Conrail—20 ft* (1st crossing).	577
	State Highway 46 (West Blackwell St.)—30 ft*.	578
	Footbridge—70 ft*	587
	Conrail—20 ft* (2nd crossing).	604
	Dover & Rockaway RR.—20 ft*.	606
Mckeels Brook	Richards Ave.—20 ft*	556
	East McFarland St.—20 ft*.	568
	Clark St.—100 ft*	573
	Cooper St.—20 ft*	574
Jackson Brook	State Highway 46 (West Blackwell St.)—90 ft**.	579
	State Highway 46 (West Blackwell St.)—100 ft*.	584
	Brook Lane—20 ft*	593
	Spillway—40 ft**	593
	Spillway—40 ft*	595

*Upstream of centerline.
**Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMENEZ
Federal Insurance Administrator.

[FR Doc. 78-26141 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4509]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Hainesport, Burlington County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Hainesport, Burlington County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Hainesport Municipal Building, 100 Broad Street, Hainesport, N.J. Send comments to: Honorable Alan L. Scott, Mayor, township of Hainesport, P.O. Box 457, Hainesport, N.J. 08036.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Hainesport, N.J., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Branch Rancocas Creek.	Most downstream corporate limits.	11
	Most upstream corporate limits.	11
South Branch Rancocas Creek.	Most downstream corporate limits.	11
	State Highway 38	11
Masons Creek	Marne Highway	11
	Masonville-Fostertown Rd.	12
	Mt. Laurel-Hainesport Rd.	17

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Phillips Rd.	24
	Fenimore Rd. (corporate limit).	30

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26142 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4510]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Millburn, Essex County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Millburn, Essex County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Millburn Township Hall, 375 Millburn Avenue, Millburn, N.J. Send comments to: Honorable Alexander B. Lyon, Jr., Mayor, Township of Millburn, Township Hall, 375 Millburn Avenue, Millburn, N.J. 07041.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Millburn, N.J., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Rahway River.	Route 78 access ramp—20 ft*.	90
	Fandanco Dam—10 ft**	102
	Fandanco Dam—20 ft*	107
	Ridgewood Rd.—20 ft*	112
	Taylor Park Dam—40 ft**.	115
	Taylor Park Dam—20 ft*.	121
	Taylor Park Footbridge—50 ft*.	123
	Millburn Ave.—20 ft*	129
	Essex St.—20 ft*	139
	Conrail—20 ft*	139
	Glen Ave. Bridge—50 ft**.	155
East Branch Rahway River.	Route 76 access ramp—20 ft*.	90
	Elizabeth Joint Meeting—30 ft*.	92
	Vauxhall Rd.—10 ft*	96
Passaic River	Passaic Ave.—20 ft*	177
	Morris and Essex Turnpike—Old State Highway 24—20 ft**.	180

*Upstream of centerline.
**Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26143 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4511]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Mount Holly, Burlington County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Mount Holly, Burlington County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Mount Holly Municipal Building, 23 Washington Street, Mount Holly, N.J. Send comments to: Hon. Joseph Weber, Mayor, Township of Mount Holly, Mount Holly Municipal Building, 23 Washington Street, Mount Holly, N.J. 08060.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Mount Holly, N.J., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-

448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the

posed base (100-year) flood elevations listed below for selected locations in the town of New Castle, Westchester

Source of flooding	Location	Elevation in feet, (national

posed base (100-year) flood elevations are available for review at City Hall, Rugby, N. Dak. Send comments to: Hon. Mark Butz, Mayor, City of

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GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26146 Filed 9-19-78; 8:45 am]

ulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more

V 43 / 183 SEP 20 78 V 4

448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Branch Rancocas Creek.	King St	11
	Pine St	13
	Mill Dam (upstream side).	15
	Upstream corporate limits.	18
Mill Race	Park Dr	12
	Pine St	14
Mount Holly Bypass Channel (all backwater).	Bispham St	12
Buttonwood Run	Washington St	13
	Buttonwood St	15
	Cherry St	21
	Branch St	23

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26144 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4512]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of New Castle, Westchester County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of New Castle, Westchester County, N.Y. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Clerk's Office, New Castle, N.Y. Send comments to: Mr. Charles G. Banks, Jr., Town Supervisor of New Castle, 200 South Greeley Avenue, Chappaqua, N.Y. 10514.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of New Castle, Westchester County, N.Y. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, (national geodetic vertical datum)
Saw Mill River	Downstream corporate limits.	309
	Saw Mill River Parkway	312
	New York Route 120	346
	Private driveway	365
Gedney Brook	Downstream corporate limits.	267
	Millwood Rd	309
	Swimming pool culvert	333
	Woodmill Rd	409
Kisco River	Confluence with New Croton Reservoir.	199
	Lake Rd	199
	Nitra Rd	215
	Millwood	281
	Upstream corporate limits.	284
Branch No. 2, Kisco River.	Downstream corporate limits.	343
	Horseshoe Rd	347
	Daly Cross Rd	349
	Kathleen Lane	349

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 5, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26145 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4513]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Rugby, Pierce County, N. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Rugby, Pierce County, N. Dak. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Rugby, N. Dak. Send comments to: Hon. Mark Butz, Mayor, City of Rugby, P.O. Box 392, Rugby, N. Dak. 58368.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for city of Rugby, N. Dak., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rush Lake Tributary.	State Highway 3—20 ft*	1530
	Main Ave. South—50 ft*	1533
	Fifth Ave. South—50 ft*	1533
	Unnamed Road—20 ft*	1535

*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26146 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4514]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Zap, Mercer County, N. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Zap, Mercer County, N. Dak. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Zap, N. Dak. Send comments to: Hon. Leonard Schmidt, Mayor, City of Zap, P.O. Box 101, Zap, N. Dak. 58580.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Zap, N. Dak., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Spring Creek	Downstream extraterritorial limits.	1826
	Burlington Northern RR.	1830
	County Highway 862 (upstream side).	1839
	3d Avenue Bridge	1842
	Upstream extraterritorial limits.	1849

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26147 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4515]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Dayton, Montgomery County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Dayton, Montgomery County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed

Source of flooding	Location	Elevation in feet, national

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations

Source of flooding	Location	Elevation in feet, national

755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION:

Issued: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Dayton, Ohio. Send comments to: Mr. Anthony Char, Planning Director, City of Dayton, 101 West Third Street, Dayton, Ohio 45402.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Dayton, Ohio, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Great Miami River.	500 ft downstream of the Chessie System railroad bridge.	752
	1,700 ft upstream of the Chessie System railroad bridge.	754
	4,350 ft upstream of the Chessie System railroad bridge.	756
	7,525 ft upstream of the Chessie System railroad bridge.	757
	3,750 ft downstream of Needmore Rd.	758
	1,850 ft downstream of Needmore Rd.	759
	Just upstream of Needmore Rd.	760
Stillwater River.....	160 ft downstream of Ridge Ave.	746
	2,800 ft upstream of Ridge Ave.	748
	Just downstream of Siebenthaler Ave.	750
	1,050 ft upstream of Siebenthaler Ave.	7511
	2,650 ft upstream of Siebenthaler Ave.	753
	2,100 ft downstream of Shoup Mill Rd.	755
	1,000 ft downstream of Shoup Mill Rd.	756
	2,160 ft upstream of Shoup Mill Rd.	758
	Upstream corporate limits.	760

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26148 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4516]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Fairfax, Hamilton County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Fairfax, Hamilton County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Clerk's Office, Fairfax, Ohio. Send comments to: The Honorable Richard G. Cribbet, Mayor, Village of Fairfax, 5903 Hawthorne Avenue, Fairfax, Ohio 45227.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of Fairfax, Ohio, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Duck Creek	Downstream corporate limit.	502
	Just upstream of Red Bank Rd.	511
	Upstream corporate limit.	516
Little Duck Creek .	Confluence with Duck Creek.	503
	Just upstream of ConRail bridge.	509
	Just upstream of Red Bank Rd.	515
	Just upstream of Columbia Parkway exit.	535

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Just upstream of Watterson Ave.	540
	Upstream corporate limit.	544

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26149 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4517]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Madeira, Hamilton County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Madeira, Hamilton County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Madeira, Ohio. Send comments to: Mr. George Babe, City Manager, City, of Madeira, 7141 Miami Avenue, Madeira, Ohio 45243.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Madeira, Ohio, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sycamore Creek	At northeast corporate limits.	701
	265 ft upstream of northeast corporate limits.	706
	600 ft upstream of northeast corporate limits.	713
	900 ft downstream of Chessie System.	723
	690 ft downstream of Chessie System.	726
	Downstream side of Chessie System at corporate limits.	730
	Upstream side of Chessie System.	732
	Upstream side of first Camargo Rd. crossing near corporate limit.	744
	Upstream side of second Camargo Rd. crossing.	752
	550 ft upstream of second Camargo Rd. crossing.	760

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26150 Filed 9-19-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4518]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of New Richmond, Clermont County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of New Richmond, Clermont County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, New Richmond, Ohio. Send comments to: The Hon. Arthur Galea, Mayor, City of New Richmond, 776 Washington Street, New Richmond, Ohio 45157.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Strect SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION:

The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of New Richmond, Ohio, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the Na-

tional Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-

[4410-01]

DEPARTMENT OF JUSTICE

EPA invites public comments on the revision especially as to its consistency with the Clean Air Act.

similar operations. In the revised paragraph (c), the term "should be" is changed to "shall be". This makes containment methods required rather

[6560-01]

[40 CFR Part 65]

[FRL 970-3; Docket No. VII-78-DCO-10]

tional Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	210 ft upstream of northern corporate limit.	504
	265 ft downstream of southern corporate limit.	505
Twelvemile Creek	530 ft upsteam of Ohio St.	504
	60 ft downstream of eastern corporate limit.	505
Little Indian Creek.	475 ft upstream of U.S. 52 culvert.	505
	2,325 ft upstream of U.S. 52 culvert and 25 ft upstream of driveway culvert.	510
	1,160 ft downstream of Little Indian Creek culvert and 25 ft upstream of driveway culvert.	522
	105 ft upstream of Little Indian Creek culvert.	557
	50 ft downstream of western corporate limit.	596

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 21, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26151 Filed 9-19-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

U.S. Parole Commission

[28 CFR Part 2]

PAROLE, RELEASE, SUPERVISION, AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Proposed Rulemaking

AGENCY: U.S. Parole Commission.

ACTION: Proposed rule.

SUMMARY: From time to time sentencing judges, defense attorneys, prosecutors, and other interested persons make written recommendations to the Parole Commission concerning the parole of a Federal prisoner. This proposed rule would clarify the factors that a recommendation for or against parole should address in order to be of the greatest possible usefulness in the Commission's decisionmaking process.

DATE: Comments must be received by November 15, 1978.

ADDRESS: Send comments to the U.S. Parole commission, 320 First Street NW., Washington, D.C. 20537, Attention: Office of the General Counsel.

FOR FURTHER INFORMATION, CONTACT:

Michael A. Stover, Office of the General Counsel, telephone 202-724-3143.

SUPPLEMENTAL INFORMATION: This proposed rule is specifically designed (1) to be as helpful as possible to persons who wish to make effective recommendations concerning the parole of any prisoner, and (2) to clarify present practice that no recommendation (including a prosecutorial recommendation pursuant to a plea agreement) may be considered as binding the Commission to make any parole decision other than that reached by its independent exercise of discretion. This latter point is of particular relevance in the case of plea agreements in which the prosecutor's lack of authority to promise a particular parole result may not be fully understood by all of the parties. The proposed text of the rule is as follows (adding a new paragraph (c) to 28 CFR 2.19):

§ 2.19 **Information considered.**

* * * * * *

(c) Recommendations and information from sentencing judges, defense attorneys, prosecutors, and other interested parties are welcomed by the Commission. In evaluating a recommendation concerning parole, the Commission must consider the degree to which such recommendation provides the Commission with specific facts and reasoning relevant to the statutory criteria for parole (18 U.S.C. 4206) and the application of the Commission's guidelines (including reasons for departure therefrom). Thus, to be most helpful, a recommendation must state its underlying factual basis and reasoning. However, no recommendation (including a prosecutorial recommendation pursuant to a plea agreement) may be considered as binding upon the Commission.

Dated: September 14, 1978.

CECIL C. MCCALL,
Chairman,
U.S. Parole Commission.

[FR Doc. 78-26370 Filed 9-19-78; 8:45 am]

[1505-01]

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[30 CFR Chapter VII]

SURFACE COAL MINING AND RECLAMATION OPERATIONS PERMANENT REGULATORY REFORM

Correction

In FR Doc. 87-26350 appearing at page 41622 in the issue for Monday, September 18, 1978, on page 41936—41940, the file date in the FR Doc. line should read "9-15-78".

Also, on the front page of the FEDERAL REGISTER, the comment period in the highlight for this document should read "11-17-78".

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 970-6]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Louisiana Regulation 19.0

AGENCY: Enviromental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency proposes to approve revisions in the air quality Louisiana State implementation plan by approving Louisiana Regulation 19.0 Emission Standards for Particulate Matter. The need to control additional sources of particulate matter in Louisiana brought about the revision of regulation 19.0. Implementation and enforcement of the revised regulation will result in a general statewide reduction in particulate matter emissions. The EPA invites public comments on the revision especially as to its consistency with the Clean Air Act.

DATES: Comments on this proposed rulemaking by interested persons must be received on or before October 20, 1978, in order to be considered by EPA in making a final approval/disapproval decision.

ADDRESSES: Comments on this proposed rulemaking should be submitted to the address below: Environmental Protection Agency, Region VI, Air Program Branch, 1201 Elm Street, Dallas, Tex. 75270. Copies of the State's submittal are available for inspection during normal business hours at the address above and at the following address: Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Anita B. Turpin, Air Program Branch, Environmental Protection Agency, Region VI, Dallas, Tex., 75270, 214-767-2742.

SUPPLEMENTARY INFORMATION: Revised regulation 19.0 was submitted by the Governor, after adequate notice and public hearing, on December 9, 1977. The revision consists of changes in three primary areas, administrative changes, applicability of fugitive dust control to existing sources, and the addition of visible emission limitations. These three areas are discussed in detail below.

ADMINISTRATIVE CHANGES

In sections 19.2, 19.3, 19.5, and 19.8.1, the applicability of the regulation was changed to include "suspended particulate matter" as well as particulate matter. Section 19.5.1 has been renumbered as 19.5.2. In addition, this section was changed to reflect that the "Technical Secretary" may make findings on variances rather than the "Department". EPA's approval of the new section 19.5.2 does not imply approval of variances which may be granted by the Technical Secretary. Any variance under section 19.5.2 must be approved by EPA before it becomes a part of the State implementation plan.

FUGITIVE DUST CONTROL

The current section 19.3 applies only to new sources, as defined by regulation 4.0. In the revised section 19.3, fugitive dust control is applicable to all sources. Paragraph (c) of section 19.3 currently "Recommends" control of dusty materials by stating that containment methods "should be" employed during sandblasting or other similar operations. In the revised paragraph (c), the term "should be" is changed to "shall be". This makes containment methods required rather than recommended.

VISIBLE EMISSION LIMITATIONS

A new section 19.5.1 has been added to the regulation. In this new section, a visible emission limit of 20 percent opacity is specified for any source except new or existing fluid catalytic cracking unit incinerator-waste heat boilers. A limit of 30 percent opacity is specified for such boilers. Emissions are exempted from the requirements of section 19.5.1 if the presence of uncombined water is the only reason for failure to meet the visible emission limits.

CURRENT ACTION

This action proposes approval of the administrative changes to regulation 19.0, the changes in applicability of fugitive dust controls, and the addition of visible emission limits. This action on regulation 19.0 supersedes action on a previous revision of the regulation submitted by the Governor on March 20, 1974.

This notice of proposed rulemaking is issued under the authority of section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410-(a).

Dated: September 7, 1978.

EARL N. KARI,
Deputy Regional Administrator.

It is proposed to amend part 52 of chapter 1, title 40 of the Code of Federal Regulations as follows:

Subpart T—Louisiana

1. In § 52.970, paragraph (c) is amended by adding a new paragraph (11) as follows:

§ 52.970 **Indentification of Plan.**

* * * * * *

(c) * * *

(11) Revisions to Regulation 19.0, Emission Standards for Particulate Matter, as adopted on November 30, 1977, were submitted by the Governor on December 9, 1977.

[FR Doc. 78-26437 Filed 9-19-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 970-3; Docket No. VII-78-DCO-10]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for Iowa State Board of Regents, University of Iowa, Oakdale Powerplant

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an administrative order to the Iowa State Board of Regents. The order requires the board to bring air emissions from its boilers Nos. 1, 2, 3, and 4 at the University of Iowa Oakdale powerplant into compliance with certain regulations contained in the federally-approved Iowa State Implementation Plan (SIP). Because the board is unable to comply with these regulations at this time, the proposed order would establish an expeditious schedule requiring final compliance by January 15, 1979. Source compliance with the order would preclude suits under the Federal enforeement and citizen suit provision of the Clean Air Act for violation of the SIP regulations covered by the order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the order.

DATES: Written comments must be received on or before October 20, 1978, and requests for a public hearing must be received on or before October 5, 1978. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is signficant public interest in a hearing, it will be held after 21 days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, EPA, Region VII, 1735 Baltimore, Kansas City, Mo. 64108. Material supporting the order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Peter J. Culver or Henry F. Rompage, EPA, Region VII, 1735 Baltimore, Kansas City, Mo. 64108, telephone 816-374-2576.

SUPPLEMENATRY INFORMATION: Iowa State Board of Regents operates

a powerplant at University of Iowa, Oakdale campus. The proposed order addresses emissions from boilers Nos.

[Docket No. VII-78-DCO-10]

In the matter of Iowa State Board of Regents, Oakdale power plant, Oakdale, Iowa.

No later than 5 days after any date for achievement of an incremental step or final compliance, specified in this order, the Iowa State Board of Regents shall notify EPA in

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

cilities to locate the aircraft in distress. These emergency frequencies are normally monitored by control towers, flight service stations, direc-

important. Additionally, a number of persons expressed concern over the necessity of making personnel available to monitor and search, the real value

a powerplant at University of Iowa, Oakdale campus. The proposed order addresses emissions from boilers Nos. 1, 2, 3, and 4 at this facility, which are subject to subrule 400—4.3(2)b, Combustion for indirect heating and 4.3(2)d, Visible emissions. The regulation limits the emissions of particulates, and is part of the federally-approved Iowa State Implementation Plan. The order requires final compliance with the regulation by Janurary 15, 1979, and the source has consented to its terms. The source has agreed to meet the order's increments during the period of this informal rulemaking.

The proposed order satisfies the applicable requirements of section 113(d) of the Clean Air Act (the Act). If the order is issued, source compliance with its terms would preclude further EPA enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provisions of the Act (section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the order. Testimony given at any public hearing concerning the order will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of an order under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (Apr. 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: September 11, 1978.

KATHLEEN Q. CAMIN,
Regional Administrator,
Region VII.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter 1, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding § 65.200 to read as follows:

§ 65.200 Federal delayed compliance orders issued under Section 113(d)(1), (3), and (4) of the Act.

[Docket No. VII-78-DCO-10]

In the matter of Iowa State Board of Regents, Oakdale power plant, Oakdale, Iowa.

This order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. "the Act." This order contains a schedule for compliance, and reporting requirements. Public notice and opportunity for a public hearing, and 30-days notice to the State of Iowa has been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

On March 15, 1976, the Iowa State Board of Regents acknowledged by signed waiver that the University of Iowa, Oakdale powerplant boilers Nos. 1, 2, 3, and 4 are in violation of Iowa air pollution control regulations, specifically subrule 400—3(2)b, Combustion for indirect heating, and 4.3(2)d, Visible emissions, part of the Iowa State Implementation Plan (SIP). The board waived the notification of violation under 42 U.S.C. 1857c-8(a)(1) (now 42 U.S.C. 7413(a)(1)) including the 30-day period, and the opportunity to confer under 42 U.S.C. 1857c-8(a)(4) (now 42 U.S.C. 7413(a)(4)). Pursuant to section 113(a)(1) of the Act, Environmental Protection Agency (EPA) issued to the Iowa State Board of Regents an administrative order finding that the University of Iowa, Oakdale powerplant boilers Nos. 1, 2, 3, and 4, are in violation of subrule 400—4.3(2)b and 4.3(2)d above, a part of the applicable Iowa Implementation Plan as defined in section 110(d) of the Act. The order required installation of control equipment to achieve compliance with the above regulations by July 1, 1978. Due to manufacturing delay of some of the necessary equipment, the July 1, 1978, achievement date was not met. For this reason this order is issued pursuant to section 113(d) of the Act (42 U.S.C. 7413(d)).

ORDER

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this order is expeditious as practicable, and that the terms of this order comply with section 113(d) of the Act. Therefore, it is hereby ordered:

I. That Iowa State Board of Regents will comply with the Iowa Implementation Plan regulations in accordance with the following schedule on or before the dates specified therein, for:

A. University of Iowa, Oakdale powerplant boilers Nos. 1, 2, 3, and 4.

1. November 1, 1978—Complete onsite construction of emission control equipment.

2. January 15, 1979—Achieve and demonstrate final compliance with subrule 400—4.3(2)b and 4.3(2)d above.

II. That no interim requirements, as described in section 113(d)(7) of the Act, are reasonable and practicable.

III. That the Iowa State Board of Regents is not relieved by this order from compliance with any requirements imposed by the applicable State implementation plan, EPA, and/or the courts pursuant to section 303 during any period of imminent and substantial endangerment to the health of persons.

IV. That the Iowa State Board of Regents shall comply with the following reporting requirements on or before the dates specified below:

No later than 5 days after any date for achievement of an incremental step or final compliance, specified in this order, the Iowa State Board of Regents shall notify EPA in writing of its compliance, or noncompliance and reasons therefor, with the requirement. If delay is anticipated in meeting any requirement of this order, the Iowa State Board of Regents shall immediately notify EPA in writing of the anticipated delay and reasons therefor. Notification to EPA of any anticipated delay does not excuse the delay.

All submittals and notifications to EPA pursuant to this order shall be made to Director, Enforcement Division, Environmental Protection Agency, Region VII, 1735 Baltimore, Kansas City, Mo. 64108.

V. Nothing herein shall affect the responsibility of the Iowa State Board of Regents to comply with State or local regulations.

VI. Iowa State Board of Regents is hereby notified that your failure to achieve final compliance by July 1, 1979 (or other applicable date specified in accordance with section 120(a)(2)(B) of the Act) will result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure, the Iowa State Board of Regents will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VII. This order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator (or his delegatee, as appropriate) determines on the record, after notice and hearing, that an inability to comply with subrule 400—4.3(2)b and 4.3(2)d no longer exists.

VIII. Violation of any requirement of this order shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to section 113 (a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

B. Revocation of this order, after notice and opportunity for a public hearing, and subsequent enforcement of subrule 400—4.3(2)b and 4.3(2)d in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to Section 120 of the Act.

IX. This order is effective immediately.

Date:————

Administrator, Environmental Protection Agency.

WAIVER OF RIGHTS TO CHALLENGE ORDER

Iowa State Board of Regents, by the duly authorized undersigned, hereby consents to the provisions of this order and waives any and all rights under any provision of law to challenge this order.

Date:————

Iowa State Board of Regents.

[FR Doc. 78-26351 Filed 9-19-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 87]

[Docket No. 21495; FCC 78-630]

Monitoring of Emergency Locator Transmitter Signals To Improve Safety Communications on the Aeronautical Emergency Frequencies

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: The FCC terminated an inquiry into whether it would be desirable, as a means of assisting in the detection of inadvertent emergency locator transmitter signals, to require that aeronautical advisory stations monitor the aeronautical emergency frequencies. The Commission concluded that implementation of such a requirement would not materially aid in the location or reduction of such signals and would impose a serious financial and possible legal burden on the station licensees.

EFFECTIVE DATE: Not applicable.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION:

John E. Jacobs, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: September 11, 1978.

Released: September 15, 1978.

In the matter of monitoring of emergency locator transmitter signals to improve safety communications on the aeronautical emergency frequencies. Report and order, proceeding terminated [43 FR 7990].

1. A notice of inquiry in the above-captioned matter was released on December 5, 1977. It was published in the FEDERAL REGISTER on December 13, 1977 (42 FR 62508). On petition of the Civil Air Patrol the time for comments and reply comments was extended by order released on February 17, 1978. That time has now expired.

2. Since 1971, in accordance with the provisions of Pub. L. 91-596 (49 U.S.C. 142), most general aviation aircraft have been required to carry emergency locator transmitters (ELT). These transmitters, operating as beacons on the aeronautical emergency frequencies of 121.5 and 243 MHz are designed to be activated automatically on crash of the aircraft or manually in the event of other emergencies where assistance is required. They transmit a distinctive tone modulated signal which is used by search and rescue facilities to locate the aircraft in distress. These emergency frequencies are normally monitored by control towers, flight service stations, direction finding stations, radar facilities, military aircraft and others interested and involved in search and rescue of downed aircraft.

3. For some time, the aviation community has been plagued with false or inadvertent activations of these transmitters. It has been found that the ELT can be activated by such actions as "hard" landings, slamming of aircraft doors and equipment failure. This has resulted in thousands of hours being expended in attempting to locate the transmitter and in the case of accidental activation shutting the ELT down. The Air Force Rescue Coordinating Center (AFRCC) reported that 6,603 ELT activations were reported to the center during calendar year 1975. Of these, only 54 were the result of a crash or forced landing.

4. The notice of inquiry in this matter was intended to solicit comments on the proposal that aeronautical advisory (Unicom) stations located at airports not served by a control tower be required to monitor the aeronautical emergency frequencies. The intent was to add more stations to those already monitoring in order to assist in locating those transmitters that were inadvertently activated. Since the majority of the inadvertent activations occur on or near airports, it was thought that monitoring by the Unicom stations would be of some assistance in locating the source of the transmissions and determining their validity more rapidly.

5. A list of those parties who filed comments in this proceeding is contained in the appendix. No reply comments were received. Of those commenting, 85 percent were against the proposal.

6. Nine persons commented in favor of the proposal. For the most part, they indicated an agreement with the concept in principle, but offered no specifics on method of implementation. Those who suggested specifications for monitoring receivers all felt that the technical standards should be stringent enough to insure reliability. The suggested operating characteristics can be found on equipment available today. The cost of obtaining the equipment was not specifically discussed by those submitting favorable comments, but a wide variance in this cost was presented by those opposed.

7. Most of those commenting against the proposal gave two predominant reasons for their objections. These were the cost to the Unicom licensee with no appreciable benefit to the public and the possibility of legal liabilities being incurred by the licensee. They felt these two reasons were most important. Additionally, a number of persons expressed concern over the necessity of making personnel available to monitor and search, the real value of the monitoring and the necessity to train operators.

8. Alternative solutions were not presented by the majority of the respondents. However, those who did make a suggestion were unanimous in pointing out that equipment unreliability was the major source of trouble, therefore, upgrading the minimum performance standards of the ELT's was of the utmost importance.

9. In our notice we indicated that we did not anticipate that the monitoring requirement would impose a significant economic burden on the station licensee. The commenters almost unanimously disputed this. They pointed out that the station equipment would either have to be capable of simultaneously monitoring at least two frequencies or separate receiving equipment would be required. In either case, the estimates ranged from a low of $100 to a high of $2,500 in additional costs. They pointed out that the receiver would have to be reasonably sophisticated and, with a limited market, the cost set by manufacturers would be understandably high. The Unicom operators claim that theirs is a marginal operation at best and the mandated expense of additional radio equipment is more than they should be asked to assume. This is particularly onerous to them when the Unicom station is looked on as a convenience to the flying public rather than a profitmaking venture. Although we did not specifically discuss the required monitoring periods in the notice, but rather asked for comments on this, the Unicom licensees appeared to presume that continuous monitoring during their hours of operation would be required. They feel that having personnel available for this purpose would also be an unwanted and nonproductive expense. They indicated that in the normal course of their doing business there are many times when no one is near to monitor or answer the radio.

10. Many of the parties who commented expressed concern over the liabilities the licensee might assume once he is assigned the responsibility for monitoring the emergency frequencies. In the event a malfunctioning ELT is found in a locked aircraft, they are not willing to accept responsibility for forcing entry in violation of local laws and possibly damaging the aircraft to disable the transmitter. Additionally, the fixed base operators questioned the extent to which a search should be pursued. Since their area of interest and responsibility generally lies within the confines of the airport, they question whether they

should search beyond its boundaries and to what extent they would be liable if they chose not to. Although it

shutting down the airplane and this has the effect of monitoring for the field.

Andrew N. Hardy
Leigh Instruments Ltd.
National Air Transportation Association
State of North Dakota, Aeronautical Com-

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should search beyond its boundaries and to what extent they would be liable if they chose not to. Although it was not our intent that the party hearing and locating the source of the signal take any direct action, the possibilities of legal liabilities cannot be ignored.

11. Inadvertent activations of ELT's is a serious problem and one which cannot be easily solved. As stated in our notice, our purpose in proposing monitoring was to enable local people to more readily detect the presence of emergency signals on the frequencies. However, we are persuaded by the comments made in response that mandating such a procedure is treating the symptom rather than the cause. We are in sympathy with the efforts expended by the AFRCC in locating and attempting to locate these transmitters, but do not feel that mandatory monitoring is the proper solution. Although it may be of some assistance in reducing the time required to locate a small percentage of the malfunctioning ELT's, the unreasonable burden placed on the Unicom licensees to accomplish this is not warranted. The statistics provided by AFRCC indicated that 4,503 out of 6,603 reported activations were located and silenced before search procedures could be instituted by the rescue center. This in itself shows that the aviation community is aware of the problem and is already providing assistance. Efforts by the Federal Aviation Administration, the Aircraft Owners and Pilots Association and similar interested parties to make the flying public more aware of the problem and what can be done about it are continuing. Many of the persons commenting stated that voluntary monitoring programs by both pilots and airport personnel are being carried out in various parts of the country. A number of individuals pilots remarked that they routinely check the emergency frequencies on shutting down the airplane and this has the effect of monitoring for the field.

12. The Radio Technical Commission for Aeronautics, of which the Commission is a member, is close to finalizing improved performance standards for what is known as the next generation of ELT's. When these standards are finalized, appropriate regulatory and manufacturing steps will be considered to improve the quality of the equipment in use. It appears obvious that equipment malfunction is the major source of the problem and improving the quality of the ELT's should substantially reduce the number of false signals. In addition, the proposed satellite monitoring program which is currently being considered will be of considerable assistance in locating and determining the validity of emergency signals.

13. The Commission staff is continuing to work with governmental, industry and user groups to assist in arriving at a solution to this problem. However, in the meantime, we feel that no substantive benefits can be derived by imposing the burden of mandatory monitoring of the emergency frequencies on a small segment of the aviation community.

14. Regarding questions on matters covered in this document contact J. E. Jacobs, telephone 202-632-7197.

15. In view of the foregoing, it is ordered, that this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO
Secretary.

APPENDIX

Aircraft Owners and Pilots Association
American Petroleum Institute—Central Committee on Telecommunications
Civil Air Patrol
Eagle Aviation
Federal Aviation Administration—
Acting Assistant Administrator for General Aviation
Frequency Management Staff
Andrew N. Hardy
Leigh Instruments Ltd.
National Air Transportation Association
State of North Dakota Aeronautical Commission
Hart and Janie Postlethwaite
American Association of Airport Executives—South Central Chapter
Aeronaut Flying Service
Ananda Air
John W. Bates
Beech Aircraft Corp.
City of Chandler, Ariz.
Coastal Aviation
Chicago Flight Instructors Association
Dare County Airport Authority
City of Detroit Airport Department
Leo W. Dillon, Colonel, CAP
Ed's Airmotive
Eastern Flying Service
Noah Felice
Freestate Aviation, Inc.
Paul Fournet Air Service, Inc.
Falconhead
Gunnel Aviation
Hargus Aviation, Inc.
Don Hull
Holland Flying Service
Indianapolis Airport Authority
City of LeMars, Iowa
Lake Powell Resorts and Marinas
L-Tronics
Longenette Flying Service
John W. Ledford, Inc.
Robert R. Murphy
Monmouth Airport
Narco Avionics
North Dakota Aviation Association
University of Oklahoma
Omaha Airport Authority
Patterson Aircraft Co.
O. M. Pierce
Rankin Aircraft/Rankin Airport
Ragsdale Aviation, Inc.
Roberts Flying Service
Search and Rescue Magazine
Airport Authority of the Borough of St. Marys, Pa.
Robert W. Todd
Robert Weatherbee
State of Wisconsin—Department of Transportation
West Texas Airport
West Central Airways
Win-Air Aviation Services
Van Dusen Air, Inc.
Yankee Aviation

[FR Doc. 78-26448 Filed 9-19-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

NORTHERN CALIFORNIA SUBGROUP OF THE PACIFIC CREST NATIONAL SCENIC TRAIL ADVISORY COUNCIL

Open Meeting

The Pacific Crest National Scenic Trail Advisory Council will meet on October 14, 1978, at the Tree House Motel, Mount Shasta, Calif. The meeting will begin on October 14, at 11 a.m.

The purpose of the meeting will be to review status of trail construction and rights-of-way acquisition through agency reports, planning for the 1979 meeting of the Pacific Crest National Scenic Trail Advisory Council, and discussion of needs for trailhead and feeder trail facilities.

The meeting will be open to the public. Persons who wish additional information concerning the meeting should contact Alan Lamb, Recreation Staff, California Region, 630 Sansome Street, San Francisco, Calif., phone 415-556-6986.

Dated: September 12, 1978.

ZANE G. SMITH, Jr.,
Regional Forester.

[FR Doc. 78-26357 Filed 9-19-78; 8:45 am]

[3410-22]

Science and Education Administration

JOINT COUNCIL ON FOOD AND AGRICULTURAL SCIENCES

Open Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Science and Education Administration announces the following meeting:

Name: Joint Council on Food and Agricultural Sciences.
Date: October 11, 12, and 13, 1978.
Time: 1 p.m.
Place: Room 330, GHI Building, 500 12th Street SW., Washington, D.C.
Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person below.
Purpose: To receive reports from several ad hoc and standing subcommittees and initiate further measures to foster coordination of the agricultural research, extension, and teaching activities of the Federal, State, and private sector.
Contact person for agenda and more information: Dr. James Nielson, Executive Director of the Joint Council, Science and Education Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-8662.

Done at Washington, D.C., this 15th day of September 1978.

JAMES NIELSON,
Executive Director, Joint Council on Food and Agricultural Sciences.

[FR Doc. 78-26427 Filed 9-19-78; 8:45 am]

[3410-03]

NATIONAL AGRICULTURAL RESEARCH AND EXTENSION USERS ADVISORY BOARD

Open Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Science and Education Administration announces the following meeting:

Name: National Agricultural Research and Extension Users Advisory Board.
Date: October 10 and 11, 1978.
Time: 8:30 a.m.
Place: Room 330, GHI Building, 500 12th Street SW., Washington, D.C.
Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person below.
Purpose: To organize this new Board and initiate measures to develop independent advisory opinions on the food and agricultural sciences.
Contact person for agenda and more information: Dr. James Nielson, Executive Director of the Board, Science and Education Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-8662.

Done at Washington, D.C., this 15th day of September 1978.

JAMES NIELSON,
Executive Director, National Agricultural Research and Extension Users Advisory Board.

[FR Doc. 78-26428 Filed 9-19-78; 8:45 am]

[3410-16]

Soil Conservation Service

BUCK CREEK WATERSHED, ALA.

Intent To Not Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Buck Creek Watershed, Covington County, Ala.

The environmental assessment of this Federal action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William B. Lingle, State conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. Alternatives being considered are conservation land treatment, critical area treatment, and land stabilization.

The notice of intent to not prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 138 South Gay Street, Auburn, Ala. 36830, 205-821-8070. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until October 20, 1978.

Notice of intent to prepare an environmental impact statement for Buck Creek Watershed, Ala., published in the FEDERAL REGISTER, volume 43, No. 12, Wednesday, January 18, 1978, is hereby canceled.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection

V4

and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: September 11, 1978.

3. Ultrastructure of the attachment organelle in Oxymonad Flagellates from the Termite Reticulitermes flavipes,

4. Development of the Cytopharyngeal

of ^{13}C, ^{1}H and ^{19}F to determine the relationship between T_1's and conformations.

D. Measurement of nuclear Overhauser enhancement of ^{13}C and ^{15}N signals while ir-

developmental studies on viral systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, mem-

during Con A induced capping and phagocytosis,

(4) The organization of the erythrocyte cytoskeleton using transmission microscopy

a.m. and 5:00 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washing-

and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: September 11, 1978.

VICTOR H. BARRY, Jr.,
Deputy Administrator for Programs.

[FR Doc. 78-26356 Filed 9-19-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

UNIVERSITY OF ALABAMA, DEPARTMENT OF BIOLOGY, ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the Unted States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before October 10, 1978.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00379. Applicant: The University of Alabama, Department of Biology, P.O. Box 1927, University, Ala. 35486. Article: Electron microscope, model EM 10A complete with accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of cell division, protozoan development, cytological localization of enzymes in hepatomas, virion morphology and nucleic acid structure, bacterial cell wall structure, striation spacing in fatigued metal, and crystallite sizing and topography. The proposed research will include the following:

1. A study of the comparative cytology and evolutionary affinities of the coccoid, zoospore-producing green algae,
2. Ultrastructure of the Cytoplasmic region containing the cytopharyngeal pouch in *Tetrahymena vorax*,
3. Ultrastructure of the attachment organelle in Oxymonad Flagellates from the Termite Reticulitermes flavipes,
4. Development of the Cytopharyngeal pouch in *Tetrahymena vorax*,
5. Cytochemical localization of Isozymes of aldehyde dehydrogenase in chemically reduced rat hepatomas,
6. Characterization of transducing phages for *Pseudomonas acidovorans*,
7. Cell wall ultrastructure of *Staphylococcus staphylolyticus*,
8. Fatigue crack growth studies, and
9. Crystallite size and surface topography studies of supported metal catalysts by electron microscopy.

In addition, the article will be used in the course introduction to electron microscopy to familiarize the student with as many aspects of electron microscopy as possible, expecially those which deal with the actual operation of the microscope. Application received by Commissioner of Customs: August 22, 1978.

Docket No. 78-00380. Applicant: Texas Research Institute of Mental Sciences, Department of Gerontology, Texas Medical Center, 1300 Moursund Avenue, Houston, Tex. 77030. Article: Electron microscope, model EM 10A and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to study a variety of human and animal tissues including brain, liver, kidney, heart, and skeletal muscle. Subcellular fractions prepared from brain homogenates will also be examined. Subcellular processes associated with aging in the brain and other organs of both human and animal origins will be investigated. Also, studies will be conducted to further basic knowledge of molecular pharmacology and long-term drug effects on the subcellular oganization of susceptible target tissues such as the brain and other vital organs of the body. Application received by Commissioner of Customs: August 23, 1978.

Docket No. 78-00381. Applicant: Mount Holyoke College, Department of Chemistry, Carr Laboratory, South Hadley, Mass. 01075. Article: Nuclear magnetic resonance spectrometer, model FX 900 and accessories. Manufacturer: JEOL Analytical Instruments, Inc., Japan. Intended use of Article: The article is intended to be used to carry out a number of collaborative investigations convering a wide range of organic chemistry, inorganic chemistry, analytical chemistry, biochemistry, and pharmacology. The experiments to be conducted will include:

A. Measurement of ^{1}H, ^{13}C, ^{2}H, ^{19}F, ^{10}B, ^{15}N, ^{17}O, ^{31}P, ^{113}Cd, ^{23}Na, ^{35}Cl, and ^{133}Cs chemical shifts with and without shift reagents present.

B. Measurement of coupling constants between ^{1}H and ^{1}H, ^{13}C, ^{19}F, ^{15}N, and ^{31}P.

C. Measurement of spin lattice relaxation times, T_1 and the spin lattice relaxation time in the rotating coordinate system, $T_{1\rho}$, of ^{13}C, ^{1}H and ^{19}F to determine the relationship between T_1's and conformations.

D. Measurement of nuclear Overhauser enhancement of ^{13}C and ^{15}N signals while irradiating ^{1}H resonances.

E. Measurement of ^{1}H-^{13}C coupling constants in complex molecules such as steroids using spin-echo techniques.

The primary purpose of these studies is to determine the conformations and configurations of molecules in solution and to study their reactions. The article will also be used for educational purposes in the courses Chem. 332. Nuclear Magnetic Resonance Spectroscopy, Chem 295 Independent Study, Chem 395. Independent Study, Chem 324 Advanced Techniques in Organic Chemistry Laboratory, and Chem 341 Graduate Research. Application received by Commissioner of Customs: August 23, 1978.

Docket No. 78-00382. Applicant: University of Kansas Medical Center, College of Health Sciences and Hospital, 39th and Rainbow Boulevard, Kansas City, Kans. 66103. Article: LKB 14800-3/Cryokit and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for investigations that include ultrastructural studies on normal and pathologic animal tissues, viral infected cells, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host cell and viral interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environment due to the presence of tumor viruses. The experiments will be conducted in order to further basic knowledge on cell and tissue ultrastructure in the frozen state to reveal enzyme localization and distribution in cells and tissues under normal and pathological conditions. The article will also be used in a course entitled "Ultrastructural Histology" which involves a study of general principles on techniques and the use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods to localize various enzymes. Application received by Commissioner of Customs: August 23, 1978.

Docket No. 78-00383. University of Kansas Medical Center College of Health Science and Hospital, 39th and Rainbow Boulevard, Kansas City, Kans. 66103. Article: LKB 2128-010/Ultrotome IV ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section animal and viral tissues which have been embedded in hardened epoxy resins. These specimens will be used for investigations that include ultrastructural studies on normal and pathologic animal tissues, developmental studies on viral systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host cell and viral interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments due to the presence of tumor viruses. In addition, the article will be used in a course entitled "Ultrastructural Histology" which involves a study of general principles on techniques and the uses of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods to localize various enzymes. Application received by Commissioner of Customs: August 23, 1978.

Docket No. 78-00384. Applicant: New Jersey Institute of Technology, Chemistry Division, 323 High Street, Newark, N.J. 07102. Article: LKB 8721-4 Closed bomb reaction calorimetric assembly and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The foreign article is intended to be used in calorimetric studies of strained bridgehead lactams, such as, 6, 6-dimethy-1-azabicyclo (2.2.2.) octan-2-one which exhibits reduced (or zero) pi resonance stabilization since its amide linkage is severely twisted. The enthalpies of combustion and vaporization will be obtained. This research will be also be extended to include the compounds required in the synthesis of the 6, 6-dimethyl-1-azabicyclo (2.2.2.) octan-2-one parent molecule, 1-Azabicyclo (3.3.1) nonan-2-one which exhibits another unique twisted pi linkage, and 1-azabicyclo (3.2.2.) nonan-2-one which when the ΔH_f values are compared with 6, 6-dimethyl-1-azabicyclo (2.2.2.) would provide some quantitation of Wiseman's rule which explains stability and transient nature of its isomers. The foreign article will also be used in education; two courses Chemistry 491/492 Undergraduate Chemistry Research and in Masters and Doctoral Degree Research. Application received by Commissioner of Customs: August 23, 1978.

Docket No. 78-00385. Applicant: University of Connecticut Health Center, 263 Farmington Avenue, Farmington, Conn. 06032. Article: JEM-100CX Electron microscope with slide entry eucentric goniometer and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the following research purposes:

(1) Analyses of the control of microtubule assembly in human leukocytes,

(2) Interactions between microtubules, microfilaments, and membranes during Concanavilin A induced "capping" and phagocytosis,

(3) Correlative studies of leukocyte shape, membrane flow, and ligand redistribution during Con A induced capping and phagocytosis,

(4) The organization of the erythrocyte cytoskeleton using transmission microscopy of thin section, negative staining, freeze-fracture and surface replicas of derived structures from erythrocytes,

(5) Analysis of lectin receptors on erythrocytes using high resolution localization by transmission and scanning modes of immunochemically labeled ligands,

(6) In vitro interactions between cytoskeletal elements and membrane,

(7) Actin polymerization onto membranes, and

(8) Analysis of the contractile mechanism of muscle utilizing negatively stained, thin sectioned, and freeze-fracture replicas of intact and isolated, purified and reconstituted components of the contractile apparatus of smooth and skeletal muscle.

The article will also be used in the course "Medical Science 388" to provide a background to the operation of instrumentation and methods of preparation for electron microscopy, and (2) practical experience in the operation of the electron microscope and auxillary equipment, and in diverse methods of preparation of biological materials. Application received by Commissioner of Customs: August 24, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-26413 Filed 9-19-78; 8:45 am]

[3510-25]

UNIVERSITY OF KANSAS MEDICAL CENTER, COLLEGE OF HEALTH SCIENCE AND HOSPITAL, ET AL.

Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before October 10, 1978.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00386. Applicant: University of Kansas Medical Center, College of Health Science and Hospital, 39th and Rainbow Blvd., Kansas City, Kans. 66103. Article: Electron Microscope, Model JEM-100S and accessories. Manufacturer: Jeol Ltd., Japan. Intended use of Article: The article is intended to be used for the study of ultrastructure of biological materials from all areas with emphasis on the study of tumor viruses and cells. Experiments involving characterization of tumor cells in vitro will be conducted to perfect these techniques so that new information may be obtained regarding the transformation of normal to malignant cells at the ultrastructural level. The article will also be used for technical, faculty and graduate student instruction in ultra technique in courses in Ultrastructural Histology. Application received by Commissioner of Customs: August 24, 1978.

Docket No. 78-00387. Applicant: East Los Angeles College, Department of Life Sciences, Allied Health Sciences, K-8 103, 1301 E. Brooklyn Ave., Monterey Park, Calif. 91754. Article: LKB 8800A Ultrotome III Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to train students in the use and application of electron microscopy and to use the electron microscope in solving individual research problems in various courses in an electron microscopy program. Instruction is given in the preparation and the examination of speciments as well as the basic principles of electron microscopy. Application received by Commissioner of Customs: August 24, 1978.

Docket No. 78-00388. Applicant: Ramapo College of New Jersey, 505 Ramapo Valley Road, Mahwah, N.J. 07430. Article: LKB 8800A Ultrotome III Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section biological materials that have been embedded in an appropriate resin. These specimens will then be used in investigations that include ultrastructural studies on normal and pathologic plant and animal tissues, developmental studies on fungal systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at hostparasite interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments. The article will also be used in the

courses, Introduction of Electron Microscopy and Advanced Electron Microscopy I, II, and III which will in-

Sweden. Intended use of article: The article is intended to be used for investigations that will include ultrastruc-

grated into and existing Extra-High Voltage test facility at the MIT high Voltage Research Laboratory to allow

fiber textile products which are subject to the terms of the Bilateral

lished below directs the Commissioner of Customs to prohibit entry for con-

The action taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton, wool

courses, Introduction of Electron Microscopy and Advanced Electron Microscopy I, II, and III which will involve a study of general principles on techniques and the use of the electron microscope to study the fine structure of tissues and cells and various subcellular organelles and the employment of cytochemical staining methods to localize various constituents. Application received by Commissioner of Customs: August 24, 1978.

Docket No. 78-00389. Applicant: St. John Hospital, 22101 Moross Road, Detroit, Mich. 48236. Article: LKB 8800A Ultrotome III Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section materials which have been embedded in hardened epoxy resins. Investigations will include ultrastructural studies on normal and pathological human and animal tisues, studies on cyto and histochemical properties as well as enzyme and immunopathological features of cells and tissues, and ultrastructural changes in cells induced by various naturally occurring experimental pathological environmental factors. The objective pursued in the course of these investigations is to understand early pathological alterations in tissues (as induced in animal models) and to correlate these changes with clinical alterations seen in human disease tissues. In addition, the article will be used to train students in the general principles and techniques of the use of electron microscopy, to study the fine structure of cells and various subcellular organelles, and the employment of cytochemical staining methods to localize various enzymes and antigens. Courses in Ultrastructure, and Ultrastructural Histopathology are situations in which the instrument will be used, in addition to diagnostic histopathology. Application received by Commissioner of Customs: August 28, 1978.

Docket No. 78-00390. Applicant: Michael Reese Hospital and Medical Center, 2929 S. Ellis Ave., Chicago, Ill. 60616. Article: LKB 8800A Ultrotome III Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section bone cartilage specimens which will be used for ultrastructural studies including histochemical and morphometric analysis of hormonally stimulated specimens using organ culture techniques. Application received by Commissioner of Customs: August 24, 1978.

Docket No. 78-00391. Applicant: University of Albama in Birmingham, University Station, Birmingham, Ala. 35294. Article: LKB 8800A Ultrotome III Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for investigations that will include ultrastructural studies on normal and pathologic human and animal tissues, cyto and histochemical studies on enzyme antigens and subcellular organelle localization in cells and tissues, and subcellular changes in cells induced by change in their biochemical and physical environments. The objective pursued in the course of these investigations is to understand early pathological alterations in tissues (as induced in animal models) and to correlate these changes with clinical alterations seen in human diseased tissues. In addition, the article will be used in the courses Ultrastructure and Cytochemistry to train students in the use and application of electron microscopy and to the electron microscope in solving individual research problems. Application received by Commissioner of Customs: August 24, 1978.

Docket No. 78-00393. Applicant: Ohio State University, Botany Department, 1735 Neil Avenue, Columbus, Ohio 43210. Article: Electron Microscope, Model H-300 and accessories. Manufacturer: Hitachi (Perkin-Elmer) Japan. Intended use of article: The article is intended to be used to support the following research project: (1) An ultrastructural analysis of Paniceae (Gramineae), (2) membrane ultrastructure in response to TIBA and Ca^{2+}, (3) ultrastructural studies of the green algae, (4) Gametophyte development in ferns, (5) ultrastructural studies of aquatic fungi, and (6) electron microscopy of carboniferous pollen. The article will also be used in the course Electron Microscopy for Botanists, 693 to train students in electron microscopy techniques. Application received by Commissioner of Customs: August 28, 1978.

Docket No. 78-00394. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, NM 87545. Article: 3(Three) each CO_2 Lasers, TEA 103-2 and accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used to demonstrate the scientific and economic feasibility of laser-induced separation of uranium isotopes. The articles will be the basic tools for generating the necessary wavelengths for a selective photoseparation process. Application received by Commissioner of Customs: August 28, 1978.

Docket No. 78-00400. Applicant: Massachusettes Institute of Technology, 77 Massachusetts Ave., Cambridge, Mass. 02139. Article: 500 KV Metalclad Test Transformer Type TES 510/90BM and accessories. Manufacturer: Messwandler-Bau GMBH, West Germany. Intended use of article: The article is intended to be integrated into and existing Extra-High Voltage test facility at the MIT high Voltage Research Laboratory to allow high voltage research studies under AC as well as DC. These studies are primarily concerned with electrical insulation and high voltage techniques in which electrical breakdown and loss mechanisms are investigated. Initial work with the article will be directed at improving the insulating performance of SF, gas-insulated, electric power transmission cables. In addition, the article will be used for educational studies in the field of electrical engineering and physics particularly insulation and electrical discharges. Application received by Commissioner of Customs: August 28, 1978.

Docket No. 78-00401. Applicant: National Bureau of Standards, Washington, D.C. 20234. Article: Automatic Inductive ratio-arm bridge, Model A7. Manufacturer: Automatic Systems Laboratories, United Kingdom. Intended use of article: The article is intended to be used to make precise temperature measurements at several locations in a heat-flow calorimeter on a continuous basis for periods of several days, or in the case of half-life determinations for periods of several months. The calorimeter will in turn be used to accurately measure the heat produced in radioactive specimens and to relate these values to electrical standards. Application received by Commissioner of Customs: August 30, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-26414 Filed 9-19-78; 8:45 am]

[3510-25]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN TEXTILE PRODUCTS EXPORTED TO THE UNITED STATES FROM THE REPUBLIC OF THE PHILIPPINES

New Visa and Exempt Certification

SEPTEMBER 14, 1978.

AGENCY: Committee for the Implementation of Textile Agreement.

ACTION: Announcing a new export visa and certification for exempt textile products, exported to the United States from the Republic of the Philippines.

SUMMARY: The Government of the republic of the Philippines has informed the Government of the United States that it is using a new export visa for cotton, wool, and manmade fiber textile products which are subject to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 15, 1975, as amended and extended. A new certification is also being used for textile products which are exempt from the agreement.

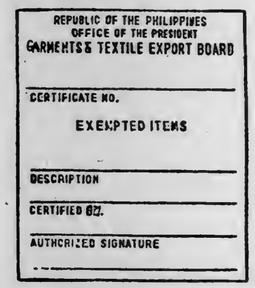
EFFECTIVE DATE: September 20, 1978, for merchandise exported on and after June 22, 1978. Merchandise exported before June 22, 1978, which is accompanied by the previously authorized visa or exempt certification will not be denied entry for consumption, or withdrawal from warehouse for consumption, provided all other visa and certification requirements have been met.

SUPPLEMENTARY INFORMATION: On September 9, 1976, a letter was published in the FEDERAL REGISTER (41 FR 38205) from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established an export visa requirement and a certification for exempt textile products, produced or manufactured in the Republic of the Philippines and exported to the United States. The letter published below directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of cotton, wool, and manmade fiber textile products, produced or manufactured in the Philippines and exported to the United States on and after June 22, 1978, that are not accompanied by the new visa or certification. It further directs that merchandise exported before June 22, 1978, that is accompanied by the previously authorized visa or certification shall not be denied entry, provided all other requirements have been met. Facsimiles of the new visa and certification stamps accompany this notice.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.



SEPTEMBER 14, 1978.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive of August 31, 1976, from the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit entry into the United States for consumption, and withdrawal from warehouse for consumption, of cotton, wool and manmade fiber textile products in certain specified categories, produced of manufactured in the Republic of the Philippines, for which the Government of the Republic of the Philippines had not issued a visa or exempt certification.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977, pursuant to the Bilateral Cotton, wool and ManMade Fiber Textile Agreement of October 15, 1975, as amended and extended, between the Governments of the United States and the Republic of the Philippines; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, the directive of August 31, 1976 is hereby amended, effective on September 20, 1978, to provide for the use of new visa and certification stamps by the Government of the Republic of the Philippines for merchandise exported on and after June 22, 1978. Merchandise exported before June 22, 1978 shall not be denied entry for consumption, or withdrawal from warehouse for consumption, provided all other requirements have been met. The new visa and certification stamps are the same as those used previously by the Government of the Republic of the Philippines except that the following has been added to each: Office of the President, Garments and Textile Export Board.

The action taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton, wool and manmade fiber textile products from the Republic of the Philippines has been determined by the Committee for the Implementation of Texile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation, of Textile Agreements, and Deputy Assistant, Secretary for Domestic Business Development.

[FR Doc. 78-26271 Filed 9-19-78; 8:45 am]

[1505-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

REFINERS' CRUDE OIL ALLOCATION PROGRAM

Allocation Period of October 1, 1978 Through March 31, 1979

In FR Doc. 24786, appearing at page 39411 in the issue of September 5, 1978, on page 39413, in the table entitled "Crude oil allocation program for the period," in the second entry under "Sales obligation (barrels)" the number "1,038,033" should be corrected to read, "1,038,003."

[6740-02]

Federal Energy Regulatory Commission

[Docket Nos. CP71-68 et al.; CP71-290 et al.]

COLUMBIA LNG CORP. AND CONSOLIDATED SYSTEM LNG CO.

Declaratory Order Establishing Rates and Accounting Treatment for LNG Plant Testing

SEPTEMBER 12, 1978.

On May 19, 1978, Columbia LNG Corp. (Columbia) filed a petition in docket No. CP71-68 et al., requesting a declaratory order approving plant testing procedures and reasonable rates to be charged during plant testing. Consolidated System LNG Co. (Consolidated) filed in docket No. CP71-290, et al., a similarly styled petition on May 24, 1978. Because these petitions involve common questions of law and fact we shall address both by this order.

Generally, petitioners ask for an interpretation of previous Commission

orders in these dockets [1] and certain gas plant instructions [2] to insure that petitioners' plant testing and startup

date for the Cove Point facility. Columbia, on the other hand, states that it will require 30 days of continuous

date shall be limited to the actual cost of LNG purchases and any other actual, out-of-pocket, operating costs.

the vicinity of Long Lake and Nine Mile developments, pursuant to item (3) of article 34. On March 30, 1978,

sure, and the agencies' interests. Therefore—on condition that the Licensee continue to review the Long

(B) The Licensee shall continue to review the Long Lake recreation plan in cooperation with HCRS and PRC to analyze the need for additional recre-

V 43 / 183 SEP 20 78 V 43 / 183 SEP 20 78

orders in these dockets [1] and certain gas plant instructions [2] to insure that petitioners' plant testing and startup procedures are appropriately treated for rate and accounting purposes.

Columbia and Consolidated are joint owners of a LNG terminal and regasification facility at Cove Point, Md. LNG was first received at Cove Point from Arzew, Algeria, on March 13, 1978. Because operational constraints require the maintenance of cryogenic conditions at the plant, the first shipment was stored at Cove Point until the second shipment was received from Arzew on May 20, 1978. At that time, deliveries of regasified LNG from Cove Point commenced.

The Commission's prior orders in these dockets [3] required petitioners to place their respective LNG sales tariffs into effect upon the commencement of deliveries from Cove Point. Under a literal reading of these prior orders Columbia and Consolidated should have placed the Cove Point plant "inservice" and their respective LNG tariffs into effect on May 20, 1978.

Petitioners point out, however, that 18 CFR, Part 201, Gas Plant Instruction 9D provides for the testing of equipment prior to placing it in service. Petitioners request authorization to complete testing procedures prior to placing the Cove Point plant in service and prior to making their respective tariffs effective.

During such testing period, Columbia proposes to charge its customer, Columbia Gas Transmission Corp., $2 per Mcf [4] for all deliveries of regasified LNG, provided that the total billing during the plant testing period will not exceed the amount that would have been billed under Columbia LNG's tariff had the tariff been in effect during such period. Consolidated proposes to bill its customer, Consolidated Gas Supply Corp., at the cost of LNG purchased from El Paso-Algeria Corp.[5] Both petitioners propose that allowance for funds used during construction (AFUDC) should continue to accrue during the testing. AFUDC plus all revenues received and expenses incurred during the period would be recorded to gas plant accounts.[6]

Consolidated requests that July 1, 1978, be established as the "inservice" date for the Cove Point facility. Columbia, on the other hand, states that it will require 30 days of continuous deliveries at an average of 218 MMcf per day, or one-third of the certificated volume, to adequately test the facilities. It, accordingly, proposes to place the terminal "inservice" on the first day of the calendar month following 30 days of delivery at an average of 218 MMcf per day. Based on Consolidated's projections, however, final testing of the facility should have been completed on July 1, 1978. Consolidated has not subsequently informed the Commission of any modification in its projection.

Having reviewed the pleadings, the Commission finds that the petitioners should be provided a reasonable period to test their facilities prior to placing them "inservice" for rate and accounting purposes. The Commission shall accept Consolidated's proposal to establish July 1, 1978, as the "inservice" date for the Cove Point facility. Columbia's proposal to end the plant testing period after 30 days of continuous deliveries at 218 MMcf per day appears unreasonable because it may result in an indefinite testing period wholly unrelated to the actual readiness of the Cove Point facility. Columbia's proposal in this respect shall be denied. Accordingly, the Commission shall require that both Columbia and Consolidated place their respective LNG tariffs into effect on July 1, 1978.

The Commission notes that both petitions request permission to capitalize testing and operating expenses during the testing period. Neither petition precisely defines what "expenses" would be recorded. The Commission, therefore, shall specify that the expenses recorded for the period shall be limited to actual LNG purchase costs and any other actual, out-of-pocket, operating or testing costs.

In all other respects the petitions shall be granted.

The Commission orders: (A) Columbia and Consolidated shall place their respective LNG tariffs into effect on July 1, 1978.

(B) For accounting and rate purposes the Cove Point LNG facility shall be placed "inservice" on July 1, 1978, at which time accrual of AFUDC and capitalization of construction costs shall terminate.

(C) Prior to July 1, 1978, Columbia and Consolidated shall be permitted to accrue AFUDC and to capitalize construction costs pursuant to gas plant instructions 3(17) and 3(18). Testing and operation expenses incurred prior to July 1, 1978, net of any revenues received, also shall be capitalized pursuant to gas plant instructions, provided however, that expenses associated with the operation of the Cove Point LNG facility prior to the "inservice" date shall be limited to the actual cost of LNG purchases and any other actual, out-of-pocket, operating costs.

(D) Columbia shall be permitted to bill Columbia Gas Transmission Corp. at $2 per Mcf for all revaporized LNG deliveries prior to July 1, 1978, provided, however, that total billings prior to July 1, 1978, shall not exceed the amount that would have been billed had Columbia's tariff been in effect during such period.

(E) For all revaporized LNG deliveries prior to July 1, 1978, Consolidated shall be permitted to bill Consolidated Gas Supply Corp. at a rate per dekatherm equal to Consolidated's purchase cost per dekatherm for LNG.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26374 Filed 9-19-78; 8:45 am]

[1] Issued Feb. 6, 1978, in docket No. CP71-68 and Apr. 3, 1978, in docket No. CP71-290.

[2] 18 CFR Part 201, Gas Plant Instructions 3(17), 3(18) and 9D.

[3] Cited in footnote 1, supra.

[4] This amount is equal to the average cost per Mcf of revaporized LNG as estimated in Columbia Gas Transmission Corp.'s filing of Nov. 30, 1977, in docket No. RP78-20.

[5] Consolidated estimates that this price will be approximately $1.20 per MMBtu.

[6] Pursuant to 18 CFR, Part 201, Gas Plant Instructions 3(17) and 3(18).

[6740-02]

[Project No. 2545]

WASHINGTON WATER POWER CO.

Order Granting Extension of Time

SEPTEMBER 7, 1978.

On July 17, 1978, the Washington Water Power Co. (Licensee), Licensee for the constructed Spokane River project (FERC project No. 2545), filed an application for Commission approval to further extend the time in which to comply with item (2) of article 34 [1] of the project license.[2] In addition, Licensee filed a copy of the memorandum of agreement, dated July 3, 1976, between the Washington State Parks and Recreation Commission (PRC) and the Licensee concerning construction, operation, and maintenance responsibilities for the recreational facilities at the Riverside State Park, in the vicinity of Long Lake and Nine Mile developments, pursuant to item (3) of article 34. On March 30, 1978, pursuant to item (1) of article 34, Licensee filed a copy of a letter from the Bureau of Outdoor Recreation (now Heritage Conservation and Recreation Service (HCRS)) setting forth the Bureau's recommendations resulting from its review of the Long Lake recreation plan.

On July 12, 1978, the Washington, D.C., a representative for the Licensee had requested an extension of time with which to comply with article 34 of the License. By letter dated August 2, 1978, the Secretary of the Commission granted the request for the extension of time until September 12, 1978. However, the July 17 request contains information—agency concurrence that recreational development at Long Lake is not now needed—that more fully explains why construction of additional recreational facilities is not necessary at this time. It is appropriate to act upon the July 17 request now.

LONG LAKE RECREATION PLAN

The HCRS, PRC, the Washington State Interagency Committee for Outdoor Recreation, and the Washington Department of Natural Resources have reviewed the Long Lake recreation plan. They note that certain parts of the Long Lake area are utilized in an undeveloped state, and they consider that the area has good potential for future development; however, the lake is subject to a heavy algae bloom during the summer. The agencies concur that further recreational development should be deferred, subject to a comprehensive review in the future of recreation needs, public use pressure, and the agencies' interests. Therefore—on condition that the Licensee continue to review the Long Lake recreation plan in cooperation with HCRS and PRC—the Licensee will be granted an extension of time to file the plans and schedule required by article 34, item (2), until further order of the Commission, or until HCRS or PRC recommends additional recreation facilities. The biennial filing by the Licensee of the form 80 will help to keep the Commission informed on the need for future recreation facilities.

Licensee's filing of its agreement with the State to operate certain project recreation facilities, and a copy of the HCRS report on the review of the Long Lake recreation plan meets the requirements of items (1) and (3) of article 34.

ENVIRONMENTAL IMPACT

This order does not approve any construction, or change in operation and maintenance of the project. Accordingly, approval of the application to extend the time in which to comply with item (2) of article 34 does not constitute a major Federal action significantly affecting the quality of the human environment.

It is ordered that:

(A) The Licensee is granted an extension of time to file the plans and schedule required by item (2) of article 34 of the license for project No. 2545 until further Commission order or until the Heritage Conservation and Recreation Service (HCRS) of the Department of the Interior or the Washington State Parks and Recreation Commission (PRC), recommends additional recreational facilities, subject to the condition in ordering paragraph (B).

(B) The Licensee shall continue to review the Long Lake recreation plan in cooperation with HCRS and PRC to analyze the need for additional recreational development at the project.

WILLIAM W. LINDSAY,
Director, Office of Electric Power Regulation.

[FR Doc. 78-26376 Filed 9-19-78; 8:45 am]

[1] ART. 34. Licensee shall consult and cooperate with appropriate Federal, State, and local agencies in analyzing the need for any additional recreational development at the project, and shall, within 1 year from the date of this order: (1) File the results of the review of the Long Lake recreation plan, as described on p. 17 of the exhibit R; (2) file for Commission approval, as an amendment to the exhibit R: (a) Plans for any additional recreation facilities to be developed at the project, and (b) a construction schedule for any public recreation areas to be developed at the project; and (3) file a copy of any agreements between the Licensee and Federal, State, or local agencies for the construction, operation, or maintenance of existing or proposed recreational facilities at the project.

[2] Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation, under sec. 3.5(g) of the Commission's regulations, 18 CFR 3.5(g) (as amended Aug. 14, 1978).

[3128-01]

Office of Hearings and Appeals

CASES FILED WITH THE OFFICE OF HEARINGS AND APPEALS

Week of August 11 Through August 18, 1978

Notice is hereby given that during the week of August 11 through August 18, 1978, the appeals and applications for exception or other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

SEPTEMBER 12, 1978.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*

[Week of Aug. 11 through Aug. 18, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Aug. 11, 1978	Champlin Petroleum Co, Fort Worth, Tex	DXE-1486 and DXE-1487.	Extension of relief granted in *Champlin Petroleum Company*, case Nos. FEE-3459 (decided Dec. 18, 1976) (unreported decision) and FXE-4267 (decided June 30, 1977) (unreported decision). If granted: Champlin Petroleum Co.would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Dover and East Texas plants.
Do	Champlin Petroleum Co., Forth Worth, Tex.	DEE-1488 through DEE-1490.	Price exception (sec. 212.165. If granted: Champlin Petroleum Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Adena, Conroe, and Enid plants.
Do	Crystal Petroleum Co., Washington, D.C	DRH-0081 and DRD-0081.	Motion for an evidentiary hearing and motion for discovery. If granted: An evidentiary hearing would be convened in connection with Crystal Petroleum Co.'s statement of objections regarding the June 20, 1978, proposed remedial order issued to the firm. Crystal Petroleum Co. would also be granted discovery with respect to materials collected and prepared in connection with a DOE audit of the firm.
Do	Independent Refining Corp. Washington, D.C.	DEE-1553	Allocation exception (sec. 211.13). If granted: Independent Refining Corp.would be permitted to increase its base period use of natural gasoline.
Do	National Helium Corp., Liberal, Kans	DXE-1485	Extension of relief granted in *National Helium Corporation*, case No. DXE-0515 (decided Apr. 28, 1978) (unreported decision). If granted: National Helium Corp. would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Aug. 11 through Aug. 18, 1978]

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Aug. 11 through Aug. 18, 1978]

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Aug. 11 through Aug. 18, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Quincy Oil, Inc., and Taunton Municipal Lighting Plant, Quincy, Mass.	DEX-0102	Supplemental order. If granted: Quincy Oil, Inc., would disclose certain confidential financial information regarding its operations to Taunton Municipal Lighting Plant for the purpose of permitting Taunton to contest a proposed DOE order approving exception relief for Quincy.
Do	Special Counsel for Compliance, Washington, D.C.	DSG-0028	Petition for special redress. If granted: The Office of Hearings and Appeals would promulgate procedures for handling claims for refunds filed by purchasers of Gulf Oil Corp. products in connection with a proposed consent order entered into on July 26, 1978, by the Office of the Special Counsel and Gulf Oil Corp.
Do	Sun Production Co., Washington, D.C	DEE-1483	Exception from the entitlements program. If granted: Sun Oil Co. would be granted an exception from proposed amendments to 10 CFR 211.67 which provide for entitlements obligations for certain nonrefining uses of domestic crude oil.
Do	Sun Co., Inc., Dallas, Tex	DEE-1484	Price exception (sec. 212.165). If granted: Sun Co. Inc., would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Mercer plant.
Do	Time Oil Co, Washington, D.C	DRH-0083 and DRD-0083.	Motion for evidentiary hearing and motion for discovery. If granted: An evidentiary hearing would be convened in connection with Time Oil Co.'s objection to a proposed remedial order issued to Chevron U.S.A., Inc. Time Oil Co. would also be permitted to serve interrogatories on the DOE in connection with that proceeding.
Aug. 14, 1978	Estate of George H. Coates, Dallas, Tex	DXE-1482	Extension of relief granted in *Estate of George H. Coates*, case No. DXE-0688 (decided Apr. 20, 1978) (unreported decision). If granted: The estate of George H. Coates would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products.
Do	Estates of Inez and Loyce Phillips, Austin, Tex.	DXE-1491	Extension of relief granted in *Estates of Inez and Loyce Phillips*, case No. DXE-0545 (decided May 2, 1978) (unreported decision). If granted: The estates of Inez and Loyce Phillips would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products.
Do	El Paso Natural Gas Co., El Paso, Tex	DXE-1589 and DXE-1590.	Extension of relief granted in *El Paso Natural Gas Co.*, case Nos. DXE-0557 and DXE-0558 (decided Apr. 21, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Jal No. 4 and San Juan plants.
Do	Northland Oil & Refining Co., Tulsa, Okla.	DES-0096	Request for stay. If granted: Northland Oil & Refining Co. would be granted a stay of the entitlements purchase obligations pending a decision on its application for exception.
Do	Panhandle Eastern Pipeline Co., Houston, Tex.	DXE-1492, DXE-1493, and DXE-1494.	Price exception (sec. 212.165). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Interstate, North Richland, and Woods plants.
Aug. 15, 1978	Aminoil U.S.A., Inc., Houston, Tex	DXE-1495 through DXE-1500.	Extension of relief granted in *Aminoil U.S.A., Inc.*, case Nos. DXE-0623 through DXE-0628 (decided Apr. 25, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Aline, Fox, Huntington Beach, Inglewood, Taloga, and Tioga plants.
Do	Coline Gasoline Corp., Washington, D.C	DXE-1605	Extension of relief granted in *Coline Gasoline Corporation*, case No. DXE-0518 (decided Apr. 21, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Rincon plant.
Do	Diamond Shamrock Corp., Amarillo, Tex	DXE-1502	Extension of relief granted in *Diamond Shamrock Corporation*, case No. DXE-0614 (decided Apr. 25, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its McKee plant.
Do	Eagle Enterprises, Inc., Portland, Oreg	DRH-0078	Request for evidentiary hearing. If granted: An evidentiary hearing would be convened with respect to Eagle Enterprises, Inc.'s statement of objections to a proposed remedial order issued by DOE region X.
Do	Enkay Corp., Shreveport, La	DXE-1502	Extension of relief granted in *Enkay Corporation*, case No. DXE-0544 (decided Apr. 21, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its East Texas plant.
Do	H.W. Bass & Sons, Inc., Dallas, Tex	DXE-1503	Extension of relief granted in *H.W. Bass & Sons, Inc.*, case No. DXE-0543 (decided Apr. 21, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Walnut Bend plant.
Do	Howell Drilling, Inc., San Antonio, Tex	DRD-0075 and DRH-0075.	Motion for discovery and motion for evidentiary hearing. If granted: An evidentiary hearing would be convened with respect to the proposed remedial order issued to Howell Drilling, Inc., on June 22, 1978. Howell would also be allowed to serve interrogatories on DOE officials and examine documents related to the June 22 proposed remedial order.
Do	Homer T. Moore, Baton Rouge, La	DEE-1608	Price relief (sec. 212.73). If granted: Homer T. Moore would be permitted to sell the crude oil produced from the Eunice-Crowley lease, located in Acadian Parish, La., at upper tier ceiling prices.
Do	Robert W. O'Meara, New Orleans, La	DXE-1552	Extension of relief granted in *Robert W. O'Meara*, 1 DOE par. 81,074 (Feb. 17, 1978). If granted: Robert W. O'Meara would be permitted to sell crude oil produced from the Louisiana Fruit No. 2 lease at upper tier ceiling prices.
Do	Phillips Petroleum Co., Bartlesville, Okla	DXE-1554	Extension of relief granted in *Phillips Petroleum Company*, 1 DOE par. 81,107 (Apr. 11, 1978). If granted: Phillips Petroleum Co. would be permitted to sell the crude oil produced from the Foote lease, located in Oklahoma County, Okla., at upper tier ceiling prices.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Aug. 11 through Aug. 18, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Shell Oil Co., Houston, Tex	DXE-1504 through DXE-1521.	Extension of relief granted in *Shell Oil Company*, case Nos. FXE-4666, FXE-4687 FXE-4677, and FXE-4679 (decided Nov. 4, 1977) case No. DEE-1060 (decided Feb. 27, 1978) (unreported decision) case Nos. DXE-0592 through DXE-0595, DXE-0597 through DXE-0600, DXE-0602, DXE-0603, DXE-0607, DXE-0609 and DXE-0610 (decided Apr. 21, 1978) (unreported decisions). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Black Bayou, Bryans Mill, Camargo, Chalkley, Enville, Fashing, Grand Chenier, KNDU, Lirette, Mermentau, O'Keene, Prentice, Red Fish Bay, Tallahala, TXL, Van, Weeks Island, and West Seminole plants.
Do	Shell Oil Co., Houston, Tex	DEE-1522	Price exception (sec. 212.165). If granted: Shell Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas products produced at the Yates plant.
Do	Signal Petroleum, New Orleans, La	DXE-1523	Extension of relief granted in *Signal Petroleum*, case No. DXE-0735 (decided Apr. 20, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Lake Washington plant.
Do	Southland Royalty Co., Fort Worth, Tex	DXE-1555	Extension of relief granted in *Southland Royalty Company*, 1 DOE par. 81,100 (Mar. 22, 1978). If granted: Southland Royalty Co. would be permitted to sell the crude oil produced from the Aztec Totah unit, located in San Juan County, N. Mex., at upper tier ceiling prices.
Do	Standard Oil Co. (Indiana), Chicago, Ill	DXE-1524 through DXE-1529.	Extension of relief granted in *Standard Oil Co. (Indiana)*, case Nos. DXE-0647, DXE-0649, DXE-0650, DXE-0653, DXE-0654 and DXE-0656 (decided Apr. 20, 1978) (unreported decisions). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Cotton Valley, Luby, Old Ocean, South Pecan Lake, Thibodaux, and West Bastion Bay plants.
Do	Standard Oil Co. (Indiana) Chicago, Ill	DEE-1556	Price exception (sec. 212.165). If granted: Standard Oil Co. (Indiana) would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Ysclosky Gas Processing Plant.
Do	Tenneco Oil Co., Houston, Tex	DXE-1557	Extension of relief granted in *Tenneco Oil Company*, 1 DOE par. 81,109 (Apr. 11, 1978). If granted: Tenneco Oil Co. would be permitted to sell the crude oil produced from the South Coast unit, located in St. Mary's Parish, La. at upper tier ceiling prices.
Do	Union Oil Co. of California, Los Angeles, Calif.	DXE-1530 through DXE-1550.	Extension of relief granted in *Union Oil Co. of California*, case Nos. DXE-0759, DXE-0761 through DXE-0779 (decided on Apr. 25, 1978) (unreported decision) case No. DEE-0395 (decided May 3, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Bakke, Bryans Mill, Caddo, Carrick, Coalinga, Como, Cotton Valley, Dollarhide, Gillette, Houma, Kettleman Hills, Lisbon, Mermentau, North Okarche, Putnam Oswego, Santa Clara, Santa Maria, Stearns, Timbalier Bay, Van, and Warland plants.
Do	Well-Gas, Inc., of Texas, Dallas, Tex	DXE-1551	Extension of relief granted in *Well-Gas, Inc. of Texas*, case No. DXE-0555 (decided Apr. 4, 1978) (unreported decision). If granted: Well-Gas, Inc., of Texas, would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at the Possum Kingdom plant.
Aug. 16, 1978	Allied Chemical Corp., Houston, Tex	DXE-1561 through DXE-1565.	Extension of relief granted in *Allied Chemical Corporation*, case Nos. DXE-0540 through DXE-0542 (decided Apr. 25, 1978) (unreported decisions) case Nos. DEE-0323 through DEE-0324 (decided May 3, 1978) (unreported decisions). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Benedum, Chaney Dell, Sligo, Toca, and Walnut Bend plants.
Do	Atlantic Richfield Co., Dallas, Tex	DXE-1566 through DXE-1577.	Extension of relief granted in *Atlantic Richfield Company*, case Nos. DXE-0668 through DXE-0670, DXE-0672, DXE-0673, DXE-0678 through DXE-0681, DXE-0683 through DXE-0685 (decided Apr. 25, 1978) (unreported decisions). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Bayou Sale, Covington, Crane, Drumright, Eldorado, Midland, North Cowden, Nueces River, Price, Seminole, Spivey, and Swanson River plants.
Do	Continental Oil Co., Houston, Tex	DEE-1610	Price exception (sec. 212.165). If granted: Continental Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Fruita plant.
Do	Craft Petroleum Co., Jackson, Miss	DEE-1558 through DEE-1560.	Price exception (sec. 212.73). If granted: Craft Petroleum Co. would be permitted to sell the crude oil produced from the Bedford 33-11, Hodges 33-10, and Jackson 33-6 wells, located in Franklin County, Miss., at market prices.
Do	Kerr-McGee Corp., Oklahoma City, Okla	DXE-1591 through DXE-1594.	Extension of relief granted in *Kerr-McGee Corp.*, case Nos. DXE-0547 through DXE-0550 (decided Apr. 25, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Beaver, Beaver Creek, Maysville, and Pampa plants.
Do	P & M Petroleum Management, Denver, Colo.	DXE-1606	Price exception (sec. 212.73). If granted: P & M Petroleum Management would be permitted to sell the crude oil produced from the Track No. 1 well, located in Roosevelt County, Mont., at upper tier ceiling prices.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Aug. 11 through Aug. 18, 1978]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request made the records available to

and Veterinary Products Division, North Chicago, Ill. 60064, submitted a pesticide petition (PP 8G2056) to the Environmental Protection Agency

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Aug. 11 through Aug. 18, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Phillips Petroleum Co., Bartlesville, Okla	DEE-1596	Price exception (sec. 212.165). If granted: Phillips Petroleum Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Rollover plant.
Do	Standard Oil Co. (Indiana), Chicago, Ill	DXE-1597 through DXE-1603.	Extension of relief granted in *Standard Oil Co. (Indiana)*, case Nos. DXE-0645, DXE-0648, DXE-0657, DXE-0652, DXE-0834, DXE-0835 and DXE-0655 (decided Apr. 20, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Burnell-N. Pettus, Edgewood, Patterson, S. Gillock, S. Manchester, Toca and Vermillion plants.
Do	Suburban Propane Gas Corp., Morristown, N.J.	DXE-1604	Extension of relief granted in *Suburban Propane Gas Corporation*, case No. DEE-0321 (decided June 26, 1978) (unreported decision). If granted: Suburban Propane Gas Corp. would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at the Martha Berry plant.
Do	Continental Oil Co., Houston, Tex	DXE-1578 through DXE-1588.	Extension of relief granted in *Continental Oil Company*, case Nos. DXE-0630 through DXE-0640 (decided Apr. 25, 1978) (unreported decision). If granted: Continental Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at the Acadia, Burnell N. Pettus, Edmond, Hamlin, Maljamar, North Cowden, North Okarche, Rincon, Sussex, West Seminole, and West World plants.
Do	Northern Natural Gas Co., Omaha, Nebr	DXE-1595	Extension of relief granted in *Northern Natural Gas Co.*, case No. DXE-0734 (decided Apr. 21, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Martin County plants.
Aug. 17, 1978	Damson Oil Corp., Houston, Tex	DXE-1607	Extension of relief granted in *Damson Oil Corporation*, 1DOE par. 81,101 (Apr. 7, 1978). If granted: Damson Oil Corp. would be permitted to sell the crude oil produced from the Venice Beach lease at upper tier ceiling prices.
Do	Laketon Asphalt Refining, Inc., Evansville, Ind.	DEX-0103	Supplemental order. If granted: Laketon Asphalt Refining, Inc., would receive a stay of its entitlement purchase obligations during the period August 1, 1978, through January 31, 1979.
Do	McCulloch Gas Processing Corp., Washington, D.C.	DXE-1617 and DXE-1618.	Extension of relief granted in *McCulloch Gas Processing Corporation*, case Nos. DXE-0538, DXE-0539 (decided Apr. 25, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Gillette and Oedekoven plants.
Do	Piedmont Natural Gas Co., Inc., Greensboro, N.C.	DES-0098 and DST-0098.	Request for stay; request for temporary stay. If granted: Piedmont Natural Gas Co. would receive a stay of the DOE regulations which govern the allocation of propane pending a determination of certain petitions for regulatory relief which the firm has filed with the DOE Economic Regulatory Administration.

Notices of Objection Received Regarding Proposed Remedial Orders

Date	Name and location of applicant	Case No.
Aug. 15, 1978	C. D. Hollingsworth & Associates, Baton Rouge, La	DRO-0094

Notices of Objection Received Regarding Proposed Decisions on Applications for Exception

Aug. 11, 1978	Halliburton/Vessels Gas, Dallas, Tex	DXE-1403
Aug. 15, 1978	Texaco, Inc., Los Angeles, Calif	DEE-1004
Do	Continental Oil Co., Houston, Tex	FEX-0185
Aug. 17, 1978	Crystal Petroleum Co., Washington, D.C	FEE-4108
Do	Kerr-McGee Corp., Washington, D.C	FEE-1074

[FR Doc. 78-26360 Filed 9-19-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL971-5; PP 8G2040/T165]

ESTABLISHMENT OF TEMPORARY TOLERANCES

Pendimethalin

American Cyanamid Co., Agricultural Division, P.O. Box 400, Princeton, N.J. 08540, submitted a pesticide petition (PP 8G2040) to the Environmental Protection Agency (EPA). This petition requested that temporary tolerances be established for residues of the herbicide pendimethalin (*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitro- benzeneamine) in or on the raw agricultural commodities sorghum grain, fodder, and forage at 0.1 part per million (ppm).

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerances were adequate to cover residues resulting from the proposed experimental use, and it was determined that the temporary tolerances would protect the public health. The temporary tolerances have been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. American Cyanamid Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request made the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire August 24, 1979. Residues not in excess of 0.1 ppm remaining in or on sorghum grain, fodder, and forage after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, East Tower, 401 M Street SW., Washington, D.C. 20460, 202-426-2632.

(Sec. 408(j), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j).))

Dated: September 14, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-26452 Filed 9-19-78; 8:45 am]

[6560-01]

[FRL 971-4; PP 8G2056/T163]

ESTABLISHMENT OF A TEMPORARY EXEMPTION FROM THE REQUIREMENT OF A TOLERANCE

Phytophora Citrophthora MWV Isolate

Abbott Laboratories, Agricultural and Veterinary Products Division, North Chicago, Ill. 60064, submitted a pesticide petition (PP 8G2056) to the Environmental Protection Agency (EPA). This petition requested that a temporary exemption from the requirement of a tolerance be established for residues of the spores *Phytophora citrophthora* MWV isolate (140,000 spores per gram of *Phytophora citrophthora* (milkweed vine race which is equivalent to 6.36×107 spores per pound) (ABG-5001)) when used as a mycoherbicide on citrus fruits.

This temporary exemption from the requirement of a tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Based on an evaluation of the scientific data reported and other relevant material, it was concluded that the requested exemption from the requirement of a tolerance would protect the public health. The temporary exemption has been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Abbott Laboratories must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribu-

tion, and performance and on request make the records available to any authorized officer or employee of the

cations for pesticide registration listed below. In some cases these applications have recently been received; in

The Interim Policy Statement requires that claims for compensation be filed on or before November 20, 1978.

Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 2831-AA. Napasco International, P.O. Box 1219, Thibodaux, La. 70301. [3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.191%; Other isomers 0.009%. Piperonyl butoxide technical 1.000%. Petroleum distillate 98.800%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 2831-AE. Napasco International, P.O. Box 1219, Thibodaux, La. 70301. [3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.143%; Other isomers 0.007%. Petroleum distillate 9.250%. Method of support: Application proceeds under 2(b) of interim policy. PM17

tion, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary exemption from the requirement of a tolerance expires August 21, 1980. Residues of the pesticide remaining in or on citrus fruits after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and the temporary exemption. This temporary exemption may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. George LaRocca, Acting Product Manager (PM) 23, Registration Division (TS-767), Office of Pesticide Programs, East Tower, 401 M Street SW., Washington, D.C. 20460, 202-755-2196.

(Sec. 408(j), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: September 14, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-26453 Filed 9-19-78; 8:45 am]

[6560.01]

[FRL 971-3; OPP-33000/556 & 557]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data to be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application (41 FR 3339). This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement which were effected by the enactment of the amendments to FIFRA on November 28, 1975 (Pub. L. 94-140), and the regulations governing the registration and reregistration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street SW., Washington, D.C. 20460. In the case of applications subject to the section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, are being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data and wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, or (d) wishes to assert confidential status under section 10 for his data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated product manager (PM), Registration Division (TS-767), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 12 and 16—202-755-9315.
PM 21 and 22—202-426-2454.
PM 24—202-755-2196.
PM 31 and 32—202-426-2635.
PM 15 and 17—202-426-9427.
PM 23—202-755-1397.
PM 25—202-426-2632.

The Interim Policy Statement requires that claims for compensation be filed on or before November 20, 1978. EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under section 10 of FIFRA, as amended, should be made on or before October 20, 1978. Registration will be delayed pending resolution of section 10 claims.

Dated: September 14, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATION RECEIVED 33000/556

EPA Reg. No. 1016-80. Union Carbide Corp., Agricultural Products Division, 7825 Bay Meadows Way, Jacksonville, Fla. 32216. TEMIK 10% GRANULAR. Active ingredients: Aldicarb [2-methyl-2-(methylthio) propionaldehyde O-(methylcarbamoyl)-oxime] 10%. Method of support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM12

EPA File Symbol 1258-N. Chemical Specialties, Olin Corp., 120 Long Ridge Road, Stamford, Conn. 06904. TRIADINE-10. Active ingredients: Sodium 2-pyridinethiol-1-oxide 6.4%; Hexahydro-1,3,5-tris (2-hydroxyethyl)-S-Triazine 63.6%. Method of support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 1409-UA. Roberts Consolidated Industries, City of Industry, Calif. 91749. SSC-909 SAP STAIN CONTROL. Active ingredients: Potassium pentachlorophenate 31.2%; Potassium tetrachlorophenate 4.3%. Method of support: Application proceeds under 2(b) of interim policy. Republished: Amendment. PM21

EPA File Symbol 2019-GR. Gaston Johnston Corp., 24-64 45th Street, Long Island City, N.Y. 11103. NO-ROACH II QUALITY INSECT SPRAY. Active ingredients: Tetramethrin [*N*-(hydroxymethyl)-1-cyclohexene-1,2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate] 0.250%; 3-phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarbox- ylate 0.143%; Other isomers 0.007%; Petroleum distillate 9.250%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 2596-AU. Hartz Mountain Corp., 700 South Fourth Street, Harrison, N.J. 07029. HARTZ DOG FLEA & TICK KILLER. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%; N-octyl bicycloheptene dicarboximide 0.220%; 2,3,4,5 bis (2-butylene) tetrahydro-2-furaldehyde 0.200%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 2596-AL. Hartz Mountain Corp. HARTZ CAT FLEA & TICK KILLER. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%; N-octyl bicycloheptene dicarboximide 0.220%; 2,3,4,5 bis (2-butylene) tetrahydro-2-furaldehyde 0.200%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 2831-AA. Napasco International, P.O. Box 1219, Thibodaux, La. 70301. INSECT BOMB. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecar- boxylate 0.200%; Related compounds 0.028%; d-trans Allethrin (allyl homolog of Cinerin I) 0.150%; Related compounds 0.012%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 2986-EG. Atlantic Chemicals, Inc., P.O. Box 13085-A, Orlando, Fla. 32859. ATCO 442. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.500%; Related compounds 0.068%; Aromatic petroleum hydrocarbons 0.662%; Petroleum distillate 98.750%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 4000-TG. Southern Chemical Products Co., P.O. Box 205, Macon, Ga. 31202. PYRETHROID 2515 FLYING INSECT KILLER FOR HOUSEHOLD AND INSTITUTIONAL USE ONLY. Active ingredients: Tetramethrin [*N*-(hydroxymethyl)-1-cyclohexene-1,2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate] 0.250%; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.143%; Other isomers 0.007%; Petroleum distillate 9.250%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 4000-TU. Southern Chemical Products Co. PYRETHROID 22 INSECT KILLER FOR HOUSEHOLD USE ONLY. Active ingredients: Tetramethrin [*N*-(hydroxymethyl)-1-cyclohexene-1,2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecart oxylate] 0.200%; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarbox- ylate 0.191%; Other isomers 0.009%; Petroleum distillate 9.250%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 4682-9. Wilbert Products Co., Inc., 805 East 139th Street, Bronx, N.Y. 10454. WILBERT BRAND ROOM DEODORIZER SPRAY DISINFECTANT. Active ingredients: 0-phenylphenol 0.1%; N-Alkyl (C14 1%, C16 25%, C18 8%, C18 66%)-N-Ethyl Morpholinium ethylsulfate 0.03%; Alcohol 67.87%; Essential oils 0.2%. Method of support: Application proceeds under 2(b) of interim policy. Republished: Formula change. PM32

EPA File Symbol 4816-LUT. Fairfield American Corp., 3932 Salt Road, Medina, N.Y. 14103. TETRALATE 0.25-0.25 INSECTICIDE. Active ingredients: Tetramethrin 0.250%; Related compounds 0.035%; (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.045%; Aromatic petroleum hydrocarbons 8.445%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 5719-TE. Chacon Chemical Corp., Leisure Enterprises, Inc., 2600 Yates Avenue, City of Commerce, Calif. 90040. CHACON HOUSEHOLD INSECT. Active ingredients Tetramethrin [*N*-(hydroxymethyl) -1-cyclohexene-1,2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopro-panecarboxylate 0.191%; Other isomers 0.009%; Petroleum distillate 9.250%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 5736-AA. DuBois Chemicals, Division of Chemed Corp., Research Laboratory, 3630 East Kemper Road, Sharonville, Ohio 45241. GIS 20. Active ingredients: Tetramethrin [N-(hydroxymethyl)-1-cyclohexene- 1,2-dicarboximide 2,2-dimethyl-3- (2-methylpropenyl) cyclopropanecarboxylate 0.200%; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.191%; Other isomers 0.009%; Petroleum distillate 9.250%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 5887-RRU. Black Leaf Products, 667 North State Street, Elgin, Ill. 60120. BLACK LEAF HOUSE & GARDEN PRESSURIZED SPRAY INSECT KILLER. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 5887-RRL. Black Leaf Products. BLACK LEAF FLY & MOSQUITO KILLER PRESSURIZED SPRAY INSECT BOMB. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%: Related compounds 0.028%: d-trans Allethrin (allyl homolog of Cinerin I) 0.150%: Related compounds 0.012%; Aromatic petroleum hydrocarbons 0.272%; Petroleum distillate 6.500%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 7173-RTO. Chempar Chemical Co., Inc., 260 Madison Avenue, New York, N.Y. 10016. ROZOL MEADOW VOLE BAITS. Active ingredients: 2-[(p-chlorophenyl) phenylacetyl]-1,3-Indandione 0.005%. Method of support: Application proceeds under 2(b) of interim policy. PM16

EPA File Symbol 7273-RN. Crown Chemicals, P.O. Box 7532, Rockford, Ill. 61103. PY-FLY II WITH SYNTOX. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.331%; Petroleum distillate 99.375%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 7969-46. BASF Wyandotte Corp., 100 Cherry Hill Road, Parsippany, N.J. 07054. BASALIN. Active ingredients: Fluchloralin [N-(2-chloroethyl)-*a,a,a*-trifluoro-2,6-dinitro- (N-propyl-*p*-toluidine) 43.0%. Method of support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM25

EPA File Symbol 7992-I. TNT Chemicals Inc., 7301 Northwest, 77th Street, Miami, Fla. 33166. TNT HOUSEHOLD FLYING INSECT KILLER. Active ingredients: Tetramethrin [*N*-(hydroxymethyl)-1-cyclohexene-1,2-dicarboximide 2,2-diethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.143%; Other isomers 0.007%; Petroleum distillate 9.250%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 7992-ER. TNT Chemicals Inc. HOUSEHOLD TNT INSECT KILLER. Active ingredients: Tetramethrin [*N*-(hydroxymethyl)-1-cyclohexene-1,2-dicarboximide 2,2-diethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.191%; Other isomers 0.009%; Petroleum distillate 9.250%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 8118-U. Spitzer Chemical & Pool Supply, 36 Frederick Road, Funkstown, Md. 21734. SODIUM HYPOCHLORITE SOLUTION. Active ingredients: Sodium Hypochlorite 9.2%. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 8730-RL. Herculite Products, Inc., Herculite Protective Fabrics Corp., 1107 Broadway, New York, N.Y. 10010. HERCON LURETAPE COTTON BOLL WEEVIL. Active ingredients: Grandlure (+)-Z-2-Isopropenyl-1-methylcyclobutaneethanol 1.0%: Z-3,3-dimethyl-delta 1-cyclohexaneethanol 1.3%; Z-3,3-dimethyl-delta 1-cyclohexaneacetaldehyde 0.5%; *E*-3,3-dimethyl-delta 1-cyclohexaneacetaldehyde 0.5%. Method of support: Application proceeds under 2(a) of interim policy. PM17

EPA File Symbol 8848-GE. Safeguard Chemical Corp., 739 East 144th Street, Bronx, N.Y. 10454. SAFEGUARD CHEMICAL CORPORTATION FLYING INSECT KILLER. Active ingredients: Tetramethrin [*N*-(hydroxymethyl)-1-cyclohexene-1,2-dicarboximide 2,2-diethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.191%; Other isomers 0.009%; Petroleum distillate 9.250%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 9591-GI. Nationwide Chemical Products, P.O. Box 3027, Hamilton, Ohio 45013. PRO-KILL ROACH, FLY & SPACE SPRAY. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.331%; Petroleum distillate 99.375%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 9591-GA. Nationwide Chemical Products. PRO-KILL FOGGING INSECTICIDE 002. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%; Related compounds 0.027%; Aromatic petroleum hydrocarbons 0.265%; Petroleum distillate 99.500%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 9591-GT. Nationwide Chemical Products. PRO-KILL INSECTICIDE SPRAY 001. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropane- carboxylate 0.100%; Related compounds 0.014%;

Aromatic petroleum hydrocarbons 0.132%; Petroleum distillate 99.750%. Method of support: Application proceeds under 2(b) of interim policy. PM17

od of support: Application proceeds under 2(b) of interim policy. PM17

phosate 41.0%. Method of support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM25

other cases, applications have been amended by the submission of additional supporting data, the election of

pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries

leum distillate 99.750 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

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Aromatic petroleum hydrocarbons 0.132%; Petroleum distillate 99.750%. Method of support: Application proceeds under 2(b) of interim policy. PM17

APPLICATION RECEIVED 33000/557

EPA Reg. No. 100-437. CIBA-GEIGY Corp., P.O. Box 11422, Greensboro, N.C. 27409. PRINCEP 80W. Active ingredients: Simazine: 2-chloro-4,6-bis (ethylamino)-s-striazine 80%. Method of support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM24

EPA File Symbol 100-LOT. CIBA-GEIGY Corp. DUAL 8E HERBICIDE. Active ingredients: Metolachlor (2-chloro-N-(2-ethyl-b-methylphenyl)-N-(2-methoxy-1-methylethyl) acetamide 86.4%. Method of support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM23

EPA Reg. No. 168-272. Wasatch Chemcal Division, 19795 7W, P.O. Box 6219, Salt Lake City, Utah 84106. MALATHION 5 EMULSIFIABLE. Active ingredients: Malathion (0,0-dimethyl dithiophosphate of diethyl mercaptosuccinate) 57.00%; Aromatic petroleum derivatives 35.00%. Method of support: Application proceeds under 2(b) of interim policy. PM16

EPA Reg No. 239-2211. Chevron Chemical Co., Ortho Division, 940 Hensley Street, Richmond, Calif. 94804. ORTHO DIFOLATAN 4 FLOWABLE DISEASE CONTROL IN CARROTS. Active ingredients: Captafol 39%. Method of support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM21

EPA File Symbol 270-RGO. Farnam Cos., Inc., 2230 East Magnolia Street, Phoenix, Ariz. 85036. COUNTRY DOG FLEA & TICK SHAMPOO II. Active ingredients: N-(Hydroxymethyl)-1-cyclohexene-1,2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.025%; 3-phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.075%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 279-1512. FMC Corp., Agriculture Chemical Division, 2000 Market Street, Philadelphia, Pa. 19103. SEVIN 50 WETTABLE POWDER. Active ingredients: Carbaryl (1-napthyl N-methylcabamate) 50.00%. Method of support: Application proceeds under 2(b) of interim policy. Republished: Amendment. PM12

EPA File Symbol 334-UUI. Hysan Corp., 919 West 38th Street, Chicago, Ill. 60609. HYSAN FLYING INSECT KILLER 25. Active ingredients: Tetramethrin [N-(hydroxymethyl)-1-cyclohexene-1,2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate] 0.250%; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.143%; Other isomers 0.007%; Petroleum distillate 9.250%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 334-UUO. Hysan Corporation HYSAN FLYING INSECT KILLER 20. Active ingredients: Tetramethrin [N-(hydroxymethl)-1-cyclohexene-1,2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate] 0.200%; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.191%; Other isomers 0.009%; Petroleum distillate 9.250%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 464-UAU. Dow Chemical Co., Box 1706, Midland, Mich. 48640. TERMITOCIDE CONCENTRATE FOR CONTROL OF SUBTERRANEAN TERMITES. Active ingredients: Chlorpyrifos (0,0-diethyl 0-3,5,6-trichloro-2-pyridyl) phosphorothioate] 41.2%; Xylene 29.5%. Method of support: Application proceeds under 2(b) of interim policy. PM12

EPA File Symbol 478-OG. Realex Corp., 2500 Summit, P.O. Box 78, Kansas City, Mo. 64141. REAL-KILL HOUSEHOLD FLYING INSECT KILLER. Active ingredients: Tetramethrin [N-(hydroxymethyl)-1-cyclohexene-1,2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; 3-Pheneoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.143%; Other isomers 0.007%; Petroleum distillate 9.250%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 499-RII. Whitmire research Laboratories, Inc., 3568 Tree Court Industrial Boulevard, St. Louis, Mo. 63122. WHITMIRE PRESCRIPTION TREATMENT NO. 120. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylprophenyl) cyclopropanecarboxylate 2.00%. Method of support: Application proceeds under 2(b) of interim policy.PM17 2(b) of interim policy. PM17

EPA File Symbol 499-RIO. Whitmire Research Laboratories, Inc. WHITMIRE PRESCRIPTION TREATMENT NO. 600. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 499-RON. Whitmire Research Laboratories, Inc. WHITMIRE PRESCRIPTION TREATMENT NO. 601. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.331%; Petroleum distillate 6.500%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 499-ROR. Whitmire Research Laboratories, Inc. WHITMIRE PRESCRIPTION TREATMENT NO. 605. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.350%; Related compounds 0.048%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 499-ROE. Whitmire Research Laboratories, Inc. WHITMIRE PRESCRIPTION TREATMENT NO. 620. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%; Related compounds 0.027%; d-trans Allethrin (allyl homolog of Cinerin I) 0.125%; Related compounds 0.009%; Aromatic petroleum hydrocarbons 0.265%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 524-308. Monsanto Co., 800 North Lindbergh Boulevard, St Louis, Mo. 63166. ROUND UP HERBICIDE. Active ingredients: Isopropylamine salt of Glyphosate 41.0%. Method of support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM25

EPA Reg. No. 618-75. Merck & Co., Inc., P.O. Box 2000, Rahway, N.J. 07065. MERTECT 340-F FUNGICIDE. Active ingredients: 2-(4-thiazolyl) benzimidazole 42.28%. Method of support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM21

EPA File Symbol 2596-AA. Hartz Mountain Corp., 700 South Fourth Street, Harrison, N.J. 07029. HARTZ DOG FLEA & TICK KILLING SPRAY. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%; N-Octyl bicycloheptene dicarboximide 0.200%; 2,3,4,5 bis (2-butylene Tetrahydro-2-furaldehyde 0.200%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 7056-OU. CSA Limited, Inc., P.O. Box 38073, Houston, Tex. 77088. CSA INDOOR/OUTDOOR INSECT KILLER No. 3. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%; Related compounds 0.028%; d-trans Allethrin (allyl homolog of Cinerin I) 0.150%; Related compounds 0.012%; Aromatic petroleum hydrocarbons 0.272%; Petroleum distillate 6.500%. Method of support: Application proceeds under 2(b) of interim policy. PM17

[FR Doc. 78-26450 Filed 9-19-78; 8:45 am]

[6560-01]

[FRL 971-2; OPP-33000/558]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered In Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement which were effected by the enactment of the amendments to FIFRA on November 28, 1975 (Pub. L. 94-140), and the regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street SW., Washington, D.C. 20460. In the case of applications subject to the section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the interim policy statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, are being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data and wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, or (d) wishes to assert confidential status under section 10 for his data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (TS-767), office of pesticide programs, at the above address, or by telephone as follows:

PM 12 and 16—202/755-9315
PM 21 and 22—202/426-2454
PM 24—202/755-2196
PM 31 and 32—202/426-2635
PM 15 and 17—202/426-9427
PM 23—202/755-1397
PM 25—202/426-2632

The Interim Policy Statement requires that claims for compensation be filed on or before November 20, 1978. EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under section 10 of FIFRA, as amended, should be made on or before October 20, 1978. Registration will be delayed pending resolution of section 10 claims.

Dated: September 14, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED 33000/558

EPA file symbol 2230-UI. Warsaw Chemical Co., Inc., P.O. Box 658, Warsaw, Ind. 46580. Sodium Hypochlorite. Active ingredients: Sodium Hypochlorite 12.5 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA file symbol 5736-AT. Dubois Chemicals, Research Laboratory, 3630 East Kemper Road, Sharonville, Ohio 45241. Flying Insect Killer. Active ingredients; Tetramethrin [N-(hydroxymethyl)-1-cyclohexane-1, 2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate] 0.25 percent; 3-phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopro- panecarboxylate 0.143 percent; other isomers 0.007 percent; Petroleum distillate 9.250 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA file symbol 10282-I. Venus Labs, 855 Lively, Wood Dale, Ill. 60101. Residual Insect Killer. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-)2-methylpropenyl) cyclopropanecarboxylate 0.250 percent; Related compounds 0.048 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA file symbol 10807-AR. Aero Mist, Inc., 990 Industrial Park Drive, Marietta, Ga. 30062. Misty Dualcide. Active ingredients: Tetramethrin [N-(hydroxymethyl)-1-cyclohexene-1,2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate] 0.200 percent; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropane- carboxylate 0.191 percent; Other isomers 0.009 percent; Petroleum distillate 9.250 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 11265-15. Seymour Chemical Associates, Inc., 1909 Arbor Avenue, Highland Park, Ill. 60035. CU-8-10-WP. Active ingredients: Copper 8 quinolinolate 10 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA file symbol 11525-GG. Peterson/Puritan, Inc., Hegeler Lane, Danville, Ill. 61832. P/P Insecticide No. 32. Active ingredients; (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.500 percent; Related compounds 0.068 percent; Aromatic petroleum hydroarbons 0.664 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA file symbol 11525-GU. Peterson/Puritan, Inc. P/P Insecticide No. 33. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.100 percent; Related compounds 0.014 percent; Aromatic petroleum hydrocarbons 0.132 percent; Petroleum distillate 99.750 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA file symbol 11525-GA. Peterson/Puritan, Inc. P/P Insecticide No. 35. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200 percent; Related compounds 0.027 percent; d-trans Allethrin (allyl homolog of Cinerin I) 0.125 percent; Related compounds 0.009 percent; Aromatic petroleum hydrocarbons 0.265 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA file symbol 11525-GT. Peterson/Puritan, Inc. P/P Insecticide No. 36. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200 percent; Related compounds 0.028 percent; d-trans Allethrin (allyl homolog of Cinerin I) 0.400 percent; Related compounds 0.030 percent; Aromatic petroleum hydrocarbons 0.272 percent; Petroleum distillate 6.500 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA file symbol 11525-GI. Peterson/Puritan, Inc. Multicide Intermediate 2084. Active ingredients: Tetramethrin [N-(hydroxy-methyl)-1,2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate] 0.250 percent; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropane- carboxylate 0.143 percent; Other isomers 0.007 percent; Petroleum distillate 9.250 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA file symbol 11525-GO. Peterson/Puritan, Inc. P/P Household Insect Killer No. 38. Active ingredients: Tetramethrin [N-(hydroxymethyl)-1-cyclohexene-1,2-dicarboximide 2,2-dimethyl-3-(2-methyl-propenyl) cyclopropanecarboxylate] 0.200 percent; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopro- panecarboxylate 0.191 percent; Other isomers 0.009 percent; Petroleum distillate 9.250 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA file symbol 11598-GN. Connecticut Aerosols, Inc., 85 Furniture Row, Milford, Conn. 06460. Flying Cal Insect Killer No. 2 for Household Use only. Active Ingredients: Tetramethrin [N-(hydroxymethyl)-1-cyclohexene-1,2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate] 0.200 percent; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopro- panecarboxylate 0.191 percent; Other isomers 0.009 percent; Petroleum distillate 9.250 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA file symbol 11598-GR. Connecticut Aerosols, Inc. Household Cal Insect Killer For Household Use Only. Active ingredients: Tetramethrin [N-(hydroxymethyl)-1-cyclohexene-1,2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate] 0.250 percent; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.143 percent; Other isomers 0.007 percent; Petroleum distillate 9.250 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA file symbol 11623-RR. Apollo Industries, Inc., 4480 Frederick Drive SW., Atlanta, Ga. 30336. Apollo Flying Insect

Killer No. II. Active ingredients: Tetramethrin [N-(hydroxymethyl)-1—cyclohexene-1,2-dicarboximide 2,2-dimethyl-3-(2-

Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA file symbol 36999-GE. B & M Interna-

EPA file symbol 41978-R. Wecco, Inc., 427 Erlanger Road, P.O. Box C, Erlanger, Ky. 41018 Aqua Pure. Active ingredients:

5. The term "License" is replaced by the term "Permit."

Branch (WH-553), Monitoring and Data Support Division, Office of Water Planning and Standards, U.S.

II. PROPOSED IDENTIFICATION AND IMPLEMENTATION INFORMATION

Killer No. II. Active ingredients: Tetramethrin [*N*-(hydroxymethyl)-1—cyclohexene-1,2-dicarboximide 2,2-dimethyl-3-(2-methylpropeny) cyclopropanecar- boxylate] 0.200 percent; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.191 percent; Other isomers 0.009 percent, Petroleum distillate 9.250 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA file symbol 12264-RU. Allstate Chemical Corp., Box 7482-A, Houston, Tex. 77008. SS-400 Insecticide With SBP-1382. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250 percent; Related compounds 0.034 percent; Aromatic petroleum hydrocarbons 0.331 percent; Petroleum distillate 99.375 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA file symbol 12310-RO. Misco International Chemicals, Inc., 1021 South Noel Avenue, Wheeling, Ill. 60090. Non-Residual Space Spray Insect Killer. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250 percent; Related compounds 0.034 percent; Aromatic petroleum hydrocarbons 0.331 percent; Petroleum distillate 99.375 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA file symbol 31268-RU. Johnson Hayworth Chemicals Co., 705 South Catherine, La Grange, Ill. 60525. J-H No. 6-SBP 1382 Insecticide. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecar- boxylate 0.500 percent; Related compounds 0.068 percent; Aromatic petroleum hydrocarbons 0.662 percent; Petroleum distillate 98.750 percent. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA file symbol 34269-G. Poolside Services, Inc., 121 East Country Road, St. Paul, Minn. 55117. Aqua—Brite. Active ingredients: Sodium hypochlorite 12.5 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA file symbol 35576-R. Enterprise Products, 901 East 3rd Street, Los Angeles, Calif. 90013. Boot Hill Swatter Flying Insect Killer. Active ingredients: Tetramethrin [*N*-(hydroxymethyl)-1-cyclohexene-1,2-dicarboximide 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecar- boxylate] 0.250 percent; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methyl- propenyl) cyclopropanecarboxylate 0.143 percent; Other isomers 0.007 percent; Petroleum distillate 9.250 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA file symbol 36991-E. Chautauqua Swimming Pool & Service, 350 Baker Street, Jamestown, N.Y. 14701. Sodium Hypochlorite 12. Active ingredients: Sodium hypochlorite 12.5 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA file symbol 36999-I. B & M International, Inc., P.O. Box 1116, Thibodaux, La. 70301. Spot Kill Insect Spray. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200 percent; Related compounds 0.028 percent; d-trans Allethrin (allyl homolog of Cinerin I) 0.150 percent: Related compounds 0.012 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA file symbol 36999-GE. B & M International, Inc. Aqua Blast Residual Insert Spray. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.350 percent; Related compounds 0.048 percent. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA file symbol 37471-R. Neptune Pool Service, Inc., 4832 Candia Street, Cape Coral, Fla. 33904. Sodium Hypochlorite Solution. Active ingredients: Sodium hypochlorite 9.2 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA file symbol 38942-R. Swimpul Service, 2815 Genesee Street, Cheektowaga, N.Y. 14225. Swim Chlor. Active ingredients: Sodium hypochlorite 12.5 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA file symbol 41619-R. E.J. Miller & Sons Pool Co., RD No. 2, Box 282, Mifflinburg, Pa. 17844. E.J. Miller & Sons Pool Co. Active ingredients: Sodium hypochlorite 12.5 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA file symbol 41944-R. Critzer, Inc., 10521 SW. 185 Terrace, Miami, Fla. 33157. Swim Chlor Chlorinating Solution. Active ingredients: Sodium hypochlorite 9 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA file symbol 41969-R. Florida Pool Service, Inc., 2511 Stirling Road, Fort Lauderdale, Fla. 33314. Pool Chlor. Active ingredients: Sodium hypochlorite 9.2 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA file symbol 41970-R. Gorman Co., Inc., 2722 NW. 31st Avenue, Fort Lauderdale, Fla. 33310. Gorman Pool Services. Active ingredients: Sodium hypochlorite 9.2 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA file symbol 41971-R. North Industrial Chemicals, 609 East King Street, York, Pa. 17403. Sodium hypochlorite solution. Active ingredients: Sodium hypochlorite 12.5 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA file symbol 41972-R. Pool Plaza, Inc., 20 Stone Road, Rochester, N.Y. 14616. Pool Plaza Chlor-A-Gard. Active ingredients: Sodium hypochlorite 12.5 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA file symbol 41973-R. Jim Rodgers Pools, Inc., 805 NE. 125th Street, North Miami, Fla. 33161. J-Chlor Pool Disenfectant. Active ingredients: Sodium hypochlorite 9.2 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA file symbol 41974-R. Singer Island Hardware & Gifts, 1217 East Blue Heron Boulevard, Singer Island, Fla. 33404. Singer Island Hardware and Gifts. Active ingredients: Sodium hypochlorite 9.2 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA file symbol 41977-R. Universal/Landon of Florida, Pool Products, Inc., 1014 NE. 44th Street, Fort Lauderdale, Fla. 33334. Sodium Hypochlorite Solution. Active ingredients: Sodium hypochlorite 9.2 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA file symbol 41978-R. Wecco, Inc., 427 Erlanger Road, P.O. Box C, Erlanger, Ky. 41018 Aqua Pure. Active ingredients: Sodium hypochlorite 12.5 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA file symbol 41985-R Perrine Ace Hardware & Paint, Inc., 9850 Datura Street, Perrine, Fla. 33157. Perrine Hardware Chlorinating Solution. Active ingredients: Sodium hypochlorite 9 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA file symbol 41986-R. Westwood Hardware, 10941 SW. 40th Street, Miami, Fla. 33165. Westwood Chlorinating Solution. Active ingredients: Sodium hypochlorite 9 percent. Method of support: Application proceeds under 2(b) of interim policy. PM34

EPA file symbol 42113-R. Albar Co., 2016 East 56th Street, Savannah, Ga. 31404. Z-1. Active ingredients: N,N-diethyltoluamide 15 percent; Meta isomer 14.25 percent; Other isomers .75 percent. Method of support: Application proceeds under 2(a) of interim policy. PM17

[FR Doc. 78-26451 Filed 9-19-78 8:45 am]

[6560-01]

[FRL 970-8; OPP-42035B]

STATE OF OKLAHOMA

State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides; Approval Status

Section 4(a)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.) and the implementing regulations of 40 CFR part 171, require each State desiring to certify applicators to submit a plan for such purpose, subject to approval by the Environmental Protection Agency (EPA). On January 19, 1977, the Oklahoma State plan was approved contingent upon enactment of proposed legislation and subsequent promulgation of regulations necessary to implement the plan. Notice of contingent approval was published in the FEDERAL REGISTER on January 31, 1977 (42 FR 5719). Subsequently, on June 6, 1978 necessary legislation was enacted and implementing regulations promulgated. The amended State Plan incorporates the following changes from the contingency plan:

1. Written examinations will not be required of private applicators.
2. The dealer permit requirement has been deleted.
3. Four (4) subcategories are added to category number seven (7), the industrial, institutional, structural, and health related pest control category:
   (a) General pest.
   (b) Termite control.
   (c) Fumigation.
   (d) Food processing.
4. Two (2) categories of commercial and noncommercial applicators are added:
   (11) Bird and predatory animal control.
   (12) Timber treating.
5. The term "License" is replaced by the term "Permit."
6. Right of entry for pesticide establishment inspection is added.

These relatively minor revisions were necessary to make the State plan consistent with the final version of the Oklahoma pesticide laws and rules. None of the changes substantially affect the State's basic program or its ability to effectively implement the State plan. Nor do they affect the issues which EPA considers in deciding whether or not to approve a State plan.

Having reviewed the legislation and regulations and finding that all requisite legal authorities required by FIFRA and 40 CFR part 171 are now enacted and promulgated, the Regional Administrator, EPA, Region VI, gives notice that the Oklahoma State plan is now a fully approved State plan.

Dated: September 6, 1978.

ADLENE HARRISON,
Regional Administrator.
EPA, Region 6.

[FR Doc. 78-26454 Filed 9-19-78; 8:45 am]

[6560-01]

[FRL 970-4]

TOTAL MAXIMUM DAILY LOADS UNDER CLEAN WATER ACT

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The purpose of this notice is to propose for public comment an identification of polutants suitable for total maximum daily load calculations pursuant to the Clean Water Act. The Act requires EPA to develop and publish information "on and the identification of pollutants suitable for maximum daily load measurement correlated with the achievement of water quality objectives." EPA is proposing to identify all pollutants, under proper technical conditions, as being suitable for the calculation of total maximum daily loads. Within 180 days after EPA publishes its final identification, which will occur after consideration of comments on this notice, the Act requires each State to submit its first identification of waters requiring total maximum daily loads and its first load calculations.

DATE: Written public comments should be submitted to the person listed immediately below on or before November 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Tim S. Stuart, Chief, Monitoring Branch (WH-553), Monitoring and Data Support Division, Office of Water Planning and Standards, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone 202-426-7766.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

Section 304(a)(2)(D) (33 U.S.C. § 1314(a)(2)(D)) of the Clean Water Act (33 U.S.C. § 1251 et seq.) required that EPA publish an identification of pollutants suitable for total maximum daily load (TMDL) calculation within 1 year of the enactment of the 1972 amendments to the Act. On October 26, 1973, EPA published a notice of availability (38 FR 29646) of a two-Volume document containing a draft identification of pollutants potentially suitable for TMDL calculations. The draft identification was never finalized.

EPA has not considered such finalization a matter of high priority, because many of the practical results of such an action are being accomplished in any event through the State water quality management planning process under sections 208 and 303(e) of the Act (33 U.S.C. 1288 and 1313(e)). In particular, EPA's regulations at 40 CFR 131.11 (f) and (g) include TMDL calculations and waste load allocations as part of State water quality management plans.

On June 20, 1978, however, the U.S. District Court for the District of Columbia in *Board of County Commissioners of Calvert County, et al.* v. *Costle, et al.* (No. 78-0572) issued an order requiring EPA to publish a final identification under section 304(a)(2)(D) within 180 days. EPA is accordingly issuing this proposal today. Since final identification under section 304(a)(2)(D) triggers the requirement under section 303(d) that States or, in certain instances EPA, calculate TMDL's, it is imperative to consider implementation issues before a final identification. EPA realizes that care must be taken to fashion its requirements so as to have the least disruptive effect on ongoing State programs designed to meet water quality objectives.

Accordingly, EPA's proposed identification would make the requirement for establishment of TMDL's part of the States' ongoing section 208 and section 303 planning processes. The identification should therefore not require States which are carrying out their functions under sections 208 and 303 to devote additional resources to waste load allocations and TMDL development. Priority ranking systems (discussed in part II.C) will be established to keep the development of TMDL's within available resources.

II. PROPOSED IDENTIFICATION AND IMPLEMENTATION INFORMATION

A. IDENTIFICATION

EPA's proposed identification is as follows: All pollutants, under the proper technical conditions, are suitable for the calculation of total maximum daily loads.

The Agency believes that under the proper technical conditions TMDL's and waste load allocations can be developed for all pollutants. The requirements to perform TMDL's will be adjusted according to a priority ranking as envisioned by section 303(d) to avoid overloading either the States or EPA during the phased development of TMDL's.

B. INFORMATION—CALCULATION OF TMDL'S

1. *Water quality standards.* Section 303(d)(1)(C) of the Clean Water Act provides that TMDL's will be calculated in order to establish an upper limit on pollution loading which will still allow meeting applicable water quality standards for the particular body of water. The water quality standard for each body of water consists of the designated use (classification) of the body of water, the associated numerical and nonnumerical water quality criteria necessary to protect the designated use, and antidegradation requirements. See 43 FR 29588-92 (July 10, 1978) for a recent detailed statement on water quality standards.

TMDL's can only be calculated for water bodies and pollutants with a specified numerical limit based upon approved or promulgated ambient water quality standards. Such numerical limits may be specified in the water quality standards or may be based upon the level of control necessary to prevent the violation of a quantitative or nonquantitative water quality criterion. For example, a TMDL could be calculated for a certain concentration limit for a toxic substance, when this particular pollutant is not specifically addressed in the numerical criteria, if the concentration limit used is necessary to prevent the violation of a general prohibition against the discharge of toxic substances in toxic amounts.

Since TMDL's must be established at levels necessary to implement the applicable water quality standards, any change in numerical criteria for pollutants contained in water quality standards will impact the TMDL's calculated for such a pollutant. Therefore, TMDL's should be reviewed each time the corresponding water quality standards are revised.

Finally, EPA recognizes that State development of TMDL's and waste load allocations for all water quality limited segments will be a lengthy

process. Water quality standards will continue to be enforced during this process. Development of TMDL's pur-

ical modeling, which takes these factors into account. As with the C-TMDL, the N-TMDL results in an am-

will be negotiated as part of the State/EPA agreement under the water quality management regulations. 40 CFR

waste treatment reviews conducted under section 208.

(5) States should also consider any

Dated: September 14, 1978.

THOMAS C. JORLING,
Assistant Administrator for

posed acquisition should be submitted to the Director, Office of District Banks, Federal Home Loan Bank

process. Water quality standards will continue to be enforced during this process. Development of TMDL's pursuant to section 303(d) is not a necessary prerequisite to adoption or enforcement of water quality standards, and, therefore, will not determine the validity of existing, revised or new water quality standards.

2. *Methods for TMDL calculation.* Water pollutants can generally be classified as either conservative or nonconservative. Technical conditions for calculation of TMDL's and waste load allocations vary with the type of pollutant, with one method of calculation for pollutants which are generally classified as conservative and another method for pollutants generally classified as nonconservative. Conservative pollutants (such as certain dissolved solids) are those pollutants which persist in the water column of the aquatic environment. The amount of a conservative pollutant in a given segment will remain essentially constant over time. Nonconservative pollutants (such as many organic compounds) decay or are otherwise removed over time. This decrease in concentration may be due to a number of factors including chemical breakdown and biodegradation.

EPA recognizes that the dividing line between conservative and nonconservative pollutants is not sharp and the classification of a given pollutant may vary depending upon the level of sophistication required in a particular analytical situation. The classification is helpful, however, in determining which method of calculation should be used. See Simplified Mathematical Modeling of Water Quality, EPA, March 1971, and Addendum to Simplified Mathematical Modeling of Water Quality, EPA, May 1972.

a. Conservative pollutant TMDL (C-TMDL). The C-TMDL of a body of water is that pollutant loading which, by simple dilution with the receiving body of water, results in an ambient concentration equal to the specified numerical concentration limit for that pollutant, i.e., the concentration limit based upon the applicable water quality standards. Since the C-TMDL depends upon simple dilution, the C-TMDL varies directly with the volumes or flows of dischargers and the receiving body of water, with a larger flow providing a larger C-TMDL.

b. Nonconservative pollutant TMDL (N-TMDL). The N-TMDL is not an intrinsic property of a body of water, since the N-TMDL varies with a number of factors, e.g., flow or volume of the receiving body of water, flow from dischargers, and the configuration of discharge locations on the body of water. Therefore, the N-TMDL can only be calculated with fairly sophisticated techniques such as mathematical modeling, which takes these factors into account. As with the C-TMDL, the N-TMDL results in an ambient concentration of the pollutant equal to the specified numerical concentration limit for that pollutant, i.e. the concentration limit based upon the applicable water quality standards.

C. INFORMATION—PRIORITY RANKING

EPA's proposed identification of pollutants is not designed to require States to devote additional resources to waste load allocations and TMDL development. As stated previously, it is envisioned that establishment of TMDL's would be part of States' ongoing sections 208 and 303(e) planning processes funded under sections 106 and 208 of the Act. To keep the requirements of developing TMDL's within available resources and to meet statutory schedules for preparing TMDL's States must establish priority rankings.

1. *Statutory requirements.* Section 303(d)(1)(A) requires States to identify waters where water quality standards will not be met by application of effluent limitations required under sections 301(b)(1) (A) and (B) of the Act. These waters are designated as water quality limited segments. the process of stream segment classification has been largely completed as part of basin planning under section 303(e) of the Act. Section 303(d)(2) requires States to submit their first segment identifications and TMDL calculations within 180 days of the Administrator's final identification pursuant to section 304(a)(2)(D).[1] After the States' first submission, subsequent segment identifications and TMDL calculations must be submitted from "time to time." Section 303(d)(2). Priority rankings of waters will insure compliance under a reasonable schedule with the Act's "time to time" requirement.

Section 303(d)(1)(A) requires the States to establish a priority ranking for those waters which States identify as water quality limited. In establishing the priority ranking section 303(d)(1)(A) requires the States to take into account (1) the severity of pollution and (2) the uses to be made of the waters identified. In assessing severity of pollution, States should consider the type of pollutants involved as well as the violations of water quality standards. In addition, States are not required to address only segments with existing problems but may also take into account the need to protect existing high quality waters.

2. *Priority ranking agreements.* Since calculation of TMDL's will be part of State water quality management planning, priorities for TMDL's will be negotiated as part of the State/EPA agreement under the water quality management regulations. 40 CFR 130.11; see proposed 40 CFR 35.1507, 43 FR 40742 (September 12, 1978). EPA's recently proposed regulations would require States to establish priority ranking as part of the State strategy. The priority ranking, timing, resource needs, level of technical detail, and other specifics of TMDL development will be negotiated by the States and EPA, and then set forth in the work program.

3. *Content of priority ranking.* In developing the priority ranking in the work programs for water quality segments on which TMDL's will be calculated during each following year, the States should consider at least the following factors.

First, section 303(d)(1)(A) requires States to take into account (1) the severity of pollution and (2) the uses to be made of the waters identified. (See discussion, part II.C.1.)

Second, States should also consider other factors in establishing priority ranking of segments or priorities for calculation of TMDL's among the high ranking segments. Some of the factors for consideration in ranking may include the following:

(1) Calculation of TMDL's should be given higher priority when they are expected to result in effluent limitations in NPDES permits. If NPDES permits are not scheduled for reissuance in the near future, the calculation of TMDL's for that segment may receive a low priority. Similarly, if implementation of national effluent limitation guidelines would eliminate water quality violations for certain stream segments, calculation of TMDL's may receive low priority. These considerations will avoid use of limited resources where implementation of the TMDL's would not be likely in the near future.

(2) Resources may be concentrated on segments and pollutants where acceptable models and adequate data are available at reasonable cost.

(3) Since the Act requires TMDL's to be established at levels necessary to implement water quality standards, TMDL's should be designed to result in the attainment of standards. If nonpoint sources are significant contributors to water quality problems in the segment, then the development of TMDL's in the segment should be high priority only when nonpoint sources will also be addressed.

(4) States should also consider coordinating the development of TMDL's with other water quality analyses. These analyses include fixed station analyses under the basic water monitoring program, water quality standard revisions, preparation of the section 305(b) report, and advanced waste treatment reviews conducted under section 208.

(5) States should also consider any national priorities developed by EPA.

States may consider the above factors as well as additional factors they deem important to the priority ranking process for development of TMDL's. States will be required to set forth justification for the priority ranking of each stream segment but will not be required to develop a system which sets forth each factor considered and the weight given to each factor. States will be required to rank every water quality segment in the State. However, States need not reclassify segments already classified.

D. STATE SUBMISSIONS AND EPA APPROVAL

To comply with the requirements of the Act, States must submit the following information within 180 days of EPA's final identification of pollutants suitable for TMDL calculation.

(1) An identification of waters for which effluent limitations required by sections 301(b)(1) (A) and (B) are not stringent enough to implement applicable water quality standards. This requirement can be satisfied by referencing documents already submitted to EPA, e.g., section 305(b) reports.

(2) The TMDL established under section 303(d)(1)(A) for one or more of the above waters. This requirement can be satisfied by referencing documents already submitted to EPA or by submitting TMDL's based on information available in other water quality studies. States should indicate whether those loads previously submitted to EPA are still regarded as adequate. Priority rankings are not required within 180 days. They will be submitted pursuant to schedules established in the State/EPA agreements. Subsequent submission of TMDL's shall also be submitted pursuant to State/EPA agreements. Under section 303(d)(2), EPA must approve or disapprove State submissions. In reviewing State submissions, EPA may conditionally approve the submissions with the understanding that States will provide supplementary information within a reasonable time and according to a schedule established by the State/EPA agreement. After EPA approval, section 303(e) requires States to incorporate the TMDL's into their water quality management plans pursuant to section 303(e)(3)(C). EPA solicits written public comments upon all aspects of this proposal. Written comments must be submitted on or before November 6, 1978. EPA is only providing 45 days for public comment pursuant to order of the court in *Board of County Commissioners of Calvert County et al.* v. *Costle et al.* (No. 78-0572).

[1] In accordance with the court order referenced above, the final identification should be issued on or before December 20, 1978.

Dated: September 14, 1978.

THOMAS C. JORLING,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc. 78-26352 Filed 9-19-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

PRIVATE LAND MOBILE ADVISORY COMMITTEE

Notice of Meeting

In preparation for the 1979 World Administrative Radio Conference (WARC), the Private Land Mobile Advisory Committee headed by Neal Pike, will hold its next meeting on October 13, 1978, in Washington, D.C. The meeting will be held in conference room A-110, Federal Communications Commission, 1229 20th Street NW., at 9 a.m. The purpose of the meeting is to consider reply comments in docket 20271, Ninth Notice of Inquiry for a General World Administrative Conference in 1979. The meeting is open to the public and will be conducted in accordance with the following agenda:

1. Call of the agenda
2. Opening remarks of the chairman
3. Consideration of Reply comments in the Ninth Notice of Inquiry, docket 20271
4. Further business
5. Adjournment

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-26434 Filed 9-19-78; 8:45 am]

[6720-01]

FEDERAL HOME LOAN BANK BOARD

[H.C. No. 253]

WESTERN & SOUTHERN LIFE INSURANCE CO.

Receipt of Application for Approval of the Acquisition of First Milford Savings Association, Milford, Ohio

SEPTEMBER 15, 1978.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the Western & Southern Life Insurance Co., which company already controls Eagle Savings Association, Cincinnati, Ohio, for approval, pursuant to section 408(e) of the National Housing Act and section 584.4 of the regulations for savings and loan holding companies, of the acquisition of First Milford Savings Association. Said acquisition is proposed to be accomplished by Eagle Savings' acquisition of outstanding shares of First Milford, and the merger of Eagle Savings into First Milford. Comments on the proposed acquisition should be submitted to the Director, Office of District Banks, Federal Home Loan Bank Board, 1700 G Street, Washington, D.C. 20552, on or before October 19, 1978.

RONALD A. SNIDER,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc. 78-26416 Filed 9-18-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

SECURITY FOR THE PROTECTION OF THE PUBLIC; FINANCIAL RESPONSIBILITY TO MEET LIABILITY INCURRED FOR DEATH OR INJURY TO PASSENGERS OR OTHER PERSONS ON VOYAGES

Issuance of Certificate [Casualty]

Notice is hereby given that the following have been issued a certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages pursuant to the provisions of section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission general order 20, as amended (46 CFR 540):

Compania de Vapores Realma S.A. and Ulysses Line Ltd. S.A. c/o Constanna Shipping Agency, Inc. 610 Brickell Executive Tower, 1428 Brickell Avenue, Miami, Fla. 33131.

Dated: September 15, 1978.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc. 78-26423 Filed 9-19-78; 8:45 am]

[6730-01]

SECURITY FOR THE PROTECTION OF THE PUBLIC INDEMNIFICATION OF PASSENGERS FOR NONPERFORMANCE OF TRANSPORTATION

Notice of Issuance of Certificate [Performance]

Notice is hereby given that the following have been issued a certificate of financial responsibility for indemnification of passengers for nonperformance of transportation pursuant to the provisions of section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission general order 20, as amended (46 CFR Part 540):

Compania de Vapores Realma S.A., Ulysses Line Ltd. S.A., and Paquet Cruises Inc., c/o Constanna Shipping Agency, Inc., 610 Brickell Executive Tower, 1428 Brickell Avenue, Miami, Fla. 33131.

Dated: September 15, 1978.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc. 78-26424 Filed 9-19-78; 8:45 am]

[6325-01]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

OPEN COMMITTEE MEETING; CANCELLATION:

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463) notice was published in 43 FR 38471 on August 28, 1978, that meetings of the Federal Prevailing Rate Advisory Committee would be held on September 7, September 21, and September 28, 1978. This is notice that the meeting scheduled for September 21 has been canceled.

JEROME H. ROSS,
Chairman, Federal Prevailing Rate Advisory Committee.

SEPTEMBER 18, 1978.

[FR Doc. 78-26510 Filed 9-19-78; 8:45 am]

[4110-87]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

CENTER FOR DISEASE CONTROL

Occupational Safety and Health Field Research Projects

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, PHS, HEW.

ACTION: Notice of research projects to be initiated.

SUMMARY: This notice announces the field research projects involving the collection of information from the public which are planned for initiation by NIOSH during the remainder of calendar year 1978. This notice does not constitute a request for proposal.

FOR FURTHER INFORMATION CONTACT:

Mr. Ronald F. Coene, Director, Office of Program Planning and Evaluation, NIOSH, CDC, 5600 Fishers Lane (Room 8A-09), Rockville, Md. 20857, telephone 301-443-4364.

SUPPLEMENTARY INFORMATION: The NIOSH field research projects described below will be conducted under the authority of section 20 of the Occupational Safety and Health Act (29 U.S.C. 669) and in accordance with the provisions of part 85a of title 42, Code of Federal Regulations. The protocol for the conduct of these types of projects has been reviewed by the Office of Management and Budget and determined to be incompliance with the Federal Reports Act. The list of projects includes the title and (a) purpose of each project, (b) the frequency with which the information will be collected, (c) an indication of types of workers from whom information will be sought, (d) the estimated number of responses and (e) the estimated burden in reporting hours.

1. *Reproductive history study of women exposed to lead in the workplace.* (a) The purpose of this study is to determine the possible adverse health effects of an occupational exposure to lead, (b) single time, (c) women workers exposed to lead, (d) 400 respondents, (e) 30 minutes manhour burden per response.

2. *Reproductive history study of wives of carbon disulfide workers.* (a) The purpose of this study is to determine the possible adverse health effects in wives of workers in the viscose rayon industry, (b) single time, (c) wives of workers in the viscose rayon industry, (d) 600 respondents, (e) 30 minutes manhour burder per response.

3. *Reproductive history study of women exposed to synthetic estrogens in the workplace.* (a) The purpose of this study is to determine whether adverse health effects are associated with occupational exposure of women to synthetic estrogens, (b) single time, (c) women working with synthetic estrogens, (d) 400 respondents, (e) 30 minutes manhour burden per response.

4. *Reproductive history study of women working in the pharmaceutical industry.* (a) The purpose of this study is to determine the possible adverse health effects in women in the pharmaceutical industry, (b) single time, (c) women workers in the pharmaceutical industry, (d) 1200 respondents, (e) 30 minutes manhour burden per response.

5. *Reproductive history study of workers exposed to microwaves.* (a) The purpose of this study is to determine the possible adverse health effects of an occupational exposure to microwaves, (b) single time, (c) women workers exposed to microwaves and wives of exposed male workers, (d) 800 respondents, (e) 30 minutes manhour burden per response.

6. *Delayed neurotoxicity of organophosphate exposed workers.* (a) The purpose of this study is to determine the possible adverse health effects of an occupational exposure to organophosphates, (b) single time, (c) nonpesticide organophosphate workers, (d) 500 respondents, (e) 30 minutes manhour burden per response.

7. *Neuropathy of pesticide workers.* (a) The purpose of this study is to determine whether adverse health effects, particularly subclinical neurological effects, are associated with occupational exposure to pesticides, (b) single time, (c) workers in the pesticide industry, (d) 500 respondents, (e) 30 minutes manhour burden per response.

Six weeks before beginning field work on any of these projects, NIOSH will publish a separate notice in the FEDERAL REGISTER giving specific information on the project.

This notice supplements the list of field research projects published in the FEDERAL REGISTER of July 11, 1978, at 43 FR 29834.

Dated: September 14, 1978.

VERNON E. ROSE,
Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. 78-26355 Filed 9-19-78; 8:45 am]

[4110-86]

Center for Disease Control

FINAL REPORT OF CHILDHOOD LEAD-BASED PAINT POISONING PREVENTION AD HOC ADVISORY COMMITTEE

Availability of Filing

Notice is hereby given that pursuant to section 13 of Pub. L. 92-463 (5 U.S.C. appendix I), the final report of the Childhood Lead-Based Paint Poisoning Prevention Ad Hoc Advisory Committee of the Center for Disease Control has been filed with the Library of Congress.

Copies are available to the public for inspection at the Library of Congress, special forms reading Room, main building, and on weekdays between 9 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare, Department Library, HEW North Building, Room 1436, 330 Independence Avenue SW., Washington, D.C. 20201, telephone 202-245-6791.

Dated: September 7, 1978.

DONALD R. HOPKINS,
Assistant Director, for Operations.

[FR Doc. 78-26415 Filed 9-19-78; 8:45 am]

[4110-02]

Office of Education

ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

Meeting; Revision of Proposed Agenda

AGENCY: Department of Health, Education, and Welfare Office of Education.

ACTION: Revision to Notice.

SUMMARY: Notice is hereby given of the revision of the proposed agenda of the October 3-4, 1978, meeting of the Advisory Committee on Accreditation and Institutional eligibility to include the review of the interim report of the American Dietetic Association, Commission on Evaluation of Dietetic Education. Notice of the meeting of the Advisory Committee on Accreditation and Institutional Eligibility was published previously in the FEDERAL REGISTER on September 11, 1978, 43 FR 40316-40319. All written materials regarding this matter should be submitted to John R. Proffitt at the address below, and will be considered by the Committee. Requests for oral presentations before the Committee regarding this matter should include the names of all persons seeking an appearance, the party or parties which they represent, and the purpose for which the presentation is requested. Requests must be received by John R. Proffitt on or before September 22, 1978. Time constraints may limit oral presentations.

DATES: October 3, 1978, 8:30 a.m. to 5 p.m., local time and October 4, 1978, 9 a.m. to 12 Noon.

ADDRESS: Dulles Marriott Hotel, Dulles International Airport, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

John R. Proffitt, Director, Division of Eligibility and Agency Evaluation, Office of Education, Room 3030, ROB 3, 400 Maryland Avenue SW., Washington, D.C. 20202, 202-245-9873,

Signed at Washington, D.C., on September 14, 1978.

JOHN R. PROFFITT,
Director, Division of Eligibility and Agency Evaluation Office of Education.

[FR Doc. 78-26422 Filed 9-19-78; 8:45 am]

[4110-12]

Office of the Secretary

PRIVACY ACT OF 1974

AGENCY: Department of Health, Education, and Welfare (HEW), Office of the Secretary.

ACTION: Publication of a summary of deletions and modifications to HEW notices of systems of records.

SUMMARY: This document is a summary of major modifications to the HEW notices of systems of records. This summary includes new deletions of notices and other changes which we have not yet described in the FEDERAL REGISTER (FR). We have not included new or altered system notices or new routine uses which we published in the FR during the year. The purpose of this document is to give the reader of our annual publication of notices, which we will publish in the FR in September 1978, a brief reference to major changes including deletions of notices. We will publish all current notices in their entirety in the September 1978 annual republication.

To further assist the reader, we have listed the modifications and deletions by major HEW component and listed the major components in the same order that they appear in the annual publication. That order is as follows: (A) Office of the Secretary (OS), (B) Office of Human Development Services (OHDS), (C) Education Division (E), (D) Health Care Financing Administration (HCFA), (E) Public Health Service (PHS), and (F) Social Security Administration (SSA).

SUPPLEMENTARY INFORMATION:

A. The OS changes and deletions are as follows:

1. OS clarified the Notification Procedures, Record Access Procedures, and Contesting Records Procedures sections, where appropriate, in order to indicate to the public the information an individual should supply when requesting notification, access, and correction of his/her records.

2. OS deleted the system of records entitled "Health Insurance Study," No. 09-90-0029, published on 9-20-76, page 40737 of the FR, because of reconsideration based upon legal opinion.

3. OS deleted the system of records entitled "Employee Housing Service," No. 09-90-0042, published on 9-20-76, page 40709 of the FR, because it no longer exists.

4. OS deleted the system of records entitled "Office of General Council (OGC) Directory," No. 09-90-0063, published on 9-29-77, page 51970, because it no longer exists.

5. OS deleted system No. 09-90-0040 entitled "OS Federal Women's Program and Privacy Act" because this notice is subsumed under OS system No. 09-90-0006. The deleted notice was last published in the FR on August 27, 1975, on page 38423.

6. OS deleted system No. 09-90-0076 entitled "Persons Authorized to Represent a State Agency in Acquisition, Maintenance, and Donation of Surplus Property" because the General Services Administration now performs the function which required this system. The deleted system was last published in the FR on September 29, 1977, page 51977.

7. OS deleted system No. 09-90-0077 entitled "Placement and Career Development Service Program for Indo-Chinese Refugees, Jewish Federation of Metropolitan Chicago (Contractor) because HEW no longer maintains this system. Notice was last published in the FR on September 29, 1977, on page 51977.

8. The Office for Civil Rights (OCR) deleted the following four notices because they are included in other OCR notices.

Name	Number	Last published in FR	
		Issue	Page
Complaint Files, Contract Compliance Division	09-90-0052	9-29-77	51964
Complaint Log, Elementary Secondary Division	09-90-0053	9-29-77	51965
Complaint Files, Health and Social Services Division	09-90-0054	9-29-77	51965
Complaint File, Higher Education Division	09-90-0055	9-29-77	51966

B. The OHDS changes and deletions are as follows:

1. OHDS clarified the Notification Procedures, Record Access Procedures, and Contesting Records Procedures sections, in order to indicate to the public the information an individual should supply when requesting notification, access, and correction of his/her records.

2. OHDS deleted the following notices because the systems of records no longer exist.

Name	Number	Last published in FR	
		Issue	Page
Complaint Files, Contract Compliance Division	09-90-0052	9-29-77	51964
Complaint Log, Elementary Secondary Division	09-90-0053	9-29-77	51965
Complaint Files, Health and Social Services Division	09-90-0054	9-29-77	51965
Complaint File, Higher Education Division	09-90-0055	9-29-77	51966

5. The Office of the Assistant Secretary for Education has deleted the following notices because the systems no longer exist under the Privacy Act.

Name	Number	Last published in FR	
		Issue	Page
Complaint Files, Contract Compliance Division	09-90-0052	9-29-77	51964
Complaint Log, Elementary Secondary Division	09-90-0053	9-29-77	51965
Complaint Files, Health and Social Services Division	09-90-0054	9-29-77	51965
Complaint File, Higher Education Division	09-90-0055	9-29-77	51966

V43/183 SE 20 78

Name	Number	Last published in FR	
		Issue	Page
Manpower Resources Contractual Services for Reviewing and Evaluating ORD-MR Projects	09-80-0001	9-29-78	51978
OCD Project Staff Lists	09-80-0003	9-29-78	51980
Parent Council Advisory Members	09-80-0004	9-29-78	51980
Education for Parenthood Mailing List	09-80-0005	9-29-78	51980
OCD Research and Development Program Mailing Lists	09-60-0008	9-29-78	51981

C. The Education Division (E) changes and deletions are as follows:

1. E clarified the Notification Procedures, Record Access Procedures, and Contesting Records Procedures sections, on order to indicate to the public the information an individual should supply when requesting notification, access, and correction of his/her records.

2. The Guaranteed Student Loan Program of the Office of Education clarified the Categories of Records section of a system named "Claims and Collections Master File," No. 09-40-0027. This system contains records of student borrowers who have defaulted, and for whom the Federal Government has paid claims under the Guaranteed Student Loan Program. The Guranteed Student Loan Program includes both the Federal direct insurance component and the reinsurance state or private non-profit guarantee agency component.

3. The Office of Education deleted the following notices because the systems no longer exist:

Name	Number	Last published in FR	
		Issue	Page
Client List for Direct Services From Regional Resource Centers	09-40-0010	9-20-76	40770-40771
Teacher Corps Corpsmember Profiles	09-40-0035	9-20-76	40768
Handicapped Children's Early Education Development Data	09-40-0055	9-20-76	40770
Referred Children Lists	09-40-0073	9-20-76	40770
Interpreters of the Deaf, National Advisory Committee on the Handicapped	09-40-0049	9-29-77	52003-52004

Name	Number	Last published in FR	
		Issue	Page
Language Assessment Research	09-40-0037	8-27-75	38488
Project More Research Subjects Records	09-40-0038	8-27-75	38489
Science Curriculum Evaluation Subjects	09-40-0039	8-27-75	38489
Rand Interactive CCTV Evaluation	09-40-0040	8-27-75	38489

4. The National Institute of Education deleted the following systems.

Name	Number	Last published in FR	
		Issue	Page
National Council on Educational Research Attendance Lists (should not have been identified as a system of records as defined in the Privacy Act)	09-42-0084	9-29-77	52015
NIE Project Management System (reconsideration based upon legal opinion)	09-42-0001	9-29-77	52011
NIE Child Study Center (no longer being used)	09-42-0045	9-29-77	52011
Manpower Economic Education and the Transition from School to Work (no longer being used)	09-42-0012	9-29-77	52008
Evaluation of the Use and Interpretation of the Guidelines for Assessment of Sex Bias and Sex Fairness in Career Interest Inventories (should not have been identified as a system of records as defined in the Privacy Act)	09-42-0010	9-20-76	40761
Debt Counseling Records (replaced by other systems of records)	09-42-0003	9-20-76	40765
Evaluation of a Work Shop on freeing Sex Roles (no longer being used)	09-42-0058	9-20-76	40761
Fellows Program Nominees (no longer being used)	09-42-0064	9-20-76	40765
Management Information System for Vocational Education (no longer being used)	09-42-0061	9-20-76	40764
Hyperkinesis and Food Activities Study (no longer being used)	09-42-0006	9-20-76	40760
Alaska Education Satellite Project Teacher Participants (no longer being used)	09-42-0077	9-20-76	40764
Career Education Rural Needs Assessment (should not have been identified as a system of records as defined in the Privacy Act)	09-42-0062	8-27-75	38467
Employment Inquiries, Suggestions and Resources for the Basic Skills Group (replaced by other system of records)	09-42-0063	8-27-75	38467

5. The Office of the Assistant Secretary for Education has deleted the following notices because the systems no longer exist under the Privacy Act.

Name	Number	Last published in FR	
		Issue	Page
Support for Improvement of Postsecondary Education Contract to the National Radio Institute (NRI) to Develop a Prospectus for Correspondence Study	09-44-0006	9-20-76	40757
Support for Improvement of Postsecondary Education Contract to Heald Colleges to Develop a Model Prospectus for Potential Students	09-44-0007	9-20-76	40757-40758
Support for Improvement of Postsecondary Education Contract to Formative Evaluation Research Associates to Evaluate Women' Programs at Four Types of Postsecondary Institutions	09-44-0008	9-20-76	40758

D. The HCFA changes are a result of an HEW reorganization. The reorganization created HCFA from parts of other HEW organizations. This caused a transfer of systems from SSA, PHS, and HEW Regional Components to HCFA. The following table deletes the notices with the old numbers from SSA, PHS, and HEW Regions and lists the new HCFA numbers for the notices.

Name	Old number	New number	Last published in FR	
			Issue	Page
Medicare Second Surgical Opinion Experiments	None	09-70-0001	3-23-78	12088
Clinical Psychology/Expanded Ment	09-60-0187	09-70-0002	5-25-78	22408
Lump-Sum Reimbursement Method for Physician Extenders Delivering Independent Medicare Services	None	09-70-0003	3-16-78	10979
Durable Medical Equipment Experiment	09-60-0189	09-70-0004	9-29-77	52309
Medicare Bill File (Statistics)	09-60-0134	09-70-0005	9-29-77	52208
Medicare Enrollment Records (Statistics)	09-60-0135	09-70-0006	9-29-77	52298
Health Insurance Enrollment Statistics-General Enrollment Period	09-60-0136	09-70-0007	9-29-77	52299
Supplementary Medical Sample Bill Summary File of Medicare Utilization (Statistics)	09-60-0137	09-70-0008	9-29-77	52299
Group Practice Prepayment Plan Line Item Sample of Medicare Utilization (Statistics)	09-60-0138	09-70-0009	9-29-77	52300
Current Medicare Survey (Statistics)	09-60-0141	09-70-0010	9-29-77	52300
Evaluation of the Impact of Surgical Screening Based upon Union Member Utilization of the Pre-Surgical Consultant Benefit	09-60-0142	09-70-0011	9-29-77	52301
Study of Medical Use Under the United Medical Clinic Plan or the Kaiser Health Plan (Statistics)	09-60-0146	09-70-0012	9-29-77	52301
Annual 5 Percent Summary File of Services Reimbursed Under the Medicare Program (Statistics)	09-60-0147	09-70-0013	9-29-77	52302
Survey of Physicians' Administrative and practice Costs and Medicaid Participation	09-60-0180	09-70-0014	9-29-77	52304
Ambulatory Surgery Research Project	09-60-0181	09-70-0015	9-29-77	52305
Medicare Hospital Discharge Validation File	09-60-0190	09-70-0016	9-29-77	52310
Health Insurance Benefit and Actuarial Sample Control System	09-60-0120	09-70-0017	9-29-77	52295
Actuarial Sample Health Insurance and Supplementary Medical Insurance (Medicare)	09-60-0121	09-70-0018	9-29-77	52295
Actuarial Sample Hospital Stay Record Study	09-60-0122	09-70-0019	9-29-77	52296
Actuarial Sample of Supplementary Medical Insurance Payments	09-60-0123	09-70-0020	9-29-77	52296
Cytotechnologists Proficiency Answer Sheets and Test Results (Medicare)	09-15-0013	09-70-1503	9-29-77	52178
Physical Therapist Proficiency Answer Sheets and Test Result (Medicare)	09-15-0014	09-70-1504	9-29-77	52178
Psychiatric Technician Proficiency Answer Sheets and Test Results (Medicare)	09-15-0015	09-70-1505	9-29-77	52179
Clinical Laboratory Technologists Proficiency Answer Sheets and Test Results (Medicare)	09-15-0016	09-70-1506	9-29-77	52180
Waivered Licensed Practical Nurse Proficiency Exam Answer Sheets and Test Results (Medicare)	09-15-0017	09-70-1507	9-29-77	52180
Independent Laboratory Directors Proficiency Answer Sheets and Exam Results (Medicare)	09-15-0020	09-70-1508	9-29-77	52185
Complaint Files on Nursing Homes	09-90-0060	09-70-1509	9-29-77	51968
Professional Qualification Files	09-60-0195	09-70-1510	9-29-77	52311
Carrier Medicare Claims Records	09-60-0024	09-70-0501	5-25-78	22446
Health Insurance Master Record	09-60-0016	09-70-0502	5-25-78	22448
Intermediary Medicare Claims Records	09-60-0028	09-70-0503	5-25-78	22449
Non-Provider Overpayment Recovery File	09-60-0007	09-70-0504	9-29-77	52253
Supplementary Medical Insurance Premiums (Buy-In Master Record)	09-60-0018	09-70-0505	9-29-77	52247
Group Health Plan System	09-60-0019	09-70-0506	9-29-77	52248
Health Insurance Utilization Microfilm	09-60-0020	09-70-0507	9-29-77	52248
Reconsideration and Hearing Case Files (Part A) Hospital Insurance Program	09-60-0021	09-70-0508	9-29-77	52249
Medicare Beneficiary Correspondence Files	09-60-0022	09-70-0509	9-29-77	52249

Name	Old number	New number	Last published in FR	
			Issue	Page

09-35-0042 .... "Transfer of U.S. Students in Foreign Medical Schools to U.S. Schools." The system now contains only names and

09-20-0090 .... "Studies of Testing for Tuberculosis and other Mycobacterioses" (updated title). "Hospital employees"

Number	Name	Page
09-20-0014	Respirable Insulation Fibers	52055

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Name	Old number	New number	Last published in FR: Issue	Page
Alphabetical Name File (Folder) of Health Insurance Program Consultants	09-60-0023	09-70-0510	9-29-77	52250
Medicare Benefit Check Records	09-60-0025	09-70-0511	9-29-77	52251
Review and Fair Hearing Case Files-Supplementary	09-60-0026	09-70-0512	9-29-77	52252
Explanation of Medicare Benefit Records	09-60-0027	09-70-0513	9-29-77	52252
Payment Record File of Supplementary Medical (Medicare) Enrollees (Statistics)	09-60-0068	09-70-0514	9-29-77	52270
Chronic Renal Disease Beneficiary History	09-60-0070	09-70-0515	9-29-77	52271
Medicare Physician Supplies Master File	09-60-0071	09-70-0516	9-29-77	52272
Physician/Supplier 1099 File (Statement for Recipients of Medical and Health Care Payments)	09-60-0182	09-70-0517	9-29-77	52305
Medicare Clinic Physician Supplier Master File	09-60-0188	09-70-0518	9-29-77	52308
End Stage Renal Disease (ESRD) Medical Information system	09-15-0011	09-70-0520	9-29-77	52176
Medical Beneficiary Claims for Emergency Services	09-15-0012	09-70-0521	9-29-77	52177
Health Insurance Program Review Team Case Files	09-60-0073	09-70-2001	9-29-77	52272-52273

E. Following is the PHS summary of modifications and deletions of Privacy Act record System notices, representing changes which the major organizational segments of the Public Health Service have made to their system of individually identifiable records since the 1977 FEDERAL REGISTER annual republication of notices. All current notices will be published in their entirety in the 1978 annual republication. The major organizational segments of the Public Health Service are: the Office of the Assistant Secretary for Health; the Alcohol, Drug Abuse and Mental Health Administration; the Center for Disease Control; the Food and Drug Administration; the Health Resources Administration; the Health Services Administration; and the National Institutes of Health.

1. The following system notices have been assigned new identifiers (numbers) to reflect their administrative transfer from the Health Resources Administration to the Office of the Assistant Secretary for Health, due to reorganization of the Public Health Service. The titles of the systems, designated System Managers, and all records in the systems remain unchanged.

Name	Old Number	New Number
Applied Statistics Training Institute Applicants and Students	09-35-0001	09-37-0009
National Center for Health Services Research Grants Record System	09-35-0002	09-37-0015
Health and Demographic Surveys Conducted in Probability Samples of the U.S. Population	09-35-0017	09-37-0010
Health Manpower Inventories and Surveys	09-35-0034	09-37-0011
Vital Statistics for Births, Death, Fetal Deaths, Marriages and Divorces Occurring in the United States During Each Year	09-35-0035	09-37-0012
Health Resources Utilization Statistics	09-35-0041	09-37-0013
Curricula Vitae of Consultants to the National Center for Health Statistics	09-35-0043	09-37-0014

2. Titles of, and in some cases, the legal authorities for, the following systems of records have been changed to reflect the current status of agency programs:

Number	
09-35-0007	"Public Health Service Scholarship Program" is now "Public Health Service Scholarship and National Health Service Corps Scholarship Program." The Health Professions Educational Assistance Act of 1976 amended the statutory authority for this program, and in so doing, changed its name to the National Health Service Corps Scholarship Program. The change in title of the system of records reflects both the old and the new program names.
09-35-0014	"Special Nursing Research Fellowship Grants" is now "National Research Services Awards" and is accompanied by a change in statutory authority. The changes reflect the expiration of the original authority for this program and its replacement by the new section 472(a)(1) of the Public Health Service Act.
09-10-0010	"Clinical Investigators Records" is now "Bioresearch Monitoring Information System." The change reflects a name change of the program responsibility within the Food and Drug Administration.
09-20-0089	"Study of Short-course Chemotherapy of Pulmonary Tuberculosis" is now "Studies of Treatment of Tuberculosis and other Mycobacterioses." The change reflects a consolidation of two other Privacy Act systems of records with this one.
09-20-0090	"Study of Tuberculin Testing" is now "Studies of Testing for Tuberculosis and other Mycobacterioses." The name has been changed for purposes of clarification; no new studies have been added.

3. Categories of records in the following system have been substantially reduced due to a change in statutory authority:

Number	
09-35-0042	"Transfer of U.S. Students in Foreign Medical Schools to U.S. Schools." The system now contains only names and addresses of students who originally contacted the Health Resources Administration (HRA) because they desired identification for transfer purpose. HRA provides this list as a stated Routine Use of medical schools recruiting to increase their enrollment in order to qualify for capitation grant eligibility.

4. A routine use unique to one system of records has been clarified by the Health Services Administration to reflect an opinion by the Office of the General Counsel that a requested disclosure is indeed permissible under that routine use:

09-15-0019	"Health and Medical Records Systems." The phrase "and to the Bureau of Indian Affairs and their contractors for the identification of American Indian and Alaskan Native handicapped children in support of Pub. L. 94-142, the Education for All Handicapped Children Act of 1975" has been added to the routine use beginning: "(Disclosures may be made to) Federal and non-Federal school systems which serve American Indian and Alaskan Native children for the purpose of student health maintenance."

5. A routine use which was published in the FEDERAL REGISTER for the following system of records on June 29, 1976, was inadvertently omitted from later republication. The Health Resources Administration is correcting the oversight at this time by reinserting the routine use.

09-35-0007	"Public Health Service Scholarship and National Health Service Corps Scholarship Program" (updated title). The routine use being reinstated reads: "(Disclosures may be made) to individuals and organizations deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research (45 CFR, Part 5b, Appendix B, Item 101)."

6. The categories of individuals section of one system notice has been revised to specify and clarify certain categories of individuals who have been included in the system from the beginning. No new categories of individuals are being added to the system at this time.

S E 2 0 7 8

Number	
09-20-0090	"Studies of Testing for Tuberculosis and other Mycobacterioses" (updated title). "Hospital employees" has been changed to read: "Patients, clientele, and employees of health departments, hospitals, and other institutions currently observing and/or treating cases of tuberculosis and other mycobacterial disease."

System notices which are being deleted from the 1978 annual republication were last published in the FEDERAL REGISTER, Vol. 42, No. 189, September 29, 1977. Page numbers in parentheses in the following summaries refer to this publication.

7. The following system notice has been deleted because administration of the system has been transferred from the Center for Disease Control to the National Institutes of Health, where it has been consolidated with and subsumed under system notice 09-25-0130 "Environmental Epidemiology Studies in Division of Cancer Cause and Prevention."

09-20-0111	"Machinists Exposed to Cutting Oil Mist 1938-1967" (page 52120).

8. The notices which follow have been deleted because the record systems to which they pertain, maintained by the Center for Disease Control, have been consolidated with, and subsumed under, other systems maintained by CDC, as indicated:

09-20-0033	"Vibration Laboratory Studies (Experimental Group)" (page 52071), and Occupational Vibration Field Studies Experimental Group)" (page 52071), have both been consolidated with 09-20-0118 "Study at Work-Sites where Agents Suspected of Being Occupational Hazards Exist."
09-20-0034	
09-20-0058	"Potential Grant Applicant File" (page 52089), has been consolidated with 09-20-0055 "Research/Demonstration, and Training Grants, Application files."
09-20-0071	"Determination of Normal Baseline Pulmonary Values" (page 52098) has been consolidated with 09-20-0117 "Medical and Test Record Results of Individuals Involved in NIOSH Laboratory Studies" (page 52124).
09-20-0091	"Rifampin in Initial Treatment of Pulmonary Tuberculosis (page 52111), and "Rifampin-Isoniazed in Initial Treatment of Pulmonary Tuberculosis" (page 52111), have been consolidated with 09-20-0089 "Studies of Treatment of Tuberculosis and other Mycobacterioses" (updated title).
09-20-0092	

9. The following system notices have been deleted because the authorized research studies to which they pertain were not conducted:

Number	Name	Page
09-20-0014	Respirable Insulation Fibers Study.	52055
09-20-0015	Bakers (White Lung) Study	52056
09-20-0018	Study of Bakers and Confection Workers, and Other Associated Industries.	52057
09-20-0043	Pre-test Cosmetology Convention Study.	52077
09-20-0046	Union Pacific Railroad Workers Carbon Monoxide Study.	52080
09-20-0060	Study of Metals Industry Workers.	52090
09-20-0085	Children's Pulmonary Function Study.	52107
09-20-0123	Study of Workers Exposed to Airborne Carcinogens in Woodworking Shops.	52128
09-20-0131	Study of Health Hazards in Animal Confinement Housing.	52133

10. The system notices listed below have been deleted because records are no longer retrieved by individual identifier:

Number	Name	Page
09-30-0001	Record of Follow-up Study of NIMH-Supported Trainees and Fellow.	52020
09-20-0035	Indicators of Physiological and Psychological Strain.	52072
09-20-0036	Effects of Carbon Monoxide on Vigilance Performance of College Students.	52072
09-20-0056	Metabolic Costs and Physiological Response to Heat in Industrial Work.	52088
09-20-0114	Supervisory Effects on Worker Safety in the Roofing Industry.	52122
09-20-0133	Alaska Pipeline Cold Stress Study.	52135
09-20-0132	Research Studies Dealing with Prevention of Dental Caries, Plaque, Gingivitus.	52235

11. One notice has been deleted because the system of records is no longer in use:

Number	Name	Page
09-35-0037	Dental Residency Program	52160

F. The SSA changes and deletions are as follows:

1. SSA clarified the Notification Procedures, Record Access Procedures, and Contesting Records Procedures sections in order to indicate to the public the information it should supply when requesting notification, access, and correction of its records.

2. SSA deleted four notices for the following reasons:

The records in one system, 09-60-0113, Supplemental Security Income Priority Correspondence Staff Files, have been destroyed and the system is no longer maintained; in two other systems, 09-60-0039, Court Docket and Card File HEW SSA OMA, and 09-60-0185, Service Officer Demonstration Project HEW SSA OEA, the records are not maintained by an individual identifier, thus, they do not meet the definition of a system of records ac-

cording to the Privacy Act. SSA last published the notices in the FEDERAL REGISTER on September 29, 1977, on pages 52292, 52257, and 52307 respectively. In addition, SSA deleted system entitled, "1978 Survey of Disabled and Nondisabled (Stat.)," because it was consolidated in another SSA notice. SSA last published this notice in the FEDERAL REGISTER on July 21, 1977, on page 37442.

3. Finally, SSA also deleted the following notices which they last published in the September 20, 1976 issue of the FEDERAL REGISTER. We have grouped the notices by reason for deletion. The page numbers are from the September 20, 1976, FEDERAL REGISTER in all cases.

3.1 SSA deleted the following notices because they should not have been identified as systems of records as defined in the Privacy Act.

Number	Name	Page
09-60-0086 ..	Tax Assessment Records	41005
09-60-0087 ..	Local School Records	41005
09-60-0088 ..	Local Birth Records	41006

3.2 SSA deleted the following notices because they were consolidated with other SSA notices.

Number	Name	Page
09-60-0076 ..	Extramural Research Contract	41028
09-60-0112 ..	Supplemental Security Income Congress Inquiry.	41019
09-60-0124 ..	Survey of Disabled Adults (Statistics).	41017
09-60-0125 ..	Longitudinal Sample of Disability Ins.	41018
09-60-0126 ..	Social Security Adm. Rehabilitation Service.	41018
09-60-0127 ..	Continuous Disability History Sample.	41019
09-60-0132 ..	Changing Commitments to Work and Family.	41027
09-60-0150 ..	Disabled Persons Operations File.	41036
09-60-0151 ..	Monthly Benefit Disability Freeze Study.	41037
09-60-0152 ..	Substantive Awards File (Statistics).	41037
09-60-0153 ..	Family Benefits File (Annual)	38548
09-60-0154 ..	Effect of the Annual Earnings Test.	41038
09-60-0155 ..	Adm. Award and Termination File.	41038
09-60-0156 ..	Beneficiaries Residing Abroad File.	41039
09-60-0157 ..	Coal Miners Covered by the Health and Safety Act.	41039
09-60-0158 ..	Adm. Disallowance File (Statistics).	41039
09-60-0160 ..	Master Beneficiary Record	41040
09-60-0161 ..	Studebaker Plant Closure Data File.	41041
09-60-0162 ..	Special Sample of Earnings Records.	41041
09-60-0163 ..	Issuance of Social Numbers (Statistics).	41041
09-60-0164 ..	Multiple Social Security Number Study.	41042
09-60-0165 ..	Agricultural Worker Data File.	41042
09-60-0166 ..	Longitudinal Retirement History.	41043
09-60-0168 ..	Sample of Newly Entitled Worker.	41043
09-60-0169 ..	Social Security and the Changing Life.	41044
09-60-0170 ..	Age at Death and History of Covered Employment.	41044
09-60-0172 ..	Longitudinal Supplemental Security Income.	41045
09-60-0173 ..	Survey of Low Income Aged and Disabled.	41046
09-60-0174 ..	Supplemental Security Income Impact Research.	41046
09-60-0177 ..	Optional State Supp. Payment Program.	41047
09-60-0179 ..	Extramural Research Grants File.	41029

3.3 SSA deleted the following notices because they terminated the systems.

Number	Name	Page
09-60-0048 ..	Disability Hearing Processing Time.	40993
09-60-0054 ..	Initial Agency Disability Cases Time.	40996
09-60-0062 ..	Record of Employees Authorized to Review.	41000
09-60-0067 ..	Hospital Insurance Open Admission Item File (STATS).	40983
09-60-0131 ..	Analysis of Narcotics Addicts in Baltimore.	41027
09-60-0133 ..	Analysis of Recurring Dependency Among NYC Welfare Cases.	41026
09-60-0143 ..	Ambulatory Prescription Drug Study.	41032
09-60-0144 ..	Medical Services Microdata Project.	41032
09-60-0167 ..	Survey of the Aged (Demographic and Economic).	41043
09-60-0171 ..	Survey of Student Beneficiaries.	41045
09-60-0175 ..	Survey of Institutionized Supp. Security.	41047
09-60-0176 ..	Study to Determine Impact of State Supp.	41047
09-60-0178 ..	Welfare Eligibility Lists for December 1973.	41005

Dated: September 14, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-26373 Filed 9-19-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

NEW MEXICO

Chief, Records Section, Division of Management Services, New Mexico State Office; Redelegation of Authority by State Director

Pursuant to the authority contained in § 1.1 of Bureau order No. 701 dated July 23, 1964, as amended, authority is hereby redelegated to the Chief, Records Section to take the below-listed actions under § 1.6(k) as to mining claim instruments filed for recordation with BLM under 43 CFR Part 3833:

(1) Accept and record instruments meeting recordation requirements;

(2) Notify owners to take curative actions to complete defective filings;

(3) Reject instruments and void claims not filed within the prescribed time periods;

(4) Reject filings and void claims located on lands not available for mineral location on dates of location; and

(5) Void claims when evidence of assessment work is not filed within the required time.

This delegation is effective October 1, 1978. The redelegation published February 10, 1978, FR document 78-3738 is revoked.

LARRY L. WOODARD,
Acting State Director.

[FR Doc. 78-26359 Filed 9-19-78; 8:45 am]

[4310-84]

OUTER CONTINENTAL SHELF OIL AND GAS LEASE SALE NO. 48

Location and Date of Hearings Regarding Proposed Oil and Gas Lease Sale No. 48 Offshore Southern California

In accordance with 43 CFR 3301.4, public hearings will be held for the purpose of receiving comments and suggestions relating to a proposed oil and gas lease sale offshore southern California. The hearings will be held in Santa Barbara, Calif., on October 23 and 24, 1978, at the Lobrero Theater, 33 East Canon Perdido Street; in Long Beach, Calif., on October 26 and 27, 1978, in the California Room, Long Beach Convention Center, 300 East Ocean Boulevard; and, in San Diego, Calif., on October 31 and November 1, 1978, in the Copper Room, Convention and Performing Arts Center, 202 C Street. The hearings are scheduled to begin at 9 a.m. on each day. They will last until 5 p.m. each day or until those who have registered to testify or who have appeared to testify, have been heard.

The hearing will provide the Secretary with additional information from both public and private sectors to help evaluate fully the potential effects of the proposed offering of 217 tracts. Comments are solicited concerning effects on area marine, esthetic, recreation, and other resources and on the southern California environment as a whole, as a result of exploration, development, and production phases of the proposed OCS lease sale.

The hearings will also provide the Secretary, under section 102(2)(C) of the National Environmental Policy Act of 1969, with the opportunity to receive additional comments and views of interested State and local agencies.

A draft environmental statement concerning the proposed lease sale (OCS sale No. 48) was made available to the public on August 31, 1978. Copies of this statement can be obtained at the Pacific Outer Continental Shelf Office, Bureau of Land Management, 7663 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the draft environmental statement are also available for review in public libraries througout the area (see FEDERAL REGISTER, vol. 43, No. 170, August 31, 1978, p. 38944).

Interested individuals, representatives of organizations, and public officials wishing to testify at the hearings are requested to contact the Manager, Pacific Continental Shelf Office, Bureau of Land Management, at the above address by 4 p.m., October 16, 1978. Written comments from those unable to attend the hearings should also be addressed to the Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management, at the above address. The Department will accept written comments on the draft environmental statement until November 15, 1978. This should allow ample time for those unable to testify at the hearing to make their views and for the submission of supplemental materials by those presenting oral testimony. Time limitations make it necessary to limit the length of oral presentation to ten (10) minutes. An oral statement may be supplemented, however, by a more complete written statement which may be submitted to the Manager, Pacific Outer Continental Shelf Office, at the time of presentation of the oral statement. Written statements presented in person at the hearings will be considered for inclusion in the hearing record. To the extent that time is available after presentation of oral statements by those who have given advance notice, the hearing officer will give others present an opportunity to be heard.

After all testimony and comments have been received and analyzed, a final environmental statement will be prepared.

ARNOLD E. PETTY,
Acting Associate Director, Bureau of Land Management.

Approved: September 14, 1978.

Gary J. Wicks,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-26358 Filed 9-19-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[AA1921-183]

SORBATES FROM JAPAN

Determination of No Injury

SEPTEMBER 13, 1978.

On the basis of its investigation, the Commission has unanimously determined (Commissioners Ablondi and Minchew not participating) that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of sorbates from Japan that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

On June 13, 1978, the United States International Trade Commission received advice from the Department of the Treasury (Treasury) that sorbates from Japan are being, or are likely to be, sold at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Treasury excluded from its LTFV determination sorbates produced by Chisso Corp. and Daicel, Ltd. on the basis of no margins and discontinued the investigation with respect to Ueno Fine Chemical Industries, Ltd. on the basis of minimal margins in relation to total sales. On June 16, 1978, the Commission instituted investigation No. AA1921-183 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the FEDERAL REGISTER of June 23, 1978 (43 FR 27252). On August 1, 1978, a hearing was held in Washington, D.C., at which all persons who requested the opportunity were permitted to appear in person or by counsel.

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

VIEWS OF CHAIRMAN JOSEPH O., PARKER AND COMMISSIONERS BILL ALBERGER, GEORGE M. MOORE, AND CATHERINE BEDELL

In order for a Commissioner to make an affirmative determination in an investigation under the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) it is necessary to find that an industry in the United States is being or is likely to be injured, or is prevented from being established, and the injury or likelihood thereof, or the prevention of establishment must be by reason of imports at less than fair value (LTFV).

DETERMINATION

On the basis of information obtained in this investigation, we determine that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of sorbates from Japan which are being or are likely to be sold at LTFV as determined by the Department of the Treasury (Treasury).

THE IMPORTED ARTICLE AND THE DOMESTIC INDUSTRY

Sorbates—sorbic acid and potassium sorbate—are free-flowing powders or granules which are used commercially as food preservatives. In this investigation we consider the relevant domestic industry to consist of the facilities in the United States used in the production of sorbates. Monsanto Co., which operates a sorbate production facility in Chocolate Bayou, Tex., is the sole U.S. producer of food grade sorbates.

LTFV SALES

Treasury investigated the sales of four Japanese producers, which account for nearly all of the sorbate imports from Japan, during the period from March 1, 1977 through August 31, 1977. A weighted average LTFV margin of 5.6 percent was found on the U.S. sales of Nippon Synthetic Chemical Industry Co., Ltd. (Nippon). No margins were found for two producers and the margin on another firm was so minimal in relation to its sales that Treasury discontinued its antidumping investigation of sorbates produced by that firm.

THE QUESTION OF INJURY OR LIKELIHOOD, OR PREVENTION OF ESTABLISHMENT BY REASON OF LTFV SALES

U.S. imports—From 1970 until June 1977 there was no domestic production of sorbates. During this period consumption was entirely supplied by imports from Japan and Germany. Although total Japanese exports of sorbates to the United States increased from 1974 to 1977, Nippon's share of those exports dropped by nearly 30 percent during the same time frame. At the same time Nippon's share of the U.S. market for sorbates was declining, its exports to the petitioner, Monsanto Co. (Monsanto), were increasing. During the period of Treasury's investigation, 63 percent of all the LTFV imports from Japan were entered for Monsanto's account.

Production and shipments—Monsanto began production at its sorbate facility in June 1977. After a small output in the April-June 1977 period, production jumped sharply in each succeeding quarter through April-June 1978. Shipments followed a similar pattern with domestically produced sorbates being relatively limited in 1977, but growing significantly both in actual terms and as a portion of U.S. consumption through the second quarter of 1978.

Capacity utilization—Monsanto's plant at Chocolate Bayou, Tex., is the

largest sorbates facility in the world. The decision to build a plant of such capacity was based on projections by increasing share of the U.S. market. While capacity utilization is not high, it is ahead of Monsanto's own projec-

Issued: September 14, 1978.

KENNETH R. MASON,
Secretary.

and disposal and emergency core cooling systems as well as the priorities for the accomplishment of these and

therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley

reference in any construction permit application filed prior to such date.

A copy of Preliminary Design Ap-

V 43 / 183

largest sorbates facility in the world. The decision to build a plant of such capacity was based on projections by the company's market researchers that demand in the United States would increase rapidly between 1978 and 1985. Monsanto clearly understood that its additional capacity could not be obsorbed by the current market, and that it would be necesary to operate its facility at levels significantly below full capacity until the increased demand for sorbates materialized. Capacity utilization in January-June 1978 was in excess of the company's own projections.

Inventories—Inventories for both Monsanto and U.S. importers of sorbates have increased from 1975 through June 1978. This increase appears to be attributable in part to the building of stocks to supply an expanding market. An estimated additional 4 million pounds of sorbates a year will be required for use in bacon beginning in 1979. The recent growth in Monsanto's inventory is compounded by the fact that the company has continued to import significant quantities of sorbates.

Consumption—With the exception of the recessionary year of 1975, U.S. consumption showed a steady growth from 1974 through 1977 and continuing into 1978.

Profits—When Monsanto determined it would establish a sorbates production facility, its internal marketing reports forecast a period of several years before the facility would return significant profits. In the little more than a year the facility has operated, substantial losses have been experienced. These losses which were in part attributable to start-up expenses are diminishing as Monsanto continues to lower its cost per pound to produce sorbates.

Prices—While there has been some price depression, the evidence does not point to LTFV sales as a cause. In fact, since Monsanto began production, it has been the lowest priced supplier of sorbates in the U.S. market. Therefore, it appears Monsanto, as a new entrant in the industry, set its prices at a level to gain market share and establish itself as a major sorbates supplier.

Lost sales—The Commission was unable to verify that any of the instances cited by Monsanto where it either lost sales or was forced to lower its price to make a sale were attributable to sales by Nippon. On the contrary, the Commission did find cases where Nippon and a U.S. importer lost significant sales due to Monsanto's low prices.

Summary—Monsanto did not begin production of sorbates until June 1977. From that starting point to the present its production and shipments have made strong gains, taking an ever increasing share of the U.S. market. While capacity utilization is not high, it is ahead of Monsanto's own projections for this point in the life of its sorbates operation. Losses have been incurred, due largely to high start-up costs, but the financial picture should improve as Monsanto's costs of production go down and its market share continues to grow. Based on these factors we conclude that there is no injury to the domestic sorbates industry.

With respect to the issue of the likelihood of injury, we have concluded such likelihood does not exist. Production, shipments, capacity utilization, and consumption are following definite upward trends and employment has maintained a steady level since Monsanto entered the market as a producer of sorbates. Overall imports and inventories are up. In the case of imports, however, the one Japanese company selling at LTFV prices has reduced its imports sharply. With regard to inventories, they are up for both importers and Monsanto in response to a continuing increase in demand. Monsanto did not turn a profit in the first year of its sorbates operation, but as we stated earlier, a good deal of the loss was incurred by start-up costs. With its increasing market share a better financial performance appears to be in the offing for the domestic producer. These factors clearly do not indicate the likelihood of injury.

The issue of prevention of establishment of an industry by reason of LTFV imports has been raised by the petitioner.[1] Clearly, the domestic producer has been able to obtain a significant market share in the little over a year it has produced sorbates domestically. As the apparent price leader, it is gaining market share and is running ahead of its own projections for success in this industry. The technology for Monsanto's sorbates plant came from the only Japanese firm found to be making LTFV sales, a major percentage of which were made to Monsanto. It is clear that Monsanto has been aided by Nippon, and they also benefited from the LTFV sales. Monsanto is certainly not being prevented from establishing a domestic sorbates industry by reason of LTFV sales from Japan.

[1]Commissioner George M. Moore notes that the criteria for an affirmative determination based on the prevention of the establishment of an industry in the United States (see Regenerative Blower/Pumps from West Germany, Investigation No. AA1921-140, USITC Publication 676, (1974), p. 10) have not been satisfied in this investigation, in that the evidence does not support the contention that LTFV sales have frustrated or forestalled the development of a stable and viable U.S. industry.

Issued: September 14, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-26448 Filed 9-19-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on October 5-7, 1978, in Room 1046, 1717 H Street NW., Washington, D.C.

The agenda for the subject meeting will be as follows:

THURSDAY, OCTOBER 5, 1978

8:30 a.m.-8:45 a.m.: Executive Session (Open)—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

8:30 a.m.-12:30 p.m. and 1:30 p.m.-5 p.m.: Anticipated Transients Without Scram (Open)—The Committee will meet with representatives of the Nuclear Regulatory Commission (NRC) staff and the nuclear and utility industry to hear and discuss presentations regarding provisions to mitigate the consequences of Anticipated Transients Without Scram in Light-Water Reactors.

Portions of this session will be closed as required to discuss proprietary information applicable to this matter.

5 p.m.-8:30 p.m.: Fast Flux Test Facility (Open)—The Committee will hear and discuss presentations by representatives of the NRC staff, the Department of Energy and their contractors regarding proposed operation of the Fast Flux Test Facility.

FRIDAY, OCTOBER 6, 1978

8:30 a.m.-9:45 a.m.: Meeting with the Director, Office of Nuclear Reactor Regulation (Open)—The Committee will hear and discuss information regarding the priorities being assigned to generic Task Action Plans by Office of Nuclear Reactor Regulation. The anticipated schedule for future Committee activites will also be discussed.

9:45 a.m.-12:30 p.m. and 1:30 p.m.-5:45 p.m.: Reactor Safety Research (Open)—The Committee will hear presentations from and hold discussions with representatives of the NRC staff, the nuclear and utility industry, and the Department of Energy regarding proposed reactor safety research programs related to advanced reactor designs, radioactive waste management and disposal and emergency core cooling systems as well as the priorities for the accomplishment of these and other reactor safety research work.

Portions of this session will be closed if necesssary to discuss proprietary information related to these matters.

5:45 p.m.-6:30 p.m.: Executive Session (Open)—The Committee will discuss its proposed report to NRC regarding the Fast Flux Test Facility.

SATURDAY, OCTOBER 7, 1978

8:30 a.m.-2:30 p.m.: Executive Session (Open)—The Committee will complete its report to the NRC regarding proposed operation of the Fast Flux Test Facility and will discuss its position regarding other matters considered during this meeting.

The Committee will also hear and discuss reports of its Subcommittees on regulatory activities and proposed revisions to NRC Regulatory Guides.

The Committee will also discuss the qualification of candidates for appointment to the ACRS.

A portion of this session will be closed to protect information the release of which would represent an unwarranted invasion of personal privacy.

Procedures for the conduct of and participation in ACRS meetings were outlined in the FEDERAL REGISTER on October 31, 1977, page 56972. In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

I have determined in accordance with Pub. L. 92-463 that it is necessary to close portions of this meeting as noted above to protect proprietary information (5 U.S.C. 552b(c)(4)), and to protect information the release of which would represent an unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

Background information concerning items to be considered during this meeting can be found in documents on file and available for public inspection as appropriate in the NRC's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202-634-3265), between 8:15 a.m. and 5 p.m. e.d.t.

Dated: September 15, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-26388 Filed 9-19-78; 8:45 am]

[7590-01]

[Docket No. STN 50-532]

C. F. BRAUN & CO.

Standard Safety Analysis Report for BRAUN SAR Turbine Island Standard Design and Its Relationship to GESSAR-238 Nuclear Island Standard Design and Issuance of Amendment to Preliminary Design Approval

Notice is hereby given that the staff of the Nuclear Regulatory Commission has issued Amendment No. 1 to Preliminary Design Approval No. PDA-5, dated September 8, 1978, for the reference system design for the turbine island portion of a boiling water reactor nuclear power plant utilizing the General Electric Co. GESSAR-238 nuclear island design, and as described in the application by C. F. Braun & Co. (BRAUN SAR). Preliminary Design Approval No. PDA-5 was issued by the staff of the Nuclear Regulatory Commission on May 7, 1976.

The amendment extends the expiration date for Preliminary Design Approval No. PDA-5 from December 22, 1978 to May 7, 1979. This change was made as a result of the Nuclear Regulatory Commission's August 1978 policy statement on standardization, which provided for administrative extensions of Preliminary Design Approvals for balance of plant designs to 3 years from the date of issuance. Previously, all preliminary design approvals issued for balance of plant designs were set to terminate 3 years after issuance of the preliminary design approval for the mating nuclear steam supply system, even if this resulted in a relatively short lifetime for the balance of plant preliminary design approval. As noted in the Commission's policy statement, this requirement was considered to be an unnecessary penalty.

Amendment No. 1 to PDA-5 is effective as of its date of issuance and shall expire on May 7, 1979, unless earlier superseded by issuance of a final design approval for the BRAUN SAR design, or unless extended by the staff of the Nuclear Regulatory Commission. The expiration of PDA-5, Amendment No. 1 should not affect use of PDA-5, Amendment No. 1 for reference in any construction permit application filed prior to such date.

A copy of Preliminary Design Approval No. PDA-5, Amendment No. 1 dated September 8, 1978, is available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555.

Dated at Bethesda, Md., this 8th day of September 1978.

For the Nuclear Regulatory Commission.

CLEMENS J. HELTEMES, Jr.,
Chief, Standardization Branch, Division of Project Management.

[FR Doc. 78-26390 Filed 9-19-78; 8:45 am]

[7590-01]

[Docket No. 50-325]

CAROLINA POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 15 to Facility Operating License No. DPR-71, issued to Carolina Power & Light Co. (the licensee) for operation of the Brunswick Steam Electric Plant, Unit No. 1 (the facility), located in Brunswick County, N.C. The amendment is effective as of its date of issuance.

The amendment revises Table 4.7.5-1 Hydraulic Snubber Inspection Schedule to provide a one time extension for the inaccessible snubber inspection interval of ten days to September 24, 1978.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated September 12, 1978, (2) Amendment No. 15 to License No. DPR-71, and (3) the Commission's related Safety Evaluation. These items

SE 20 78

are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, N.C. 28461. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md. this 13th day of September 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-26391 Filed 9-19-78; 8:45 am]

[7590-01]

[Docket No. 50-254]

COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS AND ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 47 to Facility Operating License No. DPR-29, issued to Commonwealth Edison Co. (acting for itself and on behalf of the Iowa-Illinois Gas and Electric Co.), which revised the license for operation of the Quad Cities Nuclear Power Station Unit No. 1 (the facility) located in Rock Island County, Ill. The amendment is effective as of its date of issuance.

The amendment authorizes operation of the reactor beyond the previously analyzed end-of-cycle scram reactivity conditions and is based upon new analyses.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) of the application for amendment dated August 10, 1978, (2) Amendment No. 47 to License No. DPR-29, and (3) the Com mission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Moline Public Library, 504 17th Street, Moline, Ill. 61265. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 11th day of September 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-26392 Filed 9-19-78; 8:45 am]

[7590-01]

[Docket No. 50-155]

CONSUMERS POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to Facility Operating License No. DPR-6, issued to Consumers Power Co. (the licensee), which revised technical specifications for operation of the Big Rock Point Plant (the facility) located in Charlevoix County, Mich. The amendment is effective as of its date of issuance.

The amendment modifies the technical specifications to delete obsolete and descriptive information related to various fuel types used in the facility.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 26, 1978, (2) Amendment No. 19 to License No. DPR-6, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Mich. 49720.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 1st day of September 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-26393 Filed 9-19-78; 8:45 am]

[7590-01]

[Docket No. 50-255]

CONSUMERS POWER CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 42 to provisional operating license No. DPR-20, issued to Consumers Power Co. (the licensee) for operation of the Palisades plant (the facility) located in Covert Township, Van Buren County, Mich. The amendment, which adds paragraph 3.E to the license, is effective as of its date of issuance.

The amendment incorporates a condition in the license relating to the completion of facility modifications to improve the fire protection program. Additional operating and surveillance requirements for the modifications being performed will be added to the technical specifications after the modifications are complete.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 31, 1977, and supplements thereto dated September 29, 1977, December 15, 1977, May 15, 1978, June 19, 1978, June 29, 1978, June 30, 1978, July 28, 1978, and July 31, 1978, (2) amendment No. 42 to license No. DPR-20, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Mich. 49006. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 1st day of September 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-26394 Filed 9-19-78; 8:45 am]

[7590-01]

[Docket No. STN 50-560]

FLUOR-PIONEER, INC.

Reference Safety Analysis Report for BOPSSAR Balance of Plant Standard Design and its Relationship to the RESAR-41 Standard Design and Issuance of Amendment to Preliminary Design Approval

Notice is hereby given that the staff of the Nuclear Regulatory Commission has issued amendment No. 1 to preliminary design approval No. PDA—11, dated September 8, 1978, for the reference system design of a balance of plant protion of a pressurized water reactor nuclear powerplant utilizing the Westinghouse RESAR-41 nuclear steam supply system design, and as described in the application by Fluor-Pioneer, Inc. (BOPSSAR). Preliminary design approval No. PDA-11 was issued by the staff of the Nuclear Regulatory Commission on August 17, 1977.

The amendment extends the expiration date for preliminary design approval No. PDA-11 from December 31, 1978 to August 17, 1980. This change was made as a result of the Nuclear Regulatory Commission's August 1978 policy statement on standardization, which provided for administrative extensions of preliminary design approvals for balance of plant designs to 3 years from the date of issuance. Previously, all preliminary design approvals issued for balance of plant designs were set to terminate 3 years after issuance of the preliminary design approval for the mating nuclear steam supply system, even if this resulted in a relatively shory lifetime for the balance of plant preliminary design approval. As noted in the Commission's policy statement, this requirement was considered to be an unnecessary penalty.

Amendment No. 1 to PDA-11 is effective as of its date of issuance and shall expire on August 17, 1980, unless earlier superseded by issuance of a final design approval for the BOPSSAR/RESAR-41 design, or unless extended by the staff or the Nuclear Regulatory Commission. The expiration of PDA-11, amendment No. 1 should not affect use of PDA-11, amendment No. 1 for reference in any construction permit application filed prior to such date.

A copy of preliminary design approval No. PDA-11, amendment No. 1 dated September 8, 1978, is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Dated at Bethesda, Md., this 8th day of September 1978.

For The Nuclear Regulatory Commission.

CLEMENS J. HELTEMES, Jr.,
Chief, Standardization Branch, Division of Project Management.

[FR Doc. 78-26395 Filed 9-19-78; 8:45 am]

[7590-01]

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK

Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 39 to facility operating license No. DPR-59, issued to power authority of the State of New York (the licensee), which revised technical specifications for operation of the James A. FitzPatrick Nuclear Power Plant (the facility) located in Oswego County, NY. The amendment is effective as of its date of issuance.

This amendment revises the technical specifications relating to the operation and testing of emergency diesel generators during periods of reactor operation when all emergency AC power sources are not available.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment submitted by letter dated December 27, 1976, (2) amendment No. 39 to license No. DPR-59, and (3) the Commission's related safety evalution. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Oswego County Office Building, 46 East Bridge Street, Oswego NY. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 13th day of September 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-26396 Filed 9-19-78; 8:45 am]

[7590-01]

[Docket Nos. STN 50-556 and STN 50-557]

PUBLIC SERVICE COMPANY OF OKLAHOMA, BLACK FOX STATION, UNIT NOS. 1 AND 2

Availability of Atomic Safety and Licensing Board Order Granting Applicant's Motion for Reconsideration and Clarification

Pursuant to the National Environmental Policy Act of 1969 and the U.S. Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that an order granting applicant's motion for reconsideration and clarification dated August 24, 1978, by the Atomic Safety and Licensing Board (Board) in the above-cap-

tioned proceedings is available for inspection by the public in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at

4, dated September 8, 1978, for the reference system design of a balance of plant portion of a pressurized water

[7590-01]

[Docket No. STN 50-495]

For the Nuclear Regulatory Commission.

CLEMENS J. HELTEMES, Jr.,

public inspection at the Commission's public document room at 1717 H Street NW., Washington, D.C. 20555.

in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for

tioned proceedings is available for inspection by the public in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Tulsa City County Library, 400 Civic Center, Tulsa, Okla.

The order modified in certain respects the partial initial decision authorizing limited work authorization issued by the Board on July 24, 1978 (43 FR 35762) which had modified the contents of the final environmental statement prepared by the Commission's Office of Nuclear Reactor Regulation relating to the proposed construction of the Black Fox Station, unit Nos. 1 and 2.

Pursuant to the provisions of § 51.52(b)(3) of 10 CFR Part 51, the final environmental statement is deemed modified to the extent that the Board order of August 24, 1978, and the findings and conclusions contained in the partial initial decision of July 24, 1978, differ from those contained in the final environmental statement. As required by § 51.52(b)(3) of 10 CFR Part 51, a copy of the Board order has been transmitted to the Environmental Protection Agency and other interested agencies and persons in accordance with § 51.26(c) of CFR Part 51.

The Board order, the partial initial decision, and the final environmental statement are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., and at the Tulsa City County Library, 400 Civic Center, Tulsa, Okla. Copies of the final environmental statement (document No. NUREG-0176) may be purchased, at $12 for printed copies and $3 for microfiche, from the National Technical Information Center, Springfield, Va. 22161.

Dated at Bethesda, Md., this 13th day of September 1978.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch No. 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-26397 Filed 9-19-78; 8:45 am]

[7590-01]

[Docket No. STN 50-495]

STONE & WEBSTER ENGINEERING CORP.

Reference Safety Analysis Report for SWESSAR-P1 Balance of Plant Standard Design and its Relationship to the RESAR-41 Standard Design and Issuance of Amendment to Preliminary Design Approval

Notice is hereby given that the staff of the Nuclear Regulatory Commission has issued amendment No. 1 to preliminary design approval No. PDA-4, dated September 8, 1978, for the reference system design of a balance of plant portion of a pressurized water reactor nuclear powerplant utilizing the Westinghouse RESAR-41 nuclear steam supply system design, and as described in the application by Stone & Webster Engineering Corp. (SWESSAR-P1). Preliminary design approval No. PDA-4 was issued by the staff of the Nuclear Regulatory Commission on May 5, 1976.

The amendment extends the expiration date for preliminary design approval No. PDA-4 from December 31, 1978, to May 5, 1979. This change was made as a result of the Nuclear Regulatory Commission's August 1978 policy statement on standardization, which provided for administrative extensions of preliminary design approvals for balance of plant designs to 3 years from the date of issuance. Previously, all preliminary design approvals issued for balance of plant designs were set to terminate 3 years after issuance of the preliminary design approval for the mating nuclear steam supply system, even if this resulted in a relatively short lifetime for the balance of plant preliminary design approval. As noted in the Commission's policy statement, this requirement was considered to be an unnecessary penalty.

Amendment No. 1 to PDA-4 is effective as of its date of issuance and shall expire on May 5, 1979, unless earlier superseded by issuance of a final design approval for the SWESSAR/RESAR-41 design, or unless extended by the staff of the Nuclear Regulatory Commission. The expiration of PDA-4, amendment No. 1 should not affect use of PDA-4, amendment No. 1 for reference in any construction permit application filed prior to such date.

A copy of preliminary design approval No. PDA-4, amendment No. 1, dated September 8, 1978, is available for public inspection at the Commission's public document room at 1717 H Street NW., Washington, D.C. 20555.

Dated at Bethesda, Md., this 8th day of September 1978.

For the Nuclear Regulatory Commission.

CLEMENS J. HELTEMES, Jr.,
Chief, Standarization Branch, Division of Project Management.

[FR Doc. 78-26398 Filed 9-19-78; 8:45 am]

[7590-01]

[Docket No. STN 50-495]

STONE & WEBSTER ENGINEERING CORP.

Reference Safety Analysis Report for Swessar-P1 Balance of Plant Standard Design and its Relationship to the Cessar Standard Design and Notice of Issuance of Amendment to Preliminary Design Approval

Notice is hereby given that the staff of the Nuclear Regulatory Commission has issued amendment No. 1 to preliminary design approval No. PDA-6, dated September 8, 1978, for the reference system design of a balance of plant portion of a pressurized water reactor nuclear powerplant utilizing the Combustion Engineering CESSAR nuclear steam supply system design, and as described in the application by Stone & Webster Engineering Corp. (SWESSAR-P1). Preliminary design approval No. PDA-6 was issued by the staff of the Nuclear Regulatory Commission on August 18, 1976.

The amendment extends the expiration date for preliminary design approval No. PDA-6 from December 31, 1978, to August 18, 1979. This change was made as a result of the Nuclear Regulatory Commission's August 1978 policy statement on standardization, which provided for administrative extensions of preliminary design approvals for balance of plant designs to 3 years from the date of issuance. Previously, all preliminary design approvals issued for balance of plant designs were set to terminate 3 years after issuance of the preliminary design approval for the mating nuclear steam supply system, even if this resulted in a relatively short lifetime for the balance of plant preliminary design approval. As noted in the Commission's policy statement, this requirement was considered to be an unnecessary penalty.

Amendment No. 1 to PDA-6 is effective as of its date of issuance and shall expire on August 18, 1979, unless earlier superseded by issuance of a final design approval for the SWESSAR/CESSAR design, or unless extended by the staff of the Nuclear Regulatory Commission. The expiration of PDA-6, amendment No. 1 should not affect use of PDA-6, amendment No. 1 for reference in any construction permit application filed prior to such date.

A copy of preliminary design approval No. PDA-6, amendment No. 1, dated September 8, 1978, is available for public inspection at the Commission's public document room at 1717 H Street NW., Washington, D.C. 20555.

Dated at Bethesda, Md., this 8th day of September 1978.

For the Nuclear Regulatory Commission.

CLEMENS J. HELTEMES, Jr.,
Chief, Standardization Branch, Division of Project Management.

[FR Doc. 78-26399 Filed 9-19-78; 8:45 am]

[7590-01]

[Docket No. STN 50-495]

STONE & WEBSTER ENGINEERING CORP.

Reference Safety Analysis Report for SWESSAR-P1 Balance of Plant Standard Design and its Relationship to the RESAR-3S Standard Design and Issuance of Amendment to Preliminary Design Approval

Notice is hereby given that the staff of the Nuclear Regulatory Commission has issued amendment No. 1 to preliminary design approval No. PDA-8, dated September 8, 1978, for the reference system design of a balance of plant portion of a pressurized water reactor nuclear powerplant utilizing the Westinghouse RESAR-3S nuclear steam supply system design, and as described in the application by Stone & Webster Engineering Corp. (SWESSAR-P1). Preliminary design approval No. PDA-8 was issued by the staff of the Nuclear Regulatory Commission on March 31, 1977.

The amendment extends the expiration date for preliminary design approval No. PDA-8 from December 30, 1979, to March 31, 1980. This change was made as a result of the Nuclear Regulatory Commission's August 1978 policy statement on standardization, which provided for administrative extensions of preliminary design approvals for balance of plant designs to 3 years from the date of issuance. Previously, all pulmonary design approval issued for balance of plant designs were set to terminate 3 years after issuance of the preliminary design approval for the mating nuclear supply system, even if this resulted in relatively short lifetime for the balance of plant preliminary design approval. As noted in the Commission's policy statement, this requirement was considered to be an unnecessary penalty.

Amendment No. 1 to PDA-8 is effective as of its date of issuance and shall expire on March 31, 1980, unless earlier superseded by issuance of a final design approval for the SWESSAR/RESAR-3S design, or unless extended by the staff of the Nuclear Regulatory Commission. The expiration of PDA-8, amendment No. 1 should not affect use of PDA-8, amendment No. 1 for reference in any construction permit application filed prior to such date.

A copy of preliminary design approval No. PDA-8, amendment No. 1 dated September 8, 1978, is available for public inspection at the Commission's public document room at 1717 H Street NW., Washington, D.C. 20555.

Dated at Bethesda, Md., this 8th day of September 1978.

For the Nuclear Regulatory Commission.

CLEMENS J. HELTEMES, Jr.,
Chief, Standardization Branch, Division of Project Management.

[FR Doc. 78-26400 Filed 9-19-78; 8:45 am]

[7590-01]

[Docket No. 50-296]

TENNESSEE VALLEY AUTHORITY

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 15 to facility operating license No. DPR-68 issued to Tennessee Valley Authority (the Licensee), which revised technical specifications for operation of the Browns Ferry nuclear plant, unit No. 3, located in Limestone County, Ala. The amendment is effective as of the date of issuance.

This amendment changes the technical specifications to clarify that the reactor protection system instrument channels must be operable only when there is fuel in the reactor. In addition, the change removes the requirement for a minimum countrate on the source range monitors when all the fuel is being removed from the reactor provided that all control rods are fully inserted and rendered electrically inoperable. The change authorized by this amendment is identical to the changes authorized by amendment No. 33 to DPR-33 and amendment No. 30 to DPR-52 for Browns Ferry units Nos. 1 and 2, respectively, issued with the Commission's letter of September 13, 1977.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated September 8, 1978, (2) amendment No. 15 to license No. DPR-68, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's public document room, 1717 H Street NW., Washington, D.C., and at the Athens Public Library, South and Forrest, Athens, Ala. 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 12th day of September 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-26401 Filed 9-19-78; 8:45 am]

[7590-01]

[Docket Nos. 50-500 and 50-501]

TOLEDO EDISON CO., ET AL., DAVIS-BESSE NUCLEAR POWER STATION, UNIT NOS. 2 AND 3

Issuance of Limited Work Authorization (LWA-2)

Pursuant to the provisions of 10 CFR 50.10(e) of the Nuclear Regulatory Commission's (Commission) regulations, the Commission has authorized the Toledo Edison Co. to conduct certain additional activities in connection with the Davis-Besse nuclear power station, units Nos. 2 and 3, prior to a decision regarding the issuance of construction permits.

An initial decision on matters relating to the National Environmental Policy Act and site suitability was issued by the Atomic Safety and Licensing Board in the above captioned proceeding on December 31, 1975. A limited work authorization (LWA-1) was issued to the Toledo Edison Co. on that date, the notice of issuance of which was published in the FEDERAL REGISTER on January 7, 1976 (41 FR 1337).

By letter of May 25, 1978, as amended by a letter of June 6, 1978, the applicant requested additional activities. The activities which the Atomic Safety and Licensing Board has determined may now be authorized are within the scope of those authorized by 10 CFR 50.10(e)(3) and include the following:

perform bedrock rock verification program, including exploratory drilling and remedial

grouting in the containment, auxiliary building, and turbine building areas.

Any activities undertaken pursuant to this limited work authorization are entirely at the risk of the applicant and the grant of such authorization will not preclude the issuance of any subsequent order or decision by the Commission or any of its duly authorized officials to require that such activities be terminated or modified to achieve conformance with any decision or action of the Commission which may be made in this proceeding.

Dated at Bethesda, Md., this 13th day of September 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-26402 Filed 9-19-78; 8:45 am]

[1505-01]

table to the NRC staff of complying with the Commission's regulations with respect to the physical indepen-

is summarized below, for a complete statement of the proposal.

AEP requests approval for a letter of

same basis as the Coal Companies share in the required guarantees. On this basis, i.e., on the basis of their

[8010-01]

[Rel. No. 20708; 70-6143]

grouting in the containment, auxiliary building, and turbine building areas.

Any activities undertaken pursuant to this additional authorization are entirely at the risk of the Toledo Edison Co. and, except as to matters determined under §50.10 (e)(2) and (e)(3)(ii), the grant of the authorization has no bearing on the issuance of construction permits with respect to the requirements of the Atomic Energy Act of 1954, as amended, and rules, regulations, or orders promulgated pursuant thereto.

A supplemental partial initial decision on matters relating to certain safety related activities was issued by the Atomic Safety and Licensing Board in the above captioned proceeding on August 30, 1978. A copy of: (1) The supplemental partial initial decision; (2) the partial initial decision dated December 31, 1975; (3) the applicant's preliminary safety analysis report and amendments thereto; (4) the applicant's environmental report and amendments thereto; (5) the staff's final environmental statement dated September 1975; and (6) the Commission's letter of authorization, dated September 13, 1978, are available for public inspection at the Commission's public document room at 1717 H Street NW., Washington, D.C., and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio.

Dated at Bethesda, Md., the 13th day of September 1978.

For the Nuclear Regulatory Commission.

RONALD L. BALLARD,
Chief, Environmental Projects Branch 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-26402 Filed 9-19-78; 8:45 am]

[7590-01]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its regulatory guide series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.75, Revision 2, "Physical Independence of Electric Systems," describes a method acceptable to the NRC staff of complying with the Commission's regulations with respect to the physical independence of the circuits and electric equipment comprising or associated with the class 1E power system, the protection system, systems actuated or controlled by the protection system, and auxillary or supporting systems that must be operable for the protection system and the systems it actuates to perform their safety-related functions. This guide was revised to incorporate some minor editorial changes that clarify its applicability with respect to defense against the effects of fires.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 11th day of September 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc. 78-26403 Filed 9-19-78; 8:45 am]

[1505-01]

POSTAL SERVICE

BULK THIRD-CLASS CARRIER—ROUTE PRESORT CLASSIFICATION

Negative Declaration

Correction

In FR Doc. 78-25647 appearing at page 40956 in the issue for Wednesday, September 13, 1978, on page 40957, third column, insert the following below "September 6, 1978.":

"cc: *General Counsel*
Director, Office of Program Planning
Real Estate & Buildings Department"

[1505-01]

ELECTRONIC COMPUTER ORIGINATED MAIL CLASSIFICATION

Negative Declaration

Correction

In FR Doc. 78-25646 appearing at page 40959 in the issue for Wednesday, September 13, 1978, on page 40960, third column, insert the following below "September 6, 1978.":

"cc: *General Counsel*
Director, Office of Program Planning
Real Estate & Buildings Department"

[1505-01]

PARCEL RECLASSIFICATION

Negative Declaration

Correction

In FR Doc. 78-25645 appearing at page 40960 in the issue for Wednesday, September 13, 1978, on page 40962, third column, insert the following below "September 5, 1978.":

"cc: *General Counsel*
Director, Office of Program Planning
Real Estate & Buildings Department"

The FR Doc. line file date should read "9-7-78" instead of "9-12-78".

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 20707, 70-6165]

AMERICAN ELECTRIC POWER CO., INC., ET AL.

Proposed Procurement of Letter of Credit by Holding Company for Benefit of Subsidiaries

SEPTEMBER 13, 1978.

American Electric Power Co., Inc. ("AEP"), 2 Broadway, New York, New York 10004, a registered holding Company, and seven of its indirect subsidiary coal companies, Cedar Coal Co. ("CEDAR"), Central Appalachian Coal Co. ("CACO"), Central Coal Co. ("CCO"), Southern Appalachian Coal Co. ("SACO"), 301 Virginia Street, East, Charleston, W. Va. 25327, Central Ohio Coal Co. ("COCO"), Southern Ohio Coal Co. ("SOCO") and Windsor Power House Coal Co. ("Windsor") (collectively "Coal Companies"), 301 Cleveland Avenue SW., Canton, Ohio 44702, have filed a declaration with this Commission pursuant to the Public Utility Holding Act of 1935 ("Act"), designating sections 12(b) and 12(f) of the Act and rule 45 promulgated thereunder as applicable to the proposal. All interested persons are referred to the declaration, which

is summarized below, for a complete statement of the proposal.

AEP requests approval for a letter of credit for $1,534,300 which it procured on behalf of the Coal Companies in accordance with requirements of the negotiated settlement of a coal miner's strike. The letter of credit was procured by AEP on April 7, 1978, pursuant to the emergency provision of rule 45(b)(3) under the Act.

The Coal Companies are members of the Bituminous Coal Operators Association, Inc. ("BCOA"). On March 27, 1978, BCOA entered into the National Bituminous Coal Wage Agreement of 1978 ("Agreement") with the United Mine Workers of America ("UMWA"), ending a prolonged strike. Section (h) of Article XX of the Agreement provides that the BCOA employers shall fully guarantee the health and benefits afforded to the miners by the various existing pension and benefit funds which are administered jointly by the employers and the UMWA.

On April 5, 1978, BCOA advised its members that in order to satisfy the requirements of said section (h) of article XX of the agreement, each member would be called upon to guarantee on a pro rata basis a loan in the amount of $62,000,000, from Citibank, N.A., to the trustees of the Mine Workers Pension fund. Such loan was to enable trustees to pay omitted pensions to retirees during the period of the coal strike. Each BCOA member's pro rata share of such guarantee was determined on the basis of its average contribution to the pension fund during the last 5 years. The Coal Companies' pro rata share of the required guarantee was 2.4747 percent, or a guarantee of $1,534,000, and they were directed to provide a letter of credit in this amount to Citibank, N.A., on April 7, 1978.

On April 7, 1978, it became necessary for AEP to procure the letter of credit on behalf of the Coal Companies in accordance with BCOA requirements. It was so procured by AEP pursuant to the emergency provisions of rule 45(b)(3) of the Act. Emergency circumstances had developed because of the immediate need to provide the guarantee under the agreement, which gave the Coal Companies only 3 days to obtain the specified letter of credit. The Coal Companies were unable to do so on the basis of their own resources.

The letter of credit will cost ¼ percent per annum and is required to remain in effect until October 31, 1980, by which time the loan to the pension trustees is expected to be repaid from future contractual contributions to the fund. It is proposed that the costs of the letter of credit and associated costs will be billed by AEP to the Coal Companies on the same basis as the Coal Companies share in the required guarantees. On this basis, i.e., on the basis of their average contributions to the pension fund during the last 5 years, the percentage of the cost of the letter of credit attributable to each of the seven Coal Companies would be:

CEDAR—14.4 percent.
CACO—8.2 percent.
CCO—2.0 percent.
SACO—7.6 percent.
COCO—27.3 percent.
SOCO—32.3 percent.
Windsor—8.2 percent.

The fees and expenses to be incurred in connection with the proposal are estimated at $11,590. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 11, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to convert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-26377 Filed 9-19-78; 8:45 am]

[8010-01]

[Rel. No. 20708; 70-6143]

AMERICAN ELECTRIC POWER CO., INC.

Proposal That Holding Company Act as Surety for Subsidiary

SEPTEMBER 13, 1978.

Notice is hereby given that American Electric Power Co., Inc. ("AEP"), 2 Broadway, New York, N.Y. 10004, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Co. Act of 1935 ("Act"), designating sections 12(b) and 12(f) of the Act and rule 45 promulgated thereunder as applicable to the proposal. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposal.

AEP requests approval of a surety bond in the amount of $3,200,000 that was posted with the Public Service Commission of West Virginia ("State Commission") on March 28, 1978, by AEP as surety and Wheeling Electric Co. ("Wheeling") as principal pursuant to the provisions of rule 45(b)(3) under the Act.

On March 31, 1978, Wheeling filed with the State Commission for increased rates on electric service in West Virginia. The additional rate increases were to be effective subject to the posting by Wheeling of the required bond, which would assure the making of appropriate refunds to customers in the event the State Commission's final order should require refunds to be made. The State Commission has permitted AEP to act as surety for Wheeling in lieu of Wheeling's posting a commercial bond. It is expected that the amount of the bond for the new rates will not exceed $3,200,000, which is the estimated additional annual revenue that the new rates will provide. The bond includes a 9½ per annum interest rate as required by West Virginia statute.

The fees and expenses to be incurred in connection with the proposal are estimated at $2,500. The Public Service Commission at West Virginia has authorized the proposal. No other state commission and no federal commission, other than this Commission, has jurisdiction over the proposal.

Notice is further given that any interested person may, not later than October 11, 1978, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such re-

quest should be served personally or by mail upon the declarant at the above-stated address, and proof of

may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the

be examined at the Commission's Public Reference Section, 1100 L Street NW., Washington, D.C. 20549.

sion at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any in-

tember 11, 1978, seeking, to the extent necessary, and order pursuant to sections 26(b) and 11 of the Act approv-

owners. will include, among other things, a copy of the agreement and plan of reorganization as well as a cur-

quest should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other actions as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereto.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-26378 Filed 9-19-78; 8:45 am]

[8010-01]

[Release No. 15163; SR-BSE-78-7]

BOSTON STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

SEPTEMBER 14, 1978.

On June 29, 1978, the Boston Stock exchange, Inc. ("BSE") 53 State Street, Boston, Mass. 02109, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1943, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change which would amend chapter V, section 3 of the BSE rules to clarify that the rules of the registered clearing agency through which clearing and settlement are to take place govern the settlement of contracts for delivery of securities. The BSE's stated purpose of the rule filing is to eliminate a conflict concerning the size of delivery of stocks among clearing agencies through which clearing and settlement may take place.

Notice of the proposed rule change toghether with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act release No. 34-14934, July 6, 1978) and by publication in the FEDERAL REGISTER (43 FR 35410, August 9, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commisssion and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's public reference room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-26379 Filed 9-19-78; 8:45 am]

[8010-01]

[File No. 81-3553]

BOURNS, INC.

Application and Opportunity for Hearing

SEPTEMBER 11, 1978.

Notice is hereby given that Bourns, Inc., ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended, (the "31934 Act") seeking an exemption from the requirements to file reports pursuant to sections 13 and 15(d) of the Exchange Act.

The Applicant states, in part:

1. The Applicant is a California corp. subject to the reporting provisions of sections 13 and 15(d) of the 1934 Act.

2. On May 31, 1978, Applicant effected a reverse split of its outstanding Common Stock, as a result of which its public shareholdings were cancelled. The one shareholder of record is the trustee of various trusts which hold shares benefically owned by Marlan E. Bourns and members of his family.

In the absence of an exemption, Applicant would be required to file pursuant to sections 13 and 15(d) of the 1934 Act and the rules and regulations thereunder, the remaining quarterly reports on form 10-Q and annual report on form 10-K for the 1978 fiscal year. Applicant believes that its request for an order exempting it from the provisions of sections 13 and 15(d) of the 1934 Act is appropriate in view of the fact that the time, effort and expense involved in preparation of additional periodic reports would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which may be examined at the Commission's Public Reference Section, 1100 L Street NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than October 5, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-26380 Filed 9-19-78; 8:45 am]

[8010-01]

[File No. 81-380]

CULLIGAN INTERNATIONAL CO.

Application and Opportunity for Hearing

SEPTEMBER 11, 1978.

Notice is hereby given that Culligan International Co. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order exempting Applicant from the provisions of sections 13 and 15(d) of the 1934 Act.

The Applicant states, in part:

1. On June 2, 1978, Applicant merged with and became a wholly-owned subsidiary of Beatrice Foods Co. As a result of the merger, Applicant no longer has any publicly owned common stock.

2. The Applicant has filed with the Commission its form 10-Q for the period ended January 31, 1978, and a form 8-K which reflects the merger.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than October 5, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-26381 Filed 9-19-78; 8:45 am]

[8010-01]

[Rel. No. 10399; 812-4342]

EDUCATORS LIFE INSURANCE CO. OF AMERICA ET AL.

Filing of Application for an Order Approving Substitution of Securities Held by Three Unit Investment Trusts and for an Order Exempting a Proposed Transaction and Permitting a Proposed Transaction

SEPTEMBER 13, 1978.

Notice is hereby given that Educators Life Insurance Co. of America ("Educators"), Depositor of Educators Life Insurance Co. Separate Account A ("Separate Account A"), a unit investment trust registered under the Investment Co. Act of 1940 ("Act"), Horace Mann Life Insurance Co. ("HM Life"), Depositor of Horace Mann Life Insurance Co. Separate Account B ("Separate Account B"), one Horace Mann Plaza, Springfield, Ill. 62715, a unit investment trust registered under the Act, Life Insurance Co. of North America ("LINA"), Depositor of Life Insurance Co. of North America Separate Account A ("LINA Separate Account"), 1500 Arch Street, Philadelphia, Pa. 19101, a unit investment trust registered under the Act, Horace Mann Fund, Inc. ("HMF"), an open-end management investment company registered under the Act, and NEA Mutual Fund, Inc. ("NEAMF"), 7900 Westpark Drive, McLean, Va. 22102, an open-end management investment company registered under the Act, filed and application on August 2, 1978, and amendments thereto on September 11, 1978, seeking, to the extent necessary, and order pursuant to sections 26(b) and 11 of the Act approving the substitution of the securities held by Separate Account A, Separate Account B and LINA Separate Account (collectively the "Separate Accounts") with respect to all contracts of the Separate Accounts whose underlying investment medium consists of shares of NEAMF. The application further seeks, to the extent necessary, an Order pursuant to section 17(b) of the Act for exemption from Section 17(a) of the Act and pursuant to section 17(d) of the Act and rule 17(d)-1 thereunder, to permit the purchase of assets of NEAMF by HMF in return for shares of HMF to be issued at net asset value. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Under a proposed agreement and plan of reorganization, HMF would acquire substantially all of the assets of NEAMF in return for shares of HMF issued at net asset value, and NEAMF would distrubute the HMF shares pro rata in return for its outstanding shares. NEAMF then expects to file for deregistration under the Act and dissolve.

Shares of NEAMF are held directly by members of the public and are also held by the Separate Accounts, each of which holds such shares to fund variable annuity contracts. Educators, HM Life and LINA, Depositors of the Separate Accounts, are under common control. HM Life is also the Depositor for HM Life Separate Account, which holds shares of HMF as the investment medium for variable annuity contracts issued by such separate account. Moreover, Separate Account A holds shares of both NEAMF and HMF as the investment medium for two classes of variable annuity contracts issued by Separate Account A. Separate Account A holds in excess of 5% of the outstanding voting shares of each of HMF and NEAMF.

Applicants state that the agreement and plan of reorganization between NEAMF and HMF is conditioned on, among other things, the approval of the proposed sale of assets by a majority of the shareholders of NEAMF at a special meeting called for the purpose of considering approval of the transaction. In additon, the substitution of HMF shares for NEAMF shares as the underlying funding medium of contracts issued by the Separate Accounts is subject to the approval of persons owning variable annuity contracts funded by such separate accounts.

Applicants state that the proxy materials being forwarded to all persons having an interest in NEAMF shares, including variable annuity contract owners. will include, among other things, a copy of the agreement and plan of reorganization as well as a current propectus of HMF. The assets of NEAMF to be sold to HMF will be valued on the basis set forth in rule 2a-4 under the Act, and the HMF shares will issued at net asset value also determined in accordance with said rule 2a-4. The HMF shares issued in consideration of the acquisition of NEAMF asstes will be distributed on a prorata basis to the NEAMF shareholders.

Applicants assert that the proposed transaction will benfit the shreholders of both HMF and NEAMF through increase of the investment aset base and that there is no overreaching or participation on terms less advantageous to any registered investment company.

SECTIONS 26 AND 11

In pertinent part, section 26(b) provides that it shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved the substitution.

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company, or any principal underwriter for such a company, to make, or cause to be made, an offer to the holder of a security of such company, or of any other open-end investment company, to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of subsection (a) shall be applicable to any type of offer of exhange of the securites of registered unit investment trusts for the securities of any other investment company.

If the proposed transaction is consummated, the Separate Accounts will, as shareholders of NEAMF, each receive a pro rata portion of the HMF shares issued in the transaction. While applicants assert that such a distribution and receipt is a succession of interest rather than a true substitution or exchange, the provisions of sections 26(b) and 11 are deemed relevant to the transaction.

Applicants represent that approval of the proposed substitution of shares incident to the proposed plan of reorganization would be in the best interest of the Separate Accounts' contractholders. NEAMF has experienced a significant and continuing decline in the sale of shares, as well as an increase in redemptions since 1974. Ap-

plicants further represent that it is reasonable to expect that the investment objectives of the contractholders under common control. Applicant Separate Accounts, Educators, HM Life and LINA therefore request an exemption

ports adhering to all the item requirements of form 10-K, 10-Q, and 8-K, as

1. Pursuant to a statutory merger effected on May 28, 1978, a wholly-owned subsidiary of Dayton-Hudson Corp. ("DHC") was merged with and

filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,

plicants further represent that it is reasonable to expect that the investment objectives of the contractholders of separate Account B and of the NEA contracts issued by Separate Account A and LINA Separate Account ("the affected contractholders") would be best served through the integration of NEAMF with another fund, thus affording all NEAMF shareholders the economies of scale that generally accrue from a larger asset pool and a broader shareholder base. The above facts and representations form the basis of the Application for orders pursuant to sections 26(b) and 11 of the Act.

SECTION 17

Section 17(a) of the Act, in relevant part, makes it unlawful (unless and exemption is granted pursuant to section 17(b)) for any affiliated person or principal underwriter for a registered investment company or any affiliated person of such a person or principal underwriter, acting as principal, to sell property to or purchase property from such investment company unless the transaction involves certain exceptions. The contemplated transaction involves HMF and NEAMF, acting as principal, buying and selling securities or property to or from one another.

Section 17(b) of the Act states that the Commission shall grant an order exempting a proposed transaction from the provisions of section 17(a) of the Act where the evidence establishes that the proposed transaction is reasonable and fair, does not involve overreaching, is consistent with the policy of each registered investment company, and is consistent with the general purposes of the Act. Applicants assert that the proposed transaction meets all the criteria set forth in the Act.

Section 17(d) of the Act and rule 17d-1 thereunder, in pertinent part, prohibit an affiliated person or an affiliated person of an affiliated person of a registered investment company, acting as principal, from participating in or effecting a transaction in connection with any joint enterprise or joint arrangement in which such registered company is a participant unless the Commission has entered an order after application, permitting such transaction.

Separate Account A is an affiliated person of both HMF and NEAMF, so that the provisions of section 17(d) are applicable to the extent that the Separate Accounts, and the depositors thereof, included herein are principals participating in the transaction between HMF and NEAMF by virtue of ownership of the shares of the two investment companies by such separate accounts and, further, to the extent that insurance company depositors of such various separate accounts are under common control. Applicant Separate Accounts, Educators, HM Life and LINA therefore request an exemption from section 17(d) of the Act and rule 17d-1 thereunder to the extent necessary to permit the consummation of the transaction between HMF and NEAMF.

Notice is further given that any interested person may, not later than October 6, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the addresses stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request as provided by rule 0-5 of the rules and regulations promulgated under the Act. An order disposing of the application will be issued as of course following October 6, 1978, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-26382 Filed 9-19-78; 8:45 am]

[8010-01]

[File No. 81-361]

GLENDALE FEDERAL SAVINGS & LOAN ASSOCIATION

Application and Opportunity for Hearing

SEPTEMBER 11, 1978.

Notice is hereby given that Glendale Federal Savings & Loan Association (the "Applicant"), has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for exemption from certain reporting requirements under section 13 and the operation of section 16 of the 1934 Act.

The application states is part:

In the absence of an exemption, the Applicant would be required to file reports adhering to all the item requirements of form 10-K, 10-Q, and 8-K, as well as reports required pursuant to section 16 of the 1934 Act.

Applicant believes that the exemptive order requested by it is appropriate in view of the fact that form 10-Q and certain items of form 10-K, as well as reports required pursuant to section 16 of the 1934 Act are a inapplicable to the pass-through mortgage pool arrangement.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the office of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than October 5, 1978, may submit to the Commission in writing his views on any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-26383 Filed 9-19-78; 8:45 am]

[8010-01]

[File No. 81-396]

MERVYN'S

Application and Opportunity for Hearing

SEPTEMBER 11, 1978.

Notice is hereby given that Mervyn's has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), for an order exempting the company from filing the form 10-K for the fiscal year ending January 28, 1979, the interim forms 10-Q, and all other reports required under section 15(d) of the Exchange Act.

Mervyn's application discloses in part:

1. Pursuant to a statutory merger effected on May 28, 1978, a wholly-owned subsidiary of Dayton-Hudson Corp. ("DHC") was merged with and into Mervyn's, and each outstanding share of Mervyn's common stock was converted into 0.8 of a share of DHC. As a result of this merger, Mervyn's is now a wholly-owned subsidiary of DHC and no longer has any public stockholders.

2. Audited financial statements for Mervyn's have been presented as of the latest fiscal year ended January 29, 1978 in the proxy statement sent to Mervyn's shareholders in connection with the merger.

3. The common stock of DHC is registered with the Commission pursuant to section 12(b) of the 1934 Act. DHC files current, quarterly and annual reports pursuant to section 13 of such Act.

4. The results of Mervyn's operations will be reported by DHC in its periodic reports on a consolidated basis.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person no later than October 5, 1978, may submit to the Commission in writing his view of any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submiting such information or requesting the hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-26384 Filed 9-19-78; 8:45 am]

[8010-01]

[Release No. 15142; SR-NSCC-77-10]

NATIONAL SECURITIES CLEARING CORP.

Order Approving Proposed Rule Change

SEPTEMBER 13, 1978.

On November 9, 1977, National Securities Clearing Corp. ("NSCC"), 55 Water Street, New York, N.Y. 10041, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change which amended the rules and procedures of NSCC's SCC division. Notice of the filing together with the terms of substance of the proposed rule change was given by publication of Securities Exchange Act release No. 34-14172 (Nov. 16, 1977), and by publication in the FEDERAL REGISTER (42 FR 60033, Nov. 23, 1977). Public comment was invited. No written comments were received. Certain nonsubstantive technical amendments were made by NSCC in letters received July 28, 1978, and September 8, 1978.

The purpose of the proposed rule change is to consolidate the SCC, ASECC, and NCC division rules and procedures in the SCC division. The proposed rule change is separate from NSCC's conversion to a single system offering one-account processing. That conversion can occur only after certain conditions set forth in the Commission's order of January 13, 1977, granting NSCC registration as a clearing agency are satisfied.

In considering SR-NSCC-77-10, the Commission has not conducted a de novo examination of the existing rules or procedures of the ASECC, SCC, and NCC divisions. Rather, the Commission's review is limited to the questions of: (i) Whether the consolidated rules in toto will provide adequate levels of service to participants in the SCC division and, (ii) whether the amendments to existing rules are consistent with the Act.[1] The Commission may find it appropriate to effect a de novo review of some or all of these rules at the time it adopts standards for the permanent registration of clearing agencies.[2]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies and, in particular, the requirements of sections 17A and 19 of the Act and rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

[1] The proposed addition of rule 41, to provide a national institutional settlement system, is not approved by this order. That proposed change is the subject of a separate filing, SR-NSCC-77-7, filed Sept. 1, 1977, and will be considered under that caption. See Securities Exchange Act release No. 34-13969 (Sept. 19, 1977) and 42 FR 49537 (Sept. 27, 1977).

[2] See Securities Exchange Act of 1934 release No. 34-145531 (Mar 6, 1978).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-26385 Filed 9-19-78; 8:45 am]

[8010-01]

[File No. 1-6565]

RYAN HOMES, INC.

Application To Withdraw From Listing and Registration

SEPTEMBER 13, 1978.

The above-named issuer has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 and rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Ryan Homes, Inc. (the "Company"), has been listed for trading on the Amex since January 17, 1972. On May 25, 1978, the stock was also listed for trading on the New York Stock Exchange, Inc. ("NYSE"), and concurrently therewith, such stock was suspended from trading on the Amex. In making the decision to withdraw its common stock from listing and registration on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining a dual listing on both exchanges. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for such stock.

The application relates solely to the withdrawal from listing and registration on the Amex and shall have no effect on the continued listing of such common stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before October 13, 1978, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Washington, D.C. 20007, and its officers and directors will be:

fire which occurred on April 30, 1978. Eligible persons, firms, and organizations may file applications for loans

Dated: September 15, 1978.

K DREW,
Deputy Advocate for

Director by regulations in 27 CFR Part 18, Production of Volatile Fruit-Flavor Concentrates, belong at and

d. The authorities in paragraph 3b(2), 3c(1), and 3f above with respect to approval of a request for carrying

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-26386 Filed 9-19-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[License No. 03/04-0081]

CAPITAL INVESTMENT CO. OF WASHINGTON

Filing of Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to 13 CFR 107.701 (1978) for transfer of control of the Capital Investment Co. of Washington (CICW), a District of Columbia corporation, and a Federal licensee under the Small Business Investment Act of 1958, as amended (Act), with its office presently located at 1120 19th Street NW., Washington, D.C. 20036.

CICW was licensed on January 22, 1963. Psychiatric Institutes of America (PIA), 1010 Wisconsin Avenue NW., Suite 900, Washington, D.C. 20007, a portfolio concern of CICW, has made an offer to purchase all of CICW's outstanding shares of capital stock at $6 per share. Shareholders of approximately 80 percent of such shares have indicated a willingness to sell their shares to PIA. In addition, CICW is to issue an additional 20,000 shares of its capital stock for $6 per share, which shares will be offered to shareholders of record as of the date of consummation of the transfer of control of CICW on a pro-rata basis. PIA has agreed to purchase all offered shares that CICW's shareholders decline to purchase.

The shares of CICW's capital stock to be acquired by PIA will be held by its wholly owned subsidiary, Ionia Corp. (Ionia), a Delaware corporation, organized on June 26, 1978. The officers and directors of Ionia Corp. are:

Edward S. Fleming, President and Director.
Louis M. Kaplan, Vice President, Director.
John Petrou, Treasurer and Director.
Richard Wakefield, Vice President.

As a condition to approval of the proposed transfer of control, CICW will divest itself of $80,000 worth of debentures of PIA now held in its portfolio. It is anticipated that this divestiture will be accomplished by redemption by PIA of the debentures involved. Upon consummation of the foregoing transactions, private paid-in capital and paid-in surplus of CICW will total $502,097, its office will be moved to 1010 Wisconsin Avenue NW., Washington, D.C. 20007, and its officers and directors will be:

Edward S. Fleming, 5017 Tilden Street NW., Washington, D.C., President and Director.
Louis M. Kaplan, 7300 Brennon Lane, Chevy Chase, Md., Vice President and Director.
John Petrou, 7409 Arrowood Road, Bethesda, Md., Secretary, Treasurer and Director.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owner, and the probability of a successful operation of CICW under its control in accordance with the Act and regulations.

Notice is hereby given that any person may, not later than October 5, 1978, submit written comments on this application to The Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A similar notice shall be published by PIA in a newspaper of general circulation in Washington, D.C.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 7, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-26438 Filed 9-19-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1502, Amdt. 1]

MICHIGAN

Declaration of Disaster Loan Area

The above numbered declaration (see 43 FR 32487), is amended by extending the filing date for physical damage until the close of business on January 18, 1979, and for economic injury until the close of business on April 30, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 14, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-26441 Filed 9-19-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1524]

PENNSYLVANIA

Declaration of Disaster Loan Area

The area of Crystal and Courtland Streets, in East Stroudsburg, Monroe County, Pa. constitutes a disaster area because of damage resulting from a fire which occurred on April 30, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on November 13, 1978, and for economic injury until the close of business on June 14, 1979, at: Small Business Administration, District Office, East Lobby, Suite 400, One Bala Cynwyd Plaza, 231 St. Asaphs Road, Bala Cynwyd, Pa. 19004, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 14, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-26442 Filed 9-19-78 8:45 am]

[8025-01]

REGION I ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Hartford, Conn., will hold a public meeting at 9:30 a.m. on Tuesday, October 3, 1978, in the Conference Room, U.S. Small Business Administration, One Financial Plaza, Fourth Floor, Hartford, Conn., to discuss such business as may be presented by members, the staff of the Small Business Administration, or others attending.

For further information, write or call Thomas E. Higgins, District Director, U.S. Small Business Administration, One Financial Plaza, Fourth Floor, Hartford, Conn. 06103, 203-244-2511.

Dated: September 15, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-26439 Filed 9-19-78; 8:45 am]

[8025-01]

REGION IX ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of San Francisco, Calif., will hold a public meeting at 10 a.m. on Wednesday, October 4, 1978, at 211 Main Street, ninth floor, conference room 917 A, B, and C, San Francisco, Calif., to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Donald J. Marvin, District Director, U.S. Small Business Administration, 211 Main Street, fourth floor, San Francisco, Calif. 94105, 415-556-7490.

Dated: September 15, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-26440 Filed 9-19-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1526]

TENNESSEE

Declaration of Disaster Loan Area

Shelby County and adjacent counties within the State of Tennessee constitute a disaster area as a result of damage caused by a tornado which occurred on August 29, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on November 13, 1978, and for economic injury until the close of business on June 14, 1979, at: Small Business Administration, District Office, Parkway Tower, room 1012, 404 James Robertson Parkway, Nashville, Tenn. 37219, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 14, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-26443 Filed 9-19-78; 8:45 am]

[4810-31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

[Notice No. 78-15; Reference: ATF O 1100.96]

DELEGATION TO THE ASSISTANT DIRECTOR (REGULATORY ENFORCEMENT) OF AUTHORITIES OF THE DIRECTOR IN 27 CFR PART 18, PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATES

Delegation Order

1. *Purpose.* This order delegates certain authorities, now vested in the Director by regulations in 27 CFR Part 18, to the Assistant Director (Regulatory Enforcement), and permits redelegation to regulatory enforcement personnel, headquarters and field.

2. Background. Under current regulations, the Director has authority to take final action on matters relating to the location, construction, arrangement, equipment, and qualification of plants for the manufacture of volatile fruit-flavor concentrates; and to the production, removal, sale, transportation, and use of such concentrates and of the fruit mash or juice from which such concentrates are produced. It has been administratively determined that certain authorities now vested in the Director by regulations in 27 CFR Part 18, Production of Volatile Fruit-Flavor Concentrates, belong at and should be delegated to a lower organizational level.

3. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco, and Firearms, by Treasury Department order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, there is hereby delegated to the Assistant Director (Regulatory Enforcement) the authority to take final action on the following matters relating to 27 CFR Part 18, Production of Volatile Fruit-Flavor Concentrates:

a. To prescribe all forms required by regulations, under 27 CFR 18.21.

b. To authorize and approve, pursuant to written application:

(1) The establishment of a concentrate plant on premises where fruit products, other than concentrates, are made, under 27 CFR 18.22(a) and 27 CFR 18.43.

(2) The use of the premises and equipment of a concentrate plant, or any portion thereof, for the carrying on of any business other than that of a manufacturer of concentrates (and activities incident thereto), under 27 CFR 18.22(b) and 27 CFR 18.42.

c. To approve, pursuant to written applications:

(1) Alternate or procedures including alternate construction or equipment in lieu of methods or procedures specifically prescribed in regulations, under 27 CFR 18.23(a).

(2) Emergency variations from specified requirements in regulations for construction, equipment; and methods of operations, under 27 CFR 18.23(b).

d. To withdraw authorization of any alternate method or procedure or of any variation, under 27 CFR 18.23.

e. To approve other materials and methods for plats and flow plans, under 27 CFR 18.62.

f. To approve processes for reproducing records and the types of records to be reproduced, under 27 CFR 18.142.

4. *Redelegation.* a. The authorities in paragraphs 3a and 3d above, may be redelegated to regulatory enforcement personnel in Bureau headquarters not lower than the position of branch chief.

b. The authorities in paragraph 3b, 3c, 3e, and 3f above, may be redelegated to regulatory enforcement personnel in Bureau headquarters not lower than the position of ATF specialist.

c. The authority in paragraph 3c(2) above to approve emergency variations and the authority in paragraph 3e above, may be redelegated to regional regulatory administrators, who may redelegate these authorities to regional regulatory enforcement personnel not lower than the position of chief, technical services, or area supervisor.

d. The authorities in paragraph 3b(2), 3c(1), and 3f above with respect to approval of a request for carrying on of such other businesses, the use of alternate methods or procedures, and the type of record for reproduction and the reproduction process may be redelegated to regional regulatory administrators whenever a request is of an identical type that has been previously approved by Bureau headquarters. Regional regulatory administrators may redelegate these authorities to regional regulatory enforcement personnel not lower than the position of chief, technical services, or area supervisor.

e. The authority in paragraph 3d above may be redelegated to regional regulatory administrators, who may redelegate this authority to regional regulatory enforcement personnel not lower than the position of chief, technical services, or area supervisor. Whenever an alternate method or procedure or variaton is withdrawn, the regional regulatory administrator will notify the Assistant Director (Regulatory Enforcement) of such withdrawal.

Effective date: This order becomes effective on September 13, 1978.

Signed: September 13, 1978.

JOHN G. KROGMAN,
Acting Director.

[FR Doc. 78-26444 Filed 9-19-78; 8:45 am]

[4810-22]

Customs Service

[053595]

AMERICAN MANUFACTURER'S PETITION

Extension of Time for Comments Concerning American Manufacturer's Petition To Reclassify Certain Battery-Operated Clock Movements

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of extension of time for comments.

SUMMARY: This notice extends the period of time permitted for the submission of comments in response to a recent American manufacturer's petition to the Customs Service to reclassify certain battery-operated clock movements. This extension will permit the preparation and submission of more detailed comments by interested members of the public.

DATES: Comments must be received on or before October 17, 1978.

ADDRESS: Comments, preferably in triplicate, should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, Room 2335, U.S. Customs

Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Ms. Wanda Brasher, A:P:EE, 1111 Constitution Avenue NW., Room 706WB, Washington, D.C. 20224.

EFFECTIVE DATE: September 20, 1978.

FOR FURTHER INFORMATION CONTACT: it has been determined that the non grant within the meaning of the Act excessive remission of the commodity

[1505-01]

INTERSTATE COMMERCE

[7035-01]

IRREGULAR-ROUTE MOTOR COMMON CARRI-

Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Simon Cain, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202 566-5727.

SUPPLEMENTARY INFORMATION: On August 17, 1978, the Customs Service published in the FEDERAL REGISTER (43 FR 36548) a notice of receipt of an American manufacturer's petition, filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516). On the basis that the metal bearings used in the clock movements are substitutes for jewels and should be counted as jewels for tariff purposes, the petitioner has requested the reclassification of certain battery-operated clock movements under items 720.04 or 720.08, Tariff Schedules of the United States.

COMMENTS

Comments concerning the American manufacturer's petition were to have been received on or before September 18, 1978. However, the Customs Service has been requested to extend the period of time for submission of comments in order to allow additional time for the preparation of a response to the American manufacturer's petition. As a result, the period of time for submission of comments is extended to October 17, 1978.

DONALD W. LEWIS,
Acting Assistant Commissioner, Regulations and Rulings.

SEPTEMBER 14, 1978.

[FR Doc. 78-26387 Filed 9-19-78; 8:45 am]

[4810-22]

CERTAIN ELECTRICAL SOUND EQUIPMENT AND ELECTRONIC MUSICAL INSTRUMENTS FROM JAPAN

Final Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final countervailing duty determination.

SUMMARY: This is to advise the public that a countervailing duty investigation has resulted in a final determination that the Government of Japan has not given benefits considered to be bounties or grants within the meaning of the countervailing duty law on the manufacture or exportation of certain electrical sound equipment and electronic musical instruments.

EFFECTIVE DATE: September 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Steve Garment, Operations Officer, Technical Branch, Duty assessment Division, Office of Operations, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLIMENTARY INFORMATION: On March 3, 1978, an "Initiation of Countervailing Duty Investigation and Preliminary Determination" was published in the FEDERAL REGISTER (43 FR 8898). That notice stated that it had preliminarily been determined that no benefits had been bestowed by the Government of Japan to manufacturers/exporters of certain electrical sound equipment and electronic musical instruments which constituted bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (hereinafter referred to as "the Act").

The electrical sound equipment specified in the petition includes all types of audio frequency electric amplifiers (by themselves or in combination with RF amplifiers), Microphones, speakers (including, but not limited to, horns, drivers, and tweeters), speaker arrays or systems, mixers, public address systems, and sound amplifier sets, classifiable under items 684.70, 685.25, 685.32, 685.40, 685.50, and 688.40 of the Tariff Schedules of the United States Annotated (TSUSA). The electronic musical instruments specified in the petition are classifiable under items 725.46 and 725.47 of the TSUSA.

The preliminary determination stated in part:

> The only "bounty or grant" alleged by the petitioner to be countervailable is the forgiveness of the Japanese Commodity Tax upon the export of the subject merchandise. The Department has consistently held that the non-excessive rebate or remission of indirect taxes, directly related to an exported product, does not constitute a bounty or grant within the meaning of the law. The fact that imports into Japan of the subject merchandise are subject to duty does not, in itself, operate to make commodity tax rebates bounties or grants; and there is no evidence before the Department that the commodity tax rebates, either in themselves or in conjunction with Japanese import duties on similar merchandise, operate to confer bounties or grants on exports from Japan of the merchandise in question. (43 FR 8899.)

Upon investigation, no information has been presented which would indicate any excessive rebate or remission of the commodity tax. Since neither remission of the commodity tax on exports nor assessment of both the commodity tax and customs duties on imports, by itself, would constitute the payment or bestowal of a bounty or grant within the meaning of the Act it has been determined that the non excessive remission of the commodity tax, notwithstanding the conjunction of the practices alleged by the petitioner, similarly would not constitute a "bounty or grant." Support for such an interpretation has been provided by the Supreme Court in *Zenith Radio Corporation v. United States*, —— U.S. ——, 46 U.S.L.W. 4752 (June 21, 1978), wherein the court affirmed the Secretary's determination that the nonexcessive remission of an indirect tax (the Japanese commodity tax) did not constitute a bounty or grant within the meaning of the Act.

Therefore, it is determined that no bounty or grant is being paid or bestowed, directly or indirectly, within the meaning of section 303 of the Act (19 U.S.C. 1303), upon the manufacture, production, or exportation of certain electrical sound equipment and electronic musical instruments from Japan.

This notice is published pursuant to section 303(a), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department order 190 (revision 15), March 16, 1978, the provisions of Treasury Department order No. 165, revised, November 2, 1954, and § 159.47 of the Customs regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

SEPTEMBER 11, 1978.

[FR Doc. 78-26417 Filed 9-18-78; 8:45 am]

[4830-01]

Internal Revenue Service

[Delegation Order No. 133 Rev. 2]

DELEGATION OF AUTHORITY

Authority To Grant Security Clearances

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The responsibility for security clearances for officials and employees occupying other than critical-sensitive positions has been changed from the Director, Personnel Division, and delegated to the Director, Security Standards and Evaluation Division. The text of the delegation order appears below.

EFFECTIVE DATE: September 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Ms. Wanda Brasher, A:P:EE, 1111 Constitution Avenue NW., Room 706WB, Washington, D.C. 20224, 202-376-0530 (not toll free).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

J. S HENDERSON II,
Chief, Employment Branch, Personnel Division.

(1) The authority granted to the Commissioner of Internal Revenue by Treasury Department order No. 82 (revised Jan. 17, 1973), for performing the operating functions relating to Internal Revenue personnel security, including the granting of security clearances and the denial or termination of clearances based upon a determination that they are not required, is hereby delegated to:

(a) The Deputy Commissioner, as personnel security officer, to grant, deny, and terminate, top secret, secret, and confidential security clearances for officials and employees occupying critical-sensitive positions as defined in IRM 0736 or given critical-sensitive assignments, except top secret security clearances for:

(1) Presidential appointees requiring confirmation by the Senate;

(2) Occupants of executive level positions (Commissioner, Deputy Commissioner, and Chief Counsel);

(b) The Director, Security Standards and Evaluation Division, to grant, deny, and terminate secret or confidential security clearances for officials and employees occupying other than critical-sensitive positions or on other than critical-sensitive assignments.

(2) The authority granted in 1(a) may be redelegated to the Assistant to the Deputy Commissioner; the authority granted in 1(b) may not be redelegated.

(3) The authority to deny or terminate clearances granted in both 1(a) and 1(b) includes only the denial or termination of a clearance based upon the determination that the clearance is not required. The authority to terminate (deny or withdraw) clearances based upon security implications is not granted by this delegation order. Such authority is held by the Director of Personnel, Department of the Treasury, as delegated by the Secretary of the Treasury and the Assistant Secretary for Administration.

(4) Delegation order No. 133 (rev. 1), issued May 20, 1975, is superseded.

JEROME KURTZ,
Commissioner.

[FR Doc. 78-26447 Filed 9-19-78; 8:45 am]

[1505-01]

INTERSTATE COMMERCE COMMISSION

[Decisions Volume No. 18]

Decision—Notice

Correction

In FR Doc. 78-22616 appearing at page 36185 in the issue for Tuesday, August 15, 1978 and corrected at page 41453 in the issue for Monday, September 18, 1978; in the second column, at the top, the third line of the correction numbered 1 should read "114273 (Sub-409F)".

[1505-01]

[Decision Vol. No. 20]

DECISION—NOTICE

Correction

In FR Doc. 78-23368 appearing at page 37311 in the issue for Tuesday, August 22, 1978 and corrected at page 41453 in the issue for Monday, September 18, 1978; in the second column, the third line of the correction numbered 1 should read "94265 (Sub-270F)".

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 15, 1978.

This application for long-and-short-haul relief has been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of this notice.

FSA No. 43606, Southwestern Freight Bureau, agent's No. B-769, rates on beet or cane sugar, from Minnesota and North Dakota, to Braum, Okla., in its tariff 3-G, ICC 4685, to become effective October 13, 1978. Grounds for relief—market competition.

By the Commission.

H.G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26431 Filed 9-19-78; 8:45 am]

[7035-01]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY-ELIMINATION OF GATEWAY LETTER NOTICES

Notice

SEPTEMBER 13, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's gateway elimination rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission within 10 days from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 34631 (Sub-E2) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER, issue of September 22, 1975, and partially republished, as corrected, this issue. Applicant: A. ARNOLD AND SON TRANSFER & STORAGE CO. INC., 2600 West Broadway, P.O. Box 11033, Louisville, KY 40211. Representative: A. F. Mirus (same as above). *Household goods*, as defined by the Commission, • • • (3) between points in Adair County, MO, on the one hand, and, on the other, points in Logan, Otero, Larimer, Arapahoe, Las Animas, Moffat, Mesa, and La Plata Counties, CO, and between St. Louis County, MO, on the one hand, and, on the other, points in Mesa and La Plata Counties, CO (KY*); • • • (17) between points in Camden County, NJ, on the one hand, and, on the other, points in Cabell County, WV (KY*) • • • (24) between points in Hamilton, Scioto, Darke, Franklin, Belmont, Williams, Lucas, Cuyahoga, and Trumbull Counties, OH, on the one hand, and, on the other, points in Logan, Otero, Denver, Moffat, and La Plata Counties, CO (KY*) • • • (35) between points in Hamilton and Scioto Counties, OH, on the one hand, and, on the other, points in Wood, Cabell, Mercer,

Greenbrier, Randolph, Monongalia, and Raleigh Counties, WV, and be-

the one hand, and, on the other, points in Plymouth, Hampden, and

(Chenoa, IL, Terre Haute, IN*); (15) from points in WI to points in MS (Bloomington, IL, Birdspoint, MO*).

Clinton, IL, or Arkansas City, KS*); (20) from points in NJ to points in WA (Philadelphia, PA, Steubenville, OH,

112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

nent parts, from Owensboro, KY, to points in WI. Limitation: The certificate in MC 112304 (Sub-65) shall be of

Greenbrier, Randolph, Monongalia, and Raleigh Counties, WV, and between points in Belmont and Trumbull Counties, OH, on the one hand, and, on the other, points in Cabell County, WV, and between points in Williams and Lucas Counties, OH, on the one hand, and, on the other, points in Cabell, Mercer, Greenbrier, and Raleigh Counties, WV, and between points in Darke County, OH, on the one hand, and, on the other, points in Cabell, Mercer, Greenbrier, Randolph, and Raleigh Counties, WV, and between points in Franklin County, OH, on the one hand, and, on the other, points in Cabell, Mercer, Greenbrier, and Raleigh Counties, WV, and between points in Cuyahoga County, OH, on the one hand, and, on the other, points in Cabell, Mercer, Greenbrier Counties WV, (KY*) * * * (53) between points in Washington, Pittsylvania, Roanoke, Fairfax, Nansemond, Henrico, and Frederick Counties, VA, on the one hand, and, on the other, points in Alcorn, Coahoma, Washington, Lowndes, Warren, Lauderdale, Hinds, Harrison, and Forest Counties, MS (KY*) * * * (107) between points in Greenwood County, SC, on the one hand, and, on the other, points in Adams, Clinton, Bradford, Somerset, McKean, and Butler Counties, PA, and between points in Anderson County, SC, on the one hand, and, on the other, points in Somerset and Butler Counties, PA, and between points in Richland County, SC, on the one hand, and, on the other, points in KcKean and Butler Counties, PA, and between points in Jasper County, SC, on the one hand, and, on the other, points in Clinton, Somerset, McKean, and Butler Counties, PA, and between points in Charleston County, SC, on the one hand, and, on the other, points in McKean and Butler Counties, PA (KY*) * * * (144) between points in Escanaba, Leon, Duval, Hillsborough, Polk, Brevard, Lee, Palm Beach, and Dade Counties, FL, on the one hand, and, on the other, points in Osage, Choctaw, Garfield, Canadian, Carter, Cimarron, Custer, Jackson, and Comanche Counties, OK (except between points in Escanaba County, FL, on the one hand, and, on the other, points in Osage, Choctaw, Garfield, Canadian, Carter, Custer, Jackson, Comanche Counties, OK), and between points in Leon County, FL, on the one hand, and, on the other, points in Choctaw and Carter Counties, OK (KY*) * * * (168) between points in Lake, Vigo, Vanderberg, Marion, Lawrence, Wayne, and Jefferson Counties, IN, on the one hand, and, on the other, points in Plymouth, Hampden, Berkshire, Franklin, and Middlesex Counties, MA, and between points in St. Joseph County, IN, on the one hand, and, on the other, points in Plymouth, Hampden, and Middlesex Counties, MA, and between points in Steuben County, IN, on the one hand, and, on the other, points in Plymouth County, MA (KY*) * * * (Gateways eliminated: noted by asterisks above.)

NOTE.—The purpose of this republication is to correct the territorial descriptions in the above-numbered sections. The remainder of the letter-notice remains as previously published.

MC 83539 (Sub-E373), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Representative: Douglas Anderson (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, and *related machinery*, between points in DE, on the one hand, and, on the other, points in MA. (Gateways eliminated: Philadelphia, PA and points in PA.)

MC 83539 (Sub-E380), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Representative: Douglas Anderson (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment between DC, on the one hand, and, on the other, points in MA. (Gateway eliminated: Philadelphia, PA and points in PA.)

MC 83539 (Sub-E436), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, TX 75222. Representative: Douglas Anderson (same as above). *Commodities*, the transportation of which, because of their size or weight, require the use of special equipment, and *related machinery, parts, materials and supplies* when moving in connection with such commodities; between points in the State of CT, on the one hand, and, on the other, points in DC. (Gateways eliminated: Philadelphia, PA and points in PA.)

MC 88368 (Sub-E36)(correction), filed May 15, 1974, published in the FEDERAL REGISTER issue of August 25, 1975, and partially republished, as corrected, this issue. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Avenue, Grandview, MO 64030. Representative: Charles Ephraim, Attorney, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. *Household goods*, as defined by the Commission,* * * (11) from points in WI to points in AL (Bloomington, IL; Birdspoint, MO, Corinth, MS*); (12) from points in WI to points in FL (Hopedale, IL, Birdspoint, MO, Corinth, MS, Florence, AL*); (13) from points in WI to points in GA (Hopedale, IL, Birdspoint, MO, Corinth, MS, Florence, AL*); (14) from points in WI to points in Harlan County, KY (Chenoa, IL, Terre Haute, IN*); (15) from points in WI to points in MS (Bloomington, IL, Birdspoint, MO*). (Gateways eliminated: as noted by asterisks above.)

NOTE.—The purpose of this republication is to add the above parts, previously omitted. The remainder of this letter-notice remains as originally published.

MC 88368 (Sub-E42) (correction), filed May 15, 1974, published in the FEDERAL REGISTER issue of August 25, 1975, and partially republished, as corrected, this issue. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Avenue, Grandview, MO 64030. Representative: Charles Ephraim, Attorney, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Household goods*, as defined by the Commission, * * * (3) from points in NJ to points in AR (Philadelphia, PA, Steubenville, OH, Harlan, KY, Florence, AL*); (4) from points in NJ to points in CA in and north of Lake Colusa, Yuba, and Placer Counties (Philadelphia, PA, Steubenville, OH, Clinton, IL, Newton, KS, Sterling, CO, or Dalesport, WA*); (5) from points in NJ to points in CO (Philadelphia, PA, Steubenville, OH, Clinton, IL, Newton, KS*); (6) from points in NJ to points in ID (Philadelphia, PA, Steubenville, OH, Clinton, IL, Newton, KS, Sterling, CO, or Monida, MT*); (7) from points in NJ to points in IL within a 100-mile radius of Danville, including Danville (Philadelphia, PA, Steubenville, OH, Chenoa, IL, or Danville, IL*); (8) from points in NJ to Harlan, IA and points within 15 miles thereof (Steubenville, OH, and Chenoa, IL*); (9) from points in NJ to points in KS (Philadelphia, PA, Steubenville, OH, or Clinton, IL*); (10) from points in NJ to points in Harlan County, KY (Philadelphia, PA, Steubenville, OH*); (11) from points in NJ to points in LA (Philadelphia, PA, Steubenville, OH, Bledsoe, KY, or Cullman, AL*); (12) from points in NJ to points in MS (Philadelphia, PA, Steubenville, OH, Bledsoe, KY, Huntsville, AL*); (13) from points in NJ to points in MO (Philadelphia, PA, Steubenville, OH, or Clinton, IL*); (14) from points in NJ to points in MT (Philadelphia, PA, Steubenville, OH, Clinton, IL, Newton, KS, Sidney, NE, or Casper, WY*); (15) from points in NJ to points in NM (Philadelphia, PA, Steubenville, OH, Clinton, IL, Arkansas City, KS or El Reno, OK*); (16) from points in NJ to points in Jefferson County, OH (Philadelphia, PA, Steubenville, OH*); (17) from points in NJ to points in OK (Philadelphia, PA, Steubenville, OH, Clinton, IL, or Arkansas City, KS*); (18) from points in NJ to points in OR (Philadelphia, PA, Steubenville, OH, Clinton, IL, Newton, KS, Sterling, CO, or Marybill, WA*); (19) from points in NJ to points in TX (Philadelphia, PA, Steubenville, OH, Clinton, IL, or Arkansas City, KS*); (20) from points in NJ to points in WA (Philadelphia, PA, Steubenville, OH, Clinton, IL, Newton, KS, or Sterling, CO*); and (21) from points in NJ to points in WY (Philadelphia, PA, Steubenville, OH, Clinton, IL, Newton, KS, or Sidney, NE*). (Gateways eliminated: as noted by asterisks above.)

NOTE.—The purpose of this republication is to add the above sections, previously omitted. The remainder of this letter-notice remains as previously published.

MC 108449 (Sub-E230), filed May 14, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., P.O. Box 3355, St. Paul, MN 55165. Representative: W. A. Myllenbeck (same as above). *Petroleum products*, except petroleum chemicals (but including naptha), as described in appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, in bulk, in tank vehicles, from Chicago, IL, to points in NE. (Gateways eliminated: La Crosse, WI, terminal facilities of American Oil Co. near Spring Valley, MN, and terminal facilities of Williams Brothers Pipe Line Co. near Spirit Lake, IA.)

MC 112304 (Sub-E568), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from Bowling Green, KY, to points in NY. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E569), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from Owensboro, KY, to points in NY. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E570), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from those points in KY on and west of a line beginning at the KY-TN State line, and extending along Interstate Hwy 75 to junction Interstate Hwy 64, then west along Interstate Hwy 64 to the IN-KY State line on the Ohio River, to points in MN. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E571), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from Lexington, KY, to points in MN. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E572), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from Louisville, KY, to points in MN. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E573), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from those points in KY on and west of a line beginning at the KY-TN State line, and extending along Interstate Hwy 65 to junction with the Green River Parkway, then north along the Green River Parkway to junction U.S. Hwy 60 bypass, to junction U.S. Hwy 431, then north along U.S. Hwy 431 to the IN-KY State line on the Ohio River, to points in WI. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E574), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from Bowling Green, KY, to points in WI. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E575), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from Owensboro, KY, to points in WI. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E576), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from those points in KY on and west of a line beginning at the KY-TN State line, and extending along Interstate 65 to junction with the Green River Parkway, then north along the Green River Parkway to junction U.S. Hwy 60 bypass, then west along U.S. Hwy 60 bypass to junction U.S. Hwy 431, then along U.S. Hwy 431 to the IN-KY State line on the Ohio River, to points in MI. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E577), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from Bowling Green KY, to points in MI. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E578), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, From Ownesboro, KY, to points in MI. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E579), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from those points in KY on and west of a line beginning at the KY-TN State line, and extending along Interstate Hwy 65 to junction with the Green River Parkway, then north along the Green River Parkway to junction U.S. Hwy 60 bypass, then west along U.S. Hwy 60 bypass to junction U.S. Hwy 431, then north along U.S. Hwy 431 to the IN-KY State line on the Ohio River, to points in PA.

Limitation: The certificate in MC 112304 (Sub-65) shall be of no further

Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from Owensboro, KY, to points in MI. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E598), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts*, from those points in VA on and east of U.S. Hwy 220. Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

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Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E580), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from Bowling Green, KY, to points in PA. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E581), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from Owensboro, KY, to points in PA. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E582), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from those points in KY on and west of a line beginning at the KY-TN State line, and extending north along Interstate Hwy 65 to junction with the Green River Parkway, then north along the Green River Parkway to junction U.S. Hwy 60 Bypass, then west along U.S. Hwy 60 Bypass to junction U.S. Hwy 431, then north along U.S. Hwy 431 to the IN-KY State line on the Ohio River, to points in MD. Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E583), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from Bowling Green, KY, to points in MD. Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E584), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from Owensboro, KY, to points in MD. Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E585), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from those points in KY on and west of a line beginning at the KY-TN State line, and extending north along U.S. Hwy alternate 41 to junction U.S. Hwy 41, then north along U.S. Hwy 41 to junction U.S. Hwy 62, then east along U.S. Hwy 62 to junction U.S. Hwy 431, then along U.S. Hwy 431 to the KY-IN State line on the Ohio River, to points in WV. Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E586), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from Owensboro, KY, to points in WV. Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E587), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from those points in KY on and west of a line beginning at the KY-TN State line, and extending north along U.S. Hwy alternate 41 to junction U.S. Hwy 41, then north along U.S. Hwy 41 to junction U.S. Hwy 62, then east along U.S. Hwy 62 to junction U.S. Hwy 431, then east along U.S. Hwy 431 to the KY-IN State line on the Ohio River to points in VA on and east of U.S. Hwy 220. Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC-112304 (Sub-E588), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from Owensboro, KY, to those points in VA on and east of U.S. Hwy 220. Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC-112304 (Sub-E589), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from those points in KY on and west of a line beginning at the KY-TN State line, and extending along U.S. Hwy alternate 41, then along U.S. Hwy alternate 41 to junction U.S. Hwy 41, then north along U.S. Hwy 41 to junction U.S. Hwy 62, then east along U.S. Hwy 62 to junction U.S. Hwy 431, then north along U.S. Hwy 431 to the KY-IN State line on the Ohio River, to points in OH. Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC-112304 (Sub-E590), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from Owensboro, KY, to points in OH. Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC-112304 (Sub-E591), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from those points in KY on, north and east of a line beginning at the KY-TN State line, and extending along Interstate Hwy 75, then north alone Interstate Hwy 75 to junction U.S. Hwy 60, then west along U.S. Hwy 60 to junction with the Blue Grass Parkway, then west along the Blue Grass Parkway to junction Interstate Hwy 65, then south along Interstate Hwy 65 to Junction with the Western Kentucky Parkway, then west along the Western Kentucky Parkway to junction U.S. Hwy 41, then north along U.S. Hwy 41 to the KY-IN State line on the Ohio River, to points in MO. Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E592), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from Lexington, KY, to points in MO. Limitation: the certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E593), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from points in IN to points in ME. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E594), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from points in IN to points in NH. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E595), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from points in IN to points in MA. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E596), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from points in IN to points in RI. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E597), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from points in IN to points in CT. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E598), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from points in IN to points in NJ. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E599), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from points in IN to points in NY. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E 600), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from points IN to points in PA. Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E601), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from points in IN to points in DE. Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E602), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from points in IN to points in DC. Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E603), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from those points in IN on and north of Interstate Hwy 70, to those points in VA on and east of U.S. Hwy 220. Limitation: The certificate in MC 112304 (Sub-65), shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E 604), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from Indianapolis, IN, to those points in VA on and east of U.S. Hwy 220. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E 605), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from points in IN to points in VT. Limitation: The certificate MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Lima, OH.)

MC 112304 (Sub-E 606), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from points in IN to points in AR. Limitation: The certificate MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E 607), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from points in IN to points in LA. Limitation: The certificate MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E608), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from points in IN to points in MS. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E609), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue

Hwy 16 to the MT-SK border; points in OK on and west of a line beginning at the OK-AR State line on U.S. Hwy 70, then along U.S. Hwy 70 to junction

junction ND Hwy 15, then along ND Hwy 15 to junction ND Hwy 20, then along ND Hwy 20 to the United States-Canadian border; points in OK

points on and south of a line beginning at Charleston, SC, on U.S. Hwy 17 to junction SC Hwy 64, then along SC Hwy 64 to junction U.S. Hwy 301,

MC 112304 (Sub-E609), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from points in IN to points in AL. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E610), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from those points in IN on and north of a line beginning at the IN-IL State line, and extending along Interstate Hwy 70, then east along Interstate Hwy 70 to junction IN Hwy 3, then north along IN Hwy 3 to junction IN Hwy 67, then north along IN Hwy 67 to junction IN Hwy 26, then east along IN Hwy 26 to the IN-OH State line, to points in GA. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E611), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from Indianapolis, IN, to points in GA. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E612), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from points in IN to points in FL. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E613), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from those points in IN on and north of Interstate Hwy 70 to those points in TN on and west of Interstate Hwy 65. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E614), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Steet, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from Indianapolis, IN, to those points in TN on and west of Interstate Hwy 65. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E615), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from those points in IN on and north of Interstate Hwy 70, to Nashville, TN. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E616), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* from Indianapolis, IN to Nashville, TN. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Evansville, IN.)

MC 112304 (Sub-E617), filed July 11, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Guard rail and component parts,* between points in Venango County, PA, on the one hand, and, on the other, points in VA. Limitation: The certificate in MC 112304 (Sub-65) shall be of no further force and effect after August 9, 1980. (Gateway eliminated: Clarksburg, WV and 50 miles within Clarksburg, WV.)

MC 114019 (Sub-E454) (correction), filed December 20, 1976, published in the FEDERAL REGISTER issue of February 2, 1978, March 9, 1978, and April 19, 1978, and republished, as corrected, this issue. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Representative: Arthur J. Sibik (same as above). *Foodstuffs,* as is dealt in by wholesale and retail food business houses (except commodities in bulk), (1) between points in WI, on the one hand, and, on the other, points in IN, OH, WV, PA, NY, Baltimore and Sparrows Point, MD, and points in NJ within 30 miles of New York, NY, and points in DE, NJ, and MD within 30 miles of Philadelphia, PA; (2) between points in IA on, north and west of a line beginning at the MN-WI State line, and extending south along U.S. Hwy 63 to junction U.S. Hwy 80, then along U.S. Hwy 80 to the NE-IA State line, on the one hand, and, on the other, points in IN on and north of U.S. Hwy 40; (3) between points in IA on, north and west of a line beginning at the IL-IA State line, and extending west along U.S. Hwy 34 to junction U.S. Hwy 35, then along U.S. Hwy 35 to the IA-MO State line, on the one hand, and, on the other, points in OH, PA, NY, WV, Baltimore, MD, points in NJ within 30 miles of New York, NY, and points in MD, DE, and NJ within 30 miles of Philadelphia, PA. (Gateway eliminated: Chicago, IL)

NOTE.—The purpose of this republication is to correctly state the commodity and territorial description.

MC 117574 (Sub-E118), filed July 16, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). *Agricultural, industrial, or processing machinery; tractors; or agricultural implements* which are also either heavy machinery or building and contractor's equipment, (1) between points in the PA counties of Cameron and Potter, on the one hand, and, on the other, points in the States of AL, AZ, CA, FL, GA, ID, LA, MS, NV, NM, NC, OR, SC, TX, UT, WA, and points in AR on and south of a line beginning at the AR-TN State line on Interstate Hwy 40, then along Interstate Hwy 40 to junction U.S. Hwy 49, then along U.S. Hwy 49 to junction AR Hwy 17, then along AR Hwy 17 to junction AR Hwy 1, then along AR Hwy 1 to junction AR Hwy 54, then along AR Hwy 54 to junction AR Hwy 83, then along AR Hwy 83 to junction AR Hwy 4, then along AR Hwy 4 to the AR-OK State line; points in CO on and south and west of a line beginning at the CO-NE State line on U.S. Hwy 34, then along U.S. Hwy 34 to junction U.S. Hwy 85, then along U.S. Hwy 85 to the CO-WY State line; KS, points on, south and west of a line beginning at the KS-NE State line along U.S. Hwy 36 to junction U.S. Hwy 283, then along U.S. Hwy 283 to the KS-OK State line; points in MT on and west of a line beginning at the MT-WY State line on MT Hwy 59, then along MT Hwy 59 to junction U.S. Hwy 212, then along U.S. Hwy 212 to junction U.S. Hwy 312, then along U.S. Hwy 312 to junction MT Hwy 10, then along MT Hwy 10 to junction MT Hwy 16, then along MT

Hwy 16 to the MT-SK border; points in OK on and west of a line beginning at the OK-AR State line on U.S. Hwy 70, then along U.S. Hwy 70 to junction U.S. Hwy 281, then along U.S. Hwy 281 to junction U.S. Hwy 270, then along U.S. Hwy 270 to the KS-OK State line; points in TN on and south of a line beginning at the VA-TN State line on U.S. Hwy 25E, then along U.S. Hwy 25E to junction TN Hwy 63, then along TN Hwy 63 to junction U.S. Hwy 27, then along U.S. Hwy 27 to junction TN Hwy 62, then along TN Hwy 62 to junction Interstate Hwy 40, then along Interstate Hwy 40 to the AR-TN State line; VA, points on and south of a line beginning at the VA-WV State line on U.S. Hwy 460, then along U.S. Hwy 460 to junction VA Hwy 24, then along VA Hwy 24 to junction U.S. Hwy 60, then along U.S. Hwy 60 to the Chesapeake Bay, then along the south shore of the Chesapeake Bay to the VA-NC State line, points in WY on and west of a line beginning at the CO-WY State line on U.S. Hwy 85, then along U.S. Hwy 85 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction WY Hwy 59, then along WY Hwy 59 to the MT-WY State line; (2) between points in the PA counties of Elk and McKean, on the one hand, and, on the other, points in the States of AL, AZ, CA, FL, GA, ID, LA, MS, NV, NM, NC, OR, SC, TX, UT, WA, and points in the following States; points in AR, CO, KS, MT, OK, TN, VA, and WY described in (1) above; (3) between points in the PA county of Clearfield, on the one hand, and, on the other, points in the States of AZ, CA, CO, FL, GA, ID, LA, MT, NV, NM, NC, OR, SC, TX, UT, WA, WY, and points in AL on and south of U.S. Hwy 72; points in AR on and south of a line beginning at the AR-MS State line at the junction of the Arkansas River and the Mississippi River, then along the Arkansas River to U.S. Hwy 79, then along U.S. Hwy 79 to junction AR Hwy 8, then along AR Hwy 8 to the AR-OK State line; points in KS on and west of a line beginning at the KS-OK State line along Interstate Hwy 35 to junction U.S. Hwy 56, then along U.S. Hwy 56 to junction KS Hwy 96, then along KS Hwy 96 to junction U.S. Hwy 183, then along U.S. Hwy 183 to the KS-NE State line; points in MS on and south of a line beginning at the AL-MS State line on U.S. Hwy 72 to junction U.S. Hwy 45, then along U.S. Hwy 45 to junction MS Hwy 8, then along MS Hwy 8 to the AR-MS State line; points in NE on and west of NE Hwy 61; points in ND on and west of a line beginning at the ND-SD State line on ND Hwy 6, then along ND Hwy 6 to junction Interstate Hwy 94, then along Interstate Hwy 94 to junction ND Hwy 3, then along ND Hwy 3 to junction ND Hwy 15, then along ND Hwy 15 to junction ND Hwy 20, then along ND Hwy 20 to the United States-Canadian border; points in OK on and west of a line beginning at the AR-OK State line on U.S. Hwy 270, to junction U.S. Hwy 183, then along U.S. Hwy 183 to the KS-OK State line; points in SD on and west of a line beginning at the NE-SD State line on SD Hwy 73, then along SD Hwy 73 to junction SD Hwy 14, then along SD Hwy 14 to junction SD Hwy 63, then along SD Hwy 63 to the ND-SD State line; points in TN on and south of a line beginning at the TN-VA State line on TN Hwy 33 to junction U.S. Hwy 11, then along U.S. Hwy 11 to junction U.S. Hwy 41, then along U.S. Hwy 41 to junction U.S. Hwy 72, then along U.S. Hwy 72 to the AL-TN State line; points in VA on and south of a line beginning at the Chesapeake Bay on U.S. Hwy 460 to junction U.S. Hwy 58, then along U.S. Hwy 58 to the junction VA Hwy 70, then along VA Hwy 70 to the TN-VA State line; (4) between points in the PA counties of Bedford, Blair, Cambria, and Somerset Counties, on the one hand, and, on the other, points in AZ, CA, CO, FL, ID, LA, MN, MT, NV, NM, OR, TX, UT, WA, WY, and points in AL on and south of a line beginning at the AL-SC State line on U.S. Hwy 78 to junction U.S. Hwy 278, then along U.S. Hwy 278 to the AL-MS State line; points in AR on and south of a line beginning at the AR-MS State line on AR Hwy 8 to junction U.S. Hwy 82, then along U.S. Hwy 82 to the AR-TX State line; points in GA on and south of a line beginning at the GA-SC State line on U.S. Hwy 301 to junction GA Hwy 24, then along GA Hwy 24 to junction Interstate Hwy 20, then along Interstate Hwy 20 to junction U.S. Hwy 78, then along U.S. Hwy 78 to the AL-GA State line; points in KS on and west of a line beginning at the KS-OK State line on U.S. Hwy 281 to the KS-NE State line; points in MN on and west of a line beginning at the MN-ND State line on U.S. Hwy 10 to junction MN Hwy 34, then along MN Hwy 34 to junction MN Hwy 6, then along MN Hwy 6 to junction U.S. Hwy 71, then along U.S. Hwy 71 to the United States-Canadian border; points in MS on and south of MS Hwy 12; points in NE on and west of a line beginning at the KS-NE State line on U.S. Hwy 281 to the NE-SD State line; points in ND on and west of a line beginning at U.S. Hwy 281 to junction ND Hwy 11, then along ND Hwy 11 to the MN-ND State line; points in OK on and west of a line beginning at the AR-OK State line on U.S. Hwy 70 to junction OK Hwy 3, then along OK Hwy 3 to junction U.S. Hwy 270, then along U.S. Hwy 270 to junction OK Hwy 34, then along OK Hwy 34 to the KS-OK State line; SC points on and south of a line beginning at Charleston, SC, on U.S. Hwy 17 to junction SC Hwy 64, then along SC Hwy 64 to junction U.S. Hwy 301, then along U.S. Hwy 301 to the SC-GA State line; points in SD on and west of a line beginning at the SD-NE State line on U.S. Hwy 281 to the ND-SD State line; (5) between points in Indiana and Jefferson Counties, PA, on the one hand, and, on the other, points AZ, CA, CO, FL, ID, LA, MT, NV, NM, OR, TX, UT, WA, WY, and points in AL on and south of a line beginning at the AL-GA State line on U.S. Hwy 278 to junction Interstate Hwy 59, then along Interstate Hwy 59 to junction AL Hwy 14, then along AL Hwy 14 to junction AL Hwy 17, then along AL Hwy 17 to junction AL Hwy 32, then along AL Hwy 32 to the AL-MS State line; points in AR on and south of a line beginning at the AR-MS State line on AR Hwy 8 to junction U.S. Hwy 82, then along U.S. Hwy 82 to junction U.S. Hwy 71, then along U.S. Hwy 71 to junction AR Hwy 32, then along AR Hwy 32 to the AR-OK State line; points in CT on and east of a line beginning at New London, CT on CT Hwy 32 to junction CT Hwy 52, then along CT Hwy 52 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the CT-RI State line; points in GA on and south of a line beginning at the GA-SC State line on Interstate Hwy 20 to junction U.S. Hwy 78, then along U.S. Hwy 78 to the AL-GA State line; points in KS on and west of a line beginning at the KS-OK State line on U.S. Hwy 283, then along U.S. Hwy 283 to junction Interstate Hwy 70, then along Interstate Hwy 70 to junction KS Hwy 25, then along KS Hwy 25 to junction U.S. Hwy 36, then along U.S. Hwy 36 to junction KS Hwy 161, then along KS Hwy 161 to the KS-NE State line; points in ME on and east of a line beginning at the ME-NH State line on U.S. Hwy 202 to junction ME Hwy 4, then along ME Hwy 4 to junction ME Hwy 27, then along ME Hwy 27 to the United States-Canadian border; points in MD east of the Chesapeake Bay in the counties of Dorchester, Somerset, Wicomico, Worcester; points in MA on and east of MA Hwy 123; points in MS on and south of a line beginning at the AL-MS State line on MS Hwy 14 to junction MS Hwy 12, then along MS Hwy 12 to the AR-MS State line; points in NE on and west of a line beginning at the KS-NE State line NE Hwy 61, then along NE Hwy 61 to junction NE Hwy 2, then along NE Hwy 2 to junction U.S. Hwy 385, then along U.S. Hwy 385 to the NE-SD State line; points in NH on and east of NH Hwy 125; points in NC on and south of a line beginning at the VA-NC State line on U.S. Hwy 501 to junction U.S. Hwy 1, then along U.S. Hwy 1 to the NC-SC

State line; points in ND on and west of a line beginning at the ND-SD State line on ND Hwy 49 to junction ND

junction U.S. Hwy 90, then along U.S. Hwy 90 to junction Interstate Hwy 10, then along Interstate Hwy 10 to the

junction of the York River and Chesapeake Bay, then along the south bank of the York River to junction VA Hwy

Hwy 91 to the ID-UT State line; points in VA in the counties of Accomack and Northampton; (9) between

ginning at the CA-OR State line along U.S. Hwy 97, then north along U.S. Hwy 97 to junction U.S. Hwy 197, then

points in OR on and northwest of U.S.

State line; points in ND on and west of a line beginning at the ND–SD State line on ND Hwy 49 to junction ND Hwy 200, then along ND Hwy 200 to junction U.S. Hwy 83, then along U.S. Hwy 83 to the United States-Canadian border; OK, points on and west of a line beginning at the AR–OK State line on U.S. Hwy 70 to junction U.S. Hwy 77, then along U.S. Hwy 77 to junction OK Hwy 19, then along OK Hwy 19 to junction U.S. Hwy 62, then along U.S. Hwy 62 to junction U.S. Hwy 281, then along U.S. Hwy 281 to junction U.S. Hwy 183, then along U.S. Hwy 183 to the KS–OK State line; points in RI on and south of U.S. Hwy 6; points in SC on and south of a line beginning at the NC–SC State line on U.S. Hwy 1 to juncton U.S. Hwy 378, then along U.S. Hwy 378 to junction at the GA–SC State line; points in SD on and west of a line beginning at the ND–SD State line on U.S. Hwy 385 to junction SD Hwy 79, then along SD Hwy 79 to junction U.S. Hwy 212, then along U.S. Hwy 212 to junction SD Hwy 73, then along SD Hwy 73 to the ND–SD State line; points in VA on and east of a line beginning at the NC–VA State line on U.S. Hwy 501 to junction U.S. Hwy 15, then along U.S. Hwy 15 to junction U.S. Hwy 360, then along U.S. Hwy 360 to junction U.S. Hwy 460, then along U.S. Hwy 460 to junction VA Hwy 36, then along VA Hwy 36 to the south bank of the James River, then along the James River to the Chesapeake Bay, including all points in Accomack and Northampton Counties; (6) between points in the PA counties of Butler, Lawrence, and Mercer, on the one hand, and, on the other, points in the States of CA, DE, OR, WA, and, points in AZ on and west of a line beginning at the AZ–NM State line on Interstate Hwy 10 to junction U.S. Hwy 666, then along U.S. Hwy 666 to junction U.S. Hwy 180, then along U.S. Hwy 180 to junction U.S. Hwy 89 to the AZ–UT State line; GA, points on and east of a line beginning at the GA–SC State line on U.S. Hwy 301 to junction U.S. Hwy 80, then along U.S. Hwy 80 to junction GA Hwy 56, then along GA Hwy 56 to junction U.S. Hwy 221, then along U.S. Hwy 221 to junction U.S. Hwy 280, then along U.S. Hwy 280 to junction U.S. Hwy 319, then along U.S. Hwy 319 to the AL–FL State line; FL, points on and east of U.S. Hwy 231; ID, points on and west of U.S. Hwy 93; MD, points east of the Susquehanna River and the Chesapeake Bay; MT, points on and west of U.S. Hwy 93; NV, points on and west of U.S. Hwy 93; NM, points on and south of U.S. Hwy 180; NC, points on and east of Interstate Hwy 95; SC, points on and east of U.S. Hwy 301; TX, points on and south of a line beginning at the Gulf of Mexico on U.S. Hwy 87 to junction U.S. Hwy 90, then along U.S. Hwy 90 to junction Interstate Hwy 10, then along Interstate Hwy 10 to the NM–TX State line; UT, points on and west of a line beginning at the UT–AZ State line on U.S. Hwy 89 to junction UT Hwy 20, then along UT Hwy 20 to junction U.S. Hwy 91, then along U.S. Hwy 91 to junction UT Hwy 21, then along UT Hwy 21 to the NV–UT State line; VA, points in Accomack and Northampton Counties and those south of the Chesapeake Bay and east of U.S. Hwy 13; (7) between points in the PA counties of Erie and Crawford, on the one hand, and, on the other, points in CA, FL, OR, WA, and points in AL on and south of a line beginning at the AL–GA State line on U.S. Hwy 80, then along U.S. Hwy 80 to junction U.S. Hwy 29, then along U.S. Hwy 29 to junction U.S. Hwy 84, then along U.S. Hwy 84 to junction Interstate Hwy 65, then along Interstate Hwy 65 to junction Interstate Hwy 10, then along Interstate Hwy 10 to the AL–MS State line; points in AZ on and west of a line beginning at the AZ–NM State line on U.S. Hwy 70, to junction AZ Hwy 75, then along AZ Hwy 75 to junction U.S. Hwy 666, then along U.S. Hwy 666 to junction U.S. Hwy 180, then along U.S. Hwy 180 to junction U.S. Hwy 89, then along U.S. Hwy 89 to the AZ–UT State line; points in GA on and east of a line beginning at the GA–SC State line on Interstate Hwy 20 to junction GA Hwy 22, then along GA Hwy 22 to the AL–GA State line; points in ID on and west of U.S. Hwy 93; points in MD in the counties of Dorchester, Somerset, Wicomico, and Worcester; points in MT on and west of U.S. Hwy 93; points in NV on and west of a line beginning at the NV–UT State line on U.S. Hwy 6 to junction U.S. Hwy 93, then along U.S. Hwy 93 to the ID–NV State line; points in NM on and south of a line beginning at the NM–TX State line along Interstate Hwy 10 to the AZ–NM State line; points in NC on and east of U.S. Hwy 501; points in SC on and east of U.S. Hwy 1; points in TX on and south of a line beginning at the LA–TX State line along Interstate Hwy 10 to junction TX Hwy 97, then along TX Hwy 97 to junction TX Hwy 140, then along TX Hwy 140 to junction U.S. Hwy 57, then along U.S. Hwy 57 to junction TX Hwy 117, then along TX Hwy 117 to junction U.S. Hwy 90, then along U.S. Hwy 90 to junction Interstate Hwy 10, then along Interstate Hwy 10 to the NM–TX State line; points in UT on and west of a line beginning at the AZ–UT State line on U.S. Hwy 89 to junction UT Hwy 26, then along UT Hwy 26 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the NV–UT State line; points in VA in the counties of Accomack and Northampton, and on and south of a line beginning at the junction of the York River and Chesapeake Bay, then along the south bank of the York River to junction VA Hwy 33, then along VA Hwy 33 to junction U.S. Hwy 60, then along U.S. Hwy 60 to junction U.S. Hwy 360, then along U.S. Hwy 360 to junction U.S. Hwy 15, then along U.S. Hwy 15 to junction VA Hwy 304, then along VA Hwy 304 to junction U.S. Hwy 501, then along U.S. Hwy 501 to the NC–VA State line; (8) between points in the PA counties of Allegheny and Beaver, on the one hand, and, on the other, points in AZ, CA, DE, NV, OR, WA, and points in the following described States: points in AL on and south of a line beginning at the AL–GA State line on AL Hwy 10 to junction U.S. Hwy 51, then along U.S. Hwy 51 to junction U.S. Hwy 84, then along U.S. Hwy 84 to junction U.S. Hwy 331, then along U.S. Hwy 331 to the AL–FL State line; points in CO on and west of a line beginning at the CO–NM State line on U.S. Hwy 550 to junction U.S. Hwy 160, then along U.S. Hwy 160 to junction U.S. Hwy 666, then along U.S. Hwy 666 to the CO–UT State line; points in FL on and east of U.S. Hwy 331; points in GA on and south of a line beginning at the Atlantic Ocean on U.S. Hwy 84 to junction U.S. Hwy 82, then along U.S. Hwy 82 to the AL–GA State line; points in ID on and west of Interstate Hwy 15; points in MD east of the Susquehanna River and the Chesapeake Bay; points in MT on and west of Interstate Hwy 15; points in NM on and west of a line beginning at the NM–TX State line along Interstate Hwy 10 to junction Interstate Hwy 25, then along Interstate Hwy 25 to junction NM Hwy 6, then along NM Hwy 6 to junction U.S. Hwy 66, then along U.S. Hwy 66 to junction U.S. Hwy 666, then along U.S. Hwy 666 to the CO–NM State line; points in NC on and south of a line beginning at the NC–VA State line on U.S. Hwy 17 to junction U.S. Hwy 13, then along U.S. Hwy 13 to junction U.S. Hwy 301, then along U.S. Hwy 301 to the NC–SC State line; points in SC east of a line beginning at the NC–SC State line on U.S. Hwy 301 to junction U.S. Hwy 52; then along U.S. Hwy 52 to the Atlantic Ocean; points in TX on and south of a line beginning at the Gulf of Mexico on U.S. Hwy 87 to junction TX Hwy 97, then along TX Hwy 97 to junction TX Hwy 173, then along TX Hwy 173 to junction U.S. Hwy 90, then along U.S. Hwy 90 to junction Interstate Hwy 10, then along Interstate Hwy 10 to the TX–NM State line; points in UT on and west of a line beginning at the UT–CO State line on UT Hwy 46 to junction U.S. Hwy 163, then along U.S. Hwy 163 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction Interstate Hwy 15, then along Interstate Hwy 15 to junction U.S. Hwy 91, then along U.S.

Hwy 91 to the ID–UT State line; points in VA in the counties of Accomack and Northampton; (9) between the PA counties of Greene and Washington, on the one hand, and, on the other, points in the States of AZ, CA, NV, OR, UT, WA, and points in the following described States: FL, points on and south of FL Hwy 70; ID, points on and west of U.S. Hwy 91; MT, points on and west of a line beginning at the MT–WY State line on U.S. Hwy 89 to junction U.S. Hwy 91, then along U.S. Hwy 91 to the United States-Canada border; NM, points on and west of a line beginning at the United State-Mexico border on NM Hwy 11 to junction U.S. Hwy 180, then along U.S. Hwy 180 to the AZ–NM State line; TX, points on and south of a line beginning at the Gulf of Mexico on TX Hwy 44 to junction U.S. Hwy 59, then along U.S. Hwy 59 to the United States-Mexico border. (Gateways eliminated: Carlisle or Waynesboro, PA, and Lineboro, MD.)

MC 117574 (Sub-E119), filed July 16, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). *Agriculatural implements, agricultural machinery, tractors,* with or without attachments, *cranes, industrial and processing machinery, and attachments, accessories, and parts of all of the above-described commodities,* which are also heavy machinery or contractors equipment, and are also machinery, *commodities* which, because of size or weight, require the use of special equipment or special handling (except boats), *or self-propelled articles,* each weighing 15,000 pounds or more (when transported on trailers): (1) Between points in the NC counties of Macon and Swain, on the one hand, and, on the other, points in WA on and north of a line beginning at Aberdeen along U.S. Hwy 12, then east along U.S. Hwy 12 to junction Interstate Hwy 5, then north along Interstate Hwy 5 to its termination at the WA-Canada border; (2) between points in the NC counties of Haywood, Jackson, and Transylvania, on the one hand, and, on the other, points in CA on and north and west of a line beginning at the Pacific Ocean along CA Hwy 116 to junction CA Hwy 12, then along CA Hwy 12 to junction CA Hwy 121, then along CA Hwy 121 to junction CA Hwy 29, then south along CA Hwy 29 to junction Interstate Hwy 80, then along Interstate Hwy 80 to junction CA Hwy 89, then north along CA Hwy 89 to junction CA Hwy 36, then north along CA Hwy 36 to junction U.S. Hwy 395, then north along U.S. Hwy 395 to junction CA Hwy 299 then north along CA Hwy 299 to junction CA Hwy 139, then north along CA Hwy 139 to the CA–OR State line; points in OR on and west of a line beginning at the CA–OR State line along U.S. Hwy 97, then north along U.S. Hwy 97 to junction U.S. Hwy 197, then north along U.S. Hwy 197 to the OR–WA State line; points in WA on and west of a line beginning at the OR–WA State line along U.S. Hwy 197 to junction WA Hwy 14, then along WA Hwy 14 to junction U.S. Hwy 97 then north along U.S. Hwy 97 to junction Interstate Hwy 82, then north along Interstate Hwy 82 to junction Interstate Hwy 90, then east along Interstate Hwy 90 to the WA–ID State line; points in ID west of a line beginning at the ID–WA State line along U.S. Hwy 95 to its termination at Canadian border; (3) between points in the State of NC counties of Buncombe, Henderson, and Madison, on the one hand, and, on the other, points in CA on and north and west of a line beginning at the Pacific Ocean along U.S. Hwy 101, then north along U.S. Hwy 101 to junction CA Hwy 20, then east along CA Hwy 20 to junction Interstate Hwy 80, then east along Interstate Hwy 80 to the CA–NV State line, then north along the CA–NV State line to junction U.S. Hwy 395, then north along U.S. Hwy 395 to the CA–OR State line; points in ID on and west of a line beginning at the WA–ID State line along U.S. Hwy 95, then north along U.S. Hwy 95 to the ID–Canadian border; points in OR on and north and west of a line beginning at the CA–OR State line along U.S. Hwy 395, then north along U.S. Hwy 395 to junction OR Hwy 11, then north along OR Hwy 11 to the OR–WA State line; points in WA on and north and west of a line beginning at the OR–WA State line along U.S. Hwy 395, then northeast along U.S. Hwy 395 to the WA–ID State line; (4) between points in the NC counties of McDowell, Polk, and Rutherford, on the one hand, and, on the other, points in CA on and north of a line beginning at the Pacific Ocean near Pismo Beach along U.S. Hwy 101 to junction CA Hwy 58, then along CA Hwy 58 to junction U.S. Hwy 395, then north along U.S. Hwy 395 to the CA–NV State line; points in ID on and northwest of a line beginning at the ID–OR State line along U.S. Hwy 95, then north along U.S. Hwy 95 to junction U.S. Hwy 12, then east along U.S. Hwy 12 to the ID–MT State line; points in MT on and west of a line beginning at the ID–MT State line along U.S. Hwy 95 to junction U.S. Hwy 12, then east along U.S. Hwy 12 to junction Interstate Hwy 15, then north along Interstate Hwy 15 to its termination at the MT-Canada border; points in NV on and west of a line beginning at the CA–NV State line along U.S. Hwy 395, then north along U.S. Hwy 395 to junction U.S. Hwy 40, then east along U.S. Hwy 40 to junction U.S. Hwy 95, then north along U.S. Hwy 95 to the NV–OR State line; points in OR on and northwest of U.S. Hwy 95; (5) between points in the NC counties of Yancey and Mitchell and Avery, on the one hand, and, on the other, points in CA on and west of a line beginning at San Francisco, CA, on the Pacific Ocean northeast along Interstate Hwy 80 to the CA–NV State line, then along the CA–NV State line to junction U.S. Hwy 395, then northeast along U.S. Hwy 395 to the CA–OR State line; points in ID on and north of a line beginning at the WA–ID State line, then along Interstate Hwy 90 to junction U.S. Hwy 95, then north along U.S. Hwy 95 to junction U.S. Hwy 2, then east along U.S. Hwy 2 to the ID–MT State line; points in MT on and west of a line beginning at the ID–MT State line along U.S. Hwy 2 to junction U.S. Hwy 93, then north along U.S. Hwy 93 to its termination at the Canadian border; Reno, NV; points in OR on and west of a line beginning at the OR–CA State line along U.S. Hwy 395 to junction OR Hwy 31, then northwest along OR Hwy 31 to junction U.S. Hwy 97, then north along U.S. Hwy 97 to junction Interstate Hwy 80, then east along Interstate Hwy 80 to junction U.S. Hwy 395, then along U.S. Hwy 395 to the OR–WA State line; points in WA on and north and west of a line beginning at the OR–WA State line north along U.S. Hwy 12 to junction WA Hwy 127, then along WA Hwy 127 to junction U.S. Hwy 195, then north along U.S. Hwy 195 to junction Interstate Hwy 90, then east along Interstate Hwy 90 to the WA–ID State line; (6) between points in the State of NC counties of Ashe and Watauga, on the one hand, and, on the other, points in OR and WA and points in CA on and north and west of a line beginning at the Pacific Ocean near Santa Cruz along CA Hwy 152, then east along CA Hwy 152 to junction CA Hwy 99, then south along CA Hwy 99 to junction CA Hwy 168, then east along CA Hwy 168 to the CA–NV State line; points in ID on and north and west of a line beginning at the NV–ID State line along U.S. Hwy 93, to junction Interstate Hwy 80, then east along Interstate Hwy 80 to junction U.S. Hwy 191, then north along U.S. Hwy 191 to the ID–MT State line; points in MT on and west of a line beginning at the ID–MT State line along U.S. Hwy 191, then north along U.S. Hwy 191 to junction U.S. Hwy 10, then east along U.S. Hwy 10 to junction MT Hwy 22, then along MT Hwy 22 to junction MT Hwy 200, then east along MT Hwy 200 to junction MT Hwy 24, then north along MT Hwy 24 to junction with Secondary State or County Hwy 247, then north along the Secondary State or County Hwy 247 to the MT-Canadian border; points in NV on and north and west of a line beginning at the CA–NV State

line along NV Hwy 3, then north along NV Hwy 3 to junction U.S. Hwy 6, NE–CO State line south along CO Hwy 71 to junction CO Hwy 14, then Hwy 285, then north along U.S. Hwy 285 to junction U.S. Hwy 85, then

on and north and west of a line beginning at the CA–NV State line along then southwest along U.S. Hwy 40 to junction KS Hwy 27, then south along OR, UT, WA, WY, and points in AZ on and northwest of a line beginning at the Mexico-AZ border along AZ Hwy

V 43 / 183 SEP 20 78 V 43

line along NV Hwy 3, then north along NV Hwy 3 to junction U.S. Hwy 6, then east along U.S. Hwy 6 to junction U.S. Hwy 93, then north along U.S. Hwy 93 to the NV-ID State line; (7) between points in the State of NC counties of Forsyth and Stokes, on the one hand, and, on the other, points in ID, MT, ND, OR, and WA; and points in CA described in (6) above; points in CO on and north of a line beginning at the UT-CO State line along U.S. Hwy 40, then east along U.S. Hwy 40 to junction CO Hwy 14, then north along CO Hwy 14 to the CO-WY State line; points in MN on and west of a line beginning at the SD-MN State line along MN Hwy 30, then east along MN Hwy 30 to junction U.S. Hwy 75 to Emerson, Canada; points in NV on and north and west of a line beginning at the CA-NV State line along NV Hwy 3, then north along NV Hwy 3 to junction U.S. Hwy 95, then south along U.S. Hwy 95 to junction Interstate Hwy 15, then north along Interstate Hwy 15 to the NV-UT State line; points in SD on and north and west of a line beginning at the WY-SD State line along U.S. Hwy 18, then east along U.S. Hwy 18 to junction U.S. Hwy 183, then north along U.S. Hwy 183 to junction Interstate Hwy 90, then east along Interstate Hwy 90 to junction U.S. Hwy 81, then north along U.S. Hwy 81 to junction SD Hwy 34, then east along SD Hwy 34 to the SD-MN State line; points in UT on and north and west of a line beginning at the AZ-UT State line along Interstate Hwy 15, then north along Interstate Hwy 15 to junction UT Hwy 4, then east along UT Hwy 4 to junction U.S. Hwy 89, then north along U.S. Hwy 89 to junction Interstate Hwy 70, then east along Interstate Hwy 70 to junction UT Hwy 10, then north along UT Hwy 10 to junction UT Hwy 33, then north along UT Hwy 33 to junction U.S. Hwy 40, then north along U.S. Hwy 40 to the UT-WY State line; points in WY on and north of a line beginning at the CO-WY State line WY Hwy 230, then north along WY Hwy 230 to junction Interstate Hwy 80, then east along Interstate Hwy 80 to junction U.S. Hwy 85, then north along U.S. 85 to the WY-SD State line; (8) between points in the NC counties of Anson, Stanley, and Union, on the one hand, and, on the other, points in the States of ID, MT, ND, OR, UT, WA, and WY, and points in CA on, north and west of a line beginning at the CA-NV State line southwest along Interstate Hwy 15 to junction U.S. Hwy 395, then south along U.S. Hwy 395 to junction Interstate Hwy 10, then southeast along Interstate Hwy 10 to junction CA Hwy 86, then southeast along CA Hwy 86 to the CA-Mexico border; points in CO on and north of a line beginning at the NE-CO State line south along CO Hwy 71 to junction CO Hwy 14, then west along CO Hwy 14 to junction U.S. Hwy 287, then south along U.S. Hwy 287 to junction CO Hwy 119, then southwest along CO Hwy 119 to junction U.S. Hwy 6, then west along U.S. Hwy 6 to the CO-UT State line, then in a clockwise direction to the AZ-NV State line; points in MI on and north of a line beginning at the Sault Ste. Marie southwest along U.S. Hwy 2 to junction MI Hwy 69, then northwest along MI Hwy 69 to junction U.S. Hwy 141, then northwest along U.S. Hwy 141 to junction U.S. Hwy 41, then northeast along U.S. Hwy 41 to its termination at Lake Superior; points in MN on and north of a line beginning at Duluth southwest along MN Hwy 23 to junction U.S. Hwy 16, then west along U.S. Hwy 16 to the MN-SD State line; points in NE on and north of a line beginning at the SD-NE State line south along U.S. Hwy 81 to junction NE Hwy 12, then northwest along NE Hwy 12 to junction NE Hwy 11, then southwest along NE Hwy 11 to junction U.S. Hwy 20, then northwest along U.S. Hwy 20 to junction U.S. Hwy 83, then south along U.S. Hwy 83 to junction NE Hwy 2, then west along NE Hwy 2 to junction U.S. Hwy 385, then south along U.S. Hwy 385 to junction Interstate Hwy 80, then west along Interstate Hwy 80 to junction NE Hwy 71, then south along NE Hwy 71 to junction NE-CO State line; points in NV on and north of Interstate Hwy 15; points in OH on and east of a line beginning at Lake Erie near Ashtabula in south along OH Hwy 11 to junction OH Hwy 82, then east along OH Hwy 82 to junction OH Hwy 193, then south along OH Hwy 193 to junction OH Hwy 7, then south along OH Hwy 7 to junction U.S. Hwy 224, then east along U.S. Hwy 224 to the OH-PA State line; points in SD on and west of a line beginning at the MN-SD State line west along U.S. Hwy 16 to junction U.S. Hwy 81, then south along U.S. Hwy 81 to the SD-NE State line;

(9) between points in NC counties of Montgomery, Moore, and Richmond, on the one hand, and, on the other, points in CA, ID, MT, NV, ND, OR, SD, UT, WA, WY, and points in AZ in Mohave and Yuma Counties, and points on and north of a line beginning at the Coconino-Mohave County line along U.S. Hwy 66 to junction U.S. Hwy 89, then north along U.S. Hwy 89 to junction U.S. Hwy 160, then east along U.S. Hwy 160 to the AZ-CO State line; points in CO on and north of a line beginning at the AZ-CO State line along U.S. Hwy 160, then east along U.S. Hwy 160 to junction U.S. Hwy 550, then north along U.S. Hwy 550 to junction U.S. Hwy 50, then east along U.S. Hwy 50 to junction U.S. Hwy 285, then north along U.S. Hwy 285 to junction U.S. Hwy 85, then north along U.S. Hwy 85 to junction U.S. Hwy 6, then east along U.S. Hwy 6 to junction U.S. Hwy 138, then northeast along U.S. Hwy 138 to the NE-IA State line; points in IA on and west of a line beginning at the NE-IA State line along U.S. Hwy 20, then east along U.S. Hwy 20 to junction U.S. Hwy 75, then north along U.S. Hwy 75 to the IA-MN State line; points in MN on and north of a line beginning at the IA-MN State line along U.S. Hwy 75, then north along U.S. Hwy 75 to junction U.S. Hwy 14, then east along U.S. Hwy 14 to junction U.S. Hwy 71, then north along U.S. Hwy 71 to junction U.S. Hwy 12, then east along U.S. Hwy 12 to junction U.S. Hwy 61, then north along U.S. Hwy 61 to junction U.S. Hwy 8, then east along U.S. Hwy 8 to the MN-WI State line; points in NE on and west of a line beginning at the CO-NE State line along U.S. Hwy 138, then north along U.S. Hwy 138 to junction U.S. Hwy 30, then east along U.S. Hwy 30 to junction U.S. Hwy 83, then north along U.S. Hwy 83 to junction NE Hwy 70, then northeast along NE Hwy 70 to junction U.S. Hwy 20, then east along U.S. Hwy 20 to the IA-NE State line; points in WI on and north of a line beginning at the MN-WI State line along U.S. Hwy 8, then east along U.S. Hwy 8 to junction U.S. Hwy 63, then northeast along U.S. Hwy 63 to its termination at Ashland, WI; (10) between points in the state of NC counties of Hoke, Robeson, Scotland, on the one hand, and, on the other, points in the states of ID, MT, ND, OR, WA, WY, and points in the following described states: points in CA on and north and west of a line beginning at San Diego along Interstate Hwy 8, then east along Interstate Hwy 8 to junction CA Hwy 86, then north along CA Hwy 86 to junction CA Hwy 78, then northeast along CA Hwy 78 to junction U.S. Hwy 95, then north along U.S. Hwy 95 to the CA-NV State line; points in CO on and north and west of a line beginning at the UT-CO State line along U.S. Hwy 666, then southeast along U.S. Hwy 666 to junction U.S. Hwy 160, then east along U.S. Hwy 160 to Junction Interstate Hwy 25, then north along Interstate Hwy 25 to junction Interstate Hwy 76, then east along Interstate Hwy 76 to the CO-NE State line; points in MN on and north and west of a line beginning at the SD-MN State line along MN Hwy 30, then east along MN Hwy 30 to junction MN Hwy 23, then northeast along MN Hwy 23 to Duluth, MN; points in NE on and north and west of a line beginning at the WY-NE State line along U.S. Hwy 30 to junction U.S. Hwy 81, then north along U.S. Hwy 81 to the NE-SD State line; points in NV

on and north and west of a line beginning at the CA-NV State line along U.S. Hwy 95, then north along U.S. Hwy 95 to junction U.S. Hwy 91, then along U.S. Hwy 91 to the NV-AZ State line; points in OH on and east of a line beginning at Lake Erie near Ashtabula, OH, along OH Hwy 45, then south along OH Hwy 45 to junction U.S. Hwy 422, then east along U.S. Hwy 422 to the OH-PA State line; points in SD on and north and west of a line beginning at the NE-SD State line along U.S. Hwy 81, then north along U.S. Hwy 81 to junction SD Hwy 34, then east along SD Hwy 34 to the SD-MN State line; points in UT on and north and west of a line beginning at the AZ-UT State line along U.S. Hwy 91, then north along U.S. Hwy 91 to junction UT Hwy 14, then east along UT Hwy 14 to junction U.S. Hwy 89, then north along U.S. Hwy 89 to junction UT Hwy 24, then east along UT Hwy 24 to junction UT Hwy 95, then southeast along UT Hwy 95 to junction U.S. Hwy 163, then north along U.S. Hwy 163 to junction U.S. Hwy 666, then east along U.S. Hwy 666 to the UT-CO State line; (11) between points in NC counties of Cumberland, Harnett, and Lee, on the one hand, and, on the other points in CA, ID, MT, ND, OR, UT, WA, WY, and points in AZ on and west of a line beginning at the AZ-NM State line southwest along U.S. Hwy 60 to junction AZ Hwy 77, then southwest along AZ Hwy 77 to junction U.S. Hwy 89, then south along U.S. Hwy 89 to the AZ-Mexico border; points in CO on and west of a line beginning at the KS-CO State line along KS Hwy 96 to junction U.S. Hwy 287, then south along U.S. Hwy 287 to junction U.S. Hwy 50, then west along U.S. Hwy 50 to junction CO Hwy 10, then southwest along CO Hwy 10 to Junction CO Hwy 160, then southwest along CO Hwy 160 to junction CO Hwy 159, then southwest along CO Hwy 159 to the CO-NM State line; points in IA on and west of a line beginning at the IA-MN State line south along U.S. Hwy 65 to junction U.S. Hwy 18, then west along U.S. Hwy 18 to junction IA Hwy 15, then southwest along IA Hwy 15 to junction IA Hwy 3, then west along IA Hwy 3 to junction U.S. Hwy 71, then south along U.S. Hwy 71 to junction IA Hwy 175, then west along IA Hwy 175 to junction IA Hwy 39, then southwest along IA Hwy 39 to junction U.S. Hwy 30, then southwest along U.S. Hwy 30 to junction U.S. Hwy 75, then south along U.S. Hwy 75 to the IA-NE State line; points in KS on and west of a line beginning at the NE-KS State line south along U.S. Hwy 183 to junction KS Hwy 9, then southwest along KS Hwy 9 to junction KS Hwy 23, then west along KS Hwy 23 to junction U.S. Hwy 83, then south along U.S. Hwy 83 to junction KS Hwy 40, then southwest along U.S. Hwy 40 to junction KS Hwy 27, then south along KS Hwy 27 to junction KS Hwy 96, then west along KS Hwy 96 to the KS-CO State line; points in MI on and north and west of a line beginning at Lake Michigan at Empire east along MI Hwy 72 to junction U.S. Hwy 131, then northeast along U.S. Hwy 131 to junction MI Hwy 32, then east along MI Hwy 32 to its termination at Lake Huron; points in MN on and west of a line beginning at the WI-MN State line southwest along MN Hwy 60 to junction U.S. Hwy 63, then south along U.S. Hwy 63 to junction Interstate Hwy 90, then southwest along Interstate Hwy 90 to junction U.S. Hwy 65, then south along U.S. Hwy 65 to the MN-IA State line; points in NE on and north of a line beginning at the NE-IA State line south along U.S. Hwy 75 to junction Interstate Hwy 80, then west along Interstate Hwy 80 to junction U.S. Hwy 183, then south along U.S. Hwy 183 to the NE-KS State line; points in NM on and west of a line beginning at the CO-NM State line south along NM Hwy 3 to junction NM Hwy 76, then southwest along NM Hwy 76 to junction of NM Hwy 4, then southwest along NM Hwy 4 to junction NM hwy 126, then northwest along NM Hwy 126 to junction NM Hwy 44, then northwest along NM Hwy 44 to junction NM Hwy 509, then southwest along NM Hwy 509 to junction NM Hwy 53, then southwest along NM Hwy 53 to junction NM Hwy 32, then south along NM Hwy 32 to junction U.S. Hwy 60, then west along U.S. Hwy 60 to the AZ-NM State line; points in OH on and east of a line beginning at Lake Erie near Ashtabula south along OH Hwy 45 to junction OH Hwy 87, then east along OH Hwy 87 to junction OH Hwy 193, then south along OH Hwy 193 to junction OH Hwy 7, then south along OH Hwy 7 to junction U.S. Hwy 224, then east along U.S. Hwy 224 to the OH-PA State line; points in WI on and north of a line beginning at the MI-WI State line near Iron Mountain, MI, northwest along U.S. Hwy 2 to junction WI Hwy 70, then west along WI Hwy 70 to junction WI Hwy 101, then southwest along WI Hwy 101 to junction U.S. Hwy 8, then southwest along U.S. Hwy 8 to junction WI Hwy 27, then south along WI Hwy 27 to junction WI Hwy 178, then southwest along WI Hwy 178 to junction U.S. Hwy 53, then south along U.S. Hwy 53 to junction Interstate Hwy 94, then west along Interstate Hwy 94 to junction WI Hwy 85, then southwest along WI Hwy 85 to junction WI Hwy 25, then south along WI Hwy 25 to the WI-MN State line.

(12) Between points in the NC counties of Guilford, Randolph, and Rockingham, on the one hand, and, on the other, points in CA, ID, MT, NV, ND, OR, UT, WA, WY, and points in AZ on and northwest of a line beginning at the Mexico-AZ border along AZ Hwy 85, then north along AZ Hwy 85 to junction U.S. Hwy 80, then east along U.S. Hwy 80 to junction Interstate Hwy 17, then north along Interstate Hwy 17 to Flagstaff and junction with U.S. Hwy 89, then north along U.S. Hwy 89 to junction U.S. Hwy 160, then northeast along U.S. Hwy 160 to junction unnamed hwy leading to NM Hwy 504, then along NM Hwy 504 to the AZ-NM State line; points in CO on and west of a line beginning at the CO-NM State line along U.S. Hwy 550 to junction U.S. Hwy 50, then east along U.S. Hwy 50 to junction CO Hwy 135, then north along CO Hwy 135 to junction CO Hwy 133, then north along CO Hwy 133 to junction CO Hwy 82, then north along CO Hwy 82 to junction U.S. Hwy 6, then east along U.S. Hwy 6 to the CO-NE State line; points in MN on and west of a line beginning at the MN-SD State line along U.S. Hwy 212 to junction U.S. Hwy 59, then north along U.S. Hwy 59 to junction MN Hwy 34, then along MN Hwy 34 to junction U.S. Hwy 71, then northeast along U.S. Hwy 71 to its termination at International Falls, MN, points in NE on and west of a line beginning at the NE-CO State line along U.S. Hwy 6 to junction U.S. Hwy 83, then north along U.S. Hwy 83 to the NE-SD State line; points in NM on and north of a line beginning at the AZ-NM State line along NM Hwy 504 to junction U.S. Hwy 550, then northeast along U.S. Hwy 550 to the NM-CO State line; points in SD on and northwest of a line beginning at the NE-SD State line north along U.S. Hwy 83 to junction U.S. Hwy 16, then east along U.S. Hwy 16 to junction U.S. Hwy 281, then north along U.S. Hwy 281 to junction U.S. Hwy 212, then east along U.S. Hwy 212 to the SD-MN State line; (13) between points in the state of NC counties of Alamance, Caswell, Chatham, and Orange, on the one hand, and, on the other, points in CA, ID, MT, NV, ND, OR, UT, WA, WY, and points in AZ on and north and west of a line beginning at Nogales, AZ, along U.S. Hwy 89, then north along U.S. Hwy 89 to junction AZ Hwy 77, then northeast along AZ Hwy 77 to junction AZ Hwy 61, then along AZ Hwy 61 to junction U.S. Hwy 666, then northeast along U.S. Hwy 666 to the AZ-NM State line; points in CO on and north and west of a line beginning at the NM-CO State line along U.S. Hwy 550, then north along U.S. Hwy 550 to junction U.S. Hwy 160, then east along U.S. Hwy 160 to junction U.S. Hwy 285, then north along U.S. Hwy 285 to junction Interstate Hwy 80, then northeast along Interstate Hwy 80 to the CO-NE State line·

V 43 / 183 SEP 20 78

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points in MN on and north and west of a line beginning at the SD-MN State line along MN Hwy 30, then east along MN Hwy 30 to junction MN Hwy 23, then northeast along MN Hwy 23 to Duluth, MN; points in NE on and north and west of a line beginning at the WY-NE State line along U.S. Hwy 30, then east along U.S. Hwy 30 to junction U.S. Hwy 81, then north along U.S. Hwy 81 to the NE-SD State line; points in NM on and north and west of a line beginning at the AZ-NM State line along U.S. Hwy 666, then north along U.S. Hwy 666 to junction U.S. Hwy 550, then northeast along U.S. Hwy 550 to the NM-CO State line; points in OH, Ashtabula; points in SD on and north and west of a line beginning at the NE-SD State line along U.S. Hwy 81, then north along U.S. Hwy 81 to junction SD Hwy 34, then east along SD Hwy 34 to the SD-MT State line; (14) between points in the State of NC counties of Durham, Granville, and Person, on the one hand, and, on the other, points in CA, ID, MT, NV, OR, ND, UT, WA, WY, and points in CO on and northwest of a line beginning at the NM-CO State line along Interstate Hwy 25, then north along Interstate Hwy 25 to junction Interstate Hwy 80, then east along Interstate Hwy 80 to the CO-NE State line; points in NM on and northwest of a line beginning at the AZ-NM State line along Interstate Hwy 40, then east along Interstate Hwy 40 to junction U.S. Hwy 85, then northeast along U.S. Hwy 85 to junction U.S. Hwy 64, then northeast along U.S. Hwy 64 to junction Interstate Hwy 25, then north along Interstate Hwy 25 to the NM-CO State line; points in OH described in (10) above; points in AZ, MN, NE and SD described in (13) above.

(15) Between points in the NC counties of Greene, Pitt, Wayne, and Wilson, on the one hand, and, on the other, points in AZ, CA, CO, ID, MI, MN, NE, NV, ND, OR, SD, UT, WA, WI, WY, and points in IL on and north of U.S. Hwy 34; points in IA on, north and west of a line beginning at the MO-IA State line along U.S. Hwy 63, then north along U.S. Hwy 63 to junction U.S. Hwy 34, then east along U.S. Hwy 34 to the IL-IA State line; points in KS on, north and west of a line beginning at the OK-KS State line along U.S. Hwy 183 to junction U.S. Hwy 54, then east along U.S. Hwy 54 to junction Kansas Turnpike, then northeast along Kansas Turnpike to junction U.S. Hwy 59, then north along U.S. Hwy 59 to the KS-MO State line; points in MO on and north of a line beginning at the KS-MO State line along U.S. Hwy 59 to junction U.S. Hwy 169, then north along U.S. Hwy 169 to junction U.S. Hwy 136, then east along U.S. Hwy 136 to junction U.S. Hwy 63, then north along U.S. Hwy 63 to the MO-IA State line; points in NM on, north and west of a line beginning at the NM-Mexico border along NM Hwy 11 to junction NM Hwy 26, then northeast along NM Hwy 26 to junction Interstate Hwy 25, then north along Interstate Hwy 25 to junction U.S. Hwy 56, then east along U.S. Hwy 56 to the NM-OK State line; points in OH on and north of a line beginning at the OH-MI State line along OH Hwy 109 to junction U.S. Hwy 20, then east along U.S. Hwy 20 to junction U.S. Hwy 250, then southeast along U.S. Hwy 250 to the OH-WV State line; points in OK on and north of a line beginning at the NM-OK State line along U.S. Hwy 64 to junction U.S. Hwy 183, then north along U.S. Hwy 183 to the OK-KS State line; points in WV on and north of U.S. Hwy 40; (16) between points in NC counties of Edgecombe, Halifax, Nash, and Northampton, on the one hand, and, on the other, points in AZ, CA, CO, ID, IA, MI, MN, MT, NE, NV, ND, OR, SD, UT, WA, WI, WY, and points in IL on and north of a line beginning at the IL-MO State line east along U.S. Hwy 136 to junction U.S. Hwy 67, then north along U.S. Hwy 67 to junction U.S. Hwy 34, then northeast along U.S. Hwy 34 to junction Interstate Hwy 80, then east along Interstate Hwy 80 to the IL-IN State line; points in IN on and north of U.S. Hwy 6; points in KS on and north of a line beginning at the OK-KS State line northeast along U.S. Hwy 54 to junction U.S. Hwy 183, then north along U.S. Hwy 183 to junction U.S. Hwy 56, then east along U.S. Hwy 56 to junction U.S. Hwy 59, then north along U.S. Hwy 59 to the KS-MO State line; points in MO on and north of a line beginning at the KS-MO State line along U.S. Hwy 59 to junction U.S. Hwy 36, then east along U.S. Hwy 36 to junction U.S. Hwy 65, then north along U.S. Hwy 65 to junction U.S. Hwy 136, then east along U.S. Hwy 136 to the MO-IL State line; points in NM on, north and west of U.S. Hwy 54; points in OH on and north of a line beginning at the IN-OH State line east along U.S. Hwy 6 to junction OH Hwy 15, then southeast along OH Hwy 15 to junction OH Hwy 103, then east along OH Hwy 103 to junction U.S. Hwy 250, then southeast along U.S. Hwy 250 to the OH-WV State line; points in OK on and west of U.S. Hwy 54; points in TX on and north of U.S. Hwy 54; points in WV on and north of a line beginning at the OH-WV State line along U.S. Hwy 250 to junction U.S. Hwy 50, then east along U.S. Hwy 50 to the WV-MD State line; (17) between points in the NC counties of Bertie, Gates, and Martin, on the one hand, and, on the other, points in AZ, CA, CO, ID, IA, MI, MN, MT, NE, NV, ND, OR, SD, UT, WA, WI, WY, and points in IL on and north of a line beginning at the IN-IL State line west along Interstate Hwy 74 to junction Interstate Hwy 72, then southwest along Interstate Hwy 72 to junction IL Hwy 47, then southwest along IL Hwy 47 to junction U.S. Hwy 36, then west along U.S. Hwy 36 to junction U.S. Hwy 54, then southwest along U.S. Hwy 54 to the IL-MO State line; points in IN on and west of a line beginning at the IN-OH State line west along IN Hwy 127, to junction U.S. Hwy 24, then west along U.S. Hwy 24 to junction IN Hwy 25, then southwest along IN Hwy 25 to junction IN Hwy 28, then southwest along IN Hwy 28 to junction IN Hwy 63, then south along IN Hwy 63 to junction Interstate Hwy 74, then west along Interstate Hwy 74 to the IN-IL State line; points in KS on and west of a line beginning at the KS-MO State line southwest along U.S. Hwy 160 to junction U.S. Hwy 177, then south along U.S. Hwy 177 to the OK-KS State line; points in MO on and north of a line beginning at the IL-MO State line southwest along U.S. Hwy 54 to junction U.S. Hwy 71, then south along U.S. Hwy 71 to junction U.S. Hwy 160, then west along U.S. Hwy 160 to the KS-MO State line; points in NM on and west of a line beginning at the TX-NM State line west along U.S. Hwy 60 to junction U.S. Hwy 70, then southwest along U.S. Hwy 70 to junction U.S. Hwy 54, then southwest along U.S. Hwy 54 to the NM-TX State line; points in OH on and north of a line beginning at the OH-WV State line northwest along OH Hwy 43 to junction U.S. Hwy 30, then west along U.S. Hwy 30 to junction U.S. Hwy 30S, then southwest along U.S. Hwy 30S to junction OH Hwy 81, then west along OH Hwy 81 to the IN-OH State line; points in OK on and west of a line beginning at the OK-KS State line south along U.S. Hwy 177 to junction OK Hwy 33, then southwest along OK Hwy 33 to junction U.S. Hwy 183, then south along U.S. Hwy 183 to junction U.S. Hwy 66, then southwest along U.S. Hwy 66 to the OK-TX State line; points in TX on and north of a line beginning at the TX-OK State line southwest along U.S. Hwy 66 to junction U.S. Hwy 60, then southwest along U.S. Hwy 60 to the TX-NM State line, and points on and west of U.S. Hwy 54; points in WV on and north of U.S. Hwy 22.

(18) Between points in the NC counties of Camden, Chowan, Currituck, Gates, Pasquotank, and Perquimans, on the one hand, and, on the other, points in AZ, CA, CO, ID, IA, KS, MI, MN, MT, NE, NV, NM, ND, OR, SD, UT, WA, WI, WY, and points in AR on and west of a line beginning at the AR-MO State line south along U.S. Hwy 71 to junction U.S. Hwy 62, then west along U.S. Hwy 62 to the AR-OK State line; points in IL on and north of a line beginning at the IL-IN State line northwest along IL Hwy 33 to junction U.S. Hwy 40, then southwest along U.S. Hwy 40 to the IL-MO State line; points in IN on and north of a line beginning at the IN-OH State line southwest along U.S. Hwy 40 to junction IN Hwy 3, then south along IN Hwy 3 to junction IN Hwy 44, then southwest along IN Hwy 44 to junction IN Hwy 37, then southwest along IN Hwy 37 to junction IN Hwy 45, then southwest along IN Hwy 45 to junction IN Hwy 54, then west along IN Hwy 54 to the IL-IN State line; points in MO on and west of a line beginning at the IL-MO State line; southwest along U.S. Hwy 66 to junction U.S. Hwy 65, then south along U.S. Hwy 65 to junction U.S. Hwy 60, then southwest along U.S. Hwy 60 to junction U.S. Hwy 71, then south along U.S. Hwy 71 to the AR-MO State line; points in OH on and west of a line beginning at the OH-WV State line southwest along U.S. Hwy 22 to junction U.S. Hwy 40, then southwest along U.S. Hwy 40 to the IN-OH State line; points in OK on and west of a line beginning at the AR-OK State line southwest along U.S. Hwy 62 to junction OK Hwy 99, then south along OK Hwy 99 to junction OK Hwy 9, then southwest along OK Hwy 9 to junction U.S. Hwy 277, then south along U.S. Hwy 277 to junction U.S. Hwy 70, then west along U.S. Hwy 70 to junction U.S. Hwy 183, then south along U.S. Hwy 183 to the OK-TX State line; points in TX on and north and west of a line beginning at the OK-TX State line south along U.S. Hwy 183 to junction U.S. Hwy 82, then west along U.S. Hwy 82 to junction U.S. Hwy 62, then southwest along U.S. Hwy 62 to junction U.S. Hwy 385, then south along U.S. Hwy 385 to junction TX Road 170, then east along TX Road 170 to its termination at the TX-Mexico border; points in WV on and north of U.S. Hwy 22; (19) between points in the NC counties of Beaufort, Carteret, Craven, and Pamlico, on the one hand, and, on the other, points in AZ, CA, CO, ID, IA MI, MN, MT, NE, NV, ND, OR, SD, UT, WA, WI, WY, and points in IL on and north of a line beginning at the IL-MO State line along U.S. Hwy 54 to junction U.S. Hwy 36, then east along U.S. Hwy 36 to junction IL Hwy 54, then northeast along IL Hwy 54 to junction IL Hwy 9, then east along IL Hwy 9 to the IL-IN State line; points in IN on and north of IN Hwy 26; points in KS on, north and west of a line beginning at the OK-KS State line north along U.S. Hwy 75 to junction U.S. Hwy 54, then east along U.S. Hwy 54 to the KS-MO State line; points in MO on and north of U.S. Hwy 54; points in NM on, north and west of a line beginning at the TX-NM State line northeast along U.S. Hwy 54 to junction U.S. Hwy 70, then northeast along U.S. Hwy 70 to the TX-NM State line; points in OH on and north of a line beginning at the OH-IN State line east along OH Hwy 119 to junction Interstate Hwy 75, then north along Interstate Hwy 75 to junction U.S. Hwy 30S, then east along U.S. Hwy 30S to junction OH Hwy 95, then southeast along OH Hwy 95 to junction OH Hwy 13, then south along OH Hwy 13 to junction U.S. Hwy 36, then east along U.S. Hwy 36 to junction U.S. Hwy 250, then southeast along U.S. Hwy 250 to the OH-WV State line; points in OK on and west of a line beginning at the TX-OK State line east along U.S. Hwy 60 to junction U.S. Hwy 75, then north along U.S. Hwy 75 to the KS-OK State line; points in TX on and north of a line beginning at the TX-Mexico border north along U.S. Hwy 54 to junction with the TX-NM State line; then in a clockwise direction northeast along the TX-NM State line to junction U.S. Hwy 60 to the TX-OK State line; points in WV on and north of U.S. Hwy 40. (Gateways eliminated: Waynesboro and Stitz, PA.)

MC 117574 (Sub-E120), filed July 16, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same as above). *Agricultural implements, agricultural machinery, tractors, with or without attachments, cranes, industrial and processing machinery, and attachments, accessories, and parts of all of the above described commodities, which are also heavy machinery or contractors equipment, and, are also machinery, commodities which because of size or weight require the use of special equipment or special handling* (except boats), *or, self-propelled articles each weighing 15,000 pounds or more (when transported on trailers):* (1) Between points in Alleghany and Wilkes Counties, NC, on the one hand, and, on the other, points in ID, MT, OR, WA, and points in CA on and north of a line beginning at Monterey, CA, on the Pacific Ocean east along CA Hwy 152 to junction CA Hwy 99, then along CA Hwy 99 to junction CA Hwy 120, then along CA Hwy 120 to junction U.S. Hwy 395, then along U.S. Hwy 395 to junction US Hwy 6, then north along U.S. Hwy 6 to the CA-NV State line; points in NV on and north of a line beginning at the CA-NV State line northeast along U.S. Hwy 6 to junction U.S. Hwy 93, then north along U.S. Hwy 93 to junction U.S. Alternate Hwy 50, then northeast along U.S. Alternate Hwy 50 to the NV-UT State line; points in ND on and west of a line beginning at SD-ND State line north along ND Hwy 8 to junction ND Hwy 37, then east along ND Hwy 37 to junction U.S. Hwy 83, then along U.S. Hwy 83 to its termination at the Canadian border; points in SD on and north and west of a line beginning at the SD-WY State line northeast along U.S. Hwy 85 to junction U.S. Hwy 212, then northeast along U.S. Hwy 212 to junction SD Hwy 73, then north along SD Hwy 73 to the SD-ND State line; points in UT on and north and west of a line beginning at the NV-UT State line northeast along U.S. Hwy 40 to junction U.S. Hwy 89, then north along U.S. Hwy 89 to junction UT Hwy 30, then East along UT Hwy 30 to junction with the UT-WY State line; points in WY on and north of a line beginning at U.S. Hwy 189, then north along U.S. Hwy 189 to junction U.S. Hwy 187, then south along U.S. Hwy 187 to junction WY Hwy 28, then northeast along WY Hwy 28 to junction U.S. Hwy 287, then east along U.S. Hwy 287 to junction WY Hwy 220, then east along WY Hwy 220 to junction Interstate Hwy 25, then east along Interstate Hwy 25 to junction U.S. Hwy 18, then northeast along U.S. Hwy 18 to the WY-SD State line; (2) between points in the NC counties of Alexander, Catawba, and Iredell, on the one hand, and, on the other, points in OR, WA, and points in CA on and north of a line beginning at San Francisco along Interstate Hwy 80 to junction U.S. Hwy 50, then east along U.S. Hwy 50 to junction with the CA-NV State line; ID, points on and northwest of a line beginning at the NV-ID State line north along U.S. Hwy 93 to junction U.S. Hwy 30, then east along U.S. Hwy 30 to junction U.S. Hwy 30N, then east along U.S. Hwy 30N to the ID-WY State line; MT, points on and west of a line beginning at the WY-MT state line north along U.S. Hwy 87 to junction U.S. Hwy 10, then northeast along U.S. Hwy 10 to junction MT Hwy 16, then northeast along MT Hwy 16 to junction U.S. Hwy 2, then east along U.S. Hwy 2 to the MT-ND State line; NV, points on and north of a line beginning at the CA-NV State line east along U.S. Hwy 50 to junction NV Hwy 8A, then north along NV Hwy 8A to junction U.S. Hwy 40, then east along U.S. Hwy 40 to junction U.S. Hwy 93, then north along U.S. Hwy 93 to the ID-NV State line; ND, points on and west of a line beginning at the MT-ND State line along U.S. Hwy 2, then east along U.S. Hwy 2 to junction U.S. Hwy 85, then north along U.S. Hwy 85 to the ND-Canada border; WY, points on and west of a line beginning at the ID-WY State line east along U.S. Hwy 30N to junction with the Sweetwater County line, then in a clockwise direction along the Sweetwater County line to junction WY Hwy 28, then northeast along WY Hwy 28 to junction WY

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Hwy 789, then northeast along WY Hwy 789 to junction U.S. Hwy 16, then east along U.S. Hwy 16 to junction U.S. Hwy 87, then north along U.S. Hwy 87 to the WY-MT state line; (3) between points in the NC counties of Cleveland, Gaston, Lincoln, on the one hand, and, on the other, points in ID, OR, WA, and points in CA on, north and west of a line beginning at Santa Cruz, CA, east along CA Hwy 152 to junction CA Hwy 99, then south along CA Hwy 99 to junction CA Hwy 168, then east along CA Hwy 168 to the CA-NV State line; MT, points on, north and west of a line beginning at the WY-MT State line north along U.S. Hwy 89 to junction U.S. Hwy 10, then east along U.S. Hwy 10 to junction MT Hwy 16, then north along MT Hwy 16 to junction MT Hwy 200, then north along MT Hwy 200 to the MT-ND State line; NV, points on, north and west of a line beginning at the CA-NV State line north along NV Hwy 3A to junction U.S. Hwy 6, then east along U.S. Hwy 6 to the NV-UT State line; ND, points on, and west of a line beginning at the MT-ND State line east along ND Hwy 200 to junction U.S. Hwy 85, then north along U.S. Hwy 85 to the ND State line-Canada border; UT, points on, north and west of a line beginning at the NV-UT State line east and north along U.S. Hwy 50 to junction Interstate Hwy 80, then east along Interstate Hwy 80 to the UT-WY State line; WY, points on and west of a line beginning at the UT-WY State line north along WY Hwy 89 to the WY-MT State line; (4) between points in the NC counties of Cabarrus, Mecklenburg, and Rowan, on the one hand, and, on the other, points in ID, MT, and points in CA on and west of a line beginning at the CA-NV State line southwest along U.S. Hwy 6 to junction U.S. Hwy 395, then south along U.S. Hwy 395 to junction CA Hwy 178, then southwest along CA Hwy 178 to junction CA Hwy 99, then south along CA Hwy 99 to junction CA Hwy 119, then southwest along CA Hwy 119 to junction CA Hwy 166, then northwest along CA Hwy 166 to its termination at the Pacific Ocean; points in NV on and north of a line beginning at the UT-NV State line northwest along NV Hwy 25 to junction U.S. Hwy 6, then southwest along U.S. Hwy 6 to the CA-NV State line; points in ND on and west of a line beginning at the ND-Canadian border south along ND Hwy 1 to junction ND Hwy 66, then west along ND Hwy 66 to junction ND Hwy 3, then south along ND Hwy 3 to junction U.S. Hwy 52, then northwest along U.S. Hwy 52 to junction ND Hwy 14, then south along ND Hwy 14 to junction U.S. Hwy 83, then south along U.S. Hwy 83 to the ND-SD State line; points in SD on and west of a line beginning at the ND-SD State line south along U.S. Hwy 83 to junction SD Hwy 20, then east along SD Hwy 20 to junction SD Hwy 47, then south along Hwy 47 to junction U.S. Hwy 212, then west along U.S. Hwy 212 to junction U.S. Hwy 83, then south along U.S. Hwy 83 to junction U.S. Hwy 14, then southwest along U.S. Hwy 14 to junction SD Hwy 79, then south along SD Hwy 79 to junction U.S. Hwy 18, then west along U.S. Hwy 18 to the SD-WY State line; points in UT on and west of a line beginning at the WY-UT State line southwest along Interstate Hwy 80 to junction U.S. Hwy 189, then south along U.S. Hwy 189 to junction U.S. Hwy 50, then southeast along U.S. Hwy 50 to junction UT Hwy 10, then south along UT Hwy 10 to junction UT Hwy 29, then west along UT Hwy 29 to junction U.S. Hwy 89, then southwest along U.S. Hwy 89 to junction UT Hwy 14, then west along UT Hwy 14 to junction UT Hwy 56, then northwest along UT Hwy 56 to the UT-NV State line; points in WY on and north of a line beginning at the SD-WY State line southwest along U.S. Hwy 18 to junction U.S. Hwy 26, then northwest along U.S. Hwy 26 to junction WY Hwy 789, then south along WY Hwy 789 to junction U.S. Hwy 287, then south along U.S. Hwy 287 to junction WY Hwy 28, then southwest along WY Hwy 28 to junction U.S. Hwy 187, then south along U.S. Hwy 187 to junction Interstate Hwy 80, then west along Interstate Hwy 80 to the WY-UT State line; (5) between points in the NC counties of Davie, Surry, and Yadkin, on the one hand, and, on the other, points in ID, MT, OR, WA, and points in CA on and north of a line beginning at the Pacific Ocean near Santa Ana northeast along CA Hwy 55 to junction CA Hwy 91, then east along CA Hwy 91 to junction U.S. Hwy 395, then north along U.S. Hwy 395 to junction U.S. Hwy 6, then east along U.S. Hwy 6 to the CA-NV State line; NV, points on and north of U.S. Hwy 6; ND, points on and west of a line beginning at the ND-SD State line north along ND Hwy 49 to junction Interstate Hwy 94, then east along Interstate Hwy 94 to junction ND Hwy 3, then north along ND Hwy 3 to junction ND Hwy 17, then east along ND Hwy 17 to junction ND Hwy 1, then north along ND Hwy 1 to its termination at the ND-Canada border; SD, points on and west of a line beginning at the WY-SD State line east along U.S. Hwy 18 to junction SD Hwy 73, then north along SD Hwy 73 to its termination near Lemmon, SD; UT, points on and northwest of a line beginning at the NV-UT State line east along U.S. Hwy 6 to junction U.S. Hwy 89, then north along U.S. Hwy 89 to junction U.S. Hwy 189, then northeast along U.S. Hwy 189 to the UT-WY State line; WY, points on and north of a line beginning at the WY-UT State line east along Interstate Hwy 80 to junction WY Hwy 789, then north along WY Hwy 789 to junction WY Hwy 220, then northeast along WY Hwy 220 to junction U.S. Hwy 20, then east along U.S. Hwy 20 to junction U.S. Hwy 18, then northeast along U.S. Hwy 18 to the WY-SD State line.

(6) Between points in the NC counties of Burke and Caldwell, on the one hand, and, on the other, points in OR, WA, and points in CA on and north of a line beginning at the CA-NV State line south along U.S. Hwy 6 to junction U.S. Hwy 395, then along U.S. Hwy 395 to juriction with CA Hwy 168, then southwest along CA Hwy 168 to junction CA Hwy 145, then west along CA Hwy 145 to junction CA Hwy 99, then north along CA Hwy 99 to junction CA Hwy 152, then west along CA Hwy 152 to its termination at the Pacific Ocean; points in ID on and west of a line beginning at the MT-ID State line south along U.S. Hwy 91 to junction U.S. Hwy 20, then southwest along U.S. Hwy 20 to junction U.S. Hwy 93, then south along U.S. Hwy 93 to the ID-NV State line; points in MT on and west of a line beginning at the MT-Canadian border south along MT Road 247 to junction U.S. Hwy 2, then west along U.S. Hwy 2 to junction U.S. Hwy 191, then southwest along U.S. Hwy 191 to junction Interstate Hwy 90, then west along Interstate Hwy 90 to junction U.S. Hwy 91, then south along U.S. Hwy 91 to the MT-ID State line; points in NV on and west of a line beginning at the ID-NV State line south along U.S. Hwy 93 to junction U.S. Hwy 6, then southwest along U.S. Hwy 6 to the CA-NV State line; (7) between points in NC counties of Franklin, Vance, and Warren, on the one hand, and, on the other, points in AZ, CA, CO, ID, IA, MI, MN, MT, NE, NV, ND, OR, SD, UT, WA, WI, WY, and points in IL on and north of a line beginning at the IL-IN State line southwest along IL Hwy 17 to junction IL Hwy 29, then south along IL Hwy 29 to junction IL Hwy 116, then west along IL Hwy 116 to junction IL Hwy 94, then southwest along IL Hwy 94 to junction U.S. Hwy 136, then west along U.S. Hwy 136 to the IL-IA State line; points in IN on and north of a line beginning at the IN-OH State line west along U.S. Hwy 6 to junction IN Hwy 2, then southwest along IN Hwy 2 to the IL-IN State line; points in KS on and west of a line beginning at the KS-MO State line southwest along U.S. Hwy 59 to junction KS Hwy 4, then southwest along KS Hwy 4 to junction U.S. Hwy 81, then south along U.S. Hwy 81 to junction KS Hwy 61, then southwest along KS Hwy 61 to junction U.S. Hwy 281, then south along U.S. Hwy 281 to the KS-OK State line; points in MO on and north of a line beginning at the IA-MO State line west along U.S. Hwy 136 to junction U.S. Hwy 63, then south along U.S. Hwy 63 to junction MO Hwy 6, then southwest along MO Hwy 6 to junction U.S. Hwy 36, then west along U.S. Hwy 36 to junction U.S. Hwy 59, then southwest along U.S. Hwy 59 to the KS-MO State line; points in NM on and west of a line beginning at the TX-NM State line west along U.S. Hwy 60 to junction U.S. Hwy 70, then southwest along U.S. Hwy 70 to junction NM Hwy 11, then south along NM Hwy 11 to the NM-Mexico border; points in OH on and north of a line beginning at the OH-WV State line west along U.S. Hwy 22 to junction U.S. Hwy 250, then northwest along U.S. Hwy 250 to junction U.S. Hwy 20, then northwest along U.S. Hwy 20 to junction U.S. Hwy 6, then west along U.S. Hwy 6 to the IN-OH State line; points in OK on and west of a line beginning at the KS-OK State line south along U.S. Hwy 281 to junction U.S. Hwy 60, then west along U.S. Hwy 60 to the OK-TX State line; points in TX on and west of a line beginning at the OK-TX State line southwest along U.S. Hwy 60 to junction TX Hwy 152, then northwest along TX Hwy 152 to junction TX Road 722, then southwest along TX Road 722 to junction U.S. Hwy 385, then south along U.S. Hwy 385 to junction U.S. Hwy 60, then southwest along U.S. Hwy 60 to the TX-NM State line; points in WV on and north of U.S. Hwy 22; (8) between points in the State of NC counties of Johnston and Wake, on the one hand, and, on the other, points in CA, CO, ID, MN, MT, NV, ND, OR, SD, UT, WA, WY, and points in AZ on, north, and west of a line beginning at Douglas, AZ, northeast along U.S. Hwy 80 to the AZ-NM State line; IA, points on and north and west of a line beginning at the NE-IA State line east along Interstate Hwy 80 to junction IA Hwy 150, then north along IA Hwy 150 to junction IA Hwy 9, then east along IA Hwy 9 to the IA-WI State line; points in KS on and north and west of a line beginning at the OK-KS State line northeast along U.S. Hwy 56 to junction U.S. Hwy 50, then northeast along U.S. Hwy 50 to junction U.S. Hwy 77, then north along U.S. Hwy 77 to junction with the KS-NE State line; NE, points on, north, and west of a line beginning at the KS-NE State line north along U.S. Hwy 77 to junction Interstate Hwy 80, then east along Interstate Hwy 80 to the NE-IA State line; NM, points on, north, and west of a line beginning at the AZ-NM State line north along U.S. Hwy 80 to junction Interstate Hwy 25, then north along Interstate Hwy 25 to junction U.S. Hwy 56, then east along U.S. Hwy 56 to the NM State line; OH, points on and east of a line beginning at Cleveland, OH, south along OH Hwy 21 to junction U.S. Hwy 30, then east along U.S. Hwy 30 to the OH-PA State line; OK, points on and north and west of a line beginning at the NM State line northeast along U.S. Hwy 56 to the OK-KS State line; WI, points on, north, and west of a line beginning at the IA-WI State line north along WI Hwy 35 to junction U.S. Hwy 16, then east along U.S. Hwy 16 to junction U.S. Hwy 151, then northeast along U.S. Hwy 151 to junction U.S. Hwy 141, then north along U.S. Hwy 141 to Iron Mountain, MI; (9) between points in the NC counties of Bladen and Samson on the one hand, and, on the other, points in CA, ID, MN, MT, NV, ND, OR, SD, UT, WA, WY, and points in AZ on and west of a line beginning at the AZ-Mexico border north along AZ Hwy 85 to junction U.S. Hwy 80, then east along U.S. Hwy 80 to junction U.S. Hwy 89, then northeast along U.S. Hwy 89 to junction U.S. Hwy 160, then along U.S. Hwy 160 to the AZ-CO State line; CO, points on and north of a line beginning at the AZ-CO State line east along U.S. Hwy 160 to junction U.S. Hwy 285, then north along U.S. Hwy 285 to junction U.S. Hwy 24, then east along U.S. Hwy 24 to the CO-KS State line; IA, points on a line beginning at the NE-IA State line east along U.S. Hwy 34 to junction U.S. Hwy 71, then north along U.S. Hwy 71 to junction IA Hwy 175, then east along IA Hwy 175 to junction U.S. Hwy 63, then north along U.S. Hwy 63 to junction U.S. Hwy 18, then east along U.S. Hwy 18 to the IA-WI State line; KS, points on and north of a line beginning at the CO-KS State line east along U.S. Hwy 24 to junction U.S. Hwy 183, then north along U.S. Hwy 183 to the KS-NE State line; MI, points on and north of a line beginning at Lake Michigan near Frankfort, southeast along MI Hwy 115 to junction U.S. Hwy 10, then southeast along U.S. Hwy 10 to junction MI Hwy 21, then east along MI Hwy 21 to Port Huron; NE, points on, north, and west of a line beginning at the KS-NE State line nortn along U.S. Hwy 183 to junction U.S. Hwy 34, then east along U.S. Hwy 34 to the NE-IA State line; OH, points on and north of a line beginning at Cleveland southeast along OH Hwy 14 to junction OH Hwy 44, then south along OH Hwy 44 to junction OH Hwy 43, then southeast along OH Hwy 43 to junction with Steubenville, OH; WV, points on and north of U.S. Hwy 22; WI, points on and north of a line beginning at the WI-IA State line east along U.S. Hwy 18 to junction U.S. Hwy 151, then northeast along U.S. Hwy 151 to junction U.S. Hwy 41, then northeast along U.S. Hwy 41 to Green Bay, WI; (10) between points in the NC counties of Brunswick and Columbus, on the one hand, and, on the other, points in CA, ID, MN, MT, NV, ND, OR, SD, UT, WA, WY, and points in CO, KS, MI, NE, OH, WV, WI, and AZ described in (9) above; (11) between points in the State of NC counties of New Hanover, Pender, and Duplin, on the one hand, and, on the other, points in CA, CO, ID, MT, NV, ND, OR, SD, UT, WA, WY, and points in AZ, IA, KS, NE, NM, OH, OK, and WI described in (8) above; (12) between points in the NC counties of Jones and Onslow, on the one hand, and, on the other, points in AZ, CA, CO, ID, IA, MI, MN, MT, NE, NV, ND, OR, SD, UT, WA, WI, WY, and points in IL on and north of a line beginning at the IN-IL west along IL Hwy 119 to junction U.S. Hwy 136, then south along U.S. Hwy 136 to junction Interstate Hwy 74, then northwest along Interstate Hwy 74 to junction U.S. Hwy 136, then west along U.S. Hwy 136 to junction U.S. Hwy 24, then southwest along U.S. Hwy 24 to the IL-MO State line; points in IN on and north of a line beginning at the OH-IN State line southwest along U.S. Hwy 24 to junction IN Hwy 25, then southwest along IN Hwy 25 to junction IN Hwy 28, then west along IN Hwy 28 to the IN-IL State line; points in KS on and west of a line beginning at the KS-MO State line west along U.S. Hwy 54 to junction KS Hwy 2, then southwest along KS Hwy 2 to junction U.S. Hwy 281, then south along U.S. Hwy 281 to the KS-OK State line; points in MO on and west of a line beginning at the IL-MO State line southwest along U.S. Hwy 24 to junction U.S. Hwy 65, then southwest along U.S. Hwy 65 to junction MO Hwy 52, then southwest along MO Hwy 52 to junction U.S. Hwy 71, then south along U.S. Hwy 71 to junction U.S. Hwy 54, then west along U.S. Hwy 54 to the KS-MO State line; points in NM on and west of a line beginning at the TX-NM State line west along U.S. Hwy 60 to junction U.S. Hwy 70, then southwest along U.S. Hwy 70 to junction NM Hwy 11, then south along NM Hwy 11 to the NM-Mexico border; points in OH on and north of a line beginning at the OH-WV State line northwest along U.S. Hwy 250 to junction U.S. Hwy 224, then west along U.S. Hwy 224 to junction OH Hwy 18, then northwest along OH Hwy 18 to junction U.S. Hwy 24, then southwest along U.S. Hwy 24 to the OH-IN State line; points in OK on and west of a line beginning at the KS-OK State line south along U.S. Hwy 281 to junction U.S. Hwy 60, then southwest along U.S. Hwy 60 to the OK-TX State line; points in TX on and north of U.S. Hwy 60; points in WV on and north of U.S. Hwy 40; (13)

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V 43 / 183 SE 20 78 V 4

between points in the NC counties of Dare, Tyrrell, and Washington, on the one hand, and, on the other, points in AZ, CA, CO, ID, KS, MI, MN, MT, NE, NV, NM, ND, OR, SD, UT, WA, WI, WY, and points in IL on and north of a line beginning at the MO-IL State line northeast along U.S. Hwy 66 to junction U.S. Hwy 36, then east along U.S. Hwy 36 to the IL-IN State line; IN, points on and north of U.S. Hwy 36; MO, points on and north of Interstate Hwy 44; OH, points on and north of a line beginning at the OH-IN State line east along U.S. Hwy 36 to junction OH Hwy 41, then southeast along OH Hwy 41 to junction U.S. Hwy 40, then east along U.S. Hwy 40 to the OH-WV State line; OK, points on and north and west of a line beginning at the TX-OK State line east along U.S. Hwy 66 to junction Interstate Hwy 44, then northeast along Interstate Hwy 44 to the OK-MO State line; TX, points on and west of a line beginning at the Big Bend National Park north along U.S. Hwy 385 to junction U.S. Hwy 66, then east along U.S. Hwy 66 to the TX-OK State line; WV, points on and north of U.S. Hwy 40; (14) between points in the State of NC county of Hyde, on the one hand, and, on the other, points in AZ, CA, CO, ID, IA, KS, MI, MN, MT, NE, NV, NM, ND, OR, SD, UT, WA, WY, IL, points on and north of a line beginning at the MO-IL State line east along Interstate Hwy 70 to junction with the IL-IN State line; IN, points on and north of a line beginning at the IL-IN State line east along Interstate Hwy 70 to junction with the IN-OH State line; MO, points on, north, and west of a line beginning at the OK-MO State line northeast along Interstate Hwy 44 to the MO-IL State line; OH, points on and north of a line beginning at the IN-OH State line east along Interstate Hwy 70 to the OH-WV State line; OK, points on and north and west of a line beginning at the TX-OK State line east along U.S. Hwy 62 to junction Interstate Hwy 44, then northeast along Interstate Hwy 44 to the OK-MO State line; TX, points on, north, and west of a line beginning at Brownsville, TX, north along U.S. Hwy 77 to junction U.S. Hwy 281, then west along U.S. Hwy 281 to junction U.S. Hwy 87, then west along U.S. Hwy 87 to junction U.S. Hwy 62, then east along U.S. Hwy 62 to the TX-OK State line; WV, points on and north of a line beginning at the OH-WV State line east along Interstate Hwy 70 to the WV-PA State line. Restriction: The authority granted herein to the extent that it duplicates any authority heretofor granted to or now held by carrier shall not be construed as conferring more than one operating right. (Gateways eliminated: Waynesboro and Stitz, PA.)

MC 118831 (Sub-E147), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street NW., Washington, DC 20001. *Liquid petrochemicals*, in bulk, in tank vehicles, from Orangeburg, SC, to points in AR on and west of a line beginning at Blytheville, AR, and extending along AR Hwy 18 to Jonesboro, then along AR Hwy 39 to junction U.S. Hwy 49, then along U.S. Hwy 49 to junction U.S. Hwy 79, then along U.S. Hwy 79 to juction AR Hwy 98, then along AR Hwy 98 to junction U.S. Hwy 82, then along U.S. Hwy 82 to Texarkana, TX. (Gateways eliminated: Charlotte, NC and points in Robertson County, TN.)

MC 121060 (Sub-E123), filed July 8, 1977. Applicant: ARROW TRUCK LINES, INC., 1220 West Third Street, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, VA 22210. *Roofing materials* (except commodities in bulk), from the facilities of Bird & Son, Inc., near Charleston, SC, to points in WV in and north of Cabell, Mason, Jackson, Roane, Clay, Nicholas, and Greenbrier Counties. (Gateway eliminated: Points in Wayne County, NC.)

MC 123407 (Sub-E349), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from L'Anse, MI, to points in TX, OK, KS, MO AR LA, MS, AL, TN, KY, IN, OH, WV, VA, MD, DE, PA, NJ, NY, CT, RI, MA, VT, NH, ME, DC, NC, SC, GA, and FL. (Gateway eliminated: Eagle River, WI.)

MC 123407 (Sub-E350), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from L'Anse, MI, to points in WA, OR, ID, CA, NV, WY, UT, AZ, NM, and CO. (Gateway eliminated: Ashland, WI.)

MC 123407 (Sub-E351), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, between points in OK in and west of Warlington, Tulsa, Creek, Okfushee, Seminole, Pontotoc, Johnson and Marshall Counties, on the one hand, and, on the other, those points in PA in and north of Beaver, Butler, Armstrong Cambridge, Blair, Centre, Mifflin, Juniato, Northumberland, Zarphin, Lebanon, Berks, Montgomery and Philadelphia Counties. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E352), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers having an immediately prior or subsequent movement by water, or by water-rail or by air, between points in FL, on the one hand, and, on the other, points in the Upper Peninsula of MI. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E353), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers having an immediately prior or subsequent movement by water, or by water-rail or by air, between points in AL, on the one hand, and, on the other, points in the Upper Peninsula of MI on and west of U.S. Hwy 41. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E354), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers having an immediately prior or subsequent movement by water, or by water-rail or by air, between points in MS, on the one hand, and, on the other, points in the Upper Peninsula of MI. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E355), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, between points in MI on and north of MI Hwy 46, on the one hand, and, on the other, points in Warren, Hinds, Claiborne, Copiah, Jefferson, Adams, Franklin, Lincoln, Lawrence, Wilkinson, Amite, Pike and Walthall Counties, MS. (Gateway eliminated: Warren, IL.)

MC 124154 (Sub-E16), filed July 7, 1978. Applicant: WINGATE TRUCKING CO., INC., P.O. Box 645, Albany, GA 31702. Representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, FL 32302. *Agricultural chemicals and agricultural chemical materials*, in containers, between points in SC, on the one hand, and, on the other, points in TN in and west of Polk, McMinn, Meigs, Rhea, Bledsoe, Van Buren, Warren, DeKalb, Smith, Trousdale, and Sumner Counties. Restriction: This authority will expire May 8, 1980. (Gateway eliminated: Facilities of Helena Chemical Co. at Gainesville, and Wrightsville, GA.)

MC 124154 (Sub-E17), filed July 7, 1978. Applicant: WINGATE TRUCKING CO., INC., P.O. Box 645, Albany, GA 31702. Representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, FL 32302. *Agricultural chemicals and agricultural chemical materials*, in containers, between points in NC on and east of U.S. Hwy 29, on the one hand, and, on the other, points in TN in and west of Polk, McMinn, Meigs, Rhea, Bledsoe, Van Buren, Warren, DeKalb, Smith, Trousdale, and Sumner Counties. Restriction: This authority will expire May 8, 1980. (Gateway eliminated: Facilities of Helena Chemical Co. at Gainesville, GA.)

MC 124154 (Sub-E18), filed July 7, 1978. Applicant: WINGATE TRUCKING CO., INC., P.O. Box 645, Albany, GA 31702. Representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, FL 32302. *Agricultural chemicals and agricultural chemical materials*, in containers, between points in VA on and east of U.S. Hwy 360, on the one hand, and, on the other, points in TN in and west of Polk, McMinn, Meigs, Rhea, Bledsoe, Van Buren, Warren, DeKalb, Smith, Trousdale, and Sumner Counties. Restriction: This authority expires May 8, 1980. (Gateway eliminated: Facilities of Helena Chemical Co. at Gainesville, GA.)

MC 124154 (Sub-E19), filed July 7, 1978. Applicant: WINGATE TRUCKING CO., INC., P.O. Box 645, Albany, Ga 31702. Representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, FL 32302. *Agricultural chemicals and agricultural chemical materials*, in containers, between Memphis, TN, on the one hand, and, on the other, points in NC and points in VA in and east of Carroll, Floyd, Montgomery, and Craig Counties. Restriction: This authority expires May 8, 1980. (Gateway eliminated: Facilities of Helene Chemical Co. at Gainesville, GA.)

MC 124154 (Sub-E20), filed July 7, 1978. Applicant: WINGATE TRUCKING CO., INC., P.O. Box 645, Albany, GA 31702. Representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, FL 32302. *Agricultural chemicals and agricultural chemical materials*, in containers, between points in SC, NC, and VA, on the one hand, and, on the other, points, in Thomas, Colquitt, Worth, Turner, Crisp, Lee, Terrell, Randolph, Clay, Early, Miller, Seminole, Decatur, Grady, Mitchell, Baker, Calhoun, and Dougherty Counties, GA. Restriction: This authority expires May 8, 1980. (Gateway eliminated: Facilities of Helena Chemical Co. at Moultrie, GA, or Cordele, GA.)

MC 124154 (Sub-E21), filed July 7, 1978. Applicant: WINGATE TRUCKING CO., INC., P.O. Box 645, Albany, GA 31702. Representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, FL 32302. *Agricultural chemicals and agricultural chemical materials*, in containers, between points in VA and points in NC on east of U.S. Hwy 25, on the one hand, and, on the other, points in Floyd, Bartow, Cherokee, Forsyth, Hall, Banks, Franklin, Madison, Jackson, Polk, Paulding, Cobb, Gwinnett, DeKalb, Douglas, Haralson, Carroll, Barrow, Walton, Oconee, Green, Newton, Morgan, Putnam, Hancock, Fayette, Heard, Coweta, Spalding, Jasper, Washington, Johnson, Wilkinson, Twiggs, Crawford, Upson, Harris, Talbot, Bibb, Jones, Baldwin, Washington, Laurens, Treutlen, Dodge, Ben Hill, Telfair, Wilcox, Dooly, Sumter, Marion, Chattahoochee, Taylor, Macon, Peach, Quitman, Stewart, Webster, Schley, Houston, Bleckley, and Pulaski Counties, GA. Restriction: This authority expires May 8, 1980. (Gateway eliminated: Facilities of Helena Chemical Co., at Gainesville, Cordele, or Wrightsville, GA.)

MC 129631 (Sub-E23), filed August 1, 1976. Applicant: PACK TRANSPORT, INC., 3975 South 300 West, Salt Lake City, UT 84107. Representative: Gwyn D. Davidson (same as above). *Iron and steel articles* as described in appendix V to the report of the Commission in Ex parte No. 45, Descriptions in Motor Carrier Certificates, 61 MCC 209, between Salt Lake City and Ogden, UT, on the one hand, and, on the other, Baker, OR. (Gateway eliminated: Cache County, UT.)

MC 129631 (Sub-E24), filed August 1, 1976. Applicant: PACK TRANSPORT, INC., 3975 South 300 West, Salt Lake City, UT 84107. Representative: Gwyn D. Davidson (same as above). *Iron and steel articles* as described in appendix V to the report of the Commission in Ex parte No. 45, Descriptions in Motor Carrier Certificates, 61 MCC 209, between Salt Lake City, UT, to those points in Washington and Adams Counties, ID on and west of U.S. Hwy 95. (Gateway eliminated: Baker, OR.)

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26429 Filed 9-19-78; 8:45 am]

[7035-01]

[Disaster Decision No. 14]

SOUTHERN PACIFIC TRANSPORTATION CO.

Decided: September 14, 1978.

An application has been filed jointly by the Southern Pacific Transportation Co. (SP) and the Northwestern Pacific Railroad Co. (NWP) and concurred in by the Arcata and Mad River Rail Road Co. (AMR) seeking authority under section 22 of the Interstate Commerce Act to publish allowances in order to provide reduced rates for persons who would normally ship via the NWP and AMR but who cannot do so because of a fire in a tunnel on the NWP at mileage post 195 near Island Mountain, Calif.

It is ordered: The applicant carriers are authorized to publish and file allowances to afford reduced rates under section 22 of the Interstate Commerce Act in the manner prescribed in section 6 except that publication may be made effective on 1 day's notice instead of 30, and includes authority to publish in blanket supplements with relief from rule 9(e) of Tariff Circular 20 to publish in a separate noncounting supplement, all the authority granted herein to expire with December 12, 1978.

The class of persons entitled to such allowances are shippers or receivers via the NWP and the AMR who, because of the fire in the tunnel, assume the cost of transporting freight by highway to or from the SP at Kett or Redding, Calif., or to or from NWP stations from Willits to Schellville, Calif.

During the period in which any reduced rates authorized by this order are effective the carriers may, notwithstanding the provisions of section 4 of the Interstate Commerce Act, maintain higher rates to direct intermediate points and maintain through rates in excess of the aggregate of intermediate rates over the same routes if one or more of the factors of such aggregate of intermediate rates is a reduced rate established under authority of this order.

Any tariffs or tariff provisions published under this authority shall make

reference to this decision by number and date.

Notice to the affected railroads and

sunshine act meetings

V 43 / 183 SE 20 78

reference to this decision by number and date.

Notice to the affected railroads and the general public shall be given by depositing a copy of this decision in the office of the Acting Secretary of the Commission and by filing a copy with the Director, Office of the Federal Register. Copies will be mailed to the chairman of the Traffic Executive Association—Eastern Railroads, New York, N.Y.; the chairman of the Southern Freight Association, Atlanta, GA; the chairman of the Executive Committee, Western Railroad Traffic Association, Chicago, Ill., and the vice-president, Economics and Finance Department of the Association of American Railroads, Washington, D.C.

By the Commission, Betty Jo Christian, Vice Chairman.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26430 Filed 9-19-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1
Equal Employment Opportunity Commission	2
Federal Communications Commission	3-6
Federal Deposit Insurance Corporation	7, 8
Indians Claims Commission	9
International Trade Commission	10
Federal Energy Regulatory Commission	11
National Railroad Passenger Corporation	12

[6351-01]

1

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43 FR 41158.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., September 19, 1978.

CHANGES IN THE MEETING: Delete the following items from the agenda:

Final Rule Imposing a Temporary Moratorium on the Offer and Sale of Leverage Contracts.

Proposed Federal Register release seeking public comment concerning the interpretation of contracts of sale of a commodity for future delivery within the meaning of the Commodity Exchange Act.

[S-1905-78 Filed 9-18-78; 2:13 pm]

[6570-06]

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 2:30 p.m. (eastern time), Friday, September 22, 1978.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Private Bar Program: Recommended grant recipients to administer loan fund.
2. Matters carried over from the meeting of September 19, 1978.
3. Report on Commission operations by the Executive Director.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued September 15, 1978.

[S-1899-78 Filed 9-18-78; 11:10 am]

[6712-01]

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, September 19, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed, Commission meeting following the open meeting which is scheduled to commence at 9:30 a.m.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Petitions filed by Western Connecticut Broadcasting Co. in the Stamford, Conn., Standard Broadcast comparative renewal proceeding (Docket Nos. 19872-3).

NOTE.—All Cable Television and Broadcast related closed meeting items will be discussed on September 22, 1978, following the Open Meeting scheduled to commence at 10:00 a.m. Public Notice will be released September 15, 1978 listing these matters.

If additional information is required concerning this meeting it may be obtained from the FCC Public Information Officer, telephone 202-632-7260.

Issued: September 18, 1978.

[S-1901-78 Filed 9-18-78; 11:15 am]

[6712-01]

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, September 19, 1978.

PLACE: Room 856, 1919 M Street, NW, Washington, D.C.

STATUS: Open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Certification from ALJ of the Broadcast Bureau's Motion to Modify Caption in the Houghton Lake, Mich., renewal and forfeiture proceeding (Docket Nos. 21497-8).

Hearing—2—Referral to the Commission by Administrative Law Judge of questions governing the grant of a new station at Lares, Puerto Rico (Docket Nos. 20968-69).

General—1—Request by Searle Diagnostics, Inc., for waiver of certain of the technical specifications in section 15.176 to permit the transmission of a telemetering signal 4 MHz wide on a VHF TV channel.

General—2—Notice of Proposed Rulemaking in Docket 20718—industrial, scientific, and medical equipment.

General—3—Petition filed by Orth-O-Vision, Inc., requesting in effect that the Commission preempt from New York State and local regulation MATV systems to the extent they are used as an integral part of the distribution of MDS service regulated by the Commission.

Safety and Special—1—Amendment of the rules to make 156.875 MHz available for communications to and from pilots.

Common Carrier—1—Complaint of Industrial Communications Systems, Inc., against the Pacific Telephone & Telegraph Co., and General Telephone Co. of California (File No. TS 2-78).

Common Carrier—2—Amendment of the Commission's rules to provide for the reporting of traffic statistics by telephone common carriers.

Common Carrier—3—Department of Defense's petitions for reconsideration of A.T. & T.-SCAN order, and A.T. & T.-Series 8000 order.

Common Carrier—4—Reconsideration of grant to ITT Domestic Transmission Systems, to lease channels between U.S. cities to operate a data network providing store-and-forward capability.

Common Carrier—5—Renewal application of Tele-Comm, Inc. (KON925-DPLMRS) Bremerton, Wash. and the application of Rad-Com Electronics, Ind., for a new two-way station near Olympia, Wash.

Common Carrier—6—Integration Rates and Services, between the mainland and Alaska, Hawaii, and Puerto Rico/Virgin Islands.

NOTE.—All Cable Television and Broadcast related items (Assignment & Transfer, Renewal, Aural, TV, etc.) will be discussed on

Cable Television—1—Petition for Reconsideration filed by People's Cable Co., Henrietta, N.Y.

Complaints and Compliance—1—Broadcast of announcements for concerts.

Complaints and Compliance—2—Repsonse

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority

ration in its capacity as receiver, liquidator, or liquidating agent of those assests:

Case No. 43,624-L (Amended)—Franklin National Bank, New York, N.Y.

[7020-02]

10

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NOTE.—All Cable Television and Broadcast related items (Assignment & Transfer, Renewal, Aural, TV, etc.) will be discussed on September 22, 1978, at 10 a.m. Public notice will be released September 15, 1978, listing the matters.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

If additional information is required concerning this meeting it may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: September 18, 1978.

[S-1902-78 Filed 9-8-78; 11:15]

[6712-01]

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10 a.m., Friday, September 22, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting following the open meeting which is scheduled to commence at 10 a.m.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Complaints and Compliance—1—Investigation of KHOF-TV, San Bernardino, Calif.
Complaints and Compliance—2—Investigation of WFIF, Milford, Conn., licensed to Colonial Broadcasting, Inc.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: September 18, 1978.

[S-1906-78 Filed 9-18-78; 2:13 pm]

[6712-01]

6

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10 a.m., Friday, September 22, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

MATTER TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Television Receiver Equipment Grading.
General—2—Commission Fees Program.
Cable Television—1—Petition for Reconsideration filed by People's Cable Co., Henrietta, N.Y.
Cable Television—2—Applications for certificates of compliance filed by Clearview Cable TV Indiana.
Cable Television—3—Petition for Order to Show Cause (CSC-189) filed by Ron Kurtenbach of Lincoln, Nebr.
Cable Television—4—Application for a new station in the Cable Television Relay Service filed by Christian Television of Ohio, Inc.
Cable Television—5—Petition for Special Relief filed by Arlington Telecommunications, Inc.
Assignment and Transfer—1—Application (BALH-2615) for the voluntary assignment of WFMI(FM), Montgomery, Ala., from Alabama Radio Corp. to Deep South Broadcasting Co.
Assignment and Transfer—2—Request for issuance of a tax certificate in connection with the sale of station WYCH(FM) Hamilton, Ohio, from Raymar communications, Inc., to YCH Associates, a limited partnership.
Renewal—1—Renewal of WGGH(AM), Marion, Ill., proposing a commercial policy exceeding Commission guidelines.
Renewal—2—Renewal of licenses of Roy H. Park Broadcasting of Tennessee, Inc., for WDEF, WDEF-FM and WDEF-TV, Chattanooga, Tenn.
Renewal—3—Renewal of two UHF television stations proposing less than 5 percent total local programing between 6 a.m. and 12 midnight.
Renewal—4—Petition to deny renewal of Miami Valley Broadcasting Corp. (KTVU-TV), Oakland, Calif., filed by the Community Coalition for Media Change.
Renewal—5—Petition to deny the renewal application of McClatchy Newspapers, (KOVR-TV), filed by San Joaquin Communications Corp.
Renewal—6—Letters requiring certain California broadcast stations to submit periodic EEO progress reports during their license term and requiring four of the stations to also develop minority/female hiring goals.
Aural—1—Application for KPHX, Phoenix, Ariz., filed by Riverside Amusement Park Co.
Aural—2—Applications filed by Jersey Shore Broadcasting Co. of Pennsylvania for a FM station in Jersey Shore, Pa., and by Ethnic Broadcasting Foundation for a noncommercial FM station in Lorton, Va.
Television—1—Application of WNJU-TV Broadcasting Corp., Linden, N.J.
Television—2—Jackson Television Corp., application for involuntary transfer of control of WWLD-TV, Jackson, Mich.
Television—3—Application (BPCT-5037) for construction permit filed by Windmill Broadcasting Co., Springfield, Ill.
Broadcast—1—Transmission of a Source Identification Signal in the Television Vertical Blanking Interval.
Broadcast—2—Review of the decision which assigned FM Channel 291 to Palm Springs, Calif.
Broadcast—3—Restructuring of Part 73 of the rules—AM, FM, and TV broadcast services.
Broadcast—4—Request by Spanish International Network (SIN) for 5-year waiver of the rule which prohibits a network from serving as national "spot representative" for its affiliated stations.
Complaints and Compliance—1—Broadcast of announcements for concerts.
Complaints and Compliance—2—Repsonse of Honeyradio, Inc. (WHNE), Portsmouth, Va., to a Notice of Apparent Liability.
Complaints and Compliance—3—Repeated violation of technical rules by Sitka Broadcasting Co. (KIFW—AM, TV), Sitka, Alaska.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: September 18, 1978.

[S-1907—78 Filed 9-18-78; 2:13 pm]

[6714-01]

7

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors met in open session at 3 p.m. on Friday, September 15, 1978, to consider the matters listed below. Owing to clerical error, while this notice was posted timely, the earlier time requirement with respect to publication could not be complied with. The matters considered were as follows:

Disposition of minutes of previous meetings.
Applications for Federal deposit insurance:
Northern State Bank, a proposed new bank to be located at 218 Lakeside Street, Coeur d'Alene, Idaho, for Federal deposit insurance.
First Security State Bank of American Fork, a proposed new bank to be located at 600-700 East State Street, American Fork, Utah, for Federal deposit insurance.
Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation acitivities:
Bronson, Bronson & McKinnon, San Francisco, Calif., in connection with the receivership of United States National Bank, San Diego, Calif. (2 Memorandums).
Trager & Trager, Fairfield, Conn., in connection with the liquidation of the Monroe Bank & Trust Co., Monroe, Conn.
Kaye, Scholer, Fierman, Hays & Handler, New York, N.Y. in connection with the liquidation of Franklin National Bank, New York, N.Y.
J. Randolph Pelzer, P.A., North Charleston, S.C., in connection with the liquidation of American Bank & Trust, Orangeburg, S.C.
Memorandum proposing the payment of a fourth dividend of 17 percent in connection with the receivership of Swope Parkway National Bank, Kansas City, Mo.
Reports of committees and officers:
Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.
Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.
Reports of security transactions authorized by the Chairman.

The meeting ws held in the Board Room on the sixth floor of the FDIC Buliding located at 550 17th Street Street NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Alan R. Miller, Executive Secretary of the Corporation, at 202-389-4446.

Dated: September 15, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1909-78 Filed 9-18-78; 3:28 pm]

8

[6714-01]

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:30 p.m. on Friday, September 15, 1978, the Federal Deposit Insurance Corporation's Board of Directors met in closed session, by vote of the Board of Directors pursuant to sections 552b(c) (2), (6), (8), (9)(A)(ii), (9)(B), and (10) of title 5, United States Code, to consider the matters listed below. Owing to clerical error, while this notice was posted timely, the early time requirement with respect to publication could not be complied with. The matters considered were as follows:

Disposition of minutes of previous meetings.
Applications for consent to establish branches:
ComBank/Fairvilla, Fairvilla, Fla., for consent to establish a branch at 2420 East Colonial Drive and a drive-in facility at the northeast corner of Livingston Street and Bumby Avenue, both locations in Orlando, Fla.
The National Savings Bank of the city of Albany, Albany, N.Y., for consent to establish a branch at the Troy Plaza, 13th and Hoosick Streets, Rensselaer County, N.Y.
Requests pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of persons convicted of offenses involving dishonesty or a breach of trust as directors, officers, or employees of insured banks:
Names of persons and of banks authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).
Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assests:
Case No. 43,624-L (Amended)—Franklin National Bank, New York, N.Y.
Case No. 43,645-L—The Bank of Bloomfield, Bloomfield, N.J.
Memorandum re Surety Bank & Trust Co., Wakefield, Mass.
Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:
Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).
Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:
Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (C)(6) of the "Government in the Sunshine Act" (5 U.S.C 552b (c)(2) and (c)(6)).

The meeting was held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Alan R. Miller, Executive Secretary of the Corporation, at 202-389-4446.

Dated: September 15, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1910-78 Filed 9-18-78; 3:28 pm]

[7030-01]

9

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., September 27, 1978.

PLACE: Room 600 1730 K Street NW., Washington, D.C.

STATUS: Open to the public:

Docket 13-F, et al., *James Strong.*
Docket 15-E. *Pottawatomie.*
Docket 113, et al., *Chippewa.*
Docket 181-C, *Colville.*
Docket 272, *Creek.*
Docket 301 (Claims 3-7), *Oneida.*

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, telephone: 202-653-6174.

[S-1900-78 Filed 9-18-78; 11:10 am]

[7020-02]

10

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, September 27, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
5. Any items left over from previous agenda.

Portions closed to the public:

6. Status report on the MIN study (if necessary).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1903-78 Filed 9-18-78; 2:13 pm]

[6740-02]

11

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 41334, published September 15, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m. September 20, 1978.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

CI-1. CI77-412, Phillips Petroleum Co.
CP-8. CP78-256, Algonquin LNG, Inc., and Algonquin Gas Transmission Co.

KENNETH F. PLUMB,
Secretary.

[S-1904-78 Filed 9-18-78; 2:13 pm]

12

NATIONAL RAILROAD PASSENGER CORPORATION.

In accordance with rule 4a. of appendix A of the bylaws of the National Railroad Passenger Corporation, notice is given that the Board of Directors will meet on September 27, 1978.

A. The meeting will be held on Wednesday, September 27, 1978, in the Yorktown Room of the Hyatt Regency Hotel, 400 New Jersey Avenue NW.,

Washington, D.C., beginning at 10:15 a.m.

B. The meeting will be open to the

WEDNESDAY, SEPTEMBER 20, 1978

V 43 / 183

Washington, D.C., beginning at 10:15 a.m.

B. The meeting will be open to the public at 11:15 a.m. beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed at the meeting follow:

AGENDA—NATIONAL RAILROAD PASSENGER CORPORATION

MEETING OF THE BOARD OF DIRECTORS, SEPTEMBER 27, 1978

Closed Session (10:15 am)

1. Internal personnel matters.
2. Litigation matters.

Open Session (11:15 am)

3. Approval of minutes of regular meeting of August 30, 1978.
4. Election of corporate officers.
5. Delegation of authority.
6. Resolution authorizing the exchange of real estate.
7. Commitment approval requests:
   77-265-S1. Overhaul and modification of metroliners.
   77-266-S1. Purchase of 15 new lightweight electric locomotives
   78-136. Replacement and additional equipment, Wilmington maintenance facility.
   78-138. Upgrade seven ARS-16 locomotives.
   78-146. Construct self-contained station, Pittsburgh, Pa.
8. Capital budget fiscal year 1979.
9. Southern Crescent service.
10. Board committee reports: Equipment, Northeast Corridor Improvement Project, Organization and Compensation, and Planning and Finance.
11. President's report.
12. New business.
13. Adjournment.

D. Inquiries regarding the information required to be made available pursuant to appendix A of the Corporation's bylaws should be directed to the Corporate Secretary at 202-383-3973.

Dated: September 18, 1978.

ELYSE G. WANDER,
Corporate Secretary.

[S-1908-78 Filed 9-18-78; 3:21 pm]

SEP 20 78

federal register

WEDNESDAY, SEPTEMBER 20, 1978
PART II

DEPARTMENT OF DEFENSE

PRIVACY ACT OF 1974

Annual Publication

[3810-70]

Organization of the Joint Chiefs of Staff.
Defense Communications Agency.

A0722.02DACH, Baptism, Marriage, and Funeral Files, 42 FR 59099, November 15, 1977.
A0728.01DAPC, Retired Personnel Data File, 43 FR 20607, July

DCOMP P10, Training File, 43 FR 34936, August 7, 1978.
DCOMP P12, Executive Development Programs File, 43 FR 34936, August 7, 1978.

[3810-70]

DEPARTMENT OF DEFENSE

Privacy Act Issuances

Notice of Incorporation by Reference

Agency: Department of Defense (DoD).

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation" and to publish in full those record systems of the DoD Components that have been added or amended since then. Also listed, by title and citation, are those record systems that have since been revoked and therefore deleted.

Dates: This document fulfills the annual notice requirement of the Privacy Act for 1978.

For Further Information Contact: Lt Col Aurelio Nepa, Jr., USAF, Staff Director, Defense Privacy Board, ODASD(A), Room 5H-023, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-0987.

Supplementary Information: This document gives public notice that the Department of Defense is issuing its annual publication for 1978 of record systems notices in Federal Register as required by 5 U.S.C. 552a(e)(4) of the Privacy Act of 1978 (Public Law 93-579).

Location of Notices in 1977 Compilation

The DoD Privacy Act Issuances—1977 Compilation was published in the Federal Register, FR Doc. 77-28255, on September 28, 1977 at 42 FR 50365.

Availability of 1977 Compilation

"Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 30 central points around the country and may be examined at the central headquarters of the Department of Defense components. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Approval of the Director

The notices of systems of records of the DoD "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on July 13, 1978. This 1978 compilation sets forth those systems of records for each DoD Component that have been added, amended or deleted since the 1977 compilation published on September 28, 1977 up to and including the August 7, 1978 issue of the Federal Register. No systems have been added, amended or deleted which were not previously published as a notice in the Federal Register for public comment. Accordingly, this listing supersedes all previously published listings of system notices for the DoD since the 1977 DoD compilation published on September 28, 1977 (42 FR 50365) through and including 43 FR 34936 of August 7, 1978. This 1978 DoD annual Privacy Act Issuances compilation, which includes the 1977 DoD Privacy Act Issuances incorporated by reference, shall serve as a new base line of reference for any future additions, amendments or deletions of record system notices in the Federal Register for the DoD until the next annual compilation in 1979.

Department of Defense Components

The systems of records in the DoD which are subject to the Privacy Act are maintained by the Components of the Department. These Components are:

U.S. Army.
Defense Mapping Agency.
Defense Civil Preparedness Agency.
Office of the Secretary of Defense.
Defense Advanced Research Projects Agency.
Department of the Air Force.
National Security Agency.
Defense Nuclear Agency.
Organization of the Joint Chiefs of Staff.
Defense Communications Agency.
Defense Intelligence Agency.
Department of the Navy/U.S. Marine Corps.
Defense Contract Audit Agency.
Defense Logistics Agency.
Defense Security Assistance Agency.
Defense Investigative Service.
Uniformed Services University of the Health Sciences.

The Defense Security Assistance Agency has no system of records which requires publication under the Privacy Act. The system notices which follow contain listings of all other Components of the Department of Defense. Taken together, the Component listings constitute the total systems of records in the Department which are required to be published.

DEPARTMENT OF DEFENSE COMPONENT IDENTIFIERS

Each published system of records is preceded by a code identifier. The first letter of the code represents the appropriate Component identifier. Following is a list of identifiers for the Department of Defense and its Components assigned by the Office of the Federal Register.

IDENTIFIER	COMPONENT
A	Department of the Army (DA)
B	Defense Mapping Agency (DMA)
C	Defense Civil Preparedness Agency (DCPA)
D	Office of the Secretary of Defense (OSD)
E	Defense Advanced Research Projects Agency (DARPA)
F	Department of the Air Force (AF)
G	National Security Agency (NSA)
H	Defense Nuclear Agency (DNA)
J	Organization of the Joint Chiefs of Staff (JCS)
K	Defense Communications Agency (DCA)
L	Defense Intelligence Agency (DIA)
M	U.S. Marine Corps (USMC)
N	Department of the Navy (DON)
R	Defense Contract Audit Agency (DCAA)
S	Defense Logistics Agency (DLA)
T	Defense Security Assistance Agency (DSAA)
V	Defense Investigative Service (DIS)
W	Uniformed Services University of the Health Sciences (USUHS)

SUMMARY OF DOD SYSTEM NOTICES

Department of the Army

The U.S. Army Privacy Act Issuances—1977 Compilation, hereby incorporated by reference, was published in the Federal Register on September 28, 1977, at 42 FR 50367. Set forth immediately below are those record systems that have since been revoked and therefore deleted from the Army inventory of record system notices. Published further below, in full text and in sequence order, under a separate Army heading are those systems of records that the Department of the Army has added or amended since publication of the 1977 Compilation, as of August 7, 1978.

Deletions—System Identification, System Name, and FR Citation and Date

A0201.07aDACS, Personnel Accounting System (PAS), 43 FR 15353, April 12, 1978.
A0302.06cDACS, Accounting for Personal Money Allowances (PMA), 43 FR 15353, April 12, 1978.
A0401.02USACIDC, Public Information, Administrative, and Reference Paper Files, 43 FR 15353, April 12, 1978.
A0411.03aUSACIDC, Release of Information Action Files, 43 FR 15353, April 12, 1978.
A0501.12DAMI, Subversion and Espionage Directed Against the U.S. Army (SAEDA), 43 FR 15353, April 12, 1978.
A0508.25bUSACIDC, Index to Case Files—Republic of Vietnam CY 70 to CY 73, 43 FR 15353, April 12, 1978.
A0614.03bOSA, Equal Employment Complaint File, 43 FR 26606, June 21, 1978.
A0715.07aAMC, Personnel Utilization Reporting System, 43 FR 26606, June 21, 1978.

A0722.02DACH, Baptism, Marriage, and Funeral Files, 42 FR 59099, November 15, 1977.
A0728.01DAPC, Retired Personnel Data File, 43 FR 20607, July 17, 1978.
A1001.07cDAMO, Mailing List for PARAMETERS, USAWC Journal, 43 FR 26606, June 21, 1978.
A1301.05aDAMA, Army Scientific Advisory Panel Personnel Files, 43 FR 26606, June 21, 1978.

Defense Mapping Agency

The Defense Mapping Agency Privacy Act Issuances—1977 Compilation, hereby incorporated by reference, was published in the Federal Register on September 28, 1977, at 42 FR 50670. There are no amendments, additions, or deletions of record systems notices for the agency, as of August 7, 1978.

Defense Civil Preparedness Agency

The Defense Civil Preparedness Agency Privacy Act Issuances—1977 Compilation, hereby incorporated by reference, was published in the Federal Register on September 28, 1977, at 42 FR 50709. There are no amendments or additions of record systems notices for the agency as of August 7, 1978. The following record system was revoked and deleted from the agency's inventory of record systems.

System Identification, System Name, and Citation and Date

CWNG 3, Decision Information Distribution System (DIDS) Volunteers, 43 FR 30331, July 14, 1978.

Office of the Secretary of Defense

The Office of the Secretary of Defense (OSD) Privacy Act Issuances—1977 Compilation, hereby incorporated by reference, was published in the Federal Register on September 28, 1977, at 42 FR 50730. Set forth immediately below are those record systems that have since been revoked and therefore deleted from the OSD record systems inventory of notices. Published further below, in full text and in sequence order, under a separate Office of the Secretary of Defense heading are those systems of records that the OSD has added or amended since publication of the 1977 Compilation, as of August 7, 1978.

Deletions—System Identification, System Name, FR Citation and Date

DM&RA 04.0, Reenlistment Eligible File (RECRUIT), 43 FR 2751, January 19, 1978.
DM&RA 13.0, Survey Data Base, 43 FR 2751, January 19, 1978.
DM&RA 14.0, MARDAC Data Base, 43 FR 2751, January 19, 1978.
DDR&E 01, Personnel Security Clearance Files, 43 FR 13091, March 29, 1978.
DH&E 01, Personnel Files, 43 FR 13091, March 29, 1978.
DH&E 02, Contact Files, 43 FR 13091, March 29, 1978.
DH&E 03, Files of Personnel Evaluated for Employment in the Office of the ASD (H&E), 43 FR 13091, March 29, 1978.
DM&RA 11.1, Military Absentees in Foreign Countries (Deserter), 43 FR 13091, March 29, 1978.
DPA&E 01, DoD Civilian Personnel Data File Extract, 43 FR 13091, March 29, 1978.
DPA&E 03, Civilian Personnel Sample, 43 FR 13091, March 29, 1978.
DCOMP A01, Federal Employment Service Record Card, 43 FR 26473, June 20, 1978.
DCOMP BF01, Travel Files, 43 FR 34936, August 7, 1978.
DCOMP CD01, OSD General Correspondence Files, 43 FR 34936, August 7, 1978.
DCOMP CD02, Cable Branch Personnel Administration Files, 43 FR 34936, August 7, 1978.
DCOMP P01, Supergrade Correspondence, Reports, and Case Files, 43 FR 34936, August 7, 1978.
DCOMP P02, Job Opportunity Announcements, 43 FR 34936, August 7, 1978.
DCOMP P03, DoD Program for Stability of Civilian Employment, 43 FR 34936, August 7, 1978.
DCOMP P04, Reduction-In-Force Case Files, 43 FR 34936, August 7, 1978.
DCOMP P05, Roster of When Actually Employed Employees, 43 FR 34936, August 7, 1978.
DCOMP P06, DoD-Wide Civilian Career Program for Comptroller/Financial Management Personnel, 43 FR 34936, August 7, 1978.
DCOMP P07, Incentive Awards Records, 43 FR 34936, August 7, 1978.
DCOMP P08, Worker's Compensation-On-The-Job Injuries Report File, 43 FR 34936, August 7, 1978.
DCOMP P09, Computer Data Base, 43 FR 34936, August 7, 1978.
DCOMP P10, Training File, 43 FR 34936, August 7, 1978.
DCOMP P12, Executive Development Programs File, 43 FR 34936, August 7, 1978.
DCOMP P13, Management Intern File, 43 FR 34936, August 7, 1978.
DCOMP P14, Blood Donor Files, 43 FR 34936, August 7, 1978.
DCOMP P15, Department of Defense Distinguished Service Medal Files, 43 FR 34936, August 7, 1978.
DCOMP P16, Joint Service Commendation Medal Recommendations File, 43 FR 34937, August 7, 1978.
DCOMP P17, Assignment Folders, 43 FR 34937, August 7, 1978.
DCOMP P18, The Office of the Secretary of Defense Identification Badge Suspense Card System, 43 FR 34937, August 7, 1978.
DCOMP P19, General/Flag Officer Files, 43 FR 34937, August 7, 1978.
DCOMP P20, Report of Personnel Assigned Outside of Department of Defense, 43 FR 34937, August 7, 1978.
DCOMP P21, Duty Status Cards, 43 FR 34937, August 7, 1978.
DCOMP P22, General/Flag Officer Roster, 43 FR 34937, August 7, 1978.
DCOMP P23, Roster of Military Personnel, 43 FR 34937, August 7, 1978.
DCOMP P24, Navy Officer Personnel Service Records, 43 FR 34937, August 7, 1978.
DCOMP P25, Overseas Staffing Files, 43 FR 34937, August 7, 1978.
DCOMP P26, Protective Services File, 43 FR 34937, August 7, 1978.
DCOMP P27, Pentagon Building Pass Application File, 43 FR 34937, August 7, 1978.
DCOMP P28, The Office of the Secretary of Defense Clearance File, 43 FR 34937, August 7, 1978.
DCOMP P29, Employee Assistance Program Case Record Systems, 43 FR 34937, August 7, 1978.
DCOMP P30, Labor Management Relations Records Systems, 43 FR 34937, August 7, 1978.
DCOMP P31, Department of Defense Superior Service Medal, 43 FR 34937, August 7, 1978.
DCOMP P32, Standards of Conduct Inquiry File, 43 FR 34937, August 7, 1978.
DCOMP P33, Statements of Affiliations and Financial Interests File, 43 FR 34937, August 7, 1978.
DCOMP P34, Non-Career Personnel Job Files, 43 FR 34937, August 7, 1978.
DCOMP SPM001, Application for Pentagon Parking Permit, 43 FR 34937, August 7, 1978.
DCOMP SPM002, Pentagon Computeride, 43 FR 34937, August 7, 1978.
DDR&E 02, Office Director of Research and Development (ODDR&E) Personnel Administration Files, 43 FR 34937, August 7, 1978.
DDR&E 03, Office Director of Research and Development (ODDR&E), Inventor File, 43 FR 34937, August 7, 1978.
DDR&E 04, Requests for Two-year Foreign Residence Waiver Files, 43 FR 34937, August 7, 1978.
DH&E 04, Variable Incentive Pay for Medical Officers Data Management System, 43 FR 34937, August 7, 1978.
DI&L 01, I&L Administrative Files, 43 FR 34937, August 7, 1978.
DM&RA 01.0, Overseas Education Correspondence Files, 43 FR 34937, August 7, 1978.
DM&RA 02.0, Teacher Application Files, 43 FR 34938, August 7, 1978.
DM&RA 03.0, Employer Support File (PLEDGE), 43 FR 34938, August 7, 1978.
DM&RA 06.0, Department of Defense, Priority Placement Program (STOPPER LIST), 43 FR 34938, August 7, 1978.
DM&RA 07.0, Department of Defense, Overseas Employment Program, 43 FR 34938, August 7, 1978.
DM&RA 08.0, Central Automated Inventory and Referral System (CAIRS), 43 FR 34938, August 7, 1978.
DM&RA 09.1, DRRI Student File, 43 FR 34938, August 7, 1978.
DM&RA 10.0, Equal Opportunity Complaint File, 43 FR 34938, August 7, 1978.
DM&RA 12.0, Reserve Components Common Personnel Data System (RCCPDS), 43 FR 34938, August 7, 1978.
DM&RA 15.0, Reports of Defense related employment, 43 FR 34938, August 7, 1978.
DM&RA 16.0, Retired Personnel Master File, 43 FR 34938, August 7, 1978.
DM&RA 17.0, DoD Overseas Dependent School Teachers Retroactive Pay Project, 43 FR 34938, August 7, 1978.

DSMS-01, DSMS Personnel Information Files, 43 FR 34938, August 7, 1978.
F21501 DPMSP A, Child Care Attendance Records, 42 FR 64323, December 22, 1977.

F03501 XOIACYVR, Chaplain Personnel Management Files, 43 FR 16895, April 20, 1978.
F26501 XOBXQPCA, Cadet Religious Information Card, 43 FR 16897, April 20, 1978.
F53701 QBXQPCA, Cadet Evaluation, 43 FR 16897, April 20,

DSMS-01, DSMS Personnel Information Files, 43 FR 34938, August 7, 1978.
DSMS-02, DSMS Student Files, 43 FR 34938, August 7, 1978.
DSMS-03, DSMS Track Record System, 43 FR 34938, August 7, 1978.
DSMS-04, DSMS Academic Analysis System, 43 FR 34938, August 7, 1978.
DSMS-05, DSMS Biographical Record System, 43 FR 34938, August 7, 1978.
DSMS-06, DSMS Mailing List, 43 FR 34938, August 7, 1978.

Defense Advanced Research Projects Agency

The Defense Advanced Research Projects Agency (DARPA) Privacy Act Issuances—1977 Compilation, hereby incorporated by reference, was published in the Federal Register on September 28, 1977 at 42 FR 50781. Set forth immediately below are those record systems that have since been revoked and therefore deleted from the agency's inventory of record system notices. Published further below, in full text and in sequence, under a separate DARPA heading are those systems of records that DARPA has amended since publication of the 1977 Compilation, as of August 7, 1978.

Deletions—System Identification, System Name, FR Citation and Date

E ARPA 001, Travel File, 43 FR 34979, August 7, 1978.
E ARPA 002, Biographical Sketch, 43 FR 34979, August 7, 1978.
E ARPA 003, ARPA Basic File, 43 FR 30331, July 14, 1978.
E ARPA 004, ARPA Personnel, 43 FR 34979, August 7, 1978.

Department of the Air Force

The Air Force Privacy Act Issuances—1977 Compilation, hereby incorporated by reference, was published in the Federal Register on September 28, 1977 at 42 FR 50784. Set forth immediately below are those record systems that have since been revoked and therefore deleted from the Air Force's inventory of record system notices. Published further below, in full text and in sequence order, under a separate Air Force heading are those systems of records that the Air Force has added or amended since publication of the 1977 Compilation, as of August 7, 1978.

Deletions—System Identification, System Name, FR Citation and Date

F01102 DPPPN B, Responses to Congressional Inquiries, 42 FR 64322, December 22, 1977.
F01102 DPXVE C, Congressional Correspondence, 42 FR 64322, December 22, 1977.
F01102 DPXVV E, Congressional Inquiries/Legislative Liaison, 42 FR 64322, December 22, 1977.
F01102 REPX D, Congressional Inquiry File, 42 FR 64322, December 22, 1977.
F01102 OIACYVA, Congressional Inquiries, 42 FR 64322, December 22, 1977.
F03001 OCGBUZB, Drug Abuse Control Case Files, 42 FR 64322, December 22, 1977.
F03504 OKPMQSD, AU Potential Faculty List, 42 FR 64322, December 22, 1977.
F03504 OKPNQSE, Officer Assignment Logs, 42 FR 64322, December 22, 1977.
F03504 OKPNQSF, Cooperative Degree, Accounting System, 42 FR 64322, December 22, 1977.
F040XX DPCD, A, Civilian Personnel Management Information System, 42 FR 64322, December 22, 1977.
F04009 DPCD A, Civilian Personnel Statistical Accounting System, 42 FR 64322, December 22, 1977.
F05001 OJ DOTA, Program Administration Records, 42 FR 64322, December 22, 1977.
F05002 OJ DOTD, Individual Academic Records, 42 FR 64323, December 22, 1977.
F05101 OJ DOTD, Flying Training Records, 42 FR 64323, December 22, 1977.
F05101 OJ DOTE, Flying Training Records, 42 FR 64323, December 22, 1977.
F12001 DPXSE B, Investigations/Complaints Files, 42 FR 64323, December 22, 1977.
F12701 OYUEBLA, Individual Accident/Violation and Safety Training Record, 42 FR 64323, December 22, 1977.
F17603 DPMSPAA, Dishonored Check Control Record, 42 FR 64323, December 22, 1977.
F17603 DPMSPAB, Internal Accounts Receivable, 42 FR 64323, December 22, 1977.
F17607 DPMSOAB, Air Force Open Mess Program, 42 FR 64323, December 22, 1977.
F17607 DPMSOBA, Areo Club Membership/Training Records, 42 FR 64323, December 22, 1977.
F21501 DPMSP A, Child Care Attendance Records, 42 FR 64323, December 22, 1977.
F21501 DPMSP B, Recreation Volunteer and Application Records, 42 FR 64323, December 22, 1977.
F21501 DPMSP C, Interservice Photography Contest Entry Records, 42 FR 64323, December 22, 1977.
F40-2-2 FZHTVA, E246 Civilian Skills Locator System, 42 FR 64323, December 22, 1977.
F00401 05HCHLB, Sensitive Compartment Information (SCI) Personnel Security Records, 43 FR 16894, April 20, 1978.
F01001 OBXQPCC, Commander's Patient Status Report (Cadet), 43 FR 16894, April 20, 1978.
F01001 OBXQPCD, Cadet Appointment System, 43 FR 16894, April 20, 1978.
F01001 OBXQPCE, Cadet Wing Movement, 43 FR 16894, April 20, 1978.
F01001 OQPTFLA, Human Reliability for Special Missions, 43 FR 16894, April 20, 1978.
F01003 OBXQPCA, Cadet Promotion List, 43 FR 16894, April 20, 1978.
F01101 OJ TTSA, Student Record of Training, 43 FR 16894, April 20, 1978.
F01101 OJMPLSA, Source Support and Control Data Basic Trainee Records, 43 FR 16894, April 20, 1978.
F01101 OJMPLSC, Nelson Denny Reading Test Answer Sheets, 43 FR 16894, April 20, 1978.
F01102 OYUEBLA, Locator or Personnel Data, 43 FR 16894, April 20, 1978.
F01103 OBXQPCG, Navigation Course Number 470, Flight Mission Report, 43 FR 16894, April 20, 1978.
F02002 OBXQPCB, Cadet Records System, 43 FR 16894, April 20, 1978.
F02701 OBXQPCA, Cadet Summer Training, 43 FR 16894, April 20, 1978.
F003001 XOBXQPCA, Graduate Programs, 43 FR 16894, April 20, 1978.
F003004 XOIACYVB, Processed Transactions, 43 FR 16894, April 20, 1978.
F03004 XOIACYVE, Periodic Reconciliation File, 43 FR 16894, April 20, 1978.
F03004 XOIACYVF, Accession Listing, 43 FR 16894, April 20, 1978.
F03004 XOIACYVG, Input Transaction Registers, 43 FR 16894, April 20, 1978.
F03501 OBXAPCC, Cadet Disciplinary System, 43 FR 16894, April 20, 1978.
F03501 OYUEBLA, Informational Personnel Records, 43 FR 16894, April 20, 1978.
F03501 OYUEBLB, Informational Personnel Records, 43 FR 16894, April 20, 1978.
F03501 OIACYVA, Informational Personnel Records, 43 FR 16894, April 20, 1978.
F03501 OIACYVB, Informational Personnel Record, 43 FR 16895, April 20, 1978.
F03501 OIACYVC, Informational Personnel Record, 43 FR 16895, April 20, 1978.
F03501 OIACYVD, Information Personnel Record (Mobilization Augmentee File), 43 FR 16895, April 20, 1978.
F03501 OIACYVF, Informational Personnel Record, 43 FR 16895, April 20, 1978.
F03501 OOVDYDA, Informational Personnel Record, 43 FR 16895, April 20, 1978.
F03501 XOBXQPCA, Administrative Disenrollment and Investigations, 43 FR 16895, April 20, 1978.
F03501 XOBXQPCC, Academy Cadet Honor Committee Case Files, 43 FR 16895, April 20, 1978.
F03501 XOIACYVH, Air Force Service Number/Social Security Number, Cross Reference Rosters, 43 FR 16895, April 20, 1978.
F03501 XOIACYVJ, Bad Address Card File, 43 FR 16895, April 20, 1978.
F03501 XOIACYVK, Control Cards for Vouchers for Medical Services, 43 FR 16895, April 20, 1978.
F03501 XOIACYVL, Medical Mobilization Augmenter Personnel Management Files, 43 FR 16895, April 20, 1978.
F03501 XOIACYVM, Medical Service Liaison, Officer Program Card File, 43 FR 16895, April 20, 1978.
F03501 XOIACYVN, Medical Actions Card File, 43 FR 16895, April 20, 1978.
F03501 XOIACYVP, Air Reserve Information, Squadron Biographical Files, 43 FR 16895, April 20, 1978.

F03501 XOIACYVR, Chaplain Personnel Management Files, 43 FR 16895, April 20, 1978.
F03501 XOIACYVS, Personnel Management Records, 43 FR 16895, April 20, 1978.
F03501 XOIACYVT, Chaplain Biographical File, 43 FR 16895, April 20, 1978.
F03501 XOIACYVW, Personnel Management Files, 43 FR 16895, April 20, 1978.
F03502 OBXQPCC, Cadet Personnel Records, 43 FR 16895, April 20, 1978.
F03502 XOBXQPCA, Academic Counseling Record, 43 FR 16896, April 20, 1978.
F03504 DPMYCOE, Outgoing Clearance Record, 43 FR 16896, April 20, 1978.
F03504 DPMYCOG, Relocation Preparation Project Folders, 43 FR 16896, April 20, 1978.
F03504 DPMYCOH, Separation Relocation Project Folders, 43 FR 16896, April 20, 1978.
F03506 OJ DOSA, Armed Services Vocational Aptitude Battery (OASVAB) Test Cards, 43 FR 16896, April 20, 1978.
F03509 OJMPLSA, Discharge and Separation Records, 43 FR 16896, April 20, 1978.
F04501 OIACYVB, Application for Appointment Medical Corps, 43 FR 16896, April 20, 1978.
F04501 XOIACYVB, Air Force Reserve Applications for Extended Active Duty, 43 FR 16896, April 20, 1978.
F05001 OBXQPCA, Cadet Information Card, 43 FR 16896, April 20, 1978.
F05001 OBXQPCB, Academic Scheduling, 43 FR 16896, April 20, 1978.
F05001 OBXQPCH, Collateral Training Records, 43 FR 16896, April 20, 1978.
F05001 OJMPLSB, Student Collateral Training Records, 43 FR 16896, April 20, 1978.
F05002 OJ TTAA, Field Training Student, Attendance and Rating Records, 43 FR 16896, April 20, 1978.
F05002 OJ TTSA, Student Record of Training, 43 FR 16896, April 20, 1978.
F05002 OJMPLSA, Training Progress Reading, Proficiency Case Files, 43 FR 16896, April 20, 1978.
F05101 OCGBUZA, Aircrew Training Records Aerospace Defense Command (ADC), 43 FR 16896, April 20, 1978.
F05101 OCBBUZB, Aircrew Training Records, F106 Aircraft, 43 FR 16896, April 20, 1978.
F05101 OCGBUZC, Aircrew Training Records, F101 Aircraft, 43 FR 16896, April 20, 1978.
F05101 OCGBUZD, Aircrew Training Records, F102 Aircraft, 43 FR 16896, April 20, 1978.
F05101 OCGBUZE, Aircrew Training Records, F4 Aircraft, 43 FR 16896, April 20, 1978.
F05101 OCGBUZF, Aircrew Training Records, T33 Aircraft, 43 FR 16896, April 20, 1978.
F05304 OBXQPCB, Academic Requirements, 43 FR 16896, April 20, 1978.
F05304 OBXQPCC, Academic Grades, 43 FR 16896, April 20, 1978.
F10010 OYUEBLA, Military Affiliate Radio System (MARS) Station Questionnaire, 43 FR 16896, April 20, 1978.
F10010 OYUEBLB, Military Affiliate Radio System (MARS) Personnel Action, 43 FR 16896, April 20, 1978.
F11001 JACC G, Litigation Records; Tort Claims, Admiralty, Collection and Hospital Recovery Acts, 43 FR 16897, April 20, 1978.
F11001 JACL E, Civil Litigation Records, 43 FR 16897, April 20, 1978.
F11001 BJACI B, Foreign Civil Litigation, 43 FR 16897, April 20, 1978.
F16001 OBXQPCA, Cadet Injury/Illness Report, 43 FR 16897, April 20, 1978.
F16001 OSPCZPC, Physicians Assistant Evaluations, 43 FR 16897, April 20, 1978.
F20503 DAI A, Nomination Files of Personnel Evaluated for Presidential Support Duties, 43 FR 16897, April 20, 1978.
F20503 BAI B, Assignment Record Files for Personnel Selected for Presidential Support Duties, 43 FR 16897, April 20, 1978.
F20503 DPCE C, Security Case Files, 43 FR 16897, April 20, 1978.
F20505 DAI A, Personnel Security Record Files, 43 FR 16897, April 20, 1978.
F20505 DPMRPPD, Air Force Security Program Cases, 43 FR 16897, April 20, 1978.
F26501 XOBXQPCA, Cadet Religious Information Card, 43 FR 16897, April 20, 1978.
F53701 OBXQPCA, Cadet Evaluation, 43 FR 16897, April 20, 1978.
F53701 OBXQPCB, Cadet Wing Strength Accounting System, 43 FR 16897, April 20, 1978.
F53701 OBXQPCB, Air Force Academy Administrative Records, 43 FR 16897, April 20, 1978.

National Security Agency

The National Security Agency (NSA) Privacy Act Issuances—1977 Compilation, hereby incorporated by reference, was published in the Federal Register on September 28, 1977 at 42 FR 51065. There are no amendments, additions or deletions of record systems notices for the agency, as of August 7, 1978.

Defense Nuclear Agency

The Defense Nuclear Agency (DNA) Privacy Act Issuances—1977 Compilation, hereby incorporated by reference, was published in the Federal Register on September 28, 1977 at 42 FR 51073. There are no deletions of record systems from this agency's inventory, as of August 7, 1978. Published further below, in full text and in sequence order, under a separate Defense Nuclear Agency heading are those record systems that the DNA has added or amended since publication of the 1977 Compilation, as of August 7, 1978.

Organization of the Joint Chiefs of Staff

The Organization of the Joint Chiefs of Staff (OJCS) Privacy Act Issuances—1977 Compilation, hereby incorporated by reference, was published in the Federal Register on September 28, 1977 at 42 FR 51079. Set forth immediately below is a record system that has since been revoked and therefore deleted from the OJCS's inventory of record system notices. Published further below, in full text and in sequence order, under a separate OJCS heading are those systems of records that the OJCS has amended since publication of the 1977 Compilation, as of August 7, 1978.

Deletion—System Identification, System Name, FR Citation and Date

JOJCS003SMB, Directorate Administrative Services Message Information Systems (DASMIS), 43 FR 34982, August 7, 1978.

Defense Communications Agency

The Defense Communications Agency (DCA) Privacy Act Issuances—1977 Compilation, hereby incorporated by reference, was published in the Federal Register on September 28, 1977 at 42 FR 51081. There are no deletions of record systems from the agency's inventory, as of August 7, 1978. Published further below, in full text and in sequence order, under a separate Defense Communications Agency heading are those record systems that the agency has added since publication of the 1977 Compilation, as of August 7, 1978.

Defense Intelligence Agency

The Defense Intelligence Agency (DIA) Privacy Act Issuances—1977 Compilation, hereby incorporated by reference, was published in the Federal Register on September 28, 1977 at 42 FR 51117. Set forth immediately below are those record systems that have since been revoked and therefore deleted from the agency's inventory of record system notices. Published further below, in full text and in sequence order, under a separate Defense Intelligence Agency heading are those systems of records that the agency has amended since publication of the 1977 Compilation, as of August 7, 1978.

Deletions—System Identification, System Name, FR Citation and Date

L DIA 0001, Employee Performance Appraisals, 43 FR 24353, June 5, 1978.
L DIA 0002, Reserve Personnel Status, 43 FR 24353, June 5, 1978.
L DIA 0003, Agency Checkout File, 43 FR 24353, June 5, 1978.
L DIA 0004, Reemployment Rights File, 43 FR 24353, June 5, 1978.
L DIA 0006, DoD Priority Placement and Overseas Employment Programs, 43 FR 24353, June 5, 1978.
L DIA 0007, Reduction in Force (RIF) Case Files, 43 FR 24353, June 5, 1978.
L DIA 0008, Civilian Employee Compensation Records, 43 FR 24353, June 5, 1978.
L DIA 0009, Guest Lecturer File, 43 FR 24353, June 5, 1978.
L DIA 0013, Defense Intelligence Agency Personnel Roster, 43 FR 24353, June 5, 1978.
L DIA 0014, Field Personnel Folder, 43 FR 24353, June 5, 1978.
L DIA 0016, Rotary Card File, 43 FR 24353, June 5, 1978.
L DIA 0017, Personnel Actions (Civilian), 43 FR 24353, June 5, 1978.

L DIA 0018, Military Personnel Procurement, DIA Form 83, 43 FR 24353, June 5, 1978.
L DIA 0640/01, Personnel Security Investigation Files, 43 FR 24355, June 5, 1978.
L DIA 0640/02, Visitor Accreditation File, 43 FR 24355, June 5,

Deletions—System Identification, System Name, FR Citation and Date

MIL00020, First Marine Division Personnel Assigned to Operation New Arrivals, 43 FR 5473, February 8, 1978.

USUHS heading are those record systems that have been amended since publication of the 1977 Compilation, as of August 7, 1978.

Maurice W. Roche

L DIA 0018, Military Personnel Procurement, DIA Form 83, 43 FR 24353, June 5, 1978.
L DIA 0019, Emergency Alert and Recall Rosters, 43 FR 24353, June 5, 1978.
L DIA 0020, Joint Table of Distribution, 43 FR 24353, June 5, 1978.
L DIA 0021, Training Locator Cards, 43 FR 24353, June 5, 1978.
L DIA 0022, Movement of Personnel, 43 FR 24353, June 5, 1978.
L DIA 0100/04, Personnel File Index, 43 FR 24353, June 5, 1978.
L DIA 0100/14, Office Administration—Dining Room Passes, 43 FR 24353, June 5, 1978.
L DIA 0103/01, Personnel security and security Clearance Status Index, 43 FR 24353, June 5, 1978.
L DIA 0103/02, Personnel Security Case Records Retirement Retrieval Index, 43 FR 24353, June 5, 1978.
L DIA 0107, Board of Visitors File (BOV), 43 FR 24354, June 5, 1978.
L DIA 0108/01, Health, Welfare, and Charities, 43 FR 24354, June 5, 1978.
L DIA 0108/02, Health, Welfare, and Recreation, 43 FR 24354, June 5, 1978.
L DIA 0116, Telephone Records, 43 FR 24354, June 5, 1978.
L DIA 0121, Locator Service/Postal Directory, 43 FR 24354, June 5, 1978.
L DIA 0127, Graphic Arts Management (GAMS), 43 FR 24354, June 5, 1978.
L DIA 0136, Movement of Personnel/Travel, 43 FR 24354, June 5, 1978.
L DIA 0137, Transportation Officers Lists, 43 FR 24354, June 5, 1978.
L DIA 0138, Local Transportation Records, 43 FR 24354, June 5, 1978.
L DIA 0139, Vehicle Parking, 43 FR 24354, June 5, 1978.
L DIA 0145, Individual Identification Records, 43 FR 24354, June 5, 1978.
L DIA 0230, Organization Planning and Manpower, 43 FR 24354, June 5, 1978.
L DIA 0241, Administrative Publications, 43 FR 24354, June 5, 1978.
L DIA 0272, Complaint, 43 FR 24354, June 5, 1978.
L DIA 0285, Director's Correspondence File, 43 FR 24354, June 5, 1978.
L DIA 0400, Production Control System, 43 FR 24354, June 5, 1978.
L DIA 0413, Service Record Card (SF-7) File, 43 FR 24354, June 5, 1978.
L DIA 0414, Supervisor's Records of Employees, 43 FR 24354, June 5, 1978.
L DIA 0416, Civilian Personnel Administrative Records, 43 FR 24354, June 5, 1978.
L DIA 0420/01, Defense Special Career Automated System, 43 FR 24354, June 5, 1978.
L DIA 0430, Complaints/Investigations, 43 FR 24354, June 5, 1978.
L DIA 0430/01, Employee Grievances and Appeals, 43 FR 24354, June 5, 1978.
L DIA 0436, Incentive Awards, 43 FR 24354, June 5, 1978.
L DIA 00436/01, Classified Letters of Appreciation File, 43 FR 24354, June 5, 1978.
L DIA 0440, Requests for Reassignment, 43 FR 24354, June 5, 1978.
L DIA 0440/01, Qualifications, Placements, and Promotions, 43 FR 24354, June 5, 1978.
L DIA 0442, Applicants for Employment, 43 FR 24354, June 5, 1978.
L DIA 0443, Job Opportunities (Selection of High Potential Employees), 43 FR 24355, June 5, 1978.
L DIA 0451, Position Description, 43 FR 24355, June 5, 1978.
L DIA 00460/01, DIA Form 209, 43 FR 24355, June 5, 1978.
L DIA 0470, Military Service Administrative Records, 43 FR 24355, June 5, 1978.
L DIA 0490, Military Personnel Procurement, 43 FR 24355, June 5, 1978.
L DIA 0530, Intelligence Collection Records, 43 FR 24355, June 5, 1978.
L DIA 0600, Defense Intelligence Agency, Directorate for Information Systems Security Files, 43 FR 24355, June 5, 1978.
L DIA 0600/02, Request for Clearance, 43 FR 24355, June 5, 1978.
L DIA 0620, System Access Log and Directory, 43 FR 24355, June 5, 1978.
L DIA 0640/01, Personnel Security Investigation Files, 43 FR 24355, June 5, 1978.
L DIA 0640/02, Visitor Accreditation File, 43 FR 24355, June 5, 1978.
L DIA 0650/02, Security Management Information System (SMIS), 43 FR 24355, June 5, 1978.
L DIA 0650/03, Sensitive Compartmented Information (SCI) Access Files, 43 FR 24355, June 5, 1978.
L DIA 0650/04, Clearance Certification File, 43 FR 24355, June 5, 1978.
L DIA 0660/01, Security Violations, 43 FR 24355, June 5, 1978.
L DIA 0700, Supply, Space and Facilities, Policy and Planning, 43 FR 24355, June 5, 1978.
L DIA 0710, Contract Correspondence, 43 FR 24355, June 5, 1978.
L DIA 0733, Reports of Survey, 43 FR 24355, June 5, 1978.
L DIA 0802, Project Files, 43 FR 24355, June 5, 1978.
L DIA 0803, Defense Attache Investigation File, 43 FR 24355, June 5, 1978.
L DIA 0804, Defense Attache Roster, 43 FR 24355, June 5, 1978.
L DIA 0805, Request for Irregular Overtime, 43 FR 24355, June 5, 1978.
L DIA 0806, Security, 43 FR 24355, June 5, 1978.
L DIA 0807, Management Analysis, 43 FR 24355, June 5, 1978.
L DIA 0808, Training Facilities Records, 43 FR 24355, June 5, 1978.
L DIA 0808/01, Request for Training, 43 FR 24355, June 5, 1978.
L DIA 0809, Off Duty Employment Report, 43 FR 24355, June 5, 1978.
L DIA 0810, Library Circulation File, 43 FR 24356, June 5, 1978.
L DIA 0811, Intelligence Report Indexing System (IRISA), 43 FR 24356, June 5, 1978.
L DIA 0812, ASDIA All Source Document Index, 43 FR 24356, June 5, 1978.
L DIA 0814, Timekeeper Station Listing, 43 FR 24356, June 5, 1978.
L DIA 0815, Cost of Annual Leave Balance Report, 43 FR 24356, June 5, 1978.
L DIA 0816, DIA Employee Personal Services DA 2449, 43 FR 24356, June 5, 1978.
L DIA 0817, DIA Employee Bond Issuance Schedule DD 1804C, 43 FR 24356, June 5, 1978.
L DIA 0818, DIA Employee Civilian Payroll Checks Listing, 43 FR 24356, June 5, 1978.
L DIA 0820, DIA Employee Payroll Authorization for Disposition of Salary Check, Bond DIA 945, 43 FR 24356, June 5, 1978.
L DIA 0821, DIA Travel Record DIA 766, 43 FR 24356, June 5, 1978.
L DIA 0822, Signature Card DD 577, Individual Signature Cards, 43 FR 24356, June 5, 1978.
L DIA 0823, Requests for Waiver of Indebtedness Resulting from Erroneous Payments, 43 FR 24356, June 5, 1978.
L DIA 0824, Retirement Records SF 2806, 43 FR 24356, June 5, 1978.
L DIA 0825, DIA 53 Payclerks/Supervisor Name Card, 43 FR 24356, June 5, 1978.
L DIA 0826, Request for DoD Management Education and Training Program Courses, 43 FR 24356, June 5, 1978.
L DIA 0860, Payroll Service Request Form, 43 FR 24356, June 5, 1978.
L DIA 0879, Cancellation of Allotment of Pay for Credit to Financial Institution, 43 FR 24356, June 5, 1978.
L DIA 1164, Claim for Reimbursement for Expenditures on Official Business, 43 FR 24356, June 5, 1978.
L DIA 1198, Request by Employee for Allotment of Pay for Credit to Savings Account, 43 FR 24356, June 5, 1978.
L DIA 1351, Travel Voucher or Subvoucher, 43 FR 24356, June 5, 1978.
L DIA 1727, Application, Change, Cancellation for U.S. Savings Class A Pay Reservation, 43 FR 24356, June 5, 1978.

U.S. Marine Corps

The U.S. Marine Corps (USMC) Privacy Act Issuances—1977 Compilation, hereby incorporated by reference, was published in the Federal Register on September 28, 1977 at 42 FR 51177. Set forth immediately below are those record systems that have since been revoked and therefore deleted from the USMC inventory of record system notices. Published further below, in full text and in sequence order, under a separate U.S. Marine Corps heading are those systems of records that the USMC has added or amended since publication of the 1977 Compilation, as of August 7, 1978.

Deletions—System Identification, System Name, FR Citation and Date

MIL00020, First Marine Division Personnel Assigned to Operation New Arrivals, 43 FR 5473, February 8, 1978.
MMN00003, Manpower Management System, 43 FR 5473, February 8, 1978.

Department of the Navy

The Department of the Navy (DON) Privacy Act Issuances—1977 Compilation, hereby incorporated by reference, was published in the Federal Register on September 28, 1977 at 42 FR 51229. Set forth immediately below is a record system that has since been revoked and therefore deleted from the Navy's inventory of record system notices. Published further below, in full text and in sequence order, under a separate Department of the Navy heading are those systems of records that the Navy has added or amended since publication of the 1977 Compilation, as of August 7, 1978.

Deletion—System Identification, System Name, FR Citation and Date

N00011 09B, Reports of Disposition of Personal Money Allowances and Position Allowances, 43 FR 16367, April 18, 1978.

Defense Contract Audit Agency

The Defense Contract Audit Agency (DCAA) Privacy Act Issuances—1977 Compilation, hereby incorporated by reference, was published in the Federal Register on September 28, 1977 at 42 FR 51358. Set forth immediately below are those record systems that have since been revoked and therefore deleted from the agency's inventory of record system notices. There are no additions or amendments of record systems to the agency's inventory since publication of the 1977 Compilation, as of August 7, 1978.

Deletions—System Identification, System Name, FR Citation and Date

RDCAA 110.8, Parking Permits and Vehicle Registration, 43 FR 13605, March 31, 1978.
RDCAA 110.9, Temporary Passes and Permits for Visitors and Vehicles, 43 FR 13605, March 31, 1978.
RDCAA 120.8, Property Pass Files, 43 FR 13605, March 31, 1978.
RDCAA 151.11, Security Training and Orientation, 43 FR 13605, March 31, 1978.
RDCAA 152.11, Notification of Security Clearance Status, 43 FR 13605, March 31, 1978.
RDCAA 153.3, Key Control Records, 43 FR 13605, March 31, 1978.
RDCAA 205.09, Delegations of Authority, 43 FR 13605, March 31, 1978.
RDCAA 341.6, Letters of Commendation and Appreciation, 43 FR 13605, March 31, 1978.
RDCAA 422.5, Disbursement Vouchers, 43 FR 13605, March 31, 1978.

Defense Logistics Agency

The Defense Logistics Agency (DLA) Privacy Act Issuances—1977 Compilation, hereby incorporated by reference, was published in the Federal Register on September 28, 1977 at 42 FR 51388. There are no deletions of record systems from the agency's inventory, as of August 7, 1978. Published further below, in full text and in sequence order, under a separate Defense Logistics Agency heading are those record systems that the agency has added since publication of the 1977 Compilation, as of August 7, 1978.

Defense Security Assistance Agency

The Defense Security Assistance Agency (DSAA) has no systems of records which requires publication under the Privacy Act.

Defense Investigative Service

The Defense Investigative Service (DIS) Privacy Act Issuances—1977 Compilation, hereby incorporated by reference, was published in the Federal Register on September 28, 1977 at 42 FR 51425. There are no deletions of record systems from the agency's inventory, as of August 7, 1978. Published further below, in full text and in sequence order, under a separate Defense Investigative Service heading are those systems of records that the agency has added or amended since publication of the 1977 Compilation as of August 7, 1978.

Uniformed Services University of the Health Sciences

The Uniformed Services University of the Health Sciences (USUHS) Privacy Act Issuances—1977 Compilation, hereby incorporated by reference, was published in the Federal Register on September 28, 1977 at 42 FR 51437. There are no deletions of record systems from the USUHS inventory, as of August 7, 1978. Published further below, in full text and in sequence order, under a separate USUHS heading are those record systems that have been amended since publication of the 1977 Compilation, as of August 7, 1978.

Maurice W. Roche,
Director, Correspondence and Directives
Washington Headquarters Service
Department of Defense.

September 6, 1978.

UNITED STATES ARMY

AAFES0307.01

System name:

0307.01 Carpooling Program

System location:

Headquarters Army and Air Force Exchange Service (HQ AAFES), Administrative Services Division, Headquarters Personnel Branch (AD-P), Dallas, TX 75222.

Categories of individuals covered by the system:

All HQ AAFES personnel who voluntarily participate in carpool program.

Categories of records in the system:

Name, duty address and phone number, hours of duty, residence address and phone number, and any other information necessary for carpool arrangements which may include map coordinates of home or nearby reference points, working hours, etc.

Authority for maintenance of the system:

10 U.S.C. 3012 and 8012 which identify the powers and duties delegated by the Secretary of the Army and the Secretary of the Air Force, respectively, each of whom is responsible for and has the authority necessary to conduct all affairs of his respective department, including functions necessary or appropriate for administration.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Internal use: To assist HQ AAFES personnel who desire to form carpools.

External use: To the City of Dallas, TX for inclusion in its Ride-sharing Program.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Alphabetically by employee name.

Safeguards:

Information is retained in file cabinets. Work and storage area is within a controlled building, access to which is limited to assigned personnel.

Retention and disposal:

Retained until such time as individual's employment with HQ AAFES is terminated, after which record is destroyed.

System manager(s) and address:

Director, Administrator Services Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from:
HQ AAFES (AD-P)
Dallas, TX 75222
Telephone: Area Code 214/330-3871

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: AD-P, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, social security number, and duty phone number.

Personal visits may be made to the Administrative Services Division, HQ AAFES. Individual should be able to provide acceptable identification such as a valid driver's license.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations by individuals concerned are contained in Army Regulation 340-21.

Record source categories:

Provided by individual interested in carpool program.

Employee Skills Survey (AAFES Form 1200-61), submitted by eligible RFT and RPT HPP employees and intermittent (regularly

Employee Career Development Plan (AAFES Form 1200-62), submitted by interested/eligible RFT and RPT HPP employees and intermittent (regularly scheduled) employees.

Requests from individuals should be addressed to HQ AAFES, Comptroller Division, CM-G, Dallas, TX 75222.

Contesting record procedures:

Record source categories:

Provided by individual interested in carpool program.

Systems exempted from certain provisions of the act:

None.

AAFES0406.12a

System name:

0406.12a Skills Bank File (Employee Skills Survey)

System location:

Headquarters Army and Air Force Exchange Service (HQ AAFES), Dallas, TX; HQ AAFES-Europe; HQ AAFES-Pacific: HQ AAFES-Alaska; all regional offices; base and post exchange offices within the Army and the Air Force.

Categories of individuals covered by the system:

All AAFES regular full time (RFT) and regular part-time (RPT) hourly pay plan (HPP) employees and intermittent (regularly scheduled) employees.

Categories of records in the system:

Name, social security number (SSN), current job title, grade, duty phone, job location, date of Skills Survey (AAFES Form 1200-61), education/training courses completed, skills/experience acquired, skills used in daily work, and those identified as needed.

Authority for maintenance of the system:

10 U.S.C. 3012 and 8012 which identify the powers and duties delegated by the Secretary of the Army and the Secretary of the Air Force, respectively, each of whom is responsible for and has the authority necessary to conduct all affairs of his respective department, including functions necessary or appropriate for the training operations and administration.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To aid servicing personnel office in identifying and referring qualified employees for vacant positions. A skills bank for HQ AAFES employees is established/maintained from Employee Skills Survey, AAFES Form 1200-61. The completed forms are filed alphabetically by employee name.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Alphabetically by employee name.

Safeguards:

Files are maintained in locked file cabinets.

Retention and disposal:

Retained until such time as employee retires, resigns, or is otherwise separated, at which time record is destroyed. Upon employee's transfer to another AAFES location file is forwarded to gaining personnel office.

System manager(s) and address:

Director, Administrative Services Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from:
HQ AAFES (AD-P)
Dallas, TX 75222
Telephone: Area Code 214/330-3871

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: AD-P, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, duty phone, and job location.

Personal visits may be made to the Administrative Services Division. Individuals should provide acceptable identification such as a valid driver's license.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations by individuals concerned are contained in Army Regulation 340-21.

Record source categories:

Employee Skills Survey (AAFES Form 1200-61), submitted by eligible RFT and RPT HPP employees and intermittent (regularly scheduled) employees.

Systems exempted from certain provisions of the act:

None.

AAFES0406.12b

System name:

0406.12b Employee Career Development Plan File

System location:

Headquarters Army and Air Force Exchange Service (HQ AAFES), Dallas, TX; HQ AAFES-Europe; HQ AAFES-Pacific; HQ AAFES-Alaska; all regional offices; base and post exchange offices within the Army and the Air Force.

Categories of individuals covered by the system:

All AAFES regular full time (RFT) and regular part-time (RPT) hourly pay plan (HPP) employees and intermittent (regularly scheduled) employees.

Categories of records in the system:

Name, social security number (SSN), current job title, grade, duty phone, job location, career goals as identified on AAFES Form 1200-62 and progress in achieving goals, career appraisals, and employee/supervisor comments.

Authority for maintenance of the system:

10 U.S.C. 3012 and 8012 which identify the powers and duties delegated by the Secretary of the Army and the Secretary of the Air Force, respectively, each of whom is responsible for and has the authority necessary to conduct all affairs of his respective department, including functions necessary or appropriate for the training operations and administration.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To provide HQ AAFES Personnel Branch (AD-P) a central reference of identifiable employees who have devised a career development plan, or who have attained eligiblity for referral consideration to vacant HPP positions. File also provides a source of information from which referral rosters of HPP employees for junior/middle management positions may be compiled.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Alphabetically by employee name.

Safeguards:

Files are maintained in locked file cabinets.

Retention and disposal:

Retained until such time as employee retires, resigns, or is otherwise separated, at which time record is destroyed. Upon employee's transfer to another AAFES location, file is forwarded to gaining personnel office.

System manager(s) and address:

Director, Administrative Services Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from:
HQ AAFES (AD-P)
Dallas, TX 75222
Telephone: Area Code 214/330-3871

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: AD-P, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, duty phone and job location.

Personal visits may be made to the Administrative Services Division. Individuals should provide acceptable identification such as a valid driver's license.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations by individuals concerned are contained in Army Regulation 340-21.

Record source categories:

Employee Career Development Plan (AAFES Form 1200-62), submitted by interested/eligible RFT and RPT HPP employees and intermittent (regularly scheduled) employees.

Systems exempted from certain provisions of the act:

None.

AAFES0702.22

System name:

0702.22 Check-Cashing Privileges Suspense Files Consolidation

System location:

HQ AAFES, Comptroller Division, Dallas, Texas 75222. In CONUS: AAFES Exchange Regions, Area Exchanges and Installation Exchanges. Overseas: HQ AAFES-Alaska, Anchorage, Alaska; HQ AAFES-Europe, Munich, Germany; HQ AAFES-Pacific, Honolulu, Hawaii, and Exchange Regions.

Categories of individuals covered by the system:

All eligible exchange customers and authorized patrons.

Categories of records in the system:

File contains alphanumeric: Customer name and social security number, amounts of checks not paid by bank and category (military, dependents, retirees, etc).

Authority for maintenance of the system:

Title 10 USC Sections 3012 and 8012

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To ascertain if an individual's check cashing privileges have been suspended; to determine the number of checks and the amount thereof of unpaid dishonored checks held by a user; and to determine if an individual is eligible to encash a personal check.

The record is in the form of a listing of customer name or social security number at those locations where mechanical device is not available. Where a mechanical device is used the device will indicate eligibility to cash a check by displaying a colored light, and, on some devices, the installation number which last reported dishonored check activity, number and amount of unredeemed dishonored checks and code for present check cashing privilege if customer had previously been entered into the system.

Routine users also include personnel of the U.S. Coast Guard exchanges who have a need for the record in the performance of their duties.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer disc and computer paper print-outs.

Retrievability:

By social security number

Safeguards:

Computer print-out usually covered by pressboard binder and is located in office accessible only by personnel authorized to cash checks. Computer discs maintained by Computer Processing Branch, Data Systems Division, HQ AAFES and work and storage area is controlled and limited to assigned personnel only.

Retention and disposal:

Listings are current until superseded. Upon being superseded the listing is mutilated and disposed of with other paper waste. Mechanized data are electronically purged upon supersession.

System manager(s) and address:

HQ AAFES, Comptroller Division, General Accounting Branch, Dallas, TX 75222.

Notification procedure:

Information may be obtained from:
HQ AAFES
Comptroller Division, General Accounting Branch
Dallas, TX 75222
Telephone: Area Code 214/330-2631

Written requests for information should contain the full name of the individual, current address, and social security number. Personal visits may be made to HQ AAFES, exchange regions, or area exchanges.

For personal visits, the individual should be able to provide some acceptable identification, i.e., driver's license, social security card, military identification card.

Record access procedures:

Requests from individuals should be addressed to HQ AAFES, Comptroller Division, CM-G, Dallas, TX 75222.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations by individual concerned may be obtained from the SYSMANAGER.

Record source categories:

Checks cashed by customers and not paid by the bank; debt memos from banks advising of charges for checks unpaid; notification from other users or installation commanders of the suspension of check cashing privilege.

Systems exempted from certain provisions of the act:

None

AAFES1203.03

System name:

1203.03 Appointment of Contracting Officers

System location:

Procurement Management Office, Headquarters Army and Air Force Exchange Service (HQ AAFES); HQ AAFES-Europe; HQ AAFES-Pacific; HQ AAFES-Alaska; all regional offices within the Continental United States.

Categories of individuals covered by the system:

All civilian employees and/or military personnel assigned to AAFES who are appointed as contracting officers.

Categories of records in the system:

Name, social security number (SSN), job title and grade; qualifications, training and experience; request for appointment as contracting officer; copy of Certificate of Appointment, and other correspondence and documents relating to the individual's qualifications to act as a contracting officer.

Authority for maintenance of the system:

10 U.S.C. 5012 and 8012 which identify the powers and duties delegated by the Secretary of the Army and the Secretary of the Air Force, respectively, each of whom is responsible for and has the authority necessary to conduct all affairs of his respective department, including functions necessary or appropriate for the training operations and administration.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by AAFES contracting officer appointing authority to ascertain an individual's qualifications to be appointed as contracting officer, to determine if limitations on procurement authority are appropriate; and to complete the Certificate of Appointment.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Alphabetically by employee name.

Safeguards:

Information is retained in filing cabinets. Both the working and storage areas are within a controlled building, the entrance to which is limited to personnel assigned to AAFES.

Retention and disposal:

Records in this system are retained only so long as individual's appointment as contracting officer is valid. Upon termination of this appointment, records are destroyed.

System manager(s) and address:

Director, Procurement Management Office, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from:
HQ AAFES
ATTN: Procurement Management Office
Dallas, TX 75222
Telephone: Area Code 214/330-3761

Record access procedures:

Requests from individuals should be addressed to HQ AAFES, ATTN: Procurement Management Office, Dallas, TX 75222.

Written requests for information should contain the full name of the individual and activity to which assigned.

Personal visits may be made to HQ AAFES, or to an AAFES regional office, as appropriate. Individual should provide acceptable identification such as a valid driver's license, military identification

Record access procedures:

Written requests for information should contain the full name of the requester, SSN, current or former military status and appropriate

Retrievability:

Filed by social security number, alphabetically by name, and subidentifying document number. Conventional indexing is used to re-

marital status, physical descriptions, criminal history, expertise, talents, actions taken and other related personal data.

Authority for maintenance of the system:

Personal visits may be made to HQ AAFES, or to an AAFES regional office, as appropriate. Individual should provide acceptable identification such as a valid driver's license, military identification card, or SSN.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations by individuals concerned are contained in Army Regulation 340-21.

Record source categories:

The individual concerned, personnel records, former employers, educational institutions.

Systems exempted from certain provisions of the act:

None.

A0225.11fDAPC

System name:

225.11 Enlisted Year Group Management File/RETAIN

System location:

Department of the Army, United States (US) Army Military Personnel Center (DAPC-EP)

Categories of individuals covered by the system:

Active duty members of the US Army in enlisted grades of E1 thru E9 and former military personnel who are applicants for enlistment.

Categories of records in the system:

AUTOMATED: File contains control number, reclassification/ enlistment action, type of enlistment, social security number (SSN), pay grade, race, sex, basic active service date, estimated termination of service, reenlistment date, civilian education, career management field, primary military occupational specialty (PMOS), PMOS evaluation score, new career management file (CMF), new PMOS, date of award of new PMOS, source of new PMOS, personnel charged to school code, status of application, assignment code, date of last status change, current location, year group; name, Security Investigation Status (SIS), terms reenlisted.

MANUAL: File contains name, control number, reclassification/ enlistment action, type of enlistment, SSN, pay grade, race, sex, basic active service date, estimated termination of service, Armed Forces Qualification Test Score, civilian education, promotion list status, reenlistment bonus status, security clearance, marital status, reenlistment date, physical profile status with code, career counselor with location, pay entry basic date, current/last oversea area, date eligible to return from overseas, date departed United States, waiver required, citizenship status, aptitude area scores, school/assignments requested, assignment confirmation, orders information.

Authority for maintenance of the system:

Title 5 U.S.C., Section 301.
Title 10 U.S.C.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Department of the Army-Records are used for personnel management, year group management and manpower management.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are stored on computer magnetic tapes and disk and as paper records in file folders.

Retrievability:

Normal access is by name, SSN, control number or other individual characteristics.

Safeguards:

Physical security devices, guards, computer hardware and software safeguard features and personnel clearances for individuals working with the system.

Retention and disposal:

Computer tapes are cut off annually, and are retained up to 5 years; hard copy files are cut off annually and retained up to 2 years.

System manager(s) and address:

Commander, US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332.

Notification procedure:

Information may be obtained from Headquarters, Department of the Army, US Army Military Personnel Center (DAPC-EP), Hoffman Bldg. 1, 2461 Eisenhower Avenue, Alexandria, VA 22331.

Record access procedures:

Written requests for information should contain the full name of the requester, SSN, current or former military status and appropriate return address. Personal visits may be made to the US Army Military Personnel Center; individuals should be able to provide their military service identification and DD Form 2A for active duty personnel, or other commonly acceptable means of identification used in normal transaction of business.

Contesting record procedures:

The department rules for contesting contents and appealing initial determinations may be obtained from US Army Military Personnel Center (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332.

Record source categories:

Information is obtained from the applicant, Department of the Army personnel records, computer reports and from other Department of the Army organizations and stations.

Systems exempted from certain provisions of the act:

None

A0305.10aDACA

System name:

305.10 Joint Uniform Military Pay System-Active Army (JUMPS-AA)

System location:

Primary System-United States Army Finance and Accounting Center (USAFAC), Indianapolis, IN 46249.

Decentralized Segments-Approximately 122 Army Finance Offices and Finance and Accounting Offices (FAO) world-wide.

Categories of individuals covered by the system:

All active duty military personnel.

Categories of records in the system:

Records include individual military pay records, casual payment receipts, substantiating documents, temporary pay records, transmittal letters, locator files, financial data record folders (FDRF), miscellaneous military pay files, and personal financial records (PFR).

Authority for maintenance of the system:

Title 37 U.S.C., Section 101 and following (Pay and Allowances of the Uniformed Services).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

USAFAC-Purpose is to provide a basis for establishment of computation of each active member's military pay entitlement, to provide a history of pay transactions, and to answer inquiries or claims pertaining to such entitlements. This information is also used to provide necessary data to the Treasury Department, the Social Security Administration, the US Army Military Personnel Center, the Veterans Administration, those states and cities which have an agreement with the Department of the Army to receive taxable earnings information, the American Red Cross and the Department of Health, Education and Welfare.

Treasury Department-To record check and bond issue data and to record taxable earnings and taxes witheld from military personnel.

Social Security Administration: To record earned wages by member under the Federal Insurance Contributions Act (FICA).

US Army Military Personnel Center (MILPERCEN): To compare military personnel identification with the Social Security Administration for purpose of correction and to compare and correct common data elements with USAFAC.

Veterans Administration: To record the collection of premiums for National Service Life Insurance and to transfer contributions to Post-Vietnam Era Veterans Education Account.

States and Cities: To verify tax liability against members' state and city income tax returns.

American Red Cross: To assist military personnel and their dependents in determining the status of monthly pay, dependents allotments, loans, and related financial transactions.

Department of Health, Education and Welfare: Disclose the name, rank and social security account number of each member of the Armed Services on active duty to the Inspector General of that Department only for comparison with appropriate rolls reflecting recipients of Aid to Families with Dependent Children (AFDC).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders and in bulk storage, card files, computer magnetic tapes, computer paper printout, and microfiche.

Retrievability:

Filed by social security number, alphabetically by name, and substantiating document number. Conventional indexing is used to retrieve data.

Safeguards:

USAFAC-Buildings employ security guards. An employee badge and visitor registration system is utilized. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained. Access to computer magnetic tape files is restricted to the members' servicing finance and accounting officer. Computer equipment and files are located in a separate secured area.

World-Wide Finance and Accounting Offices-Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Individual military pay records- Records are converted to microfiche which are retained for 56 years. Destruction is by shredding.

Other records: Retention periods vary according to category of record but total retention periods do not exceed 56 years. Disposition is to federal records centers and destruction thereafter is by burning or salvage as waste paper.

System manager(s) and address:

Commander, USAFAC, Indianapolis, IN 46249

Finance and Accounting Officer, United States Army Financing and Accounting Offices, world-wide.

Notification procedure:

Information may be obtained from:
Commander, USAFAC
Attention: FINCP
Indianapolis, IN 46249

Individuals may also contact Finance and Accounting Officers at United States Army Finance and Accounting Offices, world-wide.

Individual must provide full name, social security number and military status.

Record access procedures:

Requests from individuals should be addressed to: Commander, USAFAC, ATTN: FINCP, Indianapolis, IN 46249; or Finance and Accounting Officers at United States Army Finance and Accounting Offices, world-wide.

Written requests for information should also contain full name, social security number, military status and current address.

Information may be obtained by telephone: Area Code 317/542-2891

Contesting record procedures:

The Army's rules for access to records, contesting contents and appealing initial determinations may be obtained from the SYSMANAGER

Record source categories:

Information is received from Department of Defense staff and field installations, Social Security Administration, Financing organizations, Treasury Department and automated system interface.

Systems exempted from certain provisions of the act:

None

A0501.08eUSACIDC

System name:

501.08e Informant Register

System location:

Primary System: Operations Directorate, Headquarters (HQ), United States (US) Army Criminal Investigation Command (USACIDC), 5611 Columbia Pike, Falls Church, VA 22041.

Decentralized Segments: USACIDC subordinate elements which exercise local administrative and technical control of informants; official mailing addresses are in the Department of Defense directory in the Appendix.

Categories of individuals covered by the system:

All individuals, civilian or military, who are utilized as informants by USACIDC elements. 'Casual' informants, persons who walk in on a one time basis, are not documented at HQ, USACIDC primary system.

Categories of records in the system:

Files contain cross indexed code numbers; name, race, military occupational specialty (MOS), sex, date and place of birth, home of record, educational level, area of utilization, civilian employment, handler, letters, vouchers, personal history, performance, citizenship, marital status, physical descriptions, criminal history, expertise, talents, actions taken and other related personal data.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012(g).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Operations Directorate, HQ USACIDC, and the operational field elements of USACIDC: to monitor performance and reliability, to check the utilization of informants by subordinate USACIDC elements when the informant has been transferred, to maintain an accounting of expenditures connected with the informant, to answer Congressional inquiries concerning misuse or mistreatment of informants or those who claim they were not informants, and to document fear-of-life transfers for military personnel informants.

Information concerning USACIDC informants is provided to the below listed agencies, components, or bureaus for the purposes of criminal investigative liaison and enforcement of criminal laws, civil court or administrative action for the identification and correction of situations indicative of criminal activity, analyzing modus operandi, and detection of organized criminal activity:

Department of Defense staff and subordinate elements.
Department of the Army staff, major commands and subordinate elements.
Department of the Air Force staff, major commands and subordinate elements.
Department of the Navy staff, major commands and subordinate elements.
US Congress
US Immigration and Naturalization Bureau
Department of Justice
Federal Bureau of Investigation
National Security Agency
US Secret Service
US Marshal Service
US Postal Service
Department of the Treasury
Internal Revenue Service
Alcohol, Tobacco, and Firearms-Department of the Treasury
US Customs
US Department of State
Interpol
Central Intelligence Agency
Drug Enforcement Administration
Counsel of Governments, Washington, DC Metropolitan Area
Defense Supply Agency
Defense Investigative Service (DIS): in addition, limited data are supplied for use in the Defense Central Index of Investigations which is managed by DIS.
Naval Investigative Service
Office of Special Investigations
Civil Service Commission
Federal Aviation Administration
Department of Agriculture
Defense Communications Agency
Defense Security Agency
Defense Nuclear Agency
Law Enforcement Assistance Association
Federal Prison Service
US Coast Guard
US Department of Transportation
Social Security Administration
Selective Service Commission
US Department of Commerce
Food and Drug Administration
Agency for International Development
US Park Police
US Capitol Police
Executive Protective Services
US Department of Labor
Federal Communications Commission
Federal Deposit Insurance Corporation
Federal Trade Commission
General Accounting Office
General Services Administration
US Department of the Interior
Interstate Commerce Commission
Securities and Exchange Commission
Housing and Urban Development
US Marines
Defense Intelligence Agency

Defense Mapping Agency
Defense Security Assistance Agency

Primary System: Comptroller, US Army Criminal Investigation Command (USACIDC), 5611 Columbia Pike, Falls Church, VA

None

A0508.07aUSACIDC

Alpha files; files of approved applicants are retained in the active file until the individual retires, is released from active duty, or is

Defense Mapping Agency
Defense Security Assistance Agency
Defense Civil Preparedness Agency
Defense Advance Research Project
Defense Contract Audit Agency

Foreign nations under the provisions of Status of Forces Agreements, Treaties, or formal or informal executive agreements; or for purpose of criminal investigative liaison.

Various state and local criminal law enforcement units, departments, or agencies.

Criminal law enforcement means any activity pertaining to crime prevention, control, or reduction or enforcement of the criminal law, including, but not limited to, police effort to prevent, control, or reduce crime, or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies, activities of corrections, probation or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Card files and paper records in file folders.

Retrievability:

Records are retrieved by the individual's name, military occupational specialty (MOS), or code number.

Safeguards:

HQ USACIDC buildings employ security guards, files are stored in locked containers during non-duty hours and are accessible only by the Informant Register Officer and an alternate.

USACIDC subordinate elements generally maintain a 24 hour duty officer, store the files in locked containers during non-duty hours and permit access only by Field Office Commander and the individual informant handler.

Retention and disposal:

3 years, or permanent.

System manager(s) and address:

The Commander, Headquarters (HQ), US Army Criminal Investigation Command (USACIDC), 5611 Columbia Pike, Falls Church, VA 22041.

Notification procedure:

Information may be obtained from:
Commander
USACIDC
ATTN: CIJA-RI
5611 Columbia Pike, Falls Church, VA 22041.

Record access procedures:

Requests from individuals should be addressed to: Commander, USACIDC, ATTN: CIJA-RI, 5611 Columbia Pike, Falls Church, VA 22041.

Written request for information should contain the full name of the individual, address, date of birth. Personal visits should be made to: Office of the Staff Judge Advocate-Release of Information, USACIDC, 5611 Columbia Pike, Falls Church, VA, 22041.

For personal visits, the requesting individual must present positive identification, such as a driver's license or other identification card with a photograph, in addition to the information required for written requests.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER, ATTN: CIJA-RI.

Record source categories:

The military personnel records if the informant is in the military, or the civilian personnel records if the person is a civilian employee.

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 USC 552 a (j) or (k), as applicable. For additional information, contact the System Manager.

A0508.04USACIDC

System name:

508.04 US Army Criminal Investigation Fund Vouchers.

System location:

Primary System: Comptroller, US Army Criminal Investigation Command (USACIDC), 5611 Columbia Pike, Falls Church, VA 22041.

Decentralized Segments: USACIDC subordinate elements. Official mailing addresses are in the Department of Defense directory in the Appendix.

Categories of individuals covered by the system:

Any special agent of USACIDC or Military Police Investigator (MPI), US Army, who has made expenditures of or has requested reimbursement from USACIDC limitation, 015 contingency funds (described in Army Regulation (AR) 37-47).

Categories of records in the system:

Files contain the USACIDC special agent's or MPI's name, reason for such expenditure, grade, receipts, certificates of expenditure when receipts are unavailable, statements by persons as to the receipt of funds and/or reasons for such payment, or cash advances.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012(g).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

USACIDC personnel with a need to know: to maintain a proper accounting of the expenditure of USACIDC funds.

Department of the Army staff, major commands and subordinates with a need to know: to monitor the proper accounting of USACIDC funds.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders

Retrievability:

Filed by voucher number only at Headquarters (HQ) USACIDC. Filed by the individual's name at USACIDC subordinate levels.

Safeguards:

Subordinate USACIDC elements generally employ 24 hour duty officers and maintain the records in locked buildings. Access is limited to authorized personnel.

HQ USACIDC buildings employ security guards; records are maintained in locked rooms; and access is limited to authorized personnel.

Retention and disposal:

Clothing records are transferred with the USACIDC special agents.

Individual vouchers are destroyed 8 years after the last entry.

System manager(s) and address:

The Commander, US Army Criminal Investigation Command, 5611 Columbia Pike, Falls Church, VA 22041

Notification procedure:

Information may be obtained from:
Commander
USACIDC
ATTN: CIJA-RI
5611 Columbia Pike
Falls Church, VA 22041

Record access procedures:

Requests from individuals should be addressed to: Commander, USACIDC, ATTN: CIJA-RI, 5611 Columbia Pike, Falls Church, VA 22041

Written requests for information should contain the individual's full name, address, and date of birth. Personal visits should be made to Office of the Staff Judge Advocate-Release of Information, USACIDC, 5611 Columbia Pike, Falls Church, VA 22041.

For personal visits, the requesting individual must present positive identification, such as a driver's license or other identification card with a photograph, in addition to the information required in written requests.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER, ATTN: CIJA-RI.

Record source categories:

Special agent or MPI, informant, or other persons' statements pertaining to expenditures.

Systems exempted from certain provisions of the act:

None

A0508.07aUSACIDC

System name:

508.07 Criminal Investigation Accreditation Files

System location:

Primary System: Accreditation Division, Directorate of Personnel and Administration, Headquarters (HQ), US Army Criminal Investigation Command (USACIDC), 5611 Columbia Pike, Falls Church, VA 22041

Decentralized Segments: Crime Records Directorate, USACIDC, 2301 Chesapeake Avenue, Baltimore, MD 21222; Washington National Records Center, GSA, Suitland, MD.

Categories of individuals covered by the system:

Any person who makes an application to the USACIDC for acceptance into the USACIDC program as an apprentice special agent; for a warrant officer appointment in USACIDC; for USACIDC supervisor credentials; for the USACIDC officer specialty program; or for USACIDC laboratory technician credentials.

Categories of records in the system:

Files contain the individual's application to USACIDC, a statement of personal history, personal identifiers, photographs, fingerprint cards, qualifications record, biography, information pertaining to assignment capability or location, letters of recommendation, educational documents, character investigation data, reclassification orders, reassignment orders, commander's inquiry data, reports of investigation, reasons for withdrawal from the program, reason for denying the application, date of acceptance into the program, date appointed (if an officer or warrant officer), date of accreditation, badge number, credential number polygraph certificate number (if a certified polygraph examiner), agent sequence number, assignment, date assigned, marital status, and other data pertaining to the accreditation function, polygraph examiner performance and evaluation data, physical profile, date of last physical, assignment preference, humanitarian transfer restrictions, current job title, date current security clearance authorized, date of last background investigation; primary, secondary, tertiary foreign language capability, special qualifications, service agreement, spouse's place of birth and citizenship, agent's place of birth, agent's last ten assignments, agent's hobbies, and agent's private licenses.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012(g).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Staff elements of USACIDC with a need-to-know: to determine an applicant's initial acceptance or non-acceptance into the USACIDC program, and if accepted the individual's continued eligibility, placement or standing within the USACIDC program.

U.S. Army Intelligence Security Command, for storage and utilization in determining security classifications.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Alpha file: paper records in file folders.
Criminal Investigator Information Data Card: vertical card file.
Machine Punch Card System: vertical card file.
Automated data files are maintained on magnetic tapes.

Retrievability:

Alpha Card File, Criminal Information Card, and Machine Punch Card Systems are all retrievable by last name of the individual, agent Sequence number SSN, badge number, credential number and polygraph number.

Safeguards:

HQ USACIDC buildings employ security guards, material is stored in locked containers during non-duty hours, and is accessible only by authorized personnel.

Crime Records Directorate building employs security guards, data is stored within a locked wire enclosure, and is accessible only by authorized personnel.

Washington National Records Center: buildings employ security guards during non-duty hours, 24 hour intrusion alarms, and locked external doors, and is accessible only by authorized personnel.

Automated records are maintained in a building employing security guards, room and data are accessible only by authorized personnel.

Retention and disposal:

Alpha files; files of approved applicants are retained in the active file until the individual retires, is released from active duty, or is voluntarily or involuntarily removed from the USACIDC program; the file is placed in an inactive storage at HQ USACIDC for the remainder of that year plus two additional years; it is then transferred to the Washington National Records Center where it is stored for eight additional years and then destroyed; files of personnel not accepted into the USACIDC program are retained in inactive storage at HQ USACIDC for the remainder of that year plus one additional year and then destroyed.

Criminal Investigation Information Data Cards are maintained permanently.

Machine Punch Cards are maintained only during such time as the individual is currently in the USACIDC program and are destroyed upon cessation of that status.

Automated data on individuals are maintained while the individual is serving as an investigator and for 90 days after he or she leaves the program.

System manager(s) and address:

The Commander, Headquarters (HQ), US Army Criminal Investigation Command (USACIDC), 5611 Columbia Pike, Falls Church, VA 22041

Notification procedure:

Information may be obtained from:
Commander
USACIDC
ATTN: CIJA-RI
5611 Columbia Pike, Falls Church, VA 22041

Record access procedures:

Requests from individuals should be addressed to: Commander, USACIDC, ATTN: CIJA-RI, 5611 Columbia Pike, Falls Church, VA 22041

Written requests for information should contain the full name of the individual, address, date of birth, and whether or not the individual has ever applied for the USACIDC program. Personal visits should be made to: Office of the Staff Judge Advocate-Release of Information, USACIDC, 5611 Columbia Pike, Falls Church, VA 22041.

For personal visits, the requesting individual must present positive identification, such as a driver's license or other identification card with a photograph, in addition to the information required for written requests.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the sysmanager, ATTN: CIJA-RI.

Record source categories:

Previous or present employers, financial institutions, relatives and former spouses, officer master file and enlisted master file, MILPERCEN, educational institutions, trade or fraternal organizations, neighbors past and present, work associates, social acquaintances, churches, public records, current and past commanders, and other investigative departments both within and without the Department of the Army and the Federal Government.

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 USC 552a (j) or (k), as applicable. For additional information, contact the Systems Manager.

A0508.11aUSACIDC

System name:

508.11 Criminal Investigation and Crime Laboratory Files

System location:

Primary System: Crimes Record Directorate, United States (US) Army Criminal Investigation Command (USACIDC), 2301 Chesapeake Avenue, Baltimore, MD 21222.

Decentralized Segments: Headquarters (HQ), USACIDC and all USACIDC subordinate elements, official mailing addresses are in the Department of Defense directory in the Appendix. Defense Investigative Service, Ft Holabird, MD, automated index to drug offenders in case files and automated suspense index on the disposition of offenders in case files.

Categories of individuals covered by the system:

Any individual, civilian or military, involved or suspected of being involved in or reporting possible criminal activity affecting the US Army's interests, property, and/or personnel.

Categories of records in the system:

Files contain names, social security numbers, rank, units, location, date and place of birth, physical descriptions, chronology of events,

Agency for International Development
US Park Police

Record access procedures:

Requests from individuals should be addressed to: Commander,

ate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or

Files contain names, social security numbers, rank, units, location, date and place of birth, physical descriptions, chronology of events, Action Officer's activity summary, letters, messages, notes; reports of investigation containing witness statements, subject statements, agents statements, laboratory reports, documentary evidence, polygraph examination reports, physical evidence, summary data and administrative data pertaining to the preparation and distribution of the report; basis for the action (allegations), Serious and Sensitive Incident reports, talking papers, fact sheets, aliases, descriptions, modus operandi, and other investigative information from Federal, State, and local investigative agencies and departments. Indices contain codes for the type of crime, location of investigation, year and date of offense, names and personal identifiers of persons who have been subjects of electronic surveillance, suspects, subjects and victims of crimes, the report number which allows access to the files noted above; agencies, firms, Department of the Army (DA), and Department of Defense (DOD) organizations which were the subjects or victims of criminal investigations; and disposition and suspense of offenders listed in criminal investigative case files, witness identification date.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012(g).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

HQ USACIDC and all USACIDC subordinate elements: to accomplish the USACIDC investigative duties assigned by the DA, to include criminal investigations and crime prevention activities; to accomplish various management functions such as case analysis, statistical compilations, quality control, review to insure that the completed investigations are legally sufficient, and overall improvement in techniques, training and professionalization.

Information concerning criminal or possible criminal activity is provided to the below listed agencies, components, or bureaus for the purposes of criminal investigative liaison and enforcement of criminal laws, civil court or administrative action for the identification and correction of situations indicative of criminal activity, analyzing modus operandi, and detection of organized criminal activity:

DOD staff and subordinate elements.
DA Staff, major commands and subordinate elements.
Department of the Air Force Staff, major commands and subordinate elements.
Department of the Navy Staff, major commands and subordinate elements.
United States Congress
US Immigration and Naturalization
Department of Justice
Federal Bureau of Investigation
National Security Agency
US Secret Service
US Marshal Service
US Postal Service
Department of the Treasury
Internal Revenue Service
Alcohol, Tobacco, and Firearms-Department of the Treasury
US Customs
US Department of State
Interpol
Central Intelligence Agency
Drug Enforcement Administration
Counsel of Governments, Washington, DC Metropolitan Area.
Defense Supply Agency
Defense Investigative Service (DIS): in addition, limited data are supplied for use in the Defense Central Index of Investigations which is managed by DIS.
Naval Investigative Service
Office of Special Investigations
Civil Service Commission
Federal Aviation Administration
Department of Agriculture
Defense Communications Agency
Defense Security Agency
Defense Nuclear Agency
Law Enforcement Assistance Association
Federal Prison Service
US Coast Guard
US Department of Transportation
Social Security Administration
Selective Service Commission
US Department of Commerce
Food and Drug Administration
Agency for International Development
US Park Police
US Capitol Police
Executive Protective Services
US Department of Labor
Federal Communications Commission
Federal Deposit Insurance Corporation
Federal Trade Commission
Government Accounting Office
Government Services Administration
US Department of the Interior
Interstate Commerce Commission
Securities and Exchange Commission
Military Transportation Major Command
Housing and Urban Development
Drug and Alcohol Abuse Directive
US Marines
Defense Intelligence Agency
Defense Mapping Agency
Defense Security Assistance Agency
Defense Civil Preparedness Agency
Defense Advance Research Projects
Defense Contract Audit Agency,
Veterans Administration,

Foreign nations under the provisions of Status of Forces Agreements, Treaties, or formal or informal executive agreements; or for purpose of criminal investigative liaison.

Various State and local criminal law enforcement units, departments, or agencies.

Criminal law enforcement means any activity pertaining to crime prevention, control, or reduction or enforcement of the criminal law, including, but not limited to, police efforts to prevent, control, or reduce crime, or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies, activities of corrections, probation or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders
Card files and indexes
Automated indexes

Retrievability:

Information is retrievable by reference to the name of the individual or other identifier.

Safeguards:

Crime Records Directorate buildings employ security guards, locked wire enclosures, and access is limited to authorized personnel.

HQ USACIDC buildings employ security guards, information is stored in locked containers or rooms during non-duty hours, and access is limited to authorized personnel.

Subordinate elements of USACIDC buildings generally employ 24 hour duty officers, store the information in locked containers or rooms, and access is limited to authorized personnel.

Defense Investigative Service: buildings employ security guards, automated system is within a controlled access area, and data are accessible only by authorized personnel.

Retention and disposal:

40 years

Laboratory reports at the USACIDC laboratory level are destroyed after three years.

USACIDC subordinate elements, other than the laboratories and Crime Records Directorate, retain case files for periods ranging from 1 to 5 years depending on the level of such unit and the data involved.

System manager(s) and address:

The Commander, Headquarters (HQ), US Army Criminal Investigation Command (USACIDC), 5611 Columbia Pike, Falls Church, VA 22041

Notification procedure:

Information may be obtained from:
Commander
USACIDC
ATTN: CIJA-RI
5611 Columbia Pike
Falls Church, VA 22041

Record access procedures:

Requests from individuals should be addressed to: Commander, USACIDC, ATTN: CIJA-RI, 5611 Columbia Pike, Falls Church, VA 22041.

Written requests for information should contain the full name, address, and date of birth. Personal visits should be made at: Office of the Staff Judge Advocate-Release of Information, USACIDC, 5611 Columbia Pike, Falls Church, VA 22041

For personal visits, the requesting individuals must present positive identification, such as a driver's license or other identification card with a photograph in addition to the information required in written requests.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the sysmanager, ATTN: CIJA-RI.

Record source categories:

Suspects, witnesses, victims, USACIDC special agents and other personnel, informants; various DOD, Federal, State, and local investigative agencies; departments or agencies of foreign governments; and any other individual or organization which may supply pertinent information.

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 USC 552a (j) or (k) as applicable. For additional information contact SYSMANAGER.

A0508.11bUSACIDC

System name:

508.11b Criminal Information Reports and Cross Index Card Files

System location:

Primary System Operations Directorate, Headquarters (HQ), United States (US) Army Criminal Investigation Command (USACIDC), 5611 Columbia Pike, Falls Church, VA 22041.

Decentralized Segments: USACIDC subordinate elements, official mailing addresses are in the Department of Defense directory in the appendix to the Department of the Army systems notice.

Categories of individuals covered by the system:

Any individual, civilian or military, involved or suspected of being involved in or reporting possible criminal activity affecting the US Army's interests, property, and/or personnel.

Categories of records in the system:

Files contain names, social security numbers, rank, units, location, date and place of birth, physical descriptions, chronology of events, action officer's activity summary, letters, messages, notes; reports of investigation containing witness statements, subject statements, agents statements, laboratory reports, documentary evidence, polygraph examination reports, physical evidence, summary data and administrative data pertaining to the preparation and distribution of the report; basis for the action (allegation), Serious and Sensitive Incident reports, talking papers, fact sheets, aliases, descriptions, modus operandi, and other investigative information from Federal, State, and local investigative agencies and departments. Indices contain codes for the type of crime, location of investigation, year and date of offense, names and personal identifiers of persons who have been subjects of electronic surveillance, suspects, subjects and victims of crimes, the report number which allows access to the files noted above; agencies, firms, Department of the Army (DA), and Department of Defense (DOD) organizations which were the subjects of criminal investigations; and disposition and suspense of offenders listed in criminal investigative case files.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012(g).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To afford index to criminal information case files that are not indexed in Defense Central Index of Investigations (DCII). These records are utilized to develop investigative leads during the conduct of ongoing Army criminal investigations. This data is released only for US Army Criminal Investigation Division (CID) and Military Police (MP) investigative purposes. Statistics generated by this data are also utilized as a management tool to determine crime trends, frequency and rates. In the event that information maintained in this system of records indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Card file and paper records in file folders.

Retrievability:

Retrievable by name, file number and the field assigned criminal information report number.

Safeguards:

HQ USACIDC buildings employ security guards, information is stored in locked containers during non-duty hours and access is limited to authorized personnel. Buildings of subordinate elements of USACIDC generally employ 24 hour duty officers, store the information in locked containers and access is limited to authorized personnel.

Retention and disposal:

Permanent, 40 years

System manager(s) and address:

Commander, U.S. Army Criminal Investigation Command, 5611 Columbia Pike, Falls Church, VA 22041.

Notification procedure:

Information may be obtained from:
Commander
USACIDC
ATTN: CIJA-RI
5611 Columbia Pike
Falls Church, VA 22041

Record access procedures:

Requests from individuals should be addressed to : Commander, USACIDC, ATTN: CIJA-RI, 5611 Columbia Pike, Falls Church, VA 22041

Written requests for information should contain the full name, address and date of birth. Personal visits should be made at: Office of the Staff Judge Advocate - Release of Information, USACIDC, 5611 Columbia Pike, Falls Church, VA 22041.

For personal visits, the requesting individuals must present positive identification, such as a driver's license or other identification card with a photograph in addition to the information required in written requests.

Contesting record procedures:

The Army's rules for contesting contents and appealing initial determinations are contained in Army Regulation 340-21.

Record source categories:

Suspects, witnesses, victims, informants, USACIDC special agents and other personnel; various Department of Defense, Federal, State and local investigative agencies; department or agencies of foreign governments; and any other individual or organizations which may supply pertinent information.

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 USC 552 a(j) or (k) as applicable. For additional information, contact the Systems Manager.

A0508.11cUSACIDC

System name:

508.11c Special Agent Evaluation Files

System location:

Primary System: Operations Directorate, Headquarters (HQ), United States (US) Army Criminal Investigation Command (USACIDC), 5611 Columbia Pike, Falls Church, VA 22041.

Decentralized segments USACIDC subordinate elements which exercise local administrative and technical control of special agents; official mailing addresses are in the Department of Defense directory in the appendix to the Department of the Army systems notice.

Categories of individuals covered by the system:

All USACIDC Special Agents, Warrant Officer and enlisted, who prepare USACIDC reports of investigation (ROI's).

Categories of records in the system:

Files contain special agent's name and sequence number; investigative history; e.g., primary or secondary agent, or whether the special agent inherited the case; office of assignment; year of the report of

investigation; ROI number; type of ROI; offense codes for the ROI; the number of days the ROI covered; determination of whether or

Any individual, civilian or military, involved or suspected of being involved in criminal activity affecting the US Army's interests, prop-

Parts of this system may be exempt under 5 USC 552a(j) or (k) as applicable. For additional information, contact the System Manager.

A0509.19aDAPE

Decentralized Segment - Nucleonics Section, Quality Assurance Division, Lexington Blue Grass Depot Activity, Lexington, KY.

Categories of individuals covered by the system:

investigation; ROI number; type of ROI; offense codes for the ROI; the number of days the ROI covered; determination of whether or not the number of days the ROI covered was justified; name of the field office reviewer; name of the field office approver; disposition status of the ROI; location of the incident; i.e., on post, off post or combination; determination of case difficulty; determination of the special agent's investigative effort; type of administrative deficiencies, if any; and type of investigative deficiencies, if any.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012(g).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Personnel of HQ USACIDC and all USACIDC subordinate elements with an official need-to-know, to accomplish various management functions such as statistical compilations, quality control, and special agent investigative and administative evaluations.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders and computer paper printouts.

Retrievability:

Information is retrievable by the name of the individual or other identifier.

Safeguards:

HQ USACIDC buildings employ security guards, information is stored in locked containers or rooms during non-duty hours and access is limited to authorized personnel. Buildings of subordinate elements of USACIDC generally employ 24 hour duty officers, store the information in locked containers or rooms, and access is limited to authorized personnel.

Retention and disposal:

Files are retained for an indefinite period, as the disposition policy has not yet been determined.

System manager(s) and address:

Commander, US Army Criminal Investigation Command, 5611 Columbia Pike, Falls Church, VA 22041.

Notification procedure:

Information may be obtained from:
Commander
USACIDC
ATTN: Dir Opns
5611 Columbia Pike
Falls Church, VA 22041

Record access procedures:

Requests from individuals should be addressed to: Commander, USACIDC, ATTN: Dir, Opns, 5611 Columbia Pike, Falls Church, VA 22041

Written requests for information should contain the full name, address, and date of birth. Personnel visits should be made to: Director of Operations, USACIDC, 5611 Columbia Pike, Falls Church, VA 22041.

For personal visits, the requesting individuals must present positive identification, such as a driver's license or other identification card with a photograph in addition to the information required in written requests.

Contesting record procedures:

The Army's rules for contesting contents and appealing initial determinations are contained in Army Regulation (AR) 340-21.

Record source categories:

The completed ROI, with all attachments and inclosures, and the objective and subjective analysis by the reviewers.

Systems exempted from certain provisions of the act:

None

A0508.25aUSACIDC

System name:

508.25a Index to Criminal Investigative Case Files

System location:

Criminal Records Directorate, United States (US) Army Criminal Investigation Command (USACIDC), 2301 Chesapeake Avenue, Baltimore, MD 21222.

Categories of individuals covered by the system:

Any individual, civilian or military, involved or suspected of being involved in criminal activity affecting the US Army's interests, property, and/or personnel.

Categories of records in the system:

Indices contain codes for type of crime and location of investigation, year, date of crime, names and personnel identifiers of offenders and victims of crime and report number.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012(g)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To afford index to Criminal Investigation Case Files and Military Police (MP) Reporting Files that are not indexed by any other activity. These records are utilized to develop investigative leads during the conduct of ongoing Army criminal investigations. These data are released only for US Army CID and MP investigative purposes. Statistics generated by these data are also utilized as a management tool to determine crime trends, frequency and rates. In the event that information maintained in this system of records indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper card size 3x5 and computer punch cards.

Retrievability:

By name of offender, suspect or victim.

Safeguards:

Contained in a secure area; protected by a locked wire inclosure under 24 hour guard. Access to the files area is controlled through a photograph/badge ID System. No visitors are authorized access to the area, except under escort; files do not afford 'For Official Use Only' protection and release of information data is recorded on a permanent log.

Retention and disposal: Permanent; 40 years.

System manager(s) and address:

Commander, USACIDC, Crime Records Directorate, 5611 Columbia Pike, Falls Church, VA 22041.

Notification procedure:

Information may be obtained from:
Commander
USACIDC
ATTN: CIJA-RI
5611 Columbia Pike
Falls Church, VA 22041

Record access procedures:

Requests from individuals should be addressed to: Commander, USACIDC, ATTN: CIJA-RI, 5611 Columbia Pike, Falls Church, VA 22041.

Written requests for information should contain the full name, address, and date of birth. Personal visits should be made at: Office of the Staff Judge Advocate - Release of Information, USACIDC, 5611 Columbia Pike, Falls Church, VA 22041.

For personal visits, the requesting individuals must present positive identification, such as a driver's license or other identification card with a photograph in addition to the information required in written request.

Contesting record procedures:

The Army's rules for contesting contents and appealing initial determinations are contained in Army Regulation 340-21.

Record source categories:

Suspects, victims, USACIDC special agents and other personnel, informants; various Department of Defense, Federal, State, and local investigative agencies; departments or agencies of foreign governments; and any other individual or organization which may supply pertinent information.

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 USC 552a(j) or (k) as applicable. For additional information, contact the System Manager.

A0509.19aDAPE

System name:

509.19a Military Police Investigator Certification Files

System location:

Primary System: Record files pertaining to individual certification actions are maintained at US Army Military Personnel Center (DAPC-EPM-L), 200 Stovall Street, Alexandria, Virginia 22332.

Decentralized copies: Correspondence relating to certification is maintained at the installation initiating request and at respective major Army commands. Official mailing addresses are in the Department of Defense (DOD) directory in the appendix.

Categories of individuals covered by the system:

Any individual who has been nominated by a commander for certification as a Military Police Investigator.

Categories of records in the system:

Files contain: requests, name checks, background checks, approvals, disapprovals, appeals, rebuttals, and related documents.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012(g).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information is collected to establish eligibility and suitability of individuals to be certified as Military Police Investigators. Information is not disclosed outside of the agency, and within the agency access to records containing adverse suitability information is restricted by use of protective markings.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folder and card indexes.

Retrievability:

Filed alphabetically by name.

Safeguards:

Building employs security guards and controls access. Distribution and access to files based on strict need-to-know. Files contained in locked cabinets when not under personal supervision of authorized personnel.

Retention and disposal:

Destroyed upon individual's release from active service or 3 years after involuntary withdrawal of certification.

System manager(s) and address:

Deputy Chief of Staff for Personnel, Headquarters, Department of the Army, Washington, DC 20310.

Notification procedure:

Requests should be addressed to Deputy Chief of Staff for Personnel, HQDA, (DAPE-HRE) Washington, DC 20310

Record access procedures:

Requests should be addressed to Commander, US Army Military Personnel Center (DAPC-EPM-L), 200 Stovall St., Alexandria, VA 22332

Contesting record procedures:

Requests should be addressed to Deputy Chief of Staff for Personnel, HQDA, (DAPE-HRE), Washingotn, DC 20310

Record source categories:

Subjects, witnesses, victims, Military Police and United States Army Criminal Investigations Command personnel and agents, informants, various DOD, Federal, State and local investigative and law enforcement agencies, departments or agencies of foreign governments; and any other individuals or organizations which may supply pertinent information.

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 USC 552a (j) or (k) as applicable. For additional information, contact the SYSMANAGER.

A0609.01aDASG

System name:

609.01 Individual Radiation Protection Files

System location:

Primary System - Army installations/activities which possess, use, or store radiation producing devices or radioactive materials.

Decentralized Segment - Nucleonics Section, Quality Assurance Division, Lexington Blue Grass Depot Activity, Lexington, KY.

Categories of individuals covered by the system:

All Army personnel, civilian and military, occupationally exposed to hazards of ionizing radiation and occasionally exposed and monitored visitors.

Categories of records in the system:

Installation personnel and Radiation Protection Committee files contain documents, DD Forms 1952, DD Forms 1141, DA Forms 3484, exposed dosimetry film, and related papers reflecting the training, experience, and certification of individual radiation workers to handle specific sources of ionizing radiation; summary listings of certified individuals; external exposures to ionizing radiation, including personnel dosimetry results and reports of film badge readings; and internal exposures to radioactive materials, including analysis of biological specimens and whole-body counts.

Lexington Blue Grass Depot Activity automated dosimetry file contains data elements reflecting individual name, social security number, film badge number, coded cross-reference to place of assignment at time of exposure, from-to dates of exposure and radiation dose, cumulative quarterly, annual and life-time dose, type of measuring device, and coded cross-reference to qualifying data regarding exposure readings.

Authority for maintenance of the system:

10 CFR 35; 10 CFR 20; Title 44 U.S.C., Section 3101; Title 5 U.S.C., Section 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To insure individual qualifications to handle radioactive materials; to monitor, evaluate, and control the risks of individual exposures to ionizing radiation or radioactive materials by comparison of both current (short-term) and long-term exposures; to provide radiation data to other Federal agencies, academic institutions, and non-governmental agencies, such as the National Council on Radiation Protection and Measurement and the National Research Council, authorized to conduct radiation research, evaluation, and monitorship.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

File folders, film packets, magnetic tape/disk.

Retrievability:

Filed alphabetically by name; automated data retrievable by name, social security number, or automatic data processing parameters.

Safeguards:

Buildings employs security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened and trained; access to computer operations room is controlled by card key system, which requires positive identification and authorization.

Retention and disposal:

Certified user listing files - Retained 5 years after reassignment, transfer or separation of individual.

Personnel Dosimetry files - Permanent. Processed film indicating normal exposure is retained 5 years after evaluation and recorded on permanent records.

Personnel Bioassay files - Permanent medical records.

System manager(s) and address:

The Surgeon General, Headquarters, Department of the Army (HQDA), The Pentagon, Washington, DC 20310.

Notification procedure:

Information may be obtained by written request to:
HQDA (DASG-PSP)
Room 2D453
The Pentagon
Washington, DC 20310

Record access procedures:

Requests should be addressed to: Office of The Surgeon General, HQDA (DASG-PSP), Room 2D453, The Pentagon, Washington, DC 20310.

All requests should be written since files are not stored in HQDA. If telephone conversation is desired, at the expense of the inquirer, area code and telephone number will be furnished.

Personal visits by the individual requesting access may be arranged only with the official assigned to respond to a written request.

Contesting record procedures:

The Army's rules for contesting content and appealing initial determination may be obtained from the SYSMANAGER.

Paper records are maintained in file folders. Selected items of information are on computer paper printouts, magnetic tapes, computer punch cards, and control cards.

Authority for maintenance of the system:

Title 10 U.S.C., Chapter 103, Section 2101-2111.

Ft Monroe, VA 23651
Telephone: Area Code 804/727-3077

Contesting record procedures:

The Army's rules for contesting content and appealing initial determination may be obtained from the SYSMANAGER.

Record source categories:

Monitored individuals and exposed dosimetry film.

Systems exempted from certain provisions of the act:

None

A0702.08aDASG

System name:

702.08 Army Medical Procurement Applicant Files

System location:

Primary System: Procurement Division, Army Medical Department (AMEDD) Personnel Support Agency, Headquarters, Department of the Army (HQDA) (SGPE-PD), Forrestal Building, Washington, DC, 20314.

Decentralized Segments: AMEDD Procurement Counselor Field Offices in the following locations: Cutler Army Hospital, Ft. Devens, MA 01433; US Post Office Building, 135 High St., Hartford, CT 06103; Room 1271, Federal Building, 100 South Clinton St., Syracuse, NY 13202; 160 North Franklin St., Hempstead, NY 11550; Building 5515, Room 309 and 316, Ft. Dix, NJ 08640; Federal Office Building, 1000 Liberty Avenue, Pittsburgh, PA 15222; Forest Glen Section, Walter Reed Army Medical Center, Washington, DC 20012; Federal Office Building, 400 North 8th St., Richmond, VA 23240; 3555 Maguire Blvd., Bennington Building, Suite 250, Orlando, FL 32803; Federal Building, 310 New Bern Avenue, Suite 310, Post Office Box 27524, Raleigh, NC 27611; 200 East Liberty St., Ann Arbor, MI 48107; Building 67, Columbus Support Facility, 530 Buckingham St., Columbus, OH 43215; HQ US Army Forces Command, Ft. McPherson, GA 30330; Building 142, Room 345, Ft. Sheridan, IL 60037; 144 Elk Place, Suite 1504, New Orleans, LA 70112; Federal Office Building, 515 Rusk Ave., Room 5122, Houston, TX 77002; Brooke Army Medical Center, ATTN: AFZG-MDZ-PP, Ft. Sam Houston, TX 78234; Federal Office Building, 1100 Commerce Street, Dallas, TX 75202; US Army Recruiting Main Station, 12th & Spruce Streets, St. Louis, MO 63102; US Army Medical Department Activity, Building 268 (Dodge Hall), Ft. Leavenworth, KS 66027; American Red Cross Building, Box 327, Fitzsimons Army Medical Center, Denver, CO 80240; Building 5, Ft. Douglas, UT 84110; Building 138, Room 116, Naval Support Activity (Sand Point), Seattle, WA 98115; Building 654, Presidio of San Francisco, San Francisco, CA 94129; 1600 N. Broadway, Suite 210, Santa Ana, CA 92706; US Army Medical Command, Europe, APO New York 09102; Tripler Army Medical Center, ATTN: HSCT-PD-P, TAMC, Hawaii 96859.

Categories of individuals covered by the system:

Potential applicants and applicants for the AMEDD procurement programs, to include applicants for appointment in the Regular Army and US Army Reserve.

Categories of records in the system:

Interview sheets; counselor evaluations; letters of recommendation; selection/ nonselection letters; Special Orders; all correspondence to and from applicant; correspondence received concerning applicant; Selection Board/Committee results; Statement of Interests; Objectives and Motivation; US Army Reserve Components Personnel and Administration Center Transcript; Officer Procurement Data System coding Sheet.

Authority for maintenance of the system:

Title 10 U.S.C., Sections 3012 and 4301, and Executive Order 9397.

Routine uses of records maintained in the system, including categories of users and the purpoees of such uses:

Procurement Division: To evaluate an applicant's acceptability and potential for appointment in a component of the AMEDD, to evaluate qualifications for assignment to various career areas; to determine educational and experience background for award of constructive service credit; to determine dates of service and seniority; to document service agreement with the US Army; to provide statistical information for effective management of the AMEDD Personnel Procurement Program.

AMEDD Procurement Counselor Field Offices: To assist applicants in completion of their applications; to counsel applicants in their potential for selection for procurement programs and/or for appointment in the AMEDD.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records are maintained in file folders. Selected items of information are on computer paper printouts, magnetic tapes, computer punch cards, and control cards.

Retrievability:

File folders and control cards are filed alphabetically by last name of applicant. Computer printouts are printed alphabetically and by program code/social security number (SSN), by program and/or by special category. Individual records on magnetic tape are retrieved by program code and SSN. Computer punch cards are filed alphabetically by program code/SSN, and/or by special category.

Safeguards:

File folders, control cards, computer paper printouts and computer punch cards are maintained in areas accessible only to authorized personnel. Magnetic tapes are protected by a user identification and password convention.

Retention and disposal:

File folders and control cards are maintained until the end of the year in which all actions pertaining to the individual are completed, plus one year, and destroyed. Computer paper printouts and computer punch cards are destroyed upon replacement by updated information and/or until applicable cyclical program is completed and printouts/punch cards are of no further value, whichever is later. Magnetic tapes are permanent.

System manager(s) and address:

The Surgeon General, Headquarters, Department of the Army (HQDA), The Pentagon, Washington, DC 20310.

Notification procedure:

Information may be obtained from:

Commander, AMEDD Personnel Support Agency
Officer Procurement Division
Room 7BO54, Forrestal Building
Washington, DC 20314
Telephone: 202/693-5120

Record access procedures:

Requests should be addressed to: HQDA (SGPE-PD), Forrestal Building, Room 7BO54, Washington, DC 20314.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from Commander, AMEDD Personnel Support Agency.

Record source categories:

Transcripts from post secondary schools; employer evaluations; faculty evaluations; AMEDD counselor evaluations; interviews; military supervisor evaluations; medical information from medical examination facilities; American Testing Program; Educational Testing Service; Selection Board/committees; prior military service records; Department of Defense (DD) Form 214 (Report of Separation from Active Duty); application and related forms from individual.

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 USC 552a, Section (j) or (k), as applicable. For additional information, contact the SYSMANAGER.

A0704.06bTRADOC

System name:

704.06b Army Reserve Officers' Training Corps (ROTC) LEADS Referral Card System

System location:

Primary System - LCS Industries, 10 Pelham Parkway, Pelham Manor, NY 10803.

Decentralized Segments - Ayer Direct, 1345 Avenue of the Americas, New York, NY 10019; Office of the Deputy Chief of Staff for ROTC (ODCSROTC), Headquarters (HQ), United States Army Training and Doctrine Command (TRADOC), Ft Monroe, VA 23651; United States (US) Army ROTC Region (ROTCR) HQ, and ROTC Instructor Group Staffs.

Categories of individuals covered by the system:

Any US citizen who can reasonably be assumed to be a potential enrollee in the Senior ROTG (SROTC) program.

Categories of records in the system:

System contains individual names, addresses, telephone numbers, social security numbers, high school graduation dates, colleges planning to attend, and enrollment information following recruitment follow-up actions.

Authority for maintenance of the system:

Title 10 U.S.C., Chapter 103, Section 2101-2111.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

LCS Industries - To establish and maintain a central computerized master file of prospective SROTC enrollees; to generate SROTC prospect LEADS cards and recruitment management information reports.

ROTC Instructor Group Staffs - To recruit individual SROTC prospects for possible enrollment and to maintain a future reference and follow-up suspense file of prospective enrollees.

HQ, TRADOC; HQ, ROTC; and Ayer Direct - To analyze SROTC advertising program effectiveness and recruitment activitites.

United States Army Recruiting Command (USAREC); United States Army Reserve (USAR); and Army National Guard (ARNG) - To recruit individual prospects for enlistment purposes when the individual has specifically requested transfer of his/her name from the SROTC prospect file to the USAREC, USAR, or ARNG.

Admissions/Registrars Offices - To provide prospective enrollees who have indicated a desire to attend a particular host or cross-enrolled institution with catalogs or other information concerning that school.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

LCS Industries stores information on magnetic tape and magnetic disk in a film library secured by a controlled access roster.

Ayer Direct stores computer print-outs in standard file containers.

HQ, TRADOC and ROTCR store computer print-outs in standard file containers.

ROTC Instructor Groupd Staffs store LEADS cards in file folders or in standard card index files.

Admissions/Resistrars Offices store individual referral data in standard file containers.

Retrievability:

LCS Industires - Filed alphabetically by last name of prospect and by ROTCR.

HQ, TRADOC, ROTCR, and Ayer Direct - Print-out reports are alphabetized by last name of prospect and by ROTCR. Reports are filed chronologically by month.

ROTC Instructor Group Staffs - LEADS cards are filed alphabetically by last name of prospect.

Admissions/Registrars Offices - Filed alphabetically by last name of prospect.

Safeguards:

LCS Industries - Building and offices are locked in the evening. Keys are controlled. Records are maintained in areas accessible only to authorized personnel who are properly screened and trained.

Ayer Direct - Building employs security guard. Employees carry passes. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained.

HQ, TRADOC and ROTCR - Buildings are located on military reservations. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained.

ROTC Instructor Group Staffs and Admissions/Registrars Offices - Buildings are located on college campuses guarded by college security officials. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained.

Retention and disposal:

LCS Industries - Records are retained in active file until the end of the fiscal year in which the data is recieved, held in an inactive file until expiration of contract.

Ayer Direct - Records are retained in an active file for up to two years and then destroyed.

HQ, TRADOC and HQ, ROTCR - Records are retained in an active file for up to two years and then destroyed.

ROTC Instructor Group Staffs and Admissions/Registrars Offices - Records are retained for as long as it is deemed necessary for appropriate follow-up action and then destroyed.

System manager(s) and address:

The Deputy Chief of Staff for ROTC, Headquarters, United States Army Training and Doctrine Command, Ft Monroe, VA 23651.

Notification procedure:

Information may be obtained from:

HQ, TRADOC
ODCSROTC (ATRO-AM)
Ft Monroe, VA 23651
Telephone: Area Code 804/727-3077

Record access procedures:

Request from individuals should be addressed to: Headquarters, United States Army Training and Doctrine Command, Office of the Deputy Chief of Staff for ROTC (ATRO-AM), Ft Monroe, VA 23651.

Written requests for information should contain the full name of the individual, current address, and telephone number. Visits are limited to the Office of the Deputy Chief of Staff for ROTC, HQ, TRADOC (ATRO-AM), Ft Monroe, VA 23651.

For personal visits, the individual should be able to provide some acceptable identification; e.g., driver's license or employing office's identification card.

Contesting record procedures:

The Army's rules for contesting contents and appealing initial determinations are contained in Army Regulation 340-21.

Record source categories:

Magazine, newspaper, and poster advertising coupons; mailback reply cards; letters; walk-ins; referrals from parents, relatives, counselors, teachers, coaches, friends, associates, college registrars, dormitory directors, national testing organizations, honor societies, Boys' Clubs, Boy Scout organizations, Future Farmers of America, minority and civil rights organizations, fraternal and chruch organizations, neighborhood youth centers, YMCA, YWCA, social clubs, athletic clubs, Boy's State/Boys' Nation, scholarship organizations, previous employers, trade organizations and other agencies and commands within the Department of Defense.

Systems exempted from certain provisions of the act:

None

A0704.10bMEPCOM

System name:

704.10 ASVAB Institutional Test Scoring and Reporting System

System location:

Primary System: Plans/Program/Test Scoring Division, Testing Directorate, United States Military Enlistment Processing Command (MEPCOM), FT. Sheridan, IL 60037.

Decentralized Segments: Armed Forces Examining and Entrance Stations (AFEES); participating school systems; state departments of education/testing agencies; Air Force Human Resources Laboratory, Brooks Air Force Base, TX 78236; Defense Manpower Data Center, Monterey, CA 93940; all service recruiters/recruiting commands.

Categories of individuals covered by the system:

High School, job corps, college, and other students who have been administered the institutional version of the Armed Services Vocational Aptitude Battery (ASVAB).

Categories of records in the system:

File contains individual's name, social security number (SSN), address, telephone number, date of birth, sex, ethnic group identification, grade, booklet number of ASVAB test, individual's plans after graduation, and individual item responses to each of the 12 ASVAB tests.

Authority for maintenance of the system:

Title 44 U.S.C., Section 3101; Title 10 U.S.C., Sections 133 and 3012.

Executive Order 9397, 'Numbering Systems for Federal Accounts Relating to Individual Personnel.'

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Plans/Program/Test Scoring: To compute and furnish test score products for career/vocational guidance and group assessment of aptitude test performance; for research use by selected government contractors.

Armed Forces Examining and Entrance Stations: To establish eligibility for enlistment and verify enlistment and placement scores and retest eligibility.

School Systems: For vocational/career counseling, curriculum planning, and group assessment.

Air Force Human Resources Laboratory: For future test development, test validation, and related statistical purposes.

Defense Manpower Data Center: For marketing evaluation, assessment of manpower trends, and characteristics.

Recruiters/Recruiting Commands: For recruitment, enlistment, and placement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Plans/Program/Test Scoring Division: Microfiche, optical mark sense cards, and computer magnetic tapes.

AFEES: Microfiche.

School Systems: Computer paper printout and magnetic tapes.

Air Force Human Resources Laboratory: Magnetic tapes.

Defense Manpower Data Center: Magnetic tapes.

Recruiter/Recruiting Commands: Computer paper printout and cards.

Retrievability:

Data are first accessed by date tested, then by high school name, and then alphabetically by student name.

Safeguards:

Records are maintained in areas (locked rooms or filing cabinets) accessible only to authorized personnel who are properly screened, cleared, and trained in accordance with governing regulations. Magnetic tapes are protected by user identification and manual controls.

Retention and disposal:

Plans/Program/Test Scoring Division: Primary records (mark sense data cards) are retained 4 months after which they are destroyed. Magnetic tapes are retained for 1 year; microfiche retained for 2 years. Research data retained by contractors for more than 2 years require segregation of personal identifying information and test score data, with analyses performed using only summary statistics.

AFEES: Records retained for 2 years after which they are destroyed.

School Systems: Records released to students; counselors retain scores with student master records.

Air Force Human Resources Laboratory: Records are retained indefinitely or as long as the system is operational. Files maintained after 2 years are purged to delete each student's personal identifying information.

Defense Manpower Data Center: Data maintained for 2 years, at which time personal identifying information is erased from this system.

Recruiter/Recruiting Commands: Records are maintained for 2 years from date ASVAB are administered, then destroyed.

System manager(s) and address:

Commander, United States Military Enlistment Processing Command, Ft. Sheridan, IL 60037.

Notification procedure:

Information may be obtained from:
Commander
United States Military Enlistment Processing Command
Testing Directorate
Ft. Sheridan, IL 60037 Telephone: Area Code 312/926-2366

Record access procedures:

Requests from individuals should be addressed to Commander, United States Military Enlistment Processing Command, Testing Directorate, Ft. Sheridan, IL 60037.

Written requests for information should contain the correct name and full address of the high school, date tested, full name of individual tested, SSN, and address at the time of testing.

Contesting record procedures:

The Army's rules for contesting contents and appealing initial determinations are contained in Army Regulation 340-21.

Record source categories:

Students who are tested with ASVAB.

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 USC 552a(k)(6). For additional information contact the SYSMANAGER.

A0715.01aDAPC

System name:

715.01 Personnel Data Card

System location:

Decentralized: Each active Army unit furnishing personnel and strength data to the Department of the Army (DA).

Categories of individuals covered by the system:

Active duty members of the United States Army (Commissioned, warrant, and enlisted service members).

Categories of records in the system:

File contains a personnel data form (DA Form 2475-2) which includes organization, unit, station, name, social security number (SSN), grade and pay group, blood type, duty assignment, duty phone local address, local phone number, name and address of next-of-kin, home of record, place of birth, awards, military occupational specialty evaluation data, and the unit commander's grade and name. File is augmented by change reports transmitted to higher echelons of the Army to support automated data stored on computer magnetic tapes and discs.

Authority for maintenance of the system:

Title 5 U.S.C., Section 301; Title 10 U.S.C.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Active Army reporting unit: To account for and maintain data relating to each assigned and/or attached active military person under the military jurisdiction of the company/detachment/Army element for use in personnel management; to support the accounting of and reporting function incident to the maintenance of the Officer Master File (OMF)/ Enlisted Master File (EMF), the Military Personnel Records Jacket file (MPRJ), and the Official Military Personnel File (OMPF).

Department of the Army commands/organizations/elements and staff agencies: To perform relevant military functions/requirements/ action consistent with their respective mission.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Alphabetically by name.

Safeguards:

Records filed in areas accessible only to authorized personnel who are trained, cleared, and assigned the functional duty of unit level personnel administration.

Retention and disposal:

Records are retained in the reporting unit for 8 years following the date of the last entry appearing on the individual personnel data card.

System manager(s) and address:

Commander, US Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332.

Notification procedure:

Information may be obtained from the reporting unit of assignment/attachment of the individual concerned.

Record access procedures:

Request from individual should be addressed to the appropriate military unit.

Written requests for information should contain the full name, grade, service identification number, and unit of assignment/attachment.

Personal visits may be made to the unit of assignment; identification of visitors will be established by suitable military identification or other means normally accepted in the transaction of business.

Contesting record procedures:

The Army's rules for contesting contents and appealing initial determinations may be obtained from Headquarters, Department of the Army, (DAPC-POO), 200 Stovall Street, Alexandria, VA 22332.

Record source categories:

Enlistment Record (Department of Defense (DD Form 4)); Report of Separation (DD Form 214) for reenlistees; Extention of enlistment (DA Form 1695); Special Orders issued by enlistment/reenlistment authorities; personal information furnished by the individual concerned; documents/records/reports/ forms originated within the reporting unit.

Systems exempted from certain provisions of the act:

None

A0715.06aDAPC

System name:

715.06a Field Military Personnel Information System - SIDPERS

System location:

Each Army installation and other organizational elements maintaining a segment of the Standard Installation/Division Personnel System (SIDPERS). The official mailing addresses are in the Department of Defense Directory in the Appendix.

Categories of individuals covered by the system:

All active Army military personnel and personnel attached from the National Guard or United States Army Reserve based upon local option.

Categories of records in the system:

The categories of information stored include: name, social security number (SSN), sex, race, citizenship, status, religious denomination, marital status, number of dependents, date of birth, physical profile, ethnic group, grade and date of rank, term of service for enlisted personnel, service agreement for non-regular officers, service data and dates, unit of assignment, military occupation specialty, additional skill identifiers, civilian military education level, language, assignment eligibility and availability and termination date thereof, security status, special pay and bonus, suspense termination date thereof, suspension of favorable personnel action indicator, Privacy Act disputed record indicator.

Authority for maintenance of the system:

Title 5 U.S.C., Section 301; Title 10 U.S.C.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Department of Army: Records are used for personnel management, strength accounting, and manpower management.

Department of Defense: Records are used for interdepartmental actions and personnel management.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are stored on computer magnetic tapes and disks and computer punch cards.

Retrievability:

Access is by SSN, name, or other individual identifying characteristics.

Safeguards:

Physical security devices, guards, computer hardware and software features, and personnel clearances for individuals working with the system.

Retention and disposal:

Records are destroyed 90 days after the individual is no longer active.

System manager(s) and address:

Commander, US Army Military Personnel Center, (USAMILPERCEN), 200 Stovall Street, Alexandria, VA 22332.

Notification procedure:

Information may be obtained from the commander of the organization to which the service member is assigned.

Record access procedures:

Written requests for information should include the full name, service identification number, and current address. Visits should be made to the servicing military personnel office (MILPO) or headquarters of the organization/station of the service member.

For personal visits, the requester should provide acceptable identification, i.e., military identification card or other identification normally acceptable in the transaction of business.

Contesting record procedures:

The Army's rules for contesting contents and appealing initial determinations may be obtained from USAMILPERCEN (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332.

Record source categories:

Information is obtained in documented and other computer readable form from other Department of Army organizations/stations and other federal agencies.

Systems exempted from certain provisions of the act:

None

A0715.07cUSFK

System name:

715.07 Command Unique Personnel Information Data System (CUPIDS)

System location:

Primary System: Office of the Assistant Chief of Staff, Personnel Directorate (J1), Headquarters (HQ) United Nations Command (UNC)/United States (US) Forces, Korea (USFK)/Eighth US Army (EUSA), ATTN: AJ-PER-DM, Army Post Office San Francisco (APO SF) 96301.

Decentralized Segments: US Army Yongsan Data Processing Center Korea, APO SF 96301; HQ UNC/USFK/EUSA, ATTN: PMJ-O, APO SF 96301; HQ UNC/USFK/EUSA, ATTN: DJ-SP, APO SF 96301; and HQ UNC/USFK/EUSA, ATTN: GCT, APO SF 96301.

Categories of individuals covered by the system:

All members of UNC/USFK/EUSA who are authorized duty-free privileges in the Republic of Korea (ROK) as well as US Embassy personnel, contract personnel, technical representatives, and authorized potential noncombatant evacuees living in the ROK.

Categories of records in the system:

The CUPIDS data base includes the individual's name, social security number (SSN), date and place of birth, sex, rotation date, citizenship, passport number, date arrived in the ROK, previous tours in the ROK, service component, pay grade/position status, marital status, dependent status, and religion. The following dependent information is maintained: spouse's name, date and place of birth, date arrived in the ROK, passport number, citizenship, sex, date and place of marriage, local address, and religion. Applicable information is extracted from this central data base to provide a noncombatant report, contractor and technical representative listing, religious preference listing, and dependent information roster.

An individual purchase record is maintained for those personnel authorized duty-free privileges. It consists of a record of exchange catalog sales and purchases made by authorized shoppers in the exchange system, Class VI stores, and commissaries in the ROK.

Authority for maintenance of the system:

Title 5 U.S.C., Section 301 and the Status of Forces Agreement, United States of America (USA) and the ROK.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Record the number and location of contractor and technical representatives in the ROK for reporting to the Korean Government in accordance with the USA-ROK Status of Forces Agreement.

Identify and locate noncombatant evacuees in case of emergency. Provide Department of Defense (DOD) information pertaining to the number of dependents in the ROK.

Obtain a religious profile to determine a realistic distribution of Chaplain assets throughout the command.

Produce list of suspected violators of the ration control authorizations set for retail facilities in the ROK. Produce a list of exchange catalog sales shipped into the ROK. Information is provided the Provost Marshal, US Army Criminal Investigation Command, US Department of State, Office of Special Investigation, Customs Officials, law enforcement authorities of the ROK and commanders for investigative action where appropriate and/or administrative or judicial disposition.

Provide listing of dependents in Korea to the Comptroller for verification of housing dollar authorizations.

Maintain file of selected controlled item purchases made in retail facilities.

Provide management data pertaining to expenditures by grade and family size. This information is used to determine if authorizations are sufficient.

Provide a dependent profile throughout the command for management purposes.

Produce ration control plates for authorized individuals for use in recording purchases in retail facilities.

Produce medical cards which are used for identification in medical facilities.

Provide retail sales information to the USA-ROK Status of Forces Ad Hoc Committee on black marketing activities.

Provide list by date eligible for return from overseas (DEROS) for transportation forecasting requirements.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic tape in tape library.
Microfiche in file library and user level.
Paper printout at user location.

Retrievability:

Noncombatants listing by area and geographical sub-area is alphabetic by last name.

All other records by SSN sequence.

Safeguards:

The records area is accessible only to authorized personnel. During off duty hours, the facility is locked and secured by sound activated alarm.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Accessed by name and social security number (SSN).

Safeguards:

direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies.

Federal, state or local governmental agencies when it is deemed

The records area is accessible only to authorized personnel. During off duty hours, the facility is locked and secured by sound activated alarm.

Retention and disposal:

The command profile, sales profile, and individual sales file are retained for 1 year. Individual violations are retained until the end of the tour of the concerned individual.

Regular card sales are destroyed monthly unless retained for evidence.

Controlled items sales records are maintained for duration of individual tour.

The data base account is retained for the duration of individual tour plus one month.

All other information is eliminated at termination of tour or employment.

System manager(s) and address:

Assistant Chief of Staff, J1, HQ UNC/USFK/EUSA, APO SF 96301.

Notification procedure:

Information may be obtained from:
HQ UNC/USFK/EUSA (AJ-PER-DM)
Building 2402A
Yongsan/Seoul Korea
Telephone: 293-3585

Record access procedures:

Requests from individuals should be addressed to: HQ, UNC/USFK/EUSA (AJ-PER-DM), APO SF 96301.

Written requests for information should contain the full name of the individual, current address and telephone number, SSN.

For personal visits, the individual should provide a military identification card and ration control plate if issued, or other acceptable identification such as a valid vehicle operator's license.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Application for ration control; recorded sales made with ration control plate at retail US military facilities throughout the ROK; orders made through exchange catalog sales.

Systems exempted from certain provisions of the act:

None

A0728.01DAAG

System name:

728.01 Retired Personnel Data File

System location:

Primary System: The Adjutant General Center, 1000 Independence Avenue SW, Washington, DC 20314.

Decentralized segments: United States Army Military Personnel Center (USAMILPERCEN), 200 Stovall Street, Alexandria, VA 22332; Army commands/installations operating retiree councils and/or service activities.

Categories of individuals covered by the system:

All retired Army personnel.

Categories of records in the system:

File contains name, grade codes, retirement class, social security number, branch of service, date of birth, date of retirement, component, years of service, percentage of disability, sex, retired pay codes, address codes, and retirement codes. File is maintained on magnetic tape for output to microfiche for manual video use.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3966.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The Adjutant General Center: To fulfill statutory requirement for listing of retired personnel; to accomplish a continuing contact with the retired person with respect to their entitlements, envolvements, and status as a retired military member; to provide listings, geographically, for use by commands/installations operating retiree councils and/or service activities; and for locator use.

General Services Administration: To obtain printing services for volume III, Army Registers.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Microfiche and magnetic tapes.

Retrievability:

Record accessed by name.

Safeguards:

Microfiche maintained in areas accessible only to authorized personnel who are trained and cleared for duty in the retired activities branch; magnetic tape is maintained in areas accessible only to personnel who are trained and cleared for computer duties.

Retention and disposal:

Magnetic tape updated through input of new retiree, address change, and death; individual data record retained until death.

System manager(s) and address:

Commander, The Adjutant Genral Center, 1000 Independence Avenue SW, Washington, DC 20314.

Notification procedure:

Information may be obtained from:
Commander
The Adjutant General Center
1000 Independence Avenue SW
Washington, DC 20314

Record access procedures:

Requests from individuals should be addressed to: Headquarters, Department of the Army (HQDA) (DAAG-PER), 1000 Independence Avenue SW, Washington, DC 20314.

Written requests for information should contain the full name of the requester, service identification number, and current address.

Personal visits may be made to the Adjutant General Center. Individuals should be able to provide their military service identification card or other commonly acceptable means of identification used in the normal transaction of business.

Contesting record procedures:

The Army's rules for contesting contents and appealing initial determinations may be obtained from HQDA (DAAG-AMR), 1000 Independence Avenue SW, Washington, DC 20314.

Record source categories:

Retirement order and documents; retiree input of address change data; death notifications.

Systems exempted from certain provisions of the act:

None

A0810.10aDAEN

System name:

810.10 Military Construction Training Files

System location:

Construction Training, Construction Support Branch, Construction Division, Directorate of Military Construction, Office of the Chief of Engineers (COE), Washington, DC 20314.

Categories of individuals covered by the system:

Any participant in the annual Chief of Engineers Construction Training Program.

Categories of records in the system:

File contains individual's grade, occupational code, district or division employed by, and age.

Authority for maintenance of the system:

Government Employees Training Act of 7 Jul 58, 72 Stat 327 (Pub. L. 85-507).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Provides an historical record of training and source of data for statistical reports; serves as basis for developing additional courses and evaluating the effectiveness of training; and provides data for cost accounting and developing budget estimates for the training program.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic tape, disk, and computer printouts.

Retrievability:

Accessed by name and social security number (SSN).

Safeguards:

Computer 'Fail Safe' System.

Retention and disposal:

Information on individuals is deleted from the system upon termination of employment.

System manager(s) and address:

Chief of Engineers, Department of the Army (DA), Forrestal Building, Washington, DC 20314.

Notification procedure:

Information may be obtained from:
Chief of Engineers
ATTN: DAEN-MCC-E
Department of the Army
Washington, DC 20314
Telephone: Area Code 202/693-1310

Record access procedures:

Requests from individuals should be addressed to Chief of Engineers, DA, ATTN: DAEN-MCC-ET, Washington, DC 20314.

Written requests for information should contain, as a minimum, the individual's full name and SSN.

For personal visits, the individual should be able to provide employing office's identification card or other suitable identification such as a passport or driver's license with photograph.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340-21.

Record source categories:

Information is submitted by the individual student.

Systems exempted from certain provisions of the act:

None

A0917.10aDAAG

System name:

917.10 Child Protection Case Management Files

System location:

Primary System: Commander, United States (US) Army Health Services Command, ATTN: HSOP-PR, Ft Sam Houston, TX 78234.

Decentralized Segments: Office of The Surgeon General, ATTN: DASG-HCC-G, Washington, DC 20310; US Army medical treatment facility and/or child protection and case management team office on post, camp, or station where file was initiated or, in some cases, subsequently transferred upon reassignment of military member.

Categories of individuals covered by the system:

All children entitled to care at Army medical and dental facilities whose abuse or neglect is brought to the attention of appropriate authorities and all persons suspected of abusing or neglecting such children.

Categories of records in the system:

Medical records of suspected and established cases of child abuse or neglect, investigative reports, correspondence, child protection case management team reports, follow-up and evaluative reports, and other supportive data assembled relevant to individual child protection case management.

Authority for maintenance of the system:

Title 5 U.S.C., Section 301; Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Officials and employees of the Department of the Army in the performance of their official duties relating to health and medical treatment of members and former members of the uniformed services, civilians and dependents receiving medical care under Army auspices; performance of research studies and compilation of statistical data.

Officials and employees of other components of the Department of Defense and other Departments and agencies of the Executive Branch of government in the performance of their official duties relating to the coordination of child advocacy programs, medical care and research concerning child abuse and neglect.

The Attorney General of the United States or his authorized representatives in connection with litigation or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies.

Federal, state or local governmental agencies when it is deemed appropriate to utilize civilian resources in the counseling and treatment of individuals or families involved in child abuse or neglect, or when it is deemed appropriate or necessary to refer a case to civilian authorities for civil or criminal law enforcement.

Authorized officials and employees of the National Academy of Sciences, private organizations and individuals for health research in the interest of the Federal government and the public; and authorized surveying bodies for professional certification and accreditation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records may be stored in file folders, microfilm or magnetic tape, punched cards, machine lists, disks, and other computerized or machine readable media.

Retrievability:

Filed by name of the suspected abused child and the name and/or social security number (SSN) of the military sponsor, with no index by the name and/or SSN of any other person not an Army employee (including the spouse of the military sponsor).

Safeguards:

Records are maintained in various kinds of filing equipment in specified monitored or controlled access rooms or areas. Public access is not permitted. Records are accessible only to authorized personnel that are properly screened and trained, and on a need-to-know basis only. Computer terminals are located in supervised areas with access controlled by password or other user code system.

Retention and disposal:

Records are retained in decentralized office files for 5 years after the end of the year in which the case was closed and are then destroyed. Records are retained in the central file until the minor child is age 22 and are then destroyed.

System manager(s) and address:

The Surgeon General, Headquarters, Department of the Army; Commander, US Army Health Services Command; commanders of medical centers and hospitals.

Notification procedure:

Information on specific cases may be obtained from the commander of the medical center or hospital where treatment was received. Official mailing addresses are in the Department of Defense Directory in the Appendix to Army system notices.

Information in central files may be obtained from:
Commander
US Army Health Services Command
ATTN: HSOP-PR
Ft Sam Houston, TX 78234

Record access procedures:

Requests from individuals should be addressed to the commander of the medical center or hospital where treatment was received; or to Commander, US Army Health Services Command, ATTN: HSOP-PR, Ft Sam Houston, TX 78234.

Written requests for information should contain the full name of the individual, SSN, current address and telephone number. Visits are limited to the commander of the medical center or hospital where treatment was received; and to the Office of The Surgeon General (DASG-HCC-G), Room 2D528, The Pentagon, Washington, DC 20310.

For personal visits, the individual should be able to give sufficient identification, and provide some verbal information that can be verified from his/her file.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in 32 CFR Part 505 (Army Regulation 340-21).

Record source categories:

Information obtained from educational institutions, medical institutions, police and investigating officers, state and local government agencies, witnesses, and source documents (i.e., reports) prepared on behalf of the Army by boards, committees, panels, auditors, etc. Information may also be from interviews, personal history statements, and observations of behavior by various professionals (i.e., social workers; physicians, to include psychiatrists and pediatricians; psychologists; nurses and lawyers).

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under Title 5 U.S.C., Section

1511.01 Army Housing Files

System location:

Documents relating to reports reflecting conditions affecting off post rental housing. Included are off post housing census reports, DOD off post housing survey reports, status of housing assets re-

None

OFFICE OF THE SECRETARY OF

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under Title 5 U.S.C., Section 552a (k)(2) and (5), as applicable. For additional information, contact the SYSMANAGER.

A1012.03iDLI

System name:

1012.03 Standardized Student Records System

System location:

Defense Language Institute, Foreign Language Center (DLIFLC), ATTN: Academic Records Office, Fresidio of Monterey, CA 93940.

Categories of individuals covered by the system:

Any person who has ever been enrolled for foreign language training at any facility of the DLIFLC.

Categories of records in the system:

File contains individual's name, social security number (SSN), and military administrative data, together with academic data generated at DLIFLC.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Supplies data to DLIFLC for dividing students among class sections, selecting section monitors, preparing rosters and academic bulletins, preparing summaries of training activity used in managing current operations and reporting workload, establishing a permanent student record used for issuing official grade transcripts and preparing statistical studies used to improve training and testing methods.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Remote computer magnetic tape and disk.

Retrievability:

Files accessed by remote terminals with records filed by SSN.

Safeguards:

Records are accessible via remote terminal only by authorized personnel citing established user identifier and password.

Retention and disposal:

Records are permanent. They are retained in active file (on-line) until the student departs; then retired to a history tape.

System manager(s) and address:

The Commandant, DLIFLC, Presidio of Monterey, CA 93940.

Notification procedure:

Information may be obtained from:
Defense Language Institute
Foreign Language Center
ATTN: Academic Records Office
Presidio of Monterey, CA 93940
Telephone: Area Code 408/242-8221

Record access procedures:

Request from individuals should be addressed to: Defense Language Institute, Foreign Language Center, ATTN: Academic Records Office, Presidio of Monterey, CA 93940.

Written requests for information should contain the full name and current address of the individual, SSN, class attended and year graduated.

For personal visits to the Academic Records Office, the individual should be able to provide positive identification, such as, valid driver's license, employing office identification card, etc.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340-21.

Record source categories:

Student registration form (DLIFLC FORM 90) prepared by student upon enrollment and various local forms containing academic data.

Systems exempted from certain provisions of the act:

None

A1511.01aDAPE

System name:

1511.01 Army Housing Files

System location:

Director, Industrial Operations (DIO), Deputy Chief of Staff for Logistics (DCSLOG), Housing Manager (HM), at Army installations, world- wide.

Categories of individuals covered by the system:

Military personnel, members of the uniformed services, Department of Defense (DOD) or other key civilian personnel, service members' dependents assigned or attached to an installation for on or off post housing support.

Categories of records in the system:

Records include housing correspondence files, troop housing files, housing project tenancy files, housing cost control files, housing leasing files, housing rental rate files, housing referral service files, off post rental housing reporting files, and housing complaint and investigation files.

Records contain, as appropriate, names, service or social security number (SSN), rank or grade, date of rank or grade, length of service, organization, home telephone number, date expected to return from overseas, dependency data, address of quarters, number of bedrooms, adequacy code, and rental cost of economy quarters.

Files contain documents such as permanent change of station (PCS) orders, authorization for travel of dependents, locator cards, applications for Government or off post housing, status of housing availability, housing assignment and termination letters, utilization and occupancy information, private sales/rental listings, notification of off post housing selection, authorization for Government furniture, furniture hand receipts, General Officer Quarters Cost Report, guest houses/visiting quarters registers and occupancy state- ments, rental deduction notices or cancellations, applications for and certificates of civilian employee eligibility to obtain loan to purchase housing, and letters of complaints (includes discrimination) and investigations.

Authority for maintenance of the system:

Department of Defense Instruction (DODI) 4165.44; DODI 4165.47; DODI 4165.51; DODI1100.16; DODI 4165.27; DODI 4165.43; DODI 4165.34; Annual Military Construction Authorization Acts; Section 515 of Public Law 84-161 as amended (Title 10 U.S.C., Section 2674); Title 10 U.S.C., Section 133; Army Regulation (AR) 210-50 (Family Housing); AR 210-16 (Bachelor Housing); AR 210-2 (Guest Houses); AR 230-1 (Nonappropriated Funds and Oversea Transient Facilities); AR 210-6 (Furniture); AR 210-12 (Rental Rates for Quarters); AR 405-10 (Real Estate Acquisition); AR 600-18 (Equal Opportunity in Off Post Housing).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purposes for which the system is collected are as follows:

To provide information relating to the overall program of providing necessary housing for military personnel, dependents of military personnel, and qualified civilian employees, but exclusive of specific files described herein.

Documents relating to the housing and billeting of military personnel involving such matters as the adequacy and suitability of housing. Included are memoranda on housing, strength and housing capacity reports, housing schedules, and similar papers.

Documents accumulated in offices of housing project directors and relating to rental of units. Included are applications for quarters, character reference letters, rental deduction notices, property inventories, cancellation of rental deduction notices, and similar documents.

Documents relating to the control of costs for alteration and repair of housing units to insure that amounts expended comply with limitations set by law. Included are cumulative cost cards, copies of job orders, copies of work orders, copies of contracts, copies of issue slips, and copies of similar documents reflecting expenditures.

Documents relating to the leasing of housing to provide necessary quarters for qualified personnel. Included are requests for approval to lease, authorizations to lease, leasing and rental surveys, and similar or related docu- ments.

Documents relating to the establishment of rental rates for housing units. Included are surveys, schedules, statistical data, and similar or related documents.

Documents relating to providing guidance and referral service on available housing. Included are requests for counseling or guidance in connection with purchase or rental of housing; listings of housing available for purchase or rent; liaison with real estate boards, realtors, brokers, and other Government agencies; and similar or related documents.

Documents relating to reports reflecting conditions affecting off post rental housing. Included are off post housing census reports, DOD off post housing survey reports, status of housing assets reports, similar reports, and related documents.

Documents relating to complaints and investigations in connection with off post housing. Included are complaints (includes discrimination) from military personnel and owners or operators of housing facilities, investigative data, fact statements, acceptance statements, withdrawal notices, and similar documents.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.
File cards.
Computer tapes.
Computer printouts.
Punched cards.

Retrievability:

Filed alphabetically by last name, facility name, or facility number.

Safeguards:

Records are maintained in room accessible only to authorized personnel.

Retention and disposal:

Housing correspondence files: Maintained in office performing Army-wide staff responsibility for 10 years, then retired to the Washington National Records Center, Washington, DC for retention until accessioned by the National Archives and Records Service, Washington, DC. Files in other offices are destroyed after 5 years.

Installation troop housing files: Destroyed after 3 years or on discontinuance, whichever is first.

Installation housing project tenancy files: Destroyed 3 years after termination of quarters occupancy or on discontinuance, whichever is first.

Family housing cost control files: Cards reflecting cumu- lative costs are destroyed 11 years after last entry on card. Other files are destroyed after posting to the cumulative cost card, except that copies of work orders used for posting to the cumulative cost card will be destroyed 1 month after completion of work, or earlier.

Family housing leasing files and family housing rental rate files: Destroyed after 10 years.

Housing referral service files: Destroyed after 5 years.

Off post rental housing reporting files: Files maintained in office performing Army-wide staff responsibility are destroyed after 5 years. Files in other offices are destroyed after 3 years.

Off post housing complaint and investigation files: Files maintained in offices performing Army-wide staff responsibility are destroyed 5 years after completion. Other files are destroyed 2 years after completion.

System manager(s) and address:

Chief of Engineers, Headquarters, Department of the Army, Washington, DC 20314.

Deputy Chief of Staff for Personnel, Headquarters, Department of the Army, Washington, DC 20310.

Notification procedure:

Information may be obtained from the Director of Industrial Operations (or his counterpart) at Army installations world-wide.

Record access procedures:

Requests from individuals should be addressed to the Director of Industrial Operations at the appropriate installation.

Written requests for information should contain the full name of the individual, current address, and location of last assignment.

For personal visits, the individual should be able to pro- vide some acceptable identification such as a driver's license or military identification card.

Contesting record procedures:

The Army's rules for contesting and appealing initial determination are contained in Army Regulation 340-21 which may be obtained from the SYSMANAGER.

Record source categories:

Automated systems interfaces.
Individuals' personnel records.
Tenant/landlords and realty activities.
Information provided by the individual.
Financial institutions.
Previous commanders or employers.

Systems exempted from certain provisions of the act:

None

OFFICE OF THE SECRETARY OF DEFENSE

DAS 01

System name:

Defense Audit Service Management Information System (DAS/MIS)

System location:

Defense Audit Service, Audit Management Division (DAS-AM), Arlington, Virginia. The system utilizes the Computer Science Corporation's INFONET System, 1616 North Fort Myer Drive, Arlington, Virginia 22209.

Categories of individuals covered by the system:

All active personnel employed by the Defense Audit Service with history data including previous employees maintained for two years.

Categories of records in the system:

Data on the individual's current position, current employement status, travel, audit experience training, and the following specific personal data: name, Social Security Account Number (SSAN), date of birth (DOB), service computation date (SCD), career status, experience, address, assigned station, job series, clearance, education, and evaluation due date.

Authority for maintenance of the system:

Title 10, United States Code, section 136(b), and Department of Defense Directive 5105.48, 'Defense Audit Service,' October 14, 1976, conveys the authority for maintenance of a system of records to the Director of the Defense Audit Service in support of the DAS mission.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

There are no external uses. Internally, information is used as follows:

Security Clearance notification alert; provided to all audited activities in advance of visits by DAS audit personnel. Information provided in Alert is name, SSAN, Office of Assignment, and the security clearance for each auditor.

(2) Time and Attendance Reporting; provided to DAS Main Office by 9 CONUS Regional Offices and 3 Overseas Regional Offices. Time and Attendance Reports are used by various managers to track Temporary Duty Travel frequency and duration, to accrue manhour data on assigned audit projects, to categorize indirect time for end of year reporting, to provide time and attendance data to the centralized payroll system at the Main Office. Information included in Time and Attendance Reports are SSAN, Name, Grade, Assigned Office, Hours Present for Duty, Annual Leave Hours, Sick Leave Hours, Other Leave Hours and Type, TDY Location, and TDY Duration.

(3) Planned Annual Leave Reporting, utilized by various managers for workload planning and travel scheduling. Information included is Name, Assigned Office, and dates of planned annual leave.

(4) Audit Status and Auditor Assignment Reporting; used by managers to control audits and auditors, and to maximize effectiveness of manpower resources. Included information is Audit Number, Audit Requestor Code, Title, Milestone Dates, Audit Cost Summary, Personnel Assigned/Release Dates, and Personnel Manhours Expended.

(5) As Requred Prsonnel Reporting; used by the Staff Manager to determine training needs, promotional eligibility, education and background, professional organization participation, and performance evaluation. Information included is Name, Assigned Offices, Education, Professional Activities Training History (Course Title, Dates Attended), Performance Evaluation, Date of Birth, and Service Computation Date.

(6) Travel Reporting; used by managers to control Temporary Duty Travel, travel costs, and issuances of Blanket Travel Orders.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Active Records are stored on immediate access disk and magetic tape maintained within the computer center. Inactive records are maintained on magnetic tape within the computer center. Hard copy records are stored in file cabinets under the control of functional users.

Retrievability:

Records are internally stored by employee SSAN and are selectively retrievable by all data elements as specified in the Categories of Records in the System.

Executive Order 11246/11375, 'Equal Employment Opportunity,' as amended by EO 11478, 'Equal Employment Opportunities in the Federal Government'.

Retrievability:

By Social Security Number

Safeguards:

Record access procedures:

Procedures for gaining access should be directed to:
Office of Research and Administration, Assistant to the

Records are internally stored by employee SSAN and are selectively retrievable by all data elements as specified in the Categories of Records in the System.

Safeguards:

All records reside in a 'private library' which is not accessible by any other user. All system files are backed up upon creation and upon any update action. A 'Master ID' with unrestricted access to all records in the private library is available only to Main Office MIS Management Personnel. A 'Subordinate ID' which has restricted access, only to pertinent records, is used by field offices. Password protection is afforded at the session and file level. All user ID's are protected by separate password validation. Any attempt to circumvent the password validation initiates immediate 'log-off'. Physical control includes limiting password to only authorized personnel. Master ID is located in a secure environment, within the Main Office, and access to the terminal facility is restricted to MIS Management employees who work within the area. Access to records containing personal data is restricted to those who require the records in the performance of their official duties and to the individual who is subject of the record (or his authorized representative). Tape files are maintained in an environmentally secure vault area when not in use. Computer Science Corporation has been cleared to process personal data for Government agencies by General Services Administration on December 11, 1975.

Retention and disposal:

Machine resident records are maintained for 2 years after they become inactive. All inactive records are afforded the same safeguards as active records and are maintained on magnetic tape within the computer center. Machine resident records are destroyed at the end of the 2 year period. Hard copy records are retained until the records are replaced or become obsolete.

System manager(s) and address:

Director, Defense Audit Service, Suite 1200, Commonwealth Building, 1300 Wilson Boulevard, Arlington, Va. 22209. Telephone: 202-697-9108.

Notification procedure:

Written or personal requests for information should be addressed to the System Manager.

Record access procedures:

Procedures for gaining access by an employee/previous employee to his/her records may be obtained from the System Manager. Written request for information should contain the full name of the employee/past employee and Social Security Account Number. For personal visits, the employee should be able to identify himself/herself with Defense Audit Service Identification Card. Past employees should be able to identify himself/herself with Social Security Card and one other corroborating personal identification.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Official Personnel Folder and other personnel documents, activity supervisors, applications and forms completed by the individual.

Systems exempted from certain provisions of the act:

None

DCOMP MS11

System name:

List of Female Employees of OSD/OJCS

System location:

Primary System-Federal Women's Program Coordinator, Room 4B916, Pentagon Building; maintained in automated form - Army Data Center.

Decentralized Segment-Director of Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

All civilian female employees of OSD/OJCS.

Categories of records in the system:

File is extract of Civilian Personnel Data File and contains organization identification, employee name, Social Security Number, Series, Grade, Time Basis, Position Title.

Authority for maintenance of the system:

Executive Order 11246/11375, 'Equal Employment Opportunity,' as amended by EO 11478, 'Equal Employment Opportunities in the Federal Government'.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defento mail information on Federal Women's Program to OSD/OJCS Women Employees. Federal Women's ProgramCoordinator to locate personnel to recommend to them training and employment opportunities.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Automated list in Federal Women's Program Coordinator Office. Automated tape in Army Data Center.

Retrievability:

Listed by organization.

Safeguards:

List is kept under lock. Only available to Federal Women's Program Coordinator.

Retention and disposal:

Record is new. Revised lists are provided, as required.

System manager(s) and address:

OSD/OJCS Federal Women's Program Coordinator, Room 4B916, Pentagon Building, Washington, D.C. 20301.

Notification procedure:

Information may be obtained from OSD/OJCS Federal Women's Program Coordinator, Room 4B916, Pentagon Building, Washington, D. C. 20301.

Record access procedures:

Written requests for information should contain the full name of the individual, organization assignment and Social Security Number. Visits are limited to Room 4B916, Pentagon Building, Washington, D. C. 20301. For personal visits the individual should provide DoD identification prior to access.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

The Central Personnel Data File prescribed by the Civil Service Commission.

Systems exempted from certain provisions of the act:

None

DHA 04

System name:

Variable Incentive Pay for Medical Officers-Data Management System

System location:

Air Force Data Services Center, Headquarters, United States Air Force, The Pentagon, Washington, D.C. 20330.

Categories of individuals covered by the system:

Military physicians on active duty during the reporting period

Categories of records in the system:

Partial file containing various materials contained in each individuals master personnel record. This system contains SSAN, rank or grade, position held, and information concerning professional education, pay status, and other related information regarding the variable incentive pay programs.

Authority for maintenance of the system:

Title 37, United State Code, Chapter 5, Section 313

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by the Health Studies Task Force, Office of the Assistant Secretary of Defense (Health Affairs) to meet statutory requirements of Title 37, USC Chapter 5, Section 313.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic tapes in Air Force Data Services Center Tape Library

Retrievability:

By Social Security Number

Safeguards:

Magnetic tapes are maintained by the Air Force Data Services Center with access only by authorized user number.

Retention and disposal:

Magnetic tapes are maintained until expiration of Section 313, Chapter 5, Title 37, USC.

System manager(s) and address:

Chairman, Health Studies Task Force, Office of the Assistant Secretary of Defense (Health Affairs), The Pentagon, Washington, D.C. 20301.

Notification procedure:

Information may be obtained from:
Executive Assistant
Office of the Assistant Secretary of Defense (Health Affairs)
Room 3E172, The Pentagon
Washington, D.C. 20301
Telephone number: 202-697-2115

Record access procedures:

Requests from individuals should be addressed to:
Office of the Assistant Secretary of Defense (Health Affairs)
The Pentagon
Washington, D.C. 20301

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Central personnel files of the Military Services.

Systems exempted from certain provisions of the act:

None

DLA01

System name:

Security Clearance File

System location:

Primary System-Office of Research and Administration, Assistant to the Secretary of Defense (Legislative Affairs), Washington, DC 20301.

Categories of individuals covered by the system:

Congressional Staff Personnel.

Categories of records in the system:

Card file listing security clearances for congressional staff personnel.

Authority for maintenance of the system:

Executive Order 11652.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

When classified material is submitted to Members or committees of Congress, the card file is screened to insure that the person receiving the material is properly cleared.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Vertical file cards.

Retrievability:

Card files are listed alphabetically by last name and committee or Member to whom assigned.

Safeguards:

Afforded appropriate protection at all times.

Retention and disposal:

Kept on personnel only during the time employed by the Congress.

System manager(s) and address:

Office of Research and Administration, Assistant to the Secretary of Defense (Legislative Affairs), Washington, DC 20301.

Notification procedure:

Requests should be addressed to the SYSMANAGER.

Record access procedures:

Procedures for gaining access should be directed to:
Office of Research and Administration, Assistant to the Secretary of Defense (Legislative Affairs).
Room 3D932.
Pentagon Building.
Washington, DC 20301.
Telephone: 202-697-9166.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Certificate of Clearance (SD Form 176) is received from Director for Personnel and Security, Washington, Headquarters Services, Department of Defense.

Systems exempted from certain provisions of the act:

None

DLA02

System name:

Biographic Data File.

System location:

Primary System-Office of Research and Administration for the Assistant to the Secretary of Defense (Legislative Affairs), Washington, DC 20301.

Categories of individuals covered by the system:

Members of Congress

Categories of records in the system:

Biographic data files include date and place of birth, marital status, educational background, military service, voting district, and voting record pertaining to Defense issues.

Authority for maintenance of the system:

Title 10, US Code, Section 133.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Routine use of public background information is helpful to DOD officials meeting Members of Congress on trips; in hearings; and in discussions of problem areas. Knowing the generalized background of the Member is conducive to intelligent discussion of mutual problems.

Purpose-To assist Legislative Liaison officers in presenting material to individual Congressmen, and to aid Defense witnesses in preparing for testimony before Congressional committees.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically.

Safeguards:

Stored in locked metal filing cabinet.

Retention and disposal:

Biographic data on incumbent members is maintained for their entire term of office.

System manager(s) and address:

Office of the Assistant to the Secretary of Defense (Legislative Affairs).

Notification procedure:

Written requests for information should be addressed to the SYSMANAGER.

Personal visits are directed to Room 3D932, Pentagon, Washington, DC. Valid proof of identity is required.

Record access procedures:

Procedures for gaining access by an individual may be obtained from the following:
Director, Research and Administration, OATSD(LA).
Room 3D932.
Pentagon Building.
Washington, DC 20301.

Telephone: 202-697-9166.

Contesting record procedures:

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or other identification card.

Cross file by index card by location of applicant.

Safeguards:

companies in state which have pledged; used to prepare speech and presrelease material mentioning companies that have pledged.

Any individual records in the system may be transferred to any

Telephone: 202-697-9166.

Contesting record procedures:

The Agency's rules for access to records and for contesting and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Data is gathered from the Congressional Quarterly, Congressional Record, Congressional Director and other printed media pertaining to Members of Congress.

Systems exempted from certain provisions of the act:

None

DMRA&L 01.0

System name:

Overseas Education Correspondence Files

System location:

Teacher Recruitment Section, Staffing Branch, Office of Dependents Schools, Office of Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), Room 120, Hoffman Building, 2461 Eisenhower Avenue, Alexandria, Va. 22331.

Categories of individuals covered by the system:

Any individual with whom or about whom the Teacher Recruitment Branch has correspondence.

Categories of records in the system:

File contains all correspondence received from and responses to individuals writing the Teacher Recruitment Branch.

Authority for maintenance of the system:

PL 86-91

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Teacher Recruitment Division - to maintain accurate record of correspondence with individuals making inquiry to Division; any individual records might be transferred to any component of the Department of Defense having a need to know in the performance of official business, disclosure to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by either the last name of the correspondent or the last name of the employee/applicant the correspondence concerns.

Safeguards:

Building employs security guards, office locked during non-business hours.

Retention and disposal:

Files are retained for three years.

System manager(s) and address:

Director, Office of Overseas Dependents Education, Office of the Assistant Secretary of Defense (MRA&L), The Pentagon, Washington, D.C. 20301.

Notification procedure:

Information may be obtained from:
Chief, Teacher Recruitment Section, DoD
Office of Dependents Schools
Room 120
Hoffman Building
2461 Eisenhower Avenue
Alexandria, VA 22331
Telephone: 202-325-0885

Record access procedures:

Requests from individuals should be addressed to: Teacher Recruitment Division, Office of OverseasDependents Education, Office of the Assistant Secretary of Defense (MRA&L), The Pentagon, WashingtonD.C. 20301.

Written requests for information should contain full name and address of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or other identification card.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Correspondence initiated by the individual or by others on his or her behalf and replies.

Systems exempted from certain provisions of the act:

None

DMRA&L 02.0

System name:

Teacher Application Files

System location:

Teacher Recruitment Section, Staffing Branch, Personnel Division, DoD, Office of Dependents Schools, Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs & Logistics), Room 102, Hoffman Building, 2461 Eisenhower Avenue, Alexandria, VA 22331.

Categories of individuals covered by the system:

Any citizen who applies for a position with the DoD Overseas Dependents Schools

Categories of records in the system:

File contains all papers and forms relating to individual's application for employment to include SF 171, Personal Qualifications Statement; DD 1835, DoD Dependents Schools - Application Index; DD 1836, Supplemental Application for Employment with DoD Overseas Dependents Schools; DD 1456, Professional Evaluation Department of Defense Overseas Dependents Schools; DD 1453, Record of Personal Interview; official college transcripts; copy of teaching certificates; copy of birth certificates; and correspondence to or concerning applicant.

Authority for maintenance of the system:

PL 86-91

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Teacher Recruitment Division - To determine qualifications, and make selection of candidates for positions with DoD Overseas Dependents Schools of selected applicants; to review types of experience, educational background, evaluation of previous employers, professional credentials interviewer's rating.

Department of the Army - Staff Agencies and Commands to complete processing of hired individuals, to obtain Civil Service Commission National Agency Check, medical examination, passports, arrange transportation and shipment/storage household goods, and to provide gaining Civilian Personnel Offices necessary documentation for placing individuals on rolls.

Department of the Air Force - Staff Agencies and Commands to complete processing of hired individuals, to obtain Civil Service Commission National Agency Check, medical examination, passports, arrange transportation and shipment/storage household goods, and to provide gaining Civilian Personnel Offices necessary documentation for placing individuals on rolls.

Department of the Navy - Staff Agencies and Commands to complete processing of hired individuals, to obtain Civil Service Commission National Agency Check, medical examination, passports, arrange transportation and shipment/storage household goods, and to provide gaining Civilian Personnel Offices necessary documentation for placing individuals on rolls.

Any individual records in a system of records might be transferred to any component of the Department of Defense having a need to know in the performance of official business.

Records may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by last name of applicant.
Cross file by index card by category (Teaching field) of applicant.

Cross file by index card by location of applicant.

Safeguards:

Building employs security guards, office locked during non-business hours. Records are maintained in area accessible only to authorized personnel who are properly screened.

Retention and disposal:

Records are retained for recruitment period (no more than one year).

For non-selected applicants, portions are returned to applicant for future use and portions are destroyed.

Records for selected applicants are forwarded to Department of the Army, Department of the Air Force, or Department of the Navy as appropriate processing.

System manager(s) and address:

The Director, Office of Overseas Dependents Education, Office of the Secretary of Defense, Washington, D.C. 20301

Notification procedure:

Information may be obtained from:
Chief, Teacher Recruitment Section, DoD,
Office of Dependents Schools
Room 120
Hoffman Building
2461 Eisenhower Avenue
Alexandria, VA 22331
Telephone: 202-325-0885

Record access procedures:

Request from individuals should be addressed to: Teacher Recruitment Division, Office of Overseas Dependents Education, Office of the Secretary of Defense, Washington, D.C. 20301.

Written requests for information should contain the full name and address of the individual.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Former employers, educational institutions, and information supplied by the individual.

Systems exempted from certain provisions of the act:

None

DMRA&L 03.0

System name:

Employer Support File (PLEDGE)

System location:

Primary Location: Air Force Data Services Center, Room 1D132, The Pentagon, Washington, D.C. 20330.

Hard copy roster located at: National Committee for Employer Support of the Guard and Reserve, Room 907, 1117 North 19th Street, Arlington, VA 22209.

Categories of individuals covered by the system:

Self employed individuals, individuals heading companies bearing their names, the pledging officials representing various companies, or staff directors who have pledged to support the National Guard and Reserve components.

Categories of records in the system:

Name, address, geographic location, size, and business of pledging company.

Authority for maintenance of the system:

10 USC 136

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of the file is to assist in informing the public and encouraging employers to support the Guard and Reserve.

National Committee for Employer Support of the Guard and Reserve; used to answer inquiries from employees or prospective employees of companies concerning whether a company has pledged to support the Guard and Reserve; used by members of the advisory council to assist Guard and Reserve members who are experiencing difficulties with companies that have pledged; used as a screening tool to prevent re-solicitation of support from employers who have already pledged; used to supply state level organizations' lists of companies in state which have pledged; used to prepare speech and presrelease material mentioning companies that have pledged.

Any individual records in the system may be transferred to any component of the Department of Defense having a need to know in the performance of official business.

Records may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, and civil court action, or regulatory order.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic Computer Tape

Retrievability:

Retrieved by company name, geographic location, or type of business

Safeguards:

Primary location is a TOP SECRET facility.

Hard copy output is accessible to authorized personnel only during working hours; room is locked after hours and building has security guards.

Retention and disposal:

Records are permanent.

System manager(s) and address:

Chairman, National Committee for Employer Support of the Guard and Reserve, Room 907, 1117 North 19th Street, Arlington, VA 22209.

Notification procedure:

Information may be obtained from:
Chairman, National Committee for Employer Support of the Guard & Reserve
Room 907
1117 North 19th Street
Arlington, VA 22209
Telephone: 202-697-6902

Record access procedures:

Requests for information should be addressed to: Chairman, National Committee for Employer Supportof the Guard and Reserve, Room 907, 1117 North 19th Street, Arlington, VA 22209.

Written requests should contain the name of the individual and/or employer, current mailing addressand telephone number.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Information is supplied by employers who have pledged, from Dunn & Bradstreet, and from Census Data.

Systems exempted from certain provisions of the act:

None

DMRA&L 06.0

System name:

Department of Defense Priority Placement Program (STOPPER LIST)

System location:

Primary Location: Defense Electronics Supply Center, 1507 Wilmington Pike, Dayton, Ohio 45444

Decentralized locations: hard copy rosters/listing supplied every two weeks to all DoD Civilian Personnel Offices world-wide (approximately 500 locations) and to other personnel management activities.

Categories of individuals covered by the system:

Displaced career and career-conditional employees adversely affected by reductions-in-force or transfer of function; overseas nondisplaced career and career-conditional employees being returned to the U.S. All individuals in file must voluntarily initiate entry into the system.

Categories of records in the system:

File contains summary of occupational experience, education, training, age, sex, height and weight,marital status.

Authority for maintenance of the system:

Defense Electronics Supply Center, 1507 Wilmington Pike, Dayton, Ohio 45444.

Data are obtained from the individual himself, from his official

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Authority for maintenance of the system:

10 USC 136

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of the file is to assist displaced employees and overseas returnees in securing employment.

DoD Civilian Personnel Offices - used to assist activities in filling vacant positions and in assisting displaced employees and overseas returnees in obtaining employment.

DoD Activities: short resume of individual's background used in assessing qualifications for vacant positions.

Office of the Deputy Assistant Secretary of Defense, Civilian Personnel Policy - used for statistical analyses of civilian personnel employment trends and patterns and for establishing policy and for planning purposes; informing individuals in system of non-government job opportunities.

Other Federal Agencies: used in filling vacant positions.

Any individual records contained in the system might be transferred to any component of the Department of Defense having the need to know in the performance of official business.

Any record may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic computer tape

Retrievability:

Normally retrievable by occupation and grade.

Safeguards:

The primary location is identified as a secure area; access is through electrically controlled doors and cypher locks; tapes are stored in a vault when not in use.

Retention and disposal:

Records of displaced employees are maintained in the system for one year.

Records of overseas returnees are entered six months prior to return and are maintained until individual is placed in job or leaves the government. Initial input for records is hard copy, which is destroyed after tape record is created.

System manager(s) and address:

Director, Staffing Policies and Programs, Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy), Room 3D281, The Pentagon, Washington, D.C. 20301.

Notification procedure:

Information may be obtained from the Department of Defense Civilian Personnel Office where the individual registered to enter the system.

Record access procedures:

Written requests from individuals should be directed to the Department of Defense Civilian Personnel Office where the individual registered to enter the system and should include name and current mailing address and telephone number.

For personal visits, the individual should be able to present to the personnel office some acceptable identification, such as a driver's license or other ID card.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

The individual must take action to place his record in the system; information entered into the record is provided by the individual in writing or through employment counseling; additional information is obtained from the individual's official personnel file (201 file).

Systems exempted from certain provisions of the act:

None

DMRA&L 07.0

System name:

Department of Defense Overseas Employment Program

System location:

Defense Electronics Supply Center, 1507 Wilmington Pike, Dayton, Ohio 45444.

Categories of individuals covered by the system:

Career and career-conditional employees of the Federal Government and reinstatement eligible employees who desire overseas employment and voluntarily register.

Categories of records in the system:

File contains summary of occupational experience, education, training, age, sex, height and weight,marital status.

Authority for maintenance of the system:

10 USC 136

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of the system is to provide an automated applicant supply system for use in filling overseas job vacancies.

Department of Defense activities - the system is utilized to fill overseas job vacancies.

Other Federal Agency - the system is utilized to fill overseas job vacancies.

Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) - used for statistical analyses for policy, planning, and guidance; for evaluation of the effectiveness of the program, and for monitoring of activity compliance with the program.

Any individual records contained in the system might be transferred to any component of the Department of Defense having the need to know in the performance of official business.

Any record may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic Computer Tape.

Retrievability:

Retrieval by occupational skill and grade.

Safeguards:

The location is identified as a secure area; access is through electrically controlled doors and cypher locks; tapes are stored in a vault when not in use.

Retention and disposal:

Records remain in the system for one year or until the individual is placed in an overseas position; the individual is notified after eleven months that his registration is about to expire and is given the opportunity to re-register for another year.

System manager(s) and address:

Director, Staffing Policies and Programs, Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy), Room 3D281, The Pentagon, Washington, D.C. 20301.

Notification procedure:

Information may be obtained from the Department of Defense Civilian Personnel Office where the individual registered to enter the system.

Record access procedures:

Written requests from individuals should be directed to the Department of Defense Civilian Personnel Office where the individual registered to enter the system and should include name, current mailing address and telephone number.

For personal visits, the individual should be able to present to the personnel office some acceptable identification, such as driver's license or other ID card.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Information in the file is obtained from the individual, either in writing or through interviews with personnel counselors, and from his official personnel file (201 file).

Systems exempted from certain provisions of the act:

None

DMRA&L 08.0

System name:

Central Automated Inventory and Referral System (CAIRS)

System location:

Defense Electronics Supply Center, 1507 Wilmington Pike, Dayton, Ohio 45444

Categories of individuals covered by the system:

All Department of Defense General Schedule Civilian Employees GS-5 or higher and former employees terminated within a one-year period.

Categories of records in the system:

Name, home and work addresses, SSAN, educational background, work experience, grade and salary, occupation, age, special qualifications, awards, military reserve status, supervisory appraisals.

Authority for maintenance of the system:

10 USC 136

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of the system is to provide a list of eligible candidates qualified to fill position vacancies at GS-13 and higher level and to provide information for program analyses and management.

All DoD Civilian Personnel Offices and the components serviced by these offices are required to submit job vacancies in designated occupation series against CAIRS file for the generation of a listwith resumes of qualified candidates for consideration by selection panel and others.

Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) - used for statistical analyses of civilian work force, and management and evaluation of specific employment programs within the Department of Defense.

Any individual records contained in the system might be transferred to any component of the Department of Defense having the need to know in the performance of official business.

Any record may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic computer tape

Retrievability:

Retrievable by occupation, SSAN, name, special skills, educational background, or training background.

Safeguards:

The location is identified as a secure area; access is through electrically controlled doors and cypher locks; tapes are stored in a vault when not in use.

Retention and disposal:

Records are updated once per year for all individuals in the system or as new employees are hired. No historic records are maintained.

System manager(s) and address:

Director of Employment and Career Development, Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) Room 3D281, The Pentagon, Washington, D.C. 20301.

Notification procedure:

Information may be obtained from:

Director of Employment and Career Development
Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy)
Room 3D281
The Pentagon
Washington, D.C. 20301
Telephone: 202-695-0813

Record access procedures:

Written requests from individuals should be addressed to Director, Central Automated Inventory & Referral Center, Defense Electronics Supply Center, 1507 Wilmington Pike, Dayton, Ohio 45444.

For personal visits, the individual should be able to provide some acceptable identification, such as driver's license or other ID card.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Data are obtained from the individual himself, from his official personnel folder (201 file), from his SF-171, and from supervisory appraisals.

Systems exempted from certain provisions of the act:

None

DMRA&L 09.0

System name:

Defense Race Relations Institute (DRRI) Student File

System location:

Primary Location - Bldg. 986(MU811) Patrick AFB, FL 32925

Hard copy back-up file for students in active status, location is Tests and Measurement Division, Defense Race Relations Institute, Patrick AFB, Fla. 32925.

Hard copy back-up file for former students, the location is Research and Evaluation Division, Defense Race Relations Institute, Patrick AFB, Fla. 32925.

Categories of individuals covered by the system:

All current or former students at the Defense Race Relations Institute.

Categories of records in the system:

Life history summary, name, race, age, military organization, test and examination scores and forms, peer group and instructor ratings, advisor progress reports.

Authority for maintenance of the system:

10 USC 136

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of the file is to evaluate the progress of students enrolled at the Defense Race Relations Institute and to create a permanent record of academic accomplishment.

The Defense Race Relations Institute - used by advisors in counseling students; to verify attendance and grades to colleges and universities; to select instructors; to make decisions to release students from the program.

Used by students to evaluate their programs.

Any individual records in the system may be transferred to any component of the Department of Defense having the need to know in the performance of official business.

Records may be disclosed to law enforcement or investigatory authorities for investigations and possible criminal prosecution, civil court action, or regulatory order.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Primary file is magnetic computer tape.
Back-up files are paper records in file folders.

Retrievability:

Files are sequenced alphabetically by last name by class.

Safeguards:

Primary location is a controlled access area.
Back-up files - storage is in locked file cabinets. Only authorized personnel have access to files.

Retention and disposal:

Permanent

System manager(s) and address:

Director, Defense Race Relations Institute, Patrick AFB, Fla. 32925

Notification procedure:

Information can be obtained from:
Director, Defense Race Relations Institute
Patrick AFB, Fla. 32925
Telephone: 305-494-6976

Record access procedures:

Requests from individuals should be addressed to the Director, Defense Race Relations Institute, Patrick AFB, Fla. 32925

Written requests for information should contain the full name, current address and telephone number, and class of the individual.

For personal visits, the individual should be able to provide some acceptable identification, such as military ID card or driver's license.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned

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are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Information contained in the file is obtained from the individual or someone acting on his behalf, from the Services' investigation of the complaints.

Office of the Deputy Assistant Secretary of Defense (Reserve Affairs)

Retention and disposal:

No current criteria for disposition of reports.

are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Information is provided by the individual, student peers, instructors, counselors, and examinations.

Systems exempted from certain provisions of the act:

None

DMRA&L 10.0

System name:

Equal Opportunity Complaint File

System location:

Office of the Deputy Assistant Secretary of Defense (Equal Opportunity), Room 3E319, The Pentagon, Washington, D.C. 20301

Categories of individuals covered by the system:

Any individual who has filed or had filed on his behalf a discrimination complaint.

Categories of records in the system:

The letter or document initiating complaint, directions to services on investigating complaint, services' investigatory report, and copies of response to complainant.

Authority for maintenance of the system:

10 USC 136

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of the file is to cause action to be taken on discrimination complaints.

Office of the Deputy Assistant Secretary of Defense (Equal Opportunity) - used to answer queries concerning status or disposition of complaints, for assigning actions and reviewing actions on complaints, and for analyses of trends or patterns in discrimination complaints.

Records in the system may be transferred to any other Department of Defense component having the need to know in the performance of official business.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folder.

Retrievability:

Filed by first letter of last name for service and year.

Safeguards:

Kept in file drawer; building has security guards.

Retention and disposal:

Files are retained for one year in active status, one year in inactive status, and then destroyed.

System manager(s) and address:

Deputy Assistant Secretary of Defense (Equal Opportunity), Room 3E319, The Pentagon, Washington, D.C. 20301.

Notification procedure:

Information may be obtained from:
Deputy for Plans and Policy
Office of the Deputy Assistant Secretary of Defense (Equal Opportunity)
Room 3E319
The Pentagon
Washington, D.C. 20301
Telephone: 202-695-0107

Record access procedures:

Requests from individuals should be addressed to: Deputy for Plans and Policy, Office of the Deputy Assistant Secretary of Defense (Equal Opportunity), Room 3E319, The Pentagon, Washington, D.C. 20301.

Written requests for information should contain the full name of the individual, Service, current address, and telephone number.

For personal visits, the individual should be able to provide some acceptable identification such as a driver's license or other ID card.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and Administrative Instruction No. 81.

Record source categories:

Information contained in the file is obtained from the individual or someone acting on his behalf, from the Services' investigation of the complaints.

Systems exempted from certain provisions of the act:

None

DMRA&L 12.0

System name:

Reserve Components Common Personnel Data System (RCCPDS)

System location:

Air Force Data Service Center, Room 1D167, The Pentagon, Washington, D. C. 20330.

Back-up locations for processing: U.S. Army Management Systems Support Agency, Room BD972, The Pentagon, Washington, D. C. 20310.

W.R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93940.

National Military Command System Support Center, Room BE685, The Pentagon, Washington, D. C. 20331.

Categories of individuals covered by the system:

Any individual currently a member of any Reserve or National Guard component, and retired reservists.

Categories of records in the system:

File contains individual's Social Security Account Number, component, and other personnel information such as race, sex, rank, age, and length of service.

Authority for maintenance of the system:

10 U.S.C. 136.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of the file is to generate official statistics concerning Reserve Forces' strength, gains, losses and characteristics of the force.

Office of the Deputy Assistant Secretary of Defense (Reserve Affairs) - used to generate and disseminate official statistics. Individual records are used to provide aggregate statistical data.

Any individual record contained in the system may be transferred to any other Department of Defense Component having the need-to-know in the performance of official business.

Records may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

Records of Federal civilian employees who are reservists may be disclosed to Federal agencies for use in emergency mobilization planning. Records may be disclosed to the Civil Service Commission concerning pay benefits, retirement deductions, and other information necessary for the Commission to carry out its Government-wide personnel management functions.

Records may be disclosed to the Director, Selective Service System upon official request.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic computer tape.

Retrievability:

Records are retrievable by component, rank, age, sex, location, or other attributes, including Social Security Account Number.

Safeguards:

The primary location is a TOP SECRET facility. The U.S. Army Management Systems Support Agency is a TOP SECRET facility. The National Military Command Systems Support Center is a TOP SECRET facility. Tapes located at the W.R. Church Computer Center, Monterey, CA. are stored in a locked cage in machine room, which is a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

Retention and disposal:

Inventory files are current; quarterly history files for the master and transaction files are maintained on a permanent basis.

System manager(s) and address:

Deputy Assistant Secretary of Defense (Reserve Affairs), Room 3C980, The Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from:
Assistant Director, Reserve Personnel Program
Office of the Deputy Assistant Secretary of Defense (Reserve Affairs)
Room 3C980
The Pentagon
Washington, D. C. 20301.
Telephone: 202-697-0624.

Record access procedures:

Requests from individuals should be addressed to: Assistant Director, Reserve Personnel Program, Office of the Deputy Assistant Secretary of Defense (Reserve Affairs), Room 3C980, The Pentagon, Washington, D. C. 20301.

Written requests for information should contain the full name, Social Security Account Number, component, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license, or military or other ID card.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Data records are obtained from the six Reserve components.

Systems exempted from certain provisions of the act:

None

DMRA&L 15.0

System name:

Reports of Defense Related Employment.

System location:

Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), Pentagon, Washington, D.C. 20301.

Categories of individuals covered by the system:

Retired or former military officers in grades of major or lieutenant commander or above and former civilian officers and employees of the Department of Defense employed at or above the minimum salary of GS-13, who, during any of the first three years after termination of service or employment with the Department of Defense, are employed at fifteen thousand dollars or more per year by a Defense contractor who, during that year, was awarded contracts by the Department of Defense totaling ten million dollars. Also covered are current officers and employees of the Department of Defense employed at or above the minimum salary level of GS-13, who within the preceding three years were employed by such a Defense contractor.

Categories of records in the system:

Copies of report DD Form 1787 completed by individuals covered by the system and forwarded to the Department of Defense describing their employment with the Department of Defense and with the Defense contractor and a listing showing the names of individuals who submitted completed DD Form 1787.

Authority for maintenance of the system:

The system was established and is maintained as required by Public Law 91-121, section 410, approved November 19, 1969.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The records are available for public inspection in accordance with the specific terms of section 410(f) of Public Law 91-121. There is no limitation or restriction on use by the public of the information contained in the report.

Section 410 (d) of Public Law 91-121 requires the submission to the President of the Senate and Speaker of the House of Representatives by December 31 of each year of information in the reports submitted by individuals during the preceding Fiscal Year.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

In metal file cabinet.

Retrievability:

Alphabetical by name of individual.

Safeguards:

Maintained in unlocked file cabinet when not in use.

Retention and disposal:

No current criteria for disposition of reports.

System manager(s) and address:

The Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), Pentagon, Washington, D.C. 20301.

Notification procedure:

Any individual who desires to know whether a report DD Form 1787 submitted by him is on file may address a letter inquiry to the SYSMANAGER, Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), Pentagon, Washington, D.C. 20301. Inasmuch as the reports are available for public inspection no proof of identity is required.

Record access procedures:

On request of any individual the reports on file are made available for inspection in the office of the SYSMANAGER, Room 3C980, Pentagon, Washington, D.C.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

The individual submitting the DD Form 1787.

Systems exempted from certain provisions of the act:

None

DMRA&L 16.0

System name:

Retired Personnel Master File

System location:

Air Force Data Services Center, Room 1D167, Pentagon, Washington, D. C. 20330.

Categories of individuals covered by the system:

All retired military personnel and survivor beneficiaries, and reservists drawing retainer pay.

Categories of records in the system:

SSAN, birth date, retirement date, pay grade at retirement, amount of retired, survivor, or retainer pay, type of retirment, date of death (in cases of survivor beneficiary records), pension and benefits system elected, Service, years of active service.

Authority for maintenance of the system:

10 USC 136

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Actuary, Office of the Deputy Assistant Secretary of Defense (Military Personnel Policy), used for statistical purposes in estimating retired pay budgets, future retired populations, trends in retirement rates, costs or increases in retired pay; answer Congressional inquiries. U.S. Civil Service Commission to identify accurately retired military personnel who are Federal civilian employees; any individual record in the system may be transferred to any component of the Department of Defense having need to know in performance of official business.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic tape

Retrievability:

Records can be retrieved by SSAN, Service, age, etc.

Safeguards:

The Air Force Data Services Center is a TOP SECRET facility.

Retention and disposal:

Records are retained for eight weeks. Aggregated records produced from the individual record file are retained indefinitely.

System manager(s) and address:

Actuary, ODASD(MPP), Room 2C263, 202-697-1678, The Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from Actuary, ODASD(MPP), Room 2C263, The Pentagon, Washington, D. C. 20301. Telephone: 202-697-1678.

Record access procedures:

Requests from individuals should be addressed to: Actuary, ODASD(MPP), Room 2C263, The Pentagon, Washington, D. C.

The Agency's rules for access to records and for contesting contents and appealing initial determination by the individual concerned

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned

OCHAMPUS, DoD
Building 611, First Floor

Requests from individuals should be addressed to: Actuary, ODASD(MPP), Room 2C263, The Pentagon, Washington, D. C. 20301. Written requests for information should contain the full name, SSAN, and current address and telephone number of the requester. For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other ID card.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

The information is obtained from the Military Departments.

Systems exempted from certain provisions of the act:

None

DMRA&L 17.0

System name:

DOD Overseas Dependent School Teachers Retroactive Pay Project

System location:

DoD Office of Dependents Schools, OSD, 2461 Eisenhower Avenue, Alexandria, VA 22331.

Categories of individuals covered by the system:

All former DoD Overseas Dependents School teachers who were paid under Public Law 89-391, dated April 14, 1966.

Categories of records in the system:

System is comprised of names, Social Security Numbers, and Dates of Birth of former DOD overseas teachers, and information extracted from their Official Personnel Records which will effect computation of their retroactive pay; and current addresses of former teachers.

Authority for maintenance of the system:

Court Decision in the case called Virginia J. March et al., v. United States of America. (Civil Action 3437-70, U.S. District Court, District of Columbia, June 30, 1975), on intent of Public Law 89-391, dated April 14, 1966.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by Office of Overseas Dependents Education Back Pay Project workers to compute back pay as it applies to individual teacher; prepare necessary updating for individual's Official Personnel Record, life insurance entitlement where applicable; preparing reports to individual teachers, Treasury, Social Security, Civil Service Commission, Attorneys for the teachers, and General Accounting Office. Addresses will be used for mailing purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer tapes, computer printouts.

Retrievability:

Social Security Number and name.

Safeguards:

All records are stored under strict control; maintained in spaces normally accessible only to authorized personnel, in cabinets in locked room.

Retention and disposal:

Records will be maintained in this office until all requirements of the Judgment and will be destroyed when they are no longer useful.

System manager(s) and address:

Director, DoD Office of Dependents Schools, DASD, (Program Management), OSD.

Notification procedure:

Request by correspondence should be addressed Director, DoD Office of Dependents Schools, Attn: Back Pay Project, 2461 Eisenhower Avenue, Room 148, Alexandria, VA 22331. Telephone: 202-325-0660. Letter should contain the full name and signature of the requester.

Record access procedures:

Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determination by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Official Personnel Records obtained from Federal Records Center and other agencies currently employing individuals concerned.

Systems exempted from certain provisions of the act:

None

DMRA&L 18.0

System name:

Administrative Files (MRA&L)

System location:

Office of Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) (OASD(MRA&L)).

Categories of individuals covered by the system:

All civilian and military personnel assigned or detailed to OASD(MRA&L).

Categories of records in the system:

Files contain name, ceiling space number, position title, position number, GS rating or rank, SSN, date of birth, entered on duty date and projected loss date (for military personnel), education, primary experience area; planned retirement date (if known), recent awards, name of spouse, home address, office and home telephone numbers, records of travel order and payment vouchers

Authority for maintenance of the system:

Various provisions of 10 USC.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To control and accomplish administrative personnel actions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders
Visible file cards.
Loose leaf binders.
Telephone index containers.

Retrievability:

Filed alphabetically by last name.
Filed by ceiling space number.

Safeguards:

Building employs security guards. Records are maintained in offices that are staffed during all duty hours. Records accessible only to authorized OSD personnel

Retention and disposal:

Records are retained only for the period of time employee is assigned to OASD(MRA&L). Records are destroyed upon employee's departure from OASD(MRA&L).

System manager(s) and address:

The Administrative Officer, OASD(MRA&L), Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from:
OASD(MRA&L) (AD)
Room 3E787
Pentagon
Washington, D. C. 20301
Telephone: 202-695-5592.

Record access procedures:

Requests from individuals should be addressed to: OASD(MRA&L)(AD), Room 3E787, Pentagon, Washington, D. C. 20301

Written requests for information should contain the full name of the individual, current address and telephone number. Visits are limited to MRA&L Admin Office, Room 3E787, Pentagon, Washington, D. C. 20301.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, and give some verbal information that could be verified with the records that pertain to him.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Notification of Personnel Actions, SF-50, from the Director for Personnel and Security, Washington Headquarters Services, Department of Defense, OSD SF-171's submitted by individual employees, Notification of Incoming Personnel (military personnel only), Civilian Personnel Staffing Summary supplied by Director for Personnel and Security, Washington Headquarters Services, Department of Defense, T.O. as approved.

Systems exempted from certain provisions of the act:

None

DOCHA 01

System name:

Health Benefits File

System location:

Primary System-Directorate of Health Benefits (DHB), OCHAMPUS, DoD, Denver, Colorado 80240.

Decentralized Segment--Office of Appeals and Hearings, OCHAMPUS, DoD, Denver, Colorado 80240.

Categories of individuals covered by the system:

All individuals who seek health care under the Program for the Handicapped as CHAMPUS beneficiaries and/or under the basic program extended hospitalization as CHAMPUS/CHAMPVA beneficiaries.

Categories of records in the system:

Original correspondence with individuals, medical statements, congressional inquiries, medical treatment records, authorizations for care, case status sheets, memos for record, follow-up reports justifying extended care, correspondence with contractors and work-up sheets maintained by case workers, and appeals and hearings case files consisting of transcript and/or other documentation pertaining to reconsiderations or appeals of adverse determinations affecting an individual's benefits under CHAMPUS.

Authority for maintenance of the system:

Title 44, United States Code, section 3101; Title 41, Code of Federal Regulations, Parts 101-1100 et. seq.; Chapter 55, Title 10, United States Code.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The Office of the Civilian Health and Medical Program of the Uniformed Service (OCHAMPUS) uses the information to determine the eligibility of an individual for health care under CHAMPUS/CHAMPVA; to authorized payment of health care claims by CHAMPUS beneficiaries to respond to inquiries from congressional offices made at the request of the individual covered by the system; for referral to the Department of Justice and/or foreign law enforcement agencies for possible criminal prosecution; and for referral to the Secretary of the Department of Health, Education and Welfare and/or the Administrator of the Veterans' Administration consistent with their statutory administrative responsibilities as concerns CHAMPUS/CHAMPVA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed numerically by case number, then alpha, character in seventh digit family participants.

Safeguards:

Fitzsimons Army Medical Center (FAMC) provides security force. Records are maintained in areas accessible only to authorized personnel.

Retention and disposal:

Psychiatric cases are permanent; medical cases are held four years after closure and equipment cases are held two years after closure.

System manager(s) and address:

Director of Health Benefits (DHB), OCHAMPUS, DoD, Denver, Colorado 80240.

Notification procedure:

Information may be obtained from:
OCHAMPUS, DoD
Building 611, First Floor
Denver, Colorado 80240
Telephone: 303-341-8609

Record access procedures:

Requests from individuals should be addressed to: Directorate of Health Benefits (DHB), OCHAMPUS, DoD, Denver, Colorado 80240

Written requests for information should include the full name of the beneficiary, the full name of the sponsor, current address and telephone number. Written requests for information from medical records shall include the name and address of a physician who would be willing to receive the medical record and, at the physician's discretion, inform the individual covered by the system of the contents of that medical record.

For personal visits, the individual should provide some acceptable identification.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Records of fiscal intermediaries (FI),contractors, CHAMPUS advisors, all branches of the military service, Congressional inquiries, private physicians, consultants, inquiries made by individuals.

Systems exempted from certain provisions of the act:

None

DOCHA 03

System name:

Health Benefits Preapproval Files

System location:

Primary System - Data Automation Division, Directorate of Management Information Services, Office for the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), DoD, Denver, Colorado 80240.

Decentralized Segments-Office of Appeals and Hearings, OCHAMPUS, DoD, Denver, Colorado 80240; Blue Shield of California, P. O. Box 85035, San Diego, California 92138.

Categories of individuals covered by the system:

Eligible beneficiaries of the Civilian Health and Medical Program of the Uniformed Services who have been approved for medical care under the program for the handicapped and/or eligible beneficiaries of the Civilian Health and Medical Program-Veterans Administration (CHAMPVA) who have been approved for extended hospital care.

Categories of records in the system:

File contains an assigned case number, sponsors name, social security account number, current address, military grade or rank and pay status, military branch of service and status; beneficiaries name, address, date of birth, sex, relationship to sponsor; the medical diagnosis code and the approved medical treatment code, the approval period of time, the number of units approved and the estimated unit of cost, providers of care codes and/or name and address of multi-providers, and appeals and hearing case files consisting of hearing transcripts and/or other documentation pertaining to reconsiderations and appeals of adverse determinations affecting on individual's benefits under CHAMPUS.

Authority for maintenance of the system:

44 USC 3101, 41 CFR 101-1100 et seq., Chapter 55, Title 10, USC.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

OCHAMPUS Directorate of Health Benefits (DHB)-For approval of medical care under the provisions of the Program for the Handicapped of CHAMPUS and/or approval for extended hospitalization; to control and review health care management plans for beneficiaries approved for medical care by providers of service.

OCHAMPUS Directorate of Management Information Services-For control and accomplishment of reviews of approvals; to coordinate subject matter clearances for congressional committees and auditors.

The Office of the Civilian Health and Medical Program of the Uniformed Service (OCHAMPUS) uses the information for approval of health care under the Program for the Handicapped; for approval of extended hospital care; to control and review health care management plans of providers of services for individuals approved for

health care; to respond to inquiries from congressional offices made at the request of the individual covered by the system; for referral to

California Blue Shield, P. O. Box 85035, San Diego, CA 92138 (Dental)

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

marital status and dates of beneficiary, number of dependents of sponsor, primary unit duty location of sponsor, race and ethnic origin of beneficiary, occupation of beneficiary, rank/pay grade of sponsor.

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health care; to respond to inquiries from congressional offices made at the request of the individual covered by the system; for referral to the Secretary of the Department of Health, Education and Welfare and/or the Administrator of the Veterans Administration consistent with their statutory administrative responsibilities as concerns CHAMPUS/CHAMPVA; and for referral to the Department of Justice and/or foreign law enforcement agencies for possible criminal prosecution.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are maintained on magnetic tape and disk.

Retrievability:

Information is retrieved by assigned case number, sponsor's social security account number (SSAN), sponsor's or beneficiaries' name, classification of medical diagnosis or medical treatment codes or provider of service code or approval dates or geographical location.

Safeguards:

Records are maintained in areas accessible to authorized personnel. Records are maintained on magnetic tape readable through the medium of OCHAMPUS prepared computer programs. Military policy security and manned 24 hours daily.

Retention and disposal:

Records are permanent. They are maintained on magnetic tape as individual annual files.

System manager(s) and address:

Director, Office for the Civilian Health and Medical Program of the Uniformed Services, ATTN: Director of Management Information Services, Denver, Colorado 80240.

Notification procedure:

Information may be obtained from:

Director of Management Information Services
Office for the Civilian Health and Medical Program of the Uniformed Services
Denver, Colorado 80240
Telephone: 303-341-8005

Record access procedures:

Requests from individual should be addressed to: Director, Office for the Civilian Health and Medical Program of the Uniformed Services, ATTN: Director of Management Information Services, Denver, Colorado 80240.

Written request for information should contain full name of individual, sponsor's social security account number and the visits are limited to Directorate of Management Information Services, OCHAMPUS, Denver, Colorado 80240.

For personal visits, the individual should be able to provide a Uniformed Services identification card and a driver's license or other positive identification.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Sponsors application, provider of medical care statement.

Systems exempted from certain provisions of the act:

None

DOCHA 07

System name:

Medical Claim History Files

System location:

Primary System - Data Automation Division, Directorate of Management Information Services, Office for the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), DoD, Denver, Colorado 80240.

Decentralized Segments - Office of Appeals and Hearings, (OCHAMPUS), DoD, Denver, Colorado 80240; Fiscal Intermediaries/Contractors under contract to OCHAMPUS. Each company listed below maintains claim files on beneficiaries in their respective geographical areas.

Mutual of Omaha Insurance Company, 3301 Dodge Street, Omaha, NB 68131

California Blue Shield, P. O. Box 85020, San Diego, CA 92138

California Blue Shield, P. O. Box 85035, San Diego, CA 92138 (Dental)

Hawaii Medical Service Association, P. O. Box 860, Honolulu, HI 96808

Maryland Blue Shield, Inc., 700 East Joppa Road, Towson, MD 21204

Blue Shield of Massachusetts, Inc., P. O. Box 2194, Boston, MA 02106

Blue Shield of Michigan, 600 Lafayette East, Detroit, MI 48226

Blue Cross/Blue Shield of Mississippi, Inc., P. O. Box 1043, Jackson, MS 39205

Dikewood Industries, Inc., 1009 Bradbury Drive, S.E., University Research Park, Albuquerque, New Mexico 87106

Blue Cross/Blue Shield of North Carolina, P. O. Box 2291, Durham, NC 27702

Blue Shield of Pennsylvania, Blue Shield Building, Box 65, Camp Hill, PA 17011

Blue Cross of Rhode Island, One Weybosset Hill, Providence, RI, 02901

Blue Cross/Blue Shield of Tennessee, Blue Cross Building, 801 Pine Street, Chattanooga, TN 37402

Blue Cross of Southwestern Virginia, P. O. Box 13828, Roanoke, VA 24001

Wisconsin Physicians Service, P. O. Box 1787, Madison, WI 53701

Categories of individuals covered by the system:

Eligible beneficiaries of the Civilian Health and Medical Program of the Uniformed Services (Dependents of Active Duty Members of the Uniformed Services, retired members of the Uniformed Services and dependents of retired or deceased members of the Uniformed Services) eligible beneficiaries of the Civilian Health and Medical Program of the Veterans Administration (spouse or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability or surviving spouse or child of a veteran who has died as a result of a service-connected disability) who received benefits under the provisions of the program.

All individuals who seek health care under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) and the Civilian Health and Medical Program-Veterans Administration (CHAMPVA).

Categories of records in the system:

File contains sponsor's Social Security Account Number/Service Number, branch of service, status (active duty, retired or deceased), beneficiary's last name, initials, age, sex, relationship to sponsor, type of costs and date of medical care provided, provider of care identification, and appeals and hearing case files consisting of hearing transcripts and/or other documentation pertaining to reconsiderations or appeals of adverse determinations of benefits under CHAMPUS.

Authority for maintenance of the system:

Title 44, United States Code 3101; Title 41, Code of Federal Regulations, Parts 101-1100 et. seq.; Chapter 55, Title 10, United States Code.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The Office of the Civilian Health and Medical Program of the Uniformed Services and CHAMPUS contractors use the information to control and process medical claims for payment; for control and approval of medical treatments and interface with providers of health care; to control and accomplish reviews of utilization; for review of claims related to possible third party liability cases and initiation of recovery actions; for referral to Peer Review Committees or similar professional review organizations to control and review providers of health care; for disclosure to third party contacts without the consent of the individual to whom the information pertains in situations where the party to be contacted has, or is expected to have, information necessary to establish the validity of evidence or to verify the accuracy of information presented by the individual concerning the individual's egibility to benefits under CHAMPUS/CHAMPVA, the amount of benefit payments, any review of suspected abuse or fraud, or any concern for program integrity or quality appraisal; for the issuance of deductible certificates, to respond to inquiries from congressional officies made at the request of the individual covered by the system; for referral to the Secretary of the Department of Health, Education and Welfare and/or the Administrator of the Veterans Administration consistent with their statutory administrative responsibilities under CHAMPUS/CHAMPVA; for referral to the Department of Justice and/or foreign law enforcement agencies for investigation and possible criminal prosecution; and, for referral to the Department of Justice for representation of the Secretary of Defense in civil actions.

SEP 20 1978

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are maintained on magnetic tape and disc.

Retrievability:

Information is retrieved by sponsor's Social Security Account Number (SSAN), beneficiaries last name, classification of medical diagnosis or procedure codes or geographical location of care provided and selected utilization limits.

Safeguards:

Records are maintained in areas accessible to authorized personnel. Records are maintained on magnetic tape readable through the medium of OCHAMPUS prepared computer programs. Military Policy Security and manned 24 hours daily.

Retention and disposal:

Records are permanent. They are maintained on magnetic tape as individual annual files.

System manager(s) and address:

Director, Office for the Civilian Health and Medical Program of the Uniformed Services, ATTN: Director of Management Information Services, Denver, Colorado 80240.

Notification procedure:

Information may be obtained from:

Director of Management Information Services
Office for the Civilian Health and Medical Program of the Uniformed Services
Denver, Colorado 80240
Telephone: 303-341-8005

Record access procedures:

Requests from individual should be addressed to: Director, Office for the Civilian Health and Medical Program of the Uniformed Services, ATTN: Director of Management Information Services, Denver, Colorado 80240.

Written requests for information should contain full name of individual, sponsor's Social Security Account Number and personal visits are limited to Director of Management Information Services, OCHAMPUS, Denver, Colorado 80240. Written requests for information from medical records shall include the name and address of a physician who would be willing to receive the medical record and, at the physician's discretion, inform the individual covered by the system of the contents of that medical record.

For personal visits, the individual should be able to provide a Uniformed Services Identification Card and a driver's license or other positive identification.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

CHAMPUS Medical Claims Forms, private physicians, hospitals, and other sources of care.

Systems exempted from certain provisions of the act:

None

DOCHA 08

System name:

DOD Health Services Enrollment/Eligibility System.

System location:

Tri-Service Medical Information System (TRIMIS) Project Office, Pentagon, Washington, D.C. 20301, and various contractual facilities.

Categories of individuals covered by the system:

Active duty Armed Forces personnel and their dependents; retired Armed Forces personnel and their dependents; surviving dependents of deceased active duty or retired personnel; Coast Guard personnel and their dependents; Public Health Service (PHS) personnel (Commissioned Corps) and their dependents; and National Oceanic and Atmospheric Administration (NOAA) employees (Commissioned Corps) and their dependents.

Categories of records in the system:

File contains beneficiary's name, Service Number of sponsor, enrollment number, relationship of beneficiary to sponsor, residence address if beneficiary (includes zip code), date of birth of beneficiary, sex of beneficiary, branch of service of sponsor, dates of eligibility, marital status and dates of beneficiary, number of dependents of sponsor, primary unit duty location of sponsor, race and ethnic origin of beneficiary, occupation of beneficiary, rank/pay grade of sponsor.

Authority for maintenance of the system:

Chapter IV, Title 10, United States Code, Section 136: 1969 Pub. L. 91-121, section 404(A) (2), 'Establishment of the Assistant Secretary of Defense for Health Affairs'; the Presidentially Commissioned Department of Defense, Department of Health, Education and Welfare, Office of Management and Budget Report of the Health Care Study (completed December 1975); Memorandum; 'Establishment of DOD Health Council,' dated December 28, 1976, and the DOD Appropriations Bill for FY 1976.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Offices of the Surgeons General of the Army, Navy and Air Force for determination of eligibility to receive health care benefits from the Uniformed Health Services Delivery System.

Office of Civilian Health and Medical Program of the Uniformed services (OCHAMPUS), for determination of eligibility to receive health care benefits and to receive reimbursement for health care services claimed under CHAMPUS.

Office of the Assistant Secretary of Defense (Health Affairs) and the Offices of Surgeons General of the Army, Navy and Air Force, for the conduct of health care studies and research on a longitudinal basis, and for planning, management and allocation of medical resources.

Offices of the Surgeons General of the Army, Navy and Air Force, and OCHAMPUS for dissemination of health care information.

Department of Health, Education and Welfare; Veterans Administration; Federal Preparedness Agency and Commerce Department for the conduct of health care studies and for the planning and allocation of medical resources. Data will be provided to State and local government health planning agencies to assist in the determination and allocation of health resources. The data will include summary data on ages, sex, residence, and other demographic parameters.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are maintained on magnetic tapes and discs housed in a controlled computer media library.

Retrievability:

Records about individuals are retrieved by an algorithm to be determined by contractor which uses name, enrollment number, which is not Social Security Number, date of birth, rank and duty location as possible inputs.

Retrievals are made on a summary basis by geographic location and demographic characteristics. Information about individuals will not be distinguishable in such summary retrievals.

Retrievals for the purposes of generating address lists for direct mail distribution of health care information may be made using selection criteria based on geographic and demographic keys.

Safeguards:

Computerized records are maintained in a controlled area accessible only to authorized personnel. Entry to these areas shall be restricted to those personnel with a valid requirement and authorization to enter. Physician entry shall be restricted by the use of locks, guards, administrative procedures (e.g., fire protection regulations). Exits used solely for emergency situations shall be secured to prevent unauthorized intrusion.

Personal data stored at a separate location for backup purposes shall be afforded protection at least comparable to the protection provided at the primary location.

Requirements for protection of information are binding on contractors or their representative and are subject to the following minimum standards:

Restrict access to personal information to those who require the records in the performance of their official duties, and to the individual who is the subject of the record or authorized representative. Access to personal information shall be restricted by the use of passwords which are changed periodically.

Insure that all whose official duties require access to, or processing and maintenance of, personal information are trained in the proper safeguarding and use of such information.

Retention and disposal:

Computerized records on an individual are maintaimed as long as the individual is legally eligible to receive health care benefits from the Uniformed Health Services Delivery System. The records are maintained for two (2) years after termination of eligibility.

Records may be disposed of or destroyed only in accordance with DoD Component record management regulations which conform to the controlling disposition of such material as set forth in 44 U.S.C. 3301-3314. Non-record material containing personal information and other material of similar temporary nature, shall be destroyed as soon as its intended purpose has been served under procedures established by the Head of the DoD Component consistent with the following requirement. Such material shall be destroyed by tearing, burning, melting, chemical decomposition, pulping, pulverizing, shredding, or mutilation sufficient to preclude recongition or reconstruction of the information.

System manager(s) and address:

Director, Health Systems Planning, Office of the Assistant Secretary of Defense (Health Affairs), Room 3D200, Pentagon, Washington, D.C. 20301.

Notification procedure:

Information may be obtained from Director, Tri-Service Medical Information System Program Office, Office of the Assistant Secretary of Defense (Health Affairs), Room 3E182, Pentagon, Washington, D.C. 20301.

Record access procedures:

Requests from individuals should be addressed to: Director, Tri-Service Medical Information System Program Office, Office of the Assistant Secretary of Defense (Health Affairs), Room 3E182, Pentagon, Washington, D.C. 20301.

Written requests for the information should contain full name of individual and sponsor if applicable and other attributes required by previously mentioned search algorithm.

Visits are limited to: Director, Tri-Service Medical Information System Program Office, Office of the Assistant Secretary of Defense (Health Affairs), Room 3E182, Pentagon, Washington, D.C. 20301.

For personal visits the individual should be able to provide a data element required to satisfy the previously mentioned algorithm.

Identification should be corroborated with a driver's license or other positive identification.

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Military Department's personnel and financial pay systems.

Systems exempted from certain provisions of the act:

None

DPA DDLA 02

System name:

Biography File

System location:

Directorate for Defense Information, Office of Assistant Secretary of Defense (Public Affairs)

Categories of individuals covered by the system:

Military and Civilian members of the Department of Defense

Categories of records in the system:

Biographical information prepared and approved for public release

Authority for maintenance of the system:

Title 10, United States Code, Section 136

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To respond to public and news-media interest, and for record purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper files in paper containers

Retrievability:

By name

Safeguards:

Accessible to authorized personnel

Retention and disposal:

Permanent. Retain one copy permanently, destroy remaining copies when superseded.

System manager(s) and address:

Assistant Secretary of Defense (Public Affairs), The Pentagon, Washington, D. C. 20301

Notification procedure:

Information may be obtained from:
Director for Defense Information
Office of the Assistant Secretary of Defense (Public Affairs)
Room 2E765, The Pentagon
Washington, D. C. 20301
Telephone: 202-695-3886

Record access procedures:

Requests should be addressed to:
Office of the Assistant Secretary of Defense (Public Affairs)
The Pentagon
Washington, D. C. 20301

Contesting record procedures:

The Agency's rules for access to records, and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Military Services and Civil Service Offices

Systems exempted from certain provisions of the act:

None

DPA DFOLA 05

System name:

Freedom of Information Program Case Files

System location:

Primary system: Directorate for Freedom of Information and Security Review, Office of Assistant Secretary of Defense (Public Affairs)

Decentralized segments: Under Secretaries of Defense, Assistant Secretaries of Defense, Assistants to the Secretary of Defense, or equivalent, the Organization of the Joint Chiefs of Staff, and other activities assigned to Office Secretary of Defense for administrative support.

Categories of individuals covered by the system:

Any citizen who makes a request for records under the Freedom of Information Program to the Office of the Secretary of Defense, Organization of the Joint Chiefs of Staff, or activity assigned to Office Secretary of Defense for administrative support.

Categories of records in the system:

Name, firm, address of individual requester, identification of records requested, dates and summaries of action taken, and documents for establishing collectable fees and processing cost to the government.

Names, titles or positions of each person primarily responsible for an initial or final denial on appeal of a request for a record.

The results of any disciplimary proceeding, including an explanation of a decision not to discipline, that was initiated against an officer or employee because a court determined arbitrary of capricious action.

Authority for maintenance of the system:

Title 5, United States Code, Section 552, The Freedom of Information Act, as amended by Public Law 93-502.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Primary system and decentralized segments are used by officials in the locations described above to administratively control requests to insure compliance with Public Law 93-502, and to research historical data on release of records so as to facilitate conformity in subsequent actions.

Primary system used for development of annual report data required by Public Law 93-502 and to compute processing costs to the government, and other management data such as, but not limited to number of requests, type or category of records requested, average processing time, average cost to requester, percentage of denials, and number of denials by exemption.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer magnetic disks, computer paper printout, index file cards, and paper records in file folders.

Retrievability:

Filed by request number and retrieval by name, subject material (to include dates) and request number using conventional indices.

Safeguards:

Paper records are maintained in security containers with access only to officials whose access is based on requirements of assigned duties. Computer access is by verification of Identification codes; one for search and another for maintenance.

Retention and disposal:

Annual departmental reports are permanent records. All other reports and files, other than appeal and control files, may be destroyed two to five years after reply, depending on document status. Appeal files are destroyed four years after final determination, or three years after final adjudication, whichever is later. FOIA control files are destroyed five years after date of last entry. Official file copies of records are disposed of in accordance with approved departmental disposition instructions or with related FOIA request, whichever provides the later disposal date.

System manager(s) and address:

Assistant Secretary of Defense (Public Affairs), the Pentagon, Washington, D. C. 20301

Notification procedure:

Information may be obtained from:
Director, Freedom of Information and Security Review, Office, Assistant Secretary of Defense (Public Affairs)
Room 2C757, the Pentagon
Washington, D. C. 20301
Telephone: 202-697-1180

Record access procedures:

Requests from individuals should be addressed to:
Director, Freedom of Information and Security Review
Office, Assistant Secretary of Defense (Public Affairs)
Room 2C757, the Pentagon
Washington, D. C. 20301

Requests should include full name, address and affidavit or identification which is required for release of record. Personal visits are restricted to Room 2C757. Individual should be able to present acceptable identification; that is, driver's license or comparable identity card.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Requests for records originating from citizens under the Freedom of Information Act and subsequent data provided by form and memorandum by officials who hold the requested records, act upon the request, or who are involved in legal action stemming from action taken.

Systems exempted from certain provisions of the act:

None

DPA DXA.A 07

System name:

Personnel Files

System location:

Office of the Executive Assistant to the Assistant Secretary of Defense (Public Affairs) with partial files in the Offices of the Directors for Defense Information, Community Relations, and Freedom of Information and Security Review.

Categories of individuals covered by the system:

Military and Civilian personnel assigned to the Office of the Assistant Secretary of Defense (Public Affairs)

Categories of records in the system:

Partial file containing copies of material contained in each individual's master personnel record. This system contains name, address, telephone number, social security number, rank or grade, position held, temporary assignments, and other related papers pertaining to present assignment.

Authority for maintenance of the system:

Title 10, United States Code, Section 136

Routine uses of records maintsained in the system, including categories of users and the purposes of such uses:

Used by The Assistant Secretary of Defense (Public Affairs) and his immediate assistants to assign personnel to duties, to maintain manning levels in timely fashion, and to provide information to each individual as required.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders

Retrievability:

By name

Safeguards:

Records are maintained in locked file cabinet with access only to officials who are involved in personnel actions.

Retention and disposal:

Records are maintained while individual is assigned to Office, Assistant Secretary of Defense (Public Affairs), and for three years thereafter and are then destroyed.

System manager(s) and address:

Assistant Secretary of Defense (Public Affairs), The Pentagon, Washington, D. C. 20301

Notification procedure:

Information may be obtained from:
Executive Assistant
Office of Assistant Secretary of Defense (Public Affairs)
Room 2E813, The Pentagon
Washington, D. C. 20301
Telephone: 202-697-0792

Record access procedures:

Requests from individuals should be addressed to:
Office of the Assistant Secretary of Defense (Public Affairs)
The Pentagon
Washington, D. C. 20301

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Central personnel files of the Military Services or the United States Civil Service

Systems exempted from certain provisions of the act:

None

DPA DXA.D 10

System name:

Privacy Act Request for Access Files

System location:

Primary System-Directorate for Freedom of Information and Security Review, Office of the Assistant Secretary of Defense (Public Affairs), Washington, D. C. 20301.

Decentralized Segments-Offices of the Under Secretaries of Defense, Assistant Secretaries of Defense, Assistants to the Secretary of Defense, or equivalent, the Organization of the Joint Chiefs of Staff, and other activities assigned to the Office of the Secretary of Defense for administrative support.

Categories of individuals covered by the system:

Any citizen who makes a request for access to records under the Privacy Act to the Office of the Secretary of Defense, Organization of the Joint Chiefs of Staff, or activity assigned to the Office of the Secretary of Defense for administrative support. Requests from the public for amendment of records, other questions concerning the Privacy Act, and matters pertaining to Privacy Act Program management are acted upon by the Records Administrator, Office of the Secretary of Defense, Room 5C315, Pentagon, Washington, D. C. 20301.

Categories of records in the system:

Name, firm, address, and other personal identifiers of the individual requester, identification of records requested, dates and summaries of action taken, and related documents associated with processing

requests. In addition, names, titles or positions of each person primarily responsible for action on requests for records. Results of follow-on action, if any, to include request for review, refusal of the

10 USC 136, and Department of Defense Directive 5160.55, 'Defense Systems Management College,' January 5, 1977.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of the file is to provide for the administration of and a

Categories of individuals covered by the system:

All current and former students of the Defense Systems Management College (DSMC).

requests. In addition, names, titles or positions of each person primarily responsible for action on requests for records. Results of follow-on action, if any, to include request for review of refusal of the individual's request.

Authority for maintenance of the system:

Title 5, U.S.C. 552a, the Privacy Act of 1974, Public Law 93-579.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Files are used by officials in the locations described above to control administratively requests to insure compliance with Public Law 93-579, and to research historical data for annual report statistics and other management information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Index file cards and paper records in file folders.

Retrievability:

Filed chronologically by request number and retrieved by name and/or request number using conventional indices and cross-references.

Safeguards:

Records are maintained in security containers with access only to officials whose access is based on requirements of assigned duties.

Retention and disposal:

Files are kept for five years after date of reply in denial cases which are not appealed. Appealed cases are kept 4 years after final determination or 3 years after final adjudication by the courts whichever is later. Where access is granted, files are destroyed after two years.

System manager(s) and address:

Assistant Secretary of Defense (Public Affairs), Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from the Director, Freedom of Information and Security Review, Office of the Assistant Secretary of Defense (Public Affairs), Room 2C757, Pentagon, Washington, D. C. 20301. Telephone: Area Code 202/697-1180.

Record access procedures:

Requests from individuals should be addressed to the office stated above and should include full name, address, and notarized signature. For personal visits, individuals should be able to present acceptable identification; that is, driver's license or comparable identity card.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Requests for access to records--under the Privacy Act--originating from citizens, and subsequent data provided by officials who hold the requested records, act upon the request, and who are involved in the review of denials of the requests.

Systems exempted from certain provisions of the act:

None

DSMC-01

System name:

Defense Systems Management College (DSMC) Personnel Information Files

System location:

Administration Division, Defense Systems Management College (DSMC), Ft. Belvoir, Va. 22060.

Systems Management Department, Defense Systems Management College, Building 202, Ft. Belvoir, Va. 22060.

Categories of individuals covered by the system:

Military and civilian personnel assigned or attached to the Defense Systems Management College.

Categories of records in the system:

Data includes summary of occupational experience, education, training, security clearance, home address, home telephone number, dependent status, awards and decorations, promotion status, pay status.

Authority for maintenance of the system:

10 USC 136, and Department of Defense Directive 5160.55, 'Defense Systems Management College,' January 5, 1977.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Supervisory officials to obtain information on which to base decisions.

Assigned Personnel Management Technicians for accomplishment of records maintenance and personnel services to individuals assigned and attached.

For publication of biographical data booklets, personnel rosters, telephone directories, and organizational charts by the Administrative Officer.

Information from records contained in the system may be provided to any component of the Department of Defense.

Disclosure to law enforcement or investigative authorities for investigations and possible criminal prosecution, civil court action, or regulatory order.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Primary files are paper records in file folders and punched cards.

Retrievability:

Filed alphabetically by last name.

Safeguards:

Building is locked during nonbusiness hours.

File storage is in locked file cabinets. Only authorized personnel have access to files.

Retention and disposal:

Files are retained for one year after individual transfers, separates or retires; then are destroyed.

System manager(s) and address:

Chief, Administration Division, Defense Systems Management College, Ft. Belvoir, Va. 22060.

Notification procedure:

Information may be obtained from the SYSMANAGER. Telephone: 703-664-3118.

Record access procedures:

Requests from individuals should be addressed to: Commandant, Defense Systems Management College, ATTN: Chief, Administration Division, Building 202, Ft. Belvoir, Va. 22060.

Written requests for information should contain the full name, current address of the individual.

For personal visits, the individual must provide acceptable identification, such as ID card or driver's license.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Data is obtained from the individual, from official personnel folders (201 Files), from Standard Form 171, and from supervisory officials.

Systems exempted from certain provisions of the act:

None

DSMC-02

System name:

Defense Systems Management College (DSMC) Student Files

System location:

Office of the Registrar, Defense Systems Management College (DSMC), Building 202, Ft. Belvoir, Va. 22060.

Categories of individuals covered by the system:

All current, former, and nominated students of the Defense Systems Management College (DSMC).

Categories of records in the system:

Data includes name, dependent data, SSAN, career brief application form, security clearance, college transcripts, correspondence, DSMC grades, instructor and advisor evaluations, education reports, official orders, current address, and individual's photograph.

Authority for maintenance of the system:

10 USC 136, and Department of Defense Directive 5160.55, 'Defense Systems Management College,' January 5, 1977.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of the file is to provide for the administration of and a record of academic performance of current, former and nominated students.

Used by College officials to verify attendance and grades; to select instructors; to make decisions to admit students to programs and to release students from programs; to serve as basis for studies to determine improved criteria for selecting students; to develop statistics relating to duty assignments and qualifications.

Preparation by the Registrar of locator directories of current and former students which are disseminated to students, former students and other appropriate individuals and agencies for purpose of administration.

Preparation by College officials of student biographical booklets, student rosters, and press releases of student graduations.

Information contained may be reported to any agency of the Department of Defense having an official requirement for the information.

Records may be disclosed to law enforcement or investigatory authorities for investigations and possible criminal prosecution, civil court action, or regulatory order.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Files are sequenced alphabetically by last name by class and course. Locator cards are filed alphabetically in two categories: active students (by course) and former students.

Safeguards:

Records are maintained in locked cabinets, in an area accessible only to authorized personnel. Building is locked during non-business hours.

Only individuals designated as having a need for access to files by the System Manager are authorized access to information in the files.

Retention and disposal:

Records are permanent.

System manager(s) and address:

Registrar, Defense Systems Management College, Building 202, Ft. Belvoir, Va. 22060.

Notification procedure:

Information can be obtained from SYSMANAGER. Telephone: 703-664-3120

Record access procedures:

Requests from individuals should be addressed to: Commandant, Defense Systems Management College, ATTN: Chief, Administration Division, Building 202, Ft. Belvoir, Va. 22060.

Written requests for information should contain the full name, current address and telephone number, and course and class of individual.

For personal visits, the individual must provide acceptable identification, such as ID card or driver's license.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Information is provided by the individual, supervisors, employers, instructors, advisors, examinations, and official military records.

Systems exempted from certain provisions of the act:

None

DSMC-03

System name:

Defense Systems Management College (DSMC) Track Record System

System location:

Primary Location - Computer Sciences Corporation, Information Network Division, 650 North Sepulveda Bouvelard, El Segundo, Ca. 90245.

Hard copy back-up files and punched card back-up files located in Systems Management Department, Defense Systems Management College, Building 202, Ft. Belvoir, Va. 22060.

Categories of individuals covered by the system:

All current and former students of the Defense Systems Management College (DSMC).

Categories of records in the system:

Files contain name, SSAN, marital status, sex, date of birth, nickname, professional society membership, spouse's name, children's names, accompanied status, years of service, promotion history, job or assignment history, current years of service, current assignment code, military or civilian occupational code, DSMC assignment status, security clearance, current business telephone numbers, retirement status, educational history, class at DSMC, Grade Point Average (GPA), functional course grades, graduation status, individual survey responses, awards and recognition.

Authority for maintenance of the system:

10 USC 136, and Department of Defense Directive 5160.55, 'Defense Systems Management College,' January 5, 1977.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purposes of the system are to assemble career information on current and former students of DSMC in order to provide data to enable DSMC to monitor utilization of former students; to enable DSMC to perform research to assist in refinement of student selection criteria; to provide a data base to research for the improvement of program management; to provide a system for generating student transcripts; and to provide a data base for the DSMC Mailing List System, student and graduate registers.

The Defense Systems Management College - Used in assessing incoming student experience and educational levels; to produce student registers; to monitor utilization of former students by DoD Components; to verify and consolidate measures of student performance, to produce student transcripts which may be required by former students in her/his later educational process; to perform research into the success of former students; to provide input into the DSMC Mailing List System in order to mail surveys, newsletters and other items of interest to former students including graduate registers; to perform research to improve program management.

Computer Sciences Corporation - mounts tapes and disc packs which contain files and operates the system; does not maintain the system.

Individual records in a system of records might be transferred to any component of the Department of Defense (except GPA, functional course grades and individual survey responses).

Individual records of civilian industry students or former students might be transferred to the corporation sponsoring the individual (except GPA, functional course grades and individual survey responses).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Primary file is magnetic disc.

Back-up files are magnetic computer tape and punched cards.

Hard copy back-up files are paper records in file folders.

Retrievability:

Files are sequenced by Social Security Account Number.

Safeguards:

Primary location is a controlled access area.

Operator personnel are screened and cleared in accordance with Government Services Administration contract procedures.

Access to magnetic disc and computer tapes requires computer phone number, user ID, password and project code which are only accessible to personnel authorized by the System Manager.

Back-up file storage is in a building which is locked during non-business hours and is located on a military installation.

Only individuals designated as having a need for access to files by the Systems Manager are authorized access to information in the files.

Retention and disposal:

Records are permanent.

System manager(s) and address:

Director, Department of Plans and Curriculum Development, Defense Systems Management College, Building 202, Ft. Belvoir, Va. 22060.

Notification procedure:

Information may be obtained from the SYSMANAGER. Telephone: 703-664-2017.

Record access procedures:

Requests from individuals should be addressed to: Commandant, Defense Systems Management College, ATTN: Chief, Administration Division, Building 202, Ft. Belvoir, Va. 22060.

Written requests for information should contain the full name, current address and telephone number, and course and class of individual.

For personal visits, the individual must provide acceptable identification, such as ID card or driver's license.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Information is provided by the individual, supervisors, employers, instructors, advisors, examinations, and official military records.

Systems exempted from certain provisions of the act:

None

DSMC-04

System name:

Defense Systems Management College (DSMC) Publications Mailing List

System location:

Primary Location - Computer Sciences Corporation, Information Network Division, 650 North Sepulveda Bouvelard, El Segundo, Ca. 90245.

Hard copy back-up files and punched card back-up files located in Systems Management Department, Defense Systems Management College, Building 202, Ft. Belvoir, Va. 22060.

Categories of individuals covered by the system:

Individuals who have requested publications from the Defense Systems Management College (DSMC).

Categories of records in the system:

Files contain name, SSAN, marital status, sex, date of birth, nickname, professional society membership, spouse's name, children's names, accompanied status, years of service, promotion history, job or assignment history, current years of service, current assignment code, military or civilian occupational code, DSMC assignment status, security clearance, current business telephone numbers, retirement status, educational history, class at DSMC, Grade Point Average (GPA), functional course grades, graduation status, individual survey responses, awards and recognition.

Authority for maintenance of the system:

10 USC 136, and Department of Defense Directive 5160.55, 'Defense Systems Management College,' January 5, 1977.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purposes of the system are to assemble career information on current and former students of DSMC in order to provide data to enable DSMC to monitor utilization of former students; to enable DSMC to perform research to assist in refinement of student selection criteria; to provide a data base to research for the improvement of program management; to provide a system for generating student transcripts; and to provide a data base for the DSMC Mailing List System, student and graduate registers.

The Defense Systems Management College - Used in assessing incoming student experience and educational levels; to produce student registers; to monitor utilization of former students by DoD Components; to verify and consolidate measures of student performance, to produce student transcripts which may be required by former students in her/his later educational process; to perform research into the success of former students; to provide input into the DSMC Mailing List System in order to mail surveys, newsletters and other items of interest to former students including graduate registers; to perform research to improve program management.

Computer Sciences Corporation - mounts tapes and disc packs which contain files and operates the system; does not maintain the system.

Individual records in a system of records might be transferred to any component of the Department of Defense (except GPA, functional course grades and individual survey responses).

Individual records of civilian industry students or former students might be transferred to the corporation sponsoring the individual (except GPA, functional course grades and individual survey responses).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Primary file is magnetic disc.

Back-up files are magnetic computer tape and punched cards.

Hard copy back-up files are paper records in file folders.

Retrievability:

Files are sequenced by Social Security Account Number.

Safeguards:

Primary location is a controlled access area.

Operator personnel are screened and cleared in accordance with Government Services Administration contract procedures.

Access to magnetic disc and computer tapes requires computer phone number, user ID, password and project code which are only accessible to personnel authorized by the System Manager.

Back-up file storage is in a building which is locked during non-business hours and is located on a military installation.

Only individuals designated as having a need for access to files by the Systems Manager are authorized access to information in the files.

Retention and disposal:

Records are permanent.

System manager(s) and address:

Director, Department of Plans and Curriculum Development, Defense Systems Management College, Building 202, Ft. Belvoir, Va. 22060.

Notification procedure:

Information may be obtained from the SYSMANAGER. Telephone: 703-664-2017.

Record access procedures:

Storage:

Paper records in file folders.

Retrievability:

Back-up data file is in a building which is locked during nonbusness hours and is located on a military installation.

Only individuals designated as having a need for access to files by

Computer Science Corporation - Mounts tapes and disc packs which contain files and operates the system; does not maintain the system.

Any individual records in a system of records might be transferred

Requests from individuals should be addressed to: Commandant, Defense Systems Management College, ATTN: Chief, Administration Division, Building 202, Ft. Belvoir, Va. 22060.

Written requests for information should contain the full name of the individual, SSAN, current address and telephone number.

For personal visits, the individual must contact the Chief, Administration Division, Building 202, Ft. Belvoir, Va. 22060, and provide acceptable identification, such as, military or other ID card, driver's license.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Information is provided by the individual, employer, staff and faculty of DSMC, each DoD Component, and the U. S. Civil Service Commission (including their automated personnel systems).

Systems exempted from certain provisions of the act:

None

DSMC-04

System name:

Defense Systems Management Collge (DSMC) Academic Analysis System

System location:

Primary Location-Office of the Commandant, Defense Systems Management College (DSMC), Ft. Belvoir, Va. 22060.

Back-up Data File-Dept of Systems Management, Defense Systems Management College, Ft. Belvoir, Va. 22060.

Categories of individuals covered by the system:

All current and former Program Management Course (PMC) students and participants in DSMC Cooperative Graduate Programs.

Categories of records in the system:

File contains individual's name, SSAN, sex, date of birth, service affiliation, affiliation status, years of service, promotion history, job or assignment history, current assignment code, military or civilian occupation code, educational history, class at DSMC, DSMC class standing, DSMC grade point average, DSMC functional course grades, graduation status, pre-and post-test scores, Miller Analogies Test scores, Graduate Record Exam scores, individual survey responses, and course enrollment data and course grades in DSMC Cooperative Graduate Programs.

Authority for maintenance of the system:

10 USC 136, and Department of Defense Directive 5160.55, 'Defense Systems Management College,' January 5, 1977.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purposes of this system are: To provide a research data base for improvement of the PMC academic program and its integration with DSMC Cooperative Graduate Programs, to provide a research data base for evaluating the quality and performance of current and former PMC students as well as DSMC Cooperative Graduate Program participants, and to facilitate administration of DSMC Cooperative Graduate Programs.

DSMC officials designated by the Commandant-Used to determine areas for improvement of the PMC academic program and its integration with DSMC Cooperative Graduate Programs; used to evaluate the quality and performance of current and former PMC students as well as participants in DSMC Cooperative Graduate Programs; used to administer DSMC Cooperative Graduate Programs; used for monitoring participation in DSMC Cooperative Graduate Programs and for counseling PMC students regarding participation; used to furnish DSMC Cooperative Graduate Program enrollment data for PMC student academic evaluation reports.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Primary file is paper records in file folders.
Back-up data file is punched cards.

Retrievability:

Filed by class alphabetically by last name of PMC student and participant in Cooperative Graduate Programs.

Safeguards:

Primary file is in a locked cabinet.

Back-up data file is in a building which is locked during nonbusiness hours and is located on a military installation.

Only individuals designated as having a need for access to files by the System Manager are authorized access to information in the files.

Retention and disposal:

Records are permanent.

System manager(s) and address:

Commandant, Defense Systems Management College, Building 202, Ft. Belvoir, Va. 22060.

Notification procedure:

Information may be obtained from the SYSMANAGER. Telephone: 703-664-2017.

Record access procedures:

Requests from individuals should be addressed to: Commandant, Defense Systems Management College, ATTN: Chief, Administration Division, Building 202, Ft. Belvoir, Va. 22060.

Written requests for information should contain the full name of the individual, SSAN, current address and telephone number.

For personal visits, the individual must contact the Chief, Administration Division, Building 202, Ft. Belvoir, Va. 22060, and provide some acceptable identification, such as military or other identification card, driver's license.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administration Instruction No. 81.

Record source categories:

Information is provided by the individual, staff and faculty of DSMC, each DOD Component and the U. S. Civil Service Commission (including their automated personnel systems), educational institutions and testing services.

Systems exempted from certain provisions of the act:

None

DSMC-05

System name:

Biographical Record System

System location:

Program Manager Biographies-Department of Research and Publications, Defense Systems Management College.

Board of Visitor Biographies, Department of Plans and Curriculum Development, Defense Systems Management College.

Program Management Course Guest Lecturer Biographies-Department of Program Management, Defense Systems Management College.

Executive Course Guest Lecturer Biographies-Department of Executive Management, Defense Systems Management College.

Categories of individuals covered by the system:

Key governmental officials.

Guest Lecturers at the Defense Systems Management College.

Present and past members of the Board of Visitors and Policy Guidance Council.

Categories of records in the system:

Files contain official biographic data, such as: individual's position, title, current business affiliation, record of past experience and education, awards and honors, memberships, addresses, phone numbers, photographs, etc.

Authority for maintenance of the system:

10 USC 136, and Department of Defense Directive 5160.55, 'Defense Systems Management College, ' January 5, 1977.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Purpose is to provide information for selection and introduction of guest lecturers and to perform research.

Department of Plans and Curriculum Development-To develop statistical data on Department of Defense Program Management Offices; to present data to Policy Guidance Council to determine worthiness of nominees to serve on Board of Visitors.

Department of Program Management-To provide the credentials of guest lecturer to the students prior to the presentation.

Department of Executive Management-To present the credentials of guest lecturer to the students prior to the presentation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by last name, except program manager/deputy program manager files which are filed by organization titles.

Safeguards:

Records are maintained in areas accessible only to authorized personnel.

Retention and disposal:

Records are permanent.

System manager(s) and address:

Director, Department of Research and Publications, Defense Systems Management College, Ft. Belvoir, Va. 22060.

Notification procedure:

Information may be obtained from the SYSMANAGER. Telephone: 703-664-5783.

Record access procedures:

Requests from individuals should be addressed to: Commandant, Defense Systems Management College, ATTN: Chief, Administration Division, Building 202, Ft. Belvoir, Va. 22060.

Written requests for information should contain full name of the individual, current position and affiliation.

Visits are limited to the departments at the school where the information is filed. For personal visits, the individual must provide acceptable identification.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Key official data from official Governmental files.

Board of Visitors nominee data from Policy Guidance Council members, present Board of Visitors members, DSMC Commandant and 'Who's Who.'

Guest Lecturer data from guest lecturers themselves, from their offices, or from Agency Public Affairs Offices.

Systems exempted from certain provisions of the act:

None

DSMC-06

System name:

Defense Systems Management College (DSMC) Mailing List

System location:

Primary location-Computer Sciences Corporation, Information Network Division, 650 North Sepulveda Boulevard, El Segundo, Ca. 90245.

Hard copy back-up files and punched card back-up files located in Systems Management Department, Defense Systems Management College, Building 202, Fort Belvoir, Va. 22060.

Categories of individuals covered by the system:

All former students of the Defense Systems Management College (DSMC); members of the DSMC Policy Guidance Council and Board of Visitors; program managers associated with defense systems acquisition programs; key acquisition managers throughout Department of Defense; former staff and faculty members of the DSMC and individuals desiring to be included in the system.

Categories of records in the system:

File contains name, SSAN, Class at DSMC, job code, mailing address, rank or grade, position and professional title and affiliation.

Authority for maintenance of the system:

10 USC 136, and Department of Defense Directive 5160.55, 'Defense Systems Management College,' January 5, 1977.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of the system is to provide a mailing list for distribution of newsletters, surveys, graduate registers and other information relating to acquisition management which is of interest to individuals included in the system.

DSMC - Used to disseminate newsletters, surveys, graduate registers and other information relating to acquisition management which is of interest to individuals on the DSMC mailing list; to prepare registers of former graduates; to prepare lists of Department of Defense Program Managers.

Computer Science Corporation - Mounts tapes and disc packs which contain files and operates the system; does not maintain the system.

Any individual records in a system of records might be transferred to any component of the Department of Defense or other Government agency.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Primary file is magnetic disc.
Back-up files are magnetic computer tape and punched cards.
Hard copy back-up files are paper records in file folders.

Retrievability:

Files are retrievable by name, SSAN, class, job code and zip code.

Safeguards:

Primary location is a controlled access area.

Operator personnel are screened and cleared in accordance with Government Services Administration contract procedures.

Access to magnetic disc and computer tapes requires computer phone number, user ID, password and project code which are only accessible to personnel authorized by the System Manager.

Back-up file storage is in a building which is locked during nonbusiness hours and is located on a military installation.

Only individuals designated as having a need for access to files by the Systems Manager are authorized access to information in the files.

Retention and disposal:

Records are permanent.

System manager(s) and address:

Director, Department of Research and Publications, Defense Systems Management College, Building 202, Ft. Belvoir, Va. 22060.

Notification procedure:

Information may be obtained from the SYSMANAGER. Telephone: 703-664-5783.

Record access procedures:

Requests from individuals should be addressed to: Commandant, Defense Systems Management College, ATTN: Chief, Administration Division, Building 202, Ft. Belvoir, Va. 22060.

Written requests for information should contain the full name of the individual, SSAN, current address and telephone number.

For personal visits, the individual must contact the Chief, Administration Division, Building 202, Ft. Belvoir, Va. 22060, and provide acceptable identification, such as, military or other ID card, driver's license.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Information is provided by the individual, employer, staff and faculty of DSMC, each DoD Component and the U. S. Civil Service Commission (including their automated personnel systems).

Systems exempted from certain provisions of the act:

None

DUSDRE 02

System name:

OUSDRE Personnel Administration Files

System location:

Office of the Under Secretary of Defense for Research and Engineering (OUSDRE), Office Secretary of Defense, Room 3E1006, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

All employees assigned to or considered for positions in OUSDRE including civilian and military personnel and consultants.

Categories of records in the system:

These files contain position descriptions; biographical resumes, qualification statements, (SD 171, SD 173, SD 398, SF 161, etc.); Confidential Statement of Affiliations and Financial Interests, Department of Defense Personnel (DD Form 1555); requests for personnel actions (SD 52, 108); notification of Personal Action (SD 50); appointments affidavits (SF 61, 61B); award recommendations; appraisals

and efficiency reports; time and attendance records (SF 1135); travel orders and vouchers; and security clearance information.

Categories of records in the system:

These files contain correspondence with individuals concerning

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Individuals assigned to OSD/OJCS components authorized to research files to collect appropriate data to fulfill missions of compo-

and efficiency reports; time and attendance records (SF 1135); travel orders and vouchers; and security clearance information.

Authority for maintenance of the system:

10 USC 133

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These files are used primarily for internal personnel and administrative management. Specific uses include: Determining eligibility for appointment to positions; reviewing financial interest and background of individual applying for appointments; comparing individuals resumes with job requirements. Used to keep accounting of time worked; travel performed; orders issued awards given to personnel and security clearance granted. The information contained in these personnel files is used by the office manager, supervisory personnel and the Under Secretary of Defense for Research and Engineering in the management of his organization.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by last name of the individual concerned.

Safeguards:

Building guards and locked file containers. Records are maintained in areas accessible only to authorized personnel.

Retention and disposal:

Records are temporary in nature and are destroyed after individuals leave employment of OUSDRE or are no longer under consideration for employment.

System manager(s) and address:

Executive Assistant to USDRE, Office of the Secretary of Defense, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from:
Personnel Assistant
Office of the Executive Assistant to USDRE
Room 3E1006, Pentagon
Washington, D. C. 20301
Telpehone: 202-695-6556

Written requests for information should contain the full name of the individual, current address, telephone number, and any other information which would help in identifying the desired information.

For personal visits, the individual must be able to provide acceptable identification, that is, driver's license, employing office's identification card, and give verbal information that could be vertified with his 'case folder'.

Record access procedures:

Request should be addressed to SYSMANAGER as shown above.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Information is provided by the Directorate for Personnel and Security, Security Division, Washington Headquarters Services, Department of Defense, individuals concerned, travel vouchers, security forms, travel orders, individual's supervisors, and time and attendance clerks.

Systems exempted from certain provisions of the act:

None

DUSDRE 03

System name:

Office of the Under Secretary of Defense for Research and Engineering (OUSDRE), Inventor's File.

System location:

Office of the Under Secretary of Defense for Research and Engineering (OUSDRE), Office Secretary of Defense, Room 3E1006, Pentagon, Washington, D.C. 20301

Categories of individuals covered by the system:

All persons who have submitted inventions, ideas, and proposals for consideration by the Department of Defense.

Categories of records in the system:

These files contain correspondence with individuals concerning their inventions, ideas, and proposals submitted to the Department of Defense; evaluations by government employees of those inventions, ideas, and proposals.

Authority for maintenance of the system:

10 USC 133

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The information in this file is primarily collected to give consideration to the inventions, ideas, and proposals submitted by the public. These files are used to reply to correspondence and inquiries from the public and other government agencies. The information contained in these files is used by the staff of OUSDRE.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by last name.

Safeguards:

Building guards and locked file containers. Records are maintained in areas accessible only to authorized personnel.

Retention and disposal:

Retained in active files for a period of five years and then transferred to the Washington National Records Center, Suitland, Maryland, 20409.

System manager(s) and address:

Director, Program Control and Administration, Office of the Secretary of Defense, Washington, D.C. 20301.

Notification procedure:

Information may be obtained from:
Assistant Director, Program Control and Administration
Room 3E1030, Pentagon
Washington, D.C. 20301
Telephone: 202-697-4994

Written requests for information should contain the full name of the individual, current address and telephone number and any other information which would help in identifying the desired information.

For personal visits, the individual must be able to provide acceptable identification, that is, driver's license, employing office's identification card, and give verbal information that could be verified with his 'case folder'.

Record access procedures:

Request should be addressed to SYSMANAGER as shown above.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Information is provided by individuals who send their inventions, ideas, and proposals to the Department of Defense and government employees who evaluate the inventions, ideas, and proposals.

Systems exempted from certain provisions of the act:

None

DUSDRE 04

System name:

Requests for Two-year Foreign Residence Waiver Files

System location:

Security Policy and Review Division-Office of the Director Program Control and Administration, Office of the Under Secretary of Defense for Research and Engineering, Office of the Secretary of Defense.

Categories of individuals covered by the system:

Any foreigner applying for a Waiver of Foreign Residency.

Categories of records in the system:

Files contain requests for waiver of foreign residency.

Authority for maintenance of the system:

Mutual Educational and Cultural Exchange Act of 1961 (75 Stat. 535).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Security Policy and Review Division-To evaluate requests for Waivers.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper Records in file folders.

Retrievability:

Filed alphabetically by last name of individual

Safeguards:

Records are located in a facility guarded by Military and GSA Guards 24 hours a day seven days a week. Records are maintained in an area accessible only to authorized personnel.

Retention and disposal:

Records are permanent. Retained in active file for ten years.

System manager(s) and address:

Director, Program Control and Administration, OUSDRE, Office of the Secretary of Defense, Pentagon Building, Washington, D. C.

Notification procedure:

Information may be obtained from:
Security Policy and Review Division
Room 3D1067
Pentagon Building
Washington, D. C. 20301
Telephone: 202-697-3459

Record access procedures:

Requests from individuals should be addressed to: Under Secretary of Defense for Research and Engineering, Office of the Secretary of Defense, Pentagon Building, Washington, D. C. 20301

Written requests for information should contain full name of individual, current address and telephone number and approximate date of waiver request.

For personal visits individual should be able to provide appropriate identification

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81

Record source categories:

Application and related correspondence from sponsor and individual requesting waiver.

Systems exempted from certain provisions of the act:

None

DWHS BF01

System name:

Travel Files

System location:

Directorate for Budget and Finance, Travel Branch, Washington Headquarters Services (WHS), Department of Defense (DoD), Pentagon, Washington, D.C. 20301.

Categories of individuals covered by the system:

Personnel assigned to the Office of the Secretary of Defense and the Organization of the Joint Chiefs of Staff who perform travel; includes military, civilian and WOC/WAE consultants.

Categories of records in the system:

File contains copy of travel orders, paid travel claims, airline schedule and copy of Government Transportation Requests (GTRs) issued.

Authority for maintenance of the system:

10 USC 136(b)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Determination of the costs of trips performed by OSD and OJCS personnel

Find out if travelers have filed their vouchers after completion of trips.

Determine indebtedness to the Government if per diem payments do not liquidate travel advances.

Individuals assigned to OSD/OJCS components authorized to research files to collect appropriate data to fulfill missions of component.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by last name of individual.

Safeguards:

Building employs security guards. Records kept in unlocked file cabinets.

Retention and disposal:

Records maintained by fiscal year, current and previous fiscal year on hand, subsequently retired to Washington National Records Center.

Disposal in accordance with OSD Administrative Instruction No. 15.

System manager(s) and address:

Chief, Travel Branch, Directorate for Budget and Finance, Washington Headquarters Services, Department of Defense, Pentagon, Washington, D.C. 20301.

Notification procedure:

Information may be obtained from:
Chief, Travel Branch
Director for Budget and Finance
Washington Headquarters Services
Department of Defense
Room 3B279, Pentagon
Washington, D.C. 20301
Telephone: 202-697-1269

Record access procedures:

Requests from individuals should be addressed to: Chief, Travel Branch, Directorate for Budget and Finance, Washington Headquarters Services, Department of Defense, Room 3B279, Pentagon, Washington, D.C. 20301.

Written requests for information should contain the full name of individual with notarized signature, current address and telephone number, and include fiscal year of travel.

Visits are limited to Travel Branch, Directorate for Budget and Finance, Washington Headquarters Services, Department of Defense, Pentagon, Washington, D.C. 20301.

For personal visits the individuals should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, and give some verbal information that can be verified with his folder.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Travel orders, travel vouchers, airline schedules, copy of GTRs.

Systems exempted from certain provisions of the act:

None

DWHS CD01

System name:

OSD General Correspondence Files

System location:

Correspondence Control Division, Directorate for Correspondence and Directives, Washington Headquarters Services (WHS), Department of Defense (DoD), Room 3A948, Pentagon, Washington, D. C. 20301

Categories of individuals covered by the system:

Individuals who address a variety of subjects to the Office of the Secretary of Defense, and those who address Defense-related matters to the White House.

Categories of records in the system:

Includes general correspondence addressed to and emanating from the Office of the Secretary and the Deputy Secretary of Defense, and correspondence addressed to White House officials and, because the subject matter, referred to DoD for reply

Authority for maintenance of the system:

5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Reference material for follow-up actions and responses to additional inquiries from the same persons.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Microfiche with hard-copy backup in file folders.

Retrievability:

Filed by subject matter with alphabetical sub-system.

Safeguards:

Building protected by security guards. Records are maintained in a secure area accessible only to authorized personnel.

Retention and disposal:

Records are retained in active file until end of the calendar year, held one additional year in inactive file and subsequently transferred to the the National Records Center, where records are destroyed or permanently preserved in accordance with records disposal authority as dictated by subject matter.

System manager(s) and address:

Chief, Correspondence and Control Division, Directorate for Correspondence and Directives, Washington Headquarters Services, Department of Defense, Room 3A948, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from:
Director for Correspondence and Directives, Washington Headquarters Services,
Department of Defense
Room 3B946
Pentagon
Washington, D.C. 20301
Telephone: 202-697-8261

Record access procedures:

Requests from individuals should be addressed to: Director for Correspondence and Directives, Washington Headquarters Services, Department of Defense, Room 3B946, Pentagon Washington, D.C. 20301.

Written requests for information should contain the full name of the individual, current address and telephone number, a brief description of the subject matter, and the approximate date of the communication, if known.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or employing office's identification card.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Correspondence originating with the individual, DoD agencies, and other Federal agencies.

Systems exempted from certain provisions of the act:

None.

DWHS CD02

System name:

Cable Division Personnel Administration Files

System location:

Cable Division, Directorate for Correspondence and Directives, Washington Headquarters Services (WHS), Department of Defense (DoD), Room 3E925, Pentagon, Washington, D.C. 20301.

Categories of individuals covered by the system:

All individuals employed or military assigned to the Cable Division.

Categories of records in the system:

These files contain position descriptions; qualification statements, (SF 171, SF 172, OP 8, SD 295, SD 37, etc.); Confidential Statement of Affiliations and Financial Interests Department of Defense Personnel (DD Form 1555); requests for personnel actions (SD 52); notification of Personnel Action (SD 50); award recommendations; appraisals and efficiency reports; security clearance information DD Forms 398, DD Forms 1584, CS 8.

Authority for maintenance of the system:

10 USC 133

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These files are used primarily for internal personnel and administrative management. Specific uses include: Determining eligibility for assignment to positions; comparing individual's resumes with job requirements; used to keep abreast of performance, awards given to personnel and security clearances granted. The information contained in these personnel files is used by the office manager and supervisory personnel in the Cable Division.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by last name and Social Security Number of individual concerned.

Safeguards:

Building guards. Records are maintained in a secure area accessible only to authorized personnel.

Retention and disposal:

Records are retained in active file until military reassignment or individual leaves employment of the Cable Division; and in an inactive file until no longer under consideration for reemployment.

System manager(s) and address:

Director for Correspondence and Directives, Washington Headquarters Services (WHS), Department of Defense, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from:
Chief, Cable Division
Directorate for Correspondence and Directives, Washington Headquarters Services, Department of Defense.
Room 3E925, Pentagon
Washington, D.C. 20301
Telephone: 202-697-8151

Written requests for information from individuals should be addressed to Directorate for Correspondence and Directives, Cable Division, Washington Headquarters Services, Department of Defense, Room 3E925, Pentagon, Washington, D.C. 20301.

Written requests for information should contain the full name of the individual, current address and telephone number and any other information which would help in identifying the desired information.

For personal visits, the individual must be able to provide acceptable identification; that is, driver's license, employing office's identification card, give verbal information that could be verified with his/her 'case folder'.

Record access procedures:

Request should be addressed to SYSMANAGER as shown above.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Information is provided by the Directorate for Personnel and Security, WHS, the individual concerned, and the individual's supervisors.

Systems exempted from certain provisions of the act:

None

DWHS P01

System name:

Supergrade Correspondence, Reports, and Case Files

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301

Categories of individuals covered by the system:

Any candidate who is being recommended for an executive level position.

Categories of records in the system:

File contains copy of individuals SF-171, position description, organizational chart, applicable CSC forms, SF-161 or 161A, correspondence between Directorate for Personnel and Security, WHS, and CSC, management officials and other selected documents.

Authority for maintenance of the system:

5-USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Directorate for Personnel-to maintain a case file of background information for each executive level request, both approved and disapproved. Armed Forces Information Service (AFIS), Court of Military Appeals (COMA), Defense Advanced Research Projects Agency (DARPA), Defense Security Assistance Agency (DSAA), Office of Dependents Education, Organization of the Joint Chiefs of Staff (OJCS), the President's Commission on Military Compensation, The TriService Medical Information System (TRIMIS), Washington Headquarters Services (WHS), and the Civil Service Commission for information necessary for the Commission to carry out its Government-wide personnel management functions is part of routine use.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders

Retrievability:

Filed by organization, then alphabetically by name.

Safeguards:

Building employs security guards. Records are maintained in file cabinets in areas accessible only to authorized personnel who are properly screened and trained.

Retention and disposal:

Files maintained indefinitely.

System manager(s) and address:

Director for Personnel and Security, (WHS), Room 3B347, Pentagon, Washington, D. C. 20301

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 2026973305.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

SF-171 from individual, other material obtained from personnel office, records and statements from management officials.

Systems exempted from certain provisions of the act:

None

DWHS P02

System name:

Job Opportunity Announcements

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

Any applicant for employment who applies for a specific vacancy.

Categories of records in the system:

File contains copies of Job Opportunity Announcement, original certificate of eligibles, rating sheet for all applicants, rating schedule or definition of 'best qualified' and copies of non-selection and not certified letters.

Authority for maintenance of the system:

5 USC 3301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Personnel and Security Directorate: To advertise vacant positions and to solicit applications for employment from qualified individuals for organizations serviced. Armed Forces Information Service (AFIS), Court of Military Appeals (COMA), Defense Advanced Research Projects Agency (DARPA), Defense Security Assistance Agency (DSAA), Office of Dependents Education, Organization of the Joint Chiefs of Staff (OJCS), TriService Medical Information System (TRIMIS), and Washington Headquarters Services (WHS), is part of routine use.

Policies and practices for storing, retrieving, accessiog, retaining, and disposing of records in the system:

Applications retained until selection is made and file closed. Then destroyed. Completed file disposed of in two years or CSC inspection, whichever earlier.

Storage:

Paper records in file folders

Retrievability:

Filed by Job Opportunity Announcement number and title.

Safeguards:

Building employs security guards. Records are maintained in file cabinet in areas accessible only to authorized personnel who are properly screened and trained.

Retention and disposal:

Records are maintained for a two year period or Civil Service Commission inspection, whichever occurs earlier. Then they are destroyed.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301 Telephone: 202-697-3305.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Application and related forms from the individual applying for position, supervisory appraisals from current or previous employers, forms completed by persons whose names are given as reference, ratings and correspondence from Directorate for Personnel and Security, WHS,

Systems exempted from certain provisions of the act:

None

DWHS P03

System name:

DoD Program for Stability of Civilian Employment

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

Employees of OSD who have been affected by Reduction-in-Force and who were eligible and elected to register in the program and employees and reinstatement eligibles who registered for overseas employment consideration.

Categories of records in the system:

Standard Form 171, with attachments, if any, registration form, computer printed resume and related forms.

Authority for maintenance of the system:

5 USC 3501

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Civilian Personnel Offices throughout Defense Department-to maintain a record of persons registered into program by each em-

ploying CPO. System includes file of employees serviced by the System Manager, who are entitled to Priority Referral for repromotion and reemployment. Central Referral Activity, Dayton, Ohio

Military Appeals (COMA), Defense Advanced Research Projects Agency (DARPA), Defense Security Assistance Agency (DSAA), Office of Dependents Education, Organization of the Joint Chiefs of

Storage:

Paper records in notebook and card file.

Retrievability:

Safeguards:

Building employs security guards. Records are maintained in file cabinets in areas accessible only to authorized personnel who are properly screened and trained.

ploying CPO. System includes file of employees serviced by the System Manager, who are entitled to Priority Referral for repromotion and reemployment. Central Referral Activity, Dayton, Ohio maintains automated system and refers eligible employees to other DoD activities as required by regulation. Armed Forces Information Services (AFIS), Defense Advanced Research Projects Agency (DARPA), Defense Security Assistance Agency (DSAA), the Office of Dependents Education, the Organization of the Joint Chiefs of Staff (OJCS), Tri-Service Medical Information System (TRIMIS), and Washington Headquarters Services (WHS), are part of routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Folders maintained in active file until employee is either placed or declines placement or eligibility expires, then moved to inactive file. Files maintained for two years from date dropped from the program.

Storage:

Paper records in file folders.

Retrievability:

Filed by name, alphabetically

Safeguards:

Building employs security guards. Records are maintained in file cabinets in the areas accessible only to authorized personnel who are properly screened and trained.

Retention and disposal:

Files are maintained for a two year period from the date the person is dropped from the system, then they are destroyed.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Application and related forms from individual, registration forms completed by Personnel Operations Division, resume and related automated forms furnished by Central Referral Activity, Dayton, Ohio.

Systems exempted from certain provisions of the act:

None

DWHS P04

System name:

Reduction-In-Force Case Files

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

Civilian employees serviced by OSD SYSMANAGER who have been reached for reduction-in-force actions.

Categories of records in the system:

Copies of retention registers, letters from management officials, letters prepared by Personnel to individual regarding type of action required, correspondence from individual concerned and other miscellaneous correspondepce concerning the specific action.

Authority for maintenance of the system:

5 USC 1302, 3502

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To maintain a case file on each reduction-in-force situation in serviced organizations for record purposes of SYSMANAGER. Background information for the Civil Service Commission in case of appeal. Review by OSD management officials in cases of questions of qualifications. Armed Forces Information Service (AFIS), Court of Military Appeals (COMA), Defense Advanced Research Projects Agency (DARPA), Defense Security Assistance Agency (DSAA), Office of Dependents Education, Organization of the Joint Chiefs of Staff (OJCS), Tri-Serivce Medical Information System (TRIMIS), and Washington Headquarters Services (WHS), are part of routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Filed alphabetically by last name. Destroy two years after case is closed.

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by last name. Destroy two years after case is closed.

Safeguards:

Building employs security guards. Records are maintained in file cabinets in areas accessible only to authorized personnel who are properly screened and trained.

Retention and disposal:

Destroy two years after case is closed.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Letters to individuals originated by Personnel, Retention Registers furnished by Personnel, correspondence from management officials, correspondence from individual concerned, correspondence from Civil Service Commission and correspondence from appeals examiner in case of an appeal.

Systems exempted from certain provisions of the act:

None

DWHS P05

System name:

Roster of When Actually Employed Employees

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

Clerical civilian employees employed by the Office of the Secretary of Defense on a 'when actually employed' basis.

Categories of records in the system:

Alphabetical list of employees and 3x5 card file also filed alphabetically. Request from management for services of When Actually Employed employee.

Authority for maintenance of the system:

5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

For use in Civilian Personnel Operations Division, to maintain record of WAE clerical employees, where they are assigned, working hours, contact address and telephone number, title and grade of their position and type of security clearance.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Alphabetical list maintained in three-ring binder, updated as changes occur. 3x5 cards maintained in same manner. Requests from management retained until requirements completed.

Storage:

Paper records in notebook and card file.

Retrievability:

Information retrieved alphabetically, by last name.

Safeguards:

Building employs security guards. Records are maintained in file cabinets in areas accessible only to authorized personnel who are properly screened and trained.

Retention and disposal:

Information maintained on a current basis only.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 2026973305.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Information obtained from individuals Official Personnel Folder and individual concerned.

Systems exempted from certain provisions of the act:

None

DWHS P06

System name:

DoD-Wide Civilian Career Program for Comptroller/Financial Management Personnel

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

All employees in organizations serviced by SYSMANAGER who are eligible for GS-14 and above vacancies in the following job classification series: 501, 504, 505, 510 and 560, and positions of Comptroller or Deputy Comptroller regardless of series.

Categories of records in the system:

Standard Form 171's, supervisory appraisals and copy of Job Opportunity Announcement.

Authority for maintenance of the system:

5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Applications are accepted for referral for current vacancies, located at the Office of the Secretary of Defense or other Department of Defense components, i.e., Department of Army, Department of Navy, Department of Air Force, Armed Forces Information Services (AFIS), Defense Advanced Research Projects Agency (DARPA), Defense Communications Agency (DCA), Defense Contract Audit Agency (DCAA), Defense Intelligence Agency (DIA), Defense Investigative Service (DIS), Defense Mapping Agency (DMA), Defense Nuclear Agency (DNA), Defense Security Assistance Agency (DSAA), Defense Supply Agency (DSA), Office of Dependents Education, Organization of the Joint Chiefs of Staff (OJCS), Tri-Service Medical Information System (TRIMIS), and Washingtion Headquarters Services (WHS), are part of routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Applications filed in folders by title and grade level of position. Supervisory career appraisals filed with application.

Storage:

Paper records in file folders.

Retrievability:

Information located by title and series of vacancy applied for.

Safeguards:

Building employs security guards. Records are maintained in file cabinets in areas accessible only to authorized personnel who are properly screened and trained.

Retention and disposal:

Applications retained until position filled. Applications of nonselected candidates returned to them. Application of selectee filed in official Personnel Folder or returned to candidate if up-to-date application on file.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Applications from individuals, supervisory appraisals from current and former supervisors, information for Job Opportunity Announcements from Department of Defense Agency with vacancy.

Systems exempted from certain provisions of the act:

None

DWHS P07

System name:

Incentive Awards Records

System location:

Directorate for Personnel and Security, Washington Headquarters Serices (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

Civilian Employees recommended for awards: Quality Salary Increases, Outstandings, Sustained Superior Work Performance Awards, Secretary of Defense Meritorious Civilian Service Award, Department of Defense Distinguished Civilian Service Award, Department of Defense Distinguished Public Service Award, Secretary of Defense Outstanding Public Service Award and various non-government awards.

Categories of records in the system:

Master log maintained on above awards, copies of signed citations by the Secretary of Defense, nominations which contain name, grade and title, period of recommendation and assigned activity. Disclosure file maintained on all nominations for awards which require name, address, occupation, telephone number, and educational background, and are submitted to non-government agencies.

Authority for maintenance of the system:

5 USC 451

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Civilian Personnel-to determine eligibility for awards, statistical data regarding awards. Non-Government agencies which offer awards programs such as the William A. Jump Memorial Foundation, the Rockefeller Public Service Awards Program, and the Arthur S. Flemming Awards Commission. The Civil Service Commission for information necessary for the Commission to carry out its Government-wide personnel management functions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

To provide assistance in writing justifications for awards and to process the awards in a reasonable amount of time.

Storage:

Metal five drawer legal size file cabinet.

Retrievability:

Filed by Fiscal Year with a master log.

Safeguards:

Building patrolled by security guards. File is maintained in an area which is secured during non-working hours.

Retention and disposal:

Destroy two years after case is closed.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned

Systems exempted from certain provisions of the act:

None

Optional Form 69 individual development plans, SF171, SF-59, which contain name, social security number, date of birth, home address, annual salary, and office and home telephone number.

Building patrolled by security guards. File is maintained in an area which is secured during non-working hours.

Retention and disposal:

Records are permanent.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 2026973305.

Record access procedures:

Requests from individuals should be addressed to the above SYS-MANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Recommendations received from the Immediate Office of the Secretary of Defense, Joint Chiefs of Staff, all Offices of the Secretary of Defense elements, Military Departments, Defense Agencies, private citizens.

Systems exempted from certain provisions of the act:

None

DWHS P08

System name:

Worker's Compensation-On-The-Job Injuries Report File

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301

Categories of individuals covered by the system:

Civilian employees injured on the job.

Categories of records in the system:

Case files containing required injury reports which include name, SSN, DOB, telephone number, type of injury, address, and assigned activity.

Authority for maintenance of the system:

5 USC 8101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Director for Personnel and Security, WHS, and Labor Department for purposes of determining eligibility for Worker's Compensation, statistical data regarding leave taken and to review cases being processed.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

To provide assistance in submitting appropriate forms for injuries.

Storage:

Metal five drawer legal size file cabinet

Retrievability:

Filed by name of employee with card index.

Safeguards:

Building patrolled by security guards. File is maintained in an area which is secured during non-working hours.

Retention and disposal:

Files are permanent.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 2026973305.

Record access procedures:

Requests from individuals should be addressed to the above SYS-MANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Civilian employees of the Office of the Secretary of Defense and Organization of the Joint Chiefs of Staff, and activities serviced by WHS.

Systems exempted from certain provisions of the act:

None

DWHS P09

System name:

Computer Data Base

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

All civilian employees serviced by Directorate for Personnel and Security, WHS.

Categories of records in the system:

The following data is stored in addition to that required by Civil Service Commission: Position Number, Position Tenure, Organization Code, Building Code, Date of Last Within Grade Increase, Due Date for Within Grade Increase, Highest Grade Held, Date of Last Promotion, Expiration Date of Appointment (If applicable), Nine Month Appraisal Date (If applicable), Leave Category, Special Category, Type of Appointment, Date of Current Appointment, Marital Status, Legal Residence, Security Clearance and Health Benefits Status.

Authority for maintenance of the system:

EO 9830 and 5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Personnel and Security Directorate-Data extracted as required by Civil Service Commission for Central Personnel Data File. Certain fields used as required for statistical data. Stored data printed on personnel change forms to report a change in status i.e., Standard Form 50, DA 2515. Extracts of data base used periodically to insure currency of files. Alphabetic locator to verify employment organizational staffing summary.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Used daily to update employee's records as changes occur.

Storage:

IBM Computer 370

Retrievability:

Files may be retrieved and sorted by any field in Data Base.

Safeguards:

Building has security guards. User of Data Base must have a 'user code' in order to be admitted access to computer room.

Retention and disposal:

Records are permanent and current as long as the employee is employed.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 2026973305.

Record access procedures:

Requests from individuals should be addressed to the above SYS-MANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Processing documents initiated by the Directorate for Personnel and Security and employee's Standard Form 171.

Systems exempted from certain provisions of the act:

None

DWHS P10

System name:

Training File

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

Employees applying for Training Programs.

Categories of records in the system:

Standard Form 171, Optional Form 37, Optional Form 170, DD Form 1556, SD Forms 446 and 447, Training Record Card File, which contains name, social security number, date of birth, home address, annual salary, and office and home telephone number.

Authority for maintenance of the system:

5 USC 4101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The Personnel and Security Directorate to determine eligibility for training assignments. The Civil Service Commission for information necessary for the Commission to carry out its Government wide personnel management functions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

To ensure that complete records are maintained for program evaluation purposes.

Storage:

Metal five drawer legal size file cabinet without lock.

Retrievability:

Filed by training program name and employee name.

Safeguards:

Building has security guards. File is maintained in an area which is secured during non-working hours.

Retention and disposal:

Records are permanent. Maintained in the Training and Career Development Branch at all times.

System manager(s) and address:

Director of Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 2026973305.

Record access procedures:

Requests from individuals should be addressed to the above SYS-MANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Employees submit application forms.

Systems exempted from certain provisions of the act:

None

DWHS P12

System name:

Executive Development Programs File

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301

Categories of individuals covered by the system:

Employees applying for executive development programs.

Categories of records in the system:

Optional Form 69 individual development plans, SF171, SF-59, which contain name, social security number, date of birth, home address, annual salary, and office and home telephone number.

Authority for maintenance of the system:

5 USC 4101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Personnel and Security Directorate-to determine eligibility for specialized development programs. The Civil Service Commission for information necessary for the Commission to carry out its Government-wide personnel management functions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

To ensure that complete records are maintained for program evaluation purposes.

Storage:

Metal five drawer legal size file cabinet without lock.

Retrievability:

Filed by training program name and employee name.

Safeguards:

Building has security guards. File is maintained in an area which is secured during non-working hours.

Retention and disposal:

Records are permanent.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 2026973305.

Record access procedures:

Requests from individuals should be addressed to the above SYS-MANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Employees submit application forms.

Systems exempted from certain provisions of the act:

None

DWHS P13

System name:

Management Intern File

System location:

Directorate for Personnel and Security, Washington Headquarters Services, (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

Management trainees on rotational assignments.

Categories of records in the system:

Standard Form 171 and resumes which contain name, Social Security Number, date and place of birth, home address, annual salary, and office and home telephone number.

Authority for maintenance of the system:

5 USC 3301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Personnel and Security Directorate: for purposes of determining appropriate rotational assignment of management interns.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

To ensure that complete records are maintained for trainee evaluation.

Storage:

Metal five drawer legal size file cabinet without lock.

Retrievability:

Filed by trainee's name.

Safeguards:

Building has security guards. File is maintained in an area which is

Record access procedures:

Requests from individuals should be addressed to the above SYS-MANAGER.

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Military Personnel Division-to have a basic source folder of military personnel assigned which includes name, grade, social security number, service, previous

Filed by trainee's name.

Safeguards:

Building has security guards. File is maintained in an area which is secured during nonworking hours.

Retention and disposal:

Records are permanent.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Information obtained from employment applications submitted by individual; supervisory evaluation from previous employers.

Systems exempted from certain provisions of the act:

None

DWHS P14

System name:

Blood Donor Files

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

Any blood donor with the Office of the Secretary of Defense, Organization of the Joint Chiefs of Staff, and activities serviced by WHS.

Categories of records in the system:

File cards contain name, rank (if military), duty phone, home phone, duty activity and room number, blood type and dates of donations.

Authority for maintenance of the system:

5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Military Personnel Division-to determine eligibility for blood replacement. To provide source of contacts for emergency blood requirements. To determine eligibility for issuance of gallon donor certificates.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Weekly screening of cards to determine if individual is eligible to donate blood.

Storage:

3x5 Cardex File.

Retrievability:

Filed alphabetically by last name of donor.

Safeguards:

Building has security guards. File is maintained in an area accessible only to authorized personnel.

Retention and disposal:

Records are permanent for the duration of the individual's participation as a blood donor.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 2026973305.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Civilian Health Clinic-Pentagon and the individual blood donors.

Systems exempted from certain provisions of the act:

None

DWHS P15

System name:

Department of Defense Distinguished Service Medal Files

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

Personnel recommended for the Department of Defense Distinguished Service Medal

Categories of records in the system:

Master Log, copy of approved award signed by the Secretary of Defense, which contain name, grade, Social Security Number, duty title, duty activity and period of assignment.

Authority for maintenance of the system:

5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Military Personnel Division-to insure that certificate, citation, and engraved medal are obtained for the individual receiving award.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

To insure that all records are maintained and to insure that all award elements are processed in a timely manner.

Storage:

Metal five drawer legal size file cabinet with lock.

Retrievability:

Filed by case number with a master log.

Safeguards:

Building has security guards. File is maintained in an area which is secured during non-working hours.

Retention and disposal:

Records are permanent. Maintained in the Military Personnel Division at all times.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 2026973305.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Recommendations received from the immediate Office of the Secretary of Defense.

Systems exempted from certain provisions of the act:

None

DWHS P16

System name:

Joint Service Commendation Medal Recommendations File

System location:

0051(03)

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

All military personnel recommended for the Joint Service Commendation Medal.

Categories of records in the system:

Original recommendation, approval, copy of orders, and forwarding memorandum, which contains name, grade, Social Security Number, duty title, duty activity, home address, next duty assignment, and period of assignment.

Authority for maintenance of the system:

10 USC 1121

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Military Personnel Division-to insure that certificate, citation, orders, and medal are forwarded to individual receiving award. Insure that copy of orders are forwarded for individual service record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

To insure that all records pertaining to the Joint Service Commendation Medal are up-to-date and to insure that all award elements are processed in a timely manner.

Storage:

Metal five drawer legal size file cabinet with lock.

Retrievability:

Filed by case number with a master log.

Safeguards:

Building has security guards. File is maintained in an area which is secured during nonworking hours.

Retention and disposal:

Records are permanent. Maintained for two years then transferred to the Federal Record Center.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security (WHS), Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction NO. 81.

Record source categories:

Recommendations received from various OSD/OJCS related activities.

Systems exempted from certain provisions of the act:

None

DWHS P17

System name:

Assignment Folders

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

All military personnel currently on duty with the Office of the Secretary of Defense, and activities serviced by WHS.

Categories of records in the system:

File folders on each individual which contains all pertinent information on his nomination, selection, and duty tour within the Office of the Secretary of Defense.

Authority for maintenance of the system:

5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Military Personnel Division-to have a basic source folder of military personnel assigned which includes name, grade, social security number, service, previous duty station, schooling, duty title, duty activity, and other pertinent data relating to the individuals career and assignment with the Office of the Secretary of Defense, and activities serviced by WHS.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

To have a source document pertaining to personnel assigned to the Office of the Secretary of Defense. and activities serviced by WHS. To insure that a folder is initiated on all individuals upon acceptance for assignment to the Office of the Secretary of Defense, and activities serviced by WHS.

Storage:

Metal five drawer file cabinet with lock.

Retrievability:

Filed alphabetically by last name.

Safeguards:

Building has security guards. Files are maintained in an area that is secured during non-working hours.

Retention and disposal:

Records are retained for approximately six months after individual's departure then they are destroyed.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Information is provided from nomination folder and actions initiated by the Office of the Secretary of Defense.

Systems exempted from certain provisions of the act:

None

DWHS P18

System name:

The Office of the Secretary of Defense Identification Badge Suspense Card System

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

All Army/Navy/Air Force/Marine Corps personnel assigned to the Office of the Secretary of Defense, and activities serviced by WHS.

Categories of records in the system:

All personnel who are eligible for the Office of the Secretary of Defense Identification Badge after being assigned on permanent duty with the Office of the Secretary of Defense, and activities serviced by WHS, for a period of one year. Data includes names, social security account number, The Office of the Secretary of Defense activity, grade, service, and dates.

Authority for maintenance of the system:

10 USC 1125

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Military Personnel Division-to establish who is eligible for the Office of the Secretary of Defense Identification Badge after being assigned to an authorized space in the Office of the Secretary of Defense, and activities serviced by WHS.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Issuance of the Office of the Secretary of Defense Identification Badges at end of each month for eligible personnel.

Storage:

Records are not permanent. Maintained in the Military Personnel Division at all times. Destroyed one year after departure date.

System manager(s) and address:

Requests from individuals should be addressed to the above SYSMANAGER.

None

DWHS P22

Issuance of the Office of the Secretary of Defense Identification Badges at end of each month for eligible personnel.

Storage:

3x5 Cardex File

Retrievability:

Filed alphabetically by last name of recipient.

Safeguards:

Building has security guards. Office locked during non-working hours.

Retention and disposal:

Records are permanent. Maintained in the Military Personnel Division at all times.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 2026973305.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Written or verbal inquiries.

Systems exempted from certain provisions of the act:

None

DWHS P19

System name:

General/Flag Officer Files

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

All General/Flag Officers assigned to the Office of the Secretary of Defense, Organization of the Joint Chiefs of Staff and Defense Agencies.

Categories of records in the system:

Separate file on each General/Flag officer position in the Office of the Secretary of Defense and the Organization of the Joint Chiefs of Staff and Defense Agencies. Each file contains information on the position (SD Form 37, Position Description) and information on the General or Flag officer filling the position, to include all correspondence nominating him for the position and a summary of his military record, including prior assignments, awards, etc.

Authority for maintenance of the system:

5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To provide a centralized file to incorporate all staffing and personnel correspondence dealing with General/Flag officer positions and incumbents in the Office of the Secretary of Defense, Organization of the Joint Chiefs of Staff and Defense Agencies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Maintain files and update as correspondence relating to the General/Flag officer position as it comes in.

Storage:

Metal five drawer file cabinet with lock.

Retrievability:

Filed by organization and position.

Safeguards:

Building has security guards. File is maintained in an area that is secured during non-working hours.

Retention and disposal:

Records are not permanent. Maintained in the Military Personnel Division at all times. Destroyed one year after departure date.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347,Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency s rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

All documents relating to General/Flag officers and/or their positions.

Systems exempted from certain provisions of the act:

None

DWHS P20

System name:

Report of Personnel Assigned Outside of Department of Defense

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

All Department of Defense personnel working in any organization outside the realm of the Department of Defense.

Categories of records in the system:

Reflects personnel and assignment data in each Department of Defense personnel working outside the Department of Defense. This data includes name of individual, rank, social security number, service (GS rating if civilian), organization assigned to, and title of job. Also, included is the date of assignment and projected loss date of the individual concerned. The report also reflects in each case whether the position is reimbursable or non-reimbursable.

Authority for maintenance of the system:

5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Serves as a central Department of Defense record of what Department of Defense personnel are working outside the Department of Defense and for what organization.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

This report is updated quarterly, based on information obtained from the military departments.

Storage:

Metal five drawer file cabinet with lock.

Retrievability:

Filed by month and year of report.

Safeguards:

Building has security guards. File is maintained in an area that is secured during non-working hours.

Retention and disposal:

Records are permanent. Maintained in the Military Personnel Division at all times.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Quarterly reports received from the military departments.

Systems exempted from certain provisions of the act:

None

DWHS P21

System name:

Duty Status Cards

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

All military personnel currently on duty with the Office of the Secretary of Defense and activities serviced by WHS, and all military personnel who have departed.

Categories of records in the system:

5x8 cards which include name, grade, social security number, service, duty title, duty activity, and other related information pertaining to the individual's duty assignment with the Office of the Secretary of Defense, and activities serviced by WHS.

Authority for maintenance of the system:

5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Military Personnel Division-Duty tour suspense, personnel requisition suspense, locator index of personnel who have departed and record of individual's duty status within the Office of the Secretary of Defense, and activities serviced by WHS and other related information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

To have a basic source document for military personnel. To insure that a status card is initiated on all military personnel (permanent and temporary) upon arrival to the Office of the Secretary of Defense, and activities serviced by WHS.

Storage:

Metal file cabinet.

Retrievability:

Filed alphabetically by last name.

Safeguards:

Building has security guards. File is maintained in an area that is secured during non-working hours.

Retention and disposal:

Records are permanent. Maintained in Military Personnel Division permanently.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Information provided by the nomination folder and from the individual being assigned.

Systems exempted from certain provisions of the act:

None

DWHS P22

System name:

General/Flag Officer Roster

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

All General and Flag Officers assigned to the Office of the Secretary of Defense, Organization of the Joint Chiefs of Staff and the Defense Agencies.

Categories of records in the system:

Contains data on each General/Flag officer possition in the Office of the Secretary of Defense, Organization of the Joint Chiefs of Staff and the Defense Agencies. Position information included Organization and Title of Position, Authorized Grade and Service and Rotation sequence among the services. Information on the individual inlcudes: Name, rank, assigned grade and service, Social Security Number, date assigned, projected loss date and date of rank.

Authority for maintenance of the system:

5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To provide centralized base for recording all General/Flag officer staffing changes in the Office of the Secretary of Defense, Organization of the Joint Chiefs of Staff and Defense Agencies with regard to: Requisitioning of personnel, notification of arrival and departure of personnel and changes in pertinent personnel data. To provide pertinent data for use in the Department of Defense wide General/Flag officer reduction program.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Computer printout updated quarterly.

Storage:

Printouts filed in secured metal cabinets.

Retrievability:

Filed by month and year of issue.

Safeguards:

Building has security guards. File is maintained in an area that is secured during nonworking hours.

Retention and disposal:

Records are maintained for approximately two years, then destroyed.

System manager(s) and address:

Director of Personnel and Security, (WHS), Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

All personnel and assignment actions relating to General and Flag officer positions and personnel.

Systems exempted from certain provisions of the act:

None

DWHS P23

System name:

Roster of Military Personnel

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

Navy Officer Personnel currently assigned to the Office of the Secretary of Defense, for duty and activities serviced by WHS.

Categories of records in the system:

Files are used to place individuals in overseas positions located in Defense Advance Research Projects Agency (DARPA), and North Atlantic Treaty Organization (NATO), Office of the Secretary of

Retrievability:

By name and by residence of the sender, caller or visitor.

Safeguards:

V 4 3 / 1 8 3

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

All military personnel assigned to the Office of the Secretary of Defense, and activities serviced by WHS.

Categories of records in the system:

Computer printout reflects data in each position in the Office of the Secretary of Defense and activities serviced by WHS, and the individual filling it. Position information includes organization and title of position, authorized grade, authorized service and the military class code of the position. Information on the individual includes name, rank, social security number, date of rank, service, date assigned to the Office of the Secretary of Defense and activities serviced by WHS, and their projected loss date.

Authority for maintenance of the system:

5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Military Personnel Division/Office of the Secretary of Defense, and activities serviced by WHS/Defense Agencies/and the Military Departments-to provide a base for recording all military personnel changes in the Office of the Secretary of Defense and activities serviced by WHS with regard to: requisitioning personnel, notification of their arrival, all changes in rank, date of rank, dates of arrival and departure. For use by the service desks in the Military Personnel Division to facilitate personnel records checks and various military personnel staffing actions.

Policies and practices for storing, retrieving, accessing, retaining, and disposiog of records in the system:

Computer printout updated monthly-copies sent to Military Departments and all activities within the Office of the Secretary of Defense for information and manning purposes.

Storage:

Metal five drawer file cabinet with lock.

Retrievability:

Filed by month and year of issue.

Safeguards:

Building has security guards. File is maintained in an area that is secured during non-working hours.

Retention and disposal:

Records are permanent. Maintained in the Military Personnel Division at all times.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel, OSD, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

All personnel and assignment related actions initiated in/out of the Office of the Secretary of Defense.

Systems exempted from certain provisions of the act:

None

DWHS P24

System name:

Navy Officer Personnel Service Records.

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

Navy Officer Personnel currently assigned to the Office of the Secretary of Defense, for duty and activities serviced by WHS.

Categories of records in the system:

Personnel service records reflecting the career history of individual.

Authority for maintenance of the system:

5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Military Personnel Division-Provides a basic source of information on career history and other pertinent data relating to the individuals previous duty stations, schooling and assignment with the Office of the Secretary of Defense, and activities serviced by WHS, Defense and Navy Investigative Service-for personal security eligibility.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

To insure that all information pertaining to the individuals military career is kept current.

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by last name.

Safeguards:

Building employs security guards. Records maintained in locked cabinet in an area that is secured during non-working hours.

Retention and disposal:

Records are retained only while officer is assigned to duty with the Office of the Secretary of Defense. Upon completion of duty, the records accompany officer to next duty station. Records of officers who retire, resign or released from active duty, are forwarded to the Naval Reserve Personnel Center, New Orleans, LA 70146.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Forms and correspondence prepared and provided by the individual and SYSMANAGER.

Systems exempted from certain provisions of the act:

None

DWHS P25

System name:

Overseas Staffing Files

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

Personnel assigned to positions overseas.

Categories of records in the system:

Standard Form 171's, SF-1190's, travel orders, letters to Army Finance Office concerning pay, overseas quarters allowances, post differentials, etc., Standard Form 52, messages concerning the individual's return rights, home leave, etc., to and from overseas area.

Authority for maintenance of the system:

5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

S E 2 0 7 8

Files are used to place individuals in overseas positions located in Defense Advance Research Projects Agency (DARPA), and North Atlantic Treaty Organization (NATO), Office of the Secretary of Defense.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Applications and documents filed in folders by name and title of position.

Storage:

Paper records in file folders.

Retrievability:

Filed by employee name.

Safeguards:

Building employs security guards. Records are maintained in file cabinets in areas accessible only to authorized personnel who are properly screened and trained.

Retention and disposal:

Retained until individual returns to the United States, then destroyed.

System manager(s) and address:

Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Notification procedure:

Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

The individual, overseas staff office, other Federal Agency offices.

Systems exempted from certain provisions of the act:

None

DWHS P26

System name:

Protective Services File

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Security Division, Room 3B278, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

Any individual who initiates contact with the Secretary or Deputy Secretary of Defense in person, by United States mail, or telephonically who may possibly pose a threat to the personal safety of the Secretary or Deputy Secretary of Defense or other United States Government Officials.

Categories of records in the system:

File cards containing only data provided by the individual, which normally includes individual's name, address, type of communication, and a brief description of the message the individual intended to relay to the official or officials noted.

Authority for maintenance of the system:

5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Physical Security Branch, Security Division, Directorate for Personnel and Security, WHS-to maintain a listing of those individuals who may pose a threat to the personal safety of the Secretary or Deputy Secretary of Defense or other United States Government officials. Routine exchange of data is made with the United States Secret Service.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Filed by name and by residence of the sender, caller or visitor.

Storage:

Vertical File Cards.

Retrievability:

By name and by residence of the sender, caller or visitor.

Safeguards:

Secure room.

Retention and disposal:

Indefinite.

System manager(s) and address:

Chief, Security Division, Directorate for Personnel and Security, Washington Headquarters Services, Department of Defense, Room 3B278, Pentagon, Washington, D. C. 20301.

Notification procedure:

See Exemption

Record access procedures:

See Exemption

Contesting record procedures:

See Exemption

Record source categories:

See Exemption

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 USC 522a (j) or (k) as applicable. For additional information contact the SYSMANAGER.

DWHS P27

System name:

Pentagon Building Pass Application File

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Security Division, Room 3B278, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

Any Office of the Secretary of Defense military or civilian employee, any Defense contractor associated with the Office of the Secretary of Defense or other persons who have reason to enter the Pentagon for official Office of the Secretary of Defense business and who therefore require an entry pass.

Categories of records in the system:

File cards containing name, sponsoring office with the Office of the Secretary of Defense and activities serviced by WHS, height, weight, date and place of birth. In addition, the entry pass identification number and expiration date are noted.

Authority for maintenance of the system:

5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Physical Security Branch, Security Division, Directorate for Personnel and Security, WHS-to maintain a listing of personnel who are authorized a Pentagon building pass by the Office of the Secretary of Defense.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Filed by the individual's name or entry pass number.

Storage:

3x5 file cards.

Retrievability:

By the individual's name or entry pass number.

Safeguards:

Secure room.

Retention and disposal:

File cards are destroyed after termination of the individual's affiliation with the Office of the Secretary of Defense and activities serviced by WHS.

System manager(s) and address:

Chief, Security Division, Directorate for Personnel and Security, Washington Headquarters Services, Department of Defense, Room 3B278, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from: Physical Security Branch, Security Division, Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B278, Pentagon, Washington, D. C. 20301. Telephone: 202-697-7396.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

All data maintained in the system is received voluntarily from individual Pentagon Building pass applicants.

Systems exempted from certain provisions of the act:

None

DWHS P28

System name:

The Office of the Secretary of Defense Clearance File

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Security Division, Room 3B278, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

Military and civilian employees of the Office of the Secretary of Defense, its components and support organizations including the United States Court of Military Appeals and the United States Mission to NATO; experts and consultants serving with or without compensation; staff members of congressional committees requiring access to classified information or material, employee of other agencies detailed to the Office of the Secretary of Defense, very important people selected to attend orientation conferences, USO and Red Cross applicants for overseas posts.

Categories of records in the system:

Background investigations, national agency checks, security clearance actions, security violations, and supporting documents, briefings and debriefings.

Authority for maintenance of the system:

EO 10450

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Security Division, Directorate for Personnel and Security, WHS-to grant and maintain security clearances or access. Other Government agencies: To make available investigative material to authorized representatives of other security offices for extension of clearance to other Government agencies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Active clearance files maintained alphabetically by last name of subject. Inactive clearance files serially numbered and indexed alphabetically.

Storage:

Files maintained in file folders.

Retrievability:

Active clearance files maintained alphabetically by last name of subject. Inactive clearance files serially numbered and indexed alphabetically.

Safeguards:

Files are maintained in vaulted alarmed areas accessible only to authorized personnel that are properly screened, cleared and trained.

Reteation and disposal:

Records are permanent. Retained in active files until separation or end of requirement for security clearance. Held in waiting file for 10 years.

System manager(s) and address:

Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

See Exemption

Record access procedures:

See Exemption

Contesting record procedures:

See Exemption

Record source categories:

See Exemption

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 USC 522a (j) or (k), as applicable. For additional information, contact the SYSMANAGER.

DWHS P29

System name:

Employee Assistance Program Case Record Systems

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

All civilian employees who are referred by management for, or voluntarily request, counseling assistance.

Categories of records in the system:

Systems are comprised of case records on employees which are maintained by counselors and consist of information on condition, current status, and progress of employees who have alcohol, drug, emotional, or other job performance problems.

Authority for maintenance of the system:

Drug Abuse Office and Treatment Act of 1972, as amended by Public Law 93-282 (21 U.S.C. 1175); Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended by Public Law 93-282 (42 U.S.C. 4582); Subchapter A of Chapter I, Title 42, Code of Federal Regulations; Chapter 43 of Title 5, U.S.C.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by the counselor in the execution of his/her counseling function as it applies to the individual employee. With specific, written authority of the employee, selected information may be provided to and used by other counselors or medical personnel, research personnel, employers, representatives such as legal counsel, and to the other agencies or individuals when disclosure is to the employee's benefit, such as for processing retirement applications.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Case records are stored in paper file folders.

Retrievability:

By employee name or by locally assigned identifying number.

Safeguards:

all records are stored under strict control. They are maintained in spaces normally accessible only to authorized persons, normally in locked cabinets.

Retention and disposal:

Records are purged of identifying information within five years after termination of counseling or destroyed when they are no longer useful.

System manager(s) and address:

Director for Personnel and Security, Washington Headquarters Services (WSH), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Counselors, other officials, individuals or practitioners, and other agencies both in and outside of Government.

Systems exempted from certain provisions of the act:

None

DWHS P30

System name:

Labor Management Relations Records Systems

System location:

Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

Civilian employees who are involved in a grievance which has been referred to an arbitrator for resolution; civilian employees involved in the filing of an Unfair Labor Practice complaint which has been referred to the Assistant Secretary of Labor-Management Relations; union officials, union stewards; and representatives.

Categories of records in the system:

Records comprise: Manual files, maintained in paper folders, manually filed by type of case and case number (not individual). Folder contains all information pertaining to a specific arbitration case or specific Unfair Labor Practice with whom OSD has dealings: field activities maintain manual roster of local union officials and union stewards.

Authority for maintenance of the system:

Executive Order 11491, as amended 'Labor-Management Relations in the Federal Service.'

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Officials and employees of the Department of Defense (to include Army, Navy, Air Force, and other DoD agencies) in the performance of their official duties related to the Labor-Management Relations Program, e.g., Administration implementation of arbitration awards; interpretation of the Executive Order through third party case decisions; National consultation and other dealings with the recognized unions. Representatives of the U.S. Civil Service Commission on matters relating to the inspection, survey, audit, or evaluation of Civilian Personnel Management Programs. The Comptroller General or any of his authorized representatives, in the course of the performance of duties of the General Accounting Office relating to the Labor Management Relations Program. Officials and employees of other components of the Department of Defense in the performance of their official duties related to the administration of the Labor Management Relations Program. A duly appointed hearing examiner or arbitrator for the purpose of conducting a hearing in connection with an employee's grievance.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual records are stored in paper folders.

Retrievability:

Manual records are retrieved by case subject, case number, and/or individual employee names.

Safeguards:

All manual files are accessible only to authorized personnel having a need to know.

Retention and disposal:

Case files are permanently maintained. Union official rosters are normally destroyed after a new roster has been established.

System manager(s) and address:

Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, The Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, The Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures:

Request for access to records may be obtained from the SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Arbitrator's office; Office of the Assistant Secretary of Labor for Labor-Management Relations; union headquarters officers.

Systems exempted from certain provisions of the act:

None.

DWHS P31

System name:

Department of Defense Superior Service Medal

System location:

Directorate for Personnel and Security, Washington Headquarters Services, Department of Defense. Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

Personnel recommended for the Department of Defense Superior Service Medal.

Categories of records in the system:

Master log, copy of approved award signed by the Secretary of Defense, which contains name, grade, duty title, duty activity, and period of assignment.

Authority for maintenance of the system:

Executive Order 11904

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Authorized personnel of the Office of the Secretary of Defense and activities serviced by WHS, for purposes of insuring that certificate, citation, and engraved medal are obtained for the individual receiving the award.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Metal five-drawer legal size file cabinet with lock.

Retrievability:

Filed by case number with master log.

Safeguards:

Building has security guards. File is maintained in an area which is secured during non-working hours.

Retention and disposal:

Records are permanent. Retained for approximately two years, then transferred to Federal Records Center.

System manager(s) and address:

Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from the Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures:

Requests from individuals should be addressed to the above System Manager.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Recommendations received from Office of the Secretary of Defense/Organization of the Joint Chiefs of Staff (OSD/OJCS) and related activities.

Systems exempted from certain provisions of the act:

None

DWHS P32

System name:

Standards of Conduct Inquiry File

System location:

Primary System-Office of the Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

Individuals who have been alleged to have violated the Department of Defense Standards of Conduct or the conflict of interest statutes.

Categories of records in the system:

the Government under an express promise or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

At the time of the request for a record, a determination will be

DWHS P34

System name:

Non-Career Personnel Job Files

Record source categories:

Personnel files are compiled in the Office of the Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, with information that has been obtained

Individuals who have been alleged to have violated the Department of Defense Standards of Conduct or the conflict of interest statutes.

Categories of records in the system:

Files in the Office of the Director for Personnel and Security, WHS, which are used in the performance of the functions of the office. The files contain information about individuals in regard to allegations of violations of the Department of Defense Standards of Conduct or the conflicts of interest statutes.

Authority for maintenance of the system:

Title 10, U.S. Code, Section 137/EO 11222

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Routine use of the files is by the professional personnel in the Office of the Director for Personnel and Security, WHS, and Office of the General Counsel, Office of the Secretary of Defense, Department of Justice and DoD Components. Purpose of the files is to provide information for professional personnel in the Office of the Director for Personnel and Security, WHS, and Office of General Counsel to resolve various standards of conduct problems.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed by name.

Safeguards:

Stored in metal filing cabinets with locking devices and metal combination safes depending on classification.

Retention and disposal:

Files are retained as long as there is official interest in the case; then destroyed or retired to the Federal Records Center, Suitland, Maryland.

System manager(s) and address:

Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure:

Written request for information should be addressed to the System Manager, Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305. Valid proof of identity is required.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Information contained in files is obtained from various sources including correspondence, press releases, investigations performed by the Department of Defense and other agencies and congressional committees, and other systems of records in the Department of Defense.

Systems exempted from certain provisions of the act:

This system of records is exempt under the authority of (k)(2) and (5) of Title 5, U.S.C. Section 552a from subsections (c)(3) and (d) of that statute which would require the disclosure of: (a) investigatory material compiled for law enforcement purposes. However, if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or otherwise be eligible, as a result of the maintenance of such material, the material shall be provided to that individual, except to the extent that its disclosure would reveal the identity of a source who furnished information to the Government under an express promise or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, or; (b) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, or Federal contracts, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

At the time of the request for a record, a determination will be made concerning whether a right, privilege, or benefit is denied or the specific information which would reveal the identity of a source.

DWHS P33

System name:

Statements of Affiliations and Financial Interests File

System location:

Primary System-Office of the Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

Individuals who have been required to file Confidential Statement of Affiliations and Financial Interests-Department of Defense Personnel (DD Form 1555).

Categories of records in the system:

Files in the Office of the Director for Personnel and Security, WHS which are used in the performance of the functions of the office. The files contain information about individuals in regard to their financial interests and affiliations which may impact on their official duties.

Authority for maintenance of the system:

Title 10, U.S. Code, Section 137/EO 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Routine use of the files is by the professional personnel in the Office of the Director for Personnel and Security, WHS, and Office of the General Counsel, Office of the Secretary of Defense, Department of Justice and DoD Components. Purpose of the files is to provide information for professional personnel in the Office of the Director for Personnel and Security, WHS, and Office of the General Counsel to avoid and resolve conflict of interest problems.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed by name.

Safeguards:

Stored in metal filing cabinets with locking devices and metal combination safes depending on classification.

Retention and disposal:

Files are retained as long as there is official interest in the case; then destroyed or retired to the Federal Records Center, Suitland, Maryland.

System manager(s) and address:

Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washingon, D. C. 20301.

Notification procedure:

Written request for information should be addressed to the System Manager, Director of Personnel and Security, Washington Headquarters Servicess (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305. Valid proof of identity is required.

Record access procedures:

Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Information contained in files is obtained directly from the individual on DD Form 1555, 'Confidential Statement of Affiliations and Financial Interests - Department of Defense Personnel.'

Systems exempted from certain provisions of the act:

None

DWHS P34

System name:

Non-Career Personnel Job Files

System location:

Primary location-Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301.

Categories of individuals covered by the system:

Information is collected concerning individuals employed by the Office of the Secretary of Defense who occupy non-career positions. Such information includes biographical information about these individuals. The following excepted positions are in included: Non-Career Assignments (NEA's) and Schedule C appointments. Reports are made for all authorized positions whether encumbered or vacant, new positions created or eliminated, vacancies filled, and new vacancies.

Categories of records in the system:

System contains the person's first and last name, date of appointment, date of initial appointment, date vacated, race, ethnic background, sex, year of birth, domicile, career status, mailing address, residence and business phones, whether the individual is a veteran or handicapped, and certain background information.

Authority for maintenance of the system:

Executive Order 11478, 'Equal Employment Opportunity in Federal Government,' and a Presidential Memorandum dated July 27, 1977, 'Non-Career Personnel Job File'.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The records are used to provide the Presidential Personnel Office with timely reports on the progress of hiring for non-career positions. Reports which include information on all current positions and incumbents are submitted to the Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, for submission to the Presidential Personnel Office. A consolidated monthly report from the Office of the Secretary of Defense and the Military Departments is forwarded by the 10th of the following month to the Presidential Personnel Office. Monthly reports include all changes since the previous report. Information in the Non-Career Personnel Job File is collected and maintained by the Office of the Secretary of Defense and transmitted solely to the Presidential Personnel Office.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders and computer tapes.

Retrievability:

Filed by organization, then by grade in descending order.

Safeguards:

Records are maintained in locked file cabinets in areas acessible only to authorized personnel who are properly screened and trained.

Retention and disposal:

Data is updated every month with personnel changes. Records are maintained permanently.

System manager(s) and address:

Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301.

Notification procedure:

Written request for information should be addressed to the System Manager. Valid proof of identity is required (e.g., building pass with photograph or temporary building pass and driver's license, or Social Security Number).

Record access procedures:

Procedures for gaining access by an individual to his records may be obtained from the Office of the Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301. Telephone: 202-697-3305.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Personnel files are compiled in the Office of the Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, with information that has been obtained from applicants and incumbents of non-career positions by DD Form 2087.

Systems exempted from certain provisions of the act:

None

DWHS SPM001

System name:

Application for Pentagon Parking Permit

System location:

Space Management and Services Directorate, Washington Headquarters Services, Office of the Secretary of Defense.

Categories of individuals covered by the system:

Parking applications received from employees of the Office of the Secretary of Defense and those oforganizations serviced by OSD.

Categories of records in the system:

File includes DD Form 1199, Application for Pentagon Parking Permit; DD Form 1200, Pentagon Parking Permit Replacement/Re-Use of Space Request; DD Form 1971, Parking Control Card; OSA Form 605, Certificate and Agreement on Lost or Stolen Permit.

Authority for maintenance of the system:

Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To assign Pentagon parking to eligible personnel.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Card records in card file.

Retrievability:

Filed alphabetically by last name.

Safeguards:

Under direct control of OSD Parking Control Officer. Office locked and guarded.

Retention and disposal:

Records are kept on active applicants and destroyed when they depart Office of the Secretary of Defense and satellite organizations.

System manager(s) and address:

Director, Space Management and Services, Washington Headquarters Services, Office of the Secretary of Defense, the Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from:
Director, Space Management and Services, Washington Headquarters Services, Office of the Secretary of Defense
Room 3C345
Pentagon
Washington, D. C. 20301
Telephone: 202-697-7241

Record access procedures:

Requests from individuals should be addressed to: Director, Space Management and Services, Washington Headquarters Services, Office of the Secretary of Defense, Room 3C345, the Pentagon, Washington, D. C. 20301.

Written requests for information should contain the full name of the individual and the name of the employing component.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license or Pentagon building pass.

Contesting record procedures:

The Agency's rules for acess to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Application for Pentagon Parking Permit, DD Form 1199 and related forms.

Systems exempted from certain provisions of the act:

None

DWHS SPM002

System name:

Written requests for information should contain the full name of the individual, the period for which the information is required and

Systems exempted from certain provisions of the act:

None

Requests from individuals should be addressed to: Administrative Office, DARPA 1400 Wilson Boulevard, Arlington, Va. 22209.

None

DWHS SPM002

System name:

Pentagon Computeride

System location:

Primary System - Air Force Data Services Center

Decentralized Segments - Parking Control Office, Office of the Secretary of Defense; Pentagon Central Parking Office, Departmemt of the Army; Parking Control Office, Department of Air Force; Parking Control Office, Department of Navy.

Categories of individuals covered by the system:

All personnel who participate in Pentagon Building car pools.

Categories of records in the system:

Name of individual, DoD Component Code, home address, working hours, Pentagon office room number, office phone number, map coordinate of home address.

Authority for maintenance of the system:

Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Parking Control Offices - To assign and administer allocated car pool parking spaces at the Pentagon.

Air Force Data Services Center - To provide printout to each indiviudal in the system which lists other participants who live near him who are potential car pool prospects and to provide complete printout of all participants to parking control offices and General Services Administration.

Indiviudals - To contact other participants on either his individual printout or the parking control office complete printout to determine their interest in carpooling.

General Services Administration - To use car pool data in area wide system when and if implemented.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer magnetic tapes and computer paper printouts.

Retrievability:

Information is accessed and retrieved by name and home address map grid.

Safeguards:

All participants have access to the data.

Retention and disposal:

Data is retained only on active participants.

System manager(s) and address:

Director, Space Management and Services, Washington Headquarters Services, Office of the Secretary of Defense, the Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from:

Director, Space Management and Services, Washington Headquarters Services, Office of the Secretary of Defense

Room 3C345

Pentagon

Washington, D. C. 20301

Telephone: 202-697-7241

Record access procedures:

Requests from individuals should be addressed to: Director, Space Management and Services, Washington Headquarters Services, Office Secretary of Defense, Room 3C345, the Pentagon, Washington D. C. 20301.

Written requests for information should contain the full name of the individual, current address and telephone number.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license or Pentagon building pass.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

DoD Computeride Application Form DD 1950

Systems exempted from certain provisions of the act:

None

DEFENSE ADVANCED RESEARCH PROJECT AGENCY

E DARPA 001

System name:

Travel File

System location:

Administrative Services, Defense Advanced Research Projects Agency (DARPA), 1400 Wilson Boulevard, Arlington, Va. 22209.

Categories of individuals covered by the system:

All DARPA employees military and civilian who make one or more TDY trips for DARPA. Selected government employees who visit DARPA on official business at DARPA's expense and certain nongovernment personnel traveling on Invitational Travel Orders for DARPA.

Categories of records in the system:

Traveler's name, order number, order date, office, days authorized, travel date, estimated cost, remarks, origin, date travel voucher submitted to Finance, date returned from Finance, total cost, destination, estimated miles (rental car), actual miles (rental car), car cost, Government Transportation Request (GTR), GTR date, and airlines ticket costs.

Authority for maintenance of the system:

5 USC 301; Department of Defense Directive No. 5105.41, March 23, 1972, establishing DARPA as a separate agency of the Department of Defense under the direction, authority, and control of the Secretary of Defense.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Primarily for internal management administrative, and budgetary needs. Director and Deputy Director, DARPA Staff Assistants, all Project Officers, and Personnel & Administrative Officers. Provides daily, weekly and monthly status reports to top management and all Project Directors concerning status of travel funds, locations of travel, frequency of travel, per diem costs, transportation costs, number of days in travel, and various other matters regarding travel of personnel.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer paper print outs, paper records and correspondence in file folders, also, magnetic disc.

Retrievability:

Accessed by last name, by office, or by any of the data fields listed in Record Category.

Safeguards:

Paper copies are maintained in areas accessible only to authorized personnel. Building employs security guards. File access is available to authorized personnel who have been assigned system pass words.

Retention and disposal:

Paper files will be destroyed by burning or pulping after audit or 3 years whichever occurs first. There are no plans to retire or destroy ADP files.

System manager(s) and address:

Director, Administrative Services, DARPA, 1400 Wilson Boulevard, Arlington, Va. 22209.

Notification procedure:

Information may be obtained from

Director, Administrative Services, DARPA

Room 605, Architect Bldg

1400 Wilson Blvd

Arlington, Va. 22209

Telephone: 202-694-3998

Record access procedures:

Requests from individuals should be addressed to: Director, Administrative Services, DARPA, 1400 Wilson Boulevard, Arlington, Va. 22209.

Written requests for information should contain the full name of the individual, the period for which the information is required and specific categories of information required.

For personal visits, the individual should be able to provide DoD Identification Card.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

DARPA Special Orders (TDY, Invitational, PCS, etc.,) Travel Vouchers as submitted by travellers and as returned by the local finance offices.

Systems exempted from certain provisions of the act:

None

E DARPA 002

System name:

Biographical Sketch

System location:

Administrative Office, Defense Advanced Research Projects Agency, (DARPA), 1400 Arlington Boulevard, Arlington, Va. 22209.

Categories of individuals covered by the system:

All DARPA current employees, military and civilian.

Categories of records in the system:

Biographical sketch contains name, place of birth, Date of Birth (DoB), home address, home phone; Service Computation Date (SCD), DARPA reporting date, DARPA project office, room number, office phone, position title and grade; experience; education, degree/year and field; membership in professional societies/committees; awards or special achievements; professional or technical papers published, including dates; future training desired; spouse's name; names and ages of children; hobbies; remarks. Additional data for military personnel includes temporary rank/ grade, permanent rank/ grade; professional training received within past three years, current thoughts regarding future service assignments.

Authority for maintenance of the system:

5 USC 301; Department of Defense Directive No. 5105.41, March 23, 1972, establishing DARPA as a separate agency of the DoD under the direction, authority and control of the Secretary of Defense.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To update management with a concise sketch of DARPA employees, when needed for award ceremonies or interviews.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Biographical sketches are in employee's file folder.

Retrievability:

Accessed by last name

Safeguards:

Combination locked file cabinets. Material is maintained in areas accessible only to authorized personnel. Building employs security guards.

Retention and disposal:

Records are maintained while employee is with DARPA; records are destroyed by burning 2 years after employee has left DARPA.

System manager(s) and address:

Administrative Officer, Defense Advanced Research Projects Agency (DARPA), 1400 Wilson Boulevard, Arlington, Va. 22209.

Notification procedure:

Information may be obtained from:

Administrative Officer, DARPA

Room 827

1400 Wilson Boulevard

Arlington, Va. 22209

Telephone: 202-694-3236

Record access procedures:

Requests from individuals should be addressed to: Administrative Office, DARPA 1400 Wilson Boulevard, Arlington, Va. 22209.

Written requests for information should contain the full name of the individual, his project office, and period employed in DARPA.

For personal visits, the individual first needs to identify himself as a DARPA employee.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Information is provided by individuals concerned.

Systems exempted from certain provisions of the act:

None

E DARPA 004

System name:

ARPA Personnel

System location:

Defense Advanced Research Projects Agency, 1400 Wilson Blvd., Arlington, VA 22209

Categories of individuals covered by the system:

Current and former ARPA employees, civilian and military, consultants and part-time employees.

Categories of records in the system:

File contains individuals Bio Data: Name, Prename, DOB, Age, Education; Classification Data: Job Series, Job Title, Pos Des Nr., Salary; Grade Data: Grade Type, Grade, Step, ARPA Promotion, Last WGI, Next WGI; Civ Ser Data: SCD, Yrs. Govt; ARPA Data: Project, Civilian-Military-Professional-Support, Proj. No., EOD ARPA, Left ARPA, Yrs. ARPA; Mil. Data: Rank, Service, Reassgn Due, Slot Rank, ARPA Award, Date of Rank, Pos Des; Review Data: Clearance, Current office assignment data, Eligibility for Retirement; Remarks; Mailing Data: Title, Name, Spouse Name, Street, City, State, Zip, Home Phone; Office Data: Name, Office Phone, Room, Div.

Authority for maintenance of the system:

5 USC 301; Department of Defense Directive No. 5105.41, dated March 23, 1972, establishing ARPA as a separate Agency of the Department of Defense under the direction, authority, and control of the Secretary of Defense.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Mainly for internal managerial and administrative needs. Director and Deputy Director, ARPA, Administrative Officer, Staff Assistant, Administrative Office, and Systems analysts have access to complete file. Information in different combinations is used for monthly manpower counts, staffing balance for civilian vs. military, professional vs. clerical; grade and salary count. Individual organizational configuration only is available to appropriate Office Director for their managerial needs.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic disk, computer paper print outs, paper records and correspondence in file folders.

Retrievability:

Data is retrievable by last name as well as by any of the data fields listed in RECORD CATEGORY

Safeguards:

Access to total file limited by password; building employs security guards. Files are maintained in combination locked files and in areas accessible only to authorized personnel that are properly screened and trained.

Retention and disposal:

Files are permanent. There are no plans to retire or destroy ADP files. Paper files are destroyed by burning 2 years after employee has left ARPA.

System manager(s) and address:

Administrative Officer, ARPA, 1400 Wilson Blvd., Arlington, VA 22209

Notification procedure:

Information may be obtained from:

Administrative Officer

Room 827

Records are accessed by person(s) responsible for servicing or using the record system in performance of their official duties.

of their official duties who are properly screened and cleared for need-to-know. Records are controlled by personnel screening.

Retention and disposal:

tions taken by Surgeon's Office and record authorization for physical examinations at Government expense or no expense and record voucher number, preparing point credit authorization and forwarding authenticated point credit forms to servicing personnel office.

Administrative Officer
Room 827
Architect Bldg.
1400 Wilson Blvd.
Arlington, VA 22209
Telephone: 202-694-3236

Record access procedures:

Requests from individuals should be addressed to: Administrative Officer, ARPA, 1400 Wilson Blvd., Arlington, VA 22209

Written requests for information should contain the full name of the individual, the ARPA office assigned to currently or previously, and the period of employment with ARPA.

For personal visits, the individual should be able to provide some acceptable identification, such as ARPA pass, DoD pass, or verbal information that could be verified in his file.

Contesting record procedures:

ARPA's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Administrative Officer, ARPA.

Record source categories:

Information is gathered from SF 171, SF 50, DD 2515, Optional Form 8, OSD Military staffing plan and roster, military award forms.

Systems exempted from certain provisions of the act:

None

UNITED STATES AIR FORCE

F01001 AFA A

System name:

01001 AFA A Cadet Administrative Records.

System location:

At United States Air Force Academy CO 80840.

Categories of individuals covered by the system:

AF Academy Cadets.

Categories of records in the system:

(1) Information on automobiles to be purchased by cadets; (2) List of items to be shipped at government expense for involuntarily dismissed cadets and cadets discharged from the Academy; (3) Substantiating documents to insure cadet store purchases over

25 are for personal use or a bonafide gift and controlling restrictive purchases; (4) Flight manifests, host information and TDY destinations for cadet movements away from the Academy.

Authority for maintenance of the system:

10 USC 8012 Secretary of the Air Force: powers and duties; delegation by; 10 USC 9331 Establishment; Superintendent; faculty.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Superintendent; faculty. (1) Provide supervisory personnel with immediate information concerning cadets of their automobiles which will aid in locating cadets or their autos or help supervisors make realistic decisions concerning automobile ownership or automobile related situations, alert supervisory personnel to the possibility of individual tendencies to commit unsafe acts and thus provide opportunity for corrective counseling; (2) Used by cadet and outprocessing section to accomplish required outprocessing actions and to establish a record of distinctive military items turned in to liquidate their indebtedness and record a clearance and itemized listing of articles shipped; (3) Used by cadet store management to insure cadet store purchases over

25 are for personal use or a bonafide gift and to record restrictive purchases; (4) Establish and maintain control of cadet contingents away from USAF Academy.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in card file, file folders and computer paper printouts.

Retrievability:

Filed by name, identification number, system identifier or military service number.

Safeguards:

Records are accessed by person(s) responsible for servicing or using the record system in performance of their official duties.

Retention and disposal:

(1) Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning; (2) Retained in office files for six months after the individual terminates military service, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning; (3) Retained in office files until graduation or elimination from training, then transferred to staging area, USAF Academy, CO 80840 for one additional year, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning; (4) Retained in office files for two years after annual cut-off then retired to Washington National Records Center, Washington DC 20409, for permanent retention. Retained in office files until training is completed and posted to applicable documents, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

Commandant of Cadets, USAF Academy, CO 80840.

Notification procedure:

Requests from individuals should be addressed to the System Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

From individuals, source documents and trip planning worksheets.

Systems exempted from certain provisions of the act:

NONE

F01001 0CGBUZA

System name:

01001 0CGBUZA Individual Weight Control File.

System location:

At Air Force (AF) unit of assignment; servicing medical facility. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice. National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132.

Categories of individuals covered by the system:

Air Force active duty military personnel. Air Force Reserve Personnel who are enrolled in the Weight Control Program.

Categories of records in the system:

File contains: individual weight control record; letters informing individual of overweight status, scheduling medical evaluation, and documenting monthly medical progress; general military training record.

Authority for maintenance of the system:

USC 8012 Secretary of the Air Force: powers and duties; delegation by.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

file purpose is to document a person's progress in Weight Control program. Those authorized access to the file are the individual, Unit Commander, Unit Weight Control Monitor, medical personnel, Major Command (MAJCOM) Monitor, CBPO and legal personnel on a need to know basis in performing offical duties. The file keeps individual informed of weight loss in attaining maximum allowable weight, provides history of weight loss and counseling, provides an input for medical determinations.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders.

Retrievability:

Filed by Name by Social Security Number (SSN) and grade.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance

of their official duties who are properly screened and cleared for need-to-know. Records are controlled by personnel screening.

Retention and disposal:

When a person achieves the desired weight standard, file is forwarded to servicing medical facility to be included in individuals medical records.

System manager(s) and address:

Deputy Chief of Staff/Personnel, Headquarters United States Air Force.

Notification procedure:

Commander, Unit of Assignment. Inquiries on existence of a file should include full name, grade, SSN, and should go to Unit of Assignment. Personal visit proof of identity requires possession of Armed Forces Identification Card.

Record access procedures:

Commander Unit of Assignment. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Individual.

Systems exempted from certain provisions of the act:

NONE

F01102 ARPC A

System name:

01102 ARPC A Locator or Personnel Data.

System location:

At Air Reserve Personnel Center, 7300 East First Avenue, Denver CO 80280.

Categories of individuals covered by the system:

Air Force Reserve and Air National Guard personnel. Retired and former Air Force military personnel. ARPC civilian personnel. Air Force active duty military personnel.

Categories of records in the system:

Cards, forms, ledgers, record request, computer listings containing individual's name or names, Social Security Number (SSN), Air Force service number, grade, reserve status, present and former address, record of employer, parent and other relative of reservist or personnel data. Veterans Administration claim number, education institutes reservist attended, school affiliations. Correspondence to and from Federal agencies and employers trying to establish current address of reservists; vouchers for medical service, final payment of medical service bills, medical action required; notes indicating if individual is authorized to earn point credit; and other personnel data. Documents which contain a summary of action taken or to be taken.

Authority for maintenance of the system:

10 USC 267, Ready Reserve; Standby Reserve; Retired Reserve: placement and status of members; 10 USC 268, Ready Reserve: Training requirements; 10 USC 271, Ready Reserve: continuous screening; 10 USC 273, Standby Reserve: composition, inactive status list; 10 USC 275, Personnel records; 10 USC 278, Dissemination of Information; 10 USC 279, Training Reports; 10 USC 8012, Secretary of the Air Force: powers and duties, delegation by; 10 USC 591, Reserve components: qualifications; 10 USC 592, Commissioned officer grades; 10 USC 593, Commissioned officer: appointment, how made, term; 10 USC 594, Commissioned officers: original appointment limitation. Routine uses of records maintained in the system, including

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used to control records distribution, to record location of record, actions taken or/to be taken, used to manage individual's records, to answer inquiries from individual and Air Force units to which individuals are assigned or are to be assigned or other agencies with a need to know of action taken, verify if author of a letter, was a member/or is a member of reserve and what his or her SSN should be, search for good address and stop computer mail from going to bad address, refer for administrative discharge action on reservist that cannot be located, advise reservist or civilian of reserve matters or center actions, provide comprehensive record of all medical actions taken by Surgeon's Office and record authorization for physical examinations at Government expense or no expense and record voucher number, preparing point credit authorization and forwarding authenticated point credit forms to servicing personnel office.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders, in note books/binders, in visible file binders/cabinets, in card files, on paper tape and on computer cards.

Retrievability:

Filed by Name, by Social Security Number (SSN), by Military Service Number, by other identification number or system identifier and/or voucher number, school affiliation, by Air Force Service Number, or by last address of Reservist.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards.

Retention and disposal:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, or macerating.

System manager(s) and address:

Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver CO 80280.

Notification procedure:

Request from individual should be addressed to Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver CO 80280. Written request for information should contain full name of individual, SSN (social security number), current address, and the case (control) number shown on correspondence received from Center. Records may be reviewed in records review room ARPC, 7300 East First Avenue, Denver CO 80280, between 8:00 A.M. and 3:00 P.M. on normal work days. For personal visits, the individual should provide current Reserve I.D. card and/or drivers license and give some verbal information that could verify his/her military records such as place of birth, reserve status.

Record access procedures:

Individual can obtain assistance in gaining access from Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280, telephone (303) 394-4667.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Extract from individual records, individual advance personnel data computer system. For address information secured from last recorded employer, postmaster of city of last recorded address, telephone information operator at last city of good address, parents of reservist, other relatives of reservist, Veterans Administration if reservist has a claim number listed in master personnel record, college or university reservist attended, Selective Service Boards, Internal Revenue Service, public utilities or any other lead that may be found in the master personnel record of the reservist, military pay records at Air Force Accounting and Finance Center, Lowry AFB, Denver CO 80279, log books and from Consolidated Base Personnel Offices. Medical information is also secured from medical facilities, physicians, medical specialists.

Systems exempted from certain provisions of the act:

NONE

F01102 DAYX A

System name:

01102 DAYX A Base, Unit, and Organizational Military and Civilian Personnel Locator Files

System location:

At Headquarters, United States Air Force, and at Air Force Installations, to include bases, units, offices, and functions. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

Categories of individuals covered by the system:

Air Force active duty military personnel; Air Force Reserve Personnel; Air Force civilian employees; dependents may be included at

Categories of individuals covered by the system:

Air Force military personnel serving on active duty, in the Air

At servicing Air Force (AF) installation social actions office. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

F03003 DPMSC A

System name:

03003 DPMSC A Casualty Files

Air Force active duty military personnel; Air Force Reserve Personnel; Air Force civilian employees; dependents may be included at the option of the installation, unit, or organization.

Categories of records in the system:

Cards or listings may contain the individuals name, grade, military service identification number, social security number, duty location, office telephone number, residence address and residence telephone number, and similiar type personnel data determined to be necessary by the local authority.

Authority for maintenance of the system:

44 USC 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used to locate personnel assigned to, attached to, tenanted on, or on temporary duty at the specific installation,office,base, unit,function, and/or organization in response to specific inquiries from official government activities for the conduct of business. Files are used locally to locate and administer programs and personnel.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained on paper records in card or form media in visible file binders/cabinets card files or on computer paper printouts.

Retrievability:

Filed by Name.

Safeguards:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

Retention and disposal:

Retained in office files until reassignment or separation, or when superseded or no longer needed for reference, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

Primary location: Director of Administration, Headquarters, US Air Force, Washington, DC Decentralized Location: Privacy officer of the installation, base, unit, organization, office or function to which the individual is assigned, attached, tenanted on or on temporary duty. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager. Individual must furnish full name and the names of Air Force installation, unit and organization,office,or function to which assigned, attached, tenanted on or on temporary duty at, including the calendar years of such service. The individual may visit the Locator Office or Privacy Officer at the place of assignment. No identification is required to determine if the system contains records pertaining to a specific individual.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from automated system interfaces or from individuals or personnel records.

Systems exempted from certain provisions of the act:

NONE

F01102 DPEEB A

System name:

01102 DPEEB A Congressional and Other High Level Inquiries.

System location:

At Headquarters United States Air Force. Inquiries concerning Air Force or Air Force reserve personnel procurement policies and procedures may also be located at headquarters of the major air commands, numbered Air Force or comparable levels. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Categories of individuals covered by the system:

Air Force military personnel serving on active duty, in the Air Force Reserve, or retired or discharged from the Air Force. Civilian personnel currently or formerly employed by the Air Force. Personnel attending Air Force training institutions or undergoing training under Air Force sponsorship.

Categories of records in the system:

Background information and information reflecting Air Force policies and procedures; copies of inquiries received from the Office of the President, Members of Congress and other high level sources requesting information by or oon behalf of a constituent; copies of replies to such inquiries including transmittal media used en route from and to the Air Force Office of Legislative Liaison (SAF/LL).

Authority for maintenance of the system:

10 USC 8012, Secretary of the Air Force: power and duties; delegation by; and 10 USC 8032, general duties.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information pertinent to the inquiry is forwarded to SAF/LL for preparation of the reply to the high level requester. In some instances, response may be direct to the requester without referral through SAF/LL; however, when required by directive, copies of such responses are furnished SAF/LL. The records may be used in responding to subsequent inquiries concerning the same individual. The record system may be audited periodically to determine trends on the nature of complaints and questions and for statistical purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in visible file binders/cabinets.

Retrievability:

Filed by name.

Safeguards:

Records are accessed by the custodian of the record system and by persons responsible for servicing the records in performance of their official duties who are properly cleared for need-to-know. Records are stored in security file containers/cabinets, locked cabinets or rooms.

Retention and disposal:

Retained for two years after end of year in which case was closed, then destroyed by tearing into pieces, shredding, macerating, pulping or burning.

System manager(s) and address:

Duputy Chief of Staff/Personnel, Headquarters United States Air Force; commanders of major air commands, numbered air forces or comparable level activities.

Notification procedure:

Requests from individuals must contain reasonable particulars about the subject in question and should be addressed to the respective system manager.

Record access procedures:

Individual can obtain assistance in gaining access from the respective system manager. Individual's request must contain reasonable identifying particulars about the subject in question.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information provided by major command or consolidated base personnel office personnel, manual or automated personnel records, Air Force policies and procedures, copies of inquiries, congressional/high level officials'/constituents' comments or requests and Air Force replies thereto.

Systems exempted from certain provisions of the act:

NONE

F03001 0CGBUZA

System name:

03001 0CGBUZA Drug/Alcohol Abuse Control Case Files.

System location:

At servicing Air Force (AF) installation social actions office. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Categories of individuals covered by the system:

Air Force active duty military personnel and dependents, Air Force civilian employees, and Air Force Reserve personnel, who are enrolled in a drug/alcohol rehabilitation program.

Categories of records in the system:

As a minimum, the file contains forms and commander's letters documenting date and means of identification, categorizing type of abuse, and indicating that individual has completed the rehabilitation program.

Authority for maintenance of the system:

Section 408, drug-abuse office and treatment act of 1972 (Public Law 92-255; 21 USC 1175).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To document a person's progress in the rehabilitation program. Those authorized to review, handle, or have access to the file are social actions and medical personnel directly engaged in rehabilitation of a person, Veterans Administrat ion (VA) treatment personnel in cases of members transferred directly to VA in active duty status, official members of rehabilitation evaluation group, Commanders in member's chain of command, and persons authorized by Public Law 92-255, section 408(b)21 United States Code 1175(b)). The file is used to develop a treatment regimen, to assist rehabilitation evaluation group make decisions for rehabilition program dispositions, and to prepare recurring reports.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders.

Retrievability:

Filed by Name by other identification number or system identifier.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets safes and controlled by personnel screening.

Retention and disposal:

Destroy one year after completion of follow on phase of rehabilitation by tearing into pieces, shredding, pulping, macerating, or burning, unless needed as background for case files supporting a separation action or other actions under directives, in which case, disposition will be the same as the file which they support. Files at George AFB, CA and Nellis AFB, NV will be retained for one year after completion of rehabilitation, permanent change of station or separation or 31 Dec 79, whichever is later.

System manager(s) and address:

Deputy Chief of Staff Personnel, Headquarters United States Air Force.

Notification procedure:

Chief, Social Actions servicing AF installation. Requests to determine existence of a file should include full name, grade, and unit of assignment. Personal visit proof of identity requires full name and possession of Department of Defense (DD) Form, 2 AF, Armed Forces Identification Card; DD Form 1173, Uniformed Services Identification and Privilege Card; or driver's license and personal recognition of counselor.

Record access procedures:

Chief social actions servicing AF installation. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from medical institutions, personnel records. individuals.

Systems exempted from certain provisions of the act:

NONE

F03003 DPMSC A

System name:

03003 DPMSC A Casualty Files

System location:

Air Force Military Personnel Center, Randolph Air Force Base, TX 78148. Headquarters United States Air Force, Washington DC 20330. National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132. At headquarters of major commands and at bases of assignment of casualty or which provide casualty assistance to next of kin.

Categories of individuals covered by the system:

Any United States Air Force (USAF) member who is or might become a casualty.

Categories of records in the system:

Record of Casualty. This pertains to all personnel on active duty, to Air force Academy cadets, Air Force Reserve and Air National Guard personnel performing authorized inactive duty for training or traveling directly to or from such place of duty, and Air Force Reserve Officers Training Corps (AFROTC) applicants or members on annual training duty for 14 days or more or who are traveling to or from the designated place of such duty who become very seriously ill or injured (VSI), seriously ill or injured (SI), or suffer from an incapacitating illness or injury (III), or who become missing, missing in action, interned, captured or detained by a foreign power. These records pertain to certain civilian employees of the Air Force paid from appropriated funds who become missing, missing in action, interned, captured or detained by a foreign power while assigned overseas or who are on temporary duty from the Continental United States (CONUS) to overseas or who are traveling to or from the designated place of such duty under competent authority, certain unique situations on civilian employees and dependents of military personnel who become missing, missing in action, interned, captured or detained by a foreign power in mishaps while traveling aboard Military Airlift Command (MAC) or MAC-chartered flights or by other means of MAC oversea travel, and certain civilian employees in the CONUS when their missing status was the proximate result of their employment. Casualty Case File. These files pertain to all officers and airmen on active duty or extended active duty (including personnel in absent without leave, desertion, or dropped from the rolls status). The files also pertain to Air Force Academy cadets, all Air Force Reserve and Air National Guard officers and airmen performing authorized inactive duty for training or traveling directly to or from such place of duty, all AFROTC applicants or members on annual training duty for 14 days or more or traveling to or from the designated place of such duty, and certain civilian employees of the Air Force paid from appropriated funds who become missing, missing in action, interned, captured or detained by a foreign power while assigned overseas or who are on temporary duty (TDY) from CONUS to overseas or who are traveling to or from the designated place of such duty under competent authority. They pertain to certain civilian employees and dependents of military personnel who become missing, missing in action, interned, captured or detained by a foreign power in mishaps while traveling aboard MAC or MAC-chartered flights or by other means of MAC overseas travel and certain foreign nationals and certain employees in the CONUS when their missing status was the proximate result of their employment. A casualty is defined as any member of the armed forces or certain civilians who are lost to their organization by reason of having been declared missing, missing in action, wounded, injured, or diseased. The casualty case file is comprised of messages pertaining to the member; a copy of the Record of Emergency Data, Department of Defense Form 93 or Air Force Form 246; Air Force Military Personnel Center Form 238, CONUS Death/Missing, Report of Casualty, Department of Defense Form 1300; copy of assignment of assistance responsibility letter; Servicemen's Group-Life Insurance Election, Veterans Administration (VA) Form 29-8286; correspondence from the base/AFMPC to/from the next of kin (NOK); Acknowledgement and/or Transfer of Casualty Assistance Case, Air Force Form 92; Statement of Service, Department of Defense Form 13; copy of notification message; Western Union messages; and other related correspondence and forms which pertain to the file. Record of Emergency Data being maintained on all Air Force personnel on extended active duty (EAD) and Air Force Academy cadets. Missing Persons Case Files. Reports submitted on United States Air Force (USAF) personnel who become missing as defined in 37 USC 551. Conveninnce rosters of those persons, copies of communications from and to next of kin, items received through news media, and some films.

Authority for maintenance of the system:

Chapter 31, Title 44, United States Code (USC) 3101-3107, Records Management by Federal Agencies; Chapter 33, Title 44, USC 3301-3314, Disposal of Records; Title 10, USC 2771, Armed Forces - Accountability and Responsibility; ; Sections 555 and 556, Chapter

known, its title, description, number, date and issuing authority. For personal visits, the individual must provide some acceptable identification; that is, drivers license, identification card, or give some verbal information that can be verified in the case folder.

System manager(s) and address:

Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

Requests from individuals should be addresed to the System Manager.

Record access procedures:

Individual can obtain assistance from the System Manager.

Chapter 31, Title 44, United States Code (USC) 3101-3107, Records Management by Federal Agencies; Chapter 33, Title 44, USC 3301-3314, Disposal of Records; Title 10, USC 2771, Armed Forces - Accountability and Responsibility; ; Sections 555 and 556, Chapter 10, Title 37, United States Code, Pay and Allowances of the Uniformed Services, Payments to Missing Persons.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Support of the Casualty Services Program. The information is used to assist the Air Force in effecting expeditious reporting, dignified and humane notifications, and efficient and thorough assistance to the next of kin of all casualties as previously defined. Primary user is the Office of the Assistant for Casualty Matters Major Commands (MAJCOMs),bases of assignment and/or reporting installation and bases providing casualty assistance. Records contain histories of all known data surrounding the missing statuses, recording dealings with next of kin, and reflecting efforts to obtain all possible information through normal and intelligence channels as well as the results of those efforts. Contain record of personnel actions taken which involve the missing persons as well as actions taken in accordance with public law. Rosters are maintained for convenience of completing many actions. Primary users are personnel in the Office of the Assistant for Casualty MaForce Military Personnel Center. Decentralized segment is maintained for rapid response to queries by high-level personnel in the Washington, District of Columbia (DC) area. The Record of Emergency Data is used to show the names and addresses of service member's spouse, children, parents and other persons the member wants notified should he/she become a casualty. Serves as an official document required by law (Title 10, United States Code (USC) 2771) for designating beneficiaries for death gratuity and unpaid pay and allowances. Also used to designate a person to receive an allotment of pay if the member becomes missing, captured or interned. Primary user is the Office of the Assistant for Casua

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in visible file binders, cabinets, and film cannisters.

Retrievability:

Filed by Name. Filed by Social Security Number (SSN).

Safeguards:

Casualty records are accessible only to authorized personnel assigned to the Office of the Assistant for Casualty Matters. Personnel are on duty 7 days per week, 24 hours a day. Also, access to the building after duty hours is controlled by Security Police personnel.

Retention and disposal:

Records may be temporary or permanent or supplemental in nature. They are retained in active file until the member's status is changed to deceased or returned to military control or no longer considered VSI, SI or III. One year after that time, selected temporary records are destroyed and all permanent records are retired to the National Personnel Records Center. Remaining temporary records are destroyed ten years after date of death or return to military control. Records of Casualty and casualty case files are permanent records. They are retained in active file until application or receipt of all allowable benefits, then forwarded to the National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132. Case files pertaining to civilians; foreign nationals; very seriously ill or seriously ill persons; and dependents of military personnel are destroyed 90 days after administrative closing of the case. Records of Emergency Data are retained until the member is relieved from active duty, then destroyed. Destroyed by shredding, burning, or by tearing into pieces.

System manager(s) and address:

Assistant Deputy Chief of Staff, Personnel for Military Personnel, Air Force Military Personnel Center, Randolph Air Force Base, Texas 78148.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Requests from individuals should be addressed to: Air Force Military Personnel Center/Office of the Assistant for Casualty Matters (AFMPC/DPMC), Randolph Air Force Base, Texas 781have been retired, the request will be forwarded to National Personnel Records Center (NPRC). Written requests should contain the full name and Social Security Account Number of the member as well as an indentification as complete as possible of the desired material including, if known, its title, description, number, date and issuing authority. For personal visits, the individual must provide some acceptable identification; that is, drivers license, identification card, or give some verbal information that can be verified in the case folder.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information provided by next of kin, organization of assignment, information extracted from Master Personnel Records, documents generated within the Casualty Division, Air Force Military Personnel Center, correspondence produced in providing casualty notification/assistance/processing.

Systems exempted from certain provisions of the act:

NONE

F03004 ARPC A

System name:

03004 ARPC A Point Credit Accounting Record System. (PCARS).

System location:

At Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280. At Air National Guard and Air Force Reserve activities. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice. At Air Force Military Personnel Center, Randolph Air Force Base, Texas 78148.

Categories of individuals covered by the system:

Air Force Reserve and National Guard Personnel.

Categories of records in the system:

Correspondence, orders; forms; and reports which include identifying personnel data including name, SSN, address, grade, and retirement/retention date; record of retirement points and service earned prior to and record of points earned, by type duty, for the current retirement year. Reports include automated listings, processed transactions, rejected transactions, accession transactions, point summary lists, statistical reports, individual point summary reports, and input lists for participation verification.

Authority for maintenance of the system:

10 USC 1331, Age and service requirement; 10 USC 1332, Computation of years of service in determining entitlement to retired pay; and 10 USC 1333, Computation of years of service in computing retired pay. Routine uses of records service in computing retired pay.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used to maintain accurate listings of transactions processed to active reserve force member's point credit account; to reconcile strength of the Air National Guard and Air Force Reserve members between the various mechanized accounting systems; to identify new members of the Air Force Reserve and Air National Guard; to certify accuracy and completeness of transactions manually submitted to the point record as required by Air Force audit requirements; to advise member and reserve managers of the member's participation in reserve affairs; for promotion evaluation considerations; and for determination of retirement eligibility.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in visible file binders/cabinets, on computer paper printouts, tape, and disk.

Retrievability:

Filed by name and by Social Security Number (SSN).

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards.

Retention and disposal:

Documents not required for inclusion in military personnel record system are retained in office files until superseded, obsolete, no longer needed for reference, or after 16 months, whichever is sooner, then destroyed by tearing into pieces, shredding, pulping, or macerating.

System manager(s) and address:

Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

Notification procedure:

Request from individual should be addressed to the Documentation Management Officer, ARPC/ DADP, 7300 East First Avenue, Denver, CO 80280. Written request for information should contain full name of individual, SSN (social security number), current address and the case control number shown on correspondence received from center. Records may be reviewed in records review room ARPC, 7300 East First Avenue, Denver, CO 80280, between 8:00 A.M. and 3:00 P.M. on normal work days. For personal visits, the individual should provide current reserve ID card and/or drivers license and give some verbal information that could verify his/her reserve assignment.

Record access procedures:

Individual can obtain assistance in gaining access from Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280, telephone (303) 394-4667.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information from master personnel record and authorized point credit documents obtained from automated system interfaces.

Systems exempted from certain provisions of the act:

NONE

F03501 DPG

System name:

03501 DPG Accounting for Personal Money Allowances (PMA).

System location:

Office of the Assistant for General Officer Matters (AF/DPG), HQ USAF, Washington, D.C. 20330.

Categories of individuals covered by the system:

Air Force general officers in receipt of a Personal Money Allowance under 37 USC 414.

Categories of records in the system:

Annual report accounting for the receipt and disposition of PMA funds received during the reporting period.

Authority for maintenance of the system:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To maintain a record of the receipt and disposition of the funds received. Annual reports will be submitted through the individual's immediate supervisor for review. They will then be forwarded to the Vice Chief of Staff (AF/CV), HQ USAF, Washington, D.C. 20330. Officers in joint assignments should send reports directly to the Vice Chief of Staff. These reports will be retained in the Office of the Assistant for General Officer Matters (AF/DPG) and will be available for review by the Assistant Secretary of the Air Force for Financial Management.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained by file folders.

Retrievability:

Filed by name.

Safeguards:

Records are stored in locked cabinets.

Retention and disposal:

Retained for three years after the date submitted, then destroyed destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

Office of the Assistant for General Officer Matters (AF/DPG), HQ USAF, Washington, D.C. 20330.

Notification procedure:

Requests from individuals should be addressed to the System Manager.

Record access procedures:

Individual can obtain assistance from the System Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information is obtained from each Air Force general officer in receipt of a Personal Money Allowance.

Systems exempted from certain provisions of the act:

NONE

F03501 ARPC A

System name:

03501 ARPC A Informational Personnel Records.

System location:

At Air Reserve Personnel Center, 3800 York Street, Denver, CO 80205.

Categories of individuals covered by the system:

Air Force Reserve and Air National Guard personnel. Retired and former Air Force military personnel.

Categories of records in the system:

Documents pertaining to individual, that are not authorized for inclusion in other military personnel record systems.

Authority for maintenance of the system:

10 USC 274 Retired Reserve; 10 USC 275 Reserve personnel; 10 USC 2001 Reserve components; 10 USC 8012 Secretary of the Air Force: Powers and Duties; Delegation by. of records maintained in the system, including categories

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

in determining eligibility for retirement related action, status of active duty tour, position occupied; training reports; answering correspondence/telephone inquiries; mobilization; updating and/or changing information in computer and/or individual reservist record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders and in card files.

Retrievability:

Filed by name and by Social Security Number (SSN).

Safeguards:

Records are accessed by the custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards.

Retention and disposal:

Retain in office files until inactivation, reassignment or separation; or one year after annual cut-off, then destroy by tearing into pieces, shredding, pulping, or macerating.

System manager(s) and address:

Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

Notification procedure:

Request from individual should be addressed to the Documentation Officer, AFPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written request for information should contain full name of individual, SSN (social security number), current address and the case (control) number shown on correspondence received from center. Records may be reviewed in Records Review Room ARPC, 7300 East First Avenue, Denver, CO 80280, between 8:00 A.M. and 3:00 P.M. on normal work days. For personal visits, the individual should provide current Reserve ID Card and/or drivers license and give some verbal information that could verify his/her retirement date, date of birth, or reserve status.

Record access procedures:

Individual can obtain assistance in gaining access from Command Documentation Manager, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280, telephone (303) 394-4667.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information is obtained from each Air Force general officer in receipt of a Personal Money Allowance.

Systems exempted from certain provisions of the act:

NONE

F03501 DPM

System name:

03501 DPM Accounting for Personal Money Allowances (PMA).

System location:

Office of the Assistant for General Officer Matters (AF/DPM), HQ USAF, Washington, D.C. 20330.

Categories of individuals covered by the system:

Air Force general officers in receipt of a Personal Money Allowance under 37 USC 414.

Categories of records in the system:

Annual report accounting for the receipt and disposition of PMA funds received during the reporting period.

Authority for maintenance of the system:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To maintain a record of the receipt and disposition of the funds received. Annual reports will be submitted through the individual's immediate supervisor for review. They will then be forwarded to the Vice Chief of Staff (AF/CV), HQ USAF, Washington, D.C. 20330. Officers in joint assignments should send reports directly to the Vice Chief of Staff. These reports will be retained in the Office of the Assistant for General Officer Matters (AF/DPM) and will be available for review by the Assistant Secretary of the Air Force for Financial Management.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained by file folders.

Retrievability:

Filed by name.

Safeguards:

Records are stored in locked cabinets.

Retention and disposal:

Retained for three years after the date submitted, then destroyed destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

Office of the Assistant for General Officer Matters (AF/DPM), HQ USAF, Washington, D.C. 20330.

Notification procedure:

Requests from individuals should be addressed to the System Manager.

Record access procedures:

Individual can obtain assistance from the System Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information is obtained from each Air Force general officer in receipt of a Personal Money Allowance.

Systems exempted from certain provisions of the act:

NONE

F03501 MPC A

System name:

03501 MPC A Informational Personnel Records.

System location:

At Air Reserve Personnel Center, 3800 York Street, Denver, CO 80205.

Categories of individuals covered by the system:

Air Force Reserve and Air National Guard personnel. Retired and former Air Force military personnel.

Categories of records in the system:

Documents pertaining to individual, that are not authorized for inclusion in other military personnel record systems.

Authority for maintenance of the system:

10 USC 274 Retired Reserve; 10 USC 275 Reserve personnel; 10 USC 2001 Reserve components; 10 USC 8012 Secretary of the Air Force: Powers and Duties; Delegation by. of records maintained in the system, including categories

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Provides information to unit commanders/supervisors for required

Filed by name, by Social Security Number (SSN), and ascending AFSC order, rank and name.

Safeguards:

Records are accessed by the custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards.

Retention and disposal:

Retain in office files until inactivation, reassignment or separation; or one year after annual cut-off, then destroy by tearing into pieces, shredding, pulping, or macerating.

System manager(s) and address:

Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

Notification procedure:

Request from individual should be addressed to the Documentation Officer, AFPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written request for information should contain full name of individual, SSN (social security number), current address and the case (control) number shown on correspondence received from center. Records may be reviewed in Records Review Room ARPC, 7300 East First Avenue, Denver, CO 80280, between 8:00 A.M. and 3:00 P.M. on normal work days. For personal visits, the individual should provide current Reserve ID Card and/or drivers license and give some verbal information that could verify his/her retirement date, date of birth, or reserve status.

Record access procedures:

Individual can obtain assistance in gaining access from Command Documentation Manager, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280, telephone (303) 394-4667.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information supplied by individual as relates to but not limited to application for retirement, military orders, personal data; statement of military service from other military components; correspondence from serving Consolidated Base Personnel Office/ Consolidated Reserve Personnel Office and Major Command units. Information from source documents prepared on behalf of the Air Force Advance Personnel Data System.

Systems exempted from certain provisions of the act:

NONE

F03501 ARPC B

System name:

03501 ARPC B Biographical File.

System location:

At Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280, Ecclesiastical endorsing agencies if appropriate.

Categories of individuals covered by the system:

Air Force Reserve personnel assigned to but not limited to the Air Reserve Information Squadron (ARIS), Chaplain (HC) and Surgeon (SG) programs.

Categories of records in the system:

Biographies provided by members, correspondence, orders and/or forms containing information as to individual name, rank, social security number, service dates, date of birth, unit assignments, civilian employment, military and civilian education, military and civilian experience, program specialties, hobbies, and names of family members, religion of chaplains, professional expertise and appointments, membership in professional societies, civic activities and state of licensure.

Authority for maintenance of the system:

10 USC 262 Purpose; 10 USC 8067 Designation: Officers to perform certain professional functions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To select information, chaplains, legal, medical field reserve officer personnel for special duties according to specific expertise required. Chaplain records are used by Chaplains Office personnel, medical reservist records are used to provide the ARPC/SG, Surgeon General, Major Command surgeons, USAF/RE, and Reserve Regions an in-depth personal history of Reservist Medical Officer. Used to provide overiew of skill resources available in ARIS Program. Allow selection of members best qualified to meet specific program requirements and task asgnments.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders and in note books/binders.

Retrievability:

Filed by name.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties, and by commanders medical centers and hospitals. Records are protected by guards.

Retention and disposal:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, or macerating.

System manager(s) and address:

Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

Notification procedure:

Request from individual should be addressed to Documentation Management Officer ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written request for information should contain full name of individual, SSN (social security number), current address and the case (control) number shown on correspondence received from Center. Records may be reviewed in Records Review Room ARPC, 7300 East First Avenue, Denver, CO 80280, between 8:00 A.M. and 3:00 P.M. on normal work days. For personal visits, the individual should provide current Reserve ID Card and/or drivers license and give some verbal information that could verify his/her military personnel record, his/her religion if in the Chaplain program.

Record access procedures:

Individual can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280, telephone (303) 394-3667.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Provided by individual Reservist.

Systems exempted from certain provisions of the act:

NONE

F03501 ARPC C

System name:

03501 ARPC C Personnel Management Records

System location:

At Air Reserve Personnel Center, 7300 East First Avenue, Denver CO 80280; Headquarters United States Air Force, Washington DC 20330; United States Air Force Academy, CO 80840; major commands and major subordinate commands. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Categories of individuals covered by the system:

Air Force Reserve Personnel and civilian/active military applicants to Air Force Reserve.

Categories of records in the system:

Officer and airman assignment files which includes correspondence, memos, completed forms, messages and vacancy authorization data for assignment approvals, disapprovals, waivers, manning assistance, discharges, screening data, orders, evaluation reports, documents changing training category, personal data, photographs, chaplain ecclesiastical endorsement, record of security clearance, miscellaneous correspondence to and from individual; case file of reserve personnel placed on active duty containing copies of special and reserve orders, correspondence, documents complete with information used for travel overseas; assignment instructions; list of actions taken by technician; board actions on involuntary Airmen; certified receipts acknowledgement of receipt of special orders card.

Authority for maintenance of the system:

10 USC 275 Personnel Records, 10 USC 672 Reserve Components generally, 10 USC 673 Ready Reserve and Executive Order 11366, 4 Aug 67, 10 USC Chapter 103 Senior Reserve Officer: Training Corps, 10 USC 262 Purpose, and 10 USC 8067 Designation: Officers to perform certain professional functions. Routine uses of records maintained in the functions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used to determine eligibility/suitability for assignment/reassignment with the Air Force Reserve; to make determinations on discharges or mobilization, deferments, fulfillment of statutory requirements, voluntary and involuntary order to extended active duty (EAD) and temporary release. These include but are not limited to members participating in the Air Reserve Information Squadron (ARIS), Chaplain, Judge Advocate, Surgeon General Program. Records maintained as a historical file. Used as a reference file to answer inquiries from Reservist and Air Force personnel requiring information on the Reservist being recalled to active duty, to send gaining active units additional copies as requested, used as substantiating documents to show all action was taken in accordance to prescribing directives. Information on personnel in the ARIS, Chaplain, Judge Advocate, Surgeon General and other Officer management programs is used by personnel responsible for program in order to assist Reservist in their careers.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders, in note books/binders and in visible file binders/cabinets.

Retrievability:

Filed by name, by Social Security Number (SSN), and ascending AFSC order, rank and name.

Safeguards:

Records are accessed by person(s) responsible for servicing the records system in performance of their official duties and by custodian of the record system. Records controlled by personnel screening and are protected by guards.

Retention and disposal:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, or macerating.

System manager(s) and address:

Commander Air Reserve Personnel Center (ARPC) is responsible for records at ARPC in Denver, CO. Individuals included in above records systems should deal directly with agency official of respective location to exercise their rights under the act.

Notification procedure:

Request from individual should be addressed to the Documentation Management Officer ARPC/DADP, 7300 East First Avenue, Denver CO 80280. Written requests for information should contain full name of individual, SSN (Social Security Number), current address and the case (control) number shown on correspondence received from Center. Records may be reviewed in Records Review Room ARPC, 7300 East First Avenue, Denver CO 80280, between 8:00 A.M. and 3:00 P.M. on normal work days. For personal visits, the individual should provide current Reserve ID card and/or driver's license and give some verbal information that could verify his/her identity from the records.

Record access procedures:

Individual can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280, telephone (303) 394-4667.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information from the individual requesting assignment or making the inquiry, master personnel record, correspondence and orders, annual survey and advance personnel data system, instructions from Air Force Military Personnel Center, Randolph Air Force Base, San Antonio, TX 78148, instructions and board actions from Air Force and Reserve, DPAA Robins Air Force Base, Warner Robins, GA 31093 and Air Force Training Corps/SDAA, Maxwell Air Force Base, Montgomery, Alabama 36112 and the National Guard Bureau, Washington DC 20310, and other Air Command, instructions from Headquarters/JAEC, Washington DC 20314.

Systems exempted from certain provisions of the act:

NONE

F03501 DP 3

System name:

03501 DP 3 Unit Assigned Personnel Information File

System location:

Air Force Units. Headquarters United States Air Force and major command headquarters. Headquarters of major commands and at all levels down to and including Air Force installations.

Categories of individuals covered by the system:

Active duty military personnel. Air Force Reserve and Air National Guard personnel.

Categories of records in the system:

File copies of separation actions, newcomers briefing letters, line of duty determinations, assignment actions, retirement actions, in and out processing checklists, promotion orders, credit unition authorization, disciplinary actions, favorable/unfavorable communications, record of counselings, appointment notification letters, duty status changes, applications for off duty employment, applications and allocations for school training, professional military and civilian education data, private weapons storage records, locator information including names of dependents, home address, phone number, training and experience data, special recognition nominations, and other personnel documents.

Authority for maintenance of the system:

10 United States Code 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Provides information to unit commanders/supervisors for required actions related to personnel administration and counseling, promotion, training, separation, retirement, reenlistment, medical examination, testing, assignment, sponsor program, duty rosters, and off duty activities.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders, note books/binders, and card files.

Retrievability:

Filed by Name and Social Security Number (SSN).

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

Retention and disposal:

Retained in office files until reassignment or separation; most records are transient in nature and are maintained only as long as required to fulfill their management purpose or until superseded, then given to the individual or destroyed by shredding, pulping, macerating or burning.

System manager(s) and address:

Deputy Chief of Staff/Personnel, Headquarters United States Air Force. Washington D.C. 20330

Notification procedure:

Inquries from individuals should be addressed to the respective unit commander or supervisor who maintains the records in order to exercise their rights under the Act.

Record access procedures:

Requests from individuals should be addressed to the respective unit commander or supervisor who maintains the records in order to exercise their rights under the Act. Mailing addresses are contained in the Department of Defense Directory in the appendix to the Air Force's Systems Notice.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from the individual concerned, financial institutions, educational institutionemployees, medical institutions, police and investigating officers, bureau of motor vehicles, witnesses, reports prepared on behalf of the agency, standard Air Force forms, personnel management actions, extracts from the Advanced Personnel Data System (ADPS) and records of personal actions submitted to or originated within the organization.

Systems exempted from certain provisions of the act:

NONE

F03501 DPMAKEI

System name:

03501 DPMAKEI Absentee and Deserter Information Files

System location:

Absentee and deserter documents are maintained in the Unit Personnel Record Group at consolidated base personnel offices. Information files are maintained at major commands of the parent unit of assignement. Official mailing addresses for consolidated base personnel offices and major commands are in the Department of Defense directory in the appendix to the Air force's system notice. Case files are maintained at the Air Force Military Personnel Center, Randolph Air Force Base, TX 78148. Permanently retained documents are located at the National Personnel Records Center, Military Personnel Branch, 9700 Page Bolulevard, St. Louis, MO 63132 and the Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

Categories of individuals covered by the system:

All active duty and inactive duty Air Force personnel who are or have been reported absent without leave or who have been administratively classified as a deserter.

Categories of records in the system:

Duty status change forms; Absentee Wanted by the Armed Forces forms;; copy of unit commander's initial and follow-on Report of

System location:

At Air Force Military Personnel Center, Randolph Air Force

Headquarters United States Air Force, Washington DC 20330. Air Force Military Personnel Center, Randolph Air Force Base, TX 78148. Air Reserve Personnel Center, 7300 East First Avenue,

Force personnel management within the agency for actions/processes related to procurement, education and training, classification, assignment, career development, evaluation, promotion, compensation, sus-

Duty status change forms; Absentee Wanted by the Armed Forces forms;; copy of unit commander's initial and follow-on Report of Inquiry. Includes information concerning circumstances surrounding the unauthorized absence and attempts to locate the individual; copy of notification letter to next of kin stating that member is considered in an administrative status of an unauthorized absentee or deserter; Federal Bureau of Investigation (FBI) and Office of Special Investigations (OSI) reports or extracts therefrom are included in some case files; correspondence administratively classifying the individual as a deserter, if appropriate; Report of Return of Absentee Wanted by the Armed Forces forms.

Authority for maintenance of the system:

Title 10, United States Code (USC) Armed Forces - Chapter 47 - Uniform Code of Military Justice, Sections 885, 886 and 887.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Provides documentation and reference source for the administration of individuals absent without leave and individuals administratively classified as deserters. Used as basis for preparing statistical reports required by DOD for reports provided managers of unauthorized absentee programs, e.g., Major Commanders, and for promptly reporting changes in individual's status to military federal and civil law enforcement agencies to facilitate apprehension.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in visible file binders/cabinets.

Retrievability:

Filed alphabetically by last name.

Safeguards:

Records are accessed by the custodian of the record system, persons responsible for servicing the records system in the performance of their official duties, and by authorized personnel who are properly screened and cleared for need-to-know. These records are stored in file cabinets in buildings that are either locked or have controlled access entry requirements.

Retention and disposal:

Documents originated at base level are maintained in the Military Personnel Records System. Major command files are maintained as temporary general correspondence files and destroyed by shredding one year after the calendar year in which the member returned to military control. Case files maintained at the Air Force Military Personnel Center (AFMPC/DPMAKE) are destroyed six months after the member is returned to military control; however, If additional accountable disclosures are made during that six month period the files are transferred to the Military Personnel Records System and retained permanently.

System manager(s) and address:

Assistant Deputy Chief of Staff Personnel for Military Personnel, Randolph Air Force Base, Texas 78148.

Notification procedure:

During the period of unauthorized absence, no procedures exist for notifying individuals that an Absent Without Leave (AWOL)/Deserter file is maintained on them unless address provided by requestor. Subsequent to the member's return to military control individuals can contact the system manager or visit the locations identified above. Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Contact the system manager or visit the locations identified above.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Unit Commanders, Consolidated Base Personnel Office representatives, military and civilian law enforcement officials, and anyone who may report information concerning an absentee wanted by the Armed Forces.

Systems exempted from certain provisions of the act:

NONE

F03501 DPMAR

System name:

03501 DPMAR Disability/Non-Disability Retirements Records

System location:

At Air Force Military Personnel Center, Randolph Air Force Base, TX 78148.

Categories of individuals covered by the system:

Officers and airmen currently on the Temporary Disability Retired List (TDRL); officers and airmen who have requested voluntary retirement other than those whos applications were automatically approved.

Categories of records in the system:

TDRL punch card data files, retirement applications, and associated documents biographical data.

Authority for maintenance of the system:

10 USC Chapter 33, Appointments in Regular Components Section 564; Chapter 59, Separation, Sections 1164 and 1166; Chapter 61, Retirement or 10 USC Chapter 33, Appointments in Regular Components Separation for Physical Disability; Chapter 63, Retirement for Age, Section 1263; Chapter 65, Retirement for Length of Service, Sections 1293 and 1303; Chapter 835, Appointments in the Regular Air Force, Section 8303; Chapter 859, Separation from Regular Air Force for Failure to Meet Standards, Sections 8786 and 8796; Chapter 865, Retirement for Age, Sections 8883, 8884, 8885, 8886; Chapter 867, Retirement for Length of Service, Sections 8911, 8913, 8915, 8916, 8918, 8921, 8922, 8923 and 8924.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used to provide information on retirement cases and to allow appropriate case processing; used to control TDRL actions; diagnostic information may be provided to attending physicians of TDRL members to obtain current status of originally disabling conditions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in visible file binders/cabinets.

Retrievability:

Filed by Name by Social Security Number (SSN).

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Stored in secure building.

Retention and disposal:

Correspondence files are retained for two years after end of year case was closed or inquiry responded to; disability retain files are retained for 90 days after case is finalized; case files are retired to Master Personnel Records Group when service retirement action has been completed; TDRL punch cards destroyed when member is removed from TDRL. Disposal is by shredding or burning.

System manager(s) and address:

Assistant Deputy Chief of Staff Personnel for Military Personnel, Randolph Air Force Base,TX.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain-assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Correspondence and forms generated in Retirements Division (AFMPC/DPMAR), military hospitals, HQ USAF Surgeon General (HQ USAF/SG), Consolidated Base Personnel offices and Major Air Commands, by the members themselves, and by the general public on retirement related matters.

Systems exempted from certain provisions of the act:

NONE

F03501 DPMDQIA

System name:

03501 DPMDQIA Military Personnel Records System

System location:

Headquarters United States Air Force, Washington DC 20330. Air Force Military Personnel Center, Randolph Air Force Base, TX 78148. Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280. National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132. Headquarters of the major commands and separate operating agencies. At consolidated base personnel offices and other installation units. At State Adjutant General Office of each respective State, District of Columbia or Commonwealth of Puerto Rico. At Air Force Reserve and Air National guard units, official mailing addresses are in the Department of Defense Directory in the Appendix to the Air Force's Systems Notice.

Categories of individuals covered by the system:

Air Force active duty military personnel. Officer Correspondence and Miscellaneous Document Group (C&M) at Air Force Military Personnel Center (AFMPC); Headquarters United States Air Force (HQ USAF) Selection Record Group (SR) at HQ USAF Assistant for General Officer Matters; Retired Air Force general officers. Master Personnel Record Group (MPeRGp) at AFMPC; active duty colonels at HQ USAF, Assistant for Senior Officer Management, C&M at AFMPC Air Force active duty officer personnel. MPeRGp at AFMPC Officer Command Selection Record Group (OCSR) at the respective major command or separate operating agency, Field Record Group (FRGp) at the respective Air Force base of assignment/servicing Consolidated Base Personnel Office (CBPO); Air Force active duty enlisted personnel. MPeRGp at AFMPC, FRGp at respective servicing CBPO, Senior Noncommissioned Officer (NCO) Selection Folder at the respective servicing CBPO; personnel in Temporary Disability Retired List (TDRL) status, Missing in Action (MIA), Prisoner of War (POW), Dropped From Rolls (DFR), MPeRGp at AFMPC; Reserve officers MPeRGp at Air Reserve Personnel Center (ARPC), OCSR at the respective Air Force (AF) major command (MAJCOM) when applicable, FRGp at the respective unit of assignment or servicing CBPO or Consolidated Reserve Personnel Office (CRPO); Reserve airmen MPeRGp at ARPC, FRGp at the respective unit of assignment or servicing CBPO/CRPO; Air National Guard (ANGUS) officers MPeRGp at ARPC, OCSRat the respective State Adjutant General Office, FRGp at the respective unit of assignment, ANGUS airmen MPerGp at the respective State Adjutant General Office FRGp at the respective unit of assignment; Retired Air Force military personnel; Discharged personnel MPerGp at National Personnel Records Center (NPRC); Air Force Academy cadets MPerGp at unit of assignment CBPO.

Categories of records in the system:

Substantiating documentation such as forms, certificates, administrative orders and correspondence pertaining to appointment as a commissioned officer, warrant officer, Regular AF, AF Reserve or ANGUS; enlistment/reenlistment/extension of enlistment; assignment Permanent Change of Station (PCS)/Temporary Duty (TDY); promotion/demotion; identification card requests; casualty; duty status changes - Absent Without Leave (AWOL)/MIA/POW/Missing/Deserter; military test administration/results; service dates; separation; discharge; retirement; security; training, Precision Measurement Equipment (PME), On The Job Training (OJT), Technical, General Military Training (GMT), commissioning, driver; academic education; performance/effectiveness reports; records corrections - formal/informal; medical or dental treatment/examination; flying/rated status administration; extended active duty; emergency data; line of duty determinations; human/personnel reliability; career counseling; records transmittal; AF reserve administration; Air National Guard administration; board proccedings; personnel history statements; Veterans Administration compensations; disciplinary actions; record extracts; locator information; personal clothing/equipment items; passport; classification; grade data; Career Reserve applications/cancellations; traffic safety; Unit Military Training; travel voucher for TDY to Republic of Vietnam; dependent data; professional achievements; Geneva Convention cards; drug abuse; Federal Insurance; travel and duty restrictions; Conscientious Objector status; decorations and awards; badges; Favorable Communications (colonels only); Inter-Service transfers; pay and allowances; combat duty; leave; photographs; Advanced Personnel Data System products.

Authority for maintenance of the system:

Title 44, United States Code, Section 3101: Records Management by Federal Agencies; Records Management by agency heads; general duties; E.O. 9397.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to satisfying the Title 44 requirement for records retention, Military Personnel Records are utilized at all levels of Air Force personnel management within the agency for actions/processes related to procurement, education and training, classification, assignment, career development, evaluation, promotion, compensation, sustentation, separation and retirement. Military Personnel Records are routinely utilized outside the Air Force for actions/processes related to assignment or transfer to other services or joint service organizations; compensation claims submitted to Veterans Administration Regional Offices; dependents and survivors requesting issuance or determination of eligibility for identification card privileges; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) eligibility and benefits requests - copies are provided to CHAMPUS, Denver, Colorado; Immigration and Naturalization - copies are provided to respective local Immigration Office; Unemployment Compensation Requests - verification of service related information provided to State Unemployment Compensation (UCX) Office; Vietnam State Bonus - information provided to respective local State offices; Civil Service requests for verification of military service for benfits; leave or Reduction in Force (RIF) purposes - copies provided to local Civilian Personnel Office; National Cemetary Burial/Headstone cases - copies provided to Superintendent National Cemetary, Army Quartermaster Corps, Virginia; Worldwide locator inquiries - response provided to legitimate requests in accordance with the Freedom of Information Act; Dual compensation cases involving former officers - provided to establish Civil Service employee tenure and leave accrual rate; Social Security Retirement Credit Verification - verification of service data provided to substantiate applicant's credit for Social Security compensation; Soldiers and Sailors Civil Relief Act requests - verification of service - related information provided to State courts in civil actions; Litigation - in event the United States, its officers or employees are involved. Changes in member's official records regarding name, Social Security Account Number, date or place of birth or home of record - required information provided to Director of Selective Service, Federal Bureau of Investigation, and Personnel Research Division of the Air Force Human Resources Laboratory at Lackland Air Force Base, Texas. Secretary of the Air Force Legislative Liaison releases when authorized by individual concerned. US Department of Agriculture for investigative and audit procedures US Department of the Treasury for Secret Service investigations, Coast Guard Activities Bureaus of Customs, Narcotics, Engraving and Printing and Internal Revenue Service for official activities; US State Department, Federal Aviation Agency for background investigations of employment applicants; Central Intelligence Agency for Investigations, US Postal Service for Official Postal Inspector Duties, General Services Administration for Investigation of Incumbant Employees; Department of Justice for Investigations conducted by the Federal Bureau of Investigation and Immigraton and Naturalization Small Business Administration for Investigations concerning Loans, National Security Agency Review of Records for Security Investigations United States Information Agency for Review of Records for Background Investigations. United States Civil Service Commission to conduct investigations either by personal investigations or written inquiry to determine suitability, eligibility, or qualifications of individuals for Federal employment, Federal contracts, or access to classified information or restricted areas. Separation information provided to the Veteran's Administration and Selective Service Agencies. American National Red Cross - information to local Red Cross offices for emergency assistance to military members, dependents, relatives or other persons if conditions are compelling. Drug Enforcement Administration. Department of Labor: Bureau of Employees' compensation - medical information for claims of civilian employees formerly in military services; Employment and Training Administration - verification of service-related information for unemployment compensation claims; Labor Management Services Administration for investigations of possible violations of labor laws and pre-employment investigations; National Research Council - for medical research purposes; U.S. Soldiers' and Airman's Home - service information to determine eligibility.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders placed in metal file containers or on open shelves. Microfiche placed in rotary power files; computer disk resident data file consists of Social Security Account Number (SSN) and disk location of the associated image inderecord which includes document data describing document type, date, location, and number of pages in each document.

Retrievability:

Information in the system is retrieved by last name, first name, middle initial and Social Security Number (SSN). Records stored at

National Personnel Records Center Center are retrieved by registry number, last name, first name, middle initial and SSN. Information

Documentary support of tour applications; approval/disapproval; initiation, termination and extension of statutory tours; historical ref-

and termination of employment; hiring checklist; AFROTC Form O-217, Change in AFJROTC Instructor Status; AFROTC Form O-214, AFJROTC Instructor Contract Card; AFROTC Instructor certifi-

clearance; statements of personal history; LPT scores; drug abuse certificates; small arms marksmanship training data; personnel data sheet; cadet biographical data; cadet personnel information; state-

National Personnel Records Center Center are retrieved by registry number, last name, first name, middle initial and SSN. Information can be displayed via closed circuit television subsystem, produced on a duplicate microfiche, or paper reproduction.

Safeguards:

The prescribing directive for the Military Personnel Records System requires those records to be stored (after duty hours) in a locked building, room or filing cabinets. Access is specifically limited to those personnel designated by the Consolidated Base Personnel Office (CBPO) Chief and those provisions for access and release of information contained in Air Force Regulation 31-6.

Retention and disposal:

Users who are granted access to the microfiche files are screened by computer software. Those documents designated as Temporary in the prescribing directive remain in the records until their obsolescence (superseded, member terminates his status, or retires) when they are removed and provided to the individual data subject. Those documents designated as Permanent remain in the military personnel records system permanently and are retired with the master personnel record group.

System manager(s) and address:

Assistant Deputy Chief of Staff Personnel for Military Personnel, Randolph Air Force Base, Texas 78148 is the official responsible for the system of records. Individuals in categories included above may deal directly with agency officials at the respective records location to exercise their rights under the Act.

Notification procedure:

The individual data subject may be notified that a record exists on him by submitting a request to or appearing in person at the responsible official's office or the respective repository for records for personnel in his particular category during normal duty hours any day except Saturday, Sunday or national and local holidays. The Saturday and Sunday exception does not apply to Reserve and National Guard units during periods of training. Response to written requests will be provided not later than ten days following receipt of request. The System Manager has the right to waive these requirements for personnel located in areas designated as Hostile Fire Pay areas.

Record access procedures:

The same written notification or personal visit procedures which apply to notification also apply to access.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Sources of information contained in the system include data subject's applications, requests, personal history statements, supervisors' evaluations, correspondence generated within the agency in the conduct of official business, medical treatment records, educational institutions, civil authorities, other service departments, and interface with the Advanced Personnel Data System.

Systems exempted from certain provisions of the act:

NONE

F03501 REP A

System name:

03501 REP A Personnel Files on Statutory Tour Officers

System location:

Personnel Division, Office of Air Force Reserve (AF/REP) HQ USAF Washington DC 20330. Air Force Military Personnel Center (DPMYR), Randolph AFB TX 78148 (USAFR and ANG Personnel).

Categories of individuals covered by the system:

United States Air Force Reserve Officers applying for or selected for assignment as statutory tour officer.

Categories of records in the system:

Application for extended active duty with United States Air Force, military career brief, resume of prior military and civilian experience, officer effectiveness report overall rating, correspondence and special orders relative to the tour.

Authority for maintenance of the system:

Title 10, United States Code, Section 8033

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Documentary support of tour applications; approval/disapproval; initiation, termination and extension of statutory tours; historical reference not to exceed two years after tour termination; used by Air Force Military Personnel Center/Assistant for Personnel Plans, Programs and Analysis, Reserve Forces Division (AFMPC/DPMYR); used for AFMPC/DPMYR as record of approval/disapproval, authority to issue Department of the Air Force Special Orders (DAFSOs); by Office of the Air Force Reserve (AF/RE), Director Air National Guard, National Guard Bureau (NGB/CF) and SAF/MRR as record of approval/disapproval.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders.

Retrievability:

Filed by Name.

Safeguards:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets.

Retention and disposal:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

Chief of Air Force Reserve, Headquarters United States Air Force. Washington DC 20330

Notification procedure:

Requests from individuals should be addressed to the Systems Manager. Full name social security account number Personnel Division Office of Air Force Reserve, Pentagon, Washington DC 20330. Military identification card or driver's license required, if in person.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

Systems exempted from certain provisions of the act:

NONE

F03501 0KPNQSC

System name:

03501 0KPNQSC AFJROTC Instructor Records System

System location:

AFROTC/JR1 Headquarters Air University, Maxwell Air Force Base, AL 36112.

Categories of individuals covered by the system:

AFJROTC instructors;past and present

Categories of records in the system:

AFROTC Form O-226, Processing Checklist; AFROTC Form O-222, Applicant Evaluation Form; AFROTC Form O-200, Application; Applicant Interview Record; Commander's Recommendation (for Noncommissioned Officers on active duty only); last 10 Airmen Performance Reports or Officer Effectiveness Reports, or summary of last 10 reports which include period of supervision and overall evaluation: letter requesting Defense Central Index of Investigation (DCII) name check; photograph; DD Form 214, Report of Separation from Active Duty; Retirement Order; miscellaneous correspondence such as resumes and letters of recommendation; copy of Air Force retirement physical and Physical Evaluation Board findings if applicant is retired with 30 percent or more disability; copy of Veterans Administration (VA) Form Letter (FL) 21-826, VA Form 20-822, VA FL-21-826, and VA Form 21-6782, if applicant is retired with 30 percent or more disability awarded by Veterans Administration; letter requesting medical evaluation of AFJROTC instructor applicants for personnel retired with 30 percent or more disability; letter from school officials indicating effective date of employment

and termination of employment; hiring checklist; AFROTC Form O-217, Change in AFJROTC Instructor Status; AFROTC Form O-214, AFJROTC Instructor Contract Card; AFROTC Instructor certificates; letters pertaining to warning on or change of instructor certification status; AFROTC form 98 or o-218 Air Force junior ROTC aerospace education instructor evaluation report; letters pertaining to appeals of ratings and /or comments on AFROTC form 98 or O-218, Air Force Junior ROTC aerospace education instructor evaluation report; instructor termination questionnaire.

Authority for maintenance of the system:

10 USC Chapter 102, Junior Reserve Officers' Training Corps.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The information is collected to determine if instructor is meeting Air Force standards. Routine use includes the referral of any individual's records, if requested, to the Department of Defense, Department of Justice, law enforcement or investigatory authority for investigation of possible criminal prosecution, civil court action, or regulatory order.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders, and on computer magnetic tape and computer printouts.

Retrievability:

Filed by name and Social Security Number (SSN).

Safeguards:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

Retention and disposal:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

Chief, Instructor Management Division, AFROTC/JR1, Maxwell Air Force Base, AL 36112.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager. individuals who write must furnish name grade SSAN unit of assignment and address. Visitors must show armed forces identification card and some additional source of positive identification

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from previous employers, financial institutions, educational institutions, police and investigating officers, the bureau of motor vehicles, a state or local government, witnesses and from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

Systems exempted from certain provisions of the act:

NONE

F03502 AFA A

System name:

03502 AFA A Cadet Management System

System location:

United States Air Force Academy, CO 80840.

Categories of individuals covered by the system:

The Air Force Academy Cadets.

Categories of records in the system:

(1) Records of emergency data; cadet acceptance records; oaths of allegiance; statements of consent; marriage, paternity, maternity, birth certificates; appointment orders; summer training orders; special orders; awards and decorations; requests for insurance; insurance program letters; applications for identification cards; training certificates; data for parachutist rating (LRA); individual jump records; aeronautical orders; records of personnel security investigation and clearance; statements of personal history; LPT scores; drug abuse certificates; small arms marksmanship training data; personnel data sheet; cadet biographical data; cadet personnel information; statements of travel; Academy/Commandant Board actions; Class Committee actions; legal reexamination letters; course completion/retake letters; cadet performance reports; basic cadet evaluation reports; letters of appreciation; Commandant's letters for placement, continuation, removal from aptitude, conditional probation; academic probation notifications; final clearances (graduates); reports of separation from active duty; records of disenrollment from officer candidate type training; (2) Offenses; referrals of offenses, awards and punishments; disciplinary board actions; squadron punishment lists; (3) special orders; (4) Cadet aptitude briefing; (5) Evidence and statements gathered by the Honor Committee which have been used to determine if accused cadets were guilty of violating the Honor Code and includes a summary of the Honor Board proceedings; (6) Course exams; answer sheets; flight mission grade sheets; (7) Prior summer training completion records of programs attended; current summer assignments and training program preferences; (8) Mandatory nonacademic appointments; (9) Board case files (proceedings, inquiries, investigations); (10) Outgoing clearance forms to assist cadet in outprocessing from the Academy.

Authority for maintenance of the system:

10 USC 8012 Secretary of the Air Force: powers and duties; delegation by; 10 USC 9349 Cadets: organization; service; instruction.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(1) For use in controlling and regulating cadet activity at the USAF Academy; (2) To report offenses committed by cadets, to reflect Commandant Disciplinary Board actions and conduct probationary cases to Commandant of Cadets for his approval, to provide a format for reporting completion of punishments; (3) To announce cadet rank and position (duty) to be held. Cadet Rank Cards are used to input the necessary data; (4) Monthly aptitude briefings completed by both cadets and AOCs are used when a cadet is referred to the Commandant's Board; (5) Case files are used by Cadet Honor Representatives to investigate possible violations of the Honor Code and as evidence at Cadet Honor Hearings. The case summaries are used for statistical record keeping and training in each squadron of Honor Committee activities; (6) Exams and grade sheets are used by assigned officers and secretarial staff of the Navigation Division to resolve any questions of validity of cadet grades and as an evaluation tool to measure cadet performance; (7) Maintain record of summer training accomplishments and assign cadets to summer training program; (8) Schedule cadets for mandatory nonacademic appointments during free periods; (9) Used as a case file in board (disenrollment) actions initiated against cadets. Reviewed by the Office of the Secretary of the Air Force in making final decisions on disenrollment action. Reviewed by Superintendent, USAF Academy in making a decision to refer to Board of Officers; (10) Accomplish required outprocessing actions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in visible file binders/cabinets, on disks or drums, file folders, notebooks/binders, computer printout.

Retrievability:

Filed by name, social security number, other identification number or system identifier, military service number.

Safeguards:

Records are stored in locked cabinets, rooms, or safes. Computer records are controlled by computer system software. Manual records are accessed by custodians or persons who are responsible for servicing the record system in performance of official duties.

Retention and disposal:

(1) Stored for one year after graduation, then merged with the personnel records maintained by Registrar, Cadet Records Section, USAF Academy, CO 80840; (2) Destroyed 30 days after final action. Upon disenrollment or graduation, forwarded to Registrar, where they are microfilmed one year after graduation and retained permanently. Paper copy then destroyed; (3) Destroyed after 30 days after final action. Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning; (4) Maintained as part of personnel record (Permanent). Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning; (5) Information is retained for one year in the case of first class cadets and six months

in the case of underclass cadets, or until graduation or elimination from training, then destroyed by tearing into pieces, shredding, pulp-

who are properly screened and cleared for need-to-know. As a physical safeguard these records are stored in a secured building and

effectiveness of screening out potential under/overweight applicants, evaluate recruiter's and job counselor's activity and efficiency levels, analyze preenlistment job cancellations for common denominators (reasons), analyze post-enlistment training pipeline attritions for

ing the member's relocation, record of emergency data, Records Transmittal/Request, servicemen's request for compensation from the veterans administration, PCS or TDY Levy Notification Letter/ Brief, duplicates of correspondence directing/authorizing the reloca-

in the case of underclass cadets, or until graduation or elimination from training, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. AF Form 525 will be submitted for summaries; (6) All material retained for 30 days after the end of the semester in which administered except for final exam answer sheets which are destroyed after one year. All material to be destroyed is boxed and pulverized in accordance with the aforementioned time frame; (7) Retained in office files until graduation or elimination from training, then destroyed by tearing into pieces, shredding, pulping, macerating or burning; (8) Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning; (9) & (10) Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, maceration or burning.

System manager(s) and address:

Commandant of Cadets, USAF Academy, CO 80840.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the System Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from Commandant of Cadets Personnel. Information obtained from individual. Information obtained from coach. Information obtained from Educational Institutions. Information obtained from automated system interfaces. Information obtained from source documents (such as reports) prepared on behalf of the AF by boards, committees, panels, auditors, etc. Information obtained from civilian instructors.

Systems exempted from certain provisions of the act:

NONE

F03503 ATC RSL

System name:

03503 ATC RSL Basic Trainee Interview Record

System location:

United States Air Force Recruiting Service Liaison Office (RSL), Lackland Air Force Base, Texas 78236.

Categories of individuals covered by the system:

United States Air Force Basic Trainees who register complaints concerning their enlistment in the United States Air Force.

Categories of records in the system:

Records resulting from personal interviews with basic trainees who file complaints about their enlistment, including, but not limited to, investigations on each complaint, conclusions and recommendations.

Authority for maintenance of the system:

10 USC 503, enlistments; recruiting campaigns. Executive Order 9397, 22 November 1943, Number System for Accounts Relating to Individual Persons.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Data is collected in order to have a written record of interviews with basic trainees who register complaints about the enlistment procedure. The data is used by the Recruiting Service Liaison Office to investigate the complaints and keep the Commander, United States Air Force Recruiting Service advised of the nature of complaints being received. It is also used as the basis for making procedural changes in the United States Air Force Recruiting Service when a trend develops in a specific area.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders.

Retrievability:

Filed by name or social security number.

Safeguards:

Records are accessed by person(s) responsible for servicing the record system in the performance of their official duties and by those who are properly screened and cleared for need-to-know. As a physical safeguard these records are stored in a secured building and locked office.

Retention and disposal:

Records are cut off at the end of each calendar year, held for one additional year, then destroyed by shredding.

System manager(s) and address:

Superintendent, United States Air Force Recruiting Service Liaison Office, Lackland AFB TX 78236.

Notification procedure:

Individuals may contact the Superintendent, United States Air Force Recruiting Service Liaison Office, Lackland AFB TX 78236. Requests must contain full name, and current mailing address.

Record access procedures:

Same as procedures for notification.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Records contain specific complaints/allegations made by the individual and responses to the complaints/allegations by appropriate Air Force Recruiting Service personnel.

Systems exempted from certain provisions of the act:

NONE

F03503 ATC RSM

System name:

03503 ATC RSM Recruiting Activities Management Support System (RAMSS)

System location:

HQ United States Air Force Recruiting Service, Marketing and Analysis Directorate (RSM), Randolph AFB TX 78148.

Categories of individuals covered by the system:

Air Force enlisted personnel entering active duty. Individuals tested and processed for Air Force enlistment. Potential Air Force enlistees qualified through the Armed Services Vocational Aptitude Battery (ASVAB) high school testing program. Other military services Delayed Enlistment Program (DEP) and active duty enlistees. Applicants for the Officer Training School (in-service commissioning program). Air Force enlisted personnel on recruiting duty.

Categories of records in the system:

Air Force enlistment processing records showing name, SSN, scores on all qualification tests, physical job qualifications, job preferences, jobs offered, jobs accepted, other personal data relevant to jobs offered, recruiting and processing locations, education data, and dates of processing. Airman trainee history records containing name, SSN, and other personnel data for assignment from basic military training, revised job preferences, security clearance investigations, dependent data, education, test scores, grade and promotions, biographical history, physical information, drug abuse history, enlistment personal and guaranteed training enlistee program data, separation data, classification data, service dates, technical school eliminations, separations, honor graduates, and Article 15/ courts-martial actions. Records for high school seniors who are ASVAB tested and meet the basic Air Force enlistment criteria showing name, mailing address, test scores, and high school where tested. Enlistment processing records for other military services showing SSN, name, state and county of residence, test scores, educational level, physical profile, processing date and location, prior service, and other personal data such as age, sex, race, martial status, and number of dependents. Officer Training School (OTS) applicant records showing SSN, name, and other educational and personal data necessary for the determination and selection of attendees at OTS and subsequent commissioning as an Air Force officer. Air Force enlisted recruiter individual records showing such items as SSN, name recruiting office assigned, and date assigned to Recruiting Service.

Authority for maintenance of the system:

10 USC 503, Enlistments: recruiting campaigns. Executive Order 9397, 22 November 1943, Number System for Accounts Relating to individual persons.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To furnish leads to the field recruiters derived from the high school ASVAB testing program, evaluate Air Force recruiters on

effectiveness of screening out potential under/overweight applicants, evaluate recruiter's and job counselor's activity and efficiency levels, analyze preenlistment job cancellations for common denominators (reasons), analyze post-enlistment training pipeline attritions for common denominators (reasons), evaluate Air Force job reservation pool and past enlistments for effect of potential changes in enlistment policies in areas such as mental qualifications and physical qualifications, evaluate interservice recruiting performance, screen other service enlistees from Air Force advertising lead files, determine pass/fail rates for mental and physical testing, track training performance of Air Force enlistees, study the correlation of job held with performance on the job, study correlation of quality indicators with post-enlistment performance, feedback to field recruiters of individual records on all training attritions, and analyze advertising responses. Used by the personnel record maintenance activity to cross-check file completeness and accuracy. Individual records are aggregated into various statistical analyses for all levels to ascertain recruiting and seasonal procurement trends, to predict future potential developments, and to assist in the development of procurement, classification, and assignment policies for Air Force military personnel.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are stored on computer magnetic tapes, computer magnetic disks and computer paper printouts.

Retrievability:

Filed by name, SSN, or non-personal identifier.

Safeguards:

Records are accessed through computer run scheduling arrangements by persons responsible for servicing the system in performance of their official duties. Computer paper printouts are distributed only to authorized users. Records are physically safeguarded by controlled access to the computer facility, secured buildings and locked rooms.

Retention and disposal:

Enlistment processing records are retained until no longer needed for recruiting purposes; recruiter records are retained for one year after individual is removed from recruiter production status; ASVAB testing lead information is retained for 60 days. These retentions are built into the computer system program with automatic software controlled deletions from the machine-readable record.

System manager(s) and address:

Director, Marketing and Analysis Directorate (RSM), HQ United States Air Force Recruiting Service, Randolph AFB, TX 78148.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager. Request must contain full name, and current mailing address.

Record access procedures:

Same as procedures for notification.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

The source of all records in the system are from automated system interfaces.

Systems exempted from certain provisions of the act:

NONE

F03504 DPM A

System name:

03504 DPM A Relocation Preparation Project Folders.

System location:

At Consolidated Base Personnel Offices (CBPOs) only. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's system notice.

Categories of individuals covered by the system:

Maintained on all active duty Air Force personnel selected for relocation as the result of retirement, separation, release from extended active duty, Permanent Change of Station (PCS), or Temporary Duty (TDY).

Categories of records in the system:

Relocation records may consist of appropriate checklist, orders and amendments thereto, letters from agencies outside the CBPO regarding the member's relocation, record of emergency data, Records Transmittal/Request, servicemen's request for compensation from the veterans administration, PCS or TDY Levy Notification Letter/Brief, duplicates of correspondence directing/authorizing the relocation, Assignment Instruction Worksheet, Basic Assignment Eligibility Checklist, Assignment Preference Statement, Medical/Dental Clearance for Assignment to short-tour area, Medical and Educational Clearance for Dependent Oversea Travel, Oversea Tour Election Statement, Cancellation/Diversion of Assignment or change of reporting month and components of the Field Records Group for consolidation and forwarding to new location.

Authority for maintenance of the system:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by and 8032, General duties. Routine uses of records maintained in the system, including categories of delegation by and 8032, General duties.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Each type of relocation of Air Force personnel requires that specific actions are accomplished. These actions are described either on a checklist or by sending a form letter to the applicable base activity having a responsibility for insuring accomplishment of the action.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in visible file binders/cabinets.

Retrievability:

Filed by name within departure month.

Safeguards:

Records are accessed by authorized personnel in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets/or rooms.

Retention and disposal:

Records are maintained for a period of six months after departure of the member, then removed and destroyed by tearing into small bits, macerating, burning, shredding, or pulping.

System manager(s) and address:

Assistant Deputy Chief of Staff Personnel for Military Personnel, Randolph AFB Texas 78148.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager. And individuals may deal directly with agency officials at each respective location.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager. And individuals may deal directly with agency officials at each respective location.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Computer print-outs, information obtained from the unit personnel records, from the unit commander, the supervisor and from the member.

Systems exempted from certain provisions of the act:

NONE

F03504 0JMPLSC

System name:

03504 0JMPLSC Assessments screening records.

System location:

3507 Airman Classification Squadron, Lackland AFB, TX 78236. Defense Investigative Service, Personnel Investigation Control Center, Post office box 1211, Baltimore, MD 21203.

Categories of individuals covered by the system:

Basic Airmen selected for assessment screening.

Categories of records in the system:

Biographical questionaire, reference letters, peer ratings.

Authority for maintenance of the system:

44 USC 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Screening for assignment to sensitive high risk Air Force jobs

system of records also includes letters of notification when digest files are destroyed.

Authority for maintenance of the system:

At Air Reserve Personnel Center, 7300 East First Avenue, Denver CO 80280.

Categories of individuals covered by the system:

04501 0KPNQSA Cadet records.

System location:

AFROTC/SDA, Maxwell AFB, AL. 36112 and AFROTC detach-

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Screening for assignment to sensitive high risk Air Force jobs Defense Investigative Service to enhance efficiency and reliability of personnel security investigations.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders.

Retrievability:

Filed by Name. Filed by Social Security Number (SSN). Filed by other identification number or system identifier.

Safeguards:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms. Records are controlled by personnel screening.

Retention and disposal:

Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, Records on airmen accepted for sensitive and/or high risk assignments are retained in office files for eighteen months, then destroyed. Records of non-selectees are retained in office files for one year, then destroyed. Destruction is by tearing into pieces, shredding, pulping, macerating or burning.

System manager(s) and address:

Commander 3507 Airman Classification Squadron Lackland AFB TX 78236.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager. and include name social security number proof of same.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from previous employers, financial institutions, educational institutions, medical institutions, trade associations, police and investigating officers, a state or local government, peers, character references, and the individual member.

Systems exempted from certain provisions of the act:

NONE

F03505 DPMAO B

System name:

03505 DPMAO B Personnel Action File (Digest File)

System location:

At Air Force Military Personnel Center, Randolph Air Force Base, TX 78148 for active duty officers and Air Reserve Personnel Center, 7300 East First Ave. Denver CO 80280. for nonactive duty USAFR officers.

Categories of individuals covered by the system:

Air Force active duty officer personnel and nonactive duty USAFR officers.

Categories of records in the system:

Composed largely of sumaries/extracts or notices of the Air Force Office of Special Investigations (AFOSI) Reports of Investigation (ROIs). The system may also contain other official records or documents which reflect relevant derogatory information about officers, e.g., notice of involuntary separation proceedings, notice of Special Security File, reports of AWOL/Desertion status, administrative inquiries and investigations, Inspector General (IG) reports, and reports of violations of public trust in contract, procurement, and other matters. Additionally, a file will contain a statement regarding the subject matter from the officer if one is made, plus any comments and recommendations by the member's commander. Finally, a Digest File will contain copies of documentation used to notify the individual and the commander of the file and a record of the Officer Personnel Records Review Board (OPRRB) decision to retain the file. The system of records also includes letters of notification when digest files are destroyed.

Authority for maintenance of the system:

10 U.S.C. 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Digest Files are reviewed by career management officials and Central Selection Boards at AFMPC or ARPC, as appropriate, to insure the propriety of personnel decisions finalized at those levels regarding promotion, assignment, mobilization, recall to extended active duty, selection, utilization and separation. The purpose of such review is to insure that individual career management decisions enhance the quality of professionalism in the Air Force.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in visible file binders/cabinets.

Retrievability:

Filed alphabetically by name.

Safeguards:

Records are accessed by persons responsbile for servicing the record system and by other personnel whose names appear on an authorized access list indicating they have a need to know in the performance of their official duties. Records are stored in locked cabinets.

Retention and disposal:

Disposition is pending approval under 44 U.S.C. 3303(3).

System manager(s) and address:

Chief, Special Control and Records Review Group (AFMPC/DPMAO), Randolph AFB TX 78148 for active duty officers and Commander, Air Reserve Personnel Center (ARPC), 7300 East First Ave. Denver CO 80280 for non-active duty USAFR officers.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager. Written requests should contain the member's full name, rank, and SSN. Information may also be obtained by personal visit with the appropriate Systems Requests from individuals should be addressed to the Chief, Special Control and Records Review Group (AFMPC/DPMAO), Randolph AFB TX 78148 for active duty officers or the Documentation Management Officer (ARPC/DADP), 7300 East First Avenue, Denver CO 80280 for nonactive duty USAFR officers. Written request(s) for information should contain full name of individual, rank and SSN (Social Security Number). Nonactive duty USAFR officers should also include current address and the case (control) number shown on any correspondence received from the Center. Information may be obtained by active duty officers by personal visit with the System Manager upon verification of the identification data required for written requests. Nonactive duty USAFR officers may review records in Records Review Room (2-B18-2) ARPC, 7300 East First Avenue, Denver CO 80280, between 8:00 A.M. and 3:00 P.M. on normal work days. For personal visits, the individual should provide current Reserve ID cards and/or drivers license and present some verbal information that could verify their identity from their record.

Record access procedures:

Individuals can obtain access to their own Digest Files by following the procedures described above.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Digest File information is obtained from AFOSI, Commanders, Consolidated Base Personnel Offices, FBI, MAJCOMs, HQ USAF/IG and from official records, reports or documents prepared on behalf of the Air Force by boards, committees, panels, and investigating officers.

Systems exempted from certain provisions of the act:

NONE

F04501 ARPC A

System name:

04501 ARPC A Air Force Reserve Application.

System location:

At Air Reserve Personnel Center, 7300 East First Avenue, Denver CO 80280.

Categories of individuals covered by the system:

Air Force active duty personnel, civilian employees and former employees, Air Force Reserve and Air National Guard personnel, dependents of military personnel.

Categories of records in the system:

Copies of application for appointment as reserve of the Air Force and comparable forms, correspondence, and related papers. Applications for extended active duty (EAD) including correspondence and related papers.

Authority for maintenance of the system:

10 USC 275 Personnel Records, 10 USC 672 Reserve Components General, 10 USC 8358 Commissioned Officers original appointment; service credit, 10 USC 8359 Commission Officers original appointment; determination of grade.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To determine if individual qualifies for appointment or commissioning in the Reserve of the Air Force or voluntary entry on EAD and qualifications, if any, for an Air Force Speciality Code (AFSC). Medical applications are forwarded for approval to AFMPC/SG, Randolph AFB, TX 78148.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in card files and file folders.

Retrievability:

Filed by Social Security Number (SSN), by name, or case control number.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards.

Retention and disposal:

Destroy one year after approval or one year after individual declines appointment. Applications for EAD are destroyed after one year or when superseded, obsolete and no longer needed for reference or inactivation whichever is sooner. Documents destroyed by tearing, shredding, macerating, or pulping.

System manager(s) and address:

Commander Air Reserve Personnel Center (ARPC), 7300 East First Avenue, Denver, CO 80280.

Notification procedure:

Request from individual should be addressed to the Documentation Management Officer ARPC/DADP, 7300 East First Avenue, Denver, CO 80280. Written request for information should contain full name of individual, Social Security Number (SSN), current address and the case control number shown on any correspondence received from center. Records may be reviewed in records review room ARPC, 7300 East First Avenue, Denver, CO 80280, between 8:00 A.M. and 3:00 P.M. on normal work days. For personal visits, the individual should provide current Reserve ID Card and/or drivers license and give some verbal information that could verify his/her identification, such as is on an application for a reserve appointment or EAD.

Record access procedures:

Individual can obtain assistance in gaining access from Documentation Management Officer, ARPC/DADP, 7300 East First Avenue, Denver, CO 80280, telephone (303) 394-4667.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information from individual applying for appointment in the reserve, applications for extended active duty, and statement of military served Navy or Marine Corps.

Systems exempted from certain provisions of the act:

NONE

F04501 0KPNQSA

System name:

04501 0KPNQSA Cadet records.

System location:

AFROTC/SDA, Maxwell AFB, AL. 36112 and AFROTC detachments. Official mailing addresses of the detachments are in the Department of Defense directory in the appendix to the Air Force:s system notice.

Categories of individuals covered by the system:

AFROTC cadets applying for/enrolled or previously enrolled (within the past three years) in the professional Officers course or the general military course, if the latter participation was in a scholarship status.

Categories of records in the system:

Applications for enrollment in the Air Force reserve Officer corps (AFROTC) courses, applications for the AFROTC scholarship program, substantiation documents of qualification for the courses or programs, acceptances of applications, awards of scholarships, documents attesting to medical, academic, moral and civic qualifications, documents recording progress in flying instruction, academic curriculum and leadership training, counseling summaries, records of disenrollment from other Officer candidate training; records of separation or discharge from Officer candidate training; records of separation or discharge of prior servicemen; financial record data, certification of degree requirements; documents tendering and accepting commissions, documents verifying national agency checks or background investigations, documents required or proffered during investications for disenrollment, legal opinions, letters of recommendations, corroboration by civil authorities, awards, citations; and allied papers.

Authority for maintenance of the system:

Title 10 U.S.C., chapter 103; military selective service act of 1967,section 6 (50 U.S.C. App 456); 10 USC 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information collected is for the purpose of recruiting and qualifying a candidate for acdeptance as an AFROTC cadet, continuing the cadet in the program and awarding an Air Force commission. Each detachment, located at its host institution, is the routine user for the members in its particular program. AFROTC, Maxwell AFB, AL, is a user by exception, that is, data is requested from the routine user if there is an aberration in the qualification of an individual for acceptance, continuation or graduation from the ROTC program. AFROTC execises waiver authority that enables deserving individuals to remain in the program on a conditional basis if they perform below standards. AFROTC also requests data for disenrollments, changes in categories and graduation dates. Additionally, AFROTC requests data from the routine user for congressional inquiries, special projects, awards, honors and inter-service ROTC transfers. Air University (AU), as a Major Command, supervises execution of laws, plans and policies relating to AFROTC, as such, AU requires information in exercising its Command and Control function, i.e., Major Command inspections, waiver authority, and data reporting to superior agencies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

The life-cycle of the records begins with the application and testing of the candidate. Documents establishing qualification and satisfaction of criteria along with contracts and allied documents establish the cadet record. Progress documents, counseling sheets and performance records are maintained until graduation and commissioning. Finally, the records are destroyed one year after commissioning. An exception to the one year retention is the record of a disenrolee, one who does not complete the program nor receive a commission. Under these circumstances, the cadet record is maintained for three years. Further disposal of records is by burning, pulping or tearing into pieces.

Retrievability:

Records are retrieved by name, social security number and detachment number as paper records in file folders.

Safeguards:

Safeguards are storage in file cabinets that are accessible to the detachment staff and the individual concerned. AFROTC employs a locked rotary diebold power file and file cabinets accessible to the staff.

Retention and disposal:

Records are destroyed by standard means one year after a cadet is commissioned. Disenrolled cadets: records are retained for three

years and then destroyed by tearing into pieces, mascerating, or burning.

reschedule cadets and establish criteria for resectioning cadets in their courses during the academic year. (3) Utilized in assigning

mation. Include Roster S: of squadron teams, cadet participation in high school, intercollegiate sports, athletic questionnaire, physical educa- tion grades, test scores, participation absentee and injury rec-

retired Air Force military personnel who have attended a training course conducted by an ATC activity. Employees of Air Force contractors receiving training at USAF schools.

years and then destroyed by tearing into pieces, mascerating, or burning.

System manager(s) and address:

Director of senior program, Air Force Reserve Officer Training corps Maxwell AFB, AL 36112; and detachment Commander of the appropriate AFROTC detachment.

Notification procedure:

Requests from individuals should be addressed to the detachment Commanders of their particular AFROTC detachment indicating their name and social security number. However, if their request for information involves an investigation for disenrollment, the addressee is AFROTC/SDA, Maxwell AFB, AL 36112, both addresses may be visited by the requester.

Record access procedures:

Requests from individuals should be addressed to the detachment Commanders of their particualr AFROTC detachment,indicating their name and social security number. However, if their request for information involves an investigation for disenrollment, the addressee is AFROTC/SDA, Maxwell AFB, AL 36112, both addresses may be visited by the requester.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Sources of records in the system are educational institutions, secondary and higher learning; government agencies; civilian authorities; financial institutions; previous employers; individual recommendations, interviewing Officers; and civilian medical authorities.

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 U.S.C. 552a(k). For additional information, contact the Systems Manager

F05001 AFA A

System name:

05001 AFA A Faculty Academic Records.

System location:

At United States Air Force Academy, CO 80840.

Categories of individuals covered by the system:

AF Academy cadets and graduates.

Categories of records in the system:

(1) Cadet information card. (2) Listings of all cadet academic schedules including final examination schedules; rosters of cadets, by course, taking final examinations; extra instruction or hospital instruction schedules; rosters of cadets requesting permission to enroll in independent study, or authorized to drop or add course; listings of course rosters prepared for current semester indicating individual's enrollment by course section; reports of reasons for cadet absences or lateness for academic causes; listings of cadets improperly registered in classes. (3) Themes, research papers, graded recitations, grade reviews, other graded work, laboratory reports, case studies, final and midterm examinations, turnout examinations, validation examinations, and graded reviews of courses in which no final examination is given. (4) Copies of academic schedules and grades; interview forms; requests for academic waivers; documentation of academic difficulty; plans outlining courses that must be taken in order to graduate. (5) Graduate record examination scores, orders of merit scores, cumulative GPA scores, panel commentaries and transcripts. (6) Various cadet grade reports, cards and sheets utilized in auditing and distributing academic grades.

Authority for maintenance of the system:

10 USC Chapter 903, United States Air Force Academy. Routine uses of records maintained in the system, including

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(1) Individual cards on cadets listing name, date of birth, SSN, Admission examination scores, course grades and instructor evaluations concerning aptitude, attitude, and performance are used by faculty departments to evaluate potential cadets for commissioned service and to evaluate potential cadets as future instructors. (2) Provides both cadets and instructors of schedules of classes and classrooms and an explanation for any deviation from these schedules and is used by the cadets and Dean of the Faculty staff to provide locator and scheduling information and to provide course offering information, change current and future semester course enrollments, reschedule cadets and establish criteria for resectioning cadets in their courses during the academic year. (3) Utilized in assigning grade scores by Faculty department, to monitor progress of cadets throughout the academic year and to determine grades. (4) Used for counseling cadets on academic performance by the counselors and advisors. Assists the cadet in planning an academic program that will satisfy graduation requirements. (5) Used in the applications of graduates competing for the various fellowships and other post graduate scholarships by Graduate Scholarship Committee. (6) Used in auditing and distributing academic grades by Dean of Faculty staff and is complied to determine a letter grade for each student in each course.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in card files, on computer magnetic tapes and printouts, and in file folders/notebooks/binders/ visible files.

Retrievability:

Filed by name, military service number, date of birth, or other identification number of system identifier such as cadet number.

Safeguards:

Records are accessed by authorized person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked safes, file containers, cabinets or rooms.

Retention and disposal:

(1) Retained at USAF Academy, CO 80840 in the department(s). Destroyed by tearing into pieces, shredding, pulping, macerating, or burning after purpose has been served for five years after graduation. (2) Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating or burning. (3) Retain for no more than 90 days after end of the semester in which administered the discretion of the course director, return to the cadet for retention as reference and study materials. (4) Same as (2) above. (5) Transferred to USAF Staging Area, USAF Academy, CO 80840, 15 years after graduation, then destroyed by tearing into pieces after 10 additional years. (6) Cadet Grade Report, one copy placed in course book as history of course, all other copies destroyed after one year by tearing into pieces. Grade Card used as input to computer and destroyed at the end of each semester by tearing into pieces. Permanent Record Card is the permanent record of each cadet's grades. It is retained in Cadet Records Section, USAF Academy, CO 80840.

System manager(s) and address:

Dean of Faculty, United States Air Force Academy, CO 80840.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from source documents such as reports prepared on behalf of the AF by boards, committees, panels, auditors and so forth. Information obtained from educational institutions, individual, Department Heads, automated system interfaces and from course requisites.

Systems exempted from certain provisions of the act:

NONE

F05001 0BXQPBB

System name:

05001 0BXQPBB USAF Academy Cadet/Nominee/Applicants Athletic Records

System location:

At United States Air Force Academy, CO 80840.

Categories of individuals covered by the system:

Air Force Academy cadets. Air Force Academy nominees/applicants.

Categories of records in the system:

Records cover athletic participation by cadets, nominees, and applicants, contest results, news articles and athletic background information. Include Roster S: of squadron teams, cadet participation in high school, intercollegiate sports, athletic questionnaire, physical educa- tion grades, test scores, participation absentee and injury records, congressional correspond- ence between candidate and congressman, regarding Academy appointment (used by athletic personnel only).

Authority for maintenance of the system:

10 USC 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records are used to verify participation in intercollegiate athletics determine athletic background of candidates and encourage completion or appointment to academy record cadet participation in intramurals, monitor cadets' physical education progress, determine grades, as basis for intramural awards, background for biographies and hometown news releases, track intramural injuries and absentees.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in note books/binders. Maintained on computer magnetic tapes. Maintained in file folders. Maintained in card files. Maintained as photographs.

Retrievability:

Filed by Name. Filed by Military Service Number.

Safeguards:

Records are accessed by custodian of the record system. Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in security file containers/cabinets. Records are stored in locked cabinets or rooms.

Retention and disposal:

All records, with the exception of physical education grades and test scores, are retained in office until superseded, obsolete, no longer needed for reference, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Grades and test scores are microfilmed and retained as a permanent record. The original card is retired to the USAF Academy Staging area and destroyed after two years.

System manager(s) and address:

Director of Athletics, USAF Academy, Co. 80804.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Chief of Intramural Division, individuals team coaches, individual instructors, cadet squadron athletic officer, educational institutions, public media, individual candidates, instructor grading worksheet, officer in charge of individual sport, individual athlete or registrar's office.

Systems exempted from certain provisions of the act:

NONE

F05002 ATC TTS

System name:

05002 ATC TTS Student Record of Training.

System location:

All Technical Training Centers of Air Training Command (ATC); Field Training Detachments of ATC and the 3700 Technical Training Wing/TTS, Sheppard AFB TX 76311; Officer Training School, Lackland AFB TX 78236; Community College of the Air Force, Lackland AFB TX 78236; and the Washington National Records Center, Washington DC 20409. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's system notices.

Categories of individuals covered by the system:

Active duty military personnel and civilian employees, Air Force Reserve and Air National Guard personnel, foreign nationals, and retired Air Force military personnel who have attended a training course conducted by an ATC activity. Employees of Air Force contractors receiving training at USAF schools.

Categories of records in the system:

Records of individual training and education, subjects studied, reading proficiency training, hours, final grades, and graduation data.

Authority for maintenance of the system:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by and Executive Order 9397, 22 November 1943, Number System for Accounts Relating to individual persons. Routine uses of records maintained in the system, including

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Record individual attendance, achievement and special training progress. To evaluate student's potential for commissioning and need for remedial teaching. Used by FTDs to determine student eligibility to receive certificate of training, and by the Community College of the Air Force to grant college credits for successful completion of the course.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders.

Retrievability:

Filed by name, SSN, by course number, and graduation month and year.

Safeguards:

Records are accessed by the custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets and rooms.

Retention and disposal:

Record of individual hours and final grades - held one year, then destroyed; source, support, and control data basic trainee records and special training records - retained for six months after monthly cutoff, then destroyed; Nelson Denny Reading Test Answer Sheets - retained for the class duration, then destroyed; Officer Training School Student Training Summaries maintained for two years after cutoff, then destroyed: Field Training Student Attendance and Rating Records - retained at Sheppard AFB TX 76311 for two years then retired to the Washington National Records Center for an additional 28 years, then destroyed; Student Record of Training - retained at the local ATC Center for two years then retired to the Washington National Records Center for an additional 28 years, then destroyed; Training Progress Reading Proficiency Case Files - destroyed three months after class/course completion. All of the above records are destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

Deputy Chief of Staff for Technical Training, Standards and Evaluation Directorate, Randolph AFB TX 78148 (for other than classes/ courses completed at ATC Field Training Detachments & Officer Training School). The 3700 Technical Training Wing/TTS for classes/ courses conducted by ATC Field Training Detachments and the Commander, Officer Training School for OTS student records. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's system notices.

Notification procedure:

Contact Training Department at the Air Force base where the training was conducted for ATC technical training center courses; 3700 Technical Training Wing/TTS, Sheppard AFB TX 76311, for classes/ courses completed at an ATC Field Training Detachment; and Officer Training School/CC, Lackland AFB TX 78236, for OTS student records. Full Name, Social Security Number, Course Number or Title and Dates of Attendance is required. For personal visits, identification card or driver's license is acceptable proof of identity.

Record access procedures:

Individuals can obtain assistance in gaining access from the system manager for OTS student records and classes/courses completed at an ATC Field Training Detachment or from the systems manager in the training department at the Air Force base in ATC where training was conducted.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be

78236 Microfiche for the system are created by the USAF Security Service (HQ USAFSS/DADS) Kelly Air Force Base, TX 78243

binders. Computer records are maintained on and as necessary reproduced from magnetic media (tape and disk) which when not in use are filed in special cabinets and racks in a library facility. Paper records are maintained in file folders, card files, and conventional

Individual can obtain assistance in gaining access from the Systems Manager. and from addresses listed above.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and

FEDERAL REGISTER 20 VOL 43 183 SEP 78

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Training Center Organizational Directory; Enlistment Records; Basic Military Training Records; Score from Nelson Denny Reading Test; Internal Testing and Instructor/Peer Observation; Information obtained from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

Systems exempted from certain provisions of the act:

NONE

F05002 0J DOZB

System name:

05002 0J DOZB Individual Academic Records - Survival Training Students

System location:

Fairchild AFB, WA 99011

Categories of individuals covered by the system:

officer and enlisted aircrew members

Categories of records in the system:

survival training students performance

Authority for maintenance of the system:

44 USC 3101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

document and evaluate students performance

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders.

Retrievability:

Filed by Name. Filed by other identification number or system identifier.

Safeguards:

Records are stored in locked cabinets or rooms.

Retention and disposal:

Retained in office files for two years after annual cut-off then forwarded to the Washington National Records Center, where records will be held an additional 28 years, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

Deputy Chief of Staff Operations, Headquarters Air Training Command Randolph AFB TX 78148

Notification procedure:

Requests from individuals should be addressed to the the 3636 CCTW/DOOS, Fairchild AFB WA 99011. Requests should include name, rank, social security number, course(s) attended and graduation date, if known.

Record access procedures:

Individual can obtain assistance in gaining access by contacting 3636 CCTW/DAD, Fairchild AFB WA 99011 or by contacting the systems manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

survival training supervisors and staff officials

Systems exempted from certain provisions of the act:

NONE

F05002X0J ED A

System name:

05002X0J ED A Community College of the Air Force Student Record System

System location:

The system is centrally administered by the Community College of the Air Force (CCAF), Lackland AFB TX 78236. Computer processing for the system is furnished by the Air Training Command Directorate of Data Automation (HQ ATC/ACD), Randolph AFB TX 78236 Microfiche for the system are created by the USAF Security Service (HQ USAFSS/DADS) Kelly Air Force Base, TX 78243

Categories of individuals covered by the system:

The system may have a record for any person who has a social security number and who has since 1 January 1968 completed a formal course of instruction conducted by one of the Air Force schools identified in the current Community College of the Air Force General Catalog. (Note: Such courses do not include pre-commissioning courses and courses conducted exclusively for officers or their civilian counterparts.) The system also includes records reflecting Air Force courses completed before 1968 and other educational accomplishments for persons who as enlisted members of the Air Force registered in programs of study leading to credentials awarded by the college. (Note: Both here and where appropriate below, the general term Air Force should be understood as including the regular Air Force, the Air Force reserve, and the Air National Guard.)

Categories of records in the system:

The college originates and maintains individual academic records and, where necessary to serve Airmen registered in study programs leading to credentials awarded by the college, maintains a variety of source or substantiating records such as copies of registration applications and document control records derived from such applications; civilian college transcripts; college level examination program score reports; copies of educational records originated by other Air Force and non-Air Force agencies external to the college (such as the Federal Aviation Agency, the United States Armed Forces Institute, and the Defense Activity for Non-traditional Education Support); copies of a variety of Air Force personnel records (such as documents derived from master records maintained by the USAF Military Personnel Center and microfiche records of locator data); and records of credentials awarded to graduates. As necessary to manage the day-to-day operations and to plan development of the record system the college also maintains copies and related records of communications from, to, or regarding persons interested in the college, its educational programs, its student record system, and related matters. Copies of and statistical records derived from individual responses to surveys, questionnaires, and similar instruments authorized by HQ USAF may also be maintained as needed for managerial evaluation and planning by officers of the college.

Authority for maintenance of the system:

44 USC 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records originated in the system serve the purpose of documenting, in terms of credit awarded or accepted in transfer by the college, individual educational accomplishments which satisfy curricular requirements of study programs leading to credentials offered by the college. Transcripts of records originated in the college are at the written request of persons concerned furnished to any recipient(s) designated in such requests. Such recipients typically include Air Force Education Services Centers, other offices where Air Force personnel are stationed, educational institutions, and potential or current employers. CCAF transcripts and copies of other records originated in the college are typically used to support educational and occupational counselling, planning, and development; admission to other colleges; and related individual affairs. Other disclosures of personal records originated in or maintained by the college may without the knowledge or written consent of persons concerned be made to Air Force officers, enlisted personnel, and civilian employees directly involved in administering or supporting the educational programs offered or records managed by the college; other Air Force officers, enlisted personnel, and civilian employees who provide educational and related services to Air Force personnel; officers and employees of other agencies as may be necessary to comply with proper requests for records under the Freedom of Information Act (5 USC 552, as amended by Public Law 93-502); and to officers and employees of other agencies as may be necessary to overcome extended interruptions in normal computer processing. Similar incidental disclosures of information recorded in the system may be made to employees of Honeywell, Inc., and other civilian contractors who may be engaged by the Air Force to to provide services which directly or indirectly support the record system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Permanent student records are maintained on and reproduced as necessary from microfiche created by computer processing. Microfiche are maintained in special filing stands and in special three-ring

binders. Computer records are maintained on and as necessary reproduced from magnetic media (tape and disk) which when not in use are filed in special cabinets and racks in a library facility. Paper records are maintained in file folders, card files, and conventional cabinets, and in special binders and cabinets designed for computer listings.

Retrievability:

Computer records are retrievable by a combination of social security number (SSN) and certain letters of last name. Microfiche records are retrievable by SSN exclusively. Paper records are retrievable by either SSN or name. Note as may be necessary to support managerial studies by the college staff, computer records may also be retrieved in groups where such records bear common information.

Safeguards:

Records maintained in the college are normally disclosed only upon written request from the persons whose records are to be disclosed or upon written request from an Air Force officer or employee responsible to provide educational or related services to Air Force personnel. Disclosures to non-Air Force agencies not requested by the individual are made only with consent of an officer of the college and as consistent with the Privacy Act of 1974 and the Freedom of Information Act. Except for disclosures within the college as may be necessary to its operations, requests by telephone and other unwritten means will not be honored unless in the judgment of a responsible member of the college staff the requestor is a member or employee of the Air Force acting on behalf of, or is, the person whose record is requested. Special care is exercised to ensure complete identification of the requestor, the person whose record is to be disclosed, and intended use. Other systematic safeguards to ensure integrity of records include secure storage of successive generations of computer master files, existence and long term retention in other Air Force agencies of records which would be needed to rebuild the entire system in the event of catastrophe, and traditional measures to ensure the security of Air Force facilities. All records in the system are during duty hours attended by responsible Air Force personnel and during non-duty hours stored in locked facilities under constant or periodic surveillance by Air Force security police or comparable civilian guards.

Retention and disposal:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Rules for retention of permanent microfiche and corresponding magnetic tape records have not yet been determined. It is anticipated that such records may need be retained for not less than 30 and not more than 50 years beyond the latest entries on each such record. Transitory computer records (such as input transaction records and records on successive generations of master files) are typically retained only so long as they may be useful, which may be as little as 48 hours or as much as 60 days. Active master file records are by their nature evolutionary and are typically retired within 180 days of a person's separation or retirement or five years after the most recent entry on a given record. (The last rule applies to persons who were not enlisted Air Force members when the last entries on their records were made.) Paper records maintained to serve students registered in study programs are retained so long as a registrant remains active in his or her program. Such records are destroyed one year after a registrant completes his or her study program or three years after the most recent communication from an airman whose program has not been completed. Other records are retained only so long as they may serve a useful purpose, which is typically between 30 and 90 days. No rule has yet been established for retaining records which verify awards of credentials by the college, but it is expected that such records will need be archival.

System manager(s) and address:

Deputy Chief of Staff/Personnel, Headquarters United States Air Force. System Manager and President, Community College of the Air Force (CCAF/CC) Lackland AFB, TX 78236.

Notification procedure:

Address inquiries to Chief, Student Records Branch (CCAF/RRR) Lackland AFB, TX 78236. Such inquiries will need include the full name (and former names if appropriate), SSN, and birthdate of the inquirer, and should include a full return address (including zip code). Visits to the college are welcomed, and visitors seeking information about personal records should first visit the Office of the Registrar.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager. and from addresses listed above.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from educational institutions, from automated system interfaces. and from source documents submitted to the college by or at the request of individuals concerned, or by other Air Force agencies acting on behalf of individuals concerned.

Systems exempted from certain provisions of the act:

NONE

F05101 ADC A

System name:

05101 ADC A Aircrew Training Records, Aerospace Defense Command (ADCOM).

System location:

Headquarters Aerospace Defense Command and all subordinate levels down to and including Air Force installations. Air Force Reserve and Air National Guard activities for which ADCOM is the gaining command. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Categories of individuals covered by the system:

Aircrew personnel.

Categories of records in the system:

Initial qualification and requalification records; aircrew flying training, ground training, simulator training, individual records; Air Force Form 8 certification of aircrew qualification; aircrew continuation training status reports; formal flying school records; other flying training records.

Authority for maintenance of the system:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by. Routine uses of records maintained in the system, including categories of users and the purpose of such uses: Records are used to monitor aircrew flying

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records are used to monitor aircrew flying proficiency.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in notebooks/binders, as photographs and as wall charts.

Retrievability:

Accessed by name.

Safeguards:

Records are accessed by custodian of the record system, by person(s) responsible for servicing the record system in the performance of their official duties, and by individual aircrew members.

Retention and disposal:

Semiannual records are retained on file for six months; C/EC-121 training records are closed out at the end of fiscal year maintained on file for one year; when an individual's aircraft assignment is changed, forms pertaining to previously assigned aircraft are removed from file. All records removed are either given to the individual concerned or destroyed by tearing into pieces, shredding, pulping, macerating or burning.

System manager(s) and address:

Deputy Chief of Staff Operations, Headquarters ADCOM, Ent Air Force Base, CO 80912.

Notification procedure:

Requests from individuals should be addressed to the system manager. Give name, grade, social security account number and unit assigned. When visiting system manager present military identification or military discharge, as applicable, to gain access.

Record access procedures:

Individuals can obtain assistance in gaining access from the system manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

F053030BXQPCAB

System name:

053030BXQPCAB Preparatory School Records

System location:

Primary system: Computer Operations Section, Data Automation Branch, Comptroller, at Oklahoma City Air Logistics Center, Tinker AFB, OK; Ogden Air Logistics Center, Hill AFB, UT; Sacramento

Data Automation Branch. All products containing Privacy Act information bear a notice at the top of each sheet, 'PERSONAL DATA - PRIVACY ACT OF 1974 (PL93-579) FOR OFFICIAL USE ONLY.' Products are controlled by manual distribution to requesting

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Formal training schools, unit training officers, flight evaluation officers.

Systems exempted from certain provisions of the act:

NONE

F05101 OJ DOTA

System name:

05101 OJ DOTA Flying Training Records - Nonstudent.

System location:

Columbus AFB, MS 39701; Craig AFB, AL 36701; Lackland AFB, TX 78236; Laughlin AFB, TX 78840; Mather AFB, CA 95655; Moody AFB, GA 31601; Randolph AFB, TX 78148; Reese AFB, TX 79489; Sheppard AFB, TX 79720; Williams AFB, AZ 85244; Webb AFB, TX 79720; and USAFA CO 80840.

Categories of individuals covered by the system:

Aircrew personnel of Air Training Command, academic instructors in flying training courses and Trainer Instructors.

Categories of records in the system:

Record and document aircrew training, evaluations, performance, accomplishments and taped radio transmissions.

Authority for maintenance of the system:

44 USC 3101, and Executive Order 9397, 22 Nov 1943.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Document the training, performance, and qualifications of aircrew and synthetic trainer personnel. Taped radio communications are used to investigate aircraft accidents.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders, computer printouts, and on magnetic tape.

Retrievability:

Name, social security number, or other identifier such as class number, identification number, voice prints, etc.

Safeguards:

Access by custodian of the record system, access by persons responsible for servicing the record system in performance of their official duties; access by authorized personnel who are properly screened.

Retention and disposal:

Aircrew evaluation documents, training and qualification records on synthetic training instructors and academic instructors are maintained for the duration of an individual's assignment in Air Training Command. Out of date material is returned to the individual. Radio tapes are retained on file for one week unless circumstances dictate otherwise; initial training records are maintained for one year following completion of the training and then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

Duputy Chief of Staff Operations, Air Trining Command, Randolph AFB, TX 78148.

Notification procedure:

Requrest from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information from source documents prepared by personnel administering training or evaluating performance; voice radio communications.

Systems exempted from certain provisions of the act:

NONE

F053030BXQPCAB

System name:

053030BXQPCAB Preparatory School Records

System location:

At United States Air Force Academy, CO 80840.

Categories of individuals covered by the system:

Preparatory School Students

Categories of records in the system:

This system contains SSN, admissions data including college board test scores and uniform size, academic performance, counseling, disenrollment, and physical fitness information.

Authority for maintenance of the system:

10 USC 8012

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Data is used to measure student performance, progress and potential, for counseling purposes and for possible disciplinary or disenrollment action. Information contained on the record card consisting of grade, performance, and personal information pertaining to the student is used to provide transcripts when requested, to inform parents/guardians concerning student placement on academic advisement or probation and other pertinent information as required, when authorized by the cadet, and used by Preparatory School administrative personnel for management purposes such as emergency data, i.e. blood type, etc. Physical fitness test scores are furnished to the Registrar's Office for use in verification when considering student for nomination to the USAF Academy.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders. Maintained in card files. Maintained on computer paper printouts.

Retrievability:

Filed by name and year of enrollment

Safeguards:

Access by person(s) responsible for servicing the record system in performance of their official duties. Stored in locked cabinets or rooms.

Retention and disposal:

Admissions data, counseling records, academic placement, and physical fitness information are dest end of the academic year; college board test data is retained in office files for three months after monthly cut-off, the destroyed; copy of disenrollment data is retained for 5 years after disenrollment then destroyed; performance and student potential data used by academic instructors retained for 1 year; and the record card for 10 years after completion of the program, then retired to the USAF Academy CO 80840 staging area where they are kept per- manently. Remaining documents in the system are destroyed when no longer needed for reference purposes or when superseded. Destruction is by tearing into pieces, shredding, pulping, macerating, burning, or burying.

System manager(s) and address:

Commander, Preparatory School, USAF Academy, CO 80840.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information from the academic departments within Prep School, based on performance of students, Prep School Commander, from tests administered to students, from student.

Systems exempted from certain provisions of the act:

NONE

F06604 AFLC A

System name:

Maintenance Labor Distribution and Cost System

System location:

Primary system: Computer Operations Section, Data Automation Branch, Comptroller, at Oklahoma City Air Logistics Center, Tinker AFB, OK; Ogden Air Logistics Center, Hill AFB, UT; Sacramento Air Logistics Center, McClellan AFB, CA; San Antonio Air Logistics Center, Kelly AFB, TX; and Warner Robins Air Logistics Center, Robins AFB, GA.

Categories of individuals covered by the system:

All Air Force personnel (both military and civilian) assigned for duty (both permanently and temporarily) within the maintenance activity at each Air Logistics Center.

Categories of records in the system:

Employee Assignment Master File contains: (1) Social Security Number, (2) Military/Civilian Code, (3) Name, (4) Assigned Resource Control Center, (5) Assigned Shift, (6) Assigned Duty Code, (7) Assigned Special Project Code, (8) Assigned Skill Code, (9) Assigned Foreman Code, (10) Assigned Days Off, (11) Bank Card Counter, (12) Status Code, (13) Date Last Action, (14) Primary Change Effective Date, (15) Primary Change Termination Date, (16) Primary Change Resource Control Center, (17) Primary Shift Change, (18) Primary Change Duty Code, (19) Primary Change Special Project Code, (20) Primary Change Skill Code, (21) Primary Change Foreman Code, (22) Primary Change Days Off, (23) Secondary Change Effective Date, (24) Secondary Change Termination Date, (25) Secondary Change Shift, (26) Secondary Change Duty Code, (27) Secondary Change Special Project Code, (28) Secondary Change Skill Code, (29) Secondary Change Foreman Code, (30) Secondary Change Days Off, (31) Interorganization Loan Indicator, (32) Partial Pay Period Code, (33) Regular Hours Worked Pay Period-to-date, (34) Overtime Hours Worked Pay Period-to-date, (35) Holiday Hours Worked Pay Period-to-date, (36) Compensatory Hours Worked Pay Period-to-date, (37) Hazard Hours Worked Pay Period-to-date, (38) Annual Leave Hours Worked Pay Period-to-date, (39) Sick Leave Hours Pay Period-to-date, (40) Other Paid Leave Hours Pay Period-to-date, (41) Compensatory Leave Hours Pay Period-to-date, (42) Leave without Pay Hours Pay Period-to-date. Interdirectorate Loan Data File contains: (1) Social Security Number, (2) Military/ Civilian Code, (3) Name, (4) From Resource Control Center, (5) From Shift, (6) From Duty Code, (7) From Special Project Code, (8) From Skill Code, (9) From Foreman Code, (10) From Days Off, (11) To Resource Control Center, (12) To Shift, (13) To Duty Code, (14) To Special Project Code, (15) To Skill Code, (16) To Foreman Code, (17) To Days Off, (18) Monthly Actual Hours. Inter/Intradirectorate Loan Data File contains following information on all affected individuals covered by the system: (1) Social Security Number, (2) Military/Civilian Code, (3) Name, (4) From Resource Control Center, (5) From Shift, (6) From Duty Code, (7) From Special Project Code, (8) From Skill Code, (9) From Days Off, (10) From Foreman Code, (11) To Resource Control Center, (12) To Shift, (13) To Duty Code, (14) To Special Project Code, (15) To Skill Code, (16) To Days Off, (17) To Foreman Code, (18) Starting Date, (19) Date Last Action, (20) Current Month Hours, (21) 1st Previous Month Hours, (22) 2nd Previous Month Hours, (23) 3rd Previous Month Hours.

Authority for maintenance of the system:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of the system is to accumulate labor costs for various workloads accomplished within the maintenance activity. Actual labor rates used within the system are obtained (via the Social Security Number) from the Civilian Payroll System and Military Payroll System.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Disk packs for principle storage medium with back-up maintained on magnetic tape.

Retrievability:

Retrieved by Foreman Code, Military/Civilian Code, Resource Control Center.

Safeguards:

All personnel authorized to add, change, or delete records from these files will be issued individually coded badges which are required for submission of transactions. Maintenance activity managers requiring access to update files must request information through the Data Automation Branch. All products containing Privacy Act information bear a notice at the top of each sheet, 'PERSONAL DATA - PRIVACY ACT OF 1974 (PL93-579) FOR OFFICIAL USE ONLY.' Products are controlled by manual distribution to requesting managers.

Retention and disposal:

All Privacy Act information contained in this system is deleted (1) in the case of the Employee Assignment Master File, at the end of the biweekly pay period following termination of an individual's assignment to a maintenance activity, and (2) in the case of files containing loan data, at the end of fifteen months following termination of an employee loan.

System manager(s) and address:

Directorate of ADP Resources Office of DCS/Comptroller, Headquarters, Air Force Logistics Command, Wright-Patterson AFB, OH 45433.

Notification procedure:

Information may be obtained from the Air Logistics Center where an individual is employed: Chief, Cost Accounting Branch, Accounting and Finance Division, Comptroller, at Oklahoma City Air Logistics Center, Tinker AFB, OK 73145; Ogden Air Logistics Center, Hill AFB, UT 84406; Sacramento Air Logistics Center, McClellan AFB, CA 95652; San Antonio Air Logistics Center, Kelly AFB, TX 78241; or Warner Robins Air Logistics Center, Robins AFB, GA 31093.

Record access procedures:

Requests from individuals should be submitted to the maintenance activity at the Air Logistics Center where employed. Written requests should contain the full name, social security number, address, telephone number, and current assignment within the maintenance activity of the requestor, and should be addressed to Director of Maintenance at: Oklahoma City Air Logistics Center, Tinker AFB, OK 73145; Ogden Air Logistics Center, Hill AFB, UT 84406; Sacramento Air Logistics Center, McClellan AFB, CA 95652; San Antonio Air Logistics Center, Kelly AFB, TX 78214; or Warner Robins Air Logistics Center, Robins AFB, GA 31093. Request may also be made by personal contact between requestor and his/her supervisor within the maintenance activity.

Contesting record procedures:

The Air Force's rules for access to records and for contesting contents and appealing initial determinations by individuals concerned may be obtained from the systems manager.

Record source categories:

Information obtained from Civil Service Commission Standard Form 50 accompanying an employee into a maintenance activity, and from the Civilian Payroll System and Military Payroll System.

Systems exempted from certain provisions of the act:

None

F06608 SAC A

System name:

06608 SAC A ICBM Maintenance Standardization and Evaluation Program.

System location:

Headquarters Strategic Air Command (SAC), Eighth and Fifteenth Air Force; all SAC missile wings/divisions; 3901 Strategic Missile Evaluation Squadron. Official mailing addresses are in the Department of Defense directory in the Appendix to the Air Force's systems notice.

Categories of individuals covered by the system:

Intercontinental Ballistics Missile maintenance personnel assigned to Missile Maintenance, Munitions, Communications, and Civil Engineering who have been designated by local maintenance managers as being in the evaluation program.

Categories of records in the system:

Evaluation records on technical proficiency, including manual and automated summaries of task performance. Administrative records of Evaluation Review Panels, including comments on substandard task performance, required corrective action or training, and follow-up actions.

Authority for maintenance of the system:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To record individuals maintenance task performance results. This information is used by SAC to determine, rate, and evaluate individual maintenance performance as it contributes to the unit maintenance

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by and Executive Order 9397, 22 November 1943, Number System for Accounts Relating to Individual Persons.

passenger name record is a complete listing of all transportation related administrative actions related to individual passengers.

Authority for maintenance of the system:

Aerospace Medical Division(AMD) Brooks Air Force Base, TX 78235.

Categories of individuals covered by the system:

To record individuals maintenance task performance results. This information is used by SAC to determine, rate, and evaluate individual maintenance performance as it contributes to the unit maintenance effort.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders, card files, computer magnetic tapes, and computer paper print-outs.

Retrievability:

Filed and retrieved by name, team number, team type, date.

Safeguards:

Records are accessed by person(s) in performance of official duties. Records are stored in locked rooms or cabinets. Records are controlled by computer system software.

Retention and disposal:

Retained on file until superseded, obsolete, or no longer needed for reference. Destroyed when individual permanently leaves duties assigned in evaluation program. Current records may be forwarded to gaining unit if assigned to another SAC unit. Computerized evaluation records are forwarded periodically to 3901 Strategic Missile Evaluation Squadron. Destroyed by tearing into pieces, shredding, pulping, burning or macerating.

System manager(s) and address:

Director of Missile Maintenance, Headquarters Strategic Air Command, Offutt Air Force Base, Nebraska 68113. Functional Area Managers in addition to Director of Missile Maintenance are: Director of Facilities, Director of Munitions and Director of Communications-Electronics. Field evaluation and statistical analysis of evaluation results are performed by 3901 Strategic Missile Evaluation Squadron, Vandenberg Air Force Base, California 93437. System Managers at installation level are: Chief of Maintenance in Missile Maintenance, Communications, Munitions and Civil Engineering Squadrons.

Notification procedure:

Requests for individuals should be addressed to the system manager of unit to which assigned. Request information by name, grade, and unit of assignment.

Record access procedures:

Individual can obtain access from the system manager of unit to which assigned.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from source documents (such as forms and reports) prepared by or on behalf of the Air Force by boards, committees, panels, auditors, instructors, inspectors, evaluators, and so forth.

Systems exempted from certain provisions of the act:

NONE

F06711 AFSC A

System name:

06711 AFSC A Equipment Maintenance Management Program (EMMP).

System location:

Aeronautical Systems Division, Computer Center, Wright-Patterson AFB, OH.

Categories of individuals covered by the system:

Military and civilian personnel in Aeronautical Systems Division, Air Force Avionics Laboratory, Air Force Flight Dynamics Laboratory, Air Force Aero Propulsion Laboratory, Air Force Materials Laboratory, Air Force Human Resources Laboratory and Aerospace Medical Research Laboratory at Wright-Patterson AFB having custody of high value precision measurement equipment.

Categories of records in the system:

Equipment maintenance management data on equipment signed out to individuals by equipment item number, model number, date checked out, office symbol, calibration due date, user social security number and name.

Authority for maintenance of the system:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by and Executive Order 9397, 22 November 1943, Number System for Accounts Relating to Individual Persons.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Maintain maintenance and management control of high value equipment including issuance, security and storage, and recalibration.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained on computer magnetic tapes and computer paper printouts.

Retrievability:

Records may be retrieved by custodian name and social security number or by equipment ID number and manufacturer.

Safeguards:

Computer records are maintained under systems software with password control. Printouts are kept in locked cabinets and desks. Offices and buildings are locked after duty hours.

Retention and disposal:

Printouts are kept up to a two weeks maximum and then destroyed by tearing into pieces.

System manager(s) and address:

Air Force Wright Aeronautical Laboratory, Logistics Office, Assistant for Operations, Wright-Patterson AFB, OH 45433.

Notification procedure:

Requests from individuals should be addressed to the system manager. Requesting individuals will be required to supply full name and office symbol or name of immediate supervisor for telephone requests; full name, driver's license or base ID card for personal visits.

Record access procedures:

Individual can obtain assistance in gaining access from the System Manager, telephone area code (513) 255-4522.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Individuals and automated systems interface.

Systems exempted from certain provisions of the act:

NONE

F07601 MAC A

System name:

07601 MAC A Passenger Reservation and Movement System.

System location:

Headquarters Military Airlift Command (MAC), Scott AFB, Illinois; Aerial Ports of Embarkation and Debarkation, military airfields or installations (all Services), certificated air carriers at civil (commercial) airports, and any activity or agency responsible for initiating or receiving a request for the movement of personnel and their baggage; manifesting, tracing and billing actions; and statistical data collection. Official mailing addresses are in the Department of Defense directory or the current United States Government manual. Commercial air carrier addresses are listed in the Official Airlines Guide.

Categories of individuals covered by the system:

Military, civilian, statutory, congressional and others sponsored by the Secretary of Defense or Military Service Secretaries. The Executive Office, Executive departments, independent agencies, Legislative Branch and the Judicial Branch.

Categories of records in the system:

Travel order, transportation authorizations, and passenger name records. Categories of information in the passenger name record include but are not limited to: name, grade, seats required; reservation identification code (RIC) which is assigned by a requesting activity or individual passengers and is the social security number or other unique identifier; origin, destination, requested travel dates, routing indicator (identifies the activity/installation requesting the reservation), cancellation and type standby codes (identifies the reason the passenger did not depart as scheduled); flight number, departure date and reporting time, and other administrative codings as determined by a Service activity or MAC to facilitate the completion of travel to include baggage tracer and billing actions. The

passenger name record is a complete listing of all transportation related administrative actions related to individual passengers.

Authority for maintenance of the system:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Passenger name records are used to prepare aircraft manifests for passenger identification processing and movement on military aircraft, commercial contract (charter) aircraft, and on seats reserved (blocked) on regularly scheduled commercial aircraft at military and civilian airports. Records in this system are also used to: (a) develop billing data to the user Military Services or other organizations; (b) determine passenger movement trends; (c) forecast future travel requirements; and (d) identify, research, and resolve transportation related problems. In addition, records may also be used as the basis of disciplinary action initiated by the requesting activity; and the conduct of official investigations. Records from the system are routinely disclosed to other Federal agencies and offices provided transportation, and to civilian airlines and airports for transportation services.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders, notebooks/ binders, card files, computer paper printouts, computer magnetic tapes, disks, microfiche or rolled microfilm.

Retrievability:

Records on this system may be retrieved by any of the following means: by name - RIC (SSN) channel, flight number, movement channel, type transaction, type travel, special passenger category, type standby code, passenger cancellation reason code.

Safeguards:

Records are stored in locked cabinets, rooms or buildings. Records are accessed by the custodian and person(s) responsible for servicing the record system in performance of their official duties. Access controlled by the manager and restricted to authorized personnel and, executive software sign on procedures control access to the computer data base.

Retention and disposal:

Transportation authorizations and orders are retained in office files for two years after the annual cut-off, then destroyed. Other records in the system are retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed. These records are destroyed by one of the following means: by tearing into pieces, shredding, pulping, macerating, burning, or degaussing in the case of magnetic computer media.

System manager(s) and address:

Director of Terminal Operations, Deputy Chief of Staff, Air Transportation, Headquarters Military Airlift Command, Scott AFB, Illinois 62225.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager. Full name, reservation identification code, and movement channel are required for inquiries.

Record access procedures:

Individuals can obtain assistance in gaining access from the Systems Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from military transportation and personnel activities, individuals requesting air travel or from other agencies designated to arrange air passenger reservations.

Systems exempted from certain provisions of the act:

NONE

F08003 0HCNBCA

System name:

08003 0HCNBCA Aeromedical Research Data.

System location:

Aerospace Medical Division(AMD) Brooks Air Force Base, TX 78235.

Categories of individuals covered by the system:

Personnel receiving medical evaluations from Department of Defense medical facilities. Participants in epidemiologic studies sponsored by agencies of the Department of Defense, Federal Aviation Administration, Veterans Administration, The National Institute of Health, National Research Council, and Occupational Safety and Health Administration.

Categories of records in the system:

Medical evaluations, Demographic and mortality data.

Authority for maintenance of the system:

10 US Code 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Individually identifiable records are used by medical authorities and consultants of the Department of Defense and Federal Aviation Administration to determine that individual's fitness for duty. Data on foreign personnel are used by the corresponding authority in that individuals country to determine his fitness for duty. An individual's record is used by medical personnel to deliver medical care to that patient. Aeromedical research data are used by scientists working with agencies of the Department of Defense, Federal Aviation Administration, Veterans Administration, The National Institute of Health, National Research Council, and Occupational Safety and Health Administration to determine medical criteria for duty, and to develop methods to prevent disease and disability.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in microfilm jackets, in paper files, on analog and digital magnetic tape, and on disks.

Retrievability:

Filed by Name, by Social Security Number (SSAN), by other identification numbers and patient characteristics. by Social Security Number "SSN",

Safeguards:

Computerized patient records retrievablle from remote terminals are protected from unauthorized access or alteration by a data management system which requires a password for allowing access to the authorized subset of data. When appropriate for research purposes, the data base management system permits scientists to examinpatient records without revealing the unique patient identifiers. All of the data is accessed only by the custodian of the record system, and released only to medical personnel and scientists who are properly screened and cleared for need to know.

Retention and disposal:

Destroy paper and microfilm files when no longer needed or after 25 years by tearing, shredding, pulping, macerating or burning. Magnetically stored date is destroyed by erasure.

System manager(s) and address:

Commander Aerospace Medical Division, Brooks Air Force Base, TX 78235.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information from military personnel records.

Systems exempted from certain provisions of the act:

NONE

F10010 AFCS A

System name:

10010 AFCS A Military Affiliate Radio System (MARS) Member Records.

System location:

At Headquarters Air Force Communications Service (AFCS), subordinate headquarters, and Air Force installations. Official mailing

persons against whom litigation has been filed under 28 USC 134b, 46 USC 741-52, 4781-90, 31 USC 71, 951-3, 42 USC 2651-3.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

record involved. For personal visits, the requester may present proof of identity to include full name from driver's license or military identification card.

Contesting record procedures:

At Headquarters Air Force Communications Service (AFCS), subordinate headquarters, and Air Force installations. Official mailing addresses are in the Department of Defense Directory in the appendix to the Air Force systems notice. At MARS member stations.

Categories of individuals covered by the system:

Amateur Radio Operators licensed by United States Air Force (USAF) MARS.

Categories of records in the system:

MARS Personnel Action Notification and Registration; MARS Station Questionnaire; Application for Membership in Military Affiliate Radio System. Information includes individuals name, MARS call sign, amateur call sign, mailing address, Federal Communications Commission (FCC) license class, MARS assignment, communications capability, MARS position, military status, and telephone number.

Authority for maintenance of the system:

10 USC 8012 Secretary of Air Force, powers and duties; delegation by. Routine uses of records maintained in the delegation by.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To identify MARS members, to describe and update information concerning members, station capability, MARS assignment and position status, to assign call signs and designators, to specify operational parameters and constraints, mailing address, amateur license, telephone number, and responsibilities.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders and/or apperture cards.

Retrievability:

Filed by name, by call sign or designator and geographic location.

Safeguards:

By authorized personnel in the course of their duties who are properly screened and cleared for need-to-know. Stored in file cabinets.

Retention and disposal:

At HQ AFCS, retained until termination of membership or alteration of information and then destroyed by tearing to pieces, shredding, pulping, macerating or burning. At MARS stations, retained in office files until reassignment or termination of membership and then destroyed by tearing to pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

Directorate of Systems Evaluation, Deputy Chief of Staff for Operations, HQ AFCS, Scott AFB IL 62225, and Director of Operations at all other levels.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the System Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Appoint MARS officials and Base MARS Directors.

Systems exempted from certain provisions of the act:

NONE

F11001 JAG A

System name:

11001 JAG A Litigation Records (Except Patents).

System location:

At Headquarters United States Air Force, Washington, DC 20330. At Headquarters of Major Commands and all levels down to and including Air Force installations worldwide. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Categories of individuals covered by the system:

All individuals who have brought suit against, or been involved in litigation with, the United States or its officers or employees concerning matters related to the Department of the Air Force; or persons against whom litigation has been filed under 28 USC 134b, 46 USC 741-52, 4781-90, 31 USC 71, 951-3, 42 USC 2651-3.

Categories of records in the system:

Pleadings, motions, interrogatories, orders, letters, messages, forms, reports, surveys, contracts, bids, photographs, legal opinions, answers, complaints, memoranda; personnel, finance, medical, business records; audits, summons, English translations of foreign documents, other evidentiary material, court orders and rulings; other documents including but not limited to: Environmental Impact Statements, contract determinations, witness statements, law enforcement agency investigative reports, administrative reports, engineering and technical reports and surveys; some records may be security classified.

Authority for maintenance of the system:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by. Routine uses of records maintained in the delegation by.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by USAF personnel tasked with supervisory and reporting responsibilities in connection with civil litigation; to enable the United States and its officers, employees, members, and parties to the litigation upon which suits at law can be prosecuted or defended in civil domestic or foreign litigation; used by Department of Justice and its officers and employees in the actual litigation of cases involving matters concerning the Department of the Air Force and in some instances the Department of Defense; 9to provide to Congress information upon which a reply to 9Congressional inquiries can be made; used by the Veteran's Administration and its officers and employees to adjudicate claims; to obtain from the Surgeon General and the military 9and civilian medical consultants thereto medical opinions 9upon which litigation decisions can be made by The Judge Advocate General and the Department of Justice; to provide information to the Court of Claims on legislative referral of private relief bills; used by law enforcement agencies, such as the Federal Bureau of Investigation, and their officers and employees in the conduct of background investigations and criminal investigations; used by the Air Force Audit Agency in conducting audits; used by the Board for 9the Correct of Military Records; used by the Air Force Accounting and Finance Center and its officers and employees 9for the adjudication of claims; when the Department of 9Defense or a military department is involved, civil liti9gation files are provided to any agency of the Department of Defense having a need for such files; provide litigation files to the legal staffs of the armed forces for the purpose 9of training of legal, paralegal and administrative personnel.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders.

Retrievability:

Filed by name of litigant and year of litigation.

Safeguards:

Records are accessed by authorized personnel in the course of their duties. Records are stored in locked containers or rooms and controlled by personnel screening.

Retention and disposal:

Files at the Claims Tort Litigation Division, Office of the Judge Advocate General, HQ USAF, are retired permanently at Washington National Records center, Washington, DC 2040, other levels destroy after two years upon completion of agency action; destroy after two years if files under 42 USC 2651-3. Destroy by tearing into pieces, shredding, macerating, pulping, or burning. Other records are retained in office files for two years after annual cut-off, then retired to Washington National Records Center, Washington, DC 2040, for permanent retention.

System manager(s) and address:

The Judge Advocate General, Headquarters United States Air Force, Washington DC 20330. Subsystems Managers are the Staff Judge Advocate at concerned subordinate command or installation for foreign civil litigation records.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager or Subsystems Manager as appropriate.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager or Subsystems Manager as appropriate.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Court records, correspondence initiated by parties to litigation, reports prepared by or on behalf of the Air Force, reports of Federal, state, local or foreign government agencies and information obtained from the individual.

Systems exempted from certain provisions of the act:

NONE

F12001 DPX B

System name:

12001 DPX B Investigation/Complaint Files

System location:

At Headquarters United States Air Force and at headquarters of major commands and all levels down to and including Air Force Installations. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Categories of individuals covered by the system:

Any individual specified in a formal complaint action.

Categories of records in the system:

The records maintained provide circumstances of a Service member's allegation of discriminatory treatment and the results of any inquiry/investigation related to the allegation. Such complaints may originate as Congressional/White House inquiries, Inspector General complaints, letters to the Air Force or Office of the Secretary of Defense (OSD) authorities, or complaints presented through equal opportunity channels. Records are manual.

Authority for maintenance of the system:

10 USC 8012 and 8032.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Routine use of investigation/complaint records is to provide information to commanders or complaints in the resolution of complainant's grievances. Principal purpose of the information is to document the circumstances and resolution of a particular allegation handled by Equal Opportunity personnel. All or a portion of the information contained in the files may be disclosed, upon request, to alleged discriminators.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in visible file binders/cabinets.

Retrievability:

Filed by name, by category.

Safeguards:

Records are accessed by custodian of the record system and person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes, locked cabinets or rooms.

Retention and disposal:

Retained for two years after end of year in which the case was closed, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

Chief, Equal Opportunity, and Treatment Branch, Social Actions Division, Deputy Chief of Staff Personnel, HQ USAF; and Chief of Social Actions at major command headquarters down to and including Air Force installations.

Notification procedure:

Requests from individuals should be addressed to Systems Manager at the appropriate level. Individuals should identify full name, military status, dates of service, unit of last or present assignment, Social Security Number (SSN), and type of record involved. For personal visits, the requester may present proof of identity to include full name from driver's license or military identification card.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager. Requests for information regarding individual persons should identify full name, military status, dates of service, unit of last or present assignment, Social Security Number (SSN), and type of record involved. For personal visits, the requester may present proof of identity to include full name from driver's license or military identification card.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Records are manually compiled from complaints filed, Congressional correspondence, OSD correspondence and chief of Staff, United States Air Force correspondence.

Systems exempted from certain provisions of the act:

NONE

F12501 0QVDYDC

System name:

12501 0QVDYDC Field Interview Card

System location:

Air Force installations.

Categories of individuals covered by the system:

Active duty military personnel and civilian employees, Air Force Reserve personnel, Dependents of military personnel, and civilians not affiliated with DOD.

Categories of records in the system:

field interview card which contains name,address,telephone number,physical description,age,date of birth,description of clothing worn,if an automobile is involved,the make,year,decal number license and style and color

Authority for maintenance of the system:

10 USC 8012 44 USC 3101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

purpose of system is to obtain and record information on the presence of individuals in a special location at specific time and date. Information is used by the chief of security police and security police investigators at base level. Information is used as an investigative tool in the identification of crime suspects and witnesses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders.

Retrievability:

Filed by Name.

Safeguards:

Records are accessed by custodian of the record system. Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, and locked cabinets or rooms and are controlled by personnel screening.

Retention and disposal:

Retained in office files for three months after monthly cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

chief of security police at base concerned.

Notification procedure:

requests should be addressed to chief of security police at base concerned required information from individual will be name and address.to obtain information requestor may visit the office of the chief of security police at base concerned. Requester must provide a current military identification card, civilian personnel must provide a civilian identification card or driver's license.

Record access procedures:

individuals can be notified by contacting the chief of security police at the base concerned.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Source of information is individual interviewed, witnesses and interviewing security policemen.

Systems exempted from certain provisions of the act:

Information obtained from medical institutions, the individual, a physical and/or medical technicians.

Systems exempted from certain provisions of the act:

facility main- taining the records or the Office of the Surgeon, Air Force Military Personnel Center, Randolph Air Force Base, Texas to learn if the record system contains their records. When visiting either

eral and state agencies; legal purposes. Army-Navy-Veterans Administration-Public Health Service-any other hospital, clinic etc for further medical care of the patient if he is currently undergoing treat-

Source of information is individual interviewed, witnesses and interviewing security policemen.

Systems exempted from certain provisions of the act:

NONE

F16001 AFA A

System name:

16001 AFA A Cadet Hospital/Clinic Records.

System location:

At USAF Academy CO 80840.

Categories of individuals covered by the system:

AF Academy Cadets.

Categories of records in the system:

Daily roster of cadets hospitalized and report of cadet visits to the cadet clinic.

Authority for maintenance of the system:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(1) Information collected for purpose of notifying concerned individuals of status of cadets hospitalized. Users include: Superintendent, Commandant of Cadets and Hospital Commander. Information used to provide Superintendent daily report of number and status of cadets hospitalized; provide Hospital Commander and staff daily report of status of cadets hospitalized; provide Commandant and staff daily report of number and status of cadets hospitalized; provide information to Air Officer Commanding so that he may notify parents as required when their child is hospitalized more than three days; concerned personnel can note trends in hospitalization in terms of numbers of cadets hospitalized, length of hospital stay, and nature of medical problems being treated. (2) Report of visits to cadet clinics; record the time a cadet enters the clinic, what his complaint is and explanation of excusals and time he exited the clinic. Distribution of this info is made to Cadet Safety, Athletics and individual concerned. Cadet Safety uses it to monitor cadet activity for ground safety program. Athletics uses to monitor excusals from physical education and to evaluate injury rates. The individual uses it to justify time away from classes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders.

Retrievability:

Filed by name.

Safeguards:

(1) Records are accessed by the custodian, person(s) responsible for servicing the record system, and authorized personnel who are properly screened and have a need-to-know. Records are stored in locked cabinets or rooms. (2) Clinic copy is under the direct control of Non-Commissioned Office in Charge (NCOIC) of Administrative Services. Distribution is made only to acknowledged representatives of Cadet Wing Safety and Athletics.

Retention and disposal:

Retained in office files for one year after annual cut-off then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

Commander, USAF Academy Hospital, USAF Academy, CO 80840.

Notification procedure:

Requests should be addressed to the Registrar, USAF Academy Hospital Cadet Liaison, and should include full name, and date of hospital admission.

Record access procedures:

Individual can obtain assistance in gaining access from the System Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from medical institutions, the individual, a physical and/or medical technicians.

Systems exempted from certain provisions of the act:

NONE

F16001 SGPC A

System name:

16001 SGPC A Medical Professional Staffing Records

System location:

At Air Force medical centers, hospitals, and clinics. All health facilities where graduate health education programs are conducted.

Categories of individuals covered by the system:

Practitioners, who are, or have been, members of the USAF Medical Service or Civil Service Employees (including civilian consultants who engage in direct patient care) and who are assigned to, employed by, or practice in the Air Force medical facility for the purpose of providing health services for eligible beneficiaries; United States Air Force Medical Service personnel pursuing graduate health education programs.

Categories of records in the system:

(1) Credential review files: Contains curriculum vitae, training reports, journals of patients managed, summaries of ambulatory experience, letters of evaluation, summaries of special activities or other information furnished or solicited in order to fully evaluate the professional qualifications of individuals. (2) Health education records: applications for training, training reports, Faculty Board reports, photograph or negative, and personnel documents related to training.

Authority for maintenance of the system:

10 USC 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The information contained in credential review files are used to award inpatient and ambulatory clinical privileges to all categories of health practitioners. They may also be used as background data to respond to applications submitted by individual, admission to professional medical societies, employment, for medical privileges at civilian institutions. Health education records are used to permit evaluation of individuals in training, by program directors, in managing the individual in training; by the record maintenance personnel, to document changes to the individual's personnel record maintained by the servicing Consolidated Base Personnel Office (CBPO).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders. Maintained in visible file binders/cabinets.

Retrievability:

Filed by Name.

Safeguards:

Records are accessed by custodian of the record system. Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. By commanders of USAF medical centers hospitals and clinics (credential review files); by program directors, trainees and personnel managers with the need to know (health education records).

Retention and disposal:

(1) credential review files are retained in the office files of the medical facility the practitioner is assigned or employed. Following separation, resignation, or retirement, the files are retained at the location of the last duty assignment for a period of 3 years and then are destroyed. (2) Health education files are retained by the director of health education until training is completed, files are then kept by the health facility for 30 years and then destroyed by tearing into pieces, shredding, pulping, macerating, or burning; if facility is deactivated, the records are retired to the Washington National Records Center, Washington, DC 20409 to be retained until the 30-year period has expired at which time they will be destroyed.

System manager(s) and address:

For credential review files: The Surgeon General, Headquarters, United States Air Force; Commanders of medical centers, hospitals, clinics; Director, Washington National Records Center, Washington, DC 20409. For health education records, individuals should give full name, military status, social security number, when they entered training and completed training, and what corps within the medical service they are a member. Individuals may visit either the health

facility main- taining the records or the Office of the Surgeon, Air Force Military Personnel Center, Randolph Air Force Base, Texas to learn if the record system contains their records. When visiting either of these locations, the individual must provide a valid drivers license or equivalent identification containing a photograph to establish identity.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

For credential review files, individual may obtain assistance in gaining access from the Systems Manager. For health education records, individual may obtain assistance by writing or presenting themselves in person to the health facility where the records are maintained. Official mailing addresses are in the Depart- ment of the Air Force Directory in the appendix to the Department of the Air Force system notices.

Coutesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Credential review files: Basic information submitted by the practitioner. Additional information may be solicited from other sources in order to permit the credentials committee to best judge the capabilities of the practitioner. Health education records: Previous employer, educational institutions, master personnel record, information provided by the individual concerned.

Systems exempted from certain provisions of the act:

NONE

F16805 ASGHB R

System name:

16805 ASGHB R Health and Outpatient Records

System location:

Air Force Military Personnel Center, Randolph Air Force Base, TX 78148. Air Reserve Personnel Center, 3800 York Street, Denver, CO 80205. United States Air Force Academy, USAF Academy CO 80840. National Personnel Records Center, Civilian Personnel Records, 111 Winnebago Street, St. Louis, MO 63118. National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132. Air Force hospitals, medical centers and clinics. consolidated flight record custodians at Air Force installations. Air National Guard activities. Air Force Reserve units. in the appendix to the Air Force's systems notice. Other authorized medical units servicing military personnel and/or their dependents, such as National Aeronautics and Space Administration, Embassies, Federal Aviation Agency, Public Health Service, Veterans Administration.

Categories of individuals covered by the system:

All personnel authorized to receive medical care in an Air Force facility.

Categories of records in the system:

Chronological record of all care received in military medical facilities. This is primarily a record of all treatment received on an outpatient basis with supporting documentation such as laboratory and x-ray reports; the record also includes copies of cover sheets and summaries of each period of hospitalization the patient has had. Certain administrative forms which concern medical conditions, such as Line of Duty Determinations, Physical Profiles, Medical Recommendation for Flying Duty are also included. To proivde ready accessibility to the records, an alphabetical name file is maintained.

Authority for maintenance of the system:

Title 10, United States Code Sections 133 and 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used as chronological record of patient's health while authorized care in a military medical facility. By patient or legal representative for further medical care, legal purposes, other uses such as insurance requests or compensation claims as specifically authorized by the patient. Physician for further medical care of patient, research, teaching, legal purposes. Other Patient Care Providers within the hospital for furhter medical care of the patient, research, teaching, legal purposes. Hospital and Medical Staff for evaluation of medical staff performance in the medical care rendered; medical research; teaching; hospital accreditation; preparation of statistical reports; reporting communicable diseases and other conditions required by law to federal and state agencies; legal purposes. Army-Navy-Veterans Administration-Public Health Service-any other hospital, clinic etc for further medical care of the patient if he is currently undergoing treatment there. Judicial - by attorneys and courts for litigation purposes (record is released only upon receipt of the patients' signed authorization or a court order). Insurance Companies - requires the patients' written consent for release. Used for establishing insurance benefits or payment of benefits. Other Air Force Agencies - such as Central Tumor Registry which maintains files on all patients in whom a malignancy has been diagnosed; Office of Special Investigations when required for an investigation they are conducting; Judge Advocate General for litigation purposes. Other Federal and State Agencies - such as Veterans Administration and Department of Labor (Workmens Compensation) for adjudication of claims; reporting communicable disease or other conditions required by law. Other persons or agencies as specifically authorized by the patient.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders, in card files and in machine - readable form.

Retrievability:

Filed by Name. Filed by Social Security Number (SSN) and by Military Service Number.

Safeguards:

Records are accessed by custodian of the record system. Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are accessed by commanders of medical centers and hospitals. Records are stored in locked cabinets or rooms. Records are controlled by personnel screening.

Retention and disposal:

Records for military personnel are retained for fifty years after date of last document; for all others, twenty-five years. While on active duty, the Health Record of a US military member is maintained at the medical unit at which the person receives treatment. On separation, or retirement, records are forwarded to National Personnel Records Center/Military Personnel Records (NPRC/MPR) or other designated depository, such as Air Reserve Personnel Center if reservist; to appropriate state National Guard unit, if National Guard member; to appropriate Veterans Administration Regional Office if VA Claim has been filed. Records of other personnel may be handcarried or mailed to the next military medical facility at which treatment will be received, or the records are retained at the treating facility for a minimum of 1 year after date of last treatment then retired to NPRC or other designated depository, such as, but not limited to, Commandant (PM) US Coast Guard, Washington DC 20226 for Coast Guard active duty members; Medical Director, American Red Cross, Washington DC 20006 for Red Cross Personnel. (Records at NPRC are destroyed by burning or shredding).

System manager(s) and address:

The Surgeon General, Headquarters United States Air Force. Chief of Air Force Reserve, Headquarters United States Air Force. Director of Air National Guard, Headquarters United States Air Force. Commanders of medical centers hospitals clinics medical aid stations; Commander, Military Personnel Center; Director National Personnel Record Center (military) 9700 Page Blvd, St Louis, MO 63132; Director, National Personnel Record Center (civilian), 111 Winnebago St., St Louis, MO 63118. Individuals who have records responsibility at all other authorized medical units servicing military personnel and their dependents.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Physicians and other patient care providers such as nurses, dietitians, physicians assistants, etc. Administrative forms filed in the records will be completed by appropriate official, military or civilian.

and DOD civilians and their dependents; certain other categories for individuals identified by authorized personnel who directly support Air Force mission requirements. Following additional categories

Individual applications for membership/participation in MWR activities and offices of primary responsibility for MWR activities.

Systems exempted from certain provisions of the act:

Filed by Name.

Safeguards:

Records are accessed by custodian of the record system and by

Physicians and other patient care providers such as nurses, dietitians, physicians assistants, etc. Administrative forms filed in the records will be completed by appropriate official, military or civilian.

Systems exempted from certain provisions of the act:

NONE

F17603 OYUEBLA

System name:

17603 OYUEBLA Individual Earning Data

System location:

Headquarters of the major commands and separate operating agencies. individuals concerned and at Internal Revenue Service (IRS).

Categories of individuals covered by the system:

Off duty Active duty military personnel. employed by Isolated Site Lounge Sundry Fund (ISLSF).

Categories of records in the system:

Individual pay records and identifies individual by name and social security account number (SSAN).

Authority for maintenance of the system:

10 USC 8012

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To report to the IRS individual earnings so that federal income tax may be collected on all payments made to individuals employed in the operation of an ISLSF.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders. Maintained in card files.

Retrievability:

Filed by Name. Filed by Social Security Number (SSAN). conventional.

Safeguards:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

Retention and disposal:

retained in air force Communications Service Comptroller files for four years after wages are paid, then destroyed by tearing into pieces. Retained by individual for reporting income to IRS.

System manager(s) and address:

Director of Personnel Services, Deputy Chief of Staff/Personnel Headquarters AFCS, Scott AFB IL 62225. Comptroller of the Air Force, Headquarters United States Air Force.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

Systems exempted from certain provisions of the act:

NONE

F17607 DPM A

System name:

17607 DPM A Morale, Welfare, and Recreation (MWR) Participation/Membership/Training Records

System location:

At Air Force Military Personnel Center, Randolph AFB TX 78148; at major command headquarters; at all levels down to and including Air Force installations.

Categories of individuals covered by the system:

Active duty and retired military members and their dependents; members of Reserve components while on inactive duty for training and DOD civilians and their dependents; certain other categories for individuals identified by authorized personnel who directly support Air Force mission requirements. Following additional categories apply for specific activities activities as indicated: Air Force Aero Clubs: Air Force, Army, or Naval Academy Cadets; military members of foreign governments on duty with the DOD; members elected to the US Congress or a statutory appointee of the Federal Government; Federal Government employees working on military installations and conducting various recreation programs. Utilized by personnel responsible for conducting Air Force MWR activities. May be provided to commercial or non-profit concerns conducting activities in support of, similar to, or in furtherance of, the Air Force programs involved. May be provided to any Department of Defense component or any part thereof and, upon request, to any other Federal, state, and local governmental agencies in the pursuit of their official duties. May also be used for other lawful purposes including law enforcement and/or litigation.

Categories of records in the system:

Volunteer, membership, attendance, training, and participation/competition records and supporting data relative to Air Force MWR activities.

Authority for maintenance of the system:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by; 44 USC 3101, Records management by agency heads: general duties; and Executive Order 9397, 23 November 1943, Number System for Accounts Relating to Individual Persons.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Determine membership/participation eligibility; maintain patron attendance; conduct contests; monitor training and currency of members; and serve as data base for designing and currency of members; and serve as data base for designing and conducting various recreation programs. Utilized by personnel responsible for conducting Air Force MWR activities. May be provided to commercial or non-profit concerns conducting activities in support of, similar to, or in furtherance of, the Air Force programs involved. May be provided to any Department of Defense conponent or any part thereof and, upon request, to any other Federal, state, and local governmental agencies in the pursuit of their official duties. May also be used for other lawful purposes including law enforcement and/or litigation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file cabinets.

Retrievability:

Filed by name and/or Social Security Number (SSN).

Safeguards:

Records are maintained in secured buildings. Access is controlled by authorized personnel and limited to those requiring access in the performance of their duties.

Retention and disposal:

Retained in office files until superseded; obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. or surrender to member upon termination, as applicable.

System manager(s) and address:

Assistant Duputy Chief of Staff Personnel for Military Personnel (DPMSO), Randolph AFB TX 78148.

Notification procedure:

Request from individual should be addressed to the Chief, Morale, Welfare, and Recreation Division at the appropriate Air Force installation or the System Manager indicating the individual's full name and SSN.

Record access procedures:

Individuals may contact the Chief, Morale, Welfare, and Recreation Division at the appropriate Air Force installation or the System Manager to exercise their rights under the Act. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's system notices.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Individual applications for membership/participation in MWR activities and offices of primary responsibility for MWR activities.

Systems exempted from certain provisions of the act:

NONE

F17708 0EACYVD

System name:

17708 0EACYVD Indebtedness and claims

System location:

Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279. Denver Federal Archives and Record Center Bldg 48 Denver Federal Center, Denver, Colorado 80225.

Categories of individuals covered by the system:

Active duty military personnel. Air Force civilian employees. Former Air Force civilian employees. Air Force Reserve and Air National Guard personnel. Retired Air Force military personnel. Air Force Academy cadets. Dependents of military personnel. Exchange Officers. Foreign nationals.

Categories of records in the system:

Records of current and former military members and civilian employees pay accounts showing entitlements, deductions, payments made, and any indebtedness resulting from deductions and payments exceeding entitlements. These records include, but are not limited to, individual military pay records, substantiating documents such as military pay orders, pay adjustment authorizations, military master pay account print out from Joint Uniform Military Pay System (JUMPS), records of travel payments, financial record data folders, miscellaneous vouchers, personal financial records, credit reports, promissory notes, individual financial statements, and correspondence. Applications for waiver of erroneous payments or for remission of indebtedness with supporting documents, including but not limited to, statements of financial status (personal income and expenses), statements of commanders, statements of Accounting and Finance Officers, correspondence with members and employees. Claims of individuals requesting additional payments for services rendered with supporting documents including, but not limited to, time and attendance reports, leave and earnings statements, travel orders, travel vouchers, statements of non-availability of quarters and mess, paid receipts, and correspondence with members and employees. Delinquent accounts receivable from base Accounting and Finance Officers including, but not limited to, returned checks, medical services billings, collection records, and summaries of the Air Force Office of Special Investigation and Federal Bureau of Investigation reports. Reports from probate courts regarding estates of deceased debtors. Reports from bankruptcy courts regarding claims of the US against debtors.

Authority for maintenance of the system:

31 USC 951-953; 10 USC 2774; 10 USC 9837 (d); 5 USC 5584; 12 USC 1715m.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The information is collected to determine eligibility for waiver of erroneous payments and remission of indebtedness or additional payments for services rendered. Also, information is required to attempt collection of all claims of the United States for money or property arising out of the activities of the United States Air Force. Claims of the United States may be compromised, terminated, or suspended when warranted by information collected. The records are used by, but not limited to, Air Force Accounting and Finance Center (AFAFC) Director of Accounting and Finance and Deputy Director of Accounting and Finance (HQ USAF/ACF), Assistant Secretary of the Air Force for Manpower and Reserve Personnel (SAF/MR), United States Air Force Comptroller (HQ USAF/AC), and the Comptroller General. AFAFC/CC uses the information to make final determinations or recommendations to SAF/MR, HQ USAF/AC, or the Comptroller General; to furnish legal advice to operating officials; to establish debts and respond to letters received from individuals. After action is completed, files are closed and filed in individual records. SAF/MR, HQ USAF/AC and the Comptroller General use the files for making final determinations. Disclosures made pursuant to the Freedom of Information Act. Disclosures to the Department of justice for criminal prosecution, civil litigation or investigation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders and in machine - readable form.

Retrievability:

Filed by Name.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards and controlled by personnel screening and visitor registers.

Retention and disposal:

Retained in office files for one year after annual cut-off, transferred to the Denver Federal Archives and Record Center for nine additional years, and then sold to salvage paper companies to be destroyed by shredding, tearing, mascerating, pulping or burning.

System manager(s) and address:

Comptroller of the Air Force, Headquarters United States Air Force (USAF). Director Accounting and Finance United States Air Force (USAF).

Notification procedure:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Denver, CO 80279, telephone (303) 320-7553. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status , duty station or place of employment, or other information verifiable from the record itself.

Record access procedures:

Requests from individuals should be addressed to AFAFC/DAD, Denver, CO 80279, telephone (303) 320-7553. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status , duty station or place of employment, or other information verifiable from the record itself.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from financial and medical institutions; automated system interfaces; police and investigating officers; the public media; a state or local government; and source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth; credit bureaus; Bureau of Employees Compensation, Veterans Administration; Social Security; Internal Revenue Service; Federal Housing Administration; health insurance companies; U.S. Army Finance and Accounting Center; Navy Finance Center; Base Accounting and Finance Officers, Major Commands; Comptroller General; and correspondence with individual concerned or his representative.

Systems exempted from certain provisions of the act:

NONE

F17721 0EACYVA

System name:

17721 0EACYVA Civilian Pay Records

System location:

Air National Guard activities. Accounting and Finance Offices at Air Force bases. Air Force Reserve units. in the appendix to the Air Force's systems notice. addresses of geographically dispersed units may be obtained by reference to Air Force components listed in the Department of Defense directory in the appendix to the Air Force notice.

Categories of individuals covered by the system:

Air Force civilian employees.

Categories of records in the system:

Individual pay records; Individual leave records; source documents for posting leave and attendance; individual retirement deduction records; source documents maintained in connection with retirement deduction records and control files thereon; wage and separation information files; health benefit records; income tax withholding records; allowance and differential eligibility files, such as, but not limited to clothing allowances and night rate differentials; withholding and deduction authorization files, such as, but not limited to federal income tax withholding, insurance and retirement deductions; accounting document files; input data posting media, such as, but not limited to time and attendance cards and reports and personnel actions affecting pay; accounting and statistical reports and computer edit listings; claims and waivers affecting pay; control logs and col-

lection/disbursement vouchers; listings for administrative purposes, such as, but not limited to health insurance, life insurance, bonds, locator files and checks to financial institutions; correspondence with

tected by guards, and controlled by personnel screening, visitor registers, and computer system software.

Retention and disposal:

pay authorization control files, central pay authorization file, deferred transaction file, reject suspense file and daily transaction record. Military pay supporting documents and vouchers including but not limited to basic pay; special compensation positions such as medical,

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabi-

lection/disbursement vouchers; listings for administrative purposes, such as, but not limited to health insurance, life insurance, bonds, locator files and checks to financial institutions; correspondence with the Civilian Personnel Office, dependents, attorneys, survivors, insurance companies, financial institutions, other governmental agencies and others; leave and earnings statements; travel records; and separation documents; official correspondence; federal, state and tax reports and/or tapes; forms covering pay changes and deductions, and documentation pertaining to garnishment of wages.

Authority for maintenance of the system:

5 USC Chapters 53, 55 and 81.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The records are used to accurately compute individual employee's pay entitlements and to withhold required and authorized deductions and issue payroll checks for amounts due. Output products are forwarded as required to other subject matter areas to ensure accurate accounting and recording of pay to civilian employees. These records and related products are also used to verify and balance in the civilian pay office and other applicable subject matter areas and to report information to recipients, other government, and nongovernment agencies. Such recipients and agencies include, but are not limited to, the individual employee; banks which credit the employee's account if the employee has requested his check to be sent to the bank; financial organizations which credit the employee's account if the employee has requested a savings allotment; other approved organizations which an employee has designated for an allotment; health benefit carriers to ensure proper credit for the employee authorized health benefit deductions; employee organizations for which the employee has requested a dues deduction (reasons for nondeduction of dues will be benefit deductions; disclosed to officials of labor organizations recognized under Executive Orders 11636 and 11491, as amended, when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices and matters affecting working conditions (including disclosure of reasons for nondeduction of dues, if applicable); the US Treasury, which maintains cash accountability; the Internal Revenue Service for recording withholding and social seu2curity information; the Social Security Administration and Civil Service Commission which credits the employee's account for Federal Insurance Contributions Act or Civil Service Retirement withheld; State revenue departments which credit employee's state tax withholding; State employment agencies which require wage information to determine eligibility for unemployment compensation benefits of former employees; city revenue departments of appropriate cities which credit employees for city tax withheld; any agency or component thereof that needs the information for proper accounting of funds, such as, but not limited to, for-others listings; Civil Service Commission for assistance in resolving complaints, grievances, etc. In the event of suspected fraud or other irregularity, data may be released to the Federal Bureau of Investigation, Office of Special Investigations, United States Air Force, or other investigating agencies for investigation and possible civil action or criminal prosecution. Data may also be released to a court of competent jurisdiction for court action. Disclosures are made to the Department of Justice for criminal prosecution, civil litigation, or investigation. Information is also supplied to the Civil Service Commission for computation of Civil service retirement annuity. Records are also used for extraction or compilation of data and reports for management studies and statistical analyses for use internally or externally as required by the Department of Defense or other Government agencies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders, in note books/binders, in visible file binders/cabinets, in card files, on computer magnetic tapes, disks or drums, on computer paper printouts, on roll microfilm, on microfiche, and in microfilm jackets.

Retrievability:

Filed by Name, Social Security Number (SSN), Civilian Payroll Number, Vehicle Registration or License Number, or other identification number or system identifier.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms, protected by guards, and controlled by personnel screening, visitor registers, and computer system software.

Retention and disposal:

Records are retained for periods ranging up to 56 years.

System manager(s) and address:

Comptroller of the Air Force, Headquarters United States Air Force. Director of Accounting and Finance United States Air Force (USAF); and commanders of Air Force installations

Notification procedure:

information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, CO 80279 telephone (303) 320-7553. Information pertaining to geographically dispersed elements of the record system maybe obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense directory in the appendix to Air Force system notice. Requester should be able to provide sufficient proof of identity, such as name, social security number, drivers license, civilian identity card, duty station or place of employment or other information verifiable from the record itself.

Record access procedures:

Requests from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. Information pertaining to geographically dispersed elements of the record system maybe obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense directory in the Air Force system notice. Requester should be able to provide sufficient proof of identity, such as name, social security number, drivers license.civilian identity card, duty station or place of employment, or other information verifiable from the record itself.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from previous employers from financial institutions, from medical institutions, from automated system interfaces, from a state or local government, from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth, and from other Department of Defense components and other federal agencies such as, but not limited to Social Security Administration, Internal Revenue Service, State Revenue Departments, Department of the Army, Navy or State Department. Correspondence with attorneys, dependents, survivors or guardians may also furnish data for the system.

Systems exempted from certain provisions of the act:

NONE

F17730 0EACYVA

System name:

17730 0EACYVA Joint Uniform Military Pay System (JUMPS)

System location:

Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279. Air Force Military Personnel Center, Randolph Air Force Base, TX 78148. Consolidated Base Personnel Offices at Air Force installations. Accounting and Finance Offices at Air Force bases. At Air Force Data Systems Design Center, Gunter Air Force Station, AL 36114 (for research and test only), Denver Federal Archives and Records Center, Denver, CO 80225 (storage), Records Center Annex GSA, PO Box 141, Neosho, MO 64850 (back-up storage). Information pertaining to geographically dispersed elements of the record system (CBPO's and AFO's) may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force system notice.

Categories of individuals covered by the system:

Air Force active duty military personnel and dependents. Retired. Separated Air Force military personnel, individuals to whom active duty military personnel authorize a direct payment of a portion of their pay, and Officers of the Air Reserve and Air National Guard on extended active duty.

Categories of records in the system:

Military pay records and files including but not limited to master military pay accounts, immediate access storage, six-months history, leave and earnings statements, federal insurance contribution act tax and federal income tax withholding contained on magnetic tape, magnetic discs, microfilm, microfiche and computer printed formats;

pay authorization control files, central pay authorization file, deferred transaction file, reject suspense file and daily transaction record. Military pay supporting documents and vouchers including but not limited to basic pay; special compensation positions such as medical, dental, veterinary and optometry; special pay such as foreign duty, proficiency, hostile fire and diving duty; status adjustments relating to entrance on active duty, absent-without-leave, confinement, desertion, sick or injured, leave, mentally incompetent, missing, interned, permanent change of station, promotions and demotions; separation, reenlistments, incentive pay such as flying duty, stress duty, demolition duty, parachute jumping duty and submarine duty; allowances, such as basic allowance for subsistence, basic allowance for quarters, family separation allowances, overseas station allowances, clothing monetary allowance; separation payments, death gratuities, time-in-service; allotments of pay; checks-to-banks; federal and state withholding taxes; court-martial sentences and non-judicial punishment; indebtedness resulting from but not limited to overpayment of pay and allowances and allotments, other debts to United States, certain non-government debts, and correspondence pertaining to all of the above, inquiries files, personal financial records and sundry lists, reports and rosters including but not limited to Internal Revenue reports, state tax reports, Veterans Administration reports, Social Security Administration reports, and Treasury reports.

Authority for maintenance of the system:

37 USC 101 et seq.; 10 USC 265, 8033, 8496; 10 USC 9837 (d); 32 USC 708; E.O. 9397.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purposes of these records are to accurately and timely pay members of the Air Force, provide members periodic comprehensive statements of their accounts, and to respond to inquiries concerning their accounts at any time. US Air Force components such as Headquarters, Air Force Accounting and Finance Center, Major Commands and Air Force installations use these records to determine pay due military members, to verify pay affecting information, to collect overpayments made to military members, to provide accrual accounting for each covered entitlement of military pay and allowances, and to provide fund manager reports, internal manager reports and external reports. Other users include but are not limited to other components of Department of Defense such as Army and Navy which may pay Air Force members and initiate claims; other federal agencies such as the Internal Revenue Service for tax information on members, Social Security Administration for information regarding Federal Insurance Contribution Act tax deducted from members, Veterans Administration for information regarding premiums on serviceman's group life insurance, the General Accounting Office for audits, opinions, and fact-finding information, state and local governments for tax and welfare information, US and state courts for civil litigation and criminal prosecution purposes, members of Congress for complaints from constituents and for inquiries not generated by constituents, insurance companies for allotments made to them by military members, financial institutions for deposits (checks-to-banks) and/or payments (including release of information to computer service centers and other accounting services when such centers and services act as authorized agents of financial ospecified by the member to receive monies due him). The American Red Cross and the Air Force Aid Society. Records may be disclosed to law enforcement agencies such as but not limited to office of Special Investigations, United States Air Force; Federal Bureau of Investigation; city and state authorities for violations of law, for investigation and possible criminal prosecution, civil court action or regulatory processes. Disclosures made pursuant to the Freedom of Information Act. Disclosures to the Department of Justice for criminal prosecution, civil litigation, or for investigatory purposes. American Red Cross uses this information to determine needs of a member or his dependents in emergency situations. The Air Force Aid Society uses this information to determine needs of a member or his dependents in emergency situations and for verification of loan applications.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders/ note books/binders/bisible file binders/ cabinets/card files, computer magnetic tapes and maintained on computer paper printouts, and on roll mircrofilm and microfiche.

Retrievability:

Filed by Name. Social Security Number (SSN), or Military Service Number

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets/ locked cabinets or rooms, protected by guards, and controlled by personnel screening, visitor registers and computer system software.

Retention and disposal:

local retention varies from 3 to 6 years. At expiration of local retention, records are either destroyed by tearing, shredding, pulping, macerating or burning or transferred by the Air Force Accounting and Finance Center to the Denver Federal Archives and Records Center for varying retention periods up to 56 years. Destroyed by shredding. Back-up records for emergency reconstruction in the event of primary record destruction are retained by the Federal Records Center Annex GSA at Neosho MO. Destruction is by shredding.

System manager(s) and address:

Comptroller of the Air Force, Headquarters United States Air Force.

Notification procedure:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, CO, 80279, telephone (303) 320-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force system notice. Requester should be able to provide sufficient proof of identity, such as name, social security account number, military status, duty status or place of employment or other information verifiable from the record itself.

Record access procedures:

Request from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, CO, 80279, telephone (303) 320-7553. Requests pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force system notice. Requester should be able to provide sufficient proof of identity, such as name, social security account number, military status, duty status or place of employment or other information verifiable from the record itself.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from financial institutions, automated system interfaces; a state or local government; source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth, military pay information originating from telephone inquiries, telegraph messages and correspondence; information from federal agencies and other DoD components; and information from Air Force installations, Major Commands and USAF Headquarters.

Systems exempted from certain provisions of the act:

NONE

F17734 0EACYVA

System name:

17734 0EACYVA USAF Retiree/Annuitant Pay System (RAPS)

System location:

Air Force Accounting and Finance Center, Lowry AFB Denver CO 80279. Federal Archives and Records Center, building 48, Denver Federal Center, Denver, Colorado 80225. Records center annex, GSA, P.O. Box 141, Neosho, Missouri 64850 (back up storage only). Air Reserve Personnel Center and Personal Affairs offices at Air Force installations. Official mailing addresses are in the Department of Defense Directory in the Appendix to the Air Force's systems notice.

Categories of individuals covered by the system:

Air Force active duty officer and enlisted personnel. Air Force Reserve and Air National Guard personnel. Retired Air Force military personnel. Dependents and survivors of military personnel.

Categories of records in the system:

Records include, but are not limited to, retired pay and annuitant pay master files with supporting documentation relating to entitle-

ments, deductions, collections and allotments. Supporting documents include but are not limited to the following Retirement Orders, retirement pay orders, gross pay statements, statements of employment, employees; withholding exemption certificates, records of

Maintained in file folders/note books/binders/visible file binders/ cabinets/card files, computer magnetic tapes and paper printouts, and on roll microfilm and micorfiche.

Retrievability:

Air Force civilian employees and applicants, and Air Force military members and prospective members, including Air Force Reserve and Air National Guard, whose personnel security investigations contain unfavorable information, who were previously processed or adjudicated under the Air Force Military or Civilian Security Pro-

Individuals can obtain assistance in gaining access from the System Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be

ments, deductions, collections and allotments. Supporting documents include but are not limited to the following Retirement Orders, retirement pay orders, gross pay statements, statements of employment, employees: withholding exemption certificates, records of emergency data, retired pay allotment authorizations, retirees: United States savings bond authorizations, Air Reserve Forces retirement credit summaries, divorce decrees, computation of retired pay, death certificates, claims for unpaid pay and allowances of deceased members, marriage certificates, adoption papers, guardian papers, birth certificates, election certificates for retired servicemans: family protection plan (RSFPP), election certificates for survivor benefit plan (SBP), documents pertaining to status of childrens: schooling, and income tax withholding statements. Also included are listings of bonds, allotments, retired pay and annuitant pay checks, debts owed the government and direct remittances made by retirees for the costs of the RSFPP and SBP plans, records from dependents of retired military personnel, correspondence related to retirement entitlements such as reports from hospitals and medical review boards, print-outs of members: active duty military pay accounts from the joint uniform military pay system.

Authority for maintenance of the system:

10 USC Chapters 61, 63, 65, 67, 69, 71, 73 and 79; 5 USC Chapter 83. 37 USC 101 et. Seq.; 38 USC 410

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

the purpose of these records is to accurately and timely pay the retired members of the Air Force and their survivors; provide members periodic statements of pay; document and account for all disbursements and collections; and to respond to inquiries concerning the retiree and annuitant accounts. Records are used to establish, maintain and close retiree and annuitant pay accounts and prepare related reports; compute retired and annuitant pay and initiate actions for monthly pay and allotment transactions; casualty cases are established upon the death of a member and arrears of pay are computed and disbursed to survivors; upon the death of a retired member, RSFPP and/or SBP accounts are established and survival annuities are paid. Users of system record data include Headquarters US Air Force and the USAF Military Personnel Center for routine and special reports which are generally statistical in nature, but occasionally include lists of retirees with related pay data. Other users include, but are not limited to, any component of the Department of Defense for inquiries, audit and document utilization; other federal agencies such as the Internal Revenue Service for normal wage and tax withholding reporting, accounting, tax audits and levies; Comptroller General and the General Accounting Office for legal interpretations and audits. Disclosures are made to the Department of Justice for criminal prosecution, civil litigation or investigation; disclosures are made to the Veteran's Administration regarding establishments, changes and discontinuances of VA compensation to retirees and annuitants; disclosures are made to the Social Security Administration regarding wages and Federal Insurance Contributions Act Tax withholding; information is furnished the American Red Cross and the Air Force Aid Society for their use in assisting retirees and their survivors; disclosures are made pursuant to the Freedom of Information Act. Information is supplied to state and local governments for use as follow-up data in welfare cases and for tax purposes. Also, there is an automated interface with the joint uniform military pay system for data used to compute annuitant payments; checks are sent to banks for credit to the retirees and annuitants accounts including payments made under the Electronics Fund Transfer System (EFTS) transmitted through the Federal Reserve System; and allotments are mailed to other financial institutions for uses such as insurance premiums and loan repayments. Information is also supplied to the Civil Service Commission when a retiree waives his military retired pay in order to use his military service for computing his Civil Service Retirement Annuity. Records are also used for extraction or compilation of statistical data and reports for management studies and statistical analyses for use internally or externally as required by Department of Defense or by other Government agencies. Information is supplied to the courts regarding retiree pay in garnishment cases. Disclosures are also made to attorneys, law firms, and other parties acting as executors or administrators of retirees estates and information is provided to trustees of mentally incompetent members and guardians of survivors (children).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders/note books/binders/visible file binders/cabinets/card files, computer magnetic tapes and paper printouts, and on roll microfilm and micorfiche.

Retrievability:

Filed by Name, Social Security Number (SSN) or Military Service Number.

Safeguards:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets/vaults/ locked cabinets or rooms, protected by guards, and controlled by personnel screening, visitor registers and computer system software.

Retention and disposal:

the system contains differing types of records subject to varied periods of retention up to 56 years. Final destruction of records is by shredding. Records are maintained in the retired pay division office while active, and then retired to the Denver Federal Archives and Records Center. Duplicate records are maintained at the records center annex at Neosho, Missouri for storage. Destruction is accomplished by shredding or burning.

System manager(s) and address:

Comptroller of the Air Force, Headquarters United States Air Force. Director of Accounting and Finance United States Air Force Washington DC 20330 (USAF). Assistant Deputy Chief of Staff Personnel for Military Personnel, Randolph Air Force Base, TX 78148 for Survivor Benefit Plans Briefing records and spouse notification letters.

Notification procedure:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. The requester should be able to provide sufficient proof of identity, such as name, social security number, duty station or place of employment, military status, military grade or other information verifiable from the record itself. For Survivor Benefits Plans Briefing records and spouse notification data, contact the Systems Manager specified in the preceding category or Personal Affairs officials at the servicing Air Force installation. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

Record access procedures:

Requests from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. The requester should be able to provide sufficient proof of identity, such as name, social security number, duty station or place of employment, military status, military grade or other information verifiable from the record itself.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from previous employers, financial, educational, and medical institutions, automated system interfaces, a state or local government, source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth. Also record system sources of information include but are not limited to, the following members: survivors, trustees of mentally incompetent members, guardians of survivors (children), private law firms which are executors of estates in casualty cases, the Military Personnel Center at Randolph Air Force Base, Texas, and other government agencies such as the Veterans Administration and the Social Security Administration. Information also obtained from the individual.

Systems exempted from certain provisions of the act:

NONE

F20503 DAI A

System name:

20503 DAI A Personnel Security Case Files.

System location:

Personnel Security Group, Directorate of Administration, Headquarters US Air Force, Washington, DC 20330. Decentralized segments at the Washington National Records Center.

Categories of individuals covered by the system:

Air Force civilian employees and applicants, and Air Force military members and prospective members, including Air Force Reserve and Air National Guard, whose personnel security investigations contain unfavorable information, who were previously processed or adjudicated under the Air Force Military or Civilian Security Programs, or who are assigned or nominated to offices of the Secretary of the Air Force, the Air Staff or the support agencies and offices under the security clearance authority of the Personnel Security Group.

Categories of records in the system:

Files may include (1) requests for clearance, investigation, (2) determinations of eligibility for assignment to sensitive positions, (3) medical records checks and evaluations, (4) personnel records information, (5) personnel security questionnaires, (6) correspondence between the group and the individual, office of assignment, commanders, medical facilities and installations, personnel offices, investigative agencies, Air Staff offices, or offices of the Secretary of the Air Force, (7) clearance records, and (8) summaries, evaluations, recommendations and records of adjudication.

Authority for maintenance of the system:

5 USC 7531, Definitions; 7532, suspension and removal; 7533, Effect on other statutes; 10 USC 8012, Secretary of the Air Force: powers and duties; delegation by; Executive Order 10450, Security requirements for government employment. Routine uses of records maintained in the system, including

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Files are established to evaluate the security acceptability of Air Force military and civilian personnel, applicants, enlistees and nominees for appointment, assignment or retention in sensitive positions with access to classified defense information or to restricted areas and locations. Files are used to record clearance adjudicative actions, eligibility determinations and investigative data. Investigative case file information may be reviewed by Air Force installation commanders, supervisors, personnel officers, medical, security, and investigative personnel, personnel of Air Staff offices and offices of the Secretary of the Air Force. Case files and cards are also used to answer inquiries from other Air Force offices and agencies, and from investigative, security and personnel representatives of other Federal agencies concerning the clearance status of individuals. Case records are maintained to prepare statistical accounting and to measure the effectiveness of the adjudicative programs and procedures.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records and microfiche maintained in file folders, card files, visible file binders/cabinets and notebooks/binders.

Retrievability:

Filed alphabetically by name.

Safeguards:

Records are stored in vaults, safes and security file containers/cabinets. All records are stored, processed, transmitted and protected as the equivalent of classified information. Records are accessed by the custodian of the records system, by persons responsible for servicing the system in the performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know.

Retention and disposal:

Clearance records are retained in the office files for one year after annual cut-off then are destroyed by tearing into pieces, shredding, pulping or burning. Adjudication records are retained in office files for two years after annual cut-off, then retired to the Washington National Records Center, Washington, DC 20409. Records of personnel assigned to Air Staff/OSAF and support functions are maintained in office files until reassignment or separation. Inactive files of military personnel are destroyed after two years. Inactive files of civilian personnel are transferred to the gaining agency, or are retained for two years as the Civilian Security Documents Folder.

System manager(s) and address:

Chief, Personnel Security Group, Directorate of Administration, Headquarters US Air Force, Washington, DC 20330.

Notification procedure:

Requests from individuals should be addressed to the System Manager, and should contain the full name, including any former names, grade, date of birth and social security number.

Record access procedures:

Individuals can obtain assistance in gaining access from the System Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information is received from investigative reports from federal investigative agencies, personnel and medical records, board reports, correspondence from offices and organizations of assignment, and from commanders, supervisors, witnesses and individuals, from security, and investigative personnel and from Air Staff offices, offices of the Secretary of the Air Force, and other offices of the Executive and legislative branches. System exempted from Executive and legislative branches.

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 USC 552a(j) or (k), as applicable. For additional information, contact the Systems Manager.

F20503 DAI C

System name:

20503 DAI C Presidential Support Files.

System location:

Primary System at the Personnel Security Group, Directorate of Administration, Headquarters US Air Force, Washington, DC 20330. Decentralized segments are located at security police offices for major command headquarters, and at installations and units having a Presidential Support mission and those units from which personnel are nominated or assigned to Presidential Support duties.

Categories of individuals covered by the system:

Those Air Force military and civilian personnel who are nominated or assigned to authorized designated positions involving Presidential Support duties on either a full or part-time basis.

Categories of records in the system:

Nomination Files include reports of investigation by the Defense Investigative Service and by other Federal investigative agencies; correspondence between the Personnel Security Group and units, installations and major commands, investigative agencies, security offices, air staff offices and offices of the Secretary of the Air Force, the office of the Military Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense, the Office of the Director, White House Military Office, medical evaluations, statements by nominees, summaries and evaluations of investigative information. Assignment Record Files include letters of notification of selection and quarterly rosters of all assigned personnel listed alphabetically and by unit, by major command.

Authority for maintenance of the system:

10 USC 8012, 9Secretary of the Air Force: powers and duties; delegation by. Routine uses of records maintained in the system, including categories of users and the duties; delegation by.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Nomination files are collected to evaluate the background, character, suitability and qualifications of nominees being considered for selection to positions requiring regular or frequent contact with the President or access to Presidential facilities or modes of transportation. Files are reviewed and evaluated by staff members at each level in the selection process, by medical facility staff members, by the Personnel Security Group, and other appropriate Air Staff offices, by the Office of the Administrative Assistant to the Secretary of the Air Force, and other appropriate offices of the Secretary of the Air Force, by the Office of the Military Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense and the Office of the Director, White House Military Office. Assignment Record Files are originated to locate, identify, control, manage, and administer individuals selected for assignment to Presidential Support duties, to initiate assignment actions after final selection, to notify medical facilities, and to prepare the quarterly listing of individuals assigned to the program for submission to the Office of the Military Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense, the Office of the Director, White House Military Office, to major commands, and units and Security Police offices having a Presidential Support mission. Assignment Record Files at echelons below the Personnel Security Group are merely duplicate copies of the file copy. File copies are retained at the Personnel Security Group to permit record access and to record the accountability of disclosures of the Nomination Files.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records maintained in file folders and on computer paper

within past five years except Air Force personnel assigned to Central Intelligence Agency, Office of the Secretary of Defense/Defense Agencies, Office of the Joint Chiefs of Staff, and the National Security Agency.

gon working areas or HQ United States Air Force Security Service, Kelly Air Force Base, should contact the Executive Order 10450.

Record access procedures:

F26501XHC A

System name:

26501XHC A Records on Baptisms, Marriages and Funerals by Air

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records maintained in file folders and on computer paper printouts.

Retrievability:

Filed by name.

Safeguards:

Records are accessed by custodian of the record system, by person responsible for servicing the record system in performance of their official duties, and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, in safes and vaults.

Retention and disposal:

Upon completion of final favorable determination of selection, Nomination Files are destroyed by tearing into pieces, shredding, pulping, or burning and are replaced by Assignment Record Files. Assignment Record Files for individuals are retained during the period of assignment or for five years, whichever is longer, as the disclosure accountability record, then are destroyed by 9tearing into pieces, shredding, pulping, or burning. Assignment Record Files in quarterly roster listing form are destroyed when superseded by the next quarterly roster by tearing into pieces, shredding, pulping, or burning. Nomination Files for personnel not selected are retained in the office of nonselection or at the Personnel Security Group, for one year after the date of nonselection, at which time they are destroyed by tearing into pieces, shredding, pulping, or burning.

System manager(s) and address:

Chief, Personnel Security Group, Directorate of Administration, Headquarters US Air Force, Washington, DC 20330.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager. Requests should contain the full name, military or civilian grade, date of birth, position, unit and location to which nominated, and the date of nomination or nonselection or the unit location and period of assignment.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information is obtained from reports from Federal investigative agencies, military and civilian personnel records, and military medical records, correspondence from military and civilian law enforcement and Security Police offices, major command staff offices, Air Staff offices, offices of the Secretary of the Air Force, the Office of the Military Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense, Office of the Director, White House Military Office and other Federal agencies and office of the Executive and Legislative Branches.

Systems exempted from certain provisions of the act:

NONE

F20505 AFIS A

System name:

20505 AFIS A Sensitive Compartmented Information Personnel Security Records

System location:

Personnel Security Division, Directorate of Security and Communications Management, Air Force Intelligence Service, Pentagon, Washington DC 20330, Records for personnel assigned Air Force Security Service are located with Directorate of Security Police, Air Force Security Service, Kelly Air Force Base, Texas 78243. Records for personnel assigned to Air Force Communications Service are located with Office of the Inspector General, Air Force Communications Service, Richards-Gebaur AFB, Missouri 64030. Records for personnel assigned to Air Weather Service are located with Directorate of Special Projects, Control Division, Air Weather Service, Scott Air Force Base, Illinois 62225.

Categories of individuals covered by the system:

Air Force personnel, civil service employees, and contractor personnel with current access to SCI or who have had such access within past five years except Air Force personnel assigned to Central Intelligence Agency, Office of the Secretary of Defense/Defense Agencies, Office of the Joint Chiefs of Staff, and the National Security Agency.

Categories of records in the system:

Statements of Personnel History and allied papers prepared or submitted by individuals; Personnel Background Investigations; Statements by Commanders, Supervisors, Medical, Legal, and Security Officials, and related correspondence; Access Adjudication Records; Indoctrination Oaths; Termination Oaths; routine records/correspondence pertaining to access status or changes in status.

Authority for maintenance of the system:

Executive Order 10450. Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by designated, responsible Air Force officials to recommend/determine eligibility for access to SCI. Use to verify an individual's status with respect to SCI access or eligibility for such access, only the 'fact of' an individual's eligibility/ noneligibility for SCI access is furnished to other authorized government agencies/activities and only upon request. To answer official inquiries involving an individual's eligibility/ noneligibility for access to SCI, substantive information is released to responsible officials in the Air Force Inspector General Organizations, or higher Air Force authority, and to members of Congress. Used internally to determine personnel security trends and to attempt to determine causes for security deviations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by designated, responsible Air Force officials to recommend/determine eligibility for access to SCI. Use to verify an individual's status with respect to SCI access or eligibility for such access, only the 'fact of' an individual's eligibility/noneligibility for SCI access is furnished to other authorized government agencies/activities and only upon request. To answer official inquiries involving an individual's eligibility/noneligibility for access to SCI, substantive information is released to responsible officials in the Air Force Inspector General Organizations, or higher Air Force authority, and to members of Congress. Used internally to determine personnel security trends and to attempt to determine causes for security deviations.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders and on roll microfilm.

Retrievability:

Filed by name, by Social Security Number (SSN), and grade or rank.

Safeguards:

Records are accessed by custodian of the record system, by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in security file containers/cabinets and vaults.

Retention and disposal:

Active records maintained as long as an individual is authorized access to SCI. Upon termination of access record is placed in inactive status where it is retained for five years and then destroyed unless sooner returned to active status. Destruction is by burning or shredding.

System manager(s) and address:

Assistant Chief of Staff, Intelligence, Headquarters United States Air Force. The Director of Security and Communications Management, Air Force Intelligence Service, The Pentagon, Washington DC 20330, is designated to act in the name of the Assistant Chief of Staff/ Intelligence, HQ United States Air Force. The Chief of Security Police, HQ United States Air Force Security Service, Kelly Air Force Base, TExas 78243 is designated Sub-System Manager and may act in the name of the Assistant Chief of Staff, Intelligence, HQ United States Air Force, for records located at HQ United States Air Force Security Service.

Notification procedure:

Requests from individuals should be addressed to the System Manager or Sub-System Manager as appropriate. Unclassified portions of file are available upon request. Include full name, grade (where applicable), social security number, date and place of birth, organization/activity to which assigned/ employed at time of SCI access. Visits may be made to office of the System Manager or Sub-System Manager as appropriate. Individuals not authorized access to Pentagon working areas or HQ United States Air Force Security Service, Kelly Air Force Base, should contact the Executive Order 10450.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager or Sub-System Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Personnel Background Investigations conducted by Defense Investigative Service and/or Air Force Office of Special Investigations; Statement of Commanders, Supervisors, and medical, legal and security officials; records of adjudication processes.

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 U.S.C. 552a(j) or (k), as applicable. For additional information, contact the Systems Manager.

F26501 AFA A

System name:

26501 AFA A Cadet Chaplain Records.

System location:

At USAF Academy, CO 80840.

Categories of individuals covered by the system:

AF Academy Cadets.

Categories of records in the system:

Religious affiliation, background and religious interests and choir audition consisting of musical capabilities.

Authority for maintenance of the system:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by; 10 USC 9331, Establishment; Superintendent; faculty. Routine uses of records maintained in the system, faculty.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(1) Identify incoming Fourth Class Cadets religious affiliation, religious background data and religious interests. Cadet Chaplains use this information to organize cadet lay participation as users, choir members, lay readers, lectors, commentators, and religious education teachers. Cadet Chaplains and Chapel Managers assigned to the USAF Academy Cadet Chaplain's Office use this information. (2) Choir audition record identifies incoming 4th class cadet's musical capabilities and the music directors use this information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in card files.

Retrievability:

Filed by name.

Safeguards:

Records are stored in locked rooms.

Retention and disposal:

Retained in offices for one year after graduation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address:

USAF Academy Command Chaplain.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procednres:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from individual cadet.

Systems exempted from certain provisions of the act:

NONE

F26501XHC A

System name:

26501XHC A Records on Baptisms, Marriages and Funerals by Air Force Chaplains

System location:

Washington National Records Center, Washington DC 20409. 1955 to 1958 Records Group Modern Military Branch Military Archives Division National Archives Service, Washington, D.C. 20408, 1949 to 1955 Records Group

Categories of individuals covered by the system:

Military and Civilian Personnel, Marriages, Military and Dependent Personnel, Baptisms, Military and Dependent Personnel, Funerals

Categories of records in the system:

Record of Baptisms, Marriages and Funerals Performed by Air Force Chaplains

Authority for maintenance of the system:

44 USC 3301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records of Rites Performed by Air Force Chaplains Used to Verify Rites Performed for Individuals

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in card files.

Retrievability:

Filed by Name.

Safeguards:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

Retention and disposal:

Fifty year Retention 1955 to 1958 Washington National Records Center, Washington, D.C. 20409, Year Group 1949 to 1955 Retained at Modern Military Branch, Military Archives Division, National Archives Service, Washington, D.C. 20408, System Discontinued after 1958

System manager(s) and address:

Chief of Chaplains, Headquarters United States Air Force.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information from Individuals and Air Force Chaplains Reporting Rites.

Systems exempted from certain provisions of the act:

NONE

F90001XOBXQPCA

System name:

90001XOBXQPCA Cadet Awards Files

System location:

United States Air Force Academy, USAF Academy CO 80840.

Categories of individuals covered by the system:

Relatives of deceased persons who are memorialized through cadet awards and any former USAF Academy cadet who has been honorably discharged because of being crippled, disabled, or blinded while enrolled at the USAF Academy, or because of the discovery of a physical defect after entering the USAF Academy.

Categories of records in the system:

Cadet Awards files by award area, including background on person memorialized, donor financial arrangements, record of award winners and administrative history and military, academic and medi-

cal information on individual considered for award, financial status of parents or guardian and/or candidate.

Authority for maintenance of the system:

enter a radiation environment at Uniform Services University of the Health Sciences (USUHS).

Categories of records in the system:

Categories of individuals covered by the system:

All DoD and DoD affliated personnel military and civilian, who participated in the United States Government atmospheric nuclear

JOINT CHIEFS OF STAFF

JOJCS001MILPERS

cal information on individual considered for award, financial status of parents or guardian and/or candidate.

Authority for maintenance of the system:

10 USC 903, Executive Order 9397, 22 November 1943, Numbering System for Federal Accounts Relating to Individual Persons.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

For continuing award sponsorship business with donors, which consist of private individuals, patriotic and veteran organizations, and major air command and used by Cadet Awards Council to aid in their selection of individuals to receive annual award presented to disabled former cadets.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders.

Retrievability:

Filed by Social Security Number (SSN) and by name.

Safeguards:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in security file containers/cabinets. Awards Council Chairman and appointed project officer are only persons reviewing financial statements.

Retention and disposal:

AF 525 pending approval; five year retention in office area before retiring to base staging area for 45 additional years. Destroyed by tearing into pieces.

System manager(s) and address:

Deputy Chief of Staff/Personnel, Headquarters United States Air Force. Washington DC 20330

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from educational institutions. Information obtained from the public media.

Systems exempted from certain provisions of the act:

NONE

DEFENSE NUCLEAR AGENCY

HDNA 609-02

System name:

609-02 Personnel Radiation Exposure Records

System location:

Decentralized system. Primary location: Radiological Safety Department, Bldg 42, Rooms 1420 and 1422, Armed Forces Radiobiology Research Institute (AFRRI), Defense Nuclear Agency, Bethesda, Maryland, 20014, on the grounds of the National Naval Medical Center. Other locations are rooms 3113 and 2147 of the AFRRI; and room 1418, Bldg 364, Field Command, Defense Nuclear Agency (FCDNA), Kirtland Air Force Base, Albuquerque, New Mexico 87115; and Office of the Commander, Enewetak Atoll, Marshall Islands.

Categories of individuals covered by the system:

All employees, contractors, visitors or anyone else who is known to enter the AFRRI building. At FCDNA, all DNA employees who work in a position, the duties of which might result in exposure to radiation. At Enewetak, all individuals who work or visit the Atoll other than transient air crews and air passengers who do not leave the aircraft. Uniformed Services University of the Health Sciences, all employees, students, visitors, contractors or anyone else known to enter a radiation environment at Uniform Services University of the Health Sciences (USUHS).

Categories of records in the system:

For employees at AFRRI, FCDNA, and USUHS file contains personal information consisting of name, social security number, date of birth, current and previous radiation exposure, history and places of employment and when exposures occurred. For others, at AFRRI, FCDNA and USUHS file contains name, social security number, date of birth, current employer, citizenship, and current exposure history. For all, at AFRRI, FCDNA and USUHS information on pregnancy and pacemaker. Enewetak files will contain personal information consisting of name, social security number, date of birth, current and previous radiation exposure history, areas insited or worked, dates of arrival and departure, and citizenship.

Authority for maintenance of the system:

Atomic Energy Act of 1954, 42 USC 2013, Military Construction Appropriation Act of 1977 (P.L. 94-367) and DNA OPLAN 600-77. 'Cleanup of Enewetak Atoll'.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To document the degree of exposure to radiation experienced by an individual; to support legal or medical claims for or against the government; to measure quality of the radiation protection program; to provide exposure history to subsequent employers; to provide history to requesting individuals.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

At AFRRI: 5' by 7' cards filed at reception desk, room 3113, 8'x10-1/2' paper filed in rooms 1420 and 1422. At FCDNA, 8'x10 1/2' papers are filed in a metal file cabinet in Bldg 364. At Enewetak: 5'x7' cards filed in a metal file cabinet in the Enewetak Commander's office.

Retrievability:

Alphabetical by last name of individual.

Safeguards:

AFRRI - Kept in a controlled access building which is protected by an intrusion alarm system.

FCDNA - Controlled access building which is protected by an intrusion alarm system.

Enewetak - Locked and secured in Enewetak Commander's office.

Retention and disposal:

For employees - permanently. For visitors - retired after 2 years to record holding area for permanent retention. For foreign visitors, records are sent to State Department for retention. All Enewetak records will be maintained permanently.

System manager(s) and address:

AFRRI and USUHS - Chairman, Radiation Safety Department, Armed Forces Radiobiology Research Institute, Bethesda, MD 20014.

Field Command, DNA and Enewetak Atoll, MI - Health Physicist, Logistics Directorate, Field Command, Defense Nuclear Agency, Albuquerque, NM 87115.

Notification procedure:

Requests should be addressed to the SYSMANAGER.

Record access procedures:

Individual can obtain assistance in gaining access from the SYSMANAGER.

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determinations may be obtained from SYSMANAGER.

Record source categories:

AFRRI, FCDNA, and USUHS information voluntarily submitted by individual. Enewetak information as required to be submitted by individual. Additional information added as data is collected.

Systems exempted from certain provisions of the act:

None

HDNA 609-03

System name:

Personnel Exposed to Radiation from Atmospheric Nuclear Tests

System location:

Headquarters, Defense Nuclear Agency, Washington D.C. 20305 - main computer location.

Categories of individuals covered by the system:

All DoD and DoD affliated personnel military and civilian, who participated in the United States Government atmospheric nuclear test programs in the Pacific and at the Nevada Test Site.

Categories of records in the system:

Personal information consisting of name, rank, service number, social security number, last known or current address, dates of test participation, exposure data, and unit of assignment.

Authority for maintenance of the system:

Atomic Energy Act of 1954, 42 U.S.C. 2013 and Tasking Memorandum from Office of the Secretary of Defense to the Director, Defense Nuclear Agency dated 28 Jan 78, Subject: 'DoD Personnel Participation in Atomospheric Nuclear Weapons Testing'

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Department of Defense Components-For the purpose of preparing histories of atmospheric nuclear test participation and for use in litigation between test participants or their representatives and the Department of Defense.

Defense Nuclear Agency Contractors-For the purpose of assisting DoD components in preparation of histories of atmospheric nuclear test participation and responding to the enquries and concerns of individuals who may have participated in the test programs and/or their representatives.

National Research Council and the Center for Disease Control-For the limited purpose of conducting epidemiological studies of the effects of ionizing radiation from the atmospheric nuclear weapons tests on DoD participants in those tests.

Department of Energy-For the limited purpose of identifying AEC and AEC-contractor Personnel exposed to ionizing radiation during nuclear testing; and for conducting epidemiological studies of radiation effects of individuals so identified; and for use in litigation between the DoD and any of the individuals so identified.

Department of Transportation-For the limited purpose of identifying DOT and DOT-affiliated personnel exposed to ionizing radiation during nuclear testing and for use in litigation between the DOT and any of the individuals so identified.

Veterans Administration-For use in litigation between the VA and individuals and/or their representatives are alleging service-connected disabilities as a result of said exposure.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders; computer magnetic tape disks and printouts in secure computer facility.

Retrievability:

Paper records filed in folders and computer magnetic tape and disk retrieved by SSN and name.

Safeguards:

Paper records are filed in folders stored in locked security safes. Mag tapes stored in vault in the computer area.

Retention and disposal:

Paper records are retained until information is transferred to magnetic tapes, then destroyed. Magnetic-tapes and disks are retained indefinitly.

System manager(s) and address:

Director, Defense Nuclear Agency, ATTN: Privacy Act Officer, Washington, D.C. 20305.

Notification procedure:

Information may be obtained from the SYSMANAGER.

Record access procedures:

Requests should be addressed to the SYSMANAGER.

Contesting record procedures:

Requests from individuals should be addressed to the same address as stated in the notification section above.

Record source categories:

From DNA Form 10, searches of DoD records by other DoD components, and from individuals voluntarily contacting DNA by phone or mail.

Systems exempted from certain provisions of the act:

NONE

JOINT CHIEFS OF STAFF

JOJCS001MILPERS

System name:

OJCS Medals and Awards Files and Reports System; Microfilmed Historical Awards

System location:

Military Personnel Branch, Personnel Division, Organization of the Joint Chiefs of Staff, The Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

All military officer/enlisted personnel, regular and reserve, who are serviced by the Organization of the Joint Chiefs of Staff.

Categories of records in the system:

File contains, but not limited to, recommendations and substantiating documents for awarding of the medals and awards; orders authorizing awards, certificates of eligibility, memorandums for the record, vote sheets, status sheets, board memberships lists, criteria and analysis, agency historical file, reports, reclama actions, recommendations for foreign awards, special category and exception to policy, bulletins, miscellaneous correspondence, Decorations and Awards Board memorandums, memorandums and records and microfilmed historical awards.

Authority for maintenance of the system:

Title 10, United States Code, Chapter 5, Sections 141-143.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The Secretary of the Decorations and Awards Board is the principal user. The system constitutes a ready file of documents from which information is retrieved to properly maintain the Awards Program.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folder.

Retrievability:

Filed alphabetically by last name of individual.

Safeguards:

Building employs security guards. Access to space is limited to personnel office personnel during nonworking hours via locked door. During working hours the space is occupied by personnel office personnel at all times.

Retention and disposal:

Files are permanent. They are microfilmed and retained for historical purposes.

System manager(s) and address:

Director, Joint Staff, OJCS, The Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from:
Secretary, Decorations and Awards Board
Organization of the Joint Chiefs of Staff
The Pentagon
Washington, D. C. 20301
Telephone: 202-695-4759

Record access procedures:

Requests from individuals should be addressed to: Secretary, Decorations and Awards Board, Organization of the Joint Chiefs of Staff, The Pentagon, Washington, D. C. 20301.

Written requests for information should contain the full name of the individual, current address and telephone number.

For personal visits, the individual should be able to provide some acceptable identification, that is, at least, his identification card.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Source of information is obtained from agencies which are serviced by the Organization of the Joint Chiefs of Staff.

Systems exempted from certain provisions of the act:

None

Record source categories:

Source of information is the individual and the individual's Official Military Personnel File.

For personal visits, the individual should be able to provide some acceptable identification, that is: driver's license, employing office identification card, and give some verbal information that could be

Written requests for information should contain the full name, rank, Service, Social Security Account Number of the individual, current address, telephone number and agency to which assigned in OJCS or if non-OJCS, identify current employer. Visits are limited to

Systems exempted from certain provisions of the act:

None

JOJCS002MILPERS

System name:

Military Personnel Files

System location:

Military Personnel Branch, Personnel Division, Directorate of Administrative Services, Organization for the Joint Chiefs of Staff, The Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

All military personnel assigned to, attached to or on temporary duty with the Organization of the Joint Chiefs of Staff.

Categories of records in the system:

Files contain personal information which has been extracted from the individual's official Military Personnel File. Files contain information pertaining to, but not limited to, name, grade, service number, service job title, expected date of arrival for duty with the Organization of the Joint Chiefs of Staff, expected date of departure from the Organization of the Joint Chiefs of Staff.

Authority for maintenance of the system:

Title 10, United States Code, Chapter 5, Sections 141-143.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The Military Personnel Branch, Directorate of Administrative Services, Organization of the Joint Chiefs of Staff-To perform administrative functions required on individuals prior to their assignment to, during their assignment to, and after their assignment to the Organization of the Joint Chiefs of Staff. Uses include, but are not limited to, knowing when an individual will arrive, what agency they will be assigned to, who they will replace and when an individual will depart.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders; paper card files; ringed binders.

Retrievability:

Filed alphabetically by last name of individual, filed by agency; filed by requisition number.

Safeguards:

Building employs security guards. Records are stored in file cabinets. The room(s) are locked when unattended.

Retention and disposal:

Files are retained in active file until individual departs the Organization of the Joint Chiefs of Staff. Upon departure, the individual's file is placed in the inactive file. The file is retained for approximately one year.

System manager(s) and address:

Chief, Military Personnel Branch, Personnel Division, Directorate of Administrative Services, Organization of the Joint Chiefs of Staff.

Notification procedure:

Information may be obtained from:
Chief, Military Personnel Branch
Personnel Division
Directorate of Administrative Services
Organization of the Joint Chiefs of Staff
The Pentagon
Washington, D. C. 20301
Telephone: 202-697-3540

Record access procedures:

Request from individuals should be addressed to: Chief, Military Personnel Branch, Organization of the Joint Chiefs of Staff, The Pentagon, Washington, D. C. 20301.

Written request for information should contain the full name of the individual, current address, and telephone number.

For personal visits, the individual should be able to provide some acceptable identification card.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Source of information is the individual and the individual's Official Military Personnel File.

Systems exempted from certain provisions of the act:

None

JOJCS003SMB

System name:

Directorate Administrative Services Management Information System (DASMIS)

System location:

Staff Management Branch, Directorate of Administrative Services, Organization of Joint Chiefs of Staff, The Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

All individuals assigned to the OJCS; all persons with access into the OJCS restricted areas; personnel with SIOP clearances.

Categories of records in the system:

File contains individual's security clearances, personal and office address, date of rank, date of birth, assignment and rotation dates, service, rank, grade, Social Security Account Number.

Authority for maintenance of the system:

Title 10, United States Code, Chapter 5, Sections 141-143.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Personnel Division-Perform all administrative functions as appropriate with respect to personnel assigned to the OJCS: monitor and process requests for manpower and organizational management services, perform organizational and manpower reviews for the OJCS.

Services Division-Develop and prepare financial planning data for the OJCS and carry out associated programming and fiscal functions, assign space and provide equipment, supplies and service support as may be required for the OJCS.

Security Division-Devise and implement personnel and physical security policies and provide for the security of the area occupied by the OJCS.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Disc, magnetic tape backup.

Retrievability:

Record ID made up of billet number, record type and Social Security Account Number.

Safeguards:

Building employs security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened and cleared, also access to data requires the proper user-ID and password.

Retention and disposal:

Personnel records are permanent. All records are maintained in an active file.

Security-OJCS records are permanent. Non-OJCS records are deleted upon termination/expiration of badges or passes.

System manager(s) and address:

Staff Management Branch, Directorate of Administrative Services, Organization of the Joint Chiefs of Staff, The Pentagon, Washington, D. C. 20301.

National Military Command System Support Center, Defense Communications Agency, The Pentagon, Washington, D. C. 20301.

Notification procedure:

Information may be obtained from:
Staff Management Branch, Directorate of Administrative Services, OJCS
Room 1A724, The Pentagon
Washington, D. C. 20301
Telephone: 202-695-0475

Record access procedures:

Requests from individuals should be addressed to: Staff Management Branch, Directorate of Administrative Services, OJCS, The Pentagon, Washington D. C. 20301.

Written requests for information should contain the full name, rank and service and agency while assigned to the OJCS, plus Social Security Account Number.

For personal visits, the individual should be able to provide some acceptable identification, that is: driver's license, employing office identification card, and give some verbal information that could be verified with his 'case' folder.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Information is obtained from various OJCS, DoD, and Standard Forms from the respective Services; from distributed documents routed to all personnel effected.

Systems exempted from certain provisions of the act:

None

JOJCS004SECDIV

System name:

Personnel Security File, Security Division, DAS

System location:

Personnel Security Branch, Security Division, Directorate of Administrative Services, Organization of the Joint Chiefs of Staff, The Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system:

All personnel assigned to or employed by the OJCS who have been granted a security clearance; all individuals who are civilian applicants or military nominees for duty with OJCS; all persons who have been authorized a pass for access to the restricted areas of the OJCS.

Categories of records in the system:

File contains individual's record of security clearances granted; security briefing and debriefing certificates; personal history statements; record card file of request for pass or badge; and other related security processing papers.

Authority for maintenance of the system:

Title 10, United States Code, Chapter 5, Sections 141-143.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Security Division, DAS-To perform all administrative functions necessary to determine eligibility of personnel for security clearances, provide processing of all security clearances; processing and producing all passes and badges for personnel requiring access to OJCS restricted areas; devise and implement security policies and provide for the security of the OJCS areas.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders; paper card files.

Retrievability:

Filed alphabetically by individual's last name.

Safeguards:

Building employs security guards. Records are maintained in an alarmed vault accessible only to authorized Security Division personnel who are properly screened, cleared and trained.

Retention and disposal:

Records are retained in active file until individual departs the OJCS at which time entire file is destroyed; card files are deleted upon termination/expiration of pass or badge.

System manager(s) and address:

Director of Administrative Services, Organization of the Joint Chiefs of Staff.

Notification procedure:

Information may be obtained from:
Security Division, Directorate of Administrative Services, OJCS
Room 2E949, The Pentagon
Washington, D. C. 20301
Telephone: 202-695-0866

Record access procedures:

Requests from individuals should be addressed to: Chief, Security Division, Directorate of Administrative Services, OJCS, Pentagon, Washington, D. C. 20301.

Written requests for information should contain the full name, rank, Service, Social Security Account Number of the individual, current address, telephone number and agency to which assigned in OJCS or if non-OJCS, identify current employer. Visits are limited to the Security Division, Directorate of Administrative Services, Organization of the Joint Chiefs of Staff, The Pentagon, Washington, D. C. 20301.

For personal visits, the requesting individual must provide acceptable proof of identity, such as full name, date and place of birth and some additional verbal information that can be verified by his 'case' record, such as parents' names, recent addresses, etc.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Personal History Statements and related security forms from the individual being considered for security clearances or passes; clearance verification correspondence; correspondence originating from the Defense Investigative and other Federal agencies.

Systems exempted from certain provisions of the act:

None

DEFENSE COMMUNICATIONS AGENCY

KEUR.09

System name:

NONCOMBATANT Information Card, AEZ Form 6-106.

System location:

Management Support Division, Defense Communications Agency, European Area, (DCA-EUR), APO New York 09131.

Categories of individuals covered by the system:

(1) All legal dependents of United States Forces personnel
(2) United States civilian employees of DoD Agencies and their dependents
(3) Department of Defense or a military service department sponsored United States technical representatives
(4) Bonafide members of households of United States Forces personnel and of persons in (2) and (3) above
(5) United States personnel who are special invitees possessing current Department of Defense or a military service department invitational travel orders.
(6) Dependents of United States personnel assigned to United States elements of any North Atlantic Treaty Organization military headquarters or agency when common facilities are used and that the Secretary of Defense has authorized to receive United States support
(7) Other United States nongovernmental, nonmilitary individuals and agencies in oversea military commands for whom military logistical support is authorized in joint military regulations (e.g., USO, American Red Cross).

Categories of records in the system:

AEZ Form 6-106, Noncombatant Information Card. It contains information on the following:

Sponsor. Name, grade, date arrived in theater, data of return from overseas; SSAN; organization and duty section; occupation specialty; branch of service or agency; military post or base name and city location; building number; room number; duty phone; ZIP Code; and APO or FPO.

Noncombatant. Local residence street number and name and city; area; building number; apartment number; home phone; ZIP Code; date assigned; Continental United States residence street number and name or Post Office Box number; city; state or terriroty; and ZIP Code.

Vehicle. vehicle number(s) and make(s); year(s); and capacity.

Names of all noncombatants. for each: passport number; SSAN; relationship; month and year of birth; whether or not has an identification tag; immunization record; and if or if not a driver of vehicle.

Briefings. Briefing by supervisor to sponsor; warden to noncombatant; route reconnaissance; and noncombatant Evacuation Operations rehersal. For each of the above items, dates information given; by whom given; frequency of review items; date and signature of sponsor and supervisor for each of the items to authenticate that all above items reviewed as required.

Authority for maintenance of the system:

Title 10, U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by the Chief, Management Support Division, to verify security clearance status, initiate personnel actions such as effectiveness reports, changes in position, title or assignment; record of additional

Records are used by staff, administrative and operating officials to: prepare individual administrative transactions; make decisions on the rights, benefits, entitlements and the utilization of individuals; provide

Correspondence from requester, and documents related to the receipt, processing and final disposition of the request.

Authority for maintenance of the system:

Title 10, U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by the Chief, Management Support Division, to determine preparedness of noncombatants for evacuation, if required.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Information is recorded on 8 x 10 1/2 cardboard cards and filed in notebook binder.

Retrievability:

Information is retrieved manually by name.

Safeguards:

Records are filed in file cabinet and maintained in a restricted area which is accessible only to authorized personnel who are required to be in the area where records are kept.

Retention and disposal:

Records are not permanent. Records are updated as changes occur and destroyed on departure of the sponsor from DCA-Europe.

System manager(s) and address:

Chief, Management Support Division, DCA-Europe, APO New York 09131.

Notification procedure:

Requests from individuals should be addressed to the Chief, Management Support Division, DCA European Area, APO New York 09131. The full name of the requesting individual will be required to determine if the system contains a record of the requester. As proof of identity, the requester, if assigned to DCA European Area, must present a current DCA identification badge or current motor vehicle operator's license. If not assigned to the DCA European Area but still in the military service the requester must provide a current motor vehicle driver's license or Social Security Account Number. If no longer affiliated with the Department of Defense must provide Social Security Account Number.

Record access procedures:

Contact the Chief, Management Support Division, DCA European Area, APO New York 09131, for assistance.

Contesting record procedures:

The DCA rules for access to records for contesting contents and appealing initial determination by the individual concerned are contained in DCAI 210-225-2 or in C.F.R. Part 287a.

Record source categories:

Information is furnished by the individual concerned; or from official records provided by personnel offices of the 1141st US Air Force Special Activities Squadron; Headquarters, European Command, Army, Navy, Air Force and Marine Corps Elements; Stuttgart Area Civilian Personnel Office; and the US Finance and Accounting Office, Europe.

Systems exempted from certain provisions of the act:

None.

KEUR.10

System name:

Personnel File.

System location:

Management Support Division, Defense Communications Agency, (DCA) European Area, APO New York 09131.

Categories of individuals covered by the system:

All military and civilian personnel assigned to Headquarters, DCA European Area.

Categories of records in the system:

Records consist of security clearance data (Air Force Form 47: Certificate of Eligibility and Record of Personnel Security Clearance, and DCA Form 548: Status of Clearance); record of requests for changes to assignment; job title and position (Air Force Form 2095: Assignment/Personnel Action, and Standard Form 52: Request for personnel action); leave data; special orders published by the DCA European Area pertaining to additional duties; and sponsorship information.

Authority for maintenance of the system:

Title 10, U.S.C. 136(b).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by the Chief, Management Support Division, to verify security clearance status, initiate personnel actions such as effectiveness reports, changes in position, title or assignment; record of additional duties, and related routine personnel and administrative matters.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records filed in folder.

Retrievability:

Information is retrieved by name.

Safeguards:

Records are maintained in a safe accessible only to personnel authorized in the performance of their official duties.

Retention and disposal:

Records are maintained one year after departure of the individual from the DCA-European Area and then destroyed.

System manager(s) and address:

Chief, Management Support Division, DCA European Area, APO New York 09131.

Notification procedure:

Requests from individuals should be addressed to the Chief, Management Support Division, DCA European Area, APO New York 09131. The full name of the requesting individual will be required to determine if the system contains a record of the requester. As proof of identity, the requester, if assigned to DCA European Area, must present a current DCA identification badge or current motor vehicle driver's license or Social Security Account Number. If no longer affiliated with the Department of Defense must provide Social Security Account Number.

Record access procedures:

Contact the Chief, Management Support Division, DCA European Area, APO New York 09131, for assistance.

Contesting record procedures:

The Defense Communications Agency rules for access to records for contesting contents and appealing initial determination by the individual concerned are contained in DCAI 210-225-2 or in 32 C.F.R. Part 287a.

Record source categories:

Information is furnished by the individual concerned; or from official records provided by personnel offices of the 1141st US Air Force Special Activities Squadron; Headquarters, European Command, Army, Navy, Air Force and Marine Corps Elements; Stuttgart Area Civilian Personnel Office; and the US Finance and Accounting Office, Europe.

Systems exempted from certain provisions of the act:

None.

DEFENSE INTELLIGENCE AGENCY

L DIA 0005

System name:

Personnel Management Information System (PMIS).

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

Categories of individuals covered by the system:

Current and former military and civilian employees of DIA.

Categories of records in the system:

This system consists of a variety of personnel, security, education, training and financial employment related records.

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 of August 1, 1961, super- seded by Department of Defense Directive 5105.21 of May 19, 1977, creating the Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records are used by staff, administrative and operating officials to: prepare individual administrative transactions; make decisions on the rights, benefits, entitlements and the utilization of individuals; provide a data source for the productions of reports, statistical surveys, rosters, documentation and studies required for the orderly personnel administration with DIA. Information will be disclosed to such other federal agencies, state and local governments, as may have a legitimate use for such information and which agrees to apply appropriate safeguards to protect data so provided and which is consistent with the conditions or reasonable expectations of use and disclosure under which the information was provided, collected or obtained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Automated, maintained on magnetic tape and manual in paper files and microfilms.

Retrievability:

By name or social security account number.

Safeguards:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

Retention and disposal:

Paper files are destroyed when employment with the Agency ceases. Microfilm records are destroyed when replaced with an updated film and magnetic tape files are retained indefi- nitely as a permanent record.

System manager(s) and address:

Assistant Deputy Director for Personnel, Defense Intelligence Agency, Washington, D.C. 20301.

Notification procedure:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record access procedures:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determina- tion. The requester shall provide a statement setting forth the reasons for his or her dis- agreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

Agency officials, employees, educational institutions and other government agencies.

Systems exempted from certain provisions of the act:

None

L DIA 0010

System name:

Requests for Information

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

Categories of individuals covered by the system:

Individuals who make requests to DIA for information.

Categories of records in the system:

Correspondence from requester, and documents related to the receipt, processing and final disposition of the request.

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 of August 1, 1961, super- seded by Department of Defense Directive 5105.21 of May 19, 1977, creating the Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To provide information for compiling reports required by public disclosure statutes and to assist the Department of Justice in preparation of the Agency's defense in any law suit arising under these statutes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual in paper files.

Retrievability:

By name.

Safeguards:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

Retention and disposal:

Granted access: destroy 2 years after date of agency reply. Denied access, but no appeals by requester: destroy 5 years after date of agency reply. Contested records: destroy 4 years after final denial by agency, or 3 years after final adjudications by courts, whichever is later.

System manager(s) and address:

Assistant Deputy Director for Support and Services, Defense Intelligence Agency, Washington, D.C. 20301.

Notification procedure:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record access procedures:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determina- tion. The requester shall provide a statement setting forth the reasons for his or her dis- agreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

Individual requesters and agency officials.

Systems exempted from certain provisions of the act:

None

L DIA 0011

System name:

Student Information Files

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

L DIA 0012

System name:

Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

Categories of individuals covered by the system:

Current and former students of the Defense Intelligence School.

Categories of records in the system:

Student's biographic data and administrative/academic documents related to the student's enrollment.

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 of August 1, 1961, super- seded by Department of Defense Directive 5105.21 of May 19, 1977, creating the Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information is used to document, monitor, manage, and administer the student's performance at the School and to provide verification of training accomplished to federal agencies, military departments and educational institutions when requested.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Automated on magnetic disc and tape and manual in paper files.

Retrievability:

By name.

Safeguards:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

Retention and disposal:

Registration cards are held 5 years and then retired to the Washington National Record Center.

System manager(s) and address:

Commandant, Defense Intelligence School, Washington, D.C. 20301.

Notification procedure:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record access procedures:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determina- tion. The requester shall provide a statement setting forth the reasons for his or her dis- agreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

Individual, parent service, educational institutions, previous employees and other federal agencies.

Systems exempted from certain provisions of the act:

None

L DIA 0012

System name:

Directory Service

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

Categories of individuals covered by the system:

Current and former military and civilian employees of DIA.

Categories of records in the system:

Files contain information related to the individual's work assignment, home phone and address, emergency notification data and mail forwarding address.

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 of August 1, 1961, super- seded by Department of Defense Directive 5105.21 of May 19, 1977, creating the Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information is used to provide postal and locator service. To prepare recall and special rosters required for day-to-day operations and emergencies. To identify next-of-kin for emergency notification and as a source document for management information. At overseas loca- tions information may be provided to host country, Department of State, Department of Treasury and the Central Intelligence Agency.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Automated, maintain on magnetic tape and disc, microfilm and manual in paper files.

Retrievability:

By name.

Safeguards:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

Retention and disposal:

Record is destroyed 1 year after the individual departs Agency.

System manager(s) and address:

Assistant Deputy Director for Support and Services, Defense Intelligence Agency, Washington, D.C. 20301.

Notification procedure:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record access procedures:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determina- tion. The requester shall provide a statement setting forth the reasons for his or her dis- agreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: Secretariat, Defense Intelligence

Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

By the individual and agency officials.

Systems exempted from certain provisions of the act:

None

L DIA 0015

System name:

Biographic Sketch

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

Categories of individuals covered by the system:

Individuals who interface with the DIA on a fee or non-fee basis.

Categories of records in the system:

Contains biographic data to include name, date and place of birth, educational background, lists of published works or notable achievements in the intelligence scientific or academic community, intelligence experience, etc.

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 of August 1, 1961, super- seded by Department of Defense Directive 5105.21 of May 19, 1977, creating the Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To establish an individual's bona fide as a noted authority in a specialized area for the pur- poses of utilizing that expertise to fill a gap in the Defense Intelligence Agency's resources. Information will be disclosed to such other federal agencies, state and local governments, as may have a legitimate use for such information and which agrees to apply appropriate safeguards to protect data so provided and which is consistent with the conditions or reasonable expectations of use and disclosure under which the information was provided, collected or obtained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual in paper files.

Retrievability:

By name.

Safeguards:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

Retention and disposal:

Permanent records are retired to the Washington National Record Center and other material destroyed when no longer required.

System manager(s) and address:

Assistant Deputy Director for Support and Services, Defense Intelligence Agency, Wash- ington, D.C. 20301.

Notification procedure:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E215. Pentagon, Washington. D.C.

Record access procedures:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determina- tion. The requester shall provide a statement setting forth the reasons for his or her dis- agreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

Individual, academic institutions or the individual's employer.

Systems exempted from certain provisions of the act:

None

L DIA 0140

System name:

Passports and Visas

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

Categories of individuals covered by the system:

All DIA personnel requiring passports.

Categories of records in the system:

Files containing passports and related correspondence.

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 of August 1, 1961, super- seded by Department of Defense Directive 5105.21 of May 19, 1977, creating the Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To obtain and safekeep official passports until needed for travel and to obtain necessary visas from appropriate Embassies. Notify individuals to reapply when passports expire and to return passports to the Department of State upon departure of the individual from DIA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual in paper files.

Retrievability:

By name.

Safeguards:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

Retention and disposal:

Passports are returned to Department of State upon departure of the individual from DIA.

System manager(s) and address:

Assistant Deputy Director for Support and Services, Defense Intelligence Agency, Washing- ton, D.C. 20301.

Notification procedure:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record access procedures:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be

mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or

Records are held in current files for 5 years after completion and adjudicated of all actions. Retired to the Washington National Record Center and destroyed after 10 years.

and health insurance and such other deductions as required or authorized by the individual; be used as a basis for the settlement of pay or debt disputes; provide such verification as required by statute or administrative directive.

mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determina- tion. The requester shall provide a statement setting forth the reasons for his or her dis- agreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

Individual applicant and Department of State, Passport Office.

Systems exempted from certain provisions of the act:

None

L DIA 0209

System name:

Litigation and Disposition Documentation.

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

Categories of individuals covered by the system:

Files involving legal and administrative matters involving individuals.

Categories of records in the system:

Correspondence or legal documentation relating to individuals.

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 of August 1, 1961, super- seded by Department of Defense Directive 5105.21 of May 19, 1977, creating the Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used in connection with litigation by, disciplinary and administrative action against or in the disposition of claims and benefits of individuals both civilian and military. Will be provided to the Department of Justice, the Civil Service Commission and various branches of the military services as may be necessary or required in the disposition of an individual case.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual in paper files.

Retrievability:

By name.

Safeguards:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

Retention and disposal:

Records are destroyed when no longer needed.

System manager(s) and address:

Office of the General Counsel, Defense Intelligence Agency, Washington, D.C. 20301.

Notification procedure:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record access procedures:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determina- tion. The requester shall provide a statement setting forth the reasons for his or her dis- agreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

Other offices within the Defense Intelligence Agency and the Department of Defense, the individual involved and other departments and agencies of the Executive Branch.

Systems exempted from certain provisions of the act:

None

L DIA 0271

System name:

Investigations and Complaints

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

Categories of individuals covered by the system:

Current and former civilian and military personnel who filed a complaint acted upon by the Inspector General, DIA, or who were the subject of an Inspector General, DIA, investigation or inquiry.

Categories of records in the system:

Documents relating to the organization, planning and execution of internal/external investi- gations and records created as a result of investigations conducted by the Office of the Inspector General, including reports of investigations, records of action taken and supporting papers. These files include investigations of both organizational elements and individuals.

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 of August 1, 1961, super- seded by Department of Defense Directive 5105.21 of May 19, 1977, creating the Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records. Executive Order 12036, United States Intelligence Activities, January 24, 1978. Executive Order 11652, Classification and Declassification of National Security Informa- tion and Material, March 8, 1972.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records are used as a basis for recommending actions to the Command Element and other DIA elements. Depending upon the nature of the information it may be passed to appropriate elements within the Department of Defense, the Department of State, Department of Justice, Central Intelligence Agency and to other appropriate government agencies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual in paper files.

Retrievability:

By name.

Safeguards:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

Retention and disposal:

Records are held in current files for 5 years after completion and adjudicated of all actions. Retired to the Washington National Record Center and destroyed after 10 years.

System manager(s) and address:

Inspector General's Office, Defense Intelligence Agency, Washington, D.C. 20301.

Notification procedure:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record access procedures:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determina- tion. The requester shall provide a statement setting forth the reasons for his or her dis- agreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

Individuals interviewed in connection with an investigation.

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under Title 5. U.S.C., 552a, subsections k(2), k(5) or k(7). For additional information see agency rules contained in (32 CFR Part 292a).

L DIA 0330

System name:

Civilian Payroll, Leave and Travel Disbursement

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

Categories of individuals covered by the system:

Current and former civilian personnel of the DIA.

Categories of records in the system:

This system consists of records which document and support employee related transactions in the area of pay compensation, claims for reimbursement, leave entitlement, statutory and administrative deductions, settlement of debts and documents designating certifying officials.

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 of August 1, 1961, super- seded by Department of Defense Directive 5105.21 of May 19, 1977, creating the Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records are used by Agency personnel and the U.S. Army Military District of Washington Finance and Accounting Office to: compute, make and record individual employee's payment transactions; determine leave entitlements; record and remit deductions for the Civil Service Commission Retire- ment System and the Social Security Fund; determine entitlements for reimbursement of travel and other expenses for official business; report tax information to federal, state and local taxing authorities as required by statute and to remit and record such transactions; record and remit deductions for life and health insurance and such other deductions as required or authorized by the individual; be used as a basis for the settlement of pay or debt disputes; provide such verification as required by statute or administrative directive.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual in paper files.

Retrievability:

By name.

Safeguards:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

Retention and disposal:

Permanent records are cut off each fiscal year and held for 2 years and then retired to the Washington National Record Center. Temporary records are destroyed in 4 years or 2 years after a General Account Office audit.

System manager(s) and address:

Deputy Comptroller, Defense Intelligence Agency, Washington, D.C. 20301.

Notification procedure:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record access procedures:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determina- tion. The requester shall provide a statement setting forth the reasons for his or her dis- agreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

Data is supplied from a number of sources including the individual concerned, MDW Army Finance Office and agency officials.

Systems exempted from certain provisions of the act:

None

L DIA 0435

System name:

DIA Awards Files

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

Categories of individuals covered by the system:

Military personnel recommended for an award while assigned to DIA.

Categories of records in the system:

This file contains supporting documents for the awards nomination and the results of actions or recommendations of endorsing and approving officials.

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 of August 1, 1961, super- seded by De-

partment of Defense Directive 5105.21 of May 19, 1977, creating the Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of

tional component performing an intelligence functions. Crypto- logic personnel and those enrolled in the National Security Agency (NSA) career system are excluded.

Record source categories:

Source data for DISCASA is provided by the employees, the employee's supervisor and the servicing civilian personnel office.

partment of Defense Directive 5105.21 of May 19, 1977, creating the Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records are used to obtain the approval for the awarding of the decoration and for the compila- tion of required statistical data and may be provided to the Military Departments when appro- priate.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual in paper files.

Retrievability:

By name.

Safeguards:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

Retention and disposal:

They are maintained for approximately 2 years within the Agency and then retired to the Washington National Record Center.

System manager(s) and address:

Assistant Deputy Director for Personnel, Defense Intelligence Agency, Washington, D.C. 20301.

Notification procedure:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record access procedures:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determina- tion. The requester shall provide a statement setting forth the reasons for his or her dis- agreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

Agency officials, parent service and personnel records.

Systems exempted from certain provisions of the act:

None

L DIA 0480

System name:

Reserve Training Records

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

Categories of individuals covered by the system:

Military Reserve personnel who have performed active duty training with the DIA or cor- responded with the DIA regarding reserve matters.

Categories of records in the system:

Files contains correspondence with the reservist and documentation related to the reservist periods of active duty with DIA.

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 of August 1, 1961, super- seded by Department of Defense Directive 5105.21 of May 19, 1977, creating the Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records are used by agency officials for the administrative, control and utilization of reservists and may be provided to the Military Departments when appropriate.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual in paper files.

Retrievability:

By name.

Safeguards:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

Retention and disposal:

Records are destroyed 1 year after reservists becomes inactive.

System manager(s) and address:

Assistant Deputy Director for Personnel, Defense Intelligence Agency, Washington, D.C. 20301.

Notification procedure:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record access procedures:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determina- tion. The requester shall provide a statement setting forth the reasons for his or her dis- agreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

Individual reservists requesting assignment and or active duty training, agency officials and parent service of reservists.

Systems exempted from certain provisions of the act:

None

L DIA 0590

System name:

Defense Intelligence Special Career Automated System (DISCAS).

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

Categories of individuals covered by the system:

DoD civilian positions and employee grades GS-05 and above in the GS-0132 intelligence series, scientific and technical series and other related professional series which are assigned to an organizational component performing an intelligence functions. Crypto- logic personnel and those enrolled in the National Security Agency (NSA) career system are excluded.

Categories of records in the system:

Data on employment history, qualification and skills and performance appraisals.

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 of August 1, 1961, super- seded by Department of Defense Directive 5105.21 of May 19, 1977, creating the Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The Defense Intelligence Special Career Automated System Activity (DISCASA) forwards inquiries to employees regarding their availability for specific position vacancies when requested by the DoD component. DISCASA furnishes referral listings of DoD eligibles to appropriate offi- cials and managers for particular vacancy selection. DISCASA periodically furnishes copies of individual employee records for review and update by employees or servicing civilian person- nel offices. DISCASA will maintain files and records for historical or user research purposes such as annual reports for DoD components or management information furnished to appropriate DoD users.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Automated, maintained on magnetic tape and manual in paper files.

Retrievability:

By name or social security account number.

Safeguards:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

Retention and disposal:

Records are temporary. They are retained until the employee concludes his DoD intelligence career at which time they are retired to an inactive file for 1 year and then destroyed.

System manager(s) and address:

Assistant Deputy Director for Personnel, Defense Intelligence Agency, Washington, D.C. 20301.

Notification procedure:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record access procedures:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determina- tion. The requester shall provide a statement setting forth the reasons for his or her dis- agreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

Source data for DISCASA is provided by the employees, the employee's supervisor and the servicing civilian personnel office.

Systems exempted from certain provisions of the act:

None

L DIA 0660

System name:

Security Files

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

Categories of individuals covered by the system:

Military/civilian applicants and nominees to DIA; current and former DIA and Defense Attache System personnel; and other DoD-affiliated personnel under the security cognizance of DIA.

Categories of records in the system:

Records associated with personnel security functions; nomination notices, statement of per- sonal history, indoctrination/debriefing statements, secrecy agreements, certificates of clearance, adjudication memoranda and supporting documentation and in-house investigations, security violations, identification badge records, retrieval indices, clearance status records, and access control records.

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 of August 1, 1961, super- seded by Department of Defense Directive 5105.21 of May 19, 1977, creating the Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To perform all administrative functions necessary to determine initial and continued eligi- bility for and control of access to classified information in DIA facilities and those elements mandated to the Director, DIA, for Sensitive Compartmented Information access. Information will be disclosed to such other federal agencies, state and local governments, as may have a legitimate use for such information and which agrees to apply appropriate safeguards to pro- tect data so provided and which is consistent with the conditions or reasonable expectations of use and disclosure under which the information was provided, collected or obtained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Automated on magnetic tape and manual in paper files.

Retrievability:

By name.

Safeguards:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

Retention and disposal:

Files on military and civilian applicants who are not assigned or hired by DIA are maintained up to 1 year and then destroyed. Personnel security dossiers are retained until the individual's association with DIA or access to SI/SAO information ceases and are then destroyed.

System manager(s) and address:

Assistant Deputy Director for Security Services, Defense Intelligence Agency, Washington, D.C. 20301.

Notification procedure:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record access procedures:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determina- tion. The requester shall provide a statement setting forth the reasons for his or her dis- agreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

Agency officials, parent service and personnel records.

Systems exempted from certain provisions of the act:

None

L DIA 0480

System name:

Reserve Training Records

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

Categories of individuals covered by the system:

Military Reserve personnel who have performed active duty training with the DIA or cor- responded with the DIA regarding reserve matters.

Categories of records in the system:

Files contains correspondence with the reservist and documentation related to the reservist periods of active duty with DIA.

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 of August 1, 1961, super- seded by Department of Defense Directive 5105.21 of May 19, 1977, creating the Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records are used by agency officials for the administrative, control and utilization of reservists and may be provided to the Military Departments when appropriate.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual in paper files.

Retrievability:

By name.

Safeguards:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

Retention and disposal:

Records are destroyed 1 year after reservists becomes inactive.

System manager(s) and address:

Assistant Deputy Director for Personnel, Defense Intelligence Agency, Washington, D.C. 20301.

Notification procedure:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record access procedures:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determina- tion. The requester shall provide a statement setting forth the reasons for his or her dis- agreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

Individual reservists requesting assignment and or active duty training, agency officials and parent service of reservists.

Systems exempted from certain provisions of the act:

None

L DIA 0590

System name:

Defense Intelligence Special Career Automated System (DISCAS).

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

Categories of individuals covered by the system:

DoD civilian positions and employee grades GS-05 and above in the GS-0132 intelligence series, scientific and technical series and other related professional series which are assigned to an organizational component performing an intelligence functions. Crypto- logic personnel and those enrolled in the National Security Agency (NSA) career system are excluded.

Categories of records in the system:

Data on employment history, qualification and skills and performance appraisals.

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 of August 1, 1961, super- seded by Department of Defense Directive 5105.21 of May 19, 1977, creating the Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The Defense Intelligence Special Career Automated System Activity (DISCASA) forwards inquiries to employees regarding their availability for specific position vacancies when requested by the DoD component. DISCASA furnishes referral listings of DoD eligibles to appropriate offi- cials and managers for particular vacancy selection. DISCASA periodically furnishes copies of individual employee records for review and update by employees or servicing civilian person- nel offices. DISCASA will maintain files and records for historical or user research purposes such as annual reports for DoD components or management information furnished to appropriate DoD users.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Automated, maintained on magnetic tape and manual in paper files.

Retrievability:

By name or social security account number.

Safeguards:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

Retention and disposal:

Records are temporary. They are retained until the employee concludes his DoD intelligence career at which time they are retired to an inactive file for 1 year and then destroyed.

System manager(s) and address:

Assistant Deputy Director for Personnel, Defense Intelligence Agency, Washington, D.C. 20301.

Notification procedure:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record access procedures:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determina- tion. The requester shall provide a statement setting forth the reasons for his or her dis- agreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

Source data for DISCASA is provided by the employees, the employee's supervisor and the servicing civilian personnel office.

Systems exempted from certain provisions of the act:

None

L DIA 0660

System name:

Security Files

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

Categories of individuals covered by the system:

Military/civilian applicants and nominees to DIA; current and former DIA and Defense Attache System personnel; and other DoD-affiliated personnel under the security cognizance of DIA.

Categories of records in the system:

Records associated with personnel security functions; nomination notices, statement of per- sonal history, indoctrination/debriefing statements, secrecy agreements, certificates of clearance, adjudication memoranda and supporting documentation and in-house investigations, security violations, identification badge records, retrieval indices, clearance status records, and access control records.

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 of August 1, 1961, super- seded by Department of Defense Directive 5105.21 of May 19, 1977, creating the Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To perform all administrative functions necessary to determine initial and continued eligi- bility for and control of access to classified information in DIA facilities and those elements mandated to the Director, DIA, for Sensitive Compartmented Information access. Information will be disclosed to such other federal agencies, state and local governments, as may have a legitimate use for such information and which agrees to apply appropriate safeguards to pro- tect data so provided and which is consistent with the conditions or reasonable expectations of use and disclosure under which the information was provided, collected or obtained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Automated on magnetic tape and manual in paper files.

Retrievability:

By name.

Safeguards:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

Retention and disposal:

Files on military and civilian applicants who are not assigned or hired by DIA are maintained up to 1 year and then destroyed. Personnel security dossiers are retained until the individual's association with DIA or access to SI/SAO information ceases and are then destroyed.

System manager(s) and address:

Assistant Deputy Director for Security Services, Defense Intelligence Agency, Washington, D.C. 20301.

Notification procedure:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record access procedures:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determina- tion. The requester shall provide a statement setting forth the reasons for his or her dis- agreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

By the individual, other federal agencies, firms contracted to the DoD and agency officials.

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under Title 5. U.S.C., 552a, subsections k(2) and k(5). For additional information see agency rules contained in (32 CFR Part 292a).

L DIA 0800

System name:

Operation Record System

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

Categories of individuals covered by the system:

Individuals involved in foreign intelligence and/or training activities conducted by the Department of Defense; who are of interest either because of their actual, apparent, or potential use.

Categories of records in the system:

Categories of records include operational, biographic, policy, management, training, and administrative matters related to the foreign intelligence activities of the Department of Defense.

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 of August 1, 1961, super- seded by Department of Defense Directive 5105.21 of May 19, 1977, creating the Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records. Executive Order 12036, United States Intelligence Activities, January 24, 1978.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To provide information within the Department of Defense and other federal agencies for the conduct of foreign intelligence operations and to provide staff management over foreign intel- ligence training conducted by the Department of Defense.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Automated on magnetic tapes and discs, microfilm and operture cards and manual in paper files.

Retrievability:

By name.

Safeguards:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

Retention and disposal:

Permanent records are retired to the Washington National Record Center upon completion of the project and temporary records are destroyed.

System manager(s) and address:

Deputy Director for Collection Operations, Defense Intelligence Agency, Washington, D.C. 20301.

Notification procedure:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record access procedures:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determina- tion. The requester shall provide a statement setting forth the reasons for his or her dis- agreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

Other Department of Defense components, federal agencies, foreign sources, overt publication, and private citizens.

Systems exempted from certain provisions of the act:

None

L DIA 0801

System name:

Defense Attache System Personnel Information File.

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

Categories of individuals covered by the system:

Military and civilian personnel and their dependents, nominated for assignment to the Defense Attache System.

Categories of records in the system:

This system consists of a variety of personnel and directory data, security access, education, training, financial and health information related to the individual's assign- ment with the Defense Attache System.

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 of August 1, 1961, super- seded by Department of Defense Directive 5105.21 of May 19, 1977, creating the Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records are used by staff, administrative and operating officials to: prepare individual administrative transactions; make decisions on the rights, benefits entitlements and the utilization of individuals; provide a data source for the production of reports, statistical surveys, rosters, documentation and studies required for the orderly personnel administration within the Defense Attache System. Information may be provided to host country, Department of State, Central Intelligence Agency, Department of Justice and the Department of Treasury.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Automated on magnetic tape and manual in paper files and cards.

Retrievability:

By name.

Safeguards:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

Retention and disposal:

Records are maintained for 1 year beyond the individual's tour completion date and then destroyed.

System manager(s) and address:

Assistant Deputy Director for Personnel, Defense Intelligence Agency, Washington, D.C. 20301.

Notification procedure:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record access procedures:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determina- tion. The requester shall provide a statement setting forth the reasons for his or her dis- agreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

Parent service of individual, immediate supervisor on station, agency officials and Ambassa- dors.

Systems exempted from certain provisions of the act:

None

L DIA 0813

System name:

Bibliographic Data Index System

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

Categories of individuals covered by the system:

Individuals who have published works of general interest to the Agency, and individuals involved in foreign intelligence activities.

Categories of records in the system:

An index of names of authors, title of published works, subject matter of writing and the location of source documents of open source literature and intelligence reports.

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 of August 1, 1961, super- seded by Department of Defense Directive 5105.21 of May 19, 1977, creating the Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Serves as a traditional library reference service for open source literature and intelligence reports. Information is used by agency officials, other federal agencies and contract person- nel to do research on intelligence subjects related to foreign intelligence activities.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Automated on magnetic tape and disc.

Retrievability:

By name

Safeguards:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

Retention and disposal:

Open source literature is destroyed once material is out dated. Intelligence reports are retained for 2 years and retired to the Washington National Record Center for permanent retention

System manager(s) and address:

Assistant Deputy Director for Support and Services, Defense Intelligence Agency, Washing- ton, D.C. 20301.

Notification procedure:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record access procedures:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determina- tion. The requester shall provide a statement setting forth the reasons for his or her dis- agreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

DoD, other intelligence agencies, educational institutions, federal agencies, research institutions, foreign governments and open source literature.

Systems exempted from certain provisions of the act:

None

L DIA 0819

System name:

DIA Financial Management

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

Categories of individuals covered by the system:

Current and former civilian and military employees of DIA.

Categories of records in the system:

Claims for reimbursement for expenses on official business. Documents supporting claims of indebtedness to the United States Government. Applications for the waiver of erroneous payment or for remission of indebtedness. Correspondence from civilian employees related to financial transactions.

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 of August 1, 1961, super- seded by Department of Defense Directive 5105.21 of May 19, 1977, creating the

Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and

Categories of individuals covered by the system:

All U.S. personnel previously held prisoner of war (PW) or detained in Southeast Asia from 1961 to date and returned to U.S.

appeal. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

mand Code, Advanced Monitored Command Code - Estimated Date of Arrival, Intermediate Monitored Command Code - Estimated Date of Arrival, Prospective Officers Source Code, Current Source of Entry Code, Home of Record, Prior Key, Days Lost Current Con-

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Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information is used to determine eligibility for waiver of erroneous payment and remission of indebtedness. To support claims of the United States Government for the collection of erro- neous payments made. Use to determine entitlements for reimbursements of expenditures on official business and to support payment. To process employee's claims of payroll problems and to forward checks and bonds to former employees. Information will be disclosed to the Department of Justice, General Accounting Office, and the Department of Treasury.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual in paper files and cards.

Retrievability:

By name

Safeguards:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

Retention and disposal:

Permanent records are cut off each fiscal year and held for 2 years and then retired to the Washington National Record Center. Temporary records are destroyed in 4 years or 2 years after a General Accountant Office audit.

System manager(s) and address:

Deputy Comptroller, Defense Intelligence Agency, Washington, D.C. 20301.

Notification procedure:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record access procedures:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determina- tion. The requester shall provide a statement setting forth the reasons for his or her dis- agreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

Data is supplied from a number of sources including the individual concerned, the U.S. Army Finance Office and agency officials.

Systems exempted from certain provisions of the act:

None

L DIA 1728

System name:

DIA Prisoner of War Intelligence Analysis and Debriefing Files

System location:

Defense Intelligence Agency, Washington, D.C. 20301.

Categories of individuals covered by the system:

All U.S. personnel previously held prisoner of war (PW) or detained in Southeast Asia from 1961 to date and returned to U.S. control; and U.S. personnel released from detention in the People's Republic of China since 170. All U.S. personnel considered missing in action (MIA) or killed in action (KIA) and bodies not recovered.

Categories of records in the system:

Narrative of loss incident, identification data, casualty report; intelligence reports pos- sibly identifying subjects; portions of official debriefing; and/or debriefing summaries.

Authority for maintenance of the system:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 of August 1, 1961, super- seded by Department of Defense Directive 5105.21 of May 19, 1977, creating the Defense Intel- ligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

As background for analytical purposes, the evaluation of intelligence reports pertaining to U.S. personnel PW/MIA; in preparation of special studies and appraisals; to provide responses to queries for PW intelligence from the JCS, OASD (ISA), the Department of State, Central Intelligence Agency, the Military Service, and other federal agencies with a need-to-know; to assist the military service intelligence and casualty offices in the determination of status of their personnel; to provide guidance to the Joint Casualty Resolution Center to assist in planning for the recovery of remains of U.S. personnel not accounted for.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Automated on magnetic tapes and manual in paper files.

Retrievability:

By name.

Safeguards:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

Retention and disposal:

Records will be retired to the Washington National Record Center upon disposition of all cases and will be destroyed 15 years subsequent.

System manager(s) and address:

Deputy Director for Intelligence Research, Defense Intelligence Agency, Washington, D.C. 20301.

Notification procedure:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record access procedures:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Contesting record procedures:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determina- tion. The requester shall provide a statement setting forth the reasons for his or her dis- agreement with the initial determination and provide such additional material to support his or her

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appeal. Requests can be mailed to: Secretariat, Defense Intelligence Agency, Washing- ton, D.C. 20301, or personally delivered to room 3E215, Pentagon, Washington, D.C.

Record source categories:

Parent military services; intelligence reports prepared by elements of the Defense Intelli- gence Agency, the military services and the Central Intelligence Agency; the Department of State; Foreign Broadcoast Information Service reports; newspapers; magazines; television and radio.

Systems exempted from certain provisions of the act:

None

UNITED STATES MARINE CORPS

MFD00003

System name:

Joint Uniform Military Pay System/Manpower Management System (JUMPS/MMS)

System location:

Primary System - Marine Corps Automated Services Center, 1500 East Bannister Road, Kansas City, Missouri 64131; Marine Corps Finance Center, 1500 East Bannister Road, Kansas City, Missouri 64197.

Decentralized Segments - There are eight Satellite/Command Data Processing Installations (SDPI/CDPI) which maintain files with similar records at the following locations: SDPI 02, Marine Corps Base, Camp Lejeune, NC 28542; SDPI 03, Marine Corps Base, Camp Pendleton, CA 92055; SDPI 06, FMF Pacific, FPO San Francisco, CA 96610; SDPI 09, Headquarters U S Marine Corps, Washington, D C 20380; SDPI 11, Marine Corps Recruit Depot, Parris Island, SC 29905; SDPI 15, Marine Corps Recruit Depot, San Diego, CA 92140; CDPI 17, Marine Corps Base, Quantico, VA 22134; SDPI 27, Marine Corps Base, Camp S D Butler, FPO Seattle, WA 98773; First Marine Brigade, FPO San Francisco, CA 96615.

Categories of individuals covered by the system:

All Marine Corps personnel.

Categories of records in the system:

The JUMPS/MMS automated system of records contains the following fields (data elements and data sets) and sub-fields; Social Security Number and the last, first, and middle initial (key); Name, Member Service Number, Contract Legal Agreement, Duty Limitation, Race/Sex/Ethnic Group, Present Unit Identification, Temporary Reporting Unit Code, Former Unit Identification, Intermediate Unit Identification, Future Unit Identification, Command Data Processing Installation Code, Individual Location, Message Routing Indicator, Pay Entry Base Data, Armed Forces Active Duty Base Date, Active Naval Service Base Date, Current Active Duty Began Date, Date of Enlistment/Acceptance, Date of Original Entry Armed Forces, Date of Birth, Estimated Date of Departure, Estimated Date of Arrival, Date Current Tour Began, Date Detached Last Command, Rotation Tour Date, Date Arrived U S Dependents Not Restricted, Date Arrived U S Enlistment, Careerist Flag, Contract Extension Data, Expiration of Obligated Service, Security Investigation, Permanent Grade , Incentive Pay, Proficiency Pay, Special Pay, Hostile Fire Pay, Basic Allowance for Subsistence, Basic Allowance for Quarters, Duty Status, Last Processing Cycle Information, Project Duty Status, Preference for Duty, Grade for Which Selected, Citizenship, Combat Service, Former Prisoner of War, Civilian Education, Accession Code (Program Enlisted Under), Military Occupational Specialties, Reserved for Future Use, Religion, Tour Control Factor, Sea or Foreign Duty, Program Element Number, Responsibility Center Number, Marital Status, Ethnic Group, Intermediate Monitored Command Code - Estimated Date of Arrival, Current Active Duty Begin Date, Estimated Date of Departure, Special Grade and Date of Rank, Old Reason for Transfer Code, New Reason for Transfer Code, Present Tour Control Factor, Prospective Officers Source Code, Reenlistment Bonus Type, Selective Reenlistment Bonus Zone, Separation Document Type, Composite Score, Armed Services Vocational Aptitude Battery, Deployment Monitored Command Code, Date Dependents Location Begin, Visual Audit Field, Date Joined Present Unit, TAD Excess Flag, TAD DPI, Officers School Graduation, Active Duty Officer Base Date, Active Duty Aviation Service Base Date, Accession Code, Future Tour Control Factor, Intended Transfer Date, Permanent Change of Station Code, Reason for Transfer Flag, Advanced Monitored Command Code, Advanced Monitored Command Code - Estimated Date of Arrival, Intermediate Monitored Command Code - Estimated Date of Arrival, Prospective Officers Source Code, Current Source of Entry Code, Home of Record, Prior Key, Days Lost Current Contract, Separation Document Type, Language Proficiency, Language Aptitude Test, Electronic Technician Selection Test (Enlisted Only), Reserved for Expansion, General Military Subjects Test Results, Classification Test, Computed General Technical or General Classification Test, Armed Forces Qualification Test/Army Qualification Test Score (Enlisted Only), Army Qualification Battery Scores, Service Schools, Dependents Information, Aeronautically Designated Officers & Noncommissioned Officers Information, Date Last Tour Combat/Combat Support Area, Optional Narrative Form, Aeronautically Designated, Officers & Noncommissioned Officers Information, Date Designated Military Pilot, Separation Data, Service Date (Officer), Lineal Control Number/Precedence Number Present Rank, Separation Data Addendum, Lineal Control Number/Precedence Number Permanent Rank, Month Attended Service Academy, Lineal Footnotes, Running Mate, Limited Duty Officer/Warrant Officer Footnotes, Date of Acceptance 1st Commission in the Marine Corps, Date of Rank 1st Commission in the Marine Corps, Date of Rank 1st Commission Limited Duty Officer, Visual Audit, Electronic Data Processing Test Score, Language Aptitude Test Date, Social Security Number Validation Monitor, Last Transfer Processing, Information, Temporary Additional Duty Excess Flag, Temporary Additional Duty Data Processing Installation, Graduates Obligation Code, Active Duty Spouse Identification, Fleet Assistance Program Unit Identification, Active Duty Off Service Base Date, Active Duty Officer Aviation Service Base Date, Program Enlisted For, Operational Flying Time, Operational Flying Computation Date, Operational Flying Start Date, Operational Flying Stop Date, Operational Flying Time Base Date, Operational Flying Gate One, Operational Flying Gate Two, Reserved, Platoon Number, Cycle Number, Last Type Transaction Code Touched, Not used at this time, Today's Date, Disbursing Officers Symbol, Command DPI of Parent Reporting Unit Code, Pay Group, Pay Status, Local Disbursing Office Cognizance, Payment Option/Leave and Earnings Statement Distribution/Pay Distribution Code, Federal Withholding Tax Data, Leave Account, Wage and Tax Summaries, Dependency Status, Dependency Determination, Basic Pay, Pay Grade, Years in Service, Serviceman's Group Life Insurance Deduction, Federal Income Tax Withholding, Federal Indemnity Compensation Act Tax Withholding, Payments, JUMPS Account Standing, Total Allotment Deductions, Last Update and Extract Date, Savings Deposits, Pay Extraction Flag, Regular Reenlistment Bonus, Variable Reenlistment Bonus, Time Lost, Detention of Pay, Repayment Date, Dislocation Allowance, Inadequate Quarters, Interim Housing Allowance, Indebtedness for Final Settlement, Incentive Pay 1, Proficiency Pay, Sea and Foreign Duty Pay, Diving Pay, Hostile Fire Pay, Subsistence Credit, Basic Allowance For Quarters, Personal Money Allowance, Family Separation Allowance, Incentive Pay 2, Cost of Living Allowance, Housing Allowance, Additional Federal Tax Withholding, Subsistence Debits, Court Martial/Nonjudicial Punishment Deductions, Miscellaneous Credits, Miscellaneous Debits, Other Continuing Monthly Deductions, Miscellaneous Leave Data, Retired Serviceman's Family Protection Plan Data, Temporary Lodging Allowance, Clothing Maintenance Data, Basic Allowance for Quarters Debits, Pay Change Flag, Pay Day Data, Miscellaneous Data, Check Mailing Address, Other Services Disbursing Officer Indicator, Reduced Tax, Unassigned, Saved Pay Original Entitlement, Saved Pay Current Entitlement, Tax Exclusion/Nonresident Alien Exempt Taxable Pay, Selective Reenlistment Bonus, Officer Status Change Flag, Aviation Career Incentive Pay, Advance Pay and Allowances, Power of Attorney.

The MMS master files consist of a complete magnetic record for each Marine serving on active duty for a period in excess of 30 days. The Remote Entry Data Display Terminal (REDDT) is a subsystem of MMS. It has the capability to directly access an extract of the master file. The procedure used to establish the initial computer record and add the individual to the Marine Corps strength is the accession process. The accession of recruits is accomplished through the Recruit Accession Management Subsystem (RAMS). The Commissioning Accession Management Subsystem (CAMS) is designed to access all officer records into JUMPS/MMS. Accession/ reaccession of all nonrecruit enlisted records is accomplished through the Headquarters Accession Management Subsystem (HAMS) at Headquarters, U S Marine Corps. The Accession Transcription Form (ATF) is an OCR form which contains information extracted from the enlistment contract and transfer/assignment to active duty orders. The ATF is completed and processed to establish the computer record. The Manpower Management Information System (MMIS) consists of

models and processes within MMS These models and processes support manpower planners and programmers to optimize assignments to unaccompanied overseas tours, predict enlisted population by grade and military occupational specialty (MOS) and to test various policies related to unrestricted officer promotion planning.

Some manual files containing substantiating documents and other data relative to each member's JUMPS/MMS record are maintained. These file folders may contain any part of the JUMPS/MMS record and any one or more of the following documents: Military Pay Record, Military Payroll Money List, Military Pay Voucher, Certificate for Performance of Hazardous Duty, Application for Arrears in Pay, Cash Collection Voucher, Authorization/Designation for Emergency Pay and Allowances, Wage and Tax Statement, Employees Withholding Exemption Certificate (IRS W-4), Employees Withholding Exemption Certificate (IRS W-4E), Notice of Levy, General Accounting Office Notice of Exemption, Dependency Certificate (Wife or Child Under 21 Years), Dependency Certificate (Mother or Father), Dependency Certificate (Unmarried Child Over 21 Years), Dependency Application, Clothing Checkage, Statement to Substantiate Payment of Family Separation Allowance, Government Property Checkage, Personal Financial Records, Unit Diary, Dependent Travel Record, Allotment/Bond Authorization, Certificate for Cost of Living and/or Housing Allowance, Certificate for Temporary Lodging Allowance, Removal of Mark of Desertion, Field Rations Certificate, Liquidation of Indebtedness, Initial Uniform Allowance for Officers, Additional Uniform Allowance for Officers, Excess Weight-Household Goods Shipment, Hospital Rations Checkage, Excess Expense Involving Movement of House Trailer, Transportation Checkage, Meal Ticket Checkage, Advance Pay, Advance Pay and Allowances, Discharge Gratuity, Combat Arms Bonus, Health Care Coverage, Government Quarters Termination and Assignment. Inadequate Quarters Termination and Assignment, Lump-Sum Leave, Rations Commuted to Private Mess, Reenlistment Bonus, Variable Reenlistment Bonus, Selective Reenlistment Bonus, Sick Misconduct, Prorated Rations, Supplemental Rations, Basic Allowance for Quarters (Own Right).

Authority for maintenance of the system:

Title 10 and 37, U S Code Section 5031 and 5201

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Headquarters, U. S. Marine Corps and Marine Corps commands, activities and organizations - By officials and employees of the Marine Corps in the performance of their assigned duties in matters relating to a Marine's automated personnel and/or pay record.

Department of Defense and its components - By officials and employees of the Department in the performance of their official duties.

The Attorney General of the U S - By officials and employees of the Office of the Attorney General in connection with litigation, law enforcement or other matters under the direct jurisdiction of the Department of Justice or as carried out as the legal representative of the Executive Branch agencies.

Courts - By officials of duly established local, state and federal courts as a result of court order pertaining to matters properly within the purview of said court.

Congress of the U S - By the Senate or the House of Representatives of the U S or any committee or subcommittee thereof, any joint committee of Congress or subcommittee of joint committee on matters within their jurisdiction requiring disclosure of the files.

The Comptroller General of the U S - By the Comptroller General or any of his authorized representatives in the course of the performance of duties of the General Accounting Office relating to the Marine Corps.

By officials and employees of the American Red Cross and the Navy Relief Society in the performance of their duties. Access will be limited to those portions of the member's record required to effectively assist the member.

Federal, state and local government agencies - By officials and employees of federal, state and local government through official request for information with respect to law enforcement, investigatory procedures, criminal prosecution, civil court action and regulatory order.

To provide information to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States which has been authorized by law to conduct law enforcement activities pursuant to a request that the agency inititate criminal or civil action against an individual on behalf of the U. S. Marine Corps, the Department of the Navy, or the Department of Defense.

To provide information to individuals pursuant to a request for assistance in a criminal or civil action against a member of the U. S. Marine Corps, by the U. S. Marine Corps, the Department of the Navy, or the Department of Defense.

Department of Health, Education and Welfare (DHEW) - Disclosure of the name, rank or grade, and social security account number of each Marine Corps active duty military member to the Inspector General of DHEW for the specific purpose of comparison with appropriate rolls reflecting recipients of Aid to Families with Dependent Children (AFDC).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Data is recorded on magnetic records and discs, punch cards, computer printouts, microform, file folders, and other documents.

Retrievability:

The data contained in magnetic records can be displayed on cathode-ray tubes, it can be computer printed on paper, and it can be converted to microform for information retrieval; the data in the supporting file folders and other manual records is retrieved manually. Computerized and conventional indices are required to retrieve individual records from the system. Normally, all types of records are retrieved by Social Security Number and name.

Safeguards:

Building management employs security guards; building is locked nights and holidays. Authorized personnel may enter and leave the building during nonworking hours but must sign in and out. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Access to personal information is limited to authorized personnel with a need-to-know. Access is restricted to specific applications programs, records, and files to which personnel have a specific and recorded need-to-know. Online data sets (both tape and disc) pertaining to personal information are password protected, areas are controlled and access lists are used. The files are also protected at a level appropriate to the type of information being processed.

Retention and disposal:

Magnetic records are maintained on all Marine Corps personnel while they are in service, and for a period of 4 months after they are separated from the service. Paper and film records are maintained for a period of 10 years after the final transaction. End calendar and fiscal year 'snapshots' of the MMS data base are maintained indefinitely in magnetic form at Headquarters, U. S. Marine Corps.

System manager(s) and address:

Commandant of the Marine Corps, Headquarters U S Marine Corps, Washington, D C 20380.

Notification procedure:

Requests from individuals for information concerning pay related matters should be addressed to the Commandant of the Marine Corps (Code FD). Requests from individuals for information concerning personnel matters should be addressed to the Commandant of the Marine Corps (Code MP).

Requesting individual must supply full name and Social Security Number.

The requester may visit the Marine Corps Finance Center, 1500 East Bannister Road, Kansas City, Missouri 64197 to obtain information on whether the system contains records pertaining to him or her.

In order to personally visit the above address and obtain information, individuals must present a military identification card, a driver's license, or other suitable proof of identity.

Record access procedures:

Information on JUMPS may be obtained from the member's local disbursing officer. Information on MMS may be obtained from the member's immediate commanding officer. Requests for information from persons no longer in service should be signed by the person requesting the information. Dates of service, Social Security Number, and full name of requester should be printed or typed on the request. It should be sent to the Marine Corps Finance Center, 1500 East Bannister Road, Kansas City, Missouri 64197.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

Record source categories:

Recruiting offices, disbursing offices, administrative offices, and the individual Marine are the principle sources of the information contained in the JUMPS/MMS record for that person.

Systems exempted from certain provisions of the act:

None

MFD00005

System name:

Retired Pay/Personnel System (RPPS)

System location:

Marine Corps Automated Services Center, 1500 East Bannister Road, Kansas City, Missouri 64131; and Marine Corps Finance Center, 1500 East Bannister Road, Kansas City, Missouri 64197.

Categories of individuals covered by the system:

Pay account folders for retired Marine Corps members, Fleet Marine Corps Reservists (FMCR), and survivors of deceased retired and FMCR members, who are entitled to retired pay, retainer pay, and survivor annuities.

Categories of records in the system:

The RPPS automated system of records contains the following fields (data elements and data sets): Retired/Retainer Date; Retainer Date; Pay Change; Information Status; Social Security Number (SSN) and Last, First, and Middle Initial (Key); Deletion Date; SSN; Retired Category Code; Member's Name; Pay Entry Base Date; Service for Pay; Active Service; Other Military Service Number (MSN); Prior MSN/SSN/Key; Rank Code; Recomputation Code; Disability Percent; Heroism Pay; Pay Table Code; Recomputation Age; Retirement Laws; Functional Account Number; Ranks; Birthdates; Pay Delete/ Suspense Code; Retired Serviceman's Family Protection Pay; Reserve Retirement Credit Points; Allotment Data; Withholding Tax Data; Wage and Tax Summaries; Gross Pay; Taxable Pay; Withholding Tax; Dependency Indemnity Compensation; Pension Act of 1944 (Veterans Administration (VA) Waiver); Pension Act of 1964 (Dual Compensation G1); Retired Serviceman's Family Protection Plan; Survivor Benefit Plan; Social Security; Scheduled Collections; Net Pay; Special Handling Code (Check Delivery); Accumulated Summaries; Home Mailing Address; Check Mailing Address; Pay Distribution; Last Change Posted; Date Member Eligible to Retire; Date Arrived Continental United States Without Dependents; Primary Military Occupational Specialty; Districts; Highest Rank Held Satisfactorily; Service Prior to 1 July 1949; Service After 1 July 1949; Active Duty After Transfer to Fleet/ Retired Rolls; Date Next Physical Year and Month; VA Disease Codes; Department of Defense Disease Codes; Nearest Hospital (See Table 9); Personnel Accounting Separation - Designator; Earnings Statement Flag; Disability Pay; Change of Address Flag; Last Time Processed by Update-Extractor; SSN Validation; Remarks Area; One-Time Credit/Checkage; Scheduled Collection.

Used for extraction or compilation of statistical data and reports for management studies and statistical analyses for use internally or externally as required by Department of Defense or by government agencies.

Authority for maintenance of the system:

Title 5, U S Code 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Computation of retired pay, retainer pay, and survivor annuity accounts, perform audit of accounts, reply to correspondence, etc.

Creation of printed reports, records, checks, microforms, magnetic files, etc., based on information available in the system. This output is used by various departments of the Marine Corps for pay, personnel, audit, and other purposes. Some of this information is made available to authorized local, state, and Federal agencies.

Displaying all or part of any selected record on a cathode-ray tube for research, audit, update, and similar purposes.

Used for extraction or compilation of statistical data and reports for management studies and statistical analyses for use internally or externally as required by Department of Defense or by government agencies.

By officials and employees of the American Red Cross and the Navy Relief Society in the performance of their duties. Access will be limited to those portions of the member's record required to effectively assist the member.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Data is recorded on magnetic records, punch cards, computer printouts, microform, file folders, and other documents.

Retrievability:

The data contained in magnetic records can be displayed on cathode-ray tubes, it can be computer printed on paper, and it can be converted to microform for information retrieval; the data in the supporting file folders and other manual records is retrieved manually. Normally all types of records are retrieved by SSN and name.

Safeguards:

Building management employees security guards; building is locked nights and holidays. Authorized personnel may enter and leave the building during nonworking hours, but must sign in and out.

Retention and disposal:

Magnetic records are maintained on all persons who are eligible for retired pay, retainer pay, and survivor annuities while they are alive and for a period of 6 months after that person dies or ceases to be eligible. Paper and film records are maintained for a period of 10 years after the final transaction.

System manager(s) and address:

Commandant of the Marine Corps (Code FD), Headquarters, U S Marine Corps, Washington, D C 20380.

Notification procedure:

Requests from individuals for information should be referred to the SYSMANAGER.

Requesting individual must supply full name and SSN

The requester may visit the Marine Corps Finance Center, 1500 East Bannister Road, Kansas City, Missouri 64197, to obtain information on whether the system contains records pertaining to him or her.

In order to personally visit the above address and obtain information, individuals must present a military identification card, a driver's license, or other suitable proof of identity.

Record access procedures:

Requests for information relative to the RPPS automated system should be signed by the person requesting the information. Dates of service, SSN, and full name of requester should be printed or typed on the request. It should be sent to the SYSMANAGER.

Contesting record procedures:

The agency's rules for access to records for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER

Record source categories:

Documents and correspondence received from Headquarters, U S Marine Corps, the Veterans Administration, the member, changes in laws, etc. are the principle sources of information contained in the RPPS automated system.

Systems exempted from certain provisions of the act:

None

MFD00008

System name:

Civilian Labor Projection, Operations and Maintenance, MC Budget Report (Job Procedure 5576)

System location:

Commanding General, Marine Corps Logistics Support Base, Atlantic, Albany, Georgia 31704

Categories of individuals covered by the system:

All civilians in pay status.

Categories of records in the system:

Pay rates; scheduled within-grade increases, government portion of fringes.

Authority for maintenance of the system:

MCO 7301.56D

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Budget, forecasting of civilian payroll needs for future time periods.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer Paper Printouts

Retrievability:

Employee badge number within Activity code.

Safeguards:

None

Commandant of the Marine Corps (Code LMM), Headquarters, U S Marine Corps, Washington, D C 20380

Director, DMA, Marine Corps Logistics Support Base, Atlantic,

Department of Justice or as carried out as the legal representative of the Executive Branch Agencies.

Courts - By officials of duly established local, state and federal courts as a result of court order pertaining to matters properly within

Military Prosecutor for preparation of cases for trial by military prosecutor.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Safeguards:

None

Retention and disposal:

Perpetual; updated quarterly.

System manager(s) and address:

Commanding General, Marine Corps Logistics Support Base, Atlantic, Albany, Georgia 31704

Notification procedure:

Information may be obtained from:
Commanding General
Marine Corps Logistics Support Base, Atlantic
Albany, Georgia 31704

Record access procedures:

Request from individuals should be addressed to: Commanding General Marine Corps Logistics Support Base, Atlantic, Albany, Georgia 31704

Contesting record procedures:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER

Record source categories:

Civilian payrolls

Systems exempted from certain provisions of the act:

None

MIL00016

System name:

Depot Maintenance Management Subsystem (DMMS)

System location:

Marine Corps Logistics Support Base, Atlantic, Albany, Georgia 31704
Marine Corps Logistics Support Base, Pacific, Barstow, California 92311

Categories of individuals covered by the system:

Any military or civilian employee of USMC Depot Maintenance Activities

Categories of records in the system:

System contains individual's Personal History File, Labor Distribution Reports, Time and Attendance Reports and Payroll Reports

Authority for maintenance of the system:

Title 5, U S Code 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Marine Corps Logistics Support Bases - To provide payroll support and cost accounting
Congress of the United States
Naval Audit Service - To obtain audit trails for cost accounting
DOD Departments and agencies
USMC staff agencies and commands - To review cost accounting and financial management procedures, to monitor labor distribution
Federal, state, and local tax agencies
General Accounting Office
Treasury Department
Department of Justice

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer magnetic tapes and disks, computer paper printouts and microfiche.

Retrievability:

Filed by employee badge number

Safeguards:

Buildings have security personnel. Records are maintained in areas accessible to authorized personnel that are properly screened.

Retention and disposal:

Records are maintained until end of calendar year in which employee has worked. At the end of one year, the computer magnetic tapes and disks are erased and paper printouts are destroyed by shredding. Microfiche is destroyed by burning.

System manager(s) and address:

Commandant of the Marine Corps (Code LMM), Headquarters, U S Marine Corps, Washington, D C 20380
Director, DMA, Marine Corps Logistics Support Base, Atlantic, Albany, Georgia
Director, DMA, Marine Corps Logistics Support Base, Pacific, Barstow, California

Notification procedure:

Information may be obtained from:
Commandant of the Marine Corps (Code LMM), Headquarters, U S Marine Corps Washington, D C 20380
CG, Marine Corps Logistics Support Base, Atlantic, Albany, Georgia 31704
CG, Marine Corps Logistics Support Base, Pacific, Barstow, California 92311

Record access procedures:

Requests from individuals should be addressed to the Commanding General, Marine Corps Logistics Support Base, Atlantic, Albany, Georgia 31704 or Commanding General, Marine Corps Logistics Support Base, Pacific, Barstow, California 92311.

Written requests for information should contain the full name of the individual, current address, telephone number.

For personal visits, the individual should be able to provide some acceptable identification, i.e., driver's license, social security card, etc.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER

Record source categories:

Automated system interfaces
Application and related forms from the individual requesting employment.

Systems exempted from certain provisions of the act:

None

MIL00017

System name:

Transportation Data Financial Management System (TDFMS)

System location:

Commanding General (Code A470), Marine Corps Logistics Support Base, Atlantic, Albany, Georgia 31704

Categories of individuals covered by the system:

All Marine Corps active duty, reserve, and retired personnel, federal Civil Service employees of the Marine Corps and their dependents.

Categories of records in the system:

The TDFMS Master Files consist of a complete automated record for all Marine Corps active duty, reserve and retired personnel, federal Civil Service employees of the Marine Corps and their dependents concerning the movement of household goods, personal effects and passenger or personnel transportation by rail, bus, air or other means involving expenditures of Marine Corps funds.

Authority for maintenance of the system:

Title 37, U S Code/Title 10, U S Code and Marine Corps Orders within the 4600 Series.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Headquarters, U S Marine Corps, Marine Corps activities for analysis and research for budget forecasting; audit, verification, certification of O&MMC, Stock Fund, Reserve, Procurement, MPMC expenditure of Marine Corps funds; identifying movement of material by weight, commodity within areas by FY historical data of commodity movements, related cost, budget forecasting, validation, and special studies.

Marine Corps Supply Center to monitor and certify for payment transportation charges concerning the movement of personal property and personnel and to initiate collection/reimbursement action for cost incurred that exceeds entitlements.

Department of Defense and its components - By officials and employees of the Department in the performance of their offical duties.

The Attorney General of the U S - By officials and employees of the Office of the Attorney General in connection with litigation, law enforcement or other matters under the direct jurisdiction of the

Department of Justice or as carried out as the legal representative of the Executive Branch Agencies.

Courts - By officials of duly established local, state and federal courts as a result of court order pertaining to matters properly within the purview of said court.

Congress of the U S - The Senate or the House of Representatives of the U S or any Committee or subcommittee thereof, any joint committee of Congress or subcommittee of joint committee on matters within their jurisdiction requiring disclosure of the Files.

The Comptroller General of the U S - By the Comptroller or any of his authorized representatives in the course of the performance of duties of the General Accounting Office relating to the Marine Corps.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer magnetic tapes and discs, computer printouts, microfiche and microfilm.

Retrievability:

Information is accessed and retrieved by name, social security number, etc. Conventional and computerized indices are required to retrieve individual records from the system.

Safeguards:

Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Records are maintained until statute of limitations has expired and/or litigation is concluded.

System manager(s) and address:

The Commandant of the Marine Corps (Code LFS), Headquarters, U S Marine Corps, Washington, D C 20380.

Notification procedure:

Information may be obtained from:
Commanding General (Code A470)
Marine Corps Logistics Support Base, Atlantic
Albany, Georgia 31704
Telephone: Area Code 912/439-5674/5675/5676/5677

Record access procedures:

Written requests from individuals should be addressed to the address listed under the heading LOCATION.

Written requests for information should contain social security number, full name and current address, Government Bill of Lading number (if known), date of shipment or move of household goods.

For personal visits, the individual should be able to provide positive personal identification, such as valid military identification card, drivers license, etc.

Contesting record procedures:

The rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

Record source categories:

Government and commercial carriers.
Installation Transportation Officers.
Authorized order writing activities.
Paying or disbursing officers.
Marine Corps Manpower Management System

Systems exempted from certain provisions of the act:

None

MJA00003

System name:

Magistrate Court Case Files

System location:

All Marine Corps activities.

Categories of individuals covered by the system:

Civilians pending and tried by the assigned Federal magistrate for crimes committed on military reservation.

Categories of records in the system:

Investigative reports, complaints, summons and warrants.

Authority for maintenance of the system:

Title 18, U S Code 3041; Title 5, U S Code 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Military Prosecutor for preparation of cases for trial by military prosecutor.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by name. Conventional indices are required for retrieval.

Safeguards:

Maintained in file cabinet in locked building.

Retention and disposal:

Retained and destroyed in accordance with SECNAVINST 5212.5B.

System manager(s) and address:

Commanding officer of activity concerned. See Directory of Department of Navy Mailing Addresses.

Notification procedure:

Individual is personally served with a subpoena and is shown the file. Requires name for entry.

Record access procedures:

Contact SYSMANAGER.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determination by the individual concerned may be obtained from the SYSMANAGER.

Record source categories:

Law enforcement reports, bad check transmittal letters from Government agencies.

Systems exempted from certain provisions of the act:

None

MJA00004

System name:

In Hands of Civil Authorities Case File

System location:

All Marine Corps activities.

Categories of individuals covered by the system:

All military personnel who are in hands of civil authorities or have charges pending against them by civil authorities.

Categories of records in the system:

Civil court documents, advice to respondent, health statements/certificates and supporting documents pertaining to individual's status.

Authority for maintenance of the system:

Title 10, U S Code 814; Title 5, U S Code 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Working file utilized in administrative processing of individuals in hands of civil authorities. Used by command personnel in the execution of their official duties in processing individual for report of misconduct and discharge proceedings in accordance with Marine Corps Separation Manual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by last name of individual by calendar year in which processing is completed.

Safeguards:

Records are stored in metal file cabinets in Base Adjutant's office in Building 1, where full-time security is maintained during off-duty hours. Accessible only to authorized personnel in the execution of their official duties.

Retention and disposal:

On discharged personnel, record incorporated into administrative discharge file. Others retained for two years after completion of calendar year in which processed, then destroyed in accordance with the Navy and Marine Corps Records Disposal Manual.

System manager(s) and address:

Commanding officer of activity concerned. See Directory of Department of Navy Mailing Addresses.

Notification procedure:

Letters of Indebtedness/Credit Inquiry

System location:

All Marine Corps activities

tion necessary to provide the capability of continued follow up on funds owed and due the U S Government through daily billing, cross referencing and processing of mail order clothing individual ac-

Department of Defense and its Components - By officials and employees of the Department in the performance of their official duties.

The Attorney General of the U S - By officials and employees of

Commanding officer of activity concerned. See Directory of Department of Navy Mailing Addresses.

Notification procedure:

Requests should be addressed to the SYSMANAGER. Requester must be able to provide satisfactory identifying information.

Record access procedures:

Rules for access may be obtained from the SYSMANAGER.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

Record source categories:

Service records, health records, civil court documents, law enforcement personnel and various DOD Agencies.

Systems exempted from certain provisions of the act:

None

MJA00005

System name:

Financial Assistance/Indebtedness Files

System location:

All Marine Corps activities.

Categories of individuals covered by the system:

Marines identified as owing debts and/or having dependents requiring financial aid.

Categories of records in the system:

File contains name, rank, social security number, military occupational specialty, component, marital and dependency status and supporting documents pertaining to indebtedness and/or financial assistance required.

Authority for maintenance of the system:

Title 10, U. S. Code; Title 5, U S Code 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Working file once inquiry initiated. Used by command personnel in the execution of their official duties of processing inquiry. Once processing is completed, record is filed in command office of record official correspondence file.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Chronologically by date of response.

Safeguards:

File accessible only to authorized personnel in the execution of their official duties. Maintained in locked building with full time duty personnel present during non-working hours.

Retention and disposal:

Retained for two years and disposed of in accordance with Navy Marine Corps Records Disposal Instructions.

System manager(s) and address:

Commanding officer of activity concerned. See Directory of Department of Navy Mailing Addresses.

Notification procedure:

Requests should be addressed to the SYSMANAGER. Requester must be able to provide satisfactory identifying information.

Record access procedures:

Rules for access may be obtained from the SYSMANAGER.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

Record source categories:

Previous and current commanders, private individuals and agencies.

Systems exempted from certain provisions of the act:

None

MJA00008

System name:

Letters of Indebtedness/Credit Inquiry

System location:

All Marine Corps activities.

Categories of individuals covered by the system:

File on all Marines who receive letters of indebtedness

Categories of records in the system:

All correspondence and findings pertaining to the letter in question.

Authority for maintenance of the system:

Title 5, U. S. Code 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Maintain a record of credit inquiries and alledged letters of indebtedness received from various firms and individuals, to conduct an investigation to determine validity prior to taking final action. Available to Personnel Officer, Legal Officer, and Commanding Officer, Headquarters Battalion.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Individual file folders

Retrievability:

By name and date

Safeguards:

Maintained in Headquarters files

Retention and disposal:

One year

System manager(s) and address:

Commanding officer of activity concerned. See Directory of Department of Navy Mailing Addresses.

Notification procedure:

Information may be obtained from:
Commanding Officer, Headquarters Battalion (Code 200)
Marine Corps Supply Activity
Philadelhpia, Pennsylvania 19146

Record access procedures:

Requests from individuals should be addressed to: Commanding Officer, Headquarters Battalion (Code 200), Marine Corps Supply Activity, Philadelphia, Pennsylvania 19146

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determination by the individual concerned may be obtained from the SYSMANAGER.

Record source categories:

Complaintant, other investigating officials and individual concerned

Systems exempted from certain provisions of the act:

None

MJA00012

System name:

Individual Accounts of Mail Order Clothing (bill file)

System location:

Clothing Section (MAU), Direct Support Stock Control Branch, Materiel Division, Marine Corps Logistics Support Base, Atlantic, Albany, Georgia 31704

Categories of individuals covered by the system:

File pertains to all Marine Corps personnel, active, reserve and retired who have a requirement and are authorized clothing, textiles and other related supplies.

Categories of records in the system:

Record includes individual's name, rank, SSN, military address, bill number, dollar amount of the shipment, shipping date and zip code.

Authority for maintenance of the system:

NAVCOMPT Manual, Part C, Collection and Reporting of Debts Due the United States.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Marine Corps Logistics Support Base, Atlantic, Albany, Georgia. To facilitate in a mechanized atmosphere the collection of information necessary to provide the capability of continued follow up on funds owed and due the U S Government through daily billing, cross referencing and processing of mail order clothing individual accounts.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Data is stored on magnetic tapes and computer paper printouts.

Retrievability:

Data can be retrieved by account number, name and social security number.

Safeguards:

Computer printouts and source documents are retained in a single office accessible only to authorized personnel. Employees are properly trained in safeguarding information of a personal nature.

Retention and disposal:

Computer records are retained until the bills are satisfied. Computer printouts and source documents are retained for a period of five years. Destruction of records is by mutilation.

System manager(s) and address:

Commanding General, Marine Corps Logistics Support Base, Atlantic Albany, Georgia 31704.

Notification procedure:

Information may be obtained from:
Clothing Section (MAU), Direct Support Stock Control Branch, Materiel Division
Marine Corps Logistics Support Base, Atlantic
Albany, Georgia 31704
Telephone: Area Code 912/439 5837

Record access procedures:

Written requests from individuals should be addressed to Clothing Section (MAU), Direct Stock Control Branch, Materiel Division, Marine Corps Logistics Support Base, Atlantic, Albany, Georgia 31704.

Contesting record procedures:

The agency's rules for access to records, contesting contents and appealing initial determination by the individual concerned may be obtained from the SYSMANAGER

Record source categories:

Accounting records of the Clothing Section, Direct Support Stock Control Branch, Marine Corps Logistics Support Base, Atlantic, Albany, Georgia, supplemented with information from the employing activity of the individual.

Systems exempted from certain provisions of the act:

None

MMN00002

System name:

Listing of Retired Marine Corps Personnel

System location:

The Commandant of the Marine Corps
Headquarters, U S Marine Corps
Washington, D C 20380

Categories of individuals covered by the system:

All retired members of the Marine Corps, including those former Marines in the receipt of disability benefits from the Veteran's Administration.

Categories of records in the system:

The system is a microfiche listing derived from automated sources, depicting the retiree's name, Social Security Number, grade, mailing address and retirement component code.

Authority for maintenance of the system:

Title 10, U S Code Section 5201

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Officials and employees of the Marine Corps - For making necessary identification of retired members in the performance of their official duties related to retirement and veterans affairs programs, benefits, entitlements, transportation, hospitalization, education, dependent affairs, etc.

Department of Defense and its Components - By officials and employees of the Department in the performance of their official duties.

The Attorney General of the U S - By officials and employees of the Office of the Attorney General in connection with litigation, law enforcement or other matters under the direct jurisdiction of the Department of Justice or as carried out as the legal representative of the Executive Branch agencies.

Courts - By officials of duly established local, state and federal courts as a result of court order pertaining to matters properly with the purview of said court.

Congress of the U S - By the Senate or House of Representatives of the U S or any committee or subcommittee thereof, any joint committee of Congress or subcommittee of joint committee on matters within their jurisdiction requiring disclosure of the files.

The Comptroller General of the U S - By the Comptroller General or any of his authorized representatives in the course of the performance of duties of the General Accounting Office relating to the Marine Corps.

Leatherneck Magazine and Marine Corps Gazette - For maintaining their mailing lists of subscribers to these semi-official, professional publications.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Controlled distribution microfiche listing. Stock copies maintained in locked room.

Retrievability:

Listings in alphabetical order, with officer personnel listed separate from enlisted personnel.

Safeguards:

Building employs security guards. Distribution is strictly controlled.

Retention and disposal:

Destroyed upon being superceded by updated monthly listing.

System manager(s) and address:

Commandant of the Marine Corps, Headquarters, U S Marine Corps, Washington, D C 20380

Notification procedure:

Request by correspondence should be addressed to the Commandant of the Marine Corps (Code MS), Headquarters, U S Marine Corps, Washington, D C 20380. The letter should contain the full name, Social Security Number and signature of the requester.

The individual may visit Headquarters, U S Marine Corps, Columbia Pike & Arlington Ridge Road, Arlington, Virginia, Room 1206. Proof of identification may consist of his active, reserve or retired identification card, his Armed Forces Report of Transfer or Discharge (DD214), his discharge certificate, his driver's license or by providing such other data sufficient to insure that the individual is the subject of the inquiry.

Record access procedures:

Information may be obtained from:
Commandant of the Marine Corps
Headquarters, U S Marine Corps
Columbia Pike & Arlington Ridge Road
Arlington, Virginia 20380
Telephone Area Code 202/694-1043

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

Record source categories:

Staff agencies and subdivisions of Headquarters, U S Marine Corps Veterans Administration

Systems exempted from certain provisions of the act:

None

MMN00005

System name:

Marine Corps Education Program Applicant/Participant Information File

System location:

Primary system - Headquarters, U S Marine Corps (Code OTTI), Washington, D C 20380.

Secondary system - Local activity or command to which individual is assigned (See list of activities in Navy Standard Distribution List OPNAV PO9B3-107).

es are contained in the Navy Standard Distribution List (OPNAV PO9B3-107).

Requests from individuals who have made written application for

flecting information pertaining to the officer's identification, marital and dependency status, education, aptitude testing, training, awards, chronological duty assignments, military orders and memoranda, security clearance, promotions, official photographs, official correspon-

By investigative, security and law enforcement agents of federal agencies who have submitted written requests for access to Marine Corps military personnel records with justification thereof as pertaining to the conduct of government business under their respective

Secondary system - Local activity or command to which individual is assigned (See list of activities in Navy Standard Distribution List OPNAV PO9B3-107).

Categories of individuals covered by the system:

Marine Corps personnel who have submitted written applications for participation in full-time, tuition assistance, off-duty, PREP, or other voluntary education programs.

Categories of records in the system:

File contains copies of individual's applications for participation in an education program; copies of correspondence between the Marine Corps, the individual and academic institutions involved; copies of academic transcripts; miscellaneous academic records and correspondence; test results; previous enrollments and disenrollments; and educational qualification data addressing the individual concerned.

Authority for maintenance of the system:

Title 5, U S Code 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Headquarters, U S Marine Corps and Marine Corps commands, activities and organizations - By officials and employees of the Marine Corps in matters relating to their assigned duties in connection with educational and vocational counseling, recommendation, evaluation, selection and assignment. Also in the management and control of various educational and vocational programs attended by Marine Corps personnel.

Department of Defense and it's Components - By officials and employees of the Department in the performance of their official duties.

Courts - By officials of duly established local, state and federal courts as a result of court order pertaining to matters properly within the purview of said court.

Congress of the U S - By the Senate or the House of Representatives of the U S or any Committee or subcommittee thereof, any joint committee of Congress or subcommittee of joint committee on matters within their jurisdiction requiring disclosure of the files.

The Comptroller General of the U S - By the Comptroller General or any of his authorized representatives in the course of the performance of duties of the General Accounting Office relating to the Marine Corps.

Educational Institutions - By officials and employees of those educational institutions to which the individual applies or which the Marine Corps contracts with, to provide full-time, off-duty or other educational programs.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper files as represented by card files, listings, log books, computer printouts, rosters and file folders stored in filing cabinets.

Retrievability:

Filed alphabetically by last name; by educational institution, educational program or unit of assignment. Cross referenced by SSN

Safeguards:

Records are maintained in limited access working areas and are made available to persons other than the individual addressed only on a strict 'need-to-know' basis. After duty hours storage areas are locked.

Retention and disposal:

Records are maintained a maximum of three years and then destroyed. In instances where individual completes a program in less than three years, with no incurred service obligation, records are destroyed on program completion or transfer of individual from command maintaining record.

System manager(s) and address:

Commandant of the Marine Corps, Headquarters, U S Marine Corps, Washington, D C 20380

Notification procedure:

Information may be obtained from:
Commandant of the Marine Corps
Headquarters, U S Marine Corps (Code OTTI)
Washington, D C 20380
Telephone: Area Code 202/694-2109

Record access procedures:

Requests from individuals should be addressed to the commander of the activity to which they are assigned for duty. Activity addresses are contained in the Navy Standard Distribution List (OPNAV PO9B3-107).

Requests from individuals who have made written application for the Special Education Program (SEP), Advanced Degree Program (ADP), Funded Legal Education Program (FLEP), College Degree Program (CDP), Marine Enlisted Commissioning Education Program (MECEP), Navy Enlisted Scientific Education Program (NESEP), Staff NCO Degree Completion Program (SNCODCP), or Marine Associate Degree Completion Program (MADCOP) should be addressed to the Commandant of the Marine Corps, Headquarters, U S Marine Corps (Code OTTI), Washington, D C 20380.

Written requests for information should contain name of the individual, current address and telephone number, and the academic program originally requested or in which participated.

For personal visits, the individual should provide personal identification.

Contesting record procedures:

Rules for access to records and for contesting contents by the individual concerned may be obtained from the SYSMANAGER

Record source categories:

Application and related documents including correspondence from the individual requesting an education program; correspondence originating in the Educational Services Branch or other Headquarters Marine Corps Staff Agencies; academic transcripts from educational institutions; and educational selection board results.

Systems exempted from certain provisions of the act:

None

MMN00006

System name:

Marine Corps Military Personnel Records (OQR/SRB)

System location:

PRIMARY SYSTEM - The Commandant of the Marine Corps, Headquarters, U S Marine Corps, Washington, D C 20380

Decentralized Segments - Custody of the commanding officer of the organization to which the Marine officer or enlisted individual is assigned for duty or administration of official records (OQR/SRB).

Decentralized Segments - National Personnel Records Center, 9700 Page Blvd., St. Louis, Missouri 63132

Categories of individuals covered by the system:

Headquarters, U S Marine Corps official military personnel records on Marine officers consist of a copy of the appointment acceptance and record and all supporting documents furnished by the officer and generated by Marine Corps procurement procedures necessary to evaluate the individual for a commission in the Marine Corps or Marine Corps Reserve. The system comprises non-automated records reflecting information pertaining to a Marine officer's identification, personal history, marital and dependency status, education, aptitude testing, training; previous employment, records of civil offenses and arrests, appraisals of performance and potential, awards, duty assignments, military orders, security clearances, promotion warrants, official photographs, official correspondence, physical examinations, psychiatric evaluations, record of courts-martial, martial and other disciplinary matters, and other data needed in managing the officer personnel of the Marine Corps and Marine Corps Reserve.

Headquarters, U S Marine Corps official military personnel records on enlisted Marines consist of a duplicate enlistment contract or induction record and all supporting documents furnished by the enlisted Marine or generated by the Marine Corps recruiting procedures necessary to evaluate and approve the Marine for enlistment in the Marine Corps or Marine Corps Reserve. The system comprises non-automated records reflecting information pertaining to an enlisted Marine's identification, personal history, marital and dependency status, education, aptitude testing, training, previous employment, records of civil offenses and arrests, appraisals of performance and potential, awards, duty assignments, military orders, security clearances, promotion warrants, official photographs, official correspondence, physical examinations, psychiatric evaluations, record of courts-martial and other disciplinary matters, and other data needed in managing the enlisted personnel of the Marine Corps and Marine Corps Reserve.

Officer Qualification Record (OQR) is a field record of a Marine Officer which accompanies the officer throughout the various assignments of service with the Marine Corps or Marine Corps Reserve. Maintenance and custody of the OQR rests with the commanding officer of the organization to which the Marine officer is assigned for duty or administration of records. This record consists of the original appointment acceptance and record and non-automated records reflecting information pertaining to the officer's identification, marital and dependency status, education, aptitude testing, training, awards, chronological duty assignments, military orders and memoranda, security clearance, promotions, official photographs, official correspondence, prior separation documents (DD Form 214), leave and earnings statements, periodic print-outs of automated record contents, records of courts-martial and other disciplinary matters and any local orders or memoranda necessary for utilization of the Marine officer's background and experience in accomplishing the mission of the command.

Enlisted Service Record Book (SRB) is a field record of an enlisted Marine which accompanies the enlisted Marine throughout the various assignments of service with the Marine Corps or Marine Corps Reserve, maintenance and custody of the SRB rests with the commanding officer of the organization to which the enlisted Marine is assigned for duty or administration of records. This record consists of the original enlistment contract or record of induction and non-automated records furnished by the enlisted Marine or the recruiting procedures in effecting the enlistment or induction of the Marine. This record reflects information pertaining to the Marine's identification, marital and dependency status, education, aptitude testing, training, awards, chronological duty assignments, duty and conduct evaluations, security clearance, promotions, official photographs, official correspondence, prior separation documents (DD Form 214), Leave and Earnings statements, periodic print-outs of automated record content, courts-martial and other disciplinary matters, any other local military orders or memoranda necessary for the utilization of the Marine's background and experience in accomplishing the mission of the command.

Categories of records in the system:

Headquarters, U S Marine Corps, Official Military Personnel Records on Marine officers and enlisted are retained and maintained at Headquarters, U S Marine Corps, Washington, D C 20380 from acceptance/enlistment/induction to complete severance from the Marine Corps and the Marine Corps Reserve by retirement or discharge.

OQR/SRB's are retained and maintained by the commanding officer of the Marine Corps or Marine Corps Reserve field command to which the Marine is assigned.

Authority for maintenance of the system:

Title 5, U S Code 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Officials and employees of the Marine Corps and Marine Corps Reserve in the performance of their official duties relating to management of personnel resources; screening and Selection for promotion, training and educational programs; administration of appeals, grievances, discipline, litigations and investigations adjudication of claims, benefits and entitlements; administration and management of retirement and veterans affairs programs; and, the providing of requested information from the records to the Veterans Administration, Social Security Administration, Selective Service System, National Guard, Public Health Service (HEW), U. S. Coast Guard, Immigration and Naturalization Service, Treasury Department, Department of Labor, Department of State, General Accounting Office and State Bonus Bureaus in connection with such functions as processing and adjudication of claims, updating of records, administration of work programs, processing naturalization proceedings and verification of eligibility and entitlement to various benefits and programs.

Officials and employees of other components of DoD in the performance of their official duties relating to screening and selection of members for interservice transfer; procedures for appeals for correction of service records; reviews of discharges from the service; physical evaluations; research analyses; litigations and investigations; clemency and awards reviews and evaluations.

By representatives of the Civil Service Commission in connection with evaluation of prospective federal employees.

By court order in connection with matters before a federal, state or municipal court.

By the Comptroller General or his representatives in the course of the performance of duties relating to decisions or procedures by the General Accounting Office on manpower management programs.

By agents of the Federal Bureau of Investigation, Secret Service and office of Naval Intelligence in connection with matters under the jurisdiction of these investigative bodies upon presentation of credentials.

By private organization under government contract to perform random analytical research into specific aspects of military personnel management and administrative procedures.

By investigative, security and law enforcement agents of federal agencies who have submitted written requests for access to Marine Corps military personnel records with justification thereof as pertaining to the conduct of government business under their respective jurisdictions and providing the names of specified agents having a need for such access.

By state and county law enforcement bodies processing applications for employment, when applicants have given written authorization for access to respective military personnel records.

By officials and employees of the National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132 acting as agent for Headquarters, U S Marine Corps in storage and processing of Marine Corps maintained by that center.

By a Marine or former Marine or such individual(s) designated by him/her in writing for whatever purpose access to or release of their respective records is desired.

By the White House, Secretary of Defense, Secretary of the Navy, and members of Congress in response to inquiries regarding individual Marines.

To provide information to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States which has been authorized by law to conduct law enforcement activities pursuant to a request that the agency or instrumentality initiate criminal or civil action against an individual on behalf of the U S Marine Corps, the Department of the Navy, or the Department of Defense.

To provide information to individuals pursuant to a request for assistance in a criminal or civil action against a member of the U S Marine Corps, by the U S Marine Corps, the Department of the Navy, or the Department of Defense.

By officials and employees of the American Red Cross and Navy Relief Society in the performance of their duties. Access will be limited to those portions of the member's record required to effectively assist the member.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders in open shelf filing equipment

Retrievability:

The records maintained at Headquarters, U S Marine Corps (all active and reserve officer records, all temporary disability retired records, all active and organized reserve and Fleet Marine Corps reserve enlisted records of personnel joined/transferred to these components subsequent to 30 June 1974, all former Commandants, all living retired officers (who served in a General Officer grade, records of all personnel separated/retired four months or less) are retrieved by Social Security Number (SSN) and name. Except for OQR's and SRB's of participating members, all other categories of Marine Corps military personnel records are maintained at the National Personnel Records center, St. Louis, Missouri. Those retired to St. Louis prior to 1 January 1964 and/or those with military service numbers (MSN) below 1800000 are retrieved by MSN and name. All other Marine Corps records retired to St. Louis are accessed by MSN and/or SSN, name and are assigned a Registry Number. These records are retrieved by Registry Number.

Safeguards:

Buildings employs security guards, records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal:

Records are permanent. Records maintained at Headquarters, U S Marine Corps are transferred to the National Personnel Records Center, 9700 Page Boulevard, St. Louis, Missouri 63132 four months after separation, placement on the Permanent Disability Retired List, retirement, retirement from Fleet Marine Corps Reserve, death of an officer who served in a General Officer grade and former Marines no longer considered of newsworth status.

System manager(s) and address:

Commandant of the Marine Corps, Headquarters, U S Marine Corps, Washington, D C 20380

Notification procedure:

Correspondence pertaining to records maintained by Headquarters, U S Marine Corps should be addressed to:
Commandant of the Marine Corps (Code MS)
Headquarters, U S Marine Corps
Washington, D C 20380
Telephone: Area Code 202/694-1043

Correspondence pertaining to records maintained by National Personnel Records Center should be addressed to:
Director, National Personnel Records Center

Film vaults are locked when not in use. Only authorized personnel have access. During non-working hours, rooms and buildings containing the films and videotapes are locked.

Commandant of the Marine Corps, Headquarters, U S Marine Corps, Washington, D C 20380
Decentralized systems managed by local commands.

Notification procedure:

The agency's rules for contesting contents and appealing initial determination by the individual concerned may be obtained from the SYSMANAGER.

Record source categories:

Correspondence pertaining to records maintained by National Personnel Records Center should be addressed to:

Director, National Personnel Records Center

9700 Page Boulevard

St. Louis, Missouri 63132

Telephone: Area Code 314/268-7155

Correspondence pertaining to OQR and SRB records maintained by the respective commanding officers should be addressed to the command concerned as is shown in the Standard Navy Distribution List - Part 1 (OPNAV P09B3-107)

Correspondence should contain the full name, Social Security Number and signature of the requester. The individual may visit any of the above activities for review of records. Proof of identification may consist of his active, reserve or retired identification card, his Armed Forces Report of Transfer or Discharge (DD Form 214), his discharge certificate, his driver's license or by providing such other data sufficient to insure that the individual is the subject of the inquiry.

Record access procedures:

Information may be obtained from:

Commandant of the Marine Corps (Code MS)

Headquarters, U S Marine Corps

Columbia Pike & Arlington Ridge Road

Arlington, Virginia 20380

Telephone: Area Code 202/694-1043

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

Record source categories:

Staff agencies and subdivisions of Headquarters, U S Marine Corps
Marine Corps commands and organizations
other agencies of federal, state, and local governments
Medical reports
Correspondence from financial and other commercial enterprises
Correspondence and records of educational institutions
Correspondence of private citizens addressed directly to the Marine Corps or via the U S Congress and other agencies
Investigations to determine suitability for enlistment, security clearances, and special assignments
Investigations related to disciplinary proceedings

Systems exempted from certain provisions of the act:

None

MMN00007

System name:

Marine Corps Motion Picture/Instructional Television (ITV) Archives

System location:

Motion Picture and TV Archives, Marine Corps Development and Education Command, Quantico, Virginia

Categories of individuals covered by the system:

Personnel who have been photographed while participating in Marine Corps related events.

Categories of records in the system:

The archives contains motion picture photography and videotape footage documenting Marine Corps related events.

Authority for maintenance of the system:

Title 5, U S Code 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Material contained in the archives is used for Marine Corps reports, education programs, public information, training programs, recruiting purposes, and for general release to the public. Material is available to other DOD and Federal agencies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Films and videotapes are stored on film racks in film vaults.

Retrievability:

Personnel identified in the films and videotapes are listed alphabetically in an index system.

Safeguards:

Film vaults are locked when not in use. Only authorized personnel have access. During non-working hours, rooms and buildings containing the films and videotapes are locked.

Retention and disposal:

Films and videotapes are maintained indefinitely.

System manager(s) and address:

Commandant of the Marine Corps, Headquarters, U S Marine Corps, Washington, D C 20380

Notification procedure:

Information may be obtained from:

Commandant of the Marine Corps (Code HD)

Headquarters, U. S Marine Corps

washington, D C 20380

Telephone: Area Code 202/433-3027

Record access procedures:

Requests should be addressed to: Commandant of the Marine Corps (Code HD), Headquarters, U S Marine Corps, Washington, D C 20380

Written requests should contain full name of the individual, current address and telephone number.

For personal visits, the individual concerned should contact the Director of History and Museums Division, (Code HD), Headquarters, U S Marine Corps, Washington, D C 20380, Telephone: Area Code: 202-433-2616

Contesting record procedures:

Rules for access to records and for contesting contents by the individual concerned may be obtained from the SYSMANAGER

Record source categories:

Material within the archives is from Marine Corps Field Motion Picture and ITV Facilities.

Systems exempted from certain provisions of the act:

None

MMN00008

System name:

Marine Corps Still Photographic Archives

System location:

Director of History and Museums Division (Code HD), Headquarters, U. S. Marine Corps, Building 159E, Washington Navy Yard, Washington, D C 20380

Decentralized system - organizational elements of the U. S. Marine Corps maintaining still photographic files.

Categories of individuals covered by the system:

Personnel who have been photographed while participating in Marine Corps related events.

Categories of records in the system:

The Archives contains documentary photography of Marine Corps related events.

Authority for maintenance of the system:

Title 5, U S Code 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Material contained in the archives is used for Marine Corps reports, education programs, manuals, public information, training programs, recruiting purposes, and for general release to the public. Material is available to other DOD and Federal agencies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Photographic records are maintained in large Dibold file machines.

Retrievability:

Personnel identified in the photographic records are listed alphabetically in an index system.

Safeguards:

Photographic records are maintained in large Dibold file machines which are locked when not in use. Only authorized personnel have access. During non-working hours, rooms containing the records are locked.

Retention and disposal:

A 25-year archives is maintained. Older records are trans- ferred to the National Archives, Washington, D C

System manager(s) and address:

Commandant of the Marine Corps, Headquarters, U S Marine Corps, Washington, D C 20380

Decentralized systems managed by local commands.

Notification procedure:

Information may be obtained from:

Commandant of the Marine Corps (Code HD)

Headquarters, U S Marine Corps

Washington, D C 20380

Telephone: Area Code 202/433-3027

Record access procedures:

Requests should be addressed to: Commandant of the Marine Corps (Code HD), Headquarters, U S Marine Corps, Washington, D C 20380

Written requests should contain full name of the individual, current address and telephone number.

For personal visits the individual should proceed to: Washington Navy Yard, Building 159E, Washington, D C

Contesting record procedures:

Rules for access to records and for contesting contents by the individual concerned may be obtained from the SYSMANAGER

Record source categories:

All material within the archives is from either Marine Corps Field Photographic Facilities or from Private donations.

Systems exempted from certain provisions of the act:

None

MMT00002

System name:

Marine Corps Institute Correspondence Training Records System

System location:

Marine Corps Institute, Box 1775, Washington, D. C. 20013

Categories of individuals covered by the system:

All enrollees in Marine Corps Institute correspondence courses.

Categories of records in the system:

Records contain information for identifying enrollees, their addresses, their progress in the course of study, and the results of their final examinations.

Authority for maintenance of the system:

Title 5, U. S. Code 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Headquarters, U. S. Marine Corps and Marine Corps commands, activities, and organizations for use by officials and employees of the Marine Corps in matters relating to their assigned duties.

Upon request and with the consent of the individual concerned, transcripts of course completions are provided to academic institutions for evaluation for academic credit.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

File folders, microfiche, magnetic tape, and magnetic disks.

Retrievability:

Name and SSN.

Safeguards:

Access provided on a need to know basis only. During non-working hours, the doors to the Institute are locked.

Retention and disposal:

Retained indefinitely.

System manager(s) and address:

Student Services Officer, Marine Corps Institute, Marine Barracks, Box 1775, Washington, D. C. 20013

Notification procedure:

Apply in writing to SYSMANAGER. Provide full name, social security number or service number, date of completion or enrollment, course number, and course title.

Record access procedures:

The agency's rules for access to records may be obtained from the SYSMANAGER.

Contesting record procedures:

The agency's rules for contesting contents and appealing initial determination by the individual concerned may be obtained from the SYSMANAGER.

Record source categories:

Information in the system is obtained from enrollment applications and subsequent forms submitted by the enrollee, from the individual's commanding officer, from the Marine Corps Manpower Management System, and from Marine Corps Automated Services Center, Kansas City.

Systems exempted from certain provisions of the act:

None

UNITED STATES NAVY

N00013 7

System name:

Litigation Case File

System location:

Office of the Judge Advocate General, Department of the Navy, Washington, D.C. 20370.

Categories of individuals covered by the system:

All those individuals who have brought suit against, or have been involved in litigation with the United States or its officers or employees concerning matters related to the Department of the Navy, in the Federal Civil Court System, excepting those cases arising, in admiralty, or patent, under the Federal Tort Claims Act, and all matters under the responsibility of the General Counsel's Office.

Categories of records in the system:

All pleadings, motions, briefs, orders, decisions, memoranda, opinions, supporting documentation and related materials involved in representing the United States Navy and Marine Corps in the Federal Court System.

Authority for maintenance of the system:

5 U.S.C. 301, 10 U.S.C. 5148, and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The collected information is used to defend the Department of the NAVY IN CIVIL suits filed against it in the Federal Court System. Routine users of the information, in addition to the Litigation Division, Office of the Judge Advocate General of the Navy, are the Department of Justice and the United States Attorneys offices assigned to the particular case.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in file folders.

Retrievability:

Retrievable by last name of the litigant.

Safeguards:

Records are maintained in file cabinets accessible only to persons responsible for servicing the record system in performing their official duties.

Retention and disposal:

Retained in office files for two years, then retired to Washington National Records Center, Washington, D.C. 20409; detroy 10 years after final action, on the case.

System manager(s) and address:

Judge Advocate General, Department of the Navy, Washington, D.C. 20370

Notification procedure:

Information may be obtained from the system manager.

Record access procedures:

Access is not permitted to this system. See 5 U.S.C.C 552a (d) (5).

Contesting record procedures:

The Navy's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the system manager.

Record source categories:

Navy Military Personnel Records Center, St. Louise; Department of Justice, opposing counsel.

Systems exempted from certain provisions of the act: None.

N00018 10

System manager(s) and address:

Central Registery -- Chief, Bureau of Medicine and Surgery, Navy Department, Washington, D.C. 20372, -- and commanding officers of

management, supervision and administration of Navy enlisted personnel and the operation of personnel affairs and functions.

Officials and employees of other Departments and Agencies of the

All Naval Officers; commissioned, warrant, active, inactive; officer candidates, and Naval Reserve Officer Training Corps personnel.

Categories of records in the system: Computer file contains data

Systems exempted from certain provisions of the act: None.

N00018 10

System name:

Family Advocacy Program System (42 FR51256)

System location:

Central Registry -- Chief, Burau of Medicine and Surgery, Navy Department, Washington, D. C. 20372. Individual Case Files -- Naval Regional Medical Centers, naval hospitals and clinics (formerly dispensaries), and duty stations of the military sponsors. (Mailing addresses of duty stations are listed in the DOD directory in the Appendix to the Component System Notice.)

Categories of individuals covered by the system:

All beneficiaries entitled to care at Navy medical and dental facilities whose abuse or neglect is brought to the attention of appropriate authorities, and all persons suspected of abusing or neglecting such beneficiaries.

Categories of records in the system:

Medical records of suspected and confirmed cases of family member abuse or neglect, also, investigative reports, correspondence, family advocacy committee reports, follow-up and evaluative reports, and any other supportive data assembled relevant to individual family advocacy program files.

Authority for maintenance of the system:

5 U.S.C. 301, 10 U.S.C. 5132, and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Officials and employees duties relating to health and medical treatment of members and former members of the uniformed services, civilians, and dependents receiving medical care under Navy auspices; determining qualifications and suitability of Navy and Marine Corps personnel for various programs, duty assignments, and fitness for continued military service; and performance of research studies of compilation of statistical data.

Officials and employees of other components of the Department of Defense and other Departments and agencies and the Executive Branch of government, in the performance of their official duties relating to the coordination of family advocacy programs, medical care, and researchconcerning family member abuse and neglect.

The Attorney General of the United States or his authorized representatives, in connection with litigation or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies.

Federal, state or local government agencies when it is deemed appropriate to utilize civilian resources in the counseling and treatment of individuals or families involved in abuse or neglect or when it is deemed appropriate or necessary to refer a case to civilian authorities for civil or criminal law enforcement.

Authorized officials and employees of the National Academy of Sciences, and private organizations and individuals for authorized health research in the interest of the federal government and the public; and authorized surveying bodies for professional certification and accreditation. government and the public; and authorized surveying bodies for professional certification and accreditation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records may be stored in file folders, microfilm, magnetic tape, punched cards, machine lists, discs, and other computerized or machine readable media.

Retrievability:

Records are retrieved by name of the abused or neglected family member and the social security number of the sponsor or guardian.

Safeguards:

Records are maintained in various kinds of filing equipment in specified monitored or controlled access rooms or areas. Public access is not permitted. Records are accessible only to authorized personnel who are properly screened and trained, and on a need-to-know basis, only.

Computer terminals are located in supervised areas, with access controlled by password or other user code system.

Retention and disposal:

Family advocacy case records are maintained at the activity having cognizance of the case for a period of 5 years and are then destroyed. Central registry records are permanently retained under the control of the Bureau of Medicine and Surgery.

System manager(s) and address:

Central Registery -- Chief, Bureau of Medicine and Surgery, Navy Department, Washington, D.C. 20372, -- and commanding officers of medical treatment facilities under the command of the Chief, Bureau of Medicine and Surgery, where the treatment and reporting occurred.

Notification procedure:

Informational requests should be directed to the cognizant system manager(s). Requests should contain the full name of the individual and social security number of the military or civilian sponsor or guardian, date and place of treament, and alleged reporting of incident. The requester may visit the office of the Chief, Bureau of Medicine and Surgery, 23rd and 'E' Streets, N.W., Washington, D.C. and the commading officers of the individual medical treatment facilities to obtain information on whether or not the system contains records pertaining to hime or her. Armed Forces I.D. card or other type of identification bearing the picture and signature of the requested will be considered adequate proof of identity.

Record access procedures:

The agency's rules for access to records may be obtained from the system manager.

Contesting record procedures:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

Record source categories:

Reports from physicians and othe medical department personnel regarding the results of physical, dental, mental, and other examinations, treatment, evaluation, consultation, laboratory, x-ray, and special studies; reports and information from other sources, including educational institutions, medical institutions, law enforcement agencies, public and private health and welfare agencies, and witnesses.

Systems exempted from certain provisions of the act:

Part of this system may be exempt under 5 U.S.C. 552a(k) (2) and (5), as applicable. For additional information, contact the system manager(s).

N00022ENLMAUSTSYS

System name:

Enlisted Master File Automated System

System location:

Bureau of Naval Personnel, Navy Department, Washington, D. C. 20370; Personnel Management Information Center, New Orleans, LA 70159; Naval Reserve Personnel Center, New Orleans, LA 70159

Categories of individuals covered by the system:

All Navy Enlisted Personnel: Active and Inactive

Categories of records in the system:

Computer file contains data concerning enlisted assignment, planning, programming, accounting, promotions, career development, procurement, education, training, retirement, performance, security, personal data, qualifications, programming, and enlisted reserve drill data. The system also contains Activity Personnel Diaries, personnel accounting documents, Reserve Unit Drill reports and other personnel transaction documents necessary to maintain file accuracy and currency; and all computer extracts. microform, and printed reports therefrom.

Authority for maintenance of the system:

5 USC 301 Departmental Regulations

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Officials and employees of the Department of the Navy in the performance of their official duties related to the Navy's military management program. of Navy enlisted personnel and the operation of personnel affairs and functions; the design, development, maintenance and operation of the automated system of records.

Comptroller General or any of his authorized representatives, upon request, in the course of the performance of duties of the General Accounting Office relating to the management, supervision, and administration of Navy enlisted personnel.

The Attorney General of the United States or his authorized representatives in connection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies.

Officials and employees of other components of the Department of Defense in the performance of their official duties related to the

management, supervision and administration of Navy enlisted personnel and the operation of personnel affairs and functions.

Officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management, supervision and administration of Navy enlisted personnel and the operation of personnel affairs and functions. The Senate or the House of Representatives of the United States or any committee or subcommittee therof, on matters within their jurisdiction requiring disclosure of the files or records of Navy enlisted personnel.

Such civilian contractors and their employees as are or may be operating in accordance with an approved, official contract with the U. S. Government. When required by Federal statute, by Executive order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Automated records are stored on magnetic tapes, disks, drums and on punched cards.

Printed reports and other related documents supporting the system are stored in authorized areas only.

Retrievability:

Automated records are retrieved by Social Security Account Number.

Safeguards:

Within the computer center, controls have been established to desseminate computer output over the counter only to authorized users. Specific procedures are also in forge for the disposal of computer output. Output material in the sensitive category, i.e., inadvertant or unauthorized disclosure will result in harm, embarrassment, inconvience or unfairness to the individual, will be shredded. Computer files are kept in a secure, continuously manned area and are accessible only to authorized computer operators, programmers, enlisted managment, placement, and distributing personnel who are directed to respond to valid, official requests for data. These accesses are controlled and monitored by the Security System.

Retention and disposal:

Automated records are retained in accordance with MAPMIS manual (periods range from 1 month to permanent).

System manager(s) and address:

Chief of Naval Personnel, Navy Department, Washington, D. C. 20370

Notification procedure:

Requests by correspondence from active duty enlisted personnel shall be addressed to : Chief of Naval Personnel (Attn: Privacy Act Coordinator), Navy Department, Washington, D. C. 20370; requests by correspondence from inactive duty and reserve personnel shall be addressed to: Commanding Officer, Naval Reserve Personnel Center (Attn: Privacy Act Coordinator), New Orleans, La 70159; request shall contain full name, social security account number, rank, status, and signature of requestor.

Record access procedures:

The Agency's rules for access to records may be obtained from SYSMANAGER.

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

Record source categories:

Officials and employees of the Department of the Navy and Department of Defense and Components thereof in performance of their office duties and as specified by current instructions and regulations promulgated by competent authority; educational institutions.

Systems exempted from certain provisions of the act:

None

N00022OFFMAUSTSYS

System name:

Officer Master File Automated System

System location:

Bureau of Naval Personnel, Navy Department, Washington, D.C. 20370; Personnel Management Information Center, New Orleans, LA 70159; Naval Reserve Personnel Center, New Orleans, LA 70159

Categories of individuals covered by the system:

All Naval Officers; commissioned, warrant, active, inactive; officer candidates, and Naval Reserve Officer Training Corps personnel.

Categories of records in the system: Computer file contains data concerning officer assignment, planning, accounting, promotions, career development, procurement, education, training, retirement, performance, security, personal data, qualifications, programming, and Reserve Officer drill data. System also contains activity Personnel Diaries, personnel accounting documents, Reserve Unit Drill Reports and other personnel transaction documents necessary to maintain file accuracy and currency; and all computer file extracts, microform and printed reports therefrom.

Authority for maintenance of the system:

Title 5 USC 301 Departmental Regulations

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Officials and employees of the Department of the Navy in the performance of their official duties related to the management, supervision, and administration of Navy officer personnel and the operation of personnel affairs and functions; the design, development, maintenance and operation of the automated system of records.

The Comptroller General or any of his authorized representatives, upon request, in the course of the performance of duties of the General Accounting Office relating to the Navy's military manpower management program. The Attorney General of the United States or his authorized representatives in connection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executvie Branch agencies.

Officials and employees of other components of the Department of Defense in the performance of their official duties related to the management, supervision and administration of Navy officer personnel and the operation of personnel affairs and functions.

Officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management, supervision and administration of Navy officer personnel and the operation of personnel affairs and functions. The Senate or the House of Representatives of the United States or any committee or subcommittee therof, on matters within their jurisdiction requiring disclosure of the files or records of Navy officer personnel.

Such Civilain Contractors and their employees as are or may be operating in accordance with an approved, official contract with the U.S. Government. When required by Federal statute, by Executive order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Automated Records are stored on magnetic tapes, disks, drums and on punched cards. Printed reports and other paper documents supporting the system are stored in authorized personnel areas only.

Retrievability:

Automated records are retrieved by Social Security Account number.

Safeguards:

Within the computer center, controls have been established to disseminate computer output over the counter only to authorized users. Specific procedures are also in force for the disposal of computer output. Output material in the sensitive category, i.e., inadvertent or unauthorized disclosure that would result in harm, embarrasment, inconvenience or unfairness to the indiviual, will be shredded. Computer files are kept in a secure, continuously manned area and are distributing personnel who are directed to respond to valid, official request for data. These accesses are controlled and monitored by the Security System.

Retention and disposal:

Records are retained in accordance with MAPMIS Manual (periods range from 1 month to permanent).

System manager(s) and address:

Chief of Naval Personnel, Department of the Navy, Washington, D.C. 20370.

Notification procedure:

Active duty Navy Officers/Officer Candidates shall request by correspondence addressed to: Chief of Naval Personnel (Attn: Privacy Act Coordinator) Navy Department, Washington, D.C. 20370. Naval Reserve and retired officers shall request by correspondence

from commanding officer, Naval Reserve Personnel Center, New Orleans, LA 70159. Requests shall contain full name, Social Security

System location:

Office of Research and Statistics, Social Security Administration-used for statistical analyses of impact of military service and use of GI Bill benefits on long term earning.

None

S322.20DLA-LZ

from commanding officer, Naval Reserve Personnel Center, New Orleans, LA 70159. Requests shall contain full name, Social Security Account Number, rank, status, address and signature of the requestor.

Record access procedures:

The Agency's rules for access to records may be obtained from SYSMANAGER.

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

Record source categories:

Officials and employees of the Department of the Navy, Department of Defense and components therof, in performance of their official duties and as specified by current Instructions and Regulation promulgated by competent authority; official records of professional qualifications; Educational institutions.

Systems exempted from certain provisions of the act:

None

N00062 LORR 1130

System name:

Low Quality Recruiting Report (CNET Report 1130-1)

System location:

Commander, Naval Recruiting Command 4015 Wilson Blvd Arlington, Va 22203

Categories of individuals covered by the system:

Reports of enlisted performance

Categories of records in the system:

Reports of performance

Authority for maintenance of the system:

5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by the Navy Recruiting Command and the Chief of Naval Education and Training, Chief of Naval Technical Training, and the Recruit Training Center to evaluate the quality of recruits with a view towards improvement of recruitment and training.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

File Folder

Retrievability:

Random filing by submitting activity

Safeguards:

Maintained in locked safe in controlled building

Retention and disposal:

Two years

System manager(s) and address:

Commander Navy Recruiting Command

Notification procedure:

By individual request upon presentation of letter or identification. Must provide program and name.

Record access procedures:

The agency's rules for access to records may be obtained from the System Manager

Contesting record procedures:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the System Manager.

Record source categories:

Service Record entries, Commanding Officers performance evaluations

Systems exempted from certain provisions of the act:

None

DEFENSE LOGISTICS AGENCY

S322.10DLA-LZ

System name:

MARDAC Data Base

System location:

Primary location: W.R. Church Computer Center, Navy Postgraduate School, Monterey, CA 93940.

Back-up locations for processing: Air Force Data Services Center, Room 1D167, The Pentagon, Washington, D.C. 20330.

U.S. Army Management Systems Support Agency, Room BD972, The Pentagon, Washington, D.C. 20310.

National Military Command Systems Support Center, Room BE685, The Pentagon, Washington, D.C. 20331.

Back-up files maintained at two offices of the DoD Manpower Research and Data Anaylsis Center-7th Floor, 300 N. Washington St., Alexandria, VA 22314 and 2nd Floor, 550 Camino El Estero, Monterey, CA 93940.

Selected historic files are maintained at Air Force Data Services Center, Room 1D167, The Pentagon, Washington, D.C. pursuant to court order in IBM anti-trust case. These files will be withdrawn from current location when legally permissible.

Decentralized segments-military personnel research centers, and military personnel centers of the services; selected civilian contractors with research contracts in manpower area; other Federal agencies.

Categories of individuals covered by the system:

All officer and enlisted personnel who served on active duty from July 1, 1968 and later; or who have been a member of a reserve component since July 1975; or are retired reservists; participants in Project 100,000 and Project Transition and the evaluation control groups for these programs; all individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later; DoD civilian employees or civiliian employees separated since January 1, 1971; all veterans who have utilized Vietnam-era GI Bill education and training entitlements, who visited a State Employment Service office since July 1,1971, or who participated in a Department of Labor special training program since July 1, 1971; all individuals who ever participated in an educational program sponsored by the U.S. Armed Forces Institute, all individuals who participated in the Armed Forces Vocational Aptitude Testing Programs at the high school level since September 1969, individuals who responded to various paid advertising campaigns seeking enlistment information since July 1, 1973; participants in the DHEW, Office of Education and Longitudinal Survey.

Categories of records in the system:

Name, Service Number, Selective Service Number, Social Security Account Number, demographic information such as home town, age, sex, race, and educational level; civilian occupational information, military personnel information such as rank, length of service, military occupation; aptitude scores, post-service education, training, and employment information for veterans; participation in various in-service education and training programs.

Authority for maintenance of the system:

10 U.S.C. 136.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of the system of records is to provide a longitudinal statistical analysis capability for assessing military manpower trends and evaluation programs impacting of military personnel, potential enlistees, and veterans.

Manpower Research and Data Analysis Center-used to analyze accession patterns and trends, promotion and occupation patterns and trends, loss patterns and trends, qualification rates, effectiveness of recruiting programs, participation in education and training programs, force characteristics, post-service experiences of veterans, evaluation of military special pays and bonuses; evaluation of special programs affecting military personnel; to select sample population for surveys; to provide statistical data to OMB, GAO, the Military Services, DoD civilian contractors, educational institutions and other Federal agencies.

Personnel Research and Personnel Management activities of the Military Services-uses are same as those specified above.

Veterans Administration, Management Sciences Staff, Reports and Statistics Service, Office of the Comptroller-used to select sample for surveys asking veterans about the use of veterans benefits and satisfaction with VA services.

Office of Research and Statistics, Social Security Administration-used for statistical analyses of impact of military service and use of GI Bill benefits on long term earning.

DoD Civilian Contractors-used by contractors preforming research on manpower problems for statistical analyses.

Aggregate data and/or individual records contained in the record system may be transferred to other Federal agencies having legitimate use for such information and applying appropriate safeguards to protect data so provided.

Records may be disclosed to the Civil Service Commission concerning pay, benefits, retirement deductions; and other information necessary for the Commission to carry out its Government-wide personnel management functions.

Any record contained in the system of records may be transferred to any other component of the Department of Defense having the need-to-know in the performance of official business.

Name and address information of former military personnel obtained from the Veterans Administration or the Military Department may be released to a number of DoD Components for use in attempting to recruit and reenlist prior service personnel through direct contact methods. These components are as follows: U.S. Army Recruiting Command; U.S. Army Forces Command; Navy Recruiting Command: Chief of Naval Personnel; Chief of Naval Reserve; U.S. Air Force Recruiting Service; U.S. Air Force Tactical Air Command; Headquarters Air Force Reserve; National Guard Bureau; Headquarters, U.S. Marine Corps; District Directors, U.S. Marine Corps; Commanding General, 4th Marine Division; Commanding General, 4th Marine Air Wing: Commandant, U.S. Coast Guard.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic computer tape.

Retrievability:

Retrievable by name, SSAN, age, occupation, or any other data element contained in system.

Safeguards:

Primary location-at W.R. Church Computer Center, tapes are stored in a locked cage in machine room, which is a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

At back-up locations in Alexandria, VA and Monterey, CA tapes are stored in rooms protected with cypher locks, buildings are locked after hours, and only properly cleared and authorized personnel have access.

The Air Force Data Services Center, the U.S. Army Management Systems Support Agency, and the National Command Systems Support Center are all TOP SECRET facilities.

Retention and disposal:

Files constitute a historical data base and are permanent.

System manager(s) and address:

Director, Department of Defense Manpower Research and Data Analysis Center (MARDAC), 550 Camino El Estero, Monterey, CA 93940.

Notification procedure:

Information may be obtained from: Director, Department of Defense Manpower Research and Data Analysis Center, 550 Camino El Estero, Monterey, CA 93940. Telephone: Area Code 408/646-2951.

Record access procedures:

Requests from individuals should be addressed to Director, MARDAC, 550 Camino El Estero, Monterey, CA 93940.

Written requests for information should contain the full name, Social Security Account Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license, or military or other ID card.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSTEM MANAGER.

Record source categories:

The Military Services, the Veterans Administration, the Office of Education of the Department of HEW, from individuals via survey questionnaires, the Department of Labor.

Systems exempted from certain provisions of the act:

None

S322.20DLA-LZ

System name:

Reenlistment Eligible File (RECRUIT).

System location:

W. R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93940.

Back-up file-Department of Defense Manpower Research and Data Analysis Center, 7th Floor, 300 N. Washington St., Alexandria, VA 22314.

Back-up file-Department of Defense Manpower Research and Data Analysis Center, 550 Camino El Estero, Monterey, CA 93940.

Categories of individuals covered by the system:

Former enlisted personnel of the military services who separated from active duty during the immediately preceding forty-eight months and who are eligible for immediate reenlistment.

Categories of records in the system:

Social Security Account Number, Name, Service, Date of Birth, and Date of Separation.

Authority for maintenance of the system:

10 U.S.C. 136

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of the system is to assist recruiters in reenlisting prior-service personnel.

Department of Defense Manpower Research and Data Analysis Center, used to provide to recruiters in the military service and the Coast Guard information on individuals eligible for immediate reenlistment; for statistical analyses of prior-service reenlistment trends and of demographic characteristics of applicants for reenlistment; such analyses may require merging with other record systems.

Any individual records contained in the system might be transferred to any component of the Department of Defense having a need to know in the performance of official business.

Any record may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Most recent thirty-six months separation stored on magnetic disc; full forty-eight months stored on magnetic tape.

Retrievability:

Retrievable by Social Security Account Number.

Safeguards:

DISC File is protected by password access and hard-wire system. Alexandria, Virginia location has tape storage areas in locked room accessible only to authorized personnel; building is locked after hours.

Monterey, California location has tape storage area in locked room accessible only to authorized personnel; building is locked after hours.

Recruiters making telephone inquiries must have valid recruiter identification and call back number.

Retention and disposal:

Records more than forty-eight months old are purged from the system.

System manager(s) and address:

Director, Manpower Research and Data Analysis Center, 550 Camino El Estero, Monterey, California 93940.

Notification procedure:

Information may be obtained from: Manager, RECRUIT system, Manpower Research and Data Analysis Center, 300 N. Washington St., 7th Floor, Alexandria, VA 22314, Telephone: Area Code 703/325-0490.

Record access procedures:

Requests from individuals should be addressed to: Manager, RECRUIT System, Manpower Research and Data Analysis Center, 300 N. Washington Street, Alexandria, VA 22314.

Written request for information should contain the full name, current address, telephone number, Social Security Account Number, and date of separation of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license.

Contesting record procedures:

The Agency's rules for access to records and for contesting con-

Requests from individuals should be addressed to: Chief, Market and Survey Research Division, Manpower Research and Data Anal-

DIS file administration and management documents accounting for the disclosure, control and access to a file, such as warning sheets, separators, forwarding correspondence and accounting records re-

Criminal information received by DIS personnel in the course of their duties which is of direct interest to a local law enforcement agency and therefore furnished to that agency orally or by letter.

Users of DIS investigative information are:

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSTEM MANAGER.

Record source categories:

The data contained in the system are obtained from the Army, Navy, Air Force, Marine Corps, and Coast Guard.

Systems exempted from certain provisions of the act:

None

S322-35DLA-LZ

System name:

Survey Data Base.

System location:

Primary Location-W.R. Church Computer Center, Naval Postgraduate School, Monterey, California 93940.

Decentralized locations for back-up files-Department of Defense, Manpower Research and Data Analysis Center, 7th Floor, 300 N. Washington St., Alexandria, Virginia 22314 and 2nd Floor, 550 Camino El Estero, Monterey, California 93940.

Categories of individuals covered by the system:

Individuals who selected at random for survey administration and who completed survey forms. Survey data is collected on a periodic basis. Current data were collected at selected Armed Forces Entrance and Examining Stations (AFEES), during September 1974, May 1975, or since January 1975; additional data were collected by Gilbert Youth Organization (civilian contractor) in nation-wide surveys during May or November 1973, or May or November 1974.

Categories of records in the system:

SSAN and responses to survey items dealing with attitudes toward the military.

Authority for maintenance of the system:

10 U.S.C. 136.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of the file is to sample attitudes toward enlistment in the military and determine reasons for enlistment decisions.

Manpower Research and Data Analysis Center-used to analyze trends in enlistment motivation, attitudes toward military service, attractiveness of various enlistment incentives; survey files are linked with military personnel inventory, gain, and loss files to statistically relate survey data to later advancement, attritions, and reenlistment patterns.

Any individual record in the system may be transferred to any component of the Department of Defense having the need to know in the performance of official business.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic Computer Tape

Retrievability:

Records can be retrieved by Service of accession, period of survey, race, sex, education level, or Social Security Account Number.

Safeguards:

Tapes stored at the primary location are kept in a locked storage cage in a controlled access area; tapes stored at the back-up locations are kept in locked storage areas in buildings which are locked after hours.

Retention and disposal:

Records are permanent. Survey answer sheets which are opscanned to create tape are destroyed after tape is created.

System manager(s) and address:

Director, Manpower Research and Data Anaylsis Center, 550 Camino El Estero, Monterey, California 93940.

Notification procedure:

Information may be obtained from: Chief, Market and Survey Research Division, Manpower Research and Data Analysis Center, 300 N. Washington St., 7th Floor, Alexandria, Virginia 22314, Telephone: Area Code 703/325-0490.

Record access procedures:

Requests from individuals should be addressed to: Chief, Market and Survey Research Division, Manpower Research and Data Analysis Center, 300 N. Washington St., Alexandria, VA 22314.

Written requests for information should contain the full name, Social Security Account Number, and current address and telephone number of the individual. In addition, the approximate date and location where the survey was completed should be provided.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other ID card.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSTEM MANAGER.

Record source categories:

The survey information is provided by the individual; additional data which are linked to survey data as described in the routine uses section, are obtained from the military services.

Systems exempted from certain provisions of the act:

None

DEFENSE INVESTIGATIVE SERVICE

V5-01

System name:

V5-01 Investigative Files System

System location:

Defense Investigative Service (DIS), Investigative Files Division, (D0840) P.O. Box 1211, Baltimore, MD 21203 has primary control over the system and is responsible for the maintenance of completed investigative records. The Special Investigations Center, 1000 Independence Ave. S.W., Washington, DC 20314 maintains limited categories of these records. DIS operational centers; District Offices; Field Offices; Resident Agencies and various DIS headquarters staff elements originate and have temporary control over portions of records.

Categories of individuals covered by the system:

Military personnel who are on active duty, applicants for enlistment or appointment and reservists and National Guardsmen; DoD civilian personnel who are paid from appropriated funds; industrial or contractor personnel who are working in private industry in firms which have contracts involving access to classified DoD information or installations; Red Cross personnel and personnel paid from nonappropriated funds who have DoD affiliation; ROTC cadets; former military personnel; individuals residing on, having authorized official access to, or conducting or operating any business or other functions at any DoD installation or facility.

Individuals not affiliated with the Department of Defense when, during the previous year, their activities have directly threatened the functions, property or personnel of the DoD or they have engaged in, or conspired to engage in, criminal acts on DoD installations or directed at the DoD.

Categories of records in the system:

Official Reports of Investigations (ROI's) prepared by DIS or other DoD, Federal, state or local official investigative activities

DIS Information Summary Reports (ISR's) which record unsolicited information received by DIS concerning a person or incident which is of direct interest to other DoD components or Federal agencies. (When such information is received by DIS it is reported as it was received, without investigation or confirmation, by ISR and transmitted to the interested activity.)

Attachments to ROI's or ISR's including exhibits, subject or interviewee statements, police records, medical records, fingerprint cards, credit bureau reports, employment records, education records, release statements, summaries of or extracts from other similar records or reports.

Case control and management documents which are not reports of investigation, but that serve as the basis for investigation, or serve to guide and facilitate investigative activity, including documents providing the data to open and conduct the case, such as the Personnel Security Investigation Request; documents, initiated by the subject such as personnel history documents, and fingerprint records; and documents used in case management and control, such as release statements, case transfer forms, and documents directing the inquiry.

DIS file administration and management documents accounting for the disclosure, control and access to a file, such as warning sheets, separators, forwarding correspondence and accounting records required by 5 U.S.C. 552 and 552a.

Cross references to chronological correspondence files disclosing unfavorable and administrative action taken based on DIS investigations.

Authority for maintenance of the system:

Section 301 of 5 U.S.C. Departmental Regulations

Section 310 of 44 U.S.C. Records Management

Sections 2, 3, 4, 5, 6, 8 and 9, Executive Order 10450, Security Requirements for Government Employment.

Section 6(A), Executive Order 11652, Classification and Declassification of National Security Information and Material.

Sections III and V, DoD Directive 5105.42, Charter for the Defense Investigative Service.

Section IIIA, DoD Directive 5200.2b, Defense Investigative Program.

Section IV A and B, DoD Directive 5200.27, Acquisition of Information Concerning Persons and Organizations not Affiliated with the Department of Defense.

Section IX, DoD Directive 5210.7, Department of Defense Civilian Applicant and Employee Security Program.

Section I, DoD Directive 5210.8, Policy on Investigation and Clearance of DoD Personnel for Access to Classified Defense Information.

Section VII, DoD Directive 5210.9, Military Personnel Security Program

Section V A 2., DoD Instruction 5210.25, Security Acceptability of American National Red Cross Employees at Department of Defense Installations and Activities.

Section I, DoD Instruction 5210.26, Investigation of American National Red Cross Employees on Duty at Department of Defense Installations and Activities in the Zone of Interior.

Encl 3, paragraphs b 2 and 3, DoD Directive 5210.41, Security Criteria and Standards for Protecting Nuclear Weapons.

Section III, DoD Directive 5210.45, Personnel Security in the National Security Agency.

Section VII, DoD Directive 5210.55, Selection of Department of Defense Military and Civilian Personnel for Assignment to Presidential Support Activities.

Section IV, C, DoD Directive 5220.6, Industrial Personnel Security Clearance Program.

Section V B, DoD Instruction 5220.28, Application of Special Eligibility and Clearance Requirements in the SIOP-ESI Program for Contractor Employees.

Section 1 (a) and 2, Executive Order 10865, Safeguarding Classified Information Within Industry.

Section III, DoD Instruction 5030.34, Agreement between the Department of Defense concerning Protection of the President and Other Officials.

Paragraph 10, Director of Central Intelligence Directive No. 1/14, Uniform Personnel Security Standards and Practices Governing Access to Sensitive Compartmented Information C.

Section II, DSA Regulation 5705.2, Criminal Investigative Support to the Defense Supply Agency.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Purpose for which collected.

Personnel security investigative information is collected to insure that the acceptance or retention of persons to sensitive DoD positions, or granting individuals access to classified information, including those employed in defense industry, is clearly consistent with national security.

Criminal investigative information is collected on request to identify offenders, provide facts and evidence upon which to base prosecution and effect the recovery of property which has been wrongfully appropriated.

Information contained in ISR's (see description in RECORD-CATEGORY) regarding criminal, personnel security, counterintelligence, or intelligence matters, when received, is disseminated to appropriate Federal agencies or other DoD components.

Criminal and personnel security information is collected during reciprocal investigations conducted for other DoD and federal investigative elements (or in limited instances, criminal information for local, or state law enforcement agencies) for maintenance and use by the requesting activity.

Information regarding alleged security violations is collected on request to establish whether or not a compromise occured and to identify the personnel involved.

Criminal information received by DIS personnel in the course of their duties which is of direct interest to a local law enforcement agency and therefore furnished to that agency orally or by letter.

Users of DIS investigative information are:

(1) DIS personnel in the course of their official duties.

(2) Other accredited DOD investigative components, DOD agencies, elements of the Military Departments designated by the departments and representatives of the Secretary of Defense and the Joint Chiefs of Staff.

(3) Accredited Federal criminal and civil law enforcement and intelligence agencies.

(4) State and local official criminal law enforcement agencies.

(5) Other accredited federal agencies conducting investigations to evaluate suitability for employment or access to classified information.

(6) Congressional committees and the Government Accounting Office.

Specific uses of DIS investigative records are:

To determine the loyalty, suitability, eligibility, and general trustworthiness of individuals for access to Defense information and facilities by the first two categories of users, above.

To determine the eligibility and suitability of individuals for entry into and retention in the Armed Forces by the second category of users, above.

To provide information pertinent to the protection of persons under the provisions of 18 U.S.C. 3056, by the first three categories of users, above.

For use in criminal law enforcement investigations including statutory violations, counterintelligence, as well as counterespionage and other security matters by the first through fourth and the sixth categories of users, above.

In the event that records maintained in this system indicate a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

To provide information in judicial or adjudicative proceedings including litigation, or in accordance with a court order by the first three categories of users, above.

To make statistical evaluations of DIS investigative activities by the first, second and sixth categories of users, above.

To respond to Freedom of Information and Privacy Act access requests, by the first category of users, above.

To provide information in response to Inspector General, and EEO or other complaint investigations and Congressional inquiries by the first, second and sixth categories of users, above.

To determine the eligibility and suitability of an individual for personnel actions in the Armed Forces of the United States, as deemed appropriate by the second category of users, above.

A record such as identification data, from this system of records may be disclosed as a routine use to a federal, state local or foreign agency maintaining relevant information or to business enterprises to obtain employment records if necessary to obtain information relevant to an assigned investigation.

A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter by any agency of the first, second, third or fifth categories of users, above.

Transfers of information from this record system to other DoD components is a routine intra-agency use under the provisions of 5 U.S.C. 552a3(b)(1).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders, microfilm, magnetic tape or supplementary index cards.

Retrievability:

Investigations are centrally retrievable through the DIS Case Control System (DCCS) or the Defense Central Index of Investigations (DCII) systems described separately in this notice. Reciprocal investigations jurisdictions, may be retrieved only through a limited manual disclosure accounting system

Safeguards:

Completed investigative records are maintained and stored in

primary responsiblity and certain ISR's and reciprocal investigations, and security or counterintelligence information which may be used in criminal prosecution. The withholding of this information will be to

By name and other identifying data.

Safeguards:

Maintained in locked cabinets or locked rooms and only DIS

need to know basis. Other agencies of the Government to satisfy requests for routine reports.

Safeguards:

The file will be maintained in securable file cabinets

Safeguards:

Completed investigative records are maintained and stored in power files, open shelves and filing cabinets which are housed in secured areas accessible only to authorized personnel who are properly screened and have a need to know. Information contained on magnetic tape is secured in the same manner as the DCII, described separately. Recipients of investigative information are responsible for safeguarding information within the guidelines provided by DIS.

Retention and disposal:

Retention of closed DIS investigative files is authorized for 30 years maximum, except as follows: (1) Files which have resulted in adverse action against an individual will be retained permanently, (2) Files developed on persons who are being considered for affiliation with the Department of Defense will be destroyed within one year if the affiliation is not completed. In cases involving a pre-appointment investigation, if the appointment is not made due to information developed by investigation, the file will be retained permanently. If the appointment is not made for some other reasons not related to the investigation, the file will be destroyed within one year; (3) Information within the purview of the Department of Defense Directive 5200.27, 'Acquisition of Information Concerning Persons and Organizations Not Affiliated with the Department of Defense', is destroyed within 90 days after acquisition by DIS unless its retention is required by law or unless its retention has been specifically authorized by the Secretary of Defense or through the Chairman, DIRC.

Generally, ISR's and reciprocal investigations are retained for only 60 days.

Partial duplicate records of personnel security investigations are retained for 60 days by DIS field elements. Partial duplicate records in criminal and special investigations are retained for one year.

System manager(s) and address:

Director, Defense Investigative Service, 1000 Independence Ave. S.W., Washington, DC 20314

Notification procedure:

Requests should be addressed to the Assistant for Information, Defense Investigative Service, 1000 Independence Ave. S.W., Washington, DC 20314. The full name, date and place of birth, and social security account number are necessary for retrieval of information. More information or a notarized statement verifying the identity of requesters may be required. The Information Office, at Room 2H043 1000 Independence Ave., Washington, 20314 DC may be visited by personnel making inquiries regarding this system. A check of personal identification will be required of all visitors making such inquiries.

Record access procedures:

Access may be obtained through the Information Office at the address listed above.

Contesting record procedures:

DIS rules for contesting and appealing initial determinations may be obtained from the Assistant for Information at the address listed above

Record source categories:

Categories of sources of records.
Subjects of investigations.
Records of other DoD activities and components.
Federal, state, county and municipal records.
Employment Records of private business and industrial firms.
Educational and disciplinary records of schools, colleges, universities, technical and trade schools.
Hospital, clinic and other medical records.
Records of commercial enterprises such as real estate agencies, credit bureaus, loan companies, credit unions, banks and other financial institutions which maintain credit information on individuals, transportation companies, (airlines, railroad, etc.)
The interview of individuals who are thought to have knowledge of the subject's background and activities.
The interview of witnesses, victims and confidential sources.
The interview of any individuals deemed necessary to complete the DIS investigation.
Miscellaneous directories, rosters and correspondence.
Any other type of record deemed necessary to complete the DIS investigation.

Systems exempted from certain provisions of the act:

In accordance with subsection 3j(2) of the Act, information maintained by the Special Cases Division of DIS may be exempted from the provisions of subsections (c)(3) and (4); (d); (e)(1), (2) and (3); (e)(5) and (8); and (g). Information maintained by, or at the direction of, this unit includes criminal investigations for which the DIS has primary responsiblity and certain ISR's and reciprocal investigations, and security or counterintelligence information which may be used in criminal prosecution. The withholding of this information will be to allow the DIS Special Cases Division, a criminal law enforcement component, to conduct effective investigations into alleged unlawful activity or crime conductive situations without jeapordizing such investigations. Knowledge of the investigations of the Special Cases Division could enable subjects to take actions to prevent detection of criminal activities, conceal evidence, or to escape prosecution. It could also lead to intimidation of or harm to sources, informants, witnesses and their families. Information from this system will be withheld only to the extent that its release would interfere with such investigations.

Under subsection 3k(1) of the Act, properly classified material contained in DIS investigatory files is exempt from the provisions of subsection (d). This exemption will protect information, the disclosure of which would have an adverse effect on the national defense or foreign policy.

Under subsection 3k(2) of the Act, other investigatory material including certain reciprocal investigations and counterintelligence information is exempt from subsection (c) (3), (d), (e) (4) (G,H andI) and (f) until such time as action is taken regarding allegations, and after that time only to the extent that the information would identify a confidential source who furnished information under an express promise that the identity of the source would be held in confidence (or prior to the effective date of the Act under an implied promise). This exemption will permit the DIS to conduct certain law enforcement investigations effectively and to protect the identities of sources who would not otherwise provide information.

Protective Service: Under subsection 3k(3) of the Act, DIS investigatory material maintained in connection with assisting the US Secret Service (USSS) to provide protective services to the President of the United States or other individuals pursuant to section 3056 of Title 18 is exempt from subsections (c) (3), (d), (e) (1), (e) (4), (g, h and i), and (f). This exemption provision will enable DIS to continue its support of the US Secret Service without compromising the effectiveness of either activity.

Under subsection 3k(5) of the Act, personnel security investigatory material from subsections (c) (3), (d) and (f), is exempt to the extent that the disclosure of such material would reveal the identity of a confidential source as described above. This exemption provision will allow DIS to collect information from certain sources who would otherwise be unwilling to provide information necessary to personnel security investigations.

V5-05

System name:

V5-05 Subject and Reference Locator Records.

System location:

A decentralized system maintained by Defense Investigative Service field units.

Categories of individuals covered by the system:

Military personnel and civilian employees of the Department of Defense.

Categories of records in the system:

Personnel, locator, assignment rosters and housing records furnished by Army, Navy, Air Force and Marine Corps posts, bases and stations in the U.S. and Puerto Rico and retained for periods longer than they are retained by originating activities. Examples of such records are Army Locator/Organizational Rosters (A0102.03a DAAG) and Army Housing Files(A1511.01aDAPE).

Authority for maintenance of the system:

10 U.S.C. 133, E.O. 10450, E.O. 10865, DoD Directive 5105.42.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records are maintained by DIS investigative elements for use in locating supervisors, coworkers and character references of subjects of DIS investigations and to identify or verify the locations and assignments of subjects when this information cannot be obtained through other local sources. Information from this system may be provided to law enforcement agencies for the same purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper listings in files or binders, computer products, microfiche, index cards.

Retrievability:

By name and other identifying data.

Safeguards:

Maintained in locked cabinets or locked rooms and only DIS personnel have access.

Retention and disposal:

Records are retained for a maximum of five years.

System manager(s) and address:

Director, Defense Investigative Service, 1000 Independence Ave. SW., Washington, D.C.20314.

Notification procedure:

Requests should be addressed to the Assistant for Information, Defense Investigative Service, Washington, D.C.20314. The full name, date and place of birth, social security account number, military service numbers are required and the name and location of the post, base, or station and periods of assignment or employment so that a thorough search can be conducted. A notarized statement verifying the identity of requestors is required. The Information Office, at room 2H043, 1000 Independence Ave. S.W., Washington, D.C. may be visited by personnel making inquiries regarding this system. A check of personal identification will be required of all visitors making such inquiries.

Record access procedures:

Access may be obtained through the Information Office at the address listed above.

Contesting record procedures:

DIS rules for access to records and for contesting and appealing initial determinations are contained in 32 CFR Part 298a and DIS Regulation 28-4.

Record source categories:

Military personnel offices, training schools and housing offices for installations.

Systems exempted from certain provisions of the act:

NONE

UNIFORMED SERVICES UNIVERSITY OF HEALTH SCIENCES

WUSU01

System name:

Uniformed Services University of the Health Sciences (USUHS) Personnel Files

System location:

A central personnel record file will be maintained at the USUHS personnel office, 4301 Jones Bridge Road, Bethesda, Maryland 20014. A supplemental file consisting of summary data on each employee will be stored in the computer at Bolling AFB, Washington, D.C. 20301.

Categories of individuals covered by the system:

Records will be maintained on all personnel assigned to USUHS - full-time and part-time.

Categories of records in the system:

The type of information which will be maintained on employees is as follows: Identity and demographic information (e.g., SSAN, name, sex, address, birth date, minority status, etc.), Academic and experience background data consisting of: (1) Schools attended; (2) Degrees earned; (3) Work experience, awards, etc.; (4) Letters of reference, performance evaluations, etc.

Authority for maintenance of the system:

Title 10, United States Code, Section 136.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The System will be used for documenting the work experience of USUHS personnel.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Material stored in file folders

Retrievability:

The system will be indexed by name and SSAN. Records will be available to: The individual concerned. Employees of USUHS on a need to know basis. Other agencies of the Government to satisfy requests for routine reports.

Safeguards:

The file will be maintained in securable file cabinets

Retention and disposal:

Indefinite files that are retained while the individual is employed and then retired.

System manager(s) and address:

The personnel officer of the University will be the custodian of this file (business address: 4301 Jones Bridge Road, Bethesda, Maryland 20014). Telephone: 202-295-2158.

Notification procedure:

Inquiries regarding the personnel files should be directed to the SYSMANAGER.

Record access procedures:

Information on the procedures for gaining access to and contesting records will be furnished each employee by the Personnel Office upon entry into duty with USUHS.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned and contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Information contained in the file is furnished by the employee, supervisors and references supplied by the employee.

Systems exempted from certain provisions of the act:

None

WUSU02

System name:

Uniformed Services University of the Health Sciences (USUHS) Payroll System

System location:

Central files are maintained at Bolling Air Force Base Accounting and Finance Office, Civilian Pay Branch. Satellite file maintained at USUHS Administrative Offices at 4301 Jones Bridge Road, Bethesda, Maryland 20014

Categories of individuals covered by the system:

All civilian personnel paid by the USUHS.

Categories of records in the system:

Information contained in the system includes: Name, SSAN, Pay Grade, Number of Withholding exemptions, Gross and Net Pay, Other Pay Information.

Authority for maintenance of the system:

Title 10, United States Code, Section 136

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The system will produce data for budget purposes and as backup information for audits.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

The information will be stored as computer print-out.

Retrievability:

The system will be indexed by name.

Safeguards:

The information will be available for personnel in the Personnel/Manpower Division of the USUHS or other personnel who have a demonstrated need to know, e.g., auditors, Congress, etc. The material will be stored in metal file containers.

Retention and disposal:

The records will be maintained for one year and then destroyed by burning.

System manager(s) and address:

The responsible official in the USUHS for the Civilian Pay System is Chief, Personnel/Manpower 4301 Jones Bridge Road, Bethesda, Maryland 20014. Telephone: 202-295-2185.

Notification procedure:

Any inquiries should be directed to the Personnel/Manpower Division at the above address.

Record access procedures:

Information may be accessed in person at the above address. Re-

None

WUSU04

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned

Record access procedures:

Information may be accessed in person at the above address. Requests for change to the information must be made in writing at the above address.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 2864 and OSD Administrative Instruction No. 81.

Record source categories:

Computerized pay records from Bolling Air Force Base Accounting and Finance Office.

Systems exempted from certain provisions of the act:

None

WUSU03

System name:

Uniformed Services University of the Health Sciences (USUHS) Student Record System.

System location:

The file will be maintained in the Registrar's Office, USUHS, 4301 Jones Bridge Road, Bethesda, Maryland 20014.

Categories of individuals covered by the system:

Records will be maintained on all students who matriculate to the University.

Categories of records in the system:

Grade reports and instructor evaluations of performance/achievement; transcripts summarizing by course title, grade, and credit hours; records of disciplinary action; records of awards, honors, or distinctions carned by students; and data carried forward from the Applicant File System.

Authority for maintenance of the system:

Public Law 92-426, Ch 104, Section 2114.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The System will be used for documenting the academic achievement of students.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

The system will be indexed by name and SSAN.

Safeguards:

Records will be maintained in metal file cabinets in a securable area.

Retention and disposal:

Records will be maintained permanently.

System manager(s) and address:

The Registrar of the University, 4301 Jones Bridge Road, Bethesda, Maryland 20014.

Notification procedure:

Information may be obtained from:
USUHS
Registrar's Office
4301 Jones Bridge Road
Bethesda, Maryland 20014
Telephone: 202-295-2118

Record access procedures:

Requests to review individual student's records may be made by telephone or visit to the Registrar's Office, USUHS, 4301 Jones Bridge Road, Bethesda, Maryland 20014.

Written requests should include name, SSAN, and dates attended.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing intitial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

Information is furnished by instructor personnel.

Systems exempted from certain provisions of the act:

None

WUSU04

System name:

Uniformed Services University of the Health Sciences (USUHS) Applicant Record System.

System location:

A central applicant record file will be maintained at the USUHS Admission Office, 4301 Jones Bridge Road, Bethesda, Maryland 20014.

A supplemental file consisting of summary data on each applicant, to be derived from data collected in the central file, will be stored on magnetic tape and maintained at the Pentagon Computer Center, Washington, D. C.

Categories of individuals covered by the system:

Records will be maintained on all individuals applying for admission.

Categories of records in the system:

Identity and demographic information (e.g., SSAN, name, sex, minority status, address, birth date, citizenship, etc.); Academic and aptitudinal background data consisting of: (1) Schools attended, (2) Degrees earned, (3) GPA for college and graduate work, (4) Course hours completed in college and graduate school, (5) Medical College Admission Test scores and percentiles; information regarding work experience, socioeconomic background, hobbies, extracurricular involvements in college, community/ service activities, honors and awards achieved, and professional and/or societal contributions; Letters of reference; personal statements (autobiographical in nature); service preference statement; interview evaluations; test results and personality inventory scores on instruments used to assess noncognitive potential and aptitude; official college transcripts and health data. Unsolicited information provided by applicants will also normally be retained when such information pertains to the matters described above.

Authority for maintenance of the system:

Public Law 92-426, Ch 104, Section 2114

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The system will be used for selecting students to USUHS, and conducting studies of the selection process.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders and magnetic tape.

Retrievability:

The central file will be indexed by name. The computer file will be sequenced by SSAN, with data retrievable by any single or combination of variables stored, e.g., sex, minority status, ranking by academic performance, ranking by test achievement, state of residence, college attended, etc.

Safeguards:

All material will be maintained in metal rotary files in a securable office; the satellite file on disks, securably stored at the Pentagon Computer Center.

Retention and disposal:

Records of applicants who matriculate to the school will be converted to student records and maintained permanently. Records of applicants who do not matriculate will be retained for five years and then destroyed by burning. Portions of the record may be retained on magnetic tape for longer periods.

System manager(s) and address:

The USUHS officer who will be responsible for the Applicant Record System is the Assistant Dean for Academic Support (business address: 4301 Jones Bridge Road, Bethesda, Maryland 20014).

Notification procedure:

Inquiries regarding the system should be directed to the Assistant Dean for Academic Support, 4301 Jones Bridge Road, Bethesda, Maryland 20014. Telephone: 202-295-2125.

Record access procedures:

Request for access for an individual's file should be made by either writing or calling the Assistant Dean for Academic Support.

For written requests the information should contain the full name of the individual, current address and telephone number.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories:

The bulk of the information in the system will be furnished by the applicants. It will be either prepared by them personally, or submitted by other individuals/agencies in their behalf at their (the applicants') specific request. The remaining elements of the systems, the data not furnished by the applicants, will consist of evaluative records prepared and developed by admissions personnel based on interviews, school administered tests, and analyses of applicant records.

Systems exempted from certain provisions of the act:

None

Records of applicants who matriculate to the school will be converted to student records and maintained permanently. Records of applicants who do not matriculate will be retained for five years and then destroyed by burning. Portions of the record may be retained on magnetic tape for longer periods.

System manager(s) and address:

The USUHS officer who will be responsible for the Applicant Record System is the Assistant Dean for Academic Support (business address: 4301 Jones Bridge Road, Bethesda, Maryland 20014).

Notification procedure:

Inquiries regarding the system should be directed to the Assistant Dean for Academic Support, 4301 Jones Bridge Road, Bethesda, Maryland 20014. Telephone: 202-295-2125.

Record access procedures:

Request for access for an individual's file should be made by either writing or calling the Assistant Dean for Academic Support.

For written requests the information should contain the full name of the individual, current address and telephone number.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

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V 43/183 SEP 20 78

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9-20-78
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Federal Register

BOOK 2 OF 2 BOOKS
WEDNESDAY, SEPTEMBER 20, 1978
PART III

DEPARTMENT OF THE TREASURY

Office of the Secretary

PRIVACY ACT OF 1974

Annual Publication

[4810-40]

MINT 008—Employee Payroll Personnel and Time and Attendance (SEE OS 002)

OFFICE OF THE SECRETARY (OS)
OS 002—Treasury Payroll/Personnel Information System (formerly Fiscal Personnel System) (This description of the systems of rec-

GFO 010—Records of Accountable Officers' Authority
GFO 011—Individual Retirement Cards
GFO 012—Precomplaint Counseling and Complaint Activities

[4810-40]

DEPARTMENT OF THE TREASURY

Office of the Secretary

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

Pursuant to 5 U.S.C. 552a(e)(4), the Department of the Treasury republishes notices of the systems of records maintained by the Department. All of the systems have been previously published and adopted. There are no changes requiring public comment. Numerous minor changes have been made, consisting principally of address changes, revision of organizational titles, and corrections of grammatical or typographical errors.

Dated: September 1, 1978.

The Department has deleted 51 previously published systems of records.

William J. Beckham, Jr.,
Assistant Secretary (Administration).

The following 51 systems are deleted for the reasons shown.

Definitions:

"Consolidated"—Systems covering the same categories of individuals and records have been grouped together and identified as one system. The consolidation has no effect on the Department's ability to comply with the provisions of the Act.

"Destroyed (month and year)"—The records were destroyed during the month and year indicated.

"Duplicate of (system number)"—The system is a duplicate of or is included in, other systems cited.

"Entrepreneurial system"—Information maintained is about individuals operating in a business capacity as opposed to a personal capacity.

"Not Privacy Act system"—Information is not retrieved by name or other personal identifier.

"OBSOLETE"—No longer maintained in accordance with established retention and disposition schedules.

DELETIONS

OFFICE OF THE SECRETARY (OS)
ENTREPRENEURIAL SYSTEM
OS 035—Office of Debt Correspondence File
NOT A PRIVACY ACT SYSTEM
OS 150—Freedom of Information Requests for Office of the Secretary and Other Department Records
SYSTEM NEVER ACTIVATED
OS 242—General Correspondence
NOT A PRIVACY ACT SYSTEM
OS 245—Public Correspondence
ENTREPRENEURIAL SYSTEM
OS 246—Treasury Foreign Currency (TFC) Reporters
OS 247—Treasury Foreign Exchange (TFEX) Reporters

U.S. CUSTOMS SERVICE (CS)
CONSOLIDATION
CS 198—Private Yacht Inspection Reporting System (SEE CS 197)
CS 213—Search, Arrest and Seizure Reporting System (SEE CS 244)
CS 229—Theft Information System (TIS) (SEE CS 244)
CS 255—Vessel Violation Profile System (SEE CS 244)

BUREAU OF ENGRAVING AND PRINTING (BEP)
DUPLICATE
BEP 007—Departmental Integrated Personnel Services System (DIPS) (SEE OS 002)

BUREAU OF THE MINT (MINT)
MINT 008—Employee Payroll Personnel and Time and Attendance (SEE OS 002)

INTERNAL REVENUE SERVICE (IRS)
CONSOLIDATION
IRS 10.003—Intelligence Clips, Public Affairs (SEE IRS 10.004)
IRS 10.005—Tax Case Files, Public Affairs (SEE IRS 10.004)
NOT A PRIVACY ACT SYSTEM
IRS 10.007—Public Speaking and Other Public Appearance
IRS 22.002—Airway Use Tax Registrant Data
CONSOLIDATION
IRS 22.024—Form 1042 Index Register (SEE IRS 22.026)
IRS 22.025—Form 1042 Name Directory (SEE IRS 22.026)
IRS 22.031—Individual Master File Change and Adjustment (SEE IRS 22.034)
IRS 22.033—Individual Master File (IMF) 608 and 388 Micro Files (SEE IRS 22.032)
IRS 22.037—IRS Employee Delinquency Notice List (SEE IRS 36.003, VARIOUS OTHER SYSTEMS, TABLE OF CONTENTS)
IRS 22.039—Miscellaneous Forms File (SEE IRS 22.034)
IRS 22.040—Multiple Refund File (VARIOUS OTHER SYSTEMS, SEE TABLE OF CONTENTS)
IRS 22.042—Penalty Case Files (VARIOUS OTHER SYSTEMS, SEE TABLE OF CONTENTS)
IRS 22.047—Residual Master File Change and Adjustment Document (SEE IRS 22.034)
IRS 22.048—Residual Master File (RMF) Microfilm Retention Register (SEE IRS 22.032)
IRS 22.049—Residual Master File Transaction, 608 and 388 Micro Film (SEE IRS 22.032)
IRS 22.050—Residual Returns Files (SEE IRS 22.034)
IRS 22.051—Return of Initial Excise Taxes on Private Foundations (SEE IRS 22.034)
NOT A PRIVACY ACT SYSTEM
IRS 22.052—Social Security Administrative Daily Search File
CONSOLIDATION
IRS 22.053—Statistics of Income Individual Selection Sheet (SEE IRS 22.034; IRS 24.030; OTHER VARIOUS SYSTEMS, SEE TABLE OF CONTENTS)
IRS 26.002—Adjustment and Payment Tracer Files (SEE IRS 26.019)
IRS 26.003—Collateral Files (SEE IRS 26.019)
NOT A PRIVACY ACT SYSTEM
IRS 26.015—Records Maintained at Request of Congressional Committees (This system has been discontinued and normal disposition schedules have been resumed for records formerly retained by this system).
CONSOLIDATION
IRS 26.017—Seized Property Records (SEE IRS 26.019)
IRS 26.018—Tax Collection Waiver Form 900 Files (SEE IRS 26.019)
IRS 30.002—Employee Administrative Files (SEE IRS 48.007)
IRS 34.004—Executive Resources Information System (SEE IRS 36.003)
IRS 34.008—St. Louis District 2 and Other Economic Stabilization Prog. Case (SEE IRS 48.007)
OBSOLETE
IRS 42.019—Runaway Parents List
CONSOLIDATION
IRS 46.001—Alphabetical Name File and Index, Intelligence Division (SEE IRS 46.002, IRS 46.003, IRS 46.009 and IRS 46.013)
IRS 46.010—Joint Compliance Program, Intelligence Division (SEE IRS 46.013)
IRS 46.014—Project Personnel, Intelligence Division (SEE IRS 46.002)
OBSOLETE
IRS 46.017—Special Agent Skills Inventory, Intelligence Division
IRS 46.018—Strike Force Disclosure Authorization List, Intelligence Division
IRS 46.019—Tax Practitioner Files, Intelligence Division
IRS 46.020—Tax Termination File, Intelligence Division
IRS 46.021—Training Records, Intelligence Division
CONSOLIDATION
IRS 49.005 Index Card Retrieval System (See IRS 49.002)
IRS 49.006—Manual Accounting Index of Uncollectible Accounts
IRS 90.008—Chief Counsel Refund Litigation Division Case File

ADDITION

A new system, CC 221, was added after publication of the 1977 Notice of Systems of Records (42 FR 45518, September 9, 1977) for the Comptroller of the Currency (SEE TABLE OF CONTENTS).

OFFICE OF THE SECRETARY (OS)
OS 002—Treasury Payroll/Personnel Information System (formerly Fiscal Personnel System) (This description of the systems of records was erroneously published in the 1977 Notice of Systems of Records)

The following systems descriptions numbers have been redesignated. See Table of Contents.

INTERNAL REVENUE SERVICE (IRS)
IRS 24.004—See IRS 34.017
IRS 24.028—See IRS 34.018
IRS 26.023—See IRS 48.008
IRS 30.001—See IRS 21.001
IRS 34.001—See IRS 48.007

TABLE OF CONTENTS

OFFICE OF THE SECRETARY (OS)
OS 001—Administrative Personnel System
OS 002—Treasury Payroll/Personnel Information System
OS 003—General Personnel System
OS 004—Personnel Security System
OS 010—Office of Domestic Finance, Actuarial Valuation System
OS 011—Office of Domestic Finance, General Correspondence
OS 032—OASIA Correspondence Files
OS 033—OASIA Invitation Lists
OS 090—EOTA FOI Request/Appeals Files
OS 101—International Criminal Police Organizations (INTERPOL) Criminal Investigative Records
OS 102—Treasury Enforcement Communications System (TECS)
OS 111—FAC 1950 Census of Blocked Chinese Assets
OS 112—FAC 1970 Census of Blocked Chinese Assets
OS 113—FAC 1964 Census of Blocked Cuban Assets
OS 114—Foreign Assets Control Enforcement Records
OS 115—Foreign Assets Control Enforcement Records
OS 116—Foreign Assets Control Litigation Files
OS 117—Foreign Assets Control Mailing List
OS 118—Foreign Assets Control Licensing Records
OS 121—ORS Auditors' Address File
OS 124—ORS Governors' Address File
OS 125—ORS Governors and Governors Authorized Representatives List
OS 126—Office of Revenue Sharing, Intergovernmental Relations Division Mailing List
OS 130—ORS Senate, House and Governors' Address File
OS 131—ORS State Attorneys General Records
OS 144—Civil Litigation Records
OS 145—Claimants, Disbursing
OS 149—Foreign Assets Control Legal Files
OS 151—Gifts to the United States
OS 154—Private Relief Bill System
OS 156—Tax Court Judge Applicants
OS 160—Abandoned Enrollment Applications
OS 161—Applicant Appeal Files
OS 162—Closed Files Containing Derogatory Information About Individuals' Practice Before the Internal Revenue Service and Files of Attorneys and Certified Public Accounts Formerly Enrolled to Practice
OS 163—Derogatory Information (No Action)
OS 164—Present Suspensions and Disbarments Resulting from Administrative Proceedings
OS 165—General Correspondence File
OS 166—Inventory
OS 167—Register of Docketed Cases and Applicant Appeals
OS 168—Resigned Enrolled Agents (Action pursuant to 31 CFR, Section 10.55(b))
OS 169—Roster of Former Enrollees
OS 170—Present Suspensions from Practice Before the Internal Revenue Service
OS 183—Private Relief Tax Bill Files—Office of the Assistant Secretary for Tax Policy

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS
GFO 001—Administrative Records
GFO 002—Check Issue Records for Regular Recurring Benefit Payments
GFO 003—Claims & Inquiry Records on Treasury Checks
GFO 004—Freedom of Information Requests
GFO 005—GFO Personnel Records
GFO 006—Identification Files on Individual Cash
GFO 007—Payroll & Pay Administration
GFO 008—Personnel Security Records
GFO 009—Postal Savings Deposits
GFO 010—Records of Accountable Officers' Authority
GFO 011—Individual Retirement Cards
GFO 012—Precomplaint Counseling and Complaint Activities

BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS
ATF 001—Administration Record System
ATF 002—Correspondence Record System
ATF 003—Criminal Investigation Report System
ATF 004—Fiscal Record System Treasury
ATF 005—Freedom of Information Requests
ATF 006—Internal Security Record System
ATF 007—Personnel Record System
ATF 008—Regulatory Enforcement Record System
ATF 009—Technical and Scientific Services Record

CUSTOMS SERVICE
CS 001—Acceptable Level of Competence, Negative Determination
CS 002—Accident Report
CS 003—Accident Reports
CS 004—Accident and Injury Report File
CS 005—Accounts Receivable Correspondence and Follow-Up
CS 006—Accounts Receivable
CS 007—Accounts Receivable
CS 008—Accounts Receivable Files
CS 009—Acting Customs Inspector (Excepted)
CS 010—Acting Customs Inspectors (Excepted)
CS 011—Acting Customs Inspectors (Excepted)
CS 012—Acting Customs Officer (Excepted)
CS 013—Acting Customs Officer (Excepted)
CS 014—Advice Requests (Legal) (Region VIII)
CS 016—Aircraft Ownership File
CS 017—Aircraft Registers
CS 018—Aircraft Sanctioned List
CS 021—Arrest/Seizure/Search Report and Notice of Penalty File
CS 022—Attorney Case File
CS 026—Badge and Gun Report
CS 027—Badge Number File
CS 028—Baggage Declaration
CS 030—Bankrupt Parties-In-Interest
CS 031—Bills Issued Files
CS 032—Biographical Files (Headquarters)
CS 033—Biographical Information File
CS 034—Boarding Report
CS 036—Boat Owners Mailing List
CS 037—Cargo Security File
CS 039—Carrier File
CS 040—Carrier File
CS 041—Cartmen or Lightermen
CS 042—Case and Complaint File
CS 043—Case Files (Regional Counsel-Region V)
CS 044—Certificates of Clearance
CS 045—Claims Act File
CS 046—Claims Case File
CS 047—Claims Files (Region VIII)
CS 048—Claims for Automobile Accidents
CS 049—Claims (Receivable and Payable)
CS 050—Community Leader Survey
CS 051—Complaints Against Customs Personnel
CS 053—Confidential Source Identification File
CS 054—Confidential Statements, Employment/Financial Interests
CS 055—Congressional and Employment Correspondence
CS 056—Congressional and Public Correspondence File
CS 057—Container Station Operator Files
CS 058—Cooperating Individual Files
CS 060—Counseling Reports
CS 061—Court Case File
CS 062—Court Case Files (Region VIII)
CS 063—Court Docket Records System
CS 064—Credit Card File
CS 067—Currency and Monetary Instrument Reporting System
CS 068—Customhouse Brokers Examination Records
CS 069—Customhouse Brokers File, Chief Counsel
CS 070—Customhouse Brokers Headquarters Records
CS 071—Customhouse Brokers Records
CS 074—Customs Licensing and Identification Program (Proposed)
CS 075—Customs Officer Badge Inventory
CS 077—Disciplinary Action/Resulting Grievance Appeal File
CS 078—Disclosure of Information File
CS 080—Disclosure of Information Request Files
CS 081—Dock Passes

CS 277—Drivers License File
CS 082—Duty Assessment by Account (DABA)
CS 183—Personal Search (Negative)
CS 184—Personal Search N.Y. District (Negative Results)

BEP 008—Emergency Contact Record
BEP 009—Employee Arrest Record
IRS 22.060—Unit Ledger Cards
IRS 22.061—Wage and Information Returns Processing (IRP) File

CS 277—Drivers License File
CS 082—Duty Assessment by Account (DABA)
CS 083—Employee Relations Case Files
CS 085—E.E.O. Complaint File
CS 087—Equal Opportunity Discrimination Complaint Case File
CS 088—Equal Opportunity Complaint Processing Records
CS 090—Equipment Record File
CS 091—Equipment Record File
CS 092—Exit Interview
CS 093—Federal-NYS Licenses Importing Alcoholic Beverages
CS 094—Federal Tort Claims Act File
CS 096—Fines, Penalties and Forfeiture Control/Info System
CS 097—Fine, Penalties, and Forfeitures (Supp. Petitions)
CS 098—Fines, Penalties and Forfeitures Records
CS 099—Fines, Penalties, and Forfeiture (Supp. Petitions)
CS 100—Fines, Penalties and Forfeiture Records (HQ)
CS 101—Fines, Penalty, and Forfeiture (FP&F) Records System
CS 102—Firearms Qualification Certificate Records
CS 103—Firearms Qualification Records
CS 104—Florida Boat Registration File
CS 105—Former Employees
CS 107—Full-Field Investigation—Active/Completed Log
CS 109—Handicapped Employee File
CS 111—I.D. Cards
CS 112—Immediate Delivery Violation Record
CS 265—Importer Name and Address Record System
CS 113—Import Specialist Activities—Investigation Referrals
CS 114—Import Specialist Activities—Laboratory Samples
CS 115—Import Specialist Activities Seminars
CS 116—Import Specialist Activities—220 Visits, Region IX
CS 117—Information and Investigative Reports—Other Agencies
CS 118—Information Received File
CS 119—Information Received File
CS 120—Information Received File (Patrol Division, N.O.)
CS 121—Information Received (MOIR) File
CS 122—Information Received File
CS 123—Injury Notice
CS 124—Inspector Training Quarterly Checklist
CS 125—Intelligence Log
CS 126—Internal Security File
CS 127—Internal Security Records System
CS 128—Investigations Program Analysis
CS 129—Investigations Record System
CS 130—Investigative Program Analysis
CS 132—Justice Court Case File
CS 133—Justice Department Case File
CS 135—Legal Case Inventory System
CS 136—Liquidated Damage Cases; Prior Violators
CS 137—List of Vessel Agents Employees
CS 138—Litigation Issue Files
CS 140—Lookout Notice
CS 142—Mail Entry Protest
CS 143—Mail Protest
CS 144—Mail Protest File
CS 148—Military Personnel and Civilian Employees' Claims
CS 149—Military Personnel and Civilian Employees' Claims
CS 150—Military Personnel and Civilian Employees Claims
CS 151—Motor Vehicle Accident Reports
CS 152—Motor Vehicle Operator's Identification Card
CS 153—Motor Vehicle Operators I.D. Card and Record
CS 155—Narcotics Suspect File
CS 156—Narcotics Violator File
CS 159—Notif of Pers Mgmt Div when Emp is under Inv
CS 160—Operations Officer's Work Accomplishments
CS 161—Optional Retirement List
CS 162—Organization Management System (COAPMS)
CS 163—Outside Employment Requests
CS 164—Overtime Earnings
CS 165—Overtime Earnings
CS 166—Overtime Earnings Daily Log Book
CS 167—Overtime Earnings Record—Warehouse Officers
CS 169—Overtime Log
CS 170—Overtime Reports
CS 171—Parking Permit File
CS 172—Parking Permits File (N.Y. Region)
CS 175—Patrol Division Daily Activity Report
CS 176—Patrol Information Data System
CS 177—Patrol Officer Activity Listing
CS 178—Payroll Administration/Problems
CS 180—Payroll Record of Empl not Covered by Aut. System
CS 182—Penalty Case File
CS 183—Personal Search (Negative)
CS 184—Personal Search N.Y. District (Negative Results)
CS 185—Personal Search—Negative (District Director)
CS 186—Personal Search—Negative (District Patrol)
CS 187—Personal Search File
CS 188—Personal Search Report
CS 189—Personnel Action Records System
CS 190—Personnel Case File
CS 191—Personnel Case File
CS 192—Personnel Case Files (Region VIII)
CS 193—Operating Personnel Folder Files
CS 194—Personnel/Payroll System
CS 196—Preclearance Costs
CS 197—Private Aircraft/Vessel Inspection Reporting System
CS 199—Property Assigned to Employee
CS 200—Property File
CS 201—Property File—Non-Expendable
CS 203—Receipt For Property Assigned
CS 204—Receipt For Property Assignment
CS 205—Reclassification Requests
CS 206—Regulatory Audits of Customhouse Brokers
CS 207—Reimbursable Assignment System
CS 208—Restoration of Forfeited Annual Leave
CS 209—Resumes of Professional Artists
CS 210—Revocation of I. D. Privileges
CS 211—Sanction List
CS 212—Search/Arrest/Seizure Report
CS 214—Seizure File
CS 215—Seizure Report File
CS 217—Set Off Files
CS 219—Skills Inventory Records
CS 220—Supervisory Notes and SF-7B Files
CS 221—Suspect File
CS 223—Suspect File
CS 224—Suspect Persons Index
CS 226—Television System
CS 227—Temporary Importation Under Bond (TIB) Defaulter System
CS 228—Temporary Importation Violation Record
CS 231—Tort Claims Act File
CS 232—Tort Claims Act File
CS 233—Tort Claims Act File
CS 234—Tort Claims Act File
CS 236—Tort Claim Record System
CS 238—Training and Career Individual Development Plans
CS 239—Training Records
CS 240—Travel Advances
CS 241—Travel Advances
CS 242—Travel Advance File
CS 243—Travel Payment System
CS 244—Treasury Enforcement Communications System
CS 245—Treasury Enforcement Communications System-Card File
CS 247—Uniform Allowance
CS 248—Uniform Allowance
CS 249—Uniform Allowance—Unit Record
CS 251—Unscheduled Overtime Report
CS 252—Valuables Shipped Under Gov't Losses in Shipment Act
CS 253—Vehicle Microfiche Files
CS 254—Vessel Identification Report
CS 257—Violators Card File
CS 258—Violators Case Files
CS 260—Warehouse Proprietor Files
CS 262—Warnings to Importers in Lieu of Penalty
CS 266—Collection File
CS 267—Federal Tort Claims Act File
CS 268—Military Personnel and Civilian Employees' Claims
CS 269—Accounts Payable Voucher File
CS 270—Background-Record File on Non-Customs Employees
CS 273—Employee Debts
CS 274—Importers, Brokers, Carriers, Individuals and Sureties
CS 271—Cargo Security Record System
CS 272—Currency Declaration File (IRS Form 4790)
CS 276—Equal Opportunity Informal Discrimination Complaints
CS 079—Disclosure of Information File

BUREAU OF ENGRAVING AND PRINTING

BEP 002—Civilian Employee Claim File
BEP 005—Compensation Claims
BEP 003—Continuation of Pay Record
BEP 004—Counseling Records
BEP 006—Debt Files (Employees)

BEP 008—Emergency Contact Record
BEP 009—Employee Arrest Record
BEP 012—Employee Index File
BEP 013—Employee Locator Record
BEP 014—Employees Daily Production Record
BEP 016—Employee Suggestions
BEP 040—Freedom of Information Requests
BEP 018—Guard Uniform Control Account
BEP 019—Identification Files
BEP 020—Industrial Truck Licensing Records
BEP 021—Investigative Files
BEP 022—Monthly Equal Employment Opportunity Activity Report
BEP 023—Motor Vehicle Licensing Records
BEP 024—Payroll Records
BEP 025—Payroll Statistical Data
BEP 027—Personnel Movement Control Record
BEP 028—Personnel Progress and Achievement Record
BEP 029—Petitions of Elections
BEP 030—Project Rest, Minority Statistics
BEP 041—Record of Discrimination Complaints
BEP 031—Reemployment Information Record
BEP 032—Retention Register
BEP 033—Roster of EEP Employees
BEP 034—Time & Attendance Record
BEP 035—Tort Claims Against the US
BEP 036—Union Dues Allotments
BEP 037—Union Index
BEP 038—Unscheduled Absence Record
BEP 039—Work Performance Records
BEP 042—Informal EEO Complaint Processing Records
BEP 043—Parking Program Records
BEP 044—Personnel Security Files and Indices

Bureau of the Mint

Mint 001—Application & Info Great Plaza Parking
Mint 002—Applicants for Assay Commission
Mint 003—Cash Receivable Accounting Information
Mint 004—Confidential Statements of Financial Interest
Mint 005—Current Employ Security Identification
Mint 006—Employee & Former Employee Trave & Training
Mint 007—Employee Former & Visitors Occupational
Mint 009—Employee Supervisor Performance Evaluation
Mint 010—Examination Reports of Coins Forwarded to
Mint 011—General Correspondence
Mint 012—Investigatory Files on Theft of Mint Pro
Mint 013—Numismatic Coin Operations System
Mint 014—Purchases, Sales, Exchange and Assays of Precious Metal
Mint 015—Redemption of Uncurrent or Mutilated Coin
Mint 016—Grievance Union/Agency Negotiated
Mint 017—EEO Complaint Counseling Records

Bureau of the Public Debt

BPD 001—Personnel and Administrative Records
BPD 002—United States Savings Type Securities
BPD 003—US Securities (Other than Savings Type)

Federal Law Enforcement Training Center

FLETC 001—FLETC Payroll System
FLETC 002—Trainee & Instructor Records
FLETC 003—FLETC Confidential Financial Records

Internal Revenue Service

IRS 10.001—Biographical Files, Public Affairs
IRS 10.004—Subject Files, Public Affairs
IRS 21.001—Tax Administrative Advisors Resources File
IRS 22.003—Annual Listing of Undelivered Checks
IRS 22.005—Audit Underreporter Case File
IRS 22.011—File Erroneous Refunds
IRS 22.012—Collection Case File
IRS 22.026—Form 1042S Index by Name of Recipient
IRS 22.027—Forms Filed by U.S. Citizens/Residents Re Foreign.
IRS 22.032—Individual Microfilm Retention Register
IRS 22.034—Individual Returns Files, Adjustments and Miscellaneous Document File
IRS 22.036—Interest Equalization Tax Forms File
IRS 22.043—Potential Refund Litigation Case Files
IRS 22.044—P.O.W.-M.I.A. Reference File
IRS 22.054—Subsidiary Accounting Files
IRS 22.058—Tentative Carryback Allowance File
IRS 22.059—Unidentified Remittance File
IRS 22.060—Unit Ledger Cards
IRS 22.061—Wage and Information Returns Processing (IRP) File
IRS 24.013—Combined Account Number File
IRS 24.014—Discriminant Function File (DIF)
IRS 24.017—Employee Inquiry Look-Up for TDA Inquiry
IRS 24.029—Individual Account Number File (IANF)
IRS 24.030—Individual Master File (IMF)
IRS 24.046—Residual Master File (RMF)
IRS 24.057—Taxpayer Delinquent Investigation Notice File
IRS 26.001—Acquired Property Record
IRS 26.005—File of Persons Making Threats of Force/Assaults
IRS 26.006—Form 2209 Courtesy Investigations
IRS 26.007—Form 2990—Miscellaneous Investigations
IRS 26.008—IRS and Treasury Employee Delinquency
IRS 26.009—Lien Files (Open and Closed)
IRS 26.010—Prospective Bidders at Sales of Seized Property
IRS 26.011—Litigation Case Files
IRS 26.012—Offer in Compromise (OIC) File
IRS 26.013—One Hundred Percent Penalty Cases
IRS 26.014—Record 21, Seizure and Sale of Real Property
IRS 26.016—Returns Compliance Program (RCP)
IRS 26.019—TDA (Taxpayer Delinquent Accounts)
IRS 26.020—TDI (Taxpayer Delinquency Investigations)
IRS 26.021—Transferee Files
IRS 26.022—Delinquency Prevention Programs, Acts;C
IRS 30.003—Requests for Printed Tax Materials Incl. Lists
IRS 30.004—Security Violations
IRS 30.005—Accident Investigation Files System
IRS 32.001—Travel Expense Record
IRS 32.002—Payroll/Personnel System
IRS 32.003—Schedules of Collections and Canceled Checks
IRS 32.004—Scholarship Program Cost Record, Administration
IRS 34.003—Employee Accountability for Personal Property
IRS 34.005—Parking Space Application and Assignment
IRS 34.006—Property Pass for Government Property
IRS 34.007—Record of Gov. Books of Transportation Requests
IRS 34.009—Accident Reporting Files System
IRS 34.010—Damage and Injury Claims Files System
IRS 34.011—Driver Licensing Files System
IRS 34.012—Emergency Preparedness Cadre Assign/Alert Rosters
IRS 34.013—Identification Media Files System for Employees
IRS 34.014—Motor Vehicle Regis. and Entry Pass File
IRS 34.015—Personnel ID Files System for Service Centers
IRS 34.016—Security Clearance Files System
IRS 34.017—Audit Trail File
IRS 34.018—Employee Security Profile System
IRS 36.001—Appeals, Grievances & Complaints Records
IRS 36.002—Employee Activity Records
IRS 36.003—General Personnel Records
IRS 36.008—Recruiting, Examining and Placement Records
IRS 36.005—Medical Records
IRS 36.009—Retirement Life Ins. and Health Benefits
IRS 38.001—General Training Records
IRS 42.001—Examination Administrative File
IRS 42.006—Expropriation of Property by Cuban Gov.
IRS 42.008—Audit Infor. Management System (AIMS)
IRS 42.009—Strike Force
IRS 42.012—Tax Shelter Program Files
IRS 42.013—Project Files for the Uniform Application of Laws
IRS 42.014—IRS Employees Returns Control, Files
IRS 42.015—Open and Closed Narcotics Traffickers File
IRS 42.016—Classification & Examination Selection Files
IRS 42.017—International Enforcement Program Files
IRS 42.020—Highway Use Tax Examination Program
IRS 42.021—Compliance Programs and Projects Files
IRS 42.023—Request & Submittal Tech. Advice. Asst., Determination
IRS 42.024—Coordinated Examinations of Large Cases Program
IRS 42.025—Appraisal and Valuation Files
IRS 42.027—Data on Foreign Corporations
IRS 42.028—Identity of Taxpayers Using ADP Accounting Records.
IRS 44.001—Appellate Case Files
IRS 44.002—Appellate Conferee Inventory & Unit Time Report
IRS 44.003—Appellate Div. Case Data
IRS 46.002—Case Management and Time Reporting System, Criminal Investigation
IRS 46.003—Confidential Informants, Criminal Investigation
IRS 46.004—Controlled Accts.—Open & Closed, Criminal Investigation Division

IRS 46.005—Electronic Surveillance File, Criminal Investigation Division
CC 044—Consumer Complaint Index
CC 090—Bank Organizers and Proposed Officer File
CC 104—Consumer Complaint Index

Record access procedures: The Departmental Disclosure Office, Room 1314, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

Categories of records in the system: (1) Employment related biographical and performance material. This category of records is typically identified as personnel type records and contains data about

IRS 46.005—Electronic Surveillance File, Criminal Investigation Division
IRS 46.007—Information Indexing System, Criminal Investigation Division
IRS 46.008—Treas./IRS Criminal Investigation Div. Infor. & Corresp. Files
IRS 46.009—Information Items, Criminal Investigation Division
IRS 46.011—Land Trust Files, Criminal Investigation Division
IRS 46.013—Project Files, Criminal Investigation Division
IRS 46.015—Relocated Witness, Criminal Investigation Division
IRS 46.016—Secret Service Details, Criminal Investigation Division
IRS 46.022—Treasury Enforcement Communications Sys: (TECS)
IRS 48.001—Disclosure to Records
IRS 48.007—Economic Stabilization Program Closed Files
IRS 48.008—Defunct Special Service Staff File
IRS 49.001—Collateral and Information Requests Sys.
IRS 49.002—Collateral Files, Competent Authority and Index Card Retrieval System
IRS 49.003—Financial Statement File
IRS 49.007—Overseas Compliance Projects System
IRS 49.008—Taxpayer Service Correspondence System
IRS—50.001—Employee Plans/Exempt Organizations Assignment Record
IRS 50.002—Employee Plan Determination Letter Records
IRS 50.003—Reports of Significant Matters in EP/EO (M-5945)
IRS 60.001—Assault and Threat Investigation Files, Inspection
IRS 60.002—Bribery Investigation Files, Inspection
IRS 60.003—Conduct Investigation Files Inspection
IRS 60.004—Disclosure Investigation Files, Inspection
IRS 60.005—Enrollee Applicant Investigation Files, Inspection
IRS 60.006—Enrollee Charge Investigation Files, Inspection
IRS 60.007—Miscellaneous Infor. File Inspection
IRS 60.008—Security, Background and Character Investigation
IRS 60.009—Special Inquiry, (Complaint) Investigation Files
IRS 60.010—Tort Investigation Files, Inspection
IRS 70.001—Individual Income Tax Returns, Statistics of Income
IRS 80.001—Artist File, Assistant Commissioner (Technical)
IRS 80.002—Expert Witness and Fee Appraiser Files
IRS 80.003—Correspondence Control and Records (Technical)
IRS 80.004—Reference Index Digest Cards (Technical)
IRS 80.005—Reports of Significant Matters (Form M-5945), (Tech)
IRS 90.001—Chief Counsel Criminal Tax Case Files
IRS 90.002—Chief Counsel Disclosure Litigation Div. Case Files
IRS 90.003—Chief Counsel General Admin. Systems
IRS 90.004—Chief Counsel General Legal Services Case Files
IRS 90.005—Chief Counsel General Litigation Case Files
IRS 90.006—Chief Counsel Interpretative Division Case Files
IRS 90.007—Chief Counsel Leg. & Regs. Div. Corresp. & Private Bill
IRS 90.009—Chief Counsel Tax Litigation Case Files
IRS 90.010—Digest Room Files Containing Briefs & Digests of Docs.
IRS 90.011—Employee Recruiting Files, Admin. Ser. Div.
IRS 90.012—Internal Control Records for Chief Counsel Legal Files
IRS 90.013—Legal Case Files of the Chief Counsel
IRS 90.014—Management Files other than CSC OPF
IRS 90.015—Reference Records of the Library, Chief Counsel
IRS 90.016—Reports and Infor. Retrieval Activity, Chief Counsel
IRS 00.002—Corresp. Files and Corresp. Control Files
IRS 42.018—Married Taxpayers Filing Separately and Multiple Files

Secret Service

USSS 001—Administrative Operations Information System
USSS 002—Treasury/USSS Criminal Investigation
USSS 003—Treas USSS Financial Mgt Information System
USSS 004—Freedom of Information Request System
USSS 005—Treasury USSS Legal Counsel Record System
USSS 006—Non-Criminal Investigation Information System
USSS 007—Protection Information System
USSS 008—Public Affairs Record System
USSS 009—Training Information System

Comptroller of the Currency

CC 004—Consumer Complaint Letter File
CC 010—FBI Report Card Index
CC 012—Freedom of Information Log
CC 013—Information File on Individuals and Commercial Entities Known or Suspected of Being Involved in Fraudulent Activities
CC 014—Investigation Files/Employee Reference File
CC 044—Consumer Complaint Index
CC 090—Bank Organizers and Proposed Officer File
CC 104—Consumer Complaint Index
CC 115—Consumer Complaint Index
CC 139—Financial and Biographical Reports of Organizers of New National Banks
CC 142—Public Files
CC 149—Consumer Complaint Index
CC 166—Consumer Complaint Index
CC 208—Consumer Complaint Index
CC 221—Professional Qualification Records for Municipal Securities Principles and Municipal Securities Representatives
CC 300—Administrative Personnel System
CC 310—Fiscal Personnel System
CC 320—General Personnel System

U.S. Savings Bond Division

USSBD 001—Savings Bonds Employee Records System
USSBD 002—SB Sales Promotion/Volunteer Record System
USSBD 003—Savings Bond Sales Record System

Systems Covered By This Notice

This notice covers all systems of records adopted up to the date of this publication (September 20, 1978).

Treasury/OS 001

System name: Administrative Personnel System.

System location: Main Treasury Building, Washington, DC 20220. Components of this record system are located at several buildings within the District of Columbia.

Categories of individuals covered by the system: Employees, contractors, consultants. This system includes all individuals who at any time were retained for a position with the Office of the Secretary as an employee, consultant or contractor.

Categories of records in the system: Employment related administrative records. This system contains in house control type information about employees and certain contracters and consultants. The type of records found within this system are: list of individuals who are issued driver licenses, building passes, credit or identification cards, parking permits, accountable property and travel documents; lists of individuals who perform specialized duties (building wardens, relocation teams, safety officers, and civil defense officers); lists of consultants or contractors that have or are providing services, reports about individuals who are involved in accidents while associated with the Office of the Secretary.

Authority for maintenance of the system: 5 U.S.C. 301, 5 U.S.C. 5701-5809 and the Civil Service Personnel Manual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record in this system may be disclosed a federal agency, in response to its request in connection with the letting of a contract, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, magnetic tape, punch cards, microfilm lists and forms.

Retrievability: Records and retrieved primarily by name (filed alphabetically by category of records); secondary identifiers are used to assure accuracy (date of birth, social security number or employee identification number).

Safeguards: Records are stored in lockable cabinets or secure rooms; access is limited to officials who have a need for the information; employees are trained to make only authorized disclosures.

Retention and disposal: Personnel type records are retained for 30 days after termination. All other records are retained and destroyed in accordance with published disposition and retention schedules.

System manager(s) and address: Assistant Secretary (Administration), Room 3424, Main Treasury Building, Washington, DC 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: The information in these records was provided by or verified by the subject of the record, employers, coworkers.

Treasury/OS 002

System name: Treasury Payroll/Personnel Information System—Treasury/OS.

System location: Main Treasury Building, Washington, DC 20220; Internal Revenue Service Data Center, Room 1100, Detroit, Michigan 48232; and U.S. Old Mint Data Center Division, 88 5th Street, San Francisco, California 94103.

Categories of individuals covered by the system: Personnel and payroll data on all Treasury Department employees.

Categories of records in the system: Year-to-date and historical data on all Treasury Department employees.

Authority for maintenance of the system: The Civil Service Personnel Manual, 50 U.S.C. App 1705-1707, 31 U.S.C. and departmental circulars 145 and 830. The Department of the Treasury, Fiscal Requirements Manual, 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Treasury Payroll/Personnel Information System is used to furnish payroll and personnel data, information and statistics to the Civil Service Commission and other requesting agencies. It is also used to generate the necessary payroll information, deductions and allotments to pay the employees on a biweekly basis and to furnish the necessary payroll information to concerned agencies required by law. The basic payroll and personnel master file provides input to management information systems, as well as related accounting and budget systems.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, magnetic tape and reports. Disbursement records are stored at the Federal Records Center.

Retrievability: Records are retrieved primarily by name (filed alphabetically), secondary identifier are used to assure accuracy (date of birth, social security number, or employee identification number).

Retention and disposal: The Treasury Payroll/Personnel Information System master file is kept on disc and mag tape. Information concerning the employee is retrievable through the use of the individual's name and/or social security number. Information is reduced to hard copy in the form of reports and payroll information and documentation. Information is retained in automated form as long as the employee is active on the System. Reports are distributed to users and the master file is purged of inactive records on a yearly basis.

System manager(s) and address: Assistant Secretary (Administration), Room 3424, Main Treasury Building, Washington, DC 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought, and (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: Departmental Disclosure Officer, Room 1314, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: The information contained in these records were provided by or verified by the subject of the record, employers and co-workers.

Treasury/OS 003

System name: General Personnel System.

System location: Main Treasury Building, Washington, D.C. 20220. Components of this record system are located at several buildings within the District of Columbia.

Categories of individuals covered by the system: Employees, contractors, consultants. This record system includes all individuals who at any time applied for or were retained in a position with the Office of the Secretary as an employee, contractor or consultant.

Categories of records in the system: (1) Employment related biographical and performance material. This category of records is typically identified as personnel type records and contains data about employees (including applicants). (2) Certain consultants and contractors The type of records found within this category include: work evaluations; educational, employment, medical and military histories; locator and emergency contact information; dependent and beneficiary information; physical and qualification descriptions; financial interest statements; personal and family assets, liabilities and other interests in business enterprises (Background investigations are listed in the Personnel Security Records System).

Authority for maintenance of the system: 5 USC 301, 18 USC 201-209; E.O. 11222; 5 CFR Chapter 1, Part 735; Treasury Personnel Manual Chapter 713; E.O. 11315; Federal Personnel Manual, Chapter 713, subchapter 3A; Part 713.203(k) CSC 1Rules and Regulations; Federal Personnel Manual Letter 713-25; CSC EPM Letter 713-18; 5 USC 302; Treasury Department Order 218, as amended; Treasury Personnel Manual Chapter 430, 8, D(1); 31 CFR Part 7; Federal Personnel Manual Chapter 295; Telecommunications Circular No. 21 of June 13, 1975; Secretary memo of October 21, 1975; Federal Personnel Manual Chapter 335; Federal Personnel Manual Chapter 410, subchapter 3, section 31 para. (b), section 5.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record in this system may be disclosed as a routine use to (1) the Civil Service Commission (CSC) for the purpose of complying with regulations issued by the CSC; (2) the Veterans Administration for the purposes of determining veterans preference and pension benefits; (3) the Equal Employment Opportunity Commission for the purpose of providing minority information and case reports; (4) respond to requests from labor organizations for names of employees and identifying information; (5) the Department of Labor for the purpose of reporting health and safety matters; (6) the General Services Administration for the purpose of complying with regulations issued by GSA (see Appendix AA for additional routine uses).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, magnetic tape, punch cards, micro-film lists and forms.

Retrievability: Records are retrieved primarily by name (filed alphabetically by category of records). Secondary identifiers are used to assure accuracy (date of birth, social security number or employee identification number).

Safeguards: Records are stored in lockable cabinets, three position combination safes or secure rooms; access is limited to officials who have a need for the information; employees are trained to make only authorized disclosures.

Retention and disposal: Personnel type records are retained for various periods of time. Most files are retained for no longer than three years after termination of employment and then destroyed, by either burning or tape erasure, or transferred to the Federal Records Center, Alexandria, Virginia; or to St. Louis. In one instance the record is returned after a year to the applicant. (Spanish Speaking Informal Application File)

System manager(s) and address: Assistant Secretary (Administration), Room 3424, Main Treasury Building, Washington, D.C.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of record sought; (3) Provide at least two secondary identifications (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: Departmental Disclosure Officer, Room 1314, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: The information contained in these records was provided by or verified by the subject of the record, employers, co-workers, friends, neighbors and associates listed as references, financial and educational institutions.

Treasury/OS 004

System name: Personnel Security System.

System location: Main Treasury Building, Washington, DC 20220.

Categories of individuals covered by the system: Government employees (current or former) or applicants occupying or applying for sensitive positions in the Department of the Treasury.

Categories of records in the system: Full field or limited background investigations and FBI name checks; investigative information related to personnel investigations conducted by the Department

or married; spouse's year of birth; principal's year of death; number and ages of children on annuity roll; year of termination of survivors.

Authority for maintenance of the system: Statutes require the Secre-

the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identifica-

tary's reception during the annual meetings of the International Monetary Fund and International Bank for Reconstruction and Development.

Categories of records in the system: Full field or limited background investigations and FBI name checks; investigative information related to personnel investigations conducted by the Department of the Treasury and other Federal agencies and departments for the purpose of granting security clearances and making suitability determinations; TD Form 4027 (Notice of Security Clearance) reflecting identification data on incumbent and record type of E.O. 10450 investigation and degree and date of clearance.

Authority for maintenance of the system: Executive Order 10450, sections 2 and 3.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Such information is made available to the appropriate employing officials who have a need to know, in order to make final determinations on hiring, continued employment or access to classified material. Files are also made available to official investigative or security personnel from other U.S. Government agencies, upon request, when the employee or former employee is being considered for employment by another agency for a sensitive position.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and index cards.

Retrievability: Records are retrieved by name.

Safeguards: Records are stored in locked metal containers, and in locked rooms. Records are limited to officials who have a need to know in the performance of their duties and who have been cleared by a full-field background investigation and have been granted appropriate security clearances.

Retention and disposal: Active files are retained during encumbent employee tenure and subject to update investigation. Files of employees who affect intra-agency transfers (to Treasury Bureaus) are automatically transferred to those Bureaus. If an employee transfers to another government agency or leaves the government, the files are retained, separate from the active files, for five years, except for background investigations completed by the CSC which are returned to that agency or returned to the Federal Records Center one year after the employee leaves Treasury. Cards are maintained indefinitely after being retired.

System manager(s) and address: Assistant Secretary (Administration), Room 3424, Main Treasury Building, Washington, DC 20220.

Systems exempted from certain provisions of the act: Exempt under 5 U.S.C. 552a Subsection (K) and 31 CFR 1.36.

Notification procedure: Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a written, signed request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; and (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: Departmental Disclosure Officer, Room 1314, 1500 Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: The information contained in these records were provided by or verified by the subject of the record, employers and co-workers, neighbors, acquaintances, educational records and police and credit checks.

Treasury/OS 00.010

System name: Office of Domestic Finance, Actuarial Valuation System—Treasury/OS.

System location: Office of the Secretary of the Treasury, Office of Government Financing, Office of the Government Actuary, 15th and Pennsylvania Avenue, N.W., Washington, D.C. 20220.

Categories of individuals covered by the system: Participants and beneficiaries of the following pension plans: District of Columbia: Teachers, Policemen, Firemen, Judges. U.S. Tax Court Judges, U.S. Foreign Service officers and staff personnel, U.S.I.A. officers and staff personnel, and Agency for International Development officers and staff personnel.

Categories of records in the system: Information in the system is as follows: Active Records: name; social security number; salary; category-grade; year of entry into system; service computation date; year of birth; year of resignation or year of death, & refund if any; indication of LWOP status (if any); Retired Records: same as actives; annuity; year of separation; cause of separation (optional, disability, deferred, etc.); years and months of service by type of service; single or married; spouse's year of birth; principal's year of death; number and ages of children on annuity roll; year of termination of survivors.

Authority for maintenance of the system: Statutes require the Secretary of the Treasury to certify the valuation of pension funds as follows: D.C. Teachers, 60 Stat. 881; D.C. Judges, 78 Stat. 1061; U.S. Tax Court Judges 26 U.S.C. 7448; U.S. Foreign Service officers and staff, USIA officers and staff, AID officers and staff 22 USC 1101. In addition, the House District Committee formally requested certification of the pension funds for D.C. police and firemen.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Government Actuary performs mathematical computations to assess expected income and outlays of pension funds listed in the 00Category of Individual" section. For additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Data are on punched cards and computer print-outs. Individuals are listed alphabetically. Records are stored in the Actuary's office in the locked and guarded Treasury Building. The records are retained on a year-to-year basis. When agencies whose pension funds are valued forward new records for valuation, older records are discarded.

System manager(s) and address: The Government Actuary, Office of the Secretary of the Treasury, 15th and Pennsylvania Ave., N.W., Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Data for actuarial valuation are provided by organizations responsible for pension funds listed under 00Category of Individual," namely the District of Columbia Government, the U.S. Tax court, the U.S. Foreign Service and the U.S. Information Agency.

Treasury/OS 00.011

System name: Office of Domestic Finance, General Correspondence—Treasury/OS.

System location: Records are stored in the Administrative Office, Domestic Finance Main Treasury, 15th and Pennsylvania Avenue, N.W., Washington, D.C. 20220. A card file with each writer's name, address and subject of inquiry is maintained as a quick reference in the Administrative Office, Office of Domestic Finance.

Categories of individuals covered by the system: General public, other executive agencies and the Congress.

Categories of records in the system: Control logs on letters from the general public, other executive agencies and the Congress regarding the national debt, the economy and monetary and fiscal policy, debt, management, market analysis and agency finance, capital markets policy, State and local finance, Government financing and revenue sharing.

Authority for maintenance of the system: 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Previous correspondence with the same writer is reviewed to enable us to provide complete, nonrepetitive replies to current inquiries. For additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: A log of incoming letters is kept alphabetically by the individual's name and by profile numbers. The alphabetical control logs are stored for a short period of time, depending on whether they are policy letters or from private individuals, and are classified as general correspondence in which case they are discarded.

System manager(s) and address: Assistant Secretary for Domestic Finance, Main Treasury, 15th and Pennsylvania Avenue, N.W., Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing

the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Letters are from the general public, other executive agencies and the Congress. They come directly to the Treasury or are referred to the Treasury by the White House, Congressional offices, or other executive agencies.

Treasury/OS 00.032

System name: OASIA Correspondence Files—Treasury/OS.

System location: (1) Department of Treasury, 15th & Penn. Avenue, N.W., Washington, D.C. 20220. (2) Washington National Records Center, 4205 Suitland Road, Washington, D.C. 20409.

Categories of individuals covered by the system: (a) U.S. Foreign Service Officials (b) Officials of Municipalities and State Governments (c) Members of Congress and (d) the General Public.

Categories of records in the system: Incoming request for information concerning international financial, economic, and monetary matters, and reply to same by individuals in the Office of the Assistant Secretary for International Affairs, Department of the Treasury.

Authority for maintenance of the system: 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Routine Use. Routine correspondence file is maintained to provide record of response to initial inquiry in the event of future correspondence. (b) Category of Users. Officials of the Department to respond to queries. (c) Purpose. Respond to inquiries. (d) For additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Carbon (file) copy attached to incoming letter maintained in File Folders. Identification of individuals maintained on alphabetical 3 x 5 card.

Retrievability: Retrieval controlled by card systems. Card, filed by name, shows folder identification in which correspondence is held.

Safeguards: Maintained in electronically secured area and vaults. Disclosure limited to official personnel of the Department.

Retention and disposal: Correspondence containing no substantive information of permanent value is culled for destruction 3 years after the close of the calendar year in which the records were created. Destruction accomplished by burning. Substantive correspondence retained indefinitely.

System manager(s) and address: Chief, Records Management Branch, Office of Administrative Programs, Department of the Treasury, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: See categories of individuals and related responses from Treasury officials.

Treasury/OS 00.033

System name: OASIA Invitation Lists—Treasury/OS.

System location: OASIA Secretariat, Department of Treasury, 15th and Pennsylvania Ave., N.W., Washington, D.C. 20220.

Categories of individuals covered by the system: Members of Congress and Congressional staff, present and former officials of the Executive Branch, The Supreme Court, U.S. executives and staff of the international institutions (IBRD, IMF, IDB) and observers from other international organizations, representatives of the business and financial community, and the Press, who are invited to the Secretary's reception during the annual meetings of the International Monetary Fund and International Bank for Reconstruction and Development.

Categories of records in the system: Name, title, name of government agency, international organization or business affiliation.

Authority for maintenance of the system: 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Routine Use. Files on previous receptions maintained and used as background for preparation of new lists for the Secretary's reception. (b) Category of Users. Staff of Secretariat. (c) Purpose. To prepare invitations and verify invitees at reception.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Lists maintained in 3 ring binders. Identification of individual maintained on alphabetical 3 x 5 card. Cards filed in card file boxes.

Retrievability: Retrieval controlled by card systems. Card, filed alphabetically by name, shows list identification.

Safeguards: None necessary.

Retention and disposal: 2 years after the end of each reception.

System manager(s) and address: Director, OASIA Secretariat, Department of the Treasury, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (name and official title).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: U.S. Government telephone directories. Card files and lists of previous receptions. U.S. Government Organizational Manual. Congressional directories. Lists of special guests, members of Delegations and staff supplied by the IMF-IBRD. Lists of members of the Press supplied by Public Affairs Office of the Treasury.

Treasury/OS 00.090

System name: EOTA FOI Request/Appeals Files—Treasury/OS.

System location: Office of the Assistant Secretary (Enforcement and Operations), Main Treasury Building, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220.

Categories of individuals covered by the system: Individuals submitting original requests for information or appeals of initial denials to this office under the Freedom of Information Act.

Categories of records in the system: Copies of the requests or appeals under FOIA submitted by individual; other correspondence on the FOI matter; copies of disclosed material.

Authority for maintenance of the system: 5 USC 301, 5 USC 552.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Consult and advise other offices and bureaus of Treasury and of other Federal Departments and agencies; advise Members and committees of Congress. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy paper files.

Retrievability: Manual, by name and/or number assigned.

Safeguards: Locked file cabinet or safe-cabinet storage; access to personnel with need to know.

Retention and disposal: Retained indefinitely.

System manager(s) and address: Official prescribing policies and practices—Assistant Secretary (Enforcement and Operations) Officials maintaining the system—Assistant to the Director, Office of Enforcement and Director of Operations, Director of Tariff Affairs.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two

items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, N.W., Washington, D.C. 20220.

remainder of these files are stored in a supply room which is always locked except when in use by FAC personnel.

Retention and disposal: None have been destroyed.

items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Individual making FOI request or appeal; offices, bureaus, agencies, departments and personnel of Federal Government who have relevant information or must be consulted for appropriate processing.

Treasury/OS 00.101

System name: International Criminal Police Organization (INTERPOL) Criminal Investigative Records—Treasury/OS

System location: Department of Justice, Room 6649, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20530.

Categories of individuals covered by the system: Individuals who have been convicted or are subjects of a criminal investigation with international aspects; specific missing persons; specific deceased persons in connection with death notices; certain weapons, motor vehicles, artifacts, etc., stolen and/or involved in crime which may or may not be associated with an individual. Certain victims of criminal violations in the U.S. or abroad.

Categories of records in the system: Information concerning an individual may be maintained in this system of records which includes but is not limited to records pertaining to fugitives, wanted persons, suspected persons, lookouts (temporary and permanent), specific missing persons, deceased persons in connection with death notices. Information about individuals includes but is not limited to name, alias, date of birth, address, physical description, various identification numbers, reason for the record or lookout, details and circumstances surrounding the actual or suspected violator.

Authority for maintenance of the system: 22 USC 263a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Use—Criminal investigations being conducted by law enforcement agencies in the U.S. or abroad. Users—Local, State and Federal Agents and employees of the U.S. National Central Bureau of INTERPOL who have a need for the records in the performance of their duties; law enforcement agencies and criminal justice agencies in the United States and abroad; INTERPOL General Secretariat and INTERPOL National Central Bureaus in member countries; disclosure required in administration of Freedom of Information Act (5 U.S.C. 552); referral to employees and officials of financial and commercial business firms and to private individuals of identifying information pertaining to actual or suspected criminal offenders where such referral is considered reasonably necessary for the purpose of furthering efforts to investigate the activities of and apprehend criminal offenders; translators of foreign languages as necessary; and for additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Stored in file folders at the U.S. National Central Bureau and certain limited data in Treasury Enforcement Communications System (TECS). Upon inactivity for five years the file is destroyed except for judicial cases involving personnel in this NCB, which is retained for 20 years from the date of the judicial action. Files on deceased persons are destroyed within one year of the person's death. Certain records, such as death notifications and missing persons records, are normally destroyed within the year after the matter is received and/or resolved. Records not of continuing interest may be destroyed at any time. Retrievability by name or file number and by weapons number and motor vehicle number. Access is limited to personnel of the U.S. NCB—INTERPOL except for certain fugitive/wanted records in TECS which are accessible to all TECS terminals. Disposal of records is by shredding or burning. Safeguards include need to know procedural and physical safeguards, such as accountability, restricted areas and alarm protection systems.

System manager(s) and address: Chief, U.S. National Central Bureau, INTERPOL, Department of Justice, Room 6649, 9th & Pennsylvania Ave., N.W., Washington, D.C. 20530.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, N.W., Washington, D.C. 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Systems exempted from certain provisions of the act: Exempt under Subsections (J)(2) and (K), 31 C.F.R. 1.36.

Treasury/OS 00.102

System name: Treasury Enforcement Communications System (TECS)—Treasury/OS.

System location: International Criminal Police Organization (INTERPOL) Criminal Investigative Records, Department of Justice, Room 6649, 9th & Pennsylvania Avenue, N.W., Washington, D.C. 20530

Categories of individuals covered by the system: Individuals who have been convicted or are subjects of a criminal investigation with international aspects; specific missing persons; specific deceased persons in connection with death notices; certain weapons, motor vehicles, artifacts, etc., stolen and/or involved in crime which may or may not be associated with an individual. Certain victims of criminal violation in the U.S. or abroad.

Categories of records in the system: Information concerning an individual may be maintained in this system of records which includes but is not limited to records pertaining to fugitives, wanted persons, suspected persons, lookouts (temporary and permanent), specific missing persons, deceased persons in connection with death notices. Information about individuals includes but is not limited to name, alias, date of birth, address, physical description, various identification numbers, reason for the record or lookout, details and circumstances surrounding the actual or suspected violator.

Authority for maintenance of the system: 5 U.S.C. 301, Reorganization Plan No. 1 of 1950; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Use—Criminal investigations being conducted by law enforcement agencies in the U.S. or abroad. Users—Local, State and Federal Agents and employees of the U.S. National Central Bureau of INTERPOL who have a need for the records in the performance of their duties; law enforcement agencies and criminal justice agencies in the United States and abroad; INTERPOL General Secretariat and INTERPOL National Central Bureaus in member countries; disclosure required in administration of Freedom of Information Act (5 U.S.C. 552); referral to employees and officials of financial and commercial business firms and to private individuals of identifying information pertaining to actual or suspected criminal offenders where such referral is considered reasonably necessary for the purpose of furthering efforts to investigate the activities of and apprehend criminal offenders; translators of foreign languages as necessary; and for additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Magnetic tape and disc storage and hard copy. Files on deceased persons are destroyed within one year of the person's death. Certain records, such as death notifications and missing persons records, are normally destroyed within the year after the matter is received and/or resolved. Records not of continuing interest may be destroyed at any time. Retrievability by name, file number, personal identification number, system identification number, weapons or motor vehicle number. Access safeguards include need to know, procedural and physical safeguards, such as accountability, restricted areas and alarm protection systems backed up by armed security force. Upon inactivity for five years the file is destroyed except for judicial cases involving personnel in this NCB, which are retained for 20 years from the date of judicial action. Disposal of records is by shredding or burning.

System manager(s) and address: Chief, U.S. National Central Bureau, INTERPOL, Department of Justice, Room 6649, 9th & Pennsylvania Ave., N.W., Washington, D.C. 20530

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, N.W., Washington, D.C. 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Exempt System.

Systems exempted from certain provisions of the act: Exempt under Subsections (J)(2) and (K), 31 C.F.R. 1.36.

Treasury/OS 00.111

System name: FAC 1950 Census of Blocked Chinese Assets—Treasury/OS.

System location: 1331 G Street, N.W., Washington, D.C. 20220.

Categories of individuals covered by the system: Most of these records contain reports and correspondence regarding blocked accounts of persons or firms who are nationals of the Peoples Republic of China. However, there is a small class of cases where reports were received regarding the assets of an individual subject to U.S. jurisdiction when such individual is the trustee of a Chinese national, Administrator or Executor of the estate of a Chinese national, heir of the estate of a Chinese national, etc. Most of the persons filing these reports were American corporations. However, a small number of reporters were American individuals.

The principal category is individuals residing in China who had an interest in property in the U.S. on December 18, 1950. This category would include (a) U.S. citizens who left China after December 17, 1950; and (b) non-U.S. citizens who left China after December 17, 1950, and became U.S. citizens or permanent alien residents of the U.S.

In addition, this system includes individuals in the U.S. who had acted for or on behalf of the government of the Peoples Republic of China, or individuals who had an interest in property in which there was also an interest of a Chinese national on or since December 17, 1950, for example, trusts and estates, joint accounts and partnerships.

Categories of records in the system: (6) Reports containing a brief description, including location and value, of assets in the U.S. on December 18, 1950, in which, China or a Chinese "national" (as defined in the Regulations) had any interest. (2) Correspondence regarding such reports. (3) A computer print-out summarizing the information contained in the reports.

Authority for maintenance of the system: Section 5(b) of the Trading with the Enemy Act (50 U.S.C. App., Section 5(b)). Section 500.603 of the Foreign Assets Control Regulations (31 CFR 500.603).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information in this system of records: (1) is used by staff to verify the accuracy of reports submitted under the 1970 Census of Blocked Chinese Assets; (2) is made available to the Chief of Enforcement, in connection with determining the present whereabouts of holders or custodians who cannot be located; (3) is made available to the Chief of Licensing for assistance in determining the propriety of the release of blocked property; (4) is made available to the Legal Section in connection with questions regarding the disposition of blocked property requiring a legal opinion; (5) is made available to the Acting Director in connection with questions regarding the property reported under the 1950 census; (6) is made available to the original holder or custodian of blocked Chinese property or his successor in interest to aid in preparation of the 1970 census report; (7) is made available to the legal representatives of persons listed in (1) to aid in preparation of the 1970 census report; (8) for additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Reports and correspondence files.

Retrievability: Reports are indexed by name of holder or custodian of blocked property, by name of individual for whom blocked accounts are maintained, and by report number. Files are indexed by name of holder or custodian of blocked property or by name of individual.

Safeguards: The FAC 1950 Census of Blocked Chinese Assets records consist of documents in folders and a computer print out. Some of these files are stored in file cabinets secured by approved detachable combination locks. The room where these records are stored is manned by FAC personnel who are instructed not to admit unauthorized persons, nor to release any material from these records to persons other than FAC personnel. During off duty hours this room is locked and safeguarded by appropriate security measures. The remainder of these files are stored in a supply room which is always locked except when in use by FAC personnel.

Retention and disposal: None have been destroyed.

System manager(s) and address: Office of Foreign Assets Control, U.S. Treasury Department, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Custodians or other holders of blocked Chinese assets.

Treasury/OS 00.112

System name: FAC 1970 Census of Blocked Chinese Assets—Treasury/OS.

System location: 1331 G. Street N.W., Washington, D.C. 20220.

Categories of individuals covered by the system: Most of these records contain reports and correspondence regarding blocked accounts of persons or firms who are nationals of the Peoples Republic of China. However, there is a small class of cases where reports were received regarding the assets of an individual subject to U.S. jurisdiction when such individual is the trustee of a Chinese national, Administrator or Executor of the estate of a Chinese national, heir of the estate of a Chinese national, etc. Most of the persons filing these reports were American corporations. However, a small number of reporters were American individuals.

The principal category are Foreign nationals, namely Chinese who had interests in property in the U.S. on December 18, 1950, and on July 1, 1970. Also included are individuals in the U.S. who had been in China on or since December 17, 1950, or who had acted for or on behalf of the government of the Peoples Republic of China, or who had on either date an interest in property in which there was also an interest of a Chinese national on or since December 17, 1950, for example, trusts and estates, joint accounts and partnerships.

Categories of records in the system: (1) Reports containing a brief description including location and value, of assets in the U.S. on December 18, 1950, or on July 1, 1970, in which, on either date, China or a Chinese "national" (as defined in the Regulations) had any interest. (2) Correspondence regarding such reports. (3) A computer print-out summarizing the information contained in the reports.

Authority for maintenance of the system: Section 5(b) of the Trading with the Enemy Act (50 U.S.C. App., Section 5(b)). Section 500.610 of the Foreign Assets Control Regulations (31 CFR 500.610).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in this system of records: (1) is made available to the Director, Chief of Licensing, Chief of Enforcement, and the Legal Section for assistance with problems requiring their advice and expertise. (2) is made available to the Chief of Licensing in connection with applications to unblock property of Chinese nationals. (3) is used for statistical purposes. (4) for additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: files and index cards.

Retrievability: Files and index cards indexed by name of holder or custodian of property with I.D. number and by name of individual for whom blocked accounts are held with I.D. number.

Safeguards: The Foreign Assets Control 1970 Census of Blocked Chinese Assets records consist of documents in folders and a bound computer print out which are stored in file cabinets secured by approved detachable combination locks. The room where these records are stored is manned by FAC personnel who are instructed not to admit unauthorized persons, nor to release any material from these records to persons other than FAC personnel. During off duty hours this room is locked and safeguarded by appropriate security measures.

Retention and disposal: None have been destroyed.

System manager(s) and address: Director, Office of Foreign Assets Control, U.S. Treasury Department, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Custodians or other holders of blocked Chinese assets.

Treasury/OS 00.113

System name: FAC 1964 Census of Blocked Cuban Assets—Treasury/OS

System location: Federal Record Center, Suitland, Maryland

Categories of individuals covered by the system: Most of these records contain reports and correspondence regarding blocked accounts of persons or firms who are nationals of Cuba. However, there is a small class of cases where reports were received regarding the assets of an individual subject to U.S. jurisdiction when such individual is the trustee of a Cuban national, Administrator or Executor of the estate of a Cuban national, heir of the estate of a Cuban national, etc. Most of the persons filing these reports were American corporations. However, a small number of reporters were American individuals.

The principal category is residents of Cuba, who had an interest in property in the U.S. on July 8, 1963. This category would also include (a) U.S. citizens who left Cuba after July 8, 1963, and (b) non-U.S. citizens who left Cuba after 1963 and became U.S. citizens or permanent alien residents of the U.S. In addition, this system includes individuals in the U.S. who had acted for or on behalf of the government of Cuba, or individuals who had an interest in property in which there was also an interest of a Cuban national on or since July 8, 1963, for example, trusts and estates, joint accounts and partnerships.

Categories of records in the system: (1) Reports containing a brief description, including location and value of assets in the U.S. on July 8, 1963, in which Cuba or a Cuban "national" (as defined in the Regulations) had any interest. (2) Correspondence regarding such reports. (3) A computer print out summarizing the information contained in the reports.

Authority for maintenance of the system: Section 5(b) of the Trading with the Enemy Act (50 USC, App., Section 5(b). Section 620(a) of the Foreign Assistance Act of 1961 (22 USC Section 2370(a)). Cuban Assets Control Regulations 31 CFR Part 515.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information in this system of records may be used in connection with a future census of blocked Cuban assets. The uses may be as follows: (1) by staff to determine persons to whom specific correspondence should be addressed advising them of the census requirements; (2) by staff to verify the accuracy of reports submitted under a new census; (3) by the Chief of Enforcement, in connection with determining the present where-abouts of holders or custodians who cannot be located; (4) by the Chief of Licensing for assistance in determining the propriety of the release of blocked property; (5) by the Legal Section in connection with questions regarding the disposition of blocked property requiring a legal opinion; (6) by the Director in connection with questions regarding the property reported under the 1964 census; (7) may be made available to the original holder or custodian of blocked Cuban property or his successor in interest to aid in preparation of a new census report; (8) may be available to the legal representatives of persons listed in (7) to aid in preparation of a new census report.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Reports and correspondence.

Retrievability: All of these records are located at the Federal Record Center, Suitland, Maryland. They are retrievable by name of individual.

Safeguards: GSA.

Retention and disposal: None have been destroyed.

System manager(s) and address: Office of Foreign Assets Control, U.S. Treasury Department, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Custodians or other holders of blocked Cuban property.

Treasury/OS 00.114

System name: Foreign Assets Control Enforcement Records—Treasury/OS

System location: 1331 G Street, N.W., Washington, D.C. 20220.

Categories of individuals covered by the system: Individuals who have engaged in unlicensed financial, commercial or other transactions which are prohibited under regulations administered by the Office of Foreign Assets Control. Individuals who have made any unlicensed importation of prohibited merchandise from a foreign country which is a "designated country" under regulations administered by the Office of Foreign Assets Control. Individuals who have made an unlicensed remittance of funds or exportation of goods to a "designated country" or national thereof, or to a "specially designated national." Individuals who have otherwise violated any Treasury ruling, license or regulation issued under or pursuant to the Trading with the Enemy Act or the United Nations Participation Act. Individuals suspected of having engaged in activities or transactions which violated statutes or regulations administered by the controls. Individuals who have applied for Foreign Assets Control Licensing when there is reason to suspect the truth of statements contained in an individual's application. Individuals who have or are suspected of misuse or misappropriation of blocked property.

Categories of records in the system: Reports of investigations of suspected or actual violations by an individual of relevant statute and regulations administered by the Office of Foreign Assets Control; intelligence reports requested from other official sources regarding suspected or actual criminal or civil violations by an individual of the relevant statutes, or of the regulations administered by the Office of Foreign Assets Control; evidence obtained during investigation of suspected or actual violations by an individual of the relevant statutes and regulations administered by the Office of Foreign Assets Control.

Authority for maintenance of the system: Statutory: Section 5(b) of the Trading with the Enemy Act (50 USC, App. Section 5(b)); Section 5 of the United Nations Participation Act (22 USC Section 287(c)); Foreign Assistance Act of 1961, (22 USC Section 2370 (a)). Executive Orders: E.O; 8389 E.O. 9193; E.O. 11322; E.O. 11419; Proc. 3447. Regulations: Foreign Assets Control Regulations (31 CFR, Sections 500.601 and 500.602), Cuban Assets Control Regulations (31 CFR, Sections 515.601 and 515.602), Rhodesian Sanctions Control Regulations (31 CFR Sections 530.601 and 530.602), Foreign Funds Control Regulations (31 CFR, Sections 520.601 and 520.602).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Used as a source of reference in other FAC enforcement investigations. (2) As a source of information in consideration of applications for Foreign Assets Control specific licenses. (3) Referral of information to the Department of Justice in civil or criminal cases involving the individual. (4) Disclosure to U.S. Customs Service, Internal Revenue Service or Department of Commerce (Office of Export Administration), of information concerning possible violations of laws and/or regulations of such agencies. (5) Notice to the United States Customs Service (a) of importers who have made illegal commercial importations of prohibited publications, and, (b) of persons who are authorized to make commercial importations of prohibited publications (under regulations administered by the Office of Foreign Assets Control). (6) for additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: The Foreign Assets Control Enforcement Records consist of documents, etc., in folders which are stored in locked file cabinets in secure file rooms. Enforcement records are retrieved by means of card-index file system containing the names of persons (individuals, corporations, etc.). The file rooms are manned by Foreign Assets Control personnel who are instructed not to admit unauthorized persons into the file areas, nor to release

any material from the enforcement records to persons other than Foreign Assets Control personnel. During off duty hours the file rooms are secured by appropriate electronic protective devices. These Enforcement Records are maintained indefinitely, for so long as the assets and transactions involved are subject to regulation. Records are also stored at the Federal Record Center, Suitland, Maryland.

System manager(s) and address: Director, Office of Foreign Assets Control, U.S. Treasury Department, Washington, D.C.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Systems exempted from certain provisions of the act: Exempt under Subsection (K)(2), 31 C.F.R. 1.36.

Treasury/OS 00.115

System name: Foreign Assets Control General Correspondence Files—Treasury/OS.

System location: 1331 G Street, N.W., Washington, D.C. 20220.

Categories of individuals covered by the system: Records are maintained of all correspondence from individuals seeking information from the Office of Foreign Assets Control regarding embargoed or blocked foreign countries (and assets and nationals thereof), which are affected by implementing Treasury Department Regulations. Current regulations, and corresponding blocked or embargoed countries, are: Foreign Assets Control Regulations (China, Vietnam, and North Korea); Cuban Assets Control Regulations (Cuba); and the Rhodesian Sanctions Regulations (Rhodesia) and the Foreign Funds Control Regulations (World War II). Records are also maintained of letters to individuals initiated by the Foreign Assets Control.

Categories of records in the system: General correspondence of every kind, e.g.: individuals seeking information about FAC regulations re some particular country; requests for advice on proposed or possible transaction involving a designated country or a national thereof; letters reporting possible violation of some FAC administered regulation; requests from law students and other researchers; requests for copies of regulations administered by FAC; requests for information regarding possible employment opportunities with the Office of Foreign Assets Control.

Authority for maintenance of the system: Statutory: Section 5(b) of the Trading with the Enemy Act (50 USC, App. Section 5(b)). Section 5 of the United Nations Participation Act (22 USC Section 287 c), Section 620 (a) of the Foreign Assistance Act of 1961 (22 USC Section 2370 (a)). Executive Orders: E.O. 9193; E.O. 9989; E.O. 11322; E.O. 11419; Proc. 3447. Regulations: Foreign Assets Control Regulations 31 CFR Part 500, Cuban Assets Control Regulations 31 CFR Part 515, Rhodesian Sanctions Regulations 31 CFR Part 530; Transaction Control Regulations 31 CFR Part 505; Foreign Funds Control Regulations 31 CFR Part 520.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (A) Intra-Agency—Used by the staff to effectuate the purposes of the Regulations which it is charged with administering: (1) Used by the Enforcement Section as background information in connection with investigations. (2) Used by the Licensing Section as background information in connection with the processing of license applications submitted by the individual. (3) Used by the Legal Section as background information in connection with preparation of briefs, etc. (4) Used by all staff as background information in connection with subsequent inquiries from an individual. (5) Used in connection with the formulation of or as examples of policy followed by the office. (6) Used by all staff to initiate correspondence with third parties mentioned in an individual letter regarding potential or apparent violations of the regulations. (7) Used by all staff to prepare statistics useful in implementing the Regulations. (8) Used by all staff to compile mailing lists for use by Foreign Assets Control to advise individuals interested in a particular aspect of the Regulations of changes relating to these aspects. (9) Used to detect an interest in a particular aspect of the Regulations which necessitate the publication of amendments to the Regulations regarding interpretations of the Regulations. (B) Inter-Agency: (1) Referred to the Department of State, Department of Commerce, Internal Revenue Service, Foreign Claims Settlement Commission, (and other agencies) where the individuals inquiry concerns matters under the jurisdiction of such agencies as well as under the jurisdiction of the Office of Foreign Assets Control. (2) Referred to the Department of Justice, where it appears likely that a crime or civil offense was committed. (3) Referred to other agencies where it appears that an individual has violated the laws, statutes or regulations of such agency. (C) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: The Foreign Assets Control General Correspondence Records consist of documents in folders which are stored in file cabinets secured by approved detachable combination locks. General Correspondence records are retrieved by means of card-index file system containing the names of persons (individuals, corporations, etc.). The file rooms are manned by FAC personnel who are instructed not to admit unauthorized persons into the file-areas, nor to release any material from the enforcement record to persons other than FAC personnel. During off-duty hours, the file rooms are safeguarded by appropriate electronic protective devices. The General Correspondence records are maintained indefinitely for so long as the assets or transactions involved are subject to regulation. Records are also stored at the Federal Record Center, Suitland, Maryland.

System manager(s) and address: Director, Office of Foreign Assets Control, U.S. Treasury Department, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Individuals who initiated correspondence with Treasury Department's Office of Foreign Assets Control or who responded to correspondence from the Office of Foreign Assets Control; other governmental agencies (Federal, State and Local); foreign individuals and official sources.

Treasury/OS 00.116

System name: Foreign Assets Control Litigation files—Treasury/OS

System location: 1331 G Street, N.W., Room 504, Washington, D.C. 20220.

Categories of individuals covered by the system: Individuals who have been criminally prosecuted, or involved in civil litigation (as plaintiff or defendant) with the United States, in matters which involve statutes and/or regulations which are administered by the Office of Foreign Assets Control (e.g.: criminal prosecution for violation of statutes and regulations; suits to enjoin the Office of Foreign Assets Control from holding bank accounts or other property in a blocked status; suits to compel the Office of Foreign Assets Control to issue licenses for import of merchandise from a designated country; suits seeking to have statutes and regulations administered by Foreign Assets Control held unconstitutional, in fact or as applied; etc.).

Categories of records in the system: Copies of the pleading and all other legal documents connected with civil litigation and criminal proceedings involving statutes and regulations administered by the Office of Foreign Assets Control, including memoranda of law, drafts of legal briefs, and other material prepared by the FAC legal staff for use in such litigation; material obtained pursuant to discovery under applicable court rules (depositions, written interrogatories, etc.); copies of final orders, decrees, and opinions of courts in such litigation, and copies of correspondence relating to activities of any party to such litigation (containing information relevant to the issues involved in the litigation).

Authority for maintenance of the system: Statutes: Section 5(b) of the Trading with the Enemy Act, (50 USC, App. Section 5(b)); Section 5 of the United Nations Participation Act, (22 USC, Section 287c); Section 620 (a) of the Foreign Assistance Act of 1961, (22 USC 2370 (a)). Executive Orders: E.O. 9193; E.O. 9989; E.O. 11322; E.O. 11419; Proc. 3447. Regulations: Foreign Funds Control Regulations (31 CFR, Part 520), Foreign Assets Control Regulations, (31

CFR, Part 500), Cuban Assets Control Regulations, (31 CFR, Part 515), Rhodesian Sanctions Regulations (31 CFR, Part 530), Transac-

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

censing records consist of documents in folders which are stored in file cabinets. Each such file cabinet is outfitted with a detachable combination lock.

Authority for maintenance of the system: PL 92-512. 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Address File. For addi-

CFR, Part 500), Cuban Assets Control Regulations, (31 CFR, Part 515), Rhodesian Sanctions Regulations (31 CFR, Part 530), Transactions Control Regulations (31 CFR, Part 505).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Preparation and conduct of litigation in process by the Justice Department. (2) Research source for the FAC Enforcement section. (3) Source of information for the FAC Licensing section in consideration of applications for FAC license. (4) Source of legal precedents and for other legal research by the FAC Legal section. (5) Referral to Department of Justice in cases involving Statutes and Regulations administered by the Office of Foreign Assets Control. (6) Disclosure to U.S. Customs Service in cases which jointly involve similar matters, or which involve, jointly, both the FAC and the U.S. Customs Service. (7) Disclosure to the State Department in connection with foreign policy aspects of legal problems involved. (8) Disclosure to U.S. Department of Commerce where cases involve matters of interest to, or which are in the jurisdiction of that Department. (9) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: The Foreign Assets Control Litigation records consist of documents in folders which are stored in file cabinets secured by approved detachable combination locks. The files are retrieved by name of the individual. During normal working hours, the room where these records are kept is manned by persons who are instructed not to allow unauthorized persons into the file area, nor to disclose or release any material to persons other than FAC personnel. During off-duty hours, the room in which the records are kept is safe-guarded by appropriate electronic protective devices. The Litigation records are maintained indefinitely as research source and legal precedent.

System manager(s) and address: Director, Office of Foreign Assets Control, 1331 G Street, N.W., U.S. Department of the Treasury, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Pleadings and other materials filed during course of a legal proceeding; discovery obtained pursuant to applicable court rules; materials obtained from FAC Enforcement Section; material obtained pursuant to request made on other Federal agencies; Orders, opinions, decisions of courts.

Treasury/OS 00.117

System name: Foreign Assets Control Mailing List—Treasury/OS

System location: 1331 G Street, N.W., Washington, D.C. 20220.

Categories of individuals covered by the system: Individuals who have asked to be advised of any amendments, announcements, etc., pertaining to the Regulations administered by this Office.

Categories of records in the system: Index cards and addressograph plates containing names and addresses of all persons to whom information regarding the Regulations is sent.

Authority for maintenance of the system: Statutory: Section 5(b) of the Trading with the Enemy Act (50 USC, App., Section 5(b). Section 5 of the United Nations Participation Act (22 USC Section 287c). Section 620(a) of the Foreign Assistance Act of 1961 (22 USC Section 2370(a). Executive Orders: Executive Order 9193; Executive Order 9989; Executive Order 11322; Executive Order 11419; Proc. 3447. Regulations: Foreign Assets Control Regulations, 31 CFR Part 500; Cuban Assets Control Regulations, 31 CFR Part 515; Rhodesian Sanctions Regulations, 31 CFR Part 530; Transaction Control Regulations, 31 CFR Part 505; Foreign Funds Control Regulations, 31 CFR Part 520.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Information in this system of records is used by FAC to enable the Government Printing Office to send out information regarding our Regulations to all interested parties. (2) For additional routine uses see appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Index cards and addressograph plates.

Retrievability: Indexed by name of individual or corporation.

Safeguards: The FAC mailing list records consist of index cards filed in index card boxes. The room where these records are stored is manned by FAC personnel who are instructed not to admit unauthorized persons, nor to release any material from these records to persons other than FAC personnel. During off duty hours this room is locked and safe-guarded by appropriate security measures. The addressograph plates are stored at the Government Printing Office.

System manager(s) and address: Director, Office of Foreign Assets Control, U.S. Treasury Department, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: See Category of Individual.

Treasury/OS 00.118

System name: Foreign Assets Control Licensing Records—Treasury/OS

System location: 1331 G Street, N.W., Washington, D.C. 20220.

Categories of individuals covered by the system: Applicants for license to import prohibited goods from countries designated in Regulations administered by Office of Foreign Assets Control. Applicants for license to remit funds to countries designated in Regulations of the Office of Foreign Assets Control. Applicants for license authorizing engagement in other transactions and activities which are prohibited by Regulations of the Office of Foreign Assets Control.

Categories of records in the system: Applications for Treasury license; information in support of applications submitted by applicant; information from other sources regarding such applications; copies of agency action granting or denying applications; requests for amendment of license; requests for rehearing or appeal of denial actions; other information related to any of the foregoing.

Authority for maintenance of the system: Statutes: Section 5(b) of the Trading with the Enemy Act (50 USC, App. Section 5(b)). Section 5 of the United Nations Participation Act (22 USC 287 (1)(c)(1)). Section 620 (a) of the Foreign Assistance Act of 1961 (22 USC 2370 (a)). Executive Orders: E.O. 9193; E.O. 9989; E.O. 11322; E.O. 11419; Proc. 3447. Regulations: Foreign Assets Control Regulations 31 CFR, Part 500; Transaction Control Regulations 31 CFR, Part 505; Cuban Assets Control Regulations 31 CFR, Part 515; Foreign Funds Control Regulations 31 CFR, Part 520; Rhodesian Sanctions Regulations 31 CFR, Part 530.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Furnishing of information to the FAC Enforcement Section where it appears that some willful violation of Treasury regulation or requirement may have occurred. (2) Comparison with subsequent application from same applicant. (3) Consultation with State, Commerce and Defense, as appropriate concerning applicable policy and relevant facts. (4) Furnishing information to the U.S. Customs Service where it appears that a Customs requirement or regulation has not been complied with. (5) Furnishing information to Internal Revenue Service where it appears that a matter within the jurisdiction of that agency is involved. (6) Furnishing of information to the Department of Commerce where it appears that a requirement or regulation of that agency is involved. (7) Notice to the U.S. Customs Service (a) of importers who have made illegal importations or prohibited publications, and (b) of persons who are authorized to make commercial importations of prohibited publications (under regulations administered by the Office of Foreign Assets Control). (8) Furnishing of report to Justice Department where it appears that some civil or criminal violation by applicant of a Treasury regulation or other requirement has occurred. (9) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: The Foreign Assets Control Li-

censing records consist of documents in folders which are stored in file cabinets. Each such file cabinet is outfitted with a detachable combination lock.

The records are retrieved by license numbers, and may also be obtained by means of a card-index file. During normal working hours, the file room is manned by persons who are instructed not to allow unauthorized persons into the file area, nor to disclose or release any material to persons other than FAC personnel. During off-duty hours, the file rooms are safe-guarded by appropriate electronic protective devices. The FAC licensing records are maintained indefinitely for so long as the assets or transactions involved are subject to regulations. Records are also stored at the Federal Record Center, Suitland, Maryland.

System manager(s) and address: Director, Office of Foreign Assets Control, U.S. Treasury Department, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: The majority of information concerning an individual applicant in a FAC License Record will typically have come from the applicant. On infrequent occasions some such information will have been obtained from other governmental agencies; or, during the course of an investigation by the FAC Enforcement Section.

Treasury/OS 00.121

System name: ORS Auditors' Address File—Treasury/OS

System location: Office of Computer Science, Department of the Treasury, 1435 G Street, N.W., Washington, D.C.

Categories of individuals covered by the system: All State Auditors

Categories of records in the system: Mailing Addresses & Phone Numbers.

Authority for maintenance of the system: PL 92-512 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Address File & Telephone Index. For additional routine uses see appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic Tape.

Retrievability: Indexed by state code & unique numeric suffix.

Safeguards: Secured computer room.

Retention and disposal: Maintained until file is updated by the Audit Division, Office of Revenue Sharing.

System manager(s) and address: Administrative Officer, Office of Revenue Sharing, 2401 E Street, N.W., Washington, D.C. 20226.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: State audit address lists.

Treasury/OS 00.124

System name: ORS Governors' Address File—Treasury/OS

System location: Systems & Operations Division, Office of Revenue Sharing, 2401 E Street, NW, Washington, DC 20226.

Categories of individuals covered by the system: All current governors.

Categories of records in the system: Mailing Addresses.

Authority for maintenance of the system: PL 92-512. 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Address File. For additional routine uses see appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: MCST Magnetic Cards.

Retrievability: Indexed by state code.

Safeguards: Secured computer room.

Retention and disposal: Maintained until file is updated.

System manager(s) and address: Administrative Officer, Office of Revenue Sharing, 2401 E Street N.W., Washington, D.C. 20226.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Congressional Directory, State submissions.

Treasury/OS 00.125

System name: ORS Governors & Governors Authorized Representatives List—Treasury/OS.

System location: Systems & Operations Division, Office of Revenue Sharing, 2401 E Street, NW, Washington, DC 20226.

Categories of individuals covered by the system: All current governors & their authorized representatives.

Categories of records in the system: Individual Names & Addresses.

Authority for maintenance of the system: PL 92-512. 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Address File, for additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Notebook (Hardcopy).

Retrievability: Indexed by State name.

Safeguards: Secured computer room.

Retention and disposal: Maintained until file is updated.

System manager(s) and address: Administrative Officer, Office of Revenue Sharing, 2401 E Street NW, Washington, DC 20226.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements; (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: State official and address files.

Treasury/OS 00.126

System name: Office of Revenue Sharing, Intergovernmental Relations Division mailing list—Treasury/OS.

System location: Office of Revenue Sharing, 2401 E Street, N.W., Rm. 1407, Washington, D.C. 20226.

Categories of individuals covered by the system: Not all entries on the mailing list are by name of individual; many entries are identified only by agency or organization name. Names of individuals or organizations on the reveNews mailing list were placed there by personal request, designation of the State Governor or by the screening of mailing lists of local officials of national public interest groups.

Categories of records in the system: The system identifies name and address only and is arranged in such a way as to be sorted and

retrieved by State. The system is further broken down into a sub-list of frequent liaison contacts which can be retrieved separately.

Treasury/OS 00.131

System name: ORS State Attorneys General Records—Treasury/OS

System manager(s) and address: Administrative Officer, Room 3006, U.S. Treasury Department, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

proceedings involving statutes and regulations administered by the Office of Foreign Assets Control, including memoranda of law, drafts of legal briefs, and other material prepared by the FAC legal staff for

retrieved by State. The system is further broken down into a sub-list of frequent liaison contacts which can be retrieved separately.

Authority for maintenance of the system: 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The reveNews mailing list is used to distribute copies of reveNews, the Office of Revenue Sharing newsletter. It also is used to mail program and technical assistance materials to service agencies of State and local government and to distribute ORS publications. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The system is stored on mag. tape.

Retrievability: The system is indexed by nine digit I.D. number; the first two digits represent the State of the address and are the only parts of the I.D. which are used for retrieving address information.

Safeguards: System listings can be authorized only by written request to the Systems and Operations Division, ORS.

Retention and disposal: The records are retained indefinitely; individual records can be amended or deleted at any time. Coding sheets for address changes and deletions are forwarded periodically to the Systems and Operations Division, ORS.

System manager(s) and address: Administrative Officer: ORS, Office of Revenue Sharing, 2401 E Street, N.W., Washington, D.C. 20226.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: See Category of Individual.

Treasury/OS 00.130

System name: ORS Senate, House & Governors' Address File—Treasury/OS

System location: Office of Computer Science, Department of the Treasury, 1435 G Street, NW, Washington, DC.

Categories of individuals covered by the system: All current U.S. Senators, Congressmen, & Governors.

Categories of records in the system: Mailing Addresses.

Authority for maintenance of the system: PL 92-512, 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Address File. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic Tape.

Retrievability: Indexed by state code & unique numeric suffix.

Safeguards: Secured computer room.

Retention and disposal: Maintained until file is updated by the Public Affairs Division, Office of Revenue Sharing.

System manager(s) and address: Administrative Officer, Office of Revenue Sharing, 2401 E Street N.W., Washington, D.C. 20226.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Congressional Directory, State submissions.

Treasury/OS 00.131

System name: ORS State Attorneys General Records—Treasury/OS

System location: Office of Revenue Sharing, 2401 "E" Street, N.W., Washington, D.C. 20226.

Categories of individuals covered by the system: State Attorneys General or Assistant Attorneys General.

Categories of records in the system: Correspondence with State offices of Attorney Generals concerning State laws as they affect the expenditure of funds under the Revenue Sharing Act.

Authority for maintenance of the system: State and Local Fiscal Assistance Act of 1972 (P.L. 92-512). 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records are used by the Chief Counsel for Revenue Sharing. They are used for determining the applicability and effect of State laws on the expenditure of funds under the Revenue Sharing Act. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Filing cabinet.

Retrievability: The system is alphabetically indexed by name of State.

Safeguards: Locked file room.

Retention and disposal: Records are updated periodically.

System manager(s) and address: Chief Counsel for Revenue Sharing, 2401 "E" St., N.W., Room 1545, Washington, D.C. 20226.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Correspondence with State offices of Attorney Generals.

Treasury/OS 00.144

System name: Civil Litigation Records—Treasury/OS.

System location: U.S. Treasury Department, Office of the General Counsel, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

Categories of individuals covered by the system: Persons who are parties, plaintiff or defendant, in civil litigation (as described below) with the Treasury Department.

Categories of records in the system: This system of records contains information or documents related to litigation involving or concerning the Department or its officials. The records consist of pleadings, investigative reports, legal memoranda and related correspondence.

Authority for maintenance of the system: Title 31, U.S.C., Section 1009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used to prosecute or defend court cases related to certain general civil litigation. For additional routine uses see Appendix AA except for tax matters or matters litigated in the U.S. Customs Courts, and to provide cooperation to the U.S. Department of Justice in marshalling facts, correlating evidence, and preparing pleadings and briefs.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in file folders with index cards.

Retrievability: These records are indexed by the title of the case.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: The records are maintained during the pendency of the litigation and approximately one year thereafter are transferred to the Federal Records Center, Suitland, Maryland. They are destroyed by the Federal Records Center when the records are 7 years old.

System manager(s) and address: Administrative Officer, Room 3006, U.S. Treasury Department, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Systems exempted from certain provisions of the act: Exempt under Subsection (k)(2), 31 C.F.R. 1.36.

Treasury/OS 00.145

System name: Claimants, Disbursing—Treasury/OS

System location: U.S. Treasury Department, Office of the General Counsel, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

Categories of individuals covered by the system: Claimants for Disbursements by the United States.

Categories of records in the system: Correspondence, memoranda, and related material.

Authority for maintenance of the system: 50 U.S.C. App. 1705-1707, Title 31, United States Code, Department Circulars No. 145 and 830.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To process disbursements in accordance with Departmental regulations. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Boxes in Federal Records Center.

Retrievability: Name of claimant.

Safeguards: Files are in Records Center; access is limited to persons on official business.

Retention and disposal: Files kept for an indefinite period.

System manager(s) and address: Administrative Officer, Office of the General Counsel, U.S. Treasury Department, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Individuals and their representatives.

Treasury/OS 00.149

System name: Foreign Assets Control Legal Files—Treasury/OS

System location: 1331 G Street N.W., Room 504, Washington, D.C. 20220.

Categories of individuals covered by the system: Individuals who have corresponded with (or been the subject of correspondence) regarding legal matters and regulations administered by the Office of Foreign Assets Control; and individuals who have been criminally prosecuted, or involved in civil litigation (as plaintiff or defendant) with the United States, in matters involving statutes and/or regulations administered by the Office of Foreign Assets Control (e.g.: criminal prosecutions for violation of statutes and regulations; suits to enjoin the Office of Foreign Assets Control from holding bank accounts or other property in a blocked status; suits to compel the Office of Foreign Assets Control to issue licenses for import of merchandise from a designated country; suits seeking to have statutes and regulations administered by Foreign Assets Control held unconstitutional, in fact or as applied; etc.).

Categories of records in the system: Copies of the pleading and all other legal documents connected with civil litigation and criminal proceedings involving statutes and regulations administered by the Office of Foreign Assets Control, including memoranda of law, drafts of legal briefs, and other material prepared by the FAC legal staff for use in such litigation; material obtained pursuant to discovery under applicable court rules (depositions, written interrogatories, etc.); copies of final orders, decrees, and opinions of courts in such litigation, and copies of correspondence relating to activities of any party to such litigation (containing information relevant to the issues involved in the litigation); or other general correspondence regarding the Office of Foreign Assets Control legal matters.

Authority for maintenance of the system: Statutes: Section 5(b) of the Trading with the Enemy Act (50 USC, App. Section 5(b)). Section 5 of the United Nations Participation Act (22 USC, Section 287c). Section 620 (a) of the Foreign Assistance Act of 1961 (22 USC 2370 (a)). Executive Orders: E.O. 9193; E.O. 9989; E.O. 11322; E.O. 11419; Proc. 3447. Regulations: Foreign Funds Control Regulations, (31 CFR, Part 520); Foreign Assets Control Regulations, (31 CFR, Part 500); Cuban Assets Control Regulations, (31 CFR, Part 515); Rhodesian Sanctions Regulations, (31 CFR, Part 530); Transactions Control Regulations, (31 CFR, Part 505).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Preparation and conduct of litigation in process by the Justice Department. (2) Research source for the FAC Enforcement section. (3) Source of information for the FAC Licensing section in consideration of applications for FAC license. (4) Source of legal precedents and for other legal research by the FAC Legal section. (5) Referral to Department of Justice in cases involving Statutes and Regulations administered by the Office of Foreign Assets Control. (6) Disclosure to U.S. Customs Service in cases which jointly involve similar matters, or which involve, jointly, both the FAC and the U.S. Customs Service. (7) Disclosure to the State Department in connection with foreign policy aspects of legal problems involved. (8) Disclosure to U.S. Department of Commerce where cases involve matters of interest to, or which are in the jurisdiction of that Department. (9) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: The Foreign Assets Control Litigation records consist of documents in folders which are stored in file cabinets secured by approved detachable combination locks. The files are retrieved by name of the individual. During normal working hours, the room where these records are kept is manned by persons who are instructed not to allow unauthorized persons into the file area, nor to disclose or release any material to persons other than FAC personnel. During off-duty hours, the room in which the records are kept is safe-guarded by appropriate electronic protective devices.

The Litigation records are maintained indefinitely as research source and legal precedent.

System manager(s) and address: Administrative Officer, Room 3006, U.S. Treasury Department, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Pleadings and other materials filed during course of a legal proceeding; discovery obtained pursuant to applicable court rules; materials obtained from FAC Enforcement Section; material obtained pursuant to requests made on other Federal agencies; orders, opinions, decisions of courts.

Treasury/OS 00.151

System name: Gifts to the United States—Treasury/OS.

System location: U.S. Treasury Department, Office of the General Counsel, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

Categories of individuals covered by the system: Donors of inter vivos and testamentary gifts to the United States.

Categories of records in the system: Correspondence, copies of wills and court proceedings, and other material related to gifts to the United States.

Authority for maintenance of the system: 50 U.S.C. 1151-1156. Department Circular No. 865 (revised).

Categories of individuals covered by the system: Individuals requesting consideration for appointment to Tax Court judgeships.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Information contained in this system may

Categories of individuals covered by the system: Individuals eligible to practice before the Internal Revenue Service (attorneys, certified public accountants and enrolled agents).

Authority for maintenance of the system: 50 U.S.C. 1151-1156. Department Circular No. 865 (revised).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To process gifts to the United States and claims against such gifts in accordance with Departmental regulations. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Boxes in Federal Records Centers.

Retrievability: Name of donor.

Safeguards: Files are in Records Center; access is limited to persons on official business.

Retention and disposal: Files kept for an indefinite period.

System manager(s) and address: Administrative Officer, Office of the General Counsel, U.S. Treasury Department, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Individuals, executors, administrators and other involved persons.

Treasury/OS 00.154

System name: Private relief bill system—Treasury/OS.

System location: Office of the General Counsel, Room 1417, Treasury Department, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220.

Categories of individuals covered by the system: Individuals who have had private relief bills introduced in Congress on their behalf.

Categories of records in the system: Congressional committee or OMB request for Treasury views on proposed legislation plus comments on proposal from offices or bureaus of Treasury.

Authority for maintenance of the system: 5 U.S.C. 301. A function of the Office of the General Counsel is to handle and coordinate legislative work that concerns Treasury.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: System is used to furnish reports on proposed legislation to Congress or OMB. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Indexed on 5 by 8 card by bill number but cross-indexed to individual's name. Complete file is kept by bill number and Congress. Permanent file.

System manager(s) and address: Administrative Officer, Room 3006, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Sources of the request are usually Congressional committees or OMB. Other information comes from Treasury bureau or office concerned in matter and from the individual concerned.

Treasury/OS 00.156

System name: Tax Court Judge Applicants—Treasury/OS.

System location: Room 3000, Main Treasury Building, 15th and Pennsylvania Avenue, N.W., Washington, D.C. 20220.

Categories of individuals covered by the system: Individuals requesting consideration for appointment to Tax Court judgeships.

Categories of records in the system: Information concerning the qualification of individuals for appointment to the Tax Court.

Authority for maintenance of the system: In accordance with the requirements for Presidential appointments, 26 U.S.C. 7443.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by senior Treasury Department officials in making recommendations to the President on appointments to the Tax Court. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinets.

Retrievability: By name of individual.

Safeguards: The files are kept in locked cabinets with a limited number of employees permitted access.

Retention and disposal: The records relating to individuals date from 1966.

System manager(s) and address: Administrative Officer, Office of the General Counsel, Room 3006, Main Treasury, 15th and Pennsylvania Avenue, N.W., Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Individual concerned and letters of recommendation from other individuals submitted at the request of the individual and/or the Department.

Treasury/OS 00.160

System name: Abandoned Enrollment Applications—Treasury/OS.

System location: Washington National Record Center, National Archives and Record Service, General Services Administration, Washington, D.C. 20409.

Categories of individuals covered by the system: Individuals who applied for enrollment to practice before the Internal Revenue Service but subsequently abandoned their applications.

Categories of records in the system: Application for enrollment to practice before the Internal Revenue Service and, in some cases, information regarding individuals' fitness for enrollment.

Authority for maintenance of the system: 31 U.S.C. 1026.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Transfer of information to Federal law enforcement authorities for investigation and possible criminal prosecution, civil court action, administrative proceeding or regulatory order with respect to apparent violation of Federal law or regulations. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Original application form and information relating to it fastened to each other.

Retrievability: This system is indexed by name of applicant.

Safeguards: Those safeguards in effect at Federal Record Center.

Retention and disposal: Permanent retention.

System manager(s) and address: Director of Practice, U.S. Department of the Treasury, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Information contained in this system may have been provided by: (1) Applicant, (2) Individuals, (3) Internal Revenue Service, (4) Other government agencies, (5) Professional organizations.

Treasury/OS 00.161

System name: Applicant Appeal Files—Treasury/OS.

System location: (1) U.S. Department of the Treasury, Office of Director of Practice, 1325 G Street, N.W., Suite 720, Washington, D.C. 20220. (2) Washington National Record Center, National Archives and Record Service, General Services Administration, Washington, D.C. 20409.

Categories of individuals covered by the system: Individuals whose applications for enrollment to practice before the Internal Revenue Service have been denied and who have appealed such denial to the Director of Practice.

Categories of records in the system: Information relating to individuals' applications and eligibility for enrollment to practice before the Internal Revenue Service.

Authority for maintenance of the system: 31 U.S.C. 1026.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Decision on appeal by Director of Practice from denial of application by the Internal Revenue Service. (2) Decision by Secretary of Treasury on appeal from Director of Practice's sustaining of denial of application for enrollment. (3) For individuals, denial of whose applications for enrollment is reversed by the Director of Practice, for use in connection with subsequent determinations by the Director of Practice as to whether violation of the regulations governing practice before the Internal Revenue Service has occurred. (4) Transfer of information to Federal law enforcement authorities for investigation and possible criminal prosecution, civil court action, administrative proceeding or regulatory order with respect to apparent violation of Federal law or regulations. (5) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: This system is indexed by name of individual.

Safeguards: This Office keeps all access doors locked when Office personnel are not present. Office personnel are cautioned against unnecessary exposure of information contained in Office files. Security investigations are conducted with respect to all Office of Director of Practice personnel.

Retention and disposal: Dispose 25 years after case closed; transfer to Federal Record Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

System manager(s) and address: Director of Practice, U.S. Department of the Treasury, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Systems exempted from certain provisions of the act: Exempt under Subsection (k)(2), 31 C.F.R. 1.36.

Treasury/OS 00.162

System name: Closed Files containing Derogatory Information about individuals' practice before the Internal Revenue Service and files of attorneys and certified public accountants formerly enrolled to practice—Treasury/OS.

System location: (1) U.S. Department of the Treasury, Office of Director of Practice, 1325 G Street, N.W., Suite 720, Washington, D.C. 20220. (2) Washington National Records Center, National Archives and Record Service, General Services Administration, Washington, D.C. 20409.

Categories of individuals covered by the system: Individuals eligible to practice before the Internal Revenue Service (attorneys, certified public accountants and enrolled agents).

Categories of records in the system: Information relating to individuals' enrollments to practice before the Internal Revenue Service and, derogatory and other information regarding such practice.

Authority for maintenance of the system: 31 U.S.C. 1026.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Determinations by the Director of Practice as to whether violations of the regulations governing practice before the Internal Revenue Service have occurred and, if so, the appropriate disciplinary action. (3) Transfer of information to Federal law enforcement authorities for investigation and possible criminal prosecution, civil court action, administrative proceeding, or regulatory order with respect to apparent violations of Federal law or regulations. (4) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: This system is indexed by name of individual.

Safeguards: The Office keeps all access doors locked when Office personnel are not present. Office personnel are cautioned against unnecessary exposure of information contained in Office files. Security investigations are conducted with respect to all Office of Director of Practice personnel.

Retention and disposal: Dispose 25 years after case closed; transfer to Federal Record Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

System manager(s) and address: Director of Practice, U.S. Department of the Treasury, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Systems exempted from certain provisions of the act: Exempt under Subsection (k)(2), 31 C.F.R. 1.36.

Treasury/OS 00.163

System name: Derogatory Information (No Action)—Treasury/OS.

System location: U.S. Department of the Treasury, Office of Director of Practice, 1325 G Street, N.W., Suite 720, Washington, D.C. 20220.

Categories of individuals covered by the system: Attorneys, certified public accountants, enrolled agents and others.

Categories of records in the system: Such files contain derogatory information concerning attorneys, certified public accountants, and enrolled agents and others over whom there is no current jurisdiction, where such information is subject to future development, or where such information is not sufficiently serious to be currently considered a case file.

Authority for maintenance of the system: 31 U.S.C. 1026.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Determinations by the Director of Practice as to whether violations of the regulations governing practice before the Internal Revenue Service have occurred. (2) Transfer of information to Federal law enforcement authorities for investigation and possible criminal prosecution, civil court action, administrative proceeding or regulatory order with respect to apparent violation of Federal law or regulations. (3) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: This system is indexed by name of individual.

Safeguards: This Office keeps all access doors locked when Office personnel are not present. Office personnel are cautioned against unnecessary exposure of information contained in Office files. Security investigations are conducted with respect to all Office of Director of Practice personnel.

Retention and disposal: Dispose 25 years after case closed; transfer to Federal Record Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

System manager(s) and address: Director of Practice, U.S. Department of the Treasury, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Systems exempted from certain provisions of the act: Exempt under Subsection (k)(2), 31 C.F.R. 1.36.

Treasury/OS 00.164

System name: Disciplinary Proceedings—Treasury/OS.

System location: (1) U.S. Department of the Treasury, Office of Director of Practice, 1325 G Street, N.W., Suite 720, Washington, D.C. 20220. (2) Washington National Record Center, National Archives and Record Service, General Services Administration, Washington, D.C. 20409.

Categories of individuals covered by the system: Individuals who have been disciplined or suspended from practice before the Internal Revenue Service.

Categories of records in the system: Information relating to disciplinary proceedings and suspensions from practice before the Internal Revenue Service.

Authority for maintenance of the system: 31 U.S.C. 1026.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Determinations by the Director of Practice as to whether violations of the regulations governing practice before the Internal Revenue Service have occurred and, if so, the appropriate disciplinary action. (2) Transfer of information to Federal law enforcement authorities for investigation and possible criminal prosecution, civil court action, administrative proceeding, or regulatory order with respect to apparent violations of Federal law or regulations. (3) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: This system is indexed by name of individual.

Safeguards: The Office keeps all access doors locked when Office personnel are not present. Office personnel are cautioned against unnecessary exposure of information contained in Office files. Security investigations are conducted with respect to all Office of Director of Practice personnel.

Retention and disposal: Dispose 25 years after case closed; transfer to Federal Record Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

System manager(s) and address: Director of Practice, U.S. Department of the Treasury, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Systems exempted from certain provisions of the act: Exempt under Subsection (k)(2), 31 C.F.R. 1.36.

Treasury/OS 00.165

System name: Recommendations for Enrollment to Practice—Treasury/OS.

System location: (1) U.S. Department of the Treasury, Office of Director of Practice, 1325 G Street, N.W., Suite 720, Washington, D.C. 20220. (2) Washington National Record Center, National Archives and Record Service, General Services Administration, Washington, D.C. 20409.

Categories of individuals covered by the system: Individuals who have been recommended for enrollment to practice before the Internal Revenue Service.

Categories of records in the system: Information relating to individuals' recommendations for enrollment to practice before the Internal Revenue Service.

Authority for maintenance of the system: 31 U.S.C. 1026.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Determinations by the Director of Practice as to whether violations of the regulations governing practice before the Internal Revenue Service have occurred and, if so, the appropriate disciplinary action. (2) Transfer of information to Federal law enforcement authorities for investigation and possible criminal prosecution, civil court action, administrative proceeding or regulatory order with respect to apparent violations of Federal law or regulations. (3) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: This system is indexed by name of individual.

Safeguards: The Office keeps all access doors locked when Office personnel are not present. Office personnel are cautioned against unnecessary exposure of information contained in Office files. Security investigations are conducted with respect to all Office of Director of Practice personnel.

Retention and disposal: Dispose 25 years after case closed; transfer to Federal Record Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

System manager(s) and address: Director of Practice, U.S. Department of the Treasury, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Systems exempted from certain provisions of the act: Exempt under Subsection (k)(2), 31 C.F.R. 1.36.

Treasury/OS 00.166

System name: Unofficial Representatives—Treasury/OS.

System location: (1) U.S. Department of the Treasury, Office of Director of Practice, 1325 G Street, N.W., Suite 720, Washington, D.C. 20220. (2) Washington National Record Center, National Archives and Record Service, General Services Administration, Washington, D.C. 20409.

Categories of individuals covered by the system: Individuals who have been unofficially representing taxpayers before the Internal Revenue Service.

Categories of records in the system: Information relating to individuals' unofficial representation of taxpayers before the Internal Revenue Service.

Authority for maintenance of the system: 31 U.S.C. 1026.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Determinations by the Director of Practice as to whether violations of the regulations governing practice before the Internal Revenue Service have occurred and, if so, the appropriate disciplinary action. (2) Transfer of information to Federal law enforcement authorities for investigation and possible criminal prosecution, civil court action, administrative proceeding or regulatory order with respect to apparent violations of Federal law or regulations. (3) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: This system is indexed by name of individual.

Safeguards: The Office keeps all access doors locked when Office personnel are not present. Office personnel are cautioned against unnecessary exposure of information contained in Office files. Security investigations are conducted with respect to all Office of Director of Practice personnel.

Retention and disposal: Dispose 25 years after case closed; transfer to Federal Record Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

System manager(s) and address: Director of Practice, U.S. Department of the Treasury, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Systems exempted from certain provisions of the act: Exempt under Subsection (k)(2), 31 C.F.R. 1.36.

Storage: In file folders.

Retrievability: This system is indexed by name of individual.

Safeguards: This Office keeps all access doors locked when office personnel are not present. Office personnel are cautioned against unnecessary exposure of office files. Security investigations are conducted with respect to all Office of Director of Practice personnel.

Retention and disposal: Dispose after 5 years by burning.

System manager(s) and address: Director of Practice, U.S. Department of the Treasury, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Systems exempted from certain provisions of the act: Exempt under Subsection (k)(2), 31 C.F.R. 1.36

Treasury/OS 00.164

System name: Present Suspensions and Disbarments Resulting From Administrative Proceeding-Treasury/OS.

System location: (1) U.S. Department of the Treasury, Office of Director of Practice, 1325 G Street, N.W., Suite 720, Washington, D.C. 20220. (2) Washington National Record Center, National Archives and Record Service, General Services Administration, Washington, D.C. 20409.

Categories of individuals covered by the system: Individuals formerly eligible to practice before the Internal Revenue Service but now either suspended or disbarred from such practice after being accorded due notice and opportunity for hearing.

Categories of records in the system: Information relating to individuals' enrollment to practice before the Internal Revenue Service, derogatory and other information regarding such practice, and record of proceedings.

Authority for maintenance of the system: 31 U.S.C. 1026.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Maintain record of those who have been suspended or disbarred from practice before the Internal Revenue Service and reasons for such action. (2) Determinations by the Director of Practice as to whether suspended or disbarred individuals' petition for reinstatement to practice before the Internal Revenue Service shall be granted. (3) Transfer of information to Federal law enforcement authorities for investigation and possible criminal prosecution, civil court action, administrative proceeding or regulatory order with respect to apparent violation of Federal law. (4) Transfer of information regarding suspension or disbarment of attorneys, certified public accountants and enrolled agents to professional organizations. (5) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: This system is indexed by name of individual.

Safeguards: This Office keeps all access doors locked when Office personnel are not present. Office personnel are cautioned against unnecessary exposure of information contained in Office files. Security investigations are conducted with respect to all Office of Director of Practice personnel.

Retention and disposal: Dispose 25 years after case closed; transfer to Federal Record Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

System manager(s) and address: Director of Practice, U.S. Department of the Treasury, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Systems exempted from certain provisions of the act: Exempt under Subsection (k)(2), 31, C.F.R. 1.36.

Treasury/OS 00.165

System name: General Correspondence File—Treasury/OS.

System location: U.S. Department of the Treasury, Office of Director of Practice, 1325 G Street, N.W., Suite 720, Washington, D.C. 20220.

Categories of individuals covered by the system: General public.

Categories of records in the system: General inquiries and comments from the general public.

Authority for maintenance of the system: 31 U.S.C. 1026.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Provide answers to inquiries or other information regarding the operation of this Office. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folder.

Retrievability: Correspondence is indexed alphabetically by writer.

Safeguards: This Office keeps all access doors locked when Office personnel are not present. File cabinets in which correspondence is stored are locked during nonbusiness hours. Security investigations are conducted with respect to all Office of Director of Practice personnel.

Retention and disposal: Destroyed after 3 years.

System manager(s) and address: Director of Practice, U.S. Department of the Treasury, Washington, D.C. 20220.

Notification procedure: Inquiries should be addressed to: Office of Director of Practice, U.S. Department of the Treasury Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Information contained in records of this system has been provided by the writers of correspondence contained in the system.

Treasury/OS 00.166

System name: Inventory—Treasury/OS.

System location: U.S. Department of the Treasury, Office of Director of Practice, 1325 G Street, N.W., Suite 720, Washington, D.C. 20220.

Categories of individuals covered by the system: Attorneys, certified public accountants and enrolled agents about which alleged misconduct in their practice before the Internal Revenue Service is being reviewed and evaluated.

Categories of records in the system: Information relating to individuals' enrollment or eligibility to practice before the Internal Revenue Service, and information relating to their conduct in such practice.

Authority for maintenance of the system: 31 U.S.C. 1026.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Determinations by the Director of Practice as to whether violations of the regulations governing practice before the Internal Revenue Service have occurred. (2) Use of information (ordinarily by Office of Chief Counsel, Internal Revenue Service, and the Department of Justice) at administrative hearings and court proceedings relating to individuals' eligibility to represent taxpayers before the Internal Revenue Service. (3)

Transfer of information to Federal law enforcement authorities for investigation and possible criminal prosecution, civil court action, administrative proceeding or regulatory order with respect to apparent violations of Federal law or regulations. (4) Transfer of information to Internal Revenue Service for investigation with respect to apparent violation of the regulations governing practice before the Internal Revenue Service. (5) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: This system is indexed by name of individual.

Safeguards: This Office keeps all access doors locked when Office personnel are not present. File cabinets in which this system is stored are locked during nonbusiness hours. Security investigations are conducted with respect to all Office of Director of Practice personnel.

Retention and disposal: Dispose 25 years after case closed; transfer to Federal Record Center 5 years after case is closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

System manager(s) and address: Director of Practice, U.S. Department of the Treasury, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Systems exempted from certain provisions of the act: Exempt under Subsection (k)(2), 31 C.F.R. 1.36.

Treasury/OS 00.167

System name: Register of Docketed Cases and Applicant Appeals—Treasury/OS.

System location: U.S. Department of the Treasury, Office of Director of Practice, 1325 G Street, N.W., Suite 720, Washington, D.C. 20220.

Categories of individuals covered by the system: Individuals against whom complaints have been filed with the Office of Director of Practice pursuant to Title 31, CFR, Subpart C, Section 10.54, for alleged violation of the regulations governing practice before the Internal Revenue Service and individuals who have appealed to the Director of Practice the denials of their application for enrollment to practice before the Internal Revenue Service.

Categories of records in the system: Record of actions taken in cases docketed for hearings and record of actions taken on appeals from denials of applications for enrollment.

Authority for maintenance of the system: 31 U.S.C. 1026.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Office of Director of Practice administrative recordkeeping. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In loose-leaf binder.

Retrievability: This system is indexed by complaint number and by name of the individual.

Safeguards: This Office keeps all access doors locked when Office personnel are not present. Security investigations are conducted with respect to all Office of Director of Practice personnel.

Retention and disposal: Permanent retention.

System manager(s) and address: Director of Practice, U.S. Department of the Treasury, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Information contained in records in this system has been provided by: (1) this office, (2) administrative law judges, (3) Internal Revenue Service.

Treasury/OS 00.168

System name: Resigned Enrolled Agents (action pursuant to 31 CFR, Section 10.55(b))—Treasury/OS.

System location: U.S. Department of the Treasury, Office of Director of Practice, 1325 G Street, N.W., Suite 720, Washington, D.C. 20220.

Categories of individuals covered by the system: Those individuals who were formerly enrolled to practice before the Internal Revenue Service and who resigned from such enrollment.

Categories of records in the system: Information relating to individuals' applications for enrollment to practice before the Internal Revenue Service and derogatory and other information regarding such practice.

Authority for maintenance of the system: 31 U.S.C. 1026.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Use in connection with resigned enrollees' future applications for enrollment to practice before the Internal Revenue Service. (2) In cases where resigned enrollees are again enrolled to practice before the Internal Revenue Service, for use in connection with determinations as to whether violations of the regulations governing such practice have occurred. (3) Transfer of information to Federal law enforcement authorities for investigation and possible criminal prosecution, civil court action, administrative proceeding, or regulatory order with respect to apparent violation of Federal law or regulations. (4) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: This system is indexed by name of individual.

Safeguards: This Office keeps all access doors locked when Office personnel are not present. Office personnel are cautioned against unnecessary exposure of information contained in Office files. Security investigations are conducted with respect to all Office of Director of Practice personnel.

Retention and disposal: Dispose 25 years after case closed; transfer to Federal Records Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

System manager(s) and address: Director of Practice, U.S. Department of the Treasury, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220. .

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Systems exempted from certain provisions of the act: Exempt under Subsection (k)(2), 31 C.F.R. 1.36.

Treasury/OS 00.169

System name: Roster of Former Enrollees—Treasury/OS.

System location: U.S. Department of the Treasury, Office of Director of Practice, 1325 G Street, N.W., Suite 720, Washington, D.C. 20220.

Categories of individuals covered by the system: Attorneys and certified public accountants who were enrolled to practice before the Internal Revenue Service prior to enactment of the Agency Practice Act, Title 5 U.S. Code, Section 500.

Categories of records in the system: This system contains individuals' names, addresses, professions, the dates of their enrollments and the expiration dates of such enrollments.

cabinets containing these records during nonbusiness hours. Security investigations are conducted with respect to all Office of Director of Practice personnel.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to provide information on holders of Civil Defense Cards, drivers permits, parking

much descriptive matter as is possible to identify the particular record desired. The Systems Manager will advise as to whether this bureau maintains the record requested by the individual.

Categories of records in the system: This system contains individuals' names, addresses, professions, the dates of their enrollments and the expiration dates of such enrollments.

Authority for maintenance of the system: 31 U.S. Code 1026.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Determinations as to whether the Office of Director of Practice has jurisdiction over an individual's violation of the regulations governing practice before the Internal Revenue Service. (2) Use of information (ordinarily by Office of Chief Counsel, Internal Revenue Service, and the Department of Justice) at administrative and court proceedings relating to individuals' eligibility to represent taxpayers before the Internal Revenue Service. (3) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In loose-leaf binders.

Retrievability: This system is indexed by profession (i.e., attorney or certified public accountant) and by the individual's name.

Safeguards: This Office keeps all access doors locked when Office personnel are not present. Office personnel are cautioned against unnecessary exposure of office files. Security investigations are conducted with respect to all Office of Director of Practice personnel.

Retention and disposal: Permanent retention.

System manager(s) and address: Director of Practice, U.S. Department of the Treasury, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Information contained in records in this system has been provided by: (1) Individuals, (2) Internal Revenue Service.

Treasury/OS 00.170

System name: Present suspensions from practice before the Internal Revenue Service.

System location: (1) U.S. Department of the Treasury, Office of Director of Practice, 1325 G Street, N.W., Suite 720, Washington, D.C. 20220. (2) Washington National Records Center, National Archives and Record Service, General Services Administration, Washington, D.C. 20409.

Categories of individuals covered by the system: Attorneys, certified public accountants and enrolled agents who have offered their consent to voluntary suspension from practice before the Internal Revenue Service.

Categories of records in the system: Information relating to individuals' enrollment or eligibility to practice before the Internal Revenue Service, derogatory and other information relating to their conduct in such practice.

Authority for maintenance of the system: 31 U.S.C. 1026.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Determinations by the Director of Practice as to whether violations of the regulations governing practice before the Internal Revenue Service have occurred. (2) Determinations by the Director of Practice as to whether suspended practitioners' petitions for reinstatement to practice should be granted. (3) Transfer of information to Federal law enforcement authorities for investigation and possible criminal prosecution, civil court action, administrative proceeding or regulatory order with respect to apparent violation of Federal law or regulations. (4) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: This system is indexed by name of individual.

Safeguards: This Office keeps all access doors locked when Office personnel are not present. Office personnel are cautioned against unnecessary exposure of Office files and are instructed to lock file cabinets containing these records during nonbusiness hours. Security investigations are conducted with respect to all Office of Director of Practice personnel.

Retention and disposal: Dispose 25 years after case closed; transfer to Federal Records Center 5 years after case closed except for a random selection of a small number of disciplinary cases to be made at 5-year intervals for retention.

System manager(s) and address: Director of Practice, U.S. Department of the Treasury, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Systems exempted from certain provisions of the act: Exempt under Subsection (k)(2), 31 C.F.R. 1.36

Treasury/OS 00.183

System name: Private Relief Tax Bill Files—Office of the Assistant Secretary for Tax Policy—Treasury/OS.

System location: Room 4028, Main Treasury Building, 15th Street and Pennsylvania Avenue, Washington, D.C. 20220.

Categories of individuals covered by the system: Individuals who have had private relief tax bills introduced in Congress on their behalf.

Categories of records in the system: Congressional Committee or OMB request for Treasury views on proposed legislation, plus comments on proposal from offices or bureaus of Treasury, plus the Internal Revenue Service data concerning the issues involved and that unit's recommendation, and the report of the Treasury on the Bill.

Authority for maintenance of the system: 5 U.S.C. 301. A function of the Office of the Assistant Secretary for Tax Policy and the Office of the Tax Legislative Counsel is to coordinate legislative work in the tax field that concerns Treasury and to advise the Secretary with respect thereto.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: System is used to furnish reports and testimony to Congress or OMB. For additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: System manager(s) and address: Tax Legislative Counsel, Room 4028, Main Treasury Building, 15th Street and Pennsylvania Avenue, Washington, D.C. 20220.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: The Departmental Disclosure Office, Room 1314 Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, DC 20220.

Contesting record procedures: Submit requests to the Departmental Disclosure Officer at the above address.

Record source categories: Principally the Congress and the Internal Revenue Service.

Treasury/GFO 00.001

System name: Administrative Records—Treasury/GFO.

System location: Bureau of Government Financial Operations, U.S. Department of the Treasury, Washington, D.C. 20226.

Categories of individuals covered by the system: Bureau personnel.

Categories of records in the system: (1) Civil Defense Cards, (2) Motor Vehicle Drivers Permits, (3) Distribution List of individuals requesting various Treasury publications, (4) Motor Vehicle Accident Reports, (5) Parking Permits, (6) Treasury Credentials.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to provide information on holders of Civil Defense Cards, drivers permits, parking permits, accident reports, credentials and for servicing public on Treasury publications. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hardcopy.

Retrievability: By name.

Safeguards: Locked containers.

Retention and disposal: (1) Destroy upon resignation, retirement or transfer; Hold—Individual no longer assigned relocation duties. (2) Destroy 3 years from date of separation or 3 years after rescission of authorization. (3) Destroy when superseded. (4) Indefinitely. (5) Destroy when superseded. (6) Destroy upon retirement, resignation or transfer.

System manager(s) and address: The Systems Manager is: Special Assistant (P.A.), Bureau of Government Financial Operations, U.S. Department of the Treasury, Room 600, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, N.W., Washington, D.C. 20226.

Notification procedure: Inquiries under the Privacy Act of 1974 shall be addressed to the Systems Manager as shown above. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The Systems Manager will advise as to whether this bureau maintains the record requested by the individual.

Record access procedures: Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Systems Manager at the address shown above. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR Part 1, Subpart C concerning requirements of this Department with respect to the Privacy Act of 1974.

Contesting record procedures: See Access above.

Record source categories: Bureau personnel.

Treasury/GFO 00.002

System name: Payment issue records for regular recurring benefit payments—Treasury/GFO.

System location: Bureau of Government Financial Operations, U.S. Department of the Treasury, Washington, D.C. 20226.

Categories of individuals covered by the system: (1) Beneficiaries of Title II of the Social Security Act, (2) Beneficiaries of Title XVI of the Social Security Act, (3) Beneficiaries of the Civil Service Retirement System, (4) Beneficiaries of the Railroad Retirement System, (5) Beneficiaries of the Foreign Service Retirement System, (6) Holders of Series H Bonds (interest payment).

Categories of records in the system: Payment issue records for regular recurring benefit payments showing name, check number and symbol, or other identification, address, account number, payment amount, and date of issuance for each of the categories of individuals listed above.

Authority for maintenance of the system: 5 U.S.C. 301; E.O. 6166, June 10, 1933.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Payment issue verification for banking industry, Federal investigative agencies, Division of Check Claims of this bureau, and Departments and agencies for whom payments are made, and payees. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Microfilm-magnetic tape for categories of individuals 1 through 6.

Retrievability: By account number.

Safeguards: Held in secure buildings.

Retention and disposal: Indefinitely.

System manager(s) and address: The Systems Manager is: Special Assistant (P.A.), Bureau of Government Financial Operations, U.S. Department of the Treasury, Room 600, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, N.W., Washington, D.C. 20226.

Notification procedure: Inquiries under the Privacy Act of 1974 shall be addressed to the Systems Manager as shown above. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The Systems Manager will advise as to whether this bureau maintains the record requested by the individual.

Record access procedures: Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Systems Manager at the address shown above. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR Part 1, Subpart C concerning requirements of this Department with respect to the Privacy Act of 1974. Telephone 202-566-8707.

Contesting record procedures: See Access above.

Record source categories: Vouchers certifications by departments and agencies for whom payments are made.

Treasury/GFO 00.003

System name: Claims and Inquiry Records on Treasury checks, U.S. currencies, and International claimants—Treasury/GFO.

System location: Bureau of Government Financial Operations, U.S. Department of the Treasury, Washington, D.C. 20226.

Categories of individuals covered by the system: (1) Payees and holders of Treasury checks, (2) Holders of mutilated currency, (3) Claimants awarded benefits under War Claims Act and International Claims Settlement Act of 1949.

Categories of records in the system: (1) Treasury check claim file: Treasury check, claim of payee with name and address, settlement action taken. (2) Mutilated currency claim file: Mutilated currency, name of bank assisting claim of individual, settlement action taken. (3) Awards for claims for losses sustained by individuals.

Authority for maintenance of the system: 5 U.S.C. 301; (1) For Treasury check claims—31 U.S.C. 71 with delegation of authority from Comptroller General of the U.S.; (2) Mutilated currency claims—31 CFR 100; (3) International claims—50 U.S.C. 2012; 22 U.S.C. 1627, 1641, 1642.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Check Claims—Information is used routinely by the Division of Check Claims and by indorsers on checks having liability, Federal agencies, State and Local Law enforcement agencies, General Accounting Office, Congressional offices and media assistance offices on behalf of payee claimants. (2) Mutilated Currency Claims—Information is furnished to the Internal Revenue Service for claims of 5000 dollars or more claimants, banks, state and local enforcement agencies. (3) International Claims—Information in files is used by employees of the Division of Financial Management, claimants (awardees) and their representatives; Foreign Claims Settlement Commission, and congressmen (4) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: (1) Claim file folders, Card checks, microfilm. (2) Correspondence files. (3) Claim file folders.

Retrievability: (1) Name of payee and check number and symbol. (2) Alpha cross-reference to case number. (3) Name of claimant or alpha reference to claim number.

Safeguards: (1) Secured building, (2) Secured building, (3) Secured files in secured building.

Retention and disposal: (1) Claim files and checks; six years seven months; Microfilm—indefinitely. (2) Seven years. (3) Indefinitely.

System manager(s) and address: The Systems Manager is: Special Assistant (P.A.), Bureau of Government Financial Operations, U.S. Department of the Treasury, Room 600, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, N.W., Washington, D.C. 20226.

Notification procedure: Inquiries under the Privacy Act of 1974 shall be addressed to the Systems Manager as shown above. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The Systems Manager will advise as to whether this bureau maintains the record requested by the individual.

Record access procedures: Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Systems Manager at the address shown above. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR Part 1, Subpart C concerning requirements of this Department with respect to the Privacy Act of 1974. Telephone 202-566-8707.

Contesting record procedures: See Access above.

Record source categories: (1) Individual payees of Treasury checks, indorsers of Treasury checks, investigative agencies, disbursing offi-

tion, (4) Verification of Employment. C—(1) Control of Processing SF-52's, (2) Verify Receipt and Non Receipt of SF-52's. D—(1) Emergency Notifications, (2) Listing for Bureau Phone Directory, (3)

Categories of records in the system: (1) Identifying information by name, address, date of birth, social security number, and agency responsible for issuance of check. (2) Film records with picture and

566-8707. All individuals are urged to examine the rules of the U.S. Department of the Treasury concerning requirements of this Department with respect to the Privacy Act of 1974.

Record source categories: (1) Individual payees of Treasury checks, indorsers of Treasury checks, investigative agencies, disbursing officers issuing checks, contesting claimants. (2) Individual owners of mutilated currencies, commercial banks. (3) Awards certified to Treasury for payment by Foreign Claims Settlement Commission.

Treasury/GFO 00.004

System name: Freedom of Information Requests—Treasury/GFO.

System location: Bureau of Government Financial Operations, U.S. Department of the Treasury, Washington, D.C. 20226.

Categories of individuals covered by the system: Individuals requesting information.

Categories of records in the system: Correspondence pursuant to the Freedom of Information Act, internal processing documents and memoranda, referrals and copies of requested records.

Authority for maintenance of the system: Freedom of Information Act, 5 U.S.C. 552. 31 CFR Part 1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For reporting requirements as required by the Act; to respond to other Department officials who request information regarding persons making a FOI request; evaluation purposes and determination of volume of requests received and the impact on the current workload; preparation of budget; disclosures in accordance with Freedom of Information Act, to other agencies when required for coordination of response or referral; to Department of Justice for defending law suits; to Congressional Committees; for additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: By name of requester(s) and date of request.

Safeguards: Filed in filing cabinet and released only to individuals with legitimate right to review.

Retention and disposal: In accordance with the provisions of the Act and Departmental records management procedures.

System manager(s) and address: Special Assistant (F.O.I.), Bureau of Government Financial Operations, U.S. Department of the Treasury, Room 600, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, N.W., Washington, D.C. 20226.

Notification procedure: See system manager.

Record access procedures: See system manager.

Contesting record procedures: See system manager.

Record source categories: Individuals who make Freedom of Information Act requests. Federal officials responding to Freedom of Information Act requests and documents from official records.

Treasury/GFO 00.005

System name: GFO Personnel Records—Treasury/GFO.

System location: Bureau of Government Financial Operations, Penn. Ave. and Madison Place, N.W., Washington, D.C. 20226.

Categories of individuals covered by the system: All Employees of Bureau (Separated employees—in certain cases) and applicants.

Categories of records in the system: (A) Official Personnel Folder, (B) Personnel Roster, (C) Logs of SF-52's, (D) Locator Cards, (E) Chronological Journal File, (F) Service Record Card (SF-7), (G) Correspondence File, (H) Written Verifications of Employment, (I) Roster of Retirement Eligibles, (J) Summary of Training (Card File), (K) Training Course Nominations, (L) Evaluation of Training Program, (M) Tuition Assistance Files, (N) GED Test Scores, (O) Executive Development File, (P) Position Listings, (Q) Position Descriptions with Evaluation Statements, (R) Personnel Management Evaluation Survey Reports, (S) Position Maintenance Reviews, (T) Applicant Supply File, (U) Suitability File, (V) Incentive Awards Record, (W) Request for Certification File, (X) Merit Promotion File, (Y) Exit Interview File, (Z) Skills and Appraisal File, (AA) Statistical Reports—(Which Show Names) (1) Personnel Status Report, (2) Monthly Retiree Report, (3) Monthly EEO report, (4) Direct Hire Authority Report, (BB) Registers Worked File, (CC) Statements of Employment and Financial Interest.

Authority for maintenance of the system: Executive Order 10561 dated 9-13-54, Federal Personnel Manual, and Title 5 of US Code.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A—(1) Process Personnel Actions, (2) Verifying Service Computation Date, (3) Evaluating Qualifications for Promotion. B—(1) Compile Statistical Reports, (2) For Budget and Manpower Planning, (3) For Promotion Information, (4) Verification of Employment. C—(1) Control of Processing SF-52's, (2) Verify Receipt and Non Receipt of SF-52's. D—(1) Emergency Notifications, (2) Listing for Bureau Phone Directory, (3) Verification of Employment. E—(1) Regulatory Audits, (2) Personnel Management Evaluations, (3) Compilation of Data for Statistical Reports on Personnel Actions. F—(1) Tickler System, (2) A Comprehensive and Continuing Record of each Employee's Status, Skills, etc., (3) Control over budgeted positions both filled and vacant, (4) Cards on Separated Employees are used to verify prior employment. G—(1) Data for Statistical Reports, (2) Reference of prior actions. H—(1) Verify current or past employment. I—(1) Retirement Planning Program, (2) Projected Staffing Plans. J-K-L-M-N—(1) Record of all training—used for reference by Employment Development Specialist for planning future training as needed. O—(1) Reference by Appraisal Committee and Employee Development. P-Q—(1) Documented duties of employees for original allocated positions. R—(1) Audit and Evaluation of programs and specific positions. S—(1) Official Record of annual review of positions required by FPM. T—(1) Current Source of Recruitment. U—(1) Reconstruction of case if appealed or grieved, (2) Assure continuity in handling troubled employees, (3) Document positive efforts made to rehabilitate employees, (4) Serve as source documents for suspensions or reprimands as cases warrant. V—(1) Quarterly and Annual Reports, (2) Used as reference to assure approval of an award or amount of award consistent with regulations. W—(1) Used as statistical base for planning future recruitment activities and reports for Fiscal Year. X—(1) Reconstruction of actions if appeal is filed, (2) Assure compliance with FPM regulations. Y—(1) Annual statistical report of turnover rate and reasons for leaving, (2) Obtain feedback from supervisors on advisability of rehiring. Z—(1) To determine skills and employee performance. AA—(1) Maintenance of records for reporting and informational purposes. BB—(1) Maintain records of recruitment activities for staffing reports, (2) Used to assure compliance with CSC regulations. CC—(1) Used to determine conflict of interest or possible conflict of interest. DD—For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy and Magnetic Storage.

Retrievability: Alphabetically by name—also in some instances by organization, then social security number.

Safeguards: Personnel Records are locked when unattended—Access is limited to Personnel Employees, Supervisors, Promotion Panels, Investigators from CSC, etc., Top Management, and members of Fair Employment Staff.

Retention and disposal: Records are maintained and disposed of in accordance with General Services Administration Schedule.

System manager(s) and address: The Systems Manager is: Special Assistant (P.A.), Bureau of Government Financial Operations, U.S. Department of the Treasury, Room 600, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, N.W., Washington, D.C. 20226.

Notification procedure: Inquiries under the Privacy Act of 1974 shall be addressed to the Systems Manager as shown above. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The Systems Manager will advise as to whether this bureau maintains the record requested by the individual. Telephone: 202-566-8707.

Record access procedures: Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Systems Manager at the address shown above. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR Part 1, Subpart C concerning requirements of this Department with respect to the Privacy Act of 1974.

Contesting record procedures: See Access above.

Record source categories: Applicant Personnel Action Forms (SF-50), SF-171 (Completed by applicant), Payroll Actions References, Educational Institutions, etc.

Treasury/GFO 00.006

System name: Identification files on individuals cashing Treasury checks at the U.S. Treasury—Treasury/GFO.

System location: Bureau of Government Financial Operations, U.S. Department of the Treasury, Washington, D.C. 20226.

Categories of individuals covered by the system: All individuals not employed by the Treasury Department cashing Treasury checks.

Categories of records in the system: (1) Identifying information by name, address, date of birth, social security number, and agency responsible for issuance of check. (2) Film records with picture and other identification.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Identification for check cashing purposes. (2) Identification for check cashing purposes and for apprehension of forgers. (3) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper file in individual's handwriting; Film.

Retrievability: By name; By identification number and date.

Safeguards: Locked files; By contractor in secured building.

Retention and disposal: Indefinite.

System manager(s) and address: The Systems Manager is: Special Assistant (P.A.), Bureau of Government Financial Operations, U.S. Department of the Treasury, Room 600, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, N.W., Washington, D.C. 20226.

Notification procedure: Inquiries under the Privacy Act of 1974 shall be addressed to the Systems Manager as shown above. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The Systems Manager will advise as to whether this bureau maintains the record requested by the individual.

Record access procedures: Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Systems Manager at the address shown above. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR Part 1, Subpart C concerning requirements of this Department with respect to the Privacy Act of 1974.

Contesting record procedures: See Access above.

Record source categories: Government Departments and Agencies requiring services of Treasury Department for issuance and payment of Treasury checks.

Treasury/GFO 00.011

System name: Individual Retirement Cards, SF2806—Treasury/GFO.

System location: Bureau of Government Financial Operations, U.S. Department of the Treasury, Washington, D.C. 20226.

Categories of individuals covered by the system: Employees of the Bureau.

Categories of records in the system: Individual retirement cards maintained to record annual contribution to the Retirement Fund of each employee.

Authority for maintenance of the system: 5 U.S.C. 8707; 5 CFR 831.102

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by the Bureau to record annual contribution to the Retirement Fund. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Card.

Retrievability: By name.

Safeguards: All persons requesting information are screened.

Retention and disposal: Retained for tenure of employment then transferred to CSC or other Government agency.

System manager(s) and address: Special Assistant (P.A.), Bureau of Government Financial Operations, U.S. Department of the Treasury, Room 600, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, N.W., Washington, D.C. 20226

Notification procedure: Inquiries under the Privacy Act of 1974 shall be addressed to the Systems Manager as shown above. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The Systems Manager will advise as to whether this bureau maintains the record requested by the individual.

Record access procedures: Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Systems Manager at the address shown above or telephone him at the following number 202-566-8707. All individuals are urged to examine the rules of the U.S. Department of the Treasury concerning requirements of this Department with respect to the Privacy Act of 1974.

Contesting record procedures: See Access above.

Record source categories: Bureau personnel office.

Treasury/GFO 00.007

System name: Payroll & Pay Administration—Treasury/GFO.

System location: Bureau of Government Financial Operations, U.S. Department of the Treasury, Washington, D.C. 20226.

Categories of individuals covered by the system: All Employees of Bureau & Separated Employees.

Categories of records in the system: (A) Official Payroll Folder—(1) Levy & Garnishment Records; (2) SF-1192—Savings Bond Authorization; (3) SF-1198—Allotment of Pay to Saving Account; (4) SF-1189—Payment of Wages to Financial Organization; (5) Copies of SF-50—Notification of Personnel Action; (6) Withholding Tax Exemptions; (7) Copy of Health Benefit Designation; (8) Copy of Life Insurance Forms; (9) Payroll Change Slips; (10) Combined Federal Campaign Designations; (11) Copy of SF-1150. (B) Time & Attendance Reports (TUS-430)—(1) SF-71 Request for Leave; (2) Court Leave Documents; (3) Request for Advancement of Leave. (C) Payroll Comprehensive Listing—(1) Current Payment Information; (2) Record of Leave Earned and Used; (3) All Deductions from Pay; (4) Personnel Information such as Grade, Step, Salary, Title, Date of Birth, Social Security Number, Veterans Preference, Tenure, etc. (D) Payroll Control Registers.

Authority for maintenance of the system: Title 5—Pay, Leave & Allowances.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (A) Payroll Preparation; (B) Issuance of W-2 Forms for Tax Purposes; (C) For additional routine uses see Appendix AA. Disclosure permitted to Federal Agencies and to State and Local Agencies for tax purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Records are stored, maintained and disposed of in accordance with General Services Administration Schedules.

System manager(s) and address: The Systems Manager is: Special Assistant (P.A.), Bureau of Government Financial Operations, U.S. Department of the Treasury, Room 600, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, N.W., Washington, D.C. 20226.

Notification procedure: Inquiries under the Privacy Act of 1974 shall be addressed to the Systems Manager as shown above. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The Systems Manager will advise as to whether this bureau maintains the record requested by the individual.

Record access procedures: Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Systems Manager at the address shown above. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR Part 1, Subpart C concerning requirements of this Department with respect to the Privacy Act of 1974. Telephone 202-964-8707.

Contesting record procedures: See Access above.

Record source categories: From individual Bureau employees.

Treasury/GFO 00.008

System name: Personnel Security Records—Treasury/GFO.

System location: Bureau of Government Financial Operations, Pennsylvania Avenue and Madison Place, N.W., Washington, D.C. 20226.

Categories of individuals covered by the system: Employees and applicants for position in the bureau.

Categories of records in the system: Results of full field investigations, national agency checks and written inquiries, and other limited investigations.

Authority for maintenance of the system: Title 5, U.S.C., Chap 73, Executive Order 10450 as amended, and Treasury Order 82.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records are reviewed for purpose of granting clearances for employees to occupy nonsensitive and sensitive positions. Users—Federal Agencies, Federal, State and Local Law Enforcement Agencies. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: The records are hard copy, filed

Treasury/GFO 00.009

System name: Postal Savings Deposits—Treasury/GFO.

System manager(s) and address: The Systems Manager is: Special Assistant (P.A.), Bureau of Government Financial Operations, U.S. Department of the Treasury, Room 600, Treasury Annex No. 1,

Storage: Active records stored in file folders in security filing cabinets. Inactive records stored in file folders at Federal Records Centers.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: The records are hard copy, filed alphabetically by name and stored in a safe cabinet secured with a combination lock. Access to the records is restricted to key personnel who have been granted clearances to occupy critical-sensitive positions. The records on employees are retained by the bureau during their employment. The records on applicants not selected and separated employees are returned to the investigating agency.

System manager(s) and address: The Systems Manager is: Special Assistant (P.A.), Bureau of Government Financial Operations, U.S. Department of the Treasury, Room 600, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, N.W., Washington, D.C. 20226.

Notification procedure: Inquiries under the Privacy Act of 1974 shall be addressed to the Systems Manager as shown above. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The Systems Manager will advise as to whether this bureau maintains the record requested by the individual. Telephone 202-566-8707.

Record access procedures: Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the System Manager at the address shown above. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR Part 1, Subpart C concerning requirements of this Department with respect to the Privacy Act of 1974.

Contesting record procedures: See Access above.

Record source categories: Sources are applicants, employers, former employers, references, fellow workers, neighbors, educational authorities, military records, police and criminal records, credit records and others as required.

Treasury/GFO 00.012

System name: Precomplaint Counseling and Complaint Activities—GFO.

System location: B/GFO—U.S. Treasury Department, Treasury Annex No. 1 Madison Place & Penna. Ave., N.W. Washington, D.C. 20226.

Categories of individuals covered by the system: Employees seeking services of EEO Counselors.

Categories of records in the system: Monthly precomplaint activity reports from twelve Disbursing Centers and Headquarters.

Authority for maintenance of the system: 5 U.S.C. 7154; 42 U.S.C. 200e-16; E.O. 11478; and 5CFR 713.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to keep records on EEO Counseling activities for monthly submission to Treasury.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinet.

Retrievability: Filed by station and date of receipt.

Safeguards: Staff supervision during day. Records under lock and key.

Retention and disposal: Reports destroyed at the end of four years.

System manager(s) and address: Special Assistant (P.A.): Bureau of Government Financial Operations, Treasury Annex No. 1, Madison Place & Penna. Ave., N.W., Washington, D.C. 20226.

Notification procedure: Inquiries under the PRIVACY ACT of 1974 shall be addressed to the System Manager as shown above. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The Systems Manager will advise as to whether this bureau maintains the record requested by the individual.

Record access procedures: Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Systems Manager at the address shown above. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR Part 1, Subpart C concerning requirements of this Department with respect to the Privacy Act of 1974.

Contesting record procedures: See Access above.

Record source categories: Monthly submissions by Disbursing Centers and Headquarters.

Treasury/GFO 00.009

System name: Postal Savings Deposits—Treasury/GFO.

System location: Bureau of Government Financial Operations, U.S. Department of the Treasury, Washington, D.C. 20226.

Categories of individuals covered by the system: Postal Savings depositors.

Categories of records in the system: (1) Account cards of Open Deposits. (2) Paid cases from 1967. (c) Record of reissued certificates.

Authority for maintenance of the system: 39 U.S.C. 5225-5229; 31 CFR 257.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For payment by depositors, legal representatives, heirs; Internal Revenue Service Inspectors for tax purposes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Filing system.

Retrievability: Name, account number, within Post Office, City, State, by Postal Data Center.

Safeguards: In secured filing system. Accessible only to office personnel.

Retention and disposal: Closed cases; disposed after payment (10 yrs). Open accounts; indefinitely.

System manager(s) and address: The Systems Manager is: Special Assistant (P.A.), Bureau of Government Financial Operations, U.S. Department of the Treasury, Room 600, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, N.W., Washington, D.C. 20226.

Notification procedure: Inquiries under the Privacy Act of 1974 shall be addressed to the Systems Manager as shown above. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The Systems Manager will advise as to whether this bureau maintains the record requested by the individual.

Record access procedures: Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Systems Manager at the address shown above. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR Part 1, Subpart C concerning requirements of this Department with respect to the Privacy Act of 1974. Telephone 202-566-8707.

Contesting record procedures: See Access above.

Record source categories: Records received from the Post Office Department.

Treasury/GFO 00.010

System name: Records of Accountable Officers' authority with Treasury—Treasury/GFO.

System location: Bureau of Government Financial Operations, U.S. Department of the Treasury, Washington, D.C. 20226.

Categories of individuals covered by the system: (1) Disbursing Officers; (2) Certifying Officers; (3) Agent Cashiers; (4) Designated Agents.

Categories of records in the system: Records are maintained on the above listed accountable officers showing the designation or removal of the officer to act in the specified capacity pursuant to a proper authorization.

Authority for maintenance of the system: 5 U.S.C. 301; E.O. 6166, June 10, 1933.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Banking institutions, Federal Reserve Banks, Government agencies and other bureaus and offices of the Treasury Department for verification of information on authority of accountable officers to determine propriety of actions taken by such individuals. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Card files.

Retrievability: By name.

Safeguards: Held in secured buildings. Disbursing Officers file is locked.

Retention and disposal: Indefinitely.

System manager(s) and address: The Systems Manager is: Special Assistant (P.A.), Bureau of Government Financial Operations, U.S. Department of the Treasury, Room 600, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, N.W., Washington, D.C. 20226.

Notification procedure: Inquiries under the Privacy Act of 1974 shall be addressed to the Systems Manager as shown above. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The Systems Manager will advise as to whether this bureau maintains the record requested by the individual.

Record access procedures: Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Systems Manager at the address shown above. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR Part 1, Subpart C concerning requirements of this Department with respect to the Privacy Act of 1974.

Contesting record procedures: See Access above.

Record source categories: Government Departments and Agencies requiring services of Treasury Department for issuance and payment of Treasury checks.

Treasury/ATF 00.001

System name: Administrative Record System-Treasury/ATF.

System location: Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226.

Components of this record system are geographically dispersed throughout the Bureau's field offices. For nearest office location, see addresses listed Appendix E-1.

Categories of individuals covered by the system: (1) Present employees of the Bureau of ATF. (2) Former employees of the Bureau of ATF. (3) Claimants against the Bureau of ATF.

Categories of records in the system: (1) Accident Report—non-vehicle (2) Accident Report—Vehicle (3) Accountability records for Government property (4) Credit card purchases (5) Disability reports (6) Fatality reports (7) Motor pool records (8) Injury reports (9) Motor vehicle operator's records. (10) Chief Counsel and Regional Counsel memoranda and opinions.

Authority for maintenance of the system: (1) Federal Claims Collection Act (2) Federal Employees Compensation Act (3) Federal Property and Administration Services Act of 1949 as amended. (4) Federal Tort Claims Act (5) Military Personnel and Federal Employees Claim Act (6) Occupational Safety and Health Act of 1970 (7) Small Claims Act. (8) 5 U.S.C. 1302, 3301, 3302.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The purpose of this system is to provide administrative services for the Bureau; to maintain administrative records as required by law or regulation; and to be used in the adjudication of any claims for or against the Bureau. When required or authorized by statute, regulation, or executive order, information in the record system is made available to members of the public or employees of other government agencies.

A record in this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information if necessary to obtain information relevant to an agency decision concerning the letting of a contract, grant or other benefit.

A record in this system of records may be disclosed to a federal agency, in response to its request, in connection with the letting of a contract, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

A record in this system may be disclosed as a routine use to Officers and employees of the Department of the Treasury who have a need for the record in the performance of their duties; Local, state and Federal law enforcement agencies; Local, state and Federal regulatory agencies; Members of the public, employees of other Governmental agencies, or members of news media (on a case by case basis where determination that such disclosure would be in accordance with guidelines set forth under 28 C.F.R. Part 50.2; 5 U.S.C. 552 and 552a, and would not compromise enforcement of laws administered by Bureau of Alcohol, Tobacco and Firearms). For additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Active records stored in file folders in security filing cabinets. Inactive records stored in file folders at Federal Records Centers.

Retrievability: Records are retrievable by name of individual.

Safeguards: Direct access restricted to personnel in Department of the Treasury in the performance of their duty. Transmitted to routine users on a need to know basis or where a right to access is established, and to others upon verification of the substance and propriety of the request. Stored in lockable metal file cabinets in rooms locked during non-duty hours.

Retention and disposal: Records are retained in accordance with General Services Administration General Records Schedules Numbers 1 through 20 and Bureau of Alcohol, Tobacco and Firearms records control schedules numbers 101 and 201 and disposed of by shredding or burning.

System manager(s) and address: Chief, Administrative Services Division Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W. Washington, D.C. 20226.

Notification procedure: Inquiries should be addressed to: Privacy Act Request, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226.

Requests may be delivered personally to Room 2232, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226.

Record access procedures: Requests for access to records made by mail should be addressed to: Privacy Act Request, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C.

Requests may be delivered personally to Room 2232, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226

Appeals of determinations refusing amendment of records should be addressed to: Privacy Act Appeal, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226

Appeals may be delivered personally to Room 2232, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C.

Contesting record procedures: See Access above.

Record source categories: (1) Administrative records.(2) Claimants.(3) Doctors.(4) Employee records.(5) Fiscal records.(6) Former employees of the Bureau of ATF.(7) Former employers. (8) General Services Administration.(9) Individuals who have information relevant to claims.(10) Inspections records.(11) Internal Investigation reports.(12) Police reports.(13) Present employees of the Bureau of ATF.(14) Supervisors.(15) Witnesses.

Treasury/ATF 00.002

System name: Correspondence Record System—Treasury/ATF.

System location: Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226.Components of this record system are geographically dispersed throughout the Bureau's field offices. For nearest office location, see address listed Appendix E-1.

Categories of individuals covered by the system: (1) Persons who correspond with the Bureau requesting information relating to Bureau personnel. (2) Persons who correspond with the Bureau requesting information relating to Bureau activities. (3) Persons who correspond with the Bureau requesting rulings, interpretations, or technical and scientific matters of a general nature. (4) Persons who correspond with others and whose correspondence is referred to ATF for response. (5) Persons referred to in correspondence with the Bureau. (6) Authors and publishers of technical and scientific matters relating to Bureau activities.

Categories of records in the system: Correspondence with individuals who contact the Bureau requesting information relating to Bureau personnel and/or activities, Chief Counsel and Regional Counsel memoranda and opinions.

Authority for maintenance of the system: 5 U.S.C. 301, E.O. 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The purpose of the system is to record the nature of reponses made to general public; to maintain a record of responses to individuals who correspond with the Bureau. When required or authorized by statute, regulation, or Executive Order, information in the record system is made available to members of the public or employees of other Government agencies. A record in this system may be disclosed as a routine use to: officers

and employees of the Department of the Treasury who have a need for the record in the performance of their duties, members of the

tigators, and associated with an identifiable individual; (c) Records containing reports identifiable to an individual compiled at various

where it is considered reasonably necessary for the purpose of furthering Bureau efforts to investigate the activities of, and when appropriate, to apprehend, criminal offenders and suspected criminal

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The purpose of this system is to provide fiscal services to employees of the Bureau and former

and employees of the Department of the Treasury who have a need for the record in the performance of their duties, members of the public, employees of other governmental agencies, or members of the news media (on a case by case basis where determination that such disclosure would be in accordance with guidelines set out under 28 C.F.R. Part 50.2; 5 U.S.C. 552 and 552a, and would not compromise enforcement of laws administered by Bureau of Alcohol, Tobacco and Firearms). For additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Active records stored in file folders in security filing cabinets. Inactive records stored in file folders at Federal Records Centers.

Retrievability: Records are retrieved by name, subject matter and date of correspondence.

Safeguards: Transmitted to routine users on a need to know basis. Stored in lockable file cabinets in rooms locked during non-duty hours.

Retention and disposal: Records are retained in accordance with General Services Administration General Records Schedules numbers 1 through 20 and Bureau of Alcohol, Tobacco and Firearms Records Control Schedules numbers 101 and 201 and disposed of by shredding or burning.

System manager(s) and address: Assistant to the Director (Public Affairs) Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226.

Notification procedure: Inquiries should be addressed to: Privacy Act Request, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226. Requests may be delivered personally to Room 2232, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226.

Record access procedures: Requests for access to records made by mail should be addressed to: Privacy Act Request, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226. Requests may be delivered personally to Room 2232, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C.

Appeals of determinations refusing amendment of records should be addressed to: Privacy Act Appeal, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226.

Appeals may be delivered personally to Room 2232, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C.

Contesting record procedures: See Access above.

Record source categories: Persons who correspond with the Bureau on general, technical or scientific matters.

Treasury/ATF 00.003

System name: Criminal Investigation Report System—Treasury/ATF.

System location: Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226. Components of this record system are geographically dispersed throughout Bureau of Alcohol, Tobacco and Firearms' field offices. For nearest location, see addresses listed Appendix E-1.

Categories of individuals covered by the system: (1) Criminal offenders or alleged criminal offenders acting alone or in concert with other individuals and suspects who have been or are under investigation for a violation or suspected violation of laws enforced by the Bureau. (2) Criminal offenders or alleged criminal offenders acting alone or in concert with individuals who have been referred to the Bureau of Alcohol, Tobacco and Firearms by other law enforcement agencies, governmental units and the general public. (3) Informants. (4) Persons who come to the attention of the Bureau in the conduct of criminal investigations. (5) Persons who have been convicted of a crime punishable by imprisonment for a term exceeding one year and who have applied for relief from disabilities under Federal law with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and explosives and whose disability was incurred by reason of such conviction. (6) Victims of crimes. (7) Witnesses.

Categories of records in the system: (a) Records containing information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrest, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (b) Records containing information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; (c) Records containing reports identifiable to an individual compiled at various stages of the process of enforcement of criminal laws from arrest or indictment through release from supervision; (d) Records compiled and maintained by the Bureau as generally described in (a), (b), and (c) above including the following: (1) Abandoned property reports. (2) ATF Criminal Investigation Reports (not resulting in formal prosecution reports). (3) ATF referrals to foreign, Federal, State, and local law enforcement agencies. (4) Chief and Regional Counsel opinions. (5) Contemporaneous investigative notes. (6) Criminal investigatory correspondence from and to foreign, Federal, State and local law enforcement agencies. (7) Criminal intelligence information on individuals suspected to be violating ATF laws and regulations. (8) Documentary proof of defendant's criminal record; identity; or lack or registration of N.F.A. (as amended) firearm(s). (9) FBI Criminal Record Reports. (10) Fingerprints and palmprints. (11) Fugitive arrest warrants. (12) Handwriting exemplars. (13) Index cards, violation and reputation. (14) Illicit liquor and raw material surveys. (15) Laboratory reports of evidence analysis. (16) Memoranda of expected testimony of witnesses. (17) Organized crime members violating or suspected of violating ATF laws. (18) Parole and pardon reports. (19) Personal histories (address, employment, social security number, financial background, physical descriptions, etc.). (20) Photographs. (21) Purchase of evidence records. (22) Records of electronic surveillance by ATF. (23) Records received in response to summons and subpoenas. (24) Reliefs from disability. (25) Reports of interview with witnesses. (26) Search warrants and affidavits for search warrants. (27) Seized property reports. (28) Significant criminals, armed and dangerous, firearms, explosives, liquor, and wagering. (29) Special agent's daily activity diary (accessible by date only). (30) State and local law enforcement criminal investigative reports. (31) Statements of defendants. (32) Statements of witnesses. (33) Summons and subpoenas issued pursuant to criminal investigations. (34) Voice prints. (35) Wagering tax suspected violators. (36) Warning and demand letters. (37) Criminal violation reports (a formal report compiling all or portions of the foregoing for prosecutive purposes).

Authority for maintenance of the system: (1) 26 U.S.C. Chapters 35 and 40. (2) 26 U.S.C. Chapters 51 and 52. (3) 26 U.S.C. Chapters 53, as amended. (4) 26 U.S.C. Chapters 61 through 80, as amended. (5) 27 U.S.C. Chapter 8, as amended, (Federal Alcohol Administration Act). (6) 18 U.S.C. Chapter 40. (7) 18 U.S.C. Chapter 44. (8) 18 U.S.C. Chapter 59 (9) 18 U.S.C. App. 1201-1203 (Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by Title III of the Gun Control Act of 1968). (10) 22 U.S.C. section 414, (Mutual Security Act of 1954, as amended). (11) 5 U.S.C. sections 901 and 903, 5 U.S.C. App. (Reorganization Plan of 1950), Treasury Order 221, 5 U.S.C. section 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The purpose of this system is to suppress traffic in illicit untaxpaid distilled spirits; to enforce the Federal laws relating to the illegal possession and use of firearms, destructive devices, explosives, explosive materials, and wagering activities; and to assist Federal, State, local and foreign law enforcement agencies in reducing crime and violence. When required or authorized by statute, regulation, or Executive Order, information in the record system is made available to members of the public or employees of other Government agencies.

A record in this system may be disclosed as a routine use to: officers and employees of Department of the Treasury who have a need for the record in the performance of their duties; personnel of Department of Justice and other agencies, Federal, State, and local, foreign and domestic, having prosecutive and civil law enforcement functions; attorneys, magistrates, and judges; and parole and probation authorities for the purpose of prosecuting, sentencing and determining the parole and probation status of criminal offenders or suspected criminal offenders; Personnel of other Federal, State and local law enforcement agencies, foreign and domestic, for the purpose of developing information on subjects involved in Bureau criminal investigations and for assisting law enforcement agencies in the investigation and prosecution of violations of the criminal laws those agencies are responsible for enforcing; Personnel of Federal, State, and local governmental agencies, where such referral is considered reasonably necessary for the purpose of furthering Bureau efforts to investigate the activities of and apprehend criminal offenders and suspected criminal offenders; Personnel of Federal, State and local governmental agencies, foreign and domestic, where there is a showing of reasonable necessity to obtain such information to accomplish a valid law enforcement purpose; Employees and officials of financial and commercial business firms and private individuals for identification purposes pertaining to actual or suspected criminal offenders

where it is considered reasonably necessary for the purpose of furthering Bureau efforts to investigate the activities of, and when appropriate, to apprehend, criminal offenders and suspected criminal offenders; Defense attorneys under Discovery Procedures; Members of the public, employees of other governmental agencies, or members of the news media (on a case by case basis where determination that such disclosure would be in accordance with guidelines set out under 28 C.F.R. Part 50.2; 5 U.S.C. 552, and 552a, and would not compromise enforcement of laws administered by Bureau of Alcohol, Tobacco and Firearms). For additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Active records stored in file folders in security filing cabinets. Inactive records stored in file folders at Federal Records Centers. Records also stored on magnetic tape at ADP Division, Technical and Scientific Services Branch of Bureau Headquarters and at the IRS Data Center, Detroit, Michigan. Records are stored in on-line mass computer storage at San Diego, California. (Treasury Enforcement Communications System.)

Retrievability: Records are retrievable by name, date of birth, social security number, unique identifier, investigation number, serial number of firearm, or a combination of any of these; plus date and geographical location of incident giving rise to investigation.

Safeguards: Direct access restricted to personnel in Department of Treasury in the performance of their duty. Transmitted to routine users on a need to know basis and to others upon verification of the substance and propriety of the request. Stored in lockable file cabinets in rooms locked during non-duty hours.

Retention and disposal: Records are retained in accordance with General Services Administration General Records Schedules numbers 1 through 20 and Bureau of Alcohol, Tobacco and Firearms Records Control Schedules numbers 101 and 201 and disposed of by shredding or burning. Records on tape or on-line mass storage are disposed of by degaussing.

System manager(s) and address: Assistant Director (Criminal Enforcement), Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226.

Notification procedure: The Director of the Bureau of Alcohol, Tobacco and Firearms has exempted this system of records from compliance with the provisions of 5 U.S.C. 552a (e) (4) (G).

Record access procedures: The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempted from compliance with the provisions of 5 U.S.C. 552a (e) (4) (H).

Contesting record procedures: The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempted from compliance with the provisions of 5 U.S.C. 552a (e)(4)(H).

Record source categories: The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552a (e)(4)(I).

Systems exempted from certain provisions of the act: System exempted from certain provisions of the Act: Proposed to be exempted elsewhere in the Federal Register.

Treasury/ATF 00.004

System name: Fiscal Record System—Treasury/ATF.

System location: Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvanina Avenue, N.W., Washington, D.C. 20226. Components of this record system are geographically dispersed throughout the Bureau's field offices. For nearest office location, see addresses listed Appendix E-1.

Categories of individuals covered by the system: (1) Present employees. (2) Former employees. (3) Recipients of rewards. (4) Vendors furnishing goods and services to the Bureau.

Categories of records in the system: (1) Advance of Funds. (2) Agreements. (3) Contracts. (4) Designated Agents or recommended Designated Agents. (5) Designated timekeepers and alternates. (6) Employee pay records. (7) Purchase Orders. (8) Payment vouchers. (9) Time and attendance records. (10) Travel and moving vouchers. (11) Travel request and authorization. (12) Chief Counsel and Regional Counsel memoranda and opinions.

Authority for maintenance of the system: (1) 5 U.S.C. sections 901 and 903, 5 U.S.C. App. (Reorganization Plan No. 26 of 1950), Treasury Order 221; 5 U.S.C. section 301. (2) E.O. 6166 (amended).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The purpose of this system is to provide fiscal services to employees of the Bureau and former employees of the Bureau; to record fiscal information as required by law and regulations; to prevent unauthorized disclosures; to provide accountability for government funds. When required or authorized by statute, regulation, or Executive Order, information in the record system is made available to members of the public or employees of other government agencies.

A record in this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as the letting of a contract, grant or other benefit.

A record in this system of records may be disclosed to a federal agency, in response to its request, in connection with the letting of a contract, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

A record in this system may be disclosed as a routine use to: officers and employees of the Department of the Treasury who have a need for the record in the performance of their duties, Employee of the General Accounting Office for review, Vendors of contractual services to the Bureau, members of the public, employees of other governmental agencies, or members of news media (on a case by case basis where determination that such disclosure would be in accordance with guidelines set forth under 28 C.F.R. Part 50.2; 5 U.S.C. 552 and 552a, and would not compromise enforcement of laws administered by Bureau of Alcohol, Tobacco and Firearms); local, state and Federal law enforcement agencies; local, state and Federal regulatory agencies; for additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Active records stored in file folders in security filing cabinets. Inactive records stored in file folders at Federal Records Center, Detroit, Michigan. Records also stored on magnetic tape at the IRS Data Center, Detroit, Michigan.

Retrievability: Records are retrievable by name, date of birth, social security number, employee identification number, or a combination of any of these four.

Safeguards: Direct access restricted to personnel in Department of Treasury in the performance of their duty. Transmitted to routine users on a need to know basis or where a right to access is established, and to others upon verification of the substance and propriety of the request. Stored in lockable file cabinets in rooms locked during non-duty hours.

Retention and disposal: Records are retained in accordance with General Services Administration General Records Schedules numbers 1 through 20 and Bureau of Alcohol, Tobacco and Firearms records Controls Schedules numbers 101 and 201 and disposed of by shredding or burning. Records stored on tapes, discs or in on-line mass storage, are disposed of by degaussing.

System manager(s) and address: Chief, Fiscal Division, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226.

Notification procedure: Inquiries should be addressed to: Privacy Act Request, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226.Requests may be delivered personally to Room 2232, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C.

Record access procedures: Requests for access to records made by mail should be addressed to: Privacy Act Request, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226.Requests may be delivered personally to Room 2232, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C.

Appeals of determinations refusing amendment of records should be addressed to: Privacy Act Appeal, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226. Appeals may be delivered personally to Room 2232, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C.

Contesting record procedures: See Access above.

Record source categories: (1) Former employees of the Bureau of ATF. (2) IRS Data Center. (3) Present employees of the Bureau of ATF. (4) Surviving spouse of deceased personnel. (5) Vendors of necessary goods and services for operations of Bureau of ATF.

Treasury/ATF 00.005

System name: Freedom of Information Requests—Treasury/ATF.

reporting of an investigation to an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the

Bureau's field offices. For nearest office location, see addresses listed Appendix E—1.

Storage: Active records stored in file folders in security filing cabinets. Inactive records stored in file folders at Federal Records Centers. Records also stored on magnetic tape at the IRS Data

Treasury/ATF 00.005

System name: Freedom of Information Requests—Treasury/ATF.

System location: Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226.

Categories of individuals covered by the system: Individuals requesting information.

Categories of records in the system: Correspondence pursuant to the Freedom of Information Act, internal processing documents and memoranda, referrals and copies of requested records, and Chief Counsel and Regional Counsel memoranda and opinions.

Authority for maintenance of the system: Freedom of Information Act, 5 U.S.C. 552.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For reporting requirements as required by the Act; to respond to other Department officials who request information regarding persons making a FOI request; evaluation purposes and determination of volume of requests received and the impact on the current workload; preparation of budget; disclosures in accordance with Freedom of Information Act, to other agencies when required for coordination of response or referral; to Department of Justice for defending law suits; to Congressional Committees; for additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: By name of requester(s) and date of request.

Safeguards: Filed in filing cabinet and released only to individuals with legitimate right to review.

Retention and disposal: In accordance with the provisions of the Act and Departmental records management procedures.

System manager(s) and address: Assistant to the Director (Disclosure), Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226.

Notification procedure: See system manager.

Record access procedures: See system manager.

Contesting record procedures: See system manager.

Record source categories: Individuals who make Freedom of Information Act requests. Federal officials responding to Freedom of Information Act requests and documents from official records.

Treasury/ATF 00.006

System name: Internal Security Record System—Treasury/ATF.

System location: Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226.

Categories of individuals covered by the system: (1) Present employees of the Bureau of ATF. (2) Former employees of the Bureau of ATF. (3) Applicants for employment.

Categories of records in the system: (1) Records containing investigative material compiled for law enforcement purposes including reports relating to: (a) conduct of employees. (b) integrity of employees. (2) Records containing investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or access to classified information including reports relating to security clearances of employees.

Authority for maintenance of the system: (1) 18 U.S.C. 201 (2) E.O. 10450 (3) E.O. 11222

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system is used to assure the Bureau Director, the Department of the Treasury, and the public that the Bureau is taking strong and vigorous steps to maintain the highest standards of integrity, loyalty, conduct, and security among Bureau personnel. When a criminal investigation results in a compilation of information contained in this system, the information so compiled shall be transferred to the AT&F Criminal Investigation Report System and shall become a part of that system for all purposes of the Privacy Act of 1974.

A record in this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contact, or the issuance of a license, grant or other benefit.

A record in this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation to an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

A record in this system of records may be disclosed as a routine use to: officers and employees of the Department of the Treasury who have a need for the record in the performance of their duties; personnel of Department of Justice and other agencies, Federal, state, and local, foreign and domestic, having prosecutive and civil law enforcement functions; attorneys, magistrates, and judges; and parole and probation authorities for the purpose of prosecuting, sentencing, and determining the parole and probation status of criminal offenders or suspected criminal offenders; personnel of other Federal, state and local law enforcement agencies, foreign and domestic, for the purpose of developing information on subjects involved in Bureau criminal investigations and for assisting law enforcement agencies in the investigation and prosecution of violations of the criminal laws those agencies are responsible for enforcing; personnel of Federal, state and local governmental agencies, where such referral is considered reasonably necessary for the purpose of furthering Bureau efforts to investigate the activities of and apprehend criminal offenders and suspected criminal offenders; personnel of Federal, state and local governmental agencies, foreign and domestic, where there is a showing of reasonable necessity to obtain such information to accomplish a valid law enforcement purpose; employees and officials of financial and commercial business firms and private individuals for identification purposes pertaining to actual or suspected criminal offenders where it is considered reasonably necessary for the purpose of furthering Bureau efforts to investigate the activities of and apprehend criminal offenders and suspected criminal offenders; defense attorneys under Discovery Procedures; members of the public, employees of other governmental agencies, or members of the news media (on a case by case basis where determination that such disclosure would be in accordance with guidelines set out under 28 C.F.R. Part 50.2; 5 U.S.C. 552, and 552a, and would not compromise enforcement of laws administered by Bureau of Alcohol, Tobacco and Firearms). For additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Active records stored in file folders in security filing cabinets. Inactive records stored in file folders at Federal Records Center.

Retrievability: Records are retrievable by name.

Safeguards: Direct access restricted to personnel in Department of the Treasury in the performance of their duty. Transmitted to routine users on a need to know basis and to others upon verification of the substance and propriety of the request. Stored in lockable metal file cabinets in rooms locked during non-duty hours.

Retention and disposal: Records are retained in accordance with General Services Administration General Records Schedules Numbers 1 through 20 and Bureau of Alcohol, Tobacco and Firearms records control schedules numbers 101 and 201 and disposed of by shredding or burning.

System manager(s) and address: Assistant Director, Inspection, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue N.W., Washington, D.C. 20226.

Notification procedure: The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552a (e) (4) (G).

Record access procedures: The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552a (e) (4) (H).

Contesting record procedures: See Access above.

Record source categories: (1) Employees of this Bureau. (2) Internal Investigative report forms. (3) witnesses. (4) informants. (5) Federal, State and local enforcement agencies. (6) Employers. (7) Educational institutions. (8) Credit agencies. (9) Neighbors. (10) References. (11) Professional Organizations. (12) other government agencies.

Systems exempted from certain provisions of the act: Proposed to be exempted elsewhere in the Federal Register.

Treasury/ATF 00.007

System name: Personnel Record System—Treasury/ATF.

System location: Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226. Components of this record system are geographically dispersed throughout the

Bureau's field offices. For nearest office location, see addresses listed Appendix E—1.

Categories of individuals covered by the system: (1) Present Employees of the Bureau of ATF. (2) Former Employees of the Bureau of ATF. (3) Applicants for employment with ATF.

Categories of records in the system: (1) Allotment and Dues. (2) Annual Tax Reports. (3) Applicants for employment. (4) Applications for reassignment. (5) Awards, honors, and fellowship records. (6) Classification appeal records. (7) Death claim records. (8) Educational history. (9) Employee indebtedness records. (10) Employees qualified as Grievance Examiners. (11) Employee Suggestions. (12) Employee history. (13) Employee relations case file. (14) Equal employment opportunity case file. (15) Health maintenance records. (16) Insurance records. (17) Military history. (18) Occupational injuries, disabilities, and Worker's Compensation Records. (19) Official personnel folder. (20) Outside employment and identification numbers, business or professional records. (21) Outside employment. (22) Outside financial interests. (23) Overtime and/or Premium Pay records. (24) Performance evaluation records. (25) Personal history. (26) Pocket commission, badge number. (27) Position description records. (28) Promotion/Selection Certificates Records. (29) Property custody records. (30) Retirement records. (31) Security clearance records. (32) Statement of career goals. (33) Supervisory or managerial potential records. (34) Temporary assignments and details. (35) Time application reports and records. (36) Training record. (37) U.S. Savings Bond participation records. (38) Upward mobility applications. (39) Vehicle accidents. (40) Withholding tax records. (41) Work schedule records. (42) Chief Counsel and Regional Counsel memoranda and opinions.

Authority for maintenance of the system: (1) 5 U.S.C. Chapter 29, Subchapter II. (2) 5 U.S.C. Chapters 31 and 33. (3) 5 U.S.C. Chapter 43. (4) 5 U.S.C. Chapter 45. (5) 5 U.S.C. Chapter 51. (6) 5 U.S.C. Chapter 55, subchapter III. (7) 5 U.S.C. Chapter 61. (8) 5 U.S.C. Chapter 75. (9) 5 U.S.C. Chapter 83. (10) 5 U.S.C. Section 301. (11) 5 U.S.C. 4503. (12) 5 U.S.C. Section 5101—5115. (13) 5 U.S.C. Section 7151—7154. (14) 5 U.S.C. Section 7901. (15) P.L. 92—261 (Equal Employment Act of 1972). (16) P.L. 93—579. (17) Federal Employees Compensation Act. (18) Occupational Safety and Health Act of 1970. (19) Executive Order 10561. (20) E.O. 11222. (21) E.O. 11478. (22) E.O. 11491.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The purpose of this system is to provide personnel services to employees of the Bureau, former employees of the Bureau, and applicants for employment with the Bureau; to record personnel information as required by law and regulations; to prevent unauthorized disclosures; provide identification information in accident or medical emergency situations. When required or authorized by statute, regulations, or executive order, information in the record system is made available to members of the public, news media or other governmental agencies.

A record in this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

A record in this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

A record in this system maybe disclosed to the following as a routine use: (1) The Department of Labor; (2) Congressmen; (3) Equal Employment Opportunity Commission; (4) Members of the public, employees of other governmental agencies, or members of the news media (on a case by case basis where determination that such disclosure would be in accordance with guidelines set forth under 28 C.F.R. Part 50.2; 5 U.S.C. 552 and 552a, and would not compromise enforcement of laws administered by Bureau of Alcohol, Tobacco and Firearms); (5) Officers and employees of Department of the Treasury who have a need for the record in the performance of their duties; (6) Federal, state and local law enforcement agencies; (7) Federal, state and local regulatory agencies. For additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Active records stored in file folders in security filing cabinets. Inactive records stored in file folders at Federal Records Centers. Records also stored on magnetic tape at the IRS Data Center, Detroit, Michigan. Records are stored in on—line mass computer storage at San Diego, California (Treasury Enforcement Communications System).

Retrievability: Records are retrievable by name, date of birth, social security number, employee identification number, or a combination of any of these four.

Safeguards: Direct access restricted to personnel in Department of Treasury in the performance of their duty. Transmitted to routine users on a need to know basis or where a right to access is established, and to others upon verification of the substance and propriety of the request. Stored in lockable file cabinets in rooms locked during non—duty hours.

Retention and disposal: Records are retained in accordance with General Services Administration General Records Schedules numbers 1 through 20 and Bureau of Alcohol, Tobacco and Firearms Records Control Schedules numbers 101 and 201 and disposed of by shredding, burning or by degaussing.

System manager(s) and address: Assistant Director (Administration), Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226.

Notification procedure: The Director of the Bureau of Alcohol, Tobacco and Firearms has exempted this system of records from compliance with the provisions of 5 U.S.C. 552a (e) (4) (G).

Record access procedures: The Director of the Bureau of Alcohol, Tobacco and Firearms has exempted this system of records from compliance with the provisions of 5 U.S.C. 522a (e) (4) (H).

Contesting record procedures: Same as access above.

Record source categories: (1) Administrative Records. (2) Applicants for employment with Bureau. (3) Acquaintances. (4) Business and professional associates. (5) Creditors. (6) Criminal records. (7) Educational institutions attended. (8) Employee records. (9) Equal Employment Opportunity Commission. (10) Financial institutions. (11) Fiscal records. (12) Former employees. (13) Former employers. (14) Inspection records. (15) Internal investigation reports. (16) Internal Revenue Service. (17) Military records. (18) Outside employers. (19) Physicians. (20) Police reports. (21) Position classification specialists. (22) Psychiatrists. (23) References. (24) Supervisors. (25) Training officers. (26) Unions, accredited. (27) U.S. Civil Service Commission. (28) Witnesses.

Treasury/ATF 00.008

System name: Regulatory Enforcement Record System—Treasury/ATF.

System location: Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226. Components of this system of records are also geographically dispersed throughout ATF's regional and field offices. For locations, see addresses of regional and field offices listed in Appendix E—1.

Categories of individuals covered by the system: (1) Individuals who have been issued permits or licenses, have filed applications with ATF, or have registered with ATF as: (a) Brewers; (b) Claimants for refund, abatement, credit, allowance or drawback of excise or special occupational taxes; (c) Collectors of firearms or ammunition; (d) Distillers, bonded warehousemen, rectifiers, or bottlers of distilled spirits; (e) Importers of firearms, ammunition or implements of war; (f) Importers or wholesalers of beer, wine or distilled spirits; distillers, rectifiers, bottlers, or warehousemen of distilled spirits; or wine producers; (g) Individuals engaged in wagering activities; (h) Individuals who produce, receive, blend, store or treat wine or distilled spirits for experimental or research purposes; (i) Individuals who establish experimental distilled spirits plants; (j) Limited retail dealers in beer or wine; (k) Liquor bottle manufacturers; (l) Manufacturers of stills; (m) Manufacturers, importers, or dealers of firearms or ammunition; (n) Manufacturers, importers, dealers, or users of explosive materials; (o) Manufacturers, proprietors of export warehouses or importers of tobacco products; (p) Nonbeverage drawback claimants; (q) Operators of pilot brewing plants; (r) Possessors of stills and related equipment; (s) Producers of wine for family use; (t) Proprietors of vinegar plants, fruit—flavor concentrate plants or class 6 bonded warehouses; (u) Proprietors of bonded wine cellars, bonded wineries, taxpaid wine bottling houses, or bonded wine warehouses; (v) Reprocessors or rebottlers of specially denatured spirits; (w) Retailers of beer, wine or distilled spirits; (x) Users of tax—free alcohol, dealers or users of specially denatured spirits, or recoverers of specially denatured or completely denatured spirits.

(2) Individuals who are employed by businesses engaged in the activities specified in paragraph 1 and who are officers, directors,

ty of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order

System location: Bureau of Alcohol, Tobacco, and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226. Components

552a, and would not compromise enforcement of laws administered by Bureau of Alcohol, Tobacco and Firearms). (12) Smithsonian Institution. (13) For additional routine uses, see Appendix AA.

(2) Individuals who are employed by businesses engaged in the activities specified in paragraph 1 and who are officers, directors, holders of 10 percent or more of the outstanding stock, designated agents, or responsible persons. (3) Individuals who are not qualified to engage in any of the activities listed in paragraph 1, but who are assessed excise or special occupational taxes. (4) Individuals who submit Offers in Compromise.

Categories of records in the system: Records containing investigative material compiled for law enforcement purposes which may consist of the following: (1) Abstracts of offers in compromise. (2) Administrative law judge decisions. (3) Assessment records: (a) notices of proposed assessments; (b) notices of shortages or losses; (c) notices to IRS to assess taxes; (d) recommendation for assessments. (4) Claim records: (a) claims; (b) letters of claim rejection; (c) sample reports; (d) supporting data; (e) vouchers and schedules of payment. (5) Comments on proposed rulemakings. (6) Complaints from third parties. (7) Correspondence concerning records in this system and related matters. (8) Financial statements. (9) Inspection and investigation reports. (10) Joint demands on principals and sureties for payment of excise tax liabilities. (11) Letters of reprimand. (12) Lists of permittees and licensees. (13) Lists of officers, directors and principal stockholders. (14) Mailing lists and addressograph plates. (15) Notices of delinquent reports. (16) Offers in compromise. (17) Operation records: (a) operating reports; (b) reports of required inventories; (c) reports of thefts or losses of firearms; (d) reports of thefts of explosive materials; (e) transaction records; (f) transaction reports. (18) Orders of revocation, suspension or annulment of permits or licenses. (19) Regional and Chief Counsel opinions and memoranda. (20) Reports of violations. (21) Permit status records. (22) Qualifying records: (a) access authorizations; (b) advertisement records; (c) applications; (d) bonds; (e) business histories; (f) criminal records; (g) diagrams of premises; (h) educational histories; (i) employment histories; (j) environmental records; (k) financial data; (l) formula approvals; (m) label approvals; (n) licenses; (o) notices; (p) permits; (q) personal references; (r) plant profiles; (s) plant capacities; (t) plats and plans; (u) registrations; (v) sample reports; (w) signature authorities; (x) special permissions and authorizations; (y) statements of process. (23) Show cause orders. (24) Tax records: (a) control cards relating to periodic payment and prepayment of taxes; (b) excise and special tax returns; (c) notices of tax discrepancy or adjustment.

Authority for maintenance of the system: (1) 26 U.S.C. 5172. (2) 26 U.S.C. 5271(b)(1). (3) 26 U.S.C. 5356. (4) 26 U.S.C. 5401. (5) 26 U.S.C. 5417. (6) 26 U.S.C. 5502(b). (7) 26 U.S.C. 5511(3). (8) 26 U.S.C. 5521(a). (9) 26 U.S.C. 5179(a). (10) 22 U.S.C. 204(c). (11) 26 U.S.C. 5105. (12) 26 U.S.C. 5275. (13) 26 U.S.C. 5301(b). (14) 26 U.S.C. 5132. (15) 26 U.S.C. 5042(a)(2). (16) 26 U.S.C. 7011. (17) 26 U.S.C. 5712. (18) 18 U.S.C. 923(a). (19) 18 U.S.C. 923(b). (20) 18 U.S.C. 843(a). (21) 22 U.S.C. 414. (22) 26 U.S.C. 4401(a). (23) 26 U.S.C. 6001. (24) 26 U.S.C. 6011(a). (25) 26 U.S.C. 5001. (26) 26 U.S.C. 5021—5023. (27) 26 U.S.C. 5041. (28) 26 U.S.C. 5051. (29) 26 U.S.C. 6201. (30) 26 U.S.C. 5008. (31) 26 U.S.C. 5044. (32) 26 U.S.C. 5056. (33) 26 U.S.C. 5705. (34) 26 U.S.C. 6423(b). (35) 26 U.S.C. 5009(a). (36) 26 U.S.C. 5006(a). (37) 26 U.S.C. 5055. (38) 26 U.S.C. 5062(c). (39) 26 U.S.C. 5106. (40) 26 U.S.C. 5131(c). (41) 26 U.S.C. 5064. (42) 26 U.S.C. 7122. (43) 27 U.S.C. 207. (44) 18 U.S.C. 843(d). (45) 18 U.S.C. 923(f). (46) 27 U.S.C. 204(e). (47) 26 U.S.C. 5312(a). (48) 26 U.S.C. 5042(a)(3). (49) Reorganization Act of 1949, 5 U.S.C. Sections 901 et seq.; Revenue Act of 1951, Section 616; Treasury Department Order 221 (37 F.R. 11696, June 19, 1972). (50) 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The purpose of this system is to determine suitability, eligibility or qualifications of individuals who are engaged or propose to engage in activities regulated by ATF; achieve compliance with laws under ATF's jurisdiction; assure full collection of revenue due from legal industries; eliminate commercial bribery, consumer deception and other improper trade practices in the distilled spirits, beer and wine industries; interact with Federal, state and local governmental agencies in the resolution of problems relating to industrial development, revenue protection, public health, ecology, and other areas of joint jurisdictional concern. When required or authorized by statute, regulation, or Executive Order, information in the record system is made available to members of the public or employees of other government agencies.

In the event that a record in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, these records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record in this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the issuance of a license, grant or other benefit.

A record in this system of records may be disclosed to a federal agency, in responses to its request, in connection with the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. When an ATF criminal investigation results in compilation of information contained in this system of records, the information shall be transferred to the Treasury ATF—Criminal Investigation Report System and shall become part of that system for all purposes of the Privacy Act of 1974. A record in this system may be disclosed as a routine use to: Officers and employees of the Department of the Treasury who have a need for the record in the performance of their duties; Federal, State or local regulatory or law enforcement agencies in the performance of their duties on a need to know basis; Members of the public, employees of other Governmental agencies, or members of the news media (on a case by case basis where determination that such disclosure would be in accordance with guidelines set forth under 28 C.F.R. Part 50.2; 5 U.S.C. 552 and 552a, and would not compromise enforcement of laws administered by Bureau of Alcohol, Tobacco and Firearms). For additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Active records stored in file folders in filing cabinets; card forms in card filing cabinets; and on magnetic tapes or microfiche at IRS Service Centers, ATF Headquarters, or Department of the Treasury.

Retrievability: Records are retrievable by name, permit or license number, or by document locator number.

Safeguards: Direct access restricted to personnel in Department of Treasury in the performance of their duty. Transmitted to routine users on a need to know basis and others upon verification of the substance and propriety of the request. Stored in file cabinets in rooms locked during non—duty hours. Wagering records are maintained in safes or file cabinets which are locked at all times.

Retention and disposal: Records are retained in accordance with General Services Administration General Records Schedules numbers 1 through 20 and Bureau of Alcohol, Tobacco and Firearms Records Control Schedules numbers 101 and 201 and disposed of by shredding, burning or by degaussing.

System manager(s) and address: Assistant Director, Regulatory Enforcement, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226.

Notification procedure: The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 522a (e) (4) (G).

Record access procedures: The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 522a (e) (4) (H).

Contesting record procedures: See Access above.

Record source categories: (1) Acquaintances. (2) Bureau Personnel. (3) Business and Professional Associates. (4) Creditors. (5) Criminal Records. (6) Financial Institutions. (7) Former Employers. (8) Internal Revenue Service. (9) Military Records. (10) Physicians. (11) Psychiatrists. (12) References. (13) Police Reports. (14) Witnesses. (15) Federal Law Enforcement Agencies. (16) State Law Enforcement Agencies. (17) Local Law Enforcement Agencies. (18) State Regulatory Agencies. (19) Federal Regulatory Agencies. (20) Local Regulatory Agencies. (21) Chief Counsel's Opinions. (22) Regional Counsel's Opinions. (23) Chief Counsel's Memoranda. (24) Regional Counsel's Memoranda. (25) Field Investigation Reports. (26) Third Parties.

Systems exempted from certain provisions of the act: Proposed to be exempted elsewhere in the Federal Register.

Treasury/ATF 00.009

System name: Technical and Scientific Services Record System—Treasury/ATF.

System location: Bureau of Alcohol, Tobacco, and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226. Components of this record system are geographically dispersed throughout Bureau of Alcohol, Tobacco and Firearms' field offices. For nearest location, see addresses listed Appendix E—1.

Categories of individuals covered by the system: (1) Applicants to register firearms under the National Firearms Act. (2) Applicants for Surplus Military Firearms under the Director of Civilian Marksmanship Program. (3) Importers of implements of war as defined under the Mutual Security Act of 1954. (4) Licensed importers registered under the Mutual Security Act of 1954. (5) Manufacturers of National Firearms Act who are exempt from payment of Special (Occupational) tax provisions. (6) Non—Bureau chemists certified to make analysis of alcoholic beverages. (7) Persons involved in explosives tagging and detection program. (8) Registered owners of National Firearms Act firearms. (9) Special (Occupational) taxpayers as defined under title II of the Gun Control Act of 1968. (10) Victims of explosives. (11) Individuals involved in Government funded research projects.

Categories of records in the system: (1) Alterations of registered National Firearms Act firearms. (2) Applications for surplus military firearms. (3) Applications to register firearms and destructive devices under the National Firearms Act. (4) Applications to import articles on the U.S. Munitions list. (5) Blueprints. (6) Certifications of payment of Special (occupational) tax payments. (7) Changes of address for owner of firearms registered under the National Firearms Act. (8) Claims for erroneous Special (Occupational) taxes payments. (9) Descriptions of Inventions. (10) Delinquency notices regarding proof of importation of National Firearms Act Firearms. (11) Explosive reports. (12) Non—Bureau chemists' statements of qualification. (13) Patent information. (14) Registrations of firearms and destructive devices under the National Firearms Act. (15) Registration of war trophy firearms. (16) Requests and authorizations for temporary movement and/or temporary storage of National Firearms Act firearms. (17) Technical and scientific data. (18) Transaction records concerning National Firearms Act firearms. (19) Trade secrets. (20) U.S. Government contracts to manufacturers of National Firearms Act firearms. (21) Chief Counsel and Regional Counsel memoranda and opinions.

Authority for maintenance of the system: (1) 18 U.S.C. Chapter 40. (2) 18 U.S.C. Chapter 44. (3) 18 U.S.C. Section 3056. (4) 26 U.S.C., Sections 6001(a), 5001, 5008, 5009(a), 5006(a), 5021—5023, 5041, 5042(a)(2), 5051, 5053, 5056, 5062(c), 5705, 6201, 6423(b), 5105, 5106, 5131(c), 5132, 5172, 5172(b)(1), 5275, 5301(b), 5356, 5401, 5417, 5502(b), 5511(3), 5521(a), 5179(a), 5712, 7011. (5) 27 U.S.C. Sections 204(c). (6) 26 U.S.C. Chapter 35. (7) Executive Order 10973 as amended by Executive Order 11432.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The purpose of this system is to provide technical and scientific support and expertise to Criminal and Regulatory Enforcement activities of the Bureau; to other Federal, State, local and foreign law enforcement agencies; and to industries involved in activities regulated by the Bureau. When required or authorized by statute, regulation, or Executive Order, information in the record system is made available to members of the public or employees of other government agencies. When a criminal investigation results in a compilation of information contained in this system, the information so compiled shall be transferred to the ATF Criminal Investigation Report System and shall become a part of that system for all purposes of the Privacy Act of 1974.

In the event that a record in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, these records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. Records in this system may be disclosed as a routine use to: (1) Officers and employees of the Department of the Treasury who have a need for the record in the performance of their duties. (2) Federal law enforcement agencies. (3) State law enforcement agencies. (4) Local law enforcement agencies. (5) Foreign law enforcement agencies. (6) Industries involved in activities regulated by the Bureau. (7) Department of Defense. (8) Federal regulatory agencies. (9) State regulatory agencies. (10) Local regulatory agencies. (11) Members of the public, employees of other government agencies, or members of the news media (on a case by case basis where determination that such disclosure would be in accordance with guidelines set forth under 28 C.F.R. Part 50.2; 5 U.S.C. 552 and 552a, and would not compromise enforcement of laws administered by Bureau of Alcohol, Tobacco and Firearms). (12) Smithsonian Institution. (13) For additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Active records stored in file folders in filing cabinets; on 3 by 5 and 5 by 8 cards stored in card file cabinets; on microfilm reels; magnetic tape reels and discs; and on keypunch cards.

Retrievability: Records are retrievable by name, by unique identifier, control number, serial number of National Firearms Act firearms.

Safeguards: Stored in file cabinets locked during non—duty hours.

Retention and disposal: Records are retained in accordance with General Services Administration Records Schedules numbers 1 through 20 and Bureau of Alcohol, Tobacco and Firearms Records Control Schedules numbers 101 and 201 and disposed of by shredding or burning. Records stored on tape discs or on—line mass storage are disposed of by degaussing.

System manager(s) and address: Assistant Director, Technical and Scientific Services, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226.

Notification procedure: The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552 (e) (4) (G).

Record access procedures: The Director of the Bureau of Alcohol, Tobacco and Firearms has determined this system of records to be exempt from compliance with the provisions of 5 U.S.C. 552a (e) (4) (H).

Contesting record procedures: See Access above.

Record source categories: (1) Individuals. (2) Companies. (3) Corporations. (4) Firearms Licensees. (5) Firearms Permittees. (6) Explosive Licensees. (7) Explosive Permittees. (8) Bureau personnel. (9) Federal law enforcement agencies. (10) State law enforcement agencies. (11) Local law enforcement agencies. (12) Foreign law enforcement agencies. (13) Federal Regulatory agencies. (14) State Regulatory agencies. (15) Local Regulatory agencies. (16) Non—Bureau Chemists.

Systems exempted from certain provisions of the act: Proposed to be exempted elsewhere in the Federal Register. APPENDIX E

(List of geographically dispersed offices referred to in the "Location" sections of each system of records)

Regional Offices

Regional Director, Bureau of Alcohol, Tobacco and Firearms, 6 World Trade Center, Room 620 H, New York, New York 10048.

Regional Director, Bureau of Alcohol, Tobacco and Firearms, Room 360, 2 Penn Center, Philadelphia, Pennsylvania 19102.

Regional Director, Bureau of Alcohol, Tobacco and Firearms, Federal Office Building, Room 6510A, 550 Main Street, Cincinnati, Ohio 45202.

Regional Director, Bureau of Alcohol, Tobacco and Firearms, Room 1502, 230 S. Dearborn Street, Chicago, Illinois 60604.

Regional Director, Bureau of Alcohol, Tobacco and Firearms, Room 204, 3835 Northeast Expressway, Atlanta, Georgia 30340.

Regional Director, Bureau of Alcohol, Tobacco and Firearms, Room 300, Main Tower, 1200 Main Street Dallas, Texas 75202.

Regional Director, Bureau of Alcohol, Tobacco and Firearms, 525 Market Street, 34th Floor, San Francisco, California 94105.

CRIMINAL ENFORCEMENT OFFICES

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, J F Kennedy Building Government Center, Cambridge St., BOSTON, MASSACHUSETTS 02203.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 141, Essex Junction, Vermont 05452.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room 323, 55 Pleasant Street, CONCORD, NEW HAMPSHIRE 03301.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, 450 Main Street, HARTFORD, CONNECTICUT 06101.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 205 Whitney Avenue, Room 321, NEW HAVEN,

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Post Office Building, Room 301, 700 Main Street,

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 304 S Pine Street, PINEVILLE, KENTUCKY

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 2121 Building, Room 1025, 2121 8th Avenue,

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 205 Whitney Avenue, Room 321, NEW HAVEN, CONNECTICUT 06511.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, U.S. Courthouse, Room 125A, 156 Federal Street, PORTLAND, MAINE 04112.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room 406, SPRINGFIELD, MASSACHUSETTS 01103.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building—Room 216, 595 Main Street, WORCESTER, MASSACHUSETTS 01601.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 90 Church Street Station, NEW YORK, NEW YORK 10007.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building—Room 217, 111 W Huron Street, BUFFALO, NEW YORK 14202.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Office Building—Suite 411, N. Pearl St. and Clinton Avenue, ALBANY, NEW YORK 12207.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Rooms 200-202, Brinkerhoff & Margaret Street, PLATTSBURGH, NEW YORK 12901.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 300 Hamilton Ave., WHITE PLAINS, NEW YORK 10601.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Room 1343, U.S. Courthouse and Federal Bldg., 100 S. Clinton St., SYRACUSE, NEW YORK 13202.

Resident Agent in Charge, Bureau of Alcohol, Tobacco, and Firearms, U.S. Courthouse and Federal Building, Room 354, Calle Chardon, Hato Rey, Puerto Rico 00919.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Room 206, 701 W Broad Street, FALLS CHURCH, VIRGINIA 22046.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Room 825, 31 Hopkins Plaza, Room 825, BALTIMORE, MARYLAND 21201.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Box 13, 9th & King Streets, WILMINGTON, DELAWARE 19802.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 50 S. Cameron Street, WINCHESTER, VIRGINIA 22601.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 2401 Morris Ave., UNION, NEW JERSEY 07083.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Reutter Building, 4th Floor, 840 Cooper Street, CAMDEN, NEW JERSEY 08102.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, U.S. Post Office Building, Room 209, TRENTON, NEW JERSEY 08608.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, U.S. Customs House, Room 504, Second & Chestnut Streets, PHILADELPHIA, PENNSYLVANIA 19106.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Federal Square Station, 3rd and Walnut Streets, HARRISBURG, PENNSYLVANIA 17108.

Resident Agent in Charge, Bureau of Alcohol, Tobacco, and Firearms, Suite 300B, 100 W. Main St. Lansdale, Pennsylvania 19446.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Berks Title Building, 826 Penn St. READING, PENNSYLVANIA 19602.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, U.S. Courthouse, Room 136, Perry Square, ERIE, PENNSYLVANIA 16501.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room 2104, 1000 Liberty Avenue, PITTSBURGH, PENNSYLVANIA 15222.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 400 N 8th Street, RICHMOND, VIRGINIA 23219.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Post Office Building, Room 301, 700 Main Street, DANVILLE, VIRGINIA 24541.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, 110 Piedmont Street, BRISTOL, VIRGINIA 24201.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Bank of Virginia Building, Room 210, 870 N Military Circle, NORFOLK, VIRGINIA 23502.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Poff Building, Room 551, 210 Franklin Road, ROANOKE, VIRGINIA 24011.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 304 U.S.P.O. & Courthouse Bldg. CINCINNATI, OHIO 45202.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room 3414, 500 Quarrier Street, CHARLESTON, WEST VIRGINIA 25301.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room B—303, BLUEFIELD, WEST VIRGINIA 24701.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, U.S. Post Office Building, Room 202, 6th and Gay Streets, PORTSMOUTH, OHIO 45662.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building & U.S. Courthouse, Room 427, Chaplin & 12th Streets, WHEELING, WEST VIRGINIA 26003.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room 329, 1240 E 9th Street, CLEVELAND, OHIO 44199.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Court & Customs Building, Room 302, 1716 Spielbusch, TOLEDO, OHIO 43624.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, City Centre One Building, Room 420, Federal Plaza, YOUNGSTOWN, OHIO 44501.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room 237, 85 Marconi Boulevard, COLUMBUS, OHIO 43215.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 504 Federal Bldg. & Courthouse, 200 West 2nd Street, DAYTON, OHIO 45402.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room 371, 231 West LaFayette Street, DETROIT, MICHIGAN 48226.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 200 Federal Building, FLINT, MICHIGAN 48501.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Office Building, Room 872—D, 600 Federal Place, LOUISVILLE, KENTUCKY 40202.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Wells Building, Junction of U.S. 60 & Ku 180, ASHLAND, KENTUCKY 41101.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Post Office Building, Room 304, BOWLING GREEN, KENTUCKY 42101.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room 133, 101 N.W. 7th Street, EVANSVILLE, INDIANA 47708.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Lakeside II Office Building, 2250 Lake Ave, FORT WAYNE, INDIANA 46805.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room G—26, 507 State Street, HAMMOND, INDIANA 46325.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, U.S. Courthouse & Post Office Building, Room 507, INDIANAPOLIS, INDIANA 46204.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, U.S. Courthouse, Rooms 114—116, Barr & Limestone Streets, LEXINGTON, KENTUCKY 40501.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room 108, PADUCAH, KENTUCKY 42001.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 304 S Pine Street, PINEVILLE, KENTUCKY 40977.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Security Building, Room 120, 207 W Mt. Vernon Street, SOMERSET, KENTUCKY 42501.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 600 E. Monroe St., Room 213, SPRINGFIELD, ILLINOIS 62705.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 207 Main Street, 2nd floor, PEORIA, ILLINOIS 61602.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 208 18th Street, Room 209, ROCK ISLAND, ILLINOIS 61201.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 941 U.S. Courthouse, 811 Grand Avenue, KANSAS CITY, MISSOURI 64102.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Room 400, U.S. Courthouse, E. First and Walnut, DES MOINES, IOWA 50309.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, New Federal Building, 215 N. 17th Avenue, Room 8410, OMAHA, NEBRASKA 68101.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 202 W. First St., Room 504, WICHITA, KANSAS 67201.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 309 N Jefferson Street, Room 205, SPRINGFIELD, MISSOURI 65806.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 114 Market Street, Room 615, ST. LOUIS, MISSOURI 63101.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room 160, 316 N Robert Street, ST. PAUL, MINNESOTA 55101.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Room 637, Federal Building, 517 Wisconsin Ave., MILWAUKEE, WISCONSIN 53202.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 655 1st. Ave. N. Room 319, FARGO, NORTH DAKOTA 58102.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 270 Federal Bldg., 110 South 4th St., MINNEAPOLIS, MINNESOTA 55401.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Room 258, Federal Building, 515 9th St., RAPID CITY, SOUTH DAKOTA 57701.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 310 Federal Bldg., 400 Phillips Ave. South SIOUX FALLS, SOUTH DAKOTA 57102.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 1 West Court Square, C&S Bank Building, Suite 265, DECATUR, GEORGIA 30030.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, 816 Walker Street, Room 207, AUGUSTA, GEORGIA 30903.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Jackson Building, 1509 4th Ave., COLUMBUS, GEORGIA 31902.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building and Courthouse, 121 E. Spring Street SE, GAINESVILLE, GEORGIA 30501.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room 229, 451 College Street, MACON, GEORGIA 31208.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Executive Court, Room 211, 5105 Paulsen Street, SAVANNAH, GEORGIA 31406.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room 255, 401 N Patterson Street, VALDOSTA, GEORGIA 31601.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room 342, 600 E. 1st Street, ROME, GEORGIA 30161.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 2121 Building, Room 1025, 2121 8th Avenue, BIRMINGHAM, ALABAMA 35203.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room 110, ANNISTON, ALABAMA 36201.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, McDonough Building, Suite 215, 770 McDonough Boulevard, MONTGOMERY, ALABAMA 36104.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 210 Seminary Street, P.O. Building, Room 307, FLORENCE, ALABAMA 35630.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Clinton Building, Room 103, 2109 W. Clinton Avenue, HUNTSVILLE, ALABAMA 35805.

Residents Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Office Building, Room 1009, 109 St. Joseph Street, MOBILE, ALABAMA 36602.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 1118 Greensboro Avenue, U.S. Courthouse and Federal Building, Room 133, TUSCALOOSA, ALABAMA 35401.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Suite 504, 5821 Park Road, CHARLOTTE, NORTH CAROLINA 28209.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Post Office Building, Rooms 8—10, Otis and Post Streets, ASHEVILLE, NORTH CAROLINA 28802.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room G—16, 207 W Main Street, WILKESBORO, NORTH CAROLINA 28697.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Room 433 Fed. Office Bldg., 251 N. Main St., WINSTON—SALEM, NORTH CAROLINA 27101.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Browning Plaza II, Suite 12, 40100 Orleander Drive, WILMINGTON, NORTH CAROLINA 28401.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Post Office Building, Room 313, 413 Middle Street, NEW BERN, NORTH CAROLINA 28560.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, U.S. Post Office and Federal Building, Rooms 230—234, Green & Mason Streets, FAYETTEVILLE, NORTH CAROLINA 28301.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Post Office Building, Room 644, 310 New Bern Ave., RALEIGH, NORTH CAROLINA 27611.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Room 304, Federal Building, 306 E. Main Street, ELIZABETH CITY, NORTH CAROLINA 27909.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Office Building, Room 501, 901 Sumter Street, COLUMBIA, SOUTH CAROLINA 29201.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 1700 Highway 171, Suite C, Northbridge Shopping Center, CHARLESTON, SOUTH CAROLINA 29407.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, MacMillan Federal Building, 401 W. Evans Street, Room 236, FLORENCE, SOUTH CAROLINA 29501.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 300 University Ridge, Suite 110, GREENVILLE, SOUTH CAROLINA 29601.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 301 Building, Room 506, 301 N Lamar Street, JACKSON, MISSISSIPPI 39202.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 801 Security S&L Building, 2301 14th Street, GULFPORT, MISSISSIPPI 39501.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 1414 23rd Avenue, MERIDIAN, MISSISSIPPI 39301.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room 137, 911 Jackson Avenue, OXFORD, MISSISSIPPI 38655.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 5205 N.W. 84th Ave., Suite 108, MIAMI,

Resident Agent in Charge Bureau of Alcohol, Tobacco, and Firearms, Suite 1606, One American Place, BATON ROUGE,

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, G-79, 4th and F Streets,

Area Supervisor, Bureau of ATF, Room 101 Cathedral Building, 100 Cathedral Manor, Bardstown, KY. Mail: P.O. Box 9,

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 5205 N.W. 84th Ave., Suite 108, MIAMI, FLORIDA 33166.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 110 U.S. Post Office Building and Courthouse, MARIANNA, FLORIDA 32446.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 400 W. Bay St., JACKSONVILLE, FLORIDA 32202.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Room 429 Federal Building, 80 North Hughey Ave., ORLANDO, FLORIDA 32801.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Barnett Bank Building, Room 810, 1000 N Ashley Street, TAMPA, FLORIDA 33602.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 4004 Hillsboro Road, Room 210, NASHVILLE, TENNESSEE 37215.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Franklin Building, Suite 315, E. Gate Center, CHATTANOOGA, TENNESSEE 37411.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Snapps Perry Road at Sparta Street, GREENEVILLE, TENNESSEE 37743.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Parkway Building, Room 100, 1212 Pierce Parkway, KNOXVILLE, TENNESSEE 37921.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 67 N. Main Street, Room 22, MEMPHIS, TENNESSEE 38103.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Corporate Square Building—Suite 260, 3910 Kirby Drive, HOUSTON, TEXAS 77027.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Room 204, 2101 S. Interregional Highway, AUSTIN, TEXAS

Resident Agent in Charge Bureau of Alcohol, Tobacco, and Firearms, Room 1818, 600 Leopard Street, Corpus Christi, Texas 78403.

Resident Agent in Charge, Bureau of Alcohol, Tobacco, and Firearms, Koger Building, Suite 233, 444 Executive Center Boulevard, EL PASO, TEXAS 79902.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Suite 321, 3505 Boca Chica, BROWNSVILLE, TEXAS 78520.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, New Federal Building—Room A—405, 727 E Durango Street, SAN ANTONIO, TEXAS 78206.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Main Tower Building, Room 330, 1200 Main St., DALLAS, TEXAS 75202.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Room 204, New Federal Building, 221 W. Ferguson Street, TYLER, TEXAS

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Old Federal Building—Room 3008, 517 Gold Ave. SW, ALBUQUERQUE, NEW MEXICO 87103.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Office Building, Room 625, 1205 Texas Avenue, LUBBOCK, TEXAS 79401.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Office Building—Room 11C01, 819 Taylor Street, FORT WORTH, TEXAS 76102.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Room 330 Federal Bldg., 510 Camp St., NEW ORLEANS, LOUISIANA 70190.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building—Room 278, FORT SMITH, ARKANSAS 72902.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, U.S. Post Office, Room 213, TEXARKANA, ARKANSAS 75502

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Office Building—Room 3409, 700 W Capitol, LITTLE ROCK, ARKANSAS 72203.

Resident Agent in Charge Bureau of Alcohol, Tobacco, and Firearms, Suite 1606, One American Place, BATON ROUGE, LOUISIANA 70821.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room 8A15, 500 Fannin Street, SHREVEPORT, LOUISIANA 71162.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Room 960, 200 N.W. 5th St., OKLAHOMA CITY, OKLAHOMA 73102.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, J.C. O'Mahoney Federal Center, Room 7010, 2120 Capitol Avenue, CHEYENNE, WYOMING 82001.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Office Building, Room 6038, 1961 Stout Street, DENVER, COLORADO 80294.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Room 3A10, 125 S. Main, MUSKOGEE, OKLAHOMA 74401.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Page Belcher Federal Building, Suite 4520, 333 W 4th Street, TULSA, OKLAHOMA 74101.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Room 4354, 300 N Los Angeles Street, LOS ANGELES, CALIFORNIA 90012.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Financial Plaza, 500 Esplanade Drive, OXNARD, CALIFORNIA 93031.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 2721 North Central, Suite 814, PHOENIX, ARIZONA 85004.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 800 Front St., SAN DIEGO, CALIFORNIA 92188.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room 912, 34 Civic Center Plaza, SANTA ANA, CALIFORNIA 92712.

Resident Agent in Charge, Bureau of Alcohol, Tobacco, and Firearms, 3610 Central Ave., Suite 511, Riverside, California 92506.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room 8—B, TUCSON, ARIZONA 85702.

Resident Agent in Charge, Bureau of Alcohol, Tobacco, and Firearms, 400 Oceangate, Suite 1130, LONG BEACH, CALIFORNIA 90802.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Rm 2s11, 6230 Van Nuys Blvd., VAN NUYS, CALIFORNIA 91408.

Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 525 Market Street, Room 2540, SAN FRANCISCO, CALIFORNIA 94105.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room 5019, 1130 O Street, FRESNO, CALIFORNIA 93721.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, 300 Las Vegas Blvd., Room 3—604 LAS VEGAS, NEVADA 89101.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 1515 Clay Street, Room 906, OAKLAND, CALIFORNIA 94612

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 300 Booth Street, Room 4055, RENO, NEVADA 89502.

Resident Agent in Charge, Bureau of Alochol, Tobacco and Firearms, Room 125, 131 East Gish Road, SAN JOSE, CALIFORNIA 95112.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room 3424, 650 Capitol Mall, SACRAMENTO, CALIFORNIA 95814.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, Room 445, 350 S. Main Street, SALT LAKE CITY, UTAH 84101.

Special Agent in Charge, Bureau of Alochol, Tobacco and Firearms, Federal Building, Room 806, 915 Second Avenue, SEATTLE, WASHINGTON 98174.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Federal Building, G-79, 4th and F Streets, ANCHORAGE, ALASKA 99501.

Resident Agent in Charge, Bureau of Alochol, Tobacco and Firearms, American Reserve Building, Room 3280, 2410 Banks Drive, BOISE, IDAHO 83705.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, W. 6th and Park Streets, Room 323, HELENA, MONTANA 59601.

Resident Agent in Charge, Bureau of Alochol, Tobacco and Firearms, Crown Plaza Building, Room 820, 1500 S.W. First Avenue, PORTLAND, OREGON 97201.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, U.S. Courthouse, Room 775, 920 W Riverside, SPOKANE, WASHINGTON 99210.

Resident Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, 300 Alamoana Blvd., Room 3321, HONOLULU, HAWAII 96850.

REGULATORY ENFORCEMENT OFFICES

AREA OFFICES

Chief, Puerto Rican Operations, Bureau of ATF, U.S. Courthouse and Federal Bldg., Rm. 329, Avenida Carlos Chardon Hato Rey, Puerto Rico 00919.San Juan, Puerto Rico 00902.

Area Supervisor, Bureau of ATF, Room 1308, 150 Causeway Street, Boston, MA 02114 (for Boston Areas, I, II, and III.

Area Supervisor, Bureau of ATF, Room 377, C. Post Office Building; 135 High Street, Hartford, CT 06101.

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Area Supervisor, Bureau of ATF, Room 300, Newark Airport Plaza, U.S. Route 1, Newark, NJ 07102.

Area Supervisor, Bureau of ATF, 2401 Morris Avenue, Union, NJ 07083.

Area Supervisor, Bureau of ATF, Room 500, U.S. Customs House, 2nd & Chestnut Streets, Philadelphia, PA 19106.

Area Supervisor, Bureau of ATF, Room 2126, Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

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Area Supervisor, Bureau of ATF, Room 8403 Federal Office Building, 550 Main Street, Cincinnati, OH 45202.

Area Supervisor, Bureau of ATF, Room 329 Federal Office Building, 1240 East 9th Street, Cleveland, OH 44199.

Area Supervisor, Bureau of ATF, Room 376 Federal Building, 231 Lafayette Blvd., Detroit, MI 48226.

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Area Supervisor, Bureau of ATF, Room 901 Scarritt Building, 818 Grand Avenue, Kansas City, MO 64106.

Area Supervisor, Bureau of ATF, Room 650 Fed. Bldg. and U.S. Courthouse, 316 North Robert Street, St. Paul, MN 55101.

Area Supervisor, Bureau of ATF, Room 636 Fed. Bldg. and U.S. Courthouse, 517 E. Wisconsin Avenue, Milwaukee, WI 53202.

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Area Supervisor, Bureau of ATF, Room 906, 1515 Clay Street, Oakland, CA 94612.

Area Supervisor, Bureau of ATF, 525 Market Street, 25th Floor, San Francisco, CA 94105.

Area Supervisor, Bureau of ATF, 315 West Pine Street, Suite 5, Lodi, CA. Mail: P.O. Box 237, Lodi, CA 95240.

Area Supervisor, Bureau of ATF, 131 East Gish Road, San Jose, CA 95112.

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Area Supervisor, Bureau of ATF, Federal Bldg., Room 318, 34 Civic Center Plaza, Santa Ana, CA. 92701.

Area Supervisor, Bureau of ATF, Room 4217 Fed. Bldg. and U.S. Courthouse, 1130 Street, Fresno, CA 93721. (Both Fresno Area A and Area B Offices)

Area Supervisor, Bureau of ATF, Room 842 Federal Bldg., 915 Second Avenue, Seattle, WA 98174.

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Regional Counsel, Bureau of ATF, 7514 Federal Office Building, Cincinnati, Ohio 45202.

Regional Counsel, Bureau of ATF, 3835 Northeast Expressway, Atlanta, Georgia 30340.

Regional Counsel, Bureau of ATF, Room 327, 2 Penn Center Plaza, Philadelphia, Pennsylvania 19102.

Regional Counsel, Bureau of ATF, Room 450, Main Tower Building, 1200 Main Street, Dallas, Texas 75202.

Regional Counsel, Bureau of ATF, Room 1522, 230 S. Dearborn Street, Chicago, Illinois 60604.

Regional Counsel, Bureau of ATF, 34th Floor, 525 Market Street, San Francisco, California 94105.

ATF LABORATORIES

Chief, ATF Field Laboratory, Building 233 Naval Station, Treasure Island, California 94130.

Chief, ATF Field Laboratory Room 29, U.S. Post Office and Court House, Cincinnati, Ohio 45202.

Chief, ATF Field Laboratory, 3835 N.E. Expressway, Room 214, Atlanta, Georgia 30340.

Chief, ATF Field Laboratory, 1104 U.S. Custom House, 2nd and Chestnut Streets, Philadelphia, Penna. 19106.

Chief, Scientific Services Division, IRS Building, Room 7575, 1111 Constitution Avenue, N.W., Washington, D.C. 20226.

ATF DISTRIBUTION CENTER

Chief, Distribution Center, Bureau of Alcohol, Tobacco and Firearms, 3800 South Four Mile Run Drive, Arlington, Virginia 22206.

Treasury/Customs 00.001

System name: Acceptable Level of Competence, Negative Determina-

Categories of records in the system: Standard Government forms dealing with accidents and personal injuries.

Retention and disposal: In accordance with the Records Control Manual.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Treasury/Customs 00.001

System name: Acceptable Level of Competence, Negative Determination—Treasury/Customs.

System location: Personnel Management Division, U.S. Customs Service, Region I, 100 Summer Street, Boston, Massachusetts 02210.

Categories of individuals covered by the system: Any employee of U.S. Customs Service Region I, who receives a negative determination regarding acceptable level of competence.

Categories of records in the system: Employee's name, social security number, position description, grade, and correspondence containing specific reasons for negative determination.

Authority for maintenance of the system: Five U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; such uses include general reference to the records by supervisors when considering appropriate actions to take with regard to the individuals; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and stored in locked file cabinets.

Retrievability: The records are filed by the individual's name.

Safeguards: Direct access is limited to the Director and five employees of the Personnel Division. In addition to being stored in locked cabinets, the area in which these records are stored is locked during non-duty hours and the building is guarded by uniformed security police.

Retention and disposal: Records are retained until the employee leaves the Customs Service.

System manager(s) and address: Director, Personnel Management Division, U.S. Customs Service, Region I, 100 Summer Street, Boston, Massachusetts 02210.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information is furnished by the employee, employee's supervisor and the Federal Employee Appeals Authority.

Treasury/Customs 00.002

System name: Accident Reports—Treasury/Customs.

System location: Logistics Management Division, Region IV, 99 S.E. 5th Street, Miami, Florida 33131.

Categories of individuals covered by the system: Any employee of Region IV who has had an accident on Government property or in an official vehicle since 1973.

Categories of records in the system: Standard Government forms dealing with accidents and personal injuries.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Executive Order 11807 and Section 19 of Occupational Health & Safety Act of 1970.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Files are made available to Headquarters for accumulation of statistics; (d) Each record of automobile accidents is turned over to Regional Counsel for determination of tort claims, liability by Federal Government or other party, etc.; (e) Available for personnel actions, if needed; (f) Disclosure to employee's beneficiary in event of death following the accident or injury or to employee's agent in case of disability.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case folder is maintained in an unlocked drawer in chronological order by date.

Retrievability: Each case is identified by employee name and date of accident.

Safeguards: The metal container described above is maintained within the area assigned to the Logistics Management Division within the Region IV Headquarters Building. During non-working hours the room in which the metal container is located is locked.

Retention and disposal: Accident Record files are retained in accordance with the Records Disposal Manual.

System manager(s) and address: Director, Logistics Management Division, Region IV, Headquarters, 99 S.E. 5th Street, Miami, Florida 33131.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information originates with employees who have been injured and/or have been involved in accidents during the exercise of their official duties. Also included are witness reports and statements, the employees' supervisors' statements and doctors' reports.

Treasury/Customs 00.003

System name: Accident Reports—Treasury/Customs.

System location: Each Regional Commissioner Office (See Customs Appendix A).

Categories of individuals covered by the system: Employees of Customs Service injured on-the-job.

Categories of records in the system: Information furnished by employee and his/her supervisor regarding facts relating to accidents or injuries involving the employee. Sometimes includes doctor's statements and witnesses' statements. Includes log sheet kept in order of arrival during calendar year.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Disclosure to those officers and employees of the U.S. Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Files are made available to Headquarters for accumulation of statistics; (d) Each record of automobile accidents is turned over to Regional Counsel for determination of tort claims, liability of Federal Government or other party, etc.; (e) Available for personnel actions, if needed; (f) Disclosure to employee's beneficiary in event of death following the accident or injury or to employee's agent in case of disability.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Locked file cabinet.

Retrievability: Alphabetically by name.

Safeguards: Locked file cabinet.

Retention and disposal: In accordance with the Records Control Manual.

System manager(s) and address: Each Director, Logistics Management Division, each Customs Region (See Customs Appendix A for addresses).

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information obtained from person filing the report as well as witness's reports and statements, the employees' supervisors' statements and doctors' reports.

Treasury/Customs 00.004

System name: Accident and Injury Report File—Treasury/Customs.

System location: Logistics Management Division, U.S. Customs Service, 211 Main Street, San Francisco, California 94105.

Categories of individuals covered by the system: Present and past employees.

Categories of records in the system: Information furnished by employee and his/her supervisor regarding facts relating to accidents or injuries involving the employee. Sometimes includes doctor's statements and witnesses' statements. Includes log sheet kept in order of arrival during calendar year.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; 5 U.S.C. 8101-8150, 8191-8193.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the U.S. Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Files are made available to Headquarters for accumulation of statistics; (d) Each record of automobile accidents is turned over to Regional Counsel for determination of tort claims, liability by Federal Government or other party, etc.; (e) Available for personnel actions, if needed; (f) Disclosure to employee's beneficiary in event of death following the accident or injury or to employee's agent in case of disability.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case folder is maintained in a lockable filing cabinet.

Retrievability: The file for each employee is placed according to when it is received during the calendar year. The name of the employee is shown on an index sheet on top of the file.

Safeguards: The files are contained within a lockable file cabinet within an office which is locked during non-working hours.

Retention and disposal: Active files are retained indefinitely. Files of deceased, retired, etc., employees are forwarded to U.S. Customs Region VIII Personnel Division for inclusion within the person's official personnel folder.

System manager(s) and address: Logistics Management Specialist, Logistics Management Division, U.S. Customs Service, 211 Main Street, San Francisco, California 94105.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in this system originates with employees who have been injured and/or have been involved in accidents during the exercise of their official duties. Also included are witness reports and statements, the employees' supervisors' statements and doctor's reports.

Treasury/Customs 00.269

System name: Accounts Payable Voucher File—Treasury/Customs.

System location: Financial Management Division, U.S. Customs Service, Region V, 1440 Canal Street, New Orleans, Louisiana 70112.

Categories of individuals covered by the system: All Region V personnel to whom travel and other disbursements are made. All individuals who provide goods and services to Region V.

Categories of records in the system: Invoices and travel/other vouchers and supporting disbursements schedules.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Used to substantiate disbursements made; (b) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (c) Disclosure required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Treasury Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders in unlocked file cabinets.

Retrievability: By name.

Safeguards: Usage limited to Regional personnel; cabinets are located in rooms which are locked during non-working hours.

Retention and disposal: In accordance with Records Control Manual; records are disposed of when no longer needed.

System manager(s) and address: Director, Financial Management Division, U.S. Customs Service, Region V, 1440 Canal Street, New Orleans, Louisiana 70112.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Invoices and travel/other vouchers submitted by the individual.

Treasury/Customs 00.005

System name: Accounts Receivable Correspondence and Follow-Up—Treasury/Customs.

System location: Financial Management Division, U.S. Customs Service, Region I, 100 Summer Street, Boston, Massachusetts 02110.

Categories of individuals covered by the system: Persons owing money for Customs duties and services and money owed to persons for overpayment of excessive duties and services.

Categories of records in the system: Correspondence and documentation of telephone calls with debtors and creditors or their representatives.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) This system is used by the personnel of the Financial Management Division to effect collections or refund overpayments for duties and services.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case folder is maintained in a lockable filing cabinet.

Retrievability: The file for each employee is placed according to when it is received during the calendar year. The name of the employee is shown on an index sheet on top of the file.

Safeguards: The files are contained within a lockable file cabinet within an office which is locked during non-working hours.

Retention and disposal: Active files are retained indefinitely. Files of deceased, retired, etc., employees are forwarded to U.S. Customs Region VIII Personnel Division for inclusion within the person's official personnel folder.

System manager(s) and address: Logistics Management Specialist, Logistics Management Division, U.S. Customs Service, 211 Main Street, San Francisco, California 94105.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in this system originates with employees who have been injured and/or have been involved in accidents during the exercise of their official duties. Also included are witness reports and statements, the employees' supervisors' statements and doctor's reports.

Treasury/Customs 00.269

System name: Accounts Payable Voucher File—Treasury/Customs.

System location: Financial Management Division, U.S. Customs Service, Region V, 1440 Canal Street, New Orleans, Louisiana 70112.

Categories of individuals covered by the system: All Region V personnel to whom travel and other disbursements are made. All individuals who provide goods and services to Region V.

Categories of records in the system: Invoices and travel/other vouchers and supporting disbursements schedules.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Used to substantiate disbursements made; (b) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (c) Disclosure required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Treasury Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders in unlocked file cabinets.

Retrievability: By name.

Safeguards: Usage limited to Regional personnel; cabinets are located in rooms which are locked during non-working hours.

Retention and disposal: In accordance with Records Control Manual; records are disposed of when no longer needed.

System manager(s) and address: Director, Financial Management Division, U.S. Customs Service, Region V, 1440 Canal Street, New Orleans, Louisiana 70112.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Invoices and travel/other vouchers submitted by the individual.

Treasury/Customs 00.005

System name: Accounts Receivable Correspondence and Follow-Up—Treasury/Customs.

System location: Financial Management Division, U.S. Customs Service, Region I, 100 Summer Street, Boston, Massachusetts 02110.

Categories of individuals covered by the system: Persons owing money for Customs duties and services and money owed to persons for overpayment of excessive duties and services.

Categories of records in the system: Correspondence and documentation of telephone calls with debtors and creditors or their representatives.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) This system is used by the personnel of the Financial Management Division to effect collections or refund overpayments for duties and services.

For additional routine uses see Appendix AA.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Treasury/Customs 00.011

System name: Acting Customs Inspectors (Excepted)—Treasury/Customs.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data is stored in file folders which are contained in an unlocked metal file cabinet.

Retrievability: The file is retrieved by the name of the individual which is kept in alphabetical order within the work area of the Collection Section.

Safeguards: The files are located within an office that is locked during non-working hours. The building is guarded by uniformed security police and only authorized persons are permitted entry to the building.

Retention and disposal: The file is retained until collection or refund is effected and 2 years thereafter, then destroyed.

System manager(s) and address: Director, Financial Management Division, U.S. Customs Service, 100 Summer Street, Boston, Massachusetts 02110.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in the system is obtained from data gathered from the automated billing system and ports of entry.

Treasury/Customs 00.006

System name: Accounts Receivable—Treasury/Customs.

System location: Financial Management Division—District and ports, 99 S.E. 5th Street, Miami, Florida 33131.

Categories of individuals covered by the system: Importers and Brokers, Corporate and Individuals.

Categories of records in the system: Names, Entry Number, Amounts Due (Reimb) Names, Importer Number, Amounts Due.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Used by Revenue Accounting Personnel to ascertain receivables and to determine appropriate follow up action to effect collection.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in an unlocked drawer within a metal file cabinet.

Retrievability: Monthly hard copy printout, by bill category, alphabetized within.

Safeguards: The metal container described above is maintained within the area assigned to the Financial Management Division within the Customs Service Building. During non-working hours the room in which the metal container is located is locked.

Retention and disposal: These files are retained as prescribed by Regulations or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

System manager(s) and address: Director of Financial Management, 99 S.E. 5th Street, Miami, Florida 33131.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Headquarters Data Center.

Treasury/Customs 00.007

System name: Accounts Receivable—Treasury/Customs.

System location: U.S. Customs Service, Financial Management Division, Increase and Refund Section, 6 WTC, New York, N.Y. 10048.

Categories of individuals covered by the system: File on individuals and corporations that owe the Customs Service money.

Categories of records in the system: Each file lists name of debtor, address, its liquidated and unliquidated entries, and notices sent out regarding debtors to all branches of Customs Service.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) To expedite collection of money and to hold refunds.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in cabinets.

Retrievability: Rolex file maintained alphabetically refers to all cases.

Safeguards: Office locked.

Retention and disposal: Retained until case is closed and then destroyed.

System manager(s) and address: Regional Commissioner of Customs, U.S. Customs Service, 6 World Trade Center, New York, N.Y. 10048.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Newspapers, Regional Counsel, Customshouse Brokers.

Treasury/Customs 00.008

System name: Accounts Receivable Files—Treasury/Customs.

System location: Financial Management Division, U.S. Customs Service, Region V, 1440 Canal Street, New Orleans, Louisiana 70112.

Categories of individuals covered by the system: All individuals incurring Customs obligations (duties, taxes, fines, and penalties).

Categories of records in the system: Customs bills and related supporting documentation and correspondence.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Used to determine collection status of individual obligations for processing of collection actions; (b) Disclosures to those officers and employees of Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (c) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Unlocked file cabinets.

Retrievability: By bill number. Can be identified to individual by referring to alphabetical listing on monthly aged accounts receivable report.

Safeguards: Usage limited to Regional personnel. Files located in office which is locked during non-working hours.

Retentiou and disposal: Records are retained indefinitely.

System manager(s) and address: See 00Location" above.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: All individuals incurring Customs obligations.

Treasury/Customs 00.009

System name: Acting Customs Inspector (Excepted)—Treasury/Customs.

System location: Personnel Management Division, Regional Commissioner of Customs, 55 East Monroe Street, Suite 1501, Chicago, Illinois 60603, and Offices of the District Directors, Region IX, Chicago, Illinois.

Categories of individuals covered by the system: Employees or members of other Federal agencies who are designated by the District Directors as Customs Inspectors (Excepted).

Categories of records in the system: System has name, social security number, rank or grade and duty station of the individual.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Used by Personnel Management Specialists and managers as a control and for statistical purposes.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: CF 55 forms kept in manila folders in file cabinet.

Retrievability: Filed alphabetically.

Safeguards: During non-working hours the offices and/or buildings in which records are located are locked.

Retention and disposal: Until individual transfers or designation is cancelled. Form is then destroyed.

System manager(s) and address: Director, Personnel Management Division.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information is supplied by the individual and his or her agency.

Treasury/Customs 00.010

System name: Acting Customs Inspectors (Excepted)—Treasury/Customs.

System location: Inspection and Control Division, U.S. Customs Service, Region VI, 500 Dallas St., Suite 1240, Houston, Texas 77002.

Categories of individuals covered by the system: Those employees of other agencies (including military) within Region VI designated as Customs Inspectors.

Categories of records in the system: The name of individual, location, social security number, rank or grade, position and agency and date of designation.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duites; such uses would include general reference to the files by supervisors for personnel and statistical purposes; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each sheet is inserted in a folder which is filed in an unlocked metal file cabinet.

Retrievability: Each sheet is identified by the name of the designee.

Safeguards: The metal cabinet is located within an office that is locked during non-working hours. The building is guarded by uniformed security police, and only authorized persons are permitted in the building.

Retention and disposal: Active sheets are maintained in the file indefinitely. However, the system is reviewed every six months and outdated sheets are discarded.

System manager(s) and address: Director, Inspection and Control Division, U.S. Customs Service, Region VI, 500 Dallas, Suite 1240, Houston, Texas 77002.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Copy of action designating the individual from the District Directors.

Treasury/Customs 00.011

System name: Acting Customs Inspectors (Excepted)—Treasury/Customs.

System location: Located in the Office of the District Director, San Diego, Calif.; Offices of the Port Directors, San Ysidro, Calif.; Tecate, Calif.; Calexico, Calif.; Andrade, Calif.; San Diego Barge Office; and the Offices of the Customs Patrol Division, San Diego, Calif.; San Ysidro, Calif.; Calexico, Calif.; Tecate, Calif.; see Customs Appendix A.

Categories of individuals covered by the system: All individuals of other Federal agencies who have been cross-designated as Acting Customs Inspectors (Excepted).

Categories of records in the system: Name, date of birth, social security number, duty location, GS-level and training statement from Customs Officer.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended and the Customs Regulations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure of those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; such uses would include general reference to the files by supervisors for personnel and statistical purposes; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention or an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) Maintain a list of those employees of other agencies who have met the minimum requirements of Acting Customs Inspectors and record of training for such designation. Maintain minimum requirements for primary and secondary inspection programs, policies, procedures, etc.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper in manila folder in a file cabinet.

Retrievability: By name of individual and duty station.

Safeguards: Locked file cabinets, buildings locked during non-working hours.

Retention and disposal: Indefinitely or until rescinded.

System manager(s) and address: District Director, Port Directors, and Division Directors within the San Diego Customs District, according to the list that is attached as Customs Appendix A.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Customs Officers, employees, and officers of other Governmental agencies.

Treasury/Customs 00.012

System name: Acting Customs Officer (Excepted)—Treasury/Customs.

System location: In the office of all District Directors in Region IX, Chicago, Illinois. (See Customs Appendix A).

Categories of individuals covered by the system: Employees of other Government agencies who have been designated to act as Customs

an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance

Record source categories: Information which may concern the subject individual is sourced in the memoranda or correspondence from the office or individual requesting the advice and in any supporting

proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for

Categories of individuals covered by the system: Employees of other Government agencies who have been designated to act as Customs officers excepted.

Categories of records in the system: Names, social security numbers, rank or grade, Customs designation, position and agency or service, duty stations, and effective date. Customs Form 55.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; such uses would include general reference to files by supervisors for personnel and statistical purposes; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are kept in file folders in open file cabinets.

Retrievability: These forms are maintained in alphabetical order by name of employee.

Safeguards: The file cabinet is maintained in the offices or areas assigned to the District Directors. During non-working hours the room and/or building in which the cabinet is located is locked.

Retention and disposal: Retention period is indefinite or until canceled by reason of transfer or retirement.

System manager(s) and address: All District Directors, as appropriate, in Region IX, Chicago, Illinois. (See Customs Appendix A.)

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appridix A.

Contesting record procedures: See Access, Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Requests for designation by the agencies involved and memoranda certifying completion of training.

Treasury/Customs 00.013

System name: Acting Customs Officer (Excepted)—Treasury/Customs.

System location: U.S. Customhouse, P.O. Box 111, District Director's Office, St. Albans, Vermont 05478.

Categories of individuals covered by the system: Present employees of other agencies designated as Customs Officers (Excepted).

Categories of records in the system: Name, social security number, rank or grade, Customs designation, position and agency or service, duty station.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; such uses would include general reference to the files by supervisors for personnel and statistical purposes; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders stored in filing cabinet.

Retrievability: Alphabetically; by name.

Safeguards: These records are filed at the District Director's office under the supervision of District Director's secretary during working hours. The office is locked during non-working hours.

Retention and disposal: Retention period is indefinite or until canceled by reason of transfer or retirement.

System manager(s) and address: District Director, U.S. Customs Service, St. Albans, Vermont 05478.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information is furnished by the individual employee and his agency.

Treasury/Customs 00.014

System name: Advice Requests (Legal) (Region VIII)—Treasury/Customs.

System location: Office of the Regional Counsel, 211 Main Street, San Francisco, CA 94105.

Categories of individuals covered by the system: Individuals who are the subject of any request for legal advice by another office within Customs, another Government agency, or the private individual himself. An example would be a request by a District Director for advice as to whether or not a violation of a Customs law for which a penalty may be assessed has occurred.

Categories of records in the system: Intra-agency or inter-agency memoranda and reports of investigation and other documents submitted by the requesting office for use in handling the request. Correspondence from the private individual submitting the request.

Authority for maintenance of the system: 5 U.S.C. 301; Reorganization Plan No. 1 of 1950; Treasury Department Order No. 165, Revised, as amended; Reorganization Plan No. 1 of 1965.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Information contained in the files is used in handling the request for advice and in preparing a response to the request; (d) Information contained in the files may be used internally by the Regional Counsel and members of his staff insofar as it relates to precedent or guidelines for their handling of future cases.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer within a metal file cabinet.

Retrievability: Each case file is identified in a manual alphabetical card file by the name of the individual who is the subject of the request and in the alphabetical file folder within the metal file cabinet by the name of the individual who is the subject of the request.

Safeguards: The metal file cabinet described above is maintained within the area assigned to the Office of the Regional Counsel within the Federal Building. During non-working hours the room in which the metal file cabinet is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: Request for legal advice files are retained indefinitely or until there is no longer any space available for them within the metal file cabinet, at which time some files may be transferred to the Federal Record Center.

System manager(s) and address: Regional Counsel, 211 Main Street, San Francisco, CA 94105.

Notification procedure: See Customs Appendix A.

Record source categories: Information which may concern the subject individual is sourced in the memoranda or correspondence from the office or individual requesting the advice and in any supporting documents that office or individual may transmit.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.016

System name: Aircraft Ownership File—Treasury/Customs

System location: U.S. Customs Air Support Branch, PM-TUM, Homestead Air Force Base, Homestead, Florida 33030.

Categories of individuals covered by the system: Persons, partnerships, or corporations who are the registered owners of record of U.S. aircraft.

Categories of records in the system: This file contains the name and address of the registered owner of the aircraft; the registration number, category and type of aircraft; and an indication of whether or not the aircraft is on record with the TECS system.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; such uses would include general reference to the records by Customs Officers to determine whether certain aircraft are in the TECS system and in enforcing laws and regulations relating to aircraft entering and leaving the United States; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charges with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information files are numerically filed in a looseleaf container within a security area.

Retrievability: The information is in the form of Micro-film and is retrieved by means of an Alpha-numerical code identifier.

Safeguards: The information files are located within an office which is locked during non-working hours. The building is guarded by U.S. Air Force Military Police and only authorized persons are permitted in the building.

Retention and disposal: These files are maintained for a period of three months at which time they are replaced with current information. The old files are then destroyed under Customs supervision.

System manager(s) and address: Chief, Air Support Branch, U.S. Customs, PM-TUM, Homestead Air Force Base, Homestead, Florida 33030.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.017

System name: Aircraft Registers—Treasury/Customs.

System location: U.S. Customs Service, Office of Investigations, SAC, 600 South Street, Room 444, New Orleans, La. 70130; RA, 1719 West End Building, Rm. 303, Nashville, Tennessee 37203.

Categories of individuals covered by the system: Owners and co-owners of U.S. registered aircraft.

Categories of records in the system: Name indices of owners of U.S. registered aircraft and indices of co-owners of U.S. registered aircraft indexed by aircraft registration number.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; such uses would include general reference to the records by Customs Officers to determine whether certain aircraft are in the TECS system and in enforcing laws and regulations relating to aircraft entering and leaving the United States; (b) Disclosure required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) Information contained in these microfiche files is provided for the routine use of the Office of Investigations of the Customs Service for the purpose of verifying information received from other sources in conjunction with investigations within the Office of Investigations.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: This microfiche is maintained in a file folder in a metal cabinet. The cabinet is located in a room which is manned during normal office hours, and locked after hours.

Retrievability: This microfiche file is identified by alphabetical name of the categories of individials maintained in that file and information is retrievable manually from these files.

Safeguards: These microfiche files are kept in a metal cabinet and are maintained within the room which is manned by Office of Investigations personnel during normal office hours. During non-working hours, the room in which the metal cabinet is located is locked and entrances to the office which contains that room are locked. Access to the building containing the office is controlled during non-working hours by a uniformed guard.

Retention and disposal: These files are retained indefinitely or until updated by more current records at which time the old records are disposed of by shredding.

System manager(s) and address: Special Agent in Charge, U.S. Customs Service, Office of Investigations, 600 South Street, Room 444, New Orleans, La. 70130; Resident Agent, U.S. Customs Service, Office of Investigations, 1719 West End Building, Rm. 303, Nashville, Tenn. 37203.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C.552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.018

System name: Aircraft Sanctioned List—Treasury/Customs.

System location: All ports and Regional Headquarters in Region VI, U.S. Customs Service, 500 Dallas St., Suite 1280, Houston, Texas 77002.

Categories of individuals covered by the system: Private aircraft owners and/or operators entering Region VI ports from a foreign country.

Categories of records in the system: Listed by name, address, port of service, bill number, and dollar amount of delinquent receivables.

Authority for maintenance of the system: Public Law 89-508, the "Federal Claims Collection Act of 1966;" 5 U.S.C. 301; Treasury

the exemption is contained in a general notice which appears elsewhere in the Federal Register.

system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears else-

Freedom of Information Act (5 U.S.C. 552); (c) In the event that this

Authority for maintenance of the system: Public Law 89-508, the "Federal Claims Collection Act of 1966;" 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Provide ready reference to officers and employees of the U.S. Customs Service in Region VI of parties-in-interest with past due accounts; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: List is maintained in file folder at work site.

Retrievability: Alphabetical order by name.

Safeguards: The list is placed in locked cabinet during non-working hours. The building is guarded by uniformed security police.

Retention and disposal: Quarterly an updated list is issued and the prior list is destroyed by shredding.

System manager(s) and address: Director, Financial Management Division, 500 Dallas St., Suite 1265, Houston, Texas 77002.

Notification procedure: See Customs Appendix A.

Record access procedures: See Access, Customs Appendix A.

Record source categories: The source of information for the listing is obtained from a suspension file purged from the automated system of Aged Accounts Receivable.

Treasury/Customs 00.021

System name: Arrest/Seizure/Search Report and Notice of Penalty File—Treasury/Customs.

System location: Office of the District Director of Customs, Room 228, United States Customs Service, 335 Merchant Street, Honolulu, Hawaii 96813.

Categories of individuals covered by the system: Persons who are suspected of attempting to smuggle, or have smuggled, merchandise or contraband into the United States; individuals who have undervalued merchandise upon entry into the United States; vessels and aircraft which have been found to be in violation of Customs laws.

Categories of records in the system: Names of individuals, vessels, aircraft; identifying factors; nature of violation or suspected violation; circumstances surrounding violation or suspected violation; date and place of violation or suspected violation; and on-site disposition actions.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosure required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) Enforcement use by Customs Patrol Officers.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each report is assigned a case number and filed accordingly in a locked, metal file located in the office of the Director of Patrol.

Retrievability: Each report is identified in a manual alphabetical card file by the name of the individual, vessel or aircraft.

Safeguards: In addition to being stored in a locked metal cabinet, these records are located in a locked room, the keys of which are controlled and issued only to authorized personnel.

Retention and disposal: These records are retained for one year or until action has been completed.

System manager(s) and address: District Director of Customs, U.S. Customs Service, Post Office Box 1641, Honolulu, Hawaii 96806.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.022

System name: Attorney Case File—Treasury/Customs

System location: Office of Regional Commissioner of Customs, 100 Summer Street, Boston, Massachusetts 02110.

Categories of individuals covered by the system: Persons who are parties in litigation with the United States Government or sub-units, or employees or officers thereof, in matters which affect or involve the U.S. Customs Service.

Categories of records in the system: Seizure reports, investigative reports, Customs forms and documents relative to the case, petitions for relief, decisions on petitions, other background information relating to the litigation, motions, orders, etc., filed in connection with the litigation; investigative reports relative to an individual's economic ability to pay a claim.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained in file folders.

Retrievability: Records indexed by name of private individual involved in the litigation.

Safeguards: Open case files maintained in file cabinets with access by Regional Counsel and his staff only; closed case files maintained in locked cabinet with keys retained by Regional Counsel and his staff only.

Retention and disposal: Retained indefinitely or until there is no longer any space available within metal cabinets, at which time the oldest files are transferred to the Federal Records Center.

System manager(s) and address: Regional Commissioner of Customs, 100 Summer Street, Boston, Massachusetts 02110.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files is received from U.S. Customs employees, reports of investigation, Customs penalty case files, other Government agencies, parties involved in litigation, banks and credit bureaus, administrative proceedings regarding disciplinary action taken against Customs Service employees, Equal Opportunity complaints, denials of tort claims, denials of information under the Freedom of Information Act, and from other parties' information pertinent to the litigation.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this

system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.270

System name: Background—Record File of Non-Customs Employees—Treasury/Customs.

System location: Offices of District Directors, Region IX, Chicago, Illinois—for addresses see Customs Appendix A.

Categories of individuals covered by the system: Present and past non-Customs personnel requiring a background investigation to gain admittance to restricted U.S. Customs premises.

Categories of records in the system: Report of background investigations, names, addresses, social security numbers and date and place of birth, etc. of non-Customs employees.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties which include ensuring the security of merchandise, contraband and information in Customs custody; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Treasury Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and stored in file cabinets in each District Director's office within Region IX, Chicago, Illinois.

Retrievability: Each file is identified by the name of the non-Customs employee.

Safeguards: The file cabinets are maintained within the area assigned to the District Director. During nonworking hours the room and/or building in which the file cabinet is located is locked.

Retention and disposal: These files are retained indefinitely. Employee name data is retained during the period the non-Customs employee requires admittance to restricted areas.

System manager(s) and address: District Director, as appropriate in Region IX, Chicago, Illinois.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in this file originates from the individual non-Customs employee working for a private contractor who requires admittance to restricted U.S. Customs premises, from reports of background investigation which include interviews of Customs personnel and private parties and from other Customs internal documents.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records are proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.026

System name: Badge and Gun Report—Treasury/Customs

System location: Logistics Management Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Customs employees assigned to the Office of Investigations and the Office of Internal Security to whom badges and guns have been issued.

Categories of records in the system: Name, Social Security number, badge number, serial number of gun.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) Provide Customs with a record of those employees to whom badges and guns have been issued, and to provide personal accountability for badges and guns.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape and computer printout.

Retrievability: By name or Social Security number of the person to whom the badge or gun has been issued.

Safeguards: The magnetic tape and computer are maintained under procedural and physical safeguards such as accountability and receipt access, guards patrolling the area, restricted access, and alarm systems. Print-outs are stored in locked metal file cabinets. The room where the cabinets are kept is locked during non-working hours. The building is patrolled by security police on a round-the-clock basis, and only authorized persons are permitted in the building.

Retention and disposal: The records in this system are kept for as long as the individual remains in possession of a badge or gun. Thereafter the record is erased from the tape. The print-outs are retained for two years and then disposed of as paper trash.

System manager(s) and address: Director, Logistics Management Division, U.S. Customs Service, Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information is recorded by the issuing officer at the time the badge or gun is issued.

Treasury/Customs 00.027

System name: Badge Number File—Treasury/Customs.

System location: Located in the Office of the District Director, San Diego, Calif.; Offices of the Port Directors, San Ysidro, Calif.; Tecate, Calif.; Calexico, Calif.; Andrade, Calif.; San Diego Barge Office; and the Offices of the Customs Patrol Division, San Diego, Calif.; San Ysidro, Calif.; Calexico, Calif.; Tecate, Calif.; see Customs Appendix A.

Categories of individuals covered by the system: Customs officers who have been assigned badges.

Categories of records in the system: Names, Badge Numbers.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of

an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance

System manager(s) and address: District and Port Directors.

Notification procedure: See Customs Appendix A.

System manager(s) and address: Regional Commissioner of Customs, Room 1501, 55 East Monroe Street, Chicago, Illinois 60603.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) Available to Supervisors and other Customs personnel who have need for badge identification.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on single 8 x 10 sheet by property clerk and Port Director.

Retrievability: Alphabetical.

Safeguards: Building is locked during non-working hours.

Retention and disposal: Indefinite while employee in duty status; otherwise destroyed.

System manager(s) and address: District Director, Port Directors, and Division Directors within the San Diego Customs District, according to the list that is attached as Customs Appendix A.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information supplied by individual and the Customs Service.

Treasury/Customs 00.028

System name: Baggage Declaration—Treasury/Customs

System location: Located at the District and Port Directors' offices in the Ogdensburg, New York district. (Boston region)

Categories of individuals covered by the system: Persons required to make a written baggage declaration.

Categories of records in the system: Name, address, items declared and value.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) To substantiate cases of failure to declare or false declarations or investigation by Office of Investigations; (b) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (c) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (d) In the event that this system of records includes information which indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature and whether arising by general statute or particular program statute or by regulation, rule, or order issued pursuant thereto the relevant records in the system of records may be referred, as a routine use, to the appropriate agency whether Federal, state, local, or foreign charged with the responsibility of investigating or prosecuting the statute or rule, regulation, or order issued pursuant thereto; (e) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee; the issuance of a security clearance; the reporting of an investigation of an employee; the letting of a contract; or the issuance of a license, grant, or other benefit; (f) A record from this system of records may be disclosed to a Federal agency in response to its request in connection with the hiring or retention of an employee; the issuance of a security clearance; the reporting of an investigation of an employee; the letting of a contract; or the issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders in file cabinet.

Retrievability: By name.

Safeguards: Available to authorized Customs personnel only.

Retention and disposal: Free entry declarations are retained for three years then destroyed. Dutiable declarations are retained for three years at the Port, seven years at the Federal Record Center, and then destroyed.

System manager(s) and address: District and Port Directors.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The individual who files the baggage declaration.

Treasury/Customs 00.030

System name: Bankrupt Parties-in-Interest—Treasury/Customs.

System location: Regional Headquarters in Region VI, U.S. Customs Service, 500 Dallas St., Suite 1280, Houston, Texas 77002.

Categories of individuals covered by the system: Individuals indebted to U.S. Customs.

Categories of records in the system: Listed by name, address, port of service, bill number, and dollar amount of delinquent receivables.

Authority for maintenance of the system: Public Law 89-508, the "Federal Claims Collection Act of 1966;" 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Provide ready reference to officers and employees of the U.S. Customs Service in Region VI of parties-in-interest with past due accounts who have filed in bankruptcy court; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Cases are maintained in file folders at work site.

Retrievability: Alphabetical order by name.

Safeguards: These cases are placed in locked cabinets during non-working hours. The building is guarded by uniformed security police.

Retention and disposal: As satisfaction received, cases are closed. Records are maintained per Records Control Manual FIS-4 No. 124.

System manager(s) and address: Director, Financial Management Division, 500 Dallas St., Suite 1265, Houston, Texas 77002.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The source of information is obtained from individuals, bankruptcy courts, Customhouse brokers, and sureties.

Treasury/Customs 00.031

System name: Bills Issued Files—Treasury/Customs.

System location: Regional Commissioner of Customs, Suite 1501, 55 East Monroe Street, Chicago, Illinois 60603.

Categories of individuals covered by the system: Individuals to whom bills have been issued.

Categories of records in the system: Correspondence received from or sent to individuals in relation to bills issued by the United States Customs Service.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Individual alphabetical file folders in file cabinet.

Retrievability: Access by name of individual.

Safeguards: The file cabinet is maintained in the offices of the Regional Commissioner, Region IX, Chicago, Illinois. During non-working hours the room/building in which the file is located is locked. Access is limited to authorized personnel.

Retention and disposal: Correspondence file is maintained for a period of three years then destroyed.

System manager(s) and address: Regional Commissioner of Customs, Room 1501, 55 East Monroe Street, Chicago, Illinois 60603.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information consists of copies of letters or memoranda issued to or received from individuals. Records of phone calls and copies of documents related to the individual's transaction.

Treasury/Customs 00.033

System name: Biographical Information File—Treasury/Customs.

System location: Public Information Office, U.S. Customs Service, Region VI, Suite 1240, One Allen Center, 500 Dallas Street, Houston, Texas 77002.

Categories of individuals covered by the system: Employees who by virtue of position and/or achievement are the subject of official news releases and news inquiries.

Categories of records in the system: Name; title; office; location; employment date; professional status; schools and colleges attended; dates of graduation; degrees received; major subjects studied; special courses completed; work experience; memberships in professional societies; achievements; books and articles written; committee service; military service and honors; date and place of birth; marital status; spouse's name; number of children; home address; hobbies; civic activities; list of publications to be sent press releases; names and addresses of parents and spouse's parents; personal photograph; copies of press releases; copies of news clippings.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Disclosures to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosure required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) To provide biographical and personal data used in the preparation of news releases; (d) To provide biographical and personal data used in responding to inquiries from the news media; (e) To provide biographical and personal data used in preparing articles for internal publications.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is maintained in file folders and stored in metal file cabinets in an office with security lock.

Retrievability: The files are arranged alphabetically by name.

Safeguards: The file cabinet is located within an office that is locked during non-working hours. The building is guarded by uniformed security personnel.

Retention and disposal: Retained indefinitely as long as subjects are employed by Customs within the region. Files are destroyed when they are no longer useful.

System manager(s) and address: Regional Commissioner of Customs, U.S. Customs Service, Region VI, Suite 1240, One Allen Center, 500 Dallas Street, Houston, Texas 77002.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information in press biographical information files is supplied by the individual to whom it pertains. The information is submitted in the form in which persons submitting the data prefer to see it in print.

Treasury/Customs 00.032

System name: Biographical Files (Headquarters)—Treasury/Customs.

System locatiou: Public Information Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, and the Regional Public Information offices located at the addresses listed in Customs Appendix A.

Categories of individuals covered by the system: General biographical records are maintained on all Customs employees for news release and public information purposes.

Categories of records in the system: General biographical information including home address, date and place of birth, educational background, work experience, honors and awards, hobbies, and other information.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) To provide biographical and personal data used in responding to inquiries from the news media; and for use in internal Customs publications; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses See Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is maintained in file cabinets in the Public Information Division at Customs Headquarters.

Retrievability: File folders are identified by the name of the person and are filed in alphabetical order.

Safeguards: The office in which the records are located is locked during non-working hours and the building is guarded by uniformed guards.

Retention and disposal: Files are retained during the individual's tenure as an employee of the Customs Service, after which the files are destroyed.

System manager(s) and address: Director, Public Information Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The individual involved, Customs personnel officers and co-workers.

Treasury/Customs 00.034

System name: Boarding Report—Treasury/Customs.

System location: Office of the Director, District Patrol, 600 South Street, New Orleans, La. 70130; Dir., District Patrol Division, Rm. 213, International Trade Center, 250 N. Water Street, Mobile, AL 36602.

Categories of individuals covered by the system: All suspect vessels and/or boats that information has been received on indicating unlawful or suspicious activity requiring a Customs search.

Categories of records in the system: Regional form giving name of vessel, registration number, boarding date, hailing port, documentation port, name and address of master and all other important information pertaining to suspect vessel or boat.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is

relevant and necessary to the requesting agency's decision on the matter.

Treasury/Customs 00.037

System name: Cargo Security File—Treasury/Customs.

ical characteristics, history of past employments, previous five years residences, alias (if any), citizenship, military records, criminal record

Treasury/Customs 00.039

System name: Carrier File—Treasury/Customs.

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relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained in standard Customs file folders in locked metal cabinets.

Retrievability: System is filed alphabetically by name of vessel owner.

Safeguards: File maintained in locked metal file cabinet, the keys of which are controlled by the custodian of the files. Those departmental officials who may occasionally be granted access consistent with their positions, have been cleared by a full field background investigation and granted appropriate security clearance for critical sensitive positions. During non-working hours, the room housing the metal cabinet is locked.

Retention and disposal: Boarding Reports are normally destroyed after 3 years. On active cases, files could presumably be retained for duration of interest in vessel. Disposal is by means of shredding.

System manager(s) and address: Director, District Patrol Division, 600 South Street, New Orleans, La. 70130.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.036

System name: Boat Owners Mailing List—Treasury/Customs.

System location: Inspection & Control Division, U.S. Customs Service, Region VI, 500 Dallas St., Suite 1240, Houston, Texas 77002.

Categories of individuals covered by the system: Individual boat owners who own boats; (a) 28 feet and over—residing in Texas, Louisiana and Alabama; (b) 16 feet and over—in counties contiguous to and available to Lake Amistad and Falcon Lake, Texas.

Categories of records in the system: Name of individual boat owners meeting above criteria, address and boat identification and description.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to printer and/or mailing center for distribution of advisory material; (b) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (c) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information in this system is expected to be in a computer sheet printout which will be kept in the desk of an operations officer until needed.

Retrievability: It is expected that the lists from each state will be in alphabetical order.

Safeguards: The lists will be in an operations officer's desk which is located within an office that is locked during nonworking hours.

Retention and disposal: The information in these lists will be kept through initial mailing of required information after which they will be destroyed under supervision.

System manager(s) and address: Director, Inspection & Control Division, U.S. Customs Service, Region VI, 500 Dallas St., Suite 1240, Houston, Texas 77002.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Boat registration lists from: (a) State of Texas; (b) State of Louisiana; (c) State of Alabama; (d) U.S. Coast Guard.

Treasury/Customs 00.037

System name: Cargo Security File—Treasury/Customs.

System location: Special Agent in Charge, Room 501, 243 West Congress Street, Detroit, Michigan 48226; Special Agent in Charge, Room 210, 55 Erieview Plaza, Cleveland, Ohio 44114.

Categories of individuals covered by the system: Longshoremen, Customs Bonded Warehouse employees, licensed Cartmen employees and other persons having access to cargo.

Categories of records in the system: Names, place of employment, residence, criminal records, date of birth, Social Security numbers, photographs, descriptions and other identifying data.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties and/or to cooperating Law Enforcement Agencies; (b) Disclosures required in administration of the Freedom of Information Act. (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in loose-leaf binders and cross indexed index cards showing license numbers are kept in a metal box. They are kept in the communications room for rapid access.

Retrievability: Names of companies and individuals can be retrieved by checking the loose-leaf binders kept in an alphabetical listing. License plate numbers are listed in numerical sequence on index cards.

Safeguards: The records are kept in a room within the office which is locked when not in use. Keys are available only to employees, and are not accessible to persons other than employees. Employees having access to the room have received a security background and clearance. The offices are located in buildings with guards and controlled by sign-in, sign-out sheets after regular hours.

Retention and disposal: Information remains in the system indefinitely or until no longer needed. The records are disposed of by shredding or burning.

System manager(s) and address: Special Agent in Charge, Room 501, 243 West Congress Street, Detroit, Michigan 48226; Special Agent in Charge, Room 210, 55 Erieview Plaza, Cleveland, Ohio 44114.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption are contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.271

System name: Cargo Security Record System—Treasury/Customs.

System location: District Director, 600 South Street, New Orleans, Louisiana 70130; District Director, P.O. Box 2748, Mobile, Alabama 36601.

Categories of individuals covered by the system: Drivers of motor vehicles of licensed cartmen and lightermen; properties and operators of each class of Customs bonded warehouse and their employees.

Categories of records in the system: Records on drivers of motor vehicles contain information relating to personal statistical data, physical characteristics, history of past employments, previous five years residences, alias (if any), citizenship, military records, criminal record other than traffic violations, use of narcotic drugs, and photograph. Name of operator of bonded warehouse and employees.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties which include protection of the revenue of the United States and protection of merchandise in Customs custody; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folder with Customs Form 3078, Customs Form 73, Photographs, and correspondence; For bonded warehouses, file folder contains Customs Form 3581 and names, addresses, and social security number of all employees; all stored in metal file cabinet. Alphabetical list of current I.D. cards issued on drivers retained in file folder and stored in desk drawer.

Retrievability: By individual name or corporate name.

Safeguards: Unlocked metal file cabinet and desk drawer of customs employee; building secured after hours.

Retention and disposal: Information on drivers is retained in an active file until revoked or cancelled. After revocation or cancellation, the information folder is placed in an inactive file for a period of five years, after which time the records are disposed of in accordance with the General Services Administration Records Disposal Manual. Information on proprietor bonded warehouse operators and employees is retained on file until Customs bonded operations cease and are discontinued, then are maintained in an inactive file for a period of three years. Final disposition is in accordance with the GSA Records Disposal Manual.

System manager(s) and address: District Director, 600 South Street, New Orleans, Louisiana 70130; District Director, P.O. Box 2748, Mobile, Alabama 36601.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information is obtained from applicant (individual or corporation) and from reports of investigation on drivers obtained from Regional Director, Investigations, U.S. Customs Service.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (K)(2) proposes to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.039

System name: Carrier File—Treasury/Customs.

System location: Room 130, U.S. Customhouse, Terrace & International Streets, Nogales, Arizona 85621.

Categories of individuals covered by the system: Applicants for Bonded Carrier's License.

Categories of records in the system: Application with pertinent documents and bonds covering approval as bonded carrier.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Granting of Bonded Carrier status and collection of penalties for Customs violations; (b) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (c) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Carrier files retained in alphabetical order at District Office.

Retrievability: By name.

Safeguards: Records are retained in lockable file cabinet and building is locked during other than office hours.

Retention and disposal: Records retained until obsolete and destroyed by burning.

System manager(s) and address: District Director, U.S. Customshouse, Nogales, Arizona 85621.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information contained herein originates with the applicant and includes required licenses and information relative to equipment utilized.

Treasury/Customs 00.040

System name: Carrier File—Treasury/Customs.

System location: Located in the Office of the District Director, San Diego, Calif.; Offices of the Port Directors, San Ysidro, Calif.; Tecate, Calif.; Calexico, Calif.; Andrade, Calif.; San Diego Barge Office; and the Offices of the Customs Patrol Division, San Diego, Calif.; San Ysidro, Calif.; Calexico, Calif.; Tecate, Calif.; see Customs Appendix A.

Categories of individuals covered by the system: Officers or owners, employees, associates of Customs Bonded Carriers.

Categories of records in the system: Name, date of birth, Social Security No., place of birth and other information relating to Officers, Associates, employees, etc., of Bonded Carriers.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended, and the Customs Regulations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure of those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to

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a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) Maintain a current file relating to operations, bond status, possible violations, and employment history of individuals working for the Bonded Carrier.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila folder in file cabinet.

Retrievability: Filed by name of company or individual.

Safeguards: Building locked during non-working hours.

Retention and disposal: Indefinitely.

System manager(s) and address: District Director, Port Directors, and Division Directors within the San Diego Customs District. See Customs Appendix A.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Customs Bonded Carriers' employees and correspondence.

Treasury/Customs 00.041

System name: Cartmen or Lightermen—Treasury/Customs.

System location: Customs ports, districts, and regional offices. See Customs Appendix A.

Categories of individuals covered by the system: Individuals and firms who have applied for or hold a license as a bonded cartman or lighterman and individuals employed by cartman or lightermen.

Categories of records in the system: Internal Customs Service memoranda and related materials regarding applications for licenses and identification cards, reports of investigations for approving these licenses and identification cards and card files showing outstanding identification cards and their location. Files also include fingerprint cards.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Used by Customs personnel in determining eligibility of applicants to be approved as licensed cartmen or lightermen; (b) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (c) Disclosures required in the administration of the Freedom of Information Act (5 U.S.C. 552); (d) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (e) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevent to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (f) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information in this system is contained in a metal file cabinet in the office maintaining the system.

Retrievability: Each case file is identified in a manual alphabetical card file by the name of the licensed cartman or lighterman and in the alphabetical file folder by the name of the licensed cartman or lighterman. Each employee's record is filed in a manual alphabetical card file cross-referenced with company names.

Safeguards: The file is placed in a metal file cabinet at the work site. At locations where work is not performed on a 24-hour basis the work area is locked and only authorized persons are permitted in the building.

Retention and disposal: Files are reviewed at least once a year at which time cancelled I.D. cards may be removed. Closed CF 3078's may also be removed, but normally are held for approximately three years in case a new application is received from the same company or transferred to another company after a new investigation.

System manager(s) and address: Port Directors, District Directors, and Regional Commissioners of the U.S. Customs Service. See Customs Appendix A.

Notification procedure: See Customs Appendix A.

Systems exempted from certain provisions of the act: The commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.042

System name: Case and Complaint File—Treasury/Customs.

System location: Office of the Regional Counsel, U.S. Customs Service, Region IX, 55 E. Monroe Street, Room 1417, Chicago, Illinois 60603.

Categories of individuals covered by the system: Any individual initiating a court case or against whom a court case is brought; any individual involved in a personnel action, either initiating a grievance, discrimination complaint, or unfair labor practice complaint against the U.S. Customs Service or against whom a disciplinary or other adverse action is initiated; claimants or potential claimants under the Federal Tort Claim Act; individuals involved in accidents with U.S. Customs Service employees; U.S. Customs Service employees involved in accidents; persons seeking relief from fines, penalties and forfeitures and restoration of proceeds from the sale of seized and forfeited property; requesters under the Freedom of Information Act.

Categories of records in the system: The System contains the individual's name, the type of case, the uniform filing guide number, the Regional Counsel's office file number, by whom the matter was referred, the district where the action originated, if applicable.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Used to retrieve files by attorneys and staff by use of the individual's name.

For additonal routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each alphabetical card is inserted in a metal file drawer.

Retrievability: Each card is identified alphabetically by the individual's name described in Category of Individual and the filing is alphabetical by last name.

Safeguards: The metal filing drawer containing the alphabetical cards described above is maintained within the area assigned to the Office of the Regional Counsel, Region IX at 55 E. Monroe Street, Chicago, Illinois 60603. During non-working hours, the room in which the metal filing drawer is located is locked and access to the building is controlled at all times by uniformed guards with a check-in system for employees. Only employees of the Regional Counsel's office and authorized building personnel have keys to the building.

Retention and disposal: These files are retained indefinitely or until there is no longer space available for them within the metal filing drawer at which time the oldest cards for closed files will be transferred to the storage area within the confines of the office. The

storage area is a large area containing cardboard boxes and metal storage cabinets, unable to be locked.

System manager(s) and address: Regional Counsel of Customs, Room 1417, United States Customs Service, 55 E. Monroe Street, Chicago, Illinois 60603.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained on these cards originates with the initiation of any action by an individual which is channeled through the Regional Counsel's office. Additional information is identifying information for locating the particular case file relating to the court case, personnel action, tort claim, relief petition, or request under the Freedom of Information Act.

Treasury/Customs 00.043

System name: Case Files (Regional Counsel-Region V)—Treasury/Customs.

System location: The system is located at 1440 Canal Street, New Orleans, Louisiana 70112, Office of the Regional Counsel, Region V, United States Customs Service.

Categories of individuals covered by the system: (1) The first category of individuals on whom records are maintained in the system includes employees who have filed adverse actions, equal employment opportunity complaints, and grievances within Region V; employees who have filed tort claims under the Military Personnel and Civilian Employees Act; employees of the Regional Counsel's staff with regard to travel, training, evaluations, and other related personnel records; and applications for employment submitted to the Office of the Regional Counsel by prospective employees; (2) The second category of individuals on whom records are maintained in the system includes those individuals not employed by the agency who have filed equal employment opportunity complaints; tort claims under the Federal Tort Claims Act; tort claims filed under the Small Claims Act; individuals who have outstanding Customs bills submitted for collection; individuals, corporations, partnerships, and proprietorships who have filed supplemental petitions on fines, penalties, and forfeitures within Region V; files relating to individuals, corporations, partnerships, and proprietorships upon whom criminal case reports are prepared pending litigation and prosecution for violation of 19 U.S.C. 1305, 18 U.S.C. 542, 18 U.S.C. 545, 18 U.S.C. 549, 18 U.S.C. 1001, 18 U.S.C. 496, and 18 U.S.C. 371; on individuals, corporations, partnerships, and proprietorships who have filed supplemental petitions submitted in civil and technical violations for 19 U.S.C. 1592, 19 U.S.C. 1453, 19 U.S.C. 1448, 19 U.S.C. 1584, irregular deliveries, shortages and overages; and miscellaneous civil and technical violations.

Categories of records in the system: The categories of records maintained in the system are personnel actions; tort claims; collection efforts; supplemental petitions for fines, penalties, and forfeitures cases in Region V; criminal case reports for pending litigation and prosecution of cases in Region V; supplemental petitions for civil and technical violations committed within Region V; and employment applications for positions in the Office of the Regional Counsel, Region V.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as if necessary to obtain information relevant to an agency decision concerning the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) Routine uses of the records contained in the system are for the processing and evaluation of complaints and claims submitted in adverse actions, equal employment opportunity complaints, grievances, tort claims, criminal investigations, civil investigations, collection efforts, employment actions, and personnel actions; (g) Routine uses include reference for the processing of claims; continuous updating of the records necessary for the processing of claims; references to the files for the satisfaction of claims and closing cases by or against the United States Customs Service within Region V; submission of copies of records to the General Services Administration and the Justice Department for prosecution of criminal and civil violations and collections; submissions of copies of records to various branches of the United States Customs Service within Region V for the purposes of investigating and/or processing outstanding civil and criminal cases, collection cases, tort claims, and various personnel actions; (h) The purposes of such uses include the processing of all of the above-cited claims by the Office of the Regional Counsel and the preparation of legal memoranda to various department heads and other agencies to expedite the ordinary course of business of the United States Customs Service within and without Region V.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are currently maintained in alphabetical file folders which are filed in two steel filing cabinets in the Office of the Regional Counsel, Region V, and they are maintained under lock and key outside the ordinary business hours.

Retrievability: Records maintained by the Office of the Regional Counsel, Region V, are retrievable by identifying the character of the record (i.e., adverse action, grievance, tort claim, criminal case), then by comparable statute or regulation, and then alphabetically by name and identifier. In addition, each case file is similarly identified on the alphabetical file folder within the steel filing cabinet.

Safeguards: (a) The steel filing cabinets described above are maintained within the area assigned to the Office of the Regional Counsel, 1440 Canal Street, New Orleans, Louisiana 70112. During non-working hours the room in which the locked steel cabinets are located is locked, and access to the building is controlled at all times by uniformed guards; (b) The policies and practices of the Office of the Regional Counsel regarding access controls are that only members of the staff of the Office of the Regional Counsel have access to the records maintained by the office.

Retention and disposal: (a) Records collected by this office are currently retained on a permanent basis as the office has only been in operation since August 1973; (b) Individual records are not disposed of by the Office of the Regional Counsel, Region V, and are simply placed into a further file of closed cases by category as stated above, and within each category by name. However, when applicable, this office will comply with appropriate disposal regulations whereby the oldest closed cases will be forwarded to the Federal Records Center in accordance with the Treasury Records Control Manual.

System manager(s) and address: The agency official responsible for the system of records maintained by the Office of the Regional Counsel is the Regional Counsel, Region V, United States Customs Service, 1440 Canal Street, New Orleans, Louisiana 70112.

Notification procedure: See Appendix A.

Record source categories: The categories of sources of records in this system are the individual himself and files compiled by the United States Customs Services by using employers, other government agency resources, financial institutions, educational institutions attended, and previous employers.

Additional information in these files is also derived from reports of investigation regarding the enforcement of civil or criminal statutes, administrative proceedings regarding disciplinary action taken against Customs Service employees, equal opportunity complaints, investigations of tort claims, the processing of inter-office memoranda information requested under the Freedom of Information Act, and the investigation regarding the collection of debts due the Government.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements

of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.044

System name: Certificates of Clearance—Treasury/Customs.

System location: Financial Management Division, U.S. Customs Service, 100 Summer Street, Boston, Massachusetts 02110.

Categories of individuals covered by the system: All employees of Region I, Boston, Massachusetts who have transferred, retired or resigned.

Categories of records in the system: Documented detailed information on an in-house prepared form indicating that the employee has returned all Government property in his personal possession and that the employee has cleared all debts owing to Customs such as unearned uniform allowances and travel advances.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) The system is used as a check-off list to insure that the employee has complied with his obligation for the return of Government property and money. The system is used by all employees of the Payment Section.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data is stored in file folders by District and name of employee in a metal file cabinet in the work area of the Payment Section.

Retrievability: The file is retrievable by District and name of employee.

Safeguards: The file is located within an office that is locked during non-working hours. The building is guarded by uniformed security police and only authorized persons are permitted entry to the building.

Retention and disposal: The files are kept for 10 years and then destroyed.

System manager(s) and address: Director, Financial Management Division, U.S. Customs Service, 100 Summer Street, Boston, Massachusetts 02110.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained in the system originates at the District where the individual is employed.

Treasury/Customs 00.045

System name: Claims Act File—Treasury/Customs.

System location: Office of the Regional Counsel, Room 7422, New Federal Building, 300 N. Los Angeles St., Los Angeles, CA 90053.

Categories of individuals covered by the system: Current or former Customs employees who have filed, or may file claims under the Military Personnel and Civilian Employees' Claim Act of 1964 for damage to or loss of personal property incident to their service.

Categories of records in the system: Documents relating to the administrative handling of the claim and documents submitted by the claimant in support of the claim.

Authority for maintenance of the system: 31 U.S.C. 240-243; 31 CFR Part 4; Treasury Department Administrative Circular No. 131, August 19, 1965.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this file is utilized to formulate recommendations, and is made available to the officials within the Customs Service who make final decisions on claims submitted pursuant to the Military Personnel and Civilian Employees' Claim Act of 1964.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted alphabetically in a file folder which is filed in an unlocked drawer within a metal container.

Retrievability: Each case file is identified alphabetically in the file folder within the metal container by the name of the person who has filed or may file a claim.

Safeguards: The metal container described above is maintained within the area assigned to the Office of the Regional Counsel within the New Federal Building. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: These files are retained indefinitely or until there is no longer any space available for them within the metal container, at which time the oldest closed files are transferred to the Federal Records Center.

System manager(s) and address: Regional Counsel, Room 7422, New Federal Building, 300 N. Los Angeles St., Los Angeles, California 90053.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained in these files originates with a Treasury Department Form No. 3079, Civilian Employee Claim For Loss or Damage to Personal Property, which is completed and filed with the Customs Service by the claimant. Additional information contained in these files may be separately provided by the claimant or by the claimant's supervisor. Where a claim is not filed, the information is limited to the investigative reports of damage to or loss of personal property of a Customs employee.

Treasury/Customs 00.046

System name: Claims Case File—Treasury/Customs.

System location: Office of Regional Commissioner of Customs, 100 Summer Street, Boston, Massachusetts 02110.

Categories of individuals covered by the system: Parties who have filed claims for damage or injury against the Government, or against whom the Government has a claim for damage or injury in matters which affect or involve the U.S. Customs Service; private individuals or Government employees who are involved in the incident which gave rise to the claim.

Categories of records in the system: Reports relative to the circumstances of the claim (including accident reports provided by Customs personnel, agents' investigative reports, correspondence between Customs and the claimant or his representative); reports relative to an individual's ability to pay a claim for damages.

Authority for maintenance of the system: 5 U.S.C. 301; Reorganization Plan No. 1 of 1950; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a

violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained in file folders.

Retrievability: Records indexed by name of private individual making a claim or against whom a claim is made; cross-referenced file with name of Government employee, if any, involved.

Safeguards: Open case files maintained in file cabinets with access by Regional Counsel and his staff only; closed case files maintained in locked cabinet with keys retained by Regional Counsel and staff only.

Retention and disposal: Retained indefinitely or until there is no longer any space available within metal cabinets, at which time the oldest files are transferred to the Federal Records Center.

System manager(s) and address: Regional Commissioner of Customs, 100 Summer Street, Boston, Massachusetts 02110.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files is received from U.S. Customs employees, reports of investigation, credit checks, private individuals involved in the claims, other Government agencies and other individuals with pertinent information.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.047

System name: Claims Files (Region VIII)—Treasury/Customs.

System location: Office of the Regional Counsel, 211 Main Street, San Francisco, CA 94105

Categories of individuals covered by the system: The categories included are: (1) Private persons filing claims under the Federal Tort Claims Act for property damage or personal injury allegedly caused by a wrongful or negligent act or omission on the part of a Customs Service employee while acting within the scope of his employment; (2) Current or former Customs employees filing claims under the Military Personnel and Civilan Employees' Claims Act of 1964 for damage to or loss of personal property incident to their service; (3) Individuals against whom the Government may have a claim for property damage caused by a wrongful or negligent act or omission on the part of the individual.

Categories of records in the system: Reports of invstigation regarding claims filed, documents relating to the administrative handling of the claim and documents submitted by the claimant in support of the claim.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; Reorganization Plan No. 1 of 1965; 28 U.S.C. 2672, et seq; 31 U.S.C. 240-243, 28 CFR 14.1 et seq; 31 CFR 3.1, et seq; 31 CFR, Part 4; Treasury Department Administrative Circular No. 131, August 19, 1965.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosure required in administration of the Freedom of Information Act (5 U.S.C. 552);(c) The information contained in these files with respect to Category 1 individuals above is used to administratively process claims filed under the Federal Tort Claims Act and is made available to the officials within the Customs Service who review recommendations and who make final decisions on such claims. In addition, information contained in the Category 1 files is made available to the Department of Justice to assist that Department in preparing the Government's case when suit is filed in court based on an administrative denial of the claim or based on a failure to administratively process the claim within the prescribed time period; (d) The information contained in these files with respect to Category 2 individuals above is utilized to formulate recommendations, and is made available to the officials within the Customs Service who make final decisions on claims submitted pursuant to the Military Personnel and Civilian Employees' Claims Act of 1964; (e) Information contained in these files with respect to Category 3 individuals above is used to make recommendations and is made available to officials within the Customs Service who make final determinations with respect to whether or not Customs should proceed to collect a claim against an individual for damage to Government property and how this should be done.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer within a metal file cabinet.

Retrievability: Each case file is indentified in a manual alphabetical card file by the name of the person who filed the claim and in the alphabetical file folder within the metal file cabinet by the name of the person who filed the claim in the case of Categories 1 and 2 above and by the name of the individual against whom the Government may have a claim in the case of Category 3 above.

Safeguards: The metal file cabinet described above is maintained within the area assigned to the Office of the Regional Counsel within the Federal Building. During non-working hours the room in which the metal file cabinet is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: Claim files are retained indefinitely or until there is no longer any space available for them within the metal file cabinet, at which time the oldest files may be transferred to the Federal Records Center.

System manager(s) and address: Regional Counsel, 211 Main Street, San Francisco, CA 94105.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in the Federal Tort Claim files originates with a Standard Form 95, Claim for Damage or Injury, which is completed and filed with the Customs Service by the claimant. Investigations are conducted by authorized Customs Service investigative personnel in order to determine the facts surrounding the claims. During these investigations information may be elicited from Customs Service employees, private persons, or any other parties who may have information regarding the facts surrounding the claims.

The information contained in the Military Personnel and Civilian Employees Claims Act files originates with a Treasury Department Form No. 3079, Civilian Employee Claim For Loss or Damage to Personal Property, which is completed and filed with the Customs Service by the claimant. Additional information contained in these files may be separately provided by the claimant or by the claimant's supervisor.

Information contained in the files concerning property damage claims by the Government originates with a report by a Government employee of an incident or of facts from which it appears that the Government may have a claim. Based upon the reports, investigations are conducted to determine the facts surrounding the claims. During the investigations information may be elicited from Customs Service employees, private persons, or any other parties who may have information regarding the facts surrounding the claims.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for

the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.049

System name: Claims (Receivable and Payable)—Treasury/Customs.

Categories of records in the system: Reports of investigation regarding damage done to Government property by private individuals and documents relating to the administrative determination and handling

posture; (b) To provide planning for an affirmative action program and to assist in evaluating and monitoring progress in the equal employment opportunity program area; (c) Disclosure to those offi-

the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.048

System name: Claims for Automobile Accidents—Treasury/Customs.

System location: Financial Management Division, U.S. Customs Service, Region I, 100 Summer Street, Boston, Massachusetts 02110.

Categories of individuals covered by the system: Persons involved in automobile accidents for which Customs is pursuing collection.

Categories of records in the system: Accident reports, estimate of damages, insurance company correspondence, statements of witnesses, scope of employment of motor vehicle operation, and copies of bills sent to debtors.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature and whether arising by general statute or particular program statute or by regulation, rule, or order issued pursuant thereto the relevant records in the system of records may be referred, as a routine use, to the appropriate agency whether Federal, state, local, or foreign charged with the responsibility of investigating or prosecuting the statute or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee; the issuance of a security clearance; the letting of a contract or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency in response to its request in connection with the hiring or retention of an employee; the issuance of a security clearance; the reporting of an investigation of an employee; the letting of a contract; or the issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) This system is used by the Operating Accountant and Collection Section employees to collect claims resulting from damage to Customs vehicles.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data is stored in file folders located in the office of the Revenue Accountant in a 4-drawer metal file under his physical security.

Retrievability: The file is retrieved by the name of the individual which is kept in alphabetical order.

Safeguards: The file is located within an office that is locked during non-working hours. The building is guarded by uniformed Security Police, and only authorized persons are permitted entry to the building.

Retention and disposal: The file is retained until collection is effected or referred to the Regional Counsel. The file is kept for three years and then destroyed.

System manager(s) and address: Director, Financial Management Division, U.S. Customs Service, 100 Summer Street, Boston, Massachusetts 02110.

Notification procedure: See Customs Appendix A.

Record source categories: The information in the system originates with the operator of the motor vehicle in conjunction with the investigation report obtained from the Office of Internal Affairs.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.049

System name: Claims (Receivable and Payable)—Treasury/Customs.

System location: Financial Management Division, U.S. Customs Service, Region I, 100 Summer Street, Boston, Massachusetts 02110.

Categories of individuals covered by the system: Persons who have presented claims for payments by Customs or one involved in debts due Customs.

Categories of records in the system: Documented detailed information concerning the claims or debts involved in each case and related financial data on individuals involved in the debt or claim.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program stature, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) The system is used by the Chief, Accounting Branch as a guide in information-gathering to effect payment or collection.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data is stored in file folders maintained in a metal file cabinet under the physical security of the Chief, Accounting Branch of the Financial Management Division.

Retrievability: The file is retrieved by the name of the individual on subject matter.

Safeguards: The files are located within an office that is locked during non-working hours. The building is guarded by uniformed security police and only authorized persons are permitted entry to the building.

Retention and disposal: The files on unusual cases are kept indefinitely for reference; routine cases are destroyed.

System manager(s) and address: Director, Financial Management Division, U.S. Customs Service, 100 Summer Street, Boston, Massachusetts 02110.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained in the system is obtained from the Personnel Department and the Payroll Data Center.

Treasury/Customs 00.266

System name: Collection File—Treasury/Customs.

System location: Office of the Regional Counsel, Suite 1220, 500 Dallas Street, Houston, Texas 77002.

Categories of individuals covered by the system: Individuals against whom the Customs Service has asserted monetary claims and maintains collection efforts, principally for damages done to Government property.

Categories of records in the system: Reports of investigation regarding damage done to Government property by private individuals and documents relating to the administrative determination and handling of the claim.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the U.S. Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) The information contained in this file is used to administratively process claims asserted by the Customs Service for damage done to government property by private individuals. The information is made available to those officials within the Customs Service who review and process such claims. In addition, information contained in this file is made available to the Department of Justice to assist that Department in preparing the government's case when suit is filed in court because administrative collection efforts are unsuccessful.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer within a metal container.

Retrievability: Each case file is identified in the alphabetical file folder within the metal container by the name of the person who filed the claim.

Safeguards: The metal container described above is maintained with the area assigned to the Office of the Regional Counsel on the 12th Floor of 500 Dallas Street, Houston, Texas. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed security guards provided by the lessor.

Retention and disposal: These files are retained until closed at which time the closed files are transferred to the Division of Facilities Management, Office of the Regional Commissioner, Houston, Texas for ultimate transportation to the Federal Record Center.

System manager(s) and address: Regional Counsel, Suite 1220, United States Customs Service, 500 Dallas Street, Houston, Texas 77002.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files originates with a memorandum filed by the Customs employee accountable for the damaged property. An investigation is then conducted by authorized Customs Service investigative personnel in order to determine the appropriate facts. During the investigation, information may be elicited from Customs Service employees, private individuals, or any other party who may have relevant information.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.050

System name: Community Leader Survey—Treasury/Customs.

System location: Equal Employment Opportunity Officer, U.S. Customs Service, Region VI, 500 Dallas St., Suite 1240, Houston, Texas 77002.

Categories of individuals covered by the system: The names, titles, and organization of persons who may be construed to be occupying a community leadership role and who may be in a position to furnish information or have some influence in regard to the equal employment opportunity program area.

Categories of records in the system: These records will consist of a card index of the names, titles, and organization of community leaders.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) To provide an evaluation of the Regional equal employment opportunity posture; (b) To provide planning for an affirmative action program and to assist in evaluating and monitoring progress in the equal employment opportunity program area; (c) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (d) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: To be prepared in an alphabetical card listing and filed in a metal file cabinet.

Retrievability: To be listed and filed alphabetically.

Safeguards: The metal file cabinet described above will be maintained within the area assigned to the Equal Employment Opportunity Officer. During non-working hours this office area is locked and access to the building is controlled at all times by uniformed guards.

Retention and disposal: To be useful, this information file must be kept current. Non-current files will be destroyed locally.

System manager(s) and address: Equal Employment Opportunity Officer, U.S. Customs Service, Region VI, 500 Dallas St., Suite 1240, Houston, Texas 77002.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information to be included in these files will be developed from local agencies (city, county, state, and Federal) and from local civic organizations.

Treasury/Customs 00.051

System name: Complaints Against Customs Personnel—Treasury/Customs.

System location: Director, District Patrol Division, 600 South Street, New Orleans, LA 70130; Director, District Patrol Division, Room 213, International Trade Center, 250 N. Water Street, Mobile, AL 36602.

Categories of individuals covered by the system: Present and past employees of the Patrol Division and U.S. Customs Service.

Categories of records in the system: Letters and official government memoranda.

Authority for maintenance of the system: 5 U.S.C. 301; Reorganization Plan No. 1 of 1950; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosure required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additonal routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information in this system is contained in file folders and stored in locked metal cabinets.

Retrievability: The information is retrieved by the name of the individual.

Safeguards: The information is located within an office that is locked during non-working hours. The building is guarded by uniformed Security Police, and only authorized persons are permitted entry to the building.

Retention and disposal: The information is retained until collection is effected or referred to the Regional Counsel. The file is kept for three years and then destroyed.

System manager(s) and address: Assistant Commissioner, Office of Investigations, U.S. Customs Service Headquarters, 1301 Constitution

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Storage: The information in this system is contained in file folders and stored in locked metal cabinets.

Retrievability: File folders for this system are filed according to Customs filing code system.

Safeguards: File is maintained in locked, metal file cabinet, the keys of which are controlled by the custodian of the files. Those departmental officials who may occasionally be granted access consistent with their positions have been cleared by a full field background investigation and granted appropriate security clearance for critical sensitive positions. During non-working hours, the room housing the metal cabinets is locked.

Retention and disposal: Complaints against Customs Personnel files are normally destroyed after 1 year. If there are any pending complaints, the file may be kept until the case is closed. Method of disposal is shredding.

System manager(s) and address: Director, District Patrol Division, 600 South Street, New Orleans, La 70130.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in this system originates from any Federal, state or local law enforcement agencies or individuals, from any private business or individuals who may have any complaints against Customs personnel.

Treasury/Customs 00.053

System name: Confidential Source Identification File—Treasury/Customs.

System location: Office of Investigations, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Individuals (Sources) supplying confidential information to the U.S. Customs Service, Office of Investigations.

Categories of records in the system: This system contains some or all of the following information: name (actual or assumed), source (identifying) number, date number assigned, address, citizenship, date and place of birth, physical description, photograph, Social Security number, FBI number, passport number, Customs Form 4621 documenting information received from confidential source, amount and date of monetary payment made to source for information supplied, criminal record, copy of driver's license, and copy of alien registration card.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; 19 U.S.C. 2072, Title 19, United States Code; Title 18, United States Code.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This information is primarily for the exclusive internal use of authorized employees of the Office of Investigations in connection with civil and criminal investigations and in connection with payments made for information received. Stringent controls are placed upon access to the files, even among Office of Investigations personal. In extremely rare and unusual situations, information with full source concurrence may be supplied to such organizations as Federal, state, and/or other law enforcement or prosecutorial agencies as the demands of law or justice might require.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data is stored in a metal storage cabinet which remains locked except when momentarily opened for filing purposes.

Retrievability: The name of each source is filed in both alphabetical order and by location of the submitting office.

Safeguards: In addition to being stored in secure metal cabinets with government approved locks, the metal files are located in a closely watched room of the Office of Investigations. Personnel maintaining the files are selected for their reliability, among other qualities, and afforded access only after having been cleared by a full field investigation. During non-working hours the room in which the records are located is locked and access to the building is controlled by uniformed security guards.

Retention and disposal: Indefinite retention periods have been established for all records contained in the file. When a file no longer has any utility it is destroyed by either shredding or burning.

System manager(s) and address: Assistant Commissioner, Office of Investigations, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption are contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.054

System name: Confidential Statements of Employment and Financial Interests—Treasury/Customs.

System location: Located in the Regional office or Personnel Management Division, U.S. Customs Service, of each region and headquarters, according to Customs Appendix A.

Categories of individuals covered by the system: Those employees as listed in Treasury Personnel Manual Chapter 735 Subpart C, Section 0.735-320, Customs Appendix A, and the currently effective edition of Customs Circular PER-2-PER (Subject: Personnel; Departmental Rules of Conduct and Requirements Concerning Financial Statement).

Categories of records in the system: Form TD 3087, Confidential Statement of Employment and Financial Interests.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) All financial statements are to be reviewed for an indication of any conflict of interest or apparent conflict of interst as defined in the Federal, Treasury, and Customs Personnel Manuals.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by name.

Safeguards: Records are maintained in locked safe.

Retention and disposal: Records are destroyed two (2) years after employee leaves a position in which a statement is required, or two (2) years after the employee leaves the agency, whichever is earlier.

System manager(s) and address: Director, Personnel Management Division, U.S. Customs Service, Washington, D.C. 20229, or appropriate Regional Principal Field Officer.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Individuals required to submit Form TD 3087.

Treasury/Customs 00.055

System name: Congressional and Employment Correspondence—Treasury/Customs.

System location: Personnel Management Division, U.S. Customs Service, Washington, D.C. 20229.

Categories of individuals covered by the system: Records are maintained in this system on individuals who have written to their Congressman or directly to Customs requesting assistance in resolving problems and/or securing employment.

Categories of records in the system: Incoming letters and the agency's reply and related materials.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Records are used as a point of reference should the individual submit other inquiries either from him personally or his Congressman.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by name.

Safeguards: Records are maintained in a locked file.

Retention and disposal: Indefinite.

System manager(s) and address: Director, Personnel Management Division, U.S. Customs Service, Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The source of records in the system are the inquiries originated by the individual.

Treasury/Customs 00.056

System name: Congressional and Public Correspondence File—Treasury/Customs.

System location: Support Branch, Inspection and Control Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Those persons sending letters of complaint or making written inquiries concerning Customs inspectional activities and procedures. Those persons include Congressmen acting on behalf of their constituents, industrial and commercial representatives, and private individuals.

Categories of records in the system: The name of the person or persons concerned, file number, date of inquiry, date inquiry received, closing date, member of staff closing case, and the nature of the complaint or inquiry.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine use of records contained in this system are as follows: (a) Disclosure to those officers and employees of the Customs Service and Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) To maintain a record of public inquiries and complaints received by the Division, to determine priority for responding to inquiries and complaints; to provide quick retrieval of such correspondence; to ensure timely response to inquiries and complaints; and to prepare responses to inquiries and complaints.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Correspondence records are maintained on 3 x 5 index cards. The cards are placed within a 6 x 9 metal file box, which is kept in an unlocked desk drawer. The correspondence files themselves are placed in legal and letter size metal file cabinets which are kept in a locked file room.

Retrievability: Correspondence records are identified by the name of the person making inquiry or complaint. The cards are then filed alphabetically.

Safeguards: Access to the file is granted only to authorized Customs personnel. During non-working hours the room in which the records are located is locked and access to the building is controlled by uniformed security police.

Retention and disposal: The records are maintained indefinitely.

System manager(s) and address: Office Manager, Support Branch, Inspection and Control Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information contained in this record system is obtained from the correspondence of the individual making the inquiry or complaint and from investigations and/or inquiries into complaints conducted by Customs Service personnel which include interviews of involved Customs employees and private individuals or other witnesses to the incident in question.

Treasury/Customs 00.057

System name: Container Station Operator Files—Treasury/Customs.

System location: Offices of District Directors, Region IX, Chicago, Illinois. See Customs Appendix A.

Categories of individuals covered by the system: Present and past container station operators and employees that require an investigation and related information.

Categories of records in the system: Report of investigations, application and approval or denial of bond to act as container station operator and other Customs Service memoranda. Names, addresses, social security numbers, and dates and places of birth of persons employed.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; Customs Regulations, Part 19.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and stored in file cabinets in each District Director's office within Region IX, Chicago, Illinois.

Retrievability: Each file is identified by the name of the container station operator.

Safeguards: The file cabinets are maintained within the area assigned to the District Director. During non-working hours, the room and/or building in which the file cabinet is located is locked.

Retention and disposal: These files are retained indefinitely. Employee name data retained for period of employment with container station operator.

System manager(s) and address: District Director, each district within Region IX, Chicago, Illinois. See Customs Appendix A

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in this file originates from the individual applicant for container station operator bond, from reports of investigation and other Customs memoranda.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.058

System name: Cooperating Individual Files—Treasury/Customs.

System location: These files are located in regional and local Customs Patrol Offices within the United States. See Customs Appendix A.

Categories of individuals covered by the system: Persons providing confidential information to the U.S. Customs Service Patrol Division.

Categories of records in the system: These records include: assumed names; actual names; code numbers; addresses; telephone numbers; physical descriptions; miscellaneous identifying numbers such as Social Security numbers, driver's license number, etc.; date individual's record was established; amount and date of reward paid for information supplied.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including catego-

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

United States Attorney that he institute suitable judicial action to enforce the forfeiture of merchandise and vehicles, or the value

Record source categories: The information contained in these files originates with the receipt of a litigation report request from the

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information in this system is used primarily by the Customs Patrol Officer who receives confidential information for the purpose of detecting and apprehending suspected violators of Customs and related laws, and for the purpose of processing the payment of rewards for information received. Disclosure may be made only in extremely rare and unusual situations when demands of law or justice require that information be supplied to such organizations as Federal, state and/or other agencies.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All files and indices relating to cooperating individuals are stored in metal file cabinets secured with combination locks in a government secured building.

Retrievability: The name of each cooperating individual is filed in alphabetical order by assumed name and by actual name. The indices are maintained in the same alphabetical order and are also cross-referenced by the Patrol Division alpha numeric code number. All other indentifying data is used for verification of identity rather than method of retrieval.

Safeguards: In addition to being stored in secure metal cabinets with government approved locks, the metal files are kept locked when not in use and located in a closely watched room of the Patrol Division. Personnel maintaining the files are selected for their reliability among other qualities, and they are afforded access only after having been cleared by a full field investigation. The files are given the same treatment as material classified as Secret. During duty hours, Patrol Division personnel maintain visual control and during off-duty hours the area containing the files is locked.

Retention and disposal: Indefinite retention periods have been established for almost all records contained in the file. When a file no longer has any utility, it is destroyed by either shredding or burning.

System manager(s) and address: The Regional Patrol Director in Regional Customs Patrol Offices; the District Patrol Director in District Patrol Offices; and the Supervisory Customs Patrol Officer in suboffices of District Customs Patrol. See Customs Appendix A.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption are contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.060

System name: Counseling Reports—Treasury/Customs.

System location: Equal Employment Opportunity Officer, U.S. Customs Service, Region VI, 500 Dallas Street, Suite 1240, Houston, Texas 77002.

Categories of individuals covered by the system: Present and past employees who have received counseling service offered by the Equal Employment Opportunity Officer or a designated counselor.

Categories of records in the system: Internal Customs Service memoranda, notes, excerpts from the official personnel files and other information pertinent to the counseling session(s).

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) To gather information to prove or disprove complainant's allegation and to resolve complaint informally, if possible; (b) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (c) Disclosure required in administration of the Freedom of Information Act (5 U.S.C. 552); (d) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in an alphabetical file folder which is filed in a locked metal file cabinet drawer.

Retrievability: Each case file is identified on the alphabetical file folder within the metal file drawer.

Safeguards: The metal file cabinet described above is maintained within the area assigned to the Equal Employment Opportunity Officer. During non-working hours the office area is locked and access to the building is controlled at all times by uniformed guards.

Retention and disposal: These files are retained indefinitely or until there is no longer adequate local storage space at which time they are transferred to the Federal Records Center at Ft. Worth, Texas.

System manager(s) and address: Equal Employment Opportunity Officer, U.S. Customs Service, Region VI, 500 Dallas Street, Suite 1240, Houston, Texas 77002.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained in these files originates with the receipt of a complaint by an employee. Additional information may be obtained from the employee's official personnel file and inquiries concerning the specific complaint.

Treasury/Customs 00.061

System name: Court Case File—Treasury/Customs.

System location: Office of the Regional Counsel, Room 7422, New Federal Building, 300 N. Los Angeles St., Los Angeles, California 90053.

Categories of individuals covered by the system: Persons who are parties in litigation with the United States Government or subunits or employees or officers thereof, in matters which affect or involve the United States Customs Service.

Categories of records in the system: Court documents with exhibits, reports of investigations, internal Customs Service memoranda summarizing or relating to the matter in controversy and other background information relating to the subject matter or origin of the litigation.

Authority for maintenance of the system: 28 U.S.C. 2676, 19 U.S.C. 1603, E.O. 6166. 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information contained in this file is maintained for the use of the Regional Counsel and may be made available to the appropriate United States Attorney upon request to assist him in representing the interests of the Government, the agency or officer or employee involved in the litigation, or to other agencies involved in the same or similar litigation. Disclosure to Treasury and Customs employees who have need for the records in the performance of their duties and disclosures under the Freedom of Information Act.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer within a metal container.

Retrievability: Each case file is identified by the name of the person against whom the Government has initiated the litigation, or by the name of the person who initiated the litigation against the Government.

Safeguards: The metal container described above is maintained within the area assigned to the Office of the Regional Counsel within the New Federal Building. During nonworking hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: These files are retained indefinitely or until there is no longer any space available for them within the metal container, at which time the oldest closed files are transferred to the Federal Records Center.

System manager(s) and address: Regional Counsel, Room 7422, United States Customs Service, 300 N. Los Angeles St., Los Angeles, California 90053.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files originates with a request by a District Director to the appropriate United States Attorney that he institute suitable judicial action to enforce the forfeiture of merchandise and vehicles, or the value thereof, which had been imported or used in violation of the Customs laws, and upon which final administration action has taken place. Information in this file also originates with the filing of a complaint by a private person against the Government, and by the filing of a complaint by the Government against private persons or former employees to enforce the collection of debts due the Government. Information in the files is also derived from reports of investigation regarding the enforcement of civil or criminal statutes and denial of tort claims.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.062

System name: Court Case Files (Region VIII)—Treasury/Customs.

System location: Office of the Regional Counsel, 211 Main Street, S.F. CA 94105.

Categories of individuals covered by the system: Persons who are parties in litigation with the United States Government or subunits or employees or officers thereof, in matters which affect or involve the United States Customs Service.

Categories of records in the system: Litigation report requests and responses thereto, reports of investigations, internal Customs Service memoranda summarizing or relating to the matter in controversy and other background information relating to the subject matter or origin of the litigation.

Authority for maintenance of the system: 5 U.S.C. 301, Reorganization Plan No. 1 of 1950; Treasury Department Order No. 165, Revised, as amended; Reorganization Plan No. 1 of 1965. 28 U.S.C. 507, 19 U.S.C. 1603, E.O. 6166.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosure required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Information contained in these files is routinely provided to the Department of Justice or individual U.S. Attorneys upon request to assist that Department or individual U.S. Attorney in representing the interests of the Government, the agency or officer or employee involved in the litigation, or to other agencies involved in the same or similar litigation. Files are often channeled through the office of the Chief Counsel of Customs and the Treasury Department; (d) Information contained in these files may also be used internally by the Regional Counsel or members of his staff insofar as it relates to precedent or guidelines for handling subsequent cases.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer within a metal file cabinet.

Retrievability: Each case file is identified in a manual alphabetical card file by the name of the person who initiated the litigation against the Government, agency, officer or employee or by the name of the person against whom the Government initiated the litigation. In addition each case file is similarly identified on the alphabetical file folder within the metal file cabinet.

Safeguards: The metal file cabinet described above is maintained within the area assigned to the Regional Counsel at 211 Main Street, San Francisco. During non-working hours the room in which the metal file cabinet is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: These files are retained indefinitely or until there is no longer any space available for them within the metal file cabinet, at which time some files may be transferred to the Federal Records Center.

System manager(s) and address: Regional Counsel, United States Customs Service, 211 Main Street, San Francisco, Calif. 94105.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files originates with the receipt of a litigation report request from the Department of Justice or an individual United States Attorney which results in a written report to that Department or U.S. Attorney regarding the facts of the particular case. Information in this file is also derived from reports of investigation regarding the enforcement of civil or criminal statutes, administrative proceedings regarding disciplinary action taken against Customs Service employees, equal employment opportunity complaints, denials of tort claims, denials of information requested under the Freedom of Information Act, and the collection of debts due the Government.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.c. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.063

System name: Court Docket Records System—Treasury/Customs.

System location: Office of the Regional Counsel, U.S. Customs Service, Region IX, 55 E. Monroe Street, Room 1417, Chicago, Illinois 60603.

Categories of individuals covered by the system: Persons either suing or being sued by the U.S. Customs Service in civil actions for damages; recovery or enforcement of obligations to U.S. Customs, including duties, tort claims, fines, penalties, forfeitures, seizures; reversal of adverse personnel actions, and any other proceeding in U.S. District Courts and U.S. Circuit Courts of Appeal, involving the U.S. Customs Service and/or officers and employees of the U.S. Customs Service in their official capacity, or persons accused of violation of laws enforced by the United States Customs Service.

Categories of records in the system: Court pleadings, litigation report requests and responses thereto, reports of investigations, internal Customs Service memoranda summarizing or relating to the matter in controversy and other background information relating to the subject matter or origin of litigation.

Authority for maintenance of the system: 28 U.S.C. 2676, 19 U.S.C. 1603, 28 U.S.C. 2671 et. seq.; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosure required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) Information contained in this file is provided as a routine use to the Department of Justice to assist that department in representing the interest of the Government, the agency or officer involved in the litigation, or to other agencies involved in the same or similar litigations. Files are often channeled through the Department of the Treasury.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Disclosure required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records

Retrievability: They are indexed and filed by name in the folder or binder.

system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

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Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in a file folder which is filed in a lockable drawer within a metal filing cabinet container.

Retrievability: Each case file is identified in a manual alphabetical card file by the name of the plaintiff in a proceeding against the U.S. Government, Customs Service, and/or employee, or by the name of the defendant in proceedings brought by the government. In addition, each case file is similarly identified on the file folder with the alphabetical name on the file which is placed and located within the metal container.

Safeguards: The metal file drawer containing the files described above is maintained within the area assigned to the office of the Regional Counsel, Region IX, at 55 E. Monroe Street, Chicago, Illinois. During non-working hours, the room in which the metal filing drawer is located is locked, the file container itself is locked, and access to the building is controlled at all times by uniformed guards with a check-in system for employees. Only employees of the Regional Counsel's office and authorized building personnel have keys to the building.

Retention and disposal: These files are retained indefinitely or until there is no longer space available for them within the metal filing cabinet at which time the oldest files are transferred to the storage area within the confines of the office. The storage area is a large area containing cardboard boxes and metal storage cabinets which are not able to be locked. Files which are closed and not retained for precedent purposes are retired to the Federal Records Center, General Services Administration, 7358 S. Pulaski, Chicago, Illinois 60602, in accordance with the U.S. Customs Service Records Disposal Manual.

System manager(s) and address: Regional Counsel of Customs, Room 1417, United States Customs Service, 55 E. Monroe Street, Chicago, Illinois 60603.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files originates with the receipt of a litigation report request from the Department of Justice which is channeled through the Treasury Department, or with the receipt of a court pleading from one of the members of the U.S. Customs Service. Information in this file is derived from reports of investigations regarding the enforcement of civil or criminal statutes, administrative proceedings regarding disciplinary action taken against Customs Service employees, equal opportunity complaints, denials of tort claims plus tort claim information, denials of information under the Freedom of Information Act request, and the collection of debts due the Government.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.064

System name: Credit Card File—Treasury/Customs.

System location: Logistics Management Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Headquarters Customs Service Employees to whom national gasoline credit cards and Hertz and Avis automobile rental cards have been issued.

Categories of records in the system: Credit card numbers, names, and signatures of employees to whom credit cards have been issued, and the date of issuance.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties. Such duties may include: maintaining an inventory of gasoline credit cards and automobile rental cards which are assigned to high level Customs Service officials or which are issued on a one transaction basis to other Customs Service officials or employees for their use in connection with the performance of their official duties; ensuring accountability for the cards issued; and providing a means for collecting issued cards when they are no longer needed by the officers or employees to whom they were issued; (b) Disclosure required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information in this system is contained on index cards which are placed in a locked metal file cabinet within one office.

Retrievability: A portion of the index cards are identified by the name of the person to whom the credit card was issued in the case of credit cards which have been permanently assigned to higher level Customs Service officers and such index cards are filed alphabetically. The remainder of the index cards relate to credit cards which are issued to Customs Service officers or employees on a one transaction basis, and these index cards are filed by the applicable credit card number.

Safeguards: The metal cabinet in which the index cards are placed is locked, and the room in which the metal cabinet is located is locked during non-working hours. The building is guarded by uniformed security police, and only authorized persons are permitted in the building.

Retention and disposal: Index cards filed alphabetically by name are retained during the period that the officials named thereon are in possession of the credit cards, and these index cards are disposed of when the officials are no longer in possession of the credit cards. Index cards filed by credit card number are retained until all signature lines have been used, at which time these index cards are discarded.

System manager(s) and address: Chief, Headquarters Support Branch, Logistics Management Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in this system is obtained from Customs Service records and is also furnished by the officers or employees to whom the credit cards have been issued.

Treasury/Customs 00.272

System name: Currency Declaration File (IRS Form 4790)—Treasury/Customs.

System location: One or more offices of District Directors of Customs or suboffices under the District Director's jurisdiction (for addresses of District Directors, see Customs Appendix A).

Categories of individuals covered by the system: Individuals departing from or entering the country who filed IRS Form 4790.

Categories of records in the system: Name, identifying number, birthdate, address, citizenship, visa date and place, immigration alien number, kinds and amounts of monetary instruments, address in the United States or abroad, passport number and country, and arrival or departure information.

Authority for maintenance of the system: 31 U.S.C. 1101; 5 U.S.C. 301; Treasury Department Order No. 165, revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; such duties include referencing and verifying currency declarations filed; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552);

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The Form 4790 is maintained in a file folder or binder in an open storage rack.

Retrievability: They are indexed and filed by name in the folder or binder.

Safeguards: The office and building are locked during nonworking hours.

Retention and disposal: The records are retained from one to five years and then destroyed.

System manager(s) and address: District Directors of Customs.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information on the IRS Form 4790 originates from the individual or Customs agent reporting the bringing in or taking out of currency or monetary instruments exceeding 5,000 dollars.

Treasury/Customs 00.067

System name: Currency and Monetary Instrument Reporting System (CMIR)—Treasury/Customs.

System location: U.S. Customs Service, Office of Enforcement Support, 1301 Constitution Avenue, N.W.; Washington, D.C. 20229.

Categories of individuals covered by the system: Listing of Individuals who filed Internal Revenue Service Form 4790 (Currency and Monetary Instrument Report).

Categories of records in the system: Name of individuals filing form, name of owner of monetary instrument, amount of currency reported, address, personal identifiers, date of birth, etc.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. (f) Records the fact that the individual of record conveyed the monetary instruments into or out of the United States.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tapes.

Retrievability: By name and other unique identifiers.

Safeguards: Procedural and physical safeguards are utilized such as accountability and receipt access, guards patrolling the area, restricted access and alarm protection systems, special communication security, etc.

Retention and disposal: Indefinite.

System manager(s) and address: Assistant Commissioner, Office of Enforcement Support, U.S. Customs Service, 1301 Constitution Avenue, N.W.; Washington, D.C. 20229.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.068

System name: Customhouse Brokers Examination Records—Treasury/Customs.

System location: Duty Assessment Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Persons who have taken the customhouse brokers' examination.

Categories of records in the system: The name of the examinee, the Customs district where the examination was taken, the examination date and the examination grade.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended. 19 U.S.C. 66, 1641; 19 CFR Part 111.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties. Such uses would include informing examinees of examination results, retention for statistical purposes and for general reference for the examinees and Duty Assessment Division employees. (b) Disclosures required in administration of the Freedom of Information Act (U.S.C. 552).

For additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are kept in a file drawer in the offices of the Duty Assessment Division.

Retrievability: The records are maintained on four by six inch index cards and are filed alphabetically.

Safeguards: During working hours, employees of the Duty Assessment Division are present in the offices where the records are maintained and the U.S. Customs Service Headquarters building is guarded by security police. During non-working hours the offices are locked and the building is guarded by security police.

Retention and disposal: The current policy of the Duty Assessment Division is to retain the records indefinitely.

System manager(s) and address: Director, Duty Assessment Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information supplied by examinees on the customhouse brokers' examinations.

Treasury/Customs 00.069

System name: Customhouse Brokers File, Chief Counsel—Treasury/Customs.

System location: Office of the Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Licensed customhouse brokers.

Categories of records in the system: Internal Customs Service memoranda and related material regarding proposed administrative disciplinary action against customhouse brokers for violation of the regulations governing the conduct of their business.

Authority for maintenance of the system: 19 U.S.C. 1641; 19 CFR Part 111; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in the administration of the Freedom of Information Act (5 U.S.C. 552). (c) In order to carry out the authority to discipline customhouse brokers for violation of regulations promulgated pursuant to 19 U.S.C. 1641, information in this file is used to evaluate reported derelictions and to recommend to the Commissioner of Customs that disciplinary action

be initiated or to recommend that such action not be taken. In addition, information in these files is used to prepare written repri-

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the

Categories of records in the system: License applications, internal Customs memoranda and related materials regarding background in-

Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in

be initiated or to recommend that such action not be taken. In addition, information in these files is used to prepare written reprimands issued to brokers and to prepare proposed charges in connection with recommendations that proceedings be held looking toward the suspension or revocation of brokers' licenses. Information in these files is also used in connection with administrative proceedings looking toward the suspension or revocation of licenses. (d) In addition, information contained in these files is provided to the Department of Justice for its use in connection with appeals from orders resulting in the suspension or revocation of licenses. (e) The information may be furnished to other Government agencies which have an interest in the situations that led to the disciplinary action, or in the broker.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer within a metal container.

Retrievability: Each case file is identified in a manual alphabetical card file by the name of the customhouse broker and in the alphabetical file folder within the metal container by the name of the customhouse broker.

Safeguards: The metal container described above is maintained within the area assigned to the Office of the Chief Counsel within the Customs Service Building. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: Customhouse broker files are retained indefinitely or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Record Center.

System manager(s) and address: Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files originates from audits of or investigations into the conduct of customhouse brokers' businesses which include review of customhouse brokers' business records and interviews of Customs Service personnel, private parties, customhouse brokers and employees of customhouse brokers. The audits or investigations result in recommendations from appropriate Customs Service field personnel regarding possible disciplinary action against customhouse brokers which in turn result in the information contained in these files which consists of evaluations of the recommendations and the proposed disposition of the cases.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.070

System name: Customhouse Brokers, Headquarters Records—Treasury/Customs.

System location: Entry and Licensing Branch, Entry Procedures and Penalties Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Citizens of the United States, 21 years of age or older, who have been granted individual customhouse brokers' license for specific U.S. Customs Districts and such individuals who have applied for an individual broker's license which has been denied for cause other than failure to pass the qualifying individual customhouse brokers' license examination.

Categories of records in the system: The records system contains executed individual customhouse brokers' license application forms, report of investigation concerning individual broker applicants, transmittal letters, and general correspondence corrobative of information disclosed in an individual's license application or report of investigation as to the applicant's character and business integrity. The records system also contains information relating to actual or proposed disciplinary action against licensed customhouse brokers.

Authority for maintenance of the system: 19 U.S.C. 1641, 19 CFR Part 111; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. (d) Processing of individual applications for individual customhouse brokers' licenses; processing of corporation, partnership, and association brokers' licenses; approval of use of trade or fictitious brokers' names; maintenance of centralized files on licensed customhouse brokers for verification and updating of names, addresses, place of employment, district where licensed, and compliance with regulatory requirements of duties and obligations of customhouse brokers; determinations that each corporate, association, or partnership licensed as a broker have not less than two officers or members licensed as individual brokers; and the availability of file information to verify licensing of customhouse brokers and to provide data or information upon request to the Federal Maritime Commission, the Civil Aeronautics Board, an appropriate U.S. Attorney's office, or other Federal agency.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each file is kept in an alphabetical file folder in metal file cabinets.

Retrievability: Each file is indexed in a file card system by alphabetical name and Customs district where located. Records are retrieved alphabetically by reference to the card file index, or by license certificate number assigned to a broker upon the granting and issuing of a customhouse broker's license. Cancelled brokers' records are maintained in cancelled files arranged alphabetically.

Safeguards: Direct access to the files is limited to Customs employees assigned to processing and reviewing Customhouse brokers' license applications. At least one employee of the Entry and Licensing Branch is present in the office at all times during working hours. At all other times the room is locked. The building is guarded by security police on a round-the-clock basis, and only authorized persons are permitted in the building.

Retention and disposal: Cancelled Customhouse brokers' records are retained in cancelled files and used for precedent purposes. The records are maintained indefinitely.

System manager(s) and address: Director, Entry Procedures and Penalties Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record source categories: Information in the records is obtained from the license applications of the individual Customhouse brokers; references as to good character and integrity of the applicant; reports of investigations by Customs regarding applicants for licenses and disciplinary action; responses to posted notices of individual applicants applying for Customhouse brokers' licenses; local credit reporting services; Customs audit reports; court records.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.071

System name: Customhouse Brokers Records—Treasury/Customs.

System location: Customs regional, district and port offices. See Customs Appendix A.

Categories of individuals covered by the system: Individuals and firms who have applied for or hold status as a licensed customhouse broker and individuals employed by licensed customhouse brokers.

Categories of records in the system: License applications, internal Customs memoranda and related materials regarding background investigations, complaints, names, addresses, social security numbers, dates and places of birth, investigative reports, telephone numbers, credit information and other related business data. Information on disciplinary action and legal actions regarding the customhouse broker.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended. 19 U.S.C. 1641; 19 CFR Part 111.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in the administration of the Freedom of Information Act (5 U.S.C. 552). (c) In order to carry out the authority to discipline customhouse brokers for violation of regulations promulgated pursuant to 19 U.S.C. 1641, information in this file is used to recommend to the Commissioner of Customs that disciplinary action be initiated or to recommend that it used to prepare written reprimands issued to brokers and to prepare proposed charges in connection with recommendations that proceedings be held looking toward the suspension or revocation of brokers' licenses. Information in these files is also used in connection with administrative proceedings looking toward the suspension or revocation of licenses. (d) In addition, information contained in these files is provided to the Department of Justice for its use in connection with appeals from orders resulting in the suspension or revocation of licenses. (e) The information may be furnished to other Government agencies which have an interest in the situations that led to the disciplinary action, or in the broker.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in file folders in drawers and metal file cabinets.

Retrievability: The records are filed either alphabetically or chronologically with a cross index by name.

Safeguards: Offices in which the records are maintained are locked during non-working hours. Office buildings are locked and/or patrolled by uniform guards during non-working hours.

Retention and disposal: Records are maintained either indefinitely or as long as the customhouse broker retains an active license.

System manager(s) and address: Customs Regional commissioners, district directors, and port directors.

Notification procedure: See Customs Appendix A.

Record source categories: Information contained in the license applications, references as to good character and integrity of the applicant, reports of investigations on applications and disciplinary action, local credit reporting services, Customs audit reports and court records.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.074

System name: Customs Licensing and Identification Program (Proposed)—Treasury/Customs.

System location: U.S. Customs Service, Office of Enforcement Support, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Carriers, Bonded Cartmen, Lightermen, Customhouse Brokers, and private citizens applying for U.S. Customs Bonds or Licenses.

Categories of records in the system: Individual Records on Carriers, Customhouse Licensed Brokers, Customhouse Cartmen and Lightermen and individuals doing business with the U.S. Customs Service.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. (f) Personal identification of the licensee. (g) Provides basis for granting of Customs license and/or bonds. (h) Provides basis for update investigation every five years.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: (1) Magnetic disc and tape, (2) Microfiche, (3) Hardcopy.

Retrievability: Name of individual or company and/or personal or company identifiers.

Safeguards: "Need to know" access by investigators and District Directors' staff members with full field background investigations. Procedural and physical safeguards are utilized such as accountability and receipt access, guards patrolling the areas, restricted access and alarm protection system, special communications security, etc.

Retention and disposal: Indefinite (Reviewed annually; investigation updated every five years.)

System manager(s) and address: Assistant Commissioner, Office of Enforcement Support, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The applicants who apply for a Customs license or bond and Customs Officers investigating cases involving Customs Licenses or Bonds.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.075

System name: Customs Officer Badge Inventory—Treasury/Customs.

System location: Logistics Management Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Customs Service officers to whom badges are issued.

Categories of records in the system: Signed recipts and officer's name, social security number, and badge number.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties. Such duties may include maintaining administrative control over badges, providing for accountability for badges, and providing a means for collecting badges from officers who are leaving the Customs Service or who no longer have a need

for the badge. (b) Disclosures required in the administration of the Freedom of Information Act (5 U.S.C. 552). (c) In the event that this

plementing the statute, or rule, regulation, or order issued pursuant thereto. (d) A record from this system of records may be disclosed as

Storage: Each case file is inserted in file folder which is filed in an unlocked drawer within a metal container.

information to the Department of Justice and the appellate level before this step would require information to be disclosed to the Department of the Treasury. Information disclosed to the Depart-

for the badge. (b) Disclosures required in the administration of the Freedom of Information Act (5 U.S.C. 552). (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information in this system is contained on index cards within a file box which is placed in a locked metal cabinet within the supply room office. In addition, the information is contained in a Customs Service computer record system.

Retrievability: Each index card is identified by the name of the person to whom the badge is issued and these cards are filed in alphabetical order. The computer records are accessed by the badge number.

Safeguards: The metal cabinet in which the index cards are placed is locked, and the room in which the metal cabinet is located is locked when the supply clerk is absent from the room and during non-working hours. The building is guarded by uniformed security police, and only authorized persons are permitted in the building. With regard to the computer records, procedural and physical safeguards are utilized such as accountability and receipt records, guards patrolling the area, restricted access, and alarm protection systems.

Retention and disposal: Each index card and each computer record is maintained during the period in which the officer is in possession of the badge. The index cards are discarded, and the information in the computer is erased when the officer no longer has possession of the badge.

System manager(s) and address: Chief, Headquarters Support Branch, Logistics Management Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in this system is furnished to the Customs Service by the officers to whom the badges are issued.

Treasury/Customs 00.077

System name: Disciplinary Action and Resulting Grievance or Appeal Case Files—Treasury/Customs.

System location: Located in the Personnel Management Division of each Region and Headquarters, and in District, Port, and appropriate post of duty offices. (See Customs Appendix A).

Categories of individuals covered by the system: Customs employees on whom disciplinary action is pending or has occurred.

Categories of records in the system: Records on such action as leave restriction letters, reprimands, suspension, adverse actions, etc., and resulting grievance or appeal by employee. Copies of correspondence, management requests for assistance, evidentiary materials on which action is contemplated, proposed or taken, regulatory material, examiners' reports, etc.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. (f) Used by certain members of the Personnel Management Division or supervisors in justifying action, for maintenance of records in the event of appeals or grievances, for statistical use, for audit and review of actions, for recommendations on decision, for uniform disciplinary actions, for proper handling of potential grievance or appeal, to establish grievance or appeal file.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored in manila folders.

Retrievability: Records are indexed by name.

Safeguards: Records are maintained in a locked file and stamped "For Official Use Only".

Retention and disposal: Records are maintained for five years and then transferred to Federal Records Center where they are maintained for fifteen years and then destroyed.

System manager(s) and address: Director, Personnel Management Division, in each region and Headquarters, or appropriate managerial official in employee's district, port, or post of duty. (See Custom Appendix A).

Record source categories: Supervisors and supervisory records and notes; evidentiary materials supporting planned, proposed, or accomplished actions; grievance letters submitted by employee, grievance examiner, etc.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.078

System name: Disclosure of Information File—Treasury/Customs.

System location: Office of Regional Counsel, Room 125, U.S. Customhouse, 40 South Gay Street, Baltimore, Maryland 21202.

Categories of individuals covered by the system: Persons requesting access to information pursuant to the Freedom of Information Act or any other statute, regulation, directive or policy to disclose such information.

Categories of records in the system: Requests, information, records, documents, internal Customs Service memoranda, or memoranda from other agencies and related materials regarding disclosure of the information.

Authority for maintenance of the system: 5 U.S.C 552, 31 CFR Part 1, 19 CFR Part 103, 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Disclosure or denial to the requester of the information sought. (d) Disclosure to the Department of Justice and/or United States Attorney in any litigation arising from any decision regarding the disclosure of information.

For additional routine uses see Apendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in file folder which is filed in an unlocked drawer within a metal container.

Retrievability: Each case file is identified in the file folder within the metal container by the name of the person requesting disclosure.

Safeguards: The metal container described above is maintained within the area assigned to the Office of the Regional Counsel within the Customhouse. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: Customhouse broker files are retained indefinitely or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

System manager(s) and address: Regional Counsel, Room 125, U.S. Customhouse, 40 South Gay Street, Baltimore, Maryland 21202.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files originates from the requests for information filed with the Customs Service which may pertain to any information contained in the files of the U.S. Customs Service.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.079

System name: Disclosure of Information File—Treasury/Customs.

System location: Office of the Regional Counsel, U.S. Customs Service, Region IX, 55 E. Monroe Street, Room 1417, Chicago, Illinois 60603.

Categories of individuals covered by the system: Requesters under the Freedom of Information Act.

Categories of records in the system: Correspondence containing the individual's name, address, and whatever information deemed necessary to locate record being sought if that record is of a personal nature. Information will also include whatever records relating to that individual are sought and ultimately are gathered for use in denying or granting the Freedom of Information Act request.

Authority for maintenance of the system: 5 U.S.C. 552; U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service, the Department of the Treasury, and the Department of Justice who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation of charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. (f) Information contained in this file is used by the attorneys in the Regional Counsel's office in determining whether to recommend granting or denial of the request made pursuant to the Freedom of Information Act. Litigation regarding the Freedom of information request will require disclosure of the information to the Department of Justice and the appellate level before this step would require information to be disclosed to the Department of the Treasury. Information disclosed to the Department of Justice is often routed through the Department of the Treasury.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in a file folder which is filed in a lockable drawer within a metal filing cabinet.

Retrievability: Each case file is identified in a manual alphabetical card file by the name of the person who initiated the Freedom of Information Act request. In addition, each case file is similarly identified on the file folder with the alphabetical name on the file which is placed and located within the metal container.

Safeguards: The metal filing drawer containing the files described above is maintained within the area assigned to the Office of the Regional Counsel, Region IX at 55 E. Monroe Street, Chicago, Illinois. During non-working hours, the room in which the metal filing drawer is located is locked, the file container itself is locked, and access to the building is controlled at all times by uniformed guards with a check-in system for employees. Only employees of the Regional Counsel's office and authorized building personnel have keys to the building.

Retention and disposal: These files are retained indefinitely or until there is no longer space available for them within the metal filing cabinet at which time the oldest files are transferred to the storage area within the confines of the office. The storage area is a large area containing cardboard boxes and metal storage cabinets which are not able to be locked. Files which are closed and not retained for precedent purposes are retired to the Federal Records Center, General Service Administration, 7358 S. Pulaski, Chicago, Illinois 60602, in accordance with the U.S. Customs Service Records Disposal Manual.

System manager(s) and address: Regional Counsel of Customs, Room 1417, United States Customs Service, 55 E. Monroe Street, Chicago, Illinois 60603.

Notification procedure: See Customs Appendix A.

Record source categories: The information in these files can originate from the U.S. Customs Service, any of the agencies of the Treasury Department, or any agency of the Government if the record sought and ultimately placed within the file is within the possession and/or control of the U.S. Customs Service, Region IX. However, the only information placed within these files is that information being sought by the individual making the request and the information supplied by the requester. The information being sought, and therefore within the file, could be from any of the following, given as examples: present or former Customs employees, private parties, corporations, other Government agencies as outlined above, credit bureaus, past employers, official Government or other forms filed by any entity or person, confidential informers, foreign countries or officials thereof, and foreign citizens.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.080

System name: Disclosure of Information Request Files (Region VIII)—Treasury/Customs.

System location: Office of the Regional Counsel, 211 Main Street, San Francisco, CA 94105.

Categories of individuals covered by the system: Individuals who have submitted requests for disclosure of information contained within files or records of the Customs Service.

Categories of records in the system: Letters and other documents submitted by the individual requesting the disclosure and documents relating to the internal review and consideration of the request for disclosure and the decision thereon.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; Reorganization Plan No. 1 of 1965; 31 CFR 1.5 and Appendix C; 5 U.S.C. 552(a)(3); 19 CFR Part 103.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the

records contained in this system of records are as follows: (a) Disclo-

Notification procedure: See Customs Appendix A.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Safeguards: The file is located within an office that is locked during non-working hours. The building is guarded by uniformed

records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Information contained in the files is used to process requests for disclosure and is made available to the officials within the Customs Service who review recommendations and who make final decisions with respect to them: (d) Information contained in an individual file may be made available to officials within the Customs Service responsible for considering and making a final decision with respect to any appeal from a decision denying disclosure in that case; (e) Information contained in the files may also be used internally by the Regional Counsel and members of his staff insofar as it related to precedent or guide lines for their handling of subsequent cases.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer within a metal file cabinet.

Retrievability: Each case file is identified in a manual alphabetical card file by the name of the requester and in the alphabetical file folder within the metal file cabinet by the name of the requester.

Safeguards: The metal file cabinet described above is maintained within the area assigned to the Office of the Regional Counsel within the Federal Building. During non-working hours the room in which the metal file cabinet is located is locked, and access to the building is controled at all times by uniformed guards.

Retention and disposal: Disclosure of information files are retained indefinitely or until there is no longer any space available for them within the metal file cabinet, at which time files may be transferred to the Federal Records Center.

System manager(s) and address: Regional Counsel, 211 Main Street, San Francisco, CA. 94105.

Notification procedure: See Customs Appendix A.

Record source categories: Information contained in these files originates with the individual's request for disclosure of information. Records are searched for the information which is the subject of the request, and advice and recommendations with respect to the information and its disclosure may be elicited and received from offices within Customs, other agencies, or private individuals concerned with the information.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5.U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.081

System name: Dock Passes—Treasury/Customs.

System location: District Director's office, U.S. Customs Service, 228 Federal Bldg, 335 Merchant Street, Honolulu, Hawaii.

Categories of individuals covered by the system: Consulate staff members, brokers, private individuals, etc.

Categories of records in the system: Form lists following information: pass no.; port; date of issue; name of individual; organizational affiliation; expiration date of pass; and vessel name.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Copy of each pass issued is retained for record purpose and a log maintained showing name of holders of annual dock passes. Disclosure to Customs and Treasury officers and employees who have a need for the records in the performance of their duties.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 3 x 5 card box loose leaf binder.

Retrievability: By name.

Safeguards: Building locked during non-working hours.

Retention and disposal: Retained until expiration.

System manager(s) and address: District Director, U.S. Customs Service, 228 Federal Bldg., 335 Merchant Street, Honolulu, Hawaii.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Individual applicants.

Treasury/Customs 00.277

System name: Drivers License File—Treasury/Customs.

System location: Logistics Management Division, U.S. Customs Service 211 Main Street, San Francisco, Ca. 94105.

Categories of individuals covered by the system: Present and past employees.

Categories of records in the system: Personal information furnished by employee before being issued a government drivers license. It may also include information from National Driver Register Service if they have any information on the individual.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the U.S. Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Provide the proper authority within U.S. Customs Service with sufficient information to make a decision as to whether an employee may be issued a government drivers license. (d) Information from these records furnished to National Driver Register Service to determine whether they have any information on the individual which would concern the employee's suitability for receiving a government drivers license.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information in this system js contained on Standard Form 47 (physical fitness inquiry for motor vehicle operators) and Treasury Form 2770 (application for motor vehicle operator's ID card and operator's record) These forms are kept in a desk file.

Retrievability: Each set of forms for a particular employee is numbered and those numbers are shown on an index sheet as pertaining to the particular employee.

Safeguards: The desk in which the records are kept is within an office which is locked during non-working hours.

Retention and disposal: Active forms are retained in this system indefinitely. Forms of past employees who were issued drivers licenses are periodically destroyed.

System manager(s) and address: Logistics Management Specialist, Logistics Management Division, U.S. Customs Service, 211 Main Street, San Francisco, California 94105.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in this system originates with, and consists solely of, information supplied by the applicants on forms SF-47 and form 2770. There is a possibility that in the future there will be a response from the National Driver Register Service on a particular applicant. At the present time there are none in this system of records.

Treasury/Customs 00.082

System name: Duty Assessment By Account (DABA), Interested Persons List—Treasury/Customs.

System location: Duty Assessment Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Individuals and firms who have requested that their names be included on the list.

Categories of records in the system: The name of the individual or firm, title, and address.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Notifying individuals and firms of new information concerning DABA.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are kept in the offices of the Duty Assessment Division at U.S. Customs Service Headquarters.

Retrievability: The records are retrievable by the name of the individual or firm.

Safeguards: During working hours employees of the Duty Assessment Division are present in the offices where the records are located and the U.S. Customs Service Headquarters building is guarded by security police. During nonworking hours the offices are locked and the building is guarded by securify police.

Retention and disposal: The listing is to be maintained until the DABA program is fully implemented, after which the listing will be destroyed.

System manager(s) and address: Director, Duty Assessment Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The individual or firm which requests inclusion on the list.

Treasury/Customs 00.273

System name: Employee Debts—Treasury/Customs.

System location: Financial Management Division, U.S. Customs Service, 100 Summer Street, Boston, Massachusetts 02110.

Categories of individuals covered by the system: Employees involved in transfer within the Government for which the Government is pursuing collection for overpayment of travel expenses or overpayment for maintaining uniforms.

Categories of records in the system: Records reflecting the documents involved in the overpayment and correspondence with the employee involved and his representative.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) The system is used by the employees of the Payment Section to gather all the data necessary to collect debts due from present or past employees of Customs.

For additional routine uses see Treasury Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data is stored in a file folder located in a file cabinet under the physical security of the Operating Accountant.

Retrievability: Records are indexed by name.

Safeguards: The file is located within an office that is locked during non-working hours. The building is guarded by uniformed security police and only authorized persons are permitted entry to the building.

Retention and disposal: The file is retained until the debt is collected and then destroyed. Unusual cases are retained indefinitely as a reference for similar type cases.

System manager(s) and address: Director, Financial Management Division, U.S. Customs Service, 100 Summer Street, Boston, Massachusetts 02110.

Notification procedure: See Customs Appendix A.

Record access procedures: See Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained in the system originates from the employee, other Regions of Customs, and the Payment Section of the Financial Management Division.

Treasury Customs 00.083

System name: Employee Relations Case Files—Treasury/Customs.

System location: Director, Personnel Management Division, U.S. Customs Service, Washington, D.C. 20229.

Categories of individuals covered by the system: Records maintained on all individuals who have requested assistance in a problem, such as: OFWC, leave, health and life insurance, etc.

Categories of records in the system: Copies of correspondence. Copies of initiating correspondence.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Use is in assessing the problem and having the capability to provide timely followup. Used by the employee relations staff only (professional and clerical).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by name.

Safeguards: Records are maintained in a locked file.

Retention and disposal: Maintained for period of time employee remains with Customs. Records destroyed upon separation of employee.

System manager(s) and address: Director, Personnel Management Division, U.S. Customs Service, Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Individuals and offices depending on problem.

Treasury/Customs 00.085

System name: E.E.O. Complaint File—Treasury/ Customs.

System location: Regional Commissioner of Customs, 55 East Monroe Street, Suite 1501, Chicago, Illinois 60603, and District Director's Offices in Chicago, Cleveland and Detroit.

Categories of individuals covered by the system: Customs employees and applicants for Customs positions who make allegations of discriminatory job treatment based on sex, religion, race or national origin, color and age.

Categories of records in the system: An individual file is opened when an oral or written complaint is received. Eventually, a Civil Service Form 894 and all other pertinent correspondence such as responses from various offices, decisions and appeals are added to the file.

Authority for maintenance of the system: Title VII of the 1964 Civil Rights Act, as last amended by Public Law 92-261 effective March 24, 1972.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclo-

sure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the

ors at those locations (for addresses see Customs Appendix A) and Customs District offices.

tion and Promotion Board work papers relating to the complainant, and from inquires into the complaints which include interviews of

The building is guarded by uniformed security police, and only authorized persons are permitted within the building.

sure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties. (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) The file is used to organize relevant documents within the E.E.O. office. As appropriate, it may also be transferred to such offices as Regional Counsel and Customs Service Headquarters.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file at Regional Commissioner of Customs, 55 East Monroe Street, Suite 1501, Chicago, Illinois. 60603.

Retrievability: Case file by last name of complainant.

Safeguards: The file cabinet is locked and only the E.E.O. Specialist has a key. Other keys will be available to additional staff as office expands. The building has limited access and a uniformed patrol in non-working hours.

Retention and disposal: Retained indefinitely by E.E.O Specialist. When cases are closed, they are removed from the alphabetical file but still maintained in the same locked cabinet.

System manager(s) and address: E.E.O. Specialist. (See location above).

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information is supplied by complaining parties originally and supplemented by other interested parties as the case progresses.

Treasury/Customs 00.088

System name: Equal Opportunity Complaint Processing Records System-Training/Customs

System location: Office of Regional Commissioner, Customs Region V, 1440 Canal Street, New Orleans, Louisiana 70112, District Director, 423 Canal Street, New Orleans, La. 70130, District Director, P.O. Box 2748, Mobile, Ala. 36601.

Categories of individuals covered by the system: Employees of Customs Region V (New Orleans) who file Equal Opportunity complaints.

Categories of records in the system: Notices of efforts by counselors to resolve charges of discriminatory actions or conditions. These records are in the form of lists, memorandums, interview notices, transcripts, and reports.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to provide the needed information for reports which become part of the formal investigative file if the complaint of discrimination reaches the formal stage.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders in a cabinet.

Retrievability: By name.

Safeguards: Locked file cabinet.

Retention and disposal: In accordance with Records Control Manual.

System manager(s) and address: Equal Opportunity Officer, Customs Region V, 1440 Canal Street, New Orleans, La. 70112, Equal Opportunity Counselors, New Orleans District, 600 South Street, New Orleans, La. 70130, Equal Opportunity Counselors, Mobile District, P.O. Box 2748, Mobile Ala. 36601.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Individual to whom the record pertains.

Treasury/Customs 00.276.

System name: Equal Opportunity Informal Discrimination Complaint Files—Treasury/Customs.

System location: Equal Opportunity Offices at Customs Headquarters and at each Customs Regional Headquarters and all EO Counselors at those locations (for addresses see Customs Appendix A) and Customs District offices.

Categories of individuals covered by the system: Government and private industry employees, including present and former Customs Service employees and applicants for jobs, who have filed informal complaints alleging discrimination on the part of the Customs Service or its officers or employees in violation of Equal Employment Opportunity Act of 1972.

Categories of records in the system: Names, addresses, employment, medical histories, reports of investigation, complaints filed, correspondence from members of Congress, attorneys representing the complainants, labor unions, hearing records and transcripts, Government documents regarding the administrative processing of complaints, and merit promotion information.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; Title 5, United States Code; Title 5, Code of Federal Regulations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system are as follows: (a) Records in this system of records are disclosed to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties. Such duties may include reviewing charges or procedures in complaints, making informal attempts to adjust complaints, preparing documents relating to proposed disposition of cases, preparing documents relating to final decisions in cases, and determining formal hearing status. (b) Records in this system of records are also made available to Civil Service Commission Hearing Examiners and to the Civil Service Commission Appeals and Review Board for use in making decisions on administrative hearings held in connection with the complaints. Records are also provided to the Department of Justice in connection with civil court actions arising in respect of the complaints. (c) Records in this system of records are, on occasion, disclosed in response to requests from members of Congress and are disclosed as required in the administration of the Freedom of Information Act (5 U.S.C. 552). (d) Records in this system of records are disclosed to the complainants and to attorneys, labor unions or other parties representing the interests of the complainants. (e) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The case files are inserted alphabetically in file drawers within locked metal or wooden containers.

Retrievability: Each case file is identified on each alphabetical file folder within the metal or wooden container by the complainant's name.

Safeguards: The metal or wooden containers in which the file folders are placed are locked during non-working hours, and the room in which the containers are located is locked during non-working hours. The building is guarded by uniformed security police, and only authorized persons are permitted within the building.

Retention and disposal: Informal case files are retained during the time period in which the cases remain open informally and thereafter, until there is no longer a specific need for them, or until they are forwarded to the Regional EO Officer or Director, Equal Opportunity Division, at which time they are periodically destroyed.

System manager(s) and address: Equal Opportunity Officers and EO Counselors at the above locations.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Record source categories: The information in this system originated with an informal written or oral complaint to the appropriate equal opportunity counselor. Information in this system is obtained from the claimant through interviews during the informal complaint procedures and through other interviews during the informal complaint procedures. This system also contains information derived from a complaining Customs employee's official personnel file, from Evaluation and Promotion Board work papers relating to the complainant, and from inquires into the complaints which include interviews of supervisors, interested third parties including non-Government persons, and former Customs Service employees. Information in this system is also derived from labor unions or attorneys representing the interests of the complainants and from documentary evidence.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (k)(2) proposes to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provision of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.089

System name: Equal Opportunity Discrimination Complaint Case File—Treasury/Customs.

System location: Equal Opportunity Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Government and private industry employees, including present and former Customs Service employees, who have filed formal and informal complaints alleging discrimination on the part of the Customs Service or its officers or employees in violation of Equal Employment Opportunity Act of 1972.

Categories of records in the system: Names, addresses, employment and medical histories, reports of investigation, complaints filed, correspondence from members of Congress and attorneys representing the complainants and labor unions, hearing records and transcripts, Government documents regarding the administrative processing of complaints, and affidavits and other sworn statements.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; Title 5, United States Code; Title 5, Code of Federal Regulations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system are as follows: (a) Records in this system of records are disclosed to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties. Such duties may include reviewing charges or procedures in complaints, making informal attempts to adjust complaints, preparing documents relating to proposed disposition of cases, preparing documents relating to final decisions in cases, and determining formal hearing status. (b) Records in this system of records are also made available to Civil Service Commission Hearing Examiners and to the Civil Service Commission Appeals and Review Board for use in making decisions on administrative hearing held in connection with the complaints. Records are also provided to the Department of Justice in connection with civil court actions arising in respect of the complaints. (c) Records in this system of records are, on occasion, disclosed in response to requests from members of Congress and are disclosed as required in the administration of the Freedom of Information Act (5 U.S.C. 552). (d) Records in this system of records are disclosed to the complaints and to attorneys, labor unions or other parties representing the interests of the complainants. (e) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The cases files are inserted alphabetically in file drawers within locked metal containers.

Retrievability: Each case file is identified in an alphabetical index card file by the name of the complainant and on each alphabetical file folder within the metal container by the complainant's name.

Safeguards: The metal containers in which the file folders are placed are locked during non-working hours, and the room in which the metal containers are located is locked during non-working hours. The building is guarded by uniformed security police, and only authorized persons are permitted within the building.

Retention and disposal: Case files are retained during the time period in which the cases remain open and, thereafter, until there is no longer any space available for them within the metal containers, at which time the case files are transferred periodically to the Federal Record Center for storage. Records having no pertinent information are periodically destroyed.

System manager(s) and address: Director, Equal Opportunity Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in this system originates with an informal written or oral complaint to the appropriate equal opportunity counselor and with the filing of a Civil Service Commission Form 894 (Formal Complaint of complaint procedures and through the filing of Civil Service Commission Discrimination in the Federal Government). Information in this system is also obtained from the claimant through interviews during the informal and formal complaint procedures and through the filing of Civil Service Commission Form 171 (Personal Qualification Statement). This system also contains information derived from a complaining Customs Service employee's official personnel file, from Evaluation and Promotion Board work papers relating to the complainant, and from investigations into the complaints which include interviews of supervisors, interested third parties including non-Government persons, and former Customs Service employees. Information in this system is also derived from labor unions or attorneys representing the interests of the complainants and from documentary evidence or testimony adduced at administrative hearings held in connection with the complaints.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.090

System name: Equipment Record File—Treasury/Customs.

System location: Office of the District Director, United States Customs Service, 103 South Gay Street, Baltimore, Maryland 21202.

Categories of individuals covered by the system: Customs employees in the Baltimore District to whom equipment is assigned.

Categories of records in the system: Names of individuals and type and identifying numbers of equipment signed out (including non-expendable property, weapons etc.).

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevent enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevent to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clear-

ance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the

System manager(s) and address: Office of the District Director of Customs, 103 South Gay Street, Baltimore, Maryland 21202.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

System location: Office of the Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

ance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cards and folders located in metal containers.

Retrievability: Cards are filed alphabetically by names of those to whom equipment is assigned.

Safeguards: File cards and folders are located in unlocked metal containers. The building is guarded by uniformed security police who control access to the building.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Office of the District Director of Customs, 103 South Gay Street, Baltimore, Maryland 21202.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Property Officer and personnel to whom equipment is assigned.

Treasury/Customs 00.091

System name: Equipment Record File—Treasury/Customs.

System location: Patrol Office, Room 807, 103 South Gay Street, Baltimore, Maryland 21202. (After August, Room 15, 40 South Gay Street, Baltimore, Maryland 21202).

Categories of individuals covered by the system: Customs employees in the Baltimore District to whom equipment is assigned.

Categories of records in the system: Names of individuals and type and identifying numbers of equipment signed out (including non-expendable property, weapons etc.).

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclousures required in administration of the Freedom of Information Act (5 U.S.C 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant therto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforecemnt information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cards and folders located in metal containers.

Retrievability: Cards are filed alphabetically by names of those to whom equipment is assigned.

Safeguards: File cards and folders are located in unlocked metal containers. The building is guarded by uniformed security police who control access to the building.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Office of the District Director of Customs, 103 South Gay Street, Baltimore, Maryland 21202.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Property Officer and personnel to whom equipment is assigned.

Treasury/Customs 00.092

System name: Exit Interview—Treasury/Customs.

System location: Personnel Management Division, in each Region and Headquarters. See Customs Appendix A.

Categories of individuals covered by the system: Employees terminating from the Customs Service.

Categories of records in the system: Individual's name, position, time in grade and position, time with Customs, organization designation, supervisor's name and answers to various questions about employment with Customs.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Used by Personnel Management Specialists and managers to monitor employee morale and for statistical purposes.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Forms are kept in manila folders.

Retrievability: By organization or by name.

Safeguards: Locked office.

Retention and disposal: Retained indefinitely.

System manager(s) and address: Director, Personnel Management Division. See location above.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information obtained from departing employee and Employee's supervisor.

Treasury/Customs 00.093

System name: Federal & New York State licenses for commercial importation of alcoholic beverages—Treasury/Customs

System location: Area Director, N.Y. Seaport Area, 6 World Trade Center, New York, N.Y. 10048.

Categories of individuals covered by the system: All companies and individuals who have filed import licenses for alcoholic beverages with this office.

Categories of records in the system: Licenses.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) to verify that importers of alcoholic beverages have the required permit.

For additional routine use see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinets.

Retrievability: Alphabetical listing.

Safeguards: Office locked at end of day.

Retention and disposal: Permanent.

System manager(s) and address: Regional Commissioner (Area Director, New York Seaport Area).

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Individuals who have applied for an alcoholic beverage license.

Treasury/Customs 00.267

System name: Federal Tort Claims Act File—Treasury/Customs.

System location: Office of Regional Counsel, Suite 1220, 500 Dallas Street, Houston, Texas 77002.

Categories of individuals covered by the system: Private persons filing claims under the Federal Tort Claims Act.

Categories of records in the system: Reports of Investigation regarding claims filed, documents relating to the administrative handling of the claim and documents submitted by the claimant in support of the claim.

Authority for maintenance of the system: 28 U.S.C. 2672, et seq; 28 CFR 14.1 et seq; 31 CFR 3.1 et seq; Treasury Department Administrative Circular No. 131, August 19, 1965; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Disclosure to those officers and employees of the U.S. Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) The information contained in this file is used to administratively process claims filed under the Federal Tort Claims Act and is made available to those officials within the Customs Service who review recommendations and who make final decisions on such claims. In addition, information contained in this file is made available to the Department of Justice to assist that Department in preparing the Government's case when suit is filed in court based on an administrative denial of the claim or based on a failure to administratively process the claim within the prescribed time period.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer within a metal container.

Retrievability: Each case file is identified in the alphabetical file folder within the metal container by the name of the person who filed the claim.

Safeguards: The metal container described above is maintained within the area assigned to the office of the Regional Counsel on the 12th Floor of 500 Dallas Street. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled by uniformed security guards maintained by the lessor.

Retention and disposal: Tort claim files are retained until closed at which time the closed files are transferred to the Regional Director, Internal Affairs, Houston, Texas. Ultimately, the files are sent to the Federal Record Center.

System manager(s) and address: Regional Counsel, Suite 1220, United States Customs Service, 500 Dallas Street, Houston, Texas 77002.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files originates with a Standard Form 95, Claim for Damage or Injury, which is completed and filed with the Customs Service by the claimant. Using these forms as a basis, investigations are conducted by authorized Customs Service investigation personnel in order to determine the facts surrounding the claims. During these investigations information may be elicited from Customs Service employees, private persons, or any other parties who may have information regarding the facts surrounding the claims.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.094

System name: Federal Tort Claims Act File—Treasury/Customs.

System location: Office of the Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Private persons filing claims under the Federal Tort Claims Act.

Categories of records in the system: Reports of investigations regarding claims filed, documents relating to the administrative handling of the claims and documents submitted by the claimants in support of the claims.

Authority for maintenance of the system: 28 U.S.C. 2672, et seq; 28 CFR 14.1 et seq; 31 CFR 3.1 et seq; Treasury Department Administrative Circular No. 131, August 19, 1965; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties. Such duties may include preparing and reviewing recommendations for decisions on claims, and making final decisions on claims. (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552). (c) Disclosure to the Department of Justice to assist that Department in preparing the Government's case when suit is filed in court based on an administrative denial of the claim or based on a failure to administratively process the claim within the prescribed time period.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

For additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer within a metal container.

Retrievability: Each case file is identified in a manual alphabetical card file by the name of the person who filed the claim and in the alphabetical file folder within the metal container by the name of the person who filed the claim.

Safeguards: The metal container described above is maintained within the area assigned to the Office of the Chief Counsel within the Customs Service Building. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: Tort claim files are retained indefinitely or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Record Center.

System manager(s) and address: Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files originates with a Standard Form 95, Claim for Damage or Injury, which is completed and filed with the Customs Service by the claimant. Using these forms as a basis, investigations are conducted by authorized Customs Service investigative personnel in order to determine the facts surrounding the claims. During these investigations, information may be elicited from Customs Service employees, private persons, or any other parties who may have information regarding the facts surrounding the claims.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.096

System name: Fines, Penalties and Forfeiture Control and Information Retrieval System—Treasury/Customs.

System location: U.S. Customs Service, Office of Enforcement Support, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Individuals and/or businesses who have been fined, penalized or have forfeited merchan-

dise because of violations of Customs and/or related laws or breaches of bond conditions.

Categories of records in the system: Records of seizures, penalties and forfeitures.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant therto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforecemnt information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored in file folders.

Retrievability: Records are retrieved by name of individual or business.

Safeguards: Records are maintained in locked file cabinets.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Director, Fines, Penalties and Forfeitures Division, Office of Enforcement Support, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information obtained from Customs Service employees, Customs Service records, and other Federal agencies.

Treasury/Customs 00.097

System name: Fines, Penalties and Forfeiture Control and Information Retrieval System—Treasury/Customs.

System location: Office of Regional Counsel, Suite 1220, 500 Dallas Street, Houston, Texas 77002.

Categories of individuals covered by the system: Individuals and/or businesses who have been fined, penalized or have forfeited merchandise because of violations of Customs and/or related laws or breaches of bond conditions.

Categories of records in the system: Records of seizures, penalties and forfeitures.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant therto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforecemnt information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored in file folders.

Retrievability: Records are retrieved by name of individual or business.

Safeguards: Records are maintained in locked file cabinets.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Director, Fines, Penalties and Forfeitures Division, Office of Enforcement Support, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information obtained from Customs Service employees, Customs Service records, and other Federal agencies.

Treasury/Customs 00.098

System name: Fines, Penalties and Forfeiture Control and Information Retrieval System—Treasury/Customs.

System location: Office of Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Individuals and/or businesses who have been fined, penalized or have forfeited merchandise because of violations of Customs and/or related laws or breaches of bond conditions.

Categories of records in the system: Records of seizures, penalties and forfeitures.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant therto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforecemnt information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored in file folders.

Retrievability: Records are retrieved by name of individual or business.

Safeguards: Records are maintained in locked file cabinets.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information obtained from Customs Service employees, Customs Service records, and other Federal agencies.

Treasury/Customs 00.099

System name: Fines, Penalties and Forfeiture Control and Information Retrieval System—Treasury/Customs.

System location: Office of Regional Counsel, Suite 1220, 500 Dallas Street, Houston, Texas 77002.

Categories of individuals covered by the system: Individuals and/or businesses who have been fined, penalized or have forfeited merchandise because of violations of Customs and/or related laws or breaches of bond conditions.

Categories of records in the system: Records of seizures, penalties and forfeitures.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant therto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforecemnt information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored in file folders.

Retrievability: Records are retrieved by name of individual or business.

Safeguards: Records are maintained in locked file cabinets.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Director, Fines, Penalties and Forfeitures Division, Office of Enforcement Support, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information obtained from Customs Service employees, Customs Service records, and other Federal agencies.

Treasury/Customs 00.100

System name: Fines, Penalties and Forfeiture Control and Information Retrieval System—Treasury/Customs.

System location: Office of Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Individuals and/or businesses who have been fined, penalized or have forfeited merchandise because of violations of Customs and/or related laws or breaches of bond conditions.

Categories of records in the system: Records of seizures, penalties and forfeitures.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant therto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforecemnt information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored in file folders.

Retrievability: Records are retrieved by name of individual or business.

Safeguards: Records are maintained in locked file cabinets.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information obtained from Customs Service employees, Customs Service records, and other Federal agencies.

dise because of violations of Customs and/or related laws or breaches of bond conditions.

Categories of records in the system: Individual and business names, address, personal identifying numbers, date and type of violation, parties entitled to legal notice or who are legally liable, case information, bond and petition information, and actions (administrative) taken by U.S. Customs. Also included are actions taken by violator prior to the disposition of the penalty or liquidated damage case.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Disclosure to these officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Control Customs district caseload and report each action taken by Customs and violator. (d) Provides management information regarding most frequent types of violations, penalty/liquidated damages case timeliness, budget allocation, violation history of individual and firms for investigative purposes, etc.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: (1) Magnetic disc and tape, (2) Hard copy Customs Form 5955a (Notice of Liquidated Damages Incurred and Demand for Payment) and Customs Form 151 Search/Arrest/Seizure Report.

Retrievability: Individual's name or case number.

Safeguards: All inquiries are made by officers with a full field background investigation on a "need to know" basis only. Procedural and physical safeguards are utilized such as accountability and receipt records, guards patrolling the area, restricted access and alarm protection systems, special communications security, etc.

Retention and disposal: A maximum of 10 years. Erasure of disc/tapes and shredding and/or burning of hard copy Customs Form 5955a.

System manager(s) and address: Assistant Commissioner, Office of Enforcement Support, U.S. Customs Service, 1301 Constitution Avenue, N.W.; Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Customs Form 5955a (Notice of Penalty or Liquidated Damages Incurred and Demand for Payment) and CF 151 (Search/Arrest/Seizure Report) prepared by Customs Employees at the time and place where the violation has occurred.

Treasury/Customs 00.097

System name: Fines, Penalties, and Forfeitures (Supplemental Petitions)—Treasury/Customs.

System location: Office of the Regional Counsel, Room 7422, New Federal Building, 300 N. Los Angeles St., Los Angeles, California 90053.

Categories of individuals covered by the system: Any person requesting further relief from the Regional Commissioner after having his Petition acted on by the District Director from any fine, penalty, forfeiture or claim for liquidated damages incurred under the provisions of any law administered by the Customs Service.

Categories of records in the system: Case file including copies of the notice of penalty, seizure or claim for liquidated damages, search, arrest and seizure forms, investigative reports, documents relating to any importation having to do with the penalty, forfeiture or claim, documents relating to the administrative handling of the case and documents submitted by the Petitioner in support of his Petition and Supplemental Petition.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this file is used to administratively process Supplemental Petitions for relief from any fine, penalty, forfeiture or claim for liquidated damages incurred under the provisions of any law administered by Customs. The information is made available to the officials within the Customs Service who review recommendations and who make final decisions on such petitions. In addition, information contained in this file is made available to the Department of Justice to assist that Department in preparing the government case if the case is referred to them for filing of a suit based on an administrative denial of the Petition or removal to the District Court by action on the part of the Petitioner under the provisions of section 1608 of title 19. Information in these files may also be made available to persons working for the governmental agencies who are empowered to review and make recommendations concerning the granting of relief for violations of law administered by such agencies but enforced by Customs.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer within a metal container.

Retrievability: Each case file is labeled with the name of the person who filed the claim and filed in alphabetical order in the metal file cabinet marked Supplemental Petitions. In addition a chronological record is kept in a separate book, kept by the office secretary, of each case received, with district case number, decision, name of the Petitioner, law violated and ultimate decision of the Regional Commissioner.

Safeguards: The metal container described above is maintained within the area assigned to the Office of the Regional Counsel within the New Federal Building. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: Indefinite.

System manager(s) and address: Regional Counsel, Room 7422, United States Customs Service, 300 N. Los Angeles St., Los Angeles, California 90053.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files originates with the filing of a Supplemental Petition as prescribed by section 171.33 and 172.33 of the Customs Regulations with the District Director of the District in which the fine, penalty, forfeiture or claim for liquidated damages issued. The Petition along with all supporting documents or documents relating to the case are forwarded to the office of the Regional Commissioner who refers the case to the office of the Regional Counsel for review and recommendation. During this period of review further information may be elicited from Customs Service employees, private persons, or any other parties who may have information regarding the facts surrounding the case.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.098

System name: Fines, Penalties and Forfeiture Records—Treasury/Customs

System location: Customs district offices. (See Customs Appendix A).

Categories of individuals covered by the system: Individuals and firms who have been administratively charged with violations of Customs laws and regulations and other laws and regulations enforced by the Customs Service.

Categories of records in the system: Entry documentation, notices, investigative reports, memoranda, petitions, recommendations, referrals and dispositions of fines, penalties and forfeiture cases.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended. 19 U.S.C. 66, 1618, 1624; 19 CFR Parts 171 and 172.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties. Such uses would include reference to the files for information as to prior violations and ongoing investigations and cases. (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant

records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. Such uses would include referring records to the Environmental Protection Agency, the Department of Transportation, the appropriate U.S. Attorney and other Federal agencies for recommendations and enforcement of fines, penalties and forfeiture cases.

For additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in folders in file cabinets and safes.

Retrievability: The records are filed either by the name of the individual or chronologically with a cross reference index by the name of the individual.

Safeguards: During non-working hours, the records are maintained in locked rooms, locked buildings and buildings guarded by uniform guards.

Retention and disposal: The records are retained for three to five years after which they are either destroyed or forwarded to the Federal Records Center.

System manager(s) and address: District Directors of Customs (See Customs Appendix A).

Notification procedure: See Customs Appendix A.

Record source categories: Information and representations supplied by importers, brokers and other agents pursuant to the entry and processing of merchandise or in the clearing of individuals or baggage through Customs. Information also includes information gathered pursuant to Customs investigations of suspected of actual violations of Customs and related laws and regulations and recommendations and information supplied by other agencies.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.099

System name: Fines, Penalties, and Forfeiture Files (Supplemental Petitions)—Treasury/Customs

System location: Office of the Regional Counsel, 211 Main Street, San Francisco, CA 94105.

Categories of individuals covered by the system: Individuals who have filed supplemental petitions for relief from fines, penalties and forfeitures assessed for violations of the laws and regulations administered by Customs.

Categories of records in the system: Petitions and supplemental petitions and other documents filed by the individual; reports of investigation concerning the fine, penalty or forfeiture; and documents relating to the internal review and consideration of the request for relief and decision thereon.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; Reorganization Plan No. 1 of 1965. 19 U.S.C. 1618; 19 CFR Parts 171 and 172.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Information contained in the files is used to process requests for relief from fines, penalties and forfeitures and is made available to the officials within the Customs Service who review recommendations and who make final decisions with respect to them; (d) Information contained in the files may be made available to the Department of Justice or an individual United States Attorney to assist that Department or United States Attorney when suit is filed by the Government in civil prosecution of the fine, penalty or forfeiture; (e) Information contained in the files may also be used internally by the Regional Counsel or members of his staff insofar as it relates to precedent or guidelines for their handling of subsequent cases.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer within a metal file cabinet.

Retrievability: Each case file is identified in a manual alphabetical card file by the name of the petitioner and in the alphabetical file folder within the metal file cabinet by the name of the petitioner.

Safeguards: The metal file cabinet described above is maintained within the area assigned to the Office of the Regional Counsel within the Federal Building. During non-working hours the room in which the metal file cabinet is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: Supplemental petition files are retained indefinitely or until there is no longer any space available for them within the metal file cabinet, at which time the oldest files may be transferred to the Federal Records Center.

System manager(s) and address: Regional Counsel, 211 Main Street, San Francisco, CA 94105.

Notification procedure: See Customs Appendix A.

Record source categories: Information contained in these files is obtained from the individual petitioning for relief and from the District Director of Customs within whose jurisdiction the fine, penalty or forfeiture action lies.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.100

System name: Fines, Penalties and Forfeiture Records (Headquarters)—Treasury/Customs.

System location: Penalties Branch, Entry Procedures and Penalties Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Records are maintained on persons who have been administratively charged with violating Customs and related laws and regulations and on persons who have applied for awards of compensation for providing information regarding such violations.

Categories of records in the system: Entry documentation, notices, investigative and other reports, memoranda of information received, petitions, recommendations, referrals and dispositions of fines, penalties and forfeiture cases and applications for awards of compensation.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended. 19 U.S.C. 66, 1618, 1624; 19 CFR Parts 171 and 172.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties. Such uses include the processing and disposition of fines, penalties and forfeiture cases pursuant to 19 CFR Parts 171 and 172 and reference to the records for information as to prior violations and ongoing investigations. (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. Such uses would include referring records to the Environmental Protection Agency, the Department of Transportation and other Federal agencies for recommendations on the administration of fines, penalties and forfeiture cases. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this

system of records may be disclosed to a Federal agency, in response

system of records may be disclosed as a "routine use" to a Federal,

Categories of records in the system: The date of actual qualification, firing scores, and the category of marksmanship into which the

Treasury/Customs 00.104

System name: Florida Boat Registration File—Treasury/Customs.

system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are kept in file cabinets in the central file room of the Entry Procedures and Penalties Division at U.S. Customs Service Headquarters.

Retrievability: The records are filed chronologically with a case number given to each file. The records are retrievable by means of an alphabetical card index system by names of individuals charged with a violation.

Safeguards: The records are maintained in the U.S. Customs Service Headquarters building which is guarded by security police. During non-working hours, the central file room is locked and the building is guarded by security police.

Retention and disposal: The records are generally retained for five years after the close of the case. The records are then forwarded to the Federal Records Center.

System manager(s) and address: Chief, Penalties Branch, Entry Procedures and Penalties Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record source categories: Information and representations supplied by importers, brokers and other agents pursuant to the entry and processing of merchandise or in the clearing of individuals or baggage through Customs. Information also includes information gathered pursuant to Customs investigations of suspected or actual violations of Customs and related laws and regulations and recommendations and information supplied by other agencies.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.101

System name: Fines, Penalty, and Forfeiture (FP&F) Records System—Treasury/Customs.

System location: Office of the Regional Counsel, U.S. Customs Service, Region IX, 55 E. Monroe Street, Room 1417, Chicago, Illinois 60603.

Categories of individuals covered by the system: Persons seeking relief from fines, penalties, and forfeitures incurred for alleged violations of the laws enforced by the United States Customs Service, and/or restoration of proceeds from the sale of seized and forfeited property.

Categories of records in the system: Statement from individual explaining circumstances justifying relief sought and history of the fine, penalty, forfeiture or seizure involved.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; 19 CFR part 171 and 172.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service, the Department of the Treasury and the Department of Justice, who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. (f) Information contained in these files is routinely used by the attorneys in the Regional Counsel's office in determining and resolving legal issues, in denying or granting the petition and possibly in litigation. Litigation will require disclosure of the information to the Department of Justice, and the information is often channeled through the Department of Treasury.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in a file folder which is filed in a lockable drawer within a metal filing cabinet container.

Retrievability: Each case file is identified in a manual alphabetical card file by the name of the person who initiated the petition for relief. In addition, each case file is similarly identified on the file folder with the alphabetical name on the file which is placed and located within the metal container.

Safeguards: The metal filing drawer containing the files described above is maintained within the area assigned to the office of the Regional Counsel, Region IX, at 55 E. Monroe Street, Chicago, Illinois. During non-working hours, the room in which the metal filing drawer is located is locked, the file container itself is locked, and access to the building is controlled at all times by uniformed guards with a check-in system for employees. Only employees of the Regional Counsel's office and authorized building personnel have keys to the building.

Retention and disposal: These files are retained indefinitely or until there is no longer space available for them within the metal filing cabinet at which time the oldest files are transferred to the storage area within the confines of the office. The storage area is a large area containing cardboard boxes with metal storage cabinets which are not able to be locked. Files which are closed and not retained for precedent purposes are retired to the Federal Records Center, General Services Administration, 7358 S. Pulaski, Chicago, Illinois 60602 in accordance with the U.S. Customs Service Records Disposal Manual.

System manager(s) and address: Regional Counsel of Customs, Room 1417, United States Customs Service, 55 E. Monroe Street, Chicago, Illinois 60603.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files originates either with the receipt of any correspondence indicating that relief is desired or any notice from within the Customs Service that a fine or penalty is to be assessed. Further information in this file is derived from investigatory files and other information submitted by the petitioner and will include information from: informers, Customs employees, private parties, corporations, other Governmental agencies, state, local and Federal, credit bureaus, Seizure Reports (Customs Form 5955A, Customs Form 151) foreign countries, officials of foreign countries, citizens of foreign countries.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.102

System name: Firearms Qualification Certificate Record—Treasury/Customs

System location: Office of the Chief Inspector, U.S. Customhouse, Rm. 102, 2nd & Chestnut Streets, Philadelphia, Pa. 19106.

Categories of individuals covered by the system: All Customs Inspectors under the jurisdiction of the Philadelphia District who have qualified on the firing range within a previous 6-month period.

Categories of records in the system: The date of actual qualification, firing scores, and the category of marksmanship into which the individual's score places him or her.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each qualification certificate, on 8 1/2 x 11 inch bond paper, is inserted in a file folder which is then placed in a file drawer.

Retrievability: Certificates are identified by the name of the individual and in alphabetical order within the folder.

Safeguards: The records folder is stored in a file cabinet drawer which is locked during non-working hours. Access to the building is controlled at all times by uniformed guards.

Retention and disposal: Firearms qualification certificates are retained for 1 year and then destroyed.

System manager(s) and address: District Director of Customs, U.S. Customhouse, 2nd & Chestnut Streets, Philadelphia, Pa. 19106.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained in these files originates from reports submitted by the District Range Officer upon completion of the individual's qualification with a firearm.

Treasury/Customs 00.103

System name: Firearms Qualification Records—Treasury/Customs.

System location: Office of the Assistant Regional Commissioner (Operations), Region IX, Chicago, Illinois and Offices of District Directors, Region IX, Chicago, Illinois. (See Customs Appendix A).

Categories of individuals covered by the system: Customs Inspectors receiving firearms training.

Categories of records in the system: Records include date of firing, qualification status, date of qualification, card issuance.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Locked file cabinet in the office of the Assistant Regional Commissioner (Operations) of Region IX, Chicago, Illinois.

Retrievability: Folders identified by individual's name.

Safeguards: The file described is maintained in the office of the Assistant Regional Commissioner (Operations) in Region IX, Chicago, Illinois. During non-working hours the room/building in which the file is located is locked. Access is limited to authorized Customs personnel.

Retention and disposal: Until employee separates/transfers. Transfer to National Personnel Records Center (NPRC), (CPR), St. Louis, Missouri, 30 days after employee is separated.

System manager(s) and address: Assistant Regional Commissioner (Operations).

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained in these files results from firing scores recorded on targets used during the course of firearm qualification firings.

Treasury/Customs 00.104

System name: Florida Boat Registration File—Treasury/Customs.

System location: U.S. Customs Air Support Branch, PM-TUM, Homestead Air Force Base, Homestead, Florida 33030.

Categories of individuals covered by the system: Persons, partnerships, or corporations who are registered owners of record of boats or vessels bearing Florida registration numbers.

Categories of records in the system: This file contains the name and address of the registered owner of the vessel; a description of the vessel; and an indication of whether or not the vessel is of record with the Treasury Enforcement Communications Systems (TECS).

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosure required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charges with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information files are numerically filed in a wooden box within a security area.

Retrievability: The information is in the form of Micro-film and is retrieved by means of Alpha-numerical code identifier.

Safeguards: The information files are located within an office which is locked during non-working hours. The building is guarded by U.S. Air Force Military Police and only authorized persons are permitted in the building.

Retention and disposal: These files are maintained for a period of three months at which time they are replaced with current information. The old files are then destroyed under Customs supervision.

System manager(s) and address: Chief, Air Support Branch, U.S. Customs Service, PM-TUM, Homestead Air Force Base, Homestead, Florida 33030.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.105

System name: Former Employees—Treasury/Customs.

System location: Laboratory Division, Room 1508, 630 Sansome Street, San Francisco, California, 94111.

Categories of individuals covered by the system: All past employees of the Customs Laboratory.

Categories of records in the system: Contains copies of personnel action notices.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic tape.

Retrievability: Records are retrieved by name of individual.

Safeguards: Records are maintained in a computer room with limited access. Access is limited to authorized Customs personnel.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Director, Data Center, Customs Service Data Center, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information is obtained from Customs Service Data Center, Districts and Ports.

Treasury/Customs 00.106

System name: Personnel Records—Treasury/Customs.

System location: Office of the Assistant Regional Commissioner (Operations), Region IX, Chicago, Illinois and Offices of District Directors, Region IX, Chicago, Illinois. (See Customs Appendix A).

Categories of individuals covered by the system: Customs employees.

Categories of records in the system: Records include personnel actions, performance ratings, and other personnel records.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are retrieved by name of individual.

Safeguards: Records are maintained in file cabinets in the office of the Assistant Regional Commissioner (Operations) of Region IX, Chicago, Illinois.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Assistant Regional Commissioner (Operations).

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information is obtained from Customs Service Data Center, Districts and Ports.

Treasury/Customs 00.107

System name: Personnel Records—Treasury/Customs.

System location: Office of the Assistant Regional Commissioner (Operations), Region IX, Chicago, Illinois and Offices of District Directors, Region IX, Chicago, Illinois. (See Customs Appendix A).

Categories of individuals covered by the system: Customs employees.

Categories of records in the system: Records include personnel actions, performance ratings, and other personnel records.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are retrieved by name of individual.

Safeguards: Records are maintained in file cabinets in the office of the Assistant Regional Commissioner (Operations) of Region IX, Chicago, Illinois.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Assistant Regional Commissioner (Operations).

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information is obtained from Customs Service Data Center, Districts and Ports.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Record source categories: Correspondence, Customs Service Data Center, Districts and Ports.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in the administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and stored in a metal file cabinet.

Retrievability: The record is filed alphabetically by name.

Safeguards: The file is stored in a metal file cabinet in a private inner office of a government building protected by 24 hour guard service with limited access. The file is only used on a need to know basis and only by the laboratory employees.

Retention and disposal: Files are maintained for reference purposes only. The file is permanent to office.

System manager(s) and address: Director, Laboratory Division, U.S. Customs Service; 630 Sansome Street, Room 1508, San Francisco, California, 94111.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information contained in personnel action files.

Treasury/Customs 00.107

System name: Full-Field Investigation—Active and Completed Log—Treasury/Customs.

System location: Personnel Management Division of Region VIII (See Customs Appendix A).

Categories of individuals covered by the system: Persons on whom full-field investigation has been conducted.

Categories of records in the system: System is a log of names and dates Full-Field request forwarded to Headquarters and Internal Affairs (if requested) and date Full-Field completed.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) To identify individuals who are under Full-Field Investigation, and completion date to permit permanent promotion, or arrange an entrance on duty date. (2) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (3) Disclosure required in the administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Looseleaf Binder.

Retrievability: By name.

Safeguards: Limited access.

Retention and disposal: Destroyed at end of two years.

System manager(s) and address: Director, Personnel Management Division, Region VIII.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information recorded from Full-Field Request, Standard Form 86.

Treasury/Customs 00.109

System name: Handicapped Employee File—Treasury/Customs.

System location: Personnel Management Division, Regional Commissioner of Customs, 55 East Monroe Street, Suite 1501, Chicago, Illinois 60603.

Categories of individuals covered by the system: All employees identified as handicapped.

Categories of records in the system: Indicates employee's home and organizational location and various physical and mental handicaps, infirmities and conditions. Also shows veteran's preference.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Used to assure that employees are not placed in positions that they cannot physically perform. Also, for reporting and statistical purposes.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: List.

Retrievability: Lists employees alphabetically by district.

Safeguards: None at present and none required.

Retention and disposal: Employee's name removed from list at time of termination.

System manager(s) and address: Director, Personnel Management Division. (See Customs Appendix A).

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Data furnished by employee and employee's physician.

Treasury/Customs 00.111

System name: I.D. Cards—Treasury/Customs.

System location: District Director's office, U.S. Customs Service, 228 Federal Bldg., 335 Merchant Street, Honolulu, Hawaii.

Categories of individuals covered by the system: All employees to whom I.D. card, CF 3135, OF 55, Red-bordered cards, have been issued.

Categories of records in the system: The register lists the following information: name; I.D. card no.; and date issued.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Provides information of name, date and number of I.D. card issued to district employees. Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Kardex file card.

Retrievability: By name.

Safeguards: Locked Kardex file.

Retention and disposal: Information is kept current until employee is terminated and I.D. cards are cancelled.

System manager(s) and address: District Director, 228 Federal Bldg., Merchant Street, Honolulu, Hawaii.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Data obtained from employees.

Treasury/Customs 00.112

System name: Immediate Delivery Violation Record—Treasury/Customs.

System location: Fines, Penalties and Forfeiture Section, Room 102, United States Customhouse, 2nd & Chestnut Street, Philadelphia, Pa. 19106.

Categories of individuals covered by the system: Persons qualified to obtain release of imported merchandise under the immediate delivery privilege.

Categories of records in the system: The record reveals the individuals' or Customhouse broker's name, case number assigned and date, amount of penalty incurred, mitigated sum or remission and date closed. The record results in a summary of repetitive violations by any one individual, firm, or Customhouse broker and disciplinary action toward reduction or elimination of violations.

Authority for maintenance of the system: 5 U.S.C. 301: Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosure required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Immediate Delivery Record Cards are filed alphabetically in an unlocked metal file cabinet.

Retrievability: Each record card is filed alphabetically within the metal cabinet.

Safeguards: The metal cabinet described above is maintained within the area assigned to the Fine, Penalties and Forfeiture section in Room 102 of the Customhouse, Philadelphia; during non-working hours, access to the building and area of storage is controlled by uniformed guards.

Retention and disposal: Immediate Delivery Record cards are retained at location 3 years; then destroyed.

System manager(s) and address: District Director of Customs, Room 102, U.S. Customhouse, 2nd & Chestnut Street, Philadelphia, Pa. 19106.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained on these cards originates from liquidated damage cases instituted for failure to timely file entries and pay duty.

Treasury/Customs 00.274.

System name: Importer, Brokers, Carriers, Individuals and Sureties Master Files-Treasury/Customs.

System location: Financial Management Division, 99 S.E. 5th Street, Miami, Florida 33131.

Categories of individuals covered by the system: Brokers, Importers, Individuals, Carriers, and Sureties.

Categories of records in the system: Copies of correspondence—incoming and outgoing, copies of bonds, entries, bills, data center listings.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosure required in administration of the Freedom of Information Act (5' U.S.C. 552); (c) Used by Revenue technicians to retain in one place all correspondence with a debtor. Bonds, entries and bills when available are included in the file.

For additional routine uses see Treasury Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in an unlocked drawer within a metal file cabinet.

Retrievability: Alphabetical by name appearing on correspondence.

Safeguards: The metal container described above is maintained within the area assigned to the Financial Management Division within the Customs Service Building. During non-working hours the room in which the metal container is located is locked.

Retention and disposal: These files are retained until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

System manager(s) and address: Director of Financial Management, 99 S.E. 5th Street, Miami, Florida 33131.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Correspondence, Customs Service Data Center, Districts and Ports.

Treasury/Customs 00.265

System name: Importer Name and Address Record System—Treasury/Customs.

System location: Office of the Special Agent in Charge, U.S. Customs Service, 200 East Bay Street, Charleston, S.C. 29401.

Categories of individuals covered by the system: Importers who have immediate delivery bonds.

Categories of records in the system: Names, addresses, and employee identification numbers.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; 19 U.S.C. 1509; 19 U.S.C. 1511; 26 U.S.C. 7607.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties. (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained on microfiche and stored in a metal security cabinet. The cabinet is kept in a room that is locked after normal business hours.

Retrievability: The records are maintained in alphabetical order and cross indexed by Internal Revenue Employee Identification Number.

Safeguards: In addition to being stored in a metal container with a lock, the metal container is located in a locked room, the keys of which are controlled and issued to the office staff. The office staff who maintain and have access to the files are selected for their experience and afforded access only after having been cleared by a full field background investigation and granted appropriate security clearances for critical sensitive positions. Those departmental officials who may occasionally be granted access consistent with their positions to employ and concur in the granting of security clearances have also been investigated prior to filling critical-sensitive positions.

Retention and disposal: This file is retained until an updated file is received. The obsolete file is then destroyed by burning or shredding.

System manager(s) and address: Special Agent in Charge, Charleston, S.C. (See Appendix A.)

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained in this system is furnished to the Customs Service by the importers contained in the file.

Treasury/Customs 00.113

System name: Import specialist activities—investigation referrals—Treasury/Customs.

System location: Office of the Regional Commissioner, U.S. Customs Service, 55 East Monroe, Suite 1501, Chicago, Illinois 60603.

Categories of individuals covered by the system: Import specialist.

Categories of records in the system: A monthly report of the number of referrals made to the Office of Investigations in connection with 220 visits.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties.(b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552). (c) To keep track of the referrals made by each import specialist to the Office of Investigation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information is listed by name and located on a wall chart in the training room.

Retrievability: Indexed by name and location of the import special-

Policies and practices for storing, retrieving, accessing, retaining, and

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosure required in administration

Retrievability: Indexed by name and location of the import specialist.

Safeguards: Area is provided for Customs employees only and other persons using the area must be accompanied by a Customs employee.

Retention and disposal: The information is erased after two years.

System manager(s) and address: Director, Classification and Value Division, 55 East Monroe, Chicago, Illinois 60603.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Obtained from Regional Form IX-RC-220 prepared by the import specialist.

Treasury/Customs 00.114

System name: Import specialist activities—laboratory samples—Treasury/Customs.

System location: Office of the Regional Commissioner, U.S. Customs Service, 55 East Monroe, Suite 1501, Chicago, Illinois 60603.

Categories of individuals covered by the system: Import specialist team.

Categories of records in the system: Monthly report of the number of laboratory samples processed by the import specialist teams.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties. (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552). (c) Used as an administrative tool to keep track of laboratory samples processed by import specialists.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information is listed by team number and located on a wall chart in the training room.

Retrievability: Indexed by name and team number of the import specialist.

Safeguards: Area is provided for Customs employees only and other persons using the area must be accompanied by a Customs employee.

Retention and disposal: Information is erased after two years.

System manager(s) and address: Assistant Regional Commissioner (Operations), 55 East Monroe, Chicago, Illinois 60603.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: A monthly report submitted by the Director of the Laboratory Division.

Treasury/Customs 00.115

System name: Import Specialist Activities—Seminars—Treasury/Customs.

System location: Classification & Value Division, U.S. Customs Service, 55 East Monroe, Suite 1501, Chicago, Illinois 60603.

Categories of individuals covered by the system: Import specialist.

Categories of records in the system: A monthly report of the number of seminars the import specialist has attended.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties. (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552). (c) Used by the Classification and Value Division to keep track of special training given to import specialists.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information is listed by name and located on a wall chart in the training room.

Retrievability: Indexed by name and location of the import specialist.

Safeguards: Area is provided for Customs employees only and other persons using the area must be accompanied by a Customs employee.

Retention and disposal: Information is erased after two years.

System manager(s) and address: Director, Classification & Value Division, U.S. Customs Service, 55 East Monroe, Suite 1501, Chicago, Illinois 60603.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The records of the seminar.

Treasury/Customs 00.116

System name: Import specialist activities—220 visits, Region IX—Treasury/Customs.

System location: Office of the Regional Commissioner, U.S. Customs Service, 55 East Monroe, Suite 1501, Chicago, Illinois 60603.

Categories of individuals covered by the system: Import specialist.

Categories of records in the system: A record of importer premises visits performed by the import specialist including the time, cost, and number of visits listed monthly.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties. (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552). (c) To keep an account of the visits made by import specialists to importers' premises.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information is listed by name and located on a wall chart in the training room.

Retrievability: Indexed by name and location of the import specialist.

Safeguards: Area is provided for Customs employees only and other persons using the area must be accompanied by a Customs employee.

Retention and disposal: Information is erased after two years.

System manager(s) and address: Director, Classification and Value Division, 55 East Monroe, Chicago, Illinois 60603.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Reports submitted by import specialists on Regional Form IX-RC-220.

Treasury/Customs 00.117

System name: Information and Investigative Reports from other Federal Agencies—Treasury/Customs.

System location: Office of the Director, District Patrol, 600 South Street, New Orleans, Louisiana 70130. Dir., District Patrol Division, Rm. 213, International Trade Center 250 N. Water Street, Mobile, AL 36602.

Categories of individuals covered by the system: Individuals on whom information has been received indicating unlawful or suspicious activity.

Categories of records in the system: Name, address, phone number, place of business, associates, vessels or aircraft identified with; make, year, license number and registration of vehicles, area of activity, method of operation and other relevant and necessary information on individuals suspected of activity contrary to law. All information received from other federal agencies' investigative reports.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained in standard Customs file folders in locked metal cabinets.

Retrievability: System indexed by identifying file number and manually retrieved.

Safeguards: File maintained in locked, metal file cabinet, the keys of which are controlled by the custodian of the files. Those departmental officials who may occasionally be granted access, consistent with their positions, have been cleared by a full field background investigation and granted appropriate security clearance for critical sensitive positions. During nonworking hours, the room housing the metal cabinets is locked.

Retention and disposal: Memoranda of Information Received are normally destroyed after 3 years. On active cases or individuals, files could presumably be retained for duration of interest in individual. Disposal is by means of shredding. The same procedure is followed for Investigative Reports from other Federal agencies.

System manager(s) and address: Director, District Patrol Division, 600 South Street, New Orleans, La. 70130.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption are contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.118

System name: Information Received File—Treasury/Customs.

System location: U.S. Customs Air Support Branch, Patrol Division PM-TUM, Homestead Air Force Base, Homestead, Florida 33030.

Categories of individuals covered by the system: Persons who are believed to be involved in activities which constitute, or may develop into, possible violation of Customs and related laws.

Categories of records in the system: Internal Customs Service memoranda and related materials regarding the activities of individuals, vessels, or aircraft believed to be involved in acts which are contrary to Customs and related laws.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosure required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information files are inserted in alphabetical and chronological file folders which are filed within a metal container.

Retrievability: A manual, master card index is maintained for the entire system. This index includes name and/or numerical identifier.

Safeguards: The information files and master card index are located within an office which is locked during non-working hours. The building is guarded by U.S. Air Force Military Police and only authorized persons are permitted in the building.

Retention and disposal: These files are retained indefinitely or until such time that it has been determined that there is no longer a need for their existence, at which time the oldest files are destroyed under Customs supervision.

System manager(s) and address: Chief, Air Support Branch, U.S. Customs, Patrol Division, PM-TUM, Homestead Air Force Base, Homestead, Florida 33030.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption are contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.119

System name: Information Received File (Patrol Division—New Orleans, LA)—Treasury/Customs.

System location: Office of the Director, Regional Patrol, 600 South Street, New Orleans, LA 70130.

Categories of individuals covered by the system: Individuals on whom information has been received indicating unlawful or suspicious activity.

Categories of records in the system: Name, file number, location, and date information received on individuals suspected of unlawful activity.

Authority for maintenance of the system: 5 USC 301; Treasury Department Order No. 165, Revised as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal,

state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a

a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clear-

System manager(s) and address: Director, District Patrol Division, United States Custom Service, Room 200, La Marina, Old San Juan,

state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: System maintained on filed 4 x 6 index cards.

Retrievability: System indexed alphabetically by name and manually retrieved.

Safeguards: Cards maintained in index file holder stored in secure combination safe, with the combination thereto restricted to four employees. Those departmental officials who may occasionally be granted access consistent with their position have been cleared by a full field background investigation and granted appropriate security clearance for critical sensitive positions. During non-working hours the room housing the safe is locked.

Retention and disposal: Index cards are retained for duration of interest in individual named there on. Disposal is by means of shredding.

System manager(s) and address: Director, Regional Patrol, 600 South Street, New Orleans, LA 70130.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption are contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.120

System name: Information Received File (Patrol Division—New Orleans, LA)—Treasury/Customs.

System location: Office of the Director, Regional Patrol, 600 South Street, New Orleans, LA 70130.

Categories of individuals covered by the system: Individuals on whom information has been received indicating unlawful or suspicious activity.

Categories of records in the system: Name, address, phone number, place of business, associates, vessels or aircraft identified with; make, year, license number and registration of vehicles, area of activity, method of operation, and other relevant and necessary information on individuals suspected of activity contrary to law.

Authority for maintenance of the system: 5 USC 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained in standard Custom file folders in locked, metal cabinets.

Retrievability: System indexed by identifying file number and manually retrieved.

Safeguards: File maintained in locked, metal file cabinet the keys of which are controlled by the custodian of the files. Those departmental officials who may occasionally be granted access consistent with their positions have been cleared by a full field background investigation and granted appropriate security clearance for critical sensitive positions. During non-working hours the room housing the metal cabinets is locked.

Retention and disposal: Memoranda of Information Received are normally destroyed after three years. On active cases or individuals, files could presumably be retained for duration of interest in individual. Disposal is by means of shredding.

System manager(s) and address: Director, Regional Patrol, 600 South Street, New Orleans, LA 70130.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption are contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.121

System name: Information Received (Moir) File—Treasury/Customs.

System location: Located in the Office of the District Director, San Diego, Calif.; Offices of the Port Directors, San Ysidro, Calif; Tecate, Calif; Calexico, Calif; Andrade, Calif; San Diego Barge Office; and the Offices of the Customs Patrol Division, San Diego, Calif; San Ysidro, Calif; Calexico, Calif; Tecate, Calif. Los Angeles region. See Customs Appendix A.

Categories of individuals covered by the system: All Persons who have been found or suspected of being in violation of Customs or other Governmental Agency regulations or laws.

Categories of records in the system: Name, physical description, DOB, driver's license information and informing individual if suspect of being involved.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to

a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. To alert all Customs personnel or interested Agencies of possible violations or whereabouts of individuals.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored on CF 4621 in file cabinet.

Retrievability: Cross-indexed by name and file number.

Safeguards: Locked office after duty hours.

Retention and disposal: Indefinitely.

System manager(s) and address: District Director, Port Directors, and Division Directors within the San Diego Customs District. See Customs Appendix A.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption are contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.122

System name: Information Received File—Treasury/Customs.

System location: District Patrol Division, Room 200, United States Customhouse, La Marina, Old San Juan, P.R. 00901.

Categories of individuals covered by the system: Persons in whom Customs and/or other government agencies are interested from a law-enforcement and/or security point of view.

Categories of records in the system: Name, alias, date of birth or age, personal data, addresses, home and business telephone number, occupation, background information, associations, license number and registration number of vehicle, vessel and/or aircraft, etc.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their official duties; (b) Disclosure required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) When routine background investigation develops evidence of violations of law, case is referred to Investigative Branch; (d) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each memorandum, or group of memoranda, is placed in a folder which is filed in a numerical order according to the assigned case file number. These files are kept in a locked metal cabinet.

Retrievability: The above-mentioned case file numbers are cross-indexed by name to such numbers, and cards are filed alphabetically within a metal file box.

Safeguards: The metal file cabinet and the metal file box are located within an office that is locked during non-working hours. The building is guarded by uniformed Customs guards, and only authorized persons are permitted in the building.

Retention and disposal: These memoranda are retained for a period of three years after which they are destroyed together with related index cards.

System manager(s) and address: Director, District Patrol Division, United States Custom Service, Room 200, La Marina, Old San Juan, P.R. 00901.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption are contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.123

System name: Injury Notice—Treasury/Customs.

System location: Each Logistics Management Division in each regional HQ Office (see Customs Appendix A for addresses) and all offices of the District Director, Region IX, Chicago, Ill.

Categories of individuals covered by the system: Individuals who sustain an injury in performance of duty as an employee of U.S. Customs.

Categories of records in the system: Name, date of birth, home address, organization, place of injury, date and hour of injury, dependants, occupation, cause of injury, nature of injury, statement of witness, supervisor's report of injury.

Authority for maintenance of the system: Sec. 19 and 24 of the Occupational Safety and Health Act of 1970, 84 Stat. 1609, 1614, 29 U.S.C. 668, 673 and the provisions of Executive Order 11807.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Disclosure to the Department of Labor for that agency's official use.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information in this system is contained on CA forms. The CA forms are filed in a loose leaf, alphabetical binder and placed in a metal file container.

Retrievability: Each CA form is identified by the name of the injured employee and filed alphabetically in a binder.

Safeguards: The binder is placed within a metal file container located within an office that is locked during non-working hours. The building is guarded by uniformed security personnel and only authorized persons are permitted in the building.

Retention and disposal: Notice of injury reports are maintained in the employee's OPF indefinitely. Copies maintained by the systems manager are maintained at location for two years and then destroyed.

System manager(s) and address: Each Director, Logistics Management Division, in each Customs Regional Headquarters (see Appendix A for address), each District Safety Officer, Region IX, Chicago, Ill. (see Customs Appendix A for addresses of District Directors).

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in this system originates with and consists solely of information supplied by the injured employee, his supervisor, appropriate witness and attending physician on CA forms.

Treasury/Customs 00.124

System name: Inspector Training Quarterly Checklist Forms and Inspector Correspondence Course Enrollment Forms (CF-66)—Treasury/Customs.

System location: Regional Office, Personnel Management, Career and Staff Development, U.S. Customs, 300 N. Los Angeles Street, Los Angeles, California 90012.

Categories of individuals covered by the system: All Inspectors in training status in Region VII.

Categories of records in the system: Progress records of on-the-job Inspector training and enrollment forms for the correspondence course.

Authority for maintenance of the system: U.S. Customs Headquarters Training Manual, 5 USC 301; Treasury Dept. Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the

state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or im-

Contesting record procedures: See Access, Customs Appendix A.

Safeguards: In addition to being stored in secure metal containers with government approved, combination locks, the metal containers

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) To determine if trainee Inspectors have satisfactorily completed their standard training requirements so that they are eligible for promotion at the end of their first year.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Loose leaf binder.

Retrievability: By name.

Safeguards: Locked office.

Retention and disposal: Until employee completes his training.

System manager(s) and address: Regional Training Officer, Personnel Management, Career Development Branch, U.S. Customs Service, 300 N. Los Angeles Street, Los Angeles, California 90012.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The inspectors' supervisors originate both the training progress checklists and the Correspondence Course Enrollment forms.

Treasury/Customs 00.125

System name: Intelligence Log—Treasury/Customs.

System location: U.S. Customs Air Support Branch, Patrol Division, PM-TUM, Homestead Air Force Base, Homestead, Florida 33030.

Categories of individuals covered by the system: Persons who are believed to be involved in activities which constitute, or may develop into, possible violation of Customs and related laws.

Categories of records in the system: Internal Customs Service memoranda and related materials regarding the activities of individuals, vessels, or aircraft believed to be involved in acts which are contrary to Customs and related laws.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosure required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The intelligence log is a chronological file which is maintained within a security area.

Retrievability: A manual, master card index is maintained for the entire system. This index includes name and/or numerical identifier.

Safeguards: The information files and master card index are located within an office which is locked during non-working hours. The building is guarded by U.S. Air Force Military Police and only authorized persons are permitted in the building.

Retention and disposal: These files are retained indefinitely or until such time that it has been determined that there is no longer a need for their existence, at which time the oldest files are destroyed under Customs supervision.

System manager(s) and address: Chief, Air Support Branch, Patrol Division, U.S. Customs, PM-TUM, Homestead Air Force Base, Homestead, Florida 33030.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption are contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.126

System name: Internal Security File—Treasury/Customs.

System location: Area Director, New York Seaport Area, 6 World Trade Center, New York, New York 10048.

Categories of individuals covered by the system: Commercial and non-commercial importers.

Categories of records in the system: Correspondence from importing public concerning parcels received through mail without being processed through Customs and Voluntary Tenders submitted in conjunction with same.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Use by Customs Officers in enforcing laws and regulations and use as background information.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained in a file drawer.

Retrievability: Listed alphabetically by name.

Safeguards: The office is locked at the end of the day.

Retention and disposal: Files destroyed after two years.

System manager(s) and address: Area Director, New York Seaport Area, 6 World Trade Center, New York, New York 10048.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information submitted by individuals.

Treasury/Customs 00.127

System name: Internal Security Records System—Treasury/Customs.

System location: Internal Security Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229. Tort Claim Investigation Files and index card files at each Regional Director (Internal Affairs) Office. See Customs Appendix A.

Categories of individuals covered by the system: Present and past employees, applicants for positions that require an investigation, and others that are the subject of an investigation.

Categories of records in the system: Security clearance records; background, tort claim, special inquiry, conduct, and equal employment opportunity investigations and other Customs related investigations including individuals involved in accidents under investigation.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosure required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) Provide the proper authority within the Department of the Treasury with sufficient information to make a decision as to whether or not an applicant or employee is suitable for employment in a sensitive position, and to make a determination regarding a subject's loyalty; (d) When routine background investigation develops evidence of violations of law, case is referred to Investigative Branch; (e) Serves as a basis for granting access to classified information and material. When necessary, advise Government agencies and private industry of employees having security clearances; (f) To provide basis for disciplinary action, criminal prosecution establishing guilt or innocence, identifying procedural weaknesses, establishing liability in tort claim investigations, give information to Equal Employment Opportunity Division in EEO cases, provide information to appropriate officials, management and Congressmen; (g) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (h) A record from this system of records may be disclosed as a "routine use" to a Federal, state or local agency maintaining civil, criminal or other relevant information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit; (i) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

A record contained in this system of records may be disclosed as a routine use to possible sources of information in connection with civil or criminal investigations or inquiries under circumstances where it is necessary to disclose certain information in order to pose a question to those sources.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Investigative records are maintained on microfiche and in file folders and stored in metal security cabinets secured by government approved three-position, combination locks. Security clearance records are stored on magnetic tape with a manual back-up system.

Retrievability: A manual, master card index is maintained for the entire system. This index includes name and/or numerical identifier.

Safeguards: In addition to being stored in secure metal containers with government approved, combination locks, the metal containers are located in locked rooms, the keys of which are controlled and issued to the custodians of the files. The security specialists and administrative personnel who maintain the files are selected for their experience and afforded access only after having been cleared by a full-field background investigation and granted appropriate security clearances for critical sensitive positions. Those departmental officials who may occasionally be granted access consistent with their positions to employ and concur in the granting of security clearances have also been investigated prior to filling critical-sensitive positions.

Retention and disposal: With exception of tort claim investigations, the file records are maintained as long as the subject of the investigation is employed by the U.S. Customs Service and for 1 year after the subject terminates employment. The files are then transferred to the Federal Records Center.

Tort Claim investigations are retained for 5 years after the close of the investigation and then destroyed. Once files are transferred, they are retained for the following periods of time by the Federal Records Center and then destroyed: Background investigations—25 years, Conduct and special inquiry investigations—15 years, Equal Employment Opportunity investigations—10 years.

System manager(s) and address: Director, Internal Security Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption are contained in a general notice which appears elsewhere in the Federal Register.

Record source categories: Sources of information for background investigations are: employers; educational institutions; police; government agencies; credit bureaus; references; neighborhood checks; medical sources; personal interviews; military, financial, citizenship, birth and tax records; and the applicants or employee's personal history and application forms.

Treasury/Customs 00.128

System name: Investigations Program Analysis—Treasury/Customs.

System location: U.S. Customs Service, Office of Investigations, Region V. RDI, 1440 Canal Street, New Orleans, La. 70112; SAC, 600 South Street, Room 444, New Orleans, La. 70130; SAC, P.O. Box 1704, Mobile, Ala. 36601; RA, 1719 West End Building, Rm. 303, Nashville, Tenn. 37203.

Categories of individuals covered by the system: Special Agents assigned to office.

Categories of records in the system: Record of cases assigned to individual agent showing date assigned, status, date closed, time spent on case, arrests, dispositions of arrests, seizures, penalties, and recoveries, if any. An inventory of types of cases handled by an agent.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosure required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) Used administratively as an inventory of investigative cases; measurement of the results of investigative efforts; and an account of man hours devoted to investigative categories.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is contained in a printout.

Retrievability: Information is retrieved from the printout by case number, name of agent, and date by month and year.

Safeguards: During non-working hours the room in which the above described printouts are located is locked.

Retention and disposal: Indefinitely.

System manager(s) and address: Regional Director, Investigations, U.S. Customs Service, Office of Investigations, 1440 Canal Street, Room 2440, New Orleans, La. 70112; Special Agent in Charge, Office of Investigations, 600 South Street, Room 444, New Orleans,

La. 70130; Special Agent in Charge, U.S. Customs Service, Office of Investigations, P.O. Box 1704, Mobile, Ala. 36601; Resident Agent,

response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an

contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal

Customs Service building. During non-working hours the room in which the metal container is located is locked, and access to the

La. 70130; Special Agent in Charge, U.S. Customs Service, Office of Investigations, P.O. Box 1704, Mobile, Ala., 36601; Resident Agent, U.S. Customs Service, Office of Investigations, 1719 West End Building, Rm. 303, Nashville, Tenn. 37203.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information furnished by Customs Special Agents.

Treasury/Customs 00.129

System name: Investigations Record System—Treasury/Customs.

System location: All Office of Investigations offices located within each Customs Service Region in the United States and within each Office of Investigations office located in a foreign country. (See Customs Appendix A).

Categories of individuals covered by the system: Records are maintained on individuals who may bear some necessary relevance to investigations conducted within the scope of authority of the Office of Investigations, United States Customs Service. The categories include but are not limited to: (1) Known violators of U.S. Customs laws. (2) Convicted violators of U.S. Customs and/or drug laws in the U.S. and foreign countries. (3) Fugitives with outstanding warrants, Federal or State. (4) Suspect violators of U.S. Customs or other related laws. (5) Victims of violations of the U.S. Customs or related laws.

Categories of records in the system: The subject records may contain any identifying or other relevant information on subject individuals which might relate to the following categories of investigations:

Smuggling Investigations Branch: Smuggling, Diamonds & Jewelry; Smuggling, Liquor; Smuggling, Narcotics; Smuggling, All Other; Prohibited Importations; Navigation, Airplane and Vehicle Violations; Neutrality Violations; Illegal Exports.

Regulatory Investigations Branch: Baggage Declaration Violations; Customhouse Brokers and Customs Attorneys; Applications for Licenses; Theft, Loss, Damage and Shortage; Irregular Deliveries; All Other Criminal Cases; Currency Violations.

Special Investigations Branch: Organized Crime; Personnel Derelictions; Other Departments, Bureaus and Agencies; Federal Tort Claims; Personnel Background Investigations.

Technical Investigations Branch: Undervaluation and False Invoicing; Petitions for Relief.

Verification Investigations Branch: Drawback; Marking of Merchandise; Customs Bonds; Customs Procedures; Collections of Duties and Penalties; Trademarks and Copyrights; Foreign Repairs to Vessels and Aircraft.

Foreign Investigations Branch: Classification; Market Value; Dumping; Countervailing Duties.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; 19 U.S.C. 2072; Title 19, United States Code; Title 18, United States Code.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of Treasury who have a need for the records in the performance of their duties which may include the administration, investigation, enforcement and prosecution of civil and criminal Customs and related laws; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Disclosure may be made to any civil or criminal law enforcement authorities, whether Federal, state, local or foreign; (d) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (e) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit; (f) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

A record contained in this system of records may be disclosed as a routine use to possible sources of information in connection with civil or criminal investigations or inquiries under circumstances where it is necessary to disclose certain information in order to pose a question to those sources.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in both hard copy files and on microfiche which are placed in locked metal containers.

Retrievability: The record system is indexed on 3 x 5 file cards by the individual's name and/or identification number and by the investigative case numbers to which the information relates. The hard copy and microfiche records are retrieved by means of the investigative case numbers.

Safeguards: All records are held in steel cabinets and are maintained according to the requirements of the United States Customs Records Manual and the United States Customs Security Manual. Access is limited by visual controls and/or a lock system. During normal working hours, files are either attended by responsible Office of Investigations employees or the file area is restricted. The office in which the records are located is locked during non-working hours and the building is patrolled by uniformed security guards.

Retention and disposal: The index cards are retained indefinitely. The hard copy and microfiche records are retained for one year or more depending on the subject matter to which they relate and are then either destroyed or transferred to the appropriate Federal Record Center, all in accordance with standard Customs Service record retention and disposal procedures.

System manager(s) and address: Assistant Commissioner, Office of Investigations, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C., 20229.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption are contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.130

System name: Investigative Program Analysis—Treasury/Customs.

System location: U.S. Customs Service, Office of Enforcement Support, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: United States Customs Special Agents and Operations Officers.

Categories of records in the system: Case assignment information such as case number, case hours, court hours, case description and disposition, etc.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a

contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) Provide management information such as caseload, budget, manpower, performance and experience, etc.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: (1) Magnetic tape. (2) Manual files maintained by the Office of Investigations field officer.

Retrievability: By name and Social Security Number of subject Customs Officer.

Safeguards: On a need-to-know basis to the Office of Investigations personnel only. Procedural and physical safeguards are utilized such as accountability and receipt records, guards patrolling the area, restricted access and alarm protection systems, special communication security, etc.

Retention and disposal: Indefinite; None.

System manager(s) and address: Assistant Commissioner, Office of Enforcement Support, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Supervisory Customs Special Agents when making case assignments to Special Agents or Operations Officers on foreign assignments.

Treasury/Customs 00.132

System name: Justice Court Case File—Treasury/Customs.

System location: Office of the Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Persons who are parties in litigation with the United States Government or agencies or employees or officers thereof, in matters which affect or involve the Customs Service.

Categories of records in the system: Litigation report requests and responses thereto, reports of investigations, internal Customs Service memoranda summarizing or relating to the matter in controversy and other background information relating to the subject matter or origin of the litigation, including any information on individuals which has relevance to the matter in litigation.

Authority for maintenance of the system: 28 U.S.C. 507; 19 U.S.C. 1603; E.O. 6166; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Information contained in this file is provided as a routine use to the Department of Justice to assist that Department in representing the interests of the Government, the agency or officer or employee involved in the litigation, and may be provided to other agencies involved in same or similar litigation.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer within a metal container.

Retrievability: Each case file is identified in a manual alphabetical card file by the name of the person who initiated the litigation against the Government, agency, officer or employee or by the name of the person against whom the Government initiated the litigation. In addition, each case file is similarly identified on the alphabetical file folder within the metal container.

Safeguards: The metal container described above is maintained within the area assigned to the Office of the Chief Counsel within the Customs Service building. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: These files are retained indefinitely or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Record Center.

System manager(s) and address: Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files originates with the receipt of a litigation report request from the Department of Justice which results in a written report to that Department regarding the facts of the particular case. Information in this file may also be derived from reports of investigation regarding the enforcement of civil or criminal statutes, administrative proceedings regarding disciplinary action taken against Customs Service employees, equal opportunity complaints, denials of tort claims, denials of information requested under the Freedom of Information Act, and the collection of debts due the Government.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.133

System name: Justice Department Case File—Treasury/Customs.

System location: Office of the Regional Counsel, Room 125, U.S. Customhouse, 40 South Gay Street, Baltimore, Maryland 21202.

Categories of individuals covered by the system: Persons who are parties in litigation with the United States Government or subunits or employees or officers thereof, in matters which affect or involve the United States Customs Service.

Categories of records in the system: Litigation report requests and responses thereto, reports of investigations, internal Customs Service memoranda summarizing or relating to the matter in controversy and other background information relating to the subject matter or origin of the litigation.

Authority for maintenance of the system: 28 U.S.C. 2676; 19 U.S.C. 1603; E.O. 6166; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Information contained in this file is routinely provided to the Department of Justice or directly to United States Attorneys upon request to assist in representing the interests of the Government, the agency or officer or employee involved in the litigation, or to other agencies involved in the same or similar litigation; (d) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in file folder which is filed in an unlocked drawer within a metal container.

Retrievability: Each case file is identified in the file folder within the metal container by the name of the customhouse broker.

Safeguards: The metal container described above is maintained within the area assigned to the Office of the Regional Counsel within the Customhouse. During non-working hours the room in which the

metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: These files are retained indefinitely or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Record Center.

System manager(s) and address: Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files originates with the receipt of a litigation report request from the Department of Justice which results in a written report to that Department regarding the facts of the particular case. Information in this file may also be derived from reports of investigation regarding the enforcement of civil or criminal statutes, administrative proceedings regarding disciplinary action taken against Customs Service employees, equal opportunity complaints, denials of tort claims, denials of information requested under the Freedom of Information Act, and the collection of debts due the Government.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.136

System name: Liquidated Damage Cases; Prior Violators—Treasury/

System manager(s) and address: District Director, as appropriate, in Region IX, Chicago, Illinois. See Location above.

System location: Lookout files are maintained in Offices of the District and Port Directors and the District and Local offices of the

metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: Customhouse broker files are retained indefinitely or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

System manager(s) and address: Regional Counsel, Room 125, U.S. Customhouse, 40 South Gay Street, Baltimore, Maryland 21202.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files originates with the request from the Department of Justice or directly from a United States Attorney or other Government agency or officer which results in a communication regarding the particular case. Information in this file is also derived from reports of investigation regarding the enforcement of civil or criminal statutes or regulations, administrative proceedings or any matter affecting or involving the United States Customs Service or its officers or employees.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.135

System name: Legal Case Inventory System—Treasury/Customs.

System location: Classification and Value Division, Office of Regulations and Rulings, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Customs employees to whom legal cases are assigned for initial review at Customs Headquarters.

Categories of records in the system: Name of Customs employees to whom legal cases are assigned for initial review, name of inquirer, date of correspondence, description of request, control number, and status.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) To maintain a log system of all requests received in the Office; be able to locate each request, obtain present status, and to whom assigned. Obtain statistical information indicating the number of requests received per month for budget purposes.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape and hard copy print-out.

Retrievability: A weekly print-out for each division in the Office of Regulations and Rulings by the name of the employee assigned to the case is prepared. Retrieval of information by employee is accomplished by a manual search of the print-out.

Safeguards: The weekly printout is used only by division personnel to locate a specific case. Each branch in the division receives a copy of the printout for their use. During non-working hours the room is locked and the building is guarded by security police. Only authorized persons are permitted in the building.

Retention and disposal: An inquirer's name will remain in the computer until 90 days after a reply has been made to afford the inquirer ample time for resubmission of a request for consideration. Thereafter, his name is expunged by erasure of the tape. The print-out is disposed of as paper trash when a new print-out is received.

System manager(s) and address: Director, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Branch Chief or delegate at the time the protest case is assigned to an individual for initial review.

Treasury/Customs 00.136

System name: Liquidated Damage Cases; Prior Violators—Treasury/Customs.

System location: Office of the District Director, Fines and Penalties Office, U.S. Customs Service, 2 India Street, Boston, Massachusetts 02109, and Office of the District Director, Fines and Penalties Office, U.S. Customs Service, P.O. Box 111, St. Albans, Vermont, 05478.

Categories of individuals covered by the system: Prior violators of Customs Laws: e.g. Customhouse brokers, individual T/B violators, liquidated damage cases only.

Categories of records in the system: Name, address, Social Security number, type of violation and frequency of past violations.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Used to determine those persons who are repeatedly assessed liquidated damages so appropriate administrative action may be taken.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored on 3 x 5 index cards and in file folders.

Retrievability: Alphabetically; by name.

Safeguards: In locked file cabinet when not in use.

Retention and disposal: Boston District files are kept for two years and then destroyed on site. St. Albans District files are kept for five years and then destroyed.

System manager(s) and address: Fines and Penalties Officer, U.S. Customhouse, Bonton, Massachusetts 02109. Fines and Penalties Officer, Post Office and Customhouse Building, St. Albans, Vermont 05478.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information is received from the individual at the time the violation occurs and from penalty notices which are issued in the Penalties section. Also, the office of Investigations provides any information developed during its investigation.

Treasury/Customs 00.137

System name: List of Vessel Agents Employees—Treasury/U.S. Customs.

System location: Offices of District Directors, Region IX, Chicago, Illinois. See Customs Appendix A.

Categories of individuals covered by the system: Persons employed by Vessel agents.

Categories of records in the system: Names, addresses, Social Security numbers, and dates and places of birth of persons employed.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Open file.

Retrievability: Alphabetical listing of employees by vessel agent name.

Safeguards: The file described is maintained in the Offices of the District Directors in Region IX, Chicago, Illinois. During non-working hours the room/building in which the file is located is locked. Access limited to authorized Customs personnel.

Retention and disposal: Employee name retained for period of employment with vessel agent agency.

System manager(s) and address: District Director, as appropriate, in Region IX, Chicago, Illinois. See Location above.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Submission of data by importing carrier or his agent.

Treasury/Customs 00.138

System name: Litigation Issue Files—Treasury/Customs.

System location: Office of Assistant Chief Counsel, Customs Court Litigation, Second Floor, 26 Federal Plaza, New York, New York, 10007.

Categories of individuals covered by the system: Parties in litigation before the United States Customs Court (or subunits or employees or officers thereof), and other individuals with knowledge of the issues in controversy, e.g., trade witnesses, foreign or domestic manufacturers, etc.

Categories of records in the system: Litigation report requests and responses thereto, reports of investigations, internal Customs Service memoranda summarizing or relating to the matter in controversy and other background information relating to the subject matter or origin of the litigation.

Authority for maintenance of the system: 19 U.S.C. 1514—1516; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Information contained in these files is routinely provided to the Department of Justice upon request to assist that Department in representing the interests of the Government, or agency involved in the litigation.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each issue file is inserted in a numerical file folder (according to issue) which is filed in an unlocked drawer within a metal container.

Retrievability: Each issue filed is cross-indexed in the following card files: (a) by name of party-plaintiff; (b) by issue; and, (c) by titles of decided cases.

Safeguards: The metal container described above is maintained within the area assigned to the Office of the Assistant Chief Counsel within the Federal Building. At all times the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: These files are retained indefinitely or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Record Center.

System manager(s) and address: Assistant Chief Counsel, Customs Court Litigation, Second Floor, 26 Federal Plaza, New York, New York, 10007.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files originates with the receipt of protest reports (based on information supplied by the subject individuals or by their authorized agents or attorneys) from the various Districts and/or litigation report requests from the Department of Justice which result in a written report to that Department regarding the facts of the particular case.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.140

System name: Lookout Notice—Treasury/Customs.

System location: Lookout files are maintained in Offices of the District and Port Directors and the District and Local offices of the Patrol Division. See Customs Appendix A.

Categories of individuals covered by the system: Suspected violators of laws enforced by Customs.

Categories of records in the system: Name, address, height, weight, and any other information available on the individual at the time the notice is instituted.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) The lookout notices are used by Customs to identify persons suspected of violating laws and to keep them under active review.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The notice is printed on regular paper and then copied and stored within a file box.

Retrievability: Alphabetically, by name.

Safeguards: Stored in locked filing cabinet and access is limited to administrative personnel.

Retention and disposal: Retained for two years and then destroyed on site.

System manager(s) and address: Regional Commissioner of Customs, Regional Director of Investigations, Regional Patrol Director at appropriate Region. See Customs Appendix A.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption are contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.142

System name: Mail Entry Protest—Treasury/Customs.

System location: District Director of Customs, 3180 Bladensburg Road, N.E., Washington, D.C. 20018.

Categories of individuals covered by the system: Individual member of armed forces, commercial importers, commercial exporters and private importers.

Categories of records in the system: Name, home address, and action by customers for which relief is sought.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information is placed in alphabetical file folder and placed within a metal file cabinet.

Retrievability: Each letter of protest is filed in alphabetical order by last name first.

Safeguards: The metal cabinet is located within an office that is locked during non-working hours.

Retention and disposal: The records are maintained in the files for a complete fiscal year. Records are removed to inactive files and held for three years prior to destruction.

System manager(s) and address: District Director of Customs, 3180 Bladensburg Road, N.E., Washington, D.C. 20018.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature,

Safeguards: The metal container described above is maintained within the area assigned to the Office of the Chief Counsel within the

Treasury/Customs 00.150

System name: Military Personnel and Civilian Employees' Claims Act

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information of this office originated with and consists solely of information supplied by the protestor or requester.

Treasury/Customs 00.143

System name: Mail Protest—Treasury/Customs.

System location: District: Anchorage, 204 E. 5th Ave., Anchorage, Alaska; Great Falls, 215 1st Ave, No., Great Falls, Montana; Honolulu, 335 Merchant, Honolulu; Portland, 511 N.W. Broadway, Portland, Oregon; San Francisco, 555 Battery St., San Francisco, California; Seattle, First & Marion Sts., Seattle, Washington.

Categories of individuals covered by the system: Individual protesting duty assessed.

Categories of records in the system: Correspondence relating to individual.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in folders and stored in metal file cabinet.

Retrievability: The office and building are locked during nonworking hours.

Safeguards: Protest number.

Retention and disposal: Records are maintained and disposed of in accordance with Records Disposal Manual.

System manager(s) and address: District Director, See Location above for addresses.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Individual and Customs employees involved with case.

Treasury/Customs 00.144

System name: Mail Protest File—Treasury/Customs.

System location: Foreign Mail Section, District Office, 444 Brickell Ave., Miami, Fla.

Categories of individuals covered by the system: Individuals who have filed formal protest of the amount of duty assessed against mail parcels.

Categories of records in the system: Letters, invoices, and other pertinent documents pertaining to protests.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Customs Personnel processing mail protests; (d) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (e) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licences, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (f) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored in the Foreign Mail Section of the District Office, 444 Brickell Ave., Miami, Fla.

Retrievability: Records are retrievable by name or protest number.

Safeguards: Access is limited to appropriate personnel and office is locked during non-working hours.

Retention and disposal: Records are kept until 3 years after the protest is decided.

System manager(s) and address: District Director of Customs, 444 Brickell Ave., Miami, Fla.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Source information is from the sender, the addressee, the Customs value records, and the manufacturer of the item.

Treasury/Customs 00.148

System name: Military Personnel and Civilian Employees' Claims Act File—Treasury/Customs.

System location: Office of the Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Persons filing claims under the Military Personnel and Civilian Employees' Claims Act of 1964.

Categories of records in the system: Documents relating to the administrative handling of the claim and documents submitted by the claimant in support of the claim.

Authority for maintenance of the system: 31 U.S.C. 240-243; 31 CFR Part 4; Treasury Department Administrative Circular No. 131, August 19, 1965; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties. Such duties may include making recommendations for decisions on claims and making final decisions on claims; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted alphabetically in a file folder which is filed in an unlocked drawer within a metal container.

Retrievability: Each case file is identified in a manual alphabetical card file by the name of the person who filed the claim and alphabetically in the file folder within the metal container by the name of the person who filed the claim.

Safeguards: The metal container described above is maintained within the area assigned to the Office of the Chief Counsel within the Customs Service Building. During nonworking hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: These files are retained indefinitely or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

System manager(s) and address: Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained in these files originates with a Treasury Department Form No. 3079, Civilian Employee Claim For Loss or Damage to Personal Property, which is completed and filed with the Customs Service by the claimant. Additional information contained in these files may be separately provided by the claimant or by the claimant's supervisor.

Treasury/Customs 00.149

System name: Military Personnel and Civilian Employees' Claims Act File—Treasury/Customs.

System location: Office of the Regional Counsel, Room 125, U.S. Customhouse, 40 South Gay Street, Baltimore, Maryland 21202.

Categories of individuals covered by the system: Current or former Customs employees filing claims under the Military Personnel and Civilian Employees' Claim Act of 1964 for damage to or loss of personal property incident to their service.

Categories of records in the system: Documents relating to the administrative handling of the claim and documents submitted by the claimant in support of the claim.

Authority for maintenance of the system: 31 U.S.C. 240-243; 31 CRF Part 4; Treasury Department Administrative Circular No. 131, August 19, 1965; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in file folder which is filed in an unlocked drawer within a metal container.

Retrievability: Each case file is identified in the file folder within the metal container by the name of the person who filed the claim.

Safeguards: The metal container described above is maintained within the area assigned to the Office of the Regional Counsel within the Customhouse. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: These files are retained indefinitely or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

System manager(s) and address: Regional Counsel, Room 125, U.S. Customhouse, 40 South Gay Street, Baltimore, Maryland 21202.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained in these files originates with a Treasury Department Form NO. 3079, Civilian Employee Claim For Loss or Damage to Personal Property, which is completed and filed with the Customs Service by the claimant. Additional information contained in these files may be separately provided by the claimant, the claimant's supervisor, or other reviewing Customs officers.

Treasury/Customs 00.150

System name: Military Personnel and Civilian Employees' Claims Act File—Treasury/Customs.

System location: Regional Counsel, U.S. Customs Service, 6 World Trade Center, New York, N.Y. 10048.

Categories of individuals covered by the system: Current or former Customs employees filing claims under the Military Personnel and Civilian Employees' Claims Act of 1964 for damage to or loss of personnal property incident to their service.

Categories of records in the system: Documents relating to the administrative handling of the claim and documents submitted by the claimant in support of the claim.

Authority for maintenance of the system: 31 U.S.C. 240-243; 31 CFR Part 4; Treasury Department Administrative Circular No. 1331, August 19, 1965.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) The information contained in this file is utilized to formulate recommendations, and is made available, to the officials within the Customs Service who make final decisions on claims submitted pursuant to the Military Personnel and Civilian Employees' Claims Act of 1964; (b) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (c) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted alphabetically in a file folder which is filed in an unlocked drawer within a metal container.

Retrievability: Each case file is identified in a manual alphabetical card file by the name of the person who filed the claim and alphabetically in the file folder within the metal container by the name of the person who filed the claim.

Safeguards: The metal container described above is maintained within the area assigned to the Office of the Chief Counsel within the Customs Service Building. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: These files are retained indefinitely or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

System manager(s) and address: Regional Counsel, U.S. Customs Service, 6 World Trade Center, New York, N.Y. 10048.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained in these files originates with a Treasury Department Form No. 3079, Civilian Employee Claim For Loss or Damage to Personnel Property, which is completed and filed with the Customs Service by the claimant. Additional information contained in these files may be separately provided by the claimant or by the claimant's supervisor.

Treasury/Customs 00.268

System name: Military Personnel and Civilian Employees' Claims Act File—Treasury/Customs.

System location: Office of the Regional Counsel, Suite 1220, 500 Dallas Street, Houston, Texas 77002.

Categories of individuals covered by the system: Current or former Customs employees filing claims under the Military Personnel and Civilian Employees' Claims Act of 1964.

Categories of records in the system: Documents relating to the administrative handling of the claim and documents submitted by the claimant in support of the claim.

Authority for maintenance of the system: 31 U.S.C. 240-243; 31 CFR Part 4; Treasury Department Administrative Circular No. 131, August 19, 1965; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the U.S. Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in adminis-

tration of the Freedom of Information Act (5 U.S.C. 552); (c) The information contained in this file is utilized to formulate recommen-

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in these files originates

Treasury/Customs 00.153

System name: Motor Vehicle Operators I.D. Card and Record—

issuance of a license, grant, or other benefit; (h) A record from this system of records may be disclosed to a Federal agency, in response

tration of the Freedom of Information Act (5 U.S.C. 552); (c) The information contained in this file is utilized to formulate recommendations, and is made available, to the officials within the Customs Service to make final decisions on claims submitted pursuant to the Military Personnel and Civilian Employees' Claims Act of 1964.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted alphabetically in a file folder which is filed in an unlocked drawer within a metal container.

Retrievability: Each case file is identified alphabetically in the file folder within the metal container by the name of the person who filed the claim.

Safeguards: The metal container described above is maintained within the area assigned to the Office of the Regional Counsel on the 12th Floor of 500 Dallas Street, Houston, Texas. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed security guards provided by the lessor.

Retention and disposal: These files are retained until closed at which time the closed files are transferred to the Director, Logistics Management Division, Office of the Regional Commissioner, Houston, Texas for ultimate transportation to the Federal Record Center.

System manager(s) and address: Regional Counsel, Suite 1220, United States Customs Service, 500 Dallas Street, Houston, Texas 77002.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained in these files originates with a Treasury Department Form No. 3079, Civilian Employee Claim For Loss or Damage to Personal Property, which is completed and filed with the Customs Service by the claimant. Additional information contained in these files may be separately provided by the claimant or by the claimant's supervisor.

Treasury/Customs 00.151

System name: Motor Vehicle Accident Reports—Treasury/Customs.

System location: Each Logistics Management Division, in each Customs Regional Headquarters (see Customs Appendix A).

Categories of individuals covered by the system: U.S. Customs Employee involved in an automobile accident while on official duty.

Categories of records in the system: Name, Social Security Number, home address, telephone number, age, title, date of accident, place of accident, make, year, license number of vehicles, description of accident, information on driver of other vehicle.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Administrative Circular No. 131, dated August 19, 1965 as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer in a metal file cabinet.

Retrievability: Each case file is identified in a file folder identified by the name of the Customs employee involved in the automobile accident.

Safeguards: The metal file cabinet described above is maintained within the area assigned to the Regional Safety Coordinator within the office of the Regional Commissioner of Customs. Access to the building during nonworking hours is controlled.

Retention and disposal: Files are maintained at location for 2 years and then transferred to the Federal Records Center where they are retained for four years.

System manager(s) and address: Each Director, Logistics Management Division in each Regional Headquarters (see Customs Appendix A for addresses).

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in these files originates from the employee involved in the automobile accidents, police report and report of investigation conducted by the Office of Internal Affairs.

Treasury/Customs 00.152

System name: Motor Vehicle Operator's Identification Card—Treasury/Customs.

System location: District Director, 600 South Street, New Orleans, Louisiana 70130; District Director, P.O. Box 2748, Mobile, Alabama 36601; Regional Commissioner, 1440 Canal Street, New Orleans, Louisiana 70112.

Categories of individuals covered by the system: All Customs employees in Region V whose official duties require the use and operation of an agency-owned vehicle or a government-owned vehicle leased from General Service Motor Vehicle Pool.

Categories of records in the system: Records on file contain the follwoing information: Name, address, place and date of birth, statement of physical fitness, results of examination on driving capability, summary of past driving record, record of summonses, arrests, and accidents during past five years, record of safe driving awards.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contact, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: On SF-47 and Treasury Department Form 2770 in appropriate file.

Retrievability: By name.

Safeguards: Unlocked file cabinet in locked office.

Retention and disposal: Forms are maintained for the period in which the individual is employed in the Customs Service, or until revoked. Upon separation or revocation, forms are removed from active file and placed in an inactive file for a period of three years, after which time the cards are disposed of as provided in GSA's General Records Schedule.

System manager(s) and address: District Director, 600 South Street, New Orleans, Louisiana 70130; District Director, P.O. Box 2748, Mobile, Alabama 36601; District, Logistics Management Division, 1440 Canal Street, New Orleans, LA 70112.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: All information contained on SF-47 and TD Form 2770 is obtained directly from employee.

Treasury/Customs 00.153

System name: Motor Vehicle Operators I.D. Card and Record—Treasury/Customs.

System location: Room 102, Federal Building, 511 N.W. Broadway, Portland, Oregon 97209.

Categories of individuals covered by the system: Employees of Portland District authorized to drive government vehicles.

Categories of records in the system: Name, position, driving record of employee.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To account for those employees to whom driver's licences have been issued and to maintain information concerning their driving record.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in index card file. Stored in unlocked metal cabinet.

Retrievability: Information is on cards, indexed alphabetically by name of individual.

Safeguards: The office and building are locked during non-working hours.

Retention and disposal: Retained 2 years, then destroyed.

System manager(s) and address: District Director, Federal Building Room 198, 511 N.W. Broadway, Portland, Oregon 97209.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information furnished by employee and his supervisors. Accident reports.

Treasury/Customs 00.155

System name: Narcotics Suspect File—Treasury/Customs.

System location: Customs Patrol Office, U.S. Customhouse, 40 South Gay Street, Baltimore, Maryland 21202.

Categories of individuals covered by the system: Known violators of Federal narcotics laws. Suspected violators of Federal narcotics laws. Associates of known and suspected violators. Informants and other persons of interest to patrol officers in the performance of their duties.

Categories of records in the system: Criminal and civil case files; information of possible violators, informant files, known suspect files, and files of information of interest to patrol officers.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosure required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) Used by patrol officers to determine an individual's previous record when determining the proper recommendations for criminal and civil penalties; (d) Used by patrol officers to determine patterns of violations and assist in the more efficient performance of their duties; (e) Used by officers and employees of the Customs Service and the Department of the Treasury to compile statistics and determine patterns of violators; (f) In the event that this system of records includes information which indicates a violation or possible violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (g) A record from this system of records may be disclosed as a "routine use" to a Federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (h) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and stored in metal file cabinets which are located in locked or occupied offices which are located in locked and guarded Federal Buildings.

Retrievability: A manual master card index is maintained for the entire system. This index includes name and/or numerical identifier.

Safeguards: In addition to being stored in secure metal containers, the containers are maintained in offices which are either occupied or locked at all times. These offices are located in locked Federal buildings.

Retention and disposal: The file records are maintained indefinitely.

System manager(s) and address: Director, Baltimore Patrol Division, U.S. Customhouse, 40 South Gay Street, Baltimore, Maryland 21202.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system or records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption are contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.156

System name: Narcotic Violator File—Treasury/Customs.

System location: Fines, Penalties and Forfeitures Office, District Director of Customs Room 603, U.S. Federal Building, 111 West Huron Street, Buffalo, New York 14202.

Categories of individuals covered by the system: Persons who have been found in possession of any controlled substance within the Buffalo District.

Categories of records in the system: Alphabetized cross reference of violators names and the associated case numbers assigned to these individuals.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of the law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted alphabetically in a file folder which is filed in an unlocked drawer within a metal container.

Retrievability: The file contains the name of the employee; therefore retrievability is by the individual's name.

records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the

System manager(s) and address: Director, Personnel Management Division, U.S. Customs Service, Washington, D.C. 20229.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Open card file (3 x 5) is kept in metal flip file.

Retrievability: Narcotic violator case files are cross-referenced by a 3 x 5 alphabetized card which contains both name and case number.

Safeguards: Open card file is kept in the Fines, Penalties and Forfeitures Office which is locked after working hours. During working hours, a staff person is always in the office. The building is under 24-hour guard.

Retention and disposal: File system has a purge date of two years after which cross reference cards are destroyed and case numbered file is no longer accessible by name of the individual.

System manager(s) and address: District Director, United States Customs Service, Room 603, 111 West Huron Street, Buffalo, New York 14202.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in these files is obtained from Search/Arrest and Seizure Reports transmitted to the Fines, Penalties and Forfeitures Office by ports and stations within the district.

Treasury/Customs 00.159

System name: Notification of Personnel Management Division when an employee is placed under investigation by the Office of Internal Affairs—Treasury/Customs.

System location: Personnel Management Division, 500 Dallas Street, Houston, Texas 77002.

Categories of individuals covered by the system: Customs employees who are suspected of misconduct.

Categories of records in the system: A written or telephonic notification made by the Office of Internal Affairs that an investigation has been opened on an individual employee.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Notification serves to notify certain Personnel Management Division employees of the investigation to assure compliance with Chapter 751 of the Customs Personnel Manual which precludes the processing of certain personnel actions while employees are under investigation. Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties. Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation, or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Notifications provided by the Office of Internal Affairs are maintained in a file folder and stored in a metal security cabinet equipped with a lock.

Retrievability: The file contains the name of the employee; therefore retrievability is by the individual's name.

Safeguards: A metal container, described above, is maintained within the area assigned to Personnel Management in the One Allen Center Building. During non-working hours, the room in which the metal container is kept is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: The name file is retained until notification has been received that the investigation has been cancelled or on receipt of a report of investigation from the Office of Internal Affairs.

System manager(s) and address: Director, Personnel Management Division, 500 Dallas Street, Houston, Texas 77002.

Record source categories: The only source of notification that an employee has been placed under investigation is the Regional Director, Internal Affairs.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.160

System name: Operations Officer's (Classification and Value) Work Accomplishments—Treasury/U.S. Customs.

System location: Office of the Regional Commissioner, U.S. Customs Service, Classification and Value Division, 55 East Monroe Street, Suite 1501, Chicago, Illinois 60603.

Categories of individuals covered by the system: Operations Officers in the Classification and Value Division.

Categories of records in the system: Travel File—Names, dates, purpose and locations travelled. Assignments Folder—Correspondence of specific assignments filed by name. Reading File—Copies of all originally written documents filed by name.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in the administration of the Freedom of Information Act (5 U.S.C. 552). (c) Historic record of work accomplishments in one file by name. (d) It is used as a file index to locate the master file record.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folder under secretarial control.

Retrievability: Manual file system.

Safeguards: Stored in the division area away from unescorted public.

Retention and disposal: Filed for five years then destroyed.

System manager(s) and address: Regional Commissioner, U.S. Customs Service, 55 East Monroe, Suite 1501, Chicago, Illinois 60603.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The sources are from the Operations Officers and a copy of typewritten work.

Treasury/Customs 00.161

System name: Optional Retirement List—Treasury/Customs.

System location: Personnel Management Division, U.S. Customs Service, Region I, 100 Summer Street, Boston, Massachusetts 02110.

Categories of individuals covered by the system: All employees who are eligible for optional retirement.

Categories of records in the system: Name, date of mandatory retirement, and service computation date.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the

records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties. (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552). (c) In the event that this system of records includes information which indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature and whether arising by general statute or particular program statute or by regulation, rule, or order issued pursuant thereto the relevant records in the system of records may be referred, as a routine use, to the appropriate agency whether Federal, state, local, or foreign charged with the responsibility of investigating or prosecuting the statute or rule, regulation, or order issued pursuant thereto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee; the issuance of a security clearance; the letting of a contract; or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency in response to its request in connection with the hiring or retention of an employee; the issuance of a security clearance; the reporting of an investigation of an employee; the letting of a contract; or the issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in a locked file cabinet.

Retrievability: By name.

Safeguards: Accessible only to the Personnel Officer. The area in which these records are stored is locked during non-working hours, and the building is guarded by uniformed security police.

Retention and disposal: Records are retained for two years then destroyed.

System manager(s) and address: Director, Personnel Management Division, U.S. Customs Service, Region I, 100 Summer Street, Boston, Massachusetts 02110.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information is obtained from the Employees Service Record Report.

Treasury/Customs 00.162

System name: Organization (Customs) and Automated Position Management System (COAPMS)—Treasury/Customs.

System location: Personnel Management Division, U.S. Customs Service, Washington, D.C. 20229.

Categories of individuals covered by the system: All Customs employees by organizational entity.

Categories of records in the system: Position control number and other personnel data such as social security number, date of birth, name, etc.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 522); (c) Used by managers and planners at all levels for position control purposes.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored on Mag-tape.

Retrievability: Records are indexed by organizational segment, code, position control number, and name.

Safeguards: Limited access.

Retention and disposal: Records are maintained on mag-tapes indefinitely or until employee separation.

System manager(s) and address: Director, Personnel Management Division, U.S. Customs Service, Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: COAPMS is composed of four basic inputs: CF-105-Position Change Form—presently prepared by the Headquarters Personnel Branch and operating offices, Post of Duty Codes—established by the Accounting Division, Ceilings—established by the Budget Division, CF-112—a Request for PPBS Code and Standard Abbreviation of Position.

In addition to these four sources, the IRS payroll tape has many inputs—1150, 1125, 50, 52, union dues, etc., and Accounting tape K from IRS.

Treasury/Customs 00.163

System name: Outside Employment Requests—Treasury/Customs.

System location: Located in the Personnel Management Division of each Region and Headquarters and/or appropriate District, Port, or post of duty office of employee making request.

Categories of individuals covered by the system: All employees engaged in outside employment.

Categories of records in the system: Outside employment request.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in the administration of the Freedom of Information Act (5 U.S.C. 552). (c) Used to ensure the Customs employees are not engaged in other employment that would create a conflict of interest with Customs Service or Treasury Department.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: CF-3031 kept in manila folder.

Retrievability: By employee name.

Safeguards: Locked file cabinet or limited access offices.

Retention and disposal: Until disengagement from outside employment or employee separation.

System manager(s) and address: Director, Personnel Management Division in each regional office and Headquarters and/or appropriate managerial official in each port or district of employee.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Employee submission of form CF-3031.

Treasury/Customs 00.164

System name: Overtime Earnings—Treasury/Customs.

System location: Office of the Regional Commissioner, Region IX, Inspection and Control Division, 55 East Monroe Street, Suite 1501, Chicago, Illinois 60603 and each District Director's office in Region IX.

Categories of individuals covered by the system: U.S. Customs inspectional and warehouse personnel engaged in performance of overtime and reimbursable work assignments in Region IX.

Categories of records in the system: Summary of total overtime earnings for individual employees participating in overtime assignments in Region IX.

Authority for maintenance of the system: Sec. 19 and 24 of the Occupational Safety and Health Act of 1970, 84 Stat. 1609, 1614, 29 U.S.C. 668, 673 and the provisions of Executive Order 11807.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552). (c) Review of overtime earnings to insure required equalization of overtime is maintained in each port in Region IX.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Categories of records in the system: Numbers of hours worked by Special Agents over and above the normal 40 hour week.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Kept in loose leaf binder in alphabetical listing by individual name and kept in the office of the Director, Inspection and Control Division, Region IX.

Retrievability: By individual name in alphabetical order.

Safeguards: Locked in the desk of Director, Inspection and Control Division and made available only to authorized U.S. Customs personnel.

Retention and disposal: Retained for two years then destroyed.

System manager(s) and address: Director, Inspection and Control Division, Region IX, 55 East Monroe, Suite 1501, Chicago, Illinois 60603 and respective District Directors.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Record is compiled from information supplied by employee on Customs Form 6082 (Work Ticket) that is completed for each overtime assignment worked.

Treasury/Customs 00.165

System name: Overtime Earnings—Treasury/Customs.

System location: Inspection and Control Division, San Francisco District, 555 Battery Street, Room 111, San Francisco, CA 94126.

Categories of individuals covered by the system: Inspection and Control employees participating in overtime assignments within the district of San Francisco.

Categories of records in the system: Name and the total current monetary earnings computed to the nearest dollar.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) To maintain records of extra compensation earnings on a yearly basis for each employee in each participating group, i.e., Customs Inspectors, Supervisory Customs Inspectors, Inspectional Aids, etc. (b) A report of the monetary earnings from each overtime participant is given to each station supervisor every two weeks. (c) The report is available to all employees.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information is kept on a visible chart board and the information on earnings is constantly changing.

Retrievability: The individual's name appears alphabetically according to their geographical location within the Port.

Safeguards: The room wherein the visible chart is kept, is locked at other than regular working hours.

Retention and disposal: The information on each employee constantly changes and is maintained as long as the employee is working in the inspection overtime system.

System manager(s) and address: Supervisory Customs Inspector, Station 1, U.S. Customs Service, 555 Battery Street, Room 111, San Francisco, California 94126.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information is obtained from actual overtime earnings made by each employee in the system.

Treasury/Customs 00.166

System name: Overtime Earnings Daily Log Book—Treasury/Customs.

System location: Chief Inspector, 1001 N. American Way, Miami, Fla., Port Director of Customs, Port Everglades, Fla., Port Director of Customs, West Palm Beach, Fla., Director Airport Operations, Miami International Airport.

Categories of individuals covered by the system: All participants in overtime.

Categories of records in the system: Monetary amount of overtime earned.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Supervisors and participants in overtime earnings; (d) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. (e) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (f) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Record is kept in file folders at assignment offices listed under location.

Retrievability: Records are retrievable by name of participant.

Safeguards: Record is kept in non-public portions of listed offices.

Retention and disposal: Records are kept on a calendar year basis and are disposed of after computer printouts are received.

System manager(s) and address: District Director of Customs, 444 Brickell Ave., Miami, Fla. 33131.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information for this record is obtained from the overtime work tickets.

Treasury/Customs 00.167

System name: Overtime Earnings Record—Customs Warehouse Officers—Treasury/Customs.

System location: Office of the Supervisory Warehouse Officer, U.S. Customhouse, Room 103, 2nd & Chestnut Streets, Philadelphia, Pa. 19106.

Categories of individuals covered by the system: Customs Warehouse Officers under the supervision of the Philadelphia District who participate in 1911 Overtime earnings.

Categories of records in the system: Bi-monthly postings of participating employees' actual 1911 Overtime earnings.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each posting is made manually on a 5 inch by 8 inch index card which is filed in the Supervisory Warehouse Officer's desk.

Retrievability: Each card is identified by the name of the Warehouse Officer and his grade.

Safeguards: The records are kept in a closed desk drawer; during working hours, only the Supervisory Warehouse Officer has access to the desk. During non-working hours, the building is either locked or controlled by uniformed guards.

Retention and disposal: Overtime earnings records of Customs Warehouse Officers are kept for one year and then destroyed.

System manager(s) and address: District Director of Customs, U.S. Customhouse, 2nd & Chestnut Streets, Philadelphia, Pa. 19106.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained in these files originates from a bi-monthly data center print-out, number RCS-AA66-10, for the Port of Philadelphia.

Treasury/Customs 00.169

System name: Overtime Log—Treasury/Customs.

System location: U.S. Customs Service, Honolulu International Airport, Honolulu, Hawaii 96819.

Categories of individuals covered by the system: Employees of U.S. Customs Service participating in overtime under the Act of Feb. 13, 1911.

Categories of records in the system: Name, overtime rate, overtime amount earned by date, overtime earned on holiday or Sunday or during any other night, and running total of earnings.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) To keep a record of overtime earnings worked by each individual participant. (b) To keep a record of overtime earnings by different participating groups; i.e., Inspectors, Supervisory Customs Inspectors, Warehouse officers, etc. (c) Used to make a daily list of overtime participants by earnings.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information in this system is contained on loose leaf folder paper in a black binder. This binder is located adjacent to the documents examiner's desk.

Retrievability: Each loose leaf folder paper is identified by name and is filed according to current overtime earnings and participating groups.

Safeguards: The documents examiner's desk is located next to the manifest desk in the U.S. Customs Service office. The manifest desk is manned 24 hours a day, seven days a week by Customs personnel.

Retention and disposal: The files are kept in the binder for one calendar year then placed in a folder, boxed, sealed, labeled and placed in our locked storeroom. The files are destroyed after five years.

System manager(s) and address: District Director of Customs, U.S. Customs Service, Honolulu, Hawaii 96819.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Overtime records are compiled by Customs personnel responsible for accounting for overtime.

Treasury/Customs 00.170

System name: Overtime Reports—Treasury/Customs.

System location: U.S. Customs Service, Office of Investigations, Region V. RDI, 1440 Canal Street, New Orleans, La. 70112; SAC, 600 South Street, Room 444, New Orleans, La. 70130; SAC, P.O. Box 1704, Mobile, Ala. 36601; RA, 1719 West End Building, Rm. 303, Nashville, Tenn., 37203.

Categories of individuals covered by the system: All Special Agents in region certified to receive premium compensation.

Categories of records in the system: Numbers of hours worked by Special Agents over and above the normal 40 hour week.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosure required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) Record of number of unscheduled overtime hours worked by each Special Agent.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These forms are maintained in file folders in a locked filing cabinet.

Retrievability: Files are kept in alphabetical order.

Safeguards: During non-working hours the rooms in which the above described containers are located are locked.

Retention and disposal: These files are maintained on Special Agents and are destroyed three years after agent leaves agency or office.

System manager(s) and address: Regional Director, Investigations, U.S. Customs Service, Office of Investigations, 1440 Canal Street, New Orleans, La. 70112; Special Agent in Charge, Office of Investigations, 600 South Street, Room 444, New Orleans, La. 70130; Special Agent in Charge, U.S. Customs Service, Office of Investigations, P.O. Box 1704, Mobile, Ala., 36601; Resident Agent, U.S. Customs Service, Office of Investigations, 1719 West End Building, Rm. 303, Nashville, Tenn., 37203.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained in these files originates with, and consists solely of information supplied by employees.

Treasury/Customs 00.171

System name: Parking Permit File—Treasury/Customs.

System location: Logistics Management Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, C.C. 20229.

Categories of individuals covered by the system: Individuals and members of car pools to whom vehicle parking permits have been issued.

Categories of records in the system: Name, home phone number, home address, organization, office telephone number, years of service, and make, year, license number and registration number of vehicle.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) Used administratively by Customs Service Headquarters to evaluate applications and to assign and monitor available parking spaces. (d) Disclosure to the General Services Administration for that agency's official use.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information in this system is contained on GSA Forms 7415 (Parking Permit Applications) which consist of index card applications. The index card applications are placed within a file box which is located in a metal file container.

Retrievability: Each index card is identified by the name of the applicant, and the cards are filed alphabetically within the file box.

Safeguards: The card file box is placed within a metal cabinet which is located within an office that is locked during non-working

hours. The building is guarded by uniformed security police, and only authorized persons are permitted in the building.

Retention and disposal: Records are kept on a calendar year basis and are disposed of after computer printouts are received.

System manager(s) and address: District Director of Customs, 444 Brickell Ave., Miami, Fla. 33131.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information for this record is obtained from the overtime work tickets.

Treasury/Customs 00.172

System name: Personnel Security Clearance Records—Treasury/Customs.

System location: Office of Internal Affairs, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Customs employees and applicants for employment with Customs.

Categories of records in the system: Records of background investigations and security clearances.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are kept in file folders in locked file cabinets.

Retrievability: Records are retrievable by name of individual.

Safeguards: Records are kept in non-public portions of listed offices.

Retention and disposal: Records are kept for the duration of employment with Customs.

System manager(s) and address: Director, Internal Affairs, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information for this record is obtained from the individual, Customs employees, and other Federal agencies.

Treasury/Customs 00.173

System name: Personnel Security Clearance Records—Treasury/Customs.

System location: Office of Internal Affairs, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Customs employees and applicants for employment with Customs.

Categories of records in the system: Records of background investigations and security clearances.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are kept in file folders in locked file cabinets.

Retrievability: Records are retrievable by name of individual.

Safeguards: Records are kept in non-public portions of listed offices.

Retention and disposal: Records are kept for the duration of employment with Customs.

System manager(s) and address: Director, Internal Affairs, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information for this record is obtained from the individual, Customs employees, and other Federal agencies.

Treasury/Customs 00.174

System name: Personnel Security Clearance Records—Treasury/Customs.

System location: Office of Internal Affairs, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Customs employees and applicants for employment with Customs.

Categories of records in the system: Records of background investigations and security clearances.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are kept in file folders in locked file cabinets.

Retrievability: Records are retrievable by name of individual.

Safeguards: Records are kept in non-public portions of listed offices.

Retention and disposal: Records are kept for the duration of employment with Customs.

System manager(s) and address: Director, Internal Affairs, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information for this record is obtained from the individual, Customs employees, and other Federal agencies.

Treasury/Customs 00.175

System name: Personnel Security Clearance Records—Treasury/Customs.

System location: Office of Internal Affairs, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Customs employees and applicants for employment with Customs.

Categories of records in the system: Records of background investigations and security clearances.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are kept in file folders in locked file cabinets.

Retrievability: Records are retrievable by name of individual.

Safeguards: Records are kept in non-public portions of listed offices.

Retention and disposal: Records are kept for the duration of employment with Customs.

System manager(s) and address: Director, Internal Affairs, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information for this record is obtained from the individual, Customs employees, and other Federal agencies.

hours. The building is guarded by uniformed security police, and only authorized persons are permitted in the building.

Retention and disposal: Active index cards are retained in this system indefinitely. However, the information in this sytem is reviewed every six months, and outdated index cards are discarded.

System manager(s) and address: Chief, Headquarters Support Branch, Logistics Management Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in this system originates with, and consists solely of, information supplied by the applicant(s) on GSA Form 7415 (Parking Permit Application).

Treasury/Customs 00.172

System name: Parking Permits File (N.Y. Region)—Treasury/Customs.

System location: U.S. Customs Service, Assistant Regional Commissioner (Administration), 6 World Trade Center, New York, N.Y. 10048.

Categories of individuals covered by the system: Organizational units and persons holding parking permits.

Categories of records in the system: Name of person issued parking permit, and number of parking spot assigned.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosure required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) To keep track of permits issued and to identify the holder of the permit if violations occur or problems develop (i.e. car lights left on).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files.

Retrievability: By name.

Safeguards: Office locked at night.

Retention and disposal: Retained until changed.

System manager(s) and address: Regional Commissioner of Customs, U.S. Customs Service, 6 World Trade Center, New York, N.Y. 10048.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information is compiled when parking permit is assigned.

Treasury/Customs 00.175

System name: Patrol Division Daily Activity Report—Treasury/Customs.

System location: Offices of the Patrol Division, Chicago District, Detroit District and Pembina District, Region IX, Chicago, Illinois. See Customs Appendix A.

Categories of individuals covered by the system: Individuals employed as Customs Patrol Officers.

Categories of records in the system: Internal Patrol Division folder maintained by Director, Patrol, by name to record work performance on a daily basis of each individual Patrol Officer. Also, individual record of scheduled overtime, sick or annual leave hours.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Used to maintain evaluation rating on employees of Patrol Division;

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files.

Retrievability: By name.

Safeguards: File folders are kept in a locked metal file cabinet which is located in an office that is locked during non-working hours.

Retention and disposal: Folders are maintained for the duration of an employee's service with the Patrol Division and then destroyed.

System manager(s) and address: Supervisory Customs Patrol Officers, Chicago District, Detroit District and Pembina District, Region IX, Chicago, Illinois. See Customs Appendix A.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained in this record system originates from reports of Customs Patrol Officers involving records of their daily patrol activities.

Treasury/Customs 00.176

System name: Patrol Information Data System—Treasury/Customs.

System location: Office of Director, District Patrol Division, U.S. Customs Service, Room 1400 Customhouse, Boston, Massachusetts 02109.

Categories of individuals covered by the system: Customs violators, suspects, known narcotic violators; business names; suspect vessels, aircraft and vehicles.

Categories of records in the system: Name, address and numerical file reference number and date.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the record contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Used as an aid to investigating suspected law violations. Used to alert patrol officers of persons to watch for;

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 3 x 5 index card with name, address and related number filed in metal index file drawer.

Retrievability: By name.

Safeguards: The metal index file is maintained within the office of Director, District Patrol Division. The room is locked during non-working hours.

Retention and disposal: These files are retained for a period of three years and then destroyed.

System manager(s) and address: District Director of Customs, U.S. Customshouse, 2 India Street, Boston, Massachusetts 02109.

Notification procedure: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Record source categories: Same as Notification above.

Systems exempted from certain provisions of the act: Same as Notification above.

Treasury/Customs 00.177

System name: Patrol Officer Activity Listing—Treasury/Customs.

System location: Regional Patrol Division, U.S. Customs Service, Region I, 100 Summer Street, Boston, Mass. 02110.

Categories of individuals covered by the system: Employees of the Regional Patrol Division, Boston, Massachusetts.

Categories of records in the system: Ledger listing of arrests, seizures and other job-related activities.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Used as an administrative tool to keep track of the activities performed by each patrol officer;

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Ledger.

Retrievability: Alphabetical by name.

Safeguards: Locked file.

Retention and disposal: Individual record retained while employee is assigned to the Regional Patrol Division. Upon separation of employee, individual record is destroyed.

System manager(s) and address: Director, Regional Patrol Division, U.S. Customs Service, Region I, 100 Summer Street, Boston, Massachusetts 02110.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information is obtained from reports prepared by the Patrol Officers.

Treasury/Customs 00.178

System name: Payroll Administration/Problems—Treasury/Customs.

System location: Personnel Management Division, U.S. Customs Service, Region I, 100 Summer Street, Boston, Massachusetts 02110.

Categories of individuals covered by the system: Any individual employed by Region I who has a payroll problem.

Categories of records in the system: Name, social security number, office location, type of problem and background.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such nses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter;

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in locked cabinet.

Retrievability: By District and name.

Safeguards: Records are accessible to employees of Personnel Management Division whose duties require them to use these records. In addition to being stored in a locked cabinet, the area in which the records are located is locked during non-working hours and the building is guarded by uniformed security police.

Retention and disposal: Records are destroyed three months after resolution of the problem.

System manager(s) and address: Director, Personnel Management Division, U.S. Customs Service, Region I, 100 Summer Street, Boston, Massachusetts 02110.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information is supplied by the employee who has the problem.

Treasury/Customs 00.180

System name: Payroll Record of Employees Not Covered By The Automated System—Treasury/Customs.

System location: Financial Management Division, U.S. Customs Service, Region I, 100 Summer Street, Boston, Massachusetts 02110.

Categories of individuals covered by the system: Records of various types of earnings and taxes withheld from employees who are not covered by the automated payroll system.

Categories of records in the system: Recorded detail of earnings and taxes.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) The system is used as a record for reporting and paying payroll taxes;

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data is placed in a file folder maintained in an unlocked file cabinet located within the Payment Section work area.

Retrievability: Each file is identified by the name of the individual.

Safeguards: The file is located within an office that is locked during non-working hours. The building is guarded by uniformed security police and only authorized persons are permitted entry to the building.

Retention and disposal: The files are retained for two years on the premises and then sent to the Federal Records Center where they are retained for three years and then destroyed.

System manager(s) and address: Director, Financial Management Division, U.S. Customs Service, 100 Summer Street, Boston, Massachusetts 02110.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in the system originates

system of records is proposed to be exempted and the justification for

state, local, or foreign charged with the responsibility of investigating or prosecuting the statute or rule, regulation, or order issued pursu-

CF 5211-(Record Group 217) Retained for 10 yrs. and 3 months and destroyed by shredding after clearance by Security and Audit.

Record source categories: The information in the system originates from the individual's preparation of his travel voucher and compensation forms.

Treasury/Customs 00.182

System name: Penalty Case File—Treasury/Customs.

System location: Office of Regional Commissioner of Customs, 100 Summer Street, Boston, Massachusetts 02110.

Categories of individuals covered by the system: Individuals who have submitted supplemental petitions in relation to penalties, claims for liquidated damages or forfeitures of property which are being processed by the U.S. Customs Service, Region I and which have been referred to the Regional Commissioner of Customs, Region I.

Categories of records in the system: (a) Reports relative to the circumstances of an alleged violation (including any Customs forms or documents relating to the incident, agents' investigative reports, seizure reports); (b) Reports relative to an individual's economic interest in a penalty case; (c) Investigative reports relative to claims made in petitions for relief; (d) Recommendations made by other Government agencies that have an interest in the case.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter;

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are indexed by name of alleged violator.

Safeguards: Open case files maintained in file cabinets with access by Regional Counsel and his staff only; closed case files maintained in locked file cabinet with keys retained by Regional Counsel and his staff only.

Retention and disposal: Retained indefinitely or until there is no longer any space available within metal cabinets, at which time the oldest files are transferred to the Federal Records Center.

System manager(s) and address: Regional Commissioner of Customs, 100 Summer Street, Boston, Massachusetts 02110.

Notification procedure: See Customs Appendix A.

Contesting record procedures: See Exemption below.

Record source categories: The information contained in these files is received from U.S. Customs employees, reports of investigation, petitions for relief, other Government agencies with an interest in the case and members of the general public who have pertinent information.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a(j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.183

System name: Personal Search (Negative)—Treasury/ Customs.

System location: All ports, Region IX, Chicago, Illinois.

Categories of individuals covered by the system: All individuals subject to U.S. Customs inspection.

Categories of records in the system: Records contain date, time and place of search in addition to reason for and result of search, names of Customs officers conducting and authorizing search, name and address and date of birth of parties searched.

Authority for maintenance of the system: 19 U.S.C. 482; 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552);

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are located in Port Office.

Retrievability: Records kept in alphabetical order.

Safeguards: The cabinet described above is maintained within the area assigned in the Customs office. During non-working hours the room and/or building in which the cabinet is located is locked.

Retention and disposal: Files are retained in Port Office for five years after which they are destroyed.

System manager(s) and address: District Directors/Port Directors as applicable, in Region IX, Chicago, Illinois.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Form is prepared by Customs offices performing the personal search and is the sole source of information.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.184

System name: Personal Search N.Y. District (Negative results)—Treasury/Customs.

System location: District Director, U.S. Customhouse, 127 North Water Street, Ogdensburg, NY 13699.

Categories of individuals covered by the system: Any person who an inspector at any port or station in the district has deemed should be searched because of his appearance, associations, or other valid reason.

Categories of records in the system: Name, address, date of birth, social security number, place of birth, occupation, driver's license number, and other identification number.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Means of determining number of personal searches being performed (to see authority is not abused). Establishes a record in case of complaint; (b) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (c) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (d) In the event that this system of records includes information which indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature and whether arising by general statute or particular program statute or by regulation, rule, or order issued pursuant thereto the relevant records in the system of records may be referred, as a routine use, to the appropriate agency whether Federal,

state, local, or foreign charged with the responsibility of investigating or prosecuting the statute or rule, regulation, or order issued pursuant thereto; (e) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee; the issuance of a security clearance; the letting of a contract; or the issuance of a license, grant, or other benefit; (f) A record from this system of records may be disclosed to a Federal agency in response to its request in connection with the hiring or retention of an employee; the issuance of a security clearance; the reporting of an investigation of an employee; the letting of a contract; or the issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter;

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file jackets in steel file cabinet.

Retrievability: By name.

Safeguards: Available to the District Director and authorized personnel of his staff only.

Retention and disposal: Retained for five years then destroyed by burning or shredding.

System manager(s) and address: District Director, U.S. Customhouse, 127 North Water Street, Ogdensburg, N.Y. 13699.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: From inspectors throughout the district.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justifiication for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.185

System name: Personal Search—Negative (District Director—Mobile, Alabama)—Treasury/Customs.

System location: District Director of Customs, Room 218, International Trade Center, 250 North Water Street, Mobile, Alabama 36602.

Categories of individuals covered by the system: Individuals who have been subjected to search by Customs Officers in which no arrest or seizure is made.

Categories of records in the system: CF 151-Search/Arrest/Seizure Report: Used to record any occasion when a Customs Officer is involved or participates in a personal search, an arrest, or a seizure of merchandise or contraband articles. CF 5211-Record Log of Fines, Penalties and Forfeitures-Record, by case number, of all CF 151's issued; reflects name and address of person searched, name of searching officer, reason for search, and brief summary of the situation which resulted in the search.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552);

For additonal routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Violator name and/or penalty case number.

Safeguards: In file cabinets in secure office area which is locked when not occupied, in building with 24-hour guard service.

Retention and disposal: Maintained with penalty case files for five years and after clearance by Security and Audit, shredded on site. CF 5211-(Record Group 217) Retained for 10 yrs. and 3 months and destroyed by shredding after clearance by Security and Audit.

System manager(s) and address: District Director of Customs, P.O. Box 2748, Mobile, Alabama 36601.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Individual involved. Arrest and violation records from Federal, state and local police. Customs Officers. TECS Query and NCIC Query—These systems provide data by name, license numbers and other numerical identifiers on prior records of violations.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.186

System name: Personal Search—Negative (District Patrol—New Orleans, La. and Mobile, Al.)—Treasury/Customs.

System location: Office of the Director, District Patrol, 600 South Street, New Orleans, Louisiana 70130; Director, District Patrol Division, Room 213, International Trade Center, 250 International Trade Center, 250 N. Water Street, Mobile, Al. 36602.

Categories of individuals covered by the system: Individuals indicating unlawful or suspicious activity that might result in a Customs violation.

Categories of records in the system: Name, address, phone number, place of business, physical description, associates, vessel, automobile, or aircraft identified with, make, year, license number and registration of vehicles, area of activity, method of operation and other relevant and necessary information on individuals suspected of activity contrary to law.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statue or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employeee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter;

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained in standard Customs file folders in locked metal cabinets.

Retrievability: System indexed by identifying file number and manually retrieved.

Safeguards: File maintained in locked metal file cabinet, the keys of which are controlled by the custodian of the files. Those department-

al officials who may occasionally be granted access, consistant with their positions, have been cleared by a full field background investi-

violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has

al officials who may occasionally be granted access, consistant with their positions, have been cleared by a full field background investigation and granted appropriate security clearance for critical sensitive positions. During non-working hours, the room housing the metal cabinets is locked.

Reteation and disposal: Negative Search Reports are destroyed after a five year period. Method of disposal is shredding.

System manager(s) and address: Director, District Patrol Division, 600 South Street, New Orleans, Louisiana 70130.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in this sytem originates with, and consists soely of, information supplied by the individual being searched and the patrol officer doing the search.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.187

System name: Personal Search File—Treasury/Customs.

System location: U.S. Customs Service, Honolulu International Airport, Honolulu, Hawaii 96819.

Categories of individuals covered by the system: Passengers, arriving from foreign countries, the Customs Service found necessary to search.

Categories of records in the system: Name, address, date, time; date of bith, region, port, race, sex, carrier, (airline and flight number), description, passport number, birth place, social security number, marital status, citizenship, reasons for search, searching officer, witness, result of search, search authorized by, and extent or type of search.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system are as follows: (a) All three forms used in this system are kept so as to have a clear and concise record of all searches conducted by the U.S. Customs Service; (b) The files are used to answer all inquiries into any aspect of any personal searches conducted at this station; (c) The current CF 151 file is used as the primary input document for the Customs Law Enforcement Activity Reporting (CLEAR) system which provides, in turn, accurate and timely statistical reporting; (d) Disclosure to officers and employees of the Customs Service and the Department of the Treasury who have a need for records in the performance of their duties; (e) Disclosure required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information in this system is contained on Region Form VIII-RC-51-BNF, CF 43, CF 151. These forms are found in binders on the reference shelves in the Customs office.

Retrievability: Each form is identified by name and is filed alphabetically. The files are further broken down by form number and calendar year.

Safeguards: The files are located in the Customs office. This office is manned 24 hours a day, 7 days a week by Customs personnel.

Retention and disposal: Active file forms are kept for five years. After five years the files are destroyed.

System manager(s) and address: District Director of Customs, U.S. Customs Service, Honolulu, Hawaii 96819.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained in these files originates from personal searches conducted on passengers arriving from foreign destinations.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in Federal Register.

Treasury/Customs 00.188

System name: Personel Search Report—Treasury/Customs.

System location: Ports of enry, —Nogales, Arizona District.

Categories of individuals covered by the system: Persons on whom personnel searches are performed at the various ports of entry.

Categories of records in the system: Customs Form 151 containing personal information on individual searched and reasons for search.

Authority for maintenance of the system: 19 U.S.C. 1467, 5 U.S.C. 301; Treasury Department, Order No. 165 Revised as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Retained as record to answer inquires into any aspects of personal searches conducted by the Customs Service. Disclosed to Treasury Department Personnel as necessary for performance of duties. Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each CF 151 covering personal searches is maintained in alphabetical order at the various ports of entry.

Retrievability: By name of person searched.

Safeguards: Records are retained in file cabinets (lockable) and buildings are locked during other than office hours.

Retention and disposal: Records are retained for 5 years and destroyed by burning.

System manager(s) and address: Port Directors at the various ports of entry in the Nogales, Arizona District.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information contained herein originates with the Inspector and contains personal information obtained from the individual searched and reasons for performing the search.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.189

System name: Personnel Action Records System—Treasury/Customs.

System location: Office of the Regional Counsel, U.S. Customs Service, Region IX, 55 E. Monroe Street, Room 1417, Chicago, Illinois 60603.

Categories of individuals covered by the system: Persons employed by the Treasury Department, Customs Service who either initiate a grievance, discrimination complaint, an unfair labor practice complaint against the U.S. Customs Service and officer or employee therof, or have a disciplinary or other adverse action initiated against him or her by the U.S. Customs Serivce in Region IX.

Categories of records in the system: The Personnel Action Records System contains information regarding employment history, i.e. basic personnel data, age, birth, marital status, address, phone number, general health, details of the incident leading to the grievance, discrimination complaint, disciplinary action, adverse action, or unfair labor practice complaint.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in the Personnel Action Records System of the United States Customs Service are as follows: (a) Disclosure to those officers and employees of the Customs Service, the Department of the Treasury, the Civil Service Commission, and the Department of Justice who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential

violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) Information contained in these files is routinely used by the attorneys in the Regional Counsel's office in determining and resolving legal issues related to the personnel action involved, in preparing for, and representing management in, administrative hearings and administrative appeals, and providing information and assistance to U.S. Attorneys and the Department of Justice in litigation. Potential litigation or litigation will require disclosure of the information to the Department of Justice, and this information is often channeled through the Department of the Treasury.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in a file folder which is filed in a lockable drawer within a metal filing cabinet container.

Retrievability: Each case file is identified in a manual alphabetical card file by the name of the person who initiated the action against the Customs Service, or against whom it was initiated. In addition, each case file is similarly identified on the file folder with the alphabetical name on the file which is placed and located within the metal container.

Safeguards: The metal filing drawer containing the files described above is maintained within the area assigned to the office of the Regional Counsel, Region IX at 55 E. Monroe Street, Chicago, Illinois. During non-working hours, the room in which the metal filing drawer is located is locked, the file container itself is locked, and access to the building is controlled at all times by uniformed guards with a check-in system for employees. Only employees of the Regional Counsel's office and authorized building personnel have keys to the building.

Retention and disposal: These files are retained indefinitely or until there is no longer space available for them within the metal filing cabinet at which time the oldest files are transferred to the storage area within the confines of the office. The storage area is a large area containing cardboard boxes and metal storage cabinets which are not able to be locked. Files which are closed and not retained for precedent purposes are retired to the Federal Records Center, General Service Administration, 7358 S. Pulaski, Chicago, Illinois 60602 in accordance with the U.S. Customs Service Record Disposal Manual.

System manager(s) and address: Regional Counsel of Customs, Room 1417, United States Customs Service, 55 E. Monroe Street, Chicago, Illinois 60603.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files originates with the initiation of any personnel action either by or against an employee. The information submitted by the employee is in the file as will be the information submitted by the employer if the action is initiated by the employer. Further information in this file is derived from both employee and employer information of an investigation made by the Office of Internal Affairs, investigation reports by the Office of Investigations, memoranda from the Civil Service Commission and possibly other agencies having employed the individual. Information could also be obtained form Customs employees, former Customs employees, private parties, corporations, confidential informers, credit bureaus, foreign countries or officials thereof, foreign citizens and any other source with information pertinent to the Personnel Action.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.190

System name: Personnel Case File—Treasury/Customs.

System location: Office of the Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Current or former Customs Service employees against whom disciplinary action has been proposed or taken, who have filed grievances, and who have filed complaints under the Equal Opportunity (EO) Program, in most cases where administrative proceedings have been instituted.

Categories of records in the system: Reports of investigation into alleged employee misconduct, internal Customs Service memoranda recommending displinary action, documents relating to the institution or conduct of disciplinary proceedings, documents relating to the filing and administrative disposition of formal and informal grievances and documents relating to the filing and administrative disposition of EO complaints.

Authority for maintenance of the system: Title 5, United States Code; Title 5, Code of Federal Regulations; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties. Such duties may include evaluating proposed disciplinary actions, grievances and EO complaints, recommending action to be taken in such cases, preparing necessary decisional documents in such cases, preparing proposed charges where appropriate, preparing for administrative hearings held in regard to these matters and making the records a part of the record at such hearings; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Disclosure to the Civil Service Commission in connection with administrative hearings and to the Department of Justice in connection with court proceedings resulting from appeals from decisions rendered at the administrative level. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted alphabetically in an unlocked drawer within a metal container.

Retrievability: Each case file is identified in a manual alphabetical card file by the name of the person, and each case file is similarly identified in alphabetical order within the metal container.

Safeguards: The metal container described above is maintained within the area assigned to the Office of the Chief Counsel within the Customs Service Building. During nonworking hours, the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: These files are retained indefinitely or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Record Center.

System manager(s) and address: Chief Counsel, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files results from investigations into alleged misconduct on the part of Customs Service employees, recommendations from appropriate Customs Service field personnel that disciplinary proceedings be instituted against Customs Service employees, the filing of grievances by Customs Service employees, the filing of EO complaints by Customs Service employees, the statements of Customs Service employees including the employees who are directly affected by the administrative proceedings, and statements or other information provided by private nongovernmental individuals.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements

of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears else-

of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for

System manager(s) and address: Director, Personnel Management Division in each Region or Headquarters, or managerial official in

of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.191

System name: Personnel Case File—Treasury/Customs.

System location: Regional Counsel of Customs, 6 World Trade Center, New York, N.Y 10048.

Categories of individuals covered by the system: Current or former Customs Service employees against whom disciplinary action has been proposed or taken, who have filed grievances, and who have filed complaints under the Equal Opportunity (EO) Program, in most cases where administrative proceedings have been instituted.

Categories of records in the system: Reports of investigation into alleged employee misconduct, internal Customs Service memoranda recommending disciplinary action, documents relating to the institution or conduct of disciplinary proceedings, documents relating to the filing and administrative disposition of formal and informal grievances and documents relating to the filing and administrative disposition of EO complaints.

Authority for maintenance of the system: Title 5, United States Code; Title 5, Code of Federal Regulations; 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) The information contained in this file is used administratively to evaluate proposed disciplinary actions, grievances and EO complaints, to recommend action to be taken in such cases, to prepare necessary decisional documents in such cases, and to prepare proposed charges where appropriate. The information contained in this file is used to prepare for administrative hearings held in regard to these matters and is routinely made a part of the record at such hearings. Information contained in this file is also made available to the Civil Service Commission in connection with such hearings and may be made available to the Department of Justice in connection with court proceedings resulting from appeals from decisions rendered at the administrative level; (b) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (c) Disclosures required in administration of the Freedom of Inforamtion Act (5 U.S.C. 552);

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted alphabetically in an unlocked drawer within a metal container.

Retrievability: Each case file is identified in a manual alphabetical card file by the name of the person, and each case file is similarly identified in alphabetical order within the metal container.

Safeguards: The metal container described above is maintained within the area assigned to the Office of the Chief Counsel within the Customs Service Building. During non-working hours, the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: These files are retained indefinitely or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

System manager(s) and address: Regional Counsel of Customs, New York, N.Y. 10048.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files results from investigations into alleged misconduct on the part of Customs Service employees, recommendations from appropriate Customs Service field personnel that disciplinary proceedings be instituted against Customs Service employees, the filing of grievances by Customs Service employees, the filing of EO complaints by Customs Service employees, the statements of Customs Service employees including the employees who are directly affected by the administrative proceedings, and statements or other information provided by private non-governmental individuals.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.192

System name: Personnel Case Files (Region VIII)—Treasury/Customs.

System location: Office of the Regional Counsel, 211 Main Street, San Francisco, Calif. 94105.

Categories of individuals covered by the system: Current or former Customs Service employees against whom disciplinary action has been proposed or taken, who have filed grievances, and who have filed complaints under the Equal Opportunity (EO) Program, in most cases where administrative proceedings have been instituted.

Categories of records in the system: Reports of investigation into alleged employee misconduct, internal Customs Service memoranda recommending disciplinary action, documents relating to the institution or conduct of disciplinary proceedings, documents relating to the filing and administrative disposition of formal and informal grievances and documents relating to the filing and administrative disposition of EO complaints.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; Reorganization Plan No. 1 of 1965. Title 5, United States Code; Title 5, Code of Federal Regulations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) The information contained in this file is used administratively to evaluate proposed disciplinary actions, grievances and EO complaints, to recommend action to be taken in such cases, and to prepare necessary decisional documents in such cases, and to prepare proposed charges where appropriate. The information contained in this file is used to prepare for administrative hearings held in regard to these matters and is routinely made a part of the record at such hearings. Information contained in this file is also made available to the Civil Service Commission in connection with such hearings and may be made available to the Department of Justice in connection with court proceedings resulting from appeals from decisions rendered at the administrative level.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted alphabetically in an unlocked drawer within a metal file cabinet.

Retrievability: Each case file is identified in a manual alphabetical card file by the name of the person, and each case file is similarly identified in alphabetical order within the metal file cabinet.

Safeguards: The metal file cabinet described above is maintained within the area assigned to the Office of the Regional Counsel within the Federal Building. During non-working hours, the metal file cabinet and the room in which the metal file cabinet is located are locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: These files are retained indefinitely or until there is no longer any space available for them within the metal file cabinet, at which time the oldest files may be transferred to the Federal Records Center.

System manager(s) and address: Regional Counsel, 211 Main Street, San Francisco, Calif. 94105.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files results from investigations into alleged misconduct on the part of Customs Service employees, recommendations from appropriate Customs Service field personnel that disciplinary proceedings be instituted against Customs Service employees, the filing of grievances by Customs Service employees, the filing of EO complaints by Customs Service employees, the statements of Customs Service employees including the employees who are directly affected by the administrative proceedings, and statements or other information provided by private non-governmental individuals.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements

of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.193

System name: Operating Personnel Folder Files—Treasury/Customs.

System location: Files are located in Headquarters, Regional, District, Port and other post of duty offices throughout the Customs Service depending upon post of duty of employee. See Customs Appendix A.

Categories of individuals covered by the system: Customs employees, present.

Categories of records in the system: In addition to the appropriate Personnel offices, records are also maintained by district, port, or other post of duty management on personnel matters such as, but not limited to name, Social Security number, awards, letters of appreciation, promotions, step increases, memoranda, forms and materials related to hiring, address, pay, transfer and separation, service time, salary, phone, education, society memberships, publications, skills, chronological work history, position descriptions, reports of discussions held with employee regarding performance, copies of letters written to employee concerning performance, overtime hours, senority status, leave, overtime earnings, productivity, locator card information, and related employment records.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552);(c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regultion, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) For supervisors and appropriate managers in making job-related determinations about employees(g) For employment and salary verification upon request from public.

For additonal routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, and/or on index cards, and/or ledgers.

Retrievability: Records are indexed by name, or social security number.

Safeguards: Records are located in lockable metal file cabinets or in secured rooms with limited access.

Retention and disposal: When the employee leaves the Customs Service through transfer or other separation, the file will immediately be forwarded to the office maintaining the Official Personnel Folder. There it will be screened to insure that it contains no documents that should be permanently filed in the Official Personnel Folder other than exact duplicates of papers already so filed. The file and its contents will then be destroyed.

System manager(s) and address: Director, Personnel Management Division in each Region or Headquarters, or managerial official in appropriate posts of duty of employee. See Customs Appendix A.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information in this system of records comes from employee, from personnel actions as noted in official personnel folders, and from supervisor.

Treasury/Customs 00.194

System name: Personnel/Payroll System—Treasury/Customs.

System location: Located in Personnel and Financial Management Divisions of each region and headquarters. Computerized through a Servicing Data Processing Center. See Customs Appendix A.

Categories of individuals covered by the system: All Customs employees, present and former.

Categories of records in the system: These records contain Personnel data maintained primarily in the Official Personnel Folder and Payroll information such as name, social security number, grade, series, step, organizational codes, tax withholding information, bond purchase and issuance, emergency salaries, overtime and holiday pay, optional payroll deductions, other deductions, and all payroll information. Also in this system are records of time and attendance and leave.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision conerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) Records are used for payroll processing, reports on payroll information such as Employee Service Record report (IRS Form 3695), Comprehensive Payroll listing (IRS Form 2979), Payroll Journal Detail Listing (IRS Form 3124) and others.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and on mag-tape and computer printout.

Retrievability: Records are indexed by name or social security number.

Safeguards: Records are maintained in locked files, secured rooms, or limited access.

Retention and disposal: Individual records are not in system after separation; Official Personnel Records of separated employees either are sent to new agency or to Records Center. Time and attendance records are maintained three years or until after audit, then destroyed.

System manager(s) and address: Directors, Personnel and Financial Management Division in each region and headquarters.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Record source categories: The information contained in the system is obtained from the Bi-weekly Comprehensive Payroll Listing,

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information is obtained from Official Personnel Folders employee management, Time and attendance and leave records.

Treasury/Customs 00.196

System name: Preclearance Costs—Treasury/Customs.

System location: Financial Management Division, U.S. Customs Service, Region 1, 100 Summer Street, Boston, Massachusetts 02110.

Categories of individuals covered by the system: All Customs Inspectors and Foreign Service employees of Region 1, Boston who are stationed at Toronto and Montreal Canada.

Categories of records in the system: Salaries, living allowances and benefits paid to employees who are stationed at Toronto and Montreal, Canada.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) The system is used by the Budget Section of the Financial Management Office to accumulate costs which are used for the preparation of quarterly reporting to Headquarters. These costs are used by Headquarters as the basis of assessment of charges to airline carriers for the use of Customs facilities outside of the United States.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data is stored in a file folder within two metal file cabinets in the work area of the Budget Section.

Retrievability: The file is identified as the "Pre-clearance Record" which contains the names of all employees listed in alphabetical order with corresponding costs associated with each employee.

Safeguards: The file is located within an office that is locked during non-working hours. The building is guarded by uniformed security police and only authorized persons are permitted entry to the building.

Retention and disposal: The files are kept for 3 years and then destroyed.

System manager(s) and address: Director, Financial Management Division, U.S. Customs Service, 100 Summer Street, Boston, Massachusetts 02110.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained in the system is obtained from the Bi-weekly Comprehensive Payroll Listing, Treasury Form 2979, supplied by the Payroll Data Center.

Treasury/Customs 00.197

System name: Private Aircraft/Vessel Inspection Reporting System—Treasury/Customs.

System location: Office of Enforcement Support, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Names of pilots and vessel masters arriving in the United States.

Categories of records in the system: Names and personal identifiers of pilots, vessel masters, and owners of vessels with appropriate registration and/or documentation numbers and characteristics, and arrival dates at port of entry.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165; Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Used by Customs Officers for documenting the arrival of aircraft or vessels from foreign countries and in the enforcing of Customs and related laws; (b) Used for Customs management functions such as measuring workload of Customs officers performing aircraft or vessel inspections; (c) Used as an intelligence gathering source; (d) Used by Department of Justice in prosecuting court cases; (e) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (f) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic disc and tape storage; microfiche.

Retrievability: By individual name, private aircraft/vessel registration number; vessel name.

Safeguards: All inquiries are made by officers with full field background investigation on a "need to know" basis only. Procedural and physical safeguards are utilized such as accountability and receipt records, guards patrolling the area, restricted access and alarm protection systems, special communications security, etc.

Retention and disposal: Indefinite, then destroyed. (Minimum of five years for aircraft arrival reports.)

System manager(s) and address: Assistant Commissioner, Office of Enforcement Support, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Proposed Customs Form 178 (Private Aircraft Inspection Report) which will be prepared by Customs officers, unnumbered forms prepared by vessel masters or owners who report their arrival to a United States port of entry, and other Federal agencies.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a(k)(z) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.199

System name: Property Assigned to Employee—Treasury/Customs.

System location: District Director's Office, Entry Control Section, U.S. Customs Service, 228 Federal Bldg., 335 Merchant Street, Honolulu, Hawaii 96813.

Categories of individuals covered by the system: Customs employees.

Categories of records in the system: Individual assignment of Customs badges, listing name, Social Security number and duty phone. Signed by Custodian and Property Officer.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Local Property Officer to determine individual badge assignments.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Kept in alphabetical order in an unlocked filing cabinet in the Entry Control Section.

Retrievability: By name.

Safeguards: The office where the records are located is locked during non-working hours and access to the building is controlled at all times by uniformed guards.

Retention and disposal: The records are maintained for the duration of the property assignment. Outdated records are destroyed after 3 years.

System manager(s) and address: Local Property Officer, Room 228, federal Building, Entry Control Section. See location above.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information is provided by the property officer and the person to whom the property is assigned.

Treasury/Customs 00.200

System name: Property File—Treasury/Customs.

System location: Logistics Management Division, Region IV; U.S. Customs Service, 99 S.E. 5th Street, Miami, Florida 33131.

Categories of individuals covered by the system: Any Customs employee who is designated as the official custodian of a serially numbered badge, weapon, or transportation request forms.

Categories of records in the system: Name, geographical location and number of item assigned.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Used administratively by Customs Service employees to record names of individuals designated as custodians of accountable property.

For additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information in this system is stored, in printout form, in files organized by District. The file folders are stored in an unlocked drawer in a metal file cabinet.

Retrievability: Each folder is filed by District.

Safeguards: The files are stored in a metal cabinet located within an office that is locked during non-working hours.

Retention and disposal: Records have been retained since the inception of the system, three years. No policy exists for disposal.

System manager(s) and address: Director, Logistics Management Division, U.S. Customs Service, Region IV, 99 S.E. 5th Street, Miami, Florida 33131.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The source document for this record is the Customs form 35.

Treasury/Customs 00.201

System name: Property File—Non-Expendable-Treasury/Customs.

System location: Offices of District Directors, Region IX, Chicago, Illinois (see Customs Appendix A).

Categories of individuals covered by the system: Employees issued non-expendable property.

Categories of records in the system: Receipts for badges, cap insignias, bonded warehouse keys, identification cards, Government driver's licenses, firearms and other non-expendable property.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Locked file cabinet in the offices of the District Directors in Region IX, Chicago, Illinois.

Retrievability: Folders identified by individual's name.

Safeguards: The file described is maintained in the offices of the District Directors in Region IX, Chicago, Illinois. During non-working hours the room/building in which the file is located is locked. Access limited to authorized Customs personnel.

Retention and disposal: Until employee separates/transfers. Transfer to National Personnel Records Center (NPRC), (CPR), St. Louis, Missouri, 30 days after employee is separated.

System manager(s) and address: District Directors in Region IX, Chicago, Illinois.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in this system consists of receipts of employees receiving non-expendable property.

Treasury/Customs 00.203

System name: Receipt for Property Assigned—Treasury/Customs.

System location: Federal Building, Room 198, 511 N.W. Broadway, Portland, Oregon 97209.

Categories of individuals covered by the system: Employees of Portland District to whom property has been assigned.

Categories of records in the system: Name, address, Social Security number, and listing of articles assigned.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To make accountable those employees to whom property has been assigned.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in wooden index card file on desk of property clerk.

Retrievability: Cards are filed alphabetically by name of individual.

Safeguards: The office and building are locked during non-working hours.

Retention and disposal: Retained 2 years after transfer or separation; then destroyed.

System manager(s) and address: District Director, Federal Building, Room 198, 511 N.W. Broadway, Portland, Oregon 97209.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Cards filled out by property clerk when property is issued.

Treasury/Customs 00.204

System name: Receipt for Property Assignment—Treasury/Customs.

System location: Office of District Director, Administrative Officer, U.S. Customs Service, 555 Battery Street, Room 318, San Francisco, California 94126.

Categories of individuals covered by the system: Employees of Customs to whom Government property is issued—such as badges, cap insignia, guns, etc.

Categories of records in the system: Name, home address, District number, Port, social security number, signature of person receiving property, phone number, date.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the

performance of their duties. (b) Used administratively to account and control Government property issued to Customs employees.

During non-working hours, the room in which the metal container is kept is locked, and access to the building is controlled at all times by

Notification procedure: See Customs Appendix A.

which is filed by the Customs Inspector who performed the reimbursable services.

performance of their duties. (b) Used administratively to account and control Government property issued to Customs employees.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information in this system is contained on Customs Form 35. These forms are kept in a metal Index File Box.

Retrievability: Each receipt is filed by the name of the employee to which property has been assigned.

Safeguards: The metal Index File Box is stored in an office under constant supervision during regular working hours, and the office is locked during other than regular working hours.

Retention and disposal: These records forms are retained until the property is surrendered and/or the employee leaves Customs.

System manager(s) and address: Administrative Officer, U.S. Customs Service, 555 Battery Street, Room 318, San Francisco, California 94126.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in this system originates with and consists of information developed when property is given to employees.

Treasury/Customs 00.205

System name: Reclassification Requests—Treasury/Customs.

System location: Located in the Position Classification and Management Branch, Personnel Management Division, 500 Dallas St., Houston, Texas 77002.

Categories of individuals covered by the system: Any employee whose position is to be reviewed and/or evaluated for possible reclassification.

Categories of records in the system: All correspondence prepared by, or directed to, the employee, supervisor or manager, and classification staff.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Maintained as a ready reference file for any inquiry related to the case and for historical purposes. See Appendix AA. (b) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (c) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (d) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, or local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation, or order issued pursuant thereto. (e) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (f) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Requests are maintained in a file folder and retained in a metal file cabinet.

Retrievability: By employee name.

Safeguards: A metal container is maintained within the area assigned to Personnel Management in the One Allen Center Building. During non-working hours, the room in which the metal container is kept is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: When reviews are made and a classification decision is reached, the case is considered closed and all related papers are disposed of in accordance with Records Disposition Schedule (3 years).

System manager(s) and address: Director, Personnel Management Division, 500 Dallas St., Houston, Texas 77002.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information to pursue requests for reclassification are obtained from concerned employees, supervisors, and knowledgeable managerial officials. Other information is obtained from appropriate Civil Service classification publications.

Treasury/Customs 00.206

System name: Regulatory Audits of Customhouse Brokers—Treasury/Customs.

System location: Division of Regulatory Audit, United States Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229, and at each of the nine regional offices of Regulatory Audit (see Customs Appendix A for addresses).

Categories of individuals covered by the system: Persons licensed to conduct customhouse brokerage business pursuant to 19 U.S.C. 1641.

Categories of records in the system: Audit reports of customhouse broker accounts and records; correspondence regarding such reports; Congressional inquiries concerning customhouse broker and disposition made of such inquiries; names of officers of customhouse brokerage firms, license numbers and dates issued and district covered.

Authority for maintenance of the system: 19 U.S.C. 1641; 19 CFR Part III. 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in the administration of the Freedom of Information Act (5 U.S.C. 552). (c) The information may be furnished to other government agencies which may have an interest in the broker. (d) Copies of broker audit reports will be retained in the office that performed the audit and at the headquarter's office. These reports will serve as a permanent file providing such essential information as the names and broker license number of company officers and other licensed employees. The reports will create a historical record of broker performance. The headquarter's file will also provide a means of evaluating the effectiveness of audits conducted by the regional audit staffs.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each customhouse broker file is inserted in alphabetical order by name of the firm in one of nine regional file folders which are filed in an unlocked drawer within a metal file cabinet. Duplicate copies are maintained at Customs Service Headquarters.

Retrievability: Each broker file is identified on alphabetical file locator cards which contain the name and address of the broker, the region and district in which he operates, and the number of the file drawer. In addition each regional office maintains their own alphabetical file, containing the above information, for broker activities within their region.

Safeguards: The files described above are maintained within the area assigned to the Regulatory Audit Division within the Customs Service Building. During non-working hours, the room in which the files are located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: Customhouse broker files are retained indefinitely, or until there is no longer any space available for them at which time the oldest files are destroyed by burning or shredding.

System manager(s) and address: Director, Regulatory Audit Division, United States Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229. Regional Director, Regulatory Audit Division at each of the nine regional offices (see Customs Appendix A for addresses).

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files originates from audits conducted by the regional Regulatory Audit staff, of customhouse brokers' businesses. The audits may be supplemented with information furnished by the Office of the Chief Counsel, Office of Investigations, and the Office of Regulations and Rulings. These audits include examinations of brokers business records, including all financial books of accounts, check books, and financial statements. In the event that the broker is engaged in various business enterprises such as freight forwarding and insurance, and these financial records are commingled with those financial records relating to the brokerage business, it would be necessary to examine the other business records to complete the audit.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.207

System name: Reimbursable Assignment System—Treasury/Customs.

System location: U.S. Customs Service Data Center, William Building, 7923 Eastern Avenue, Silver Spring, Maryland 20910.

Categories of individuals covered by the system: Customs Service employees who perform reimbursable services and parties in interest for whom reimbursable services are performed.

Categories of records in the system: Name, address, social security number or importer of record number assigned by the Customs Service, listings of reimbursable overtime assignments of Customs employees, bills and refund checks issued to parties in interest, travel expenses incurred by Customs employees in connection with the reimbursable services.

Authority for maintenance of the system: 19 U.S.C. 261, 267, and 1451; 19 CFR 24.16 and 24.17; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties which may include monitoring reimbursable assignments, editing items of information that have been rejected because of erroneous coding, and equalizing Customs overtime assignments at ports of entry. (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552). (c) Disclosure to the Bureau of the Mint at San Francisco, California, for the purpose of including overtime earnings in salary checks issued to Customs Service employees who performed reimbursable services.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information in this system is contained in a computerized system utilizing magnetic tape storage techniques.

Retrievability: The information in this system is retrieved by the individual's social security number or by the individual's importer of record number.

Safeguards: Procedural and physical safeguards are utilized such as accountability and receipt access, guards patrolling the area, restricted access and alarm systems.

Retention and disposal: The records in this system are retained for an indefinite period of time. There are no established procedures for disposal of the subject records.

System manager(s) and address: Director, Accounting Division, U.S. Customs Service Headquarters, 1301 Constitution Ave, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in this system originates with the receipt of a request, for reimbursable services from the party in interest. In addition, information in this system is derived from Customs Form 5106 (Notification of Importer's Number/Application for Importer's Number) which is filed with the Customs Service by the importer, and from Customs Form 6082 (Work Ticket) which is filed by the Customs Inspector who performed the reimbursable services.

Treasury/Customs 00.208

System name: Restoration of Forfeited Annual Leave Cases—Treasury/Customs.

System location: Located in the Personnel Management Division of each region and Headquarters according to list in CustomsAppendix A.

Categories of individuals covered by the system: Employees of the U.S. Customs Service who have applied for restoration of forfeited annual leave.

Categories of records in the system: Employee applications for restoration of leave. Management decisions on employee applications for restoration of leave. Applicable regulations.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. (f) Certain employees of the Personnel Management Division and supervisors. Justification of action, respond to inquiries, post-audit of action, statistics, reports to Treasury and Civil Service Commission.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored in manila folders.

Retrievability: Records are indexed by name.

Safeguards: Records are maintained in locked files.

Retention and disposal: Records are retained idefinitely or until Treasury issues instructions.

System manager(s) and address: Director, Personnel Management Division, in each region and Headquarters.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Evidential materials supporting employee applications for restoration of forfeited annual leave. Evidential materials supporting management decisions.

Treasury/Customs 00.209

System name: Resumes of Professional Artists—Treasury/Customs.

System location: Area Director, N.Y. Seaport Area, 6 World Trade Center, New York, N.Y. 10048.

Categories of individuals covered by the system: Professional Artists.

Categories of records in the system: Artist's name and professional art background.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the

Categories of records in the system: Listing is issued monthly showing individual's name and address plus number and amount of unpaid

Retrievability: The above-mentioned case file numbers are cross-indexed by name to such numbers, and cards are filed alphabetically

those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) To classify imported works of art.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Alphabetical listing.

Safeguards: Filing cabinet, office locked at end of day.

Retention and disposal: Permanent.

System manager(s) and address: Area Director N.Y. Seaport Area, 6 World Trade Center, New York, N.Y. 10048.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Resume information provided by artist.

Treasury/Customs 00.210

System name: Revocation of I.D. Privileges and "Cash Basis Only" for Reimbursable Services List—Treasury/Customs.

System location: Financial Management Division—Districts and Ports, 99 S.E. 5th Street, Miami, Florida 33131.

Categories of individuals covered by the system: Corporate and Individual Brokers, Importers, Carriers, and Private Individuals.

Categories of records in the system: Corporations and individuals in financial difficulty.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552). (c) This is a monthly list originated in the Region informing all Districts and Ports of debtors for which no credit may be extended.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in an unlocked drawer within a metal file cabinet.

Retrievability: Alpha File in Manila Folder by Month.

Safeguards: The metal container described above is maintained within the area assigned to the Financial Management Division within the Customs Service Building. During non-working hours the room in which the metal container is located is locked.

Retention and disposal: These files are retained as prescribed by GAD Regulations or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

System manager(s) and address: Director of Financial Management, 99 S.E. 5th Street, Miami, Florida 33131.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Generated in house by Accounting Personnel from delinquent bill listings and open file of outstanding bills. Additionally, feedback from Districts and Ports on bankrupt firms and from Regulatory Audit Division on firms in Financial difficulty or under investigation.

Treasury/Customs 00.211

System name: Sanction List Treasury/Customs.

System location: Regional Commissioner of Customs, Suite 1501, 55 East Monroe Street, Chicago, Illinois 60603.

Categories of individuals covered by the system: Persons who are indebted to the United States Government for bills that are unpaid and past due.

Categories of records in the system: Listing is issued monthly showing individual's name and address plus number and amount of unpaid and past due bills.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their official duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each sanction list is stored in a file drawer in an unlocked file cabinet.

Retrievability: Each sanction list is identified by month and year of issuance.

Safeguards: The file cabinet described above is maintained within the area assigned in the Customs Office. During non-working hours the room and/or building in which the file cabinet is located is locked.

Retention and disposal: Retained in Customs Office for minimum of one year. Disposal in accordance with Records Control Manual.

System manager(s) and address: Regional Commissioner of Customs, Suite 1501, 55 East Monroe Street, Chicago, Illinois 60603.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in this listing is secured from CF 6084 and 6084A, Miscellaneous Bill Form issued to each individual and correspondence files maintained for individuals.

Treasury/Customs 00.212

System name: Search/Arrest/Seizure Report—Treasury/Customs.

System location: Patrol Division Offices of the U.S. Customs Service. See Customs Appendix A.

Categories of individuals covered by the system: Persons who have or may have violated a law of the United States.

Categories of records in the system: Name, alias, date of birth, age, personal data, addresses, home and business telephone numbers, occupation, background information, associations, license number and registration number of vehicle, vessel and/or aircraft, mode of entry of individual or contraband, fingerprints, pictures, declaration forms, cash receipts, receipt for seized goods, all other forms pertinent to the case, such as Notice to Master, etc.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Used as an aid to law enforcement and to identify persons suspected of violating the law; (d) Cases are referred to Investigative Branch since same are evident of violations of law; (e) Since this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case is placed in a folder which is filed in a numerical order according to the assigned case file number. These files are kept in a locked metal cabinet.

Retrievability: The above-mentioned case file numbers are cross-indexed by name to such numbers, and cards are filed alphabetically within a metal file box.

Safeguards: The metal file cabinet and the metal file box are located within an office that is locked during non-working hours. The building is guarded by uniformed customs guards, and only authorized persons are permitted in the building.

Retention and disposal: These cases are retained for a period of three years after which they are destroyed together with related index cards.

System manager(s) and address: Director, District Patrol Division. See Customs Appendix A.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.214

System name: Seizure File—Treasury/Customs.

System location: Patrol Division, U.S. Customs Service, 6 World Trade Center, New York, N.Y. 10048.

Categories of individuals covered by the system: Ships Masters, Ships Crew Members, Longshoremen, Vessels, Private Aircraft, Private Vessels, Individuals from whom seizures have been made, or upon whom Memoranda of information have been received.

Categories of records in the system: Memoranda of Information Received, which are reports from law enforcement agencies of suspects or arrests. Reports of Seizures by Customs, other information indicating violators or suspected violators.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Reference file for identifying violators or suspected violators.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manila files within metal file cabinets.

Retrievability: Alphabetical; for aircraft or car by number; by seizure number; by name of individual.

Safeguards: Room has a 24-hour guard and is locked.

Retention and disposal: Seizure files are maintained for three years after final disposition. Memoranda of information received: not determined how long they will be retained at present.

System manager(s) and address: Director, Patrol Division, U.S. Customs Service, 6 World Trade Center, New York, N.Y. 10048.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.215

System name: Seizure Report File—Treasury/Customs.

System location: U.S. Customs Mail Facility, 1675—7th Street, Oakland, California 94615.

Categories of individuals covered by the system: Individuals to whom prohibited merchandise is addressed.

Categories of records in the system: Name, address, property description, estimated foreign value, duty, domestic value, circumstances of seizure, sender, section of law violated, delivery to San Francisco seizure clerk.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Used administratively by the Mail Facility to record seizures and their disposal.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information in this system is contained on Customs Form 5955 Seizure Reports, Customs Form 6043—Delivery Ticket, and Customs Form 151—Search/Arrest/Seizure Report. These forms are placed within file folders which are located in a metal file cabinet.

Retrievability: Each Seizure Report and Delivery Ticket (stapled together) are identified by the name of the person to which the seized items are addressed and the names are filed alphabetically by fiscal year.

Safeguards: The file folders are placed within a metal cabinet which is located within an office that is locked during non-working hours. The building is guarded by uniformed security police and only authorized persons are permitted in the building.

Retention and disposal: Last three fiscal years records are kept in a file cabinet in the office. Three fiscal years prior are kept in boxes in the detention area.

System manager(s) and address: Head, Surface Mail Section. See location above.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in this system originates with and consists of information obtained from mail shipments.

Treasury/Customs 00.217

System name: Set Off Files—Treasury/Customs.

System location: Financial Management Division, 99 S.E. 5th Street, Miami, Florida 33131.

Categories of individuals covered by the system: Importer of Record, Customhouse Broker, Parties In Interest.

Categories of records in the system: Name, address, identification number, copies of refund checks and copies of set off bills.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Document files identifying debtors for whom refunds are withheld and amounts applied against delinquent bills.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in an unlocked drawer within a metal file cabinet.

Retrievability: File folders with individual's name annotated with set off.

Safeguards: The metal container described above is maintained within the area assigned to the Financial Management Division within the Customs Service Building. During non-working hours the room in which the metal container is located is locked.

Retention and disposal: These files are retained as prescribed by GAD Regulations or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

System manager(s) and address: Director of Financial Management, 99 S.E. 5th Street, Miami, Florida 33131.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: District Directors, Port Directors, Import Control Officers, External Auditors and Other Customs Employees.

Treasury/Customs 00.219

retention of an employee, the issuance of a security clearance, the

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Treasury/Customs 00.219

System name: Skills Inventory Records—Treasury/Customs.

System location: Personnel Management Division, U.S. Customs Service, Washington, D.C. 20229.

Categories of individuals covered by the system: Records are maintained in this system on Customs personnel in grades GS-13 and above.

Categories of records in the system: Data elements to provide a complete skills profile of the employee.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) To identify potential candidates for managerial positions. Used by members of the Evaluation Boards.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on a Customs Form 121 and Magtape.

Retrievability: Records are indexed by name.

Safeguards: Records are maintained in locked file and limited access to computer system.

Retention and disposal: Records are maintained until separation of an employee from the Customs Service.

System manager(s) and address: Director, Personnel Management Division, U.S. Customs Service, Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: CF-121 which is prepared by the employee.

Treasury/Customs 00.220

System name: Employee Record (SF-7B)—Treasury/Customs.

System location: Records are located with the immediate supervisor or at the immediate supervisor's operating office. See Customs Appendix A.

Categories of individuals covered by the system: Customs employees.

Categories of records in the system: SF-7B card contains identical information to that contained on SF-7 card; in addition it can have attached or separately-maintained supervisory notes concerning an employee's performance on-the-job, conduct, counseling sessions, training recommended or taken, awards granted, emergency contact information, job assignments, to be used for administration resource purposes in recommending or authorizing discipline, recognition, assignment of performance rating, training, job assignments, leave requests, and/or similar matters.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or other issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) Used by supervisors as documentation or by certain Personnel Management Division employees helping supervisors to initiate appropriate commendatory, corrective, or disciplinary action.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored in manila folders or special file cabinets.

Retrievability: Records are indexed by organizational code and name.

Safeguards: Records are stored in lockable metal filing cabinets or in a secured room. Alternative storage facilities may be employed provided they furnish an equivalent or greater degree of physical security.

Retention and disposal: Records are retained while employee is employed, and are destroyed upon separation.

System manager(s) and address: Director, Personnel Management Division, in each Regional Office and in Headquarters. See Customs Appendix A.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Form SF-50, Employee and employee's supervisors.

Treasury/Customs 00.221

System name: Suspect File—Treasury/Customs.

System location: Patrol Headquarters, 444 Brickell Avenue, Miami, Fla.

Categories of individuals covered by the system: Individuals on whom suspect information is received by Patrol Headquarters.

Categories of records in the system: Memoranda of Information, Lookout Notices, Letters re: suspects, other notices of suspected violations.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Used by the employees in the Patrol Division for enforcement purposes; (d) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (e) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (f) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored in file cabinets in restricted area of offices.

Retrievability: Records are retrievable by name.

Safeguards: Records are kept in locked buildings when unattended.

Retention and disposal: Records are retained as long as information is pertinent but destroyed immediately after information becomes obsolete.

System manager(s) and address: District Director of Customs, 444 Brickell Avenue, Miami, Fla.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption are contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.223

System name: Suspect File—Treasury/Customs.

System location: Office of the Customs Patrol Division, Room 202, U.S. Customhouse, Nogales, Arizona, and at each port: Douglas, San Luis and Lukeville, Arizona.

Categories of individuals covered by the system: Persons in whom Customs is interested from a law enforcement point of view.

Categories of records in the system: Name, address, file reference number, memoranda of information, lookout notices.

Authority for maintenance of the system: Memorandum dated 6/16/74, File ADM-4-01:O:P, from Director of Patrol Division, Headquarters; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide rapid and accurate retrieval of information previously recorded to officers of the U.S. Customs Service who have need of such information in the performance of their official duties.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Unlocked metal card file.

Retrievability: Alphabetical.

Safeguards: Room is locked during non-working hours.

Retention and disposal: Indefinite.

System manager(s) and address: District Director, Nogales, Arizona. (See above.)

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.224

System name: Suspect Persons Index—Treasury/Customs.

System location: U.S. Customs District Officers located at the following addresses: 204 E. 5th Ave., Anchorage, Alaska; 215 1st Ave. No., Great Falls, Montana; 335 Merchant, Honolulu; 511 N.W. Broadway, Portland, Oregon; 555 Battery St., San Francisco, California; First & Marion Sts., Seattle, Washington.

Categories of individuals covered by the system: Persons suspected of violation of Customs Laws.

Categories of records in the system: Name and related file number.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Used to aid in law enforcement and to identify persons suspected of violating the law.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in folders and stored in metal file cabinet.

Retrievability: The office and building are locked during non-working hours.

Safeguards: Alphabetical by use of cross index.

Retention and disposal: Records are maintained and disposed of in accordance with Records Disposal Manual.

System manager(s) and address: District Director of Customs. See location above.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.226

System name: Television System—Treasury/Customs.

System location: Office of Port Director, San Ysidro, California.

Categories of individuals covered by the system: Persons involved in incidents related to search and subsequent disturbance while entering the United States from Mexico.

Categories of records in the system: An audio-video cassette recording of persons being escorted into, as well as inside, the business offices of the Customs area of the Port of Entry.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Dept. Order No. 165, Revised, as amended, and the Customs Regulations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Evidence for use in court, record of disturbances and record of actions involving complaints.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Audio-video cassette.

Retrievability: By subject's name, date, and time.

Safeguards: Cassettes are under control of Port Director and released only to the courts when subpoenaed or when requested to be reviewed by subject and his attorney.

Retention and disposal: All cassettes with incident are retained for six months. Those on which some action may be taken are retained for one year or close of the case. Cassettes are reusable. Therefore, wipeout occurs when new recording takes place.

System manager(s) and address: Port Director, San Ysidro, California.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Audio-vidio recording of persons being escorted into the Customs area.

Treasury/Customs 00.227

System name: Temporary Importation Under Bond (TIB) Defaulter Control System—Treasury/Customs.

System location: U.S. Customs Service, Office of Enforcement Support, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Individuals who have been denied T.I.B. privileges because of failure to pay outstanding liquidated damages.

Categories of records in the system: Individual's name, personal identifying numbers and characteristics, address, company and case description, etc.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program

statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a

Safeguards: The metal cabinet described above is maintained within the area assigned to the Fines, Penalties and Forfeitures Section in

proposed to exempt this system of records from certain requirements

Categories of individuals covered by the system: Private persons filing claims under the Federal Tort Claims Act for property damage

statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) Used by Customs officers to determine whether an individual is eligible for T.I.B. privileges and to collect appropriate liquidated damages owed by an individual. Provides Customs management information such as total outstanding liquidated damages, etc.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: (1) Magnetic disc and tape storage; (2) Hard Copy; (3) Microfiche files.

Retrievability: Indexing is by violator name.

Safeguards: All inquiries are made by officers with full field background investigations on a "need to know" basis only. Procedural and physical safeguards are utilized such as accountability and receipt records, guards patrolling the area, restricted access and alarm protection systems, special communications security, etc.

Retention and disposal: Indefinite, None.

System manager(s) and address: Assistant Commissioner, Office of Enforcement Support, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Customs officers completing Customs Form 164 (TECS—TIB Defaulter Control).

Treasury/Customs 00.228

System name: Temporary Importation Violation Record—Treasury/Customs.

System location: Fines, Penalties and Forfeitures Section, Room 102, U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pennsylvania 19106.

Categories of individuals covered by the system: Persons making importations against Temporary Importation Bonds.

Categories of records in the system: The record reveals the individual's or Customhouse Broker's name, case number assigned and date, amount of penalty incurred, mitigated sum or remission and date closed. The record results in a summary of repetitive violations by any one individual, firm or Customhouse Broker and disciplinary action toward reduction or elimination of violations.

Authority for maintenance of the system: 5 U.S.C. 301: Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosure required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Temporary Importation Record Cards are filed alphabetically in an unlocked metal file cabinet.

Retrievability: Each record card is filed alphabetically within the metal cabinet.

Safeguards: The metal cabinet described above is maintained within the area assigned to the Fines, Penalties and Forfeitures Section in Room 102, of the Customhouse, Philadelphia; during non-working hours, access to the building and area of storage is controlled by uniformed guards.

Retention and disposal: Temporary Importation Record Cards are retained at location three years, then destroyed.

System manager(s) and address: District Director of Customs, Room 102, U.S. Customhouse, Second and Chestnut Streets, Philadelphia, PA 19106.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained on the cards originated from liquidated damage cases instituted for failure to comply with T.I.B. provision.

Treasury/Customs 00.231

System name: Tort Claims Act File-Treasury/Customs.

System location: Office of the Regional Counsel, Room 125, U.S. Customhouse, 40 South Gay Street, Baltimore, Maryland 21202.

Categories of individuals covered by the system: Private persons filing claims under the Federal Tort Claims Act for property damage or personal injury allegedly caused by a wrongful or negligent act or omission on the part of a Customs Service employee while acting within the scope of his employment.

Categories of records in the system: Reports of Investigation regarding claim filed, documents relating to the administrative handling of the claim and documents submitted by the claimant in support of the claim.

Authority for maintenance of the system: 28 U.S.C. 2672, et seq; 28 CFR 14.1 et seq; 31 CFR 3.1 et seq; Treasury Department Administrative Circular No. 131, August 19, 1965; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) In addition, information contained in this file is made available to the Department of Justice to assist that Department in preparing the Government's case when suit is filed in court based on an administrative denial of the claim or based on a failure to administratively process the claim within the prescribed time period; (c) Disclosure required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in file folder which is filed in an unlocked drawer within a metal container.

Retrievability: Each case file is identified in the file folder within the metal container by the name of the person who filed the claim.

Safeguards: The metal container described above is maintained within the area assigned to the Office of the Regional Counsel within the Customhouse. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: These files are retained indefinitely or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Centers.

System manager(s) and address: Regional Counsel, Room 125, U.S. Customhouse, 40 South Gay Street, Baltimore, Maryland 21202.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files originated with a Standard Form 95, Claim for Damage or Injury, which is completed and filed with the Customs Service by the claimant. Using these forms as a basis, investigations are conducted by authorized Customs Service investigative personnel in order to determine the facts surrounding the claims. During these investigations information may be elicited from Customs Service employees, private persons, or any other parties who may have information regarding the facts surrounding the claims.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has

proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.232

System name: Tort Claims Act File—Treasury/Customs.

System location: Office of the Regional Counsel, Room 7422, New Federal Building, 300 N. Los Angeles St., Los Angeles, CA 90053.

Categories of individuals covered by the system: Private persons who have filed or may file claims under the Federal Tort Claims Act for property damage or personal injury allegedly caused by a wrongful or negligent act or omission on the part of a Customs Service employee while acting within the scope of his employment.

Categories of records in the system: Reports of Investigation regarding accidents involving Customs employees, documents relating to the administrative handling of the claims filed thereon, and documents submitted by the claimant in support of the claim.

Authority for maintenance of the system: 28 U.S.C. 2672, et seq; 28 CFR 14.1 et seq; 31 CFR 3.1 et seq; Treasury Department Administrative Circular No. 131, August 19, 1965.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in this file is used to administratively process claims filed under the Federal Tort Claims Act and is made available to the officials within the Customs Service who review recommendations and who make final decisions on such claims. In addition, information contained in this file is made available to the Department of Justice to assist that Department in preparing the Government's case when suit is filed in court based on an administrative denial of the claim or based on a failure to administratively process the claim within the prescribed time period.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer within a metal container.

Retrievability: Each case file is identified in the alphabetical file folder within the metal container by the name of the person who has filed or may file a claim.

Safeguards: The metal container described above is maintained within the area assigned to the Office of the Regional Counsel within the New Federal Building. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: Tort claim files are retained indefinitely or until there is no longer any space available for them within the metal container, at which time the oldest closed files are transferred to the Federal Records Center.

System manager(s) and address: Regional Counsel, Room 7422, United States Customs Service, 300 N. Los Angeles St., L.A., Calif. 90053.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files originates with a Standard Form 95, Claim for Damage or Injury, which is completed and filed with the Customs Service by the claimant. Using these forms as a basis, investigations are conducted by authorized Customs Service investigative personnel in order to determine the facts surrounding the claims. During these investigations information may be elicited from Customs Service employees, private persons, or any other parties who may have information regarding the facts surrounding the claims. When a claim is not filed, the information is limited to the investigative reports of the property damage or personal injury.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.233

System name: Tort Claims Act File—Treasury/Customs.

System location: Regional Counsel of Customs, 6 World Trade Center, New York, N.Y. 10048.

Categories of individuals covered by the system: Private persons filing claims under the Federal Tort Claims Act for property damage or personal injury allegedly caused by a wrongful or negligent act or omission on the part of a Customs Service employee while acting within the scope of his employment.

Categories of records in the system: Reports of Investigation regarding claims filed, documents relating to the administrative handling of the claim and documents submitted by the claimant in support of the claim.

Authority for maintenance of the system: 28 U.S.C. 2672, et seq; 28 CFR 14.1 et seq; 31 CFR 3.1 et seq; Treasury Department Administrative Circular No. 131, August 19, 1965.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Services and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); The information contained in this file is used to administratively process claims filed under the Federal Tort Claims Act and is made available to the officials within the Customs Service who review recommendations and who make final decisions on such claims. In addition, information contained in this file is made available to the Department of Justice to assist that Department in preparing the Government's case when suit is filed in court based on an administrative denial of the claim or based on a failure to administratively process the claim within the prescribed time period.

For additional routine use see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer within a metal container.

Retrievability: Each case file is identified in a manual alphabetical card file by the name of the person who filed the claim and in the alphabetical file folder within the metal container by the name of the person who filed the claim.

Safeguards: The metal container described above is maintained within the area assigned to the Office of the Chief Counsel within the Customs Service Building. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

Retention and disposal: Tort claim files are retained indefinitely or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

System manager(s) and address: Regional Counsel, U.S. Customs Service, 6 World Trade Center, New York, N.Y. 10048.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files originates with a Standard Form 95, Claim for Damage or Injury, which is completed and filed with the Customs Service by the claimant. Using these forms as a basis, investigations are conducted by authorized Customs Service investigative personnel in order to determine the facts surrounding the claims. During these investigations information may be elicited from Customs Service employees, private persons, or any other parties who may have information regarding the facts surrounding the claims.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.234

System name: Tort Claims Act File—Treasury/Customs

System location: Offices of the District Directors, Region IX, Chicago, Illinois. (See Customs Appendix A.)

Categories of individuals covered by the system: All individuals presenting claims of damage to personal property resulting from Customs activities.

Categories of records in the system: Written damage claims supported by estimates, bills, claim forms and internal Customs Service memoranda.

Authority for maintenance of the system: 31 C.F.R. Part 3; 5 U.S.C. 301; Treasury Department order No. 165, Revised, as amended.

the Regional Counsel's office in determining and resolving legal issues in recommending approval, denial, compromise or settlement

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the

a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain

Authority for maintenance of the system: 31 C.F.R. Part 3; 5 U.S.C. 301; Treasury Department order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Filed in cabinets in the District Directors offices.

Retrievability: Folders filed in alphabetical sequence.

Safeguards: File cabinets are located within the area assigned in the Customs office. During non-working hours the room in which the cabinets are located is locked.

Retention and disposal: Retained in District Directors offices for 3 years then transferred to the Federal Record Center for 7 years and 3 months prior to destruction.

System manager(s) and address: District Director as appropriate in Region IX, Chicago, Illinois. (See Customs Appendix A.)

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in this system originates with a written claim submitted by the claimant, as well as information supplied on Standard Form 95 and internal Customs memoranda.

Treasury/Customs 00.236

System name: Tort Claim Records System—Treasury/Customs.

System location: Office of the Regional Counsel, U.S. Customs Service, Region IX, 55 E. Monroe Street, Room 1417, Chicago, Illinois 60603.

Categories of individuals covered by the system: Claimants under the Federal Tort Claim Act.

Categories of records in the system: Tort Claim, Standard Form 95 (claim for damage or injury) containing name, address, marital status, personal injury and property damage information, and insurance information; also correspondence, accident reports and investigatory records regarding the alleged damage or injury and possible medical information.

Authority for maintenance of the system: 28 U.S.C. 2671 et seq.; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in the Tort Claim Records System of the United States Customs Service are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) Information contained in these files is routinely used by the attorneys in the Regional Counsel's office in determining and resolving legal issues, in recommending approval, denial, compromise or settlement of the claim, and possibly in litigation. Litigation will require disclosure of the information to the Department of Justice, and the information is often channeled through the Department of the Treasury.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each case file is inserted in a file folder which is filed in a lockable drawer within a metal filing cabinet container.

Retrievability: Each case file is identified in a manual alphabetical card file by the name of the person who initiated the tort claim against the Customs Service, and officer or employee thereof. In addition, each case file is similarly identified on the file folder with the alphabetical name on the file which is placed and located within the metal container.

Safeguards: The metal filing drawer containing the files described above is maintained within the area assigned to the Office of the Regional Counsel of Customs, Region IX at 55 E. Monroe Street, Chicago, Illinois. During non-working hours, the room in which the metal filing drawer is located is locked, the file container itself is locked, and access to the building is controlled at all times by uniformed guards with a check-in system for employees. Only employees of the Regional Counsel's office and authorized building personnel have keys to the building.

Retention and disposal: These files are retained indefinitely or until there is no longer space available for them within the metal filing cabinet at which time the oldest files are transferred to the storage area within the confines of the office. The storage area is a large area containing cardboard boxes and metal storage cabinets which are not able to be locked. Files which are closed and not retained for precedent purposes are retired to the Federal Records Center, General Service Administration, 7358 S. Pulaski, Chicago, Illinois 60602 in accordance with the U.S. Customs Service Records Disposal Manual.

System manager(s) and address: Regional Counsel of Customs, Room 1417, United States Customs Service, 55 E. Monroe Street, Chicago, Illinois 60603.

Notification procedure: See Customs Appendix A.

Record source categories: The information contained in these files originates with the receipt of any correspondence indicating an alleged claim for damage or injury resulting from the conduct of the Government, U.S. Customs Service or an employee or officer of the U.S. Customs Service in Region IX. Further information in this file is derived from later correspondence from the individual, Standard Form 95 (Claim for Damage or Injury) filed by the claimant, other information submitted by the claimant, information submitted by Customs employee and/or his supervisors, and an investigation made by the Office of Internal Affairs or the Office of Investigations regarding the alleged claim or injury, as applicable. Information in these reports can be made from private parties, (witnesses), businesses, medical professionals, hospitals and other medical institutions.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.238

System name: Training and Career Individual Development Plans—Treasury/Customs.

System location: Located in the Personnel Management Division of each region and headquarters and/or district, ports, and post of duty of employees.

Categories of individuals covered by the system: All U.S. Customs employees.

Categories of records in the system: Records are maintained on training or other development activities completed and/or planned for individual employees, whether for programs such as Executive Development or Upward Mobility, or other special emphasis development programs. Records also include such things as, but not limited to skills, abilities, education, experience, career plans and goals, and other related information.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) To determine individual training needs, to schedule training and development activities and to budget funds.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are located in file folders, and/or official personnel folder.

Retrievability: Records are indexed by name.

Safeguards: Records are maintained in locked file or office.

Retention and disposal: Records are retained until separation or until employee is no longer part of a special emphasis program.

System manager(s) and address: Director, Personnel Management Division, in each region and headquarters.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information is obtained from the employee and supervisors.

Treasury/Customs 00.239

System name: Training Records—Treasury/Customs.

System location: Personnel Management Division of each region and headquarters. Also located in districts, ports, and posts of duty.

Categories of individuals covered by the system: Customs employees who have completed training.

Categories of records in the system: Certificates of completion of training courses, memoranda documenting successful completion of training assignments, grades assigned by educational institutions when appropriate, etc.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) The information compiled is used primarily to prepare the annual and quarterly reports for training which are required by higher Headquarters. The information also serves as a ready reference to ascertain the state of training with the Region and as an instrument to equate, insofar as possible, training opportunities for all employees, and also to verify information submitted by employees on application forms.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, on file cards, on Training forms, or on mag-tape.

Retrievability: Records are indexed by name.

Safeguards: Records are maintained in a locked file or room, or with limited access.

Retention and disposal: Records are maintained for up to three years after employee separates from the Service.

System manager(s) and address: Director, Personnel Management Division in each Region or Headquarters, or managerial official in appropriate posts of duty of employee.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Information for this file is obtained from supervisors, managers, instructors, educational institutions, and/or training facilities such as the Civil Service Commission, Department of the Treasury, etc.

Treasury/Customs 00.240.

System name: Travel Advances—Treasury/Customs

System location: Financial Management Division, U.S. Customs Service, Region 1, 100 Summer Street, Boston, Massachusetts 02110.

Categories of individuals covered by the system: Employees who receive travel advances to cover travel expenses in the course of traveling on official government business.

Categories of records in the system: Files are maintained to record the amount of the advance payment and repayment of the advance, if necessary.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to

a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clear-

System location: Regional Commissioner of Customs, Room 1501, 55 East Monroe Street, Chicago, Illinois 60603.

Safeguards: The room in which this system of records is located is locked during non-working hours, the building is guarded by uni-

Retrievability: By name (individual or master, owner, or agent name when concerning vessel violation profile); unique identifiers, identification numbers (i.e., personal, seizure number, system identifi-

a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) This system is used by the Payment Section employees to determine the amount owed to or by Customs for travel expenses.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data is stored in an unlocked metal, 5 x 8 file.

Retrievability: The name of each individual is listed on a record card in alphabetical order.

Safeguards: The file is located within an office that is locked during non-working hours. The building is guarded by uniformed security police and only authorized persons are permitted entry to the building.

Retention and disposal: The file is retained until the employee pays or accounts for the travel advance, and kept one year. After one year the record is sent to the Federal Record Center; kept for 3 years and then destroyed.

System manager(s) and address: Director, Financial Management Division, U.S. Customs Service, 100 Summer Street, Boston, Massachusetts 02110.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Record source categories: The information in the system originates from the employee and his supervisor.

Treasury/Customs 00.241

System name: Travel Advances—Treasury/Customs

System location: Financial Management Division, 99 S.E. 5th Street, Miami, Florida 33131.

Categories of individuals covered by the system: Advances to Customs Employees only.

Categories of records in the system: Name, address and Social Security Number of employees.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552). (c) Used administratively to record travel advances and clearance of advance, as travel is completed. Outstanding balances reflect indebtedness of individuals until travel is completed or refunds of average in advance.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in an unlocked drawer within a metal file cabinet.

Retrievability: Alpha Employee Name File of SF 1038, "Application for Advance of Funds".

Safeguards: The metal container described above is maintained within the area assigned to the Financial Management Division within the Customs Service Building. During non-working hours the room in which the metal container is located is locked.

Retention and disposal: These files are retained as prescribed by GAD Regulations or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

System manager(s) and address: Director of Financial Management, 99 S.E. 5th Street, Miami, Florida 33131.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: SF 1038—"Application and Account for Advance of Funds".

Treasury/Customs 00.242

System name: Travel Advance File—Treasury/Customs

System location: Regional Commissioner of Customs, Room 1501, 55 East Monroe Street, Chicago, Illinois 60603.

Categories of individuals covered by the system: Customs employees to whom advances have been issued.

Categories of records in the system: SF 1038, "Application and Account for Advance of Funds."

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552);

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Individual alphabetical card file in file cabinet.

Retrievability: Access by name of individual.

Safeguards: The file cabinet is maintained in the office of the Regional Commissioner, Region IX, Chicago, Illinois. During non-working hours the room/building in which the file is located is locked.

Retention and disposal: Retained and disposed of in accordance with requirements of Records Control Manual.

System manager(s) and address: Regional Commissioner of Customs, 55 East Monroe Street, Chicago, Illinois 60603.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Completed Form 1038 received from any Customs employee within Region IX, Chicago, Illinois.

Treasury/Customs 00.243

System name: Travel Payment System—Treasury/Customs

System location: Accounting Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: Headquarters Customs Service officials and employees who travel on official business.

Categories of records in the system: Travel authorizations, travel vouchers, and travel advance records, which contain the officer's or employee's name, residence, place and mode of travel, travel dates, month of travel advance, expenses incurred, amount of travel advance, amount of advance outstanding and division code.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties. Such duties may include preparing disbursement schedules so that the officer or employee will be paid for travel expenses, recording the cost of travel, advising the employee's supervisor when a travel advance is outstanding for an extended period, and compiling cost and budget information. (b) Disclosure required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information in this system is contained on index cards placed within a file box, in file folders or on separate sheets of paper within a metal container and in a computer system utilizing magnetic disc storage techniques.

Retrievability: The information on the index cards relates only to travel advance payments, and the index cards are filed alphabetically by the name of the traveling individual; each file folder is placed within the metal container alphabetically by the name of the traveling individual to whom it pertains; the separate sheets of paper are grouped in disbursement schedule number sequence by consecutive numbers and dates showing a listing of payments to travelers; the computer records are retrieved by the accounting number assigned by the Customs Service for each separate travel transaction.

Safeguards: The room in which this system of records is located is locked during non-working hours, the building is guarded by uniformed security police, and only authorized persons are permitted within the building.

Retention and disposal: The records in this system are retained for an indefinite period of time. There are no established procedures for disposal of the subject records.

System manager(s) and address: Director, Accounting Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in this system is derived from information supplied to the Accounting Division by the traveling individual on Standard Form 1012 (Travel Voucher) and from organizational and accounting information maintained by the Customs Service.

Treasury/Customs 00.244

System name: Treasury Enforcement Communications System (TECS)—Treasury/Customs

System location: Office of Enforcement Support, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Categories of individuals covered by the system: (1) Violators or suspected violators of U.S. Customs or related laws (some of whom have been apprehended by Customs officers); (2) Individuals who are suspected of, or who have been arrested for, thefts from international commerce; (3) Convicted violators of U.S. Customs and/or drug laws in the United States and foreign countries; (4) Fugitives with outstanding warrants-Federal or state; (5) Victims of U.S. Customs law violations; (6) Masters associated, in the capacity of ship agent or representative, with vessels in actual or suspected violation of U.S. Customs and related laws.

Categories of records in the system: Every possible type of information which contributes to effective law enforcement may be maintained in this system of records. Records include but are not limited to records pertaining to known violators, wanted persons, lookouts (temporary and permanent), and document reference records, vessel names and search results. Information about individuals includes but is not limited to name, alias, date of birth, address, physical description, various identification numbers (i.e., seizure number), details and circumstances of a search, arrest, or seizure, case information such as merchandise and values, methods of theft, etc.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) As a law enforcement tool, for example, to aid in the detection and prevention of violations, to provide and disseminate information on suspected or known violators within system to Federal, state and local enforcement officers within the United States and to other cooperating foreign countries' enforcement officers and officials. Also used by the Department of Justice in prosecuting court cases. (d) To determine violation trends and develop enforcement techniques and lookout information for use in the enforcement of Customs and related laws. (e) To provide management information such as the number of types of seizures, arrests, and searches associated with arrests or seizures. (f) Used by Customs to identify high theft areas, types of cargo most likely to be pilfered or stolen, to connect seemingly unrelated Customs theft cases and to provide management information such as the value and volume of theft from international shipping. (g) Documentation of vessel violations committed while in United States ports. (h) Determination of search operations by consideration of past violations and selective intelligence information. (i) In support of other regulatory and/or enforcement agencies, particularly the Department of Agriculture, by assisting in the quarantine control of infested vessels, and of the Immigration and Naturalization Service, by assisting in collection of payments attendant to the handling of aliens.

For additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic disc and tape, microfiche, and hard copy (i.e. Customs Form 153).

Retrievability: By name (individual or master, owner, or agent name when concerning vessel violation profile); unique identifiers, identification numbers (i.e., personal, seizure number, system identification number); cargo location code or vessel name.

Safeguards: (1) All officers making inquiries have had a full field background investigation and are given information on a "need to know" basis only. (3) Procedural and physical safeguards are utilized such as accountability and receipt records, guards patrolling the area, restricted access and alarm protection systems, special communications security, etc.

Retention and disposal: Review is accomplished by Customs officers each time a record is retrieved and on periodic basis to see if it should be retained or modified. Since both temporary and permanent records are maintained, period of retention will vary with type record entered. A complete review of each record in system is made annually at Headquarters. (4) The records are disposed of by erasure of magnetic tape or disc, and by shredding and/or burning of hard copy documents.

System manager(s) and address: Assistant Commissioner, Office of Enforcement Support, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption are contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.245

System name: Treasury enforcement communications system card file—Treasury/Customs.

System location: Ports and Stations in the District of Ogdensburg, New York.

Categories of individuals covered by the system: Suspected violators of Customs or other laws.

Categories of records in the system: Name and system ID number and category of suspicion (i.e. narcotics, currency, counterfeit, etc.).

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Quick or ready reference at ports or stations not equipped with TECS secondary machines. (b) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties. (c) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552). (d) In the event that this system of records includes information which indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature and whether arising by general statute or particular program statute or by regulation, rule, or order issued pursuant thereto the relevant records in the system of records may be referred, as a routine use, to the appropriate agency whether Federal, state, local, or foreign charged with the responsibility of investigating or prosecuting the statute or rule, regulation, or order issued pursuant thereto. (e) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee; the issuance of a security clearance; the letting of a contract; or the issuance of a license, grant, or other benefit. (f) A record from this system of records may be disclosed to a Federal agency in response to its request in connection with the hiring or retention of an employee; the issuance of a security clearance; the reporting of an investigation of an employee; the letting of a contract; or the issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. (g) Also disclosed to the Drug Enforcement Administration.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Roldex card file.

Retrievability: Alphabetically by name.

Safeguards: Available to inspectors only. Kept in rollex file in custody of inspector on duty.

violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statutue or

Safeguards: The metal container described above is maintained within the area assigned to the Financial Management Division

performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

Safeguards: Available to inspectors only. Kept in rollex file in custody of inspector on duty.

Retention and disposal: Card is dated for disposal per original TECS message.

System manager(s) and address: Port Director, RFD Constable, Trout River, New York 12926.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the jurisdiction for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.247

System name: Uniform Allowance—Treasury/Customs.

System location: Management Services Branch, Administration Division, District Director, San Juan, Puerto Rico.

Categories of individuals covered by the system: Employees entitled to uniform allowance and date received.

Categories of records in the system: Name, position held, amount received for uniform allowance and date received.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Verify payments are received as requested and authorized.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in individual cards stored in an index card box which is within a locked drawer of a desk.

Retrievability: Each card is identified by the name of the employee and filed alphabetically within the box.

Safeguards: The drawer in which the cards are kept is locked and is in the area assigned to the Management Services Branch within the Customs Service Building. During non-working hours the room in which the desk is located is locked and access to the building is controlled at all times by uniformed guards.

Retention and disposal: Records are maintained until the employee leaves the district or is no longer entitlted to uniform allowance at which time his card is moved to the back of the box. When there is no more space available within the box, the oldest cards are destroyed.

System manager(s) and address: District Director, U.S. Customs Service, P.O. Box 2112, Old San Juan, Puerto Rico 00903.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information is posted on the cards when checks for uniform allowance are received.

Treasury/Customs 00.248

System name: Uniform Allowance—Treasury/Customs.

System location: Financial Management Division, U.S. Customs Service, Region I, 100 Summer Street, Boston, Massachusetts 02110.

Categories of individuals covered by the system: Employees of the Customs Service who are eligible to receive payments for maintaining uniforms.

Categories of records in the system: Name of employee, date of eligibility, period of eligibility, amount paid and District assigned.

Authority for maintenance of the system: 5 U.S.C 301: Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statutue or particular program, statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit; (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) The system is used to determine the status of eligibility of uniformed employees so that payment can be processed by the employees of the Payment Section.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data is stored in a 5 x 8 two drawer file, accessable to employees of the Payment Section of the Financial Management Division.

Retrievability: The name of each individual is listed on a card which is filed in alphabetical order.

Safeguards: The file is located within an office that is locked during non-working hours. The building is guarded by uniformed security police and only authorized persons are permitted entry to the building.

Retention and disposal: Files are maintained until employee leaves position, retained for two years and then destroyed.

System manager(s) and address: Director, Financial Management Dvision, U.S. Customs Service, 100 Summer Street, Boston, Massachutetts 02110.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in the system originates from the District office where the employee is stationed.

Treasury/Customs 00.249

System name: Uniform Allowances—Unit Record—Treasury/Customs.

System location: Financial Management Division, 99 S.E. 5th Street, Miami, Florida 33131.

Categories of individuals covered by the system: U.S. Customs Employees.

Categories of records in the system: Name—Record of Uniform Allowance Payments.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Used by Accounting technicians to record amounts paid to uniformed personnel annually.

For additonal routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in an unlocked drawer within a metal file cabinet.

Retrievability: Alpha by Name. Appropriation Accounting Document Number.

Safeguards: The metal container described above is maintained within the area assigned to the Financial Management Division within the Customs Service Building. During non-working hours the room in which the metal container is located is locked and access to the building is controlled by uniformed guards.

Retention and disposal: These files are retained as prescribed by GAD Regulations or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

System manager(s) and address: Direction of Financial Management, 99 S.E. 5th Street, Miami, Florida 33131.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: From Memo's received from Districts. Data Transcribed from Payment Vouchers.

Treasury/Customs 00.251.

System name: Unscheduled Overtime Report (Customs Form 31)—Treasury/Customs.

System location: Director, Office of Operations, 6 World Trade Center, Rm. 508, New York, New York.

Categories of individuals covered by the system: Special Agents assigned to the office of Regional Director of Investigations authorized to receive unscheduled overtime renumeration.

Categories of records in the system: Customs Form 31 enumerates the nature of overtime performed, the number of hours and the date on which the overtime was performed and the case number of investigation.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Used to account for and control unscheduled overtime.

additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information in this system is contained on CF 31, the forms are contained within a file folder and are placed in a metal file cabinet.

Retrievability: By name.

Safeguards: The file cabinet is maintained within the area assigned to the Regional Director of Investigations, New York, within the Customhouse. During non-working hours the complex in which the file is located is locked and access to the building is controlled at all times by uniform guards.

Retention and disposal: The forms are destroyed after three years.

System manager(s) and address: Regional Director of Investigations. (See Customs Appendix A.)

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information in this system originates from the Special Agent who performs the unscheduled overtime.

Treasury/Customs 00.252

System name: Valuables Shipped Under the Government Losses in Shipment Act—Treasury/Customs.

System location: District Director of Customs, Chicago, Illinois.

Categories of individuals covered by the system: Customs employees collecting and transmitting funds to cashier for deposit.

Categories of records in the system: Name of employee, collection document serial numbers, amount of collection.

Authority for maintenance of the system: Section 300.30, Customs Accounting Manual; 5 U.S.C. 134f; 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Filed in folders with the individual's name appearing at the top thereof in a file cabinet.

Retrievability: Each record folder is filed by name of individual.

Safeguards: The cabinet described above is maintained within the area assigned in the Customs office. During non-working hours the area in which the cabinet is located is secured.

Retention and disposal: Retained for three years and then forwarded to FRC for seven years retention.

System manager(s) and address: District Director, as appropriate, in Region IX, Chicago, Illinois.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Data submitted by individual Customs employee involved.

Treasury/Customs 00.253

System name: Vehicle Microfiche Files—Treasury/Customs.

System location: U.S. Customs Service, Office of Investigations, SAC, 600 South Street, Room 444, New Orleans, La. 70130.

Categories of individuals covered by the system: Owners of movable vehicles registered in the State of Louisiana.

Categories of records in the system: Name indices of vehicles.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosure required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) Information contained in these microfiche files is provided for the routine use of the Office of Investigations of the Customs Service for the purpose of verifying information received from other sources in conjunction with investigations within the Office of Investigations.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These microfiche files are maintained in a file folder in a metal cabinet. The cabinet is located in a room which is manned during normal office hours, and locked after hours.

Retrievability: These microfiche files are identified by alphabetical name of the catagories of individuals maintained in that file and information is retrievable manually from these files.

Safeguards: These microfiche files are kept in a metal cabinet and are maintained within the room which is manned by Office of Investigations personnel during normal office hours. During non-working hours, the room in which the metal cabinet is located is locked and entrances to the office which contains that room are locked. Access to the building containing the office is controlled during non-working hours by a uniformed guard.

Retention and disposal: These files are retained indefinitely or until updated by more current records at which time the old records are disposed of by shredding.

System manager(s) and address: Special Agent in Charge, U.S. Customs Service, Office of Investigations, 600 South Street, Room 444, New Orleans, La. 70130.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained in these microfiche files originates and consists of information generated from vehicle registration forms submitted to the State of Louisiana.

Treasury/Customs 00.254

System name: Vessel Identification Report—Treasury/Customs.

System location: Office of the Director, District Patrol, 600 South Street, New Orleans, La. 70130. Dir., District Patrol Division, Rm

213, International Trade Center, 250 N. Water Street, Mobile, Al. 36602

in which the metal container is located is locked. Security for the building is maintained by GSA.

system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be re-

213, International Trade Center, 250 N. Water Street, Mobile, Al. 36602.

Categories of individuals covered by the system: All suspect vessels and/or boats that information has been received on indicating unlawful or suspicious activity.

Categories of records in the system: Regional form containing vessel's name, photograph, date of photo, place of photo, name of boat owner, his address, and any other important information pertaining to suspect vessel.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) Used as an aid to law enforcement and to identify vessels that require watching.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained in standard Customs file folders in locked metal cabinets.

Retrievability: System filed alphabetically and retrieved manually.

Safeguards: File maintained in locked metal file cabinet, the keys of which are controlled by the custodian of the files. Those departmental officials who may occasionally be granted access consistant with their positions have been cleared by a full field background investigation and granted appropriate security clearance for critical sensitive positions. During non-working hours the room housing the metal cabinets is locked.

Retention and disposal: Retain indefinitely.

System manager(s) and address: Director, District Patrol Division, 600 South Street, New Orleans, La. 70130.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption are contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.257

System name: Violators Card File—Treasury/Customs.

System location: Office of District Director, U.S. Customs Service, U.S. Customhouse, 101 E Main Street, Norfolk, Va. 23510.

Categories of individuals covered by the system: Persons or firms who have violated any law administered by the U.S. Customs Service within the Norfolk District.

Categories of records in the system: Name of individual or firm, case number and date and section of law violated. This information is obtained from Customs Forms, 151 and 5955-A.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as Amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties. (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552). (c) Provide the proper authority within the U.S. Customs Service with a ready reference to make a decision for the remission or mitigation of penalties, forfeitures and claims for forfeiture value.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Each card is filed alphabetically in an unlocked drawer within a metal container.

Retrievability: Each manual alphabetical card file is identified by the name of the person or firm who has violated any law administered by the U.S. Customs Service within the Norfolk District.

Safeguards: The metal container described above is maintained within the area assigned to the Fines, Penalties & Forfeitures Officer within the U.S. Customhouse. During non-working hours the room in which the metal container is located is locked. Security for the building is maintained by GSA.

Retention and disposal: Active cards are retained in this system indefinitely. However, upon periodic review, information on firms no longer in business are destroyed.

System manager(s) and address: District Director of Customs, U.S. Customshouse, 101 E. Main St., Norfolk, Va. 23510.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The information contained in these files is derived from Customs Form 151 (Search/Arrest/Seizure Report) and Customs Form 5955-A (Notice of Penalty or Liquidated Damages Incurred and Demand for Payment) which are prepared by the Customs Service.

Treasury/Customs 00.258

System name: Violator's Case Files—Treasury/Customs.

System location: District Director of Customs, U.S. Customs Service, St. Albans, Vermont, 05478.

Categories of individuals covered by the system: Individuals involved in smuggling, filing false invoices, documents or statements, violators of Customs bonds.

Categories of records in the system: Individual's name and address, social security number and physical description; alias, occupation, type of violation, previous record, driver's license, passport number.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute, or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to any agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and 3 x 5 index cards.

Retrievability: Alphabetized by name of individual and local control number.

Safeguards: Files are under the supervision of the Fines, Penalties and Forfeitures Officer 8 a.m. to 5 p.m., Monday through Friday. All other hours, office remains locked.

Retention and disposal: Files are maintained in the office of the Fines, Penalties, and Forfeitures Officer for a period of five years. At the conclusion of this period, they are destroyed by shredding.

System manager(s) and address: District Director, U.S. Customs Service, St. Albans, Vermont 05478.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this

system of records is proposed to be exempted and the justification for the exemption is contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.260

System name: Warehouse Proprietor Files—Treasury/U.S. Customs.

System location: Offices of District Directors, Region IX, Chicago, Illinois, See Customs Appendix A.

Categories of individuals covered by the system: Present and past warehouse proprietors and employees that require an investigation and related information.

Categories of records in the system: Report of investigations, application and approval or denial of bond to act as warehouse proprietor and other Customs Service Memoranda. Names, addresses, social security numbers, and dates and places of birth of persons employed.

Authority for maintenance of the system: Customs Regulations, Part 19, 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552).

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and stored in file cabinets in each District Director's office within Region IX, Chicago, Illinois.

Retrievability: Each file is identified by the name of the warehouse proprietor.

Safeguards: The file cabinets are maintained within the area assigned to the District Director. During nonworking hours the room and/or building in which the file cabinet is located is locked.

Retention and disposal: These files are retained indefinitely. Employee name data retained for period of employment with warehouse proprietor.

System manager(s) and address: District Director, as appropriate in Region IX, Chicago, Illinois. See Customs Appendix A.

Notification procedure: See Customs Appendix A.

Record source categories: The information in this file originates from the individual applicant for warehouse proprietor's bond, from reports of investigation, and other Customs Memoranda.

Systems exempted from certain provisions of the act: The Commissioner of Customs pursuant to 5 U.S.C. 552a (j) and/or (k) has proposed to exempt this system of records from certain requirements of 5 U.S.C. 552a. The provisions of 5 U.S.C. 552a from which this system of records is proposed to be exempted and the justification for the exemption in contained in a general notice which appears elsewhere in the Federal Register.

Treasury/Customs 00.262

System name: Warnings to Importers in lieu of penalty.—Treasury/Customs.

System location: Located in the Office of the District Director, San Diego, Calif; Offices of the Port Directors, San Ysidro, Calif; Tecate, Calif; Calexico, Calif; Andrade, Calif; San Diego Barge Office; and the Offices of the Customs Patrol Division, San Diego, Calif; San Ysidro, Calif; Calexico, Calif; Tecate, Calif. See Customs Appendix A.

Categories of individuals covered by the system: Individuals and firms in violation of Customs's laws.

Categories of records in the system: Brief record of violation and warning.

Authority for maintenance of the system: 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure of those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in administration of the Freedom of Information Act (5 U.S.C. 552); (c) In the event that this system of records includes information which indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulations, or order issued pursuant thereto. (d) A record from this system of records may be disclosed as a "routine use" to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (e) A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. Available to Inspectors, Import Specialists and Agents, and other Customs employees who have need for this information.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on 5 x 7 cards.

Retrievability: Alphabetically indexed.

Safeguards: Not accessible to other than Customs officers.

Retention and disposal: Indefinite.

System manager(s) and address: District Director, Port Directors, and Division Directors within the San Diego Customs District. See Customs Appendix A.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: Customs Officials.

Treasury Customs 00.278

System name: Early Implementation System (EIS)—Treasury/Customs.

System location: The Computer is located at 1900 West Park Drive, McLean, Virginia 23701. Computer terminals are located at Customhouses and ports throughout the United States and at U.S. Customs Headquarters, Washington D.C. (For addresses of Customhouses see Customs Appendix A.)

Categories of individuals covered by the system: U.S. Customs Service employees and individuals involved in the import trade.

Categories of records in the system: The system data base is comprised of commodity and merchandise processing information relating to Customs administration of trade laws. Certain portions contain no information about individuals. These are the Tariff Schedules of the United States Annotated (TSUSA) file, country file, criteria file for the selection of routine items, Team TSUSA file, district port file, and the entry master file. The following system files may contain information about U.S. Customs Services employees and/or individuals/companies involved in the import trade.

(1) Authorized Terminals Users File: Contains Randomly established five-digit identification codes and passwords assigned to Customs Service employees authorized to use the system. The file consists of the names and identification of all Customs Service employees using the remote terminals to input information into the system. It does not contain Social Security numbers. The degree of access to the system varies according to the users responsibilities in the system.

(2) Importer/Broker/Consignee Bond File: Records consist of importer of record number, importer name, type of importation bond, expiration date, and surety code. The importer of record number is used as the method of accessing the file. The number is assigned by any one of three code formats according to availability and the following hierarchy. The first choice is the IRS employer Identification number (EIN). The vast majority of importers have the EIN because of the business necessity of it.

The second alternative is the Social Security number (SSN). The third alternative is a Customs-assigned number. This file is referenced during entry processing to verify that the individual or company making entry is authorized to import and is properly bonded.

(3) Broker File: A record consists of a three-digit Customs-assigned Customhouse broker number (non-SSN) and the broker name. The

writing and directed to the Director, Entry Procedures and Penalties Division, Office of Regulations and Rulings, U.S. Customs Service

Regional Director (Internal Affairs), P.O. Box 3201, Miami, Florida 33101.

VIII San Francisco, California 94111/555 Battery St. (415)556-4340.

IV San Juan, Puerto Rico 00903/(P.O. Box 2112) (809)723-2091.

(3) Broker File: A record consists of a three-digit Customs-assigned Customhouse broker number (non-SSN) and the broker name. The file is referenced during entry processing to validate the broker number and to prepare and distribute the Broker ID Performance Report to the individual or company concerned. The subject of the report is compliance with the entry filing requirements under the immediate delivery program. Information is disclosed only to the party-of-record.

(4) Surety File: A record consists of a three-digit surety code (non-SSN) assigned by the Customs Accounting Division and the surety name. The file is referenced during entry processing to validate these surety codes. No information on surety company affairs is collected or disseminated in the system.

(5) Liquidator File: A record consists of a Customs-assigned three-digit liquidator identification (non-SSN) and a Customs employee's name. The employee's liquidator code is input into the system as a means of maintaining quality control and an audit trail on entries liquidated.

(6) Manufacturer File: The file contains only a three-digit manufacturer code number (non-SSN) and manufacturer name.

Authority for maintenance of the system: 19 U.S.C. 66, 1448, 1481, 1483, 1484, 1505, and 1624.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in this system of records are as follows: (a) Disclosure of those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in adminstration of the Freedom of Information Act (5 U.S.C. 552); (c) To provide the Bureau of the Census with a magnetic tape containing foreign trade data.

For additional routine use see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic Disc.

Retrievability: By identification codes and/or name.

Safeguards: Access to computer area is controlled by a security pass arrangement and personnel not connected with the operation of the computer are prohibited from entering. The building security is protected by a uniformed guard. At the ports of processing, terminal rooms are under close supervision during working hours and locked after close of business. The system security officer issues a unique private five digit identification code to each authorized user. The codes are changed periodically to enhance security. All computer terminals are key-locked when not in use. Access to the Customers computer from other than system terminals in prohibited by hardware controls. Users must input a unique identification code during the terminal log-in procedure to gain access to the system. The identification code is not printed or displayed at the port of processing. The system validates the user ID by transaction type, thereby limiting a system user's access to information on a need to know basis. A listing of identification codes of authorized users can be printed only at the computer room site by request of the security officer.

Retention and disposal: Files are retained indefinitely but are periodically updated to reflect changes, etc.

System manager(s) and address: Director, AMPS Program Division Customs Service Headquaters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, is responsible for all data maintained in the files.

Notification procedure: See Customs Appendix A.

Record access procedures: See Customs Appendix A.

Contesting record procedures: See Access, Customs Appendix A.

Record source categories: The system data base is limited to data about individuals and/or companies incidental to the conduct of foreign trade and required by the Customs Service in adminstering the tariff laws and regulations of the United States. No information concerning any individual's or company's importation activity, bonds status, and compliance or noncompliance with Customs Regulations will be disclosed for non-authorized purposes to any person other than the party-of-record upon receipt of a written request.

UNITED STATES CUSTOMS SERVICE

APPENDIX A

Notification procedure: Requests by an individual to be notified if the system of records contains records pertaining to him shall be in writing and directed to the Director, Entry Procedures and Penalties Division, Office of Regulations and Rulings, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W. Washington, D.C. 20229 or to the Regional Commissioner of the region in which the records are located (See Appendix A). The requester will be notified in writing of the procedures to be followed. Where the request is presented in person, the requester shall present adequate identification to establish his identity, and a comparison of his signature and those in the records may be made where the records contain the necessary signature.

If an individual can provide no suitable documents for identification, he may be required to make a signed statement asserting identity and stipulating that he understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine up to 5,000 dollars.

Where the request is not presented in person, it shall be accompanied by a notarized statement executed by the requester asserting identity and stipulating that he understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine up to 5,000 dollars. A comparison of his signature and those in the records may be made where the records contain the necessary signature.

Record access procedures: Requests by an individual to be notified how he can gain access to a record pertaining to him contained in a system of records, and how he can contest its content shall be in writing and directed to the Director, Entry Procedures and Penalties Division, U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 or to the Regional Commissioner of the region in which the records are located (See Appendix A). The requester will be notified in writing of the procedures to be followed. Where the request is presented in person, the requester shall present adequate identification to establish his identity, and a comparison of his signature and those in the records may be made where the records contain the necessary signature.

If an individual can provide no suitable documents for identification, he may be required to make a signed statement asserting identity and stipulating that he understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine up to 5,000 dollars.

Where the request is not presented in person, it shall be accompanied by a notarized statement executed by the requester asserting identity and stipulating that he understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine up to 5,000 dollars. A comparison of his signature and those in the records may be made where the records contain the necessary signature.

Addresses of Headquarters, U.S. Customs Service, Regional Commissioners of Customs, Regional Directors (Internal Affairs), District Directors of Customs, and Customs Office of Investigations field offices:

U.S. Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Regional Commissioner of Customs, 40 S. Gay Street, Baltimore, Maryland 21202, (301)962-3288.

Regional Commissioner of Customs, 100 Summer Street, Boston, Massachusetts 02110. (617)223-7506.

Regional Commissioner of Customs, 55 E. Monroe Street, Chicago, Illinois 60603, (312)353-4731.

Regional Commissioner of Customs, 500 Dallas Street, Houston, Texas 77002, (713)226-4893.

Regional Commissioner of Customs, 300 N. Los Angeles Street, Los Angeles, California 90053, (213)688-5900.

Regional Commissioner of Customs, 99 S.E. 5th Street, Miami, Florida, (305)350-5952.

Regional Commissioner of Customs, 1440 Canal Street, New Orleans, Louisiana 70112, (504)589-6324.

Regional Commissioner of Customs, 6 World Trade Center, New York, New York 10048, (212)466-4444.

Regional Commissioner of Customs, 211 Main Street, San Francisco, California 94102, (415)556-3500.

Office of Internal Affairs field offices

Regional Director (Internal Affairs), 100 Summer Street, Boston, Massachusetts 02110.

Regional Director (Internal Affairs), 6 World Trade Center, New York, New York 10048.

Regional Director (Internal Affairs), Gay and Water Streets, Baltimore, Maryland 21202.

Regional Director (Internal Affairs), P.O. Box 3201, Miami, Florida 33101.

Regional Director (Internal Affairs), 1440 Canal Street, New Orleans, Louisiana 70112.

Regional Director (Internal Affairs), 500 Dallas Street, Houston, Texas 77002.

Regional Director (Internal Affairs), 55 East Munroe Street, Chicago, Illinois 60603.

Regional Director (Internal Affairs), 211 Main Street, San Francisco, California 94105.

Regional Director (Internal Affairs). P.O. Box 951, Main Post Office, Los Angeles, California 90053.

Customs District Offices.

(Note: New York has Area Directors instead of District Directors. Roman numeral designates Customs region).

VIII Anchorage, Alaska 99501/204 E. Fifth Ave. (907)279-2543.

III Baltimore, Maryland 21202/103 S. Gay St. (301)962-2666.

I Boston, Massachusetts 02109/2 India St. (617)223-6598.

I Bridgeport, Connecticut 06609/120 Middle St. (203)366-7851.

I Buffalo, New York 14202/111 W: Huron St. (716)842-5901.

IV Charleston, South Carolina 29401/200 E. Bay St. (803)577-4171.

IX Chicago, Illinois 60607/610 S. Canal St. (312)353-6100.

IX Cleveland, Ohio 44199/1240 E. 9th St. (216)522-4284.

IX Detroit, Michigan 48226/243 W. Congress St. (313)226-3177.

IX Duluth, Minnesota 55802/515 W. First St. (218)727-6692.

VI El Paso, Texas 79985/Bldg. B, Room 134, Bridge of the Americas (P.O. Box 9516) (915)543-7435.

VI Galveston, Texas 77550/17th & Strand Sts. (713)763-1211.

VIII Great Falls, Montana 59401/215 1st Ave. N. (406)453-7840.

VIII Honolulu, Hawaii 96806/335 Merchant St. (808)546-3115.

VI Houston, Texas 77052/701 San Jacinto St. (713)226-4316.

VI Laredo, Texas 78040/Mann Road and Santa Maria (512)723-2956.

VII Los Angeles/Long Beach/300 S. Ferry St., San Pedro, California 90731 (213)548-2441.

IV Miami, Florida 33131/444 Brickell Avenue (305)350-5791.

IX Milwaukee, Wisconsin 53202/628 E. Michigan St. (414)224-3924.

IX Minneapolis, Minnesota 55401/110 S. Fourth St. (612)725-2317.

V Mobile, Alabama 36602/250 N. Water St. (205)690-2106.

V New Orleans, Louisiana 70130/600 South St. (504)589-6353.

II New York, New York: New York Seaport Area, New York, New York 10048, Customhouse, 6 World Trade Center, (212)466-5817. Kennedy Airport Area, Jamaica, New York 11430, Seaboard World Building, Room 178, (212)995-7083. Newark Area, Newark, New Jersey 07105, 400 Delaney St. (201)645-3760.

VII Nogales, Arizona 85621/International & Terrace Sts. (602)287-4955.

III Norfolk, Virginia 23510/101 E. Main St. (804)441-6546.

I Ogdensburg, New York 13669/127 N. Water St. (315)393-0660.

IX Pembina, North Dakota 58271/Post Office Bldg. (701)825-6201.

III Philadelphia, Pennsylvania 19106/2nd & Chestnut Sts. (215)597-4605.

VI Port Arthur, Texas 77640/5th & Austin Ave. (713)982-2831.

I Portland, Maine 04111/312 Fore St. (207)775-3131.

VIII Portland, Oregon 97209/N.W. Broadway & Glisan Sts. (503)221-2865.

I Providence, Rhode Island 02903/24 Weybosset St. (401)528-4383.

I St. Albans, Vermont 05478/Main & Stebbins Sts. (802)524-6527.

IX St. Louis, Missouri 63105/120 S. Central Ave. (314)622-4491.

IV St. Thomas, Virgin Islands 00801/(P.O. Box 510) (809)774-2510.

VII San Diego, California 92101/2262 Columbia St. (714)293-5360.

VIII San Francisco, California 94111/555 Battery St. (415)556-4340.

IV San Juan, Puerto Rico 00903/(P.O. Box 2112) (809)723-2091.

IV Savannah, Georgia 31401/1 East Bay St. (912)232-4321.

VIII Seattle, Washington 98104/First & Marion Sts. (206)442-5491.

IV Tampa, Florida 33602/301 S. Ashley Dr. (813)228-2381.

III Washington, D.C. 20018/3180 Bladensburg Rd., N.E. (202)964-8511.

IV Wilmington, North Carolina 28401/2094 Polk St. (919)763-9971.

Office of Investigations field offices

Region I-Boston

Office of Regional Director of Investigations, Room 1700, U.S. Customhouse, Boston, Massachusetts 02109.

Office of Resident Agent, P.O. Box 368, Derby Line, Vermont 05830.

Office of Resident Agent, P.O. Box 432, Houlton, Maine 04111.

Office of Special Agent In Charge, Room 17, U.S. Customhouse, Portland, Maine 04111.

Office of Special Agent In Charge, 127 N. Water St., Ogdensburg, New York 13669.

Office of Resident Agent, 770 Chapel Street, Suite 2B, New Haven, Connecticut.

Office of Special Agent In Charge, U.S. Federal Building, Rm. 1206, 111 West Huron, Buffalo, New York 14202.

Office of Special Agent In Charge, P.O. Box 68, Rouses Point, New York 12979.

Region II-New York

Office of Regional Director of Inv., U.S. Customs Service, Room 508, 6 World Trade Center, New York, New York 10048.

Office of Special Agent In Charge, Room 203 C, 400 Delancey Street, Newark, New Jersey 07105.

Office of Special Agent In Charge, J.F.K. International Airport, Inter. Arrival Bldg., 160-19 Rockaway Blvd., New York, New York 11430.

Region III-Baltimore

Office of Regional Director of Inv., Room 810, U.S. Appraisers Stores Bldg., 103 South Gay Street, Baltimore, Maryland 21202.

Office of Resident Agent, 701 West Broad Street, Rm. 301, Falls Church, Virginia 22046.

Office of Special Agent In Charge, 201 U.S. Customhouse, 2nd & Chestnut Streets, Philadelphia, Pennsylvania 19106.

Office of Resident Agent, Room 2236, Federal Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222.

Office of Special Agent In Charge, 201 U.S. Customhouse, Norfolk, Virginia 23510.

Region IV-Miami

Office of Regional Director of Inv., 99 S.E. 5th Street, Miami, Florida 33131.

Office of Resident Agent, 700 Clematis Street, Rm. 253, West Palm Beach, Florida 33401.

Office of Special Agent In Charge, P.O. Box 1516, Tampa, Florida 33601.

Office of Resident Agent, 2701 Talleyrand Avenue, Jacksonville, Florida 32206.

Office of Special Agent In Charge, Drawer A, Savannah, Georgia 31408.

Office of Resident Agent, 1585 Phoenix Boulevard, Suite 5, Atlanta, Georgia 30349.

Office of Special Agent In Charge, P.O. Box 898, Wilmington, North Carolina 28401.

Office of Special Agent In Charge, U.S. Customs Service, P.O. Box S-1272, Old San Juan, Puerto Rico 00902.

Office Of Resident Agent, P.O. Box 127, Ponce Playa, Puerto Rico.

Office of Resident Agent, U.S. Customhouse, P.O. Box 3226, Marina Station, Mayaguez, Puerto Rico.

Office of Special Agent In Charge, P.O. Box 698, Charlotte-Amalie, St. Thomas, Virgin Islands.

Office of Resident Agent, P.O. Box 1801—Christiansted, St. Croix, Virgin Islands.

Office of Special Agent In Charge, 628 East Michigan Street, Room 208, Milwaukee, Wisconsin 53202.

document and authorize continuation of pay. For additional routine uses see Appendix AA.

Retrievability: Name and claim no.

Safeguards: Locked file cabinets; access limited to Safety Manager

Office of Resident Agent, P.O. Box 1801—Christiansted, St. Croix, Virgin Islands.

Region V-New Orleans

Office of Regional Director of Inv., 1440 Canal Street, New Orleans, Louisiana 70112.

Office of Special Agent in Charge, 600 South Street, Room 444, New Orleans, La. 70130.

Office of Special Agent In Charge, International Trade Center, P.O. Box 1704, Mobile, Alabama 36601.

Office of Resident Agent, 1719 West End Building, Room 303, Nashville, Tennessee 37203.

Region VI-Houston

Office of Regional Director of Inv., Suite 1380, 500 Dallas Street, Houston, Texas 77002.

Office of Resident Agent, Suite 210, 700 Paredes Ave., Brownsville, Texas 78520.

Office of Resident Agent, P.O. Drawer 1169, Del Rio, Texas 78440.

Office of Resident Agent, 1114 Commerce Street, 17th Floor, Dallas, Texas 75202.

Office of Special Agent In Charge, P.O. Box 498, Laredo, Texas 78040.

Office of Resident Agent, P.O. Box 828, Eagle Pass, Texas 78852.

Office of Resident Agent, 2600 North 10th Street, McAllen, Texas 78501.

Office of Resident Agent, 1802 N.E. Loop 410, Suite 302, San Antonio, Texas 78217.

Office of Special Agent in Charge, P.O. Box 10719, El Paso, Texas 79997.

Office of Resident Agent, 5301 Central Avenue, N.E., Suite 919, 1st National Bank Building, East, Albuquerque, New Mexico 87108.

Office of Resident Agent, 721 19th Street, Room 404, P.O. Box 2771, Denver, Colorado 80201.

Region VII-Los Angeles

Office of Regional Director of Inv., 300 South Ferry Street, Room 2037, Terminal Island, San Pedro, California 90731.

Office of Special Agent In Charge, P.O. Box 1385, Nogales, Arizona 85621.

Office of Resident Agent, P.O. Box 5752, Suite 200, First Federal Savings Building, 350 West 16th Street, Yuma, Arizona 85364.

Office of Resident Agent, P.O. Box 1076, 1065 F Avenue, Glenn Bldg., Douglas, Arizona 85607.

Office of Resident Agent, Room 328, Amerco Towers, 2721 No. Central Avenue, P.O. Box 2259, Phoenix, Arizona 85002.

Office of Resident Agent, P.O. Box 2911, Tucson, Arizona 85702.

Office of Special Agent In Charge, P.O. Box 187, San Ysidro, California 92073.

Office of Resident Agent, P.O. Box 1510, Calexico, California 92231.

Region VIII-San Francisco

Office of Regional Director of Inv., 211 Main Street, San Francisco, California 94105.

Office of Special Agent In Charge, 4100 Federal Office Building, 909 First Avenue, Seattle, Washington 98174.

Office of Resident Agent, P.O. Box 1360, Blaine, Washington 98230.

Office of Resident Agent, P.O. Box 1483, Spokane, Washington 99210.

Office of Special Agent In Charge, P.O. Box 199, Anchorage, Alaska 99510.

Office of Special Agent In Charge, P.O. Box 71, Great Falls, Montana 59403.

Office of Special Agent In Charge, 1000 Bishop Street, Suite 1210, Honolulu, Hawaii 96813.

Office of Special Agent In Charge, P.O. Box 2841, Portland, Oregon 97208.

Region IX-Chicago

Office of Regional Director of Inv., 55 E. Monroe Street, Suite 1423, Chicago, Illinois 60603.

Office of Special Agent In Charge, 628 East Michigan Street, Room 208, Milwaukee, Wisconsin 53202.

Office of Special Agent In Charge, 120 South Central Ave., Suite 440, St. Louis, Missouri 63105.

Office of Resident Agent, Room 259, Federal Building, 301 West Lexington Street, Independence, Missouri 64050.

Office of Special Agent In Charge, Plaza Nine, 55 Erieview Plaza, Room 210, Cleveland, Ohio 44114.

Office of Resident Agent, P.O. Box 1035, Fountain Square Station, Cincinnati, Ohio 45201.

Office of Resident Agent, P.O. Box 44835. Federal Building, Room 511 Indianapolis, Indiana 46204.

Office of Special Agent In Charge, Room 507, Meierhoff Building, 325 Lake Avenue, South, Duluth, Minnesota 55802.

Office of Special Agent In Charge, Room 501, 243 West Congress St., Detroit, Michigan 48226.

Office of Special Agent In Charge, P.O. Box 192, Pembina, North Dakota 58271.

Office of Special Agent In Charge, 574 Federal Building, Ft. Snelling, Twin Cities, Minneapolis, Minnesota 55111.

Treasury/BEP 00.002

System name: Civilian Employee Claim File—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: Civilian officers and employees of the Bureau of Engraving & Printing, former employees and their survivors having claim for damage to or loss of personal property incident to their service.

Categories of records in the system: Contains investigative and adjudication documents relative to personal property damage claim.

Authority for maintenance of the system: Military Personnel and Civilian Employees' Claims Act of 1964, Public Law 88-558. Treasury Department Administrative Circular No. 136, Rev.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Director, Bureau of Engraving and Printing and/or his designee for adjudication and settlement of claims. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File Folder.

Retrievability: By Name.

Safeguards: Locked file cabinet—access limited to Safety Division Staff.

Retention and disposal: Retained two years after case is closed; destroyed by shredding.

System manager(s) and address: Chief, Office of Industrial Services, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Individuals having claim for damage to or loss of personal property.

Treasury/BEP 00.003

System name: Continuation of Pay Record—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: Bureau of Engraving & Printing employees, incurring work-connected injuries or illnesses and making claim for continuation of pay.

Categories of records in the system: Memoranda from Safety Manager authorizing Office of Financial Management to continue employee's pay up to 45 days.

Authority for maintenance of the system: Federal Employee Compensation Act as amended; Treasury Department Personnel Bulletin 74—73

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Safety Division & Office of Financial Management and Treasury Department to initiate statistical records for continuation of pay cases and costs. Used to

document and authorize continuation of pay. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File Folder.

Retrievability: Name

Safeguards: Locked file cabinet, access limited to Safety Manager and Compensation Claims Staff.

Retention and disposal: Retained three years after case is closed; destroyed by shredding.

System manager(s) and address: Chief, Office of Industrial Services, Bureau of Engraving and Printing; 14 & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Individual employee and Safety Division reports and recommendations.

Treasury/BEP 00.004

System name: Counseling Records—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: Employees whose actions or conduct warrants counseling.

Categories of records in the system: Contains correspondence relative to counseling information and follow-up reports.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Employee Relations Branch personnel for counseling of individual employees. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: By name.

Safeguards: Locked in file cabinets; access limited to Employee Relations Branch personnel.

Retention and disposal: Retained for one year after close of file and then destroyed by shredding.

System manager(s) and address: Chief, Office of Industrial Relations, Bureau of Engraving and Printing; 14th & C Sts. SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Divison, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Individual employee.

Treasury/BEP 00.005

System name: Compensation Claims—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: Bureau of Engraving & Printing employees incurring work-connected injuries or illnesses, necessitating absence, making claim under Compensation Act.

Categories of records in the system: All pertinent documentation, including investigative reports, forms, etc. relative to work—connected injuries of employees.

Authority for maintenance of the system: Federal Employees Compensation Act, as amended—Public Law 93—416.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Compensation Claims staff (Safety Division) and Department of Labor to initiate, adjudicate and maintain status of employees who may or have initiated claims for continuation of pay and compensation. For additional uses see Apendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File Folder and card file.

Retrievability: Name and claim no.

Safeguards: Locked file cabinets; access limited to Safety Manager and Compensation Claims staff.

Retention and disposal: Retained three years after case is closed; destroyed by shredding.

System manager(s) and address: Chief, Office of Industrial Services, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division Bureau of Engraving and Printing; 14th & C St., SW, Washington, D.C. 20228. Attn: Privacy Law Information

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Employee's Health Unit Daily Report, Notification of Public Health Service Recommendation and information provided by employee.

Treasury/BEP 00.006

System name: Debt Files (Employees)—Treasury/BEP

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: All Bureau of Engraving & Printing employees on whom debt complaints are received.

Categories of records in the system: Contains employee's name, complaint information, court judgements, counseling efforts, receipts, and final disposition of complaint.

Authority for maintenance of the system: Federal Personnel Manual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Employee Relations Branch personnel for employee counseling, credit, reference, and disposition of complaint. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: By name.

Safeguards: Maintained in locked cabinets; access limited to Employee Relations Branch personnel.

Retention and disposal: Retained for two years and then destroyed by shredding.

System manager(s) and address: Chief, Office of Industrial Relations, Bureau of Engraving and Printing; 14th & C Sts,. SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Employees, Complainants, and Court Judgements.

Treasury/BEP 00.008

System name: Emergency Contact Records—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: All Employees of Product Control Division

Categories of records in the system: Record contains Name, Address and Designation of person to be contacted in case of emergency.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Product Control Division personnel for notification of designated person in case of emergency. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: By Name.

Safeguards: Access limited to Quality Control Branch personnel; Kept in metal file cabinets.

Retention and disposal: Record maintained during employee's tenure with the Quality Control Branch. Destroyed after employee's

Notification procedure: Superintendent, Management Services Division Bureau of Engraving and Printing; 14th & C Sts., SW, Washing-

Record source categories: Information furnished by employee at end of shift.

Treasury/BEP 00.019

System name: Identification Files—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts.,

Retention and disposal: Record maintained during employee's tenure with the Quality Control Branch. Destroyed after employee's separation by shredding.

System manager(s) and address: Chief, Office of Industrial Services, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Individual Product Control Division employees.

Treasury/BEP 00.009

System name: Employee Arrest Record—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: All Bureau of Engraving and Printing employees who have been arrested.

Categories of records in the system: Telephone conversation memo for file regarding arrest information supplied by Office of Security.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Employee Relations Branch personnel as background material for possible discipline or adverse action. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: By name.

Safeguards: Maintained in locked cabinets; access limited to Employee Relations Branch personnel.

Retention and disposal: Retained until conviction, acquittal or other disposition and then destroyed by shredding.

System manager(s) and address: Chief, Office of Industrial Relations, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts. SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Office of Security and police records.

Treasury/BEP 00.012

System name: Employee Index File—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: All Supply Branch Employees.

Categories of records in the system: Record contains employee name, address, phone number, social security number, cost center number, position, grade, and date of employment.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Supply Branch personnel to notify designated person in case of emergency or when employee is absent. Also used as Office reference file to provide information for other Bureau components upon request. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 3 x 5 Cards.

Retrievability: Indexed by name.

Safeguards: Kept on clerical supervisors desk, access limited to Supply Branch personnel.

Retention and disposal: Destroyed upon separation of employee from Branch by shredding.

System manager(s) and address: Chief, Office of Administrative Services, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Supply Branch Employees.

Treasury/BEP 00.013

System name: Employee Locator Record—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: All employees of the Bureau of Engraving & Printing.

Categories of records in the system: The system provides current information for the Treasury telephone directory. It also provides employee information data which is needed to locate employees in case of emergency.

Authority for maintenance of the system: The Department of the Treasury, Office of Administrative Programs, Telecommunications Circular No. 21—June 13, 1974.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Telephone Services Unit to locate employees within the Bureau of Engraving & Printing. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: By name of employee.

Safeguards: Access limited to Telephone Services Unit personnel; maintained in locked cabinet.

Retention and disposal: Record maintained during employees tenure with the Bureau and then destroyed by shredding.

System manager(s) and address: Chief, Office of Industrial Services, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Bureau of Engraving & Printing Employees.

Treasury/BEP 00.014

System name: Employee's Daily Production Record—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: Craft and non-craft employees (bookbinders, examiners, verifiers, exchangers, note packaging workers, counters and assemblers).

Categories of records in the system: Contains Employee Name, Date, Hours, Shift and record of Daily Production.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Examining Division personnel for evaluation of employee's level of productivity. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders and production books.

Retrievability: Indexed by Name and Date.

Safeguards: Maintained in locked cabinets; access is limited to Examining Division personnel.

Retention and disposal: Retained five years and then destroyed by shredding.

System manager(s) and address: Chief, Office of Securities Processing, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Information furnished by employee at end of shift.

Treasury/BEP 00.016

System name: Employee Suggestions—Treasury/BEP

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: All Bureau of Engraving & Printing employees submitting suggestions under the incentive award program.

Categories of records in the system: Contains employee's suggestion, reviewer evaluation and final disposition information.

Authority for maintenance of the system: Title 5, U.S.C., 4502 (c).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Employee Relations Branch personnel and other management personnel for system improvements, cost saving ideas, determination of employee awards and other reference purposes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in File Folders.

Retrievability: Indexed by Name.

Safeguards: Maintained in locked file cabinets; access limited to Employee Relations Branch personnel and employee's Supervisor.

Retention and disposal: Retained for three years following date of submission and then destroyed by shredding.

System manager(s) and address: Chief, Office of Industrial Relations, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Individual Employee, Employee Supervisor and review committee.

Treasury/BEP 00.018

System name: Guard Uniform Control Account—Treasury/BEP

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: All uniformed guard force personnel of the Bureau of Engraving and Printing.

Categories of records in the system: Record contains the guard's name, badge number, rank, employment anniversary date, current inventory of guard's uniform, history of uniform issuance, activity and current dollar balance of guard's uniform allowance.

Authority for maintenance of the system: Federal Uniform Allowance Act, 1954.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Chief, Office of Security and Head, Protective Service Branch to monitor and control guard annual uniform allowance, maintain a current inventory of guard uniforms, plan required stock levels and changes in authorized uniform issues. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 8 x 10 1/2 Ledger sheets in a notebook.

Retrievability: Alphabetical by guard's name.

Safeguards: Access limited to Chief, Office of Security, Head, Protective Services Branch, and the Uniform Control Clerk. Maintained in a locked file cabinet.

Retention and disposal: This is a new system and no retention period has yet been established.

System manager(s) and address: Chief, Office of Security, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Guard Force Personnel of Bureau of Engraving and Printing.

Treasury/BEP 00.019

System name: Identification Files—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW Washington, D.C. 20228.

Categories of individuals covered by the system: Incumbent Employees, Separated Bureau Employees, Visitors to the Bureau, Contractor & Service Company Employees (Incumbent & Separated).

Categories of records in the system: Category: Request for Issuance of Badge or Pass, Badge and Pass Photograph, Employee Identification Badge or Pass, Employee Identification Badge and Pass Record Card, Control Record for Issuance of Badges & Passes, Record of Lost Badges, Record of Funds Collected for Issuance of Badges or Passes and receipts for funds released to appropriate authority, Record of Destruction of Badges and Passes, Type of Information: The following information is retained as it applies to each individual issued a Pass and/or Badge in the present system: Name, Date of Birth, Physical Description, Work area assignment, Name of Firm or Government Agency, Requesting Data for Pass/Badge, Signatures of persons receipting for Passes and Badges, Badge and Pass Numbers, Date of Issue, to whom issued and area or firm, Dates and method of destruction, Date, place and circumstance of loss of Pass/Badges.

Authority for maintenance of the system: Executive Order 11652 and implementing Treasury and Bureau regulations and 31 U.S.C., Section 427.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Category of Users: Bureau of Engraving and Printing management officials, Bureau of Engraving and Printing security personnel, Federal, State, and local law enforcement or investigative agencies. For additional routine uses see Appendix AA. Purpose of Each Use: Identification of personnel, Determine status of personnel, Limit access of personnel to specified Bureau security areas, Control access to the Bureau.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Ledgers, Cards, File Folders, Loose Leaf Binders, Envelopes.

Retrievability: Numerical by Pass/Badge Number, Alphabetically by last name, Appropriate index by subject.

Safeguards: Maintained in locked cabinets in a locked room; access limited to Office of Security staff.

Retention and disposal: Retention period and disposal instructions have not yet been officially established.

System manager(s) and address: Chief, Office of Security, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228, Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: The individual concerned, his supervisor or an official of the individual's firm or agency.

Treasury/BEP 00.020

System name: Industrial Truck Licensing Records—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: Bureau of Engraving and Printing employees designated to operate self—propelled material and/or machinery handling equipment.

Categories of records in the system: Record of employee physical examination, testing, license number and issue date for purpose of operating one or more types of material handling equipment used within the Bureau of Engraving and Printing.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Safety Division staff personnel to validate employee operational authority and determine renewal dates. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File Folder and Card file.

Retrievability: By Name.

Safeguards: Locked file cabinet, access limited to Safety Division staff.

Retention and disposal: Destroyed upon separation by shredding.

System manager(s) and address: Chief, Office of Industrial Services, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Individual Product Control Division employees.

Treasury/BEP 00.009

System name: Employee Arrest Record—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: All Bureau of Engraving and Printing employees who have been arrested.

Categories of records in the system: Telephone conversation memo for file regarding arrest information supplied by Office of Security.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Employee Relations Branch personnel as background material for possible discipline or adverse action. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: By name.

Safeguards: Maintained in locked cabinets; access limited to Employee Relations Branch personnel.

Retention and disposal: Retained until conviction, acquittal or other disposition and then destroyed by shredding.

System manager(s) and address: Chief, Office of Industrial Relations, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts. SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Office of Security and police records.

Treasury/BEP 00.012

System name: Employee Index File—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: All Supply Branch Employees.

Categories of records in the system: Record contains employee name, address, phone number, social security number, cost center number, position, grade, and date of employment.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Supply Branch personnel to notify designated person in case of emergency or when employee is absent. Also used as Office reference file to provide information for other Bureau components upon request. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 3 x 5 Cards.

Retrievability: Indexed by name.

Safeguards: Kept on clerical supervisors desk, access limited to Supply Branch personnel.

Retention and disposal: Destroyed upon separation of employee from Branch by shredding.

System manager(s) and address: Chief, Office of Administrative Services, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Supply Branch Employees.

Treasury/BEP 00.013

System name: Employee Locator Record—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: All employees of the Bureau of Engraving & Printing.

Categories of records in the system: The system provides current information for the Treasury telephone directory. It also provides employee information data which is needed to locate employees in case of emergency.

Authority for maintenance of the system: The Department of the Treasury, Office of Administrative Programs, Telecommunications Circular No. 21—June 13, 1974.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Telephone Services Unit to locate employees within the Bureau of Engraving & Printing. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: By name of employee.

Safeguards: Access limited to Telephone Services Unit personnel; maintained in locked cabinet.

Retention and disposal: Record maintained during employees tenure with the Bureau and then destroyed by shredding.

System manager(s) and address: Chief, Office of Industrial Services, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Bureau of Engraving & Printing Employees.

Treasury/BEP 00.014

System name: Employee's Daily Production Record—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: Craft and non-craft employees (bookbinders, examiners, verifiers, exchangers, note packaging workers, counters and assemblers).

Categories of records in the system: Contains Employee Name, Date, Hours, Shift and record of Daily Production.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Examining Division personnel for evaluation of employee's level of productivity. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders and production books.

Retrievability: Indexed by Name and Date.

Safeguards: Maintained in locked cabinets; access is limited to Examining Division personnel.

Retention and disposal: Retained five years and then destroyed by shredding.

System manager(s) and address: Chief, Office of Securities Processing, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

record—keeping personnel; tax reporting at Federal, state and local levels, and required reports to Department of Treasury, Civil Service

System manager(s) and address: Chief, Office of Industrial Services, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Supervisor request, results of physical examination, and data obtained during training or practical tests.

Treasury/BEP 00.021

System name: Investigative Files—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: Incumbent Employees, Separated Bureau Employees, Employee Applicants, Visitors to the Bureau, Non—Bureau Correspondents, Contractor & Service Company Employees (Incumbent and Separated).

Categories of records in the system: Category: Security Files, Personnel Clearance Requests, Case Files, Bank Shortage Letters, Contractor Files, Food Coupon Discrepancy Reports, Intelligence Files, Stamp Discrepancy Reports, Case Record, Crank Letters, Security Files Reference Record, Employee Indebtedness Record, Type of Information: Character references, Guard force reports, Previous employment verifications, Newspaper articles, Social Security Numbers, Laboratory reports to include handwriting results and latent fingerprint examinations, Law enforcement criminal and subversive record checks, Court records, Security registers, Residency information, Reports of shortages or thefts of Bureau products including subsequent investigations, Personnel records of various types, Fingerprint card, Photograph, Names of individuals including those at contractor plants who worked on a shortage involving Bureau products, Credit checks, Background investigation reports conducted by Civil Service Commission, the Internal Revenue Service and other Federal Investigative Agencies, Disciplinary action recommended and/or received, Military record forms and extracted information, List of Bureau employees granted security clearances, Processes served, i.e. summons, subpoenas, warrants, etc., Personnel security case numbers, dates case opened and closed, and recommendations, Certificate of Security clearance, Reports of violations of Bureau regulations and procedures, Bureau visitor control documents, Correspondence relating to individuals, Claims of indebtedness from firms and collection agencies and other sources, and assorted documents, Tape recorded testimony, Type of Information: Bureau investigation reports, Information supplied by law enforcement agencies, Applicant interview record, Anonymous tips concerning Bureau employees, Official investigative statements, Names of those requesting security assistance and report of the assistance rendered, other pertinent Governmental records, education records and information, Date of Birth and physical description of individual in the files.

Authority for maintenance of the system: Executive Order 10450 and implementing Treasury and Bureau regulation and 31 U.S.C. 427.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Category of Users: Office of Security and staff, Bureau of Engraving & Printing management officials, Federal, state, county, and city law enforcement agencies, Investigatory Government agencies, other Governmental agencies requesting information, Contractor plant management officials. Purpose of Each Use: Determine employment suitability from a security point of view, Data for bi—weekly & quarterly reports, Means of identifying employees and employee misconduct and criminal activities and their actions affecting security suitability, Social Security numbers as a means of identification, Recommendations for disciplinary action to include dismissal from the Bureau, Determine employees' acceptability for assignment to security areas/duties from a security standpoint, Grant access to the Bureau, Develop Bureau policies and procedures, Determine patterns of employee behavior regarding misconduct, debts, illegal activities, etc., Develop investigative leads, Compile lists of suspects, Maintain numerical record of cases received during year, Maintain record of visitors to Bureau, Determine prospective firms suitability to conduct business with the Bureau, Evidence in legal cases and other judicial and non—judicial actions, Grant security clearances, Determine non—Bureau employee suitability to work on Bureau premises and/or products. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File Folders, 3 x 5 Index Cards, 5 x 8 Index Cards, Loose Leaf Binders, Ledger, Recording Tape.

Retrievability: Numerically by case number and year, Alphabetically by name and social security number, Alphabetically by company name.

Safeguards: Access is limited to Office of Security staff and maintained in locked file cabinets.

Retention and disposal: Retention period and disposal instructions have not yet been officially established.

System manager(s) and address: Chief, Office of Security, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Proposed exempt system.

Record access procedures: Proposed exempt system.

Contesting record procedures: Proposed exempt system.

Record source categories: Proposed exempt system.

Systems exempted from certain provisions of the act: System exempted from certain provisions of the Act. Notice of proposed exemption from 5 U.S.C. 552a (j) and/or (k) elsewhere in the Federal Register.

Treasury/BEP 00.022

System name: Monthly Equal Employment Opportunity Activity Report—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: Minority and female employees receiving significant appointments and promotions.

Categories of records in the system: Name and Position of Promotion or Appointment.

Authority for maintenance of the system: Affirmative Action Plan for Fiscal Year 1975.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Bureau Equal Employment Opportunity Staff to inform the Director, Office of Equal Employment Opportunity Program, Department of the Treasury, of the monthly progress of minority and female employees. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: Cross referenced by month and employee's name.

Safeguards: Access is limited to Bureau Equal Employment Opportunity Staff and is maintained in locked combination safe.

Retention and disposal: Retained five years and then destroyed by shredding.

System manager(s) and address: Chief, Office of Industrial Relations, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Personnel Action Records maintained by Supervisor.

Treasury/BEP 00.023

System name: Motor Vehicle Licensing Records—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: Bureau of Engraving and Printing employees designated to operate passenger vehicles, trucks, and/or vans for Bureau business.

Categories of records in the system: Record of employee physical examination, testing, license number and issue date for purpose of operating passenger and/or truck vehicles.

Authority for maintenance of the system: United States Civil Service Commission Regulations 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Safety Division and/or Security Staff, District of Columbia or State Enforcement Authorities to validate employee operational authority. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folder and card file.

Retrievability: By name.

Safeguards: Kept in locked file cabinets; access limited to Safety Division staff.

Retention and disposal: Retained three years; destroyed by shredding.

System manager(s) and address: Chief, Office of Industrial Services, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Supervisor request, results of physical examination, and data obtained during training or practical tests.

Treasury/BEP 00.024

System name: Payroll Records—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: All Bureau of Engraving and Printing Employees (Active).

Categories of records in the system: Current Pay and Cumulative Pay—Record consists of all payroll transactions affecting the employee's pay checks, e.g., withholdings, allotments, net check, cumulative year—to—date total.

Authority for maintenance of the system: Federal Personnel Manual and various Federal, State and Local regulatory agencies 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by payroll personnel to create the pay tape for the disbursing officer for routine payroll. Also used to produce the bi-weekly, quarterly and annual employee earnings statement which enables the employee to verify his or her record. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Punch card, magnetic tape, disc, microforms, and printouts.

Retrievability: By Social Security Number.

Safeguards: Records are maintained in locked files in locked area. Access limited to Payroll personnel.

Retention and disposal: Retained in accordance with General Records Schedule No. 2; destroyed by shredding.

System manager(s) and address: Chief, Office of Financial Management, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Employee time and attendance records, allotment authorizations, withholding statements or related financial information.

Treasury/BEP 00.025

System name: Payroll Statistical Data—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: All Bureau of Engraving and Printing Employees.

Categories of records in the system: Payroll History—Record consists of all required payroll information including leave data, time and attendance history, allotment information, retirement information, and required pay status information.

Authority for maintenance of the system: Federal Personnel Manual and various regulatory bodies. 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by payroll personnel for routine payroll reporting to Bureau financial and personnel record—keeping personnel; tax reporting at Federal, state and local levels, and required reports to Department of Treasury, Civil Service Commission and other Government agencies (as required by Federal directives). For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Punch Card.

Retrievability: Social Security Number.

Safeguards: Maintained in locked files in locked area. Access limited to Payroll Personnel.

Retention and disposal: Retained in accordance with General Records Schedule No. 2; destroyed by shredding.

System manager(s) and address: Chief, Office of Financial Management, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Employee time and attendance records, payroll records, and related financial information.

Treasury/BEP 00.027

System name: Personnel Movement Control Record—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: Bureau of Engraving & Printing Employees, Official Visitors to the Bureau, Contractor & Service Company Employees.

Categories of records in the system: Record contains Name, Office, Division, Branch, Unit, Badge Number, Picture, Work Shift Code, Work Area Code, Personnel Category, Time & Location of each passage through a Security Control point.

Authority for maintenance of the system: Executive Order 11652 and implementing Treasury and Bureau regulations and 31 U.S.C. 427.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by management and security employees for identification of personnel and for limiting access to and movement within controlled Bureau security areas. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Ledgers, cards, file folders, loose leaf binders, envelopes.

Retrievability: Numerical by Pass/Badge Number, Alphabetically by last name, Appropriate index by subject.

Safeguards: Maintained in locked cabinets in a locked room; access limited to Office of Security staff.

Retention and disposal: Retention period and disposal instructions have not yet been officially established.

System manager(s) and address: Chief, Office of Security, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: The individual concerned, his supervisor, or an official of the individual's firm or agency.

Treasury/BEP 00.028

System name: Personnel Progress & Achievement Record—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: Management Analysts and Clerical Personnel within Management Analysis Branch.

Categories of records in the system: This record contains a history of an employee's work assignments and information relative to performance as well as information on training schools attended or other pertinent information.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by supervisor of

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Equal Employ-

Storage: Records are maintained on punch cards.

Retrievability: Indexed by name, retention subgroup, and competi-

Safeguards: Locked in Supervisor's Office; access limited to employees, Supervisor & clerical personnel in Payroll Section.

Retention and disposal: Retained six years; destroyed by shredding.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by supervisor of Management Analysis Branch to evaluate work performance of Branch employees for promotion, training and reference material for future assignments. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: Filed alphabetically by employee's name.

Safeguards: Access is limited to Branch Head and kept in locked desk drawer.

Retention and disposal: Maintained for the duration of employee's assignment within the Branch; destroyed by shredding.

System manager(s) and address: Chief, Office of Administrative Services, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Management Analysis Branch employees or Supervisor knowledge of employee.

Treasury/BEP 00.029

System name: Petition of Election—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: Listing of employees eligible for inclusion within the union bargaining for recognition.

Categories of records in the system: Alphabetical listing of eligible employees to include position title & occupational codes.

Authority for maintenance of the system: Executive Order 11491, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information compiled & furnished to United States Dept. of Labor, Labor—Mgmt Services Admin. in order to supervise the election; to the Dept. of Treasury to fulfill reporting requirement in Treasury Personnel Manual 711; and to the petitioning Union to verify eligibility of voters at the poll. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: By Union Title.

Safeguards: Maintained in a locked cabinet; access limited to Labor—Mgmt. Relations staff & designated Union Representatives as required.

Retention and disposal: Retention and disposal procedures have not been established.

System manager(s) and address: Chief, Office of Industrial Relations, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Position Description file & Personnel Manpower file.

Treasury/BEP 00.030

System name: Project REST (Reporting Employment Statistics in Treasury), Minority Statistics—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: All Bureau of Engraving & Printing Employees.

Categories of records in the system: Record contains employee name, Social Security Number, Minority Group Identification, Sex, Occupational Series, Grade, Pay Plan, and Date of Birth.

Authority for maintenance of the system: Assistant Secretary (Administration) Department of the Treasury, Administrative Circular No. 232 (October 5, 1972).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Equal Employment Opportunity staff to provide Minority Group Statistical Data for evaluating the Bureau Equal Employment Opportunity responsibilities. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: On computer print—out.

Retrievability: By Name, Sex and Minority Group Identifier.

Safeguards: Access limited to Bureau Equal Employment Opportunity staff; maintained in locked combination safe.

Retention and disposal: Retained five years; destroyed by shredding.

System manager(s) and address: Chief, Office of Industrial Relations, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Individual Employee, Equal Employment Opportunity Counselors, Equal Employment Opportunity Investigators.

Treasury/BEP 00.031

System name: Reemployment Information Record—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: Former Bureau of Engraving & Printing employees.

Categories of records in the system: Information relative to reemployment rights and reemployment recommendations.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by personnel staff for re—hiring determinations and statistical studies and reports. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: Indexed by name and year.

Safeguards: Maintained in locked file cabinet, access limited to Personnel staff.

Retention and disposal: Retained three years after separation; destroyed by shredding.

System manager(s) and address: Chief, Office of Industrial Relations, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Information obtained from supervisor as employees separate.

Treasury/BEP 00.032

System name: Retention Register—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: All Bureau of Engraving and Printing Employees (Active).

Categories of records in the system: Information on retention rights of employees.

Authority for maintenance of the system: Federal Personnel Manual Chapter 351.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In cases of reduction in force, used primarily by personnel staff to determine retention rights and also by the Civil Service Commission on inspections and for resolving appeals. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on punch cards.

Retrievability: Indexed by name, retention subgroup, and competitive level.

Safeguards: Access limited to Manpower Information and Records Section, Staffing Classification and Supervisory Personnel. Maintained in locked file cabinets.

Retention and disposal: Registers are maintained until a new register replaces it. The old register is destroyed by shredding.

System manager(s) and address: Chief, Office of Industiral Relations, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Data is obtained from the Official Personnel Folder.

Treasury/BEP 00.033

System name: Roster of Bureau of Engraving & Printing Employees—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: All Bureau of Engraving & Printing Employees.

Categories of records in the system: Roster of employees employed at the Bureau of Engraving & Printing (Active).

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Office of Industrial Relations personnel, auditors and Bureau managers for statistical reports, locator system and manpower forecasting. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored on flexoline cards.

Retrievability: By name of employee.

Safeguards: Access limited to Office of Industrial Relations personnel, locked in standard card file.

Retention and disposal: Maintained indefinitely and changed as personnel are hired or separated.

System manager(s) and address: Chief, Office of Industrial Relations, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Information obtained from appointment papers and separation papers.

Treasury/BEP 00.034

System name: Time & Attendance Record—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: All Bureau of Engraving & Printing Employees.

Categories of records in the system: Record contains time & attendance information.

Authority for maintenance of the system: Federal Personnel Manual and 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Payroll Section to compute employee payroll records and used by Supervisor & time—keeping personnel to record time & attendance information. For additional uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in tabulating card files.

Retrievability: By name.

Safeguards: Locked in Supervisor's Office; access limited to employees, Supervisor & clerical personnel in Payroll Section.

Retention and disposal: Retained six years; destroyed by shredding.

System manager(s) and address: Chief, Office of Financial Management, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Individual Employee and Supervisor.

Treasury/BEP 00.035

System name: Tort Claims (Against the United States)—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: Individuals and/or organizations making claim for money damage against the United States for injury to or loss of property or personal injury or death caused by the neglect or wrongful act or omission of a Bureau of Engraving & Printing employee while acting within the scope of his office or employment.

Categories of records in the system: Contains investigative and adjudication documents relative to personal injury and/or property damage claims.

Authority for maintenance of the system: Federal Tort Claims Act, Title 28 U.S.C. 2672, Public Law 89—506, Treasury Department Circular 131.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Director, Bureau of Engraving and Printing and/or his designee in conjunction with the General Counsel, Department of the Treasury for adjudication and settlement of claims. For additional uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folder.

Retrievability: By name.

Safeguards: Locked file cabinet; access limited to Safety Division staff.

Retention and disposal: Retained three years; destroyed by shredding.

System manager(s) and address: Chief, Office of Industrial Services, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Individual or organization's claim and/or investigative reports.

Treasury/BEP 00.036

System name: Union Dues Allotments—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: Employees who authorize or revoke Union dues allotments.

Categories of records in the system: An authorization for or revocation of voluntary union dues allotments.

Authority for maintenance of the system: Executive Order 11491, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Payroll Office employees to effect allotments of Union dues in accordance with voluntary determination of employee member. For additional uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: Indexed by name of employee.

Safeguards: Maintained in locked file cabinet; access limited to personnel in the Records & Payroll Sections.

Safeguards: Kept in locked file cabinets; access to these records is restricted to Supervisor and authorized timekeeping personnel.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Retrievability: By name.

Safeguards: Locked in combination lock safe. Access limited to EEO Specialists and Counselors.

Safeguards: Maintained in locked file cabinet; access limited to personnel in the Records & Payroll Sections.

Retention and disposal: Record maintained for length of time necessary to perform payroll activities, disposed when superseded by new card or on transfer or separation of employee whichever is earlier. Destroyed by shredding.

System manager(s) and address: Chief, Office of Financial Management, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Authorization or revocation statement originated by employee.

Treasury/BEP 00.037

System name: Union Index—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: Name & Title of designated Union officials to include the President, Vice President, Secretary, Treasurer, & Stewards.

Categories of records in the system: Listing of recognized Union officials by title, bargaining unit, and jurisdiction.

Authority for maintenance of the system: Executive Order 11491, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by management personnel for the purpose of normal conduct of established Labor-Mgmt. Relations business. Copies provided to the Treasury Dept., U.S. Dept. of Labor and the Civil Service Commission as required by Treasury Personnel Manual. For additional uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: By Union Title.

Safeguards: Maintained in locked file; access limited to Labor—Mgmt Relations staff & Mgmt. officials as required.

Retention and disposal: Retained for duration of recognition of the Union and then destroyed by shredding.

System manager(s) and address: Chief, Office of Industrial Relations, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Provided by recognized unions.

Treasury/BEP 00.038

System name: Unscheduled Absence Record—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: All Bureau of Engraving & Printing employees who have had unscheduled absences.

Categories of records in the system: Record contains chronological documentation of unscheduled absences.

Authority for maintenance of the system: Federal Personnel Manual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by an employee's supervisor to record the number of times an employee has an unscheduled absence. This information is used by Employee Relations Branch for statistical reports depicting frequency rate for all Bureau employees. It is also used as a basis for counseling an employee concerning overall job performance. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: By name.

Safeguards: Kept in locked file cabinets; access to these records is restricted to Supervisor and authorized timekeeping personnel.

Retention and disposal: Retained until separation; destroyed by shredding.

System manager(s) and address: Chief, Office of Industrial Relation, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Individual employee time & attendance record and employee's supervisor.

Treasury/BEP 00.039

System name: Work Performance Records—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: All employees and former employees of the Office of Audit.

Categories of records in the system: Detailed information supporting work performance records and reports, such as performance, evaluation, training, audit assignments, audit progress reports, audit working papers and audit files.

Authority for maintenance of the system: Public Law 656, 81st Congress, Bureau of Engraving & Printing Circular No. 23, dated February 9, 1978.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Chief, Office of Audit for work performance, administrative, management, and audit purposes to evaluate promotion, training, and reference material for future assignments. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: Cross referenced by name and audit number or title.

Safeguards: Area is locked after hours. In addition, there are specified locked controls in the area, depending on the importance for administrative purpose. Access limited to Audit personnel.

Retention and disposal: Retained two years; destroyed by shredding.

System manager(s) and address: Chief, Office of Audit, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Developed internally from within the Office of Audit or other Offices in the Bureau of Engraving and Printing or by referral documents.

Treasury/BEP 00.040

System name: Freedom of Information Requests—Treasury/BEP

System location: Bureau of Engraving and Printing; 14th & C Sts., SW Washington, D.C. 20228.

Categories of individuals covered by the system: Individuals requesting information.

Categories of records in the system: Correspondence pursuant to the Freedom of Information Act, internal processing documents and memoranda, referrals and copies of requested records.

Authority for maintenance of the system: Freedom of Information Act, 5 U.S.C. 552. 31 C.F.R. Part 1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For reporting requirements as required by the Act; to respond to other Department officials who request information regarding persons making a FOI request; evaluation purposes and determination of volume of requests received and the impact on the current workload; preparation of budget; disclosures in accordance with Freedom of Information Act, to other agencies when required for coordination of response or referral; to Department of Justice for defending law suits; to Congressional Committees; for additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: By name of requester(s) and date of request.

Safeguards: Filed in filing cabinet and released only to individuals with legitimate right to review.

Retention and disposal: Retained in accordance with General Records Schedule No. 14; then destroyed by shredding.

System manager(s) and address: Chief, Office of Administrative Services, Bureau of Engraving and Printing; 14th & C Sts. , SW., Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., S.W., Washington, D.C. 20228, Attn: Privacy Law Information.

Record access procedures: See Notification above.

Contesting record procedures: See Notification above.

Record source categories: Individuals who make Freedom of Information Act requests. Federal officials responding to Freedom of Information Act requests and documents from official records.

Treasury/BEP 00.041

System name: Record of Discrimination Complaints—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: Employees who have initiated discrimination complaints.

Categories of records in the system: Data developed as a result of inquiry by the person making the allegation of discrimination.

Authority for maintenance of the system: U.S. Civil Service Commission (Federal Personnel Manual Letter, No. 713—21).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Equal Employment Opportunity Complaint Investigators and Hearing Officers to provide reference data for making rulings on discrimination cases. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: By Name.

Safeguards: Access limited to Complainants, Equal Employment Opportunity Staff, Equal Employment Opportunity Investigator; maintained in locked combination safe.

Retention and disposal: Retained four years after resolution; destroyed by shredding.

System manager(s) and address: Chief, Office of Industrial Relations, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: See notification above.

Contesting record procedures: See notification above.

Record source categories: Individual employees who have discrimination complaints.

Treasury/BEP 00.042

System name: Informal EEO Complaint Processing Records—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: Employees who register informal EEO complaints.

Categories of records in the system: Contains information and data developed through counseling sessions and appropriate inquiries.

Authority for maintenance of the system: U.S. Civil Service Commission Regulations; Section 713 Treasury Regulations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to inform complainants of the results of the counselor's inquiries. Also used to provide EEO Complaint Investigator with historical background data on cases which could not be resolved on an informal basis.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: By name.

Safeguards: Locked in combination lock safe. Access limited to EEO Specialists and Counselors.

Retention and disposal: Retained four years after resolution of case; then destroyed by shredding.

System manager(s) and address: Chief, Office of Industrial Relations Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division Bureau of Engraving and Printing; 14th & C Sts.; SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual complainants and other employees and supervisors necessary to make an appropriate inquiry.

Treasury/BEP 00.043

System name: Parking Program Records—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: Bureau, Non-Bureau personnel.

Categories of records in the system: Parking space applicant information—shows applicant's name and address, vehicle model and year, vehicle license number, work hours, work component, home and work telephone number.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to provide information on all parking permit applicants.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 5 x 8 card file and lettersize file folders.

Retrievability: Alphabetically by applicant and parking space number.

Safeguards: Access is limited to Office of Security staff and maintained in locked office.

Retention and disposal: Retention period and disposal instructions have not been officially established.

System manager(s) and address: Chief, Office of Security, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Parking permit applicants.

Treasury/BEP 00.044

System name: Personnel Security Files and Indices—Treasury/BEP.

System location: Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Categories of individuals covered by the system: Employee applicants, current and former Bureau employees, contractor and service company employees.

Categories of records in the system: Investigative information related to personnel investigations conducted by the Bureau of Engraving and Printing Security office and other Federal Agencies.

Authority for maintenance of the system: Executive Order 10450.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used for the purpose of granting security clearances and making employment suitability determinations. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File Folders/3 x 5" Index cards.

Retrievability: Alphabetically by name.

Safeguards: Access is limited to Office of Security staff and records are maintained in locked file cabinets.

Retention and disposal: Retention periods and disposal instructions have not yet been officially established.

System manager(s) and address: Chief, Office of Security, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

general public for services, lost government property and jury and witness fees. (B) Categories of Users: accounting office, managers and

System manager(s) and address: Personnel Officer, Bureau of the Mint, Warner Building, 501 13th Street, N.W., Washington, D.C.

Record source categories: Personal information provided by employee himself and identification approval by management staff.

System manager(s) and address: Chief, Office of Security, Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228.

Notification procedure: Superintendent, Management Services Division Bureau of Engraving and Printing; 14th & C Sts., SW, Washington, D.C. 20228. Attn: Privacy Law Information.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual employee and information supplied by other Federal Investigative Agencies.

Treasury/Mint 00.002

System name: Applicants for selection for the current Annual Assay Commission, and members of former Commissions.—Treasury/Mint.

System location: Bureau of the Mints, Office of the Director, Warner Building, 501 13th St., N.W., Washington, D.C. 20220.

Categories of individuals covered by the system: Members of public seeking appointment by President to Assay Commission and their sponsors or endorsers, and members of former Commissions.

Categories of records in the system: Biographies of candidates and correspondence with applicants, sponsors and endorsers.

Authority for maintenance of the system: 31 U.S.C. 363.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Used to screen applicants for Presidential selection and to determine whether applicants had previously served on Assay Commission. (b) Used by appropriate agency officials and other Federal officials responsible for processing selection. (c) Used to select a committee to test the nation's coinage. (d) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents.

Retrievability: By name.

Safeguards: Accessible only to appropriate agency and other Federal officials. Secured Files.

Retention and disposal: Retained permanently.

System manager(s) and address: Assistant to the Director (Public Affairs), Warner Building, Room 1037, 501 13th Street, N.W., Washington, D.C. 20220.

Notification procedure: Same as listed under System Manager. Individuals are required to furnish name.

Record access procedures: For information on procedures for gaining access to and contesting records, individuals may contact the following official: Chief, Information Systems and Documentation Branch, Bureau of the Mint, Room 912, Warner Building, Washington, D.C. 20220.

Contesting record procedures: See access above.

Record source categories: Information submitted voluntarily by general public and Congressional or other endorsers and sponsors.

Treasury/Mint 00.003

System name: Cash Receivable Accounting Information System—Treasury/Mint.

System location: Washington, DC, Bureau of the Mint, Warner Building, 501 13th Street, N.W. Philadelphia, PA, United States Mint, Independence Mall. Denver, CO, United States Mint, 320 West Colfax Avenue. San Francisco, CA, United States Assay Office, 155 Hermann Street. New York, NY, United States Assay Office, 32 Old Slip Street. Fort Knox, KY, United States Bullion Depository. San Francisco, CA, United States Old Mint, 88 Fifth Street.

Categories of individuals covered by the system: Employees and former employees of the Bureau of the Mint and the general public who have: (a) Served on jury duty when employed by the Bureau of the Mint. (b) Paid for lost government property belonging to the Mint. (c) Purchased numismatic items from Mint sales outlets.

Categories of records in the system: (1) Cash received from Mint employees who have served on jury duty or received witness fees. (2) Cash received from Mint employees and general public for lost government property, assay sample work and cash sales of over-the-counter numismatic items.

Authority for maintenance of the system: 5 USC 5537 (Fees for jury service); 31 USC 369 (Sale of numismatic items).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (A) Use: to record cash payment made to the Mint by employees, former employees and general public for services, lost government property and jury and witness fees. (B) Categories of Users: accounting office, managers and supervisors and government officials. (C) Purpose of Use—to account for cash receivables. (D) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper Documents.

Retrievability: Name or number substitute.

Safeguards: Storage in filing cabinets with access by authorized accounting personnel.

Retention and disposal: General records control schedule, GAO rules and regulations, Bureau of the Mint Records Control Schedule, Destroyed in accordance with General Services Administration regulations.

System manager(s) and address: Bureau of the Mint, Warner Building, 501 13th Street, N.W., Washington, D.C. 20220, Financial Manager; Philadelphia, PA 19106, United States Mint, Independence Mall, Budget and Accounting Officer; Denver, CO 80204, United States Mint, 320 West Colfax Avenue, Budget and Accounting Officer; San Francisco, CA 94102, United States Assay Office, 155 Hermann Street, Budget and Accounting Officer; New York, NY 10005, United States Assay Office, 32 Old Slip Street, Budget and Accounting Officer; Fort Knox, KY 40121, United States Bullion Depository, Officer in Charge; San Francisco, CA 94103, United States Old Mint, 88 Fifth Street, Budget and Accounting Officer.

Notification procedure: Same as included in System Manager. An employee or former employee is required to show an identification such as: (A) Employee identification, (B) Driver's license, (C) Other means of identification including social security number and date of birth.

Record access procedures: For information on procedures for gaining access to and contesting records, individuals may contact the following official: Chief, Information Systems and Documentation Branch, Bureau of the Mint, Room 912, Warner Building, Washington, D.C. 20220.

Contesting record procedures: See access above.

Record source categories: Bureau employees and appropriate agency officials.

Treasury/Mint 00.004

System name: Confidential Statements of Financial Interest—Treasury/Mint,

System location: Bureau of the Mint, Warner Building, 501 13th Street, N.W., Washington, D.C. 20220.

Categories of individuals covered by the system: Employees, special employees, consultants, and advisers of the Bureau of the Mint who are required to file statements of financial interest.

Categories of records in the system: Statements of Employment and Financial Interests.

Authority for maintenance of the system: 18 U.S.C. 207, 208; 5 CFR 735.406 and 31 CFR 0.735-70 through 0.735-235.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Used to record, document, and maintain required financial interest statements submitted by Bureau employees under Treasury Department regulations. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate Federal agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. (b) Categories of users agency officials who have a need for the record in the performance of their duties and other Federal officials charged with law enforcement responsibilities. (c) Purpose to maintain current financial interest statements to avoid conflicts of interest. (d) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents.

Retrievability: By name.

Safeguards: Files are kept in a locked metal file cabinet in an area accessible to authorized agency officials.

Retention and disposal: Records are maintained as long as the employee is with the Bureau.

System manager(s) and address: Personnel Officer, Bureau of the Mint, Warner Building, 501 13th Street, N.W., Washington, D.C. 20220.

Notification procedure: Same address and individual listed under System Manager. The employee may be required to show an identification such as: employee identification, driver's license, or other means of identification which will clearly identify an individual.

Record access procedures: For information on procedures for gaining access to and contesting records, individuals may contact the following official: Chief, Information Systems and Documentation Branch, Bureau of the Mint, Room 912, Warner Building, Washington, D.C. 20220.

Contesting record procedures: See access above.

Record source categories: Submitted by individual.

Treasury/Mint 00.005

System name: Current Employee Security Identification Record—Treasury/Mint.

System location: Philadelphia, Pennsylvania, United States Mint, Independence Mall. Denver, Colorado, United States Mint, 320 West Colfax Avenue. San Francisco, California, United States Assay Office, 155 Hermann Street. New York, New York, United States Assay Office, 32 Old Slip Street. West Point, New York, United States Bullion, Depository. Fort Knox, Kentucky, United States Bullion, Depository. San Francisco, California, United States Old Mint, 88 Fifth Street.

Categories of individuals covered by the system: Current Bureau of the Mint employees.

Categories of records in the system: Security information system used to verify proper admittance to restricted areas within the Mint facilities detailed under "LOCATION". The card record (Mint Form 8925) names the employee; provides date and place of birth; descriptive data on height, weight, hair and eyes; office and division in which employed; along with photograph and signature of the employee. The record also indicates approval by facility management for the issuance of personal identification to the employee, which is subsequently carried by the employee.

Authority for maintenance of the system: 40 U.S.C. 318—318c. Treasury Department Order No. 177-25, dated August 8, 1973.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Use: security access control. (b) Categories of Users: security Force Officers. (c) Purpose of Use: protection of persons and property. (d) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Record is 5 inches x 8 inches card filed in Kardex Binder or circular-type index system.

Retrievability: Alphabetical by name.

Safeguards: Maintained in secure area by Security Force Officers.

Retention and disposal: Records are retained until separation of the employee and are destroyed upon termination in accordance with General Services Administration rules and regulations.

System manager(s) and address: Treasury Department, Bureau of the Mint, Warner Building, 501 13th St., N.W., Washington, D.C. 20220, Chief of Security (Coordinator); United States Mint, Independence Mall, Philadelphia, Pa. 19106, Security Officer (Facility Manager); United States Mint, 320 West Colfax Avenue, Denver, Colorado 80204, Security Officer (Facility Manager); United States Assay Office, 155 Hermann Street, San Francisco, Ca. 94102, Security Officer (Facility Manager); United States Assay Office, 32 Old Slip Street, New York, N.Y. 10005, Security Officer (Facility Manager); United States Bullion, Depository, West Point, New York 10996, Security Officer, NYAO (Facility Manager); United States Bullion Depository, Fort Knox, Kentucky 40121, Security Force Captain (Facility Manager); United States Old Mint, 88 Fifth Street, San Francisco, Ca. 94103, Security Force Captain (Facility Manager).

Notification procedure: Same as shown under System Manager. An employee is free to examine his card record upon request, after properly identifying himself as the employee of record. The following would be used to prove identity: (a) Employee identification; (b) Driver's license; (c) Other acceptable personal documents.

Record access procedures: For information on procedures for gaining access to and contesting records, individuals may contact the following official: Chief of Security, Bureau of the Mint, Room 1037, Warner Building, 501 13th Street, N.W., Washington, D.C. 20220.

Contesting record procedures: See access above.

Record source categories: Personal information provided by employee himself and identification approval by management staff.

Treasury/Mint 00.006

System name: Employee and Former Employee Travel and Training Accounting Information System—Treasury/Mint.

System location: Washington, DC, Bureau of the Mint, Warner Building, 501 13th Street, N.W. Philadelphia, PA, United States Mint, Independence Mall. Denver, CO, United States Mint, 320 West Colfax Avenue. San Francisco, CA, United States Assay Office, 155 Hermann Street. New York, NY, United States Assay Office, 32 Old Slip Street. Fort Knox, KY, United States Bullion Depository. San Francisco, CA, United States Old Mint, 88 Fifth Street.

Categories of individuals covered by the system: Employees and former employees of the Bureau of the Mint who have engaged in travel and training.

Categories of records in the system: (1) SF 1166 Voucher and Schedule of Payments with supporting documents such as: (A) SF 1012 Travel Voucher, (B) SF 1038 Application and Account for Advance of Funds, (2) Travel Authorities, (3) Government Travel Request SF 1169, (4) Request, Authorization, Agreement and Certification of Training.

Authority for maintenance of the system: 5 U.S.C. Chapter 41 (Training) and Chapter 57 (Travel).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (A) Use: To record travel and training information on all Mint employees and former employees for the purpose of making disbursements. (B) Categories of Users: Accounting office, managers and supervisors and government officials. (C) Purpose of Use: To administer the travel program of the Bureau in accordance with the regulations. Also, to assist the Personnel Division in administering the training program. (D) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper Documents.

Retrievability: Name or number substitute.

Safeguards: Storage in filing cabinets with access by authorized accounting personnel.

Retention and disposal: General Records Control Schedule, GAO rules and regulations, Bureau of the Mint Records Control Schedule, Destroyed in accordance with General Services, Administration regulations.

System manager(s) and address: Bureau of the Mint, Warner Buildings, 501 13th Street, N.W., Washington, DC 20220, Financial Manager; Philadelphia, PA 19106, United States Mint, Independence Mall, Budget and Accounting Officer; Denver, CO 80204, United States Mint, 320 West Colfax Avenue, Budget and Accounting Officer; San Francisco, CA 94102, United States Assay Office, 155 Hermann Street, Budget and Accounting Officer; New York, NY 10005, United States Assay Office, 32 Old Slip Street, Budget and Accounting Officer; Fort Knox, KY 40121, United States Bullion Depository, Officer in Charge; San Francisco, CA 94103, United States Old Mint, 88 Fifth Street, Budget and Accounting Officer.

Notification procedure: Same as included in System Manager. An employee or former employee is required to show an identification such as: (A) Employee identification, (B) Drivers' license, (C) Other names of identification including social security number and date of birth.

Record access procedures: For information on procedures for gaining access to and contesting records, individuals may contact the following official: Chief, Information Systems, and Documentation Branch, Bureau of the Mint, Room 912, Warner Building, Washington, D.C. 20220.

Contesting record procedures: See access above.

Record source categories: Bureau employees and appropriate agency officials.

Treasury/Mint 00.007

System name: Employee, Former Employee and Visitors, Occupational Safety and Health, Accident and Injuries Records; and Claims for Injuries or Damage Compensation Records—Treasury/Mint.

System location: Location and Category of Records Maintained: Washington, D.C., Bureau of the Mint, Warner Building, 501 13th St. N.W., Accident/Injury/Illness Records, Vehicle Accident, and Claims Against the Government; Philadelphia, Pennsylvania, United

States Mint, Independence Mall, Accident/Injury/Illness Records, Health Records, Motor Vehicle Accident Data, Claims Against the

Branch, Bureau of the Mint, Room 912, Warner Building, Washington, D.C. 20220.

fornia, United States Old Mint, 88 Fifth Street; and Fort Knox, Kentucky, United States Bullion Depository.

Notification procedure: This system is proposed for exemption elsewhere in the Federal Register.

States Mint, Independence Mall, Accident/Injury/Illness Records, Health Records, Motor Vehicle Accident Data, Claims Against the Government, Safety Equipment Logs, and Operators Training/Licensing; Denver, Colorado, United States Mint, 320 West Colfax Avenue, Accident/Injury/Illness Records, Health Records, Motor Vehicle Accident Data, Claims Against the Government, Safety Equipment Logs, and Operators Licensing; San Francisco, California, United States Assay Office, 155 Hermann Steet, Accident/Injury/Illness Records, Health Records, Motor Vehicle Accident Data, Claims Against the Government, Safety Equipment Logs, and Operators Training/Licensing; New York, New York, United States Assay Office, 32 Old Slip Street, Accident/Injury/Illness Records, Health Records, Motor Vehicle Accident Data, Claims Against the Government, and Safety Equipment Logs; West Point, New York, United States Bullion Depository, Accident/Injury/Illness Records, and Motor Vehicle Accident Data; Fort Knox, Kentucky, United States Bullion Depository, Accident/Injury/Illness Records, Motor Vehicle Accident Data, and Claims Against the Government; San Francisco, California, United States Old Mint, 88 Fifth Street, Accident/Injury/Illness Records, Motor Vehicle Accident Data, Claims Against the Government, Safety Equipment Issuance, and Operators Licensing.

Categories of individuals covered by the system: Bureau of the Mint employees, former employees and visitors to Mint offices and facilities, reporting accidents and injuries occurring on Federal Government property or in areas immediately adjacent to Government property, for which potential liability exists due to local laws.

Categories of records in the system: (See Location).

Authority for maintenance of the system: 29 U.S.C. 668; E.O. 11807, 28 U.S.C. 2680 et seq.; 31 CFR Part 3, 31 U.S.C. 240-243; 31 CFR Part 4.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Information in these records is used for the following purposes: (a) Accident prevention, reduction and compilation of statistics. (b) Accident investigations. (c) Determination of Government liability under Federal Tort Claims Act. (d) Determination of Government liability under Military Personnel and Civilian Employees' Claims Act. (e) Determination of employee compensation benefits under Federal Employees' Compensation Act. (f) Health and medical treatment and care to employees and assuring industrial hygiene improvements. (g) Determining accountability for safety equipment. (2) Information in these records may be provided to appropriate agency officials and officials of the following other Federal agencies responsible for the administration of relevant programs or the evaluation, adjudication, litigation and settlement of claims by or against the Government: (a) Department of Labor, (b) Department of Justice, (c) General Accounting Office, (d) Civil Service Commission, (e) Social Security Administration, (3) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents.

Retrievability: by name.

Safeguards: Locked containers in Safety Health Office available to authorized personnel only.

Retention and disposal: Records are retained in accordance with General Records Control Schedules, and Bureau of the Mint Records Control Schedules; and are destroyed in accordance with General Services Administration rules and regulations.

System manager(s) and address: Treasury Department, Bureau of the Mint, Warner Building, 501 13th Street, N.W., Washington, D.C. 20220, Safety Officer; United States Mint, Independence Mall, Philadelphia, PA 19106, Safety Manager; United States Mint, 320 West Colfax Avenue, Denver, Colorado 80204, Safety Manager; United States Assay Office, 155 Hermann Street, San Francisco, California 94102, Safety Manager; United States Assay Office, 32 Old Slip Street, New York, New York 10005, Safety Manager; United States Bullion Depository, West Point, New York 10996, Safety Manager; United States Bullion Depository, Fort Knox, Kentucky 40121, Safety Manager; United States Old Mint, 88 Fifth Street, San Francisco, California 94103, Safety Manager.

Notification procedure: Same as included in System Manager. An employee or former employee is required to show an identification such as: (A) Employee identification, (B) Driver's license, (C) Other means of identification including social security number and date of birth.

Record access procedures: For information on procedures for gaining access to and contesting records, individuals may contact the following official: Chief, Information Systems and Documentation Branch, Bureau of the Mint, Room 912, Warner Building, Washington, D.C. 20220.

Contesting record procedures: See access above.

Record source categories: Employees, supervisors, medical staff, general public, and visitors to the facilities of the Bureau of the Mint.

Treasury/Mint 00.009

System name: Employee- Supervisor Performance, Evaluation, Counseling and Time and Attendance Records—Treasury/Mint.

System location: San Francisco Old Mint, 88 Fifth Street, San Francisco, California. San Francisco Assay Office, 155 Hermann Street, San Francisco, California. Denver Mint, 320 West Colfax Avenue, Denver, Colorado. Washington, D.C., Bureau of the Mint, Warner Building, 501—13th Street, N.W. Philadelphia Mint, Independence Mall, Philadelphia, Pa. New York, N.Y., United States Assay Office, 32 Old Slip Street. Fort Knox, Kentucky, United States Bullion Depository. West Point, N.Y., United States Bullion Depository.

Categories of individuals covered by the system: Bureau of the Mint employees and former employees.

Categories of records in the system: Information necessary for managers and supervisors to effectively carry out supervisory responsibilities. Included are such records as: copies of personnel actions, performance appraisal including production and control, disciplinary actions, overtime reports, tardiness reports, work assignments, training reports, applications for employment, home addresses, leave reports, employee awards. (Supervisors maintain varying combinations of the above records. Some supervisors may maintain all or none of the above records depending upon the nature and size of the operation or organization and the number of individuals supervised.)

Authority for maintenance of the system: 5 U.S.C. 301 and FPM Supplement 990—1, Section 3.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Use—Employee performance, evaluation, counseling and operational control. Categories of Users—Managers and supervisors throughout the Mint. Purpose of Use—To effectively carry out their personnel management responsibilities. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents maintained in folders.

Retrievability: By name.

Safeguards: Stored in file cabinets and desks of supervisors.

Retention and disposal: Retained as long as employee is under their supervision.

System manager(s) and address: Bureau of the Mint, Warner Building, 501 13th Street, N.W. 20220, Assistant Directors; United States Mint, Independence Mall, Philadelphia, Pa. 19106, Superintendent; United States Mint, 320 West Colfax Avenue, Denver, CO. 80204, Superintendent; United States Assay Office, 155 Hermann Street, San Francisco, CA. 94102, Officer-in-Charge; United States Assay Office, 32 Old Slip Street, New York, N.Y. 10005, Officer-in-Charge; United States Bullion Depository, Fort Knox, Kentucky 40121, Officer-in-Charge; United States Old Mint, 88 Fifth Street, San Francisco, CA. 94103, Officer-in-Charge; United States Bullion Depository, West Point, N.Y., Officer-in-Charge.

Notification procedure: Same as listed under system manager, Employee or former employee is required to show identification such as: I.D. card, driver's license.

Record access procedures: For information on procedures for gaining access to and contesting records, individuals may contact the following official: Chief, Information Systems and Documentation Branch, Bureau of the Mint, Room 912, Warner Building, Washington, D.C. 20220.

Contesting record procedures: Contest: See access above.

Record source categories: Employees; previous employers; and appropriate agency officials.

Treasury/Mint 00.017

System name: Equal Employment Opportunity (EEO) Complaint Counseling Records - Treasury/Mint.

System location: Washington, D.C., Bureau of the Mint, Warner Building, 501 - 13th Street, N.W.; Philadelphia, Pennsylvania, United States Mint, Independence Mall; Denver, Colorado, United States Mint, 320 West Colfax Avenue; San Francisco, California, United States Assay Office, 155 Hermann Street; New York, New York, United States Assay Office, 32 Old Slip Street; San Francisco, California, United States Old Mint, 88 Fifth Street; and Fort Knox, Kentucky, United States Bullion Depository.

Categories of individuals covered by the system: Employees and applicants for employment at the Bureau of the Mint.

Categories of records in the system: Allegations of Discrimination and all evidence collected during the counseling process.

Authority for maintenance of the system: Public Law 92-261; Executive Order 11478; 5 CFR Part 713.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Use - Informal processing of employee complaints of discrimination. Categories of users - Agency officials who have a need for the records in the performance of their duties. Purpose of use - Informal resolution of complaints of discrimination.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Folders of paper documents.

Retrievability: By name.

Safeguards: Stored in file cabinets and desks of Counselors and EEO Officer.

Retention and disposal: Indefinite.

System manager(s) and address: EEO Officer, Bureau of the Mint, Warner Building, 501 - 13th Street, N.W., Washington, D.C. 20220; EEO Officer, United States Mint, Independence Mall, Philadelphia, Pennsylvania 19106; EEO Officer, United States Mint, 320 West Colfax Avenue, Denver, Colorado 80204; EEO Officer, United States Assay Office, 32 Old Slip Street, New York, New York 10005; EEO Officer, United States Assay Office, 155 Hermann Street, San Francisco, California 94102; EEO Officer, United States Old Mint, 88 Fifth Street, San Francisco, California 94103; EEO Officer, United States Bullion Depository, Fort Knox, Kentucky 40121.

Notification procedure: See System Manager for address to which inquiries may be addressed. The individual must supply name.

Record access procedures: For information on procedures for gaining access to and contesting records, individuals may contact the Systems Manager.

Contesting record procedures: See access above.

Record source categories: Information is voluntarily obtained from employee(s), management, applicants and pertinent documents.

Treasury/Mint 00.010

System name: Examination reports of coins forwarded to Mint from U.S. Secret Service—Treasury/Mint.

System location: Warner Building, 501 13th Street, N.W., Washington, D.C. 20220.

Categories of individuals covered by the system: Individuals from whom U.S. Secret Service has seized coins suspected to be counterfeit or fraudulently altered.

Categories of records in the system: Reports prepared for U.S. Secret Service regarding the examination of the questioned coin or coins by Mint.

Authority for maintenance of the system: 18 U.S.C. 331, 485, 486, 489, 490 and 491.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Uses, to determine whether a coin is counterfeit or altered and submit report to U.S. Secret Service or other Federal agency charged with law enforcement responsibilities. To give expert testimony as to the coins examined in a criminal or civil proceeding before a Federal or state court. (b) Categories of users, agency officials who have a need for the records in the performance of their duties. (c) Purpose of use, to preserve the integrity of the coinage system by detecting counterfeit or altered coins and to assist in the enforcement of Federal counterfeiting statutes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents.

Retrievability: By name.

Safeguards: Files are kept in locked metal file cabinets in area accessible only to authorized agency officials.

Retention and disposal: Retained in accordance with Bureau of the Mint Records Control Schedule.

System manager(s) and address: Assistant Director for Technology, Bureau of the Mint, Warner Building, 501 13th Street, N.W., Washington, D.C. 20220.

Notification procedure: This system is proposed for exemption elsewhere in the Federal Register.

Record access procedures: This system is proposed for exemption elsewhere in the Federal Register.

Contesting record procedures: Contest: This system is proposed for exemption elsewhere in the Federal Register.

Record source categories: This system is proposed for exemption elsewhere in the Federal Register.

Systems exempted from certain provisions of the act: This system is proposed for exemption elsewhere in the Federal Register.

Treasury/Mint 00.011

System name: General Correspondence—Treasury/Mint.

System location: Bureau of the Mint, Warner Building, 501 13th Street, N.W., Washington, D.C. United States Assay Office, 32 Old Slip, New York, NY. United States Old Mint, 88 Fifth Street, San Francisco, CA.

Categories of individuals covered by the system: Members of the public, Members of Congress, agency officials and other Federal agencies.

Categories of records in the system: Incoming correspondence and replies pertaining to the mission, function and operation of the Bureau of the Mint.

Authority for maintenance of the system: 31 U.S.C. 251, 253.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Use, to maintain documentation of information supplied by the agency to the correspondent. (b) Categories of users, appropriate agency officials. (c) Purpose of use, to provide documentation and reference for future correspondence. (d) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents.

Retrievability: By name of correspondent.

Safeguards: Maintained in limited access area available only to appropriate agency officials.

Retention and disposal: In accordance with the General Services Administration's General Records Control Schedule and the Bureau of the Mint Records Control Schedule. Destroyed in accordance with General Services Administration regulations.

System manager(s) and address: Chief, Information Systems and Documentation Branch, Bureau of the Mint, Warner Building, 501 13th Street, N.W., Washington, D.C. 20220. Superintendent, United States Assay Office, 155 Hermann Street, San Francisco, California 94102. Officer-in-Charge, United States Old Mint, 88 Fifth Street, San Francisco, California 94103.

Notification procedure: See System Manager for addresses to which inquiries may be addressed and addresses at which the individual may present a request as to whether a system contains records pertaining to himself. The individual must supply name.

Record access procedures: For information on procedures for gaining access to and contesting records, individuals may contact the following official: Chief, Information Systems and Documentation Branch, Bureau of the Mint, Room 912, Warner Building, Washington, D.C. 20220.

Contesting record procedures: See access above.

Record source categories: The general public, Members of Congress, agency and other Federal officials.

Treasury/Mint 00.016

System name: Grievances. Union/Agency Negotiated—Treasury/Mint.

System location: Washington, DC, Bureau of the Mint, Warner Building, 501-13th Street, N.W.

Philadelphia, PA, United States Mint, Independence Mall.
Denver, CO, United States Mint, 320 West Colfax Avenue.
San Francisco, CA, United States Assay Office, 155 Hermann Street.
New York, NY, U.S. Assay Office, 32 Old Slip Street.
San Francisco, CA, U.S. Old Mint, 88 Fifth Street.
Ft. Knox, KY, United States Bullion Depository.
West Point, NY, West Point Buillion Depository.

Categories of individuals covered by the system: Employees and former employees of the Bureau of the Mint.

Categories of records in the system: This system of records contains information or documents relating to employee grievances filed

under provisions of negotiated grievance procedures, including decisions of appropriate third parties where applicable.

Notification procedure: Bureau of the Mint, 55 Mint Street, San Francisco, CA 94175. Individuals should supply order number as

suspected theft of Government property on Mint premises. To refer,

Categories of individuals covered by the system: General public; financial institutions; and other Government agencies.

V43/183 SE 20 78

under provisions of negotiated grievance procedures, including decision of appropriate third parties where applicable.

Authority for maintenance of the system: Executive Orders 11491, 11616, 11636 and 11838; negotiated agreements between Mint and exclusively recognized labor unions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) To process an employee grievance, including submission to an arbitrator and appeal to the Federal Labor Relations Council. (b) To refer a question of grievability or arbitrability to appropriate officials of the Department of Labor. (c) To provide information or disclose to the appropriate Federal agency in connection with civil litigation involving the Bureau of the Mint. (d) For additional routine uses see Treasury Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in file folders or binders.

Retrievability: These records are filed by the names of the individuals on whom they are maintained or by the subject of the grievance.

Safeguards: Access to and use of these records are limited to those agency officials whose official duties require such access.

Retention and disposal: Retained in accordance with the Bureau of the Mint Records Control Schedules and destroyed in accordance with General Service Administration rules and regulations.

System manager(s) and address: For current and former employees:

Personnel Officer, Bureau of the Mint, Department of the Treasury, 15th & Pennsylvania Ave., NW., Washington, DC 20220.

Personnel Officer, U.S. Mint, Independence Mall, Philadelphia, PA 19106.

Personnel Officer, U.S. Mint, 320 Colfax Ave., Denver, CO 80204.

Personnel Officer, U.S. Assay Office, 155 Hermann Street, San Francisco, CA 94102.

Personnel Officer, U.S. Assay Office, 32 Old Slip Street, New York, NY 10005.

Personnel Officer, U.S. Old Mint, 88 Fifth Street, San Francisco, CA 94103.

Officer-in-Charge, U.S. Bullion Depository, Fort Knox, KY 40121.

Administrative Officer, West Point Bullion Depository, West Point, NY 10996.

Notification procedure: Individuals who have fled a grievance are aware of that fact and have been provided a copy of the record. They may, however, contact the Personnel Officer indicated above regarding the existence of such records pertaining to them. It is necessary to furnish information sufficient to verify the identity of the requester such as full name, date of birth, a brief description of the grievance and the approximate date of submission.

Record access procedures: Individuals who have filed a grievance about a decision or determination made by an agency or about conditions existing in an agency already have been provided a copy of the record. The contest, amendment, or correction of a grievance record is permitted during the prosecution of the grievance to whom the record pertains. However, after a grievance case has been closed, an individual may gain access to, or contest the official copy of the grievance record by writing the appropriate Personnel Officer indicated above. Individuals should provide their name; date of birth; a brief description of grievance and the approximate date of submission.

Contesting record procedures: See access above.

Record source categories: The sources of these records are indicated below. (a) Individual to whom the record pertains. (b) Agency officials. (c) Affidavits or statements from employee(s). (d) Testimonies of witnesses. (e) Official documents and correspondence relating to the grievance.

Treasury/Mint 00.012

System name: Investigatory Files on Theft of Mint Property—Treasury/Mint.

System location: Warner Building, 501 13th Street, N.W., Washington, D.C. 20220.

Categories of individuals covered by the system: Mint employees and members of public suspected of the theft of Government property.

Categories of records in the system: Name of individual; location of Mint facility; and theft item.

Authority for maintenance of the system: 18 U.S.C. 332, 641.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Uses, to investigate suspected theft of Government property on Mint premises. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate Federal agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulation, or order issued pursuant thereto. (b) Categories of users, agency officials who have a need for the record in the performance of their duties and other Federal officials charged with law enforcement responsibilities. (c) Purpose, to safeguard and account for Government property; assist in enforcement of applicable Federal criminal statutes; and attempt to recoup value of property stolen. (d) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents.

Retrievability: By name.

Safeguards: Files are kept in a locked metal file cabinet in an area accessible to authorized agency officials.

Retention and disposal: Retained in accordance with Bureau of the Mint Records Control Schedule and destroyed in accordance with General Services Administration rules and regulations.

System manager(s) and address: Chief, Office of Security, Bureau of the Mint, Warner Building, 501 13th Street, N.W., Washington, D.C. 20220.

Notification procedure: This system is proposed for exemption elsewhere in the Federal Register.

Record access procedures: This system is proposed for exemption elsewhere in the Federal Register.

Contesting record procedures: See access above.

Record source categories: This system is proposed for exemption elsewhere in the Federal Register.

Systems exempted from certain provisions of the act: This system is proposed for exemption elsewhere in the Federal Register.

Treasury/Mint 00.013

System name: Numismatic Coin Operations System (NUCOS) Records; Customer Mailing List and Order Processing Records for Coin Sets, Medals and Numismatic Items—Treasury/Mint.

System location: San Francisco, California, Old Mint, 88 Fifth Street, San Francisco, CA 94175. (Records concerning undelivered orders are maintained at the San Francisco Assay Office, 155 Hermann Street.)

Categories of individuals covered by the system: Customers for numismatic items.

Categories of records in the system: Names, addresses, order history of customers purchasing numismatic items and of individuals who wish to receive notification of numismatic offerings by the Mint.

Authority for maintenance of the system: 31 U.S.C. 324g, 324h, 369, 391(d); P.L. 89—81, P.L. 92—228; 31 CFR Part 92.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Use, generating order cards, acknowledgement cards, labels, and correspondence. (b) Categories of Users, appropriate agency officials. (c) Purposes of Use, to announce the availability of numismatic items produced by the Mint; process and acknowledge receipt of orders; process payments received from customers; mail and trace numismatic items ordered. (d) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape, discs, paper and cards.

Retrievability: Name, customer number or order number.

Safeguards: CRT, password protection; only designated persons may request computer generated reports. Access to any information pertaining to any individuals' name is limited to only those individuals requiring the information to accommodate handling of transactions with the customers. Separation of functions; source documents maintained in one division and programming systems in another.

Retention and disposal: In accordance with the General Services Administration's General Records Control Schedule and the Bureau of the Mint Records Control Schedule. Destroyed in accordance with General Services Administration regulations. Order cards are retained two weeks, reports three months; they are then shredded. Customer names and addresses are maintained as long as they are active.

System manager(s) and address: Officer in Charge, San Francisco Old Mint, 88 Fifth Street, San Francisco CA 94175.

Notification procedure: Bureau of the Mint, 55 Mint Street, San Francisco, CA 94175. Individuals should supply order number as provided on order card or copy of both sides of cancelled check; customer number which appears on pre-punched order cards or on face of check.

Record access procedures: For information on procedures for gaining access to and contesting records, individuals may contact the following official: Chief, Information Systems and Documentation Branch, Bureau of the Mint, Room 912, Warner Building, Washington, D.C. 20220.

Contesting record procedures: See access above.

Record source categories: Members of the public; appropriate agency officials; and General Services Administration.

Treasury/Mint 00.014

System name: Purchases, Sales, Exchange and Assays of Precious Metals—Treasury/Mint.

System location: Washington, D.C., Bureau of the Mint, Warner Building, 501—13th Street, N.W. Philadelphia, PA, United States Mint, Independence Mall. Denver, CO, United States Mint, 320 West Colfax Avenue. San Francisco, CA, United States Assay Office, 155 Hermann Street. New York, NY, United States Assay Office, 32 Old Slip. San Francisco, CA, United States Old Mint, 88 Fifth Street.

Categories of individuals covered by the system: General public and Government agencies who had precious metal transactions with the Bureau of the Mint.

Categories of records in the system: Bar schedules, deposit tickets, reports on special assays, records of sales and purchases of precious metals.

Authority for maintenance of the system: 31 U.S.C. 327, 328, 335, 358, 360, 361, 362, 405a—1, 733 and 734. 31 CFR Parts 90 and 92.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Use, to record and accomplish sale, purchase, exchange or assay of precious metals. (b) Categories of users, appropriate agency officials and appropriate officials of the General Services Administration. (c) Purpose of use, to determine and verify that proper payments are made or correct charges are assessed for services rendered and to accomplish sale and purchase of precious metals. (d) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents and computer magnetic tapes.

Retrievability: Name or assay number.

Safeguards: Metal file cabinet with locks and secured area available to authorized personnel only.

Retention and disposal: Bureau of the Mint Records Control Schedule.

System manager(s) and address: Bureau of the Mint, Warner Building, 501 13th Street, N.W., Washington, D.C. 20220, Financial Manager; Philadelphia, PA 19106, United States Mint, Independence Mall, Budget and Accounting Officer; Denver, CO 80204, United States Mint, 320 West Colfax Avenue, Budget and Accounting Officer; San Francisco, CA 94102, United States Assay Office, 155 Hermann Street, Budget and Accounting Officer; New York, NY 10005, United States Assay Office, 32 Old Slip Street, Budget and Accounting Officer; San Francisco, CA 94103, United States Old Mint, 88 Fifth Street, Budget and Accounting Officer.

Notification procedure: Same as included in System Manager. Member of the general public or Government agency is required to produce proper identification to satisfy the System Manager.

Record access procedures: For information on procedures for gaining access to and contesting records, individuals may contact the following official: Chief, Information Systems and Documentation Branch, Bureau of the Mint, Room 912, Warner Building, Washington, D.C. 20220.

Contesting record procedures: Same as access above.

Record source categories: General public; agency officials; and other Federal agencies.

Treasury/Mint 00.015

System name: Redemption of Uncurrent or Mutilated Coins—Treasury/Mint.

System location: United States Assay Office, 32 Old Slip, New York, N.Y. 10005.

Categories of individuals covered by the system: General public; financial institutions; and other Government agencies.

Categories of records in the system: Records of names, addresses and reference numbers pertaining to those submitting mutilated or uncurrent coins for exchange.

Authority for maintenance of the system: 31 U.S.C. 317c; 31 CFR Part 100.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Uses, issuance of payments in exchange of coins. (b) Categories of users, appropriate agency officials. (c) Purpose of use, to insure that payments are made to proper individuals, banks or Government agencies. (d) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents.

Retrievability: By name or reference number.

Safeguards: Metal file cabinet with lock.

Retention and disposal: Retained in accordance with Bureau of the Mint Records Control Schedule and destroyed in accordance with General Services Administration rules and regulations.

System manager(s) and address: Budget and Accounting Officer, United States Assay Office, 32 Old Slip Street, New York, New York 10005.

Notification procedure: See System Manager. Individual is required to supply name and if available reference and/or settlement number.

Record access procedures: For information on procedure for gaining access to and contesting records, individuals may contact the following official: Chief, Information Systems and Documentation Branch, Bureau of the Mint, Room 912, Warner Building, Washington, D.C. 20220.

Contesting record procedures: See access above.

Record source categories: General public, financial institutions, and other Government agencies.

Treasury/BPD 00.001

System name: Personnel and Administrative Records—Treasury/BPD.

System location: Bureau of the Public Debt: Washington, D.C.; Parkersburg, West Virginia; Ravenswood, West Virginia; Williamstown, West Virginia. Federal Records Center: St. Louis, Missouri.

Categories of individuals covered by the system: Past, present and prospective employees.

Categories of records in the system: All personnel records not mentioned in this system, but maintained at the Bureau, are considered to belong to the Civil Service Commission and will be reported by that agency. (1) Personnel Folders (Temporary side): Contain the following types of records or information apart from official records, but which may duplicate or supplement official records: Pre-employment records and vouchering; orientation records; requests for personnel action; requests for training; performance evaluation records; letters of reference; debt correspondence; correspondence between employee and personnel office; disciplinary action papers; duplicate copies of personnel actions; payroll, leave and retirement benefits data; compensation forms and reports relating thereto; and tax check records, reduction-in-force data; requests for outside employment; merit promotion applications; and credit and employment verification. (2) Locator File: Contains the employee's office and home address and telephone numbers; emergency notification information and indication of permission or denial to disclose this information upon inquiry. (3) Applications for Employment File: Contains inquiries concerning employment, applicants' resumes and correspondence. (4) Upward Mobility Program Files: Contain but are not limited to, all pertinent information, such as applications, vouchering, correspondence, developmental plans and appraisal forms of candidates for said program. (5) Investigation Security Files: Contain background information and the results of investigations conducted by Internal Revenue Service, Secret Service, or other Federal agencies, on Bureau attorneys and certain other employees. (6) Awards Case Files: Contain reports and background data concerning awards for employees. (7) Informal Equal Employment Opportunity Complaint Files: contain records of informal EEO complaints and discussions thereon which have not reached the level of formal complaints. (8) Administrative Grievance Files: Contain informal or formal grievance complaints and background documentation. (9) General Correspondence Files: Contain inquiry and reply letters and documentation concerning general administrative, policy, transactional and personnel mat-

ters. (10) Union-related Files: Contain formal and informal, contrac-

ceedings; to provide data to the Civil Service Commission and other

the prior correspondence had with the Bureau concerning the records in question, (b) the specific records alleged to be incorrect, (c)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Within the Department of

V 43 / 183 SEP 20 78

ters. (10) Union-related Files: Contain formal and informal, contractual and administrative grievance complaints and background documentation thereon; reports of union dues participation. (11) Merit Promotion Files: Contain records of competitive promotion actions, including but not limited to vacancy announcements, candidates considered, assessments of candidates, and disposition of applications. (12) Exit Interview Files: Contain records of employee's critique of Bureau, final interview, and supervisors' recommendations. (13) Suitability Files: Contain information documenting the suitability for employment of prospective and current employees, such as arrest records, National Agency checks and background information. (14) Budget Files: (a) Employee Travel Records File: Contains travel vouchers, authorization and receipts for travel which an employee performed in connection with official business and which is reimbursable by government funds. (b) Comprehensive Listing of Employee Master File: Contains salary, grade, leave, retirement, health-life insurance, tax, payroll deduction and other information. (c) Time and Attendance Records: Contain the daily posting of employee's leave and/or attendance. (15) Medical Records File: contains pre-appointment and fitness-for-duty medical reports and records. (16) Employee Relations files; containing, but not limited to, pertinent information on such matters as discipline, adverse actions, retirement, and compensation. (17) Confidential Financial Statements File: contains personal financial statements required by certain employees as defined in the Department's Minimum Standards of Conduct. (18) Classification Appeals File: contains statements and pertinent information relating to the adjudication of an appeal. (19) History of Employment File: contains service record cards.

Authority for maintenance of the system: Title 5 USC; Federal Personnel Manual; Executive Order 11478.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Within the Department of the Treasury, the aforementioned records are routinely used to determine the suitability of an applicant for employment; to verify an employee's orientation processing; to supplement official personnel records for clarification of personnel actions; to authorize deductions of state and/or local or District of Columbia taxes from an employee's salary for payroll functions; to provide information for determining the eligibility and suitability of an employee for promotion or award; to appraise an employee's performance following hiring or promotion; to judge the necessity for disciplinary action and to make record of the same; to inform an employee of his present leave and retirement benefits status; to make record of all correspondence exchanged between an employee and the Division of Personnel for reference purposes; to locate an employee in an emergency situation if the employee's permission was granted; to issue building passes and make record thereof; to record work-related injuries and illnesses and to process compensation therefor; to perform security investigations and to provide security clearance for attorneys and certain other employees in order to protect security information; to furnish Internal Revenue Service, Secret Service, and other Federal agencies with information in the course of their investigations; to document grievances or complaints of discrimination for purposes of hearing and passing decision on a case; to furnish management with information necessary for the hearing and resolution of administrative grievances and grievances arising within the framework of the labor-management framework; to record, analyze and approve travel expenditures; to furnish data needed by the Division of Budget and Accounts in the performance of its duties relating to the estimating and accounting for budget expenditures, maintaining records, providing payroll data to the Fiscal Service Payroll Facility, Bureau of Government Financial Operations, to the individual employee, and to supervisors who have need of such information in the performance of their duties; to maintain records of correspondence for reference and precedence purposes; to provide Federal income tax filing information on employees, GS grade 12 and above, for the purpose of tax checks; to process and document merit promotion actions; to conduct turnover studies; and to maintain records of those employees who have requested voluntary withholding of union dues.

Routine users of records within the Department are the Division of Personnel; the Division of Budget and Accounts; the Division of Management Services; the EEO Officers; Internal Revenue Service; Secret Service; and all other employees who have need of such information in the performance of their authorized duties.

Outside the Department of the Treasury, qualified information is routinely used to furnish other Federal Agencies with pre-employment information for hiring purposes; to verify debt complaints and employment data upon request by creditors; to respond to requests for information by Federal investigative agencies for the purpose of security or criminal investigation, and civil or criminal judicial proceedings; to provide data to the Civil Service Commission and other Federal agencies upon authorized requests; to supply data necessary for employee compensation; to provide union representatives, arbitrators, and other third parties responsible for the administration of the federal labor-management relations program with information needed, in the performance of their authorized duties under a Bureau-union contract or E.O. 11491, as amended; to disclose to Members of Congress who inquire on behalf of constituents; to disclose to next-of-kin, voluntary guardian and other representative or successor in interest of a deceased or incapacitated employee or former employee.

Routine users outside the Department are other Federal Agency Personnel Offices; the Civil Service Commission; U.S. Department of Labor, Office of Employees Compensation; State unemployment offices; union representatives, arbitrators, and other third-parties who have responsibilities and a Bureau-union contract or E.O. 11491, as amended, for the administration of the federal labor-management relations program as qualified in the routine use; creditors; Federal agencies; Members of Congress and next-of-kin; voluntary guardian and other representative or successor in interest.

For Additional Routine Uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Electronic media, paper and microfilm.

Retrievability: By name, and in some cases social security number.

Safeguards: Information is contained in secure buildings, Federal Records Centers, or in areas which are occupied by officers and responsible employees of the Bureau who are subject to the Bureau's personnel screening procedures and the Treasury Department Code of Conduct. Information stored in electronic media is safeguarded by automatic data processing security procedures in addition to physical security measures.

Retention and disposal: Records are maintained in accordance with GSA and CSC retention schedules. All records are destroyed by incineration, maceration or shredding. Records in electronic media are electronically erased using accepted techniques.

System manager(s) and address: For Administrative records: Commissioner of the Public Debt, 15th and New York Avenue, N.W., Washington, D.C. 20226. For Personnel records: Director of Personnel, Bureau of the Public Debt, 13th and C Streets, S.W., Washington, D.C. 20226.

Notification procedure: Address Administrative inquiries and initial requests for correction of records to: Privacy Act Request, Commissioner of the Public Debt, 15th and New York Avenue, N.W., Washington, D.C. 20226, (202) 376-0249. Address Personnel inquiries and initial requests for correction of records to: Privacy Act Request, Director of Personnel, Bureau of the Public Debt, 13th and C Streets, S.W., Washington, D.C. 20226, (202) 447-1297; or Privacy Act Request, Personnel Officer, Savings Bond Operations Office, Bureau of the Public Debt, 200 Third Street, Parkersburg, West Virginia 26101, (304) 422-8551.

Record access procedures: Individuals who wish to request access to records relating to them or who wish to request correction of records they believe to be in error should submit such requests pursuant to the procedures set out below in compliance with the applicable regulations (31 CFR Part 1, Subpart C Sections 1.7 & 1.8; 31 CFR Part 323). Requests which do not comply fully with these procedures may result in noncompliance with the request but will be answered to the extent possible.

Requests for access to records: (1) All requests for access to records should be in writing, signed by the individual concerned, and, in order for the Privacy Act procedures to apply, clearly indicate that the request is made pursuant to the Privacy Act of 1974. The Bureau reserves the right to require additional verification of an individual's identity in certain cases. (2) The request must specify the Bureau system of records within which the desired records are located as well as the categories of records within the system. These categories are set out in the applicable system of records description. (3) Requests for records concerning a deceased or incapacitated individual should be accompanied by either evidence of the requester's appointment as legal representative of the individual or his estate or by a statement attesting that no such representative has been appointed and giving the nature of the relationship between the requester and the individual.

Requests for correction of records: (1) All requests by an individual for correction of records relating to him should be in writing, be signed by him, and, in order for the Privacy Act procedures to apply, state that the request is made pursuant to the Privacy Act of 1974. (2) The request for correction should specify: (a) the dates of the prior correspondence had with the Bureau concerning the records in question, (b) the specific records alleged to be incorrect, (c) the correction requested, and (d) the reasons therefor as well as any available evidence in support of the request.

Appeals from an initial denial of a request for correction of records: (1) All appeals from an initial denial of a request for correction of records must be in writing, be signed by the individual involved, and, in order for the Privacy Act procedures to apply, state that it is made pursuant to the Privacy Act of 1974. (2) All appeals must, to be handled under the Privacy Act procedures, be delivered to the address set forth for submission of appeals within 35 days of the individual's receipt of the initial denial of the requested correction. (3) All appeals must specify: (a) the records to which the appeal relates, (b) the date of the initial request made for correction of the records, and (c) the date that initial denial of the request for correction was received. (4) All appeals must also specify the reasons for the requester's disagreement with the initial denial of correction and should furnish any applicable evidence available in support of his appeal.

Contesting record procedures: See notification and access.

Record source categories: Information on records in the system is furnished by the individuals, by creditors, by supervisors, medical personnel, other employees, or as the result of security investigations.

Treasury/BPD 00.002

System name: United States Savings-Type Securities—Treasury/BPD.

System location: Bureau of the Public Debt, Washington, D.C. 20226 and Parkersburg, West Virginia 26101, Ravenswood, West Virginia 26164, Williamstown, West Virginia 26187, Federal Reserve Banks and Branches located at: Atlanta, Georgia; Baltimore, Maryland; Birmingham, Alabama; Boston, Massachusetts; Buffalo, New York; Charlotte, North Carolina; Chicago, Illinois; Cincinnati, Ohio; Cleveland, Ohio; Dallas, Texas; Denver, Colorado; Detroit, Michigan; El Paso, Texas; Jacksonville, Florida; Helena, Montana; Houston, Texas; Kansas City, Missouri; Little Rock, Arkansas; Louisville, Kentucky; Los Angeles, California; Memphis, Tennessee; Miami, Florida; Minneapolis, Minnesota; Nashville, Tennessee; New Orleans, Louisiana; New York, New York; Oklahoma City, Oklahoma; Omaha, Nebraska; Philadelphia, Pennsylvania; Pittsburgh, Pennsylvania; Portland, Oregon; Richmond, Virginia; Salt Lake City, Utah; San Antonio, Texas; San Francisco, California; Seattle, Washington and St. Louis, Missouri; and at Federal Records Centers located at: Waltham, Massachusetts; New York, New York; Philadelphia, Pennsylvania; Mechanicsburg, Pennsylvania; Washington, D.C.; East Point, Georgia; Chicago, Illinois; Kansas City, Missouri; Fort Worth, Texas; Denver, Colorado; San Francisco, California; Bell, California and Seattle, Washington.

Categories of individuals covered by the system: Present and former owners or first-named coowners of, claimants to, persons entitled to, and inquirers concerning United States savings-type securities and interest thereon—including but not limited to United States Savings Bonds, Savings Notes, Retirement Plan Bonds, and Individual Retirement Bonds. In addition, second-named coowners of Series G savings bonds.

Categories of records in the system: (1) Issuance: Records relating to registration, registers of issuance of securities and records of correspondence in connection with issuance of savings-type securities. (2) Holdings: Records documenting ownership, status, payments by date and account numbers, including inscription information; interest activity; correspondence in connection with notice of change of name and address, non-receipt of interest and over- and under-payments of interest; numerical registers of ownership. Such records include information relating to savings-type securities held in safekeeping in conjunction with the Department's program to deliver such securities to the owners or persons entitled. (3) Transactions (redemptions, payments and reissues): Records which include securities transaction requests; interest activity; legal papers supporting transactions, applications for disposition or payment of securities and/or interest thereon of deceased or incapacitated owners; records of retired securities; check payment records. (4) Claims: Records including correspondence concerning lost, stolen, destroyed or mutilated savings-type securities, bonds of indemnity, legal documents supporting claims for relief and records of caveats entered. (5) Inquiries: Records of correspondence with individuals who have requested information concerning savings-type securities and/or interest thereon.

Authority for maintenance of the system: Second Liberty Bond Act, as amended (40 Stat. 288) and 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Within the Department of the Treasury, the information contained in this system of records is routinely used in connection with the issuance of securities, the payment of interest thereon, processing of claims therefor, responding to inquiries thereon, processing of transactions therein and the redemption and retirement thereof. Users for these purposes are officials, authorized employees and agents of the Department for the purpose of administering the Public Debt of the United States. Information in this system is also routinely furnished to the Internal Revenue Service for use by officials and authorized employees for the purpose of facilitating collection of tax revenues by the United States. In addition to these uses within the Department, records concerning holdings are routinely disclosed outside the Department as follows: (1) To the next-of-kin, voluntary guardian, legal representative or successor in interest of a deceased or incapacitated owner of securities, and others entitled in connection with reissue, distribution or payment thereof; users for this purpose are as described for the purpose of assuring equitable and lawful disposition of securities and/or interest. (2) Information is routinely furnished, when appropriate, pertaining to securities to the United States Secret Service for inclusion in the National Crime Information Center of the Federal Bureau of Investigation, to the Department of Justice and to other Federal agencies; users for this purpose are law enforcement officials, for the purpose of reducing monetary losses of the United States and to aid in law enforcement. (3) Information is routinely disclosed pertaining to holdings of securities, interest thereon and transactions therein to the Department of Justice in connection with lawsuits to which the Department is a party; and to Trustees in Bankruptcy; users are Federal officials for the purpose of carrying out their duties. (4) Information is routinely disclosed to the Veterans Administration and selected veterans publications in connection with attempts to locate owners, or their next of kin or persons otherwise entitled to bonds undeliverable and being held in safekeeping by the Department. (5) Information regarding records of holdings of securities registered in coownership form is routinely disclosed to either coowner upon request. Information regarding records of holdings for securities registered in beneficiary form ("P.O.D.") is routinely disclosed to the beneficiary named thereon provided acceptable proof of death of the registered owner is submitted. (Note: If the request for disclosure is made by the second-named coowner, or by a beneficiary the name or social security number of the first-named person must be furnished, except in the case of Series G savings bonds.) (6) Information regarding holdings is routinely disclosed to Members of Congress who inquire on behalf of constituents. (7) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records in this system are stored in their original form in file cabinets, as information in electronic media or on microfilm.

Retrievability: Information can be retrieved alphabetically by name, bond serial numbers, or, in some cases, numerically by social security number. In the case of securities, except Series G savings bonds, registered in more than one name, information relating thereto can only be retrieved by the name or in some cases social security number of the first-named coowner.

Safeguards: Information is contained in secure buildings, Federal Records Centers, or in areas which are occupied by officers and responsible employees of either the Department who are subject to personnel screening procedures and the Treasury Department Code of Conduct, or by agents of the Department who are required by the Department to maintain proper control over records while in their custody. Additionally, since in most cases, numerous steps are involved in the retrieval process, unauthorized persons would be unable to retrieve information in a meaningful form. Information stored in electronic media is safeguarded by automatic data processing security procedures in addition to physical security measures.

Retention and disposal: Records of holdings are maintained permanently. Forms, documents and other legal papers which constitute the basis for transactions subsequent to original issue are maintained for such time as is necessary to protect the legal rights and interest of the U.S. Government and the persons affected, or otherwise until they are no longer historically significant. Other records are disposed of at varying intervals in accordance with records retention schedules reviewed and approved by the National Archives and Records Service, General Services Administration. All records are destroyed by shredding, incineration or maceration. Records in electronic media are electronically erased using accepted techniques.

System manager(s) and address: Commissioner of the Public Debt, 15th St. and New York Ave., N.W. Washington, D.C. 20226.

System location: Bureau of the Public Debt, Washington, D.C. 20226, Ravenswood, West Virginia 26164, Williamstown, West Virginia 26187, Federal Reserve Banks and Branches located at: Atlanta, Georgia; Baltimore, Maryland; Birmingham, Alabama; Boston, Massachusetts; Buffalo, New York; Charlotte, North Carolina; Chicago, Illinois; Cincinnati, Ohio; Cleveland, Ohio; Dallas, Texas; Denver, Colorado; Detroit, Michigan; El Paso, Texas; Jacksonville, Florida; Helena, Montana; Houston, Texas; Kansas City, Missouri; Little Rock, Arkansas; Louisville, Kentucky; Los Angeles, California; Memphis, Tennessee; Miami, Florida; Minneapolis, Minnesota; Nashville, Tennessee; New Orleans, Louisiana; New York, New York; Oklahoma City, Oklahoma; Omaha, Nebraska; Philadelphia, Pennsylvania; Pittsburgh, Pennsylvania; Portland, Oregon; Richmond, Virginia; Salt Lake City, Utah; San Antonio, Texas; San Francisco, California; Seattle, Washington and St. Louis, Missouri; and at Federal Records Centers located at: Waltham, Massachusetts; New York, New York; Philadelphia, Pennsylvania; Mechanicsburg, Pennsylvania; Washington, D.C.; East Point, Georgia; Chicago, Illinois; Kansas City, Missouri; Fort Worth, Texas; Denver, Colorado; San Francisco, California; Bell, California and Seattle, Washington.

Categories of individuals covered by the system: Present and former owners or first-named coowners of, claimants to, persons entitled to, and inquirers concerning United States savings-type securities and interest thereon—including but not limited to United States Savings Bonds, Savings Notes, Retirement Plan Bonds, and Individual Retirement Bonds. In addition, second-named coowners of Series G savings bonds.

Categories of records in the system: (1) Issuance: Records relating to registration, registers of issuance of securities and records of correspondence in connection with issuance of savings-type securities. (2) Holdings: Records documenting ownership, status, payments by date and account numbers, including inscription information; interest activity; correspondence in connection with notice of change of name and address, non-receipt of interest and over- and under-payments of interest; numerical registers of ownership. Such records include information relating to savings-type securities held in safekeeping in conjunction with the Department's program to deliver such securities to the owners or persons entitled. (3) Transactions (redemptions, payments and reissues): Records which include securities transaction requests; interest activity; legal papers supporting transactions, applications for disposition or payment of securities and/or interest thereon of deceased or incapacitated owners; records of retired securities; check payment records. (4) Claims: Records including correspondence concerning lost, stolen, destroyed or mutilated savings-type securities, bonds of indemnity, legal documents supporting claims for relief and records of caveats entered. (5) Inquiries: Records of correspondence with individuals who have requested information concerning savings-type securities and/or interest thereon.

Authority for maintenance of the system: Second Liberty Bond Act, as amended (40 Stat. 288) and 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Within the Department of the Treasury, the information contained in this system of records is routinely used in connection with the issuance of securities, the payment of interest thereon, processing of claims therefor, responding to inquiries thereon, processing of transactions therein and the redemption and retirement thereof. Users for these purposes are officials, authorized employees and agents of the Department for the purpose of administering the Public Debt of the United States. Information in this system is also routinely furnished to the Internal Revenue Service for use by officials and authorized employees for the purpose of facilitating collection of tax revenues by the United States. In addition to these uses within the Department, records concerning holdings are routinely disclosed outside the Department as follows: (1) To the next-of-kin, voluntary guardian, legal representative or successor in interest of a deceased or incapacitated owner of securities, and others entitled in connection with reissue, distribution or payment thereof; users for this purpose are as described for the purpose of assuring equitable and lawful disposition of securities and/or interest. (2) Information is routinely furnished, when appropriate, pertaining to securities to the United States Secret Service for inclusion in the National Crime Information Center of the Federal Bureau of Investigation, to the Department of Justice and to other Federal agencies; users for this purpose are law enforcement officials, for the purpose of reducing monetary losses of the United States and to aid in law enforcement. (3) Information is routinely disclosed pertaining to holdings of securities, interest thereon and transactions therein to the Department of Justice in connection with lawsuits to which the Department is a party; and to Trustees in Bankruptcy; users are Federal officials for the purpose of carrying out their duties. (4) Information is routinely disclosed to the Veterans Administration and selected veterans publications in connection with attempts to locate owners, or their next of kin or persons otherwise entitled to bonds undeliverable and being held in safekeeping by the Department. (5) Information regarding records of holdings of securities registered in coownership form is routinely disclosed to either coowner upon request. Information regarding records of holdings for securities registered in beneficiary form ("P.O.D.") is routinely disclosed to the beneficiary named thereon provided acceptable proof of death of the registered owner is submitted. (Note: If the request for disclosure is made by the second-named coowner, or by a beneficiary the name or social security number of the first-named person must be furnished, except in the case of Series G savings bonds.) (6) Information regarding holdings is routinely disclosed to Members of Congress who inquire on behalf of constituents. (7) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records in this system are stored in their original form in file cabinets, as information in electronic media or on microfilm.

Retrievability: Information can be retrieved alphabetically by name, bond serial numbers, or, in some cases, numerically by social security number. In the case of securities, except Series G savings bonds, registered in more than one name, information relating thereto can only be retrieved by the name or in some cases social security number of the first-named coowner.

Safeguards: Information is contained in secure buildings, Federal Records Centers, or in areas which are occupied by officers and responsible employees of either the Department who are subject to personnel screening procedures and the Treasury Department Code of Conduct, or by agents of the Department who are required by the Department to maintain proper control over records while in their custody. Additionally, since in most cases, numerous steps are involved in the retrieval process, unauthorized persons would be unable to retrieve information in a meaningful form. Information stored in electronic media is safeguarded by automatic data processing security procedures in addition to physical security measures.

Retention and disposal: Records of holdings are maintained permanently. Forms, documents and other legal papers which constitute the basis for transactions subsequent to original issue are maintained for such time as is necessary to protect the legal rights and interest of the U.S. Government and the persons affected, or otherwise until they are no longer historically significant. Other records are disposed of at varying intervals in accordance with records retention schedules reviewed and approved by the National Archives and Records Service, General Services Administration. All records are destroyed by shredding, incineration or maceration. Records in electronic media are electronically erased using accepted techniques.

System manager(s) and address: Commissioner of the Public Debt, 15th St. and New York Ave., N.W. Washington, D.C. 20226.

Notification procedure: Address inquiries to: Privacy Act Request, Assistant Commissioner of the Public Debt, Savings Bond Operations Office, 200 Third Street, Parkersburg, West Virginia 26101, (304) 422-8551. Inquiries should include the full name, social security number, address and security serial number(s), if known.

Record access procedures: Individuals who wish to request access to records relating to them or who wish to request correction of records they believe to be in error should submit such requests pursuant to the procedures set out below in compliance with the applicable regulations (31 CFR Part 1, Subpart C Sections 1.7 & 1.8; 31 CFR Part 323). Requests which do not comply fully with these procedures may result in noncompliance with the request but will be answered to the extent possible.

Requests for access to records: (1) All requests for access to records must be in writing, signed by the individual concerned, and, in order for the Privacy Act procedures to apply, clearly indicate that the request is made pursuant to the Privacy Act of 1974. The Bureau reserves the right to require additional verification of an individual's identity. (2) The request must specify the Bureau system of records within which the desired records are located as well as the categories of records within the system. These categories are set out in the applicable system of records description. (3) In the case of requests for information concerning holdings of securities, the type of security involved (e.g., Series E savings bond, Series H savings note, retirement plan bond, etc.) must be specified. Additionally, the request should, to the extent possible, specify the approximate date of issue, serial number(s) and exact form of registration, including social security number and address. Requests which do not furnish all or some of the above information will be complied with to the extent possible but may be subject to the requirement that additional identificatory evidence be furnished. (4) Requests for information concerning records of holdings of securities except Series G savings bonds registered in coownership form must be accompanied by the name and, wherever possible, social security number of the first-named coowner. Requests for information concerning securities registered in beneficiary form must also be accompanied by the name and social security number of the owner thereof and, if made by the beneficiary, must be accompanied by proof of death of the registered owner. (5) Requests for records of holdings or other information concerning a deceased or incapacitated individual should be accompanied by either evidence of the requester's appointment as legal representative of the individual or his estate or by a statement attesting that no such representative has been appointed and giving the nature of the relationship between the requester and the individual.

Requests for correction of records: (1) All requests by an individual for correction of records relating to him should be in writing, be signed by him, and, in order for the Privacy Act procedures to apply, state that the request is made pursuant to the Privacy Act of 1974. (2) The request for correction should specify: (a) the dates of the prior correspondence had with the Bureau concerning the records in question, (b) the specific records alleged to be incorrect, (c) the correction requested, and (d) the reasons therefor, as well as any available evidence in support of the request.

Appeals from an initial denial of a request for correction of records: (1) All appeals from an initial denial of a request for correction of records must be in writing, be signed by the individual involved and, in order for the Privacy Act procedures to apply, state that it is made pursuant to the Privacy Act of 1974. (2) All appeals must, to be handled under the Privacy Act procedures, be delivered to the address set forth for submission of appeals within 35 days of the individual's receipt of the initial denial of the requested correction. (3) All appeals must specify: (a) the records to which the appeal relates, (b) the date of the initial request made for correction of the records, and (c) the date that initial denial of the request for correction was received. (4) All appeals must also specify the reasons for the requestor's disagreement with the initial denial of correction and should furnish any applicable evidence available in support of his appeal.

Contesting record procedures: See notification and access.

Record source categories: Information on records in this system is furnished by the individuals or their authorized representatives listed in "Categories of Individuals," by issuing agents for securities, or is generated within the system itself.

Treasury/BPD 00.003

System name: United States Securities (Other than Savings-Type Securities)—Treasury/BPD.

System location: Bureau of the Public Debt, Washington, D.C. 20226, Ravenswood, West Virginia 26164, Williamstown, West Virginia 26187, Federal Reserve Banks and Branches located at: Atlanta, Georgia; Baltimore, Maryland; Birmingham, Alabama; Boston, Massachusetts; Buffalo, New York; Charlotte, North Carolina; Chicago, Illinois; Cincinnati, Ohio; Cleveland, Ohio; Dallas, Texas; Denver, Colorado; Detroit, Michigan; El Paso, Texas; Jacksonville, Florida; Helena, Montana; Houston, Texas; Kansas City, Missouri; Little Rock, Arkansas; Louisville, Kentucky; Los Angeles, California; Memphis, Tennessee; Miami, Florida; Minneapolis, Minnesota; Nashville, Tennessee; New Orleans, Louisiana; New York, New York; Oklahoma City, Oklahoma; Omaha, Nebraska; Philadelphia, Pennsylvania; Pittsburgh, Pennsylvania; Portland, Oregon; Richmond, Virginia; Salt Lake City, Utah; San Antonio, Texas; San Francisco, California; Seattle, Washington and St. Louis, Missouri; and at Federal Records Centers located at: Waltham, Massachusetts; New York, New York; Philadelphia, Pennsylvania; Mechanicsburg, Pennsylvania; Washington, D.C.; East Point, Georgia; Chicago, Illinois; Kansas City, Missouri; Fort Worth, Texas; Denver, Colorado; San Francisco, California; Bell, California and Seattle, Washington.

Categories of individuals covered by the system: Present owners of, former owners of, subscribers to, claimants to, persons entitled to and inquirers concerning United States Treasury Securities (except savings-type securities) and interest thereon and such securities for which the Treasury acts as agent and interest thereon, including but not limited to Treasury Bonds, Notes and Bills, Adjusted Service Bonds, Armed Forces Leave Bonds, securities of the Federal Financing Bank, the Federal Housing Administration and the Farm Credit Administration.

Categories of records in the system: (1) Issuance: Records relating to tenders, bids, subscriptions, advices of shipment, requests (applications) for original issue and correspondence concerning erroneous issue and non-receipt of securities. (2) Holdings: Records of ownership and interest activity on registered United States securities (other than savings-type securities); change of name and address notices; correspondence concerning errors in registration, non-receipt of interest, over- and under-payments of interest; records of interest activity; records of unclaimed accounts; and letters concerning the New York State tax exemption for veterans of World War I. (3) Transactions (redemptions, payments, reissues, transfers and exchanges): Records which include securities transaction requests; legal papers supporting transactions; applications for transfer, disposition or payment of securities of deceased or incompetent owners; records of Federal estate tax transactions; file of certificates of ownership covering paid overdue bearer securities; records of erroneous redemption transactions; records of retired securities; and check payment records. (4) Claims: Records including correspondence concerning lost, stolen, destroyed or mutilated United States securities (other than savings-type securities) or securities for which the Treasury acts as agent and interest coupons thereon, bonds of indemnity, legal documents supporting claims for relief and records of caveats entered. (5) Inquiries: Records of correspondence with individuals who have requested information concerning United States Treasury securities (other than savings-type securities) or securities for which the Treasury acts as agent.

Authority for maintenance of the system: Second Liberty Bond Act, as amended (40 Stat. 288).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Within the Department of the Treasury, the information contained in this system of records is routinely used in connection with the issuance of securities, the payment of interest thereon, processing of claims therefor, responding to inquiries thereon, processing of transactions therein and the redemption and retirement thereof. Users for these purposes are officials, authorized employees and agents of the Department for the purpose of administering the Public Debt of the United States. Information in this system is also routinely furnished to the Internal Revenue Service for use by officials and authorized employees for the purpose of facilitating collection of tax revenues by the United States. In addition to these uses within the Department, records concerning holdings are routinely disclosed outside the Department as follows: (1) To the next-of-kin, voluntary guardian, legal representative or successor in interest of a deceased or incapacitated owner of securities and others entitled in connection with transfer, exchange, distribution or payment thereof; users for this purpose are as described for the purpose of assuring equitable and lawful disposition of securities and/or interest. (2) Information is routinely furnished pertaining to securities reported as lost or stolen to the United States Secret Service for inclusion in the National Crime Information Center of the Federal Bureau of Investigation, Department of Justice

and to other Federal agencies; users for this purpose are law enforcement officials, for the purpose of reducing monetary losses of the United States and to aid in law enforcement. (3) Information is routinely disclosed pertaining to holdings of securities and transactions therein to the Department of Justice in connection with lawsuits to which the Bureau is a party; users are law enforcement officials for the purpose of administration of justice. (4) Information concerning holdings of Armed Forces Leave Bonds is routinely furnished to the Veterans Administration in connection with redemption or disposition of these securities. Users of the resultant information furnished by the Veterans Administration are officers and authorized employees of the Bureau, for the purpose of making proper disposition of these bonds. (5) Information regarding records of holdings of securities registered in the names of two or more owners is routinely disclosed to either owner upon his request. (Note: requests for disclosure by owners other than the first-named owner should include the name or social security number of the first-named owner.) (6) Information regarding holdings is routinely disclosed to Members of Congress who inquire on behalf of constituents. (7) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records in this system are stored in their original paper form and as information in electronic media and on microfilm.

Retrievability: Information can be retrieved alphabetically by name or, in some cases, numerically by social security number. In the case of securities registered in more than one name, which matured prior to January 1, 1973, information relating thereto can only be retrieved by the name or social security number of the first-named owner.

Safeguards: Information is contained in secure buildings, Federal Records Centers, or in areas which are occupied by officers and responsible employees of either the Department who are subject to personnel screening procedures and the Treasury Department Code of Conduct, or by Federal Reserve Banks and Branches as Fiscal Agents. Additionally, since in most cases, numerous steps are involved in the retrieval process, unauthorized persons would be unable to retrieve information in a meaningful form. Information stored in electronic media is safeguarded by automatic data processing security procedures in addition to physical security measures.

Retention and disposal: Records of holdings are maintained permanently. Forms, documents and other legal papers which constitute the basis for transactions subsequent to original issue are maintained for such time as is necessary to protect the legal rights and interests of the U.S. Government and the persons affected or otherwise until they are no longer historically significant. Other records are disposed of at varying intervals in accordance with records retention schedules reviewed and approved by the National Archives and Records Service, General Services Administration. All records are destroyed by shredding, incineration or maceration. Records in electronic media are electronically erased using accepted techniques.

System manager(s) and address: Commissioner of the Public Debt, 15th St. and New York Avenue, N.W., Washington, D.C. 20226.

Notification procedure: Address inquiries and initial requests for correction of records to: Privacy Act Request, Assistant Commissioner of the Public Debt, 13th and C Streets, S.W., Washington, D.C. 20226, (202) 964-7994. Inquiries should include the full name and social security number of the inquirer.

Record access procedures: Individuals who wish to request access to records relating to them or who wish to request correction of records they believe to be in error should submit such requests pursuant to the procedures set out below in compliance with the applicable regulations (31 CFR Part 1, Subpart C Sections 1.7 and 1.8; 31 CFR Part 323). Requests which do not comply fully with these procedures may result in noncompliance with the request but will be answered to the extent possible.

Requests and access to records: (1) All requests for access to records must be in writing, signed by the individual concerned, and, in order for the Privacy Act procedures to apply, clearly indicate that the request is made pursuant to the Privacy Act of 1974. The Bureau reserves the right to require additional verification of an individual's identity. (2) The request must specify the Bureau system of records within which the desired records are located as well as the categories of records within the system. These categories are set out in the applicable system of records description. (3) In the case of requests for information concerning records of holdings of securities, the type of security involved (e.g., Treasury Note, Armed Forces Leave Bond, Adjusted Service Bond, etc.) must be specified. Additionally, the request should, to the extent possible, specify: the loan and issue thereof, approximate date of issue, denomination, serial number and form of registration, including address. Requests which do not furnish some or all of the latter information will be complied with to the extent possible but may be subject to the requirement that additional identificatory evidence be furnished. (4) Requests for records of holdings of securities which matured prior to January 1, 1973 registered in the name of more than one person must include the name and, wherever possible, social security number of the first-named owner. (5) Requests for records of holdings or other information concerning a deceased or incapacitated individual must be accompanied by either evidence of the requester's appointment as legal representative of the individual or his estate or by a statement attesting that no such representative has been appointed and giving the nature of the relationship between the requester and the individual.

Requests for correction of Records: (1) All requests by an individual for correction of records relating to him should be in writing, be signed by him, and, in order for the Privacy Act procedures to apply, state that the request is made pursuant to the Privacy Act of 1974. (2) The request for correction should specify: (a) the dates of the prior correspondence had with the Bureau concerning the records in question, (b) the specific records alleged to be incorrect, (c) the correction requested, and (d) the reasons therefor as well as any available evidence in support of the request.

Appeals from an initial denial of a request for correction of records: (1) All appeals from an initial denial of a request for correction of records must be in writing, be signed by the individual involved and, in order for the Privacy Act procedures to apply, state that it is made pursuant to the Privacy Act of 1974. (2) All appeals must, to be handled under the Privacy Act procedures, be delivered to the address set forth for submission of appeals within 35 days of the individual's receipt of the initial denial of the requested correction. (3) All appeals must specify: (a) the record to which the appeal relates, (b) the date of the initial request made for correction of the records, and (c) the date that initial denial of the request for correction was received. (4) All appeals must also specify the reasons for the requestor's disagreement with the initial denial of correction and should furnish any applicable evidence available in support of his appeal.

Contesting record procedures: See Notification and Access above.

Record source categories: Information contained in records in the system is furnished by individuals listed in "Categories of Individuals" or those specifically authorized by the individuals to act on their behalf; or is generated within the system itself.

Treasury/FLETC 00.001

System name: FLETC Payroll System—Treasury/FLETC.

System location: FLETC, Office of Administration, Administration Building, Glynco, Georgia, 31520.

Categories of individuals covered by the system: Any person employed by or detailed to the Center.

Categories of records in the system: All payroll records including Standard Forms 50 and 52, leave status, training authorizations and retirement records.

Authority for maintenance of the system: Treasury Order No. 217, dated July 1, 1970.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Compilation of all required accounting, payroll functions and reports. GAO and Treasury audits. Related FLETC accounting and financial procedures. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files.

Retrievability: Name.

Safeguards: Physical Security, personnel screening and security check list are all utilized to prevent unauthorized disclosure of records.

Retention and disposal: Retained indefinitely, except retirement records which are transferred at the departure of the employee.

System manager(s) and address: FLETC, Office of Administration, Administration Building, Glynco, Georgia 31520.

Notification procedure: The individual must provide full name, date of birth, dates of employment with, or date of application of employment to the Center to: FLETC, Office of Administration, Administration Building, Glynco, Georgia 31520.

Record access procedures: By formal letter to the System Manager.

Contesting record procedures: See Access above.

Record source categories: Personnel documents and payroll documents computed by the Bureau of Government Financial Operations.

Procurement Officer
Supervisory General Engineer

tional routines uses, see Appendix AA, 40 FR 56419-56420, December 2, 1975.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including catego-

Record source categories: Personnel documents and payroll documents computed by the Bureau of Government Financial Operations.

Treasury/FLETC 00.002

System name: FLETC Trainee Records and FLETC Instructor Records—Treasury/FLETC.

System location: FLETC Office of Administration, Administration Building, Glynco, Georgia 31520.

Categories of individuals covered by the system: Any person who officially attends a formal FLETC training program and all instructors engaged in teaching the FLETC training programs.

Categories of records in the system: Trainee records: personal background information supplied by the trainee; grades and performance evaluation, student advisory form and relevant public health records. Instructor records: personal background information supplied by the instructor, and teaching qualifications. All records described in this system are other than records described and reported by the Civil Service Commission on behalf of all agencies.

Authority for maintenance of the system: 5 U.S.C. 301, 5 U.S.C. 4101-4118, Executive Order 11348, Treasury Order No. 217 (Revision 1) dated July 1, 1970 and Memorandum of Understanding for the Sponsorship and Operation of the Consolidated Federal Law Enforcement Training Center, dated September 30, 1970.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure upon request to the individual himself, the individual's parent agency, and to any other agency or organization at the request of the individual.

To the Civil Service Commission concerning pay, leave, benefits, retirement deductions, and other information necessary for the Commission to carry out its government-wide personnel management functions. For additional routine uses, see Appendix AA, 40 FR 56419—56420, December 2, 1975.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic disc storage except for health records which are maintained on paper files.

Retrievability: Name and class number.

Safeguards: Access to these systems of records will be controlled by software and hardware procedures. Software will be used to ensure, in all technically feasible ways, that data cannot be made available to unauthorized persons. User—identifiers and passwords will be used where feasible to protect the data. Physical security will protect all terminals and magnetic disc files from access by unauthorized persons. Offices will be locked except when authorized persons are present.

Retention and disposal: All records maintained indefinitely.

System manager(s) and address: Assistant Director for Administration, Office of Administration, Administration Building, FLETC, Glynco, Georgia 31520.

Notification procedure: The individual must provide full name, social security number, date of birth, parent agency, type of course and approximate dates of attendance to the system manager.

Record access procedures: By written request to the system manager.

Contesting record procedures: By written request of the System Manager.

Record source categories: The trainee himself and members of the staff responsible for grading, rating or evaluating the trainee.

Instructors. The instructor himself and staff members responsible for upgrading the instructor's teaching qualifications.

Treasury/FLETC 00.003

System name: FLETC Confidential Financial Records—Treasury/FLETC.

System location: FLETC, Office of the Director, Administration Building, Glynco, Georgia 31520.

Categories of individuals covered by the system: Employees classified at GS-12 or above who are in positions identified as positions the basic duties and responsibilities of which require the incumbent to exercise judgment in making a Government decision or in taking Government action on contracting or procurement. Specifically, All officials GS-15 and above

Assistant Director, Special Training Division
Deputy Associate Director for Administration
Administrative Services Officer
Chief, Instructional Services Division
Procurement Officer
Supervisory General Engineer
Facility Management Specialist
Public Information Specialist
Financial Management Specialist
Executive Assistant
Staff Assistant, Office of Training

Categories of records in the system: All information required by or related to employment and financial interest of GS-12 and above employees.

Authority for maintenance of the system: Federal Personnel Manual Chapter 735 and Executive Order 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide certification to the Civil Service Commission that Statements of Employment and Financial Interests are on file for each employee and special Government employees required to submit such statement under the regulations of the employing agency. Also, information for the agency head only to be disclosed upon his determination or that of the Chairman of the U.S. Civil Service Commission for good cause shown. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files.

Retrievability: Name.

Safeguards: Physical Security, personnel screening and security check list are all utilized to prevent unauthorized disclosure of records.

Retention and disposal: Retained and updated annually and destroyed at the departure of employee from FLETC rolls.

System manager(s) and address: Director, FLETC, Administration Building, Glynco, Georgia 31520.

Notification procedure: The individual must provide full name, date of birth, dates of employment with the Center to: Director, FLETC, Administration Building, Glynco, Georgia 31520.

Record access procedures: By formal letter to the System Manager.

Contesting record procedures: See Access above.

Record source categories: The employee on whom the record is maintained.

Treasury/FLETC 00.004

System name: FLETC Employee Records—Treasury/FLETC.

Personnel records Schedule 1 Item 9 1 yr.
Health records GRS 1 21 6 yr.
Training records Schedule 1 25c 1 yr.
Vehicle records 11 4a 3 mo.
Equal Employment Opportunity records 1 20b 1 yr.
Locator records 11 4a 3 mo.
Identification records 11 4a 3 mo.
Equipment control records:
Property pass files 18 10 3 mo.
Lost, stolen, and found files 18 13b 1 yr.
Key files 18 14b 2 mo.

System location: FLETC, Office of Administration, Administration Building, Glynco, Georgia 31520.

Categories of individuals covered by the system: Employees, Past Employees, Employee Prospects, Contract Personnel.

Categories of records in the system: Personnel, Health, Training, Vehicle Registration, Equal Employment Opportunity, locator Cards, Identification Records, and Equipment Control Rosters, consisting of records other than those described and reported by the Civil Service Commission on behalf of all agencies.

Authority for maintenance of the system: 5 U.S.C. 301, 5 U.S.C. 4101 et seq., Executive Order No. 11348, April 20, 1967, Treasury Order 217 (Revision 1), dated July 1, 1970.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Personnel recruitment and management, management of health, unit, vehicle control, equipment control, equal employment opportunity program. Disclosure to the individual himself and the individual's parent agency. Health records to the U.S. Department of Labor and the U.S. Department of Health, Education, and Welfare as required by regulation. To the Civil Service Commission concerning pay, leave, benefits, retirement deductions, and other information necessary for the Commission to carry out its government-wide personnel management functions. For additional routines uses, see Appendix AA, 40 FR 56419-56420, December 2, 1975.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files.

Retrievability: Name.

Safeguards: Physical security, personnel screening and security check lists are all used to prevent unauthorized disclosure of records.

Retention and disposal: Disposition as prescribed by the schedules attached to Treasury Directives Manual chapter TD 80, Section 05.B, 5-12-76, except for health records covered by the General Service Administration's General Records Schedule 1 (GRS 1):

System manager(s) and address: Assistant Director for Administration, Office of Administration, Administration Building, FLETC, Glynco, Georgia 31520.

Notification procedure: The individual must provide full name, date of birth, and dates of employment with the Center to the system manager.

Record access procedures: By written request to the system manager.

Contesting record procedures: By written request to the system manager.

Record source categories: The employee on whom the record is maintained, prior employers, and FLETC.

(FR Doc. 76-29383 Filed 10-5-76, 8:45 am)

Treasury/IRS 10.001

System name: Biographical Files, Public Affairs—Treasury/IRS.

System location: National, Regional and District Offices and Service Centers (see IRS Appendix A).

Categories of individuals covered by the system: IRS Employees.

Categories of records in the system: Records are biographical data on key IRS employees.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records are available to the public pursuant to the Freedom of Information Act, 5 U.S.C. 552.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file cabinets without locks.

Retrievability: By name.

Safeguards: Office doors locked at night.

Retention and disposal: Generally governed by the Records Management Handbook IRM 1(15)59.

System manager(s) and address: Assistant to the Commissioner (Public Affairs), Regional, District and Service Centers (see IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to Assistant to the Commissioner (Public Affairs), IRS, Washington, D.C. 20224, for national office file. See Appendix A for appropriate address for regional and district office or service center files.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed as in Notification Procedures.

Contesting record procedures: See Access.

Record source categories: Information is supplied by the IRS official on an IRS biographical data form.

Treasury/IRS 10.004

System name: Subject Files, Public Affairs—Treasury/IRS.

System location: National, Regional and District Offices and Service Centers (see IRS Appendix A.).

Categories of individuals covered by the system: In general, records are maintained on individuals whose names have been mentioned in the press in connection with their relationship with IRS.

Categories of records in the system: The records include correspondence, newspaper clippings, inter-office memoranda and similar documents.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of these records are available to the public pursuant to the Freedom of Information Act, 5 U.S.C. 552.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored in file cabinets without locks.

Retrievability: Alphabetical by subject.

Safeguards: Office doors locked at night.

Retention and disposal: Generally governed by the Records Management Handbook IRM 1(15)59.

System manager(s) and address: Assistant to the Commissioner (Public Affairs), Regional, District and Service Centers (see IRS Appendix A.).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to Assistant to the Commissioner (Public Affairs), IRS, Washington, D.C. 20224, for national file. See Appendix A for appropriate address for regional and district office or service center files.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed as in Notification Procedures.

Contesting record procedures: See Access.

Record source categories: Records generally are clippings from news media, newspapers, magazines, and similar sources, internal documents and memoranda.

Treasury/IRS 21.001

System name: Tax Administration Advisors Resources File, Tax Administration Advisory Services Division—Treasury/IRS.

System location: National Office.

Categories of individuals covered by the system: Past and potential tax administration advisors who have served or indicated an interest in serving as advisors assignments, and selected officials engaged in tax administration and related fields.

Categories of records in the system: Locator cards and lists with names, addresses, telephone numbers, and organizational affiliations of officials engaged in tax administration and IRS employees and others who have been or have indicated an interest in tax advisory assignments; for employees serving or having served with TAAS, work assignment folders including passports and ID(AID) cards; application folders of potential advisors, including information on experience of applicants; bio-data sketches on IRS and others engaged in tax administration and related fields.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Maintained for reference in obtaining and presenting information related to tax administration, and for administrative selection and processing of overseas and domestic assignments. Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper

Retrievability: By individual name.

Safeguards: Access limited to authorized persons. File kept in locked file or locked room.

Retention and disposal: Disposed when no longer useful for official use.

System manager(s) and address: Director, Tax Administration Advisory Services Division, National Office (See IRS Appendix A).

Notification procedure: See System Manager above.

Record access procedures: See System Manager above.

Contesting record procedures: See System Manager above.

Record source categories: From the individual, from the organization with which he is associated, or from other knowledgeable or

Policies and practices for storing, retrieving, accessing, retaining, and

Categories of individuals covered by the system: Recipients of income who appear not to have filed income tax returns (Forms 1040 or 1040A) for the tax year in which that income was paid to them.

Director of the Internal Revenue Service Center servicing the area in which the individual resides.

Taxpayers seeking to adjust records which affect the determination

Record source categories: From the individual, from the organization with which he is associated, or from other knowledgeable experts in the field of Tax Administration.

Treasury/IRS 22.003

System name: Annual Listing of Undelivered Refund Checks, TX:R—Treasury/IRS.

System location: Internal Revenue Service Centers and District Offices (see IRS Appendix A).

Categories of individuals covered by the system: Taxpayers whose refund checks have been returned as undeliverable since the last Annual Listing of Undelivered Refund Checks was produced.

Categories of records in the system: Taxpayer entity information (Name, Street Address, City, State, Zip Code and Taxpayer Identification Number) and records containing tax module information (Tax Period, Amount of Credit Balance and Control Document Locator Number).

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Individuals entitled to undeliverable refund checks will be notified of such checks by publication of their names in the news media.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper document stored in files.

Retrievability: Information is retrievable by taxpayer's name.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: The policies and practices regarding retention and disposal are as specified in the Records Retention Handbook published by the Service.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (TX). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

Treasury/IRS 22.005

System name: Audit Underreporter Case File, TX:R Treasury/IRS.

System location: National Computer Center (NCC) Martinsburg, W. Va. (See IRS Appendix A.)

Categories of individuals covered by the system: Recipients of income who appear not to have declared on their income tax returns (Forms 1040 and 1040A) all income paid to them in the tax year under study.

Categories of records in the system: Records maintained are taxpayer (i.e., payee) entity records containing payee name, address, taxpayer identification number, and other indicators relating to entity maintenance; and income records containing the types and amounts of income received, and information identifying the income payer.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: On magnetic tape.

Retrievability: By matching on SSN and name control.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Retained for one year; then data are magnetically erased.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (TX), National Office. Officials maintaining the system—Directors, Internal Revenue Service Centers. See IRS Appendix A for locations.

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 22.011

System name: File of Erroneous Refunds, TX:R Treasury/IRS.

System location: Internal Revenue Service Center. (See IRS Appendix A.)

Categories of individuals covered by the system: Taxpayers issued erroneous refunds.

Categories of records in the system: Case reference name, number, control number, date of erroneous refund, statute expiration date, status of case and location.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper document file.

Retrievability: Retrieved by name.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Retained four years then destroyed.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (TX). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

Treasury/IRS 22.012

System name: Collection Case File, TX:R Treasury/IRS.

System location: National Computer Center (NCC), Martinsburg, W. Va. (See IRS Appendix A.)

Categories of individuals covered by the system: Recipients of income who appear not to have filed income tax returns (Forms 1040 or 1040A) for the tax year in which that income was paid to them.

Categories of records in the system: Records maintained are taxpayer (i.e., payee) entity records containing payee name, address, taxpayer identification number, and other indicators relating to entity maintenance; and income records containing the types and amounts of income received, and information identifying the income payer.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: On magnetic tape.

Retrievability: By matching on SSN and name control.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Retained for up to one and a half years, then data are magnetically erased.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (TX). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 22.026

System name: FORM 1042S Index By Name of Recipient, TX:R/Treasury-IRS.

System location: PHILADELPHIA SERVICE CENTER (See IRS Appendix A).

Categories of individuals covered by the system: Non-resident aliens and U.S. citizens living abroad whose taxes are covered by IR Chapter 3 Withholding.

Categories of records in the system: Records include taxpayer's name, address, tax data, country of residence and Employer Identification Number and name of withholding agent.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Microfilm.

Retrievability: By taxpayer name.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Retained at PSC 5 years, then at Federal Records Center 25 years.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (TX). Officials maintaining the system—Director, Philadelphia Internal Revenue Service Center (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A).

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides.

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act. (See IRS Appendix A).

Contesting record procedures: See Access above.

Record source categories: Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

Treasury/IRS 22.027

System name: Forms filed by U.S. Citizens or Residents relating to Foreign Companies, TX:R-Treasury/IRS.

System location: Philadelphia Internal Revenue Service Center and its servicing Federal Records Centers (See IRS Appendix A).

Categories of individuals covered by the system: Taxpayers who file Forms: 957—Foreign Personal Holding Company; 958—Foreign Personal Holding Company; 959—Return by an Officer, Director, or Shareholder—With Respect to the Organization or Reorganization of a Foreign Corporation and Acquisition of its Stock.

Categories of records in the system: Forms filed by the taxpayer and case documents determined by the Service to be related.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These are paper document files.

Retrievability: Documents are stored and retrieved by Document Locator Numbers.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Retention and Disposal Instructions for paper documents in these files is as specified in the Records Disposition Handbook, Service Centers, IRM 1(15)59-206.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (TX). Officials maintaining the system—Directors, Internal Revenue Service Centers (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A).

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides.

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act. (See IRS Appendix A).

Contesting record procedures: See Access above.

Record source categories: Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

Treasury/IRS 22.032

System name: Individual Microfilm Retention Register, TX:R—Treasury/IRS.

System location: All IRS Service Centers and District Offices. (See IRS Appendix A).

Categories of individuals covered by the system: Categories of individuals on whom records are maintained are: (a) For Individual Master File (IMF) registers—Individuals who file, or may be required to file, individual tax returns such as Form 1040 or 1040A, and (b) For Residual Master File (RMF) registers—Individuals who file, or may be required to file, or are otherwise responsible for returns relating to airways, motor vehicles, wagering, beer, etc., coin operated amusement devices, gift taxes or estate taxes, including return forms such as, 4638, 709, 706, 2290, 11, 11B, 11C and 730.

Categories of records in the system: The categories of records maintained are abstracts of tax and/or entity modules that have been removed from the IMF or RMF. These abstract records indicate the

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing proce-

Retrievability: Cases filed alphabetically by last name.

Safeguards: Safeguards will not be less than provided by the Physi-

Categories of records in the system: The categories of records maintained are abstracts of tax and/or entity modules that have been removed from the IMF or RMF. These abstract records indicate the taxpayer name, identification number, specific tax returns, document locater number, tax years, debit and credit amounts, balances, and other transactions which have been recorded relative to the module(s).

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Microfilm Tape.

Retrievability: IMF Reference Register (for IMF Register only), identification number, Tax Period, name, and type of tax (for RMF Register). Methods of retrievability are explained in the Research Operations Handbook.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: The policies and practices regarding storage, retention, and disposal are as specified in the Records Retention Handbook.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (TX). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C. Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A).

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A).

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See access above.

Record source categories: Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

Treasury/IRS 22.034

System name: Individual Returns Files, Adjustments and Miscellaneous Documents Files. TX:R—Treasury/IRS.

System location: Internal Revenue Service Centers and Federal Records Centers. (See IRS Appendix A).

Categories of individuals covered by the system: Taxpayers who have had changes made to their accounts, or have had information posted to the Individual Master file or the Residual Master File, as a result of filing returns, applications, or other documents, or as a result of actions initiated by the Service.

Categories of records in the system: A variety of records reflecting tax matters which have served as input documents or supporting documentation for entries on the Individual Master File or the Residual Master File, including tax return forms, declarations, applications, case records, processing documents, vouchers, computer notices, posting and correction forms, and similar records.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper document files.

Retrievability: Documents are stored and retrieved by Document Locator Numbers. The Document Locator Numbers can be determined by reference to the Individual Master File or Residual Master File entries for the individual to whom they relate.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Retention and Disposal Instructions for paper documents in these files is as specified in the Records Disposition Handbook, Service Centers, IRM 1(15)59-206.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (TX). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A).

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A).

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See access above.

Record source categories: Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

Treasury/IRS 22.036

System name: Interest Equalization Tax Forms File, TX:R—Treasury/IRS.

System location: Federal Records Centers. (See IRS Appendix A).

Categories of individuals covered by the system: Taxpayers who filed Forms: 3969—Notice of Acquisition of Original or New Japanese Debt Obligation, 4410—Interest Equalization Tax—Quarterly Return of Tax Withheld by Participating Firm, 4363—Notice of Acquisition of Stock Pursuant to Conversion of an Original or New Japanese Debt Obligation, 4322—Validation Certificate of Prior American Ownership and Interest Equalization Tax Compliance, 3845—Interest Equalization Tax—Broker's Quarterly Information Return, 3779—Notice of Acquisition of Original or New Canadian Stock or Debt Obligation.

Categories of records in the system: Forms filed by the taxpayer and case documents determined by the Service to be related.

Authority for maintenance of the system: 5. U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These are paper document files.

Retrievability: Documents are stored and retrieved by taxpayer name.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Retention and Disposal Instructions for paper documents in these files is as specified in the Records Disposition Handbook, Service Centers, IRM 1(15)59-206.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (TX). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A).

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A).

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See access above.

Record source categories: Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

Treasury/IRS 22.043

System name: Potential Refund Litigation Case Files, TX:R—Treasury/IRS.

System location: Internal Revenue Service Centers and Federal Records Centers. (See IRS Appendix A).

Categories of individuals covered by the system: Taxpayer who have indicated to the Service that they may file suit against the service for a refund.

Categories of records in the system: Forms filed by the taxpayer and case documents determined by the Service to be related.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: This is a paper document file.

Retrievability: Documents are stored and retrieved by taxpayer name.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1 (16) 41.

Retention and disposal: Retention and Disposal Instruction for paper document in these files is as specified in the Records Disposition Handbook, Service Centers, IRM 1 (15) 59-206.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (TX). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A).

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A).

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See access above.

Record source categories: Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

Treasury/IRS 22.044

System name: P.O.W.—M.I.A. Reference File, TX:R—Treasury/IRS.

System location: Austin Service Center and each district office. (See IRS Appendix A).

Categories of individuals covered by the system: P.O.W./M.I.A.—originated from Department of Defense lists.

Categories of records in the system: Lists of P.O.W./M.I.A., Regulations, Rulings, and Instructions as to how to handle specific tax questions relating to their special tax status, copies of individual tax returns, claims, and other documents germane to specific clases.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents in file folders.

Retrievability: Cases filed alphabetically by last name.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: All cases have been retained and no current provisions have been established for disposal.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (TX). Officials maintaining the system—Director, Internal Revenue Austin Service Center and District Directors of Internal Revenue. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A).

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A).

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedure for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See access above.

Record source categories: Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

Treasury/IRS 22.054

System name: Subsidiary Accounting Files, TX:R—Treasury/IRS.

System location: Internal Revenue Service Centers and Dsitrict Offices. (See IRS Appendix A.)

Categories of individuals covered by the system: The categories of individuals on whom records are maintained are taxpayers affected by one or more of the transactions reflected in the categories of records listed below.

Categories of records in the system: The types of records maintained in the system are documents containing entity information (name, address, taxpayer identification number or employer identification number and other information necessary to identify the taxpayer) and accounting information relevant to one of the following categories: funds held pending, disposition and not applied to the taxpayer's liability at present, properties, tangible or intangible, now in the custody of the Interal Revenue Service, counterfeit money, misappropriations or robbery of Internal Revenue Service funds, credits which cannot be applied to a specific taxpayer account at this time, accounts transferred to other Service Centers or agencies, substantiation for the receipt of funds collected by the Service for other agencies, abatements or assessments of tax on individuals, deposits received from taxpayers, refunds to taxpayers, taxpayer accounts written off by the Service as uncollectible, credits allowed taxpayers requiring special consideration due to processing constraints, litigation, seized and acquired property and Offers-in-Compromise.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Subsidiary Accounting Files consist of paper documents stored in files.

Retrievability: Records are retrievable by Social Security No. and by name.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1 (16) 41.

Retention and disposal: Records are retired to the Records Center and are retrieved by request from authorized individuals where account substantiation is necessary. Policies regarding disposal are as specified in the Records Retention Handbook published by the Service.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (TX). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A)

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may

Categories of individuals covered by the system: Remittances which have been received but cannot be positively identified, either as to

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedures for doing so, as substantive tax matters are no subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account. Some Justice Department investigations are an additional source for the information contained in litigation case files.

Treasury/IRS 22.058

System name: Tentative Carryback Allowance File; TX:R—Treasury/IRS.

System location: Internal Revenue Service Centers. (See IRS Appendix A.)

Categories of individuals covered by the system: Taxpayers who have filed for a tentative carryback adjustment.

Categories of records in the system: records of tentative carryback adjustment Form 6902, including taxpayer name, address, and identifying number, tax years involved, amounts of tax decrease, and date Notice of Disallowance (if any) mailed.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These are paper document files

Retrievability: Taxpayer name and/or identification number.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1 (16) 41.

Retention and disposal: Retention and Disposal Instruction for paper documents in these files is as specified in the Records Disposition Handbook, Service Centers, IRM 1 (15) 59-206.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (TX). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedure for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

Treasury/IRS 22.059

System name: Unidentified Remittance File, TX:R—Treasury/IRS.

System location: Internal Revenue Service Centers. See IRS Appendix A for locations.

Categories of individuals covered by the system: Remittances which have been received but cannot be positively identified, either as to the taxpayer who sent it or the tax period to which it is to be applied.

Categories of records in the system: Each record contains a fourteen digit unidentified remittance (UR) control number, the amount, received date, and all known identifying data. In addition, the URF contains a record of all doubtfully applied Estimated Tax (ES) credits. The ES record contains the taxpayer's name, address, type of payment, taxpayer identification number, tax period, received date, money amount, and the transaction document locator number (DLN).

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This file is used only to report Revenue Receipts Breakout and total amount shown on General Ledger to U.S. Treasury. The file is an internal file and contains a record of each remittance which is received but cannot be positively identified, either as to the taxpayer who sent it or the tax period to which it is to be applied.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Disk Storage

Retrievability: Remittance amount, Unidentified Remittance Control Number, taxpayer name.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1 (16) 41.

Retention and disposal: 180 days after the amount is reduced to zero balance.

System manager(s) and address: Offical prescribing policies and practices—Assistant Commissioner (TX). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

Record access procedures: Indivduals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries, should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: Remittances received from taxpayers that cannot be positively identified either as to the taxpayer who sent it or the type of tax to which it is to be applied.

Treasury/IRS 22.060

System name: Unit Ledger Cards, TX:R—Treasury/IRS.

System location: Internal Revenue Service Centers and Records Center.

Categories of individuals covered by the system: Records are maintained on taxpayers having accounts with the Internal Revenue Service which are not compatible with normal master file processes, e.g.: penalties, transferee assessments, termination assessments, excise protest accounts, RMF overflow accounts, culpable and non-petitioning spouses, Forms 1042, 1040-NR, 926, 5330, 4720, 990-AR (Penalty) and any pre-ADP returns.

Categories of records in the system: The categories of records maintained are taxpayer entity records (name, address, taxpayer identification number or employer identification number and other indicators relevant to entity maintenance) and records containing tax module information (the tax return, the tax period, the balance due or credit balance, and transactions which have been recorded relative to the module).

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 301.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The unit ledger cards are a card file.

Retrievability: Information is retrievable by Taxpayer Identification Number.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1 (16) 41.

Retention and disposal: Disposition is prescribed by the appropriate Records Control Schedule.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (TX). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

Treasury/IRS 22.061

System name: Information Returns Processing (IRP) File; TX:R—Treasury/IRS.

System location: National Computer Center, Martinsburg, W. Va.

Categories of individuals covered by the system: recipients of various types on income: wages; dividends; interest; rents and royalties; medical payments; capital gains distributions; non-taxable distributions; pensions and annuities; patronage dividends, distributions, and allocations; fishing crew distributions and prizes, gambling winnings and miscellaneous income.

Categories of records in the system: Records maintained are records representing certain wage and information returns: Forms W-2, W-2P, the 1087 and 1099 series; and records of agricultural subsidy payments. Information included on each record identifies the recipient of the income (name, address, taxpayer identifying number, and other indicators relating to payee identification), identifies the income payer (very similar information), and identifies the type(s) and amount(s) of income.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape in social security number sequence.

Retrievability: By taxpayer social security number and name control.

Safeguards: Safeguards will not be less than provided by the Physical Document Security Handbook, IRM 1 (16) 41.

Retention and disposal: Until tax year 1974, only until processed; after tax year 1974, four years; then magnetically erased.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (TX), national office. Officials maintaining the system—Directors, Internal Revenue Service Centers. See IRS Appendix A for locations.

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 24.013

System name: Combined Account Number File, Data Services: Treasury/IRS.

System location: Internal Revenue Service Centers. (See IRS Appendix A.)

Categories of individuals covered by the system: Individuals and businesses having specific, current business with IRS.

Categories of records in the system: Taxpayer entity records (name, address, taxpayer identification number, and filing requirements related to entity liability); and tax modules (specific tax returns, tax years, and transactions which have been recorded relative to the module) when specifically requested by a service center, or if a notice for balance of tax due has been issued; a specific tax period is in taxpayer delinquent account status (TDA); a specific tax period is either credit or debit balance; no return has posted and the return due date (RDD) has passed; or when a specific tax period is in taxpayer delinquent return (TDI) status.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Disk storage.

Retrievability: Social security number or employer identification number.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: The policies and practices regarding storage, retention and disposal are governed by the principle that a specific tax period will be retained on the file dependent upon specified criteria prescribed in the Internal Revenue Manual and in various Accounts and Data Processing Handbooks (ADP Handbooks). The disposal of documents output from this file is specified in the Records Retention Handbook published by the Service and in the Internal Revenue Manual and in various Accounts and Data Processing Handbooks.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner Data Services. Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides. (See IRS Appendix A.)

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedures for doing so as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

Treasury/IRS 24.014

System name: Discriminant Function File (DIF), Data Services:

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (TX). Officials maintaining the

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing proce-

tions such as tax amount, statements/additions to tax, payments, interest and like type transactions relative to each tax module.

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Treasury/IRS 24.014

System name: Discriminant Function File (DIF), Data Services: Treasury/IRS.

System location: Internal Revenue Service Centers. (See IRS Appendix A.)

Categories of individuals covered by the system: Individuals whose Forms 1040 and 1040A have a DIF Score higher than a cutoff score determined by Audit Division, indicating high audit potential. The DIF Score is the computation of Audit potential, based on formulae prescribed by Audit.

Categories of records in the system: Document Locator Number of the return, the Regional and District Offices of the taxpayer, the taxpayer's DIF Score and data from the individual's Income Tax Return needed to conduct an audit of his return.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: By magnetic tape and computer printout.

Retrievability: By individual's Social Security Number.

Safeguards: Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Retained for three years. Disposed of thereafter.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner Data Services. Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

Notification procedure: This system of records may not be accessed for purpose of determining, if the system contains a record pertaining to a particular individual.

Record access procedures: This System of records may not be accessed for the purpose of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 24.017

System name: Employee Inquiry Look-Up for TDA Inquiries, Data Services:—Treasury/IRS.

System location: Internal Revenue Service Centers. (See IRS Appendix A.)

Categories of individuals covered by the system: Individual taxpayers who have paid Federal Insurance Contributions Act (FICA), wages to the Social Security Administration (SSA) through the 3rd quarter of the year and those taxpayers who file Federal Individual Income Tax returns Form 1040 and 1040A through the Individual Master File (IMF) Delinquency and Underreporting Program (WAID).

Categories of records in the system: Taxpayer's name, taxpayer's address, taxpayer's identification number, taxpayer's wages, taxpayer's marital status, taxpayer's employer/s name/s, employer's address, employer's identification number, tax period and other indicators relating to the program operation.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape.

Retrievability: Tape search by taxpayer name or identity number.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: The file is maintained approximately for six months and then destroyed and recreated as updated information is received from SSA or WAID.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (TX). Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas in which the individual resides.

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

Treasury/IRS 24.029

System name: Individual Account Number File (IANF), Data Services: Treasury/IRS.

System location: Internal Revenue Service Centers (See IRS Appendix A).

Categories of individuals covered by the system: Individuals having specific, current business with IRS.

Categories of records in the system: Taxpayer entity records (name, address, taxpayer identification number, and filing requirements related to entity liability); and tax modules (specific tax returns, tax years, and transactions which have been recorded relative to the module) when specifically requested by a service center, or if a notice for balance of tax due has been issued; a specific tax period is in taxpayer delinquent account status (TDA); a specific tax period is either credit or debit balance, no return has posted and the return due date (RDD) has passed; or when a specific tax period is in taxpayer delinquent return (TDI) status.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Disk storage.

Retrievability: Social security number.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: The policies and practices regarding storage, retention and disposal are governed by the principle that a specific tax period will be retained on the file dependent upon specified criteria prescribed in the Internal Revenue Manual and in various Accounts and Data Processing Handbooks (ADP Handbooks). The disposal of documents output from this file is specified in the Records Retention Handbook published by the Service and in the Internal Revenue Manual and in various Accounts and Data Processing Handbooks.

System manager(s) and address: Officials prescribing policies and practices—Assistant Commissioner Data Services. Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A).

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides.

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act. (See IRS Appendix A).

Contesting record procedures: See Access above.

Record source categories: Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

Treasury/IRS 24.030

System name: Individual Master File (IMF), Data Services—Treasury/IRS.

System location: National Computer Center (NCC), Martinsburg, West Virginia.

Categories of individuals covered by the system: Taxpayers who file Federal Individual Income Tax Returns (i.e. Forms 1040, 1040A).

Categories of records in the system: Taxpayer entity records (name, address, identification number (SSN) and other indicators pertaining to entity maintenance, including Zip Code), and tax modular records which contain all records relative to specific tax returns for each applicable tax period or year. Recorded here are tax transactions such as tax amount, additions, abatements of tax payments, interest and like type transactions recorded relative to each tax module.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: By identification number and alphabet.

Storage: Magnetic Tape.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: As specified in the Records Retention Handbook published by the Service.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner Data Services. Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A).

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides.

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.(See IRS Appendix A).

Contesting record procedures: See Access above.

Record source categories: Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

Treasury/IRS 24.046

System name: Residual Master File (RMF) Data Services—Treasury/IRS.

System location: Internal Revenue Service Centers: See IRS Appendix A for locations.

Categories of individuals covered by the system: Persons in a sole proprietary role who file Excise Tax Returns (Form 11), Wagering Returns (Form 11C), Highway Use Returns (Form 2290), and Airways Use Returns (Form 4638) and Estate and Gift Taxes (Form 706 and 709), the latter can be individuals not in a sole proprietorship role.

Categories of records in the system: Taxpayer entity records (name, address, identification name (TIN) which may be either EIN or SSN, and other indicators pertaining to entity maintenance, including Zip Code), and tax modules which are all the records relative to specific tax returns for each applicable tax period. Recorded are tax transactions such as tax amount, statements/additions to tax, payments, interest and like type transactions relative to each tax module.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic Tape.

Retrievability: By name, type of tax, and identifying number.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: As specified in the Records Retention Handbook published by the Service.

System manager(s) and address: Official prescribing policies and practices, Assistant Commissioner Data Services. Officials maintaining the system, Directors, Internal Revenue Service Centers. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with Instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the Individual resides.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with Instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the Individual resides.

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: Tax returns and other filings made by the individual and agency entries made in the administration of the individual's tax account.

Treasury/IRS 24.057

System name: Taxpayer Delinquent Investigation Notice File; Data Services: Treasury/IRS.

System location: Internal Revenue Service Centers. (See IRS Appendix A.)

Categories of individuals covered by the system: Individual and business taxpayers relating to taxpayer delinquency investigations and the generation of delinquency notices.

Categories of records in the system: Delinquency investigation information on business and individual taxpayers.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape.

Retrievability: Tape search by identity number or name.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1 (16) 41.

Retention and disposal: Dependent upon the activity to each taxpayer record.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner Data Services. Officials maintaining the system—Directors, Internal Revenue Service Centers. (See IRS Appendix A.)

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual. (See IRS Appendix A.)

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system

ing the system—District Directors of Internal Revenue. (See IRS

of tax court subpoenas. Complaints of employers failing to provide withholding statements. Recovery of unassessable erroneous refunds.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.001

System name: Acquired Property Records, CP:C—Treasury/IRS.

System location: District Offices. (See IRS Appendix A.)

Categories of individuals covered by the system: Delinquent taxpayers whose property has been acquired by purchase by government or right of redemption.

Categories of records in the system: Taxpayer name, address, taxpayer identification number, revenue officer reports.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records are stored in locked facility when not in use.

Retrievability: Retrievable by taxpayer name.

Safeguards: Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1 (16) 41.

Retention and disposal: As specified in records disposition Handbook IRM 1(15)59.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (Compliance). Officials maintaining the system—District Directors of Internal Revenue. (See IRS Appendix A.)

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains data for government accounting purposes from Service sources.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.005

System name: File of Persons Making Threats of Force or Forcible Assaults, CP:C—Treasury/IRS.

System location: District Offices (See IRS Appendix A).

Categories of individuals covered by the system: Individuals who have or may threaten or assault Collection activity personnel.

Categories of records in the system: Names, addresses, taxpayer identification number (if known), physical description (if known) of individuals.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable) and as necessary to report apparent violations of law to appropriate law enforcement agencies. Routine disclosure may be made during judicial processes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper Records.

Retrievability: By name of individual.

Safeguards: Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: In accordance with records disposition Handbook, IRM 1(15)59.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (Compliance). Officials maintaining the system—District Directors of Internal Revenue. (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.006

System name: Form 2209, Courtesy Investigations, CP:C—Treasury/IRS.

System location: District Offices (See IRS Appendix A).

Categories of individuals covered by the system: Taxpayers on whom a delinquent account or delinquency or other investigation is or was located in one IRS district office, but the individual is now living or has assets located in the jurisdiction of another IRS district office.

Categories of records in the system: Contains taxpayer name, current and former addresses, taxpayer identifying number, if known. Contains the information, including class of tax, if applicable, or information concerning the action desired to be taken, and chronological investigative history.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper Records, Magnetic Tape.

Retrievability: By taxpayer name.

Safeguards: Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: As specified in records disposition Handbook, IRM 1(15)59.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (Compliance). Officials maintaining the system—District Directors, Service Center Directors and Data Center Directors. (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.007

System name: Form 2990—Miscellaneous Investigations, CP:C—Treasury/IRS.

System location: District Offices (See IRS Appendix A).

Categories of individuals covered by the system: Taxpayers on whom an investigation has been initiated for purposes of securing information necessary for Federal Tax Administration purposes.

Categories of records in the system: Name and address of party that was contacted, taxpayer identifiction number, if known, chronological investigative history and/or information secured. The following types of investigations are included in this system. Form SSA-7010 cases—Notice of Determination of FICA Wages—Issued when SSA obtains evidence that wages paid to claimant have not been recorded on his earnings record. Requests for data needed in proof of claim cases. Applications for discharge of property from tax lien. Service

of tax court subpoenas. Complaints of employers failing to provide withholding statements. Recovery of unassessable erroneous refunds. Form SSA-1273 cases—Request for Preferential Investigation. This is a request for preferential treatment (over other SSA cases) on an earnings discrepancy case. Secure application for exemption from self-employment tax. Offers in Compromise and related activities; i.e., follow-up on defaulted installments, secure payment on collateral agreements, etc. Maximize compliance with withholding requirements on aliens' earnings. Other miscellaneous uses.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper Records, Magnetic Tape.

Retrievability: By taxpayer name.

Safeguards: Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: As specified in records disposition Handbook. IRM 1(15)59.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (Compliance). Officials maintaining the system—District Directors, Service Center Directors and Data Center Directors. (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determing if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.008

System name: IRS and Treasury Employee Delinquency, CP:C—Treasury/IRS.

System location: National Office, Regional Offices, District Offices and Service Centers, National Computer Center and Data Center. (See IRS Appendix A).

Categories of individuals covered by the system: IRS and Treasury employees who are shown on the Master file as delinquent in meeting Federal tax requirements.

Categories of records in the system: Taxpayer name, social security number, address, fact of IRS or Treasury employment code, District location code.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper Records.

Retrievability: by taxpayer name.

Safeguards: Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: As specified in records disposition Handbook, IRM 1(15)59.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (Compliance). Officials maintaining the system—Assistant Commissioner (Compliance), Regional Commissioners, District Directors of Internal Revenue and Service Center Directors. (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.009

System name: Lien Files (Open and Closed), CP:C—Treasury/IRS.

System location: District Offices (See IRS Appendix A).

Categories of individuals covered by the system: Taxpayers on whom Federal Tax Liens have been filed.

Categories of records in the system: Taxpayer name, address, taxpayer identification number, information about basis of assessment including class of tax, period, dollar amount. Open and closed Federal tax liens including: Certificates of Discharge of Property from Federal Tax Lien; Certificates of Subordination; Certificates of Non-Attachment; Exercise of Government's Right of Redemption of Seized Property; Releases of Government's Right of Redemption. Federal tax lien information entered in Treasury Enforcement Communications System. Public lien index maintained pursuant to 26 U.S.C. 6323.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801 and 7802, 26 U.S.C. 6323.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable), notices of lien and the index thereto are available to the public.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper Records, Magnetic Tape and Microfiche.

Retrievability: By taxpayer name and lien sequence number.

Safeguards: Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: As specified in records disposition Handbook IRM 1(15)59.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (Compliance). Official maintaining the system—District Directors, Service Center and Data Center Directors and Director of International Operations. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may address inquiries to District Director for each District whose records are to be searched.

Record access procedures: This system contains copies of public records, the originals of which are filed in accordance with the laws of each State, the District of Columbia, the Commonwealth of Puerto Rico, or possessions of the United States. See Notification above.

Contesting record procedures: See notification above.

Record source categories: Taxpayers' Federal Tax Returns.

Treasury/IRS 26.010

System name: Lists of Prospective Bidders at Internal Revenue Sales of Seized Property—CP:C—Treasury/IRS.

System location: District Offices. (See IRS Appendix A).

Categories of individuals covered by the system: Individuals who have requested that they be notified of Internal Revenue sales of seized property.

Categories of records in the system: Name and address and phone number (if provided).

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable) and as necessary to report apparent violations of law to appropriate law enforcement agencies. Routine disclosure may

be made to other parties as necessary in the administration and enforcement of law as authorized by 26 U.S.C. 7801 and 7802. Disclosure may be made during judicial processes. For additional routine

ing the system—District Directors of Internal Revenue. (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

unpaid corporation withholding taxes and social security contributions.

Contesting record procedures: See Access above.

Record source categories: This System of Records evidences chain of title to real property and is a matter of public record. (See

be made to other parties as necessary in the administration and enforcement of law as authorized by 26 U.S.C. 7801 and 7802. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper Records. File cabinets.

Retrievability: By name of Prospective Bidder.

Safeguards: Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: As specified in records disposition Handbook IRM 1(15)59.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (Compliance). Officials maintaining the system—District Directors of Internal Revenue determine if need for this system exists. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the District Director of Internal Revenue Service servicing the area in which the individual resides.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire inaccordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of Internal Revenue Service servicing the areas in which the individual resides.

Contesting record procedures: See Access above.

Record source categories: Supplied voluntarily by the subject prospective bidder.

Treasury/IRS 26.011

System name: Litigation Case Files, CP:C—Treasury/IRS.

System location: District Offices (See IRS Appendix A).

Categories of individuals covered by the system: Taxpayers on whom Federal tax assessments have been made but against whom litigation has been initiated or is being considered by the government or who have instituted suits against the government.

Categories of records in the system: Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, and dollar amount. This file includes: Suit to Reduce Tax Claim to Judgement; Suit for Failure to Honor a Levy; Suit to Enforce Federal Tax Lien; Suit Against Transferee; Suit to Set Aside Fraudulent Transfer; Suit to Recover Erroneous Refund; other suits include those which the United States may intervene to assert a Federal Tax Lien; a proceeding to require opening of a safe deposit box, etc. The following suits against the United States are also included in this file: Quiet Title Suit; Foreclosure of Mortgage or other Lien; Partition; Condemnation; Interpleader; Refund Suits Involving 100-Percent Penalty Assessments; Injunction Suits Under Freedom of Information Act. Also included in Litigation Files are: Individuals against whom bankruptcy proceedings are pending; decedent estates in probate with outstanding Federal tax labilities; individuals executing Assignments for the Benefit of Creditors; individuals in Receivership Proceedings; individuals conducting a bulk sale; summons referrals; subpoena files; advisory opinions; revenue officer reports; and various other legal instruments and correspondence. Disclosure may be made during judicial processes.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper Records.

Retrievability: By taxpayer name.

Safeguards: Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: As specified in records disposition Handbook IRM 1(15)59.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (Compliance). Officials maintaining the system—District Directors of Internal Revenue. (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record sonrce categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.012

System name: Offer in Compromise (OIC) File, CP:C—Treasury/IRS.

System location: District Offices, Service Center, Regional Offices, and National Office. (See IRS Appendix A).

Categories of individuals covered by the system: Taxpayers who have submitted an offer to compromise a liability imposed by the Internal Revenue Code.

Categories of records in the system: Form 2515, used to control offer cases, contains space for entering taxpayer name, address, taxpayer identification number, and all other pertinent information for identifying and assigning the OIC investigation. The file contains all records, documents, reports and work papers relating to the assignment, investigation, review and adjudication of the offer. This includes such items as the original offer, results of property records checks, interviews with third parties and the taxpayer, collateral income agreements, financial statements, tax return copies, and other information submitted by the taxpayer.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable) and to the extent necessary to permit public inspection of any accepted offer-in-compromise as required by 26 U.S.C. 6103(K)(1).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper Records, Magnetic Tape.

Retrievability: By taxpayer name.

Safeguards: Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: As specified in records disposition Handbook, IRM 1(15)59.

System manager(s) and address: Official prescribing policies and practices Assistant Commissioner (Compliance), Officials maintaining the system Regional Commissioners, Service Center Directors, District Directors and Director, Data Center. (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported. If an offer is accepted, an abstract and statement which identifies the taxpayer, the liability, the amount compromised and the basic circumstances of the case is made available for public inspection in accordance with EO 10386 and EO 10906.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.013

System name: One Hundred Percent Penalty Cases, CP:C—Treasury/IRS.

System location: District Offices. (See IRS Appendix A).

Categories of individuals covered by the system: Individuals against whom Federal tax assessments have been made or are being considered as a result of their being deemed responsible for payment of

unpaid corporation withholding taxes and social security contributions.

Categories of records in the system: Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, dollar figures, waiver extending the period for asserting the 100-percent penalty (if any) and correspondence.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper Records, Magnetic Tape.

Retrievability: By individual or corporation name.

Safeguards: Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: As specified in records disposition Handbook, IRM 1(15)59.

System manager(s) and address: Official prescribing policies and practices Assistant Commissioner (Compliance), Officials maintaining the system District Directors, Service and Data Center Directors. (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.014

System name: Record 21, Record of Seizure and Sale of Real Property. CP:C—Treasury/IRS.

System location: District Offices (See IRS Appendix A).

Categories of individuals covered by the system: Individuals against whom tax assessments have been made and whose real property was seized and sold to satisfy their tax liability. Also name and address of purchaser.

Categories of records in the system: Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, dollar amounts, property description.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of this System of Records evidences chain of title to real property and is a matter of public record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records, file cabinets.

Retrievability: By taxpayer name.

Safeguards: Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: As specified in records disposition Handbook, IRM 1(15)59.

System manager(s) and address: Official prescribing policies and practices Assistant Commissioner (Compliance), Officials maintaining the system—District Directors. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may address inquiries to District Director for each District whose records are to be searched.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may address inquiries to or appear in person at the office of District Director for each District whose records are to be searched.

Contesting record procedures: See Access above.

Record source categories: This System of Records evidences chain of title to real property and is a matter of public record. (See Category of Record above).

Treasury/IRS 26.016

System name: CP:C—TREASURY/IRS—Returns Compliance Programs (RCP).

System location: District Offices and Service Centers (See IRS Appendix A).

Categories of individuals covered by the system: Taxpayers who may be delinquent in filing or paying Federal taxes.

Categories of records in the system: Records consist of name, address, taxpayer identification number (if known) and information concerning the potential tax liability. Returns Compliance Programs involve any type of Federal tax administered by the Collection Division and are conducted in accordance with Section 7601 of the Internal Revenue Code. RCP programs can be initiated by the National Office, Regional Offices, or by individual districts. Disclosure may be made during judicial processes.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper Records, Magnetic Tape.

Retrievability: By taxpayer name.

Safeguards: Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: As specified in records disposition Handbook, IRM 1(15)59.

System manager(s) and address: Official prescribing policies and practices Assistant Commissioner (Compliance), Officials maintaining the system District Directors, Service and Data Center Directors. (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.019

System name: TDA (Taxpayer Delinquent Accounts) including subsystems: (a) Adjustment and Payment Tracers Files, (b) Collateral Files, (c) Seized Property Records, and (d) Tax Collection Waiver Forms 900 Files, CP:C—Treasury/IRS.

System location: District Offices. (See IRS Appendix A).

Categories of individuals covered by the system: Taxpayers on whom Federal tax assessments have been made.

Categories of records in the system: Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, dollar amounts, chronological investigative history, cancelled checks, amended returns, claims, collateral submitted to stay collection, copies of notices of federal tax liens, revenue officer reports, waivers to extend statutory period for collection, etc. This system includes Part Payment Files; Large Dollar Reports; No Activity Reports; TDA Register; Uncollectable Accounts Register; Uncollectable Accounts Register (over

25,000); Advance Dated Remittance Check Files; Uncollectable Accounts Files; File of taxpayer names entered in the Treasury Enforcement Communications System.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be

made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

transferred their assets in order to place them beyond the reach of the government.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy

System manager(s) and address: Chief, Publishing Services Branch National Office, and Chief, Resource Management in Regional Offices, District Offices and Service Centers (See IRS Appendix A).

made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Disc and paper records, and magnetic tape.

Retrievability: By taxpayer name.

Safeguards: Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: As specified in records disposition Handbook, IRM 1(15)59.

System manager(s) and address: Official prescribing policies and practices, Assistant Commissioner (Compliance), Officials maintaining the system, District Directors, Director International Operations, Service and Data Center Directors. (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.020

System name: TDI (Taxpayer Delinquency Investigation) Files, CP:C—Treasury/IRS.

System location: District Offices and Service Centers. (See IRS Appendix A).

Categories of individuals covered by the system: Taxpayers believed to be delinquent in filing Federal tax returns.

Categories of records in the system: Taxpayer name, address, taxpayer identification number, information from previously filed returns, information about the potential delinquent return(s), including class of tax, chronological investigative history.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records and magnetic tape.

Retrievability: by taxpayer name.

Safeguards: Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: As specified in records disposition Handbook, IRM 1(15)59.

System manager(s) and address: Official prescribing policies and practices, Assistant Commissioner (Compliance), Officials maintaining the system, District Directors, Service and Data Center Directors. (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system of records has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.021

System name: Transferee Files, CP:C—Treasury/IRS.

System location: District Offices. (See IRS Appendix A).

Categories of individuals covered by the system: Includes taxpayers on whom tax assessments have been made but who have allegedly transferred their assets in order to place them beyond the reach of the government.

Categories of records in the system: Taxpayer name, address, taxpayer identification number, information about basis of assessment, including class of tax, period, dollar amounts. Also the name, address, taxpayer identification number and related information about transferee.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper Record, Magnetic Tape.

Retrievability: By taxpayer name.

Safeguards: Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: As specified in records disposition Handbook, IRM 1(15)59.

System manager(s) and address: Official prescribing policies and practices, Assistant Commissioner (Compliance). Officials maintaining the system, District Directors, Service and Data Center Directors. (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 26.022

System name: Delinquency Prevention Programs, CP:C—Treasury/IRS.

System location: District Offices. (See IRS Appendix A.)

Categories of individuals covered by the system: Taxpayers having a history of Federal tax delinquency.

Categories of records in the system: Taxpayer name, taxpayer identification number, address, filing requirements, chronological investigative history.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper Records and Magnetic Tape.

Retrievability: By taxpayer name.

Safeguards: Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: As specified in records disposition Handbook, IRM 1(15)59.

System manager(s) and address: Official prescribing policies and practices—Assistant Commissioner (Compliance). Officials maintaining the system—District Directors, Service and Data Center Directors. (See IRS Appendix A.)

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 30.005

System name: Accident Investigation Files System —Treasury/IRS.

System location: National Office, Regional Offices. (See IRS Appendix A).

Categories of individuals covered by the system: Individuals involved in accidents involving either property damage of over

500.00 or any personal injury.

Categories of records in the system: Information consisting of injuries, damages, dollar estimate, causes and conditions of accidents, interviews and statements pertaining to IRS employees and private individuals involved in accidents which result in over

500.00 in property damage or personal injury to either party.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—National Office—file folders, Regional Offices—card file. Retrievability—indexed by name. Safeguards—records are kept in offices which are locked or guarded during non-work hours. Retention and disposal—National Office—records are stored in the Space and Property Branch for a period of three years. They are then transferred to the Federal Records Center and destroyed seven years after case file year.

System manager(s) and address: National Office—Safety Management Officer, Space and Property Branch, Regional Offices (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each office whose records are to be searched.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each office whose records are to be accessed or contested.

Record source categories: The information originates from the IRS Inspection Branch.

Treasury/IRS 30.003

System name: Requests for Printed Tax Materials Including Lists, —Treasury/IRS.

System location: National Office, Regional Offices, District Offices, Service Centers (See IRS Appendix A).

Categories of individuals covered by the system: Files include those individuals and/or businesses that request various IRS printed materials such as Package X, TIRs, reproduction proofs, etc.

Categories of records in the system: Letter or order blank submitted by the individual and/or business and any related correspondence. A cross reference index may also be developed to identify and control requests.

Authority for maintenance of the system: 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in the system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—magnetic tapes, paper records or mailing plates. Retrievability—alphabetically or numerically. Safeguards—not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. Retention and Disposal—names dropped as system is updated.

System manager(s) and address: Chief, Publishing Services Branch National Office, and Chief, Resource Management in Regional Offices, District Offices and Service Centers (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each office whose records are to be searched.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each office whose records are to be accessed or contested.

Record source categories: The information is supplied by the individual and/or company making the request. The Service adds data pertaining to the fulfillment of the request.

Treasury/IRS 30.004

System name: Security Violations,—Treasury/IRS.

System location: Service Centers. (See IRS Appendix A).

Categories of individuals covered by the system: Violators of IRS Security Regulations.

Categories of records in the system: Name of violator, circumstances of violation (date, time, actions of violator, etc), supervisory action taken.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—file folder (notices of violation); 3 x 5 inch card file. Retrievability—3 x 5 inch card file—name; lateral file cabinets, access by security officer and staff only. Retention and disposal—3 x 5 inch card file—indefinite; file folder—3 years. On-site location: 3 x 5 inch card file—indefinite; file folder—3 years (1 year in Office, 2 years in Records Holding area).

System manager(s) and address: Security offices, district offices and Service Centers. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Service Center Director for each Service Center whose records are to be searched.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Service Center Director for each Service Center whose records are to be accessed or contested.

Record source categories: Contract Guard Force.

Treasury/IRS 32.001

System name: Travel Expense Record, Treasury/IRS.

System location: National Office, Regional Offices and District Offices. See IRS Appendix A for Locations.

Categories of individuals covered by the system: All IRS employees who have incurred travel or moving expenses in conjunction with official business.

Categories of records in the system: Records consist of travel advances, personal travel vouchers, household move vouchers, Forms W-2, schedule of disbursements, GAO decisions/rulings, Transportation Requests, Overdue Notices, Certification of Deposits, Government Bills of Lading & Form 2221, (Schedule of Collections). Records are for the purpose of maintaining accurate financial accounting of travel and moving expenses of employees:

Authority for maintenance of the system: GAO Policy and Procedures Manual for Guidance of Federal Agencies, Title 2, Chapter 2, Sections 5 & 6.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the

Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for

al—retired after 3 years to the Federal Records Center; disposed of after 56 years.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—in file cabinet. Retrieva-

Categories of records in the system: Claims consisting of information on dollar amounts of claims of property damage and personal

Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—locked files. Retrievability—indexed in alphabetical order or assigned numerical sequence. Safeguards—access is restricted to designated Fiscal Management employees, to individuals concerned on a need-to-know basis, and to administrative offices through the authority of the Travel Management Supervisor. As required, IRS Internal Audit and Security has access to the files. Retention and Disposal—retired after 3 years to Federal Records Center; disposed in accordance with Records Retention Handbook.

System manager(s) and address: Chief, Accounting Section, IRS National Office or Chief, Fiscal Section, IRS Regional Office. See IRS Appendix A for Locations.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR, Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager.

Contesting record procedures: See Access above.

Record source categories: Information supplied by employees and by GAO as required.

Treasury/IRS 32.002.

System name: Payroll/Personnel System,—Treasury/IRS. (See Related System Treasury/OS 00.054)

System location: IRS Data Center, National Office, Regional Offices. (See IRS Appendix A).

Categories of individuals covered by the system: Current and Former IRS Employees. IRS also processes payroll data relating to current or former employees of the Bureau of Alcohol, Tobacco and Firearms, Secret Service, Customs, and the Office of the Secretary of the Treasury (exchange stabilization fund). See information contained in notices published by Department of the Treasury constituent units whose payroll is serviced by this system.

Categories of records in the system: Data storage and file records system for processing payroll and personnel actions, consisting of records of time and attendance, leave, tax withholding, bond purchase and issuance, emergency salaries, overtime and holiday pay, optional payroll deductions, and minority group designator codes. Aside from payroll processing, recorded personnel data is available on a need to know basis to personnel offices in accordance with Civil Service Commission, Treasury and IRS regulations.

Authority for maintenance of the system: 5 U.S.C. 301 and GAO Policy and Procedures manual for Guidance of Federal Agencies.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. Aside from payroll processing, recorded personnel data is available on a need to know basis to personnel offices in accordance with Civil Service Commission, Treasury and IRS regulations. Separations may be reported to State Unemployment Agencies. This System is used to furnish payroll and personnel data, information and statistics to the Civil Service Commission and other requesting agencies. It is also used to generate the necessary payroll information, deductions and allotments to pay the employees on a biweekly basis and to furnish the necessary payroll information to concerned agencies required by law. The basic payroll and personnel master file provides input to management information systems, as well as related accounting and budget systems. For additional routine uses see Appendix AA and routine uses published for system Treasury/OS 00.054.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—data files maintained on magnetic tape; folder records maintained in file cabinets. Retrievability—indexed by social security number or by name. Safeguards—access controls are not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. Retention and disposal—retired after 3 years to the Federal Records Center; disposed of after 56 years.

System manager(s) and address: Personnel Data: Director, Personnel Division, IRS National Office. Payroll Data: Chief, Centralized Services Staff, IRS National Office. (See IRS Appendix A).

Notification procedure: Individuals seeking information pertaining to these records may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to: Assistant Commissioner (Resources Management), IRS National Office.

Record access procedures: Same as "notification" above.

Record source categories: Information is compiled from the existing master records, i.e. employees' official personnel folders. Information also provided by payroll coordinators and administrative officers.

Treasury/IRS 32.003

System name: Schedules of Collections and Schedules of Canceled Checks,—Treasury/IRS.

System location: National Office and Regional Offices. See IRS Appendix A for Locations.

Categories of individuals covered by the system: Employees of Internal Revenue Service.

Categories of records in the system: Checks received from employees in connection with jury duty and overpayments. System maintained to place all collections under security control promptly upon receipt and to record amount of deposit to general ledger control accounts.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—records maintained in locked file cabinet. Retrievability—indexed by name. Safeguards—access controls are not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. Retention and disposal—records are maintained until transferred to the Federal Records Center to be retained in accordance with the Records Retention Manual.

System manager(s) and address: Chief, Accounting Section, National Office or Chief, Fiscal Section, Regional Offices. See IRS Appendix A for Locations.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR, Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each office whose records are to be searched.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR, Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each Office whose records are to be accessed or contested.

Contesting record procedures: See Access above.

Record source categories: Employees, District Directors, Regional Commissioners.

Treasury/IRS 32.004

System name: Scholarship Program Cost Record,—Treasury/IRS.

System location: Regional Offices (See IRS Appendix A).

Categories of individuals covered by the system: Employees in the IRS Scholarship Program.

Categories of records in the system: Actual and estimated expenditure per student for purposes of monitoring and controling costs.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—in file cabinet. Retrievability—indexed by District (within District, individual recipients indexed by name). Safeguards—employees in the Budget and Reports Section have access to records. Retention and disposal—records maintained for 2 years and then disposed.

System manager(s) and address: Chief, Budget and Reports Section, Fiscal Management Branch, IRS Regional Offices. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each office whose records are to be searched.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR, Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each office whose records are to be accessed or contested.

Contesting record procedures: See Access above.

Record source categories: Information provided by employees concerned.

Treasury/IRS 34.009

System name: Accident Reporting Files System—Treasury/IRS.

System location: National Office, Regional Offices, District Offices, Service Centers, IRS Data Center, National Computer Center. (See IRS Appendix A).

Categories of individuals covered by the system: Employees of the Internal Revenue Service and non-Federal employees.

Categories of records in the system: Information consists of conditions surrounding accident, injuries, and damages pertaining to Internal Revenue Service employees' accidents while on duty and non-Federal employees who suffered an accident on IRS space or who were employed through a temporary manpower agency.

Authority for maintenance of the system: 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—file folders; card file. Retrievability—indexed by name. Safeguards—records are kept in offices which are locked or guarded during non-working hours. Retention and disposal—records are stored in the Space and Property Branch for three years and are then transferred to the Federal Records Center. Records are destroyed seven years after case file year.

System manager(s) and address: For National Office—Safety Management Officer, Space and Property Branch, Facilities Management Division, National Office. For Regional and District Offices—Chief, Facilities Management Branch, appropriate Regional or District office. (See IRS Appendix A).

Notification procedure: Same as System Manager above. Name must be provided to ascertain whether or not the system has a record pertaining to the individual.

Record access procedures: Individuals may go to Internal Revenue Service Regional Office to gain information on procedures for gaining access to and contesting records of this system. The Regional Security Officer is the official to be contacted.

Contesting record procedures: See access above.

Record source categories: Information originates from the employee involved in the accident and his/her supervisor or the non-federal employee involved and, sometimes, a witness or an accident investigation.

Treasury/IRS 34.010

System name: Damage and Injury Claims Files System—Treasury/IRS.

System location: National Office and Regional Offices. (See IRS Appendix A).

Categories of individuals covered by the system: Internal Revenue Service employees and private individuals acting as claimants against the Service. Private parties against which the Service has a claim.

Categories of records in the system: Claims consisting of information on dollar amounts of claims of property damage and personal injuries and estimated property damage related to the Federal Claims Collection Act, Federal Tort Claims Act, the Military Personnel and Civilian Employees Claims Act of 1964, and the Small Claims Act.

Authority for maintenance of the system: 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—file folders and card file. Retrievability—indexed by name. Safeguards—access to the records is restricted to official use of Internal Revenue Service employees. Records are kept in offices which are locked or guarded during nonwork hours. Retention and disposal—records are kept for three years and then are transferred to the Federal Records Center where they are destroyed seven years after the case file date.

System manager(s) and address: For National Office—Safety Management Officer, Space and Property Branch, Facilities Management Division. For Regional Offices—Chief, Facilities Management Branch, appropriate Regional Office. (See IRS Appendix A).

Notification procedure: Same as for National Office above. Individual must submit the name of the party or individual involved in the claim to determine whether or not the system contains a record pertaining to the party or individual.

Record access procedures: Individuals may go to IRS Regional Office to gain information for procedures for gaining access and contesting records of this system. The Regional Security Officer is the official to be contacted.

Contesting record procedures: See Access above.

Record source categories: Information originates from private individuals, private parties, Internal Revenue Service employees, and Internal Revenue Service officials.

Treasury/IRS 34.011

System name: Driver Licensing Files System—Treasury/IRS.

System location: National Office, Regional Offices, District Offices, Service Centers, IRS Data Center, National Computer Center. (See IRS Appendix A).

Categories of individuals covered by the system: Employees of the Internal Revenue Service.

Categories of records in the system: Information consists of personal information on driving records relating to motor vehicle records of IRS drivers.

Authority for maintenance of the system: 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—file folders. Retrievability—indexed by name. Safeguards—records are kept in offices which are locked or guarded during non-work hours. Retention and disposal—records are actively maintained as long as license is in effect.

System manager(s) and address: Chief, Facilities Management in the appropriate office. (See IRS Appendix A).

Notification procedure: Same as System Manager above. Name of person must be submitted.

Record access procedures: Same as System Manager above.

Contesting record procedures: Same as System Manager above.

Record source categories: Information originates from IRS motor vehicle drivers.

Treasury/IRS 34.012

System name: Emergency Preparedness Cadre Assignments and Alerting Rosters Files System—Treasury/IRS.

System location: National Office, Regional Offices, and Service Centers. (See IRS Appendix A).

Categories of individuals covered by the system: Key IRS, Treasury

Authority for maintenance of the system: 5 USC 301.

ture time, and service computation date of individual or principal carpool applicant. Contains name, place of employment, duty telephone, vehicle license number and service computation date of appli-

System location: National Office, Regional Offices, District Offices, Service Centers, IRS Data Center and National Computer Center. (See IRS Appendix A).

Categories of individuals covered by the system: Key IRS, Treasury and FPA personnel.

Categories of records in the system: Cadre assignments—personal information on employees, i.e., name, address, phone number, family data, security clearance, relocation assignment, etc. Alerting rosters—current listing of individuals by name and title stating their work and home address and phone numbers.

Authority for maintenance of the system: 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—individual forms and correspondence kept in file folders. Retrievability—cadre assignments are filed by relocation site and allerting rosters by title of list. Safeguards—records are kept in a secured office. Retention and disposal—records are kept as required by Records Disposition Handbook.

System manager(s) and address: For National Office—Chief, Physical and Personnel Security Branch, Security Standards and Evaluation Division. For Regional Offices and Service Centers Security officers. (See IRS Appendix A).

Notification procedure: Same as System Manager above.

Record access procedures: Same as System Manager above.

Contesting record procedures: Same as System Manager above.

Record source categories: Provided by individuals themselves.

Treasury/IRS 34.003

System name: Employee Accountability for Personal Property and Miscellaneous Items—Treasury/IRS.

System location: National Office, Regional Offices, District Offices, Service Centers, IRS Data Center and National Computer Center. (See IRS Appendix A).

Categories of individuals covered by the system: All Employees.

Categories of records in the system: Receipts for Government property and miscellaneous items issued to employees.

Authority for maintenance of the system: 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution of civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—maintained in locked filing cabinets. Retrievability—indexed alphabetically by name. Safeguards—access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. Retention and Disposal—receipts are destroyed upon return of property.

System manager(s) and address: Chief, National Office Facilities Branch, National Office; Regional Offices, District Offices, Service Centers, IRS Data Center and National Computer Center. (See IRS Appendix A).

Notification procedure: Same as System Manager above.

Record access procedures: Same as System Manager above.

Contesting record procedures: Same as System Manager above.

Record source categories: Information is provided by individuals who receive property, such as credit cards, identification cards, pocket commissions, Government driver's licenses, keys, etc.

Treasury/IRS 34.013

System name: Identification Media Files System for Employees—Treasury/IRS.

System location: National Office, Regional Offices, District Offices, Service Centers, IRS Data Center, National Computer Center. (See IRS Appendix A).

Categories of individuals covered by the system: IRS employees having one or more items of identification.

Categories of records in the system: Records contain individual's name, home address, SSN, physical description, and other personal information and reports on loss, theft, or destruction of pocket commissions, enforcement badges and other forms of identification.

Authority for maintenance of the system: 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—correspondence file folders; 3 x 5 inch card files computer memory. Retrievability—Indexed separately by name and Identification Media serial number. Access controls—access to the records is restricted to official use of Internal Revenue. The files are stored in locked security containers in offices which are locked or guarded during non-work hours. Access controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. Retention and Disposal—the records are destroyed 3 years after last entry turn-in.

System manager(s) and address: Chief, Personnel Security Section, Physical and Personnel Security Branch, Security Standards and Evaluation Division, National Office.

Notification procedure: Individual's name, SSN, address and type of ID media, plus the approximate date that he/she was issued and/or turned in the particular item of identification, would have to be furnished the Service office that issued the item for them to be able to ascertain whether or not their system contains a record about the individual. (See IRS Appendix A).

Record access procedures: By writing or visiting applicable Service office.

Contesting record procedures: See Access above.

Record source categories: Information was furnished by each individual at the time they received the particular item of identification.

Treasury/IRS 34.014

System name: Motor Vehicle Registration and Entry Pass Files System—Treasury/IRS.

System location: Service Centers. (See IRS Appendix A).

Categories of individuals covered by the system: Individuals requiring continued access to the facility and parking area violators.

Categories of records in the system: Name of employee, registered owner of vehicle, branch, telephone, description of car, license number, employee's signature, name and expiration date of insurance, parking violations, decal number.

Authority for maintenance of the system: 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—file folders and card file. Retrievability—indexed by name. Safeguards—records are kept in a secured container in a secured office. Retention and disposal—records are kept until obsolete.

System manager(s) and address: Security Officer, appropriate Service Center. (See IRS Appendix A).

Notification procedure: Same as System Manager above.

Record access procedures: Same as System Manager above.

Contesting record procedures: Same as System Manager above.

Record source categories: Information is supplied by individual except for parking violations information which is supplied by the security guard personnel.

Treasury/IRS 34.005

System name: Parking Space Application and Assignment—Treasury/IRS.

System location: National Office, Regional Offices, District Offices, Service Centers, IRS Data Center and National Computer Center. (See IRS Appendix A).

Categories of individuals covered by the system: Internal Revenue Service employees who apply for assignment of carpool or reserved parking spaces.

Categories of records in the system: Contains the name, grade, position title, organization, vehicle identification, arrival and departure time, and service computation date of individual or principal carpool applicant. Contains name, place of employment, duty telephone, vehicle license number and service computation date of applicants, individuals or carpool members, for parking spaces.

Authority for maintenance of the system: 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—maintained on an 8-1/2 x 10 inch or other local form. Retrievability—indexed by name of individual or principal carpool applicant. Safeguards—records are maintained in a file cabinet in a locked room. Retention and Disposal—Records are maintained for a period of not more than one year. Previous years' records are destroyed after each parking review.

System manager(s) and address: Chief, National Office Facilities Branch, National Office; Regional Offices, District Offices, Service Centers, IRS Data Center and National Computer Center. (See IRS Appendix A).

Notification procedure: Same as System Manager above.

Record access procedures: Same as System Manager above.

Contesting record procedures: Same as System Manager above.

Record source categories: Individuals applying for parking spaces.

Treasury/IRS 34.015

System name: Personnel Identification Files System for service centers—Treasury/IRS.

System location: Service centers. (See IRS Appendix A).

Categories of individuals covered by the system: Federal and non-Federal personnel working in or visiting a particular service center.

Categories of records in the system: Records contain individual's name, home address, SSN and other such personal information. Visitor registers contain names and addresses of all visitors to the facility. Restricted area registers contain the names of all persons who visited the particular restricted area. Forms file contains the name of individuals who have lost or forgotten their badge.

Authority for maintenance of the system: 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—5 x 8 inch card file; 8 x 11 inch sheets. Retrievability—indexed separately by name and serial number for cross reference purposes. Registers filed by date. Access controls—access to the records is restricted to official use of Internal Revenue Service. The files are kept in offices which are locked or guarded during non-work hours. Retention and disposal—the records are destroyed 3 years after last entry turn-in.

System manager(s) and address: Chief, Personnel Security Section, Physical and Personnel Security Branch, Security Standards and Evaluation Division, National Office.

Notification procedure: Individual's name, SSN and address, plus the inclusive date(s) that he/she visited or was assigned to a particular service center, would have to be furnished to a center for them to be able to ascertain whether or not their system contains a record about the individual. (See IRS Appendix A).

Record access procedures: By writing or visiting applicable service center.

Contesting record procedures: See Access above.

Record source categories: Information was furnished by each individual at the time he/she made application for a permanent or temporary badge to enter a center.

Treasury/IRS 34.006

System name: Property Pass for Government Property—Treasury/IRS.

System location: National Office, Regional Offices, District Offices, Service Centers, IRS Data Center and National Computer Center. (See IRS Appendix A).

Categories of individuals covered by the system: All individuals removing property from IRS space.

Categories of records in the system: Description of property and reason for removal.

Authority for maintenance of the system: FPMR (41 CFR) 101-19.108.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—maintained on various sized forms. Retrievability—indexed by name. Safeguards—access controls will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41. Retention and Disposal—Retained and disposed in accordance with Records Disposition Handbook, IRM 1(15)59-301.

System manager(s) and address: Chief, National Office Facilities Branch, National Office; Regional Office, District Offices, Service Centers, IRS Data Center and National Computer Center. (See IRS Appendix A).

Notification procedure: Same as System Manager above.

Record access procedures: Same as System Manager above.

Contesting record procedures: Same as System Manager above.

Record source categories: Individual requesting a property pass.

Treasury/IRS 34.007

System name: Record of Government Books of Transportation Requests—Treasury/IRS.

System location: National Office, Regional Offices, District Offices, Service Centers, IRS Data Center, and National Computer Center. (See IRS Appendix A).

Categories of individuals covered by the system: IRS employees issued Transportation Requests.

Categories of records in the system: Form 496, alphabetical card record by name of the serial numbers of Transportation Requests issued to the employee; and Form 4678, numerical list by serial number listing the name of the employee to whom issued.

Authority for maintenance of the system: 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—maintained in card file box or file cabinets. Retrievability—by name or serial number. Safeguards—access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. Retention and Disposal—retained and disposed in accordance with Records Disposition Handbook, IRM 1(15)59-301 (GRS-9).

System manager(s) and address: Administrative Officers, National Office; Regional Offices, District Offices, Service Centers, IRS Data Center and National Computer Center. (See IRS Appendix A).

Notification procedure: Same as System Manager above.

Record access procedures: Same as System Manager above.

Contesting record procedures: Same as System Manager above.

Record source categories: Government Books of Transportation Requests and employees to whom Books were issued.

Treasury/IRS 34.016

System name: Security clearance files system—Treasury/IRS.

System location: National Office, Regional Offices, District Offices, Service Centers. (See IRS Appendix A).

Categories of individuals covered by the system: Employees of the Internal Revenue Service requiring a security clearance, having their security clearance cancelled or transferred and individuals who have violated IRS security regulations.

Categories of records in the system: Records contain individual's name, employing office, date of security clearance, level of clearance,

Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the areas

Categories of records in the system: This system of records contains information or documents relating to a decision or determination

date, and the kind of action taken by the agency when making, inquiries about records.

Record access procedures: Individuals seeking access to any record

Categories of records in the system: Records contain individual's name, employing office, date of security clearance, level of clearance, reason for clearance, and any changes in such clearance. Security violations records contain name of violator, circumstance of violation and supervisory action taken.

Authority for maintenance of the system: 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide information to agencies and individuals on a need-to-know basis to determine the current status of an individual's security clearance. Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—correspondence file folders; 3 x 5 inch card file. Retrievability—indexed by name. Access controls—stored in locked security container in offices which are locked or guarded during non-work hours. Access controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. Retention and disposal—correspondence files relating to administration and operation of the Personnel Security Clearance Program are disposed after 2 years. Personnel Security Clearance Status files maintained in security unit to show the security clearance status of individuals in the form of lists or rosters are disposed when superceded or obsolete.

System manager(s) and address: Chief, Personnel Security Section, Physical and Personnel Security Branch, Security Standards and Evaluation Division, National Office.

Notification procedure: Chief, Physical and Personnel Security Branch, Security Standards and Evaluation Division, National Office. Full name, to include previous names used, date of birth and current status should be provided with inquiry.

Record access procedures: Same as System Manager above.

Contesting record procedures: Same as System Manager above.

Record source categories: Information is provided by the employee, his/her supervisor or employee's personnel record. Security violation information is obtained from a variety of sources, such as guard reports, security inspections, supervisor's reports, Internal Audit Reports, etc.

Treasury/IRS 34.017

System name: Audit Trail File, Treasury/IRS.

System location: Internal Revenue Service Centers (see IRS Appendix A).

Categories of individuals covered by the system: Employees who accessed a specific taxpayer's account.

Categories of records in the system: A record log of every terminal inquiries and input documents, processed through the Integrated Data Retrieval System (IDRS) including employee and terminal identifiers.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosures may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404, 6103).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic Tape

Retrievability: By employee number

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Six year retention.

System manager(s) and address: Chief, Data Security Branch, Security Standards and Evaluation Division, National Office.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A.)

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: Computer statistical record of all transactions input to the Integrated Data Retrieval System.

Treasury/IRS 34.018

System name: Employee Profile Security System, Treasury/IRS.

System location: Internal Revenue Service Centers (See IRS Appendix A).

Categories of individuals covered by the system: Individual employees on whom records are retained.

Categories of records in the system: A record log of the employees (IDRS users) and containing pertinent data for identifying each user.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The file is used to verify the employee's authorization to access records retained on IDRS. It is so used at the moment of attempted access to the computer files.

The file is used to generate the identifying employee number of the using employee to be recorded on the computer retained disk files or on printed matter produced by the computer for purposes of case control or document routing.

The file is used in connection with computerized security routines to produce printed reports that are used by IRS internal security personnel to monitor use of IDRS.

Use is restricted to IRS personnel and there are no routine uses in connection with other Federal agencies.

For additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Disk storage and magnetic tape backup.

Retrievability: By social security number only.

Safeguards: Safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: The records are updated daily or weekly depending on the activity.

System manager(s) and address: Chief, Data Security Branch, Security Standards and Evaluation Division, National Office.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides. (See IRS Appendix A).

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Internal Revenue Service Center servicing the area in which the individual resides.

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act. (See IRS Appendix A).

Contesting record procedures: See Access above.

Record source categories: Information supplied by the IRS employee on standard personnel forms.

Treasury/IRS 36.001

System name: Appeals, Grievances and Complaints Records,—Treasury/IRS.

System location: National, Regional and District Offices, POD's, Service Centers, The National Computer Center and The IRS Data Center, (See Appendix A.).

Categories of individuals covered by the system: Applicants for Federal employment, current and former Federal employees, agencies, and annuitants who appeal a determination made by an official of an agency or the Civil Service Commission to the Civil Service Commission, a Board established to adjudicate appeals, or an agency.

Categories of records in the system: This system of records contains information or documents relating to a decision or determination made by an agency or the Commission affecting an individual. The records consist of the initial appeal or complaint, letters or notices to the individual, record of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimonies of witnesses, investigative reports, instructions to an agency about action to be taken to comply with decisions, and related correspondence, opinions and recommendations.

Authority for maintenance of the system: Title 5, U.S.C., Sections 1302, 3301, 3302, 4308, 5115, 5338, 5351, 5388, 7151, 7154, 7301, 7512, 7701, 8347, Executive Order 9830, 10577, 10987, 11222, 11478, 11491, and P.L. 93-259.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records and information in the records may be used: (a) To respond to a request from a Member of Congress regarding the status of an appeal, complaint or grievance. (b) To request information from a federal, state or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (c) To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter. (d) Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation and in connection with requests for legal advice. Disclosure may be made during judicial processes. (e) Routine disclosure may be made to other agencies to the extent provided by law or regulation and as necessary to report apparent violations of law to appropriate law enforcement agencies. (f) These records may also be used to refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to any other appropriate agency, whether federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto. (g) These records may also be disclosed to the Civil Service Commission for the purpose of properly administering Federal Personnel Systems in accordance with applicable laws, Executive Orders and regulations. (h) For additional uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained on card files, flat paper, lists, forms, folders, binder, microfilm and microfiche, punch card, and tape.

Retrievability: These records are indexed by the names of the individuals on whom they are maintained.

Safeguards: Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. This is also in conformance with existing CSC regulations.

Retention and disposal: All records are disposed of in conformance with established retention schedules, IRM 1(15)59-30), General Records Schedule.

System manager(s) and address: (a) EEO Discrimination Complaint Records—IRS EEO Officer, National Office; (b) all other records. Director, Personnel Division, or Chief, Personnel Branch, appropriate office. (See IRS Appendix A.)

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to: District Director for each District whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, National Computer Center (for computer center employees only); Director, Data Center (for data center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Personnel Division, National Office; Assistant Commissioner (Resources Management), National Office; Regional Counsel for each region whose records are to be searched; Director, Disclosure Litigation Division for records in the National Office of Chief Counsel; or other appropriate official. (See IRS Appendix A for Locations). Individuals should provide their name, date of birth, agency in which employed, and the approximate date, and the kind of action taken by the agency when making, inquiries about records.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the appropriate official listed above. Individuals should provide their name, date of birth, POD, approximate date, and the kind of action taken by the agency when requesting access to, or contest of, records.

Contesting record procedures: See Access.

Record source categories: (a) Individual to whom the record pertains. (b) Agency and/or Commission officials. (c) Affidavits or statements from employee. (d) Testimonies of witnesses. (e) Official document relating to the appeal, grievance, or complaints. (f) Correspondence from specific organization or persons.

Treasury/IRS 36.002

System name: Employee Activity Records,—Treasury/IRS.

System location: National, Regional, and District Offices, POD's, Service Centers, The National Computer Center, and The IRS Data Center (See Appendix A.).

Categories of individuals covered by the system: Current and former employees of the Internal Revenue Service.

Categories of records in the system: This system contains records and information relating to voluntary employee activities and functions which are not directly related to the mission of the IRS or any of its functional components. These records will contain the names of participants and such other information only to the extent that it is necessary for the operation of the activity.

Authority for maintenance of the system: Title 5, U.S.C., Section 302.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained on flat paper, card files, lists, and in folders, and binders.

Retrievability: These records are indexed by the name of the individuals on whom they are maintained.

Safeguards: Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. This is in conformance with existing CSC regulations.

Retention and disposal: indefinite.

System manager(s) and address: Supervisor of the organizational segment participating in the activity.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the system manager or the individual designated to maintain the record. Inquiring individuals need only provide their name.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the system manager or the individual designated to maintain the record. Inquiring individuals need only provide their name.

Contesting record procedures: See Access.

Record source categories: Information is derived only from the individual to whom the record pertains.

Treasury/IRS 36.003

System name: General Personnel Records (Official Personnel Folder and records related thereto),—Treasury/IRS.

System location: National, Regional and District Offices, POD's, Service Centers, the National Computer Center and the Data Center, (See Appendix A.).

Categories of individuals covered by the system: Prospective, current and former employees of the IRS.

Categories of records in the system: This system consists of a variety of records relating to personnel actions and determinations

Storage: Records are maintained on magnetic tape, discs, punched cards, flat paper, lists, card files, forms, folders, binders, microfilm and microfiche

the Federal Civilian Alcoholism and Drug Abuse Program. (8) Injury Compensation Records. Information relating to on-the-job in-

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content,

Categories of records in the system: This system consists of a variety of records relating to personnel actions and determinations made about an individual while employed in the Federal service. These records contain data on individuals required by the Civil Service Commission (CSC) and maintained in the Official Personnel Folder (OPF). The OPF may also contain letters of commendation; awards from non-federal organizations; recommendations for Federal awards; awards; reprimands; adverse or disciplinary charges; records relating to life insurance, health benefits, designation of beneficiary; training; performance ratings; and other records which CSC and IRS require or permit to be maintained in the OPF.

Categories of records in the system: This system also includes records which are maintained in support of a personnel action such as a position management or position classification action. Other records maintained about an individual in this system are evaluation records; suggestion files; award files; financial and tax matters; back pay files; jury duty records; special emphasis programs records, such as Upward Mobility; outside employment statements; clearance upon separation; Unemployment Compensation records; adverse and disciplinary action files; supervisory files; records relating to personnel actions correcting a pay problem; employment of relatives; furlough/recall records; emergency notification, employee locator and current address records; other information relating to the status of an individual; executive resources records and management career individual files; and correspondence files pertaining to any personnel information contained in this notice.

The records within this system may also be contained in TR/IRS 32,002, payroll/personnel system.

Authority for maintenance of the system: Title 5, U.S.C. Section 1302, 2951, 4118, 4308, 4506, and Executive Order 10561, September 13, 1954.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records is used or a record may be used: (a) To provide information to a prospective employer of an IRS employee or former IRS employee. (b) To provide data for the automated Central Personnel Data File (CPDF). (c) To provide data to update Federal Automated Career Systems (FACS), Executive Inventory File, and security investigations index on new hires, adverse actions, and terminations. (d) Disclosure of information to a Federal, state, or local agency, other organization, or individual in order to obtain relevant and pertinent information about an individual which is necessary for the hiring or retention of an individual; letting of a contract; or the issuance of a license, grant or other benefit. (e) To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses. If necessary, obtain relevant information or other pertinent information to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. (f) Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. (g) Routine disclosure may be made to other agencies to the extent provided by law or regulation and as necessary to report apparent violations of law to appropriate law enforcement agencies. (h) Information in these records is used or a record may be used to refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to any other appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. (i) These records may also be disclosed to the Civil Service Commission for the purpose of properly administering Federal Personnel Systems in accordance with applicable laws, Executive Orders, and regulations. (j) Routine disclosure may be made to hospitals and similar institutions or organizations involved in voluntary blood donation activites. (k) Routine disclosure may be made to educational institutions for recruitment and cooperative education purposes. (l) Disclosure to a Federal, state, or local agency so that the agency may adjudicate an individual's eligibility for a benefit, such as a state unemployment compensation board, housing administration agency and Social Security Administration. (m) Additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic tape, discs, punched cards, flat paper, lists, card files, forms, folders, binders, microfilm and microfiche.

Retrievability: Records are indexed by any combination of name, birth date, Social Security Number, or identification number.

Safeguards: Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. This is also in conformance with existing CSC regulations.

Retention and disposal: All records are disposed of in conformance with established retention schedules, IRM 1(15)-59-301, General Records Schedule.

System manager(s) and address: Director, Personnel Division, and Chief, Personnel Branch, appropriate office (see IRS Appendix A); Executive Secretary, Executive Resources Board (for executive resource records).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to: District Director for each District whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, National Computer Center (for computer center employees only); Director, Data Center (for data center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Personnel Division, National Office; Assistant Commissioner (Resource Management), National Office; Regional Counsel for each region whose records are to be searched; Director, Disclosure Litigation Division for records in the National Office of Chief Counsel; or other appropriate official; (See Appendix A.). Inquiries should include name, date of birth, social security number and POD.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the appropriate official listed above. Former IRS employees who wish to gain access to their records should direct such a request in writing, including their name, date of birth, and Social Security Number, to: National Personnel Records Center, General Services Administration, 111 Winnebago St., St. Louis, Missouri 63118.

Contesting record procedures: See Access.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied, except information provided by agency officials.

Treasury/IRS 36.005

System name: Medical Records,—Treasury/IRS.

System location: (1) Applicants and current IRS employees: National, Regional and District Offices, POD's, the National Computer Center and the Data Center (See Appendix A.). (2) Former IRS employees: National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri 63118. Records may also be maintained in the National Regional and District Offices, POD's, Service Centers, the National Computer Center and the Data Center (See Appendix A.).

Categories of individuals covered by the system: (1) Applicants for IRS employment. (2) Applicants rejected on medical grounds. (3) Applicants for disability retirement under the Civil Service Retirement Law. (4) IRS employees. (5) Former IRS employees.

Categories of records in the system: (1) Applications for IRS employment containing information relating to an individual's medical qualifications to hold a position in the IRS. (2) Applications rejected on medical grounds. Information relating to an applicant's rejection for a position because of medical reasons. (3) Disability retirement records. Information relating to an individual's capability (physical and mental) to satisfactorily perform the duties of the position he or she holds or held. (4) Health unit medical records (Federal civilian employees). Information relating to an employee's participation in an occupational health services program. (5) Qualification examinations (Federal employees). Information relates to pre-employment, or periodic re-qualification medical examinations to assure that the incumbent are qualified (physically and mentally) to satisfactorily perform the duties of the position. (6) Fitness-for-duty examinations. Information relating to a medical examination to determine an individual's physical or mental condition with respect to ability to satisfactorily perform the duties of the position held. (7) Alcohol/drug employee assistance records. Information relating to employee participation in

the Federal Civilian Alcoholism and Drug Abuse Program. (8) Injury Compensation Records. Information relating to on-the-job injuries of employees and former employees. (9) Records relating to the Blood Donor Program.

Authority for maintenance of the system: Medical Information relating to the Retirement, Life Insurance and Health Benefits Programs—5 USC, Chapters 81, 87 and 89. Information for Federal employment—5 USC 3301. Information relating to the Alcoholism, Drug Abuse and Employee Assistance Programs—Public Laws 91-616 and 92-255 as amended by Public Law 93-282 in regard to confidentiality of patient records. Information relating to the Occupational Health Program (5 USC 7901).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Information may be provided to other Federal agencies responsible for other Federal benefits programs administered by the Office of Workmen's Compensation Programs; Retired Military Pay Centers; Veterans Administration; Social Security Administration; Civil Service Commission; Private contractors engaged in providing benefits under Federal contracts. (b) Disclosure of information may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in requests for legal advice. (c) Disclosure may be made during judicial processes. (d) Disclosure may be made to other agencies to the extent provided by law or regulation. (e) Disclosure may be made to the appropriate Federal, state or local agency where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature. (f) Disclosure may be made to Federal, state, or local agencies in order to obtain or release relevant and pertinent information to an agency decision concerning the hiring or retention of an individual, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit. (g) Disclosure may be made to the Public Health Service. (h) Disclosure may be made to an individual's private physician where medical considerations or the content of medical records indicate that such release is appropriate. (i) Disclosure may be made to an agency designated employee representative where such representative is required by the Civil Service Commission. (j) Disclosure may be made to hospitals and similar institutions or organizations participating in blood donor activities. (k) Additional routine uses are listed in Appendix AA. (l) Disclosure of Alcoholism, Drug Abuse, and Employee Assistance records are limited under Public Laws 91-616, 92-255, and 93-282.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic tape, discs, flat paper, lists, forms, folders, card files, microfilm and microfiche.

Retrievability: Records are indexed by name, social security number, date of birth, and/or claim number.

Safeguards: Access controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: All records are disposed of in conformance with established retention schedules, IRM 1(15)59-301, General Records Schedule.

System manager(s) and address: Director, Personnel Division, or Chief, Personnel Branch, appropriate office; Director, Administrative Services Division (Office of Chief Counsel), National and Regional Counsels. (See IRS Appendix A for Locations).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to: District Director for each District whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, National Computer Center (for computer center employees only); Director, Data Center (for data center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Personnel Division, National Office; Assistant Commissioner (Resource Management), National Office; Regional Counsel for each region whose records are to be searched; Director, Disclosure Litigation Division for records in the National Office of Chief Counsel; or other appropriate official. (See IRS Appendix A for Location). Former employees should direct inquiries to: The National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri 63118. Individuals requesting information about this system of records should provide their full name, date of birth, social security number, name and address of office in which currently or formerly employed in the Federal service, and annuity account number, if any has been assigned.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the appropriate official listed above.

Contesting record procedures: See Access above.

Record source categories: (1) The individual to whom the record pertains. (2) Private physicians. (3) Medical institutions. (4) Office of Workers' Compensation Programs. (5) Military Retired Pay Systems Records. (6) Federal civilian retirement systems other than Civil Service Retirement System. (7) General Accounting Office pay, leave allowance cards. (8) CSC Retirement, Life Insurance and Health Benefits Records System. (9) CSC Personnel Management Records System.

Treasury/IRS 36.008

System name: Recruiting, Examining and Placement Records,—Treasury/IRS.

System location: National, Regional and District Offices, POD's, The National Computer Center and The Data Center, (See Appendix A.).

Categories of individuals covered by the system: Applicants for IRS employment, current and former employees.

Categories of records in the system: These records contain information relating to education, training, employment history and earnings, tests, results of written tests, test scores, evaluations, appraisals of potential, interview records, responses to test items and questionnaires, honors, and awards or fellowships. Other information maintained in the records includes military service, date of birth, birthplace, SSN, home address. Records may also be maintained on suitability determinations, employee participation in special emphasis placement and recruiting programs, and employee turnover records. This system also includes correspondence files relating to the above mentioned records. Personnel research and test validation records are included in this system.

Authority for maintenance of the system: Title 5 U.S.C., Sections 1302, 3109, 3301, 3302, 3304, 3306, 3307, 3309, 3313, 3317, 3318, 3319, 3326, 3349, 4103, 5532, 5533, 5723, and Executive Orders 10577 and 11103.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. (2) Routine disclosure may be made to other agencies to the extent provided by law or regulation and as necessary to report apparent violations of law to appropriate law enforcement agencies. (3) These records may also be disclosed to the Civil Service Commission for the purpose of properly administering Federal Personnel Systems in accordance with applicable laws, Executive Orders and regulations. (4) Information in these records is used or a record may be used: (a) to refer applicants to officials of Federal government agencies for purposes of consideration for placement in positions for which an applicant has applied and is qualified. (b) to refer applicants to state and local governments with permission of an applicant for the purpose of employment consideration. (c) to refer current IRS employees to Federal agencies for consideration for transfer, reassignment, and promotion. (5) Disclosure may be made to educational institutions in connection with recruiting efforts. (6) Routine uses are limited for those records which are compiled in connection with IRS personnel research and test validation. No personnel decisions are made on the basis of these records, and whenever possible, personal identity is not disclosed. (7) to refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to any other appropriate agency, whether federal, state, or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule. (8) to request information from a federal, state or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. (9) To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agen-

cy's decision on that matter. (10) For additional routine uses, see

sary to enable offices to recruit annuitants for short term assignments

Notification procedure: (1) Individuals seeking to determine if the system of records contains a record pertaining to themselves may

nection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure

cy's decision on that matter. (10) For additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic tapes, punched cards, discs, card files, lists, flat paper, microfilm, microfiche, forms and folders.

Retrievability: Records are indexed by name, combination of birth date, special security account number, and an identification number that is applicable.

Safeguards: "Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41." This is in conformance with existing CSC regulations.

Retention and disposal: All records are disposed of in conformance with established retention schedules, IRM 1(15) 59-301, General Records Schedule.

System manager(s) and address: Director, Personnel Division, or Chief, Personnel Branch, appropriate office (see IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to: District Director for each District whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, National Computer Center (for computer center employees only); Director, Data Center (for data center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Personnel Division, National Office; Assistant Commissioner (Resource Management), National Office; or other appropriate official. (See Appendix A.). Individuals should provide name, date of birth, social security number, identification number (if known), approximate date of record, and title of examination or announcement with which concerned.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the appropriate official as listed above. This system of records may not be accessed for purposes of inspection or for contest of content of Treasury Forms 4825 (Evaluation of Candidates for Initial Executive Placement) and Treasury Form 4245 (Report of Managerial Potential) prepared prior to September 27, 1975.

Contesting record procedures: See Access.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he or she supplied, except reports from medical personnel on physical qualification; results of examination which are made known to applicants and vouchers supplied by references the applicant lists.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 36.009

System name: Retirement, Life Insurance and Health Benefits Records System,—Treasury/IRS.

System location: National, Regional and District Offices, POD's, Service Centers, the National Computer Center, and the IRS Data Center, (See Appendix A.). For former employees: Records Division, Bureau of Retirement, Insurance and Occupational Health, U.S. Civil Service Commission, Boyers, Pennsylvania.

Categories of individuals covered by the system: (1) IRS employees who are covered by the Civil Service Retirement System. (2) IRS employees who have either declined or are covered by the Federal Employees' Group Life Insurance Program or the Federal Employees Health Benefits Program.

Categories of records in the system: (1) Documentation of Federal service creditable under the Civil Service Retirement System. (2) Documentation of coverage or declination of coverage under the Federal Employees' Group Life Insurance Program, and the Federal Employees Health Benefits Program. (3) Documentation of claim for refund or for annuity benefits under Civil Service Retirement System. (4) Documentation of claim for survivor annuity or death benefits under Civil Service Retirement System. (5) Medical records supporting claims for disability retirement under the Civil Service Retirement System. (6) Designations of beneficiary for benefits payable under the Civil Service Retirement System or the Federal Employees' Group Life Insurance Program. (7) All other information necessary to enable offices to recruit annuitants for short term assignments and to send them requested publications.

Authority for maintenance of the system: Chapters 83, 87, and 89 of Title 5, United States Code.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) Information in this system is used to determine eligibility for coverage and payment of benefits under the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits Program. (2) Information in this systems is used to determine the amount of benefit due under the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits Program. (3) Information in this system is used to transfer to Office of Workers' Compensation Programs, Veterans Administration Pension Benefits Program, Social Security Old Age, Survivor and Disability Insurance and Medicare Programs, and Federal civilian employee retirement systems other than the Civil Service Retirement System, when requested by that program or system or by the individual covered by this system of records, for use in determining an individual's claim for benefits under such system. (4) Information in this system is used to transfer information necessary to support a claim for life insurance benefits under the Federal Employees' Group Life Insurance Program to the Office of Federal Employees' Group Life Insurance, 4 East 24th Street, New York, N.Y. 10010. (5) Information in this system is used to transfer information necessary to support a claim for health insurance benefits under the Federal Employees Health Benefits Program to a health insurance carrier or plan participating in the program. (6) Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation and in connection with requests for legal advice. Disclosure may be made during judicial processes. (7) Routine disclosure may be made to other agencies to the extent provided by law or regulation and as necessary to report apparent violations of law to appropriate law enforcement agencies. (8) Information in this system is used to refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to any other appropriate agency, whether Federal, State or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (9) Information in this system is used to request information from a Federal, state or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information to an agency decision concerning the hiring or retention of an employee, the issuance of a license, grant or other benefit. (10) Information in this system is used to provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter. (11) These records may also be disclosed to the Civil Service Commission for the purpose of properly administering Federal Personnel Systems in accordance with applicable laws, Executive Orders and regulations. (12) Disclosure may be made to an agency designated employee representative when such representative is required under Civil Service Commission regulations. (13) Disclosure may be made to hospitals and similar institutions to verify an employee's coverage in the Federal Employees Health Benefits Program. (14) Additional routine uses in Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic tapes, punched cards, discs, forms, flat paper, card files, lists, folders, microfilm and microfiche.

Retrievability: Records are indexed by name, social security number, birth date, and by annuity or death claim number.

Safeguards: Access Controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. This is also in conformance with existing CSC regulations.

Retention and disposal: All records are disposed of in conformance with established retention schedules, IRM 1(15)59-301, General Records Schedule.

System manager(s) and address: Director, Personnel Division, and Chief, Personnel Branch, appropriate office. Director, Administrative Services Division (Office of Chief Counsel), National and Regional Counsels (See IRS Appendix A for Locations.).

Notification procedure: (1) Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR, Part 1, Subpart C, Appendix B. Inquiries should be addressed to: District Director for each District whose records are to be searched; Service Center Director for each Service Center whose records are to be searched; Director, National Computer Center (for computer center employees only); Director, Data Center (for data center employees only); Regional Commissioner for each Regional Office whose records are to be searched; Director, Personnel Division, National Office; Assistant Commissioner (Resource Management), National Office; Regional Counsel for each region whose records are to be searched; Director, Disclosure Litigation Division for records in the National Office of Chief Counsel; or other appropriate official. (See IRS Appendix A for Locations.) (2) If the individual is retired from Federal service he should direct inquiries to: Director, Bureau of Retirement, Insurance, and Occupational Health, U.S, Civil Service Commission, 1900 H. Street, N.W., Washington, D.C. 20415. (3) If the individual is not retired, but has been separated from Federal service, he should direct inquiries to: National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri 63118.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the appropriate official listed above.

Contesting record procedures: See Access. Individuals requesting information in this system of records should provide their full name, date of birth, social security number, claim number, if assigned, and the POD in which currently or formerly employed.

Record source categories: The information in this system is obtained from the following sources: (1) The individual whom the information is about. (2) GAO Pay, Leave and Allowance Records System. (3) CSC Personnel Management Records System. (4) GSA National Personnel Records Center. (5) CSC Medical Records System. (6) Federal civilian retirement systems other than Civil Service Retirement System. (7) Military retired pay system records. (8) Office of Workers' Compensation Programs. (9) Veterans Administration Pension Benefits Programs. (10) Social Security Old Age, Survivor and Disability Insurance and Medicare Programs.

Treasury/IRS 38.001

System name: General Training Records,—Treasury/IRS.

System location: National, Regional and District Offices, Service Centers National Computer Center, Data Center and posts of duty (See Appendix A.).

Categories of individuals covered by the system: IRS employees who have participated in or who may be scheduled for training activities (students, instructors, program managers, etc.). Other Federal or non-Government individuals who have participated in or assisted with training programs (students, instructors, course developers, interpreters, etc.).

Categories of records in the system: Variety of records containing information about an individual related to training; such as: course rosters, student registrations, nomination forms, course evaluations, instructor lists, individual development plans, counseling records, examination materials, payment records, and other recordations of training necessary for reporting and evaluative purposes. Some records within this system may also be contained in TR/IRS 36.003, General Personnel Records.

Authority for maintenance of the system: Chapter 41, Title 5 USC; EO 11348; and FPM 410.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records is used or a record may be used to: (a) provide input data for the automated Training CPDF at the Civil Service Commission and for the Automated Training Center personnel file at IRS; (b) Prepare statistical and narrative reports as required by the Department of Treasury, IRS officials or such other government agencies as may have need of general training information; (c) evaluate and determine effectiveness of training programs; (d) monitor student progress and determine individual training needs; (e) assist managerial personnel by providing easily accessible training histories of their employees; (f) provide data for determining efficient staffpower utilization; (g) assist employees, should an emergency arise while they are attending a training session, by disclosing to qualified medical personnel "emergency information" voluntarily supplied by students on course registration forms. Routine disclosure of information contained in this system may be made available to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records may be maintained on computer tapes, index cards, forms, or flat paper.

Retrievability: Computer records are indexed by social security account numbers, course titles, dates of training, location of training and by specific employee information (i.e., name, title, grade, etc.); other records are indexed by name and course title.

Safeguards: Individual computer records are available to those persons at CSC, Treasury or IRS who are directly involved with the training function.

Retention and disposal: All records are disposed of in accordance with established retention schedules. 1(15)59-301, General Records Schedule. Emergency information on registration forms is immediately destroyed when training is completed.

System manager(s) and address: Director, Training and Development Division, and Chief, Training and Development Branch, Training Manager, OIO, at the National Office; Chiefs, Training and Development Branches at Regional and District Offices, and Service Centers; training managers at computer center and data center (See Appendix A.).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR, Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each office whose records are to be searched, see System Manager.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR, Part 1, Subpart C, Appendix B. Inquiries should be addressed to the System Manager for each Office whose records are to be accessed or contested, see System Manager.

Contesting record procedures: See Access.

Record source categories: Information is extracted from participant registration forms, individual development plans, skill surveys, personnel records, and such other forms as may be developed and prescribed by CSC, Treasury, and IRS Training Personnel.

Treasury/IRS 42.001

System name: Examination Administrative File—Treasury/IRS

System location: Jurisdictional District Office where the individual resides or Service Center where return was examined. (See IRS Appendix A.)

Categories of individuals covered by the system: Any taxpayer who is being considered for examination or is being examined for tax determination purposes, i.e., income, estate and gift, excise or employment tax liability.

Categories of records in the system: Records containing investigatory materials required in making a tax determination or other verification in the administration of tax laws and all other related sub-files directly related to the processing of the tax case. This system also includes other management material related to a case and used for tax administrative purposes including the appeals process.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7602, 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosures may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: paper documents, machine-sensible data media, microfilm.

Retrievability: by taxpayer's name and social security number and employer identification number.

Safeguards: Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1 (16)41.

Retention and disposal: Indefinite period of retention.

System manager(s) and address: Official prescribing policies and practices—Director, Examination Division, Officials maintaining the system—Director of jurisdictional District Office or service center (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may

ords; (5) taxpayer's representative; (6) trade journals and publications; (7) public records.

Treasury/IRS 42.016

System name: Classification and Examination Selection Files—Treas-

Storage: paper records, machine-sensible data media and microfilm.

Retrievability: by taxpayer's name and social security number.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director for each District office or service center whose records are to be searched. This system may contain some records which are exempt from the notification provisions of the Privacy Act. Requesters will not be advised of the existence of records exempt from the notification provisions.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District office or service center whose records are to be accessed or contested. This system may contain some records which are exempt from the Access and Contest provisions of the Privacy Act. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: (1) taxpayer's return. (2) taxpayer's books and records. (3) Informants and third party information. (4) city, state governments. (5) other federal agencies. (6) examinations of related taxpayers. (7) examinations of other taxpayers. (8) taxpayer's representative.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.025

System name: Appraisal and Valuation Files—Treasury/IRS.

System location: Jurisdictional District Office where individual resides. (See IRS Appendix A.)

Categories of individuals covered by the system: Individuals whose examinations warrant an appraisal or valuation of real estate, stock, fees, or any other commodity or service which does not have a readily ascertainable value.

Categories of records in the system: Listing of individuals, items valued or appraised, date of valuation or appraisal, and other descriptive matter such as the name of the corporation with regards to stock and a description of the location in terms of real estate.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7602, 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents, file cabinets, machine-sensible data media and microfilm.

Retrievability: By taxpayer's name and social security number.

Safeguards: Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Indefinite period of retention.

System manager(s) and address: Official prescribing policies and practices—Director, Examination Division. Officials maintaining the system—Director of jurisdictional District Office. (See IRS Appendix A.)

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be accessed or contested.

Contesting record procedures: See Access above.

Record source categories: (1) outside engineer valuation; (2) outside fee appraisers; (3) taxpayer's returns; (4) taxpayer's books and records; (5) taxpayer's representative; (6) trade journals and publications; (7) public records.

Treasury/IRS 42.008

System name: Audit Information Management System (AIMS)—Treasury/IRS.

System location: This system is composed of: (1) Computer files located at each jurisdictional IRS Service Center (where tax return is under examination control). Each jurisdictional district (served by an IRS Service Center) has access to the computer file via video terminals; (2) "A" Register Microfilm located at each jurisdictional district office (taxpayer's place of residence) and at each IRS Service Center (where taxpayer's tax return was filed);(3) Group control card forms 5345 and 5354 (including temporary and interim processing files for management and control purposes), located at each jurisdictional district office. Items described under (2) and (3), above, are subfiles of the Aims System.

Categories of individuals covered by the system: Taxpayers whose tax returns are under the jurisdiction of the Examination Division; Examining Officer.

Categories of records in the system: Tax return information from the Master File, Tax return status and location changes, Examination Closing information on examined and non-examined tax returns, examining officer's name including related internal management information.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7602, 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer; Microfilm; Paper.

Retrievability: Social Security number, taxpayer's name, examining officer's name.

Safeguards: Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Computer: Agreed cases are eliminated from data base 90 days after case is closed from Examination; unagreed cases are eliminated from data base after tax liability is agreed to. "A" Register Microfilm: six years or earlier. Group control card Forms 5345 or 5354 (for processing control purposes) three years or earlier.

System manager(s) and address: Official prescribing policies and practices—Director, Examination Division, National Office. Officials maintaining the system—Each jurisdictional (taxpayer's place of residence) District Director; Each jurisdictional (the Service Center where taxpayer's tax return was filed) IRS Service Center. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each district whose records are to be searched. This system may contain some records which are exempt from the notification provisions of the Privacy Act. Requesters will not be advised of the existence of records exempt from the notification provisions.

Record access procedures: Individuals seeking access to any record in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be accessed or contested. This system may contain some records which are exempt from the Access and Contest provisions of the Privacy Act. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory materials compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.016

System name: Classification and Examination Selection Files—Treasury/IRS

System location: Jurisdictional District Office or related service center where individual resides. (See IRS Appendix A).

Categories of individuals covered by the system: Individuals whose returns are classified for examination.

Categories of records in the system: Listing of individuals or returns and sub-files consisting of financial information and other information considered in classification and selection of an individual's return for examination—individual's request for examination, missing return information, change in accounting method or period, etc.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7602, 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: paper documents, computer printouts.

Retrievability: by taxpayer's name and social security number.

Safeguards: Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: until information is associated with return.

System manager(s) and address: Official prescribing policies and practices—Director, Examination Division. Officials maintaining the system—Director of jurisdictional District or service center. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched. This system may contain some records which are exempt from the notification provisions of the Privacy Act. Requesters will not be advised of the existence of records exempt from the notification provisions.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be accessed or contested. This system may contain some records which are exempt from the Access and Contest provisions of the Privacy Act. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: (1) Tax returns, (2) Requests from taxpayer, (3) Requests from Collection Division for prompt examination.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.021

System name: Compliance Programs and Projects Files—Treasury/IRS.

System location: Initiated and maintained in National Office, Regional Offices, or jurisdictional District or service center where taxpayer resides. (See IRS Appendix A).

Categories of individuals covered by the system: Taxpayers that may be involved in tax evasion schemes or areas of non-compliance grouped by industry, occupation or financial transactions, i.e., return preparers, political contributions, corporate kickbacks.

Categories of records in the system: Records pertaining to individuals in projects.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7602, 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: paper records, machine-sensible data media and microfilm.

Retrievability: by taxpayer's name and social security number.

Safeguards: Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Indefinite period of retention.

System manager(s) and address: Official prescribing policies and practices—Director, Examination Division. Officials maintaining the system—Director of jurisdictional District or service center. (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.024

System name: Coordinated Examinations of Large Cases Program—Treasury/IRS.

System location: Jurisdictional District Office where taxpayer resides. (See IRS Appendix A.)

Categories of individuals covered by the system: Taxpayer whose tax examination is identified as part of a large case examination.

Categories of records in the system: Alphabetic listing of taxpayers and all other related files including those used for management purposes.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7602, 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents, machine-sensible data media and microfilm.

Retrievability: Taxpayer's name and social security number.

Safeguards: Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Indefinite period of retention.

System manager(s) and address: Official prescribing policies and practices—Director, Examination Division. Officials maintaining the system—Director of jurisdictional District. (See IRS Appendix A.)

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched.

This system may contain some records which are exempt from the notification provisions of the Privacy Act. Requesters will not be advised of the existence of records exempt from the notification provisions.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be accessed or contested.

This system may contain some records which are exempt from the Access and Contest provisions of the Privacy Act.

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: (1) Taxpayer's returns. (2) Annual reports. (3) Corporate minutes. (4) Large case proposed change in key district. (5) Published documents.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy

Retention and disposal: No guidelines have been established, but records are expected to be retained until they have served their

Categories of individuals covered by the system: Any taxpayer who uses a computer to process accounting records and taxpayers for

Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.027

System name: Data on Foreign Corporations—Treasury/IRS.

System location: IRS Data Center, Detroit, Michigan; National Office Examination Division, Washington, D.C.; District Offices; Regional Offices. (See IRS Appendix A.)

Categories of individuals covered by the system: Individuals required to file Form 959, United States Information Return with Respect to the Organization or Reorganization of a Foreign Corporation and Acquisition of its stock.

Categories of records in the system: Names of individuals filing on foreign holdings.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7602, 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape in Data Center; Paper at other listed locations, machine-sensible data media and microfilm.

Retrievability: By individual name.

Safeguards: Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Three years or earlier.

System manager(s) and address: Official prescribing policies and practices—Director, Examination Division, National Office. Officials maintaining the system—District Directors; Regional Commissioners; Director, Examination Division, National Office; Director, Data Center, Detroit, Michigan. (See IRS Appendix A.)

Notification procedure: Individuals seeking to determine if the System of Records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched.

Record access procedures: Individuals seeking access to any record contained in the System of Records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be accessed or contested. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: Form 959 only.

Treasury/IRS 42.006

System name: Expropriation of Property by Cuban Government.—Treasury/IRS.

System location: Director, Examination Division, National Office (See IRS Appendix A).

Categories of individuals covered by the system: Owners of property expropriated by the Cuban Government during the period 1959-1964.

Categories of records in the system: Names of owners and brief descriptions of property used to verify losses claimed for expropriation of property.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7602, 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contents of this System of Records are available to the public pursuant to the Freedom of Information Act, 5 U.S.C. 552.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper materials stored in file folders.

Retrievability: Indexed by name of individual owner.

Safeguards: Records are maintained in open shelves in an office which is locked during non-office hours.

Retention and disposal: No guidelines have been established, but records are expected to be retained until they have served their purpose and then destroyed.

System manager(s) and address: Official prescribing policies and practices—Director, Examination Division National Office. Official maintaining the system—Director, Examination Division, National Office. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to Director, Examination Division, National Office.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to Director, Examination Division, National Office.

Contesting record procedures: See Access above.

Record source categories: Gaceta Oficial de la Republica de Cuba (Official Gazette of the Republic of Cuba), a public information publication of the Cuban government in which various official actions of the government are recorded.

Treasury/IRS 42.020

System name: Highway Use Tax Examination Program—Treasury/IRS

System location: Internal Revenue Service Centers and district offices. (See IRS Appendix A).

Categories of individuals covered by the system: Taxpayers owning trucks that are liable for tax.

Categories of records in the system: List of registered trucks and truck owners.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7602, 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: magnetic tape and computer printout.

Retrievability: By taxpayer's name, social security number, and employer's identification number.

Safeguards: Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: retained until tax year examined is completed and then shredded.

System manager(s) and address: Official prescribing policies and practices—Director, Examination Division. Officials maintaining the system—Service Center Directors and District Directors (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director for each Service Center or district office whose records are to be searched.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each district whose records are to be accessed. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: R.L. Polk Company, Detroit Mich.

Treasury/IRS 42.028

System name: Identity of Taxpayers Using ADP Accounting Records and the Evaluation Thereof—Treasury/IRS.

System location: Regional and District Offices; National Office, Examination Division, Washington, D.C. (See IRS Appendix A.)

Categories of individuals covered by the system: Any taxpayer who uses a computer to process accounting records and taxpayers for which an ADP record retention evaluation has been made.

Categories of records in the system: Name of taxpayer and a description of the types of machine-sensible records the taxpayer has agreed to retain, the retention period and any other related provisions relating to these records. (These records usually pertain to corporations.)

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7602, 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: By Taxpayer's Name.

Safeguards: Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Identification Retention: Information is periodically updated.

System manager(s) and address: Official prescribing policies and practices—Director, Examination Division, National Office. Officials maintaining the system—Jurisdictional District Directors (place of taxpayers residence). (See IRS Appendix A.)

Notification procedure: Individuals seeking to determine if the System of Records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director that made the evaluation or the taxpayers current jurisdiction (place of residence) District Director.

Record access procedures: Individuals seeking access to any record contained in the System of Records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director that made the evaluation or the taxpayers current jurisdiction (place of residence) District Director.

Contesting record procedures: See Access above.

Record source categories: Examining Officers; commercial listing of ADP users; The evaluator and taxpayer during an ADP record retention evaluation.

Treasury/IRS 42.014

System name: Internal Revenue Service employees' returns Control Files—Treasury/IRS.

System location: District Office where individual is employed. (See IRS Appendix A).

Categories of individuals covered by the system: Any individual who is employed by the Internal Revenue Service.

Categories of records in the system: Alphabetic listing of employee, income tax return information including prior examination results and other tax related information.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7602, 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: paper documents, machine-sensible data media, microfilm.

Retrievability: employee's name and social security number.

Safeguards: Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: updated periodically and retained as long as individual is employed.

System manager(s) and address: Official prescribing policies and practices—Director, Examination Division. Officials maintaining the system—Director of District or office where individual is employed. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be accessed or contested.

Contesting record procedures: See Access above.

Record source categories: Employee's tax return.

Treasury/IRS 42.017

System name: International Enforcement Program Files—Treasury/IRS.

System location: Jurisdictional District Office where individual resides. (See IRS Appendix A).

Categories of individuals covered by the system: Any individual having substantial foreign business activities.

Categories of records in the system: Listing of individual, summary of income expenses, financial information as to foreign operations, acquisition of foreign stock, controlling interest of a foreign corporation, organization or reorganization of foreign corporation, etc.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7602, 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: paper documents, micro-film, magnetic tape.

Retrievability: Individual's name and social security number.

Safeguards: Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Indefinite period of retention.

System manager(s) and address: Official prescribing policies and practices—Director, Examination Division. Officials maintaining the system—Director of jurisdictional District (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched. This system may contain some records which are exempt from the notification provisions of the Privacy Act. Requesters will not be advised of the existence of records exempt from the notification provisions.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be accessed or contested. This system may contain some records which are exempt from the Access and Contest provisions of the Privacy Act. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: (1) European treaty countries, (2) Individual's tax returns, (3) Examination of related taxpayers, (4) Public sources of information.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.018

System name: Married Taxpayers Filing Separately and Multiple Filer File—Treasury/IRS.

System location: Jurisdictional Service Center.

Categories of individuals covered by the system: Married individuals who file separate income tax returns.

Categories of records in the system: Listing identifying each married individual filing separately, and taxpayers who have filed more than one return.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7602, 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be

Categories of individuals covered by the system: Individuals grouped as to project, i.e., individual shareholders of a corporation where a

Record source categories: (1) Revenue agent who examined taxpay-

inquire in accordance with instructions appearing at 31 CFR Part 1,

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer printout and magnetic tape.

Retrievability: By taxpayer's name and social security number.

Safeguards: Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Disposal of after returns are matched.

System manager(s) and address: Official prescribing policies and practices—Director, Examination Division; Officials maintaining the system—Service Center Directors.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Service Center where the individual filed tax returns.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Service Center Director for each Service Center whose records are to be accessed or contested.

Record source categories: Information obtained from taxpayer's return.

Treasury/IRS 42.015

System name: Open and Closed Narcotics Traffickers Files—Treasury/IRS.

System location: Maintained in jurisdictional District Office where taxpayer resides. (See IRS Appendix A).

Categories of individuals covered by the system: Taxpayer suspected of being involved as a middle or upper echelon narcotics trafficker and whose return has been or will be examined.

Categories of records in the system: Prior examination results, tax related information indicating a possible need for examination action.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7602, 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: paper documents, machine-sensible data media and microfilm.

Retrievability: by taxpayer's name and social security number.

Safeguards: Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Indefinite period of retention.

System manager(s) and address: Official prescribing policies and practices—Director, Examination Division. Officials maintaining the system—Director of jurisdictional district. (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.013

System name: Project Files for the Uniform Application of laws as a result of technical determinations and court decisions. Treasury/IRS.

System location: Jurisdictional district office where taxpayer resides. (See IRS Appendix A).

Categories of individuals covered by the system: Individuals grouped as to project, i.e., individual shareholders of a corporation where a determination having a tax effect has been made.

Categories of records in the system: Listing of individuals and their income tax information.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7602, 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: paper documents.

Retrievability: by taxpayer's name and social security number.

Safeguards: Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: retained until project is completed.

System manager(s) and address: Official prescribing policies and practices—Director, Examination Division. Officials maintaining the system—Director of jurisdictional District. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be accessed or contested.

Contesting record procedures: See Access above.

Record source categories: (1) Shareholder records. (2) Individual's tax return. (3) Examination of related taxpayer.

Treasury/IRS 42.023

System name: Request and Submittal File for Technical Advice, Assistance, Determination or Coordination—Treasury/IRS.

System location: Jurisdictional District Office where individual resides. (See IRS Appendix A).

Categories of individuals covered by the system: Individual whose return contains questioned or unprecedented technical areas.

Categories of records in the system: Narrative fully explaining or interpreting the technical area in question.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7602, 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: paper documents.

Retrievability: taxpayer's name and social security number.

Safeguards: Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Indefinite period of retention.

System manager(s) and address: Official prescribing policies and practices—Director, Examination Division. Officials maintaining the system—Director of jurisdictional District. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be accessed or contested.

Contesting record procedures: See Access above.

Record source categories: (1) Revenue agent who examined taxpayer's return. (2) Taxpayer who is not being examined or is initiating a request while under examination. (3) Taxpayer's representative.

Treasury/IRS 42.009

System name: Strike Force—Treasury/IRS.

System location: Jurisdictional District Office where taxpayer resides. (See IRS Appendix A).

Categories of individuals covered by the system: Files on subject under examination, potential subjects and related taxpayers.

Categories of records in the system: Records of current and prior examinations of individuals suspected of being involved in illegal activity such as organized crime, information from other sources and agencies and other investigative material.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7602, 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: paper documents, machine-sensible data media and microfilm.

Retrievability: by taxpayer's name and social security numbers.

Safeguards: Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Indefinite period of retention.

System manager(s) and address: Official prescribing policies and practices—Director, Examination Division. Officials maintaining the system—District Directors. (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records is exempt under the Privacy Act and may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 42.012

System name: Tax Shelter Program Files—Treasury/IRS.

System location: National, Regional, and jurisdictional District offices (not necessarily carried out in every district). (See IRS Appendix A).

Categories of individuals covered by the system: Taxpayers that may be abusing the tax laws through the use of tax shelters.

Categories of records in the system: Tax information relating to the tax shelter for use in determining abuses of tax laws.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7602, 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404 6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: paper documents, machine-sensible data media and microfilm.

Retrievability: taxpayer's name and social security number.

Safeguards: Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: retained until individual projects are completed.

System manager(s) and address: Official prescribing policies and practices—Director, Examination Division. Officials maintaining the system—Director of jurisdictional District. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched.

This system may contain some records which are exempt from the notification provisions of the Privacy Act. Requesters will not be advised of the existence of records exempt from the notification provisions.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be accessed or contested. This system may contain some records which are exempt from the Access and Contest provisions of the Privacy Act. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: (1) Individual's tax return. (2) Related taxpayer's.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 44.003

System name: Appellate Division Case Data—Treasury/IRS.

System location: Director, Appellate Division, National Office; Appellate branch office. (See IRS Appendix A.)

Categories of individuals covered by the system: Taxpayers.

Categories of records in the system: Provides case control data and management information, utilizing data from system 42.008 and data developed in the appeal process.

Authority for maintenance of the system: 26 U.S.C. 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, magnetic tape.

Retrievability: By taxpayer's name and social security number.

Safeguards: IRS personnel on need to know basis.

Retention and disposal: Generally, six years after case is closed but earlier if no longer needed.

System manager(s) and address: Director, Appellate Division, National Office; Assistant Regional Commissioners (Appellate). (See IRS Appendix A.)

Notification procedure: See System Manager above.

Record access procedures: See System Manager above.

Contesting record procedures: See System Manager above.

Record source categories: Record clerks and Appellate Conferees.

Treasury/IRS 44.001

System name: Appellate Case Files—Treasury/IRS.

System location: Director, Appellate Division, National Office; Assistant Regional Commissioners (Appellate). (See IRS Appendix A.)

Categories of individuals covered by the system: Taxpayers.

Categories of records in the system: Tax returns, Revenue Agents' Reports, case correspondence, legal opinions and Appellate closing actions.

Authority for maintenance of the system: 26 U.S.C. 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, file cabinets.

Retrievability: Name of taxpayer.

Safeguards: Locked file cabinets, locked doors, need to know.

Retention and disposal: Retention as prescribed in Records Control. Schedule 208. Disposal by shredding.

System manager(s) and address: Director, Appellate Division, Na-

Policies and practices for storing, retrieving, accessing, retaining, and

Categories of individuals covered by the system: Subjects and potential subjects of criminal tax investigation.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy

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System manager(s) and address: Director, Appellate Division, National Office; Assistant Regional Commissioners (Appellate). (See IRS Appendix A.)

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to the individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 44.002

System name: Appellate Appeals Officer Inventory and Unit Time Report, Form 2568—Treasury/IRS.

System location: Appellate branch office. (See IRS Appendix A.)

Categories of individuals covered by the system: Appellate Appeals Officer.

Categories of records in the system: Records time spent on assignments and determines cumulative time on open and closed work units.

Authority for maintenance of the system: 26 U.S.C. 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable). For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: By name of Appellate Appeals officer as to paper storage; by Branch office city as to automated product.

Safeguards: IRS personnel on need to know basis.

Retention and disposal: Dispose after 2 years.

System manager(s) and address: Chief, Appellate Office (see IRS Appendix A.)

Notification procedure: See System Manager above.

Record access procedures: See System Manager above.

Contesting record procedures: See System Manager above.

Record source categories: Appellate Appeals Officer.

Treasury/IRS 46.002

System name: Case Management and Time Reporting System, Criminal Investigation Division—Treasury/IRS.

System location: National, Regional, and District Offices, Data Center, Service centers (See IRS Appendix A.)

Categories of individuals covered by the system: Subjects of Criminal Investigation Division Investigations, Special Agents, and U.S. District Court Judges.

Categories of records in the system: Personal and financial information developed in open and closed criminal tax investigations, including schedules, listings, memorandums, reports, news articles, inventory controls, income tax returns, assessment records, summaries of case activities, time reports, collateral investigation reports and workpapers, court actions, analyses of sentencing practices, and related materials.

Authority for maintenance of the system: 5 USC 301; 26 USC 7602; 26 USC 7801, 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information contained in this system of records may be disclosed to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in binders; Magnetic tape; Computer printouts.

Retrievability: Name and Case Number.

Safeguards: Controls will be not less than provided for by the "Access Physical and Document Security Handbook," IRM 1(16)41.

Retention and disposal: Not established.

System manager(s) and address: Official prescribing policies and practices—Director, Criminal Investigation Division—National Office. Officials maintaining the system—Regional Commissioners; District Directors; Director, Criminal Investigation Division; Director, Data Center, Directors, Service centers. (See IRS Appendix A.)

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.003

System name: Confidential Informants, Criminal Investigation Division—Treasury/IRS.

System location: District Offices, National Office. (See IRS Appendix A.)

Categories of individuals covered by the system: Confidential Informants; Subjects of Confidential Informant's Reports.

Categories of records in the system: Memorandums, Index Cards, Related Data.

Authority for maintenance of the system: 5 USC 301; 26 USC 7602; 26 USC 7801, 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information contained in this system of records may be disclosed to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Name or number.

Safeguards: Controls will be not less than provided for by the "Access Physical and Document Security Handbook," IRM 1(16)41.

Retention and disposal: Not established.

System manager(s) and address: Official prescribing policies and practices—Director, Criminal Investigation Division—National Office. Officials maintaining the system—District Directors. (See IRS Appendix A.)

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.004

System name: Controlled Accounts—Open and Closed, Criminal Investigation Division TC 910/TC 914—Treasury/IRS.

System location: Service Centers, Computer Center, District Offices. (See IRS Appendix A.)

Categories of individuals covered by the system: Subjects and potential subjects of criminal tax investigation.

Categories of records in the system: Criminal Investigation Information and Control Notices; Lists of names and related data; Lists of action taken; Transcripts of account.

Authority for maintenance of the system: 5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape and paper.

Retrievability: By name or Social Security Number.

Safeguards: Controls will be not less than provided for by the "Access Physical and Document Security Handbook," IRM 1(16)41.

Retention and disposal: Paper destroyed after 1 year. Magnetic tape erased after 3 months.

System manager(s) and address: Official prescribing policies and practices—Director, Criminal Investigation Division—National Office. Officials maintaining the system—District Directors, Service Center Directors, Computer Center Director. (See IRS Appendix A.)

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched. (See IRS Appendix A.)

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched. (See IRS Appendix A.)

Contesting record procedures: See Access above.

Record source categories: District Office Personnel; Service Center Personnel.

Treasury/IRS 46.005

System name: Electronic Surveillance File, Criminal Investigation Division—Treasury/IRS.

System location: National Office (see IRS Appendix A).

Categories of individuals covered by the system: Subjects of electronic surveillance. Individuals who have been subjects of queries by other agencies.

Categories of records in the system: Information relating to conduct of electronic surveillance.

Authority for maintenance of the system: 5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Names, addresses, and telephone numbers.

Safeguards: Controls will be not less than provided for by the "Access Physical and Document Security Handbook," IRM 1(16)41.

Retention and disposal: Permanent; None authorized.

System manager(s) and address: Official prescribing policies and practices—Director, Criminal Investigation Division—National Office. Officials maintaining the system—Director, Criminal Investigation Division. (See IRS Appendix A.)

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.006

System name: Treasury/IRS Criminal Investigation Division, Information and Correspondence Files, Criminal Investigation Division—Treasury/IRS.

System location: National Office, District Offices, Regional Offices, Service Centers. (See IRS Appendix A.)

Categories of individuals covered by the system: Subjects of correspondence which has been referred to or processed by the Criminal Investigation Division. Other individuals of interest to, or who have had contact with, the Criminal Investigation Division. Individuals potentially dangerous to Service personnel. Service personnel who have been threatened or who have provided armed escort.

Categories of records in the system: Correspondence to and from other agencies and individuals. Reports; Identifying data; Fiduciary reports.

Authority for maintenance of the system: 5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, magnetic tape, and microfilm.

Retrievability: By name.

Safeguards: Controls will be not less than provided for by the "Access Physical and Document Security Handbook," IRM 1(16)41.

Retention and disposal: Not established.

System manager(s) and address: Official prescribing policies and practices—District Directors, Service Center Directors, Regional Commissioners. Officials maintaining the system—Same. (See IRS Appendix A.)

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.007

System name: Information Indexing System, Criminal Investigation Division—Treasury/IRS.

System location: District Offices, Data Center, and Service Centers. (See IRS Appendix A.)

Categories of individuals covered by the system: Potential subjects of criminal tax investigations.

Categories of records in the system: Financial records, newspaper articles, reports from other agencies, and similar leads.

Authority for maintenance of the system: 5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, magnetic tape, and microfilm.

Retrievability: Name.

Safeguards: Controls will be not less than provided for by the "Access Physical and Document Security Handbook," IRM 1(16)41.

Retention and disposal: Paper shredded after use. Magnetic Tape—erased after 3 years.

System manager(s) and address: Official prescribing policies and practices—Director, Criminal Investigation Division—National

Office. Officials maintaining the system—District Directors, Service

Treasury/IRS 46.015

System name: Relocated Witnesses, Criminal Investigation Division—

Contesting record procedures: See Access above.

Record source categories: This system of records contains investiga-

Office. Officials maintaining the system—District Directors, Service Center Directors, Data Center Director. (See IRS Appendix A.)

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.009

System name: Information Items, Criminal Investigation Division—Treasury/IRS.

System location: District Offices and Service Centers. (See IRS Appendix A).

Categories of individuals covered by the system: Taxpayers about whom the Internal Revenue Service has received information alleging a violation of laws within IRS jurisdiction.

Categories of records in the system: Copies of income tax returns, special agent's reports, revenue agent's reports, reports from police and other investigative agencies, memorandum of interview, question-and-answer statements, affidavits, collateral request and replies, information items, newspaper and magazine articles and other published data, financial information from public records, case initiating documents and other similar and related documents.

Authority for maintenance of the system: 5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Tape, paper, and microfilm.

Retrievability: Name.

Safeguards: Controls will be not less than provided for by the "Access Physical and Document Security Handbook," IRM 1(16)41.

Retention and disposal: Paper—shredded after use. Microfilm—destroyed after 5 years. Magnetic tape—erased after 3 years.

System manager(s) and address: Official prescribing policies and practices—Director, Criminal Investigation Division—National Office. Officials maintaining the system—Service Center Directors, District Directors. (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.011

System name: Land Trust Files, Criminal Investigation Division—Treasury/IRS.

System location: District Offices, Service Centers. (See IRS Appendix A).

Categories of individuals covered by the system: Beneficiaries of Land Trusts, Related individuals.

Categories of records in the system: Notices of Fiduciary Relationships. Related correspondence.

Authority for maintenance of the system: 5 U.S.C. 301; 26 U.S.C. 7602, 26 U.S.C. 7801, 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, microfilm, magnetic tape.

Retrievability: Name.

Safeguards: Controls will be not less than provided for by the "Access Physical and Document Security Handbook", IRM 1(16)41.

Retention and disposal: Not established.

System manager(s) and address: Official prescribing policies and practices—Director, Criminal Investigation Division—National Office. Officials maintaining the system—Regional Commissioners; District Directors; and Director, Criminal Investigation Division. (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.013

System name: Project Files, Criminal Investigation Division—Treasury/IRS.

System location: National, Regional and District Offices. (See IRS Appendix A).

Categories of individuals covered by the system: Potential subjects of criminal tax investigations.

Categories of records in the system: Tax returns, master file data, Court records, Congressional reports, reports from other agencies, reports from Special Prosecutor, project reports, statistical data, other personal and financial information.

Authority for maintenance of the system: 5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, magnetic tape, microfilm.

Retrievability: Name and Social Security Number; However, retrievability exists only for those projects for which indexing procedures have been provided. Most project files do not have a capacity for retrieval by individual identity.

Safeguards: Controls will be not less than provided for by the "Access Physical and Document Security Handbook", IRM 1(16)41.

Retention and disposal: Not established.

System manager(s) and address: Official prescribing policies and practices—Director, Criminal Investigation Division—National Office. Officials maintaining the system—Regional Commissioners; District Directors; and Director, Criminal Investigation Division. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to District Director for each District whose records are to be searched and Director, Criminal Investigation Division, National Office. (See IRS Appendix A).

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to District Director for each District whose records are to be searched and Director, Criminal Investigation Division, National Office. (See IRS Appendix A).

Contesting record procedures: See Access above.

Record source categories: Financial institutions, Fiduciary reports, Notices of Fiduciary Relationships.

Treasury/IRS 46.015

System name: Relocated Witnesses, Criminal Investigation Division—Treasury/IRS.

System location: National Office. (See IRS Appendix A).

Categories of individuals covered by the system: Relocated Witnesses.

Categories of records in the system: Documentation & Relocation Information.

Authority for maintenance of the system: 5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, file cabinet.

Retrievability: By Name.

Safeguards: Controls will be not less than provided for by the "Access Physical and Document Security Handbook", IRM 1(16)41.

Retention and disposal: Indefinite retention.

System manager(s) and address: Official prescribing policies and practices, Director, Criminal Investigation Division, National Office. Officials maintaining the system, Director, Criminal Investigation Division, National Office. (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 46.016

System name: Secret Service Details, Criminal Investigation Division—Treasury/IRS.

System location: District Offices, Service Centers, Regional Offices, National Office. (See IRS Appendix A).

Categories of individuals covered by the system: Special Agents.

Categories of records in the system: Lists of names, and Correspondence.

Authority for maintenance of the system: 5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable). Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, file cabinet.

Retrievability: Name.

Safeguards: Controls will be not less than provided for by the "Access Physical and Document Security Handbook", IRM 1(16)41.

Retention and disposal: Not established.

System manager(s) and address: Official prescribing policies and practices, Director, Criminal Investigation Division, National Office, Officials maintaining the system, District Directors, Service Center Directors, Regional Commissioners, Director, Criminal Investigation Division. (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certainprovisions of the Privacy Act.

Treasury/IRS 46.022

System name: Treasury Enforcement Communications System (TECS), Criminal Investigation Division—Treasury/IRS.

System location: National Office.

Categories of individuals covered by the system: Fugitives; Subjects of open Special Enforcement Program investigations; Subjects of open Narcotics Traffickers Program investigations; Subject of interest to Special Enforcement Program; individuals on whom both Taxpayer Delinquent Accounts have been issued and notice of Federal Tax Lien filed.

Categories of records in the system: Name, Date of Birth, Social Security Number, Address, Identifying details.

Authority for maintenance of the system: 5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Disc.

Retrievability: By name or social security number.

Safeguards: Controls will be not less than provided for by the "Access Physical and Document Security Handbook", IRM 1(16)41.

Retention and disposal: Cancellation after 2 years.

System manager(s) and address: Official prescribing policies and practices, Director, Criminal Investigation Division, National Office. Officials maintaining the system, Director, Criminal Investigation Division, National Office.

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 48.001

System name: Disclosure Records. Disclosure—Treasury/IRS.

System location: National Office, Service centers and District Offices. (See IRS Appendix A).

Categories of individuals covered by the system: (1) Subjects of requests for disclosure initiated by the Department of Justice, including suspects or persons related to the violation of Federal laws; persons who have initiated legal actions against the Federal Government, persons identified as strike force targets or related to organized crime activities, persons under investigation for national security reasons, persons believed by the Internal Revenue Service to be related to violations of Federal laws other than the Internal Revenue Code. (2) Persons under investigation by other executive departments or congressional committees for whom tax information has been requested pursuant to 26 U.S.C. 6103. (3) Persons who are parties to criminal or civil non-tax litigation in which the testimony of IRS employees has been requested. (4) Persons who have applied for Federal employment or presidential appointments for which preemployment tax checks have been requested and applicants for Department of Commerce "E" Awards. (5) Requesters for access to records pursuant to 26 U.S.C. 6103, the Freedom of Information Act, 5 U.S.C. 552, and initiators of requests for access, amendment or other action pursuant to the Privacy Act of 1974, 5 U.S.C. 552a. (6) Individuals identified by or initiating correspondence or inquiries processed or controlled by the Disclosure function or relating to the foregoing subjects.

Categories of records in the system: Requests for records, information or testimony, responses to such requests, supporting documenta-

System location: National Office, Regional Offices, District Offices. (See IRS Appendix A).

System manager(s) and address: Director, Disclosure Operations Division, National Office. (See IRS Appendix A.)

Notification procedure: Individuals seeking to determine if the

Treasury/IRS 49.002

System name: Collateral Files, Competent Authority and Index Card Retrieval System—Treasury/IRS.

Categories of records in the system: Requests for records, information or testimony, responses to such requests, supporting documentation, processing records, copies of items provided or withheld, control records and related files. Department of Justice, and IRS replies to such requests. (2) Copies of related authorizations to IRS officials permitting such disclosures and, in some instances, their responses. (3) Copies of individuals' tax information, memoranda for file, notations of telephone calls, file search requests, etc.

Authority for maintenance of the system: 26 U.S.C. 7801 and 7802, 26 U.S.C. 6103, 5 U.S.C. 301, 552 and 552a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes, and as necessary to report apparent violations of law to appropriate law enforcement agencies.

Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 C.F.R. 404.6103 where applicable). For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in alphabetical or chronological order within subject categories. No centralized index exists. Accountings of disclosure of tax related records pursuant to 5 U.S.C. 552a(c) or 26 U.S.C. 6103(p)(3) are posted to the Individual Master File and retrievable by Social Security Number, or to the Business Master File and retrievable by Employer Identification Number.

Retrievability: Paper records are generally retrievable by name of individual, although category of record and chronological period may be necessary to retrieve some records. The Social Security number is necessary to access accountings of disclosure posted to the Individual Master File. The Employer Identification Number is necessary for access to the Business Master File.

Safeguards: Safeguards will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: In accordance with IRM 1(15)59, Records Disposition Handbook.

System manager(s) and address: Official prescribing policies and practices—Director, Disclosure Operations Division. Officials maintaining the system—Director, Disclosure Operations Division, National Office; Regional Commissioners, District Directors, Service Center Directors, or other official receiving or servicing requests for records. (See IRS Appendix A).

Notification procedure: Requesters seeking to determine if accountable disclosures about them have been made should request an accounting of disclosure pursuant to 5 U.S.C. 552a(c) and 26 U.S.C. 6103(p)(3) of the District Director for the area in which they reside. Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for the area of residence or to the official believed to be maintaining the record of interest (See Appendix A). This system contains some records of law enforcement activities which may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: See notification procedure above, portion of this system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See notification procedure and record access procedure above. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act (See 26 U.S.C. 7852(e)).

Record source categories: Requests for disclosure, records being evaluated and processed for disclosure and related information from other systems of records. Portions of this system may contain investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: Portions of this system have been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 48.007

System name: Economic Stabilization Program Files—Treasury/IRS.

System location: National Office, Regional Offices, District Offices. (See IRS Appendix A).

Categories of individuals covered by the system: Individuals acting as sole proprietorships or partners involved in any pursuit subject to the Economic Stabilization Program, and Congressmen, Government officials, and private individuals.

Categories of records in the system: Case files for the period 1971 through 1974 originating from the investigation of complaints alleging violation of the Stabilization program or in granting or denying of exception/exemption requests. Congressional, public officials', and private individuals' correspondence pertaining to stabilization activities for the period 1971 through 1974 which is not part of a case file.

Authority for maintenance of the system: 5 USC 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Economic Stabilization Program terminated on June 30, 1974. Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage—stored in cartons in servicing Federal Records Centers. Retrievability—indexed or filed by name. Safeguards—Federal Record Center security with access restricted to Internal Revenue Service employees. Retention and Disposal—Retained and disposed in accordance with Records Disposition Handbook, IRM 1(15)59-113 and IRM 1(15)59-213.

System manager(s) and address: Director, Disclosure Operations Division, National Office; Regional Offices and District Offices. (See IRS Appendix A).

Notification procedure: Same as System Manager above.

Record access procedures: Same as System Manager above.

Contesting record procedures: Same as System Manager above.

Record source categories: Letters from the public, applications from individuals, investigative reports, disclosure statements, determination letters, legal appeals and notifications of decisions, and queries for information, interpretations and rulings originating either from Congressmen, public officials, or private individuals.

Treasury/IRS 48.008

System name: Defunct Special Service Staff File being retained because of Congressional directive, ACTS: C-Treasury/IRS.

System location: National Office. (See IRS Appendix A.)

Categories of individuals covered by the system: Individuals suspected of violating the Internal Revenue laws.

Categories of records in the system: Internal Revenue Service Master File printouts; returns and field reports; information from other law enforcement government investigative agencies; Congressional Reports, and news media articles.

Authority for maintenance of the system: U.S.C. 301, 26 U.S.C. 7801 and 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This file is no longer being used by the Internal Revenue Service. The Special Service Staff was abolished August 13, 1973. Disclosure of information contained in this System of Records may be made to the Department of Justice in connection with actual or potential litigation. Access to the System is limited to Congressional Committees and individuals making Freedom of Information requests pertaining to themselves.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained alphabetically by individual and organization contained in vault at IRS National Office.

Retrievability: By alphabet

Safeguards: Access controls are in conformance with provisions of the physical and Document Security Handbook, IRM 1 (16) 41. No IRS official has access to these records except for retrieval purposes in connection with Congressional or Freedom of Information inquiries and litigation cases.

Retention and disposal: Records are being maintained solely for Congressional Committees at their request. When the Congressional Committees have completed their inquiries, the records will be destroyed except for those documents pertaining to pending litigation. Those records will be destroyed upon direction by the Court having jurisdiction over the documents.

System manager(s) and address: Director, Disclosure Operations Division, National Office. (See IRS Appendix A.)

Notification procedure: Individuals seeking to determine if the System of Records contains a record pertaining to themselves may address inquiries to the Director, Disclosure Operations Division, National Office. (See IRS Appendix A for location.)

Record access procedures: Individuals seeking access to any System of Records may inquire in accordance with the instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director, Disclosure Operations Division, National Office. (See IRS Appendix A for location.)

In addition, this System may contain some records provided by other agencies which are exempt from the Access and Contest provisions of the Privacy Act as published in the Notices of the Systems of Records for those agencies.

Contesting record procedures: See Access above.

Record source categories: News media articles, taxpayers' returns and records, informant and third party information, other Federal agencies and examinations of related or other taxpayers.

Systems exempted from certain provisions of the act: Information from an exempt system of records duplicated in this system of records retains the exempt status.

Treasury/IRS 49.001

System name: Collateral and Information Requests System—Treasury/IRS.

System location: The central files for this system are maintained at the Office of International Operations, 1325 K Street, N.W., Washington, D.C. 20225. A corresponding system of records is separately maintained by the foreign posts located in: (1) Bonn, Germany; (2) Canberra, Australia; (3) Caracas, Venezuela; (4) Johannesburg, Republic of South Africa; (5) Kuala Lumpur, Malaysia; (6) London, England; (7) Manila, Philippines: (8) Mexico City, Mexico; (9) Ottawa, Canada; (10) Paris, France; (11) Rome, Italy; (12) Sao Paulo, Brazil; (13) Tehran, Iran; and (14) Tokyo, Japan. Inquiries concerning this system of records maintained by the foreign posts should be addressed to the Director of International Operations.

Categories of individuals covered by the system: United States Citizens, Resident Aliens, Nonresident Aliens.

Categories of records in the system: Record of interviewing witnesses regarding financial transactions of taxpayers; employment data; bank and brokerage house records; probate records; property valuations; public documents; payments of foreign taxes; inventories of assets; business books and records. These records relate to tax investigations conducted by the U.S. Internal Revenue Service where some aspects on an investigation must be pursued in foreign countries pursuant to the various tax treaties between the United States and foreign governments.

Authority for maintenance of the system: 5 USC 301, 26 USC 7602, 26 USC 7801, 26 USC 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper Records.

Retrievability: By Taxpayer Name.

Safeguards: Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Dispose after 5 years.

System manager(s) and address: Director of International Operations.

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 49.002

System name: Collateral Files, Competent Authority and Index Card Retrieval System—Treasury/IRS.

System location: Office of International Operations, 1325 K Street, N.W., Washington, D.C. 20225.

Categories of individuals covered by the system: U.S. citizens, resident aliens, nonresident aliens whose tax matters come under the jurisdiction of the U.S. competent authority in accordance with pertinent provisions of tax treaties with foreign countries.

Categories of records in the system: Individual case files of taxpayers; (1) who request relief from double taxation or any other assistance that is pertinent to carrying out the provisions of income tax treaties, (2) on whom information (as is pertinent to carrying out the provisions of the convention or preventing fraud or fiscal evasion in relation to the taxes which are the subject of this convention) is exchanged with foreign tax officials of treaty countries, (3) whose records relate to tax fraud investigations conducted by the U.S. Internal Revenue Service where some aspects of an investigation must be pursued in foreign countries pursuant to the various tax treaties between the United States and foreign governments.

Authority for maintenance of the system: 5 USC 301, 26 USC 7602, 26 USC 7801, 26 USC 7802, and applicable treaties.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By taxpayer name.

Safeguards: Access controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Dispose three years after the collateral request has been closed; index cards may be retained ten years.

System manager(s) and address: Director, Office of International Operations, 1325 K Street, N.W., Washington, D.C. 20225.

Notification procedure: Portions of this system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: Portions of this system of records may not be accessed for purposes of inspection or for contest of content of the records.

Contesting record procedures: See Access above. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Record source categories: Portions of this system of records contain investigatory material compiled for law-enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 49.003

System name: Financial Statements File—Treasury/IRS.

System location: Office of International Operations, 1325 K Street, N.W., Washington, D.C. 20225.

Categories of individuals covered by the system: Taxpayers who submitted financial statements when interviewed overseas by examination division employees.

Categories of records in the system: Financial Statements.

Authority for maintenance of the system: 5 USC 301, 26 USC 7602, 26 USC 7801, 26 USC 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper Records.

Retrievability: By Taxpayer's name.

Safeguards: Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Dispose after 2 years.

Rome, Italy; (12) Sao Paulo, Brazil; (13) Tehran, Iran; and (14) Tokyo, Japan. Inquiries concerning this system of records maintained

may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the

Retrievability: indexed by name.

Retention and disposal: Dispose after 2 years.

System manager(s) and address: Director of International Operations.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries may be addressed to the Director of International Operations, 1325 K St., N.W., Washington, D.C. 20225.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of International Operations.

Contesting record procedures: See Access above.

Record source categories: Overseas examination division employees.

Treasury/IRS 49.007

System name: Overseas Compliance Projects System.

System location: The central files for this system are maintained at the Office of International Operations, 1325 K Street, N.W., Washington, D.C., 20225. A corresponding system of records is separately maintained by the foreign posts located in: (1) Bonn, Germany; (2) Canberra, Australia; (3) Caracas, Venezuela; (4) Johannesburg, Republic of South Africa; (5) Kuala Lumpur, Malaysia; (6) London, England; (7) Manila, Philippines; (8) Mexico City, Mexico; (9) Ottawa, Canada; (10) Paris, France; (11) Rome, Italy; (12) Sao Paulo, Brazil; (13) Tehran, Iran; and (14) Tokyo, Japan. Inquiries concerning this system of records maintained by the foreign posts should be addressed to the Director of International Operations.

Categories of individuals covered by the system: United States Citizens, Resident Aliens, Nonresident Aliens.

Categories of records in the system: Documents and factual data relating to: (1) personal expenditures or investments not commensurate with known income and assets; (2) receipt of significant unreported income; (3) improper deduction of significant capital or personal living expenses; (4) failure to file required returns or pay tax due; (5) omission of assets or improper deduction or exclusion of items from estate and gift tax returns.

Authority for maintenance of the system: 5 USC 301, 26 USC 7602, 26 USC 7801, 26 USC 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper Records.

Retrievability: By Taxpayer Name.

Safeguards: Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Dispose after 5 years.

System manager(s) and address: Director of International Operations.

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See Access above.

Record source categories: This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 49.008

System name: Taxpayer Service Correspondence System—Treasury/IRS.

System location: This system is separately maintained by each one of the 14 overseas posts of the Office of International Operations, located in: (1) Bonn, Germany, (2) Canberra, Australia; (3) Caracas, Venezuela; (4) Johannesburg, Republic of South Africa; (5) Kuala Lumpur, Malaysia; (6) London, England; (7) Manila, Philippines; (8) Mexico City, Mexico; (9) Ottawa, Canada; (10) Paris, France; (11) Rome, Italy; (12) Sao Paulo, Brazil; (13) Tehran, Iran; and (14) Tokyo, Japan. Inquiries concerning this system of records maintained by the foreign posts should be addressed to the Director of International Operations, 1325 K Street, N.W., Washington, D.C. 20225.

Categories of individuals covered by the system: United States Citizens, Resident Aliens, Nonresident Aliens.

Categories of records in the system: Correspondence from taxpayers, foreign post personnel and Office of International Operations headquarters offices in Washington, D.C.

Authority for maintenance of the system: 5 USC 301, 26 USC 7602, 26 USC 7801, 26 USC 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By Taxpayer Name.

Safeguards: Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Dispose after 5 years.

System manager(s) and address: Director of International Operations.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CRF Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of International Operations, 1325 K Street, N.W., Washington, D.C. 20225.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of International Operations. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: Taxpayers and Office of International Operation's foreign posts and headquarter's offices.

Treasury/IRS 50.002

System name: Employee Plans/Exempt Organizations, Employee Plan Determination Letter Records—Treasury/IRS.

System location: District Offices. See IRS Appendix A.

Categories of individuals covered by the system: Applicants for approval of individually designed plans and bond purchase plans, covering self-employed individuals.

Categories of records in the system: Contains plan name, type, treatment accorded, etc. Sub-systems include plan files containing applications, attachments, determination letters, related documents, and audit history file.

Authority for maintenance of the system: 26 USC 7801, 7802 and 7805.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Indexed by name.

Safeguards: Security will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41; and

Retention and disposal: Cards retained indefinitely; related files destroyed or retired over varying numbers of years as specified in the Records Control Schedule, IRM 1(15)59-110.

System manager(s) and address: District Director who has jurisdiction over the plan. See IRS Appendix A.

Notification procedure: Same as above.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content,

may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director having jurisdiction. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See access above.

Record source categories: Applicants requesting a determination letter.

Treasury/IRS 50.001

System name: Employee Plans/Exempt Organizations, Employee Plans/Exempt Organizations Assignment Record (Form M-6209)—Treasury/IRS.

System location: National Office See IRS Appendix A.

Categories of individuals covered by the system: Requestors of letter rulings, and subject of field office requests for technical advice and assistance and other correspondence.

Categories of records in the system: Contains the name, date, nature and subject of an assignment, and work history. Sub-systems include case files that contain the correspondence, internal memoranda, and related material. They also include digests of issues involved in proposed revenue rulings.

Authority for maintenance of the system: 26 USC 7801, 7802, and 7805.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: paper records.

Retrievability: Indexed by name.

Safeguards: security will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41; and

Retention and disposal: Cards retained indefinitely; related files destroyed or retired over varying numbers of years as specified in the Records Control Schedule, IRM 1(15)59-110.

System manager(s) and address: Assistant Commissioner (Employee Plans/Exempt Organizations) 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Notification procedure: Same as above.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Assistant Commissioner (EP/EO), National Office. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See above.

Record source categories: Individuals requesting rulings or information and field offices requesting technical advice or assistance.

Treasury/IRS 50.003

System name: Employee Plans/Exempt Organizations, Reports of Significant Matters in EP/EO (M-5945)—Treasury/IRS.

System location: National Office. See IRS Appendix A.

Categories of individuals covered by the system: Individual subjects of letter ruling requests, technical advice requests etc., where a "Report of Significant Matter in EP/EO," has been prepared because of the presence of a matter significant to tax administration.

Categories of records in the system: Copies of "Reports of Significant Matter in EP/EO."

Authority for maintenance of the system: 26 U.S.C. 7801, 7802, and 7805.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: paper records.

Retrievability: indexed by name.

Safeguards: safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: not specific.

System manager(s) and address: Assistant Commissioner, (Employee Plans/Exempt Organizations) 1111 Constitution Avenue, Washington, D.C. 20224.

Notification procedure: Same as above.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Assistant Commissioner, (Employee Plans/Exempt Organizations), National Office.

Contesting record procedures: See access above.

Record source categories: Individual subjects of letter ruling requests, technical advice requests, etc., where a "Report of Significant Matter in EP/EO." has been prepared.

Treasury/IRS 60.001

System name: Assault and Threat Investigation Files Inspection-Treasury/IRS.

System location: National Office and Regional Inspector's Offices, (See IRS Appendix A).

Categories of individuals covered by the system: Persons who attempt to interfere with the administration of the Internal Revenue laws through threats, assaults or forcible interference of any officer or employee while discharging the official duties of his position.

Categories of records in the system: Document citing the complaint, Documentary evidence (i.e., threatening letter), Report of investigation, with possible statements, or affidavits as exhibits. Report of legal action, if case is prosecuted. Local police record of individual named in case. FBI record of individual named in the case.

Authority for maintenance of the system: 26 U.S.C. 7608, 7801, 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable) and as necessary to report apparent violations of law to appropriate law enforcement agencies. Routine disclosure may be made to authorized investigative offices of other Federal agencies in connection with background and security clearance procedures or when the subject is under investigation for employment or statute violations. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records, in folders, in file cabinets.

Retrievability: By name of individual to whom it applies.

Safeguards: Not less than provided for by the Physical and Documents Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been cleared by background investigations.

Retention and disposal: In accordance with Records Control Schedule 105, IRM 1(15)59.

System manager(s) and address: Assistant Commissioner (Inspection). (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See access above.

Record source categories: This system of records contains investigatory material compiled for criminal law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.002

Authority for maintenance of the system: 5 U.S.C. 301; 26 USC

connection with background and security clearance procedures or when the subject is under investigation for employment or statute violations. (d) For additional routine uses see Appendix AA.

Record source categories: Internal Revenue Service, Federal Bureau of Investigation, Local police departments.

Treasury/IRS 60.006

Treasury/IRS 60.002

System name: Bribery Investigation Files, Inspection-Treasury/IRS.

System location: National Office and Regional Inspector's Offices. (See IRS Appendix A).

Categories of individuals covered by the system: Employees or former employees of the Treasury Department, and Taxpayers and non-IRS persons whose alleged criminal actions may affect the integrity of the Service.

Categories of records in the system: A report of investigation including exhibits, affidavits, transcripts, and documentation concerning requests and approval for consensual telephone and consensual nontelephone monitoring. A report of legal action concerning the results of prosecution. Prior criminal record of subject.

Authority for maintenance of the system: 5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, 7802; EO 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable) and as necessary to report apparent violations of law to appropriate law enforcement agencies. Routine disclosure may be made to authorized investigative offices of other Federal agencies in connection with background and security clearance procedures or when the subject is under investigation for employment or statute violations. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records, in folders, in file cabinets.

Retrievability: By name of individual to whom it applies.

Safeguards: Not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been cleared by background investigations.

Retention and disposal: In accordance with Records Control Schedule 105, IRM 1(15)59.

System manager(s) and address: Assistant Commissioner (Inspection). (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See access above.

Record source categories: This system of records contains investigatory material compiled for criminal law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.003

System name: Conduct Investigation Files, Inspection—Treasury/IRS.

System location: National Office and Regional Inspector's Offices. (See IRS Appendix A).

Categories of individuals covered by the system: Employees and former employees of: Internal Revenue Service, Office of the Secretary of the Treasury, Office of the General Counsel, Office of the Treasurer of the United States, Office of the Comptroller of the Currency, Office of International Finance, Bureau of Government Financial Operations, Bureau of Accounts, Bureau of Engraving and Printing, Bureau of the Mint, Bureau of the Public Debt, U.S. Savings Bond Division, and the Consolidated Federal Law Enforcement Training Center.

Categories of records in the system: Document citing complaint of alleged misconduct or violation of statute; Report of investigation to resolve allegation of misconduct or violation of statute, with related exhibits of statements, affidavits or records obtained during investigation; Report of action taken by management personnel adjudicating any misconduct substantiated by the investigation; andReport of legal action resulting from violations of statutes referred for prosecution.

Authority for maintenance of the system: 5 U.S.C. 301; 26 USC 7602, 7608, 7801, 7802; EO 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable) and as necessary to report apparent violations of law to appropriate law enforcement agencies. Routine disclosure may be made to authorized investigative offices of other Federal agencies in connection with background and security clearance procedures or when the subject is under investigation for employment or statute violations. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records, in folders, in file cabinets.

Retrievability: By name of individual to whom it applies.

Safeguards: Not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been cleared by background investigations.

Retention and disposal: In accordance with Records Control Schedule 105, IRM 1(15)59.

System manager(s) and address: Assistant Commissioner (Inspection) (See IRS Appendix A).

Notification procedure: Many of the records in this system may be exempt under subsections J and/or K Privacy Act of 1974 and may not be accessed for purposes of inspection or for contest of content of records. Individuals seeking to determine if their record is accessible may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to Assistant Commissioner (Inspection) National Office.

Record access procedures: Same as Notification section.

Contesting record procedures: Same as notification section.

Record source categories: Department of Treasury personnel and records, Taxpayers (Complainants, Witnesses, Confidential Informants), Other Federal Agencies, State and local agencies, Tax Returns and related documents, Personal observations of the investigator, and subjects of the investigation.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.004

System name: Disclosure Investigation Files, Inspection—Treasury/IRS

System location: National Office and Regional Inspector's Offices. (See IRS Appendix A).

Categories of individuals covered by the system: (a) Internal Revenue Service employees who have allegedly disclosed confidential tax information. (b) State and Local Government employees who have allegedly disclosed confidential Federal tax information. (c) Tax return preparers who have allegedly disclosed confidential Federal tax information.

Categories of records in the system: (a) Document citing the complaint of the alleged criminal or administrative violation. (b) Investigative report, including statements, affidavits and any other pertinent documents supporting the investigative report, which will be attached as an exhibit. (c) Report of legal action if case is accepted by U.S. Attorney for prosecution. (d) Report of action by management personnel if case is referred for administrative adjudication.

Authority for maintenance of the system: 5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, 7802; EO 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. (b) Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable) and as necessary to report apparent violations of law to appropriate law enforcement agencies. (c) Routine disclosure may be made to authorized investigative offices of other Federal agencies in

connection with background and security clearance procedures or when the subject is under investigation for employment or statute violations. (d) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records, in folders, in file cabinets.

Retrievability: By name of individual to whom it applies.

Safeguards: Not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been cleared by background investigations.

Retention and disposal: In accordance with Records Control Schedule 105, IRM 1(15)59.

System manager(s) and address: Assistant Commissioner (Inspection).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: Same as Notification section.

Contesting record procedures: See access above.

Record source categories: Internal Revenue Service, Federal Bureau of Investigation, Local police departments.

Treasury/IRS 60.005

System name: Enrollee Applicant Investigation Files; Inspection—Treasury/IRS.

System location: National Office and Regional Inspector's Offices. (See IRS Appendix A).

Categories of individuals covered by the system: Former employees and non-IRS persons who apply for enrollment to practice before IRS under the provisions of Circular 230.

Categories of records in the system: Investigative report covering results of checks of: FBI files; Inspection files; local police; Examination and Intelligence Division files; and verification of Federal tax filing status. Also, appropriate documents attached as exhibits showing results of above file checks.

Authority for maintenance of the system: 26 U.S.C. 7801, 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. (b) Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable) and as necessary to report apparent violations of law to appropriate law enforcement agencies. (c) Routine disclosure may be made to authorized investigative offices of other Federal agencies in connection with background and security clearance procedures or when the subject is under investigation for employment or statute violations. (d) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records, in folders, in file cabinets.

Retrievability: By name of individual to whom it applies.

Safeguards: Not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been cleared by background investigations.

Retention and disposal: In accordance with Records Control Schedule 105, IRM 1(15)59.

System manager(s) and address: Assistant Commissioner (Inspection). (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to Assistant Commissioner (Inspection) National Office.

Record access procedures: Same as Notification section.

Treasury/IRS 60.006

System name: Enrollee Charge Investigation Files, Inspection—Treasury/IRS

System location: National Office and Regional Inspector's Offices.

Categories of individuals covered by the system: IRS employees or former employees, tax practitioners, attorneys, certified public accountants or enrolled persons.

Categories of records in the system: A documented complaint or request for investigation alleging criminal or administrative misconduct affecting IRS integrity. A report of investigation, including exhibits such as affidavits, statements or documents which have been reviewed. A report of legal action resulting from violations of statutes referred for prosecution. A report of action taken by management personnel adjudicating any misconduct on the part of an IRS employee substantiated by the investigation.

Authority for maintenance of the system: 26 U.S.C. 7801, 7802, 7608.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable) and as necessary to report apparent violations of law to appropriate law enforcement agencies. Routine disclosure may be made to authorized investigative offices of other Federal agencies in connection with background and security clearance procedures or when the subject is under investigation for employment or statute violations. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records, in folders, in file cabinets.

Retrievability: By name of individual to whom it applies.

Safeguards: Not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been cleared by background investigations.

Retention and disposal: In accordance with Records Control Schedule 105, IRM 1(15)59.

System manager(s) and address: Assistant Commissioner (Inspection). (See IRS Appendix A).

Notification procedure: Many of the records in this system may be exempt under subsections J and/or K of the Privacy Act of 1974 and may not be accessed for purposes of inspection or for contest of content of records. Individuals seeking to determine if their record is accessible may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to Assistant Commissioner (Inspection) National Office.

Record access procedures: Same as Notification section.

Contesting record procedures: Same as notification above.

Record source categories: Department of Treasury, Personnel and Records, Other Federal agencies, Taxpayers/Complainants, State and local agencies, Tax returns, Newspapers, Person acquainted with the individual under investigation, Subjects of the investigation, and Personal observations of the investigator.

Systems exempted from certain provisions of the act: Portions of this system have been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.007

System name: Miscellaneous Information File, Inspection—Treasury/IRS

System location: National Office and Regional Inspector's Office. (See IRS Appendix A).

Categories of individuals covered by the system: Employees and former employees of the Internal Revenue Service, Tax practitioners (Attorneys, Certified Public Accountants, Enrolled Persons, Return Preparers), Alleged tax violators, Persons whose actions or alleged actions indicate a threat to IRS employees, facilities, or the integrity of the tax system, Confidential Informants, and Reputed members of the organized criminal element.

Categories of records in the system: Complaint type information regarding IRS employees which is not, in itself, specific or significant enough to initiate an investigation when received. Allegations of

System location: National Office and Regional Inspector's Office. (See IRS Appendix A).

System location: National Office and Regional Inspector's Offices. (See IRS Appendix A).

Categories of individuals covered by the system: Employees or

Authority for maintenance of the system: 5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, 7802; EO 11222.

Routine uses of records maintained in the system, including catego-

Categories of records in the system: Complaint type information regarding IRS employees which is not, in itself, specific or significant enough to initiate an investigation when received. Allegations of bribery and gratuities by taxpayers and/or their representatives which are not by themselves specific or significant enough to initiate an investigation when received. Allegations of misconduct by tax practitioners, enrolled persons, or tax preparers which are not by themselves specific or significant enough to initiate an investigation when received. Any information received or developed by Inspection that has a bearing on IRS, but is not of itself specific or significant enough to initiate an investigation when received. Information received by Inspection pertaining to alleged violations enforced by other agencies or Divisions of IRS, copies of which are referred to those respective agencies or divisions. Photographs and descriptive data of some IRS employees and of persons arrested by Inspection. Information concerning lost or stolen Government documents, property, credentials or IRS employee personal property lost or stolen on Government premises. List of persons in State or Local Government agencies working under State agreements and having access to Federal Tax information. Newspaper or periodical items about IRS. Newspaper items regarding attorneys, CPA's, Tax Practitioners or Return Preparers arrested, indicted, convicted or under investigation by other agencies. Allegations of threats, assaults, forcible interference or other violence type activity aimed at employees or facilities of IRS which are not by themselves specific or significant enough to initiate an investigation when received. Information regarding Inspection's mission which does not fall into any of the above categories.

Authority for maintenance of the system: 5 U.S.C. 301; 26 USC 7602, 7608, 7801, 7802; EO 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and CFR 404.6103 where applicable) and as necessary to report apparent violations of law to appropriate law enforcement agencies. Routine disclosure may be made to authorized investigative offices of other Federal agencies in connection with background and security clearance procedures or when the subject is under investigation for employment or statute violations. Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records, in folders, in file cabinets.

Retrievability: By name of individual, subject, or incident involved.

Safeguards: Not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been cleared by background investigations.

Retention and disposal: In accordance with Records Control Schedule 105, IRM 1(15)59. Informant files are retained as long as informant remains active.

System manager(s) and address: Assistant Commissioner (Inspection).

Notification procedure: Some of the records in this system may be exempt under subsections J and/or K and may not be accessed for purposes of inspection or for contest of content of records. Individuals seeking to determine if their record is accessible may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to Assistant Commissioner (Inspection) National Office.

Record access procedures: Same as notification section.

Contesting record procedures: See notification above.

Record source categories: Department of Treasury Personnel and Records, Newspapers and Periodicals, Taxpayers (Complainants, Witnesses, and Informants), State and Local Government Agency Personnel and Records, and Anonymous Complainants.

Systems exempted from certain provisions of the act: Portions of this system have been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.008

System name: Security, Background and Character Investigations Files, Inspection—Treasury/IRS

System location: National Office and Regional Inspector's Office. (See IRS Appendix A).

Categories of individuals covered by the system: Current, former and prospective employees of: Internal Revenue Service, Office of the Secretary of the Treasury, Office of the General Counsel, Office of the Treasurer of the United States, Office of the Comptroller of the Currency, Office of International Finance, Bureau of Government Financial Operations, Bureau of Accounts, Bureau of Engraving and Printing, Bureau of the Mint, Bureau of the Public Debt, U.S. Savings Bond Division, Consolidated Federal Law Enforcement Training Center, and Private Contractors at IRS Facilities.

Categories of records in the system: (a) Federal Employment Application Forms (b) Results of National Agency Checks (prior reports and records from) FBI Investigative Files, Fingerprint Files, Civil Service Commission, Defense Central Index of Investigations, House Committee on Internal Security, and Coast Guard Intelligence. (c) Employee's Tax Account History (d) Results of Employees Examination (e) Employee's Financial Statement (f) A summary report, a narrative report, notes and/or written replies resulting from the investigator's inquiries into the subject's scholastic record, prior employments, military service, references, neighbors, police records and past credit record. (g) Report of action taken by management personnel adjudicating any derogatory information developed by the investigation. (h) Report of legal action resulting from violations of statutes referred for prosecution.

Authority for maintenance of the system: 5 U.S.C. 301; 26 USC 7602, 7608, 7801, 7802; EO 10450; EO 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and with requests for legal advice. Disclosure may be made during judicial processes. Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable) and as necessary to report apparent violations of law to appropriate law enforcement agencies. Routine disclosure may be made to authorized investigative offices of other Federal agencies in connection with background and security clearance procedures or when the subject is under investigation for employment or statute violations. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records, in folders, in file cabinets.

Retrievability: By name of individual to whom it applies.

Safeguards: Not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection Personnel on a need-to-know basis, all of whom have been cleared by background investigations.

Retention and disposal: In accordance with Records Control Schedule 105, IRM 1(15)59.

System manager(s) and address: Assistant Commissioner (Inspection). (See IRS Appendix A).

Notification procedure: Some of the records in this system may be exempt and may not be accessed for purposes of inspection or for contest of content of records. Individuals seeking to determine if their record is accessible may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to Assistant Commissioner (Inspection) National Office.

Record access procedures: Same as Notification section.

Contesting record procedures: Same as notification above.

Record source categories: Employment Application Forms submitted by subject of investigation. Financial information from subject. Federal, State and Local Government Agencies (Police, Court and Vital Statistics records). Credit Reporting Agencies. Neighbors (former and present). References. Former and present employers and co-workers. Other third party sources. Schools. Tax Returns and Examination Results. Information provided by the individual under investigation.

Systems exempted from certain provisions of the act: Portions of this system have been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.009

System name: Special Inquiry (Complaint) Investigation Files, Inspection—Treasury/IRS.

System location: National Office and Regional Inspector's Offices. (See IRS Appendix A).

Categories of individuals covered by the system: Employees or former employees of the Treasury Department and the Internal Revenue Service. Non-employees whose alleged criminal actions may affect the integrity of the Internal Revenue Service.

Categories of records in the system: A documented complaint from some source alleging criminal or administrative misconduct affecting Internal Revenue Service integrity. A report of investigation to resolve the complaint, including exhibits of IRS or public documents reviewed during the investigation.

Authority for maintenance of the system: 5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, 7802; EO 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and CFR 404.6103 where applicable) and as necessary to report apparent violations of law to appropriate law enforcement agencies. Routine disclosure may be made to authorized investigative offices of other Federal agencies in connection with background and security clearance procedures or when the subject is under investigation for employment or statute violations. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records, in folders, in file cabinets.

Retrievability: By name of individual to whom it applies.

Safeguards: Not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel of a need-to-know basis, all of whom have been cleared by background investigations.

Retention and disposal: In accordance with Record Control Schedule 105, IRM 1(15)59.

System manager(s) and address: Assistant Commissioner (Inspection). (See IRS Appendix A).

Notification procedure: Many of the records in this system may be exempt under subsections J and/or K and may not be accessed for purposes of inspection or for contest of content of records. Individuals seeking to determine if their record is accessible may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to Assistant Commissioner (Inspection) National Office.

Record access procedures: Same as Notification above.

Contesting record procedures: Same as notification above.

Record source categories: Taxpayers (Complainants, Witnesses, Confidential Informants), Federal, State and Local Government Agencies' personnel and records (Police, court, property, etc.), Newspapers or periodicals, Department of the Treasury personnel and records, Financial institutions, and Other Private Business records.

Systems exempted from certain provisions of the act: Portions of this system have been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 60.010

System name: Tort Investigation Files, Inspection—Treasury/IRS.

System location: National Office and Regional Inspector's Office. (See IRS Appendix A).

Categories of individuals covered by the system: Employees of the Department of the Treasury and non-Federal persons involved in accidents on property under Department of the Treasury jurisdiction or with Department of the Treasury employees.

Categories of records in the system: A report of investigation including exhibits such as SF-91, Operator's Report of Motor Vehicle Accident; SF-91A, Investigation Report of Motor Vehicle Accident; SF-92A, Report of Accident Other Than Motor Vehicle; SF-94, Statement of Witness; Optional Form 26, Data Bearing Upon Scope of Employment of Motor Vehicle Operator. In addition, attached as exhibits might be a Police Report of the accident; copies of insurance policies of the involved drivers; photographs of the scene or vehicles after the accident; Treasury Department vehicle maintenance record, medical records.

Authority for maintenance of the system: 5 U.S.C. 301; 26 U.S.C. 7602, 7608, 7801, 7802; EO 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosures may be made during judicial processes. Routine disclosure may be made to other agencies to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable) and as necessary to report apparent violations of law to appropriate law enforcement agencies. Routine disclosure may be made to authorized investigative offices of other Federal agencies in connection with background and security clearance procedures or when the subject is under investigation for employment or statute violations. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records, in folders, in file cabinets.

Retrievability: By name of individual to whom it applies.

Safeguards: Not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41. Also, accessible to Inspection personnel on a need-to-know basis, all of whom have been cleared by background investigations.

Retention and disposal: In accordance with Record Control Schedule 105, IRM 1(15)59.

System manager(s) and address: Assistant Commissioner (Inspection). (See IRS Appendix A).

Notification procedure: Some of the records in this system may not be accessed for purposes of inspection or for contest of content of records. Individuals seeking to determine if their record is accessible may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to Assistant Commissioner (Inspection) National Office.

Record access procedures: Same as Notification above.

Contesting record procedures: Same as notification above.

Record source categories: Department of Treasury personnel and records, Federal, State and local police agencies, Witnesses, Subjects involved in the investigation, Hospitals (medical records), Doctors (medical records and personal observations), Personal observations of the investigator, Automobile repair facilities, Insurance Companies, Attorneys, Federal, state and local driver license records, and Federal and State vehicle registration records.

Treasury/IRS 70.001

System name: Individual Income Tax Returns, Statistics of Income—Treasury/IRS

System location: Primary-Internal Revenue Service Data Center, Secondary-(a)Internal Revenue Service, Statistics Division, (b) Federal Records Centers. (See IRS Appendix A).

Categories of individuals covered by the system: Taxpayers selected for an annual statistical sample.

Categories of records in the system: Sources of income, exemptions deductions, income tax, and tax credits, as reported on Forms 1040 and 1040A. The records are used to prepare and publish each year statistics, aggregated so as to prevent disclosure of taxpayer identity.

Authority for maintenance of the system: 26 U.S.C. 6108.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103 where applicable).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The statistical output records (i.e., those from which the statistics are directly derived) are maintained on magnetic tape. The input records are maintained as paper documents or copies thereof. The input records are of two types: (1) Copies of U.S. Individual Income Tax Returns (primary input records) and (2) Edit sheets (intermediate input records) which contain information manually abstracted from the primary records.

Retrievability: Each magnetic tape record is identified by social security number and a unique Document Locator Number assigned by the Internal Revenue Service. Those with sole proprietorship income, in addition, contain employer identification number, if reported by the taxpayer. Each primary input record and, for years

before 1972, each intermediate input record are identified by name and address.

Safeguards: Access Controls will not be less than provided for by

legal advice. Disclosure may be made during judicial processes. Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103) and as

Categories of individuals covered by the system: Individual subjects of letter rulings, technical advice, and other correspondence, where

Part I, Subpart C, Appendix B. Inquiries should be addressed to the Assistant Commissioner (Technical), National Office.

Contesting record procedures: See Access above.

before 1972, each intermediate input record are identified by name and address.

Safeguards: Access Controls will not be less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Dispose after 40 years.

System manager(s) and address: Assistant Commissioner (Planning and Research), National Office. (See IRS Appendix A).

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records.

Contesting record procedures: See access above.

Record source categories: Forms 1040 and 1040A, Individual Income Tax Returns.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 80.001

System name: Artist File, Assistant Commissioner (TECHNICAL)—Treasury/IRS.

System location: National Office (See IRS Appendix A).

Categories of individuals covered by the system: Famous or noted artists whose works have been evaluated.

Categories of records in the system: Commissioner's Art Panel decisions on values of works of art by named artists and appraisal documentation.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602, 26 U.S.C. 7805 (a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage, paper records. Retrievability, indexed by name. Safeguards, safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41. Retention and Disposal, System has been retained since 1968.

System manager(s) and address: Assistant Commissioner (Technical), National Office.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Assistant Commissioner (Technical), National Office.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Assistant Commissioner (Technical), National Office.

Contesting record procedures: See Access above.

Record source categories: Appraisal documentation and Art Panel decisions.

Treasury/IRS 80.003

System name: Correspondence Control and Records, Assistant Commissioner (Technical)—Treasury/IRS.

System location: National Office (See IRS Appendix A).

Categories of individuals covered by the system: Individual subjects of letter rulings, technical advice, and other correspondence from the Office of the Assistant Commissioner (Technical).

Categories of records in the system: Cards containing taxpayer names, date of correspondence, issue, and related information, and related letter ruling, technical advice, and other correspondence files.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602, 26 U.S.C. 7805 (a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 CFR 404.6103) and as necessary to report apparent violations of law to appropriate law enforcement agencies. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage, paper records. Retrievability, indexed by name. Safeguards, safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41. Retention and Disposal, Cards retained indefinitely; related files destroyed or retired over varying numbers of years as specified in the Records Control Schedule, IRM 1(15)59-110.

System manager(s) and address: Assistant Commissioner (Technical), National Office. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instruction appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Assistant Commissioner (Technical), National Office.

Record access procedures: Individual seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Assistant Commissioner (Technical), National Office. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: Individual subjects of letter rulings, technical advice, and other correspondence; field office personnel.

Treasury/IRS 80.002

System name: Expert witness and fee appraiser files, Assistant Commissioner (Technical)—Treasury/IRS.

System location: National Office (See IRS Appendix A).

Categories of individuals covered by the system: Potential expert witnesses for litigation and fee appraisers for art valuation.

Categories of records in the system: Biographical sketches, application letters or list of names by specialty.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602, 26 U.S.C. 7805 (a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage, paper records. Retrievability, indexed by name. Safeguards, safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41. Retention and Disposal, Retained for many years, will be purged periodically to reflect current data.

System manager(s) and address: Assistant Commissioner (Technical), National Office. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Assistant Commissioner (Technical), National Office.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Assistant Commissioner (Technical), National Office.

Contesting record procedures: See Access above.

Record source categories: Varied, generally from the named individual, often unsolicited.

Treasury/IRS 80.004

System name: Reference Index Digest Cards, Assistant Commissioner (Technical)—Treasury/IRS.

System location: National Office (See IRS Appendix A).

Categories of individuals covered by the system: Individual subjects of letter rulings, technical advice, and other correspondence, where case was published as a Revenue Ruling or classified as "Reference":

Categories of records in the system: Cards containing taxpayer names, issue, disposition of case, and related information.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602, 26 U.S.C. 7805 (a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage, paper records. Retrievability, indexed by name. Safeguards, safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41. Retention and Disposal, Retained indefinitely.

System manager(s) and address: Assistant Commissioner (Technical), National Office (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Assistant Commissioner (Technical), National Office.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Assistant Commissioner (Technical), National Office. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: Individual subjects of letter rulings, technical advice, and other correspondence, and field office personnel where case was published as a Revenue Ruling or classified as "Reference".

Treasury/IRS 80.005

System name: Reports of Significant Matters (Form M-5945), Assistant Commissioner (Technical)—Treasury/IRS.

System location: National Office (Certain Division and Branch Offices) (See IRS Appendix A).

Categories of individuals covered by the system: Individual subjects of letter ruling requests, technical advice requests etc., where a "Report of Significant Matter in Technical" has been prepared because of the presence of a matter significant to Tax Administration.

Categories of records in the system: Copies of "Reports of Significant Matter in Technical".

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7602, 26 U.S.C. 7805 (a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine disclosure of information contained in this system of records may be made to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage, paper records. Retrievability, indexed by name. Safeguards, safeguards will not be less than provided by the Physical and Document Security Handbook, IRM 1(16)41. Retention and Disposal, varied.

System manager(s) and address: Assistant Commissioner (Technical), National Office. (See IRS Appendix A).

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Assistant Commissioner (Technical), National Office.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part I, Subpart C, Appendix B. Inquiries should be addressed to the Assistant Commissioner (Technical), National Office.

Contesting record procedures: See Access above.

Record source categories: Individual subjects of letter ruling requests, technical advice requests, and other correspondence; field office personnel, where a "Report of Significant Matter in Technical" has been prepared.

Treasury/IRS 90.001

System name: Chief Counsel Criminal Tax Case Files. Each Regional Counsel Office, each District Counsel Office, and the National Office maintain one of these systems. The information in this notice applies to all 46 systems—Treasury/IRS.

System location: The addresses of the National Office, each Regional Counsel Office and each District Counsel Office are listed in the Appendix, IRS Appendix A.

Categories of individuals covered by the system: (1) Taxpayers and related parties against whom tax-related criminal recommendations have been made. (2) Taxpayers and related parties under investigation for criminal tax-related violations who have corresponded with the Regional Counsel's Office. (3) Taxpayers and related parties on whom advice has been requested concerning investigation for tax-related offenses. (4) Potential witnesses in criminal tax investigations. (5) Investigative subjects in connection with Organized Crime Drive, Strike Force, Narcotics Project, or HUD project.

Categories of records in the system: (1) Internal Control Records. (2) Legal and administrative files including investigative reports. (3) Correspondence files. (4) Information on potential witnesses including expert witnesses. (5) Special project files such as Organized Crime Drive, Narcotics Project and HUD project.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) To the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (3) To appropriate persons when the Service is engaged in litigation or in preparation of possible litigation such as potential witnesses for the purpose of securing their testimony, courts for the purpose of proceeding with litigation, non-adversary or adversary parties and their attorneys for the purpose of proceeding with litigation or settlement of disputes, individuals seeking information by using established discovery procedures, to federal, foreign and state government agencies to the extent necessary to obtain records in their possession. (4) To members of Congress for the purpose of answering Congressional inquiries in cases in which confidentiality has been waived by the individual. (5) Routine disclosure may be made to other agencies to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 C.F.R. 301.6103 where applicable). (6) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Records are retrievable by the name of the person to whom they apply.

Safeguards: Records are locked up during nonworking hours and during periods when the work area is vacant. Access is strictly controlled and limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

Retention and disposal: Except for files retained for their research value, Regional and District Counsel legal files are generally retired to the Federal Records Center 2 years after they are closed and disposed of 20 years after closing. National Office legal files are retired to the Federal Records Center 5 years after the case is closed. National Office non-precedent cases are transferred to the National Archives 20 years after the case is closed. Other records are retained indefinitely and disposed of when no longer useful. Files transferred

from other divisions are returned to the source when no longer needed.

System manager(s) and address: Director, Disclosure Litigation Division, Internal Revenue Service, Office of Chief Counsel, 1111 Con-

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

regarding a matter under consideration within the General Legal Services Division.

Categories of records in the system: (1) Legal Case and Administra-

from other divisions are returned to the source when no longer needed.

System manager(s) and address: Each Regional Counsel is the system manager of the systems in his or her Region. The Director of the Criminal Tax Division is the system manager of the National Office system. The addresses are in the Appendix. See IRS Appendix A.

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual as it is exempt under 5 U.S.C. 552a(j) (2).

Record access procedures: This system of records may not be accessed for the purposes of inspection or for contest of content of records as it is exempt under 5 U.S.C. 552a(j) (2).

Contesting record procedures: See Access above.

Record source categories: Taxpayers and their representatives, Department of Treasury personnel, Other Federal agencies, State, local, and foreign governments, Witnesses, Informants, Parties to disputed matters of fact or law, Other persons who communicate with the Internal Revenue Service.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.002

System name: Chief Counsel Disclosure Litigation Division Case Files—Treasury/IRS.

System location: Disclosure Litigation Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Categories of individuals covered by the system: Persons who communicate with the Service regarding disclosure matters or who are involved with a disclosure issue involving the Service.

Categories of records in the system: (1) Legal Case and Administrative Case Files, (2) Internal Control Records.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) To the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (3) To appropriate persons when the Service is engaged in litigation or in preparation of possible litigation such as potential witnesses for the purpose of securing their testimony, courts for the purpose of proceeding with litigation, nonadversary or adversary parties and their attorneys for the purpose of proceeding with litigation or settlement of disputes, to individuals seeking information by using established discovery procedures, to federal, foreign, and state government agencies to the extent necessary to obtain records in their possession. (4) To members of Congress for the purpose of answering Congressional inquiries in cases in which confidentiality has been waived by the individual. (5) Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 C.F.R. 404.6103 where applicable). (6) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Records are retrievable by the name of the person to whom they apply.

Safeguards: A background investigation is made on personnel. Division offices are located in a security area to which only personnel of the Disclosure Litigation Division and the Criminal Investigation Division have keys. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

Retention and disposal: All records are retained indefinitely and disposed of when no longer useful.

System manager(s) and address: Director, Disclosure Litigation Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, Washington, D.C. 20224.

Notification procedure: Most of the records in this system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a(d) (5) and/or (k)(2). An individual who wishes to determine whether the system contains any records pertaining to himself which are not exempt may address inquiries to the Director of the Disclosure Litigation Division. The address is listed in the Appendix. Inquiries must be made in accordance with the instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B.

Record access procedures: Most of the records in this system may not be accessed for purpose of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d) (5) and/or (k) (2). Individuals seeking access to any record which is not exempt or seeking to contest its content, may inquire in accordance with instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: Persons who communicate with the agency regarding disclosure matters, Department of Treasury Employees, State, local, and foreign governments, Other Federal agencies, Witnesses, Informants, Parties to disputed matters of fact or law.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.003

System name: Chief Counsel General Administrative Systems. Each of the 45 Regional Counsel Offices and District Counsel Offices, each of the 9 Divisions in the National Office, the Office of the Chief Counsel, and the Offices of the Deputy Chief Counsels (General, Litigation and Technical) and maintain a General Administrative System. This notice applies to all 58 of these systems.—Treasury/IRS.

System location: The location of these systems are listed in the Appendix, see IRS Appendix A.

Categories of individuals covered by the system: (1) Past, present and prospective employees of the Chief Counsel's Office. (2) Tax Court Witnesses.

Categories of records in the system: (1) Employee records other than Official Personnel Files of the Civil Service Commission. (2) Time and Attendance Cards. (3) Financial Records such as Travel Expenses, Notary Public Expenses, Moving Expenses, Expenses of Tax Court Witnesses and Miscellaneous Expenses. (4) Employee Recruiting Records.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) To the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) An apparent violation of the law will be referred to the appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order. (3) To members of Congress for the purpose of answering Congressional inquiries in cases in which confidentiality has been waived by the individual. (4) To the Civil Service Commission for appropriate personnel actions. (5) A record from this system of records may be disclosed to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. (6) A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. (7) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Records are generally retrievable by the name of the person to whom they apply.

Safeguards: Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

Retention and disposal: Records are retained indefinitely and disposed of when no longer useful.

System manager(s) and address: Each Regional Counsel is the system manager of the systems in his or her Region. Each Division Director is the system manager of the system in his or her Division. The Chief Counsel and the Deputy Chief Counsels (Litigation, General and Technical) are the system managers of the system in each of their Offices. See IRS Appendix A.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Regional Counsel of the Region in which the records are located or the Director of the Disclosure Litigation Division in the case of records in the National Office. The addresses are listed in the Appendix.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Regional Counsel of the Region in which the records are located or the Director of the Disclosure Litigation Division in the case of records in the National Office. The addresses are listed in the Appendix. Information leading to the identity of a confidential source is exempt pursuant to 5 U.S.C. 552a (k) (5).

Contesting record procedures: See Access above.

Record source categories: Employees, Department of Treasury Personnel, Tax Court Witnesses, Civil Service Commission, Other Federal agencies, State, local, and foreign governments, References, Former employers.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.004

System name: Chief Counsel General Legal Services Case Files. Each of the seven Regional Counsel Offices and the National Office do or will maintain a General Legal Services Case File System. The information in this notice applies to all eight systems.—Treasury/IRS.

System location: The addresses of the National Office and each Regional Counsel Office are listed in the Appendix, see IRS Appendix A.

Categories of individuals covered by the system: Persons involved in litigation, actions, investigations or cases falling within the jurisdiction of the General Legal Services function including persons—(1) who have caused service of subpoenas, summonses, or other judicial process directed to an officer or employee of the Treasury Department in his official capacity. (2) who are parties in personnel matters, as well as discrimination and labor management relations matters, of the Internal Revenue Service, Chief Counsel's Office or, in some instances, other agencies in the Treasury Department. (3) who are parties in practitioner actions under the jurisdiction of the Director of Practice or the Joint Board of Actuaries. (4) who are parties in procurement matters and under the Federal Claims Collection Act. (5) who are parties in litigation or administrative claims involving the Federal Tort Claims Act, the Military Personnel and Civilian Employee Compensation Act, relief of accountable officers for loss of Government funds, rewards, acts of officers or employees acting within the scope of their employment, or official acts of officers or employees not directly relating to Federal tax issues but relating to the Internal Revenue Service. (6) who are parties in miscellaneous matters referred to the General Legal Service Division. (7) who are the subjects of investigations made by the Internal Security Division if the case is referred to the General Legal Services Division. (8) who have filed petitions for the remission or mitigation of forfeitures or who are otherwise directly involved as parties in forfeiture matters, judicial or administrative. (9) who are parties in civil litigation relative to tax return preparer action. (10) who have corresponded regarding a matter under consideration within the General Legal Services Division.

Categories of records in the system: (1) Legal Case and Administrative Case Files. (2) Internal Control Cards. (3) Correspondence Files.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) To the Department of Justice for the purposes of litigating an action or seeking legal advice. (2) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (3) To the Department of Labor in the performance of its functions in the area of personnel, discrimination and labor management matters. (4) To the Director of Practice and Joint Board of Actuaries in practitioner disciplinary matters. (5) To the Civil Service Commission in personnel, discrimination and labor management matters. (6) To arbitrators, the Federal Labor Relations Council, the Federal Service Impasses Panel, and the Federal Mediation and Conciliation Service in labor management matters. (7) To the General Services Administration in property management matters. (8) To appropriate persons when the Service is engaged in litigation or in preparation of possible litigation such as potential witnesses for the purpose of securing their testimony, courts for the purpose of proceeding with litigation, adversary parties and their attorneys for the purpose of proceeding with litigation or settlement of disputes, to individuals seeking information by using established discovery procedures, to federal, foreign, and state government agencies to the extent necessary to obtain records in their possession. (9) To members of Congress for the purposes of answering Congressional inquiries in cases in which confidentiality has been waived by the individual. (10) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Records are retrievable by the name of the person to whom they apply. If more than one person is involved in a given case then it is generally retrievable only by the first named person.

Safeguards: Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

Retention and disposal: Legal files are retained indefinitely and disposed of when no longer useful. Files transferred from other divisions are returned to the source when no longer needed. Other records are retained indefinitely and disposed of when no longer useful.

System manager(s) and address: Each Regional Counsel is the system manager of the system in his or her Region. The Director of the General Legal Services Division is the system manager of the National Office system. The addresses are in the Appendix.

Notification procedure: This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual as the records are exempt under 5 U.S.C. 552a(d) (5) and/or (k) (2).

Record access procedures: This system of records may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d) (5) and/or (k) (2).

Contesting record procedures: See Access above.

Record source categories: Taxpayers and their representatives, Department of Treasury personnel, Other Federal agencies, State, local, and foreign governments, Witnesses, Informants, Parties to disputed matters of fact or law, Other persons who communicate with the Internal Revenue Service.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.005

System name: Chief Counsel General Litigation Case Files. Each Regional Counsel Office, each District Counsel Office, and the

National Office maintain one of these systems. The information in this notice applies to all 46 systems—Treasury/IRS.

particular individual as the records are exempt under 5 U.S.C. 552a(d) (5) and/or (k) (2). An individual who wishes to determine

made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

Safeguards: Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have

National Office maintain one of these systems. The information in this notice applies to all 46 systems—Treasury/IRS.

System location: The addresses of the National Office, each Regional Counsel Office and each District Counsel Office are listed in the Appendix; see IRS Appendix A.

Categories of individuals covered by the system: (1) Taxpayers or other individuals involved in matters referred to the General Litigation function including: (A) Taxpayers with outstanding tax liabilities or with potential outstanding tax liabilities. (B) Persons from whom information is being sought (summons). (C) Persons requesting information (disclosure). (D) Present or former Internal Revenue Service employees who are being or may be sued in connection with their duties or who have been called upon to testify in private litigation. (E) Persons who are or may be liable to the United States on non-tax claims. (F) Persons who have submitted offers in compromise of federal taxes. (2) Persons who have corresponded regarding a matter under consideration within the General Litigation function.

Categories of records in the system: (1) Legal and Administrative Files. (2) Internal Control Records. (3) Offer in Compromise Files. (4) Correspondence Files.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) To other Federal agencies holding funds of taxpayer for the purpose of collecting a liability owed by the taxpayer. (2) To the Department of Justice for the purpose of litigating an action or seeking legal advice. (3) State and local taxing authorities for purpose of enforcing federal tax laws. (4) Federal, state and local regulatory authorities for purposes of collection of federal taxes. (5) Appropriate persons when the Service is engaged in litigation or in preparation of possible litigation such as potential witnesses for the purpose of securing their testimony, courts for the purpose of proceeding with litigation, non-adversary or adversary parties and their attorneys for the purpose of proceeding with litigation or settlement of disputes, individuals seeking information by using established discovery procedures, to federal, foreign and state government agencies to the extent necessary to obtain records in their possession. (6) To members of Congress for the purpose of answering Congressional inquiries in cases in which confidentiality has been waived by the individual. (7) Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 C.F.R. 404.6103 where applicable). (8) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (9) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Records are retrievable by the name of the person to whom they apply.

Safeguards: Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

Retention and disposal: Except for files retained for their research value, Regional and District Counsel legal files are generally retired to the Federal Records Center three years after they are closed and disposed of 10 years after being closed. National Office legal files are retired to the Federal Records Center 5 years after the case is closed. National Office non-precedent cases are transferred to the National Archives 20 years after the case is closed. Records other than legal files are retained indefinitely and disposed of when no longer useful. Files transferred from other divisions are returned to the source when no longer needed.

System manager(s) and address: Each Regional Counsel is the system manager of the systems in his or her Region. The Director of the General Litigation Division is the system manager of the National Office system. The addresses are in the Appendix.

Notification procedure: Most of the records in this system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a(d) (5) and/or (k) (2). An individual who wishes to determine whether the system contains any records pertaining to himself which are not exempt may address inquiries to the Regional Counsel of the Region in which the records are located or the Director of the Disclosure Litigation Division in the case of National Office Records. The addresses are listed in the Appendix. Inquiries must be made in accordance with the instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B.

Record access procedures: Most of the records in this system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a (d) (5) and/or (k) (2). Individuals seeking access to any record which is not exempt or seeking to contest its content, may inquire in accordance with instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Regional Counsel of the Region in which the records are located or the Director of the Disclosure Litigation Division in the case of National Office Records. The addresses are listed in the Appendix. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: Taxpayers and their representatives, Department of Treasury personnel, Other Federal agencies, State, local, and foreign governments, Witnesses, Informants, Parties to disputed matters of fact or law, Other persons who communicate with the Internal Revenue Service.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of this Privacy Act.

Treasury/IRS 90.006

System name: Chief Counsel Interpretative Division Case Files—Treasury/IRS.

System location: Interpretative Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, N.W., Washington, D.C. 20224; Employee Plans and Exempt Organizations Division, same address.

Categories of individuals covered by the system: Taxpayers concerning whom legal issues have been referred to the Interpretative Division or the Employee Plans and Exempt Organizations Division for opinion.

Categories of records in the system: (1) Legal Case and Administrative Files and Advisory Legal Opinions, (2) General Counsel Memorandums, (3) Office Memorandums, (4) Internal Control Records.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) To the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (3) To the Social Security Administration to consult about a matter involving legal issues concerning the imposition of Social Security taxes. (4) To the Department of Labor or the Pension Benefit Guaranty Corporation concerning the Employee Retirement Income Security Act. (5) To members of Congress for the purpose of answering Congressional inquiries in cases in which confidentiality has been waived by the individual. (6) Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 C.F.R. 404.6103 where applicable). (7) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Records are retrievable by the name of the person to whom they apply.

Safeguards: Access is limited to employees who have a need for such records in the course of their work. Background checks are

made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

Retention and disposal: General Counsel Memorandums, Office Memorandums, and Internal Control Records are retained indefinitely and disposed of when no longer useful. Legal files are transferred to the National Archives 25 years after the case is closed.

System manager(s) and address: Director, Interpretative Division, Internal Revenue Service, Office of the Chief Counsel, 1111 Constitution Avenue, N.W., Washington, D.C. 20224; Director, Employee Plans and Exempt Organizations Division, same address.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: Taxpayers and their representatives, Department of Treasury personnel, Other Federal agencies, State, local, and foreign governments, Other persons who communicate with the Internal Revenue Service.

Treasury/IRS 90.007

System name: Chief Counsel Legislation and Regulations Division Correspondence and Private Bill Files—Treasury/IRS.

System location: Legislation and Regulations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, Washington, D.C. 20224; Employee Plans and Exempt Organizations Division, same address.

Categories of individuals covered by the system: (1) Persons who have corresponded to the Service, the Department of the Treasury, the White House or Members of Congress regarding a matter in which the Legislation and Regulations Division or the Employee Plans and Exempt Organizations Division was asked to draft a reply. (2) Persons on whose behalf private relief bills were introduced in Congress involving tax related matters.

Categories of records in the system: (1) Correspondence Files, (2) Private Relief Bill Legal Files.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) To the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (3) To the agency or individual who directed correspondence to the Legislation and Regulations Division for the Division to draft a response. (4) To members of Congress for the purpose of answering Congressional inquiries in cases in which confidentiality has been waived by the individual. (5) Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 C.F.R. 404.6103 where applicable). (6) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Correspondence files are retrievable by the name of the individual who initiated the correspondence. Private Relief Bill files are retrievable by the H.R. or S. number for each Congress.

Safeguards: Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the compnay of authorized personnel.

Retention and disposal: Correspondence files are generally disposed of after 3 years. Private Relief Bill files are retained indefinitely and disposed of when no longer useful.

System manager(s) and address: Director, Legislation and Regulations Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, Washington, D.C. 20224; Director, Employee Plans and Exempt Organization Division, same address.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix; IRS Appendix A.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix.

Contesting record procedures: See Access above.

Record source categories: Persons who initiate correspondence referred to the Legislation and Regulations Division, Congressional documents, taxpayers and their representatives, Department of Treasury personnel, other Federal agencies, state, local, and foreign governments, witnesses, informants.

Treasury/IRS 90.009.

System name: Chief Counsel Tax Litigation Case Files. Each Regional Counsel Office, each District Counsel Office, and the National Office maintain one of these systems. The information in this notice applies to all 46 systems—Treasury/IRS.

System location: The addresses of the National Office, each Regional Counsel Office, and each District Counsel Office are listed in the Appendix, see IRS Appendix A.

Categories of individuals covered by the system: (1) Taxpayers who have filed petitions with the Tax Court or suits for refunds of Federal taxes. (2) Taxpayers upon whom the issuance of a statutory notice is or was contemplated whose case has been referred to the Tax Litigation function. (3) Taxpayers who are the subject of formal or informal advisory opinions during the investigative stage of the case or while under administrative processing. (4) Persons who have corresponded regarding a matter under consideration within the Tax Litigation function.

Categories of records in the system: (1) Legal Case and Administrative Case Files. (2) Internal Control Records. (3) Correspondence Files.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) To the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (3) To appropriate persons when the Service is engaged in litigation or in preparation of possible litigation such as potential witnesses for the purpose of securing their testimony, courts for the purpose of proceeding with litigation, non-adversary or adversary parties and their attorneys for the purpose of proceeding with litigation or settlement of disputes, individuals seeking information by using established discovery procedures, to federal, foreign and state government agencies to the extent necessary to obtain records in their possession. (4) To members of Congress for the purpose of answering Congressional inquiries in cases in which confidentiality has been waived by the individual. (5) Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 C.F.R. 404.6103 where applicable). (6) For additional Routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

personnel for research purposes. For additional routine uses see Appendix AA.

which confidentiality has been waived by the individual. (4) To the Civil Service Commission for appropriate personnel actions. (5) A record from this system of records may be disclosed to a federal,

Safeguards: Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Records are retrievable by the name of the person to whom they apply.

Safeguards: Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

Retention and disposal: Except for files retained for their research value, Regional and District Counsel legal files are generally retired to the Federal Records Center two years after they are closed and disposed of 10 years after being closed. National Office legal files are retired to the Federal Records Center 5 years after the case is closed. National Office non-precedent cases are transferred to the National Archives 20 years after the case is closed. Other records are retained indefinitely and disposed of when no longer useful. Files transferred from other divisions are returned to the source when no longer needed.

System manager(s) and address: Each Regional Counsel is the system manager of the systems in his or her Region. The Director of the Tax Litigation Division is the system manager of the National Office system. The addresses are in the Appendix, See IRS Appendix A.

Notification procedure: Most of the records in this system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a(d) (5) and/or (k) (2). An individual who wishes to determine whether the system contains any records pertaining to himself which are not exempt may address inquiries to the Regional Counsel of the Region in which the records are located or the Director of the Disclosure Litigation Division in the case of National Office Records. The addresses are listed in the Appendix. Inquiries must be made in accordance with the instructions appearing at 31 C.F.R Part 1, Subpart C, Appendix B.

Record access procedures: Most of the records in this system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d) (5) and/or (k) (2). Individuals seeking access to any record which is not exempt or seeking to contest its content, may inquire in accordance with instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Regional Counsel of the Region in which the records are located or the Director of the Disclosure Litigation Division in the case of National Office Records. The addresses are listed in the Appendix. Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: Taxpayers and their representatives, Department of Treasury personnel, Other Federal Agencies, State, local, and foreign governments, Witnesses, Informants, Parties to disputed matters of fact or law, Other persons who communicate with the Internal Revenue Service.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.010

System name: Digest Room Files Containing Briefs and Digests of Documents Generated Internally or by the Department of Justice Relating to the Administration of the Revenue Laws-Treasury/IRS.

System location: Administrative Services Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Categories of individuals covered by the system: Taxpayers who have sought Internal Revenue Service rulings and those whose cases are being or have been adjudicated.

Categories of records in the system: (1) Internal Control Records; (2) Briefs; (3) Legal Opinions.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To Justice Department personnel for research purposes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Records are retrievable by the name of the person to whom they apply.

Safeguards: Records are kept in a secured area. Access is limited to authorized personnel. Users of the system must show identification and sign a register each time the room is used. Background checks are made on employees.

Retention and disposal: Records are retained indefinitely and disposed of when no longer useful.

System manager(s) and address: Director, Administrative Services Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, Washington, D.C. 20224.

Notification procedure: Most of the records in this system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a (d) (5) and/or (k) (2).

An individual who wishes to determine whether the system contains any records pertaining to himself which are not exempt may address inquiries to the Director of the Disclosure Litigation Division. The address is listed in the Appendix. Inquiries must be made in accordance with the instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B. (See IRS Appendix A.)

Record access procedures: Most of the records in this system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a (d) (5) and/or (k) (2).

Individuals seeking access to any record which is not exempt or seeking to contest its content, may inquire in accordance with instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix.

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: Department of Treasury personnel; Department of Justice personnel; taxpayers and their representatives; other Federal agencies; witnesses; informants; state, local, and foreign governments; parties to disputed matters of fact and law; other persons who communicate with the Internal Revenue Service.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.011

System name: Employee Recruiting Files Maintained by the Administrative Services Division—Treasury/IRS.

System location: Administrative Services Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Categories of individuals covered by the system: Persons who have applied for attorney positions with the Chief Counsel's Office, both National Office and field and persons who have applied for non-attorney positions in the National Office only.

Categories of records in the system: Applicant Files and lists of eligible applicants, Internal Control Records.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) To the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (3) To members of Congress for the purpose of answering Congressional inquiries in cases in

which confidentiality has been waived by the individual. (4) To the Civil Service Commission for appropriate personnel actions. (5) A record from this system of records may be disclosed to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. (6) A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. (7) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Records are retrievable by the name of the person to whom they apply.

Safeguards: Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

Retention and disposal: The applicant files and other records are destroyed when no longer useful.

System manager(s) and address: Director, Administrative Services Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix, see IRS Appendix A.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the appendix. Information leading to the identity of a confidential sourse is exempt pursuant to 5 U.S.C. 552a(k)(5).

Contesting record procedures: See Access above.

Record source categories: Applicants, Department of Treasury Personnel, Civil Service Commission, Other Federal Agencies, State, local, and foreign governments, References, Former employers.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.012

System name: Internal Control Records for Chief Counsel Legal Files—Treasury/IRS.

System location: Administration Services Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Categories of individuals covered by the system: Taxpayers who file petitions, suits for refund, request for revenue rulings and those who have had other matters pending before the Office of Chief Counsel.

Categories of records in the system: (1) Docket Cards. (2) Closed Card Records. (3) Drop Cards and Charge-Out Records. (4) Federal Record Center File Binder Index.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To the Department of Justice to inform them of the location of a legal case file. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Records are retrievable by the name of the person to whom they apply.

Safeguards: Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

Retention and disposal: Records are retained indefinitely and disposed of when no longer useful.

System manager(s) and address: Director, Administrative Services Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Notification procedure: An individual who wishes to determine whether the system contains any records pertaining to himself may address inquiries to the Director of the Disclosure Litigation Division. The address is listed in the Appendix. Inquiries must be made in accordance with the instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B.

Record access procedures: Individuals seeking access to any record or seeking to contest its content, may inquire in accordance with instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix.

Contesting record procedures: See Access above.

Record source categories: Department of Treasury Personnel, Taxpayers and other individuals who initiate documents submitted to the Service.

Treasury/IRS 90.013

System name: Legal case files of the Chief Counsel, Deputy Chief Counsels (General, Litigation and Technical) and their Staffs. Treasury/IRS.

System location: Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Categories of individuals covered by the system: Persons whose cases at one time involved important issues or unusual circumstances which were brought to the attention of the above persons.

Categories of records in the system: Legal case files which include internal control records of such case files of both the persons currently holding the above positions and those who previously held such positions.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) To the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (3) To appropriate persons when the Service is engaged in litigation or in preparation of possible litigation such as potential witnesses for the purpose of securing their testimony, courts for the purpose of proceeding with litigation, non-adversary or adversary parties and their attorneys for the purpose of proceeding with litigation or settlement of disputes, to individuals seeking information by using established discovery procedures, to federal, foreign, and state government agencies to the extent necessary to obtain records in their possession. (4) To members of Congress for the purpose of answering Congressional inquiries in cases in which confidentiality has been waived by the individual. (5) Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 C.F.R. 404.6103 where applicable). (6) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Records pertaining to individuals are retrievable by the name of the person to whom they apply.

Safeguards: Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

Retention and disposal: Records are kept indefinitely and disposed of when no longer useful.

System manager(s) and address: Chief Counsel, Internal Revenue

violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (3) To members of Congress for the purpose of answering Congressional inquiries in

Information Act, 5 U.S.C. 552. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and

Decisions are stored on magnetic tape. Actions on Decisions, Case Abstracts, Technical Advice and Advisory Memoranda are stored on microfilm. Input documents are on paper.

Retention and disposal: Records are kept indefinitely and disposed of when no longer useful.

System manager(s) and address: Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Notification procedure: Most of the records in this system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a(d) (5) and/or (k) (2).

An individual who wishes to determine whether the system contains any records pertaining to himself which are not exempt may address inquiries to the Director of the Disclosure Litigation Division. The address is listed in the Appendix. Inquiries must be made in accordance with the instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B.

Record access procedures: Most of the records in this system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d) (5) and/or (k) (2).

Individuals seeking access to any record which is not exempt or seeking to contest its content, may inquire in accordance with instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix.

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: Taxpayers and their representatives, Department of Treasury personnel, Other Federal agencies, State, local, and foreign governments, Other persons who communicate with the Internal Revenue Service.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.014

System name: Management Files Maintained by Administrative Services Division and the Deputy Chief Counsel (General)other than the Civil Service Commission's Official Personnel Files—Treasury/IRS.

System location: Administrative Services Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, N.W., Washington, D.C. 20224. The location of the Chief Counsel Selection Board Files is: Deputy Chief Counsel (General), Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Categories of individuals covered by the system: Current and former employees of Chief Counsel's Office, both National Office and field.

Categories of records in the system: Contains some materials which are duplicated materials contained in the Official Personnel File, or is payroll data duplicated in the master payroll records and include material such as: transfer and reassignment requests, correspondence, evaluations, personnel listings, retirement eligibility, home and office address and telephone numbers, information regarding employees' participation in training programs, resumes, information on participation in Health Maintenance Program, employees' suggestions, awards, lists of material typed by the Transcription Center according to the name of the attorney for whom it was typed, loans from Chief Counsel's Assistance Fund, records of keys and identification cards issued to employees, lists of individuals given special duties such as being a floor marshal, information on loss suffered by employees who are theft victims, list of long distance calls not made on FTS, list of bus tokens issued, list of parking permits, records of requests for use of GSA vehicles, case assignments, and financial information on employees.

Authority for maintenance of the system: 5 U.S.C. 301, 26 U.S.C. 7801, Executive Order 11222, and Executive Order 11590.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) To the Department of Justice for the purpose of litigating an action or seeking legal advice. (2) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (3) To members of Congress for the purpose of answering Congressional inquiries in cases in which confidentiality has been waived by the individual. (4) To the Civil Service Commission for appropriate personnel actions. (5) A record from this system of records may be disclosed to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. (6) A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. (7) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Records are retrievable by the name of the person to whom they apply.

Safeguards: Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

Retention and disposal: Records are retained indefinitely and disposed of when no longer useful.

System manager(s) and address: Director, Administrative Services Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, N.W., Washington, D.C. 20224. The system manager of the Chief Counsel Selection Board Files is: Deputy Chief Counsel (General), Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix. Information leading to the identity of a confidential source is exempt pursuant to 5 U.S.C. 552a (k) (5).

Contesting record procedures: See Access above.

Record source categories: Employees, Department of Treasury Personnel, Civil Service Commission, Other Federal agencies, State, local, and foreign governments, References, Former employers.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 90.015

System name: Reference Records of the Library in the Office of Chief Counsel—Treasury/IRS.

System location: Administrative Services Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Categories of individuals covered by the system: (1) Authors of books and materials in library. (2) Taxpayers who have sought Congressional tax relief by means of a Private Bill. (3) Taxpayers involved in tax litigation.

Categories of records in the system: (1) Library Card Catalog. (2) Numerical and alphabetical listing of Private Relief Bill and files related to the Bill. (3) Reference cards for tax cases.

Authority for maintenance of the system: 5 U.S.C. 301 and 26 U.S.C. 7801.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: All information about individuals is available to the public pursuant to the Freedom of

Information Act, 5 U.S.C. 552. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Records are retrievable by the name of the individual to whom they pertain and Private Bill material can also be retrieved by H.R. or S. number.

Safeguards: Although access is limited to authorized individuals, this material would be available to any person through a Freedom of Information Act request.

Retention and disposal: Records are regularly updated. If the library materials to which the references pertain are no longer in the library collection, the reference cards are destroyed.

System manager(s) and address: Director, Administrative Services Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, Washington, D.C. 20224.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 C.F.R. Part 1, Subpart C. Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division. The address is listed in the Appendix.

Contesting record procedures: See Access above.

Record source categories: Material to which reference information pertains.

Treasury/IRS 90.016

System name: Reports and Information Retrieval Activity Computer and Microfilm Records—Treasury/IRS.

System location: Computer Records: Internal Revenue Service Data Center, 1300 John Lodge Freeway, Detroit, Michigan 48226. Microfilm Records: Administrative Services Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, N.W., Washington, D.C., 20224.

Categories of individuals covered by the system: (1) Taxpayers who initiated suits for refund in district courts or the Court of Claims. (2) Taxpayers who have filed petitions with the United States Tax Court. (3) Taxpayers who have requested rulings from the Service in those cases in which the request has been referred to the Office of Chief Counsel for a legal opinion. (4) Taxpayers who have been involved in litigation concerning the collection of taxes. (5) Taxpayers whose cases were the subject of technical advice, memoranda to the solicitor general and similar advisory memoranda.

Categories of records in the system: (1) Skeletal legal files. (2) Indexes. (3) Actions on Decisions. (4) Case Abstracts. (5) Technical Advice Replies by the Tax Court Litigation Division. (6) Miscellaneous Advisory Memoranda regarding a case usually going to the Solicitor General.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) To the Department of Justice for the purpose of litigating an action, seeking legal advice, or for research purposes. (2) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. (3) Routine disclosure may be made to the extent provided by law or regulation (including 26 U.S.C. 6103 and 26 C.F.R. 404.6103 where applicable). (4) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Skeletal legal files and indexes to the narrative material or microfilm excluding the General Litigation Division's Actions on Decisions are stored on magnetic tape. Actions on Decisions, Case Abstracts, Technical Advice and Advisory Memoranda are stored on microfilm. Input documents are on paper.

Retrievability: Records are retrievable by the name of the person to whom they apply.

Safeguards: Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel.

Retention and disposal: Magnetic tape and microfilm retained indefinitely and disposed of when no longer useful. Input documents are retained for one year.

System manager(s) and address: Director, Administrative Services Division, Internal Revenue Service, Office of Chief Counsel, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Notification procedure: Most of the records in this system may not be accessed for purposes of determining if the records pertain to a particular individual as the records are exempt under 5 U.S.C. 552a(d) (5) and/or (k) (2).

An individual who wishes to determine whether the system contains any records pertaining to himself which are not exempt may address inquiries to the Director of the Disclosure Litigation Division whose address is listed in the Appendix, see Appendix A.

Record access procedures: Most of the records in this system may not be accessed for purposes of inspection or for contest of content of records as the records are exempt under 5 U.S.C. 552a(d) (5) and/or (k) (2).

Individuals seeking access to any record which is not exempt or seeking to contest its content may inquire in accordance with instructions appearing at 31 C.F.R. Part 1, Subpart C, Appendix B. Inquiries should be addressed to the Director of the Disclosure Litigation Division whose address is listed in the Appendix.

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Contesting record procedures: See Access above.

Record source categories: Taxpayers and their representatives, Department of Treasury personnel, Other Federal agencies, State, local, and foreign governments, Witnesses, Informants, Parties to disputed matters of fact or law, Other persons who communicate with the Internal Revenue Service.

Systems exempted from certain provisions of the act: This system has been designated as exempt from certain provisions of the Privacy Act.

Treasury/IRS 00.002

System name: Correspondence Files and Correspondence Control Files (Including inquiries about enforcement activities).

System location: National Office, Regional Offices, District Offices and Service Centers. (See Appendix A).

Categories of individuals covered by the system: (1) Initiators of correspondence. (2) Persons upon whose behalf the correspondence was initiated. (3) Persons who are subject of the correspondence. Includes individuals for whom tax liabilities exist, individuals who have made a complaint or inquiry relative to an Internal Revenue tax matter, or individuals for whom a third party is interceding relative to an Internal Revenue tax matter.

Categories of records in the system: (1) Correspondence received. (2) Responses to correspondence. (3) Associated records. This system may include tax return information and investigation records as necessary to process correspondence received. Correspondence may include letters, telegrams, memoranda of telephone calls and other forms of communication.

Authority for maintenance of the system: 5 USC 301; 26 USC 7602; 26 USC 7801, 7802.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information contained in this system of records may be disclosed to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made to the extent provided by law or regulation (including 26 USC 6103 and 26 CFR 404.6103 where applicable) and as necessary to report apparent violations of law to appropriate law enforcement agencies. Disclosure may be made during judicial processes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Regional Inspector, Internal Revenue Service, 550 Main Street, Cincinnati, Ohio 45202.

District Director, Internal Revenue Service, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203.

Regional Commissioner, Internal Revenue Service, 525 Market Street, San Francisco, California 94105.

Regional Inspector, Internal Revenue Service, 160 Pine Street,

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: Controlled items are generally retrievable by name; some items are not retrievable, depending upon the controls established locally. No centralized index exists.

Safeguards: Access controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

Retention and disposal: Disposition varies in accordance with the nature of the correspondence file, but is made in accordance with the Records Disposition Handbook, IRM 1(15)59.

System manager(s) and address: Assistant Commissioners, Regional Commissioners, District Directors and Service Center Directors of Internal Revenue.

Notification procedure: Individuals seeking to determine if the system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be searched, or such other official to whom the initial correspondence may have been referred. This system may contain some records which are exempt from the notification provisions of the Privacy Act, Requesters will not be advised of the existence of records exempt from the notification provisions.

Record access procedures: Individuals seeking access to any record contained in the system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the District Director for each District whose records are to be accessed or contested, or such other official to whom the initial correspondence may have been referred.

This system may contain some records which are exempt from the Access and Contest provisions of the Privacy Act.

Taxpayers seeking to adjust records which affect the determination of a tax assessment or the balance due, should utilize existing procedures for doing so, as substantive tax matters are not subject to the amendment provisions of the Privacy Act.

Record source categories: Correspondence received. This system of records may contain investigatory material compiled for law enforcement purposes whose sources need not be reported.

Systems exempted from certain provisions of the act: Portions of this system have been designated as exempt from certain provisions of the Privacy Act.

System name: Treasury/IRS

System name: Appendix A

Inquiries under Treasury/IRS systems should be addressed to the office whose records are to be searched. The titles and addresses of the Systems Managers are as follows:

NATIONAL OFFICE INTERNAL REVENUE SERVICE
- Assistant to the Commissioner (Equal Opportunity)
- Assistant to the Commissioner (Public Affairs)
- Assistant Commissioner (Compliance)
- Assistant Commissioner (Data Services)
- Assistant Commissioner (Employee Plans and Exempt Organizations)
- Assistant Commissioner (Inspection)
- Assistant Commissioner (Planning and Research)
- Assistant Commissioner (Resources Management)
- Assistant Commissioner (Taxpayer Services and Returns Processing)
- Assistant Commissioner (Technical)
- Director, Disclosure Operations Division
- Chief Counsel

The address for all of the above Systems Managers is as follows:
1111 Constitution Avenue, N.W.
Washington, D.C. 20224
Director, Office of International Operations
1325 K Street, N.W.
Washington, D.C. 20225

REGIONAL OFFICE INTERNAL REVENUE SERVICE

Central Region:
- Regional Commissioner, Internal Revenue Service, 550 Main Street, Cincinnati, Ohio 45202.
- Regional Inspector, Internal Revenue Service, 550 Main Street, Cincinnati, Ohio 45202.
- District Director, Internal Revenue Service, 550 Main Street, Cincinnati, Ohio 45202.
- District Director, Internal Revenue Service, 1240 East 9th Street, Cleveland, Ohio 44199.
- District Director, Internal Revenue Service, Rm. 2480 Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, Michigan 48226.
- District Director, Internal Revenue Service, Federal Office Building, 575 N. Pennsylvania Street, Indianapolis, Indiana 46204.
- District Director, Internal Revenue Service, U.S. Post Office Building, 601 West Broadway, Louisville, Kentucky 40202.
- District Director, Internal Revenue Service, 425 Juliana Street, Parkersburg, West Virginia 26101.
- Director, Internal Revenue Service Center, Central Region, 201 W. Second St., Covington, Ky 41019.

Mid-Atlantic Region:
- Regional Commissioner, Internal Revenue Service, 2 Penn Center Plaza, Rm. 500 Philadelphia, Pennsylvania 19102.
- Regional Inspector, Internal Revenue Service, W. J. Green Federal Bldg. 600 Arch Street, Rm. 42218 Philadelphia, Pennsylvania 19106.
- District Director, Internal Revenue Service, Federal Building, 31 Hopkins Plaza, Baltimore, Maryland 21201.
- District Director, Internal Revenue Service, 970 Broad Street, Newark, New Jersey 07102.
- District Director, Internal Revenue Service, 600 Arch Street, Philadelphia, Pennsylvania 19106.
- District Director, Internal Revenue Service, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222.
- District Director, Internal Revenue Service, 400 North 8th Street, Richmond, Virginia 23240.
- District Director, Internal Revenue Service, 844 King Street, Wilmington, Delaware 19801.
- Director, Internal Revenue Service Center, Mid-Atlantic Region, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania 19155.

Midwest Region:
- Regional Commissioner, Internal Revenue Service, One North Wacker Drive, Chicago, Illinois 60606.
- Regional Inspector, Internal Revenue Service, Rm. 1646, 35 East Wacker Drive, Chicago, Illinois 60601.
- District Director, Internal Revenue Service, 115 Fourth Avenue, S.E., Aberdeen, South Dakota 57401.
- District Director, Internal Revenue Service, 230 South Dearborn Street, Chicago, Illinois 60604.
- District Director, Internal Revenue Service, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309.
- District Director, Internal Revenue Service, Federal Building & Post Office, 653 Second Avenue, North, Fargo, North Dakota 58102.
- District Director, Internal Revenue Service, 517 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.
- District Director, Internal Revenue Service Federal Office Building, 106 15th Street, Omaha, Nebraska 68102.
- District Director, Internal Revenue Service, U.S. Court and Custom House, 1114 Market Street, St. Louis, Missouri 63101.
- District Director, Internal Revenue Service, Federal Building and Court House, 316 North Robert Street, St. Paul, Minnesota 55101.
- District Director, Internal Revenue Service, 325 West Adams, St. Springfield, Illinois 62704.
- Director, Internal Revenue Service Center, Midwest Region, 2306 East Bannister Road, Kansas City, Missouri 64170.

North-Atlantic Region:
- Regional Commissioner, Internal Revenue Service, 90 Church Street, New York, New York 10007.
- Regional Inspector, Internal Revenue Service, 26 Federal Plaza (14th Floor), New York, New York 10007.
- District Director, Internal Revenue Service, 40 Western Avenue, Augusta, Maine 04330.

- District Director, Internal Revenue Service, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203.
- District Director, Internal Revenue Service, Leo W. O'Brien Federal Building, Clinton Avenue and North Pearl Street, Albany, New York 12207.
- District Director, Internal Revenue Service, P.O. Box 3000 Church Street Station, New York, New York 10008.
- District Director, Internal Revenue Service, 35 Tillary Street, Brooklyn, New York 11201.
- District Director, Internal Revenue Service, 111 W. Huron Street, Buffalo, New York 14202.
- District Director, Internal Revenue Service, 11 Elmwood Avenue, Burlington, Vermont 05401.
- District Director, Internal Revenue Service, 450 Main Street, Hartford, Connecticut 06115.
- District Director, Internal Revenue Service, Federal Building, 80 Daniels Street, Portsmouth, New Hampshire 03801.
- District Director, Internal Revenue Service, 130 Broadway, Providence, Rhode Island 02903.
- Director, Internal Revenue Service Center, North-Atlantic Region, 310 Lowell Street, Andover, Massachusetts 01812.
- Director, Internal Revenue Service Center, North-Atlantic Region, 1040 Waverly Avenue, Holtsville, New York 11799.

Southeast Region:
- Regional Commissioner, Internal Revenue Service, 275 Peachtree Street, N.E., Atlanta, Georgia 30303.
- Regional Inspector, Internal Revenue Service, 4th Floor, 221 Courtland Street, N.E., Atlanta, Georgia 30303.
- District Director, Internal Revenue Service, 275 Peachtree Street, N.E., Atlanta, Georgia 30303.
- District Director, Internal Revenue Service, 2121—8th Avenue, North, Rm. 1232, Birmingham, Alabama 35203.
- District Director, Internal Revenue Service, 901 Sumter Street, Columbia, South Carolina 29201.
- District Director, Internal Revenue Service, 320 Federal Place, Greensboro, North Carolina 27401.
- District Director, Internal Revenue Service, 301 North Lamar Street, Jackson, Mississippi 39202.
- District Director, Internal Revenue Service, P.O. Box 35045, Jacksonville, Florida 32202.
- District Director, Internal Revenue Service, 801 Broadway, Nashville, Tennessee 37202.
- Director, Internal Revenue Service Center, Southeast Region, 4800 Buford Highway, Chamblee, Georgia 30006.
- Director, Internal Revenue Service Center, Southeast Region, 3131 Democrat Road, Memphis, Tennessee 38110.

Southwest Region:
- Regional Commissioner, Internal Revenue Service, 7839 Churchill Way, Dallas, Texas 75251.
- Regional Inspector, Internal Revenue Service, 7839 Churchill Way, Dallas, Texas 75251.
- District Director, Internal Revenue Service, 517 Gold Avenue, S.W., Albuquerque, New Mexico 87101.
- District Director, Internal Revenue Service, 300 E. 8th Street, Austin, Texas 78701.
- District Director, Internal Revenue Service, 308 W. 21st Street, Cheyenne, Wyoming 82001.
- District Director, Internal Revenue Service, 1100 Commerce Street, Dallas, Texas 75202.
- District Director, Internal Revenue Service, 610 Arapahoe Street, Denver, Colorado 80265.
- District Director, Internal Revenue Service, 700 W. Capitol, Little Rock, Arkansas 72201.
- District Director, Internal Revenue Service, 500 Camp Street, New Orleans, Louisiana 70130.
- District Director, Internal Revenue Service, 200 N.W. 4th Street, Oklahoma City, Oklahoma 73102.
- District Director, Internal Revenue Service, 412 S. Main Street, Wichita, Kansas 67202.
- Director, Internal Revenue Service Center, Southwest Region, 3651 S. Interregional Highway, Austin, Texas 78740.

Western Region:
- Regional Commissioner, Internal Revenue Service, 525 Market Street, San Francisco, California 94105.
- Regional Inspector, Internal Revenue Service, 160 Pine Street, Suite 500, San Francisco, California 94111.
- District Director, Internal Revenue Service, 310 K Street, Anchorage, Alaska 99501.
- District Director, Internal Revenue Service, P.O. Box 041, 550 West Fort Street, Box 041, Boise, Idaho 83724.
- District Director, Internal Revenue Service, Federal Building, 316 North Park, Helena, Montana 59601.
- District Director, Internal Revenue Service, P.J.K.K. Federal Bldg., 300 Alamoana, Honolulu, Hawaii 96850.
- District Director, Internal Revenue Service, 300 N. Los Angeles Street, Los Angeles, California 90012.
- District Director, Internal Revenue Service, 230 N. 1st Avenue, Phoenix, Arizona 85025.
- District Director, Internal Revenue Service, 1220 S.W. 3rd Ave., Portland, Oregon 97204.
- District Director, Internal Revenue Service, 300 Booth Street, Reno, Nevada 89509.
- District Director, Internal Revenue Service, 465 S. 4th East, Salt Lake City, Utah 84111.
- District Director, Internal Revenue Service, 450 Golden Gate Avenue, San Francisco, Box 36020, California 94102.
- District Director, Internal Revenue Service, 915 Second Street, Seattle, Washington 98174.
- Director, Internal Revenue Service Center, Western Region, 1160 W. 1200 South Street, Ogden, Utah 84201.
- Director, Internal Revenue Service Center, Western Region, 5045 East Butler Avenue, Fresno, California 93888.

ADDRESSES OF CHIEF COUNSEL, REGIONAL COUNSEL AND DISTRICT COUNSEL OFFICES

National Office
- Administrative Services Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.
- Criminal Tax Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.
- Disclosure Litigation Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.
- General Legal Services Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.
- General Litigation Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.
- Interpretative Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.
- Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.
- Employee Plans and Exempt Organizations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.
- Tax Litigation Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.
- Chief Counsel, and Deputy Chief Counsels, Litigation, Technical, and General, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Regional Counsel Offices

North-Atlantic Region

Regional Counsel Office
- Regional Counsel's Office, IRS, North-Atlantic Region, 26 Federal Plaza, 12th Floor, New York, New York 10007.

District Counsel Offices
- District Counsel's Office, IRS, 26 Federal Plaza, 12th Floor, New York, New York 10007
- District Counsel's Office, IRS, Federal Building, Clinton & Pearl Streets, Albany, New York 11207

- District Counsel's Office, IRS, 100 Summer Street, Room 1728, Boston, Massachusetts 02110
- District Counsel's Office, IRS, Sixth Floor, Continental Plaza, 735 West Wisconsin Avenue, Milwaukee, Wisconsin 53233

tors, and vendors, etc., who are presently doing or previously did business with the Secret Service; (c) Claimants against the Service other internal security devices in locked rooms with guards on duty on an around the clock basis. Access is available only to employees responsible for records management and operational employees who

District Counsel's Office, IRS, 100 Summer Street, Room 1728, Boston, Massachusetts 02110

District Counsel's Office, IRS, Brooklyn Office, 26 Federal Plaza, 13th Floor, New York, New York 10007

District Counsel's Office, IRS, 304 U.S. Court House, Niagara Square, Buffalo, New York 14202

District Counsel's Office, IRS, 4th Floor, Federal Building, 450 Main Street, Hartford, Connecticut

District Counsel's Office, IRS, Manhattan Office, 26 Federal Plaza, 13th Floor, New York, New York 10007

Mid-Atlantic Region
Regional Counsel Office
Regional Counsel's Office, IRS, Mid-Atlantic Region, Room 464, 2 Penn Center Plaza, Philadelphia, Pennsylvania 19102.
District Counsel Offices
District Counsel's Office, IRS, Room 464, 2 Penn Center Plaza, Philadelphia, Pennsylvania 19102

District Counsel's Office, IRS, Room 4100, 101 W. Lombard Street, Baltimore, Maryland 21201

District Counsel's Office, IRS, P.O. Box 480, Newark, New Jersey 07101

District Counsel's Office, IRS, Office of International Operations, Room 4228, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224

District Counsel's Office, IRS, P.O. Box 1407, Pittsburgh, Pennsylvania 15230

District Counsel's Office, IRS, P.O. Box 10065, Richmond, Virginia 23240

District Counsel's Office, IRS, Room 422, Universal Building, North, 1875 Connecticut Avenue, N.W., Washington, D.C. 20009

Southeast Region
Regional Counsel Office
Regional Counsel's Office, IRS, Southeast Region, P.O. Box 1074, Atlanta, Georgia 30301
District Counsel Offices
District Counsel's Office, IRS, P.O. Box 1074, Atlanta, Georgia 30301

District Counsel's Office, IRS, Room 1624, 2121-8th Avenue, North, Birmingham, Alabama 35203

District Counsel's Office, IRS, P.O. Box 21002, Greensboro, North Carolina 27420

District Counsel's Office, IRS, Box 35027, Federal Building, 400 West Bay Street, Jacksonville, Florida 32202District Counsel's Office, IRS, Room 1502, Federal Building, 51 SW First Avenue, Miami, Florida 33130

District Counsel's Office, IRS, P.O. Box 23264, Nashville, Tennessee 37202

Central Region
Regional Counsel Office
Regional Counsel's Office, IRS, P.O. Box 2059, Cincinnati, Ohio 45201
District Counsel Offices
District Counsel's Office, IRS, P.O. Box 2059, Cincinnati, Ohio 45201

District Counsel's Office, IRS, 1620 Williamson Building, 215 Euclid Avenue, Cleveland, Ohio 44114

District Counsel's Office, IRS, P.O. Box 32516, Detroit, Michigan 48232

District Counsel's Office, IRS, P.O. Box 44010, Indianapolis, Indiana 46244

District Counsel's Office, IRS, P.O. Box 898, Louisville, Kentucky 40201

Midwest Region
Regional Counsel Office
Regional Counsel's Office, IRS, 22d Floor South, Everett McKinley Dirksen Building, 219 South Dearborn St., Chicago, Illinois 60604.
District Counsel Offices
District Counsel's Office, IRS, 22d Floor South, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604

District Counsel's Office, IRS, Room 441, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309

District Counsel's Office, IRS, 2700 Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106

District Counsel's Office, IRS, Sixth Floor, Continental Plaza, 735 West Wisconsin Avenue, Milwaukee, Wisconsin 53233

District Counsel's Office, IRS, P.O. Box 1500, Downtown Section, Omaha, Nebraska 68101

District Counsel's Office, IRS, Room 329, 325 W. Adams Street, Springfield, Illinois 62704

District Counsel's Office, IRS, 935 U.S. Court & Custom House, 1114 Market Street, St. Louis, Missouri 63101

District Counsel's Office, IRS, Room 572, Federal Building & U.S. Court House, 316 No. Robert St., St. Paul, Minnesota 55101

Southwest Region
Regional Counsel Office
Regional Counsel's Office, IRS, Southwest Region, 1100 Commerce Street, Dallas, Texas 75242.

Federal Building, 1100 Commerce Street, Dallas, Texas 75242

District Counsel Offices
District Counsel's Office, IRS, Room 12D27, Federal Building, 1100 Commerce Street, Dallas, Texas 75242

District Counsel's Office, IRS, 20th Floor, 1050-17th Street, Denver, Colorado 80265

District Counsel's Office, IRS, Room 8102, 515 Rusk Avenue, Houston, Texas 77002

District Counsel's Office IRS, P.O. Box 30309, New Orleans, Louisiana 70190

District Counsel's Office, IRS, P.O. Box 1903, Oklahoma City, Oklahoma 73101

Western Region
Regional Counsel Office
Regional Counsel's Office, IRS, Western Region, Two Embarcadero Center, Suite 900, San Francisco, California 94111.
District Counsel Offices
District Counsel's Office, IRS, P.O. Box 2031, Main Post Office, Los Angeles, CA 90053

District Counsel's Office, IRS, 101 N. First Avenue, Suite 1474, Phoenix, AZ 85003

District Counsel's Office, IRS, 810 Crown Plaza, 1500 S.W. First Avenue, Portland, Oregon 97201

District Counsel's Office, IRS, 300 Booth Street, Room 1008, Reno, Nevada 89509

District Counsel's Office, IRS, 880 Front Street, Room 5S18, San Diego, California 92188

District Counsel's Office, IRS, Room 2710, Federal Building, 915 Second Avenue, Seattle, Washington 98174

District Counsel's Office, IRS, P.O. Box 2520, Salt Lake City, Utah 84110

Treasury/USSS 00.001

System name: Administrative Operations Information System—Treasury/USSS

System location: U.S. Secret Service (Headquarters), 1800 G Street N.W., Washington, D.C. 20223. Components of the Administrative Operations Information System are geographically dispersed throughout Secret Service field offices. (See below, United States Secret Service, Appendix A, listing the addresses of Secret Service offices). U.S. Secret Service Uniformed Division, 1310 LStreet, N.W., Washington, D.C. 20500. Treasury Security Force, Main Treasury Building, Washington, D.C. 20220. Presidential Protective Division, U.S. Secret Service, Room 1 EOB 17th & Pennsylvania Avenue, N.W., Washington, D.C. 20500. Vice Presidential Protective Division, U.S. Secret Service, Executive Office Building Room 295, Washington, D.C. 20500. Dignitary Protective Division U.S. Secret Service, 1310 L Street, N.W., Washington, D.C. 20005. Protective Vehicle Division, U.S. Secret Service, 1310 L Street, N.W., Washington, D.C. 20005. Eisenhower Protective Division, U.S. Secret Service, Gettysburg, Pennsylvania 17325. Johnson Protective Division, U.S. Secret Service, Stonewall, Texas 78671. Ford Protective Division, U.S. Sec. Ser., P.O. Box 955, Rancho Mirage, Calif. 92270. Truman Protective Division, U.S. Secret Service, 224 North Delaware, Independence, Missouri 64051. Nixon Protective Division, U.S. Secret Service, U.S. Coast Guard Station, San Clemente, California 92672. Technical Security Division, Executive Office Building, Washington, D.C. 20500. Plains Security Detail, U.S. Secret Service, P.O. Box 308, Plains, GA. 31780.

Categories of individuals covered by the system: (a) Individuals who are now or were Secret Service employees; (b) Individuals, contractors, and vendors, etc., who are presently doing or previously did business with the Secret Service; (c) Claimants against the Service under the Federal Tort Claims Act and the Military Personnel and Federal Employees Claims Act.

Categories of records in the system: (a) Records containing information on issuance of Secret Service equipment and accountable government property; (b) Records containing procurement negotiations, contracts, agreements, etc., with the Secret Service; (c) Records containing information on past, present and future administrative inquiries, with individuals, contractors, vendors, etc., who have or plan to enter into contractual agreements with the Secret Service; (d) Records on vehicle accidents, injuries, fatalities; (e) Records on motor vehicle operators in the Secret Service; (f) Statement of employment and financial interests of certain Secret Service employees required under Treasury Department standards of conduct.

Authority for maintenance of the system: The authority of the Administrative Operations Information System is contained in various Executive Orders, Treasury Orders and delegations; Title 40 and 41 of the U.S. Code and other rules and regulations where applicable; 5 U.S.C. 301; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in the Administrative Operations Information System of the U.S. Secret Service are as follows: (a) Disclosure to those officers and employees of the Secret Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) To maintain administrative control of equipment assigned to Secret Service employees; (d) Referral of information to U.S. Treasury, GAO, OMB, GSA, Department of Justice and other Federal, state, and local governments regarding purchases, contracts, and anticipated purchases and contracts of the Secret Service; (e) To provide administrative services for the Secret Service and maintain administrative records as required by law; (f) To use in the adjudication of any claim for or against the Secret Service; (g) Referral to individuals, contractors, vendors, etc., for the purpose of inquiries relating to or confirmation of orders and purchases; (h) Records maintained in the Administrative Operations Information System indicating a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be referred to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (i) Disclosures in the course of presenting evidence to a court, magistrate or administrative tribunal and disclosures to opposing counsel in the course of discovery proceedings for the purpose of enforcing, or prosecuting, a violation or potential violation of law, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto; (j) Disclosures to Federal, state or local agencies maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit; (k) Disclosures to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. (l) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records comprising the Administrative Operations Information System are contained in file folders located in Headquarters, 1800 G Street, N.W., Washington, D.C. 20223, and in Secret Service field offices (see United States Secret Service Appendix A).

Retrievability: The Administrative Operations Information System is indexed alphabetically by name either in a master index file system or on microfilm. Access to the physical files containing records is by class code number obtained from the alphabetized name indices.

Safeguards: (1) The file jackets and indices containing the records comprising the Administrative Operations Information System located at the U.S. Secret Service Headquarters are secured by alarms and other internal security devices in locked rooms with guards on duty on an around the clock basis. Access is available only to employees responsible for records management and operational employees who have a need for such information, each of whom holds a top secret security clearance; (2) The file jackets and the master file indices comprising the Administrative Operations Information System in Secret Service field offices are located in locked filing cabinets and in locked rooms when Secret Service employees are not on duty. Access to the system is limited to employees of the Secret Service holding top secret security clearances.

Retention and disposal: The file jackets and master indices comprising the Administrative Operations Information System are retained indefinitely. Disposal is by burning or shredding.

System manager(s) and address: Assistant Director, Office of Administration, U. S. Secret Service, 1800 G Street, N.W., Washington, D.C. 20223.

Notification procedure: Any individual who wishes to present a request as to whether this system contains records pertaining to him should address his inquiry to: Freedom of Information & Privacy Acts Officer, U.S. Secret Service, 1800 G Street, N.W., Room 908, Washington, D.C. 20223.

Record access procedures: Any individual wishing to obtain information on the procedures for gaining access to and contesting records should contact: Freedom of Information & Privacy Acts Officer, U.S. Secret Service, 1800 G Street, N.W., Room 908, Washington, D.C. 20223.

Contesting record procedures: See access above.

Record source categories: (a) Individuals who are presently or were Secret Service employees; (b) Individuals, corporations, companies, contractors, etc., previously engaged or presently engaged in business with the Secret Service; (c) Claimants.

Treasury/USSS 00.002

System name: Treasury/USSS Criminal Investigation Information System.

System location: (a) United States Secret Service, 1800 G Street, N.W., Washington, D.C. 20223. (b) Components of the Criminal Investigation Information System are geographically dispersed throughout Secret Service field offices. (See below United States Secret Service Appendix A listing the addresses of Secret Service field offices). (c) Treasury Security Force, Room 1044—Main Treasury Building, Washington, D.C.

Categories of individuals covered by the system: (a) Individuals who have been or are currently the subject of a criminal investigation by the U.S. Secret Service in connection with the performance by that agency of its authorized criminal investigative functions; (b) Individuals who are payees, registered owners or endorsers of stolen or lost obligations and other securities of the United States; (c) Individuals who are witnesses, complainants, informants, suspects, defendants, fugitives, released prisoners, correspondents, organized crime figures, and victims of crimes who have been identified by the Secret Service in the conduct of criminal investigations or by information supplied by other law enforcement agencies, government units, and the general public.

Categories of records in the system: (a) Records containing information complied for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrest, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (b) Records containing information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; (c) Records containing reports identifiable with an individual compiled at various stages of the process of enforcement of criminal laws from arrest or indictment through release from supervision; (d) Records containing investigatory material compiled for law enforcement purposes, including but not limited to, handwriting exemplars; laboratory analyses of inks and papers; handwriting analyses; petitions for the remission of forfeitures; notice of non-receipt of treasury drafts; affidavits of forged endorsements; opinions of the examiner of questioned documents; certificates by owners of U.S. registered securities concerning forged requests for payments or assignments; applications for relief on account of loss, theft, or destruction of U.S. Savings Bonds or checks; photographic reproductions of obligations and other securities of the United States; contraband items; claims against the United States for the proceeds of government checks and bonds; and reports necessary for the settlement of check and bond claims.

Authority for maintenance of the system: The criminal investigative authority of the U.S. Secret Service is contained in 18 U.S.C. 3056

and Treasury Department Orders transferring investigative and security functions to the U.S. Secret Service by virtue of the authority

tained at Headquarters, U.S. Secret Service, 1800 G Street, N.W., Washington, D.C.

souri 64051; (m) Nixon Protective Division, U.S. Secret Service, U.S. Coast Guard Station, San Clemente, California 92672; (n) Technical

necessary to the requesting agency's decision on the matter; (n) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and

and Treasury Department Orders transferring investigative and security functions to the U.S. Secret Service by virtue of the authority vested in the Secretary of the Treasury pursuant to Reorganization Plan Number 26 of 1950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in the Criminal Investigation Information System of the U.S. Secret Service are as follows: (a) Disclosure to those officers and employees of the Secret Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) Referral to Federal, state, and local governments, foreign and domestic, having prosecutive and civil law enforcement functions for use by attorneys, magistrates, and judges; and parole and probation authorities for the purpose of prosecuting, sentencing, and determining the parole and probation status of criminal offenders or suspected criminal offenders; (d) Referral to personnel of other Federal, state and local law enforcement agencies, foreign and domestic, for the purpose of developing information on subjects involved in Secret Service criminal investigations and assisting other law enforcement agencies in the investigation and prosecution of violations of the criminal laws which those agencies are responsible for enforcing; (e) Referral to personnel of Federal, state, and local governmental agencies, where such referral is considered reasonably necessary for the purpose of furthering Secret Service efforts to investigate the activities of and apprehend criminal offenders and suspected criminal offenders; (f) Referral to personnel of Federal, state, and local governmental agencies, foreign and domestic, where there is a showing of reasonable necessity to obtain such information to accomplish a valid law enforcement purpose; (g) Referral to employees and officials of financial and commercial business firms and to private individuals of identifying information pertaining to actual or suspected criminal offenders where such referral is considered reasonably necessary for the purpose of furthering Secret Service efforts to investigate the activities of and apprehend criminal offenders and suspected criminal offenders; (h) Records maintained in the Criminal Investigation Information System indicating a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be referred to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (i) Disclosures in the course of presenting evidence to a court, magistrate or administrative tribunal and disclosures to opposing counsel in the course of discovery proceedings for the purpose of enforcing, or prosecuting, a violation or potential violation of law, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto; (j) Disclosures to Federal, state or local agencies maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit; (k) Disclosures to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (l) Disclosures of information relating to criminal and civil proceedings to the news media in accordance with the guidelines contained in 28 C.F.R. 50.2; (m) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All records comprising the Criminal Investigation Information System of the U.S. Secret Service are contained in file jackets located at Headquarters, U.S. Secret Service, 1800 G Street, N.W., Washington, D.C. and/or in file jackets located in Secret Service field offices geographically dispersed throughout the United States, Puerto Rico and one foreign country. (See below, United States Secret Service Appendix A.)

Components of the Criminal Investigation Information System may be located in the Office of the Treasury Security Force, Main Treasury Building, Washington, D.C. Portions of the indices and information contained in the records are programmed into a computer maintained at Headquarters, U.S. Secret Service, 1800 G Street, N.W., Washington, D.C.

Retrievability: The Criminal Investigation Information System of the U.S. Secret Service is indexed alphabetically by name at Headquarters, in the field master and computerized indices. Access to the physical files containing records is by case number obtained from the alphabetized name indices.

Safeguards: (1) The field jackets and indices containing the records comprising the Criminal Investigation Information System located at the U.S. Secret Service Headquarters are secured by alarms, and other internal security devices, in locked rooms with guards on duty on an around-the-clock basis. Access to the records is available only to employees responsible for records management and operational employees with a need to know, each of whom have top secret security clearances; (2) The file jackets and the master field indices comprising the Criminal Investigation Information System in Secret Service Field Offices and the Treasury Security Force are located in locked filing cabinets and in locked rooms when Secret Service employees are not on duty. Access to the system is limited to employees of the Secret Service and the Treasury Security Force holding top secret security clearances.

Retention and disposal: The retention schedule for records comprising the Criminal Investigation Information System is as follows: (1) All Judicial cases, 20 years; (2) Non-judicial criminal investigative cases (except non-judicial check and bond cases), 10 years; (3) Non-judicial check claim and bond forgery cases, 5 years; (4) Administrative files of an investigative nature, 5 years; (5) All other files and records the disposition of which is not otherwise specified, 5 years; (6) Investigations for other districts, 2 years; (7) Receipts for counterfeits and contraband, 2 years; (8) Investigation Control Forms, Indefinite; (9) Arrest History Forms, Indefinite; (10) Disposal of records contained in the Criminal Investigation Information System is by burning.

System manager(s) and address: Assistant Director, Office of Investigations, U.S. Secret Service, 1800 G Street, N.W., Washington, D.C. 20223.

Notification procedure: In accordance with the provisions of 5 U.S.C. 552a(j) and (k), the Director of the U.S. Secret Service proposes to exempt the Criminal Investigation Information System from compliance with the provisions of 5 U.S.C. 552a(e)(4)(G).

Record access procedures: In accordance with the provisions of 5 U.S.C. 552a(j) and (k), the Director of the U.S. Secret Service proposes to exempt the Criminal Investigation Information System from compliance with the provisions of 5 U.S.C. 552a(e)(4)(H).

Contesting record procedures: See access above.

Record source categories: In accordance with the provisions of 5 U.S.C. 552a(j) and (k) the Director of the U.S. Secret Service proposes to exempt the Criminal Investigation Information System from compliance with the provisions of 5 U.S.C. 552a(e)(4)(I).

Systems exempted from certain provisions of the act: In accordance with the provisions of 5 U.S.C. 552a(j) and (k) the Director of the U.S. Secret Service proposes to exempt the Criminal Investigation Information System from compliance with certain provisions of 5 U.S.C. 552a elsewhere in the Federal Register.

Treasury/USSS 00.003

System name: Treasury/USSS—Financial Management Information System.

System location: (a) U.S. Secret Service, 1800 G Street, N.W., Washington, D.C. 20223; (b) Components of the Financial Management Information System are geographically dispersed throughout Secret Service field offices. (See below United States Secret Service, Appendix A listing the addresses of Secret Service field offices); (c) U.S. Secret Service Uniformed Division, 1310 L Street, N.W., Room 210, Washington, D.C. 20005; (d) Treasury Security Force, Room 1044, Main Treasury Building, Washington, D.C. 20220; (e) Protection Vehicle Division, U.S. Secret Service, 1310 L Street N.W., Suite 400, Washington, D.C. 20005; (f) Presidential Protective Division, U.S. Secret Service, Room 1, E.O.B., 17th & Pennsylvania Avenue, N.W., Washington, D.C. 20500; (g) Vice Presidential Protective Division, U.S. Secret Service, Room 295, Executive Office Building, Washington, D.C. 20500; (h) Dignitary Protective Division, U.S. Secret Service, 1310 L Street, N.W., Washington, D.C. 20005; (i) Eisenhower Protective Division, U.S. Secret Service, Room 206, Post Office Building, Gettysburg, Pennsylvania 17325; (j) Johnson Protective Division, U.S. Secret Service, P.O. Box 927, Stonewall, Texas 78671; (k) Ford Protective Division, U.S. Secret Service, P.O. Box 955, Rancho Mirage, Calif. 92270; (l) Truman Protective Division, U.S. Secret Service, 224 North Delaware, Independence, Missouri 64051; (m) Nixon Protective Division, U.S. Secret Service, U.S. Coast Guard Station, San Clemente, California 92672; (n) Technical Security Division, Room 482, Executive Office Building, Washington, D.C. 20500. Plains Security Detail, U.S. Secret Service, P.O. Box 308, Plains, GA. 31780.

Categories of individuals covered by the system: (a) Individuals who are now, or were previously, Secret Service employees; (b) Individuals, contractors, vendors, etc., who are presently doing business with or previously did business with the Secret Service; (c) Individuals who are involved in or were previously involved in tort claims with the Secret Service; (d) Individuals who are or previously were involved in payments (accounts receivable) with the Secret Service; (e) Individuals who have been recipients of awards.

Categories of records in the system: (a) Records containing information compiled for the purpose of pay, travel, property damage, expenses incurred other than travel, and retirement annuities and taxes; (b) Records containing information of accounts receivable and payable, involving Secret Service employees and other persons; (c) Records containing information of tort claims dealing with Secret Service property, concerning payment and accounts receivable; (d) Records containing information on the expenditures, anticipated expenditures, and budget studies of the Secret Service; (e) Records of time and attendance of work.

Authority for maintenance of the system: The Financial Management Authority of the U.S. Secret Service is contained in various Executive Orders, Treasury Orders and delegations, Title 7 of the General Accounting Office Policy and Procedure Manual for Guidance of Federal Agencies and other rules and regulations and fiscal procedures where applicable; 5 U.S.C. 301; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in the Financial Management Information System are as follows: (a) Referral to the Internal Revenue Service, U.S. Treasury, GAO, Civil Service and other Federal agencies dealing with the payment and collection of monies concerning Secret Service employees; (b) Referral to the Internal Revenue Service, U.S. Treasury Department, Civil Service, GAO and other Federal agencies dealing with the payment, collection and audit of monies concerning persons who have financial dealings with the Secret Service; (c) To establish a means of budget projections and studies for anticipated expenses to be incurred; to record the actual expenses claimed; to analyze any unliquidated obligations at the end of the fiscal year; (d) To establish a means of responding to questions by Secret Service employees regarding their financial dealings; (e) To establish and maintain a means of gaining statistical information needed to answer inquiries from other Federal, state and local governments and Congress; (f) To establish a reporting system to Treasury, Office of Management & Budget and the General Accounting Office of Secret Service expenditures; (g) To establish a means of payments to contractors and vendors for purchases made by Secret Service; (h) Disclosure to those officers and employees of the Secret Service and the Department of the Treasury who have a need for the records in the performance of their duties; (i) Disclosure required in the administration of the Freedom of Information Act (5 U.S.C. 552); (j) Records maintained in the Financial Management Information System indicating a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be referred to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (k) Disclosures in the course of presenting evidence to a court, magistrate or administrative tribunal and disclosures to opposing counsel in the course of discovery proceedings for the purpose of enforcing, or prosecuting, a violation or potential violation of law, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto; (l) Disclosures to Federal, state or local agencies maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit; (m) Disclosures to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (n) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All records comprising the Financial Management Information System of the U.S. Secret Service are contained in files, microfilm and/or microfiche located at Headquarters, Washington, D.C., Secret Service field offices geographically dispersed throughout the United States, Puerto Rico, and one foreign country, (see location section of this notice and United States Secret Service Appendix A), and Secret Service Protective Divisions. Portions of the indices and information contained in the Financial Management Information System are programmed into a computer maintained at Headquarters, U.S. Secret Service, 1800 G Street, N.W., Washington, D.C.

Retrievability: The Financial Management Information System is indexed by name and/or numbers in the Headquarters office and by name only in the U.S. Secret Service field offices and protective divisions. Access to the physical files containing records is by number and/or name. Access to the information stored in the computer is also by name and/or number.

Safeguards: (1) The file jackets, indices and computer containing the record systems located at U.S. Secret Service Headquarters are secured by alarms and other internal security devices in locked rooms with guards on duty on a 24 hour basis; (2) Access to the records is available only to employees responsible for records management and operational employees who have a need for such information, each of whom hold a top secret security clearance; (3) The file jackets and/or indices comprising the Financial Management Information System in U.S. Secret Service field offices and protective divisions are located in locked filing cabinets and in locked rooms when Secret Service employees are not on duty. Access is limited to employees of the Secret Service holding top secret security clearances.

Retention and disposal: The retention schedule for records comprising the Financial Management Information System are as follows: (1) Financial Management Division automated accounting systems, Paris Field Office file and paid files are retained for six years; (2) Accounts receivable systems maintained for four years unless they are not liquidated; (3) Systems for holiday, overtime hour and other pay adjustments, enter on duty information, resignations, retirements, reassignments, etc., are held indefinitely; (4) Records on personnel actions, leave, change of station, bonds, health benefits and insurance policies, bank deposits, allotments, etc., are held for six months. Disposal of records contained in the Financial Management Information System is by burning.

System manager(s) and address: Assistant Director, Office of Administration, 1800 G Street, N.W., Washington, D.C. 20223.

Notification procedure: Any individual who wishes to present a request as to whether this system contains a record pertaining to him should address his inquiry to: Staff Assistant, Freedom of Information and Privacy Acts Officer, U.S. Secret Service, 1800 G Street, N.W., Room 908, Washington, D.C. 20223.

Record access procedures: Any individual wishing to obtain information on the procedures for gaining access to and contesting records should contact: Freedom of Information and Privacy Acts Officer, U.S. Secret Service, 1800 G Street, N.W., Room 908, Washington, D.C. 20223.

Contesting record procedures: See access above.

Record source categories: (a) Individuals who are presently or were previously Secret Service employees; (b) Individuals who are presently or were service contractors or suppliers with the Secret Service; (c) Individuals who are presently or were previously involved in tort claims with the Secret Service; (d) Individuals who are presently or were previously involved in collections and dispersement with the Secret Service; (e) Internal Revenue Service; (f) Surviving spouse of deceased personnel.

Treasury/USSS 00.004

System name: Freedom of Information Request System—Treasury/USSS.

System location: United States Secret Service, 1800 G Street, N.W., Washington, D.C. 20223.

Categories of individuals covered by the system: Individuals or organizations who have requested information under the Freedom of Information Act.

Categories of records in the system: (a) Correspondence relating to requests for information; (b) Documents relevant to appeals and law

Retention and disposal: The retention schedule of records comprising the Legal Counsel Record System is as follows: (1) All judicial case records are retained for a period of 20 years; (2) Administrative

records contained in the Non-Criminal Investigation Information System are as follows: (a) Disclosure to those officers and employees

Categories of records in the system: (a) Correspondence relating to requests for information; (b) Documents relevant to appeals and law suits under the Freedom of Information Act.

Authority for maintenance of the system: The authority of the U.S. Secret Service is contained in 5 U.S.C. 552, Freedom of Information Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (a) Disclosure to those officers and employees of the Secret Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) The system is maintained to insure the efficient processing of requests made pursuant to the Freedom of Information Act; (d) Records maintained in the Freedom of Information System indicating a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be referred to the appropriate agency, whether Federal, state local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (e) Disclosures in the course of presenting evidence to a court, magistrate or administrative tribunal and disclosures to opposing counsel in the course of discovery proceedings for the purpose of enforcing, or prosecuting, a violation or potential violation of law, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto; (f) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records comprising the Freedom of Information Request System are maintained in file jackets located at Headquarters, U.S. Secret Service, 1800 G Street, N.W., Washington, D.C. 20223.

Retrievability: The file jackets and indices containing the records comprising the Freedom of Information Request System are indexed alphabetically.

Safeguards: The file jackets and indices containing the records comprising the Freedom of Information Request System are located at U.S. Secret Service Headquarters, and are secured in locked filing cabinets in locked rooms, with guards on duty on an around-the-clock basis. Access to the records is available only to employees responsible for the management of the system and operational employees who have a need for such information, each of whom have a top secret security clearance.

Retention and disposal: All files and indices are held indefinitely. Disposal is by burning.

System manager(s) and address: Freedom of Information and Privacy Acts Officer, Office of Public Affairs, U.S. Secret Service, 1800 G Street, N.W., Room 908, Washington, D.C. 20223.

Notification procedure: Any individual who wishes to present a request as to whether this system contains records pertaining to him should address his inquiry to: Freedom of Information and Privacy Acts Officer, U.S. Secret Service, 1800 G Street, N.W., Room 908, Washington, D.C. 20223.

Record access procedures: Any individual wishing to obtain information on the procedures for gaining access to and contesting records should contact: Freedom of Information & Privacy Acts Officer, U.S. Secret Service, 1800 G Street, N.W., Room 908, Washington, D.C. 20223.

Contesting record procedures: See access above.

Record source categories: Individuals or organizations requesting information pursuant to the Freedom of Information Act.

Treasury/USSS 00.005

System name: Treasury/USSS—Legal Counsel Record System.

System location: Office of Legal Counsel, United States Secret Service, 1800 G Street, N.W.,Washington, D.C. 20223.

Categories of individuals covered by the system: (a) Individuals who have filed administrative claims involving an employee of the U.S. Secret Service; (b) Any individual who is involved in litigation against the U.S. Secret Service; (c) Individuals who have filed a petition for remission of forfeiture of equipment that was seized from them during an investigation and/or arrest by the U.S. Secret Service.

Categories of records in the system: (a) Copies of administrative claims involving employees of the U.S. Secret Service, responses and legal proceedings in those cases where litigation is involved in administrative claims; (b) Any type of legal document, including complaints, summaries, and litigation reports that are prepared for the Department of Justice at their request; (c) Petitions for remission of forfeiture of seized equipment; (d) Records concerning requests for information regarding the use of reproductions of obligations of the United States including bonds, checks, coins, coupons, currencies (U.S. and foreign), fractional notes, postage stamps (U.S. and foreign), postal money orders, and postmarks.

Authority for maintenance of the system: 18 U.S.C. 3056; 28 U.S.C. 2672 (Federal Tort Claims Act); 18 U.S.C. 471-509.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in the Legal Counsel Record System are as follows: (a) Disclosure to those officers and employees of the Secret Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) Administrative claims may be routinely sent to the Department of Justice to the Attorneys who will represent the Secret Service in any possible litigation. The purpose of sending administrative claims to these attorneys is to assist them in preparation of litigation involving the Secret Service; (d) Legal records are routinely used in preparation for litigation proceedings against the U.S. Secret Service. Litigation reports are routinely sent to the Department of Justice at their request for assistance in preparation of the litigation proceedings. The purpose of such referals is to assist the Dept. of Justice in the preparation of litigation concerning the U.S. Secret Service; (e) All routine uses for petitions for remission of forfeiture of seized equipment are within the agency; (f) Files concerning requests for information regarding the use of reproductions of Government obligations are used in responding to general requests from the public or for requests for interpretation of legality with the Department of Justice and Postal authorities; (g) Records maintained in the Legal Counsel Record System indicating a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be referred to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (h)Disclosures in the course of presenting evidence to a court, magistrate or administrative tribunal and disclosures to opposing counsel in the course of discovery proceedings for the purpose of enforcing, or prosecuting, a violation or potential violation of law, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto; (i) Disclosures to Federal, state or local agencies maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit; (j) Disclosures to a Federal agency in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (k)For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records comprising the Legal Counsel Record System of the U.S. Secret Service are contained in file jackets located in the Office of Legal Counsel, United States Secret Service, 1800 G Street, N.W., Washington, D.C. 20223.

Retrievability: The Legal Counsel Record System is indexed chronologically for administrative claims, petitions for remission and requests for information regarding reproductions. Access to the physical files containing litigation records is by an alphabetized listing of the case names.

Safeguards: The file jackets containing records comprising the Legal Counsel Record System located at U.S. Secret Service Headquarters, Office of Legal Counsel, are secured in a locked room with guards on duty on an around the clock basis. Access to the records is available only to employees responsible for record management and operational employees who have a need for such information, each of whom holds a top secret security clearance.

Retention and disposal: The retention schedule of records comprising the Legal Counsel Record System is as follows: (1) All judicial case records are retained for a period of 20 years; (2) Administrative claims, petitions for remission, and requests for information are retained indefinitely. Any disposal is by shredding and/or burning.

System manager(s) and address: Legal Counsel, U.S. Secret Service, 1800 G Street, N.W., Room 842, Washington, D.C. 20223.

Notification procedure: Any individual who wishes to present a request as to whether the system contains records pertaining to him should address his inquiry to: Freedom of Information and Privacy Acts Officer, U.S. Secret Service, 1800 G Street, N.W., Room 908, Washington, D.C. 20223.

Record access procedures: Any individual wishing to obtain information on the procedures for gaining access to and contesting records should contact: Freedom of Information and Privacy Acts Officer, U.S. Secret Service, 1800 G Street, N.W., Room 908, Washington, D.C. 20223.

Contesting record procedures: See access above.

Record source categories: (a) Administrative claims are filed by those individuals who believe that they have a claim against the U.S. Secret Service; (b) Individuals who are involved in legal proceedings against the U.S. Secret Service. All litigation reports are initiated by Office of Legal Counsel, U.S. Secret Service; (c) Individuals and organizations who have petitioned for remission of forfeiture of seized equipments; (d) Requests for information regarding the use of reproductions from Secret Service field offices, the general public, and from professional organizations.

Treasury/USSS 00.006

System name: Non Criminal Investigation Information System—Treasury/USSS.

System location: (a) United States Secret Service, 1800 G Street, N.W., Washington, D.C. 20223.(b) Office of Inspection, U.S. Secret Service, Edison Building, Suite 654, 1900 Pennsylvania Avenue, N.W., Washington, D.C. 20226.(c) Components of the Non-Criminal Investigation Information System are geographically dispersed throughout Secret Service field offices in the United States, Puerto Rico, and one foreign country. (See below, United States Secret Service Appendix A, listing the addresses of Secret Service field offices).

Categories of individuals covered by the system: (a) Individuals who are applicants for employment with the U.S. Secret Service and other bureaus of the Department of the Treasury;(b) Individuals who are employees of the U.S. Secret Service and other bureaus of the Department of the Treasury holding security clearances granting access to classified documents and records;(c) Individuals who have filed administrative claims with the Secret Service and other bureaus of the Department of the Treasury under the Federal Tort Claims Act or who have been involved in automobile accidents or other incidents involving employees of the Secret Service and other bureaus of the Department of the Treasury resulting in tort claims against such individuals;(d) Individuals involved in investigations required in the administration of the Government Losses in Shipment Act, the Gold Reserve Act, and the Silver Purchase Act;(e) Individuals who are employees of the Secret Service and other bureaus of the Department of the Treasury who have been accused of misconduct in the performance of their duties, or who have been the subject of a complaint involving the performance of their official functions;(f) Individuals who are the subject of investigations or supply information to investigative agents conducting special investigations relating to the performance by the Secret Service of its statutory and regulatory functions.

Categories of records in the system: (a) Record containing investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or access to classified information;(b) Records containing investigatory material compiled for law enforcement purposes, including but not limited to, reports of investigators relating to claims under the Federal Tort Claims Act; Government Losses in Shipment Act; the Gold Reserve Act and the Silver Purchase Act; and employee misconduct or malfeasance;(c) Records containing reports or statement of investigators, witnesses, complainants, claimants and correspondents associated with identifiable individuals.

Authority for maintenance of the system: The non-criminal investigative authority of the U.S. Secret Service is contained in 18 U.S.C. 3056; Executive Order 10450 and Treasury Order 82 (revised January 17, 1973); and Treasury Order 173-1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in the Non-Criminal Investigation Information System are as follows: (a) Disclosure to those officers and employees of the Secret Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) Referral to the Department of Justice and other Federal agencies for administrative, civil, or other legal proceedings to be used by personnel officials, attorneys, administrative law officers, and judges; (d) Referral to personnel of other Federal, state and local governmental agencies, foreign and domestic, for the purpose of developing or confirming information on individuals involved in non-criminal investigations conducted by the Secret Service; (e) Referral to personnel of private institutions and to private individuals for the purpose of confirming and/or determining suitability, eligibility, or qualifications for Federal civilian employment or access to classified information; and for the purposes of furthering the efforts of the Secret Service to investigate the activities of individuals related to or involved in non-criminal civil and administrative investigations; (f) Referral to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for the purpose of determining suitability, eligibility, or qualifications for employment with or access to classified information in such other agency or instrumentality; (g) Records maintained in the Non-Criminal Investigation Information System indicating a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be referred to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (h) Disclosures in the course of presenting evidence to a court, magistrate or administrative tribunal and disclosures to opposing counsel in the course of discovery proceedings for the purpose of enforcing, or prosecuting, a violation or potential violation of law, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto; (i) Disclosures to Federal, state or local agencies maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit; (j) Disclosures to a Federal agency in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (k) Disclosures of information relating to civil proceedings to the news media in accordance with the guidelines contained in 28 C.F.R. 50.2; (l) for additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records comprising the Non-Criminal Investigation Information System of the U.S. Secret Service are contained in file jackets located at Headquarters, U.S. Secret Service, 1800 G Street, N.W., Washington, D.C. and/or in file jackets located in the Office of Inspection, Edison Building, 1310 L Street, N.W., Washington, D.C. and in Secret Service field offices geographically dispersed throughout the United States, Puerto Rico, and one foreign country. (See Location Section of this notice and United States Secret Service Appendix A.) Portions of these indices and information contained in the Non-Criminal Information System are programmed into a computer maintained at Headquarters, U.S. Secret Service, 1800 G Street, N.W., Washington, D.C.

Retrievability: The Non-Criminal Investigation Information System is indexed alphabetically by name in the Headquarters, Inspection, field master, and computerized indices. Access to the physical files containing records is by case number obtained from the alphabetized name indices.

Safeguards: (1) The file jackets and indices containing the records comprising the Non-Criminal Investigation Information System located at U.S. Secret Service Headquarters and the Office of Inspection are secured by alarms and other internal security devices in locked rooms with guards on duty on an around-the-clock basis. Access to the records is available only to employees responsible for record management and operational employees who have a need for such information, each of whom holds a top secret security clearance; (2)

The file jackets and the master field indices comprising the Non-Criminal Investigation Information System in Secret Service field offices are located in locked filing cabinets and in locked rooms

other law enforcement agencies where the evaluation of such individuals, in accordance with criteria established by the Secret Service, indicates a need for such investigations; (d) Individuals who are

and for the purpose of protective intelligence briefings of personnel of other law enforcement and governmental agencies assisting the

cabinets and in locked rooms when Secret Service employees are not on duty. Access to the system is limited to employees of the Secret Service holding top secret security clearances.

The file jackets and the master field indices comprising the Non-Criminal Investigation Information System in Secret Service field offices are located in locked filing cabinets and in locked rooms when Secret Service employees are not on duty. Access to the system is limited to employees of the Secret Service holding top secret security clearances.

Retention and disposal: The retention schedule for records comprising the Non-Criminal Investigation Information System is as follows: (1) All judicial case records are retained for a period of twenty years; (2) Applicant security and background investigation records of Secret Service employees are retained for thirty years after retirement or separation of the employee from Secret Service employment; (3) Applicant investigation records relating to employees of Bureaus of the Treasury Department other than the Secret Service, are retained for three years; (4) All other records, the disposition of which are not otherwise specified, are retained for five (5) years. Disposal: Disposal of records contained in the Non-Criminal Investigation Information System is by burning.

System manager(s) and address: Assistant Director, Office of Investigations, 1800 G Street, N.W., Washington, D.C. 20223.

Notification procedure: In accordance with the provisions of 5 U.S.C. 552 a (k), the Director of the U.S. Secret Service proposes to exempt the Non-Criminal Investigation Information System from compliance with the provisions of 5 U.S.C. 552 a (e) (4) (G).

Record access procedures: In accordance with the provisions of 5 U.S.C. 552 a (k), the Director of the U.S. Secret Service proposes to exempt the Non-Criminal Investigation Information System from compliance with the provision of 5 U.S.C. 552 a (e) (4) (H).

Contesting record procedures: See access above.

Record source categories: In accordance with the provisions of 5 U.S.C. 552 a (k), the Director of the U.S. Secret Service proposes to exempt the Non-Criminal Investigation Information System from compliance with the provisions of 5 U.S.C. 552 a (e) (4) (I).

Systems exempted from certain provisions of the act: In accordance with the provisions of 5 U.S.C. 552a(j) and (k), the Director of the U.S. Secret Service proposes to exempt the Non-Criminal Investigation Information System from compliance with certain provisions of 5 U.S.C. 552a—elsewhere in the Federal Register.

Treasury/USSS 00.007

System name: Protection Information System—Treasury/USSS.

System location: (a) United States Secret Service, 1800 G Street, N.W., Washington, D.C. 20223. (b) Presidential Protective Division, U.S. Secret Service, Room 1, E.O.B., 17th & Pennsylvania Avenue, N.W., Washington, D.C. 20500. (c) Vice Presidential Protection Division, U.S. Secret Service, Room 295, Executive Office Building, Washington, D.C. 20500. (d) Dignitary Protective Division, U.S. Secret Service, 1310 L Street, N.W., Washington, D.C. 20005. (e) Protective Vehicle Division, U.S. Secret Service, 1310 L Street, N.W., Suite 400, Washington, D.C. 20005. (f) Eisenhower Protective Division, U.S. Secret Service, Room 206, Post Office Building, Gettysburg, Pennsylvania 17325. (g) Johnson Protective Division, U.S. Secret Service, P.O. Box 927, Stonewall, Texas 78671. (h) Ford Protective Division, U.S. Secret Service, P.O. Box 955, Rancho Mirage, Calif. 92270. (i) Truman Protective Division, U.S. Secret Service, 224 North Delaware, Independence, Missouri 64051. (j) Nixon Protective Division, U.S. Secret Service, U.S. Coast Guard Station, San Clemente, California 92672. (k) U.S. Secret Service Uniformed Division, Room 210, 1310 L Street, N.W., Washington, D.C. 20005. (l) Treasury Security Force, Room 1040, Main Treasury Building, Washington, D.C. 20220. (m) Technical Security Division, Room 482, Executive Office Building, Washington, D.C. 20500. Plains Security Detail, U.S. Secret Service, P.O. Box 308, Plains, GA. 31780. (n) Components of the Protection Information System are geographically dispersed throughout Secret Service field offices. (See below, United States Secret Service Appendix A, listing the addresses of Secret Service field offices).

Categories of individuals covered by the system: (a) Individuals who have been or are currently the subject of a criminal investigation by the U.S. Secret Service or another law enforcement agency for the violation of certain criminal statutes relating to the protection of persons or the security of properties; (b) Individuals who are the subjects of investigative records and reports supplied to the Secret Service by Federal, state, and local law enforcement agencies, foreign and domestic; other governmental agencies; private institutions and individuals for evaluation by the Secret Service in connection with the performance by that agency of its authorized protective functions; (c) Individuals who are the subjects of non-criminal protective and background investigations by the Secret Service and other law enforcement agencies where the evaluation of such individuals, in accordance with criteria established by the Secret Service, indicates a need for such investigations; (d) Individuals who are granted ingress and egress to areas secured by the Secret Service, the Executive Protective Service, or to areas in close proximity to persons protected by the Secret Service, including but not limited to invitees, passholders, tradesmen, law enforcement, maintenance and service personnel; (e) Individuals who have attempted or solicited unauthorized entry into areas secured by the Secret Service; individuals who have sought an audience or contact with persons protected by the Secret Service or who have been involved in incidents or events which relate to the protective functions of the Secret Service; (f) Individuals who are witnesses, protectees, complainants, informants, suspects, defendants, fugitives, released prisoners, and correspondents who have been identified by the Secret Service or from information supplied by other law enforcement agencies, governmental units, private institutions, and members of the general public in connection with the performance by the Secret Service of its authorized protective functions.

Categories of records in the system: (a) Records containing information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrest, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (b) Records containing information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; (c) Records containing reports relative to an individual compiled at various stages of the process of enforcement of certain criminal laws from arrest or indictment through release from supervision; (d) Records containing information supplied by other Federal, state, and local law enforcement agencies, foreign and domestic; other governmental agencies; private institutions and persons concerning individuals who, because of their activities, personality traits, criminal or mental history, or history of social deviancy, may be of interest to the Secret Service in connection with the performance by that agency of its protective functions; (e) Records containing information compiled for the purpose of identifying and evaluating individuals who may constitute a threat to the safety of persons or security of areas protected by the Secret Service, and/or the Executive Protective Service; (f) Records containing information relating to incidents and events, such as attempted intrusions into secured areas, or activities of mentally disturbed persons demonstrating an unusual or abnormal interest in persons protected by the Secret Service; (g) Records containing information compiled for the purpose of background investigations of individuals, including but not limited to, passholders, tradesmen, maintenance and service personnel who have access to areas secured by or who may be in close proximity to persons protected by the Secret Service and/or the Executive Protective Service; (h) Records containing correspondence, records of telephone calls, visits to and efforts to contact persons protected by the Secret Service by certain individuals who, according to criteria established by the Secret Service, are considered to be of protective interest.

Authority for maintenance of the system: The protective authority of the U.S. Secret Service is contained in 18 U.S.C. 3056 and Section 1 of Public Law 90-331. Criminal Investigations relating to protection, such as threats or unauthorized entry (18 U.S.C. 871; 18 U.S.C. 1751), are authorized by 18 U.S.C. 3056. The protective and security authority of the U.S. Secret Service Uniformed Division is contained in 3 U.S.C. 202 and of the Treasury Security Force in Treasury Orders issued by the Secretary of the Treasury pursuant to the provisions of Reorganization Plan Number 26 of 1950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in the Protective Information System of the U.S. Secret Service are as follows: (a) Disclosures to those officers and employees of the Secret Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosures required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) Referral to the Department of Justice and other Federal, state and local governmental agencies having a prosecutive function for the use of attorneys, magistrates, and judges; and parole and probation authorities for the purpose of prosecuting, sentencing, and determining the parole and probation status of criminal offenders or suspected criminal offenders; and for civil and other proceedings involving Secret Service and Executive Protective Service protective functions; (d) Referral to personnel of other Federal state and local law enforcement agencies, foreign and domestic, for the purpose of developing information on subjects involved in Secret Service protective investigations and evaluations

and for the purpose of protective intelligence briefings of personnel of other law enforcement and governmental agencies assisting the U.S. Secret Service in the performance of its protective functions; (e) Referral to personnel of Federal, state, and local governmental agencies, foreign and domestic, where such referrals are considered reasonably necessary for the purpose of furthering Secret Service efforts to investigate the activities of those persons considered to be of protective interest; (f) Referral to personnel of Federal, state, and local law enforcement agencies and other governmental agencies, foreign and domestic, where there is a showing of a reasonable need to accomplish a valid enforcement purpose; (g) Referral to personnel of private institutions and to private individuals of identifying information pertaining to actual or suspected criminal offenders or other individuals considered to be of protective interest for the purpose of furthering Secret Service efforts to evaluate the danger such individuals pose to persons protected by that agency; (h) Records maintained in the Protection Information System indicating a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be referred to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (i) Disclosures in the course of presenting evidence to a court, magistrate or administrative tribunal and disclosures to opposing counsel in the course of discovery proceedings for the purpose of enforcing, or prosecuting, a violation or potential violation of law, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto; (j) Disclosures to Federal, state or local agencies maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit; (k) Disclosures to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (l) Disclosures of information relating to criminal and civil proceedings to the news media in accordance with the guidelines contained in 28 C.F.R. 50.2; (m) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records comprising the Protection Information System of the U.S. Secret Service are contained in file jackets located at Headquarters, U.S. Secret Service, 1800 G Street, N.W., Washington, D.C. or in file jackets located in the offices of various protective units of Secret Service; the Technical Security Division; and in Secret Service field offices geographically dispersed throughout the United States, Puerto Rico, and one foreign country. (see Location Section of this notice and United States Secret Service Appendix A.) Components of the Protection Information System are located in the office of the U.S. Secret Service Uniformed Division, 1310 L Street, N.W., Washington, D.C. and in the office of the Treasury Security Force, Main Treasury Building, Washington, D.C. Portions of the indices and information contained in the Protective Information System are programmed into a computer maintained at Headquarters, U.S. Secret Service, 1800 G Street, N.W., Washington, D.C.

Retrievability: The Protective Information System is indexed alphabetically by name in the Headquarters, field master, protective units and computerized indices. Access to the physical files containing records is by case number obtained from the alphabetized name indices.

Safeguards: (1) The file jackets and indices containing the records comprising the Protection Information System located at the U.S. Secret Service Headquarters, in the protective units, the U.S. Secret Service Uniformed Division, the Treasury Security Force, and the Technical Security Division of the Secret Service are secured by alarms and other internal security devices in locked rooms with guards on duty on an around-the-clock basis. Access to the records is available only to employees responsible for record management and operational employees who have a need for such information, each of whom holds a top secret security clearance. 2. The file jackets and the master field indices comprising the Protective Information System in Secret Service field offices are located in locked filing cabinets and in locked rooms when Secret Service employees are not on duty. Access to the system is limited to employees of the Secret Service holding top secret security clearances.

Retention and disposal: The retention schedule for records comprising the Protection Information System is as follows: (1) All judicial case records are retained for a period of twenty years. In cases where checkups are being made or quarterly investigations are conducted in protective intelligence cases, the retention period is computed from the date of the final checkup or quarterly investigation. In the event of a protective intelligence subject's death, the file is destroyed immediately. Otherwise the checkup and quarterly investigative files are maintained for a period of twenty years; (2) All other protective intelligence case records including protective surveys and nonjudicial protective intelligence cases are retained for a period of five years; (3) Administrative records and files on all types of physical protective activities are retained for a period of ten years; (4) Disposal of records contained in the Protective Information System is by burning.

System manager(s) and address: Assistant Director, Office of Protective Research, U.S. Secret Service, 1800 G Street, N.W., Washington, D.C. 20223.

Notification procedure: In accordance with the provisions of 5 U.S.C. 552a(j) and (k) the Director of the U.S. Secret Service proposes to exempt the Protection Information System from compliance with the provisions of 5 U.S.C. 552a(e) (4) (G).

Record access procedures: In accordance with the provisions of 5 U.S.C. 552a(j) and (k) the Director of the U.S. Secret Service proposes to exempt the Protection Information System from compliance with the provisions of 5 U.S.C. 552a(e) (4) (H).

Contesting record procedures: See access above.

Record source categories: In accordance with the provisions of 5 U.S.C. 552a(j) and (k) the Director of the U.S. Secret Service proposes to exempt the Protection Information System from compliance with the provisions of 5 U.S.C. 552a(e) (4) (I).

Systems exempted from certain provisions of the act: In accordance with the provisions of 5 U.S.C. 552a(j) and (k), the Director of the U.S. Secret Service proposes to exempt the Protection Information System from compliance with certain provisions of 5 U.S.C. 552a elsewhere in the Federal Register.

Treasury/USSS 00.008

System name: Public Affairs Record System—Treasury/USSS.

System location: U.S. Secret Service, 1800 G Street, N.W., Washington, D.C. 20223.

Categories of individuals covered by the system: (a) Persons who are private citizens who correspond requesting information relating to the Secret Service; (b) Persons who are members of the news media, authors and publishers requesting information about the Secret Service; (c) Members of Congress who make inquiries with the Secret Service; (d) Persons who are recipients of the Director's Honor Award, who have received recognition from or assisted the Secret Service.

Categories of records in the system: (a) Records of inquiries received from the general public, the communication media and the press relative to Secret Service activities; (b) Records of awards presented by the Secret Service; (c) Records of Congressional inquiries and correspondence.

Authority for maintenance of the system: 18 U.S.C. 3056 and Treasury Department Order Number 173-3, dated October 29, 1965.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in the Public Affairs Record System are as follows: (a) To maintain a record of responses made to the general public, the news media, members of Congress, and other individuals who correspond with the Service; (b) To maintain a record of awards and honors given by the Secret Service and to establish statistical information on these awards and honors; (c) Disclosure to those officers and employees of the Secret Service and the Department of the Treasury who have a need for the records in the performance of their duties; (d) Disclosure required in the administration of the Freedom of Information Act (5 U.S.C. 552). (e) Records maintained in the Public Affairs Records System indicating a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be referred to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or imple-

menting the statute, or rule, regulation or order issued pursuant thereto; (f) Disclosures in the course of presenting evidence to a

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the

New Federal Building, 500 Quarrier Street, Charleston, West Virginia 25301, 304—343—6181.
110 Michigan Avenue, N.W., Grand Rapids, Michigan 49502,
450 Golden Gate Avenue, San Francisco, California 94102, 415—556—6800.
Federal Office Building, Hato Rey, Puerto Rico 00917, 809—

menting the statute, or rule, regulation or order issued pursuant thereto; (f) Disclosures in the course of presenting evidence to a court, magistrate or administrative tribunal and disclosures to opposing counsel in the course of discovery proceedings for the purpose of enforcing, or prosecuting, a violation or potential violation of law, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto; (g) Disclosures to Federal, state or local agencies maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit; (h) Disclosures to Federal agencies, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. (i) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records comprising the Public Affairs Record System are maintained in file folders located at U.S. Secret Service, Headquarters, 1800 G Street, N.W., Washington, D.C. 20223.

Retrievability: Records of the Public Affairs Record System are filed alphabetically and chronologically. Access is by name and/or date.

Safeguards: The files containing the Public Affairs Record System are located at U.S. Secret Service Headquarters, and are secured in locked filing cabinets in locked rooms, with guards on duty on an around-the-clock basis. Access to the records is available only to employees responsible for management of the system and operational employees who have a need for such information, each of whom holds a top secret security clearance.

Retention and disposal: Records in this system are currently maintained indefinitely.

System manager(s) and address: Assistant to the Director, Office of Public Affairs, U.S. Secret Service, 1800 G Street, N.W., Washington, D.C. 20223.

Notification procedure: Any individual who wishes to present a request as to whether this system contains records pertaining to him should address his inquiry to: Freedom of Information and Privacy Acts Officer, U.S. Secret Service, 1800 G Street, N.W., Room 908, Washington, D.C. 20223.

Record access procedures: Any individual wishing to obtain information on the procedure for gaining access to and contesting records should contact: Freedom of Information & Privacy Acts Officer, U.S. Secret Service, 1800 G Street, N.W., Room 908, Washington, D.C. 20223.

Contesting record procedures: See access above.

Record source categories: (a) The general public, the news media and members of Congress who correspond with the Service; (b) Persons who have received awards or honors from the Secret Service.

Treasury/USSS 00.009

System name: Training Information System—Treasury/USSS.

System location: (a) U.S. Secret Service, Office of Training, 1717 H Street, N.W., Washington, D.C. 20223. (b) Treasury Security Force, Main Treasury Building, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220. (c) Beltsville Training Center, Beltsville, Maryland 20705.

Categories of individuals covered by the system: (a) Individuals who are now or were Secret Service employees, officers of the U.S. Secret Service Uniformed Division or the Treasury Security Force.

Categories of records in the system: Records containing the type and dates of training programs of the U.S. Secret Service employees, officers of the U.S. Secret Service Uniformed Division or the Treasury Security Force.

Authority for maintenance of the system: 18 U.S.C. 3056 is the statute that establishes Secret Service criminal and protective jurisdiction and training is conducted pursuant to that statute and in accordance with Treasury and Civil Service Regulations relating to training.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of the records contained in the Training Information System are as follows: (a) Disclosure to those officers and employees of the Secret Service and the Department of the Treasury who have a need for the records in the performance of their duties; (b) Disclosure required in the administration of the Freedom of Information Act (5 U.S.C. 552); (c) The system is maintained to assist in performing administrative functions of the Office of Training and is used to prepare class directories, class rosters, program evaluation reports and statistical reports, and maintain records of performance; (d) For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records comprising the Training Information System are maintained on cards at the Secret Service Office of Training, 1717 H Street, N.W., Washington, D.C., Main Treasury Building, 1500 Pennsylvania Avenue, N.W., and Beltsville Training Center, Beltsville, Maryland.

Retrievability: Records of the Training Information System are filed alphabetically and access to the record card is by name.

Safeguards: The Training Information System record cards located at the U.S. Secret Service Office of Training are secured in locked rooms with alarms when Secret Service employees are not on duty. Access to the records is available only to employees responsible for management of the records and operational employees who have a need for such information, each of whom hold a top secret security clearance.

Retention and disposal: Records in this System are currently maintained indefinitely.

System manager(s) and address: Assistant to the Director, Office of Training, U.S. Secret Service, 1717 H Street, N.W., Washington, D.C. 20223.

Notification procedure: Any individual who wishes to present a request as to whether this system contains records pertaining to him should address his inquiry to: Freedom of Information & Privacy Acts Officer, U.S. Secret Service, 1800 G Street, N.W., Room 908, Washington, D.C. 20223.

Record access procedures: Any individual wishing to obtain information on the procedures for gaining access to and contesting records should contact: Freedom of Information & Privacy Acts Officer, U.S. Secret Service, 1800 G Street, N.W., Room 908, Washington, D.C. 20223.

Contesting record procedures: See access above.

Record source categories: (a) Individuals who are now or were Secret Service employees, officers of the U.S. Secret Service Uniformed Division and the Treasury Security Force officers; (b) Individuals from other Federal, state and local law enforcement agencies.

Appendix A—
U.S. Secret Service field offices
Federal Office Building, 517 Gold Avenue, S.W., Albuquerque, New Mexico 87103, 505—766—3336.
601 Rockwell Avenue, Cleveland, Ohio 44114, 216—522—4365.
Equitable Building, 100 Peachtree Street, N.E., Atlanta, Georgia 30301, 404—526—6111.
950 South Stadium Road, Columbia, South Carolina 29201, 803—765—5446.
Federal Office Building, 300 East 8th Street, Austin, Texas 78701, 512—397—5103.
85 Marconi Boulevard, Columbus, Ohio 43215, 614—469—7370.
Federal Office Building, 31 Hopkins Plaza, Baltimore, Maryland 20201, 301—962—2200.
1100 Commerce Street, Dallas, Texas 75202, 214—749—3461.
66 Bagby Drive, Birmingham, Alabama 35209, 205—254—1144.
1660 Lincoln Street, Denver, Colorado 80203, 303—837—3027.
575 Technology Square, Cambridge, Massachusetts 02139, 617—223—2728.
Federal Building & U.S. Courthouse, Detroit, Michigan 48226, 313—226—6400.
Federal Building, 111 West Huron Street, Buffalo, New York 14202, 716—842—3542.
El Paso National Bank Building, East Maine Drive at Mesa, El Paso, Texas 79901, 915—543—7546.

New Federal Building, 500 Quarrier Street, Charleston, West Virginia 25301, 304—343—6181.
110 Michigan Avenue, N.W., Grand Rapids, Michigan 49502, 616—456—2276.
226 Skeens Building, 4530 Park Road, Charlotte, North Carolina 28209, 704—523—9583.
300 Ala Moana Boulevard, Honolulu, Hawaii 96813, 808—546—5637.
219 S. Dearborn Street, Chicago, Illinois, 60604, 312—353—5431.
515 Rusk Street, Houston, Texas 77208, 713—226—5791.
Federal Office Building, 550 Main Street, Cincinnati, Ohio 45202, 513—684—3585.
46 E. Ohio Street, Indianapolis, Indiana 46204, 317—269—6444.
U.S. Post Office & Courthouse, Jackson, Mississippi 39205, 601—969—4436.
Post Office Building, Jacksonville, Florida 32201, 904—791—2777.
546 Carondelet Street, New Orleans, Louisiana 70190, 504—589—2219.
811 Grand Avenue, Kansas City, Missouri 64142, 816—374—5022.
6 World Trade Center, New York, New York 10048, 212—466—4400.
611 Gaines Street, Little Rock, Arkansas 72201, 501—378—6241.
Bank of Virginia Building 870 North Military Highway, Norfolk, Virginia 23502, 804—441—6736.
300 N. Los Angeles Street, Los Angeles, California 90012, 213—688—4830.
200 Northwest Fifth Street, Oklahoma City, Oklahoma 73102, 405—231—4476.
Post Office Building, Louisville, Kentucky 40201, 502—582—5171.
110 North 14th Street, Omaha, Nebraska 68102, 402—221—4671.
167 North Main Street, Memphis, Tennessee 38103, 901—521—3568.
58 bis, Rue la Boetie, American Embassy, Paris 8, France, 265—7460.
5255 N.W. 87th Avenue, Miami, Florida 33161, 305—350—5961.
600 Arch Street, Philadelphia, Pennsylvania 19106, 215—627—6800.
517 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, 414—224—3587.
3033 North Central Avenue, Phoenix, Arizona 85012, 602—261—3556.
110 South 4th Street, Minneapolis, Minnesota 55401, 612—725—2801.
1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222, 412—644—3384.
107 Saint Francis Street, Mobile, Alabama 36602, 205—690—2851.
900 S.W., 5th Avenue, Portland, Oregon 97204, 503—221—2162.
801 Broadway, Nashville, Tennessee 37203, 615—251—5841.
Federal Building & U.S. Courthouse, Providence, Rhode Island 02901, 401—331—6456.
60 Evergreen Place, East Orange, New Jersey 07018, 201—645—2334.
400 North Eighth Street, Richmond, Virginia 23240, 804—782—2274.
205 Whitney Avenue, 3rd Floor, New Haven, Connecticut 06511, 203—865—2449.
650 Capitol Mall, Sacramento, California 95814, 916—440—2413.
1114 Market Street, St. Louis, Missouri 63101, 314—425—4238.
234 Summit Street, Toledo, Ohio 43604, 419—259—6434.
350 South Main Street, Salt Lake City, Utah 84101, 801—524—5910.
1900 Pennsylvania Avenue, N.W., Washington, D.C. 20226, 202—634—5100.
727 E. Durango, San Antonio, Texas 78206, 512—229—6175.
880 Front Street, San Diego, California 92101, 714—293—5640.
450 Golden Gate Avenue, San Francisco, California 94102, 415—556—6800.
Federal Office Building, Hato Rey, Puerto Rico 00917, 809—753—4539.
Post Office Building, Washington & Linden Streets, Scranton, Pennsylvania 18501, 717—346—2631.
915 Second Avenue, Seattle, Washington 98174, 206—442—5495.
761 U.S. Courthouse, Spokane, Washington 99201, 509—456—2532.
600 East Monroe Street, Springfield, Illinois 62701, 217—525—4033.
100 S. Clinton Street, U.S. Federal Building, Syracuse, New York 13201, 315—423—5338.
1000 Ashley Drive, Tampa, Florida 33602, 813—228—2636.

Treasury/Comptroller 00.004

System name: Consumer Complaint Letter File—Treasury/Comptroller.

System location: Comptroller of the Currency, 490 L'Enfant Plaza, Washington, D.C. 20219.

Categories of individuals covered by the system: Persons who file complaints against banks.

Categories of records in the system: This system contains a series of computer printouts setting forth the name, address, bank complained of, date of incoming complaint letter, attorney assigned to examine said complaint and the nature of the resolution.

Authority for maintenance of the system: 12 U.S.C. 1, 12 U.S.C. 9, 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Files are utilized to determine whether individual has previously filed a complaint with this Office, the date of complaint and the disposition. For additonal routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinet.

Retrievability: Indexed alphabetically by name of complaining consumer.

Safeguards: Records are in file drawers.

Retention and disposal: The records are retained in perpetuity.

System manager(s) and address: Comptroller of the Currency, Assistant Chief Counsel, 409 L'Enfant Plaza, Washington, D.C. 20219.

Notification procedure: Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency office where the record might be stored; and (4) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: Director, Public Affairs, 490 L'Enfant Plaza, SW, Washington, DC 20219.

Contesting record procedures: Submit requests to the Director, Public Affairs at the above address.

Record source categories: Persons filing complaints against national banks.

Treasury/Comptroller 00.010

System name: Federal Bureau of Investigation Report Card Index—Treasury/Comptroller.

System location: Comptroller of the Currency, Sixth Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219.

Categories of individuals covered by the system: Persons who have been involved in or associated with unlawful activity respecting national banking associations.

Categories of records in the system: This system consists of alphabetized indices of the names of individuals involved in or associated with unlawful activity respecting national banks and a cross reference to pertinent Federal Bureau of Investigation Reports relating thereto.

Authority for maintenance of the system: This system is established, maintained and utilized pursuant to 12 U.S.C. sections 481, 21, 1818, and 1829, 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are utilized

as a cross reference for the purpose of making determinations with respect to potential or existing violations of law. For additional

Categories of individuals covered by the system: Individuals and entities involved in actual or suspected fraudulent activities.

Retention and disposal: Materials are retained for one month after employee leaves and the records are disposed by shredding.

System manager(s) and address: Director of Personnel, Comptroller

System manager(s) and address: Regional Administrator (See "Location" above for address).

Notification procedure: Individuals wishing to be notified if they

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as a cross reference for the purpose of making determinations with respect to potential or existing violations of law. For additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinet.

Retrievability: The records are retrieved by the name of the individual.

Safeguards: Records are maintained by the Office in files with security procedures consistent with the sensitivity of the data.

Retention and disposal: Currently there are no provisions for disposal of records contained in this system.

System manager(s) and address: Director of Enforcement Division, Law Department, Comptroller of the Currency, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219.

Notification procedure: Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency office where the record might be stored; and (4) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: Director, Public Affairs, 490 L'Enfant Plaza, SW, Washington, DC 20219.

Contesting record procedures: Submit requests to the Director, Public Affairs at the above address.

Systems exempted from certain provisions of the act: Criminal investigative records exempted elsewhere in the Federal Register by the Department of Justice.

Treasury/Comptroller 00.012

System name: Freedom of Information log—Treasury/Comptroller.

System location: Comptroller of the Currency, 490 L'Enfant Plaza, Washington, D.C. 20219.

Categories of individuals covered by the system: Persons making request under the Freedom of Information Act.

Categories of records in the system: List of names of persons making requests under the Freedom of Information Act.

Authority for maintenance of the system: 12 U.S.C. 1 and 12 U.S.C. 9, 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Internal control and reference regarding Freedom of Information Act, For additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinet.

Retrievability: Indexed alphabetically by name.

Safeguards: Unlocked file cabinet.

Retention and disposal: Perpetuity.

System manager(s) and address: Director, Public Affairs, 490 L'Enfant Plaza, SW, Washington, DC 20219.

Notification procedure: Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency office where the record might be stored; and (4) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: Director, Public Affairs, 490 L'Enfant Plaza, SW, Washington, DC 20219.

Contesting record procedures: Submit requests to the Director, Public Affairs at the above address.

Record source categories: Persons making requests under Freedom of Information Act.

Treasury/Comptroller 00.013

System name: Information file on individuals and commercial entities known or suspected of being involved in fraudulent activities—Treasury/Comptroller.

System location: Comptroller of the Currency, Sixth Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219.

Categories of individuals covered by the system: Individuals and entities involved in actual or suspected fraudulent activities.

Categories of records in the system: This system consists of alphabetized indices of the names of individuals or commercial entities known or suspected of involvement in fraudulent activities both foreign and domestic.

Authority for maintenance of the system: This system is established and maintained pursuant to 12 U.S.C. sections 21, 481, 1818, and 1829.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system of records is utilized in connection with the national bank examination program to ascertain whether any transactions were made between examined banks and any of the individuals or entities who may be involved in fraudulent schemes. In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with enforcing or implementing such law. A record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records in file cabinets.

Retrievability: The records are retrieved by name of the individual, trade style used or by the name of the bank involved.

Safeguards: Records are maintained by the Office in files with security procedures consistent with the sensitivity of the data.

Retention and disposal: Currently there are no provisions for disposal of records contained in this system.

System manager(s) and address: Director of Enforcement Division, Law Department, Comptroller of the Currency, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219.

Notification procedure: Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency office where the record might be stored; and (4) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: Director, Public Affairs, 490 L'Enfant Plaza, SW, Washington, DC 20219.

Contesting record procedures: Submit requests to the Director, Public Affairs at the above address.

Systems exempted from certain provisions of the act: Exempted elsewhere in the Federal Register by the Department of Justice.

Treasury/Comptroller 00.014

System name: Investigation Files/Employee Reference File - Treasury/Comptroller.

System location: Comptroller of the Currency, Personnel Management Division, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219.

Categories of individuals covered by the system: Employee of Comptroller of the Currency.

Categories of records in the system: Compilation of material for a determination regarding security clearance.

Authority for maintenance of the system: 12 U.S.C. 1 and 12 U.S.C. 9 / 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the Personnel Management Division, the routine uses are associated with the employee's position. Used only by authorized security-cleared employees within the division. Investigations are used to properly grant clearances. For additional routine uses, see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Locked steel file cabinets and a safe with combination lock.

Retrievability: Filed in alphabetical order by geographical location.

Safeguards: Combination locks are changed once a year and only security-cleared employees within the Personnel Management Division have access.

Retention and disposal: Materials are retained for one month after employee leaves and the records are disposed by shredding.

System manager(s) and address: Director of Personnel, Comptroller of the Currency, 490 L'Enfant Plaza, S.W., Washington, DC 20219.

Notification procedure: Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency office where the record might be stored; and (4) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: Director, Public Affairs, 490 L'Enfant Plaza, SW, Washington, DC 20219.

Contesting record procedures: Submit requests to the Director, Public Affairs at the above address.

Systems exempted from certain provisions of the act: Portions of this system are exempted elsewhere in the Federal Register due to the investigative nature of the record.

Treasury/Comptroller 00.044

System name: Consumer Complaint Index—Treasury/Comptroller.

System location: Three Parkway, Suite 1800, Philadelphia, Pennsylvania.

Categories of individuals covered by the system: Complainants.

Categories of records in the system: Personnel.

Authority for maintenance of the system: 12 U.S.C. 1, 12 U.S.C. 9, 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Processing and Follow-up. For additional Routine Uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinets.

Retrievability: By date received (cross referenced by name).

Safeguards: Locked cabinets.

Retention and disposal: Permanent.

System manager(s) and address: Regional Administrator (see location above).

Notification procedure: Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency office where the record might be stored; and (4) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: Director, Public Affairs, 490 L'Enfant Plaza, SW, Washington, DC 20219.

Contesting record procedures: Submit requests to the Director, Public Affairs at the above address.

Record source categories: Employees of the Region.

Treasury/Comptroller 00.090.

System name: Bank Organizers & Proposed Officer Files (listed by name of bank)—Treasury/Comptroller.

System location: Peachtree Cain Tower, Suite 2700, 229 Peachtree Street, N.E., Atlanta, Georgia 30303.

Categories of individuals covered by the system: Bank Organizers; Proposed Officers.

Categories of records in the system: Personnel.

Authority for maintenance of the system: 12 U.S.C. 21, 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Appraise charter & Competence of Management. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Held in Charter File in file cabinet.

Retrievability: Name or Social Security Number.

Safeguards: Lock & Key.

Retention and disposal: Approved Charters—Permanent Retention, Disapproved—destroyed after three years.

System manager(s) and address: Regional Administrator (See "Location" above for address).

Notification procedure: Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency office where the record might be stored; and (4) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: Director, Public Affairs, 490 L'Enfant Plaza, SW, Washington, DC 20219.

Contesting record procedures: Submit requests to the Director, Public Affairs at the above address.

Record source categories: Applicants, References, Employee.

Treasury/Comptroller 00.104

System name: Consumer Complaint Index—Treasury/Comptroller.

System location: Sears Tower, Suite 5750, Chicago, Illinois 60606.

Categories of individuals covered by the system: Persons filing complaints with regional office against national banks.

Categories of records in the system: Card file index to pending and inactive consumer complaints against banks.

Authority for maintenance of the system: 12 U.S.C. 1 and 12 U.S.C. 9, 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide a ready reference for the location and status of pending and closed complaints against banks. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File Cabinet.

Retrievability: Alphabetical.

Safeguards: Maintained in closed cabinet.

Retention and disposal: Indefinite period of time.

System manager(s) and address: Regional Administrator (See "Location" above for address).

Notification procedure: Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency office where the record might be stored; and (4) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: Director, Public Affairs, 490 L'Enfant Plaza, SW, Washington, DC 20219.

Contesting record procedures: Submit requests to the Director, Public Affairs at the above address.

Record source categories: Complaints against banks.

Treasury/Comptroller 00.115

System name: Consumer Complaint Index—Treasury/Comptroller.

System location: 165 Madison Avenue, Suite 800, Memphis, Tennessee 38103.

Categories of individuals covered by the system: Any individual who lodges a complaint against a national bank.

Categories of records in the system: Name of individual and address; name of bank involved and address; date bank notified of complaint; follow-up date; closing date of complaint.

Authority for maintenance of the system: 12 U.S.C. 1 and 12 U.S.C. 9, 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Utilized to check complaint status until closing date. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File Cabinet.

Retrievability: Date complaint letter is forwarded to bank for comment.

Safeguards: Locked file cabinet.

Retention and disposal: Two years.

System manager(s) and address: Regional Counsel. (See location above)

Notification procedure: Individuals wishing to be notified if they

system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the

Notification procedure: Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in these records may be subject to the following uses:

(a) Referral to the appropriate governmental authority, whether

System manager(s) and address: Regional Counsel. (See location above)

Notification procedure: Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency office where the record might be stored; and (4) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: Director, Public Affairs, 490 L'Enfant Plaza, SW, Washington, DC 20219.

Contesting record procedures: Submit requests to the Director, Public Affairs at the above address.

Record source categories: Filing of a complaint letter by a complainant.

Treasury/Comptroller 00.139

System name: Financial & Biographical Reports of Organizers of New National Banks—Treasury/Comptroller.

System location: 800 Marquette Avenue, 1100 Midwest Plaza, East Building, Minneapolis, Minnesota 55402.

Categories of individuals covered by the system: Employees.

Categories of records in the system: Personal.

Authority for maintenance of the system: 12 U.S.C. 1 and 12 U.S.C. 9, 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Reference. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File Cabinet.

Retrievability: Direct Access.

Safeguards: Locked file cabinet.

Retention and disposal: Permanent retention.

System manager(s) and address: Regional Adminstrator. (See "Location" above for address.)

Notification procedure: Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency office where the record might be stored; and (4) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: Director, Public Affairs, 490 L'Enfant Plaza, SW, Washington, DC 20219.

Contesting record procedures: Submit requests to the Director, Public Affairs at the above address.

Record source categories: Employee.

Treasury/Comptroller 00.142

System name: Public Files—Treasury/Comptroller.

System location: 800 Marquette Avenue, 1100 Midwest Plaza, East Building, Minneapolis, Minnesota 55402.

Categories of individuals covered by the system: Bank Officials/General Public.

Categories of records in the system: Personal.

Authority for maintenance of the system: 12 U.S.C. 1 and 12 U.S.C. 9, 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Reference. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File Cabinets.

Retrievability: Direct Access.

Safeguards: Locked file cabinets.

Retention and disposal: 10 years; 3 years in region. 7 years in Fed Records Ctr. then dispose.

System manager(s) and address: Regional Administrator. (See "Location" above for address.)

Notification procedure: Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency office where the record might be stored; and (4) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: Director, Public Affairs, 490 L'Enfant Plaza, SW, Washington, DC 20219.

Contesting record procedures: Submit requests to the Director, Public Affairs at the above address.

Record source categories: Employee.

Treasury/Comptroller 00.149

System name: Consumer Complaint Index—Treasury/Comptroller.

System location: 911 Main Street, Suite 2616, Kansas City, Missouri 64105.

Categories of individuals covered by the system: Any individual who lodges a complaint against a national bank.

Categories of records in the system: Name of individual and address; name of bank involved and address; date bank notified of complaint; follow-up date; closing date of complaint.

Authority for maintenance of the system: 12 U.S.C. 1 and 12 U.S.C. 9, 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Utilized to check complaint status until closing date. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File Cabinet.

Retrievability: Date complaint letter is forwarded to bank for comment.

Safeguards: Locked File Cabinet.

Retention and disposal: Two years.

System manager(s) and address: Regional Counsel (See "Location" above for address.)

Notification procedure: Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency office where the record might be stored; and (4) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: Director, Public Affairs, 490 L'Enfant Plaza, SW, Washington, DC 20219.

Contesting record procedures: Submit requests to the Director, Public Affairs at the above address.

Record source categories: Filing of a complaint letter by a complainant.

Treasury/Comptroller 00.166

System name: Consumer Complaint Index—Treasury/Comptroller.

System location: 1201 Elm Street, Suite 3800, Dallas, Texas 75270.

Categories of individuals covered by the system: Any individual who lodges a complaint against a national bank.

Categories of records in the system: Name of individual and address; name of bank involved and address; date bank notified of complaint; follow-up date; closing date of complaint.

Authority for maintenance of the system: 12 U.S.C. 1 and 12 U.S.C. 9.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Utilized to check complaint status until closing date. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Date complaint letter is forwarded to bank for comment.

Safeguards: Locked File Cabinet.

Retention and disposal: Two years.

System manager(s) and address: Regional Counsel (See location above).

Notification procedure: Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency office where the record might be stored; and (4) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: Director, Public Affairs, 490 L'Enfant Plaza, SW, Washington, DC 20219.

Contesting record procedures: Submit requests to the Director, Public Affairs at the above address.

Record source categories: Filing of a complaint letter by a complainant.

Treasury/Comptroller 00.208

System name: Consumer Complaint Index—Treasury/Comptroller.

System location: Steuart Street Tower, Suite 2101, San Francisco, California 94105.

Categories of individuals covered by the system: Employees.

Categories of records in the system: Examining.

Authority for maintenance of the system: 12 U.S.C. 1 and 12 U.S.C. 9.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To determine the nature of existing problems and if possible assist in the resolution thereof. For additonal routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinet.

Retrievability: Alphabetical Index by name.

Safeguards: Locked file cabinets.

Retention and disposal: Perpetuity.

System manager(s) and address: Regional Administrator (see Location above).

Notification procedure: Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency office where the record might be stored; and (4) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: Director, Public Affairs, 490 L'Enfant Plaza, SW, Washington, DC 20219.

Contesting record procedures: Submit requests to the Director, Public Affairs at the above address.

Record source categories: Complaints and Banks.

Treasury/Comptroller 00.221

System name: Treasury/Comptroller—Professional Qualifications Records for Municipal Securities Principals and Municipal Securities Representatives.

System location: Office of the Comptroller of the Currency, 490 L'Enfant Plaza East SW., Washington, D.C. 20219. Records stored in computerized files are maintained off-premises at the National Association of Securities Dealers, 1735 "K" Street NW., Washington, D.C. 20006.

Categories of individuals covered by the system: Persons who are or seek to be associated with a municipal securities dealer which is a national or District of Columbia bank, or a department, division, or subsidiary of any such bank, in the capacity of municipal securities principals or municipal securities representatives.

Categories of records in the system: These records contain identifying information, detailed educational and occupational histories, certain professional qualifications examination information, disciplinary histories, and information concerning the termination of employment of individuals covered by the system. Identifying information includes names, address history, date and place of birth, and may include social security number.

Authority for maintenance of the system: Section 15B(c) (5), 17 and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c) (5), 78q and 78w) and the general authority of the National Banking Laws, 12 U.S.C. 1 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in these records may be subject to the following uses:

(a) Referral to the appropriate governmental authority, whether Federal, State, local, or foreign, or to the appropriate self-regulatory organization, of such information as may indicate a violation or potential violation of law, regulation or rule.

(b) Referral to the appropriate court, magistrate, or administrative law judge of such information as may be relevant to proceedings before any such court or judicial officer.

(c) Disclosure of such information as may aid in the resolution of any action or proceeding:

(1) In which the Federal securities or banking laws are at issue;

(2) In which the propriety of any disclosure of information contained in the system is at issue; or

(3) To which the Comptroller of the Currency or a past or present member of its staff is a party or otherwise involved in an official capacity.

(d) Disclosure to a Federal, State, local, or foreign governmental authority, or to a self-regulatory organization, of such information as may be necessary to obtain from such authority or organization additional information concerning the qualifications of an individual covered by the system.

(e) Disclosure of such information as may be necessary to respond to a request from a Federal, State, local, or foreign governmental authority, or from a self-regulatory organization, for information needed in connection with the issuance of a license, granting of a benefit, or similar action by such authority or organization affecting an individual covered by the system.

(f) Disclosure of such information as may be necessary to respond to any Congressional inquiry undertaken at the request of an individual covered by the system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders and on computer memory discs.

Retrievability: Records are indexed by name of individual.

Safeguards: File folders are stored in lockable metal cabinets and computer memory discs are accessed only by authorized personnel.

Retention and disposal: Records may be maintained indefinitely. Disposal is by normal methods.

System manager(s) and address: Deputy Comptroller for Banking Operations, Comptroller of the Currency, 490 L'Enfant Plaza East SW., Washington, D.C. 20219.

Notification procedure: Inquiries, including name and date and place of birth, should be addressed to the System Manager, Inquirers may be required to include a notarized statement attesting to identity.

Record access procedures: Same as notification procedure.

Contesting record procedures: Same as notification procedure.

Record source categories: Those individuals and municipal securities dealers described in the section entitled Categories of Individuals Covered by the System provide the bulk of the information in the system. Additional input is provided by Federal, State, local, and foreign governmental authorities, and by self-regulatory organizations, which regulate the securities industry.

Treasury/CC 300

System name: Administrative Personnel System

System location: Office of the Comptroller of the Currency, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219. Components of this system are geographically dispersed throughout 14 regional offices. (See addresses listed in Appendix j-1.)

Categories of records in the system: Employment related administrative records. This system contains in house control type information about employees. The type of records found within this system are: list of individuals who are issued drivers' licenses, building passes, credit or identification cards, parking permits, accountable property and travel documents; lists of individuals who perform specialized duties (building wardens, relocation teams, safety officers, and civil defense officers); reports about individuals who are involved in accidents while employed.

Authority for maintenance of the system: General authority—12 U.S.C. 1 and 9, 5 U.S.C. 301. Specific authority is derived from a number of laws, regulations and Executive Orders. Individuals wishing to obtain more detailed information should write to the Director, Public Affairs, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record in this system may be disclosed as a routine use to: (1) the Civil Service Commis-

Retrievability: Records are retrieved primarily by name (filed alphabetically), secondary identifiers are used to assure accuracy (date of birth, social security number, or employee identification number).

the Civil Service Commission or destroyed. Some records are retained for varying periods of time. Individuals wishing more detailed information should write to the Director, Public Affairs, 490 L'En-

reports and travel vouchers of employees are stored in separate files and are accessible by name and social security number. All payroll and time and attendance records are retained between audit periods (normally two years) and then destroyed by shredding. Travel

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record in this system may be disclosed as a routine use to: (1) the Civil Service Commission (CSC) for the purpose of complying with regulations issued by the CSC; (2) the General Services Administration (GSA) for the purpose of complying with regulations issued by the GSA; and (3) the Department of Labor for the purpose of investigating claims for work related injuries. (See Appendix AA for additional routine uses.)

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, magnetic tape, punch cards, micro-film lists and forms.

Retrievability: Records are retrieved primarily by name (filed alphabetically by category of records); secondary identifiers are used to assure accuracy (date of birth, social security number or employee identification number).

Safeguards: Records are stored in lockable cabinets or secure rooms; access is limited to officials who have a need for the information; employees are trained to make only authorized disclosures.

Retention and disposal: Personnel type records are retained for 30 days after termination. All other records are retained and destroyed in accordance with published disposition and retention schedules. Individuals wishing more detailed information should write to the Director, Public Affairs, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219.

System manager(s) and address: Deputy Comptroller for Administration, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency office where last employed; (4) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information.

Record access procedures: Director, Public Affairs, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219.

Contesting record procedures: Submit requests to the Director, Public Affairs at the above address.

Record source categories: The information in these records was provided by or verified by the subject of the record, employers and co-workers.

Treasury/CC 310

System name: Fiscal Personnel System

System location: Office of the Comptroller of the Currency, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219. Components of this system are geographically dispersed throughout 14 regional offices. (See addresses listed in Appendix j-1.)

Categories of individuals covered by the system: Present and past employees.

Categories of records in the system: This system is typically identified as payroll or disbursement type records and contains information about employees. The types of records found within this system are: award, allowance, salary, and fund advancement justification and disbursement records; payroll deductions for taxes, life and health insurance, financial institutions, retirement funds and charitable groups.

Authority for maintenance of the system: General authority—12 U.S.C. 1 and 9, 5 U.S.C. 301. Specific authority is derived from a number of laws, regulations and Executive Orders. Individuals wishing to obtain more detailed information should write to the Director, Public Affairs, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record in this system may be disclosed as a routine use to: (1) the Civil Service Commission (CSC) for the purpose of complying with regulations issued by the CSC; (2) the General Services Administration (GSA) for the purpose of complying with regulations issued by GSA; (3) the General Accounting Office for the purpose of conducting audits; and (4) to entities designated to receive payroll deductions. (See Appendix AA for additional routine uses.)

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, magnetic tape and reports. Disbursement records are stored at the Federal Records Center.

Retrievability: Records are retrieved primarily by name (filed alphabetically), secondary identifiers are used to assure accuracy (date of birth, social security number, or employee identification number).

Safeguards: Records are stored in lockable cabinets or secure rooms; access is limited to officials who have a need for the information; employees are trained to make only authorized disclosures.

Retention and disposal: Personnel type records are retained for 30 days after termination. Disbursement records are retained indefinitely. Individuals wishing more detailed information should write to the Director, Public Affairs, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219.

System manager(s) and address: Deputy Comptroller for Administration, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219.

Notification procedure: Individuals wishing to be notified if they are named in this system or gain access to records maintained in this system must submit a request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency office where last employed; and (4) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: Director, Public Affairs, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219.

Contesting record procedures: Submit request to the Director, Public Affairs at the above address.

Record source categories: The information contained in these records was provided by or verified by the subject of the record, employers and co-workers.

Treasury/CC 320

System name: General Personnel System

System location: Office of the Comptroller of the Currency, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219. Components of this system are geographically dispersed throughout 14 regional offices. (See addresses listed in Appendix j-1.)

Categories of individuals covered by the system: Present and past employees and applicants for employment.

Categories of records in the system: Employment related biographical and performance material. This category of records is typically identified as personnel type records and contains data about employees including applicants. The type records found within this category include: work evaluations; educational, employment, medical and military histories; locator and emergency contact information; dependent and beneficiary information; physical and qualification descriptions; financial interest statements; personal and family assets, liabilities and other interests in business enterprises.

Authority for maintenance of the system: General authority—12 U.S.C. 1 and 9, 5 U.S.C. 301. Specific authority is derived from a number of laws, regulations and Executive Orders. Individuals wishing to obtain more detailed information should write to the Director, Public Affairs, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record in this system may be disclosed as a routine use to (1) the Civil Service Commission (CSC) for the purpose of complying with regulations issued by the CSC; (2) the Veterans Administration for the purposes of determining veterans preference and pension benefits; (3) the Equal Employment Opportunity Commission for the purpose of providing minority information and case reports; (4) respond to requests from labor organizations for names of employees and identifying information; (5) the Department of Labor for the purpose of reporting health and safety matters; (6) the General Services Administration (GSA) for the purpose of complying with regulations issued by GSA. (See Appendix AA for additional routine uses.)

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, magnetic tape, punch cards, micro-film lists and forms.

Retrievability: Records are retrieved primarily by name (filed alphabetically by category of records). Secondary identifiers are used to assure accuracy (date of birth, social security number or employee identification number).

Safeguards: Records are stored in lockable cabinets or secure rooms; access is limited to officials who have a need for the information; employees are trained to make only authorized disclosures.

Retention and disposal: Most personnel-type records are retained for 30 days after termination, at which time they are transferred to

the Civil Service Commission or destroyed. Some records are retained for varying periods of time. Individuals wishing more detailed information should write to the Director, Public Affairs, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219.

System manager(s) and address: Deputy Comptroller for Administration, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219.

Notification procedure: Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identify the record system; (2) Identify the category and type of records sought; (3) Indicate the location of the Comptroller of the Currency office where last employed or where application for employment was made; (4) Provide at least two secondary identifications (date of birth, employee identification number, dates of employment or similar information).

Record access procedures: Director, Public Affairs, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219.

Contesting record procedures: Submit requests to the Director, Public Affairs at the above address.

Record source categories: The information contained in these records was provided or verified by the subject of the record, employers, co-workers, friends, neighbors and associates listed as references, financial and educational institutions.

Treasury/USSBD 00.001

System name: Savings Bonds Employee Records System—Treasury/USSBD.

System location: Savings Bonds Division, Department of the Treasury, 1111 20th Street, N.W., Washington, D.C. 20226.

Categories of individuals covered by the system: Employees of USSBD.

Categories of records in the system: Appeal and Grievance Records, Applicant Supply Files, Case Actions, Employee Earning Statements, Employee Financial Statements, Equal Employment Opportunity Files, Incentive Awards and Reports, Itineraries, Locator Cards, Medical Records, Merit Promotion, Motor Vehicle Records, Payroll, Performance Evaluation, Personal Investigation, Position Control, Reduction in Force File, Register of Separation and Transfer, Retirement Cards, Time and Attendance Records, Tort Claims, Training Records and Reports, Travel Vouchers.

Authority for maintenance of the system: Treasury Department Order No. 13 established the Division of Savings Bonds under the office of the Fiscal Assistant Secretary, April 1941.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Personnel Office of the Savings Bonds Division, Department of the Treasury, maintains in its system of records detailed information pertaining to each of the specific categories listed in Categories of Individuals. Routine use of the various files enables Personnel to have ready access to applicants for hiring purposes, placement and to aid in assessing the need for employee training and promotion. Necessary information about an individual employee is also provided to other Federal Personnel Offices when a Division employee is under consideration for a position in another Federal Agency. Also, other records carry accrual information that permits annual reviews on an employee's performance. All information is used solely for the purpose for which it was collected which serves as a general internal source bank. The Budget and Fiscal section of the Savings Bonds Division maintains in its record system data pertaining to each of the identifiable categories listed in Categories of Individuals. This information permits the Section to make employee payroll reconciliations, budget forecasts, check and bond issuance verifications, internal audits, prepare earning statements and document payments of employee travel claims. Disclosures may be made to a Congressional Office from the record of an individual in response to an inquiry from the Congressional Office made at the request of that individual. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: All records in Personnel, with the exception of card files, are stored in metal correspondence files, indexed by individual names and numbers. Files are maintained in separate offices according to the nature or content of data. Files are accessible to Personnel employees and are locked at the close of each day. Records pertaining to personal historical data are maintained for two years and are then sent to the Federal Records Center. The records of a less important nature are destroyed after the two-year period. Storage of financial information is maintained on computer printouts supplied by Bureau of the Mint. Time and attendance reports and travel vouchers of employees are stored in separate files and are accessible by name and social security number. All payroll and time and attendance records are retained between audit periods (normally two years) and then destroyed by shredding. Travel vouchers are maintained on file for three years after audit and then sent to the Federal Records Center.

System manager(s) and address: Director of Administration, Department of the Treasury, Savings Bonds Division, 1111 20th Street, N.W., Washington, D.C. 20226.

Notification procedure: Records that are housed by the Savings Bonds Division are not of a nature that would warrant strict guidelines for accessibility. An individual may request access to his record or any information pertaining to him by merely notifying the office or officer in charge. The individual, however, must be under the supervision of a Savings Bonds officer during the entire time he has this information in his possession.

Record access procedures: See System Manager and Notification above.

Contesting record procedures: See System manager and Notification above.

Record source categories: Data accumulated in the record system at Savings Bonds are gathered from the individual and/or from sources directly connected with the employee's appointment.

Systems exempted from certain provisions of the act: Portion of this system are exempted elsewhere in the Federal Register.

Treasury/USSBD 00.002

System name: Savings Bonds Sales Promotion/Volunteer Record System—Treasury/USSBD.

System location: Savings Bonds Division, Department of the Treasury, 1111 20th Street, N.W., Washington, D.C. 20226; and/or Regional and Branch Offices.

Categories of individuals covered by the system: Bond Tellers, Campaign Managers, Campaign Nominees, Committee Volunteer lists and Contacts, General Correspondence, Geographical Chairmen, Governmental Biographical Sketches, Honorary Chairmen, Individual Volunteer Lists, Mailing Lists—General and Labor, Major Corporation Executives, National Panel of Public Relations.

Categories of records in the system: Administrative lists and related detail.

Authority for maintenance of the system: Treasury Department Order No. 13 established the Division of Savings Bonds under the office of the Fiscal Assistant Secretary, April 1941.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Sales Office of the Savings Bonds Division, Department of the Treasury, maintains a nation-wide volunteer sales force that promotes the sale of Savings Bonds. The listing in Category of Individuals describes the type of data that supports this effort. This information provides a means by which the Sales Division may review plans and follow progress of individuals in their sale and promotion of Savings Bonds, supplies, volunteer lists and bios for recruiting, appointing and retiring volunteer leaders. Lists also provide a means of supplying volunteers with Savings Bonds program materials and information, invitations to meetings, special bulletins, letters of progress, sales reports and newsletters. Lists are available only for Savings Bonds purposes. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Mailing lists are accessible to employees and stored on addressograph plates. Other correspondence and materials are filed in the regular correspondence file cabinets and permanently retained.

System manager(s) and address: Deputy National Director, Department of the Treasury, Savings Bonds Division, 1111 20th Street, N.W., Washington, D.C. 20226.

Notification procedure: Records that are housed by the Savings Bonds Division are not of a nature that would warrant strict guidelines for accessibility. An individual may request access to his record or any information pertaining to him by merely notifying the office or officer in charge. The individual, however, must be under the supervision of a Savings Bonds officer during the entire time he has this information in his possession.

Record access procedures: See System Manager and Notification above.

Contesting record procedures: See System Manager and Notification above.

Record source categories: Data accumulated in the record system at Savings Bonds are gathered from the individual and/or from sources

DEPARTMENT OF THE TREASURY APPENDIX
ADDITIONAL ROUTINE USES

Record source categories: Data accumulated in the record system at Savings Bonds are gathered from the individual and/or from sources directly connected with the volunteer's appointment.

Treasury/USSBD 00.003

System name: Savings Bonds Sales Record System—Treasury/USSBD.

System location: Savings Bonds Division, Department of the Treasury, 1111 20th Street, N.W., Washington, D.C. 20226; and/or Regional Offices.

Categories of individuals covered by the system: Blue Ribbon Target Cards, Blue Ribbon Target Status Control Sheets, Field Call Reports, Itineraries, Net Saver Reports, Payroll Savings Reporting Procedures Forms, Progress Summaries, Time and Attendance Records, Training Reports, Work Plans, State—County Chairmen, State and Volunteer Fund Lists, "Take stock in America" Records, Telephone calls, Volunteer Bio's.

Categories of records in the system: Routine lists and administrative details associated with sales.

Authority for maintenance of the system: Treasury Department Order No. 13 established the Division of Savings Bonds under the office of the Fiscal Assistant Secretary, April 1941.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Sales unit of the Savings Bonds Division houses records of individual sales plans, program plans and regional reports for the purpose of coordinating plans for smoother operation of field work. Final plans are disseminated to field and/or volunteer offices for implementation. For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Records of this nature are filed in large notebooks and are indexed according to individual names, regions, areas and states. Notebooks are placed on shelves and do not warrant tight security. High priority records are kept for long periods as references, others are destroyed after a two year period.

System manager(s) and address: Director of Sales, Department of the Treasury, Savings Bonds Division, 1111 20th Street, N.W., Washington, D.C. 20226.

Notification procedure: Records that are housed by the Savings Bonds Division are not of a nature that would warrant strict guidelines for accessibility. An individual may request access to his record or any information pertaining to him by merely notifying the office or officer in charge. The individual, however, must be under the supervision of a Savings Bonds officer during the entire time he has this information in his possession.

Record access procedures: See Notification and System Manager.

Contesting record procedures: See Notification and System Manager.

Record source categories: Data accumulated in the sales record system at Savings Bonds are gathered from the individual and/or from sources directly connected with the employee's appointment.

DEPARTMENT OF THE TREASURY APPENDIX ADDITIONAL ROUTINE USES

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record maintained by this agency to carry out its functions may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of license, grant or other benefit, provided that disclosure is compatible with the purpose for which such record was collected.

A record maintained by this agency to carry out its functions may be disclosed as a routine use to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter, provided that disclosure is compatible with the purpose for which such record was collected.

A record maintained by this agency to carry out its functions may be disclosed in response to a court subpoena, to appropriate parties engaged in litigation or in preparation of possible litigation such as potential witnesses for the purpose of securing their testimony when necessary to courts, magistrates or administrative tribunals, to parties and their attorneys for the purpose of proceeding with litigation or settlement of disputes, to individuals seeking information by using established discovery procedures, whether in connection with civil, criminal, or regulatory proceedings.

A record maintained by this agency to carry out its functions which relates to civil and criminal proceedings may be disclosed to the news media in accordance with guidelines contained in 28 C.F.R. 50.2.

A record maintained by this agency to carry out its functions may be disclosed to foreign governments in accordance with formal or informal international agreements.

A record maintained by this agency to carry out its functions may be disclosed to unions recognized under E.O. 11491 when required or relevant to union's duties as exclusive representative under E.O. 11491.

A record maintained by this agency to carry out its functions may be disclosed to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

A record maintained by this agency to carry out its functions may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains.

[FR Doc. 78-25523 Filed 9-18-78; 8:45 am]

V 43 / 184 SEP 21 78 UMI

Vol. 43—No. 184
9-21-78
PAGES
42725-43009

federal register

THURSDAY, SEPTEMBER 21, 1978

THE NATIONAL ARCHIVES OF THE UNITED STATES * 1934 *

highlights

SUNSHINE ACT MEETINGS 42851

ARMED FORCES PROMOTIONS AND DISABILITY SEPARATIONS
Executive order suspending certain limitations 42727

UNITED NATIONS DAY
Presidential proclamation 42725

SURFACE COAL MINING AND RECLAMATION OPERATIONS
Interior/SMRE announces availability of draft regulatory analysis on proposed permanent program regulations; comments by 11-17-78 42786

HEALTH PROFESSIONS FINANCIAL DISTRESS
HEW/HRA announces acceptance of grant applications for FY 1979; postmarked no later than 11-3-78 42788

CHLOROFLUOROCARBONS
EPA proposes to expand the scope of exemptions to cover total release and metered valve aerosol devices which are subject to the Toxic Substances Control Act; comments by 10-23-78 42770

RELOCATION OF MOBILE HOME OCCUPANTS
Interior adopts guidelines for moving and related expenses and for replacement housing payments; effective 10-20-78 ... 42771

UNIFORM RELOCATION ASSISTANCE
Interior clarifies and adopts provisions including guidelines for payments to displaced mobile home occupants (3 documents); effective 10-20-78 42751-42756

MANDATORY PETROLEUM PRICE REGULATIONS
DOE/FERC permits passthrough of increased processing and marketing costs in price of natural gas liquids and natural gas liquid products (Part V of this issue) 42984

BOATS AND ASSOCIATED EQUIPMENT
DOT/CG proposes change in format for display of capacity information; comments by 11-20-78 (Part VI of this issue) 43006

INTERSTATE HIGHWAYS
DOT/FHWA revises regulations on incentive payments for controlling outdoor advertising; effective 9-6-78 42742

MARKETING RESEARCH INDUSTRY
FTC states its intention to take appropriate enforcement action against those who use secret coding in marketing research in the event it may be causing substantial consumer injury; effective 9-21-78 42741

CONTINUED INSIDE

V 43/184 SEP 21 78 VA

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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Public Briefings: "How To Use the Federal Register."	523-3517
Code of Federal Regulations (CFR)	523-3419
	523-3517
Finding Aids	523-5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523-5233
Weekly Compilation of Presidential Documents.	523-5235
Public Papers of the Presidents	523-5235
Index	523-5235
PUBLIC LAWS:	
Public Law dates and numbers	523-5266
	523-5282
Slip Laws	523-5266
	523-5282
U.S. Statutes at Large	523-5266
	523-5282
Index	523-5266
	523-5282
U.S. Government Manual	523-5230
Automation	523-3408
Special Projects	523-4534

HIGHLIGHTS—Continued

OFF-ROUTE CHARTER RULES
CAB removes all restrictions on cargo charters by all-cargo carriers, raises the volume limits for other charters by scheduled carriers, and liberalizes the frequency restrictions for those charters; effective 10-20-78 42736

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976
State issues notice of applications for permits to fish off the coasts of the United States (Part III of this issue) 42956

RATE FIXING AGREEMENTS UNDER SHIPPING ACT
FMC modifies final rule on self-policing of Commission approved agreements; effective 1-1-79 42757

TRANSPORTATION REGULATIONS AGENDA AND REVIEW LIST
DOT publishes semiannual summary of prospective provisions (Part II of this issue) 42914

MIGRATORY BIRD HUNTING
Interior/FWS establishes late seasons and bag and possession limits; effective 9-21-78 (Part IV of this issue) 42960

PESTICIDE RESIDUES
EPA establishes tolerances for *O,O*-dimethyl *S*-[(4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl] phosphorodithioate; effective 9-21-78 42749

RURAL HEALTH CLINIC SERVICES
HEW/HCFA announces screening guidelines and a payment limit for determining Medicare and Medicaid reimbursement rates for covered services furnished by certain rural health clinics 42787

MEETINGS—
ACUS: Committee on Licenses and Authorizations, 10-12-78 42774
CRC: Ohio Advisory Committee, 10-14-78 42775
Commerce/Census: American Economic Association Census Advisory Committee, 10-13-78 42776
Sec'y: Grants Administration Task Force, 10-6-78 42777
Federal Mediation and Conciliation Service: Arbitration Services Advisory Committee, 10-19 and 10-20-78 42784
HEW/OE: Financial Aid to Students Advisory Council, 10-6-78 42786
NIH: Cancer Control Intervention Programs Review Committee, 10-12 and 10-13-78 42788
Cancer Control Grant Review Committee, 10-30 and 10-31-78 42788
Interior/BLM: Salmon District Grazing Advisory Board, 10-26-78 42820
OSMRE: Mining and Mineral Resources Research Advisory Committee, 10-5-78 42821
NRC: ACRS Subcommittees and Working Groups, meetings for the month of September, October and November 42825

HIGHLIGHTS—Continued

contents

V 43/184 SE 21 78

HIGHLIGHTS—Continued

State/AID: Joint Committee for Agricultural Development of the Board for International Food and Agricultural Development, 10–10 and 10–11–78 42830
Joint Research Committee of the Board for International Food and Agricultural Development, 10–10 and 10–11–78 42830
Sec'y: Secretary of State's Advisory Committee on Private International Law, 10–25–78 42830
Study Group 1 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT), 10–12–78 42831
DOT/CG: Chemical Transportation Advisory Committee's Subcommittee on Liquefied Gas Vessels, 10–25–78 42832
VA: Special Medical Advisory Group, 10–2 and 10–3–78 42836

MEETING AMENDED—

HEW/NIH: Cardiology Advisory Committee, 10–4–78 42789

SEPARATE PARTS OF THIS ISSUE

Part II, DOT/Secy 42914
Part III, State 42956
Part IV, Interior/FWS 42960
Part V, Energy/ERA 42984
Part VI, DOT/CG 43006

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

Interior/BLM—Lands subject to leasing. 37202; 8–22–78
GS—Modifications, coal mining regulations. 37181; 8–22–78

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing: September 19, 1978]

H.R. 6669 ..... Pub. L. 95–367
National Climate Program Act. (Sept. 17, 1978; 92 Stat. 601). Price: $.60.

H.R. 2931 ..... Pub. L. 95–368
To amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverge by preempting certain State or local laws which are inconsistent with such contracts, and for other purposes. (Sept. 17, 1978; 92 Stat. 606). Price: $.50.

H.R. 10899 ..... Pub. L. 95–369
International Banking Act of 1978. (Sept. 17, 1978; 92 Stat. 607). Price: $.90.

H.R. 12240 ..... Pub. L. 95–370
Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1979. (Sept. 17, 1978; 92 Stat. 626). Price: $.50.

H.J. Res. 1014 ..... Pub. L. 95–371
Designating April 28 and 29 of 1979 as "Days of Remembrance of Victims of the Holocaust." (Sept. 18, 1978; 92 Stat. 628). Price: $.50.

S. 9 ..... Pub. L. 95–372
Outer Continental Shelf Lands Act Amendments of 1978. (Sept. 18, 1978; 92 Stat. 629). Price: $2.00

H.R. 13468 ..... Pub. L. 95–373
District of Columbia Appropriation Act, 1979. (Sept. 18, 1978; 92 Stat. 699). Price: $.60.

H.R. 12927 ..... Pub. L. 95–374
Military Construction Appropriation Act, 1979. (Sept. 18, 1978; 92 Stat. 707). Price: $.60.

S. 1633 ..... Pub. L. 95–375
To provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes. (Sept. 18, 1978; 92 Stat. 712). Price: $.50.

H.R. 10878 ..... Pub. L. 95–376
To extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fisherman's Protective Act of 1967, and for other purposes. (Sept. 18, 1978; 92 Stat. 714). Price: $.60.

contents

THE PRESIDENT

Executive Orders
Armed Forces promotions and disability separations; suspension of certain limitations 42727
Proclamations:
United Nations Day 42725

EXECUTIVE AGENCIES

ADMINISTRATIVE CONFERENCE OF UNITED STATES
Notices
Meetings:
Licenses and Authorizations Committee 42774

AGENCY FOR INTERNATIONAL DEVELOPMENT
Notices
Meetings:
International Food and Agricultural Development Board, Joint Committee on Agricultural Development ... 42830
International Food and Agricultural Development Board, Joint Research Committee 42830

AGRICULTURAL MARKETING SERVICE
Rules
Milk marketing orders:
Puget Sound, Wash 42729

AGRICULTURE DEPARTMENT
See also Agricultural Marketing Service; Forest Service; Soil Conservation Service.

ANTITRUST DIVISION, JUSTICE DEPARTMENT
Notices
Competitive impact statements and proposed consent judgments; U.S. versus listed companies:
Hawaiian Holidays Tours, Inc., et al 42822

CENSUS BUREAU
Notices
Meetings:
American Economic Association Census Advisory Committee 42776

CIVIL AERONAUTICS BOARD
Rules
Charters:
Trips and special services; off-route charter rules all-cargo carriers 42736

CIVIL RIGHTS COMMISSION
Notices
Meetings, State advisory committees:
Ohio 42775

COAST GUARD
Rules
Safety zones, establishment:
Los Angeles River Channel, Calif 42748
Security zones:
East River, N.Y 42748
Proposed Rules
Boating safety:
Boats and associated equipment; display of capacity information 43006
Notice
Bridges, highway; proposed construction:
Jacksonville, Fla.; hearing 42833
Depue, Ill.; hearing 42832
Deepwater port license applications:
Texas Deepwater Port Authority 42831
Meetings:
Chemical Transportation Advisory Committee 42832
Tanker safety and pollution prevention; information and regulatory implementation plan; schedule change 42833

COMMERCE DEPARTMENT
See also Census Bureau; Economic Development Administration; Industry and Trade Administration; National Oceanic and Atmospheric Administration.
Notices
Meetings:
Grants Administration Task Force 42777

ECONOMIC DEVELOPMENT ADMINISTRATION
Notices
Import determination petitions:
Baroness Leather Products, Inc., et al 42776

ECONOMIC REGULATORY ADMINISTRATION
Rules
Petroleum price regulations, mandatory:
Natural gas liquids and liquid products; passthrough of increased processing and marketing costs 42984
Notices
Environmental statements; availability, etc.:
Northern States Power Co. 500 kV international transmission line, Minn 42777

EDUCATION OFFICE
Notices
Information collection and data acquisition activity, description; inquiry 42784
Meetings:
Financial Aid to Students Advisory Council 42786

ENERGY DEPARTMENT
See also Economic Regulatory Administration; Federal Energy Regulatory Commission.
Notices
Committees; establishment, renewals, terminations, etc.:
Global effects of carbon dioxide study group 42784
Management Office Advisory Committee; telephone number change 42784
Environmental statements; availability, etc.:
Brookhaven National laboratory, Upton, N.Y 42778

ENVIRONMENTAL PROTECTION AGENCY
Rules
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
O,O-Dimethyl *S*-(4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl) phosphorodithioate 42749
Proposed Rules
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
Inert ingredients 42769
Toxic substances:
Chlorofluoralkanes, fully halogenated, used in aerosol propellants; total release and metered valve aerosol devices; exemption 42770

FEDERAL AVIATION ADMINISTRATION
Rules:
Airworthiness directives:
Gulfstream American Corp. ... 42732
Hartzell 42731
McCauley 42730
Control zone and transition area 42734
Restricted areas; correction 42734
Standard instrument approach procedures 42734
Proposed Rules
Airworthiness directives:
Boeing 42766
Transition area 42766

FEDERAL ENERGY REGULATORY COMMISSION
Notices
Hearings, etc.:
Brown—New Hampshire, Inc.. 42778

CONTENTS

CONTENTS

V 43 / 184 SEP 21 1978

Central Illinois Public Service Co 42779
Empire District Electric Co 42779
Kansas Power & Light Co..... 42780
Northern States Power Co 42780
Ohio Power Co 42780
Panhandle Eastern Pipe Line Co. et al 42781
Reeves Brothers, Inc 42781
Southside Electric Cooperative 42781
Southwest Gas Co 42784
Transco Exploration Co 42783
Utah Power & Light Co..... 42783

FEDERAL HIGHWAY ADMINISTRATION

Rules

Payment procedures:
Incentive payments; control advertising control on interstate system 42742

FEDERAL INSURANCE ADMINISTRATION

Rules

Flood insurance; communities eligible for sale:
Alabama et al..... 42743
Ohio 42747

FEDERAL MARITIME COMMISSION

Rules

Self-policing requirements for section 15 agreements..... 42757

FEDERAL MEDIATION AND CONCILIATION SERVICE

Notices

Meetings:
Arbitration Services Advisory Committee 42784

FEDERAL TRADE COMMISSION

Rules

Administrative interpretations, etc.:
Secret coding in marketing research 42741

FISH AND WILDLIFE SERVICE

Rules

Hunting:
Tamarac National Wildlife Refuge, Minn 42763
Upper Souris National Wildlife Refuge, N. Dak..... 42763
Migratory bird hunting:
Seasons, limits, and shooting hours, establishment, etc 42960

FOREST SERVICE

Rules

Prohibitions:
Manistee National Forest; Pine River area; permits required..... 42749

HEALTH CARE FINANCING ADMINISTRATION

Notices

Aged and disabled health insurance and medical assistance programs:
Rural health clinic services reimbursement; screening guidelines 42787

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Education Office; Health Care Financing Administration; Health Resources Administration; National Institutes of Health.

HEALTH RESOURCES ADMINISTRATION

Notices

Grants; availability:
Health professions financial distress; grants to schools 42788

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Insurance Administration.

INDIAN AFFAIRS BUREAU

Proposed Rules

Licensed Indian traders; sale of arms and ammunition 42767

Notices

Distribution plans and termination notices:
California rancherias 42789

INDUSTRY AND TRADE ADMINISTRATION

Rules

Export licensing:
Shotguns, sporting; commodity control list 42741

Notices

Watches and watch movements; allocation of quotas:
Guam and Virgin Islands; correction 42776

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office.

Rules

Procurement; protective clothing or equipment..... 42750
Property management:
Relocation assistance, uniform, and real property acquisition policies (3 documents) 42751–42766

Proposed Rules

Property management:
Relocation assistance, uniform, and real property acquisition policies 42771

Notices

Environmental statements; availability, etc.:
Tuskegee Institute National Historic Site, Ala 42821
Watches and watch movements; allocation of quotas:
Guam and Virgin Islands; correction 42776

INTERSTATE COMMERCE COMMISSION

Notices

Hearing assignments 42847
Motor carriers:
Transfer proceedings 42848
Petitions, applications, finance matters (including temporary authorities), railroad abandonments, alternate route deviations, and intrastate applications..... 42838
Petitions filing:
Trailways, Inc.; extension of time 42850
Railroad car service orders; various companies:
All railroads 42847
Burlington Northern, Inc..... 42848
Chicago & North Western Transportation Co..... 42847
Chicago, Rock Island & Pacific Railroad Co 42847
Railroad car service rules, mandatory; exemptions (2 documents) 42848
Railroad freight rates and charges; various States, etc.:
Nationwide 42836
Rerouting of traffic:
Chesapeake & Ohio railway Co 42850
CP Rail et al 42850

JUSTICE DEPARTMENT

See Antitrust Division, Justice Department.

LAND MANAGEMENT BUREAU

Notices

Alaska native selections; applications, etc.:
Belkofski Corp..... 42818
Tyonek Native Corp. et al.; temporary suspension..... 42820
Applications, etc.:
Colorado (2 documents) 42818, 42819
Coal leases:
Utah 42820
Meetings:
Salmon District Grazing Advisory Board 42820

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; list of requests 42829

MATERIALS TRANSPORTATION BUREAU

Proposed Rules

Pipeline transportation of gas:
Accident prevention, recommendations by NTSB; withdrawn 42772
Gathering line, definition; withdrawn 42773

NATIONAL INSTITUTES OF HEALTH

Notices

Meetings:
Cancer Control Grant Review Committee 42788
Cancer Control Intervention Programs Review Committee..... 42788
Cardiology Advisory Committee..... 42789

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rules

Fishery conservation and management:
Cod, haddock and yellowtail flounder, Atlantic; landing limitations..... 42764
Surf clam and ocean quahog fisheries, Atlantic; surf clam area closure..... 42765

Notices

Marine mammal permit applications, etc.:
Dawson, Dr. William W 42776

NATIONAL PARK SERVICE

Notices

Meetings:
Draft general management plan for Yosemite National Park 42821

NATIONAL TRANSPORTATION SAFETY BOARD

Notices

Safety recommendations and accident reports; availability, responses, etc 42826

NUCLEAR REGULATORY COMMISSION

Notices

Applications, etc.:
Yankee Atomic Electric Co 42825
Meetings:
Reactor Safeguards Advisory Committee 42825

POSTAL SERVICE

Proposed Rules

Postal service manual:
Security of mail; delay, detension, or opening mail, etc.; Puerto Rico..... 42768

SOIL CONSERVATION SERVICE

Notices

Environmental statements on watershed projects; availability, etc.:
Briscoe Floodwater Retarding Structure RC&D Measure, Nebr 42774
FM 830 Boat Ramp Recreation Development RC&D Measure, Tex..... 42774
Navarino Wildlife Area Critical Area Treatment and Public Water-Based Fish and Wildlife RC&D Measure, Wis 42775
West Clinton Flood Prevention RC&D Measure, Ind..... 42775

STATE DEPARTMENT

See also Agency for International Development.

Notices

Fishing permits, applications:
Japan, Poland, and Romania.. 42956
Meetings:
International Telegraph and Telephone Consultative Committee 42831
Private International Law Advisory Committee 42830

SURFACE MINING RECLAMATION AND ENFORCEMENT OFFICE

Proposed Rules

Regulatory analysis statements; availability 42768

Notices

Mining plan for public review; availability 42822
Meetings:
Mining and Mineral Resources Research Advisory Committee 42821

TRANSPORTATION DEPARTMENT

See also Coast Guard; Federal Aviation Administration; Federal Highway Administration; Materials Transportation Bureau.

Rules

Time zone boundaries, standard; CFR correction 42763

Notices

Regulations agenda and review list; semi-annual summary 42914

VETERANS ADMINISTRATION

Notices

Meetings:
Special medical advisory group..... 42836

list of cfr parts affected in this issue

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING SEPTEMBER

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR

EXECUTIVE ORDERS:
10616 (Revoked by EO 12082).... 42727
11151 (Revoked by EO 12082).... 42727
11437 (Revoked by EO 12082).... 42727
11554 (Revoked by EO 12082).... 42727
12082 42727

PROCLAMATIONS:
4597 42725

7 CFR

1125 42729

10 CFR

212 42984

14 CFR

39 (3 documents) 42730-42732
71 42734
73 42734
97 42734
207 42736

PROPOSED RULES:
39 42766
71 42766

15 CFR

399 42741

16 CFR

14 42741

23 CFR

190 42742

24 CFR

1914 (2 documents) 42743, 42747

25 CFR

PROPOSED RULES:
251 42768

30 CFR

PROPOSED RULES:
Ch. VII 42769

33 CFR

127 42748
165 42748

PROPOSED RULES:
183 43006

36 CFR

261 42749

39 CFR

PROPOSED RULES:
111 42769

40 CFR

180 42749

PROPOSED RULES:
180 42770
762 42771

41 CFR

114-45 42750
114-50 (3 documents)..... 42751-42756

PROPOSED RULES:
114-50 42772

46 CFR

528 42757

49 CFR

71 42763

PROPOSED RULES:
192 (2 documents) 42773, 42774

50 CFR

20 42960
32 (2 documents) 42763
651 42764
652 42765

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.

1 CFR

Ch. I 39069

3 CFR

EXECUTIVE ORDERS:
10536 (Revoked by EO 12079).... 42233
10616 (Revoked by EO 12082).... 42727
11030 (Amended by EO 12080) .. 42235
11151 Revoked by EO 12082) 42727
11437 (Revoked by EO 12082).... 42727
11554 (Revoked by EO 12082).... 42727
12024 (See EO 12078) 39741
12078 39741
12079 42233
12080 42235
12081 42237
12082 42727

MEMORANDUMS:
September 8, 1978 40449

PROCLAMATIONS:
4591 39561
4592 39739
4593 40197
4594 40451
4595 41013
4596 41941
4597 42725

REORGANIZATION PLANS:
No. 3 of 1978 41943

4 CFR

416 42239

5 CFR

213 ..... 39069, 39070, 39951-39953, 40453, 41947

7 CFR

2 ..... 39953, 41371
245 39070
250 ..... 39070, 41947
271 41947
282 ..... 39074, 39075
301 40528
330 39953
401 41371
908 ..... 39743, 42247
910 ..... 39080, 39319, 39954, 41372, 41949
911 39319
915 39321
927 39323
931 39323
932 39743
993 40199
1004 ..... 39744, 39745, 41990
1036 40801
1071 39325
1073 39326
1097 39328
1102 39328
1104 39329
1106 39331
1108 39333

7 CFR—Continued

1120 39334
1125 42729
1126 39335
1132 39337
1133 39955
1138 39338
1435 39563
1464 41991
1701 41181
1823 ..... 39746, 40199
1955 41373

PROPOSED RULES:
6 ..... 39110, 40530
17 40872
722 39117
918 40027
948 40027
965 40028
981 39393
1079 40028
1126 40030
1427 39118
1701 ..... 40036, 41215
1822 41215
1940 41047-41049
1944 41215

8 CFR

108 40879
236 40801

PROPOSED RULES:
108 40879

9 CFR

54 41103
91 39080
94 39958
113 41185
355 39340

PROPOSED RULES:
1 42200
3 42200
92 40037
317 39394
318 ..... 39119, 39394
319 39394

10 CFR

35 39747
51 41373
73 41187
205 ..... 39080, 40200
212 ..... 40682, 42984

PROPOSED RULES:
51 39801
210 41224
211 ..... 40233, 41224
212 ..... 40233, 41224
430 40192
1004 40530

12 CFR

202 39341
217 41015
226 ..... 40210, 41015

PROPOSED RULES:
7 41406
226 41993

13 CFR

107 39563
Ch. IV 40803

PROPOSED RULES:
123 42016
130 39394
309 41408

14 CFR

39 ..... 39346-39348 39748, 39750, 41016, 41374-41376, 42730-42732
71 ..... 39439 39750-39753, 40211-40213, 41017, 41018, 41381-41383, 42734
73 ..... 40214, 40215, 42734
75 39753-39755
97 ..... 41019, 42734
207 42736
221 39536
241 40454
298 41187
302 ..... 39536, 41021
385 40803
399 39522

PROPOSED RULES:
Ch. II 41410
39 ..... 40233, 42766
71 ..... 39803, 40237, 41051, 41408, 41409, 42766
73 ..... 39803, 39804
223 39805
250 39806
298 39587
380 ..... 39807, 40880

15 CFR

399 42741

PROPOSED RULES:
500 41230

16 CFR

1 39083
13 ..... 39350, 40454
14 42741
1209 39564

PROPOSED RULES:
13 ..... 39120, 40536, 40537, 40882, 41233, 42017
305 41410
451 41051
1209 39564

V 43 / 184 / SEPT 21 1978

17 CFR

1 39956
8 41950
111 41192
210 ..... 40688, 41022
211 40730
230 ..... 41193, 41383
239 39554
249 39554
270 39553
274 39553

PROPOSED RULES:

210 ..... 40724, 40726
229 40720
230 41235
239 41052
270 39396

18 CFR

1 ..... 39982, 41965
3 40217
4 40217
16 40217
131 40217

PROPOSED RULES:

1 ..... 39122, 40037

19 CFR

153 40804

PROPOSED RULES:

6 40238
177 41236

20 CFR

416 39564
801 41990
802 41990
901 39756

PROPOSED RULES:

404 ..... 39266, 42017
416 41054
620 39124
653 39124

21 CFR

430 41194
431 ..... 41194, 41195
510 39086
514 41195
520 ..... 39084, 39085
522 40455
524 40455
556 41965
558 ..... 39086, 39350, 41965
561 ..... 40456, 41385, 41386

PROPOSED RULES:

73 42017
102 42118
131 42118
133 ..... 42118, 42126, 42127
145 39126
310 39126
314 39126
337 39544
347 42018
436 40038
469 40038
1308 40884

22 CFR

64 42247
516 42247

23 CFR

17 41387
190 42742

PROPOSED RULES:

625 40539

24 CFR

221 39570
841 41198
886 40402
1914 ..... 41028, 41030, 41966, 42743, 42747
1915 41967
1916 39572
1917 ..... 39351–39360, 39573–39582, 39761–39771, 39983–39987, 41204
1920 39771–39774

PROPOSED RULES:

58 42220
201 39593
570 41369
1917 ..... 39129, 39141, 41237, 42018, 42261–42281
3500 ..... 39701, 40539

25 CFR

11 40804
41 41388
43k 40457
54 39361
178 40458
258 39086

PROPOSED RULES:

251 42768

26 CFR

1 ..... 40219, 40459, 41204
48 41388
301 ..... 40219, 40459

PROPOSED RULES:

1 ..... 39142, 39822, 41237
31 ..... 39142, 39149
301 39142

28 CFR

PROPOSED RULES:

2 ..... 41411, 42282

29 CFR

1601 39775
1610 40222
1910 39087
2520 41205

PROPOSED RULES:

1601 39831

30 CFR

41 39988
70 40760
71 40760
301 41974
302 41974

30 CFR—Continued

PROPOSED RULES:

Ch. VII . 41662, 42018, 42282, 42769
55 40766
56 40766
57 40766

31 CFR

1 42249
51 40223
223 39088

32 CFR

42 39988
581 40498
641 41975
837 42249
902 39089
931 39101
1288 40806
1804 39776

PROPOSED RULES:

47 40884

33 CFR

3 40224
117 ..... 39777, 41032, 41389, 41390
127 42748
161 ..... 39994, 40224
165 42748

PROPOSED RULES:

89 39946
117 ..... 41412, 41413
126 39832
183 ..... 41056, 43006

36 CFR

214 40998
261 42749
1207 40808

PROPOSED RULES:

28 41414

37 CFR

202 41975
302 40225
303 40498
305 40501

38 CFR

2 39364
14 39365

PROPOSED RULES:

3 40239
21 39832
36 ..... 39150, 39833

39 CFR

111 ..... 39583, 39995, 40810
221 41984
224 ..... 41984, 42249
265 42250
602 42249

PROPOSED RULES:

111 ..... 39593, 42769
266 41391

40 CFR

2 ..... 39997, 42251
35 42251
51 40009
52 ..... 39366, 40009–40011, 41032–41039
65 ..... 40015, 40226
81 ..... 39101, 40412, 40436, 40502
125 40859
180 ..... 41206, 41391–41396, 42749
800 39367
730 41206

PROPOSED RULES:

35 40742
52 ..... 39151, 39152, 40009–40011, 40240, 40245, 42018, 42282
60 ..... 42154, 42183, 42186
65 ..... 39152, 39153, 39397, 39834, 40015, 40247, 40248, 40539,41238, 41239, 42283
81 40436
125 39282
130 40742
131 40742
151 39276
162 39644
180 ..... 40249, 41240, 42770
233 39398
762 42771

41 CFR

Ch. I 40015, 41044
Ch. 18 40018
3-56 39778
5B-2 40227
14-1 ..... 39377, 39787, 41207
14-2 ..... 39378, 39788
14-3 39788
14-4 39378
14-7 39379
14-12 39379
14-18 39379
14-30 39380
14-55 39380
Ch. 101 40019
101-30 42257
101-37 40228
114-45 42750
114-50 42751–42756

PROPOSED RULES:

101-20 40250
114-50 42772

42 CFR

36 41214
54a 40386
57 39380
58 ..... 39384, 40862

42 CFR—Continued

PROPOSED RULES:

59 42019
110 40376
405 39155
449 39155

43 CFR

26 41004
428 41396
6000 40734
6010 40734
6200 40734
6220 40734
6250 40734
6260 40734
6270 40734
6290 40734
8000 40734
8200 40734
8300 40734
8340 40734
8350 40734
8360 40734
8370 40735

PROPOSED RULES:

420 41241

45 CFR

5b 40229
801 39387

PROPOSED RULES:

177 41056
1340 39593

46 CFR

502 41040
510 40524
512 40524
528 42757
542 39102

PROPOSED RULES:

151 40250
153 40250
157 41178
531 39399
536 39399

47 CFR

2 41985
73 ..... 39388, 39584, 39704, 40250, 40251, 41400
74 ..... 39704, 41401
87 ..... 41214, 41986
89 41987

PROPOSED RULES:

1 41241
31 ..... 39385, 40886
33 ..... 39385, 40886
42 ..... 39385, 40886

47 CFR—Continued

PROPOSED RULES—Continued

43 ..... 39385, 40886
63 40541
73 ..... 39400, 39593, 39594, 40250, 40251, 40887, 40888, 41241
83 40889
87 42285

49 CFR

71 42763
172 39789
173 39791
175 39792
176 39792
177 41401
179 39792
192 39389
571 39390
581 40229
609 41987
1008 41040
1033 ..... 39103, 39104, 39794–39796, 41403, 42257
1056 39798

PROPOSED RULES:

Ch. X 39157
172 39835
173 39835
192 ..... 39401, 42773, 42774
195 39402
571 ..... 39835, 41056
1033 40891
1060 41242
1121 41245
1307 39157
1309 39157
1310 39157
1320 ..... 39404, 41059
1322 ..... 39404, 41059

50 CFR

20 ..... 39186, 42960
26 ..... 39798, 41042
32 ..... 39105–39107, 39584, 39585, 39799, 39800, 40021–40024, 40232, 40524, 40867, 41042, 41043, 41404, 42258, 42260, 42763
33 41044
216 40025
285 ..... 39107, 41044
611 39586
651 ..... 39108, 41405, 42764
652 ..... 40527, 42765
662 40868
810 39306

PROPOSED RULES:

17 41060
32 40893
230 40045
611 ..... 41062, 41244
652 39161

V 43 / 184 SEP 21 78

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	Date	Pages	Date	Pages	Date
39069–39317	Sept. 1	40197–40448	11	41371–41940	18
39319–39560	5	40449–40799	12	41941–42232	19
39561–39738	6	40801–41011	13	42233–42724	20
39739–39950	7	41013–41179	14	42725–43009	21
39951–40195	8	41181–41369	15		

[3195-01]

Title 3—The President

PROCLAMATION 4597

United Nations Day, 1978

By the President of the United States of America

A Proclamation

The founding of the United Nations, on October 24, 1945, was an historic attempt to establish a framework for international cooperation.

The nations of the world now face such tasks as maintaining international peace and security; promoting basic human rights; building a better international economic order; and allocating fairly the globe's natural resources. The United Nations and its affiliated agencies bring together representatives of all nations to work together toward these goals. It holds out the vision of a truly cooperative world—a world at peace.

As one of its founding members, as its leading contributor, and as its host country, the United States feels a special pride in the Organization's accomplishments.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate Tuesday, October 24, 1978, as United Nations Day.

I have appointed Clifton C. Garvin, Jr., to be United States National Chairman for United Nations Day.

I urge Americans to become better acquainted with the institutions that make up the United Nations, to consider its role in addressing the problems of global interdependence, and to help it resolve the array of critical international issues that face us in these times.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of September, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 78-26651 Filed 9-19-78; 2:04 pm]

V 43 / 184 SEP 21 78

V 43/184 SEP 21 78

[3195-01]

Executive Order 12082 — **September 19, 1978**

Suspension of Certain Armed Forces Promotion and Disability Separation Limitations

By the authority vested in me as President of the United States of America by Sections 2 and 3 of an Act approved by me today (bill S. 3454 enacted by the Senate and the House of Representatives on September 7 and 12, 1978), and having determined that certain promotion limitations applicable to the Navy and Marine Corps should continue to be suspended, and having determined that the new statutory conditions authorizing a continuation of certain existing disability separation practices in the Armed Forces should be effective, it is hereby ordered as follows:

1-101. For the period beginning on September 15, 1978 and ending on September 30, 1979, the application of the following provisions of Title 10 of the United States Code is suspended:

(a) Section 5707(c), restricting the number of Navy and Marine Corps officers who may be recommended for promotion from below the appropriate promotion zone.

(b) Section 5751(a), requiring Marine Corps officers serving in the grade of brigadier general to have completed three years' service in grade to be eligible for consideration for promotion to major general.

(c) Section 5751(b), requiring certain officers to have completed specific years of service in grade before being eligible for consideration for promotion to the next higher grade.

(d) Section 5751(e), precluding officers designated for limited duty who are below the appropriate promotion zone from being considered for promotion.

(e) Section 5770, requiring certain officers to have had at least two years' sea or foreign service in grade before they may be promoted.

1-102. For the period beginning on September 15, 1978 and ending on September 30, 1979, the conditions provided for by the following provisions of Title 10 of the United States Code are effective:

(a) Section 1201(3)(B)(iv), authorizing the retirement for certain disabilities of at least 30 percent which were incurred in line of duty.

(b) Section 1203(4)(A)(iii), authorizing separation for certain disabilities of less than 30 percent which were incurred in line of duty.

(c) Section 1203(4)(C)(iii), authorizing separation for certain disabilities of at least 30 percent which were not incurred in line of duty.

1-103. Executive Order Nos. 10616, 11151, 11437, and 11554, as amended, are hereby revoked.

Jimmy Carter

THE WHITE HOUSE,
September 19, 1978.

[FR Doc. 78-26717 Filed 9-20-78; 10:47 am]

V 43/184 SEP 21 78

V 43 / 184 SEP 21 78

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02]

Title 7—Agriculture

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 125]

PART 1125—MILK IN THE PUGET SOUND, WASH., MARKETING AREA

Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This order suspends certain order provisions relating to how much milk not needed for fluid (bottling) use may be moved directly from farms to manufacturing plants and still be priced under the order. The suspension was requested by a cooperative association to help it continue the association of its members' milk with the order. The suspension would apply during the months of September 1978 through January 1979.

DATE: September 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of proposed suspension—issued August 25, 1978, published August 30, 1978 (43 FR 38706).

This order of suspension is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Puget Sound, Wash., marketing area.

Notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 38706) concerning a proposed suspension of certain provisions of the order. Interested persons had an opportunity to comment in writing on the proposed suspension. Only the proponent of the suspension filed comments concerning the suspension. Its comments supported the suspension.

After considering all relevant material, including the proposal in the notice, the comments received and other available information, it is found and determined that for the months of September 1978 through January 1979 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1125.13(c) (1) and (3), the words "70 percent during the months of September through January, and".

STATEMENT OF CONSIDERATION

The suspension removes the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool distributing plants to nonpool plants or to commercial food processing establishments in Pacific County, Wash., during the months of September 1978 through January 1979. In the case of a cooperative association, the order now limits diversions during these months to not more than 70 percent of its total producer milk which it causes to be delivered to pool distributing plants or diverted therefrom. In the case of a pool distributing plant, the 70 percent limit applies to the milk of producers (for which the operator of such plant is the handler during the month) received at or diverted from such pool plant.

The suspension was requested by the Northwest Guernsey Association (through its marketing agent, the Dari-Marketing Services) which lost a substantial part of its fluid milk sales to a pool distributing plant. It contends that since other fluid outlets are not immediately available the cooperative now must move to nonpool manufacturing plants the milk formerly moved to this handler. The cooperative indicated that without the suspension, a substantial part of the milk of its member producers who have regularly supplied the fluid market would have to be moved uneconomically if such milk is not to be excluded from the pool beginning in September 1978. The cooperative also indicated that the suspension for the period September 1978 through January 1979 would provide the necessary time to adjust its marketing operations and to request a public hearing to consider amendments to the order.

On the basis of the data, views, and arguments filed, it is concluded that without the suspension, the cooperative would be forced to make uneconomic shipments of a substantial part of its member milk that has been associated with the market on a regluar basis in order to qualify it for pooling beginning with this September. The suspension will facilitate the diversion of such milk and thus avoid the need for the cooperative to make uneconomic movements of milk in order to maintain continued pool status for a substantial part of the milk of its member producers.

It is hereby found and determined that 30 days' notice of the effective date thereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that the most efficient method of handling milk not needed for the fluid market is by direct movement from producers' farms to manufacturing outlets. This suspension allows such economical movements of milk while the dairy farmers involved retain producer status;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given to interested parties and they were afforded opportunity to file written data, views, or arguments concerning this suspension. No views were received in opposition to the proposed suspension.

Therefore, good cause exists for making this order effective upon publication in the FEDERAL REGISTER.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of September 1978 through January 1979.

Signed at Washington, D.C., on September 18, 1978.

JERRY C. HILL,
Deputy Assistant Secretary.

[FR Doc. 78-26502 Filed 9-20-78; 8:45 am]

V 43 / 184 SEP 21 78

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-GL-3; Amdt. 39-3304]

PART 39—AIRWORTHINESS DIRECTIVES

McCauley Propellers Two-Bladed Constant Speed Model D2A34C58, F2A34C58 and D2A34C98 Series.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) applicable to propellers installed on Cessna A188, A188A, A188B, and Transavia PL-12 airplanes by a new AD that adds additional airplane models. The new AD imposes the same inspection and replacement requirements on the airplane models covered by the existing AD and adds relaxed inspection and replacement requirements on additional airplane models. The new AD is needed because service experience indicates these airplanes are also susceptible to hub failures and blade loss to which the exisiting AD is directed. The additional airplane models use the same design propellers. Periodic inspection of the propeller hubs is required until replaced by oil-filled hubs containing a dyed oil crack detection system.

DATES: Effective September 29, 1978. Compliance schedule as prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from McCauley Accessory Division, 3535 McCauley Drive, P.O. Box 430, Vandalia, Ohio 45377. A copy of the applicable service information is contained in the rules docket, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Ill. 60018; and at FAA Headquarters, room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Robert W. Alpiser, Engineering and Manufacturing Branch, Flight Standards Division, AGL-214, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone 312-694-4500, extension 308.

This AD proposes to supersede amendment 39-3033 (42 FR 46275) AD 77-19-01 (as corrected by deleting the four words "but not limitied to" in letter dated October 18, 1977, 43 FR 16700) which currently requires inspection and replacement of certain propellers installed on Cessna A188, A188A, A188B, and Transavia PL-12 airplanes.

After issuing Amendment 39-3033, the Federal Aviation Administration (FAA) has determined, based on service experience with other airplanes using the same design propeller, that the AD sould be expanded to include additional airplane models. Based on this, a notice was issued in the FEDERAL REGISTER at 43 FR 23727 which proposed to supersede the existing AD by a new AD that includes additional airplane models using McCauley Propellers, two-bladed constant speed model D2A34C58, F2A34C58 and D2A34C98 series.

Interested persons have been affored an opportunity to participate in the making of the amendment. Only one comment was received. The propeller manufacturer requested adding the note that appears at the end of the list of affected propeller hubs to address any hubs that may be identified with a letter change not listed.

DRAFTING INFORMATION

The principal authors of this document are R. W. Alpiser, Flight Standards Division, Great Lakes Region, and Curt Wilder, Office of the Regional Counsel, Great Lakes Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by superseding amendment 39-3033 (42 FR 46275), AD 77-19-01 (as corrected by deleting the four words "but not limited to" in letter dated October 18, 1977, 43 FR 16700) by the following new airworthiness directive:

MCCAULEY PROPELLERS. Applies to the following model D2A34C58-(), F2A34C58-(), and D2A34C98-() series propellers. Paragraph (a) applies to those propellers installed on Cessna A188, A188A, A188B, and Transavia PL-12 airplanes only. Paragraph (b) applies to those propellers installed on airplanes not covered by paragraph (a) including but not limited to Bellanca 17-30, 17-30A, Cessna 185 and A185 series, 206, P206, P206A, TP206A, U206A thru F, TU206A thru F, 207, 210, 210A thru D, Interceptor (Aero Commander/Meyers) 200 series, Navion A thru H, Procaer F15/C, and Windecker AC-7 airplanes.

D2A34C58
D2A34C58-A
D2A34C58-B, -BM, or -BMN
D2A34C58-C, -CM, or -CMN
D2A34C58-J, -JM, or -JMN
D2A34C58-K, -KM, or -KMN
D2A34C58-L, -LM, or -LMN
D2A34C58-M or -MN
D2A34C58-N
F2A34C58-N
D2A34C98-BM or -BMN
D2A34C98-CM or -CMN
D2A34C98-JM or -JMN
D2A34C98-KM or -KMN
D2A34C98-LM or -LMN
D2A34C98-M or -MN
D2A34C98-N

NOTE.—If any hub is found with letter changes not listed, contact McCauley service department for disposition.

Complaince required as indicated, unless already accomplished.

To detect propeller hub cracks and prevent possible failure, accomplish the following:

(a) Propellers installed on Cessna A188, A188A, A188B, and Transavia PL-12 airplanes only.

(1) All propellers models and series listed above.

(i) Propeller hubs with less than 500 total hours time in service, inspect in accordance with paragraph (c)(1) within 525 hours total time and reinspect in accordance with paragraph (c)(1) every 100 hours time in service from last inspection.

(ii) Propeller hubs with 500 or more but less than 1,200 total hours time in service, inspect in accordance with paragraph (c)(1) within the next 25 hours time in service after the effective date of this AD, and reinspect in accordance with paragraph (c)(1) every 100 hours time in service from last inspection.

(2) Model D2A34C58 and D2A34C58-A only. Propeller hubs with 1,200 or more total hours in service, or whose total time in service is unknown, remove from service and replace in accordance with paragraph (c)(3) within the next 25 hours in service after the effective date of this AD.

(3) All propeller models and series listed above except D2A34C58 and D2A34C58-A. Propeller hubs with 1,200 or more total hours time in service, or whose total time in service is unknown, inspect in accordance with paragraph (c)(2) within the next 25 hours time in service after the effective date of this AD, unless already accomplished within the last 300 hours time in service, and reinspect in accordance with paragraph (c)(2) every 300 hours time in service from the last inspection.

(4) Exemption. The foregoing inspections may be discontinued after replacement of Model D2A34C58-( ), F2A34C58-( ), or D2A34C98-( ) series propeller hubs with McCauley oil-filled hubs as in paragraph (c).

(b) Propellers installed on but not limited to Bellanca 17-30, 17-30A, Cessna 185 and A185 series, 206, P206, P206A, TP206A, U206A thru F, TU206A through F, 207, 210, 210A thru D, Interceptor (Aero Commander/Meyers) 200 series, Navion A thru H, Procaer F15/C, and Windecker AC-7 airplanes.

(1) Models D2A34C58 and D2A34C58-A (nonshot peened hubs).

(i) Propeller hubs with less than 500 total hours time in service, inspect in accordance with paragraph (c)(1) within 525 hours total time and reinspect in accordance with paragraph (c)(1) every 100 hours from last inspection.

(ii) Propeller hubs with 500 or more but less than 1,200 total hours time in service, inspect in accordance with paragraph (c)(1) within the next 25 hours time in service after the effective date of this AD, and reinspect in accordance with paragraph (c)(1) every 100 hours time in service from last inspection.

(iii) Propeller hubs with 1,200 or more total hours in service, or when total hours in service is unknown, remove from service and replace in accordance with paragraph (c)(3) within the next 25 hours time in service after the effective date of this AD.

(2) Models D2A34C58-B, -C, -J, -K, -L (nonshot peened hubs).

(i) Propeller hubs with less than 500 total hours time in service, inspect in accordance with paragraph (c)(1) within 525 hours total time and reinspect in accordance with paragraph (c)(1) every 100 hours from last inspection.

(ii) Propeller hubs with 500 or more but less than 1,200 total hours time in service, inspect in accordance with paragraph (c)(1) within the next 26 hours time in service after the effective date of this AD, and reinspect in accordance with paragraph (c)(1) every 100 hours from last inspection.

(iii) Propeller hubs with 1,200 or more total hours in service, or when total hours in service is unknown, inspect in accordance with paragraph (c)(2) within the next 50 hours time in service after the effective date of this AD, unless already accomplished within the last 300 hours time in service, and reinspect in accordance with paragraph (c)(2) every 300 hours time in service from the last inspection.

(3) Models D2A34C58-BM, -BMN, -CM, -CMN, -JM, -JMN, -KM, -KMN, -LM, -LMN, -M, -MN and -N (shot peened hubs).

(i) Propeller hubs with 1,200 or more total hours in service but less than 2,301 hours time in service, inspect in accordance with paragraph (c)(2) within the next 100 hours time in service after the effective date of this AD unless previously accomplished within the last 1,200 hours.

(ii) Propellers with 2,400 or more total hours time in service or whose total time in service is unknown, inspect in accordance with paragraph (c)(2) within the next 50 hours time in service after the effective date of this AD, unless previously accomplished within the last 300 hours time in service, and reinspect in accordance with paragraph (c)(2) every 300 hours time in service from the last inspection.

(4) Exemption. The foregoing inspections may be discontinued after replacement of Model D2A34C58-( ), F234C58-( ), or D2A34C98-( ) series propeller hubs with McCauley oil-filled hubs as in paragraph (c).

(c) Required action: (1) Remove spinner, if installed, and inspect all external surfaces of the propeller hub for cracks by dye penetrant method. The propeller need not be disassembled or removed from the airplane for this inspection, which can be performed by a Federal Aviation Administration certificated A & P mechanic. Replace before further flight any cracked hub with a new or serviceable hub which complies with the requirements of this AD as described in paragraph (c)(3).

(2) Remove propeller from airplane and disassemble sufficiently to inspect all internal and external surfaces of hub for cracks by dye penetrant inspection in accordance with McCauley service letter 1974-3 dated March 29, 1974. This inspection must be performed by a Federal Aviation Administration approved propeller repair station. Replace before further flight any cracked hub with a new or serviceable hub which complies with the requirements of this AD as described in paragraph (c)(3).

(3) Remove propeller from airplane, disassemble, inspect components and replace hub with a model D2A34C58-BMNO, -CMNO, -JMNO, -KMNO, -LMNO, -NO, -O or D2A34C98-BMNO, -CMNO, -JMNO, -LMNO, -MNO, -NO, -O, oil-filled series hub, as applicable, in accordance with McCauley service bulletins No. 122 dated February 15, 1977, No. 130 dated January 20, 1978 and service manual No. 720415, or later Federal Aviation Administration approved revisions. Modification to the oil-filled hub during major disassembly or overhaul must be accomplished by a Federal Aviation approved propeller repair station. Alternatively, a nonoil-filled hub which has been shot peened and reworked in accordance with McCauley service bulletin No. 88, dated November 6, 1970 and service manual 720415 or later Federal Aviation Administration approved revisions may be used. The nonoil-filled hub models, when used, must comply with the repetitive inspection requirements of paragraphs (c)(1) and (c)(2), as applicable. The replaced model D2A34C58 and D2A34C58-A hubs having 1,200 or more total hours time in service must be identified with a "Reject Tag" since their continued use in certificated aircraft is not permissible.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made part hereof pursuant to 5 U.S.C. 522(a)(1). All persons affected by the directive who have not already received these documents from the manufacturers, may obtain copies upon request to McCauley Accessory Division, 3535 McCauley Drive, P.O. Box 430, Vandalia, Ohio 45377. These documents may also be examined at the Great Lakes Regional Office, 2300 East Devon Avenue, Des Plaines, Ill. 60018, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591. A historical file on this airworthiness directive which includes incorporated material is maintained by the FAA at its headquarters in Washington, D.C. and at the Great Lakes region.

This supersedes amendment 39-3033 (42 FR 46275) AD 77-19-01. Inspections previously conducted per AD 77-19-01 are applicable to satisfying the requirements of paragraph (a) above.

This amendment becomes effective September 29. 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Des Plaines, Ill., on September 12, 1978.

WM. S. DALTON,
Acting Director,
Great Lakes Region.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 78-26526 Filed 9-20-78; 8:45 am]

[4910-13]

[Docket No. 78-GL-5; Amdt. 39-3290]

PART 39—AIRWORTHINESS DIRECTIVES

Hartzell Turbopropellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the FEDERAL REGISTER and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to known operators of certain Hartzell model HC-B3TN-2, HC-B3TN-3, HC-B3TN-5, HC-B4-TN-3, HC-B4TN-5, and HC-B5MP-3 turbopropellers by individual airmail letters dated August 18 and 24, 1978. This AD is necessary to prevent propeller attach bolt failures, which could result in separation of the propeller from the engine, and requires inspection and/or replacement of the attach bolts.

DATE: Effective September 21, 1978, except with respect to certain persons specified in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from Hartzell Propeller Co., 350 Washington Avenue, Piqua, Ohio 45356. Copies of the service bulletin incorporated in this AD are contained in the Rules Docket, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Ill. 60018, and at FAA Headquarters, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

G. L. Killion, Engineering and Manufacturing Branch, Flight Standards Division, AGL-214, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone 312-694-4500, extension 308.

SUPPLEMENTARY INFORMATION: Pursuant to the authority delegated by the Administrator, an AD was adopted on August 18, 1978, and made effective immediately by airmail letter as to all known operators of Hartzell turbopropellers because of reports of propeller attach bolt failures. As a result of such failures, a propeller sep-

V 4 3 / 1 8 4

arated from an aircraft. Investigations disclosed that the failures are due to improper torquing techniques or defective bolts. Propellers shall be torque checked and/or defective bolts shall be replaced as necessary.

An AD amending the AD adopted on August 18, 1978, was adopted on August 24, 1978, and issued by individual airmail letters dated August 24, 1978. The amended AD extended the period of initial compliance.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately as to all known operators of Hartzell turbopropeller units. These conditions still exist and the AD is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of part 39 of the Federal Aviation regulations to make it effective as to all persons.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation regulations (14 CFR 39.13) is amended by adding the following airworthiness directive:

HARTZELL PROPELLERS. Applies to all the Hartzell model HC-B3TN-2, HC-B3TN-3, HC-B3TN-5,, HC-B4TN-3, HC-B4TN-5, and HC-B5MP-3 series turbopropellers.

The HC-B3TN-2 and HC-B5MP-3 series propellers are installed on United Aircraft of Canada Model PT-6A() series engines. The HC-B()TN-3 series propellers are installed on the Lycoming Model LTP 101-600() series engines, and United Aircraft of Canada Model PT-6A() series engines. The HC-B()TN-5 series propellers are installed on the AiResearch TPE-331() series engines.

Compliance required as indicated, unless already accomplished. To detect cracked propeller attach bolts, or improperly secured propellers accomplish the following:

(A) Category I. Prior to further flight, all new propeller installations and serviceable propellers which are being reinstalled, must be installed in accordance with paragraph (C).

(B) Category II. Within the next 25 hours time in service after the effective date of this airworthiness directive, all propellers placed in service since February 1, 1978, and that have accrued 1 or more hours time in service must comply with the attach bolts torquing inspection and installation requirements of paragraph (D).

REQUIRED ACTION

(C) Category I. (1) Torque all eight (8) propeller attach bolts, P/N A2047, with washers P/N A2048-2, installed to 100-125 ft. lbs. with dry threads, utilizing a torque wrench with an appropriate adapter.

(2) Within a period of 24-72 calendar hours, recheck torque on all eight (8) propeller attach bolts. If torque is found to be within 100-125 ft. lbs., no additional torque checks are required.

(3) Any bolt(s) that has not maintained a minimum torque of 90 ft. lbs. must be replaced. If propeller has been operated during the 24-72 hour period and more than one bolt has to be replaced, then all eight (8) bolts are to be replaced with new bolts as identified in paragraph (F). Torque new replacement bolt(s) with new washer(s) installed to 100-125 ft. lbs. with dry threads. No additional torque checks are required.

(4) If all eight (8) new replacement propeller attach bolts and eight (8) new washers are installed, the 24-72 hour recheck need not be repeated if they are torqued as cited above to 100-125 ft. lbs. with dry threads. Refer to paragraph (F) for further details about the new replacement bolts.

(5) Safety wire bolts and place a torque slip mark (i.e., paint stripe) between the bolts and engine flange.

(D) Category II. (1) Check the torque, with a torque wrench and an appropriate adapter, of all eight (8) propeller attach bolts (with washers installed). Torque should be 100-125 ft. lbs. with dry threads. (Caution: Do not exceed 125 ft. lbs. during this recheck.)

(2) If the torque of any one of the eight (8) propeller attach bolts is found to be less than 90 ft. lbs., remove that bolt and washer. Replace with a new replacement bolt, P/N A2047, and new washer, P/N A2048-2. Torque bolt to 100-125 lbs. with dry threads. No additional torque checks are required.

(3) If the torque of more than one of the eight (8) propeller attach bolts is found to be less than 90 ft. lbs., remove all eight (8) bolts and washers. Replace with new replacement bolts, P/N A2047 and new washers, P/N A2048-2. Torque bolts to 100-125 ft. lbs. with dry threads. No additional torque checks are required.

(4) Safety wire bolts and place a torque slip mark (i.e. paint stripe) between the bolt head and engine flange.

(E)(1) Compliance with this airworthiness directive shall be noted in the aircraft's records.

(E)(2) Discarded bolts should be considered and identified as "unairworthy" and processed to preclude their further use in certificated aircraft.

(F) New (replacement) propeller attach bolts, P/N A2047, are only acceptably identified by one or more marks (etched or stamped) on the threaded end face of the bolt (viz, the face opposite the head surface). The new washers, P/N A2048-2, can also be identified by the rolled edges on both the inside and outside diameter on one surface.

(G) The responsible propeller repair station, or A & P mechanic will notify the Federal Aviation Administration, Chief, Engineering and Manufacturing Branch, AGL-210, in writing of any low torqued or failed bolts. Also, the hub serial number(s) of the affected propeller(s) must be reported.

(Hartzell Service Bulletin No. 123, dated August 14, 1978, also pertains to this subject.)

This amendment becomes effective September 21, 1978, as to all persons except those persons to whom it was made immediately effective by the airmail letter dated August 24, 1978, which contained this amendment.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Des Plaines, Ill. on September 12, 1978.

WM. S. DALTON,
Acting Director,
Great Lakes Region.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 78-26527 Filed 9-20-78; 8:45 am]

[4910-13]

[Docket No. 78-SO-41, Amdt. 39-3300]

PART 39—AIRWORTHINESS DIRECTIVES

Gulfstream American Corp. Model G-159

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) applicable to Gulfstream American Corp. (GAC) (formerly Grumman American Aviation Corp.) model G-159 aircraft by requiring either the establishment of replacement life limits or the performance of additional inspections to the Gulfstream engine mount assemblies. This amendment is needed to prevent possible failure of the Gulfstream engine mount due to corrosion and/or fatigue damage in conjunction with water methanol. (wet) takeoff power overtorqueing.

DATE: Effective November 1, 1978. Compliance schedule—as prescribed in body of AD.

ADDRESSES: The applicable customer bulletins and quality control test procedure may be obtained from Gulfstream American Corp., P.O. Box 2206, Savannah, Ga. 31402. A copy of each of these documents is contained in Room 275, Engineering and Manufacturing Branch, ASO-210, Southern Region, Federal Aviation Administration, 3400 Whipple Avenue, East Point, Ga.

FOR FURTHER INFORMATION CONTACT:

Curtis Jackson, Aerospace Engineer Engineering and Manufacturing Branch, ASO-210, Southern Region, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404-763-7407.

SUPPLEMENTARY INFORMATION: This Airworthiness Directive amends Amendment 39-1773 (14 CFR 39.13), AD 74-03-01, which currently requires inspection of the forward and aft engine mounts (Vickers and Gulfstream) and replacement of corroded tubes on G-159 aircraft. After issuing amendment 39-1773, the FAA has determined that those inspection requirements alone are inadequate. Based on this, a notice was issued in the FEDERAL REGISTER on June 15, 1978 (43 FR 25833) which proposed to amend the existing AD by requiring the establishment of either a replacement life limit or the performance of additional inspections for the Gulfstream engine mount.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Comments from three operators were received. One commentor stated that the inspections per Customer Bulletin 241A plus borescope inspection of two selected tubes would be adequate if guidelines were established for corrosion limits. The FAA disagrees. Inspections per both Customer Bulletins, 241A and 289, are required for the Gulfstream mount. If the operator elects to replace the engine mount at the required life limit, the inspections of Customer Bulletin 241A are still required on both the Vickers and Gulfstream mount. The FAA does not agree that the lower ends of only two tubes are the critical areas for inspection. Corrosion has been found in numerous other areas. There is not enough information available to establish corrosion allowables. The same commentor indicated that a revised inspection procedure was required. The AD revision does allow for approval by the FAA of equivalent inspections. One commentor stated that the AD revision would require replacement of Gulfstream mounts regardless of their condition. The AD revision allows for inspection and the establishment of an extended life limit. Two commentors stated that a longer life limit was needed and that not enough qualified inspection stations or maintenance facilities were available to perform the inspection and/or replacements. The FAA disagrees. The life limit was established based on the two failures and evaluation of corroded tubes removed after inspection. Detailed inspection procedures and the reference standard (for equipment set-up) are available and, additionally, an equivalent inspection procedure can be approved by the FAA. The FAA feels that there is an adequate number of qualified inspection stations and maintenance facilities since there are only approximately 30 G-159 aircraft which have more than 7500 landings and do not have new mounts installed. One commentor stated that the effective date of the AD should be delayed due to unavailability of parts. The FAA agrees. A shortage of replacement parts does currently exist and, therefore, the effective date of the AD revision has been established as November 1, 1978. One commentor stated that the 30 day or 25 flight hour limit for aircraft which have 7500 landings or more is unreasonable due to the long downtime. The FAA disagrees, in that the extended effective date of the AD revision should enable operators to effectively schedule the maintenance. The ultrasonic and visual inspections require approximately 28 manhours per aircraft. Therefore, the proposed rule is adopted with minor editorial changes. The required equipment and manhour estimate for the ultrasonic and visual inspections has been removed since this information is contained in the quality control test procedure.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending amendment 39-1773, AD 74-03-01, as follows:

(1) Revise the lead-in of the second paragraph of AD 74-03-01 to read as follows:

To detect and prevent corrosion or failure of the forward and aft engine mount assemblies, Vickers Drawing No. 81037, sheet 29, and Grumman (Gulfstream American) Drawing Nos. 159W10432-1 (L/H) and 159W10432-3 (R/H), respectively, accomplish the following unless already accomplished: (2) Add new paragraphs (e), (f), and (g) to read as follows:

(e) To prevent failure of the Gulfstream engine mount, accomplish either paragraph (f) or (g) prior to the accumulation of 7,500 landings, or within the next 25 landings, whichever occurs later, and thereafter at intervals not to exceed 7,500 landings from the time the mount is replaced. However, initial compliance is required regardless of the number of landings:

(1) For airplanes that have accumulated 7,500 landings prior to the effective date of this AD, within the next 30 days after the effective date of this AD; and

(2) For airplanes with less than 7,500 landings on the effective date of this AD, within the next 30 days after the accumulation of 7,500 landings.

(f) Perform the ultrasonic and visual inspections in accordance with GAAC Customer Bulletin No. 289, Amendment 1, dated May 26, 1977, or ultrasonic inspection in accordance with GAC quality control test procedure No. 55-P-1, revision 3, dated August 29, 1978, and visual inspection in accordance with Customer Bulletin No. 289, Amendment 1, dated May 26, 1977, or later revisions, approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region, or in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region. If the inspections indicate negligible or no internal corrosion, a sliding scale life limit based solely on water methanol usage can be established, based on GAAC Customer Bulletin No. 289, Amendment 1, dated May 26, 1977. Throughout this extended life limit, the inspections must be repeated at intervals not to exceed 500 landings. If any inspection indicates the presence of unacceptable internal corrosion, replace the engine mount within the next 25 landings or 30 days, whichever occurs first, in accordance with paragraph (g) of this AD. If no corrosion is found during any of the inspections required by this paragraph, replace the engine mount in accordance with paragraph (g) of this AD by the end of the extended life limit established in this paragraph.

(g) Replace the Gulfstream engine mount in accordance with GAAC Customer Bulletin No. 289 dated August 6, 1976, or later revision approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region, or in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region.

Amendment 39-1773 became effective January 28, 1974.

This amendment becomes effective November 1, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Gulfstream American Corp., P.O. Box 2206, Savannah, Ga. 31402. These documents may also be examined in Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Whipple Avenue, East Point, Ga. 30302 and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. a historical file on this AD, which includes the incorporated material in full, is maintained by the FAA at its headquarters in Washington, D.C., and at the Southern Regional Office in Atlanta, Ga.

PHILLIP M. SWATEK,
Director, Southern Region.

Issued in East Point, Ga., on September 8, 1978.

NOTE.—The incorporation by reference provisions in this document was approved by the Director of the FEDERAL REGISTER on June 19, 1967.

[FR Doc. 78-26531 Filed 9-20-78; 8:45 am]

SEP 21 1978

[4910-13]

[Airspace Docket No. 78-CE-25]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW POINT ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Control Zone and Transition Area—Alliance, Nebr.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the presently existing Alliance, Nebr., control zone and 700-foot transition area. The FAA has replaced an obsolete VOR, navigational aid, with a new VOR located adjacent to the previous facility site which will require a slight alteration of the 700-foot transition area and control zone to provide adequate controlled airspace.

EFFECTIVE DATE: October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Gary W. Tucker, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: The purpose of these amendments to subparts F and G of part 71 of the Federal Aviation regulations (14 CFR Part 71) is to alter the control zone and 700-foot transition area at Alliance, Nebr. The FAA has replaced an obsolete VOR. The new VOR will be located adjacent to the previous facility site. The relocation of the new facility has required the FAA to redesign the instrument approach procedures serving the Alliance, Nebr., Municipal Airport. Accordingly, action is taken herein to make slight alterations to the control zone and transition area descriptions at Alliance, Nebr., to provide adequate controlled airspace for aircraft utilizing the redesigned instrument approach procedures. Since this change is primarily clarifying in nature, notice and public procedure hereon under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making this amendment effective in less than 30 days after its publication.

Accordingly, subpart F, § 71.171 of the Federal Aviation regulations (14 CFR 71.171) as republished on January 3, 1978 (43 FR 355), is amended, effective 0901 G.m.t., October 16, 1978, by altering the following control zone:

ALLIANCE, NEBR.

Within a 5 mile radius of Alliance Municipal Airport (latitude 42°03'11.3" N., longitude 102°48'25.3" W.); within 3 miles each side of the Alliance VOR 302° radial, extending from the 5 mile radius zone to 6½ miles northeast of the VOR; and within 3 miles each side of the Alliance VOR 145° radial, extending from the 5 mile radius zone to 10 miles southeast of the VOR. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will therefter be continuously published in the Airman's Information Manual.

Additional, subpart G, § 71.181, of the Federal Aviation regulations (14 CFR 71.181) as republished on January 3, 1978, is amended, effective 0901 G.m.t., October 16, 1978, by altering the following transition area:

ALLIANCE, NEBR.

That airspace extending upward from 700 feet above the surface within a 10 mile radius of Alliance Municipal Airport (latitude 42°03'11.3" N., longitude 102°48'25.3" W.); within 3 miles each side of the Alliance VOR 145° radial, extending from the 10 mile radius are to 12 miles southeast of the VOR.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.61 of the Federal Aviation regulations (14 CFR 11.61).

NOTE.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; Mar. 8, 1978).

Issued in Kansas City, Mo., on September 11, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 78-26530 Filed 9-20-78; 8:45 am]

[1505-01]

[Airspace Docket No. 78-WE-16]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

Correction

In FR Doc. 78-25440 appearing at page 40215 in the issue for Monday, September 11, 1978, in the second column, the second designation labeled "R-2507B Chocolate Mountains, Calif.", in the sixth line, "115°56'40" W.;" should have read "114°56'40" W.;".

[4910-13]

[Docket No. 18304 Amdt. No. 1120]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes standard instrument approach procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

FOR EXAMINATION

1. FAA rules docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;
2. The FAA regional office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

FOR PURCHASE

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or
2. The FAA regional office of the region in which the affected airport is located.

BY SUBSCRIPTION

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked standard instrument approach procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation regulations (FARs). The applicable FAA forms are identified as FAA forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. standard for terminal instrument approach procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking standard instrument approach procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs indentified as follows:

• • • Effective November 16, 1978:

Eureka, CA—Murray Field, VOR-A, Amdt. 5.
Brunswick, GA—Glynco Jetport, VOR/DME-B, Amdt. 1
Elkhart, IN—Elkhart Municipal, VOR Rwy 27, Amdt. 7
Houma, LA—Houma-Terrebonne, VOR Rwy 12, Original.
Westminster, MD—Westminster, VOR Rwy 34, Original.
Westminster, MD—Westminster, VOR Rwy 36, Amdt. 3, cancelled.
Holland, MI—Tulip City, VOR-A, Amdt. 6.
Goldsboro, NC—Goldsboro-Wayne Muni, VOR-B, Amdt. 1.
Goldsboro, NC—Goldsboro-Wayne Muni, VOR/DME-A, Amdt. 2.
Houston, TX—William P. Hobby, VOR/DME 1 Rwy 31, Amdt. 8.
La Porte, TX—La Porte Muni, VOR-A, Amdt. 8.

• • • Effective November 2, 1978:

Dillingham, AK—Dillingham, VOR Rwy 1, Amdt. 6.
Dillingham, AK—Dillingham, VOR/DME Rwy 19, Amdt. 4.
Fayetteville, AR—Drake Field, VOR/DME-B, Amdt. 2.
Albany, GA—Albany-Dougherty County, VOR Rwy 16 (TAC), Amdt. 22.
Salina, KS—Salina Muni, VOR/DME OR TACAN Rwy 17, Amdt. 11.
Westfield, MA—Barnes Municipal. VOR Rwy 20, Amdt. 17.
Bowling Green, MO—Bowling Green Municipal, VOR/DME-A, Original
Hannibal, MO—Hannibal Muni, VOR/DME-A, Original.
Washington, MO—Washington Memorial, VOR Rwy 16, Original.
Superior, NE—Superior Muni, VOR/DME Rwy 18, Original.
Superior, NE—Superior Muni, VOR/DME Rwy 36, Original.
Albany, NY—Albany County, VOR Rwy 1, Amdt. 15.
Albany, NY—Albany County, VOR Rwy 19, Amdt. 16.
Albany, NY—Albany County, VOR Rwy 28, Amdt. 3
Albany, NY—Albany County, VOR/DME Rwy 1, Amdt. 7
Hermiston, OR—Hermiston Municipal, VOR/DME A, Original.
Smyrna, TN—Smyrna Airport, VOR/DME Rwy 32, Amdt. 6.,
Waco, TX—Waco-Madison Cooper, VOR Rwy 14, Amdt. 18.
Waco, TX—Waco-Madison Cooper, VOR/DME Rwy 32, Amdt. 9.
Charlotte Amalie, St. Thomas, VI—Harry S. Truman, VOR-A, Amdt. 12.
Christiansted, St. Croix, VI—Alexander Hamilton, VOR Rwy 27, Amdt. 15.
Richmond, VA—Richard Evelyn Byrd Int'l, VOR Rwy 2, Amdt. 1.
Richmond, VA—Richard Evelyn Byrd Int'l, VOR Rwy 15, Amdt. 20.
Richmond, VA—Richard Evelyn Byrd Int'l, VOR Rwy 20, Amdt. 3.
Richmond, VA—Richard Evelyn Byrd Int'l, VOR Rwy 24, Amdt. 8.
Richmond, VA—Richard Evelyn Byrd Int'l, VOR Rwy 33, Amdt. 15.
Madison, WI—Dane County Regional/Truax Field, VOR Rwy 13, Amdt. 12.
Madison, WI—Dane County Regional/Truax Field, VOR Rwy 18, Amdt. 12.
Madison, WI—Dane County Regional/Truax Field, VOR Rwy 31, Amdt. 13.

• • • Effective October 19, 1978:

Toccoa, GA—Toccoa, VOR Rwy 20, Amdt. 7.

• • • Effective October 5, 1978:

Marion, IN—Marion Municipal, VOR Rwy 4, Amdt. 6.
Marion, IN—Marion Municipal, VOR Rwy 15, Amdt. 3.
Marion, IN—Marion Municipal, VOR Rwy 22, Amdt. 9.
Charlotte, NC—Douglas Muni, VOR Rwy 5, Amdt. 7.

• • • Effective September 6, 1978:

Alexandria, LA—Esler Regional, VOR Rwy 14, Amdt. 10.
Alexandria, LA—Esler Regional, VOR Rwy 32, Amdt. 11.

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

• • • Effective November 16, 1978:

Elkhart, IN—Elkhart Municipal, SDF Rwy 27, Amdt. 1.
Greenville, NC—Pitt-Greenville, SDF Rwy 19, Amdt. 3.

• • • Effective November 2, 1978:

Dillingham, AK—Dillingham, LOC/DME Rwy 19, Amdt. 1.
Albany, GA—Albany-Dougherty County, LOC (BC) Rwy 22, Amdt. 3.
Salina, KS—Salina Muni, LOC/DME BC Rwy 17, Original, cancelled.
Jefferson City, MO—Jefferson City Memorial, SDF Rwy 30, Amdt. 4, cancelled.
Waco, TX—Waco-Madison Cooper, LOC BC Rwy 01, Amdt. 7.
Madison, WI—Dane County Regional/Truax Field, LOC BC Rwy 18, Amdt. 7, cancelled.

• • • Effective September 6, 1978:

Alexandria, LA—Esler Regional, LOC BC Rwy 8, Amdt. 5.

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

• • • Effective November 16, 1978:

V 43 / 184

Brunswick, GA—Glynco Jetport, NDB Rwy 7, Amdt. 3.
Elkhart, IN—Elkhart Municipal, NDB Rwy 9, Amdt. 5, cancelled
Greenville, NC—Pitt-Greenville, NDB Rwy 19, Amdt. 9.
Washington, NC—Warren Field, NDB-A, Amdt. 1.
Afton, OK—Shangri-La, NDB Rwy 35, Amdt. 1.
Elk City, OK—Elk City Muni, NDB Rwy 17, Amdt. 1.
Pickens, SC—Pickens County, NDB Rwy 4, Amdt. 2.

• • • Effective November 2, 1978:

Albany, GA—Albany-Dougherty County, NDB Rwy 4, Amdt. 7.
Louisville, KY—Standiford Field, NDB Rwy 1, Amdt. 2.
Charlevlox, MI—Charlevoix Municipal, NDB Rwy 8, Amdt. 3.
Charlevlox, MI—Charlevoix Municipal, NDB Rwy 26, Amdt. 3.
Hannibal, MO—Hannibal Muni, NDB Rwy 34, Amdt. 1.
Islip, NY—Long Island MacArthur, NDB Rwy 6, Amdt. 14.
San Juan, PR—Puerto Rico International, NDB Rwy 7, Amdt. 5.
San Juan, PR—Puerto Rico International, NDB Rwy 10, Amdt. 4.
Chattanooga, TN—Lovell Field, NDB Rwy 20, Amdt. 25.
Killeen, TX—Killeen Muni, NDB Rwy 01, Original.
Waco, TX—Waco-Madison Cooper, NDB Rwy 19, Amdt. 13.
Christiansted, St. Croix, VI—Alexander Hamilton, NDB Rwy 9, Amdt. 9.
Madison, WI—Dane County Regional/Truax Field, NDB Rwy 36, Amdt. 21.
Watertown, WI—Watertown Municipal, NDB Rwy 23, Original.
Watertown, WI—Watertown Municipal, NDB Rwy 23, Amdt. 2, cancelled.

• • • Effective September 6, 1978:

Alexandria, LA—Esler Regional, NDB Rwy 26, Amdt. 4.

NOTE.—The FAA published an amendment in Docket No. 18248, Amdt. No. 1116 to part 97 of the Federal Aviation Regulations (Vol. 43 FR No. 165, page 37684; dated August 24, 1978) under § 97.27. Effective October 5, 1978, which is hereby amended as follows:

Morrilton, AR—Petit Jean Park, NDB Rwy 2, Amdt. 1. Change effective date to November 2, 1978.

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

• • • Effective November 16, 1978:

Gainesville, FL—Gainesville Regional, ILS Rwy 28, Amdt. 6.
Brunswick, GA—Glynco Jetport, ILS Rwy 7, Amdt. 1.

• • • Effective November 2, 1978:

Ketchikan, AK—Ketchikan International, ILS/DME-1 Rwy 11, Amdt. 2.
Deadhorse, AK—Deadhorse, ILS/DME Rwy 4, Amdt. 3.
Albany, GA—Albany-Dougherty County, ILS Rwy 4, Amdt. 6.
Louisville, KY—Standiford Field, ILS Rwy 1, Amdt. 3.
New Bedford, MA—New Bedford Muni, ILS Rwy 5, Amdt. 14.
Albany, NY—Albany County, ILS Rwy 1, Amdt. 5.
Albany, NY—Albany County, ILS Rwy 19, Amdt. 15.
Islip, NY—Long Island MacArthur, ILS Rwy 6, Amdt.17.
Islip, NY—Long Island MacArthur, ILS Rwy 24, Amdt. 1.
Chattanooga, TN— Lovell Field, ILS Rwy 20, Amdt. 29.
Houston, TX—Houston Intercontinental, ILS Rwy 8, Amdt. 8.
Houston, TX—Houston Intercontinental, ILS Rwy 26, Amdt. 4.
Waco, TX—Waco-Madison Cooper, ILS Rwy 19, Amdt. 10.
Charlotte Amalie, St. Thomas, VI—Harry S. Truman, ILS Rwy 9, Amdt. 2.
Christiansted St. Croix—Alexander Hamilton, ILS Rwy 9, Amdt. 2.
Richmond, VA—Richard Evelyn Byrd Int'l, ILS Rwy 6, Amdt. 20.
Richmond, VA—Richard Evelyn Byrd Int'l, ILS Rwy 15, Amdt. 2.
Richmond, VA—Richard Evelyn Byrd Int'l, ILS Rwy 33, Amdt. 5.
Madison, WI—Dane County Regional/Truax Field, ILS Rwy 18, Original.
Madison, WI—Dane County Regional/Truax Field, ILS Rwy 36, Amdt. 21.

• • • Effective September 6, 1978:

Alexandria, LA—Esler Regional, ILS Rwy 26, Amdt. 8.

• • • Effective September 5, 1978:

San Francisco, CA—San Francisco Int'l, ILS Rwy 19L, Amdt. 14.

5. By amending § 97.31 RADAR SIAPs identified as follows:

• • • Effective November 2, 1978:

Anchorage, AK—Anchorage International, RADAR-1, Amdt. 7.
Albany, NY—Albany County, RADAR-1, Amdt. 11.
Madison, WI—Dane County Regional/Truax Field, RADAR-1 Amdt. 6.

6. By amending § 97.33 RNAV SIAPs identified as follows:

• • • Effective November 16, 1978:

Eureka, CA—Murray Field, RNAV Rwy 11, Amdt. 4.25 Holland, MI—Tulip City, RNAV Rwy 26, Amdt. 1.

• • • Effective November 2, 1978:

San Juan, PR—Puerto Rico International, RNAV Rwy 10, Amdt. 6.
Richmond, VA—Richard Evelyn Byrd Int'l, RNAV Rwy 20, Amdt. 2.

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 6489 and paragraph 802 of order FS P1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 15, 1978.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 78-26525 Filed 9-20-78; 8:45 am]

[6320-01]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1075; Amdt. No. 16, Docket 31861]

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

Off-Route Charter Rules

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., September 15, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Board amends the off-route charter rules to remove all restrictions on cargo charters by all-cargo carriers, raise the volume limits for other charters by scheduled carriers to 10 percent of their base revenue mileage, and to liberalize the frequency restrictions for those charters. The changes are designed to increase the availability of charter aircraft and remove restraints on competition.

DATES: Effective—October 20, 1978. Adopted—September 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard B. Dyson, Civil Aeronautics Board, Office of the General Counsel, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5444.

SUPPLEMENTARY INFORMATION:

EARLIER ISSUANCES

Earlier substantive issuances in this proceeding were as follows:

EDR-307, 41 FR 45021, October 14, 1976: Proposal to amend in various ways the off-route charter rules contained in 14 CFR Part 207, in response to petitions for rulemaking by the Board's Office of the Consumer Advocate, certian local service carriers, Pan American World Airways, Trans International Airlines, National Air Carriers Association, and National Airlines.

ER-1030, 42 FR 61251, December 2, 1977: Issued on the basis of EDR-307. It raised the volume limits for combination carriers to 5 percent of the first 50 million, plus 2.5 percent of the remaining, base revenue plane-miles; raised volume limits for all-cargo carriers to 10 percent of base revenue plane-miles; eliminated domestic frequency and regularity restrictions; and eliminated international regularity restrictions.[1]

EDR-342, 42 FR 64704, December 28, 1977: Proposed, on the basis of comments and other developments, changes differing somewhat from those proposed in EDR-307. The present action is based on that notice.

THE PROPOSAL

The amendments proposed in EDR-342 are as follows:

1. Combination carriers would have a higher volume restriction for passenger off-route charters. Alternative limits were proposed: (a) 10 percent of their first 50 million base revenue plane-miles, plus 5 percent of the remainder, or (b) 10 percent of all base revenue plane-miles. It was also proposed that they be allowed at their option to compute their base on the basis of sea-miles instead of plane-miles, with the first step in alternative (a) being 14 billion seat-miles. Now, under the amendment in ER-1030, the limits are 5 percent of the first 50 million, plus 2.5 percent of the remaining, base revenue plane-miles.

2. The international frequency restrictions for combination carriers' off-route passenger and cargo charters, and for all-cargo carriers' passenger charters, would be relaxed. They would be: (a) Unlimited to countries where the carrier has scheduled authority to at least one point, and (b) otherwise limited to not more than eight flights in one direction in any 4 successive weeks between any single pair of points. At present there are special provisions for off-route "transatlantic" and "transpacific" charters, as those terms are defined: All off-route "transatlantic" and "transpacific" flights (except points in a country where the combination carrier has some certificated authority) are treated as if between the same points, i.e., they can have only eight transatlantic and eight transpacific flights in either direction during any 4 successive weeks: These special provisions and definitions would be deleted. To countries to which the carrier is now certificated to at least one point, the current rules allow eight flights per four successive weeks between any pair of points.

3. All rules restricting international off-route cargo charters by all-cargo carriers would be removed. Under the new section 418 of the Act, added by Pub. L. 95-163, they are no longer subject to any restrictions in domestic cargo operations. These carriers are at present limited by our rules to 10 percent of their base revenue plane-miles for international off-route cargo or passenger charters, except in their "areas of operations." That term would no longer have significance and would be eliminated.

4. Alternative limits were proposed for all-cargo carriers' passenger charter operations: (a) 10 percent of their first 50 million base revenue plane-miles, plus 5 percent of the remainder, or (b) 10 percent of all base revenue plane-miles.

COMMENTS

Comments were received from Pan American World Airways, Trans World Airlines (TWA), United Air Lines, American Airlines, Delta Air Lines, Southern Airways, North Central Airlines, Ozark Air Lines, Seaboard World Airlines, Airlift International, Flying Tiger Line, Evergreen International Airlines, National Air Carrier Association (NACA), and the Las Vegas Parties.

The proposal was supported in its entirety by United, Southern, North Central, Ozark, Airlift, Flying Tiger, and the Las Vegas Parties. In addition, the part of the proposal relating to passenger charters was supported by TWA and American. United pointed out that charters have stimulated innovative price offerings on scheduled service that have substantially increased traffic, but that the off-route charter restrictions have often caused the regulations, rather than price and service offerings, to dictate the selection of a carrier. It suggested that restrictions have generally been removed from the operations of the supplemental carriers, and that there was no reason why comparable restrictions should be maintained on the scheduled carriers. The local service carriers cited the large increases in their off-route charter traffic, and pointed out that with their smaller planes they did not compete directly with the supplementals.

The proposals for passenger charters were opposed by Pan American (in part), Delta, and NACA. The first two opposed the relaxing of the international frequency restrictions on the ground that increased charter traffic would be injurious to scheduled service. Pan American also argued that it would cause foreign governments to demand reciprocal charter rights or new scheduled authority. Delta suggested that the Board should pause to evaluate the impact of the new public charter rule (SPR-149, 43 FR 36604, Aug. 18, 1978) before undertaking any new rulemaking on charters.

NACA contended that the relaxation of the off-route charter restrictions would allow the scheduled carriers to mount "year-long back-to-back" programs in the international markets, "substantially destroying the last remaining charter market in which the supplementals have a competitive market position." They contended that the scheduled carriers' large advertising budgets, name recognition, and ability to subsidize charter operations from scheduled-service revenues gave them overwhelming advantages over the supplementals. NACA presented data showing the movement of market shares over the last decade, to indicate that the supplementals' share has been declining relative to that of the scheduled carriers. They also computed the increases that could be made in the scheduled carrier's charter operations if they all used all or a substantial part of the additional mileage that would be allowed to them under the proposed rules. NACA argued that the proposal was illegal in that it amounted to granting supplemental certificates to the route carriers, and that formal procedures were legally required to create a detailed factual record on which to base Board action.

The cargo charter proposals were opposed by Pan American, Delta, and Seaboard on the ground that they would divert traffic from scheduled service. Seaboard pointed out its investment in specialized facilities that could be practically used only for scheduled service, and the large amount of competition that it already encounters in the transatlantic market. Pan American argued that the change would cause the freight forwarders who control the bulk of international traffic to use charters more extensively, to the detriment of scheduled service, but that they would not lower their prices. Pan American, TWA, and American also argued that granting unlimited cargo charter service only to the all-cargo carriers discriminated unfairly against them; TWA and American suggested giving unlimited authority to the combination carriers as well.

Evergreen, a supplemental carrier limited to North America, commented that it was unfair for the Board to grant greater authority to scheduled carriers when it had not yet acted on its application for worldwide authority. The Board recently, however, issued an order to show cause (78-8-163, dated Aug. 29, 1978) why Evergreen should not be granted the authority it requested.

GENERAL CONSIDERATIONS

Most of the arguments in the comments opposing these proposals were essentially that by easing or removing

[1] The rules adopted by ER-1030 have been in effect since November 22, 1977, but they are under judicial review. *NACA* v. *CAB*, —— F. 2d —— (D.C. Cir., No. 77-2122).

SEP 21 1978

the restrictions on certain parts of the air transportation industry (in this case the combination and all-cargo carriers), other parts will suffer from increased competition. The Board agrees that the effect on various parts of the industry of changing the rules for one portion of it is a relevant consideration. It is important to recognize, however, that the liberalization of the off-route charter rules is not an isolated action. It is part of a much broader series of Board actions designed to free the air transportation industry from unnecessary regulatory constraints and allow competitive forces to be the primary factor in management decisions. An important element of a more competitive regime, and of the more efficient use of resources that it should foster, is the lowering of the structural barriers between different parts of the industry. Often the most important source of candidates for new entry, a vital part of a fully competitive system is a different part of the same industry that has been performing somewhat similar functions. Indeed, the urge to compete in different fields is reflected in many of the comments to this rulemaking: Some of the combination carriers are seeking broader authority to carry cargo as well as passengers; the all-cargo carriers are asking for broader authority to carry passenger charters; and the supplementals have applied for certificates to carry passengers on scheduled routes. With greater freedom of individual air carriers to compete for different types of business, and less artificial segmentation into specialist-type operations, it is to be expected that there will be shifts of market share between the erstwhile segments. More business for the more efficient is the expected result in a less restricted, more competitive system.

The important question for the Board in attempting to foster a more competitive environment will not, then, be whether removing a regulatory restraint will cause some shift in market share. It will rather be whether the public interest is adequately protected. More specifically: Will the services that the public wants be available at the lowest possible prices? Will the different parts of the industry be sufficiently viable to offer specialist services and a wide range of service options to the extent they are needed, and to provide a source of new entries and a competitive spur to the larger and more established businesses? and, Will individual members of the public be protected against loss where they cannot reasonably be expected to protect themselves?

We also point out that the Board has recently taken several steps that tend to remove barriers from different segments of the industry, and broaden the areas in which the supplemental carriers can operate. By SPR-149, adopted August 14, 1978 (43 FR 36604, Aug. 18, 1978), the Board created the public charter, simplifying and reducing the restrictions on charter flights. Two supplemental carriers, World Airways and Capitol International Airways, have been granted exemptions to provide scheduled passenger service between the United States and the Benelux countries (order 78-9-2, dated Sept. 1, 1978). Also, the initial decision, dated August 23, 1978, in the *Transcontinental Low Fare Route Proceeding*, docket 30356, granted World Airways its longstanding request for authority to provide transcontinental low fare passenger service. The Board has set a target date of November 22, 1978, for final decision on review in that case. Finally, at its public meeting of September 7, 1978, the Board granted World Airways and two other carriers an exemption to provide scheduled passenger service to Guam and Hong Kong in the *Transpacific Low Fare Route Case* (order 78-9-33, docket 33068).

Passenger Charters

The most elaborate and detailed arguments against the proposed changes were made by NACA, representing supplemental carriers, who, unlike other parts of the industry, receive no benefit to offset any losses of business resulting from liberalization of the off-route charter rules. Turning first to their arguments based on recent changes in market shares, it is undisputed that the scheduled carriers' rate of increase in passenger charter traffic has been greater than the supplementals'. For example, in the 9 years from 1968 to 1977, the total number of charter passengers carried annually by the supplementals increased 88.4 percent (from 1.18 million to 2.23 million), while the number carried by the scheduled carriers increased by 464 percent (0.81 million to 4.59 million).[2] NACA also noted that the number of supplementals has declined during that period. We do not find these data persuasive, however, of the need to maintain stringent restrictions on the scheduled carriers' charter activities. The attrition among the supplementals has taken place during a period when their total passenger traffic has been increasing at an average compounded rate of over 7 percent per year, so it does not appear that loss of traffic to scheduled carriers is a primary cause of the decline in their numbers.

Furthermore, the relative percentage increases in charter traffic between the supplementals and the scheduled carriers can be misleading because of the enormous differences in size between the two segments of the industry. The scheduled carriers have some 98 percent of the commercial jet fleet, and the supplementals 2 percent. At a time when the total charter market was more than tripling (from 2 million in 1968 to 6.8 million in 1977), it is not surprising that the scheduled carriers could more easily allocate new aircraft and associated resources, and absorb a larger part of the increase. This is not to deny that if their competition were more tightly restricted, the supplementals as a group might have expanded faster. But it is not a function of the Board to maintain the market share of each portion of the air transportation industry, nor can we assume that a given number of supplementals carriers is "right" from the standpoint of economics or the public interest.[3] The supplementals' claim on this point was that the scheduled carriers were squeezing them out of the charter market altogether, so that they would no longer be an effective competitive force. We conclude that their data do not support that claim.

A substantial part of the NACA comment was devoted to calculating the percentage and absolute increase in charter activities of the scheduled carriers that would be allowed if the proposed liberalizations were effected, and then comparing those authorizations with the present activities of the supplemental carriers. This line of argument is logically flawed and unpersuasive. The obvious "apples and oranges" problem is more than just formal: The supplementals' authorization to fly charters is unlimited, and the scheduled carriers' future charter activity is unknown. For the argument to be valid, it would have to be shown that the off-route charter rules are the only effective limit on scheduled carriers' charter operations, but no evidence has been presented to support that premise. It should be remembered that scheduled carriers are totally unrestricted in flying on-route charters; thus at least one U.S. scheduled carrier has unlimited charter authority in every significant market. Yet in the lucrative transatlantic markets, to which the supplementals have recently devoted most of their attention, they have proved to be highly effective competitors, capturing 62 percent of the U.S.-flag charter market in 1977.[4]

The board also rejects the arguments by Pan American and Delta that liberalization of the off-route passenger charter rules will cause undue diversion from scheduled service. Again, a necessary premise of this argument is that the off-route charter rules are a significant restraint on total charter volume. This premise appears very doubtful, however, in light of the fact that in all significant charter markets unlimited charter authority is held by U.S. supplementals, at least one U.S. scheduled carrier (and in the largest markets, two or more), and, in the international markets, one or more foreign scheduled and supplemental carriers. In any event, it is the Board's policy, as described above, to allow the marketplace as much freedom as possible to allocate traffic between industry segments and types of travel. There is certainly no danger at present of scheduled service ceasing to be a viable competitive force. The overwhelming majority of travelers still use scheduled service, and the scheduled carriers have in the last year dramatically demonstrated their ability to innovate with low-fare offerings that attract travelers who might otherwise use charters.

Pan American argued further that loosening the off-route charter restrictions would cause foreign-flag carriers to demand concessions such as new routes in return, thus "undermining the economic strength" of the U.S.-flag carriers. This argument is highly speculative at best. Whether or not such demands materalize, the Board does not consider it wise policy to place or maintain general restrictions on all U.S. carriers because of positions that may be adopted by some foreign governments. It therefore finds this argument without merit.

NACA contended that the proposed liberalization of off-route charter rules would be a violation of the Federal Aviation Act, in that it would be the equivalent of granting a supplemental certificate to scheduled carriers, while section 401(d)(3) of the Act, 49 U.S.C. 1271(d)(3), states that the Board "may issue a [supplemental] certificate, to any applicant not holding a certificate under paragraph (1) or (2) * * *".

It is our opinion that NACA's interpretation of the statutory scheme is incorrect. It has not been asserted that the Board directly violated the Act. No scheduled carrier is being granted a supplemental certificate. NACA's argument is rather based on a series of tenuous inferences: (1) That in authorizing the Board to issue a supplemental certificate to "any applicant not holding" a scheduled certificate, Congress was stating not just a formal rule, but a positive prohibition to be read broadly beyond its literal wording; (2) that section 401(d)(3) implies limitations on what scheduled carriers can do under their 401(d)(1) certificates; (3) that these limitations are somehow imported into the Board's off-route charter rules; and (4) that the relaxation of the off-route charter rules that is the subject of this proceeding transgresses those limitations.

We agree with none of those inferences. We find no evidence that Congress intended any specific limits on the activities of scheduled carriers in excluding them from the class of applicants for supplemental certificates. In section 401(e)(6), 49 U.S.C. 1371(e)(6), Congress specifically provided that:

> Any air carrier, other than a supplemental air carrier, may perform charter trips (including inclusive tour charter trips) or any other special service, without regard to the points named in its certificate, or the type of service provided therein, under regulations prescribed by the Board.

Thus, off-route charters by scheduled carriers were specifically authorized, with the Board left to determine by regulation what limitations should be imposed. In light of this paragraph of the statute, the purpose of not allowing scheduled carriers to hold supplemental certificates seems clear. Congress in section 401(e)(6) made a permissive grant of authority to the Board to limit the off-route charter activities of the scheduled carriers; and that authorization would have been meaningless if the scheduled carriers had been free to obtain supplemental certificates allowing them to fly charters without limitation. But there is no reasonable basis on which to infer that the statute dictates what the Board's limiting regulations should say. The Board's policy in this regard has indeed changed over the years, in light of the changing circumstances of the regulated industry and the Board's own judgment of what best meets the public need. That is exactly what Congress intends when it leaves an area of decision to an administrative agency, as it did here.

Cargo Charters

The main argument against removing the limitations on cargo charters by the all-cargo carriers amounted to the complaint that they would encroach upon commercial preserves that are at present at least partly protected. It was presented by Pan American, a combination carrier, by NACA, representing the supplementals, and by Seaboard, an all-cargo carrier. For reasons set forth above, we find this line of argument to be of little weight. It may well be, as Pan American and Seaboard asserted, that scheduled cargo service offers unique efficiencies, but if so, that efficiency should enable scheduled service to hold its own against charter competition. It is always possible for a portion of an industry to point to valuable services that it is currently providing, and to predict that they will be lost if exposed to the threat of greater competition. In that sense opening up the field to wider competition always involves exchanging the known for the unknown. That does not affect the Board's opinion that freer competition is the best way to ensure the combination of price and service that best serves the public. It is especially true in the cargo field, where the users tend to be commercially sophisticated and therefore need less governmental protection, guidance, and preservation of options than do individual travelers.

We also reject NACA's argument that the supplementals' opportunities in the international cargo market would be eliminated by this change, or that other carriers should be restricted to protect those opportunities. It was not shown that the supplementals' viability depends on the cargo market, and under the principles already set forth we do not find it in the public interest to give them a protected market here.

A somewhat different point was raised by Pan American, TWA, and American: That allowing unrestricted cargo charters by all-cargo carriers would discriminate against the combination carriers. TWA and American argued that the change should not be made unless they were given similarly unrestricted authority. One possibility mentioned by American was to use the new section 418 of the Act, rather than section 401, to define the subject class of all-cargo carriers, which would eventually bring into it virtually all certificated carriers. This suggestion was not previously presented to the Board and therefore could not be acted on at this time, but it, along with several others made in the comments for further liberalization, will be given serious consideration for future rulemaking. The Board does not agree, however, that the discrimination that may exist in the proposal before us here is a reason not to proceed with it. At this point the rights of carriers are far from homogeneous. The rights of combination carriers such as TWA and American with re-

[2] NACA comment, appendix G, using data from CAB forms 41, Scheduled T-6, and forms 217. The domestic charter traffic aboard the supplementals has remained relatively static, declining 10 percent to 1977. If only the international traffic is considered, however, the supplementals have fared relatively much better: they tripled their traffic (0.56 million to 1.67 million) while the scheduled carriers were making approximately a fivefold increase (0.31 million to 1.63 million).

[3] The Board has recently instituted a case to process several new applications for supplemental certificates.

[4] The figures for 1978 are heavily affected by the scheduled carriers' move to deeply discounted fares, but they certainly do not support the argument for restrictions on the route carriers' charter activities. In the transatlantic market, during the first 6 months of 1978, the route carriers carried 255,000 charter passengers, while the supplementals carried 404,000, or 61 percent of the total.

By the Civil Aeronautics Board

ment of Commerce, Washington

spect to cargo carriage, as compared to the all-cargo carriers, should not be considered in isolation from the fact that they have vastly greater rights in the passenger field, along with the greater financial resources and public familiarity that have flowed from them. They are, in fact, the chief beneficiaries of the present rulemaking. In short, the position that whenever the Board removes restrictions for one class of carriers it must do the same for all is not logically valid.

PROCEDURAL OBJECTION

The Board also rejects the arguments by NACA and Delta that the changes proposed in the off-route charter rules must be made by a formal hearing process, rather than normal rulemaking procedures. As quoted above, section 401(e)(6) specifies that this area should be governed by "regulations prescribed by the Board." There is not the slightest doubt that the notice-and-comment procedures of 5 U.S.C. 53 are the ones prescribed by the Administrative Procedure Act for a regulatory action of this type. The Board has in fact gone well beyond the requirements of that section in this proceeding. The original proposal was EDR-307, 41 FR 45021, issued October 14, 1976. In response to a request by NACA, the Board held an informal hearing, not required by statute, on August 4, 1977, at which all interested parties were permitted to air their views before the Board Members. It issued ER-1030 on November 22, 1977, 42 FR 61251, making some of the proposed amendments to the rules. Because some of the changes that appeared advisable on the basis of the comments differed from those proposed in EDR-307, however, the Board issued a second notice of proposed rulemaking (EDR-342) to focus on these changes, on December 21, 1977, 42 FR 64704. At the request of NACA the comment period for that proposal, originally 60 days, was extended another 30 days (EDR-342A, Feb. 10, 1978, 43 FR 6621). The procedures used in this matter have thus allowed ample opportunity for all sides to express their views.

The Board often uses formal adjudicative hearings and compiles detailed factual records in adversary proceedings. Such a hearing is not called for in this proceeding, however. As described in this issuance, these amendments are the result of the application of a broad policy of minimizing the regulatory restraints on all parts of the air transportation industry, to the extent consistent with maintaining competition, service, and basic public protection. Actually the factual data cited and used in this action are contained in NACA's own comment. It is true that there are unknowns in the picture with respect to the future: The ultimate effect of this action on the supplemental industry, and the responses of the scheduled carriers, among others, to changes in the regulatory climate, to name two cited by NACA. But future events are not determinable facts in any meaningful sense. Formal adversary hearings, expensive and time consuming as they are, have not proved to be an advance in the state of the art of prediction. They are particularly unhelpful where, as here, the relevant outcomes will be heavily influenced by other regulatory actions outside the scope of the hearing, collateral events that have not yet occurred, and decisions not yet made. But it does not follow that we must therefore adhere to the regulatory status quo despite our considered judgment that the public interest calls for new policies. That we cannot with confidence predict the future is one of the strongest arguments against tight regulatory control, and one of our main reasons for relying on the self-regulatory forces of competition to make the adjustments needed as the times change.

SUGGESTIONS FOR FURTHER CHANGES

The comments contained several suggestions for further changes in the Board's regulations that were outside the scope of the proposal, and therefore ineligible for action here. Flying Tiger argued that the 10-percent limit on passenger charters by all-cargo carriers was anomalous, and suggested that since the peak seasons for cargo and passenger traffic are different, those carriers would be a source of very low-price passenger charters if their volume limits were removed. Seaboard asked that the Board remove the restriction to property and mail on the all-cargo carriers' routes, to allow them to carry "combination passenger/cargo service," which would allow them to provide "low cost/low-fare scheduled passenger service." American and TWA suggested allowing the combination carriers the same unrestricted authority to operate off-route cargo charters as is being granted the all-cargo carriers. Ozark argued that the volume limitations on passenger charters should be removed altogether. Pan American suggested, as a restrictive measure, that the definition of "point" should be changed to include a 250-mile, rather than a 50-mile, radius. Failure to act on these suggestions does not indicate disapproval, and they will be given serious consideration as candidates for further action.

THE AMENDMENTS

The Board has decided, on the basis of the foregoing considerations, to make the amendments proposed in the off-route charter rules. With respect to the volume limitations, several commenters argued for the more liberal alterative of 10 percent of base revenue plane-miles, while none suggested any special reasons other than general opposition to relaxation of the rules for choosing the lower, stepped limit. Admittedly the choice of a figure must be somewhat arbitrary. The lower figure could evidently be restrictive in the fairly near future of larger carriers, especially Pan Amercian, which argued for the higher one. Absent a convincing argument for the lower figure, and in line with our policy of removing restraints where there are no sufficient countervailing considerations, we will adopt the flat 10-percent limitation. It will apply to both the combination carriers' off-route charters (cargo and passenger charters considered together) and the all-cargo carriers' passenger charters.

No objections were received to the proposal to allow seat miles as an optional method of computation for passenger charters, so that proposal is also adopted. The remainder of the proposal is adopted as set forth at the beginning of this discussion.

Under the November 9, 1977, amendments of the Federal Aviation Act (Pub. L. 95-163), carriers may obtain certificates for all-cargo air service enabling them to perform such service without restriction within the 50 States, Puerto Rico, and the Virgin Islands. To reflect this amendment and include section 418 service among the authorized types of charters, the definition of "on-route" in part 207 is amended by inserting the phrase "certificate for all-cargo air service."

ISSUANCE OF AMENDMENT

In light of the foregoing, the Board hereby makes the following amendments, effective October 20, 1978, to 14 CFR Part 207, Charter Trips and Special Services:

1. In § 207.1, Definitions, the definitions of "Hawaiian charter trip," "transatlantic charter trip," and "transpacific charter trip" are deleted.

2. In § 207.1, Definitions, a new definition of "base revenue seat-miles" is added in proper alphabetical sequence, and the definition of "on-route" is amended, as follows:

§ 207.1 Definitions.

As used in this part, unless the context otherwise requires: • • •

• • • • • •

"Base revenue seat-mile" means the total available revenue seat-miles on flights operated by an air carrier in scheduled services, extra sections, and on-route charter trips or special services.

• • • • • •

"On-route" shall refer to service performed by an air carrier between points between which said carrier is authorized to provide service pursuant to its certificate of public convenience and necessity, certificate for all-cargo air service, or exemption authority:* * * *Provided.*

• • • • • •

3. § 207.5 is amended to read as follows:

§ 207.5 Limitation on amount of charter trips which may be performed by combination carriers.

A combination carrier shall during any calendar year limit the aggregate of its off-route charter trips, at its option, to either 10 percent of the base revenue plane-miles, or 10 percent of the base revenue seat-miles, flown by it during the preceding calendar year.

4. § 207.6 is amended to read as follows:

§ 207.6 All-cargo carriers: Limitation on amount of charter trips which may be performed.

(a) Notwithstanding any other provisions of this part, there are no restrictions on the volume, frequency, or regularity of off-route cargo charters flown by all-cargo carriers.

(b) An all-cargo carrier shall not during any calendar year perform passenger charters that in the aggregate exceed 10 percent of the base revenue plane-miles flown by it during the preceding calendar year.

5. § 207.7a is amended to read as follows:

§ 207.7a Restriction on frequency of off-route charter trips and other special services in foreign air transportation.

(a) An air carrier certificated to perform scheduled service to any point in a foreign country may perform off-route charter trips or other special services without limitation as to frequency between any point in the United States and any point in that foreign country.

(b) Except as provided in paragraph (a) of this section, an air carrier shall not perform more than eight off-route charter trips or special services in any one direction during any 4 successive calendar weeks between any single pair of points, one of which is in the United States and the other in a foreign country.

(Sec. 204, 401, 418, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754, 91 Stat. 1278. 49 U.S.C. 1326, 1371, 1388.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-26455 Filed 9-20-78; 8:45 am]

[3510-25]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

Revision of Validated License Control on Exports of Sporting Shotguns

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: On June 23, 1978, validated license control over commodities particularly useful in crime control and detection was extended to cover shipments of these commodities to all destinations except Australia, Belgium, Canada, Denmark, France, the Federal Republic of Germany (including West Berlin), Greece, Iceland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Turkey, and the United Kingdom. Previously, these controls were applicable only to the USSR, East European communist countries (except Yugoslavia), the People's Republic of China, the Republic of South Africa, and Namibia. Included in the list of commodities to which this revision applied was CCL entry No. 5998B, "Nonmilitary shotguns, barrel length 18 inches or over; and nonmilitary arms, discharge type (for example, stunguns, shock batons, etc.), except arms designed solely for signal, flare, or saluting use; and parts, n.e.s." The Department of Commerce, with the concurrence of the Department of State, has now determined that it is not necessary to control the export of sporting shotguns to most destinations for foreign policy reasons, unless they are for consignment or resale to police or law enforcement agencies. Sporting shotguns are defined as shotguns with a barrel length of 24 inches or more. This revision amends CCL entry No. 5998B to reflect this determination.

EFFECTIVE DATE OF ACTION: September 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-4196.

Accordingly, the Commodity Control List, incorporated by reference at 15 CFR 399.1, is amended to revise the footnote to entry No. 5998B to read as follows: A validated license is not required for export of these commodities to Australia, Belgium, Denmark, France, the Federal Republic of Germany (including West Berlin), Greece, Iceland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Turkey, and the United Kingdom. Also, a validated license is not required for export of shotguns with barrel length 24 inches or over, and parts, n.e.s., to other destinations in Country Groups T and V, except the Republic of South Africa, Namibia, Botswana, Lesotho, and Swaziland, if for consignment or resale to other than police or law enforcement agencies.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

Dated: September 18, 1978.

RAUER H. MEYER,
Acting Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-26500 Filed 9-18-78; 11:38 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

PART 14—ADMINISTRATIVE INTERPRETATIONS, GENERAL POLICY STATEMENTS, AND ENFORCEMENT POLICY STATEMENTS

Secret Coding in Marketing Research

AGENCY: Federal Trade Commission.

ACTION: Enforcement policy statement.

SUMMARY: The Commission is stating its intention to take appropriate enforcement action against those who use secret coding in marketing research, should it discover the practice to be continuing in the future, and in the event that it may be causing substantial consumer injury. This statement is intended to provide guidance to the marketing research industry.

EFFECTIVE DATE: September 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert L. Barton, Jr., Attorney, Division of Advertising Practices,

Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, 202-724-1499.

SUPPLEMENTARY INFORMATION: The Commission hereby amends part 14 of title 16, chapter I, of the Code of Federal Regulations by adding new § 14.12 to read as follows:

§ 14.12 Use of secret coding in marketing research.

(a) The Federal Trade Commission has determined to close its industry-wide investigation of marketing research firms that was initiated in November 1975, to determine if the firms were using questionnaires with invisible coding that could be used to reveal a survey respondent's identity. After a thorough investigation, the Commission has determined that invisible coding has been used by the marketing research industry, but it is neither a commonly used nor widespread practice. Moreover, use of the practice appears to have diminished in recent years. For these reasons, the Commission has determined that further action is not warranted at this time.

(b) However, for the purpose of providing guidance to the marketing research industry, the Commission is issuing the following statement with regard to its future enforcement intentions. The Commission has reason to believe that it is an unfair or deceptive act or practice, violative of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to induce consumers to provide information about themselves by expressly or implicitly promising that such information is being provided anonymously, when, in fact, a secret or invisible code is used on the survey form or return envelope that allows identification of the consumer who has provided the information.

(c) While the Commission has made no final determination regarding the legality of the foregoing practice, the Commission will take appropriate enforcement action should it discover the practice to be continuing in the future, and in the event that it may be causing substantial consumer injury. Among the circumstances in which the Commission believes that the use of secret coding may cause significant consumer harm are those in which: (1) A misleading promise of anonymity is used to obtain highly sensitive information about a consumer that such consumer would not choose to disclose if he or she were informed that a code was being used that would allow his or her name to be associated with the response; and (2) information of any sort is used for purposes other than those of the market survey.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46); 80 Stat. 383, as amended (5 U.S.C. 552).)

By direction of the Commission, dated September 12, 1978.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-26565 Filed 9-20-78; 8:45 am]

[4910-22]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—PAYMENT PROCEDURES

PART 190—INCENTIVE PAYMENTS FOR CONTROLLING OUTDOOR ADVERTISING ON THE INTERSTATE SYSTEM

Revision

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: This document constitutes a revision of the regulation on incentive payments for controlling outdoor advertising on the Interstate System. The revision is a consolidation and simplification of the existing regulations. There are no substantive changes contained in the revision.

EFFECTIVE DATE: September 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. James V. Daughtry, Chief, Accounting Policy and Procedures Branch, 202-426-0515; or Mr. Durward E. Timmons, Jr., Office of the Chief Counsel, 202-426-0800, Federal Highway Administration. Office hours are from 7:45 a.m. to 4:15 p.m., e.s.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: Existing regulations appear as part 190 of Chapter I, Title 23, Code of Federal Regulations, and codify material contained in volume 1, chapter 4, section 7 of the Federal-Aid Highway Program Manual.[1]

This revision is made in accordance with the philosophy and criteria recommended by the Federal Highway Administration (FHWA) Regulations Reduction Task Force. Reduction and simplification of the existing regulations was achieved.

NOTE.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044.

This rule is issued under the authority of 23 U.S.C. 131(j) and 315, and the delegation of authority by the Secretary at 49 CFR 1.48(b).

Issued on: September 6, 1978.

KARL S. BOWERS,
Federal Highway Administrator.

In consideration of the foregoing, chapter I of Title 23, Code of Federal Regulations is amended by revising part 190 to read as follows:

Sec.
190.1 Purpose.
190.3 Agreement to control advertising.
190.5 Bonus project claims.
190.7 Processing of claims.

AUTHORITY: 23 U.S.C. 131(j) and 315; 49 CFR 1.48(b).

§ 190.1 Purpose.

The purpose of this regulation is to prescribe project procedures for making the incentive payments authorized by 23 U.S.C. § 131(j).

§ 190.3 Agreement to control advertising.

To qualify for the bonus payment, a State must have entered into an agreement with the Secretary to control outdoor advertising. It must fulfill, and must continue to fulfill its obligations under such agreement consistent with 23 CFR 750.101.

§ 190.5 Bonus project claims.

(a) The State may claim payment by submitting a form PR-20 voucher, supported by strip maps which identify advertising control limits and areas excluded from the claim and form FHWA-1175, for the one-half percent bonus claim.

(b) The bonus payment computation is based on projects or portions thereof for which (1) the section of highway on which the project is located has been opened to traffic, and (2) final payment has been made. A bonus project may cover an individual project, a part thereof, or a combination of projects, on a section of an Interstate route.

(c) The eligible system mileage to be shown for a bonus project is that on which advertising controls are in effect. The eligible system mileage reported in subsequent projects on the same Interstate route section should cover only the additional system mileage not previously reported. Eligible project cost is the total participating cost (State and Federal share of approved preliminary engineering (PE), right-of-way (R-O-W), and construction) exclusive of any ineligible costs.

[1]The Federal-Aid Highway Program Manual is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

The amount of the bonus payment is to be based on the eligible total costs of the supporting projects included in each claim.

(d) Progress vouchers for route sections on which additional one-half percent bonus payments are to be claimed are to be so identified, and the final claim for each route section is to be identified as the final voucher.

§ 190.7 Processing of claims.

Audited and approved PR-20 vouchers with form FHWA-1175 shall be forwarded to the regional office for submission to the Finance Division, Washington Headquarters, for payment. The associated strip maps shall be retained with the division office copies of the PR-20 vouchers.

[FR Doc. 78-26508 Filed 9-20-78; 8:45 am]

[4210-01]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI- 4501]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270,451 Seventh Street SW., Washington, D.C. 204100. 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (24 CFR Part 1909 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since publication of a flood insurance map. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified	Date[1]
Alabama	Mobile	Satsuma, city of	010172-B	Jan. 3, 1978, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	May 3, 1974 Jan. 9, 1976	Sept. 29, 1978.
Colorado	Clear Creek	Georgetown, town of	080035-A	Apr. 9, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Sept. 29, 1978	Do.
Do	San Miguel	Unincorporated areas	080166-A	June 1, 1977, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	do	Do.
Do	do	Telluride, town of	080168-B	May 27, 1975, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	June 28, 1974 Jan. 2, 1976	Do.
Connecticut	Fairfield	Milford, city of	090082-B	Jan. 14, 1972, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Aug. 2, 1977	Do.
Do	do	Shelton, city of	090014-A	Aug. 31, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	May 24, 1974	Do.
Do	Hartford	Windsor, town of	090041-B	June 15, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Oct. 5, 1973 Apr. 15, 1977	Do.
Delaware	Kent	Leipsic, town of	100014-C	Apr. 21, 1978, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Aug. 9, 1974 Jan. 9, 1976	Do.
Florida	Orange	Apopka, city of	120180-B	June 17, 1975, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	July. 19, 1974 Mar. 5, 1976	Do.
Do	do	Winter Garden, city of	120187-B	May 12, 1975, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	July. 19, 1974 Mar. 26, 1976	Do.

V 43 / 184 SEP 21 1978

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Hazard area identified	Date[1]
Illinois	DeKalb	DeKalb, city of	170182-A	Feb. 25, 1972, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	June 28, 1974	Do.
Do	Lake	Fox Lake, village of	170362-C	Mar. 9, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	June 21, 1974 Dec. 3, 1976	Do.
Do	Jackson	Murphysboro, city of	170302-B	Apr. 11, 1975, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Apr. 12, 1975 Apr. 18, 1976	Do.
Do	Cook	Riverdale, village of	170150-B	Jan. 19, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	June 21, 1974 June 4, 1976	Do.
Do	....do	Robbins, village of	170154	July 19, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Apr. 12, 1974	Do.
Do	DuPage	Warrenville, city of	170218-B	June 6, 1975, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	May 24, 1974 Oct. 24, 1975	Do.
Iowa	Johnson	Coralville, city of	190169-B	Aug. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	June 14, 1974 May 14, 1976	Do.
Do	Clayton	Elkader, city of	190073-B	Oct. 3, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Feb. 8, 1974 Jan. 23, 1976	Do.
Do	Chickasaw	Nashua, city of	190068-B	Dec. 19, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	May 24, 1974 Apr. 16, 1976	Do.
Kansas	Dickinson	Abilene, city of	200074-B	June 20, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 9, 1974 Dec. 12, 1975	Do.
Do	Thomas	Colby, city of	200350-A	Aug. 28, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Feb. 15, 1974	Do.
Do	Geary	Junction City, city of	200112-B	Apr. 15, 1975, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Feb. 1, 1974	Do.
Do	Pawnee	Larned, city of	200258-B	Aug. 5, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	....do	Do.
Do	Harvey and Sedgwick	Sedgwick, city of	200134-B	Dec. 12, 1974, emergency, Sept. 15, 1978, regular, Sept. 29, 1978, suspended.	June 7, 1974 Nov. 7, 1975	Do.
Massachusetts	Bristol	Attleboro, city of	250049-B	Aug. 16, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Aug. 16, 1974 Dec. 10, 1976	Do.
Do	Hampden	Chicopee, city of	250137-A	Jan. 14, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Apr. 12, 1974	Do.
Do	Norfolk	Sharon, town of	250252-B	Aug. 20, 1975, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Oct. 18, 1974 Nov. 19, 1976	Do.
Michigan	Genessee	Davison, city of	260074-B	July 30, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	May 17, 1974	Do.
Do	....do	Goodrich, village of	260397-B	May 25, 1976, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	July 29, 1977	Do.
Minnesota	Washington	Hugo, city of	270504-B	June 20, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	May 17, 1974 Dec. 20, 1974	Do.
Do	LeSueur	LeSueur, city of	270248-B	Feb. 1, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Nov. 2, 1973 Apr. 2, 1976	Do.
Do	Hennepin	Mound, city of	270176-B	Apr. 16, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	June 7, 1974 May 7, 1976	Do.
Do	Scott	Prior Lake, city of	270432-B	Feb. 6, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	July 26, 1974 Aug. 15, 1975	Do.
Do	Roseau	Roseau, city of	270414-B	Apr. 26, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Mar. 8, 1974	Do.
Do	Scott	Shakopee, city of	270434-C	May 7, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	June 7, 1974 May 28, 1976	Do.
Do	Wabasha	Wabasha, city of	270490-B	July 17, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Mar. 8, 197 June 11, 1976	Do.
Do	Wilkins	Unincorporated areas	270519-A	June 6, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Sept. 29, 1976	Do.
Mississippi	Lafayette	Oxford, city of	280084-B	Aug. 30, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	June 7, 1974 Feb. 27, 1976	Do.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Hazard area identified	Date[1]
Missouri	Boone	Columbia, city of	290036-B	——, emergency, Aug. 27, 1971, regular, Sept. 29, 1978, suspended.	Aug. 28, 1971	Do.
Do	St. Louis	Webster Groves, city of	290394-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Mar. 15, 1974 Aug. 20, 1976	Do.
Nebraska	Custer	Broken Bow, city of	310051-B	Mar. 31, 1975, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Sept. 26, 1975	Do.
Do	Cass	Cedar Creek, village of	310030-A	Apr. 15, 1975, emergency, Sept. 15, 1978, regular, Sept. 15, 1978, suspended.	Sept. 15, 1978	Do.
New Jersey	Mercer	Washington, township of	340255-B	May 28, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	May 17, 1974 July 9, 1976	Do.
New York	Westchester	Ardsley, village of	360902-B	Dec. 30, 1971, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Apr. 13, 1973 Mar. 26, 1976	Do.
Do	Onondaga	Manlius, village of	360977-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Aug. 2, 1974	Do.
Do	Erie	Marilla, town of	360250-B	July 18, 1975, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	May 17, 1974 Apr. 23, 1976	Do.
Do	Monroe	Pittsford, town of	360439-B	May 4, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Dec. 28, 1973 Oct. 24, 1975	Do.
Do	Orleans	Yates, town of	360645-B	June 12, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	June 28, 1974 July 16, 1976	Do.
North Carolina	Transylvania	Brevard, city of	370231-B	Jan. 17, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	June 14, 1974 Aug. 20, 1976	Do.
Do	Rockingham	Reidsville, city of	370209-B	Sept. 6, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Mar. 1, 1975 July 2, 1976	Do.
Do	Rowan	Spencer, town of	370216-B	Apr. 7, 1975, emergency Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Mar. 1, 1974 Apr. 23, 1976	Do.
Ohio	Meigs	Middleport, village of	390338-B	Aug. 28, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	May 31, 1974 May 21, 1976	Do.
Do	Trumbull	Unincorporated areas	390535-A	Mar. 16, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Sept. 29, 1978	Do.
Do	Columbiana	Wellsville, city of	390088-C	Feb. 27, 1975, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 16, 1974	Do.
Do	Franklin	Westerville, city of	390179-B	Mar. 30, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Nov. 2, 1973 Aug. 20, 1976	Do.
Oregon	Douglas	Glendale, city of	410063-B	Feb. 18, 1975, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Dec. 28, 1973 Apr. 23, 1976	Do.
Do	Union	Island City, city of	410220-B	Apr. 1, 1975, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Aug 30, 1974 Dec. 5, 1975	Do.
Do	.....Do	North Powder, city of	410221-B	May 12, 1975, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Aug. 30, 1974	Do.
Pennsylvania	Westmoreland	Allegheny, township of	420869-B	July 27, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Aug. 2, 1974 June 18, 1976	Do.
Do	Luzerne	Bear Creek, township of	421136-B	Mar. 12, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Dec. 29, 1974 July 23, 1976	Do.
Do	Bucks	Bristol, township of	420984-B	Nov. 10, 1972, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	July 20, 1973 Feb. 10, 1978	Do.
Do	.....Do	Doylestown, township of	420185-B	Dec. 22, 1972, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Oct. 18, 1974	Do.
Do	Monroe	East Stroudsburg, borough of.	420691-B	Mar. 26, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	May 24, 1974 June 4, 1976	Do.
Do	Erie	Fairview, township of	420450-A	Sept. 10, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Nov. 15, 1974	Do
Do	Venago	Franklin, city of	420836-C	Apr. 19, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, suspended.	Sept. 14, 1973 May 31, 1974	Do
Do	Allegheny	Harrison, township of	420041-B	Apr. 18, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Nov. 2, 1973 June 4, 1976	Do

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Hazard area identified	Date[1]
Texas	Hidalgo	Edinburg, city of	480334-B	Mar. 31, 1975, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Mar. 31, 1975	Do.
Do	Bexar	Leon Valley, city of	480045-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Hidalgo	Mercedes, city of	480336-B	Mar. 31, 1975, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Mar. 31, 1975	Do.
Do	Hidalgo	Pharr, city of	480338-B	Mar. 31, 1975, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Mar. 31, 1975	Do.
Do	Hidalgo	San Juan, city of	480339-B	Mar. 31, 1975, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Mar. 31, 1975	Do.
Do	Hidalgo	Weslaco, city of	480340-B	Mar. 31, 1975, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Mar. 31, 1975	Do.
Virginia	Fairfax	Fairfax, city of	510064-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Fairfax	Fairfax, county of	510063-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Fairfax	Herndon, town of	510065-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Fairfax	Vienna, town of	510066-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Wisconsin	Dane	Madison, city of	550083-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Middleton, city of	550084-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Verona, city of	550085-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Cross Plains, village of	550086-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Mazomanie, village of	550087-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Waunakee, village of	550088-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Dane, county of	550089-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Hazard area identified	Date[1]
Wisconsin	Dane	Oregon, village of	550090-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Rockdale, village of	550091-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Springdale, township of	550092-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Sun Prairie, city of	550093-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Westport, township of	550094-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Windsor, township of	550095-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Deerfield, village of	550096-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Cottage Grove, village of	550097-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Deforest, village of	550098-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Fitchburg, city of	550099-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Stoughton, city of	550100-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Black Earth, village of	550101-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Blue Mounds, village of	550102-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Cambridge, village of	550103-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Dane, village of	550104-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Maple Bluff, village of	550105-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Mount Horeb, village of	550106-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Shorewood Hills, village of	550107-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Waterloo, city of	550108-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Belleville, village of	550109-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Brooklyn, village of	550110-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Marshall, village of	550111-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	McFarland, village of	550112-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Monona, city of	550113-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Oregon, village of	550114-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Rockdale, village of	550115-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Springdale, township of	550116-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Sun Prairie, city of	550117-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Westport, township of	550118-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Windsor, township of	550119-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Deerfield, village of	550120-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Cottage Grove, village of	550121-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Deforest, village of	550122-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Fitchburg, city of	550123-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Stoughton, city of	550124-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Black Earth, village of	550125-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Blue Mounds, village of	550126-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Cambridge, village of	550127-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Dane, village of	550128-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Maple Bluff, village of	550129-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Mount Horeb, village of	550130-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Shorewood Hills, village of	550131-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Waterloo, city of	550132-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Belleville, village of	550133-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Brooklyn, village of	550134-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Marshall, village of	550135-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	McFarland, village of	550136-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.
Do	Dane	Monona, city of	550137-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 23, 1974 Aug. 20, 1976	Do.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Hazard area identified	Date[1]
Do	Westmoreland	Hempfield, township of	420878-B	Apr. 16, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	July 26, 1974 Aug. 6, 1976	Do
Do	Huntingdon	Huntingdon, borough of	420436-B	Apr. 16, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Dec. 6, 1974 Mar. 7, 1976	Do
Do	Elk	Johnsonburg, borough of	420443-B	Feb. 2, 1978, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	June 29, 1973 May 14, 1976	Do
Do	Erie	Lawrence Park, township of	420451-B	June 1, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	May 31, 1974	Do
Do	Carbon	Mahoning, township of	421041-B	Feb. 1, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	July 26, 1974 Oct. 8, 1976	Do
Do	Westmoreland	New Kensington, city of	420891-B	June 14, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Mar. 1, 1974 May 14, 1976	Do
Do	...do	North Huntingdon, township of.	420893-B	Feb. 9, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Sept. 14, 1973 Sept. 24, 1976	Do.
Do	Bucks	Plumstead, township of	420199-B	Feb. 25, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Aug. 24, 1973 July 9, 1976	Do.
Do	Berks	Reading, city of	420145-B	Oct. 29, 1971, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Dec. 28, 1973 July 16, 1976	Do.
Do	Elk	Ridgway, township of	420445-A	May 15, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Sept. 12, 1975	Do.
Do	Allegheny	Sharpsburg, borough of	420073-B	Mar. 11, 1975, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Sept. 29, 1978	Do.
Do	Bucks	Warrington, township of	420208-B	Aug. 18, 1972, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	June 28, 1974 Aug. 13, 1976	Do.
Do	...do	Warwick, township of	420209-B	Feb. 18, 1972, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	July 26, 1974 July 30, 1976	Do.
Do	Allegeny	West Elizabeth, borough of	420083-B	Jan. 26, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Nov. 30, 1973 July 23, 1976	Do.
Do	...do	Wilkins, township of	420090-B	Mar. 16, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	May 10, 1974 June 25, 1976	Do.
South Carolina	Georgetown	Georgetown, city of	450087-B	Mar. 12, 1971, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	June 7, 1974 May 28, 1975	Do.
Do	Greenville	Simpsonville, town of	450092-B	Jan. 23, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	May 17, 1974 Apr. 30, 1976	Do.
Texas	McLennan	Bellmead, city of	480457-B	Sept. 3, 1974, emergency, Sept. 15, 1978, regular, Sept. 29, 1978, suspended.	Mar. 15, 1974 Mar. 12, 1976	Do.
Do	do	Beverly Hills, city of	480925-A	Sept. 28, 1978, emergency, Sept. 15, 1978, regular, Sept. 29, 1978, suspended.	Nov. 12, 1976	Do.
Do	Dallas	Sachse, city of	480186-B	July 25, 1975, emergency, Sept. 1, 1978, regular, Sept. 29, 1978, suspended.	Feb. 22, 1974 July 2, 1976	Do.
Utah	Davis	Bountiful, city of	490039-A	July 19, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Oct. 26, 1973	Do.
Do	Utah	Springville, city of	490163-B	July 25, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Feb. 1, 1974 May 21, 1976	Do.
Vermont	Washington	Moretown, town of	500116-B	July 29, 1975, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	May 31, 1974 Sept. 24, 1976	Do.
Do	Rutland	Rutland, town of	500267-B	June 23, 1975, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Feb. 7, 1975 Sept. 24, 1976	Do.
Virginia	Bedford	Unincorporated areas	510016-A	Jan. 16, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Apr. 25, 1975	Do.
Do	Scott	Clinchport, town of	510143-B	Mar. 11, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Mar. 8, 1974 June 25, 1976	Do.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Hazard area identified	Date[1]
Do	Fluvanna	Columbia, town of	510059-B	June 14, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Dec. 28, 1973 May 14, 1976	Do.
Do	Grayson	Galax, city of	510066-B	Feb. 1, 1978, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Aug. 2, 1974 Mar. 19, 1976	Do.
Do	Greensville	Unincorporated areas	510073-A	Feb. 25, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Dec. 20, 1974	Do.
Do	Prince William	Manassas Park, city of	510123-B	July 19, 1974, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	May 31, 1974 June 4, 1976	Do.
Do	Pulaski	Unincorporated areas	510125-A	Nov. 8, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Aug. 2, 1974 Apr. 9, 1976	Do.
Wisconsin	Milwaukee	Oak Creek, city of	550279-B	Aug. 20, 1973, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Mar. 22, 1974 Aug. 6, 1976	Do.
Do	Vernon	Unincorporated areas	550450-A	Sept. 1, 1972, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	Jan. 3, 1975	Do.
Wyoming	Lincoln	Diamondville, town of	560034-B	Apr. 8, 1977, emergency, Sept. 29, 1978, regular, Sept. 29, 1978, suspended.	May 20, 1977	Do.

[1]Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26157 Filed 9-20-78; 8:45 am]

[4210-01]

[Docket No. FI 4519]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

AUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (24 CFR Part 1909 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Dis-

aster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elasped since publication of a flood insurance map. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Hazard area identified	Date [1]
Ohio	Cuyahoga	Cleveland, city of	390104-B	July 20, 1973, emergency. Aug. 1, 1978, regular, Oct. 5, 1978, suspended.	June 7, 1974 June 16, 1978	Oct. 5, 1978.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurahce Administrator.

[FR Doc. 78-26156 Filed 9-20-78; 8:45 am]

[4910-14]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CCGD3-78-6-R]

PART 127—SECURITY ZONES

Establishment of Security Zone in East River, New York, N.Y.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard's security zone regulations establishes the waters of the East River as a security zone. This security zone is established due to the presence of a fireworks barge and fireworks display in the East River, New York, N.Y.

EFFECTIVE DATE: This amendment is effective on September 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Comdr. P. C. Lauridsen, Captain of the Port, New York, Building 109, Governors Island, New York, N.Y. 10004, 212-668-7917.

SUPPLEMENTARY INFORMATION: This amendment is issued without publication of a notice of proposed rulemaking and this amendment is effective in less than 30 days from the date of publication, because good cause exists and this security zone involves the safety of the Port of New York. Public procedures on this amendment are impractical due to the lack of time remaining before the incident.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Lieutenant Junior Grade Ristaino, Project Manager, Captain of the Port, New York, N.Y., and Comdr. George Watts, Project Attorney, Legal Office, Third Coast Guard District, New York, N.Y.

In consideration for the foregoing, part 127 of title 33 of the Code of Federal Regulations is amended by adding § 127.361 to read as follows:

§ 127.361 East River, New York, N.Y.

The water of the East River, N.Y., north of a line bearing 125.5° from a point at latitude 40°42' N., longitude 74°00'39.5" W. (the southern corner of slip 7, Manhattan ferry terminal), to the northwest corner of pier 5, Brooklyn, N.Y., and south of the Brooklyn Bridge is a security zone from 10:15 p.m., September 20, 1978, to 10:45 p.m., September 20, 1978.

(40 Stat. 220 as amended (50 U.S.C. 191), § 1, 63 Stat. 503 (14 U.S.C. 91), § 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249; 3 CFR 1949-1953 Comp. 356, 778, 873, 3 CFR 1964-1965 Comp. 349 (33 CFR Part 6), (49 CFR 1.46(b)).)

Dated: September 18, 1978.

J. L. FLEISHELL,
Captain, U.S. Coast Guard,
Captain of the Port, New York.

[FR Doc. 78-26547 Filed 9-18-78; 3:54 pm]

[4910-14]

[CGD 11-78-01]

PART 165—SAFETY ZONES

Lower Los Angeles River Channel North of the City of Long Beach, Calif.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard safety zone regulations establishes a safety zone consisting of the lower Los Angeles River Channel north of the city of Long Beach small boat launching ramp entrance at Golden Street. It is expected that the zone will remain in effect for approximately 3 months. During this period the zone will be occupied by derrick barges, tugs, workboats, and equipment necessary for construction of flood control sills for the U.S. Army Corps of Engineers. Numerous anchor wires will cross the river making the entire area extremely hazardous to vessel traffic. Accordingly, the zone will be closed to all vessel traffic not involved in the construction project.

EFFECTIVE DATE: This amendment becomes effective on September 15, 1978, and remains in effect until completion of the construction project in the zone or until March 1, 1979, whichever is earlier.

FOR FURTHER INFORMATION CONTACT:

Ens. J. T. Roosen, Vessel Management Officer, USCG Station, 165 North Pico Avenue, Long Beach, Calif. 90802, 213-590-2321.

SUPPLEMENTARY INFORMATION: 1. Buoys or other suitable marking devices will mark the boundaries of the safety zone in the river channel. The river channel south and downstream of the Golden Street ramp is not part of the safety zone.

2. As provided in the general safety zone regulations (33 CFR 165.20), no person or vessel may enter a safety zone unless authorized by the captain of the port or the district commander. Also as provided in these general regulations (33 CFR 165.25) any person directly affected by the establishment of a safety zone may request the Coast Guard, through the captain of the port, to reconsider its action. These general regulations and the other regulations in 33 CFR 165 apply to the safety zone established for the lower Los Angeles River Channel.

3. An opportunity to comment on this safety zone as a proposed rule has not been provided and good cause exists for making the zone effective immediately. A determination has been made that to do otherwise would be both impracticable and contrary to the public interest. The request to establish the safety zone was not received by the Coast Guard until late August and, as a result, there was not sufficient time to allow an opportunity for public comment or to provide for a delayed effective date. Following these administrative procedures would have prevented timely establishment of the safety zone and, thus, would have thwarted the safety purpose of the zone.

4. In order to provide local notice of the safety zone, a local notice to mariners will be published. Additional notices will be also published and distributed at the Golden Street ramp area.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Ens. J. T. Roosen, Vessel Management Officer, COTP LA-LB, Calif., and William R. Register, Office of the Chief Counsel, U.S. Coast Guard, Washington, D.C.

In consideration of the above, part 165 of title 33, Code of Federal Regulations, is amended by adding a new § 165.1101 to read as follows:

§ 165.1101 11th Coast Guard District.

(a) The waters of the lower Los Angeles River Channel between the Anaheim Bridge and the following line are a safety zone; A straight line that extends from the western tip of the entrance to the Golden Street landing on a bearing of 270 degrees T to the western shore of the lower Los Angeles River Channel.

(b) This safety zone becomes effective on September 15, 1978. It remains in effect until completion of the construction project in the zone or until March 1, 1979, whichever is earlier.

(86 Stat. 427 (33 U.S.C. 1224); 49 CFR 1.46(n)(4).)

Dated: September 13, 1978.

L. A. ONSTAD,
Lieutenant Commander, U.S. Coast Guard, Captain of the Port, Los Angeles-Long Beach.

[FR Doc. 78-26546 Filed 9-18-78; 3:54 pm]

[3410-11]

Title 36—Parks, Forests and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 261—PROHIBITIONS

Permits for the Pine River Area

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This final regulation requires that using or occupying certain Manistee National Forest lands abutting the Pine River in the Michigan for the purpose of placing any floatable object or craft in or on the river will require users to obtain a permit. Permits will include conditions of use developed to promote the protection of the national forest lands located within the Pine River watershed, to enhance river area qualities, and to provide for the safety and health of all users of national forest land located within the area abutting the river.

EFFECTIVE DATE: September 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Forest Supervisor, Wayne K. Mann, Huron-Manistee National Forests, 421 South Mitchell Street, Cadillac, Mich. 49601, 616-775-2421.

SUPPLEMENTARY INFORMATION: On June 30, 1978, the Forest Service published an interim regulation (43 FR 28476) with a proposed amendment to subpart C of 36 CFR 261.70. The proposed amendment adding new § 261.78 Prohibitions in Region 9, Eastern Region, would prohibit acts or omissions within the areas of the Manistee National Forest lands for the purposes of protecting the public property and public safety and health, and establishing reasonable rules of public conduct. Interested persons were given 60 days in which to submit written comments regarding the interim regulation.

No written comments were received. The interim regulation is hereby adopted with minor modification of wording for purposes of clarity, as set forth below.

Title 36 CFR, chapter II, part 261, subpart C is amended by adding a new regulation, § 261.78 as follows:

§ 261.78 Prohibitions applicable to region 9, eastern region, as defined in § 200.2.

(a) Using or occupying any area of the Manistee National Forest abutting the Pine River between a point commencing 1 mile downstream from Lincoln Bridge to a point one-half mile upstream from Stronach Dam, for the purpose of entering, leaving, or going upon the river, in, on, or upon any floatable object of any kind or description during specific dates set forth annually and posted in such locations and manner as to reasonably bring the closure and dates to the attention of the public, is prohibited unless otherwise authorized by permit.

STEVE YURICH,
Regional Forester.

[FR Doc. 78-26497 Filed 9-20-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

[PP 5F1546/R170; FRL 971-1]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

O,O-Dimethyl S-[(4-oxo-1,2,3-benzotriazin-3(4H)-yl)methyl] phosphorodithioate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This establishes tolerances for residues of the insecticide *O,O*-Dimethyl *S*-[(4-oxo-1,2,3-benzotriazin-3(4*H*)yl)methyl]phosphorodithioate. The request was submitted by Mobay Chemical Corp. This regulation establishes maximum permissible levels for residues of the above insecticide on pasture grass and pasture grass hay and in the meat, fat, and meat byproducts of horses.

V 43 / 184 SE 21 78

EFFECTIVE DATE: September 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. James Rea, Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-426-9425.

SUPPLEMENTARY INFORMATION: On July 17, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 30582) in response to a pesticide petition (PP 5F1546) submitted to the Agency by Mobay Chemical Corp., Chemagro Agricultural Division, P.O. Box 4913, Hawthorn Road, Kansas City, Mo. 64120. This petition proposed that 40 CFR 180.154 be amended by establishing tolerances for residues of the insecticide *O,O*-Dimethyl *S*-[(4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl] phosphorodithioate in or on the raw agricultural commodities. pasture grass hay at 5 parts per million (ppm); pasture grass (green) at 2 ppm; and the meat, fat, and meat byproducts of horses at 0.1 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.154 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before October 23, 1978 file written objections with the hearing clerk, EPA, room M-3708, 401 M Street SW., Washington D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on September 21, 1978, part 180, subpart C, section 180.154 is amended by alphabetically inserting tolerances for the subject insecticide on pasture grass hay at 5 ppm; pasture grass (green) at 2 ppm; and the meat, fat, and meat byproducts of horses at 0.1 ppm as set forth below.

Dated: September 14, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Statutory authority: Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).

Part 180, subpart C, section 180.154 is revised in its entirety in the heading and text by editorially reformating the section into an alphabetized columnar listing and alphabetically inserting tolerances of 5 ppm on pasture grass hay, 2 ppm on pasture grass (green), and 0.1 ppm in the meat, and fat, and meat byproducts of horses as follows:

§ 180.154 O,O-Dimethyl S-[(4-oxo-1,2,3-benzotriazin-3(4H)-yl)methyl] phosphorodithioate; tolerances for residues.

Tolerances are established for residues of the insecticide *O-O*-Dimethyl *S*-[(4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl] phosphorodithioate in or on the following raw agricultural commodities:

	Parts per million
Alfalfa	2.0
Alfalfa, hay	5.0
Almonds	0.3
Almonds, hulls	10.3
Apples	2.0
Apricots	2.0
Artichokes	2.0
Barley, grain	0.2
Barley, straw	2.0
Beans (dry)	0.3
Beans, snap	2.0
Blackberries	2.0
Bluberries	5.0
Boysenberries	2.0
Broccoli	2.0
Brussels sprouts	2.0
Cabbage	2.0
Cattle, fat	0.1
Cattle, mbyp	0.1
Cattle, meat	0.1
Cauliflower	2.0
Celery	2.0
Cherries	2.0
Citrus fruits	2.0
Clover	2.0
Clover, hay	5.0
Cottonseed	0.5
Crabapples	2.0
Cranberries	2.0
Cucumbers	2.0
Eggplants	0.3
Filberts	0.3
Goats, fat	0.1
Goats, mbyp	0.1
Goats, meat	0.1
Grapes	5.0
Grass, pasture (green)	2.0
Grass, pasture, hay	5.0
Horses, fat	0.1
Horses, mbyp	0.1
Horses, meat	0.1
Loganberries	2.0
Melons (honeydew, muskmelons, cantaloups, watermelons, and other melons)	2.0
Nectarines	2.0
Oats, grain	0.2
Oats, straw	2.0
Onions	2.0
Peaches	2.0
Pears	2.0
Peas, black-eyed	0.3
Pecans	0.3
Peppers	0.3
Plums (fresh prunes)	2.0
Potatoes	0.3
Quinces	2.0
Raspberries	2.0
Rye, grain	0.2
Rye, straw	2.0
Sheep, fat	0.1
Sheep, mbyp	0.1
Sheep, meat	0.1
Soybeans	0.2
Spinach	2.0
Strawberries	2.0
Sugarcane	0.3
Tomatoes (pre- and post-H)	2.0
Walnuts	0.3
Wheat, grain	0.2
Wheat, straw	2.0

[FR Doc. 78-26457 Filed 9-20-78; 8:45 am]

[4310-10]

Title 41—Public Contracts and Property Management

CHAPTER 114—DEPARTMENT OF THE INTERIOR

PART 114-45—SALE ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Subpart 114-45.1 General

NEGOTIATED SALE OF SPECIAL PROTECTIVE CLOTHING AND EQUIPMENT

AGENCY: Office of the Secretary, Interior.

ACTION: Final regulation.

SUMMARY: Certain employees of the Interior Department use special protective clothing and equipment in performing their assigned duties. This clothing and equipment is designed or purchased for use by the specific employees under 5 U.S.C. 7903. This rule allows the negotiated sales of the special clothing and equipment. This action will allow the Department to dispose of the surplus clothing and equipment that accumulates after employees are separated or transferred to another function where the special items are no longer needed.

DATE: Effective September 21, 1978.

FOR FURTHER INFORMATION CONTACT:

James O. Wyatt, Chief, Division of Property Management, Office of Administrative and Management Policy, Department of the Interior, Washington, D.C. 20240, telephone 202-343-3185.

SUPPLEMENTARY INFORMATION: Because this amendment relates only to internal departmental procedures, the proposed rulemaking procedures are inapplicable. The primary author of this document is Gerald A. Dempsey, Property Management Officer, Office of Administrative and Management Policy, telephone number 202-343-3185.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

RICHARD R. HITE,
Deputy Assistant Secretary of the Department of the Interior.

SEPTEMBER 14, 1978.

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 and 40 U.S.C. 486(c), 41 CFR Part 114-45 is amended by revising subpart 114-45.1 as set forth below.

§ 114-45.1 General.

§ 114-45.105-3 Exemptions.

(a) Negotiated sales of special protective clothing and equipment such as prescription safety glasses, diver's wet suits, and safety toe shoes and boots may be made under the following circumstances:

(1) Clothing or equipment was designed or purchased for use by a specific employee under 5 U.S.C. 7903.

(2) Employee is separated or is transferred to a function where the special items are no longer required.

(3) Proceeds from sale are under $100.

(4) Competition is obtained to the extent possible under the circumstances.

(b) Each sale conducted under § 114-45.105(a) will be reported to the GSA Regional Office having jurisdiction over the area where the sale was conducted. The report will be made on an annual basis and will include the date of sale, type of property involved, the original acquisition cost, the proceeds, and the purchaser's name.

(c) Sale value will be determined as follows:

(1) The sale value of prescription ground safety glasses will be established by a depreciation factor of 40 percent, of original acquisition cost, for each full year of use. The minimum sale value will be 20 percent of the original acquisition cost.

(2) The sale value of other protective clothing and equipment will be established by a depreciation factor of 10 percent, of original acquisition cost, for each full calendar quarter of use. The minimum sale value will be 20 percent of the original acquisition cost.

(d) Any request seeking an exemption from the provisions of FPMR Part 101-45 in accordance with FPMR 101-45.105-3(a), shall be prepared for the signature of the Assistant Secretary—Policy, Budget, and Administration, and include full particulars which tend to justify the exemption.

[FR Doc. 78-26520 Filed 9-20-78; 8:45 am]

[4310-10]

PART 114-50—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

Mobile Homes

AGENCY: Office of the Secretary, Interior.

ACTION: Final regulation.

SUMMARY: These regulations amend certain departmental regulations pertaining to implementation and administration of Pub. L. 91-646 (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970) activities. The proposed amendments add specific guidelines pertaining to moving and related expenses and for replacement housing payments to those relocated from mobile homes.

EFFECTIVE DATE: October 20, 1978.

FOR FURTHER INFORMATION CONTACT:

James O. Wyatt, Chief, Division of Property Management, Office of Administrative and Management Policy (PM/PAM), Room 5310, Department of the Interior, Washington, D.C. 20240. Telephone number, 202-343-3185.

SUPPLEMENTAL INFORMATION: These amendments were published in the FEDERAL REGISTER under a notice of proposed rulemaking on February 8, 1978. No comments were received except from bureaus and offices within the Department of the Interior. The changes proposed, with one exception, related to editorial and not substantive matters. The exception being a request to revise the proposed regulations to limit a displaced person who was the occupant of a mobile home located on a leased site to the replacement housing payment for tenants and certain others authorized by section 204 of Pub. L. 91-646 (84 Stat. 1897). This request was denied after thorough review. The primary author of this document is George Sandberg, Real Property Management Officer, Office of Administrative and Management Policy, telephone number 202-343-3185.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular No. A-107.

Dated: September 14, 1978.

RICHARD R. HITE,
Deputy Assistant Secretary of the Department of the Interior.

41 CFR 114-50 is amended as follows:

Add subpart 114-50.13 as follows:

Subpart 114-50.13—Mobile Homes

114-50.1300 Scope of coverage.
114-50.1301 Moving and related expenses.
114-50.1302 Payments in-lieu of moving and related expenses.
114-50.1303 Replacement housing payments for mobile hone owners.
114-50.1304 Eligibility of owner—occupant for rental differential payment.
114-50.1305 Replacement housing payments to tenants and certain others.
114-50.1306 Mobile home acquisition criteria.

Subpart 114-50.13 Mobile Homes

§ 114-50.1300 Scope of coverage.

The regulations in this subpart apply to housing customarily constructed offsite (in whole or part), and moved on site for use (see § 114-50.201(x)). Regulations specifically addressing displacements from mobile homes are necessitated by the wide variety of possible ownership-rental situations. These guidelines provide a basis for uniform treatment of displaced persons. The National Park Service has developed an implementing set of guidelines for computation of relocation benefits for mobile home displacements that is recommended for use in benefit determinations.

§ 114-50.1301 Moving and related expenses.

Owners of mobile homes, or tenant-occupants of mobile homes who qualify as displaced persons, are eligible for actual reasonable expenses in moving their mobile home or its contents to a new location. The cost of moving a mobile home may include, inter alia, the cost of detaching and reattaching fixtures, appliances, and utilities.

§ 114-50.1302 Payments in-lieu of moving and related expenses.

(a) A person displaced from a mobile home site, who is eligible to receive payments for moving and related expenses under § 114-501.301, may elect, in lieu of actual moving expenses, to receive a moving expense allowance determined in accordance with a schedule (see § 114-50.700-1) not to exceed $300, plus a dislocation allowance of $200.

(b) Where two or more individuals, not families, live together in a mobile home, each individual displaced may receive a payment for actual reasonable moving expenses, or the in-lieu payment authorized in paragraph (a) of this section.

§ 114-50.1303 Replacement housing payment for mobile home owners.

A displaced owner of a mobile home who has occupied the mobile home on the site from which he is displaced for not less than 180 days immediately prior to initiation of negotiations, and who is otherwise eligible, may qualify

V 43/184 SE 21 78

for a total replacement housing payment not in excess of $15,000 consisting of:

(a) The amount, if any, which when added to the acquisition cost of the mobile home, is necessary to purchase a comparable replacement dwelling. This differential payment shall be computed in accordance with the following criteria:

(1) Where both the mobile home and the site are acquired, the payment shall be the amount, if any, which, when added to the acquisition cost of the acquired property is necessary to purchase a comparable conventional dwelling or a comparable mobile home and site (either replacement unit being decent, safe, and sanitary), whichever is less.

(2) Where only the mobile home site is acquired, the payment shall be the amount, if any, which, when added to the acquisition cost of the acquired property equals the amount the owner is required to pay for a comparable site. If the comparable site is unimproved, the amount shall include the estimated costs necessary to develop the site into a decent, safe, and sanitary location. This may include, inter alia, access roads, pad preparation, utility and sanitation hookups, and foundation construction.

(3) Where an acquired mobile home is located on a leased or rented site, the payment will be the amount, if any, which when added to the acquisition cost of the acquired mobile home, equals the lesser of:

(i) The amount the owner is required to pay for a comparable replacement dwelling; or

(ii) The amount necessary to purchase a comparable mobile home, plus the difference in the amount necessary to rent a comparable mobile homesite for a period of 4 years, and 48 times the monthly rent paid on the site acquire.

(4) The differential housing payment in paragraph (1), (2), and (3) above shall be based upon the amount actually paid by an owner for purchase of a replacement property if this amount is less than the estimated cost of a comparable conventional dwelling, mobile home, or mobile home site.

(b) The amount, if any which is necessary to compensate the owner for increased interest costs to be computed in accordance with § 114-50.802-2 of this regulation.

(c) The amount, if any, which is necessary to reimburse the owner for reasonable costs incurred incidental to purchase of a replacement dwelling to be computed in accordance with § 114-50.802-3 of this regulation.

§ 114-50.1304 Eligibility of owner-occupant for rental differential payment.

An owner-occupant who has occupied the mobile home on the site from which he is displaced for at least 90 days immediately prior to negotiations, and who is otherwise eligible, is eligible for a replacement housing payment as a tenant, provided that he rents or purchases a decent, safe, and sanitary replacement conventional dwelling or mobile home. Computation of the amount, if any, which the owner-occupant is entitled to shall be in accordance with the following criteria:

(a) Where the owner-occupant elects to rent:

(1) And both the mobile home and the mobile home site are acquired from the owner-occupant, the differential payment shall be the difference, if any, between the amount necessary to rent a comparable mobile home and mobile home site for a period of 4 years, and 48 times the monthly economic rent of the mobile home and the mobile home site acquired;

(2) And only the mobile home site is acquired from the owner-occupant, the differential payment shall be the difference, if any, between the amount necessary to rent a comparable mobile home site for a period of 4 years, and 48 times the monthly economic rent of the site acquired;

(3) And a mobile home is acquired on a site rented by the owner-occupant of the mobile home, the differential payment shall be the difference, if any, between the amount necessary to rent a comparable mobile home and mobile home site for a period of 4 years, and 48 times the monthly economic rent of the mobile home and the actual rent of the homesite acquired. This amount may be applied to the rental of a conventional dwelling.

(b) Where the owner-occupant elects to purchase and occupy either a comparable replacement mobile home site or a comparable conventional dwelling within 1 year from displacement the replacement housing payment shall consist of the amount necessary to make a downpayment, including interest and incidental expenses, not to exceed $4,000, except that if such amount exceeds $2,000, such displaced person must match any amount in excess of $2,000 in making the downpayment.

§ 114-50.1305 Replacement housing payments to tenants and certain others.

(a) A displaced tenant of a mobile home who has occupied a mobile home for at least 90 days immediately prior to initiation of negotiations, and who is otherwise eligible, is eligible to receive either:

(1) A differential housing payment, not to exceed $4,000, to enable him to rent, for a period not to exceed 4 years, a decent, safe, and sanitary replacement dwelling, with the differential payment being the amount, if any, between the sum necessary to rent a comparable mobile home and mobile home site for a period of 4 years, and 48 times the actual monthly rent paid for the mobile home and the mobile home site acquired; or

(2) If, he purchases and occupies replacement housing within 1 year from displacement, the amount necessary to enable him to make a down-payment, including interest and incidental expenses, on the purchase of a decent, safe, and sanitary dwelling, but not to exceed $4,000, except that if such amount exceeds $2,000, such displaced person must equally match any such amount in excess of $2,000 in making the down-payment.

§ 114-50.1306 Mobile home acquisition criteria.

(a) Authority to acquire mobile homes as part of the real estate pursuant to section 302 of the Act may be exercised under the following conditions:

(1) Whenever the mobile home has been annexed to the realty in a fashion to itself be considered real property; or

(2) Whenever the mobile home cannot be moved without substantial injury to it or the realty upon which it is situated; or

(3) Whenever the mobile home fails to meet decent, safe, and sanitary dwelling standards either due to dwelling condition or family size, or

(4) Relocation of the mobile home is prohibited by zoning or other applicable governmental regulations, or prevented as area trailer parks will not accept the mobile home due to age, size, condition, etc.

(b) Determination of whether a mobile home constitutes realty or personality frequently must be objectively determined by reviewing the intention of the party through external evidence. The following factors have been held to evidence that the mobile home has retained its characteristic as personal property:

(1) Wheels and tires remain affixed to the carriage.

(2) Lack of permanent connection of utilities.

(3) Mobile home has been registered as a vehicle.

(4) Lack of landscaping or other permanent improvements (e.g. patios, foundations, etc.).

NOTE.—Frequently mobile homes are placed on blocks or piers in lieu of a more substantial foundation. This may permit the retention of the under carriage. If hooked up to permanent utilities, the mobile home may still be considered realty.

(c) Where the evidence does not clearly indicate whether a mobile home is real or personality, the expressed intention of the owner should be given consideration in determining the status and disposition of the mobile home.

(d) Where a mobile home does not meet the criteria under paragraphs (a), (b), or (c) of this section and removal of the mobile home is required, a minimum notice of 90 days to remove said mobile home is required.

[FR Doc. 78-26506 Filed 9-20-78; 8:45 am]

[4310-10]

PART 114-50—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

AGENCY: Office of the Secretary, Interior.

ACTION: Final regulation.

SUMMARY: These regulations amend Department regulations implementing Pub. L. 91-646 (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970) activities. The amendments are intended as clarifications of existing regulations and definitions pertaining thereto.

EFFECTIVE DATE: October 20, 1978.

FOR FURTHER INFORMATION CONTACT:

James O. Wyatt, Chief, Division of Property Management, 202-343-3185.

SUPPLEMENTAL INFORMATION: These amendments to the Department of the Interior regulations were published under a notice of proposed rulemaking on February 8, 1978. No comments were received from sources outside of the Department of the Interior. Of those comments received, one recommended the addition of the word "condemnation" to the second line of § 114-50.103 as condemnation is a method of acquisition. This suggestion was adopted. Another comment recommended substantial revision of the proposed regulations governing displacement of persons from mobile homes § 114-50.1300. Consideration of the suggested modifications led the Department to reconsider the appropriateness of the regulations as proposed. To avoid undue delay in implementing the regulations contained herein the decision was made to delete from this publication all reference to the mobile home regulations. If substantially modified, the proposed mobile home regulations will be published in final form, with provision for an appropriate comment period. The primary author of this document is George Sandberg, Real Property Management Officer, Office of Adminstrative and Management Policy, telephone 202-343-3185.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular No. A-107.

Dated: September 14, 1978.

RICHARD R. HITE,
Deputy Assistant Secretary of the Department of the Interior.

41 CFR 114-50 is amended as follows:

Subpart 114-50.1—General

Amend § 114-50.103 to read as follows:

§ 114-50.103 Applicability.

The provisions of the Act and the regulations in this part 114-50 apply to the acquisition (whether by purchase, condemnation, donation, exchange, or devise) of all real property for, and the relocation of all persons displaced by, programs and projects undertaken by Federal agencies, or by State agencies which receive Federal financial assistance for all or a part of the costs thereof. The Act and these regulations apply regardless of whether the real property is acquired by a Federal or State agency, or whether Federal funds actually contributed to the cost of the real property acquired for a Federal assisted project.

Amend § 114-50.107-2 to read as follows:

§ 114-50.107-2 Forms used in filing an application for benefits.

Bureaus and offices may utilize either Department of the Interior form D.I. 380, a-f and accompanying schedules, or GSA standard form 262, a-f and accompanying schedules, to document claims for reimbursement of expenses incurred by property owners or tenants as the result of Pub. L. 91-646 activities.

Amend § 114-50.2 by revising § 114-50.201(h) to read as follows:

§ 114-50.201 Definition of terms.

* * * * *

(h) *Dwelling.* The place of permanent or customary and usual abode of a person. It includes a single family building; a one-family unit in a multifamily building; a unit in a condominium, or cooperative housing project; any other residential unit, including a mobile home.

* * * * *

Subpart 114-50.4—Relocation Assistance Advisory Services

Revise § 114-50.403(b)a to read as follows:

§ 114-50.403 Coordination of planned relocation activities.

* * * * *

(b) A directory of the Department of Housing and Urban Development Field Offices is available upon request.

APPENDIX I [DELETED]

Delete in its entirety appendix 1 to subpart 114-50.4 entitled "Directory—Regional and Area Offices of the Department of Housing and Urban Development."

Subpart 114-50.7—Payments in Lieu of Moving and Related Expenses

The table of contents of subpart 114-50.7 is revised as follows:

Sec.
114-50.700 Eligibility.
114-50.700-1 Moving allowance schedules.
114-50.701 Displaced occupant.
114-50.702 Displaced farm operations.
114-50.703 Displaced business.
114-50.703-1 Determination of loss of existing patronage to a business.
114-50.703-2 Businesses not eligible to receive "in-lieu" payments.
114-50.704 Displaced nonprofit organizations.
114-50.705 Average annual net earnings.

Amend § 114-50.701 by deleting paragraphs (a) and (b) in their entirety, and revising § 114-50.701 to read as follows:

§ 114-50.761 Displaced occupant.

A person displaced from a dwelling or a temporary or seasonally occupied housing unit who elects to receive the payments authorized by this paragraph, in lieu of payment for actual moving expenses, may receive a moving expense allowance, determined in accordance with a schedule established by the bureau or office, not to exceed $300, plus a dislocation allowance of $200. Where two or more individuals, not families, living together in single family housing are displaced from such housing they shall be treated as one displaced person for purposes of entitlements under this section.

Delete § 114-50.702-1 in its entirety and amend § 114-50.702 to read as follows:

§ 114-50.702-1 [Deleted]

§ 114-50.702 Displaced Farm Operation.

A person displaced from his farm operation as defined in § 114-50.201(k), may elect to receive a fixed payment

V 43 / 184 SEP 21 1978

of not less than $2,500 nor more than $10,000 in accordance with the same criteria established for a person displaced from a business (see § 114-50.703). For a person to be entitled to this payment, a bureau or office must determine that:

(a) The farm operator has discontinued his entire farm operation at the present location or has relocated the entire farm operation, or

(b) In the case of a partial taking, the operator will be considered to have been displaced from a farm operation if:

(1) The part taken met the definition of a farm operation prior to the taking; or

(2) The taking caused the operator to be displaced from the farm operation on the remaining land; or

(3) The taking caused such a substantial change in the nature of the existing farm operation as to constitute a displacement.

NOTE.—If application of the above criteria obviously creates an inequity in any given case, the head of the bureau or office may approve the use of other criteria as determined appropriate.

Revise Subpart 114-50.12 in its entirety to read as follows:

Subpart 114-50.12—Annual Report

Sec.
114-50.1200 General.
114-50.1201 Report contents.
114-50.1202 Submission.

Subpart 114-50.12—Annual Report

§ 114-50.1200 General.

Each bureau and office having responsibilities for Federal or federally assisted programs that come within the purview of Pub. L. 91-646 shall prepare and submit an annual report to the Assistant Secretary—Policy, Budget and Administration, on its activities related to programs established and authorized by the act.

§ 114-50.1201 Report contents.

The report shall consist of two parts.

(a) *Statistical portion.* This part of the report shall utilize GSA Form 2997, Annual Report on Relocation and Real Property Acquisition Activities.

(b) *Racial and ethnic information.* This information, required by title VI of the Civil Rights Act of 1964, Executive Order 11512 and other applicable Federal laws, shall be reported using the format appearing as appendix I to this subpart (formerly part III of appendix 1 to this subpart).

§ 114-50.1202 Submission.

The annual report shall be prepared on a fiscal year basis and submitted (original only) to reach the Assistant Secretary—Policy, Budget, and Administration by not later than December 1 of each year.

Appendix I
Subpart 114-50.12

RESIDENTIAL RELOCATION DISPLACEMENT STATISTICS

CLAIMANTS DISPLACED DURING FY __

	NEGRO/ BLACK		SPANISH SURNAMED		ASIAN AMERICAN/ ORIENTAL		ALL OTHERS		TOTAL ALL GROUPS	
	OWNER	TENANT	OWNER	TENANT	OWNER	TENANT	OWNER	TENANT	OWNER	TENANT
UNDER AGE 62										
62 AND OVER										
TOTAL										

*PEOPLE DISPLACED DURING FY__

	NEGRO/ BLACK	SPANISH SURNAMED	ASIAN AMERICAN/ ORIENTAL	ALL OTHERS	TOTAL ALL GROUPS
TOTAL					

*Report total number of people displaced.
Note: Under "Spanish Surnamed" include persons of Puerto Rican, Mexican American, Cuban, Central or South American, or other Spanish descent. Under "Asian American/Oriental" include Chinese, Japanese and Korean. Under "All Others" include white persons not of Spanish descent.

[FR Doc. 78-26505 Filed 9-20-78; 8:45 am]

V 43 / 184 SEP 21 1978

[4310-10]

PART 114-50—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

AGENCY: Office of the Secretary, Interior.

ACTION: Final regulation.

SUMMARY: These regulations amend certain departmental regulations pertaining to implementation and administration of Pub. L. 91-646 (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970) activities. The proposed amendment adds to and clarifies the procedures to be followed in preparation of relocation plans.

EFFECTIVE DATE: October 20, 1978.

FOR FURTHER INFORMATION CONTACT:

James O. Wyatt, Chief, Division of Property Management, Office of Administrative and Management Policy (PM/PAM), Room 5310, Department of the Interior, Washington, D.C. 20240, telephone 202-343-3185.

SUPPLEMENTAL INFORMATION: These amendments were published in the FEDERAL REGISTER under a notice of proposed rulemaking on March 1, 1978. No comments were received except from bureaus and offices within the Department of the Interior. The changes proposed, with one exception, related to editorial and not substantive matters. The substantive issue involved the suggestion that provision be made allowing for incremental development of the relocation plan allowing allocation of resources commensurate with the stage of project or program development. The suggestion was adopted and the regulation revised accordingly. The primary author of this document is George Sandberg, Real Property Officer, Office of Administrative and Management Policy, telephone 202-343-3185.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular No. A-107.

Dated: September 14, 1978.

RICHARD R. HITE,
Deputy Assistant Secretary of the Department of the Interior.

41 CFR 114-50 is amended as follows:

Subpart 114-50.4—Relocation Assistance Advisory Services

Amend § 114-50.402 to read as follows:

§ 114-50.402 Relocation plan.

In conjunction with a program or project proposal involving acquisition of real property, a determination must be made during the preauthorization planning phase whether the real property acquisition activities will result in the displacement of persons from their dwellings, businesses, or farm operations. Where land acquisition activities will cause such displacement, a relocation plan shall be developed prior to commencement of acquisition activities in accordance with procedures outlined in § 114-50.500. The relocation plan may be developed in two stages to meet relocation program requirements. The first stage, the preliminary plan would constitute a preauthorization study sufficient in scope and depth to provide essential program or project planning information. The second stage to be completed prior to commencement of acquisition activities, would entail a fully developed implementation plan. The implementation plan would incorporate, update, and expand upon the preliminary plan. The essential ingredients of each stage are as follows:

(a) Preliminary plan—shall include the following information as a minimum:

(1) An estimate of the number of individuals, families, businesses, farm operations, and nonprofit organizations which will be displaced.

(2) The availability of decent, safe, and sanitary replacement housing (both sale and rental) within the financial means of the individuals and families being displaced.

(3) The probable impact of all other relocation programs, whether federally funded, or not, on the availability of replacement housing.

(4) The estimated total cost, by category (moving expenses, replacement housing for homeowners, etc.), of payments to displaced persons.

(5) The estimated cost of administering required relocation services to displaced persons.

(6) Applicable State and local building restrictions (including minimum lot sizes, zoning regulations, water purity standards, septic and well requirements, utility connection requirements, etc.).

(b) Implementation plan—in addition to updating the above elements the plan shall include:

(1) An inventory of the characteristics and needs of individuals, families, businesses, farm operations, and nonprofit organizations to be displaced.

(2) An inventory of the currently available comparable replacement dwellings in sufficient detail to permit matching of data against the needs of the displaced persons.

(3) Consideration and development, as necessary, of a staged plan of acquisition of improved properties to facilitate assimilation of the displaced persons, businesses, farm operations, and nonprofit organizations into the surrounding community.

(4) Detailed information on the displacement and relocation activities of other Government agencies or private concerns.

(5) Standards to be applied in carrying out relocation operations.

(6) Detailed information on the measures and services to be provided displaced persons and businesses in the conduct of the relocation assistance program.

(c) Each relocation plan shall be:

(1) Coordinated with other Federal and State agencies and private concerns having relocation programs within the project area, to insure that the real estate market from which replacement housing will be obtained is capable of supplying the demands of all users of housing. (See also §§ 114-50.403 and 114-50.404); and

(2) Updated periodically to reflect current real estate conditions. When funds have been appropriated for commencement of real property acquisition, the relocation plan will be continuously updated and serve as a basis for accomplishing required relocation activities.

(3) Reviewed and approved either at the bureau headquarters office level, or by a bureau office assigned the responsibility to review all bureau relocation plans, prior to commencement of acquisition activities (e.g., development of property descriptions, title examination, appraisals, negotiation, etc.).

(4) Submitted (copy only) when approved, to the Assistant Secretary—Policy, Budget and Administration (AMP/PM).

(d) A more elaborate relocation plan may be required in instances where acquisition of real property for a program or project will result in the displacement of a substantial number of persons in a metropolitan area, particularly where low-or moderate-income persons are involved. In any such instances, bureaus and offices shall be guided by the relocation planning instructions promulgated by the Department of Housing and Urban Development in its Relocation Handbook (1371.1 rev.).

[FR Doc. 78-26509 Filed 9-20-78; 8:45 am]

[6730-01]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

[General Order 7; Docket No. 73-64]

PART 528—SELF-POLICING REQUIREMENTS FOR SECTION 15 AGREEMENTS

AGENCY: Federal Maritime Commission.

ACTION: Reconsideration and modification of final rule.

SUMMARY: On April 28, 1978, the Commission published a final rule on self-policing of Commission approved agreements. The Commission has received numerous petitions for reconsideration and modification of that final rule. This document revises part 528 in light of the petitions for reconsideration. Several modifications in language and numbering have been made throughout the rules in the interest of clarity and simplification. The standards applicable to requests for exemption from the independent neutral body requirement have been relaxed. Reporting requirements have been simplified. The term "associate" has been more clearly defined and its use restricted. A provision has been added which prohibits rate-fixing agreements.

DATE: The rule is effective January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573, 202-523-5740.

SUPPLEMENTARY INFORMATION: The Commission has before it 19 petitions for reconsideration of its April 26, 1978, report and order (April order) amending part 528 of its rules. General order 7, 46 CFR, part 528, 43 FR 18175.[1] A reply to petitions was filed by the Commission's Bureau of Hearing Counsel (Hearing Counsel).

Part 528 of the rules prescribes standards for self-policing by ocean carriers participating in rate-fixing agreements approved under section 15 of the Shipping Act, 1916.[2] The April rules were adopted after analysis of comments received in response to regulations proposed on October 17, 1973 (proposed rules).[3]

The instant petitions urge the retraction of all or part of provisions modified by the April order and raise the following general objections to the order: (1) The Commission lacks authority to require an independent self-policing authority or to direct any specific type of self-policing activity; (2) some of the regulations are vague and unlikely to produce uniform or reliable results; (3) inadequate notice was given of certain features contained in the final regulations, especially the reporting requirements; (4) self-policing should also be required for carriers which do not belong to rate-fixing agreements; and (5) the rules may not be implemented until General Accounting Office review has been completed pursuant to the Federal Reports Act, 44 U.S.C. 3512(c).

The Commission stayed the effective date of part 528 through September 15, 1978, and will not implement the finally revised version adoped today until January 1, 1979, or 30 days following the completion of General Accounting Office review, whichever is later. Nothing more is required to comply with the Federal Reports Act.

Petitioners' jurisdictional argument (1) and their claim that independent carriers should also be subject to part 528(4) were fully considered in the April report. In 1961 Congress concluded that carrier conferences must be adequately self-policed in order to continue receiving an exemption from the antitrust laws. (Pub. L. 87-346, 75 Stat. 764.) Independent carriers are not subject to section 15's express self-policing requirement. The conferences therefore cannot claim that the Commission's failure to place identical self-policing requirements on carriers not fixing rates in violation of the Sherman Act is an arbitrary administrative action.

Petitioners' jurisdictional objection to the imposition of minimum self-policing requirements—inconsistent as it is with their request for the replacement of general phrases like "adequate staffing" with detailed specifications—fails to recognize that part 528 does not permit the disapproval of an agreement without the notice and hearing required by law. Over 10 years experience in reviewing bare bones self-policing reports has made it evident to the Commission that existing self-policing systems rely primarily upon member initiated complaints, and have failed to confront or control major incidents of rebating in both the Atlantic and Pacific trades.[4] Under such circumstances no evidentiary hearings or detailed factual findings are necessary to support our determi-

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[1] Petitions were filed by Sea-Land Service, Inc., and the ocean carriers comprising the membership of the following sec. 15 organizations:

Gulf-Mediterranean Ports Conference; Far East Conference; Pacific Westbound Conference; Atlantic and Gulf-Indonesia Conference and Atlantic and Gulf-Singapore, Malaya, and Thailand Conference (jointly); seven conferences serving areas of India, Pakistan, Ceylon, Burma, East Africa, South Africa, Bangladesh, the Red Sea and the Gulf of Aden (jointly); Marseilles North Atlantic U.S.A. Freight Conference, Med-Gulf Conference, and West Coast of Italy/North Atlantic Conference (jointly); North Atlantic Mediterranean Freight Conference and Greece/U.S. Atlantic-Rate Agreement (jointly); Mediterranean-North Pacific Coast Freight Conference and New Zealand Rate Agreement (jointly); U.S. Atlantic and Gulf/Australia-New Zealand Conference and Australia/Eastern U.S.A. Shipping Conference (jointly); Spanish Eastbound Freight Agreement; Iberian/U.S. North Atlantic Westbound Freight Conference; South Atlantic/Spanish, Portuguese, Moroccan, and Mediterranean Rate Agreement; Rate Agreement No. 8900; Pacific Coast European Conference; Japan/Korea-Atlantic and Gulf Freight Conference and Trans-Pacific Freight Conference of Japan/Korea (jointly); Agreement Nos. 7190, 192, 8190, 90, 191, 8100, and 9474 (jointly); Agreement Nos. 10107, 10108, 7190, 192, 9190, 90, 191, 5700, 5600, 8100, 9474, and 14 (jointly); and 15 North Atlantic Conferences (jointly). United States Lines, Inc., disassociated itself from several of the petitions. The viewpoints of various conference members occasionally diverged on specific issues raised in their joint petitions.

Petitions for exemptions from the requirement of establishing an independent self-policing body were received from the ocean carriers comprising the South Sea Islands Rate Agreement, Pacific Coast Rate Agreement, Pacific Coast Australasian Tariff Bureau, and Australia Pacific Coast Rate Agreement. These carriers contend that their activities meet the standards for exemption found in § 528.4(b)(3) of the rules published on April 26, 1978 (April rules), but alternatively request that if exemption is denied under the April rules, that § 528.4(b)(3) be modified to whatever extent the Commission deems necessary to grant them an exemption. These petitions add nothing of substance to the instant proceeding and are being processed solely as exemption petitions.

Several petitioners, as well as a number of other carriers not seeking reconsideration, requested a stay of the July 1, 1978, effective date of revised part 528. On June 26, 1978, the Commission postponed the effective date until Sept. 15, 1978, 43 FR 28496 (1978).

[2] 46 U.S.C. 814 states, in pertinent part, that: "The Commission shall disapprove [a sec. 15 agreement], after notice and hearing, on a finding or inadequate policing of the obligations under it, or failure or refusal to adopt and maintain reasonable procedures for promptly and fairly hearing and considering shippers' requests and complaints."

[3] 38 FR 28841. The proposed rules were themselves a modification of earlier self-policing proposals contained in a broader sec. 15 rulemaking. Docket No. 73-5, 38 FR 4982. Unless otherwise indicated, references to particular section numbers are to the numbers designated in the April rules.

[4] Some 30 settlement agreements have been reached in FMC rebating investigations since Jan. 1, 1977. The civil penalties incurred under these agreements exceed $5,000,000. An equal number of FMC enforcement claims seeking another $5,000,000 for alleged rebating violations is currently outstanding. Still other rebating cases are currently being processed by the Commission's staff.

V 43 / 184 SEP 21 78

nation that independent self-policing bodies with broad investigatory powers and more detailed reporting responsibilities are necessary features of adequate self-policing—as a general rule. To the extent a particular factual setting may warrant a different result, the Commission has provided a procedure for exempting smaller conferences operating in relatively "clean" trades from the requirement of retaining an independent self-policing body.

Petitioners' remaining objections (2 and 3) should be met by the modifications in the April rules being adopted today. The Commission's 1973 notice of proposed rulemaking informed all parties of the general scope of this proceeding. Although that notice emphasized the independent body issue and the document availability issue,[5] it also discussed the need for more thorough investigations and specific self-policing reports than had previously been required. The Commission clearly proposed that the nature and basis of each investigation conducted, the findings of each investigation, the identity (coded) of the member investigated, the exact violation found, and the exact sanction imposed be set forth in every semiannual report.[6] The April rules merely added detail to these requirements. The majority of petitioners' complaints concerning lack of notice also allege that certain of the reporting details added by the April order were ambiguous or unrealistic. Upon reconsideration, the Commission has clarified and simplified the reporting requirements in accordance with petitioners' comments whenever feasible. A section by section discussion of these comments and modifications follows.

Section 528.1 Scope and purpose. The last two sentences of § 528.1 were not found in the 1973 proposal. Several petitioners requested deletion of both sentences because they purportedly reflect an intention to disapprove section 15 agreements without the prior notice and hearing required by law and impose illogical and improper standards for judging agreements. The first concern is unfounded, but in the course of revising and shortening § 528.1, we have eliminated the penultimate sentence. The last sentence has also beeen relocated and modified to more accurately reflect the Commission's intention. The existence of a vigorous self-policing system which uncovers an appreciable number of violations during a reporting period does not create an evidentiary presumption that an agreement is or is not "adequately policed" within the meaning of section 15. Such circumstances are, however, reliable evidence of the nature and extent of malpractices in a trade and of the adequacy of a given self-policing system in curbing malpractices.

Section 528.2 General requirements. Several commentators objected to the definition of the term "associates" found in § 528.2, and to its use in §§ 528.3 (a), (b), and (d) and 528.6(10)(ii), where it could be construed as imposing self-policing sanctions upon persons not subject to a rate-fixing agreement. Revisions have been made in former §§ 528.3 and 528.6 to clarify the Commission's intention that only agreement members are subject to self-policing sanctions.

The fact remains that members may violate an agreement through a number of devices, including the use of intermediaries, and it is important that self-policing authorities be empowered to examine the activities and records of those intermediaries most likely to be employed. Accordingly, the definition of "associates" has been revised to eliminate the allegedly unnatural phrase "corporate relation," and include all agents, employees, or other persons subject to the control of a member, persons controlling a member, and persons controlled by persons who control a member.[7] Members must arrange for self-policing authorities to have access to and the cooperation of such "associates." Protection against the possibility that self-policing investigations might result in unrestricted invasions of the non-Shipping Act activities of corporate parents and subsidiaries has been provided by the inclusion of a limited challenge for relevancy procedure in final § 528.2(c).

Sections 528.3(c) and 528.4(c) Duty to investigate complaints. Exception was taken to language in §§ 528.3(c) and 528.4(c) stating that the self-policing authority must investigate all complaints received from any source. It was contended that these provisions could be read as requiring all complaints to be investigated in the same manner, no matter how "frivolous, unreliable, stale or malicious" they might be. This was not the Commission's intention. Self-policing authorities are expected to be both thorough and energetic, but need not adhere to unrealistic and nondiscretionary standards. Former §§528.3 and 528.4 have been modified to clarify this situation and accomodate some of petitioners' complaints.

The final regulations shall require self-policing bodies to promulgate reasonable procedures for the submission of complaints and to investigate all complaints. Self-initiated onsite investigations must also be conducted regularly (e.g., annually) into the activities of each member line. It is unnecessary, however, for all investigations to be identical in scope. Self-policing bodies are expected to possess reasonable discretion in conducting their investigations. It is sufficient that each allegation be examined in a manner and to an extent which is reasonable under the circumstances.

Self-policing bodies may establish procedures for investigating written complaints, provided that oral and other informal communications (including anonymous messages) continue to be received and investigated. A self-policing body shall not require a complaint to be in writing or the identity of the complainant to be revealed before commencing an investigation. Petitioners failed to demonstrate a reasonable basis for limiting the class of persons who may lodge complaints and the final rules allow no such restrictions.

Section 528.4(b)(3) Exemption petitions. The April rules provided for exemptions from the independent self-policing body requirement of § 528.4(b) when it is demonstrated that an agreement has few members, applies to a narrow range of ports, handles only a small percentage of cargo in the trade, and the trade has been relatively free of malpractices. It is now alleged that these factors are rigid and unrealistic—especially the "percentage of the trade" standard—and will preclude many, if not all, small conferences from qualifying.

Modifications have been made in the final rules to provide a more flexible approach to the granting of waivers. Determination will be made on a case-by-case basis where it appears that maintaining an independent self-policing body would unfairly burden a conference because of the size and condition of the trade and the probable effectiveness of the alternative self-policing arrangements proposed.

Section 528.3(e) Identity of complainant. Two petitioning conferences requested that the provisions allowing self-policing bodies to withhold the name of a complainant be amended to *require* the deletion of this information from any materials furnished an accused member. The only support offered for this request was the unclear assertion that the existing language is "inconsistent with the Commission's effort to give the industry effective self-policing" [emphasis supplied]. The Commission believes it preferable to permit divergent practices in this area. Self-policing bodies may reveal

[5] The manner in which the conferences would make their self-policing records available to the Commission.

[6] See §§ 528.2(b) and 528.4(a) of the proposed rules. The Apr. 25, 1974, reply comments of the North Atlantic Conferences illustrates petitioners' awareness that greater specificity in semiannual reporting was under consideration.

[7] The Commission considers it unnecessary to define the term "control" in pt. 528, but intends that the term shall include all incidents of "working" or "de facto" control, whether achieved through ownership, common management, or both.

or withhold the names of complainants as may best enable them to effectively investigate and curb malpractices. They should not, of course, reveal identities in circumstances which encourage retaliation by or against members, or withhold identities when it would unfairly prejudice the member's ability to rebut any material allegations made against it (e.g., if a case depended upon the statement of an unknown accuser).

Sections 528.4(b) and 528.6(a) Application of part 528 to "misrating programs." Some conferences maintain special programs for inspecting cargo carryings and shipping documents, ascertaining cargo misdescriptions or mismeasurements, and requiring that member lines correct any misratings so discovered. These misratings are typically unintentional tariff deviations resulting from clerical errors or reliance upon cargo measurements and descriptions provided by a shipper. It appears that most misrating programs are not presently conducted by self-policing authority personnel, in part because the conferences do not consider misratings to be "malpractices."[8] The April report firmly rejected the notion that "malpractices" could be limited to intentional breaches, but did state that conferences could establish separate investigative bodies for detecting misratings provided that such bodies also complied with part 528 of the rules. Several petitioners commented upon an alleged lack of clarity concerning the status of "misrating programs" under the April rules, but proposed no amendments to correct the purported problem.

The reporting requirements of § 528.6 have been modified to differentiate between unintentional misratings discovered by the self-policing authority and those discovered by other organizations. This modification does not alter the requirement that misratings be treated as a breach of the rate-fixing agreement, but should further indicate that a nonindependent "misrating program" may coexist with a self-policing authority. A conference is welcome to take additional steps to curtail misratings. The critical factor is whether the conference has clearly authorized its self-policing authority to investigate any and all misratings, the self-policing body actually exercises this authority when circumstances reasonably require it, and appropriate damages are assessed for both unintentional overcharges and undercharges. When a "misrating program" is not independent of the conference and its membership, the self-policing authority must be assured of regular and complete access to all of the "misrating program's" findings, reports, and records.

Section 528.6 Disclosure of carrier identity. One of petitioners' major interests throughout this proceeding has been to avoid exposing conference members to civil or criminal penalties under the Shipping Act by virtue of their compliance with section 15's self-policing requirement. Consequently, objections were raised to some of § 528.6's reporting requirements because of the possibility that literal compliance would permit the Commission to ascertain the identity of the accused member.[9] The semiannual report is not intended to routinely reveal which members might have violated the Shipping Act during the reporting period. Although the Commission intends to make appropriate use of semiannual reports in its enforcement activities, the reports will neither be examined for the purpose of ascertaining carrier identity nor be treated as evidence that a violation has occurred. Modifications have therefore been made in the final rule which should lessen its alleged susceptibility to "identity disclosure."

This does not mean, however, that carrier identities are not of legitimate interest to the Commission in a variety of contexts and may not be obtained under the Shipping Act. Accordingly, a new provision has been added to final § 528.1 stating that rate-fixing bodies shall not forbid compliance with a Commission request for self-policing authority records. This requirement merely restates existing Commission policy in this area.[10]

One of the primary justifications for the conference system is its potential for curbing malpractices. Section 15 plainly requires self-policing. Congress also intended the Shipping Act to be enforced. It is neither improper nor unfair for the Commission to employ self-policing data in aid of its wider responsibility to fairly and effectively enforce the Shipping Act.[11] A conference imposed penalty for breach of a rate-fixing agreement is conceptually and legally distinct from a penalty for Shipping Act violations. Both are a means toward the common end of eliminating malpractices.

However, because the Commission's enforcement activities are not revenue generating measures, and because the Commission wishes to promote effective self-policing to the greatest extent practicable, it shall henceforth be our policy to afford significant weight to any self-policing damages paid by a carrier when the same conduct of that carrier becomes the object of an FMC civil penalty claim. As a minimum, credit shall be given for damages paid under a self-policing system. In the case of isolated, less serious Shipping Act violations, no civil penalty claim shall be pursued when the carrier has cooperated fully with the commission and reasonable self-policing penalties have been paid. To help effectuate this policy, final § 528.1(c) shall also forbid rate-fixing bodies from prohibiting their member lines from disclosing self-policing sanctions imposed against them (or any other aspect of their own dealings with the self-policing system) should they desire to do so. Such disclosures may be made on the member's own motion or in response to a Commission order.

Section 528.6(b) Certification of reports. Petitioners object to § 528.6(b)'s requirement that self-policing reports be certified for accuracy and completeness by the reporting officer, the head of the policing authority, and any impartial arbitrators employed during the reporting period. It was contended that the various persons involved would not have personal knowledge of the report's entire contents and should therefore limit their certification to those matters over which they do have such knowledge.

The Commission has modified the rule to eliminate the need for three certifications. Final § 528.5(d) now requires the conference "reporting officer" to certify that the document transmitted is the report of the self-policing authority designated by the conference in full conformity with part 528 of the Commission's rules. The head of the self-policing authority must certify the accuracy and completeness of the report (including arbitration decisions). Both certifications shall be made under penalty of perjury and may be sworn to before a notary or may be an unsworn declaration pursuant to 28 U.S.C. 1746. It is incumbent upon the reporting officer to oversee the activities of the self-policing authority and to have personal knowledge of its staffing, budget, investigative policies and general operations. No certification shall be required from the impartial arbitrator. All matters brought before it and all decisions that it renders shall be reported by the self-policing authority.

Section 528.6(a) Reporting requirements generally. Perhaps the most commonly protested provision of the

[8] Petitioners recognize that not all misratings are innocent or unintentional, and at least some of them provide for repeated or otherwise suspicious incidents to be referred to the self-policing body for investigation.

[9] Disclosure of the "location" of investigations and listing all past violations within a 5-year period were particularly mentioned in this regard.

[10] See Agreement No. 5600-36 and Agreement No. 5660-23, orders denying reconsideration, decided simultaneously herewith.

[11] The complaint of "unfairness" in disclosing member identities appears to consist solely of the possibility that members may eventually be required to pay Shipping Act penalties. Examination of self-policing records is not substantially different from the examination of bills of lading or other commonly maintained carrier records.

April rules was § 528.6. Petitioners claimed that certain terms appearing in the reporting requirements for the first time (e.g., "cargo inspections," "office record examinations," "intelligence gathering activities") were ambiguous and that literal compliance with § 528.6 would be truly burdensome and generate little information of practical value to the Commission. The need to report all of a member's past breaches for a 5-year period was also viewed as onerous, both because of the length of the period and the rule's failure to indicate whether the requirement arose immediately or was to be applied prospectively.

The Commission has modified § 528.6 to eliminate the allegedly vague terms, reduce the "past violations period" to 3 years and apply § 528.6(a)(10)(ii) prospectively.

Other modifications. The Commission has generally edited and renumbered the April rules without intending to alter their substance. One such editorial change was the recognition that the term "impartial adjudicator" and "impartial arbitrator" are considered interchangeable. There have also been certain substantive changes in the final rules.

The inclusion of a specific prohibition against agreement provisions which attempt to block the disclosure of self-policing documents or activities to the Commission has already been discussed. Another substantive amendment has been to require self-policing authorities to maintain detailed records of their activities for a 5-year period (final § 528.3(f)). These records must include the names of the accused members (and any associates) involved in any alleged, potential, or actual breach. Both the self-policing authority records and the semiannual self-policing report must assign case or processing numbers to all investigations, whether instituted by complaint or on the self-policing authority's own initiative.[12] All investigations need not be of the same duration or extent, and it is assumed that self-initiated "investigations" into unintentional misratings would consist of little more than the routine notification of the member of its apparent liability for the penalty prescribed for such breaches.

A further amendment with substantive effect requires a description of the self-policing authority and the impartial arbitrator in the semiannual report (final § 528.5(b)).

Therefore, it is ordered, That the various petitions for reconsideration filed in this proceeding are granted to the extent indicated above and denied in all other respects; and

[12] A relatively simple approach to this requirement would be to designate complaint cases by the letter "C" and a number, and to designate self-instituted investigations by the letter "I" and a number.

It is further ordered, That pursuant to section 4 of the Administrative Procedure Act and sections 14, 15, 16, 18(b), 21, 35, and 43 of the Shipping Act, 1916, part 528 of the Commission's rules is amended as set forth below; and

It is further ordered, That revised part 528 of the Commission's rules shall become effective January 1, 1979, provided that General Accounting Office review pursuant to 44 U.S.C. 3512(c) has been completed by that date; and

It is further ordered, That all conference agreements and other rate-fixing agreements approved under section 15 of the Shipping Act, 1916, shall be amended to conform to the requirements of revised part 528 of the Commission's rules and file with the Commission on or before January 1, 1979; and

It is further ordered, That this proceeding is discontinued.

By the Commission.*

JOSEPH C. POLKING,
Assistant Secretary.

Part 528 is revised, including the part heading to read as set forth below.

PART 528—SELF-POLICING REQUIREMENTS FOR SECTION 15 AGREEMENTS

Sec.

528.0 Purpose and scope.
528.1 General requirements.
528.2 Specific requirements: Self-policing provisions.
528.3 Policing authorities (minimum requirements).
528.4 Impartial arbitrators (minimum requirements).
528.5 Reporting requirements.
528.6 Two party rate-fixing agreements—Exemptions.

AUTHORITY: Secs. 14, 15, 16, 18(b), 21, 35, and 43 of the Shipping Act, 1916 (46 U.S.C. 812, 814, 815, 817(b), 820, 833a, and 841a).

§ 528.0 Purpose and scope.

(a) Section 15 of the Shipping Act, 1916, prohibits the approval of agreements which are not adequately self-policed. It also contemplates that self-policing provisions be included in certain agreements subject to the Shipping Act, and that the Commission be kept informed of the manner in which such provisions are being implemented. The provisions of this part are designed to establish minimum standards for judging the adequacy of self-policing activities, assist ocean carriers obtain expeditious approval of their section 15 agreements insofar as self-policing is concerned, provide the Commission with reliable information concerning the nature and performance of self-policing systems, and curtail rebating and other malpractices by ocean carriers.

(b) This part shall apply to all conference and other rate-fixing agreements between common carriers by water in the foreign or domestic offshore commerce of the United States (hereafter referred to as "agreements"), whether or not previously approved by the Commission.

§ 528.1 General requirements.

(a) Every agreement shall contain provisions establishing and describing a system for self-policing its members. These provisions shall describe the methods employed and the standards used to investigate, adjudicate, and penalize breaches of the agreement by the common carriers by water signatory thereto (hereafter referred to as "members"), and shall include within their scope the activities of all persons, firms, associations, or corporations that are agents, employees, or affiliates of members, or are otherwise subject to the control of a member, or which themselves control a member, or are commonly controlled by any person, firm, association, or corporation which controls a member (hereafter referred to as "associates").

(b) Self-policing provisions shall establish both a policing authority and an impartial "arbitrator" or "adjudicator" and describe the functions and authority of each entity. The impartial arbitrator shall be functionally separate and distinct from the policing authority.

(c) No self-policying system shall contain provisions which purport to:

(1) Deny access to or copies of any self-policing records, statistics, reports, or other information (including the identity of members) in contravention of a duly issued order of the Federal Maritime Commission (or a Commission employee with delegated authority to issue such orders); or

(2) Preclude any of its members from disclosing the nature and extent of their own involvement with the self-policing authority (e.g., any damages paid by the member) in any administrative or judicial proceeding to enforce the Shipping Act.

(d) Compliance with the requirements of this part shall not relieve rate fixing bodies of their absolute responsibility to adequately police their activities or preclude the Commission from disapproving an agreement when sufficient evidence of rebating or other malpractices exists to warrant a conclusion that the members' self-policing efforts have been inadequate.

§ 528.2 Specific requirements: self-policing provisions.

Agreements shall contain the following self-policing provisions:

*Commissioner Bakke dissents in part. His views will be issued separately.

(a) *Breaches (general).* A statement that any violation or breach of any provision of the agreement, or any tariff, rules or regulations promulgated thereunder (hereafter referred to as a "breach"), by any member of the agreement (directly or through an associate) shall subject such member to self-policing sanctions;

(b) *Permissable damages.* A statement specifying the maximum damages, or range of damages, or the method of calculating the damages, which may be assessed against members of the agreement upon finding that such members have committed a breach. Such statement may specify damages for specific breaches and a general category of breaches, or both, and may relate to each and every breach, or to the number of times the member has previously been found guilty of a breach;

(c) *Investigation of breaches.* An effective procedure for investigating all matters which are the subject of complaints or which otherwise suggest or allege the existence of breaches;

(1) The procedure shall require the self-policing authority to:

(i) Receive or gather information concerning breaches from any and all sources;

(ii) Make investigations both in response to complaints and upon its own initiative;

(iii) Examine, audit or inspect, upon demand, with or without notice and wherever located: Any books, records, accounts, invoices, bills of lading or other documents, cargo, containers, ships, property, and facilities owned, used, or transported by any member of the agreement or its associates which may be relevant to the member's participation in the trade. *Provided, however,* That examination of particularly identified materials may be postponed for a reasonable period pending a prompt determination of relevancy by the impartial arbitrator under conditions which assure that the materials in question are sealed or otherwise kept unaltered during the determination period;

(iv) Adopt and publicize procedures for the filing of complaints;

(v) Compile and retain for at least 5 years a complete and thorough record of all its investigatory and prosecutorial activities, including a description of all complaints, the basis, nature and scope of all self-intitiated investigations, and the disposition of all investigations.

(2) The procedure shall require all officers, employees, and associates (including officers, employees and controlling owners) of members to cooperate with, and freely provide information to, the policing authority and its agents;

(d) *Adjudication of breaches.* A procedure for adjudicating alleged breaches which affords accused members the right to a hearing before an impartial arbitrator. The impartial arbitrator shall adjudicate such claims solely and finally, either initially or upon review de novo on the record of an initial determination by the policing authority. "Review de novo on the record" requires the impartial arbitrator to have full authority to affirm, modify or set aside any finding of fact, conclusion of law, or penalty made or imposed by the policing authority;

(e) *Procedural guarantees.* A statement that fundamental fairness will be afforded all members accused of committing a breach (hereafter referred to as "the accused"), which includes the following specific procedural guarantees:

(1) The accused shall be charged in writing, within a reasonable time prior to the initial hearing, in a manner which fairly and clearly discloses the nature of the alleged breach. Such charges need not reveal the identity of the complainant;

(2) The accused shall be furnished with all evidence within a reasonable time prior to the initial hearing. Evidence developed thereafter shall also be furnished to the accused and a delay granted, if necessary, to allow it an opportunity to use such evidence in its defense. The identity of the complainant may be deleted from any evidence furnished the accused;

(3) The accused shall be given a full and fair opportunity to rebut or explain any evidence introduced against it and to present evidence which might show mitigating or extenuating circumstances;

(4) The impartial adjudicator shall receiver and consider only that evidence which has been furnished to the accused by the self-policing authority or has been furnished by the accused in its defense;

(f) *Designated official.* A statement designating a particular officer or official of the rate-fixing body to be responsible for the filing and certifying of self-policing reports with the Commission in accordance with § 528.5;

§ 528.3 Policing authorities (minimum requirements).

(a) Policing authorities shall have an adequate and qualified staff, adequate facilities and an adequate budget.

(b) Policing authorities shall be headed by, and composed of, persons not otherwise employed by, having any financial interest in, or affiliated with, the conference or rate-fixing body established by the agreement or any member or associate thereof; *Provided, however,* That:

(1) An individual or entity may act as the policing authority for more than one rate-fixing body;

(2) An independent certificated public accountant (referred to hereafter as an ICPA) may act as the policing authority, even though it has a client which is a member of the agreement or an associate of such member, where such relationship is disclosed prior to being named as the policing authority and it is disqualified from acting as the policing authority with respect to the member which is, or whose associate is, a client of the ICPA. If the ICPA named as the policing authority discloses that it has a member of the agreement or an associate of such member as a client, an alternate policing authority must be appointed to receive and investigate any complaints against such member;

(3) Upon petition to the Commission, an exemption may be sought to allow officers or employees of a rate-fixing body to act as the head of, or be assigned to duties under, the policing authority, if such person or persons are not otherwise employed by, affiliated with, or have any interest in, any member or any associate of a member. Petitions for exemption will not be lightly granted and must include a convincing showing that:

(i) The persons conducting self-policing activities are qualified and their self-policing activities would not substantially conflict with their other duties and responsibilities;

(ii) The agreement is so limited in scope that the retention of an independent self-policing authority would impose an unrealistic financial burden on the members. The number of members, the financial condition of the members, the nature and extent of the trade, the competitive circumstances prevailing in the trade, and other activities of the members both within and without the trade (e.g., participation in other agreements) are all relevant considerations;

(iii) The trade covered by the agreement has been relatively free of rebating or other conduct violative of the Shipping Act in the 5 years preceding the year when exemption is sought and is likely to continue to be characterized by a minimal level of such malpractices.

(c) The policing authority of each agreement shall be required to establish reasonable written procedures for the receipt and investigation of complaints which shall be made available to any person upon request. Such procedures may include special provisions for the handling of written complaints and for summary investigation of frivolous or incomplete allegations (whether written or not). These procedures may not, however, require that complaints be in writing or restrict the

class of persons entitled to lodge a complaint.

(d) Policing authorities shall be required to investigate all complaints filed in accordance with its established procedures.

(e) Policing authorities shall be required to conduct self-initiated investigations whenever they receive information providing reasonable cause to do so and to periodically conduct self-initiated investigations into the activities of each member. All self-initiated investigations shall include, but not necessarily be limited to, the unannounced inspection of books, records, accounts, shipping documents, invoices, cargo, ships, containers, equipment, and facilities of the member and its associates.

(f) Policing authorities shall compile and retain for at least 5 years a sufficient written record of their activities to demonstrate compliance with this part. This record shall include:

(1) All complaints received (written or oral), the processing or case numbers assigned to each complaint, a description of the steps taken to investigate each complaint (including hearings or arbitration proceedings) copies or summaries of the evidence gathered, and the final disposition of each investigation;

(2) A chronological log summarizing all information (other than complaints) received or gathered which alleges or suggests the existence of a breach and describing the consideration given to this information, including all reports of unintentional cargo misdescriptions and mismeasurements, anonymous tips, and rumors of malpractices;

(3) A description of all self-initiated investigations, the processing or case numbers assigned to each investigation, a description of all investigatory measures employed (including hearings or arbitration proceedings), copies or summaries of the evidence gathered, and the final disposition of each investigation;

(4) A brief statement as to why each investigation was finally disposed of in the particular manner chosen. This statement shall include an exact description of any breach found to have occurred, any decision of the impartial arbitrator and the nature and amount of any penalty assessed and paid.

§528.4 Impartial arbitrators (minimum requirements).

(a) The impartial arbitrator shall be a totally disinterested person or entity, unaffiliated with the rate-fixing body or any member or associate thereof, and may be appointed on permanent basis or selected on an ad hoc basis from a panel or arbitrators pursuant to traditional rules of commercial arbitration.

(b) The impartial arbitrator shall be vested with final authority to adjudicate disputes and assess damages within the scope of the self-policing system.

(c) The impartial arbitrator shall not perform any other duties under the self-policing system with regard to any matter before it for adjudication, including investigation or prosecution.

§528.5 Reporting requirements.

(a) Each rate-fixing body shall mail (air mail postage prepaid) or hand deliver a semiannual report to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 31 and July 31 of each year covering that body's self-policing and adjudicatory activities during the 6-month period immediately preceding the respective reporting month (i.e., January or June).

(b) Each semiannual self-policing report may exclude the identity of all parties to an allegation of breach, investigation or penalty assessment, but shall contain the following detailed information:

(1) The name and address of the self-policing body employed during the reporting period and a complete description of its staff, facilities, and budget, and the name and address of the impartial arbitrator employed during the reporting period and a description of its qualifications;

(2) The date, location (community or port area where inspection occurred) and nature of each examination or inspection (including audits) of cargo, facilities, shipping documents, or office records performed during the reporting period. The type and approximate number of accounts, documents, cargo containers, and other items inspected shall also be stated. Each such inspection shall be correlated to a particular investigation bearing a processing or case number;

(3) The number of cargo misdescriptions or mismeasurements detected by:

(i) The self-policing authority or any division thereof;

(ii) Any other organization retained by the rate-fixing body to make misrating determinations and regularly report them to the self-policing authority. When such a separate "misrating committee" or similar organization is employed by a rate-fixing body, the self-policing report shall also identify that organization by name and address, and provide a thorough description of its staffing (including other affiliations with the conference or its members), authority and routine activities, and describe the procedures by which it reports its findings to the self-policing authority;

(4) The number of breaches of the agreement (other than unintentional cargo misdescriptions and mismeasurements) which were detected through the investigation of complaints;

(5) The number of breaches of the agreement (other than unintentional cargo misdescriptions and mismeasurements) which were detected by self-initiated investigations;

(6) A thorough summary of the basis, nature, and scope of each investigation commenced during the reporting period, including any hearings or arbitration proceedings. Each investigation shall be identified by a processing number and the summary shall indicate whether the investigation was initiated by complaint or upon the initiative of the self-policing authority;

(7) A list of information received or gathered during the reporting period alleging or suggesting the existence of a breach, but which was not made the subject of an investigation;

(8) A list (by processing number) of investigations commenced in previous reporting periods and still pending, and a description of the action taken with respect to each during the reporting period (including hearings and arbitration proceedings);

(9) A list and description (by processing number) of all final actions taken with respect to investigations of any type. An action is not "final" unless:

(i) The investigation revealed insufficient evidence to establish a breach; or

(ii) The accused was assessed damages, either based on a voluntary settlement or a decision rendered by the policing authority or the impartial arbitrator.

(10) When a final action involves an assessment of penalties, the report shall also include:

(i) A detailed description of the alleged or adjudicated breach, the amount or type of penalty assessed, and whether the assessment was met;

(ii) A list of all other breaches (other than unintentional cargo misdescriptions and mismeasurements) committed by the member during the period subsequent to the effective date of this part, but not greater than 3 years prior to the final action in question.

(c) The report shall clearly indicate those final actions handled by the policing authority and those matters, including rulings on the relevancy of documents or things sought to be examined by the policing authority, handled by the impartial arbitrator.

(d) The reporting officer designated pursuant to §528.2(f) shall certify under penalty of perjury that the semiannual report has been prepared by the self-policing authority specifically designated by the rate-fixing body to act in full accordance with the requirements of this part during the reporting period. The accuracy and completeness of the report shall be sworn to under penalty of perjury by the head of the designated self-policing authority.

(e) If there are no complaints, investigations, or final actions during the period, the report shall contain an express statement to this effect as to each category of information required by paragraph (b) of this section.

§528.6 Two-party rate-fixing agreements.

Rate-fixing agreements with no more than two signatory parties shall be exempt from the requirements of this part.

[FR Doc. 78-26488 Filed 9-20-78; 8:45 am]

[4910-62]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 27; Amdt. 71-16]

PART 71—STANDARD TIME ZONE BOUNDARIES

CFR Correction

AGENCY: Department of Transportation.

ACTION: Final rule; CFR correction.

SUMMARY: This CFR amendment corrects the mistaken reference to the "North Dakota-Nebraska boundary" in the description of the boundary between the central and mountain time zones. (See 49 CFR 71.7.) These two States are not contiguous. The reference should be to the "South Dakota-Nebraska boundary".

EFFECTIVE DATE: September 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert I. Ross, Office of the General Counsel, Department of Transportation, Washington, D.C. 20590, 202-426-4723.

SUPPLEMENTARY INFORMATION: The person principally responsible for drafting this document is Robert I. Ross, an attorney in the General Counsel's Office.

This amendment merely corrects an obvious error and does not affect any substantive change; for that reason, it appears unlikely that the public would have any substantive comment. Therefore, providing opportunity for public comment would merely postpone correction of the error without any accompanying benefit and thus be contrary to the public interest. Similarly, I find that good cause exists for making the amendment effective in fewer than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, §71.7(b) of Part 71 of Title 49, Code of Federal Regulations, is amended by changing "North Dakota-Nebraska boundary" to "South Dakota-Nebraska boundary", as appears below:

§71.7 Boundary line between central and mountain zones.

* * * * *

(b) *South Dakota.* * * * South Dakota-Nebraska boundary.

* * * * *

(Act of March 19, 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260-67); sec. 6(e)(5), Department of Transportation Act (49 U.S.C. 1655(e)(5)); §1.56(1), Regulations of the Office of the Secretary of Transportation (49 CFR 1.56(1).)

Issued in Washington, D.C., on September 15, 1978.

LINDA HELLER KAMM,
General Counsel.

[FR Doc. 78-26458 Filed 9-20-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER 1—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Upper Souris National Wildlife Refuge, N. Dak., to Deer Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to deer hunting of Upper Souris National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 17, 1978, through November 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Upper Souris National Wildlife Refuge, R.R. No. 1, Foxholm, N. Dak. 58738, 701-468-5634.

SUPPLEMENTARY INFORMATION:

§32.32 Special regulations; big game; for individual wildlife refuge area.

Deer hunting is permitted on the Upper Souris National Wildlife Refuge, N. Dak., on all areas except those designated as closed. The open areas comprising 31,800 acres are delineated on maps available at headquarters, Foxholm, N. Dak., and from the office of the Area Manager, U.S. Fish and Wildlife Service, P.O. Box 1897, Bismarck, N. Dak. 58501. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following conditions:

(1) Only bucks may be taken by a special National Wildlife Refuge deer gun permit through the first weekend, November 17, 18, and 19, 1978. The remainder of the season hunters with a valid III A2 permit may take deer of the sex specified in that permit.

(2) All hunters must exhibit their their special National Wildlife Refuge permit hunting license, deer tag, and vehicle contents to Federal and State officers upon request.

(3) The refuge shall be closed to all vehicular travel except the main public roads and refuge recreation area parking areas.

(4) Deer are the only species that may be taken. It is unlawful to carry firearms after the deer tag is used.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50, Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

NOTE: The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 14, 1978.

MAURICE B. WRIGHT,
Refuge Manager.

[FR Doc. 78-26494 Filed 9-20-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Tamarac National Wildlife Refuge, Minn., to Resident Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of Tamarac National Wildlife Refuge to resident game hunting is compatible with the objectives for which the area was es-

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tablished, will utilize a renewable natural resource, and will provide recreational opportunity to the public.

DATES: Ruffed grouse—September 16 through December 31, 1978. Rabbits and hares—September 16, 1978, through February 28, 1979. Gray and fox squirrels—September 16 through December 31, 1978. White-tailed deer—November 4 through November 19 and November 24 through November 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Omer N. Swenson, Refuge Manager, Tamarac National Wildlife Refuge, Rochert, Minn. 56578; telephone No. 218-847-4355.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of ruffed grouse, gray and fox squirrels, cottontail, jack rabbit, and snowshoe hare on the Tamarac National Wildlife Refuge, Rochert, Minn., is permitted in the area designated by signs as public hunting area. This area comprising 12,500 acres is delineated on maps available at the refuge headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

An additional area of 18,000 acres will be open for public hunting of ruffed grouse only. This ruffed grouse only area is delineated on a map available at the refuge headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Hunting shall be in accordance with all applicable State regulations during the seasons specified above. The hunting of other upland species as may be authorized by Minnesota State regulations is prohibited.

The following special conditions apply:

1. No person shall trap on Tamarac National Wildlife Refuge without first obtaining such permits as may be required and issued by the refuge manager.

2. No person shall, for the purpose of hunting or trapping, enter or leave the refuge except by designated access roads.

3. All hunters and trappers shall comply with further regulations which the refuge manager may prescribe.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of white-tailed deer with legal firearms on the Tamarac National Wildlife Refuge is permitted over the entire refuge with exception of those areas posted as "Area Beyond This Sign Closed." The open area includes 40,200 acres. Areas open for deer hunting are delineated on maps available at the refuge headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. No taking of black bear or bow hunting is permitted on any portion of the refuge.

2. No person shall, for the purpose of hunting, enter or leave the refuge except by designated access roads.

3. All hunters shall comply with further regulations which the refuge manager may prescribe.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 14, 1978.

OMER N. SWENSON,
Refuge Manager.

[FR Doc. 78-26534 Filed 9-20-78; 8:45 am]

[3510-22]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 651—ATLANTIC GROUNDFISH—COD, HADDOCK, AND YELLOWTAIL FLOUNDER

Landing Limitation Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Amendment of emergency and proposed regulations.

SUMMARY: These regulations amend existing regulations for the yellowtail flounder fishery by revising the landing restriction provisions which were implemented effective July 23, 1978, under the fishery management plan (FMP) for Atlantic groundfish. The overrun and the 10 percent allowance provisions are also eliminated. This amendment is intended to reduce the prospect of a closure of the yellowtail fishery.

EFFECTIVE DATE: September 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: Weekly landing restrictions for yellowtail flounder by vessel class were established by emergency regulations (§ 651.8(b)) on July 19, 1978 (43 FR 31015). Section 651.8(e) states that:

[T]he Assistant Administrator may adjust the landing restrictions • • • upon publication of a notice in the FEDERAL REGISTER, for the following purposes:

(1) To spread fishing effort over the entire year;

(2) To reduce the need for quarterly or annual closures;

(3) To allow each of the vessel classes in paragraphs (a) and (b) of this section to harvest its historic percentage of the catch.

Section 651.8(f) states further that:

To accomplish these purposes • • • the Assistant Administrator may adjust the landing restrictions by varying amounts for each vessel class, after consideration of factors including:

(1) Landings for the current and previous quarters;

(2) Projected harvests;

(3) Capability of vessels to fish in other locations or for other species;

(4) status of unregulated species in the trawl fishery • • •.

The Assistant Administrator for Fisheries has determined that, under §§ 651.8 (e) and (f), good cause exists to amend the yellowtail flounder landing restrictions effective September 17, 1978, so that (1) all vessel classes may land only 2,000 lbs per week or per trip (if the trip is longer than a week); (2) eliminate the overrun provision; (3) eliminate the provision "or 10 percent by weight of all fish on board, whichever is greater."

The Assistant Administrator for Fisheries has determined that these amendments are not major Federal actions within the meaning of the National Environmental Policy Act, and are consistent with the national standards of the act and other applicable law. An economic impact analysis was prepared covering this and other economic issues in this fishery. The result of that analysis was a negative finding.

Signed at Washington, D.C., this 14th day of September 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

Amend 50 CFR Part 651 as follows:

1. Strike § 651.8(b) and substitute as set forth below.

2. Amend § 651.8(c) by deleting all references to yellowtail flounder as set forth below.

3. Amend § 651.8(d) by deleting the words "through (c)" in the first sentence.

§ 651.8 Landing restrictions.

• • • • •

(b) *Yellowtail flounder.* For each weekly period (0001 hours Sunday through 2400 hours Saturday, local time), no person or vessel may land yellowtail flounder in amounts greater than 2,000 pounds per week or per trip, if a trip is longer than a week.

(c) If a vessel is at sea in more than one weekly period, the cod and haddock on board the vessel may, at the option of the vessel operator, be considered landed in the weekly period in which they were actually caught if the vessel operator maintains a log book recording the amounts of cod and haddock caught each day. If such log book is not maintained, all cod and haddock shall be counted against the landing restriction of the weekly period in which they were landed.

• • • • •

[FR Doc. 78-26501 Filed 9-20-78; 8:45 am]

[3510-22]

PART 652—ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

Closure of Surf Clam Area

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final rulemaking.

SUMMARY: This document provides notice of the closure of an area of the Fishery Conservation Zone (FCZ) offshore of Atlantic City, N.J., to surf clam fishing. The area is located three (3) to six and one-half (6½) miles offshore, between Great Egg Harbor Inlet and Absecon Inlet. This action is based on reports from commercial fishermen which indicate that the surf clams in this area are smaller than 4½ inches, thus the area falls within the criteria governing closure.

EFFECTIVE DATE: 0001 hours e.d.t., September 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Glouchester, Mass. 01930, telephone: 617-281-3600.

SUPPLEMENTARY INFORMATION:

Section 652.8 of the final regulations governing the surf clam and ocean quahog fisheries in the FCZ which was published on February 17, 1978 (43 FR 6952), provides that areas may be closed to surf clam fishing when a determination is made by the Regional Director. That determination may be based on log book entries, processors' reports, survey cruises, and other sources, which show that the area in question contains surf clams of which: (1) 60 percent or more are smaller than 4½ inches in size, and (2) not more than 15 percent are larger than 5½ inches in size.

Late in 1977 and early in 1978, commercial fishermen began reporting areas of small clams in the FCZ off New Jersey. Two areas were examined, one on March 24, 1978, and the other on April 25, 1978.

These sampling cruises disclosed that in some portions of both areas nearly 100 percent of the clams were under 4½ inches. However, a few isolated stations showed pockets of larger clams where more than 15 percent were larger than 5½ inches.

On a weighted average, however, in the area described below, 85 percent of clams taken were less than 4½ inches, and 88 percent less than 5½ inches. The area clearly falls within the criteria governing closure.

On July 27, 1978, a public hearing was held at Pomona, N.J., concerning the social and economic aspects of the then proposed area closure. Persons attending the hearing also offered comments regarding the biological aspects of the problem.

Proposals put forward at the hearing ranged from a suggestion that the area be closed for 3 years to a suggestion that the area be surveyed every 6 months in order to monitor the growth of the clams. There was no disagreement with the Regional Director's determination as to the need for the closure.

The area being closed is approximately 35 square miles. It is located between 3 and 6½ nautical miles offshore from Atlantic City, N.J. The area is described as beginning at a point at 74°30.0' W. longitude and 39°15.5' N. latitude, which is exactly 3 nautical miles offshore from the nearest baseline from which the territorial sea is measured; thence northeasterly along a line drawn in such a manner that each point on it is 3 nautical miles from the baseline from which the territorial sea is measured, to 74°20.7' W. longitude and 39°21.2' N. latitude; thence in a straight line to 74°17.1' W. longitude and 39°19.1' N. latitude; thence in a straight line to 74°26.5' W. longitude and 39°15.5' N. latitude; thence in a straight line to 74°30.0' W. longitude and 39°15.5' N. latitude, point of beginning.

Surveys of the closed area will be conducted at approximately 6-month intervals, weather permitting, in order to monitor the growth of the clams. Based upon the data of the surveys, the Regional Director will determine when the area may be reopened to fishing.

The appropriate environmental impact statement has been filed. An economic impact statement was prepared in connection with the final regulations cited above (50 CFR Part 652).

Signed at Washington, D.C., this 14th day of September 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-26591 Filed 9-20-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 78-NW-19-AD]

AIRWORTHINESS DIRECTIVES

Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes an amendment to airworthiness directive (AD) 70-15-15 which requires inspections for cracks in the wing center section front spar web on Boeing model 727 series airplanes. The proposed amendment expands the inspection area due to recent service experience.

DATES: Comments must be received on or before November 14, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 78-NW-19-AD, 9010 East Marginal Way South, Seattle, Wash. 98108.

FOR FURTHER INFORMATION CONTACT:

Gerald R. Mack, Airframe Section, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108, telephone 206-767-2516.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, 9010 East Marginal Way South, Seattle, Wash. 98108. All communications received on or before the closing dates for comments, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

Amendment 39-1048 (35 FR 12058), AD 70-15-15, as amended by amendment 39-1188 (36 FR 6826), requires visual inspections for cracks in the wing center section front spar web at the left and right hand BL 13.12 and BL 25.08 stiffener locations on Boeing model 727 series airplanes. The cracking is the result of fatigue caused by pressure cycling. The AD was issued because the cracking reduces the structural integrity of the wing front spar, results in damage to the fuel cells and subsequent fuel leakage, and could cause depressurization of the cabin. Recently, cracks up to 5 inches have been detected in the front spar web of three airplanes at stiffener locations outside the existing required inspection area. Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed amendment would extend the inspection, repair, and modification area to LBL and RBL 58.64 inclusive. Airplanes which have had the previous terminating action modification accomplished would be required to be inspected in the expanded area, until modified.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of the Federal Aviation Regulations (14 CFR 39.13), amendment 39-1048 (35 FR 12058), AD 70-15-15, as amended by amendment 39-1188 (36 FR 6826), as follows:

1. By amending the applicability statement to read:

BOEING. Applies to all model 727 series airplanes, certificated in all categories, listed in Boeing Service Bulletin No. 57-107, Revision 4, or later FAA approved revisions, including those which have had the terminating action modification, repair, and/or time-limited modification accomplished per previous service bulletin revisions. Compliance required as indicated.

2. By amending paragraph A to read:

A. Unless accomplished within the last 500 landings prior to the effective date of this amendment, within the next 500 landings from the effective date of this amendment or prior to the accumulation of 15,000 landings, whichever occurs later, and at intervals not to exceed 1,000 landings, visually inspect the wing center section front spar web for cracking in accordance with Boeing Service Bulletin No. 57-107, Revision 4, or later FAA approved revisions, or an equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

3. By striking out the words "Chief, Aircraft Engineering Division, FAA Western Region" from paragraphs B.2 and C.1 and inserting the words "Chief, Engineering and Manufacturing Branch, FAA Northwest Region" in place thereof.

4. By amending paragraph D.1 to read:

1. The preventive modification described in paragraph III.D of Boeing Service Bulletin No. 57-107, Revision 4, or later FAA approved revisions, or equivalent modification approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region is installed, provided that the spar web was inspected per paragraph A of this AD at the same time and found to be uncracked or that any crack in the web had been repaired per paragraph C of this AD, or

5. By striking out the words, "Boeing Service Bulletin 57-107, Revision 3, dated January 19, 1971," from paragraph D.2 and inserting the words "Boeing Service Bulletin No. 57-107, Revision 4," in place thereof.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423) and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89).)

NOTE: The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedure and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Seattle, Wash., on September 13, 1978.

C. B. WALK, Jr.
Director,
Northwest Region.

[FR Doc. 78-26528 Filed 9-20-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-GL-13]

TRANSITION AREA

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this Federal action is to designate controlled airspace near Mason, Mich., to accommodate a new (VOR-A) instrument approach procedure into the Mason-Jewett Airport, Mason, Mich., established on the basis of a request from the Mason-Jewett Airport officials to provide that facility with instrument approach capability. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual conditions.

DATES: Comments must be received on or before October 13, 1978.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 78-GL-13, 2300 East Devon Avenue, Des Plaines, Ill. 60018. A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018.

FOR FURTHER INFORMATION CONTACT:

Clair M. Billington, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone 312-694-4500, extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200' above ground level to 700' above ground level. The development of the proposed instrument procedures necessitates the Federal Aviation Administration to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 78-GL-13, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018. All communications received on or before October 13, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The Federal Aviation Administration is considering an amendment to subpart C of part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700-foot controlled airspace transition area near Mason, Mich. Subpart C of part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 440).

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 71.181 of part 71 of the Federal Aviation Regulations as follows:

In § 71.181 (43 FR 440), the following transition area is added:

MASON, MICH.

That airspace extending upward from 700 feet above the surface within a 6 mile radius of the center latitude 42°33'50" N, longitude 84°25'40" W, of the Mason-Jewett Airport, Mason, Mich.

This amendment is proposed under the authority of section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); section 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

NOTE.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Des Plaines, Ill., on August 29, 1978.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

[FR Doc. 78-26529 Filed 9-20-78; 8:45 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 251]

LICENSED INDIAN TRADERS

Regulating Sale of Arms and Ammunition

SEPTEMBER 12, 1978.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Proposed rulemaking.

SUMMARY: This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 210 DM 1.2. Notice is hereby given that it is proposed to revoke 251.8 of Part 251, Subchapter W, Chapter 1, of Title 25 of the Code of Federal Regulations. The purpose of this revocation is to relieve Indians and Indian Traders from unnecessary compliance with an obsolete rule.

DATE: Written comments must be received by October 23, 1978.

ADDRESSES: Accordingly, interested persons may submit written comments, suggestions or objections regarding the proposed revocation to the Assistant Secretary—Indian Affairs, Department of the Interior, Attention: Chief, Division of Law Enforcement Services, Bureau of Indian Affairs, 1951 Constitution Avenue NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT:

Mr. Eugene F. Suarez, Sr., Chief, Division of Law Enforcement Services, telephone 202-343-5786.

SUPPLEMENTARY INFORMATION: Part 251.8 requires the approval of the Agency Superintendent for an Indian to purchase a firearm or ammunition from an Indian Trader.

Circumstances which gave rise to this part no longer exist.

It is proposed to revoke 251.8 of Part 251, Subchapter W, Chapter 1, of Title 25 of the Code of Federal Regulations.

RICK LAVIS,
Deputy Assistant Secretary,
Indian Affairs.

[FR Doc. 78-26496 Filed 9-20-78; 8:45 am]

V 43 / 184 SEP 21 1978

[4310-05]

Office of Surface Mining Reclamation and Enforcement

[30 CFR Chapter VII]

DRAFT REGULATORY ANALYSIS ON PROPOSED PERMANENT PROGRAM REGULATIONS

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice of availability of draft regulatory analysis (RA) on proposed permanent regulatory program.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement has prepared a draft regulatory analysis (RA) on its proposed permanent regulatory program as required by Executive Order 12044. The purpose of the regulatory analysis is to improve the effectiveness of regulations and minimize unnecessary economic burdens on affected persons.

DATES: Comments on the draft RA must be received on or before November 17, 1978. The draft RA is being made available to the public on September 20, 1978.

ADDRESSES: Copies of the draft RA may be obtained at the following OSM Offices:

OSM Headquarters, Department of the Interior, Washington, D.C. 20240.
OSM Region I, First Floor Thomas Hill Building, 950 Kanawha Boulevard East, Charleston, W. Va. 25301, 304-342-8125.
OSM Region II, 530 Gay Street, Suite 500, Knoxville, Tenn. 37902, 615-637-8060.
OSM Region III, Federal Building, U.S. Courthouse, 46 East Ohio Street, Indianapolis, Ind. 46204, 317-269-2609.
OSM Region IV, 601 East 12th Street, Room 1768, Kansas City, Mo. 64106, 816-374-5162.
OSM Region V, Post Office Building, Room 270, 1823 Stout Street, Denver, Colo. 80202, 303-837-5511.

Public comments on the draft RA will be on public file and available for inspection at the following address:

Millie Dangielowicz, Office of Surface Mining, Room 120—South Building, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4728.

Comments on the draft RA must be mailed to the following address: The Office of Surface Mining, U.S. Department of the Interior, P.O. Box 7267, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mark Boster, OSM, 202-343-5287.

SUPPLEMENTARY INFORMATION: Pursuant to the requirements of Executive Order 12044 (43 FR 12661; March 24, 1978), OSM has prepared a draft regulatory analysis (RA) on its proposed permanent regulatory program (43 FR 41662; September 18, 1978). The purpose of the RA is to improve the effectiveness of regulations and minimize unnecessary economic burdens on affected persons. Because the proposed regulations may have major economic consequences, OSM has analyzed the economic impacts, including engineering-cost estimates, of the major alternatives considered in drafting the regulations. The draft RA contains, along with a short description of the various alternatives considered, an explanation of the reasons for OSM's choice of one alternative over the others. As reflected in the preamble to the proposed regulations, OSM has attempted to examine the potential alternative methods of achieving the requirements of the Surface Mining Act and has opted for regulatory mechanisms that it believes, subject to public comment, will best implement the statutory mandates of the Act.

Copies of the draft RA are available to the public at the addresses given above. In preparing comments on the proposed regulations, the public is invited to comment on the draft RA as well. It will be most helpful to OSM if those comments focus on other alternatives having economic consequences that should be considered by OSM, with an explanation of the related economic impacts, including cost data and any supporting technical information.

In order to evaluate the data developed in the draft RA, OSM would like to receive, as part of the comments from members of the coal industry and any other interested parties, specific information about the alternatives analyzed in the draft RA and their related estimates of cost impacts.

After the close of the 60-day comment period on the proposed regulations, OSM will evaluate the economic data and other public comments on the draft RA and will prepare a final RA. This final RA will then be available to the public when the final permanent regulations are published on or about January 15, 1979.

Dated: September 15, 1978.

JOAN M. DAVENPORT,
Assistant Secretary Energy and Minerals.

[FR Doc. 78-26461 Filed 9-20-78; 8:45 am]

[7710-12]

POSTAL SERVICE

[39 CFR Part 111]

MAIL SECURITY REGULATIONS—PUERTO RICO

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would implement section 3 of the Puerto Rico Federal Relations Act by allowing excise tax officials of the Commonwealth of Puerto Rico to record for tax purposes information appearing on the exterior of certain types of parcels received at any post office in Puerto Rico. The proposed regulations would change the final implementing rule promulgated on April 5, 1978, 43 FR 14314, which limited the recording of data for tax purposes to incoming insured, certified, or c.o.d. mail parcels received at the San Juan office.

DATE: Comments must be received on or before October 23, 1978.

ADDRESS: Written comments should be directed to the Assistant General Counsel, Special Projects, U.S. Postal Service, 475 L'Enfant Plaza West SW., Washington, D.C. 20260. Copies of all written comments received will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, outside room 9000, 475 L'Enfant Plaza West SW., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Charles R. Braun, 202-245-4620.

SUPPLEMENTARY INFORMATION: Section 3 of the Puerto Rico Federal Relations Act, enacted March 2, 1917, allows excise taxes placed on certain items by the Legislature of Puerto Rico to be levied as soon as these items enter Puerto Rico. The act directs the U.S. Postal Service to assist the appropriate officials of the Puerto Rican Government in the collection of these taxes. 48 U.S.C. 741a (1970). To assist in carrying out the act, the Postal Service and its predecessor Post Office Department permitted Puerto Rican excise tax collection officials to record in the presence of a postal employee, for tax collection purposes, the names and addresses appearing on the exterior of all nonregistered mail parcels appearing to contain taxable items that originated outside Puerto Rico and were received at post offices throughout Puerto Rico. Detailed instructions were issued to postal officials in 1960 by the Bureau of Operations of the Post Office Department to this effect.

Last year the Postal Service proposed a comprehensive revision of its mail security regulations which included a provision authorizing cooperation by postal officials with Puerto Rican tax officials. 42 FR 18754-18758 (1977). Although the explanatory material stated that the proposal "would continue preexisting cooperative arrangements with the * * * Commonwealth of Puerto Rico * * *," 42 FR 18755, the proposed regulation literally curtailed the preexisting practice by limiting mail examination activities to those conducted in the San Juan Post Office, and to the recording of data on incoming insured, certified, or c.o.d. mail. Proposed Postal Service Manual 115.96, 42 FR 18758. No comments were received by the Postal Service from anyone about this aspect of the proposed regulations and the Postal Service promulgated section 115.96 this year as a final rule without change. 43 FR 14314 (1978). This amendment is intended to revise PSM 115.96 to accord with the preexisting and longstanding administrative practices described above, which were clearly not intended to be changed.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed revision of the Postal Service Manual:

Section 115.96 of the Postal Service Manual [1] is revised to read as follows:

.96 Puerto Rico.

Under 48 U.S.C. 741a, postal employees in any post office in the Commonwealth of Puerto Rico are authorized to permit excise tax collection officials of the Commonwealth to record for tax collection purposes the names and addresses that appear on the exterior of all incoming parcels which appear to contain taxable items, except those sent by registered mail. A postal employee must be present during such recording and no mail may be opened, detained, or delayed for this purpose.

An appropriate amendment to 39 CFR 111.3 to reflect this change will be published if the proposal is adopted.

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-26533 Filed 9-20-78; 8:45 am]

[1] The Postal Service Manual is incorporated by reference in 39 CFR part 111.

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[OPP-300016; FRL 971-6]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Exemptions from Requirement of a Tolerance for Certain Inert Ingredients in Pesticide Formulations

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that section 180.1001 be amended by adding two new inert (or occasionally active) ingredients in pesticide formulations and changing the use pattern of a third. The proposal was submitted by various firms. This amendment to the regulations would exempt two new inert ingredients from the requirement of a tolerence and include wheat in the use pattern of a third.

DATE: Comments must be received by October 23, 1978.

ADDRESS COMMENTS TO: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. David Ritter, Toxicology Branch, Registration Division (WH-567), Office of Pesticide Programs, EPA, 202-426-2680.

SUPPLEMENTARY INFORMATION: At the request of three firms, the Administrator is proposing to amend 40 CFR 180.1001 by exempting two additional pesticide chemicals which are inert (or occasionally active) ingredients in pesticide formulation from tolerance requirements and changing the use pattern of a third to include wheat.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and includes, but is not limited to the following types of ingredients (except when they have pesticidal efficacy of their own): Solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption or changed use pattern, and the toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption or changed use pattern.

Inert ingredient	Firm	Bases for approval
Carrageenan	Marine Colloids, Inc., P.O. Box 308, Rockland, Maine 04841.	Carrageenan at molecular weights over 100,000 is considered toxicologically safe and is cleared for food additive use under 21 CFR 172.620. Adequate toxicity data (rat and dog feeding studies, a rat reproduction study, and a rat oncogenicity study).
Dipropylene glycon dibenzoate	Dow Chemical Co	Restriction to seed treatment use only.
Isophorone	Rohm & Haas Co., Independence Mall West, Philadelphia, Pa. 19105.	Adequate toxicity data to support the safety of the proposed use: 90-day dog and rat feeding studies with no-observable-effect levels of 600 ppm and 3,000 ppm, respectively.

Based on the above information, available information on the chemistry of these substances, and a review of their use, it has been found that, when used in accordance with good agricultural practice, these substances are useful and do not pose a hazard to the environment. It is concluded, therefore, that the proposed amendments to 40 CFR 180.1001 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before October 23, 1978, that this rulemaking proposal be referred to an advisory committtee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "OPP-300016." All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: September 14, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

Statutory authority: Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).

It is proposed that part 180, subpart D, § 180.1001 be amended by alphabetically inserting new items in the tables in paragraphs (c), (d), and (e) and by revising "isophorone * * *" in paragraph (d), as follows:

1. Section 180.1001 is amended by alphabetically inserting the items "Carrageenan * * *" in the tables in paragraphs (c) and (e) and "Dipropylene glycol dibenzoate * * *" in the table in paragraph (d) to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

(c) * * *

Inert ingredients	Limits	Uses
Carrageenan, conforming to 21 CFR 172.620.	Minimum molecular weight: 100,000.	Thickener.

(d) * * *

Inert ingredients	Limits	Uses
Dipropylene glycol dibenzoate	For seed treatment use only	Solvent, cosolvent.

(e) * * *

Inert ingredients	Limits	Uses
Carrageenan, conforming to 21 CFR 172.620.	Minimum molecular weight: 100,000.	Thickener.

2. Section 180.1001(d) is amended by revising the item "Isophorone * * *" in the table to read as follows: Section 180.1001 Exemptions from the requirement of a tolerance.

(d) * * *

Inert ingredients	Limits	Uses
Isophorone		Solvent and cosolvent for formulations used before crop emerges from soil, for postemergence herbicide use on rice and wheat before crop begins to head, and for postemergence use on beets (sugar beets, and table beets).

[FR Doc. 78-26456 Filed 9-20-78; 8:45 am]

[6560-01]

[40 CFR Part 762]

[FRL 947-2; OTS-6100]

Fully Halogenated Chlorofluoroalkanes

Toxic Substances Control Act

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On March 17, 1978, the Environmental Protection Agency promulgated a rule (43 FR 11318) which will prohibit almost all of the manufacturing and processing of fully halogenated chlorofluoroalkanes (hereinafter referred to as chlorofluorocarbons) for those aerosol propellant uses which are subject to the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 et seq. This action proposes an amendment to the essential use exemption to the chlorofluorocarbon rule, 40 CFR 762.21(c). EPA now proposes to expand the scope of the exemption to cover total release and metered value aerosol devices.

DATES: Comments must be received by the Record and Hearing Clerk by October 23, 1978. An informal public hearing will not be held unless an interested party requests one. Requests for a public hearing must be received by the Record and Hearing Clerk by October 23, 1978.

ADDRESSES: The official record of rulemaking is located in room 520, WSME, EPA Headquarters, 401 M Street SW., Washington, D.C. 20460. The record is available for viewing and copying from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays. Send comments to Joni T. Repasch, 202-755-1188, Record and Hearing Clerk, at the above address. Requests for public hearing must also be sent to the Record and Hearing Clerk.

FOR FURTHER INFORMATION CONTACT:

James D. Silverman, Office of Toxic Substances (TS-794), Environmental Protection Agency, 401 M. Street SW., Washington, D.C. 20460, 202-755-0920.

SUPPLEMENTARY INFORMATION:

I. REQUESTS TO AMEND THE PESTICIDE ESSENTIAL USE EXEMPTION

EPA's chlorofluorocarbon rule contains an essential use exemption for "Flying insect pesticides for use in nonresidential food handling areas except when applied by total release or metered valve aerosol devices and for space spraying of aircraft." (40 CFR 762.21(c).) EPA now proposes to expand the scope of the exemption to cover total release and metered valve aerosol devices.

As originally proposed the pesticide exemption permitted manufacture and processing of chlorofluorocarbons for use in aerosol pesticide devices intended for nonresidential food-handling uses. After reviewing the many detailed comments discussing the variety of aerosol devices and uses in food-related industries and institutions, EPA revised the rule to exempt only those aerosol devices that were not metered valve or total release devices. This revision was based on the finding that there were other methods of application and that the benefit derived from using the chlorofluorocarbon propellant, i.e., minimizing use of the pesticide, was offset by the additional exposure from metered valve and total release devices (which are often released automatically regardless of the need to apply the pesticide at that time). (See revised essential use determination support document, pp. B-5 to B-10, Mar. 17, 1978.)

Since promulgation several pesticide firms have requested that the rule be amended to delete the distinction appearing in the final rule. In essence, they have asserted that there is no environmental or health basis for distinguishing between metered valve and total release devices and other aerosol devices. EPA believes that use of metered valve and total release devices is likely to lead to increased human exposure to pesticide residues; however, other considerations have caused the Agency to conclude that the appropriate emphasis in considering the pesticide-exemption from this rule should not be on the device (i.e., metered valve or total release) used to apply the pesticide.

In evaluating industry's comments to the final rule, EPA has become aware that the problems associated with metered valve and total release devices involve safety, efficacy, and legal considerations that go significantly beyond the chlorofluorocarbon issue that is the focus of this rule. The Office of Pesticide Programs (OPP) is engaged in an ongoing evaluation of these devices which ultimately will result in a decision to reregister or not reregister them under the Federal Insecticide, Fungicide, and Rodenticide Act. Therefore, the agency has decided to consider the chlorofluorocarbon aspect of the problem during the reregistration proceedings rather than to introduce the issues OPP is already considering further into this proceeding. Accordingly, EPA now proposes to amend the pesticide exemption to include metered valve and total release devices. Further evaluation and regulation will be carried out by OPP with the aid of the Office of Toxic Substances.

Requests also have been made to amend the rule to allow pesticide exemptions for uses in barns, drug, and cosmetic plants, and hospitals. These requests were submitted, considered, and rejected during the rulemaking period. Because no new evidence has been presented that would justify reconsideration of these points, the requests are hereby denied.

II. REQUESTS TO CLARIFY THE PESTICIDE ESSENTIAL USE EXEMPTION

Various pesticide registrants have asked for further guidance concerning EPA's interpretation of nonresidential food handling areas (as defined in 40 CFR 762.21(c)). The final essential use support document listed food-handling areas in commercial or institutional kitchens, dining areas, and pantries as examples of what would be considered to be covered by the exemption. Further examples of permissible sites are nonresidential food-handling areas of supermarkets, food plants, food warehouses, bottling plants, hospitals, nursing homes, day-care centers, hotels, motels and egg and milk handling areas of dairies and chicken houses.

III. REQUESTS FOR NEW ESSENTIAL USE EXEMPTIONS

Belated requests were also received to allow new exemptions for products used for scuba diving equipment and for crack detectors in nuclear reactors. Although these requests contained no information which could not have been submitted during the comment period on the rule, EPA in its discretion is considering these requests because of the significance of the uses. Because these products have both civilian and military uses. EPA has referred the requesters to the Department of Defense (DOD) pursuant to the memorandum of understanding between DOD and EPA. Depending on DOD's and EPA's findings about the essentiality of the chlorofluorocarbon propellant, the Agency will decide later whether to grant or deny the requests.

IV. COMMENT PERIOD

Because of the relatively minor nature of this amendment and EPA's desire to promulgate the change before the effective date of the chlorofluorocarbon rule, a 30-day comment period, rather than the usual 60-day, is provided.

Dated: September 8, 1978.

DOUGLAS COSTLE,
Administrator.

It is proposed to amend 40 CFR by revising part 762 as follows:

By revising § 762.21(c) to read as follows:

§ 762.21 Essential use exemptions.

(c) Flying insect pesticides: (1) For use in nonresidential food handling areas, and (2) for space spraying of aircraft.

(Sec. 6, Pub. L. 94-469, 90 Stat. 2020 (15 U.S.C. 2605).)

[FR Doc. 78-26564 Filed 9-20-78; 8:45 am]

[4310-10]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[41 CFR Part 114-50]

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

Elimination to Exception to Nonallowable Moving Expenses Relating to Site Improvement

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites comments on a proposal to amend departmental regulations pertaining to implementation and administration of Pub. L. 91-646 (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970) activities. The amendment would eliminate the exception to nonallowable moving expenses relating to site improvement required by law. This action would conform Interior policy on this subject with those of the Department of Housing and Urban Development.

DATE: Comments must be received by October 23, 1978.

ADDRESS: Send comments to the Chief, Division of Property Management, Office of Administrative and Management Policy (PAM/PM), Room 5310, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

James O. Wyatt, Chief, Division of Property Management, telephone 202-343-3185.

SUPPLEMENTAL INFORMATION: All written comments made pursuant to this notice will be available for public inspection at the Division of Property Management (Room 5310) Department of the Interior, during regular business hours, 7:45 a.m. to 4:15 p.m. (except holidays). The primary author of this proposal is George W. Sandberg, Room 5310, Department of the Interior, Washington, D.C. 20240 (phone 343-3185).

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under

Executive Order 11949 and OMB Circular No. A-107.

Dated: September 14, 1978.

RICHARD R. HITE,
Deputy Assistant Secretary of the Department of the Interior.

41 CFR 114-50 is amended as follows:

Subpart 114-50.6—Moving and Related Expenses

Amend § 114-50.601-2 to read as follows:

§ 114-50.601-2 Nonallowable moving expenses and losses.

* * * * *

(c) Improvements to the replacement site.

* * * * *

[FR Doc. 78-26507 Filed 9-20-78; 8:45 am]

[4910-60]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Part 192]

[Docket No. OPS-29; Reference Notice 74-4]

TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE

Recommendations of the National Transportation Safety Board

AGENCY: Materials Transportation Bureau.

ACTION: Withdrawal of advance notice of proposed rulemaking.

SUMMARY: Rulemaking action recommended by the National Transportation Safety Board (NTSB) concerning telemetry of pressure or flow data to warn of system failures, the definition of an "emergency," and closing designated valves in an emergency is not considered appropriate in light of public comments and current safety standards. The notice of proposed rulemaking is withdrawn.

FOR FURTHER INFORMATION CONTACT:

L. Furrow 202-426-0135.

SUPPLEMENTARY INFORMATION: On June 21, 1974, the Office of Pipeline Safety issued an advance notice of proposed rulemaking (ANPRM) (notice 74-4; 39 FR 24027, June 28, 1974) inviting public comments on three recommendations for rulemaking made by the NTSB in its report No. NTSB-PAR-74-3, titled, "Pipeline Accident Report—Missouri Public Service Co., Clinton, Mo., December 9, 1972." The report involved a gas explosion where operator personnel arrived 50 minutes before the incident but did not shut off the flow of gas until 1 hour and 40 minutes afterward. The NTSB's rulemaking recommendations were: *P-74-16.* Revise 49 CFR 192.741 to require pipeline operators to telemeter gas pressure or flow data in such a way as to insure prompt warnings of significant system failures shown by pressure or flow changes. The type and location of the data points should be considered on an individual basis and should include singlefed systems serving substantial numbers of customers.

P-74-17. Define what constitutes an emergency and provide clarification of the requiements of emergency procedures under 49 CFR 192.615, emergency plans.

P-74-18. Require that designated emergency valves be the valves closed initially when a section of main is required to be isolated in an emergency.

There were 72 persons who responded to the ANPRM; and the Department's Technical Pipeline Safety Standards Committee (TPSSC) discussed the matter at a meeting in Washington, D.C., on October 31, 1974.

There were no favorable comments with regard to recommendation P-74-16. A large majority of the commenters and the TPSSC stated that with few exceptions, telemetered pressure or flow data would not show the difference between normal variations in gas flow and hazardous pipeline leaks. Other commenters pointed out that a large number of data collection points would be necessary for a data telemetry system to be effective, which would be too costly in light of potential benefits. Other commenters stated that a pipeline failure could only be detected from telemetered data by an experienced, trained observer who is familiar with the pipeline system involved, and even then the data would not show the location of the failure. Still other commenters argued that available telemetry equipment has been unreliable and its usage could lead to operational problems.

The Materials Transportation Bureau (MTB) agrees with these comments and also the view expressed by some commenters and the TPSSC that surveillance as well as employee and customer education are better ways of reasonably providing prompt leak detection than an unproven data telemetry system. Surveillance is the subject of several part 192 regulations (e.g., §§ 192.613 and 192.723) and operating instructions for employees are covered by §§ 192.603 and 192.605. Also, since the ANPRM was issued, part 192 has been amended (Amendment 192-24, 41 FR 13587, March 31, 1978) to require that operators prepare and follow more detailed emergency procedures, and that personnel and customer education programs be conducted (see § 192.615). In addition to these current requirements, future rulemaking that is planned on the specifics of operating procedures should further help resolve the problems of early leak detection and timely operator response. For these reasons, recommendation P-74-16 has not been adopted.

Recommendation P-74-17, regarding emergency plans, was adopted in part by amendment 192-24. However, that amendment did not provide a definition of "emergency." Most commenters to the ANPRM and the TPSSC were against establishing a definition in part 192 because the term is generally understood and adopting any other meaning might restrict the applicability of the required emergency procedures (§ 192.615). MTB agrees. The current dictionary definition of the term "emergency" provides for the widest possible application of an operator's emergency procedures in light of the variations in gas systems and different situations that can occur requiring immediate operator response.

All the commenters and the TPSSC opposed recommendation P-74-18. Some of the significant reasons against it were: (1) Closing valves could present a greater hazard than the leak to be isolated, (2) an operator should be free to use the nearest available valves rather than predesignated ones, (3) often pipe can be dug up and isolated at the point of leakage by other means before valves can be closed and the pipeline blown down to reduce the pressure on a leak, and (4) due to the variations in operating conditions, the best regulatory approach is to require operators to develop procedures for isolating any line section in an emergency. MTB agrees with these views and has not adopted the recommendation. It should be noted that as a result of amendment 192-24, § 192.615(a)(6) requires operators to have and follow the necessary isolation and shutdown procedures.

In consideration of the foregoing, the ANPRM is hereby withdrawn.

(49 U.S.C. 1672; 49 CFR 1.53, App. A of part 1 and App. A of part 102.)

Issued in Washington, D.C., on September 15, 1978.

CESAR DE LEON,
Associate Director for Pipeline Safety Regulation Materials Transportation Bureau.

[FR Doc. 78-26499 Filed 9-20-78; 8:45 am]

[4910-60]

[49 CFR Part 192]

[Docket No. OPS-31; Reference Notice 74-7]

TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE

Definition of Gathering Line

AGENCY: Materials Transportation Bureau; DOT.

ACTION: Withdrawal of notice or proposed rulemaking.

SUMMARY: This document withdraws a notice of proposed rulemaking to establish a new definition of the term "gathering line". The proposed new definition of the term "gathering line" does not satisfactorily identify pipelines used in the gathering of gas but a new definition is no longer needed.

FOR FURTHER INFORMATION CONTACT:

L. Furrow, 202-426-0135.

SUPPLEMENTARY INFORMATION: On September 20, 1974, the Office of Pipeline Safety issued a notice of proposed rulemaking to establish a new definition in part 192 of the term "gathering line" (notice 74-7; 39 FR 34569, September 26, 1974). The term was to be defined as "a pipeline that transports gas from the point where gas is produced to the end of any treatment or other processing necessary to make the gas generally fit for consumers."

The proposed definition was intended to provide a clearer understanding of whether the Federal gas pipeline safety standards then in effect (part 192) did or did not apply to a given pipeline located outside populated areas. The need for the proposal arose because the Natural Gas Pipeline Safety Act of 1968 (NGPSA) (49 U.S.C. 1671 et seq.), which then provided the sole statutory authority for the Federal standards, provides for Federal regulation of the transmission and distribution of gas in locations outside populated areas but not the gathering of gas in those areas.

There were 30 persons who responded to the invitation for public comments in notice 74-7. Twenty-seven of these commenters and the Department's Technical Pipeline Safety Standards Committee (TPSSC), who discussed the proposal at a meeting on October 31, 1974, objected to the proposed definition, basically on grounds that it would not accomplish its objective. The primary reason which the commenters and the TPSSC advanced for their objections was that the proposed definition contained many words and phrases which are open to varied interpretation. For example, depending on the circumstances involved, a wet gas might be "generally fit for consumers" in some cases but not others. Also, if the meaning of the word "treatment" were to include odorization or the addition of propane to natural gas, some distribution lines would become gathering lines under the proposed definition. The only remedy which the Materials Transportation Bureau (MTB) sees for this definitional problem would require the establishment of a full set of definitions, covering the various terms related to the complex field of gas gathering.

Rather than propose further definitions, MTB has reconsidered the need to adopt a new definition of the term "gathering line" in light of current legislation. After issuance of notice 74-7, the Transportation Safety Act of 1974 (49 U.S.C. 1801 et seq.) was enacted. Title I of this act, the "Hazardous Materials Transportation Act," authorizes the Department to prescribe and enforce "regulations for the safe transportation in commerce of hazardous materials." This authority covers gas pipelines that are not subject to the NGPSA, which for the most part includes gas gathering lines located outside populated areas. As a consequence, MTB has exercised this authority to extend the scope of part 192 to cover certain offshore gas gathering lines (Amdt. 192-27, 41 FR 34598, August 16, 1976). Although the authority has not yet been applied under part 192 to regulate onshore gas gathering lines located outside populated areas, MTB has proposed to enlarge the scope of the leak reporting requirements in 49 CFR Part 191 to cover these pipelines (docket No. OPS-49, notice 1; 43 FR 24478, June 5, 1978). Given this state of events, with part 192 now applicable to offshore gathering lines and rulemaking action underway with regard to rural onshore gathering lines, MTB believes there is no longer a pressing need to adopt a new definition of gathering lines to distinguish them from other pipelines in rural areas for jurisdictional purposes.

In consideration of the foregoing, notice 74-7 is hereby withdrawn.

(49 U.S.C. 1672; 49 CFR 1.53, App. A of Part 1 and App. A of Part 102.)

Issued in Washington, D.C., on September 15, 1978.

CESAR DE LEON,
Associate Director for Pipeline Safety Regulation Materials Transportation Bureau.

[FR Doc. 78-26498 Filed 9-20-78; 8:45 am]

V 43 / 184 SE 21 78

V 43/184 SEP 21 78

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6110-01]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON LICENSES AND AUTHORIZATIONS

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Licenses and Authorizations of the Administrative Conference of the United States, to be held at 10 a.m., Thursday, October 12, 1978, at the office of O'Melveny & Myers, 1800 M Street NW., Suite 500 South, Washington, D.C.

The Committee will meet to discuss its draft recommendation on government agency use of voluntary standards and the report on this subject by Prof. Robert W. Hamilton.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least 2 days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact David M. Pritzker, 202-254-7065. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

SEPTEMBER 15, 1978.

[FR Doc. 78-26521 Filed 9-20-78; 8:45 am]

[3410-16]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

BRISCOE FLOODWATER RETARDING STRUCTURE R.C. & D. MEASURE, NEBR.

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Briscoe Floodwater Retarding Structure R.C. & D. Measure, Garden County, Nebr.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Benny Martin, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for installation of a floodwater retarding structure to reduce floodwater damages to irrigated crops, pastures, other agriculture properties, roads, and bridges. The planned works of improvement include a compacted earthfill dam with a corrugated metal principal spillway. An emergency spillway will be excavated in the earth abutment and will be vegetated.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. A basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Benny Martin, State Conservationist, Soil Conservation Service, Federal Building-U.S. Courthouse, Room 345, Lincoln, Nebr. 68508, telephone 402-471-5300. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until October 23, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: September 13, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 78-26478 Filed 9-20-78; 8:45 am]

[3410-16]

FM 830 BOAT RAMP RECREATION DEVELOPMENT R.C. & D. MEASURE, TEXAS

Intent Not to prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the FM 830 Boat Ramp Recreation Development R.C. & D. Measure, Montgomery County, Tex.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

A plan was jointly developed with the Montgomery County Commissioners Court and the Montgomery-Walker Soil and Water Conservation District to help local people solve their resource problems and protect and improve the quality of the human environment.

The measure concerns a plan for installing basic water-based recreation facilities and erosion control measures on a 6-acre tract of land on the east shore of Lake Conroe in Montgomery County, Tex. The planned recreation facilities include pave parking areas, a paved approach to an existing boat ramp, restrooms, a sidewalk, picnic units, trash receptacles, a water fountain, lighting, and landscaping. Erosion control measures to be installed to control critical shoreline erosion include bulkheading and backfilling along the lake shoreline, establishment of permanent vegetation and constructing a barrier fence to protect the treated area. The installation is planned over a 1-year period.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main, Temple, Tex. 76501, telephone 817-774-1214. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until October 23, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: September 13, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 78-26479 Filed 9-20-78; 8:45 am]

[3410-16]

NAVARINO WILDLIFE AREA CRITICAL AREA TREATMENT AND PUBLIC WATER-BASED FISH AND WILDLIFE R.C. & D. MEASURE, WIS.

Intent Not To Prepare An Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Navarino Wildlife Area Critical Area Treatment and Public Water-Based Fish and Wildlife R.C. & D. Measure, Shawano County, Wis.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. J. C. Hytry, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment and water-based fish and wildlife development. The planned works of improvement include the installation of flowages, level ditches, potholes, parking areas, and an overlook on portions of the 13,579-acre State-owned Navarino Wildlife Area.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. J. C. Hytry, State Conservationist, Soil Conservation Service, 4601 Hammersley Road, Madison, Wisconsin 53711, telephone 608-252-5341. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until October 23, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: September 13, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 78-26480 Filed 9-20-78; 8:45 am]

[3410-16]

WEST CLINTON FLOOD PREVENTION R.C. & D. MEASURE, IND.

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the West Clinton Flood Prevention R.C. & D. Measure, Vermillion County, Ind.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Buell M. Ferguson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for flood prevention. The planned works of improvement include subsurface drains, storm drains, a grass waterway, critical area planting and a water storage basin.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Buell M. Ferguson, State Conservationist, Soil Conservation Service, Corporate Square-West, Suite 2200, 5610 Crawfordsville Road, Indianapolis, Ind. 46224, telephone 317-269-6515. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until October 23, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: September 13, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 78-26481 Filed 9-20-78; 8:45 am]

[6335-01]

COMMISSION ON CIVIL RIGHTS

OHIO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Ohio advisory committee (SAC) of the Commission will convene at 10 a.m., and will end at 4 p.m., on October 14, 1978, Imperial 400 Motel Inc., 665 West Broad, Columbus, Ohio 43215. (Room 103.)

Persons wishing to attend this open meeting should contact the committee chairperson, or the midwestern regional office of the Commission, 230 South Dearborn Street, 32d Floor, Chicago, Ill. 60604.

The purpose of this meeting is to discuss the proposed police community relations project.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., September 18, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-26489 Filed 9-20-78; 8:45 am]

[3510-07]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE OF THE AMERICAN ECONOMIC ASSOCIATION

Public Meeting

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that the Census Advisory Committee of the American Economic Association will convene on October 13, 1978, at 9:15 a.m., in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Md.

The Census Advisory Committee of the American Economic Association advises the Director, Bureau of the Census, on technical matters, accuracy levels, and conceptual problems concerning the the economic censuses; reviews major aspects of the Bureau's programs, and advises on the role of analysis within the Bureau and the need for providing data in more detail.

The Committee is composed of 15 members of the American Economic Association.

The agenda for the meeting, which is scheduled to adjourn at 4 p.m., is: (1) Introductory remarks by the Director of the Census Bureau, including: staff changes, major budget program development, and other topics of current interest; (2) status of planning for the 1980 census; (3) 1980 census—plans for coverage improvement, and pretest results; (4) comparison of the results of the 1972 Census of Construction Industries and Value of New Construction Put in Place Series: (5) 1977 Economic Censuses Evaluation Program; (6) plans to improve seasonal adjustment of economic time series; (7) progress report on Survey of Income and Program Participation; (8) committee discussion, questions, and recommendations; and (9) plans and date for the next meeting.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the committee control officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Mr. Elmer Biles, Senior Economic Advisor, Bureau of the Census, Room 3061, Federal Building 3, Suitland, Md. (Mail address: Washington, D.C. 20233.) Telephone 301-763-7184.

Dated: September 15, 1978.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

[FR Doc. 78-26512 Filed 9-20-78; 8:45 am]

[3510-24]

Economic Development Administration

BARONESS LEATHER PRODUCTS, INC. AND LIDO FASHIONS, INC.

Petitions for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions were accepted for filing from two firms: (1) Baroness Leather Products, Inc., 284 State Street, Perth Amboy, N.J. 08861, a producer of handbags and luggage (accepted September 13, 1978); and (2) Lido Fashions, Inc., 104 Gray Street, Paterson, N.J. 07501, a producer of women's coats (accepted September 15, 1978). The petitions were accepted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the adjustment assistance regulations for firms and communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-26492 Filed 9-20-78; 8:45 am]

[4310-10]
[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

DEPARTMENT OF THE INTERIOR

Office of the Secretary

BUREAU OF TRADE REGULATION

Proposed Annual Rules; Correction

AGENCY: Bureau of Trade Regulation, Industry and Trade Administration, Department of Commerce.

ACTION: Proposed annual rules; correction.

In FR Doc. 78-25262 appearing at page 40048 in the FEDERAL REGISTER of September 8, 1978, the "DATE" paragraph is corrected in the third line of that paragraph by changing "October 15" to "October 16".

Dated: September 18, 1978.

RAUER H. MEYER,
Acting Deputy Assistant Secretary for Trade Regulation, U.S. Department of Commerce.

JOHN E. DE YOUNG,
Acting Director, Office of Territorial Affairs, U.S. Department of the Interior.

[FR Doc. 78-26519 Filed 9-20-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENDANGERED SPECIES PERMITS

Receipt of Application for Permit

Notice is hereby given that an applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the regulations governing the taking and importing of marine mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), and the regulations governing endangered fish and wildlife permits (50 CFR Parts 217-222).

1. Applicant: Dr. William W. Dawson, Professor of Ophthalmology and Physiology. Address: Department of Ophthalmology, J. Hillis Miller Health Center, Box J-284, University of Florida, College of Medicine, Gainesville, Fla. 32610.

2. Type of permit: Scientific Research/Scientific Purposes.

3. Name and number of animals: Humpback whales (*Megaptera novaeangliae*), 6; Rough-toothed dolphin (*Steno bredanensis*), 6; Spotted dolphin (*Stenella frontalis*), 6; Bottlenose dolphin (*Tursiops truncatus*), 6; Risso's dolphin (*Grampus griseus*), 6; Spinner dolphin (*Stenella longirostris*), 6; Gray-pigmy killer whale (*Feresa attenuata*), 6; False killer whale (*Pseudorca crassidens*), 6; Killer whale (*Orcinus orca*), 6; Short finned pilot whale (*Globicephala macrorhyncha*), 6; Sperm whale (*Physeter catodon*), 6; Dwarf sperm whale (*Kogia simus*), 6; Goose-beaked whale (*Ziphius cavirostris*), 6.

4. Type of take: Collect and import specimens made available by commercial fisheries.

5. Location of activity: Windward Islands; controlled by the Grenadian Government.

6. Period of activity: 3 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretarty of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, by October 23, 1978. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southeast Region; 9450 Koger Boulevard, St. Petersburg, Fla. 33702.

Dated: September 15, 1978.

RICHARD B. ROE,
Acting Director, Office of Marine Mammal and Endangered Species, National Marine Fisheries Service.

[FR Doc. 78-26460 Filed 9-20-78; 8:45 am]

[3510-17]

Office of the Secretary

GRANTS ADMINISTRATION TASK FORCE

Meeting

Announcement is made of the following Grants Administration Task Force meeting:

Name: Department of Commerce Grants Administration Task Force.
Date: October 6, 1978.
Place: Conference room 4830, Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C.
Time: 9 a.m. to 12 p.m.; 1:30 p.m. to 3 p.m.
Proposed Agenda: 9 a.m. to 9:15 a.m.: Overview of grants administration issues by the Task Force. 9:15 a.m. to 12 a.m.: Discussion of issues and concerns by the public. 1:30 p.m. to 3 p.m.: Questions and answers.

Purpose of meeting: The Task Force will highlight the principal grants administration issues that have been identified for the development of departmental policy and recommendations. The representatives from the public will be asked to identify areas of grants administration that they would like the Task Force to consider for policy formulation.

Meeting of the Task Force is open to the public. It may be necessary to limit the number of minutes that each person speaks. Reservations may be made; otherwise, attendance will be on a first-come-first-serve basis.

All communications regarding this meeting should be addressed to Ms. Virginia Robinson, Chairperson, Grants Administration Task Force, Department of Commerce, Room 5725, Washington, D.C. 20230.

GARY W. CHAMBERLAIN,
Deputy Assistant Secretary for Administration.

[FR Doc. 78-26670 Filed 9-20-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

NORTHERN STATES POWER CO. 500 kV INTERNATIONAL TRANSMISSION LINE

Availability of Draft Environmental Impact Statement

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of availability of draft environmental impact statement.

SUMMARY: The Department of Energy gives notice of the availability of the draft environmental impact statement (EIS) for the Northern States Power Co. 500 kV International Transmission Line, DOE/EIS-0032-D.

DATE: Comments must be received by October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., Systems Reliability and Emergency Response Branch, Department of Energy, Room 538—Vanguard Building, 2000 M Street NW., Washington, D.C. 20461, 202-634-5620.

Robert J. Stern, Office of Environment, Department of Energy, Room 7119—Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9760.

Lise Courtney Howe, Office of General Counsel, Department of Energy, Room 5116—Federal Building, 12th & Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9995 or 202-566-9380.

SUPPLEMENTARY INFORMATION: The draft was prepared pursuant to the requirements of the National Environmental Policy Act of 1969, to analyze the environmental impacts of a 500 Kv transmission line extending from Forbes, Minn. to the United States-Canadian border. This facility would be constructed and operated by the Northern States Power Co. and the Minnesota Power & Light Co. to exchange electric energy with the Manitoba Hydroelectric Board. The construction of this facility will require the issuance of a Presidential permit by DOE.

Copies of the draft EIS have been distributed for review and comment to appropriate Federal, Minnesota and local agencies, and other organizations and individuals who are known to have an interest in these activities.

Copies of the statement are also available for public inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, at the following DOE public reading rooms:

Library, Department of Energy, 20 Massachusetts Ave. NW., Washington, D.C. 20545.
Freedom of Information Reading Room, Department of Energy, Room 2107 (Box VQ)—Federal Bldg., 12th and Pennsylvania Ave. NW., Washington, D.C. 20461.
Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base, Albuquerque, N. Mex. 87115.
Chicago Operations Office, 9800 South Cass Ave., Argonne, Ill. 60439.
Chicago Operations Office, 175 West Jackson Blvd., Chicago, Ill. 60604.
Idaho Operations Office, 550 Second St., Idaho Falls, Idaho 83401.
Nevada Operations Office, 2753 South Highland Dr., Las Vegas, Nev. 89109.
Oak Ridge Operations Office, Federal Bldg., Oak Ridge, Tenn. 37830.
Richland Operation Office, Federal Bldg., Richland, Wash. 99352.
San Francisco Operations Office, 1333 Broad, Oakland, Calif. 94612.
Savannah River Operations Office, Savannah River Plant, Aiken, S.C. 29801.

Individual copies of the draft environmental impact statement are available upon request at the Systems Reliability and Emergency Response Branch, Department of Energy, Room 538, Vanguard Building, 2000 M Street NW., Washington, D.C. 20461.

Comments and views concerning the draft environmental impact statement are requested from other interested agencies, organizations and individuals. Commentors are requested to mail fifteen (15) copies of the comments to docket PP-63, Department of Energy, Room 4070, Vanguard Building, 2000 M Street NW., Washington, D.C. 20461. Comments received on the

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draft environmental impact statement will be considered in the preparation of the final statement if received by DOE on or before October 31, 1978.

Issued in Washington, D.C., September 18, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-26516 Filed 9-20-78; 8:45 am]

[3128-01]

Office of Environment

[DOE/EIS-0003]

PROTON-PROTON STORAGE ACCELERATOR FACILITY (ISABELLE), BROOKHAVEN NATIONAL LABORATORY, UPTON, N.Y.

Availability of Final Environmental Impact Statement

Notice is hereby given that the U.S. Department of Energy (DOE) has issued a final environmental impact statement, DOE/EIS-0003, Proton-Proton Storage Accelerator Facility (Isabelle), Brookhaven National Laboratory, Upton, N.Y. The statement was prepared pursuant to implementation of the National Environmental Policy Act of 1969 to provide environmental input into DOE's proposed legislative action requesting funds for the construction and operation of a proton-proton colliding beam facility (Isabelle). The statement assesses the potential incremental environmental impacts associated with the construction and operation of Isabelle at the Brookhaven National Laboratory.

The Isabelle facility will be used for advanced research in the DOE high energy physics program and will provide higher levels of interaction energy than are presently available.

Copies of the final environmental impact statement have been distributed to those who commented on the draft statement, as well as others who requested copies.

Copies of the statement are available for public inspection at the DOE public document rooms located at:

Library, Room 1223, 20 Massachusetts Ave., NW., Washington, D.C.
Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, N. Mex.
Brookhaven National Laboratory, Research Library, Upton, N.Y.
Chicago Operations Office, 9800 South Cass Ave., Argonne, Ill.
Chicago Operations Office, 175 West Jackson Blvd., Chicago, Ill.
Idaho Operations Office, 550 Second St., Idaho Falls, Idaho.
Nevada Operations Office, 2753 South Highland Dr., Las Vegas, Nev.
Oak Ridge Operations Office, Federal Bldg., Oak Ridge, Tenn.
Richland Operations Office, Federal Bldg., Richland, Wash.
San Francisco Operations Office, 1333 Broadway, Oakland, Calif.
Savannah River Operations Office, Savannah River Plant, Aiken, S.C.

Copies are also available for public inspection at designated Federal Depository Libraries.

A limited number of single copies of the final statement are available for distribution by the Technical Information Center, P.O. Box 62, Oak Ridge, Tenn. 37830, 615-483-8611, extension 34672. The statement is also available from the National Technical Information Service, Springfield, Va. 22161.

Dated at Washington, D.C., this 18th day of September 1978.

For the U.S. Department of Energy.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-26515 Filed 9-20-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Project No. 2422]

BROWN-NEW HAMPSHIRE, INC.

Order Approving Exhibits J, L, and M and Ordering Rehabilitation

SEPTEMBER 12, 1978.

The application: On April 18, 1976, Brown-New Hampshire, Inc. (Licensee) filed an application for amendment of its license for the sawmill project No. 2422.[1] The sawmill project is located on the Androscoggin River in the city of Berlin, Coos County, N.H. In the application, the Licensee filed revised exhibits J, L, and M, reflecting removal of the project's turbines and generators. The revised exhibit J also contains several notations referring to a 2-foot pondage drawdown, from normal headwater at elevation 1094.10 to elevation 1092.10. The Licensee stated that the generators, turbines, and associated distribution equipment were removed from the station in January 1968.

Licensee removed these project works without Commission approval. Staff reports, however, that the equipment was archaic and not adaptable to future development. We do not condone the removal of licensed project works without our prior approval. Replacement of the original works, however, would serve no useful purpose. As discussed below, we are ordering the Licensee to install new hydroelectric facilities at project No. 2422. We are approving the revised exhibits only to the extent that they show the current condition of the project, pending rehabilitation as provided by this order.

FEASIBILITY OF INSTALLATION OF CAPACITY AT PROJECT NO. 2422

When the project was licensed in 1965, it had an installed capacity of 2,200 kW of direct current generating machinery.[2] Brown-New Hampshire, Inc., 34 FPC 151 (1965). Included in the license was article 35 which required the Licensee to file within 1 year a feasibility report on rehabilitation of the power facilities. By letter dated April 5, 1973, the Secretary inquired about ther Licensee's plans to rehabilitate the facilities. In its reply dated April 11, 1973, the Licensee stated that the feasibility studies conducted between 1965 and 1972 indicated that the rehabilitation would be borderline economically. On October 2, 1973, the Licensee filed a feasibility study which showed that the project could be redeveloped to produce energy at less cost than it was being purchased from the Public Service Co. of New Hampshire. The study also showed, however, that the cost savings would represent a return of only 8 percent annually on the capital invested in the redevelopment of the project. The Licensee stated, however, that 8 percent was not an adequate return on investment and, therefore, the redvelopment was not economically feasible. In a letter dated November 19, 1973, the Secretary requested that the Licensee file an application for surrender of its license if it did not desire to redevelop the project. The Secretary renewed his request by letter dated January 23, 1976. It was in response to this letter that the Licensee filed the application before us now.

In 1977, staff reevaluated the economics of redeveloping the project and found that, due to the increased cost of producing alternative electric power, the project would have a return on investment of approximately 13 percent annually. By letter dated April 22, 1977, the Secretary of the Commission informed the Licensee of staff's report and requested that the Licensee submit a revised feasibility study based on current costs and power values. On January 3, 1978, the Licensee submitted a revised feasibility study. The study was based on projected cost of purchasing power in 1978. The study showed that the redevelopment, with an installed capacity

[1] This proceeding was commenced before the FPC. By the joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC. The term "Commission," when used in the context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

[2] The direct current generating machinery has not been used since the Licensee's predecessor discontinued electroplating operations in 1960.

of approximately 2,500 kW, would yield a rate of return on investment of 15.3 percent annually. The Licensee stated, however "* * * although the return on investment has increased considerably since the 1973 feasibility report, our conclusion is that the project is not, at this time, economically feasible * * *." We cannot agree with the Licensee's conclusion.

The water that flows by the sawmill project is a renewable resource capable of generating—at an installed capacity of approximately 2,500 kW—an estimated 20,000,000 kWh annually of electric energy which is equivalent to 32,400 barrels of oil. All of the energy that the project is capable of producing could be used by the Licensee.

Pursuant to article 13 of the license, we have the authority to order the rehabilitation of the project, if rehabilitation is economically sound and in the public interest.[3] As noted above, the latest feasibility study shows that redevelopment of the project with approximately 2,500 kW of capacity would yield an annual return of more than 15 percent on the capital investment. The estimated annual yield on investment will increase as the retail cost of electricity increases. We find, therefore, that the redevelopment of the sawmill project would be economically sound.

We believe that the public interest would best be served by developing the hydroelectric power potential of the project and, therefore, reducing the use of nonrenewable energy resources. Thus, pursuant to article 13 of the license for Project No. 2422, we are ordering the Licensee to install hydroelectric generating units with approximately 2,500 kW capacity to develop the available head at the project.

The Commission orders: (A) The following exhibits are approved and made a part of the license for project No. 2422, but only to the extent that they show the existing condition of the project and its works:

Exhibit J, FERC No.	Showing	Superseded exhibit, FERC No.
2422-9.....	Plan view of project area	2422-1
2422-10...	Transmission system	2422-2

Exhibit L, FERC No.	Showing	Superseded exhibit, FERC No.
2422-11...	Plan view of station and dam sections.	2422-8
2422-13...	Sections of station and gatehouse.	2422-5
2422-14...	Plan view of operating floor....	2422-6

Exhibit M, consisting of two typewritten pages filed April 19, 1976, entitled "General Description of Mechanical, Electrical and Transmission Equipment revised April 15, 1976."

(B) The superseded exhibits are deleted from the license for project No. 2422.

(C) The Licensee shall file for Commission approval, within 6 months from the date of this order, revised exhibits J, L, and M, showing plans for the installation of approximately 2,500 kW of generating capacity at the project.

(D) This order shall become final 30 days from the date of its issuance unless an application for rehearing shall be filed as provided in section 313(a) of the act, and failure to file such an application shall constitute acceptance of this order. In acknowledgment of acceptance of this order, it shall be signed by the Licensee and returned to the Commission within 60 days of the issuance of this order.

By the Commission.

KENNETH F. PLUMB,
Secretary.

In testimony of its acknowledgement of acceptance of all of the terms and conditions of this order, Brown—New Hampshire, Inc. this —— day of ————, 19—, has caused its corporate name to be signed hereto by ————, its ———— President, and its corporate seal to be affixed hereto and attested by ———— its ———— Secretary, pursuant to a resolution of its Board of Directors duly adopted on the —— day of ——, 19—, a certified copy of the record of which is attached hereto.

By ————
President.

Attest:

————
Secretary.

[FR Doc. 78-26468 Filed 9-20-78; 8:45 am]

[3] Article 13 reads: The Licensee shall install additional capacity or make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so, after notice and opportunity for hearing.

[6740-02]

[Docket No. ER78-593]

CENTRAL ILLINOIS PUBLIC SERVICE CO.

Filing

SEPTEMBER 12, 1978.

Take notice that Central Illinois Public Service Co. (CIPS) on August 30, 1978, tendered for filing proposed modification No. 2 to the Interconnection Agreement (Agreement) dated August 31, 1976, between Central Illinois Public Service Co. and Central Illinois Light Co. CIPS states that the Commission has previously designated the August 31, 1976 Agreement as Central Illinois Public Service Co. rate schedule FERC No. 81 and Central Illinois Light Co. rate schedule FERC No. 20.

CIPS further states that modification No. 2 provides for a proposed increase in charges effective October 1, 1978, for maintenance, short-term firm and short-term non-firm power transactions between Central Illinois Public Service Co. and Central Illinois Light Co.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C., 20426, in accordance with sections 1.8 or 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26469 Filed 9-20-78; 8:45 am]

[6740-02]

[Docket No. ER78-591]

EMPIRE DISTRICT ELECTRIC CO.

Proposed Tariff Change

SEPTEMBER 12, 1978.

Take notice that the Empire District Electric Co. on August 30, 1978, tendered for filing proposed changes in its FERC Electric Service Tariff, volume No. 1. the proposed changes would increase revenues from present jurisdictional sales and service by $165,444 based on the 12-month period ending February 28, 1978 and would add revenues of $60,712 from new jurisdictional sales and service based on estimated revenue for the 12-month period ending September 30, 1978, according to Empire.

According to Empire the presently effective rates are based on contractual agreements made up to 11 years ago. Empire states that since that time it has experienced substantial increase in all elements of its cost, including fuel, labor, interest, taxes, and construction to provide additional capacity and meet environmental requirements.

Copies of the filing were served upon the public utility's jurisdictional customer, the Missouri Public Service Commission, and the Kansas Corp. Commission, according to Empire.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with paragraph 1.8 and 1.10 of the Commission's rules of practice and procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26470 Filed 9-20-78; 8:45 am]

[6740-02]

[Docket No. ER78-594]

THE KANSAS POWER & LIGHT CO.

Filing

SEPTEMBER 12, 1978.

Take notice that on August 30, 1978, the Kansas Power & Light Co. (KPL) tendered for filing a newly executed amendment No. 1 and service schedule E dated August 16, 1978 to rate schedule FPC No. 72 between KPL and Central Telephone and Utilities Corp (CTU). KPL states that amendment No. 1 requires that certain interconnection facilities are to be constructed by both parties prior to deliveries under this amendment. KPL further states that amendment No. 1 shall extend for an initial period ending May 31, 2013 continuing in effect from year to year thereafter, subject to termination by either party by the giving of not less than 5 years written notice of its intention to terminate. KPL indicates that service schedule E provides that KPL agrees to furnish from KPL's ownership percentage of Units 1 and 2 of the Jeffrey Energy Center (JEC), and CTU agrees to purchase 65 MW of power and accompanying energy during the period of August 16, 1978 through May 31, 1993.

KPL proposes an effective date of August 16, 1978, and therefore requests waiver of the Commission's notice requirements.

According to KPL copies of the amendment and service schedule have been mailed to CTU and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26471 Filed 9-20-78; 8:45 am]

[6740-02]

[Docket No. ER78-590]

NORTHERN STATES POWER CO.

Filing

SEPTEMBER 12, 1978.

Take notice that Northern States Power Co. (Northern States), on August 29, 1978, tendered for filing a Transmission and Interchange Service Agreement, dated August 15, 1978, with Heartland Consumers Power District.

Northern States states that the Agreement provides for services between the parties under the following Service Schedules:

"C"—Emergency and scheduled outage energy.
"D"—Operating reserve.
"E"—Economy energy.
"F"—Transmission service.

Northern States proposes an effective date of October 2, 1978.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before September 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protests parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26472 Filed 9-20-78; 8:45 am]

[6740-02]

[Docket No. ER78-595]

OHIO POWER CO.

Proposed Changes in Rates and Charges

SEPTEMBER 12, 1978.

Take notice that Ohio Power Co. and American Municipal Power—Ohio, Inc. on September 1, 1978, tendered for filing a rate schedule supplement dated August 1, 1978 to the agreement dated April 1, 1974 between Ohio Power and American Municipal Power-Ohio, Inc. (AMP-Ohio), designated Ohio Power rate schedule No. 74 and AMP-Ohio rate schedule No. 1.

According to Ohio Power the filing provides for an increase in the demand charge for short term power from $0.50 to $0.60 per kilowatt per week and for an increase in the demand charge for limited term power from $2.75 to $3.75 per kilowatt per month. The filing also provides for increases in the charges for third party short term power transactions from $0.125 to $0.15 per kilowatt per week and in the charge for third party limited term power transactions from $0.55 to $0.65 per kilowatt per month, according to Ohio Power.

The rate schedule changes are proposed to become effective September 1, 1978. Applicants state that the use of short term power or limited term power is unknown at the present time.

Copies of the filing were served upon the city of Orrville, Ohio, and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26473 Filed 9-20-78; 8:45 am]

[6740-02]

[Docket No. CP77-480]

PANHANDLE EASTERN PIPE LINE CO. AND TRUNKLINE GAS CO.

Petition to Amend

SEPTEMBER 8, 1978.

Take notice that on August 25, 1978, Panhandle Eastern Pipe Line Co. and Trunkline Gas Co. (Applicants), P.O. Box 1642, Houston, Tex. 77001, filed in docket No. CP77-480 a joint petition to amend the order, issued on August 29, 1977 in said docket pursuant to section 7(c) of the Natural Gas Act, so as to authorize an extension of the term of the transportation service for Owens-Corning Fiberglass Corp. (Owens-Corning) for one year and for a reduction in the firm transportation quantity and transportation charges, all as more fully set forth in the petition on file with the Commission and open to public inspection.

Applicants state that an agreement entered May 5, 1977 exists between Applicants and Owens-Corning under which Applicants transport gas from Ellis County, Okla. to a point near Cow Island, La. where delivery is made to Transcontinental Gas Pipe Line Co. for the account of Owens-Corning. Applicants further state that said transportation has been pursuant to a certificate of public convenience and necessity issued August 29, 1977 in docket No. CP77-480, which authorizes Applicants to transport on a firm basis of up to 1,200 Mcf of gas per day and on a best-efforts basis of up to 800 Mcf of gas per day for Owens-Corning, at a monthly charge of $6,276, for a period of one year.

Applicants now request that the certificate issued in docket No. CP77-480 be extended for an additional year. Applicants further requests that the certificate be amended to reflect amendments in the transportation agreement between Applicants and Owens-Corning which Applicants state have been made. The amendments to the certificate requested are: a reduction to 750 Mcf per day the amount of gas authorized to be transported on a firm basis, a reduction in the authorized monthly transportation charge to $4,215, and an increase in the charge for volumes of gas transported in excess of the firm volumes from 17.21 cents per Mcf to 18.49 cents per Mcf of gas transported on a best-efforts basis. Owens-Corning has requested that the firm transportation quantity be reduced, Applicants state, because of poor performance of the well from which it is purchasing its gas.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 29, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26474 Filed 9-20-78; 8:45 am]

[6740-02]

[Project No. 2655]

REEVES BROTHERS, INC.

Order on Rehearing

SEPTEMBER 12, 1978.

On May 29, 1975 Reeves Brothers Inc. (Applicant) filed an application for rehearing of the Federal Power Commission's order of April 29, 1975 issuing a license for Eagle and Phenix Mills project, FERC project No. 2655.[1] Applicant requested rehearing with respect to three items: (1) Article 8 which established a reasonable rate of return for the purpose of section 10(d)[2] amortization; (2) article 27 which addressed, inter alia, the Commission's authority to terminate a license; and (3) the inclusion of certain 699-volt transmission lines within the project.

Subsequent FPC orders granted rehearing for the purpose of further consideration,[3] modified language in article 27 clarifying the Commission's power to deem it to be the intent of the licensee to surrender the license,[4] and revised article 8 to reflect the reasonable rate of return adopted in FPC order No. 550, 56 FPC —— (August 30, 1976).[5]

The only unresolved issue in this rehearing proceeding is the propriety of including the 600-volt transmission lines within the licensed project works. In its April 29, 1975 order issuing license, the FPC concluded that "the 600-volt electric lines, circuit breakers and appurtenant facilities connecting nine generators to the company's distribution system should be included as part of project No. 2655."

PRIMARY TRANSMISSION LINES

In its application for rehearing, Reeves Brothers, Inc. stated that the 600-volt lines are not "primary" lines within the meaning of section 3(11) of the Federal Power Act (Act).[6] In support of its contention Applicant stated that the 600-volt lines are part of the distribution system used for delivery of power from other sources. Applicant asserts that if the project power plants are retired, the 600-volt lines will still be needed for delivery of power from other sources.

In response to a request by staff, by letter dated April 16, 1977, Applicant provided a one-line diagram of the electrical layout of project No. 2655. It is apparent that there has been some misunderstanding about the 600-volt lines to which the Commission's order referred. A recent Staff study of Reeves Brothers Inc.'s operation revealed that Applicant sells approximately 1.5 percent of its power production to Georgia Power Co. and purchases approximately 40 percent of its power requirements. There are 600-volt lines that carry power purchased from Georgia Power Co. to Applicant's industrial plant. These lines are not project works under the project No. 2655 license, and we are granting the application for rehearing to delete these lines from the project license.

There are also, however, 600 volt transmission lines used exclusively for the transmission of power from project No. 2655 to the distribution system. These lines are properly included as licensed project works pursuant to section 3(11) of the Act.[7] These jurisdictional transmission facilities are:

The 600-volt generator leads and circuit breakers from the upper powerhouse to the bus to company's No. 1 and No. 2 mill; and, at the lower powerhouse, the 600-volt generator bus, the generator bus, and the 600-volt line and circuit breaker to connect the generator bus to the 600-volt bus of the 3,000-kVA, 12,000/550-volt stepdown transformers which connect to the No. 3 mill.

Accordingly, we shall modify the project description in the order issuing license for project No. 2655 to include

[1] This proceeding was commenced before the FPC. By the joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC. The term "Commission", when used in the context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise the reference is to the FERC.

[2] 16 USC 803(d).

[3] *Reeves Brothers Inc.*, Project No. 2655, "Order Granting Rehearing for Further Consideration" (June 6, 1975).

[4] *Reeves Brothers, Inc.*, Project No. 2655, "Order on Rehearing Modifying License" (August 8, 1975).

[5] *Reeves Brothers, Inc.*, project No. 2655, "Order on Rehearing" (August 30, 1976).

[6] 16 USC 796(11).

[7] See, *Montana Power Co.*, project No. 5, "Order Modifying Initial Decision and Amending Project License" (Nov. 29, 1976).

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only these 600-volt lines as part of the project license. To the extent that Applicant contends these 600-volt lines are not primary lines, the application for rehearing is denied.

The Commission orders: (A) Reeves Brothers Inc.'s application for rehearing as it pertains to the inclusion of certain transmission facilities as licensed project works of FERC project No. 2655 is granted in part and denied in part.

(B) The project description in ordering paragraph (B)(ii) of the order issuing license (major) (issued April 29, 1975) for FPC project No. 2655 is modified to read:

(ii) project works consisting of:

(1) a rubble masonry dam about 900 feet long and about 17 feet high containing two spillways: (a) a rock masonry timberfaced overflow about 537 feet long, in the central section of the dam, with a crest elevation at 213.59 feet (m.s.l.); and (b) an overflow about 45.7 feet long, in the west bank nonoverflow section, with a crest elevation at 215.87 feet; (2) a reservoir about 0.75 mile long with a surface area of about 500 acres and pondage of 225 acre-feet at elevation 213.59 feet; (3) a forebay about 107 feet wide, near the east bank; (4) two open-flume water conduits: (a) about 48 feet wide extending about 200 feet to the lower powerhouse with reduced width to about 36 feet, and (b) about 45 feet wide and about 30 feet long at the upper powerhouse; (5) two powerhouses, the lower (a) with five generating units totaling 2,200 kW and the upper (b) with four generating units totaling 2,060 kW, giving a combined capacity of 4,260 kW; (6) transmission facilities consisting of: (a) the 600-volt generator leads and circuit breakers from the upper powerhouse to the bus of the No. 1 and No. 2 mill, and (b) at the lower powerhouse, the 600-volt generator leads and circuit breakers to the generator bus, the generator bus, and the 600-volt line and circuit breaker to connect the generator bus to the 600-volt bus of the step-down transformers which connect to the No. 3 mill; and (7) appurtenant facilities: the location, nature, and character of which are more specifically shown and described by the exhibits cited above and by certain other exhibits which also form part of the application for license and which are designated and described as:

Exhibit L	FERC drawing	Showing
Sheet 1	2655-2	Dam—General plan, elevation and typical section.
Sheet 2	2655-3	Powerhouses—Plans and elevation—Upper house.
Sheet 3	2655-4	Powerhouses—Plans and elevation—Lower house.

Exhibit M.: Consisting of two typewritten pages entitled "upper powerhouse equipment" and three typewritten pages entitled "lower powerhouse equipment" filed with the Commission on August 7, 1967.

By the Commission.

KENNETH F. PLUMB,
Secretary.

In testimony of its acknowledgment of acceptance of all of the terms and conditions of this Order, Reeves Brothers, Inc. this —— day of ————, 19—, has caused its corporate name to be signed hereto by ————, its ———— President, and its corporate seal to be affixed hereto and attested by ———— its ———— Secretary, pursuant to a resolution of its Board of Directors duly adopted on the —— day of ——, 19—, a certified copy of the record of which is attached hereto.

By ————,
President.

Attest:

————,
Secretary.

[FR Doc. 78-26475 Filed 9-20-78; 8:45 am]

[6740-02]

[Project No. 2749]

SOUTHSIDE ELECTRIC COOPERATIVE

Order To Show Cause

SEPTEMBER 12, 1978.

On April 1, 1977, the Southside Electric Cooperative (SEC) informed the Commission [1] that it had been unable to develop a fish and wildlife study outline within the time requirements set forth in article 10 [2] of the preliminary permit [3] for the proposed Randolph Hydroelectric project (FERC project No. 2749).[4] SEC requested that the Commission "grant additional time for completion and submission of the report outline and cost estimate scheduled for submission on April 1, 1977."

On May 24, 1977, the regional engineer from the Commission's Atlanta office informed SEC of the "need to increase your efforts in accomplishing the field investigations aspect of the work outlined under the permit in order to submit an acceptable application for license prior to expiration of the permit on March 31, 1979." The regional engineer requested SEC to submit a schedule for conducting the required studies. On June 14, 1977, the regional engineer again requested SEC to submit a schedule of activities.

On July 1, 1977, SEC informed the Commission that the required fish and wildlife study outline "should be completed and field work begun within the next several months." However, on October 1, 1977, and January 1, 1978, SEC again informed the Commission that the fish and wildlife study outline was not complete and requested an extension of time to meet the deadline of article 10.

On March 23, 1978, SEC advised the Commission that continuing problems were preventing completion of the requirements set forth in Article 10. In addition, SEC stated:

It also now appears that other phases of the work under the preliminary permit cannot be completed within the established 3-year period.

* * * * *

Preliminary geological work has been done but the on-site core drilling and laboratory analyses of foundation and construction materials is behind schedule.

* * * * *

Financial assistance from other participants is necessary before we can proceed with the geological work and field surveys for property and other requirements under Article 1-B.[5]

SEC at the same time requested an extension of the preliminary permit term. On April 1, 1978, SEC repeated its request that the Commission extend the term of the permit. On April 4, 1978, the Commission's Secretary informed SEC that "no extension of time can be granted which exceeds the 36-month term of the permit pursuant to Section 5 of the Federal Power Act." [6] The Secretary directed SEC "to inform the Commission of how you will be able to complete all the required field work and studies within the remaining permit period." SEC responded on April 19, 1978, by merely reiterating its previous comments and request for an extension of time.

On July 1, 1978, SEC informed the Commission that funds had now been appropriated for commencement of subsurface investigations and continuation of the fish and wildlife studies. SEC indicated, however, that it would not be able to complete the required studies within the allotted time and, inexplicably, renewed its request for an extension of the preliminary permit term.

SEC apparently continues to believe that the term of the preliminary permit can be extended beyond 36 months. Section 5 of the Act, of course, definitely precludes any extension. SEC's statements and actions indicate that it has failed to comply with the terms and conditions of the preliminary permit—specifically articles 1 and 10—and that it will be unable to rectify these violations within the remaining term of the permit. Consequently, we are ordering SEC to show cause why the permit should not be cancelled under article 6 of the permit and section 5 of the Federal Power Act (16 U.S.C. 798).

The Commission orders: Within 30 days from the date of this order, Southside Electric Cooperative, of Crewe, Va., shall under oath show cause, if there is any, why the preliminary permit for the proposed Randolph project No. 2749 should not be cancelled and priority of application for license be lost, pursuant to articles 6 and 3, respectively, of the permit and section 5 of the Federal Power Act, for: (1) failure to conduct diligently the investigations, examinations, and surveys required by articles 1 and 10 of the permit; and (2) inability of the permittee to finish the required investigations, examinations, and surveys within the remaining term of the permit.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26476 Filed 9-20-78; 8:45 am]

[1] This proceeding was commenced before the Federal Power Commission (FPC). By regulation of October 1, 1977, entitled "Transfer of proceedings to the Secretary of Energy and the FERC", it was continued before the Federal Energy Regulatory Commission (FERC). The "Commission", when used in the context of action before October 1, 1977, refers to the FPC; otherwise it refers to the FERC.

[2] Article 10 states: *Article 10.* Permittee, by the end of the first year of this permit, shall (1) have consulted with the U.S. Fish and Wildlife Service of the Department of the Interior, Virginia Commission on Game and Inland Fisheries, and North Carolina Wildlife Resources Commission and arranged for the preparation of a study of any effects which the proposed project would have on fish and wildlife resources and of facilities or measures needed to conserve or develop these resources and (2) file with the Commission an outline of the proposed study, including an estimate of cost thereof, and letters from each of the above Agencies indicating the extent of consultation. During the remaining two years of the permit, permittee shall fund or otherwise provide for such study. A copy of the report on the study shall be filed as part of the exhibit S of any subsequent application for license.

[3] Order issuing preliminary permit, project No. 2749, Southside Electric Cooperative, issued April 8, 1976. The permit was issued for a term of 3 years, effective April 1, 1976.

[4] The Randolph project would be located in Halifax, Campbell, and Charlotte Counties, Va., on the Roanoke (Staunton) River above Kerr Reservoir.

[5] SEC stated in its application for preliminary permit that geological work and property surveys, among other things, would be financed through REA guaranteed financing, National Rural Utilities Cooperative Finance Corp. and/or other bond issues. By their own admission in their March 23, 1978,

Footnotes continued on next page

Footnotes continued from last page

letter, "Southside Electric Cooperative was aware from the beginning that participation in the studies by Old Dominion Electric Cooperative (a joint organization representing all of the cooperatives in Virginia), cooperatives in North Carolina and municipally owned electric systems would be required."

[6] 16 U.S.C. 798.

[6740-02]

[Docket No. CI77-774]

TRANSCO EXPLORATION CO.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

SEPTEMBER 12, 1978

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 20, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft[1]	Pressure base
CI77-774, B, Aug. 22, 1977	Transco Exploration Co., P.O. Box 1396, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp. Southwest Gibson field, Terrebonne Parish La.	Depleted.	

Filing code: A—Initial service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total succession. F—Partial succession.

[FR Doc. 78-26487 Filed 9-20-78; 8:45 am]

[6740-02]

[Docket No. ER77-311]

UTAH POWER & LIGHT CO.

Further Extension of Time

SEPTEMBER 7, 1978.

On September 1, 1978, Lincoln Service Corp. filed a motion for a further extension of time to December 1, 1978, within which to file briefs on exceptions to the initial decision issued in this proceeding on June 12, 1978.

Two earlier requests by the same party have been granted, the last extension being until September 1, 1978.

The motion states that Utah Power & Light Co. and staff counsel have no objection to the request.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 2, 1978, for filing briefs on exceptions. Briefs opposing exceptions are due on or before October 23, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26477 Filed 9-20-78; 8:45 am]

V 43 / 184 SEP 21 1978

[6740-02]

[Docket No. CP78-221]

SOUTHWEST GAS CORP.

Informal Conference

SEPTEMBER 15, 1978.

Take notice that on September 28, 1978, at 10: a.m., an informal conference of all interested persons will be convened concerning the above-captioned matter. The conference will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, room 8402.

This informal conference was requested by Southwest Gas Corp. in its answer of September 7, 1978, to Sierra Pacific Power Co.'s motion for a public hearing in this docket. At the conference, all parties will be expected to be prepared to discuss their positions, if any, as to whether a formal hearing should be held in this matter and issues pertaining thereto. It should be noted that this informal conference is not in lieu of the hearing required by section 7(c) of the Natural Gas Act.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention.,

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26735 Filed 9-20-78; 11:19 am]

[3128-01]

ADVISORY COMMITTEE MANAGEMENT OFFICE

Telephone Number Change

The Department of Energy Advisory Committee Management staff has moved to room 8G-096, Forrestal Building, Washington, D.C. 20585. Information concerning advisory committee activities can be obtained by calling 202-252-5877.

Issued in Washington, D.C., September 18, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-26517 Filed 9-20-78; 8:45 am]

[3128-01]

STUDY GROUP ON GLOBAL EFFECTS OF CARBON DIOXIDE

Renewal of Charter

This notice is published in accordance with the provision of section 7 of the Office of Management and Budget Circular A-63, as amended. Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act, and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Study Group on the Global Effects of Carbon Dioxide has been renewed for 24-month period ending on September 8, 1980.

The renewal of the study group has been determined necessary and in the public interest. The study group will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), the Department of Energy Organization Act (Pub. L. 95-91) OMB Circular No. A-63 (Revised), and other directives and instructions issued in implementation of those Acts.

Further information regarding this Study Group may be obtained from the Department of Energy Advisory Committee Management Office, 202-566-9969.

Issued at Washington, D.C. on September 18, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-26517 Filed 9-20-78; 8:45 am]

[6732-01]

FEDERAL MEDIATION AND CONCILIATION SERVICE

ARBITRATION SERVICES ADVISORY COMMITTEE

Meeting

Notice is hereby given that the Federal Mediation and Conciliation Service Arbitration Services Advisory Committee, in accordance with section 10 of the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), will meet on Thursday, October 19 and Friday, October 20, 1978, at 9 a.m., in Conference Room 413, 2100 K Street NW., Washington, D.C.

The agenda is as follows:

1. Revision of 29 CFR 1404.
2. Code of professional responsibility.
3. Discussion on question submitted re: OAS policy on arbitrators' statements.
4. Discussion on hearing procedures.
5. Labor arbitrator development programs.
6. Labor arbitrator internships.
7. Case processing: New procedures; fiscal year 1978 statistics.
8. Arbitrator symposia.
9. Arbitrator workshops.

This meeting shall be open to the public.

Communications regarding this meeting should be addressed to:

Mr. John Canestraight, Associate Director, Office of Arbitration Services, Federal Mediation and Conciliation Service, Washington, D.C. 20427.

Signed at Washington, D.C., this fourteenth day of September 1978.

WAYNE L. HORVITZ,
Director.

[FR Doc. 78-26467 Filed 9-20-78; 8:45 am]

[4110-89]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Assistant Secretary for Education

COMMENTS ON COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The U.S. Office of Education has proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before October 23, 1978,

and should be addressed to Administrator, National Center for Education Statistics, ATTN: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: September 18, 1978.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity: Civil rights technical assistance and training programs.
2. Agency/bureau/office: U.S. Office of Education/equal educational opportunity programs.
3. Agency form number: OE Form 296.
4. Legislative authority for this activity: (A) *Technical assistance*—"The Commissioner is authorized, upon the application of any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools, to render technical assistance to such applicant in the preparation, adoption, and implementation of plans for the desegregation of public schools * * *."

(B) *Training institutes*—"The Commissioner is authorized to arrange, through grants or contracts, with institutions of higher education for the operation of short term or regular session institutes for special training designed to improve the ability of teachers, supervisors, counselors, and other elementary and secondary school personnel to deal effectively with special educational problems occasioned by desegregation * * *."

(C) *Grants to school boards*—"The Commissioner is authorized, upon application of school boards, to make grants to such board to pay, in whole or in part, the cost of—

"(1) Giving to teachers and other school personnel inservice training in dealing with problems incident to desegregation, and

"(2) Employing specialists to advise in problems incident to desegregation. (Pub. L. 88-352 Title IV; (42 U.S.C. 2000c-2; 20 U.S.C. 1231(b); *Lau* v. *Nichols*, 414 U.S. 563 (1974)); (45 CFR 180.11, 180.31, 180.41)."

5. Voluntary/obligatory nature of response: Required to obtain benefits.
6. How information to be collected will be used: The information will be used to determine the need for assistance and the amount of funds to be awarded.
7. Data acquisition plan:
(a) Method of collection: Mail.
(b) Time of collection: January.
(c) Frequency: Annually.
8. Respondents:
(a) State educational agencies, institutions of higher education, and local school districts.
(b) Number: Sample—300.
(c) Estimated average man-hours per respondent: Eight.
9. Information to be collected: The standard nonconstruction application form will be used with a narrative section designed to elicit information required by the statute or regulations.

(a)(1) Applicants for training institutes must provide the number of trainees to be served and the total public school enrollment of districts which have requested training services;

(2) Applicants for grants to school boards enter the total public school enrollment of the school district.

(b) Applicants for Title IV, Civil Rights Act awards, including awards to State educational agencies, desegregation assistance centers, training institutes and local school boards, are required to submit a program narrative presented in the following manner:

NEED FOR ASSISTANCE

a. For applicants for training institutes—Describe the specific needs of the proposed participants for training by type of public school personnel (i.e., teachers, principals, secretaries, etc.) and by individual school or school and/or LEA in which the participants work. Also, describe the type of assurances that have been obtained from LEA's for participation of the above personnel.

b. For applicants for school board grants—List and document the needs for which assistance is requested.

c. For applicants for State educational agency and desegregation assistance center awards—List the expected needs of responsible governmental agencies in the State or service area (as applicable).

APPROACH

a. For all applicants—Provide an assessment of the materials that are available for providing assistance under the award.

b. For applicants for State educational agency and desegregation assistance center awards—Describe the plan for coordinating its assistance with related activities; also

c. For applicants for State educational agency awards—Provide a description of the assistance that it would provide in response to requests from the responsible governmental agency expected to need assistance. Also, describe the activities undertaken that demonstrate commitment to race, sex, or national origin desegregation (as applicable).

d. For applicants for desegregation assistance center awards—Provide a description of its approach to providing the assistance described in 45 CFR § 180.13(d) (for race desegregation), § 180.14 (for sex desegregation), or § 180.15 (for national origin desegregation), as applicable; a description of its approach to providing assistance in coping with other education problems resulting from race, sex, or national origin desegregation (as applicable) that have arisen or may arise in its service area; and its management plan for providing assistance, including any plans for the use of satellite centers.

e. For applicants for training institute awards—Provide a detailed description of the training it would provide and of how that training would meet the needs of the participants, including any provisions for assessing their on-the-job performances. Applicants for sex desegregation training institutes must also provide the steps taken by LEA's listed in the application that demonstrate their commitment to sex desegregation.

f. For applicants for school board grants—Provide a detailed description of the uses to which it would put the requested assistance and how that assistance would address the needs. Describe the LEA's long-range plan for the sex desegregation of schools, including how the requested assistance will help implement the plan, and the steps already taken to implement the plan. Also, describe efforts to involve parents, students, and community groups in developing the application.

BIOGRAPHICAL INFORMATION

For all applicants—A statement of the qualifications of the project director, professional staff, consultants or other personnel to be employed under the award and a description of their responsibilities.

GEOGRAPHIC LOCATION

Give a precise location of the area to be served by the proposed project.

OTHER INFORMATION

a. For applicants for continuation desegregation assistance center awards—Discuss accomplishments to date and list in chronological order a schedule of accomplishments, progress or milestones anticipated with the new funding request. If there have been significant changes in the project objectives, location, approach, or time delays, explain and justify.

b. For requests for changes or amendments—Explain the reason for the change(s). If the scope or objectives have changed or an extension of time is necessary, explain the circumstances and justify. If the total budget has been exceeded, or if individual budget items have changed more than the prescribed limits contained in Federal Management Circular No. A-102, explain and justify the change and its effect on the project.

c. For requests for supplemental assistance—Explain the reason for the request and justify the need for additional funding.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity—Basic grant quality control project (verification from point of application through receipt of actual award).
2. Agency/bureau/office—Office of Education/Bureau of Student Financial Assistance/Division of Quality Assurance.
3. Agency form number—OE 628.
4. Legislative authority for this activity—"Each student desiring a basic grant for any year must file an application therefor containing such information and assurances as the Commissioner may deem necessary to enable him to carry out his functions and responsibilities under this subpart."
(Pub. L. 94-482.)
(20 U.S.C. 1070a (b)(2).)
(Subpart A, § 190.12, Nov. 6, 1974.)
5. Voluntary/obligatory nature of response—Required to obtain or maintain benefits.
6. How information collected will be used—The major objectives of this project are to: 1. Reliably document the program-wide error rates of 1978-79 BEOG student program determinations, including eligibility benefits amount and payments.
2. Optimally determine the specific types and probable causes of significant program-wide error rates in such determinations, if any; and

V 43 / 184 SEP 21 1978

3. Identify 1979-80 actions which can effectively reduce or eliminate errors, including design of ongoing quality control systems. Information obtained from the survey will: (1) Provide a baseline of highly reliable nationwide quality control data, to determine error rates; (2) provide detailed data and analysis on student and school analysis on student and school problems, to permit meaningful problem diagnosis; and (3) provide data-base program and management analyses, to support corrective action decisions and the design of future BEOG quality control programs.

7. Data acquisition plan—a. Method of collection: Personal interviews.

b. Time of collection: November 1978 to February 1979.

c. Frequency: One-time.

8. Respondents—a. Type: Postsecondary Educational Institutions participating in the basic grant program using regular disbursement system.

b. Number: Sample of approximately 170.

c. Estimated average man-hours per respondent: One-half hour.

a. Time: Postsecondary Educational Institutions participating in the basic grant program using alternate disbursement system.

b. Number: Sample of approximately 30.

c. Estimated average man-hours per respondent: One-half hour.

a. Time: Independent students at postsecondary educational institutions mentioned above.

b. Number: Sample of approximately 700.

c. Estimated average man-hours per respondent: One-half hour.

a. Time: Dependent students at postsecondary educational institutions mentioned above.

b. Number: Sample of approximately 1,300.

c. Estimated average man-hours per respondent: One hour.

a. Time: Parents of independent students mentioned above.

b. Number: Sample of approximately 700.

c. Estimated average man-hours per respondent: One hour.

a. Time: Parents of dependent students mentioned above.

b. Number: Sample of approximately 1,300.

c. Estimated average man-hours per respondent: One-half hour.

9. Information to be collected—Postsecondary Educational Institutions participating in the basic grant program using regular disbursement system. Data collected will relate to the basic regulations under which institutions make awards to students. In performing this task, we will perform the verification in two ways: (1) Reviewing the process used by the institutions in computing and making awards for compliance with the regulations; and (2) tracing the process for the sampled students to determine if the actual award amounts and payments are correct.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity—Request for designation as a developing institution under strengthening developing institutions program, Title III Higher Education Act of 1965, as amended (20 U.S.C. 1051-1056).

2. Agency/bureau/office—Office of Education, Bureau of Higher and Continuing Education, Division of Institutional Development.

3. Agency form number—OE-1049.

4. Legislative authority for this activity—"An institution desiring special assistance under the provisions of this title shall submit an application for eligibility to the Commissioner at such time, in such form, and containing such information, as may be necessary to enable the Commissioner to evaluate the need of the applicant for such assistance and to determine its eligibility to be a developing institution for the purposes of this title." (Pub. L. 92-318 Sec. 302(b); 20 U.S.C. 1052).

5. Voluntary/obligatory nature of response—Required to obtain benefits.

6. How information to be collected will be used—The Division will use the information in order to determine which institutions of higher education qualify as developing institutions for the purposes of Title III of the Higher Education Act of 1965, as amended, the strengthening developing institutions program.

7. Data acquisition plan—(a) Method of collection: Mail.

(b) Time of collection: Winter.

(c) Frequency: Annually.

8. Respondents—(a) Type: Colleges and Universities.

(b) Number: 1,000.

(c) Estimated average man-hours per respondent: 4.25.

9. Information to be collected—Part I, Institutional Data, provides information required in the law and regulations, including the following: Institutional eligibility status; whether it is requesting a waiver of several legal requirements; and certain financial and enrollment data. Part II, Institutional Narrative, describes the institution's mission and goals; efforts during the past 3 years to strengthen its instructional and administrative staffs and its student services; explain certain indicators of potential problems, if any; and justifies the request for a waiver, if applicable.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of proposed activity—Monitoring and evaluation reports for strengthening developing institutions program, Title III Higher Education Act of 1965, as amended (20 U.S.C. 1051-1056).

2. Agency/bureau/office—Office of Education, Bureau of Higher and Continuing Education, Division of Institutional Development.

3. Agency form number—OE-1049-2.

4. Legislative authority for this activity—"Grantee shall submit a performance report • • • (c) Performance reports shall include to the extent appropriate to the particular grant or contract, a brief presentation of the following for each function or activity involved: (1) A comparison of actual accomplishments to the goals established for the period • • • (2) Reasons for slippage in those cases where established goals were not met • • • (3) Other pertinent information • • • (45 CFR 100a. 432).

Section 304 (c)(1). An application for assistance • • • shall be approved only if it • • • (C) Sets forth policies and procedures for the evaluation of the effectiveness of the project or activity in accomplishing its purpose; • • •

(E) Provides for making such reports, in such form and containing such information, as the Commissioner may require to carry out his funcitons under this title • • • " (20 U.S.C. 1054) Pub. L. 92-318.

5. Voluntary/obligatory nature of response—Required to obtain or maintain benefits.

6. How information to be collected will be used—The Division will use the information to determine that adequate progress is being made toward achieving the goals of the grants.

7. Data acquisition plan—(a) Method of collection: Mail.

(b) Time of collection: Report 1, winter and summer. Report 2, summer.

(c) Frequency: Report 1, semi-annually. Report 2, annually.

8. Respondents—(a) Type: SDIP Grantee Colleges and Universities.

(b) Number: 350-400.

(c) Estimated Average man-hours per respondent: twelve.

9. Information to be collected—Report 1—Activity Monitoring Report, tracks performance in accordance with an established timetable in order to insure that time schedules are being met; and provides for explanations of deviations from the timetable.

Report 2—Activity Evaluation Report, indicates performance based on quantitative and qualitative measures for assessing achievement of the activity objectives.

Report 3—Supplemental Monitoring and Evaluation Information, provides a form for grantee to use to state reasons why established goals were not met and any other pertinent information.

[FR Doc. 78-26542 Filed 9-20-78; 8:45 am]

[4110-02]

Office of Education

ADVISORY COUNCIL ON FINANCIAL AID TO STUDENTS

Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the next meeting of the Advisory Council on Financial Aid to Students will be held on October 6, 1978, from 9 a.m. to 5 p.m. in room 4003 of Federal office building number 6, 400 Maryland Avenue, Washington, D.C.

The Advisory Council on Financial Aid to Students is established under section 499(a) of the Higher Education Act of 1965, as amended (20 U.S.C. 1089). The Committee shall advise the Commissioner on matters of general policy arising in the administration by the Commissioner of programs relating to financial assistance to students and on the evaluation of the effectiveness of these programs.

All meetings shall be open to the public. The agenda of the Council on October 6 shall include:

(1) Swearing in new members;

(2) Review of Council action and proposed activity for Fiscal Year 1979;

(3) Discussion of central concerns of the senior administrators of student aid programs.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Council's Office, located in Room 3661, Regional Office Building No. 3, 7th and D Streets SW., Washington, D.C. 20202.

Signed in Washington, D.C., on September 18, 1978.

WARREN T. TROUTMAN,
OE Delegate.

[FR Doc. 78-26493 Filed 9-20-78; 8:45 am]

[4110-35]

Health Care Financing Administration

RURAL HEALTH CLINIC SERVICES

Screening Guidelines and Payment Limit for Medicare and Medicaid Reimbursement

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice.

SUMMARY: This notice announces screening guidelines and a payment limit for determining medicare and medicaid reimbursement rates for covered rural health clinic services furnished by certain rural health clinics.

1. Screening guidelines: (a) Overhead costs may not exceed 30 percent of a clinic's total allowable costs unless reasonably justified by the clinic.

(b) Clinics with per visit costs of more than $16, including allowable overhead costs, are subject to the following health care staff productivity guidelines:

(i) At least three visits per hour per physician for rural health clinic services provided at the clinic;

(ii) At least two visits per hour per physician assistant and nurse practitioner for rural health clinic services provided at the clinic;

(iii) At least one visit per hour for any rural health clinic services provided at locations other than the clinic.

(c) Productivity guidelines will not reduce rates below $16 per visit.

(d) Clinics with per visit costs of $16 or less, including allowable overhead costs, are not subject to productivity guidelines.

2. Payment limit: In no event will rural health clinic reimbursement rates exceed $27.30.

DATES: These guidelines and the payment limit are effective for medicare for services furnished on or after March 1, 1978, and for medicaid for services furnished on or after July 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Marinos Svolos, Medicare Bureau, Health Care Financing Administration, Room 106, East High Rise, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9315.

SUPPLEMENTARY INFORMATION: The Rural Health Clinic Services Act of 1977 (Pub. L. 95-210) added rural health clinic services as a new benefit under part B of the medicare program, effective on March 1, 1978, and as a mandatory benefit under certain State medicaid plans, effective on July 1, 1978. Regulations concerning the reimbursement requirements for rural health clinics under medicare were published in the FEDERAL REGISTER (43 FR 8258) on March 1, 1978. Medicaid rural health clinic reimbursement regulations were published in the FEDERAL REGISTER (43 FR 30520) on July 14, 1978. These regulations should be consulted for further detail.

As provided in these regulations, medicare and medicaid reimbursement for rural health clinic services furnished by independent rural health clinics is made on the basis of an all-inclusive rate developed by the medicare carrier. Independent rural health clinics are those which are not provider clinics, as defined at chapter IV of 42 CFR, § 405.2425(a).

The all-inclusive rate is subject to tests of reasonableness developed by the Health Care Financing Administration (HCFA) or the carrier in accordance with § 405.2428. These tests of reasonableness also apply to medicaid reimbursement under § 405.30 (a)(10)(v). The tests authorized include screening guidelines intended to identify situations where costs will not be allowed without reasonable justification by the clinic, and a limit on the amount of payment. Under interim operating instructions furnished carriers for rural health clinic reimbursement, a screening guideline on clinic overhead cost and an upper limit for the all-inclusive payment rate were issued. The upper limit on the payment rate was based on the average of the prevailing charges in the State in which the clinic is located for a selected group of items and services which are typically furnished by rural health clinics. Prevailing charges for various services are determined by the medicare carrier in accordance with § 405.504. They generally represent the maximum amount payable under part B of medicare for services provided by physicians reimbursed on a reasonable charge basis. A number of clinics and others criticized the methodology used to determine the upper limit. They felt the limit did not reasonably relate to actual clinic costs. They also pointed out that inequities could occur in that similar clinics might be subject to different payment limits solely because of differences in prevailing charge levels in the States in which the clinics are located.

Taking these concerns into consideration, HCFA has decided to revise the upper limit on rural health clinic payment rates by using a single nationwise limit of $27.30 per visit. This limit was determined by the national mean plus one standard deviation of the average of the prevailing charges for a selected group of services based on a model of a typical rural health clinic patient visit. The services used in the calculation were an initial comprehensive physician's office visit for a new patient (9002), a routine followup physician's office visit for an established patient (9004), an initial comprehensive hospital visit (9022), and a routine laboratory procedure (8722). The numbers in parentheses are the procedure codes for these services from the 1964 California relative value study.

In computing the payment limit, the prevailing charges for these services were assigned relative weights based on the following assumptions that were derived from a review of the utilization experience of federally funded health centers and other ambulatory care utilization data. The limit assumes that about one out of every five patient visits will be an initial comprehensive visit of a new patient. Therefore, 20 percent of the prevailing charge for initial comprehensive physician's office visits was used in computing the average prevailing charges of the group of services. Ten percent of the prevailing charge for an initial comprehensive hospital visit was used in computing the average prevailing charges of the group of services to take account of the fact that rural health clinic services can be furnished in a hospital setting. It is expected that the relative frequency of rural health clinic services provided in a hospital setting should not exceed this. Seventy percent of the prevailing charge for routine followup physician's office visit was used in computing the average prevailing charges to account for the relative frequency of these services. The routine laboratory procedure selected, blood sugar, is typical both because of its frequency and its midrange prevailing charge. One hundred percent of the prevailing charge for the routine laboratory procedure was used because federally-funded health center visits average slightly less than one routine laboratory procedure per visit. Together this group of services, along with these relative weights, should represent a fair composite of the typical visit for rural health clinic services. HCFA will evaluate the patterns and frequency of services furnished in rural health clinics and will consider revisions if experience indicates that modifications are necessary.

In addition, the Health Care Financing Administration has decided to im-

V 43 / 184 SEP 21 78

plement screening guidelines to assess the reasonableness of the productivity of the clinic's health care staff. The productivity guidelines are applicable to clinics with per visit costs in excess of $16 after application of the overhead cost guideline. If the clinic's per visit cost after application of the overhead cost guideline is equal to or less than $16, the productivity guidelines are not applicable. Per visit cost is based on total allowable costs divided by total visits for both covered and noncovered rural health clinic services.

The productivity guidelines are as follows: (1) At least three visits per hour per physician for rural health clinic services provided at the clinic; (2) at least two visits per hour per physician assistant, nurse practitioner, specialized nurse practitioner, or nurse midwife for rural health clinic services provided at the clinic; and (3) at least one visit per hour for rural health clinic services provided at locations other than the clinic. Examples of services furnished at other locations are services of a nurse practitioner furnished at a hospital and visiting nurse services furnished at the patient's home. The productivity guidelines apply to the total time the physician or other practitioner actually spends in patient care activities or is available to provide patient care services. Allowance will be made for duties other than patient care.

If the minimum number of visits expected under a productivity guideline for a category of practitioner exceeds the total visits reported by the clinics for that category, the higher number of visits will be used to calculate the all-inclusive rate under § 405.2426 or annual reconciliation under § 405.2427. In no event, however, will the clinic's payment rate be reduced below $16 on account of the productivity guidelines.

The productivity guidelines are comparable with those used in connection with reimbursement for similar services furnished by federally funded health centers. In addition, the Bureau of Community Health Services of the Public Health Services uses similar screens in reviewing federally funded health center grant applications. Experience has shown them to be fair and workable.

The overhead cost screening guideline issued under the interim operating instructions is unchanged. Under this guideline, overhead costs which exceed 30 percent of a clinic's total allowable costs will not be included in allowable costs unless the clinic provides reasonable justification for such excessive costs. Justification must be based on adequate reasons and supporting documentation.

The overhead costs guideline is comparable to the guideline used in connection with federally funded health centers. Experience in that setting has shown this to be a good standard.

The Health Care Financing Administration plans to carefully evaluate the guidelines and payment limit based on actual program experience, and will consider revisions and additions if experience indicates that modifications or additional guidelines or limits may be necessary.

Dated: September 15, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

[FR Doc. 78-26466 Filed 9-20-78; 8:45 am]

[4110-83]

Health Resources Administration

HEALTH PROFESSIONS FINANCIAL DISTRESS

Application Announcement for Grants

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal year 1979 Grants for Health Professions Financial Distress are now being accepted under the authority of section 788(b) of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484).

Section 788(b) authorizes the Secretary to make grants to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry and public health to assist in meeting the costs of operation of these schools if they are in serious financial distress, or in meeting accreditation requirements if they have a special need for assistance in meeting these requirements. Funds can also be used for carrying out appropriate operational, managerial and financial reforms.

Requests for application materials and questions regarding grants policy should be directed to:

Grants Management Officer, Bureau of Health Manpower, HRA, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Md. 20782, Telephone: 301-436-6564.

To be considered for fiscal year 1979 funding, completed applications must be postmarked no later than November 3, 1978 and sent to the Grants Management Officer at the above address.

For programmatic information, please contact:

Office of Program Support, Bureau of Health Manpower, HRA, 3700 East-West Highway, Hyattsville, Md. 20782, Telephone: 301-436-6505.

Dated: September 15, 1978.

HENRY A. FOLEY,
Administrator, Health Resources Administration.

[FR Doc. 78-26543 Filed 9-20-78; 8:45 am]

[4110-08]

National Institutes of Health

CANCER CONTROL GRANT REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Control Grant Review Committee, National Cancer Institute, October 30,31, 1978, Building 31C, Conference Room 8, National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014. The meeting will be open to the public on October 30, 1978, from 8:30 to 9 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 30, 1978, from 9 a.m. to recess, and on October 31, 1978, from 8:30 a.m. to adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information about individuals associated with the applications.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014, 301-496-5708, will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Robert F. Browning, Executive Secretary, National Cancer Institute, Blair Building, Room 7A07, National Institutes of Health, Bethesda Md. 20014, 301-427-7945, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.399, National Institutes of Health.)

Dated: September 13, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-26539 Filed 9-20-78; 8:45 am]

[4110-08]

CANCER CONTROL INTERVENTION PROGRAMS REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Control Intervention Programs Review Committee, National Cancer Institute, October 12-13, 1978, Building 31C, Conference Room 9, National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014. The meeting will be open to the public on October 12, 1978, from 8:30 to 9 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 12, 1978, from 9 a.m. to recess, and on October 13, 1978, from 8:30 a.m. to adjournment, for the review, discussion, and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information about individuals associated with the proposals.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20143, 301-496-5708, will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Louis M. Ouellette, Executive Secretary, National Cancer Institute, Blair Building, Room 7A07, National Institutes of Health, Bethesda, Md. 20014, 301-427-7944, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.399, National Institutes of Health.)

Dated: September 13, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-26540 Filed 9-20-78; 8:45 am]

[4110-08]

CARDIOLOGY ADVISORY COMMITTEE

Amended Notice of Meeting

Notice is hereby given of a change in meeting location of the Cardiology Advisory Committee, National Heart, Lung, and Blood Institute, October 4, 1978, from National Institutes of Health, Building 31, Conference Room 9, to Federal Building, 7550 Wisconsin Avenue, Bethesda, Md., Conference Room 6C-01, which was published in the FEDERAL REGISTER on August 22, 1978 (43 FR 37220).

Dated: September 13, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-26541 Filed 9-20-78; 8:45 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

DEPENDENT MEMBERS LISTED IN CALIFORNIA RANCHERIA DISTRIBUTION PLANS AND/OR IN TERMINATION NOTICES PUBLISHED IN THE FEDERAL REGISTER

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 230 DM 2, and in the exercise of the reassigned authority to the Sacramento Area Director, by the Acting Deputy Commissioner by memorandum dated July 6, 1977, to handle rancheria restoration matters.

On February 20, 1976, judgment was entered in *Eddie F. Knight et al.* v. *Thomas S. Kleppe et al.*, and *Ambrose Duncan, Jr., et al.* v. *Thomas S. Kleppe et al.*, Nos. C-74-0005 and C-73-0034, U.S. Court, Northern District of California.

Under said judgment, the court declared that all Indians whose names have been listed or otherwise included in California rancheria distribution plans and/or in termination notices published in the FEDERAL REGISTER pursuant to 25 CFR 242.10 (1959) as "dependent members" of the immediate families of distributees are not terminated.

Accordingly, notice is hereby given deleting the names of the following dependent members from California rancheria distribution plans or termination notices published in the FEDERAL REGISTER and such dependent members are hereby considered to be unterminated, retain their status as Indians under Federal law, and are entitled to Federal services in accordance with the aforementioned decision of the district court:

ALEXANDER VALLEY RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Fred Adams	Son	04-07-39	5975 Soda Rock Ln. Healdsburg, CA	James R. Adams
Janette S. Adams	Daughter	07-03-40	" "	
James Adams, Jr.	Son	07-21-41	" "	
Louis D. Adams	Son	02-05-43	" "	
Lillian L. Adams	Daughter	09-25-44	" "	
Elaine F. Adams	Daughter	11-25-45	" "	
Donald L. Adams	Son	03-03-49	" "	
Rickey L. Adams	Son	03-02-54	" "	
Helen McCloud	Wife	04-26-37	2567 Mark West Sc. Rd. Windsor, CA	William McCloud
Sandra C. McCloud	Daughter	05-06-59	" "	

AUBURN RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Josephine Rey	Wife	09-28-1895	Route 3 Auburn, CA	Cleve Rey
Agnes V. Williams	Wife	02-26-16	Route 3 Auburn, CA	Victor Williams
Victor Williams, Jr.	Son	08-12-40	" "	
Virginia Williams	Daughter	07-19-42	" "	
Blanche Williams	Daughter	03-09-46	" "	
John Williams	Son	03-26-48	" "	
Janis Williams	Daughter	05-08-56	" "	
Alice E. Wiley	Wife	03-03-1893	Route 3 Auburn, CA	Joseph Wiley
Dearstine E. Starkey	Wife	06-10-07	Route 3 Auburn, CA	Jack T. Starkey
Harold S. Starkey	Son	02-25-45	" "	
Henry M. Starkey	Son	02-04-43	" "	
Violet A. Rey	Wife	09-22-12	Route 3 Auburn, CA	Cecil R. Rey
Leroy M. Rey	Son	10-18-40	" "	
Richard R. Rey	Son	05-10-42	" "	
Carolyn A. Rey	Daughter	03-28-44	" "	
Donald S. Rey	Son	09-08-46	" "	
Dwight A. Rey	Son	09-07-53	" "	

AUBURN RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Tom C. Cooper	Son	08-19-40	Rt. 3, Box 3029 Auburn, CA	Eunice Jordan
Fred J. Cooper	Son	07-28-41	P. O. Box 46 Colfax, CA	
Frances M. Adams	Wife	07-17-08	Box 3027, Rt. 3 Auburn, CA	Cleveland R. Adams
Jon Lindsey	Son	07-18-57	" "	
Jerry G. Suehead	Son	08-09-49	Route 3 Auburn, CA	Dolly S. Suehead
Billy W. Suehead	Son	05-15-52	" "	
Owen P. Suehead	Son	01-05-54	" "	
Barbara C. Suehead	Daughter	05-10-55	" "	
John O. Suehead	Son	09-29-57	" "	
Doyatta S. Moman	Daughter	02-25-48	Route 3 Auburn, CA	Carl Moman
Comas D. Moman	Son	02-29-52	" "	
Ronald D. Moman	Son	05-14-53	" "	
Carl E. Moman	Son	02-08-56	" "	
Preston Camp	Son	04-25-45	General Delivery Auburn, CA	Carolyn Camp
Jessica Camp	Daughter	04-25-49	" "	
Joyce Camp	Daughter	06-09-50	" "	
Thomas Camp	Son	06-09-50	" "	

AUBURN RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Christine Camp	Daughter	11-13-51	General Delivery Auburn, CA	Carolyn Camp
James Camp	Son	01-02-54	" "	
Michael Camp	Son	12-23-54	" "	
Ruth May Starkey	Sister	12-26-41	Route 3 Auburn, CA	Myrle Starkey
Wilfred H. Starkey	Son	12-29-37	Route 3 Auburn, CA	Guy A. Starkey
Amber Starkey	Granddaughter	10-01-57	" "	
Elda Starkey	Granddaughter	02-04-59	" "	
Mary Frost	Wife	11-30-1886	Route 3 Auburn, CA	E. J. Frost
Pamela Whitehouse	Daughter	10-03-55	1812 Webster St. Alameda, CA	Aileen W. Whitehouse
Robert F. Whitehouse, Jr.,	Son	11-07-56	Sonoma State Hospital Eldridge, CA	
Gene R. Whitehouse	Son	07-31-58	1812 Webster St. Alameda, CA	
Audrey Taylor	Wife	10-26-12	Route 3, Box 3035 Auburn, CA	Earl L. Taylor
Nina M. Wallace	Wife	02-24-24	423 Finley St. Auburn, CA	Alvin Wallace
April P. Wallace	Daughter	12-21-47	" "	
Alan Wallace	Son	06-08-49	" "	
Albert B. Wallace	Son	08-01-58	" "	

AUBURN RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Loraine I. Rey	Wife	08-24-23	Route 3, Box 3105 Auburn, CA	James N. Rey, Sr.
Susana D. Rey	Daughter	06-03-48	" "	
James N. Rey	Son	04-18-49	" "	
Robert L. Rey	Son	04-21-56	" "	
Douglas R. Rey	Son	11-01-57	" "	
Blanche Leggett	Wife	11-20-18	Route 3, Box 3029-A Auburn, CA	Lawrence Leggett
Clifford Leggett	Son	10-18-46	" "	
Doris Leggett	Daughter	01-27-48	" "	
Ernest M. Leggett	Son	02-18-50	" "	
Lawrence G. Leggett, Jr.,	Son	12-22-52	" "	
Sylvia M. Leggett	Daughter	08-16-54	" "	

BIG LAGOON RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Thomas Williams, Jr.	Son	07-13-49	P. O. Box 115 Trinidad, CA	Lila Williams
Franklin Lara	Grandson	09-28-54	" "	
Dale Lara	Grandson	05-23-56	" "	
Peter Lara	Son	08-22-57	Rt. 1, Box 240 Eureka, CA	Beverly Moorehead
Roger Moorehead	Son	09-09-58	" "	
Virgil Moorehead	Son	01-12-60	" "	
Holly Moorehead	Daughter	11-09-61	" "	

BIG SANDY RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Geraldine Alec	Daughter	10-05-40	P. O. Box 141 Auberry, CA	Lottie Baker Alec
Loretta Alec	Daughter	05-19-43	" "	
Linda Alec	Daughter	04-08-53	" "	
Janine Beecher	Daughter	12-23-61	Star Route Auberry, CA	Wilbur Beecher
Lori Beecher	Daughter	08-15-63	" "	
Jennie Littlefield Beecher	Mother	02-21-1883	Star Route Auberry, CA	Melba Ruth Beecher
Richard Lewis	Son	01-20-46	P. O. Box 54 Auberry, CA	Doris Anderson Lewis
Pearl Lewis	Daughter	04-21-47	" "	
Danny Lewis	Son	10-07-48	" "	
Constance Lewis	Daughter	02-13-50	" "	
Teresa Lewis	Daughter	02-07-51	" "	
Rodney Lewis	Son	02-19-52	" "	
Robert Lewis	Son	09-12-53	" "	
Wanda Lewis	Daughter	03-26-55	" "	
Phyllis Lewis	Daughter	03-07-56	" "	
Randy Lewis	Son	01-18-59	" "	
Rebecca L. Moore	Daughter	09-14-54	Star Route Auberry, CA	Elizabeth William Moore
Alberta L. Moore	Daughter	12-17-56	" "	

BIG SANDY RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
George M. Moore	Son	06-20-58	Star Route Auberry, CA	Elizabeth William Moore
Albert L. Moore	Son	02-20-60	" "	
Susan M. Moore	Daughter	05-15-61	" "	

BIG VALLEY RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Rosalia M. Ellis	Daughter	12-22-38	Rt. 1, Box 878 Lakeport, CA	Vivian Fred
Raymond C. Ellis	Son	04-24-41	" "	
Carl G. Fred	Son	09-20-55	" "	
Joanne Knight McCloud	Daughter	08-19-39	General Delivery Finley, CA	Ramona McCloud
Phillip McCloud	Son	06-09-41	" "	
Delphine McCloud	Daughter	07-10-42	" "	
Lucile McCloud	Daughter	08-12-46	" "	
Carol McCloud	Daughter	10-15-48	" "	
Angie McCloud	Daughter	02-03-50	" "	
Don McCloud	Son	05-14-52	" "	
Alida McCloud	Granddaughter	09-30-58	" "	
Kathy Razo	Granddaughter	03-36-58	" "	
Jessie Razo, Jr.	Grandson	07-11-59	" "	
Judith Landeros	Daughter	04-23-48	Rt. 1, Box 882 Lakeport, CA	Lorena Landeros
Pedro Landeros, Jr.	Son	08-31-50	" "	
Anita Landeros	Daughter	03-17-54	" "	
Eugene Inoz	Son	01-02-59	" "	
Loraina Reyes	Daughter	11-11-38	Rt. 1, Box 883 Lakeport, CA	Virginie Elgin
Debra Reyes	Granddaughter	02-08-57	" "	
Sandra Reyes	Granddaughter	03-23-59	" "	

BIG VALLEY RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Louise Marando	Wife	10-14-1883	Route 1 Lakeport, CA	Frank Marando
Ada Williams	Wife	08-17-15	General Delivery Lakeport, CA	Lindsey Williams
Lindsey Williams, Jr.	Son	08-03-42	" "	
Anthony Williams	Son	12-11-49	" "	
Lynn Williams	Daughter	07-09-52	" "	
Annie Jack	Wife	03-09-09	Lakeport, CA	Hudson Jack
Cedric Jack	Son	12-31-39	" "	
David Jack	Son	11-28-42	" "	
Leeta Jack	Daughter	04-24-46	" "	
Valentina Jack	Son	02-14-50	" "	
Neal Jack	Son	04-18-52	" "	
Agnes John	Wife	04-05-09	Box 664 Finley, CA	Oscar John
Ramona Gomez	Wife	01-07-17	Rt. 1, Box 887 Lakeport, CA	Lewis Gomez
Francis Dennison	Wife	04-07-1890	Lakeport, CA	Lincoln Dennison
Dwight Dennison	Grandson	03-22-51	" "	
Christine Posh	Daughter	04-27-38	Rt. 1, Box 800 Lakeport, CA	Vivian Posh

BIG VALLEY RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Carroll Posh	Son	11-06-40	Rt. 1, Box 800 Lakeport, CA	Vivian Posh
Wayne Posh	Grandson	10-11-57	" "	
Beverly John	Wife	01-25-37	Lakeport, CA	Curtis John
Craig John	Son	12-26-56	" "	
Dominic John	Son	05-08-59	" "	
Clara Holmes	Wife	01-01-1892	General Delivery Lakeport, CA	Harris Holmes
Luella Fred	Wife	02-27-35	Finley, CA	Kenneth Fred
Doyle Fred	Son	06-10-54	Finley, CA	Bernedine Fred
William Fred	Son	03-02-56	" "	
Leola Fred	Wife	02-20-29	Finley, CA	Robert Fred
Robert L. Fred, Jr.	Son	01-04-56	" "	
Flamon McCloud	Son	05-10-50	P. O. Box 160 Geyserville, CA	Francis McCloud
Gertrude McCloud	Daughter	01-24-54	" "	
Cathryn McCloud	Daughter	11-13-55	" "	
Wayde McCloud	Son	03-24-58	" "	
Evelyn F. McCloud	Daughter	09-18-59	" "	
Ivan McCloud	Son	06-05-52	" "	

BIG VALLEY RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Cynthia Williams	Daughter	09-15-46	Box 95 Finley, CA	Dorothy Morrison
Eva Morrison	Daughter	11-03-55	" "	
Ethel Moon	Daughter	12-02-58	" "	
David J. Minden	Son	08-25-55	3837 N. E. 19th Ave. Portland, Oregon	Marion Minden
Yvonne Johnson	Daughter	04-26-55	Rt. 1, Box 880 Lakeport, CA	Adeline Martin
Bruce Johnson	Son	07-12-56	" "	
Larry Johnson	Son	02-04-58	" "	
Gertie Martin	Wife	03-07-18	Rt. 1, Box 880 Lakeport, CA	Harvey Martin
Alex Martin	Son	08-17-42	" "	
Sharon Martin Perez	Daughter	06-20-49	" "	
Nora Gomez	Wife	09-30-33	Box 591 Maxwell, CA	Joe Gomez
Norma Gomez	Daughter	09-10-53	" "	
Joe Gomez, Jr.	Son	10-24-54	" "	
Wade Gomez	Daughter	01-01-55	" "	
Eddie Gomez	Son	12-10-57	" "	
Zelda Gomez	Daughter	04-18-41	Lakeport, CA	Mitchell Gomez
Casey Gomez	Son	04-23-43	" "	

BIG VALLEY RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Catherine Gomez	Daughter	06-27-48	Lakeport, CA	Mitchell Gomez
Arnold Gomez	Son	07-19-49	" "	
Norma Gomez	Daughter	11-17-50	" "	
Douglas Martin	Son	05-23-55	Rt. 1, Box 884 Lakeport, CA	Diane Batres
Rebecca Batres	Daughter	04-06-58	" "	
Janice Lozintos	Wife	10-06-32	Box 95 Finley, CA	George Lozintos, Jr.
Deborah Lozintos	Daughter	09-18-58	" "	
Ben G. Ray	Son	08-01-44	Rt. 1, Box 881 Lakeport, CA	Katherine Ray
Loretta G. Ray	Daughter	03-10-45	" "	
Raymond C. Ray	Son	12-25-46	" "	
Peggy Ray	Daughter	12-29-48	" "	
Conrad Velez	Son	06-11-50	" "	
Gregory Velez	Son	05-19-51	" "	
Richard Velez	Son	03-08-52	" "	
Lola Mae Velez	Daughter	08-05-54	" "	
Jeannette Martin	Wife	12-30-38	Rt. 1, Box 881 Lakeport, CA	Kenneth Martin
Wanda Martin	Daughter	01-14-55	" "	
Vincent Martin	Son	12-12-56	" "	

BIG VALLEY RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Ronald F. Montez	Son	11-17-49	276 E. Bloom St. Los Angeles, CA	Rose Barnes
Howard R. Chavez	Son	01-21-55	" "	
Elmer Carrol	Son	06-21-40	Rt. 1, Box 884 Lakeport, CA	Harline Marando
Lorenzo Marando	Son	03-19-50	" "	
Geraldine Marando	Daughter	05-21-51	" "	
Manuel Marnado	Son	04-21-53	" "	
Lenore Ponce	Daughter	06-30-52	2363 Lever Blvd. Stockton, CA	Florence Ponce
Vera Ponce	Daughter	07-25-53	" "	
Robert Ponce, Jr.	Son	07-25-54	" "	
Johnny Ponce	Son	09-02-55	" "	
Marcia Ponce	Daughter	09-25-57	" "	
Ruben Elgin	Son	09-06-50	Rt. 1, Box 883 Lakeport, CA	Priscilla Elgin
Rita Elgin	Daughter	03-21-53	" "	
Dolores Arquileda	Daughter	12-27-54	" "	
Emilio Pasolo	Son	04-14-59	Rt. 1, Box 883 Lakeport, CA	Alberta Guzman
Cynthia Elgin	Daughter	11-11-52	Rt. 1, Box 883 Lakeport, CA	Mary Campa
Mavia Campa	Daughter	10-24-53	" "	

BIG VALLEY RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Ralph Campa, Jr.	Son	10-17-54	Rt. 1, Box 883 Lakeport, CA	Mary Campa
Gloria Knight	Daughter	12-10-41	Rt. 1, Box 881 Lakeport, CA	McKinley Knight
Rose Mary Hernandez	Granddaughter	10-14-58	" "	
Kenneth N. Fred	Son	02-25-52	General Delivery Lakeport, CA	Charlotte John
Shirley A. Fred	Daughter	12-18-53	" "	
Nina Ann Ramos	Daughter	08-03-57	Box 271 Ukiah, CA	Nancy Martin Ramos
Milford John, Jr.	Son	01-15-39	General Delivery Lakeport, CA	Sybil John
Marston P. John	Son	01-04-40	" "	
Godfrey John	Son	03-16-41	" "	
Harmon J. John	Son	05-15-43	" "	
Walter V. John	Son	02-06-47	" "	
Lydia Madrid	Daughter	01-07-58	Rt. 1, Box 882 Lakeport, CA	Evelyn Martin
Rebecca Molino	Niece	12-22-46	General Delivery Finley, CA	Violet Gonzales
Maynard McCloud	Nephew	05-20-46	" "	

BIG VALLEY RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Darnell McCloud	Son	10-05-51	General Delivery Finley, CA	Lillian Holmes
Margaret McCloud	Daughter	05-29-54	" "	
Cherene Mota	Daughter	09-03-57	" "	
Carmen Del Valle Hartman	Daughter	07-31-40	Maxwell, CA	Elizabeth Del Valle
Delores Del Valle	Daughter	09-14-42	" "	
Mary Del Valle	Daughter	09-19-44	" "	
Joseph Del Valle, Jr.	Son	07-23-47	" "	
Freddy Del Valle	Son	12-14-49	" "	
Patricia Del Valle	Daughter	10-01-52	" "	
Leonard Del Valle	Son	08-21-54	" "	
Frankie Del Valle	Son	02-15-58	" "	
Fredrick Lozintos	Son	01-14-41	Box 53 Finley, CA	Dorothy Partida
Connie Partida	Daughter	04-15-50	" "	
Jane Partida	Daughter	08-12-53	" "	
Darryl Partida	Son	09-21-54	" "	
Pedro Partida, Jr.	Son	09-12-56	" "	
Chris Partida	Son	11-12-57	" "	

BLUE LAKE RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Gladye Brown	Wife	02-08-12	Box 372 Blue Lake, CA	Wesley Brown
Betty (Elizabeth) Brown	Daughter	08-26-39	" "	
Kenneth Brown	Son	05-19-41	" "	
Nadine Brown	Daughter	04-21-43	" "	
Beverly Brown Underhill	Daughter	06-19-45	" "	
Norma Brown	Daughter	08-14-46	" "	
Marilyn Brown	Daughter	06-17-47	" "	
Ivye Ortinier	Daughter	10-20-49	Blue Lake, CA	Charles Lee Ortinier
Helen Ortinier	Daughter	03-15-51	" "	
Sylvia Ortinier	Daughter	01-20-53	" "	
Oscar Brundin, Jr.	Son	02-13-39	Box 184 Blue Lake, CA	Oscar Brundin
David James Brundin	Son	03-25-41	" "	
Howard Brundin	Son	05-16-43	" "	
Claudia Brundin	Daughter	10-10-45	" "	

CACHE CREEK RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Marshall C. McKay	Son	06-05-52	Clear Lake Oaks, CA	Mabel McKay

CHICKEN RANCH RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Hazel Connolly	Daughter	01-02-40	Jamestown, CA	Ida B. Connolly
Arrestina Connolly	Daughter	08-28-41	" "	
Lloyd R. Mathiesen	Son	05-08-40	P. O. Box 501 Jamestown, CA	Inez E. Mathiesen
Loren W. Mathiesen	Son	08-07-44	" "	
Cleis L. Mathiesen	Daughter	09-25-48	" "	
Carl D. Mathiesen	Son	12-01-49	" "	
Anna Louise Bean	Daughter	02-11-43	Box 313 Sonora, CA	Jack Bean
Marlene Esther Bean	Daughter	07-28-46	" "	
Maude Rhoan	Wife	05-30-03	Box 415 Jamestown, CA	Sam Rhoan

NOTICES

CHICO RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Linda Frakes	Daughter	02-05-48	P. O. Box 219 Central Valley, CA	Barbara Jean Beasley
Koreen Beasley	Daughter	11-02-50	" "	
Wayne Beasely	Son	04-18-55	" "	
Kurlin E. Stubblefield	Son	04-12-46	Rt. 3, Box 639 Smyrna, Georgia	Lillian Stubblefield
LeRoy C. Stubblefield	Son	01-02-51	" "	
Kathy Stubblefield	Daughter	03-03-53	" "	
Esther Clements	Wife	10-16-07	P. O. Box 25 Tehama, CA	Luther Clements
Patti J. Sylvera	Daughter	05-23-56	1064 Cypress St. Chico, CA	Homer Sylvera, Jr.
Craig S. Sylvera	Son	05-23-59	" "	
Rosie A. Nuckolls	Daughter	09-22-57	P. O. Box 2 Bella Vista, CA	Alfred Nuckolls
DeAnn Sylvera	Daughter	04-01-52	13691 Wake Ave. Wherry Park Santa Ana, CA	Donald Sylvera
Dawn Sylvera	Daughter	11-04-53	" "	
Denise Sylvera	Daughter	10-22-54	" "	
Donna Sylvera	Daughter	02-07-56	" "	
Devin Sylvera	Son	08-14-58	" "	

CHICO RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
John W. McHenry	Son	02-11-55	308 Walnut St. Chico, CA	Delores McHenry
Vance L. McHenry	Son	07-10-56	" "	
Robert M. McHenry	Son	07-24-57	" "	
Patricia L. McHenry	Daughter	09-03-58	" "	
Robyn D. McHenry	Daughter	09-07-60	" "	
Shirley Delgado	Wife	07-02-21	Box 195 Clearlake Park, CA	Carl Delgado
Carlene Delgado	Daughter	10-12-44	" "	
Frederick Delgado	Son	05-09-48	" "	
Stella Conway	Wife	09-01-1897	328 "I" St. Rio Linda, CA	Isaiah Conway
Thelma Conway	Wife		328 "I" St. Rio Linda, CA	Vernon Conway
Raymond Conway	Son	01-07-58	" "	
Loretta Lynn	Daughter	01-13-60	" "	
Julia Conway	Wife	02-16-34	735 W. 1st Ave. Chico, CA	Ivan Conway
Ronald Conway	Son	07-17-47	" "	
Beatrice Clements	Daughter	07-05-49	Box 12 Gerber, CA	Luther L. Clements
Luther V. Clements	Son	03-31-51	" "	
George L. Clements	Son	05-07-54	" "	
Roberta J. Clements	Daughter	09-19-60	" "	

NOTICES

CHICO RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Robert C. Payne	Son	02-05-47	Edmonds, WA	Ruth Payne
Ryen A. Payne	Son	11-03-50	" "	
Corina L. Payne	Daughter	05-07-51	" "	
Joshua D. Clements	Son	06-06-58	Box 226 Chualar, CA	Earl Clements
Rodney J. Clements	Son	02-01-60	" "	
Rebecca C. Drenon	Daughter	08-19-51	Richfield, CA	Joyce Drenon
Roxanna Drenon	Daughter	08-26-52	" "	
Ted. E. Drenon	Son	08-11-55	" "	
Ronald C. Drenon	Son	07-24-59	" "	
Connie D. Rogers	Daughter	09-28-45	Rt. 1, Nine Mile Falls, WA	Barnice Rogers
Douglas E. Rogers	Son	10-09-47	" "	
Jerry Ann Wilson	Wife	08-26-36	P. O. Box 1122 Burney, CA	Edward N. Wilson, Jr
Patricia Nuckolls	Wife	11-25-24	P. O. Box 418 Central Valley, CA	Maynard Nuckolls
Douglas E. Nuckolls	Son	04-15-46	" "	
Amanda B. Wilson	Daughter	03-12-59	107 Magnolia Ct. Deptford Homes Savannah, GA	Marvin Wilson

CHICO RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Marlene P. Potter	Daughter	05-13-51	P. O. Box 51 Ukiah, CA	Frances G. Potter
William G. Potter	Son	08-21-57	" "	
Harold L. Potter	Son	06-02-59	" "	
Edward F. Ramirez	Son	06-15-51	1020 Applegate Klamath Falls, OR	Norma Ramirez
Jessie J. Ramirez, Jr.	Son	08-31-52	" "	
Tony M. Ramirez	Son	05-15-54	" "	
Peter R. Ramirez	Son	02-21-56	" "	
David G. Ramirez	Son	03-14-57	" "	
Dennis E. Ramirez	Son	04-18-60	" "	
Jimmie S. Durant	Son	07-06-59	852½ Wisconsin St. Chico, CA	Jimmie Durant
Frank C. Ramirez	Son	01-13-52	620 W. Sacramento Ave. Chico, CA	Harriet Ramirez
Grover S. Ramirez	Son	04-18-53	" "	
Lenora E. Ramirez	Daughter	10-14-55	" "	
John G. Ramirez	Son	01-03-57	" "	
Lenora Wilson	Wife	02-19-1898	620 W. Sacramento Ave. Chico, CA	Sherman Wilson
Robert E. Wilson	Grandson	04-15-45	" "	

CHICO RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
John N. Aranda, Jr.	Son	06-11-43	1333 Normal St. Chico, CA	Genevieve Aranda
Barbara J. Aranda Rose	Daughter	06-07-44	" "	
Kenneth F. Aranda	Son	08-14-45	" "	
Juanita M. Aranda	Daughter	10-18-46	" "	
Donna F. Aranda Davis	Daughter	04-16-48	" "	
Eileen Gladys Wilson	Daughter	05-28-60	P. O. Box 145 Redwood Valley, CA	Lewis Wilson
Elsie Wilson	Wife	02-24-30	General Delivery Ukiah, CA	Harold Wilson
Lloyd E. Pomeroy	Son	01-30-50	P. O. Box 187 Auburn, CA	Mary Jane Pomeroy
William R. Simpson	Son	11-05-52	P. O. Box 1 Tehama, CA	Juanita Simpson

CLOVERDALE RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Virginia Buck	Wife	07-06-09	28640 Redwood Hwy. 101 S., Cloverdale, CA	Ernest Buck
Carl Buck	Son	09-19-44	" "	
Stephanie Stanley	Granddaughter	04-10-49	" "	
Karen Hermosillo	Daughter	06-21-53	General Delivery Cloverdale, CA	Blanche Hermosillo
Carmelita Hermosillo	Daughter	08-30-54	" "	
Ricardo Hermosillo	Son	03-05-58	" "	
Eleice Willits	Daughter	09-04-45	" "	
Carmen Santana	Wife	02-28-23	Box No. D Cloverdale, CA	John Santana
Gerald Santana	Son	10-11-44	" "	
Linda Santana	Daughter	11-27-45	" "	
Antoinette Santana	Daughter	10-31-48	" "	
Patty Santana	Daughter	04-09-57	" "	
Patrick Doller	Grandson	03-17-40	General Delivery Cloverdale, CA	Agnes Santana
Eugene Jack	Son	03-11-43	Box D Cloverdale, CA	Lillian Jack
Alvin Jack	Son	06-26-49	" "	

ELK VALLEY RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Margie Seymour	Daughter	05-20-41	Rt. 2, Box 121-A Crescent City, CA	Roy Seymour
Joseph Seymour	Son	09-26-46	" "	
Elizabeth Seymour	Daughter	10-08-49	" "	
Mabla Seymour	Daughter	04-19-51	" "	
David Franklin	Son	02-19-55	Rt. 2, Box 121-C Crescent City, CA	Nadine Franklin
John Franklin	Son	02-16-57	" "	
Lavina Butrick	Daughter	02-04-52	Rt. 2, Box 122 Crescent City, CA	Janet Butrick
Emery Matts, III	Son	07-08-48	P. O. Box 811 Crescent City, CA	Emery Matts, Jr.
Betty Matts	Daughter	11-29-49	" "	
Margie Morris	Wife	06-18-35	Rt. 1, Box 681 Crescent City, CA	Ronald Morris
Gemmie Morris	Daughter	08-18-57	" "	
Colleen Morris	Daughter	12-28-58	" "	
Jana Olsen	Daughter	08-30-55	Box 263 Anqwin, CA	Winnifred Scott Olsen
Janell Olsen	Daughter	02-22-58	" "	
David Norris	Son	01-21-50	General Delivery Crescent City, CA	Peter Norris
Peggy Norris	Daughter	11-17-52	" "	

ELK VALLEY RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Sally Ann Norris	Daughter	05-13-54	General Delivery Crescent City, CA	Peter Norris
Machelle Covey Lopez	Daughter	02-16-54	Rt. 2, Box 105 Crescent City, CA	Arnold Lopez
Norman Green	Son	03-25-44	Rt. 2, Box 167 Crescent City, CA	Kenneth Green, Sr.
Elsie Green	Daughter	05-25-45	" "	
Brenda Green	Daughter	11-26-53	Rt. 2, Box 168-A Crescent City, CA	Betty Green
John D. Green	Son	02-14-55	" "	
Ardis Norris	Wife	11-04-32	Rt. 2, Box 170-A Crescent City, CA	Eldred W. Norris, Sr
Debra Norris	Daughter	05-10-54	" "	
Latha Norris	Daughter	10-01-56	" "	
Eldred W. Norris, Jr.	Son	07-06-59	" "	

GRATON RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Gloria Truvido	Daughter	06-01-45	10091 Occidental Rd. Sebastopol, CA	Frank Truvido

GREENVILLE RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Marlene Peters	Daughter	12-23-42	P. O. Box 405 Greenville, CA	William Charles Peters
Betty Peters	Daughter	06-28-45	" "	
Clara Pauline Ives	Daughter	04-04-42	1339 Guill St. Chico, CA	Wilhelmina Ives
Alice Mix Tejado	Daughter	09-07-42	Rt. 2, Box 707 Live Oak, CA	Lorraine Mix
Norma E. Benner	Wife	06-06-37	Box 122 Greenville, CA	Eugene E. Benner
Joni J. Benner	Daughter	09-16-56	" "	
Velda V. Benner	Daughter	11-20-58	" "	
Aletha H. Peck	Wife	09-25-19	Box 54 Greenville, CA	Elmer H. Peck
Mildred C. Peck	Daughter	12-30-43	" "	
Norma J. Peck	Daughter	03-02-45	" "	
Emmie E. Peck	Son	01-23-47	" "	

GUIDEVILLE RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Pamelle Pike	Daughter	11-04-47	Talmage, CA	Minerve Pike
Colene Peters	Daughter	12-18-56	Talmage, CA	Betty Peters
Randy Peters	Son	03-07-58	" "	

INDIAN RANCH RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Vivian Hanson	Wife	04-11-30	Box 103 Olanche, CA	Dugan Hanson
Michael Hanson	Son	07-13-47	" "	
James Hanson	Son	05-19-50	" "	
Elaine Hanson	Daughter	01-22-52	" "	
Barbara Hanson	Daughter	04-19-55	" "	

JACKSON RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Earl Dalton, Jr.	Son	02-23-57	Star Route 1 Jackson, CA	Nargaret Hughes Dalton
Dennis Dalton	Son	08-26-58	" "	
Robert Dalton	Son	09-22-62	" "	
Adam Dalton	Son	04-21-65	" "	

LYTTON RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Carol J. Steele	Wife	01-15-32	561 Alexander Valley Healdsburg, CA	Daniel T. Steele
Sharon James Steele	Stepdaughter	03-10-53	" "	
Daniel T. Steele, Jr.	Son	06-16-54	" "	
Janice E. Steele	Daughter	08-24-56	" "	
Bert Steele	Son	07-22-57	" "	
Donald Gonzales	Son	05-02-45	311 Boyce St. Santa Rosa, CA	Sarah Gonzales
Angelia Gonzales	Daughter	12-10-46	" "	
Donna Gonzales	Daughter	12-24-49	" "	
Kenneth Gonzales	Son	01-13-51	" "	
Henry Gonzales	Son	08-09-52	" "	
Edward Steele	Grandson	09-17-50	725 Hudepath St. Santa Rosa, CA	Mary Steele
Frank T. Madera	Son	10-04-41	1511 W. Side Rd. Healdsburg, CA	Rosaline Madera Zumino
Paloma Madera	Daughter	12-30-44	" "	
Brenda Zumino	Daughter	06-13-58	" "	
Charlotte Zumino	Daughter	08-23-59	" "	
Julie A. Silly	Daughter	09-08-51	Rt. 1, Box 81-A Calistoga, CA	Eleanor Lopez
Candice L. Silly	Daughter	12-19-52	" "	

LYTTON RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Gloria S. Lopez	Daughter	05-02-56	Rt. 1, Box 81-A Calistoga, CA	Eleanor Lopez
Valarie G. Lopez	Daughter	10-01-57	" "	
Nannette R. Lopez	Daughter	09-30-58	" "	
Calvin Miller	Son	05-10-44	Box 103 Healdsburg, CA	Doris Miller
Mary Miller	Daughter	06-12-49	" "	
Nedine A. James	Niece	12-18-40	515 Alexander Valley Healdsburg, CA	Dolores Myers
James J. Myers	Son	09-02-52	515 Alexander Valley Healdsburg, CA	James E. Myers

MARK WEST RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Ida Steele	Wife	10-01-10	126 Scott St. Santa Rosa, CA	William B. Steele
Suzanne Steele	Daughter	05-23-40	" "	
William B. Steele, Jr.	Son	05-13-43	" "	
Sylvia Steele	Daughter	09-09-45	" "	

MOORETOWN RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Ina Jackson	Wife	08-14-1876	Feather Falls, CA	Robert Jackson

PICAYUNE RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Winnie Wyatt	Daughter	05-18-39	P. O. Box 74 Coarsegold, CA	Gordon Wyatt
Holly Wyatt	Daughter	12-06-41	" "	
Jane Wyatt	Daughter	12-21-43	" "	
Louis Ramirez, Jr.	Son	12-27-51	P. O. Box 75 Coarsegold, CA	Maryan Ramirez
Ruth A. Ramirez	Daughter	10-29-53	" "	
Anthony Ramirez	Son	12-03-54	" "	
Mona L. Ramirez	Daughter	08-13-57	" "	
Mike Ramirez	Son	03-22-59	" "	

PINOLEVILLE RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Marjorie Maize	Wife	07-22-19	Box 633 Ukiah, CA	Francis Maize
Marjorie Maize	Daughter	02-20-39	" "	
Lillie Ann Maize	Daughter	01-28-40	" "	
Ralph Maize	Son	04-08-41	" "	
Edith Maize	Daughter	02-24-43	" "	
Harold Maize	Son	09-08-45	" "	
Verle Maize	Daughter	09-08-46	" "	
Loretta Maize	Daughter	09-15-47	" "	
Gertrude McGee	Daughter	02-12-23	General Delivery Ukiah, CA	Elsie McGee
Eugene Avelino	Grandson	10-14-47	" "	
Loreiei Avelino	Granddaughter	06-03-49	" "	
Mary K. Mitchell	Wife	04-22-12	Box 142 Calpella, CA	Joe Mitchell
Karen Mitchell	Daughter	01-25-50	" "	
Jim Jackson	Grandson	12-10-40	Rt. 1-N, Box 529 Ukiah, CA	Mollie Jackson
Stella Wright	Wife	08-16-1900	Rt. 1-N, Box 529 Ukiah, CA	Allen Wright
Caroline Wright	Daughter	07-24-35	" "	
Janice Wright Leggett	Daughter	05-10-39	" "	
May Wright	Daughter	01-05-40	" "	

PINOLEVILLE RANCHERIA (continued)

Deletion of dependant family members	Relationship to distributee	Date of Birth	Address	Distributee
Fredrick Wright	Son	10-27-43	Rt. 1-N, Box 529 Ukiah, CA	Allen Wright
Donna Lockhart	Daughter	02-08-42	Box 55 Ukiah, CA	Lorraine Lockhart
Sylvia Miller Watchman	Daughter	07-22-40	Rt. 1-N, Box 529 Ukiah, CA	Nelson Miller
Arvada Miller	Daughter	11-22-42	" "	
Henry Miller	Son	11-28-44	" "	
Don Williams	Son	03-26-44	Rt. 1-N, Box 536 Ukiah, CA	Smith Williams
Nancy J. Williams	Daughter	07-05-46	" "	
Leona Williams	Daughter	02-22-49	" "	
Kenneth Knight, Jr.	Son	11-24-42	Box 633 Ukiah, CA	Kenneth Knight
Mary Ann Knight	Daughter	11-24-42	" "	
Elizabeth Knight	Daughter	12-09-46	" "	
Michael Knight	Son	03-12-48	" "	
Diana Pollack	Daughter	07-18-46	Box 556 Ukiah, CA	Marie Pollock
Gary Pollock	Son	03-15-48	" "	
Geraldine Allen	Wife	03-19-21	Rt. 1, Box 538 Ukiah, CA	Leonard Allen

INOLEVILLE RANCHERIA (continued)

Deletion of dependant family members	Relationship to distributee	Date of Birth	Address	Distributee
Leonard Allen, Jr.	Son	12-01-44	Rt. 1, Box 538 Ukiah, CA	Leonard Allen
Michael Allen	Son	10-22-49	" "	
Sheron Allen	Daughter	09-27-52	" "	
John Allan	Son	10-19-53	" "	
Elsie Allen	Wife	09-26-1900	Rt. 1, Box 538 Ukiah, CA	Arthur Allen
Jacqueline Mitchell	Granddaughter	04-23-48	" "	
Jane Allen	Wife	10-09-21	Box 222 Ukiah, CA	Lawrence Allen
Martha Knight	Stepdaughter	07-19-42	" "	
Sandra Knight	Stepdaughter	04-14-46	" "	
Jeanne Allen	Daughter	08-27-48	" "	
Robert Allen	Son	05-30-52	" "	
Paul Allen	Son	04-16-56	" "	
Donald Allen	Son	12-16-57	" "	
Larry Myers	Son	07-27-44	Rt. 1, Box 529-A Ukiah, CA	Tillie Myers Hopper
Joyce Myers	Daughter	06-10-46	" "	

POTTER VALLEY RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
James Mitchell	Son	11-30-34	Box 75 Potter Valley, CA	Mandy Anderson

QUARTZ VALLEY RESERVATION

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Lucille Johnson Albers	Wife	12-26-1899	Somes Bar, CA	Herman Albers
Geraldine Albers	Daughter	04-03-54	" "	
Phillip Albers	Son	09-00-57	" "	
Quincy Albers	Son	05-11-59	" "	
Lester L. Alford, Jr.	Son	09-31-52	P. O. Box 482 Etna, CA	Lester Alford
Cheryl Alford	Daughter	02-02-54	" "	
Karen J. Alford	Daughter	12-10-56	" "	
Debbie Alford	Daughter	11-19-57	" "	
Frederick Case, Jr.	Son	12-13-48	14 Henderson Ln. Ukiah, CA	Elizabeth Case
Patrick Case	Son	07-08-52	" "	
Peggy S. Case	Daughter	03-23-58	" "	
Regina Super Jerry	Wife	12-15-32	Hilt, CA	Louie Jerry, Jr.
Lois Jerry	Daughter	01-07-57	c/o Bessie Super Greenview, CA	
Vickie Jerry	Daughter	06-07-58	" "	
Dorris Peters Williams	Daughter	02-12-40	Greenview, CA	Bernice Peters
Clyde Peters	Son	06-04-42	Rt. 1 Ft. Jones, CA	
Percella Peters	Daughter	02-18-44	Yreka, CA	
Randall Peters	Son	01-29-45	Rt. 1 Ft. Jones, CA	

QUARTZ VALLEY RESERVATION (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Stanley Peters	Son	06-04-47	Rt. 3 Yreka, CA	Bernice Peters
Bernice Peters	Daughter	11-27-51	Montague, CA	
Edward L. Peters	Son	12-08-55	Rt. 1 Ft. Jones, CA	
Wayne Ruff	Son	11-21-51	1512 Maxine Ave. San Jose, CA	John Ruff
Craig Ruff	Son	06-24-53	" "	
Yvonne Ruff	Daughter	03-04-55	" "	
Ededa Sanderson	Daughter	09-23-52	P. O. Box 306 Etna, CA	Arlene Sanderson
Edward Sanderson, Jr.	Son	03-21-54	" "	
Florence Sanderson	Daughter	08-23-56	" "	
Betty J. Sargent	Wife	07-13-41	501 E. 2nd Ave. LaHabra, CA	Richard Sargent
Vernon Jerry	Son	08-05-45	Rt. 1 Ft. Jones, CA	Edna Jerry

REDDING RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Sharon Hayward	Daughter	07-16-42	Hwy. 99, South Redding, CA	Carole Hayward
Ruel Hayward, Jr.	Son	01-13-46	" "	
Ramona F. Hayward	Daughter	01-26-52	" "	
John Hayward	Son	07-03-54	" "	
James Hayward	Son	12-02-55	" "	
John A. Murphy	Son	06-07-58	General Delivery Redding, CA	Barbara Murphy
Jack E. Potter	Son	04-05-45	Box 885 Redding, CA	Mildred Merideth
Phillip L. Potter	Son	12-10-47	" "	
Orval Hayward	Son	11-27-42	4108 Chico Central Valley, CA	Arthur Hayward
William Hayward	Son	11-25-44	" "	
Mac Hayward	Son	01-15-52	" "	
Karen Hayward	Daughter	03-05-54	" "	
Ora Timmons	Husband	05-29-15	Box 702 Redding, CA	Virginia Thomas
Nellie Towndolly	Wife	07-21-1897	Box 5529, Hwy. 99 So. Redding, CA	Ingrigg Towndolly
Lawrence Baker, Jr.	Son	09-03-53	Box 5529, Hwy. 99 So. Redding, CA	Amy Wilson Keluche
Virgil Baker	Son	11-08-55	" "	

REDDING RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
William Baker	Son	11-17-56	Box 5529, Hwy. 99 So. Redding, CA	Amy Wilson Keluche
Chester Keluche	Son	08-12-58	" "	
Paul Dominguez	Son	09-26-49	Box 785 Redding, CA	Dorothy Dominguez
Ricardo Domingues	Son	03-05-54	" "	
Emerson Miles	Husband	05-27-11	Box 53 Redding, CA	Leona Miles
Sharon Price	Daughter	12-23-48	Box 9004, Hwy. 99 So. Redding, CA	Juanita Price
Leon Benner	Son	08-23-48	Box 9000, Hwy. 99 So. Redding, CA	Betty Benner
James Benner	Son	04-29-50	" "	
Patricia Benner	Daughter	02-28-52	" "	
Karen R. Benner	Daughter	06-27-55	" "	
Karla R. Benner	Daughter	02-09-58	" "	

REDWOOD VALLEY RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Ernest Hansen	Son	01-13-42	Box 11 Redwood Valley, CA	Florenda Hanson
Elizabeth Hansen	Daughter	03-28-44	" "	
Joseph Hansen	Son	04-12-46	" "	
Deborah Ramirez	Daughter	03-10-56	Box 225 Redwood Valley, CA	Esther Ramirez
Gloria Ramirez	Daughter	05-28-58	" "	
Stella La Franchi	Daughter	05-11-58	Box 225 Redwood Valley, CA	Irene La Franchi
DeHavilland R. Smith	Son	11-11-36	Box 37 Calpella, CA	Hazel Smith
Barbara Hernandez	Daughter	09-01-48	Box 220 Redwood Valley, CA	Clorene Hernandez
Carol Hernandez	Daughter	05-10-53	" "	
Eva Hansen	Wife	03-30-1900	Box 220 Redwood Valley, CA	Bart Hansen
David Hansen	Son	03-10-40	" "	

ROHNERVILLE RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Jerry Oscar III	Son	08-27-50	Rohnerville, CA	Harriet Oscar
Larry Oscar	Son	07-04-51	" "	
Linda Oscar	Daughter	07-17-52	" "	
Carole A. Lowery	Daughter	06-01-45	Rohnerville, CA	Eleanore L. Carroll Thompson
Louise Keisner	Wife	06-16-26	Rohnerville, CA	Delmer M. Keisner
Oscar Lilly	Son	10-02-48	" "	
Robert Lilly	Son	10-30-49	" "	
Delmer Keisner, Jr.	Son	04-23-52	" "	
Floyd Keisner	Son	07-07-53	" "	
Edward Keisner	Son	11-28-54	" "	
Eunice Keisner	Daughter	03-08-56	" "	
Frederick Keisner	Son	08-06-57	" "	
Mary L. Carroll	Wife	05-18-30	Rohnerville, CA	Lionel R. Carroll
Jeannetta J. Carroll	Daughter	09-22-46	" "	
Dianna L. Carroll	Daughter	04-15-49	" "	
Lionel R. Carroll, Jr.	Son	11-19-56	" "	
Laurence H. Carroll	Son	12-02-57	" "	
Marianne R. Carroll	Daughter	03-10-59	" "	

RUFFEY'S RANCHERIA

Fanny Abernathy	Wife	09-07-1889	Etna, CA	Roy Abernathy

SCOTTS VALLEY RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Della Augustine Steele	Daughter	04-13-13	General Delivery Lakeport, CA	Byron Augustine
Joanne Bogge	Granddaughter	06-29-49	General Delivery Lakeport, CA	Bessie Ray
Victoria J. Arnold	Daughter	03-25-53	General Delivery Lakeport, CA	Marlene Ray Arnold
Victor D. Arnold	Son	03-31-54	" "	
DeWayne Arnold	Son	08-25-55	" "	
Sylvia M. Miller	Daughter	07-22-40	General Delivery Lakeport, CA	Rosie E. Miller
Arvada D. Miller	Daughter	11-22-42	" "	
Henry S. Miller	Son	11-28-44	" "	
Leslie A. Miller	Son	09-29-48	" "	
Clarence M. Miller	Son	02-22-52	" "	
Jerridine C. Arnold	Daughter	06-24-39	P. O. Box 963 Corning, CA	Beatrice M. Arnold
Kenneth A. Arnold, Jr.	Son	08-22-41	" "	
Phyllis Arnold	Daughter	10-04-42	" "	
Virgil Arnold	Son	06-05-44	" "	
Donald Arnold	Son	05-17-49	" "	
Mae Rose Ray	Wife	05-25-28	General Delivery Lakeport, CA	Chris M. Ray
Chris M. Ray, Jr.	Son	03-08-51	" "	

SCOTTS VALLEY RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Eugene E. Ray	Son	06-17-52	General Delivery Lakeport, CA	Chris M. Ray
Rose Mary Ray	Daughter	04-05-54	" "	
Frederick K. Ray	Son	11-09-56	" "	
Sue Anne Ray	Daughter	12-22-52	" "	
Diena Louise Bogge	Daughter	02-21-47	General Delivery Lakeport, CA	Therese F. Bogge
Elaine Edwina Bogge	Daughter	07-07-48	" "	
Shirley Ann Bogge	Daughter	04-18-50	" "	
Gloria Maria Salee	Daughter	10-27-52	" "	
Dale Elliott	Son	06-10-47	Rt. 1, Box 186 Lakeport, CA	Beulah Elliott
Ignatius Elliott	Son	10-13-48	" "	
Arlene Elliott	Daughter	07-09-54	" "	
Delores Anderson	Stepdaughter	08-11-41	" "	
George L. Ray, Jr.	Son	06-25-56	General Delivery Lakeport, CA	George L. Ray
Grace Barnes	Wife	01-01-07	General Delivery Lakeport, CA	Belton Barnes
Arvile Barnes	Daughter	08-24-47	" "	
Belton R. Barnes	Son	11-11-44	" "	

SMITH RIVER RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Rosalind Gardner Lopez	Wife	08-03-39	P. O. Box 1 Smith River, CA	Edward Lopez, Jr.
Modeste A. Lopez	Daughter	06-27-58	" "	
Denise A. Lopez	Daughter	03-12-60	" "	
Debra K. Lopez	Daughter	06-29-57	Smith River, CA	Albert Lopez
Russell W. Lopez	Son	04-12-60	" "	
Ethel Lopez	Wife	Unknown	Smith River, CA	Robert Lopez
Barbara A. Lopez	Daughter	10-19-45	" "	
Mary J. Lopez	Daughter	05-16-49	" "	
Robert Lopez, Jr.	Son	03-30-50	" "	
John D. Lopez	Son	08-15-51	" "	
Luetta M. Lopez	Daughter	04-15-53	" "	
Lynne R. Lopez	Daughter	12-05-55	" "	
Peter E. Lopez	Son	03-23-57	" "	
Denyce A. Fullam	Daughter	11-08-48	5982 Ranger Rd. San Diego, CA	Barbara J. Fullam
Linda G. Fullam	Daughter	03-16-55	" "	
Ethel Scott	Wife	09-14-12	Smith River, CA	Ernest Scott
Mattie Richards	Wife	06-14-22	Smith River, CA	Walter Richards
Barbara Richards	Daughter	06-28-42	" "	

SMITH RIVER RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Freddie Bartow, Jr.	Son	02-22-59	Box 29 Smith River, CA	Mary Bartow
Ben A. Bartow	Son	04-23-60	" "	
LeRoy E. Gardner	Son	08-29-42	P O Box 7356 Newport, OR	Catherine Hoetler
Marilyn Gardner	Daughter	03-14-44	" "	
Rose M. Gardner	Daughter	04-16-45	" "	
Jack St. Clere Willburn, Jr.	Son	11-17-46	1524 Chalmers St. San Diego, CA	Betty Willburn Myers
Stewart Willburn	Son	03-15-48	" "	
Candace Y. Willburn	Daughter	05-27-49	" "	
Mark W. Willburn	Son	03-12-51	" "	
Betty A. Willburn	Daughter	02-08-56	" "	
Ellen La Fountain	Wife	04-28-05	Smith River, CA	Joseph La. Fountain
Kenneth L. James	Son	07-26-46	Smith River, CA	Leonard James
Leonard James, Jr.	Son	05-03-50	" "	
Ronald L. James	Son	01-17-52	" "	
Wilma L. James	Daughter	05-17-55	" "	
Carl James	Son	01-31-57	" "	
Phyllis Criteser	Wife	03-17-32	Smith River, CA	Raymond Criteser

SMITH RIVER RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
David M. Criteser	Son	10-01-51	Smith River, CA	Raymond Criteser
Reyona F. Criteser	Daughter	10-14-54	" "	
Dawn A. Criteser	Daughter	08-05-56	" "	
Janelle S. Criteser	Daughter	06-27-58	" "	
Lila Moorehead	Wife	07-09-23	P O Box 38 Smith River, CA	Fred Moorehead
Norene Melton Richards	Wife	11-26-41	Smith River, CA	Murry Richards
Joan Richards	Wife	06-30-28	P O. Box 82 Smith River, CA	Edward Richards, II
Florence Richards	Daughter	07-27-43	Smith River, CA	Edward Richards, Jr.
Deanna Lopez	Daughter	11-13-49	Smith River, CA	Marian Lopez
Richard L. Lopez	Son	11-09-50	" "	
Kerry L. Lopez	Daughter	10-28-54	" "	
Laurel M. Lopez	Daughter	05-08-56	" "	
Rita A. Weatherford	Daughter	07-21-49	Blue Lake, CA	Ramona Weatherford
Gloria J. Weatherford	Daughter	07-24-50	" "	
Elaine N. Moorehead	Daughter	02-05-47	P. O. Box 38 Smith River, CA	Cornelius Moorehead
Harvey L. Moorehead	Son	01-26-48	" "	
Darrell L. Moorehead	Son	01-11-51	" "	

SMITH RIVER RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Sonita F. Moorehead	Daughter	01-11-52	P. O. Box 38 Smith River, CA	Cornelius Moorehead
Carmen Kibbe Moorehead	Wife	11-28-26	P. O. Box 38 Smith River, CA	Frank Moorehead
Stella Moorehead	Daughter	02-29-44	" "	
Jimmy Moorehead	Son	01-03-52	" "	
Eugene H. Martin	Son	09-18-46	Smith River, CA	Lauretta Martin
John E. Martin	Son	12-10-56	" "	
Louise Whipple	Wife	04-29-20	Smith River, CA	Andrew Whipple
Andrew Whipple, Jr.	Son	11-05-42	" "	
Diane S. Whipple	Daughter	04-19-44	" "	
Darlene Richards	Wife	08-19-31	Fort Dick, CA	Allen Richards
Cherry A. Richards	Daughter	05-01-54	" "	
Allen Richards, Jr.	Son	10-04-55	" "	
Marvin L. Richards	Son	01-23-57	" "	
Ronald D. Richards	Son	01-27-59	" "	
Lastie Norris Richards	Wife	08-19-31	Smith River, CA	Frank Richards
Michael G. Richards	Son	02-20-51	" "	
Denise L. Richards	Daughter	04-03-57	" "	
Thelma Richards Whipple	Wife	01-31-25	Smith River, CA	Charles Whipple

SMITH RIVER RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Valerie Whipple	Daughter	02-21-53	Smith River, CA	Charles Whipple
Gaylene A. Whipple	Daughter	09-24-54	" "	
Toni C. Whipple	Daughter	05-13-56	" "	
Sunnae M. Whipple	Daughter	05-14-57	" "	
Calvin Whipple	Son	05-17-58	" "	
Kethelene Whipple	Daughter	11-09-59	" "	

TABLE BLUFF RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Geraldine Johnson	Wife	08-25-35	Box 33 Loleta, CA	Robert Johnson
Robert Johnson, Jr.	Son	01-06-54	" "	
Dee Ann I. Johnson	Daughter	01-11-57	" "	
Beverly James	Wife	10-28-31	RFD Box 34 Loleta, CA	Albert James, Jr.
Jerry James	Son	12-27-50	" "	
Lois James	Daughter	01-06-50	" "	
Marilyn James	Daughter	07-17-52	" "	
Albert James, III	Son	09-10-53	" "	
Loleta Buckley	Wife	02-14-20	Box 35 Loleta, CA	George Buckley
Darlene Buckley	Daughter	08-22-44	" "	
George Buckley, Jr.	Son	07-03-46	" "	
Edna James	Wife	03-19-29	Box 226 Loleta, CA	Melvin James
Melvin James, Jr.	Son	07-20-53	" "	
Pamela James	Daughter	07-08-56	" "	
Alaada James	Daughter	05-12-57	" "	
Gary James	Son	06-17-58	" "	
Loreta Seidner	Wife	08-08-18	Box 2 Loleta, CA	William Seidner
Marian Seidner	Daughter	11-21-41	" "	

TABLE BLUFF RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Melva Seidner	Daughter	06-21-43	Box 2 Loleta, CA	William Seidner
Cheryl Seidner	Daughter	06-01-50	" "	
Edward T. Evenson	Son	12-28-42	Loleta, CA	Helen Kibby Evenson
Charles A. Evenson	Son	11-19-43	" "	
Carol A. Evenson	Daughter	11-19-43	" "	
Harry J. Evenson	Son	06-12-46	" "	
Kenneth P. Evenson	Son	10-04-48	" "	
Richard A. Evenson	Son	11-22-49	" "	
Franklin L. Evenson	Son	08-01-56	" "	

TABLE MOUNTAIN RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Rosie Jones	Wife	11-16-23	Box 21 Friant, CA	Warren L. Jones
Beverly Jones	Daughter	06-12-48	" "	
Lyle Jones	Son	09-06-51	" "	
Charlene Jones	Daughter	01-03-54	" "	
Bernadine Jones	Daughter	01-30-56	" "	
Carolyn Walker	Wife	09-22-21	Box 87 Friant, CA	William Walker
Leann Walker	Daughter	08-10-48	" "	
Floyd Walker	Son	09-29-49	" "	
Vernell Walker	Son	05-12-53	" "	
Daniel Carmen	Son	04-24-44	Box 87 Friant, CA	Barbara Garcia
Mike Montgomery	Nephew	11-18-53	" "	
Cecilia M. Lewis	Wife	05-13-11	321 E. Herndon Fresno, CA	Lawrence F. Lewis
Larry Lewis	Son	10-16-42	" "	
Herbert M. Sample, Jr.	Grandson	01-21-53	" "	
Freddie Moore	Grandson	06-25-55	" "	
Roxanne Montgomery	Granddaughter	10-16-58	" "	
Mariam Burrough	Wife	10-06-30	Box 61 Friant, CA	Lester J. Burrough
Princess Burrough	Daughter	08-10-47	" "	

TABLE MOUNTAIN RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Johnny Burrough	Son	09-01-49	Box 61 Friant, CA	Lester J. Burrough
Dell Burrough	Son	02-20-52	" "	
Linn Burrough	Son	02-08-35	" "	
Twila Burrough	Daughter	05-03-57	" "	
Grace Hancock Lewis	Wife	04-28-03	General Delivery Friant, CA	Tom Lewis
Louise Jones	Wife	01-07-28	Box 45 Friant, CA	Clarence Jones
Ronald Jones	Son	10-31-47	" "	
George Jones	Son	08-27-49	" "	
John Jones	Son	09-25-50	" "	
Carl Jones	Son	09-10-51	" "	
Duane Jones	Son	10-10-52	" "	
Aaron Jones	Son	04-23-54	" "	
Maurice L. Jones	Son	04-16-56	" "	
Lori Jones	Daughter	12-28-58	" "	
Helen Moore Lewis	Wife	08-18-40	Box 87 Friant, CA	Edwin Lewis
Marlin Lewis	Son	03-08-53	" "	
Bernice Lewis	Daughter	05-26-56	" "	
Ralhela Lewis	Daughter	05-27-57	" "	
Cecila Wesley Grigsby	Wife	03-03-1886	General Delivery Friant, CA	John Grigsby
Thelma Barnes	Wife	12-13-31	Box 105 Friant, CA	Lewis Barnes

UPPER LAKE RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Susan Holders	Wife	00-00-1899	General Delivery Upper Lake, CA	Ralph Holders
William Jackson	Son	11-16-54	General Delivery Upper Lake, CA	Amardine Jackson
April Jackson	Daughter	02-27-57	" "	
Gwendolyn Jackson	Daughter	06-18-58	" "	
Patrick Miller	Son (adopted)	03-17-42	General Delivery Upper Lake, CA	Sam Boone
Verle Miller	Wife	03-11-28	Box 31 Upper Lake, CA	Joaquin Miller
Eileen Miller	Daughter	09-12-46	" "	
Thedorna Miller	Daughter	11-06-47	" "	
Laverda Miller	Daughter	12-04-48	" "	
Coveda Miller	Daughter	12-20-50	" "	
Jacqueline Miller	Daughter	01-07-53	" "	
Milburn Miller	Son	11-30-54	" "	
Joseph Miller	Son	04-11-57	" "	
Pauline Snow	Wife	03-09-34	General Delivery Upper Lake, CA	Robert Snow
Alonzo D. Snow	Son	07-06-56	" "	
Shirley Abasolo	Daughter	03-03-43	Box 22 Upper Lake, CA	Delphina Abasolo

UPPER LAKE RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Sam Icay, Jr.	Son	01-02-40	Box 322 Upper Lake, CA	Verna Icay
Michael Icay	Son	07-18-41	" "	
Charline Icay	Daughter	03-06-45	" "	
Carmelle Icay	Daughter	08-12-50	" "	
David Tomas	Son	09-12-53	2502 California St. Berkeley, CA	Melva Tomas
Michael J. Tomas	Son	12-12-59	" "	
Kenneth Gerado	Son	06-20-49	742 Divisadero St. San Francisco, CA	ErmaDene Treppa Wright
Kathleen D. Treppe	Daughter	09-19-57	72 Shell Road Mill Valley, CA	Donald Treppa
Marchelle Treppa	Daughter	12-06-58	" "	
Georgeanna Treppa	Daughter	02-22-45	Box 174 Calpella, CA	Lester Treppa
Lester Treppa, Jr.	Son	04-28-47	" "	
Larry Treppa	Son	04-09-48	" "	
Gail Treppa	Daughter	05-30-50	" "	
Leone Treppa	Daughter	10-15-51	" "	
Elvira Treppe	Wife	06-21-05	Box 426 Upper Lake, CA	Frank Treppa
Lena Augustine	Wife	12-08-1888	General Delivery Upper Lake,CA	Clarence Augustine

UPPER LAKE RANCHERIA (continued)

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Madeline Maglaya	Daughter	07-09-40	General Delivery Upper Lake, CA	Opal Maglaya
Jerry Maglaya	Son	04-21-46	" "	
Catherine J. Torres	Daughter	09-02-58	9223 E. Fern St. El Monte, CA	Betty J. Torres
Cynthia J. Torres	Daughter	11-16-59	" "	
Agnes Bateman	Wife	00-00-1895	Box 426 Upper Lake, CA	Leonard Bateman

WILTON RANCHERIA

Deletion of dependent family members	Relationship to distributee	Date of Birth	Address	Distributee
Donald L. Brown	Son	01-04-49	General Delivery Wilton, CA	Jane Brown
Debra E. Brown	Daughter	02-17-54	" "	
Edith G. Williams	Wife	01-18-12	General Delivery Wilton, CA	Archie G. Williams
Mildred Williams	Daughter	03-23-41	" "	
Jerome J. Williams	Son	05-20-42	" "	
Alfred E. Williams	Son	06-15-43	" "	
Wilson K. Williams	Son	03-12-45	" "	
Carol M. Williams	Daughter	05-07-46	" "	
Silvia Williams	Daughter	05-30-47	" "	
Joanna F. Williams	Daughter	11-13-50	" "	
Jacqueline V. Andrews	Daughter	02-02-50	5734 Mascot Ave. Sacramento, CA	Dorothy Andrews
Anita D. Andrews	Daughter	07-01-53	" "	
Beverly G. Andrews	Daughter	04-19-55	" "	
Lawrence G. Andrews	Son	01-24-51	" "	
Bertha McKean	Wife	02-28-14	P. O. Box 167 Wilton, CA	Charles McKean, Jr.
Paul J. McKean	Son	07-24-42	" "	
Lloyd J. McKean	Son	05-19-44	" "	
Billie W. Daniels	Stepson	12-24-42	" "	
Jimmie E. Daniels	Stepson	08-28-44	" "	
Richard A. Daniels	Stepson	09-08-45	" "	

V 43 / 184 SE 21 78

This notice is hereby effective as of the date of said judgment.

WILLIAM E. FINALE,
Area Director.

SEPTEMBER 1, 1978.

[FR Doc. 78-26240 Filed 9-20-78; 8:45 am]

[4310-84]

Bureau of Land Management

COLORADO 23972 RW

Notice of R/W Application for Pipeline IGC Production Co.

SEPTEMBER 14, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), IGC Production Co., 555 Cole Road, Boise, Idaho 83707, has applied for an amendment to right-of-way for a 4-inch looping natural gas pipeline approximately 660 feet long for the Pepper No. 1 well, across the following public lands:

SIXTH PRINCIPAL MERIDIAN, MOFFAT COUNTY, COLO.

T. 1 N., R. 101 W.,
Sec. 6: Lot 8.

The facilities will enable the applicant to convey natural gas from Pepper No. 1 well to meet customer demand for increased natural gas supply in the applicant's service area.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State office. Any party so filing must include evidence that a copy thereof has been served on IGC Production Co.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

HELEN S. BRUSS,
Acting Leader, Craig Team,
Branch of Adjudication.

[FR Doc. 78-26482 Filed 9-20-78; 8:45 am]

[4310-84]

[AA-6650-A and B]

Alaska Native Claims Selection

On October 29, and December 13, 1974, Belkofski Corp., for the Native village of Belkofski, filed selection applications AA-6650-A and AA-6650-B under the provisions of sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (Supp. V, 1975)), for the surface estate of certain lands in the Belkofski area.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to sec. 12(a), aggregating approximately 66,861 acres, is considered proper for acquisition by Belkofski Corp. and is hereby approved for conveyance pursuant to sec. 14(a) of the Alaska Native Claims Settlement Act:

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

T. 58 S., R. 82 W.
Secs. 7 and 8 (fractional), all;
Secs. 15 to 22 (fractional), inclusive, all;
Secs. 25 and 26 (fractional), all;
Secs. 27 and 28, all;
Secs. 29, 30, 31, and 32 (fractional), all;
Secs. 33 to 36, inclusive, all.
Containing approximately 7,810 acres.

T. 59 S., R. 82 W.
Secs. 1 and 2 (fractional), all;
Secs. 3, 4, and 9, all;
Secs. 10, 11, and 14 (fractional), all;
Secs. 15, 16, and 21 (fractional), all.
Containing approximately 4,935 acres.

T. 57 S., R. 83 W.
Sec. 3 (fractional), all;
Sec. 4, all;
Sec. 5 (fractional), all;
Secs. 6 and 7, all;
Secs. 8, 9, and 10 (fractional), all;
Secs. 16 and 17 (fractional), all;
Sec. 18, all;
Secs. 19, 20, and 21 (fractional), all;
Sec. 28 (fractional), all;
Secs. 29 and 30 (fractional), excluding Executive Order 3406.
Containing approximately 6,744 acres.

T. 58 S., R. 83 W.
Secs. 1 and 2 (fractional), all;
Secs. 10 to 13 (fractional), inclusive, all;
Sec. 14, all;
Secs. 15, 16, and 17 (fractional), all;
Secs. 24, 25, and 36 (fractional), all.
Containing approximately 4,885 acres.

T. 59 S., R. 83 W.
Secs. 1 and 2 (fractional), all.
Containing approximately 70 acres.

T. 57 S., R. 84 W.
Secs. 3 to 10, inclusive, all;
Sec. 11 (fractional), all;
Sec. 12, all;
Secs. 13 to 17 (fractional), inclusive, all;
Secs. 18 and 19, all;
Secs. 20 to 25 (fractional), inclusive, all;
Secs. 27 and 28 (fractional), all;
Secs. 29 to 33, inclusive, all;
Sec. 34 (fractional), all.
Containing approximately 15,361 acres.

T. 58 S., R. 84 W.
Secs. 3 and 4 (fractional), all;
Secs. 5 and 6, all;
Sec. 7 (fractional), all;
Sec. 8, all;
Secs. 9, 10, and 11 (fractional), all;
Secs. 13 through 14 (fractional), all;
Secs. 15, 16, and 17, all;
Sec. 18 (fractional), all;
Secs. 19 to 23 inclusive, all;
Sec. 24 (fractional), all;
Sec. 25 (fractional), excluding ANCSA Sec. 3(e) application AA-16464 (Executive Order 3406);
Secs. 26 to 35, inclusive, all;
Sec. 36 (fractional), excluding ANCSA Sec. 3(e) application AA-16464 (Executive Order 3406).
Containing approximately 17,951 acres.

T. 59 S., R. 84 W.
Secs. 1 to 4 (fractional), inclusive, all;
Sec. 5, all;
Secs. 6, 7, and 8 (fractional), all;
Sec. 9 (fractional), excluding U.S. Surveys 758 tract A, 758 tract B and 2017;
Sec. 13 (fractional), all;
Sec. 17 (fractional), excluding ANCSA Sec. 3(e) application AA-16466 (Executive Order 4257);
Secs. 24 and 25 (fractional), all.
Containing approximately 4,248 acres.

T. 57 S., R. 85 W.
Sec. 36, all.
Containing approximately 640 acres.

T. 58 S., R. 85 W.
Secs. 1 and 11, all;
Sec. 12 (fractional), all;
Sec. 13 (fractional), excluding Village Selection application AA-6675-B;
Sec. 24 (fractional), all;
Sec. 25 (fractional), excluding U.S. Survey 236;
Secs. 26 and 35 (fractional), all;
Sec. 36, all.
Containing approximately 3,877 acres.

T. 59 S., R. 85 W.
Secs. 1 and 2 (fractional), all.
Containing approximately 340 acres.
Aggregating approximately 66,861 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704, 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)); and

2. Pursuant to sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file AA-6650-EE, are reserved to the United States and subject to further regulation thereby:

a. (EIN 1 C4) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation, and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

b. (EIN 2 C) The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic, or other survey purposes is reserved, together with the right to do all things necessary in connection therewith.

These reservations have not been conformed to the Departmental easement policy announced March 3, 1978. Conformance is contingent upon resolution of the litigation *Calista, et al.* v. *Andrus* and implementation of the Secretary's new easement policy.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him;

3. Requirements of sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and

4. The terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, The Aleut Corp., Belkofski Corp., and other Aleut village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for Belkofski Corp. serialized AA-6650-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska.

Belkofski Corp. is entitled to conveyance of 69,120 acres of land selected pursuant to sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 66,861 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 2,259 acres will be conveyed at a later date.

Pursuant to sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to the Aleut Corp. when conveyance is granted to Belkofski Corp. for the surface estate and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located and any parties who failed or refused to sign the return receipt shall have until October 23, 1978, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

4. If Belkofski Corp. or the Aleut Corp. objects to any easement which is identified herein for reservation in the conveyance, which is subject to the discretion of the State Director and not reserved pursuant to an express Secretarial directive, a petition for reconsideration must be filed within 30 days from receipt of service with the State Director, Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510. A copy of the petition should be served upon the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. If a petition for reconsideration is not filed, it will be deemed that the right to contest any such easement has been waived.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of, and requirements for, filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

If an appeal is taken, the adverse parties to be served are:

Belkofski Corp., Belkofski, Alaska 99612.
The Aleut Corp., 833 Gambell Street, Anchorage, Alaska 99501.

SUE A. WOLF,
Chief, Branch of Adjudication,
Division of ANCSA.

[FR Doc. 78-26514 Filed 9-20-78; 8:45 am]

[4310-84]

[Colorado 26979]

COLORADO

R/W Application for Pipeline

SEPTEMBER 11, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), David M. Munson, Inc., 1800 First National Bank Building, Dallas, TX 75202, has applied for a right-of-way for approximately 7 miles of natural gas pipeline to collect and deliver gas to the Mountain Fuel Supply Co. transmission line on the following public land:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLO.

T. 1 S., R. 100 W.,
Sec. 25, S½NW¼, NE¼SW¼, SW¼SE¼; and
Sec. 36, Lot 1, NW¼NE¼.
T. 1 S., R. 99 W.
Sec. 30, Lots 13, 14, 15, 17, 18, 20;
Sec. 31, E½NE¼; and
Sec. 32, W½SW¼, SW¼NW¼.
T. 2 S., R. 99 W.,
Sec. 5, W½W½;
Sec. 8, W½; and
Sec. 17, E½NW¼, SW¼NE¼, W½SE¼.

The above-named gathering system will enable the applicant to collect and deliver natural gas. The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof

has been served on David M. Munson, Inc.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, JR.,
Leader, Craig Team,
Branch of Adjudication.

[FR Doc. 78-26522 Filed 9-20-78; 8:45 am]

[4310-84]

SALMON DISTRICT GRAZING ADVISORY BOARD

Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Salmon District Grazing Advisory Board will be held on October 26, 1978.

The meeting will begin at 10 a.m. in the conference room of the Bureau of Land Management Office on South Highway 93, Salmon, Idaho.

The agenda for the meeting will include: (1) To review the proposed action in the Challis Planning Unit Draft Supplemental Environmental Statement, (2) to consider and make recommendations concerning allotment management plans for the Challis Planning Unit, and (3) to consider and make recommendations concerning the expenditure of range betterment and advisory board funds for range improvements.

The meeting is open to the public. Anyone may make oral statements to the board or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467, by October 20, 1978.

Summary minutes of the board meeting will be maintained in the district office and will be available for public inspection within 30 days following the meeting.

HARRY R. FINLAYSON,
District Manager.

[FR Doc. 78-26523 Filed 9-20-78; 8:45 am]

[4310-84]

SEVIER COUNTY, UTAH

Coal Lease Offering by Sealed Bid

SEPTEMBER 11, 1978.

U.S. Department of the Interior, Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111. Notice is hereby given that the coal resources hereinafter described in Sevier County, Utah, will be offered for coal lease by sealed bid of $25 per acre minimum bonus to the qualified bidder of the highest cash amount per acre or fraction thereof. The sale will be held at 2 p.m., m.d.t., October 2, 1978, in Room 1408 of the University Club Building. At that time all sealed bids will be opened and read, and the highest bid announced. Sealed bids may not be modified or withdrawn unless such modification or withdrawal is received before the date, time, and place set for the opening of such bids. The Department reserves the right to reject any and all bids and also the right to offer the lease to the next highest qualified bidder if the successful bidder fails to obtain the lease for any reason. If any bid is rejected, the deposit made on the day of the sale will be returned. Payment of the bonus shall be on a deferred basis, one-fifth due on the day of the sale, and the balance in equal annual installments on the first four anniversary dates of the lease. The successful bidder is obligated to pay for the newspaper publications of this notice.

Warning to Bidders. A bidder will not be considered qualified if he holds or controls more than 46,080 acres of Federal coal leases in Utah or 100,000 acres of Federal coal leases in the United States. In accordance with the Federal Coal Leasing Amendments Act of 1975, it will be necessary that the high bidder, as a prospective lessee, disclose the nature and extent of his coal holdings to the Department of Justice before issuance of the lease.

Public Comments. The public is invited to submit written comments on the fair market value of the coal to be leased. Approximately 13,700,000 tons in the average 11-foot thick Upper Hiawatha coal seam will be mined from the lands to be leased. Written comments on the fair market value will be received by the Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111. A copy of the written comments should also be submitted to the Office of the Conservation Manager, Geological Survey, Box 25046, Denver Federal Center, Denver, Colo. 80225. Written comments must be received by September 25, 1978, in order to be considered. All written comments submitted by the public on fair market value, except those portions identified as proprietary by the commenter and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection.

Coal Offered. The lands are located in the Manti-LaSal and Fishlake National Forests and the Richfield District approximately 30 miles east of the community of Salina, Utah. The coal to be offered is limited to the Upper Hiawatha coal seam containing 13,700,000 tons of recoverable coal. The lands are described as follows:

T. 21 S., R. 5 E., SLM, Utah
Sec. 32, lots 1-4, N½S½; and
Sec. 33, lot 1, NW¼SW¼.
T. 22 S., R. 5 E., SLM, Utah
Sec. 4, lot 4, SW¼NW¼, W½SW¼;
Sec. 5, all;
Sec. 7, S½ NE¼, E½SW¼, SE¼;
Sec. 8, all;
Sec. 17, NE¼, N½NW¼; and
Sec. 18, NE¼, E½NW¼.
Containing 2,631.98 acres.

Detailed Statement. A detailed statement of the terms and conditions of the lease offer, how and where to submit sealed bids, and the obligations of the high bidder to pay for publication of this notice may be obtained from the Bureau of Land Management, Utah State Office.

PAUL L. HOWARD,
State Director.

[FR Doc. 78-26524 Filed 9-20-78; 8:45 am]

[4310-84]

[A-052985, etc.]

TYONEK NATIVE CORP.

Decision to Issue Conveyance Temporarily Suspended

SEPTEMBER 12, 1978.

State of Alaska, Division of Lands, 323 East Fourth Avenue, Anchorage, Alaska 99501, A-052985, A-052991, State selections; Tyonek Native Corp., 445 East Fifth Avenue, Suite 9, Anchorage, Alaska 99501, AA-6707-B, AA-6707-C, village selections, Cook Inlet Region, Inc., P.O. Drawer 4-N, Anchorage, Alaska 99509.

The decision to issue conveyance to Tyonek Native Corp., notice of which was published in the FEDERAL REGISTER (43 FR 31438), is hereby temporarily suspended pending the reconsideration of easements reserved pursuant to section 17(b)(3) of the Alaska Native Claims Settlement Act.

This suspension is in accordance with the agreement dated January 18, 1977, between the Secretary of the Interior, Tyonek Native Corp., and Cook Inlet Region Inc.

GERALD W. ZAMBER,
Acting Chief, Division of
ANCSA Operations.

[FR Doc. 78-26513 Filed 9-20-78; 8:45 am]

[4310-70]

Office of the Secretary

[INT FES 78-6]

PROPOSED GENERAL MANAGEMENT PLAN, TUSKEGEE INSTITUTE NATIONAL HISTORIC SITE, ALABAMA

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement on the proposed general management plan for Tuskegee Institute national historic site, Alabama.

The statement considers the management, preservation and interpretation of Tuskegee Institute national historic site.

The final environmental statement and general management plan will be available for public review at the addresses given below on or before October 23, 1978, before proposals therein are activated.

Southeast Regional Office, National Park Service, 1895 Phoenix Boulevard, Atlanta, Ga. 30349.

Superintendent, Horsehoe Bend National Military Park, Route 1, Box 53, Daviston, Ala. 36256.

Superintendent, Tuskegee Institute National Historic Site, 399 Old Montgomery Road, Tuskegee, Ala. 36083.

NOTE.—The U.S. Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: September 15, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary
of the Interior.

[FR Doc. 78-26483 Filed 9-20-78; 8:45 am]

[4310-70]

National Park Service

YOSEMITE NATIONAL PARK; DRAFT GENERAL MANAGEMENT PLAN AND ENVIRONMENTAL IMPACT STATEMENT

Public Meetings; Intent

Notice is hereby given that the National Park Service will hold a series of 10 public meetings, 9 in California and 1 in Washington, D.C., in November and December 1978 to provide individuals, organizations, and other governmental agencies an opportunity to comment on the draft General Management Plan for Yosemite National Park and the accompanying draft environmental statement.

These meetings are part of the public involvement effort which has been used throughout the planning process leading to the development of the draft documents.

All meetings will begin at 7:30 p.m. local time. However, at each location National Park Service officials will be present from 2 to 4 p.m. each meeting day, and for 1 hour prior to the meeting to discuss the draft General Management Plan on an informal basis with interested individuals. Schedule of the meetings is as follows:

November 27, Yosemite National Park, Valley Visitor Center.
November 28, Fresno, Sheraton Inn, 2550 West Clinton Ave.
November 29, Bishop, Union High School, 301 North Fowler.
November 30, Sacramento, Masonic Temple, 1123 "J" St.
December 4, San Francisco, California Hall, 625 Polk St.
December 5, Oakland, Municipal Auditorium Theater, 10 Tenth St.
December 6, Anaheim, Orange County Room, Anaheim Convention Center, 800 West Katella Ave.
December 7, Woodland Hills, Pierce College Campus Center, 6201 Winnetka Ave.
December 11, San Diego Natural History Museum, El Prado and Village Place, Balboa Park.
December 13, Washington, D.C., Department of the Interior Auditorium, 18th and C Sts. NW.

Interested individuals, representatives of organizations and public officials are encouraged and invited to express their views at these public meetings. Those unable to appear in person may submit written statements to the Superintendent, P.O. Box 577, Yosemite National Park, Calif. 95389, by January 15, 1979, for inclusion in the public record.

Those who wish to provide oral comments for the record will be requested to register at the door. The number of people and time limitations may make it necessary to limit the length of oral presentations. An oral statement, however, may be supplemented by a more complete written statement which also will be made a part of the record.

After a presentation of the Draft General Management Plan by the Park Superintendent, the chairperson, insofar as possible, will adhere to the following order in calling for the presentation of oral comments:

1. Governor of the State of California or his representative.
2. Members of Congress.
3. Members of the State legislature.
4. Official representatives of the counties in which the part is located.
5. Officials of other Federal agencies or public bodies.
6. Organizations in alphabetical order.
7. Individuals in order of registration.
8. Others, to the extent time is available.

Review copies of the draft General Management Plan and its environmental impact statement are on file at the reference desks of leading libraries throughout the State of California, at National Park Service headquarters in Washington, D.C., Yosemite National Park, the Western Regional Office of the National Park Service in San Francisco, and the National Park Service Los Angeles Field Office. Outside of California the documents may be reviewed at the Federal Information Center, Room 250, 219 South Dearborn, Chicago; the National Park Service Southern Arizona Group Office, Phoenix; the National Park Service Office, Room 10-G-3, 819 Taylor Street, Fort Worth; National Park area office, Room 202, 540 West Fifth Avenue, Anchorage; National Park State Director's Office, 300 Ala Moana Blvd., Honolulu; Federal Hall National Memorial, New York City; and in the National Park Service Regional Offices in Seattle, Atlanta, Santa Fe, Omaha, Philadelphia, Boston, and Lakewood (Denver), Colo. Those who wish to purchase copies of the documents may do so from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The price of the draft General Management Plan is $3.75 and the draft Environmental Statement is $11.25. A Summary of the plan is available free, in limited quantity, from the Superintendent, Yosemite National Park.

Dated: September 13, 1978.

JOHN H. DAVIS,
Acting Regional Director,
Western Region.

[FR Doc. 78-26672 Filed 9-20-78; 8:45 am]

[4310-05]

Office of Surface Mining Reclamation and Enforcement

ADVISORY COMMITTEE ON MINING AND MINERAL RESOURCES RESEARCH

Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I) and the Office of Management and Budget's Circular No. A-63, revised.

The Advisory Committee on Mining and Mineral Resources Research will meet from 9 a.m. to 5 p.m. (or completion of business) on October 5, 1978, in room 1042, Columbia Plaza, 2401 E Street NW., Washington, D.C.

The meeting will deal with the following principal subjects:

1. Review of minutes of previous meeting—Assistant Director David R. Maneval.
2. Evaluation of potential areas of research by Mineral Institutes.
3. Policies, responsibilities and future activities of the Advisory Committee.

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The meeting of this Committee is open to the public. Approximately 40 visitors can be accommodated on a first come, first serve basis. Written statements concerning the subjects are welome.

Visitors who expect to attend should make this known no later than October 2 to:

David R. Maneval, Assistant Director—Technical Services and Research, Office of Surface Mining, Room 114, South Interior Building, 19th and Constitution Avenue NW., Washington, D.C. 20240, phone 202-343-4264.

Dated: September 15, 1978.

WALTER N. HEINE,
Director, Office of Surface Mining, Reclamation, and Enforcement.

[FR Doc. 78-26544 Filed 9-20-78; 8:45 am]

[4310-05]

AVAILABILITY OF MINING PLAN FOR PUBLIC REVIEW

Energy Fuels Corp. of Denver, Colo., has submitted a modification of its previously approved mining plan under provisions of 30 CFR 211. Energy proposes to mine 200 additional acres of Federal coal lands adjoining its ongoing Number 2 mine operation in Routt County, Colo. The proposed operations would be on proposed Federal coal lease Colorado 20900 in Township 5 North, Range 86 and 87 West, 6th Principle Meridian. The proposed plan has not been reviewed for completeness or adequacy by the Office of Surface Mining.

A copy of the proposed mine plan modification is on file for public review at the Office of the Regional Director, Region V, who may be affected by this proposal. Comments should be filed with the Regional Director within 30 days of the date of this release.

The address of the Regional Director is: Regional Director, Office of Surface Mining, Room 270, Post Office Building, 1823 Stout Street, Denver, Colo. 80202.

Dated: September 19, 1978.

WALTER N. HEINE, P.E.,
Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 78-26702 Filed 9-20-78; 9:41 am]

[4410-01]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES v. HAWAIIAN HOLIDAYS TOURS, INC., ET AL.

Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h) (APPA), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the U.S. District Court for the District of Hawaii in Civil No. 76-0371, *United States v. Hawaiian Holidays Tours, Inc., et al.* Consenting to the proposed judgment are all the defendants in this case, Hawaiian Holidays Tours, Inc., Hawaiian Holidays, Inc., Inter-Island Travel Service, Ltd., d.b.a. Trade Wind Tours of Hawaii, International Travel Brokers, Inc., and Hawaii Unlimited. The complaint in this action alleged that the defendants conspired to fix prices for group inclusive tours (GIT tours) for the Hawaiian market. The judgment enjoins the defendants from agreeing to fix, maintain, or stabilize the prices or terms or conditions of sale of GIT tour packages and also enjoins the defendants from exchanging prices, markups, terms, or conditions of sale of GIT tour packages with each other or another person or business engaged in the sale of GIT tour packages. The competitive impact statement describes the anticipated effects of the proposed judgment on competition, and evaluates alternative relief proposals actually considered by the United States. Public comment is invited within the statutory 60-day time period. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the court. Comments should be directed to Anthony E. Desmond, Chief, San Francisco Field Office, Antitrust Division, Department of Justice, 450 Golden Gate Avenue, Room 16432, Box 36046, San Francisco, Calif. 94102.

Dated: September 11, 1978.

RICHARD J. FAVRETTO,
Deputy Director of Operations, Antitrust Division.

DON B. OVERALL,
STEVEN L. WEINSTEIN,
Antitrust Division, U.S. Department of Justice, 450 Golden Gate Avenue, Room 16432, Box 36046, San Francisco, Calif. 94102, Telephone 415-556-6300.

UNITED STATES DISTRICT COURT, DISTRICT OF HAWAII

United States of America, Plaintiff, v. *Hawaiian Holidays Tours, Inc.; Hawaiian Holidays, Inc.; Inter-Island Travel Service, Limited, d.b.a. Trade Wind Tours of Hawaii; International Travel Brokers, Inc.; and Hawaii Unlimited*, Defendants.

Civil No. 76-0371.

Filed: September 11, 1978.

STIPULATION

It is stipulated by and between the undersigned parties, plaintiff United States of America, and defendants Hawaiian Holidays Tours, Inc.; Hawaiian Holidays, Inc.; Inter-Island Travel Service, Ltd., d.b.a. Trade Wind Tours of Hawaii; International Travel Brokers, Inc.; and Hawaii Unlimited, by their respective attorneys, that:

1. The parties consent that a final judgment in the form hereto attached may be filed and entered by the court, upon the motion of any party or upon the court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16) and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed final judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed final judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff or defendants in this or any other proceeding.

For the Plaintiff: John H. Shenefiled, *Assistant Attorney General;* William E. Swope, Charles F. B. McAleer, Anthony E. Desmond, Don B. Overall, Steven L. Weinstein, *Attorneys, Department of Justice.*

For the Defendants: Alexander Anolik, Alexander Anolik, a professional law corporation, San Francisco, Calif., *Attorney for Inter-Island Travel Service, Ltd., and Hawaii Unlimited;* Lawrence B. Kahn, Great Neck, N.Y., *Attorney for International Travel Brokers, Inc.;* Thomas H. Baer, Baer & McGoldrick, New York, N.Y., *Attorney for Hawaiian Holidays Tours, Inc., and Hawaiian Holidays, Inc.*

DON B. OVERALL,
STEVEN L. WEINSTEIN,
Antitrust Division, U.S. Department of Justice, 450 Golden Gate Avenue, Room 16432, Box 36046, San Francisco, Calif. 94102, telephone 415-556-6300.

UNITED STATES DISTRICT COURT, DISTRICT OF HAWAII

United States of America, Plaintiff, v. *Hawaiian Holidays Tours, Inc.; Hawaiian Holidays, Inc.; Inter-Island Travel Service, Ltd., d.b.a. Trade Wind Tours of Hawaii; International Travel Brokers, Inc.; and Hawaii Unlimited*, Defendants.

Civil No. 76-0371.

Filed: September 11, 1978.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on October 5, 1976, and the plaintiff and the defendants, by their respective attorneys, having consented to the entry of this final judgment, without trial or adjudication of any issue of fact or law herein and without this final judgment consituting any evidence against or admission by any party with respect to any issue of fact or law herein:

Now therefore, without any testimony being taken herein, and without trial or adjudication of any issue of fact or law herein, and upon the consent of all parties hereto, it is hereby

Ordered, adjudged and decreed:

I

This court has jurisdiction of the subject matter herein and of the parties hereto. The complaint states a claim upon which relief may be granted against the defendants under section 1 of the Sherman Act (15 U.S.C. 1).

II

As used in this final judgment:

(a) "Person" means any individual, corporation, partnership, firm, association, or other business or legal entity;

(b) "Hawaii" means the State of Hawaii;

(c) "Mainland" means all of the States of the United states except the State of Hawaii;

(d) "GIT tour package" means a bundle of components generally consisting of air transportation, hotel accommodations, and sightseeing features offered for group travel to Hawaii based on a discounted airfare known as a "group inclusive tour" fare;

(e) "Tour operator," sometimes also known in the industry as a "wholesaler," means any company engaged in the assembling, sale, and operation of GIT tour packages; and

(f) "Pooling" means the method by which two or more tour operators jointly provide passengers for the same airplane flight in order to utilize a GIT airfare.

III

The provisions of this final judgment are applicable to all defendants herein and shall also apply to each of said defendants' officers, directors, agents, employees, subsidiaries, successors, and assigns, and to all other persons in active concert or participation with any of them, who shall have received actual notice of this final judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained from:

(a) Directly or indirectly entering into, adhering to, enforcing, maintaining, furthering, or claiming any right under any contract, agreement, understanding, plan, or program, concert of action, combination or conspiracy with any person, directly or indirectly to fix, maintain, or stabilize the prices, terms, or conditions of sale, or markups of GIT tour packages, or

(b) Suggesting to, discussing with or expressly or implicitly furnishing to or requesting from any tour operator or person associated with or employed by any tour operator any price, markup, term, or condition with respect to GIT tours.

V

Nothing contained in section IV above or this final judgment shall apply to any negotiation or communication between the defendants or a defendant and another tour operator or person associated with or employed by a tour operator, the sole purpose of which is a bona fide proposed or actual purchase or sale of tour components for GIT tours.

Nothing contained in section IV above or this final judgment shall prohibit pooling agreements between the defendants or a defendant and another person to the extent that such agreements may provide for a specific number of passengers each member of a pool must produce for each airplane flight and any penalties to be assessed to a member of a pool for failure to provide the required number of passengers.

VI

Each defendant shall require, as a condition of the sale or other disposition of all, or substantially all, of the assets used by it that the acquiring party agree to be bound by the provisions of this final judgment. The acquiring party shall file with the court, and serve upon the plaintiff, its consent to be bound by this final judgment.

VII

Each defendant is ordered and directed:

(a) To furnish within sixty (60) days after entry of this final judgment a copy thereof to each of its officers and directors, and to each of its managing agents and employees having any responsibility for or authority over the establishment of the pricing or markup on or price of any tour or component thereof which said defendant sells or proposes to sell or for the establishment of commissions to be paid travel agents therefor;

(b) To furnish a copy of this final judgment to each person who becomes an officer or director, or managing agent or employee described in subsection (a) of this section VII, within sixty (60) days after such person is employed by or becomes associated with such defendant;

(c) To take additional affirmative steps to advise each of its officers and directors, and each managing agent and employee described in subsection (a) of this section VII of its and their obligations under this final judgment and of the criminal penalties for violation of section IV of this final judgment, including written directives setting forth corporate compliance policies, distribution of final judgments, and meetings to review its terms and the obligations it imposes.

(d) To file with the court and serve upon the plaintiff, within ninety (90) days from the date of entry of this final judgment, an affidavit as to the fact and manner of its compliance with subsection (a) of this section VII; and

(e) To obtain, from each person described in subsection (a) or (b) of this section VII, a written statement evidencing such person's receipt of a copy of this final judgment, and to retain such statements in its files.

VIII

For the purpose of determining or securing compliance with this final judgment, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division or his agent, subject to any legally recognized privilege:

(a) On reasonable notice to a defendant made to its principal office duly authorized representatives of the Department of Justice shall be permitted:

1. Access, during office hours of such defendant, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant relating to any matters contained in this final judgment; and

2. Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, employees, or agents of such defendants, any of whom may have counsel present, regarding any matters contained in this final judgment.

(b) Each defendant shall submit such reports in writing, under oath if requested, with respect to matters contained in this final judgment as may from time to time be so requested.

No information or documents obtained by the means permitted in this section VIII shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the executive branch of the plaintiff, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this final judgment, or as otherwise required by law.

If at any time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents of a type described in rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which the defendant is not a party.

IX

Jurisdiction is retained by the court for the purpose of enabling any of the parties to this final judgment to apply to this court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

X

Entry of this final judgment is in the public interest.

Dated:_____.

_____,
U.S. District Judge.

DON B. OVERALL,
STEVEN L. WEINSTEIN,
Antitrust Division, U.S. Department of Justice, 450 Golden Gate Avenue, Room 16432, Box 36046, San Francisco, Calif. 94102, Telephone 415-556-6300.

UNITED STATES DISTRICT COURT, DISTRICT OF HAWAII

United States of America, Plaintiff, v. *Hawaiian Holidays Tours, Inc.; Hawaiian Holidays, Inc.; Inter-Island Travel Service, Ltd., d.b.a. Trade Wind Tours of Hawaii; International Travel Brokers, Inc.; and Hawaii Unlimited*, Defendants.

Civil No. 76-0371.

Filed: September 11, 1978.

[4510-26]

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act; Advisory Committee Meeting

Notice is hereby given that the Secretary of Labor's Advisory Committee on Job Training Partnership Act will meet on October 5 and 6, 1978, in Room 1301, 1111 20th Street NW., Washington, D.C. 20210.

The Committee was established pursuant to section 106(a)(1) of the Job Training Partnership Act (Pub. L. 97-300) to advise the Secretary of Labor on matters relating to the administration of the Act.

The agenda for the meeting will include discussion of the following topics:

1. Report on the Committee's activities since its last meeting.
2. Report on the Department's activities since the last meeting.
3. Discussion of the Committee's Annual Report.
4. Discussion of the Committee's Work Plan.
5. Discussion of the Committee's Bylaws.
6. Discussion of the Committee's Subcommittees.
7. Discussion of the Committee's Meeting Schedule.

The meeting will be open to the public. Persons wishing to make oral presentations should notify the Committee Chairperson, Mr. Robert Lerner, Director, Office of Employment and Training Programs, Room 6300, 601 D Street NW., Washington, D.C. 20213, telephone 202-376-6236, by September 29, 1978. Any interested person may file a written statement with the Committee by submitting it to the Chairperson at the address indicated above.

Signed at Washington, D.C., this 18th day of September 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc. 78-26703 Filed 9-20-78; 8:45 am]

COMPETITIVE IMPACT STATEMENT

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16 (b)-(h)), the United States of America hereby submits this competitive impact statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

On October 5, 1976, the United States filed a civil complaint under section 4 of the Sherman Act (15 U.S.C. 4), alleging that the defendants, Hawaiian Holidays Tours, Inc., Hawaiian Holidays, Inc., Inter-Island Travel Service, Ltd., d.b.a. Trade Wind Tours of Hawaii, International Travel Brokers, Inc., and Hawaii Unlimited, violated section 1 of the Sherman Act (15 U.S.C. 1). The complaint alleges a combination and conspiracy in unreasonable restraint of interstate commerce, the terms of which were that the defendants and various coconspirators agreed to fix, raise, maintain, and stabilize the prices, terms, and conditions of sale of GIT tour packages. Simultaneously, an indictment was returned against the defendants and two individuals charging them with the same offenses. All of the individuals and corporate defendants entered nolo contendere pleas and were subsequently sentenced by the court. Hawaii Unlimited, a partnership composed of two of the defendants, was dismissed from the criminal action.

II. PRACTICES AND EVENTS GIVING RISE TO THE ALLEGED VIOLATION OF THE ANTITRUST LAWS

The defendants in this case consist of two groups composed of interrelated companies. One group, hereinafter referred to as Hawaiian Holidays, consists of Hawaiian Holidays, Inc., and Hawaiian Holidays Tours, Inc. Both of these defendants are wholly owned by Norman Sosner and his family. The other group, hereinafter referred to as Trade Wind Tours, consists of Inter-Island Travel Service, Ltd., d.b.a. Trade Wind Tours of Hawaii, International Travel Brokers, Inc., and Hawaii Unlimited. Hawaii Unlimited is a partnership composed of Inter-Island Travel Service, Ltd., and International Travel Brokers, Inc.

Hawaiian Holidays and Trade Wind Tours engage in the assembly, sale, and operation of group inclusive tour packages (hereinafter referred to as GIT's) between the mainland United States and Hawaii. The GIT's consist of round-trip air transportation and a bundle of components generally consisting of hotel accommodations and sightseeing features. GIT's utilize discounted airfares which require the existence of groups of certain sizes, simultaneous departure and return by all members of the group, purchase and payment for tickets a prescribed time in advance of departure, and purchase of ground services in Hawaii, such as hotel accommodations and sightseeing features, having a minimum value specified by the tariffs filed with the Civil Aeronautics Board by the airlines serving Hawaii. The defendants sold their GIT packages either directly to the public through their own mainland retail outlets or through mainland retail travel agents who were paid commissions for their sales. Defendants' sales of GIT's during the period of the conspiracy were more than $150,000,000.

The defendants engaged in a conspiracy to fix, raise, maintain, and stabilize the prices, terms, and conditions of sale of GIT tour packages during the period of this complaint in order to restrain commerce between the mainland and Hawaii. The defendants agreed to use indentical or nearly identical prices for GIT tours based upon identical airfares, agreed to use a standard "tax service" or "service charge" on each GIT tour, and attempt to induce competitors to join their conspiracy.

III. EXPLANATION OF THE PROPOSED CONSENT JUDGEMENT

A. PROHIBITED CONDUCT

Section IV of the proposed judgement prohibits each of the defendants from entering into any agreements or understandings between themselves or any other person or business to fix, maintain, or stabilize the prices or terms or conditions of sale of GIT tour packages, and section IV also prohibits the defendants from exchanging prices, markups, terms, or conditions of sale of GIT tour packages with each other or another person or business.

Section V of the judgment provides that the defendants are not barred from negotiations or communications made for the sole purpose of a proposed or actual bona fide sale of tour components or for the sole purpose of pooling of space on aircraft to the extent permitted by the Federal Aviation Act and applicable rules and regulations of the Civil Aeronautics Board. Pooling arrangements by tour operators are commonplace in the industry and do not constitute illegal conduct.

B. SCOPE OF THE PROPOSED JUDGMENT

1. *Persons bound by the decree.* The proposed judgment expressly provides in section III that its terms apply to each of the consenting defendants and each of its officers, directors, agents, employees, subsidiaries, and assigns and to all other persons who receive actual notice of the terms of the judgment.

In addition, section VI of the judgment prohibits each defendant from selling or transferring all or a substantial part of any of its assets, unless the acquiring party files with the court its prior consent to be bound by the provisions of the judgment.

2. *Geographic coverage of the decree.* The prohibitions of the proposed judgment apply to all acts or transactions within the United States, its territories and possessions.

3. *Duration of the judgment.* By its terms, the proposed judgment restrains the prohibited conduct permanently.

4. *Notice and compliance requirements.* Section VII requires each of the defendants to take affirmative steps to advise each of its present and future officers, directors, managing agents, and employees of their obligations under the judgment. Section VIII requires each defendant to make available, upon reasonable notice, to representatives of the U.S. Department of Justice for their inspection documents and records within the defendant's possession, and to make available officers and employees of the defendant for interviews concerning matters within the scope of the judgment. Information obtained from the defendants under the authority of section VIII cannot be divulged outside of the Department of Justice except in a legal proceeding in which the United States is a party, or in order to secure compliance with this judgment, or as otherwise required by law.

C. OTHER TERMS

Section IX allows either party to apply to the court for construction or modification of the judgment or for violation of the judgment.

D. EFFECT OF THE PROPOSED JUDGMENT ON COMPETITION

The relief encompassed in the proposed judgment is aimed at preventing any recurrence of the restraints on competition alleged in the complaint. The prohibitive terms in section IV of the judgment are designed to insure that each of the defendants will act completely independently in determining the prices, terms, and conditions at which it sells or offers to sell GIT tour packages. Compliance with the proposed judgment will ensure competition among the defendants in the sale of GIT tour packages.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

Any potential private plaintiffs who might have been damaged by the alleged violation will retain the same right to sue for monetary damages and any other legal and equitable remedies that they would have had were the proposed consent judgment not entered. However, pursuant to section 5(a) of the Clayton Act (15 U.S.C. 15(a)), as amended, this judgment may not be used as prima facie evidence in private litigation.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED CONSENT JUDGMENT

The proposed consent judgment is subject to a stipulation by and between the United States and the defendant, which provides that the United States may withdraw its consent to the proposed judgment at any time until the court has found that entry of the proposed judgment is in the public interest. By its terms, the proposed consent judgment provides for the court's retention of jurisdiction of this action in order, among other reasons, to permit either of the parties thereto to apply to the court for such orders as may be necessary or appropriate for the modification of the final judgment.

As provided by section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)), any persons wishing to comment on the proposed judgment may, for a 60-day period prior to the effective date of the proposed judgment, submit written comments to the U.S. Department of Justice, Attention Anthony E. Desmond, Chief, Antitrust Division, 450 Golden Gate Avenue, Box 36046, San Francisco, Calif. 94102. The Department of Justice will file with the court and publish in the FEDERAL REGISTER such comments and its response to them. In evaluating any and all such comments, the Department will determine whether there is any reason for withdrawal of its consent to the proposed judgment.

VI. DETERMINATIVE DOCUMENTS

Since there are no materials or documents which were considered determinative in formulating the proposed consent judgment, none are being filed by the United States pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)).

VII. ALTERNATIVES TO THE PROPOSED CONSENT JUDGMENT CONSIDERED BY THE UNITED STATES

This case does not involve any unusual or novel issues of fact or law which might make litigation a more desirable alternative than entry of this consent judgment. The Department of Justice believes the substantive language in the consent judgment to be of sufficient scope and effectiveness to make litigation for relief unnecessary as the judgment provides for all of the relief requested in the complaint.

Dated: September 11, 1978.

DON B. OVERALL,
STEVEN L. WEINSTEIN,
Attorneys, Department of Justice.

[FR Doc. 78-26484 Filed 9-20-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC CO.

Proposed Issuance of Amendment to Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to operating license No. DPR-3 issued to the Yankee Atomic Electric Co. (the licensee) for operation of the Yankee Rowe nuclear power station (the facility), located in Franklin County, Mass., in accordance with the licensee's application for amendment and supplements 1 and 2 thereto, all dated July 13, 1978. The licensee will submit additional detailed design information to the Commission for further review.

The proposed amendments would (1) authorize modifications designed to upgrade certain features of the spent fuel pool and enclosure building to enhance safety which include installation of a stainless steel liner and permanent division wall in the spent fuel pool and (2) increase the authorized spent fuel storage capacity of the spent fuel pool from 391 fuel assemblies to 721 assemblies by installing additional racks by January, 1984.

The Commission's staff has determined that the modifications described in item (1) above have a utility independent of the proposed increase in spent fuel storage capacity. Accordingly, staff review of this item is proceeding separately from consideration of the proposed increase in storage capacity (item 2 above). Based on presently available information, the Commission's staff believes that the modifications described in item (1) above will not involve significant hazards considerations and may be considered separately.

Prior to issuance of the proposed license amendments, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By October 23, 1978, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject operating license authorizing increased spent fuel storage capacity in the spent fuel pool (item 2 above) and any person whose interest may be affected by this proceeding and who wishes to partcipate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing on the proposed increase in spent fuel storage capacity and petitions for leave to intervene shall be filed in accordance with the Commission's "rules of practice for domestic licensing proceedings" in 10 CFR part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the secretary of the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which the petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above. Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to his petition to intervene, which must include a list of the contentions which he seeks to have litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washingrton, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. by the above date. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Frederic Greenmond, Esquire, New England Electric System, 20 Turnpike Road, Westboro, Mass. 01581, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated July 13, 1978, and supplements (2) thereto dated July 13, 1978, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Greenfield Community College, 1 College Drive, Greenfield, Mass. 01301.

Dated at Bethesda, Md., this 11th day of September, 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-26389 Filed 9-20-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS subcommittees and working groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meet-

V 43/184 SEP 21 1978 S

V 43 / 184 SEP 21 78

ings which have been postponed or canceled since the last list of proposed meetings published August 15, 1978 (43 FR 36151). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the FEDERAL REGISTER approximately 15 days (or more) prior to the meeting. Those subcommittee and working group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and subcommittee and working group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when subcommittee and working group meetings will start will be published approximately 15 days prior to each meeting. Information as to whether a meeting has been firmly scheduled, canceled, or rescheduled, or whether changes have been made in the agenda for the October 1978 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee, telephone 202-634-3267, Attention: Mary E. Vanderholt, between 8:15 a.m. and 5 p.m., e.d.t.

SUBCOMMITTEE AND WORKING GROUP MEETINGS

*Advanced Reactors, September 25, 1978, Washington, D.C. Rescheduled to September 27, 1978, Washington, D.C. Notice of this meeting (Scheduled for September 25) was published August 15, 1978 (43 FR 36152).

*Safeguards and Security, September 26, 1978, Washington, D.C. The subcommittee will review the NRC research program in this area. Notice of this meeting was published July 17, August 15, and September 11, 1978 (43 FR 30631, 37152, and 40330, respectively).

*Advanced Reactors, September 27, 1978, Washington, D.C. Rescheduled from September 25, 1978. The subcommittee will continue its review of matters related to the NRC sponsored research on the safety of advanced reactor designs. Notice of this rescheduled meeting was published September 12, 1978 (43 FR 40579).

*Radiological Effects and Site Evaluation, September 27-28, 1978, Washington, D.C. The subcommittee will review: (1) A draft of Regulatory Guide 8.JB, "Radiation Safety Training at Nuclear Power Plants," (2) certain aspects of emergency planning, and (3) the NRC research program on radiological effects for the annual ACRS Report to Congress. Notice of this meeting was published September 12, 1978 (43 FR 40579).

*Regulatory Activities, October 4, 1978, Washington, D.C. The subcommittee will review working papers and future regulatory guides; also, it will discuss pertinent activities which affect the current licensing process and/or reactor operations. Notice of this meeting was published August 15 and September 19, 1978 (43 FR 36152 and 42049, respectively).

*Improved Safety Systems, 9 a.m., Ocotber 4, 1978, Washington, D.C. The subcommittee will discuss the NRC plan for research to improve the safety of light-water nuclear powerplants. Notice of this meeting was published September 15, 1978 (43 FR 41316).

*Reliability and Probabilistic Assessment, 1 p.m., October 4, 1978, Washington, D.C. The subcommittee will continue its review of the NRC Office of Nuclear Regulatory Research programs in risk assessment. Notice of this meeting was published September 15, 1978 (43 FR 41316).

*Reactor Fuel, 4 p.m., October 4, 1978, Washington, D.C. The subcommittee will continue its review of NRC research on reactor fuel for consideration by the ACRS in preparation of its annual report to Congress on safety research. Notice of this meeting was published September 15, 1978 (43 FR 41316).

*Waste Management, October 11-12, 1978, Washington, D.C. The subcommittee will review NRC research regarding waste management for inclusion in the annual ACRS report to Congress on safety research.

*Fluid Dynamics, October 24-26, 1978, San Francisco, Calif. Rescheduled from October 23-25, 1978. The subcommittee will meet with representatives of the NRC to discuss methods used in licensing for calculating containment system response by the NRC staff and the nuclear industry. Containment leak testing will also be discussed. In addition, the subcommittee will review the design basis and construction of the Mark II boiling water reactor (BWR) containment system. Notice of this meeting was published June 16, July 17, and August 15, 1978 (43 FR 26162, 30641, and 36152, respectively).

*Plant Arrangements, October 25, 1978, Washington, D.C. The subcommittee will begin its review of the NRC generic program, Systems Interaction in Nuclear Power Plants, Task A-17, and will review the Zion Station Systems Interaction Study.

*Reactor Operations, October 31 and November 1, 1978, Washington, D.C. The subcommittee will review NRC Office of Nuclear Regulatory Research programs being conducted by the Research Support Branch, and will hear a briefing by the NRC Division of Operating Reactors concerning its policies and activities.

*Regulatory Activities, November 1, 1978, Washington, D.C. The subcommittee will review working papers and future regulatory guides; also, it will discuss pertinent activities which affect the current licensing process and/or reactor operations.

*William H. Zimmer Nuclear Power Station, Unit 1, November 15-16, 1978, Cincinnati, Ohio. The subcommittee will review the application of the Cincinnati Gas & Electric Co. for a license to operate unit 1 of this station.

*Architect-Engineer Balance of Plant (tentative), November 21, 1978, Washington, D.C. The subcommittee will meet to review the Fluor Pioneer, Inc. Balance of Plant Standard Safety Analysis Report (BOPSSAR) and its relationship to the Babcock and Wilcox Standard Reference System B-SAR-205 for a preliminary design approval.

OCTOBER 5-7, 1978

A. *Fast Flux Test Facility—Operation.

B. *Anticipated Transients Without Scram (ATWS)—Provisions to mitigate the consequences of ATWS in light-water reactors.

C. *Reactor Safety Research—Discuss NRC research and related programs.

NOVEMBER 2-4, 1978

Agenda to be announced.

Dated: September 15, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-26620 Filed 9-20-78; 8:45 am]

[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-38]

ACCIDENT REPORT; RESPONSES TO SAFETY RECOMMENDATIONS

AIRCRAFT ACCIDENT REPORT

The National Transportation Safety Board announces the release of the formal report of its investigation into the crash last December 18 of a United Airlines, Inc., DC-8F-54 cargo aircraft near Kaysville, Utah. The aircraft, operating as Flight 2860, crashed into a mountain in the Wasatch Range. The three flightcrew members, the only persons aboard the aircraft, were killed, and the aircraft was destroyed.

During its descent and approach to the Salt Lake City Airport, Flight 2860 encountered electrical system problems and requested a holding clearance which was given by the approach controller and accepted by the flightcrew. The flight then requested and received clearance to leave the approach control frequency for a "little minute" to communicate with company maintenance.

Flight 2860 was absent from the approach control frequency for about 7½ minutes. During that time, the flight entered an area near hazardous terrain. The approach controller recognized Flight 2860's predicament but was unable to contact the flight. When Flight 2860 returned to approach control frequency, the controller told the flight that it was too close to terrain on its right and to make a left turn. after the controller repeated the instructions, the flight began a left turn and about 15 seconds later the controller told the flight to climb immediately to 8,000 feet. Eleven seconds later, the flight reported that it was climbing from 6,000 feet to 8,000 feet. The flight crashed into a 7,655-foot mountain near the 7,200-foot level.

As indicated in Report No. NTSB-AAR-78-8, the Safety Board has determined that the probable cause of this accident was the approach controller's issuance and the flightcrew's acceptance of an incomplete and ambiguous holding clearance in combination with the flightcrew's failure to adhere to prescribed impairment-of-communications procedures and prescribed holding procedures. The controller's and flightcrew's actions are attributed to probable habits of imprecise communication and of imprecise adherence to procedures developed through years of exposure to operations in a radar environment. Contributing to the accident was the failure of the aircraft's No. 1 electrical system for unknown reasons.

Following investigation of the Flight 2860 accident, the Safety Board last April 13 issued the following "Class II, Priority Action" recommendations to the Federal Aviation Administration:

Review the adequacy of current cockpit voice recorder preflight testing procedures to assure satisfactory system operation. (A-78-21)

Review the reliability of cockpit voice recorder units to assure that the mean time between failure is not excessive. (A-78-22)

RESPONSES TO SAFETY RECOMMENDATIONS

Highway

H-78-21 through 26.—The National Highway Traffic Safety Administration on August 14 responded to recommendations issued last May 3 following the Safety Board's safety effectiveness evaluation of the National Accident Sampling System (NASS). The Board's report on the evaluation, No. NTSB-SEE-78-1, was prepared last

April at the request of the Senate Appropriations Subcommittee on Transportation and Related Agencies and covered NHTSA's current effort to collect nationally representative highway accident data through a nationwide system of investigative teams. (See 43 FR 20284, May 11, 1978.)

As proposed, NASS is designed "to produce nationally representative accident data with sufficient accuracy and detail to provide an objective means of setting and evaluating many motor vehicle and highway safety standards."

In response to the six recommendations issued on May 3 to NHTSA in conjunction with the report, NHTSA shares the concern of the Safety Board that this system proceed to full implementation only after adequate planning and successful field experience have been demonstrated. NHTSA's concern is that the "literal interpretation of the recommendations might suggest that expansion to a true national system be delayed while the very difficult issue of accident causation data collection is resolved." NHTSA believes that effort beyond 1980 will be required before the state-of-the-art in causation data collection is sufficient to promote its use in a national system. Attached to NHTSA's August 14 letter is a detailed response to each of the recommendations.

With respect to recommendation H-78-21, which asked NHTSA to establish a NASS Advisory Committee to provide NHTSA with a broader perspective of types of data that should be collected and methods of data storage and retrieval, NHTSA reports that an ad hoc review panel was set up several years ago to evaluate NASS design. Another ad hoc panel will meet this fall, consisting of 23 members from all of the groups recommended by the Safety Board as having a constituent interest in NASS: automobile manufacturers, highway user groups, the insurance industry, governors' highway safety representatives, highway engineering agencies, medical and legal professions, statistical and economic professions, and the private and governmental highway safety research community. NHTSA states that the Carter Administration policy is to reduce the number of permanent advisory committees; therefore, NHTSA is considering various ways of performing occasional oversight of the program without requiring a permanent committee. NHTSA recognizes the importance of periodic review.

In response to H-78-22, NHTSA reports that the NASS staff is engaged in a continuing study of the key data to be used in national estimates. Some observations of the ongoing work are included in "Key Data Element Reporting in the National Accident Sampling System," a copy of which is attached to the response. The report indicates that relative errors on the order of 10 percent or less are feasible when considering missing data alone. NHTSA indicates that more thorough estimates of error will be completed in late 1979.

Recommendation H-78-23 asked NHTSA to study the effects on the cost and quality of data collection that could result from the need for NASS investigators to testify in liability cases resulting from motor accidents and consider the need, advisability, and obtainment of a limited shield for NASS investigators. In response, NHTSA has provided the results of a recent study on this subject and plans for a 1979 study in an attachment entitled "The Effects of Liability Litigation on the National Accident Sampling System." The study finds that potential effects of liability litigation has no significant effect on cost or data quality. A limited shield is considered unnecessary at this time.

In answer to recommendation H-78-24, NHTSA does not plan to select any new NASS accident investigation sites or to expand the number of teams beyond the original 10 before sufficient experience and planning form a basis for such action. The next expansion is scheduled for March 1980, after 20 months of field experience. NHTSA, however, believes it to be unwise to delay expansion while awaiting the development of an accident causation methodology and an exposure data collection system. NHTSA indicates that the NASS is keyed to support the Administration's rulemaking plan for 1978. NHTSA states that data collection to support countermeasures should not be sacrificed while improvements in accident causation data collection are sought. The expansion of NASS and improvement of accident causation methodology will go on simultaneously. NHTSA does not believe the exposure data system design is a prerequisite for expanding the sample.

As recommended by H-78-25, space has been allocated for central storage and review of reports generated by NASS in the National Center for Statistics and Analysis. NHTSA states that the cases will be retained for five years, and, in the fifth year, an evaluation of usage will be made and longer term disposition will be decided.

Recommendation H-78-26 asked NHTSA to revise the currently proposed data collection forms to include substantially increased emphasis on the highway environment, and to seek to utilize the recommendations and counsel of the Federal Highway Administration (FHWA). NHTSA states that it is in complete agreement with this recommendation. NHTSA reports

V 43/184 SEP 21 78

that on May 12 FHWA forwarded a list of data needs for consideration. Approximately 30 percent are presently being collected in the NASS pilot study. Approximately 50 percent are not in the NASS effort but could be, according to NHTSA. The effort required to expand NASS to include this data will be determined. The last 20 percent appear to be beyond the scope of NASS. These issues will be discussed and resolved by a joint FHWA-NHTSA committee, the establishment of which is now under discussion by the agencies. The inclusion of these data can begin in mid 1979, NHTSA stated.

Marine

M-70-3, M-70-13, and M-71-7.—Letter of August 4 from the U.S. Coast Guard provides an update on recommendations issued as a result of investigation into the collision of the SS *African Star* and the MV *Midwest Cities* on March 16, 1968, and the collision between the SS *Union Faith* and the *Warren J. Doucet* on April 6, 1969, respectively. Both collisions occurred on the Mississippi River.

Recommendation M-70-3 called for the Coast Guard, the Army Corps of Engineers, and the Coast and Geodetic Survey to consider: Including in the Coast Pilot or other appropriate navigational guides, information for the inland waterways on the "points and bends" custom and its effect on 33 U.S.C. 203 (Rule I) and 33 U.S.C. 210 (Article 25), the narrow channel rule, and other navigational information useful in navigating these waters; and the need for clarification of these rules in the proposed "United States Nautical Rules" (H.R. 214). Coast Guard reports that the draft unified rules which it prepared for Congress incorporated the "points and bends" custom for use on the Western Rivers and Great lakes and any other waters the Secretary of Transportaton may designate; these rules can be put into effect in 3 to 4 years.

Recommendation M-70-13 called for regulatory action to specify minimum performance standards for whistles on all vessels provided with them in accordance with the applicable Rules of the Road, and recommendation M-71-7 recommended an enforcement program to end the use of inadequately powered lights on all barges. In response to both recommendations, Coast Guard repoorts that draft unified rules are now being developed as a legislative package for submission to Congress next term. The package would grant the Commandant regulatory authority to issue technical Annexes for lights and whistles which would closely parallel the Annexes of the 72 COLREGS. This should result in safe and enforceable regulations for lights and whistles, Coast Guard stated.

Pipeline

P-72-52 and P-74-39.—The Department of Housing and Urban Development on July 28 responded to the Safety Board's inquiry of June 27, 1978, concerning the potential that underground natural gas pipeline leaks represent in residential buildings. The subject recommendations resulted from investigation of two pipeline explosions involving Washington Gas Light Co. facilities. One accident occurred on March 24, 1972, in the Annandale section of Fairfax County, Va., after a contractor's backhoe snagged a 2-inch steel gas main and pulled the pipe out of its compression coupling 22 feet away; the other occurred in Bowie, Md., June 23, 1973, when natural gas from a cracked plastic main migrated through the sand-gravel material, formed a gas reservoir under the house, and passed through heat ducts and other openings in the building slab. Both recommendations called for a study of the flow of natural gas through various basement wall materials and through various types of construction.

The Safety Board's inquiry noted that a major problem identified in investigating pipeline related accidents is that of gas entry and accumulation in buildings near the leak. Any gas leak is dangerous, but when the gas is allowed to accumulate in large amounts in limited enclosed spaces, the danger increases sharply, the Board said. Gas migrating through soil and along the exterior of the pipe enters the lower level of building structures through minor wall cracks, porous building materials, and poorly sealed utility entry points. A related problem is that as a gas moves through a soil, the odorant placed in the gas by the gas company operators, is often filtered so that anyone in the structure would not be aware of the concentration due to recognition of odor.

Also, the Board reported that the National Bureau of Standards (NBS) has suggested studying a two-pronged attack on the problem, sealing the structure from gas intrusion and interior detection of gas that does enter. NBS said it can submit a study proposal and has asked the Safety Board to approach HUD with respect to funding such a study. The Board stated in its June 27 letter to HUD that the solution to the problem will have an effect on the design and cost of homes and other buildings that would come under HUD's regulatory powers.

In response HUD states that demands on its very limited research and development budget are such that this type of research project cannot be funded at this time. HUD said that Congress appropriated materially fewer funds for this year's research than had been requested, and the Department is having to bypass a number of good projects to concentrate resources on planned high priority projects identified by the Congress or by HUD's operating program offices.

HUD reports that it did undertake an extensive effort in 1974 to investigate gas pipeline safety on HUD-insured and HUD-assisted multifamily residences. From that research, which was coordinated closely with the Department of Transportation and the Safety Board, HUD published a guide entitled "Handbook on Natural Gas Pipeline Safety in Residential Areas Served by Master Meters"; a copy of the guide was forwarded with the response. Also, HUD said it has instructed local housing authorities to check the integrity of their underground gas pipeline systems thoroughly and periodically, using the handbook as a guide.

P-74-19.—The American Society of Mechanical Engineers (ASME) on July 17 commented on the Safety board's recommendation to develop guidelines for the use of telemetering on gas distribution systems so that system failures can be promptly detected. The recommendation resulted from investigation of the gas pipeline leak, explosion, and fire which occurred December 9, 1972, in the Missouri Public Service Co. system at Clinton, Mo.

ASME's response includes a lengthy technical discussion of parameters involved in telemetering gas pipeline data. The conclusions include a statement on uses of telemetering. This system has been used based on considerations of continuity of service and as an operating tool for monitoring large systems. ASME notes that the use of telemetering as an early warning agent for system failures is subject to serious question on the basis of technical practicability. A list of parameters is given upon which to base guidelines, if guidelines must be established. ASME does not endorse the concept of using telemetry as an early warning agent alone. A statement is included that actual test work seems justifiable as the technical analysis is largely hypothetical.

P-74-54 through 58.—Letter of August 4 from the Mid-America Pipeline System is in response to the Safety Board's inquiry of July 27 regarding recommendations issued as a result of Mid-America's anhydrous ammonia leak at Conway, Kans., on December 6, 1973.

In response to P-74-54, which asked that improved procedures under 49 CFR 195.402 require that dispatchers perform detailed monitoring of all

points on a pipeline system during startup until conditions have stabilized, Mid-America says that dispatchers have been instructed on startup procedures for all systems and that presently there are two dispatchers on duty 24 hours per day.

Recommendation P-74-55 asked Mid-America to check the instrumentation at all stations, terminals, and control points under 49 CFR 195.402, and to make changes and additions as necessary to protect this pipeline system against overpressure. Mid-America reports that this requirement has been complied with by the installation of three pressure control regulating stations and remote reading pressure points in order to preclude the possibility of overpressure.

Mid-America reports concerning P-74-56 that the training program for pipeline inspectors has been initiated to insure that all inspectors are adequately trained to reduce the probability of pipeline damage by outside parties, as recommended.

With respect to recommendation P-74-57, Mid-America states that a program of more frequent inspection of control equipment has been initiated, as recommended, and that a concerted effort is being made to keep the equipment operative at all times. Known failure-prone components are replaced with more reliable equipment as problems become apparent. Mid-America has gone to a pressure recorder that uses pressure sensitive paper and, therefore, does not require the use of ink.

Recommendation P-74-58 asked the company to review the operations of its pipeline system in the light of 49 CFR 195.402 to institute a more systematic and authoritative approach to understanding and controlling hazards. Mid-America reports that a training program for operating personnel has been initiated, and minimum standards are established for various operating jobs. Further, pipeline design is continually updated to employ the most recent innovations in pressure and flow control equipment.

P-75-4.—Another letter from the American Society of Mechanical Engineers under date of July 17 concerns a recommendation resulting from the investigation of Michigan-Wisconsin Pipeline Co. accident at Monroe, La., March 2, 1974.

In response to this recommendation to develop guidelines for the use, setting, and maintenance of automatic valves on gas transmission pipeline systems, ASME indicates agreement with the Safety Board that guidelines have merit but believes that they should not be developed until such time as detection and control systems are sufficiently advanced to provide proper operation. ASME says that settings for such controls must be determined with both continuity of service and rapid shutdown in mind. ASME notes that the problem of inadvertent operation is more complex in multiple looped pipeline systems and that systems which are commercially available today do not meet these criteria. Several gas transmission companies are independently experimenting with detection systems that hold promise of meeting these criteria. Experimentation is in the demonstration stage—field testing, refinement, and data collection.

P-77-29.—Letter of July 31 from the Exxon Gas System, Inc., is a followup to its response of May 12 regarding the recommendation which followed investigation into the failure and subsequent explosion of a gas compressor at an Exxon station on December 7, 1976, near Robstown, Tex. The recommendation called for a total systems review of electric, air, and gas-operated emergency equipment, with a particular emphasis on interconnected air systems and backup on dual-feed air systems in compressor stations.

Exxon reports that it has completed a detailed systems review of its emergency equipment and concludes that the system is satisfactory. There are no interconnected air systems involved with the emergency system, Exxon states. The backup power source is defined for each identified segment of the emergency system. A summary of fire gate valve operation is provided in an attachment to the followup response. Exxon plans to have the solenoid valve modified completely at all three compressor stations by the end of the year.

NOTE.—The above notice reports on Safety Board documents recently released and recommendation response letters received. Single copies of the accident report are available to the general public without charge. Copies of the full text of responses to recommendations may be obtained at a cost of $4 for service and 10¢ per page for reproduction.

All requests to the Board for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

SEPTEMBER 18, 1978.

[FR Doc. 78-26532 Filed 9-20-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

List of Requests

CLEARANCE OF REPORTS

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 14, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary, an Interim Evaluation of Section 504 Implementation, OS-4-78-A, single time, HEW service providers, 8,000 responses, 2,000 hours, Laverne V. Collins, 395-3214.

DEPARTMENT OF LABOR

Employment and Training Administration, State and National Apprenticeship Data System, (SNAPS), ETA 5-125 and 5-126, semiannually, Federal and State apprenticeship and training representatives, 89,000 responses, 19,918 hours, Strasser, A., 395-6132.

EXTENSIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Assistant Secretary):

Application for Coinsurance Benefits (Multifamily), HUD-426, 426A, 426.1, and 427, on occasion, coinsurance benefits, 50 responses, 100 hours, Caywood, D. P., 395-3443.

Request for Preliminary Reservation of Contract Authority for Conditional Commitments to be Converted to Section, 235(I), FHA-3122, on occasion, sponsors, 5,000 responses, 417 hours, Caywood, D. P., 395-3443.

Housing Management:

Annual Operating Budget for Cooperative Housing Corporations, HUD-93240, on occasion, cooperative housing corporations, 1,135 responses, 5,675 hours, Caywood, D. P., 395-3443.

Notice of Default Status on Multifamily Housing Projects, HUD-92426, on occasion, mortgagees, 27,000 responses, 13,500 hours, Caywood, D. P., 395-3443.

Administration (Office of Assistant Secretary), Fiscal Data in Support of Claim for Insurance Benefits, FHA-2742, on occasion, FHA approved mortgagees, 350 responses, 105 hours, Caywood, D. P., 395-3443.

Housing Production and Mortgage Credit, Application for Mortgage Insurance, section 213, sales type, FHA-3202, on occasion, project sponsors, 20 responses, 10 hours, Caywood, D. P., 395-3443.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-26671 Filed 9-20-78; 8:45 am]

[4710-02]

DEPARTMENT OF STATE

AGENCY FOR INTERNATIONAL DEVELOPMENT

JOINT COMMITTEE FOR AGRICULTURAL DEVELOPMENT OF THE BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the 15th meeting of the Joint Committee on Agricultural Development of the Board for International Food and Agricultural Development on October 10 and 11, 1978.

The purpose of the meeting is to discuss: The status of preparations for reception and review of university strengthening proposals; the proposal by the Consultative Group on International Agricultural Research for the establishment of a new international service for strengthening national agricultural research; the need for revision of the JCAD agenda; AID's process for selection of university contractors; the proposed Foundation for International Technical Cooperation and how it relates to title XII; and to consider other business brought before the Committee.

The meeting on October 10, 1978, will convene in regional work groups (RWG's): Africa RWG at 9:30 a.m., in Room 2941, New State Department Building; Asia RWG at 9:30 a.m., in Room 322, Rosslyn Plaza Building, 1601 North Kent Street, Rosslyn, Va.; near east RWG at 9:30 a.m., in Room 6484, New State Department Building; and Latin America RWG at 9:30 a.m., in Room 2242, New State Department Building. The meeting on October 11, 1978, will convene from 9 a.m. to 5 p.m., in the Arlington Room of the Quality Inn, Pentagon City, 300 Army-Navy Drive, Arlington, Va. 22202. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Carl E. Ferguson, Office of Title XII Coordination, Development Support Bureau, is designated AID Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 703-235-9054.

Dated: September 13, 1978.

CARL E. FERGUSON,
AID Advisory Committee Representative, Joint Committee on Agricultural Development, Board for International Food and Agricultural Development.

[FR Doc. 78-26503 Filed 9-20-78; 8:45 am]

[4710-02]

JOINT RESEARCH COMMITTEE OF THE BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the 16th meeting of the Joint Research Committee of the Board for International Food and Agricultural Development on October 10 and 11, 1978.

The purpose of the meeting is to discuss procedures and methods for involvement of AID regional bureaus and country missions in planning and implementing collaborative research support programs (CRSP's) with U.S. agricultural universities in food, nutrition, and related areas; to inventory contract research, and identify periodic research needs in food, nutrition, and related areas in AID regional bureaus and country missions; to discuss procedures for JRC review of unsolicited research proposals in food, nutrition, and related areas; to discuss proposed revision of JRC guidelines on methods of participation of USDA in aid funded CRSP's; and consider other matters brought before the Committee.

This meeting will convene at 9 a.m. and adjourn at 5 p.m., on October 10 and 11, 1978. The meeting will be held in the Arlington Room of the Quality Inn, Pentagon City, 300 Army-Navy Drive, Arlington, Va. 22202. The meeting is open to the public. Any interested person may attend, may file written statements with the committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Office of Title XII Coordination, Development Support Bureau, is designated AID Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 703-235-2243.

Dated: September 14, 1978.

ERVEN J. LONG,
AID Advisory Committee Representative, Joint Research Committee, Board for International Food and Agricultural Development.

[FR Doc. 78-26504 Filed 9-20-78; 8:45 am]

[4710-08]

[Public Notice CM-8/107]

SECRETARY OF STATE'S ADVISORY COMMITTEE ON PRIVATE INTERNATIONAL LAW

Meeting

A meeting of the Secretary of State's Advisory Committee on Private International Law will be held at 10:30 a.m., on Wednesday, October 25, 1978, in room 1205 of the Department of State. Members of the general public may attend and participate in the discussion subject to instructions of the Chairman.

The principal purpose of the meeting will be to review proposed positions of the U.S. Government on issues of private international law under international negotiation, and to recommend priorities in the U.S. Government's participation in private international law programs.

Members of the general public who desire to attend the meeting will be admitted up to the limits of the capacity of the meeting room. Entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is requested that prior to October 25, 1978, members of the general public who plan to attend the meeting inform their name, affiliation, and address to Ms. Dorothy Fagan, Office of the Legal Adviser, Department of State; the telephone number is area code 202-632-8134. All non-Government attendees at the meeting should use the C Street entrance.

HERBERT J. HANSELL,
Chairman.

SEPTEMBER 13, 1978.

[FR Doc. 78-26486 Filed 9-20-78; 8:45 am]

[4710-07]

[Public Notice CM-8/106]

STUDY GROUP 1 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Meeting

The Department of State announces that Study Group 1 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on October 12, 1978, at 10 a.m., in Room A-110 (Training Room) of the Federal Communications Commission, 1229 20th Street NW., Washington, D.C. This Study Group deals with U.S. Government regulatory aspects of international telegraph and telephone operations and tariffs.

The Study Group will discuss international telecommunications questions relating to telegraph, telex, data, videotex, maritime mobile and leased channel services in order to develop U.S. positions to be taken at international CCITT meetings to be held in December 1978 and during 1979, in Geneva, Switzerland.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Requests for further information should be directed to Mr. Richard H. Howarth, State Department, Washington, D.C. 20520, telephone 202-632-1007.

RICHARD H. HOWARTH,
Vice Chairman, U.S. CCITT National Committee.

SEPTEMBER 12, 1978.

[FR Doc. 78-26485 Filed 9-20-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 76-011]

DEEPWATER PORTS

Application Amendment

AGENCY: Coast Guard, Department of Transportation.

ACTION: Notice of deepwater port license application amendment.

SUMMARY: On August 24, 1978, the Texas Deepwater Port Authority (TDPA) filed with the Department of Transportation an amendment to the application submitted on December 31, 1975 by Seadock, Inc., a corporate consortium of oil companies, for a license to own, construct, operate, and maintain a deepwater port off the coast of Texas. The TDPA, through the amendment, seeks the approval that is required by the Deepwater Port Act of 1974 (the Act) (33 U.S.C. 1501) to build a deepwater port. The TDPA project apears to be the same port facility, in the same location, which was proposed in the original deepwater port license application submitted by Seadock. The Seadock application review process culminated in an offer by the Secretary of Transportation on January 17, 1977, of a deepwater port license, supported in part by the finding that the port was in the national interest. Seadock did not accept the Secretary's license offer because it could not obtain enough owners to finance the project. The Texas State legislature subsequently established the TDPA as a State agency to pursue this matter. TDPA's amendment to the application reflects the State's desire to revive and sponsor a deepwater port under public ownership and financing, and would, if approved, permit the TDPA to move forward with development of the port.

DATES: Public comment is invited throughout the processing of the application amendment. Public hearings will be announced in a future FEDERAL REGISTER notice and by other appropriate means.

ADDRESSES: The application amendment review process is being conducted by the: Deepwater Port Application Staff, Commandant (G-WDWP/61), U.S. Coast Guard Headquarters, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Comdr. J. D. Partin, Coast Guard Application Coordinator, 202-426-2606, between 7:30 a.m. and 4 p.m. e.s.t.

SUPPLEMENTAL INFORMATION: Through acquisition from Seadock of all its interests in the original deepwater port license application, including the engineering, environmental, and other work that had been done on the project, the TDPA intends to use the same port design, location, capacities, etc., as previously approved by the Secretary. The principal change reflected in the application amendment is in the ownership and financing, i.e., a change to public ownership and revenue bond financing. Because the amendment proposes the same port which Seadock applied to build, the designation of Texas as an adjacent coastal State for that application (41 FR 3769, January 26, 1976) remains valid for the amendment. Similarly, the "application area" for the amendment is the area designated for original application—that area contained within a circle of 21 nautical mile radius centered at latitude 28°30.5' N. and longitude 95°16.8' W. and south of a line drawn between latitude 28°29' N., longitude 96°008' W., and latitude 29°01' N., longitude 95°00' W., less that area contained within shipping safety fairways and fairway anchorages as plotted on National Ocean Survey chart number 11300. Any person interested in applying for a license for the ownership, construction, and operation of a deepwater port within the designated application area described above must file with the commandant (G-WDWP/61), at the address listed above, a notice of intent to file an application on or before November 20, 1978.

The change to public ownership and financing is favored by the Act in its establishment of a preference for the issuance of a deepwater port license to public owners. The Federal review process of the TDPA application amendment will primarily focus upon the change of ownership and the effects thereof, along with a review of a number of lesser issues that may require updating because of the intervening time since the original application review was completed.

REVIEW PROCESS

The TDPA application amendment has been reviewed for completeness of content by reference to the standards enumerated in the Act and 33 CFR 148.109. It appears the application amendment contains sufficient information to commence a formal review process. Since there are no regulations or procedures for processing a deepwater port license application amendment of the nature presently before the Coast Guard, the procedures and standards specified in the Act and in the regulations at 33 CFR Part 148 for a new application will be used where appropriate. Moreover, the application staff intends to comply with all time limits established by the Act and, where feasible, to accelerate the process because much of the TDPA proposal was already approved in the review of the Seadock application.

DEEPWATER PORT PLANS

The application amendment plans under review provide for constructing a deepwater port in the Gulf of Mexico, approximately 26 miles south of Freeport, Tex. The focal point of the port will be a pumping platform complex (PPC) bearing 177.8° true 25.8 nautical miles from Freeport Harbor

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entrance light. The PPC (lat. 28°30'31" N., long. 95°16'59" W.) will contain personnel accommodations, machinery for pumping to the mainland oil received at the port, and a control station for directing and monitoring vessel movement in the port area.

Arranged around the circumference of a circle having an approximate 8,000-foot radius from the center of the PPC will be four single point mooring (SPM) buoys. Tankers calling at the port will moor by the bow at the SPM's. Floating oil transfer hoses will be attached to each SPM in a manner that allows a tanker to moor to the buoy, connect to the hoses, and discharge its cargo. While moored, the tanker will weather-vane 360 degrees about the SPM, to maintain a heading of least resistance to the elements when engaged in oil transfer operations.

An approach fairway to the port and anchorage areas for tankers awaiting a berth at the SPM's are proposed for the port. A portion of the fairway and the anchorage areas will be marked with lighted aids to navigation, and safeguarded by a vessel traffic control scheme that will monitor the movement of tankers arriving at and departing from the port. The proposed fairway will extend from the port's traffic scheme southward to an existing Gulf safety fairway.

Buried submarine pipelines will carry oil from the base of each SPM to the PPC where it will be boosted to shore via two 52-inch diameter buried pipelines. The path of these pipelines to an onshore storage terminal is on an approximate bearing of 336° true from the PPC to the beachline, thence roughly parallel to Redfish Bayou on a northerly bearing to the tank farm.

The onshore storage terminal will be located 5 miles inland, near Freeport; it will contain 28 tanks with a total capacity of approximately 22,500,000 barrels. There will be pumps and ancillary facilities at the storage terminal to distribute the crude oil to the pipeline networks that will deliver to inland refineries and chemical plants.

The deepwater port is designed to handle an average throughput of approximately 2,000,000 barrels of crude oil daily.

The TDPA has also indicated tentative plans for future expansion. These plans call for an addition to the PPC, two additional SPM's, an additional 52-inch pipeline from the PPC to the shore, increased onshore crude oil storage capacity to a maximum of approximately 35,500,000 barrels, and increased daily volume of oil throughput at the port to 4,000,000 barrels. An amended deepwater port license will be required prior to this expansion.

ADDITIONAL INFORMATION

Any person who desires to receive notices of public hearings that may be held in connection with the processing of the TDPA application amendment may submit a written request therefor to Commandant (G-WDWP/61) at the Coast Guard address listed above.

A copy of the application amendment, except trade secrets and confidential information for which protection from disclosure is afforded under section 14 of the Act, may be reviewed between 7:30 a.m. and 4 p.m. in room 8117 at the above address, and during normal business hours at the following locations:

Office of the Commander (mps), Eighth Coast Guard District, Room 13411, Hale Boggs Federal Bldg., 500 Camp St., New Orleans, La. 70130.
Freeport Public Library, 410 Brazosport Blvd., Freeport, Tex. 77542.
Office of the Galveston District, Army Corps of Engineers, U.S. 400 Barracuda, Galveston, Tex. 77550.
Texas Deepwater Port Authority, 3701 Kirby Dr., Suite 730, Houston, Tex. 77098.

(88 Stat. 2131 (33 U.S.C. 1504(c)); 49 CFR 1.46.)

Dated: September 18, 1978.

W. W. BARROW,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 78-26545 Filed 9-18-78; 3:54 pm]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 78-123]

CONRAIL BRIDGE; DEPUE, ILL.

Public Hearing on Proposed Bridge Alteration

A public hearing on proposed alteration of the ConRail railroad bridge across the Illinois River, mile 213.9, at Depue, Ill., will be held on Wednesday afternoon, October 25, 1978, at 1 p.m., in the county board room, Peoria County Courthouse, Main and Jefferson Streets, Peoria, Ill. This hearing is being held under the authority of section 3 of the act of June 21, 1940 (Truman-Hobbs Act).

The existing bridge, which has a swing span, provides approximately 146 feet of horizontal clearance in the draw when measured normal to the channel axis. A number of complaints have been received alleging that the bridge is unreasonably obstructive to navigation. The purpose of the hearing is to determine whether alteration is needed and, if so, what alteration is required having due regard for the necessity of free, easy and unobstructed navigation upon the waterway. The needs of rail traffic will also be considered.

Public comments, views, and data are required for ascertaining whether the bridge unreasonably obstructs navigation, whether vessels have unreasonable difficulty and delay in passing through the bridge, the extent of costs associated with collisions and delays to navigation, the character and amount of commerce affected, whether the commerce affected is sufficient to justify alteration of the bridge, the changes necessary to render navigation through or under the bridge reasonably free and unobstructed, and the impact of the alteration, if made, upon the quality of the human environment.

Any person who wishes may appear and be heard at this public hearing. Persons planning to appear and be heard are requested to notify the Commander, Second Coast Guard District, 1430 Olive Street, St. Louis, Mo. 63103, any time prior to the hearing indicating the amount of time required. Depending upon the number of scheduled statements, it may be necessary to limit the amount of time allocated to each person. Any limitations of time allocated will be announced at the beginning of the hearing. Written statements and exhibits may be submitted in place of or in addition to oral statements and will be made a part of the record of the hearing. Such written statements and exhibits may be delivered at the hearing or mailed in advance to the Commander, Second Coast Guard District.

(54 Stat. 498, 33 U.S.C. 513; sec. 6(g)(3), 80 Stat. 937, 49 U.S.C. 1655(g)(3); 33 CFR 116.20 and 49 CFR 1.46(c)(6).)

Dated: September 14, 1978.

F. P. SCHUBERT,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 78-26549 Filed 9-20-78; 8:45]

[4910-14]

[CGD 78-125]

CHEMICAL TRANSPORTATION ADVISORY COMMITTEE; SUBCOMMITTEE ON LIQUEFIED GAS VESSELS

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Advisory Committee's Subcommittee on Liquefied Gas Vessels to be held on Wednesday, October 25, 1978, beginning at 9 a.m., room 8236, Nassif Building, 400 7th Street SW., Washington, D.C. 20590. The agenda for this meeting is as follows:

To discuss design and construction standards for internal insulation systems for liquefied gas cargo tanks.

Attendance is open to the interested public. With the approval of the chairman, members of the public may present oral statements. Any member of the public may present a written statement to the subcommittee at any time.

FOR ADDITIONAL INFORMATION, CONTACT:

Capt. William N. Spence, Commandant (G-MHM/83), U.S. Coast Guard, Washington, D.C. 20590, 202-426-2306.

For scheduling and for providing adequate seating, those wishing to present oral statements or attend the meeting should notify the above office no later than the day before the meeting.

Issued in Washington, D.C., on September 18, 1978.

HENRY MCBELL,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 78-26550 Filed 9-20-78; 8:45 am]

[4910-14]

[CGD 78-127]

PROPOSED BRIDGE ACROSS THE ST. JOHNS RIVER AND MILL COVE AT JACKSONVILLE, (DAME POINT), FLA.

Public Hearing

Notice is hereby given that the Commandant has authorized a public hearing to be held by the Commander, Seventh Coast Guard District, at the Prudential Insurance Co., first floor auditorium, 841 Frudential Drive, Jacksonville, Fla., from 5:30 p.m. to 10:30 p.m. on Monday, November 6, and Wednesday, November 8, 1978. The purpose of the hearing is to consider the application from the Jacksonville Transportation Authority for a permit to construct a highway bridge across the St. Johns River and Mill Cove at Jacksonville (Dame Point), Fla. All interested persons may present data, views, and comments orally or in writing at the public hearing concerning the impact of the proposed bridge on the environment and its effect on navigation. A final environmental impact statement prepared by Federal Highway Administration (FHWA) as lead agency has been filed with the Council on Environmental Quality on May 20, 1977, in compliance with the National Environmental Policy Act.

A public hearing was held on November 17 and 18, 1976, in accordance with FHWA guidelines. The public hearing included the entire project corridor. All comments presented at the hearing concerning the effects of the proposed project on the quality of the human environment and those to be presented at the scheduled hearing will be made a part of the record and will be given full consideration in the permitting process. Of particular importance at this time are effects of the proposed bridge alinement and the vertical and horizontal clearances on navigation. Presentations should include factual data to support comments presented.

The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement describing the proposed bridge and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander (oan), Seventh Coast Guard District, Federal Building, 51 Southwest First Avenue, Miami, Fla. 33130, by November 1, 1978. Such notification should include the approximate time required to make the presentation. A transcript will be made of the hearing and may be purchased by the public. Interested persons who are unable to attend this hearing may also participate in the consideration of this bridge permit application by submitting their comments, in writing, on or before December 8, 1978, to the Commander (oan), Seventh Coast Guard District. Each comment should state the reasons for any objections, comments or proposed changes to the plans, and the name and address of the person or organization submitting the comment.

Copies of all written communications will be available for examination by interested persons at the office of the Commander (oan), Seventh Coast Guard District. All comments received will be considered before final action is taken on the proposed bridge permit application. After the time set for the submission of comments, the Commander, Seventh Coast Guard District, will forward the record, including all written comments, and his recommendations to the Commandant, U.S. Coast Guard, Washington, D.C. 20590. The Commandant will make the final determination of the bridge permit.

(Sec. 502, Act of Aug. 2, 1946, as amended; 33 U.S.C. 525, 49 U.S.C. 1655(g)(6)(C); 49 CFR 1.46(c)(10).)

Dated: September 15, 1978.

F. P. SCHUDERT,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 78-26551 Filed 9-20-78; 8:45 am]

[4910-14]

[CGD 78-053a]

TANKER SAFETY AND POLLUTION PREVENTION

Revision to Regulatory Implementation Plan Schedule

PURPOSE

The purpose of this notice is to inform the public of a revision to the schedule of the Coast Guard plan for regulatory implementation of the results of the International Conference on Tanker Safety and Pollution Prevention (TSPP) sponsored by the Intergovernmental Maritime Consultative Organization (IMCO) from February 6 through 17, 1978.

DISCUSSION

In the April 20, 1978 FEDERAL REGISTER, Volume 43, No. 77, pages 16886 through 16890, the Coast Guard issued a notice to inform the public of the results of the International Conference on Tanker Safety and Pollution Prevention and to provide the public with the anticipated plan for regulatory implementation of the results of the conference. At the TSPP Conference new measures and procedures to improve the safety of oil tankers and reduce pollution of the sea from ships were developed which expanded the requirements of the 1974 Safety of Life at Sea Convention (SOLAS 74) and the 1973 Marine Pollution Convention (MARPOL 73). It is the intention of the Coast Guard to implement these new measures and procedures into Federal regulations. Table 2 on page 16890 of the April 20 FEDERAL REGISTER set forth the expected schedule necessary to develop and finalize these Federal regulations and the effective implementation dates once the regulations become final.

It was originally estimated that final regulations for inert gas systems (IGS) and second radar systems would be issued during August 1978, with final regulations for segregated ballast tanks (SBT), clean ballast tanks (CBT), crude oil washing (COW), and improved steering standards to be issued in February 1979. The preparatory work necessary for the development and issuance of the SBT, CBT, COW, improved steering standards, and IGS regulations was delayed because project personnel were simultaneously tasked with conducting a study to determine if tanker safety and pollution prevention measures, additional to those developed at the TSPP Conference, should be applied to U.S. tank vessels in domestic trade. As a result of this, the schedule for these final regulations has been revised.

NOTICES

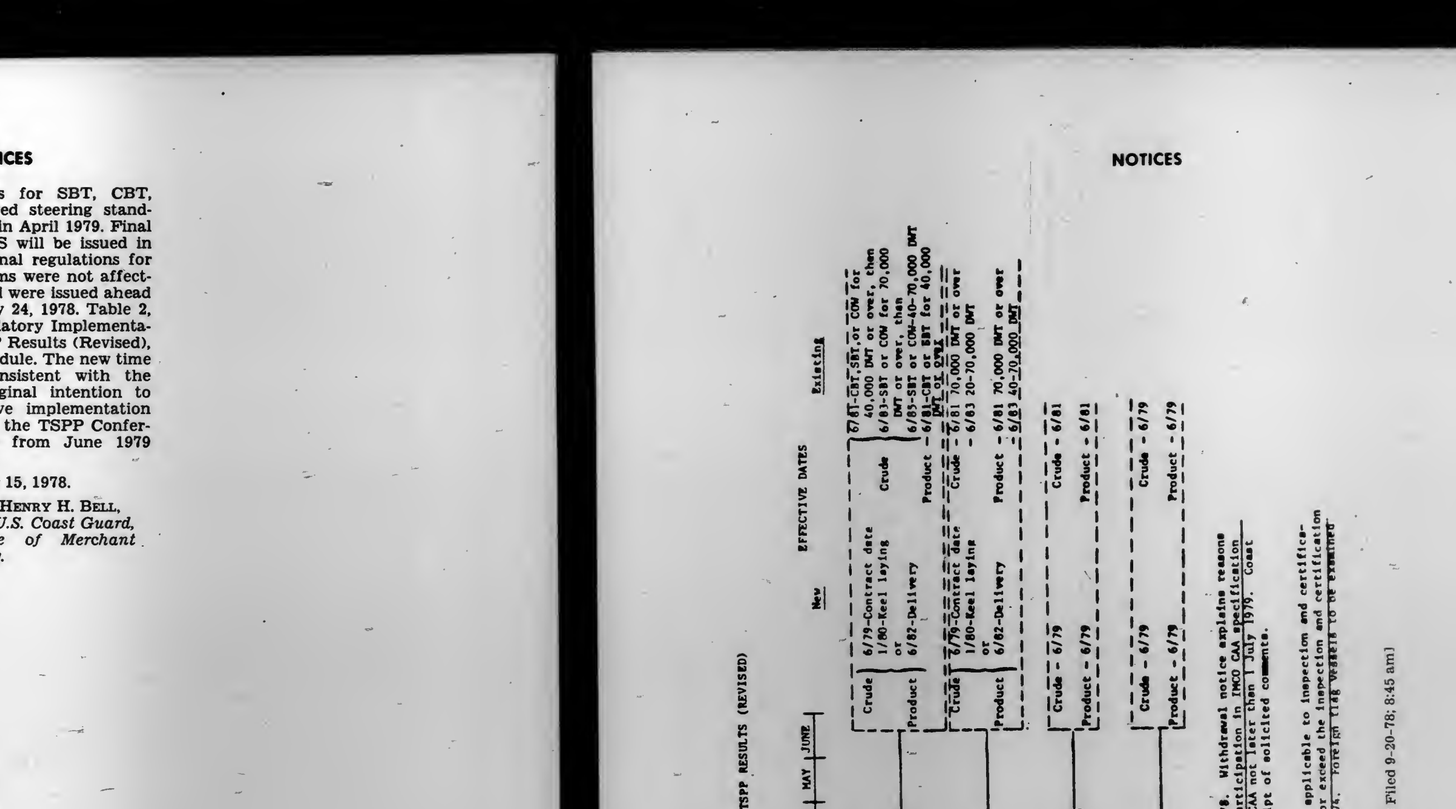
Final regulations for SBT, CBT, COW, and improved steering standards will be issued in April 1979. Final regulations for IGS will be issued in November 1978. Final regulations for second radar systems were not affected by the delay and were issued ahead of schedule on July 24, 1978. Table 2, Coast Guard Regulatory Implementation Plan for TSPP Results (Revised), shows the new schedule. The new time frame remains consistent with the Coast Guard's original intention to utilize the effective implementation dates developed by the TSPP Conference which range from June 1979 through June 1985.

Dated: September 15, 1978.

HENRY H. BELL,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Merchant
Marine Safety.

Table 2

COAST GUARD REGULATORY IMPLEMENTATION PLAN FOR TSPP RESULTS (REVISED)



[FR Doc. 78-26548 Filed 9-20-78; 8:45 am]

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[8320-01]

VETERANS ADMINISTRATION

SPECIAL MEDICAL ADVISORY GROUP

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463, that a meeting of the Special Medical Advisory Group, authorized by 38 U.S.C. 4112(a), will be held in the Administrator's Conference Room at the Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, D.C., on October 2 and 3, 1978. The purpose of the Special Medical Advisory Group is to advise the Administrator and the chief medical director relative to the care and treatment of disabled veterans, and other matters pertinent to the Veterans Administration's Department of Medicine and Surgery.

The general sessions will convene at 8:30 a.m., on October 2, and at 9 a.m., on October 3. These will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Mr. Harrison Owen, Acting Executive Secretary, Special Medical Advisory Group, Veterans Administration Central Office, phone 202-389-3588, prior to September 27, 1978.

The executive session portion of the meeting, October 3, 1978, 11 a.m. to 12 noon, will be closed for discussions of personnel matters in the department of medicine and surgery, pursuant to section 10(d), Pub. L. 92-463, the Federal Advisory Committee Act (5 U.S.C. app. sec. 10d) since such portion will deal only with the VA's internal personnel rules and practices.

Dated: September 15, 1978.

MAX CLELAND,
Administrator.

[FR Doc. 78-26495 Filed 9-20-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 349; Sub-No. 1]

DECISION ON INCREASED FREIGHT RATES AND CHARGES, 1978, NATIONWIDE

Authority to File Master Tariff

SEPTEMBER 15, 1978.

By petition and verified statements filed September 11, 1978, the eastern railroads listed in apendix I of the petition, and certain water and motor carriers having joint rates with the appendix I railroads, seek to reopen Ex parte No. 349 for authority to increase freight rates and charges within eastern territory on 24 SPC groups by 3 to 20 percent. These commodities with the respective percentage increases are listed in the attached appendix to this decision. The commodities in question are stated to be generally transported at marginal or non-compensatory rates. The proposed increases are also allegedly being filed to comply with the Commission's decision in Ex parte No. 349, served June 7, 1978, which directed the carriers "to take immediate steps to remedy [the] situation" regarding non-compensatory rates. A copy of the petition and verified statements may be obtained from Charles C. Rettberg, Jr., Esq., 527 American Railroad Building, 1920 "L" Street NW., Washington, D.C. 20036.

Petitioners seek permission to make the proposed increases effective October 11, 1978, subject to the condition that refunds shall be made in the event that, after any investigation that the Commission deems necessary, no increase or a lesser increase than that requested is authorized. Petitioners also seek entry of an order modifying all outstanding Commission orders to the extent necessary to enable the railroads to file and make effective the proposed increased rates and charges. Such order is also requested to allow the entry of appropriate orders under sections 4 and 6 of the Interstate Commerce Act.

The evidence submitted in support of this petition consists of the record previously submitted in Ex parte No. 349, which was filed pursuant to the requirements set forth in Ex parte No. 290, *Procedures Governing Rail General Increase Proceedings*, 49 CFR 1102, effective January 1, 1978, and Ex parte No. 290 (Sub-No. 1), *Procedures-Rail Car General Increase Proceedings*, 349 ICC 22 (1974). Further, the petitioners have filed and served 9 verified statements constituting their additional evidential case for the subject increases in this proceeding.

The petitioners have given notice of the petition and have furnished data to the public in compliance with Ex parte No. 286, *Notice of Increases in Frt. Rates and Pass. Fares*, 349 ICC 741 (1975), and with section 5b of the Interstate Commerce Act.

The railroads also incorporate by reference the supplemental environmental evaluation submitted in Ex parte No. 349, which is required by Ex parte No. 55 (Sub-No. 4), *Revised Guidelines for the Implementation of the National Environmental Policy Act of 1969*, 352 ICC 451 and 49 CFR 1108. The petitioners contend that the requested increases will have no significant adverse effects upon the movement of the traffic or transportation of recyclable commodities by rail. Any person or persons believing that the requested increases, if authorized, would have a significant impact upon the quality of the human environment are invited to comment upon this matter in verified statements authorized to be filed pursuant to this order. Environmental matters and the requirements of the National Environmental Policy Act of 1969 will be considered by this Commission in any subsequent action on the merits of the requested general increases.

It is ordered:

The petition to reopen the Ex parte No. 349 proceeding is granted, and:

1. All common carriers by railroad in eastern territory are made respondents to this proceeding.

2. Under the special permission authority granted in conjunction with this order, the tariff schedules shall be published and filed upon not less than 30 days' notice effective not earlier than October 20, 1978, nor later than November 20, 1978,[1] subject to protest and possible suspension. These schedules are to contain an appropriate refund provision.

3. Any person opposing or wishing to comment on the proposed increase in rates and charges shall file and serve verified statements, as provided below, on or before October 5, 1978.[2]

(a) The verified statements shall contain all evidence relevant and material to the issues in this proceeding which the parties desire to have considered by the Commission as a basis for a decision on the merits. Any submission on asserted environmental impact shall be set forth under an appropriate subheading in order to identify properly such subject matter.

(b) Verified statements may include arguments in support of an affiant's position but such argument shall be set forth in a separate section of the document containing the verified statement. If desired, such argument may be contained in a separate document simultaneously filed and served.

(c) Each verified statement shall be signed in ink by affiant and verified (notarized) in the manner provided by rule 28 and form No. 6 of the Commission's rules of practice (see 49 1100.48 and appendix B, form No. 6, to 49 CFR 1100). The post office address of affiant or his counsel shall be shown.

(d) Verified statements and arguments shall be filed and served as follows:

The original and 20 copies of each such document for the use of the Commission shall be addressed to the Secretary, and sent to the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, except that a lesser number of copies may be filed with the Commission in this matter shall contain the following notation on the envelope: Ex parte No. 349 (Sub-No. 1).

One copy shall be served upon the representative of the petitioning railroads, Charles C. Rettberg, Jr., Esq., 527 American Railroads Building, 1920 "L" Street NW., Washington, D.C. 20036, which service shall constitute service upon all respondents. However, all parties able to do so shall serve 20 copies upon the railroads' representative. In all cases, where service is made by mail, the document shall be mailed in time to be received by the respective due dates.

(e) Each verified statement shall contain a certificate of service stating that it has ben timely served on opposing parties, as herein provided.

(f) Verified statements and arguments by persons opposed to the proposed increases in rates and charges shall include all matters which they desire the Commission to consider with respect to the statutory suspension of the rates pending completion of the investigation, as well as evidence relevant to the ultimate decision.

4. On or before October 10, 1978, the respondents shall file with the Commission and serve upon opposing parties such replies to protests or other pleadings and rebuttal evidence on the merits of the proceeding as they desire to present. Such evidence shall be in the form and served in the same manner as the opening statements filed in accordance with the regulations published in 49 CFR 1102, except that replies and rebuttal evidence need be served only upon the party (and his counsel if known) to whose evidence the reply or rebuttal is directed. However, replies or rebuttal statements proposing changes in the tariff shall be served on all parties. All such statements shall be furnished to interested parties upon request.

5. The Commission plans to act upon this proposed increase on October 13, 1978.

6. The request for fourth-section relief will be considered following the filing of verified statements and replies.

By special permission order No. 78-4200 served (in conjunction with this order, the Commission is authorizing the filing of tariff schedules increasing rates and charges sought in the petition. These tariff schedules are to become effective upon not less than 30 days' notice to the Commission and the general public, subject to protest and possible suspension as provided by the Interstate Commerce Act. All documents filed with the Commission in this matter shall contain the following notation on the envelope: Ex parte No. 349 (Sub-No. 1).

SPECIAL PERMISSION No. 78-4200

It is ordered:

1. All eastern railroads, and water and motor carriers to the extent they have joint rates with the railroads, and their tariff-publishing agents, are authorized to depart from the Commission's tariff publishing rules in Tariff Circular No. 20 (49 CFR 1300), when publishing and filing tariffs, and tariff amendments, to become effective upon not less than 30 days' notice to the Commission and the public but not earlier than October 20, 1978, nor later than November 20, 1978, providing for increased rates and charges as set forth in the petition.

(a) By publishing and filing a master tariff of increased rates and charges, and supplements to the master tariff, providing increases by means of conversion tables of rates and charges, which shall include and maintain in effect, a refund provision reading as follows:

In the event any increases resulting from the application of this tariff exceed the increases subsequently approved or prescribed by the Interstate Commerce Commission, the carriers will refund the difference between the increase resulting from the application thereof and any increases which may subsequently be approved or prescribed by the Interstate Commerce Commission with percent interest.[3]

In the event any increase resulting from the application of the tariff is disapproved by the Commission and no increase is authorized, the carriers will refund the full amount of the increase collected with — percent interest.[4]

The master tariff shall be indicated to expire on interstate and foreign commerce with a date not beyond 1 year after the effective date, which may not be extended or cancelled except upon specific authorization of this Commission, and all relief granted in this order expires with that date. Respondents are placed on notice that they must comply with the regulations, 49 CFR 1300.32, governing the transfer of railroad general increases from master tariffs. The master tariff must initially contain all provisions for application of the increases (including provisions for no increase, part of the overall proposal) following which (unless suspended) any provisions other than those of a general character may be cancelled and transferred to the particular tariff affected upon a common effective date with appropriate notation to that effect in the master tariff amendment.

(b) By publication and filing of a connecting link supplement to each tariff to be made subject to the master tariff, connecting such tariffs with the master. Such supplements may be blanket supplements (a common supplement issued to two or more tariffs).

(c) The master tariff and connecting link supplements issued and filed under this order shall not provide for nonapplication on interstate traffic competitive with intrastate traffic between the same points unless the interstate rates and routes are specifically identified in the connecting link supplements.

(d) By publication and filing of tariffs or amendments to tariffs effective concurrently with the master tariffs and upon the same notice which provide specifically increased rates and charges but which do not result in an increase in charges for transportation and other services greater than those specified in the petition, provided all such publication is identified in the tariffs and made subject to a refund clause worded substantially as in paragraph 1(a) above.

(e) By publication of provisions in tariffs or amendments thereto subjecting rates and charges therein to the provisions of the master tariff, subject to the restriction in (c) above.

2. (a) The master tariff, as amended, and all other tariffs and amendments to tariffs, that employ the shortform methods authorized herein shall bear the notation: Form of publication authorized, ICC permission No. 78-4200.

(b) Tariffs or amendments to tariffs publishing specifically increased rates or charges hereunder shall bear a notation reading: Publication made in accordance with ICC permission No. 78-4200.

3. Connecting-link supplements authorized herein shall be exempted from the Commission's tariff-publishing rules governing the number of supplements and the volume of supplemental matter permissible.

4. The master tariff filed under this order shall not be amended except to correct errors and to comply with findings and orders of the Commission, except when specifically authorized to do so. The terms of rule 9(e) (40 CFR 1300.9(e)) are not waived as to supplements to the master tariff.

5. Outstanding orders of the Commission are hereby modified only to the extent necessary to permit the filing of tariff publications containing the proposed increases, and all tariff

[1] In the event the tariff is not filed prior to September 29, 1978, the due date specified for the filing of protests and verified statements will be extended to a date 20 days prior to the effective date, and the reply date will be correspondingly extended.

[2] Section 15(3)(d) of the Interstate Commerce Act specifically requires the filing of verified complaints seeking suspension of proposed rate changes.

[3] The interest rate to be inserted in the refund provision shall be equal to the average yield (on the date such schedule is filed) of marketable securities of the United States which have a duration of 90 days. See section 15(8)(e) of the Interstate Commerce Act.

[4] See footnote 3.

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publication filed shall be subject to protest and possible suspension and rejection. In that regard, we direct petitioners' attention to our admonitions in prior general increase proceedings concerning maintenance and preservation of existing port relationships. See, for example, *Increased Freight Rates and Charges, 1972*, 341 ICC 288, 336, and *Increased Freight Rates, 1970 and 1971*, 339 ICC 125, 188. The rate increase table on grain shall progress in one-half cent increments.

Notice of the filing of a railroad general increase petition will be given by sending a copy of this decision to each party to the Ex parte No. 349 proceeding, to the Governor and public utility regulatory body of each State, the Environmental Protection Agency, the Special Assistant to the President for Consumer Affairs, and by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register for publication in the FEDERAL REGISTER.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp, Commissioners Stafford and Clapp absent and not participating.

H. G. HOMME, Jr.
Acting Secretary.

APPENDIX

SPC No.	Commodity	Increase
1.0	Cotton	10 pct within the East, including eastern Canada.
2.0	Grain, export	3 pct from Eastern origins (excluding Canada) via Eastern ports for export.
3.0		
4.0		
6.0		
9.0	Sugar beets	10 pct within the East, including eastern Canada.
13.0	Fresh vegetables	9 pct within the East, including eastern Canada.
23.0	Construction aggregates	5 pct within the East, including eastern Canada, except no increase on STCC 14 411 90, Lake or Beach Sand, within the East, including eastern Canada.
33.0	Wheat flour and milling products	3 pct within the East (excluding Canada) on export traffic.
35.0	Other grain milling products	Do.
36.0	Corn milling products	Do.
43.0	Seed, nut or vegetable, cake or meal	Do.
46.0	Pulpwood logs	10 pct within the East including eastern Canada.
47.0	Pulpwood chips	Do.
48.0	Shavings or sawdust	20 pct within the East including eastern Canada.
55.0	Furniture	10 pct on rates subject to minimum weights 15,000 lb and less, and 7 pct on rates subject to minimum weights over 15,000 lb within the East including eastern Canada.
63.0	Sanitary paper products	5 pct within the East including eastern Canada.
88.0	Coke produced from coal	8 pct within the East including eastern Canada.
119.5	Ashes	10 pct within the East including eastern Canada.
120.0	Textile waste	Do.
121.0	Paper, waste or scrap	10 pct within the East including eastern Canada, except no increase on 100,000 lb rates.
124.0	Freight forwarder traffic	
125.0	Shipper association traffic	
126.0	Miscellaneous mixed traffic (A) plan II¼, II½, and III TOFC/COFC Rates. 3 pct within the East, subject to the following exception: Exception—Plans II½ and III 30 and 60 multitrailer rates only within the East are to be increased 5 pct. Plan II¼ and III 10 multitrailer rates within the East are to take 3 pct. (B) Plan V¼, V½ TOFC/COFC rates 3 pct within the East..	

[FR Doc. 78-26432 Filed 9-20-78; 8:45 am]

[7035-01]

[Volume No. 115]

PETITIONS, APPLICATIONS, AND FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES)

SEPTEMBER 13, 1978.

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g., M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with special rule 247(e) of th Commission's general rules of practrice (49 CFR 1100.247) [1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statments in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 43867 (Sub-25) (M1F) (notice of filing of petition to modify certificate) filed July 13, 1978. Petitioner: A LEANDER McALISTER TRUCKING CO., a corporation, P.O. Box 2214, Wichita Falls, TX 76307. Representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202. Petitioner holds a motor *common carrier* certificate in MC 43867 (Sub-25), issued January 27, 1976, authorizing transportation, over irregular routes, as of: (1) *Noise silencers, liquid cooling systems, vapor condensing systems, water plant systems, waste water disposal systems, sewerage treatment systems, conveyors and parts and equipment* for the abovenamed commodities, restricted to the transportation of commodities which because of size or weight, require the use of special equipment, from Cisco and Wichita Falls, TX, to points in the United States (except AK and HI); and (2) *equipment, materials, and supplies* used in the construction or installation of the commodities described in part (1) above, from points in the United States (except AK and HI), to Cisco and Wichita Falls, TX. Restriction: The service authorized herein is restricted to the transportationof shipments originating at or destined to the facilities of Burgess Industries, Inc., B-W Fabricators, Inc., The Baker Corp., and Wallace Manufacturing Co., and Sinclair-Wallace Co., at or near Wichita Falls, TX, and the facilities of Burgess Industries, Inc., at or near Cisco, TX. By the instant petition, petitioner seeks to add the facilities of Texas Division of Tranter, Inc. at or near Wichita Falls, TX to the restriction.

[1] Copies of special rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

MC 57239 (Sub-9 and 14) (M1F) (notice of filing of petition to modify certificate), filed August 4, 1978. Petitioner: REENER'S EXPRESS, INC., 1350 South West Street, Indianapolis, IN 46206. Representative: Roland Rice, Suite 501, Perpetual Building, 1111 East Street NW., Washington, D.C. 20004. Petitioner holds a motor *common carrier* certificate in MC 57239 (Sub-14) issued August 4, 1971, authorizing transportation over regular routes of: (1) *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between numerous points in KY including Louisville and between Scottsville, KY and Nashville, TN. This authority, under the second commodity description in Sub-14, is restricted, in part, as follows: Service at Nashville, TN, restricted against the handling of traffic originating at, destined to, or interchanged at Louisville, KY, and its commercial zone, as defined by the Commission; (2) general commodities, as defined above between numerous points in KY under the third commodity description in Sub-14 restricted as follows: Carrier shall not transport any shipment moving between Nashville, TN and Louisville, KY; (3) bedding and bedding products from Munfordville, KY to Elizabeth, KY serving no intermediate points, and serving Elizabethtown for purposes of joinder only, restricted as follows. The operations authorized under the commodity description next above are restricted against the transportation of shipments moving from Nashville, TN to Louisville KY. By the instant petition, petitioner seeks to modify the authority in Sub-14 deleting the three enumerated restrictions which prohibit transportation of traffic moving between Louisville, KY and Nashville TN. Petitioner holds authority in MC 57239 (Sub-9) issued October 11, 1966, for transportation of: General commodities, as defined above, between Coldwater, MI and Marshall, MI restricted as follows: The above authority between Marshall and Tekonsha, MI, and intermediate points thereto is restricted against any service except on traffic moving to or from other points on the above specified routes. By the instant petition, petitioner seeks to modify the authority in Sub-9 by deleting this restriction.

MC 61825 (Sub-60) (M1F) (correction) (notice of filing of petition to modify certificate by changing shipper and modifying territory) filed April 14, 1978, previously noticed in the FEDERAL REGISTER issue of August 17, 1978. Petitioner: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone (same address as petitioner). Petitioner holds a motor *common carrier* certificate in MC 61825 (Sub-60) issued May 11, 1976, authorizing transportation, over irregular routes, of: *Foodstuffs* (except frozen foodstuffs and commodities in bulk), from Red Creek, Egypt, Rushville, Waterloo, Fairport, Lyons, Newark, and Syracuse, NY, to points in GA, MD, NC, SC, TN, VA, WV, and DC. Restriction: The operations authorized herein are restricted to the transportation of shipments originating at the facilities of Comstock foods, Division of Borden, Inc., at the above-named origins and destined to the above-named destinations. By the instant petition, petitioner seeks to modify the above authority by adding Alton, Leicester, Le Roy, Shortsville, South Dayton, Oakfield, and Phelps, NY as origin points and to modify the restriction to read: The operations authorized herein are restricted to the transportation of shipments originating at the facilities of Curtice-Burns, Inc., at the above-named origins and destined to the above-named destinations.

NOTE.—The purpose of this correction is to indicate the correct modification sought by this petition.

MC 109802 (Sub-33) (M1F) (notice of filing of petition to modify certificate) filed June 29, 1978. Petitioner: LAKELAND BUS LINES, INC., East Blackwell Street, Dover, NJ 07801. Representative: Bernard Flynn (same address as petitioner). Petitioner holds a *common carrier* certificate in MC 109802 (Sub-33) issued July 9, 1976, authorizing transportation, over regular routes, of: *Passengers and their baggage, and express*, in the same vehicle with passengers, between Netcong, NJ, and Hanover Township, NJ, serving all intermediate points: From Netcong over U.S. Hwy 206 to junction NJ Hwy 24, in the borough of Chester, NJ, then over NJ Hwy 24 to Morristown, NJ, then over city streets and access roads in Morristown, NJ, to junction Interstate Hwy 287 in Morristown, NJ, then over Interstate Hwy 287 to junction NJ Hwy 10 in Hanover Township, NJ, and return over the same route. Restriction: The operations authorized herein are restricted against the transportation of passengers and their baggage and express between Morristown, NJ, on the one hand, and, on the other, New York, NY. By the instant petition, petitioner seeks to modify the above authority by deleting the restriction.

MC 109821 (Sub-5) (M2F) (notice of filing of petition to add additional base points) filed August 8, 1978. Petitioner: TAYNTON FREIGHT SYSTEM, INC. 40 Main Street, Wellsboro, PA 16901. Representative: Dewey T. Whitford (same address as petitioner). Petitioner holds motor *common carrier* certificate in MC 109821 (Sub-5) issued May 9, 1957, reissued March 3, 1978, authorizing transportation as pertinent, over irregular routes of: *Manufactured glass products* and *commodities and equipment* used in the manufacture, sale and shipment of manufactured glass products, between Buffalo, Corning, Elmira, and Horseheads, NY, Boyertown, Bradford, Charleroi, Port Allegany, Wellsboro, and Dale Summit, PA, and Fairmont and Parkersburg, WV on the one hand, and, on the other, points in CT, IN, KY, MA, NJ, NY, OH, PA, RI, and WV (except that no traffic shall be transported between Bradford and Port Allegany, PA on the one hand, and, on the other points in that part of NY on and west of a line beginning at Oswego, NY and extending along NY Hwy 57 to Syracuse, NY and then along U.S. Hwy 11 to the NY-PA State line). By the instant petition, petitioner seeks to add Bluffton, IN, Danville, KY, and Paden City, WV as additional base points to the above authority.

MC 124774 (Subs-86 and 99), (M1F) (notice of filing of petition to modify certificate) filed June 21, 1978. Petitioner: MIDWEST REFRIGERATED EXPRESS, INC., P.O.. Box 7344, Omaha, NE 68107. Representative: Arlyn Westergren, 7171 Mercy Road, Omaha, NE 68106. Petitioner holds motor *common carrier* certificates in MC 124774 (Subs-86 and 99) issued February 7, 1975 and January 24, 1978, respectively. MC 124774 (Sub-86) authorizes transportation, over irregular routes, of: *Games, toys, hobby* and *craft articles, gym sets, wading pools,* and *children's vehicles,* from points in CT, IN, IA, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VA, and WI, to the facili-

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ties of Mutual Distributing Co., at Omaha, NE. MC 124774 (Sub-99) authorizes transportation, over irregular routes, of: *Games, toys, hobby* and *craft articles, gym sets, wading pools,* and *children's vehicles,* from points in AR, IL, KY, MN, MS, MO, and TN to the facilities of Mutual Distributing Co., at Omaha, NE. By the instant petition, petitioner seeks to modify the territorial descriptions in both certificates to include the facilities of Acme Sales Co., at Des Moines, IA as destination points.

MC 129600 (Subs-15 and 26) (M1F) (notice of filing of petition to modify permits) filed July 27, 1978. Petitioner: POLAR TRANSPORT, INC., P.O. Box 44, Hanover, MA 02339. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Petitioner holds motor *contract carrier* permits in MC 129600 (Subs-15 and 26) issued August 7, 1974 and December 29, 1977 respectively. MC 129600 (Sub-15) authorizes transportation, over irregular routes, of: *Vegetable oil shortening,* from Decatur, IN, to points in AL, CT, DE, GA, FL, IL, IA, KS, KY, ME, MD, MA, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, WI, and DC, under contract(s) with Central Soya, Co., Inc., of Fort Wayne, IN. MC 129600 (Sub-26) authorizes transportation, over irregular routes, of *Eggs, poultry,* such commodities as are dealt in by farm supply companies and such commodities as are manufactured, sold, distributed or used by persons engaged in the manufacturing, processing or milling of grain and soybean products (except commodities in bulk and except commodities which because of size or weight require special equipment) between Guntersville and Montgomery, AL, Jacksonville, FL, Athens, Canton and Tifton, GA, Chicago, East St. Louis, Gibson City, and Dundee, IL, Decatur, Indianapolis, Rushville and Portland, IN, Belmond, Des Moines, and Muscatine, IA, Abilene, KS, Clinton, Louisville and Park City, KY, Portland, MI, Jackson and Mendenhall, MS Hastings and Omaha, NE, Kansas City, Moberly, Salisbury, Springfield and St. Joseph, MO, Monroe, Robersonville and Wilson, NC, Bellevue, Delphos, Gallipolis, Marion and Ravenna, OH, Camp Hill and New Brighton, PA, Newberry and Orangeburg, SC, Chattanooga, Memphis and Nashville, TN, Fort Worth and Lockhart, TX, and Madison, WI, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC, under contract(s) with Central Soya Co., Inc. of Fort Wayne, IN. By the instant petition, petitioner seeks to modify the above two permits by consolidating them into one permit to read: Eggs, poultry, such commodities as are dealt in by farm supply companies and such commodities as are manufactured, sold, distributed, or used by persons engaged in the manufacturing or processing or milling of grain and soybean products (except commodities in bulk and except commodities which because of size or weight require special equipment) between points in the United States in and east of ND, SD, NE, KS, OK, and TX, under contract(s) with Central Soya Co., Inc. of Fort Wayne, IN.

MC 130438 (M1F) (notice of filing of petition for modification of broker's license), filed August 4, 1978. Petitioner: DELORES P. LARSON, d.b.a. AMERICAN MOTOR COACH TOURS, 16816 Lake Street, Minnetonka, MN 55343. Representative: J. G. Dail, Jr., P.O. Box 567, McLean, VA 22101. Petitioner holds a license No. MC 130438, issued May 11, 1978, authorizing petitioner to engage in operations at Minnetonka, MN, as a broker of passengers and their baggage, in special and charter operations, between points in the United States, including Alaska, but excluding Hawaii. By the instant petition, petitioner seeks to substitute St. Paul, MN, for Minnetonka, MN, as the office location.

MC 134599 (Sub-133) (M1F) (notice of filing petition to modify permit), filed June 15, 1978. Petitioner: INTERSTATE CONTRACT CARRIER CORP., P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Petitioner holds a motor *contract carrier* permit in MC 134599 (Sub-133) issued May 24, 1978, authorizing transportation, over irregular routes, of: *Rubber compound, molded rubber products, carpet cushion,* and *materials and supplies* used in the manufacture of rubber compound, molded rubber products, and carpet cushion (except commodities in bulk or those which because of size or weight require special equipment), between Dyersburg, TN, on the one hand, and, on the other, points in the United States (except AK, GA, HI, ID, NM, and VT), under a continuing contract(s) with Colonial Rubber Works, Inc., of Dyersburg, TN. By the instant petition, petitioner seeks to modify the above authority by substituting Dayco Corp. of Dayton, OH as the contracting shipper in lieu of Colonial Rubber Works, Inc. of Dyersburg, TN.

MC 135170 (Sub-12) (M1F) (notice of filing of petition to modify territorial description), filed June 14, 1978. Petitioner TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, MD 21632. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. By permit issued March 7, 1978, Tri-State Associates, Inc. holds authority to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Containers, container closures* and *materials, equipment and supplies* used in the manufacture, sale and distribution of containers and container closures (except commodities in bulk and those which because of size or weight require the use of special equipment) between Baltimore, MD, Hillside and South Brunswick, NJ, and Chambersburg, Easton, Edison Township, Forks Township, Lemoyne, Morrisville, and Philadelphia, PA, on the one hand, and, on the other, points in DE, MD, NJ, NC, PA, VA, and WV. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract or contracts with American Can Co. By the instant petition for modification of permit, petitioner requests that Edison, NJ be substituted in lieu of "Edison Township, PA" in the instant permit.

MC 135973 (Sub-1) (M2F) (notice of filing of petition to modify permit), filed May 19, 1978. Petitioner: EXPEDITED TRANSPORTATION CORP., 5 Wood Avenue, Secaucus, NJ 07094. Representative: Madelyn C. Littman, 235 East 42nd Street, New York, NY 10017. Petitioner holds a motor *contract carrier* permit in MC 135973 (Sub-1) issued July 16, 1975 authorizing transportation, over irregular routes, of: *Film, video tape,* and *sound tracks,* between points in New York, NY, on the one hand, and, on the other, Wilmington, DE, under a continuing contract(s) with (1) Proctor and Gamble Co., of Cincinnati, OH, (2) Grey Advertising, Inc., of New York, NY, and (3) Doyle Dane Bernbach, Inc., of New York, NY. By the instant petition, petitioner seeks to modify the above authority by adding Colgate-Palmolive Co. as an additional contracting shipper.

MC 138866 (Sub-2) (M1F) (notice of filing of petition to modify permit), filed August 8, 1978. Petitioner: SES TRUCKING, INC., 720 Argyle Avenue, Nashville, TN 37203. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. MC 138866 (Sub-2) (notice of filing of petition for modification of permit), filed August 8, 1978. Petitioner holds a motor *contract carrier* permit in MC 138866 (Sub-2), issued March 22, 1977, authorizing transportation over irregular routes, of: *Crushed limestone and asphalt,* from the facilities of Ralph Rogers and Co., Inc. located eight (8) miles west of Ewing, VA, on U.S. Highway 58, to points in Bell, Knox, Laurel, Whitley, Clay, Jackson, Harlan, and Leslie Counties, KY; Claiborne, Hancock, and Campbell Counties, TN; and Lee County, VA. Restriction: The operations authorized above are limited to a transportation service to be performed, under a continung contract, or contracts, Ralph Rogers & Co., Inc., of Nashville, TN. *Asphalt:* From points in Knox County, KY, to points in Claiborne, Hancock, and Campbell Counties, TN, and Lee County, VA. Restriction: The operations authorized next-above are limited to a transportation service to be performed, under a continuing contract, or contracts, with Leonard Lawson & Son, East Division of Bowling Green, KY. By the instant petition, petitioner seeks to modify its permit by adding Mid-South Pavers, Inc. as an additional contracting shipper with respect to the first portion of its permit authorizing transportation of crushed limestone and asphalt. (Hearing site: Nashville, TN.)

MC 141450 (Sub-1) (M1F) (Correction) (notice of filing of petition to modify territorial description), filed April 18, 1978, previously noticed in the FEDERAL REGISTER issue of July 27, 1978. Petitioner: OLIN WOOTEN, d.b.a. WOOTEN TRANSPORT CO., P.O. Box 731, Hazelhurst, GA 31539. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Petitioner holds a motor *contract carrier* certificate in MC 141450 (Sub-1), issued January 12, 1977, authorizing transportation over irregular routes, of: (1) Tin cans, tin can parts, steel pails and drums, from Piscataway, NJ, to points in AL, FL, GA, LA, NC, OH, PA, SC and VA; and (2) Materials and supplies used in the manufacture of the commodities described in (1) above, (except in bulk), from points in AL, FL, GA, LA, NC, OH, PA, SC, and VA, to Piscataway, NJ, under a continuing contract, or contracts with Prospect Industries Corp. of Piscataway, NJ. By the instant petition, petitioner seeks to change the authority from Piscataway, NJ to Somerville; NJ.

NOTE.—The purpose of this correction is to indicate the correct spelling of Somerville.

MC 142508 (Sub-4) (M1F) (notice of filing of petition to modify certificate), filed July 31, 1978. Petitioner: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, NE 68137. Representative: Joseph Winter, 33 North LaSalle Street, Chicago, IL 60602. Petitioner holds a motor *common carrier* certificate in MC 142508 (Sub-4) issued March 28, 1978, authorizing transportation, over irregular routes, of (1) *Fruit and berry products, and condiments* (except commodities in bulk), (a) from the facilities utilized by Ocean Spray Cranberries, Inc. at or near North Chicago, IL and Kenosha, WI to points in AL, AR, CO, GA, KS, MS, MO, NE, OK, LA, TN and TX, and (b) from the facilities utilized by Ocean Spray Cranberries, Inc. at or near Markham, WA to points in AZ, CA, NV, OR, UT and WY, (2) *Foodstuffs and materials, equipment and supplies* used in the manufacture, sale or distribution of foodstuffs (except commodities in bulk in tank vehicles), between the facilities utilized by Ocean Spray Cranberries, Inc. at Chicago, IL, Bordentown, NJ, Middleboro, MA, North East, PA, Markham, WA and Kenosha, WI, and (3) *Materials and supplies* used in the manufacture of fruit and berry products (except empty containers, frozen commodities and commodities in bulk), from points in CA to the facilities utilized by Ocean Spray Cranberries, Inc. at Markham, WA. Restriction: The authority granted herein is restricted to traffic originating at the named origins and destined to the named destinations. By the instant petition, petitioner seeks to modify the above authority by adding the facilities utilized by Ocean Spray Cranberries, Inc. at Yuba City, CA and Montgomery, AL as service points in part (2) of the certificate so that part (2) of the certificate will authorize the following: (2) *Foodstuffs and materials, equipment and supplies used in the manufacture, sale or distribution of foodstuffs* (except commodities in bulk in tank vehicles), between the facilities utilized by Ocean Spray Cranberries, Inc. at Montgomery, AL, Yuba City, CA, Chicago, IL, Middleboro, MA, Bordentown, NJ, North East, PA, Markham, WA and Kenosha, WI. Restriction: The authority granted herein is restricted to traffic originating at the named origins and destined to the named destinations.

MC 143406 (M1F) (notice of filing of petition to modify permit), filed August 2, 1978. Petitioner: MICHEL PROPERTIES, INC., Stenersen Lane, Cockeysville, MD 21030. Representative: Walter Evans, 7401 Wisconsin Avenue, Washington, DC 20014. Petitioner holds a motor *contract carrier* authority in MC 143406, issued June 30, 1978, authorizing transportation over irregular routes of: *Such merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses, and equipment, materials, and supplies used in the conduct of such businesses (except frozen foods and commodities in bulk), between Cockeysville and Timonium, MD, on the one hand, and, on the other, points in DE, NJ, NC, PA, and VA. Under a continuing contract or contracts with Michel Warehousing Corp., of Cockeysville, MD. By the instant petition, petitioner seeks to modify the radial portion of the territorial description by adding points in MD and DC.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by special rule 247 of the Commission's general rules of practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail and method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally, protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. If the protests includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission decision which will be served on each party of record. Broading amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the

proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

MC 14138 (Sub-7F), filed April 3, 1978, and previously published in the FEDERAL REGISTER issue of July 20, 1978, and republished this issue. Applicant: HEAVY TRANSPORT, INC., 6142 Paramount Boulevard, Long Beach, CA 90805. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting III: (1) *Gypsum board and accessories therefor* (except commodities in bulk), from the facilities of the Celotex Corp., at or near Hamlin, TX, to points in CA; and (2) *materials and supplies* used in the manufacture, distribution, or installation of commodities named in (1) above, from points in CA, to the facilities of the Celotex Corp., at or near Hamlin, TX, restricted to the transportation of shipments originating at or destined to points named in part III above. (Hearing site: Los Angeles, CA.)

NOTE.—This republication is to indicate that the above restriction applies only to part III of the application.

MC 95540 (Sub-1004F), filed March 20, 1978, and previously published in the FEDERAL REGISTER issue of May 11, 1978 and June 29, 1978, and republished this issue. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), from (1) the facilities utilized by Terminal Ice and Cold Storage Company, located at or near Plover, WI; and (2) the facilites utilized by Ore-Ida Foods, Inc., located at or near Plover, WI, to points in AL, AR, FL, GA, LA, MS, NC, SC, TN, and TX. (Hearing site: San Francisco, CA, or Washington, DC.)

NOTE.—The purpose of this republication is to name the origin of Plover, WI, to indicate the sub number as 1004F in lieu of 100F. Common control may be involved.

MC 112822 (Sub-460F), filed July 31, 1978. Applicant: BRAY LINES INC., 1401 North Little Street, Cushing, OK 74023. Representative: Dudley G. Sherrill (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite clay and lignite coal*, (A) from points in Phillips County, MT, and Crook County, WY, to points in CA, OK, TX, LA, WA, WI, MN, and IL; and (B) from points in Butte County, SD; Weston and Big Horn Counties, WY; and Bowman County, ND, to points in CA, OK, TX, and LA, restricted in (A) and (B) above to traffic originating at the facilities of American Colloid Co. Common control may be involved. Hearing: October 10, 1978 (4 days), at 9:30 a.m. local time, at Denver, CO, in a hearing room location to be later designated.

MC 119176 (Sub-20F), filed March 31, 1978, and previously published in the FEDERAL REGISTER issue of July 6, 1978, and republished this issue. Applicant: THE SQUAW TRANSIT CO., a corporation, P.O. Box 9368, Tulsa, OK 74107. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bentonite clay and lignite coal* (except commodities in bulk), from points in Crook County, WY, and those in Phillips County, MT, to points in the United States (except AK and HI); and (2) *bentonite clay* (except in bulk), and *lignite coal*, from points in Big Horn County, WY, and *lignite coal*, from points in Bowman County, ND, to points in OK, LA, TX, NM, AZ, and CA, restricted to the transportation of traffic originating at the facilities of American Colloid Co. (Hearing: October 10, 1978 (4 days), at 9:30 a.m. local time, at Denver, CO, in a hearing room location to be later designated.)

NOTE.—This republication is to broaden the destination points and add additional hearing information.

MC 125951 (Sub-28F), filed April 4, 1978, and previously published in the FEDERAL REGISTER issue of June 8, 1978, and republished this issue. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed in meat packinghouses*, as described in sections A and C of appendix I to the report in Description in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Spencer Foods, Inc., at or near Schuyler and Fremont, NE, to points in NY, NJ, PA, MA, and MD.

NOTE.—This republication is to indicate the addition of "meat products" to the commodity description. Applicant holds contract carrier authority in MC 135033, therefore dual operations may be involved. (Hearing site: Omaha, NE.)

MC 138732 (Sub-16F), filed August 17, 1978. Applicant: OSTERKAMP TRUCKING, INC., 764 North Cypress Street, Box 5546, Orange, CA 92667. Representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bentonite clay and lignite coal*, from points in Phillips County, MT and Crook and Big Horn Counties, WY, to points in AZ, CA, CO, NV, NM, OK, TX, and UT; and (2) *lignite coal*, from points in Bowman County, ND, to points in AZ, CA, CO, NV, NM, OK, TX, and UT, restricted in (1) and (2) above to traffic originating at the facilities of American Colloid Co. (Hearing: October 10, 1978 (4 days), at 9:30 a.m. local time, at Denver, CO, in a hearing room location to be later designated.)

NOTE.—Applicant holds contract carrier authority in MC 133928 and subs thereunder, dual operations may be involved. Common control may also be involved.

MC 139482 (Sub-35F), filed February 13, 1978, and previously published in the FEDERAL REGISTER issues of March 30, 1978, May 11, 1978, and May 18, 1978. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 347, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Terminal Ice & Cold Storage Co., at or near Bettendorf, IA, to points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC; and (2) *returned, rejected, and refused foodstuffs* (except commodities in bulk), from points in the destination States named in (1) above, to the facilities of Terminal Ice & Cold Storage Co., at or near Bettendorf, IA. (Hearing site: Chicago, IL.)

NOTE.—The purpose of this republication is to amend applicant's destination points.

MC 140273 (Sub-F), filed August 16, 1978. Applicant: BUESING BROS TRUCKING, INC., North 520 Tamarack Avenue, Long Lake, MN 55356. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lignite coal and bentonite clay*, from the facilities of American Colloid Co., at points in Phillips County, MT, and Crook County, WY, to points in MT, WY, CO, KS, NE, SD, ND, MN, IA, MO, KY, IL, IN, OH, and MI. (Hearing: October 10, 1978 (4 days), at 9:30 a.m. local time, at

Denver, CO, in a hearing room location to be later designated.

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with special rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

MC-F-13702F. Authority sought for purchase by MISSOURI TRANSIT LINES, INC., 104 North Clark Street, Moberly, MO 65270, of a portion of the operating rights of Greyhound Lines, Inc., Greyhound Tower, Phoenix, AZ 85077, and for acquistion by Dorthy Koch, 550 Keo Way, Moines, IA 50309, of control of such rights through the transaction. Representative: Elvin S. Douglas, Jr., Professional Building, P.O. Box 280, Harrisville, MO 64701, and Anthony P. Carr, Greyhound Tower, Phoenix, AZ 85077. Operating rights sought to be purchased: *Passengers and their baggage, express and newspapers*, in the same vehicle with passengers, as a *common carrier*, over regular routes (a) between Prairie City, IA, and Ottumwa IA, over IA Hwy 163 and U.S. Hwy 63 and (b) between Buckner, MO, and Booneville, MO, over U.S. Hwy 24, U.S. Hwy 65, MO Hwy 41, and U.S. Hwy 40. Service is authorized to and from all intermediate points on the above-described routes. Vendee is authorized to operate pursuant to certificate MC 36524 as a common carrier of passengers in States of MO and IA. Application has not been filed for temporary authority under section 210a(b).

NOTE.—MC 1515 (Sub-251F), is a directly related matter. MC 36524 (Sub-17F), is a directly related matter.

MC-F-13714F. Authority sought for the KAPLAN TRUCKING CO., 2900 Chester Avenue, Cleveland, Ohio 44114, to control Dan's Transit, Inc., 239 Woodmont Road, Milford, CT 06460, and also for acquisition by The Kaplan-Halpert Foundation, Inc. of control through the transaction. Attorney: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. Operating rights sought to be controlled: (1) *Commodities*, the transportation of which because of size or weight requires the use of special equipment, and *related machinery parts and related contractors' materials and supplies*, when their transportation is incidental to the transportation by carrier of commodities which by reason of size or weight require special equipment, as a *common carrier*, over irregular routes, between points in that part of CT west of the Connecticut River, on the one hand, and, on the other, points in VT, NH, MA, RI, NY, NJ, and PA. (2) *Scrap brass, bronze, copper, and cupro-nickel*, loose, in bulk, between Bridgeport, CT, on the one hand, and, on the other, New York, NY, points in Hudson, Bergen, Passaic, Essex, and Union Counties, NJ, points in that part of Middlesex County, NJ, north of the Raritan River, and points in Westchester, Rockland, Nassau, and Suffolk Counties, NY. (3) *Iron and steel angles, banding, bars, billets, channels, circles, discs, pipe, rails, rods, roof and floor decking, stripping, strapping, studding, tubing, and wire in coils*, between points in that part of CT west of the Connecticut River on the one hand, and, on the other, points in VT, NH, MA, RI, NY, NJ, and PA. Vendee is authorized to operate over regular and irregular routes in MC 2304 in the States of CT, DE, IL, IN, KY, MD, MA, MI, MO, NJ, NY, OH, PA, RI, TN, and WV. Application has not been filed for temporary authority under section 210a(b).

MC-F-13718F. Authority sought for control by the Standard Slag Co., 1200 Stambaugh Building, Youngstown, OH 44501, of Tajon Transport, Inc., 1149 East Fifth Street, P.O. Box 41, Ashtabula, OH 44404, through ownership of stock. Attorney: Paul F. Beery, Beery & Spurlock Co., L.P.A., 275 East State Street, Columbus, OH 43215. Authority to be controlled: *Commodities* usually transported in bulk, in dump trucks, as a *common carrier* over irregular routes, between Ashtabula County, OH, on the one hand, and on the other, points in OH. Vendee is a noncarrier. Its subsidiary, the Portsmouth Trucking Co., operates as a *contract carrier* under MC 135917 transporting *commodities* in bulk, in dump vehicles, between points in WV, KY, and OH. Application has not been filed for temporary authority under section 210a(b). (Hearing site: Columbus, OH.)

NOTE.—MC 121289 (Sub-27F), is a directly related matter.

MC-F-13721F. Authority sought for purchase by OSTERKAMP TRUCKING, INC., 764 North Cypress, Orange, CA 92667, of the operating rights of La Cresta, Inc., d.b.a. California Bulk Express, 12912 Camino Del Valle, Poway, CA 92064, and for acquisition by Anthony H. Osterkamp, Jr., 764 North Cypress, Orange, CA 92667, of control of such rights through the transaction. Attorney: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. Operating rights sought to be transferred: *Sand*, as a *common carrier*, over irregular routes, from Oceanside, CA, to points in AZ and NV, with no transportation for compensation on return except as otherwise authorized; and, *volcanic ash, clay, calcium carbonate, bentonite, saponite, and hectorite*, from the facilities of Industrial Mineral Ventures, Inc., near Lathrop Wells, NV, to points in CO, NM, ND, OK, TX, and UT, with no transportation for compensation on return except as otherwise authorized. Vendee is authorized to operate as a *contract carrier* in CA, AZ, CO, NV, NM, TX, UT, CO, and ID. Application has been filed for temporary authority under section 210a(b).

MC-F-13722F. Authority sought for purchase by SCHANNO TRANSPORTATION INC., 5 West Mendota Road, West St. Paul, MN 55118, of a portion of the operating rights of Davis & Randall Inc., 42 Central Avenue, Fredonia, NY 14063, of control of such rights through purchase. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Operating rights sought to be purchased: *Malt beverages and advertising materials* related thereto when moving therewith, as a *common carrier*, over irregular routes, from New York, NY, and Hoboken, NJ, to points in WI and MN, with no transportation for compensation on return except as otherwise authorized. *Malt beverages* (except in bulk, in tank vehicles), as a *common carrier*, over irregular routes, from New York, NY, to Louisville, KY, and points in IL, IN, MI, MO, and OH, with no transportation for compensation on return except as otherwise authorized. *Advertising materials*, when moving in mixed loads with malt beverages, from Newark, NJ, to Louisville, KY, and points in MO and OH, with no transportation for compensation on return except as otherwise authorized. From New York, NY, to Lousiville, KY, and points in MO and OH with no transportation for compensation on return except as otherwise authorized. *Malt beverages and advertising materials*, as a *common carrier*, over irregular routes, from Belleville, IL, to points in MO, IA, and WI, with no transportation for compensation on return except as otherwise authorized. *Malt beverages and advertising materials*, as a *common carrier*, over irregular routes, from Newark, NJ, to points

in TN, with no transportation for compensation on return except as otherwise authorized. Transferee is authorized to operate as a *common carrier* in all the States in the United States (except AK, HI). Application for temporary authority has not been filed.

MC-F-13723F. Authority sought for control by DENVER-MIDWEST MOTOR FREIGHT, INC., 5555 East 58th Avenue, Commerce City, CO, of the operating rights of Load & Go Truck Line, 420 South Third Avenue, Phoenix, AZ, through the purchase of its stock and merger, and for control by General Industries, Inc., and Howard E. Holdcroft. Representative: Earl H. Scudder, Jr., P.O. Box 82028, 500 The Atrium, Lincoln, NE 68501. Operating rights sought to be controlled and merged: *General commodities*, between Phoenix, AZ, and Grand Junction, CO, serving the intermediate points of Delta and Montrose, CO. Transferee is authorized to operate in IN, IL, IA, MN, NE, SD, KS, MO, and CO. Application has been filed for temporary authority under section 210a(b).

MC-F-13728F. Authority sought for purchase by DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114, of the operating rights of Fleetline, Inc., 1984 Oakdale Avenue, West St. Paul, MN 55118, and for acquistion by Donald G. Oren, 3105 Sandy Hook Drive, St. Paul, MN 55113, and Diane O. Koughan, 21 Peninsula Road, St. Paul, MN 55100, of control of such rights through the purchase. Attorney: James C. Hardman, Suite 2108, 33 North LaSalle Street, Chicago, IL 60602. Operating rights sought to be purchased: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) which are at the time moving on bills of lading of freight forwarders, as a *common carrier*, over irregular routes, from Chicago, IL, to Minneapolis, MN. Vendee is authorized to operate as a *common carrier* in all points in the United States except AK and HI as more specifically described in MC 114457 and sub numbers thereto. Application has been filed for temporary authority under section 210(a)(b). (Hearing site: St. Paul, MN, or Chicago, IL.)

MC-F-13729F. Authority sought for purchase by Johnston's Fuel Liners, Inc., P.O. Box 100, Newcastle, WY 82701, of a portion of the operating rights of Becker Corp., P.O. Box 1050, El Dorado, KS 67042, and for acquisition by Eldon Johnston, Route 2, Wheatland, WY 82201, and C. Wilson Burnette, Box 100, Newcastle, WY 82701, of control of such rights through the purchase. Attorneys: T. M. Brown, 223 Ciudad Building, Oklahoma City, OK 73112, and Truman A. Stockton, Jr., The 1650 Grant St. Building, Denver, CO 80203. Operating rights sought to be purchased: (a) *Petroleum products*, in bulk, in tank vehicles, from the site of a pipeline terminal at or near Geneva, NE to points in that part of SD on and west of U.S. Hwy 83; (b) *anhydrous ammonia*, in bulk, in tank vehicles, from the plantsite of Consumers Cooperative Association near Hastings, NE, to points in SD on and west of U.S. Hwy 83; (c) *liquefied petroleum gas*, in bulk, in tank vehicles from the site of the pipeline terminal of Northern Gas Products Co. at or near Plattsmouth, NE to points in SD on and west of U.S. Hwy 83; (d) *anhydrous ammonia and fertilizer solutions*, in bulk, in tank vehicles, from the plantsite of Phillips Petroleum Co. plant at or near Hoag, NE, to points in that part of SD on and west of U.S. Hwy 83; and (e) *liquid feed ingredients and liquid feed supplements*, in tank vehicles, from the plantsite of Feed Commodities, Inc., at or near Fremont, NE, to points in that part of SD on and west of U.S. Hwy 83. The operating rights involved do not duplicate any authority of vendee. Vendee does not request authority to tack this authority with its existing authority. Vendee is authorized to transport similar commodities in AZ, CO, ID, KS, MT, NE, NM, ND, OK, SD, TX, UT, and WY. In addition vendee has authority to transport unrelated commodities in FL, IL, ME, MD, MA, MN, NJ, NY, OR, PA, RI, VT, WI, and DC. Application has not been filed for temporary authority. (Hearing site: Denver, CO.)

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

The following operating rights application(s) are filed in connection with pending finance applications under section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with special rule 247(e) of the Commission's General Rules of Practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

MC 1515 (Sub-251F), filed August 7, 1978. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: A. P. Carr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over regular routes, transporting: *Passengers and their baggage and express and newspapers*, in the same vehicle with passengers, between junction U.S. Hwy 41 and U.S. Hwy 40 (also designated Interstate Hwy 70) and Booneville, MO, serving no intermediate points: from junction U.S. Hwy 41 and Interstate Hwy 70 over Interstate Hwy 70 to junction Interstate Hwy 70 and U.S. Hwy 40, then over U.S. Hwy 40 to Booneville, MO, and return over the same route. (Hearing site: St. Louis, MO.)

NOTE.—The purpose of this application is to enable applicant to continue to provide service between Kansas City and St. Louis, MO. This application is directly related to MC-F-13702F, published in the previous section of this FEDERAL REGISTER issue.

MC 8973 (Sub-52F) (correction), filed July 17, 1978 previously noticed in the FEDERAL REGISTER issue of August 10, 1978. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Avenue, North Bergen, NJ 07047. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic articles, and materials, equipment, and supplies used in the manufacture or distribution of plastic articles* (except commodities in bulk), between points in CT, NJ, and those in NY located on or east of U.S. Hwy 11, and on or south of U.S. Hwy 20, on the one hand, and, on the other, points in the United States (except AK and HI), (2) *aluminum articles, aluminum products, building materials, and materials, equipment, and supplies used in the manufacture, sale, processing, distribution, and installation of the commodities listed in (2) above* (except commodities in bulk), between NY, NY, on the one hand, and, on the other, points in the United States (except AK and HI), (3) *chemicals and coal tar products, in containers*, between points in Bergen, Middlesex, and Morris Counties, NJ, on the one hand, and, on the other, points in CT, and NJ and those in NY on or east of U.S. Hwy 11 and on or south of U.S. Hwy 20, (4) *such building materials and materials, equipment, and supplies used in the manufacture, sale, processing, distribution or installation of building materials, as are chemicals or coal tar products, in containers*, between points in CT, NJ, and those points in NY located on or east of U.S. Hwy 11 and on or south of U.S. Hwy 20, on the one hand, and, on the other, points in the United States (except AK and HI), (5) *such asphalt, composition roofing products, urethane and urethane products, are chemicals or coal tar products, in containers*, from points in CT, NJ, and those points in NY on or east of U.S. Hwy 11 and on or south of U.S. Hwy 20, to points in AL, AR, IL, IN, KY, LA, MI, MS, OH, TN, AND WV, and (6) *resins*, from points in CT and NJ and those points in NY on or east of U.S. Hwy 11 and on or south of U.S. Hwy 20 to points in OH, VA, MD, DE, PA, NJ, NY, MA, CT, ME, RI, NH, VT, and DC, restricted in (6) above to the transportation of shipments having a prior movement by water and destined to the points named above. (Hearing site: New York, NY).

NOTE.—This application is directly related to finance proceeding MC-F-13640F, published in a previous section of this FEDERAL REGISTER issue. Through the present filing, applicant seeks to eliminate gateways resulting from the finance transaction as follows: (1) Woodbridge or Ridgefield, NJ; (2) Woodbridge, NJ; (3) New York, NY; (4) Woodbridge, NJ; (5) Bergen County, NJ; and (6) New York, NY. The purpose of this correction is to indicate the correct authority as sought.

MC 36524 (Sub-17F) filed August 7, 1978. Applicant: MISSOURI TRANSIT LINES, INC., 104 North Clark Street, Moberly, MO 65270. Representative: Elvin S. Douglas, Jr., Professional Building, P.O. Box 280, Harrisonville, MO 64701. Authority sought to operate as a *common carrier*, by motor vehicle over regular routes, transporting: *Passengers and their baggage and express and newspapers*, in the same vehicle with passengers, (1) between Kansas City and Buckner, MO, serving all intermediate points: From Kansas City over U.S. Hwy 24 to Buckner, and return over the same route, (2) between Prairie City and Des Moines, IA, serving all intermediate points: From Prairie City over IA Hwy 163 to Des Moines, and return over the same route. (Hearing site: Kansas City, MO, and Des Moines, IA).

NOTE.—The purpose of this application is to enable applicant to provide service (1) between Boonville and Kansas City, MO, and (2) between Ottumwa and Des Moines, IA by connecting the authority requested above and the authority sought to be purchased in MC-F-13702F.

MC 57393 (Sub-7F) (partial correction), filed July 14, 1978, previously noticed in the FEDERAL REGISTER issue of August 31, 1978. Applicant: WINTERS TRUCK LINES, INC., 2620 McCormick Street, Wichita, KS 67202. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (A) *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) (5) From the junction of old KS Hwy 42 and new KS Hwy 42 at a point located at or near Milton, then over new KS Hwy 42 to the junction of old KS Hwy 42 at or near Viola, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. (Hearing site: Wichita, KS.)

NOTE.—The purpose of this partial correction is to indicate the correct authority sought. The purpose of this application is to convert a certificate of registration to a certificate of public convenience and necessity, and is directly related matter to MC-F-13670F published in a previous section of this FEDERAL REGISTER issue.

MC 68100 (Sub-22F) (partial correction) filed July 18, 1978, previously noticed in the FEDERAL REGISTER issue of August 10, 1978. Applicant: D. P. BONHAM TRANSFER, INC., 318 South Adeline, P.O. Drawer G, Bartlesville, OK 74003. Representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials*, and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and by-products; and *Machinery, materials, equipment and supplies* used in or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe line, including the stringing and picking up thereof (except in connection with main pipe lines) (g) Between those points in OK on and north of a line beginning at the OK-AR State line on U.S. Hwy 62, west on U.S. Hwy 62 to U.S. Hwy 75, south on U.S. Hwy 75 to Interstate Hwy 40, west on Interstate Hwy 40 to U.S. Hwy 75, south on U.S. Hwy 75 to OK Hwy 9, west on OK Hwy 9 to the OK-TX State line, on the one hand, and, on the other, points in MS on and south of a line beginning at the MS-AL State line at the TN border, west along the MS-TN State line to U.S. Hwy 45, south on U.S. Hwy 45 to MS Hwy 30, west on MS Hwy 30 to MS Hwy 6, west on MS Hwy 6 to MS Hwy 322, and continuing west on MS Hwy 322 to the AR-MS State line. (Gateway to be eliminated: Tulsa, OK and points within 5 miles of Tulsa). (k) between points in Quary, Curry, Roosevelt, and Lea Counties, NM, on the one hand, and, on the other, points in CO on and north of a line beginning at the CO-KS State line on U.S. Hwy 36, west on U.S. Hwy 36 to CO Hwy 71, south on CO Hwy 71 to Interstate Hwy 70, west on Interstate Hwy 70 to CO Hwy 86, continuing west on CO Hwy 86 to CO Hwy 67, continuing west on CO Hwy 67 to U.S. Hwy 285, southwest on U.S. Hwy 285 to CO Hwy 9, north on CO Hwy 9 to Interstate Hwy 70 and west on Interstate Hwy 70 to the CO-UT State line. (Gateways to be eliminated: Angeles, TX; Bronco, TX; El Paso, TX; Farwell, TX, and Glenrio, TX). (Hearing site: Tulsa or Oklahoma City, OK.)

NOTE.—The purpose of this partial correction is to indicate the correct authority sought. The purpose of this application is to eliminate the gateways as above and is directly related to an application under section 5 of the Act in D. P. Bonham Transfer, Inc.—Control and Merger—Grever Trucking Co., Inc. docketed MC-F-13673F.

MC 19550 (Sub-5F) (correction) filed June 30, 1978, previously noticed in the FEDERAL REGISTER issue of August 10, 1978. Applicant: THE OBSERVER TRANSPORTATION CO., a corporation, Post Office Box 1123, Charlotte, NC 28201. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority is sought to operate as a *common carrier* by motor vehicle, in interstate commerce, over irregular routes, transporting: (1) *Motion picture films, materials, supplies and equipment* used or useful in a motion picture theatre, *newspapers, magazines, periodicals and other publications*, (a) Between points in Berkeley, Charleston, Clarendon, Dorchester, Florence, Sumter, and Williamsburg Counties, SC, and that part of Orangeburg County, SC, on and east of a line beginning at the Santee River and extending along U.S. Hwy 15 to junction U.S. Hwy 176, and then along U.S. Hwy 176 to the Orangeburg-Berkeley County line. (b) Between Charlotte, NC, on the one hand, and, on the other, points in Berkeley, Charleston, Clarendon, Dorchester, Florence, Sumter, and Williamsburg Counties, SC and that part of Orangeburg County, SC, on and east of a line beginning at the Santee River and extending along U.S. Hwy 15 to junction U.S. Hwy 176, and then along U.S. Hwy 176 to the Orangeburg-Berkeley County line. (2) *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, in packages not to exceed 250 pounds in weight. Between points in Berkeley, Charleston, Clarendon, Dorchester, Florence,

Sumter, and Williamsburg Counties, SC, and that part of Orangeburg County, SC, on and east of a line beginning at the Santee River and extending along U.S. Hwy 15 to junction U.S. Hwy 176, and then along U.S. Hwy 176 to the Orangeburg-Berkeley County line. Between Charlotte, N.C., on the one hand, and, on the other, points in Berkeley, Charleston, Clarendon, Dorchester, Florence, Sumter, and Williamsburg Counties, SC, and that part of Orangeburg County, SC, on and east of a line beginning at the Santee River and extending along U.S. Hwy 15 to junction U.S. Hwy 176 and then along U.S. Hwy 176 to the Orangeburg-Berkeley County line. (Hearing site: Charlotte, NC.)

NOTE:—This application is directly related to finance Docket No. MC-F-13636F published in a previous section of this FEDERAL REGISTER issue.

The purpose of this filing is to eliminate the gateway of Florence, SC.

The purpose of this correction is to indicate the correct authority sought.

MC 110689 (Sub-9F) (partial correction), filed April 26, 1978, previously noticed in the FEDERAL REGISTER issues of July 20, 1978, and August 17, 1978. Applicant: AIRWAY TRUCKING CO., a corporation, 1605 Chapin Road, Montebello, CA 90022. Representative: Fred H. Mackensen, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, CA 90212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and motor vehicles), between all points within the following described areas: 1. Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; then northeasterly along said county line to the point it intersects CA Hwy 118, approximately 2 miles west of Chatsworth; easterly along CA Hwy 118 to Sepulveda Boulevard, northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the city of San Fernando; westerly and northerly along said corporate boundary of the city of San Fernando to Maclay Avenue; northeasterly along Maclay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the the Angeles National Forest and San Bernardino National Forest boundary to Mill Creek Road (CA Hwy 38); westerly along Mill Creek Road to Bryant Street; southerly along Bryant Street to and including the unincorporated community of Yucaipa; westerly along Yucaipa Boulevard to Interstate Hwy 10; northwesterly along Interstate Hwy 10 to Redlands Boulevard; northwesterly along Redlands Boulevard to Barton Road; westerly along Barton Road to La Cadena Drive; southerly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to CA Hwy 60; southeasterly along CA Hwy 60 and U.S. Hwy 395 to Nuevo Road; easterly along Nuevo Road via Nuevo and Lakeview to CA Hwy 79; southerly along CA Hwy 79 to CA Hwy 74; then westerly to the corporate boundary of the city of Hemet; southerly, westerly, and northerly along said corporate boundary to the Atchison, Topeka & Santa Fe right-of-way; southerly along said right-of-way to Washington Road; southerly along Washington Road through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to Winchester Road (CA Hwy 79) to Jefferson Avenue; southerly along Jefferson Avenue to U.S. Hwy 395; southerly along U.S. Hwy 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning, including the point of March Air Force Base. 2. Beginning at the point the San Francisco-San Mateo County line meets the Pacific Ocean; then easterly along said county line to a point 1 mile west of CA Hwy 82; southerly along an imaginary line 1 mile west of and paralleling CA Hwy 82 to its intersection with Southern Pacific Co. right-of-way at Arastradero Road; southeasterly along the Southern Pacific Co. right-of-way to Pollard Road, including industries served by the Southern Pacific Co. spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to West Parr Avenue; easterly along West Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Co. right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden road to Hillsdale Avenue; easterly along Hillsdale Avenue to CA Hwy 82; northwesterly along CA Hwy 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to CA Hwy 238 (Oakland Road); northerly along CA Hwy 238 to Warm Springs; northerly along CA Hwy 238 (Mission Boulevard) via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard and MacArthur Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard to Warren Boulevard (CA Hwy 13); northerly along Warren Boulevard to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; westerly, northerly, and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (CA Hwy 123); northerly along San Pablo Avenue to and including the city of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. 3. Beginning at an imaginary line at a point approximately 4 miles north of La Jolla on the Pacific Coast shoreline running east to Miramar on U.S. Hwy 395, then following an imaginary line running southeasterly to Lakeside on CA Hwy 67; then southerly on County Road S17 (Sand Diego County) and its prolongation to CA Hwy 94; easterly on CA Hwy 94 to Jamul; then due south following an imaginary line to the CA-Mexico boundary line; then westerly along the boundary line to the Pacific Ocean and north along the shoreline to point of beginning. And between said territories serving all points on and within 10 miles laterally of Interstate Hwy 5, between Stockton and San Diego; U.S. Hwy 101, or CA Hwy 1, between Los Angeles and San Francisco, CA; CA Hwy 99 between Stockton and Wheeler Ridge and CA Hwy 4 between its junction with Interstate Hwy 80 near Pinole, CA and Stockton, CA. (Hearing site: Los Angeles, CA.)

NOTE.—The purpose of this partial correction is to indicate the correct authority sought. The rest of the publication remains the same. The purpose of the application is to convert a certificate of registration to a certificate of public convenience and necessity. This application is directly related to three section 5(2) finance proceedings, docketed MC-F-13589, MC-F-13590, and MC-F-13591, each published in the FEDERAL REGISTER issue of July 20, 1978.

MC 121298 (Sub-27F), filed August 30, 1978. Applicant: TAJON TRANSPORT, INC., 1149 East Fifth Street, P.O. Box 41, Ashtabula, OH 44404. Representative: Paul F. Beery, 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Bulk commodities*, in dump trucks, between Ashtabula County, OH, on the one hand, and, on the other, points in OH. (Hearing site: Columbus, OH.)

NOTE.—This matter is directly related to the Standard Slag Co.—Control—Tajon Transport, Inc., in MC-F-13718F, published in a previous section of this FEDERAL REGISTER issue. The purpose of this application is to convert a certificate of registration to a certificate of public convenience and necessity.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26433 Filed 9-20-78; 8:45 am]

[7035-01]

[Notice No. 715]

ASSIGNMENT OF HEARINGS

SEPTEMBER 15, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-F-13490, Hyman Freightways, Inc.—purchase (portion)—Keomah Truck Lines, Inc. and MC 1-8835 (Sub-43F), Hyman Freightways, Inc. transferred to modified procedure.
MC-F-13604, Yellow Freight System, Inc.—purchase (portion)—Schaller Trucking Corp. and MC 112713 (Sub-214F), Yellow Freight System, Inc., transferred to modified procedure.
MC 140123 (Sub-5F), Graham Transfer, Inc., now assigned for hearing on September 20, 1978, at Nashville, TN is canceled and transferred to modified procedure.
MC 143059 (Sub-16F), Mercer Transportation Co., now being assigned October 10, 1978 (4 days), at Denver, CO, in a hearing room to be later designated.
MC 109397 (Sub-398F), Tri-State Motor Transit Co., is now assigned for hearing October 30, 1978 at Dallas, TX (1 day) and will be held at Room 5A15-17 Federal Building, 1100 Commerce Street.
MC 110098 (Sub-166F), Zero Refrigerated Lines now assigned October 18, 1978 at Des Moines, IA (2 days) is canceled and transferred to modified procedure.
MC 41404 (Sub-130), Argo-Collier Truck Lines Corp., now assigned September 18, 1978 at Milwaukee, WI (3 days), is canceled and transferred to modified procedure.
MC 144041 (Sub-11F) Downs Transportation Co., Inc., now assigned October 17, 1978 at Chicago, IL is canceled and transferred to modified procedure.
MC 142789, Wetco, Inc., d.b.a. Key Limousine, now assigned October 16, 1978, at Salt Lake City, UT, in Room 3421, Federal Building, 125 South State Street.
MC 113651 (Sub-269F), Indiana Refrigerator Lines, Inc., now assigned September 20, 1978, at Boston, MA, is postponed indefinitely.
MC 144464F, United States Student Travel Service, Inc., d.b.a. Travelon Tours now assigned October 17, 1978 at Washington, DC at the offices of the Interstate Commerce Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26552 Filed 9-20-78; 8:45 am]

[7035-01]

[Corrected Service Order No. 1304; Exception No. 11]

DECISION

SEPTEMBER 7, 1978.

Chicago and North Western Transportation Co.

The Chicago and North Western Transportation Co. (CNW) owns 4,522 jumbo covered hopper cars subject to Corrected Service Order No. 1304. On August 1, 1978, 904, or 20.0 percent of these cars were being used in unit-grain-train services, 2,852 for general grain traffic and 766 for transporting commodities other than grain.

On September 5, 1978, CNW reported that it had an adequate number of jumbo covered hopper cars available for general grain traffic but that because of the provisions of Corrected Service Order No. 1304 limiting to twenty percent (20%) of ownership the number of jumbo covered hopper cars it may use in unit-grain-train services, it is unable to furnish an additional twenty-five-car unit-grain-train for five trips as requested by one of its shippers. Use by CNW of an additional twenty five (25) of its cars in unit-grain-train service will not impair its ability to furnish jumbo covered hopper cars to general grain shippers at the present level of orders for these cars.

It is ordered, Pursuant to the authority vested in the Railroad Service Board by section (a)(6) of Corrected Service Order No. 1304, the Chicago and North Western Transportation Co. (CNW) is authorized to place an additional twenty five (25) jumbo covered hopper cars in unit-grain-train service for five trips regardless of the provisions of section (a)(1) and of section (a)(5) of this order. The cars to be used must not be withdrawn from general grain service in order to furnish cars for this movement.

By the Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

Effective September 7, 1978.

Expires November 15, 1978.

JOEL E. BURNS,
Chairman,
Railroad Service Board.

[FR Doc. 78-26554 Filed 9-20-78; 8:45 am]

[7035-01]

[Rev. S.O. 1332; Exception No. 2]

DECISION

SEPTEMBER 5, 1978.

Various railroads have stored empty cars used by the automobile industry. These cars are not being used at the present time account model changeover. These cars are described in items 1660, 1665, and 1915 of Agent D. M. Rogers' Tariff 4-K, ICC H-74. These cars are not suitable for general freight because of their specialized construction. Compliance with Revised Service Order No. 1332 would require that these cars be returned to their owners, thus creating unnecessary empty mileage and excessive switching.

Order. Pursuant to the authority vested in the Railroad Service Board by section (a)(v) of Service Order No. 1332, empty cars described in items 1660, 1665, and 1915 of Agent D. M. Rogers' Tariff 4-K, ICC H-74, are exempt from the provisions of this order.

Effective September 5, 1978.

Expires October 31, 1978.

JOEL E. BURNS,
Chairman,
Railroad Service Board.

[FR Doc. 78-26553 Filed 9-20-78; 8:45 am]

[7035-01]

[Corrected S.O. 1304; Exception 10]

DECISION

SEPTEMBER 5, 1978.

The Chicago, Rock Island and Pacific Railroad Co. (RI) owns 5,701 jumbo hopper cars subject to Corrected Service Order No. 1304. On August 1, 1978, 564, or 9.9 percent of these cars were being used in unit-grain-train services, 4,069 for general grain traffic and 1,068 for transporting commodities other than grain.

Several shippers have financed repairs of RI jumbo covered hopper cars,

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and many of the cars are still in a payback status. These cars have been placed in assigned service to the shipper who financed repairs. Some shippers need to use a number of these cars in unit-grain-train service. Use by RI of these shipper financed jumbo hopper cars in unit-grain-train service will not impair its ability to furnish jumbo covered hopper cars to general grain shippers at the present level of orders for these cars.

It is ordered, Pursuant to the authority vested in the Railroad Service Board by section (a)(6) of Corrected Service Order No. 1304, Chicago, Rock Island and Pacific Railroad Co. is authorized to use shipper financed repaired Rock Island jumbo covered hopper cars in unit-grain-train service of the specific shippers who financed the rehabilitation of the cars regardless of the provisions of section (a)(1) and section (a)(5) of this order.

By the Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

Effective September 5, 1978.

Expires December 15, 1978.

JOEL E. BURNS,
Chairman,
Railroad Service Board.

[FR Doc. 78-26588 Filed 9-20-78; 8:45 am]

[7035-01]

[Rev. S.O. 1332; Exception No. 3]

DECISION

SEPTEMBER 11, 1978.

Chicago, Rock Island and Pacific Railroad Co. (RI) has purchased new "XM" boxcars which will be delivered to Burlington Northern Inc. (BN) at Portland, Oreg., for movement to the RI. RI has allowed BN to load these cars on the west coast for movement east. Reduced loadings of these cars on the BN to destinations as directed by RI means the BN will hold some of the cars beyond the 60 hours permitted in section (a)(2)(ii) of this order prior to placing of cars for loading.

Order. Pursuant to the authority vested in the Railroad Service Board by section (a)(1)(v) of Revised Service Order No. 1332, Burlington Northern, Inc. is authorized to assemble and hold up to 150 new Chicago, Rock Island and Pacific Railroad Co. "XM" boxcars for loading on the west coast, regardless of the provisions of section (a)(2)(ii) of this order.

These cars shall become fully subject to all provisions of Revised Service Order No. 1332 when loading is completed and instructions for forwarding are received from the shipper.

Effective September 11, 1978.

Expires October 31, 1978.

JOEL E. BURNS,
Chairman,
Railroad Service Board.

[FR Doc. 78-26562 Filed 9-20-78; 8:45 am]

[7035-01]

[Ex Parte 241; Exemption No. 151]

EXEMPTION UNDER PROVISIONS OF THE MANDATORY CAR SERVICE RULES

It appearing, That there is an emergency movement of military supplies from Crane, Ind., to Charleston, S.C.; that the originating carrier has insufficient system cars of suitable dimensions immediately available for loading with this traffic; that sufficient cars of other ownerships having suitable dimensions are available on the lines of the originating carrier and on its connections; and that compliance with car service rules 1 and 2 would prevent the timely assembly and use of such cars.

It is ordered, That pursuant to the authority vested in me by car service rule 19, the car service division of the Association of American Railroads is authorized to direct the movement to the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. (Milwaukee), the railroads designated by the car service division are authorized to move to, and the Milwaukee is authorized to accept, assemble, and load not to exceed 20 empty plain boxcars with military supplies from Crane, Ind., to Charleston, S.C., regardless of the provisions of car service rules 1 and 2.

It is further ordered, That this exemption shall constitute a modification of the provisions of section (a)(2)(ii) of Revised Service Order No. 1332, and of all provisions of Revised Service Order No. 1301.

Effective September 5, 1978.

Expires September 25, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-26555 Filed 9-20-78; 8:45 am]

[7035-01]

[33d Rev. Exemption No. 12]

EXEMPTION UNDER PROVISION OF THE MANDATORY CAR SERVICE RULES

It appearing that the railroads named herein own numerous plain boxcars; that under present conditions there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines: that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with car service rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by car service rule 19, plain boxcars described in the Official Railway Equipment Register, ICC-RER No. 408, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM" or "XMI"*, and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlantic and Western Railway
Reporting Marks: ATW
Chicago & Illinois Midland Railway Co.
Reporting Marks: CIM
Fonda, Johnstown and Gloversville Railroad Co.
Reporting Marks: FJG
[Hartford and Slocomb Railroad Co. deleted]
Hillsdale County Railway Co. Inc.
Reporting Marks: HCRC
Maryland and Pennsylvania Railroad Co.
Reporting Marks: MPA
Pickens Railroad Co.
Reporting Marks: PICK
Roscoe, Snyder and Pacific Railway Co.
Reporting Marks: RSP
Wellsville, Addison & Galeton Railroad Corp.
Reporting Marks: WAG

Effective September 15, 1978, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., September 15, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-26559 Filed 9-20-78; 8:45 am]

[7035-01]

[Notice No. 108]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no signficant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the applications, which may include a request for oral hearing, must be filed

*Revised to add "XMI" cars.

with the Commission on or before October 23, 1978. Failure reasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularlity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-77679, filed May 19, 1978. Transferee: RICCI TRANSPORTATION CO., INC., Odessa, Avenue at Aloe Street, Pomona, NJ 08240. Transferor: John Viano and Edward Viano, d.b.a. Viano Bros., Harding Highway, Landisville, NJ 08326. Representative: J. Raymond Clark, Attorney, 600 New Hampshire Avenue NW., Suite 1150, Washington, DC 20037. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in certificates MC 60122 (Sub-6) and MC 60122 (Sub-8), issued December 27, 1972 and August 19, 1977, Respectively, as follows: *Malt beverages,* in containers, from Winston-Salem, NC and Syracuse, NY to Landisville, NJ. Transferee presently holds authority from this Commission under the lead docket MC 127955 MC 138510. Application has not been filed for temporary authority under section 210a(b).

REPUBLICATION

MC-FC-77709, filed June 13, 1978. Transferee: WESTERN CARRIERS, INC., 2100 Alaska Way, Seattle, WA 98121. Transferor: Everett Trucking, Inc., P.O. Box 1105, Mount Vernon, WA 98273. Representative: George R. LaBissoniere, Esq., 1100 Norton Building, Seattle, WA 98104. This amends the notice published in the FEDERAL REGISTER on August 14, 1978, to include the requested transfer of the operating rights of transferor as set forth in certificate MC 135518 (Sub-4) issued August 7, 1978, as follows: *Foodstuffs,* in vehicles equipped with mechanical refrigeration, from points in a described portion of CA to points in OR and WA.

MC-FC-77760, filed July 13, 1978. Transferee: CON WEIMAR CORP., P.O. Box 434, 401 Commerce Road, Linden, NJ 07036. Transferor: Twin Haulage Co., 401 Commerce Road, Linden, NJ 07036. Representative: George A. Olsen, Practitioner, P.O. Box 537, Gladstone, NJ 07934. Authority sought for purchase by transferee of the operating rights of transferor as set forth in certificate MC 105607 (Sub-5) issued November 10, 1977, as follows: *Animal fats, animal fatty acids, inedible animal tallows, and animal greases,* from Vineland, Camden, South Plainfield, Elizabeth, Newark, Harrison, Kearny, Guttenberg, and Paterson, NJ, to points in that part of the New York, NY commercial zone, as defined in Commercial Zones and Terminal Areas, 53 MCC 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone), from Kearny, Harrison, and Newark, NJ, to Bristol and Philadelphia, PA, from Chester, NY to points in that part of the New York, NY commercial zone, as defined in Commercial Zones and Terminal Areas, 53 MCC 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Act (the "exempt" zone), Newark, Harrison, and Jersey City, NJ, *inedible animal tallows and aminal greases,* from points in that part of the New York, NY commercial zone, as defined in Commercial Zones and Terminal Areas, 53 MCC 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone), to Kearney, Newark, and Camden, NJ and Philadelphia, PA, *animal fats, inedible animal tallows and animal greases,* from Philadelphia, PA to Newark, NJ and points in that part of the New York, NY commercial zone, as defined in Commercial Zones and Terminal Areas, 53 MCC 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Act (the "exempt" zone), *animal or red oil,* from Newark, NJ to Philadelphia, Conshohocken, and Northampton, PA, *fish oil and sea aminal oil,* from Guttenberg, NJ, to points in that part of the New York, NY commercial zone, as defined in Commercial Zones and Terminal Areas, 53 MCC 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Act (the "exempt" zone), Conshohocken and Philadelphia, PA, *coconut oil and palm oil,* from Guttenberg, NJ to Bristol and Philadelphia, PA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77779, filed July 25, 1978. Transferee: ALVIN O. PETERSON, d.b.a. K & A TRUCKING, Route 4, Eau Claire, WI 54701. Transferor: Robert S. Ryan, d.b.a. Ryan Trucking, Route 4, Box 208A, Eau Claire, WI 54701. Representative: Samuel Rubenstein, Practitioner, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought for purchase by transferee of the operating rights of transferor as set forth in permit No. MC 142646 (Sub-2) issued June 23, 1978, as follows: *Meat scraps and bone,* from Eau Claire, WI to points in IL, IA, and MN, restricted to a transportation service to be performed under contract with Eau Claire Rendering Co., Inc., of Eau Claire, WI. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77791, filed August 1, 1978. Transferee: CENTROPOLIS STEEL TRANSPORTATION, INC., 701 North Sterling, Sugar Creek, MO 64054. Transferor: Centropolis Transfer Co., Inc., 701 North Sterling, Sugar Creek, MO 64054. Representative: Frank W. Taylor, Jr., Esq., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought for purchase by transferee of that portion of the operating rights of transferor set forth in certificate MC 61955, issued October 14, 1976, as follows: *Fencing, construction steel, angles, bars, etc.,* between Kansas City, MO, on the one hand, and, on the other, points in MO and KS, and such iron and steel articles as are used on construction projects from Kansas City, MO, to points in NE. Transferee presently holds no authority from this Commission. No application for temporary authority has been filed under section 210a(b).

MC-FC-77797, filed July 27, 1978. Transferee: QUASAR EXPRESS, INC., 1812 K Avenue, Sioux Falls, SD 57101. Transferor: Williams Truck Service, Inc., 1812 K Avenue, Sioux Falls, SD 57101. Representative: Scott E. Daniel, Esq., Suite 500, The Atrium, 1200 N Street, P.O. Box 82028, Lincoln, NE 68501. Authority sought by transferee to purchase the operating rights issued in the name of Ray Williams and Arlene Williams, a partnership, d.b.a. Williams Truck Service, as set forth in permit Nos. MC 111720 and (Subs-1, -3, -5, -7, -8, -10, and -11), on December 20, 1950, May 26, 1953, November 18, 1960, October 30, 1964, March 25, 1969, March 12, 1970, May 14, 1974, and April 12, 1974, respectively, and acquired by transferor in MC-FC-76847, consummated December 8, 1977, as follows: Specified commodities

V 43 / 184 SEP 21 1978

from, to, or between specified points and counties in CT, DE, GA, IL, IN, IA, KY, ME, MD, MA, MI, MN, NH, NJ, NY, NC, OH, PA, RI, SC, SD, TN, VT, VA, WV, and DC. Authority also sought for purchase by transferee of the transferor as set forth in permit MC 111720 (Sub-13), issued May 3, 1978, as follows: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses,* from the facilities of Geo. A. Hormel & Co., at or near Fremont, NE and Ottumwa, IA, to points in VA, WV, and NC. Transferee presently holds no authority from this Commission. Application for temporary authority under section 210a(b) was granted August 17, 1978.

MC-FC-77815. Transferee: BANDERA DRILLING CO., INC., d.b.a. Bandera Trucking Co., P.O. Box 471, Abilene, TX 79604. Transferor: J. Murrell Brown Oil Field Trucking, Inc., P.O. Box 1354, Levelland, TX 79336. Representative: Albert G. Walker, Jr., Attorney for the Transferee, 612 Capital National Bank Building, Austin, TX 78701. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificate of registration MC 96801 (Sub-1), issued March 11, 1976, as follows: *Pipe,* when used in the construction and maintenance of water lines, *oil field equipment and pipe,* when moving as oilfield equipment, *specified construction machinery and equipment and parts thereof,* when said commodities are not moving as oilfield equipment and only when such equipment requires the use of special devices, facilities, or equipment, between points in TX. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26560 Filed 9-20-78; 8:45 am]

[7035-01]

[Ex Parte No. MC-120]

PETITION TO RELAX ENTRY ON THE TRANSPORTATION OF SMALL SHIPMENTS WEIGHING 500 POUNDS OR LESS

AGENCY: Interstate Commerce Commission.

ACTION: Extension of filing deadline.

SUMMARY: The Commission published a notice of the filing of the above-captioned petition in the FEDERAL REGISTER on August 22, 1978, at pages 37329-37330. The notice provided that written comments on the proposal were due on or before October 6, 1978. Because of the great interest in the proposal and the complexity of the issues involved, the Commission, by this notice, is extending the deadline for filing comments until November 6, 1978. No further extensions are contemplated.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, 202-275-7292.

Decided September 15, 1978.

By the Commission, J. Patterson King, Acting Director, Office of Proceedings.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26563 Filed 9-20-78; 8:45 am]

[7035-01]

[ICC Order No. 62; Rev. S.O. 1252; Amdt. 4]

REROUTING OF TRAFFIC

Upon further consideration of ICC Order No. 62 (the Chesapeake & Ohio Railway Co.) and good cause appearing therefor:

It is ordered, ICC Order No. 62 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., September 30, 1978, unless otherwise modified, changed, or suspended.

Effective date: This amendment shall become effective at 11:59 p.m., September 15, 1978.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 15, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-26556 Filed 9-20-78; 8:45 am]

[7035-01]

[Rev. ICC Order No. 65; Rev. S.O. 1252; Amdt. 4]

REROUTING OF TRAFFIC

Upon further consideration of Revised ICC Order No. 65 (CP Rail and Detroit, Toledo & Ironton Railroad Co.), and good cause appearing therefor:

It is ordered, Revised ICC Order No. 65 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., September 30, 1978, unless otherwise modified, changed or suspended.

Effective date: This amendment shall become effective at 11:59 p.m., September 15, 1978.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 15, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-26557 Filed 9-20-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1, 2, 3
Equal Employment Opportunity Commission	4, 5, 6
Federal Energy Regulatory Commission	7
Federal Maritime Commission	8
Federal Trade Commission	9
Legal Services Corporation	10
National Labor Relations Board	11
National Transportation Safety Board	12
Securities and Exchange Commission	13

[6320-01]

1

[M-164, Amdt. 1; Sept. 15, 1978]

CIVIL AERONAUTICS BOARD.

Notice of addition of items to the September 20, 1978, meeting agenda.

TIME AND DATE: 10 a.m., September 20, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 9a. Docket 29789, Houston/New Orleans-Yucatan Route Proceeding—Opinion and Order (OGC). 9b. Docket 26487, Transatlantic—Transpacific and Latin American Service Mail Rate Investigation (OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Item 9a is being added to the September 20, 1978, calendar because the public target date for release of the Board's opinion in this case is September 25 and there appears to be no other meeting before that date. The original meeting for September 20, 1978, was issued before it was realized that Docket 26487, Item 9b needs to be discussed at the September 20, 1978, meeting. Accordingly, the following members have voted that agency business requires the addition of these items to the agenda and that no earlier announcement of the additions was possible.

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia (disapproves)
Member, Elizabeth E. Bailey

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the FEDERAL REGISTER for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-1913-78 Filed 9-19-78; 9:19 am]

[6320-01]

2

[M-164, Amdt. 2, Sept. 15, 1978]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the September 20, 1978, agenda.

TIME AND DATE: 10 a.m., September 20, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 8a. Docket 32049, Application of Hughes Air Corp., d.b.a. Hughes Airwest to amend its permit for route 76F to add two new U.S. and five new Mexican coterminal points (BIA, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Hughes Airwest, Inc., informed the Board on September 14 that it wishes to commence service on the routes applied for in Docket 32049 on October 29, 1978. The carrier has advertised the service and has fully booked flights beginning on that date. We are acting on the attached show cause order on short notice to allow maximum time for approval of a final order by the President before the carrier's proposed inauguration of service on October 29. Accordingly, the following Members have voted that agency business requires the addition of item 8a on September 13, 1978, and that no earlier announcement of this addition was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia (disapproves)
Member, Elizabeth E. Bailey

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the FEDERAL REGISTER for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-1914-78 Filed 9-19-78; 9:19 am]

[6320-01]

3

[M-164, Amdt. 3; Sept. 15, 1978]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the September 20, 1978, agenda.

TIME AND DATE: 10 a.m., September 20, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 9c. Docket 31738, *International Air Cargo Corporation, Egypt;* Order on Discretionary Review (OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The staff has requested that item 9c be added to the agenda for September 20. The announced target date for adopting a decision is September 22, and the meeting of the 20th will be the last meeting before that date. Accordingly, the following Members have voted that agency business requires the addition of item 9c and that no earlier announcement of this addition was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the FEDERAL REGISTER for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-1915-78 Filed 9-19-78; 9:19 am]

[6570-06]

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1878-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, September 19, 1978.

CHANGE IN THE MEETING: The following items are added to the portion open to the public:

1. Additional allocation of fiscal year 1978 funds to State and local agencies.
2. Modification of a State agency contract for development of proposed procedures for accreditation of 706 agencies by EEOC.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of change.—Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair, and Ethel Bent Walsh, Commissioner.
Opposed.—None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-636-6748.

This notice issued September 18, 1978.

[S-1911-78 Filed 9-19-78; 9:19 am]

[6570-06]

5

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1878-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, September 19, 1978.

CHANGE IN THE MEETING: The following item is added to the portion open to the public:

Private Bar Program; Recommended Training Workshops.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of change.—Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; and Ethel Bent Walsh, Commissioner.
Opposed.—None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued September 19, 1978.

[S-1918-78 Filed 9-19-78; 2:03 pm]

[6740-02]

7

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 41334, published September 15, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., September 20, 1978.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

ER-9. ER78-337 and ER78-338, Public Service Co. of New Mexico.

KENNETH F. PLUMB,
Secretary.

[S-1917-78 Filed 9-19-78; 11:17 am]

[6730-01]

8

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., September 27, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Report on notation items disposed of during August 1978.
2. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during August 1978.
3. Report of the Secretary on Applications for Admission to Practice approved during August 1978 pursuant to delegated authority.
4. Assignment of informal dockets by the Secretary during August 1978 pursuant to delegated authority.
5. Trailer Marine Transport Corporation—Extension of Interstate Commerce Commission Tariff to U.S. Virgin Islands (Freight Tariff No. 6, ICC No. 2).
6. Sea-Land Service, Inc., South Atlantic/Puerto Rico Trade—Proposed tariff rules providing for rate discount if marine insurance is not requested.
7. Docket No. 73-22, 73-22 (Sub. No. 1) and 74-36 (Sub. No. 1); Matson Navigation Co.—Changes in rates in the U.S. Pacific Coast-Hawaii Trade; Petition for reconsideration of decision partially adopting initial decision.
8. Docket No. 76-46—Agreement Nos. T-3191 et al.—Petition for reconsideration of amended order of investigation.
9. Docket No. 76-60—Intermodal Dual Rate Agreements—Petition for reconsideration of Seatrain International.
10. Docket No. 78-9—Financial Responsibility for Water Pollution—Petition for reconsideration of final rules.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Assistant Secretary, 202-523-5725.

[S-1921-78 Filed 9-19-78; 3:33 pm]

[6750-01]

9

FEDERAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., Septembter 27, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Consideration of proposed revision of Discovery Rules.
2. Review and proposed revision of Commission Rules 2.34 and 3.25(f) concerning placement on the public record of material relating to consent agreements.
3. Consideration of Seattle regional office request for proposed TRR regarding disclosure of toxicity and identity of commercially sold plants; File No. 752 3109.
4. Consideration of proposed modification to interpretation 600.8 of the Fair Credit Reporting Act.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830. Recorded message: 202-523-3806.

[S-1922-78 Filed 9-19-78; 3:33 pm]

[6820-35]

10

LEGAL SERVICES CORPORATION (COMMITTEE ON PERSONNEL AND FACILITIES).

TIME AND DATE: 9:30 a.m., Monday, September 25, 1978.

PLACE: Seventh floor conference room, Legal Services Corporation, 733 15th Street NW., Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Adoption of agenda.
2. Approval of minutes of previous meeting on April 5, 1978.
3. Review of proposed Corporation personnel procedures.
4. Consultation on:
   a. Cost-of-living increases for staff.
   b. Compensation of Corporation officers.
   c. Approval of receipt of Corporation officers of compensation from sources other than the Corporation.
5. Other business.

CONTACT PERSON FOR MORE INFORMATION:

Dellanor Young, Office of the President, telephone 202-376-5100.

Issued: September 18, 1978.

THOMAS EHRLICH,
President.

[S-1916-78 Filed 9-19-78; 9:19 am]

[7545-01]

11

NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 3 p.m., Friday, October 6, 1978.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Consideration of applicant qualified for appointment to Administrative Law Judge.

CONTACT PERSON FOR MORE INFORMATION:

William A. Lubbers, Executive Secretary, Washington, D.C. 20570, telephone 202-254-9430.

Dated: Washington, D.C., September 19, 1978.

By direction of the Board.

GEORGE A. LEET,
Associate Executive Secretary, National Labor Relations Board.

[S-1923-78 Filed 9-19-78; 3:45 pm]

[4910-58]

12

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, September 28, 1978 [NM-78-35].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first three items on the agenda will be open to the public; the last item will be closed under exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Railroad Accident Report*—Derailment of Atlanta & Saint Andrews Bay Railway Co., freight train, Youngstown, Fla., February 26, 1978.
2. *Special Study*—Safe Service Life for Liquid Petroleum Pipelines.
3. *Discussion*—Lack of national standard for minimum skid number value.
4. *Opinion and Order—Administrator* v. *Ribler*, Dkt. SE-3593; disposition of the Administrator's appeal.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-1920-78 Filed 9-19-78; 2:03 pm]

[8010-01]

13

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of September 25, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Thursday, September 28, 1978, at 10 a.m. Closed meetings will be held on Tuesday, September 26, 1978, at 10 a.m., and on Thursday, September 28, 1978, immediately following the open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a)(8), (9)(i), and (10).

Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, September 26, 1978, at 10 a.m., will be:

Access to investigative files by Federal, State or self-regulatory authorities.
Dismissal of administrative proceeding of an enforcement nature.
Formal orders of investigation.
Freedom of Information Act appeals.
Institution of injunctive actions.
Other litigation matters.

The subject matter of the open meeting scheduled for Thursday, September 28, 1978, at 10 a.m., will be:

Consideration of a release announcing the adoption of Form SECO-4-78 which establishes the annual fees and assessment schedule for SECO broker-dealers for fiscal year 1978. For further information, please contact Daniel L. Bateman at 202-755-1300.

The subject matter of the closed meeting immediately following the open meeting scheduled for Thursday, September 28, 1978, will be:

Institution of injunctive action.
Other litigation matter.

FOR FURTHER INFORMATION, PLEASE CONTACT:

Beverly Rubman at 202-755-1103.

SEPTEMBER 18, 1978.

[S-1919-78 Filed 9-19-78; 2:03 pm]

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federal register

THURSDAY, SEPTEMBER 21, 1978
PART II

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

SEMIANNUAL REGULATIONS AGENDA AND REVIEW LIST

[4910-62]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[OST Docket No. 58; Notice 78-10]

DEPARTMENT REGULATIONS AGENDA AND REVIEW LIST

Semi-Annual Summary

AGENCY: Department of Transportation.

ACTION: Department Regulations Agenda and Review List.

SUMMARY: The Regulations Agenda is a semi-annual summary of each proposed and each final regulation that the Department of Transportation expects to publish in the FEDERAL REGISTER during the succeeding 12 months or such longer projected period as may be anticipated. The Regulations Review List is a semiannual summary of the existing regulations that the Department of Transportation has selected for review and possible revocation or revision. The Agenda and the Review List provide the public with information about the Department of Transportation's regulatory activity. It is expected that this information will enable the public to be more aware of, and allow it to more effectively participate in, the Department's regulatory activity.

ADDRESS: The mailing address for the initiating offices of the Department which appear in the Agenda and the Review List are 400 Seventh Street SW., Washington, D.C. 20590, except for the Federal Aviation Administration and the St. Lawrence Seaway Development Corporation, which are located at 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: For further information on the Agenda or the Review List, in general, contact:

Neil Eisner, Assistant General Counsel, Office of Regulation and Enforcement, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-4723.

For information about any particular item on the Agenda or the Review List, contact the individual listed in the column headed "Contact" for that item. Unless otherwise indicated, the telephone area code for each of these individuals is 202.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Improvement of Government regulations has been a prime goal of the Carter administration. There should be no more regulations than necessary, and those that are issued should be simpler, more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help the Department of Transportation ("Department") achieve these goals, on January 31, 1978, the Secretary of Transportation issued a statement of policies and procedures for simplification, analysis, and review of regulations (43 FR 9582, March 8, 1978). These policies and procedures took effect on March 1, 1978. They include a requirement that the Department prepare a semiannual Department Regulations Agenda for publication in the FEDERAL REGISTER. The Agenda summarizes each proposed and each final regulation that the Department expects to publish in the FEDERAL REGISTER during the succeeding 12 months or such longer projected period as may be anticipated. They also include a requirement that the Department prepare a semiannual list of existing regulations it has selected for review and possible revocation or revision for publication in the FEDERAL REGISTER.

The Department's first Agenda and Review List were published in the FEDERAL REGISTER on June 1, 1978 (43 FR 23884 and 23918). In accordance with the Department's current regulatory policies and procedures, the Department's subsequent Agendas and Review Lists are to be based on reports submitted by the initiating offices by the last working days of June and December of each year. After these reports are consolidated for review by the Department Regulations Council, the Department's Regulations Agenda and Review List are prepared and published in the FEDERAL REGISTER. This document is being published under that schedule.

The Agenda has been expanded from its first publication; it now includes the additional information that, although not currently required, will eventually be required in accordance wiith Executive Order 12044, "Improving Government Regulations" (43 FR 12661, March 24, 1978), and with the Department's proposed regulatory policies and procedures (43 FR 23925, June 1, 1978).

DEFINITIONS

The Agenda and the Review List cover all rules and regulations of the Department, including those which establish conditions for financial assistance. The following definitions are provided for ease in understanding the information in this document.

(1) *Initiating office* means an operating administration or other organizational element within the Department, the head of which is authorized by law or delegation to issue regulations or to formulate regulations for issuance by the Secretary.

(2) *Significant regulation*[1] means a regulation that is not an emergency regulation and that in the judgment of the head of the initiating office or the Secretary or the Deputy Secretary—

(a) Requires a regulatory analysis or is otherwise costly;

(b) Concerns a matter on which there is substantial public interest or controversy;

(c) Has a significant impact on another operating administration or other parts of the Department or other Federal agency; or

(d) Otherwise involves import and Department policy.

(3) *Emergency regulation* means a regulation that, in the judgment of the head of the initiating office, circumstances require to be issued without notice and opportunity for public comment or made effective in less than 30 days after publication in the FEDERAL REGISTER.

(4) *Nonsignificant regulation* means a regulation that, in the judgment of the head of the initiating office, is neither a significant nor an emergency regulation.

A regulatory analysis is required for each proposed regulation that—

(1) Could produce a major effect on the general economy in terms of cost, consumer prices, or production;

(2) Could produce a major increase in costs or prices for individual industries, levels of government, geographic regions, or specific elements of the population; or

(3) The Secretary or head of the initiating office determines deserves such an analysis.

EXPLANATION OF INFORMATION IN THE REGULATIONS AGENDA

The Regulations Agenda is divided by initiating offices. For each initiating office there is a subdivision for: (1) Significant regulations, (2) non-significant regulations, and (3) routine and frequent non-significant regulations. For each proposed and final regulation expected to be published, the Agenda provides the following information: (1) A short descriptive title; (2) a summary; (3) the earliest expected publication date (if a decision is made to issue the proposal or the regulation); and (4) a contact office or official who can provide additional information. If final action has been taken on an item included on the previous semi-annual Agenda, that item is still contained in this Agenda and the final action is indicated under the "summary" column for that item.

[1] To conform with the Executive order, the Department's procedures have been amended to change the term "major regulation" to "significant regulation" and that change is reflected in this Agenda.

For a significant regulation, the summary includes: (1) A description of the proposed or final regulation; (2) a brief statement as to why it is considered significant; (3) a statement as to whether a regulatory analysis will be required; (4) a brief statement of why the regulation is needed; (5) the legal basis for the action being taken; (6) the past and anticipated chronology of the development of the regulation, including any final action taken since the last semiannual Agenda and (7) the related regulatory citation in the Code of Federal Regulations. It should be noted that, even though a regulatory analysis is not required for some items on the Agenda, either because the criteria are not met or because the regulatory project is covered by earlier regulatory requirements, the Department requires an economic evaluation for all of its regulations.

For nonsignificant regulations issued routinely and frequently as part of an established body of technical requirements (such as the Federal Aviation Administration's airspace rules) to keep those requirements operationally current, only the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations are included; individual regulations are not listed.

If a regulatory docket number has already been established, it is contained in parentheses immediately following the short descriptive title of the regulation. If a member of the public desires further information regarding a particualr proposal or regulation, reference should be made to this docket number. The Federal Highway Administration also provides an FHPM number at this point for easier reference by those who use the Federal-aid Highway Program Manual (FHPM). The numbers following the FHPM represent, respectively, the volume, chapter, section and subsection at which the material is located in the FHPM.

In the "Date" column, abbreviations are used to indicate the particular documents being considered for issuance by that date. ANPRM stands for advance notice of proposed rulemaking, NPRM for notice of proposed rulemaking, and FR for final rule. Listing a date in this column is not an indication that a proposal or a final rule will be issued on that date; it is the date on which a final decision is expected to be made on whether to issue the document listed. If any document is issued, publication in the FEDERAL REGISTER would follow within a few days. These dates are based on current schedules. Subsequently, received information could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

It should be noted that some of the items on the Agenda result from programs which were established to review existing regulations and revoke or revise those regulations which the initiating office determines are not achieving their intended purpose. For example, the anticipated rulemaking actions listed by the Federal Highway Administration (FHWA) are primarily in response to the implementation of FHWA's Regulations Reduction Review recommendations adopted in late 1977. As a result of those recommendations, FHWA is currently in the process of systematically reviewing and, where appropriate, revising all of its existing regulatory material to assure consistency with its policy on the minimization of red tape, issued on October 20, 1977. This policy was published in the FEDERAL REGISTER (43 FR 10578, FHWA docket No. 76-21, notice 4) on March 14, 1978. As indicated on the Agenda, many of the Federal Aviation Administration's proposed regulatory actions also result from one of its many regulatory reviews. Projects under regulatory development that resulted from a review of existing regulations to determine whether they should be revoked or revised are preceded by the word "review" in the "Title" column. Because some reviews can be large-scale undertakings, and because there are already a number of these in the regulatory development process, the Department thought it would provide the public with valuable information if it indicated not only which regulatory reviews are under consideration but also which reviews have now reached the stage where proposed revisions are being, or have been, prepared. The number of regulatory projects that an initiating office can handle is limited by available resources. Therefore, the number of reviews in the regulatory development stage limits the number that can be added to the consideration stage.

EXPLANATION OF THE INFORMATION IN THE REGULATIONS REVIEW LIST

The Regulations Review List is divided by initiating offices. For each office, it provides the following information: (1) A short description of the existing regulations involved, including the related citation to the Code of Federal Regulations; (2) a brief description of the reasons for each selection; (3) a contact office or offcial who can provide additional information; and (4) the target date for completing the review and determining the corrective course of action to be taken. The action taken can be revocation or revision of the regulation, or it can be a determination that no regulatory action is necessary because the regulation is found to be achieving its goals and the goals and objectives of Executive Order 12044 and the Department regulatory policies and procedures. If final action has been taken on the previous semiannual Review List, that item is still contained in this Review List and the final action is indicated under the "Reasons for Selection" column for that item.

PURPOSE

The Department is publishing this Regulations Agenda and Review List in the FEDERAL REGISTER to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity. Knowledge of the nature and scope of this activity, as well as the specific proposals and reviews being considered, should result in more effective public participation in the Department's regulatory activity. For example, awareness of the dates when notices may be issued seeking public comment should allow appropriate planning and more efficient use of the comment period. By providing the expected date for a decision on whether to issue a final rule, the Department expects that more appropriate planning by those concerned with the regulation will also be possible.

This publication in the FEDERAL REGISTER does not impose any binding obligation on the Department, or any of the offices within the Department, with regard to any specific item on the Agenda or the Review List. Regulatory action in addition to the items listed is not precluded.

If further information is desired on any of the items listed in the Agenda or the Review List, the public is encouraged to contact the individual listed for the particular item. Additional information concerning the Agenda or the Review List, in general, or the Department's regulatory policies and procedures may be obtained from Neil Eisner, whose address and telephone number appear above.

Issued in Washington, D.C. on September 7, 1978.

BROCK ADAMS,
Secretary of Transportation.

DEPARTMENT OF TRANSPORTATION, SEMIANNUAL REGULATIONS AGENDA

OFFICE OF THE SECRETARY

SIGNIFICANT REGULATIONS

Title	Summary	Contact	Decision date
Nondiscrimination on the Basis of Handicap in DOT-Funded Programs and Activities. Notice of proposed rulemaking, docket No. 56.	A. *Description:* Proposed regulation woud implement sec. 504 of Rehabilitation Act of 1973 (29 U.S.C. 794), prohibiting discrimination against handicapped persons in federally funded programs. The regulation establishes requirements for recipients of DOT financial assistance to meet the mandate of sec. 504. B. *Why significant:* The proposed regulation would have a major impact on DOT programs, particularly those administered by FAA, FRA, UMTA, and FHWA. All recipients of DOT aid must take positive actions to make their federally funded programs accessible to the handicapped. C. *Regulatory analysis:* Will be required. D. *Need:* These regulations implement regulations issued by the Department of Health, Education, and Welfare (HEW) and 29 U.S.C. 794. They are needed to ensure that recipients of financial assistance from DOT make the programs operated in existing facilities accesible to handicapped persons, and to ensure that new facilities are constructed so as to be readily accessible to handicapped persons. E. *Legal basis:* 29 U.S.C. 794. F. *Chronology:* HEW issued regulations on Jan. 13, 1978, requiring Federal agencies to integrate the requirements of sec. 504 into their respective programs and activities (43 FR 2132). An NPRM was published on June 8, 1978 (43 FR 25016). By supplemental notice the comment period has been extended to Oct. 20, 1978 (3 FR 30585). Pubild hearings have been scheduled for New York City, Sept. 7; Chicago, Sept. 11; Denver, Sept. 13; San Francisco, Sept. 15; and Washington, D.C., Sept. 19 (43 FR 34171). The Regulatory Analysis Review Group has selected this regulation to review for its economic impact. G. *Citation:* 49 CFFR pt. 27.	Richard R. Clark, 202-426-4723	FR March 1979.
Title VI Civil Rights Regulations	A. *Description:* The proposed regulations would assemble in one package all DOT procedures and requirements concerning all recipients of financial assistance under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-d4). B. *Why significant:* Substantial public interest is anticipated and it will effect all of the DOT elements and the administration of all grant programs. C. *Regulatory analysis:* Will not be required. D. *Need:* The Department has an existing Title VI regulation dating from 1970, and a title VI order promulgated by Secretary Coleman on Jan. 19, 1977 and reaffirmed by Secretary Adams in March of that year. A new regulatory package is being developed to replace the previous layering of regulations. E. *Legal basis:* 42 U.S.C. 2000d-d4. F. *Chronology:* Proposal is currently under review. It will then be submitted to the Department of Justice for approval. G. *Citation:* 49 CFR pt. 21.	Robert J. Coates, 202-426-4754	NPRM November 1978.
Minority Business Enterprise Program.	A. *Description:* This regulation would implement the requirements of DOT order 4000.7A for DOT operating elements to take affirmative action to assure that minority business enterprises participate in departmental procurement and financial assistance programs. B. *Why significant:* Substantial public interest is anticipated given the proposed action's potential impact on DOT's procurement and assistance programs. C. *Regulatory analysis:* Will not be requried. D. *Need:* To implement the provisons of the DOT order 4000.7A by providing detailed instructions for carrying out the affirmative action requirements of the order. E. *Legal basis:* Executive Order 11625; 49 U.S.C. 1730; 45 U.S.C. 803; 49 U.S.C. 1608(f). F. *Chronology:* Proposal is currently under review by the DOT elements. G. *Citation:* No CFR citation as yet.	Ellen Feingold, 202-426-4646 Richard Lorr, 202-426-4710	NPRM October 1978.
Financial Assistance to participants in Rulemaking Proceedings.	A. *Description:* If propsoed, these regulations would permit, but not require, each agency of the Department to fund eligible members of the public for the reasonable and actual costs of preparing and presenting their views at selected agency rulemaking proceedings. B. *Why significant:* This issue concerns a matter on which there is substantial public interest and controversy and will have a significant impact on the operating administrations and the Office of the Secretary. C. *Regulatory analysis:* Will not be required. D. *Need:* Such a rule would substantially increase the number of active, informed, and independent participants at many rulemaking proceedings within the Department, thereby increasing the diversity and balance of views presented to the Department, and enhancing the Department's knowledge of the interests likely to be affected by its proposed rules. E. *Legal authority:* The Department's rulemaking authority under the Department of Transportation Act, 49 U.S.C. 1651 et seq. and related statutes.	Richard Lorr, 202-426-4723	NPRM January 1979.

OFFICE OF THE SECRETARY—Continued

SIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
	F. *Chronology:* On Jan. 13, 1977, the Department published regulations for a one-year demonstration program to provide financial assistance to certain participants in rulemaking proceedings of NHTSA. (42 FR 2863.) At the same time the Department issued an ANPRM, inviting public comments on the feasibility, wisdom, and scope of a permanent departmentwide program of financial assistance. Upon conclusion of the demonstration program, NHTSA evaluated the program and recommended that the Department establish an amended version of the program throughout the Department. On Mar. 16, 1978, the demonstration program in NHTSA was extended until the Secretary decided whether to issue final, permanent Department regulations (43 FR 10918). G. *Citation:* No CFR citation as yet.		
Public Availability of Information	A. *Description:* Revision of DOT's Freedom of Information Act regulations. Specific areas to be revised may include the fee schedule and the policy on waivers of fees for public interest groups and the press. B. *Why significant:* Substantial public interest. C. *Regulatory analysis:* Not required. D. *Need:* Freedom of Information regulations need periodic revision to keep current with changes in case law, policy, and implementation costs. E. *Legal basis:* 5 U.S.C. 552 (Freedom of Information Act). F. *Chronology:* Regulations last revised in 1975 (40 FR 7915). Revision currently under internal development. NPRM expected October 1978. G. *Citation:* 49 CFR pt. 7	Rebecca H. Lima, 202-426-4542	NPRM October 1978.

OFFICE OF THE SECRETARY

NONSIGNIFICANT REGULATIONS

Consolidation of Transportation Grants U.S. Territories.	The regulation would comply with title V of Pub. L. 95-134 which permits departments and agencies to consolidate grant programs, reduce reporting requirements, and waive the local matching funds requirement.	Carolina Mederos 202-426-9605	NPRM August 1978.
Standard Time Zone Boundaries	The regulation would correct a mistaken reference to "North Dakota-Nebraska boundary" in "description of" the eastern-central time zone boundary (49 CFR 7.31(b)).	Robert I. Ross, 202-426-4723	FR September 1978.
Maintenance of Aecess to Records Pertaining to Individuals.	This regulation would revise the Department's Privacy Act regulations (49 CFR pt. 10).	John Windsor, 202-426-1877	NPRM August 1978.
Official Seal	Revision of regulations governing description and use of the Department's official seal (49 CFR pt. 3).	Robert I. Ross, 202-426-4723	FR October 1978.

U.S. COAST GUARD

SIGNIFICANT REGULATIONS

Review: Construction and Operating Standards for Mobile Offshore Drilling Units (Docket No. CGD 73-251).	A. *Description:* Would establish one set of uniform, comprehensive regulations applicable to all mobile offshore drilling units. B. *Why significant:* Considered significant due to increased public awareness and concern regarding offshore oil and gas development, also substantial congressional interest. C. *Regulatory analysis:* Will not be required. D. *Need:* At present there are no comprehensive regulations applicable to the offshore industry. This industry has grown so rapidly in the last few years that it needs its own dedicated set of requirements. E. *Legal basis:* Sec. 2, 87 Stat. 418 (46 U.S.C. 86); sec. 3, 82 Stat. 341, as amended (46 U.S.C. 367); R.S. 4405, as amended (46 U.S.C. 375); R.S. 4405, as amended (46 U.S.C. 4001); R.S. 4429, as amended (46 U.S.C. 407); R.S. 4430, as amended (46 U.S.C. 408); 88 Stat. 423 (46 U.S.C. 411); R.S. 4434, as amended (46 U.S.C. 412); R.S. 4462, as amended (46 U.S.C. 416); sec. 1, 73 Stat. 475 (46 U.S.C. 481); sec. 4, 87 Stat. 462 (43 U.S.C. 1333(e)). F. *Chronology:* Project commenced 1973. Environmental and economic analysis completed March 1977. NPRM published 42 FR 22296. Public hearing held June 1977. G. *Citation:* 33 CFR pt. 155, 46 CFR pts. 10, 12, 30, 31, 35, 70, 90, 98, 105, 151, and 157.	LCDR Harmes, 202-426-2190	FR October 1978.
Review: Qualifications of the Person in Charge of Oil Transfer Operations, Tankerman Requirements (docket No. CGD 74-44, 74-44a).	A. *Description:* Would redefine and establish qualifying criteria for certifying individuals engaged in the carriage and transfer of the various categories of dangerous cargoes in bulk. B. *Why significant:* Considered significant because this is a Presidential initiative. C. *Regulatory analysis:* Will not be required. D. *Need:* Most pollution incidents are the result of personnel error; consequently the minimum qualifications of persons involved in handling polluting substances should be specified. E. *Legal basis:* 86 Stat. 427, as amended (46 U.S.C. 391a); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1); 49 CFR 1.46(n)(4). F. *Chronology:* Environmental analysis and inflationary impact statement completed February 1977. NPRM published 42 FR 21190. Public hearing June 1977. G. *Citation:* 33 CFR pt. 155, 46 CFR pts. 10, 12, 30, 31, 35, 70, 90, 98, 105, 151, and 157.	CDR Hess, 202-426-225	FR October 1978.

U.S. COAST GUARD—Continued
SIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
Review: Revision of Electrical Regulations (docket No. CGD 74-125).	A. *Description:* General revision and updating to conform with latest technology and to include steering requirements. B. *Why significant:* Considered significant since it incorporates the steering requirements of the Presidential initiatives. C. *Regulatory analysis:* Will not be required. D. *Need:* The industrial standards for electrical engineering have changed in the past few years and the regulations must be brought up-to-date to reflect the lastest industry practice. E. *Legal basis:* 46 U.S.C. 170, 367, 369, 375, 390(b), 391(a), 392, 408, 416, 445, 389, 526p, 49 U.S.C. 1655(b). F. *Chronology:* NPRM published 42 FR 32700. A new NPRM will be issued September 1978. G. *Citation:* 46 CFR pts. 110-113.	Mr. R. Tweedie, 202-426-2205	NPRM September 1978.
Standard for new Self-Propelled Vessel Carrying Bulk Liquefied Gases (docket No. CGD 74-289).	A. *Description:* These regulations would adopt the Intergovernmental Maritime Consultative Organization (IMCO) resolution, the code for construction and equipment of ships carrying liquefied gases in bulk. B. *Why significant:* This is a significant rulemaking involving matters of substantial public interest. C. *Regulatory analysis:* Will not be required. D. *Need:* The increased use of liquefied gases for energy sources has produced a dramatic increase in the manufacture and use of vessels designed for the cargo. Due to the unusual and unique hazards associated with liquefied gases, these vessels must be addressed in regulations specially tailored to their unique situation. E. *Legal basis:* R.S. 4472 as amended (46 U.S.C. 170); sec. 201, 86 Stat. 42), as amended (46 U.S.C. 391); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1). F. *Chronology:* Economic and environmental impact assessments and negative declarations were prepared before the NPRM was published 41 FR 43822. Public hearing held November 1976. G. *Citation:* 46 CFR pts. 31, 34, 40, 54, 56, 98, 154, and 154a.	LCDR Rowek, 202-426-1477	FR September 1978.
Whitewater Rafts Inspection (docket No. CGD 75-020).	A. *Description:* These proposed regulations would set forth safety requirements for whitewater rafts that would recognize the unique construction, arrangement, equipment, and general operation of these vessels. B. *Why significant:* This project is considered significant because of the potential significant cost to a minor industry with small businesses and substantial congressional interest. C. *Regulatory analysis:* Will not be required. D. *Need:* Increased popularity of whitewater rafting as a commercial recreational activity has increased the potential for casualties to paying passengers. Since these rafts are engaged in interstate commerce, by law, they are subject to inspection to insure that they meet minimum levels of safety. E. *Legal basis:* 46 U.S.C. 390. F. *Chronology:* This project commenced in 1974. Public hearings will be held after the 1978 operating season. G. *Citation:* 46 CFR pts. 175-187.	LCDR Anderson, 202-426-2183	NPRM November 1978.
Review: Upgrade New Tank Barge Construction (docket No. CGD 75-083), Upgrade Existing Tank Barge Construction (docket No. CGD 75-083a).	A. *Description:* This action is comprised of two regulatory projects centered on tank barge construction standards which resulted from the Presidential initiatives directing a study of the tank barge pollution problem. One project will address new barge construction while the other will pertain to existing barges. Regulatory documents for both will be published at the same time and joint public hearings will be held. B. *Why significant:* Considered significant due to substantial congressional and public interest. C. *Regulatory analysis:* A joint regulatory analysis will be developed for both projects due to the conbined impact upon a single industry. D. *Need:* Increased public awareness of the oil pollution problem, as well as international and domestic interest in this area have made increased design standards necessary as a menas of reducing the possibility of pollution. E. *Legal basis:* See 201, 86 Stat. 427, as amended (46 U.S.C. 391a). F. *Chronology:* The upgrade of tank barge construction standards was published as a NPRM in the FEDERAL REGISTER of Dec. 24, 1971. As a result of the 63 written comments received, it was decided that the standards needed to be studied further, especially as they would apply to existing barges. In 1974, the Coast Guard and the Maritime Administration performed a joint study of the tank barge pollution problem which found that certain construction techniques might provide a significant advantage for eliminating oil pollution from tank barges. However, the study had several weaknesses and regulatory action was not taken. In July 1977, the Coast Guard began a reexamination of the tank barge construction standards. It was determined that new construction should be treated separately from existing barges. An ANPRM will be issued to gather additional data and assess impacts related to existing barges. G. *Citation:* 46 CFR pts. 32-40.	LCDR Johnson, 202-426-4431 LCDR Sampson, 202-426-2183	NPRM October 1978. ANPRM October 1978.

U.S. COAST GUARD—Continued
SIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
Review: Pollution Prevention, Vessel and Oil Transfer Facilities (docket No. CGD 75-124).	A. *Description:* Would reduce accidental discharge of oil or oily wastes during vessel operations and during the transfer of oil or oily wastes to or from vessels. B. *Why significant:* Considered significant due to intense opposition from the owners/operators of offshore marine service vessels and inland waterways vessels to the oil-water separator requirements of 33 CFR 155.330. Also, considerable expense is estimated to be incurred by the towing service to install separators and monitors or alarms. C. *Regulatory analysis:* Will not be required. D. *Need:* (1) Necessity to reduce the number of accidental spills. (2) Clarification of existing rules. (3) Additional requirement for oil-water separators under the 1973 International Convention for the Prevention of Pollution from Ships. E. *Legal basis:* Sec. 311(j)(1) (C) and (D) of the Federal Water Pollution Control Act (86 Stat. 816, 818); 33 U.S.C. 1321(j)(1) (C) and (D). F. *Chronology:* NPRM published 42 FR 32670. Supplemental NPRM published 42 FR 56625. Public hearings held: New Orleans, La., Nov. 22, 1977, St. Louis, Mo., Nov. 30, 1977, Washington, D.C., Nov. 28, 1977. Final rule anticipated July 1978. G. *Citation:* 33 CFR pats. 154, 155, and 156.	LCDR J. Busavage, 202-426-9578	FR October 1978.
Oil Pollution Liability Fund Requirements (docket No. CGD 77-055).	A. *Description:* Would establish procedural rules concerning administration and operation of fund, including liability limits for certain facilities, financial responsibility factors, damage claim settlement procedures, et al. B. *Why significant:* Involves probable matters of substantial public interest and important DOT policy. C. *Regulatory analysis:* Will be required. D. *Need:* To communicate and clarify statutory provisions and executive branch implementing requirements to affected public. E. *Legal basis:* Forthcoming legislation. F. *Chronology:* Authorizing legislation appears imminent. Expect congressional mandate of 180 days for FR. At least two public hearings will be held. G. *Citation:* 33 CFR pt. 152.	F. Martin, 202-426-2606	NPRM October 1978.
Inert Gas System (docket No. CGD 77-057).	A. *Description:* Would require oil tankers of 20,000 dwt and over to be fitted with inert gas system. B. *Why significant:* This is a result of a Presidential initiative and meets major cost impact criteria. C. *Regulatory analysis:* Will be required. D. *Need:* As part of the President's initiatives to reduce marine pollution, this regulation will reduce the possibility of in-tank explosions which have been the cause of some pollution incidents. E. *Legal basis:* See 201, 86 Stat. 427, as amended (46 U.S.C. 391a); 49 CFR 1.46(n)(4). F. *Chronology:* Inflationary impact statement completed May 1977. NPRM published 42 FR 24874. Public hearing held in Washington, D.C., and San Diego, Calif. June 1977. G. *Citation:* 46 CFR 32.53.	Mr. D. Sheehan, 202-426-2205	FR September 1978.
Segregated Ballast/CBT/COW (docket No. CGD 77-058).	A. *Description:* On Mar. 17, 1977, President Carter directed the Secretary of Transportation to issue new rules for oil tanker standards which were to include segregated ballast on all tankers and double bottoms on all new tankers which call at American ports. The provisions of this regulation proposed have been changed by the February 1978 IMCO Conference to include crude oil washing (cover) and clean ballast tanks (CBT). B. *Why significant:* This rulemaking is considered significant because of substantial congressional and public interest. C. *Regulatory analysis:* Will not be required. D. *Need:* As part of the President's initiatives to reduce pollution, this regulation is needed to help reduce the possibility of a marine collision due to a loss of steering. E. *Legal basis:* See 201, 86 Stat 427, as amended (46 U.S.C. 391a); 49 CFR 1.46(n)(4). F. *Chronology:* NPRM was published 42 FR 24868. As a result of the Intergovernmental Maritime Consultative Organization (IMCO) February 1978 Tanker Safety and Pollution Prevention Conference, a new NPRM will be issued. G. *Citation:* 33 CFR pt. 157.	CDR Ireland, 202-426-4431	NPRM September 1978.
Steering Gear design standards to provide redundancy (docket No. CGD 77-063).	A. *Description:* On Mar. 17, 1977, President Carter directed the Secretary of Transportation to issue new rules to provide for back-up steering systems for all tankers calling at U.S. ports. B. *Why significant:* This rulemaking is considered significant because of congressional and public interest. C. *Regulatory analysis:* Will not be required. D. *Need:* As part of the President's initiatives to reduce pollution, this regulation is needed to help reduce the possibility of a marine collision due to a loss of steering. E. *Legal basis:* Title II, sec. 201, 86 Stat 427, as amended (46 U.S.C. 391a); 49 CFR 1.46. F. *Chronology:* NPRM published 42 FR 24869. As a result of the IMCO February 1978 Tanker Safety and Pollution Prevention Conference, a new NPRM will be issued. G. *Citation:* 46 CFR pt. 58.	CDR Williams, 202-426-2160	NPRM September 1978.

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U.S. COAST GUARD—Continued
SIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
Review: Construction and Equipment Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases (docket No. 77-069).	A. *Description:* Would amend regulations of existing self-propelled vessels that carry bulk liquefied gases by including the substantive requirements of the "Code for Existing Ships Carrying Liquefied Gases In Bulk" adopted by IMCO which would increase safety levels of existing gas ships. B. *Why significant:* This is significant because it involves a large number of existing United States and foreign flag liquefied gas ships and is the subject of substantial public interest. C. *Regulatory analysis:* Will not be required. D. *Need:* Increased use of liquefied gases has intensified the problems associated with this product. Since this product has unique properties and dangers, a dedicated set of regulations is needed to address them. E. *Legal basis:* R.S. 4472 as amended (46 U.S.C. 170). Sec. 201, 86 Stat. 427, as amended (46 U.S.C. 391a); see 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1). F. *Chronology:* An advance notice of proposed rulemaking was published 42 FR 33353. An environmental impact assessment should be completed October 1978. G. *Citation:* 46 CFR pts. 31, 34, 38, 40, 54, 98, and 154.	LCDR Pluta, 202-426-2160	NPRM February 1979.
Review: Licensing of Pilots (docket No. CGD 77-084).	A. *Description:* This proposal would require recency of service for each route upon which a pilot is authorized to serve; licenses to be issued with tonnage limitations commensurate with pilot experience; and consideration of shiphandling simulator training for pilots of large vessels (very large crude carriers—(VLCC)). B. *Why significant:* Considered significant because there is substantial interest among marine personnel on this matter with opposition expected from Federal pilots. C. *Regulatory analysis:* Will not be required. D. *Need:* Increased ship size has led to unusual handling characteristics with which some pilots may not be familiar. This rule will allow use of simulator training for these kinds of vessels. E. *Legal Basis:* 49 U.S.C. 1955; 46 U.S.C. 405. F. *Chronology:* A regulatory analysis should be completed September 1978. Public hearing will probably be held February 1979. G. *Citation:* 46 CFR pt. 10.	LCDR Norman, 202-426-2240	NPRM December 1978.
Tank Vessel Operations Regulations, Puget Sound (docket No. CGD 78-041).	A. *Description:* The Coast Guard is considering issuing regulations governing the operation of tank vessels in the Puget Sound area to protect against environmental harm resulting from vessel or structure damage, destruction, or loss. B. *Why significant:* This is considered a significant rulemaking due to congressional and public interest. In addition it may generate controversy among the public, environmentalists, and the oil industry. C. *Regulatory analysis:* Will not be required. D. *Need:* To reduce the possibility of environmental harm resulting from oil spills in Puget Sound by governing the operation of tankers to reduce the risk of collision or grounding. E. *Legal basis:* Port and Waterways Safety Act of 1972 (33 U.S.C. 1221). F. *Chronology:* Secretary Adams signed 180 day interim rule on Mar. 14, 1978, prohibiting entry of oil tankers in excess of 125,000 dwt in Puget Sound (43 FR 12257). ANPRM published 43 FR 12840 with public hearing held April 1978. An extension of the interim rule will be published in the FEDERAL REGISTER in order to allow the Coast Guard adequate time to complete this rulemaking. G. *Citation:* 33 CFR pts. 160 and 161.	CDR R. Janecek, 202-426-1935	NPRM (uncertain pending completion of environmental impact statement).
Personnel Job Safety Requirements for Industrial Vessels.	A. *Description:* To develop safety requirements for personnel employed on vessels engaged in oil field exploration and development. B. *Why significant:* This action concerns a matter that is of significant public interest and which will impact on other Federal agencies. Action mandated by pending Outer Continental Shelf legislation. C. *Regulatory analysis:* Will not be required. D. *Need:* Exploration and development of the offshore resources requires a growing fleet of vessels which perform a variety of industrial functions. The regulations will provide more comprehensive protection for personnel employed on these vessels. E. *Legal basis:* 43 U.S.C. 1333(e) and proposed legislation pending. F. *Chronology:* Prepare work plan November 1978. G. *Citation:* 46 CFR subchs. I and IA.	CDR Cronk, 202-472-5160	ANPRM April 1979.
Personnel Job Safety Requirements for Fixed Installations on the Outer Continental Shelf.	A. *Description:* To develop personnel safety and health requirements for artificial island, fixed installations and other devices on the Outer Continental Shelf (OCS). B. *Why significant:* This action concerns a matter that is of significant public interest and which will impact on other Federal agencies. Action mandated by pending Outer Continental Shelf legislation. C. *Regulatory analysis:* Will not be required. D. *Need:* More comprehensive requirements will improve personnel working conditions and the level of safety on fixed installations on the OCS. The regulations will also help fulfill the mandates for safety and health in the pending legislation on the OCS Land Act Amendments of 1978.	CDR Cronk, 202-472-5160	ANPRM December 1978.

U.S. COAST GUARD—Continued
SIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
	E. *Legal basis:* 43 U.S.C. 1333(e) and proposed legislation pending. F. *Chronology:* Prepared work plan August 1978. G. *Citation:* 33 CFR subch. N, 46 CFR subchs. IA and V.		

NONSIGNIFICANT REGULATIONS

Vessel Traffic Service, Berwick Bay, La. (docket No. CGD 73-186).	Would codify certain operating procedures now being done under local order (33 CFR pt. 161).	ENS Molessa, 202-426-4958	NPRM September 1978.
Review: Lights on Pipelines (docket No. CGD 73-216).	Would require warning lights on unattended dredge pipelines (33 CFR pt. 82).	.....do	FR August 1978.
Review: Cargo Location Signs and Cargo Information Cards on Barges (docket No. CGD 73-243).	Would require notification of crew of the hazards and locations of dangerous cargoes carried on barges (46 CFR pt. 35).	Mr. Query, 202-426-1217	NPRM November 1978.
VTS Louisville, Ky (docket No. CGD 73-244).	Would make mandatory a now voluntary vessel traffic service (33 CFR pt. 161).	ENS Molessa, 202-426-4958	NPRM October 1978.
VTS San Francisco, Calif. (docket No. CGD 73-724).	.....do.....	Mr. Schwer, 202-426-4958	NPRM December 1978.
VTS Houston-Galveston, Tex. (docket No. CGD 74-029).	.....do.....	ENS Molessa, 202-426-4958	Do.
Powered Pilot Hoists and Ladder (docket No. CGD 74-140).	Would establish new regulation for pilot hoists and revise regulations for pilot ladders and chain ladders (46 CFR pts. 160 and 163).	Mr. Markle, 202-426-1445	NPRM October 1978.
Review: Provisions to allow for Foreign Inspection of Liferafts (docket No. CGD 74-208).	Would establish an acceptable mechanism for ships operating in foreign ports to have necessary safety inspections performed (46 CFR 160.051).	Mr. Daniels, 202-426-1445	ANPRM November 1978.
Review: Measurement of Vessels Size of Accesses to Exemptible Water Ballast Spaces (docket No. CGD 74-211).	Would establish measurement of vessel size of accesses to exemptible water ballast space (46 CFR pt. 69).	Mr. Stitt, 202-426-2192	NPRM October 1978.
Review: Fixed Fire Extinguishing Systems on Uninspected Vessels (docket No. CGD 74-284).	Would establish standards for the construction and installation of Halon 1301 and other fixed fire extinguishing systems (46 CFR 160.29).	Mr. K. Wahle, 202-426-1444	NPRM November 1978.
Elevators and Dumbwaiters (docket No. CGD 75-001).	Would adopt the ANSI standard safety code with certain modifications for vessel construction (46 CFR pt. 58).	Mr. B. Jackson, 202-426-2205	FR December 1978.
Review: Bulk Concentrate Cargoes (docket No. CGD 75-033).	Would establish stability standards for high moisture content bulk concentrate cargoes in accordance with Intergovernmental Maritime Consultative Organization (IMCO) (42 CFR 93.25).	Mr. D. Ewing, 202-426-2187	NPRM August 1978.
Review: Compatibility of Bulk Liquid Cargoes (docket No. CGD 75-059).	Would establish cargo loading standards to prevent the intermingling of cargo likely to create dangerous conditions (46 CFR pt. 150).	Mr. R. Query 202-426-1217	NPRM May 1979.
Benzene Carriage Requirements Vapor Exposure Limitations (docket No. CGD 75-075).	Proposed requirements to prevent exposure of crew to hazardous vapors (46 CFR pts. 151 and 153).	LT Haas, 202-426-1019	NPRM August 1978.
Review: Measurement of Vessels (docket No. CGD 75-078).	Proposed deduction for spaces, to collect, carry and process vessel waste material (46 CFR pt. 69). FR published July 1978 (43 FR 32109).	Mr. F. Stitt, 202-426-2192	Action complete.
Review: Cargo transfer Manual (docket No. CGD 75-148).	Proposed requirement for standard procedures to be contained in a manual available for the crew's use (46 CFR pt. 354).	LCDR Anderson, 202-426-2183	NPRM November 1978.
Review: Ocean Operator (docket No. CGD 75-178).	Proposed licensing requirements for rank of ocean operator (46 CFR pts. 157 and 186).	CDR Pensom, 202-426-2240	FR August 1978.
Review: Launching Devices for Liferafts (docket No. CGD 75-217).	Proposed specification for approval of devices used for launching inflatable liferafts (46 CFR pts. 160 and 063).	Mr. M. Daniels, 202-426-1445	NPRM November 1978.
Review: Helicopter Operations with Tank Vessels (docket No. CGD 75-221).	Would establish guidelines for helicopter operations on tank vessels and LNG vessels (46 CFR pts. 32, 34, and 35).	LTJG Sedlak, 202-426-2197	NPRM August 1978.
Review: Pilots on Self-Propelled Vessels (docket No. CGD 75-236).	Would require pilots in certain areas not now covered by State laws (46 CFR pt. 163).	Mr. F. Schwer, 202-426-1934	Do.
Review: Advance Notice of Arrival (docket No. CGD 75-238).	Would require advance notice to Captain of the Port (COTP) of vessel arrivals, departures and hazardous conditions. NPRM published 43 FR 25958 (33 CFR pt. 161).	LCDR Bonekemper, 202-426-1927	FR October 1978.
Marine Occupational Safety and Health Standards, Commercial Diving Regulations (docket No. CGD 76-009).	Proposed equipment and operational standards for commercial divers (46 CFR pts. 54 and 197).	CDR Muth 202-426-2307	FR September 1978.
Review: Stability Standards for Tug Boats (docket No. CGD 76-018).	Would establish intact stability standards for vessels normally engaged in towing operations to increase their resistance to capsizing (46 CFR pt. 42).	Mr. F. Perrini, 202-426-1287	NPRM September 1978.
Review: Tug Assistance in Confined Waters (docket No. CGD 76-025).	Would require tug assistance for large vessels operating in confined waters. ANPRM published 41 FR 18770 (33 CFR pt. 164).	Mr. F. Schwer, 202-426-4958	NPRM June 1979.
Review: Lights and Retro-Reflective Material for Life Preservers and Other Lifesaving Equipment (docket No. CGD 76-023).	Would require lights and retro-reflective material on life preservers in order to aid rescue effects (46 CFR pts. 25, 33, 75, 94, 161, 167, 180, and 192).	LCDR Anderson, 202-426-2183	FR August 1978.
Review: Lifesaving Systems for Great Lakes Vessels (docket No. CGD 76-033).	Would amend lifesaving equipment regulations to improve chances of personnel survival following abandonment of vessel (46 CFR subchs. D, H, I, T, and Q).	Mr. R. Markle, 202-426-1445	NPRM January 1979.
Review: Exposure Suits on Great Lakes Vessels (docket No. CGD 76-033a).	Proposed approval specification and vessel requirements for low-temperature exposure. NFRM published 43 FR 25000 (46 CFR pts. 33, 75, 96, and 160).	.....do	FR February 1979.
Review: Factory Inspection Approval Procedures (docket No. CGD 76-048).	Proposed procedures to allow third-party inspection of specified equipment (46 CFR pt. 159).	Mr. F. Thompson, 202-426-2174	NPRM September 1978.
Review: Factory Inspector, Distress Signal (docket No. CGD 76-048a).	Proposed procedures to allow third-party inspection of specified equipment (46 CFR pt. 160).	Mr. R. Markle, 202-426-1445	Do.

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U.S. COAST GUARD—Continued
NONSIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
Minumum Net Bottom Clearance (docket No. CGD 76-051).	Would require vessels to maintain a minimum net bottom clearance while transmitting certain navigable waters of the United States. ANPRM published 41 FR 18770 (33 CFR pt. 164).	Mr. F. Schwer, 202-426-4958	NPRM June 1979.
Review: Subdivision of Passenger Vessels (docket No. CGD 76-053).	Proposed more flexible regs by allowing compliance with Intergovernmental Maritime Consultative Organization as an alternative to existing requirements (46 CFR pts. 73 and 74).	Mr. J. Howell, 202-426-2187	NPRM December 1978.
Review: Stability Standards for Hopper Dredges (docket No. CGD 76-060).	Would improve dredge's capability to withstand flooding caused by damage to hull or interior piping (46 CFR pt. 93).	Mr. D. Ewing, 202-426-2187	NPRM August 1978.
Review: Cargo Manifest; Foreign Tankers (docket No. CGD 76-081).	Proposed to alert the crew to the identify of cargo (46 CFR pt. 35).	LCDR Anderson, 202-426-2183	Supplemental NPRM August 1978.
Requirements for Boat Ventilation (docket No. CGD 76-082).	Would establish requirements for ventilation of fuel and engine compartments on boats. NPRM published July 1976 (43 FR 32606) (33 CFR pt. 183).	Mr. L. Granholm, 202-426-4027	FR February 1979.
Review: Combination Fire Hose Nozzles (docket No. 76-086).	Proposed requirement for an approved combination nozzle on most vessels (46 CFR pts. 34, 76, 95, 162, and 193).	Mr. F. Thompson, 202-426-2174	FR October 1978.
Review: Cadets of the Coast Guard (docket No. CGD 76-087).	Would revise present regulatory language to indicate desired procedures for cadet appointments. NPRM published 41 FR 47944 (33 CFR pt. 40).	LTJG Marshall, 202-426-9264	FR August 1978.
Oil/Water Separator (docket No. CGD 76-088a).	Would establish approval procedures and specifications for oil-water separators, cargo and bilge monitors and bilge alarms for use on merchant vessels (46 CFR pt. 162).	Mr. L. Martin, 202-426-1445	Do.
Tank Vessel Regulations, (docket No. 76-088b).	Proposed requirements for installation and use of oil-water separator (33 CFR pt. 157).	.....do	FR October 1978.
Deepwater Port Safety Zone Regulation (docket No. CGD 76-096).	Would establish regulations for safety zones in the vicinity of deep water ports (33 CFR pt. 150).	Mr. F. Martin, 202-426-2606	NPRM September 1978.
Review: Lights on Barges (docket No. CGD 76-109).	Would extend requirements for flashing yellow lights at heads of tows to all inland waters (33 CFR 80.16).	Mr. W. McGovern, 202-426-4958	Do.
Review: Revision to subch. N (docket No. CGD 76-125).	Proposed general revisions to the subch. N, artificial islands and fixed structures on the Outer Continental Shelf (33 CFR pt. 140).	CDR Cronk, 202-426-5160	Do.
Review: Applicability of Western Rivers/Inland Rules (Chief Counsel's interpretive rules) (docket No. CGD 76-129).	Would define where the inland and western rivers rules apply on the Port Allen-Morgan City alternate and landside routes (33 CFR 80.04 and 33 CFR 95.02).	Mr. W. McGovern, 202-426-4958	FR August 1978.
Review: Approval Procedures—Shapes (docket No. CGD 76-131).	Would prescribe approval procedures for the manufacture of day shapes required by the 72 COLREGS (33 CFR pt. 87).	.....do	NPRM November 1978.
Review: Approval Procedures Whistles (docket No. CGD 76-132).	Would prescribe approval procedures for the manufacture of whistles required by the 72 COLREGS (33 CFR pt. 87).	.....do	Do.
Review: Amendments to Vessel Numbering Requirements (docket No. CGD 76-155).	Would make minor changes to the vessel numbering and accident reporting requirements to make them more consistent and efficient (33 CFR pts. 173, 174).	LT Gauthier, 202-426-4176	FR September 1978.
Review: Certification Expiration Date Stickers for Small Passenger Vessels (docket No. CGD 76-162).	Would inform passengers of expired approvals for small passenger vessels. FR published July 1978 (43 FR 30771) (46 CFR pt. 176).	Mr. J. Crawford, 202-472-7964	Action complete.
Review: Casualty Reporting (docket No. 76-170).	Would update the regulation by changing the monetary and other damage criteria (46 CFR 4.05).	CAPT Hampton, 202-472-7964	NPRM September 1978.
Review: Licensing of Deck Officers (docket No. CGD 76-173).	Proposed general revision and updating of licensing requirements for deck and engineer officers to include provision of the Intergovernmental Maritime Consultative Organization conference on standard of training and watchkeeping (46 CFR 10.05).	LCDR Norman, 202-426-2240	NPRM April 1979.
Review: Licensing of Engineering Officers (docket No. CGD 76-174).	Proposed revision and updating of licensing requirements for deck and engineer officers to include provision of the Intergovernmental Maritime Consultative Organization Conference (46 CFR 10.10).	.....do	NPRM December 1978.
Visual Distress Signals for Boats (docket No. CGD 76-183).	Would require visual distress signals to be carried on boats when operating on coastal waters and on the high seas. NPRM published 43 FR 15118 (33 CFR pt. 175).	LT Gauthier, 202-426-4176	FR December 1978.
Visual Distress Signals for Boats (docket No. CGD 76-183a).	Would establish approval specifications for certain new visual distress signals to be required in CGD 76-183 (above entry) (33 CFR pt. 175 and 46 CFR pt. 160).	.....do	NPRM September 1978.
Review: Use of Dangerous Articles as Ships' Stores and Supplies on Board Vessels (docket No. CGD 76-191).	Proposed storage and labeling requirements (46 CFR pt. 147)	Mr. J. McAnulty, 202-426-1587	NPRM December 1978.
Review: Radar Observer Endorsement for Personnel (docket No. CGD 76-193a).	Would require specialized training in use of radar equipment. This will be a supplemental notice based on a document published earlier (46 CFR pt. 10).	CDR Hess, 202-426-2251	NPRM August 1978.
Review: Reexamination Procedures for Unlicensed Ratings (docket No. CGD 76-203).	Would eliminate confusion about reexamination procedures (46 CFR pt. 12).	CDR Hess, 202-426-1577	FR September 1978.
Review: Shipboard Fumigation Standards (docket No. CGD 76-206).	Proposed operational requirements for fumigation procedures on vessels (46 CFR pt. 147A).	LT Norris, 202-426-1577	NPRM August 1978.
Review: Exemption for Cargo Vessels in Alaska Serving Remote Villages, (docket No. CGD 76-223).	Would allow special uses for specific vessels serving in the Alaskan trade (46 CFR pts. 6, 30, 42, 43, 70, 90, and 151; 33 CFR pt. 1).	LCDR Sampson, 202-426-2183	NPRM October 1978.
Requirement to Stop to Permit Boarding (docket No. CGD 76-232).	Would require boat operations to stop when ordered to do so by Coast Guard boarding officer (33 CFR pt. 177).	ENS Strickland, 202-426-4176	NPRM August 1978.
Review: Administrative Amendment to Delete Incorrect References and Add New Proper Reference (docket No. CGD 77-014).	Would revise incorrect reference in the code of Federal Regulations (46 CFR pt. 2).	LT Rock, 202-426-2183	FR August 1978.
Second Radar and Withdraws Collision Avoidance Radar (docket No. 77-016).	Would require second radar on large vessels. FR published July 1978 (43 FR 32112) (33 CFR pt. 164).	Mr. F. Schwer, 202-426-4958	Action complete.

U.S. COAST GUARD—Continued
NONSIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
Review: Marine Safety Investigations (docket No. CGD 77-018).	Would implement investigation authority under Ports and Waterways Safety Act (33 CFR pt. 168).	LCDR Bonekemper, 202-426-1927	NPRM August 1978.
Ocean Dumping Surveillance Equipment Requirements (new part) (docket No. CGD 77-029).	Would establish equipment requirements to conduct surveillance to prevent unlawful dumping of material into ocean waters (33 CFR pt. 158).	LT Voyik 202-426-9573	Do.
Casualty Reporting Regulations Elimination of Dual Reporting Requirements (docket No. CGD 77-036).	Would eliminate a duplicative report FR issued June 1976 (43 FR 25820) (46 CFR pt. 4).	LT Regalbuto, 202-426-1445	Action complete.
Review: Suspension and Revocation Proceedings—Consolidation of Regulations (docket No. CGD 77-037).	Would combine disparate regulations into a unified whole (46 CFR pts. 1 and 5).	.....do	FR September 1978.
Review: Semiportable Fire Extinguishers (docket No. 77-039).	Would amend specification to allow approval of wheeled units for use on stable platforms (46 CFR 162.039).	Mr. F. Thompson, 202-426-2174	NPRM August 1978.
Review: Manning of Uninspected Towing Vessels (docket No. CGD 77-062).	Would clarify the applicability of the three watch system to towing vessels (46 CFR pt. 157).	CDR Pensom, 202-426-2240	NPRM September 1978.
Review: Designation of Oceanographic Vessels (docket No. CGD 77-081).	Would delegate means of designating an oceangraphic research vessel to officers in charge, marine inspection (OCMI) (46 CFR pt. 188).	.....do	NPRM August 1978.
Review: Amendment to Clarify (docket No. CGD 77-083).	Editorial correction (46 CFR 157.15.5; 46 CFR pt. 157)	.....do	FR October 1978.
Operational Specification for Radar (docket No. CGD 77-085).	Would develop specifications for radar systems on vessels over 1,600 gross tons (33 CFR pt. 164).	Mr. W. McGovern, 202-426-4958	NPRM December 1978.
VTS New York, N.Y. (docket No. CGD 77-087).	Would establish regulations for vessel traffic service in New York Harbor (33 CFR pt. 161).	Mr. F. Schwer, 202-426-4958	FR December 1978.
Realignment of CCGD12 COTP/OCMU Zones (docket No. CGD 77-088).	Would realign captain of the ports/officer in charge, marine inspection zones in 12th Coast Guard district. FR issued June 1978 (43 FR 25955) (33 CFR 3.60).	Mr. Molessa, 202-426-4958	Action complete.
Requirement for First Purchaser List Kept by Boat Dealers (docket No. CGD 77-116).	Would require boat dealers to assist in creating a list of retail purchasers so manufacturers could send notice to alert of safety defects (33 CFR pt. 179).	CDR Greenough, 202-426-1757	NPRM August 1978.
Review: Optional Numbering Requirements (docket No. CGD 77-117).	Would make certain vessel numbering requirements applicable to States optional for the States (33 CFR pts. 173 and 174).	LT Gauthier 202-426-4176	NPRM September 1978.
Numbering Requirements for Leased Vessel (docket No. CGD 77-117a).	Would increase to 7 days the period during which owner of a based vessel can keep the certificate of number. FR issued June 1978 (43 FR 17940) (33 CFR pt. 173).	.....do	Action complete.
Review: Waterfront Facilities (docket No. CGD 77-128).	Would revise waterfront facility regulations by consolidating and updating general regulations. ANPRM 43 FR 15108 (33 CFR pt. 126).	LCDR Bonekemper, 202-426-1927	NPRM June 1979.
Review: Amendments to Alternative Compliance (docket No. CGD 77-136).	Would provide editorial improvement and clarification of existing regulations (33 CFR pt. 87).	Mr. W. McGovern, 202-426-4958	FR December 1978.
Review: Barge Loadline Exemptions (docket No. CGD 77-135).	Would provide exemption for river barges operating on waters between Chicago and Burns Harbor and between St. Marks and Carabelle (46 CFR pt. 42).	Mr. D. Ewing, 202-426-2187	NPRM September 1978.
Specification for Flotation Materials (docket No. CGD 77-145).	Would establish performance specification for foam flotation material in boats to resist fuel and solvents (33 CFR pt. 183).	Mr. L. Cranholm, 202-426-4027	FR August 1978.
Review: Acceptance of ASME, U, or UM stamped class I, II, and III pressure vessels (docket No. CGD 77-147).	Would accept pressure vessels bearing the ASME "U" or "UM" stamp without U.S. Coast Guard inspection (46 CFR pt. 54).	Mr. H. Hime, 202-426-2160	NPRM September 1978.
Review: Amendments to Customs Regulations for Boats (docket No. CGD 77-157).	Would amend the joint Treasury-Coast Guard Customs regulations for imported boats. Minor revision to improve administrations of the regulation (19 CFR pt. 12).	ENS Ziegenfuss, 202-426-1757	Do.
Damage Stability Information on Cargo Ships (docket No. CGD 77-161).	Would require masters of vessels to have damage stability information on board (46 CFR pt. 93).	LTJG McKay/ Mr. J. Howell, 202-426-2187	ANPRM October 1978.
Review: Appointment to Officer Status (docket No. CGD 77-165).	Would reflect changing requirements for commissioning licensed officers of the Merchant Marine (33 CFR pt. 33).	LCDR Zawadzki 202-426-0935	NPRM September 1978.
Electronic Navigation Equipment (docket No. CGD 77-168).	Would require Loran-C or alternative system on all vessels 1600 gross tons and greater (33 CFR pt. 164).	Mr. F. Schwer, 202-426-4958	Supplemental NPRM October 1978.
Review: Establishment of Second-Class Ocean Operator (docket No. CGD 77-176).	Would establish qualification for a second operator on small passenger vessels required to have more than one ocean operator on board. NPRM published 43 FR 12218 (46 CFR pts. 157, 186, and 187).	CDR Pensom, 202-426-2240	FR October 1978.
Written Warning for Violation of Marine Sanitation Device Regulations (docket No. CGD 77-182).	Would inform the public of CG policy of issuing warnings for first time violations of marine sanitation device regulations FR issued May 1978 (43 FR 22657) (33 CFR pt. 1).	LT Welsh, 202-426-4176	Action complete.
Review: Amend Navigation Safety Regulations (docket No. CGD 77-183).	Would relax some navigation requirements for Great Lakes and provide editorial corrections (33 CFR pt. 164).	Mr. F. Schwer, 202-426-4958	NPRM August 1978.
Review: Exception for Standards for Raceboats (docket No. CGD 77-191).	Would exempt raceboats from standards meant for purely recreational boats. ANPRM published 43 FR 22411 (33 CFR pt. 183).	Mr. Gray, 202-426-4027	NPRM October 1978.
Designation of Confined or Congested Waters (docket No. CGD 77-196).	Would establish list of waters to be designated as "confined or congested"—in accordance with navigation safety regulations (33 CFR pt. 164).	Mr. C. Liana, 202-426-4958	NPRM September 1978.
Review: Second Class Operators for Towing Vessels (docket No. CGD 77-204).	Would allow for able seaman service on ocean going vessels to be credited toward second class towboat license. NPRM published 43 FR 22653 (46 CFR pt. 10).	LCDR Norman, 202-426-2240	FR September 1978.
Delaware Bay Regulated Navigation Area (docket No. CGD 77-211).	Would establish equipment requirements and operating restrictions on vessels transiting Delaware Bay and River (33 CFR pt. 161).	Mr. D. Ziegfeld, 202-426-1934	FR December 1978.
Notification of Tank Vessel Ownership Information and Name (docket No. CGD 77-213).	Would require tank vessel owners/operators to advise USCG of identity and ownership of tank vessels entering navigable waters of U.S. NPRM published 43 FR 15583 (33 CFR pt. 161).	LCDR Bonekemper, 202-426-1927	FR October 1978.

V 43 / 184 SEP 21 1978 V

U.S. COAST GUARD—Continued

NONSIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
Review: Inland Waterways Navigation Regulations (docket No. CGD 77-217).	Would provide editorial changes to certain regulations previously issued by the Corps of Engineers and transferred to the Coast Guard under the Ports and Waterways Safety Act of 1972. (33 CFR pt. 162).	ENS Molessa, 202-426-4958	FR September 1978.
Review: Oxygen Resuscitators on Chemical Tankers (docket No. CGD 77-222).	Would clarify what is an acceptable resuscitator (46 CFR pt. 153).	Mr. R. Query, 202-426-1217	Do.
Review: Port Security Regulations Update (docket No. CGD 77-228).	Would eliminate outdated material in port security regulations (33 CFR pts. 6, 121, 124, 125, and 127).	LTJG Dickman, 202-426-1927	FR August 1978.
Review: Halon 1301 fire Extinguishing Systems for Merchant Vessels (docket No. CGD 77-232).	Would allow Halon 1301 for specific types of installation (46 CFR 164.017).	Mr. R. Eberly, 202-426-2197	NPRM September 1978.
Navigation Lights for Small Vessels (docket No. CGD 77-233).	Would specify approval procedures and installation requirements for international rules navigation lights for small vessels (33 CFR pt. 89).	Mr. C. Llana, 202-426-4958	NPRM August 1978.
Administrative Change COTP/MIO LA-LB (docket No. CGD 77-234).	Would correct address of relocated Marine Inspection Office. FR issued May 1978 (43 FR 18553) (33 CFR 3.55).	Mr. Molessa, 202-426-4958	Action complete.
Review: Administrative Update COTP Areas (docket No. CGD 77-241).	Would make editorial changes to listing of certain captain of the port aareas (33 CFR pt. 3).	ENS Molessa, 202-426-4958	FR December 1978.
Review: Loran Position Transmitting Device (docket No. CGD 77-243).	Would amend Prince Williams Sound vessel traffic regulations to require loran position transmitting devices (33 CFR pt. 82).	Mr. F. Schwer, 202-426-4958	NPRM September 1978
Great Lakes Winter Navigation (docket No. CGD 77-246).	Would establish three regulated navigation areas for Great Lakes (33 CFR pt. 128).	Mr. D. Ziegfeld, 202-426-1934	NPRM August 1978.
Review: Safety Orientation for Passenger Vessels (docket No. CGD 78-009).	Would alert passengers to locations and use of safety devices. NPRM published 43 FR 28426 (46 CFR pts. 185 and 26).	LT Rock, 202-426-2183	FR December 1978.
PFD Thread Specifications (docket No. CGD 78-012).	Would amend personal flotation device specification to allow use of alternative threads in several seams. FR issued June 1978 (43 FR 27152) (46 CFR pt. 160).	Mr. F. Thompson, 202-426-2173	Action complete.
Great Lakes Pilotage Rate Increase (docket No. CGD 78-016).	Would increase U.S. pilotage rates by 10 percent, retroactive to Apr. 1, 1978, in all three pilotage districts, except the Welland Canal. FR issued June 1978 (43 FR 24996) (46 CFR pt. 401).	Mr. J. Hartke, 202-755-8683	Do.
Review: Waterfront Facilities Update (docket No. 78-023).	Would eliminate errors and outdated cross references in existing waterfront facilities regulations (33 CFR pt. 126).	LCDR Bonekemper, 202-426-1927	FR August 1978.
Requests for Temporary Documents (docket No. CGD 78-024, 78-24a).	Would allow a merchant seaman to request a temporary document pending an appeal of a suspension to the commandant, and publish a list of administrative law judges (46 CFR pts. 5 and 7).	LCDR O'Pezio, 202-426-2215	Do.
Removable Hazardous Substances, Pollution Prevention for Vessels and Marine Transfer Facilities (docket No. CGD 78-032).	Would establish regulations for pollution prevention for removable hazardous substances for vessels and marine transfer facilities (33 CFR pts. 154, 155, and 156).	LCDR Busavage, 202-426-9578	ANPRM September 1978
Review: Amendment to Boat Capacity labels (docket No. CGD 78-034).	Would make information in safe loading capacity labels clearer and easier to use (33 CFR pt. 183).	Mr. L. Granholm, 202-426-4027	NPRM September 1978.
Review: Safety Standards for Boat Gasoline Fuel Systems (docket No. CGD 78-036).	Would extend application dates of certain parts of regulation, to permit time for equipment changes (33 CFR pt. 183).	.....do.....	FR August 1978.
LNG Facility Regulations (docket No. CGD 78-038).	Would establish Liquified natural gas waterfront facility safety regulations in accordance with memorandum of understanding between USCG and MTB (33 CFR pt. 126).	LCDR Bonekemper, 202-426-1927	ANPRM August 1978.
Oil and Nonremovable Hazardous Substances, Pollution Prevention Vessels and Marine Transfer Facilities (docket No. CGD 78-039).	Would establish regulations for pollution prevention for nonremovable hazardous substances for vessels and marine transfer facilities (33 CFR pts. 154, 155, and 156).	LCDR Busavage, 202-426-9578	ANPRM September 1978
Review: COTP Houston, Editorial Changes (docket No. CGD 78-051).	Would make an editorial change to the description of the Captain of the Port Houston area (33 CFR pt. 163).	ENS Molessa, 202-426-4958	FR September 1978.
Tows Navigating the Pass Manchac Bridge, La. (docket No. CGD 78-050).	Would provide for regulation of tows navigating the waters in the vicinity of the Pass Monchac Bridge, La. (33 CFR pt. 162).	.....do.....	NPRM November 1978.
Review: COLREGS 72, Demarcation Line (docket No. CGD 78-052).	Would change regulations to provide for amendment to COLREGS 72 establishing demarcation line in Florida (33 CFR pt. 82).	.....do.....	NPRM October 1978.
Review: Safety Standards for Boat Electrical Systems (docket No. CGD 78-070).	Extends application date for ignition protection requirements (33 CFR pt. 183).	Mr. L. Granholm, 202-426-4027	FR August 1978.
Review: Appointment of the Permanent Commissioned Teaching Staff (docket No. CGD 78-077).	Would delete regulatory language to conform to the admissions process desired by the Superintendent, U.S. Coast Guard Academy (33 CFR pts. 33, 40).	LT Lee, 202-426-9866	FR September 1978.
Crane Operator Qualifications for Fixed Installations, Industrial Vessels and Mobile Drilling Units on the Outer Continental Shelf.	Would develop required qualifications for crane operators employed on the Outer Continental Shelf (33 CFR pts. 148 and 46 CFR pt. 92).	CDR Cronk, 202-472-5160	ANPRM December 1978.
Deepwater Port Liability Fund Requirements.	Would implement provisions of the Deepwater Port Act of 1974 to establish and administer liability limits and compensation relative to accidental oil spills at deepwater port sites (33 CFR pt. 150).	Mr. F. Martin, 202-426-2606	ANPRM March 1979.

ROUTINE AND FREQUENT NONSIGNIFICANT REGULATIONS

Title	Total	Contact	Decision date
Safety Security Zone Regulations	10	LCDR R. Frank, 202-426-1927	June 1978 to June 1979.
Anchorage Area Regulations	16	LCDR H. Snow, 202-426-1940	Do.

U.S. COAST GUARD—Continued

ROUTINE AND FREQUENT NONSIGNIFICANT REGULATIONS—continued

Title	Total	Contact	Decision date
Drawbridge Regulations	90	Mr. F. Teuton, 202-426-1380	Do.

FEDERAL AVIATION ADMINISTRATION

SIGNIFICANT REGULATIONS

Title	Summary	Contact	Decision date
Sec. 30 Regulations—Civil Rights (docket No. 16419).	A. *Description:* Develop regulations to implement sec. 30 of the Airport and Airway Development Act of 1970, as amended by the Airport and Airway Development Act Amendments of 1976 (Act). The regulations would assure that no person is excluded on the grounds of race, creed, color, national origin, or sex from participating in any project for airport development, airport master planning, or airport system planning conducted with or benefiting from funds received from a grant made under the Act. B. *Why significant:* The proposed regulations implementing sec. 30 are considered significant inasmuch as there is substantial public interest and they involve important Department policy. C. *Regulatory analysis:* Will not be required. D. *Need:* To assure that minorities and minority businesses are afforded full and equal opportunity with respect to employment contracting, and leasing of concessions on airports operated by aponsors receiving grants from airport development projects. E. *Legal basis:* Sec. 30 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1730) and § 1.47(f)(1) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.47(f)(1)). F. *Chronology:* The proposed regulations were set forth in a notice of proposed rulemaking (notice No. 77-1) on Jan. 13, 1977 (42 FR 2850). The regulations are proposed to be included in existing pt. 152 as new subpt. E—nondiscrimination in airport aid program. The public was invited to comment on the proposed rule by Mar. 14, 1977, which date was twice extended (to May 20, 1977), upon numerous requests from the public. G. *Citation:* 14 CFR pt. 152.	Paul Galis, 202-426-3831	FR December 1978.
Deletion of Three-Pointer Altimeter (docket No. 17151).	A. *Description:* Proposed revision to prohibit the use of three-pointer altimeters on all turbine engine powered airplanes. B. *Why significant:* This proposal is considered to be a significant regulation because it may generate substantial public interest and require considerable funds to be expended by owners/operators of turbine engine powered airplanes. C. *Regulatory analysis:* Will be required. D. *Need:* To evaluate recommended action of special air safety advisory groups that use of three-pointer altimeters on large turbine-powered airplanes be prohibited. E. *Legal basis:* Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1424), sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c). F. *Chronology:* Prohibition of three-pointer altimeters from use in airplanes was first recommended by the special air safety advisory group at the completion of its survey of the cockpit environment in air carrier aircraft in 1975. Thereafter, the matter was researched and it was deemed necessary to solicit comments from interested persons. Accordingly, advance notice of proposed rulemaking (ANPRM) No. 77-18 was published in the FEDERAL REGISTER on Aug. 29, 1977 (42 FR 43408), with a comment closing date of Nov. 28, 1977. An evaluation of comments received in response to that ANPRM indicated that an NPRM should be issued. Accordingly, a notice of proposed rulemaking (NPRM) is being prepared. G. *Citation:* 14 CFR pts. 23, 25, 91, 121, and 135.	Joe Sullivan, 755-8716	NPRM November 1978.
Flammability Standard for Crewmember Uniforms (docket No. 14451).	A. *Description:* Proposed revision to establish flammability specifications for crewmember uniforms that will provide protection against heat and flame. B. *Why significant:* This proposal is considered significant rulemaking project due to substantial public interest and potential cost to airlines. C. *Regulatory analysis:* Will be required. D. *Need:* To establish basic flammability specifications for crewmember uniforms, since clothing now used is made of conventional fabrics which may be ignited under many of the emergency conditions that may result. E. *Legal basis:* Secs. 313(a), 601, and 604, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421(a), 1422), 6(c) DOT Act (49 U.S.C. 1655(c)). F. *Chronology:* Prior to April 1974, a number of informal conferences were held with members of the public including the Association of Flight Attendants (AFA), regarding flammability of flight attendant uniforms. A project was established to examine AFA claims regarding uniform flammability. National Bureau of Standards (NBS) Center for Fire Research was selected as	Joe Sullivan, 755-8715	NPRM December 1978.

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FEDERAL AVIATION ADMINISTRATION—Continued

SIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
	research contractor. An advance notice of proposed rulemaking (ANPRM) No. 75-13 was issued Mar. 16, 1975 (40 FR 11737) to solicit public information and comments. A follow-on contract was established with the NBS to evaluate comments and conduct further testing. Contract in effect March 1978. G. *Citation:* 14 CFR pt. 121.		
Parts Manufacturer Approvals (docket No. 17147).	A. *Description:* Proposes to revise the parts manufacturer approval application and reporting requirements and provisions related to showing identicalness of parts. B. *Why significant:* The proposed revision is considered to be significant because it is controversial. C. *Regulatory analysis:* Will not be required. D. *Need:* Differences of opinion exist with respect to the methods available for showing identicalness of parts. Also the parts manufacturer approval application and reporting requirements may be unnecessarily burdensome. E. *Legal basis:* Secs. 313(a), 601, and 608 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423). F. *Chronology:* Project No. 76-257-R was initiated Dec. 23, 1975. NPRM No. 77-19 published in the FEDERAL REGISTER (42 FR 43985). Comment period later reopened until Jan. 4, 1978 (NPRM No. 77-19A, 42 FR 61046), and again reopened until May 15, 1978 (NPRM No. 77-19B, 43 FR 15432). Portions of NPRM dealing with other subjects to be handled separately. G. *Citation:* 14 CFR pt. 21.	Joe Sullivan, 202-755-8716	FR March 1979.
Post Crash Fuel Fires (docket No. 12274).	A. *Description:* Proposed rulemaking would have established standards for fuel systems to prevent postcrash explosions or fires. B. *Why significant:* This was a significant proposal because it would have required all existing and newly manufactured turbine engine powered transport airplanes to have protective fuel systems installed by specified dates. The proposal has generated considerable public interest and controversy with respect to technological and economic impacts, and the adequacy of the proposals. C. *Regulatory analysis:* Will not be required. D. *Need:* To determine practicability and availability of aircraft systems and techniques for reducing the hazards of fuel system fires and explosions associated with survivable turbine powered transport category airplane accidents. E. *Legal basis:* Secs. 313(a), 601, 608, and 604, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, and 1424), sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)). F. *Chronology:* A petition for rulemaking was received from aviation consumer action project (ACAP) in September 1977, to require installation and use of nitrogen inerting systems on transport category aircraft. NPRM 74-16 (39 FR 12260; Apr. 4, 1974) was issued in March 1974. NPRM 74-16A, issued in May 1974 (39 FR 13288; May 24, 1974). NPRM 77-16B, issued in April 1977 (42 FR 21202, Apr. 25, 1977). A public hearing was held in June 1978 on these NPRM's. The comment period on these notices closed in August 1978. The proposed regulations will be withdrawn in August 1971, pending further study by the agency and an advisory committee. G. *Citation:* 14 CFR pts. 25 and 121.	Joe Sullivan, 755-8716	Withdrawal August 1978.
Aircraft Wheels and Wheel-Brake Assemblies.	A. *Description:* The objective is to upgrade the requirements for wheels and brakes for small and transport airplanes. B. *Why significant:* This is a significant proposal due to substantial public interest because wheel and brake integrity is considered critical to the safety of rejected takeoffs. C. *Regulatory analysis:* Will not be required. D. *Need:* Service experience indicates a possible need to improve the standards applicable to aircraft wheels and wheel-brake assemblies. E. *Legal basis:* Secs. 313(a) and 601 of the Federal Aviation Act of 1958. (49 U.S.C. 1354(a) and 1421). F. *Chronology:* Project initiated Sept. 7, 1977, to develop a notice of proposed rulemaking. G. *Citation:* 14 CFR pts. 23, 25, and 37.	Joe Sullivan, 202-755-8716	NPRM September 1978.
Lithium Sulfur Dioxide Batteries	A. *Description:* Proposed airworthiness directive (AD) requiring removal of lithium sulfur dioxide (LiSO) batteries from all aircraft including those installed in emergency locater transmitters (ELT's), and companion technical standard order (TSO) prescribing standards for acceptable batteries. B. *Why significant:* Considered significant project due to considerable public interest. C. *Regulatory analysis:* Will be required. D. *Need:* Service experience indicates that current LiSO batteries are susceptible to a number of potentially dangerous problems. E. *Legal basis:* Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958. (49 U.S.C. 1354(a), 1421, and 1423). F. *Chronology:* Regional and headquarters team established July 1976, to write draft LiSO TSO. Draft completed December 1976. TSO updated August 1977. Proposed AD and TSO combined in one regulatory package December 1977. G. *Citation:* 14 CFR pts. 37 and 39.	Joe Sullivan, 202-755-8716	NPRM November 1978.

FEDERAL AVIATION ADMINISTRATION—Continued

SIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
Compartment Interior Material Toxic Gas Emission (docket No. 14230).	A. *Description:* Project objective was to determine whether regulations should be amended to include requirements pertaining to toxic gas emission characteristics of compartment materials. B. *Why significant:* This was a significant proposal due to substantial public interest and because postmortem examination often indicated that the blood of accident victims contains lethal amounts of toxic gases emitted by burning materials. C. *Regulatory analysis:* Will not be required. D. *Need:* To determine need for standards governing the toxic gas emission characteristics of compartment interior materials used in transport category airplanes. E. *Legal basis:* Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423, and of sec. 6(c) of Department of Transportation Act (49 U.S.C. 1655(c)). F. *Chronology:* An advance notice of proposed rulemaking 74-38 was issued on Dec. 19, 1974 (39 FR 453044, Dec. 31, 1974). Public hearing on compartment materials was held Nov. 14-17, 1977. The proposed regulations will be withdrawn pending further study by the agency and an advisory committee. G. *Citation:* 14 CFR pt. 2.	Joe Sullivan, 755-8716	Withdrawal August 1978.
Aircraft Tires	A. *Description:* The objective of this project is to determine if the aircraft tire standards in the regulations should be upgraded, and if so, the details of the upgrading. B. *Why significant:* This is considered a significant project due to substantial public interest because tire integrity is considered critical to takeoff roll ground handling conditions. C. *Regulatory analysis:* Will not be required. D. *Need:* Service experience indicates a possible need to improve the standards applicable to aircraft tires. E. *Legal basis:* Secs. 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421). F. *Chronology:* Project initiated November 1977. G. *Citation:* 14 CFR pt. 37.167.	Joe Sullivan, 202-755-8716	NPRM December 1978.
Air Ambulance Standards (docket No. 17046).	A. *Description:* Proposed standards for air transportation of persons requiring medical attention or care enroute. B. *Why significant:* The proposed regulation was considered significant because there is substantial public interest in it. C. *Regulatory analysis:* Will not be required. D. *Need:* To insure that the medical needs of persons requiring medical attention while in flight are met without compromising safety. E. *Legal basis:* Secs. 313(a), 601, and 604, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1424); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)). F. *Chronology:* DOT working group formed to develop standards during December 1974, two public hearings held in July 1975, and an ANPRM 77-14 (42 FR 37825, July 25, 1977) was issued in July 1977. Based on the comments received, the FAA has reconsidered this matter and the proposed regulation will be withdrawn. G. *Citation:* 14 CFR pt. 135.	Joe Sullivan, 755-8716	Withdrawal August 1978.
Review: FAR Pt. 91 Upgrade	A. *Description:* To upgrade standards applicable to the operation of certain aircraft, when not operated as an air carrier. B. *Why significant:* This is considered significant due to substantial public interest in the constraints to be proposed for safer operations of large aircraft under pt. 91. C. *Regulatory analysis:* Will not be required. D. *Need:* Experience indicates that these proposed regulations are necessary to replace the current regulations with clearer regulations that are based upon safety, rather than economic criteria. E. *Legal basis:* Secs. 313(a) and 601-610 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421-1430) and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)). F. *Chronology:* Project approved in March 1978. G. *Citation:* 14 CFR pt. 91.	Joe Sullivan, 775-8716	NPRM October 1978.
Aircraft Cabin Ozone Contamination (docket No. 16854).	A. *Description:* Proposed revision to limit the concentration of high altitude ozone allowed in an aircraft cabin. B. *Why significant:* The notice of proposed rulemaking is considered a significant project because it involves an area of substantial public interest and will be controversial. C. *Regulatory analysis:* Will not be required. D. *Need:* To alleviate physical discomfort to crewmembers and passengers, due to ozone gas, or high altitude flights. E. *Legal basis:* Secs. 313, 601, 603, and 604, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1421, 1423, and 1424); and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)). F. *Chronology:* In winter of 1976, FAA became aware of crew and passenger complaints of discomfort on high altitude flights and in March 1977, ozone gas was believed to be probable cause. An Advisory Circular, No. 00-52, Ozone Irritation During High Altitude Flight, was published July 21, 1977, defining ozone, its causes, and its symptoms. On May 26, 1977, FAA initiated a project to study the short- and long-term health effects of exposure to high altitude ozone. An ANPRM was issued on Oct. 6, 1977 (42 FR 54427), seeking information from all interested persons. A notice of proposed rulemaking is being developed. G. *Citation:* 14 CFR pts. 25 and 121.	Joe Sullivan, 775-8716	NPRM September 1978.

V 43 / 184 SEP 21 1978

V 4 3 / 1 8 4 SE 2 1 7 8

FEDERAL AVIATION ADMINISTRATION—Continued
SIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
Review: Operations Review Notice No. 78-3 (docket No. 17669).	A. *Description:* Proposes to revise the flight and duty time limitations and rest requirements for flight crewmembers used by domestic, flag, and supplemental air carriers, commercial operators of large aircraft, and air travel clubs. B. *Why significant:* This proposal is considered a significant regulation because of the controversy associated with the complexity and enforcement problems of the current rules. C. *Regulatory analysis:* Will not be required. D. *Need:* This proposal is needed to eliminate the complexity of the current regulations and to assure that flight and duty time limitations are based upon today's operating environment. E. *Legal basis:* Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1424) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)). F. *Chronology:* The proposals contained in this notice are based on related proposals discussed at the December 1975, Operations Review Conference. The notice was published in the FEDERAL REGISTER on Feb. 27, 1978, with a closing date of May 30, 1978, for public comments. Initial comment period was extended to July 14, 1978, with reply comments allowed on or before Aug. 18, 1978 (43 FR 22540, May 25, 1978). G. *Citation:* 14 CFR pts. 121 and 123.	Joe Sullivan, 755-8716	FR May 1979.
Review: Operations Review Notice No. 13.	A. *Description:* Proposes to establish regulations for flight and duty time limitations and rest requirements for flight attendants used by domestic, flag, and supplemental air carriers, commercial operators of large aircraft, and air travel clubs. B. *Why significant:* This proposal is considered a significant regulation because there is substantial public interest in it. C. *Regulatory analysis:* Will not be required. D. *Need:* Because flight attendants perform important duties relating to the safety of flight, flight and duty time limitations and rest requirements are necessary to prevent excessive fatigue from adversely affecting the performance of those duties. E. *Legal basis:* Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1424) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)). F. *Chronology:* The proposals contained in this notice are based on related proposals discussed at the December 1975, Operations Review Conference. G. *Citation:* 14 CFR pts. 121 and 123.	Joe Sullivan, 755-8716	NPRM December 1978.
Review: Part 135 Regulatory review (docket No. 16097).	A. *Description:* Proposes to substantially revise the requirements for operations conducted by air taxi and commercial operators of small aircraft to provide a higher level of safety. B. *Why significant:* This amendment is considered a significant regulation because of the costs and the controversy associated with the general upgrading of the current rules. C. *Regulatory analysis:* Will not be required. D. *Need:* The amendments are necessary because there has been considerable growth in the air taxi industry in recent years and many operators have requested that they be allowed to operate large and more complex aircraft. E. *Legal basis:* Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act (49 U.S.C. 1354(a), 1355(a), 1421 through 1430, and 1502); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)). F. *Chronology:* This amendment resulted from proposals discussed at the November 1976, pt. 135 Regulatory Review Conference. Notice 77-17 was published in the FEDERAL REGISTER on Aug. 29, 1977 (42 FR 43490) with a closing date of Nov. 28, 1977, for public comment. Comments have been analyzed and evaluated and a draft amendment is being prepared. G. *Citation:* 14 CFR pt. 135.	Joe Sullivan, 755-8716	FR September 1978.
Review: Pt. 135 Regulatory Review Program: Additional Airworthiness Requirements for 10 or More Passenger Small Airplanes Over 12,500 Pounds (docket No. 17325).	A. *Description:* This proposal would amend the airworthiness standards for certain turbopropeller powered multiengine small airplanes to allow their certification and operation at weights above 12,500 lb. B. *Why significant:* This proposal is considered significant because it will generate substantial public interest since it represents a departure from a long-standing line of demarcation between "large" and "small" airplanes, insofar as airworthiness standards and operating rules are concerned. C. *Regulatory analysis:* Will not be required. D. *Need:* The need for the regulation is related to providing for more efficient aircraft utilization. E. *Legal basis:* Secs. 313(a), 601, 603, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, and 1424). F. *Chronology:* Advance notice 77-25 (40 FR 56702; Oct. 27, 1977) dealt with the general question of the need for a new FAR airworthiness part for use by commuter air carriers. The maximum weight issue is one of many that are involved. G. *Citation:* 14 CFR pts. 21, 23, and 135.	Joe Sullivan, 202-755-8714	NPRM August 1978.
Review: Airworthiness Review Amendment No. 8: Miscellaneous and Procedural Amendments (docket No. 14779).	A. *Description:* Proposed amendments to improve and update the airworthiness standards that apply to the type certification of aircraft, engines, propellers, related operating and maintenance rules, and procedural requirements.	Joe Sullivan, 202-755-8716	FR February 1978.

FEDERAL AVIATION ADMINISTRATION—Continued
SIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
	B. *Why significant:* This group of amendments is considered significant because it includes a number of costly and controversial amendments (dealing generally with cabin safety) that require modification of aircraft in service. C. *Regulatory analysis:* Will not be required. D. *Need:* The need to update and improve the Federal aviation regulations as covered in this group of amendments, was emphasized at public conferences held in conjunction with the airworthiness review program. E. *Legal basis:* Secs. 307, 313(a), 502, 601, 603, 604, and 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1402, 1421, 1423, 1424, and 1425). F. *Chronology:* Notice 75-31 (40 FR 29140) appeared in the FEDERAL REGISTER on July 11, 1975. The final amendment is being prepared. G. *Citation:* 14 CFR pts. 1, 21, 23, 25, 27, 29, 31, 33, 35, 43, 45, 91, and 121.		
Review: Security of Persons and Property in Air Transportation (docket No. 16245).	A. *Description:* Proposed revision of regulations to update, clarify, and add provisions to the regulations to provide more effective security for persons and property in air transportation. B. *Why significant:* May involve substantial public interest or controversy. C. *Regulatory analysis:* Will not be required. D. *Need:* The amendment is intended to update and clarify airport security regulations, and to provide more effective protection of persons and property in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy. E. *Legal basis:* Secs. 313, 315, 316, and 601, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1356, 1357, and 1421); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)). F. *Chronology:* Started June 30, 1975. NPRM issued June 1977 (42 FR 30766; June 16, 1977). G. *Citation:* 14 CFR pt. 107.	Richard A. Noble, 202-426-8768	FR August 1978.
SST Noise Rule (docket No. 15376)	A. *Description:* The rule—(1) requires all SST's except Concordes with flight time before Jan. 1, 1980, to comply with the stage 2 noise limits (an airplane that has been shown to comply with noise limits originally applied to subsonic jets) of 14 CFR pt. 36 in order to operate in the United States; (2) prohibits modifications of current SST types that increase their noise; (3) places operational restrictions on SST's that do not comply with the stage 2 noise limits of pt. 36; and (4) adds procedures adapting the flight test conditions and noise limits of pt. 36 to SST's. A proposal to improve protection of the United States from sonic boom is also included. B. *Why significant:* The rule is considered major because of the high degree of public concern regarding SST noise and the international implications of SST operating limits. C. *Regulatory analysis:* Not required. D. *Need:* These provisions respond to the public need for the control of sonic boom and SST in accordance with sec. 611 of the Federal Aviation Act of 1958 as amended by the Noise Control Act of 1972. E. *Legal basis:* Secs. 307, 313(a), 601(c), 603, 611, Federal Aviation Act of 1958, as amended (49 U.S.C. secs. 1348, 1354(a), 1421(a), 1423, and 1431); sec. 6(c), Department of Transportation Act (49 U.S.C. sec. 1655(c); Title I, National Environmental Policy Act of 1969 (42 U.S.C. sec. 4321 et seq.); Executive Order 11524, Mar. 5, 1970. F. *Chronology:* ANPRM 70-33 issued Aug. 4, 1970, requested public input on the general pattern of SST noise. The NPRM was, in part, a response to an Environmental Defense Fund suit on the subject. Notice 75-15, issued Mar. 25, 1975, contained EPA proposals, including 8 options to contest SST Noise. Two public hearings (Los Angeles and Washington) were held in May 1975. Notice 76-1 issued Feb. 6, 1976, contained a further EPA proposal clarifying those in Notice No. 75-15. A public hearing was held in Washington in April 1976. Notice 77-23, issued Oct. 11, 1977, added further FAA proposals to the EPA proposals. Public hearings were held in Hawaii (January 1978) and Los Angeles (February 1978). Final rule was issued on June 26, 1978 (43 FR 28406). G. *Citation:* 14 CFR pts. 21, 36, and 91.	James Densmore, 202-755-9468	Action complete.
Review: Airport Aid Program	A. *Description:* Proposed amendment to simplify and clarify requirements for receipt of aid and to implement certain provisions of the Airport and Airway Development Act Amendments of 1976. B. *Why significant:* This notice of proposed rulemaking is considered a major project because it might involve an area of substantial public interest and controversy. C. *Regulatory analysis:* Will be required. D. *Need:* To update airport aid requirements in accordance with Airport and Airway Development Act Amendments. E. *Legal basis:* Airport and Airway Development Act of 1970 (49 U.S.C. 1701). F. *Chronology:* Initiated as a result of final report and recommendations of Airports Task Group, Mar. 10, 1975. G. *Citation:* 14 CFR pt. 152.	Paul Galis, 202-426-3831	NPRM November 1978.

FEDERAL AVIATION ADMINISTRATION—Continued

SIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
Administrative User Charges	A. *Description:* This notice proposes to revise existing FAA fees for aircraft registration and for recording conveyances affecting title to, or any interest in, aircraft. In addition, it proposes to establish fees for FAA certification of pilots, instructors, and other airmen, including medical certification. It is intended that this proposed rule will provide for the recovery of expenses that the FAA incurs in these activities. The proposed action would be in accordance with the sense of the Congress. B. *Why significant:* This proposal is considered a significant project because it involves an area of substantial public interest and controversy. C. *Regulatory analysis:* Will not be required. D. *Need:* This proposal will provide for the recovery of expenses that the FAA incurs in these activities and is in accordance with the sense of Congress. E. *Legal basis:* Secs. 313, 503, 505, 601, and 602, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1401, 1403, 1421, and 1422); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c), Title V; Independent Offices Appropriation Act of 1952 (31 U.S.C. 483(a)). F. *Chronology:* NPRM published on April 20 (43 FR 16924). Closing date for comments is July 19, 1978. G. *Citation:* 14 CFR pts. 47, 49, 61, 63, 65, 67, 143, and 187.	John M. Rodgers, 426-3420	FR October 1978.
Occupational Safety and Health Regulations.	A. *Description:* The rule as proposed would require inclusion in air carrier manuals of standards, instructions, and information acceptable to the Administrator, which provides protection for occupational health and safety of the certificate holder's employees in the performance of those duties necessary to provide adequately for safety in air commerce. B. *Why significant:* The rule is considered significant because it concerns a matter on which there is substantial public interest or controversy and could have a significant impact on other administrations, other parts of the Department (DOT) and other Federal Agencies (DOL). C. *Regulatory analysis:* Will be required. D. *Need:* To develop regulations concerning employee health and safety. E. *Legal basis:* Secs. 313(a), 601, 603, 604, and 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, 1424, and 1425); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)). F. *Chronology:* The OSHA Act of 1970 was enacted by Congress to assure safe and healthful working conditions for working men and women. Sec. 4(b)(1) of the OSHA Act excludes employees working conditions which are covered by other Federal agencies under statutory authority. On July 7, 1975, the FAA issued "Occupational Safety and Health Standards for Aircraft Crewmembers," Guidance Information (40 FR 29114, July 10, 1975). G. *Citation:* 14 CFR pts. 121, 127, and 135.	Joe Sullivan, 202-755-8716	NPRM January 1979.
Wind Shear	A. *Description:* Proposed revision to require all large passenger-carrying aircraft be equipped with a device that will display wind shear information to the pilots. B. *Why significant:* The advance notice of proposed rulemaking is considered a significant project because it will generate substantial public interest and will be controversial. C. *Regulatory analysis:* Will be required. D. *Need:* As a result of several accidents involving wind shear the FAA believes it is necessary to identify equipment that will enable pilots to identify low level wind shear conditions. E. *Legal basis:* Secs. 313(a), 601 and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1424), and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)). F. *Chronology:* In 1975, the FAA began a 2 year effort to develop a wind shear program. FAA began work to develop a wind shear warning and pilot aiding devices which has achieved encouraged results. G. *Citation:* 14 CFR pt. 121.	Joe Sullivan, 426-8716	ANPRM July 1979.

FEDERAL AVIATION ADMINISTRATION

NONSIGNIFICANT REGULATIONS

Third Attitude Gyro	Proposed amendment to add flight instrument requirement for all multiengine turbojet-powered airplanes not already required to have a third gyroscopic attitude instrument independently powered in case of total aircraft electrical failure (14 CFR pts. 23, 25, 91, and 121).	Joe Sullivan, 202-755-8716	NPRM January 1979.
Export Airworthiness Approvals (docket No. 17147).	Proposed amendment (1) to provide for the issuance of export certificates of airworthiness for unassembled normal category rotorcraft, and (2) to provide for the issuance of export airworthiness approvals for aeronautical products that do not meet certain requirements if the importing country agrees to accept the products in such condition (14 CFR pt. 21).	do	FR December 1978.
Review: Aircraft Engine Regulatory Notice (docket No. 16919).	Proposed amendment to resolve a number of regulatory issues raised by engine manufacturers and to update those standards (14 CFR pts. 23, 25, 27, 29, and 33).	do	NPRM June 1979.

FEDERAL AVIATION ADMINISTRATION—Continued

NONSIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
Delegation of authority	Proposed amendment to delegate certain authority of the Administrator to officials within the FAA (14 CFR pt. 11).	Howard A. Bartnick, 202-426-3493	FR August 1979.
General Operating Flight Rules—Landing Minimum.	Proposed rule to clarify prescribed conditions for approach and landing under specified weather conditions (14 CFR pts. 91 and 121).	Joe Sullivan, 202-755-8716	NPRM September 1978.
Triennial Aircraft Registration Report.	Proposed rule to establish a requirement that holders of a certificate of aircraft registration file a report with the FAA aircraft registry on the current eligibility of the aircraft for registration, whenever 3 years have elapsed since the registry has received information indicating registration eligibility (14 CFR pt. 47).	Virginia Swimmer, 405-686-2264	NPRM August 1978.
Controlled Visual Flight	Proposed revision to provide a means of improving ATC separation of VFR and IFR aircraft above 12,500 ft (14 CFR pt. 91).	Maurice Taylor, 202-426-3128	ANPRM April 1979.
Airport Noise Regulatory (docket No. 16279).	EPA proposed revision to require airport noise certification as a condition for ADAP funding (14 CFR pt. 91).	Jim Densmore, 202-755-9468	FR April 1979.
Review: Operations Review Notice No. 11.	Proposed revision to update and improve the rules applicable to mechanic certification, repair stations and aircraft equipment (14 CFR pts. 121, 145, and 183).	Joe Sullivan, 202-755-8716	NPRM October 1978.
Review: Operations Review Notice No. 12.	Proposed extensive revisions to update and improve regulations applicable to aircraft maintenance, preventive maintenance, rebuilding, and alteration of aircraft (14 CFR pts. 43 and 91).	do	NPRM November 1978.
Review: Operations Review Notice No. 14.	Proposed miscellaneous revisions and other editorial and clarifying changes to parts (14 CFR pts. 43, 63, 65, 91, 105, 121, 123, 127, 143, 145, and 147).	do	NPRM February 1979.
Airworthiness Review Program: Amendment No. 7; Airframe Amendments.	Proposed amendments would update and improve the airframe and crashworthiness standards that apply to aircraft certification, and would make certain related changes in the operating rules (14 CFR pts. 23, 25, 27, 29, and 121).	do	FR September 1978.
Transport Category Airplane Fatigue Regulatory Review Amendments (docket No. 16280).	Proposed amendment revising the structural fatigue evaluation requirements and incorporating related guidance, to take into account state-of-the-art development and service experience (14 CFR pt. 25).	do	FR April 1979.
Delayed Landing Flap Procedure for Turbojet-Powered Airplanes (docket No. 15020).	Proposed regualtion which would require landing flap setting for turbojet-powered airplanes be delayed until at or below 1,000 ft above airport elevation for purpose of noise abatement on approach and landing (14 CFR pt. 91).	do	FR February 1979.
Review: Operations Review Amendment No. 4 (docket No. 16383).	Miscellaneous amendments concerning aircraft maintenance, airmen certification, general operating and flight rules, parachuting, certification, and operation of air carriers, air travel clubs, repair stations, and aviation maintenance technical schools. Final rule issued on May 19, 1978, effective June 26, 1978 (43 FR 27535 May 25, 1978) (14 CFR pts. 43, 61, 63, 65, 91, 105, 121, 123, 127, 135, 137, 145, 147, and 149).	do	Action complete.
Review: Operations Review Amendment No. 5 (docket No. 17034).	Miscellaneous amendments to requirements pertaining to airmen and crewmembers, training programs, flight operations, dispatching, and records and reports of air carrier and commercial operators of large aircraft. Final rule issued on May 18, 1978, effective June 26, 1978 (14 CFR pt. 121).	do	Do.
Review: Operations Review Amendment No. 6 (docket No. 17154).	Proposed amendments to flight rule fuel requirements, VOR equipment checks, safety belts and harnesses, and other clarifying changes to 14 CFR pts. 23, 25, 27, 29, 91, and 121.	do	FR September 1978.
Review: Operations Review Amendment No. 8.	Proposed amendment to update and improve airmen and crewmembers rules, training programs, flight operations, dispatching, records and reports of air carriers and commercial operators and scheduled air carriers with helicopters. NPRM issued with comment period closing on Aug. 11, 1978 (14 CFR pts. 121 and 127).	do	FR February 1979.
Review: Operations Review Notice No. 9.	Proposed revision to update and improve equipment, maintenance, and operating rules of aircraft, airmen certification, certificated operators and agencies, flight attendants, and training requirements (14 CFR pts. 63, 65, and 121) NPRM published Aug. 17, 1978 (43 FR 36464).	do	FR June 1979.
Review: Operations Review Notice No. 10.	Proposes revision to update and improve the equipment and operating rules of aircraft operated by scheduled air carriers of large aircraft and agricultural aircraft operators (14 CFR pts. 25, 123, 127, and 137).	do	NPRM August 1978.
Agricultural Aircraft Night Operations (docket No. 14621).	Rule to permit special VFR night operations by agricultural aircraft operators without complying with certain instrument flight requirements since agricultural aircraft are not usually IFR equipped and have need to conduct operations under special VFR conditions. Final rule issued on June, 21, 1978, effective July 28, 1978 (14 CFR pt. 137).	do	
Airborne Vibration Monitors (docket No. 13969).	Proposed rule to require an indicator system for detecting rotor imbalance for each engine in specified wide-bodied airplanes (14 CFR pt. 121).	do	Withdrawal August 1978.
Special Aircraft Certificates (docket No. 13954).	Proposed rule to limit the issuance of "experimental" certificates under 14 CFR pt. 21 to aircraft engaged in genuine experimental operations except for certain amateur-built aircraft (14 CFR pts. 21, 43, 45, 65, and 91).	do	Do.
Review: Operations Review Program (docket No. 16220).	The agency's proposed action on certain proposals presented during the 1975-76 operations review program.	Maurice Taylor, 202-426-3128	FR August 1978.
Review: Part 91 Notice (docket No. 16431).	The agency conducted a Regulatory Review Conference of 14 CFR pt. 91, subpt. B, in Sept. 1977, in order to update that part. This action will cover all proposals covered by the review except for lost communications (14 CFR pt. 77).	do	FR February 1978.
Review: Part 91 Review Lost Communications (docket No. 16431).	The FAA conducted a Regulatory Review Conference of 14 CFR pt. 91, subpt. B, in Sept. 1977, in order to update that part. This action will cover the special proposal on lost communications.	do	FR February 1979.

FEDERAL AVIATION ADMINISTRATION—Continued

NONSIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
Pearson Airpark	Proposal to exclude persons from the requirement of communicating with Portland Tower while operating in the Pearson Airpark traffic pattern (14 CFR pt. 93).	Charles Stratton, 202-426-3128	NPRM August 1978.
Review: Objects Affecting Navigable Airspace (docket No. 16920).	Proposal to amend regulations including areas such as notice requirements, obstruction standards, aeronautical studies, determinations, antenna farm areas, and discretionary review/petition procedures (14 CFR pt. 77).	O. E. Falsetti, 202-426-8777	NPRM April 1979.
Reimbursement of Security Screening Costs (docket No. 17326).	Proposes a procedure for compensating air carriers for certain security screening costs in foreign air transportation (14 CFR pt. 121).	R. P. Jones, 202-426-8409	FR September 1978.
Security Screening to Charter Flights (docket No. 17676).	Extends security screening to charter passenger flights conducted by certain certificate holders. Final rule issued on June 6, 1978, effective on July 25, 1978 (14 CFR pts. 121 and 129).	....do	Action complete.
Special Aircraft Registration Numbers (docket No. 17331).	Proposed revison to delete all references to and provisions for special aircraft registration numbers thereby eliminating registration number changes on aircraft (14 CFR pt. 45).	Elizabeth Bowman, 405-686-2284	FR December 1978.
Registration of Aircraft by Resident Aliens.	Proposed revision to comply with sec. 14 of Pub. L. 95-163 enacted by Congress effective Nov. 9, 1977, amended Mar. 8, 1978, which provides for U.S. registration of aircraft by resident aliens and by corporations which do not qualify for registration as citizens (14 CFR pt. 47).	Florine G. Crockett, 405-686-2284	NPRM November 1978.
Civil Helicopter Noise Certification (docket No. 17556).	This project would establish noise certification levels and pfocedures for civil helicopters (14 CFR pt. 36).	James Densmore, 202-755-9468	FR April 1979.
Designated Manufacturing Inspection Representatives (docket No. 16622).	Proposed rule to permit designated manufacturing inspection representatives (DMIR's) to conduct evaluation inspections and to perform all of their authorized functions outside the manfacturing plant at which they are employed (14 CFR pt. 183).	Joe Sullivan, 202-755-8716	FR May 1979.
Identification (ID) Plates (docket No. 15977).	Proposed rule to prohibit the removal, change, or placement of information on identification plates required by the regulation and the removal and installation of ID plates on aircraft, aircraft engines, propellers, and propeller blades and hubs, without the approval of the Administrator (14 CFR pt. 45).	....do	Do.
Implementation of OMB Circular A-95 (docket No. 17337).	Final procedures and regulations (pt. 152) implementing OMB Circular A-95 (coordination of Federal assistance programs with State, areawide, and local planning agencies), based on public comment on interim procedures in Special Federal Aviation Regulation 35 (14 CFR pt. 152).	Edward F. Rancourt, 202-426-8090	FR Feburary 1979.
Implementation of Energy Policy (docket No. 16617).	Implementation of the Energy Policy and Conservation Act (14 CFR pt. 11).	Cynthia Zook, 202-426-3420	FR September 1978.
Review: Update of Part 139	Revision of 14 CFR pt. 139 to update and clarify the part and to update firefighting agent substitution rates and reduce the exonomic burden of firefighting requirement (14 CFR pt. 139).	Harry Hink, 202-426-3087	NPRM October 1978.
Experimental Certificates	Proposed revision to 14 CFR pt. 21 to allow special airworthiness certificates for air racing, exhibition and amateur built aircraft to be issued for periods in excess of 1 year (14 CFR pt. 21).	Joe Sullivan, 202-755-8716	NPRM November 1978.
Foreign Airman Certificate	Proposed revisions to provide for the issuance of special purpose airman certificates to foreign pilots and other flight crew members to permit those persons to operate U.S. registered civil aircraft leased by foreign operators for carriage of persons and property for compensation or hire (14 CFR pts. 61 and 63).	....do	NPRM October 1978.
Publication of Petitions for Rulemaking and Exemptions.	Proposed rule to establish procedures for the publication in the FEDERAL REGISTER of the summaries of certain petitions for rulemaking and exemptions. This proposal also provides for publication of summaries of denials of petitions for rulemaking and summaries of grants and denials of petitions for exemptions. NPRM published July 24, 1978 (43 FR 31936) (14 CFR pt. 11).	Edward P. Faberman, 202-426-3073	FR December 1978.
Protective Breathing Equipment	Proposed rule to establish minimum performance standards and operating rules for protective breathing equipment (14 CFR pts. 25, 29, 37, 91, and 121).	Joe Sullivan, 202-755-8716	NPRM March 1979.
Supplemental Oxygen	Proposed rule to permit certain wide-body turbojet airplanes to operate to flight level of 45,000 ft above sea level without requirements for the pilot to use supplemental oxygen (14 CFR pts. 25, 29, 37, 91, and 121).	....do	NPRM February 1979.
Type Certification Standards	Proposed revision of Special Federal Aviation Regulation 13 as applicable to DC-3 airplanes to provide a basis for approval of the installation of 3 turbo-propeller engines in place of 2 reciprocating engines (14 CFR pt. 25; SFAR 13).	....do	FR July 1979.
Status of FAA Pilots on Test Flights (docket No. 14611).	Proposed clarification of the status of both applicants and FAA pilots during flight tests required for certification of aircraft (14 CFR pt. 21).	....do	Withdrawal August 1978.
Leakage of Fluids (docket No. 15534)	Proposed standards for certification, maintenance, and equipment to prevent inflight overboard leakage of fluids subject to freezing (14 CFR pts. 25, 91, and 121).	....do	Do.
Cargo Pallets, Nets, and Containers (docket No. 16140).	Proposed updated standards for cargo pallets, nets, and containers in accordance with the changes in technology and specifications which have taken place since 1970, when the current standards were developed (14 CFR pt. 37).	....do	FR December 1978.
Determination of Aircraft Approach Categories (docket No. 17536).	Proposed regulation to eliminate use of maximum certificated landing weight as a criterion for grouping aircraft in approach categories in order to facilitate aircraft categorization and simplify determination of landing minimums (14 CFR pt. 97).	....do	FR April 1979.

FEDERAL AVIATION ADMINISTRATION—Continued

ROUTINE AND FREQUENT NONSIGNIFICANT REGULATIONS

Other items:			
Pt. 95 Instrument Flight Rules Altitudes.	Approximate number: 2,500	Joe Sullivan, 755-8716	July 1, 1978 to June 30, 1979.
Airworthiness Directives	300	....do	Do.
Standard Instrument Approach Procedures.	2,800	....do	Do.
Airspace Actions	525	William Broadwater, 426-3731	Do.

FEDERAL HIGHWAY ADMINISTRATION

SIGNIFICANT REGULATIONS

Title	Summary	Contact	Decision date
Review: Outdoor Advertising Control and Acquisition (FHPM 7-6-2).	A. *Description:* This regulation would provide definition of "effective control" of outdoor advertising per 23 U.S.C. 131. It would also set forth requirements for signs exempt from control under the statute and establish the basic framework for State development of police power regulations and procedures. The regulation would also outline the requirements for Federal participation in the acquisition of compensable nonconforming outdoor advertising devices. B. *Why significant:* This proposal may involve substantial public interest, is controversial and involves important Departmental policy. C. *Regulatory analysis:* Will not be required. D. *Need:* This regulation is necessary for the maintenance of national uniformity in the outdoor advertising control program. Since 23 U.S.C. 131 is regulatory in nature, it is necessary to establish and maintain minimum Federal program requirements. E. *Legal basis:* 23 U.S.C. 131, 148, and 315; 49 CFR 1.48. F. *Chronology:* The proposal involves the consolidation of two existing regulations, 23 CFR pt. 750, subpts. D and G, and one interim regulation, 23 CFR pt.750, subpt E. The regulations have been in effect since Sept. 16, 1975 and July 29, 1974, respectively. The interim regulations have been in effect since Oct. 18, 1976. The proposed consolidation will be issued as NPRM. G. *Citation:* 23 CFR pt. 750, subpt. C.	Richard Moeller, 202-245-0021.	NPRM August 1978, FR November 1978.
Traffic Safety in Highway and Street Work Zones (docket No. 76 14; Proposed (FHPM 6-4-2-12).	A. *Description:* This regulation would provide guidance and establish procedures to assure that adequate consideration is given to motorists, pedestrians, and construction workers on all Federal-aid construction projects. B. *Why significant:* This regulation concerns a matter on which there is substantial public interest and could have a considerable cost impact. C. *Regulatory analysis:* Will not be required. D. *Need:* This regulation will be needed to help achieve safety in highway and street work zones. E. *Legal basis:* 23 U.S.C. 109(b), 109(d), 315, and 402(a); 23 CFR 1.48(b). F. *Chronology:* An ANPRM was published on Sept. 23, 1976, and a NPRM was published on Aug. 25, 1977. G. *Citation:* 23 CFR pt. 630, subpt. J.	Mr. J. Daves, 202-426-4647.	FR August 1978.
Review: Air Quality Guidelines (FHPM 7-7-9-1).	A. *Description:* This regulation would establish administrative procedures on: (1) funding sanctions, (2) conformity of highway plans, programs, and projects with air quality implementation plans, and (3) priority to highway improvements with air quality benefits during an interim period. This regulation will be in addition to existing FHPM 7-7-9, Air Quality Guidelines. B. *Why significant:* This regulation is considered major because it affects another Federal agency and may be controversial. C. *Regulatory analysis:* Will be required. D. *Need:* Currently, administrative procedures on funding sanctions, priority of highway improvements with air quality benefits, and conformity of highway plans, programs, and projects with air quality implementation plans are lacking. These are a result of the Clean Air Act Amendments of 1977 which became law in August 1977. E. *Legal basis:* Clean Air Act Amendments of 1977 (42 U.S.C. 7401). F. *Chronology:* Preliminary work on developing draft regulations is underway. NPRM planned for August 1978. G. *Citation:* 23 CFR pt. 770.	Harter M. Rupert, 202-426-4836.	NPRM August 1978.
Employee Safety and Health Standards (docket No. MC-64).	A. *Description:* This regulation would provide safety and health standards to govern employes engaged in the operation, maintenance, and loading and unloading of motor vehicles, designed to eliminate uncertainty with regard to the jurisdictional authority of OSHA. B. *Why significant:* This proposal may have a significant impact on the Department of Labor's Occupational Safety and Health Administration (OSHA). C. *Regulatory analysis:* Will not be required.	Gerald J. Davis, 202-426-9767.	FR March 1979.

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FEDERAL HIGHWAY ADMINISTRATION—Continued

NONSIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
	D. *Need:* These standards are designed to eliminate uncertainty with regard to the jurisdictional authority of the Occupational Safety and Health Administration and to improve safety and health standards for employees of motor carriers. E. *Legal basis:* 49 U.S.C. 304 and 1655. F. *Chronology:* A notice of proposed rulemaking was issued Mar. 2, 1978, and the closing date for the comment period was May 31, 1978. NPRM was published in FEDERAL REGISTER (43 FR 25156) June 9, 1978, extending the comment period to June 30, 1978. G. *Citation:* 49 CFR pt. 399.		
Minimum Cab Space Dimensions (docket No. MC-79).	A. *Description:* This regulation would specify minimum size for the cab portion of the regulated commercial vehicles manufactured after a certain date. B. *Why significant:* This proposal has the potential of being costly if extensive changes to cab configuration become necessary C. *Regulatory analysis:* Will be required. D. *Need:* Changes in truck technology and maximum limitation on size by States have led to the development of reduced cab space in favor of increased cargo space to remain within State length limitations. The impact on safe operations and driver workplace may be negatively affected. E. *Legal basis:* 49 U.S.C. 304 and 1655. F. *Chronology:* The advance notice of rulemaking was issued on Feb. 14, 1976. Comment period closed on July 14, 1978. G. *Citation:* 49 CFR 393.	D. W. Morrison, 202-426-1700.	NPRM March 1979.
Review: State Highway Agency Equal Employment Opportunity Programs (FHPM 2-2-2).	A. *Description:* This regulation would set forth Federal Highway Administration (FHWA) Federal-aid policy and FHWA and State responsibilities relative to a State highway agency's internal equal employment opportunity program and for assuring compliance with the equal employment opportunity requirements of federally assisted highway construction contracts. B. *Why significant:* There is substantial public interest relative to this FHPM. C. *Regulatory analysis:* Will not be required. D. *Need:* To set forth responsibilities for State highway agencies' equal employment opportunity programs and to insure compliance with the equal opportunity requirements of federally assisted highway construction contracts. E. *Legal basis:* 23 U.S.C. 140(a); Executive Order 11246 as amended. F. *Chronology:* The FHWM is awaiting decisions by the Equal Employment Opportunity Commission relative to the future direction of State EEO programs. G. *Citation:* 23 CFR pt. 230, subpt. C.	Ted B. Sennett, 202-426-0693.	NPRM December 1978.
Review: Construction Contract Equal Opportunity Compliance Procedures (FHPM 2-2-3).	A. *Description:* This regulation would prescribe policies and procedures to standardize the implementation of the equal opportunity contract compliance program, including compliance reviews, consolidated compliance reviews, and the administration of areawide plans. B. *Why significant:* There is substantial public interest relative to this FHPM. C. *Regulatory analysis:* Will not be required. D. *Need:* To standardize the implementation of the equal opportunity contract compliance program. E. *Legal basis:* Executive Order 11246 as amended, 23 U.S.C. 112(b) and 140(a). F. *Chronology:* The FHWA is awaiting decisions by the Department of Labor relative to the future direction of the contract compliance program. G. *Citation:* 23 CFR pt. 320, subpt. D.	Ted B. Sennett, 202-426-0693.	NPRM December 1978.
Geometric Design Criteria for Resurfacing, Restoration, and Rehabilitation (R-R-R) of Streets and Highways Other than Freeways (docket No.77-4).	A. *Description:* This regulation would contain criteria intended to provide additional flexibility in some of the basic geometric features of design, primarily those in which modification would result in appreciable savings in costs and other impacts while improving safety. B. *Why significant:* This regulation is considered significant because the adoption of new design criteria specifically for R-R-R projects has proven to be controversial. C. *Regulatory analysis:* Will not be required. D. *Need:* To implement the 1976 amendment to 23 U.S.C. 101 redefining "construction" to include resurfacing, restoration, and rehabilitation. Optimum geometric design standards are needed to effectively administer a R-R-R program for preservation work on the Federal-aid highway systems. E. *Legal basis:* 23 U.S.C. 109, 315, and 402; 49 CFR 1.48(b). F. *Chronology:* FHWA docket No. 77-4, published in the FEDERAL REGISTER of Aug. 25, 1977, offered three alternatives. Because of the adverse comments all alternatives were rejected and FHWA decided to develop a new set of criteria for resurfacing, restoration, and rehabilitation (R-R-R) projects. G. *Citation:* 23 CFR pt. 625.	Alvin R. Cowan, Seppo Sillan, 202-426-0312.	NPRM August 1978.
Certification of Motor Vehicle Size and Weight Enforcement (docket No. 77-21; FHPM 6-8-5).	A. *Description:* This is a proposed revision of existing regulations dealing with annual certifications by the States that all size and weight laws are being enforced. Anticipated is a requirement for an annual enforcement program against which the States' efforts could be measured at the end of the year.	David W. Baldwin, 202-426-1993.	NPRM November 1978.

FEDERAL HIGHWAY ADMINISTRATION—Continued

SIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
	B. *Why significant:* The regulation is significant because failure on the part of the State is cause for the withholding of Federal-aid highway projects approval. C. *Regulatory analysis:* Will be required. D. *Need:* This regulation is needed to implement 23 U.S.C. 141, enforcement of requirements. E. *Legal basis:* 23 U.S.C. 141. F. *Chronology:* ANPRM was issued in January 1978, with comments due Apr. 15, 1978. Thirty comments were received. G. *Citation:* 23 CFR pt. 658.9.		
Withdrawal of Interstate Segments and Substitution of Alternative Projects (docket No. 77-9).	A. *Description:* The regulations would implement secs. 103(e)(2) and 103(e)(4) of title 23, U.S.C. 103(e)(2) provides for the withdrawal of nonessential interstate routes and the substitution of alternative interstate routes. Sec. 103(e)(4) provides for the withdrawal of nonessential interstate routes and the substitution of other transportation projects, both highway and nonhighway. B. *Why significant:* There is substantial public interest and controversy concerning this proposal. C. *Regulatory analysis:* Will be required. D. *Need:* This regulation is needed to implement the provisions of 23 U.S.C. 103 enacted in the 1976 Federal-Aid Highway Act. E. *Legal basis:* 23 U.S.C. 103(e)(2) and 103(e)(4). F. *Chronology:* The current substitution regulations were issued on June 12, 1974. The Federal-Aid Highway Act Amendments of 1974 and the Federal-Aid Highway Act of 1976 amended the original statutory provisions enacted by the Federal-Aid Highway Act of 1973. G. *Citation:* 23 CFR pt. 476, subpt. D, and pt. 450.	L. A. Staron, 202-426-0404, F. Calhoun, 202-426-0762.	NPRM August 1978, FR December 1978.
Payback for Interstate System Withdrawals and Modifications.	A. *Description:* The regulations would prescribe the disposition and use of property acquired with Federal-aid funds for highway projects which are later modified, withdrawn, or terminated. They would also prescribe the requirements for repayament (payback) of Federal-aid funds expended on such projects. B. *Why significant:* There is substantial public interest and controversy concerning the withdrawal under 23 U.S.C. 103(e)(4) of routes designated after Aug. 13, 1973, and the question of payback. C. *Regulatory analysis:* Will be required. D. *Need:* This regulation is needed to implement the provisions of 23 U.S.C. 103 enacted in the 1976 Federal-aid Highway Act, and the provisions of OMB Circular 102. E. *Legal basis:* 23 U.S.C. 103(e). F. *Chronology:* Proposed regulations on payback were issued on Nov. 17, 1975 (40 FR 53252). Sec. 110(b) of the Federal-Aid Highway Act of 1976 required substantial changes in the proposed regulations. The proposed regulations were withdrawn by an ANPRM on Sept. 27, 1976 (41 FR 42221). New proposed regulations were published on Aug. 7, 1978 (43 FR 35008). G. *Citation:* 23 CFR pt. 476.	L. A. Staron, 202-426-0404, F. Calhoun, 202-426-0762.	FR November 1978.
Hours of Service of Drivers (docket No. MC-70-1).	A. *Description:* The Federal Highway Administration (FHWA) is proposing a revision of the regulations pertaining to hours of service limitations for commercial vehicle drivers engaged in interstate or foreign commerce. B. *Why significant:* This proposal may be controversial and could have a major cost impact on the motor carrier industry. C. *Regulatory analysis:* Will be required. D. *Need:* This action is being taken in response to numerous petitions and requests from public interest groups, labor organizations, and individual drivers for the revision of these regulations. E. *Legal basis:* 49 U.S.C. 304 and 1655. F. *Chronology:* An advance notice of proposed rulemaking which stated that FHWA was considering an extensive review of the hours of service of drivers regulation was published on Feb. 12, 1976 (docket MC-70, notice 76-14, 49 FR 6275). A second ANPRM was issued on May 22, 1978, setting forth three plans for comments. G. *Citation:* 49 CFR pt. 395.	Gerald J. Davis, 202-426-9767.	NPRM January 1980.
Commercial Motor Vehicle Inspection Repair and maintenance (docket No. MC-48).	A. *Description:* FHWA is considering amending the regulation on commercial motor vehicle inspections, repair and maintenance to reduce vehicle defect related accidents caused by inadequate inspection and maintenance procedures. B. *Why significant* This proposal may be controversial. C. *Regulatory analysis:* Will not be required. The regulation has been revised to reduce its cost impact. D. *Need:* Roadside inspections of vehicles in operation in interstate commerce, supported by safety survey inspections at carrier facilities indicate that carrier maintenance practices are less than satisfactory. This prbposal is intended to provide guidance for systematic vehicle inspection and maintenance by carriers and drivers in order to assure vehicle condition is satisfactory for safe operations. E. *Legal basis:* 49 U.S.C. 304 and 1655. F. *Chronology:* This proposed amendment was issued as an NPRM on Apr. 5, 1977. Based upon the review of public comments and data submitted, as a result of the NPRM, the FR will be modified to eliminate the potential of a major cost impact on the motor carrier industry.	Donnell W. Morrison, 202-426-1700.	FR August 1978.

FEDERAL HIGHWAY ADMINISTRATION—Continued

SIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
	G. *Citation:* 49 CFR pt. 396.		
State or Local Land Use Actions Affecting Outdoor Advertising (docket No. 77-20).	A. *Description:* The FHWA is considering the promulgation of regulations regarding the review of State or local land use actions that result in the removal of outdoor advertising signs without compensation or that permit the erection of off-premise signs prohibited by 23 U.S.C. 131 B. *Why significant:* This proposal may involve substantial public interest, is controversial, and involves important departmental policy. C. *Regulatory analysis:* Will not be required. D. *Need:* The ANPRM is necessary in order to solicit comments for determining the best method of examining State or local land use control or zoning actions for compatability with 23 U.S.C. 131. E. *Legal basis:* 23 U.S.C. 131 and 315; 49 CFR 1.48. F. *Chronology:* An FHWA legal opinion on this issue was released by the Federal Highway Administrator on Dec. 8, 1976. The ANPRM requests comments on alternate methods of implementing the December 8 opinion. G. *Citation:* 23 CFR pt. 750.708.	Richard Moeller, 202-245-0021.	ANPRM September 1978.
Review: Environmental Impact and Related Statements (FHPM 7-7-2).	A. *Description:* This regulation would implement the National Environmental Policy Act and sec. 136 of the Federal-Aid Highway Act. It would specify the procedures to be used by FHWA in the preparation and processing of environmental impact and sec. 4(f) statements. B. *Why significant:* These regulations will involve substantial public interest and controversy and will implement important Departmental policy. C. *Regulatory analysis:* Will not be required. D. *Need:* Executive Order 11991 authorizes the Council on Environmental Quality (CEQ) to issue regulations to implement the National Environmental Policy Act. These CEQ regulations are expected to be in final form in the near future and they are expected to require substantive revisions to FHPM 7-7-2. E. *Legal basis:* Revisions to FHPM 7-7-2 are required because of regulations which will be promulgated by CEQ. F. *Chronology:* The CEQ regulations were published for public comment in the FEDERAL REGISTER on June 9, 1978. It is anticipated that the final regulations will be published in early fall of 1978 and that FHPM 7-7-2 revisions will be ready for publication in the spring of 1979. G. *Citation:* 23 CFR pt. 771.	Rex I. Wells, 202-426-0106.	NPRM March 1979.
Review: Urban Transportation Planning Process (FHPM 4-4-2), and Review: Transportation Improvement Program (FHPM 4-4-6).	A. *Descriptions:* Revisions to these regulations may include: (1) Periodic rather than annual certification. (2) Elimination of narrative discussion on merging long-range and transportation systems management (TSM) plan elements and inclusion of nonfederally funded projects in the transportation improvement program (TIP). (3) Added flexibility in initiating and selecting highway project. (4) Implementation of the planning aspects of the 1977 Clean Air Act Amendments. B. *Why significant:* These are significant regulations since they significantly impact the Urban Mass Transportation Administration (UMTA) and can substantially streamline transportation planning. C. *Regulatory analysis:* Will not be required. D. *Need:* Continuing review has identified areas where added flexibility will not impair effectiveness. Air quality planning must be included in accordance with the DOT-EPA memorandum of understanding. E. *Legal basis:* 23 U.S.C. 104(f)(3), 134, and 315. F. *Chronology:* The recommendations of the FHWA regulations reduction task force were adopted in October 1977. Following agreement with UMTA and EPA, insofar as air quality is concerned, proposed regulatory changes will be prepared. G. *Citation:* 23 CFR pt. 450, subpts. A and C.	V. Paparella, 202-426-2961.	NPRM November 1978.
Equal Employment Opportunity on Federal-aid Highway Construction Contracts (FHPM 6-4-1-2).	A. *Description:* This regulation would simplify procedures relating to equal employment opportunity on Federal-aid highway construction contracts. B. *Why significant:* This regulation concerns a matter on which there is substantial public interest. C. *Regulatory analysis:* Will not be required. D. *Need:* This regulation is needed to achieve administrative effectiveness and efficiency. E. *Legal basis:* 23 U.S.C. 140 and 315. F. *Chronology:* An NPRM will be published in October 1978. G. *Citation:* 23 CFR pt. 230, subpt. A.	K. L. Ziems, 202-426-4847.	NPRM October 1978.
Rural and Small Urban Public Transportation.	A. *Description:* Proposed regulation would implement proposed new transportation legislation providing for a continuing program of rural and small urban public transportation including operating subsidies. B. *Why significant:* The proposed new program involves FHWA and UMTA and impacts State and local transportation programs. C. *Regulatory analysis:* Will not be required. D. *Need:* The proposed regulation would implement legislation by providing for administration of the rural and small urban public transportation assistance program.	FHWA Donald Morin, 202-426-0210 UMTA Lillian Liburdi, 202-426-4050.	NPRM November 1978.

FEDERAL HIGHWAY ADMINISTRATION—Continued

SIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
	E. *Legal basis:* Proposed legislation. F. *Chronology:* A DOT rural and small urban working group is now summarizing the policy issues for the proposed program. Field trips are now in progress for Federal officials to visit States and rural and small urban projects. The NPRM is to be published in November 1978. G. *Citation:* No CFR citation as yet.		
Effects of Delayed or Halted Projects	A. *Description:* Would seek to alleviate adverse conditions created by halted or delayed highway projects for certain affected persons. B. *Why significant:* There is substantial public interest in the conditions created by these delays and halts. C. *Regulatory analysis:* Will not be required. D. *Need:* Many property owners whose property will be acquired are being subjected to serious adverse living and working conditions due to the delays and halts. E. *Legal basis:* 23 U.S.C. 315, 49 CFR 1.48(b), 23 CFR 1.32. F. *Chronology:* The notice is expected to be issued in the FEDERAL REGISTER during September 1978, with a closing date for comments in November 1978. G. *Citation:* 49 CFR 1.48(b), 23 CFR 1.32.	Robert G. King, 202-426-0116, Stanley Abramson, 202-246-0791.	ANPRM September 1978.

NONSIGNIFICANT REGULATIONS

Review: New Research and Development (R. & D.) Studies and Work Programs (FHPM 5-4-1).	This regulation would cover the starting of new R. & D. studies funded with Federal-aid highway funds and for programing R. & D. work (23 CFR pts. 530 and 540).	Harry H. Hersey, 202-426-0241	FR November 1978.
Review: R. & D. Management—General (FHPM 5-2-1).	This regulation would have covered the management of R. & D. studies using Federal-aid highway funds. Will be withdrawn in November 1979 because content covered by legislation and other regulations (23 CFR pt. 520).	.....do	Withdrawal November 1978.
Review: R. & D. Reports and Implementation Activities (FHPM 5-4-3).	This regulation would cover documentation of the results of R. & D. studies funded with Federal-aid highway funds without State matching to finance pooled fund studies (23 CFR pt. 544).	.....do	FR January 1979.
Review: Federal-Aid Funds Without State Matching (FHPM 5-6-1).	This regulation would cover the use of Federal-aid highway funds without State matching to finance pooled fund studies (23 CFR pt. 560).	.....do	Do.
Review: R. & D. Management Option (FHPM 5-2-4).	This regulation would provide an alternate procedure for State highway agencies which meet specified management standards (23 CFR pt. 524).	.....do	Do.
Review: Administration of Negotiated Contracts (proposed FHPM 1-7-2).	The existing 3 regulations (23 CFR pts. 62, 420, and 170) would be combined to coordinate and minimize requirements and to bring FHWA contracting procedures in conformance with Office of Management (OMB) circular A-102, specifically attachment "O" which deals with procurement standards for use by grantees (23 CFR pt. 170).	W. Bullard, 202-426-0175	NPRM August 1978, FR October 1978.
Review: Program Approval and Authorization (FHPM 4-1-2-1).	This regulation would reflect recent policy changes in management of the highway planning and research program, e.g., allowing separate projects for metropolitan planning organizations, applying matching ratio to time periods rather than a fiscal year fund, etc. (23 CFR pt. 420).	.....do	Do.
Review: Public Road Mileage for Apportionment of Highway Safety Funds, Off-System Roads Funds, High Hazard Location Project Funds, and Roadside Obstacle Elimination Funds (FHPM 4-5-3).	The revised regulation would expand the existing one, which includes only highway safety funds, to include the other listed programs in the revised title (23 CFR pt. 460).	D. W. Briggs, 202-426-0199	NPRM September 1978, FR December 1978.
Review: Incentive Grants—Statistics for Highway Planning (FHPM 4-5-2).	The proposed regulation would document the procedures to be used in connection with 23 U.S.C. 402(j) for highway safety incentive grants which are based on improved highway fatality rates (fatalities/100 million vehicle miles of travel) (23 CFR pt. 1214).	F. E. Jarema, 202-426-0160	Do.
Review: Joint Development of Highway and Multiple Use of Roadway Properties (FHPM 7-7-6).	This regulation would state FHWA policy to encourage State/local action to plan highway corridors cooperatively; describe joint development feasibility studies and reports which are stages in joint development planning; describe what features, facilities, etc., can receive Federal funding participation; and describe use restrictions and maintenance responsibilities of multiple use sponsors (23 CFR 1.32).	K. C. Anderson, 202-426-9173	NPRM December 1978.
Review: Historic and Archeological Preservation (FHPM 7-7-4).	This regulation would replace obsolete policy and procedures memorandum (PPM) 20-7 and incorporate all FHWA regulations in the historic and archeological preservation subject area into one directive. It would present a simple process to accomplish all legal and regulatory obligations, but tailor the procedures to insure compatibility with the highway development process (23 CFR pt. 765).	A. M. Love III, 202-426-9173	Do.
Review: Procedures for Abatement of Highway Traffic Noise and Construction Noise (FHPM 7-7-3).	This revision would make several minor technical changes to the existing regulation. It would also establish new FHWA policy on approval of noise prediction methods (23 CFR pt. 772).	H. M. Rupert, 202-426-4636	FR August 1978.
Review: Procedures for Abatement of Highway Traffic Noise and Construction Noise (FHPM 7-7-3) (long-term revisions).	This revision would make substantial reductions in the detailed procedures and interpretive information in the existing regulation. This is being done pursuant to the FHWA regulation reduction task force recommendations (23 CFR pt. 772)	.....do	NPRM August 1978.

Title	Summary	Contact	Decision date
Review: Public Road Mileage for Apportionment of Highway Safety Funds, Off-System Roads Funds, High Hazard Location Project Funds, and Roadside Obstacle Elimination Funds (FHPM 4-5-3).	A. *Description:* The revised regulation would expand the existing one, which includes only highway safety funds, to include the other listed programs in the revised title (23 CFR pt. 460). B. *Why significant:* There is substantial public interest in the conditions created by these delays and halts. C. *Regulatory analysis:* Will not be required. D. *Need:* Many property owners whose property will be acquired are being subjected to serious adverse living and working conditions due to the delays and halts. E. *Legal basis:* 23 U.S.C. 315, 49 CFR 1.48(b), 23 CFR 1.32. F. *Chronology:* The notice is expected to be issued in the FEDERAL REGISTER during September 1978, with a closing date for comments in November 1978. G. *Citation:* 49 CFR 1.48(b), 23 CFR 1.32.	D. W. Briggs, 202-426-0199	NPRM September 1978, FR December 1978.

Title	Summary	Contact	Decision date
Review: Incentive Grants—Statistics for Highway Planning (FHPM 4-5-2).	A. *Description:* The proposed regulation would document the procedures to be used in connection with 23 U.S.C. 402(j) for highway safety incentive grants which are based on improved highway fatality rates (fatalities/100 million vehicle miles of travel) (23 CFR pt. 1214). B. *Why significant:* This regulation would implement legislation. C. *Regulatory analysis:* Will not be required. D. *Need:* This regulation would implement legislation by providing for administration of the incentive grants program. E. *Legal basis:* 23 U.S.C. 402(j). F. *Chronology:* The regulation is expected to be published in October 1978. G. *Citation:* 23 CFR pt. 1214.	F. E. Jarema, 202-426-0160	Do.
Review: Joint Development of Highway and Multiple Use of Roadway Properties (FHPM 7-7-6).	A. *Description:* This regulation would state FHWA policy to encourage State/local action to plan highway corridors cooperatively; describe joint development feasibility studies and reports which are stages in joint development planning; describe what features, facilities, etc., can receive Federal funding participation; and describe use restrictions and maintenance responsibilities of multiple use sponsors (23 CFR 1.32). B. *Why significant:* This regulation would implement legislation. C. *Regulatory analysis:* Will not be required. D. *Need:* This regulation would implement legislation by providing for administration of the joint development and multiple use of roadway properties. E. *Legal basis:* 23 U.S.C. 315, 49 CFR 1.48(b), 23 CFR 1.32. F. *Chronology:* The notice is expected to be issued in the FEDERAL REGISTER during September 1978, with a closing date for comments in November 1978. G. *Citation:* 49 CFR 1.48(b), 23 CFR 1.32.	K. C. Anderson, 202-426-9173	NPRM December 1978.
Review: Historic and Archeological Preservation (FHPM 7-7-4).	A. *Description:* This regulation would replace obsolete policy and procedures memorandum (PPM) 20-7 and incorporate all FHWA regulations in the historic and archeological preservation subject area into one directive. It would present a simple process to accomplish all legal and regulatory obligations, but tailor the procedures to insure compatibility with the highway development process (23 CFR pt. 765). B. *Why significant:* This regulation would implement legislation. C. *Regulatory analysis:* Will not be required. D. *Need:* This regulation would implement legislation by providing for administration of the historic and archeological preservation subject area. E. *Legal basis:* 23 U.S.C. 315, 49 CFR 1.48(b), 23 CFR 1.32. F. *Chronology:* The notice is expected to be issued in the FEDERAL REGISTER during September 1978, with a closing date for comments in November 1978. G. *Citation:* 49 CFR 1.48(b), 23 CFR 1.32.	A. M. Love III, 202-426-9173	Do.

FEDERAL HIGHWAY ADMINISTRATION—Continued

NONSIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
Review: Environmental Impact and Related Statements (FHPM 7-7-2) (interim revisions).	The revisions will: (a) Allow a nonmajor action classification for FHWA projects which have a minimal effect on properties protected under sec. 4(f) of the DOT Act or sec. 106 of the National Historic Preservation Act; provided that the nonmajor classification is appropriate under other existing criteria, and (b) allow Federal Highway Administrator to delegate to the regional administrators for all projects other than those processed with nondelegated environmental impact statements. Final rule published in FEDERAL REGISTER on May 16, 1978; effective May 19, 1978 (23 CFR pt. 771).	R. G. Clour, 202-426-0142	Action complete.
Review: General Policy and Definitions (FHPM 7-1-1).	This regulation prescribes the general policy of FHWA regarding the acquisitions of real property for highway and related purposes and defines certain terms used in FHWA right-of-way acquisition regulations (23 CFR pt. 710).	Douglas A. Wubels, 202-426-0142	Regulation to be canceled April 1979.
Review: State Highway Department Responsibilities (FHPM 7-1-2).	This regulation would prescribe the general responsibilities of State highway departments in the acquisition of rights-of-way for the Federal-aid highway systems (23 CFR pt. 710).	.....do	NPRM December 1978.
Review: Reimbursement Provisions (FHPM 7-1-3).	This regulation would set forth provisions governing reimbursement to a State highway department for right-of-way costs incurred in connection with a Federal or Federal-aid highway project (23 CFR pt. 710).	.....do	Do.
Review: Civil Rights (FHPM 7-1-4).....	This regulation prescribes the general policy of the FHWA in the area of civil rights relative to the right-of-way acquisition function (23 CFR pt. 710).	.....do	Regulation to be canceled April 1979.
Review: The Acquisition Function—Policy (FHPM 7-2-1).	This regulation would prescribe FHWA policy regarding the acquisition function (23 CFR pt. 712).	Tom Johns, 202-426-0142	NPRM December 1978.
Review: The Acquisition Function—General Provisions and Project Procedures (FHPM 7-2-2).	This regulation would prescribe FHWA project provisions and procedures regarding the acquisition of real property for highway and highway related projects (23 CFR pt. 712).	.....do	Do.
Review: The Acquisition Function—General Provisions and Project Procedures Functional Replacement of Real Property in Public Ownership (FHPM 7-2-2-1).	This regulation would prescribe FHWA policies on functional replacement of real property in public ownership (23 CFR pt. 712).	.....do	Do.
Review: The Acquisition Function—Negotiations (FHPM 7-2-3).	This regulation would prescribe FHWA procedures regarding the acquisition of real property by negotiations (23 CFR pt. 712).	.....do	Do.
Review: The Acquisition Function—Administrative Settlements, Legal Settlements, and Court Awards (FHPM 7-2-4).	This regulation would prescribe FHWA policies regarding the settlement of acquisitions through administrative means and legal processes. This regulation will be combined with the regulation on reimbursement provisions (FHPM 7-1-3) (23 CFR pt. 712).	.....do	Do.
Review: Appraisal and Appraisal Review Policy (FHPM 7-3-1).	This regulation would establish FHWA requirements for the preparation and review of appraisal reports for the acquisition of lands necessary for Federal-aid highway projects (23 CFR pt. 720).	Douglas A. Wubbels, 202-426-0142	NPRM August 1978, FR February 1979.
Review: Property Management (FHPM 7-4-1).	This regulation would prescribe FHWA policies and procedures for the management of real property acquired in connection with Federal-aid highway projects (23 CFR pt. 713).	Tom Johns, 202-426-0142	NPRM December 1978.
Review: Disposal of Rights-of-Way (FHPM 7-4-2).	This regulation would prescribe FHWA policies and procedures for disposal of portions of highway rights-of-way no longer needed for highway purposes (23 CFR pt. 713).	.....do	Do.
Review: Junkyard Control and Abatement (FHPM 7-6-4).	This regulation would provide definition of "effective control" of junkyards per 23 U.S.C. 136. It would identify alternative methods for abating nonconforming junkyards and establish the basic framework for State development of police power regulations and procedures. It would also identify items which are eligible for Federal participation in the various abatement techniques such as screening, removal, and relocation (23 CFR pt. 751).	Richard Moeller, 202-245-0021	NPRM October 1978, FR February 1979.
Review: Relocation Assistance—General (FHPM 7-5-1).	This regulation would prescribe the general provisions and procedures for the uniform implementation and conduct of the nationwide relocation assistance program to assure the fair and equitable treatment of persons displaced by highway programs (23 CFR pt. 740).	R. G. King, 202-426-0116	FR February 1979.
Review: Relocation Assistance—Relocation Services (FHPM 7-5-2).	This regulation would set forth the requirements for that portion of the relocation program dealing with the services and assistance to be made available to persons displaced by or adversely affected by highway and related projects (23 CFR pt. 740).	.....do	Do.
Review: Relocation Assistance—Moving Payments (FHPM 7-5-3).	This regulation would prescribe the moving payments and other benefits available to individuals, families, businesses, farm operations, nonprofit organizations, and owners of outdoor advertising devices forced to relocate due to highway activities (23 CFR pt. 740).	.....do	Do.
Review: Relocation Assistance—Replacement Housing Payments (FHPM 7-5-4).	This regulation would prescribe the payments and eligibility requirements for home owners and tenants forced to vacate their dwellings located on lands needed for highway purposes (23 CFR pt. 740).	.....do	Do.
Review: Relocation Assistance—Mobile Homes (FHPM 7-5-5).	This regulation would set forth the special provisions for payments and benefits applicable to owners and occupants of mobile homes located on lands required for highway purposes (23 CFR pt. 740).	.....do	Do.
Review: Relocation Assistance—Replacement Housing As Last Resort (FHPM 7-5-6).	This regulation would implement sec. 206 of Pub. L. 91-646 and prescribe the procedures and methods for providing replacement housing "as a last resort" when it is determined that a Federal or Federal-aid highway project cannot proceed to actual construction because comparable replacement housing is not available for persons to be displaced from their dwellings because of such construction (23 CFR pt. 740).	.....do	Do.

FEDERAL HIGHWAY ADMINISTRATION—Continued

NONSIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
Review: Land Service Facilities (FHPM 7-2-2-2).	This regulation would establish FHWA policy on participation in costs of facilities to provide or restore access to affected real property (23 CFR pt. 712).	Tom Johns, 202-426-0142	NPRM December 1978.
Review: Right-of-Way Revolving Fund (FHPM 7-2-7).	This regulation would prescribe FHWA policy on acquisition of right-of-way with funding pursuant to 23 U.S.C. 108(c) (23 CFR pt. 712).	.....do	Do.
Review: Management of Airspace (FHPM 7-4-3).	This regulation would prescribe FHWA policy on the use of airspace on Federal-aid highways for nonhighway purposes (23 CFR pt. 713).	.....do	Do.
Review: State Audit Expense—Contract Costs (FHPM 1-4-2-3).	This regulation would establish (a) the State's responsibility for the audit of costs incurred by "third parties" pursuant to a State/claimant contract on Federal-aid and other highway projects undertaken cooperatively with the Federal Highway Administration (FHWA) and (b) the reimbursement criteria for Federal participation in audit expense to be incurred (23 CFR pt. 140).	J. E. Lewis, 202-426-0562	FR December 1978.
Review: Application for and Obligation of Federal-aid Funds for Education and Training (FHPM 3-1-2).	This regulation would prescribe for programing ½ of 1 pct Federal-aid highway funds for training and education (23 CFR pt. 260).	J. Coe, 202-426-9141	FR August 1978.
Construction Engineering Costs.....	This regulation would prescribe policies and procedures to claim reimbursement for eligible construction engineering costs and to request and approve an increase in statutory limitations from 10 pct to 15 pct of construction costs (23 CFR pt. 140).	J. E. Lewis, 202-426-0562	FR September 1978.
Review: State Legal Expense—Contract Claims (FHPM 1-4-2-4).	This regulation would establish the basis of eligibility for reimbursement of administrative settlement costs, and other legal expenses, including attorney salaries and fees, in the defense of contract claims on Federal-aid projects, including any Federal projects performed by a State under Federal-aid procedures (23 CFR pt. 140).	.....do	FR August 1978.
Review: Incentive payments for Controlling Outdoor Advertising on the Interstate System (FHPM 1-4-7).	This regulation would prescribe project procedures for making the incentive payments authorized by 23 U.S.C. 131(j) (23 CFR pt. 190).	.....do	Do.
Review: Bond Issue Projects (FHPM 1-4-8).	This regulation would prescribe policies and procedures for making the use of Federal funds in aiding the States in the retirement of the principal of bonds, pursuant to 23 U.S.C. 122 (23 CFR pt. 140).	K. C. Kippley, 202-426-0673	FR September 1978.
Review: Advance Construction of Federal-aid Projects (FHPM 6-3-2-7).	This regulation would prescribe procedures for the construction by a State of projects on any of the Federal-aid systems, in advance of apportionment of Federal-aid funds, or in lieu of apportioned funds for the interstate system only, and for the subsequent reimbursement to the State of the Federal share of the cost of project, pursuant to 23 U.S.C. 115 as amended (23 CFR pt. 630).	.....do	Do.
Review: Reimbursement Vouchers PR-20 and PR-21 (FHPM 1-4-1).	This regulation would prescribe the procedures to be followed by States in claiming and supporting costs incurred for work performed (23 CFR pt. 140).	J. E. Lewis, 202-426-0673	FR December 1978.
Review: Recordkeeping and Retention Requirements for Federal-aid Highway Records of State Highway Agencies (FHPM 1-6-2).	This regulation would provide retention requirements for Federal-aid highway records of State highway agencies (23 CFR pt. 17).	John Schnackenberg, 202-426-0534	FR August 1978.
Review: Reimbursement for Employment of Public Employees of Federal-aid Projects (FHPM 1-4-5).	This regulation would prescribe policies and procedures governing the extent to which Federal funds may participate in the cost of salaries and wage and related labor costs, incurred by public forces of State highway departments, counties, cities, or other political subdivisions (23 CFR pt. 140).	J. E. Lewis, 202-426-0562	FR December 1978.
Review: Tire Requirements	The FHWA is considering amending the tire requirements regulation (49 CFR 393.75) for the purpose of (1) exempting front tires on single unit vehicles from tire marking requirements, (2) exempting all vehicles operating in commercial zones from tire marking requirements, and (3) providing an exemption for tire overloading for vehicles operating under State permits (49 CFR pt. 393).	Donnell W. Morrison 202-426-1700	NPRM September 1978.
Review: Disqualifying Offenses, Drugs.	The FHWA is considering amending the disqualification of drivers regulation (49 CFR 391.15) by reviewing and enlarging that group of substances and drugs, whose use by drivers, operating commercial motor vehicles, is forbidden and is considered a disqualifying offense (49 CFR pt. 391).	Gerald S. Davis, 202-426-9767	NPRM January 1979.
Review: Visual Acuity.....	The FHWA is considering amending the physical qualification for drivers regulation (49 CFR 391.41) by reviewing and determining minimum visual acuity in each eye separately as well as binocular acuity for commercial vehicle drivers (49 CFR pt. 391).	.....do	Do.
Review: Highway Safety Improvements Program (docket No. 78-4; FHPM 8-2-3).	When setting priorities for railroad-grade crossing improvements, present regulations require States to consider hazard rating, accident history, and the results of on-site inspections. It is necessary that consideration also be given to other factors which have the potential for catastrophic accidents. The proposed change in regulation would add 2 more factors to be used in determining priority for grade crossing projects: (1) The frequency with which trains carrying hazardous materials use the crossing; (2) the number of persons exposed to the crossing (passenger load of train; crossing use by school or passenger bus, pedestrians or other situations involving large numbers of people). NPRM was published in FEDERAL REGISTER on April 7, 1978 (23 CFR pt. 924).	J. L. Rummel 202-426-2131	FR October 1978.

FEDERAL HIGHWAY ADMINISTRATION—Continued

NONSIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
Review: Indian Reservation Roads (FHPM 6-3-2-8).	This regulation would contain procedures implementing 23 U.S.C. 208 and the FHWA Bureau of Indian Affairs (BIA) (Department of Interior) interagency agreement covering FHWA overview of BIA highway projects.	George Hutzelmann 202-426-0460	ANPRM September 1978, NPRM November 1978, FR February 1979.
Review: Public Lands Development Roads and Trails (FHPM 6-9-4-2).	This regulation would contain procedures implementing 23 U.S.C. 214 and the FHWA Bureau of Land Management (BLM) (Department of Interior) interagency agreement covering FHWA overview of BLM highway projects.	.....do	ANPRM October 1978, NPRM December 1978, FR March 1979.
Review: Forest Highways (FHPM 6-9-2-1).	This regulation would contain procedures applicable to forest highways projects administered by direct Federal offices and State highway departments (23 CFR pt. 660).	.....do	ANPRM November 1978, NPRM January 1979, FR April 1979.
Review: Special Bridge Replacement Program (FHPM 6-7-4-1).	This regulation would describe the policies and procedures followed by FHWA in administering the special bridge replacement program including what projects are eligible, how applications are filed and evaluated, and how projects are funded. FR issued August 9, 1978 (23 CFR pt 650).	L. A. Herr or Stanley Gordon 202-472-7697	Action complete.
Review: Location and Hydraulic Design of Encroachments on Flood Plains (FHPM 6-7-3-2).	This regulation would establish FHWA policy and procedures to assure good flood plain management practices are followed in the Federal aid highway programs (23 CFR pt. 650).	Frank L. Johnson or Philip L. Thompson, 202-472-7690	NPRM September 1978, FR December 1978.
Review: Erosion and Sediment Control on Highway Construction Projects (FHPM 6-7-3-1).	This regulation would prescribe practices for the prevention and abatement of erosion and sediment damage on highway projects (23 CFR pt. 650).	Frank L. Johnson 202-472-7690	FR October 1978.
Review: Permits for Highway Work in or Adjacent to Streams (FHPM 6-7-1-1).	This regulation would contain procedures dealing with permits and include memoranda of understanding with the Coast Guard and the Corps of Engineers as appendixes. (23 CFR pt. 650).	.....do	Do.
Review: Coordination of Water Resources Development Projects (FHPM 6-1-1-4).	This regulation would prescribe policy and procedure for the coordination and financing of highway-water resources development projects.	Joseph W. Burdell 202-426-0442 or Frank L. Johnson 202-472-7690	Do.
Fracture Control Plan (for Bridges Containing Fracture-Critical Members).	This regulation would supersede provisions of materials and welding specifications published by the American Association of State Highway and Transportation Officials (AASHTO) and the American Welding Society (AWS), where the materials and welding are to be used in tension components of a bridge whose failure could result in the collapse of the bridge (23 CFR pt. 650).	Mr. L. A. Herr or Mr. C. E. Hartbower 202-426-0428	NPRM October 1978.
Review: Highways for National Defense (FHPM 6-9-5).	This regulation would update and simplify requiremens. The regulation would essentially provide guidance in administering defense access-road funds where requirements differ from normal Federal-aid procedures. Defense-access funds are transferred from the Department of Defense for use on certain defense related or impacted roads (23 CFR pt. 660).	Emmett C. Kaericher, Jr. 202-426-0466	FR September 1978.
Review: Required Contract Provisions—Federal-aid Contract (FHPM 6-4-1-1).	This regulation would update and clarify revisions of the required contract provisions for Federal-aid construction contracts (23 CFR pt. 633).	K. L. Ziems 202-426-4847	FR October 1978.
Review: Contract Procedures (FHPM 6-4-1-6).	This regulation would simplify Federal-aid contract procedures (23 CFR pt. 635).	.....do	NPRM August 1978, FR October 1978.
Review: Contract and Force Account, Justifications Required for Force Account Work (FHPM 6-4-1-14).	This regulation would simplify procedures relating to Federal-aid construction work performed by other than competitively awarded contract (23 CFR pt. 635).	.....do	FR September 1978.
Review: General Material Requirements (FHPM 6-4-1-16).	This regulation would simplify procedures relating to general material requirements for Federal-aid construction work (23 CFR pt. 635).	.....do	FR October 1978.
Review: Physical Construction Authorization (FHPM 6-4-2-1).	This regulation would simplify procedures relating to authorization of the physical construction (23 CFR pt. 635).	.....do	Do.
Review: Sampling and Testing of Materials and Construction (FHPM 6-4-2-7).	This regulation would revise current procedures relating to sampling and testing of materials and construction in Federal-aid highway projects except those constructed pursuant to 23 U.S.C. 117 which deals with certification acceptance and projects constructed under direct supervison of the Federal Highway Administration (23 CFR pt 637).	Ross Martinez 202-426-0420	NPRM October 1978.
Review: Inspection of Federal-Aid Construction Projects (FHPM 6-4-2-8).	This regulation would prescribe the policies, procedures, and guides for inspection and approval of Federal-aid highway construction projects, except those constructed pursuant to 23 U.S.C. 117 which deals with certification acceptance (23 CFR pt. 637).	Donald Steinke 202-426-0436	NPRM December 1978.
Review: Landscape and Roadside Development (FHPM 6-2-5-1).	This regulation prescribes policies and procedures relating to highway landscaping and plant establishment, safety rest areas and information centers and systems, and scenic strips in connection with Federal-aid highway projects. Interim Final Regulations published in FEDERAL REGISTER May 5, 1978 (23 CFR pt. 752).	Ken Rickerson 202-426-0314	FR August 1978.
Review: Pedestrian Facilities and Bikeways.	This regulation strengthens the policy requiring consideration of pedestrian and bicycle facilities on all Federal-aid highway projects and specifies participation limits on bikeways on independent alignment. Final Regulation published in FEDERAL REGISTER April 27, 1978 (23 CFR pt. 652).	.....do	Action complete.
Review: Pavement Design Policy (FHPM 6-2-4-1).	This regulation would set forth general pavement design policy for Federal-aid highway projects including stage construction (23 CFR pt. 626).	Leon M. Noel 202-426-0327	FR September 1978.
Resurfacing, Restoration, and Rehabilitation (R-R-R) Work (FHPM 6-2-4-2).	This regulation would set forth policy and project procedures for implementing R-R-R provisions of the 1976 Federal-aid Highway Act.	.....do	FR November 1978.
Review: Skid Resistant Surface Design (FHPM 6-2-4-3).	This regulation would set forth pavement design policy as it pertains to skid resistance on Federal-aid highway projects.	.....do	NPRM January 1979.

FEDERAL HIGHWAY ADMINISTRATION—Continued

NONSIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
Pavement Type Selection and Alternate Bids (FHPM 6-2-4-4).	This regulation would set forth policy for the selection of pavement type on Federal-aid projects, and procedures to be used for bidding on more than 1 alternate.	.....do	NPRM March 1979.
Review: Design Standards for Highways (FHPM 6-2-1-1).	This regulation designates standards, specifications, policies, guides, and references that are acceptable for use on Federal-aid highway projects. Final Regulations published in FEDERAL REGISTER April 7, 1978 (23 CFR pt. 625).	Alvin R. Cowan 202-426-0312	Action complete.
Review: Plans, Specifications, and Estimates (FHPM 6-3-3-1).	This regulation would prescribe policies and procedures relating to the preparation, submission and approval of plans, specifications, and estimates and supporting documents for Federal-aid projects (23 CFR pt. 630).	.....do	NPRM September 1978.
Review: Traffic Operations Program to Increase Capacity and Service (TOPICS) (FHPM 6-8-2-2).	This regulation would propose a revision to shorten and simplify the regulations relating to the topics program (23 CFR pt. 655).	Chester F. Phillips 202-426-0323	FR September 1978.
Review: Traffic Control Devices on Federal-aid and Other Streets and Highways (FHPM 6-8-3-1).	This regulation would prescribe the policies and procedures of FHWA relative to obtaining basic uniformity in the visible features and functioning of traffic control devices on all highways open to public travel in accordance with the Manual on Uniform Traffic Control Devices for Streets and Highways (23 CFR pt. 655).	Donald P. Ryan 202-426-0411	FR October 1978.
Review: Motorist Aid Systems (FHPM 6-8-3-3).	This regulation would provide policies and procedures relating to motorist-aid systems on Federal-aid highways (23 CFR pt. 655).	Robert Hays 202-426-0411	Do.
Review: Traffic Surveillance and Control (FHPM 6-8-3-4).	This regulation would establish policies and procedures relating to the expenditure of Federal-aid funds for traffic surveillance and control measures and equipment to reduce congestion, improve traffic flow and increase safety (23 CFR pt. 655).	.....do	Do.
National Standards for Specific Information Sign (Docket No.: 77-6, FHPM 6-8-3-8).	This regulation would expand existing standards for specific information signs on the Interstate System and other freeways on the primary system to other primary highways as authorized by section 122(a), Federal-Aid Highway Act of 1976 (23 CFR pt. 655).	Donald P. Ryan 202-426-0411	FR January 1979.
Great River Road (FHPM 6-9-15)	This regulation would outline procedures to be followed in the funding, programing, and execution of a program for a national scenic and recreational highway in the Mississippi River Valley known as the Great River Road (23 CFR pt. 661).	V. Ciletti 202-426-0540	NPRM October 1978.
Review: Relinquishment of Highway Facilities (FHPM 6-1-1-8).	This regulation would prescribe Federal Highway Administration procedures relating to relinquishment of highway facilities (23 CFR pt. 620).	R. J. Kreklau or C. R. Green 202-426-0334	NPRM September 1978.
Certification Acceptance (FHPM 6-5-2).	This regulation which provides for instructions for preparation and acceptance of State certification proposals to accomplish the policies and objectives of 23 U.S.C. 117 would be amended to eliminate the requirement that States mark and submit State laws, regulations, etc., with a certificate acceptance request (23 CFR pt. 140).	C. R. Green 202-426-0334	FR September 1978.
Review: Reimbursement for Railroad Work (FHPM 1-4-3).	This regulation would prescribe policies and procedures on reimbursement to the States for railroad work done on projects undertaken pursuant to the provisions 23 CFR 646B (23 CFR pt. 140).	J. A. Carney 202-426-0104	NPRM December 1978.
Review: Utility Reclamation and Adjustment (FHPM 1-4-4).	This regulation would prescribe the policies and procedures for the adjustment and relocation of utility facilities on Federal-aid highway projects and projects under the direct supervision of the Federal Highway Administration (23 CFR pt. 145).	.....do	NPRM November 1978.
Review: Accommodation of Utilities (FHPM 6-6-2-3).	This regulation would prescribe policies and procedures for accommodating utility facilities on the rights-of-way of Federal and Federal-aid projects (23 CFR pt. 645).	.....do	Do.
Review: Railroad Highway Projects (FHPM 6-6-2-1).	This regulation would prescribe policies and procedures for advancing Federal-aid projects involving railroad facilities (23 CFR pt. 646).	.....do	NPRM December 1978.
Review: Federal Program Approval and Project Authorization (FHPM 6-3-2-2).	This regulation would prescribe policies and procedures for preparation and submission of programs for utilization of highway construction funds and describes authorization procedures FR issued August 11, 1978 (23 CFR pt 630).	V. Ciletti 202-426-0104	Action complete.
Review: Emergency Funds Procedure (FHPM 6-3-2-10).	This regulation would outline the procedures to be followed in the administration of emergency funds for the repair or reconstruction of Federal roads and Federal-aid highways damaged or destroyed by material disasters or catastrophic failures (23 CFR pt. 630).	.....do	FR October 1978.
Review: Public Lands Highways (FHPM 6-9-4-1).	This regulation would outline the procedures to be followed in administering funds authorized for Public Lands Highways (23 CFR pt. 660).	.....do	Do.
Review: Project Agreements (FHPM 6-3-1-1).	This regulation would prescribe the forms and procedures for the preparation and execution of the project agreement required by 23 U.S.C. 110(a) for Federal-aid projects (23 CFR pt. 630).	L. Pettigrew or C. R. Green 202-426-0334	NPRM December 1978.
Review: Exemption From Preparing Driver's Daily Logs for Operations Between Certain Fixed Locations (docket No. MC-70-2).	This regulation would propose to exempt certain drivers from preparing the driver's log when they operate between specified fixed locations or over the same route day after day within the allowable hours of service (49 CFR pt. 395).	Gerald J. Davis 202-426-9767	NPRM January 1979.
Review: Rear End Underride Protection (docket No. MC-77).	This regulation would propose to provide improved rear end protection on heavy motor vehicles manufactured after a certain date to prevent the underriding of vehicles which impact the rear of those vehicles (49 CFR pt. 393).	D. W. Morrison 202-426-1700	NPRM March 1979.

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FEDERAL HIGHWAY ADMINISTRATION—Continued

NONSIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
Review: 100-Mile Exemption—Driver's Logs (docket No. MC-78).	This regulation would propose to increase the present 50-mile radius exemption from the daily log requirement to a radius of 100 miles (49 CFR pt. 395).	Gerald J. Davis 202-426-9767	FR January 1979.
Toxic Gases in Truck Cabs (docket No. MC-80).	This regulation would set maximum toxic gas levels in truck cabs (49 CFR pt. 399).	....do	NPRM January 1979.
Ambient Temperature in Heavy Duty Truck Cabs (docket No. MC-81).	This regulation would set maximum permissible ambient temperature in truck cabs (49 CFR pt. 399).	....do	Do.
Review: Parts and Accessories Necessary for Safe Operations (docket No. MC-82).	This regulation would aline the Federal Motor Carrier Safety Regulations with the Federal Motor Vehicle Safety Standards of the National Highway Traffic Safety Administration to ensure manufacturing and operational compatibility (49 CFR pt. 393).	D. W. Morrison 202-426-1700	FR March 1979.
Air-brake System on Commercial Motor Vehicles—NHTSA Standard No. 121 (docket No. MC-83).	This regulation would require that any antilock system installed on the drive axle of truck tractors to comply with FMVSS No. 121 be kept operative. Comment period extended indefinitely as a result of order issued by 9th circuit court, U.S. Court of Appeals in the *ACCAR, et al. v. NHTSA* case (49 CFR pt. 393).	....do	FR February 1979.
Review: Multi-day Log (docket No. MC-69-2).	This regulation amends the existing regulation dealing with the hours of service of drivers by extending the use of the multiday log past June 1978. Amendment published in the FEDERAL REGISTER on July 7, 1978 extending effect of driver log to Sept. 30, 1978 (49 CFR pt. 395).	Gerald J. Davis 202-426-9767	Action complete.
Review: Relocation Assistance Moving Payments—Moving Expense Schedules (FHPM 7-5-3).	This regulation would set forth the FHWA approved moving expense schedules which are applicable to all residential moves necessitated by all Federal programs administered by all Federal agencies. These schedules are reviewed and updated by each State highway department on a semiannual basis and approved by FHWA prior to final publication in the FEDERAL REGISTER semiannually (49 CFR 25).	R. G. King 202-426-0116	FR October 1978, FR March 1979.
Vegetation Planting Obscuring Legal Outdoor Advertising Signs (77-13).	An ANPRM was planned to address the possibility FHWA prohibiting Federal-aid assistance in new landscape plantings that may now or in the future obscure legal outdoor advertising signs. This proposal is no longer considered necessary.	Ken Rickerson 202-426-0314	Action complete.
Employment and Materials Report PR-47 (FHPM 6-4-1-9).	This regulation would implement new reporting procedures for the collection data on usage of highway construction materials, supplies and labor.	I. Staron 202-426-0404	NPRM September 1978.
Roadway Drainage	This regulation would provide FHWA policy and procedures for the design of roadway drainage systems for conveying runoff from highways (23 CFR pt. 650).	Frank L. Johnson or Philip L. Thompson 202-426-7890	NPRM June 1979.
Uniform Criteria for Warning Devices at Railroad-Highway Grade Crossings.	This ANPRM would invite comments and would request information relative to the issuance of uniform nationwide criteria for the selection of various types of warning devices to be installed at railroad-highway grade crossings, ANPRM issued Aug. 10, 1978 (23 CFR pt. 646).	J. A. Carney 202-426-0104	NPRM August 1979.

FEDERAL RAILROAD ADMINISTRATION

SIGNIFICANT REGULATIONS

Title	Summary	Contact	Decision date
Improved Glazing Materials for Railroad Rolling Equipment (docket No. RSGM-1).	A. *Description:* Glazing materials that resist puncture by bullets and rocks are available. FRA is considering requiring the use of these materials in the windows of locomotives, passenger cars, and cabooses. B. *Why significant:* Anticipated degree of controversy based on the responses to the ANPRM and an initial identification of cost factors in comparison with benefits achievable under such a rule. C. *Regulatory analysis:* Will be required. D. *Need:* Increasing frequency of incidents in which rocks and bullets are being directed at trains resulting in personal injuries or death for train crews and passengers. E. *Legal basis:* The Federal Railroad Safety Act of 1970 (45 U.S.C. 431). F. *Chronology:* The ANPRM was published Mar. 10, 1977 (42 FR 13309). Subsequently, demonstration testing has been done at Aberdeen Proving Grounds to evaluate some of the potential materials. FRA is evaluating the responses to the ANPRM and the demonstration testing to determine future action. G. *Citation:* No CFR citation as yet.	Philip J. Brannigan, 202-426-9186	NPRM September 1978.
Strobe Lights on Locomotives (docket No. RSGC-2).	A. *Description:* Lighted warning devices that include strobe lights have been shown to be more readily visible than normal lighting devices. FRA is considering requiring the installation of strobe lights on locomotives. B. *Why significant:* Anticipated interest on the part of State and local governments; intensity of controversy over bad side effects from strobe light exposure for train crews and degree of controversy reflected by response to ANPRM. C. *Regulatory analysis:* Will be required. D. *Need:* Grade crossing accidents represent the single largest group of railroad related fatalities each year. Available data indicate that the conspicuity of locomotives may be a factor in many of these accidents. Limited research with one railroad has indicated that equipping locomotives with strobe lights will improve their conspicuity and may lead to a reduction in these accident statistics. E. *Legal basis:* The Federal Railroad Safety Act of 1970 (45 U.S.C. 431).	John A. McNally, 202-426-9178	NPRM September 1978.

FEDERAL RAILROAD ADMINISTRATION—Continued

SIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
Final Station Program Cost Sharing Determination (FRA Intercity Passenger docket No. 1).	F. *Chronology:* The ANPRM was published Mar. 7, 1978 (43 FR 9328). FRA is evaluating the responses to the ANPRM and is conducting a test program to obtain operational data concerning these devices. G. *Citation:* No CFR citations as yet. A. *Description:* Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.) provides for the upgrading by the Secretary of Transportation of the passenger railroad system between Washington, D.C., and Boston, Mass., including the funding of certain station improvements. Non-Federal parties will have to bear one-half of the cost of the nonoperational portions of stations (as determined by the Secretary) used in intercity passenger service and of related facilities. This notice would set forth the Department's proposed determination as to what will constitute a "nonoperational portion" of a station and a "related facility" for purpose of allocating station project costs between the Federal Government and other participating entities. B. *Why significant:* Anticipated great interest on the part of State and local transportation agencies due to the shared cost implication of the Secretary's determination. C. *Regulatory analysis:* None required. D. *Need:* Required by statute. E. *Legal basis:* Sec. 703(1)(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(1)(b)). F. *Chronology:* A proposed determination was published at 43 FR 18394 (Apr. 28, 1978). It had been under development since early 1977. G. *Citation:* No CFR citation as yet.	Christopher Moffitt, 202-464-7737	FR October 1978.

NONSIGNIFICANT REGULATIONS

Blue Signal Protection of Workmen (docket No. RSOR-3, notice 14).	The proposed rule seeks to amend the regulation to resolve various operational difficulties created by current regulatory language (49 CFR pt. 218).	John A. McNally, 202-426-9179	Revised NPRM August 1978.
Construction of Railroad Employees Sleeping Quarters (docket No. HS-2).	The final rule would implement congressional directive in Hours of Service Act (45 U.S.C. 62(a)(4)) making it unlawful to begin construction of sleeping quarters in the immediate vicinity of a railroad yard. FR issued July 19, 1978 (43 FR 31006).	Grady C. Cothen, 202-426-8285	Action complete.
Railroad Bridge Safety Standards	The proposed rule would establish safety standards for inspection and rating of load capacity for railroad bridges.	William R. Paxton, 202-426-0912	NPRM December 1978.
Railroad Noise Emission Compliance Regulations (docket No. RNE-1).	The proposed rule would amend FRA railroad noise emission compliance regulations to reflect EPA standards for fixed railroad facilities that are to be issued by Aug. 30, 1978 (49 CFR pt. 210).	John A. McNally, 202-426-9178	NPRM February 1979.
Locomotive-Wheel Slip/Slide Indicators (docket No. LI-4).	The final rule would require wheel slip/slide indicators on locomotives and that these devices be repaired immediately if they become defective in service (49 CFR pt. 230).	Philip J. Brannigan, 202-426-9186	FR September 1978.
Track Safety Standards	The proposed rule would seek to make technical amendments to track safety standards to reflect research results and experience with current standards. (49 CFR pt. 213).	William R. Paxton, 202-426-0912	NPRM September 1978.
Rules, Standards, and Instructions for Railroad Signal Systems.	The proposed rule would seek to make miscellaneous technical amendments to the signal inspection rules (49 CFR pt. 236).	....do	NPRM October 1978.
Signal Systems Reporting Rules	The proposed rule would seek to require the reporting of failures of active grade crossing warning devices (49 CFR pt. 233).	....do	Do.
Safety Standards for Cabooses (docket No. RSC-76-8).	The proposed rule would seek to establish comprehensive safety standards for cabooses.	Philip J. Brannigan, 202-426-9186	NPRM December 1978.
Noise Levels for Train Crew Members	This action would explore feasibility of reducing noise exposure for train crews in both locomotive cabs and cabooses.	John A. McNally, 202-426-9179	ANPRM January 1979.
Speed Indicators on Locomotives	This proposed rule would seek to amend existing locomotive inspection rules to require speed indicators on locomotives and to require their immediate repair if they become defective in service (49 CFR pt. 230).	Philip J. Brannigan, 2092-426-9186	NPRM October 1978.
Maintenance, Inspection and Testing of Grade Crossing Devices (docket No. RSGC-1).	This proposed rule would seek to establish standards for the inspection, testing and maintenance of active highway grade crossing of warning devices.	William R. Paxton, 202-426-0912	NPRM August 1978.
Procedures for Considering Environmental Impacts (docket No. EP-1).	This action would set forth procedures for the construction, preparation and processing of environmental impact statements and related documents for FRA actions.	Brigid Hynes-Cherin, 202-426-8220	FR September 1978.
Rail Service Assistance to States Under Section 5 of the DOT Act (FRA Economic docket No. 4).	This action would amend 49 CFR pt. 266 to provide guidelines for a more comprehensive application for substitute service assistance.	Larry A. Friedman, 202-426-7710	FR October 1978.
Rail Banking Under Section 810 of the 4R Act of 1976 (FRA State Rail docket No. 1).	This action would amend the interim rail bank regulations (49 CFR pt. 270) based upon comments received. Congressional action on S. 2981 would repeal the authorized legislation and eliminate the need for further action.	....do	Do.
Intermodal Terminal Regulations Amendments (FRA State Rail docket No. 2).	On May 2, 1978, the regulations were amended to exclude certain functions transferred by law out of DOT, and to extend the deadlines for filing of applications. Although the regulations were issued in final form, comments were solicited until July 1, 1978. As warranted, changes will be made on the basis of the comments received.	Julius Gonoza, 202-755-9332	FR September 1978.

FEDERAL RAILROAD ADMINISTRATION—Continued

ROUTINE AND FREQUENT NONSIGNIFICANT REGULATIONS

Title	Summary	Contact	Decision date
Rear Markers on Trains (docket No. RSRM-1).	This final rule would establish penalty schedules for violations of rear marker requirements (49 CFR pt. 221).	John A. McNally, 202-426-9179	FR November 1978.
Rules for Use of Radio in Train Operations (docket No. RSOR-5).	This final rule would establish penalty schedules for violations of radio rule requirements (49 CFR pt. 220).	....do	FR December 1978.
Safety Appliances for Freight Cars	The proposed rule would seek to establish Safety Appliance Standards for newly designed equipment (49 CFR pt. 231).	Philip J. Brannigan, 202-426-9186	NPRM January 1979.
Accident/Incident Reporting Rules (docket No. RAR-2).	The proposed rule would seek to amend the accident reporting requirements by changing the monetary damage threshold for accidents required to be reported to FRA. This is a biennial adjustment to account for price changes (49 CFR pt. 275).	John A. McNally, 202-426-9179	NPRM November 1978.
Freight Car Safety Standards	This proposed rule would seek to make technical amendments to existing Freight Car Safety Standards to eliminate various problem areas (49 CFR pt. 215).	Philip J. Brannigan, 202-426-9186	NPRM January 1978.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

SIGNIFICANT REGULATIONS

Uniform Tire Quality Grading System (docket No. 25).	A. *Description:* Grade tires on tread-life, wet traction and temperature resistance. An effective date for radial tires needs to be issued. B. *Why significant:* This rule is considered significant because of public interest. C. *Regulatory analysis:* Will not be required. D. *Need:* This regulation is congressionally mandated and the Agency is under court order requiring its issuance. E. *Legal basis:* National Traffic and Motor Vehicle Safety Act of 1966, as amended. Title II. sec. 203. 15 U.S.C. 1453. F. *Chronology:* NPRM (38 FR 6194) issued in 1973 and final rule issued in May 1975 (40 FR 23073). The rule was challenged by the domestic manufacturers but was upheld, except for remand for minor changes, by the sixth circuit court of appeals. Final rule establishing effective dates for bias and belted bias tires issued July 12, 1978. G. *Citation:* 49 CFR 575.	Michael Brownlee, 202-426-1740	FR March 1979, (radials).
Light Trucks Fuel Economy Rulemaking.	A. *Description:* Would set average fuel economy standards for model years 1982-84 light trucks. B. *Why significant:* The rule is considered significant because of the impact on the automotive industry, the public, and energy consumption. C. *Regulatory analysis:* Will be required. D. *Need:* Conservation of petroleum. E. *Legal basis:* Motor Vehicle Information and Cost Savings Act, as amended. 15 U.S.C. 2002. F. *Chronology:* None yet. G. *Citation:* 49 CFR pt. 533.	Richard Strombotne, 202-426-0846	NPRM March 1979.
Air Brake Systems (docket No. 75-16).	A. *Description:* Proposes a moratorium on the antilock requirements of FMVSS 121 for trailers and the establishment of a test program to determine the effects of antilock. B. *Why significant:* The rule is considered significant because of the level of public and congressional interest. C. *Regulatory analysis:* Will not be required. D. *Need:* In response to complaints from truck users about the safety and reliability of the antilock systems. E. *Legal basis:* National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1381 et seq.). F. *Chronology:* NPRM issued in March 1978 (43 FR 9626). The ninth circuit court of appeals, in April 1978, partially invalidated FMVSS 121. NHTSA has filed a petition for certiorari to the Supreme Court. The ninth circuit's ruling is stayed at least until the Supreme Court rules on the petition. The comment period on the NPRM was extended indefinitely by supplemental notice published June 8, 1978 (43 FR 24871). NHTSA will take appropriate action on this matter when the Supreme Court rules. G. *Citation:* 49 CFR pt. 121.	A. Malliaris, 202-426-0842	Dependent upon court actions.
Passenger Automobile Fuel Economy Rulemaking.	A. *Description:* Reevaluates average fuel economy standards for model years 1984 and 1985 passenger automobiles and would set average fuel economy standards for model year 1986 passenger automobiles. B. *Why significant:* The rule is considered significant because of the impact on the automotive industry, the public, and energy consumption. C. *Regulatory analysis:* Will be required. D. *Need:* Conservation of petroleum. E. *Legal basis:* Motor Vehicle Information and Cost Savings Act, as amended, 15 U.S.C. 2002. F. *Chronology:* None yet. G. *Citation:* 49 CFR 531.	Richard Strombotne, 202-426-0846	NPRM March 1979, FR December 1979.
Confidential Business Information	A. *Description:* Would codify existing method of processing confidential information from manufacturers. B. *Why significant:* This rule is considered significant because of the controversial nature of confidential business information. C. *Regulatory analysis:* Will not be required.	Joe Levin, 202-426-9511	FR November 1978.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION—Continued

SIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
	D. *Need:* To assure the manufacturer a more predictable process of information gathering and to streamline and speed up NHTSA use of data. E. *Legal basis:* National Traffic and Motor Vehicle Safety Act of 1966, as amended, and the Motor Vehicle Information and Cost Savings Act, as amended, 15 U.S.C. 1381; 15 U.S.C. 2002. F. *Chronology:* NPRM issued May 25, 1978 (43 FR 22412). G. *Citation:* 49 CFR 512.		

NONSIGNIFICANT REGULATIONS

School Bus Crash Protection (docket No. 73-03).	Would extend Federal Motor Vehicle Safety Standard (FMVSS) 222 to cover day-care center buses (49 CFR 571.222).	A. Malliaris 202-426-0842	NPRM September 1978.
Seat Belt Assemblies (docket No. 74-14).	Would improve seat belt comfort, convenience, reliability, and effectiveness by prescribing parameters for performance and dynamic testing of seat belt assemblies (49 CFR 571.208).	.....do	NPRM December 1978.
Child Restraint Systems (docket No. 74-9).	Would upgrade performance of all child restraints by performing dynamic tests using child and infant dummies; regulate infant restraints. NPRM issued May 10, 1978 (49 CFR 571.213).	.....do	FR October 1979.
School Bus Passenger Seating and Crash Protection (docket No. 73-03).	Would amend FMVSS 222 to increase the maximum allowable seat spacing in school buses from 20 to 21 inches; this spacing would accommodate large high school students while still ensuring a safe level of school bus seat performance (49 CFR 571.222).	.....do	FR November 1978.
School Bus Crash Protection (docket No. 73-03).	Would amend pt. 571.3 definitions to include a subclassification for "School Activities Bus" and amend FMVSS 222 as it would apply to this vehicle class (49 CFR 571.222).	.....do	NPRM July 1979.
Test Dummies Representing 3-year and 6-Month Old Children (docket No. 73-8).	Would provide specifications for dummies to be used in testing for compliance with FMVSS 213, child restraint systems, in conjunction with proposal to amend that standard to provide for dynamic testing and to extend its applicability. NPRM issued May 10, 1978 (49 CFR pt. 572).	.....do	FR October 1979.
Adjudicative Procedures—Fuel Economy.	Would establish procedures and rules of practice for adjudications to enforce the fuel economy provisions in title V of the Motor Vehicle Information and Cost Savings Act. This will be issued as an intermin regulation August 1978. The public will be invited to comment on the interim regulation. FR will be published December 1978.	Stephen Wood 202-426-2992	Interim regulation August 1978 FR December 1978.
Low Volume Manufacturers Fuel Economy Rulemaking (docket No. FE 76-04).	A rule may be proposed to refine the requirements regarding the contents of and procedures for disposition of petitions from low volume manufacturers for exemption and for establishment of alternative standards (49 CFR pt. 525).	Richard Strombotne 202-426-0846	NPRM November 1978.
Occupant Protection in Interior Impacts.	Would extend to trucks, buses, and multipurpose vehicles of 10,000 lbs or less, the current standard for passenger cars designed to cushion impact of passengers striking interior vehicle structures (49 CFR 571.201).	A. Malliaris 202-426-0842	NPRM September 1978.
Collapsible Steering Column	Extend to light trucks and possible upgrade (49 CFR 571.203).	.....do	Do.
Steering Control Rearward Displacement.	Extend to light trucks and possible upgrade (49 CFR 571.204).	.....do	Do.
Low Tire-Pressure Warning Indicator.	Would require a low pressure tire warning indicator on all vehicles which can be present to show a specified drop from recommended pressure (new).	.....do	NPRM December 1978.
Vehicle Exterior Protrusions	Would eliminate protrusions of the ornamental/identification type and sharp edges, both of which could cause injury to pedestrians, cyclists, and others (new).	.....do	NPRM September 1978.
Rearview Mirror (docket No. 74-20)	This technical amendment would modify the existing FMVSS 111 to improve compliance procedures, provide for optional plain and convex mirrors on trucks and upgrade heavy truck mirror systems (49 CFR 571.111).	.....do	NPRM January 1980.
Door Locks and Door Retention Components.	This technical amendment would clarify existing test procedures and extend the applicability of FMVSS 206 such that present side door requirements cover transverse rear doors (49 CFR 571.206).	.....do	NPRM December 1978.
Gross Coupling Weight Rating (docket No. 73-15).	An amendment to the regulations on certification (49 CFR 567) and of vehicles manufactured in 2 or more stages (49 CFR 568) would require labeling of the gross coupling weight rating for semitrailers.	Roger Compton 202-426-1767	FR September 1978.
Road Wheel Identification and Selection.	This proposal would establish certain requirements of wheel rims to reduce misapplication of wheels and thereby reduce accidents caused by radial overloading and cornering weakness (new).	A. Malliaris 202-426-0842	NPRM January 1979.
Fields of Direct View (docket No. 70-7).	This proposal would establish requirements for the maximum allowable size of obstructions in the field of view of drivers, the luminous transmittance of glazing, and the location and functional characteristics of sun visors (new).	.....do	NPRM August 1978.
Rear View Mirrors (docket No. 71-3a)	This proposal would amend FMVSS 111 to: (a) reduce the blind areas by upgrading mirror visibility using improved compliance testing procedures, (b) upgrade occupant protection requirements and add pedestrian protection requirements using shatter resistant and breakaway or foldaway tests, (c) set specifications for day-night reflectance requirements to reduce headlight glare, (d) set specifications for convex mirror quality and use, and (e) minimize obstruction of the forward view by establishing mirror location specifications (49 CFR 571.111).	.....do	Do.
Lamps, Reflective Devices, and Associated Equipment (docket No. 69-19).	This proposal will revise the minimum size requirement of lenses used on moped stop lamps. It is in response to a petition that the current requirements are excessively stringent (49 CFR 571.108).	.....do	NPRM October 1978.
Vehicle Identification Number (VIN) (docket No. 1-22).	This proposal would amend the VIN to extend its applicability and specify its content and format. NPRM issued Jan. 16, 1978 (49 CFR 571.115) FR issued Aug. 17, 1978.	.....do	Action complete.

V 43/184 SEP 21 1978

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION—Continued

NONSIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
Occupant Crash Protection (docket No. 74-14).	Permit the use of continuous spool release mechanism in passive belts. NPRM issued May 22, 1978 (49 CFR 571.208).	....do	FR September 1978.
Seat Belt Anchorages (docket No. 2-14).	Responds to petition to exempt passive belts from requirements regarding location of anchorages. NPRM issued May 26, 1978 (49 CFR 571.210).	....do	FR August 1978.
Hydraulic Brake Systems (docket No. 70-27).	This proposal would extend coverage of FMVSS 105-75 from passenger cars to multi-purpose vehicles, buses, and all trucks (49 CFR 571.105).	....do	NPRM July 1979.
Headlight Candlepower	This proposal would increase the maximum allowable candlepower of motor vehicle headlighting systems from 75,000 cp to 150,000 cp. It would also require an identification code for headlamps. FR published July 27, 1978 (43 FR 32416) (49 CFR 571.108).	....do	Action complete.
Brake System Inspectability	Would establish certain levels of brake degradation as unsafe and to establish test procedures and criteria for measurement. The ANPRM would request technological approaches (new).	....do	ANPRM January 1979.
Theft Protection (docket No. 1-21)	Would amend existing standards to require separate keys for doors and ignition, door lock modifications, internal control of hood latch, modification in ignition wiring and ignition key alarm. Would apply to passenger cars, light trucks and vans. NPRM issued May 1, 1978 (49 CFR 571.114).	....do	FR February 1979.
Controls and Displays (docket No. 1-18).	This rule requires the use of symbols and allow the use of additional words if the manufacturer desires. Symbols allowed would generally conform to those adopted by the international standards organization to create an internationally uniform scheme. FR issued June 21, 1978 (43 FR 27541) (49 CFR 571.101).	....do	Action complete.
Brake Hoses (docket No. 1-5)	This amendment to FMVSS 106 relieves several restrictions relating to assembly labelling requirements. FR issued May 11, 1978 (49 CFR 571.106).	....do	Do.
Fuel Economy Exemptions			
Exemption from and Establishment of Fuel Economy Standards (docket No. LVM 77-01).	Analysis of petition of exemption from 1978 standard and setting of alternative standard for Avanti Motor Corp. FR issued June 29, 1978 (49 CFR 525).	R. Strombotne 202-426-0840	Do.
Do	Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Avanti Motor Corp (49 CFR 525).	....do	NPRM September 1978, FR October 1978.
Exemption from and Establishment of Fuel Economy Standards (docket No. LVM 77-03).	Analysis of petition of exemption from 1978 standard and setting of alternative standard for Checker Motors NPRM issued June 8, 1978. FR issued Aug. 7, 1978 (43 FR 34785) (49 CFR 525).	....do	Action complete.
Do	Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Checker Motors (49 CFR 525).	....do	NPRM September 1978, FR October 1978.
Exemption from and Establishment of Fuel Economy Standards (docket No. LVM 77-02).	Analysis of petition for exemption from 1978 standard and setting of alternative standard for Rolls-Royce Motor, Inc. NPRM issued July 15, 1978 (43 FR 30081) (49 CFR 525).	....do	FR September 1978.
Do	Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Rolls-Royce Motors, Inc. (49 CFR 525).	....do	NPRM September 1978, FR December 1978.
Exemption from and Establishment of Fuel Economy Standards (docket No. LVM 77-04).	Analysis of petition for exemption from 1979-80 standards and setting of alternative standards for Aston Martin Lagonda. (49 CFR 525).	....do	NPRM October 1978, FR November 1978.
Exemption from and Establishment of Fuel Economy Standards (docket No. LVM 77-05).	Analysis of petition for exemption from 1978 standard and setting of alternative standard for Excalibur Automobile Corp. NPRM issued July 31 1978 (43 FR 33268) (49 CFR 525).	....do	FR September 1978.
	Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Excalibur Automobile Corp. (49 CFR 525).	....do	NPRM August 1978, FR October 1978.
Exemption from and Establishment of Fuel Economy Standards.	Analysis of petition for exemption from 1978 standard and setting of alternative standard for Lamborghini S.p.A. (49 CFR 525).	....do	NPRM August 1978, FR September 1978.
Do	Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Lamborghini, S.p.A. (49 CFR 525).	....do	NPRM December 1978, FR February 1979.
Do	Analysis of petition for exemption from 1978 standard and setting of alternative standard for Maserati S.p.A (49 CFR 525).	....do	NPRM August 1978, FR September 1978.
Do	Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Maserati, S.p.A. (49 CFR 525).	....do	NPRM November 1978, FR January 1979.

URBAN MASS TRANSPORTATION ADMINISTRATION

SIGNIFICANT REGULATIONS

Withdrawal of Interstate Segments and Substitution of Alternative Projects (docket No. 77-9).	A. *Description:* The regulations would implement secs. 103(e)(2) and 103(e)(4) of Title 23, U.S.C. sec. 103(e)(2) provides for the withdrawal of nonessential interstate routes and the substitution of alternative interstate routes. Sec. 103(e)(4) provides for the withdrawal of nonessential interstate routes and the substitution of other transportation projects, both highway and nonhighway. B. *Why significant:* There is substantial public interest and controversy concerning this proposal. C. *Regulatory analysis:* Will be required. D. *Need:* This regulation is needed to implement the provisions of 23 U.S.C. sec. 103 enacted in the 1976 Federal-aid Highway Act.	R. White, 202-472-6991	NPRM August 1978, FR December 1978.

URBAN MASS TRANSPORTATION ADMINISTRATION—Continued

SIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
	E. *Legal basis:* 23 U.S.C. 103(e)(2) and 103(e)(4). F. *Chronology:* The current substitution regulations were issued on June 12, 1974. The Federal-Aid Highway Act Amendments of 1974 and the Federal-Aid Highway Act of 1976 amended the original statutory provisions enacted by the Federal-Aid Highway Act of 1973. G. *Citation:* 23 CFR pt. 476 subpt. D, and pt. 450.		
Payback for Interstate System Withdrawals and Modifications.	A. *Description:* The regulations would prescribe the disposition and use of property acquired with Federal-aid funds for highway projects which are later modified, withdrawn, or terminated. They would also prescribe the requirements for repayment (payback) of Federal-aid funds expended on such projects. B. *Why significant:* There is substantial public interest and controversy concerning the withdrawal under 23 U.S.C., 103(e)(4) of routes designated after Aug. 13, 1973 and the question of payback. C. *Regulatory analysis:* Will be required. D. *Need:* This regulation is needed to implement the provisions of 23 U.S.C. 103 enacted in the 1976 Federal-Aid Highway Act, and the provisions of OMB Circular 102. E. *Legal basis:* 23 U.S.C. 103(e). F. *Chronology:* Proposed regulations on payback were issued on Nov. 17, 1975 (40 FR 53252). Sec. 110(b) of the Federal-Aid Highway. Act of 1976 required substantial changes in the proposed regulations. The proposed regulations were withdrawn by an ANPRM on Sept. 27, 1976 (41 FR 42221). New proposed regulations were published on Aug. 7, 1978 (43 FR 35008). G. *Citation:* 23 CFR pt. 476.	R. White, 202-472-6991	FR November 1978.
Section 3(e) Regulations	A. *Description:* Pursuant to sec. 3(e) of the UMT Act, UMTA plans to publish procedures regarding the involvement of private mass transit operators in federally assisted programs. B. *Why significant:* While these regulations would implement statutory requirements, this is a controversial issue for both the transit industry and private operators. C. *Regulatory analysis:* Will not be required. D. *Need:* To resolve an area of continuing controversy. E. *Legal basis:* Sec. 3(e) of the UMT Act. F. *Chronology:* NPRM to be prepared by November 1978. G. *Citation:* 49 CFR pt. 619.	Robert Batchelder, 202-426-1908	NPRM November 1978.
Paratransit Policy	A. *Description:* UMTA will publish a policy regarding the availability of Federal assistance for public and private operators in the provision of paratransit services. In addition, an ANPRM will be issued seeking comments on development of more specific guidelines concerning paratransit and the involvement of private operators in the planning and provision of service. B. *Why significant:* Any major policy regarding UMTA assistance such as this will be of public interest. C. *Regulatory analysis:* Will not be required. D. *Need:* To provide uniform guidance to public and applicants. E. *Legal basis:* The UMT Act, 49 U.S.C. 1601. F. *Chronology:* ANPRM to be prepared and issued by September 1978. G. *Citation:* None.	Douglas Birnie, 202-426-4060	NPRM September 1978.
Urban Transportation Planning Process, and Transportation Improvement Program.	A. *Description:* Revisions to these regulations may include: (1) Periodic rather than annual certification. (2) Elimination of narrative discussion on merging long-range and transportation systems management plan elements and inclusion of nonfederally funded project in the transportation improvement program. (3) Added flexibility in initiating and selecting highway projects. (4) Implementation of planning related aspects of the 1977 amendments to the Clean Air Act (NPRM August 1978). B. *Why significant:* These are significant regulations since they can substantially streamline transportation planning and would have substantial impact on FHWA. C. *Regulatory analysis:* Will not be required. D. *Need:* Continuing review has identified areas where added flexibility will not impair effectiveness. The air quality planning must be included in accordance with the DOT-EPA memoranda of understanding. E. *Legal basis:* 23 U.S.C. 104(f)(3), 134 and 315. F. *Chronology:* Following agreement with FHWA and EPA with respect to air quality, proposed regulatory changes will be prepared. G. *Citation:* 23 CFR pt. 450, subpts. A and C.	Urban Mass Transportation Administration, Bob Kirkland, 202-426-4991; Federal Highway Administration, Vincent Paparella, 202-426-2961	NPRM November 1978.
Environmental Procedures	A. *Description:* The Council on Environmental Quality will be issuing new procedures to implement the National Environmental Policy Act. These procedures will require all Federal agencies to implement new environmental regulations. B. *Why significant:* UMTA policy in this area may be expected to be of substantial interest to both UMTA grantees and the public. C. *Regulatory analysis:* Will not be required. D. *Need:* To provide uniform guidance to the public and applicants. E. *Legal basis:* NEPA, CEQ regulations, and DOT order 5610.1. F. *Chronology:* NPRM to be issued by January 1979. G. *Citation:* 49 CFR pt. 617.	Daniel Duff, 202-426-1907	NPRM January 1979.

V 4 3 / 1 8 4

URBAN MASS TRANSPORTATION ADMINISTRATION

SIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
Rural and Small Urban Public Transportation.	A. *Description:* Proposed regulation would implement proposed new transportation legislation providing for a continuing program of rural and small urban public transportation including operating subsidies. B. *Why significant:* The proposed new program involves FHWA and UMTA and impacts State and local transportation programs. C. *Regulatory analysis:* Will not be required. D. *Need:* The proposed regulation would implement legislation by providing for administration of the rural and small urban public transportation assistance program. E. *Legal basis:* Proposed legislation. F. *Chronology:* A DOT rural and small urban working group is now summarizing the policy issues for the proposed program. Field trips are now in progress for Federal officials to visit States and rural and small urban projects. The NPRM is to be published in November 1978. G. *Citation:* No CFR citation as yet.	UMTA, Lillian Liburdi 202-426-4050; FHWA, Donald Morin, 202-426-0210	NPRM November 1978.
NONSIGNIFICANT REGULATIONS			
Charter and School Bus Regulations (49 CFR Pt. 604 and Pt. 605).	These regulations provide more detailed information regarding the restrictions placed on charter and school bus operations in sec. 3(f) and 3(g) of the UMT Act, 49 U.S.C. 1601. UMTA has received considerable comment as a result of a NPRM dated Jan. 25, 1977, and it is now planning to issue another NPRM for comment.	Prentis Cook, 202-426-1906	NPRM October 1978.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Rules of Procedure of the Joint Review Board.	*Nonsignificant regulations:* Revision of joint United States-Canadian procedures for the appeal of the classification of a particular commodity under the joint Seaway tariff of tolls. FR Issued July 1978.(43 FR 30533).	Robert D. Kraft, 202-426-3574	Action complete.
Operational Regulations	*Routine and frequent:* Annual update of operational regulations developed for the most part jointly with Seaway Authority of Canada.	Frederick A. Bush, 315-764-0271	March 1979.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

SIGNIFICANT REGULATIONS

Highway Routing of Radioactive Materials.	A. *Description:* This regulation would establish routing requirements for the highway carriage of radioactive materials. B. *Why significant:* There is substantial public interest and controversy over the regulation and it would have significant impact on another operating administration. C. *Regulatory analysis:* Will not be required. D. *Need:* To generate public comments which will aid in deciding whether additional Federal routing requirements are necessary for the highway transportation of radioactive materials. E. *Legal basis:* 49 U.S.C. 1803, 1804, and 1808. F. *Chronology:* Administrative ruling: Published a public notice and invitation to comment on Aug. 15, 1977 (42 FR 41202); public hearing was held on Nov. 10, 1977 (42 FR 54487); ruling published Apr. 20, 1978 (42 FR 16954); rulemaking: targeted date of issuance of NPRM July 1979: targeted date of final rule, July 1980. G. *Citation:* 49 CFR pt. 177.	D. Crockett, 202-755-4972	ANPRM August 1978.
Development of New Standards for Transportation of Hazardous Waste Materials (Docket No. HM-145A).	A. *Description:* Would establish new standards and procedures for the transportation of hazardous waste materials. B. *Why significant:* This regulation would have a significant impact on the operating administrations and another Federal agency. C. *Regulatory analysis:* Will not be required. D. *Need:* These standards are necessary to govern the transportation of hazardous waste materials and to provide consistency with the hazardous waste materials regulations to be promulgated by EPA under the Resource Conservation and Recovery Act. E. *Legal basis:* (49 U.S.C. 1803, 1804, and 1808). F. *Chronology:* NPRM jointly developed with EPA, public hearing held on Oct. 26, 1977 (42 FR 51625); NPRM issued May 25, 1978 (43 FR 22626); public hearing on NPRM held on June 20, 1978 (43 FR 22626); targeted date of final rule to be issued March 1979. G. *Citation:* 49 CFR pts. 171, 172, 173, 174, 175, 178, and 177.	A. Roberts, 202-426-0656	FR March 1979.
Development of new standards for LNG facilities (docket No. OPSO-46).	A. *Description:* Comprehensive new standards would be proposed for the siting, design, construction, operation, and maintenance of LNG facilities. B. *Why significant:* There will be substantial public interest and controversy over this regulation. C. *Regulatory analysis:* Will not be required. D. *Need:* The concerns of Federal, State, and local agencies over LNG safety. E. *Legal basis:* 49 U.S.C. 1672.	P. Hammond, 202-426-0135	NPRM December 1978.

SE 21 78

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION—Continued

SIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
	F. *Chronology:* ANPRM (42 FR 20776) Apr. 21, 1977, closing date for comments December 1977. NPRM (siting and design) December 1978. NPRM (construction, operation, and maintenance) March 1979. Final rules (siting and design) August 1979. Final rules (construction, operation, and maintenance) December 1979. G. *Citation:* 49 CFR pt. 193 (new).		
NONSIGNIFICANT REGULATIONS			
Retrofit Program for DOT 112 and 114 Tank Cars (docket No. HM-144).	Consideration of possible changes in the current schedule to retrofit DOT 112 and 114 tank cars with safety devices. NPRM issued May 1976 (49 CFR pt. 179). FR issued July 1978 (43 FR 30057).	W. Black, 202-426-2748	Action complete.
Repairs and Maintenance of Vehicles (docket No. HM-110).	Would establish conditions under which repair and maintenance may be performed on motor vehicles containing hazardous materials (49 CFR 177.854).	J. Horning, 202-755-4902	FR August 1978.
Intermodal Portable Tank	Proposed standards for new specifications for portable tanks and procedures for use of these portable tanks for certain hazardous materials (new sections, pt. 178).	E. Altemos, 202-426-0656	NPRM September 1978.
Location of Manhole Assemblies and Certification Plates on Cargo Tanks (docket No. HM-136).	Would specify the location of a manhole assembly on a cargo tank and authorize the attachment of certification plates to an integral supporting structure of certain cargo tanks (49 CFR 178.337, 178.340).	J. Horning, 202-755-4902	FR August 1978.
Review: Recodification of radioactive requirements.	Proposed consolidation, simplification and recodification of the existing requirements applicable to the transportation of radioactive materials (new pt. 127).	R. Rawl, 202-426-2311	NPRM September 1978.
Blasting Agents (docket No. HM-143).	Proposed new standards for the transportation of blasting agents (49 CFR 173.98).	C. Schultz, 202-755-4906	FR September 1978.
Transportation of Asbestos (docket No. HM-160).	Proposed standards to control asbestos emissions during transportation (49 CFR 172.101, 173.1090).	A. Roberts, 202-426-0656	Do.
Safety Improvement Program for DOT 105 Tank Cars.	Consideration of possible changes to current safety performance standards of DOT 105 tank cars (49 CFR pt. 179).	W. Black, 202-426-2748	NPRM September 1978.
Color Coding of Compressed Gas Packages (docket No. HM-141).	Reconsideration of color standard to be applied to compressed gas cylinders as a safety measure (49 CFR pt. 172).	P. Seay, 202-755-4906	Withdrawal September 1978.
Commercial Detonators and Detonating Primers (docket No. HM-161).	Proposed standards for establishing appropriate shipping descriptions and hazard classifications for many detonators which are currently used in commercial service; NPRM issued May 1978 (49 CFR 172.101).	C. Schultz, 202-755-4906	FR October 1978.
Use of Metric System	Proposal to allow the use of metric system of measurements in place of the present U.S. liquid measure and the avoirdupois weight measurement. NPRM issued June 1978 (49 CFR 173.26).	A. Roberts, 202-426-0656	Do.
Cryogenic Liquids (docket No. HM-115).	Proposed standards and procedures for the transportation of cryogenic liquids (49 CFR 172.101, 173.316).	P. Seay, 202-755-4906	NPRM November 1978.
Operating Safety Concerns for Aircraft.	Proposed standards for the safe operation of aircraft having certain hazardous materials aboard (49 CFR pt. 175).	L. Metcalfe, 202-755-4902	Do.
Availability of Shipping Papers to Emergency Response Personnel.	Proposal to require shipping papers covering hazardous materials to be made available by train crew to emergency personnel (49 CFR 174.24).	J. Horning, 202-755-4902	Do.
Use of United Nations Materials Shipping Terminology/Numbers.	Proposed incorporation of shipping descriptions and serial numbers from United Nations regulations covering the transport of dangerous goods (49 CFR 172.101).	E. Altemos, 202-426-0656	NPRM December 1978.
Definition of a Flammable Solid (docket No. HM-118).	Proposed new standards for classifying a material as a flammable solid (49 CFR 173.150)	C. Schultz, 202-755-4906	NPRM March 1979.
Radiation Exposure of Transportation Workers.	Consideration of methods which will reduce radiation exposure levels to transportation workers (new sections).	R. Rawl, 202-426-2311	Do.
Requirements for Radioactive Materials (docket No. HM-152).	Proposed revision of certain sections of pt. 175 which will reduce the exposure to radioactive materials for passengers aboard aircraft (49 CFR pt. 175).	do	FR January 1979.
Forbidden Materials (docket No. HM-159).	Proposed standards to add the names of materials to the hazardous materials table that are known to be too hazardous to be permitted in commercial transportation (49 CFR 172.101).	C. Schultz, 202-755-4906	NPRM February 1979.
Review: Recodification of Operating Procedures for Motor Vehicles.	Proposed simplification and recodification of the existing operating procedures for transportation of hazardous materials by motor vehicles as prescribed in pt. 177 (49 CFR pt. 177).	D. Goodman, 202-426-1700	NPRM March 1979.
Revision of Certain Requirements Applicable to Radioactive Materials.	Proposal to require labeling of excepted radioactive materials packages and notation on shipping papers regarding losses of radioactive shipments. This proposal has been reconsidered; no regulations are being developed.	A. Grella, 202-426-2311	Action complete.
Qualification and Design of Steel Pipe (docket No. 77-10).	The manufacturing and design requirements for steel pipe (including grade X-70) in the 1977 editions of API5LX and API 5LS would be incorporated by reference. FR issued May 1978 (49 CFR pts. 192, 195).	P. Cory, 202-426-2082	Do.
Safety Plans for Normal Operations and Emergencies for Pipelines Carrying Highly Volatile Liquids, e.g., LPG/NH$_3$ (49 CFR pt. 195) (project No. 175-7).	Criteria would be proposed to govern a carrier's plans for preventing and handling emergencies for pipelines carrying highly volatile liquids (LPG/NH$_3$).	do	NPRM August 1978.
Standards to Reduce Spill Size Risks, Associated with Pipeline Transportation of Highly Volatile Liquids Such as Liquid Petroleum Gas (project No. 173-7).	Valve spacing or other requirements would be proposed to minimize the amount of commodity or vapor that can spread into populated areas in event of a spill (49 CFR pt. 195).	F. Robinson, 202-426-2082	NPRM August 1978.

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RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION—Continued

NONSIGNIFICANT REGULATIONS—continued

Title	Summary	Contact	Decision date
Joining and Testing Plastic Pipe (project No. 178-8).	Requirements involving joining procedures, personnel training, or field tests would be proposed to assure the integrity of plastic pipe joints (49 CFR pt. 192).	P. Cory, 202-426-2082	NPRM September 1978.
Standards to Reduce Pipeline Failure Rates in Pipelines Carrying Highly Volatile Liquids (LPC/NH_3) (project No. 52-41).	Testing or operating requirements would be proposed to assure the safe operation of existing pipeline transporting highly volatile liquids (49 CFR pt. 195).	G. Mocharko, 202-426-2082	NPRM October 1978.
System Failure Warning (docket No. OPS-29).	Advance notice of proposed rulemaking on use of telemetry for pressure or flow measurements to warn of system failure would be withdrawn (49 CFR pt. 192).	L. Furrow, 202-426-0135	Withdrawal September 1978.
Definition of "Gathering Line" (docket No. OPS-31).	Notice of proposed rulemaking to redefine the term "gathering line" would be withdrawn (49 CFR pt. 192).	....do....	Do.
Corrosion Control (project No. 176-7).	Changes would be proposed to current cathodic protection requirements to alleviate compliance burdens (49 CFR pt. 192).	G. Mocharko, 202-426-2082	NPRM August 1978.
Requirements for Reporting Gas Incidents (docket No. OPS-49).	The present reporting forms would be revised to provide additional and more appropriate information about gas safety problems and to require reports from certain systems not now covered. NPRM issued June 1978 (49 CFR pt. 191).	A. Garcia, 202-426-2082	FR November 1978.
ROUTINE AND FREQUENT NONSIGNIFICANT REGULATIONS			
Conversion of Individual Exemptions to Regulations of General Applicability (docket No. HM-139).	NPRM approximately every 3 mo.; with FR targeted approximately 2 mo. thereafter.	D. Raines, 202-755-4963	June 1978 to June 1979.
Minor Regulatory Adjustments to Regulations of General Applicability (docket No. HM-DOD).	NPRM approximately every 4 mo.; with FR targeted approximately 2 mo. thereafter.	....do....	June 1978 to June 1979.
Matter Incorporated by Reference (docket No. HM-22).	NPRM every 6 mo.; with FR targeted 2 mo.; thereafter.	J. Horning, 202-755-4902	June 1978 to June 1979.
Withdrawal of certain delegations of authority to the Bureau of Explosives (docket No. HM-163).	Prior responsibilities delegated to the Bureau of Explosives would be withdrawn in series of rulemaking actions. NPRM every 3 mo.; with FR targeted 2 mo. thereafter.	D. Raines, 202-755-4963	June 1978 to June 1979.

DEPARTMENT OF TRANSPORTATION, REGULATIONS REVIEW LIST

U.S. COAST GUARD

REVIEWS UNDER CONDITION

Regulations selected for review	Reasons for selection	Contact	Decision date
Charges for duplicate medals and sales of personal property, equipment, or services and rental (33 CFR 1.26).	Length of time since last evaluated; changing economic factors.	Mr. A. Bell, 202-426-1863	October 1978.
Delegation of authority (33 CFR 1.01).	Section is out-of-date and will be reviewed for possible consolidation with other related sections	Mr. B. Novak, 202-426-2299	Do.
Regulations, U.S. Coast Reserve (33 CFR pt. 8).	Length of time since last evaluated; need to reflect changed procedures.	Capt Grover, 202-426-2348	December 1978.
Boating safety: Equipment requirements—personal flotation devices (33 CFR 175.15).	Length of time since last evaluated; research and development project initiated to determine need for carriage regulations revision.	Lt Gauthier, 202-426-4176	August 1980.
Boats and associated equipment: Safe loading (33 CFR pt. 183, subpt. C).	Length of time since last evaluated; standards may not be effective for all boats to which these regulations apply.	Mr. L. Gray, 202-426-4027	January 1979.
Boats and associated equipment: Safe powering (33 CFR pt. 183, subpt. D).	....do....	....do....	January 1980.
Boats and associated equipment: Flotation Standards (33 CFR pts. 90-105).	Length of time since last evaluated; standards may be limited in applicability.	....do....	August 1980.
Marine investigation regulations (46 CFR pt. 4).	Being reviewed for purposes of simplification, clarification, and accuracy. Review completed on June 1978, and no revision is planned.	CDR Whaley, 202-426-1455	
Suspension and revocation proceedings (46 CFR pt. 5).	....do....	Ldr O'Pezio, 202-426-2215	
Vessel inspection (46 CFR pt. 2).....	Being reviewed for purposes of simplification, clarification, and accuracy.	Ldr Anderson, 202-426-2183	December 1978.
Regattas and marine parades (33 CFR pt. 100).	Length of time since last evaluated; survey of district commanders will determine whether changes in existing regulations are needed.	Lt Gauthier, 202-426-4176	Do.
	FEDERAL AVIATION ADMINISTRATION		
	REVIEWS UNDER CONSIDERATION		
Objects affecting navigable airspace (14 CFR pt. 77).	These regulations were selected for review to determine whether the requirements for evaluation of objects intruding into the navigable airspace need to be clarified and to determine the FAA's proper role and functions in obstruction evaluation. A decision was made to proceed with regulatory development. For further information regarding this item see the FAA's portion of the agenda for nonsignificant regulations.	O. E. Falsetti, 212-426-8777	
Rotorcraft review.....	These regulations were selected for review to determine the need for (1) developing IFR airworthiness standards for rotorcraft certification, and (2) improving and updating the rotorcraft airworthiness requirements and operating regulations.	Joe Sullivan, 212-755-8716	October 1978.
	FEDERAL HIGHWAY ADMINISTRATION		
	REVIEWS UNDER CONSIDERATION		
	FHWA has conducted, since 1977, reviews of all the regulations in the Federal-aid highway program manual and the Federal motor carrier safety regulations. The reviews have been completed. There are, consequently, no reviews currently under consideration. The FHWA portion of the agenda lists those regulatory actions that will be taken in the next 12 mos. as a result of the reviews.	Dennis Judycki, 202-426-0848	
	FEDERAL RAILROAD ADMINISTRATION		
	REVIEWS UNDER CONSIDERATION		
General safety inquiry.....	FRA has initiated a general railroad safety inquiry to obtain information from the public to assist in evaluating and improving the effectiveness of its safety regulatory program. A series of public hearings, each focused on a single regulatory topic covered by FRA regulations, will be held throughout the remainder of 1978. See 43 FR 19696 for a listing of the topics to be covered and the hearing dates.	Rolf Mowatt-Larssen, 202-426-0924	Completion December 1978.
Freight car safety standards (49 CFR pt. 215).	A large number of complaints and petitions have been received relative to these regulations. The railroad industry alleges that parts of these regulations are not truly safety requirements. Amendments could incorporate new safety requirements based on laboratory and service tests as well as operating experience.	Philip J. Brannighan, 202-426-9186	Completion June 1979.
Guarantee of certificates of trustees of railroads in reorganization (pursuant to the Emergency Rail Services Act of 1970) (49 CFR pt. 250).	This program is likely to become active again due to the July 1, 1978 repayment of $50 million in trustee certificates by the Penn Central trustees. The regulations will be reviewed to determine whether the information requirements should be modified to make them consistent with the regulation issued under FRA's other loan guarantee program. (49 CFR pt. 260).	Robert Vermut, 202-426-7737	August 1978.

FEDERAL RAILROAD ADMINISTRATION—Continued
REVIEWS UNDER CONSIDERATION—continued

Regulations selected for review	Reasons for selection	Contact	Decision date
Nondiscrimination on federally assisted railroad programs (49 CFR pt. 265).	In working with the "sec. 905" regulations regularly for a year or more, FRA has found that there are inconsistencies in definitions compared with other Federal regulations and programs concerned with barring discrimination against minorities. Further, although the regulations cover the northeast corridor improvement project ("NECIP"), they are not written to accommodate a construction contract program, making application of the regulations to the NECIP needlessly cumbersome and difficult. Further, consideration is being given to developing criteria for determining "bona fides" of minority businesses.	Rufus Watson, 202-472-5438	September 1978.
Loans under the Emergency Rail Facilities Restoration Act (49 CFR pt. 252).	The programs to which these regulations apply have accomplished their purpose and been terminated. Termination notice issued June 1978.	Jeffery Mercer, 202-426-7737	Action complete
Payments to trustees of railroads in reorganization for the continued provision of essential transportation services pursuant to sec. 213(a) of the Regional Rail Reorganization Act of 1973 (49 CFR pt. 253).	....do	....do	Do.
Agreements pursuant to sec. 215 of the Regional Rail Reorganization Act of 1973 (49 CFR pt. 254).	....do	....do	Do.
Acquisition and modernization loan assistance (49 CFR pt. 257).	The authority for these regulations is found in secs. 402 and 403 of the Regional Rail Reorganization Act of 1973. Those sections were repealed as of Apr. 1, 1978, pursuant to sec. 806 of the Railroad Revitalization and Regulatory Reform Act of 1976. This program has never been funded and is inactive. Termination notice issued June 1978.	Patrick O'Driscoll, 202-426-7710	Do.
Assistance to State, local and regional transportation authorities in the northeast region for continuation of local rail services (49 CFR pt. 255).	Sec. 402 of the Regional Rail Reorganization Act of 1973 was repealed as of Apr. 1, 1978. Because grants entered into prior to Apr. 1, 1978 are still in effect and subject to the regulations, a determination will be made as to when 49 CFR pt. 255 will be repealed after the grants have expired.	Larry Friedman, 202-426-7710	Expiration of sec. 402 grants—June 1981.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
REVIEWS UNDER CONSIDERATION

Air brakes (49 CFR 571.121)	Cost, safety benefits, and public interest	Frank Ephraim, 202-426-1574	April 1979.
Hydraulic brakes (49 CFR 571.105)	Cost and safety benefits	....do	December 1980.
Lamps, reflective devices and associated equipment (49 CFR 571.108).	....do	....do	Do.
Motorcycle brakes (49 CFR 571.122)	....do	....do	Do.
Head restraints (49 CFR 571.202)	Costs	....do	Do.
Seating systems (49 CFR 571.207)	....do	....do	Do.
Child seating systems (49 CFR 571.213).	Public interest	....do	Preliminary review December 1980.
Occupant protection (49 CFR 571.213).	Cost, safety benefits, and public interest	....do	Do.
Active belts			August 1979.
Passive belts			Preliminary review April 1976.
Air cushion restraint or other passive systems.			Preliminary review 1985.
Side door strength (49 CFR 571.214)	Public interest	Frank Ephraim, 202-426-1574	August 1979.
Exterior protection (49 CFR 571.215 and 49 CFR pt. 581).	Cost and public interest	....do	April 1980.
Fuel system integrity (49 CFR 571.301).	Cost, safety benefits, and public interest	....do	August 1978.
School bus protection (49 CFR 571.220).	Public interest	....do	Preliminary review December 1980.
School bus body joint strenght (49 CFR 571.221).	....do	....do	Do.
School bus seating system (49 CFR 571.222).	....do	....do	December 1980.

URBAN MASS TRANSPORTATION ADMINISTRATION
REVIEWS UNDER CONSIDERATION

Charter and school bus regulations (49 CFR pt. 604 and pt. 605).	UMTA has received considerable comment as a result of a NPRM dated Jan. 25, 1977, and it is now planning to issue another NPRM for comment. For further information see the UMTA portion of the agenda for nonsignificant regulations.	Prentis Cook, 202-426-1906	NPRM October 1976.

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION
REVIEWS UNDER CONSIDERATION

Regulations selected for review	Reasons for selection	Contact	Decision date
Rules of procedure of the Joint Tolls Advisory Board (33 CFR pt. 403).	Recent agreement between United States and Canada changed role of this bilateral committee. Rules of procedure to be changed to reflect this. Review completed. Final rule published July 1978. For further information see SLSDC portion of the agenda for nonsignificant regulations.		

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
REVIEWS UNDER CONSIDERATION

Shippers—general requirements for shipments and packagings (49 CFR pt. 173):			
Matches (49 CFR 173.176)	Due to inquiries requesting an interpretation of this section and to eliminate the possibility of noncompliance based on a misunderstanding of the requirements, there is a need to simplify and clarify present standards.	J. Nalevanko, 202-755-4904	January 1979.
Electric storage batteries, wet (49 CFR 173.360).	....do	....do	February 1979.
Charcoal (49 CFR 173.162)	....do	....do	Do.
Welding of steel in gas pipelines (49 CFR pt. 192, subpt. E).	Present requirements to be examined in light of changes in technology.	....do	December 1979.
Maintenance of gas pipelines (49 CFR pt. 192, subpt. M).	The performance required by the maintenance standards needs clarification as indicated by extent of interpretations generated by these standards.	....do	Do.

[FR Doc. 78-26053 Filed 9-20-78; 8:45 am]

THURSDAY, SEPTEMBER 21, 1978

V 43 / 184 SE 21 78

federal register

THURSDAY, SEPTEMBER 21, 1978
PART III

DEPARTMENT OF STATE

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits to Fish off Coast of U.S.

V 43/184 SE 21 78

NOTICES

[4710-09]

DEPARTMENT OF STATE

[Public Notice 627]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the fishery conservation zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Applications for fishing during 1978 have been received from the Governments of Japan, the Polish People's Republic, and the Socialist Republic of Romania, and are published herewith.

Dated: September 12, 1978.

BRIAN S. HALLMAN,
Acting Director,
Office of Fisheries Affairs.

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. JA-78-0380

1. Name of Vessel TAIYO MARU NO.83 2. Visual Identifier (Call Sign) JIGP
3. Type of Vessel STERN TRAWLER 4. Length 74 M
5. Gross Tonnage 1,246 M.T. 6. Net Tonnage 535 M.T. 7. Speed (knots) Maximum 13
8. Owner's Name and Address TAIYO FISHERY CO.,LTD
1-5-1, MARUNOUCHI, CHIYODA-KU, TOKYO,100,JAPAN
9. Types of Processing Equipment FLASH FREEZER, HEADER,
10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
NWA	LONG-FINNED SQUID	BOTTOM TRAWL	X	X	
		MID-WATER TRAWL	X	X	
		OFF-THE BOTTOM TRAWL	X	X	
	SHORT-FINNED SQUID	BOTTOM TRAWL	X	X	
		MID-WATER TRAWL	X	X	
		OFF-THE BOTTOM TRAWL	X	X	
	BUTTER FISH	BOTTOM TRAWL	X	X	
		MID-WATER TRAWL	X	X	
		OFF-THE BOTTOM TRAWL	X	X	
	OTHER FINFISH	BOTTOM TRAWL	X	X	
		MID-WATER TRAWL	X	X	
		OFF-THE BOTTOM TRAWL	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) NO. JA-78-1286

1. Name of Vessel FUKUYOSHI MARU NO. 2 2. Vessel Identifier (Call Sign) JNUP
3. Type of Vessel Longliner 4. Length 51
5. Gross Tonnage 300 6. Net Tonnage 152 7. Maximum Speed (knots) 13.372
8. Owner's Name and Address FUKUYOSHI MARU GYOGYO CO., LTD
3-2-3 HAMATOME YAIZU-SHI SHIZUOKA-KEN
9. Types of Processing Equipment Flash Freezer
10. Fisheries for Which Permit is Requested:

Fishery	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
ABS	Billfishes	Pelagic longline	X		
	Sharks	Pelagic Longline	X		

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) NO. JA-78-1285

1. Name of Vessel FUKUYOSHI MARU NO. 1 2. Vessel Identifier (Call Sign) JLGP
3. Type of Vessel Longliner 4. Length 50 M
5. Gross Tonnage 285 6. Net Tonnage 150 7. Maximum Speed (knots) 13.116
8. Owner's Name and Address FUKUYOSHI MARU GYOGYO CO., LTD.
3-2-3 HAMATOME YAIZU-SHI SHIZUOKA-KEN
9. Types of Processing Equipment Flash Freezer
10. Fisheries for Which Permit is Requested:

Fishery	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
ABS	Billfishes	Pelagic longline	X		
	Sharks	Pelagic Longline	X		

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) NO. JA-78-1287

1. Name of Vessel SHOSHIN MARU NO. 82 2. Vessel Identifier (Call Sign) JRWE
3. Type of Vessel Longliner 4. Length 49
5. Gross Tonnage 300 6. Net Tonnage 145 7. Maximum Speed (knots) 12
8. Owner's Name and Address MARUKICHI CO., LTD.
17-17 KONAKANO 8 CHOME HACHINOHE-SHI AOMORI-KEN
9. Types of Processing Equipment Flash Freezer
10. Fisheries for Which Permit is Requested:

Fishery	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
ABS	Billfishes	Pelagic longline	X		
	Sharks	Pelagic Longline	X		

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

V 43 / 184 SE 21 78

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) NO. JA-78-1288

1. Name of Vessel KYOSHIN MARU NO.61 2. Vessel Identifier (Call Sign) JRVC
3. Type of Vessel Longliner 4. Length 46.15
5. Gross Tonnage 344 6. Net Tonnage 173 7. Maximum Speed (knots) 11.5
8. Owner's Name and Address HAMADA SUISAN CO., LTD. 302 OOSATO ICHIKI-CHO HIOKI-GUN KAGOSHIMA-KEN
9. Types of Processing Equipment Flash Freezer

10. Fisheries for Which Permit is Requested:

Fishery	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
ABS	Billfishes	Pelagic longline	X		
	Sharks	Pelagic Longline	X		

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) NO. JA-78-1289

1. Name of Vessel OTORI MARU NO. 8 2. Vessel Identifier (Call Sign) JNZW
3. Type of Vessel Longliner 4. Length 49 M
5. Gross Tonnage 299 6. Net Tonnage 157 7. Maximum Speed (knots) 13.812
8. Owner's Name and Address KOICHI YAMADA 4382 MUROTOMISAKI-CHO MUORTO-SHI KOCHI-KEN
9. Types of Processing Equipment Flash Freezer

10. Fisheries for Which Permit is Requested:

Fishery	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
ABS	Billfishes	Pelagic longline	X		
	Sharks	Pelagic Longline	X		

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. PL-78-0027

1. Name of Vessel M/S KASSUBY-2 2. Vessel Identifier (Call Sign) SQGG
3. Type of Vessel Refrigerated transport - Vessel 4. Length 151.35
5. Gross Tonnage 8032 6. Net Tonnage 3885 7. Maximum Speed (knots) 19
8. Owner's Name and Address Deep Sea and Fish Handling Co. "Transocean" Odrowaza Street 1, Szczecin, Poland
9. Types of Processing Equipment NOW

10. Fisheries for Which Permit is Requested:

Fishery/Plant	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
WOC	Pacific hake				X
	Jack mackrel				X
GOA	Pollock				X
	Atka mackrel				X
	Pacific cod				X
	Flounders				X
	Other ground fish				X
	Pacific ocean perch				X
	Sable fish				X
	Rock fish				X
	Squid				X

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) NO. RO-78-0007

1. Name of Vessel CARAIMAN 2. Vessel Identifier (Call Sign) YQPR
3. Type of Vessel STERN TRAWLER 4. Length 84 meters
5. Gross Tonnage 2681 6. Net Tonnage 1067 7. Maximum Speed (knots) 13
8. Owner's Name and Address I.P.O.-TULCEA - frigorifer portuar street No. 1 -TULCEA - ROMANIA
9. Types of Processing Equipment header, skinner, plate freezers, freezing tunnel fish meal, fish oil

10. Fisheries for Which Permit is Requested:

Fishery	Target Species	Gear To Be Used	Activity: Catching	Processing	Other Support
NWA	Silver Hake	MIDWATER TRAWL OR OFF BOTTOM TRAWL	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

[FR Doc. 78-26269 Filed 9-20-78; 8:45 am]

federal register

THURSDAY, SEPTEMBER 21, 1978
PART IV

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

LATE SEASONS, AND BAG AND POSSESSION LIMITS FOR CERTAIN MIGRATORY GAME BIRDS IN THE UNITED STATES

V 4 3 / 1 8 4 SE 2 1 7 8 V

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 20—MIGRATORY BIRD HUNTING

Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the late open seasons, shooting hours, areas, and bag and possession limits for certain migratory game birds, i.e., general waterfowl seasons; special seasons for scaup and goldeneyes; extra scaup and blue-winged teal in regular seasons; most sandhill crane seasons in the Central Flyway; coots, gallinules, and snipe in the Pacific flyway; and additional falconry seasons. The taking of the designated species of migratory birds is prohibited unless open hunting seasons are specifically provided. The rules will permit taking of the designated species within specified periods of time beginning as early as September 30, as has been the case in past years, and benefit the public by opening the seasons which are presently closed.

EFFECTIVE DATE: September 21, 1978.

FOR FURTHER INFORMATION CONTACT:

John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C., telephone 202-254-3207.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

The annual process for developing migratory game bird hunting regulations is divided into those for "early" seasons and those for "late" seasons. Early seasons include those which open before September 30, while late seasons open on or after September 30. Regulations are developed independently for early and late seasons. The early season regulations cover mourning doves, white-winged doves, band-tailed pigeons, rails, gallinules, woodcock, common snipe, sea ducks in the Atlantic Flyway, teal in September in the Central and Mississippi Flyways, sandhill cranes in North Dakota and South Dakota, doves in the Virgin Islands and Hawaii, all migratory game birds in Puerto Rico and Alaska, and some special falconry seasons. Late seasons include the general waterfowl seasons; special seasons for scaup and goldeneyes; extra scaup and blue-winged teal in regular seasons; most sandhill crane seasons in the Central Flyway; coots, gallinules, and snipe in the Pacific Flyway; and additional special falconry seasons.

Certain general procedures are followed in developing regulations for both the early and the late seasons. Initial regulatory proposals are first announced in a FEDERAL REGISTER document in mid-February, and opened to public comment. As additional information becomes available, and comments on the initial proposals are received and considered, supplemental proposed rulemakings are published in the FEDERAL REGISTER. At the terminatin of the comment periods and following a public hearing, the Service develops and publishes the proposed frameworks for times of seasons, season lengths, shooting hours, daily bag and possession limits, and other regulatory restraints or options. Following another public comment period and after consideration of additional comments, the Service publishes in the FEDERAL REGISTER the final frameworks. Using these frameworks, State conservation agencies select hunting season dates and offered options. States may select more restrictive seasons and options than those offered in the Service's frameworks. The final regulations, reflected in amendments to Subpart K of 50 CFR Part 20 then appear in the FEDERAL REGISTER, and become effective upon publication.

This year the process was implemented as follows. On February 14, 1978, the Service published for public comment in the FEDERAL REGISTER (43 FR 6275) proposals to amend 50 CFR Part 20, with a comment period ending May 16, 1978. That document dealt with the establishment of seasons, limits, and shooting hours for migratory birds under §§ 20.101 through 20.107 of subpart K. On May 25, 1978, the Service published for public comment in the FEDERAL REGISTER (43 FR 22421) the second document in the series consisting of supplemental proposed rulemaking dealing specifically with a number of additional or modified proposals and clarification or correction of minor portions of the earlier document. On June 28, 1978, the Service also published for public comment in the FEDERAL REGISTER (43 FR 28012) the third document in the series consisting of supplemental proposed rulemaking dealing specifically with proposed frameworks for early season migratory bird hunting regulations from which, when finalized, States could select season dates and daily bag and possession limits for the 1978-79 season. On June 30, 1978, the Service published in the FEDERAL REGISTER (43 FR 28499) the fourth document in the series consisting of final rulemaking dealing specifically with final frameworks from which wildlife conservation agency officials in Alaska, Puerto Rico, and the Virgin Islands could select season dates for hunting certain migratory birds in Alaska, Puerto Rico, and the Virgin Islands during the 1978-79 season. On July 24, 1978, the Service published in the FEDERAL REGISTER (43 FR 32098) the fifth document in the series consisting of final rulemaking dealing specifically with final frameworks for early season migratory bird hunting regulations in all States during the 1978-79 season from which States selected early season dates and daily bag and possession limits for the 1978-79 season. On August 11, 1978, the Service published in the FEDERAL REGISTER (43 FR 35900) the sixth document in the series consisting of final rulemaking amending subpart K of 50 CFR Part 20 to set open hunting seasons, certain closed areas, shooting hours and bag and possession limits for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic Flyway; sandhill cranes in designated portions of North Dakota and South Dakota; and migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands. On August 11, 1978, the Service also published for public comment in the FEDERAL REGISTER (43 FR 35890) the seventh document in the series consisting of supplemental proposed rulemaking dealing specifically with proposed frameworks for late season migratory bird hunting regulations from which, when finalized, States could select season dates and daily bag and possession limits for the 1978-79 season. On August 25, 1978, the Service published in the FEDERAL REGISTER (43 FR 38010) the eighth document in the series consisting of an amendment to correct typographical errors in season

dates for mourning doves in Texas. On September 1, 1978, the Service published in the FEDERAL REGISTER (43 FR 39286) the ninth document in the series consisting of final frameworks for late season migratory bird hunting regulations from which States selected late season dates and daily bag and possession limits for the 1978-79 season. The present document is the 10th in the series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and consists of final rulemaking amending subpart K of 50 CFR Part 20 to set open hunting seasons, certain closed areas, shooting hours, and bag and possession limits for waterfowl, coots, and gallinules; sandhill cranes in parts of New Mexico, Texas, Colorado, Oklahoma, Montana, and Wyoming; common snipe in the Pacific Flyway; and additional extended falconry seasons.

On June 21, 1978, a public hearing was held in Washington, D.C., as announced in the FEDERAL REGISTER on February 14, 1978 (43 FR 6275), and May 25, 1978 (43 FR 22421), to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, rails, gallinules, sandhill cranes in North Dakota and South Dakota, and common snipe. Proposed hunting regulations for these species were discussed plus those governing migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; Mourning doves in Hawaii; September teal seasons in the Mississippi and Central Flyways; and special sea duck seasons in the Atlantic Flyway. Statements or comments were invited.

On August 2, 1978, a public hearing was held in Washington, D.C., as announced in the FEDERAL REGISTER on February 14, 1978 (43 FR 6275), and May 25, 1978 (43 FR 22421), to review information on population status and proposed hunting regulations for waterfowl, coots, and gallinules; sandhill cranes in Colorado, New Mexico, Oklahoma, Texas, Montana, and Wyoming; common snipe in the Pacific Flyway; and special falconry regulations. Statements or comments were invited.

STEEL SHOT REGULATIONS

Nontoxic shot requirements in some areas apply to waterfowl regulations being finalized here. On February 28, 1978, the Service published in the FEDERAL REGISTER (43 FR 8144) final regulations regarding zones in all flyways in which shot shells loaded with steel shot will be required for waterfowl hunting in seasons commencing in 1978. The intended effect of establishing these steel shot regulations is to reduce the number of waterfowl deaths caused by ingesting spent lead pellets. On June 30, 1978, the Service published in the FEDERAL REGISTER (43 FR 28501) an amendment modifying descriptions of some of the zones published on February 28 in order to reduce the size of zones in New York and Texas, and permit shooting tests to be conducted within zones in Illinois and California. On June 29, 1978, the Service published in the FEDERAL REGISTER (43 FR 28205) a final rule extending the 1977 ruling (42 FR 39106; Aug. 2, 1977) allowing possession of the shells loaded with toxic shot in gauges other than 12 gauge while hunting waterfowl in nontoxic shot zones during the 1978-79 season. The extension was allowed because supplies of shells in gauges other than 12 gauge will not be available in 1978. The regulations appear under 50 CFR, §§ 20.21 and 20.108, and will also be summarized in the Service's regulations leaflets to be published late this summer.

NEPA CONSIDERATION

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75-54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the FEDERAL REGISTER on June 13, 1975 (40 FR 24241). The final environmental assessment on shooting hours (42 FR 36495; July 15, 1977) supplemented the discussion on shooting hours in FES 75-54. In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the final environmental statement.

ENDANGERED SPECIES ACT CONSIDERATION

Compliance with the Endangered Species Act, insofar as late season regulations frameworks are concerned, was described in the FEDERAL REGISTER, dated September 1, 1978 (43 FR 39286). In a biological opinion dated August 24, 1978, Acting Director Keith M. Schreiner concluded "that the late season of 1978-79 regulations frameworks in not likely to jeopardize the continued existence of the species addressed herein. I further conclude that the Service had taken all reasonable measures to insure that these regulations are compatible with other conservation programs being carried out for each of these species." The Service wishes to reiterate that delays or closures of migratory bird hunting seasons will be considered, and invoked when justified, for the protection of endangered species.

The Service's biological opinions and threshold examination reports resulting from its consultation under section 7 are considered public documents and are available for public inspection in the Office of Endangered Species at 1612 K Street NW., Room 1100, Washington, D.C., and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 555, Matomic Building, 1717 H Street NW., Washington, D.C. 20240, or may be obtained by mail from the addresses listed.

AUTHORSHIP

The primary author of this final rule is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

REGULATIONS PROMULGATION

After analysis of the migratory game bird survey data obtained through investigations conducted by the Service, State conservation agencies, and other sources, and consideration of all comments received on the late season proposals (43 FR 6275, Feb. 14, 1978; 43 FR 22421, May 25, 1978; and 43 FR 35890, Aug. 11, 1978), the Service published in the FEDERAL REGISTER on September 1, 1978 (43 FR 39286), final late season frameworks. Copies of the final frameworks were also sent to the officials of the State conservation agencies who were invited to submit selections for hunting seasons which complied with the shooting hours, daily bag and possession limits, season times and lengths, and areas specified in the frameworks.

The taking of the designated species of migratory birds is prohibited unless open hunting seasons are specifically provided. The amendments will permit taking of the designated species within specified time periods beginning as early as September 30, as has been the case in past years, and benefit the public by opening the seasons which are presently closed.

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rulemakings were published on February 14, May 25, and August 11, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the printing and distribution of Federal and State regulatory announcements and leaflets would be

delayed to the extent that hunters would not have regulatory information available prior to the beginning of the hunting seasons. The Service has determined that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3), and these regulations will, therefore, take effect immediately upon publication.

Accordingly, each State conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State on those species of migratory birds for which open seasons are now to be prescribed, and consideration having been given to all other relevant matters presented, certain sections of title 50, chapter I, subchapter B, part 20, subpart K, are amended to read as follows:

Section 20.104 is revised to read as follows:

§ 20.104 Seasons, limits, and shooting hours for rails, woodcock, and common (Wilson's) snipe.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

	Rails (sora and Virginia)	Rails (clapper and king)	Woodcock	Common snipe
Daily bag limits	[1]25	[2]	5	8
Possession limits	[1]25	[2]	10	16

Shooting hours: One-half hour before sunrise until sunset daily on all species, except as noted otherwise.

Check State regulations for additional restrictions, including area descriptions.

SEASONS IN THE ATLANTIC FLYWAY

Connecticut	Sept. 1 to Nov. 8	Sept. 1 to Nov. 8	Oct. 21 to Dec. 2	Oct. 21 to Dec. 2.
Delaware	Sept. 1 to Nov. 9	Sept. 1 to Nov. 9	Oct. 21 to Nov. 4 and Nov. 20 to Jan. 6.	Oct. 2 to Nov. 4 and Nov. 20 to Jan. 31.
Florida	Sept. 2 to Nov. 10	Sept. 2 to Nov. 10	Dec. 16 to Feb. 18	Nov. 11 to Feb. 25.
Georgia	Sept. 9 to Nov. 17	Sept. 9 to Nov. 17	Nov. 20 to Jan. 23	Nov. 20 to Feb. 28.
Maine	Sept. 1 to Nov. 9	Closed	Oct. 2 to Nov. 15	Sept. 1 to Dec. 16.
Maryland	do	Sept. 1 to Nov. 9	Oct. 5 to Dec. 8	Sept. 15 to Dec. 30.
Massachusetts	do	Closed	Oct. 10 to Nov. 30	Sept. 1 to Dec. 16.
New Hampshire	Closed	do	Sept. 18 to Nov. 19	Sept. 16 to Nov. 19.
New Jersey: [3]				
North zone	Sept. 1 to Nov. 9	Sept. 1 to Nov. 9	Oct. 4 to Nov. 27	Oct. 14 to Nov. 11 and Nov. 22 to Jan. 2,
South zone	do	do	Oct. 28 to Dec. 2 and Dec. 16 to Jan 3..	Statewide.
New York: [3]				
Northern zone including Lake Champlain.	do	Closed	Sept. 20 to Nov. 23 [4]	Sept. 1 to Nov. 23.
Southern zone	do	do	Oct. 1 to Nov. 23 [4]	Do.
Long Island	Closed	do	do	Closed.
North Carolina	Sept. 1 to Nov. 9	Sept. 1 to Nov. 9	Nov. 18 to Jan. 20	Nov. 14 to Feb. 26.
Pennsylvania	do	Closed	Oct. 14 to Dec. 16	Oct. 14 to Dec. 16.
Rhode Island	Sept. 18 to Nov. 25	Sept. 18 to Nov. 26	Oct. 21 to Dec. 8 and Dec. 18 to Jan. 2.	Sept. 18 to Dec. 8 and Dec. 18 to Jan. 2.
South Carolina	Sept. 9 to Nov. 17	Sept. 9 to Nov. 17	Nov. 23 to Jan. 26	Nov. 14 to Feb. 28.
Vermont	Sept. 30 to Dec. 3	Closed	Sept. 30 to Dec. 3	Sept. 30 to Dec. 3.
Virginia	Sept. 9 to Nov. 17	Sept. 9 to Nov. 17	Oct. 23 to Dec. 26	Oct. 17 to Jan. 31.
West Virginia	Sept. 11 to Nov. 18	Closed	Sept. 11 to Sept. 19 and Oct. 14 to Nov. 18 and Nov. 23 to Dec. 2 and Dec. 7 to Dec. 18.	Sept. 11 to Dec. 26.

SEASONS IN THE MISSISSIPPI FLYWAY

Alabama	Nov. 11 to Jan. 19	Nov. 11 to Jan. 19	Nov. 26 to Jan. 31	Nov. 14 to Feb. 28.
Arkansas	Sept. 1 to Nov. 9	Closed	Dec. 1 to Feb. 3	Nov. 1 to Feb. 15.
Illinois	do	do	Oct. 15 to Dec. 18	Oct. 15 to Jan. 29.
Indiana	Sept. 2 to Nov. 10	do	Sept. 16 to Oct. 1 and Oct. 7 to Nov. 24.	Sept. 2 to Dec. 17.
Iowa	do	do	Sept. 23 to Nov. 26	Do.
Kentucky	Nov. 12 to Jan. 20	do	Oct. 6 to Nov. 30 and Dec. 9 to Dec. 17.	Oct. 6 to Nov. 30 and Dec. 9 to Dec. 17.
Louisiana	Sept. 22 to Nov. 30	Sept. 22 to Nov. 30	Dec. 9 to Feb. 11	Nov. 4 to Feb. 18.
Michigan: [3 5]				
Zone 1	Sept. 15 to Nov. 14	Closed	Sept. 15 to Nov. 13	Sept. 15 to Nov. 14.
Zone 2	do	do	Sept. 15 to Nov. 14	Do.
Zone 3	do	do	Oct. 20 to Nov. 14	Do.
Minnesota	Sept. 1 to Nov. 4	do	Sept. 1 to Nov. 4	Sept. 1 to Nov. 4.
Mississippi	Oct. 28 to Jan. 5	Oct. 28 to Jan. 5	Dec. 16 to Feb. 18	Nov. 18 to Feb. 28.
Missouri	Sept. 1 to Nov. 9	Closed	Oct. 1 to Dec. 4	Oct. 1 to Dec. 4.
Ohio	do	do	Sept. 29 to Dec. 2	Sept. 1 to Dec. 16.
Tennessee	Dec. 2 to Jan. 20	do	Oct. 21 to Nov. 26 and Feb. 1 to Feb. 28.	Nov. 19 to Feb. 28.

SEASONS IN THE MISSISSIPPI FLYWAY—Continued

Wisconsin	Oct. 1 [6] to Oct. 8 and Oct. 14 to Nov. 24.	do	Sept. 16 to Nov. 19	Oct. 1 [6] to Dec. 11.

SEASONS IN THE CENTRAL FLYWAY

Colorado [7]	Sept. 1 to Nov. 9	Closed	Closed	Sept. 1 to Dec. 2.
Kansas	Sept. 9 to Nov. 17	do	Oct. 7 to Dec. 10	Sept. 9 to Dec. 24.
Montana [7]	Closed	do	Closed	Sept. 30 to Nov. 28.
Nebraska	Sept. 1 to Nov. 9	do	Sept. 15 to Nov. 18	Sept. 15 to Nov. 18.
New Mexico [7]	Sept. 16 to Nov. 24	do	Closed	Sept. 16 to Dec. 17.
North Dakota	Closed	do	do	Sept. 16 to Dec. 31.
Oklahoma	Sept. 1 to Nov. 9	do	Nov. 20 to Jan. 23	Oct. 21 to Feb. 4.
South Dakota	Closed	do	Closed	Sept. 1 to Oct. 31.
Texas	Sept. 1 to Nov. 9	Sept. 1 to Nov. 9	Nov. 18 to Jan. 21	Nov. 4 to Feb. 18.
Wyoming [7]	Sept. 30 to Dec. 8	Closed	Closed	Sept. 30 to Jan. 7.

	Rails (sora and Virginia)	Rails (clapper and king)	Woodcock	Common snipe
Daily bag limits	[1]25	[2]	5	8
Possession limits	[1]25	[2]	10	16

Shooting hours: One-half hour before sunrise until sunset daily on all species, except as noted otherwise.

Check State regulations for additional restrictions, including area descriptions.

SEASONS IN THE PACIFIC FLYWAY

Arizona	Closed	Closed	Closed	Oct. 19 to Jan. 19.
California: [3]				
Northeastern zone	do	do	do	Oct. 14 to Jan. 14.
Southern zone	do	do	do	Oct. 21 to Jan. 21.
Colorado River zone	do	do	do	Oct. 19 to Jan. 19.
Remainder of State	do	do	do	Oct. 21 to Jan. 21.
Colorado [8]	Sept. 1 to Nov. 9	do	do	Sept. 1 to Dec. 2.
Idaho: [3]				
Columbia Basin	Closed	do	do	Oct. 7 to Jan. 7.
Remainder of State	do	do	do	Oct. 7 to Jan. 14.
Montana [3]	do	do	do	Sept. 30 to Dec. 31.
Nevada:				
Clark County	do	do	do	Oct. 21 to Jan. 21.
Remainder of State	do	do	do	Oct. 7 to Jan. 7.
New Mexico [8]	Sept. 16 to Nov. 24	do	do	Sept. 16 to Dec. 17.
Oregon: [3]				
Columbia Basin	Closed	do	do	Oct. 14 to Jan. 21.
Remainder of State	do	do	do	Oct. 14 to Jan. 14.
Utah	do	do	do	Oct. 7 to Jan. 7.
Washington: [3]				
Columbia Basin	do	do	do	Oct. 14 to Jan. 21.
Remainder of State	do	do	do	Oct. 14 to Jan. 14.
Wyoming [3]	Sept. 30 to Dec. 8	do	do	Sept. 30 to Dec. 31.

[1] The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these two species.

[2] In addition to the limits on sora and Virginia rails, in Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, there is a daily bag limit of 10 and possession limit of 20 clapper and king rails, singly or in the aggregate of these two species, and in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, there is a daily bag limit of 15 and possession limit of 30 clapper and king rails, singly or in the aggregate of these two species.

[3] For description of zones or management units within a State, see State regulations.

[4] In New York, shooting hours for woodcock are sunrise to sunset daily.

[5] In Michigan, in the counties of Arenac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola, and Wayne, and adjacent Great Lakes and connecting waters, the snipe and rail seasons shall open concurrently with the duck season and shall run continuously in all areas through Nov. 14.

[6] On the first day the season opens at 12 noon.

[7] The Central Flyway portion consists of: Colorado and Wyoming—the area lying east of the Continental Divide; Montana—the area lying east of Hill, Chouteau, Cascade, Meagher, and Park Counties; New Mexico—the area lying east of the Continental Divide but outside the Jicarilla Apache Indian Reservation. The remainder portions of these States are in the Pacific Flyway.

[8] Seasons apply to Pacific Flyway portion of State only. The Pacific Flyway portion consists of: Colorado and Wyoming—the area lying west of the Continental Divide; Montana—the counties of Hill, Chouteau, Cascade, Meagher, and Park, and all counties west thereof; New Mexico—the area lying west of the Continental Divide plus the Jicarilla Apache Indian Reservation.

Section 20.105 is amended to read as follows:

§ 20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) *Sea ducks.* (1) An open season for taking scoter, eider, and oldsquaw ducks is precribed according to the following table during the period between September 16, 1978, and January 20, 1979, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut; in those coastal waters of New York lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the town of Riverhead to Red Cedar Point in the town of Southampton, including any ocean waters of New York lying south of Long Island; in any waters of the Atlantic Ocean and, in addition, in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and/or in any tidal waters of any bay which are separated be at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia: *Provided*, That any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks.

(2) The daily bag limit is 7 and the possession limit 14, singly or in the aggregate of these species. During the regular duck season in the Atlantic Flyway, States may set in addition to the limits prescribed for such seasons a daily bag limit of 7 and possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

(3) Shooting hours are one-half hour before sunrise until sunset daily.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS

Seasons in:	
Connecticut	Oct. 7 to Jan. 6.
Delaware	Sept. 30 to Jan. 13.
Georgia	Nov. 22 to Jan. 20.
Maine	Oct. 2 to Jan. 16.
Maryland	Oct. 6 to Jan. 20.
Massachusetts	Do.
New Hampshire	Sept. 18 to Jan. 2.
New Jersey	Oct. 2 to Jan. 16.
New York	Sept. 21 to Jan. 5.
North Carolina	Oct. 6 to Jan. 20.
Rhode Island	Do.
South Carolina	Do.
Virginia	Do.

(4) Notwithstanding the provisions of this part 20, the shooting of crippled waterfowl from a motorboat under power will be permitted in Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Delaware, Virginia, and Maryland in those areas described, delineated, and designated in their respective hunting regulations as being open to sea duck hunting.

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(b) *Teal.* September season:

* * * * *

(c) *Gallinules.*

Limits in the Atlantic, Mississippi, and Central Flyways:

Daily bag limit	15
Possession limit	30

Limits in the Pacific Flyway: The daily bag and possession limits are 25 gallinules and coots singly or in the aggregate of these two species.

Shooting hours: One-half hour before sunrise to sunset.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS

Seasons in the Atlantic Flyway:	
Connecticut	Sept. 1 to Nov. 8.
Delaware	Sept. 1 to Nov. 9.
Florida[1]	Sept. 2 to Nov. 10.
Georgia	Nov. 22 to Jan. 20.
Maine	Sept. 1 to Nov. 9.
Maryland	Do.
Massachusetts	Do.
New Hampshire	Closed.
New Jersey	Sept. 1 to Nov. 9.
New York:	
Long Island	Closed.
Remainder of State	Sept. 1 to Nov. 9.
North Carolina	Do.
Pennsylvania	Do.
Rhode Island	Sept. 18 to Nov. 26.
South Carolina	Sept. 9 to Nov. 17
Vermont	Sept. 30 to Dec. 3.
Virginia	Oct. 4 to Oct. 7. Dec. 6 to Jan. 20.
West Virginia	Oct. 4 to Oct. 21. Dec. 13 to Jan. 13.
Seasons in the Mississippi Flyway:	
Alabama	Nov. 11 to Jan. 19.
Arkansas	Nov. 7 to Jan. 15.
Illinois	closed.
Indiana	Sept. 2 to Nov. 10.
Iowa	Closed.
Kentucky	Nov. 12 to Jan. 20.
Louisiana	Sept. 22 to Nov. 30.
Michigan:	
Zone 1	Oct. 1 to Nov. 19.
Zones 2 and 3	Oct. 11 to Nov. 29.
Minnesota	Oct. 1 to Nov. 19.
Mississippi	Oct. 28 to Jan. 5.
Missouri	Sept. 1 to Nov. 9.
Ohio	Do.
Tennessee	Dec. 2 to Jan. 20.
Wisconsin	Oct. 1 [2] to Oct. 8. Oct. 14 to Nov. 24.
Seasons in the Central Flyway:	
Colorado[3]	Closed.
Kansas	Do.
Montana[3]	Do.
Nebraska	Do.
New Mexico[3]	Oct. 31 to Jan 7.
North Dakota	Closed.
Oklahoma	Sept. 1 to Nov. 9.
South Dakota	Closed.
Texas	Sept. 1 to Nov. 9.
Wyoming[3]	Closed.
Seasons in the Pacific Flyway:	
Arizona	Oct. 19 to Jan. 19.
California:	
Northeastern zone	Oct. 14 to Jan. 14.
Southern zone	Oct. 21 to Jan. 21.
Colorado River zone	Oct. 19 to Jan. 19.
Remainder of State	Oct. 21 to Jan. 21.
Colorado[4]	Closed.
Idaho:	
Columbia basin	Oct. 7 to Jan. 7.
Remainder of State	Oct. 7 to Jan. 14.
Montana [4]	Closed.
Nevada:	
Clark County	Oct. 21 to Jan. 21.
Remainder of State	Oct. 7 to Jan. 7.
New Mexico[4]	Oct. 31 to Jan. 7.
Oregon:	
Columbia basin	Oct. 14 to Jan. 21.
Remainder of State	Oct. 14 to Jan. 14.
Utah	Oct. 7 to Jan. 7.
Washington:	
Columbia basin	Oct. 14 to Jan. 21.
Remainder of State	Oct. 14 to Jan. 14.
Wyoming[4]	Closed.

[1]The gallinule season in Florida applies to the common or Florida gallinule only. No open season on purple gallinules in Florida.
[2]On the first day the season opens at 12 noon.
[3]Seasons apply to Central Flyway portion of State only.
[4]Seasons apply to Pacific Flyway portion of State only.

(d) *Waterfowl and coots in Atlantic, Mississippi, Central and Pacific Flyways.*

FLYWAYWIDE RESTRICTIONS

In all States in the Atlantic Flyway:

Wood ducks—No more than two wood ducks may be taken daily nor more than four wood ducks may be possessed. Exceptions: During duck seasons prior to October 16, 1978, in North Carolina and Virginia, under conventional regulations, no special restrictions within the regular daily bag and possession limits shall apply to wood ducks; under the point system, the point value of wood ducks shall be 25. In Pennsylvania, the possession limit is two wood ducks.

Hooded mergansers—In States selecting conventional regulations, no more than one hooded merganser may be taken daily nor more than two hooded mergansers may be possessed.

Brant—The season is closed on brant.

Canvasbacks and redheads—Except in closed areas, the limit on canvasbacks and redheads—is one canvasback daily and one in possession or one redhead daily and one in possession under conventional regulations. Under the point system canvasbacks count 100 points each, except in closed areas, and redheads count 70 points each, except in closed areas. The areas closed to canvasback and redhead hunting are:

New York—Upper Niagara River between the Peace Bridge at Buffalo, N.Y., and the Niagara Falls. All waters of Lake Cayuga.

New Jersey—Those portions of Monmouth County and Ocean County lying east of the Garden State Parkway.

Maryland—That portion lying east of U.S. Highway 1.

North Carolina and Virginia—Closed statewide.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily except as otherwise restricted.

The season dates for mergansers and coots are the same as those for ducks in the following tables:

	Season dates	Limits: Bag	Limits: Possession
Connecticut:			
Ducks		4	8
North zone [1]	Oct. 21 to Nov. 4 and Nov. 18 to Dec. 22.		
South zone [1]	Oct. 21 to Oct. 25 and Dec. 1 to Jan. 13.		
Including no more than: Black ducks.		2	4
Mergansers		5	10
Coots		15	30
Geese:			
Canada	Oct. 21 to Nov. 4 and Nov. 20 to Jan. 13.	3	6
Snow (including blue)	Oct. 21 to Dec. 29	2	4

	Season dates	Limits: Bag	Limits: Possession
Delaware:			
Ducks	Nov. 8 to Dec. 2 and Dec. 20 to Jan. 13.	5	10
Including no more than: Black ducks.		1	2
Mergansers		5	10
Coots		15	30
Geese:			
Canada	Oct. 28 to Dec. 16 and Dec. 20 to Jan. 27.	4	8
Snow (including blue)	Oct. 28 to Nov. 27 and Dec. 20 to Jan. 27.	2	4
Florida:			
Ducks	Nov. 22 to Dec. 10 and Dec. 21 to Jan. 20.	Point system.	
Coots		15	30
Geese	Closed		
Georgia:			
Ducks	Nov. 22 to Dec. 2 and Dec. 13 to Jan. 20.	5	10
Including no more than: Black ducks.		1	2
Mergansers		5	10
Coots		15	30
Geese	Closed		
Maine:			
Ducks		4	8
North zone (wildlife management units 1-3).	Oct. [2] 2 to Nov. 20		
South zone (wildlife management units 4-8).	Oct. [2] 2 to Oct. 21 and Nov. 10 to Dec. 9.		
Including no more than: Black ducks.		2	4
Mergansers		5	10
Coots		15	30
Geese	Oct. 2 [2] to Dec. 10	3	6
Canada		3	6
Snow (including blue)		2	4
Maryland:			
Ducks	Nov. 9 to Nov. 24 and Dec. 4 to Jan. 6.	Point system.	
Coots		15	30
Geese			
Canada:			
In Delmarva Peninsula [3]	Oct. 20 to Nov. 24 and Dec. 4 to Jan. 26.	3	6
In remainder of State	Nov. 3 to Nov. 24 and Dec. 4 to Jan. 20.	3	6
Snow (including blue)	do	2	4
Massachusetts:			
Ducks [4]	Oct. 11 to Oct. 28 and Dec. 8 to Jan. 6	4	8
Including no more than: Black ducks.		2	4
Mergansers		5	10
Coots		15	30
Geese	Oct. 11 to Nov. 10 and Dec. 6 to Jan 13.		
Canada		3	6
Snow (including blue)		2	4
New Hampshire:			
Ducks	Oct. 5 to Oct. 29 and Nov. 23 to Dec. 17.	4	8
Including no more than: Black ducks.		2	4
Mergansers		5	10
Coots		15	30
Geese	Oct. 5 to Oct. 29 and Nov. 11 to Dec. 25.		
Canada		3	6
Snow (including blue)		2	4
New Jersey:			
Ducks	Oct. 14 to Oct. 21 and Nov. 22 to Jan. 2.	Point system.[5]	
Coots		15	30
Geese:			
Canada:			
In the south zone [4]	Oct. 3 to Nov. 4 and Nov. 22 to Jan. 17.	4	8
In remainder of State	Oct. 3 to Oct. 30 and Nov. 22 to Jan. 2	3	6
Snow (including blue)	Oct. 14 to Nov. 11 and Nov. 22 to Jan. 1.	2	4
New York:			
Long Island area:			
Ducks	Nov. 15 to Jan. 3	4	8
Including no more than: Black ducks.		2	4
Mergansers		5	10
Coots		15	30
Geese	Nov. 15 to Jan. 20		
Canada		3	6
Snow (including blue)		2	4

	Season dates	Limits: Bag	Limits: Possession
New York:			
Remainder of State:			
Ducks	Oct. 14 to Oct. 21 and Nov. 22 to Jan. 2.	Point system.[5]	
Coots		15	30
Geese:			
Canada:			
In the south zone [4]	Oct. 3 to Nov. 4 and Nov. 22 to Jan. 17.	4	8
In remainder of State	Oct. 3 to Oct. 30 and Nov. 22 to Jan. 2	3	6
Snow (including blue)	Oct. 14 to Nov. 11 and Nov. 22 to Jan. 1.	2	4
North Carolina:			
Ducks	Nov. 11 to Nov. 30 and Dec. 9 to Jan. 28.	4	8
Including no more than: Black ducks.		2	4
Mergansers		5	10
Coots		15	30
Geese	Nov. 11 to Nov. 30 and Dec. 9 to Jan. 28.		
Canada		3	6
Snow (including blue)		2	4
Pennsylvania:			
Ducks	Oct. 28 to Dec. 16 and Dec. 25 to Jan. 13.	4	8
Including no more than: Black ducks.		2	4
Mergansers		5	10
Coots		15	30
Geese	Oct. 28 to Dec. 16 and Dec. 25 to Jan. 13.		
Canada		3	6
Snow (including blue)		2	4
Rhode Island:			
Ducks	Nov. 18 to Dec. 2 and Dec. 20 to Jan. 13.	4	8
Including no more than: Black ducks.		1	2
Mergansers		5	10
Coots		15	30
Geese	Nov. 18 to Dec. 2 and Dec. 20 to Jan. 13.		
Canada		3	6
Snow (including blue)		2	4
South Carolina:			
Ducks	Nov. 11 to Nov. 30 and Dec. 9 to Jan. 28.	4	8
Including no more than: Black ducks.		2	4
Mergansers		5	10
Coots		15	30
Geese	Nov. 11 to Nov. 30 and Dec. 9 to Jan. 28.		
Canada		3	6
Snow (including blue)		2	4
Vermont:			
Ducks	Oct. 7 to Oct. 27 and Nov. 23 to Dec. 17.	4	8
Including no more than: Black ducks.		2	4
Mergansers		5	10
Coots		15	30
Geese	Oct. 7 to Oct. 27 and Nov. 11 to Dec. 25.		
Canada		3	6
Snow (including blue)		2	4
Virginia:			
Ducks	Nov. 11 to Nov. 30 and Dec. 9 to Jan. 28.	4	8
Including no more than: Black ducks.		2	4
Mergansers		5	10
Coots		15	30
Geese	Nov. 11 to Nov. 30 and Dec. 9 to Jan. 28.		
Canada		3	6
Snow (including blue)		2	4
West Virginia:			
Ducks	Oct. 28 to Dec. 16 and Dec. 25 to Jan. 13.	4	8
Including no more than: Black ducks.		2	4
Mergansers		5	10
Coots		15	30
Geese	Oct. 28 to Dec. 16 and Dec. 25 to Jan. 13.		
Canada		3	6
Snow (including blue)		2	4

	Season dates	Limits: Bag	Limits: Possession
Seasons in the Mississippi Flyway:			
Alabama			
Ducks	Nov. 11 to Jan. 19.	6	12
Including no more than: Wood ducks		2	4
Mergansers		5	10
Coots		15	30
Geese	Nov. 11 to Jan. 19.		
Canada		3	6
Snow (including blue)		2	4
Arkansas			
Ducks	Nov. 7 to Jan. 15.	6	12
Including no more than: Wood ducks		2	4
Mergansers		5	10
Coots		15	30
Geese	Nov. 7 to Jan. 15.		
Canada		3	6
Snow (including blue)		2	4
Illinois	closed.		
Indiana			
Ducks	Sept. 2 to Nov. 10.	6	12
Including no more than: Wood ducks		2	4
Mergansers		5	10
Coots		15	30
Geese	Sept. 2 to Nov. 10.		
Canada		3	6
Snow (including blue)		2	4
Iowa	Closed.		
Kentucky			
Ducks	Nov. 12 to Jan. 20.	6	12
Including no more than: Wood ducks		2	4
Mergansers		5	10
Coots		15	30
Geese	Nov. 12 to Jan. 20.		
Canada		3	6
Snow (including blue)		2	4
Louisiana			
Ducks	Sept. 22 to Nov. 30.	6	12
Including no more than: Wood ducks		2	4
Mergansers		5	10
Coots		15	30
Geese	Sept. 22 to Nov. 30.		
Canada		3	6
Snow (including blue)		2	4
Michigan:			
Zone 1			
Ducks	Oct. 1 to Nov. 19.	6	12
Including no more than: Wood ducks		2	4
Mergansers		5	10
Coots		15	30
Geese	Oct. 1 to Nov. 19.		
Canada		3	6
Snow (including blue)		2	4
Zones 2 and 3			
Ducks	Oct. 11 to Nov. 29.	6	12
Including no more than: Wood ducks		2	4
Mergansers		5	10
Coots		15	30
Geese	Oct. 11 to Nov. 29.		
Canada		3	6
Snow (including blue)		2	4
Minnesota			
Ducks	Oct. 1 to Nov. 19.	6	12
Including no more than: Wood ducks		2	4
Mergansers		5	10
Coots		15	30
Geese	Oct. 1 to Nov. 19.		
Canada		3	6
Snow (including blue)		2	4
Mississippi			
Ducks	Oct. 28 to Jan. 5.	6	12
Including no more than: Wood ducks		2	4
Mergansers		5	10
Coots		15	30
Geese	Oct. 28 to Jan. 5.		
Canada		3	6
Snow (including blue)		2	4
Missouri			
Ducks	Sept. 1 to Nov. 9.	6	12
Including no more than: Wood ducks		2	4
Mergansers		5	10
Coots		15	30
Geese	Sept. 1 to Nov. 9.		
Canada		3	6
Snow (including blue)		2	4
Ohio	Do.		
Tennessee			
Ducks	Dec. 2 to Jan. 20.	6	12
Including no more than: Wood ducks		2	4
Mergansers		5	10
Coots		15	30
Geese	Dec. 2 to Jan. 20.		
Canada		3	6
Snow (including blue)		2	4
Wisconsin			
Ducks	Oct. [1] 2 to Oct. 8. Oct. 14 to Nov. 24.	6	12
Including no more than: Wood ducks		2	4
Mergansers		5	10
Coots		15	30
Geese	Oct. [1] 2 to Oct. 8. Oct. 14 to Nov. 24.		
Canada		3	6
Snow (including blue)		2	4

	Season dates	Limits	
		Bag	Possession
Lake Champlain area:			
Ducks	Oct. 4 to Nov. 22	4	8
Including no more than: Black ducks.		2	4
Mergansers		5	10
Coots		15	30
Geese	Oct. 4 to Dec. 12		
Canada		3	6
Snow (including blue)		2	4
North zone [3]			
Ducks	Oct. 4 to Oct. 29 and Nov. 10 to Dec. 3.	5	10
Including no more than: Black ducks.		1	2
Mergansers		5	10
Coots		15	30
Geese	Oct. 4 to Dec. 12		
Canada		3	6
Snow (including blue)		2	4
South zone [3]			
Ducks	Oct. 11 to Oct. 22 and Nov. 3 to Dec. 10.	5	10
Including no more than: Black ducks.		1	2
Mergansers		5	10
Coots		15	30
Geese	Oct. 4 to Dec. 12		
Canada		3	6
Snow (including blue)		2	4
West zone [3]			
Ducks	Oct. 11 to Nov. 16 and Dec. 20 to Jan. 1.	5	10
Including no more than: Black ducks.		1	2
Mergansers		5	10
Coots		15	30
Geese	Oct. 4 to Dec. 12		
Canada		3	6
Snow (including blue)		2	4
North Carolina:			
Ducks (except canvasbacks and redheads).		5	10
East zone [4]	Nov. 22 to Nov. 25 and Dec. 6 to Jan. 20.		
West zone [4] [9]	Oct. 4 to Oct. 7 and Dec. 6 to Jan. 20		
Canvasbacks and redheads	Closed		
Including no more than: Black ducks.		1	2
Mergansers		5	10
Coots		15	30
Geese:			
Canada	Nov. 22 to Nov. 25 and Dec. 6 to Jan. 20.	2	4
Snow (including blue)	Nov. 13 to Jan. 20	2	4
Pennsylvania:			
Ducks	Oct. 11 [10] to Oct. 21 and Nov. 1 to Dec. 9.	4	8
Including no more than:			
Black ducks		2	4
Wood ducks		2	2
Mergansers		5	10
Coots		15	30
Geese:			
Canada:			
In southeastern zone [11]	Oct. 11 [10] to Dec. 19 and Dec. 26 to Jan. 13.	4	8
In remainder of the State [12]	Oct. 11 [10] to Dec. 19	3	6
Snow (including blue)	do	2	4
Rhode Island:			
Ducks	Oct. 12 to Oct. 15 and Nov. 22 to Jan. 6.	Point system.	
Coots		15	30
Geese	Nov. 11 to Jan. 19		
Canada		3	6
Snow (including blue)		2	4
South Carolina:			
Ducks	Nov. 22 to Nov. 25 and Dec. 6 to Jan. 20.	5	10
Including no more than:			
Black ducks		1	2
Mottled ducks	Season closed		
Mergansers		5	10
Coots		15	30
Geese:			
Beaufort, Colleton, and McCormick Counties.	Season closed		
Remainder of State	Nov. 22 to Nov. 25 and Dec. 6 to Jan. 20.		
Canada		1	2
Snow (including blue)		3	4

	Season dates	Limits	
		Bag	Possession
Vermont:			
Ducks	Oct. 4 to Nov. 22	4	8
Including no more than: Black ducks.		2	4
Mergansers		5	10
Coots		15	30
Geese [13]	Oct. 4 to Dec. 12		
Canada		3	6
Snow (including blue)		2	4
Virginia:			
Ducks (except canvasbacks and redheads)[14].	Oct. 4 to Oct. 7 and Dec. 6 to Jan. 20	Point system.	
Canvasbacks and redheads	Closed		
Coots		15	30
Geese:			
Canada:			
In Back Bay area [15]	Oct. 4 to Oct. 7 and Dec. 6 to Jan. 20	2	4
In Delmarva Peninsula area	Nov. 3 to Jan. 31	4	8
In remainder of State	Nov. 13 to Jan. 20	3	6
Snow (including blue):			
In Back Bay area [16]	Dec. 6 to Jan. 20	2	4
In remainder of State	Nov. 13 to Jan. 20	2	4
West Virginia:			
Ducks	Oct. 4 to Oct. 21 and Dec. 13 to Jan. 13.	4	8
Including no more than: Black ducks.		2	4
Mergansers		5	10
Coots		15	30
Geese	Oct. 4 to Oct. 21 and Dec. 13 to Jan. 13.		
Canada		3	6
Snow (including blue)		2	4

[1] In Connecticut, the north zone is that portion of the State north of Interstate 95. The south zone is that portion of the State south of Interstate 95.

[3] In Maine, on the first day the season opens at sunrise.

[4] In Maryland, the Delmarva Peninsula includes the counties of Caroline, Cecil, Dorchester, Kent, Queen Annes, Somerset, Talbot, Wicomico, and Worcester.

[6] Season closed on wood ducks in Nantucket County.

[7] In New Jersey, the green-winged teal is assigned 25 points.

[8] In New Jersey, the south zone is that portion of the State south of the Atlantic City Expressway from its juncture with Interstate 78 near Camden east to Atlantic City.

[9] In New York, the west zone is that portion of Upstate New York lying west of a line commencing at the north shore of the Salmon River and its junction with Lake Ontario and extending easterly along the north shore of the Salmon River to its intersection with Interstate Highway 81, then southerly along Interstate Highway 81 to the Pennsylvania border. The north and south zones are bordered on the west by the boundary of the west zone and are separated from each other as follows: starting at the intersection of Interstate Highway 81 and New York Route 49 and extending easterly along Route 49 to its junction with Route 6 in Utica, then southerly along Route 8 to its intersection with U.S. Highway 20 in Bridgewater, then easterly along U.S. Highway 20 to the Massachussets border.

[10] In North Carolina, the east zone is that portion of the State east of U.S. Highway 1. The west zone is that portion of the state west of U.S. Highway 1.

[9] No special daily bag and possession limit restrictions apply to wood ducks during the October 4-7 season.

[10] In Pennsylvania, on the first day the season opens at 12 noon.

[11] In Pennsylvania, the southeastern zone is that portion of the State lying east and south of a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on U.S. Highway 22 to the New Jersey border.

[12] In Pennsylvania, in Butler, Crawford, Erie, and Mercer Counties, and the Middle Creek Wildlife Management Area, the Canada goose daily bag limit is 1 and the possession limit is 2.

[13] See State regulations for further limit restrictions for Dead Creek Area, Addison County, Vt.

[14] In Virginia, the wood duck is assigned 25 points during the Oct. 4–Oct. 7 season.

[15] In Virginia, the Back Bay area is defined for Canada geese as those portions of the cities of Virginia Beach and Chesapeake lying east of U.S. Highway 17 and Interstate 64.

[16] In Virginia, the Back Bay area is defined for snow (including blue) geese as the waters of Back Bay and its tributaries and the marshes adjacent thereto, and on the land and marshes between Back Bay and the Atlantic Ocean from Sandbridge to the North Carolina line, and on and along the shore of North Landing River and the marshes adjacent thereto, and on and along the shores of Lake Tecumseh and Red Wing Lake and the Marshes adjacent thereto.

MISSISSIPPI FLYWAY

Shooting hours: One-half hour before sunrise to sunset daily except as otherwise restricted.

FLYWAYWIDE RESTRICTIONS

In all States in the Mississippi Flyway selecting conventional regulations:

Mallards and black ducks—No more than two mallards or two black ducks or one of each may be taken daily nor more than four mallards or four black ducks or four in the aggregate may be possessed.

Wood ducks—No more than two wood ducks may be taken daily nor more than four wood ducks may be possessed, except in the Pymatuning area of Ohio, the possession limit is two wood ducks.

Hooded mergansers—No more than one hooded merganser may be taken daily nor more than two hooded mergansers may be possessed.

Canvasbacks and redheads—Except in closed areas, the limit on canvasbacks and redheads is one canvasback daily and one in possession or one redhead daily and one in possession under conventional regulations. Under the point system canvasbacks count 100 points each, except in closed areas, and redheads count 70 points each,

except in closed areas. The areas closed to canvasback and redhead hunting are:

Mississippi River—Entire river, both sides, from Alton Dam upstream to Prescott, Wis., at confluence of St. Croix River.

Alabama—Baldwin and Mobile Counties.

Louisiana—Caddo, St. Charles, and St. Mary Parishes; that portion of ward 1 formerly designated as ward 6 of St. Martin Parish; and Catahoula Lake in LaSalle and Rapides Parishes.

Michigan—Arenac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola, and Wayne Counties, and those adjacent waters of Saginaw Bay south of a line extending from Point au Gres in sec. 6, T. 18 N., R. 7 E. (Arenac County) to Sand Point in sec. 11, T. 17 N., R. 9 E. (Huron County), the St. Clair River, Lake St. Clair, the Detroit River, and Lake Erie, under the jurisdiction of the State of Michigan.

Minnesota—Douglas, Mahnomen, Polk, Pope, and Sibley Counties. Where the county line of any of the above counties crosses any portion of a lake, that entire lake is closed. In addition, all land in sec. 13, T. 130 N., R. 31 W. (i.e., land between Lake Christina and Pelican Lake) is closed.

Ohio—Land and water areas comprising Erie, Ottawa, and Sandusky Counties.

Tennessee—Kentucky Lake lying north of Interstate Highway 40.

Wisconsin—In the Mississippi River Zone, all that portion of Wisconsin west of the Burlington-Northern Railroad in Grant, Crawford, Vernon, LaCross, Trempealeau, Buffalo, Pepin, and Pierce Counties. Also, the following lakes and waters, including a strip of land 100 yards wide adjacent to the shorelines thereof: Lake Poygan in Winnebago and Waushara Counties and Lakes Winneconne and Butte des Morts, including the connecting waters thereof, in Winnebago County.

White-fronted geese—No more that two white-fronted geese may be taken daily or possessed.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS

The season dates for mergansers and coots are the same as those for ducks in the following tables.

	Season dates	Limits: Bag	Limits: Possession
Alabama:			
Ducks		Point system.	
North zone [1]	Dec. 2 to Jan. 20		
South zone [1]	Nov. 16 to Jan. 4		
Coots		15	30
Geese		5	5
In Chambers, Henry, Russell and Barbour Counties.	Closed season		
In remainder of State	Nov. 12 to Jan. 20		
Including no more than:			
Canada		2	4
White-fronted		2	2
Canada and white-fronted geese combined.		2	4
Snow (including blue)		5	5
Arkansas:			
Ducks	Nov. 18 to Dec. 10 and Dec. 23 to Jan. 18.	Point system.	
Coots		15	30
Geese		5	5
Including no more than:			
Canada [2]	Nov. 18 to Dec. 10 and Dec. 23 to Jan. 18.	1	2
White-fronted		2	2
Snow (including blue)	Nov. 10 to Jan. 18	5	5
Illinois:			
Ducks		Point system. [3]	
North zone [4]	Oct. 19 to Dec. 7		
South zone [4]	Nov. 2 to Dec. 21		
Coots		15	30
Geese:			
In Alexander, Jackson, Union, and Williamson Counties [5]			
Canada	Nov. 13 to Jan. 20		
Snow-white fronted geese	Oct. 19 to Dec. 27		
	Nov. 13 to Jan. 20		
In remainder of the State [5]	Oct. 19 to Dec. 27		
For the entire State, including no more than:			
Canada [3]		2	4
White-fronted		2	2
Canada and white-fronted geese combined.		2	4
Snow (including blue)		5	5
Indiana:			
Ducks		Point system.	
North zone [3]	Oct. 21 to Dec. 9		
South zone [3]	Nov. 11 to Dec. 30		
Coots		15	30
Geese	October 14 to Nov. 16 and Dec. 16 to Jan 20.	5	5
Including no more than:			
Canada		2	2
White-fronted		2	2
Canada and white-fronted geese combined.		2	4
Snow (including blue)		5	5
Iowa:			
Ducks	Oct. 1 to Oct. 8 and Oct. 21 to Dec. 1	Point system.	
Coots		15	30
Geese	Oct. 1 to Dec. 9	5	5
Including no more than:			
Canada		2	4
White-fronted		2	2
Canada and white-fronted geese combined.		4	4
Snow (including blue)		5	5

	Season dates	Limits: Bag	Limits: Possession
Kentucky:			
Ducks	Nov. 18 to Nov. 26 and Dec. 2 to Jan. 11.	Point system.	
Coots		15	30
Geese	Nov. 12 to Jan 20		
Including no more than:			
Canada [17]		2	4
White-fronted		2	2
Canada and white-fronted geese combined.		2	4
Snow (including blue)		5	5
Louisiana:			
Ducks		Point system.	
East zone [18]	Nov. 18 to Nov. 26 and Dec. 2 to Jan. 11.		
West zone [18]	Nov. 4 to Dec. 3 and Dec. 16 to Jan. 9.		
Coots		15	30
Geese (except Canada)		5	5
East zone [18]	Nov. 18 to Nov. 26 and Dec. 2 to Jan. 31.		
West zone [18]	Nov. 4 to Dec. 3 and Dec. 16 to Jan. 24.		
Including no more than:			
White-fronted		2	2
Snow (including blue)		5	5
Canada	Closed season		
Michigan:			
Ducks		Point system. [11]	
North zone (zone 1) [12]	Oct. 1 to Nov. 19		
South zone (zones 2 and 3) [12]	Oct. 11 to Nov. 29		
Coots		15	30
Geese		5	5
North zone (zone 1) [12 13]	Oct. 1 to Nov. 19	5	5
South zone:			
(Zone 2) [13]	Oct. 1 to Nov. 30		
(Zone 3) [12 14]	Oct. 11 to Nov. 30		
Including no more than:			
Canada [13 14]		1	1
White-fronted		2	2
Canada and white-fronted geese combined.		2	3
Snow (including blue)		5	5
Minnesota: [12]			
Ducks	Oct. 1 to Nov 19 [15]	5	10
Including no more than:			
Mallards		2	4
Black ducks		2	4
Mallards and black ducks combined.		2	4
Mergansers		5	10
Coots		15	30
Geese		5	5
In Lac Qui Parle quota zone [16]	Oct. 1 to Nov. 14		
Including no more than:			
Canada		1	4
White-fronted		2	2
Canada and white-fronted geese combined.		2	4
Snow (including blue)		5	5
In Southeastern zone [17]	Oct. 1 to Dec. 9		
Including no more than:			
Canada		2	4
White-fronted		2	2
Canada and white-fronted geese combined.		2	4
Snow (including blue)		5	5
In remainder of State	Oct. 1 to Nov. 14		
Including no more than:			
Canada		2	4
White-fronted		2	2
Canada and white-fronted geese combined.		2	4
Snow (including blue)		5	5
Mississippi:			
Ducks	Dec. 2 to Jan. 20	Point system.	
Coots		15	30
Geese:			
In areas west of Mississippi River (31° to 33° N lat.).	Nov. 18 to Nov. 26 and Dec. 2 to Jan. 31.		
In remainder of the State including no more than:		5	5
Canada:			
Sardis Reservoir area [18]	Oct. 14 to Nov. 2 and Dec. 2 to Jan. 20.	1	2
In remainder of the State	Closed season		
White-fronted	Oct. 14 to Nov. 9 and Dec. 9 to Jan. 20.	2	2
Snow (including blue)	do	5	5

	Season dates	Limits	
		Bag	Possession
Missouri:			
Ducks		Point system.	
North zone [19]	Oct. 24 to Dec. 12		
South zone [20]	Nov. 14 to Jan. 2		
Coots		15	30
Geese		5	5
Including no more than:			
Canada:			
Southeastern area east of U.S. Highway 67 and south of Crystal City.	Dec. 7 to Jan. 20	2	4
In Swan Lake zone [7,12,20]	Oct. 24 to Jan. 1	2	4
In remainder of State	Oct. 24 to Dec. 7	2	4
White-fronted	Oct. 24 to Jan. 1	2	2
Canada and white-fronted geese combined		2	4
Snow (including blue)	Oct. 24 to Jan. 1	5	5
Ohio:			
In Pymatuning area: [12]			
Ducks	Oct. 11 [21] to Oct. 21 and Nov. 1 to Dec. 9.	4	8
Including no more than:			
Black ducks		2	4
Wood ducks		2	2
Mergansers		5	10
Coots		15	30
Geese:			
Canada	Oct. 11 [21] to Dec. 19	1	2
Snow (including blue)	do	2	4
In remainder of State:			
Ducks		Point system.	
In North zone [22]	Oct. 19 to Dec. 7		
In South zone [22]	Nov. 11 to Dec. 30		
Coots		15	30
Geese	Oct. 19 to Dec. 22 and Dec. 26 to Dec. 30.	5	5
Including no more than:			
Canada:			
In Ashtabula, Trumbull, Marion, Wyandot, Lucas, Ottowa, Erie, Sandusky, Mercer, and Auglaize Counties.		1	2
In remainder of the State		2	2
White-fronted		2	2
Canada and white-fronted geese combined.		2	4
Snow (including blue)		5	5
Tennessee:			
Ducks	Dec. 2 to Jan. 20	Point system.	
Coots		15	30
Geese	Nov. 12 to Jan. 20		
Including no more than:			
Canada: [20]			
West of State Highway 13		2	2
In remainder of State		1	2
White-fronted		2	2
Canada and white-fronted geese combined:			
West of State Highway 13		4	4
In remainder of State		3	4
Snow (including blue)		5	5

	Season dates	Limits	
		Bag	Possession
Wisconsin:			
Ducks	Oct. 1 [21] to Oct. 8 and Oct. 14 to Nov. 24.	Point system.[24]	
Coots		15	30
Geese: [7]			
In Horicon zone [12]	Oct. 1 [21] to Dec. 9		
Including no more than:			
Canada	Oct. 1 [21] to Oct. 15	1	1
	Oct. 16 to Dec. 9	2	2
White-fronted		2	2
Canada and white-fronted geese combined.	Oct. 1 [21] to Oct. 15	2	3
	Oct. 16 to Dec. 9	2	4
Snow (including blue)		5	5
In east central zone [12]	October 1 [21] to Oct. 8 and Oct. 14 to Dec. 14.		
Including no more than:			
Canada		1	2
White-fronted		2	2
Canada and white-fronted geese combined.		2	4
Snow (including blue)		5	5
In remainder of State	Oct. 1 [21] to Oct. 8 and Oct. 14 to Dec. 14.		
Including no more than:			
Canada		1	2
White-fronted		2	2
Canada and white-fronted geese combined.		2	4
Snow (including blue)		5	5

[1] In Alabama, the south zone consists of Mobile and Baldwin Counties. The north zone consists of the remainder of Alabama.

[2] In Arkansas, the season is closed on Canada geese in those portions of the State encompassed by the boundaries described as follows: (1) Beginning at the junction of State Highway 139 and the Arkansas-Missouri border near Monette, then south on State Highway 139 to State Highway 158, then east on State Highway 158 to the Arkansas-Tennessee border on the Mississippi River near Luxora. All lands along the Arkansas-Missouri and Arkansas-Tennessee State boundaries within this area are included. (2) Beginning at the junction of Interstate Highway 40 and the Arkansas-Tennessee border on the Mississippi River, then west on Interstate Highway 40 to Interstate Highway 55, then north on Interstate Highway 55 to State Highway 118, then east on State Highway 118 to the Arkansas-Tennessee border on the Mississippi River near Pecan Point. All Arkansas lands along the Arkansas-Tennessee State boundary within this area are included. (3) Beginning at the junction of U.S. Highway 49 and the Arkansas-Mississippi border near Helena, then west on U.S. Highway 49 to U.S. Highway 79, then west on U.S. Highway 79 to State Highway 33, then south on State Highway 33 to State Highway 153, then southeasterly on State Highway 153 to State Highway 1, then east on State Highway 1 to State Highway 17, then south on State Highway 17 to State Highway 44, then west on State Highway 44 to County Road 96 at Tichnor, then south on County Road 96 to Arkansas Post Canal lock No. 2, then west along the Arkansas Post Canal to the Arkansas River, then southeasterly along the Arkansas River to the Arkansas-Mis- sissippi border. All Arkansas lands along the Arkansas-Mississippi State boundary within this area are included.

[3] In Illinois the readhead is assigned 100 points.

[4] In Illinois, the north zone is that portion of the State north of U.S. Highway 50. The south zone is the remainder of Illinois.

[5] Shooting hours for geese are sunrise until 3 p.m. local time.

[6] In Illinois, at Rend Lake and the Baldwin Fish and Wildlife Management Area, the season is Nov. 2 to Dec. 27. See State regulations.

[7] In Illinois and Wisconsin, the kill of Canada geese will be limited to 50,000 in each State. In the Ballard County zone of Kentucky, the kill will be limited to 15,000 birds. In the Swan Lake zone of Missouri the kill of Canada geese will be limited to 30,000 birds. In the Lac Qui Parle zone of Minnesota, the kill of Canada geese will be limited to 7,000 birds. When it is determined by the Director, U.S. Fish and Wildlife Service, that the quota of Canada geese allotted to the southern Illinois zone, the Swan Lake zone of Missouri, or the Ballard County zone of Kentucky will have been filled, the season for taking Canada geese in the respective area will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing.

[8] In Indiana, the north zone consists of that portion of the State north of State Highway 18. The south zone consists of the remainder of Indiana.

[9] In Kentucky, the Ballard County zone is the same as described in 1977 Federal regulations and current State regulations.

[10] In Louisiana the west zone is described as follows: That portion of Louisiana west of a boundary beginning at the Arkansas-Louisiana border on Louisiana Highway 3; then south along Louisiana Highway 3 to Shreveport; then east along Interstate 20 to Minden; then south along Louisiana Highway 7 to Ringgold; then east along Louisiana Highway 4 to Jonesboro; then south along U.S. Highway 167 to Lafayette; then southeast along U.S. Highway 90 to Houma; then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass. The east zone consists of the remainder of Louisiana.

[11] In Michigan, the 10-point category is assigned 15 points.

[12] See State regulations for area descriptions.

[13] In Michigan, in Baraga, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee and Ontonagon, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each and the possession limit is 2 Canada and 2 white-fronted geese.

[14] In Michigan, in the southestern Canada Goose Management Area—(as described in 1977 Federal regulations and current State regulations)—from Oct. 11 through Nov. 14, the daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each, and the possession limit is 1 Canada and 2 white-fronted geese; from Nov. 15 through Dec. 9, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each, and the possession limit is 2 Canada and 2 white-fronted geese.

[15] In Minnesota, the shooting hours for ducks vary as follows: Oct. 1—9 a.m. to 4 p.m.; Oct. 2 through Oct. 20—½ hour before sunrise to 4 p.m.; and Oct. 21 through Nov. 19—½ hour before sunrise through sunset.

[16] In Minnesota, the Lac Qui Parle zone is that area encompassed by a boundary described as follows:

Beginning at Montevideo, then west on U.S. Highway 212 to U.S. Highway 75, then north on U.S. Highway 75 to State Highway 7 at Odessa, then north on County State Aid Highway 21, Big Stone County, to U.S. Highway 12, then east on U.S. Highway 12 to County State Aid Highway 17, Swift County, then south on C.S.A.H. 17 and C.S.A.H. 9, Chippewa County, to State Highway 40, then east on State Highway 40 to State Highway 29, then south on State Highway 29 to point of beginning at Montevideo.

[32] In Minnesota, the southeastern zone is described in State regulations.

[33] In Mississippi the Sardis Reservoir area is that area encompassed by Interstate Highway 55 on the west, State Highway 7 on the east, State Highway 310 on the north and State Highway 6 on the south.

[34] In Missouri the north zone consists of that portion of the State north of a line running easterly from the Kansas-Missouri border along U.S. Highway 160 to the junction of U.S. Highway 60 in Springfield, along U.S. Highway 60 to the junction of State Highway 21, along State Highway 21 to the junction of State Highway 34, and along State Highway 34 to the Illinois-Missouri border along the Mississippi River at Cape Girardeau. The south zone consists of the remainder of Missouri.

[35] In the Swan Lake zone of Missouri, through November 26, the daily bag limit is 1 Canada goose or 2 white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese. After November 26, the daily bag limit is 2 Canada geese, or 2 white-fronted geese, or 1 of each; the possession limit is 4 Canada and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese.

[36] On the first day the season opens at 12 noon.

[37] In Ohio the north zone consists of that portion of Ohio north of Interstate Highway 70. The south zone consists of the remainder of the State.

[38] In Tennessee the season is closed in the Canada goose restoration areas. See State regulations.

[39] In Wisconsin the point-system season is split, with different point values assigned during each split season by State regulation. See Wisconsin regulations for point values assigned by the State for various species during each season.

CENTRAL FLYWAY

The Central Flyway consists of Colorado (east of the Continental Divide), Kansas, Montana (east of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nebraska, New Mexico (east of the Continental Divide and outside the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Dark geese include Canada geese and white-fronted geese.

Light geese include snow (and blue) geese and Ross' geese.

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily except as otherwise restricted.

FLYWAYWIDE RESTRICTIONS

Canvasbacks and redheads—Except in closed areas, the daily bag and possession limits may include no more than 1 canvasback or 1 redhead. Except in closed areas, canvasbacks count 100 points each and redheads 70 points each under the point system.

The areas closed to canvasback and redhead hunting are:

North Dakota—That portion lying east of State Highway 3, including all or portions of 27 counties.

South Dakota—All of Marshall County; that portion of Day County east of State Highway 25; that portion of Codington County south of State Highway 20 and west of U.S. Highway 81; that portion of Hamlin County west of U.S. Highway 81; and that portion of Kingsbury County east of State Highway 25 and north of U.S. Highway 14.

Texas—The counties of Brazoria, Chambers, Galveston, Harris, Jefferson, and Orange.

Mallards—No more than 4 mallards of which no more than 1 may be a female may be included in the aggregate daily bag limit on ducks, and no more than 8 mallards of which no more than 2 may be females may be possessed.

Wood ducks—No more than 2 wood ducks may be included in the aggregate daily bag limit on ducks, and no more than 4 wood ducks may be possessed.

Mergansers—All mergansers are to be included within the daily bag and possession limits under conventional and point system regulations. No more than 1 hooded merganser may be included in the aggregate daily bag limit, and no more than 2 hooded mergansers may be possessed.

Ross' geese—No more than 1 Ross' goose may be taken daily or possessed.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS WITHIN STATES. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS.

The season dates for mergansers and coots are the same as those for ducks in the following tables:

	Season dates	Limits	
		Bag	Possession
Colorado:			
Ducks	Sept. 30 to Oct. 13 and Nov. 11 to Jan. 18.	Point system.	
Coots		15	30
Geese	Nov. 4 to Jan. 21	2	4
Kansas:			
Ducks		Point system.	
In High Plains area	Oct. 28 to Dec. 17 and Dec. 23 to Jan. 21.		
In remainder of State	Oct. 28 to Dec. 17 and Dec. 23 to Dec. 31.		
Coots		15	30
Geese		5	5
Dark geese		2	2
Including no more than:			
Canada	Oct. 14 to Dec. 24	1	2
White-fronted		1	2
Light geese	Oct. 28 to Jan. 21		
Snow (including blue)		5	5
Montana:			
Ducks	Sept. 30 to Nov. 26 and Dec. 11 to Jan. 2.	Point system.	
Coots		15	30
Geese	Sept. 30 to Dec. 31	2	4
Nebraska:			
Ducks:			
In High Plains area	Oct. 14 to Jan. 4	Point system.	
In remainder of State	Oct. 7 to Oct. 8 and Oct. 14 to Dec. 10		
Coots		15	30
Geese		5	5
East of U.S. Highway 183:			
Dark geese	Oct. 7 to Dec. 17	2	2
Including no more than:			
Canada		1	2
White-fronted		1	2
Light geese	Sept. 30 to Dec. 24		
Snow (including blue)		5	5
West of U.S. Highway 183: Dark geese	Oct. 7 to Dec. 17		
Including no more than:			
Canada	Oct. 7 to Nov. 19	2	4
	Nov. 20 to Dec. 17	1	2
White-fronted		1	2
Canada and white-fronted geese combined.	Oct. 7 to Nov. 19	2	4
	Nov. 20 to Dec. 17	2	2
Light geese	Sept. 30 to Dec. 24		
Snow (including blue)		5	5
New Mexico:			
Ducks	Oct. 21 to Jan. 21	Point system.	
Coots		15	30
Geese		5	5
In Bernalillo, Sandoval, Sierra, Valencia and Socorro Counties [1].	Dec. 16 to Dec. 31		
Including no more than:			
Canada		1	2
White-fronted		1	2
Canada and white-fronted geese combined.		1	2
Snow (including blue)	Oct. 21 to Jan. 21	5	5
In remainder of State	Oct. 21 to Jan. 21		
Including no more than:			
Canada		2	4
White-fronted		2	4
Canada and white-fronted geese combined.		2	4
Snow (including blue)		5	5
North Dakota:			
Ducks	Sept. 30 to Nov. 26 and Dec. 2 to Dec. 3.	5	10
Including no more than:			
Male mallards		4	8
Female mallards		1	2
Wood ducks		2	4
Canvasback or redhead		1	1
Coots		15	30
Geese		5	5
Dark geese	Sept. 30 to Nov. 12	2	2

	Season dates	Limits	
		Bag	Possession
Including no more than:			
Canada		1	2
White-fronted		2	2
Light geese	Sept. 30 to Dec. 10		
Snow (including blue)		5	5
Oklahoma:			
Ducks		Point system.	
In High Plains area	Oct. 14 to Jan. 4		
In remainder of State	Oct. 21 to Nov. 12 and Dec. 2 to Jan. 7.		
Coots		15	30
Geese		5	5
In Alfalfa, Bryan, Johnston, and Marshall Counties:			
Dark geese	Nov. 2 to Nov. 12 and Dec. 2 to Jan. 12.	2	2
Including no more than:			
Canada		2	2
White-fronted		1	2
Light geese	Oct. 7 to Nov. 12 and Dec. 2 to Jan. 19.		
Snow (including blue)		5	5
In remainder of State: Dark geese	Oct. 14 to Nov. 12 and Dec. 2 to Jan. 12.	2	2
Including no more that:			
Canada		2	2
White-fronted		1	2
Light geese	Oct. 7 to Nov. 12 and Dec. 2 to Jan. 19.		
Snow (including blue)		5	5
South Dakota:			
Ducks		Point system.	
In High Plains area	Sept. 30 to Nov. 28 and Dec. 16 to Jan. 7.		
In remainder of State	Sept. 30 to Nov. 28		
Coots		15	30
Geese		5	5
In Buffalo, Brule, Campbell, Charles Mix, Corson east of S.D. Highway 65, Dewey, Gregory, Hughes, Hyde, Lyman, Potter, Stanley, Sully, and Walworth Counties: Dark geese.	Sept. 30 to Nov. 26	2	2
Including no more than:			
Canada		1	2
White-fronted		1	2
Light geese	Sept. 30 to Dec. 24		
Snow (including blue)		5	5
In remainder of State: Dark geese.	Sept. 30 to Dec. 10	2	2
Including no more than:			
Canada [1]		1	2
White-fronted geese		1	2
Light geese	Sept. 30 to Dec. 24		
Snow (including blue)		5	5
Texas:			
Ducks (except fulvous tree duck, black-bellied tree duck, and masked duck).		Point system.	
In High Plains area	Oct. 21 to Jan. 21		
In remainder of State;	Nov. 4 to Nov. 26 and Dec. 16 to Jan. 21.		
Fulvous tree duck, black-bellied tree duck, and masked duck.	Closed season		
Coots		15	30
Geese		5	5
East of U.S. Highway 81: Dark geese.	Nov. 4 to Dec. 8 and Dec. 16 to Jan. 21.	1	2
Including no more than:			
Canada		1	2
White-fronted		1	2
Light geese	Nov. 4 to Jan. 21		
Snow (including blue)		5	5
West of U.S. Highway 81: Dark geese.	Oct. 31 to Jan. 21	2	4
Including no more than:			
Canada		2	4
White-fronted		2	4
Snow (including blue)		5	5
Wyoming:			
Ducks and coots	Sept. 30 to Oct. 29 and Nov. 16 to Jan. 7.	Point system. [3]	
Geese	Oct. 7 to Jan. 7	2	4

[1] See State and other Federal regulations for special restrictions on Bosque del Apache National Wildlife Refuge.
[2] See State regulations for special seasons and limits on Canada geese in local areas.
[3] In Wyoming, coots are assigned 10 points.

PACIFIC FLYWAY

The Pacific flyway consists of Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington; those portions of Colorado and Wyoming lying west of the Continental Divide; New Mexico west of the Continental Divide plus the Jicarilla Apache Indian Reservation; and in Montana, the counties of Hill, Chouteau, Cascade, Meagher, and Park, and all counties west thereof.

Dark geese are defined as Canada geese and white-fronted geese.

White geese are defined as snow (and blue) geese and Ross' geese.

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily.

FLYWAYWIDE RESTRICTIONS

In all States in the Pacific Flyway:

Aleutian Canada geese—the season is closed on Aleutian Canada geese throughout the flyway.

Canvasbacks/redheads—No more than two canvasbacks or two redheads or one of each may be taken daily nor more than four singly or in the aggregate may be possessed.

Hooded mergansers—No more than one hooded merganser may be taken daily nor more than two may be possessed.

Dark geese—No more than three dark (Canada and white-fronted) geese may be taken daily nor more than six may be possessed.

Snow geese—No more than three snow geese may be taken daily nor more than six may be possessed.

Ross' geese—No more than one Ross' goose may be taken daily or may be possessed.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS WITHIN STATES—SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS

The season dates for mergansers, coots, gallinules and snipe are the same as those for ducks in the following tables. Throughout the flyway the following limits apply except as otherwise noted: Mergansers (except hooded), 5 daily and 10 in possession; hooded mergansers, 1 daily and 2 in possession; and coots and gallinules (singly or in the aggregate), 25 daily and in possession. These limits are in addition to the regular waterfowl limits.

	Season dates	Limits	
		Bag	Possession
Arizona:			
Ducks [1]	Oct. 19 to Jan. 19	7	14
Geese		6	6
Mohave and Yuma Counties	Nov. 9 to Jan. 7		
Including no more than:			
Dark (no more than 2 Canada geese or 3 white-fronted geese in the daily bag and possession, limits).		3	3
Snow		3	3
Ross'		1	1
Remainder of State	Nov. 9 to Jan. 19		
Including no more than:			
Dark (no more than 2 Canada geese or 3 white-fronted geese in the daily bag and possession limits).		3	3
Snow		1	1
Ross'			
California:			
Northeastern zone:			
Ducks	Oct. 14 to Jan. 14	7	14
Geese		6	6
Including no more than:			
Dark (Canada and white-fronted geese, singly or in the aggregate).	Oct. 14 to Jan. 14	3	6
Snow	Oct. 14 to Nov. 9	1	1
Ross'	do	1	1
White (no more than 1 Ross' goose daily and in possession).	Nov. 10 to Jan. 14	3	3
Brant	Jan. 13 to Feb. 21	4	8
Southern zone:			
Ducks	Oct. 21 to Jan. 21	7	14
Geese	do	6	6
Including no more than:			
Dark (no more Canada geese than 2 in the daily bag and possession limits in the southern zone except for that portion of district 22 in the southern zone where the daily bag limit on Canada geese is 1 and the possession limit is 2)..		3	3
White (no more than 1 Ross' goose daily and in possession)..		3	3
Brant	Jan. 13 to Feb. 21	4	8

	Season dates	Limits: Bag	Limits: Possession
Colorado River zone:			
Ducks	Oct. 19 to Jan. 19	7	14
Geese	Nov. 9 to Jan. 7	6	6
Including no more than:			
Dark (no more than 2 Canada or 3 white-fronted geese in the daily bag and possession limits).		3	3
White (no more than 1 Ross' goose in the daily bag and possession limits)..		3	3
Brant	Jan. 13 to Feb. 21	4	8
In remainder of State:			
Ducks	Oct. 21 to Jan. 21	7	14
Geese		6	6
Including no more than:			
Canada:			
Counties of Del Norte and Humboldt.	Closed season		
Sacramento Valley area [3]	Dec. 14 to Jan. 21	3	3
San Joaquin Valley area [4]	Oct. 21 to Nov. 23	3	3
Remaining areas	Oct. 21 to Jan. 21	3	3
White-fronted	do	3	3
Canada and white-fronted geese in the aggregate.	do	3	3
White (no more than 1 Ross' goose in the daily bag and possession limits).	Oct. 21 to Dec. 25	3	3
Snow geese:			
North of Interstate Highway 80.	Dec. 26 to Jan. 21	1	1
In remainder of area	do	3	3
Ross' geese	do	1	1
Brant	Jan. 13 to Feb. 21	4	8
Colorado:			
Ducks	Sept. 30 to Oct. 13 and Nov. 4 to Jan. 21.	7	14
Geese (no more than 1 Ross' goose daily and in possession):			
Montezuma and Delores Counties.	Closed		
Brown's Park area [4]	Nov. 4 to Dec. 10	1	1
West Central permit area:			
Delta and Montrose Counties ..	Nov. 11 to Dec. 24	1 per season.	
Mesa County	do	2 per season.	
Garfield County	Oct. 14 to Dec. 24	Do.	
In remainder of State	do	2	2
Idaho:			
Ducks: [5]			
Counties of Adams, Bear Lake, Boise, Bonneville, Butte, Caribou, Clark, Clearwater, Custer, Franklin, Fremont, Idaho, Jefferson, Lemhi, Madison, Oneida, Teton, Valley, and that portion of Blackfoot Reservoir drainage lying within Bingham County.	Oct. 7 to Jan. 7	7	14
In remainder of State	Oct. 7 to Jan. 14	7	14
Geese:			
Northern 10 counties (Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Lewis, Clearwater, and Idaho).	Oct. 7 to Jan. 7	3	6
Including no more than: Ross'		1	1
Fremont County within the North Fork of the Snake River drainage above the new Wendell Bridge near Ashton.	Oct. 14 to Nov. 26	3	6
Including no more than:			
Canada		2	2
Ross' and snow	Closed		
Blain County lying south and west of U.S. Highway 93, and the counties of Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls.	Oct. 28 to Dec. 24	3	6
Including no more than:			
Canada		2	2
Ross'		1	1
In remainder of State	Oct. 14 to Dec. 24	3	6
Including no more than: Canada Snow:		3	2
In remainder of State except Clark, Fremont, Madison, and Teton Counties.		3	6
Clark, Fremont, Madison, and Teton Counties.	Closed		
Ross':			
In remainder of State except Clark, Fremont, Madison, and Teton Counties.		1	1

	Season dates	Limits: Bag	Limits: Possession
Clark, Fremont, Madison, and Teton Counties.	Closed		
Montana:			
Ducks	Sept. 30 to Dec. 31	7	14
Geese	Sept. 30 to Dec. 31	5	5
Including no more than:			
Dark		3	3
White (no more than 1 Ross' goose in the daily bag and possession limits).			
Nevada:			
Ducks:			
Clark County	Oct. 21 to Jan. 21	7	14
In remainder of State	Oct. 7 to Jan. 7	7	14
Geese:			
Clark County	Dec. 2 to Jan. 21	5	5
Including no more than:			
Dark		2	2
White (including no more than 1 Ross' goose in the daily bag and possession limits).		3	3
Elko County and Ruby Lake National Wildlife Refuge in White Pine County. [6]	Oct. 7 to Jan. 7	5	5
Including no more than:			
Dark geese (Canada and white-fronted).		2	2
White (including no more than 1 Ross' goose in the daily bag and possession limits).		3	3
White River Valley in Nye County (any species except Aleutian Canada goose).	Dec. 13 to Dec. 24	1 per season.	
In remainder of State [6]		5	5
Including no more than:			
Dark	Nov. 16 to Jan. 21	2	2
White (including no more than 1 Ross' goose in the daily bag and possession limits).	Oct. 7 to Jan. 7	3	3
New Mexico:			
Ducks [1]	do	7	14
Including no more than:			
Female mallard and Mexican-like duck in southwest portion of State. [7]		2	4
Geese:			
North of I-40/U.S. 66	Season closed		
South of I-40/U.S. 66	Oct. 7 to Dec. 17	2	2
Including no more than:			
Ross'		1	1
Oregon:			
Ducks:			
Baker, Gilliam, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa and Wasco Counties.	Oct. 14 to Jan. 21	7	14
In remainder of State	Oct. 14 to Jan. 14	7	14
Geese:			
Western Oregon [8]	do	2	2
Including no more than: Ross'		1	1
Crook, Deschutes, Grant, Harney, Hood River, Jefferson, Union, Wallowa, and Wheeler Counties.	Oct. 14 to Jan. 14	6	6
Including no more than:			
Dark		3	6
White (no more than 1 Ross' goose in the daily bag and possession limits).		3	6
Baker and Malheur Counties	Oct. 14 to Dec. 24	2	2
Including no more than: Ross'		1	1
Gilliam, Morrow, Sherman, Umatilla, and Wasco Counties.	Oct. 14 to Jan. 21	6	6
Including no more than:			
Dark		3	6
White geese (no more than 1 Ross' goose in the daily bag and possession limits).		3	6
Klamath and Lake Counties	Oct. 14 to Jan. 14	6	6
Including no more than:			
Dark geese		3	6
White (no more than 1 Ross' goose in the daily bag and possession limits).	Oct. 14 to Nov. 9	1	1
	Nov. 10 to Jan. 14	3	3
Brant—statewide	Nov. 16 to Feb. 16	4	6
Utah:			
Ducks	Oct. 7 to Jan. 7	7	14
Geese		5	5
Daggett and Uintah Counties ..	Nov. 4 to Dec. 10		

	Season dates	Limits: Bag	Limits: Possession
Including no more than:			
Canada goose		1	1
Washington County	Nov. 11 to Jan. 21		
Including no more than:			
Dark geese		2	2
Snow		3	3
Ross'		1	1
In remainder of State	Oct. 14 to Dec. 24		
Including no more than:			
Dark geese		2	2
Snow		3	3
Ross'		1	1
Washington:			
Ducks		7	14
Eastern Washington	Oct. 14 to Jan. 21		
Western Washington	Oct. 14 to Jan. 14		
Geese:[3]			
Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla Walla, and Yakima Counties.	Oct. 14 to Jan 21	3	6
Including no more than:			
Snow		2	4
Ross'		1	1
Island, Skagit, Snohomish, and Whatcom Counties.	Oct. 14 to Dec. 31	3	6
Including no more than:			
Snow		2	4
Ross'		1	1
In remainder of State	Oct. 14 to Jan. 14	3	6
Including no more than:			
Snow		2	4
Ross'		1	1
Brant—statewide	Nov. 18 to Feb. 18	3	6
Wyoming:			
Ducks (including mergansers and coots), singly or in the aggregate.	Sept. 30 to Dec. 31	7	14
Geese		2	2
In all of the drainage of the Green River in Teton, Sublette, Sweetwater, Uinta, Carbon, and Lincoln Counties.	Sept. 30 to Dec. 10	2	2
Including no more than: Ross'.		1	1
Those portions of the above named counties not in the drainage of the Green River.	Sept. 30 to Dec. 31	2	2
Including no more than: Ross'		1	1

[1] In Arizona and New Mexico, in the following areas, the daily bag and possession limits on hen mallards and Mexican-like ducks, either singly or in the aggregate, shall be 2 and 4, respectively. In Arizona—that portion of Cochise County, Ariz., lying south and east of the boundary described as follows: Interstate Highway 10 from the New Mexico-Arizona border west to Benson, south on U.S. Highway 80 to the San Pedro River, and south along the San Pedro River to the United States-Mexican border. In New Mexico—that portion of New Mexico lying south and west of the boundary described as follows: Interstate Highway 10 from the New Mexico-Arizona border east to the Continental Divide, then south along the Continental Divide to the United States-Mexico border

[2] In California the Sacramento Valley area is encompassed as follows: Beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes on the Sacramento River, then south on the Sacramento River to the Tisdale Bypass; then easterly on the Tisdale Bypass to where it meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45–162 to Glen; then westerly on State Highway 162 to the point of beginning in Willows.

[2] In California the San Joaquin Valley is the area described as follows: Beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate 5; then southerly on Interstate 5 to the junction of State Highway 152 in Merced County; then easterly on State Highway 152 to the junction of State Highway 59; then northerly on State Highway 59 to the junction of State Highway 99 at Merced, then northerly and Westerly to the point of beginning in Modesto.

[3] In Colorado, that portion of Moffat County west of County Road from Greystone to Rock Springs, Wyo., and north of Cottonwood Creek, Green River, and Pot Creek.

[4] In Idaho, in Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties, no more than 1 wood duck may be taken daily nor more than 1 may be possessed

[5] In Nevada, the season is closed on all geese in the Pahranagat Valley of Lincoln County; the season is closed on snow and Ross' geese in the Ruby Valley of Elko County and White Pine County.

[6] The southwest portion of New Mexico consists of the area lying south and west of a line running easterly from the Arizona line along Interstate Highway 10 to the Continential Divide, then south along the Continental Divide to the United States-Mexico border.

[7] Western Oregon consists of all counties west of the summit of the Cascades excluding Klamath and Hood River Counties.

[8] See State regulations for days that hunting is permitted.

(e) *Point system—ducks, mergansers, and coots.* The States selecting the point system bag limits on designated species are listed in the table under § 20.105(d).

(1) The point values assigned to the species and sexes are as follows:

ATLANTIC FLYWAY

100 points	70 points	10 points	25 points
Canvasback (except in closed areas) Florida only: Fulvous tree duck	Female mallard Black duck Mottled duck Wood duck [1] Redhead (except in closed areas) Hooded merganser	Pintail Blue-winged teal Green-winged teal [2] Shoveler Gadwall Wigeon Scaup Sea ducks [3] Mergansers (except hooded)	Male mallard and all other species of ducks

[1] In Virginia prior to October 16 the wood duck counts 25 points.

[2] In New Jersey the point value for green-winged teal is 25 by State regulation.

[3] Sea ducks count 10 points each during the point-system season, but during any part of the regular sea duck season falling outside the point-system season, sea duck daily bag and possession limits of 7 and 14, respectively, apply.

MISSISSIPPI FLYWAY [1]

100 points	70 points	10 points [2]	35 points
Canvasback (except where closed)	Female mallard Black duck Wood duck Redhead (except where closed) [3] Hooded merganser	Pintail Blue-winged teal Green-winged teal Cinnamon teal Wigeon Shoveler Gadwall Scaup Mergansers (except hooded)	Male mallard and all other species of ducks

[1] In Wisconsin the point-system season is split, with different, more restrictive point values assigned during each split season by State regulation. See Wisconsin regulations for point values assigned by the State for various species during each season.

[2] In Michigan the point values for pintail, blue-winged teal, green-winged teal, cinnamon teal, wigeon, shoveler, gadwall, scaup and mergansers (except hooded) are 15 points each, by State regulation.

[3] In Illinois the redhead is assigned 100 points by State regulation.

CENTRAL FLYWAY

High Plains Unit

100 points	70 points	10 points [1]	20 points
Canvasback (except where closed)	Female mallard Mexican-like duck Wood duck Redhead (except where closed) Hooded merganser	Pintail Blue-winged teal Green-winged teal Cinnamon teal Shoveler Gadwall Wigeon Scaup Merganser (except hooded)	Male mallard and all other species of ducks

Low Plains Unit

100 point	70 points	10 points	25 points
Canvasback (except where closed)	Female mallard Wood duck Redhead (except where closed) Hooded merganser	Pintail Blue-winged teal Green-winged teal Cinnamon teal Shoveler Gadwall Wigeon Scaup Merganser (except hooded)	Male mallard and all other species of ducks

[1] In Wyoming the coot is assigned 10 points.

V 43 / 184 SEP 21 1978

Pacific Flyway: There is no point system in the Pacific flyway.

Coots have no point value (except in Wyoming) but conventional bag limits of 15 daily and 30 in possession apply.

(2) The daily bag limit is reached when the point value of the last bird taken added to the sum of the point values of the other birds already taken during that day reaches or exceeds 100 points. The possession limit is the maximum number of birds of species and sex which could have legally been taken in 2 days. The shooting (including hawking) hours are one-half hour before sunrise until sunset daily unless otherwise indicated.

(f) *Scaup only season.* A special hunting season for scaup only is prescribed according to the following table in those areas which are described, delineated, and designated in the hunting regulations of the respective States.

Daily bag limit	5
Possession limit	10

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS WITHIN STATES

Seasons in the Atlantic flyway:	
Connecticut	Jan. 16 to Jan. 31.
Florida	Jan. 21 to Jan. 31.
Maryland	Nov. 25 to Dec. 2.
Massachusetts	Jan. 10 to Jan. 25.
New Hampshire	Dec. 18 to Jan. 2.
New Jersey	Jan. 5 to Jan. 20.
New York:	
Long Island zone only	Jan. 6 to Jan. 21.
Rhode Island	Jan. 13 to Jan. 28.
Virginia	Jan. 22 to Jan. 31.
Seasons in the Mississippi flyway:	
Indiana	Dec. 10 to Dec. 25.
Louisiana	Jan. 13 to Jan. 28.
Michigan	Nov. 30 to Dec. 15.
Ohio (north zone only)	Dec. 8 to Dec. 23.
Wisconsin	Nov. 25 to Dec. 10.

(g) *Extra teal during regular season.* A hunting season for teal ducks (blue-winged only) is prescribed according to the following table. The daily bag and possession limits specified here are in addition to any other bag and possession limits specified elsewhere.

Daily bag limit	2
Possession limit	4

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS WITHIN STATES

Seasons in the Atlantic flyway:	
Connecticut:	
North zone	Oct. 21 to Oct. 29.
South zone	Oct. 21 to Oct. 25.
Delaware	Nov. 8 to Nov. 18.
Georgia	Nov. 22 to Nov. 30.
Maine (statewide)	Oct. 2[1] to Oct. 10.
Massachusetts	Oct. 11 to Oct. 19.
New Hampshire	Oct. 5 to Oct. 13.
New York:	
North zone	Oct. 4 to Oct. 12.
South zone	Oct. 11 to Oct. 19.
West zone	Do.
Lake Champlain	Oct. 4 to Oct. 12.
North Carolina:	
East zone	Nov. 22 to Nov. 25.
West zone	Oct. 4 to Oct. 7.
South Carolina	Dec. 8 to Dec. 16.
Vermont	Oct. 4 to Oct. 12.
West Virginia	Oct. 6 to Oct. 14.
Seasons in the Mississippi flyway:	
None.	
Seasons in the Central flyway:	
North Dakota	Sept. 30 to Oct. 8.
Seasons in the Pacific flyway:	
None.	

[1]Shooting hours on first day begin at sunrise.

(h) *Extra scaup during regular season.* The following States may take an extra bag limit on scaup of two daily and four in possession during the regular duck hunting season. The daily bag and possession limits specified here are in addition to any other bag and possession limits specified elsewhere.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS WITHIN STATES

Seasons in the Atlantic flyway:	
Delaware	Nov. 8 to Dec. 2.
	Dec. 20 to Jan. 13.
Georgia	Nov. 22 to Dec. 2.
	Dec. 13 to Jan. 20.
Maine (south zone only)	Oct. 2[1] to Oct. 21.
	Nov. 10 to Dec. 9.
New York:	
North zone	Oct. 4 to Oct. 29.
	Nov. 10 to Dec. 3.
South zone	Oct. 11 to Oct. 22.
	Nov. 3 to Dec. 10.
West zone	Oct. 11 to Nov. 18.
	Dec. 20 to Jan. 1.
North Carolina	Nov. 22 to Nov. 25.
	Dec. 6 to Jan. 20.
Pennsylvania	Oct. 11[2] to Oct. 21.
	Nov. 1 to Dec. 9.
South Carolina	Nov. 22 to Nov. 25.
	Dec. 6 to Jan. 20.
West Virginia	Oct. 4 to Oct. 21.
	Dec. 13 to Jan. 13.

[1]Shooting hours on first day begin at sunrise.
[2]Shooting hours on first day begin at 12 noon.

(i) *Special scaup and goldeneye season.* A special hunting season for scaup and goldeneye is prescribed according to the following table in the Lake Champlain areas which are described, delineated, and designated in the hunting regulations of the respective States.

The daily bag limit is three scaup or three goldeneyes or three in the aggregate.

The possession limit is six scaup or six goldeneyes or six in the aggregate.

Shooting (including hawking) hours: one-half hour before sunrise to sunset daily.

Check State regulations for additional restrictions and delineations of geographical areas within States.

Seasons in the Lake Champlain area only:	
New York	Nov. 25 to Dec. 10.
Vermont	Do.

Section 20.106 is amended as follows:

§ 20.106 Seasons, limits, and shooting hours for sandhill cranes.

Subject to the applicable provisions of the preceding sections of this part, open seasons are prescribed for taking sandhill cranes with a daily bag limit of three and a possession limit of six, and with shooting (including hawking) hours from one-half hour before sunrise until sunset, in the following areas for the dates indicated:

(a) In the Central flyway portion of Colorado except the San Luis Valley area, season dates are September 30 through November 5, 1978.

(b) In the New Mexico counties of Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt, and in that portion of Texas west of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, along U.S. Highway 87 (and including all of Howard and Lynn Counties) to U.S. Highway 277 at San Angelo, and along U.S. Highway 277 to the International Toll Bridge in Del Rio, season dates in the New Mexico portion are October 28, 1978, through January 28, 1979, and in the Texas portion, October 31, 1978, through January 31, 1979.

(c) In that portion of Oklahoma lying west of U.S. Highway 81, and in that portion of Texas east of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, then along U.S. Highway 87 to San Angelo, and west of a line running north from San Angelo along U.S. Highway 277 to Abilene, along State Highway 351 to Albany, along U.S. Highway 283 to Vernon, and then along U.S. Highway 183 east to the Oklahoma border, season dates in the Oklahoma portion are November 25, 1978, through January 21, 1979, and in the Texas portion, December 5, 1978, through January 31, 1979.

(d) In the North Dakota counties of Kidder, Stutsman, Benson, Emmons, Pierce, McLean, Sheridan, and Burleigh, and in the South Dakota counties of Campbell, Walworth, Potter, Dewey, and Corson, the season dates are September 7 through September 11, 1978.

(e) In all of the Central flyway portion of Montana except Sheridan County and that area south and west of Interstate Highway 90 and the Big Horn River, the season dates are September 30 through November 5, 1978.

(f) In Platte and Goshen Counties, Wyo., the season dates are October 7 through November 5, 1978.

(g) Every hunter participating in the sandhill crane hunting season must obtain and carry in his possession while hunting sandhill cranes a Federal sandhill crane hunting permit available without cost from conservation agencies in the States where crane hunting seasons are allowed. The permit must be displayed to an authorized law enforcement official upon request.

Section 20.107 is amended as follows:

§ 20.107 Seasons, limits, and shooting hours for whistling swans.

Subject to the applicable provisions of the preceding sections of this part, open seasons are prescribed for taking a limited number of whistling swans in the States of Montana, Nevada, and Utah, subject to the following conditions:

(a) The season must run concurrently with the season for ducks.

(b) In Montana, no more than 500 permits may be issued authorizing each permittee to take one whistling swan in the county of Teton. The season dates are September 30, 1978, through December 31, 1978.

(c) In Nevada, no more than 500 permits may be issued authorizing each permittee to take one whistling swan in the county of Churchill. The season dates are October 7, 1978, through January 7, 1979.

(d) In Utah, no more than 2,500 permits may be issued authorizing each permittee to take one whistling swan. The season dates are October 7, 1978, through January 7, 1979.

(e) Permits and correspondingly numbered metal locking seals must be issued by the appropriate State conservation agency on an equitable basis without charge.

* * * * * *

Section 20.109 is amended as follows.

§ 20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of this part, the areas open to hunting, the respective open seasons (dates inclusive), the hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Daily bag limit	3 singly or in the aggregate.
Possession limit	6 singly or in the aggregate.

These limits apply during both regular hunting seasons and extended falconry seasons.

Hawking hours: One-half hour before sunrise until sunset daily, unless otherwise noted.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS

Atlantic flyway:	
Maryland:	
Mourning doves	Sept. 1 to Oct. 14.
	Nov. 14 to Jan. 15.
Rails and gallinules	Sept. 1 to Dec. 16.
Woodcock	Oct. 5 to Jan. 19.
Ducks, geese, mergansers, and coots (except Canada geese in the Delmarva Peninsula).	Oct. 6 to Jan. 20.
Canada geese in the Delmarva Peninsula.	Oct. 12 to Jan. 26.
Massachusetts:	
Ducks, geese, and coots	Oct. 11 to Jan. 20.
Virginia:	
Mourning doves and rails	Sept. 9 to Dec. 11.
	Dec. 23 to Jan. 4.
Ducks, geese, mergansers, and coots (except Canada geese in the Delmarva Peninsula).	Oct. 4 to Oct. 7.
	Oct. 10 to Jan. 20.
Canada geese in the Delmarva Peninsula.	No extended falconry season.
Mississppi flyway:	
Illinois:	
All species of migratory game birds allowed under regular seasons (except mourning doves and sora/Virginia rails).	Nov. 11 to Jan. 15.
Mourning doves and sora/Virginia rails.	Dec. 10 to Jan. 15.
Indiana:	
Rails and gallinules	Nov. 11 to Dec. 17.
Woodcock	Sept. 1 to Sept. 15.
	Oct. 2 to Oct. 6.
Ducks, mergansers, and coot:	
North Zone	Oct. 1 to Oct. 20.
South Zone	Oct. 1 to Nov. 10.
Michigan:	
Rails and woodcock	Sept. 11 to Nov. 14.
Snipe	Sept. 1 to Dec. 16.
Gallinules	Oct. 1 to Dec. 9.
Ducks, geese, mergansers, and coots.	Oct. 1 to Dec. 15.
Minnesota:	
All species of migratory game birds allowed under regular seasons.	Oct. 1 to Nov. 30 [1]
Missouri:	
Mourning doves only	Sept. 1 to Dec. 16.
Ducks, geese, mergansers, and coots.	Oct. 24 to Jan. 20.
Central flyway:	
Colorado:	
Geese	Oct. 21 to Nov. 4.
New Mexico:	
Daily bag and possession limits in New Mexico are 2 and 4, respectively, singly or in the aggregate of migratory species named below and resident game species..	
Mourning doves, white-winged doves, and band-tailed pigeons.	Sept. 1 to Nov. 16.
	Nov. 23 to Dec. 22.
Ducks, geese, mergansers, coots, and gallinules.	Oct. 7 to Jan. 21.
Sandhill cranes	Oct. 14 to Jan. 28.[2]
Oklahoma:	
Ducks, geese, mergansers, and coots,.	Oct. 16 to Jan. 19.
Pacific flyway:	
Colorado:	
Geese	Oct. 21 to Nov. 3.
Idaho:	
Mourning doves only	Sept. 1 to Oct. 20.
Ducks and mergansers	Oct. 7 to Jan. 21.
New Mexico:	
Daily bag and possession limits in New Mexico are 2 and 4, respectively, singly or in the aggregate of migratory species named below and resident game species..	
Mourning doves, white-winged doves, and band-tailed pigeons.	Sept. 1 to Nov. 16.
	Nov. 23 to Dec. 22.
Ducks, geese, mergansers, coots, and gallinules.	Oct. 7 to Jan. 21.
Utah:	
Ducks, geese, mergansers coots, and snipe only.	Oct. 7 to Jan. 21.
Washington:	
All species of migratory game birds allowed under regular seasons:.	
Eastern Washington (area defined elsewhere).	Oct. 7 to Oct 13.
	Jan. 15 to Jan. 21
Western Washington (area defined elsewhere).	

[1]In Minnesota, the Hawking hours for ducks vary as follows: Oct. 1—9 a.m. to 4 p.m.; Oct. 2 through Oct. 20—½ hour before sunrise to 4 p.m.; and Oct. 21 through Nov. 19—½ hour before sunrise through sunset.

[2]In New Mexico, open only in the counties of Chavez, Curry, DeBaca, Eddy, Lea, Quay, and Roosevelt.

ECONOMIC IMPACT REVIEW

The Service has determined that this document does not contain a major action requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 7, 1978.

HARVEY K. NELSON,
Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 78-26459 Filed 9-20-78; 8:45 am]

V 43 / 184 SE 21 78

federal register

THURSDAY, SEPTEMBER 21, 1978
PART V

DEPARTMENT OF ENERGY

Economic Regulatory Administration

PASSTHROUGH OF INCREASED PROCESSING AND MARKETING COSTS IN THE PRICE OF NATURAL GAS LIQUIDS AND NATURAL GAS LIQUID PRODUCTS

V 43 / 184 SEP 21 1978

[3128-01]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION [1]

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Passthrough of Increased Processing and Marketing Costs in the Price of Natural Gas Liquids and Natural Gas Liquid Products

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: Effective November 1, 1978, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) amends subpart K of the mandatory petroleum price regulations to permit the passthrough of increased processing and marketing costs in the price of natural gas liquids and natural gas liquid products. The amendments provide for categories of allowable processing and marketing costs which may be used in calculating increased costs and delete the prior $0.005 per gallon limit on nonproduct cost passthroughs. The amendments also provide for the allocation of increased processing costs among firms, allow for the "banking" of all increased costs and require corrections for overrecoveries of increased costs.

EFFECTIVE DATE: November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

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Roger Miller (Office of Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street NW., Room 8125D, Washington, D.C. 20461, 202-632-4967.

Cliff G. Russell (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue NW., Room 5138, Washington, D.C. 20461, 202-566-9567.

SUPPLEMENTAL INFORMATION:

I. Background; comments received.
II. Amendments adopted.
A. Definition of "gas plant."
B. Passthrough of increased processing costs.
1. In general.
2. Cost calculation periods.
3. Allowable costs.
4. Extraordinary or irregular costs.
5. Processing costs deemed incurred by a firm; processing fees.
C. Marketing Costs.
1. Transfer pricing.
2. Marketing costs of gas processors governed by subpart K.
D. Banking of increased costs.
III. Additional matters.
A. Economic impact of amendments.
B. Effect of amendments adopted upon future and outstanding exception relief.
C. Further rulemaking on other issues.

[1] EDITORIAL NOTE.—Ch. II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

I. BACKGROUND; COMMENTS RECEIVED

On June 3, 1977, the Federal Energy Administration (FEA) issued a notice of proposed rulemaking and public hearing, in which it made certain specific proposals to amend subpart K of the mandatory petroleum price regulations (10 CFR 212.161 et seq.) to permit the passthrough of increased costs of processing and marketing natural gas liquids (NGL's) and natural gas liquid products (NGL products) (42 FR 29490, June 9, 1977). In that same proceeding, FEA also solicited comments concerning certain other issues under subpart K on which specific proposals were not then being made. FEA reserved the right to adopt such other amendments to subpart K, or any other subpart of the mandatory petroleum price regulations, as might be necessary to implement fully any specific proposals which were ultimately adopted. The background of these matters was extensively discussed in the June 3 notice, and will not be repeated here except where necessary to fully explain the amendments adopted today.

Written comments, including 19 late comments and several supplemental submissions, were received from a total of 62 interested parties in response to the June notice. FEA held public hearings on its proposals in Washington, D.C., on July 20 and 21, 1977, at which a total of 20 persons presented oral statements. In addition, two written statements not accompanied by oral presentations were submitted in connection with such hearings. These comments and statements have been analyzed and considered in formulating the amendments adopted today. The substance of the comments, and our position with respect to such comments, will be discussed where appropriate in connection with the particular matters to which they relate.

Effective October 1, 1977, all functions previously performed by FEA were transferred to the DOE (Department of Energy Organization Act, Pub. L. 95-91 (DOE Act); Executive Order No. 12009, 42 FR 46267, Sept. 15, 1977). Section 705(b)(1) of the DOE Act provides in part that:

> The provisions of this Act shall not affect any proceedings • • • pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceeding • • • to the extent that they relate to functions so transferred, shall be continued • • •

Pursuant to the above provision, this rulemaking proceeding, begun by FEA prior to the activation of the DOE, has been continued by the DOE.

In addition, by DOE delegation order No. 0204-4, the Secretary of Energy delegated to the Administrator of the Economic Regulatory Administration (ERA) the authority to take such action, including the adoption of rules, as is necessary and appropriate to administer several functions, including the allocation and pricing of crude oil and refined petroleum products, pursuant to the provisions of the EPAA. Under the authority of this delegation order, we adopt the regulations set forth below.

The amendments adopted today pertain to those matters (increased processing and marketing costs) that were the subject of specific proposals in the June 3 notice, and include certain provisions which were not specifically proposed but which the ERA has determined to be necessary fully to implement the decisions reached on those specific proposals. We received numerous comments pertaining to the other issues identified in the June 3 notice, and we anticipate issuing a further notice of proposed rulemaking and public hearing in the future in which specific proposals on these other issues will be made for public comment. However, we have concluded that we can and should adopt provisions dealing with processing and marketing costs today, rather than delay these rules until we can prepare additional proposals on other issues.

II. AMENDMENTS ADOPTED

A. DEFINITION OF A "GAS PLANT"

In the June 3 notice, FEA asked for comments on whether gathering facilities should be expressly included in the definition of a gas plant. Although no specific proposal was included in the notice, FEA discussed the general issues on this topic. We have concluded that it is important and necessary in the present proceeding to clarify and expand the definition of a gas plant to deal expressly with gathering facilities, for the following reasons:

First, § 212.165, as adopted today, provides for the passthrough of increased processing costs, including increased costs of depreciation, which are generally limited to those "attributable to gas plant operations."

Second, § 212.164(e) provides for increased adjusted May 15, 1973, prices in cases of post-January 1, 1975, expansions of gas plants where additional capital expenditures equal at least 50 percent of the original cost of the "plant." Thus, the definition of a gas plant is important for each of these two cost calculations.

Gathering facilities may often constitute a significant investment to a firm. Inclusion of such facilities in the definition of a gas plant would result in their costs being available to the firm in calculating increased depreciation costs, or in calculating the firm's entitlement to a price adjustment under § 212.164(e). (As discussed below, a firm may not pass through its increased costs of depreciation for a given plant under § 212.165 and also receive the price adjustment provided in § 212.164 (c)-(e) for the same plant.) Because of the potential significance of capital costs associated with gathering facilities for NGL and NGL product prices under these provisions, we believe it necessary to clarify and specify the treatment of such facilities for these purposes.

The action taken today amends the definition of "gas plant" in § 212.162 generally to include natural gas and natural gas liquid gathering facilities, including the transportation lines connecting such facilities to the plant proper, for purposes of calculating increased processing costs and/or determining eligibility for the incentive prices of § 212.164(e). However, with respect to natural gas gathering systems (as opposed to NGL gathering systems, if any) the gas processor (that is, the first seller of the NGLs who has incurred the cost and whose lawful price is at issue) may not include any costs attributable to these facilities in such NGL or NGL product prices if he also has a beneficial interest in the residue gas from the plant.

The comments received on this issue generally urged the incorporation of all gathering facilities into the definition of a gas plant. They asserted that most gas processors have always considered such facilities to be a part of their gas plants and that such facilities are an absolute necessity for the production of NGL's and NGL products. Thus, they contended that such facilities are an integral part of the gas plant.

On the other hand, the information received by FEA (ERA) in connection with this rulemaking confirms the observation made in the June 3 notice that natural gas gathering functions also benefit gas transportation and sales operations as well as liquid sales. Where this is so, it cannot reasonably be maintained that the gathering and transportation costs are entirely attributable to gas plant operations. We are also aware that all or a portion of the costs of gathering natural gas may be included in the cost of service considered by the Federal Energy Regulatory Commission (FERC) (formerly the Federal Power Commission (FPC)) for purposes of determining just and reasonable rates, and that recent general rate orders issued by the FPC (now FERC) have allowed an increment to producer gas sales prices intended to permit recovery of gathering costs. In view of these considerations, we have concluded that it is inappropriate to incorporate all natural gas gathering facilities into the definition of a gas plant.

Where the gas processor (that is, the first seller of the NGL's in question who has incurred the cost and whose lawful price is at issue) has no beneficial interest in the residue gas from the plant, we have determined that the processor's natural gas gathering facilities should be included in the definition of a gas plant for purposes of processing cost calculations and entitlement to the incentive prices of § 212.164(e). Only in such cases is it clear that the party bearing these costs must recover these costs in NGL and NGL product prices or not recover them at all. Where the processor has a beneficial interest in the residue gas, costs attributable to his gathering facilities may be covered by the FERC rates for the residue gas and in any event the costs benefit the residue gas as well as the liquids.

However, not all gas processors falling within the category of those not having an interest in the residue gas are necessarily entitled to pass through all of their increased costs attributable to gas gathering facilities. We are aware that oftentimes the gas processor who has a gathering system charges a "gathering fee" to the producer who retains all rights to the residue gas. Without a consideration of these fees in the regulations, certain processors could recover their gathering costs twice—first through the fees and again by passing through the costs in the first sale price of the liquids. The "processing fee" provisions of § 212.165(d)(3), adopted today, would prevent this result, by requiring the processor to deduct from its otherwise allowable costs either the amount of the fees received or the processing (including gathering) costs attributable to the liquids owned by the payor of the fee (after processing). In brief, the "gathering fee" is treated the same as a "processing fee" or any other payment received from another firm, for purposes of reducing the amount of costs available for passthrough in NGL and NGL product prices by the processor. (The processing fee provisions are explained subsequently herein.)

Although we recognize that in some cases a portion of the costs associated with gathering facilities could logically be considered attributable to liquids even where the entity bearing such costs also has an interest in the residue gas, we have concluded that the passthrough of any of these costs in NGL and NGL product prices should not be permitted until we obtain further information which assures that these costs will not also be recovered in gas sales prices. Then it may be possible for us to prescribe a rule with more specific conditions and limitations for the passthrough of those costs in NGL prices. Thus, the present amendment does not necessarily reflect our final determination on the appropriateness of provisions for allocating gathering costs between the residue gas and the NGL's and NGL products. However, in the absence of definitive information providing assurance that gas processors would not be recovering these costs twice, we have chosen to act conservatively at this time by limiting the passthrough of gathering costs to those situations in which such an allowance is clearly and categorically appropriate.

Some commenters asserted that in some cases gathering facilities have implicitly been treated by the Office of Hearings and Appeals of the DOE (formerly the Office of Exceptions and Appeals of the FEA and subsequently the Office of Administrative Review of the ERA) as being a part of the "gas plant" in determining whether and in what amount to grant exception relief from the provisions of prior § 212.165, and have contended that therefore such gathering systems should be included in the definition of a "gas plant" in this rulemaking proceeding. However, it does not appear that the cases cited addressed the fact that such gathering functions benefit the gas sales (or other) operations of the owners of the gas stream. In addition, exceptions decisions do not purport to be definitive interpretations of the regulations. Finally, in view of the fact that capital costs are now being recognized under § 212.165 as adopted today, and in view of the fact that such costs may be a substantial contributor to allowable nonproduct costs, it is particularly important to assure that NGL and NGL product prices do not reflect investments and operations that benefit the residue gas owned by the firm incurring such costs.

In contrast to the treatment of natural gas gathering systems, we have concluded that there is no reason not to permit increased costs in the construction, operation, and maintenance of natural gas liquids gathering facilities to be reflected in their entirety in the gas processor's NGL and NGL product prices (provided that such

processor has incurred such cost). These facilities are not "field" facilities in the sense that they gather NGL's into an extraction plant, since NGL's do not have a separate physical existence (as distinguished from a potentially separate contractual or commercial existence) apart from the wet gas stream until they are extracted in such a plant. However, in many cases NGL's which are extracted in one plant are transported through pipelines to a separate fractionation facility. For purposes of these amendments, it is these facilities that are considered to be natural gas liquid gathering facilities, and the allowable costs (as defined in § 212.165(b)(2)) attributable to such facilities are deemed to be "costs attributable to gas plant operations."

It should be emphasized that the inclusion of natural gas and NGL gathering facilities in the definition of "gas plant" is for the limited purposes of calculating processing costs under § 212.165 and determining eligibility for the incentive prices of § 212.164(e). This amendment does not permit gas processors utilizing the "inlet-outlet method" of calculating costs of natural gas shrinkage (as described in FEA Ruling 1975–18) to calculate inlet gas volumes on any basis other than measurement at the inlet to the plant proper, nor does it in any other fashion alter the existing method of calculating product costs. Furthermore, the amended definition of "gas plant" does not support any contention that liquids condensing in natural gas gathering facilities are in fact NGL's rather than condensate. In all of these situations the "inlet" of a gas plant remains the inlet to the extraction plant proper.

B. PASSTHROUGH OF INCREASED PROCESSING COSTS

In the June 3 notice, FEA set forth the background of the original nonproduct cost provisions of subpart K. It indicated that more comprehensive nonproduct cost provisions were not originally adopted, and that instead nonproduct cost passthroughs were subject to specified ceilings, primarily because of the unusual complexity of gas plant operating arrangements. The June 3 notice proposed to adopt more comprehensive and specific processing cost provisions and to remove the preexisting ceilings upon increased nonproduct cost passthroughs. The latter proposal would free gas processors from the need to seek and obtain exceptions relief from these ceilings on a regular basis.

The comments received in this proceeding have again confirmed the complex and varied nature of gas plant operating arrangements, and have impressed upon us the difficulty of prescribing self-executing processing cost passthrough provisions. However, after carefully analyzing these comments we have concluded that we can adopt processing cost provisions to permit the passthrough of legitimate increased processing costs without allowing unwarranted price increases. Accordingly, we hereby adopt a new § 212.165, as described more fully below.

1. *In general.* Amended § 212.165 deletes the prior ceilings upon increased non-product cost passthroughs in NGL and NGL product prices, and prescribes the specific allowable processing costs which may be recognized in NGL and NGL product prices. The amendments prescribe the method of calculating increased processing costs, set forth general accounting requirements for the calculation of such costs and provide for the allocation of contract payments (including processing fees) among firms.

The particular provisions of amended § 212.165 are discussed below. However, that discussion is generally limited to those provisions which have been substantially altered from the June 3 proposals, or upon which substantial comments were received, regardless of whether changes were made. With respect to other particulars of the amendments adopted today, the discussion of the provisions in the June 3 Notice should be consulted.

2. *Cost calculation periods.* Increased processing costs which may be added to base period prices in any current month are to be determined monthly on a per unit basis, as proposed. However, we have required firms to calculate their base period costs on the basis of a "base quarter." The processor must determine current month processing costs by dividing total allowable costs incurred in a given plant or group of plants in the current month by the production from that plant or plants to derive a "per gallon" cost of processing for that month. A processor must determine base period costs, however, by dividing its allowable costs incurred during the base quarter by its production in that quarter to derive a certain "per gallon" cost of processing for that period. Increased processing costs which may be recovered in sales in the current month (see § 212.165(d)) are the difference between the "per gallon" current month and base quarter costs of processing multiplied by the number of gallons produced in the current month. See generally § 212.165(b)(1).

The "base quarter," for purposes of calculating base period costs, is that fiscal quarter of the firm that includes May 1973; and, for firms commencing gas processing operations after May 1973, it is the first full fiscal quarter after production commences. See § 212.165(a).

We have adopted the "base quarter" concept in response to several comments stating that the calculation of base period costs on the basis of a single month might perpetuate anomalies in the calculation of increased processing costs. The single month of May 1973, or the date upon which the item was first sold (for "new" firms operating under the "new item" rule of § 212.111) might not have been reasonably representative of average costs in the base period. The amendment also reflects the generally satisfactory base quarter approach which has previously been applied in calculating exceptions relief.

We understand the argument that both base period and current period costs should be spread over a period longer than a month, in view of the seasonality of NGL and NGL product prices and in order to measure base period and current costs on a comparable basis. However, we have determined that the calculation of the allowable increased processing cost increment to NGL prices should be on a monthly basis, for two main reasons. First, the demands of relative certainty in calculating allowable prices, both on the part of processors and on our part, require that such prices be calculated on a reasonably frequent basis. Second, the use of any period longer than a month would necessarily require either anticipation of future costs, or calculation of current costs on the basis of "old" costs, or both. In either case, as the "current cost" period extends beyond the current month, the magnitude of potential error in reflecting actual current costs increases.

We further recognize that a processor's cost experience in a given current month could be anomalous, just as it could be in the month of May 1973. However, the effect of such anomalies is lessened by today's amendments, which require extraordinary costs to be prorated and allow unrecovered costs to be banked without limitation. In any event, the crucial distinction between an unrepresentative base month and an unrepresentative current month is that an unrepresentative current month is not carried forward as part of the calculation of increased costs in every subsequent current month, whereas an unrepresentative base month would be perpetuated in every subsequent calculation. Therefore, we believe that the cost calculation periods adopted today should be generally satisfactory for calculating increased processing costs.

3. *Allowable costs.* The June 3 notice proposed several specific categories of processing costs which could be passed through in the prices of NGL's and

NGL products. The particular cost elements comprising these categories were set forth, and gas processors would have been required to calculate increased costs separately for each category.

A substantial number of comments were received on this issue, and we have carefully considered them. Several comments urged us not to specify the categories of allowable costs but to simply allow processors to pass through all increases in processing costs under generally accepted accounting practices historically and consistently applied by the firm concerned. We recognize that such an approach would reduce at least the appearance of regulatory complexity. However, we have concluded that specification of allowable costs is necessary and appropriate, for several reasons.

First, there is no evidence that the existing accounting standards in the gas processing industry are sufficiently exact to insure that similarly situated processors, using their historic accounting methods, will pass through similar types of costs. (Indeed, the comments received on whether gathering facilities should be included in the definition of a gas plant disclosed differences in whether costs attributable to gathering facilities have historically been assigned to gas plant operations, and if so whether in full or only in part.) Second, we are concerned that the absence of specific standards could permit cost manipulation, particularly where a firm did not have extensive cost accounting procedures before the imposition of price controls. Finally, we believe that, although the recovery of costs should be limited both by identifiable historic accounting practices of the firm and by general principles of accounting (see § 212.165(c)(1)), mere accounting or "book" costs should not generate increased NGL and NGL product prices.

An example of accounting costs which should not be allowed on a broad unqualified basis is that of "general and administrative costs." Several commenters urged us to permit the allocation to that category of the costs of corporate administrative personnel and other similar indirect costs. As discussed subsequently, a "general and administrative" cost category has been adopted today, but only with respect to levels of corporate organization which are engaged exclusively in gas plant operations and in no other activity. We are fully aware that, as a matter of abstract economic and accounting theory, a gas processing unit benefits from higher level corporate activity. However, it does not follow that allocated costs of higher organizational levels are actually a "cost" of gas plant operations, because the firm itself may be engaged in several other, unregulated activities which are more than sufficient to justify the bulk of corporate "G&A." Because of these considerations, we believe that allocated corporate costs should not generally be passed through in NGL prices, even though such an allocation might be entirely appropriate from an accounting point of view. However, permitting processors to price NGL's solely on the basis of their historical accounting practices could have permitted such a result.

On the other hand, we have determined that our regulations should not require unnecessary revisions in existing accounting systems. Many commenters who have existing and reasonably precise accounting systems objected that the proposed requirement to calculate costs separately for each specific cost category would impose an undue burden upon them by requiring a change in their accounting systems. (Others, however, who presumably do not now have extensive established accounting systems or for whom the categories set forth presumably paralleled their own, did not object to this proposed requirement.) Since we have no desire to unnecessarily upset existing accounting systems, we have not adopted the proposed requirement to calculate costs separately for each stated category, although firms are free to do so. Nevertheless, regardless of how firms may categorize a particular expenditure within their own accounting systems, they are limited, in calculating allowable costs under this section, to the specific elements of cost described in § 212.165(b)(2). Only these costs are recognized as allowable costs for use in calculating increased processing costs, regardless of how the costs may be stated by the firm in its accounting categories.

Finally, we have substantially revised the description of the categories of allowable costs, in many cases in response to comments received. The cost categories adopted today are set forth in § 212.165(b)(2) as follows:

a. *Depreciation.* Section 212.164(c)–(e) provides a price incentive for qualified gas plant investments made after January 1, 1975. The incentive price's purpose is to stimulate additional plant construction for increased NGL and NGL product supply. In the June 3 notice, FEA recognized that allowance of depreciation cost increases might provide an alternative method by which firms could recover increased capital expenditures if they did not qualify for the incentive price.

The Office of Hearings and Appeals has previously not permitted firms to pass through their increased depreciation costs, because such costs do not represent out-of-pocket outlays for which exception relief was determined to be appropriate. However, as the period of price controls lengthens, we believe that these increased costs should be permitted to be passed through in order to encourage replacement of aging gas plants and improvements in existing ones.

Accordingly, we have adopted a provision permitting firms to pass through the increased costs of depreciation of capital investments so long as the firm does not also use the incentive prices of § 212.164(c)–(e). A firm must elect, on a plant-by-plant basis, between use of the adjusted price and the passthrough of increased costs of depreciation. The choice is irrevocable and applies to all investments made at the particular plant. The election is made when the firm first uses the adjusted price or first passes through increased depreciation costs. For existing plants utilizing the incentive prices of § 212.164(c)–(e), this means that increased costs of depreciation may not be passed through at those plants, since the processor has already used the incentive prices. The processor made its investments in reliance upon the incentive prices and has also presumably recovered a substantial portion of its invested capital through the incentive prices. Moreover, any additional investments made at a plant with respect to which the processor is utilizing the incentive prices should ordinarily be returned in the form of increased volumes of liquids receiving the incentive price or in the plant fuel efficiency incentive provisions adopted today (see section II.B.3.c., below). Where these provisions are not sufficient to provide an adequate return on capital to stimulate energy-efficient investments, exception relief is available for that purpose (see the subsequent discussion in this section).

For gas plants where the gas processor has not used the incentive prices, either because the plant is very new and NGL's have not yet been produced and sold, or because investments in the particular plant made after the base quarter do not qualify for the incentive price, the gas processor may pass through its increased costs of depreciation incurred subsequent to the effective date of these amendments. In all cases, increased depreciation costs attributable to the period from the base quarter to the effective date of these amendments may not be passed through in any manner. Depreciation costs with respect to existing capital assets must be based on the depreciated book value of the assets on the effective date of these amendments.

After further consideration of the manner in which increased depreciation costs should be calculated for NGL pricing purposes, we have determined to require that both base period and current period costs of depreciation be calculated on a "units of pro-

V 43 / 184 SEP 21 78 V

duction" basis. That is, the capital investment is to be treated as if it were to be amortized equally over every gallon of NGL's (or NGL products, as the case may be) that will be produced from that facility, regardless of the period during which it will be produced. Thus, we have determined at this time not to recognize depreciation costs calculated on a "straight-line" basis or on any other basis than the above-described total units of production method.

Our primary reason for requiring the units-of-production method for calculating depreciation costs is that it appears to correspond most nearly to the probable economic judgments underlying investment in gas plant facilities, and that it will avoid increased NGL prices based on little more than an accounting treatment having no necessary relation to the underlying economic realities. Unlike crude oil refineries, gas plants are typically tied to a specific site or group of sites for the production of their basic feedstock, raw natural gas. Whereas crude oil refineries can through various transportation and/or exchange arrangements, maintain a reasonably constant feedstock flow and a corresponding constant volume of output, it is in the nature of gas processing plants to experience a decline in liquid production as the fields providing their feedstocks are depleted. Under these circumstances, if unit depreciation costs were calculated by amortizing investments on a straight-line basis, the unit depreciation costs would increase simply as a result of reduced plant output, rather than as a result of increased levels of capital expenditures. However, we believe that the typical gas plant owner, recognizing the depleting nature of his feedstock, would in fact base his economic decision as to whether or not to invest in a plant by determining his probable return over the entire productive life of the field the plant would serve. In brief, the relevant economic decision would turn upon whether the discounted value of future liquid revenues, at present prevailing prices and taking into account declining yields in future years, would be sufficient to justify the investment. Thus, we believe that a units-of-production method of accounting most nearly corresponds to the actual economic considerations involved in gas plant investment decisions.

Liquids produced from gas plants in existence during the base period were presumptively being sold at prices reflecting the recovery of all costs, including capital costs, associated with their production. In any event, that is the premise upon which the basic structure of these cost-based regulations rests. However, if, as indicated above, gas plant investments existing on that date were expected to be recovered on a total units-of-production basis, it could result in unjustified windfalls to gas processors to permit a subsequent, but anticipated, decline in production to create an increase in the unit price of liquids produced from those facilities. Since it is the purpose of providing for increased costs of depreciation to permit the recovery of capital expenditures which are not already implicity being recovered in the base period price, we have concluded that increased depreciation costs should not be recognized simply because production from a given plant declines.

For these reasons, we have prescribed that depreciation costs in both the base period and the current period be calculated according to the units-of-production method, that is, that investments be amortized equally across all liquid volumes attributable to those investments. With respect to the base period, the gas processor must establish the total dollar value of existing assets (at original cost, regardless of when the investment was made) and the total volume in gallons of liquids expected to have been produced from those facilities. With respect to the current period, the gas processor must establish similar figures for investments made after the base period, using actual original cost and estimated units-of-production (at the time the investment is put to productive use) attributable to those investments. In this fashion, the processor should be able to calculate unit costs of depreciation in both the current period and the base period, and thus calculate increased costs of depreciation.

We recognize that the units-of-production method prescribed requires some degree of estimation, particularly with respect to new plants. It is possible that these estimates will be in error to some extent. Therefore, we are also requiring that gas processors establish and maintain records demonstrating the data and analytical method by which these estimates are reached. We reserve the right to disallow all or a part of increased depreciation costs in appropriate compliance proceedings in the event that inadequate data or analysis results in an unreasonable overstatement of such costs. In addition, in no event may a gas processor recover, in the form of increased depreciation costs, an amount in excess of 100 percent of the cost of any investment since the base period.

The amendments adopted today also recognize depreciation costs only for investments which create a useful physical asset or prolong the useful life of such an asset. Where one firm acquires an existing facility from another firm, the acquiring firm must utilize the same depreciation costs for that facility as the seller utilized, regardless of the consideration paid and the estimated production at the time of the acquisition.

In this fashion, a change in ownership of an asset not resulting in an increased useful life of the asset will not result in any additional current depreciation costs for purposes of calculating increased depreciation cost passthroughs; depreciation costs will be taken on the same basis with respect to the same asset, regardless of changes in ownership. This should avoid any artificial incentives to engage in ownership changes, and it will assure that depreciation cost passthroughs are directed at new "real" investments. In addition, the first day on which the asset is put to its intended use is the first day on which increased depreciation costs may be deemed to be incurred.

The comments received on this topic uniformly favored the passthrough of increased depreciation costs. Several commenters, however, argued that inflation had substantially eroded the real dollar margin permitted them under existing regulations and that recovery of increased costs only would not guarantee an incentive to gas processors to continue to invest in gas plant operations. They argued that provisions for a reasonable rate of return on investment would be needed to stimulate added investment and prevent diversion of capital to other uses. These commenters suggested upward adjustment of base period prices (and the incentive prices of § 212.164(c)–(e)) for inflation, or the allowance of both the passthrough of increased depreciation costs and the use of the incentive price of § 212.164(c)–(e) to permit a reasonable return on investment.

We have decided not to adopt the alternatives suggested by these commenters. The suggestions raised in the comments may merit further consideration, but they address topics, namely inflation adjustments and rate of return pricing, which require more detailed data and study to permit us to determine whether to adopt such an approach and, if so, the appropriate amounts involved and their impact upon present prices. We believe that allowing firms to choose either the incentive prices or increased costs of depreciation will serve to facilitate the recovery of capital costs in a manner not previously permitted and thus provide additional incentives for future investment.

We wish to emphasize that it is the ultimate objective of the DOE to permit gas processors to obtain an adequate return on new gas plant investments, where the investment contemplated is energy-efficient in the sense

that it will result in increased supplies of energy at a reasonable cost to consumers and will thus promote the realization of fundamental national energy policies. By providing for the recovery of increased costs of depreciation, and by providing for a general plant fuel efficiency incentive (discussed subsequently), we have attempted to enhance new gas plant investments to the extent it is possible to do so by general rules within the scope of this proceeding. However, we recognize that there may be particular cases in which the operation of our general rules is not adequate to permit a sufficient return on investment.

Therefore, the office of hearings and appeals of the DOE will entertain requests for exception relief to permit a gas processor to increase NGL prices above those otherwise permitted by the price regulations, where it is shown that a proposed investment will be energy-efficient and that exception relief is required in order to permit an adequate return on the investment and thus stimulate the investment.

In a proposed decision and order issued to MAPCO, Inc. (*MAPCO, Inc.*, Case No. DEE–0532, July 14, 1978), the DOE reviewed an application for exception relief submitted by a firm that proposed to undertake a substantial investment in more efficient liquid extraction techniques, with the result that more liquids and more residual natural gas would be made available to consumers of these commodities than is true under present operating methods of the plant in question. However, in view of the operation of the subpart K regulations (as they then existed) and of the relevant FERC (FPC) rate schedule for the natural gas, it was determined that the incremental revenues to the firm as a result of the investment would be insufficient to permit the firm to recover its investment and earn a reasonable return thereon. Therefore, and in consideration of the fact that incremental cost to consumers of NGLs and natural gas with the exception relief compared favorably with prevailing prices for new gas and crude oil, the DOE has proposed to grant the firm exception relief to permit it to increase NGL prices above the level that would otherwise be permitted by subpart K in an amount sufficient to permit the recovery of the capital invested and a reasonable return thereon.

It should be noted that the subpart K provisions as they existed at the time of the proposed decision and order would have operated to cause a reduction in lawful first sale prices of NGLs from the production attributable to the plant in question, so that the net effect of the proposed exception relief would be to permit only a relatively small increase in NGL prices over prior levels. It should also be noted that, after today's amendments, which provide for a fuel efficiency incentive as well as for increased costs of depreciation for plants not utilizing the incentive prices of § 212.164(c)–(e), the need for and appropriate amount of this type of exception relief for this firm and all others should be reduced. Finally, it should be noted that the exception relief was conditioned upon the applicant's filing and diligently pursuing its remedies before the FERC, in view of the fact that the bulk of the energy (Btu's) to be saved by the investment are in the form of residual natural gas. All of these factors have been and will continue to be considered in determining (and subsequently adjusting, if appropriate) the amount of exception relief, if any, to be afforded in the form of increased NGL prices.

However, the MAPCO case is illustrative of the policy of the DOE to provide appropriate exception relief to afford an opportunity for a firm to receive a reasonable return on investments calculated to further fundamental national energy goals, where the operation of our general regulations would otherwise operate to inhibit such activities.

b. *Labor.* In the June 3 notice, FEA proposed to restrict allowable labor costs to those for personnel employed at a gas plant or "directly and exclusively" involved in gas plant operations. The intent of the quoted language was to insure that only those labor costs directly attributable to gas plant operations were passed through in the prices of NGLs and NGL products. Many comments indicated that the words "and exclusively" would result in the disallowance of labor costs for personnel who do not spend all of their time directly involved in gas plant operations. It was not intended that the assignment of such costs to gas plant operations should be precluded, and to avoid any possibility of confusion we have eliminated the words "and exclusively."

However, we stress that personnel whose remuneration is included in this category consists of only those employees who are directly involved in gas plant operations. Labor costs do not include the salaries of, for example, executive or staff personnel whose responsibility spans a broad range of functions and who, on occasion, may become involved with gas plant operations in that capacity. On the contrary, labor costs include only remuneration to employees whose primary responsibility is for gas plant operations, but who occasionally may become involved in other matters. These limitations complement the limitation on general and administrative costs (discussed subsequently), namely, that only costs attributable to a corporate administrative unit directly and exclusively involved in gas plant operations may be passed through by the firm.

Costs of personal services provided by personnel which own any portion of, or receive any profits from, the firm involved are excepted from the definition of allowable labor costs. This exception does not include personnel who own stock in the firm, if it is a publicly held and publicly controlled corporation, or participants in any type of profit sharing plan historically offered by the firm. While this exception was not proposed explicitly in the June 3 notice, we have adopted it as a reasonable and necessary clarification of the definitions of both labor costs and general and administrative costs.

We note that an identical exception was proposed and is adopted today in § 212.166 governing the passthrough of marketing costs. Similar limitations appear in the provisions of subpart F. This exception is directed at privately held or controlled firms where the owners, whose salaries are at issue, are likely to perform personal services in connection with both marketing and processing operations. There is no rational basis for distinguishing the treatment of such salaries, for purposes of calculating increased processing costs, from the treatment of the the same salaries for purposes of calculating increased marketing costs. The purpose of the exception is to insure that owners of privately held or controlled firms, who exercise practical control over the financial policies of such firms, do not merely disguise profits of the firm as "labor" which are used, in turn, to boost the allowable prices for NGL's and NGL products.

We recognize the argument that the reasonable value of an owner's personal services may have increased, and that some increased opportunity costs might appropriately be allowed in such cases. However, information available at this time is inadequate for us to determine adequate standards for the allowance of such increases. Furthermore, it is not clear that the economic concept of owner opportunity costs always or necessarily reflects such actual opportunities for owners as would justify increasing NGL prices. Consequently, we have adopted the general exception to allowable labor costs and will study ways of allowing the passthrough of some increased owner salaries under appropriate circumstances.

c. *Plant fuel.* Under FEA Ruling 1975–18, the increased cost of natural gas processed at the plant and utilized as plant fuel in connection with the extraction of liquids is accounted for

V 43 / 184 SEP 21 1978

as an increased product cost, i.e., as a component of increased costs of natural gas shrinkage. Unlike subpart E for crude oil refiners, subpart K did not provide a fuel efficiency incentive for gas processors. In the June 3 notice, FEA proposed no change in the treatment of the costs of processed gas used as plant fuel, but solicited comments on whether and how to provide an incentive for fuel efficiency. Several comments were received on this matter, with opinion divided between those favoring an incentive and those favoring retention of the previous method of accounting for costs of plant fuel.

We have determined that gas processors should have the option of using a fuel efficiency incentive, primarily in order to encourage conservation and to prevent waste of valuable commodities (natural gas or purchased NGL's) in the production of NGL's. In addition, the optional incentive will put refiners and gas processors on an equal footing.

We recognize that declines in fuel efficiency are often beyond the control of the gas plant operator due to declines in field pressures and liquid content of the gas processed. Under these circumstances, it would be inappropriate to require use of a formula which penalize some processors for increased fuel usage. On the other hand, we believe it important to provide a positive incentive to reduce fuel consumption. Accordingly, we have determined to permit processors to elect whether to apply the fuel efficiency incentive or to calculate fuel costs in the normal fashion on a plant-by-plant basis.

If the fuel incentive is used, depreciation costs associated with investments which effect fuel conservation may not be passed through, nor may the cost of the fuel conservation equipment be used to qualify for the incentive prices provided in § 212.164.

The fuel efficiency incentive adopted today parallels the incentive provided to refiners under subpart E. In computing the fuel efficiency incentive the "gas plant fuel cost increase" is the base gas plant fuel usage multiplied by the gas plant input for the current month and by the difference between the average gas plant fuel cost rate in the current month and in the base quarter. The "average gas plant fuel cost rate" is the weighted average cost of gas plant fuel per unit of energy utilized as fuel—for example, dollars per MMBTU or MCF. Where natural gas processed at the gas plant is utilized as plant fuel, the total dollar amount of gas plant fuel for any particular period is determined by multiplying the volume of fuel by the sales price of the residue gas in that period. Where residue gas has been sold on a different basis in the current month than in the base quarter—for example, MMBTU versus MCF—a conversion factor shall be used to equate the current month basis to the base quarter basis. "Base gas plant fuel usage" is the amount of gas plant fuel in units of energy (MMBTU or MCF) divided by the MCF or MMBTU of gas plant input during the base quarter. Finally, "gas plant input" is the volume of raw natural gas processsed at the gas plant during the relevent period. The effect of this method of calculation is to permit the processor to retain any fuel cost savings resulting from reduced fuel usage, and thus to encourage reduction in plant fuel usage.

d. *Maintenance.* This category is adopted as proposed in the June 3 notice.

e. *General and Administrative.* In the June 3 notice FEA proposed a category of overhead cost as follows:

> Overhead cost is the dollar amount of costs of insurance, outside legal and accounting fees, and inter-gas plant transportation costs directly attributable to gas plant operations.

This was identical to the correspnding category in subpart E. Numerous comments objected to the allowance of only outside legal and accounting fees, and to the otherwise restrictive nature of this category. We believe these objections have merit, within limits. Whatever the appropriateness of these restrictions when applied to crude oil refiners, they are likely to prevent many gas processors from passing through increased costs they have actually incurred and which they would not have incurred in the absence of their conduct of gas processing operations. Consequently, we are substituting for overhead a category entitled "General and Administrative Costs," which consists of the ordinary and necessary expenses of management and administration attributable to gas plant operations. However, we have concluded that, to the extent that such costs are incurred by a corporate or other organizational administrative unit which is involved with activities other than gas plant operations, these costs may not be passed through by the firm in the prices of NGL's and NGL products. This provision allows only those administrative costs incurred by an organizational unit that is directly and exclusively involved in gas processing operations to be passed through in NGL's and NGL products.

We have determined that the above limitation on general and administrative costs is appropriate primarily because it cannot reasonably be presumed that those higher level organizational "G&A" costs would be eliminated in the absence of gas plant operations where the firm also engages substantially in other operations. As previously discussed, the concept of an accounting cost, although entirely valid for many purposes, does not automatically justify increased prices for NGL's and NGL products. Although certain activities may be deemed to benefit NGL operations, it does not necessarily follow that the costs associated with those activities would no longer be incurred, or would be substantially reduced, were NGL operations terminated. Moreover, general and administrative costs of organizational units not directly and exclusively involved in gas plant operations also benefit other, often non-price-controlled, activities. Therefore, we have determined not to permit the passthrough of these costs in NGL's and NGL products.

For the reasons set forth in the discussion of labor costs, and in order to prevent the inclusion under this definition of costs not allowed under the definition of labor costs, we have also excepted from the category of general and administrative costs the costs of services provided by personnel who own any portion of, or receive any profits from, the firm involved. This exception does not include personnel who own stock in the firm, if it is a publicly held and publicly controlled corporation, or participants in any type of profit sharing plan historically offered by the firm.

f. *Federal, State and Local Tax.* This category is adopted as proposed except for the deletion of the reference to corporate or other general business taxes, as well as the provisions which would have disallowed "any tax of any description which is measured by net income or gross receipts." These clauses do not appear in subpart E and do not appear to be necessary in this subpart. The changes are intended to permit the passthrough of taxes such as sales taxes levied on gross income (permitted by FEA ruling 1974-4), but to retain the prohibition against the passthrough of income taxes.

However, the provisions adopted do not permit production or severance taxes to be recognized as allowable costs. Although commenters contended that such taxes should be permitted to be passed through in NGL prices, they did not satisfactorily demonstrate that these taxes were associated with gas plant operations. Our understanding is that such taxes are, in fact, levied upon the production or "severance" of crude oil and natural gas from the property and that the FERC has permitted increases in natural gas rates to reflect increased production or severance taxes. In the absence of additional information specifically justifying the passthrough of such costs in NGL prices, we conclude that such taxes should not be passed through in the prices of NGL's.

g. *Utilities.* This category is adopted as proposed in the June 3 notice.

h. *Interest.* This category, as adopted, is more flexible than as proposed. As proposed, borrowing from an unrelated entity for the purpose of constructing, expanding, or operating a gas plant would have been allowed as a processing cost. As adopted today, § 212.165(b)(2)(viii) provides that interest on any borrowing (from an unrelated entity) which is for the purpose of constructing, expanding or operating a gas plant, or which is otherwise attributable to gas plant operations, is an allowable cost.

Comments received indicated that borrowed capital is often used to provide working and investment capital for all of its operations, but that the borrowing cannot be associated with a particular use. Of course, where the particular borrowing can be traced to a particular use by reference to representations made in loan request documents, security agreements, or other relevant evidence, that borrowing will ordinarily be deemed to be for the use so described. (Where the borrower's recourse is against the earnings or assets of more than one type of operation of the firm, then the borrowing will ordinarily be deemed to be attributable to all of such operations.) However, in many cases, both in the base period and the current period a firm may borrow on a general line of credit or for otherwise unspecified purposes, and in such cases it is necessary to determine the amount to be attributed to gas plant operations for purposes of determining allowable costs under § 212.165 for the relevant period. In such cases, general borrowings may be allocated to gas plant operations on the basis of the costs of gas plant operations or the investment costs associated with gas plants (as a percentage of total firm-wide costs of operations or investment, respectively). Of course, the method of allocation used in the base period must be used also in determining current month costs.

The purpose of permitting an allocation of general interest costs is simply to recognize that corporate borrowings represent an accumulation of funds necessary to permit the conduct of all of its businesses, that it is dufficult if not impossible to trace specific funds, and that where such borrowings are not for a discrete purpose they actually benefit all of such operations. The principle of allocating on the basis of either proportionate costs or proportionate investment is intended to provide for an allocation on the basis of the relative need for capital of one type of operation vis-a-vis other corporate operations. We believe that an allocation of interest costs on this basis should be a rational means of attributing such capital costs to gas plant operations.

We recognize that the allocation of general interest costs as described above would permit the passthrough of some costs that may be only indirectly attributable to gas plant operations. However, we have determined that such treatment is warranted for this limited category of capital costs, for the above reasons.

i. *Operating materials and supplies.* Many commenters asserted that the proposed allowable cost categories omitted certain essential items of cost, such as absorption oil used in the liquid extraction process, process chemicals, and various items of hardware which are essential to gas plant operations but which are not depreciable assets under general accounting principles. Such costs are necessary and legitimate, and their omission in the proposal was inadvertent. Therefore, § 212.165(b)(2)(ix), as adopted today, allows increases in these costs, which are collectively defined as "Costs of Operating Materials and Supplies," to be passed through.

4. *Extraordinary or irregular costs.* In the June 3 notice, FEA proposed to adopt a requirement for the proration of costs which are irregular or extraordinary. These costs would include annual taxes, extraordinary maintenance (such as that involved in shutdowns), and any other item of cost which is paid or incurred less frequently than monthly. They would also include those costs paid or incurred in each month but in significantly different amounts, independent of variations in the amount of production. FEA proposed to require the annualization of such costs if the firm had not historically prorated such costs over an appropriate period, but also proposed to deem such costs to have been incurred 6 months prior to their actual incurrence in order to permit firms to recover unusually high costs on a faster basis. Irregular base period costs were required to be annualized over the entire fiscal year which included the base period. The proposal's purpose was to prevent prices of NGL's and NGL products from suddenly inflating in one month as a result of the payment of irregular costs which have no reasonable connection with the regular monthly costs of gas plant operations.

The comments raised many disparate objections concerning various aspects of this proposal. Some comments stated that forced proration of each cost item that fluctuates would impose an unnecessary accounting burden either because historical experience indicates that monthly fluctuations in the various cost items tend to be self-compensating over an extended period, or because the amounts of the monthly fluctuations were not significant. Other comments urged us to allow firms to choose the appropriate period over which to prorate their current costs, rather than to require them to annualize the costs as proposed. One comment argued against adoption of the proposal because firms would be required to estimate actual future costs and to constantly adjust those estimates. Commenters further argued that this provision is not needed because the present competition in the NGL market limits a firm's ability to increase the price of its products at any time. Other commenters urged the proration only of annual costs such as taxes, and still other commenters proposed incorporation of a threshold dollar limit to exempt from the proration requirement any cost item under a certain dollar amount.

After careful review, we have decided to retain the requirement, with some modifications, that extraordinary and irregular costs be prorated. A firm which, in any one current month, incurs extraordinary and/or irregular costs amounting to less than $0.0025 per gallon of liquids produced in that month is not required to prorate those costs under § 212.165(c)(2) as adopted today. Otherwise, firms are required to prorate extraordinary and irregular costs over the appropriate period. We have excluded costs of less than $0.0025 per gallon from the proration requirement both in order to ease the administrative and accounting burdens on gas processors and because such a de minimis rule is consistent with the basic purpose of the proration requirement, i.e., to insure that purchasers of liquids in one month do not bear significant costs that are in fact attributable to production in other months. Costs of $0.0025 per gallon or less, even where a purchaser buys a large volume of liquids, do not appear to represent a sufficiently significant sum to outweigh the administrative burdens that would result from proration of such costs.

If a firm has prorated its significant extraordinary or irregular costs (under generally accepted accounting principles historically and consistently applied by the firm) over an appropriate period, it must continue to do so. If a firm has not historically so prorated such costs, it must nevertheless prorate such costs over an appropriate period as determined under generally accepted accounting practices, both for purposes of calculating current period costs and for purposes of calculating base period costs. We are requiring firms to maintain records setting forth the data and the rationale under which the appropriate proration period is established, both for the base quarter and for any current month. Thus, there is no fixed requirement in

V 43 / 184 SEP 21 1978

§ 212.165(c)(2) as adopted today that firms annualize their extraordinary or irregular costs. Firms are to use the appropriate period to which such costs are attributable, and the burden is on each firm to select the proper period. For exmple, for taxes and insurance the appropriate period would ordinarily be for the period covered by the tax or insurance premium. It should be noted that, although costs which occur both in relatively constant amounts and with regular periodicity (for example, taxes and insurance) may be accrued over the appropriate period, costs which do not occur both at regular intervals and in relatively constant amounts (for example, shutdown costs) may not be accrued but must be prorated after incurrence.

We realize that this proration requirement may place an increased burden on some firms, but any such burden will be lessened considerably by excluding extraordinary and irregular costs of $0.0025 per gallon or less and by not imposing a requirement of annualization as set forth in the June 3 notice. We conclude that some proration requirement is reasonably necessary to insure that significant costs attributable to a period greater than 1 month will be borne equally by all purchasers during that period. We cannot presently conclude that competition in the NGL markets is sufficient to restrain sudden increases in the prices of NGL's and NGL products; therefore, we cannot conclude that this provision is unnecessary.

We note that no firm is prevented from recovering all of its increased costs, particularly in view of the banking provisions adopted today in § 212.169. Nevertheless, if subsequent information demonstrates that modification of this proration requirement is necessary, we will consider appropriate modifications.

5. *Processing costs deemed incurred by a firm; processing fees.* In its June 3 notice, FEA recognized that subpart K contained no express provisions governing the allocation of increased processing costs among firms. FEA pointed out that there appeared to be a need for such a method of allocating increased processing costs among different firms, because ownership of a gas plant, and/or ownership of the production from a gas plant, and ultimate responsibility for the costs of operating such a plant are frequently divided among several firms. However, even where the interests in a gas plant or gas plant production are multipartite, a single firm typically undertakes to opearate the plant on its own behalf and on behalf of the other interests. This operator is the firm that typically incurs the initial actual processing costs. This firm may then be reimbursed by the other owners, either in proportion to their interests or in some other agreed upon fashion. This reimbursement may be in cash, or it may take the form of an in-kind transfer of a portion of the liquids. Or, rather than being reimbursed on the basis of an after-the-fact determination of costs, the operator may receive a specified cash amount per unit of volume processed or a specified percentage of the liquids produced (above any amounts deriving from the operator's ownership interest, if any, in the gas) as compensation for its processing services. Similar arrangements may be made between firms which from time to time, or for a period of time, have their gas streams processed by another firm as an "accommodation."

In any of these cases, there is a need to determine the increased costs which may be passed through by each firm. FEA sought to meet this need by proposing to adopt the relatively new concept of "related entities," which were defined as firms which are not affiliated with or controlled by each other, but which have an ownership interest in one or more of the same gas plants or in the production from such plant or plants.

The intent of the proposal was to establish a method of allocating the increased costs of processing natural gas or NGL's in a particular plant or plants among the relevant firms, while preventing those firms from passing through more than the total amount of the allowable increased processing costs actually incurred at the particular plant or plants.

The proposal would have required a gas processor to certify to the payor of the processing fees (the "processee") the amount of allowable processing costs incurred in a given period which were attributable (on a volumetric basis) to the NGL's and NGL products produced in the plant and owned by the processee. The processee would then have considered the certified costs as having been incurred by it for purposes of § 212.165. The processor would have been required to deduct the same amount from the costs otherwise allowable for passthrough in its NGL prices. With some modifications, a similar allocation was proposed for "in-kind" processing fee payments. In addition, FEA proposed a general rule requiring the volumetric allocation of costs to NGL's and NGL products for firms that had a continuing interest in the same gas plant or plants. In all of these cases, the firms involved were considered to be "related entities," and the proposal attempted to allocate to the particular related entity, for passthrough in the prices of its NGL and NGL products, the actual processing costs borne by that entity through its contract payments, without at the same time depriving the processing entity of its profit, if any, under its processing arrangements.

Numerous comments objected to these proposed revisions. The most frequent objections were that the proposal would: Intrude into the bargaining process between processees and processors; destroy bargaining among gas plant owners; unnecessarily interfere with existing contracts; and carry with it anticompetitive overtones with respect to the exchange of confidential information concerning processing costs. Other comments stated that efficiencies in the industry would be harmed because consolidation of gas plant operations would be discouraged, and duplicative construction of new gas plants would be encouraged, because the proposals would negate the cost savings which motivate joint production or contractual processing arrangements.

We recognize the force of these contentions, and also the difficulty of accommodating all of the pertinent considerations. We have considered these comments in attempting to resolve these complex issues, and we have substantially modified the proposals in the amendments adopted today.

The scope of § 212.165(c)(3), as adopted, includes virtually all firms currently making or receiving processing fee (including so-called "gathering fee") payments. Section 212.165(c)(3) applies to all firms that make or receive payments in return for processing (or "gathering") natural gas or NGL's, whether such payments are in cash or in kind and regardless of how such payments may be characterized by the firms concerned, except for: (1) Those sellers that are exclusively sellers in "net-back" sales, in which the "seller" retains only an interest in a percentage of the revenues derived from the first sale of the NGL's and/or NGL products and is not a first seller of any NGL's and/or NGL products; and (2) gas processors that do not engage in first sales of NGL's or NGL products. The intent of these provisions is to account for all contract payments among firms that are first sellers (as defined in § 212.162) of any NGL's or NGL products, but to ignore cash payments or in-kind transfers from or to entities that do not engage in such first sale transactions of NGL's of NGL products. We do not at this time seek to regulate payments to or from a firm that is not a first seller of NGL's or NGL products, except to the extent that "net-back" sales prices and payments are already regulated under §§ 212.163 and 212.166 (§ 212.167 as renumbered by today's amendments).

The processing cost allocation provisions adopted today address two distinct forms of payments between firms. We understand that one type of

arrangement is a relatively straight cost-sharing arrangement, in which the party operating the plant periodically bills the other parties having an interest in the plant, or the plant production, for the latter's contractually predetermined share of operating costs. Such an arrangement is ordinarily evidenced by a basic gas plant operating agreement among "joint venturers" or other parties having a continuing interest in the plant or its production, and under which arrangement the operation of the gas plant (as opposed to the sale of NGL's and NGL products and/or residue gas) is not a profit-oriented undertaking. The other basic type of arrangement is that in which the parties stand more nearly in the position of separate "processor" and "processee." Under such an arrangement, there is a genuine fee payment, which is typically fixed but may be subject to escalation, and under which in any case the payments are not intended to be merely a direct reimbursement of a share of actual operating costs. In such cases, the activity of the processor is intended to be profitmaking, although, as noted in the June 3 notice, the payments also serve in part to reimburse the processor for a portion of his costs.

Section 212.165(c)(3)(ii) addresses the former situation, and § 212.165(c)(3)(iii) addresses the latter situation. Both of these rules are exceptions to the general rule of § 212.165(c)(3)(i) that only that firm actually incurring increased allowable costs may increase its NGL and NGL product prices to reflect such costs. Therefore, if contract payments do not fall within the provisions of §§ 212.165(c)(3) (ii) or (iii), the general rule of § 212.165(c)(3)(i) controls.

Section 212.165(c)(3)(ii) provides a general rule for the allocation of costs among firms which are not in the relationship of processor and processee but are in the relationship of parties to a basic gas plant operating agreement(s) which provide in substance for straight costsharing. Typically, such agreements constitute joint ventures, or a continuing relationship between producers and processors with respect to the same plant. Also typically, these agreements specify the responsibilities of the various parties for the costs of operating the gas plant or plants. In these cases, we have concluded that the allocation of allowable plant operating costs as provided in such agreements is appropriate: *Provided,* That the agreement insures that all of the parties combined will not recover, in their NGL and NGL product prices, more than the total allowable costs of operating the plant. The parties are jointly and severally responsible for insuring that no more than the total allowable costs are passed through. In the absence of a written agreement specifically allocating the operating costs, costs will be deemed to be attributable, on a volumetric basis, to the NGL's or NGL products owned by the respective parties.

Under the provisions of § 212.165(c)(3)(iii), a firm currently paying a processing fee to another firm may, in effect, add the total amount of such payments to the allowable costs which the paying firm has inurred in the current month, and may calculate its current unit processing costs accordingly. However, the paying firm must also add the amount of processing fee payments made in the base quarter to its allowable costs incurred in the base quarter in calculating its base quarter unit processing costs. Thus, the calculation of increased processing costs must account for such payments in both the current month and in the base quarter. Where a firm closes down a plant and goes "on fee" with another processor, the processing fee payments which it may pass through will be offset to the extent that its actual processing costs at the closed plant fall to zero. Therefore, there is no need for an imputed base quarter processing fee where such a change has occurred.

On the other hand, the recipient of processing fees must deduct, from the allowable costs incurred by it, the lesser of the payments received or the amount of processing costs allocable (on a volumetric basis) to the NGL's and NGL products produced in the plant and owned (after payment) by the paying firm. The recipient likewise deducts the lesser of these two amounts in calculating base quarter processing costs, and then calculates its increased processing costs in the same basic manner as indicated above for the paying firm. That is, the amounts to be deducted in any period will be netted against other processing costs in the same period.

Section 212.165(c)(3)(iii) also governs in-kind payments—that is, payments in the form of a transfer of the liquids (or the rights to such liquids) to the processor in return for the processor's processing of the gas or liquids. These in-kind processing fee provisions apply equally to in-kind processing fee payments formally designated as such as well as to any other transaction by which the processee transfers and the processor obtains liquids in return for processing. (Again, if the processee does not make any first sales of NGL's or NGL products, then the provisions of §§ 212.165(c)(3) (ii) and (iii) do not apply.)

Section 212.165(c)(3)(iii) provides for the valuation of in-kind transfers. The payor and the payee calculate the addition to, or subtraction from, their allowable processing costs by multiplying the number of gallons transferred by the base period price. The payor determines this amount by using its base period price; the payee, by using its base period price. If both the payor and payee are currently using the adjusted prices of § 212.164, then the amount to be added to, or subtracted from, their respective current processing costs would be the same (since the volume of liquids transferred is of course the same). However, for purposes of determining the amount to be added to, or subtracted from, the base period processing costs, the processor and processee would each use their own actual May 15, 1973, price.

Two examples help to illustrate the application of § 212.165(c)(3)(iii) to in-kind payments. The first example is simplistic, with one processee and one processor. The second example is more complex and assumes multiple processees and processors.

Example 1. On May 15, 1973, the processee sold propane at $0.05 per gallon and the processor sold propane at $0.06 per gallon. In the base quarter the processee transferred 10,000 gallons to the processor as an in-kind fee. In the current month the processee transferred 15,000 gallons to the processor as an in-kind fee. The processor received no other in-kind fees in either the base quarter or the current month. In the current month both the processee and the processor utilized a base period price for propane of $0.085 per gallon (the adjusted base period price under § 212.164 (a)).

The processor would deduct ($0.06 per gallon × 10,000 gallons =) $600 from allowable costs in the base quarter, and ($0.085×15,000 gallons =) $1,275 in the current month (unless the allocable processing costs for the liquids owned by the processee after transfer of the in-kind fee are less than these amounts, in which case those lesser costs would be deducted in the applicable periods).

The processee would add ($0.05 per gallon×10,000 gallons =) $500 to allowable costs in the base quarter, and ($0.085 per gallon×15,000 gallons =) $1,275 in the current month (any decreases in allowable processing costs directly incurred by the processee would be subtracted from allowable costs).

Example 2. On May 15 1973, the processee sold propane at $0.05 per gallon and the processor sold propane at $0.06 per gallon. In the base quarter the processee transferred a total of 10,000 gallons to its various processors as in-kind fees, and the processor received a total of 5,000 gallons from its various processees as in-kind fees. In the current month the processee transferred a total of 15,000 gallons to its various processors and the processor received a total of 8,000 gallons from its various processees. In the current month both the processee and the processor utilized a base period price for propane of $0.085 per gallon (the adjusted base period price under § 212.164 (a)). Both the processor and the processee aggregate costs on a firmwide basis.

The processor would deduct ($0.06 per gallon×5,000 gallons =) $300 from allowable costs in the base quarter, and ($0.085 per gallon×8,000 gallons =) $680 in the current

V 43 / 184 SEP 21 1978

month (unless the allocable processing costs for the liquids owned by the processee after payment are less than these amounts, in which case those lesser amonts would be deducted in the applicable periods).

The processee would add ($0.05 per gallon×10,000 gallons =) $500 to allowable costs in the base quarter, and ($0.085 per gallon×15,000 gallons =) $1,275 in the current month (decreases in allowable processing costs directly incurred by the processee would be subtracted from allowable costs).

The foregoing examples illustrate several points. First, § 212.165(c)(3)(iii) as adopted today does not require the certification of processing costs between a processor and a processee. Both the processor and the processee are able to calculate their increased processing costs based upon their own cost information. This is as true for cash processing fee payments as for in-kind payments and eliminates one major objection of the commenters to the proposal.

Second, we are not adopting the requirement proposed in the June 3 notice that generated the necessity for certification, namely, that no more than the total costs of operating a given gas plant in a given period may be passed through by the processor and processee together. Based upon our analysis of the comments received, we have concluded that such a rigid requirement upon the parties to gas processing agreements is not necessary. Although we believe that fixed processing fee payments are not properly to be considered costs attributable to gas plant operations under prior regulations, inasmuch as they do not bear any necessary or direct relationship to the actual cost of gas plant operations, we nevertheless conclude that such payments do reflect actual out-of-pocket costs to the payor and so should be recognized in their entirety hereafter, together with a correlative obligation on the part of the processor to reduce his cost passthrough in an amount that reflects a reimbursement of costs through receipt of the fee without depriving the processor of his profit on the processing service and without requiring a certification of costs. In this connection, we conclude that processees will not ordinarily willingly pay higher processing fees simply to increase their NGL prices, since such increases would gain them no increased profits.

Third, we recognize the claim of gas processors that their profits on gas processing arrangements are often necessary to maintain their gas plants in operation, and that so long as such profits do not result in unwarranted increases in NGL prices we should not deprive them of this incentive to continue their operations. For this reason, the provisions adopted today do not require a straight dollar-for-dollar reduction in a processor's allowable costs for fees received, but instead require a reduction equal to the lesser of the fees received or the costs allocable to the processee's liquids. In this fashion, the processor may retain the profits on its fee processing activities.

With respect to the valuation of in-kind transfers, the approach adopted today was suggested in some comments. Its premise is that the processee in the current month gives up its opportunity to sell the liquids transferred at its adjusted base period price. That is, regardless of whether it has or would have incurred any increased costs since the base period, it could ostensibly have sold its fee liquids at its base period price. In the base quarter it gave up its opportunity to sell the liquids transferred at its actual May 15, 1973, price. The difference in value of the liquids in the two periods is the processee's increased cost. The processor, on the other hand, now gains the opportunity to sell these fee liquids it receives at is base period price (regardless of cost), and the measure of its increased fee is the difference between its actual base period price and its adjusted base period price (if higher), multiplied by the volumes received in the base period and in the current period respectively.

Sections 212.165(c)(3) (ii) and (iii) are mutually exclusive provisions. Where firms jointly operate a gas plant and share the costs incurred, they must allocate their processing costs solely under § 212.165(c)(3)(ii). Where firms pay or receive a fee for processing natural gas they must calculate the passthrough of those fees solely under § 212.165(c)(3)(iii).

It is to be emphasized that today's amendments make it clear that only bona fide processing fees may be passed through in accordance with § 212.165(c)(3). Firms may not enter into mutually beneficial reciprocal processing agreements, whereby they agree to process each other's gas streams on a fee basis, nor may they otherwise alter their existing business practices with the purpose or substantial effect of increasing their gas processing profits in the form of increased NGL prices. While we have no information indicating any proclivity on the part of firms to circumvent the intent of regulations, we must retain the power to disallow cost and price increases when that is the purpose or effect of these practices.

C. MARKETING COSTS

In its June 3 notice, FEA discussed the recoverability of increased marketing costs under subpart K, and proposed specific rules for the recovery of such costs. FEA recognized the issue of whether increased marketing costs incurred by distinct reselling entities of independent gas processors (i.e., gas processors that do not also refine crude oil) are or should be governed by subpart F (§ 212.91 et seq.), rather than subpart K. FEA proposed to adopt a provision specifically incorporating the "single firm" concept into subpart K.

Upon review and consideration of the comments received in this proceeding, we have determined to adopt the proposed subpart K provisions pertaining to the recoverability of increased marketing costs (§ 212.166) substantially in the form proposed, modified only to make § 212.166 more similar to the cognate provisions of subpart F. We have further adopted in subpart K an express definition of the term "firm," to make clear what has always been implicit in subpart K, namely, that subpart K applies to all of the operations of a firm—including a parent and its directly and indirectly controlled entities—that engages in gas processing and does not also refine crude oil. We conclude that "transfer pricing," under which sales by reselling affiliates of gas processors would be governed under subpart F rather than subpart K, is not now provided for in the regulations and should not be adopted in this proceeding.

1. *Transfer pricing.* A few commenters, notably those gas processors that do not also refine crude oil and that have historically engaged in extensive NGL marketing operations through separate subsidiaries, have contended that the existing regulations effectively provided for a "transfer price" between the gas processing entity and affiliated reselling entities. That is, they contended that the subpart K "first sale" rules, including the adjusted base period prices of § 212.164, applied to such a transfer, and that the costing and pricing of NGL's and NGL products in the hands of the affiliated reseller/retailer were governed by subpart F, and not subpart K. In support of their contention, commenters argued that FEA's failure to incorporate in subpart K a specific definition of the term "firm" (as including controlled entities) such as exists in subpart E, indicates that FEA did not intend to apply the "single-firm" rule to gas processors. Commenters further argued that the applicability provisions of subpart K (§ 212.161(a)) dictated the conclusion that such a transfer price was intended. Section 212.161(a), prior to its amendment today, provided as follows:

(a) *Scope.* This subpart applies to *all sales* of natural gas liquids and natural gas liquid products, *including transfers between affiliated entities,* by all firms, including gas plant operators, producers of natural gas, natural gas royalty owners, and refiners *except sales by resellers or retailers,* which are subject to subpart F of this part. [Emphasis supplied.]

The commenters asserted that the underscored language necessarily implies that: (i) Transfers between affiliated entities were "sales" within the meaning of subpart K, and that the first transfer of NGL's from the gas processor to the affiliated reseller was therefore a "first sale" to which the adjusted prices of § 212.164 were applicable; and (ii) that "resales" of such transferred liquids by the affiliated resellers were subject to the cost and price rules of subpart F.

Commenters also stated that, in any event, recognition of a transfer price (presumably at or near the gas plant outlet) would merely preserve historic methods of doing business, would avoid undue disruption in the NGL distribution system, and would better effectuate the underlying policies and purposes of subpart K.

We conclude that the provisions of the prior regulations may not properly be construed as providing for a transfer price. Moreover, we do not believe that there is adequate information upon which we could adopt a transfer pricing provision in this proceeding and also treat gas processors uniformly and fairly. However, we do recognize that the policy arguments for the express recognition of a transfer price merit further analysis. We will consider adopting a transfer pricing (or "plant gate" pricing) provision if such a provision would treat gas processors uniformly regardless of their organizational form, would not unduly increase NGL prices, and would also insure against any abuses by firms.

a. *Prior regulations.* The absence of a specific definition of the term "firm" in subpart K provides little support for the contention that transfer pricing was recognized. Subpart K arose out of FEA's conclusion that the provisions of subpart E, which had previously governed the operation of gas processors, were not altogether well-suited to the regulation of gas processors. (39 FR 44407, Dec. 24, 1974). Thus, subpart K was an effort to "carve" special rules applicable to gas processors out of the rules previously applicable both to gas processors and crude oil refiners. The preexisting subpart E rules provide the backdrop for the construction of subpart K since the provisions of subpart K evolved from those of subpart E.

The "single-firm" concept was well established and understood under subpart E prior to the promulgation of subpart K, and it applied to both refiners and gas processors. The definition of "firm", currently found in § 212.82, includes "a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls," and has been in the refiner price regulations from their inception. (39 FR 1924, Jan. 15, 1974). Wholly owned subsidiaries of a parent are, of course, "controlled" by the parent within the meaning of this definition.

Against this backdrop, the FEA promulgated subpart K, without specifically defining "firm." Had FEA intended to exempt gas processors from the single firm concept, a fundamental basis of the price regulations from their inception, this would have been a major amendment. In such circumstances a specific recognition of this change, accompanied by a statement of reasons in support of such a change, would logically be expected. No such language appears in any of the relevant notices or final rules, nor is there any other indication of any intent to alter the single firm rule that previously applied to gas processors. There is no evidence that FEA intended the term "firm" in § 212.161(a) or in any other section of subpart K to have a meaning other than the single firm meaning it then had in subpart E. Nor can there fairly arise a presumption of different treatment because of FEA's failure to expressly incorporate a specific facet of subpart E in subpart K. The burden of expressly incorporating every well-defined preexisting concept of subpart E in subpart K would have been an unreasonable one to put on FEA, particularly in view of the imperative necessity to deal expressly with the specific differences between gas processors and crude oil refiners. Mere failure to incorporate a basic preexisting concept does not indicate an intent by FEA to alter that concept in subpart K.

For the above reasons, the "single-firm" concept has always been implicit in subpart K, notwithstanding the absence of a specific definition of the term "firm." Of course, the application of this concept does not per se preclude the allowance of transfer pricing if other provisions permit such pricing. Several commenters contended that other provisions do just that. They argue that the language "all sales • • •, including transfers between affiliated entities," in § 212.161(a) (quoted in full above), necessarily means that transfers between affiliated entities are "sales" for subpart K purposes, and that the first transfer for a unit "price" is therefore a "first sale" within the meaning of subpart K.

However, this language, in the context of the entire § 212.161(a) and in view of the considerations discussed subsequently, can reasonably be read to mean only that subpart K governs all "sales," including transfers between affiliated entities, by all firms, except for resales by "resellers" within the meaning of subpart F (and except to the extent that crude oil refiners are to calculate maximum allowable selling prices for their gas plant production under subpart E pursuant to § 212.161(b)). Thus, all transfers are deemed to occur within the scope of subpart K, and the ultimate "first sale" to nonaffiliated purchasers is the point at which the product moves out of the coverage of subpart K and into either the coverage of subpart F or into the coverage of other appropriate price regulations. Transfers between affiliated entities are not recognized as first sales for the purposes of subpart K, except where the affiliated reseller qualifies as a "reseller" under subpart F. This result is consistent with the single firm" concept. *Enterprise Products Co.*, interpretation 1975-3. (42 FR 23722, May 10, 1977.)

The proposition, that the relevant "sale" to which the first sale price rule (including the adjusted first sale price of § 212.164) is directed under subpart K is the first transfer to an unaffiliated entity, is further supported by the terms of that first sale rule. The general first sale price rule of § 212.163(a) provides that an entity may not charge a price that is higher than the price that was charged "in transactions with the class of purchaser concerned" on May 15, 1973. The adjusted price provisions of § 212.164(a) provide for adjustments "in first sale transactions with a class of purchaser." The term "transaction" (now in § 212.31) has consistently been defined as "an arm's-length sale between unrelated persons which are not members of a controlled group • • •." Thus, this is further evidence of an intention that the relevant first sale prices (including any adjustments) were to be determined with respect to transfers between unaffiliated entities.

Moreover, the argument that § 212.161(a) recognizes a "transfer price" between affiliated entities proves too much. Not only would transfers between a particular gas processing entity and an affiliated reselling entity qualify for the transfer price, but also transfers between two affiliated gas processing entities would qualify for the same treatment. It would also require the shifting back and forth between subparts F and K where a "reseller" purchases NGL's, and "sells" them to an affiliated gas plant entity for fractionation, which then "sells" the fractionated products to yet another affiliated reseller. Such a situation would result in potentially absurd regulatory hopscotching, and it is thus apparent that an unqualified "transfer price" rule could open the door to many possible "layering" abuses in a variety of similar situations. We emphasize that we have no reason to believe that any particular firm is, in fact, engaging in artifices of this nature; but, in view of certain prior similar abuses in the petroleum

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industry, which were well-known to FEA at the time subpart K was adopted, it is not reasonable to ascribe to FEA an intention literally to consider "all • • • transfers between affiliated entities" to be "sales." In view of these considerations, the only reasonable reading of the quoted language is that all interaffiliate transfers are subsumed by subpart K, and that only the ultimate sale to a third party is the "first sale" under subpart K.

Of course, a transfer by a gas plant entity to an affiliated marketing entity would have qualified as a first sale, if the affiliated marketer qualified as a "reseller" under § 212.91 and would thus have come within the "resale" provisions of § 212.161(a), quoted previously. However, § 212.91 provides that an entity of a "refiner" may qualify as a "reseller" subject to subpart F only if, among other requirements, that entity purchases fewer than 5 percent of its products from the affiliated refiner. Gas processors are refiners within the meaning of the definition of "refiner" contained in § 212.31, and prior to the adoption of subpart K were clearly subject to this "5 percent rule." For the same reasons that the "single-firm" rule is applicable to gas processors, so the "5 percent rule" of § 212.91 is applicable to gas processors. There is no evidence that FEA intended to alter this situation by the language of § 212.161(a), and again such a fundamental change in basic and familiar rules would reasonably be expected to have been highlighted and specifically explained. Thus, the "5 percent rule" of § 212.91, which remains literally applicable to gas processors as "refiners," militates against the transfer pricing interpretation espoused by the commenters.

Commenters further contended that the purposes and policies behind § 212.164 of subpart K support the recognition of a transfer price. They argued that the proper location for the application of the adjusted prices of § 212.164 is at the gas plant outlet, rather than at some point distant in miles or in levels of distribution. They contended that the purpose of the adjusted prices was to maintain incentives to extract NGL's and NGL products from "wet" gas, rather than leaving such liquids in the gas, and thus that these adjusted prices were directed only toward increasing the prices of products at the point of processing. Consequently, unless eligibility for the adjusted price were determined at the gas plant outlet by establishing a gas plant price, actual base period first sale prices would reflect substantial transportation costs and/or other marketing costs which would reduce the adjustments otherwise allowable under § 212.164. This, in turn, would distort the effect sought under § 212.164 by lessening the incentives to extract NGL's and NGL products.

We recognize that application of the incentive prices of § 212.164 was generally intended to be at or near the gas plant outlet. However, the rules actually adopted by FEA did not effect such a plant gate valuation where actual sales were not made at that point. In fact, in 40 FR 49105 (Oct. 21, 1975), FEA stated that while the adjustment provided under § 212.164 was generally based on prices at or near plant gates, the rules actually adopted had provided for adjustments to be made only at the point of the actual first sale. FEA requested comments on whether some provision should be adopted for imputing a gas plant price and how an imputed gas plant "sale" price (value) should be established. However, in 41 FR 24110 (June 15, 1976), FEA determined not to adopt such a provision.

We view this action by FEA as a construction of the regulations as they then existed. No change having since been made, that construction continues to apply. We cannot alter that construction or remake the history of subpart K.

The single firm concept continues to apply, transfer pricing is not permitted, and the price adjustments allowed by § 212.164 (a) and (b) must continue to be made at the point of first sale.

b. *Amendments adopted today.* To make explicit what has always been implicit in the regulations, and to prevent any further alleged confusion, we today adopt a definition of "firm" in § 212.162 and delete from § 212.161(a) the words "including transfers between affiliated entities." The definition of firm includes a parent and all consolidated and unconsolidated entities which it directly or indirectly controls. The definition is identical to that in subpart E.

It is possible that we may propose at least a limited form of plant gate pricing in the future. Information currently available to us indicates that the majority of gas processors are not currently using a transfer price, so that maintaining the status quo for the time being should not generally disrupt pricing in the NGL industry. In proposing any plant gate price provision, we will be especially concerned with assuring equality of treatment among gas processors, regardless of the particular form of organization employed, and the economic impact of allowing plant gate pricing. Further, if any form of transfer pricing is proposed it will be under appropriate safeguards to assure that firms do not insert marketing affiliates which serve no economic purpose into their chain of distribution solely to create "paper costs."

2. *Marketing costs of gas processors governed by subpart K.* In the June 3 notice, FEA indicated that marketing costs, as such, were not expressly recognized in subpart K. FEA also indicated that such costs had generally been allowed under prior § 212.165, but that more specific and precise treatment of such costs, generally intended to parallel the nonproduct (marketing) cost provisions of subpart F, appeared to be warranted. Accordingly, it proposed a separate § 212.166 to deal specifically with marketing costs of gas processors. We have today adopted a new § 212.166, providing for the calculation of marketing costs and for the recovery of increased marketing costs. Section 212.166 applies to the marketing operations of gas processors unless a reselling affiliate of a gas processor qualifies for subpart F treatment under § 212.91. We also note that the provisions of subpart E continue to govern the passthrough of marketing costs for gas processors that also refine crude oil. These new marketing cost provisions apply only to independent gas processors, and the provisions of § 212.161(b) have been revised to make clear that crude oil refiners that also engage in gas processing are governed by subpart K with respect to product and processing costs, but not marketing costs, associated with gas plant production.

As FEA noted in the June notice, many gas processors incur marketing costs similar to those incurred by firms subject to subpart F. Several have extensive marketing operations run by subsidiaries. Therefore, we have concluded that it is appropriate for the marketing cost provisions to parallel the similar provisions of subpart F to the maximum extent feasible. Section 212.166, as proposed, closely paralleled the cognate provisions of subpart F, and is adopted today largely as proposed. However, some changes were made in response to comments received and we note them below.

First, the base period for calculating base period marketing costs has been changed to correspond with that provided for NGL product resellers under subpart F. Second, under § 212.166 as adopted, increased marketing costs may be passed through with respect to NGL's as well as NGL products. Subpart F resellers are not expressly permitted to passthrough NGL marketing costs, because those resellers would not ordinarily purchase and sell raw mixed liquids. Unlike resellers under subpart F, many subpart K "marketers" are likely to be selling mixed NGL's as well as NGL products to third parties, and to be incurring increased costs of transportation and/or storage in connection with such sales.

Third, we have revised the cost aggregation and allocation provisions for marketing costs in § 212.166(b)(3) to make clear that the aggregation of marketing costs on a "separate inventory" basis is limited to the first such inventory point below the gas plant level. This is consistent with the general rules of subpart F, which permit product costs (costs of product in inventory) but not nonproduct (marketing) costs to be aggregated on the basis of separate inventories. The "cost of product in inventory" under subpart F includes only those transportation costs to the first inventory point (see § 212.92). Thereafter transportation costs become nonproduct costs to be aggregated on a firmwide basis as "overhead" (see § 212.93 (b)(4)). In this connection, we have expanded the "overhead" cost provisions of § 212.166(b)(2)(vii) to make clear that costs of transportation to the first inventory level may be allocated to products in that inventory, if the firm aggregates costs on a separate inventory basis.

However, unlike subpart F, the provisions of § 212.166(b)(3) do not require the aggregation of marketing costs on a firmwide basis, if the processor is entitled and elects to apply marketing costs on a "separate inventory" basis; they require aggregation only up to the level of the first inventory point. Thus, § 212.166 requires that all costs attributable to any "secondary" or lower level of inventory be attributed up to the first inventory level, and applied equally to all ultimate purchasers from the first inventory level; however, that section does not require the aggregation of costs at one primary inventory level with those at another primary inventory level. Of course, costs which are incurred at a firmwide level, or which are otherwise attributable to more than one inventory, must be allocated among all of the inventories to which such common costs are attributable under generally accepted accounting principles. In addition, costs that are common to gas plants and to marketing operations must be aggregated at the gas plant level (see § 212.166(b)).

We have determined that these provisions are necessary and appropriate to provide general parity of treatment of NGL product resellers under subpart F and NGL and NGL product resellers under subpart K and also to assure purchasers from the firm that they will not be subjected to entirely individualized pricing.

We must mention one further aspect of the separate inventory marketing cost provisions. As gas plant production may be "drawn down" to the first inventory level, such production must necessarily carry with it into such inventory the increased product and processing costs attributable thereto. Thus, such a drawdown depletes the pool of product and processing costs at the gas plant level, and correspondingly increases the cost pool at the inventory to which it is drawn. If this were not required, increased product and processing costs might be allocated only or primarily to sales directly from a gas plant. This would be unfair to direct purchasers, and might unduly benefit pruchasers from inventory. Thus, for purposes of allocating increased product and processing costs only, a drawdown into inventory is to be considered an irrevocable allocation of costs from the gas plant to the inventory level attributable to the production drawn down. Furthermore, any "banks" of unrecovered product or processing costs of products thus drawn down exist at the inventory level, for application to sales made from that inventory, and not at the gas plant level.

The allowable cost categories described in § 212.166(b)(2) have not been changed except to the extent indicated above. Several commenters contended that the cost categories should be expanded to cover certain particular items. However, we do not see that the matters raised in this connection are unique to gas processors as opposed to resellers. In fact, most of the comments related to matters or items that were considered and excluded from the allowable nonproduct costs permitted NGL product resellers under subpart F. The purpose of providing marketing costs under subpart K was to provide equality of treatment with subpart F, and since the objections raised are directed at subpart F as much as at subpart K, we believe that these comments will be better addressed in proceedings concerned with NGL marketing costs generally. We wish to avoid treating marketing costs under subpart K and subpart F individually in order to avoid the possibility of uneven treatment in different proceedings. Accordingly, and in order to permit us at a later time to focus upon marketing costs in the context of both subpart K and subpart F, we have determined not to incorporate any substantive revisions in the definitions of allowable marketing costs under subpart K at this time.

For the same reasons, we have determined not to take any present action with regard to marketing costs under subpart E (applicable to crude oil refiners). Some NGL product resellers have contended that the specific limitations of subpart E on the permissible passthrough of marketing costs for propane are operating to create distortions in the retail sector by forcing refiner/retailers to sell at prices substantially below those of independent retailers. We are interested in determining whether and to what extent this is true, and we will be considering possible remedial action if necessary. However, such action goes beyond the primary purposes of this proceeding, and appears better addressed in a proceeding directed toward general retail operations.

D. BANKING OF INCREASED COSTS

In its June 3 notice, FEA proposed the addition of a new § 212.169 to subpart K, which provided a specific mechanism for the banking of all increased costs (product, processing, and marketing) and for correcting for over-recoveries of such costs. The proposal limited recovery of banked costs in substantially the same manner as provided under subpart E for crude oil refiners, and provided, in effect, for the establishment of separate banks for each "cost center." Under the section as proposed, costs which were 2 or more months old could have been passed through in current prices only in an amount which did not exceed the greater of: (1) 10 percent of the largest amount of costs in the 2-month-old bank in any month; or (2) an amount which results in an increase of not more than 10 percent in the price at which at least 25 percent of the product concerned was lawfully priced in the preceding month. With respect to banked increased marketing costs, however, there was no proposed limitation on carry forwards, a result which would have paralleled the increased marketing cost banking provisions of subpart F.

Proposed § 212.169 also specified an order of recovery for increased costs, and it further directed that over recoveries be corrected in prices for the product and class of purchaser with respect to which such overrecoveries occurred, within 3 months from the month in which they occurred.

The proposal's objectives were threefold: (1) To permit firms whose pricing is governed by subpart K the opportunity to recover all allowable costs even if not recovered in the month of incurrence; (2) to clarify the requirement that overrecoveries of allowable costs be corrected and to provide a specific mechanism to accomplish this; and (3) to provide some measure of price stability in periods and markets experiencing unusually short supply or high demand by limiting the carry forward of banked costs. Nevertheless, FEA recognized that the subpart E limitations on recovery of banked costs might not be fully responsive to NGL market patterns and solicited comments on this issue.

Commenters overwhelmingly objected to the proposed limitations on the carrry forward of unrecovered increased costs, both on economic grounds and on grounds that such

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limitations would impose severe accounting burdens on gas processors, many of whom are small firms. Upon review of these comments, we have determined not to adopt limitations on the carry forward of increased costs.

The NGL industry is characterized by wide seasonal fluctuation. The winter months are the peak demand months, and the summer months are the weak demand months. Prices vary correspondingly, with the highest prices being paid in the winter. It is also during the winter that gas processors would be better able to recover any banks of increased costs. The proposed limitations would have severely limited their ability to recover such banked costs during that period.

The subpart E banking limitations were developed for the crude oil industry, whose seasonal fluctuations are not as great as those of the NGL industry. As several comments indicated, the subpart E limitations are not suited to the NGL industry, and their adoption would carry with it a danger that gas processors might never be able to recover all of their allowable costs. The comments urged that the restrictions either be eliminated or substantially reduced.

As the June 3 notice made clear, gas processors that also refine crude oil are not governed by subpart K with respect to banking provisions. They are governed by subpart E and are subject to that subpart's banking limitations. The great majority of NGL's and NGL products are currently priced under subpart E, since they are processed by firms which also refine crude oil. To the extent that the proposed subpart K provisions sought to provide price stability in periods of unusually short supply or high demand, this goal would be accomplished by the present subpart E banking restrictions.

Thus, we have concluded that extending the subpart E restrictions to gas processors under subpart K would not contribute significantly to price stability; yet, it would significantly increase the likelihood that such processors, who are primarily small independent concerns, would not be able to recover their allowable costs. Adoption of subpart E restrictions would also increase the administrative and accounting burden on such firms.

Consequently, although we do not believe that we are required to adopt these banking provisions, as a matter of policy we adopt a new § 212.169(a) which allows firms that are not also crude oil refiners to bank the increased product, processing and marketing costs which they do not recover in the current month without any carry forward limitations. As proposed, separate banks must be established for each cost center at which the firm aggregates its relevant increased costs. Thus, for example, it requires a separate bank of unrecovered increased product and processing costs incurred with respect to a particular plant if the firm calculates and aggregates its increased costs on that basis. On the other hand, banked increased marketing costs are to be aggregated on the same basis that current increased marketing costs are aggregated. Thus, for example, if a firm aggregates marketing costs on a separate inventory basis, any banked marketing costs in that inventory remain in that inventory, and may not be redistributed to gas plants or other inventories.

As explained previously in the discussion of increased marketing costs, a "draw down" of products from a gas plant to a first inventory is deemed to carry with it a ratable share of processing and product costs. Section 212.169 makes this clear, and also specifies the basis for calculating the amount of increased costs so drawn down.

The banks of unrecovered increased costs are available for application only in the prices of NGL's and NGL products sold from the cost center with which such banks are associated. These unrecovered increased costs may not be transferred to any other cost center, except for gas plant drawdowns as previously indicated. Further, unrecovered increased costs in any bank can be allocated among products and classes of purchaser only with respect to the cost center with which they are associated and only in accordance with the permissible allocation of current increased costs. Thus, for example, the application of banked increased costs are subject to the special propane rule contained in § 212.168(c) (as so renumbered by today's amendments).

Because we have not adopted any carry-forward limitations on increased costs, the proposed order of recovery provision for current and banked increased costs is not required and is not adopted.

Section 212.169(b) requires firms to correct for overrecoveries of increased costs. Firms must adjust their prices by reducing their May 15, 1973, selling prices for those products, cost centers, or classes of purchaser with respect to which such overrecoveries occurred, not later than the third month following such overrecoveries. (However, the proper allocation of increased costs to propane will continue to be determined pursuant to the "12-month" rule provided under § 212.167(c) (renumbered § 212.168(c) by today's amendments).)

As explained in the June 3 notice, prior regulations implicitly required the correction of overrecoveries. Section 212.169(b) now makes that requirement explicit and provides a mechanism for making the corrections.

Several comments urged us to allow firms to create an historic bank composed of unrecovered increased processing costs incurred since the imposition of price controls. Such a bank would presumably include: costs for which exception relief was available but for which the firm did not seek exceptions relief; costs such as depreciation which were not recoverable through the exceptions process; and increased costs falling within the $0.005 and $0.01 per gallon "gap" for which exceptions relief was not given. We have concluded that there is no compelling reason to allow prior unrecovered processing costs to be banked under § 212.169. These amendments provide for prospective recovery of particular costs incurred after the effective date of these amendments and are not intended to allow firms to recover prior costs which they either could have recovered through the exceptions process, or which were not deemed at the time to be costs appropriate for exceptions relief. Consequently, the banks allowed under § 212.169 may consist only of those increased costs incurred subsequent to the effective date of these provisions.

III. Additional Matters

A. Economic Impact of Amendments

The Department of Energy has prepared an economic analysis which concludes that these amendments will not result in a major economic impact, since the potential price increases resulting from the amendments are likely to be less than $100 million per year.

This regulation alters the amount of nonproduct costs that can be passed through in NGL and NGL product prices and generally incorporates the criteria for exception relief established by the Office of Hearings and Appeals (OHA). It differs from current OHA criteria in that it allows the passthrough of some additional interest costs and also increased depreciation costs for investments in gas processing plants since the base period. However, the new regulations limit certain nonproduct cost categories, such as certain corporate general and administrative expenses, which OHA currently generally includes as costs eligible for passthrough.

The original study of the economic impact of these regulations was conducted by the Office of the Assistant Administrator for Applied Analysis, Energy Information Administration, in November 1977. Since that time, we have reviewed all nonproduct cost exception cases processed by OHA during the period February 1, 1978, through July 31, 1978. Approximately

600 cases where exception relief was granted were processed during this period. The average exception relief amounted to 2.1 cents per gallon. The production for which the relief was granted averaged approximately 15.5 million barrels of NGL's per month, which represents 32.5 percent of total monthly domestic gas plant production during the period. For this production, nonproduct costs are currently being passed through on NGL's in the amount of $164.7 million per year. These amendments are not likely to result in a significant increase in the amount of nonproduct cost increases that can be passed through on such production, except with regard to depreciation cost increases, which are discussed below.

We believe it is reasonable to assume that the nonproduct cost increases applicable to the remaining 67.5 percent of production that would be allowed to be passed through under these new regulations would be approximately 0.25 cent per gallon. Under the current regulations, gas processors may passthrough up to 0.5 cent per gallon of nonproduct cost increases, as long as they substantiate such increase. Since OHA has granted exception relief for nonproduct cost increases greater than 1 cent per gallon, most of the gas processors that would benefit from these new regulations are those with nonproduct cost increases since May 15, 1973, of more than 0.5 cent per gallon but less than 1 cent per gallon. While some of these processors are probably near the exceptions threshold of 1 cent per gallon, it is reasonable to assume that others are substantially lower and some may have incurred increased nonproduct costs below the previous 0.5-cent-per-gallon regulatory ceiling. Thus, the conclusion that the average nonproduct cost price increase for 67.5 percent of gas plant production has been 0.75 cent per gallon—which is half way between what has been allowed by prior regulations and the threshold for exception relief—appears reasonable. This would result in a total estimated price increase for NGL products of $42 million per year.

Depreciation cost passthroughs are limited by two factors noted elsewhere in this preamble. First: They may not be computed on a basis such that a reduction in gas plant production would result in increased unit depreciation costs. Second: Depreciation cost increases may not be passed through by a gas plant operator who has already elected to use incentive prices under the prior regulations. Assuming that depreciation cost increases roughly parallel increases in other costs, we conclude that depreciation could result in increased costs averaging about 0.14 cents per gallon for all natural gas processors.

The potential impact on NGL product prices of both these categories of increased nonproduct costs is estimated to be about $78 million per year.

Accordingly, based upon the information available, we have concluded that the impact of these amendments is not likely to be major within the meaning of Executive Order No. 12044 on improving government regulations.

The economic analysis is available for public inspection and copying at the DOE's Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C.

B. Effect of Amendments Adopted Upon Future and Outstanding Exception Relief

As indicated in the June notice, a major purpose of this proceeding has been to obviate the necessity for gas processors to seek and obtain exceptions relief on a routine and recurring basis from the prior $0.005 per gallon limitation upon the passthrough of nonproduct cost increases in NGL product prices. By deleting the prior ceiling limitation, and by providing a self-executing scheme for the definition, calculation, and passthrough of allowable increased costs on a dollar-for-dollar basis, we intend that these amendments will generally supplant the prior exceptions system with respect to these costs.

In large measure, these amendments are intended to maintain a general status quo with reference to the gas processing industry's allowable cost passthroughs. However, some changes have been made, for reasons of policy generally set forth in this notice, and it is not our intention that either particular firms or the industry generally should be considered to have any prescriptive rights or disabilities arising from their prior treatment in the exceptions process. Of course, exceptions relief remains available for a firm that can show that the general regulations affect it so uniquely and/or adversely as to constitute a gross inequity or serious hardship, or where the regulations are operating to frustrate fundamental national energy policies (*see MAPCO, Inc., supra*). However, a bare claim that these regulations may not, in some cases or with respect to some costs, be affording as much of a passthrough as prior exceptions decisions will not justify future exceptions relief.

There are also a number of exceptions decisions of this type presently outstanding. Inasmuch as the relief given in these cases is intended to be prospective in nature, and inasmuch as these amendments will now generally vitiate the basis for continuation of this relief, firms presently receiving this relief will be notified in those cases where DOE proposes to terminate such relief effective on the effective date of these amendments. In such cases, the firms involved will have an opportunity to respond before exception relief is terminated.

C. Further Rulemaking on Other Issues

In the June 3 notice FEA also identified, discussed, and sought comments concerning several other issues pertaining to the operation of subpart K which were not accompanied by specific proposals, but which might merit further consideration in the context of a rulemaking proceeding. We are continuing to review comments received in response to these issues, as well as comments directed at other issues not identified in the June 3 notice. We expect to issue in the future one or more notice(s) of proposed rulemaking containing specific proposals on many of the more significant issues. We are not adopting final rules on any of these issues now because we desire first to receive comments on specific proposals and alternatives. In addition any attempt to formulate additional rules in this proceeding would only further delay the issuance of rules which we can and should adopt now.

The amendments adopted today may contain inadvertent omissions or unintended consequences. Therefore, either in connection with the next contemplated rulemaking, or by a separate rulemaking issued at any time, we may propose or adopt further provisions or changes concerning the subjects addressed in today's amendments. We reserve the right to make any such additional changes to subpart K or any other relevant subpart necessary to perfect the purposes of these amendments, at any time and (if appropriate) with an effective date contemporaneous with that of today's amendments.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, Pub. L. 95-70; Energy Conservation and Production Act, Pub. L. 94-385, as amended, Pub. L. 95-70, Pub. L. 95-91; Department of Energy Organization Act, Pub. L. 95-91; Energy Organization 11790, 39 FR 23185; Energy Organization 12009, 42 FR 46267.)

In consideration of the foregoing, part 212, chapter II, of Title 10, Code of Federal Regulations is amended as set forth below, effective November 1, 1978.

Issued in Washington, D.C., September 14, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

1. Section 212.161 is amended to read as follows:

§ 212.161 Applicability and relationship to other subparts.

(a) *Scope.* This subpart applies to all sales of natural gas liquids and natural gas liquid products by all firms, including gas plant operators, producers of natural gas, natural gas royalty owners, and refiners, except that this subpart does not apply to sales by resellers or retailers subject to subpart F of this part. This subpart does not apply to sales of lease or plant condensate which is defined as crude oil under § 212.31.

(b) *Relationship to other subparts.*—(1) *Gas plant operators.* Refiners that only refine liquid hydrocarbons from oil and gas field gases and do not refine crude oil shall determine their maximum lawful prices pursuant to this subpart K and are not also subject to subpart E.

(2) *Crude oil refiners which are also gas plant operators.*—(i) *General.* Refiners that refine liquid hydrocarbons from oil and gas field gases, and also refine crude oil, shall determine their May 15, 1973, selling prices and increased product and processing costs for natural gas liquids and natural gas liquid products produced in gas plants pursuant to this subpart, but shall determine their maximum lawful selling prices pursuant to subpart E.

(ii) *Calculation of increased product costs.* Such refiners shall calculate the increased product costs of all natural gas liquids and the increased product costs attributable to natural gas liquid products pursuant to §§ 212.167 and 212.168, and shall add the amount of increased product costs so determined to the amount of increased product costs incurred in each month of measurement and determined to be allocable to the appropriate product category under the refiner's cost allocation formulae of § 212.83(c)(1): *Provided,* That the amount of such increased product costs allocable to propane prices is limited pursuant to the provisions of § 212.168(c) and § 212.83(c)(1)(ii)(F).

(iii) *Calculation of increased processing costs.* Such refiners shall calculate increased processing costs attributable to natural gas processing pursuant to § 212.165, and shall add the amount of increased processing costs so determined to the amount of increased nonproduct costs attributable to refinery operations incurred in each month of measurement and determined to be allocable to prices charged for covered products pursuant to the formulae in § 212.83(c).

(iv) *Calculation of increased marketing costs.* Such refiners shall calculate allowable increased marketing costs pursuant to § 212.83.

* * * * *

2. Section 212.162 is amended by adding a definition of "Firm," after the definition of "Cost of natural gas shrinkage" and before the definition of "First sale," and by revising the definition of "Gas plant," to read as follows:

§ 212.162 Definitions.

* * * * *

"Firm" means a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.

* * * * *

"Gas plant" means a facility in which natural gas liquids are separated from natural gas, or in which natural gas liquids are fractionated or otherwise separated into natural gas liquid products, or both. For purposes of computing increased processing costs under § 212.165, and for purposes of determining the eligibility of production from a plant to receive the prices specified in § 212.164(e), a "gas plant" includes any natural gas or natural gas liquid gathering facilities and the transportation lines (including compression stations) connecting these facilities to the actual physical plant at which the natural gas or natural gas liquids are processed: *Provided,* That natural gas gathering facilities and related transportation lines shall be considered a part of a gas plant for these purposes only if the first seller of the natural gas liquids or natural gas liquid products produced in the plant has no beneficial interest in the residue gas from the plant.

3. Section 212.165 is amended to read as follows:

§ 212.165 Increased processing costs.

(a) *Rule.* Subject to the limitations and requirements set forth in this section, a firm may increase the first sale price of natural gas liquids and natural gas liquid products which it sells to reflect, on a dollar-for-dollar basis, increased processing costs which it has incurred since the firm's base quarter. For purposes of this section, the base quarter for any firm is that fiscal quarter which includes the month of May 1973, except that if the firm commenced gas processing operations after May 1, 1973, the base quarter is the first full fiscal quarter of the firm after the the commencement of gas plant production.

(b) *Calculation of increased processing costs.* (1) For any firm, processing costs with respect to any gas plant or plants for any current month are the total amount of allowable costs incurred (or deemed under this section to have been incurred) by that firm with respect to that gas plant or plants in that month, divided by the volume of natural gas liquids and natural gas liquid products owned by the firm (after processing) and produced in that plant or plants in that month. Processing costs with respect to such plant or plants for the base quarter are the total amount of allowable costs incurred, or deemed to have been incurred, by that firm with respect to such plant or plants in the base quarter, divided by the volume of natural gas liquids and natural gas liquid products owned by the firm and produced in that plant or plants in the base quarter. *Provided,* That in calculating such processing costs, the rules hereinafter set forth in this paragraph (b) and in paragraph (c) of this section shall be followed. Increased processing costs for any current month are the difference between processing costs for the current month and processing costs for the base quarter, mulitiplied by the volume of natural gas liquids and natural gas liquid products owned by the firm (after processing) and produced in the current month in the plant or plants for which processing costs are being measured. Total increased processing costs are the net of increases in particular items of allowable costs (including payments made or received under paragraph (c)(3) of this section), less decreases in other particular items of allowable costs (including payments made or received under paragraph (c)(3) of this section).

(2) *Allowable costs.* Allowable costs, for purposes of calculating processing costs and increased processing costs, are those costs defined below which are attributable to gas plant operations: *Provided,* That no costs shall be included in any particular category of processing costs if they are included in any other category of processing costs, or are included in product costs or marketing costs.

(i) *Depreciation cost.* Depreciation cost is the cost attributable to the depreciation of gas plant facilities and equipment used for processing natural gas or natural gas liquids. Depreciation costs for any gas plant facility or equipment shall be calculated, for both the base quarter and the current month, on a total-units-of-production basis, i.e., by amortizing the original cost of the particular investment equally over the total volume of natural gas liquids and natural gas liquid products reasonably expected to be

produced from the facility or equipment, regardless of the volumes actually produced or to be produced in the base quarter or in any current month. A firm claiming increased costs of depreciation shall establish and maintain records setting forth the data and analytical method by which base quarter and current month unit depreciation is calculated under these rules. A firm which purchases an existing facility shall use the same unit depreciation costs for that facility as the seller used, and shall obtain a certification from the seller as to such unit depreciation costs prior to attributing any depreciation to the facility purchased. In no event may a firm or firms claim, in cumulative increased depreciation costs for a particular capital asset, an aggregate amount of more than the total original dollar investment in that capital asset (counting any improvements as part of the original investment), nor shall any firm be permitted to claim increased depreciation costs to the extent that the cost of the asset is deemed under these rules to have been attributable to production of natural gas liquids or natural gas liquid products prior to October 1, 1978. If a firm calculates plant fuel costs under paragraph (b)(2)(iii)(B) of this section, no depreciation costs shall be allowed for capital investments which effect fuel conservation. At any gas plant where the firm uses an adjusted May 15, 1973, first sale price pursuant to § 212.164 (c), (d), or (e), depreciation shall not constitute an allowable processing cost. A firm may elect, on a plant-by-plant basis and at the time of first selling natural gas liquids or natural gas liquid products from that plant, to claim increased depreciation costs or to use the adjusted price under § 212.164 (c), (d), or (e) (where permitted). A firm shall be bound by its election in all subsequent months. A firm utilizing the adjusted prices of § 212.164 (c), (d), or (e) at any time prior to the effective date of this § 212.165(b)(2)(i) shall be deemed to have elected such method for the plant or plants in question in lieu of claiming increased costs of depreciation.

(ii) *Labor cost.* Labor cost is the total amount of direct and indirect remuneration or inducement for personal services which are reasonably subject to valuation for those personnel employed at a gas plant or directly involved in gas plant operations, including that portion of the costs of any contract with an unrelated entity attributable to personnel other than employees that perform such services. Labor costs shall not include costs of personal services provided by personnel which own any portion of, or receive any profits from, the firm involved. (This exception does not include personnel who own stock in the firm if it is a publicly held and publicly controlled corporation or participants in any type of profit sharing plan historically offered by the firm.) For purposes of this paragraph (b)(2)(ii), an "unrelated entity" is an entity which is not part of the firm and which has no equity interest in any gas plant or plants (or in the natural gas liquids or natural gas liquid products produced therefrom) in which the firm has such an interest.

(iii) *Plant fuel cost.*— (A) *In general.* Plant fuel cost is the total amount of cost for fuels utilized to operate a gas plant. Except as provided in paragraph (b)(2)(iii)(B) of this section, if and to the extent that natural gas processed at the plant is used for plant fuel, no costs attributable thereto shall be accounted for as processing costs, but may be accounted for as cost of natural gas shrinkage under § 212.167.

(B) *Optional plant fuel incentive.* For any plant, a firm may calculate increased costs of plant fuel in the following manner: *Provided,* That the firm shall neither claim depreciation costs associated with capital investments which effect plant fuel conservation, nor use the cost of those investments to qualify for the incentive price of § 212.164 (c)–(e) if it calculates increased plant fuel costs in such fashion: Multiply the base gas plant fuel usage by the gas plant input for the current month and by the amount which represents the difference between average gas plant fuel cost rate in the current month and the average gas plant fuel cost rate in the base quarter where:

"Average gas plant fuel cost rate" means the weighted average cost of gas plant fuel per unit of energy utilized as fuel (e.g., dollars per million British Thermal Units (MMBtU) or dollars per thousand cubic feet (McF)). Where the plant fuel is natural gas processed at the plant, the total dollar amount of gas plant fuel for any period is determined by multiplying the volume of fuel by the sales price of the residue gas in that period. Where residue gas has been sold on a different basis in the current month than in the base quarter (e.g., MMBtU versus McF), base quarter costs shall be converted into the unit under which residue gas is sold in the current month.

"Base gas plant fuel usage" means the amount of gas plant fuel, in units of energy (MMBtU or McF), used per McF or MMBtU of gas plant input during the base quarter.

"Gas plant input" means the volume of raw natural gas processed at the gas plant during the period in question.

(iv) *Maintenance cost.* Maintenance cost is the dollar amount of costs attributable to normal gas plant maintenance and repair, including the cost of contract maintenance under contract with an unrelated entity. For purposes of this paragraph (b)(2)(iv), the term "unrelated entity" has the meaning given that term in paragraph (b)(2)(ii), of this section.

(v) *General and administrative costs.* General and administrative costs are the ordinary and necessary expenses of management and administration (including overhead) attributable to gas plant operations under generally accepted accounting principles historically and consistently applied by the firm. *Provided,* That any such costs which are attributable to, or incurred by, a corporate or other organizational administrative unit not directly and exclusively involved with gas plant operations shall not be an allowable cost. Costs in this category include legal and accounting fees and intergas plant transportation cost, but do not include costs of personal services provided by personnel which own any portion of, or receive any profits from, the firm involved. (This exception does not include personnel who own stock in the firm if it is a publicly held and publicly controlled corporation or participants in any type of profit-sharing plan historically offered by the firm.)

(vi) *Federal, State, and local tax cost.* Federal, State, and local tax cost is the cost of Federal, State, and local property, excise, franchise, and other similar taxes incurred with respect to gas plants or gas plant operations. However, the term does not include Federal, State, or local income taxes. The term also does not include production or severance taxes.

(vii) *Utility cost.* Utility cost is the dollar amount of costs incurred for utilities necessary for the operation of a gas plant.

(viii) *Interest cost.* Interest cost is the dollar amount incurred for interest on the amount of money borrowed from an unrelated entity for the purpose of constructing, expanding, or operating a gas plant, or which is otherwise attributable (based on relative operating costs or investment costs) to gas plant operations. For purposes of this paragraph (b)(2)(viii), the term "unrelated entity" has the meaning given that term in paragraph (b)(2)(ii) of this section.

(ix) *Cost of operating materials and supplies.* Operating materials and supplies cost is the cost of materials and supplies which are directly attributable to gas plant operations. This category includes materials such as absorption oil, process chemicals, and other industrial supplies which are not depreciable assets under generally ac-

V 43/184 SEP 21 78 V

V 43 / 184 SEP 21 1978

cepted accounting practices historically and consistently applied by the firm.

(3) *Limitations on increased processing costs for new plants.* Notwithstanding any other provision of this § 212.165, if: (i) A firm had an interest in one or more gas plants (or in the production from one or more gas plants) which were operating in the base quarter, and if (ii) the firm separately calculates and aggregates increased processing costs for a gas plant or group of gas plants which were not in existence and operating in the base quarter, then, in calculating the increased processing costs for a new plant, the new plant's base quarter processing costs shall be equal to the firm's firmwide base period processing costs. If a particular volume of natural gas or natural gas liquids is currently being processed by another firm under a fee or cost-sharing arrangement, and such natural gas or natural gas liquids were being processed directly by the paying firm in the base quarter, base quarter processing costs for such natural gas or natural gas liquids shall include the costs of processing such natural gas or natural gas liquids.

(c) *Accounting procedures for calculating processing costs incurred by a firm.*— (1) *General.* All processing costs shall be calculated in accordance with generally accepted accounting practices historically and consistently applied by the firm for certified annual financial statements filed by or on behalf of such firm with the Securities and Exchange Commission or a comparable State regulatory agency (or if no certified financial statements are so filed, according to generally accepted accounting practices historically and consistently applied by the firm for certified annual financial reports prepared by an independent accounting firm), except as otherwise provided in this section. No capital investments may be included in processing costs as expenses, but must be capitalized and depreciated as specified in the definition of depreciation costs.

(2) *Extraordinary or irregular costs.* Any item of cost which: (i) Is paid or incurred at greater than regular monthly intervals, or (ii) is paid or incurred each month but in significantly different amounts independent of variations in the amount of production shall be prorated or accrued over the appropriate period pursuant to generally accepted accounting practices historically and consistently applied for purposes of calculating processing costs under this section. In selecting the appropriate period for either the current month or the base quarter the burden shall be on the firm to choose that period which accurately reflects the period to which the particular item of cost is attributable. A firm shall maintain records setting forth the data and rationale under which the appropriate proration period is established, both for the base quarter and for any current month in which such extraordinary or irregular costs may be incurred. Costs in this category include, but are not limited to, annual taxes, insurance, and extraordinary maintenance expenses. However, if the total amount of all such irregular or extraordinary costs incurred in any current month is less than $0.0025 per gallon, such costs need not be prorated. Notwithstanding any other provisions of this paragraph (c)(2), costs which are not incurred at regular intervals, or which are incurred in amounts which vary substantially from period to period, may not be accrued, but must be prorated subsequent to their incurrence.

(3) *Processing costs deemed incurred by a firm.*—(i) *General rule.* Except as otherwise provided in this subparagraph (3), a firm's processing costs are only those costs attributable to gas plant operations, as defined in paragraph (b)(2) of this section, which the firm actually incurs. A firm shall deduct from its processing costs, pursuant to the following paragraphs (c)(3) (ii) and (iii) of this section, all or a portion of the amounts paid to it by other firms on account of the firm's processing (including gathering) of natural gas or natural gas liquids for such other firms. Subparagraphs (3)(ii) and 3(iii) of this § 212.165(c)(3) apply to all firms that make or receive payments to or from another firm for the processing (including gathering) of natural gas or natural gas liquids, no matter how such payments are characterized. Firms that do no engage in any first sales (as defined in § 212.162) of natural gas liquids or natural gas liquid products are not required to account for processing fee or other payments made or received; however, if the other party or parties to such payments engage in any first sales of natural gas liquids or natural gas liquid products, such party or parties shall account for such payments as provided in this § 212.165(c)(3).

(ii) *Apportionment of costs under gas plant operating agreements.* Firms having an interest in the same gas plant (or in the production from the same gas plant) under a general gas plant operating agreement in which the parties agree to share the costs of operating the gas plant, either directly or by reimbursement to the actual gas plant operator, shall be deemed to have incurred allowable processing costs in accordance with the firms' applicable written agreement for the sharing of costs. In the absence a written cost sharing agreement, such firms shall be deemed to have incurred a portion of the total allowable processing costs at that gas plant determined as follows. The ratio of the firm's costs in the relevant period to total allowable costs of operating the gas plant in the same period shall be equal to the ratio of the volume of the natural gas liquids and natural gas liquid products produced at the plant and owned by the firm in the relevant period to the total volume of the production at the plant during the same period. Each firm shall be jointly and severally responsible for insuring that no more than the total amount of actual allowable costs (as defined in paragraph (b)(2) of this section) attributable to the natural gas liquids and natural gas liquid products produced in the plant or plants are allocated among all relevant firms. Payments which reflect a direct reimbursement of processing costs under a basic gas plant operating agreement shall not be treated under § 212.165(c)(3)(iii) below, but shall be accounted for under this subparagraph. Conversely, bona fide fee payments made or received in return for processing of natural gas or natural gas liquids shall not be treated under this subparagraph, but shall be accounted for under § 212.165(c)(3)(iii) below.

(iii) *Payment and receipt of cash or in-kind consideration for processing natural gas or natural gas liquids.* Where a firm makes or receives a bona fide payment, whether in cash or in the form of an in-kind transfer of natural gas liquids or natural gas liquid products, to or from another firm in return for the processing of natural gas liquids or natural gas liquid products, the firm shall calculate increased processing costs incurred by it as follows:

(A) The firm making such payments shall add to its otherwise allowable processing costs (as defined in paragraph (b)(2) of this section), in both the current month and the base quarter, the amount of such payments made in the current month and the amount of such payments made in the base quarter, respectively. The firm shall then derive its increased processing costs as provided in paragraph (b)(1) of this section. Where increased processing costs are aggregated under paragraph (c)(4) of this section on a basis such that there are no base quarter costs attributable to the natural gas liquids or natural gas liquid products on account of which such payments are made, base quarter processing costs for such natural gas liquids or natural gas liquid products shall be calculated under paragraph (b)(3) of this section in the same manner as for new plants.

(B) The firm receiving such payments shall deduct from its otherwise allowable processing costs (as defined in paragraph (b)(2) of this section), in

both the current month and the base quarter, the lesser of the amount of the payment received in the current month and the base quarter, respectively, or the amount of allowable processing costs attributable on a volumetric basis to the natural gas liquids or natural gas liquid products produced in the plant and owned by the paying firm after payment in the current month and the base quarter, respectively. The firm shall then derive its increased processing costs as provided in paragraph (b)(1) of this section. Where increased processing costs are aggregated under paragraph (c)(4) of this section on a basis such that there are no base quarter costs attributable to the natural gas liquids or natural gas liquid products on account of which such payments are made, base quarter processing costs for such natural gas liquids or natural gas liquid products shall be calculated under paragraph (b)(3) of this section in the same manner as for new plants. A firm shall value payments made in the form of in-kind transfers of natural gas liquids or natural gas liquid products under this paragraph (c)(3)(iii), by multiplying the number of gallons of the products paid or received by the firm's applicable base period price for the natural gas liquids or natural gas liquid products. To value base quarter transfers the firm shall use its actual May 15, 1973, selling price for the products transferred, and to value current period transfers the firm shall use the higher of its actual May 15, 1973, price of the applicable adjusted price of § 212.164. Once the transfers are valued a firm shall calculate its increased processing costs with respect to such in-kind payments in accordance with paragraphs (c)(3)(iii) (A) and (B) of this section.

(4) *Aggregation and allocation of increased processing costs.* The provisions of § 212.168 (a), (b), (c) and (e), which provide for the exclusion of increased product costs attributable to ethane, the aggregation of increased product costs, the allocation of increased product costs to propane, and the allocation of increased product costs among classes of purchaser, shall also apply to increased processing costs. Increased processing costs attributable to particular products shall be aggregated on the same basis and allocated to the same products as are increased product costs.

(d) *Recovery of increased processing costs.* Increased processing costs incurred by a firm shall be available for recovery in sales by that firm of natural gas liquids or natural gas liquid products in the current month, *Provided,* That such increased processing costs are allocated as provided in paragraph (c)(4) of this section. Subject to the provisions of § 212.169, those increased processing costs shall also be available for recovery in sales of natural gas liquids and natural gas liquid products in months following the current month, provided that such costs are allocated as provided in paragraph (c)(4) of this section.

§§ 212.166 and 212.167 [Renumbered as §§ 212.167 and 212.168]

§§ 212.168–212.171 [Renumbered as 212.170–212.173]

4. Sections 212.166 and 212.167 are renumbered §§ 212.167 and 212.168 respectively. Sections 212.168, 212.169, 212.170, and 212.171, are renumbered §§ 212.170, 212,171, 212.172, and 212.173; respectively.

5. A new § 212.166 is added, to read as follows:

§ 212.166 Increased marketing costs.

(a) *Rule.* Subject to the limitations and requirements of this section, a firm may increase the first sale price of natural gas liquids and natural gas liquid products to reflect, on a dollar-for-dollar basis, increased marketing costs which it has incurred in the sale of such products since the base period.

(b) *Calculation of increased marketing costs.* (1) For any firm, marketing costs for any current month are the total amount of allowable costs incurred by that firm in that month with respect to sales of natural gas liquids and natural gas liquid products in that month, divided by the total volume of those products sold by that firm in that month. Base period marketing costs are the total amount of allowable costs incurred by the firm in the base period with respect to sales of natural gas liquids and natural gas liquid products in the base period, divided by the total volume of those products sold by the firm in the base period. In calculating current and base period marketing costs, a firm shall follow the rules hereinafter set forth in this paragraph (b) and in paragraph (c) of this section. Increased marketing costs for any current month are the difference between marketing costs for the current month and marketing costs for the base period, multiplied by the volume of natural gas liquids and natural gas liquid products sold by the firm in the current month. For purposes of this section the base period is the 9-month period beginning January 1, 1973, and ending September 30, 1973, plus the result of adding the 3-month period beginning October 1, 1972, and ending December 31, 1972, and the 3-month period beginning October 1, 1973, and ending December 31, 1973, and dividing that sum by 2.

(2) *Allowable costs.* Allowable costs, for purposes of calculating marketing costs and increased marketing costs, are costs which fall within the following categories and which are attributable, under generally accepted accounting practices historically and consistently applied by the firm, to natural gas liquid and natural gas liquid products sales operations. No costs shall be included in any particular category of marketing costs if they are included in any other category of marketing costs, or are included in product costs of processing costs. Common costs attributable both to sales operations and to gas plant operations shall be attributed solely to gas plant operations and treated as processing costs.

(i) *Labor cost.* Labor cost is the total dollar amount of direct and indirect remuneration or inducement for personal services, which are reasonably subject to valuation, for those personnel employed by the firm and directly involved in the sales operations of natural gas liquids and natural gas liquid products, except personal services provided by personnel which own any portion of, or receive any profits from, the firm involved. (This exception does not include personnel who own stock in the firm if it is a public corporation or participants in any type of profit sharing plan historically offered by the firm.) No amount treated as a maintenance cost may be allowed as a labor cost.

(ii) *Utility cost.* Utility cost is the dollar amount of costs incurred for utilities.

(iii) *Interest cost.* Interest cost is the dollar amount of costs incurred for interest on borrowing from an unrelated entity to the extent that such borrowing is for the purpose of financing any of the marketing costs set forth in subdivisions (i)–(vii) of this paragraph (b)(2) (including costs of acquiring facilities on which depreciation is allowable under paragraph (b)(2)(vi) of this section).

(iv) *Federal, State, and local tax cost.* Federal, State, and local tax cost is the dollar amount of Federal, State, and local property, excise, franchise, and other similar taxes incurred which are associated with the sales operations of natural gas liquids and natural gas liquid products. Federal, State, and local income taxes are not includable in this amount.

(v) *Maintenance cost.* Maintenance cost is the dollar amount of operating cost attributable to maintenance operations which are associated with the sales operations of natural gas liquids and natural gas liquid products. Maintenance cost increase includes the cost of contract maintenance.

(vi) *Depreciation cost.* Depreciation cost is the cost attributable to the depreciation of equipment, machinery, and facilities which are associated with the sales operations of natural gas liquids and natural gas liquid products: *Provided,* That these costs are

V 43 / 184 SEP 21 78

not otherwise covered by this section. If form 10-K is filed with the Securities and Exchange Commission, or an analogous report is filed with a State regulatory agency, the amount computed for depreciation cost increase shall be consistent with the figures used in preparing form 10-K or the analogous report. Accounting procedures used to compute depreciation cost increase by firms which do not file such form or report, or on whose behalf such form or report is not filed, shall be generally accepted accounting practices historically and consistently applied by the firm concerned for certified annual financial reports prepared by an independent accounting firm. No capital investments may be included in marketing costs as expenses, but all such investments must be capitalized and depreciated.

(vii) *Overhead cost.* Overhead cost is the dollar amount of costs of rent of real property, postage, office supplies, normal gas losses, insurance, employees' uniforms, outside legal and accounting fees, and transportation costs directly attributable to the sales operations of natural gas liquids and natural gas liquid products and not included in the calculation of increased product or processing costs. These costs shall be computed according to generally accepted accounting practices historically and consistently applied by the firm. Notwithstanding anything in this paragraph (b)(2)(vii) to the contrary, if a firm aggregates and allocates marketing costs on the basis of separate inventories as provided under paragraph (b)(3) of this section, the costs of transporting natural gas liquids or natural gas liquid products from a gas plant to the first separate inventory point shall be considered a cost attributable to that inventory.

(3) *Aggregation and allocation of increased marketing costs.* A firm may aggregate and allocate increased marketing costs to its entire, undivided stock of natural gas liquids and natural gas liquid products, or to that portion of total stock which constitutes a separate inventory at the point in the firm's distribution system where the product first comes to rest beyond the gas plant, or to the separate products propane, butane, and natural gasoline, under generally accepted accounting practices historically and consistently applied by the firm. Where costs are attributable to more than one product and/or more than one inventory, a firm shall allocate them according to generally accepted accounting practices to all of the products and/or inventories to which they are attributable. The provisions of § 212.168 (c) and (d), which apply to the allocation of increased product costs to propane, shall also apply to increased marketing costs. Inventories not in existence in the base period shall have as their base period marketing costs the entire firm's base period marketing costs for that product.

(c) *Recovery of increased marketing costs.* A firm may recover increased marketing costs in sales of natural gas liquids and natural gas liquid products in the current month. Subject to the provisions of §212.169, a firm may also recover these costs in months following the current month, provided that such costs are aggregated and allocated as provided in paragraph (b) (3) of this section.

§ 212.168 [Renumbered from § 212.167 and amended].

6. Section 212.168 (so renumbered from § 212.167 by amendment No. 5 herein) is amended by deleting paragraph (f) in its entirety.

7. A new § 212.169 is added, to read as follows:

§ 212.169 Carry-forward of increased costs; corrections for overrecovery of increased costs.

(a) *Carry forward of increased costs.* Subject to the requirements and limitations contained in this section, a firm may include in the prices of natural gas liquids and natural gas liquid products the increased product, processing, and marketing costs which it has not previously recovered. Increased processing and marketing costs incurred prior to October 1, 1978, shall not however be permitted to be recovered under this section. Increased costs which a firm has not previously recovered shall retain the aggregated or segregated character that they had as current increased costs under the applicable provisions of this subpart, and shall be allocated only to products distributed from the same center of aggregation. However, a firm that maintains separate inventories for calculating increased marketing costs, and distributes products from a gas plant to a particular first inventory shall allocate to that inventory an amount of increased product and processing costs equal to the greater of: (1) An amount determined by multiplying current increased unit product and processing costs by the number of units distributed from the gas plant, or (2) the unit amount recovered in sales from that gas plant to nonaffiliated purchasers multiplied by the number of units distributed from the gas plant.

(b) *Corrections for overrecovery of increased costs.* If in any month a firm charges prices for natural gas liquids or natural gas liquid products that result in the recovery of an amount greater than the increased costs which it is allowed under this subpart, the firm shall subtract the excess amount recovered from its May 15, 1973, selling prices for the product, cost centers and class of purchaser with respect to which such overrecoveries occurred, not later than the third month after the month in which it recovers the excess amount. A firm shall not deem any increased costs to have been overallocated to propane except on an annual basis, as provided in § 212.168(c), § 212.165(c)(4), and § 212.166(b)(3).

8. Section 212.172 (so renumbered from § 212.170 by amendment No. 5) is amended to read as follows:

§ 212.172 Records required to be maintained.

Prices otherwise permitted to be charged pursuant to this subpart to reflect increased product costs, increased processing costs, and increased marketing costs shall not be charged unless records adequate to demonstrate such increased product costs, increased processing costs, and increased marketing costs are maintained. The ERA will treat gas plant operators as responsible in the first instance for maintaining such records, without, however, relieving gas plant owners and other entities subject to these regulations of the responsibility for compliance with these regulations. Where one or more gas plants are under common ownership, the records required by this section may be kept in the aggregate for all of the gas plants concerned.

9. Section 212.173 (so renumbered from § 212.171 by amendment No. 5 herein) is amended to read as follows:

§ 212.173 Certification requirements.

(a) *Certification to purchasers of natural gas liquids.* Each seller of natural gas liquids shall certify to each purchaser in a first sale transaction the per gallon increment included in the price charged to that purchaser which results from the use by the seller of an adjusted May 15, 1973, selling price under § 212.164, in determining the lawful price to that purchaser.

[FR Doc. 78-26464 Filed 9-18-78; 11:30 am]

federal register

THURSDAY, SEPTEMBER 21, 1978
PART VI

DEPARTMENT OF TRANSPORTATION

Coast Guard

BOATS AND ASSOCIATED EQUIPMENT

Display of Capacity Information

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 183]

[CGD 78-034]

BOATS AND ASSOCIATED EQUIPMENT

Display of Capacity Information

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to change the format for the display of capacity information on certain boats under 20 feet in length and to require that the persons capacity be stated in terms of the number of persons, in addition to the maximum weight of persons. The present label standard does not require display of important safe loading capacity information in a manner readily understandable by boat users. Lack of understanding and awareness of the boat's safe load-carrying capabilities adversely affects boating safety. Amending the format of the capacity label and the method of presenting the safe loading capacity information should increase the boat user's understanding of safe loading capacities and enhance boating safety.

DATES: Comments must be received on or before November 20, 1978.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), (CGD 78-034), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Copies of studies referred to in this document are available for examination at the above address. A copy of the economic evaluation from which the economic summary in this document is taken is also available for examination at the above address.

FOR FURTHER INFORMATION CONTACT:

Mr. Lars E. Granholm, Office of Boating Safety (G-BBT-2/TP42), Room 4314, Department of Transportation, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590, 202-426-4027.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their name and address, identify this notice (CGD 78-034) and the specific section of the proposal to which a comment applies, and give the reasons for the comment. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Mr. Lars E. Granholm, Project Manager, Office of Boating Safety, and Lt. Robert R. Meeks, Project Attorney, Office of Boating Safety.

DISCUSSION OF THE PROPOSED AMENDMENT

Since the capacity label standards became effective in 1972 the Coast Guard has continuously reviewed the effectiveness of the capacity label and its impact on boating safety. Studies conducted by the Coast Guard to determine the effectiveness of capacity labels in making boat users aware of and understanding the safety information on the labels, indicate that both the format and the information presented on the capacity labels are unsatisfactory.

These studies indicated that many boaters either fail to read or do not remember the labeled capacities of their boats. Approximately half the boat users surveyed could not state the labeled persons capacity of their boat within 150 pounds. The Coast Guard believes that part of the reason for this difficulty is that persons capacity is currently expressed in pounds rather than the number of persons the boat can safely carry. Also, testing and evaluation of label designs rates the present label format very low compared to other available techniques for communicating information. Since the purpose of the labeling regulations is to inform the public of a boat's safe capacity, in order to minimize the number of overloading accidents, it is imperative that the labels actually impart information that will be remembered and used. The inadequacy of the present capacity label to efficiently and effectively communicate safety information to the boater warrants revision of the current label format.

The Coast Guard has developed a capacity label design, based on the Coast Guard studies, which it believes provides a more efficient and effective means of communicating safe loading information to the boat users. The new label design takes into account the following factors: Color contrast, letter and number sizes, format readability, and directness and brevity of information. Less important information has been eliminated or deemphasized.

The most important piece of safety information on the capacity label is the maximum persons capacity. This is because it is the one variable constantly involved in boating accidents where improper loading was a contributory cause. The number of passengers carried from one outing to the next typically varies. If the boat user does not understand the persons capacity information, a hazardous loading situation may inadvertently arise. Because persons in a boat can move about changing the stability of the boat, the number of persons which the boat can safely carry is the most critical item of information. The maximum weight capacity on the other hand, reflects an upper safety limit that represents a static loading situation and normally exceeds the persons capacity because it considers additional static weights such as machinery and gear. Therefore, maximum persons capacity should receive more emphasis on a capacity label than maximum weight. In the same vein, the maximum horsepower for a boat is generally considered only when the boat is being purchased and should be subordinated to the more important maximum persons capacity information. This approach is used in the new capacity label design.

The label effectiveness studies also reveal that persons capacity in whole numbers of persons is a more effective means of communication than persons capacity in pounds and that people can better identify and comprehend information presented in that way. Accordingly, the proposed capacity label format highlights persons capacity as a whole number (of persons). Additional attention is drawn to this information by requiring that it be displayed on a yellow background in large characters.

Since the maximum persons capacity information affects all persons onboard the boat, the proposal would also require that the capacity label be displayed where it can be easily seen by passengers as well at boat operators.

The Coast Guard considered several methods of calculating persons capacity as a whole number. Methods used by international boating safety organizations, State boating safety programs, and various voluntary standards were examined.

Several major factors are important in determining an appropriate formula for computing persons capacity as a whole number. One is the assumed weight of the average person, which, when divided into the persons capacity in pounds, results in the number of persons that may be carried. The weight of the average person as used in industry standards, State laws, and international standards ranges from 150 to 165. Studies of boating accidents have indicated average weights of 162 and 157 pounds. The Coast Guard has adopted 160 pounds as the weight of an average person.

Another major factor is the grouping of persons in the typical boating outing, which is usually a combination of adults and children indicating that some adjustment in the number of persons that may be carried is necessary. The typical group on a boating outing is three to four persons as indicated in the surveys conducted by the Coast Guard. This group is typically a boating family of two adults and one or two children.

A third major factor is the different types of boats to which the formula will apply. Because of the variations in boat sizes and resulting loading capacities it is imperative that the formula apply equally to all boats without unduly restricting the usage of some boats and without allowing excessive capacities for other boats, which could be hazardous.

An analysis of boats and their respective persons capacities was conducted taking into consideration the factors discussed above. The result was a straight line graph which converted a boat's persons capacity in pounds to a persons capacity in whole numbers of persons. In order to avoid errors of interpolation the graph was reduced to a simplified mathematical formula which involves adding 32 pounds to the persons capacity in pounds, dividing the result by 141, and rounding off the answer to the nearest whole number.

Under the proposed formula a boat that has a maximum persons capacity of 500 pounds has a whole number persons capacity of four. Some existing State laws require dividing the 500 pounds by the average weight of a person and displaying a fraction of a person on the capacity label. In this example, using 160 pounds for a person, the result would be approximately 3.12 persons. This result discriminates against the typical boating family of two adults and two children whose combined weight would not normally exceed 500 pounds. The Coast Guard does not consider that permitting a typical boating family of four persons in a boat with a 500-pound persons capacity would adversely affect boating safety. On the other hand, a boat with a persons capacity of 320 pounds would not be allowed to carry more than 2 persons according to the proposed formula. The Coast Guard believes that the small lightweight boats with persons capacities of less than 320 pounds cannot safely accommodate three persons, even if one or more of the persons is a child. The small lightweight boats are generally very unstable and are easily affected by the motions of persons on board. Other boats affected by this proposed amendment would be similarly affected as the examples described above depending on their persons capacity in pounds.

The present Coast Guard standard allows larger persons capacities in pounds than would be allowed by voluntary standards for most outboard boats. The proposed formula would allow the persons capacities in numbers of persons to further exceed the capacities allowed by the voluntary standards. The Coast Guard considers the variance between voluntary standards and the present standard to be acceptable. However, a further increase is not in the best interests of boating safety. Accordingly, the proposal adopts the method for calculating persons capacity, in pounds, for outboard boats found in voluntary standards. The method used in the voluntary standards requires that the maximum persons capacity in pounds not exceed the lesser of the static stability test value for persons capacity in pounds or the value obtained by subtracting outboard motor, battery, and fuel tank weights from the maximum weight capacity.

This proposed amendment will apply to all boats affected by the safe loading standards and will afford the boating public the following advantages:

(1) Boats users will be able to readily understand and apply the prescribed boat safe loading capacities in terms at the number of persons which may be carried;

(2) Passengers of boats will be able to identify a boat's safe load carrying capacities; and

(3) Boating safety will be enhanced because of increased awareness of safe load carrying capacities.

This proposed amendment does not apply to sailboats, canoes, kayaks, and inflatable boats as prescribed in section 183.21 of subpart B.

A discussion of the proposed amendment to subpart B and subpart C of part 183 follows:

SUBPART B

Section 183.23 prescribes that each boat to which the standard applies be marked with the appropriate capacity label format described in § 183.25 and that the capacity label marking be properly affixed as required in § 183.27.

Paragraphs 183.23 (b) and (c) of the present standard will be deleted because they are no longer applicable.

Paragraph 183.23(a) in the proposed amendment adds the requirement that the capacity label marking be displayed so that it is clearly visible to passengers as well as to the boat operator. The requirements for label formats include label dimensions letter and number dimensions, and label print colors.

SUBPART C

The proposal amends §§ 183.39, 183.41, and 183.43 of subpart C. The amendment adds a new paragraph to each section that includes the proposed formula for determining persons capacity as a whole number. The paragraphs in the sections are renumbered to conform to the change.

Section 183.39 is revised by adding a new paragraph(b) which is the formula for calculating persons capacity as a whole number. The formula for persons capacity is derived by using the maximum persons capacity value in pounds that as calculated in the new § 183.39(a), adds 32 pounds to it, and dividing it by 141. The resulting number is rounded off to the nearest whole number by rounding down to the next lower whole integer for fractions less than one-half and rounding up to the next higher integer for fractions greater than or equal to one-half. This rounding off procedure is also used in the proposed formula in §§ 183.41 and 183.43.

The proposal incorporates the revised method for calculating maximum persons capacity, in pounds, for outboard boats within a new paragraph 183.41(a). Paragraph 183.41(b) contains the method for determining maximum persons capacity as a whole number. The amendment proposes that the maximum persons capacity, in pounds, not exceed the lesser of the static stability test value or the value obtained by subtracting outboard motor, battery, and fuel tank dry weights from the maximum weight capacity determined in § 183.35.

Section 183.43 is revised by adding a new paragraph(b) which contains the proposed method for calculating persons capacity as a whole number for boats rated for manual propulsion. Also, a new paragraph(c) is added which contains the proposed method for boats rated for motors of 2 horsepower or less. The proposed method is the same method as described in the discussion for paragraph 184.39(b).

The National Boating Safety Advisory Council has been consulted regarding the substance of this proposed amendment. The Council concurs that the proposed amendment be published as an amendment to subparts B and C. Transcripts of the proceedings of the National Boating Safety Advisory Council at which this amendment was discussed are available for examination in room 4224, U.S. Coast Guard Headquarters, Trans Point Building, 2100 Second Street SW., Washington, D.C. The minutes of the meeting are available from the Executive Director,

National Boating Safety Advisory Council, c/o U.S. Coast Guard (G-BA/TRPT), Washington, D.C. 20590.

The Coast Guard has considered this proposal under Department of Transportation policies for improving government regulations published March 8, 1978, 43 FR 9582. A draft evaluation has been prepared and is available for public inspection at the Marine Safety Council. The proposed amendment should result in negligible cost to industry and the consumer since it merely changes the label format, color, and the size of lettering.

PROPOSED EFFECTIVE DATE

The changes outlined in this proposal will become effective on August 1, 1979, so as to coincide with the new model year. This will allow manufacturers to clear their inventory of present labels and to order new ones.

In consideration of the foregoing, it is proposed to amend part 183 of chapter I of title 33 of the Code of Federal Regulations as follows:

Subpart B—Display of Capacity Information

1. By revising § 183.23 to read as follows:

§ 183.23 Capacity marking required.

Each boat must be marked in the manner prescribed in § 183.25 and § 183.27 with the maximum persons capacity in whole numbers of persons and in pounds, the maximum weight capacity in pounds, determined under § 183.33 through 183.43, and the maximum horsepower capacity determined under § 183.53.

2. By revising paragraph 183.25(a) and adding a new paragraph 183.25 (b) and (c) to read as follows:

§ 183.25 Display of markings.

(a) Each marking required by § 183.23 must be permanently displayed in a legible manner where it is clearly visible to the operator and passengers when getting the boat underway.

(b) The information required to be marked by § 183.23 must be displayed in the following manner—

(1) For outboard boats:

U.S. COAST GUARD MAXIMUM CAPACITIES	
Persons or pounds	XXX
Pounds, persons, motor, gear	XXX
Horsepower, motor	XXX

or

U.S. COAST GUARD MAXIMUM CAPACITIES	
Persons or pounds	XXX
Pounds, persons, motor, gear	XXX
Horsepower, motor with remote steering	XXX
Horsepower, motor without remote steering	XXX

(2) For inboard boats and inboard-outdrive boats:

U.S. COAST GUARD MAXIMUM CAPACITIES	
Persons or pounds	XXX
Pounds, persons, gear	XXX

(3) For boats rated for motors of 2 horsepower or less

U.S. COAST GUARD MAXIMUM CAPACITIES	
Persons or pounds	XXX
Pounds, persons, motor, gear	XXX
Horsepower, motor	XXX

(4) For boats rated for manual propulsion:

U.S. COAST GUARD MAXIMUM CAPACITIES	
Persons or pounds	XXX
Pounds, persons, gear	XXX

THIS BOAT RATED FOR MANUAL PROPULSION

ALL DIMENSIONS ARE MINIMUM

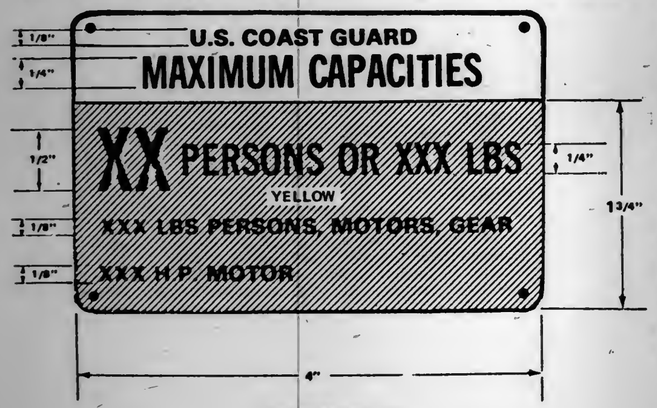

FIGURE 183.25

(c) The capacity information displays required in paragraph (b) must meet the following as illustrated in figure 183.25:

(1) All displays must have a yellow area with minimum dimensions of 1¾ inches in height and 4 inches in width into which the maximum capacity values required in § 183.23 must be placed;

(2) The persons capacity in whole numbers must be black print with the following dimensions:

(i) The height must not be smaller than one-half inch;

(ii) The width of the numbers must be three-fifths of the height, except for the number "4," which shall be one stroke width wider, and the number "1," which shall be one stroke in width;

(iii) The stroke width shall be one-sixth of the height; and

(iv) The minimum space between the numbers shall be one stroke width.

(3) The caption "PERSONS OR XXX POUNDS" must be a least one-quarter inch in height but not larger than one-half the height of the persons capacity number and of a color contrasting with yellow;

(4) All remaining captions required to be within the yellow area required in paragraph (c)(1) must be at least one-eighth inch in height, but no larger than one-half the height of the persons capacity number;

(5) All other required captions on the displays must be located outside the yellow area on a background color which contrasts with yellow;

(6) The caption "MAXIMUM CAPACITIES" must be at least one-quarter inch in height and of color constrasting with its background; and

(7) The caption "U.S. COAST GUARD" must be at least one-eighth inch in height and of color contrasting with its background.

3. By revising § 183.27 to read as follows:

§ 183.27 Construction of markings.

Each marking required by § 183.23 must be—

(a) Capable of withstanding the combined effects of exposure to water, oil, salt spray, direct sunlight, heat, cold, and wear expected in normal operation of the boat, without loss of legibility; and

(b) Resistant to efforts to remove or alter the information without leaving some obvious sign of such efforts.

Subpart C—Safe Loading

1. By revising § 183.39 to read as follows:

§ 183.39 Persons capacity: Inboard and inboard-outdrive boats.

(a) The persons capacity in pounds marked on a boat that is designed or intended to use one or more inboard engines or inboard-outdrive units must not exceed the lesser of—

(1) The maximum weight capacity determined under § 183.33 for the boat, or

(2) The maximum persons capacity in pounds determined in the following manner:

(i) Float the boat in calm water with all its permanent appurtenances, including installed engines, full fuel system and tanks, control equipment, drive units, and batteries.

(ii) Gradually add weights along one outboard extremity of each passenger carrying area, at the height of the seat nearest the center of that area, but no higher than the height of the gunwale, and distributed equally forward and aft of that center in a plane parallel to the floorboards, until the boat assumes the maximum list or trim, or both, without water coming aboard.

(iii) Compute the persons capacity in pounds in the following formula:

Persons capacity = A/0.6 where A is the total of the weights added in paragraph (a)(2)(ii) of this section.

(b) The maximum persons capacity in whole numbers of persons marked on a boat that is designed or intended to use one or more inboard engines or inboard-outboard units must not exceed the value obtained by adding 32 pounds to the value determined in paragraph (a)(2)(iii), dividing the sum by 141 and rounding off the result to the nearest whole number. If the fraction is less than one-half, round down to the next whole integer and if the fraction is equal to or greater than one-half round up to the next higher whole integer.

2. By revising § 183.41 to read as follows:

§ 183.41 Persons capacity: Outboard boats.

(a) The persons capacity in pounds marked on a boat that is designed or intended to use one or more outboard motors for propulsion must not exceed the lesser of—

(1) The maximum weight capacity determined under § 183.35 for the boat minus the motor and control weight, battery weight, and full portable fuel tank weight (dry) from table 183.67(a), or

(2) The maximum persons capacity determined by the following test in calm water:

(i) Float the boat with all its permanent appurtenances.

(ii) Add, in normal operating positions, the dry motor and control weight, battery weight, and full portable fuel tank weight, if any, shown in table 183.67(a) for the maximum horsepower capacity marked on the boat. Permanently installed fuel tanks shall be full of fuel.

(iii) Gradually add weights along one outboard extremity of each passenger carrying area, at the height of the seat nearest the center of that area, but no higher than the height of the gunwale, and distributed equally forward and aft of that center in a plane parallel to the floorboards until the boat assumes the maximum list or trim, or both, without water coming aboard.

(iv) Compute the persons capacity in pounds using the following formula:

Persons capacity = A/0.6 where A is the total of the weights added in paragraph (a)(2)(iii) of this section.

(b) The maximum persons capacity in whole numbers of persons marked on a boat designed or intended to use one or more outboard motors for propulsion must not exceed the value obtained by adding 32 pounds to the lesser of the values determined in paragraph (a)(1) or (a)(2)(iv), dividing the sum by 141, and rounding off the result to the nearest whole number. If the fraction is less than one-half, round down to the next lower whole integer and if the fraction is equal to or greater than one-half round up to the next higher whole integer.

3. By revising § 183.43 to read as follows:

§ 183.43 Persons capacity: Boats rated for manual propulsion and boats rated for motors of 2 horsepower or less.

(a) The persons capacity in pounds marked on a boat that is rated for manual propulsion or for motors of 2 horsepower or less must not exceed—

(1) For boats rated for manual propulsion, 90 percent of the maximum weight capacity in pounds; and

(2) For boats rated for motors of 2 horsepower or less, 90 percent of the maximum weight capacity in pounds, less 25 pounds.

(b) The maximum persons capacity in whole numbers of persons marked on a boat that is rated for manual propulsion must not exceed the value obtained by adding 32 pounds to the value determined in paragraph (a)(1), dividing the sum by 141, and rounding off the result to the nearest whole number. If the fraction is less than one-half, round down to the next lower integer and if the fraction is equal to or greater than one-half round up to the next higher whole integer.

(c) The maximum persons capacity in whole numbers of persons marked on a boat rated for motors of 2 horsepower or less must not exceed the value obtained by adding 32 pounds to the value determined in paragraph (a)(2), dividing the sum by 141, and rounding off the result to the nearest whole number.

If the fraction is less than one-half, round down to the next lower whole integer and if the fraction is equal to or greater than one-half round up to the next higher whole integer.

AUTHORITY: 85 Stat. 215, 216 (46 U.S.C. 1454, 1456); 49 CFR 1.46(n)(1).

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: September 13, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-26561 Filed 9-20-78; 8:45 am]

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V 43\184 SEP 21 78

Advance orders are now being accepted for delivery in about 6 weeks

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Vol. 43—No. 185
9-22-78
PAGES
43011-43281

federal register

FRIDAY, SEPTEMBER 22, 1978

highlights

SUNSHINE ACT MEETINGS 43083

NATIONAL GUARD DAY
Presidential proclamation 43011

CRIMINAL JUSTICE EDUCATION AND TRAINING
Justice/LEAA announces annual competition for Internship Program funds 43078

RURAL HOUSING LOANS AND GRANTS
USDA/FHA amends its regulations regarding the size of families permitted to occupy apartment units under terms of rental assistance agreements; effective 9-22-78; comments by 10-23-78 43016

FOOD STAMP PROGRAM
USDA/FNS rules to tighten criteria for authorizing retailers and wholesalers to accept and redeem stamps; effective 1-1-79 (Part VI of this issue) 43272

REGULATION OF INTERSTATE CARRIER WATER
HEW/FDA issues memorandum of understanding with the Environmental Protection Agency 43072

EXPERIMENTAL PROGRAM FOR OPPORTUNITIES IN ADVANCED STUDY AND RESEARCH IN EDUCATION
HEW/NIE announces closing date for receipt of applications.. 43073

AGE DISCRIMINATION IN EMPLOYMENT ACT—EMPLOYEE BENEFIT PLANS
Labor/W&H issues proposed amendment to interpretative bulletin and notice of hearing thereon; hearing 10-23-78; comments by 11-21-78 (Part V of this issue) 43264

BREAD
HEW/FDA issues proposed rule which would permit "reduced calorie" labeling; effective 11-21-78 (2 documents) (Part IV of this issue) 43248

ESTABLISHMENT OF NEW REQUIREMENTS FOR PROMOTION AND INTERNAL PLACEMENT
CSC solicits comments from interested parties on the revised text of a new Federal Personnel Manual Chapter 335; comments by 10-23-78 43051

GASOLINE
FTC rules to revoke trade regulation which was superseded by Title II of the Petroleum Marketing Practices Act; effective 9-22-78; comments by 10-20-78; hearing 10-16-78 (2 documents) 43022, 43028

CONTINUED INSIDE

V 43 / 185 SE 22 78

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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- Copies of documents appearing in the Federal Register. 523–5240
- Corrections 523–5237
- Public Inspection Desk 523–5215
- Finding Aids 523–5227

Public Briefings: "How To Use the Federal Register." 523–3517

Code of Federal Regulations (CFR) 523–3419
523–3517
- Finding Aids 523–5227

PRESIDENTIAL PAPERS:
- Executive Orders and Proclamations. 523–5233
- Weekly Compilation of Presidential Documents. 523–5235
- Public Papers of the Presidents 523–5235
- Index 523–5235

PUBLIC LAWS:
- Public Law dates and numbers 523–5266
523–5282
- Slip Laws 523–5266
523–5282
- U.S. Statutes at Large 523–5266
523–5282
- Index 523–5266
523–5282

U.S. Government Manual 523–5230
Automation 523–3408
Special Projects 523–4534

HIGHLIGHTS—Continued

HEARING AIDS
HEW/FDA announces hearing on proposal on State applications for exemption from preemption of State and local requirements; hearing 10–31–78; comments by 10–10–78 43037

NEW DRUGS
HEW/FDA withdraws approval of certain poorly absorbed sulfonamides for oral use; effective 10–2–78 43070

MULTIFAMILY HOUSING MORTGAGE INSURANCE
HUD rules to extend date by which incomplete projects financed with State or local assistance must be completed and applications must be submitted from July 1, 1978 through January 1, 1979; effective 9–22–78 43023

LABELING OF FOODS FOR SPECIAL DIETARY USE
HEW/FDA rules to prevent misleading statements on foods not useful for special dietary purposes; effective 11–21–78 (2 documents) (Part IV of this issue) 43250

PRIVACY ACT
Commerce issues annual publication of systems of records (Part II of this issue) 43112

CANCER TESTING
HEW/NIH issues notices on the availability of reports on bioassay of various chemicals for possible carcinogenicity (3 documents) 43047

LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES
SBA rules to reduce the amount of "cash or in-kind" participation in a project; effective 8–1–78 43019

MARKING OR LABELING SMALL SAUSAGES
USDA/FSQS proposes to amend inspection regulations with respect to products in casings or link form to reflect weight limitations in kilograms rather than pounds; comments by 11–21–78 43027

SUBSISTENCE WHALING
Commerce/NOAA increases 1978 quota for taking of bowhead whales by Indians, Aleuts, or Eskimos; effective 9–22–78 43025

MEETINGS—
- Commerce/NFPCA: Advisory Committee of Fire Training and Education for the National Academy for Fire Prevention and Control, 10–11–78 43058
- CRC: Illinois Advisory Committee, 10–16–78 43051
- HEW/FDA: Advisory Committees for the months of October and November 43068
- Bureau of Drugs Advisory Committee Chairpersons, 10–6–78 43069
- Dermatology Subcommittee of the Anti-Infective and Topical Drugs Advisory Committee, 10–26–78 43067
- Interior/NPS: Committee for the Preservation of the White House, 10–20–78 43077
- SBA: Region I Advisory Council, 10–4–78 43081
- Region VII Advisory Council, 10–4–78 43081
- Region VIII Advisory Council, 10–12 and 10–13–78 (2 documents) 43081

CANCELLED MEETINGS—
- National Commission for the Review of Antitrust Laws and Procedures: Working Group, 9–26–78 43079

CHANGED MEETINGS—
- President's Commission on the Coal Industry: Commission meeting, 9–29–78 43079

SEPARATE PARTS OF THIS ISSUE
Part II, Commerce 43112
Part III, Labor/ESA 43146
Part IV, HEW/FDA 43248
Part V, Labor/W&D 43264
Part VI, USDA/FNS 43272

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Justice/INS—Termination of program for issuance of permanent crewman's landing permits and identification cards (Form I–184). 38811; 8–31–78

SBA—Definition of small business for the purpose of government procurement for protective services 31883; 7–24–78

Treasury/ATF—Wine labeling and advertising; appellation of origin, grape-type designations 37672; 8–23–78

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing: September 21, 1978.]

S. 3454..... Pub. L. 95–377
To amend the Act of August 29, 1974 (88 Stat. 795; 10 U.S.C. 8202 note), relating to the authorized numbers for the grades of lieutenant colonel and colonel in the Air Force and to authorize the President to suspend certain provisions of law when he determines that the needs of the Armed Forces so require, and for other purposes. (September 19, 1978; 92 Stat. 719). Price $.50.

contents

THE PRESIDENT

Proclamations
National Guard Day 43011

EXECUTIVE AGENCIES

AGRICULTURAL MARKETING SERVICE
Rules
Lemons grown in Ariz. and Calif. (2 documents)..... 43015, 43016
Oranges, grapefruit, tangerines, and tangelos grown in Fla., and grapefruit imports 43013

AGRICULTURE DEPARTMENT
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Farmers Home Administration; Food and Nutrition Service; Food Safety and Quality Service.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE
Rules
Animal and poultry import restrictions:
Rinderpest and foot-in-mouth disease, etc.; change in disease status of Denmark 43017

ANTITRUST LAWS AND PROCEDURES, NATIONAL COMMISSION FOR REVIEW
Notices
Meetings:
Working Group on the Empirical Case Studies; cancellation..... 43079

ARMY DEPARTMENT
Notices
Environmental statements; availability, etc.:
National Training Center, Fort Irwin site 43059
Privacy Act; systems of records 43059

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM
Notices
Procurement list, 1978; additions and deletions..... 43058

CIVIL AERONAUTICS BOARD
Notices
Hearings, etc.:
California-Arizona low fare route proceeding 43051
California-Florida low fare case..... 43051
Chicago-Midway expanded service proceeding 43051
Florida service case..... 43051
Twin Cities-Kansas City-Oklahoma-Texas route proceeding 43051

CIVIL RIGHTS COMMISSION
Notices
Meetings, State advisory committees:
Illinois 43051

CIVIL SERVICE COMMISSION
Rules
Administrative law judges; appointment, pay, and removal; incentive award eligibility 43013
Notices
Personnel manual, Federal; promotion and internal placement; inquiry 43051

COAL INDUSTRY, PRESIDENT'S COMMISSION
Notices
Meeting; location change..... 43079

COMMERCE DEPARTMENT
See also Maritime Administration; National Fire Prevention and Control Administration; National Oceanic and Atmospheric Administration.
Rules
Privacy Act; implementation 43020
Notices
Privacy Act; systems of records; annual publication..... 43112

COMMODITY FUTURES TRADING COMMISSION
Proposed Rules
Position and daily trading limits; inquiry 43034
Notices
Futures contracts, contract designations; 30 industrial stock average; Kansas City Board of Trade; hearing 43058

CUSTOMS SERVICE
Notices
Customhouse broker license suspensions:
Mena, Mark A..... 43082

DEFENSE DEPARTMENT
See Army Department.

DELAWARE RIVER BASIN COMMISSION
Notices
Environmental statements; availability, etc.:
Dow Chemical Co 43063

ECONOMIC REGULATORY ADMINISTRATION
Notices
Crude oil, domestic; allocation program:
Refiners buy/sell list; October through March; correction .. 43064
Environmental statements; availability, etc.:
El Paso Eastern Co. et al 43063

EMPLOYMENT STANDARDS ADMINISTRATION
Notices
Minimum wages for Federal and federally assisted construction; general wage determination decisions, modifications, and supersedeas decisions; Ala. Conn., Ga., Ky., Mass., Minn., Miss., N. Dak., Okla., Pa., R.I., Tex., Va. 43146

ENERGY DEPARTMENT
See Economic Regulatory Administration; Western Area Power Administration.

ENVIRONMENTAL PROTECTION AGENCY
Rules
Water pollution; effluent guidelines for certain point source categories:
Steam electric power generating; relevance of economic factors..... 43023
Proposed Rules
Toxic substances:
Polychlorinated biphenyls (PCB's); manufacturing, processing, distribution, and use ban; extension of time ... 43048
Notices
Water for drinking or culinary purposes on interstate carrier conveyances; memorandum of understanding with FDA..... 43065

FARMERS HOME ADMINISTRATION
Rules
Rural housing loans and grants:
Rental assistance agreements; apartment occupancy levels 43016

FEDERAL COMMUNICATIONS COMMISSION
Notices
Rulemaking proceedings filed, granted, denied, etc.; petitions by various companies 43065

FEDERAL INSURANCE ADMINISTRATION
Proposed Rules
Flood elevation determinations:
Colorado 43037
Florida (6 documents) .. 43038–43041
Idaho (2 documents) 43041, 43042
Illinois (3 documents) ... 43043, 43044
Indiana (2 documents) 43045
Kansas 43046
Maryland (3 documents) 43047, 43048

FEDERAL RESERVE SYSTEM
Rules
Truth-in-lending:
Variable rate mortgages; official staff interpretation..... 43018

CONTENTS

CONTENTS

FEDERAL TRADE COMMISSION

Rules

Octane numbers, minimum; posting on gasoline dispensing pumps; CFR Part superseded 43022

Proposed Rules

Octane ratings of automotive gasoline; certification and posting 43028

FISH AND WILDLIFE SERVICE

Notices

Endangered and threatened species permits; applications 43077
Endangered and threatened species permits; applications, correction 43076

FOOD AND DRUG ADMINISTRATION

Rules

Dietary foods; label statements for weight control or diabetic diets 43250

Proposed Rules

Animal drugs, feeds, and related products:
Chlortetracycline-sulfamethazine tablets 43036
Food labeling:
Special dietary foods; reduced calorie labeling for bread 43263
GRAS or prior-sanctioned ingredients:
Fish oils, hydrogenated; correction 43036
Medical devices:
Hearing aids; exemption from preemption of State and local requirements; hearing 43037
Vegetable protein products; common or usual names; extension of time 43035

Notices

Animal drugs, feeds, and related products:
Chlortetracycline, sulfamethazine, and vitamin tablets; proposed withdrawal; hearing 43070
Human drugs:
Bronchodilators, inhalation; approval withdrawn; correction 43070
Sulfonamides; oral use; approval withdrawn 43070
Meetings:
Advisory committees, panels, etc. (3 documents) 43067–43069
Water for drinking or culinary purposes on interstate carrier conveyances; memorandum of understanding with EPA 43072

FOOD AND NUTRITION SERVICE

Rules

Food stamp program:
Retail food stores and wholesalers; participation, disqualification criteria, etc 43272

FOOD SAFETY AND QUALITY SERVICE

Proposed Rules

Grapes and pears, canned; grade standards; advance notice 43027
Meat and poultry inspection, mandatory:
Sausages, small; labeling 43027

GENERAL SERVICES ADMINISTRATION

Proposed Rules

Privacy Act; implementation 43049

Notices

Privacy Act; systems of records 43066

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Food and Drug Administration; Museum Services Institute; National Institute of Education; National Institutes of Health.

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See also Federal Insurance Administration.

Rules

Mortgage and loan insurance programs:
Multifamily housing; eligibility requirements 43023

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Land Management Bureau; National Park Service.

Notices

Environmental statements, availability, etc.:
Franklin Delano Roosevelt Memorial, West Potomac Park, D.C 43077

INTERNAL REVENUE SERVICE

Proposed Rules

Income taxes:
Guarantee agreements; treatment of losses; correction 43048

INTERSTATE COMMERCE COMMISSION

Notices

Hearing assignments 43082

JUSTICE DEPARTMENT

See Law Enforcement Assistance Administration.

LABOR DEPARTMENT

See Employment Standards Administration; Wage and Hour Division.

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
New Mexico 43075
Wyoming (4 documents) 43075, 43076
Meetings:
Burley District Grazing Advisory Board 43074
Withdrawal and reservation of lands, proposed, etc.:
New Mexico 43075

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Notices

Grants solicitation, competitive research:
Criminal justice agencies, public; internship program 43078

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; list of requests 43079

MARITIME ADMINISTRATION

Notices

Applications, etc.:
Suwanee River Finance, Inc., et al 43057

NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION

Notices

Meetings:
National Academy for Fire Prevention and Control 43058

NATIONAL INSTITUTE OF EDUCATION

Notices

Grant programs, application closing dates:
Advanced study and research in education 43073

NATIONAL INSTITUTES OF HEALTH

Notices

Carcinogenisis bioassay reports; availability:
O-Anisidine hydrochloride 43047
Thio-TEPA 43047
5-Nitro-O-toluidine 43047

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rules

Meeting:
Bowhead whales; taking by Indians, Aleuts, or Eskimos for subsistence purposes 43025

Notices

Marine mammal permit applications, etc.:
Stadt Nurnberg 43058

NATIONAL PARK SERVICE

Notices

Boundary establishment, descriptions, etc.:
Perry's Victory and International Peace Memorial; correction 43078
Concession permits, etc.:
Yosemite National Park 43078
Environmental statements; availability, etc.:
Harpers Ferry National Historical Park, W. Va 43077
Meetings:
White House Preservation Committee 43077

SECURITIES AND EXCHANGE COMMISSION

Proposed Rules

Securities Exchange Act:
Lost and stolen securities program; advance notice; extension of time 43035

Notices

Hearings, etc.:
Alpine Geophysical Associates, Inc 43079
American Medical Buildings, Inc 43079
Egret Fund, Inc 43080
Realty ReFund Trust 43080

SMALL BUSINESS ADMINISTRATION

Rules

Loans to State and local development companies:
LDC participation and fees 43019

Notices

Applications, etc.:
HUB Enterprises, Ltd 43081
Montgomery Street Partners, Inc 43081
Meetings; advisory councils:
Concord 43081
Fargo 43081
Kansas City 43081
Sioux Falls 43081

TREASURY DEPARTMENT

See Customs Service; Internal Revenue Service.

WAGE AND HOUR DIVISION

Proposed Rules

Age discrimination in employment; employee benefit plans; interpretation and hearing 43264

WESTERN AREA POWER ADMINISTRATION

Notices

Central Valley Project Power Rates; change in dates for public comment in supplemental proceedings 43065

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR
PROCLAMATIONS:
4598 43011

5 CFR
930 43013

7 CFR
270 43273
271 43273
272 43274
278 43274
279 43279
905 43013
910 (2 documents) 43015, 43016
944 43013
1822 43016
PROPOSED RULES:
2852 43027

9 CFR
94 43017
PROPOSED RULES:
316 43027

12 CFR
226 43018

13 CFR
108 43019

15 CFR
4b 43020

16 CFR
422 43022
PROPOSED RULES:
306 43028

17 CFR
PROPOSED RULES:
150 43034
240 43035
241 43035
249 43035

21 CFR
105 43248
PROPOSED RULES:
102 43035
105 43261
182 43036
186 43036
546 43036
808 43037

24 CFR
207 43023
PROPOSED RULES:
1917 (8 documents) 43037–43048

26 CFR
PROPOSED RULES:
1 43048

29 CFR
PROPOSED RULES:
860 43264

40 CFR
423 43023
PROPOSED RULES:
761 43048

41 CFR
PROPOSED RULES:
105–64 43049

50 CFR
230 43025

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING SEPTEMBER

FEDERAL REGISTER

V 43 185 SEP 22 78

V 43 / 185 SEP 22 78

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.

1 CFR

Ch. I 39069

3 CFR

EXECUTIVE ORDERS:
10536 (Revoked by EO 12079) 42233
10616 (Revoked by EO 12082) 42727
11030 (Amended by EO 12080) .. 42235
11151 Revoked by EO 12082) 42727
11437 (Revoked by EO 12082) 42727
11554 (Revoked by EO 12082) 42727
12024 (See EO 12078) 39741
12078 39741
12079 42233
12080 42235
12081 42237
12082 42727
MEMORANDUMS:
September 8, 1978 40449
PROCLAMATIONS:
4591 39561
4592 39739
4593 40197
4594 40451
4595 41013
4596 41941
4597 42725
4598 43011
REORGANIZATION PLANS:
No. 3 of 1978 41943

4 CFR

416 42239

5 CFR

213 ..... 39069, 39070, 39951–39953, 40453, 41947
930 43013

7 CFR

2 ..... 39953, 41371
245 39070
250 ..... 39070, 41947
270 43273
271 ..... 41947, 43273
272 43274
278 43274
279 43279
282 ..... 39074, 39075
301 40528
330 39953
401 41371
905 43013
908 ..... 39743, 42247
910 ..... 39080, 43015, 43016, 39319, 39954, 41372, 41949
911 39319
915 39321
927 39323
931 39323
932 39743
944 43013
993 40199
1004 ..... 39744, 39745, 41990
1036 40801
1071 39325
1073 39326
1097 39328
1102 39328
1104 39329
1106 39331
1108 39333
1120 39334
1125 42729
1126 39335
1132 39337
1133 39955
1138 39338
1435 39563
1464 41991
1701 41181
1822 43016
1823 ..... 39746, 40199
1955 41373
PROPOSED RULES:
6 ..... 39110, 40530
17 40872
722 39117
918 40027
948 40027
965 40028
981 39393
1079 40028
1126 40030
1427 39118
1701 ..... 40036, 41215
1822 41215
1940 41047–41049
1944 41215
2852 43027

8 CFR

108 40879
236 40801
PROPOSED RULES:
108 40879

9 CFR

54 41103
91 39080
94 ..... 39956, 43017
113 41185
355 39340
PROPOSED RULES:
1 42200
3 42200
92 40037
316 43027
317 39394
318 ..... 39119, 39394
319 39394

10 CFR

35 39747
51 41373
73 41187
205 ..... 39080, 40200
212 ..... 40682, 42984
PROPOSED RULES:
51 39801
210 41224
211 ..... 40233, 41224
212 ..... 40233, 41224
430 40192
1004 40530

12 CFR

202 39341
217 41015
226 ..... 40210, 41015, 43018
PROPOSED RULES:
7 41406
226 41993

13 CFR

107 39563
108 43019
Ch. IV 40803
PROPOSED RULES:
123 42016
130 39394
309 41408

14 CFR

39 ..... 39346–39348 39748, 39750, 41016, 41374–41376, 42730–42732
71 ..... 39439 39750–39753, 40211–40213, 41017, 41018, 41381–41383, 42734
73 ..... 40214, 40215, 42734
75 39753–39755
97 ..... 41019, 42734
207 42736
221 39536
241 40454
298 41187
302 ..... 39536, 41021
385 40803
399 39522
PROPOSED RULES:
Ch. II 41410
39 ..... 40233, 42766
71 ..... 39803, 40237, 41051, 41408, 41409, 42766
73 ..... 39803, 39804
223 39805
250 39806
298 39587
380 ..... 39807, 40880

15 CFR

46 43020
399 42741
PROPOSED RULES:
500 41230

16 CFR

1 39083
13 ..... 39350, 40454
14 42741
422 43022
1209 39564

15 CFR—Continued

PROPOSED RULES:
13 ..... 39120, 40536, 40537, 40882, 41233, 42017
305 41410
308 43028
451 41051
1209 39564

17 CFR

1 39956
8 41950
111 41192
210 ..... 40688, 41022
211 40730
230 ..... 41193, 41383
239 39554
249 39554
270 39553
274 39553
PROPOSED RULES:
150 43034
210 ..... 40724, 40726
229 40720
230 41235
239 41052
240 43035
241 43035
249 43035
270 39396

18 CFR

1 ..... 39982, 41965
3 40217
4 40217
16 40217
131 40217
PROPOSED RULES:
1 ..... 39122, 40037

19 CFR

153 40804
PROPOSED RULES:
6 40238
177 41236

20 CFR

416 39564
801 41990
802 41990
901 39756
PROPOSED RULES:
404 ..... 39266, 42017
416 41054
620 39124
653 39124

21 CFR

105 43248
430 41194
431 ..... 41194, 41195
510 39086
514 41195
520 ..... 39084, 39085
522 40455
524 40455
556 41965
558 ..... 39086, 39350, 41965
561 ..... 40456, 41385, 41386

21 CFR—Continued

PROPOSED RULES:
73 42017
102 ..... 42118, 43035
105 43261
131 42118
133 ..... 42118, 42126, 42127
145 39126
182 43036
186 43036
310 39126
314 39126
337 39544
347 42018
436 40038
469 40038
546 43036
808 43037
1308 40884

22 CFR

64 42247
516 42247

23 CFR

17 41387
190 42742
PROPOSED RULES:
625 40539

24 CFR

207 43023
221 39570
841 41198
886 40402
1914 ..... 41028, 41030, 41966, 42743, 42747
1915 41967
1916 39572
1917 ..... 39351–39360, 39573–39582, 39761–39771, 39983–39987, 41204
1920 39771–39774
PROPOSED RULES:
58 42220
201 39593
570 41369
1917 ..... 39129, 39141, 41237, 42018, 42261–42281, 43037–43048
3500 ..... 39701, 40539

25 CFR

11 40804
41 41388
43k 40457
54 39361
178 40458
258 39086
PROPOSED RULES:
251 42768

26 CFR

1 ..... 40219, 40459, 41204
48 41388
301 ..... 40219, 40459
PROPOSED RULES:
1 ..... 39142, 39822, 41237, 43048
31 ..... 39142, 39149
301 39142

26 CFR

PROPOSED RULES:
2 ..... 41411, 42282

29 CFR

1601 39775
1610 40222
1910 39087
2520 41205
PROPOSED RULES:
860 43264
1601 39831

30 CFR

41 39988
70 40760
71 40760
301 41974
302 41974
PROPOSED RULES:
Ch. VII . 41662, 42018, 42282, 42769
55 40766
56 40766
57 40766

31 CFR

1 42249
51 40223
223 39088

32 CFR

42 39988
581 40498
641 41975
837 42249
902 39089
931 39101
1288 40806
1804 39778
PROPOSED RULES:
47 40884

33 CFR

3 40224
117 ..... 39777, 41032, 41389, 41390
127 42748
161 ..... 39994, 40224
165 42748
PROPOSED RULES:
89 39946
117 ..... 41412, 41413
126 39832
183 ..... 41056, 43006

36 CFR

214 40998
261 42749
1207 40808
PROPOSED RULES:
28 41414

37 CFR

202 41975
302 40225
303 40498
305 40501

38 CFR

2 39364
14 39365
PROPOSED RULES:
3 40239
21 39832
36 ..... 39150, 39833

presidential documents

V 43 / 185 SEP 22 78

39 CFR

111 ..... 39583, 39995, 40810
221 41984
224 ..... 41984, 42249
265 42250
602 42249

PROPOSED RULES:

111 ..... 39593, 42769
266 41391

40 CFR

2 ..... 39997, 42251
35 42251
51 40009
52 ..... 39366, 40009–40011, 41032–41039
65 ..... 40015, 40226
81 ..... 39101, 40412, 40436, 40502
125 40859
180 ..... 41206, 41391–41396, 42749
423 43023
600 39367
730 41206

PROPOSED RULES:

35 40742
52 ..... 39151, 39152, 40009–40011, 40240, 40245, 42018, 42282
60 ..... 42154, 42183, 42186
65 ..... 39152, 39153, 39397, 39834, 40015, 40247, 40248, 40539,41238, 41239, 42283
81 40436
125 39282
130 40742
131 40742
151 39276
162 39644
180 ..... 40249, 41240, 42770
233 39398
761 43048
762 42771

41 CFR

Ch. I 40015, 41044
Ch. 18 40018
3-56 39778
5B-2 40227
14-1 ..... 39377, 39787, 41207
14-2 ..... 39378, 39788
14-3 39788
14-4 39378
14-7 39379
14-12 39379
14-18 39379
14-30 39380
14-55 39380
Ch. 101 40019
101-30 42257
101-37 40228
114-45 42750
114-50 42751–42756

PROPOSED RULES:

101-20 40250
105-64 43049
114-50 42772

42 CFR

36 41214
54a 40386
57 39380
58 ..... 39384, 40862

PROPOSED RULES:

59 42019
110 40376
405 39155
449 39155

43 CFR

26 41004
428 41396
6000 40734
6010 40734
6200 40734
6220 40734
6250 40734
6260 40734
6270 40734
6290 40734
8000 40734
8200 40734
8300 40734
8340 40734
8350 40734
8360 40734
8370 40735

PROPOSED RULES:

420 41241

45 CFR

5b 40229
801 39387

PROPOSED RULES:

177 41056
1340 39593

46 CFR

502 41040
510 40524
512 40524
528 42757
542 39102

PROPOSED RULES:

151 40250
153 40250
157 41178
531 39399
536 39399

47 CFR

2 41985
73 ..... 39388, 39584, 39704, 40250, 40251, 41400
74 ..... 39704, 41401
87 ..... 41214, 41986
89 41987

PROPOSED RULES:

1 41241
31 ..... 39385, 40886
33 ..... 39385, 40886

47 CFR—Continued

PROPOSED RULES—Continued

42 ..... 39385, 40886
43 ..... 39385, 40886
63 40541
73 ..... 39400, 39593, 39594, 40250, 40251, 40887, 40888, 41241
83 40889
87 42285

49 CFR

71 42763
172 39789
173 39791
175 39792
176 39792
177 41401
179 39792
192 39389
571 39390
581 40229
609 41987
1008 41040
1033 ..... 39103, 39104, 39794–39796, 41403, 42257
1056 39798

PROPOSED RULES:

Ch. X 39157
172 39835
173 39835
192 ..... 39401, 42773, 42774
195 39402
571 ..... 39835, 41056
1033 40891
1060 41242
1121 41245
1307 39157
1309 39157
1310 39157
1320 ..... 39404, 41059
1322 ..... 39404, 41059

50 CFR

20 ..... 39186, 42960
26 ..... 39798, 41042
32 ..... 39105–39107, 39584, 39585, 39799, 39800, 40021–40024, 40232, 40524, 40867, 41042, 41043, 41404, 42258, 42260, 42763
33 41044
216 40025
230 43025
285 ..... 39107, 41044
611 39586
651 ..... 39108, 41405, 42764
652 ..... 40527, 42765
662 40868
810 39306

PROPOSED RULES:

17 41060
32 40893
230 40045
611 ..... 41062, 41244
652 39161

FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

Pages	Date	Pages	Date	Pages	Date
39069–39317	Sept. 1	40197–40448	11	41371–41940	18
39319–39560	5	40449–40799	12	41941–42232	19
39561–39738	6	40801–41011	13	42233–42724	20
39739–39950	7	41013–41179	14	42725–43009	21
39951–40195	8	41181–41369	15	43011–43281	22

presidential documents

[3195-01]

Title 3—The President

PROCLAMATION 4598

National Guard Day, 1978

By the President of the United States of America

A Proclamation

Three hundred and forty-two years ago, the First Militia Regiment of the Massachusetts Bay Colony was organized to enable the colonists to defend themselves and their settlement. That step toward citizen self-defense was the beginning of our National Guard, the oldest military organization in the United States.

Over those three centuries, names have changed—Militia, State Troops, State Volunteers, and, finally, the National Guard—but the spirit of the citizen-soldier has been constant. It is exemplified by those who stand prepared to leave their civilian occupations, don the uniform of their Country, and serve their States and their Nation when the need arises.

In time of war, the Guard is always ready to serve. At King's Mountain, the Meuse-Argonne, Bataan, Omaha Beach, and the Iron Triangle, during the Berlin Airlift and Vietnam, the Guard has served in every major conflict in which this country has engaged.

When disaster strikes in time of peace, the Guard is equally ready to serve—as it has, in recent years, at Johnstown, Texas City, and in the wake of Hurricane Agnes.

In recognition of the debt of gratitude owed by the people of the United States to those who serve as members of the National Guard, the Congress has authorized and requested the President to issue a proclamation designating October 7, 1978, as National Guard Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, ask all Americans to celebrate Saturday, October 7, 1978, as National Guard Day and to honor the Army and Air National Guard of the United States for service to their communities, to their States and to their Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of September, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 78-26936 Filed 9-21-78; 10:36 am]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 930—PROGRAMS AND SPECIFIC POSITIONS AND EXAMINATION (MISCELLANEOUS)

Subpart B—Appointment, Pay, and Removal of Administrative Law Judges

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This document amends the regulations to reflect the Civil Service Commission's determination that administrative law judges are not eligible to receive monetary or honor awards under the Government Employees Incentive Awards Act of 1954 for superior accomplishment in performing their adjudicatory functions.

EFFECTIVE DATE: September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles J. Dullea, Director, Office of Administrative Law Judges, U.S. Civil Service Commission, 1900 E Street NW., Room 2470, Washington, D.C. 20415, Telephone: 202-632-4604.

SUPPLEMENTARY INFORMATION: In December 1960 the Commission held that administrative law judges (then known as hearing examiners) could be granted awards under the Government Employees Incentive Awards Act. In responding to a recent inquiry by an agency as to whether administrative law judges could be granted monetary of honor awards for superior accomplishments, the Commission reexamined its earlier determination. As a result of its reexamination, the Commission has determined that the granting of such awards to Administrative law judges represents an evaluation of their work-related performance and an adjustment in compensation by an agency in violation of the provisions of section 11 of the Administrative Procedure Act which exmpts administrative law judges from the Performance Rating Act and assigns responsibility for determining their compensation to the Commission. This amendment does not prevent an agency from granting awards for accomplishment by administrative law judges unrelated to the performance of their adjudicatory responsibilities.

Accordingly, 5 CFR part 930, subpart B, is amended by revising paragraph (c) of § 930.210 to read as follows:

§ 930.210 Pay.

* * * * *

(c) An agency shall not grant a quality increase under section 5336(a) of title 5, U.S.C., or a monetary or honorary award under section 4503 of title 5, U.S.C., for superior accomplishment by an Administrative Law Judge in the performance of adjudicatory functions.

* * * * *

(5 U.S.C. 1305, 4503.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-26687 Filed 9-21-78; 8:45 am]

[3410-02]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS: FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Orange, Grapefruit, Tangerine, and Tangelo Reg. 2; Grapefruit Reg. 2]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

PART 944—FRUITS; IMPORT REGULATIONS

Grade and Size Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: These regulations specify minimum grade and size requirements applicable to the handling of Florida oranges, grapefruit, tangerines and tangelos and imported grapefruit. The action is necessary to assure the shipment of ample supplies of fruit of acceptable grades and sizes in the interest of growers and consumers.

EFFECTIVE DATE: September 25 through November 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Findings. (1) Pursuant to the marketing agreement and Order No. 905, both as amended (7 CFR Part 905; 42 FR 59367, 61853), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the recommendations of the committee established under the marketing agreement and order, and upon other available information, it is found that the regulation of shipments of Florida oranges, including Navel, Temple, Valencia, Leu Gim Gong, and similar late maturing oranges of the Valencia type, grapefruit, tangerines, and tangelos, and the regulation of imported grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The specified minimum grade and size requirements reflect the Department's appraisal of the need for regulation of the designated varieties of oranges, grapefruit, tangerines, and tangelos during the period September 25 through November 12, 1978, based on the available supply and current and prospective market demand conditions. Available data indicate that during the 1978-79 season fresh market outlets will take about 19,500 carlots of round oranges, 4,000 carlots of Temple oranges, 10 carlots of seeded grapefruit, 37,500 carlots of seedless grapefruit, 4,800 carlots of tangelos, and 6,100 carlots of tangerines.

The specified minimum grade and size requirements for imported grapefruit are consistent with section 8e of the act. This section requires that

whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

The grade and size requirements for export shipments of oranges, grapefruit, tangerines, and tangelos are necessary to assure the exportation of good-quality fruit and thereby aid the expansion of export markets.

It is concluded that the grade and size requirements hereinafter set forth are necessary to establish and maintain orderly marketing conditions and to provide acceptable quality fruit in the interest of producers and consumers pursuant to the declared policy of the act.

(3) It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of these regulations until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information became available upon which these regulations are based and the time when these regulations must become effective in order to effectuate the declared policy of the act is insufficient; the recommendation and information for regulation of the aforesaid fruits was developed at an open meeting at which interested persons were afforded an opportunity to submit their views; and the regulations will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time.

Accordingly, it is found that the requirements for the handling of Florida oranges, grapefruit, tangerines, and tangelos and for the handling of imported grapefruit should be and are established as follows:

1. Section 905.302 is added to read:

§ 905.302 Orange, grapefruit, tangerine and tangelo regulation 2.

Order. (a) During the period specified in column (2) of table I no handler shall ship between the production area and any point outside thereof in continental United States, Canada, or Mexico, any variety of fruit listed in column (1) of such table unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) hereof) specified for such variety in columns (3) and (4) of such table.

TABLE I

Variety	Regulation Period	Minimum Grade	Minimum Diameter (inches)
(1)	(2)	(3)	(4)
ORANGES			
Early & Midseason	9/25/78-11/12/78	U.S. No. 1	2-8/16
Navel	9/25/78-11/12/78	U.S. No. 1 Golden	2-8/16
Valencia & Other	9/25/78-10/8/78	U.S. No. 2 Russet	2-8/16
Late Type	10/9/78-11/12/78	U.S. No. 1	2-8/16
Temple	9/25/78-11/12/78	U.S. No. 1	2-8/16
GRAPEFRUIT			
Seeded, except pink	9/25/78-11/12/78	U.S. No. 1	3-12/16
Seeded, pink	9/25/78-11/12/78	U.S. No. 1	3-12/16
Seedless, except pink	9/25/78-11/12/78	Improved No. 2	3-9/16
Seedless, pink	9/25/78-11/12/78	Improved No. 2	3-9/16
TANGERINES			
Robinson	9/25/78-11/12/78	U.S. No. 1	2-4/16
Dancy	9/25/78-11/12/78	U.S. No. 1	2-6/16
Honey	9/25/78-11/12/78	Florida No. 1	2-11/16
TANGELOS			
Tangelos	9/25/78-11/12/78	U.S. No. 1	2-8/16

(b) During the period specified in column (2) of table II no handler shall ship to any destination outside the continental United States, other than Canada or Mexico, any variety of fruit listed in column (1) of such table unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) hereof) specified for such variety in columns (3) and (4) of such table.

TABLE II

Variety	Regulation Period	Minimum Grade	Minimum Diameter (inches)
(1)	(2)	(3)	(4)
ORANGES			
Early & Midseason	9/25/78-11/12/78	U.S. No. 1	2-4/16
Navel	9/25/78-11/12/78	U.S. No. 1 Golden	2-4/16
Valencia & Other	9/25/78-10/8/78	U.S. No. 2 Russet	2-4/16
Late Type	10/9/78-11-12-78	U.S. No. 1	2-4/16
Temple	9/25/78-11/12/78	U.S. No. 1	2-4/16
GRAPEFRUIT			
Seeded, except pink	9/25/78-11/12/78	U.S. No. 1	3-9/16
Seeded, pink	9/25/78-11/12/78	U.S. No. 1	3-9/16
Seedless, except pink	9/25/78-11/12/78	Improved No. 2	3-5/16
Seedless, pink	9/25/78-11/12/78	Improved No. 2	3-5/16
TANGERINES			
Robinson	9/25/78-11/12/78	U.S. No. 1	2-2/16
Dancy	9/25/78-11/12/78	U.S. No. 1	2-2/16
Honey	9/25/78-11/12/78	Florida No. 1	2-8/16
TANGELOS			
Tangelos	9/25/78-11/12/78	U.S. No. 1	2-4/16

(c) *Size Tolerances:* In the determination of minimum size as prescribed in tables I and II, the following tolerances are permitted (1) for oranges, as set forth in § 51.1152 of the U.S. standards for grades of Florida oranges and tangelos, except that such tolerances for other than Navel and Temple oranges shall be based only on the oranges in the lot measuring 2 1/16 inches or smaller in diameter, and the tolerance for Honey tangerines shall be as specified in § 51.1818 of the U.S. standards for grades of Florida tangerines; (2) for grapefruit, as specified in § 51.761 of the U.S. standards for grades of Florida grapefruit; (3) for tangerines, as specified in § 51.1818 of the U.S. standards for grades of Florida tangerines; and (4) for tangelos, as set forth in § 51.1152 of the U.S. standards for grades of Florida oranges and tangelos.

(d) Terms used in the marketing order, including improved No. 2 grade for grapefruit, when used herein, mean the same as is given to the terms in the order; Florida No. 1 grade for Honey tangerines means the same as provided in rule No. 20-35.03 of the regulations of the Florida Department of Citrus, and terms relating to grade, except improved No. 2 grade for grapefruit, and diameter shall mean the same as is given to the terms in the revised U.S. standards for grades of Florida oranges and tangelos (7 CFR 51.1140-51.1180), the revised U.S. standards for Florida tangerines (7 CFR 51.1810-51.1835), or the revised U.S. standards for grades of Florida grapefruit (7 CFR 51.750-51.784).

2. Section 944.102 is added to read:

§ 944.102 Grapefruit regulation 2.

(a) *Applicability to imports.* Pursuant to section 8e of the act and part 944—Fruits; Import Regulations during the period specified in column (2) of table I, § 905.302, the importation into the United States of any variety of grapefruit listed in column (1) of said table is prohibited unless such variety meets the applicable minimum grade and size specified for such variety in columns (3) and (4) of said table. In the determination of minimum size as prescribed in table I, a tolerance is permitted as specified in paragraph (c) of § 905.302.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Quality Division, Food Safety and Quality Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of grapefruit that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of grapefruit, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 2851) and in accordance with the procedure for requesting inspection and designating the agencies to perform required inspection and certification (7 CFR Part 944; 43 FR 19340).

(c) Notwithstanding any other provisions of this regulation, any importation of grapefruit which, in the aggregate, does not exceed 10 standard packed cartons, equivalent to four-fifths (⅘) of a United States bushel of grapefruit, each, or equivalent quantity, may be imported without regard to the requirements specified herein.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: September 19, 1978, to become effective September 25, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-26791 Filed 9-21-78; 8:45 am]

[3410-02]

[Lemon Reg. 165]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period September 24-30, 1978. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: September 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on September 19, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons remains good for sized 140's and larger, but weaker on 165's and smaller.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and post-

pone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.465 Lemon Regulation 165.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period September 24, 1978, through September 30, 1978, is established at 200,037 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: September 21, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-26956 Filed 9-21-78; 11:54 am]

[3410-02]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Amendment of Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the rules and regulations to reapportion the grower member representation on the Lemon Administrative Committee. This action is based on a recommendation of the Lemon Administrative Committtee. The action would reapportion the grower members of the Committee based on proportional amounts of lemons handled by the respective groups

DATES: To become effective September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: The rules and regulations (Subpart—Rules and Regulations; 7 CFR 910.100-910.180) are effective pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The amendment of said rules and regulations was unanimously recommended by the Lemon Administrative Committee established under the order as the agency to administer its terms and provisions.

The amendment increases by one the number of grower member positions from district 3 allocated to independents (growers not affiliated with any cooperative marketing organization) and decreases by one the number of grower member positions from district 3 allocated to the category of cooperative marketing organization which does not market more than 60 percent of the volume of lemons. The amendment is consistent with § 910.22(h) of the order which provides for reapportionment of the grower members of the committee based on proportional amounts of lemons handled by the respective groups and production within the three districts which comprise the production area.

After consideration of all relevant matter presented, including the recommendation of the committee and other available information, it is hereby found that the amendment, as hereinafter set forth, of said rules and regulations is in accordance with said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is further found that it is unnecessary and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) reapportionment of the grower members of the Lemon Administrative Committee, as described herein, is based on committee records of production and shipment of lemons during the 1977-78 crop year, (2) the recommendation of the committee was made at a public meeting at which all interested parties were afforded an opportunity to attend, and (3) the amendment should be made effective as provided herein to permit the prompt nomination and selection of members of the committee based on said reapportionment for the term which began August 1, 1978.

Therefore, § 910.120 is amended to read as follows.

§ 910.120 Change in grower representation.

Pursuant to § 910.22(h) grower representation on the Lemon Administrative Committee for purposes of §§ 910.20 and 910.22 shall be as follows:

	Co-op more than 60 pct.	Other co-ops	Indepen dents
District 1	1	0	0
District 2	2	1	1
District 3	1	0	2

(Secs. 1-19, 48 Stat. 31 as amended; 7 U.S.C. 601-674.)

Dated: September 15, 1978, to become effective September 22, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-26648 Filed 9-21-78; 8:45 am]

[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.5]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart D—Rural Rental Housing Loan Policies, Procedures, and Authorizations

RENTAL ASSISTANCE AGREEMENTS; LEVELS OF OCCUPANCY

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding the size of families permitted to occupy apartment units under the terms of rental assistance agreements. The intended effect of this action is to allow the State Director to authorize exceptions to the established levels of occupancy under unusual circumstances. This amendment is necessary to provide flexibility in meeting the housing needs of low- to moderate-income families.

EFFECTIVE DATE: September 22, 1978. Comments must be received on or before October 23, 1978.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Paul R. Conn, 202-447-7207.

SUPPLEMENTARY INFORMATION: Section 5 of Exhibit R-2, Subpart D, Part 1822 of Chapter XVIII, Title 7, Code of Federal Regulations, is amended to authorize the State Director to grant exceptions to the established levels of occupancy for apartments covered by a rental assistance agreement. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption of 5 U.S.C. 553 with respect to such rules. This amendment, however, is being published effective on an interim basis. This action is being taken to allow State Directors to authorize exceptions to the established levels of occupancy in apartments under unusual circumstances. Any delay in implementing this amendment would be contrary to the public interest because a delay in implementation could result in some low- and moderate-income families being denied adequate housing. Comments made pursuant to this notice will be considered in the development of the final rule.

As amended, Exhibit R-2 Section 5 reads as follows:

EXHIBIT R-2—RENTAL ASSISTANCE AGREEMENT

* * * * *

Section 5—Borrower will not permit any tenant to initially occupy a unit and receive rental assistance (or interest credit) if the number of authorized persons in the units is less or in excess of the following:

	Occupants Min.	Max.
0=bedroom	1	1
1=bedroom	1	2
2=bedroom	2	4
3=bedroom	4	6
4=bedroom	6	6
5=bedroom	8	10

In some cases, however, such as a labor housing project being built under the housing standards of the Department of Labor Occupational Safety and Health Administration (OSHA), or when a unit cannot be rented because a family of the size needed to rent the unit is not available, the State Director may, with the prior consent of the National Office, authorize an exception to this section.

(42 U.S.C. 1480; 5 U.S.C. 301; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: September 8, 1978.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc. 78-26655 Filed 9-21-78; 8:45 am]

[3410-34]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Denmark Declared To Be Free of Rinderpest and Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, (USDA).

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to add Denmark to the list of countries declared to be free of rinderpest and foot-and-mouth disease in § 94.1(a)(2) and to the list of specified countries in § 94.11(a) which are declared to be free of rinderpest and foot-and-mouth disease but which may export meat and animal products into the United States under restrictions only. This action is taken because data furnished to the Department establishes that Denmark qualifies for such status as to rinderpest and foot-and-mouth disease.

EFFECTIVE DATE: September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. J. D. Roswurm, USDA, APHIS, VS, Federal Building, Room 819, Hyattsville, Md. 20782, 301-436-8499.

SUPPLEMENTARY INFORMATION: Veterinary Services has reviewed all the pertinent information and documents submitted by the authorities of Denmark in support of their position that Denmark is free of both rinderpest and foot-and-mouth disease and has concluded that Denmark qualifies for listing as a country declared to be free of rinderpest and foot-and-mouth disease § 94.1(a)(2) of the regulations (9 CFR 94.1(a)(2)). Accordingly, the regulations are being amended to add Denmark to the list of countries, appearing in § 94.1(a)(2) of the regulations, which are declared to be free of both rinderpest and foot-and-mouth disease.

However, Denmark supplements its meat supply through importations of live ruminants and swine and fresh, chilled, or frozen meat of ruminants and swine from countries designated to be infected with rinderpest or foot-and-mouth disease. It also imports these animals and their meat from the infected countries under conditions less restrictive than would be acceptable for importation into the United States. These animals and meat may be commingled with the animals, meat and animal products produced in Denmark, resulting in an undue risk of introducing rinderpest or foot-and-mouth disease into the United States. In addition, Denmark shares a common land border with the Federal Republic of Germany (West Germany), which is designated in § 94.1(a) of the regulations as being affected with rinderpest or foot-and-mouth disease. This proximity offers a potential for the reintroduction of one or both diseases into Denmark. Therefore, meat, animals, and animal products from Denmark shall be imported into the United States only under the restrictions specified in § 94.11 of the regulations (9 CFR 94.11). Accordingly, Denmark is added to the list of countries appearing in § 94.11(a) (9 CFR 94.11 (a)).

Accordingly, Part 94, Title 9, Code of Federal Regulations, is amended in the following respects:

§ 94.1 [Amended]

1. Section 94.1(a)(2) is amended by adding to the list of countries therein the name of the country of "Denmark" before the reference to "Finland."

§ 94.11 [Amended]

2. Section 94.11(a) is amended by adding to the list of countries therein the name of the country of "Denmark" before the reference to "Finland."

(Sec. 306, 46 Stat. 689, as amended (19 U.S.C. 1306); 37 FR 28464, 28477; 38 FR 19141.)

Insofar as the amendments relieve certain restrictions presently imposed but no longer deemed necessary to prevent the introduction and dissemination of the contagion of rinderpest and foot-and-mouth disease, they should be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, it is found upon good cause, under the administrative procedure provisions in 5 U.S.C. 553, that further notice and other public procedure with respect to the amendments

are impracticable and unnecessary and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 15th day of September 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Deputy Administrator,
Veterinary Services.

[FR Doc.78-26656 Filed 9-21-78; 8:45 am]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; FC-0152]

PART 226—TRUTH IN LENDING

Official Staff Interpretation; Suspension of Effective Date and Republication for Public Comment

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Effective date of official staff interpretation suspended; its text reprinted for public comment.

SUMMARY: The Board is suspending the effective date of official staff interpretation FC-0152, regarding the methods by which creditors may disclose a hypothetical immediate increase in the annual percentage rate in variable rate transactions, published on August 8, 1978 (43 FR 35025) and is republishing it for public comment. The agency is taking this action in response to a request for public comment submitted in accordance with 12 CFR 226.1(d)(3).

DATES: The effective date of FC-0152 is suspended until further notice. Comments must be received on or before October 23, 1978.

ADDRESS: Comments including reference to FC-0152 to Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3867.

SUPPLEMENTARY INFORMATION: (1) The effective date, September 7, 1978, of official staff interpretation FC-0152, is suspended in accordance with 12 CFR 226.1(d)(2)(ii). This interpretation may not be relied upon until final action is taken. Notice of such action will be published in the FEDERAL REGISTER in approximately 60 days and will become effective upon publication.

(2) The text of official staff interpretation FC-0152, which follows, is republished for comment. Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR 261.6

(3) Interested persons are invited to submit relevant comments. All material should be submitted in writing to: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and should be received not later than October 23, 1978. Comments will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules regarding availability of information (12 CFR 261.6(a)).

(4) After comments are considered, this official staff interpretation may be amended, may be rescinded or may remain unchanged. Final action regarding this official staff interpretation will appear in the FEDERAL REGISTER.

(5) Authority: 15 U.S.C. 1640(f).

§ 226.8(b)(8). Variable rate hypothetical examples may be based on increases in contract interest rate rather than in APR (partially rescinds Letter 1232).

Variable rate hypothetical examples must assume that rate increase is immediate and in specified amount; examples showing changes in different amounts or at different times may also be given as additional information.

JULY 18, 1978.

This will reply to your letter of * * *, in which you request clarification of Public Information Letter 1232, concerning the provisions of § 226.8(b)(8) with regard to variable rate mortgages. You ask staff to elaborate on methods creditors could use to determine the increased number of payments or the increased payment amount which would result from a hypothetical immediate increase in the annual percentage rate, in order to make the disclosures called for by § 226.8(b)(8) (iii) and (iv). Specifically, you ask whether appendix B to volume I of the Annual Percentage Rate Tables published by the Board of Governors can be used to make such calculations.

Use of the Board's tables is not required in order to comply with the regulation, but the tables do provide fairly simple methods for determining much of the information required to be disclosed under the regulation. Appendix B to volume I of the tables describes a method of determining the amount of the finance charge and the amount of the level payment in cases where the annual percentage rate is known in a single advance transaction involving equal payments and equal payment periods. These formulas can be used to compute the information called for by § 226.8(b)(8)(iii).

For example, assume a loan with an amount financed of $40,000, to be repaid in 360 monthly installments, with an annual percentage rate of 8 percent. From the annual percentage rate tables we can determine that the finance charge per $100 of amount financed is $164.16. The total finance charge for this loan is $65,664 ($164.16×400=$65,664) and the level monthly payment would be $293.51 (($65,664+$40,000) divided by 360). If we assume a hypothetical immediate increase of one quarter of one percent in the rate, as called for in § 226.8(b)(8)(iii), we can determine from the tables that the finance charge per $100 of amount financed at an annual percentage rate of 8¼ percent is $170.46. The total finance charge under this assumption would be $68,184 ($170.46×400=$68,184). The level monthly payment amount that would be required to amortize this hypothetically increased obligation would be $300.51 (($68,184+$40,000) divided by 360=$300.51), and this figure may be disclosed pursuant to § 226.8(b)(8)(iii). Alternatively, the increase in the payment amount may be expressed as the difference between $300.51 and $293.51, or $7.

Again, we would point out that use of the Board's tables and the calculation methods set out therein is not required in making Truth in Lending disclosures. You may, however, find the method outlined in this letter of some assistance in determining the information required to be disclosed pursuant to § 226.8(b)(8)(iii). You should note that this method cannot be used to determine the information required to be disclosed pursuant to § 226.8(b)(8)(iv); use of volume I of the Board's Annual Percentage Rate Tables requires that you know the number of payments involved, and that is the information that must be calculated.

This information can, however, be estimated in another way. Changes in the annual percentage rate in variable rate mortgages are generally caused by changes in the simple contract interest rate. Since the results from changing the simple contract interest rate on most long-term mortgages are almost equivalent to the result from changing the annual percentage rate, and since § 226.8(b)(8)(iv) calls for a statement of the estimated increase in the number of payments, it is staff's opinion that a creditor may use tables based on simple interest rates to calculate the increased number of payments that would result if the interest rate were increased by one quarter of one percentage point. This approach yields an estimated figure that may be disclosed pursuant to § 226.8(b)(8)(iv). This aproach may also be used, as an alternative to that outlined above, to determine the information called for by § 226.8(b)(8)(iii). To the extent that Public Information Letter 1232 states that the disclosures required by § 226.8(b)(8) (iii) and (iv) may never be made by reference to the contract interest rate, it is hereby rescinded. If this calculation approach is taken, the disclosures should be expressed as the effects of a one quarter of one percent increase in the interest rate.

Staff would like to point out that the alternatives expressed in this letter do not prohibit a creditor from basing its calculation on an increase in the annual percentage rate itself, which, we understand, is a calculation that can be made relatively simply on inexpensive calculators that are generally available on the market. The procedures outlined in this letter are merely viewed by staff as reasonable alternatives.

You point out in your letter that lenders frequently do not have the authority under applicable statutes or the underlying contract to increase rates immediately. Rather, you believe that most lenders are required to wait a specified period of time before effecting a change. Moreover, you point out that changes in the rate may often be in increments less than the hypothetical one quarter of one per cent mentioned in § 226.8(b)(8) (iii) and (iv). You ask, therefore, whether creditors may provide additional examples of rate changes pursuant to § 226.8(c). We assume that what you wish to disclose are examples of the effect of rate changes occurring at a time later than consummation of the loan as well as rate changes greater than or less than one quarter of one per cent.

The disclosures called for by § 226.8(b)(8) (iii) and (iv) must be made on the assumptions (1) that the rate increase takes effect immediately upon consummation, and (2) that the increase is in a certain amount, i.e., one quarter of one per cent. Although creditors may not effect an increase in that particular amount or at that particular time, the regulation requires that disclosures be made on these assumptions in order to ensure uniformity among lenders and to facilitate comparisons. If a creditor wishes to provide further examples of the effect of a rate change in a different amount or at a different time in the loan term, this may be done as additional information pursuant to § 226.6(c), provided the additional examples are not stated so as to mislead or confuse the customer or contradict obscure, or detract attention from the required information.

This is an official staff interpretation of regulation Z, issued in accordance with § 226.1(d)(2) of the regulation. It will become effective 30 days after publication in the FEDERAL REGISTER unless a request for public comment, made in accordance with the Board's procedures, is received and granted. We will notify you if the effective date of the interpretation is suspended because such a request is received.

Sincerely,

NATHANIEL E. BUTLER,
Associate Director.

Board of Governors of the Federal Reserve System, September 14, 1978.

JOHN M. WALLACE,
Assistant Secretary
of the Board.

[FR Doc. 78-26659 Filed 9-21-78; 8:45 am]

[8025-01]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 4; Amdt. 7]

PART 108—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

Loans—LDC Participation

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule change will reduce the amount of a Local Development Company's (LDC) participation (cash or in-kind) in a project from 20 percent to 10 percent of the project cost. The intent of this rule is to reduce the confusion now existing in connection with the amount of participation of the company which varies for differing localities.

EFFECTIVE DATE: August 1, 1978.

FOR FURTHER INFORMATION CONTACT:

William B. Dean, Chief, Development Company Loan Program, Small Business Administration, Washington, D.C. 20416, 202-653-6375.

SUPPLEMENTARY INFORMATION: Section 108.502-1(e) sets the reasonable participation of the LDC as 20 percent of project cost with exceptions allowable in ghetto or target areas. This action will reduce the participation to 10 percent of the project cost without regard to location of project.

On June 26, 1978, a notice of a proposed rulemaking was published in the FEDERAL REGISTER (43 FR 27544), covering reduction of the LDC's injection and a proposed ceiling on fees chargeable to an applicant by an LDC. Interested parties were given an opportunity to submit comments by July 26, 1978.

No adverse comments were received on the proposal to reduce the LDC's required injection to 10 percent. This is being made effective. The final rule covering the ceiling on fees and charges will be published at a later date after review of the comments received.

NOTE.—The Small Business Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A107.

Accordingly, pursuant to authority contained in section 308(c) of the Small Business Investment Act of 1958 (SBI Act), 15 U.S.C. 687, as amended notice is hereby given that SBA amends § 108.502-1 as follows:

(a) By amending the first four sentences of paragraph (e);

(b) By amending paragraphs (j) by reserving subparagraph (2) and revising subparagraph (3);

(c) By forming a new paragraph (j-1). (Fee ceiling to be published later.)

§ 108.502-1 Section 502 loans.

* * * * * *

(e) *Participation by the development company.* A development company may be required to furnish a reasonable part, as determined by SBA, of the funds necessary to accomplish the plant acquisition, construction, conversion or expansion, or the acquisition of land. For the purposes of this paragraph, the furnishing of not less than 10 percent of the necessary funds generally is considered a reasonable part. Exceptions for a lesser amount may be granted in extreme hardship cases where a project with a high impact would otherwise be lost to the community. SBA may require that the funds to be furnished by the development company be derived from paid-in capital or surplus of the development company, as well as from other sources. * * *

* * * * * *

(j) *Use of proceeds.* (1) * * *

(2) [Reserved]

(3) Evidence, satisfactory to SBA, shall be submitted prior to approval and disbursement of said loan, that the identifiable small business concern intends or has the right to use the said plant during a period of time equal at least to the maximum contract term of the section 502 loan or 5 years after full disbursement of the section 502 loan, whichever is the longer period; and that use of said proceeds will assist only the identifiable small business concern. Evidence of such intent and purpose shall be deemed to exist where the proceeds of the section 502 loan will be used by the development company to:

(i) Relend to the identifiable small business concern for acquisition, construction, conversion, or expansion of a plant owned, occupied, and used by said concern;

(ii) Acquire, construct, convert, or expand a plant to be sold immediately to the identifiable small business concern for its occupancy and use;

(iii) Acquire, construct, convert, or expand a plant owned by the development company to be leased to the identifiable small business concern with the right in such concern to apply rentals, under a purchase option arrangement, on the purchase price of the plant;

(iv) Acquire, construct, convert, or expand a plant owned by the development company to be leased to the identifiable small business concern without a purchase option arrangement, but with the right in such concern to occupy the plant during a period of time equal at least to the maximum contract term of the section 502 loan or 5 years after full disbursement of the section 502 loan, whichever is the longer.

(j-1) *Contract terms.* The contract between the development company and said concern will set forth terms, acceptable to the concern and SBA, that will provide the development company with total funds not in excess of those necessary (1) to repay with interest the section 502 loan; (2) for applicable taxes upon the maintenance of the plant; (3) to recover administrative costs and provide a reasonable sum as a reserve for contingencies to cover unusual costs or expenses; and (4) to recover capital investments and expenditures of the development company's own funds in the project with a reasonable return on such capital investments and expenditures.

* * * * *

(Catalog of Domestic Assistance Programs No. 59.013, State and Local Development Company Loans.)

Dated: September 1, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-26572 Filed 9-21-78; 8:45 am]

[3510-17]

Title 15—Commerce and Foreign Trade

SUBTITLE A—OFFICE OF THE SECRETARY OF COMMERCE

PART 4b—PRIVACY ACT

Amendments to Rules and Appendices

AGENCY: Department of Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce amends its rules which apply exemptions to Privacy Act systems of records to delete reference to three terminated systems of records and to change the name of a reorganized Department component; and revises appendices A and B, which are lists of Department officials to whom individuals should address Privacy Act requests and appeals, to reflect organizational changes.

EFFECTIVE DATE: September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Marilyn S. McLennan, U.S. Department of Commerce, Office of Organization and Management Systems, Washington, D.C. 20230, telephone 202-377-4217.

SUPPLEMENTARY INFORMATION: Sections 4b.13 and 4b.14 list the systems of records which are exempt from certain requirements of the Privacy Act. These sections include references to systems maintained by the Commerce Department's Domestic and International Business Administration (DIBA). Because of reorganization, this component is now the Industry and Trade Administration (ITA). Thus, all references to COMMERCE/DIBA systems should be changed to COMMERCE/ITA systems.

Section 4b.14(b)(4) lists the systems of records which are exempt from certain requirements of the Privacy Act because the records contain investigatory material, under section 3 of the Privacy Act (5 U.S.C. 552a(k)(5)). Two of the systems listed:

(b)(4)(iii) Trustees for Ship Sales—COMMERCE/MA-13, and (b)(4)(vii) USMMA Ship's Service Employees—COMMERCE/MA-20,

were terminated effective June 28, 1978 (43 FR 28028-29), and should be deleted from paragraph (b)(4).

Another of the systems listed:

(b)(4)(i) Indian Reservation Economic Development Planners and Applicants Records—COMMERCE/EDA-3,

was previously terminated (see 42 FR 6877), and should also be deleted from paragraph (b)(4).

Appendices A and B are revised to reflect organizational changes such as the position title of a Department official or the name of a Department component. Explanation of the changes to the appendices follows:

EXPLANATION OF CHANGES TO APPENDICES

In appendix A, "Officials to Receive Inquiries, Requests for Access and Requests for Correction or Amendment":

i. Change the designated privacy officer for the Bureau of Economic Analysis from "Special Assistant to the Director" to "Chief Planning and Evaluation Officer", and change the ZIP code for BEA from "20005" to "20230".

ii. Change "Domestic and International Business Administration" and "DIBA" to "Industry and Trade Administration" and "ITA", respectively.

iii. Change the designated privacy officer for the National Bureau of Standards from "Associate Director for Administration" to "Director of Administrative and Information Systems".

iv. Change "Office of Telecommunications" and "OTEL" to "National Telecommunications and Information Administration" and "NTIA", respectively; change the designated privacy officer for NTIA from "Administrative Officer" to "Privacy Officer"; and change the address from "1325 G St., N.W., Washington, D.C. 20005" to "U.S. Department of Commerce, Washington, D.C. 20504".

In appendix B, "Officials to Receive Appeals from Adverse Determination on Correction or Amendment":

v. Change the ZIP code for the Bureau of Economic Analysis from "20005" to "20230".

vi. Change "Domestic and International Business Administration" to "Industry and Trade Administration", and change the designated privacy appeals officer from "Assistant Secretary for Domestic and International Business" to "Assistant Secretary for Industry and Trade".

vii. Change "Office of Telecommunications" to "National Telecommunications and Information Administration"; and change the designated privacy appeals officer from "Director, Office of Telecommunications, 1325 G St., N.W., Washington, D.C. 20005" to "Assistant Secretary for Communications and Information, 1800 G St., N.W., Washington, D.C. 20504".

Because the amendments made to §§ 4b.13 and 4b.14, and appendices A and B, involve only administrative management (systems of records which are already terminated or internal organizational changes), the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable and unnecessary.

Accordingly, 15 CFR Part 4b is amended as follows:

1. Section 4b.13 is amended by revising paragraph (b)(1) to read as follows:

§ 4b.13 General exemptions.

* * * * *

(b) * * *

(1) *Individuals identified in Export Administration compliance proceedings or investigations—COMMERCE/ITA-1.* Pursuant to 5 U.S.C. 552a(j)(2), these records are hereby determined to be exempt from all provisions of the Act, except 5 U.S.C. 552a (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i). These exemptions are necessary to insure the proper functioning of the law enforcement activity, to protect confidential sources of information, to fulfill promises of confidentiality, to maintain the integrity of the law enforcement process, to avoid premature disclosure of the knowledge of criminal activity and the evidentiary bases of possible enforcement actions, to prevent interference with law enforcement proceedings, to avoid disclosure of investigative techniques, and to avoid the endangering of law enforcement personnel. Section 7(c) of the Export Administration Act of 1969, as amended, also protects this information from disclosure.

* * * * *

2. Section 4b.14 is amended by revising paragraphs (a), (b)(1), (b)(2) (i) and (ii), and (b)(4) to read as follows:

§ 4b.14 Specific exemptions.

(a) Some systems of records under the Act which are maintained by the Department contain, from time to time, material subject to the exemption appearing at 5 U.S.C. 552a(k)(1), relating to national defense and foreign policy materials. The systems of records published in the FEDERAL REGISTER by the Department which are within this exemption are:

COMMERCE/ITA-1, COMMERCE/ITA-2, COMMERCE/ITA-3, COMMERCE/NOAA-11, COMMERCE/PAT-TM-4, COMMERCE/PAT-TM-6, COMMERCE/PAT-TM-7, COMMERCE/PAT-TM-8, COMMERCE/PAT-TM-9, COMMERCE/DEPT-12, COMMERCE/DEPT-13, and COMMERCE/DEPT-14.

The Department hereby asserts a claim to exemption of such materials wherever they might appear in such systems of records, or any systems of records, at present or in the future. The materials would be exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). The reason therefor is to protect the materials required by Executive order to be kept secret in the interest of the national defense and foreign policy.

(b) The specific exemptions determined to be necessary and proper with respect to systems of records maintained by the Department, including the parts of each system to be exempted, the provisions of the Act from which they are exempted, and the justification for the exemption, are as follows:

(1) *Exempt under 5 U.S.C. 552a(k)(1).* The systems of records exempt hereunder appear in paragraph (a) of this section. The claims for exemption of COMMERCE/DEPT-12, COMMERCE/ITA-1, and COMMERCE/NOAA-11 under this paragraph are subject to the condition that the general exemption claimed in § 4b.13(b)(3) is held to be invalid.

(2) *Exempt under 5 U.S.C. 552a(k)(2).* The systems of records exempt (some only conditionally), the sections of the Act from which exempted, and the reasons therefor are as follows:

(i) Individuals identified in Export Administration compliance proceedings or investigations—COMMERCE/ITA-1, but only on condition that the general exemption claimed in § 4b.13(b)(1) is held to be invalid;

(ii) Individuals involved in export transactions—COMMERCE/ITA-2;

* * * * *

(4) *Exempt under 5 U.S.C. 552a(k)(5). The systems of records exempt (some only conditionally), the sections of the act from which exempted, and the reasons therefor are as follows:*

(i) Applications to U.S. Merchant Marine Academy (USMMA)—COMMERCE/MA-1;

(ii) USMMA Midshipman Medical Files—COMMERCE/MA-17;

(iii) USMMA Midshipman Personnel Files—COMMERCE/MA-18;

(iv) USMMA Non-Appropriated fund Employees—COMMERCE/MA-19;

(v) Applicants for the NOAA Corps—COMMERCE/NOAA-4;

(vi) Commissioned Officer Official Personnel Folders—COMMERCE/NOAA-7;

(vii) Conflict of Interest Records, Appointed Officials—COMMERCE/DEPT-3;

(viii) Investigative Records—Contract and Grant Frauds and Employee Criminal Misconduct—COMMERCE/DEPT-12, but only on condition that the general exemption claimed in § 4b.13(b)(3) is held to be invalid;

(ix) Investigative Records—Persons Within the Investigative Jurisdiction of the Department—COMMERCE/DEPT-13; and,

(x) Litigation, Claims, and Administrative Proceeding Records—COMMERCE/DEPT-14.

The foregoing are exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). The reasons for asserting the exemption are to maintain the ability to obtain candid and necessary information, to fulfill commitments made to sources to protect the confidentiality of information, to avoid endangering these sources and, ultimately, to facilitate proper selection or continuance of the best applicants or persons for a given position or contract. Special note is made of the limitation on the extent to which this exemption may be asserted. The existence and general character of the information exempted will be made known to the individual to whom it pertains.

* * * * *

3. Appendices A and B are revised to read as follows:

APPENDIX A

OFFICIALS TO RECEIVE INQUIRIES, REQUESTS FOR ACCESS, AND REQUESTS FOR CORRECTION OR AMENDMENT [1]

For records in systems of record located in— [2]	Privacy officer
The Office of the Secretary and all departmental staff offices.	Director, Office of organization and Management Systems, Main Commerce Bldg., Washington, D.C. 20230.
Bureau of Economic Analysis.	Chief Planning and Evaluation Officer, BEA, Tower Bldg., 1401 K St. NW., Washington, D.C. 20230.
Bureau of the Census.	Associate Director for Administration, Bureau of the Census, Federal Bldg. 3, Washington, D.C. 20230.
Economic Development Administration.	Director, Office of Public Affairs, EDA, Main Commerce Bldg., Washington, D.C. 20230.
Industry and Trade Administration.	Director, Office of Management and Systems, ITA, Main Commerce Bldg., Washington, D.C. 20230.
Maritime Administration.	Secretary of the Maritime Administration, Main Commerce Bldg., Washington, D.C. 20230.
National Bureau of Standards.	Director of Administrative and Information Systems, NBS, Administration Bldg., Washington, D.C. 20234.
National Fire Prevention and Control Administration.	Administrative Officer, NFPCA, Washington, D.C. 20230.
National Oceanic and Atmospheric Administration: Inquiries only: All NOAA except NOAA Corps.	Assistant Administrator for Administration, NOAA, 6010 Executive Blvd., Rockville, Md. 20852.
NOAA Corps	Director, NOAA Corps, 6010 Executive Blvd., Rockville, Md. 20852.
Requests: All NOAA including NOAA Corps.	Assistant Administrator for Administration, NOAA, 6010 Executive Blvd., Rockville, Md. 20852.
National Telecommunications and Information Administration.	Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C 20504.

APPENDIX A—Continued

OFFICIALS TO RECEIVE INQUIRIES, REQUESTS FOR ACCESS, AND REQUESTS FOR CORRECTION OR AMENDMENT [1]

For records in systems of record located in— [2]	Privacy officer
National Technical Information Service.	Assistant Director for Administration, NTIS, Sills Bldg., Springfield, Va. 22161.
Office of Minority Business Enterprise.	Privacy Officer, Office of Chief Counsel, OMBE, Main Commerce Bldg., Washington, D.C. 20230.
Patent and Trademark Office.	Assistant Commissioner for Administration, Patent and Trademark Office, Washington, D.C. 20231.
United States Travel Service.	Director, Office of Administration, USTS, Main Commerce Bldg., Washington, D.C. 20230.

[1] National Oceanic and Atmospheric Administration subject to division of responsibilities noted below.

[2] If the location of the records within the Department is unknown, address the inquiry to the privacy officer for the Office of the Secretary and all departmental staff offices.

APPENDIX B

OFFICIALS TO RECEIVE APPEALS FROM ADVERSE DETERMINATION ON CORRECTION OR AMENDMENT

For records in systems of record located in—	Privacy appeals officer
The Office of the Secretary and all departmental staff offices.	Assistant Secretary for Administration, Main Commerce Bldg., Washington, D.C. 20230.
Bureau of Economic Analysis.	Director, Bureau of Economic Analysis, Tower Bldg., 1401 K St. NW., Washington, D.C. 20230.
Bureau of the Census.	Director, Bureau of the Census, Federal Bldg. 3, Washington, D.C. 20233.
Economic Development Administration.	Assistant Secretary for Economic Development, Main Commerce Bldg., Washington, D.C. 20230.
Industry and Trade Administration.	Assistant Secretary for Industry and Trade, Main Commerce Bldg., Washington, D.C. 20230.

APPENDIX B—Continued

OFFICIALS TO RECEIVE APPEALS FROM ADVERSE DETERMINATION ON CORRECTION OR AMENDMENT

For records in systems of records located in—	Privacy appeals officer
Maritime Administration.	Assistant Secretary for Maritime Affairs, Main Commerce Bldg., Washington, D.C. 20230.
National Bureau of Standards.	Director, National Bureau of Standards, Administration Bldg., Washington, D.C. 20234.
National Fire Prevention and Control Administration.	Administrator, National Fire Prevention and Control Administration, Washington, D.C. 20230.
National Oceanic and Atmospheric Administration.	Administrator, National Oceanic and Atmospheric Administration, Main Commerce Bldg., Washington, D.C. 20230.
National Telecommunications and Information Administration.	Assistant Secretary for Communications and Information, 1800 G St. NW., Washington, D.C. 20504.
National Technical Information Service.	Director, National Technical Information Service, Room 620, Pennsylvania Bldg., 425 13th St. NW., Washington, D.C. 20004.
Office of Minority Business Enterprise.	Director, Office of Minority Business Enterprise, Main Commerce Bldg., Washington, D.C. 20230.
Patent and Trademark Office.	Commissioner, Patent and Trademark Office, Washington, D.C. 20231.
United States Travel Service.	Assistant Secretary for Tourism, Main Commerce Bldg., Washington, D.C. 20230.

AUTHORITY: 5 U.S.C. 552a (f) and (k), sec. 3 of the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896).

Dated: September 12, 1978.

GUY W. CHAMBERLIN, Jr.,
(Acting) Assistant Secretary for Administration.

[FR Doc. 78-26570 Filed 9-21-78; 8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

PART 422—POSTING OF MINIMUM OCTANE NUMBERS ON GASOLINE DISPENSING PUMPS

Revocation of Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Revocation of trade regulation rule superseded by new Federal law.

SUMMARY: In December 1971, the Federal Trade Commission issued a trade regulation rule requiring the posting of minimum octane numbers on gasoline dispensing pumps. The rule was challenged in court shortly after it was promulgated, and has never become effective. Under title II of the Petroleum Marketing Practices Act, passed in June 1978, the Commission is required to promulgate rules governing the uniform certification and display of octane ratings by members of the automotive gasoline industry. The stated purpose of the Act is to insure prompt and permanent enforcement of an octane posting requirement.

This notice announces the fact that title II of the Act has effectively superseded the Commission's earlier trade regulation rule, and states the basis for the Commission's conclusion.

EFFECTIVE DATE: September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles H. Slayman, Jr., 202-724-1478, James G. Mills, 202-724-1509, attorneys, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On December 16, 1971, the Federal Trade Commission promulgated a trade regulation rule requiring the posting of octane ratings on gasoline pumps (16 CFR Part 422). In issuing the rule, the Commission found that the failure to disclose the minimum octane rating of gasoline constituted an unfair method of competition or an unfair or deceptive act or practice under the Federal Trade Commission Act.

Legal challenge has prevented enforcement of the rule since its promulgation. A suit by the National Petroleum Refiners Association challenged the authority of the Commission to issue such a trade regulation rule. On appeal by the Commission, the U.S. Court of Appeals upheld the Commission's right to promulgate trade regulation rules that have the effect of substantive law, and the case was remanded to the district court. (*National Petroleum Refiners Ass'n v. FTC*, 482 F. 2d 672 (D.C. Cir. 1973), cert. denied, 415 U.S. 951 (1974)). The case was dismissed without prejudice on October 27, 1977, but the district court ordered the Commission to complete an environmental impact statement before attempting to put the rule into effect. The court further ordered that it be notified by the Commission prior to the issuance of such a statement. The environmental impact statement has not been completed, and the rule has never become effective.

During its consideration of title II of the Petroleum Marketing Practices Act, Congress recognized that prolonged litigation has prevented enforcement of the Commission's rule. It is evident from the legislative history of the Act that Congress intended the requirements of title II to replace those of the Commission's 1971 rule. This conclusion is bolstered by the fact that the requirements of the Commission's rule have been completely superseded by title II. First, the rule's requirement that the minimum octane rating of the gasoline being dispensed from the pump be clearly and conspicuously disclosed has been legislatively mandated by section 202(c) of the Act. Second, the octane number or octane rating of a gasoline is to be determined under section 202(1) of the Act by the same method as required by the Commission's rule. Finally, the Act's provisions with regard to octane posting require the Commission to promulgate rules more comprehensive than the 1971 rule and permit the Commission to enforce such rules as it does other trade regulation rules.

Accordingly, the Commission, on the advice of counsel, concludes that title II of the Petroleum Marketing Practices Act supersedes 16 CFR Part 422. Therefore, title 16 of the Code of Federal Regulations, Part 422—Posting of Minimum Octane Numbers on Gasoline Dispensing Pumps—is hereby revoked.

By direction of the Commission dated September 19, 1978.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-26832 Filed 9-21-78; 8:45 am]

[4210-01]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—MORTGAGE AND LOAN INSURANCE PROGRAMS UNDER THE NATIONAL HOUSING ACT

[Docket No. R-78-573]

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Mortgage Insurance for Existing Mulitifamily Housing

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This rule extends the date by which incomplete projects financed with State or local assistance must be completed and applications for insurance of mortgages on such projects must be submitted from July 1, 1978 through January 1, 1979. This extension is needed to permit filing of applications for mortgage insurance which would otherwise be precluded by the present deadline.

EFFECTIVE DATE: September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Sidney B. Severe, Multifamily Insurance Division, Department of Housing and Urban Development, Washington, D.C. 20410, 202-755-9280.

SUPPLEMENTARY INFORMATION: Section 207.32a(k)(1) presently requires that a project be fully completed by July 1, 1978, and that an application for mortgage insurance also be filed prior to that date. We are informed that these deadlines pose a serious hardship for some projects that would be determined ineligible unless an additional extension of 6 months is effected. In order to facilitate the success of this refinancing program and accommodate these projects, we are amending this regulation by extending the date for project completion and for filing of applications for mortgage insurance.

Since the amendments to part 207 are technical in nature and because the presently published expiration date has already passed, the Secretary has determined that advance publication, notice and public procedure are impracticable and unnecessary and that good cause exists for making these amendments effective upon publication. In addition, the Department is presently performing a review of this program, and the effect of these amendments will be evaluated within the scope of the review.

The Department has determined that an environmental impact statement is not required with respect to these amendments. The finding of inapplicability in accordance with HUD's environmental procedures is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 5218, 451 Seventh Street SW., Washington, D.C. 20410.

Accordingly, part 207 is amended as follows:

Subpart A—Eligibility Requirements

§ 207.32a [Amended]

Section 207.32a(k)(1) is amended by deleting "July 1, 1978," wherever it appears, and inserting in lieu thereof "January 1, 1979".

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).)

Issued in Washington, D.C., on September 11, 1978.

MORTON A. BARUCH,
Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 78-26663 Filed 9-21-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 955-8]

PART 423—STEAM ELECTRIC POWER GENERATING POINT SOURCE CATEGORY

Amendment to BPT Variance Clause

AGENCY: Environmental Protection Agency.

ACTION: Final amendments to rules.

SUMMARY: EPA is issuing amended regulations under the Clean Water Act which apply to the steam electric power industry. The amendments provide, contrary to EPA's original position, that economic factors are legally relevant when considering a powerplant's request for a variance from national effluent limitations guidelines. EPA has changed its original position

in order to comply with a judicial decision.

DATE: The amendments are effective on September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Edward A. Kramer (EN-336), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-0750.

SUPPLEMENTARY INFORMATION:

I. Background

A. EPA's original variance clause

On October 8, 1974, EPA published regulations under the Clean Water Act setting forth best practicable control technology (BPT) effluent limitations guidelines for the steam electric power industry. 40 CFR Part 423, 39 FR 3686 et seq.

For each subcategory in the power industry category, there was a "variance clause." 40 CFR 423.12(a), 423.22(a), 423.32(a) and 423.42 (introductory paragraph). This clause allowed case-by-case variances from national guidelines where one could show that certain plant-specific factors—such as age or size of the plant—were "fundamentally different" from the factors EPA considered in setting the national guidelines. The variance clause did not specify whether plant-specific economic factors could be considered.

Essentially the same variance clause was included in the BPT effluent limitations guidelines for almost all industries. On August 20, 1974, EPA published a legal interpretation which ruled that economic factors could not be considered in applying this standard variance clause. 39 FR 30073.

B. The fourth circuit's Appalachian order

On July 16, 1976, the U.S. Court of Appeals for the Fourth Circuit issued an opinion in response to various legal challenges to EPA's BPT (and other) regulations for the steam electric power industry. *Appalachian Power Co.* v. *Train*, 545 F.2d 1351. The court rejected EPA's exclusion of economic factors from the steam electric BPT variance clause. A request by EPA for recall of mandate as to this portion of the Court's opinion was denied (one judge dissenting) on September 26, 1977.

C. EPA's response to the fourth circuit's order

After the court's opinion was issued, EPA changed its position with regard to the steam electric power industry. On March 3, 1978 (43 FR 8812), EPA proposed clarifications to the steam electric variance clause to formalize its changed position.

As proposed, the variance clause allowed the permit issuer to consider "significant cost differentials" and other economic factors applicable to the particular source involved. The clause also specified that the August 20, 1974 legal interpretation would not be applicable to steam electric powerplants.

EPA requested that written public comments be submitted by April 3, 1978. The following parties submitted comments:

1. Consumers Power Co.
2. Richard J. Criqui, Jr.
3. Duke Power Co.
4. Natural Resources Defense Council (NRDC).
5. Synthetic Organic Chemical Manufacturers Association (SOCMA).
6. Union Carbide.
7. Utility Water Act Group (UWAG).

After considering all comments carefully, EPA has decided to issue the final variance clause amendments in the same form as they were proposed.

II. Response to Public Comments

A. Consideration of effluent reduction benefits

The proposed variance clause allowed case-by-case consideration of "significant cost differentials." Several commenters critized EPA for failing to specify that "effluent reduction benefits" were to be weighed against costs in each case.

Upon examination, these criticisms are apparently derived from the commenters' desire for variances based upon receiving water quality. Such types of variances, however, are plainly not authorized by the Act. As explained in detail in the Administrator's decision *In the Matter of Louisiana—Pacific Corp.* and *Crown Simpson Pulp Co.*, 10 ERC 1841 (September 15, 1977), the Act does not allow relaxations of BPT limitations based upon case-by-case variations in water quality impact.

EPA believes that the wording of the proposed regulation is fully consistent with the *Appalachian* decision. In fact, EPA's wording was taken verbatim from the court's opinion:

> In requiring that EPA give weight to the relevant statutory factors in developing a subsequent variance provision, we in no way intend to imply that EPA's regulations must provide for a detailed cost-benefit analysis at the permit granting stage. As we indicated in duPont, * * * an overall cost-benefit analysis for each category or subcategory satisfies the mandate of § 304 in this regard. The variance provision should, however, allow the permit issuer to consider significant cost differentials of the particular point source involved. 545 F.2d at 1360, n. 23 [emphasis added].

B. Limitation to "fundamentally different factors"

UWAG argues that the proposed variance clause improperly fails to distinguish between "facts" and "factors." UWAG states in concluding its argument that "the variance clause must turn on consideration of plant-specific variables, on facts which are fundamentally different from those used in establishing the limitations." [UWAG's emphasis.]

It is not clear to EPA what difference of opinion exists between EPA and UWAG. If UWAG fears that plant-specific variables may not be considered, then it has misinterpreted the clause. As EPA stated in proposing the amendment:

> This clause allows case-by-case variances from national guidelines where one can show that certain plant-specific factors—such as age or size of the plant—are "fundamentally different" from the factors considered in setting the national guidelines. 43 FR at 8812.

Alternatively, if UWAG fears that by the use of the word "factors," EPA intended to foreclose consideration of plant-specific "facts," UWAG is mistaken. Site-specific facts which are fundamentally different from the facts considered by EPA in applying the relevant statutory factors (i.e., raw materials, energy requirements, size of plant), may qualify a facility for a variance. In this sense, "facts" and "factors" mean the same thing.

If, however, UWAG is arguing that any plant-specific fact—even one which does not relate to the statutory factors EPA considered in formulating the regulations—should qualify a facility for a variance, then EPA disagrees with UWAG. Such an interpretation would be incompatible with the "goal of uniformity" in industrywide BPT limitations, *duPont* v. *Train*, 97 S.Ct. 965, 975 (1977), for there are unique site-specific facts at every steam electric plant in the United States.

The *Appalachian* opinion, in fact, directs that EPA's new variance clause take into consideration the "statutory factors" in sections 301(c) and 304. 545 F.2d at 1360 [emphasis added]. And in another case discussing national BPT limitations, the Fourth Circuit said that "the specified factors [in section 304] shall be applied by the permit issuer in determining whether the presumptively valid effluent limitations should apply to a particular source of discharge." *DuPont* v. *Train*, 541 F.2d 1018, 1030 [4th Cir. 1976, emphasis added].

C. Illegality of proposal

NRDC argued that the proposed variance clause is illegal because section 301(c), which provides the exclusive means for case-by-case economic hardship modifications, is limited by its terms to 1983-84 "best available technology" (BAT) limitations as distinguished from BPT. EPA cannot dispute this argument. As stated in the March 3 proposal at 43 FR 8813:

> EPA continues to believe that with respect to variances from national effluent limitations guidelines, economic factors may be considered only in § 301(c) proceedings to modify [BAT] requirements.

Nevertheless, EPA is compelled by the court's order in *Appalachian* to include section 301(c) factors into the BPT variance clause for steam electric powerplants. The court's order relates only to the power industry, however, so EPA has rejected the arguments of SOCMA and Union Carbide that this revision be made applicable to all industries.

D. Application to best available technology ("BAT") and new source performance standards ("NSPS")

Consumers Power Co. stated that the proposal was "deficient" because it did not apply to BAT or NSPS. (BAT and NSPS limitations are generally more stringent than BPT limitations.) The *Appalachian* Court, however, specifically rejected such an argument as to BAT. 545 F2d. at 1380. As to NSPS, the Supreme Court ruled in *duPont* v. *Train*, 97 S.Ct. 965 (1977) that variances were improper. 97 S.Ct. at 980. On September 26, 1977, the *Appalachian* Court recalled its mandate as to NSPS variances in response to the Supreme Court's decision.

E. States' rights

Duke Power Co. argued that EPA should require States which have a permit-issuing authority to consider economic factors when evaluating variance requests. Such a requirement would in EPA's view be inconsistent with the Act.

As noted in the March 3 proposal at 43 FR 8813, section 510 of the Act preserves the States' rights to impose more stringent limitations than required by Federal law. While one State may in its discretion refuse to relax nationally-applicable BPT regulations on the basis of site-specific economic factors, another State may allow relaxations to the fullest extent permissible under the Act. Section 510 insures that States have this freedom of choice.

Because States are free to ignore site-specific economic factors if they choose, it would be meaningless for EPA to require States to consider such factors.

III. Effectiveness

A. Transitional provisions

Because there has been some confusion with respect to BPT variances for steam electric plants since the *Appalachian* remand, EPA agrees with UWAG that a new 60-day application period should be provided. Until (60 days from Federal Register publication), any steam electric plant may apply to the appropriate permitting authority for a variance under today's amended clause. (As provided in 40 CFR 423.12(a), 423.22(a), 423.32(a), and 423.42, variances recommended by States must be approved by EPA before they become effective.)

Such an application will not automatically stay any enforcement proceeding which EPA has initiated or may initiate against the applicant. EPA will consider in each case whether a variance request is merely a procedural after-thought designed for delay. In this regard, EPA will consider whether a variance request is likely to succeed on the merits, whether the applicant was aware that EPA has been processing steam electric BPT variance requests for some time, and whether the applicant has made any effort to work out its problems with the appropriate enforcement authorities. It should be noted that any facility which is now in compliance with a BPT limitation may not rely upon a variance application as an excuse for falling out of compliance.

B. Immediate effectiveness

In order to provide an immediate opportunity for applications under the amended regulations and to expedite final resolution of such applications, I hereby find good cause to make these amendments effective immediately.

(Sec. 501(a), Clean Water Act, 33 U.S.C. 1361(a).)

Dated: September 15, 1978.

Douglas M. Costle,
Administrator.

§§ 423.12, 423.22, 423.32, and 423.42 [Amended]

40 CFR Part 423 is amended by adding the following two sentences to the end of §§ 423.12(a), 423.22(a), 423.32(a), and 423.42 (introductory paragraph):

* * * * * * *

* * * In accordance with the decision in *Appalachian Power Co.* v. *Train*, 545 F.2d 1351, 1358-60 (4th Cir. 1976), EPA's legal interpretation appearing at 39 FR 30073 (1974) shall not apply to this paragraph. The phrase "other such factors" appearing above may include significant cost differentials and the factors listed in section 301(c) of the Act.

[FR Doc. 78-26582 Filed 9-21-78; 8:45 am]

[3510-22]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 230—WHALING

Taking of Bowhead Whales by Indians, Aleuts, or Eskimos for Subsistence Purposes

AGENCY: National Oceanic and Atmospheric Administration, National Marine Fisheries Service.

ACTION: Final rule.

SUMMARY: At its 30th annual meeting held in London on June 26-30, 1978, the International Whaling Commission (the "IWC") adopted an amendment to the schedule of the International Convention for the Regulation of Whaling, 1946 (the "Convention") which increased the quota for the taking of the Bering Sea stock of bowhead whales for calendar year 1978 from 12 landed or 18 struck, whichever occurs first, to 14 landed or 20 struck, whichever occurs first. By letter dispatched July 21, the IWC formally notified member countries of the action taken; under the rules of procedure of the IWC, the increased 1978 quota will become effective, in the absence of objection, on October 19, 1978.

On April 3, 1978, the National Oceanic and Atmospheric Administration (NOAA) promulgated regulations under the Whaling Convention Act of 1949, 16 U.S.C. 916, et seq., which allocated the then available 1978 quota among the nine Alaskan villages which engage in subsistence whaling. (43 FR 13883, amended May 24, 1978, 43 FR 22213.) This amendment revises the allocation for 1978 to include the two extra bowhead whales which may be landed or struck in 1978.

DATES: These regulations are effective as of September 22, 1978.

ADDRESSES: Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Marine Mammal and Endangered Species Division,

V 43/185 SEP 22 78

National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235, telephone 202-634-7461.

SUPPLEMENTARY INFORMATION: On August 29, 1978 (43 FR 38609), the National Marine Fisheries Service (NMFS) published proposed regulations which set forth the proposed village-by-village allocation for the fall bowhead hunt. A minor error in the proposed regulation was corrected on September 8, 1978 (43 FR 40045). No comments were received on the proposed regulations, and the regulations are now being promulgated as proposed. Furthermore, because the fall hunt is imminent, and because it is imperative for each whaling village to know how many landings and strikes it has available to it, these regulations are effective as of the date of publication.

NOTE.—The Department of Commerce has determined that no environmental impact statement needs to be prepared in connection with these regulations. The National Marine Fisheries Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and 11949, and OMB Circular A-107.

Dated: September 19, 1978.

TERRY LEITZELL,
Assistant Administrator for Fisheries.

§ 230.74 [Amended]

50 CFR 230.74 is amended as follows:

1. Paragraph (a) is revised to read as follows:

(a) During the spring season of the calendar year 1978, the quota for bowheads is allocated among whaling villages as follows:

(1) Gambell—1 whale landed or 5 struck, whichever occurs first.
(2) Savoonga—1 whale landed or 1 struck, whichever occurs first.
(3) Wales—0 whales landed or 0 struck, whichever occurs first.
(4) Kivalina—0 whales landed or 0 struck, whichever occurs first.
(5) Point Hope—2 whales landed or 2 struck, whichever occurs first.
(6) Wainwright—2 whales landed or 2 struck, whichever occurs first.
(7) Barrow—4 whales landed or 5 struck, whichever occurs first.

2. Paragraphs (b) and (c) are redesignated as (c) and (d) respectively and a new paragraph (b) is added to read as follows:

(b) During the fall season of the calendar year 1978, the quota for bowheads is allocated among whaling villages as follows:

(1) Kaktovik—1 whale landed or 2 struck, whichever occurs first.

(2) Nuigsut—1 whale landed or 1 struck, whichever occurs first.

(3) Barrow—2 whales landed or 2 struck, whichever occurs first.

During the fall season, and prior to October 19, 1978, these villages shall not exceed a combined quota of 2 whales taken or 3 struck, whichever occurs first. Beginning October 19, 1978, these villages shall not exceed for the fall hunt a combined quota of 4 whales landed or 5 struck, whichever occurs first.

3. Paragraph (e) is added to read as follows:

(e) If for any reason the landing or struck quota for whaling villages is not reached, the part of the quota which remains may be reassigned by the Administrator, upon request of such village, to a second whaling village: *Provided*, That if any other whaling village has exceeded its quota at the time the reassignment is requested, the Administrator shall not reassign the quota if he determines that it is likely to result in the total number of whales landed or struck exceeding the bowhead quota then in effect under the Schedule to the International Convention for the Regulation of Whaling. In making such reassignment, the Administrator shall consult with representatives of as many whaling villages as time reasonably permits.

[FR Doc. 78-26903 Filed 9-21-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-37]

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

[7 CFR Part 2852]

U.S. STANDARDS FOR GRADES OF CANNED GRAPES AND U.S. STANDARDS FOR GRADES OF CANNED PEARS [1]

Study Drafts Available for Review and Comments; Proposed Revision

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Fruit and Vegetable Quality Division of the Food Safety and Quality Service, U.S. Department of Agriculture, has study drafts available for review and comment in its consideration of the proposed revisions of the U.S. standards for grades of canned grapes and the U.S. standards for grades of canned pears.

DATE: Comments must be received on or before December 31, 1978.

ADDRESS: Send requests for study drafts and comments to: Howard W. Schutz, Standardization Section, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Howard W. Schutz, 202-447-6247.

SUPPLEMENTARY INFORMATION: The preliminary proposed revisions for grades of canned grapes and grades of canned pears were developed following public requests for revision of the U.S. standards for grades of canned clingstone peaches.

The U.S. standards for canned clingstone peaches, effective June 1, 1978, are based on statistical procedures. Standards for the other major canned fruits are based on non-statistical procedures. Since many users of the canned clingstone peach standards process other major canned fruits, it was suggested that all U.S. standards for the major canned fruits be brought under the same format to avoid a proliferation of grading procedures.

The standards would be implemented on a voluntary basis and a charge would be made for the Department's services. When canned grapes and canned pears are officially graded, the "regulations governing inspection and certification of processed fruits and vegetables, processed products thereof, and certain other processed food products" (7 CFR 2852.1-2852.83) would be in effect. This advance notice of proposed rulemaking is issued under the authority of the Agricultural Marketing Act of 1946, secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended; (7 U.S.C. 1622, 1624).

Done at Washington, D.C., on September 18, 1978.

NOTE.—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

SYDNEY J. BUTLER,
Acting Administrator, Food Safety and Quality Service.

[FR Doc. 78-26658 Filed 9-21-78; 8:45 am]

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

[3410-37]

[9 CFR Part 316]

MARKING OR LABELING SMALL SAUSAGES WITH OFFICIAL INSPECTION LEGEND AND INGREDIENT STATEMENT

Proposed Rulemaking

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Federal meat inspection regulations with respect to labeling certain sausages and other meat products in casings or link form to reflect weight limitations in kilograms rather than in pounds. This would not appear to have any significant effect upon the industry and consumers and would be in compliance with the U.S. policy to convert to the metric system.

DATES: Comments must be received on or before November 21, 1978.

ADDRESSES: Comments to: Ann Langlois, Executive Secretariat, Room 3167, South Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Mr. Irwin Fried, Acting Director, Products Standards and Labels Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6042.

SUPPLEMENTARY INFORMATION:

COMMENTS

Interested persons are invited to submit comments concerning this proposal. Comments must be sent in duplicate to the Executive Secretariat and should bear a reference to the date and page number of this issue of the FEDERAL REGISTER. All comments submitted pursuant to this notice will be made available for public inspection in the office of the Executive Secretariat during regular hours of business.

BACKGROUND

For many years the Federal meat inspection regulations (9 CFR 316.10(a)) have required that small sausages and similar products, in casings or link form, bear one or more inspection legends and one or more lists of ingredients on each 2 pounds of product. This requirement makes readily available to the consumer the list of ingredients on each 2 pounds of product and assures the consumer that the product has been packed under Federal inspection. Fully labeled immediate containers of 10 pounds or less of product need not bear the official inspection legend and list of ingredients on each 2 pounds of product, since containers of product 10 pounds or less are customarily sold at retail intact.

The Food Safety and Quality Service has been requested to convert the 2 pound limitation to a kilogram (2.205 lbs) and the 10-pound container size to 5 kilograms (11.025 lbs). This change would comply with the U.S. policy to convert to the metric system. In converting to whole number kilograms, the result is an increase in the weight limitation. It does not appear that this increase would have a significant effect upon the industry or consumers.

Accordingly, it is proposed that § 316.10(b) of the Federal meat inspec-

tion regulations (9 CFR 316.10(b)) be amended to read as follows:

§ 316.10 Marking of meat food products with official inspection legend and ingredient statement.

• • • • •

(b) Inspected and passed sausage and other products, in casings or in link form, of the smaller varieties, shall bear one or more official inspection legends and one or more lists of ingredients in accordance with part 317 of this subchapter on each kilogram (2.205 lbs) of product, except where such products leave the official establishment completely enclosed in properly labeled immediate containers having a capacity of 5 kilograms (11.025 lbs) or less and containing a single kind of product: *Provided*, That such products in properly labeled closed containers exceeding 5 kilograms (11.025 lbs) capacity,• • •

• • • • •

NOTE—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., on September 18, 1978.

SYDNEY J. BUTLER,
Acting Administrator,
Food Safety and Quality Service.

[FR Doc. 78-26657 Filed 9-21-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 306]

RULES GOVERNING THE CERTIFICATION AND POSTING OF OCTANE RATINGS UNDER TITLE II OF THE PETROLEUM MARKETING PRACTICES ACT

Proposed Rules

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Petroleum Marketing Practices Act, passed in June 1978, requires the Federal Trade Commission to issue rules providing a uniform method for the certification and posting of octane ratings of automotive gasoline. This rule prescribes such uniform methods for members of the automotive gasoline industry. The rule is intended to provide consumers with important information to assist them in purchasing gasoline with the proper octane rating for their cars.

This notice sets out the text of the proposed rule, the procedures to be followed, a list of general questions and issues on which the Commission particularly desires comment, an invitation for written comments, and instructions for prospective witnesses and other interested persons who desire to testify or otherwise participate in the proceedings.

DATES: Notification of intention to present views orally must be received on or before October 6, 1978. Written comments must be received on or before October 20, 1978. Public hearings commence October 16, 1978, in Washington, D.C.

ADDRESS: Submit written comments and exhibits in quintuplicate to Denis E. Hynes, Presiding Officer, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580. The hearing will be held at 633 Indiana Avenue, Room 524, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

James G. Mills, Attorney, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, 202-724-1509 or 202-724-1524.

SUPPLEMENTARY INFORMATION: The Petroleum Marketing Practices Act, passed in June 1978, requires refiners of automotive gasoline to test the octane ratings of their products and to certify those ratings to industry members who purchase the gasoline from them. Distributors who transfer automotive gasoline to other distributors or to retailers must certify the octane ratings of their products consistent with prior certifications received by them. Gasoline retailers must display, in a clear and conspicuous manner at the point of sale, the octane rating of any gasoline they dispense to consumers.

The statutory duties will take effect irrespective of any rules issued by the Federal Trade Commission. However, the Commission is required to promulgate, by December 20, 1978, uniform methods for the certification and posting of octane ratings by industry members. When a final rule takes effect, the statutory duties to certify and post can only be satisfied through compliance with the Commission's rule.

An octane rating is a measure of how well an automotive gasoline will resist "knocking" in an engine. Although the octane rating is only one of many gasoline features, it has great significance for consumers. Engine knocking, which is caused by spontaneous combustion in localized areas of an engine, wastes power and lowers the effectiveness of the engine. Persistent or severe knocking can seriously damage the engine. Thus, the consumer should buy gasoline with an octane rating that is high enough to prevent engine knocking.

On the other hand, since higher octane gasolines often cost more than the lower octanes, consumers who buy more octane than is needed to control engine knock may derive no benefit from the additional money they spend. Discouraging octane overbuying can save energy that is used to produce higher octane gasolines, and it may reduce air pollution caused by the lead in automobile exhaust gases.

By requiring the disclosure of octane ratings for automotive gasoline, the statute and the proposed rule seek to provide information without which it would be difficult for consumers to make an intelligent purchasing decision. With this information, consumers will have the opportunity simultaneously to conserve energy, save money, reduce air pollution, and protect their cars against engine damage.

Under the proposed rule, refiners and distributors who sell gasoline to other industry members are required to certify the octane rating of the gasoline. The rating must be determined in accordance with ASTM D439-78, Standard Specifications for Automotive Gasoline, and must be rounded to a whole number less than or equal to the rating. The Commission will not consider in this rulemaking proceeding whether a formula different from that prescribed in ASTM D439-78 should be used to determine gasoline octane ratings.

The proposed rule does not require the use of a special form for certifying octane ratings. Instead, the rule permits the use of ordinary transfer documents, such as delivery invoices or bills of lading, as long as certain prescribed information appears on the certifying document. Among other things, the certification document must identify the parties to the transaction, specify the octane rating, and indicate that the octane rating was determined in accordance with the provisions of the rule.

The statute requires the Commission to prescribe a uniform method by which gasoline retailers must display octane ratings at the pump. The Commission believes that this is best accomplished by requiring that a label disclosing minimum octane ratings appear in immediate proximity to the price per gallon of each different gasoline dispensed from the pump. Placement of this label near the price per gallon should help assure that the consumer sees the rating prior to purchase.

The proposed labels have bold, contrasting colors and are large enough to accommodate highly visible numbers. In addition, the labeling provisions specify such matters as adhesiveness, weatherproofing requirements, and the use of materials that are not harmed by gasoline. Despite the high

quality of the labels, the Commission believes that their cost will be minimal. To further minimize costs by encouraging bulk purchases of the labels, and to facilitate compliance by retailers, the proposed rule states that the person who determines the octane rating of the gasoline must supply the labels.

Interested persons are invited to comment on any of the proposed rule provisions, on any of the issues listed in section C after the proposed rule, or on any other issue of fact, law, or policy which may have some bearing on the proposed rule.

A memorandum of the Commission's staff discussing the proposed rule will be made available for examination during normal business hours (9 a.m. to 5 p.m., Monday through Friday) by interested persons in room 130 of the public reference room of the Federal Trade Commission Building, Pennsylvania Avenue at Sixth Street NW., Washington, D.C.

SECTION A. PROPOSED RULES

In consideration of the foregoing, the Commission proposes the following rule, pursuant to title II of the Petroleum Marketing Practices Act (Pub. L. 95-297), and section 553 of subchapter II, chapter 5, title 5 of the U.S. Code (Administrative Procedure). This would amend title 16, chapter 1 by adding to subchapter C—Regulations Under Specific Acts of Congress, a new part 306 of that subchapter. The new part 306 would read as follows:

PART 306—RULES GOVERNING THE CERTIFICATION AND POSTING OF OCTANE RATINGS UNDER TITLE II OF THE PETROLEUM MARKETING PRACTICES ACT

GENERAL

Sec.
306.0 Terms defined.
306.1 Persons to whom this part applies.
306.2 Prohibited acts or practices.
306.3 Severability.
306.4-306.9 [Reserved]

UNIFORM METHOD OF CERTIFYING OCTANE RATING

306.10 Delivery invoices.
306.11 Recordkeeping.
306.12-306.19 [Reserved]

UNIFORM METHOD OF DISPLAYING OCTANE RATING

306.20 Display of octane rating.
306.21 Face labels.
306.22 Supplying of labels.
306.23 Recordkeeping.

APPENDIX

Illustration: Layout for face label.

AUTHORITY: Title II of the Petroleum Marketing Practices Act (Pub. L. 95-297).

GENERAL

§ 306.0 Terms defined.

(a) The term "Act" means title II of the Petroleum Marketing Practices Act (Pub. L. 95-297).

(b) The term "octane rating" means the rating of the antiknock characteristics of a grade or type of automotive gasoline as determined by dividing by 2 the sum of the research octane number plus the motor octane number.

(c) The terms "research octane number" and "motor octane number" have the meanings given such terms by the American Society for Testing and Materials (ASTM) in ASTM D439-78, entitled "Standard Specifications for Automotive Gasoline." With respect to any grade or type of automotive gasoline, the research octane number and the motor octane number are to be determined in accordance with ASTM standard test methods designated D2699-75 and D2700-75.

(d) The term "knock" means the combustion of a fuel spontaneously in localized areas of a cylinder of a spark-ignition engine, instead of the combustion of such fuel progressing from the spark.

(e) The term "refiner" means any person engaged in—

(1) The refining of crude oil to produce automotive gasoline; or

(2) The importation of automotive gasoline.

(f) The term "distributor" means any person who receives automotive gasoline and distributes such automotive gasoline to another person other than the ultimate purchaser.

(g) The term "gasoline retailer" means any person who markets automotive gasoline to the general public for ultimate consumption.

(h) The term "ultimate purchaser" means, with respect to any item, the first person who purchases such item for purposes other than resale.

(i) The term "automotive gasoline" means gasoline of a type distributed for use as a fuel in any motor vehicle.

(j) The term "motor vehicle" means any self-propelled four-wheeled vehicle, of less than 6,000 pounds gross vehicle weight, which is designed primarily for use on public streets, roads, and highways.

(k) The term "consistent with" as used in section 306.10(a) means a whole number which is the same as or less than the octane rating as determined by the refiner.

(l) The term "consistent with" as used in section 306.10(b) means:

(1) In the case of automotive gasoline which consists of a blend, a whole number which is the same as or less than the average, weighted by volume, of the ratings which were certified for each gasoline in the blend; or

(2) In the case of automotive gasoline which does not consist of such a blend, the octane rating which was certified for such gasoline.

(m) The term "blend" means a mixture of two or more automotive gasolines for which different octane ratings have been certified.

(n) The term "delivery invoice" means a document that accompanies a distribution of automotive gasoline in commerce to any person other than the ultimate purchaser. It may be in the form of an invoice, bill of lading, bill of sale, terminal ticket, delivery ticket, or any other written evidence of transfer.

(o) The term "person who determines the octane rating" means:

(1) A refiner who tests automotive gasoline; or

(2) A distributor or retailer who computes the octane rating of a blend of automotive gasoline, pursuant to the requirements of section 306.0(1)(1).

(p) The term "Commission" means the Federal Trade Commission.

(q) The term "commerce" means any trade, traffic, transportation, exchange, or other commerce:

(1) Between any State and any place outside of such State; or

(2) Which affects any trade, transportation, exchange, or other commerce described in subparagraph (1).

(r) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and any other commonwealth, territory, or possession of the United States.

(s) The term "person," for purposes of applying any provision of the Federal Trade Commission Act with respect to any provision of this part, includes a partnership and a corporation.

§ 306.1 Persons to whom this part applies.

Provisions of this part apply to refiners, distributors, and retailers engaged in distributing or marketing automotive gasoline in commerce.

§ 306.2 Prohibited acts or practices.

It is an unfair or deceptive act or practice in or affecting commerce within the meaning of section 5 of the Federal Trade Commission Act for a person to fail to comply with a requirement of this part that applies to such person.

§ 306.3 Severability.

If any part of this regulation is stayed or held invalid, the remaining provisions will continue in force.

V 43 185 SE 22 78 V

UNIFORM METHOD OF CERTIFYING OCTANE RATING

§ 306.10 Delivery invoices.

(a) Each refiner shall include a delivery invoice with each transfer of automotive gasoline to any person other than the ultimate purchaser. The delivery invoice under this subsection shall include:

(1) The name of the person who is transferring the gasoline and the name of the person to whom the transfer is made;

(2) The date of transfer;

(3) The quantity of gasoline transferred;

(4) The octane rating of the gasoline;

(5) The signature of the person who is transferring the gasoline; and

(6) The statement: "I certify that the octane rating specified on this delivery invoice is consistent with my determination of the octane rating."

(b) Each distributor of automotive gasoline shall include a delivery invoice with each transfer of such gasoline to any person other than the ultimate purchaser. The delivery invoice under this subsection shall include the information required under section 306.10(a) (1)-(5) and the statement: "I certify that the octane rating specified on this delivery invoice is consistent with the octane rating on the delivery invoice or invoices which accompanied the transfer of this gasoline."

(c) Information which is inconsistent with the requirements of this part may not appear on the delivery invoice.

§ 306.11 Recordkeeping.

(a) Records of tests performed by or for refiners and used as a basis for certification under section 306.10(a) shall be kept on file by such refiners for a period of three (3) years and be available for inspection by persons authorized to administer, investigate, or enforce the provisions of the Act or of this part.

(b) Delivery invoices received by distributors and used as a basis for certification under section 306.10(b) shall be kept on file by such distributors for a period of one (1) year and be available for inspection by persons authorized to administer, investigate, or enforce the provisions of the Act or of this part.

UNIFORM METHOD OF DISPLAYING OCTANE RATING

§ 306.20 Display of octane rating.

Each gasoline retailer shall display the octane rating of each automotive gasoline sold to ultimate purchasers, by attaching face labels to all automotive gasoline dispensing pumps.

(a) "Face" label refers to labels attached to that portion of an automotive gasoline dispensing pump where the price per gallon and price of purchase appear. The face label shall:

(1) Contain the octane rating certified to the retailer under section 306.10, or, if the gasoline consists of a blend, an octane rating which is a whole number the same as or less than the average, weighted by volume, of the ratings which were certified for each gasoline in the blend;

(2) Be a separate label for each gasoline with a different octane rating which is dispensed from a single pump; and

(3) Be attached to the face of the pump and appear in immediate proximity to the number representing the price per gallon of the gasoline.

(b) Retailers shall maintain or replace face labels as necessary to insure that the information may be seen and read easily by the ultimate purchasers of the automotive gasoline.

§ 306.21 Face labels.

All face labels required to be displayed by this part shall conform to the following specifications:

(a) *Layout.* The face label is 3 inches wide by 2½ inches long. The illustration appearing at the end of this part is a prototype label that demonstrates the proper layout. Helvetica type is used throughout to maintain uniformity and consistency for immediate consumer recognition and readability. Spacing of the label is ¼ inch between the top border and the first line of text, ⅛ inch between the first and second line of text, ¼ inch between the octane rating and the line of text above it. All text and numerals are centered within the interior borders.

(b) *Type size and setting.* The Helvetica series shall be used and is available in a variety of phototype setting systems and by linotype. The top line of the label is set in 10-point Helvetica Bold, all capitals, with letterspace set at 10½ points. The line "Minimum octane rating" is set in 12-point Helvetica Bold, with letterspace set at 12½ points, all capitals. The octane number is set in 96-point Helvetica Medium Bold with ⅛ inch space between the numbers.

(c) *Colors.* The basic color of all labels shall be process yellow. All type is process black. All borders are process black. Both colors must be nonface.

(d) *Paper stock.* The paper shall be pressure-sensitive with permanent adhesive having a minimum adhesive capacity of 40 ounces per inch width (P.S.T.C. No. 1).

(e) *Contents.* The contents are as shown in the illustration. The appropriate octane rating for each gasoline will be shown on the face label. No marks or information other than that specified in this part shall appear on the label.

(f) *Special label protection.* All labels shall be capable of withstanding extremes of weather conditions for a period of at least 1 year. The labels shall be resistant to gasoline, oil, grease, solvents, detergents, and water. Paper stock shall be 0.004 inch polyvinyl chloride including adhesive with a 0.001 inch clear lamination of mylar or equivalent material.

§ 306.22 Supplying of labels.

Labels required under this part to be posted on gasoline pumps shall be made available to the gasoline retailer by the person who determines the octane rating of the gasoline. Failure by this person to supply labels does not excuse the retailer from the duty to display the octane rating of the gasoline.

§ 306.23 Recordkeeping.

All delivery invoices received by gasoline retailers and used as the basis for the octane rating displayed under section 306.20(a)(1) shall be kept on file by such retailers for a period of one (1) year and be available for inspection by persons authorized to administer, investigate, or enforce the provisions of the Act or of this part.

All text and numerals
centered in box

Box is 2-1/2" x 3"

Illustration: Layout for face label

Six point border bleeds on all
four sides, rounded interior
corners, square exterior corners

1/4" space between border and first line of text

First line of text is 10 point Bold Helvetica,
with letter space set at 10-1/2 points, all
capitals

1/8" between lines of text

Text in second line is 12 point Bold Helvetica,
with letter space set at 12-1/2 points, all
capitals

1/4" between text line and octane rating

Octane rating is 96 point medium Bold Helvetica
with 1/8" space between numerals

V 43 / 185 SE 22 78 V

SECTION B. INVITATION TO COMMENT

All interested persons are hereby notified that they may submit to Denis E. Hynes, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580, data views, or arguments on any issue of fact, law, or policy which may have some bearing upon the proposed rule. Such written comments will be accepted until October 20, 1978. To assure prompt consideration, comments should be identified as "Octane Certification and Posting Rule Comment" and furnished where at all possible in five (5) copies.

SECTION C. GENERAL QUESTIONS AND ISSUES

While interested persons are invited to address any questions of fact, law, or policy which they feel may have bearing upon the proposed rule, listed below are several general questions and issues of fact bearing upon certain aspects of the proposed rule concerning which the Commission particularly desires comment, orally or in writing, by persons concerned with and participating in this proceeding:

1. Under the proposed rule, only refiners may test the octane rating of automotive gasoline. Are there situations when it would be appropriate to permit distributors or retailers to test octane ratings? Is such testing currently performed by distributors or retailers? If so, to what extent and under what circumstances? Does distributor or retailer testing differ in any way from testing done by refiners? If so, how? If distributor or retailer testing were permitted, should any limitations be placed on such testing?

2. The proposed rule states that octance ratings must be rounded to minimum whole numbers. Should the rule require the use of exact numbers, rather than minimum whole numbers? If so, why?

3. Is there a more accurate method for determining the octane rating of blended gasoline than the weighted average formula prescribed by the proposed rule? If so, describe the method and explain why it is preferable to the weighted average formula. Is there a particular need for a different formula if distributor or retailer testing is not permitted? Does the use of minimum whole numbers, in conjunction with the weighted average formula for blends, result in unreliable octane ratings for blended gasolines? Are there any other problems, related to the blending of gasolines, of which the Commission should be aware? For example, to what extent does blending of leaded and unleaded gasolines occur? Is there any problem in accurately determining the octane rating of such a blend by the weighted average formula?

4. (a) The extent to which consumers understand octane ratings is unclear. Should the Commission require the disclosure of information explaining octane ratings to consumers? An example of such additional information might be the following:

Using gas with the proper octane rating can help you save money, protect against engine damage, conserve energy, and control air pollution. If your engine is knocking, try gas with a higher octane rating. If your car isn't knocking, you may be able to use a lower octane gas. Check your owner's manual or see your car dealer to find out what octane your car needs.

Is the information contained in this statement sufficient to enable consumers to understand octane ratings? If not, what additional information should be disclosed?

(b) If consumers need an explanation of octane ratings, at point of sale, how should the information be disclosed? Should the face label disclose, in addition to the octane rating of the gasoline, any relevant explanatory information? How large would the proposed label have to be in order to contain both a prominent octane number and an explanation that is easily readable from the driver's side of a car? Is there enough space on gasoline pump faces to accommodate larger face labels containing this information? Where on the gasoline pump should the label be placed to insure its visibility to consumers?

As an alternative, should the Commission require than any explanatory information be disclosed on a separate label? If so, where should this label be placed to insure that the information is communicated to the widest possible audience?

(c) Assuming that consumers do not understand octane ratings, does the Petroleum Marketing Practices Act authorize the Commission to require the disclosure of additional information explaining octane ratings? If so, is the use of the two labels, with one label disclosing the octane rating and the other label disclosing any necessary explanatory information, consistent with the provisions of the Act?

(d) Will differences in pump design make it difficult for some retailers to comply with the proposed requirement that face labels be displayed in immediate proximity to the price per gallon of the gasoline? If so, where on such pumps should the Commission require that labels be displayed? Would differing display requirements, based on pump design differences, be consistent with the statutory requirement that the method of display be uniform?

5. Approximately what percentage of cars on the road today have owner's manuals that recommend octane based only on the research octane number? Would a "conversion table" showing how the research octane number compares with the (R+M)/2 number help the owners of such cars to determine the octane requirements of their cars? If so, can conversion numbers be easily calculated, or are reliable tables available for this purpose? Where on the label should such a conversion table appear?

6. The proposed rule states that the person who determines the octane rating of the gasoline must supply labels to retailers. How will such labels be made available to the retailer? Should the labels be provided without charge, or at cost? Are there better means of providing labels, such as through retail dealer associations?

Distributors and retailers who blend gasoline are required under the proposed rule to supply their own labels. Is this an unduly burdensome requirement? If so, who should be required to supply labels when gasoline is blended?

7. What recordkeeping practices currently exist in the industry? Will it be possible under the recordkeeping provisions of the proposed rule to trace specific quantities of gasoline back through the chain of transfer? Will it be possible to determine what the tested octane rating of the gasoline was and what rating was certified by each link in the chain of transfer? What additional information should be included with the certification or testing records to facilitate this process?

8. Variations in the formula used for determining octane ratings will not be considered in this proceeding. However, the Petroleum Marketing Practices Act authorizes the Commission to initiate a separate rulemaking for the purpose of considering such variation. Although comments on the formula itself should not be submitted in this rulemaking proceeding, interested parties may state whether or not a separate rulemaking should be initiated at a future date to consider variations in the octane rating formula.

9. Under the Petroleum Marketing Practices Act, the statutory duties to certify and post octane ratings take effect on April 1, 1979. Assuming that the rule is promulgated in its final form by January 30, 1979, is there any reason why it should not take effect on April 1, 1979? How will industry members satisfy their statutory duties to certify and post-octane ratings if the Commission's rule does not take effect on April 1, 1979?

SECTION D. PUBLIC HEARINGS

Public hearings on the proposed rule will be held commencing on October 16, 1978, at 9 a.m. in room 524 of the Indiana Building, 633 Indiana Avenue NW., Washington, D.C. Persons desiring to present their views orally at these hearings should so advise Denis E. Hynes, Presiding Officer, 202-523-3421, Federal Trade Commission, Washington, D.C. 20580, no later than October 6, 1978.

SECTION E. MOTIONS OR PETITIONS

Any motions or petitions in connection with this proceeding must be filed with the presiding officer, who is responsible for the orderly conduct of the proceeding and shall have all powers necessary to that end, including the authority to rule on all motions or petitions filed. Applications for review of a ruling will not be entertained by the Commission prior to its review of the record unless the presiding officer certifies in writing to the Commission that a ruling involves a controlling question of law or policy as to which there is substantial ground for difference of opinion and that an intermediate review of the ruling may materially advance the ultimate termination of the proceeding or subsequent review will be an inadequate remedy.

SECTION F. INSTRUCTIONS TO WITNESSES

1. *Advance notice.* FTC invites any person who has an interest in the proposed rulemaking issued today, or who is a representative of a group or class of persons that has an interest, to make an oral presentation. Such a request should be directed to the presiding officer identified above and must be received no later than October 6, 1978. Witnesses are required to submit a written statement that can be entered into the record as submitted. It will, therefore, not be necessary to repeat this statement at the hearing. Submission of the written statement enables the witness to appear at the hearing, to answer questions posed by only the presiding officer and staff with regard to the written statement, and to deliver a short summary of the most important aspects of that statement within time limits which are established by the presiding officer. As a general rule, oral summaries should not exceed 10 minutes. There will be no opportunity for interested persons to cross-examine witnesses.

2. *Use of exhibits.* Use of exhibits during oral testimony is encouraged, especially when they are to be used to help clarify technical or complex matters. If you plan to offer documents as exhibits, file them as soon as possible during the general comment period, but no later than October 6, 1978. Mark each of the documents with your name, and number them in sequence, e.g., Jones exhibit 1. The presiding officer has the power to refuse to accept for the public record any hearing exhibits that are not furnished by the deadline.

3. *Expert witnesses.* If you are going to testify as an expert witness, you must attach to your statement curriculum vitae, biographical sketch, resumé or summary of your professional background and a bibliography of your publications. It would be helpful if you would also include documentation for the opinions and conclusions you express by footnotes to your statements or in separate exhibits. If your testimony is based upon or chiefly concerned with one or two major scientific works, copies should be furnished. The remaining citations to other works can be accomplished by using footnotes in your statement referring to those works.

4. *Results of surveys and other research studies.* If in your testimony you will present the results of a survey or other research study, as distinguished from simple references to previously published studies conducted by others, you must also present as an exhibit or exhibits in compliance with paragraph 2 above the following:

a. A complete report of the survey or other research study and the information and documents listed in (b) through (e) below if they are not included in that report.

b. A description of the sampling procedures and selection process including the number of persons contacted, the number of interviews completed, and the number of persons who refused to participate in the survey.

c. Copies of all completed questionnaires or interview reports used in conducting the survey or study if respondents were permitted to answer questions in words of their choice rather than to select an answer from one or more answers printed on the questionnaire or suggested by the interviewer.

d. A description of the methodology used in conducting the survey or other research study, including the selection of and instructions to interviewers, introductory remarks by interviewers to respondents, and a sample questionnaire or other data collection instrument.

e. A description of the statistical procedures used to analyze the data and all data tables which underlie the results reported.

Other interested persons may wish to examine the questionnaires, data collection forms and any other underlying data not offered as exhibits and which serve as a basis for your testimony. This information along with punch cards or computer tapes which were used to conduct analyses should be made available (with appropriate explanatory data) upon request of the presiding officer. The presiding officer will then be in a position to permit their use by other interested persons.

5. *Identification, number of copies, and inspection.* To assure prompt consideration, all materials, including written statements, filed by prospective witnesses pursuant to the instructions contained in paragraph 1-4 of this section should be identifed both on the document and on the envelope as "Octane Certification and Posting Statement" ("and Exhibits," if appropriate), and submitted in five copies when feasible and not burdensome not later than October 6, 1978.

Copies of all materials filed by witnesses will be made available for examination in Room 130, public reference room, Federal Trade Commission, Pennsylvania Avenue at Sixth Street NW., Washington, D.C.

6. *Reason for requirements.* The foregoing requirements are necessary to permit us to schedule the time for your appearance and that of other witnesses in an orderly manner. The Commission staff and the presiding officer must have your expected testimony and supporting documents available for study before the hearing to prepare appropriate questions. Also, such data should be of assistance to interested persons in the preparation of the filing of contradictory statements (rebuttal).

The deadline established by this notice will not be extended and hearing dates will not be postponed unless hardship to participants can be demonstrated.

SECTION G. POST-HEARING PROCEDURES

Interested persons will be afforded 10 days after the close of the hearings to file rebuttal submissions, which must be based only upon identified, properly cited matters already in the record. The presiding officer will reject all submissions which are essentially additional written comments in contrast to rebuttal. The 10-day rebuttal period will commence when the transcript of the final day of hearings is available.

Not later than 30 days after the close of the rebuttal period, the staff shall submit a recommendation for the final rule. The staff's report will be placed on the public record for 30 days, during which time interested persons will be afforded the opportunity to submit comments for consideration by the Commission in reaching a decision on this rule. Comments will be submitted to Secretary, Federal Trade Commission, Washington, D.C. 20580. To assure prompt consideration, each comment should be identified both on the document and on the envelope as "Octane Certification and Posting Rule Comment" and furnished when possible in five (5) copies.

V 43 / 185 SEP 22 78

SECTION H. COMPENSATION FOR REPRESENTATION IN RULEMAKING PROCEEDINGS

Funds may be available for reimbursement of public participation costs incurred in this proceeding to those who satisfy the requirements of § 1.17 of the Commission's rules. For further information, contact Bonnie Naradzay, Special Assistant for Public Participation, Office of the General Counsel, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580, 202-523-3520.

By direction of the Commission, dated September 19, 1978.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-26833 Filed 9-21-78; 8:45 am]

[6351-01]

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 150]

LIMITS ON POSITIONS AND DAILY TRADING

Proposed Rulemaking and Request for Comment

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission is proposing to remove the daily limits on speculative trading for all commodities where such limits are now in effect in order to eliminate unnecessary restrictions on the markets and to enhance competition and market liquidity. The Commission has considered these limits, which were generally established prior to the creation of the Commission in 1974, and has concluded that daily trading limits (1) are not necessary to diminish, eliminate or prevent excessive speculation, and (2) may at times impede market liquidity.

DATES: Comments must be received on or before November 21, 1978.

ADDRESS: Comments on the proposal should be sent to: Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT:

Blake Imel, Acting Chief Economist, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, 202-254-6124.

SUPPLEMENTARY INFORMATION: Section 4a(1) of the Commodity Exchange Act, as amended (the "Act"), 7 U.S.C. 6a(1) (1976), expresses a congressional determination that "excessive speculation" in commodity futures traded on contract markets causing sudden or unreasonable price fluctuations or unwarranted price changes is an undue burden on interstate commerce. In order to prevent these adverse effects, section 4a(1) of the Act authorizes the Commission to "fix * * * limits on the amount of trading which may be done or positions which may be held by any person * * * as the Commission finds are necessary to diminish, eliminate or prevent such burden." [1] Pursuant to this section of the Act, Commission rules 150.1(b), 150.2(b), 150.3(b), 150.4(b), 150.5(b), 150.10(b), 150.11(b), and 150.12(b) establish daily limits on speculative trading on a contract market in grains (defined to include oats, barley and flaxseed), cotton, rye, soybeans, eggs, potatoes, corn and wheat, respectively. Speculative position limits in these commodities were also adopted as subsection (a) of rules 150.1, 150.2, 150.3, 150.4, 150.5, 150.10, 150.11 and 150.12, respectively, to establish the maximum net positions a person may hold or control on a contract market.

The authority to fix limits on speculative activities had its origins in the longstanding congressional concern that the grain futures markets were either frequently or severely disrupted by large scale speculation, which involved the accumulation and liquidation of inordinately large positions.[2] When the Commodity Exchange Act was enacted in 1936, Congress empowered the Commodity Exchange Commission to fix limits on the amount of speculative trading that might be done. That Commission construed section 4a(1) to permit it to limit the net long or short positions of traders, as well as the volume of their trading.[3] Accordingly, in 1938 the Commodity Exchange Commission, pursuant to section 4a(1) of the Act, established both trading and position limits for grain futures.[4] On April 21, 1975, when the Commodity Futures Trading Commission was created, trading and position limits were in effect for grains (including wheat), cotton, rye, soybeans, eggs, potatoes, and corn. To date the Commission has maintained these trading and position limits, having amended only the levels specified for wheat.[5] Neither trading nor position limits have been established for any additional commodities.

The Commission has for some time been reviewing the efficacy of both trading and position limits. Among other things the Commission has considered the report of its Advisory Committee on the Economic Role of Contract Markets,[6] reports from its staff, and its own experience with potential and actual market disruptions.

The advisory committee considered the role of speculative trading and position limits and concluded that neither represented very effective regulatory tools. The advisory committee was of the view that the current daily trading limits are a greater threat to market liquidity than position limits. The committee recommended that daily trading limits be substantially liberalized by a conversion to daily limits on net position changes.

The Commission has also reviewed the proceedings which led to the establishment of the current trading and position limits. It appears that the original purpose in the establishment of position and trading limits was to prevent possible market disruptions arising from large positions and position changes effected by speculative traders. There is, however, little or no evidence that the Commodity Exchange Commission was concerned with large individual trading volume which did not result in large position changes. Accordingly, without questioning the initial premise for speculative position limits at this time, it does not appear that daily trading limits are required to diminish, eliminate or prevent "excessive speculation." It may also be that daily trading limits offer a real potential for diminishing market liquidity. Indeed, some professional speculative day traders who trade a large number of contracts without ever accumulating a large position may at times be limited in their activities by the current daily trading limits.

The Commission has considered several alternative means of deemphasizing or phasing out daily trading limits. These are: (1) Elimination of daily trading limits, (2) trading limits on intraday time brackets, (3) net daily position-change limits, (4) net daily trading limits, and (5) increasing the current gross daily limits. Alternatives (2) through (5) were each considered to be either too complex, of limited usefulness, and/or difficult to enforce effectively. Accordingly, the Commission believes that the most appropriate course of action is simply to eliminate its present daily trading limits. The Commission is not, however, proposing to alter the current position limits. The Commission understands that removing daily trading limits (with position limits remaining in effect) will allow larger daily position changes than were allowed by the trading limits. The Commission requests comment on its proposal.

In consideration of the foregoing, the Commission, pursuant to the authority contained in sections 4(a) and 8a of the Act, 7 U.S.C. 6a and 12a (1976), proposes to amend part 150 of chapter I of title 17 of the Code of Federal Regulations by deleting paragraph (b) from each of §§ 150.1, 150.2, 150.3, 150.4, 150.5, 150.10, 150.11 and 150.12 and effecting any further technical conforming amendments which are necessary to other paragraphs of those sections.

Issued in Washington, D.C., on September 18, 1978, by the Commission.

GARY L. SEEVERS,
Vice Chairman, Commodity Futures Trading Commission.

[FR Doc. 78-26571 Filed 9-21-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 240, 241 and 249]

[Release No. 34-15159]

LOST AND STOLEN SECURITIES PROGRAM

Extension of Comment Period

AGENCY: Securities and Exchange Commission.

ACTION: Extension of public comment period for advance notice of intent to engage in rulemaking.

SUMMARY: The Commission today extended until October 15, 1978, the public comment period with respect to its advance notice of intent to engage in rulemaking concerning the lost and stolen securities program.

DATES: Comments must be submitted on or before October 15, 1978.

ADDRESSES: Persons wishing to submit written views, data, and comments should file three copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All submissions should refer to file No. S7-611 and will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Gregory C. Yadley, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202-376-8129.

SUPPLEMENTARY INFORMATION: In Securities Exchange Act release No. 15015 (July 31, 1978) (43 FR 34790, August 7, 1978), the Commission issued an advance notice of intent to engage in rulemaking and requested public comment with respect to the provisions of 17 CFR 240.17f-1, the operation of the lost and stolen securities program to date, and the redesignation of Securities Information Center, Inc., to maintain and operate the data base of reported missing, lost, counterfeit or stolen securities.

Although the comment period expired on September 8, 1978, it has come to the Commission's attention that certain interested members of the public may require more time to complete their consideration of the advance notice of intent to engage in rulemaking and respond to the Commission's solicitation of comments. The Commission has determined that it is appropriate in the public interest to provide all persons sufficient time to make their views known, and, accordingly, the Commission hereby extends the period for public comment until October 15, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 13, 1978.

[FR Doc. 78-26621 Filed 9-21-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 102]

[Docket No. 75N-0205]

COMMON OR USUAL NAMES FOR VEGETABLE PROTEIN PRODUCTS AND SUBSTITUTES FOR MEAT, SEAFOOD, POULTRY, EGGS, OR CHEESES WHICH CONTAIN VEGETABLE PROTEIN PRODUCTS AS SOURCES OF PROTEIN

Tentative Final Regulation; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Notice of extension of comment period.

SUMMARY: The Food and Drug Administration is extending the comment period for the tentative final regulation establishing common or usual names for vegetabe protein products and for substitutes for meat, seafood, poultry, eggs, or cheeses which contain vegetable protein products as sources of protein. This action is based on requests for an extension. The extension will provide additional time for submitting comments.

DATE: Comments by November 13, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

L. Robert Lake, Bureau of Foods (HFF-302), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1254.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued a tentative final regulation in the FEDERAL REGISTER of July 14, 1978 (43 FR 30472) that would establish common or usual names for vegetable protein products and substitutes for meat, seafood, poultry, eggs, or cheeses which contain vegetable protein products as sources of protein. Interested persons were invited to submit comments on the tentative final regulation by September 12, 1978.

The Commissioner has received written requests for a 60-day extension of the comment period from the Food Protein Council, National Fisheries Institute, Inc., and Booth Fisheries. Copies of these requests are on file

[1] Section 4a(1) does not require that both speculative trading and position limits be established in the event the Commission finds that one or the other is appropriate. Purchases and sales which fall within the definition of bona fide hedging contained in § 1.3(z) of the Commission's regulations, 17 CFR 1.3(z), as amended, 42 FR 42748 (August 14, 1977), are exempted from application of both the speculative trading and position limits.

[2] See H.R. Rep. No. 421, Accompanying H.R. 6772, 47th Cong., 1st Sess. 1 (1935).

[3] Although the Commodity Exchange Commission construed its authority under section 4a(1) to allow it to set limits on the amount of speculative buying and selling that may be done and on the size of positions that may be held, section 4a(1) specifically referred to "limits on the amount of trading." In 1968, section 4a(1) of the Act was amended to clarify the authority to impose limits on "positions which may be held." Section 4a(1) was also amended to provide that trading done and positions held by two or more persons acting pursuant to an express or implied understanding shall be treated as if done or held by a single person. See Rep. No. 947, 90th Cong., 2d Sess., 5 (1968). See also, Hearings on H.R. 11930 and H.R. 12317 before the House Committee on Agriculture, 90th Cong., 2d Sess. 1967.

[4] 3 FR 3145 (Dec 24, 1938).

[5] Effective August 20, 1976, the trading and position limits for wheat were specified separately from those for grain and raised from 2 million bushels to 3 million bushels (41 FR 35060 (Aug. 19, 1976)).

[6] July 17, 1976. This advisory committee was Chaired by Commissioner Gary L. Seevers.

with the hearing clerk, Food and Drug Administration.

Together, the requests for extension assert (1) that new technology may be needed for compliance with some of the nutrient provisions in the tentative final regulation that differ from the proposed provisions but that the comment period provided in the tentative final regulation is inadequate to determine whether the new technology will be successful; (2) that because the comment period runs across the major vacation months, it is difficult to arrange meetings of interested persons in order to review common concerns; and (3) that additional time is needed because of the complexity of the tentative final regulation.

Based upon his consideration of these requests for an extension, the Commissioner is extending the comment period on the tentative final regulation to November 13, 1978.

In addition to the requests for extension cited above, Ralston Purina Co. (in a letter received by the hearing clerk on September 6, 1978 and on file in that office) requested an extension to February 12, 1979 to permit the firm to conduct studies involving the manufacture and testing of experimental products which the firm asserts are necessary to evaluate fully the changes made in the tentative final regulation. A final decision has not been made on Ralston Purina Co.'s request. If any further extension is granted in the matter, notice of the extension will be given in the FEDERAL REGISTER.

Interested persons may, on or before November 13, 1978, submit to the hearing clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments (preferably four copies and identified with the hearing clerk docket number found in brackets in the heading of this ducument) regarding the revisions made to the proposal and issued as part of the tentative final regulation and new developments since the proposal that warrant consideration. Received comments may be seen in the office above from 9 a.m. to 4 p.m., Monday through Friday.

Dated: September 18, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-26583 Filed 9-19-78; 10:24 am]

[1505-01]

[21 CFR Parts 182 and 186]

[Docket No. 78N-0152]

HYDROGENATED FISH OIL

Affirmation of GRAS Status as an Indirect Food Ingredient; Correction

Correction

In FR Doc. 78-23158 appearing at page 36644 in the issue for Friday, August 18, 1978 in the paragraphs labeled "Address" and "For Further Information Contact", in the address, "Fishers Land" should read "Fishers Lane".

[4110-03]

[21 CFR Part 546]

[Docket No. 78N-0247]

CHLORTETRACYCLINE-SULFAMETHAZINE TABLETS

Proposed Rulemaking

AGENCY: Food and Drug Administration.

ACTION: Proposal.

SUMMARY: This is a proposal to amend the animal drugs regulations by revoking the certification provisions for chlortetracycline-sulfamethazine tablets. This combination is subject to a notice of opportunity for hearing proposing its withdrawal which is published elsewhere in this issue of the FEDERAL REGISTER.

DATE: Comments by October 23, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

David Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the FEDERAL REGISTER, the Director of the Bureau of Veterinary Medicine is issuing a notice of opportunity for hearing on a proposal to withdraw approval of a new animal drug application (NADA 55-025) for Aureomycin Sulmet Oblets which contain 125 milligrams (mg) chlortetracycline in combination with 2.5 grams sulfamethazine and 100 mg nicotinic acid, 62,500 I.U. vitamin A, and 6,250 I.U. vitamin D. The grounds for the proposed withdrawal is that new information, with respect to the drug product, evaluated together with evidence available at the time of its approval, shows there is a lack of substantial evidence that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

Consistent with the proposed withdrawal of NADA 55-025, the Director is proposing to amend the regulations by revoking the certification provision which provides for its use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512, 59 Stat. 463 as amended, 82 Stat. 343-351 (21 U.S.C. 357, 306b)) and under authority delegated to the Commissioner (21 CFR 5.1) and redelegated to the Director (21 CFR 5.84), it is proposed that Part 546 be amended, by revoking § 546.110e chlortetracycline-sulfamethazine tablets.

Interested persons may, on or before October 23, 1978 file with the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments (preferably four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal, except that comments pertaining to issues which are the subject of the related notice of opportunity for hearing published elsewhere in this issue of the FEDERAL REGISTER shall be filed in accordance with that notice. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office between 9 a.m. and 4 p.m. during regular working hours.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: September 11, 1973.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-26365 Filed 9-21-78; 8:45 am]

[4110-03]

[21 CFR Part 808]

[Docket No. 77N-0333]

HEARING AIDS

Oral Hearing on Proposed Regulation on State Applications for Exemption From Preemption of State and Local Requirements

AGENCY: Food and Drug Administration.

ACTION: Notice of hearing.

SUMMARY: This is an announcement that a public hearing will be held on the proposed rule on State applications for exemptions from preemption of State and local requirements governing the labeling and conditions of sale of hearing aids. In preparing a final regulation, the Commissioner will consider the administrative record of the hearing, along with all comments and other information received.

DATES: Written notices of appearance should be filed by October 10, 1978. The hearing will be held on October 31, 1978, and, if necessary, will continue on November 1, 1978.

ADDRESSES: Written notices of appearance (identified with the docket number found in brackets in the heading of this document) should be sent to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. The hearing will be held from 9 a.m. to 5 p.m. in Room 727-A, Department of Health, Education, and Welfare, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Joseph M. Sheehan, Bureau of Medical Devices (HFK-70), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7114.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of July 28, 1978 (43 FR 33180), the Commissioner of Food and Drugs published a proposed regulation responding to 19 applications requesting an exemption from federal preemption for certain State and local laws and regulations pertaining to hearing aids, allowing 60 days for comment. To enable expeditious review of any request for an oral hearing, the Commissioner had limited the period for requesting an oral hearing to the first 30 days of the comment period.

In the same issue of the FEDERAL REGISTER, the Commissioner announced an opportunity for interested persons to request an oral hearing on the proposed rule. The announcement explained that interested persons could request an oral hearing on or before August 28, 1978. The Commissioner has received several requests for an oral hearing.

Accordingly, the Food and Drug Administration announces that an oral hearing regarding State and local government applications for exemption from preemption of their laws and regulations governing the labeling and conditions for sale of hearing aids will be held on October 31, 1978, and if necessary to accommodate all those who request to make a presentation, November 1, 1978, from 9 a.m. to 5 p.m. in Room 727-A, Department of Health, Education, and Welfare, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201. The oral hearing will be chaired by David M. Link, Director, Bureau of Medical Devices, Food and Drug Administration.

After reviewing the comments and the notices, the Commissioner will schedule each appearance and notify each person of the time, date, and place of the hearing and the time allotted for each appearance. The procedures to govern the hearing are those applicable to a public hearing before the Commissioner under Part 15 (21 CFR Part 15).

Interested persons who wish to participate may, on or before October 10, 1978, submit a notice of appearance with the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. All notices submitted should be identified with the hearing clerk docket number found in brackets in the heading of this notice and should contain the name, address, telephone number, and any business affiliation of the person desiring to make a presentation, a brief summary of the presentation, and the appropriate time requested for the presentation.

Groups having similar interests are requested to consolidate their comments and present them through a single representative. The Commissioner may require joint presentations by persons with common interests. The Commissioner will allocate the time available for the hearing among the persons who properly file a notice of appearance.

The administrative record of the proposed regulation will be open for 30 days after the hearing to allow comment on matters raised at the hearing.

The notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 521, 90 Stat. 574 (21 U.S.C. 360k)) and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: September 18, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for regulatory Affairs.

[FR Doc. 78-26622 Filed 9-21-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4536]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Pierce, Weld County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Pierce, Weld County, Colo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 240 Main Street, Pierce, Colo. Send comments to: Honorable Benjamin P. Gallatin, Mayor, Town of Pierce, Box 57, Pierce, Colo.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Pierce, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program reg-

ulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Spring Creek.....	Main St., 100 ft upstream of centerline.	5,033
	Corporate limit, 60 ft downstream of centerline of Rowe Ave.	5,040
Spring Creek overflow.	Weld County Rd. 88, 100 ft upstream of centerline.	5,017
	Main St., 100 ft upstream of centerline.	5,037
	Rowe Ave., 150 ft downstream of centerline.	5,044

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 13, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26628 Filed 9-21-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4537]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Cape Coral, Lee County, Florida.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Cape Coral, Lee County, Fla. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at city hall, 815 Nicholas Parkway, Cape Coral, Fla. Send comments to: Honorable Lyman Moore, Mayor, City of Cape Coral, P.O. Box 900, Cape Coral, Fla. 33904.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Cape Coral, Fla., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gulf of Mexico.....	Intersection of Pine Island Rd. and Santa Barbara Blvd.	11
	Intersection of Chiquita Blvd. and Miracle Parkway.	10
	Intersection of Country Club Blvd. and Retunda Parkway.	11
	Intersection of Pelican Blvd. and Gleason Parkway.	10
	Intersection of Tropicana Parkway and Northwest 36th Ave.	10
	Intersection of Diplomat Parkway and Chiquita Blvd.	11
	Intersection of Pine Island Rd. and Nicholas Parkway.	11
	Intersection of Hancock Bridge Parkway and Del Prado Parkway.	11
	Intersection of West Cape Coral Parkway and South Chiquita Blvd.	10
	Junction of Sands Blvd. and West El Dorado Parkway.	11
	Intersection of Cape Coral Parkway and Coronado Parkway.	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26629 Filed 9-21-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4538]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Lee County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Lee County, Fla. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Lee County Courthouse, Flood Insurance Office, 2115 Second Street, Fort Myers, Fla. Send comments to: Mr. L. H. Whan, Chairman, Lee County Board of Commissioners, P.O. Box 398, Fort Myers, Fla. 33902.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Lee County, Fla., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Telegraph Creek...	State Route 78	11
Orange River.....	Orange River Blvd	12
	Buckingham Bridge	13
Owl Creek.....	State Route 78	13
	State Route 31	20
Hickey Creek.....	Bateman Rd	16
Powell Creek.....	State Route 78	12
	Valencia Dr.	12
Popash Creek.....	Footbridge	12
Billy Creek.....	Nuna Ave	7
Imperial River.....	Matheson Bridge	14
Estero River.....	U.S. Highway 41	15
	Sandy Lane	15
Daughtrey Creek..	Intersection of Williams Rd. and Old Bayshore Rd.	11
Stroud Creek.....	Footbridge	11
Gulf of Mexico.....	Intersection of State Highway 78 and State Highway 767.	11
	Intersection of State Highway 867 and Joida Blvd.	11
	Intersection of gladilus Dr. and Bass Rd.	12
	Intersection of State Highway 45 and Daniels Rd.	12
	Intersection of State Highway 865 and Lagoon St.	13
	Intersection of Bunch Beach Rd. and McGregor Blvd.	12
	Intersection of Seaboard Coastline RR and Highlands Ave.	15
	Intersection of Park Rd. and Island Rd.	14
	Intersection of Imperial St. and Carrell Ave.	14
	Intersection of 5th Street and Palm Ave.	10
	Intersection of Gulf Blvd. and Pilot St.	10
	Intersection of State Highway 767 and Charlotte Harbor Dr.	9
	Intersection of State Highway 767 and Bokeelia Rd.	10
	Intersection of State Highway 767 and Trout Rd.	11
	Intersection of State Highway 45 and State Highway 78.	11
	Intersection of State Highway 78 and State Highway 31.	11
	Intersection of State Highway 78 and Cemetery Rd.	12
	Intersection of State Highway 80 and Olga Rd.	11
	Intersection of State Highway 80 and Packing House Rd.	12
	Intersection of Captiva Rd. and Cocoanut St.	10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26630 Filed 9-21-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4539]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Melbourne Village, Brevard County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Melbourne Village, Brevard County, Fla. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 533 Hammock Road, Melbourne Village, Fla. 32901. Send comments to: Mayor Grace D. Walker, Town Hall, 533 Hammock Road, Melbourne Village, Fla. 32901

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Melbourne Village, Brevard County, Fla., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change

any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Crane Creek	Western corporate limits.	23
	Live Oak Ave (extended)	24
Channel A	Just downstream of Sheridan Rd.	23
	Northern corporate limits.	24
Channel B	Approximately 600 ft downstream of Live Oak Ave.	25
	Carissa Rd (extended)	26

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26631 Filed 9-21-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4541]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Pembroke Park, Broward County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Pembroke Park, Broward County, Fla. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Town Clerk, Town Hall, 3150 Southwest 52d Avenue, Pembroke Park, Fla. 33023. Send comments to: Mayor Phil Bryan or Mr. Gwitt Wagner, Town Administrator, Town Hall, 3150 Southwest 52d Avenue, Pembroke Park, Fla. 33023.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Pembroke Park, Broward County, Fla., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Desoto Lakes	Intersection of Hallandale Beach Blvd. and East Lake Shore Dr.	10
	Intersection of Southwest 48th Ave. and Hallandale Beach Blvd.	10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 13, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26632 Filed 9-21-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4542]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Rockledge, Brevard County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Rockledge, Brevard County, Fla. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at city hall, P.O. Box 488, Rockledge, Fla. 32955. Send comments to: Mayor John J. Oates, City Hall, P.O. Box 488, Rockledge, Fla. 32955.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Rockledge, Brevard County, Fla., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Slough C	Between Barton Ave. and north corporate limits.	20
Slough A	East of Murrell Rd	22
	South of Rovac Blvd	22
Slough B	Just west of intersection of Levitt Parkway and Murrell Rd.	23
Channel A	Just upstream of U.S. Highway 1.	16
	Just upstream of confluence of Slough A.	22
St. John's River	Intersection of Basque Dr. and Conquistador Dr.	20
Indian River	At Magruder Dr	5
	Just east of intersection of Rockledge Dr. and Bougainvillea Dr.	5

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26633 Filed 9-21-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4540]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Winter Park, Orange County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Winter Park, Orange County, Fla. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at city hall, 401 Park Avenue South, Winter Park, Fla. 32789. Send comments to: Mayor James A. Driver, City Hall, 401 Park Avenue South, Winter Park, Fla. 32789.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Winter Park, Orange County, Fla., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, feet, national geodetic vertical datum
Lake Osceola	Entire shoreline	68
Lake Maitland	do	68
Lake Virginia	do	68
Lake Berry	do	72
Lake Mizell	do	68
Lake Killarney	Western corporate limits.	85
Lake Corrine	Southern corporate limits.	95
Lake Spier	do	95
Lake Sylvan	Entire shoreline	75
Lake Knowles	do	80
Lake Wilbar	do	87
Lake Chelton	do	84
Lake Midget	At North Kentucky Ave.	92
Lake Sue	Just west of the intersection of Pawsett Rd. and Dana Way.	75
Stream A	Just upstream of Pennsylvania Ave.	74
	Just upstream of Stirling Ave.	71
Howell Creek	Just downstream of Temple Trail.	64

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26634 Filed 9-21-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4543]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Bannock County, Idaho

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Bannock County, Idaho. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Bannock County Courthouse, Pocatello, Idaho. Send comments to: Mr. Wayne Hall, Chairman, Bannock County Commissioners, Bannock County Courthouse, Pocatello, Idaho 83201.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Bannock County, Idaho, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Portneuf River	Cheyenne Street—100 ft*.	4,465
	Confluence with Mink Creek.	4,485
	Fort Hall Mine Rd.—100 ft*.	4,492
	Union Pacific RR. (downstream crossing)—50 ft*.	4,516
	I-15—centerline	4,530
	Confluence with Robbers Roost Creek.	4,646
	U.S. Highway 91—centerline.	4,720
	North St.—centerline	4,762
	Confluence with Dempsey Creek.	4,959
	U.S Highway 30 (upstream crossing)—centerline.	5,085
Pocatello Creek	Corporate Limits—downstream.	4,685
	Confluence with North Fork Pocatello Creek.	4,865
North Fork Pocatello Creek.	South Fork Pocatello Creek Rd.—30 ft*.	4,870
Gibson Jack Creek	Bannock Highway—access road—centerline.	4,541
Mink Creek	Bannock Highway—10 ft*.	4,523
Fort Hall Mine Creek.	Private road—centerline	4,640
Rapid Creek	Jackson Creek Rd.—centerline.	4,626
	Confluence with Shaw Creek.	4,718
	Rapid Creek Rd.—75 ft*.	4,920
	Confluence with North Fork Rapid Creek.	5,061
North Fork Rapid Creek.	Hoot Owl Rd.—25 ft*	5,064
	Rapid Creek Road (downstream crossing)—50 ft*.	5,178
	Rapid Creek Rd. (upstream crossing)—50 ft*.	5,386
West Fork Rapid Creek.	Confluence with North Fork Rapid Creek.	5,061
	Private road (upstream crossing)—10 ft*.	5,354
Marsh Creek	Confluence with Portneuf River.	4,527
	Confluence with Walker Creek.	4,563
	Merrell Rd.—25 ft*	4,598
	Goodenough Rd.—100 ft downstream of centerline.	4,613
	Goodenough Rd. 25 ft*	4,621
	Robin Rd.—centerline	4,622
Walker Creek	Marsh Creek Rd.—20 ft*	4,614
Bell Marsh Creek	Marsh Creek Rd.—20 ft*	4,628
Unnamed tributary to Marsh Creek.	Marsh Creek Rd.—10 ft*	4,675
Dry Canyon Creek	Marsh Creek Rd.—40 ft*	4,729
Goodenough Creek.	Confluence with Rowe Creek.	4,699
Cottonwood Creek	Marsh Creek Rd.—15 ft*	4,682
Birch Creek	Robin Rd.—10 ft*	4,634
	Marsh Creek Rd.—60 ft*	4,685
	Preslar Rd.—25 ft*	4,761
Ellis Creek	Preslar Rd.—centerline	4,742

*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26635 Filed 9-21-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4544]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Lava Hot Springs, Bannock County, Idaho

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Lava Hot Springs, Bannock County, Idaho. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Lava Hot Springs, Idaho. Send comments to: Honorable Mark Campbell, Mayor, City of Lava Hot Springs, P.O. Box 187, Lava Hot Springs, Idaho 83246.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line, (800) 424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Lava Hot Springs, Idaho, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, feet, national geodetic vertical datum
Portneuf River	Center St. 75 ft*	4994
	Main St.-30 ft*	5005
	U.S. Highway 30-centerline.	5085

*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 13, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26636 Filed 9-21-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4545]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Crest Hill, Will County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Crest Hill, Will County, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Crest Hill, Ill. Send comments to; The Honorable Frank Borio, Mayor, City of Crest Hill, 2101 Oakland Avenue, Joliet, Ill. 60435.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Crest Hill, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Des Plaines River	South corporate limit	545
	North corporate limit	548
Tributary A Des Plaines River.	Des Plaines River mouth.	
	1,200 ft. above mouth	566
	350 ft upstream of State Route 53.	575
	Just upstream of Elgin, Joliet and Eastern Ry.	581
	950 ft upstream of Elgin, Joliet and Eastern Ry.	582
	5,000 ft upstream of Elgin, Joliet and Eastern Ry.	590
Rock Run	South corporate limit	583
	620 ft downstream of U.S. Route 30.	584
	330 ft downstream of U.S. Route 30.	586
	300 ft downstream of U.S. Route 30.	590
	Just downstream of Weber Rd.	590
	1,130 ft upstream of Weber Rd.	591
	2,770 ft upstream of Weber Rd.	596
	Just downstream of pedestrian bridge near Willowbridge Rd.	617
	100 ft downstream of Willowbridge Rd.	625
	South corporate limit	626
Tributary A Rock Run.	Confluence with Rock Run.	591
	800 ft upstream of confluence with Rock Run.	591
	1,600 ft upstream of confluence with Rock Run.	599
	Just upstream of Weber Rd.	615
	South corporate limit	615

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26637 Filed 9-21-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4546]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Midlothian, Cook County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Midlothian, Cook County, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or

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remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Village Hall, Midlothian, Ill. Send comments to: Honorable Harry Raday, Mayor of Midlothian, 14801 South Pulaski Street, Midlothian, Ill. 60445.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of Midlothian, Cook County, Ill., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Midlothian Creek..	Upstream corporate limits.	628
	Crawford Ave. and 149th St. (upstream).	620
	147th St. (upstream).....	615
	Downstream corporate limits.	608
Natalie Creek.....	Upstream corporate limits.	634
	149th St. (upstream).....	633
	Kilpatrick Ave. (upstream).	632
	147th St. (upstream).....	627
	Kostner Ave. (upstream)	622
	Keeler Ave. (upstream)..	619

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26638 Filed 9-21-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4547]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Willow Springs, Cook County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Willow Springs, Cook County, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Willow Springs Village Hall, 8480 Archer Avenue, Willow Springs, Ill. 60480. Send comments to: Honorable Richard J. Dombrowski, Mayor of Willow Springs, 8480 Archer Avenue, Willow Springs, Ill. 60480.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of Willow Springs, Cook County, Ill. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Des Plaines river...	Downstream corporate limits at Will County and village of Willow Springs.	596
	Willow Springs Rd	597
	Tri-State Tollway.....	597
	U.S. Routes 12, 20, 45	598
	Upstream corporate limits at Willow Springs and Hodgkins.	598
Flag Creek.....	Downstream corporate limit at Cook County and Willow Springs.	610
	German Church Rd.....	618
	Corporate limit 650 ft upstream of German Church Rd.	619
	Corporate limit 1,050 ft upstream of German Church Rd.	620
	Corporate limit 1,200 ft upstream of German Church Rd.	621
Tributary to Illinois and Michigan Canal.	Confluence with Illinois and Michigan Canal.	584
	Illinois Central Gulf RR	587
	Archer Ave.....	615

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Upstream corporate limits of Willow Springs and Cook County.	620

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26639 Filed 9-21-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4548]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Elkhart, Elkhart County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Elkhart, Elkhart County, Ind. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal Building, 229 South Second Street, Elkhart, Ind. 46514. Send comments to: Mayor Peter Sarantos or Mr. Mitch Seever, City Planner, Municipal Building, 229 South Second Street, Elkhart, Ind. 46514.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Elkhart, Elkhart County, Ind., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
St. Joseph River....	Just upstream Napanee St.	722
	Just upstream Sherman St.	728
	Marguerite Ave. (extended).	745
Elkhart River	Approximately 300 ft upstream Prairie St. bridge.	735
	Just upstream Middlebury St. bridge.	740
Christiana Creek...	Approximately 250 ft upstream Cassopolis St.	737
	Just upstream Bristol St	751
Peterbaugh Creek.	Approximately 100 ft upstream Greenleaf Blvd. bridge.	746
	Just downstream Sellers Ct bridge.	750
	Just upstream Sellers Ct bridge.	753
Yellow River.....	Just downstream southern corporate limits.	749

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26640 Filed 9-21-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4549]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Goshen, Elkhart County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Goshen, Elkhart County, Ind. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Goshen City Hall, 11 East Jefferson, Goshen, Ind. 46526. Send comments to: Honorable Steven Chisak, Mayor of Goshen, 11 East Jefferson, Goshen, Ind. 46526.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Goshen, Elkhart County, Ind., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 2001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures re-

quired by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Elkhart River	Downstream corporate limits.	772
	Upstream confluence of Rock Run.	780
	Upstream Shawklin Park Bridge.	783
	Downstream Goshen Dam.	787
	Upstream Goshen Dam	796
	Upstream corporate limits.	798
Rock Run Creek	Upstream Wilden Ave	785
	Upstream 5th St	789
	Upstream Cottage Ave	793
	Upstream Monroe St	798
	Upstream corporate limits.	800

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26641 Filed 9-21-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4550]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Parsons, Labette County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Parsons, Labette County, Kans. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Engineer's Office, Municipal Building, Parsons, Kans. Send comments to: Mr. Dick Williams, City Manager, City of Parsons, Municipal Building, Parsons, Kans. 67357.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Parsons, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Labette Creek	0.5 mi downstream of Southern Ave.	867
	Just downstream of St. Louis-San Francisco Ry.	869
	Just downstream of Marvel Park Rd.	872
	Just upstream of Main St.	873
	Just upstream of 10th St.	876
	Just upstream of 16th St.	880
	Just upstream of 21st St..	887
Railroad Drain	Just upstream of confluence with Labette Creek.	880
	Just upstream of Lincoln St.	881
	Just upstream of 21st St..	882
	Just upstream of 22d St.	885
	500 ft upstream of 22d St.	889
Oakwood Creek	Just upstream of confluence with Labette Creek.	871
	Just upstream of Leawood Rd.	874
	Just upstream of Main St.	892
	Just upstream of county road.	893
Little Labette Creek.	Just upstream of Missouri-Kansas-Texas RR.	868
	Just upstream of 16th St.	872
	Just downstream of Missouri-Kansas-Texas RR.	874
	Just upstream of 21st St..	878
	Just upstream of 32d St.	879
	Just downstream of southwest corporate limits.	881
37th St. drain	West corporate limit	886
	Just upstream of Main St.	889
Glenwood Creek	Just upstream of confluence with Little Labette Creek.	874
	Just upstream of Southern Ave.	877
	Just upstream of 24th St.	878

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26642 Filed 9-21-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4551]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Frostburg, Allegany County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Frostburg, Allegany County, Md. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Frostburg Municipal Building, 37 Broadway Street, Frostburg, Md. 21532. Send comments to: Honorable David M. Linn, Mayor of Frostburg, Frostburg Municipal Building, 37 Broadway Street, Frostburg, Md. 21532.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Frostburg, Allegany County, Md., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
George's Creek	70 ft downstream of corporate limits.	1,884
	Downstream of Grant St.	1,886
	Green St.	1,890
	Upstream corporate limits.	1,896
	600 ft upstream of corporate limits.	1,900
Sand Spring Run	350 ft downstream of Braddock Rd.	1,869
	Braddock Rd. (upstream side).	1,878
	Footbridge (upstream side).	1,887
	450 ft upstream of footbridge.	1,895
	Campus Loop Rd. (downstream side of culvert).	1,902
	Campus Loop Rd. (upstream side of culvert).	1,910
	300 ft upstream of Campus Loop Rd.	1,921
	850 ft upstream of Campus Loop Rd.	1,932
	1,100 ft upstream of Campus Loop Rd.	1,939
	Lower Console Rd. (upstream side).	1,953
	300 ft upstream of Lower Console Rd.	1,959
	635 ft upstream of Lower Console Rd.	1,969
	935 ft upstream of Lower Console Rd.	1,980
	Upper Console Rd. (downstream side).	2,001
	Upper Console Rd. (upstream side).	2,007
	420 ft upstream of Upper Console Rd.	2,013
	630 ft upstream of Upper Console Rd.	2,021
	880 ft upstream of Upper Console Rd.	2,033
	1,180 ft upstream of Upper Console Rd.	2,045
	1,440 ft upstream of Upper Console Rd.	2,055
	1,700 ft upstream of Upper Console Rd.	2,072
	Private drive (upstream side).	2,072
	300 ft upstream of private drive.	2,080
	600 ft upstream of private drive.	2,090
	Wenks Lane (downstream side).	2,104
	Wenks Lane (upstream side).	2,108
	Footbridge (upstream side).	2,114
	110 ft upstream of footbridge.	2,120

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26643 Filed 9-21-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4552]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Loch Lynn Heights, Garrett County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Loch Lynn Heights, Garrett County, Md. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Loch Lynn Heights Town Hall, Loch Lynn Heights, Md. Send comments to: Honorable Charles H. Tressler, Mayor of Loch Lynn Heights, 1610 Route 135, Mountain Lake Park, Md. 21550.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Loch Lynn Heights, Garrett County, Md., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Youghiogheny River.	Upstream corporate limits.	2,392
	Downstream corporate limits.	2,391

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26644 Filed 9-21-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4553]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Luke, Allegany County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Luke, Allegany County, Md. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Council Chambers, Luke City Hall, Luke, Md. 21540. Send comments to: Hon. James T. Warnick, Mayor of Luke, Grant Street, Box 7, Luke, Md. 21540.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Luke, Allegany County, Md., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Branch Potomac River.	Downstream corporate limits.	930
	.....	
	(Old) Cromwell St.....	
	931.....	
	West Vaco conveyor.....	946
	West Maryland railroad sliding.	952
	West Vaco Dam	953
	Upstream corporate limits.	969

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26645 Filed 9-21-78; 8:45 am]

[1505-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Treatment of Losses From Certain Guarantee Agreements

Correction

In FR Doc. 78-25973, appearing at page 41237 in the issue of Friday, September 15, 1978, the third line of the "Dates" paragraph should read, "[de-]livered by November 14, 1978. The amend-[ments]".

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 761]

[FRL 971-8]

POLYCHLORINATED BIPHENYLS (PCB'S)

Manufacturing, Processing, Distribution in Commerce, and Use Bans

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: As a result of granting two requests for cross-examination of a participant in the informal hearing to be held on September 26, 1978 on the PCB ban rule, EPA is extending the period for reply comments.

DATE: Reply comments due on October 10, 1978.

ADDRESS: Send reply comments to: Office of Toxic Substances (TS-794), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, Attention: Joni T. Repasch.

FOR FURTHER INFORMATION CONTACT:

Peter P. Principe, Office of Toxic Substances (TS-794), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone 202-755-0920.

SUPPLEMENTARY INFORMATION: EPA has granted two requests for cross-examination of a participant in the informal hearing on the proposed PCB ban rule (43 FR 24802). These requests were made by the Edison Electric Institute and the Electronic Industries Association. Both organizations requested permission to cross-examine Versar, Inc., which produced the report "Microeconomic Impacts of the Proposed 'PCB Ban Regulations'" under contract to EPA. The cross-examination will be held on September 26, 1978, beginning at 1 p.m. in room 3906, at EPA Headquarters, 401 M Street SW., Washington, D.C.

As a result of these requests for cross-examination and pursuant to section 750.4(b) of the procedures for rulemaking under section 6 of the Toxic Substances Control Act (42 FR 61259, Dec. 2, 1977), reply comments will now be due October 10, 1978, 2 weeks after the completion of cross-examination. Any person, including those who may already have filed reply comments, may submit reply comments, or further reply comments, by October 10, 1978.

Dated: September 18, 1978.

JOHN P. DEKANY,
Acting Assistant Administrator for Toxic Substances.

[FR Doc. 78-26698 Filed 9-21-78; 8:45 am]

[6820-38]

GENERAL SERVICES ADMINISTRATION

[41 CFR Part 105-64]

REGULATIONS IMPLEMENTING THE PRIVACY ACT OF 1974

Exemption of Records System

AGENCY: General Services Administration.

ACTION: Proposed rule.

SUMMARY: The General Services Administration proposes to amend 41 CFR Part 105-64 to exempt criminal investigation case files in the system of records GSA/ADM-24, Investigation and Personnel Security Case Files, from the provisions of the Privacy Act with certain exceptions, and to make other editorial changes. These changes are necessary to maintain the efficiency and integrity of investigations conducted by GSA.

DATE: Comments must be received by October 23, 1978.

ADDRESSES: Address comments to: General Services Administration (LR), Washington, D.C. 20405. Copies of all written comments received will be available for examination by interested persons in room 3101 of the GS building, 18th and F Streets NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Ms. Rebecca Thompson, Administration and Records Division, Office of General Counsel, 202-566-1460.

SUPPLEMENTARY INFORMATION: In the 1977 annual publication of systems of records GSA/ADM-24, Investigation and Personnel Security Case Files, was revised to cover the complete civil, criminal, and administrative actions being performed by the Office of Investigations. Some of these activities were previously performed by the Federal Protective Service and were included as part of the system of records GSA/PBS-3, Incident Reporting System. A general exemption for criminal investigation case files in the system of records GSA/PBS-3 was contained in 41 CFR 105-64.601. The system of records notice for GSA/PBS-3 also cited the general exemption when the system of records GSA/ADM-24 was revised to cover these criminal investigation case files, a corresponding revision to 41 CFR 105-64.601 inadvertantly was not made. This proposed amendment will correct the omission. In addition to the proposed correction to § 105-64.601, GSA proposes to amend the following sections:

a. In the second sentence of § 105-64.302-3, "any other requester" will be changed to "any requester" to clarify the intent of waiving the fee requirement.

b. Sections 105-64.501 and 105-64.502 will be revised to delete the requirement for submission of GSA Form 3284, System of Records Covered by the Privacy Act of 1974, because this form is obsolete.

c. Subsection 105-64.602-2 will be deleted. This subsection pertains to specific exemptions for the system of records GSA/OAD-20, Test Material. This system of records is being deleted from the GSA systems of records notices because the system of records is covered by and duplicative of a U.S. Civil Service Commission system of records.

It is proposed to amend Part 105-64 as follows:

PART 105-64—REGULATION IMPLEMENTING THE PRIVACY ACT OF 1974

The table of contents for Part 105-64 is amended by deleting two entries as follows:

Sec.
105-64.602-1 [Deleted.]
105-64.602-2 [Deleted.]

Subpart 105-64.3—Individual Access to Records

Section 105-64.302-3 is revised to read as follows:

§ 105-64.302-3 Waiver of fee.

The system manager shall make one copy of a record, up to 50 pages, available without charge to a requester who is an employee of GSA. The system manager may waive the fee requirement for any requester if the cost of collecting the fee is an unduly large part of, or greater than, the fee, or when furnishing the record without charge conforms to generally established business custom or is in the public interest.

Subpart 105-64.5—Report on New Systems and Alter of Existing Systems

1. Section 105-64.501 is revised to read as follows:

§ 105-64.501 Reporting requirement.

(a) No later than 90 calendar days prior to the establishment of a new system of records, the prospective system manager shall notify the Controller-Director of Administration of the proposed new system. The prospective system manager shall include with the notification a complete description and a justification for each system of records that the system manager proposes to establish. If the Controller-Director of Administration determines that the establishment of the proposed system is in the best interest of the Government, the Controller-Director of Administration will submit, no later than 60 calendar days prior to the establishment of that system of records, a report of the proposal to the President of the Senate, the Speaker of the House of Representatives, and the Director of the Office of Management and Budget for their evaluation of the probable or potential effect of that proposal on the privacy and other personal or property rights of individuals.

(b) No later than 90 calendar days prior to the alteration of a system of records, the system manager responsible for the maintenance of that system of records shall notify the Controller-Director of Administration of

the proposed alteration. The system manager shall include with the notification a complete description and a justification for each system of records that the system manager proposes to alter. If the Controller-Director of Management and Budget determines that the proposed alteration is in the best interest of the Government, the Controller-Director of Administration shall submit, no later than 60 calendar days prior to the establishment of that alteration, a report of the proposal to the President of the Senate, the Speaker of the House of Representatives, and the Director of the Office of Management and Budget for their evaluation of the probable or potential effect of that proposal on that privacy and other personal or property rights of individuals.

(c) The reports required by this regulation are exempt from reports control.

2. Section 105-64.502 is revised to read as follows:

§ 105-64.502 Federal Register notice of establishment of new system or alteration of existing system.

The Controller-Director of Administration shall publish in the FEDERAL REGISTER a notice of the proposed establishment or alteration of a system of records when:

(a) The Controller-Director of Administration receives notice that the Senate, the House or Representatives, and the Office of Management and Budget do not object to the establishment of a new system of records or to the alteration of an existing system of records, or

(b) No fewer than 30 calendar days elapse from the date of submission of the proposal to the Senate, the House of Representatives, and the Office of Management and Budget without receipt by the Controller-Director of Administration of an objection to the proposal.

Subpart 105-64.6—Exemptions

1. Section 105-64.601 is revised to read as follows:

§ 105-64.601 General exemptions.

The following systems of records shall be exempt from all provisions of the Privacy Act of 1974 with the exception of subsections (b); (c) (1) and (2); (e)(4) (A) through (F); (e) (6), (7), (9), (10), and (11); and (i) of the act:

(a) Incident Reporting System GSA/PBS-3.

(b) Investigation and Personnel Security Case Files GSA/ADM-24.

The system of records GSA/PBS-3 and the criminal investigation case files of the system of records GSA/ADM-24 are exempt to the extent that information in the system pertains to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals; to the activities of prosecutors, courts, and correctional, probation, pardon, or parole authorities; and to (1) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (2) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, that is associated with an identifiable individual; or (3) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws, from arrest or indictment through release from supervision. These systems are exempted to maintain the efficacy and integrity of the Federal Protective Service and the GSA Office of Investigations law enforcement function.

2. Section 105-64/602-1 is deleted and made part of § 105-64.602. As revised, § 105-64.602 reads as follows:

§ 105-64.602 Specific exemptions.

The following systems of records shall be exempt from subsections (c)(3); (d); (e)(1); (e)(4) (G), (H), and (I); and (f) of the Privacy Act of 1974:

(a) Incident Reporting System GSA/PBS-3.

(b) Investigation and Personnel Security Case Files GSA/ADM-24.

The systems are exempt (1) to the extent that the systems consist of investigatory material compiled for law enforcement purposes; however, if any individual is denied any right, privilege, or benefit to which the individual would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnish information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence and (2) to the extent the systems consist of investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence. The systems have been exempted to maintain the efficacy and integrity of lawful investigations conducted pursuant to the GSA Federal Productive Service and Office of Investigations law enforcement responsibilities and responsibilities in the areas of Federal employment, Government contracts, and access to security classified information.

§ 105-64.602-1 [Deleted]

§ 105-64.602-2 [Deleted]

3. Sections 105-64.602-1 and 105-64.602-1 are deleted.

(Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c); 88 Stat. 1897; 5 U.S.C. 552a.)

Dated: September 6, 1978.

ALLIE B. LATIMER,
General Counsel.

[FR Doc. 78-26665 Filed 9-21-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 33237]

CALIFORNIA-ARIZONA LOW FARE ROUTE PROCEEDING

Postponement of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-entitled proceeding previously noticed to be held on October 31, 1978 (43 FR 41419, September 18, 1978) is postponed to November 7, 1978. The only change is in the date of the prehearing conference which will be held at 10 a.m. in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C.

Parties and interested persons are directed to the previous notice for detailed procedural information.

Dated at Washington, D.C., September 18, 1978.

FRANK M. WHITING,
Administrative Law Judge.

[FR Doc. 78-26689 Filed 9-21-78; 8:45 am]

[6320-01]

[Docket 31976]

CALIFORNIA-FLORIDA LOW FARE CASE

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on October 31, 1978, at 10 a.m., local time, in room 1003, Hearing Room B, 1875 Connecticut Avenue NW., Washington, D.C. 20428.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on March 23, 1978, and other documents which are in the docket of this proceeding on file in the docket section of the Civil Aeronautics Board.

Dated at Washington, D.C., September 14, 1978.

ALEXANDER N. ARGERAKIS,
Administrative Law Judge.

[FR Doc. 78-26566 Filed 9-21-78; 8:45 am]

[6320-01]

[Docket 33019]

CHICAGO-MIDWAY EXPANDED SERVICE PROCEEDING

Postponement of Prehearing Conference

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the prehearing conference in this proceeding, now scheduled to be held September 26, 1978 (43 FR 34513, Aug. 4, 1978), is hereby postponed until further notice.

Dated at Washington, D.C., September 15, 1978.

RONNIE A. YODER,
Administrative Law Judge.

[FR Doc. 78-26568 Filed 9-21-78; 8:45 am]

[6320-01]

[Docket 33091]

FLORIDA SERVICE CASE

Further Postponement of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-entitled matter now assigned to be held on October 4, 1978 (43 FR 36499, Aug. 17, 1978; 43 FR 40254, Sept. 11, 1978), is hereby further postponed to October 11, 1978, at 10 a.m., local time, in Room 1003, Hearing Room A, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., September 15, 1978.

WILLIAM H. DAPPER,
Administrative Law Judge.

[FR Doc. 78-26569 Filed 9-21-78; 8:45 am]

[6320-01]

[Docket 32126]

TWIN CITIES-KANSAS CITY-OKLAHOMA-TEXAS ROUTE PROCEEDING

Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding, which was assigned to be held on October 3, 1978 (43 FR 35090, Aug. 8, 1978), is postponed to October 10, 1978, at 10 a.m., local time, and will be held in Room 1003, Hearing Room D, Universal Building, 1875 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., September 18, 1978.

ALEXANDER N. ARGERAKIS,
Administrative Law Judge.

[FR Doc. 78-26567 Filed 9-21-78; 8:45 am]

[6335-01]

COMMISSION ON CIVIL RIGHTS

ILLINOIS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 10 a.m. on October 16, 1978, 230 South Dearborn Street, Room 3280, Chicago, Ill. 60604.

Persons wishing to attend this open meeting should contact the Committee chairperson, or the midwestern regional office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Ill. 60604.

The purpose of this meeting is to report on the Decatur education workshop; discussion and nominations for new membership; discussion and preplanning for the employment status of minority women in the Federal Government proposed project; and update on the Chicago school desegregation plan.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., September 19, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-26647 Filed 9-21-78; 8:45 am]

[6325-01]

CIVIL SERVICE COMMISSION

ESTABLISHMENT OF NEW REQUIREMENTS FOR PROMOTION AND INTERNAL PLACEMENT

Comments Solicited

AGENCY: Civil Service Commission.

SUMMARY: Notice is given that the Civil Service Commission is soliciting

comments from interested parties on the revised text of a new Federal Personnel Manual Chapter 335: Promotion and Internal Placement. The new chapter is designed to reduce Commission requirements to the minimum needed to assure fair and systematic consideration for promotion, while broadening agency flexibility to develop and negotiate their own procedures where governmentwide uniformity is not essential.

BACKGROUND: Since 1973 agencies have had the option of operating their promotion programs under 10 basic requirements in subchapter 2 of the present chapter or under the more detailed instructions in the chapter as a whole. In the new chapter, outlined below, agencies will be subject to a single set of five requirements, and extensive guidance now contained in four existing subchapters will be dropped. The five requirements are modeled after the five requirements recommended by the personnel management project task force.

Aside from the five requirements, the chapter will contain an introductory section on the objectives of the program and its coverage, a special supplement on evaluation procedures which references the recently issued Uniform Guidelines on Employee Selection Procedures, and an appendix listing generally regulatory provisions.

DATE: Comments must be received by October 23, 1978. (Executive Order 12044 of March 23, 1978, requires that the public be allowed 60 days in which to comment on FEDERAL REGISTER notices involving proposed and final rulemaking. Since this notice involves neither of these, the 60-day period does not apply.)

ADDRESS: Submit comments to: Office of Staffing Policies, Room 6525, Bureau of Recruiting and Examining, United States Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Morton I. Horvitz, 202-632-6817.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

FEDERAL PERSONNEL MANUAL

Chapter 335

PROMOTION AND INTERNAL PLACEMENT

This chapter covers subjects relating to the assignment of an employee within the same agency, particularly selection for such assignment. The instructions in this chapter are augmented by Appendix A, General Regulatory Provisions and Corrective Action Procedures, and FPM Supplement 335-1, Evaluation of Employees for Promotion, together with two appendices to this Supplement.

CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

1-1. Introduction.
1-2. Definitions.
1-3. Goals of a merit promotion program.
1-4. Merit promotion requirements.
1-5. Merit promotion plans.
1-6. Covered and excepted personnel actions.
1-7. Grievances.

For related information on	*See*
Text of pertinent laws, rules, and regulations.	Supplement 990-1.
Processing promotions, demotions, and reassignments.	Supplement 296-31.
Evaluating employees, including use of written tests.	Supplement 335-1.
Age limits	Chapter 338.
Details	Chapter 300.
Equal employment opportunity.	Chapter 713.
Evaluation of education and experience.	Chapter 337.
Examinations	Chapter 337.
Executive development agreements.	Chapter 412.
Executive staffing	Chapter 305.
Grievance procedures	Chapter 771.
Obligated positions	Chapter 300.
Physical standards	Chapter 339.
Qualification standards	Chapter 338.
Restriction of positions to preference eligibles.	Chapter 330.
Suitability	Chapter 731.
Supervisory training	Chapter 410.
Time-after-competitive-appointment restriction.	Chapter 330.
Time-in-grade restriction	Chapter 300.
Training agreements	Chapter 271.
Written tests	Chapter 338.

1-1. INTRODUCTION

Section 335.103 of part 335 of the Commission's regulations requires each agency to adopt and administer a "program designed to insure systematic means of selection for promotion according to merit." The Federal merit promotion policy outlined in this chapter provides the means for insuring that agencies meet this requirement.

This chapter contains basic requirements for developing and administering a merit promotion program. It is designed to allow management the flexibility to negotiate with labor organizations under the provisions of the Federal labor-management program, and to enable agencies to devise and operate staffing procedures that are responsive to their needs.

1-2. DEFINITIONS

A. A position change is a promotion, demotion, or reassignment made during an employee's continuous service within the same agency. A position change by any of these methods may also involve a change of official headquarters or post of duty within the agency. (General regulatory provisions are contained in app. A.)

B. A promotion is the change of an employee to a position at a higher grade level within the same job classification system and pay schedule or to a position with a higher rate of basic pay in a different job classification system and pay schedule.

C. Demotion is the change of an employee to a lower grade when both the old and the new positions are under the general schedule, or under the same type graded wage schedule, or to a position with a lower rate of pay when both the old and new positions are under the same type ungraded wage schedule or in different pay-method categories.

D. Reassignment is the change of an employee from one position to another, without promotion or demotion.

E. The area of consideration is the area in which the agency makes an intensive search for eligible candidates in a specific promotion action. The minimum area of consideration is the area designated by the promotion plan in which the agency should reasonably expect to locate enough highly qualified candidates to fill vacancies in the position covered by the plan. (When the minimum area of consideration produces enough highly qualified candidates and the agency therefore does not make an intensive search in a broader area, the minimum area of consideration and the area of consideration are the same.)

F. Qualified candidates are those who meet or exceed the Commission's qualification standard for the position, with proper consideration for a given plan's procedural requirements.

(2) Best qualified candidates are measured against other candidates. They are qualified candidates who rank at the top when compared with other eligible candidates for a position. A reasonable number of the best qualified candidates are referred for selection.

(3) Selective factors are knowledge, skills, or abilities that are essential for satisfactory performance on the job and represent an addition to the basic standard for a position. The following are examples of appropriate selective factors for determining eligibility when the factors are essential for successful job performance.

(a) Ability to speak, read, and/or write a language other than English.

(b) Knowledge and abilities pertaining to a certain program or mission, when these cannot readily be acquired after promotion.

(c) Ability in a functional area (for example, ability to evaluate alternative ADP systems).

1-3. GOALS OF A MERIT PROMOTION PROGRAM

Agency programs must be developed with following goals in mind:

a. To provide a method by which agencies may meet their internal staffing needs.

b. To enhance organizational effectiveness by assuring that internal competitive actions are made by selection from among the available candidates who are most capable of performing the duties of the positions to be filled.

c. To give employees an opportunity to receive fair and appropriate consideration for advancement and developmental opportunities.

d. To provide incentive for employees to improve their performance and develop their knowledge, skills, and abilities.

e. To provide a proper balance between maximum utilization of an agency's employees and the infusion of new talent.

f. To assure that promotions are made only when there is an actual need for performance of higher level duties and only when an employee has the ability to perform at a higher level.

g. To foster employee understanding of and confidence in the agency's employee utilization policies.

1-4. MERIT PROMOTION REQUIREMENTS

REQUIREMENT 1

Each agency will establish procedures for promoting employees which are based on merit and are available in writing to candidates. Agencies must list appropriate exceptions, including those required by law or regulation (see 1-6).

REQUIREMENT 2

The scope and nature of competition will include areas of consideration sufficiently broad to insure the availability of high quality candidates. The area of consideration must take into account the nature and level of the positions covered. Agencies must also insure that employees absent on detail, on leave at training courses, in the military service, for service in public international organizations or on Intergovernmental Personnel Act Assignments receive appropriate consideration for promotion.

REQUIREMENT 3

To be eligible for promotion or placement, candidates must meet the minimum qualification standards prescribed by the Commission. Methods of evaluation for promotion and placement, and selection for training which leads to promotion, must be consistent with instructions in FPM supplement 335-1. Due weight shall be given to performance appraisals and incentive awards.

REQUIREMENT 4

Selection methods will provide for management's right to select or not select from among a group of best qualified candidates. They will also provide for management's right to select from other appropriate sources, such as reemployment priority lists, reinstatement or transfer eligibles, eligibles for handicapped or veterans readjustment appointments or those within reach on an appropriate Commission certificate. In deciding which source to use; agencies have an obligation to determine which is most likely to best meet the agency mission objectives, contribute fresh ideas and new viewpoints and meet the agency's affirmative action goals.

REQUIREMENT 5

Administration of the promotion system will include recordkeeping and the provision of necessary information to employees and the public, insuring that individuals' rights to privacy are protected. Each agency must maintain a temporary record of each promotion sufficient to allow reconstruction of the promotion action, including documentation on how candidates were rated and ranked. These records may be destroyed after 1 year or after the program has been formally evaluated by the Commission (whichever comes first) if the time limit for grievance has lapsed before the anniversary date.

1-5 MERIT PROMOTION PLANS

a. Responsibility for promotion plans. The agency headquarters is responsible for insuring that:

(1) There is a merit promotion plan covering all positions to which promotion is made;

(2) The agency's merit promotion plans operate compatibly with each other; and

(3) The Commission's requirements are met.

b. Coverage of merit promotion plans. (1) A merit promotion plan establishes the procedures and practices for filling specified types of positions. The number of plans will be determined by such factors as position groupings and location.

(2) A plan must be appropriate for all the positions covered. It may be necessary, for example, to develop a specific plan for coverage of positions at GS-16, GS-17, and GS-18, under the Executive Assignment System (ch. 305 and FPM supp. 305-1).

1-6 COVERED PERSONNEL ACTIONS

The competitive procedures of the plans developed under the merit promotion program of an agency apply to all promotions made under § 335.102 of the civil service regulations and to the following actions:

(1) Temporary promotions. Competitive inservice procedures must be used for temporary promotions over 120 days in higher graded positions (prior service under all details to higher graded positions or temporary promotions included whether competitive or noncompetitive during the preceding 12 months).

(i) Conditions for making temporary promotions:

(A) Temporary promotions must be for a definite period of 1 year or less, but may be extended for a definite period not to exceed 1 additional year (sec. 335.102(f)).

(B) The Commission may authorize a temporary promotion for a longer period than 2 years when it finds the needs of the service require it. Requests for prior approval must be sent to the Commission's Bureau of Recruiting and Examining.

(C) Adverse action procedures apply to the return of an employee to his or her regular position after a temporary promotion lasting more than 2 years (sec. 752.103(b)(5)).

(D) A temporary promotion may be made permanent without further competition provided the temporary promotion was originally made under competitive procedures and the fact that it might lead to a permanent promotion was made known to all potential candidates.

(E) A temporary promotion may not be used as a means of training or evaluating an employee in a higher grade position.

(2) Selections for details for more than 60 days to a higher grade position or to a position of known promotion potential (ch. 300, subch. 8).

(3) Selections for training which is given primarily to prepare employees for advancement and is required for promotion (that is, an employee is not eligible for promotion unless he or she has completed training).

(4) Reassignment or demotion to a position with more promotion potential than the position last held (except as permitted by reduction-in-force regulations).

(5) Transfers to a higher grade position.

(6) Reinstatement to a permanent or temporary position at a higher grade than the last grade held in a nontemporary position in the competitive service.

Competitive procedures do not apply to:

(1) A promotion resulting from the upgrading of a position without significant change in the duties and responsibilities due to issuance of a new classification standard or the correction of an initial classification error.

(2) A position change permitted by reduction-in-force regulations (see ch. 351).

Agencies may at their discretion except other actions from their plans. These include, but are not limited to:

(1) The two types of career promotions:

(i) Promotions without current competition when at an earlier stage an employee was selected from a civil service register or under competitive promotion procedures for an assignment intended to prepare the employee for the position being filled (the intent must be made a matter of record and career ladders must be documented in the promotion plan); or

(ii) Promotions resulting from an employee's position being reclassified at a higher grade because of additional duties and responsibilities.

(2) Career ladder promotions following noncompetitive conversion of cooperative education students in accordance with the requirements of FPM chapter 308.

(3) Position changes from a position having known promotion potential to a position having no higher potential.

(4) A temporary promotion of 120 days or less.

(5) Selection of candidates from Reemployment Priority Lists for positions at a higher grade than the one last held in the competitive service.

(6) Repromotion to a grade or position from which an employee was demoted without personal cause and not at his or her request.

(7) Consideration of candidates not given proper consideration in a competitive promotion action.

1-7 GRIEVANCES

Employees have the right to file a complaint relating to a promotion action. Such complaints shall be resolved under agency grievance procedures or negotiated grievance procedures as appropriate except when a complaint is covered by a statutory appeals procedures such as the discrimination complaint process under part 713 of the Commission's regulations. The standards for adjudicating complaints are set forth in part 300 of the Commission's regulations. While the procedures used by an agency to identify and rank qualified candidates are proper subjects for formal complaints or grievances, nonselection from among a group of properly ranked and certified candidates is not an appropriate basis for a formal complaint or grievance. There is no right of appeal to the Commission, but the Commission may conduct investigations of substantial violations of Commission requirements.

APPENDIX A.—*Basic FPM Chapter 335* (GENERAL REGULATORY PROVISIONS)

A-1 *Authority to make position changes.*

a. Delegations of authority.

1. Career and career-conditional employees may be promoted, demoted, reassigned, or transferred.

2. Overseas limited employees serving under appointments of indefinite duration or under overseas limited term appointments may be promoted, demoted, or reassigned to any other position to which an initial appointment of the same type is authorized by chapter 301.

3. Indefinite and status quo employees may be promoted, demoted, or reassigned if they meet legal and qualification requirements. This authority does not apply to a position an agency is authorized to fill by overseas limited appointment.

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4. Term employees may be promoted, demoted, or reassigned to another position covered by the same term appointment authorization.

5. An employee on TAPER (temporary appointment pending establishment of a register) may be reassigned to any position to which his or her original appointment could have been made by the same appointing officer from the same recruiting list under the same order of consideration.

6. VRA appointees may be promoted, demoted, reassigned, or transferred in accordance with provisions prescribed in FPM chapter 307.

b. Limitations on delegation of authority.

1. Merit requirements. Although position changes are not subject to the policies governing appointments from civil service registers or temporary appointments outside of registers, they must be made with regard to applicable requirements of the merit system. Except as shown under (2) of this section the employee selected must meet the Commission qualification standards as well as legal requirements for the position (see FPM chapter 338) and the action must meet the requirements in subchapter 2 and any additional procedural requirement set forth in the agency's merit promotion program.

2. Prior approval of exceptions from standards and requirements. The authority of agencies to make position changes is subject to the requirement that prior approval of the Commission be secured for any action which would require an exception from the applicable standards and requirements in chapter 338. (The procedures for securing such approval are in FPM supplement 296-31.)

3. Prior approval of changes to positions in grades GS-16, -17, and -18. Prior approval is required for the position change to a position subject to the executive assignment system (see chapter 305) and to any other position in grades GS-16, -17, or -18 (see FPM supplement 296-31).

a. General. The tenure of an employee is not changed by promotion, demotion, or assignment except that:

1. The tenure of a status quo employee is changed as provided in chapter 316.

2. The tenure of a career employee is temporarily affected by change to an obligated position as provided in chapter 300.

b. Condition "subject to investigation." A position change of an employee does not change a "subject to investigation" condition on his or her appointment.

c. Probationary period. The promotion, demotion, or reassignment of a career or career-conditional employee before he or she has completed probation is subject to completion of the probationary period in the new position. No new probation is required if one is completed before the action (see chapter 315-8).

A-3 *Implementing a position change.*

Effective date: The effective date of a position change generally is determined by the agency. A position change cannot be made effective, however, before:

a. The position has been classified, if under the General Schedule (see chapter 511) or if the position has been graded under the Coordinated Federal Wage System;

b. The employee has met legal and qualification requirements; and

c. Applicable advance-notice requirements have been met if the position change involves reduction in rank or pay (see FPM chapters 751 and 752).

A-4 *Corrective actions.*

a. General. (1) Alternative actions. Failure to adhere strictly to laws, Commission regulations and instructions, agency policies and guidelines, and agency promotion plans is to be rectified promptly by the Commission or the agency involved. Action to rectify violation may involve the employee who was erroneously promoted, the employee or employees who were not promoted or considered because of the violation, or the officials who caused or sanctioned the violation. It also may involve correction of program deficiencies. The nature and extent of actions to be taken in any case have to be determined on the basis of all the facts in the case, with due regard to the circumstances surrounding the violation, to the equitable and legal rights of the parties concerned, and to the interests of the Government. Generally, any or all of the actions described below in paragraphs b, c, and d that are appropriate should be taken.

(2) Types of promotion violations.

(a) Procedural. A procedural violation occurs when a promotion action does not conform to the requirements of the applicable promotion plan. It may include, for example:

(i) Failure to consider an employee entitled to consideration;

(ii) Selection of an employee not in the best qualified group; or

(iii) Failure to give the required weight to an evaluation factor prescribed by the plan.

(b) Regulatory. A regulatory violation occurs when the promoted employee did not meet legal requirements or Commission regulatory requirements at the time of promotion. It may include, for example:

(i) Failure to meet time-in-grade requirements; or

(ii) Failure to meet Commission qualification requirements.

(c) Program. A program violation occurs when agency promotion guidelines do not conform to Commission requirements or agency promotion plans do not conform to agency guidelines. It may include, for example:

(i) Use of inappropriate evaluation methods;

(ii) Establishment of inappropriate minimum areas of consideration; or

(iii) Failure to consult employees and employee organizations when required.

a. Action involving erroneously promoted employee.

(1) Retention in position.

(a) General. The general rule is that an erroneously promoted employee may be retained in the position only if the promotion action can be corrected to conform essentially to all Commission and agency requirements as of the date the action was taken. As indicated above, however, corrective action decisions must be tempered by all the facts surrounding the violation. Under some conditions, it may be permissible to retain the employee in the position even when the general rule does not apply.

(b) Procedural violation. In this kind of violation, an employee may be retained in the position only if—

(i) Reconstruction of the promotion action shows that he could have been selected had the proper procedures been followed at the time the action was taken; or

(ii) The Commission office (regional or central) with geographic jurisdiction gives approval.

(c) Regulatory violation. In this kind of violation, an employee may be retained in the position only if—

(i) He now meets the necessary qualification or regulatory requirements; and

(ii) The Commission office (regional or central) with geographic jurisdiction gives approval.

(d) Program violation. In this kind of violation, an employee generally may be retained in the position if there was no accompanying procedural or regulatory violation. The Commission is to be notified of what program correction is being made.

(2) Corrective action. If an employee is not retained in the position, he must be returned to his former position or placed in another position for which he is qualified. If the latter position is in a higher grade or level than the position he was in before he was erroneously promoted, the position change is made under competitive promotion procedures as though the employee were still serving at the grade or level from which erroneously promoted.

(3) Commission approval. Commission approval for retaining an employee in his position will be dependent on the nature, extent, and seriousness of the violations involved in the particular situation. It will take into account such factors as:

(i) How close the employee was to meeting qualification or regulatory requirements at the time of promotion if a regulatory violation is involved.

(ii) How close the employee was to being in the best qualified group if a procedural violation is involved.

(iii) How much time has elapsed since promotion.

(iv) Whether identification can be made of employees who were or should have been in the group certified to the selecting official and whether they have been promoted or have left the agency.

c. Action involving nonselected employees.

(1) If the action taken to correct the erroneous promotion was to require that the position be vacated, an empoloyee who was not promoted or given proper consideration because of the violation (that is, an employee in the best-qualified group who was not selected or an employee who should have been in this group but was not) may be considered for promotion to the vacated position before candidates under a new promotion or other placement action are considered.

(2) If the corrective action did not include vacating the position, an employee who was not promoted or given proper consideration because of the violation may be given under a new promotion or other placement action are considered. Agencies, in consultation with their unions, may make the final determination on how they will handle actions involving nonselected employees. In doing so, they should keep in mind the possible impact of their decision.

d. Action involving responsible officials. Violations of the promotion program can have a serious impact on personnel management that goes beyond the particular cases involved. Proper promotion actions are essential to assure that the agency is being staffed by the best persons available and employees are receiving fair consideration. Thus, management officials have a special responsibility for seeing that violations do not occur either by error or design. An official who permits a violation to occur shall be informed of the violation and told what he should do to avoid repetition. If insufficient guidance to the official contributed to the violation, the agency shall correct this deficiency.

FPM SUPPLEMENT 335-1—EVALUATION OF EMPLOYEES FOR PROMOTION AND INTERNAL PLACEMENT

Contents

SUBCHAPTER S1—INTRODUCTION

S1-1 Purpose.
S1-2 Applicability.

SUBCHAPTER S2—RESPONSIBILITY FOR PROPER USE OF EVALUATION PROCEDURES

S2-1 Agency responsibilities.
S2-2 Need for technical competence.

SUBCHAPTER S3—RESPONSIBILITY FOR APPROVAL OF EVALUATION PROCEDURES

S3-1 General.
S3-2 Civil Service Commission evaluation procedures approved for inservice use.
S3-3 Evaluation procedures requiring specific Civil Service Commission approval.
S3-4 Criteria for acceptability of evaluation procedures.
S3-5 Documentation of evaluation procedures.
S3-6 Requests for advice before conducting test research and development.

SUBCHAPTER S4—PRINCIPLES OF APPLICATION

S4-1 Basic principles.
S4-2 Additional principles.

SUBCHAPTER S5—ADMINISTRATION OF EVALUATION PROCEDURES

S5-1 Assembled examinations and other procedures requiring controlled administration.
S5-2 Recording and reporting results of evaluation procedures.

SUBCHAPTER S6—SAFEGUARDING EXAMINATION MATERIALS

S6-1 Basic principles.
S6-2 Identification of examination materials.

SUBCHAPTER S7—REVIEW OF THE PERSONNEL MEASUREMENT PROGRAM

S7-1 General.

SUBCHAPTER S1—INTRODUCTION

S1-1 *Purpose.* This supplement presents instructions for use of evaluation procedures in accordance with requirement 3, FPM chapter 335. The term "use" includes the development or selection, application, security and interpretation of results of evaluation procedures. The purpose of these instructions is to insure that evaluation procedures used for promotion and other placement actions covered by FPM chapter 335 are valid and job related to the extent feasible and appropriate in order that principles of merit and equal employment opportunity are carried out in practice and that the effectiveness of agencies and individuals is enhanced.

S1-2 *Applicability.* This supplement sets forth basic responsibilities and principles for the use and review of personnel evaluation procedures for promotion and inservice placement. It does not cover detailed instructions on such essential elements of personnel measurement as job analyses, validation studies, and documentation. Guidance on these technical matters is found in appendixes A and B and in many technical sources outside Commission issuances. Appendix A contains the Uniform Guidelines on Employee Selection Procedures. These guidelines are intended to assist agencies in meeting responsibilities under the Equal Employment Opportunity Act of 1972. They are appended to this supplement to provide a set of principles applicable to agencies to help assure that their evaluation procedures are job related. Implementation of these guidelines will be a continuous responsibility for agencies. It is important at the outset that agencies inventory their evaluation procedures, prioritize needs for revision and devise implementation plans which will provide reasonable assurance that all evaluation procedures are valid and job related to the extent feasible and appropriate. As agencies gain experience in operating under the guidelines, it is expected that continuing progress will be made in strengthening the validity of evaluation procedures.

SUBCHAPTER S2—RESPONSIBILITY FOR PROPER USE OF EVALUATION PROCEDURES

S2-1 *Agency responsibilities.* Each agency must designate one or more persons who will be responsible for implementing these instructions and assuring the proper use of personnel measurement procedures. The general functions include:

a. Development or selection of evaluation procedures: The responsibility for assuring that as new procedures are developed these instructions are met. Likewise, procedures already in use should be reviewed for compliance with these instructions within a reasonable period of time. If new procedures are developed or obtained which require prior Civil Service Commission approval, the agency must submit the required information and obtain approval before authorizing the procedure for actual use.

b. Application of evaluation procedures: The responsibility for assuring that each procedure is used only for the specific purpose for which it is approved, that an acceptable procedure is developed for determining the meaning of the outcome or results and that the results are applied properly in the evaluation process.

c. Administration of evaluation procedures: The responsibility for assuring that the proccdures are administered to employees under standard conditions which provide all employees full opportunity to perform to their best abilities.

d. Security of evaluation procedures: The responsibility for determining the degree of security appropriate to the kind of procedure involved and maintaining control of materials requiring security so that unauthorized persons do not gain access to them.

e. Review of the personnel measurement program: The responsibility for reviewing the program to assure that all phases are being conducted properly and the program is fulfilling its purpose. This includes a review of the effectiveness of specific evaluation procedures.

S2-2 *Need for technical competence.* Proper development, selection, application and evaluation of evaluation procedures require knowledge of and ability to apply job analysis, personnel measurement concepts, and statistical measurement techniques. Agency headquarters that do not have staff members who are knowledgeable in these areas must acquire this competence in order to do an effective job. The number of persons needed to accomplish the above functions and their distribution between headquarters and field activities depends upon the nature of the program and size of the agency.

SUBCHAPTER S3—RESPONSIBILITY FOR APPROVAL OF EVALUATION PROCEDURES

S3-1 *General.* a. Procedures must meet one of the following conditions before being used for inservice placement purposes.

(1) The agency determines that the procedure meets these instructions on how, when, and by whom evaluation procedures may be used.

(2) The procedure is required for inservice placement by the Civil Service Commission for the position.

(3) The procedure has been given prior approval by the Commission. (See S3-2 and S3-3 below.)

b. The above requirement also applies when the procedure is used as part of the process for selecting employees for training which is given primarily to prepare employees for advancement and is required for promotion. Training agreements covering situations like these are not properly applied unless the procedure meets one of the above conditions.

c. Each procedure used for inservice placement must meet the requirements for acceptability contained in S3-4 below.

d. Agencies may delegate authority to approve evaluation procedures in accordance with these instructions to activities having the capability and agreeing to meet the responsibilities described under section S2-1 above. However, such delegation will not relieve agencies of maintaining proper program control and review; and authority to submit requests for Commission approval of evaluation procedures will be reserved by agency headquarters.

S3-2 *Civil Service Commission evaluation procedures approved for inservice use.* Appendix B contains information on widely used Civil Service Commission evaluation procedures approved for inservice use. These procedures may be used by any agency but only as indicated. Requests to use Civil Service Commission procedures other than those included in appendix B, required by Civil Service Commission standards, or otherwise approved for agency use by the Commission, must be submitted by the agency in accordance with section S3-3 below.

S3-3 *Evaluation procedures requiring specific Civil Service Commission approval.* a. The following kinds of evaluation procedures require Civil Service Commission approval before being used for inservice placement purposes:

(1) Civil Service Commission procedures other than those approved in appendix B, required by Civil Service Commission standards, or otherwise approved for agency use.

(2) Procedures developed primarily for clinical diagnostic purposes and intended to measure personality, temperament, or attitudes. (See restrictions in FPM chapter 337.)

(3) Procedures developed primarily to measure a variety of interest patterns.

(4) Other procedures not developed specifically by or for the agency (e.g., commer-

V 43/185 SE 22 78

cial tests, military tests, and U.S. Employment Service tests).

b. Requests for approval will be accepted only from agency headquarters and should be addressed to the Personnel Research and Development Center, Bureau of Policies and Standards, U.S. Civil Service Commission. The supporting information to be submitted should meet the criteria covered in section S3-4 below and the documentation requirement discussed in section S3-5 below.

S3-4 *Criteria for acceptability of evaluation procedures.* The following are minimum requirements for the acceptability of an evaluation procedure:

a. Demonstration of content, construct, or criterion-related validity, or a combination of these, for the procedure according to professionally accepted standards to the extent feasible and appropriate. Appendix A contains acceptable guidelines for meeting this requirement. In circumstances where it is not appropriate to validate an evaluation procedure or not feasible, the procedure, nevertheless, must be job related. Where validation is appropriate, the Civil Service Commission will evaluate agency plans and evidence of effort and achievement in bringing selection procedures into compliance within a reasonable period of time.

b. Standard directions for administering the procedure.

c. Standard scoring or rating instructions which enhance or ensure objectivity and reliability of scoring or rating.

d. A method for interpreting and combining results of the various methods and instruments in a manner consistent with a. above.

e. A method for recording results of evaluation procedures so that the record is meaningful and usable in the future.

f. Provisions for reporting the results of evaluation procedures in meaningful terms to individual employees and operating officials.

g. Assurance that the procedure has not been compromised where disclosure would give an undue advantage to some candidates over others and provisions to maintain the level of security appropriate to each instrument or procedure. (Only rarely will a commercial test meet this requirement.)

S3-5 *Documentation of evaluation procedures.* a. The determination of the acceptability of each procedure approved by an agency or submitted for approval to the Commission must be documented. The information must be retained as long as the procedure is in use for inservice placement actions and for at least 2 years after the procedure has been discontinued.

b. Documentation of evaluation procedures must follow the guidance in appendix A section I5, to the extent feasible. Additionally the documentation must include a discussion of the extent to which security precautions are applicable for the procedure and, where appropriate, how they will be carried out.

S3-6 *Requests for advice before conducting test research and development.* If there is any question about whether an evaluation procedure for which research is planned will meet Civil Service Commission approval because of the nature of the procedure, technical capability of staff, or technical feasibility, the agency should contact the Commission's Personnel Research and Development Center before conducting the research. This will preclude a situation in which the agency expends considerable time and effort developing a procedure which ultimately is disapproved.

SUBCHAPTER S4—PRINCIPLES OF APPLICATION

S4-1 *Basic principles.* a. Agencies must not establish a cutting score (or numerical passing point) on any single instrument or procedure as the sole factor to determine basic eligibility for promotion, or to define best qualified unless the cutting score is:

(1) Required by approved qualification standard;

(2) Otherwise approved by the Commission; or

(3) Necessary for a selective factor determination.

b. Agencies must use multiple measures in ranking employees to determine the best qualified unless otherwise authorized by the Commission.

c. Use of length of experience or service or level of formal education may be used only to the extent to which it can be shown to be a valid, job-related factor for the position being filled. (This limitation does not rule out use of length of service as a tie breaker if after all appropriate evaluation factors measuring quality have been applied, there are identical ratings among candidates.)

S4-2 *Additional principles.* a. An evaluation procedure will be used only for the specific purposes for which it is authorized by the agency or the Commission.

(1) If a procedure is approved for an occupation, a level within an occupation, or a specific job, use of the procedure may not be extended to other occupations or levels, or jobs without determining that the procedure meets the criteria for acceptability (see 3-4 above) for these additional uses.

(2) Civil Service Commission procedures listed in appendix B may be used only for the purposes designated unless special permission is obtained from the Commission.

(3) Procedures for which prior Civil Service Commission approval is obtained (under section S3-3 above) may be used only for the purpose authorized unless a new approval is obtained from the Commission.

b. The evaluation procedure is not to be used again in the ranking process for the same employees at two (or more) different levels of the same occupation or career field unless it can be shown that

(1) The procedure measures an element important for success in the higher level,

(2) Makes meaningful distinctions among employees, and

(3) Measures skills, knowledge, abilities, or other characteristics which are likely to change significantly over time. If the procedure is used in the evaluation of employees to fill jobs at the first level, the range of scores from this procedure for the employees who are later considered for promotion to a higher level will in most cases be very restricted. As a result, the difference in scores of various employees probably do not reflect real differences in ability.

SUBCHAPTER S5—ADMINISTRATION OF EVALUATION PROCEDURES

S5-1 *Assembled examinations and other procedures requiring controlled administration.* Considerations of validity and fairness necessitate that some procedures be administered under highly controlled conditions usually with candidates assembled to complete the procedure, and that security of materials be maintained against compromise. These procedures usually entail a limited range of responses or answers which are clearly identified as right or scaled for degree of appropriateness in a highly standardized manner. For purposes of this chapter such procedures are termed tests. While all evaluation procedures may in a general sense be considered tests, use of the term in this more limited sense to apply to highly standardized procedures which must be administered under controlled conditions has the advantage of grouping these types of procedures under a common term for which common administrative requirements apply. This definition applies most closely to written tests measuring cognitive abilities, job knowledge or achievement; performance tests which directly sample skills needed on the job; and oral tests. Some evaluation procedures, such as individual or group interviews and assessment centers are on the borderline between this restricted definition of tests and other selection procedures. The applicability of provisions a. through e. below to some evaluation procedures is a judgment which must be made on the basis of characteristics of the procedure. It is not required that agencies necessarily identify what is or is not a test; what is important is that a degree of administrative control be maintained consistent with requirements for insuring fairness, validity, and security of the procedure:

a. Employees permitted to take tests. Tests may be administered only to employees for whom the agency has a need for a test score. Before an employee takes the test, agency test records must be checked to insure that he or she has not already taken it. If he or she has, but wishes to be retested, the appropriateness of the retest must first be established. Employees must not be allowed to practice on the actual tests used for selection or placement but this prohibition does not preclude the use of sample questions or general instructions on how to take tests.

b. Testing facilities. Adequate physical facilities should be provided including ample space, control of auditory and visual distractions, adequate lighting, ventilation, and temperature control, accurate timing devices, adequate writing surfaces and seating facilities, and similar environment controls to provide all employees the opportunity to perform well.

c. Administration procedures. Proper test administration procedures must be used, including maintaining a friendly atmosphere and putting examinees at ease, following prescribed directions for conducting the tests assuring that everyone understands the instructions and uses the answer sheet properly, providing sufficient materials, keeping control of test materials, preventing cheating, and assuring accurate timing. Generally, test booklets should not be reused. If test booklets are reused, each page must be inspected to insure that there are no marks of any kind on the page.

d. Employee requests for rescoring. If an employee questions his or her score on a test, the test scoring is rechecked and any scoring error corrected, but he or she must not be shown the test nor told the content of the correct or incorrect answers. If the items and answers are revealed, the value and fairness of the test are impaired for future use. The employee should be assured; however, of the accuracy of the scoring procedures.

e. Retesting. Each agency must establish retesting provisions, including duration of acceptability of scores, for each written test

used within the agency. Consideration should be given to the likelihood of change in test scores. Ability tests usually are relatively stable measures, whereas training, experience, etc., have more influence on achievement test performance.

(1) An employee may not take the same test (or an alternate form of the test) twice within 6 months, unless a determination is made that the initial results may not be accurate because of conditions beyond the employee's control such as faulty test administration, or unless the applicant presents convincing reasons why significant improvements in the knowledge, skill, or abilities measured by the test have occurred in a shorter period.

(2) If an alternate form of the test is not used, an employee normally may not be retested within 1 year.

(3) An employee normally may not take the same form of a test more than twice. (Agencies are expected to construct alternate forms for tests developed within the agency.)

(4) Whenever an employee is retested, the most recent score is considered his or her official score. (As an acceptable alternative, an agency may establish that it will use the employee's highest score within the past 3 years; under this procedure the agency must establish a policy for situations in which the official score becomes more than 3 years old.)

(5) A score obtained by an employee on a Civil Service Commission test must be accepted by any agency using the same test, unless the employee desires to be retested.

S5-2 Recording and reporting results of evaluation procedures. a. Results of scoring or rating must be recorded in a manner which will permit use at a later date. The record includes, at a minimum, identification of the procedure (and the form taken, if alternate forms are used), the date(s) of submission and scoring or rating, the score or rating obtained, and the meaning of the score or rating in terms of the method for interpreting the results.

b. Examination results must be transmitted to selecting officials in a way which will assist them in evaluating the relative knowledge, skills, and abilities of the employees and thereby enable them to use this information properly in making their selection decision. Normally this will involve explaining to the selecting officials the meaning of the scores or ratings and interpreting whether or not the rankings of candidates represent meaningful distinctions among employees.

c. An employee's rating or score must not be made known to any person who does not have an official need to know the score. Control should be maintained of official records; reports to employees and selecting officials; and working records such as promotion rosters, skills files, and computer outputs which include scores or ratings.

SUBCHAPTER S6—SAFEGUARDING EXAMINATION MATERIALS

S6-1 *Basic principles.* Individuals responsible for the personnel measurement program must clearly identify those examination materials (such as test materials, rating guides, or crediting plans) which require security and control, and insure that proper security and control are maintained. Instructions must be issued to maintain the security and control of examination materials which, if exposed to unauthorized persons, might provide unfair advantage to some candidates or otherwise compromise the utility of the selection procedure. At a minimum, the instructions must cover procedures to be followed during development, printing, storage, distribution, and destruction. Material covered by the instructions must not be exposed to any persons, including management officials, members of employee organizations, or non-Federal personnel who do not have an official need to see the material. No evaluation procedure subject to security and control may be administered to an employee who has had access to the covered material. (This provision is not intended to apply to appropriate retesting situations.)

S6-2 *Identification of examination materials.* Examination materials subject to security and control should be clearly identified as such on the cover or face of each document. Agencies may wish to use a statement for their own materials similar to the one shown below:

LIMITED OFFICIAL USE

Do not copy, paraphrase, or remove this test booklet or any part of it from the examining room. This booklet is lent for official use subject to restrictions regarding the use of Government documents. It should not be reproduced in whole or in part without the express approval of (agency), nor should it be used by anyone for any private purpose whatsoever. Violations may be punished by appropriate legal actions.

SUBCHAPTER S7—REVIEW OF THE PERSONNEL MEASUREMENT PROGRAM

S7-1 *General.* Each agency must make provisions to review its personnel measurement program to assure that evaluation procedures are being properly administered, used, and controlled. To support continued use of specific procedures, the agency must have a system for reviewing the need and appropriateness of its procedures. This includes the gathering of data to illustrate the effectiveness of each procedure, and documentation called for in section S3-5. The Civil Service Commission will inspect agencies to see that the provisions of this supplement are being followed and will require an agency to modify or suspend any procedure which the Commission determines does not meet requirements of this supplement. The Commission will make periodic reviews of the use of evaluation procedures in all agencies in order to evaluate the effectiveness of these instructions.

(This supplement will also contain Appendix A—Uniform Guidelines on Employee Selection Procedures, and Appendix B—Guidelines for Evaluating Employees for Promotion and Internal Placement. The Uniform Guidelines were previously published in the FEDERAL REGISTER on August 25, 1978. Thus Appendix A is not included here. Appendix B, which is intended as guidance, is under revision to bring it into conformity with the Uniform Guidelines.)

[FR Doc. 78-26511 Filed 9-21-78; 8:45 am]

[3510-03]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S. 618, Sub. 1]

SUWANNEE RIVER FINANCE, INC., ET AL

Notice of Application

In the matter of applications by Suwannee River Finance Inc., Suwannee River SPA Finance, Inc., and Suwannee River Phosphate Finance, Inc.

Notice is hereby give that applications dated March 17, 1978, have been filed under the Merchant Marine Act, 1936, as amended (the Act) for operating-differential subsidy with respect to the operation of three liquid bulk integrated tug/barge vessels for service in the U.S. foreign trade. The proposed trade is from U.S. ports to various Baltic, Mediterranean, and Black Sea ports and ports in Europe, and would include the carriage of liquid and dry bulk cargoes in the export and import foreign commerce of the United States and between foreign ports. The vessels will be managed by Hvide Shipping, Inc., which is wholly-owned by Hans J. Hvide.

Inasmuch as affiliated or associated firms of Hvide Shipping, Inc., charter ships engaged in the domestic, intercoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Act will be required if these applications for operating-differential subsidy and associated management agreements are to be granted and approved.

Hvide Shipping, Inc., charters two tug/barge vessels, through its subsidiaries, one each to the Diamond Shamrock Corp. and the Shell Oil Co. Terms of these charters allow the charterer to employ the vessels in the coastwise, intracoastal or intercoastal trades, or on bays, rivers, sounds or harbors of the United States or in foreign trade not prohibited to U.S.-flag vessels.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on September 28, 1978, file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

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In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal domestic assistance program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Assistant Secretary for Maritime Affairs.

Dated: September 19, 1978.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-26678 Filed 9-21-78; 8:45 am]

[3510-49]

National Fire Prevention and Control Administration

ADVISORY COMMITTEE ON FIRE TRAINING AND EDUCATION FOR THE NATIONAL ACADEMY FOR FIRE PREVENTION AND CONTROL

Notice of Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name: Advisory Committee on Fire Training and Education for the National Academy for Fire Prevention and Control (Committee).
Date of meeting: October 11, 1978.
Place: National Fire Prevention and Control Administration, 2400 M Street NW., Washington, D.C., First floor conference room.
Time: 9 a.m. to 4 p.m.
Proposed agenda: Acceptance and approval of the final report of the Committee.

The meeting will be open to the public with approximately 20 seats available on a first-come-first-served basis.

Minutes of the meeting will be prepared by the Committee and will be available for public viewing in Room 214, National Fire Prevention and Control Administration, 2400 M Street NW., Washington, D.C. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: September 20, 1978.

HOWARD D. TIPTON,
Administrator, National Fire Prevention and Control Administration.

[FR Doc. 78-26830 Filed 9-21-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

STADT NURNBERT

Issuance of Permit To Take Marine Mammals

On August 15, 1978, notice was published in the FEDERAL REGISTER (43 FR 36130), that an application had been filed with the National Marine Fisheries Service by Stadt Nurnbert, Tiergarten Nurnbert, Am Tiergarten 30, 8500 Nurnberg, West Germany, for a public display permit to take two (2) Atlantic bottlenose dolphins (*Tursiops truncatus*) for public display.

Notice is hereby given that on September 19, 1978, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a public display permit for the above taking to Tiergarten Nurnberg subject to certain conditions set forth therein. The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Fla. 33702.

Dated: September 19, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-26666 Filed 9-21-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Addition

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to procurement list 1978 a service to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: September 22, 1978.

ADDRESS: Committee for Purchase From the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On June 9, 1978, the Committee for Purchase From the Blind and Other Severely Handicapped published a notice (43 FR 25170) of proposed addition to procurement list 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following service is hereby added to procurement list 1978:

SIC 7349

Janitorial/Elevator Operator Service, Veterans Administration Clinic Building, 17 Court Street, Boston, Mass. (SH).

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-26661 Filed 9-21-78; 8:45 am]

[6351-01]

COMMODITY FUTURES TRADING COMMISSION

APPLICATION OF KANSAS CITY BOARD OF TRADE FOR DESIGNATION AS A CONTRACT MARKET IN TRANSACTIONS FOR FUTURE DELIVERY BASED UPON 30 INDUSTRIAL STOCKS AVERAGE INDEX

Public Hearing

DATE: October 25, 1978, 10 a.m., fifth floor hearing room, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581.

FOR FURTHER INFORMATION CONTACT:

William D. Grossman, Counsel to Commissioner David G. Gartner, 202-254-8541.

Pursuant to section 6 of the Commodity Exchange Act,[1] the Kansas City Board of Trade ("KCBT") has filed with the Commodity Futures Trading Commission an application for contract market designation for trading in futures contracts based on the 30 industrial stocks average index.[2] In accordance with its established policy, on January 5, 1978, the Commission announced that it was making available to the public this application for inspection and copying and also solicited public comment on the terms and conditions of the proposed contract (43 FR 997, Jan. 5, 1978). Substantial interest has been expressed in this application.

[1] 7 U.S.C. 8 (1976).

[2] "Application of KCBT for Approval and Designation for Futures Trading of a 30 Industrial Stock Average Times 50," filed Oct. 28, 1977, amended and resubmitted on Nov. 22, 1977. The KCBT explains that "[t]his futures contract is based on the much quoted average, for 30 selected Industrial Stocks" (application filed Nov. 22, 1977, Contract Rules, at 1, note **).

While the Commission previously has designated boards of trade as contract markets where the underlying commodity traded is a government-backed debt instrument or other form of financial instrument,[3] the Commission heretofore has not considered a designation application where the subject of the contract is an index of a class or group of equity securities (or, for that matter, an individual equity security). Nor has the Commission ever considered designating a contract market for trading with a "delivery-less" system, i.e., where performance under the contract is effected by cash settlement in all cases. Thus, this application presents significant questions of first impression to the Commission.

Moreover, certain of the issues raised by the proposed contract pertain to fundamental aspects of the Commission's regulation of futures trading. Accordingly, in an attempt to obtain the views of a broad segment of the affected public and the advice of interested governmental entities, the Commission will hold a public hearing on the KCBT's designation application on October 25, 1978, at 10 a.m. in the fifth floor hearing room at its headquarters in Washington, D.C. Interested persons are invited to present their views to the Commission at this time. Commissioner David G. Gartner will chair the hearing.

In order to insure the receipt of meaningful public comment at this hearing, the Commission is stating certain issues in this announcement which it considers to be of primary importance. While the Commission will permit witnesses to present their views on any matter involved in this proposed contract, it requests that they also address these issues:

1. Whether the proposed contract can meet the economic purpose and public interest tests required under the Commodity Exchange Act for designation as a contract market? Specifically, is there any evidence or reason to believe that "something more than occasional use of the contract for hedging or price basing exists, or can reasonably be expected to exist"? [4]

2. Does the Commodity Exchange Act contemplate that a "delivery-less" contract for futures delivery be the subject of trading on a contract market? Is such a delivery system an appropriate concept for efficient and sound futures markets?

Persons wishing to appear at this hearing should notify Ms. Jane K. Stuckey, Office of the Secretariat, 202-254-6126, no later than 4:45 p.m. on October 20, 1978. It is requested that participants bring 30 copies of their prepared statement to the hearing. During and subsequent to any person's oral presentation, questions may be asked by members of the Commission or the hearing panel.

Issued in Washington, D.C., on September 19, 1978, by the Commission.

GARY L. SEEVERS,
Vice-Chairman, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581.

[FR Doc. 78-26662 Filed 9-21-78; 8:45 am]

[3] The Commission has designated a number of contract markets for trading in four types of financial instruments—short-term commercial paper, mortgage-backed certificates guaranteed by the Government National Mortgage Association, Treasury bonds and Treasury bills.

[4] Commodity Futures Trading Commission advisory guideline No. 1, issued May 13, 1975.

[3710-08]

DEPARTMENT OF DEFENSE

Department of the Army

NATIONAL TRAINING CENTER, FORT IRWIN SITE

Filing of Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army, on August 25, 1978, provided the Environmental Protection Agency a draft environmental impact statement (DEIS) concerning the proposed National Training Center, Fort Irwin site. The alternatives of no actions and locating the NTC at MCB 29 Palms to Yuma Proving Ground are also analyzed. Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies for cost of reproduction from the Commander, Forces Command (FORSCOM), Fort McPherson, Atlanta, Ga. 30330.

In the Washington area, inspection copies may be seen during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, D.C. 20310, phone 202-694-3434.

BRUCE A. HILDERBRAND,
Deputy for Environmental Affairs, Office of the Assistant Secretary of the Army (Civil Works).

[FR Doc. 78-25038 Filed 9-21-78; 8:45 am]

[3710-08]

PRIVACY ACT OF 1974

Amendments to Systems of Records

AGENCY: Department of the Army, DOD.

ACTION: Notices of amendments to systems of records.

SUMMARY: The Army proposes to amend two systems of records subject to the Privacy Act of 1974. Specific changes to the systems being amended are set forth below followed by the systems published in their entirety as amended.

DATE: These systems shall be amended as proposed without further notice on October 23, 1978, unless comments are received on or before October 23, 1978, which would result in a contrary determination and require republication for further comments.

ADDRESS: Any comments, including written data, views or arguments concerning the amendments should be addressed to the System Manager identified in the particular record system concerned.

FOR FURTHER INFORMATION CONTACT:

Mr. Cyrus H. Fraker, The Adjutant General, Center (DAAG-AMR-R), Department of the Army, 1000 Independence Avenue SW., Washington, D.C. 20314, telephone 202-693-0973.

SUPPLEMENTARY INFORMATION:

The Department of the Army systems of records notices inventory subject to the Privacy Act of 1974 (5 U.S.C. 552a) Pub. L. 93-579, have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28255 (42 FR 50396), September 28, 1977.
FR Doc. 77-32975 (42 FR 50999), November 15, 1977.
FR Doc. 78-1855 (43 FR 3151), January 23, 1978.
FR Doc. 78-9239 (43 FR 14713), April 7, 1978.
FR Doc. 78-9713 (43 FR 15353), April 12, 1978.
FR Doc. 78-17146 (43 FR 26606), June 21, 1978.
FR Doc. 78-17737 (43 FR 27882), June 27, 1978.
FR Doc. 78-18880 (43 FR 29600), July 10, 1978.
FR Doc. 78-19614 (43 FR 30594), July 17, 1978.
FR Doc. 78-21772 (43 FR 34520), August 4, 1978.
FR Doc. 78-23953 (43 FR 38070), August 25, 1978.
FR Doc. 78-25562 (43 FR 40272), September 11, 1978.

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of a new or altered system report.

Dated: September 19, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

AMENDMENTS

A1012.04bTRADOC

System name:

1012.04 Resident Student Record (RSR) System (42 FR 50616).

Changes:

System name:

Delete "(RSR) System" and substitute "System (RSR)".

System location:

Delete entry and substitute: "Director of Automation (ATSW-DA), United States Army Command and General Staff College (USACGSC), Fort Leavenworth, Kans. 66027."

Categories of individuals covered by the system:

Delete entry and substitute: "Any officer, United States or Allied, enrolled in the USACGSC."

Categories of records in the system:

Delete entry and substitute: "File contains name, social security number (SSN), branch, rank, class sections, courses, student grades, and grade average and quintile by student taking a given test."

Authority for maintenance of the system:

Delete entry and substitute: "Title 5 U.S.C., Section 301."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry and substitute: "The file is used to schedule students in courses in the USACGSC curriculum, process student grades three times per year and, at year end, prepare school transcript. Records are used by USACGSC instructional departments and the Director of Education and Curriculum Affairs to prepare rosters, and by USACGSC resident academic records personnel to prepare transcripts.

The automated grading examination system (GRADEX) constitutes a subsystem of this file, in that it provides an important element of front end curriculum analysis, and basis for curriculum changes and evaluation of entry level knowledges."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Delete entry and substitute: "Computer disk."

Retrievability:

Delete "individual name or".

Safeguards:

Delete entry and substitute: "DPFO is secure. Data may be accessed only by authorized personnel using passwords assigned by the system manager."

Retention and disposal:

Delete entry and substitute: "Records are destroyed 2 years after completion of an academic year.

GRADEX records are destroyed at the end of system processing, i.e., after test results are supplied to the instructor."

System manager(s) and address:

Delete entry and substitute: "Director of Automation, USACGSC, Fort Leavenworth, Kans. 66027."

Notification procedure:

Delete address and substitute: "Information may be obtained from: Commandant, USACGSC, Attention: Director of Automation, Bell Hall, Fort Leavenworth, Kans. 66027, telephone, 913-684-2685".

Record access procedures:

After the word "Commandant," delete remainder of entry and substitute: "USACGSC, ATTN: ATSW-DA, Fort Leavenworth, Kans. 66027."

Record source categories:

Delete entry and substitute: "Personnel data and enrollment information are obtained from the students at the time they complete enrollment and from Department of the Army orders. Grades, class section number, and academic information is obtained from the USACGSC academic departments. Data for the GRADEX system are obtained from the MARK SENSE cards completed by the students and information extracted from the RSR."

A1015.01aDAAG

System name:

1015.01 Dependent Children School Program Files (42 FR 50625).

Changes:

System location:

In first paragraph pertaining to Active students, correct "United St(US)ates" to read: "United States (US)".

In second paragraph pertaining to Former students, delete "National Personnel Records Center" and substitute: "Washington National Records Center (WNRC), Washington, D.C. 20409."

Categories of records in the system:

In paragraph pertaining to "Elementary school academic record", change to "Elementary school academic record files".

In paragraph pertaining to "Secondary school academic record files", change to "Secondary school academic record files (high school transcript)", and insert word "or" between words "similar" and "related" in last sentence.

Routine uses of records maintained in the system including categories of users and the purposes of such uses:

In paragraph pertaining to dependent Children School Program Files (General), insert "/guardians" after word "parents" in last sentence.

In paragraph pertaining to Dependent Children School Program Files (Secondary), insert "/guardians" after word "parents" in last sentence.

Retention and disposal:

In paragraph pertaining to "Elementary school academic records files," change to "Elementary school academic record files."

In paragraph pertaining to elementary school report card files, insert "/guardians" after word "parents."

In paragraph pertaining to Elementary school student files, insert "/guardians" after word "parents". in first sentence.

In paragraph pertaining to secondary school academic record files (High School Transcript): Delete "Permanent file." and substitute: "Destroyed after 70 years." After first instance of "Department of Defense," insert abbreviation "(DOD)"; in second instance, delete "non-Department of Defense" and substitute "non-DOD." In last sentence, delete "National Personnel Records Center." and substitute: "WNRC, Washington, D.C. 20409."

In paragraph pertaining to secondary school report card files, insert "/guardians" after word "parents."

In paragraph pertaining to secondary school student files, insert "/guardians" after word "parents" in the first sentence of note.

Notification procedure:

Delete "National Personnel Records Center" and substitute: "WNRC."

Record access procedures:

At end of first sentence, delete "National Personnel Records Center." and substitute: "WNRC."

Record source categories:

Insert "/guardian," "/guardians" or "/guardian's" after words "parent," "parents" or "parent's" in all instances as appropriate.

A1012.04bTRADOC

System name:

1012.04b Resident Student Record System (RSR).

System location:

Director of Automation (ATSW-DA), U.S. Army Command and General Staff College (USACGSC), Fort Leavenworth, Kans. 66027.

Categories of individuals covered by the system:

Any officer, United States or Allied, enrolled in the USACGSC.

Categories of records in the system:

File contains name, social security number (SSN), branch, rank, class sections, courses, student grades, and grade average and quintile by student taking a given test.

Authority for maintenance of the system:

Title 5 U.S.C., section 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The file is used to schedule students in courses in the USACGSC curriculum, process student grades and other academic related information, record student grades three times per year and, at year end, prepare school transcript. Records are used by USACGSC instructional departments and the Director of Education and Curriculum Affairs to prepare rosters, and by USACGSC resident academic records personnel to prepare transcripts.

The automated grading examination system (GRADEX) constitutes a subsystem of this file, in that it provides an important element of front end curriculum analysis, and basis for curriculum changes and evaluation of entry level knowledges.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer disk.

Retrievability:

By SSN.

Safeguards:

DPFO is secure. Data may be accessed only by authorized personnel using passwords assigned by the system manager.

Retention and disposal:

Records are destroyed 2 years after completion of an academic year.

GRADEX records are destroyed at end of system processing, i.e., after test results are supplied to the instructor.

System manager(s) and address:

Director of Automation, USACGSC, Fort Leavenworth, Kans. 66027.

Notification procedure:

Information may be obtained from: Commandant, USACGSC, Attn.: Director of Automation, Bell Hall, Fort Leavenworth, Kans. 66027, telephone area code 913-684-2685.

Record access procedures:

Requests should be addressed to: Commandant, USACGSC, Attn.: ATSW-DA, Fort Leavenworth, Kans. 66027.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340-21.

Record source categories:

Personal data and enrollment information are obtained from the students at the time they complete enrollment and from Department of the Army orders. Grades, class section number, and academic information is obtained from the USACGSC academic departments. Data for the GRADEX system are obtained from the MARK SENSE cards completed by the students and information extracted from the RSR.

Systems exempted from certain provisions of the act:

None.

A1015.01aDAAG

System name:

A1015.01 Dependent Children School Program Files.

System location:

Active students: Army-operated overseas dependents schools located in oversea areas or in the United States (US) at the following locations: Fort Benning, Ga; Fort Bragg, N.C.; Fort Campbell, Ky.; Fort Jackson, S.C.; Fort Knox, Ky.; Fort McClellan, Ala.; Fort Rucker, Ala.; Fort Stewart, Ga.; U.S. Military Academy, West Point, N.Y.

Former students: Washington National Records Center (WNRC), Washington, D.C. 20409.

Categories of individuals covered by the system:

Students in the Army-operated dependents schools located in oversea areas or in the United States at installations cited above.

Categories of records in the system:

Enrollment files: Documents relating to the admission, registration, and departure of dependent school students. Included are pupil enrollment applications, course preferences, admission cards, drop cards, and similar or related documents.

Daily attendance register files: Documents reflecting the daily attendance of pupils at dependent schools. Included are forms, printouts, bound registers, and similar or related documents.

Elementary school academic record files: Documents reflecting the standardized achievement, mental ability, yearly grade average, attendance of each student, and the teachers' comments. Included are forms, notes, and similar or related documents.

Elementary school report card files: Documents reflecting grades, personality traits, and promotion or failure. Included are report cards and similar or related documents.

Elementary school teacher class register files: Documents reflecting daily, weekly, semester, or annual scholastic grades and averages, absence and tardiness data.

Elementary school student files: Documents pertaining to individual elementary school students. Included in each folder are reading records and health records; intelligence quotient, achievement, aptitude and similar test results; notes related to pupil's progress and characteristics; and similar matters used by counselors and successor teachers.

Secondary school absentee files: Documents reflecting absence of students. Included are homeroom teachers' registers, secondary school daily attendance records of absentees reported by teachers, tardy slips for admission of students to classroom, transfer slips notifying teachers of new class or homeroom assignment, notices of change by school principal to teacher upon change of classroom, student applications for permission to be absent, student pass slips, and similar or related documents.

Secondary school academic record files (high school transcript): Documents reflecting student grades and credits earned. Included are forms, notes, and similar or related documents.

Secondary school report card files: Documents reflecting scholastic grades, personality traits, and promotion or failure. Included are report cards and related documents.

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Secondary school teacher class register files: Documents reflecting daily, weekly, semester, or annual scholastic marks and averages, absence and tardiness and withdrawal data. Included are class registers and similar or related documents.

Secondary school class reporting files: Documents reflecting teacher reports to principals and used as source documents for preparing secondary school academic record cards. Included are forms, correspondence, and similar or related documents.

Credit transfer certificate files: Documents reflecting secondary school scholastic credits earned. Included are certificates and similar or related documents.

Secondary school student files: Documents pertaining to individual secondary school students. Included in each folder are student health records, absence reports, and correspondence with parents/guardians pertaining to absence; records of achievement and aptitude tests; notes concerning participation in extracurricular activities, hobbies, and other special interests or activities of the student; and miscellaneous memoranda used by student counselors.

Authority for maintanenace of the system:

Title 20 U.S.C., chapter 25, Army-operated dependents schools located in oversea areas; Title 20 U.S.C., section 236.451, 242.245, Army-operated dependents schools located in the United States; and Pub. L. 93-380

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Dependent children school program files (general): Records of students attending the Army-operated dependents schools located in oversea areas are used by school officials, including teachers, to determine the eligibility of children to attend these schools; to schedule children for transportation; to record daily and/or class attendance of students, and date of withdrawal. Records of students attending the Army-operated dependents schools located in the United State at installations cited above are used by school officials, including teachers, and authorized representatives of the Secretary of Health, Education, and Welfare, to determine eligibility of children to attend these schools, to determine transportation requirements, to record daily and/or class attendance of students, and date of withdrawal. Documents of students attending the Army-operated dependents schools located in the United States are used also by officials of Federal and State agencies in connection with a student's application for, or receipt of, financial aid in connection with an audit and evaluation of Federally supported education programs, or in connection with the enforcement of the Federal legal requirements which relate to such programs; or by authorized representatives of the Comptroller General of the United States, the Secretary of Health, Education, and Welfare, or the Secretary of the Army, as authorized by Pub. L. 93-380 to insure compliance with Part 99 of Title 45 of the Code of Federal Regulations which provides for the privacy rights or parents/guardians and students regarding access to students' school records.

Dependent children school program files (elementary): Used by school officials, including teachers, in the current and/or gaining school to develop and provide an educational program for elementary students by school personnel cited above. Documents are used in the following manner: To record teacher or standardized test data; to record attendance, absences, and/or tardiness of each student; to record recommendations for promotion or retention including teacher comments; to record daily, weekly, semester, or annual grades; to develop and maintain reading records, health records, including school-related medical needs; to record notes related to the individual pupil's progress and learning characteristics useful to professional school personnel in counseling the student and in the determination of his/her proper placement.

Dependent children school program files (secondary): Used by school officials, including teachers, in the current and/or gaining school to develop and provide an educational program for secondary students. Documents are used by school personnel cited above in the following manner: To record teacher and/or standardized test data; to record attendance, absences, and/or tardiness of each student; to form the basis for a decision on a student request for permission to be absent from a class or classes; to determine proper class or grade placement or graduation; to determine scholastic grades and/or grade point averages; to form the basis for school recommendations for student financial aid for post secondary education; to form the basis for preparing the secondary school transcript; to determine secondary school academic credits earned; to determine school-related medical needs of a student; to determine, from correspondence from parents/guardians or medical authorities, the need for special attention in school activities; to note special interest or hobbies of the student.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Elementary school academic record and secondary academic record (high school transcript) filed alphabetically by school, by school year, and last name of student.

Elementary school teacher class register file and secondary school teacher class register file are filed by school, school year, and by last name of teacher.

Remaining dependent school student files are filed by school, school year, and last name of student.

Safeguards:

Records maintained in files accessible only to authorized personnel.

Retention and disposal:

Enrollment files: Maintained at the respective school for 1 year after graduation, withdrawal, transfer, or death of the student, then destroyed.

Daily attendance register files: Destroyed after reviewing attendance registers for the next school year.

Elementary school academic record files: When a student transfers to another school, this file is forwarded by mail to the parent/guardian or official of the receiving school on request; or destroyed at the school 5 years after graduation, death, or withdrawal of the student.

Elementary school report card files: Released to parents/guardians or student at the end of the school year, or on transfer of student.

Elementary school teacher class register files: Destroyed at the school concerned after 5 years.

Elementary school student files: When a student transfers to another school, the reading record and health record are released to the parents/guardians or student for hand carrying to the receiving school. Remaining documents pertaining to the students are forwarded by mail to the official of the receiving school or the parent/guardian on request; if not requested, documents are destroyed at the school concerned 1 year after graduation, death, or withdrawal of the student.

Secondary school absentee files: Destroyed at the school after 1 year.

Secondary school academic records files (high school transcript): Destroyed after 70 years. When a student transfers to another Department of Defense (DOD) school, this file (transcript) is forwarded by mail to officials of the receiving school on request. When a student transfers to a non-DOD school, a copy of the transcript is forwarded to the receiving school on request. Files not forwarded are retained at the school concerned for 5 years and then retired to the WNRC, Washington, D.C. 20409.

Secondary school report card files: Released to parents/guardians or student at the end of the school year, or on transfer of student.

Secondary school teacher class register files: Retained at the school concerned for 5 years and then destroyed.

Secondary school class reporting files: Destroyed at the school after 1 year.

Credit transfer certificate files: Destroyed at the school after 1 year.

Secondary school student files: Retained at the school concerned for 2 years after graduation, death, or withdrawal of the student.

NOTE.—When a student transfers to another school, the reading record and health record are released to the parents/guardians or student for hand carrying to the receiving school. Remaining documents pertaining to the student are forwarded by mail to the official of the receiving school or the parent/guardian on request.

System manager(s) and address:

The Adjutant General, Headquarters, Department of the Army, the Pentagon, Washington, D.C. 20310.

Notification procedure:

Information may be obtained from officials of the school concerned or from the WNRC, as appropriate.

Record access procedures:

Written requests for information on the records system and for instructions concerning personal visits may be forwarded to the principal of the Army-operated dependents school located in the US at installations cited above, or from the WNRC. Written requests should contain the following information: Current name and, if different, the name used during the period inquirer was a student; date of birth; names of schools, locations, and dates of attendance.

Contesting record procedures:

The Army's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

Record source categories:

Application for enrollment and related forms from the student or student's parents/guardians; teachers' comments, correspondence or documents from medical authorities; correspondence from parents/guardians; written requests from parents/guardians, students, or authorized officials to inspect the student's file and determinations thereto; determinations by school officials concerning the student's need for a particular course or educational program; recommendations for awards, commendations, or adverse notifications and decisions; notification concerning suspensions, expulsions, or dismissal; parent/guardian or student requests for permission to be tardy or absent; parent's/guardian's permission for student's participation in class field trips, other school related trips, athletic activities, or vocational training outside of the school.

Systems exempted from certain provisions of the act:

None.

[FR Doc. 78-26699 Filed 9-21-78; 8:45 am]

[6360-01]

DELAWARE RIVER BASIN COMMISSION

[D-75-128]

DOW CHEMICAL CO. BULK CHEMICAL STORAGE AND DISTRIBUTION FACILITY

Environmental Impact Statement

In accordance with the National Environmental Policy Act of 1969 and the Delaware River Basin Commission's rules of practice and procedure (article IV), notice is hereby given of the availability of the final environmental impact statement pertaining to the subject project.

The Dow Chemical Co. proposes to construct and operate a bulk chemical storage terminal along the Delaware River in Bordentown Township, N.J. Construction would involve dredging of 307,000 yd³ of river sediment to provide access from the river channel and to provide a berthing area for a marine off-loading terminal. Oceangoing tankers (30 per year) up to 700 feet in length and smaller barges would service the facility. Sixty-five storage tanks would be constructed on the 52-acre site to store more than 50 industrial chemicals, primarily intermediate organics. Related facilities would include a railroad siding and cargo transfer facility, a truck cargo transfer facility, a dry bulk transfer system and a storage and packaging warehouse.

The environmental impact statement identifies impacts on air, land, water, biota, and man, and evaluates alternate sites and methods. The statement may be examined in the library at the office of the Delaware River Basin Commission, 25 State Police Drive, Trenton, N.J., and in the library of the Water Resources Association of the Delaware River Basin, Davis Road, Valley Forge, Pa. A limited number of copies are available upon request.

The final statement has been submitted to the Environmental Protection Agency as of Septemer 15, 1978. Comments on the statement are requested before October 13, 1978.

W. BRINTON WHITALL,
Secretary.

[FR Doc. 78-26574 Filed 9-21-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

ECONOMIC REGULATORY ADMINISTRATION

[ERA Docket No. 77-006-LNG, FPC Docket Nos. CP77-330, el al.]

EL PASO EASTERN CO., ET AL.

Intent to Prepare a Supplement to an Environmental Impact Statement

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of intent to prepare a supplement to an environmental impact statement (EIS) in connection with an application to import liquefied natural gas (LNG) from Algeria through facilities proposed for construction on Matagorda Bay, Tex.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of its intent to prepare a supplement to the final EIS published by the former Federal Power Commission (FPC) in September 1977. The FPC published a final environmental impact statement for the Matagorda Bay project in connection with its evaluation of an application to import LNG from Algeria in the proceeding, El Paso Eastern Co., et al. (FPC docket Nos. CP77-330, et al.) The application is now pending before ERA, and a determination has been made by DOE that a supplement to the EIS must be prepared in order to satsify the requirements of the National Environmental Policy Act (NEPA).

SUPPLEMENTARY INFORMATION: In 1976 and 1977, El Paso Eastern Co., El Paso LNG Terminal Co. and El Paso Natural Gas Co. (hereinafter referred to collectively and individually as El Paso) filed applications and amended applications pursuant to sections 3 and 7 of the Natural Gas Act for authority to import LNG into the United States from Algeria; to construct, own and operate facilities for the receipt, storage, and regasification of the LNG at the proposed LaSalle Terminal on Matagorda Bay near Port O'Connor, Tex.; to construct additional pipeline and compression facilities; to transport, and to sell the resulting volumes of natural gas to customers in the State of California, the State of Texas and elsewhere. United Gas Pipe Line Co. and United LNG Co. (hereinafter referred to collectively and individually as United) filed applications, pursuant to section 7 of the Natural

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Gas Act, to sell some of the imported natural gas in interstate commerce and to construct certain pipeline connecting facilities near Victoria, Tex.

The FPC consolidated all of these various proceedings and allowed interveners in any one of them to intervene in the consolidated proceeding. The consolidated proceedings are hereafter referred to as El Paso II. Hearings began on March 17, 1977, and were concluded on September 19, 1977.

On October 1, 1977, DOE was activated pursuant to Executive Order No. 12009, September 13, 1977, (42 FR 46267) and the authority to approve natural gas importation under section 3 of the Natural Gas Act was automatically transferred to and vested in the Secretary of Energy pursuant to sections 301 and 402(f) of the Department of Energy Organization Act (Pub. L. 95-91). The Secretary immediately delegated to the Federal Energy Regulatory Commission (FERC) the authority to carry out this function with respect to cases pending before it (DOE Delegation Order No. 0204-1, par. 11, October 1, 1977). By a DOE final rule issued October 1, 1977, entitled "Transfer of Proceedings to the Secretary of Energy and the Federal Energy Regulatory Commission," El Paso II was to continue under FERC jurisdiction until after the timely filing of all briefs on and opposing exceptions to the initial decision of the presiding administrative law judge. Judge Walter T. Southworth issued an initial decision on October 25, 1977, in which he approved, subject to conditions, the applications as amended under sections 3 and 7 of the Natural Gas Act. All briefs on exceptions and opposing exceptions to the initial decision were filed with the FERC by November 28, 1977. On December 7, 1977, the record in El Paso II was forwarded to DOE in compliance with the final rule.

Pursuant to paragraph 6 of DOE Delegation Order No. 0204-4, issued October 1, 1977, the Secretary had delegated the authority to issue a final order in this proceeding to the Administrator of the ERA.

In reviewing the record in this proceeding, DOE has determined that, before a final order can be issued, the FPC's EIS must be supplemented. Several Federal agencies and other interested organizations have expressed the concern that the EIS is substantively deficient in certain respects, including, inter alia, the analysis of offshore facility alternatives; the analysis of secondary, long-term, and cumulative impacts; and, the analysis of thermal, circulation, and salinity changes in Matagorda Bay and the resultant ecological impacts which would result from the extensive dredging and spoils disposal required for implementation of the project.

Accordingly, DOE has determined that the preparation of a supplement to the EIS covering the listed issues is the appropriate course to follow in order to assure compliance with NEPA.

Interested persons, agencies, and organizations desiring to submit comments or suggestions for consideration with respect to the preparation of this supplement are invited to do so. DOE encourages commenters to respond as soon as possible in order that suggestions may be reflected in the scope of the supplement. Upon completion of the draft supplement, its availability will be announced in the FEDERAL REGISTER, at which time public comments will again be solicited. Following the close of the comment period on the draft supplement, DOE will prepare a final supplement.

ADDRESS FOR COMMENTS: Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street NW., Room 6318, Washington, D.C., 20461, telephone 202-254-9730.

FOR FURTHER INFORMATION CONTACT:

Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street NW., Room 6318, Washington, D.C., 20461, telephone 202-254-9730.

Janine Landow-Esser, Office of General Counsel, 20 Massachusetts Avenue NW., Room 8217, Washington, D.C. 20461, telephone 202-376-4266.

Carol Borgstrom, Office of Environment, 12th and Pennsylvania Avenue NW., Federal Building, Room 7119, Washington, D.C. 20461, telephone 202-566-9760.

Issued in Washington, D.C., on September 11, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-26690 Filed 9-21-78; 8:45 am]

[3128-01]

REFINERS' CRUDE OIL ALLOCATION PROGRAM

Corrected Buy-Sell List for Allocation Period of October 1, 1978 through March 31, 1979

On August 28, 1978, the Economic Regulatory Administration (ERA) of the Department of Energy issued the buy-sell list specified in 10 CFR 211.65(g) of the refiners' crude oil allocation program for the allocation period of October 1, 1978 through March 31, 1979.(43 FR 39412, September 5, 1978). The refiner-sellers' portion of that buy-sell list was incorrect because of errors in computing (1) carryover of unsold refiner-seller sales obligations from previous allocation periods and (2) adjustments because of changes in refiner-buyers' allocations in previous allocation periods.

A corrected list of refiner-sellers' sales obligations for the allocation period commencing October 1, 1978, is appended to this notice. Refiner-buyers' allocations remain as set forth in the buy-sell list issued August 28, 1978.

Any questions concerning this notice should be addressed to: Chief, Crude Oil Allocation Branch, 2000 M Street NW., Washington, D.C. 20461.

This notice is issued pursuant to subpart G of DOE's regulations governing its administrative procedures and sanctions, 10 CFR part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with subpart H of 10 CFR part 205. Any such appeal shall be filed by October 23, 1978.

Issued in Washington, D.C., on September 18, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

APPENDIX

The list of refiner-sellers for the period October 1, 1978, through March 31, 1979, is revised as follows. The list sets forth the identity of each refiner-seller, the fixed percentage share of each refiner-seller, and the volumes of crude oil that each such refiner-seller is required to offer for sale to refiner-buyers. Refiner-sellers' sales obligations were adjusted to reflect some refiner-buyers' allocations shown in error in prior allocation periods.

CRUDE OIL ALLOCATION PROGRAM SALES OBLIGATIONS

[for the period Oct. 1, 1978, to Mar. 31, 1979]

Refiner-sellers	Share	Sales obligation (barrels)
Amoco Oil Co	0.099	199,120
Atlantic Richfield Co	.072	563,047
Chevron U.S.A., Inc	.096	2,173,103
Cities Service Co	.023	1,602,059
Continental Oil Co	.034	0
Exxon Co., U.S.A.	.112	0
Getty Refining & Marketing Co	.020	0
Gulf Refining & Marketing Co	.086	433,939
Marathon Oil Co	.022	0
Mobil Oil Corp	.089	350,656
Phillips Petroleum Co	.039	0
Shell Oil Co	.107	53,922
Sun Co	.052	77,957
Texaco Inc	.107	312,633
Union Oil Co. of California	.043	953,381
Total sales		6,719,817

[FR Doc. 78-26691 Filed 9-21-78; 8:45 am]

[3128-01]

Western Area Power Administration

CENTRAL VALLEY PROJECT (CVP) POWER RATES

Changes in Dates for Public Comment in Supplemental Proceedings

AGENCY: Western Area Power Administration (WAPA), Department of Energy.

ACTION: Notice of changes in dates for public comment.

SUMMARY: The dates for various steps in the Supplemental Proceedings for Public Participation in Power Rate Adjustments for CVP, California, as published in the FEDERAL REGISTER for April 18, 1978, 43 FR 16391, are amended as follows: An additional information forum will be held in Sacramento, Calif., on September 27, 1978, to answer questions concerning revised tentative rates. Written comments will be due November 1 and rebuttal comments on November 24. A public comment forum will be held December 6 and final position summaries are due December 22.

DATES: An additional information forum will be held at 9:30 a.m., on Wednesday, September 27, 1978, at Caravan Inn, 2300 Auburn Boulevard, Sacramento, Calif. Written comments on the revised tentative rate schedules may be submitted on or before November 1, 1978. Written rebuttal comments may be submitted on or before November 24, 1978. The supplemental public comment forum will be held at the Caravan Inn at 9:30 a.m., on December 6, 1978. Written summaries of positions are due on or before December 22, 1978.

ADDRESSES: Three copies of written comments shall be mailed to each of the following:

Area Manager, Western Area Power Administration, Department of Energy, 2800 Cottage Way, Sacramento, Calif. 95825.

Administrator, Western Area Power Administration, Department of Energy, P.O. Box 3402, Golden, Colo. 80401.

Assistant Secretary for Resource Applications, Department of Energy RA-4, Washington, D.C. 20461.

In addition, a copy should be submitted to each person who has previously submitted comments. A list of such persons may be obtained from the area manager.

FOR FURTHER INFORMATION CONTACT:

Gordon R. Estes, Area Manager, Western Area Power Administration, Department of Energy, 2800 Cottage Way, Sacramento, Calif. 95825, 916-484-4251.

Clark L. Rose, Western Area Power Administration, Department of Energy, P.O. Box 3402, Golden, Colo. 80401, 303-234-7548.

SUPPLEMENTARY INFORMATION: This proceeding was started in September 1977 with the announcement that two alternative tentative rates were under consideration. See 42 FR 46619 (1977). Following public information and public comment forums, the customers requested more time to obtain information and submit comments. Accordingly, the procedures were revised to authorize the establishment of interim rates followed by supplemental proceedings, 43 FR 12076 (1978); and interim rates were established, 43 FR 12361 (1978), to become effective May 25, 1978.

In April 1978, the Department of Energy announced supplemental proceedings for public participation in CVP power rate adjustments before a final decision is made, 43 FR 16391 (1978). A supplemental information forum was held on April 27 and continued to June 9. A number of written comments were received on June 30. However, the dates for rebuttal comments, the public comment forum, and the position summaries were cancelled pending further developments.

One of the point made in the June 30 comments was that WAPA had not presented revised tentative rates to substitute for the tentative alternative rates announced in September 1977, so it was difficult for the customers to know what to comment on. In response to this comment, WAPA is preparing revised alternative tentative rates, based primarily on information already circulated, which will be submitted to interested persons at or before the forum on September 27, 1978. Questions concerning those revised rates will be answered at the forum, and the subsequent written and oral comments will be directed to them.

Issued in Washington, D.C. September 21, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-26934 Filed 9-21-78; 10:36 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

REGULATION OF INTERSTATE CARRIER WATER

Memorandum of Understanding With the Food and Drug Administration

CROSS REFERENCE: For a document giving notice of a memorandum of understanding between the Environmental Protection Agency and the Food and Drug Administration regarding certain related objectives in carrying out the regulation of water intended for drinking and culinary purposes on interstate carrier conveyances, see FR Doc. 78-26584 appearing elsewhere in the Notices section of this issue of the FEDERAL REGISTER.

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1142]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULEMAKING PROCEEDINGS FILED

SEPTEMBER 18, 1978.

Docket or RM No.	Rule No.	Subject	Date received
20870		Regulatory policies and procedures for the Domestic Public Land Mobile Radio Service. Filed by Kenneth E. Hardman, attorney for Telocator Network of America.	Sept. 8, 1978.

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Docket or RM No.	Rule No.	Subject	Date received
21010		UHF television receiver noise figures. Filed by J. Edward Day and William K. Black, attorneys for Consumer Electronics Group, Electronic Industries Association.	Sept. 14, 1978.
CC 78-144		Adoption of rules for the regulation of cable television pole attachments. Filed by James A. Debois, M. Jean Dabney, Michael R. Greene and Charles G. Hollis, attorneys for American Telephone & Telegraph Co. and the Associated Bell System Co..	Sept. 8, 1978.
		Filed by Thomas J. O'Reilly, attorney for United States Independent Telephone Association.	Sept. 11, 1978
		Filed by Stuart Feldstein, Jay E. Ricks and R. Clark Wadlow, attorneys for National Cable Television Association, Inc.	Do.

NOTE.-Oppositions to petitions for reconsideration must be filed on or before October 10, 1978. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-26592 Filed 9-21-78; 8:45 am]

GENERAL SERVICES ADMINISTRATION

PRIVACY ACT OF 1974

Altered System of Records

AGENCY: General Services Administration.

ACTION: Alteration of a system of records.

SUMMARY: The system of records GSA/ADM-24, Investigation and Personnel Security Case Files, is being amended to exempt criminal investigation case files in the system from all provisions of the Privacy Act with the exception of subsections (b); (c) (1) and (2); (e)(4) (A) through (F); (e) (6), (7), (9), (10), and (11); and (l) of the act.

DATES: Any interested party may submit written comments regarding the proposed alteration. To be considered, comments must be received on or before October 23, 1978. The changes to the system of records shall become effective as proposed without further notice on October 23, 1978, unless comments are received which would result in a contrary determination.

ADDRESS: Address comments to General Services Administration (BR), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT:

Mr. William Hiebert, Records Management Branch, Paperwork Management Division, 202-566-0673.

BACKGROUND

In the 1977 annual publication of systems of records (42 FR 47730 through 47783), the system of records GSA/ADM-24, Investigations and Personnel Security Case Files, was revised to cover the complete civil, criminal, and administrative actions being performed by the Office of Investigations. These actions were previously performed by the Federal Protective Service and were included as part of the system of records GSA/PBS-3, Incident Reporting System. A general exemption for criminal investigation case files existed for the system of records GSA/PBS-3. When the system of records GSA/ADM-24 was revised to cover these criminal investigation case files, a corresponding revision to 41 CFR 105-64.601 for the general exemption was not made. The proposed rule published in the Proposed Rules section of today's FEDERAL REGISTER will correct this omission by adding the system of records GSA/ADM-24 to 41 CFR 105-64.601, general exemptions. This change is also being incorporated into the system of records notice. The proposed revised system of records is as follows:

GSA/ADM-24 (23-00-0024)

System name:

Investigation and Personnel Security Case Files GSA/ADM.

Security classification:

Some of the material contained in the system has been classified in the interests of the national security pursuant to Executive Order 11652.

System location:

The system is located in the Office of Investigations, GS Building, 18th and F Streets NW., Washington, D.C. 20405.

Categories of individuals covered by the system:

Individuals covered by the system are employees, applicants for employment, and former employees of GSA, and commissions, committees, and small agencies serviced by GSA. Also included are historical researchers, employees of contractors performing custodial or guard services in buildings under GSA jurisdiction, individuals who were the source of an individual complaint or an allegation that a crime had taken place, witnesses having information or evidence to any side of an investigation, and identification of possible and actual suspects in the criminal or civil actions that are subjects of investigations.

Categories of records in the system:

Investigative files contain information such as name, date, and place of birth, address, social security number, education, occupation, experienee, and investigatory material. These records are used as a basis for issuance of security clearances; suitability determinations; civil, criminal, and administrative action; and determinations in diiscrimination cases.

Authority for maintenance of the system:

Executive Order 10450, April 27, 1953; Executive Order 11478, August 8, 1969; Executive Order 11652, March 8, 1972; Executive Order 11246, September 24, 1965; and 40 U.S.C. 276a through a-7, 276c, 318 (a) through (d), and 327 through 331.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records are used by officers and representatives of other Government agencies on a need-to-know basis in the performance of their official duties under the authorities set forth above and also those routine uses contained in the appendix following the GSA notices.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in card file folders.

Retrievability:

Retrieved manually by name from files that are indexed alphabetically and filed numerically by location and incident.

Safeguards:

Records are stored in locked alarmed vault type room and/or three-way combination dial safes with access limited to authorized personnel. Information released only to authorized officials on a need-to-know basis.

Retention and disposal:

Disposition of records is in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2). Records are destroyed either by burning or pulping.

System manager and address:

The official responsible for the system is the Director of Investigations, 18th and F Streets NW., Washington, D.C. Mailing address: General Services Administration (AWI), Washington, D.C. 20405.

Notification procedures:

Inquiries by individuals as to whether the system contains a record pertaining to themselves should be addressed to the Director of Investigations.

Record access procedures:

Requests from individuals for access to records should be addressed to the Director of Investigations and should include full name (maiden name where appropriate), address, and date and place of birth. Only general inquiries may be made by phone.

Contesting record procedures:

GSA rules for access to records and for contesting the contents and appealing initial determinations are promulgated in 41 CFR 105-64, published in the FEDERAL REGISTER.

Record source categories:

Individuals, employees, informants, law enforcement agencies, other Government agencies, employers, references, co-workers, neighbors, educational institutions, and intelligence sources.

Systems exempted from certain provisions of the act:

In accordance with 5 U.S.C. 552a(j), the criminal investigation case files in this system of records are exempt from all provisions of the act with the exception of subsections (b); (c) (1) and (2); (e)(4) (A) through (F); (e) (6), (7), (9), (10), and (11); and (i) of the act. In accordance with 5 U.S.C. 552a(k), the general investigation and personnel security case files in this system of records are exempt from subsections (c)(3); (d); (e)(1); (e)(4) (G), (H), and (I); and (f) of the act.

Dated: September 11, 1978.

JANICE K. MENDENHALL,
Controller-Director of Administration.

[FR Doc. 78-26664 Filed 9-21-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ADVISORY COMMITTEE

Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. app. I)), and FDA regulations (21 CFR pt. 14) relating to advisory committees. The following advisory committee meeting is announced:

Committee name	Date, time, and place	Type of meeting and contact person
Dermatology Subcommittee of the Anti-Infective and Topical Drugs Advisory Committee.	Oct. 26, 9 a.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 to 10 a.m.; open committee discussion 10 a.m. to 4:30 p.m.; Mary K. Bruch (HFD-140), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4310.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of infectious diseases, dermatological disorders, and ocular diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The discussion will include Oxsoralen (NDA 9-048) with ultraviolet light in the treatment of psoriasis and update retinoic acid-possible photo-carcinogenicity in animals.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) and open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the the specific meeting involved. There are no closed portions for the meeting announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1-hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: September 18, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-26597 Filed 9-21-78; 8:45 am]

[4110-03]

Food and Drug Administration

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel.	Oct. 12, 9 a.m., Room 425, 8757 Georgia Ave., Silver Spring, Md.	Open committee discussion 9 a.m. to 10 a.m.; closed committee deliberations 10 a.m. to 1 p.m.; open public hearing 1 p.m. to 2 p.m.; James G. Dillon, Ph.D., (HFK-410), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open committee discussion. Keith Lusted, M.D., Bureau of Medical Devices, will make a presentation to the panel on the product development protocol approach to premarket approval of new medical devices.

Closed committee deliberations. The panel will review a product development protocal submission from a medical device manufacturer. This portion of the meeting will be closed to permit discussion of trade secret information (5 U.S.C. 552b(c)(4)).

Open public hearing. Interested parties are encouraged to present information pertinent to the classification findings of the General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel. Those desiring to make formal presentations should notify Mark F. Parrish, Ph.D., by October 5, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Committee name	Date, time, and place	Type of meeting and contact person
2. Immunology Device Section of the Immunology and Microbiology Devices Panel.	Oct. 30 and 31, 9 a.m., Room 1209, 8757 Georgia Ave., Silver Spring, Md.	Open public hearing Oct. 30, 9 a.m. to 10 a.m.; closed committee deliberations Oct. 30, 10 a.m. to 5 p.m., Oct. 31, 9 a.m. to 5 p.m.; William C. Dierksheide, Ph.D. (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7234.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the classification of immunology devices to Dr. Srikrishna Vadlamudi. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify Dr. Vadlamudi by September 29, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants. references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Closed committee deliberations. The Panel will review and discuss premarket approval applications Nos. P780001 and 760001. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Committee name	Date, time, and place	Type of meeting and contact person
3. Microbiology Devices Section of the Immunology and Microbiology Devices Panel.	Oct. 31 and Nov. 1, 9 a.m., Room 1209, 8757 Georgia Ave., Silver Spring, Md.	Closed committee deliberations Oct. 31, 9 a.m. to adjournment; open public hearing Nov. 1, 9 a.m. to 10 a.m.; open committee discussion Nov. 1, 10 a.m. to 4:30 p.m.; William C. Dierksheide, Ph. D., (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7234.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Closed committee deliberations. The panel will review and discuss antibiotic drug application N50-525. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Open public hearing. Interested parties are encouraged to present information pertinent to the classification of microbiology devices to Thomas Tsakeris. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify Thomas Tsakeris by September 29, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required for their comments.

Open committee discussion. The panel will discuss culture media labeling with a view toward specifying the minimum essential information required for proper use of these products by the user.

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1-hour long unless public participation does not last that long. It is emphasized, however, that the 1-hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permit such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably, deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: September 15, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 78-26491 Filed 9-21-78; 8:45 am]

[4110-03]

BUREAU OF DRUGS ADVISORY COMMITTEE CHAIRPERSONS

Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a meeting of the Bureau of Drugs advisory committee chairpersons to be held on October 6, 1978, in Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, beginning at 9 a.m.

FOR FUTHER INFORMATION CONTACT:

Frank H. Desmond, Bureau of Drugs (HFD-22), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4090.

SUPPLEMENTARY INFORMATION: The preliminary agenda provides for the presentations listed below. Time will be provided for questions from the general public.

Topic and Presenter

FDA advisory committees: why we need them; how we use them. Donald Kennedy, Commissioner of Food and Drugs.

Philosophy of drug regulation, including the role of advisory committees in the evaluation of new drugs. J. Richard Crout, Director, Bureau of Drugs.

Use of advice and recommendations. Marion J. Finkel, Associate Director for New Drug Evaluation.

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Relationships of advisory committees to divisions. Robert Temple, Director, Division of Cardio-Renal Drug Products.

The chairperson's perspective. Theodore King, Former Chairperson, Fertility and Maternal Health Drugs Advisory Committee.

The evaluation of candidates for committee membership. Jerome A. Halperin, Acting Deputy Director, Bureau of Drugs.

Federal conflict of interest statutes: Scope, impact, and pitfalls. Eric Blumberg, Associate Chief Counsel for Enforcement, Office of the General Counsel, Food and Drug Division.

Meeting management. Frank H. Desmond, Chief, Committee Management Branch.

After the presentations and discussion there will be a meeting with the division directors, executive secretaries, and division staffs.

Dated: September 14, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-26490 Filed 9-21-78; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 77N-0393; DESI 7245]

CERTAIN INHALATION BRONCHODILATORS

Withdrawal of Approval of New Drug Application; Correction

AGENCY: Food and Drug Administration.

ACTION: Correction.

SUMMARY: This document corrects a notice that was published in the FEDERAL REGISTER of Friday, July 14, 1978.

EFFECTIVE DATE: September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Nathan J. Treinish, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPLEMENTARY INFORMATION: In FR Doc. 78-19229 in the FEDERAL REGISTER of Friday, July 14, 1978, on page 30348, column 3, the next to the last paragraph is corrected by changing in the second line "NDA 7-245" to read "NDA 11-726" and in the third line "NDA 11-726" to read "NDA 7-245."

Dated: September 13, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-26364 filed 9-21-78; 8:45 am]

[4110-03]

[Docket No. 78-0081; DESI 5803]

CERTAIN POORLY ABSORBED SULFONAMIDES FOR ORAL USE

Withdrawal of Approval of New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug applications for two poorly absorbed sulfonamides for oral use. The basis for the withdrawal is the lack of substantial evidence that the drug products are effective for their labeled indications. The drug products, which have been used in the treatment of various gastrointestinal disorders, are no longer marketed.

EFFECTIVE DATE: October 2, 1978.

ADDRESS: Requests for opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 5803 and directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Mary E. Catchings, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing published in the FEDERAL REGISTER of May 2, 1978 (43 FR 18771), the Director of the Bureau of Drugs proposed to issue an order withdrawing approval of the following new drug applications on the ground that the drug products lack substantial evidence of effectiveness for their labeled indications.

NDA 4-687; that portion of the NDA pertaining to Sulfasuxidine Tablets containing succinylsulfathiazole; Merck Sharp & Dohme, Division of Merck & Co., Inc., West Point, Pa. 19486.

NDA 6—593; Thalamyd Tablets containing phthalylsulfacetamide; Schering Corp., Galloping Hill Road, Kenilworth, N.J. 07003.

All drug products that are identical, related, or similar to the drugs named above and are not the subject of an approved new drug application are covered by the new drug applications reviewed and are subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the division of Drug Labeling Compliance (address given above).

Neither the holders of the applications nor any other person filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82), finds that on the basis of new information before him with respect to these drug products, evaluated together with the evidence available to him when the applications were approved, there is a lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of NDA 6-593 and that part of NDA 4-687 providing for the drug product named above and all amendments and supplements applying thereto is withdrawn effective October 2, 1978.

Shipment in interstate commerce of the above products or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: September 15, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-26598 Filed 9-21-78; 8:45 am]

[4110-03]

[Docket No. 78N-0248]

CHLORTETRACYCLINE, SULFAMETHAZINE, AND VITAMIN TABLETS FOR ANIMAL USE

Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing an opportunity for hearing to American Cyanamic Do., P.O. Box 400, Princeton, N.J. 08540, on a proposal to withdraw approval of a new animal drug application (NADA 55-025) for Aureomycin Sulmet Oblets, which contain chlortetracycline, sulfamethazine, vitamins A and D, and niacin for animal use. the ground for the proposed withdrawal is that new information evaluated together with evidence available at the time of the drug's approval shows a lack of substantial evidence of the drug's effectiveness.

DATE: Written appearances requesting a hearing, data, and information in support of hearing requests, and written comments by October 23, 1978.

ADDRESS: Written appearances data, information, and comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

David Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the FEDERAL REGISTER, the Director of Bureau of Veterinary Medicine proposes to revoke § 546.110e *Chlortetracycline-sulfamethazine tablets* (21 CFR 546.110e), the certification provision for the use of the drug.

A. THE DRUG

Aureomycin Sulmet Oblets contain 125 milligrams (mg) chlortetracycline in combination with 2.5 grams sulfamethazine and 100 mg nicotinic acid, 62,500 international units (I.U.) vitamin A, and 6,250 I.U. vitamin D. The product is labeled for the oral treatment of bacterial scours in calves at a dosage of one oblet daily for calves up to 100 pounds, and two oblets daily for calves 100 to 200 pounds for up to 3 days; it is not to be administered within 5 days of slaughter for food.

B. BACKGROUND

The Bureau of Veterinary Medicine (BVM) informed American Cyanamid by letter dated October 2, 1974, that Aureomycin Sulmet Oblets had been rereviewed for efficacy under guidelines established by the National Academy of Sciences/National Research Council (NAS/NRC). The letter stated, in part, that the efficacy data in the new animal drug application for this combination drug did not meet the requirements for fixed dose combination drugs as set forth in § 514.1(b)(8)(v) (21 CFR 514.1(b)(8)(v)) and that dose response studies (incremental effectiveness, titration studies) were required to insure that the most effective level or levels for each drug is or are used. American Cyanamid has not submitted this additional data, as requested, establishing the drug's effectiveness.

C. DEMONSTRATION OF EFFECTIVENESS

Section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b) requires that a drug have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. With respect to fixed combination drugs, such as Aureomycin Sulmet Oblets, § 514.1(b)(8)(v) requires that each ingredient designated as active in any new animal drug combination contribute to the effect in the manner claimed or suggested in the labeling. Section 514.1(b)(8)(v) further requires that if, in the absence of express labeling claims of advantages for the combination, such a product purports top be better than either component alone, it must be established that the new animal drug has that purported effectiveness. The requirement of effectiveness includes the requirement that the most effective level for each component be used. In the case of drug combinations for concurrent therapy, such as Aureomycin Sulmet Oblets, the requirement of effectiveness also includes the requirement that the dosage of each component be such that the combination is safe and effective for a population of significant size, specifically described in the labeling as requiring such concurrent therapy.

To demonstrate that Aureomycin Sulmet Oblets are effective, American Cyanamid must submit, in accordance with section 512(d)(3) of the act, substantial evidence consisting of adequate and well-controlled investigations, as defined by § 514.111(a)(5) (21 CFR 514.111(a)(5)), including field investigation.

No data have been submitted by American Cyanamid purporting to show substantial evidence, based on adequate and well-controlled studies, that: (1) The combination of ingredients in the formulation of Aureomycin Sulmet Oblets is effective at the dosage level recommended in the product's labeling; (2) that each active ingredient in the formulation contributes to the effect in the manner claimed or suggested in the labeling; and (3) that the most effective level or levels of each ingredient drug are used as required by § 514.1(b)(8)(v).

D. CONCLUSION

On the basis of all the data and information available, the Director of the Bureau of Veterinary Medicine is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 512 of the act and §§ 514.1(b)(8)(v) and 514.111(a)(5) of the regulations and thus demonstrating the effectiveness of this combination drug product. Accordingly, the Director concludes that, on the basis of new information with respect to this drug product evaluated together with the evidence available when the product was originally approved, there is a lack of substantial evidence that the drug product will have the effect it is purported of represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, notice is given to American Cyanamid and to all other interested persons, that the Director proposes to issue an order under section 512(e) of the act and section 108(b) of the Animal Drug Amendments of 1968 (Pub. L. 90-399), withdrawing approval of NADA 55-025 on the ground that the drug product lacks substantial evidence of effectiveness as defined by section 512 (d)(3) and (e)(1)(C) of the act and §§ 514.1(b)(8)(v) and 514.111(a)(5) of the regulations.

This notice of opportunity for hearing encompasses, in addition to the grounds for the proposed withdrawal of the approval, all issues relating to the legal status of the drug product, i.e., any contention that such product is not a new animal drug within the meaning of section 201(w) of the act (21 U.S.C. 321(w)).

In accordance with the provisions of section 512 of the act, section 108 of Pub. L. 90-399, and the regulations promulgated thereunder (21 CFR Part 510), American Cyanamid is hereby given an opportunity for hearing to show why approval of NADA 55-025 should not be withdrawn and why § 546.110e, which provides for its use, should not be revoked in accordance with this proposed withdrawal of approval; and an opportunity to raise, for administrative determination, all issues related to the legal status of Aureomycin Sulmet Oblets. Any other person may also submit comments on this notice within the time and under the requirements specified in this notice.

American Cyanamid shall file, on or before October 23, 1978, a written appearance electing whether or not to avail itself of the opportunity for hearing. Such written appearance shall give the reason why the approval should not be withdrawn, together with a well organized and full factual analysis of the clinical and other investigational data in support of the opposition to the Director's proposal.

Such analysis should include all protocols and underlying raw data and shall be submitted according to the requirements of § 314.200 (c)(2) and (d) (21 CFR 314.200 (c)(2) and (d)), which are hereby made applicable to this notice by reference. Wherever in § 314.200(d) reference is made to the requirements of § 300.50 (21 CFR § 300.50), that reference shall be deemed, for the purposes of this notice, to be a reference to the requirements for combination drug products as expressed in § 514.1(b)(8) and this notice.

The failure of American Cyanamid to file a timely written appearance and request for hearing as required by § 514.200 (21 CFR 514.200) constitutes an election by American Cyanamid not to avail itself of the opportunity for hearing concerning the action proposed and also constitutes a waiver of any contentions concerning the legal status of the drug, and the Director will summarily enter a final order withdrawing approval of NADA 55-025. Aureomycin Sulmet Oblets may not thereafter lawfully be marketed.

A request for hearing may not rest upon mere allegations or denials, but must set forth specific facts showing a genuine and substantial issue of fact that requires a hearing. If a hearing is requested and justified by American Cyanamid's response to this notice of opportunity for hearing, the issues will be defined, an administrative law judge will be assigned, and a written notice of the time and place at which the hearing will commence will be issued as soon as praticable. If it clearly appears, from the data submitted and from the reasons and a factual analysis in the request for hearing, that no genuine and substantial issue of fact precludes the withdrawal of approval of Aureomycin Sulmet Oblets and revocation of the regulation that provides for its use (e.g., if no adequate and well-controlled clinical investigations to support the claims of effectiveness have been identified), the Commissioner of Food and Drugs will enter summary judgment against American Cyanamid, making findings and conclusions, and denying a hearing, and the applicable regulation will be immediately revoked, consistent with such determination, without further opportunity for objection or hearing.

All submissions responding to this notice shall be filed in five copies with the Hearing Clerk (HFA-305), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and shall be identified with the hearing clerk docket number found in brackets in the heading of this document. With the exception of data and information prohibited from public disclosure under section 301(j) of the act (21 U.S.C. 331(j)) or 18 U.S.C. 1905, submissions received may be seen in the office of the hearing clerk during regular business hours.

The interim marketing privileges for sulfonamide-containing drug products that are provided for under § 510.450 (21 CFR 510.450) do not preclude the agency from proceeding against a product when it fails to conform to the other requirements to which it is subject. Because the basis for this action is a failure to meet the requirements of § 514.1(b)(8)(v), interim marketing under § 510.450 will be terminated upon publication of the final order in the FEDERAL REGISTER.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512, 59 Stat. 463 as amended, 82 Stat. 343-351 (21 U.S.C. 357, 360b)) and the Animal Drug Amendments of 1968 (sec. 108(b), Pub. L. 90-399; 82 Stat. 353) and under authority delegated to the Commissioner (21 CFR 5.1) and redelegated to the Director (21 CFR 5.84).

Dated: September 11, 1978.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-26366 Filed 9-21-78; 8:45 am]

[4110-03]

Food and Drug Administration

[FDA-225-78-4006]

REGULATION OF INTERSTATE CARRIER WATER.

Memorandum of Understanding With the Environmental Protection Agency

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding with the Environmental Protection Agency. The purpose of the understanding is to set forth cooperative working arrangements in regulating the suitability of the water intended for drinking and culinary purposes on interstate carrier conveyances.

DATE: The agreement became effective September 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Gary Dykstra, Compliance Coordination and Policy Staff (HFC-13), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3470.

SUPPLEMENTARY INFORMATION: Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697) stating that future memoranda of understanding and agreements between FDA and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs is issuing the following memorandum of understanding:

MEMORANDUM OF UNDERSTANDING BETWEEN THE ENVIRONMENTAL PROTECTION AGENCY AND THE FOOD AND DRUG ADMINISTRATION

I. Purpose: To provide a mechanism whereby the Environmental Protection Agency (EPA) and the Food and Drug Administration (FDA) will coordinate their agency regulatory activities with respect to the suitability of potable water intended for drinking and culinary purposes on board interstate carrier conveyances (ICC).

II. Scope: For purposes of this agreement "EPA" shall mean the U.S. Environmental Protection Agency acting directly or through the States which have assumed the primary enforcement responsibility under the Safe Drinking Water Act.

There are three elements comprising the composite system which delivers water to the tap on board the Interstate Carrier Conveyance. They are: (1) The public water system from which the interstate carrier conveyance receives its water supply; (2) the watering point where drinking water and culinary water is actually transferred to the ICC, and; (3) the ICC water system itself.

Under the provisions in the Safe Drinking Water Act (SDWA) and its associated regulation, Interstate Carrier Conveyances (ICC) serving drinking water to 25 or more persons at least 60 days per year are public water systems and as such are subject to the national interim primary drinking water regulations (NIPDWR) promulgated by EPA. EPA has jurisdiction under the SDWA over the public water systems furnishing drinking water to ICC's. EPA has certain regulatory authority over watering points and the ICC water system due to the consecutive nature of the systems in assuring suitable drinking water at the tap on board the ICC.

Under the provisions of the Food, Drug, and Cosmetic Act, the Public Health Service Act and their associated regulations, the FDA has authority to regulate water to insure that food is not adulterated and to take actions necessary to prevent the transmission of communicable disease. FDA also has regulatory authority over the ICC onboard culinary systems.

On many of the conveyances, the onboard culinary water and drinking water are within one system. Therefore, the responsibilities of both the EPA and FDA with respect to ICC's are complementary. Thus, a coordinated approach by these agencies will assure the provision of suitable potable water to the traveling public and crews on ICC's.

III. Provisions: To facilitate the purpose of this agreement, it is specifically agreed that:

A. The EPA will administer a regulatory program with respect to public water systems from which ICC's receive their water supply. The public water system that serves the ICC's will sample drinking water and report to the IPA. In case of violation, EPA will take action against the public water system and will notify FDA. FDA will in turn notify the ICC headquarters whose conveyances utilize watering points served by the public water system of the EPA determination and any regulatory action FDA considers appropriate.

B. The EPA will administer a regulatory program with respect to watering point and onboard carrier drinking water suitability. The ICC's and the watering points will sample for the suitability of the drinking water and report to EPA. In the event of a watering point or an onboard system violation, EPA will notify FDA. FDA will in turn notify the ICC headquarters whose conveyances utilize watering points of the EPA determination and any regulatory action FDA considers appropriate. FDA may, if it deems appropriate, include conveyances in violation in their inspection/monitoring schedule.

C. EPA will administer a regulatory program for ICC's using onboard treatment. The ICC's will sample for the suitability of the drinking water and report to EPA. In the event of a violation, EPA will notify FDA.

D. The FDA will continue to administer an ongoing regulatory program with respect to the watering point and onboard carrier culinary water systems. The FDA will notify EPA of violations. This continuing program of construction and operation inspections is complementary to an EPA program.

E. Both agencies will:

1. Maintain close working relations with each other in headquarters and in the field.

2. Exchange procedures and techniques used in determining and administering compliance within the appropriate regulatory constraints promulgated by each agency.

3. Coordinate enforcement efforts, thereby avoiding duplication of efforts, to assure the full safety and health protection of the public.

IV. Duration of agreement: A. This agreement, when accepted by both parties, covers an indefinite period of time and may be modified by mutual consent in writing by both parties, or terminated by either party upon thirty (30) days advance written notice.

B. This agreement will be reviewed annually by both agencies to insure that it is still appropriate and that the terms and provisions are current.

C. Nothing in the agreement is intended to diminish or otherwise affect the authority of either agency to carry out its respective statutory functions.

V. Reports: EPA will provide FDA an annual report on compliance status of public water systems used in conjunction with carriers and compliance status of drinking water suitability of ICC's and watering points.

FDA will provide EPA an annual report on location and compliance of watering points and compliance status of carrier culinary water systems.

VI. Liaison officers: A. A liaison officer has been designated for each agency to serve as a contact point. These liaison officers will be responsible for maintaining communication as to procedures and internal activities of their respective agencies in the area of common interest. These liaison officers are as follows:

1. For EPA: Liaison Officer—Chief, Drinking Water Branch, ODW (WH-550), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone 202-426-3983.

2. For FDA: Liaison Officer—Chief, Interstate Travel Sanitation Branch (HFF-324), Food and Drug Administration, Bureau of Foods, 200 C Street SW., Washington, D.C. 20204, telephone 202-245-1505.

B. The respective liaison officer accompanied by appropriate staff will hold meetings from time to time, but not less than annually, to discuss matters of concern to each agency.

VII. Authority: The Public Health Service Act (Pub. L. 78-410), the Food, Drug, and Cosmetic Act (P21 USC 321), the Safe Drinking Water Act (Pub. L. 93-523).

Dated: July 14, 1978.

For the U.S. Environmental Protection Agency:

THOMAS C. JORLING,
Assistant Administrator,
Office of Water and Hazardous Materials.

Dated: September 14, 1978.

For the Food and Drug Administration:

JOSEPH P. HILE,
Associate Commissioner
for Regulatory Affairs.

Effective date. This memorandum of understanding became effective September 14, 1978.

Dated: September 18, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-26584 Filed 9-19-78; 8:45 am]

[4110-39]

National Institute of Education

EXPERIMENTAL PROGRAM FOR OPPORTUNITIES IN ADVANCED STUDY AND RESEARCH IN EDUCATION

Closing Date for Receipt of Applicotidns

Notice is given that applications are being accepted for the second grants competition under the Experimental Program for Opportunities in Advanced Study and Research in Education according to the authority contained in section 405 of the general education provisions as amended, 20 U.S.C. 1221e.

A college, university, State department of education, local education agency, other public or private agency, organization, or group, or any combination of these is an eligible applicant. Support will be provided to improve opportunities for individuals to obtain high quality expertise and experience in educational research with emphasis upon opportunities for minority persons and women.

Applicants should note that there is a change from prior National Institute of Education practice which was to accept mailed applications for new awards only if they were received by the proposal clearinghouse on or before the closing date. Under a new procedure a mailed application meets the requirement if it is mailed on or before the closing date and the required proof of mailing is provided as explained in paragraph C below.

Closing date: December 1, 1978.

A. *Application and program information.* Interested persons may obtain a program announcement from the Program Staff, Minorities and Women's Program, National Institute of Education, Room 624, 1200 19th Street NW., Washington, D.C. 20208, telephone 202-254-8827. The program announcement includes the guidelines governing the program, information on the availability of funds, expected number of awards, eligibility and review criteria, and instructions on how to apply. Also included with the program announcement for this second grants competition will be a supplemental sheet that announces the modifications made to the previous program announcement. Persons interested in applying for research support under this program must submit a written request for the program announcement together with a self-addressed mailing label.

B. *Estimated distribution of program funds.* The program has a proposed funding allocation of $1.5 million in fiscal year 1979, It is expected that there will be about 24 project awards. The program will support projects of the highest quality. Further, nothing in the announcement will commit the Institute to award any specific amount. The actual total of funds awarded may change because of a need to reserve funds for continuation of projects begun earlier, for contract or in-house research or because of budget or staffing restrictions.

C. *Applications delivered by mail.* An application sent by mail must be addressed to the National Institute of Education, Proposal Clearinghouse, Attention: Experimental Program for Opportunities in Advanced Study and Research in Education. Applications will be accepted only if they are mailed on or before the closing date and the following proof of mailing is provided:

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first-class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

D. *Applications delivered by hand.* An application that is hand-delivered must be taken to the Proposal Clearinghouse, Room 708, 1832 M Street NW., Riviere Building, Washington, D.C. The proposal clearinghouse will accept hand-delivered applications between 8 a.m. and 4:30 p.m., Washington, D.C. time, daily, except Saturdays, Sundays, and Federal holidays. Applications for new awards that are hand-delivered will not be accepted after 4:30 p.m. on the closing date.

E. *Applicable regulations.* The regulations applicable to this program include the National Institute of Education general provisions regulations (45

CFR, subch. A) published in the FEDERAL REGISTER on November 4, 1974, 39 FR 38992, and the final rule for the Experimental Program for Opportunities in Advanced Study and Research in Education published in the FEDERAL REGISTER on July 31, 1978, 43 FR 33646.

(Catalog of Federal Domestic Assistance No. 13.950, Educational Research and Development.)

Dated: September 15, 1978.

PATRICIA ALBJERG GRAHAM,
Director, National Institute of Education.

[FR Doc. 78-26602 Filed 9-21-78; 8:45 am]

[4110-08]

National Institutes of Health

REPORT ON BIOASSAY OF 5-NITRO-O-TOLUIDINE FOR POSSIBLE CARCINOGENICITY

Availability

5-nitro-o-toluidine (CAS 99-55-8) has been tested for cancer-causing activity with rats and mice in the carcinogenesis program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay of 5-nitro-o-toluidine for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. 5-nitro-o-toluidine was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species. The time-weighted average high and low dietary concentrations of 5-nitro-o-toluidine were, respectively, 0.01 and 0.005 percent for rats, and 0.23 and 0.12 percent for mice. After a 78-week period of compound administration, observation of the rats continued for an additional 30 to 31 weeks and observation of the mice continued for up to an additional 20 weeks.

For each species, 50 animals of each sex were placed on test as controls and fed only the basal diet.

There were no significant positive associations between the concentration of 5-nitro-o-toluidine administered and mortality in rats or mice of either sex, and adequate numbers of animals in all groups survived sufficiently long to be at risk from late-developing tumors.

Under the conditions of this bioassay 5-nitro-o-toluidine was carcinogenic in B6C3F1 mice, causing hepatocellular carcinomas in both sexes, an increase in the combined incidence of hemangiomas and hemangiosarcomas in male mice, and an increased incidence of hemangiosarcomas in female mice. The compound was not carcinogenic in Fischer 344 rats.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: September 14, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-26535 Filed 9-21-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF O-ANISIDINE HYDROCHLORIDE FOR POSSIBLE CARCINOGENICITY

Availability

o-anisidine hydrochloride (CAS 134-29-0) has been tested for cancer-causing activity with rats and mice in the bioassay program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay of o-anisidine hydrochloride for possible carcinogenicity was conducted by administering the test chemical in feed to Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an ingredient of dyes and as an intermediate in the manufacture of gualacol.

It is concluded that under the conditions of this bioassay, o-anisidine hydrochloride was carcinogenic for Fischer 344 rats and B6C3F1 mice, including transitional-cell carcinomas or papillomas of the bladder in both rats and mice and in both sexes of each species, transitional-cell carcinomas of the pelvis of the kidney in male rats, and follicular-cell tumors of the thyroid in male rats.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: August 25, 1978.

LEON M. SCHWARTZ,
Acting Director, National Institutes of Health.

[FR Doc. 78-26536 Filed 9-21-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF THIO-TEPA FOR POSSIBLE CARCINOGENICITY

Availability

Thio-TEPA (CAS 52-24-4) has been tested for cancer-causing activity with rats and mice in the bioassay program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay of thio-TEPA for possible carcinogenicity was conducted by administering the test chemical by intraperitoneal injection to Sprague-Dawley rats and B6C3F1 mice. The chemical is a drug used in treatment of certain types of cancer.

It is concluded that under the conditions of this bioassay, thio-TEPA was carcinogenic in both Sprague-Dawley rats and B6C3F1 mice. In the rats, the chemical induced squamous-cell carcinoma of the skin or ear canal in both males and females, and hematopoietic neoplasms in the males; in the mice, it induced lymphoma or lymphocytic leukemia in both sexes and squamous-cell carcinoma in the skin and associated glands of males.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: August 25, 1978.

LEON M. SCHWARTZ,
Acting Director, National Institutes of Health.

[FR Doc. 78-26537 Filed 9-21-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

BURLEY DISTRICT GRAZING ADVISORY BOARD

Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Burley District Grazing Advisory Board will be held on November 8 and 9, 1978.

On November 8 the meeting will begin at 9 a.m. in the conference room of the Bureau of Land Management office at 200 South Oakley Highway, Burley, Idaho. On November 9 the meeting will convene at 8 a.m. at the same place. Attendees will then travel to the Bannock-Oneida grazing environmental statement area for a tour of the area (weather permitting).

The agenda for the meeting will include:

(1) A discussion of the function of the Board;

(2) Organization of the Board (election of officers);

(3) The expenditure of range betterment and advisory board funds for range improvements;

Bannock-Oneida grazing environmental statement;

(5) Discussion of the Board's future involvement in the allotment management plan program;

(6) The arrangement for the next meeting;

(7) Tour of the Bannock-Oneida grazing environmental statement area to review proposals for AMP's.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:30 p.m. and 5 p.m. on November 8, 1978, or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the district manager, Bureau of Land Management, Route 3, Box 1, Burley, Idaho 83318, by November 3, 1978. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the district manager. Persons desiring to make the tour on November 9 should furnish their own transportation, food and drink.

Summary minutes of the Board meeting will be maintained in the district office and be available for public inspection and reproductions (during regular business hours 7:45 a.m. to 4:30 p.m.) within 30 days following the meeting.

NICK JAMES COZAKOS,
District Manager.

[FR Doc. 78-26581 Filed 9-21-78; 8:45 am]

[4310-84]

[NM 34442]

NEW MEXICO

Proposed Withdrawal and Reservation of Lands

SEPTEMBER 13, 1978.

The Forest Service, Department of Agriculture, on August 16, 1978, filed application, serial No. NM 34442, for the withdrawal of the following described lands within the Lincoln National Forest from location and entry under the Mining laws only (30 U.S.C. ch. 2) subject to valid existing rights:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

EAGLE CREEK DAM AND RESERVOIR

T. 10 S., R. 13 E.;
Sec. 31, NE¼NE¼, S½NW¼NE¼, S½NE¼, E½SW¼ and SE¼ less parts of Tracts A, B, and C of HES 247;
Sec. 32, S½NE¼NW¼, NW¼NW¼, S½NW¼, NE¼SW¼, N½SW¼SW¼, and NW¼SW¼ less parts of Tracts A, B, and C of HES 247.

The areas described approximately 553.83 acres in Lincoln County, N.M. The lands involved are needed for a dam and reservoir for water storage for the village of Ruidoso as outlined in the final environmental statement issued November 9, 1977.

On or before October 23, 1978, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the undersigned. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with Bureau of Land Management manual, section 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's, and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior, who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

For a period of 2 years from the date of publication of this notice in the FEDERAL REGISTER, the lands will be segregated from entry as specified above unless the application is rejected or the withdrawal is approved prior to that date. If the withdrawal is approved by the Secretary, the segregation will remain in effect for a period of 20 years from the date of such approval.

All communications in connection with this proposed withdrawal should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, P.O. Box 1449, Santa Fe, N.M. 87501.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-26575 Filed 9-21-78; 8:45 am]

[4310-84]

[NM 34493, 34494, 34520]

NEW MEXICO

Applications

SEPTEMBER 15, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for three 4½-inch natural gas pipeline rights-of-way and related facilities within the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 8 W.,
Sec. 32, SE¼NE¼;
Sec. 33, S½NW¼ and NE¼SW¼.
T. 28 N., R. 11 W.,
Sec. 15, SE¼SW¼;
Sec. 22, NW¼NE¼ and NE¼NW¼.
T. 31 N., R. 13 W.,
Sec. 11, W½NE¼, SE¼NE¼, and NE¼NW¼.

These pipelines will convey natural gas across 1.309 miles of public lands in San Juan County, N.Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the district manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N.Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-26576 Filed 9-21-78; 8:45 am]

[4310-84]

[Wyoming 64691]

WYOMING

Application

SEPTEMBER 13, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah filed an application for a right-of-way to construct a 4½ inch o.d. pipeline for the purpose

of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 111 W.,
Sec. 8, SW¼SW¼, NE¼SE¼ and S½SE¼;
Sec. 20, NE¼NE¼;
Sec. 28, E½W½.

The proposed pipeline designated as lateral B-2 will transport natural gas produced from the Champlin No. 356 Well located in the NE¼SW¼ sec. 9 to a point of connection with Northwest Pipeline Corp.'s Moxa Arch Gathering System crossing the above-listed public lands within T. 18 N., R. 111 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 N., P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-26577 Filed 9-21-78; 8:45 am]

[4310-84]

[Wyoming 65031]

WYOMING

Application

SEPTEMBER 14, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a 4½-inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 29 N., R. 112 W.,
Sec. 17, S½S½;
Sec. 18, lot 4, SE¼SW¼ and S½SE¼.

The proposed pipeline will transport natural gas from a point in the SE¼SE¼ sec. 17 T. 29 N., R. 112 W., to a point of connection with Northwest Pipeline Corp.'s existing gathering system located in lot 4, sec. 18, T. 29 N., R. 112 W., Sublette County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 N., P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-26578 Filed 9-21-78; 8:45 am]

[4310-84]

[Wyoming 65014]

WYOMING

Application

SEPTEMBER 14, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a 4½-inch o.d. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 28 N., R. 113 W.,
Sec. 7, SE¼SE¼

The proposed pipeline will transport natural gas from their well Tip Top No. F-44-76 into their present gathering system all within the SE¼SE¼ section 7, T. 28 N., R. 113 W., Sublette County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-26579 Filed 9-21-78; 8:45 am]

[4310-84]

[Wyoming 65015]

WYOMING

Application

SEPTEMBER 14, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a 4½-inch o.d. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 24 N., R. 111 W.,
Sec. 29, NW¼NE¼, NE¼NW¼, and S½NW¼.

The proposed pipeline will transport natural gas from their well Lincoln Road No. 11 in the NE¼ traversing southwesterly with tie-ins to an existing line in the SW¼NW¼ of section 29, T. 24 N., R. 111 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 186 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-26580 Filed 9-21-78; 8:45 am]

[4310-55]

Fish and Wildlife Service

MARINE MAMMAL/ENDANGERED SPECIES PERMIT

Receipt of Application; Correction

Applicant: John L. Bengston, Department of Ecology and Behavioral Biology, University of Minnesota, 108 Zoology Building, Minneapolis, Minn. 55455.

On September 12, 1978, a notice of receipt of application from John L. Bengston for a marine mammal permit to authorize the taking of 15 West Indian manatees (*Trichechus manatus*) was published in FEDERAL REGISTER, volume 43, page 40549-50.

The first sentence made reference to sea otters. This is an error and the sentence should have read as follows: "Notice is hereby given that an applicant has applied in due form for a permit to take West Indian manatees as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the regulation governing the taking and importing of Marine Mammals (40 CFR Part 18), and section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205)."

All other information in this notice of September 12, 1978, is correct.

(4) A review of the current policy and program relating to allotment management plans and the upcoming

Dated: September 19, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-26650 Filed 9-21-78; 8:45 am]

[4310-55]

ENDANGERED/THREATENED SPECIES PERMIT

Receipt of Application

Applicant: Dr. Robert C. Shoop, Department of Zoology, University of Rhode Island, Kingston, R.I. 02881.

The applicant requests a permit to observe, census (and collect beached and stranded) Atlantic ridley (*Lepidochelys kempii*), hawksbill (*Eretmochelys imbricata*), leatherback (*Dermochelys coriacea*), green (*Chelonia mydas*), and loggerhead (*Caretta caretta*) sea turtles for the purpose of scientific research. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file No. PRT 2-3160. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before October 23, 1978. Please refer to the file number when submitting comments.

Dated: September 19, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-26649 Filed 9-21-78; 8:45 am]

[4310-70]

National Park Service

COMMITTEE FOR THE PRESERVATION OF THE WHITE HOUSE

Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Committee for the Preservation of the White House will be held at 1:30 p.m. on Friday, October 20, 1978 in the Reception Suite, National Museum of History and Technology, Smithsonian Institution, Washington, D.C.

The Committee was established for the purpose of advising the Director of the National park Service so that he may make recommendations to the President concerning the preservation and the interpretation of the museum character of the principal corridor on the ground floor and the principal public rooms on the first floor of the White House. The Committee shall make recommendations as to the articles of furniture, fixtures, and decorative objects which shall be used or displayed in the aforesaid areas of the White House and as to the decor and arrangements therein best suited to enhance the historic and artistic values of the White House and of such articles, fixtures, and objects.

Purpose of the meeting: The committee will discuss and recommend priorities for acquisition to the White House Collection, receive subcommittee reports and reports on previous acquisitions and loans.

The meeting will be open to the public. Public attendance depending on available space will be limited to those who have notified the Executive Secretary of the committee in writing at least 5 days prior to the meeting of their intention to attend the October 20 meeting.

Any member of the public may file a writtten statement with the committee before, during, or after the meeting. To the extent that time permits the committee chairman may allow public paricipation.

All communication regarding the committee should be addressed to Mr. Elmer S. Atkins, Executive Secretary, Committee for the Preservation of the White House, Room 344, 1100 Ohio Drive SW., Washington, D.C. 20242.

Dated: September 15, 1978.

MANUS J. FISH, JR.,
Regional Director, National Capital Region.

[FR Doc. 78-26674 Filed 9-21-78; 8:45 am]

[4310-70]

HARPERS FERRY NATIONAL HISTORICAL PARK, W. VA.

Availability of Assessment of Alternatives

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared an assessment of alternatives for the development concept plan, Harpers Ferry National Historical Park, W. Va., section. This assessment of alternatives and a development concept plan have been undertaken to guide future development in a manner that will be in full compliance with applicable environmental and historial legislation. It addresses the problems of the park as they relate to the internal management of the park and its environs. It includes description of the environment, description of alternatives developed to solve these problems and an assessment of the impacts and cost effectiveness of these alternatives.

Written comments on this assessment of alternatives are invited and will be accepted for a period of 45 days following the publication of this notice. Written comments should be addressed to Superintendent, Harpers Ferry National Historical Park, P.O. Box 65, Harpers Ferry, W. Va. 25425. Copies of the assessment of alternatives are available for inspection at:

Harpers Ferry National Historical Park, Superintendent's Office, P.O. Box 65, Harpers Ferry, W. Va. 25425.
Harpers Ferry Design Center, Manager's Office, Harpers Ferry, W. Va. 25425.
Bolivar Public Library, Harpers Ferry, W. Va. 25426.
Charles Town Public Library, Charles Town, W. Va. 25414.
Frederick Public Library, Frederick, Md. 21701.
Martinsburg Public Library, Martinsburg, W. Va. 25401.
Washington County Public Library, Hagerstown, Md. 21740.
Shepherdstown Public Library, Shepherdstown, W. Va. 25443.

Copies of the assessment of alternatives are available from the National Park Service, Harpers Ferry National Historical Park, P.O. Box 65, Harpers Ferry, W. Va. 25425.

Dated: September 13, 1978.

IRA J. HUTCHISON,
Deputy Director, National Park Service.

[FR Doc. 78-26676 Filed 9-21-78; 8:45 am]

[4310-70]

[INT DES 78-37]

WEST POTOMAC PARK AND FRANKLIN DELANO ROOSEVELT MEMORIAL

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for West Potomac Park and the proposed Franklin Delano Roosevelt Memorial. This environmental statement addresses the planning, design, and construction of the FDR Memorial, rehabilitation of West Potomac Park south of the Reflecting Pool, to include provision of Tourmobile Service, parking for handicapped visitors at the memorial entry, parking for visitors' cars and for tour buses between the 14th Street Bridges off Ohio Drive, and relocation of all sports facilities.

Prior to implementation of the memorial, as delineated in this statement, the Congress and the President will

V 43 185 SEP 22 78 V

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have to approve and authorize its construction.

Written comments on the draft environmental statement are invited and will be accepted for a period up to and including November 6, 1978.

Written comments should be addressed to the Regional Director, National Capital Region, 1100 Ohio Drive SW., Washington, D.C. 20242.

Copies of the draft environmental statement are available for inspection at;

National Park Service, National Capital Region, 1100 Ohio Drive SW., Room 208, Washington, D.C. 20242.

Martin Luther King Library, Room 417, 9th and G Streets NW., Washington, D.C. 20001.

District of Columbia, Department of Recreation, 3149 16th Street NW., Room B-2, Washington, D.C. 20010.

Copies of the draft environmental statement are available from the National Park Service, National Capital Region, 1100 Ohio Drive SW., Room 208, Washington, D.C. 20242.

Dated: September 15, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-26425 Filed 9-21-78; 8:45 am]

[4310-70]

YOSEMITE NATIONAL PARK

Intention to Negotiate Concession Contract

Pursuant to the provisions of section 5 of the act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Jack W. Vaughn, David L. Vaughn and E. Hugh Carter, doing business as El Portal Market, authorizing it to continue to provide concession facilities and services for the public at El Portal Administrative Site, Yosemite National Park for a period of five (5) years from January 1, 1979, through December 31, 1983.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Office of the Superintendent, Yosemite National Park, Calif. 95389.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1978, and therefore, pursuant to the act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants El Portal Market, as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed new contract and a preference in the award of the contract, if, thereafter, the proposal of El Portal Market is substantially equal to others received. In the event a responsive proposal superior to that of El Portal Market (as determined by the Secretary) is submitted, El Portal Market will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if it does so, the new contract will be negotiated with El Portal Market. The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be submitted within thirty (30) days after the publication date of this notice to be considered and evaluated.

Interested parties should contact the Chief, Division of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: September 14, 1978.

F. ROSS HOLLAND, JR.,
Acting Associate Director, National Park Service.

[FR Doc. 78-26675 Filed 9-21-78; 8:45 am]

[4310-70]

CORRECTION OF BOUNDARY DESCRIPTION

Perry's Victory and International Peace Memorial

There appeared in the FEDERAL REGISTER of August 16, 1978, on page 36332, a notice of boundary change of Perry's Victory and International Peace Memorial containing a description of the boundaries.

Now, therefore, in order to correct certain minor errors, the following corrections are made for the boundary descriptions: Page 36332, 18th line from end of description

SEE: "49°59'00" west a distance of 346.00 feet to the centerline of Delaware Avenue, extended and of Delaware Avenue 495.00 feet to a point,"

SHOULD READ: "49°59'00" west a distance of 346.00 feet to the centerline of Delaware Avenue extended; thence north 89°31'45" west along said centerline of Delaware Avenue extended and of Delaware Avenue 495.00 feet to a point,"

The remainder is correct.

RANDALL R. POPE,
Acting Regional Director, Midwest Region, National Park Service.

[FR Doc. 78-26673 Filed 9-21-78; 8:45 am]

[4410-18]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

OFFICE OF CRIMINAL JUSTICE EDUCATION AND TRAINING

Internship Program Funds

The Office of Criminal Justice Education and Training announces the annual competition for internship program funds. This program provides grants to institutions of higher education that offer criminal justice-related degree programs. The purpose of the institutional grant is to provide stipends up to $65 a week for criminology/criminal justice majors or degree candidates to work as interns in public criminal justice agencies.

The institution must sponsor a project that provides internships of at least 8 weeks for its students to work a minimum of 30 hours a week during their summer recess or while they are on academic leave from their degree program.

Institutions are invited to submit a concept paper describing the proposed internship project. The deadline for receipt of concept papers is November 1, 1978. Following review of the concept papers by qualified academicians and LEAA specialists, selected institutions will be asked to submit a formal application for funds (using standard form 424). Grant awards will be announced by April 30, 1979.

To participate in the internship program, the sponsoring college or university must be an institution of higher education that is fully accredited by a regional institutional accrediting commission recognized by the U.S. Commissioner of Education and the Council on Postsecondary Accreditation. The institution must be able to demonstrate its willingness and capability to respond to identified personnel needs of the criminal justice system. The institution is responsible for arranging intern placements and for monitoring the project.

Further information and copies of the program guidelines may be obtained by contacting: J. Robert Lewis, Office of Criminal Justice, Education and Training, Law Enforcement Assistance Administration, U.S. Department of Justice, Washington, D.C. 20531, telephone, 202-376-3563.

Dated: September 7, 1978.

J. PRICE FOSTER,
Director, Office of Criminal Justice, Education and Training.

[FR Doc. 78-26667 Filed 9-21-78; 8:45 am]

[4410-01]

NATIONAL COMMISSION FOR THE REVIEW OF ANTITRUST LAWS AND PROCEDURES

WORKING GROUP MEETING

CANCELLATION

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770), notice, on behalf of the National Commission for the Review of Antitrust Laws and Procedures (hereinafter "Commission"), was given in FR Dkt. 78-25700 (September 11, 1978; 43 FR 40324) that a meeting of the Commission's Working Group on the empirical Case Studies Project (hereinafter "Working Group"), would be held on September 26, 1978. Notice is hereby given that said meeting has been canceled.

Dated: September 19, 1978.

WENDELL B. ALCORN, JR.,
Special Counsel.

[FR Doc. 78-26679 Filed 9-21-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 15, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; and indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

RAILROAD RETIREMENT BOARD

Work Sheet for Interviews, UI-40, single time, railroad employees, unemployment benefit claimants, 2,300 responses, 575 hours, Strasser, A., 395-6132.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration, CMHC Grant Applications Package, PHS 5161-1, on occasion, applicants for CMHC grants—50 States and territories, 450 responses, 33,300 hours, 395-4775.

Health Services Administration, Data Required by PHS from 1977 National Public Health Program Reporting System, Annually, 56 State health agencies, 56 responses, 6,737 hours, Richard Eisinger, 395-3214.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit, Schedule of Properties Securing Blanket Mortgage Loan, FHA-2461, on occasion, blanket mortgage, 500 responses, 250 hours, Caywood, D. P., 395-3443.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-26718 Filed 9-21-78; 8:45 am]

[4510-23]

PRESIDENT'S COMMISSION ON THE COAL INDUSTRY

COMMISSION MEETING—LOCATION CHANGE

The location for the first meeting of the President's Commission on the Coal Industry announced in the FEDERAL REGISTER, September 14, 1978, 43 FR 41105, has been changed. The meeting will now be held in room S-126, the U.S. Capitol, Washington, D.C. The date and time will remain as previously announced: Friday, September 29, 1978, from 9 to 1 p.m.

Dated: September 19, 1978.

MICHAEL S. KOLEDA,
Executive Director, President's Commission on the Coal Industry.

[FR Doc. 78-26646 Filed 9-21-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

ALPINE GEOPHYSICAL ASSOCIATES, INC.

Suspension of Trading

SEPTEMBER 15, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Alpine Geophysical Associates, Inc., being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:45 a.m. on September 15, 1978 through September 24, 1978.

By the Commission.

GEORGE A FITZSIMMONS,
Secretary.

[FR Doc. 78-26593 Filed 9-21-78; 8:45 am]

[8010-01]

[File No. 1-5950]

AMERICAN MEDICAL BUILDINGS, INC.

Application To Withdraw From Listing and Registration

SEPTEMBER 15, 1978.

The above-named issuer has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 and rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Boston Stock Exchange, Inc. ("BSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of American Medical Buildings, Inc. (the "Company") has been listed for trading on the Pacific Stock Exchange, Inc. ("PSE") since August 1, 1973, and on the BSE since January 19, 1976. On August 22, 1978, the stock was also listed for trading on the American Stock Exchange, Inc. ("Amex"). The Company has decided that it no longer wishes to have its common stock listed on the BSE.

The application relates solely to the withdrawal from listing and registration on the BSE and shall have no effect on the continued listing of such common stock on the Amex and the PSE. The BSE has posed no objection in this matter.

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VOL 43 NO 185 SEP 22 78

Any interested person may, on or before October 17, 1978, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-26594 Filed 9-21-78; 8:45 am]

[8010-01]

[Release No. 10407; 811-1285]

EGRET FUND, INC.

Filing of Application Act for an Order Declaring That the Applicant Has Ceased To Be an Investment Company

SEPTEMBER 14, 1978.

Notice is hereby given that Egret Fund, Inc., a Massachusetts corporation ("Applicant"), One Beacon Street, Boston, Mass. 02108, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, has filed an application on July 31, 1978, pursuant to section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Applicant states that it registered under the Act on September 17, 1964, and that it has issued only common stock, such stock having been first effectively registered under the Securities Act of 1933 on November 18, 1964.

The Applicant states that its Board of Directors recommended to its shareholders that substantially all of the Applicant's assets be transferred to Pioneer Fund, Inc. ("Pioneer"), in exchange for shares of Pioneer, and that Applicant be liquidated. According to the application, the shareholders of Applicant approved the proposed agreement and plan of reorganization at a special meeting held July 21, 1978, by a vote of not less than two-thirds of its outstanding shares. Applicant states that its assets were transferred to Pioneer on July 24, 1978, and that, on that same date, the shares of Pioneer received in exchange for such assets were distributed to Applicant's shareholders. Applicant states further that such exchange was made on the basis of relative net asset values.

On the business day next preceding its liquidation, Applicant asserts that it had 2,963,425 shares outstanding having an aggregate net asset value of $31,300,425 and a per share net asset value of $10.56. Applicant further asserts that all of its shareholders received distributions in complete liquidation of their interests, and that it has no assets, no liabilities, is not a party to any litigation and does not propose engaging in any business activity other than that necessary for the winding up its affairs.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than October 6, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-26595 Filed 9-21-78; 8:45 am]

[8010-01]

[File No. 1-7062]

REALTY ReFUND TRUST

Application to Withdraw from Listing and Registration

SEPTEMBER 15, 1978.

The above-named issuer has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 and rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The Shares of Beneficial Interest ("Shares") of Realty ReFund Trust (the "Company") have been listed for trading on the Amex since November 16, 1972. On April 24, 1978 the Shares were also listed for trading on the New York Stock Exchange, Inc. ("NYSE") and concurrently therewith, the Shares were suspended from trading on the Amex. In making the decision to withdraw its Shares from listing and registration on the Amex, the Company considered the direct and indirect costs and expenses attendant to maintaining a dual listing on both exchanges. The Company does not see any particular advantage in the dual trading of the Shares and believes that dual listing would fragment the market for such Shares.

The application relates solely to the withdrawal from listing and registration on the Amex and shall have no effect on the continued listing of such Shares on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before October 17, 1978, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-26596 Filed 9-21-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-5218]

HUB ENTERPRISES, LTD.

Issuance of a License To Operate as a Small Business Investment Company

On July 3, 1978, a notice was published in the FEDERAL REGISTER (43 FR 28876), stating that HUB Enterprises, Ltd. located at 5218 Doyle Street, Emeryville, Calif. 94608, had filed an application with the Small Business Administration pursuant to 13 CFR, 107.102 (1978) for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

The period for comment expired on July 18, 1978, and no comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 09/09-5218 to HUB Enterprises, Ltd.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 15, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-26685 Filed 9-21-78; 8:45 am]

[8025-01]

[Proposed License No. 09/09-0223]

MONTGOMERY STREET PARTNERS INC.

Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to 13 CFR 107.102 (1978) by Montgomery Street Partners Inc., 44 Montgomery Street, San Francisco, Calif. 94104, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors, and principal stockholders are:

Name, Title and Stockholder

Roslyn Braeman Payne, 3616 Jackson Street, San Francisco, Calif., President, Chief Financial Officer and Director, 50 percent.

Lisle W. Payne, 3616 Jackson Street, San Francisco, Calif., Vice President, Secretary, Director, 50 percent.

Thomas E. Bailard, 127 Selby Lane, Atherton, Calif. 94025, Director.

The applicant will begin operations with initial capitalization of $302,000. Lisle and Roslyn Payne will commit to purchase an additional $100,000 of stock of the applicant in each of the 2 years following issuance of a license to the applicant. The applicant understands that no SBA leverage will be provided until its private capital is increased to at least $500,000.

Subject to the restrictions of section 107.101(c)(2) of the SBA Regulations, the applicant's investments will emphasize companies within major groups 15, 65, and 70 of the Standard Industrial Classification Manual. Still the applicant's investment policy will be broad. It is expected that wherever possible and practical the investments will be made on an equity basis. Management consulting and financial advisory services may be provided to clients and others.

Matters involved in the SBA's consideration of the application include the general business reputation and character of the proposed owners and management, including adequate profitability and financial soundness, in accordance with the act and SBA rules and regulations promulgated thereunder.

Any person may on or before October 10, 1978 submit to the SBA written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in San Francisco, Calif.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 15, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-26686 Filed 9-21-78; 8:45 am]

[8025-01]

REGION I ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Concord, N.H., will hold a public meeting at 10 a.m., on Wednesday, October 4, 1978, in the conference room of the Concord Federal Building, 55 Pleasant Street, Concord, N.H., to discuss such matters as may be presented by members, staff of the Small Business Administration, and others attending.

For further Information, write or call Bert Teague, U.S. Small Business Administration, 55 Pleasant Street, Concord, N.H. 03301, 603-224-5588.

Dated: September 18, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-26681 Filed 9-21-78; 8:45 am]

[8025-01]

REGION VII ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region VII Advisory Council, located in the geographical area of Kansas City, Mo., will hold a public meeting from 10 a.m. to 2 p.m. on Wednesday, October 4, 1978, in the sixth floor conference room, 1150 Grand Avenue, Kansas City, Mo., to discuss such business as may be presented by members, and the staff of the Small Business Administration, or others attending.

For further information, write or call Gerald Jepson, District Director, U.S. Small Business Administration, 1150 Grand Avenue, Kansas City, Mo. 64106, 816-374-5557.

Dated: September 15, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-26682 Filed 9-21-78; 8:45 am]

[8025-01]

REGION VIII ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Fargo, N.D., will hold a public meeting at 9 a.m., on Thursday, October 12, 1978, at the Federal Building, 653 Second Avenue North, Fargo, N.D., to discuss such business as may be presented by members, and the staff of the Small Business Administration, and others attending.

For further information, write or call Mr. E. Maine Shafer, District Director, U.S. Small Business Administration, Federal Office Building, Room 218, 653 Second Avenue North, Fargo, N.D. 58102, 701-783-5131.

Dated: September 18, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-26683 Filed 9-21-78; 8:45 am]

[8025-01]

REGION VIII ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Sioux

V 43 / 185 SEP 22 78

Falls, S.D., will hold a public meeting on Friday, October 13, 1978, from 9 a.m. to 3 p.m., in the Dublin Room, Town House Motel, 400 South Main Avenue, Sioux Falls, S.D., to discuss such business as may be presented by members, the staff of the Small Business Administration, and others present.

For further information, write or call Chester B. Leedom, District Director, U.S. Small Business Administration, 402 National Bank of South Dakota Building, Sioux Falls, S.D. 57102, 605-336-2980, ext. 231.

Dated: September 18, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-26684 Filed 9-21-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 78-323]

CUSTOMHOUSE BROKER LICENSE— SUSPENSION

Suspension With Prejudice of Customhouse Broker License, No. 4139

Notice is hereby given that the Commissioner of Customs on September 11, 1978, pursuant to section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), and part 111 of the Customs Regulations, as amended, upon the specific request of Mark A. Mena, Houston, Tex., suspended with prejudice for a period of 6 months individual customhouse broker's license, No. 4139 issued to him on June 23, 1969 for Customs District No. 22 (Houston). The Commissioner's decision is effective as of September 11, 1978.

G. R. DICKERSON,
Acting Commissioner of Customs.

[FR Doc. 78-26688 Filed 9-21-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 716]

Assignment of Hearings

SEPTEMBER 19, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. 36993, *The Flintkote Co.* v. *The Atchinson, Topeka & Santa Fe Railway Co.*, now being assigned October 31, 1978, at the Offices of the Interstate Commerce Commission, Washington, DC.

No. 36095, Investigation into Lawfulness of Off Line Limitations Placed on nonassigned September 20, 1978, at Washington, DC is canceled.

No. 37005, Southern Railway System-Investigation of Practices, now being assigned November 20, 1978 (2 days), at Memphis, TN, in a hearing room to be later designated.

No. 36989, *Adams Packing Association, Inc., et al.* v *Consolidated Rail Corp., et al.*, now being assigned December 11, 1978 (1 week), at Orlando, FL, in a hearing room to be later designated.

MC 142941 (Sub-3), Scarborough Truck Lines, now being assigned for hearing on December 7, 1978, (2 days), at Phoenix AZ, in a hearing room to be later designated.

MC 83539 (Sub-484F), C & H Transportation Co., Inc., MC 107295 (Sub-875F), Pre-Fab Transit Co., now being assigned for hearing on November 30, 1978, (2 days), at Phoenix AZ, in a hearing room to be later designated.

MC 109397 (Sub-407F), Tri-State Motor Transit Co., MC 124947 (Sub-79), Machinery Transports, Inc., now being assigned for hearing on December 11, 1978, (1 week), at Phoenix AZ, in a hearing room to be later designated.

MC 123157 (Sub-39F), CTI, now being assigned for hearing on December 4, 1978, (3 days), at Phoenix AZ, in a hearing room to be later designated.

MC 128196 (Sub-7), Karl Arthur Weber Extension-CA, now assigned for hearing on November 28, 1978, (2 days), at Phoenix, AZ, in a hearing room to be later designated.

MC 51146 (Sub-534), Schneider Transport, Inc., and MC 136786 (Sub-132F) Robco Transportation, Inc., now assigned October 3, 1978, at Washington, DC is canceled.

No. 36434, Commuter Fares-Consolidated Rail Corp., NJ and NY, and No. 36474, *Benjamin A. Gilman* v. *Consolidated Rail Corp., et al.*, now assigned September 18, 1978, at Goshen, NY, and on September 20, 1978, at Suffern, NY, are postponed indefinitely.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26677 Filed 9-21-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552(e)(3).

CONTENTS

	Items
Commodity Credit Corporation	1
Commodity Futures Trading Commission	2, 3
Consumer Product Safety Commission	4
Equal Employment Opportunity Commission	5
Federal Deposit Insurance Corporation	6
Federal Election Commission	7

[3410-05]

1

COMMODITY CREDIT CORPORATION.

TIME AND DATE: 2 p.m., September 29, 1978.

PLACE: Room 216-A, Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open except for agenda, item 6 which will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Minutes of CCC Board meeting on September 8, 1978.
2. Docket DCP 2a, 1979-crop wheat loan, purchase, and related programs.
3. Docket FCZ 247, Revision 1, Amendment 1 re policy on Commodity Credit Corporation interest rates on commodity loans, grain reserve loans, farm storage, and drying equipment loans and certain price support purchase transactions.
4. Resolution 16, CZ 266, re commodities available for Pub. L. 480 during fiscal year 1979.
5. Memorandum re additional commodities for domestic feeding programs.
6. Docket UNP 307 re purchase and distribution of agricultural commodities and other foods for domestic distribution with FNS and section 32 funds, fiscal year 1979.

CONTACT PERSON FOR MORE INFORMATION:

Bill Cherry, Secretary, Commodity Credit Corporation, Room 202-W, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20013, telephone 202-447-7583.

[S-1927-78 Filed 9-20-78; 10:17 am]

[6351-01]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., September 26, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Commission third quarter review/fiscal year 1978.
Section 5a(12) approval of amendments to Chicago Board of Trade Rules 282D and 294 and Regulations 1620(13)(D) and 1620(14) (Soybean contract).
Section 5a(12) approval of amendments to Rules 503D and 521 of the MidAmerica Commodity Exchange (Soybean contract).
Modification of the FEDERAL REGISTER notice to accompany Part 170—Proposed Standards Governing Commission Review of Applications for Registration as a Futures Association.
Final rule imposing a temporary moratorium on the offer and sale of leverage contracts.
Proposed FEDERAL REGISTER release seeking public comment concerning the interpretation of contracts of sale of a commodity for future delivery within the meaning of the Commodity Exchange Act.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1925-78 Filed 9-20-78; 10:17 am]

[6351-01]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 2 p.m., September 26, 1978.

PLACE: 2033 K Street SW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement matters/settlement offer; proposed administrative actions; applications for registration as associated persons of a futures commission merchant.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1928-78 Filed 9-20-78; 10:17 am]

[6355-01]

4

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: September 28, 1978, 9:30 a.m.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C. 20207.

STATUS: Open.

MATTERS TO BE CONSIDERED:

AGENDA

A. Open to the public

1. *Briefing on architectural glazing petition—glazed panels (CP 78-10).* The staff will brief the Commission on issues related to a petition which seeks revision of the terms "glazed panel" and "sliding glass door (patio type)," as these terms are used in CPSC's Safety Standard for Architectural Glazing. The Commission previously considered this petition at the August 17 briefing and at the August 24 meeting.

2. *Recommendation to close possible substantial product hazard case: Tonka Corp., plastic toy vehicles, ID 78-6.* Based on its evaluation of the risk of injury presented by these toy vehicles whose wheels may break off, the staff has recommended that the Commission close this case involving Tonka Corp.

3. Recommendation to accept corrective action plan: Honeywell, Inc., fan controls, ID 78-59. The staff has recommended that the Commission accept and monitor the corrective action plan which Honeywell has implemented to deal with a possible defect in certain fan and/or limit controls it manufactures for use in home warm air furnaces. Honeywell is recalling and testing suspect units, and has altered its manufacturing process.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-1924-78 Filed 9-20-78; 10:17 am]

[6570-06]

5

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 2:30 p.m. (eastern time), Tuesday, September 26, 1978.

V 43 / 185 SEP 22 78

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the public:

1. Freedom of Information Act Appeals Nos. 78-7-FOIA-159 and 78-8-FOIA-177, the first concerning requests for intra-agency and interagency memoranda from certain investigative files, and the second concerning a request for materials not in the possession of the Commission.
2. Contract with National Academy of Sciences on Wage Comparability Study.
3. Proposed procedures to implement Executive Order 12044 and final report required by that order.
4. Report on Commission operations by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations: Matters closed to the public under the Commission's regulations at 29 CFR 1612.13.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued September 19, 1978.

[S-1929-78 Filed 9-20-78; 3:37 pm]

[6714-01]

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

NOTICE OF AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:15 p.m. on Wednesday, September 13, 1978, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to extend for 60 days the time in which an administrative hearing is to be held in connection with cease-and-desist proceedings the Corporation has instituted against an insured State nonmember bank, pursuant to section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)).

In calling the meeting, the Board determined, on motion of Director William M. Isaac (Appointive), seconded by Mr. C. F. Muckenfuss III, acting in the place and stead of Acting Chairman John G. Heimann, that Corporation business required its consideration of the matter on less than 7 days' notice to the public; that no earlier notice of the meeting was practicable; and that the matter was eligible for consideration in a closed meeting, pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)), since the public interest did not require consideration of the matter in a meeting open to public observation.

Dated: September 13, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1928-78 Filed 9-20-78; 3 p.m.]

[6715-01]

7

FEDERAL ELECTION COMMISSION

DATE AND TIME: Wednesday, September 27, 1978, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit Reports, Compliance, and Personnel.

* * * * *

DATE AND TIME: Thursday, September 28, 1978, at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Setting of dates for future meetings.
Correction and approval of minutes.
Advisory opinions: AO 1978-56, AO 1978-61, AO 1978-28, AO 1978-72.
Appropriations and budget.
Earmarked contributions.
Presidential campaign disclosure form.
Pending legislation.
Pending litigation.
Liaison with other Federal agencies.
Classification actions.
Reports from division heads.
Nonfiler procedures.
Interpretation and application of 2 U.S.C. 438(b) regarding clearinghouse (if not concluded on September 21, 1978).
Routine administrative matters.

Portions closed to the public:

Any matters not concluded on Wednesday, September 27, 1978.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-1930-78 Filed 9-20-78; 3:37 pm]

[4410-01]

8

PAROLE COMMISSION.

NATIONAL COMMISSIONERS (THE COMMISSIONERS PRESENTLY MAINTAINING OFFICES AT WASHINGTON, D.C. HEADQUARTERS).

TIME AND DATE: Tuesday, September 26, 1978 at 9:30 a.m.

PLACE: Room 338, 320 First Street NW., Washington, D.C. 20537.

STATUS: Open or closed, pursuant to a vote to be taken at the beginning of the meeting.

MATTER TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 25 cases in which inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst, 202-724-3094.

federal register

FRIDAY, SEPTEMBER 22, 1978
PART II

DEPARTMENT OF COMMERCE

Office of the Secretary

federal register

PRIVACY ACT OF 1974

Annual Publication

[3510-17]

DEPARTMENT OF COMMERCE

Office of the Secretary

PRIVACY ACT ISSUANCES

Annual Publication of Systems of Records

Agency: U.S. Department of Commerce.

Action: Annual notice of systems of records; incorporation by reference of Privacy Act issuances; proposal to revise routine uses of two existing systems.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Insuances—1977 Compilation" and to publish in full the systems that this agency has amended since publication of the 1977 Compilation. Also, this document contains a proposal to revise the routine uses of two existing systems.

Dates: This document fulfills the annual notice requirements of the Privacy Act of 1974. Comments on the proposal to revise two routine uses are due on or before October 23, 1978.

FOR FURTHER INFORMATION CONTACT: Mrs. Marilyn S. McLennan, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4217.

Supplemental information:

Approval of the Director of the Federal Register

The notice of systems of records of the Commerce Department which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference, in accordance with approval granted by the Director of the Office of the Federal Register on July 13, 1978. Published below is the full text of systems of records that the Commerce Department has amended since publication of the 1977 Compilation.

Explanation of Amendments

To facilitate public understanding of the Commerce Department's Privacy Act implementation, set forth below are:

(1) An explanation of proposed changes to systems of records for which public comment is invited—two revised routine uses (Appendix I);

(2) An explanation of changes not requiring public comment (Appendix II);

(3) A list of changes to systems of records noticed in the Federal Register since last year's republication (Appendix III); and

(4) The complete text of all changed systems. The text incorporates the material from items (1) through (3) above.

For the items in Appendix I, the public is invited to submit written data, views, or arguments to the Assistant Secretary for Administration (Attn: Information Management Division, Room 5319), U.S. Department of Commerce, Washington, D.C. 20230 (telephone 202-377-4217), any time on or before October 23, 1978.

The comments received will be available as received, for public inspection at the above address between the hours of 9 a.m. and 4 p.m., Monday through Friday (except holidays).

Availability of 1977 Compilation

"Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. Notices of the Commerce Department's systems of records appear in Volume 1 of the 1977 Compilation at pages 47676-47729. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country. In addition, it is available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The price of Volume 1 (Stock No. 022-000-00145-1) is six dollars and fifty cents. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Notices of the Commerce Department's systems also appeared in the daily edition of the Federal Register for September 21, 1977, at pages 47676-47729. Information about the systems is available by writing or calling Mrs. Marilyn S. McLennan, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4217.

Authority: 5 U.S.C. 522a.

Dated: August 28, 1978.

Elsa A. Porter,
Assistant Secretary for Administration.

APPENDIX I

Proposed Changes to Commerce Department Systems of Records for Which Public Comment is Invited

Included in the text of Commerce Department systems of records submitted to the Federal Register this date are proposed revised routine uses for two existing systems. The revised routine uses are listed below to assist the public in readily identifying the material on which public comments are invited. In each case, the revised routine use is compatible with the purpose for which the system is maintained.

1. Revise the routine use paragraph for the COMMERCE/MA-4 system, General Agent's Protection and Indemnity and Second Seaman's Insurance: WSA and NSA, to clarify use of medical information. The routine use paragraph as revised would read (new text in solid capitals): To evaluate filed claims; negotiate settlements; award money; contest or initiate lawsuits; AND TO ARRANGE FOR PROPER MEDICAL TREATMENT BY ESTABLISHING SEAMAN'S ELIGIBILITY FOR ACCEPTANCE UNDER REGULATIONS OF PUBLIC HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, OR OTHER APPROPRIATE MEDICAL FACILITIES. Users are the Office of Marine Insurance; adjustors and attorneys acting for the Government; Office of Workers' Compensation Programs, U.S. Department of Labor; and the Marine Index Bureau, 17 Battery Place, New York, N.Y. (a contract service centralizing data on seamen claims); AND HOSPITALS OF THE PUBLIC HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, OR, WHEN APPROPRIATE OTHER MEDICAL FACILITIES PROVIDING TREATMENT TO THE INDIVIDUAL. Also see the routine use paragraphs in the Prefatory Statement.

2. Revise the routine use paragraph for the COMMERCE/PAT-TM-6 system, Parties involved in Patent Interference Proceedings. A January 28, 1977 change in the Patent Rules of Practice provides public access to these records upon an award of priority by the Board of Patent Interferences. Under certain circumstances this action may occur prior to the termination of the interference proceedings. The routine use paragraph as revised would read (new text in solid capitals): Prior to termination of the interference proceedings, and thereafter until a patent has issued (except in cases involving a patent), information concerning these records is provided outside the Office only upon authorization of the applicants or owners of the applications involved or when necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commissioner. Subsequent to such termination OR AN AWARD OF PRIORITY BY THE BOARD OF PATENT INTERFERENCES AS TO ALL PARTIES, WHICHEVER IS EARLIER in cases involving a patent or after issuance of a patent, the records are open to public inspection. Settlement agreements filed pursuant to 35 U.S.C. 135(c) are kept separate from other interference records, upon request of the party filing them, and made available, as provided in that statute, to government agencies upon written request, or to any person on a showing of good cause. Also see routine use paragraphs of the Prefatory Statement.

APPENDIX II

Changes to Commerce Department Systems of Records Not Requiring Public Comment

Included in the unified text of changes to Commerce Department systems of records submitted to the Federal Register this date are changes not requiring public comment and, unless otherwise noted, effective on the date of publication. These changes are listed below to assist the public.

1. Many of the Commerce Department systems reflect organizational changes, most importantly, the establishment of the National Telecommunications and Information Administration (NTIA) as a Departmental operating unit, replacing the Department's Office of Telecommunications (OTEL); and the renaming of the Domestic and International Business Administration (DIBA) as the Industry and Trade Administration (ITA). The systems affected by these changes include the one COMMERCE/OTEL system, now a COMMERCE/NTIA system; the eight COMMERCE/DIBA systems, now COMMERCE/ITA systems; and the twenty-one COMMERCE/DEPT.

systems, which include references to these units, for example, as locations of records.

2. The name of the COMMERCE/ITA-4, system, Directors of U.S. Trade Missions, Chairmen of U.S. Government Seminar Missions, and Technical Representatives of Catalog Exhibits, is shortened. The system name as revised is COMMERCE/ITA-4, Mission Directors/Seminar Chairmen/Industry Technical Representatives.

3. The name of the COMMERCE/ITA-5 system is changed to delete the Regional Export Councils. These Councils were terminated in November, 1977. The system name as changed is: COMMERCE/ITA-5, Membership Information: District Export Councils. The Category of Individuals section is revised correspondingly.

4. The name of the COMMERCE/MA-21 system is amended to reflect the inclusion of waivers of liability to board other craft at the U.S. Merchant Marine Academy, Kings Point, New York. The system name as changed is: Waivers of Liability to Board Reserve Fleet Vessels and Other Craft Located at U.S. Merchant Marine Academy. The System Location section is changed correspondingly.

5. Two additional COMMERCE/NFPCA systems are included in the unified text–COMMERCE/NFPCA-3, National Fire Academy Student Registration, and COMMERCE/NFPCA-4, National Fire Academy Instructor Records. A new system report for each system, dated June 6, 1978, was submitted to the Congress and OMB. A public notice proposing the establishment of these systems was published in the Federal Register of June 16, 1978, at pages 25853-55. No comments were received. Therefore, the systems are adopted effective August 5, 1978.

6. In COMMERCE/NOAA-12, Marine Fishermen's Catch Statistics, the system location is revised to include NOAA regional offices and fisheries centers where records are maintained.

7. Revised routine uses for two COMMERCE/PAT-TM systems are adopted. Changes in the routine use paragraphs for COMMERCE/PAT-TM-2, Complaints, Investigations, and Disciplinary Proceedings Relating to Registered Patent Attorneys and Agents; and COMMERCE/PAT-TM-6, Parties Involved in Patent Interference Proceedings, were proposed in the Federal Register of September 21, 1977 at page 47680. No comments were received, and the revised routine uses are adopted effective October 22, 1977. An additional change in the routine uses for PAT-TM-6, to reflect a change in the Patent Rules of Practice, is proposed in Appendix I of this notice.

8. The COMMERCE/DEPT.-11 system, Unfair Labor Practice Charges/Complaints, is deleted. The records in this system are retreived by docket number or by case title, e.g., Union Local No. 1234 vs. Bureau of Standards, not by individual identifier. Thus, the records do not meet the criteria for a system of records and the system is deleted.

9. In the COMMERCE/DEPT.-19 system, Department Mailing Lists, minor changes are made to reflect that a list of individuals attending conferences sponsored by the National Fire Prevention and Control Administration is maintained in addition to other NFPCA records included in the present system. This change reflects the desire of conference attendees to continue an exchange of information with one another.

10. In the COMMERCE/DEPT.-20 system, Biographical Files, the category of individuals covered by the system is amended to reflect that biographies on participants in the Commerce Science and Technology Fellowship Program are maintained by the Office of the Assistant Secretary for Science and Technology.

11. Several COMMERCE/DEPT. systems are amended to reflect that administrative accounting for the Economic Development Administration is now performed by EDA's Accounting Division rather than by the Department's Office of the Controller. The systems amended are COMMERCE/DEPT.-2, Accounts Receivable; COMMERCE/DEPT.-9, Travel Records of Employees and Certain Other Persons; and COMMERCE/DEPT.-17, Records of Cash Receipts. Changes are made to the System Location, System Manager, and Notification Procedure sections.

12. The COMMERCE/WBO-1 system, Talent and Experience File of Women's Business Experts, is expected to be changed. The records in this system were developed as a resource for the Interagency Task Force on Women Business Owners, which has completed its work. The disposition of these records is now under consideration. A subsequent notice will announce changes to the system. In the interim, questions may be directed to Mrs. Marilyn S. McLennan, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4217.

13. The COMMERCE/WHC-1 system, Mailing List and Correspondence File, is expected to be changed due to the termination of the White House Conference on Balanced National Growth and Economic Development, which maintains this system. The Conference is expected to terminate by September 30, 1978. A subsequent notice will announce changes to the system of records. In the interim, questions may be directed to Mrs. Marilyn S. McLennan, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4217.

14. The Department's General Routine Uses are adopted for the system COMMERCE/NTIA-1. This system was previously maintained by the Office of Telecommunications Policy (OTP) of the Executive Office of the President, and became a Commerce system through the reorganization that established the National Telecommunications and Information Administration. A public notice proposing the adoption of the Commerce routine uses to this system, in place of the routine uses previously announced by OTP, was published in the Federal Register of August 18, 1978, at 36672-36676. No comments were received. Therefore, the general routine uses are adopted effective September 18, 1978.

15. Lastly, other changes of a miscellaneous nature have been made throughout the notice of systems. These include: revision of the list of acronyms, the table of contents, and position titles and office names because of reorganization; designation of records as manual or machine-readable; and correction of errors.

APPENDIX III

Changes to Systems of Records Noticed in the Federal Register After September 21, 1977 and Prior to the Date of this Notice

1. October 28, 1977 Federal Register, pages 56771-56772: proposal to establish a new system of records for the Interagency Task Force on Women Business Owners, COMMERCE/WBO-1, Talent and Experience File of Women's Business Experts.

2. November 22, 1977 Federal Register, pages 59898-59899: adoption of two systems of records previously proposed, COMMERCE/NBS-9, Participants in Experiments, Studies, and Surveys; and COMMERCE/WHC-1, Mailing List and Correspondence File; and deletion of the three systems which were consolidated to form COMMERCE/NBS-9 (NBS-4, NBS-5, and NBS-6).

3. January 31, 1978 Federal Register, pages 4083-4084: adoption of the COMMERCE/WBO-1 system.

4. June 15, 1978 Federal Register, pages 25853-25855: proposal to establish two systems of records for the Commerce Department's National Fire Prevention and Control Administration, COMMERCE/NFPCA-3, National Fire Academy Student Registration; and COMMERCE/NFPCA-4, National Fire Academy Instructor Records.

5. June 28, 1978 Federal Register, pages 28028-28029: a. Adoption of five systems of records previously proposed:

COMMERCE/DEPT.-20, Biographical Files;

COMMERCE/DEPT.-21, Freedom of Information and Privacy Request Records;

COMMERCE/NFPCA-2, President's and Secretary's Award Nominees;

COMMERCE/NOAA-19, Marine Mammal, Endangered and Threatened Species, Permits and Exemptions Applicants; and

COMMERCE/OTEL-1, Radio Spectrum Management Career Development Program.

b. Notice of deletion of seven systems:

COMMERCE/MA-6, Medical Records of Seamen Treated in Overseas Military Hospitals;

COMMERCE/MA-13, Trustees for Ship Sales;

COMMERCE/MA-20, USMMA Ship's Service Employees;

COMMERCE/NOAA-1, Applicants for Federal Permits to Take, Buy, or Transport Endangered Species for Specific Purposes;

COMMERCE/NOAA-2, Applicants for Hardship Exemptions Under Marine Mammal Protection Act of 1972;

COMMERCE/NOAA-3, Applicants for Marine Mammal Scientific Research and Display Permits; and

COMMERCE/NOAA-5. Applicants for Threatened Species Permits.

c. Notice of minor changes to existing systems concerning records of the Department's Bureau of Economic Analysis:

COMMERCE/DEPT.-1, Attendance, Leave, and Payroll Records of Employees and Certain Other Persons;

COMMERCE/DEPT.-7, Employee Accident Reports;

COMMERCE/DEPT.-8, Employee Applications for Motor Vehicle Operator's Card;

COMMERCE/DEPT.-9, Travel Records of Employees and Certain Other Persons;
COMMERCE/DEPT.-11, Unfair Labor Practice Charges/Complaints;
COMMERCE/DEPT.-17, Records of Cash Receipts;
COMMERCE/DEPT.-18, Employee Personnel Files Not Covered by U.S. Civil Service Commission;
COMMERCE/DEPT.-20, Biographical Files; and
COMMERCE/DEPT.-21, Freedom of Information and Privacy Request Records.

6. July 27, 1978 Federal Register, pages 32445-32450: a. Proposal to amend six existing systems of the Patent and Trademark Office:
COMMERCE/PAT-TM-1, Attorneys and Agents Registered to Practice Before the Office;
COMMERCE/PAT-TM-3, Employee Production Records;
COMMERCE/PAT-TM-7, Patent Application Files;
COMMERCE/PAT-TM-9, Patent Assignment Records;
COMMERCE/PAT-TM-10, Patent Deposit Accounts Systems; and
COMMERCE/PAT-TM-13, Petitioners for License to File for Foreign Patents.

b. Notice of minor changes to another existing Patent and Trademark Office system: COMMERCE/PAT-TM-8, Patent Application Secrecy Order Files.

7. August 18, 1978 Federal Register, pages 36672-36676: a. Notice of changes to existing systems made necessary by the establishment of the National Telecommunications and Information Administration within the Department of Commerce; and notice of disposition of systems announced by the Office of Telecommunications Policy of the Executive Office of the President, and the Office of Telecommunications of the Department of Commerce.

b. Proposal to adopt the Commerce Department's general routine uses to the NTIA-1 system of records.

Abbreviations

*The identification of the unit or units within the Department to which the particular system of records pertains appears as "COMMERCE/" followed by a designating abbreviation. The abbreviations and their meanings are as follows:

CENSUS—Bureau of the Census
DEPT—Overall Department of Commerce (or at least multiple operating units presently, and a potential for more)
ITA—Industry and Trade Administration
IATC—Interagency Auditor Training Center
MA—Maritime Administration
NBS—National Bureau of Standards
NFPCA—National Fire Prevention and Control Administration
NOAA—National Oceanic and Atmospheric Administration
NTIA—National Telecommunications and Information Administration
NTIS—National Technical Information Service
PAT-TM—Patent and Trademark Office
WBO—Interagency Task Force on Women Business Owners
WHC—White House Conference on Balanced National Growth and Economic Development

Other abbreviations appearing in the notices are as follows:
ARC—The Appalachian Regional Commission
BEA—Bureau of Economic Analysis
EDA—Economic Development Administration
Office of Federal
Cochairmen—Office(s) of Federal Cochairmen of the Regional Action Planning Commissions and The Appalachian Regional Commission
OMBE—Office of Minority Business Enterprise
RAPCS—Regional Action Planning Commissions
USTS—United States Travel Service

Prefatory Statement of General Routine Uses

The following routine uses apply to, and are incorporated by reference into, each system of records set forth below.

1. In the event that a system of records maintained by the Department to carry out its functions indicates a violation or potential violation of law or contract, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute or contract, or rule, regulation, or order issued pursuant thereto, or the necessity to protect an interest of the Department, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or contract, or rule, regulation or order issued pursuant thereto, or protecting the interest of the Department.

2. A record from this system of records may be disclosed, as a routine use, to a Federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a Department decision concerning the assignment, hiring or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. A record from this system of records may be disclosed, as a routine use, to a Federal, state, local, or international agency, in response to its request, in connection with the assignment, hiring or retention of an individual, the issuance of a security clearance, the reporting of an investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

5. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record.

6. A record in this system of records which contains medical information may be disclosed, as a routine use, to the medical advisor of any individual submitting a request for access to the record under the Act and 15 CFR Part 4b if, in the sole judgment of the Department, disclosure could have an adverse effect upon the individual, under the provision of 5 U.S.C 552a(f)(3) and implementing regulations at 15 CFR 4b.6.

7. (Deleted; Reserved)

8. A record in this system of records may be disclosed, as a routine use, to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

9. A record in this system of records may be disclosed, as a routine use, to the Department of Justice in connection with determining whether disclosure thereof is required by the Freedom of Information Act (5 U.S.C. 552).

10. A record in this system of records may be disclosed, as a routine use, to a contractor of the Department having need for the information in the performance of the contract, but not operating a system of records within the meaning of 5 U.S.C. 552a(m).

11. (Deleted; Reserved)

12. A record in this system may be transferred, as a routine use, to the Civil Service Commission: for personnel research purposes; as a data source for management information; for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained; or for related manpower studies.

13. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e. GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

National Defense and Foreign Policy Exemption

Some systems of records under the Act which are maintained by he Department contain, from time-to-time, material subject to the pecific exemption authorized by 5 U.S.C 552a(k)(1), relating to national defense and foreign policy materials. The systems of records oticed below, and also listed in 15 CFR 4b.14(a) of the regulations ublished in the FEDERAL REGISTER, which are subject to this letermination of specific exemption under 5 U.S.C. 552a(k)(1) are:

COMMERCE/ITA-1
COMMERCE/ITA-2
COMMERCE/ITA-3
COMMERCE/NOAA-11
COMMERCE/PAT-TM-4
COMMERCE/PAT-TM-6
COMMERCE/PAT-TM-7
COMMERCE/PAT-TM-8
COMMERCE/PAT-TM-9
COMMERCE/DEPT-12
COMMERCE/DEPT-13,
COMMERCE/DEPT-14

The Department hereby asserts a claim to exemption of such naterials wherever they might appear in such systems of records, or any systems of records, at present or in the future. The materials would be exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The reason therefor is to protect the material required by Executive Order to be kept secret in the interest of the national defense and foreign policy.

Table of Contents

DEPT—1 Attendance, Leave, and Payroll Records of Employees and Certain Other Persons
DEPT—2 Accounts Receivable
DEPT—3 Conflict of Interest Records, Appointed Officials
DEPT—4 Congressional Files
DEPT—5 Donors of Gifts and Bequests
DEPT—6 Visitor Logs and Permits for Facilities Under Department Control
DEPT—7 Employee Accident Reports
DEPT—8 Employee Applications for Motor Vehicle Operator's Card
DEPT—9 Travel Records (Domestic and Foreign) of Employees and Certain Other Persons
DEPT—10 Foreign Residence Requirement Waiver Applicants
DEPT—11 (Deleted)
DEPT—12 Investigative Records-Contract and Grant Frauds and Employee Criminal Misconduct
DEPT—13 Investigative Records-Persons Within the Investigative Jurisdiction of the Department
DEPT—14 Litigation, Claims, and Administrative Proceeding Records
DEPT—15 Private Legislation Claimants-Central Legislative Files
DEPT—16 Property Accountability Files
DEPT—17 Records of Cash Receipts
DEPT—18 Employee Personnel Files Not Covered by U.S. Civil Service Commission
DEPT—19 Department Mailing Lists
DEPT—20 Biographical Files
DEPT—21 Freedom of Information and Privacy Request Records
CENSUS—1 Agriculture Census Records for 1964 (partial), 1969, 1974
CENSUS—2 Employee Productivity Measurement Records
CENSUS—3 Individual and Household Statistical Surveys and Special Studies Records
CENSUS—4 Minority-Owned Business Enterprises Survey Records
CENSUS—5 Population and Housing Census Records of the 1960 and Subsequent Censuses
CENSUS—6 Population Census Personal Service Records for 1900 and All Subsequent Decennial Censuses
CENSUS—7 Special Censuses of Population Conducted for State and Local Government
ITA—1 Individuals Identified in Export Administration Compliance Proceedings or Investigations
ITA—2 Individuals Involved in Export Transactions
ITA—3 Individuals Involved in International Business Trade Complaints
ITA—4 Mission Directors/Seminar Chairmen/Industry Technical Representatives
ITA—5 Membership Information: District Export Councils
ITA—6 National Defense Executive Reserve Personnel Folders
ITA—7 Overseas Assignments for ITA's Bureau of Field Operations
ITA—8 Foreign Service Officer Evaluations
IATC—1 Auditor Trainee Registrants
MA—1 Applications to U.S. Merchant Marine Academy (USMMA)
MA—2 Cadet Files, State Merchant Marine Academies
MA—3 Citizenship Statements and Affidavits
MA—4 General Agent's Protection and Indemnity and Second Seaman's Insurance: WSA and NSA
MA—5 Marine Training School Registrants
MA—6 (Deleted)
MA—7 National Defense Executive Reserve
MA—8 Non-Attorney Practitioner Applications and "Section 807 Reports"
MA—9 Seaman Awards and Nominations, for Service, Valor, etc.
MA—10 Seamen's Employment Analysis Records
MA—11 Seamen's Unclaimed Wages (Vietnam Conflict)
MA—12 Shipyard Labor Supply and Demand Programs
MA—13 (Deleted)
MA—14 USMMA Graduates
MA—15 USMMA Midshipman Account Records
MA—16 USMMA Midshipman Grade Transcripts
MA—17 USMMA Midshipman Medical Files
MA—18 USMMA Midshipman Personnel Records
MA—19 USMMA Non-Appropriated Fund Employees
MA—20 (Deleted)
MA—21 Waivers of Liability to Board Reserve Fleet Vessels and Other Craft Located at U.S. Merchant Marine Academy
NBS—1 NBS Guest Workers
NBS—2 Inventors of Energy-Related Processes and Devices
NBS—3 Research Associates
NBS—4 (Deleted)
NBS—5 (Deleted)
NBS—6 (Deleted)
NBS—7 Employees External Radiation Exposure Records
NBS—8 Nuclear Reactor Operator Licensees File
NBS—9 Participants in Experiments, Studies, and Surveys
NFPCA—1 Federal Employees with Fire Related Expertise
NFPCA—2 President's and Secretary's Award Nominees
NFPCA—3 National Fire Academy Student Registration
NFPCA—4 National Fire Academy Instructor Records
NOAA—1 (Deleted)
NOAA—2 (Deleted)
NOAA—3 (Deleted)
NOAA—4 Applicants for the NOAA Corps
NOAA—5 (Deleted)
NOAA—6 Commissioned Officers Official Travel Orders Folders
NOAA—7 Commissioned Officer Official Personnel Folders

NOAA—8 Commissioned Officers Retired Payroll
NOAA—9 Commissioners of International Fisheries Commissions
NOAA—10 Employee Production Records
NOAA—11 Fisheries Law Enforcement Case Files
NOAA—12 Marine Recreational Fishermen's Catch Statistics
NOAA—13 Guest Workers at National Geophysical and Solar-Terrestrial Data Center
NOAA—14 Individuals Engaged in Weather Modification Activities
NOAA—15 (Deleted)
NOAA—16 Scientist-Researchers in GATE (Global Atmospheric Research Program Atlantic Tropical Experiment)
NOAA—17 NOAA Diving Program File
NOAA—18 NOAA Mailing Lists
NOAA—19 Marine Mammal, Endangered and Threatened Species, Permits and Exemptions Applicants
NTIA—1 Military Personnel System
NTIA—2 Radio Spectrum Management Career Development Program
NTIS—1 Individuals Interested in NTIS Publications, Shipped Order Addresses, Customer Account Records, and Subscriber Files
NTIS—2 Employee Daily Time and Productivity Records
PAT/TM—1 Attorneys and Agents Registered to Practice Before the Office
PAT/TM—2 Complaints, Investigations and Disciplinary Proceedings Relating to Registered Patent Attorneys and Agents
PAT/TM—3 Employee Production Records
PAT/TM—4 Government Employee Invention Rights
PAT/TM—5 Non-Registered Persons Rendering Assistance To Patent Applicants
PAT/TM—6 Parties Involved In Patent Interference Proceedings
PAT/TM—7 Patent Application Files
PAT/TM—8 Patent Application Secrecy Order Files
PAT/TM—9 Patent Assignment Records
PAT/TM—10 Patent Deposit Accounts System
PAT/TM—11 Patent Examiner Testimony Files
PAT/TM—12 Patent Subscription Service System
PAT/TM—13 Petitioners for License to File for Foreign Patents
PAT/TM—14 Users of Public Search Room of the Patent and Trademark Office
WBO—1 Talent and Experience File of Women's Business Experts
WHC—1 Mailing List and Correspondence File

COMMERCE/DEPT-1.

System name: Attendance, Leave, and Payroll Records of Employees and Certain Other Persons—COMMERCE/DEPT-1.

System location: a. For employees of Departmental Offices, BEA, ITA, EDA, NFPCA, OMBE, USTS, Offices of Federal Cochairmen, RAPCs, and ARC: Office of Controller, Finance Operations Division, OS, U.S. Department of Commerce, 14th & Constitution Avenue, N.W.,Washington, D.C. 20230, and Office of Automatic Data Processing Management (ADP Analysis and Programming Division), use above address.

b. For employees of MARAD: (manual) Division of Accounts, (machine-readable) Division of Data Operations, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

c. For employees of NBS, NTIS, and NTIA: National Bureau of Standards, Office of the Comptroller, (Payroll Section), Administration Building, Gaithersburg, Maryland (P.O. Washington, D.C. 20234). NTIA records dating prior to March 26, 1978, relating to employees of the former Office of Telecommunications Policy, Executive Office of the President, are located at General Services Administration Region 3 Office, 7th & D Streets, N.W., Washington, D.C. 20407.

d. For employees of NOAA: National Oceanic and Atmospheric Administration, Personal Service Accounting Branch, 6010 Executive Boulevard, Rockville, Maryland 20852.

e. For employees of PAT-TM: Office of Finance (Employee Accounts Division), U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

f. For employees of CENSUS: Finance Division, Bureau of the Census, Federal Building 3, Washington, D.C. 20233, and the following Census Regional Offices: 1365 Peachtree Street, NE., Atlanta, Georgia 30309; 441 Stuart Street, Boston, Massachusetts 02116; 230 South Tryon Street, Charlotte, North Carolina 28202; 536 South Clark Street, Chicago, Illinois 60605; 1100 Commerce Street, Dallas, Texas 75202; 11011 West Sixth Avenue (P.O. Box 25207), Denver, Colorado 80225; 234 State Street, Detroit, Michigan 48226; One Gateway Center, 4th and State Streets, Kansas City, Kansas 66101; 1100 Wilshire Boulevard, Los Angeles, California 90024; 26 Federal Plaza, New York City, New York 10007; 600 Arch Street, Philadelphia, Pennsylvania 19106; and 1700 Westlake Avenue, Seattle, Washington 98109.

Categories of individuals covered by the system: All Commerce Department employees and certain other persons as categorized by organizational component in a. through f. above.

Categories of records in the system: Name, date of birth, social security number and employee number, service computation date, grade, step, and salary; organization (code), retirement or FICA data as applicable; Federal, state, and local tax deductions, as appropriate; IRS tax lien data; savings bond and charity deductions; regular and optional Government life insurance deduction(s), health insurance deduction and plan or code; cash award data; jury duty data; military leave data; pay differentials; union dues deductions; allotments, by type and amount; financial institution code and employee account number; leave status and leave data of all types (including annual, compensatory, jury duty, maternity, military, retirement disability, sick, transferred, absence without leave, and without pay); time and attendance records, including number of regular, overtime, holiday, Sunday, and other hours worked; pay period number and ending date; cost of living allowances; mailing address; co-owner and/or beneficiary of bonds, marital status and number of dependents; and 'Notification of Personnel Action'. The individual records listed herein are included only as pertinent or applicable to the individual employee.

Authority for maintenance of the system: Title 5 U.S.C., Title 31 U.S.C. 66a, Title 44 U.S.C. 3101, 3309.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Transmittal of data to U.S. Treasury to effect issuance of paycheck to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes.

Reporting: tax withholding to Internal Revenue Service and appropriate State and local taxing authorities; FICA deductions to the Social Security Administration; dues deductions to labor unions; withholdings for health and life insurance to the insurance carriers and the U.S. Civil Service Commission; charity contribution deductions to agents of charitable institutions; annual W-2 statements to taxing authorities and the individual; wage, employment, and separation information to state unemployment compensation agencies, to the Department of Labor to determine eligibilty for unemployment compensation, and to housing authorities for low-cost housing applications; and NOAA Corps data to U.S. Civil Service Commission for preparation of statistical materials. Also, see routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Both manual and machine-readable.

Retrievability: By name and/or employee or social security number.

Safeguards: Physical, technical, and administrative security is maintained, with all storage equipment and/or rooms locked when not in use. Admittance, when open, is restricted to authorized personnel only. All payroll personnel and computer operators and programmers are instructed and cautioned on the confidentiality of the records.

Retention and disposal: Retained on site until after GAO audit, then disposed of, or transferred either to Federal Records Storage Centers in accordance with the fiscal records program approval by GAO, as appropriate, or General Record Schedules of GSA.

System manager(s) and address: For records at location a.: Controller, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b.: Chief, Division of Accounts, Maritime Administration, Washington, D.C. 20230;

For records at location c.: Comptroller, Office of the Comptroller, National Bureau of Standards, Administration Building, Gaithersburg, Maryland (P.O. Washington, D.C. 20234)

For records at location d.: Chief, Personal Service Accounting Branch, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852;

For records at location e.: Director, Office of Finance, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location f.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233, and the Director of the particular Regional Office listed above.

Notification procedure: For BEA records at location a., information may be obtained from: Chief Planning and Evaluation Officer, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For ITA records at location a., information may be obtained from: Director, Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230;

For EDA records at location a., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230;

For NFPCA records at location a., information may be obtained from: Administrative Officer, NFPCA, 2400 M Street, N.W., Washington, D.C. 20230;

For OMBE records at location a., information may be obtained from: Privacy Officer, Office of Chief Counsel, OMBE, U.S. Department of Commerce, Washington, D.C. 20230;

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230; and

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information may be obtained from: Secretary, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230;

For NBS and NTIS records at location c., information may be obtained from: Director of Administrative and Information Systems, National Bureau of Standards, Gaithersburg, Maryland (P.O. Washington, D.C. 20234);

For NTIA records at location c., information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504;

For records at location d., information may be obtained from: Assistant Administrator for Administration, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852;

For records at location e., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231; and

For records at location f., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

Requester should provide name, social security number, and time or organization unit of employment pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address of the desired location as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address for desired location.

Record source categories: Subject individuals, those authorized by the individual to furnish information, supervisors, timekeepers, official personnel records, and IRS.

COMMERCE/DEPT-2.

System name: Accounts Receivable—COMMERCE/DEPT-2.

System location: a. For Departmental offices, BEA, ITA, NFPCA, USTS, OMBE, Offices of Federal Cochairmen, RAPCs, and ARC: Office of Controller, Finance Operations Division, OS, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

b. For MARAD: (manual) Division of Accounts, (machine-readable) Division of Data Operations, Maritime Administration, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

c. For NBS and NTIA: National Bureau of Standards, Office of the Comptroller, Administration Building, Gaithersburg, Maryland (P.O. Washington, D.C. 20234).

d. For NOAA: National Oceanic and Atmospheric Administration, Finance Division, 6010 Executive Boulevard, Rockville, Maryland 20852.

e. For PAT-TM: Office of Finance, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

f. For CENSUS: Finance Division, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

g. For NTIS: Accounting Control Division, National Technical Information Service, Room 1303, Sills Building, Springfield, Virginia 22161.

h. For EDA: Accounting Division, Economic Development Administration, Washington, D.C. 20230.

Categories of individuals covered by the system: Debtors owing money to organizational components identified in a. through h., including employees, former employees, business firms, general public, and institutions.

Categories of records in the system: Name and address; amount owed, and service, overpayment or other accounting therefor; invoice number, if any.

Authority for maintenance of the system: 5 U.S.C. 5701-09; FPMR 101-7; Treasury Fiscal Requirements Manual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Billing debtors, reporting to Civil Service Commission for liquidating debts from retirement and other benefits, and routine uses per Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Both manual and machine-readable records.

Retrievability: By name, and invoice number as appropriate.

Safeguards: Physical security, handling by authorized personnel only.

Retention and disposal: Retained until payment is received and account is audited, then disposed of in accordance with Records Control Schedule.

System manager(s) and address: For records at location a.: Controller, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b.: Chief, Division of Accounts, Maritime Administration, Washington, D.C. 20230.

For records at location c.: Comptroller, Office of the Comptroller, National Bureau of Standards, Administration Building, Washington, D.C. 20234.

For records at location d.: Chief, Finance Division, NOAA, 6010 Executive Blvd., Rockville, Md. 20852.

For records at location e.: Director, Office of Finance, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location f.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location g.: Chief, Accounting Control Division, National Technical Information Service, Room 1303, Sills Building, Springfield, Virginia 22161.

For records at location h.,: Chief, Accounting Division, Economic Development Administration, Washington, D.C. 20230

Notification procedure: For ITA records at location a., information may be obtained from: Director, Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230;

For NFPCA records at location a., information may be obtained from: Administrative Officer, NFPCA, 2400 M Street, N.W., Washington, D.C. 20230;

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230; and

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information may be obtained from: Secretary, Maritime Administration, Washington, D.C. 20230;

For NBS records at location c., information may be obtained from: Director of Administrative and Information Systems, National Bureau of Standards, Gaithersburg, Maryland (P.O. Washington, D.C. 20234);

For NTIA records at location c., information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504;

For records at location d., information may be obtained from: Assistant Administrator for Administration, National Oceanic and

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Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852.

For records at location e., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231; and

For records at location f., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location g., information may be obtained from: Assistant Director, Adminstration, National Technical Information Service, Room 1006, Sills Building, Springfield, Virginia 22161.

For records at location h., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230.

Requester should provide name and address, and invoice number as appropriate, pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, contracting officer as appropriate, accounting records.

COMMERCE/DEPT-3.

System name: Conflict of Interest Records, Appointed Officials—COMMERCE/DEPT-3.

System location: Office of General Counsel, Room 5870, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals, past and present, appointed by the President to Commerce Department offices and other senior level officers of the Department.

Categories of records in the system: Statements of personal and family shareholdings and other interests in business enterprises; copies of blind trust and other agreements pertaining to such interests; correspondence as to insulation of control of such interests; opinions of counsel; and confirmation materials.

Authority for maintenance of the system: 5 U.S.C. 301, 18 U.S.C. 208, 28 U.S.C. 533-535, 44 U.S.C. 3101, E.O. 10450, and E.O. 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Disposed of 2 years after separation of employee.

System manager(s) and address: Deputy General Counsel, Room 5870, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name and date of appointment pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: The subject individual, financial institutions involved, counsel, and those authorized by the individual to furnish information.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a (k)(5), all investigatory material in the record which meets the criteria of 5 U.S.C. 552a(k)(5) is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations in order to fulfill commitments made to protect the confidentiality of sources, and to maintain access to sources of information which are necessary to determine suitability for employment.

COMMERCE/DEPT-4.

System name: Congressional Files—COMMERCE/DEPT-4.

System location: a. Office of the Assistant Secretary for Congressional Affairs, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

b. Office of the Director of Congressional and Public Affairs, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504.

Categories of individuals covered by the system: Members of Congress.

Categories of records in the system: Biographical information from sources such as the Congressional Quarterly, Congressional Directory, biographies provided by Members' Offices, extracts from the Congressional Record, and correspondence between the Members and the Department.

Authority for maintenance of the system: 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in paper form only.

Retrievability: Indexed by name of Member or State or Congressional District.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: The records are retained in accordance with the Office's Record Control Schedule.

System manager(s) and address: For records at location a.: Assistant Secretary for Congressional Affairs, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location b.: Director of Congressional and Public Affairs, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

Notification procedure: For records at location a.: Information may be obtained from: Departmental Office of Organization and Management Systems, OS, U. S. Departmentof Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location b.: Information may be obtained from: Privacy Officer, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504. Requester should provide name of Member pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Published Congressional reference materials and the Member, himself or herself.

COMMERCE/DEPT-5.

System name: Donors of Gifts and Bequests—COMMERCE/DEPT-5.

System location: a. For records of Departmental offices, BEA, EDA, OMBE, and USTS: Office of Controller, Finance Operations Division, OS, U.S. Department of Commerce, Washington, D.C. 20230.

b. For records of MA: Office of Administration, U.S. Merchant Marine Academy, Kings Point, Long Island, N.Y. 11024 and Division of Accounts, Maritime Administration, Washington, D.C. 20230 (for cash donations only).

c. For records of ITA: Office of Budget, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

d. For records of NBS, NTIS, and NTIA: Office of the Comptroller, NBS, Administration Building, Gaithersburg, Maryland (mailing address: Washington, D.C. 20234).

e. For records of NOAA: Finance Division, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852.

f. For records of PAT-TM: Office of Finance, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

g. For records of CENSUS: Finance Divison, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

Categories of individuals covered by the system: Any donor of gifts or bequests of funds, property, or services to Departmental offices or agencies.

Categories of records in the system: Name and address of donor; dollar amount of donations; value and description of non-cash donations; name and title of employee whose expenses are encompassed by the gift; and purposes for which gift or bequest was made.

Authority for maintenance of the system: 5 U.S.C. 608a-608c.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed chronologically by date of transaction or serial number.

Safeguards: Physical, technical, and administrative security is maintained, with all storage equipment and/or rooms locked when not in use. Admittance, when open, is restricted to authorized personnel only.

Retention and disposal: Records are maintained permanently.

System manager(s) and address: For records at location a.: Controller, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b.: Assistant Superintendent for Administration, Office of Administration, U.S. Merchant Marine Academy, Kings Point, Long Island, N.Y. 11024 and Chief, Division of Accounts, Maritime Administration, Washington, D.C. 20230.

For records at location c.: Director, Office of Budget, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location d.: Comptroller, Office of the Comptroller, NBS, Administration Building, Gaithersburg, Maryland. (Mailing address: Washington, D.C. 20234).

For records at location e.: Chief, Finance Division, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852.

For records at location f.: Director, Office of Finance, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location g.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

Notification procedure: For EDA records at location a., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230;

For OMBE records at location a., information may be obtained from: Privacy Officer, Office of Chief Counsel, OMBE, U.S. Department of Commerce, Washington, D.C. 20230;

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230; and

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20236.

For records at location c., information may be obtained from: Director, Office of Management and Systems, Room 3100, ITA, U.S. Department of Commerce, Washington, D.C. 20230;

For NBS records at location d., information may be obtained from: Director of Administrative and Information Systems, Room A1101, Administration Building, NBS, Gaithersburg Md. (Mailing address: Washington, D.C. 20234).

For NTIA records at location d., information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504;

For records at location e., information may be obtained from: Associate Administrator for Administration, Room 908, Washington Science Center, NOAA, Rockville, Maryland 20852; and

For records at location f., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202.

For records at location g., Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

Requester should provide name and date of transaction, pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Donors and subject employees and those authorized by the foregoing to furnish information.

COMMERCE/DEPT-6.

System name: Visitor Logs and Permits for Facilities Under Department Control—COMMERCE/DEPT-6.

System location: a. Maritime Administration: Beaumont Reserve Fleet, Beaumont, Texas; James River Reserve Fleet, Fort Eustis, Virginia; Reserve Fleet Division Office, New York City, New York; Suisan Bay Reserve Fleet, Benicia, California; and U.S. Merchant Marine Academy, Kings Point, New York.

b. National Bureau of Standards: Security Office, Administration Building, Rockville, Maryland 20234; and Guard Service Office, Radio Building, NBS, Boulder, Colorado 80302.

Categories of individuals covered by the system: Non-Federal visitors, Federal personnel entering facilities after duty hours, and employees seeking parking and firearm permits.

Categories of records in the system: Name, address, place of birth, citizenship, physical characteristics, type and number of firearms and amount of ammunition, purpose of visit, affiliation, time in and time out, license numbers, and records of violations.

Authority for maintenance of the system: 5 U.S.C. 301; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name, or date and time.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained on site for five years, then disposed of in accordance with unit's Record Control Schedule.

System manager(s) and address: For records at location a.: Superintendent of respective Reserve Fleets and Chief, Fire and Security, U.S. Merchant Marine Academy, Commandant's Department, King Point, New York.

For records at location b.: Director, Center For Facilities Management, National Bureau of Standards, Washington, D.C. 20234.

Notification procedure: For records at location a., information may be obtained from: Secretary, Maritime Administration, Main Commerce Building, Washington, D.C. 20230.

For records at location b., information may be obtained from: Director of Administrative and Information Systems, National Bureau of Standards, Administration Building, Washington, D.C. 20234.

Requesters should provide name and address, date of visit or type of permit, as appropriate, in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, and employers.

COMMERCE/DEPT-7.

System name: Employee Accident Reports—COMMERCE/DEPT-7.

System location: a. For employees of Departmental Offices, BEA, NFPCA, and USTS: Office of Administrative Services and Procurement, U.S. Department of Commerce, Washington, D.C. 20230.

b. For employees of ITA: Office of Administrative Support, Industry and Trade Administration, Washington, D.C. 20230.

c. For employees of EDA: Office Service Division, Economic Development Administration, Washington, D.C. 20230.

d. For employees of MARAD: Office of Domestic Shipping, Maritime Administration, Washington, D.C. 20230.

c. For employees of OMBE: Field Operations and Administration, Office of Minority Business Enterprise, Washington, D.C. 20230.

f. For employees of NBS; Safety Office, Supply and Plant Building, NBS, Gaithersburg, Md. (P.O. Washington, D.C. 20234).

g. For employees of NOAA: Administrative Operations Division, National Oceanic and Atmospheric Administration, 6010 Executive Blvd., Rockville, Md. 20852.

h. For employees of NTIS; Property Management Branch, Administrative Service Division, National Technical Information Service, 5285 Port Royal Rd., Springfield, Va. 22161.

i. For employees of PAT-TM: Office of General Service, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202.

j. For employees of CENSUS; Administrative Service Division, Bureau of the Census, Building 3, Washington, D.C. 20233.

k. For employees of NTIA: Office of Administration, National Telecommunications and Information Administration, 1325 G Street, N.W., Washington, D.C. 20005.

Categories of individuals covered by the system: All Department employees as categorized by organization component in a. through k., above, who have sustained occupational injury/illness or who have been involved in a motor vehicle accident while on official Government business,

Categories of records in the system: Name; address; home telephone number; date and place of birth; sex; social security number; occupation; grade; location and description of accident or injury; driving permit or license data; physical condition at time of incident; insurance information; vehicle ownership and licensing data.

Authority for maintenance of the system: 29 U.S.C. 651-78, 28 U.S.C. 2671-2680, Executive Orders 11612 and 11807.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement. Also, accident reports involving Government vehicles are disclosed to the General Service Administration, the custodian of Government vehicles; accident information may also be disclosed to insurance carriers during resolution of claims.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: Disposed after 5 years.

System manager(s) and address: For records at location a.: Coordinator for Occupational Safety and Health and Motor Management, Departmental Office of Administrative Services and Procurement, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b.: Director, Office of Administrative Support, Industry and Trade Administration, Washington, D.C. 20230.

For records at location c.: Chief, Office Service Division, Economic Development Administration, Washington, D.C. 20230.

For records at location d.: Safety Officer, Office of Domestic Shipping, Maritime Administration, Washington, D.C. 20230.

For records at location e.: Safety Officer, Field Operations and Administration, Office of Minority Business Enterprise, Washington, D.C. 20230.

For records at location f.: Safety Manager, Supply and Plant Building, NBS, Gaithersburg, Md. (P.O. Washington, D.C. 20234).

For records at location g.: Safety Engineer, Administrative Operations Division, National Oceanic and Atmospheric Administration, Rockville, Md. 20852.

For records at location h.: Chief, Property Management Branch, Administrative Service Division, Sills Building, National Technical Information Service, Springfield, Va. 22161.

For records at location i.: Director, Office of General Service, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location j.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location k.: Safety Officer, Office of Administration, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

Notification procedure: For Departmental office records at location a., information may be obtained from: Director, Office of Organization and Management Systems, OS, U.S. Department of Commerce, Washington, D.C. 20230;

For BEA records at location a., information may be obtained from: Chief Planning and Evaluation Officer, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For NFPCA records at location a., information may be obtained from: Administrative Officer, NFPCA, 2400 M Street N.W., Washington, D.C. 20230;

For USTS records at location a., information may be obtained from: Director, Office of Administration, United States Travel Service, Washington, D.C. 20230.

For records at location b., information may be obtained from: Director, Office of Management and Systems, Industry and Trade Administration, Washington, D.C. 20230;

For records at location c., information may be obtained from: Director, Office of Public Affairs, Economic Development Administration, Washington, D.C. 20230;

For records at location d., information may be obtained from: Secretary, Maritime Administration, Washington, D.C. 20230;

For records at location e., information may be obtained from: Privacy Officer, Office of Chief Counsel, Office of Minority Business Enterprise, Washington, D.C. 20230;

For records at location f., information may be obtained from: Director of Administrative and Information Systems, National Bureau of Standards, Gaithersburg, Md. (P.O. Washington D.C. 20234);

For records at location g., information may be obtained from: Assistant Administrator for Administration, National Oceanic and Atmospheric Administration, Rockville, Md. 20852;

For records at location h., information may be obtained from: Assistant Director for Administration, National Technical Information Service, Springfield, Va. 22161;

For records at location i., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231;

For Census records at location j., information may be obtained from: Associate Director for Administration, Bureau of the Census Federal Building 3, Washington, D.C. 20233;

For records at location k., information may be obtained from: Privacy Officer, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

Requester should provide name and approximate date of accident pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address of the desired location as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address for desired location.

Record source categories: Subject individual, those authorized by the individual to furnish information; others involved in accident; witnesses; employee's supervisor; and, the safety officer.

COMMERCE/DEPT-8.

System name: Employee Applications for Motor Vehicle Operator's Card—COMMERCE/DEPT-8.

System location: a. For employees of Departmental offices, BEA, NFPCA, OMBE, NTIA, Offices of Federal Cochairmen, and USTS: Office of Administrative Services and Procurement, U.S. Department of Commerce, Washington, D.C. 20230.

b. For employees of ITA: Office of Administrative Support, Industry and Trade Administration, Washington, D.C. 20230.

c. For employees of EDA: Office Service Division, Economic Development Administration, Washington, D.C. 20230.

d. For employees of MARAD: Office of Administrative Service, Maritime Administration, Washington, D.C. 20230; the following MARAD regional offices: 26 Federal Plaza, New York, N.Y. 10007; No. 2 Canal St., New Orleans, La. 70130; 450 Golden Gate Ave., San Francisco, Calif. 94102; 666 Euclid Ave., Rm. 576, Celeveland, Ohio, 44114, and the U.S. Merchant Marine Academy, Department of Public Works, Kings Point, L.I., N.Y. 11024.

e. For employees of NBS: Safety Office, Supply and Plant Building, Gaithersburg, Md. (P.O. Washington, D.C. 20234); and Security Office, Radio Building, NBS, Boulder, Colorado 80302.

f. For employees of NOAA: Administrative Operations Division, National Oceanic and Atmospheric Administration, Rockville, Md. 20852.

g. For employees of PAT-TM: Office of General Service, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

h. For employees of CENSUS: Administrative Service Division, Bureau of the Census, Federal Building 3, Washington, D.C. 20233;

and the following Census Regional Offices: 1365 Peachtree Street, NE., Atlanta, Georgia 30309; 441 Stuart Street, Boston, Massachusetts 02116; 230 South Tryon Street, Charlotte, North Carolina 28202; 536 South Clark Street, Chicago, Illinois 60605; 1100 Commerce Street, Dallas, Texas 75202; 11011 West Sixth Avenue (P.O. Box 25207), Denver, Colorado 80225; 234 State Street, Detroit, Michigan 48226; One Gateway Center, 4th and State Streets, Kansas City, Kansas 66101; 1100 Wilshire Boulevard, Los Angeles, California 90024; 26 Federal Plaza, New York City, New York 10007; 600 Arch Street, Philadelphia, Pennsylvania 19106; and 1700 Westlake Avenue, Seattle, Washington 98109.

i. For employees of NTIS: Property Management Division, National Technical Information Service, Sills Building, Springfield, Virginia 22161.

Categories of individuals covered by the system: All Department employees as categorized by organizational components in a. through i. above, who are seeking or holding a Federal vehicle operator permit.

Categories of records in the system: Name; position title; date and place of birth; physical characteristics; social security number, summary of driving record, including all arrests, traffic citations and accidents for the past five years; hearing and visual acuity examination report; road test results; and medical history.

Authority for maintenance of the system: 40 U.S.C. 471; E.O. 9397.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement. Also, information is transmitted to the Department of Transportation with request for suitability check.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: Disposed of when re-issued at the end of three years or upon employee's termination of employment.

System manager(s) and address: For records at location a.: Coordinator for Occupational Safety and Health and Motor Management, Departmental Office of Administrative Services and Procurement, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b.: Director, Office of Administrative Support, Industry and Trade Administration, Washington, D.C. 20230.

For records at location c.: Chief, Office Service Division, Economic Development Administration, Washington, D.C. 20230.

For records at location d.: Director, Office of Administrative Service, Maritime Administration, Washington, D.C. 20230.

For records at location e.: Safety Manager, Supply and Plant Building, National Bureau of Standards, Gaithersburg, Md. (P.O. Washington, D.C. 20234).

For records at location f.: Motor Fleet Manager, Administrative Operations Division, National Oceanic and Atmospheric Administration, Rockville, Md. 20852.

For records at location g.: Director, Office of General Service, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location h.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location i.: Chief, Property Management Division, National Technical Information Service, Sills Building, Springfield Virginia 22161.

Notification procedure: For BEA records at location a., information may be obtained from: Chief Planning and Evaluation Officer, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For NFPCA records at location a., information may be obtained from: Administrative Officer, NFPCA, 2400 M Street N.W., Washington, D.C. 20230;

For OMBE records at location a., information may be obtained from: Privacy Officer, Office of Chief Counsel, OMBE, U.S. Department of Commerce, Washington, D.C. 20230;

For NTIA records at location a., information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504;

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230; and

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information may be obtained from: Director, Office of Management and Systems, Industry and Trade Administration, Washington, D.C. 20230.

For records at location c., information may be obtained from: Director, Office of Public Affairs, Economic Development Administration, Washington, D.C. 20230.

For records at location d., information may be obtained from: Secretary, Maritime Administration, Washington, D.C. 20230.

For records at location e., information may be obtained from: Director of Administrative and Information Systems, National Bureau of Standards, Gaithersburg, Maryland (P.O. Washington, D.C. 20234).

For records at location f., information may be obtained from: Assistant Administrator for Administration, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852.

For records at location g., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location h., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location i., information may be obtained from: Assistant Director for Administration, National Technical Information Service, Sills Building, Springfield, Virginia 22161.

Requester should provide name, organizational unit, and approximate date of employement pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address of the desired location as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, motor vehicle departments in individual's state, and National Driver Register of the Department of Transportation.

COMMERCE/DEPT-9.

System name: Travel Records (Domestic and Foreign) of Employees and Certain Other Persons—COMMERCE/DEPT-9.

System location: a. For employees of Departmental Offices, BEA, ITA, NFPCA, OMBE, USTS, Offices of Federal Cochairmen, and RAPCs; members of DOC Advisory Committees; employees and certain other persons associated with ARC; and private citizens invited to visit the Department:

Paper records in Office of Controller, Finance Operations Division, OS, and machine-readable records in Office of Automatic Data Processing Management, ADP Analysis and Programming Division, both in Main Commerce Building, Washington, D.C. 20230.

b. For employees of MARAD in Washington, D.C.: (machine-readable) Division of Data Operations, (manual) Division of Accounts, Maritime Administration, Main Commerce Building, Washington, D.C. 20230. Regional employees: U.S. Merchant Marine Academy Travel Clerk, Kings Point, N.Y. 11024; Administrative Service Office, Maritime Administration, 26 Federal Plaza, New York, N.Y. 10007; Administrative Service Office, Maritime Administration, No. 2 Canal Street, New Orleans, La. 70130; Regional Office Service, Maritime Administration, 450 Golden Gate Ave., P.O. Box 36073, San Francisco, California 94102; Great Lakes Regional Office, Maritime Administration, Room 576, 666 Euclid Ave., Cleveland, Ohio 44114.

c. For employees of NBS, NTIS, and NTIA: Office of the Comptroller, National Bureau of Standards, Administration Building, Washington, D.C. 20234.

d. For employees of NOAA: Travel and Transportation Branch, NOAA Finance Division, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852 and the following Field Finance Offices: Research Building 3, 3100 Marine Street, Boulder, Colo. 80302; Room 1760, 601 E. 12th Street, Kansas City, Mo. 64106; 75 Virginia Beach Drive, Building 2, Miami, Fla. 33149; and, North Bethesda Office Center, 11420 Rockville Pike, Rockville, Maryland 20852.

e. For employees of PAT-TM: Office of General Service, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202.

f. For employees of CENSUS: Finance Division, Bureau of the Census, Federal Building 3, Washington, D.C. 20233 and the following Regional Offices for intermittent CENSUS employees: 1365 Peachtree Street, N.E., Atlanta, Georgia 30309; 441 Stuart Street,

Boston, Massachusetts 02116; 230 South Tryon Street, Charlotte, North Carolina 28202; 536 South Clark Street, Chicago, Illinois 60605; 1100 Commerce Street, Dallas, Texas 75202; 11011 West Sixth Avenue (P.O. Box 25207), Denver, Colorado 80225; 234 State Street, Detroit, Michigan 48226; One Gateway Center, 4th and State Street, Kansas City, Kansas 66101; 1100 Wilshire Boulevard, Los Angeles, California 90024; 26 Federal Plaza, New York City, New York 10007; 600 Arch Street, Philadelphia, Pennsylvania 19106; and 1700 Westlake Avenue, Seattle, Washington 98109.

g. For employees of EDA: Accounting Division, Washington, D.C. 20230.

Categories of individuals covered by the system: Employees, Advisory Committee Members, State Representatives of ARC, and official guests of the Department.

Categories of records in the system: Name, address, social security number; destination, itinerary, mode and purpose of travel; dates; expenses including amounts advanced (if any), amounts claimed, and amounts reimbursed; travel orders, travel vouchers, receipts, and passport record card.

Authority for maintenance of the system: Budget and Accounting Act of 1921; Accounting and Auditing Act of 1950; and Federal Claim Collection Act of 1966.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Transmittal to U.S. Treasury for payment, to State Department for passports, and see routine use portion of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable.

Retrievability: Filed by name, social security number, or travel order number.

Safeguards: Records are located in lockable metal file cabinets or in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained according to GSA Federal Travel Regulations, and then disposed of according to unit's Records Control Schedule.

System manager(s) and address: For records at location a., Controller, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., Chief, Division of Accounts, Maritime Administration, Washington, D.C. 20230; U.S. Merchant Marine Academy Travel Clerk, Kings Point, N.Y. 11024; Administrative Service Officer, Maritime Administration, 26 Federal Plaza, New York, N.Y. 10007; Administrative Service Officer, Maritime Administration, No. 2 Canal Street, New Orleans, La. 70130; Regional Office Service Officer, Maritime Administration, 450 Golden Gate Ave., P.O. Box 36073, San Francisco, California 94102; Regional Director, Maritime Administration, Great Lakes Regional Office, 666 Euclid Ave., Cleveland, Ohio 44114.

For records at location c., Comptroller, Office of the Comptroller, National Bureau of Standards, Administration Building, Gaithersburg, Maryland 20234.

For records at location d., Chief, Travel and Transportation, Finance Division, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852 and the Chief of the particular Field Finance Office listed above.

For records at location e., Director, Office of General Service, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location f., Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233 and the Director of the particular Regional Office listed above.

For records at location g., Chief, Accounting Division, Economic Development Administration, Washington, D.C. 20230.

Notification procedure: For BEA records at location a., information may be obtained from: Chief Planning and Evaluation Officer, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For ITA records at location a., information may be obtained from: Director, Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230;

For NFPCA records at location a., information may be obtained from: Administrative Officer, NFPCA, 2400 M Street, N.W., Washington, D.C. 20230;

For OMBE records at location a., information may be obtained from: Privacy Officer, Office of Chief Counsel, OMBE, U.S. Department of Commerce, Washington, D.C. 20230;

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230; and

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information can be obtained from: Secretary, Maritime Administration, Washington, D.C. 20230.

For NBS and NTIS records at location c., information can be obtained from: Director of Administrative and Information Systems, National Bureau of Standards, Gaithersburg, Maryland (P.O. Washington, D.C. 20234).

For NTIA records at location c., information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504.

For records at location d., information can be obtained from: Assistant Administrator for Administration, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852.

For records at location e., information can be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location f., information can be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location g., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230.

Requester should provide name, travel order number, if known, and date of travel, in accordance with the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, supervisors, and finance (or accounting) office standard references.

COMMERCE/DEPT-14.

System name: Litigation, Claims, and Administrative Proceeding Records—COMMERCE/DEPT-14.

System location: a. For matters involving CENSUS: Office of the Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233. Some records may be duplicated in the offices of Census Bureau division chiefs. A complete address list of division chiefs is available upon request from the individual designated in the Notification section below.

b. For matters involving ITA tort and personal property claims: Office of Administrative Support, Industry and Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

c. For matters involving EDA: Office of Chief Counsel, EDA, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

d. For matters involving MARAD: Maritime Administration, Office of General Counsel, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

e. For matters involving NBS other than violations of traffic and grounds regulations: National Bureau of Standards, Office of the Legal Adviser, Administration Building, Gaithersburg, Maryland (P.O. Washington, D.C. 20234). For matters involving violations of traffic and grounds regulations at Gaithersburg, Maryland, Security Office, Administration Building, Gaithersburg, Maryland (P.O. Washington, D.C. 20234) and for violations of those regulations at Boulder or Fort Collins, Colorado, Guard Service Office, NBS, Radio Building, Boulder, Colorado, 80302.

f. For matters involving NFPCA: Office of the Chief Counsel, National Fire Prevention and Control Administration, 2400 M Street, N.W., Washington, D.C. 20037.

g. For matters involving NOAA: Office of General Counsel, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852. Records in this system may also be located at other NOAA offices in the Washington, D.C. metropolitan area and in the field. A complete list of addresses is available upon request from the individual designated in the Notification section below.

h. For matters involving NTIS: Property Management Office, or Office of the Controller, National Technical Information Service, 5285 Port Royal Rd., Springfield, Va. 22161.

i. For matters involving NTIA: Office of the Chief Counsel, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504; or Office of Administration, National Telecommunications and Information Administration, 1325 G Street, N.W., Washington, D.C. 20005.

j. For matters involving PAT-TM: Office of the Solicitor, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

k. For all other matters: Office of the General Counsel, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230. Some of the records at locations a. through j. may be duplicated at location k. Also, the records at locations a. through k. may be duplicated in part or in whole in other Department of Commerce systems of records, or in Government-wide systems, at other locations. For assistance in this regard, information may be obtained from the individual identified in the appropriate Notification procedure section below.

Categories of individuals covered by the system: Individuals the subject of any litigation in which the Department is involved; individuals who make administrative claims or appeals against the Department; individuals the subject of claims and administrative actions brought by the Department. Individuals cited for violation of traffic and grounds regulations. Individuals who may have provided statements or other evidence with respect to any of the above. "Department" means the U.S. Department of Commerce or any component thereof, or any officer or employee thereof.

Categories of records in the system: Names, addresses, Social Security Account Numbers, statements of claims and analyses thereof, investigatory reports, opinions of law, and pleadings, motions, depositions, rulings, opinions, citation particulars (description of vehicle, date of birth, physical characteristics, driving permit or license data, vehicle license data, etc.), and other litigation and claims documentation.

Authority for maintenance of the system: 5 U.S.C 301; 44 U.S.C Section 3101; 42 U.S.C 3211; 31 U.S.C. 240; 28 U.S.C 533-535 and 1346(b); 15 U.S.C. 277 and 278e(b); E.O. 10450; and all other authorities of the Department.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Records are disposed of according to unit's Record Control Schedule.

System manager(s) and address: For records at location a.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location b.: Director, Office of Administrative Support, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location c.: Chief Counsel, Economic Development Administration, Department of Commerce, Washington, D.C. 20230.

For records at location d.: General Counsel, Maritime Administration, Washington, D.C. 20230.

For records at location e.: Legal Adviser, National Bureau of Standards, Gaithersburg, Maryland (P.O. Washington, D.C. 20234).

For records at location f.: Chief Counsel, National Fire Prevention and Control Administration, P.O. Box 19518, Washington, D.C. 20036.

For records at location g.: General Counsel, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852.

For records at location h.: Chief, Administrative Services Division, and Controller, each for their respective protions, National Technical Information Service, 5285 Port Royal Rd., Springfield, Va. 22161.

For records at location i.: Chief Counsel and Director of Administration (for their respective portions), National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

For records at location j.: Solicitor, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location k.: General Counsel, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: For records at location a., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location b., information may be obtained from: Director, Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location c., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location d., information may be obtained from: Secretary, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location e., information may be obtained from: Director of Administrative and Information Systems, National Bureau of Standards, Gaithersburg, Maryland (P.O. Washington, D.C. 20234);

For records at location f., information may be obtained from: Administrative Officer, National Fire Prevention and Control Administration, P.O. Box 19518, Washington, D.C. 20036.

For records at location g., information may be otained from: Assistant Administrator for Administration, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852.

For records at location h., information may be obtained from: Assistant Director for Administration, National Technical Information Service, Sills Bldg., Springfield, Va. 22161.

For records at location i., information may be obtained from: Privacy Officer, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

For records at location j., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location k., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Requester should provide name, address, social security number, case number; date of claim, organization unit in which employed, as appropriate, pursuant to the inquiry provisions which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject claimant or plaintiff; those authorized by the foregoing to furnish information; and, whatever sources pertinent to the nature of the case.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a (k)(1), (k)(2) and (k)(5), all investigatory material and material subject to the provisions of 5 U.S.C. 552(b)(1) in the record which meets the criteria of these sub-sections is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations because of the necessity to exempt this information and material in order to prevent disclosure of classified information as required by Executive Order 11652 in the interest of the national defense and foreign policy and in order for the Department's legal staff to properly perform its functions.

COMMERCE/DEPT.-16.

System name: Property Accountability Files—COMMERCE/DEPT-16.

System location: a. For MARAD: Supply Management Division, Maritime Administration, Washington, D.C. 20230; Department of Administrative Service, U.S. Merchant Marine Academy, Kings Point, N.Y. 11024; Administrative Service Office, Maritime Administration, 26 Federal Plaza, New York, N.Y. 10007; Administrative Service Office, Maritime Administration, No. 2 Canal Street, New Orleans, La. 70130; Regional Office Service, Maritime Administration, 450 Golden Gate Avenue, P.O. Box 36073, San Francisco, California 94102; Great Lakes Regional Office, Maritime Adminstration, Room 576, 666 Euclid Ave., Cleveland, Ohio 44114.

b. For all libraries of the Department. For listing, see Directory of Libraries in the United States Department of Commerce, 1972, Department of Commerce, Washington, D.C.; or American Library Directory, biennial, R.R. Bowker Company, New York City.

c. For employees of CENSUS: Administrative Service Division, Bureau of the Census, Federal Building 3, Washington, D.C. 20233, and the following Census Regional Offices: 1365 Peachtree Street,

N.E., Atlanta, Georgia 30309; 441 Stuart Street, Boston, Massachusetts 02116; 230 South Tryon Street, Charlotte, North Carolina 28202; 536 South Clark Street, Chicago, Illinois 60605; 1100 Commerce Street, Dallas, Texas 75202; 11011 West Sixth Avenue (P.O. Box 25207). Denver, Colorado 80225; 234 State Street, Detroit, Michigan 48226; One Gateway Center, 4th and State Streets, Kansas City, Kansas 66101; 1100 Wilshire Boulevard, Los Angeles, California 90024; 26 Federal Plaza, New York City, New York 10007; 600 Arch Street, Philadelphia, Pennsylvania 19106; and 1700 Westlake Avenue, Seattle, Washington 98109.

d. For employees of NBS: Security Office, National Bureau of Standards, Administration Building, Gaithersburg, Maryland (P.O. Washington, D.C. 20234); Instrument Shops Division, Shops Building, NBS, Gaithersburg, Maryland (P.O. Washington, D.C. 20234); and Security Office, Radio Building, NBS, Boulder, Colorado 80302.

e. For employees of PAT-TM: Office of General Service, U.S. Patent and Trademark Office, Washington, D.C. 20231.

f. For NTIA: Office of Administration, National Telecommunications and Information Administration, 1325 G Street, N.W., Washington, D.C. 20005.

Categories of individuals covered by the system: Employees, general public, institutions, and anyone who charges out or signs for books or other materials.

Categories of records in the system: Name; telephone number; title of book; identification of property or equipment; home and business address; employee I.D. number; position; job title; grade; organization; explanations for items not accounted for, correspondence; clearances; and, key number.

Authority for maintenance of the system: 5 U.S.C. 301; 44 U.S.C. 3101; 40 U.S.C. 481-92; 15 U.S.C. 1518.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folders and trays.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal files cabinets, or lockable desks, or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained until property is accounted for, then disposed of in accordance with unit's Record Control Schedule.

System manager(s) and address: For records at location a.: Chief, Supply Management Division, Maritime Administration, Washington, D.C. 20230; Administrative Service Officer, U.S. Merchant Marine Academy, Kings Point, N.Y. 11024; Administrative Service Officer, Maritime Administration, 26 Federal Plaza, New York, N.Y., 10007; Administrative Service Officer, Maritime Administration, No. 2 Canal Street, New Orleans, La. 70130; Property Accountability Officer, Regional Office Service, Maritime Administration, 450 Golden Gate Avenue, P.O. Box 36073, San Francisco, California 94102; Regional Director, Great Lakes Regional Office, Maritime Administration, 666 Euclid Ave., Cleveland, Ohio 44114.

For records at location b.: the head of the respective library.

For records at location c.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233, and the Director of the particular Regional Office listed above.

For records at location d.: Security Officer, National Bureau of Standards, Administration Building, Gaithersburg, Maryland (P.O. Washington, D.C. 20234).

For records at location e.: Director, Office of General Service, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location f: Director of Administration, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

Notification procedure: For records at location a.: information may be obtained from: Secretary, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b.: Address communication to the library's parent organization (e.g., National Bureau of Standards) Attention: Privacy Officer, or use the Privacy Officer's Official position title and address as listed in Appendix B to the Department's rules which appear in 15 CFR Part 4b.

For records at location c., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location d., information may be obtained from: Director of Administrative and Information Systems, National Bureau of Standards, Gaithersburg, Maryland (P.O. Washington, D.C. 20234).

For records at location e., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, D.C. 202331. For records at location f., Information may be obtained from: Privacy Officer, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

Requester should provide name and address pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, book cards, and supply person providing the equipment.

COMMERCE/DEPT-17.

System name: Records of Cash Receipts—COMMERCE/DEPT-17.

System location: a. For Departmental offices, BEA, ITA, NFPCA, OMBE, USTS, Offices of Federal Chairman, RAPCs, and ARC: Office of Controller, Finance Operations Division (Receipts and Distribution Section), OS, U.S. Department of Commerce, 14th and Constitution Ave., N.W., Washington, D.C. 20230 and Office of Automatic Data Processing Management, (ADP Analysis and Programming Division), use same address.

b. For MARAD: Division of Accounts, Maritime Administration, 14th and Constitution Ave., N.W., U.S. Department of Commerce, Washington, D.C. 20230.

c. FOR NTIS: Accounting Control Division, National Technical Information Service, Room 1303, Sills Building, Springfield, Virginia 22161.

d. For PAT-TM: Office of Finance, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

e. For Census: Finance Division, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

f. For NTIA: Office of Administration, National Telecommunications and Information Administration, 1325 G Street, N.W., Washington, D.C. 20005

g. For EDA: Accounting Division, Economic Development Administration, Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals paying for goods or services, reimbursing overpayments, or otherwise delivering cash to the Department.

Categories of records in the system: Individual's name, the goods or service purchased, amount, date, check number, division or office, bank deposit, treasury deposit number.

Authority for maintenance of the system: 31 U.S.C. 66(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable.

Retrievability: Name and/or account or case number.

Safeguards: Records are located in lockable metal file cabinets or in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Permanently maintained.

System manager(s) and address: For records at location a.: Controller, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b.: Chief, Division of Accounts, Maritime Administration, Washinton, D.C. 20230.

For records at location c.: Chief, Accounting Control Division, National Technical Information Service, Room 1303, Sills Building, Springfield, Virginia 22161.

For records at location d.: Director, Office of Finance, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location e.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location f.: Director of Administration, National Telecommunications and Information Administration, 1325 G Street, N.W., Washington, D.C. 20005.

For records at location g.: Chief, Accounting Division, Economic Development Administration, Washington, D.C. 20230.

Notification procedure: For BEA records at location a., information may be obtained from: Chief Planning and Evaluation Officer, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For ITA records at location a., information may be obtained from: Director, Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230;

For NFPCA records at location a., information may be obtained from: Administrative Officer, NFPCA, Washington, D.C. 20230;

For OMBE records at location a., information may be obtained from: Privacy Officer, Office of Chief Counsel, OMBE, U.S. Department of Commerce, Washington, D.C. 20230;

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230; and

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information may be obtained from: Secretary, Maritime Administration, Washington, D.C. 20230;

For records at location c., information may be obtained from: Assistant Director, Administration, National Technical Information Service, Room 1006, Sills Building, Springfield, Virginia 22161.

For records at location d., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location e., information may be obtained from: Assistant Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location f., information may be obtained from: Privacy Officer, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

For records at location g., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230.

Requester should provide name, address, date of receipt, and check number or case number pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information.

COMMERCE/DEPT.-18.

System name: Employees Personnel Files Not Covered By U.S. Civil Service Commission—COMMERCE/DEPT-18.

System location: a. For employees of Departmental Offices, Offices of Federal Cochairmen, RAPCs, ARC, BEA, EDA, NFPCA, NTIA, NTIS, OMBE, and USTS: Processing and Servicing Branch, Departmental Office of Personnel, Room 5014, U.S. Department of Commerce, Washington, D.C. 20230;

b. For employees of CENSUS: Office of Personnel, Bureau of Census, Federal Building 3, Room 3260, Washington, D.C. 20233;

c. For employees of ITA: Office of Personnel, Industry and Trade Administration, Room 3512, U.S. Department of Commerce, Washington, D.C. 20230;

d. For employees of MARAD: Office of Personnel, Room 1091, U.S. Department of Commerce, Washington, D.C. 20230;

e. For employees of NBS: Office of Personnel, National Bureau of Standards, Administration Building, Room A123, Gaithersburg, Maryland 20760; and National Academy of Sciences, 2100 Pennsylvania Avenue, N.W., Room JH606, Washington, D.C. 20037;

f. For employees of NOAA: Personnel Division, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852; and

g. For employees of PAT-TM: Office of Personnel, U.S. Patent and Trademark Office, U.S. Department of Commerce, Room 9C06, Crystal Plaza 2, Arlington, Virginia 22202.

Categories of individuals covered by the system: Current and former employees.

Categories of records in the system: All personnel records in the Department which are subject to the Privacy Act but are not covered in the notices of systems of records published by the U.S. Civil Service Commission. The records of this system may include, but are not limited to: Employee Development; Incentive Awards; International Women's Year; Medical; Career Management Program; Ship Personnel; Employee Overseas Assignment, and Relations; Minority Group Statistics; Personnel Uniform ADP System; Experts and Consultants Quarterly Review; Re-Employment Priority; Repromotion Priority; Merit Promotion Programs; Within-Grade Denials (Reconsideration File); and, Employee Information System.

Authority for maintenance of the system: 5 U.S.C. 301; 44 U.S.C. 3101; and Federal Personnel Manual and related directives of the U.S. Civil Service Commission.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information concerning current or former employees may be disclosed to a private organization or individual as necessary to obtain information in connection with a decision concerning the assignment, hiring, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. See routine uses paragraphs in the Prefatory Statement and routine uses paragraphs of U.S. Civil Service Commission notices of systems of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual and machine-readable.

Retrievability: Filed by name and/or social security number.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained according to Unit's Records Control Schedule.

System manager(s) and address: For records at location a.: Chief, Processing and Servicing Branch, Office of Personnel, Room 5014, U.S. Department of Commerce, Washington, D.C. 20230;

For records at location b.: Chief of Personnel, Bureau of the Census, Federal Building 3, Room 3260, Washington, D.C. 20233;

For records at location c.: Director of Personnel, Industry and Trade Administration, U.S. Department of Commerce, Room 3512, Washington, D.C. 20230;

For records at location d.: Director, Office of MARAD Personnel, Room 1091, U.S. Department of Commerce, Washington, D.C. 20230;

For records at location e.: Chief of Personnel, National Bureau of Standards, Administration Building, Room A123, Gaithersburg, Maryland 20760;

For records at location f.: Chief, Personnel Division, National Oceanic and Atmospheric Administration, NBOC2, Rockville, Maryland 20852; and

For records at location g.: Personnel Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Room 9C06, Crystal Plaza 2, Arlington, Virginia 22202.

Notification procedure: For BEA records at location a., information may be obtained from: Chief Planning and Evaluation Officer, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For EDA records at location a., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230;

For NFPCA records at location a., information may be obtained from: Administrative Officer, NFPCA, 2400 M Street, N.W., Washington, D.C. 20230;

For NTIA records at location a., information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504;

For NTIS records at location a., information may be obtained from: Deputy Director, NTIS, U.S. Department of Commerce, Washington, D.C. 20230;

For OMBE records at location a., information may be obtained from: Privacy Officer, Office of Chief Counsel, OMBE, U. S. Department of Commerce, Washington, D.C. 20230;

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230.

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233;

For records at location c., information may be obtained from: Director, Office of Management and Systems, Industry and Trade Administration, Washington, D.C. 20230;

For records at location d., information may be obtained from: Secretary, Maritime Administration, Washington, D.C. 20230;

For records at location e., information may be obtained from: Director of Administrative and Information Systems, National Bureau of Standards, Gaithersburg, Maryland (P.O. Washington, D.C. 20234);

For records at location f., information may be obtained from: Assistant Administrator for Administration, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852; and

For records at location g., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Requester should provide name, social security number, and time or organization unit of employment pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information; others involved in references of the individual; physicians; employee's supervisor; and, sources in the U.S. Civil Service Commission notices.

COMMERCE/DEPT-19

System name: Department Mailing Lists—COMMERCE/DEPT-19.

System location: a. Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

b. National Fire Prevention and Control Administration, Washington, D.C. 20230.

c. Office of Minority Business Enterprise, U.S. Department of Commerce, Washington, D.C. 20230.

d. Office of General Service, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

Categories of individuals covered by the system: At location a.: 1. Persons employed in the Suitland Federal Center who have voluntarily submitted an application to be included in the carpool locator system and be listed as a possible carpool member, and 2. Subscribers to Bureau of the Census publications.

At location b.: All regular publication recipients, all individuals who have requested that they be placed on a mailing list or requested information about NFPCA, and individuals attending NFPCA-sponsored conferences.

At location c.: Subscribers to OMBE publications and/or representatives of the media who receive OMBE material at their home addresses.

At location d.: Former employees of the Patent and Trademark Office who have requested that their names be included on a newsletter mailing list.

Categories of records in the system: At location a.: 1. Carpool records include name, address, work week, hours of work, work location, work phone number, willingness to join in a carpool, willingness to participate as a driver or rider in a carpool, zip code. 2. Subscriber lists include name and home address.

At location b.: Name, title, affiliation, address and telephone number.

At location c.: Name and home address.

At location d.: Name and home address.

Authority for maintenance of the system: 5 U.S.C. 301; 15 U.S.C. 1512, 2205, 2208, and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For all locations, see general routine uses of Prefatory Statement.

For records at location a.: Carpool records are disseminated to other persons working at the Suitland Federal Center who have voluntarily listed themselves to form carpools; home address is suppressed.

For records at location b. Information is provided Federal, state, local or international agencies in response to a written request indicating a likelihood that individuals on the mailing list would benefit by or be interested in material to be sent by the requesting agency.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy in file folders, computer tape, mailing labels.

Retrievability: Alphabetically by name, and for records at location a., by zip code.

Safeguards: Records are located in locked cabinets or in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: Records are retained in accordance with each unit's Records Control Schedule.

System manager(s) and address: For records at location a.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location b.: Associate Administrator, National Fire Data Center, NFPCA, U.S. Department of Commerce, P. O. Box 19518, Washington, D.C. 20036.

For records at location c.: Chief of Information, Office of Public Affairs, OMBE, Washington, D.C. 20230.

For records at location d.: Director, Office of General Service, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: For records at location a.: Information may be obtained from: Associate Director for Administration, Federal Building 3, Bureau of the Census, Washington, D.C. 20233.

For records at location b.: Information may be obtained from: Administrative Officer, NFPCA, Washington, D. C. 20230.

For records at location c.: Privacy Officer, Office of Chief Counsel, Office of Minority Business Enterprise, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location d.: Information may be obtained from: Assistant Commissioner for Administration, U. S. Patent and Trademark Office, Washington, D.C. 20231.

Record access procedures: Requests from individuals should be addressed to: Same address of the desired location as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address for desired location.

Record source categories: Subject individual.

COMMERCE/DEPT-20.

System name: Biographical Files—COMMERCE/DEPT-20.

System location: a. For Secretarial Officers, senior-level officials, and employees of the Office of the Secretary: Office of Communications, U.S. Department of Commerce, Washington, D.C. 20230.

b. For Secretarial Officers and senior-level officials included in Biographical Resumes of Key Officials: Offices of the Director of Personnel, Executive Secretariat, and Assistant Secretary for Administration; all Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230.

c. For employees of CENSUS: Public Information Office, Federal Building 03, Bureau of the Census, Washington, D.C. 20230.

d. For employees of ITA: Office of Public Affairs, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

e. For employees of EDA: Office of Public Affairs, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230.

f. For members of the National Public Advisory Committee on Regional Economic Development: Office of Economic Research, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230.

g. For employees of MARAD: Office of Public Affairs, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230.

h. For members of the Advisory Board to the U.S. Merchant Marine Academy: Office of Assistant Secretary for Maritime Affairs, U.S. Department of Commerce, Washington, D.C. 20230.

i. For employees of NBS: Public Information Division, Administration Building, National Bureau of Standards, Gaithersburg, Maryland (P.O. Washington, D.C. 20234).

j. For employees of NBS' Boulder Laboratories: Program Information Office, National Bureau of Standards, Radio Building, Boulder, Colorado 80302.

k. For employees of NFPCA: Office of Information Services, National Fire Prevention and Control Administration, U.S. Department of Commerce, Washington, D.C. 20230.

l. For members of the National Advisory Committee on Oceans and Atmosphere: National Advisory Committee on Oceans and Atmosphere, U.S. Department of Commerce Building, Room 5225, Washington, D.C. 20230.

m. For employees of NOAA and Commissioners of International Fishery Commissions: NOAA headquarters locations: Office of Public Affairs, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852, and/or Office of the Executive Officer, NOAA, U.S. Department of Commerce, Washington, D.C. 20230; and/or NOAA field installations, the principal addresses of which are:

NOAA's National Ocean Survey, 6001 Executive Boulevard, Rockville, Maryland 20850.

NOAA's National Weather Service, 8060 13th Street, Silver Spring, Maryland 20910.

NOAA's Sea Grant-Coastal Zone Management, 2001 Wisconsin Avenue, N.W., Washington, D.C. 20235.

NOAA's Environmental Research Laboratories, 3100 Marine Street, RB3, Boulder, Colorado 80302, and Environmental Research Laboratories at 9 locations in the United States.

NOAA's National Marine Fisheries Service, 3300 Whitehaven Street, Washington, D.C. 20235.

A complete list of all field installations is available upon request from individual designated in Notification section below.

n. For employees of OMBE: Public and Congressional Affairs Office, Office of Minority Business Enterprise, U.S. Department of Commerce, Washington, D.C. 20230.

o. For employees of PAT-TM: Office of Information Services, Patent and Trademark Office, Washington, D.C. 20231.

p. For employees of the Office of the Assistant Secretary for Science and Technology and organizational components reporting to the Assistant Secretary; for members of the Commerce Technical Advisory Board and its subcommittees; and for participants in the Commerce Science and Technology Fellowship Program: Office of the Assistant Secretary for Science and Technology, U.S. Department of Commerce, Washington, D.C. 20230.

q. For employees of NTIA's Institute for Telecommunication Sciences: Institute for Telecommunication Sciences, NTIA, Boulder, Colorado 80302. For other NTIA employees: Office of the Director of Congressional and Public Affairs, NTIA, 1800 G Street, N.W., Washington, D.C. 20504.

r. For Federal Cochairmen of Regional Action Planning Commissions: Office of Regional Economic Coordination, Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230.

The information in this system may be duplicated in other Privacy Act systems of the Commerce Department, in the systems maintained by the Civil Service Commission, or in the immediate office of the individual to whom the biographical record pertains. For assistance in this regard, contact the Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Present and former Department personnel, members of advisory committees, commissioners of International Fisheries Commissions, and Federal Cochairmen of Regional Action Planning Commissions.

Categories of records in the system: Biographical information which typically includes date and place of birth; education; military service; present position; employment history; field of research; publications; inventions and patents; awards and honors; memberships and affiliations; present and past residences; telephone number; names, ages, and addresses of family members; hobbies and outside interests; and photograph of individual.

Authority for maintenance of the system: 5 U.S.C. 301, 15 U.S.C. 1512, 44 U.S.C. 3101 and Reorganization Plan No. 5 of 1950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Distributed to the press, other government agencies, and the general public for use in connection with written articles, oral interviews, speaking engagements, retirement and obituary notices, and other purposes of public information. Also, general routine uses of Prefatory Statement apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders or notebooks.

Retrievability: By name alphabetically or by position or work unit.

Safeguards: Records are located in locked metal file cabinets or locked rooms during non-business hours.

Retention and disposal: Records retention and disposal is in accord with each operating unit's Records Control Schedule.

System manager(s) and address: For records at location a.: Information Assistant, Office of Communications.

For records at location b.: Director of Personnel, U.S. Department of Commerce.

For records at location c.: Director, Bureau of the Census.

For records at location d.: Director of Public Affairs, Industry and Trade Administration.

For records at location e.: Director, Office of Public Affairs, Economic Development Administration.

For records at location f.: Director, Office of Economic Research, Economic Development Administration.

For records at location g.: Public Affairs Officer, Maritime Administration.

For records at location h.: Special Assistant to the Assistant Secretary for Maritime Affairs, U.S. Department of Commerce.

For records at location i.: Chief, Public Information Division, National Bureau of Standards.

For records at location j.: Chief, Program Information Office, National Bureau of Standards.

For records at location k.: Director of Information Services, National Fire Prevention and Control Administration.

For records at location l.: Executive Director, National Advisory Committee on Oceans and Atmosphere.

For records at location m.: Director of Office of Public Affairs, National Oceanic and Atmospheric Administration.

For records at location n.: Information Officer, Office of Minority Business Enterprise.

For records at location o.: Director, Office of Information Services, Patent and Trademark Office.

For records at location p.: Program Officer, Office of the Assistant Secretary for Science and Technology, U.S. Department of Commerce.

For records at location q.: Director of Congressional and Public Affairs, National Telecommunications and Information Administration.

For records at location r.: Records Manager, Office of Regional Economic Coordination, U.S. Department of Commerce.

For each system manager, use same address as shown in applicable System Location section above.

Notification procedure: For records at locations a., b., l., r., and for Office of the Secretary records at location p.: Information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at the locations listed below, information may be obtained from the individual designated. Use same address for each as shown in appropriate System Location section above.

c.: Associate Director for Administration, Bureau of the Census.

d.: Director, Office of Management and Systems, Industry and Trade Administration.

e. and f.: Director, Office of Public Affairs, Economic Development Administration.

g. and h.: Secretary of the Maritime Administration.

i. and j., and NBS records at location p.: Director of Administrative and Information Systems, National Bureau of Standards.

k.: Administrative Officer, National Fire Prevention and Control Administration.

m.: Assistant Administrator for Administration, National Oceanic and Atmospheric Administration.

n.: Privacy Officer, Office of Chief Counsel, Office of Minority Business Enterprise.

o. and PAT-TM records at location p.: Assistant Commissioner for Administration, Patent and Trademark Office.

q.: Privacy Officer, National Telecommunications and Information Administration.

For NTIS records at location p.: Assistant Director for Administration, National Technical Information Service, Sills Building, Springfield, Virginia 22161.

BEA records are included in locations a and b above.

Record access procedures: Requests from individuals should be addressed to: same address of the desired location as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address for desired location.

Record source categories: All locations, subject individuals. Also, for records at locations b. and g., the individual's Official Personnel File; for records at location m., supervisors of subject individuals; for records at locations l., and m., personnel offices; and for records at locations i., j., and p., other sources such as news releases. articles and publications relating to the subject individual.

COMMERCE/DEPT.-21.

System name: Freedom of Information and Privacy Request Records—COMMERCE/DEPT-21.

System location: a. For PA request records of BEA: Office of the Director, Bureau of Economic Analysis, 1401 K Street, N.W., Washington, D.C. 20230.

b. For FOIA request records of CENSUS: Freedom of Information Request Control Desk, Bureau of the Census, Federal Building 3, Suitland, Md. 20233.

c. For FOIA and PA request records of ITA: Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

d. For PA request records of MARAD: Office of the Secretary of the Maritime Administration, and offices of MARAD Privacy Act system managers, U.S. Department of Commerce, Washington, D.C. 20230. A complete address list of system managers is available upon request.

e. For FOIA and PA request records of NFPCA: Freedom of Information Request Control Desk and Administrative Office, respectively, National Fire Prevention and Control Administration, 2400 M Street, N.W., Washington, D.C. 20037.

f. For FOIA request records of NOAA: Freedom of Information Request Control Desk, National Oceanic and Atmospheric Administration, WSC 05, Rockville, Md. 20852.

g. For FOIA request records of NTIA: Freedom of Information Request Control Desk, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504.

h. For PA request records of the Office of the Secretary: Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals who have requested records under the Freedom of Information and/or Privacy Acts contained in files maintained by the organizational units shown in the System Location paragraph above.

Categories of records in the system: Incoming requests; correspondence developed during processing of requests; initial and final determination letters; records summarizing pertinent facts about requests and action taken; copy or description of records released; description of records denied (copies of records denied are not kept with these files).

Authority for maintenance of the system: 5 U.S.C. 301, 5 U.S.C. 552, 5 U.S.C. 552a and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Department management and legal personnel to assure that each request receives an appropriate reply and to compile data for the required annual reports on activities under the Acts. General routine uses of the Prefatory Statement also apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: At all locations: Paper records in file folders or loose-leaf binders.

Retrievability: At location c.: by control number assigned to each request based on date of receipt.

At all other locations: Alphabetically by name of requester.

Safeguards: At all locations: Records are stored in file cabinets in secured premises with access limited to those whose official duties require access.

Retention and disposal: Records are disposed of in accordance with the appropriate records disposition authorization approved by the Archivist of the United States.

System manager(s) and address: For records at location a.: Chief Planning and Evaluation Officer, BEA.

For records at location b.: Associate Director for Administration and Field Operations, Bureau of the Census.

For FOIA records at location c.: Freedom of Information Officer, ITA.

For PA records at location c.: Director, Office of Management and Systems, ITA.

For records at location d.: Secretary of the Maritime Administration.

For FOIA records at location e.: Chief Counsel, NFPCA.

For PA records at location e.: Administrative Officer, NFPCA.

For records at location f.: Assistant Administrator for Administration, NOAA.

For records at location g.: Director of Congressional and Public Affairs, NTIA.

For records at location h.: Director, Office of Organization and Management Systems, U.S. Department of Commerce.

For each system manager, use the same address as shown for that unit in the System Location section above.

Notification procedure: For records at locations a., b., d., f., and h.: Same individual and address for each as shown in System Manager section above.

For records at locations c. and e.: Same individual and address for each as shown for Privacy Act records in System Manager section above.

For records at location g.: Privacy Officer, NTIA, same address as shown in System Manager section above.

Requestor should provide name and address pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: The individual making the request, and records derived from the processing of Freedom of Information and Privacy Act requests.

COMMERCE/ITA-1.

System name: Individuals Identified in Export Administration Compliance Proceedings or Investigations—COMMERCE/ITA-1.

System location: a. Office of Export Administration, ITA, 14th Street and Constitution Ave. NW., U.S. Department of Commerce, Washington, D.C. 20230. b. Appeals Board for the Department, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals identified in an export administration compliance proceeding or investigation. Individuals alleged to have violated the Export Administration regulations; established violators of the regulations; certain other individuals identified by the FBI or other investigating agency or individual in the investigative process such as those involved in organized crime; and individuals who have received warning letters.

Categories of records in the system: Reports from F.B.I., other law enforcement or investigative agencies, investigators, or informants; investigative and intelligence data; documented violations; warning letters. Includes any information on alleged or proven violators of the Export Administration Act.

Authority for maintenance of the system: Export Administration Act of 1969 (50 U.S.C. App. 2401 et seq.), as amended. 5 U.S.C. 301, 28 U.S.C. 533-535, 44 U.S.C. 3101, and E.O. 10450.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in paper form.

Retrievability: Information filed by case or subject file. All names are cross-referenced by name card file.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained for a reasonable period of time. Disposition is recorded.

System manager(s) and address: Director, Compliance Division, Office of Export Administration, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name, address, and case or subject, if known, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Individual exporters, those authorized by the individual to furnish information, trade sources, investigative

agencies, intelligence or investigative personnel of the Office of Export Administration, and informants.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(j)(2), all information about an individual in the record which meets the criteria stated in 5 U.S.C. 552a(j)(2) are exempted from the notice, access and contest requirements of the agency regulations and from all parts of 5 U.S.C. 552a except subsections (b),(c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i), and pursuant to 5 U.S.C. 552a(k)(1) and (k)(2) on condition that the 5 U.S.C. 552a(j)(2) exemption is held to be invalid, all investigatory material in the record which meets the criteria stated in 5 U.S.C. 552a (k)(1) and (k)(2) are exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations because of the necessity to exempt this information and material in order to accomplish this law enforcement function of the agency, to prevent subjects of investigation from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information, and to avoid endangering these sources and law enforcement personnel. Section 7(c) of the Export Administration Act of 1969, as amended, also protects this information and material from disclosure.

COMMERCE/ITA-2.

System name: Individuals Involved in Export Transactions—COMMERCE/ITA-2.

System location: Office of Export Administration, ITA, U.S. Department of Commerce, 14th St. and Constitution Ave., NW., Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals involved in export transactions. Information primarily is maintained on foreign companies and business officials, but includes U.S. citizens involved with or working for firms abroad.

Categories of records in the system: Reports and cables from U.S. foreign service posts and reports from investigative agencies.

Authority for maintenance of the system: 50 U.S.C. App. 2401 et seq. (Export Administration Act of 1969 as amended). 5 U.S.C 301, 28 U.S.C. 533-535, 44 U.S.C. 3101, and E.O. 10450.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by individual's name.

Safeguards: Barlocked metal cabinets with combination. Some material is maintained in safes.

Retention and disposal: Disposed of after 5 years.

System manager(s) and address: Director, Compliance Division, Office of Export Administration ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name and date of involvement in export transactions pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: U.S. Foreign Service Posts, CIA, Compliance Division, OEA, Post Office Fraud Section, FBI, and Defense Intelligence Agency.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(2), law enforcement investigatory material is exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f), to the extent the disclosure of such material would reveal the identity of a confidential source of information, in order to maintain the ability to obtain necessary information and to fulfill commitments made to sources that their identities would be kept confident.

Pursuant to 5 U.S.C. 552a(k)(1), material which is classified is exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) to prevent disclosures detrimental to national defense or foreign policy.

COMMERCE/ITA-3.

System name: Individuals Involved in International Business Trade Complaints—COMMERCE/ITA-3.

System location: Office of Export Development, ITA, U.S. Department of Commerce, 14th St. and Constitution Ave., NW., Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals filing trade complaints (business disputes) against foreign firms, or against whom foreign firms file complaints through U.S. Embassies.

Categories of records in the system: Complaint and supporting documentation, record of the handling and disposition of the complaint, and third party information (bank references, information obtained from other parties to the transaction, and commercial contacts of the individual).

Authority for maintenance of the system: 15 U.S.C. 1512.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement. Also foreign governments obtain information on the disputants in order to check reliability of the firms involved, and foreign firms involved in the dispute obtain information. This information is supplied to the foreign governments and foreign firms through the Department of State. The Department of State also uses information to check the credibility of the foreign firms involved in a dispute. Information is released to other executive branch agencies, e.g., SBA, USDA, when a party to the dispute falls within their area of jurisdiction in an attempt to solve the dispute.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Name of American party to the dispute.

Safeguards: Metal cabinets with bar and combination lock.

Retention and disposal: Permanent.

System manager(s) and address: Director, Office of Export Development, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name of individual and name of American party to the dispute pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, the complainant, banks, commercial contracts, and other parties to the transaction.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(1), material which is classified is exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f), to prevent disclosures detrimental to national defense or foreign policy.

COMMERCE/ITA-4.

System name: Mission Directors/Seminar Chairmen/Industry Technical Representatives—COMMERCE/ITA-4.

System location: Office of International Marketing, ITA, 14th St. and Constitution Ave. NW., U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals who are Directors of U.S. Trade Missions, Chairmen of U.S. Government Seminar Missions, and Technical Representatives of Catalog Exhibits sponsored by the Department.

Categories of records in the system: Home address, date and place of birth, photographs, brief career history, citizenship, and passport numbers.

Authority for maintenance of the system: Delegation of Authority, dated June 25, 1962 from United States Information Agency under Section 5 (e) of Executive Order 11034 of June 25, 1962, as amended by Executive Order 11380 of November 8, 1967, insofar as said delegation pertains to U.S. participation in trade missions abroad under the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By promotion theme of trade mission, location of trade mission and individual's name.

Safeguards: Records are locked in lockable metal file cabinets or in metal file cabinets in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: File is retained for three years and then destroyed.

System manager(s) and address: Director, Special Activities Division, Office of International Marketing, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Management and Systems, ITA, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name and location of trade mission and individual's name pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, and individual's company, and those authorized by the individual to furnish information.

COMMERCE/ITA-5.

System name: Membership Information: District Export Councils—COMMERCE/ITA-5.

System location: Office of Export Development, President's Export Council Staff, 14th St. and Constitution Ave. NW., U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Present, former and potential members of the District Export Councils.

Categories of records in the system: Address, date and place of birth, Social Security account numbers, brief career history, education, special qualifications for appointment, and record of appointment. Miscellaneous material such as photographs, press releases and resumes are maintained on some members.

Authority for maintenance of the system: 15 U.S.C. 1512.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name of council or may be filed by name of individual.

Safeguards: Records are located in lockable metal file cabinets or in metal cabinets in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: Retained for active councils. Retired when councils terminate or when individuals leave councils.

System manager(s) and address: Director, Office of Export Development, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Management and Systems, ITA, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name of individual and council pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, individual's company, and persons nominating the individual for council membership.

COMMERCE/ITA-6.

System name: National Defense Executive Reserve Personnel Folders—COMMERCE/ITA-6.

System location: Office of Industrial Mobilization, and Office of Export Administration, Bureau of Trade Regulation, ITA, 14th and Constitution Ave., N.W., U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals from the business community selected to assume responsibility for industrial production, construction, and distribution in the event of national emergencies.

Categories of records in the system: Name; home address; photograph; brief career history; names of close relatives; marital status; previous government experience; previous residences; current and recent past employment and approximate earnings; citizenship; social security number; business and residence telephone numbers; security clearance; statement of understanding; request for appointment; appointment affidavits; secrecy agreement; sex; date and place of birth; military and civil defense obligations; education; and professional and other memberships.

Authority for maintenance of the system: 50 U.S.C. 2153 and E.O. 11179 of September 22, 1964.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement. Transferring data to the Federal Preparedness Agency pursuant to E.O. 11179.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper forms, index cards, and magnetic tape.

Retrievability: Paper cards and index cards are filed alphabetically by individual's name. Data on magnetic tape is retrieved by serial number.

Safeguards: Records are located in lockable metal file cabinets or in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: Retained until two years after individual's resignation or death and then discarded.

System manager(s) and address: Director, Office of Industrial Mobilization, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Emergency Planning Officer, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Management and Systems, ITA, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name of individual pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information.

COMMERCE/ITA-7.

System name: Overseas Assignments for ITA's Bureau of Field Operations—COMMERCE/ITA-7.

System location: Bureau of Field Operations, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Trade Specialists employed by ITA's Bureau of Field Operations (BFO) (District Offices) who have applied for overseas assignment and BFO trade specialists on overseas assignment.

Categories of records in the system: Form ITA-716 'Overseas Assignments Data (BPO Personnel Only)' This form contains information on date of birth, U.S. Passport Type and No., position title, grade, private business experience, previous U.S. Government overseas assignments, foreign language proficiency, etc.

Authority for maintenance of the system: The delegation of authority, dated June 25, 1962, from the United States Information Agency under Section 5 (e) of Executive Order 11034 of June 25, 1962, as amended by Executive Order 11380 of November 8, 1967, insofar as said delegation pertains to U.S. participation in trade missions abroad under the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.); The Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 et seq.), and Section 302 of Executive Order 10973 of November 3, 1961, issued pursuant thereto, relating to drawing the attention of private enterprise to investment opportunities abroad.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper record in file folders.

Retrievability: Filed by name or geographic district or region.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: Indefinitely.

System manager(s) and address: Deputy Assistant Secretary for Field Operations, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Management and Systems, ITA, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name of individual and assignment location pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information.

COMMERCE/ITA-8.

System name: Foreign Service Officer Evaluations—COMMERCE/ITA-8.

System location: Office of International Marketing, ITA, U.S. Department of Commerce, 14th & E St. and Constitution Ave., N.W., Washington, D.C. 20230.

Categories of individuals covered by the system: Members of the Foreign Service of the United States serving abroad or on detail to the Department of Commerce in economic/commercial positions.

Categories of records in the system: (1) End User and Field Observation Reports; (2) memorandums, cables, letters and other documents used in the preparation of End User and Field Observation Reports, and of Foreign Service Officer Evaluation Reports; and (3) other documents relating to officer performance.

Authority for maintenance of the system: Foreign Service Act of 1946, as amended; 22 U.S.C. 801 et seq., 986; and 15 U.S.C. 1512.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record in this system may be disclosed, as a routine use, to the Department of State in connection with the evaluation of the performance of Foreign Service Officers. (See also general routine use paragraphs.)

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by individual FSO's name.

Safeguards: Records are located in lockable metal file cabinets in premises with access limited to those whose official duties require access.

Retention and disposal: End User Reports and Field Observation Reports are transmitted to the Department of State by July 15 of each year. Other documents relating to officer performance are retained until the retirement, resignation or death of the individual and then retired or destroyed, as appropriate.

System manager(s) and address: Director, Support Services Division, Office of International Marketing, ITA, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Director, Office of Management and Systems, ITA, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide his name pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, and supervisors of those individuals.

COMMERCE/MA-2.

System name: Cadet Files, State Merchant Marine Academies—COMMERCE/MA-2.

System location: Office of Maritime Manpower, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Current and former cadets enrolled in the State Maritime Academics.

Categories of records in the system: Name; date of birth; marital status; number of dependents; military service; number of arrests and convictions; date of change in pay; reenrollment or reinstatement; disenrollment; non-subversive activities; no-strike statement; and date of graduation. (Forms: MA-1005 and 1006A).

Authority for maintenance of the system: 46 U.S.C 1383,1387.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by last name.

Safeguards: Records are located in lockable file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: The records are retained until one year after graduation and then destroyed.

System manager(s) and address: Director, Office of Maritime Manpower, see address above.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C., 20230. Requester should provide Cadet's name and State School attended, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: The subject student, State Merchant Marine Academies, and those authorized by the student to furnish information.

COMMERCE/MA-3.

System name: Citizenship Statements and Affidavits—COMMERCE/MA-3.

System location: Division of Reserve Fleet, Room 6628, U.S. Department of Commerce, Washington, D.C. 20230, for bidders on surplus vessels; and Office of the General Counsel, MA, Room 4898, U.S. Department of Commerce, Washington, D.C. 20230, for all other programs.

Categories of individuals covered by the system: Officers and shareholders of non-personal applicants and individual applicants.

Categories of records in the system: Name; date and place of birth; nationality; and nationalization data.

Authority for maintenance of the system: Merchant Marine Act of 1936; 46 U.S.C. 11,802, 803, 1114.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statements.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by applicant's name; name of individual or vessel name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: The records are transferred to the Federal Records Center after 5 years where they are retained indefinitely.

System manager(s) and address: Chief, Divison of Reserve Fleet and Office of the General Counsel, addresses are same as above.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name of applicant, or name of individual, or name of vessel, the program under which filed and the date, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject applicant and individual and those authorized by the foregoing to furnish information.

COMMERCE/MA-4.

System name: General Agent's Protection and Indemnity and Second Seaman's Insurance: WSA and NSA—COMMERCE/MA-4.

System location: Office of Marine Insurance, Room 3622, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals (e.g., seamen, passengers, stevedores) filing claims against general agents for death, disability, loss of personal effects, detention and repatriation and property damage.

Categories of records in the system: Claimant's name; address; mariner's document number; sea service record; disciplinary records; selective service classification; names of parents; marriage and divorce data; social security number; alien registration and citizenship data; medical information; next-of-kin; wages per month; birth date; witness statements; investigator's report; names of counsel; and executors and administrators of estates. (Forms: MA-574, MA-570, MA-269, MA-26 and 27).

Authority for maintenance of the system: Merchant Marine Act of 1936; 32A CFR 1851; 42 CFR 32.14 5 U.S.C. 301, 302; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To evaluate filed claims, negotiate settlements, award money, contest or to initiate lawsuits; and to arrange for proper medical treatment by establishing seaman's eligibility for acceptance under regulations of Public Health Service, U.S. Department of Health, Education and Welfare, or other appropriate medical facilities. Users are the Office of Marine Insurance; adjustors and attorneys acting for the Government; Office of Workers' Compensation Programs, U.S. Department of Labor; the Marine Index Bureau, 17 Battery Place, New York, N.Y. (a contract service centralizing data on seamen claims); and hospitals of the Public Health Service, U.S. Department of Health, Education and Welfare, or, when appropriate, other medical facilities providing treatment to the individual. Also see the routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by seaman's name and vessel's name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: The records are transferred to the Federal Records Center after one year where they are retained indefinitely.

System manager(s) and address: Director, Office of Marine Insurance, see above address.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide seaman's name, vessel name, and date of incident, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual; the individual's attorney; adjustors, investigators; attorneys; Office of Marine Insurance; witness; the Marine Index Bureau; and, those authorized by the individual to furnish information.

COMMERCE/MA-5.

System name: Marine Training School Registrants—COMMERCE/MA-5.

System location: MA regional offices: Eastern-26 Federal Plaza, New York, N.Y. 10007; Central-No.2 Canal Street, New Orleans, La. 70130; Western-450 Golden Gate Ave., San Francisco, California 94102; and, Great Lakes-Room 576, 666 Euclid Ave., Cleveland, Ohio 44114.

Categories of individuals covered by the system: Each seafarer enrolling in an agency training course.

Categories of records in the system: Name; address; position title; owner's document number; social security number; certificate number; sponsoring organization; course completed; date of course completion; course grade; date of birth; and telephone number. (Forms: MA-1005 and 1006A).

Authority for maintenance of the system: Merchant Marine Act of 1936; 46 U.S.C. 1126(b)(5)(c).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In addition to the routine uses referenced in the Prefatory Statement, the information is used by the U.S. Coast Guard for verification of attendance and performance.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by student's name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose duties require access.

Retention and disposal: The records are transferred to the Federal Records Center one year after graduation or termination and disposed of 60 years after date of enrollment.

System manager(s) and address: Training Facility Registrar where the training was taken, see address above.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name, date and facility attended, course description, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: The student, the training instructors, and those authorized by the individual to furnish information.

COMMERCE/MA-7.

System name: National Defense Executive Reserve—COMMERCE/MA-7.

System location: Division of National Security Plans, MA, Room 3716, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Nominees and members of the National Defense Executive Reserve.

Categories of records in the system: Name; home address; photograph; brief career history; names of close relatives; marital status; previous Government experience; previous residences; current and recent employment and approximate earnings; citizenship; social security number; business and residence telephone numbers; security clearance; statement of understanding; request for appointment; appointment affidavits; secrecy agreement; sex; date and place of birth, military and civil defense obligations; education; and professional and other memberships.

Authority for maintenance of the system: 50 U.S.C. 2153; and E.O. 11179 of September 22, 1964.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement. Transferring data to the Federal Preparedness Agency pursuant to E.O. 11179.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by last name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Retained until two years after individual's resignation or until death and then discarded.

System manager(s) and address: Chief, Division of National Security Plans, MA, see above address.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: The individual, those authorized by the individual to furnish information, the investigator performing personal and security investigation and sources contacted by the investigator.

COMMERCE/MA-10.

System name: Seamen's Employment Analysis Records—COMMERCE/MA-10.

System location: Division of Data Operations, MA Room SB-087, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Current and recent merchant seamen.

Categories of records in the system: Social security number; date of birth; records of U.S. Coast Guard issued documents; voyage employment information (e.g., port and date signed on); and maritime schools attended.

Authority for maintenance of the system: 46 U.S.C. 1122(a) and 1126.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored on magnetic tape.

Retrievability: Filed by social security number.

Safeguards: In addition to technical securities, the records are located in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: Basic biographical data are retained indefinitely; discharge records are destroyed two years from date of discharge.

System manager(s) and address: Director, Office of Maritime Manpower, Room 4099, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name and social security number pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Magnetic tape is produced from information received from the U.S. Coast Guard.

COMMERCE/MA-15.

System name: USMMA Midshipmen Deposit Account Records—COMMERCE/MA-15.

System location: Department of Budgets and Accounts, U.S. Merchant Marine Academy, Kings Point, New York 11024.

Categories of individuals covered by the system: All current midshipmen.

Categories of records in the system: Name, social security number, and all midshipmen activity fee deposits to the Academy.

Authority for maintenance of the system: The Merchant Marine Act of 1936, 46 U.S.C. 216(b)(4).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by class year and then alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or in secured premises with access limited to those whose official duties require access.

Retention and disposal: Maintained for one year after graduation or separation, and then destroyed.

System manager(s) and address: Assistant Head, Department of Budget and Accounts, see above address.

Notification procedure: Information may be obtained from Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name of midshipman and dates of attendance pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject midshipman, those authorized by the midshipman to furnish information, and the Department of Budget and Accounts personnel.

COMMERCE/MA-16.

System name: USMMA Midshipman Grade Transcripts—COMMERCE/MA-16.

System location: U.S. Merchant Marine Academy, Kings Point, N. Y. 11024.

Categories of individuals covered by the system: All present and past midshipmen.

Categories of records in the system: Name; social security number; courses taken, grades received, and cumulative average.

Authority for maintenance of the system: The Merchant Marine Act of 1936; and 46 U.S.C. 216(b)(1).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Sent to other schools or employers when requested by the midshipman. Users are the midshipman, the Academy registrar, other schools and employers. Also see routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders, paper records in file drawers, and microfilm records.

Retrievability: Filed alphabetically by midshipman's name.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Registrar, U.S. Merchant Marine Academy, see above address.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name of midshipman, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject midshipman, those authorized by the midshipman to furnish information, his instructors, and the Registrar's Staff.

Safeguards: MMERCE/MA-19.

System name: USMMA Non-Appropriated Fund Employees—COMMERCE/MA-19.

System location: Department of Administrative Services, U.S. Merchant Marine Academy, Kings Point, N.Y. 11024.

Categories of individuals covered by the system: All current and former employees of non-appropriated fund activities since 1970.

Categories of records in the system: Name; telephone number; social security number; address; date of birth; height; weight; birthplace; employment history; special qualifications; education summary; references; personnel actions showing positions held and salary paid; insurance coverage; and letters of commendation or reprimand.

Authority for maintenance of the system: The Merchant Marine Act of 1936; 5 U.S.C. 301; 28 U.S.C. 533-535; 44 U.S.C. 3101; 46 U.S.C. 216(b); and, E.O. 10450.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by employee's name.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Head, Department of Administrative Services, see above address.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name of employee and date of employment pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject employee and those authorized by the employee to furnish information; past employers and references; and the employee's supervisor.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(5), all investigatory material in the record which meets the criteria of 5 U.S.C. 552a(k)(5) is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations in order to fulfill commitments made to protect the confidentiality of sources, and to maintain access to sources of information which are necessary to determine suitability for employment.

Commerce/MA-21.

System name: Waivers of Liability to Board Reserve Fleet Vessels and Other Craft Located at U.S. Merchant Marine Academy—COMMERCE/MA-21.

System location: Beaumont Reserve Fleet, Beaumont, Texas; James River Reserve Fleet, Fort Eustis, Virginia; and Suisun Bay Reserve Fleet, Benicia, California; U.S. Merchant Marine Academy, Kings Point, Long Island, New York 11024.

Categories of individuals covered by the system: All individuals boarding Reserve Fleet vessels.

Categories of records in the system: Name, affiliation, date, and signature. (Form: MA-118).

Authority for maintenance of the system: 50 U.S.C. 1744-45.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets or metal file cabinets in secured rooms or in secured premises with access limited to those whose official duties require access.

Retention and disposal: Records are maintained for three years and then destroyed.

System manager(s) and address: The chief of the particular Regional Office: Eastern-26 Federal Plaza, New York, New York 10007; Central-No.2 Canal Street, New Orleans, Louisiana 70130; Western-450 Golden Gate Avenue, San Francisco, California 94102; and U.S. Merchant Marine Academy, Kings Point, Long Island, New York 11024.

Notification procedure: Information may be obtained from: Secretary, Maritime Administration, Room 3099, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide the name of the visitor, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, and operating officials making the facilities available.

COMMERCE/NBS-1.

System name: NBS Guest Workers—COMMERCE/NBS-1.

System location: Personnel Division, National Bureau of Standards, U.S. Department of Commerce, Washington, D.C. 20234.

Categories of individuals covered by the system: Guest workers pursuing individual scientific or technical projects.

Categories of records in the system: Agreement between NBS and guest worker; name; citizenship; social security number; supervisor; arrival and departure dates; date of security assurance; conditions; and facilities to be made available.

Authority for maintenance of the system: 27 Stat. 395 and 31 Stat. 1039.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: The records are disposed 5 years after guest worker terminates.

System manager(s) and address: Personnel Officer, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

Notification procedure: Information may be obtained from: Director of Administrative and Information System, Room 1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234. Requester should provide name and approximate date of affiliation, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, and operating officials making the facilities available.

COMMERCE/NBS-2.

System name: Inventors of Energy-Related Processes and Devices—COMMERCE/NBS-2.

System location: Office of Energy-Related Inventions, National Engineering Laboratory, National Bureau of Standards, Washington, D.C. 20234.

Categories of individuals covered by the system: Inventors submitting ideas for evaluation by NBS.

Categories of records in the system: Name, address, and telephone number of the persons submitting ideas or inventions for evaluation.

Authority for maintenance of the system: 88 Stat. 1894.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In addition to the routine uses referenced in the Prefatory Statement, the information is used in correspondence with the inventor or person submitting the invention for evaluation and submitter-designated interested third parties, in the evaluation of technical and commercial feasibility, in reports to the Energy Research and Development Administration, and in development of statistical and analytical data.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets; access to all files is restricted to those persons requiring access for evaluation or administrative purposes and who have permission pursuant to a written contract or agreement with NBS, or have written authorization of the legal advisor; an exception to this would be a valid request made under the Freedom of Information Act for information that is not 1) a trade secret or 2) commercial or financial information that is privileged or confidential and therefore falling within the exemption set out in the Act, 5 U.S.C. 552 (b)(4).

Retention and disposal: Currently all records are retained indefinitely.

System manager(s) and address: Chief, Office of Energy-Related Inventions, National Engineering Laboratory, National Bureau of Standards, Washington, D.C. 20234.

Notification procedure: Information may be obtained from: Director of Administrative and Information Systems, Room 1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234. Requester should provide name and additional factual data as appropriate, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals and those authorized by the individual to furnish information.

COMMERCE/NBS-3.

System name: Research Associates—COMMERCE/NBS-3.

System location: Office of Programs, Administration Building, National Bureau of Standards, U.S. Department of Commerce, Washington, D.C. 20234.

Categories of individuals covered by the system: Research Associates.

Categories of records in the system: Personal history statement, conflict of interest statement, titles of publications authored or coauthored by research associates.

Authority for maintenance of the system: 27 Stat. 395 and 31 Stat. 1039.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: Records are transferred from an active to terminated section of the files at conclusion of individual's service as a research associate and are retained in accordance with the unit's Records Control Schedule.

System manager(s) and address: Industrial Liaison Officer, Office of Programs, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

Notification procedure: Information may be obtained from: Director of Administrative and Information Systems, Room 1105, Administration Bldg., National Bureau of Standards, Washington, D.C. 20234. Requester should provide name and approximate date of affiliation, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information.

COMMERCE/NBS-7.

System name: Employees External Radiation Exposure Records—COMMERCE/NBS-7.

System location: Health Physics Center for Facilities Management, National Bureau of Standards, Washington, D.C. 20234.

Categories of individuals covered by the system: Individuals working with radioactive materials and machines who may be exposed to ionizing radiation.

Categories of records in the system: Name, social security number, date of birth, organizational unit, and amount of radiation received.

Authority for maintenance of the system: 42 U.S.C. 2201 and 68 Stat. 950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement. Also, film from badges is sent monthly to the U.S. Army for determination of amount of radiation exposure.

Information involving exposure levels, incidents, and amounts of overexposure is required to be submitted to the Nuclear Regulatory Commission. In the event of serious overexposure, information would be disclosed to the Bethesda (Maryland) Naval Medical Center, employee's family physician, and other appropriate medical authorities.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders and film.

Retrievability: Filed alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: Currently, records are retained indefinitely.

System manager(s) and address: Chief, Health Physics Center for Facilities Management, National Bureau of Standards, Washington, D.C. 20234.

Notification procedure: Information may be obtained from: Director of Administrative and Information Systems, Room 1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234. Requester should provide name, social security number, and date of employment, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals and U.S. Army.

COMMERCE/NBS-8.

System name: Nuclear Reactor Operator Licensees File—COMMERCE/NBS-8.

System location: Reactor Radiation Division, National Measurement Laboratory, National Bureau of Standards, Washington, D.C. 20234.

Categories of individuals covered by the system: NBS employees who are licensed as Nuclear Reactor Operators, those whose applications for licenses are being processed, and those whose licenses have expired.

Categories of records in the system: These records contain information relating to the application for a Nuclear Reactor Operator's license, certification of competency, certification of medical history, results of medical examination and related correspondence, reactor operator examination and examination results, records of training, and license or denial letter.

Authority for maintenance of the system: Sections 107, 161(i), Atomic Energy Act of 1954, as amended, 42 U.S.C. 2137, and 2021(i), 15 U.S.C. 272.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records may be disclosed: To the Nuclear Regulatory Commission for the purpose of conducting audits of the qualifications of reactor operators. Also see routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Records are maintained in a locked filing cabinet in a limited access building.

Retention and disposal: All records relating to an individual's license and documentation for license including requalification requirements will be retained as long as is required by the Reactor License and will thereafter either be turned over to the individual concerned or destroyed.

System manager(s) and address: Chief, Reactor Radiation Division, National Measurement Laboratory, National Bureau of Standards, Washington, D.C. 20234.

Notification procedure: Information may be obtained from: Director of Administrative and Information Systems, Room 1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234. Requester should provide name and additional factual data as appropriate, pursuant to the inquiry provisions of the Department's rules, which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, licensed physician, employees of the Reactor Radiation Division, and those authorized by the subject individual to supply information.

COMMERCE/NBS-9.

System name: Participants in Experiments, Studies, and Surveys—COMMERCE/NBS-9.

System location: Portions of the system may be located with contractors involved in the experiments, studies, or surveys, or in any one of the following locations:

National Measurement Laboratory, Room B364, Materials Bldg., NBS, Washington, D.C. 20234; Room R4011 NBS, Boulder, CO 80302;

National Engineering Laboratory, Room B117, Technology Bldg., NBS, Washington, D.C. 20234.

Institute for Computer Sciences and Technology, Room A200, Administration Bldg., NBS, Washington, D.C. 20234.

For those portions located with contractors, a complete list of contractors and addresses is available from the Director of Administrative and Information Systems, Room A1105, Administration Bldg., National Bureau of Standards, Washington, D.C. 20234.

Categories of individuals covered by the system: Individuals who have voluntarily applied to serve or who have served as participants in socio-economic, technical, or psychological experiments, studies and surveys undertaken in furtherance of authorized research activities.

Categories of records in the system: Name, age, birth date, place of birth, sex, race, home address and telephone number, business address and telephone number, education, income, occupation, family size and composition, patterns of product use, drug sensitivity data, medical, dental and physical history information, and such other information as is necessary, to be determined by the subject matter and purpose of the experiment, study or survey, including data derived from participants' responses during the course of the authorized research.

Authority for maintenance of the system: 15 U.S.C. 271 et. seq.; 29 U.S.C. 651 et. seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in the system may, on occasion, be disclosed to Federal agencies and other outside organizations which have sponsored the research in connection with which the data were obtained. General routine uses in the Prefatory Statement also apply to this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders, electromagnetic storage material and microform.

Retrievability: Filed alphabetically by name, or control number or other code identifier.

Safeguards: During business hours the records at NBS sites are maintained in a secured building with access limited to those whose official duties require access; during non-business hours, the records are in secured rooms with access controlled by security guards. Any records maintained by contractors will be maintained in similar fashion in accordance with contractual specifications.

Retention and disposal: Retained in accord with NBS's records control schedule.

System manager(s) and address: Director, National Engineering Laboratory , Room B117, Technology Bldg., NBS, Washington, D.C. 20234.

Notification procedure: Information may be obtained from: Director of Administrative and Information Systems, Room A1105, Administration Bldg., National Bureau of Standards, Washington, D.C. 20234. Requester should provide name, approximate date, and title of experiment, study or survey pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: Same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and for appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals and those authorized by the individual to furnish information.

COMMERCE/NFPCA-3.

System name: National Fire Academy Student Registration—COMMERCE/NFPCA-3.

System location: National Fire Academy, National Fire Prevention and Control Administration, 2400 M Street, N.W., Washington, D.C. 20036.

Categories of individuals covered by the system: Students registered for Academy courses.

Categories of records in the system: Student's name, home and/or business addresses and telephone numbers; next of kin (in case of emergency); name of course; number of course credits; and grade, if any.

Authority for maintenance of the system: Federal Fire Prevention and Control Act of 1974, 15 U.S.C. 2206, and 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Supplying students with information on courses, credits and grades; supplying Academy Superintendent with record of student enrollment in Academy courses by geographic location; assessing use of course material in the field; and assessing the impact of course material on the community. Also, general routine uses of Prefatory Statement apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic storage media; and temporary paper records, which exist only until data is automated.

Retrievability: Student records will be filed according to an alphanumeric code consisting of the student's birth date and first four letters of surname.

Safeguards: Buildings employ security guards. Records are maintained in areas that are accessible only to authorized personnel who are properly screened, cleared and trained. Where information is retrievable by terminals, all safeguards appropriate to secure automated data (hardware and software) are utilized.

Retention and disposal: Records are retained and disposed of in accordance with the Records Control Schedule.

System manager(s) and address: Associate Superintendent for Operations, Planning and Education, National Academy for Fire Prevention and Control, National Fire Prevention and Control Administration, P.O. Box 19518, Washington, D.C. 20036.

Notification procedure: Information may be requested from: Director, Office of Administration, National Fire Prevention and Control Administration, P.O. Box 19518, Washington, D.C. 20036. Requester should provide name and address, in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Requests from individuals should be addressed as stated in the Notification section above.

Record source categories: Subject individuals and instructors.

COMMERCE/NFPCA-4.

System name: National Fire Academy Instructor Records—COMMERCE/NFPCA-4.

System location: National Fire Academy, National Fire Prevention and Control Administration, 2400 M Street, N.W., Washington, D.C. 20036.

Categories of individuals covered by the system: Individuals teaching Academy courses.

Categories of records in the system: Instructors' names, home, and/or business addresses and telephone numbers; titles of courses taught; dates and locations of courses; and evaluations of courses and instructors.

Authority for maintenance of the system: Federal Fire Prevention and Control Act of 1974, 15 U.S.C. 2201 et seq., 2206(c) and 5 U.S.C. 301 and 3109.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Maintaining a list of instructors; selecting emergency replacement instructors; providing instructors with lists of courses and students taught. NFPCA will also use student evaluations of instructors to help determine effectiveness of courses taught. These evaluations will not be anonymous. Student evaluations will be a consideration in the rehiring of an instructor. Also, general routine uses of Prefatory Statement apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic storage media; and temporary paper records, which exist only until data is automated.

Retrievability: Instructor records will be filed according to the surname of the instructor.

Safeguards: Buildings employ security guards. Records are maintained in areas that are accessible only to authorized personnel who are properly screened, cleared and trained. Where information is retrievable by terminals, all safeguards appropriate to secure automated data (hardware and software) are utilized.

Retention and disposal: Records are retained and disposed of in accordance with the Records Control Schedule.

System manager(s) and address: Associate Superintendent for Operations, Planning and Education, National Academy for Fire Prevention and Control, National Fire Prevention and Control Administration, P.O. Box 19518, Washington, D.C. 20036.

Notification procedure: Information may be requested from: Director, Office of Administration, National Fire Prevention and Control Administration, P.O. Box 19518, Washington, D.C. 20036. Requester should provide name and address, in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Requests from individuals should be addressed as stated in the Notification section above.

Record source categories: Instructors and students.

COMMERCE/NOAA-11.

System name: Fisheries Law Enforcement Case Files—COMMERCE/NOAA-11.

System location: Law Enforcement Division, NMFS, 3300 Whitehaven Street, NW., National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235.

Categories of individuals covered by the system: Violators and alleged violators of the criminal and/or civil provisions of certain laws (listed in the Authority section of this notice) and the regulations issued thereunder, within the responsibility of the Secretary of Commerce.

Categories of records in the system: 1. Information compiled for the purpose of identifying individual criminal and/or civil offenders and alleged offenders and consisting of identifying data and notations of arrests, the nature and disposition of criminal or civil charges, sentencing, confinement, release, parole and probation status, and fines and penalties assessed;

2. Information compiled for the purpose of a criminal or civil investigation, including reports of informants and investigators, and associated with an identifiable individual;

3. Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal and civil laws from arrest or indictment through release from supervision, and the imposition of civil sanctions through administrative and/or judicial process; and

4. Investigatory material compiled for law enforcement purposes other than the material covered above.

Authority for maintenance of the system: Reorganization Plan No. 4 of 1970; 5 U.S.C. 301; 28 U.S.C. 533-535; 44 U.S.C. 3101; E.O. 10450; Certain sections of Titles 15, 16, 18, and 22 of the United States Code; and, relevant treaty, international convention, and/or agreements of which there are approximately 20. (Example: International Convention for the Regulation of Whaling (TIAS 1849) cf. 16 U.S.C. 916).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in Prefatory Statement. Also, information is given to the Marine Mammal Commission for their use in making recommendations on the issuance of permits and the award of grants under the Marine Mammal Protection Act of 1972.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Both manual and machine-readable, and computer output records in file folders.

Retrievability: Filed alphabetically by individual's name and is also given an identifying case number at its initiation.

Safeguards: Employees are informed of the Departmental rule of conduct regarding unauthorized disclosure of information contained in official records. All Special Agents receive a security clearance, granted by the Department of Commerce, after an investigation. The files of the Law Enforcement Division which relate to information concerning an identifiable individual are maintained in locked, metal file cabinets. Automated records are maintained in premises with access limited to those whose official duties require access.

Retention and disposal: All records of this Division are subject to the retention and disposal procedures set forth in NOAA Directives Manual 62-10, et seq.

System manager(s) and address: Chief, Law Enforcement Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 3300 Whitehaven Street, NW., Page Building 2, Suite 426, Washington, D.C. 20235.

Notification procedure: Information may be obtained from: Assistant Administrator for Administration, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name, address, and case number pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual and those authorized by the individual to furnish information; NMFS investigators; Federal and state law enforcement personnel; foreign governments; special interest organizations, members of the general public, and all information sources that are open to the public-at-large.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(j)(2), all information about an individual in the record which meets the criteria stated in 5 U.S.C. 552a(j)(2) are exempted from the notice, access and contest requirements of the agency regulations and from all parts of 5 U.S.C. 552a except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i), and pursuant to 5 U.S.C. 552a(k)(2), on condition that the 5 U.S.C. 552a(j)(2) exemption is held to be invalid, all investigatory material in the record which meet the criteria stated in 5 U.S.C. 552a(k)(2) are exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations because of the necessity to exempt this information and material in order to accomplish this law enforcement function of the agency, to prevent subjects of investigation from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information, and to avoid endangering these sources and law enforcement personnel. In addition, pursuant to 5 U.S.C 552a(k)(1), all materials qualifying for this exemption are exempt from 5 U.S.C 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) in order to prevent disclosure of classified information as required by Executive Order 11652 in the interest of the national defense and foreign policy.

COMMERCE/NOAA-12.

System name: Marine Recreational Fishermen's Catch Statistics—COMMERCE/NOAA-12.

System location: Data Management and Statistics Division, NMFS,NOAA, U.S. Department of Commerce, 3300 Whitehaven

Street, NW., Washington, D.C. 20235; and the following field locations of the National Marine Fisheries Services:

Northeast Fisheries Center
Woods Hole, Massachusetts 02543

Southeast Fisheries Center
75 Virginia Beach Drive
Miami, Florida 33149

Southwest Fisheries Center
P.O. Box 271
LaJolla, California 92038

Northwest and Alaska Fisheries Center
2725 Montlake Boulevard, East
Seattle, Washington 98112

Northeast Regional Office
14 Elm Street, Federal Building
Gloucester, Massachusetts 01930

Southeast Regional Office 9450 Gandy Boulevard
St Petersburg, Florida 33702

Southwest Regional Office
300 South Ferry Street
Terminal Island, California 90731

Northwest Regional Office
1700 Westlake Avenue, North
Seattle, Washington 98105

Alaska Regional Office
P. O. Box 1668
Juneau, Alaska 99802

Categories of individuals covered by the system: Marine recreational fishermen.

Categories of records in the system: Marine recreational fishermen catches by species, length, weight, area of capture, disposition of catch, and expenses and other trip records.

Authority for maintenance of the system: Fish and Wildlife Act as amended (16 U.S.C. 742 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy, punch cards, mag-tape, and disc files.

Retrievability: Filed alphabetically by name.

Safeguards: Personnel indoctrination and screening; secured offices; and entrance into the computer system to obtain individual records would require detailed knowledge of in-house ADP procedures by a skilled computer programer.

Retention and disposal: Records are permanently maintained.

System manager(s) and address: Chief, Data Management and Statistics Division (F23), see above address.

Notification procedure: Information may be obtained from: Assistant Administrator for Administration, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Individual recreational fishermen.

COMMERCE/NOAA-19.

System name: Marine Mammal, Endangered and Threatened Species, Permits and Exemptions Applicants—COMMERCE/NOAA-19

System location: Marine Mammal and Endangered Species Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235.

Duplicate portions of the system may be located in the Regional Offices of the National Marine Fisheries Service at:

Federal Building
14 Elm Street
Gloucester, Massachusetts 01930

Duval Building
9450 Gandy Boulevard
St. Petersburg, Florida 33702

300 South Ferry Street
Terminal Island, California 90731

Lake Union Building
1700 Westlake Avenue North
Seattle, Washington 98109

P.O. Box 1668
Juneau, Alaska 99801

Categories of individuals covered by the system: Applicants for permits to take, import, transport or sell in interstate or foreign commerce endangered species or marine mammals either for scientific research or public display purposes; for enhancement of propagation or enhancement of survival; or to minimize undue economic hardship. Applicants for exemptions from the provisions of the Marine Mammal Protection Act of 1972, on the basis of undue economic hardship. Applicants for permits to engage in activities involving threatened species or marine mammals which are otherwise prohibited by protective regulations.

Categories of records in the system: Name and address; professional or business affiliation; educational and professional background; other qualifications of the individuals; the activities conducted by an individual as authorized by exemption or by permit; and economic and financial information indicating the degree of anticipated economic hardship.

Authority for maintenance of the system: Endangered Species Act of 1973; 16 U.S.C. 1531-1543 10(a), 10(b), 11(f); Marine Mammal Protection Act of 1972; 16 U.S.C. 1361-1407, and regulations (50 CFR 216.31) promulgated thereunder.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement. Information from the applications is published in the Federal Register and made available to the public to comply with the statutes under which the application is made.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Both manual and machine-readable, and computer output records in file folders.

Retrievability: Filed by file number and cross-referenced alphabetically by applicant names.

Safeguards: Records are located in cabinets with full public access upon request.

Retention and disposal: Records are maintained indefinitely.

System manager(s) and address: Chief, Marine Mammals and Endangered Species Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Wahsington, D.C. 20235

Notification procedure: Information may be obtained from the Assistant Administrator for for Administration, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockvill, Maryland 20852. Requester should provide name and address pursuant to to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification procedure section above.

Contesting record procedures: The rules for access, for contesting contents and appealing initial determinations by the individuals concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual applicants; public comments on an application; reviews by NMFS Offices and, in the case of marine mammals, the Marine Mammal Commission; reports from

Federal agents and observers on activities conducted under permit authority; and those authorized by the individual to the information.

COMMERCE/NTIA-1.

System name: Military Personnel System—COMMERCE/NTIA-1.

System location: Office of Administration, National Telecommunications and Information Administration, 1325 G Street, N.W., Washington, D.C. 20005.

Categories of individuals covered by the system: Military personnel detailed to NTIA.

Categories of records in the system: System contains evaluation reports, job descriptions, documents relating to assignments, and letters of evaluation.

Authority for maintenance of the system: Executive Order 12046 and Reorganization Plan No. 1 of 1977.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to prepare evaluation reports and correspondence relative to future assignment. Only user is the Director of Administration, or his designee for purposes indicated. Information contained in the file relates to the individual's assignment to NTIA only. Also, see routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Folders are maintained in file cabinets.

Retrievability: Alphabetically by name.

Safeguards: Maintained in locked file cabinets.

Retention and disposal: Destroyed when military detailee is reassigned from NTIA.

System manager(s) and address: Director of Administration, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

Notification procedure: Information may be obtained from the Privacy Officer, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

Record access procedures: Requests from individuals should be addressed to: Same address as stated in the Notification section, above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use address in Notification section, above.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information the individual supplied, except information provided by agency officials.

Safeguards: MMERCE/NTIA-2

System name: Radio Spectrum Management Career Development Program—COMMERCE/NTIA-2.

System location: National Telecommunications and Information Administration,, 1325 G Street, N.W., Washington, D.C. 20005 (paper); and 179 Admiral Cochrane Drive, Annapolis, Maryland 21401 (magnetic disc).

Categories of individuals covered by the system: Applicants for spectrum management career training; persons trained or training in the program; persons employed in the Federal spectrum management field, or seeking employment therein, who register with the program.

Categories of records in the system: Employee Career Appraisals; Career Program Qualification Records and Supplements thereto; Career Plans; Personal Qualification Statements (Standard Form 171's). These records contain information about an individual and his skills and qualifications for training which typically includes, but is not limited to, name, address, date of birth, Social Security Account Number, education, military experience, present position, employment history, performance evaluations, and career goals.

Authority for maintenance of the system: 47 U.S.C. 305, Executive Order 12046 and Reorganization Plan No. 1 of 1977.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is disclosed to participating Federal agencies upon their request in connection with the selection of candidates for training, the evaluation of trainees, and in the administration of the training program. Information is disclosed to other Federal agencies upon their request in connection with the availability of trained spectrum managers for employment. General routine uses in the Prefatory Statement also apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders and machine readable magnetic discs.

Retrievability: Stored alphabetically by name.

Safeguards: Records are located in lockable metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: Unless updated, documents are disposed of after two years.

System manager(s) and address: Coordinator, Radio Spectrum Management Career Development Program, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

Notification procedure: Information may be obtained from: Privacy Officer, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504. Requestor should provide his or her full name.

Record access procedures: Requests from individuals should be addressed to: Same address as stated in the Notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use address in Notification section, above.

Record source categories: Applicants for spectrum management career training; trainees in the program; instructors and other officials conducting the program; Federal government employees in the spectrum management field, and persons desiring such employment, who register with the program, their supervisors, and other officials of the agencies that employ them.

COMMERCE/PAT-TM-1.

System name: Attorneys and Agents Registered to Practice Before the Office—COMMERCE/PAT-TM-1.

System location: Office of the Solicitor, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202, and Office of ADP Administration, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

Categories of individuals covered by the system: Attorneys and agents who are, or have been, registered to practice before thePatent and Trademark Office in patent cases, and applicants for such registration to practice.

Categories of records in the system: Biographical information, personal and professional qualifications, character and fitness reports, undertakings of former examiners, current address, and status information.

Authority for maintenance of the system: 35 U.S.C. 1, 6, and 31.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Prefatory Statement paragraphs on Routine Uses. Also, a public roster of the registered individuals is published periodically, and limited information is disseminated by Committee on Enrollment staff in response to inquiries from members of the public (e.g., potential clients), state bars, and courts.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders and magnetic storage media.

Retrievability: Filed alphabetically by name or registration number.

Safeguards: Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Where information is retrievable by terminal, all safeguards appropriate to secure the ADP telecommunications system (hardware and software) are utilized.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Chairman, Committee on Enrollment, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requester should provide name, address, and date of application, if known, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b.

Record source categories: Subject individual, references, and those authorized by the individual to furnish information.

COMMERCE/PAT-TM-2.

System name: Complaints, Investigations and Disciplinary Proceedings Relating to Registered Patent Attorneys and Agents—COMMERCE/PAT-TM-2.

System location: Office of the Solicitor, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

Categories of individuals covered by the system: Attorneys and agents registered to practice before the Patent and Trademark Office in patent cases, and disbarred or suspended attorneys and agents.

Categories of records in the system: Complaints and information obtained during investigations and quasi-judicial disciplinary proceedings.

Authority for maintenance of the system: 35 U.S.C. 1, 6, and 32.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement. Also, dissemination of information concerning the complaint, investigation, or disciplinary proceeding, by the Solicitor's staff, to the complainant, to persons who can reasonably be expected to provide information needed in connection with the complaint, investigation, or disciplinary proceeding, and, upon inquiry, to State bars and courts.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by name.

Safeguards: Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Solicitor, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requester should provide name and identification data pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals, clients of same, registered attorneys and agents, witnesses in disciplinary proceedings, court opinions, and those authorized by the individual to furnish information.

COMMERCE/PAT-TM-3.

System name: Employee Production Records—COMMERCE/PAT-TM-3.

System location: Office of Management and Organization, U.. S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202; and Office of ADP Administration, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202.

Categories of individuals covered by the system: Employees of the Patent and Trademark Office.

Categories of records in the system: Employee name and number, position and grade level, time in duty status, time on leave, duty hours distributed by task, receipt date of oldest item in processing queue, beginning and ending balances of work in process, work volumes compiled by organization and in some organizations by individuals, and comparative data on current production compared with earlier periods.

Authority for maintenance of the system: 5 U.S.C. 301 and 35 U.S.C. 6.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folder, microfilm and magnetic storage media

Retrievability: Filed by organization; cross referenced for access by name.

Safeguards: Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Where information is retrievable by terminal, all safeguards appropriate to secure the ADP telecommunications system (hardware and software) are utilized.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Director, Office of Management and Organization, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requester should provide name and number, in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to; same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individual, those authorized by the individual to furnish information, and the individual's supervisors.

COMMERCE/PAT-TM-6.

System name: Parties Involved in Patent Interference Proceedings—COMMERCE/PAT-TM-6.

System location: Board of Patent Interferences, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

Categories of individuals covered by the system: Applicants for patent and patentees who become involved in a conflict involving the question of priority of invention.

Categories of records in the system: All records relating to the declaration, conduct, and termination of interference proceedings, including, but not limited to: preliminary statements, motions, testimony, and settlement agreements. The data contained in the records may include information relating to the applicant's or patentee's name, age, citizenship, residence, educational and work background, physical and mental health, activities relating to conception and reduction to practice of the contested subject matter, and other matters which may arise during the conduct of the interference proceeding or in connection with any agreements made by the parties relative to the interference proceeding.

Authority for maintenance of the system: 35 U.S.C. 1, 6, 23, 24, and 135.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Prior to termination of the interference proceedings, and thereafter until a patent has issued (except in cases involving a patent), information concerning these records is provided outside the Office only upon authorization of the applicants or owners of the applications involved or when necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commissioner. Subsequent to such termination or an award of priority by the Board of Patent Interferences as to all parties, whichever is earlier in cases involving a patent or after issuance of a patent, the records are open to public inspection. Settlement agreements filed pursuant to 35 U.S.C. 135(c) are kept separate from other interference records, upon request of the party filing them, and made available, as provided in that statute, to government agencies upon written request, or to any person on a showing of good cause. Also see routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by Interference Number, cross-indexed to the names of the parties.

Safeguards: Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Chairman, Board of Patent Interferences, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requesters should provide name and address, and Interference Number, if known, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Applicants for patent and patentees, the patent attorneys or agents authorized by such persons to represent them, those authorized by the applicant to furnish information, and witnesses and other parties involved in the taking of testimony.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(1), Patent Interference Proceedings records which relate to applications subject to a secrecy order pursuant to 35 U.S.C. 181 or are otherwise subject to security classification pursuant to E.O. 11652 or the Atomic Energy Act of 1954, are exempted from the notification, access, and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is made to prevent disclosure of information which might be detrimental to national security and in accordance to agency rules, which appear in 15 CFR Part 4b.

COMMERCE/PAT-TM-7.

System name: Patent Application Files—COMMERCE/PAT-TM-7 (Note: This notice is broken down, where indicated, into three subsystems relating to the status of the files: a. Pending; b. Abandoned; and c. Patented.)

System location: a. U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; National Storage Company, Boyers, Pa. 16020; and Office of ADP Administration, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; b. Abandoned Files Unit, Office Services Division, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; National Storage Company, Boyers, Pa. 16020; and Office of ADP Administration, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; c. Record Branch, Patent Search Division, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; National Storage Company, Boyers, Pa. 16020; and Office of ADP Administration, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; and Office of Automatic Data Processing Management, Computer Center, U.S. Department of Commerce, Washington, D.C. 20230.

Categories of individuals covered by the system: Applicants for patent, including inventors, legal representatives for deceased or incapacitated inventors, and other persons authorized by law to make applications for patent.

Categories of records in the system: Oath or declaration of applicant including name, citizenship, residence, post office address and other information pertaining to the applicant's activities in connection with the invention for which a patent is sought. Statements containing various kinds of information with respect to inventors who are deceased or incapacitated, or who are unavailable or unwilling to make application for patent.

Authority for maintenance of the system: 35 U.S.C. 1, 6, and 115; 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Information concerning these records is provided outside the Office only upon authorization of the applicant or owner of the application or when necessary to carry out the provisions of any act of Congress or in such special circumstances as may be determined by the Commissioner, e.g., secrecy order files under 35 U.S.C. 181. b. Same as a., except where application is referred to in a U.S. Patent, in which case the record is open to public inspection. c. Records are open to public inspection.

All three subsystems are also subject to the routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders, microfilm and magnetic storage media.

Retrievability: Subsystems a. and b. filed by serial number, cross-indexed to name of applicant. Subsystem c. filed by serial number and patent number, cross-indexed to name of applicant.

Safeguards: Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Where information is retrievable by terminal, all safeguards appropriate to secure the ADP telecommunications system (hardware and software) are utilized.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: a. Assistant Commissioner for Patents, U.S. Patent and Trademark Office, Washington, D.C. 20231; b. Director, Office of General Services, U.S. Patent and Trademark Office, Washington, D.C. 20231; c. Director, Office of Patent and Trademark Services, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requester should provide name and Serial Number or Patent Number, if known, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: The inventors or other persons who submit applications for patent and the patent attorneys or agents authorized by such inventor or other persons to represent them.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(1), Patent Applications, to the extent that they are subject to a secrecy order pursuant to 35 U.S.C. section 181 or are otherwise subject to security classification pursuant to E.O. 11652 or the Atomic Energy Act of 1954 are exempted from the notification, access and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is made to prevent disclosure of information which might be detrimental to national security and in accordance to agency rules which appear in 15 CFR Part 4b.

COMMERCE/PAT-TM-8.

System name: Patent Application Secrecy Order Files—COMMERCE/PAT-TM-8.

System location: Patent Examining Operation, Group 220, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

Categories of individuals covered by the system: Applicants including inventors, legal representatives for deceased or incapacitated inventors, and other persons authorized by law to make applications for patent.

Categories of records in the system: Identification of patent application and applicant including application serial number, filing date, title of invention, applicant's or inventor's address and addresses of applicant's duly appointed representatives.

Authority for maintenance of the system: 35 U.S.C., 1, 6, and 181 through 183.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Referral to authorized Government agencies under 35 U.S.C. 181 for determination of the requirement for a secrecy order, and notification of the applicant or his duly appointed representative of such secrecy order. Also see routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by application serial number, cross-indexed to name of applicant.

Safeguards: Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained, plus storage in a locked vault.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Director, Patent Examining Group 220, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requester should provide name and social security or Patent Number, if known, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject applicants or their representatives and authorized representatives of the Department of Energy, the Secretary of Defense, and the Chief Officer of any other department or agency of the Government designated by the President as a defense agency of the United States.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(1), these records, since they relate to determinations pertinent to secrecy orders pursuant to 35 U.S.C. 181 or to security classification pursuant to E.O. 11652 or the Atomic Energy Act of 1954 are exempted from the notification, access, and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is made to prevent disclosure of information which might be detrimental to national security and in accordance to agency rules which appear in 15 CFR Part 4b.

COMMERCE/PAT-TM-9.

System name: Patent Assignment Records—COMMERCE/PAT-TM-9.

System location: Office of Patent and Trademark Services, Assignment Division, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202; Patent Examining Operation, Group 220, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; and Office of ADP Administration, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202.

Categories of individuals covered by the system: Persons who have given or received property rights under an application for patent or a patent by means of a written instrument recorded in the Patent and Trademark Office. Deceased or incapacitated inventors and their legal representatives.

Categories of records in the system: Assignments, grants, mortgages, liens, encumbrances, licenses, and other instruments affecting title. Letters testamentary and other court certificates and orders.

Authority for maintenance of the system: 35 U.S.C. 1, 6, and 261, and E.O. 9424.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See the routine use paragraphs of the Prefatory Statement. Also, records are searched by all users for the purpose of determining ownership or other property rights with respect to patents and patent applications. Providing certified abstracts of title and copies of instruments. On the separate Government Register, those records categorized as "Public" are available for public inspection; those records categorized as "Departmental" are used by duly authorized employees of Government agencies only; and those records designated as "secret" are disclosed only to persons having written authority from the head of the agency submitting the record. With the exception of assignment records relating to pending or abandoned patent applications, all non-Government Register records are open to public inspection. Information concerning assignment records relating to pending or abandoned patent applications is maintained in confidence in accordance with 5 U.S.C. 122 but is provided outside the Office only upon authorization of the applicants or owners of the applications involved or when necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commissioner.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files, microfilm reels, index card files and magnetic storage media.

Retrievability: Filed by name, application serial number, and patent number.

Safeguards: Building employs security guards. Records subject to confidence requirements are maintained in areas accessible only to authorized personnel who are properly screened, cleared and trained. Records in the Secret Portion of the Government Register are, additionally, stored in a locked vault. Where information is retrievable by terminal, all safeguards appropriate to secure the ADP telecommunications system (hardware and software) are utilized.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Recording Officer, Assignment Division, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requesters should provide name, and application serial number or patent number, if known, in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Persons who have submitted written instruments to the Patent and Trademark Office for recording.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(1), assignment records which are designated "Secret" and maintained in the Government Register pursuant to E.O. 9424 are exempted from the notification, access, and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is made to prevent disclosure of information which might be detrimental to national security and in accordance to agency rules which appear in 15 CFR Part 4b.

COMMERCE/PAT-TM-10.

System name: Patent Deposit Accounts System—COMMERCE/PAT-TM-10.

System location: Receipts Control Division, Office of Finance, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; and Office of ADP Administration, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202.

Categories of individuals covered by the system: Registered patent attorneys and agents and other members of the public who maintain deposit accounts to pay the cost of services rendered by the Patent and Trademark Office.

Categories of records in the system: Name, address, account number, and financial transactions with the Office.

Authority for maintenance of the system: 35 U.S.C. 1, 6, and 41.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Microfilm and magnetic storage media.

Retrievability: Filed by name, account number.

Safeguards: Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Where information is retrievable by terminal, all safeguards appropriate to secure the ADP telecommunications system (hardware and software) are utilized.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Director, Office, of Finance, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requesters should provide name and account number in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals and those authorized by the individual to furnish information.

COMMERCE/PAT-TM-13.

System name: Petitioners for License to File for Foreign Patents—COMMERCE/PAT-TM-13.

System location: Patent Examining Operation, Group 220, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202; and Office of ADP Administration, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Va. 22202.

Categories of individuals covered by the system: Petitioners for license to file a patent application in any foreign country.

Categories of records in the system: Petitioner's name, address, and description of subject matter, or, where a corresponding U.S. application has been filed, identification of applicant including application serial number, filing date, title to invention, applicant's address and addresses of applicant's duly appointed representatives.

Authority for maintenance of the system: 35 U.S.C. 1, 6, and 184.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See routine use paragraphs in the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper copy and magnetic storage media.

Retrievability: By number assigned called P number and by serial number related to P number when additional matter is submitted in connection with a corresponding U.S. application, cross-indexed to petitioner's name.

Safeguards: Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Where information is retrievable by terminal, all safeguards appropriate to secure the ADP telecommunications system (hardware and software) are utilized.

Retention and disposal: Records retention and disposal is in accordance with the unit's Records Control Schedule.

System manager(s) and address: Director, Patent Examining Group 220, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Notification procedure: Information may be obtained from: Assistant Commissioner for Administration, U. S. Patent and Trademark Office, Washington, D.C. 20231. Requester should provide name and serial number or P number, if known, in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories: Subject individuals or their duly appointed representatives.

COMMERCE/WBO-1.

System name: Talent and Experience File of Women's Business Experts—COMMERCE/WBO-1.

System location: Office of the Secretary, U.S. Department of Commerce, 14th & E Streets and Constitution Avenue, N.W., Washington, D.C. 20230.

Categories of individuals covered by the system: Individuals: with whom the Task Force communicates; having knowledge of women's business operations, problems and discriminations; or having special skills which would be of assistance to the Task Force.

Categories of records in the system: Personal background data normally including name, age, address, telephone numbers, Social Security number, business and work experience, educational background, professional association memberships, publications and information on areas of expertise.

Authority for maintenance of the system: 5 U.S.C. 301; 15 U.S.C. 1512; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is disclosed to other Federal agencies upon their request to provide names and addresses of individuals who possess special skills or expertise related to the problems of women business owners. General routine uses in the Prefatory Statement also apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders; index card file system.

Retrievability: Filed alphabetically by individual's name.

Safeguards: Records are contained in lockable metal file cabinets on premises with access limited to individuals whose official duties require access.

Retention and disposal: Retained on site for five (5) years and then disposed of in accordance with the Office of the Secretary Records Control Schedule.

System manager(s) and address: Deputy Under Secretary for Regional Affairs, Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230.

Notification procedure: Information may be obtained from: Chairperson of Presidential Task Force on Women Business Owners, Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures: The Department's rules for access, for contesting contents, and for appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Requests from individuals should be addressed as stated in the notification section above.

Record source categories: Subject individual; those authorized by the individual to furnish information; public reference sources; government, private and public interest organizations. /* notification sectionassociation memberships, publications and information on areas of expertise.

Authority for maintenance of the system: 5 U.S.C. 301; 15 U.S.C. 1512; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is disclosed to other Federal agencies upon their request to provide names and addresses of individuals who possess special skills or expertise related to the problems of women business owners. General routine uses in the Prefatory Statement also apply.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders; index card file system.

Retrievability: Filed alphabetically by individual's

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FRIDAY, SEPTEMBER 22, 1978
PART III

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedures for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supesedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama:	
AL78-1057	July 21, 1978.
Connecticut:	
CT78-3055; CT78-3056	July 28, 1978.
Georgia:	
GA78-1077	Sept. 8, 1978.
Kentucky:	
KY77-1124	Sept. 30, 1977.
Minnesota:	
MN77-2046	May 6, 1977.
Oklahoma:	
OK78-4054; OK78-4055	June 9, 1978.
OK78-4061	June 16, 1978.
Pennsylvania:	
PA77-3103	July 22, 1977.
PA77-3122; PA77-3124; PA77-3126	Sept. 9, 1977.
PA77-3129	Sept. 16, 1977.
PA78-3012	Apr. 28, 1978.
PA78-3018	Apr. 14, 1978.
PA78-3017	May 5, 1978.
PA78-3044; PA78-3045	May 12, 1978.
Rhode Island:	
RI78-3050; PA78-3051; RI78-3052	July 21, 1978.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:	
AL78-1028 (AL78-1076)	Mar. 24, 1978.
AL78-1041 (AL78-1080)	Apr. 21, 1978.
Massachusetts:	
MA78-3022 (MA78-2079); MA78-3031 (MA78-2088)	Mar. 21, 1978.
MA78-3023 (MA78-2080); MA78-3028 (MA78-2085)	Mar. 28, 1978.
MA78-2036 (MA78-2083); MA78-3027 (MA78-2084)	Apr. 28, 1978.
MA78-3024 (MA78-2081); MA78-2039 (MA78-2086); MA78-3033 (MA78-2090)	Apr. 21, 1978.
MA78-2035 (MA78-2082); MA78-3030 (MA78-2087); MA78-3032 (MA78-2089)	Apr. 14, 1978.
Mississippi:	
MS78-1006 (MS78-1074)	Feb. 3, 1978.
North Dakota:	
ND77-5099 (ND78-5125)	Dec. 2, 1977.
Pennsylvania:	
PA77-3057 (PA78-3065)	May 13, 1977.
PA77-3100 (PA78-3068)	July 15, 1977.
PA77-3123 (PA78-3064)	Sept. 9, 1977.
PA77-3128 (PA78-3067)	Sept. 16, 1977.
Texas:	
TX78-4025 (TX78-4094)	Mar. 31, 1978.
TX78-4051 (TX78-4095)	May 12, 1978.
TX78-4073 (TX78-4096)	July 21, 1978.
Virginia:	
VA76-3245 (VA78-3063)	Sept. 10, 1976.
VA76-3253 (VA78-3062)	Sept. 24, 1976.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

None.

Signed at Washington, D.C., this 15th day of September 1978.

DOROTHY P. COME,
Assistant Administrator,
Wage and Hour Division.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #CT78-3056 - MOD. #3 (43 FR 33030 - July 28, 1978) Hartford, Middlesex, New Haven, New London and Tolland Counties, Connecticut					
CHANGE:					
Electricians:					
Hartford Co.: Hartland, New Hartford, Middlebury, Naugatuck, Oxford, Prospect, Seymour, Southbury, Waterbury and Wolcott	$10.70	1.22	3%+.60	h	1/8%
Middlesex Co.: Cromwell, Middlefield, Middletown & Portland; New London Co.: Bozrah Colchester, Franklin, Lisbon, Montville, N. Stonington, Norwich, Griswold, Lebanon, Ledyard, (except Submarine Base) Preston, Salem, Sprague, Stonington & Voluntown & Tolland Co.:	11.30	1.50	3%+.80		4%
Lathers:					
Hartford Co.: Bristol, Southington; New Haven Co.: Beacon Falls, Bethany, Cheshire, Meriden, Middlebury, Naugatuck, Oxford, Prospect, Southbury, Waterbury & Wolcott	9.90	.35	.50		.01
Middlesex Co.: Chester, Clinton, Deep River, Durham, Essex, Haddam, Killingworth, Old Saybrook & Westbrook; New Haven Co.: Ansonia, Branford Derby, E. Haven, Guilford, Hamden, Madison, Milford, New Haven, N. Branford, N. Haven, Orange, Seymour, Wallingford, W. Haven & Woodbridge	10.00	.75	.50		.01
Decision # AL78-1057 - Mod. # 2 (43 FR-31549 - July 21, 1978) Madison County, Alabama					
Changes:					
Laborers:					
Laborer, mason tenders	5.21				
Plasterers	9.60				
DECISION #CT78-3055 - MOD. #5 (43 FR 33023 - July 28, 1978) Fairfield, Litchfield and Windham Counties, Connecticut					
CHANGE:					
Painters:					
Bridge	$13.00				
Structural Steel	16.50				
Spray	14.00				
Sandblasting or Power Tools Fairfield Co.: Bridgeport, Easton, Fairfield, Southport, Stratford, and Trumbull					
Brush	9.15	.50	.65	r	.30
Taper	9.54	.50	.65	r	.30
Spray	11.65	.50	.65	r	.30
Fairfield Co.: Darien, Stamford, New Canaan, Norwalk, Weston, Westport & Wilton					
Brush	9.25	.50	.75		.30
Roller, Paperhanger, Tapers	9.75	.50	.75		.30
Fairfield Co.: Greenwich					
Brush, Structural Steel, Tapers, and Paperhangers	9.25	.20	.75		.30
Spray	13.98	.20	.75		.30
Plumbers: Steamfitters Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, & Trumbull	10.99	.75	.70		4% .01

DECISION #CT78-3056

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Hartford Co.: Avon, Bloomfield, Broad Brook, Canton, E. Granby, E. Hartford, E. Windsor, Enfield, Farmington, Glastonbury, Grandy, Hartford, Manchester, Marlborough, Rocky Hill, Poquonock, Simsbury, S. Windsor, Suffield, S. Manchester, W. Hartford, W. Simsbury, Wethersfield, Windsor, & Windsor Locks; Tolland Co.: Andover, Ashford, Bolton, Columbia, Conventry, Ellington, Herbron, Mansfield, Rockville, Strafford, Somers, Tolland, Union, Vernon, & Willington					
Brush; Tapers	$10.20	.95	.70		
Paperhangers	10.70	.95	.70		
Riding steel; Steamcleaning; Sandblasting; Tank; Towers, & Hazardous Work	10.78	.95	.70		
Spray	13.20	.95	.70		
New Haven Co.: Middlebury, Naugatuck, Prospect, Roxbury, Southbury, Tomaston, Washington, Waterbury, Watertown, Wolcott, & Woodbury					
Brush	9.20	.50	.70		
Paperhanger, Taper	9.45	.50	.70		
Spray	13.80	.50	.70		
New London Co.: Norwich					
Brush	10.30	.60	.70		.01
Paperhangers, Sign Painters, Tapers	11.25	.60	.70		.01
Roller	10.80	.60	.70		.01
Structural Steel	11.10	.60	.70		.01
Spraying Oil Paint	13.45	.60	.70		.01
Spraying Epoxy	15.98	.60	.70		.01

DECISION #CT78-3056

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers:					
Hartford Co.: Berlin, Bristol, E. Berlin, Kensington, New Britain, & Plainville	$11.00	.75	.70	1.00	.03
Middlesex Co.: Clinton, Killingworth, S. Westbrook; New Haven Co.: Branford, Derby, E. Haven, Orange, W. Haven, & Woodbridge	11.18	.75	.70		.02
Decision # GA78-1077 - Mod. # 1 (43 FR-40174 - September 8, 1978) Clayton, Dekalb, & Fulton Counties, Georgia.					
Change:					
Electricians:					
Wireman	11.15	9%	11%		½ of 1%
Cable splicer	12.05	9%	11%		½ of 1%
Decision # KY77-1124 - Mod. # 1 (42 FR-53044 - September 30, 1977) Anderson, Bath, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Carroll, Carter, Clark, Elliott, Fayette, Fleming, Franklin, Gallatin, Grayson, Grant, Greenup, Hardin, Harrison, Henry, Jefferson, Jessamine, Larue, Lewis, Madison, Marion, Mason, Meade, Mercer, Montgomery, Nelson, Nicholas, Oldham, Owen, Robertson, Rowan, Scott, Shelby, Spencer, Trimble, Washington, & Woodford Counties, Tennessee.					
Change:					
Heavy Construction:					
Power Equipment Operators					
Class A	10.80	.50	.60		.05
Class B	8.33	.50	.60		.05
Class C	7.63	.50	.60		.05

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NN77-2046 - MOD. #8 (42 FR 23404 - May 6, 1977) Benton, Sherburne & Stearns Counties, Minnesota					
CHANGE:					
Plumbers & Steamfitters: Benton & Stearns Counties & the Western ½ of Sherburne County	$11.82	.53	.50		.06
DECISION NO. OK78-4054 - Mod. #3 (43 FR 25268 - June 9, 1968) Oklahoma, Cleveland, Caddo, Grady, Canadian, Kingfisher, Lincoln, Logan, McClain, Seminole and Pottawatomie Counties, Oklahoma.					
CHANGE:					
ASBESTOS WORKERS	$11.63	.55	1.00		.04
Marble Masons	10.73		.30		
Terrazzo Workers	10.73		.30		
Tile Setters	10.73		.30		
DECISION NO. OK78-4055 - Mod. #2 (43 FR 25270 - June 9, 1978) Tulsa, Creek, Craig, Ottawa, Delaware, Mayes and Roger Counties, Oklahoma					
CHANGE:					
SHEET METAL WORKERS	11.03	.50	.66		.10
DECISION NO. OK78-4061 - Mod. #2 (43 FR 26269 - June 16, 1978) Comanche County, Oklahoma					
CHANGE:					
Bricklayers-Stonemasons	9.66	.62	.40		.12
Tile layers	10.73		.30		
Terrazzo workers	10.73		.30		
Marble setters	10.73		.30		
Asbestos workers	11.63	.55	1.00		.04
PAINTERS:					
Brush and rollers	8.40		.25	.70	.05
Brush & roller(structural steel)	8.65		.25	.70	.05
Spray	9.05		.25	.70	.05
Swing stage, bosun chair work	8.65		.25	.70	.05
Taping & bedding (hand tools)	8.70		.25	.70	.05
Sandblasting	8.75		.25	.70	.05

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA77-3103 - Mod. #8 (42 FR 37759 - July 22, 1977) Bradford, Tioga & Union COunties Pennsylvania					
Changes:					
Asbestos Workers	11.325	.65	.60		.01
Piledrivermen	11.12	2.33	1.35	a	.12
Plumbers & Steamfitters Zone 1	10.95	.74	.60	.50	.05
Roofers Composition & Kettleman	10.15	.85	.90		
DECISION #PA77-3122 - Mod. #8 (42 FR 45614 - September 9, 1977) Cumberland, Dauphin, Perry, Juniata, New Cumberland Depot in York County, Pennsylvania					
Change:					
Line Construction:					
Lineman & Cable Splicers	11.39	.45	3%		3/8%
Groundman	6.83	.45	3%		3/8%
Winch Truck Op.	7.97	.45	3%		3/8%

DECISION #PA77-3124 - Mod. #7 (42 FR 45618 - September 9, 1977) Northampton COunty, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers & Stonemasons	$11.19	.60	.66		.01
Carpenters	10.50	.64	.72		
Cement Masons	10.69	.60	.66		.01
Ironworkers:					
Structural	12.45	1.14	1.36		
Lathers	10.61	.65	.35		.01
Line Construction:					
Lineman & Cable Splicers	13.12	.45	3%		3/8 of 1%
Groundman	7.87	.45	3%		3/8 of 1%
Winch Truck Operator	9.18	.45	3%		3/8 of 1%
Millwrights	10.90	.64	.72		
Piledrivermen	11.12	2.33	1.35	a	.12
Plasterers	10.50	.60	.66		.01
Roofers, Composition Slate & tile	11.78		1.05		
Roofers Helpers	7.21		1.05		
Terrazzo Workers	10.09	.60	.66		.01

DECISION #PA77-3126 - Mod. #5 (42 FR 45622 - September 9, 1977) Lycoming County, Pennsylvania					
Changes:					
Asbestos Workers	11.325	.65	.60		.01
Piledrivermen	11.12	2.33	1.35	a	.12
Plumbers	10.95	.74	.60	.50	.05
Roofers, Kettlemen	10.15	.85	.90		
Steamfitters	10.95	.74	.60	.50	.05

DECISION #PA77-3129 Mod. #6 (42 FR 46903 - September 16, 1977) Northumberland County, Pennsylvania					
Change:					
Asbestos Workers	$11.325	.65	.60		.01
Piledrivermen	11.12	2.33	1.35	a	.12
Roofers					
Remainder of County Composition	10.15	.85	.90		

DECISION #PA78-3012 - Mod. #5 (43 FR 18476 - April 28, 1978) Clinton, Centre, Huntingdon, Fulton & Mifflin Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers					
Zone 1	$11.325	.65	.60		.01
Plumbers & Steamfitters					
Zone 1	10.95	.74	.60	.50	.05
Roofers					
Zone 2					
Composition & Kettleman	10.15	.85	.90		

DECISION #PA78-3016 - Mod. #3 (43 FR 16106 - April 14, 1978) Lehigh County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers & Stonemasons	$10.40	1.00	1.15		.01
Carpenters	10.50	.64	.72		
Cement Masons	10.40	1.00	.41		
Lathers	10.61	.65	.35		.01
Line Construction					
Lineman & Cable Splicer	11.19	.45	3%		3/4 of 1%
Groundman	7.15	.45	3%		3/4 of 1%
Winch truck operator	8.34	.45	3%		3/4 of 1%
Millwrights	10.90	.64	.72		
Piledrivermen	11.12	2.33	1.35	a	.12
Plasterers	10.25	1.00	.41		.01
Roofers:					
Remainder of County Composition & Slate	11.78		1.05		
Truck Drivers	8.95	f	g	h	

FOOTNOTES:
f. Employer contributes $83.03 per month to a Health and Welfare Fund.

g. Employer contributes $56.35 per month to a pension fund.

DECISION #PA78-3017 - Mod. #4 (43 FR 19574 - May 5, 1978) Carbon, Monroe, County, including Tobyhanna Army Depot, and Pike County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	$11.325	.65	.60		.01
Brickalyers & Stonemasons					
Zone 1	10.40	1.00	1.15		.01
Carpenters					
Zone 1	10.50	.64	.72		
Ironworkers					
Zone 1	12.45	1.14	1.36		
Lathers					
Zone 2	10.21	.65	.35		.01
Millwrights					
Zone 2	10.90	.64	.72		
Piledrivermen	11.12	2.33	1.35	a	.12
Roofers					
Zone 1					
Composition & Slate	11.78		1.05		
Slab & Concrete Plank	12.28		1.05		
Zone 2					
Composition & Kettleman	10.15	.85	.90		

DECISION #PA78-3044 - mod. #3 (43 FR 20711 - May 12,1978) Luzerne County, Pennsylvania					
Change:					
Asbestos Workers	$11.325	.65	.60		.01
Ironworkers					
Structural & Ornamental	12.25	e			.10
Reinforcing	12.15	e			.10
Lathers:					
Remainder of County	11.28		.35		.01
Piledrivermen	11.12	2.33	1.35	a	.12
Plumbers & Steamfitters					
Wilkes Barre	11.24	.80	1.25		.05
Roofers					
Composition & Kettlemen	10.15	.85	.90		

FOOTNOTES:
e. Employer contributes $2.50 to a combined Health and Pension Fund.

DECISON #PA78-3045 - Mod. #3 (43 FR 20714 - May 12, 1978) Lackawanna, Susquehanna, Wayne and Wyoming Counties Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	$11.325	.65	.60		.01
Cement Masons:					
Wyoming, Wayne Susquehanna Counties, Scranton in Lackawanna County	11.15				
Ironworkers:					
Lackawanna, Wayne, and Wyoming Counties					
Structural & Ornamental	12.25	e			.10
Reinforcing	12.15	e			.10
Plasterers	11.63				
Marble Setters	9.80		1.20		
Piledrivermen	11.12	2.33	1.35	a	.12
Pipefitters	11.69	.65	.95		.05
Plumbers	11.24	.80	.95		.05

FOOTNOTE:
e. Employer contributes $2.50 to a combined Health and Welfare and Pension Fund.

DECISION #RI78-3050 - MOD. #1
(43 FR 31551 - July 21, 1978)
Bristol, Kent, & Providence Counties, Rhode Island

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Ironworkers:	$ 9.93	1.10	2.10		.05
Plumbers	10.66	.90	1.95		.07
Steamfitters, Pipefitters	11.35	.83	1.28		.07
OMIT:					
Electricians:					
Residential - up to and including 3 stories	7.40	.38	3%		.02

DECISION #RI78-3051 - MOD. #2
(43 FR 31555 - July 21, 1978)
Newport County, Rhode Island

CHANGE:					
Ironworkers	9.93	1.10	2.10		.05
Plumbers	10.66	.90	1.95		.07
Steamfitters, Pipefitters	11.35	.83	1.28		.07

DECISION #RI78-3052 - MOD. #1
(43 FR 31559 - July 21, 1978)
Washington County, Rhode Island

CHANGE:					
Ironworkers	9.93	1.10	2.10		.05
Plumbers	10.66	.90	1.95		.07
Steamfitters, Pipefitters	11.35	.83	1.28		.07
OMIT:					
Electricians:					
Residential - up to and including 3 stories	7.40	.38	3%		.02

SUPERSEDEAS DECISION

STATE: Alabama COUNTY: Calhoun
DECISION NUMBER: AL78-1080 DATE: Date of Publication
Supersedes Decision No.: AL78-1041 dated April 21, 1978 in 43 FR-17174
DESCRIPTION OF WORK: Building Construction (does not includo Residential Conatruction consisting of single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	7.22				
Carpenters	7.68	.40			.05
Cement masons	5.20				
Electricians	11.05	.55	3%+.04	.17	½ of 1%
Glaziers	8.93	.50	.50		
Ironworkers, structural, ornamental & reinforcing	9.25	.60	.815		.06
Laborers:					
Laborers	3.57				
Lathers	8.00		.10		.01
Millwrights	8.18	.40			.05
Painters:					
Painters, brush	6.75				
Painters, spray	7.85				
Plasterers	7.86				
Plumbers & pipefitters	10.57	.50	.45		.05
Roofers	6.00				
Sheet metal workers	10.08				
Soft floor layers	6.50				
Tile setters	5.50				
Truck drivers	3.57				
POWER EQUIPMENT OPERATORS:					
Backhoe	5.96				
Bulldozer	4.50				
Crane, derrick, dragline	4.25				
Finishing machine	5.20				
Front end loader	4.00				
Motor patrol	4.50				
Spreader operator	3.98				

SUPERSEDEAS DECISION

STATE: Alabama COUNTIES: Jefferson & Shelby
DECISION NUMBER: AL78-1076 DATE: Date of Publication
Supersedes Decision No.: AL78-1026 dated March 24, 1978 in 43 FR 12532.
DESCRIPTION OF WORK: Building Construction (does not include residential construction consisting of single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	11.21	.45	.70		.05
Boilermakers	9.95	1.05	1.05		.02
Bricklayers:					
Bricklayers; pointers, caulkers; stonemasons	10.15	.40	.50		.12
Cleaners	9.05	.40	.50		.12
Carpenters:					
Carpenters, soft floor layers	9.55	.55	.30		.07
Millwrights	11.25				.07
Piledrivermen	9.75	.55	.30		.07
Cement masons	9.08	.50			.10
Electricians:					
Electricians	11.05	.55	3% + .40		½%
Cable splicers	11.30	.55	3% + .40		½%
Elevator constructors	9.74	.545	.35	a+b	.02
Glaziers	9.25	.50	.50		.01
Ironworkers	10.00	.60	.815		.06
Lathers	9.48		.10		.01
Linemen:					
Linemen	9.38	.35	3%		½%
Groundmen under one year	4.21	.35	3%		½%
Groundmen one year and over	4.97	.35	3%		½%
Hole and ditch digging equipment, tractor with winch and derrick, truck with winch and derrick	7.97	.35	3%		½%
Tractor with towing machine, truck with winch only	6.57	.35	3%		½%
Truck without winch	5.63	.35	3%		½%
Marble setters	9.40		.40		
Painters:					
Brush (Commercial)	10.05		.70		
Spray; Structural steel	10.55		.70		
Paperhangers	10.20		.70		
Plasterers	9.22	.50			.10
Plumbers and Pipefitters	11.45	.58	.65		.09
Roofers	8.90		.20		.10
Sheet metal workers	10.70	.69	.82		.09
Sprinkler fitters	10.80	.75	1.00		.08
Terrazzo workers, Tile setters	9.40		.40		
Tile, Marble, Terrazzo finishers	7.30				

AL78-1076 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers:					
Up to but not including 1½ tons	7.05	.40			
1½ to but not including 3 tons	7.25	.40			
3 tons but not including 5 tons	7.50	.40			
5 tons and over including special equipment	7.65	.40			
Heavy Duty - off the road trucks	7.75	.40			
Welders, rigger, riveters - receive rate prescribed for craft performing operation to which welders, riggers, and riveters are incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. 6 paid holidays: A through F.

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

AL78-1076 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
GROUP A	6.80	.35	.40		.03
GROUP B	6.75	.35	.40		.03
GROUP C	6.70	.35	.40		.03
GROUP D	6.65	.35	.40		.03
GROUP E	7.05	.35	.40		.03
GROUP F	7.50	.35	.40		.03
GROUP G	7.40	.35	.40		.03
GROUP H	7.45	.35	.40		.03
GROUP I	7.35	.35	.40		.03
GROUP J	7.20	.35	.40		.03
GROUP K	8.15	.35	.40		.03

GROUP A
Air or electrical tool operators and asphalt rakers

GROUP B
Vibrator operators, chain saw ops. of mechanical equipment which replaces (wheelbarrows or buggies), power mowers, mortar mixers, pipe layers, conc, & clay and muckers

GROUP C
Plasterers' tenders and hod carriers

GROUP D
Mason tenders, building laborers

GROUP E
Burners on demolition, wagon drill operators and tunnel laborers

GROUP F
Powderman

GROUP G
Caisson-driller (10' Dia)

GROUP H
Tunnel miner

GROUP I
Pneumatic concrete gun operator and nozzleman

GROUP J
Chuck tender

GROUP K
Oxagon operator

AL78-1076 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP A	10.04	.40	.30		.10
GROUP B	9.51	.40	.30		.10
GROUP C	8.44	.40	.30		.10
GROUP D	10.74	.40	.30		.10
GROUP E	10.03	.40	.30		.10
GROUP F	8.57	.40	.30		.10

GROUP A
Asphalt plant, boom tractor, bulldozer, cableways, core driller, compressors (2 or more), crane-derrick-dragline, dinky locomotive, dredges, fork lift, front end loader, gradall, heavy duty mechanic, hoist (1 drum or more), mixers, push tractor, scrapers, shovels, trenching machine (and all similar equipment), winch trucks, motor graders, concrete pump, piledriver, rotary drill

GROUP B
Air compressor (over 125), asphalt spreaders, blade graders (pull type), boat operator, conveyor (2 or more up to 4), crawler tractor, distributors, (bituminous surface), farm tractors, finishing machine, pumps over 4 inches, rollers, welding machine (4 or more)

GROUP C
Air compressor (125 & under), oilers-firemen, conveyor (1) tended by oiler), pumps (under 4 inches), welding machines (3 or under).

GROUP D
ON STEEL ERECTION: Crane, dragline, derrick, hoist, piledriver; winch truck, fork lift, tower cranes, climbing cranes, cherry picker, mechanics, locomotives, tug boat

GROUP E
Tractors, welding machine, gas or diesel driven welding machine (4 or more), air compressors over 125 (2 or less), power generating units (gas or diesel)

GROUP F
Gas or diesel driven welding machine (3 or less), air compresso
125 and under (2 or less), oiler, fireman, small boat

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Barnstable
DECISION NO.: MA78-2079 DATE: Date of Publication
Supersedes Decision NO. MA78-3022, dated March 21, 1978 in 43 FR 17175
DESCRIPTION OF WORK: Build Construction (excluding single family home and garden type apartments up to and including 4 stories), heavy, highway & marine construction.

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Barnstable, Bourne, Falmouth Mashpee & Sandwich	$10.28	1.00	1.18		
Remainder of County	12.11	1.10	1.00		.01
BOILERMAKERS	11.80	1.05	10%		.02
BRICKLAYERS: CEMENT MASONS: CEMENT FINISHERS: PLASTERERS:					
STONEMASONS	10.60	1.20	1.00		.09
Veneer Plasterers	9.00	1.00	.90		.06
CARPENTERS AND SOFT FLOOR LAYERS	10.50	.60	1.00		.04
ELECTRICIANS	10.50	.90	3%+.85		a
ELEVATOR CONSTRUCTORS	11.50	.745	.56	b+c	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.56	b+c	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	8.88	.52	1.03		.01
IRONWORKERS	9.43	.70	1.50		.05
LABORERS (BUILDING):					
Laborers; carpenter tenders; wrecking laborers	8.25	.60	.75		.10
Jackhammers op., pavement breakers; asphalt rakers; caride core drilling machine, chain saw op.; pipelayer; Barco type jumping tampers; laser beam; concrete pump; mason tender; mortar tar mixers; ride-on motorized buggy, fence & beam rail erectors & plasterer's tenders	8.50	.60	.75		.10
Air track; block pavers, tampers curb setters	8.75	.60	.75		.10
Blasters; powdermen	9.00	.60	.75		.10
Open air caisson; cylindrical work & boring crew					
Laborer; Top man	8.25	.60	.75		.10
Helper	8.37	.60	.75		.10
Bottom man	9.00	.60	.75		.10
Driller	9.12	.60	.75		.10

DECISION NO. MA78-2079	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$ 9.45	.65	.55		.01
LEADBURNERS	9.25	.35		d	.01
LINE CONSTRUCTION:					
Linemen	12.00	.70	3%+.50	e	3/8 of 1%
Driver - Groundman	9.03	.70	3%+.50	e	3/8 of 1%
Groundmen	7.68	.70	3%+.50	e	3/8 of 1%
Equipment Operators	11.28	.70	3%+.50	e	3/8 of 1%
MARBLE & TILE SETTERS: TERRAZZO WORKERS	10.30	.85	1.10		
MARBLE SETTER' HELPERS	8.71	.85	.25		
MILLWRIGHTS	10.90	.90	1.00		.10
PAINTERS:					
Brush, roller tapers, steel on ground	9.25	.70	.65		
Sandblasting, chipping hammer, power brush	10.75	.70	.65		
Structural steel	12.50	.70	.65		
Spray	10.60	.70	.65		
Steel spray	13.85	.70	.65		
Sandblasting, chipping hammers, power tools on steel	14.00	.70	.65		
Paperhangers and vinyl installers	9.75	.70	.65		
Tapers	9.35	.70	.65		
Sign painting	8.80	.84	..35	.32	.04
PILEDRIVERMEN	10.90	...85	1.00		
PLUMBERS & STEAMFITTERS					
Bourne & Sandwich	11.20	.80	.80		.05
Remainder of County	10.35	.95	1.27		.20
ROOFERS:					
Roofers, kettlemen & waterproofers	9.20	.60	.20		
Mechanic on shingle work	7.36	.60	.20		

DECISION NO. MA78-2079	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS	$ 9.58	1.05	1.00		.02
SPRINKLER FITTERS	12.08	.65	.95		.08
TERRAZZO WORKERS' HELPERS	9.95		.25		.05
TILE SETTERS' HELPERS	8.71	.85	.25		
Welder - Rate for Craft					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $1.00 per journeyman Electricians per week.

b. Employer contributes 8% basic hourly rate for 5 years or more of service of 6% basic hourly rate for 6 months to 5 years' service as vacation pay credit.

c. Holidays: A through F, and the day after Thanksgiving.

d. Holiday: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days during 120 calendar days prior to the holiday & the regular scheduled days immediately preceding and following the holiday

e. Holidays: A through F, and Bunker Hill Day, provided the employee has been employed 10 working days prior to the holiday.

DECISION NO. MA78- 2079 HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	$ 8.25	.60	.75		.10
CLASS II	8.50	.60	.75		.10
CLASS III	8.75	.60	.75		.10
CLASS IV	9.00	.60	.75		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op.

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

DECISION NO. MA78-2079 BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	11.75	1.10	1.00	a	.03
CLASS II	11.63	1.10	1.00	a	.03
CLASS III	9.81	1.10	1.00	a	.03
CLASS IV	10.71	1.10	1.00	a	.03
CLASS V	8.68	1.10	1.00	a	.03
CLASS VI	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour
CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paying screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)
CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pullsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragm pump, lighting plants
CLASS IV Assistant engineers (firemen)
CLASS V Oilers (other than truck cranes and gradalls)
CLASS VI Oilers on truck cranes and gradalls

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

DECISION NO. MA78-2079 HEAVY & HIGHWAY CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	11.75	1.10	1.00	a	.03
Hourly premium for boom lengths including jib					
Over 150 feet + $ .45					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
GROUP 2	11.63	1.10	1.00	a	.03
GROUP 3	9.81	1.10	1.00	a	.03
GROUP 4	10.71	1.10	1.00	a	.03
GROUP 5	8.68	1.10	1.00	a	.03
GROUP 6	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

GROUP 1 Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, boisting engines, three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders. asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers

GROUP 3 Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generators, lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)

DECISION NO. MA78-2079	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARINE CONSTRUCTION					
POWER EQUIPMENT OPERATORS					
GROUP I	11.75	1.10	1.00	a	.03
GROUP II	12.85	1.10	1.00	a	.03
GROUP III	11.70	1.10	1.00	a	.03
GROUP IV	11.63	1.10	1.00	a	.03
GROUP V	9.81	1.10	1.00	a	.03
GROUP VI	10.71	1.10	1.00	a	.03
GROUP VII	8.68	1.10	1.00	a	.03
GROUP VIII	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

GROUP I - Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers two or more drum machines, lighters, derricks boats, trenching, mechanics hoists pavement breakers, cement concrete pavers, draglines, hoisting engines, pump-crate machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site, paving concrete mixers; Booms over 150' including jib - additional $.45 per hour - Booms over 185' including jib - additional $.80 per hour; Booms over 210' including jib - additional $1.15 per hour; Booms over 250' including jib - additional $1.75 per hour; Booms over 295' including jib additional $2.50 per hour

GROUP II - Master Mechanic

GROUP III - Swinger Engines

GROUP IV - Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bull-dozers, tractors york rakes, mulching machines, rollers, spreaders, tamper self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance, cal tracks, ballast, regulator, switch tampers, rail anchor machines, tire trucks

GROUP V - Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, well point systems, augers - powered by independence engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulsometers, concrete mixers, conveyors

DECISION NO. MA78-2079

CLASSIFICATIONS

GROUP VI - Assistant engineers (firemen)

GROUP VII - Oilers (other than truck cranes and gradalls)

GROUP VIII - Oilers on truck cranes and gradalls

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

A. Holidays: A through F; Washington's Birthday; Patriots' Day; Columbus Day & Veterans' Day

DECISION NO. MA78-2079

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
CLASS I	8.215	.75	.80	a+b	
CLASS II	8.365	.75	.80	a+b	
CLASS III	8.415	.75	.80	a+b	
CLASS IV	8.515	.75	.80	a+b	
CLASS V	8.615	.75	.80	a+b	
CLASS VI	8.865	.75	.80	a+b	
CLASS VII	9.115	.75	.80	a+b	

CLASS I - Station wagons, Panel trucks and pickup truck

CLASS II - Two axle equipment; Helpers on low bed when assigned at the discretion of the employer , warehousemen, Forklift operators

CLASS III - Three axle equipment and Tiremen

CLASS IV - Four and five axle equipment

CLASS V - Specialized earth moving equipment under 35 tons other than convential type trucks, Low bed, Vachual, Mechanics, Paving restoration equipment, Mechanics

CLASS VI - Specialized earth moving equipment over 35 tons

CLASS VII - Trailers for earth moving equipment (double hookup)

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts
COUNTY: Berkshire
DECISION NUMBER: MA78-2080
DATE : Date of Publication
Supersedes Decision No. MA78-3023 dated March 28, 1978, in 43 FR 18449
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	10.65	.94	$ 1.25		.01
BOILERMAKERS	11.80	1.05	10%		.02
BRICKLAYERS, CEMENT MASONS, MARBLE MASONS, PLASTERERS, STONE MASONS, TERRAZZO WORKERS and TILE SETTERS:					
Twps. of Adams, North Adams, Cheshire, Florida, Savoy, Clarksbury and Williamstown	11.85				
Twps. of Becket, Otis and Sandisfield	10.05	.70	.95		.06
Remainder of County	11.28	.65	.30		
CARPENTERS & SOFT FLOOR LAYERS	9.84	.60	1.00		.04
ELECTRICIANS	10.59	.55	3%+.94		.02
ELEVATOR CONSTRUCTORS	10.45	.745	.29	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.29	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (RPOB.)	50%JR				
GLAZIERS	9.45	.47	.45		
IRONWORKERS:					
Structural, ornamental and reinforcing:					
Otis and North and East Otis	9.43	.70	1.50		.05
Remainder of County	9.49	.60	.85		.04
LABORERS (BUILDING):					
Laborers, Carpenter tenders and Wrecking laborers	8.25	.60	.75		.10
Jackhammer operator, Pavement breakers, Wagon drills, Asphalt rakers, Carbide core drilling machine, Chain saw operators, Pipelayers, Barco type jumping tampers, Leaser beam operators, Concrete pump operators, Mason tenders, Mortar mixers, Ride-on motorized buggy and Plasterers tenders	8.50	.60	.75		.10

DECISION NO. MA78-2080

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Air track; Block pavers; Rammers curb setters	$ 8.75	.60	.75		.10
Blasterers, Powdermen	9.00	.60	.75		.10
LATHERS:	9.40	.45	.25		.01
Drywall	8.30	.45	.15		
LEAD BURNERS	9.25	.35		c	.01
LINE CONSTRUCTION:					
Linemen	10.92	.70	3%	d	
Equipment Operator	10.19	.70	3%	d	
Driver Groundmen	7.87	.70	3%	d	
MARBLE SETTERS' & TILE SETTERS' HELPERS	8.95				
MILLWRIGHTS	10.90	.90	1.00		.10
PAINTERS:					
Brush and Tapers	9.17	.88	.55		.05
Spray-epoxys & interior dry fogs & materials thinned with anything other than water &/or mineral spirits	12.2267	1.1733	.7333		.0667
Spray-materials thinned with water &/or mineral spirits, excluding epoxys & interior dry fogs	12.7567	1.1733	.7333		.0667
Swing Stage under 40' Steel	9.357	.88	.55		.05
Swing Stage over 40' Steel	9.67	.88	.55		.05
Sign Painters	8.80	.84	.35	.32	.04
PILEDRIVERMEN	10.90	.85	1.00		
PLUMBERS and STEAMFITTERS:					
Adams, Clarksburg, Florida, North Adams, Savoy, Williamstown and Northern half of Cheshire, and New Ashford	9.97	.90	.75		.02
Becket, Otis, Sandisfield (Plumbers ONLY)	10.30	1.01	1.10	e	.10
Becket, Otis, Sandisfield and New Boston (Steamfitters)	10.68	.57	1.45	.08	.02
Remainder of County	10.30	.83	.50		.05
ROOFERS:					
Composition, damp & waterproof	9.215	1.00	2.03		
Slate, tile and precast concrete	9.87	1.00	2.03		
SHEET METAL WORKERS	10.10	1.09	1.46		.06
SPRINKLER FITTERS	11.75	.75	1.05		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. MA78-2080

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 years or more or service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F

c. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve providing employee has worked 45 full days during the 120 Calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

d. Holidays: A through F, Washington's Birthday and Patriots Day providing employee has worked for a period of five (5) working days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday. There is also one floating holiday per year.

e. July 4th and Labor Day provided worker is employed 7 days prior to holiday.

DECISION NO. MA78-2080

HEAVY and HIGHWAY CONSTRUCTION LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class I	$ 8.25	.60	.75		.10
Class II	8.50	.60	.75		.10
Class III	8.75	.60	.75		.10
Class IV	9.00	.60	.75		.10

CLASSIFICATIONS

Class I: Carpenter tenders, Cement finisher tenders, Laborers, Wrecking Laborers

Class II: Asphalt rakers, Fence and guard rail erectors, Laser beam Operator; Mason tender, Pipelayer, Pneumatic drill operator, Pneumatic tool operator, Wagon drill operator

Class III: Air track operator, Block pavers, Rammers, Curb setters

Class IV: Blasters, powdermen

DECISION NO. MA78-2080

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Class I	$ 9.93	.95	1.00	a	.07
Class II	7.73	.95	1.00	a	.07
Class II	9.53	.95	1.00	a	.07
Class IV	9.16	.95	1.00	a	.07
Class V	8.41	.95	1.00	a	.07
Class VI	7.94	.95	1.00	a	.07
Class VII	7.18	.95	1.00	a	.07

CLASSIFICATIONS

Class I: Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Backhoes, Gradalls, Elevating Graders, Piledriving Rigs, Concrete Road Pavers, three drum hoisting and Trenching Machines, Belt-type Loaders, Front End Loader-5½ yads. or over, Dual Drum Paver, Automatic Grader (i.e. C.M.I.) Combination Back Hoe-loader-3/4 yd. hoe or over

Class II: Rotary Drill (with mounted compressor), Compressor house (3 to 6 compressors), Rock and Earth Boring Mahines (excluding McCarthy and similar drills), Grades, Front End Loaders - 4 yds. to 5½ yds., two drum hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers - 21 yds. and over (struck load), Sonic Hammer Console

Class III: Combination Backhoe - Loader - up to 3/4 hoe, Bulldozers, Push Cats, Scraper - up to 21 yds. (struck load) - Self-propelled or tractor drawn, Tireman, Front End Loaders - up to 4 yds., Asphalt Paver, Asphalt Roller - 10 ton or over, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete Pumps and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant, Well Point, Electric pumps used in Well point system, Pumps - 12 inches and over (total discharge), Compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators (manually or remote controls), Grout pumps, Boom Truck, Hydraulic Cranes - under 10 ton

Class IV: Asphalt Roller - under 10 ton

DECISION NO. MA78-2080

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Cont'd)
BUILDING CONSTRUCTION

Class V: Single Drum Hoist, Self-propelled Roller, Self-propelled Compressors Power Pavement Breakers, Concrete Pavement Finishing Machines, Two bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-propelled Material Spreaders, A-Frame Trucks, Fork Lifts up to 15 feet

Class VI: Compressors (one or two 315 cu. ft. to 900 cu. ft., Pumps - 4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers, Rubber-tired Roller, Compactors or other Machines used for pulverizing, Grading or Seeding

Class VII: Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on grease Truck, and Grease Trucks with hand greasing equipment

PAID HOLIDAYS:
A-New Year Year's Day; B-Mmeorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE
a. Holidays: A through F, Veterans' Day and Columbus Day.

DECISION NO. MA78-2080

HEAVY AND HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	9.93	.95	1.00	a	.07
CLASS II	9.73	.95	1.00	a	.07
CLASS III	9.53	.95	1.00	a	.07
CLASS IV	9.16	.95	1.00	a	.07
CLASS V	8.41	.95	1.00	a	.07
CLASS VI	7.94	.95	1.00	a	.07
CLASS VII	7.18	.95	1.00	a	.07
CLASS VIII	10.43	.95	1.00	a	.07

CLASSIFICATIONS

CLASS I Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processin Plant (Engineer in charge), Dragline, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader-5½ yards and over Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Paver, Automatic Graders-Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine

CLASS II Rotary Drill (with mounted Compressor), Compressor House 3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5½ yards, Scraper-21 yards and over (struck Load), Forklifts-7 ft. lift and over or 3 ton capacity and over, Sonic Hammer Console

DECISION NO. MA78-2080

CLASSIFICATIONS CONT'D

CLASS III Bulldozer, Push Cats, Scrapers-up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders-up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well point Operators, Electric Pumps used in well Point system, Tiremen, Pumps-16 inches or over total discharge, Compressors (1 or 2) cu. ft. and over Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck Self-Propelled Hydraulic Cranes up to 10 ton

CLASS IV Asphalt Roller-up to 10 ton

CLASS V Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant

CLASS VI Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheeps-foot toller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil

CLASS VII Compressor (up to 315 cu. ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines, A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat

FOOTNOTES:
a. Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veteran's Day; Thanksgiving Day and Christmas Day

DECISION NO. MA78-2080

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	8.215	.75	.80	a+b	
CLASS II	8.365	.75	.80	a+b	
CLASS III	8.415	.75	.80	a+b	
CLASS IV	8.515	.75	.80	a+b	
CLASS V	8.615	.75	.80	a+b	
CLASS VI	8.865	.75	.80	a+b	
CLASS VII	9.115	.75	.80	a+b	

CLASS I - Station wagons, Panel trucks and pickup truck

CLASS II - Two axle equipment; Helpers on low bed when assigned at the discretion of the employer, warehousemen, Forklift operators

CLASS III - Three axle equipment and Tiremen

CLASS IV - Four and five axle equipment

CLASS V - Specialized earth moving equipment under 35 tons other than convential type trucks, Low bed, Vachual, Mechanics, Paving restoration equipment, Mechanics

CLASS VI - Specialized earth moving equipment over 35 tons

CLASS VII - Trailers for earth moving equipment (double hookup)

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Bristol
DECISION NO.: MA78-2081 DATE: Date of Publication
Supersedes Decision No. MA78-3024, dated April 21, 1978 in 43 FR 17180
DESCRIPTION OF WORK: Building Construction (including Residential), Heavy and Highway Construction and Marine Construction.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Easton	12.11	1.10	1.00		.01
Remainder of County	10.28	1.00	1.18		.02
BOILERMAKERS	11.80	1.05	10%		
BRICKLAYERS, CEMENT MASONS, PLASTERERS & STONEMASONS:					
Easton N. Easton & S. Easton	10.80	.85	1.15		.09
Veneer Plasterers	8.90	.85	1.15		.09
Residential	8.64	.85	1.15		.09
Acusunet, Dartmouth, Fairhaven Fall River, Freetown, New Bedford, N. Dartmouth, Somerset, Veneer Plasterers	9.00	1.00	.90		.06
Swansea, S. Dartmouth & Westport	10.60	1.20	1.00		.09
Residential	8.48	1.20	1.00		.09
Remainder of County	10.60	1.40	.80		.09
Residential	8.48	1.40	.80		.09
CARPENTERS & SOFT FLOOR LAYERS:					
Attleboro, N. Attleboro & S. Attleboro	10.75	.90	1.00		.07
Remainder of County	10.50	.60	1.00		.04
ELECTRICIANS:					
Attleboro, N. Attleboro & Seekonk	9.40	.48	3%+1.40		.02
Residential	6.00	.38	3%		.02
Acushnet, Dartmouth, Fairhaven, New Bedford, N. DArtmouth & S. Dartmouth	10.50	.90	3%+.85		a
Easton:					
Electrical contracts less than $50,000.00	9.15	6%	7%	2%	.5%
Electrical contracts $50,000.00 or more	11.55	6%	7%	2%	.5%
Residential	6.60	6%	7%	2%	.5%
Fall River, Freetown, Somerset, Swansea & Westport	10.10	4%+.20	3%+1.00	4%+.20	b%
Remainder of County	11.50	.75	3%+.50		.1%
Residential	8.25	.75	3%+.50		.1%

DECISION NO.: MA78-2081	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS	$11.50	.745	.56	b+c	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.56	b+c	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS:					
Easton	10.40	.57	.64		.03
Remainder of County	8.88	.52	1.03		.01
IRONWORKERS:					
Easton, Mansfield, N. Easton	11.24	1.00	1.50		.06
Remainder of County	9.43	.70	1.50		.05
LABORERS (BUILDING):					
Laborers; carpenter tenders; wrecking laborers	8.25	.60	.75		.10
Jackhammer op.; pavement breakers; asphalt rakers; carbide core drilling machine; Chain saw op.; pipelayer; barco type jumping tampers; laser beam; concrete pump; mason tenders; mortar mixers; ride-on motorized buggy, fence and beam rail erectors and plasterers' tenders	8.50	.60	.75		.10
Air track; block pavers; rammers curb setters	8.75	.60	.75		.10
Blasters; powdermen	9.00	.60	.75		.10
Open air caisson; cylindrical work & boring crew:					
Laborers; top man	8.25	.60	.75		.10
Helper	8.37	.60	.75		.10
Bottom men	9.00	.60	.75		.10
Driller	9.12	.60	.75		.10
LATHERS	9.45	.65	.55		.01
LEADBURNERS	9.12	.35		d	.01
LINE CONSTRUCTION:					
Linemen	12.00	.70	3%+.50	e	3/8 of 1%
Equipment Operators	11.28	.70	3%+.50	e	3/8 of 1%
Driver Groundman	9.03	.70	3%+.50	e	3/8 of 1%
Groundman	7.68	.70	3%+.50	e	3/8 of 1%
MARBLE & TILE SETTERS: TERRAZZO WORKERS	10.30	.85	1.10		
MARBLE SETTERS' HELPERS AND TILE SETTERS HELPERS	9.33	.85	.50		

DECISION NO. MA78-2081

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MILLWRIGHTS	10.90	.90	1.00		.10
PAINTERS:					
Acushnet, Dartmouth, Fairhaven, New Bedford, N. Dartmouth & S. Dartmouth: Brush & Roller	9.25	.70	.65		
Spray	10.60	.70	.65		
Sandblasting, chipping hammer, power brush	10.75	.70	.65		
Paperhangers & Vinyl installer	9.75	.70	.65		
Tapers	9.35	.70	.65		
Steel	12.50	.70	.65		
Steel Spray	13.85	.70	.65		
Sandblasting, Chipping hammer, power tools on steel	14.00	.70	.65		
Remainder of County:					
Brush, taper	10.46	.82	1.20		.04
Steel (new & repaint steel)	12.58	.82	1.20		.04
Spray, sandblasting	11.46	.82	1.20		.04
Repaint & Alteration	8.91	.82	1.20		.04
Sign painting	8.80	.84	.35	.32	.04
PILEDRIVERMEN	10.90	.85	1.00		
PLASTERERS' TENDERS	7.75	.60	.70		.10
PLUMBERS & STEAMFITTERS:					
Easton	11.20	.80	.80		.05
Acushnet, Darthmouth, Fairhaven, Fall River, Freetown, New Bedford, N. Dartmouth, Somerset, S. Dartmouth, Swansea & Westport	1-.35	.95	1.27		.20
Residential	8.91	.76	1.16		.15
Remainder of County	10.02	.60	.73		
ROOFERS:					
Attleboro, Taunton, Mansfield, Easton, Norton, Raynham & N. Attleboro:					
Journeyman	10.20	.70	1.55		.05
Re-roofing and repair	9.65	.70	1.55		.05
Pitch work	11.20	.70	1.55		.05
Remainder of county:					
Journeyman and mechanics	9.20	.75	.30		
Mechanics on shingle work	7.36	.75	.30		

DECISION NO.: MA78-2081	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS:					
Acushnet, Assonet, Dartmouth, Dighton, Fairhaven, Fall River Freetown, New Bedford, N. Dartmouth, Rehboth, Seekonk, Somerdet, Swansea & Westport	$ 9.58	1.05	1.00		.02
Remainder of County	10.98	1.16	1.35		.06
SPRINKLER FITTERS	12.08	.65	.95		.08
TERRAZZO WORKERS' HELPERS	9.95		.25		.05

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contribution of 1.00 per journeyman Electricians per week

b. Employer contributes 8% of basic hourly rate for 5 years or more of service or 4% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

c. Holidays: A through F, and the day after Thanksgiving

d. Holidays: A through F, Washington's Birthday, Good Friday & Christmas Eve, providing employee has worked at least 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

e. Holidays: A through F, & Bunker Hill Day, provided the employee is employed 10 days prior to the listed holidays.

DECISION NO. MA78-2081	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	$ 8.25	.60	.75		.10
CLASS II	8.50	.60	.75		.10
CLASS III	8.75	.60	.75		.10
CLASS IV	9.00	.60	.75		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op.

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

DECISION NO. MA78-2081 BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	11.75	1.10	1.00	a	.03
CLASS II	11.63	1.10	1.00	a	.03
CLASS III	9.81	1.10	1.00	a	.03
CLASS IV	10.71	1.10	1.00	a	.03
CLASS V	8.68	1.10	1.00	a	.03
CLASS VI	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour
CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paying screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)
CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pullsometers, concrete mixers, values controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragn pump, lighting plants
CLASS IV Assistant engineers (firemen)
CLASS V Oilers (other than truck cranes and gradalls)
CLASS VI Oilers on truck cranes and gradalls

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

DECISION NO. MA78-2081 HEAVY & HIGHWAY CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	11.75	1.10	1.00	a	.03
Hourly premium for boom lengths including jib					
Over 150 feet + $ .45					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
GROUP 2	11.63	1.10	1.00	a	.03
GROUP 3	9.81	1.10	1.00	a	.03
GROUP 4	10.71	1.10	1.00	a	.03
GROUP 5	8.68	1.10	1.00	a	.03
GROUP 6	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

GROUP 1 Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders. asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers

GROUP 3 Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generators, lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)

DECISION NO. MA78-2081

CLASSIFICATIONS CONT'D

GROUP 4 Assistant engineers (firemen)

GROUP 5 Oilers (other than truck cranes & gradalls)

GROUP 6 Oilers (on truck cranes & gradalls)

FOOTNOTES:

a. Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

DECISION NO. MA78-2081

MARINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP I	11.75	1.10	1.00	a	.03
GROUP II	12.85	1.10	1.00	a	.03
GROUP III	11.70	1.10	1.00	a	.03
GROUP IV	11.63	1.10	1.00	a	.03
GROUP V	9.81	1.10	1.00	a	.03
GROUP VI	10.71	1.10	1.00	a	.03
GROUP VII	8.68	1.10	1.00	a	.03
GROUP VIII	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

GROUP I - Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers two or more drum machines, lighters, derricks boats, trenching, mechanics hoists pavement breakers, cement concrete pavers, draglines, hoisting engines, pumpcrete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site, paving concrete mixers; Booms over 150' including jib - additional $.45 per hour - Booms over 185' including jib - additional $.80 per hour; Booms over 210' including jib - additional $1.15 per hour; Booms over 250' including jib - additional $1.75 per hour; Booms over 295' including jib additional $2.50 per hour

GROUP II - Master Mechanic

GROUP III - Swinger Engines

GROUP IV - Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, tractors york rakes, mulching machines, rollers, spreaders, tamper self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance, cal tracks, ballast, regulator, switch tampers, rail anchor machines, tire trucks

GROUP V - Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, well point systems, augers - powered by independence engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulsometers, concrete mixers, conveyors

DECISION NO. MA78-2081

CLASSIFICATIONS

GROUP VI - Assistant engineers (firemen)

GROUP VII - Oilers (other than truck cranes and gradalls)

GROUP VIII - Oilers on truck cranes and gradalls

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

A. Holidays: A through F; Washington's Birthday; Patriots' Day; Columbus Day & Veterans' Day

DECISION NO. MA78-2081

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
CLASS I	8.215	.75	.80	a+b	
CLASS II	8.365	.75	.80	a+b	
CLASS III	8.415	.75	.80	a+b	
CLASS IV	8.515	.75	.80	a+b	
CLASS V	8.615	.75	.80	a+b	
CLASS VI	8.865	.75	.80	a+b	
CLASS VII	9.115	.75	.80	a+b	

CLASS I - Station wagons, Panel trucks and pickup truck

CLASS II - Two axle equipment; Helpers on low bed when assigned at the discretion of the employer , warehousemen, Forklift operators

CLASS III - Three axle equipment and Firemen

CLASS IV - Four and five axle equipment

CLASS V - Specialized earth moving equipment under 35 tons other than convential type trucks, Low bed, Vachual, Mechanics, Paving restoration equipment, Mechanics

CLASS VI - Specialized earth moving equipment over 35 tons

CLASS VII - Trailers for earth moving equipment (double hookup)

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Essex
DECISION NO.: MA78-2082 DATE: Date of Publication
Supersedes Decision No. MA78-2035, dated April 14,1978 in 43 FR 16048
DESCRIPTION OF WORK: Building Construction (including residential), heavy highway and marine construction.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.11	1.10	1.00		.01
BOIELRMAKERS	11.80	1.05	10%		.02
BRICKLAYERS & STONEMASONS: Andover, Boxford, Danvers, Lawrence, Lynn, Lynnfield, Marblehead, Methuen, Middleton, Nahant, N. Andover, Peabody, Salem, Saugus, Swampscott & Topsfield	10.85	.70	1.25		.09
Veneer Plasterers	8.85	.70	1.25		.09
All work, including demolition repair and alteration of any existing structure which is intended for predominantly residential use	8.42	.70	.75		.06
Remainder of County	11.20	1.00	.60		.09
Veneer Plasterers	9.30	1.00	.60		.06
CARPENTERS & SOFT FLOOR LAYERS: Amesbury, Boxford, Georgetown, Groveland, Haverhill, Newbury, Newburyport, Rowley, Salisbury W. Newbury, Lynn, Lynnfield Nahant, Saugus and Swampscott, Andover, Lawrence, Methuen, N. Andover and W. Andover	10.75	.90	1.00		.07
Andover, Lawrence, Methuen, N. Andover, & W. Andover	10.75	.90	1.00		.05
All work, inlcuding demolition, repair and alteration of any existing structure which is intended from predominantly residential use:	8.67	.60	1.00		.02
Remainder of County	9.80	1.00	1.00		

DECISION NO. MA78-2082

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS & PLASTERERS:					
Amesbury, Boxford, Georgetown, Groveland, Haverhill, Lawrence, Merrimac, Methuen, N. Andover, Salisbury & West Salisbury					
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:	$10.34	.70	.75		
Plasterers: Amesbury, Boxford, Georgetown, Groveland, Haverhill, Lawrence, Merrimac, Methuen, N. Andover, Salisbury, W. Salisbury	8.24	.70	.75		
Danvers, Lynn, Lynnfield, Marblehead, Middleton, Nahant, Peabody, Salem, Saugus, Swampscott and Topsfield	9.30	.50	.85		.05
Remainder of County	9.45	.60	.60		.05
ELECTRICIANS:					
Andover, Lawrence, Methuen and North Andover, Salisbury & W. Newbury	11.22	.75	3%+.40		.02
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Electricians: Andover, Lawrence, Methuen and North Andover	9.03	.75	3% .40		.02
Lynn, Lynnfield, Nahant, Saugus and Swampscott	11.98	.75	3%+1.55		.07
Amesbury, Boxford, Georgetown, Groveland, Haverhill, Merrimac Newbury, Newburyport, Rowley	11.22	.75	3%+.40		.02
Remainder of County:					
Electrical contracts over $30,000	10.45	.92	3%+.26		.02
Electrical contract $30,000 and less	10.10	.92	3%+.26		.02

DECISION NO. MA78-2082

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS	$11.50	.745	.56	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.56	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.40	.57	.64		.03
IRONWORKERS	10.84	1.10	1.80		.06
LABORERS (BUILDING):					
Laborers, carpenters tenders, wrecking laborers	8.25	.60	.75		.10
Jackhammer ops; pavement breakers; asphalt rakers; carbide core drilling machines; chain saw ops; pipelayers, barco type jumping tampers, laser beam ops, concrete ops, mason tenders, mortar mixers, ride-on motorized buggy ops, dence beam rail erectors and plasterers tenders	8.50	.60	.75		.10
Air track, block pavers, rammers curb setter	8.75	.60	.75		.10
Blaster, powdermen	9.00	.60	.75		.10
Open air caisson, cylindrical work and boring crew:					
Laborers, top man	8.25	.60	.75		.10
Helper	8.37	.60	.75		.10
Bottom man	9.00	.60	.75		.10
Driller	9.12	.60	.75		.10
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Laborers	6.38	.60	.75		.10
LATHERS	9.25	.45	.55		.05
LEADBURNERS	9.25	.35			
LINE CONSTRUCTION:					
Linemen	12.00	.70	3%+.50		3/8 of 1%
Equipment operators	11.28	.70	3%+.50		3/8 of 1%
Driver Groundman	9.03	.70	3%+.50		3/8 of 1%
Groundman	7.68	.70	3%+.50		3/8 of 1%
MARBLE, TILE SETTERS & TERRAZZO WORKERS	10.30	.85	1.10		

DECISION NO. MA78-2082

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' HELPERS	$ 9.33	.85	.50		.10
MILLWRIGHTS	10.90	.90	1.00		
PAINTERS:					
Essex, Gloucester, Manchester, & Rockport:					
Brush	6.20	.30			
Spray	6.65	.30			
Roller	6.50	.30			
Remainder of County:					
New Construction:					
Brush and tapers	10.46	.82	1.20		.04
Sandblasters and spray	11.46	.82	1.20		.04
Steel (new & repaint-steel)	12.58	.82	1.20		.04
Repaint: Brush	8.91	.82	1.20		.04
Spray and Sandblasting	9.91	.82	1.20		.04
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Painters: Lawrence, Methuen, N. Andover and Andover	8.30	1.05	.72		.04
PILEDRIVERMEN	10.90	.85	1.00		
PLUMBERS & STEAMFITTERS:					
Andover, Georgetown, Groveland, Lawrence, Methuen, N. Andover	11.15	.87	1.00		.05
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use	8.70	.73	.65		.05
Lynn, Lynnfield, Nahant, Saugus and Swampscott:					
Plumbers	11.95	1.02	1.28		.05
Steamfitters	12.86	.94	1.20		.07
Remainder of County	10.55	1.35	.62		.05

DECISION NO. MA78-2082

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Haverhill and Lawrence	$ 7.30				
Remainder of County	10.20	.70	1.55		.05
Re-roofing & repair	9.65	.70	1.55		.05
Pitch work	11.20	.70	1.55		.05
SHEET METAL WORKERS	11.38	1.16	1.45		.08
SPRINKLER FITTERS	12.08	.65	.95		.08
TERRAZZO WORKERS' HELPERS	9.95		.25		.05

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Holidays: A through F

DECISION NO. MA78-2082	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	$ 8.25	.60	.75		.10
CLASS II	8.50	.60	.75		.10
CLASS III	8.75	.60	.75		.10
CLASS IV	9.00	.60	.75		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op.

CLASS III
Air track op., block pavers, rammers, curb setter

CLASS IV
Blasters, powdermen

DECISION NO. MA78-2082 BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	11.75	1.10	1.00	a	.03
CLASS II	11.63	1.10	1.00	a	.03
CLASS III	9.81	1.10	1.00	a	.03
CLASS IV	10.71	1.10	1.00	a	.03
CLASS V	8.68	1.10	1.00	a	.03
CLASS VI	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour
CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paving screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)
CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pullsometers, concrete mixers, values controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragn pump, lighting plants
CLASS IV Assistant engineers (firemen)
CLASS V Oilers (other than truck cranes and gradalls)
CLASS VI Oilers on truck cranes and gradalls

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

DECISION NO. MA78-2082 HEAVY & HIGHWAY CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	11.75	1.10	1.00	a	.03
Hourly premium for boom lengths including jib					
Over 150 feet + $ .45					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
GROUP 2	11.63	1.10	1.00	a	.03
GROUP 3	9.81	1.10	1.00	a	.03
GROUP 4	10.71	1.10	1.00	a	.03
GROUP 5	8.68	1.10	1.00	a	.03
GROUP 6	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

GROUP 1 Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders. asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, tail anchor machines, switch tampers

GROUP 3 Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generators, lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)

DECISION NO. MA78-2082

CLASSIFICATIONS CONT'D

GROUP 4 Assistant engineers (firemen)

GROUP 5 Oilers (other than truck cranes & gradalls)

GROUP 6 Oilers (on truck cranes & gradalls)

FOOTNOTES:

a. Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

DECISION NO. MA78-2082

MARINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP I	11.75	1.10	1.00	a	.03
GROUP II	12.85	1.10	1.00	a	.03
GROUP III	11.70	1.10	1.00	a	.03
GROUP IV	11.63	1.10	1.00	a	.03
GROUP V	9.81	1.10	1.00	a	.03
GROUP VI	10.71	1.10	1.00	a	.03
GROUP VII	8.68	1.10	1.00	a	.03
GROUP VIII	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

GROUP I - Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers two or more drum machines, lighters, derricks boats, trenching, mechanics hoists pavement breakers, cement concrete pavers, draglines, hoisting engines, pumpcrete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site, paving concrete mixers; Booms over 150' including jib - additional $.45 per hour - Booms over 185' including jib - additional $.80 per hour; Booms over 210' including jib - additional $1.15 per hour; Booms over 250' including jib - additional $1.75 per hour; Booms over 295' including jib additional $2.50 per hour

GROUP II - Master Mechanic

GROUP III - Swinger Engines

GROUP IV - Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, tractors york rakes, mulching machines, rollers, spreaders, tamper self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance, cal tracks, ballast, regulator, switch tampers, rail anchor machines, tire trucks

GROUP V - Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, well point systems, augers - powered by independence engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulsometers, concrete mixers, conveyors

DECISION NO. MA78-2082

CLASSIFICATIONS

GROUP VI - Assistant engineers (firemen)

GROUP VII - Oilers (other than truck cranes and gradalls)

GROUP VIII - Oilers on truck cranes and gradalls

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

A. Holidays: A through F; Washington's Birthday; Patriots' Day; Columbus Day & Veterans' Day

DECISION NO. MA78-2082

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
CLASS I	8.215	.75	.80	a+b	
CLASS II	8.365	.75	.80	a+b	
CLASS III	8.415	.75	.80	a+b	
CLASS IV	8.515	.75	.80	a+b	
CLASS V	8.615	.75	.80	a+b	
CLASS VI	8.865	.75	.80	a+b	
CLASS VII	9.115	.75	.80	a+b	

CLASS I - Station wagons, Panel trucks and pickup truck

CLASS II - Two axle equipment; Helpers on low bed when assigned at the discretion of the employer , warehousemen, Forklift operators

CLASS III - Three axle equipment and Tiremen

CLASS IV - Four and five axle equipment

CLASS V - Specialized earth moving equipment under 35 tons other than convential type trucks, Low bed, Vachual, Mechanics, Paving restoration equipment, Mechanics

CLASS VI - Specialized earth moving equipment over 35 tons

CLASS VII - Trailers for earth moving equipment (double hookup)

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Franklin
DECISION NUMBER: MA78-2083 DATE : Date of Publication
Supersedes Decision No. MA78-2036, dated April 28, 1978 in 43 FR 18453.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.65	.94	$ 1.25	-	.01
BOILERMAKERS	11.80	1.05	10%		.02
BRICKLAYERS, CEMENT MASONS, PLASTERERS, STONE MASONS, MARBLE, TILE, TERRAZZO WORKERS, CAULKER, And CLEANER, POINTER	10.05	.70	.95		.06
CARPENTERS & SOFT FLOOR LAYERS:					
Irving, Warwick, Orange and North Orange	10.70	.60	1.00		.07
Remainder of County	10.10	.45	1.00		.02
Monroe and Monroe Bridge	9.84	.60	1.00		.04
ELECTRICIANS:	10.59				
Hawley, Monroe and Rowe		.55	3%+.94		.02
Remainder of County:					
Electrical contracts $75,000.00 and over	10.76	.85	3%+.40		.02
Electrical contracts under $75,000.00	8.60	.85	3%+.40		.02
Shaft and tunnel work	11.26	.85	3%+.40		.02
ELEVATOR CONSTRUCTORS	10.45	.745	.29	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.29	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	9.45	.47	.45		
IRONWORKERS:					
Structural, Ornamental and Reinforcing	10.50	1.10	1.85		.09
LABORERS: BUILDING					
Laborers, Carpenter tenders, Wrecking laborer	8.25	.60	.75		.10
Asphalt rakers, Carbide core drillers, Chain saw operator, Pipelayers, Jackhammer and paving breakers operators, Barco-type jumping tampers, Laser beam operators, Concrete pump operators, Mason tenders, Mortar mixers, and Ride-on motorized buggy operator and plasterers tenders	8.50	.60	.75		.10

DECISION NO. MA78-2083

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Air track operators, Block pavers, Rammers and curb setters	8.50	.60	.75		.10
Powdermen and blasterers	8.75	.60	.75		.10
Open air caisson, underpinning work and test boring crew:					
Bottom Man	8.75	.60	.75		.10
Top Man	8.00	.60	.75		.10
Driller	8.87	.60	.75		.10
Helper	8.12	.45	.25		.10
LATHERS:	9.40	.45	.25		.01
Drywall	8.30	.45	.25		.01
LINE CONSTRUCTION:					
Linemen	10.92	.70	3%	b	
Equipment Operators	10.19	.70	3%	b	
Driver Groundmen	7.87	.70	3%	b	
MILLWRIGHTS	10.90	.90	1.00		.10
PAINTERS:					
Brush and Tapers	9.17	.88	.55		.05
Spray-epoxys & interior dry fogs & materials thinned with anything other than water &/or mineral spirits	12.2267	1.1733	.7333		.0667
Spray-materials thinned with water &/or mineral spirits, excluding epoxys & interior dry fogs	12.7567	1.1733	.7333		.0667
Swing Stage under 40' Steel	9.357	.88	.55		.05
Swing Stage over 40' Steel	9.67	.88	.55		.05
PILEDRIVERMEN	10.90	.85	1.00		
PLUMBERS AND STEAMFITTERS:					
Monroe, Towe and Western part of Charlemont	9.97	.90	.75		.02
Orange	10.02	.60	.65	.40	.02
Remainder of County	10.45	.85	.85		.02
ROOFERS:					
Composition, damp wagerproof	9.215	1.00	2.03		
Slate, tile, precast concrete	9.87	1.00	2.03		
SHEET METAL WORKERS	10.10	1.09	1.46		.06
SPRINKLER FITTERS	11.75	.75	1.05		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. MA78-2083

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for 5 years or more of service of 6% of basic hourly rate for 6 months to 5 years of service as Vacation Pay plus holidays: A through F and the days after Thanksgiving

b. Holidays: A through F, Washington's Birthday, Patriots Day providing employee has been employed for a period of five (5) working days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday. One floating holiday per year.

DECISION NO. MA78-2083

HEAVY and HIGHWAY CONSTRUCTION

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class I	$ 8.25	.60	.75		.10
Class II	8.50	.60	.75		.10
Class III	8.75	.60	.75		.10
Class IV	9.00	.60	.75		.10

CLASSIFICATIONS

Class I: Carpenter tenders, Cement finisher tenders, Laborers, Wrecking Laborers

Class II: Asphalt rakers, Fence and guard rail erectors, Laser beam Operator; Mason tender, Pipelayer, Pneumatic drill operator, Pneumatic tool operator, Wagon drill operator

Class III: Air track operator, Block pavers, Rammers, Curb setters

Class IV: Blasters, powdermen

DECISION NO. MA78-2083

BUILDING CONSTRUCTION

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class I	$ 9.93	.95	1.00	a	.07
Class II	7.73	.95	1.00	a	.07
Class II	9.53	.95	1.00	a	.07
Class IV	9.16	.95	1.00	a	.07
Class V	8.41	.95	1.00	a	.07
Class VI	7.94	.95	1.00	a	.07
Class VII	7.18	.95	1.00	a	.07

CLASSIFICATIONS

Class I: Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Backhoes, Gradalls, Elevating Graders, Piledriving Rigs, Concrete Road Pavers, three drum hoisting and Trenching Machines, Belt-type Loaders, Front End Loader-5½ yads. or over, Dual Drum Paver, Automatic Grader (i.e. C.M.I.) Combination Back Hoe-loader-3/4 yd. hoe or over

Class II: Rotary Drill (with mounted compressor), Compressor house (3 to 6 compressors), Rock and Earth Boring Mahines (excluding McCarthy and similar drills), Grades, Front End Loaders - 4 yds. to 5½ yds., two drum hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers - 21 yds. and over (struck load), Sonic Hammer Console

Class III: Combination Backhoe - Loader - up to 3/4 hoe, Bulldozers, Push Cats, Scraper - up to 21 yds. (struck load) - Self-propelled or tractor drawn, Tireman, Front End Loaders - up to 4 yds., Asphalt Paver, Asphalt Roller - 10 ton or over, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete Pumps and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant, Well Point, Electric pumps used in Well point system, Pumps - 12 inches and over (total discharge), Compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators (manually or remote controls), Grout pumps, Boom Truck, Hydraulic Cranes - under 10 ton

Class IV: Asphalt Roller - under 10 ton

DECISION NO. MA78-2083

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Cont'd)
BUILDING CONSTRUCTION

Class V: Single Drum Hoist, Self-propelled Roller, Self-propelled Compressors Power Pavement Breakers, Concrete Pavement Finishing Machines, Two bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-propelled Material Spreaders, A-Frame Trucks, Fork Lifts up to 15 feet

Class VI: Compressors (one or two 315 cu. ft. to 900 cu. ft., Pumps - 4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers, Rubber-tired Roller, Compactors or other Machines used for pulverizing, Grading or Seeding

Class VII: Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on grease Truck, and Grease Trucks with hand greasing equipment

PAID HOLIDAYS:
A-New Year Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE
a. Holidays: A through F, Veterans' Day and Columbus Day.

DECISION NO. MA78-2083

HEAVY AND HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	9.93	.95	1.00	a	.07
CLASS II	9.73	.95	1.00	a	.07
CLASS III	9.53	.95	1.00	a	.07
CLASS IV	9.16	.95	1.00	a	.07
CLASS V	8.41	.95	1.00	a	.07
CLASS VI	7.94	.95	1.00	a	.07
CLASS VII	7.18	.95	1.00	a	.07
CLASS VIII	10.43	.95	1.00	a	.07

CLASSIFICATIONS

CLASS I Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processin Plant (Engineer in charge), Dragline, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader-5½ yards and over Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Paver, Automatic Graders-Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine

CLASS II Rotary Drill (with mounted Compressor), Compressor House 3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5½ yards, Scraper-21 yards and over (struck Load), Forklifts-7 ft. lift and over or 3 ton capacity and over, Sonic Hammer Console

DECISION NO. MA78-2083

CLASSIFICATIONS CONT'D

CLASS III Bulldozer, Push Cats, Scrapers-up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders-up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well point Operators, Electric Pumps used in well Point system, Firemen, Pumps-16 inches or over total discharge, Compressors (1 or 2) cu. ft. and over Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck Self-Propelled Hydraulic Cranes up to 10 ton

CLASS IV Asphalt Roller-up to 10 ton

CLASS V Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant

CLASS VI Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheeps-foot toller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil

CLASS VII Compressor (up to 315 cu. ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines, A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat

FOOTNOTES:
a. Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veteran's Day; Thanksgiving Day and Christmas Day

DECISION NO. MA78-2083

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	8.215	.75	.80	a+b	
CLASS II	8.365	.75	.80	a+b	
CLASS III	8.415	.75	.80	a+b	
CLASS IV	8.515	.75	.80	a+b	
CLASS V	8.615	.75	.80	a+b	
CLASS VI	8.865	.75	.80	a+b	
CLASS VII	9.115	.75	.80	a+b	

CLASS I - Station wagons, Panel trucks and pickup truck

CLASS II - Two axle equipment: Helpers on low bed when assigned at the discretion of the employer, warehousemen, Forklift operators

CLASS III - Three axle equipment and Firemen

CLASS IV - Four and five axle equipment

CLASS V - Specialized earth moving equipment under 35 tons other than convential type trucks, Low bed, Vachual, Mechanics, Paving restorntion equipment, Mechanics

CLASS VI - Specialized earth moving equipment over 35 tons

CLASS VII - Trailers for earth moving equipment (double hookup)

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Hampden
DECISION NO.: MA78-2084 DATE: Date of Publication
Supersedes Decision No. MA78-3027 dated April 28, 1978 in 43 FR 18458.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.65	.94	1.25		.01
BOILERMAKERS	11.80	1.05	10%		.02
BRICKLAYERS:					
Cement masons, Marble masons, Plasterers, Stone masons, Terrazzo workers, and Tile setters	10.05	.70	.95		.06
CARPENTERS & SOFT FLOOR LAYERS:					
Holyoke	10.10	.45	1.00		.02
Remainder of County	10.00	.60	.65		.02
ELECTRICIANS:					
Chester, Holyoke & that portion of Chicopee Township north of the following line: Mckinstry Avenue from the Connecticut River to Gratten Street, South on Gratten to Lafayette Street, east on Lafayette to York Street, North on York to Mckinstry, east on McKinstry to Grady Road & projects to the Westover Air Force fence & that arear north of Westover field:					
Contracts 75,000 & over	10.76	.85	3%+.40		.02
Contracts under $75,000	8.60	.85	3%+.40		.02
Shaft & tunnel work	11.26	.85	3%+.40		.02
Remainder of County	10.88	.75	3%+.30		.03
ELEVATOR CONSTRUCTORS	10.45	.745	.29	a+b	.02
ELEVATOR CONSTRUCTORS' Helpers	70%JR	.745	.29	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	9.45	.47	.45		
IRONWORKERS:					
Ornamental, Reinforcing and Structural	10.50	1.10	1.85		.09
LABORERS (Building)					
Laborers, Wrecking, laborers and carpenter tenders	8.25	.60	.75		.10
Asphalt rakers, Carbide Core Driller Ops., Saw Ops., Pipelayers, Jackhammer & Paving Breaker Op., Barco-type jumping tampers, Laser Beams op., concrete pump ops., &					

DECISION NO. MA78-2084

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Cont'd)					
Asphalt rakers, carbide core driller operators, Saw Operators, Pipelayers, Jackhammer and Paving breaker operator, Barcotype jumping tampers, Laser beams operators and Wagon drill operators, Mason Tenders, Mortar mixers and ride-on motorized buggy operators and plasterers tenders	8.50	.60	.75		.10
Air track operator, Block pavers, Rammers and Curb setters	8.75	.60	.75		.10
Blasterers and Powdermen	9.00	.60	.75		.10
Open air caisson, Cylinderical work and boring crew:					
Bottom Man	9.00	.60	.75		.10
Top Man	8.25	.60	.75		.10
Testing Boring:					
Driller	9.12	.60	.75		.10
Helper	8.37	.60	.75		.10
LATHERS:	9.40	.45	.25		.01
Drywall	8.30	.45	.25		.01
LEADBURNERS	9.25	.35		c	.01
LINE CONSTRUCTION:					
Linemen	10.92	.40	1%	d	3/8 of 1%
Groundmen, Driver	7.87	.40	1%	d	3/8 of 1%
Equipment Operator	10.19	.40	1%	d	3/8 of 1%
MARBLE, MOSAIC & TERRAZZO WORKERS' HELPERS	8.95				
MILLWRIGHTS	10.90	.90	1.00		.10
PAINTERS:					
Brush and Tapers	9.17	.88	.55		.05
Spray-epoxys & interior dry fogs & materials thinned with anything other than water &/or mineral spirits	12.2267	1.1733	.7333		.0667
Spray-materials thinned with water &/or mineral spirits, excluding epoxys & interior dry fogs	12.7567	1.1733	.7333		.0667
Swing Stage under 40' Steel	9.357	.88	.55		.05
Swing Stage over 40' Steel	9.67	.88	.55		.05
PILEDRIVERMEN	10.90	.85	1.00		
PLUMBERS	10.30	1.01	1.10	e	.10
ROOFERS: Composition, damp and waterproofing	9.215	1.00	2.03		
Slate, Tile, Prescast Concrete	9.87	1.00	2.03		
SHEET METAL WORKERS	10.10	1.09	1.46		.06
SPRINKLER FITTERS	11.75	.75	1.05		.08
STEAMFITTERS	10.68	.57	1.45	.08	.03

DECISION NO. MA78-2084

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Holidays: A through F, and the day after Thanksgiving

c. Holidays: A through F, Washington's Birthday, Good Friday & Christmas Eve provided the employee has worked 45 full days during the 120 calendar days prior to thr holiday and the regular scheduled work days immediately preceding and following the holiday.

d. Holidays: A through F, provided the employee hwe been employed for at least 5 days prior to the holiday and is available for work the day before and after the holiday, plus on floating holiday, Washington's Birthday and Patriots Day.

e. Holidays: Independence Day & Labor Day provided the employee has been employed 7 days prior to the holiday for the same employer.

DECISION NO. MA78-2084

HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	$ 8.25	.60	.75		.10
CLASS II	8.50	.60	.75		.10
CLASS III	8.75	.60	.75		.10
CLASS IV	9.00	.60	.75		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op.

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

DECISION NO. MA78-2084

BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	$ 9.93	.95	.25+.75	a	.07
CLASS II	9.73	.95	.25+.75	a	.07
CLASS III	9.53	.95	.25+.75	a	.07
CLASS IV	9.16	.95	.25+.75	a	.07
CLASS V	8.41	.95	.25+.75	a	.07
CLASS VI	7.94	.95	.25+.75	a	.07
CLASS VII	7.18	.95	.25+.75	a	

CLASSIFICATIONS

CLASS I Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricke, Elevators with Chicago Boom, Backhoes, Gradalls, Elevating Graders, Pile Driving Rigs, Concrete Road Pavers, three drum Hoisting and Trenching Machines, Belt-type Loaders, Front End Loader-5¼ yards or over, Dual Drum Paver, Automatic Grader (i.e. C.M.I.) Combination Back Hoe Loader-3/4 yard hoe or over

CLASS II Rotary Drill (with mounted compressor), compressor house (3 to 6 compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Graders Front End Loaders-4 yards to 5¼ yards, two Drum Hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers-21 yards and over (struck load), Sonic Hammer Console

CLASS III Combination Backhoe-Loader-up to 3/4 hoe, Bulldozers, Push Cats, Scraper-up to 21 yards (struck load)-self propelled or tractor drawn, Tireman, Front End Loaders-up to 4 yards, Asphalt Pave, Asphalt Roller-lo ton or over, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete pumps and similar type pumps, Engineer or Fireman on High Pressure Boiler (on site), Self-Loading Batch Plant, Well Point, Electric Pumps used in Well Point System, Pumps-12 inches and over (total discharge), compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators, (manually or remote controls), Grout Pumps, Boom Truck, Hydraulic Cranes-under 10ton

CLASS IV Asphalt Roller-under 10 ton

DECISION NO. MA78-2084

CLASSIFICATIONS CONT'D

CLASS V Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors Power Pavement Breakers, Concrete Pavement FInishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-Propelled Material Spreaders, A Frame Trucks, Fork Lifts up to 15 feet

CLASS VI Compressors (one or two) 315 cu. ft. to 900 cu. ft.. Pumps-4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers Rubber, Tire Roller, Compactors or other machines used for pulverizing, Grading or Seeding

CLASS VII Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on Grease Truck, and Grease Trucks with hand greesing equipment

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Holidays: A through F, Veterans' Day and Columbus Day

DECISION NO. MA78-2084

HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	9.93	.95	1.00	a	.07
CLASS II	9.73	.95	1.00	a	.07
CLASS III	9.53	.95	1.00	a	.07
CLASS IV	9.16	.95	1.00	a	.07
CLASS V	8.41	.95	1.00	a	.07
CLASS VI	7.94	.95	1.00	a	.07
CLASS VII	7.18	.95	1.00	a	.07
CLASS VIII	10.43	.95	1.00	a	

CLASSIFICATIONS

CLASS I Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processin Plant (Engineer in charge), Dragline, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader-5½ yards and over Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Paver, Automatic Graders-Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine

CLASS II Rotary Drill (with mounted Compressor), Compressor House 3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5¼ yards, Scraper-21 yards and over (struck Load), Forklifts-7 ft. lift and over or 3 ton capacity and over, Sonic Hammer Console

DECISION NO. MA78-2084

CLASSIFICATIONS CONT'D

CLASS III Bulldozer, Push Cats, Scrapers-up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders-up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well point Operators, Electric Pumps used in well Point system, Tiremen, Pumps-16 inches or over total discharge, Compressors (1 or 2) cu. ft. and over Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck Self-Propelled Hydraulic Cranes up to 10 ton

CLASS IV Asphalt Roller-up to 10 ton

CLASS V Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant

CLASS VI Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheeps-foot roller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil

CLASS VII Compressor (up to 315 cu. ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines, A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat

FOOTNOTES:
a. Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veteran's Day; Thanksgiving Day and Christmas Day

DECISION NO. MA78-2084

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
CLASS I	8.215	.75	.80	a+b	
CLASS II	8.365	.75	.80	a+b	
CLASS III	8.415	.75	.80	a+b	
CLASS IV	8.515	.75	.80	a+b	
CLASS V	8.615	.75	.80	a+b	
CLASS VI	8.865	.75	.80	a+b	
CLASS VII	9.115	.75	.80	a+b	

CLASS I - Station wagons, Panel trucks and pickup truck

CLASS II - Two axle equipment; Helpers on low bed when assigned at the discretion of the employer, warehousemen, Forklift operators

CLASS III - Three axle equipment and Tiremen

CLASS IV - Four and five axle equipment

CLASS V - Specialized earth moving equipment under 35 tons other than convential type trucks, Low bed, Vachual, Mechanics, Paving restoration equipment, Mechanics

CLASS VI - Specialized earth moving equipment over 35 tons

CLASS VII - Trailers for earth moving equipment (double hookup)

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Hampshire
DECISION NUMBER: MA78-2085 DATE: Date of Publication
Supersedes Decision No. MA78-3028 dated March 28, 1978, in 43 FR 18462
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction

BUILDING, HEAVY and HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.65	.94	$ 1.25		.01
BOILERMAKERS	11.80	1.05	10%		.02
BRICKLAYERS, PLASTERERS, CEMENT MASON, STONE MASONS, MARBLE TILE and TERRAZZO WORKERS, CAULKER, CLEANER, POINTERS	10.05	.70	.95		.06
CARPENTERS:					
Amherst, Belchertown, Granby, South Hadley, and Pleham	10.10	.45	1.00		.02
Remainder of County	10.00	.60	1.00		.02
ELECTRICIANS:					
Bechertown, Ware	10.88	.70	3%+.30		.03
Middlefield, Cummington and Plainfield	10.59	.55	3%+.94		.02
Remainder of County:					
Electrical contracts under $75,000.00	8.60	.85	3%+.40		.02
Electrical contracts $75,000.00 and over	10.76	.85	3%+.40		.02
Shaft and Tunnel Work	11.26	.85	3%+.40		.02
ELEVATOR CONSTRUCTORS	10.45	.745	.29	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.29	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	9.45	.47	.45		
IRONWORKERS:					
Structural, Ornamental and Reinforcing	10.50	1.10	1.85		.09
LABORERS: (BUILDING					
Laborers, Wrecking laborers, Carpenter and Cement finishers tenders	8.25	.60	.75		.10
Asphalt rakers, Carbide core driller operators, Chain saw operators, Pipelayers, Jackhammer and Paving breaker operator, Barco-type jumping tampers, Laser beam operators, Concrete pumps operators and Wagon drill operators, Mason tenders, Mortar mixers and Ride-on motorized buggy operators and plasterer tenders	8.50	.60	.75		.10

DECISION NO. MA78-2085

LABORERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air track operators, Block pavers, Rammers and Curb setters	$ 8.75	.60	.75		.10
Powdermen and Blasters	9.00	.60	.75		.10
Open air caisson, Underpinning work and boring crew: (ENTIRE COUNTY)					
Bottom Man	9.00	.60	.75		.10
Top Man	8.25	.60	.75		.10
Test Boring:					
Driller	9.12	.60	.75		.10
Helper	8.37	.60	.75		.10
LATHERS:	9.40	.45	.25		.01
Drywall	8.30	.45	.25		.01
LINE CONSTRUCTION:					
Linemen	10.92	.70	3%	c	
Equipment Operator	10.19	.70	3%	c	
Driver Groundman	7.87	.70	.3%	c	
MARBLE & TILE SRTTERS HELPERS AND TERRAZZO WORKERS' HELPERS	8.95				
MILLWRIGHTS	10.90	.90	1.00		.10
PAINTERS:					
Brush and Tapers	9.17	.88	.55		.05
Spray-epoxys & interior dry fogs & materials thinned with anything water &/or mineral spirits	12.2267	1.1733	.7333		.0667
Spray-materials thinned with water &/or mineral spirits, excluding epoxys & interior dry fogs	12.7567	1.1733	.7333		.0667
Swing Stage under 40' Steel	9.357	.88	.55		.05
Swing Stage over 40' Steel	9.67	.88	.55		.05
Sign Painters	8.80	.84	.35	.32	.04
PILEDRIVERMEN	10.90	.84	1.00		
PLUMBERS and STEAMFITTERS:					
Belchertown, Granby, Huntington, Middlefield, South Hadley, Ware:					
Plumbers	10.30	1.01	1.10	d	.10
Steamfitters	10.68	.56	1.45	e	.03
Remainder of County:					
Plumbers and Steamfitters	10.45	.85	.85		.02
ROOFERS:					
Composition, damp, waterproof	9.215	1.00	2.03		
Slate, tile, precast concrete	9.87	1.00	2.03		
SHEET METAL WORKERS	10.10	1.09	1.46		.05
SPRINKLER FITTERS	11.75	.75	1.05		.08

DECISION NO. MA78-2085

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; D-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F.

c. Holidays: A through F, Washington's Birthday and Patriots Day providing employee has been employed for a period of five (5) working days prior to the holiday and the regular scehduled working day preceding and following the holiday.

d. July 4th and Labor Day provided worker employed 7 days before holiday

e. July 4th and Labor Day - $.08 per hour employer contribution to make two paid holidays.

WELDERS - receive rate prescribed for craft performing operation to which welding is incidential.

DECISION NO. MA78-2085

HEAVY and HIGHWAY CONSTRUCTION LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class I	$ 8.25	.60	.75		.10
Class II	8.50	.60	.75		.10
Class III	8.75	.60	.75		.10
Class IV	9.00	.60	.75		.10

CLASSIFICATIONS

Class I: Carpenter tenders, Cement finisher tenders, Laborers, Wrecking Laborers

Class II: Asphalt rakers, Fence and guard rail erectors, Laser beam Operator; Mason tender, Pipelayer, Pneumatic drill operator, Pneumatic tool operator, Wagon drill operator

Class III: Air track operator, Block pavers, Rammers, Curb setters

Class IV: Blasters, powdermen

DECISION NO. MA78-2085

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class I	$ 9.93	.95	1.00	a	.07
Class II	7.73	.95	1.00	a	.07
Class II	9.53	.95	1.00	a	.07
Class IV	9.16	.95	1.00	a	.07
Class V	8.41	.95	1.00	a	.07
Class VI	7.94	.95	1.00	a	.07
Class VII	7.18	.95	1.00	a	.07

CLASSIFICATIONS

Class I: Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Backhoes, Gradalls, Elevating Graders, Piledriving Rigs, Concrete Road Pavers, three drum hoisting and Trenching Machines, Belt-type Loaders, Front End Loader-5½ yads. or over, Dual Drum Paver, Automatic Grader (i.e. C.M.I.) Combination Back Hoe-loader-3/4 yd. hoe or over

Class II: Rotary Drill (with mounted compressor), Compressor house (3 to 6 compressore), Rock and Earth Boring Mahines (excluding McCarthy and similar drills), Grades, Front End Loaders - 4 yds. to 5½ yds., two drum hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers - 21 yds. and over (struck load), Sonic Hammer Console

Class III: Combination Backhoe - Loader - up to 3/4 hoe, Bulldozers, Push Cats, Scraper - up to 21 yds. (struck load) - Self-propelled or tractor drawn, Fireman, Front End Loaders - up to 4 yds., Asphalt Paver, Asphalt Roller - 10 ton or over, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete Pumps and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant, Well Point, Electric pumps used in Well point system, Pumps - 12 inches and over (total discharge), Compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators (manually or remote controls), Grout pumps, Boom Truck, Hydraulic Cranes - under 10 ton

Class IV: Asphalt Roller - under 10 ton

DECISION NO. MA78-2085

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Cont'd)
BUILDING CONSTRUCTION

Class V: Single Drum Hoist, Self-propelled Roller, Self-propelled Compressors Power Pavement Breakers, Concrete Pavement Finishing Machines, Two bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-propelled Material Spreaders, A-Frame Trucks, Fork Lifts up to 15 feet

Class VI: Compressors (one or two 315 cu. ft. to 900 cu. ft., Pumps - 4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers, Rubber-tired Roller, Compactors or other Machines used for pulverizing, Grading or Seeding

Class VII: Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on grease Truck, and Grease Trucks with hand greasing equipment

PAID HOLIDAYS:
A-New Year Year's Day; B-Mmeorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE
a. Holidays: A through F, Veterans' Day and Columbus Day.

DECISION NO. MA78-2085

HEAVY AND HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	9.93	.95	1.00	a	.07
CLASS II	9.73	.95	1.00	a	.07
CLASS III	9.53	.95	1.00	a	.07
CLASS IV	9.16	.95	1.00	a	.07
CLASS V	8.41	.95	1.00	a	.07
CLASS VI	7.94	.95	1.00	a	.07
CLASS VII	7.18	.95	1.00	a	.07
CLASS VIII	10.43	.95	1.00	a	.07

CLASSIFICATIONS

CLASS I Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processin Plant (Engineer in charge), Draglinc, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader-5½ yards and over Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Paver, Automatic Graders-Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine

CLASS II Rotary Drill (with mounted Compressor), Compressor House 3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5½ yards, Scraper-21 yards and over (struck Load), Forklifts-7 ft. lift and over or 3 ton capacity and over, Sonic Hammer Console

DECISION NO. MA78-2085

CLASSIFICATIONS CONT'D

CLASS III Bulldozer, Push Cats, Scrapers-up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders-up to 4 yards, Mechanics, Welders, Well Driller, Pumperete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well point Operators, Electric Pumps used in well Point system, Firemen, Pumps-16 inches or over total discharge, Compressors (1 or 2) cu. ft. and over Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck Self-Propelled Hydraulic Cranes up to 10 ton

CLASS IV Asphalt Roller-up to 10 ton

CLASS V Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant

CLASS VI Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheeps-foot roller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil

CLASS VII Compressor (up to 315 cu. ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines, A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat

FOOTNOTES:

a. Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veteran's Day; Thanksgiving Day and Christmas Day

DECISION NO. MA78-2085

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
CLASS I	8.215	.75	.80	a+b	
CLASS II	8.365	.75	.80	a+b	
CLASS III	8.415	.75	.80	a+b	
CLASS IV	8.515	.75	.80	a+b	
CLASS V	8.615	.75	.80	a+b	
CLASS VI	8.865	.75	.80	a+b	
CLASS VII	9.115	.75	.80	a+b	

CLASS I - Station wagons, Panel trucks and pickup truck

CLASS II - Two axle equipment; Helpers on low bed when assigned at the discretion of the employer, warehousemen, Forklift operators

CLASS III - Three axle equipment and Tiremen

CLASS IV - Four and five axle equipment

CLASS V - Specialized earth moving equipment under 35 tons other than convential type trucks, Low bed, Vachual, Mechanics, Paving restoration equipment, Mechanics

CLASS VI - Specialized earth moving equipment over 35 tons

CLASS VII - Trailers for earth moving equipment (double hookup)

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Middlesex
DECISION NUMBER: MA78-2086 DATE: Date of Publication
Supersedes Decision No. MA78-2039 dated April 21, 1978, in 43 FR 17185.
DESCRIPTION OF WORK: Building Construction (including Residential), Heavy and Highway Construction and Marine Construction.

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 12.11	1.10	1.00		.01
BOILERMAKERS	11.80	1.05	10%		.02
BRICKLAYERS, STONEMASONS:					
Ashland, Framingham, Holliston, Hopkington, Hudson, Sherborn, and Stow	10.60	1.20	1.00		.09
Residential	8.48	1.20	1.00		.09
Veneer Plasterers	8.70	1.20	1.00		.08
Reading, North Reading and Wakefield	10.85	.70	1.25		.09
Residential	8.68	.70	1.25		.09
Acton, Ashby, Ayer, Bedford, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Ft. Devens, Groton, Littleton, Lowell, North Acton, Pepperell Shriley, South Acton, Tewksbury, Townsend, Tyngeboro, West Acton, Westford and Willmington	11.20	.90	.70		.09
Residential	8.96	.90	.70		.09
Veneer Plasterers	9.30	.90	.70		.06
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use: Acton, Ashby, Ayer, Bedford, Billerica, Boxboro, Carlisle Chelmsford, Dracut, Dunstable, F.t Devens, Groton, Littleton, Lowell, North Acton, Pepperell, Shirley, South Acton, Tewksbury, Townsend, Tyngsboro, West Acton, Westford and Willmington	8.71	.90	.70		.06
Newton	10.80	.60	1.40		.12
Veneer Plasterers	8.60	.60	1.40		.12
Belmont, Burlington, Concord, Lexington, Lincoln, Stoneham, Sudbury, Waltham, Wayland, Weston, Winchester and Woburn	11.05	.75	1.00		.09

DECISION NO. MA78-2086

BRICKLAYERS & STONEMASONS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Residential	8.84	.75	1.00		.09
Veneer Plasterers	9.15	.75	1.00		.06
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use: Bricklayers: Belmont, Burlington, Concord, Lexington, Lincoln, Stoneham, Sudbury, Waltham, Wayland, Weston, Winchester and Woburn	8.76	.75	1.00		.06
Arlington, Cambridge, Everett, Malden, Melford, Melrose and Somerville	10.55	.85	1.40		.12
Veneer Plasterers	8.65	.85	1.40		.11
Residential Construction	8.44	.85	1.40		.12
CARPENTERS & SOFT FLOOR LAYERS:					
Remeinder of County	10.75	.90	1.00		.07
Ashby, Ayer, & entire boundaries of Ft. Devens which are the towns of Lunenburg, Shirley, Lancaster, & Howard; Groton, Pepperell, Shirley Center; entire boundaries of Shirley Industrial School, Townsend, W Groton, & W. Townsend	11.00	.65	1.00		.07
All work, inlcuding demolition repair and alteration of any existing structure which is intended from predominatly residential use: Cerpenters: Bedford, Concord, Dover, Lincoln, Natick, Newton, Sudbury, Waltham, Watertown, Wayland, Weston	8.76	.50	1.00		.07
Acton, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell. Tewksbury, Tynsboro, Westford	8.50	.60	1.00		.07

DECISION NO. MA78-2086

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:					
Bedford, Burlington, Lowell, Billerica, Tyngsboro, Westford, Tewksbury, Acton, Littleton, Dracut, Wilmington, Dunstable, Chelmsford and Carlisle	9.80	.90	.70		.02
Arlington, Cambridge, Everett, Malden, Medford, Melrose, Somerville, Stoneham, Wakefield Winchester and Woburn	10.65	1.15	.60		.10
Reading and North Reading	9.69	.70	.75		
Ashby, Ayer, Boxboro, Groton, North Acton, Pepperell, Shirley, South Acton, Townsend and West Acton	9.45	.65	.70		.05
Ashland, Framingham, Holliston, Hopkington, Hudson, Marlboro, Maynard, Natick, Sherborne, and Stow	8.95	1.00	.70		.05
Newton	9.15	.60	.90		.05
Belmont, Concord, Lexington, Sudbury, Waltham, Watertown, Wayland and Weston	9.40	.75	.50		.05
ELECTRICIANS:					
Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford and Willmington	10.95	.85	3%+.30		.02
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Electricians:					
Bedford, Billerica, Boxboro, Burlingotn, carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell Tewksbury, Tyngsboro, Westford and Wilmington	8.84	.70	3%+.70		.02
Ashby, Ayer, Ft. Devens, Groton, Pepperell, Shirley and Townsend:					
Commercial	10.80	.75	3%+.70		.02
Residential	6.40	.45	3%+.35		.02

DECISION NO. MA78-2086

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricians (CONT'D)					
Ashland, Hopkinton, Hudson, Marlboro and Stow	10.97	8%	5%+.30		.01
North Reading	10.02	.35	3%+1.55		.05
Remainder of County	11.98	.75	3%+1.55		.07
ELEVATOR CONSTRUCTORS	11.50	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.40	.57	.65		.03
IRONWORKERS	11.24	1.00	1.50		.06
LABORERS (Building):					
Laborers, Carpenters' tenders; Wrecking laborers	8.25	.60	.75		.10
Jackhammer operator; Pavement breaker; Asphalt rakers; Carbide core drilling machine; Chain saw Operators; Pipelayers; Barco-type jumping tampers; Laser beam operators; Concrete pump operators; Mason tenders; Mortar mixers, ride-on motorized buggy; Fence and beam rail erectors	8.50	.60	.75		.10
Air track operators; Block pavers; Rammers; Curb setters	8.75	.60	.75		.10
Blasterers; Powdermen	9.00	.60	.75		.10
Open air caisson; Cylindrical work and boring crew:					
Laborer and top man	8.25	.60	.75		.10
Helper	8.37	.60	.75		.10
Driller	9.12	.60	.75		.10
All work, inlcuding demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Laborers	6.88	.60	.75		.10
LATHERS:					
Hudson and Marlboro	9.97	1.65	.25		.01
Remainder of County	10.45	1.00	.55		.03
LEADBURNERS	9.25	.35		c	.01

PAGE 5

DECISION NO. MA78- 2086

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen	12.00	.70	3%+.50	d	3/8 of 1%
Equipment Operator	11.28	.70	3%+.50	d	3/8 of 1%
Driver Groundman	9.03	.70	3%+.50	d	3/8 of 1%
Groundman	7.68	.70	3%+.50	d	3/8 of 1%
MARBLE SETTER & TERRAZZO WORKERS	10.30	.85	1.10		
MILLWRIGHTS	10.90	.90	1.00		.10
PAINTERS:					
Arlington, Belmont, Cambridge, Malden, Medford, Melrose, Somerville, Stoneham, Wakefield, Winchester, woburn, Reading, North Reading:					
New Construction:					
Brush, Taper	10.46	.82	1.20		.04
Sandblasting, Spray	11.46	.82	1.20		.04
Steel	12.58	.82	1.20		.04
Repaint, alterations, residential					
Brush	8.91	.82	1.20		.04
Sandblasting, Spray	9.91	.82	1.20		.04
Steel	12.58	.82	1.20		.04
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
North Reading (ONLY)	8.30	1.05	.72		.04
Ashby, Ayer, Groton, Pepperell, Shirley and Townsend					
Brush	10.46	.82	1.20		.04
Sandblasting, Spray	11.46	.82	1.20		.04
Steel	12.58	.82	1.20		.04
Repaint	8.91	.82	1.20		.04
Bedford, Billerica, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford and Wilmington:					
Brush, taping, paperhangers	10.10	1.18	.80		.04
Steel	11.10	1.18	.80		.04
Repaint	8.59	1.10	.80		.04
Residential 1 & 2 family houses	5.00	1.18	.80		.04

PAGE 6

DECISION NO. MA78-2086

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Remainder of County:					
Brush, New; Paperhanger;					
Taper	9.00	.85	.70		.06
Repaint	8.45	.85	.70		.06
Sign Painting	8.80	.84	.35	.32	.04
All work, inlcuding demolition, repair and alteration of any existing structure which is intended for predominantly residential use	8.50	.65	.55		.06
PILEDRIVERMEN	10.90	.85	1.00		
PLASTERERS:					
Arlington, Cambridge, Everett, Malden, Medford, Somerville, Stoneham, Wakefield, Winchester and Woburn	10.50	.45	1.30		.02
Veneer Plasterers	10.15	.45	.30		
Ashland, Framingham, Holliston, Hopkington, Hudson, Marlboro, Maynard, Natick, Sherborn, and Stow	8.95	1.00	.70		.05
Acton, Ashby, Ayer, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Groton, Littleton, North Acton, Pepperell, Shirley, South Acton, Tewksbury, Townsend, and West Acton	9.45	.60	.60		.05
Newton	9.15	.60	.90		.05
Belmont, Concord, Lexington, Lincoln, Sudbury, Waltham, Watertown, Wayland and Weston	9.40	.75	.50		.05
Bedford, Burlington, Lowell, Tyngsboro and Westford	8.60	.55			

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS: (Cont'd)					
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Bedford, Burlington, Lowell, Tyngsboro and Westford	$ 7.31	.55			
North Reading and Reading	8.05	.385	.30		
PLASTERERS' TENDERS	7.75	.60	.70		.10
PLUMBERS:					
Acton, Ayer (except portion lying west of the Greenville Branch of the Boston and Main RR), Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Graniteville, Hudson, Littleton, Lowell, Pepperell, Tewksbury, Tyngsboro, Westboro and Wilmington	11.52	1.10	.60		.02
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Acton, Ayer (except portion lying west of the Greenville Branch of the Boston and Main RR), Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Graniteville, Hudson, Littleton, Lowell, Pepperell, Tewksbury, Tyngsboro, Westford and Wilmington	8.94	1.10	.60		.02
Ashby, Ayer (portion lying west of the Greenville Branch of the Boston and Main RR), Ft. Devens, Groton, Shirley and Townsend	10.02	.60	.65	.40	.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS: (Cont'd)					
Ashland, Belmont, Concord, Framingham, Holliston, Hopkington, Lexington, Linclon, Marlboro, Maynard, Natick, Sherborn, Stow, Sudbury, Waltham, Wayland and Weston	$ 11.47	$ 1.23	.85		.05
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Ashland, Belmont, Concord, Framington, Holliston, Hopkington, Lexington, Lincoln, Marlboro, Maynard, Natrick, Sherborn, Stow, Sudbury, Waltham, Wayland and Weston	9.54	.98	.85	.05	
Arlington, Cambridge, Everett, Malden, Medford, Melrose, Newton, North Reading, Reading, Somerville, Stoneham, Wakefield, Watertown, Winchester and Woburn	11.95	1.02	1.28		.05
ROOFERS:					
Journeymen roofers	10.20	.70	1.55		.05
Re-roofing and repairs	9.65	.70	1.55		.05
Pitch work	11.20	.70	1.55		.05
SHEET METAL WORKERS	11.38	1.16	1.45		.08
SPRINKLER FITTERS	12.08	.65	.95		.08
STEAMFITTERS:					
Acton, Arlington, Cambridge, Everett, Malden, Medford, Melrose, Newton, North Reading, Reading, Somerville, Stoneham, Wakefield, Watertown, Winchester and Woburn	12.86	.94	1.20		.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
STEAMFITTERS: (Cont'd)					
Ayer (except portion lying west of the Greenville Branch of the Boston and Main RR), Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Graniteville, Hudson, Littleton, Lowell, Pepperell, Tewksbury, Tyngsboro, Westford and Wilmington	$ 10.02	.50		.02	
Ashby, Ayer (portion lying west of the Greenville Branch of the Boston and Main RR), Ft. Devens, Shirley and Townsend	9.20	.30	.40	4%	.05
Remainder of County	9.77	.53	.55		.05
TERRAZZO WORKERS' HELPERS	9.95		.25		.05
TILE SETTERS:					
(except Cities and Towns of Acton, Ashby, Ayer, Boxboro, Dunstable, East Pepperell, Ft. Devens, Groton, Littleton, North Acton, North Pepperell, Pepperell, Shirley, South Acton, Townsend and West Acton	9.80	.85	1.10		
TILE SETTERS:					
(Acton, Ashby, Ayer, Boxboro, Dunstable, East Pepperell, Ft. Devens, Groton, Littleton, North Acton, North Pepperell, Pepperell, Shirley, South Acton, Townsend and West Acton)	9.45	.60	.60		.05
TILE & MARBLE SETTERS' HELPERS	9.33	.85	.50		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F

c. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked at least 45 full days during the 120 calendar days immediately prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

d. Holidays: A through F, and Bunker Hill Day, provided the employee has been employed 5 working days prior to any one of the listed holidays.

e. Employer pays $5.00 per day extra above the brush rate.

HEAVY and HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Class I	$ 8.25	.60	.75		.10
Class II	8.50	.60	.75		.10
Class III	8.75	.60	.75		.10
Class IV	9.00	.60	.75		.10

CLASSIFICATIONS

Class I: Carpenter tenders; Cement finisher tenders; Laborers, wrecking laborers

Class II: Asphalt rakers; Fence and guard rail erectors; Laser beam operator; Mason tender; Pipelayer; Pneumatic drill operaror; Pneumatic tool operator; Wagon drill operator

Class III: Air track operator; Block pavers; Rammers; Curb setters

Class IV: Blasters, powdermen

DECISION NO. MA78-2086 BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	11.75	1.10	1.00	a	.03
CLASS II	11.63	1.10	1.00	a	.03
CLASS III	9.81	1.10	1.00	a	.03
CLASS IV	10.71	1.10	1.00	a	.03
CLASS V	8.68	1.10	1.00	a	.03
CLASS VI	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour

CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paying screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pullsometers, concrete mixers, values controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragn pump, lighting plants

CLASS IV Assistant engineers (firemen)

CLASS V Oilers (other than truck cranes and gradalls)

CLASS VI Oilers on truck cranes and gradalls

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

DECISION NO. MA78-2086 HEAVY & HIGHWAY CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	11.75	1.10	1.00	a	.03
Hourly premium for boom lengths including jib					
Over 150 feet + $ .45					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
GROUP 2	11.63	1.10	1.00	a	.03
GROUP 3	9.81	1.10	1.00	a	.03
GROUP 4	10.71	1.10	1.00	a	.03
GROUP 5	8.68	1.10	1.00	a	.03
GROUP 6	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

GROUP 1 Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders. asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers

GROUP 3 Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generators, lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)

DECISION NO. MA78-2086

CLASSIFICATIONS CONT'D

GROUP 4 Assistant engineers (firemen)

GROUP 5 Oilers (other than truck cranes & gradalls)

GROUP 6 Oilers (on truck cranes & gradalls)

FOOTNOTES:

a. Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

DECISION NO. MA78-2086

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARINE CONSTRUCTION					
POWER EQUIPMENT OPERATORS					
GROUP I	11.75	1.10	1.00	a	.03
GROUP II	12.85	1.10	1.00	a	.03
GROUP III	11.70	1.10	1.00	a	.03
GROUP IV	11.63	1.10	1.00	a	.03
GROUP V	9.81	1.10	1.00	a	.03
GROUP VI	10.71	1.10	1.00	a	.03
GROUP VII	8.68	1.10	1.00	a	.03
GROUP VIII	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

GROUP I - Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers two or more drum machines, lighters, derricks-boats, trenching, mechanics hoists pavement breakers, cement concrete pavers, draglines, hoisting engines, pump-crete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site, paving concrete mixers; Booms over 150' including jib - additional $.45 per hour - Booms over 185' including jib - additional $.80 per hour; Booms over 210' including jib - additional $1.15 per hour; Booms over 250' including jib - additional $1.75 per hour; Booms over 295' including jib additional $2.50 per hour

GROUP II - Master Mechanic

GROUP III - Swinger Engines

GROUP IV - Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bull-dozers, tractors york rakes, mulching machines, rollers, spreaders, tamper self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance, cal tracks, ballast, regulator, switch tampers, rail anchor machines, tire trucks

GROUP V - Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, well point systems, augers - powered by independence engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulsometers, concrete mixers, conveyors

DECISION NO. MA78-2086

CLASSIFICATIONS

GROUP VI - Assistant engineers (firemen)

GROUP VII - Oilers (other than truck cranes and gradalls)

GROUP VIII - Oilers on truck cranes and gradalls

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

A. Holidays: A through F; Washington's Birthday; Patriots' Day; Columbus Day & Veterans' Day

DECISION NO. MA78-2086

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
CLASS I	8.215	.75	.80	a+b	
CLASS II	8.365	.75	.80	a+b	
CLASS III	8.415	.75	.80	a+b	
CLASS IV	8.515	.75	.80	a+b	
CLASS V	8.615	.75	.80	a+b	
CLASS VI	8.865	.75	.80	a+b	
CLASS VII	9.115	.75	.80	a+b	

CLASS I - Station wagons, Panel trucks and pickup truck

CLASS II - Two axle equipment; Helpers on low bed when assigned at the discretion of the employer , warehousemen, Forklift operators

CLASS III - Three axle equipment and Tiremen

CLASS IV - Four and five axle equipment

CLASS V - Specialized earth moving equipment under 35 tons other than convential type trucks, Low bed, Vachual, Mechanics, Paving restoration equipment, Mechanics

CLASS VI - Specialized earth moving equipment over 35 tons

CLASS VII - Trailers for earth moving equipment (double hookup)

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Norfolk
DECISION NO.: MA78-2087 DATE: Date of Publication
Supersedes Decision No. MA78-3030, dated April 14, 1978 in 43 FR 16054.
DESCRIPTION OF WORK: Building Construction, (Including Residential), heavy and highway construction and Marine.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Bellingham, Franklin, Plainville & Wrentham	$10.28	1.00	1.18		
Remainder of County	12.11	1.10	1.00		.01
BOILERMAKERS	11.80	1.05	10%		.02
BRICKLAYERS; CEMENT MASONS:					
PLASTERERS & STONEMASONS:					
Dover, Needham & Wellesley	10.80	.60	1.40		.12
Veneer Plasterers	8.60	.69	1.40		.12
Medfield, Medway & Mills	10.60	1.20	1.00		.09
Avon, Holbrook, Randolph & Stoughton	10.80	.85	1.15		.09
Veneer Plasterers	8.64	.85	1.15		.09
Residential	8.90	.85	1.15		.09
Bellingham, Canton, Dedham, Foxboro, Franklin, Norfolk, Norwood, Plainville, Sharon, Walpole, Westwood & Wrentham	10.60	1.40	.80		.09
Residential	8.48	1.40	.80		.06
Veneer Plasterers	9.00	1.10	.80		.09
Braintree, Cohasset, N. Weymouth, Quincy, S. Weymouth & Weymouth	10.70	1.10	1.00		.09
Residential	8.56	1.10	1.00		.09
Veneer Plasterers	9.00	1.00	.90		.06
BRICKLAYERS & STONE MASONS:					
Brokline & Milton	10.55	.85	1.40		.12
Veneer Plasterers	8.65	.85	1.40		.11
Residential	8.44	.85	1.40		.12
CARPENTERS AND SOFT FLOOR LAYERS:					
Avon, Holbrook, Randolph and Stoughton	10.50	.60	1.00		.04
Remainder of County	10.75	.90	1.00		.07
CEMENT MASONS:					
Brookline & Milton	10.65	1.15	.60		.10
ELECTRICIANS:					
Avon, Holbrook, Randolph & Stoughton					
Electrical contracts under $50,000	9.15	6%	7%	2%	.5%
Electrical contracts $50,000 or over	11.55	6%	7%	2%	.5%
Residential	6.60	6%	7%	2%	.5%
Plainville	9.40	.48	3%+1.40		.02
Residential	5.75	.37	3%		.02

Page 2

DECISION NO. MA78-2087	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D)					
Remainder of County	11.98	.75	3%+1.55		.07
ELEVATOR CONSTRUCTORS	11.50	.745	.56	4%+a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.56	4%+a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS: S. Bellingham	8.88	.52	1.03		.01
Remainder of County	10.40	.57	.64		.03
IRONWORKERS:					
Plainville & Cape Cod	9.43	.70	1.50		.05
Remainder of County	11.24	1.00	1.50		.06
LABORERS (BUILDING):					
Laborers, carpenter tenders, wrecking laborers	8.25	.60	.75		.10
Jackhammer op., pavement breaker, asphalt rakers, carbide core drilling machine, chain saw op.,pipelayer, barco type jumping tamper, laser beam concrete pump, mason tender, mortar mixer, ride-on buggy, fence and beam rail erectors and plasterers' tenders	8.50	.60	.75		.10
Air track, block paver, rammer, curb setter	8.75	.60	.75		.10
Blasters, powdermen	9.00	.60	.75		.10
Open air caisson, cylindrical work & boring crew:					
Laborer, top man	8.25	.60	.75		.10
Helper	8.37	.60	.75		.10
Bottom men	9.00	.60	.75		.10
Driller	9.12	.60	.75		.10
LATHERS	10.45	1.00	.55		.03
LEADBURNERS	9.25	.35		e	.01
LINE CONSTRUCTION:					
Linemen	12.00	.70	3%+.50	d	3/8 of 1%
Equipment Operator	11.28	.70	3%+.50	d	3/8 of 1%
Driver Groundman	9.03	.70	3%+.50	d	3/8 of 1%
Groundman	7.68	.70	3%+.50	d	3/8 of 1%
MARBLE & TILE SETTERS, TERRAZZO WORKERS	10.30	.85	1.10		
MARBLE SETTERS' HELPERS	9.33	.85	.50		
MILLWRIGHTS	10.90	.90	1.00		.10

Page 3

DECISION NO. MA78-2087	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Bellingham:					
Brush	9.05	.55	.90		
Steel & Steam cleaning	9.30	.55	.90		
Spray & Potter	10.15	.55	.90		
Dover, Medfield, Medway, Mills Needham & Wellesley					
Brush, paper hangers, tapers	9.00	.85	.70		.06
Repaint	8.45	.85	.70		.06
Remainder of County:					
New Construction	10.46	.82	1.20		.04
Brush, Taper	12.58	.82	1.20		.04
Steel	11.46	.82	1.20		.04
Spray					
Repaint, Alternations & Residential					
Brush	8.91	.82	1.20		.04
Steel	12.58	.82	1.20		.04
Spray and sandblasting	9.91	.82	1.20		.04
Sign painters	8.80	.84	.35	.32	.04
PILEDRIVERMEN	10.90	.85	1.00		
PLASTERERS:					
Brookline & Milton	10.50	.45	1.30		.02
Veneer Plasterers	10.15	.45	.30		
PLASTERER'S TENDERS	7.75	.60	.70		.10
PLUMBERS & STEAMFITTERS:					
Avon, Holbrook, Randolph & Stoughton	9.50	.45	.70		.05
Dover, Medfield, Medway, Wellesley	11.47	1.23	.85		.05
PLUMBERS & GASFITTERS:					
Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Foxboro, Franklin, Millis, Milton, Needham, Norfolk, N. Wymouth, Norwood,Plainville, Quincy, Sharon, S. Weymouth, Walpole, Westwood, Weymouth & Wrentham	11.95	1.02	1.28		.05
ROOFERS	10.20	.70	1.55		.05
Reroofing and repair	9.65	.70	1.55		.05
Pitch work	11.20	.70	1.55		.05
SHEET METAL WORKERS	11.38	1.16	1.45		.08

Page 4

DECISION NO. MA78-2087	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	12.08	.65	.95		.08
STEAMFITTERS:					
Bellingham, Brookline, Canton, Dedham, Foxboro, Franklin, Medway, Milton, Needham, Norfolk, Norwood, Plainville, Quincy, Sharon, Walpole, Westwood & Wrentham	12.86	.94	1.20		.07
TERRAZZO WORKERS' HELPERS	9.95		.25		.05

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months or 5 years of service as VAcation Pay Credit.

b. Holidays: A through F.

c. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding the following holiday.

d. Holidays: A through F and Buncker Hill Day provided the employee has been employed 10 working days prior to the listed holidays.

e. Employer pays $5.00 per day extra above the brush rate.

Page 5

DECISION NO. MA78- 2087	Basic Hourly Rates	Fringe Benefits Payments			
HEAVY & HIGHWAY CONSTRUCTION		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	8.25	.60	.75		.10
CLASS II	8.50	.60	.75		.10
CLASS III	8.75	.60	.75		.10
CLASS IV	9.00	.60	.75		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

DECISION NO. MA78-2087 BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	11.75	1.10	1.00	a	.03
CLASS II	11.63	1.10	1.00	a	.03
CLASS III	9.81	1.10	1.00	a	.03
CLASS IV	10.71	1.10	1.00	a	.03
CLASS V	8.68	1.10	1.00	a	.03
CLASS VI	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour

CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paving screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pulsometers, concrete mixers, values controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragm pump, lighting plants

CLASS IV Assistant engineers (firemen)

CLASS V Oilers (other than truck cranes and gradalls)

CLASS VI Oilers on truck cranes and gradalls

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

DECISION NO. MA78-2087 HEAVY & HIGHWAY CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	11.75	1.10	1.00	a	.03
Hourly premium for boom lengths including jib					
Over 150 feet + $ .45					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
GROUP 2	11.63	1.10	1.00	a	.03
GROUP 3	9.81	1.10	1.00	a	.03
GROUP 4	10.71	1.10	1.00	a	.03
GROUP 5	8.68	1.10	1.00	a	.03
GROUP 6	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

GROUP 1 Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders. asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers

GROUP 3 Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generator lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)

DECISION NO. MA78-2087

CLASSIFICATIONS CONT'D

GROUP 4 Assistant engineers (firemen)

GROUP 5 Oilers (other than truck cranes & gradalls)

GROUP 6 Oilers (on truck cranes & gradalls)

FOOTNOTES:

a. Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

DECISION NO. MA78-2087 MARINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	11.75	1.10	1.00	a	.03
GROUP II	12.85	1.10	1.00	a	.03
GROUP III	11.70	1.10	1.00	a	.03
GROUP IV	11.63	1.10	1.00	a	.03
GROUP V	9.81	1.10	1.00	a	.03
GROUP VI	10.71	1.10	1.00	a	.03
GROUP VII	8.68	1.10	1.00	a	.03
GROUP VIII	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

GROUP I - Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers two or more drum machines, lighters, derricks boats, trenching, mechanics hoists pavement breakers, cement concrete pavers, draglines, hoisting engines, pumpcrete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site, paving concrete mixers; Booms over 150' including jib - additional $.45 per hour - Booms over 185' including jib - additional $.80 per hour; Booms over 210' including jib - additional $1.15 per hour; Booms over 250' including jib - additional $1.75 per hour; Booms over 295' including jib additional $2.50 per hour

GROUP II - Master Mechanic

GROUP III - Swinger Engines

GROUP IV - Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, tractors york rakes, mulching machines, rollers, spreaders, tamper self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance, cal tracks, ballast, regulator, switch tampers, rail anchor machines, tire trucks

GROUP V - Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam; well point systems, augers - powered by independence engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphone-pulsometers, concrete mixers, conveyors

DECISION NO. MA78- 2087

CLASSIFICATIONS

GROUP VI - Assistant engineers (firemen)

GROUP VII - Oilers (other than truck cranes and gradalls)

GROUP VIII - Oilers on truck cranes and gradalls

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

A. Holidays: A through F; Washington's Birthday; Patriots' Day; Columbus Day & Veterans' Day

DECISION NO. MA78-2087

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
CLASS I	8.215	.75	.80	a+b	
CLASS II	8.365	.75	.80	a+b	
CLASS III	8.415	.75	.80	a+b	
CLASS IV	8.515	.75	.80	a+b	
CLASS V	8.615	.75	.80	a+b	
CLASS VI	8.865	.75	.80	a+b	
CLASS VII	9.115	.75	.80	a+b	

CLASS I - Station wagons, Panel trucks and pickup truck

CLASS II - Two axle equipment; Helpers on low bed when assigned at the discretion of the employer , warehousemen, Forklift operators

CLASS III - Three axle equipment and Tiremen

CLASS IV - Four and five axle equipment

CLASS V - Specialized earth moving equipment under 35 tons other than convential type trucks, Low bed, Vachual, Mechanics, Paving restoration equipment, Mechanic

CLASS VI - Specialized earth moving equipment over 35 tons

CLASS VII - Trailers for earth moving equipment (double hookup)

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Plymouth
DECISION NUMBER: MA78-2088 DATE: Date of Publication
Supersedes Decision No. MA78-3031 dated March 21, 1978, in 43 FR 17194
DESCRIPTION OF WORK: Building Construction (including Residential) heavy and highway construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Lakeville, Mattapoisett, Middleboro, Rochester and Wareham	$10.28	1.00	1.18		
Remainder of County	12.11	1.10	1.00		.01
BOILERMAKERS	11.80	1.05	10%		.02
BRICKLAYERS; CEMENT MASONS and STONEMASONS:					
Abington, Bridgewater, Brockton, Carver, Duxbury, East Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Middleboro, Norwell, Pembroke, Plymouth, Rockland, West Bridgewater and Whitman	10.80	.85	1.15		.09
Residential	8.64	.85	1.15		.09
Veneer Plasterers	8.90	.85	1.15		.09
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use.					
Abington, Bridgewater, Brockton, Carver, Duxbury, East Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Middleboro, Norwell, Pembroke, Plymouth, Rockland, West Bridgewater and Whitman	8.80	.85	1.15		.06
BRICKLAYERS; CEMENT MASONS; PLASTERERS and STONEMASONS:					
Hingham, Hull, Scituate and the Islands of Quincy	10.70	1.10	1.00		.09
Residential	8.62	1.10	1.00		.09
Lakeville	10.60	1.40	.80		.09
Residential	8.48	1.40	.80		.09
Veneer Plasterers	9.00	1.00	.90		.06
Marion, Mattapoisett, Rochester and Wareham	10.60	1.20	1.00		.09
Residential	8.48	1.20	1.00		.09
Veneer Plasterers	9.00	1.20	1.00		.09
CARPENTERS; SOFT FLOOR LAYERS:					
Duxbury, Hanover, Hingham, Hull, Marshfield, Norwell, Pembroke, Rockland and Scituate	10.75	.90	1.00		.07
Remainder of County	10.50	.60	1.00		.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS; SOFT FLOOR LAYERS (Cont'd)					
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use;					
Remainder of County	8.415	.60	1.00		.07
ELECTRICIANS:					
Hingham, Hull	11.98	.75	3%+1.55		.07
Mattapoisett, Rochester and Wareham	10.50	.90	3%+.85		a
Residential	5.70	.40	3%+.50		a
Lakeville and Middleboro	11.50	.75	3%+.50		.1%
Residential	8.25	.75	3%+.50		.1%
Remainder of County:					
Electrical contracts $50,000 or more	11.55	6%	7%	2%	.5%
Electrical contracts under $50,000	9.15	6%	7%	2%	.5%
Residential	9.60	.50	7%	2%	.5%
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use.					
Remainder of County	9.82	6%	7%	2%	.5%
ELEVATOR CONSTRUCTORS	11.50	.745	.56	4%+b+c	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.56	4%+b+c	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS:					
Carver, Lakeville, Middleboro, Marion, Mattapoisett, Rochester and Wareham	8.88	.52	1.03		.01
Remainder of County	10.40	.57	.64		.03
IRONWORKERS:					
Lakeville, Marion, Mattapoisett, Middleboro, Rochester and Wareham	9.43	.70	1.50		.06
Remainder of County	10.84	1.00	1.50		.06

DECISION NO. MA78-2088

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (BUILDING):					
Laborers, Carpenters tenders and wrecking laborers	$ 8.25	.60	.75		.10
Jackhammer operator; Pavement breakers; Asphalt rakers; Carbide cpra drilling machine; Chain saw operators; Pipelayers; Barco type jumping tampers; Laser beam operators, concrete pumps operators; Mason tenders; Mortar mixers, Ride-on motorized buggy operators; Fence and beam erectors	8.50	.60	.75		.10
Air track; Block pavers; Rammers; Curb setters	8.75	.60	.75		.10
Blasters, Powdermen	9.00	.60	.75		.10
Open air caisson, cylindrical work and boring crew:					
Laborers, Top man	8.25	.60	.75		.10
Helper	8.37	.60	.75		.10
Bottom man	9.00	.60	.75		.10
Driller	9.12	.60	.75		.10
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use.					
Laborers	6.59	.60	.75		.10
LATHERS	10.45	1.00	.55		.03
LEADBURNERS	8.75	.30		d	.01
LINE CONSTRUCTION:					
Linemen	12.00	.70	3%+.50	e	3/8of1%
Equipment Operator	11.28	.70	3%+.50	e	3/8of1%
Groundmen	7.68	.70	3%+.50	e	3/8of1%
Driver Groundman	9.03	.70	3%+.50	e	3/8of1%
MARBLE & TILE SETTERS and TERRAZZO WORKERS	10.30	.95	1.10		
MARBLE SETTERS' HELPERS	9.33	.85	.50		
MILLWRIGHTS	10.90	.90	1.00		.10
PAINTERS:					
Marion, Mattapoisett, Rochester and Wareham:					
Brush, rollers	9.25	.70	.65		
Spray	10.60	.70	.65		
Steel	12.50	.70	.65		

DECISION NO. MA78-2088

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (CONT'D)					
Tapers	$ 9.35	.70	.65		
Steel Spray	13.85	.70	.65		
Sandblasting, chipping hammers, power tools on steel	14.00	.70	.65		
Sandblasting, chipping hammer, power brush	10.75	.70	.65		
Paperhangers and vinyl installers	9.75	.70	.65		
Remainder of County:					
Brush, taper (New construction)	10.46	.82	1.20		.04
Steel (New construction)	12.58	.82	1.20		.04
Spray (New construction)	11.46	.82	1.20		.04
Brush (repaint, alterations, residential)	8.91	.82	1.20		.04
Steel (repaint, alterations, residential)	12.58	.82	1.20		.04
Spray (reapint, spray & sandblasting, residential)	9.91	.82	1.20		.04
Sign Painters	8.80	.84	.35	.32	.04
All work, including demolition, repair and alteration of any existing structure which is intented for predominantly residential use.					
Remainder of County	8.55	.84	.35	.32	.10
PILEDRIVERMEN:					
Marion, Mattapoisett, Rochester and Wareham	8.75	.50	.50		.02
Remainder of County	10.90	.85	1.00		
PLASTERERS:					
Norwell	10.50	.45	1.30		.02
Veneer plasterers	10.15	.45	.30		
Abington, Bridgewater, Brockton, Carver, Duxbury, East Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Middleboro, Pembroke, Plymouth, Plympton, Rockland, West Bridgewater and Whitman	8.45	.55	.45		.02
PLASTERERS' TENDERS:					
Abington, Bridgewater, Brockton, Carver, Duxbury, East Bridgewater, Halifax, Hanover,					

DECISION NO. MA78-2088

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS' TENDERS: (CONT'D)					
Hanson, Hingham, Hull, Kingston, Marshfield, Norwell, Pembroke, Plymouth, Plympton, Rockland, Scituate, West Bridgewater and Whitman	$ 7.75	.60	.70		.10
PLUMBERS:					
Marion, Marrapoisett, Rochester and Wareham	10.35	.95	1.27		.20
Residential	8.91	.76	1.16		.15
Abington, Bridgewater, Brockton, Carver, Duxbury, East Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Norwell, Pembroke, Plymouth, Plympton, Rockland, West Bridgewater and Whitman	11.20	.80	.80		.05
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Abington, Bridgewater, Brockton, Carver, Duxbury, East Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Norwell, Pembroke, Plymouth, Plympton Rockland, West Bridgewater and Whitman	9.31	.80	.80		.05
PLUMBERS, GASFITTERS:					
Hingham, Hull and Scituate	10.25	.70	.60		.03
PLUMBERS, STEAMFITTERS:					
Lakeville, Middleboro	10.02	.60	.73		
ROOFERS:					
Abington, Bridgewater, East Bridgewater, Halifax, Hanover, Hanson, Marshfield, Norwell, Pembroke, Plympton, Rockland, Scituate and West Bridgewater	10.20	.70	1.55		.05
Reroofing and repair	9.65	.70	1.55		.05
Pitch work	11.20	.70	1.55		.05
Brockton	8.50				
Carver, Lakeville, Marion, Mattapoisett, Middleboro, Rochester, Wareham and Hingham					
Roofers and Kettlemen	9.20	.60	.20		
Mechainc on shingle work	7.36	.60	.20		

DECISION NO. MA78-2088

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS:					
Marion, Mattapoisett, Rochester and Wareham	$ 9.48	.95	.45		
Remainder of County	11.38	1.16	1.45		.08
SPRINKLER FITTERS	12.08	.65	.95		.08
STEAMFITTERS:					
Marshfield, Hingham, Hull, Scituate	12.86	.94	1.20		.07
TERRAZZO WORKERS' HELPERS	9.95		.25		.05
TILE SETTERS' HELPERS	9.33	.85	.50		.05

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contribution of $1.00 per journeyman electricians per week.
b. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service vacation pay credit.
c. Holidays: A through F.
d. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked at least 45 full days during the 120 calendar days immediately prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.
e. Holidays: A through F, and Bunker Hill Day, provided the employee has been employed 5 working days prior to any one the listed holidays.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY and HIGHWAY CONSTRUCTION					
LABORERS					
Class I	$ 8.25	.60	.75		.10
Class II	8.50	.60	.75		.10
Class III	8.75	.60	.75		.10
Class IV	9.00	.60	.75		.10

CLASSIFICATIONS

Class I: Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

Class II: Asphelt rakers, fence and guard rail erectors, laser beam operator, mason tender, pipelayer, penumatic drill operator, pneumatic tool operator, wagon drill operator

Class III: Air track operator, block pavers, rammers, curb setters

Class IV: Blasters, powdermen

DECISION NO. MA78-2088

BUILDING CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	11.75	1.10	1.00	a	.03
CLASS II	11.63	1.10	1.00	a	.03
CLASS III	9.81	1.10	1.00	a	.03
CLASS IV	10.71	1.10	1.00	a	.03
CLASS V	8.68	1.10	1.00	a	.03
CLASS VI	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills,post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour

CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paying screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pullsometers, concrete mixers, values controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragm pump, lighting plants

CLASS IV Assistant engineers (firemen)

CLASS V Oilers (other than truck cranes and gradalls)

CLASS VI Oilers on truck cranes and gradalls

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

DECISION NO. MA78-2088

HEAVY & HIGHWAY CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	11.75	1.10	1.00	a	.03
Hourly premium for boom lengths including jib					
Over 150 feet + $ .45					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
GROUP 2	11.63	1.10	1.00	a	.03
GROUP 3	9.81	1.10	1.00	a	.03
GROUP 4	10.71	1.10	1.00	a	.03
GROUP 5	8.68	1.10	1.00	a	.03
GROUP 6	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

GROUP 1 Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines,three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders. asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers

GROUP 3 Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generators, lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)

CLASSIFICATIONS CONT'D

GROUP 4 Assistant engineers (firemen)

GROUP 5 Oilers (other than truck cranes & gradalls)

GROUP 6 Oilers (on truck cranes & gradalls)

FOOTNOTES:

a. Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

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DECISION NO. MA78-2088

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
CLASS I	8.215	.75	.80	a+b	
CLASS II	8.365	.75	.80	a+b	
CLASS III	8.415	.75	.80	a+b	
CLASS IV	8.515	.75	.80	a+b	
CLASS V	8.615	.75	.80	a+b	
CLASS VI	8.865	.75	.00	a+b	
CLASS VII	9.115	.75	.80	a+b	

CLASS I - Station wagons, Panel trucks and pickup truck

CLASS II - Two axle equipment; Helpers on low bed when assigned at the discretion of the employer, warehousemen, Forklift operators

CLASS III - Three axle equipment and Firemen

CLASS IV - Four and five axle equipment

CLASS V - Specialized earth moving equipment under 35 tons other than convential type trucks, Low bed, Vachual, Mechanics, Paving restoration equipment, Mechanics

CLASS VI - Specialized earth moving equipment over 35 tons

CLASS VII - Trailers for earth moving equipment (double hookup)

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

DECISION NO. MA78-2088

MARINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP I	11.75	1.10	1.00	a	.03
GROUP II	12.85	1.10	1.00	a	.03
GROUP III	11.70	1.10	1.00	a	.03
GROUP IV	11.63	1.10	1.00	a	.03
GROUP V	9.81	1.10	1.00	a	.03
GROUP VI	10.71	1.10	1.00	a	.03
GROUP VII	8.68	1.10	1.00	a	.03
GROUP VIII	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

GROUP I - Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers two or more drum machines, lighters, derricks boats, trenching, mechanics hoists pavement breakers, cement concrete pavers, draglines, hoisting engines, pumpcrete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site); concrete batching &/or mixing plant (on site), crusher plant, (on site, paving concrete mixers; Booms over 150' including jib - additional $.45 per hour - Booms over 185' including jib - additional $.80 per hour; Booms over 210' including jib - additional $1.15 per hour; Booms over 250' including jib - additional $1.75 per hour; Booms over 295' including jib additional $2.50 per hour

GROUP II - Master Mechanic

GROUP III - Swinger Engines

GROUP IV - Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, tractors york rakes, mulching machines, rollers, spreaders, tamper self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance, cal tracks, ballast, regulator, switch tampers, rail anchor machines, tire trucks

GROUP V - Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, well point systems, augers - powered by independence engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulsometers, concrete mixers, conveyors

DECISION NO. MA78-2088

CLASSIFICATIONS

GROUP VI - Assistant engineers (firemen)

GROUP VII - Oilers and apprentices (other than truck cranes and gradalls)

GROUP VIII - Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F; Washington's Birthday; Patriots' Day; Columbus Day & Veterans' Day

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Suffolk
DECISION NO.: MA78-2089 DATE: Date of Publication
Supersedeas Decision No. MA78-3032, dated April 14, 1978 in 43 FR 16059.
DESCRIPTION OF WORK: Building Construction, (including residential), heavy and highway construction and marine construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 12.11	1.10	1.00		.01
BOILERMAKERS	11.80	1.05	10%		.02
BRICKLAYERS AND STONEMASONS	10.55	.85	1.40		.12
Veneer Plasterers	8.65	.85	1.40		.11
Residential	8.44	.85	1.40		.12
CARPENTERS AND SOFT FLOOR LAYERS	10.75	.90	1.00		.07
CEMENT MASONS	10.65	1.15	.60		.10
ELECTRICIANS	11.98	.75	3%+1.55		.07
ELEVATOR CONSTRUCTORS	11.50	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS' BELPERS (PROB.)	50%JR				
GLAZIERS	10.40	.57	.64		.03
IRONWORKERS:					
Ornamental, reinforcing and structural	11.24	1.00	1.50		.06
LABORERS (BUILDING):					
Laborers, carpent tenders, wrecking laborers	8.25	.60	.75		.10
Jackhammer op., pavment breakers, asphalt rakers, carbide core drilling machine, chain saw op., pipelayer, baro type jumping tampers; laser beam, concrete pump, mason tenders, motorized mixers, ride-on motorized buggy, fence and beam rail erectors	8.50	.60	.75		.10
Air track, block pavers, rammers curb setter	8.75	.60	.75		.10
Blasterers, powdermen	9.00	.60	.75		.10
Open air caisson, cylindrical work & boring crew:					
Laborer; top man	8.25	.60	.75		.10
Helpers	8.37	.60	.75		.10
Bottom men	9.00	.60	.75		.10
Driller	9.12	.60	.75		.10
LATHERS	10.45	1.00	.55		.02
LEADBURNERS	9.25	.35		c	.01

DECISION NO. MA78-2089

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen	12.00	.70	3%+.50	d	3/8 of 1%
Equipment Operators	11.28	.70	3%+.50	d	3/8 of 1%
Driver Groundman	9.03	.70	3%+.50	d	3/8 of 1%
Groundman	7.68	.70	3%+.50	d	3/8 of 1%
MARBLE & TILE SETTERS, TERRAZZO WORKERS	10.30	.85	1.10		
MILLWRIGHTS	10.90	.90	1.00		.10
PAINTERS:					
Brush, New Construction	10.46	.82	1.20		.04
Structural Steel	12.58	.82	1.20		.04
Spray & Sandblasting	11.46	.82	1.20		.04
Repaint, alterations:					
Residential					
Brush	8.91	.82	1.20		.04
Structural Steel	12.58	.82	1.20		.04
Spray & Sandblasting	9.91	.82	1.20		.04
Sign Painting	8.80	.84	.35	.32	.04
PILEDRIVERMEN	10.90	.85	1.00		
PLASTERERS	10.50	.45	1.30		.02
VENEER PLASTERERS	10.15	.45	.30		.02
PLASTERERS' TENDERS	7.75	.60	.70		.10
PLUMBERS	11.95	1.02	1.28		.05
ROOFERS:					
Journeyman mechanic	10.20	.70	1.55		.05
Rsroofing & repair	9.65	.70	1.55		.05
Pitch work	11.20	.70	1.55		.05
SHEET METAL WORKERS	11.38	1.16	1.45		.08
SPRINKLER FITTERS	12.66	.65	.95		.04
STEAMFITTERS	12.86	.94	1.20		.07
TERRAZZO WORKERS' HELPERS	9.95		.25		
TILE & MARBLE SETTERS HELPERS	9.33	.85	.50		

DECISION NO. MA78-2089

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES

a. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Holidays: A through F and the day after Thanksgiving Day.

c. Holidays: A through F, Washington's Birthday, Good Friday & Christmas eve provided employee has worked at least 45 full days during the 120 calendar days immediately prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

d. Holidays: A through F, Bunker Hill Day, provided the employee has been employed 5 working days prior to any one of the listed holidays.

DECISION NO. MA78--2089

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY & HIGHWAY					
LABORERS:					
CLASS I	8.25	.60	.75		.10
CLASS II	8.50	.60	.75		.10
CLASS III	8.77	.60	.75		.10
CLASS IV	9.00	.60	.75		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

DECISION NO. MA78-2089

BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	11.75	1.10	1.00	a	.03
CLASS II	11.63	1.10	1.00	a	.03
CLASS III	9.81	1.10	1.00	a	.03
CLASS IV	10.71	1.10	1.00	a	.03
CLASS V	8.68	1.10	1.00	a	.03
CLASS VI	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills,post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour

CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paying screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pullsometers, concrete mixers, values controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragn pump, lighting plants

CLASS IV Assistant engineers (firemen)

CLASS V Oilers (other than truck cranes and gradalls)

CLASS VI Oilers on truck cranes and gradalls

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

DECISION NO. MA78-2089

HEAVY & HIGHWAY CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	11.75	1.10	1.00	a	.03
Hourly premium for boom lengths including jib					
Over 150 feet + $ .45					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
GROUP 2	11.63	1.10	1.00	a	.03
GROUP 3	9.81	1.10	1.00	a	.03
GROUP 4	10.71	1.10	1.00	a	.03
GROUP 5	8.68	1.10	1.00	a	.03
GROUP 6	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

GROUP 1 Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders. asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers

GROUP 3 Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generators, lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant-air steam, conveyors, wellpoint system (operating and installing)

DECISION NO. MA78-2089

CLASSIFICATIONS CONT'D

GROUP 4 Assistant engineers (firemen)

GROUP 5 Oilers (other than truck cranes & gradalls)

GROUP 6 Oilers (on truck cranes & gradalls)

FOOTNOTES:

a. Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

DECISION NO. MA78-2089

MARINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP I	11.75	1.10	1.00	a	.03
GROUP II	12.85	1.10	1.00	a	.03
GROUP III	11.70	1.10	1.00	a	.03
GROUP IV	11.63	1.10	1.00	a	.03
GROUP V	9.81	1.10	1.00	a	.03
GROUP VI	10.71	1.10	1.00	a	.03
GROUP VII	8.68	1.10	1.00	a	.03
GROUP VIII	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

GROUP I - Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers two or more drum machines, lighters, derricks boats, trenching, mechanics hoists pavement breakers, cement concrete pavers, draglines, hoisting engines, pumpcrete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site, paving concrete mixers; Booms over 150' including jib - additional $.45 per hour - Booms over 185' including jib - additional $.80 per hour; Booms over 210' including jib - additional $1.15 per hour; Booms over 250' including jib - additional $1.75 per hour; Booms over 295' including jib additional $2.50 per hour

GROUP II - Master Mechanic

GROUP III - Swinger Engines

GROUP IV - Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, cpncrete pumps, bulldozers, tractors york rakes, mulching machines, rollers, spreaders, tamper self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance, cal tracks, ballast, regulator, switch tampers, rail anchor machines, tire trucks

GROUP V - Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, well point systems, augers - powered by independence engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulsometers, concrete mixers, conveyors

DECISION NO. MA78-2089

CLASSIFICATIONS

GROUP VI - Assistant engineers (firemen)

GROUP VII - Oilers (other than truck cranes and gradalls)

GROUP VIII - Oilers on truck cranes and gradalls

PAID HOLIDAYS:

A-New Year's Day; B Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

A. Holidays: A through F; Washington's Birthday; Patriots' Day; Columbus Day & Veterans' Day

PAGE 10

DECISION NO. MA78-2089

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
CLASS I	8.215	.75	.80	a+b	
CLASS II	8.365	.75	.80	a+b	
CLASS III	8.415	.75	.80	a+b	
CLASS IV	8.515	.75	.80	a+b	
CLASS V	8.615	.75	.80	a+b	
CLASS VI	8.865	.75	.80	a+b	
CLASS VII	9.115	.75	.80	a+b	

CLASS I - Station wagons, Panel trucks and pickup truck

CLASS II - Two axle equipment; Helpers on low bed when assigned at the discretion of the employer , warehousemen, Forklift operators

CLASS III - Three axle equipment and Tiremen

CLASS IV - Four and five axle equipment

CLASS V - Specialized earth moving equipment under 35 tons other than convential type trucks, Low bed, Vachual, Mechanics, Paving restoration equipment, Mechanics

CLASS VI - Specialized earth moving equipment over 35 tons

CLASS VII - Trailers for earth moving equipment (double hookup)

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Worcester
DECISION NUMBER: MA78-2090 DATE: Date of Publication
Supersedes Decision No. MA78-3033, dated April 21, 1978 in 43 FR 17200
DESCRIPTION OF WORK: Building Constructin (including Residential) heavy and highway construction

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.47	.57	.65		
BOILERMAKERS	11.80	1.05	10%		.02
BRICKLAYERS:CEM.MASONS,PLASTERERS, and STONEMASONS: Warren	10.05	.70	.95		.06
Hopedale, Milford and Southboro	10.60	1.20	1.00		.09
Residential	8.48	1.20	1.00		.09
Ashburnham, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Luneburg, Petersham, Phillipston, Princeton, Ryalston, Sterling, Templeton, Wesminster and Winchendon	11.20	.90	.70		.09
Residential	8.96	.90	.70		.09
Veneer plasterers	9.30	.90	.70		.06
Remainder of County	10.00	.95	1.15		.02
CARPENTERS, SOFT FLOOR LAYERS:					
Blackstone, Millville	9.40	.65	.90		.05
Hardwick, Warren, W. Brookfield	10.00	.60	1.00		.02
Remainder of County	11.00	.65	1.00		.07
ELECTRICIANS:					
Warren W. Warren	10.88	.70	3%+.30		.03
Ashburnham, Athol, Bolton, Fitchburg, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Lunenbueg, Phillipston, Westminster, and Winchendon	10.80	.75	3%+.70		.02
Remainder of County	10.79	8%	5%+.30		.01
ELEVATOR CONSTRUCTORS	10.32	.445	.29	4%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	4%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS:					
East Douglas	8.68	.52	.85		.01
Remainder of County	10.40	.57	.64		.03
IRONWORKERS:					
Southboro	11.24	1.00	1.50		.06
Blackstone	9.43	.70	1.50		.03
Remainder of County	10.59	1.00	1.50		.06

DECISION NO. MA78-2090

PAGE 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (BUILDING):					
Laborers, Carpenter tenders and wrecking laborers	$ 8.25	.60	.75		.10
Jackhammer operators, Pavament breakers, Aspahlt rakers, Carbide core drilling machine, Chain saw operators, Pipelayers Barco type jumping tampers, Laser beam, Concrete pump, Mason tenders, Mortar mixers, Ride-on motorized buggies, and fence and beam rail erectors and plasterers' tenders	8.50	.60	.75		.10
Air track, Block pavers, Rammers and Curb setters	8.75	.60	.75		.10
Blasterers and powdermen	9.00	.60	.75		.10
Open air caisson and cylindrical work and boring crew:					
Laborer, Topman	8.25	.60	.75		.10
Helper	8.37	.60	.75		.10
Bottom men	9.00	.60	.75		.10
Driller	9.12	.60	.75		.10
LATHERS:					
Sturbridge and Warren	9.40	.45	.25		.01
Drywall	8.30	.45	.25		.01
Blackstone and Lunenburg	9.25	.45	.55		
Remainder of County	10.12	1.65	.25		.01
LEADBURNERS	9.25	.35		c	.01
LINE CONSTRUCTION:					
Linemen	12.00	.70	3%+.50	d	3/80fl%
Equipment operator	11.28	.70	3%+.50	d	3/80fl%
Driver groundman	9.03	.70	3%+.50	d	3/80fl%
Groundman	7.68	.70	3%+.50	d	3/80fl%
MARBLE SETTERS:					
Ashburnham, Fitchburg, Harvard, Lancaster, Leominster, Lunenburg, Princeton, Sterling, Westminster	10.30	.85	1.10		

PAGE 3

DECISION NO. MA78-2090

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS: (Cont'd) Auburn, Barre, Berlin, Blackstone, Bolton, Boylston, Brookfield, Charlton, Clinton, Douglas, Grafton, Hardwick, Holden, Leicester, Mendon, Millbury, Millville, New Braintree, Northboro, North-bridge, Okham, Oxford, Paxton, Rutland, Shrewsburg, South-bridge, Spencer, Sturbridge, Sutton, Upton, Uxbridge, Webster, West Boylston, Westboro and Worcester	9.00	.70	.60		.02
Warren	9.55	.55	.55		.03
MARBLE SETTERS' HELPERS	9.33	.85	.50		
MILLWRIGHTS	10.90	.90	1.00		.10
PAINTERS:					
Warren, West Warren:					
Brush and Tapers	9.17	.88	.55		.05
Spray-epoxys & interior dry fogs & materials thinned with anything other than water &/or mineral spirits	12.2267	1.1733	.7333		.0667
Spray-materials thinned with water &/or mineral spirits, excluding epoxys & interior dry fogs	12.7567	1.1733	.7333		.0667
Swing Stage under 40' Steel	9.357	.88	.55		.05
Swing Stage over 40' Steel	9.67	.88	.55		.05
Holedale, Mendon, Milford, Southboro, Upton and Westboro:					
Brush (New Construction), Paperhangers and Tapers	9.00	.85	.70		.06
Brush (Repaint)	8.45	.85	.70		.06
Remainder of County:					
Brush	10.46	.82	1.20		.04
Steel	12.58	.82	1.20		.04
Sandblasting; Spray	11.46	.82	1.20		.04
Repaint	8.91	.82	1.20		.04
PILEDRIVERMEN	10.90	.85	1.00		
PIPEFITTERS:					
Holedale and Southboro	9.97	.53	.55		.05
Remainder of County	10.18	.45	.40		.05
Pondville	12.86	.94	1.20		.07
PLUMBERS:					
Hoepdale and Southboro	11.47	1.23	.85		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS: (Cont'd)					
Ashburnham, Athol, Bolton, Fitchburg, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Lunenburg, Petersham, Phillipston, Royalston, Templeton, Westminster and Winchendon	$ 10.02	.60	.65	.40	.05
Remainder of County	10.83	.65	.45		.05
ROOFERS	10.00	1.12	.63		
SHEET METAL WORKERS	10.38	.85	.75		.05
SPRINKLER FITTERS	12.08	.65	.95		.08
TERRAZZO WORKERS and TILE SETTERS:					
Ashburnham, Fitchburg, Harvard, Lancaster, Leominster, Lunenburg, Princeton, Sterling and Westminster Countiee	9.80	.85	1.10		
Auburn, Barre, Berlin, Blackstone, Bolton, Boylston, Brookfield, Charlton, Clinton, Douglas, Dudley, Grafton, Hardwick, Holden, Leicester, Mendon, Millbury, Millville, New Braintree, Northboro, Northbridge, Oakham, Oxford, Paxton, Rutland, Shrewsbury, Southbridge, Spencer, Sturbridge, Sutton, Upton, Uxbridge, Webster, W. Boylston, Westboro and Worcester Counties	9.00	.70	.60		.02
Warren County	9.55	.55	.55		.03
Hubbardston, Gardner, Phillipston, Petersham, Athol, Royalston, Winchendon (only Tile Setters)	9.45	.60	.60		.04
TERRAZZO WORKERS' HELPERS	9.95		.25		.05
TILE SETTERS' HELPERS	9.33	.85	.50		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
b. Holidays: A through F.
c. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked at least 45 full days during the 120 calendar days immediately prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.
d. Holidays: A through F and Bunker Hill Day, provided the employee has worked 10 days prior to the listed holidays.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
Class I	$ 8.25	.60	.75		.10
Class II	8.50	.60	.75		.10
Class III	8.75	.60	.75		.10
Class IV	9.00	.60	.75		.10

CLASSIFICATIONS

Class I: Carpenter tenders, Cement finisher tenders, Laborers, Wrecking laborers

Class II: Asphalt rakers, Fence and guard rail erectors, Laser beam operator, Mason tender, Pipelayer, Pneumatic drill operator, Penumatic tool operator, Wagon drill operator

Class III: Air track operator, Block pavers, Rammers, Curb setters

Class IV: Blasters, Powdermen

DECISION NO. MA78-2090

Building Construction:
Royalston, Phillipston, Athol, Petersham, Hardwick, New Braintree, Brookfield, E.Brookfield, N.Brookfield, Oakham, Barre, Templeton, Winchendon, Sturbridge, W.Brookfield, and Warren:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	$ 9.93	.95	.25+.75	a	.07
CLASS II	9.73	.95	.25+.75	a	.07
CLASS III	9.53	.95	.25+.75	a	.07
CLASS IV	9.16	.95	.25+.75	a	.07
CLASS V	8.41	.95	.25+.75	a	.07
CLASS VI	7.94	.95	.25+.75	a	.07
CLASS VII	7.18	.95	.25+.75	a	.07

CLASSIFICATIONS

CLASS I Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Backhoes, Gradalls, Elevating Graders, Pile Driving Rigs, Concrete Road Pavers, three drum Hoisting and Trenching Machines, Belt-type Loaders, Front End Loader-5½ yards or over, Dual Drum Paver, Automatic Grader (i.e. C.M.I.) Combination Back Hoe Loader-3/4 yard hoe or over

CLASS II Rotary Drill (with mounted compressor), compressor house (3 to 6 compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Graders Front End Loaders-4 yards to 5½ yards, two Drum Hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers-21 yards and over (struck load), Sonic Hammer Console

CLASS III Combination Backhoe-Loader-up to 3/4 hoe, Bulldozers, Push Cats, Scraper-up to 21 yards (struck load)-self propelled or tractor drawn, Tireman, Front End Loaders-up to 4 yards, Asphalt Pave, Asphalt Roller-lo ton or over, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete pumps and similar type pumps, Engineer or Fireman on High Pressure Boiler (on site), Self-Loading Batch Plant, Well Point, Electric Pumps used in Well Point System, Pumps-12 inches and over (total discharge), compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators, (manually or remote controls), Grout Pumps, Boom Truck, Hydraulic Cranes-under 10ton

CLASS IV Asphalt Roller-under 10 ton

DECISION NO. MA78-2090

CLASSIFICATIONS CONT'D

CLASS V Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-Propelled Material Spreaders, A Frame Trucks, Fork Lifts up to 15 feet

CLASS VI Compressors (one or two) 315 cu. ft. to 900 cu. ft.. Pumps-4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers Rubber, Tire Roller, Compactors or other machines used for pulverizing, Grading or Seeding

CLASS VII Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches) Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on Grease Truck, and Grease Trucks with hand greasing equipment

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Holidays: A through F, Veterans' Day and Columbus Day

DECISION NO. MA78-2090

Sturbridge, Brookfield, N.&E. Brookfield, Oakham, Barre, Templeton, Winchendon, Royalston, Phillipston, Athol, Petersham, Hardwich, New Braintree, W. Brookfield, and Warren:

HEAVY AND HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	9.93	.95	1.00	a	.07
CLASS II	9.73	.95	1.00	a	.07
CLASS III	9.53	.95	1.00	a	.07
CLASS IV	9.16	.95	1.00	a	.07
CLASS V	8.41	.95	1.00	a	.07
CLASS VI	7.94	.95	1.00	a	.07
CLASS VII	7.18	.95	1.00	a	.07
CLASS VIII	10.43	.95	1.00	a	.07

CLASSIFICATIONS

CLASS I Shovels, Crawler and Truck Cranes, Dorricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processin Plant (Engineer in charge), Dragline, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader-5½ yards and over Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Paver, Automatic Graders-Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine

CLASS II Rotary Drill (with mounted Compressor), Compressor House 3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5½ yards, Scraper-21 yards and over (struck Load), Forklifts-7 ft. lift and over or 3 ton capacity and over, Sonic Hammer Console

DECISION NO. MA78-2090

CLASSIFICATIONS CONT'D

CLASS III Bulldozer, Push Cats, Scrapers-up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders-up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well point Operators, Electric Pumps used in well Point system, Firemen, Pumps-16 inches or over total discharge, Compressors (1 or 2) cu. ft. and over Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck Self-Propelled Hydraulic Cranes up to 10 ton

CLASS IV Asphalt Roller-up to 10 ton

CLASS V Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant

CLASS VI Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheeps-foot roller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil

CLASS VII Compressor (up to 315 cu. ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines, A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat

FOOTNOTES:

a. Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veteran's Day; Thanksgiving Day and Christmas Day

DECISION NO. MA78-2090

BUILDING CONSTRUCTION:

Remainder of County

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	11.75	1.10	1.00	a	.03
CLASS II	11.63	1.10	1.00	a	.03
CLASS III	9.81	1.10	1.00	a	.03
CLASS IV	10.71	1.10	1.00	a	.03
CLASS V	8.68	1.10	1.00	a	.03
CLASS VI	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour

CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paying screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pullsometers, concrete mixers, values controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragn pump, lighting plants

CLASS IV Assistant engineers (firemen)

CLASS V Oilers (other than truck cranes and gradalls)

CLASS VI Oilers on truck cranes and gradalls

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

DECISION NO. MA78-2090

HEAVY & BIGHWAY CONSTRUCTION:

Remainder of County:

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	11.75	1.10	1.00	a	.03
Hourly premium for boom lengths including jib					
Over 150 feet + $ .45					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
GROUP 2	11.63	1.10	1.00	a	.03
GROUP 3	9.81	1.10	1.00	a	.03
GROUP 4	10.71	1.10	1.00	a	.03
GROUP 5	8.68	1.10	1.00	a	.03
GROUP 6	9.21	1.10	1.00	a	.03

CLASSIFICATIONS

GROUP 1 Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, three drum machines, pumpcrete machines, uke loaders, shoval dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 Sonic or vibratory hammers, graders, scrapers, tandem scrapers, builldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders, asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers

GROUP 3 Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generators, lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)

DECISION NO. MA78-2090

CLASSIFICATIONS CONT'D

GROUP 4 Assistant engineers (firemen)

GROUP 5 Oilers (other than truck cranes & gradalls)

GROUP 6 Oilers (on truck cranes & gradalls)

FOOTNOTES:

a. Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

DECISION NO. MA78-2090

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
CLASS I	8.215	.75	.80	a+b	
CLASS II	8.365	.75	.80	a+b	
CLASS III	8.415	.75	.80	a+b	
CLASS IV	8.515	.75	.80	a+b	
CLASS V	8.615	.75	.80	a+b	
CLASS VI	8.865	.75	.80	a+b	
CLASS VII	9.115	.75	.80	a+b	

CLASS I - Station wagons, Panel trucks and pickup truck

CLASS II - Two axle equipment; Helpers on low bed when assigned at the discretion of the employer , warehousemen, Forklift operators

CLASS III - Three axle equipment and Tiremen

CLASS IV - Four and five axle equipment

CLASS V - Specialized earth moving equipment under 35 tons other than convential type trucks, Low bed, Vachual, Mechanics, Paving restoration equipment, Mechanic

CLASS VI - Specialized earth moving equipment over 35 tons

CLASS VII - Trailers for earth moving equipment (double hookup)

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: Hinds
DECISION NUMBER: MS78-1074 DATE: Date of Publication
Supersedes Decision No.: MS78-1006, dated February 3, 1978 in 43 FR 4818
DESCRIPTION OF WORK: Building Construction (does not include residential construction consisting of single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$ 9.82	.45	.50		
Boilermakers	9.95	1.05	1.05		.02
Bricklayers:					
Bricklayers	8.70	.25	.10		.03
Stone, block, & marble masons	8.70	.25	.10		.03
Caulkers, pointer, & cleaners	8.70	.25	.10		.03
Tile & Terrazzo setters	8.60	.25	.10		.03
Carpenters:					
Carpenters	8.15	.40	.30		.05
Drywall application	8.15	.40	.30		.05
Soft floor layer	8.15	.40	.30		.05
Power saw operator (1 hp. or over)	8.15	.40	.30		.05
Fiber glass insulation application	8.30	.40	.30		.05
Millwrights	8.40	.40	.30		.05
Piledrivermen	8.40	.40	.30		.05
Cement masons:					
Cement masons	6.80	.25	.30	a	.05
Float machine operator	7.00	.25	.30	a	.05
Electricians:					
Electricians	10.05	.35	3%+.50		.04
Cable Splicers	10.30	.35	3%+.50		.04
Elevator constructors:					
Elevator constructors	7.83	.545	.35	4%+a+b	.02
Glaziers	8.25				.01
Ironworkers	9.65	.45	.85		.04
Laborers:					
Laborers	5.23	.15	.20		.05
Mason tenders	5.38	.15	.20		.05
Pipelayers	5.38	.15	.20		.05
Plasterers tenders	5.38	.15	.20		.05
Mechanical tool operator	5.48	.15	.20		.05
Mortar mixers	5.48	.15	.20		.05
Lathers	8.65				.01

DECISION NO. MS78-1074

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Linemen	8.88		3%	c+2%	1%
Cable splicers	9.19		3%	c+2%	1%
Groundman (over 1 year)	5.38		3%	c+2%	1%
Groundman (under 1 year)	4.99		3%	c+2%	1%
Painters:					
Brush; roller	7.45	.15	.10		
Spray (except structural steel)	7.95	.15	.10		
Structural steel (brush)	7.70	.15	.10		
Swing stage; bos'n chair	7.95	.15	.10		
Structural steel (spray)	8.20	.15	.10		
Plasterers	7.80	.25	.50		.05
Plumbers; Steamfitters;					
Pipefitters	10.03	1.05	1.00		
Roofers:					
Roofers	8.95		.30		
Kettlemen	7.00		.30		
Paper rollers	7.00		.30		
Sheet metal workers	9.35	.45			.03+.02
Sprinkler fitters	10.80	.75	1.05		.08

FOOTNOTES:

a. Paid holidays: Neew Year's Day; Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee with more than 5 years service; 2% for employees with less than 5 years.

c. One week vacation after one year's service.

DECISION NO. MS78-1074

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP I	9.83	.40	.30		.05
GROUP II	8.93	.40	.30		.05
GROUP III	8.68	.40	.30		.05
GROUP IV	8.18	.40	.30		.05
GROUP V	6.78	.40	.30		.05

GROUP I - Engineer operating under air pressure.

GROUP II - Mechanic

GROUP III - Asphalt plant, backhoe, blacksmith, boom tractor, bulldozer, central mixing plant, cherry picker, clamshell, crane, derrick car, derrick, derrick boat, dragline, dredge elevating grader, end loader, excavator (power belt), fork lift (5 tons & over), hoists (2 drum in active use), locomotive engineer, marine engineer (chief), master pilot, mixermobile, motor patrol and similar equipment, paver (21 c.f. or larger), pile driver, recharger, scoop (skimmer), scraper, shovel, trenching machine (over 18" bucket line width), turnapull (DW-10 and similar pull type scrapers), Traxcavator and similar endloaders, welder, welding machines and pumps (operating 2 to 6 machines), well driller, well point pumps

GROUP IV - Asphalt spreader (bituminous distributor), asphalt spreader (bituminous mixer), backfilling machine, conveyor, drill (earth), finishing machine, fireman, forklift (over 2 tons and less than 5 tons), heating plant, hoist (one drum), marine engineer's assistant, mixer payloader and similar endloaders, pilot, power generating plant, pump (concrete), roller, scoopmobile, tractor (with power take-off), trenching machines (18" or smaller bucket line width), tugboat, winch truck and tractor, small rubber tired with backhoe attachment.

GROUP V - Air compressor, batch scale, deckhand, forklift (2 tons & under), form grader locomotive hostler, motorboat (in or outboard), oiler, pump, roughneck, scowman, tractor (with attachments). welding machine.

Booms including jib:
$.50 above regular rate - 100 ft. thru 200 ft.
$.75 above regular rate - 201 ft. thru 300 ft.
$1.00 above regular rate - over 300 ft.

SUPERSEDEAS DECISION

STATE: North Dakota COUNTIES: Statewide
DECISION NUMBER: ND78-5125 DATE: Date of Publication
Supersedes Decision No. ND77-5099 dated December 2, 1977, in 42 FR 61437
DESCRIPTION OF WORK: Highway Construction (does not include bridges designed to accomodate navigation; tunnels; rest areas which include building construction; and railroad construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS	$ 6.50				
ELECTRICIANS:					
Cass and Grand Forks Counties	9.97	.40	3%	6%	1½%
Burleigh and Ward Counties	10.00	.40	3%	6%	1½%
LABORERS:					
Group 1	4.00				
Group 2	4.15				
Group 3	4.30				
Group 4	4.45				

LABORERS

Group 1: General Construction Laborer; Reinforced Steel Setter; Sack Shaker (cement and mineral filler); Pipe Handler; Drill Runner Helper; Carpenter Tender; Salamander Heater and Blower Tender; Flagperson

Group 2: Semi Skilled Laborer; Bulk Cement Handler; Conduit Layer, telephone or electrical; Form Setter (pavement); Gas, electric or pneumatic Tool Operator chipping hammer, grinders and paving brakers (tamper-dirt) concrete vibrator operator ; Chain Saw Operator; Concrete Saw Operator; Concrete Curing Man (not water); Bituminous Worker (shoveler, dumper raker and floater); Kettleman (bituminous or lead); Concrete Bucket Signalman; Power Buggy Operator; Brick and Mason Tender; Multiplate Pipe Layer; Culvert Pipe Layer

Group 3: Caisson Work; Bottom Man, (sanitary sewer, storm sewer, water, and gas lines); Concrete Mixer Operator (one bag capacity); Mortar Mixer

Group 4: Pipe Layers (sanitary sewer, storm sewer, water and gas lines); Drill runner (includes wagon churn or air track); Powderman, gunite and sandblast, nozzleman

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	$ 9.20	.45	.40		
Group 2	9.05	.45	.40		
Group 3	8.90	.45	.40		
Group 4	8.85	.45	.40		
Group 5	8.60	.45	.40		
Group 6	8.37	.45	.40		
Group 7	7.44	.45	.40		
Group 8	7.29	.45	.40		
Group 9	7.19	.45	.40		
Group 10	6.85	.45	.40		

Group 1: Cableway operator; crane operator with boom over 135', all types; Derrick, guy and stiff leg, power, skids and stationary; front end loader over 10 cu yds; Gantry crane operator; helicopter operator; mole operator including power supply or tunnel mucking machine; power shovel or other equipment with shovel type controls 3½ cu yds and over.

Group 2: Concrete mixer stationary plant operator, over 34E; Dredge operator or engineer, dredge operator (power) and engineer; elevator grader operator; hydro crane operator 15 tons and over; locomotive crane operator; Master mechanic (if employed, shall perform manual work); mixer, paving; concrete paving operator, road; Power shovels and other equipment with shovel type controls up to 3½ cu yds; scraper tandem; tandem pusher, quad 9 or similar; tractor operator (pipeline); side boom; truck crane operator.

Group 3: Dope machine operator (pipeline); drill rigs, heavy duty rotary or churn or cable drill; front end loader operator, 6 cu yds and over; locomotive, all types; pipeline wrapping, cleaning and bending machine operator; power actuated horizontal boring machine, over 6" (pipeline); pumpcrete operator; refrigeration plant engineer; slip form operator, power driven, paving; tandem scraper twin engine, 50 cu yds struck and over.

POWER EQUIPMENT OPERATORS (Cont'd)

Group 4: Asphalt Paving Machine Operator; Asphalt Plant Operator and Console Board Operator; CMI Grading Operator; Crushing Plant Operator (gravel and stone or gravel washing, crushing and screening plant Operator); Front End Loader Operator, 2 cu. yd. up to 6 cu. yds.; Grader or Motor Patrol, finishing earth work and bituminous; Mechanic or Welder (heavy duty); Rubber Tired Industrial Tractor with backhoe attachment (water main sanitary sewer and storm sewer, trunkline construction); Scraper Operator; Tractor type or rubber tired dozer, D-6 and over; Trenching Machine Operator, sewer and water (except ditch witch or similar, use oiler rate); Turnpaull Operator or similar type; Rotomill Operator

Group 5: Bituminous Spreader and Bituminous Finishing Operator (power); Concrete Distributor and Spreader Operator, finishing machine Longitudinal Float Operator, Ft. Machine Operator and Spray Operator; Concrete Mixer Operator on job site 16S or over; Paving Breaker or Tamping Machine Operator or including machine with power shovel attachments (power driven); Power actuated Augers and Boring Machine Operator; Power actuated Jacks Operator; Power Plant Engineer, 100 K.W.H. and over (when an engineer is in charge of crushing or blacktop plants with the operation of these plants no power plant engineer shall be requirmd); Push Tractor; Self-propelled Traveling Soil Stabilizer; Slip Form, Curb and Gutter Operator (electronic or automatic controls); Soil Cement Stabilizer; Truck Mechanic

Group 6: Bituminous Spreader and Bituminous Finishing Machine Operator (helper)(power); Concrete Saw Operator (multiple blade)(power operated); Distributor Operator; Fine Grade Operator; Roller, steel and self-propelled rubber, on hot mix asphalt paving; Sheepsfoot Packer with dozer attachment; Tractor type or rubber tired dozer under D-6 H.P.

Group 7: Brakeman or Switchman; Concrete Batch Plant Operator (cement, rock and sand) Electronic; Concrete Mixer Operator on job site, under 16S; Crane Truck Oiler; Firemen or Tank Car Heater Operator; Grader Operator (motor patrol)(haul road); Gravel Screening Plant Operator (portable not crushing or washing); Greaser (truck or tractor); Gunite Operator Gunall; Hoist Engineer (power); Hydro Crane Operator, under 15 ton; Launchman (Tankerman or Pilot license); Pick-up Sweeper, 1 yd. and over hopper capacity; Sheepsfoot Roller or Compactor (self-propelled); Shouldering machine Operator (power) (Apsoo or similar type) including Self-propelled Sand Chip Spreader Flaherty or similar

POWER EQUIPMENT OPERATORS (Cont'd)

Group 8: Boom Truck Operator; Crawler type and/or Steiger or similar tractor pulling compaction or areating equipment; Farm type rubber tired tractor with backhoe attachment; Roller, steel and self-propelled rubber, on other than hot mix asphalt paving; Self-propelled vibrating packer operator, pad type (35 HP and over); Off-road self-propelled watering equipment

Group 9: Concrete Batch Operator (cement rock and sand) (manual); Form Trench Digger (power); Front End Loader Operator, up to 1 cu. yd.; Hyster Carrier or Forklift; Leverman; Mechanic's Helper or Greaser Helper; Oiler (power shovel, Crane, Dragline); Pugmill Operator; Pump Operator (well points); Self-propelled Broom

Group 10: Conveyor Operator; Curb Machine Operator (manual); Dredge Deck Hand; Farm Tractors, rubber tired for compacting and areating; Front End Loader Operator (farm type rubber tired tractor); Paint Machine Striping Operator; Stump Chipper Operator; Tie Tamper and Ballast Machine Operator

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Single Axle	$ 6.67	.50	.35		
Tandem	6.77	.50	.35		
Agitator Dumpcrete; Lowboy; Off road heavy duty end dumps, 20 yds. and under; Tandem semi	7.02	.50	.35		
Euclid, over 20 yds.	7.65	.50	.35		

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Schuylkill
DECISION NO.: PA78-3064 DATE: Date of Publication
Supersedeas Decision No. PA77-3123, dated September 9, 1977, in 42 FR 45616.
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$10.76	.67	.90		.01
Boilermakers	13.775	1.075	1.00		.02
Bricklayers & stonemasons	9.80	.60	.95		
Carpenters	10.30	.50	.55		.05
Cement masons	9.80	.60	.95		
Electricians: North Manheim, South Manheim, West Brunswick, Wayne, Washington, Pottsville, Schuylkill Haven Twps.	11.69	.78	3%+.20		.03
Pine Grove & Tremont Twp.	9.59	.65	3%+.49		½ of 1%
North Union, East Union, West Mahony, (excluding Frackville Borough), Mahony, Delano, Kline, Rush, Ryan, Blythe, Schuylkill, Walker Rahn, East Brunswick and West Penn. Twps.	11.32	.65	3%+.30	f	g
Remainder of County	11.45	.50	3%+.20		.05
Glaziers	9.19	.40	.40		.01
Ironworkers	11.80	.84	1.36		.02
Laborers:					
Unskilled laborers & window cleaners	6.95	.45	.25		
Operator of jackhammer, paving breaking & other pneumatic, electric & mechanical tools, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe & the making of joints for same, wagon drill operators, cofferdams (below 10'), tunnel free air handling & using cutting or burning torches in the wrecking of buildings, blasters, plasterer-tenders, mason tenders, scaffold builders and removal & power buggies	7.05	.45	.25		
Lathers	7.25	.15	.25		.01
Lead burners	10.75	.40	.25	a	.01

DECISION NO. PA78-3064

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Lineman, heavy equipment operator	10.80	.50	3%		3/8%
Winch truck operators	7.59	.50	3%		3/8%
Groundman	7.26	.50	3%		3/8%
Marble setters & terrazzo workers	9.80	.60	.95		
Painters: Townships of North Union, East Union, Union, Mahanoy, West Mahanoy, West Mahanoy, Butler, Kline, Delano, Ryan, Rush, Rahn, West Penn and City of Tamaqua					
Brush	9.55	.75	.40		.10
Tapers	9.81	.75	.40		.10
Hazardous	10.81	.75	.40		.10
Painters: (Remainder of County): Commercial and Industrial					
Brush	9.35	.70	.65		
Steel	10.40	.70	.65		
Spray	10.40	.70	.65		
Piledrivermen	11.12	2.33	1.35	e	.12
Plasterers	9.80	.60	.95		
Plumbers	11.24	.80	1.25		.05
Roofers: Barry Branch, Butler, Delano, East Brunswick, East Union, Eldred, Foster, Frailly, Regina, Hubley, Kline, New Castle, North Union, Porter, Rahn, Reilly, Rush, Fremont, Union, Upper Mahantango, West Penn:					
Composition	10.15	.85	.90		
Remainder of County:					
Composition, damp waterproofing	10.80	.95		d	
Slate, tile & asbestos	11.25	.95		d	
Precast slab	11.60	.95		d	
Sheet metal workers	11.12	.73	.40		.02
Soft floor layers	9.20	.50	.55		.05
Sprinkler fitters	12.31	.75	1.05		.08
Steamfitters	11.69	.65	.95		.05
Tile setters	8.80	.60	.95		
Truck drivers	6.23	b	c		

DECISION NO. PA78-3064

Welders - rate for craft

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F, plus Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked at least 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

b. Employer contributes $58.37 per month to Health and Welfare fund.

c. Employer contributes $43.34 per month to Pension Fund.

d. Holiday: C

e. Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day and Thanksgiving Day.

f. Holidays: July 4th, Labor Day; Thanksgiving Day and Good Friday.

g. Employer shall contribute .12 per day per employee.

DECISION NO. PA78-3064

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$12.44	7%	10.3%	a	1.8%
GROUP 2	12.15	7%	10.3%	a	1.8%
GROUP 3	11.28	7%	10.3%	a	1.8%
GROUP 4	10.51	7%	10.3%	a	1.8%
GROUP 5	10.04	7%	10.3%	a	1.8%
GROUP 6	9.13	7%	10.3%	a	1.8%
GROUP 7	12.69	7%	10.3%	a	1.8%
GROUP 7-A	12.94	7%	10.3%	a	1.8%
GROUP 7-B	13.18	7%	10.3%	a	1.8%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Sullivan
DECISION NO.: PA78-3065 DATE: Date of Publication
Supersedes Decision No. PA77-3057 dated May 13, 1977 in 42 FR 24700.
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$11.325	.65	.60		.01
Boilermakers	13.775	1.075	1.00		.02
Bricklayers	10.30	.50	.55		.05
Carpenters:					
Benton Air Force Base	11.04	.50	.55		.05
Remainder of County	10.30	.50	.55		.05
Cement Masons	9.45				
Electricians:					
Eastern part of County	11.24	.65	3%+.85		.03
Western part of County	9.73	.50	3%+.85	.75	.02
Ironworkers:					
Structural	12.25	a			.10
Reinforcing	12.15	a			.10
Laborers:					
Unskilled & window washers	9.17	.45	.75		
Mason tenders incl. scaffold builders	9.57	.45	.75		
Semi-skilled: Pneumatic, electrical & mechanical tool ops., under the jurisdiction of the laborers - 2" pumps-non-metallic pipelaying & making of joints clay, terra cotta, ironstone, vitrified concrete, handling of burning torches, asphalt or other hot materials, cement finishers & blaster helpers, power buggies, walk along hoist	9.37	.45	.75		
Plasterers tenders, blasters & wagon drill operators	9.49	.45	.75		
Line Construction:					
Linemen & cable splicer	10.80	.50	3%		3/8 of 1%
Winch truck driver	7.59	.50	3%		3/8 of 1%
Groundman	7.26	.50	3%		3/8 of 1%
Millwrights	11.45	.50	.55		.05
Painters:					
Brush	9.55	.75	.40		.10
Tapers	9.81	.75	.40		.10
Hazardous	10.81	.75	.40		.10

DECISION NO. PA78-3065

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plasterers	10.20				
Plumbers	10.95	.74	.60	.50	.05
Glaziers	9.65	.40	.70		
Roofers	10.15	.85	.90		
Sheet Metal Workers	11.09	.65	.71		.02
Soft Floor Layers	9.20	.50	.55		.05
Piledrivermen	11.12	2.33	1.35	b	.12
Sprinkler Fitters	12.31	.75	1.05		.08
Steamfitters	10.95	.74	.60	.50	.05
Stone Masons	10.30	.50	.55		.05
Terrazzo Workers	8.70	.40	.50		

Welders - Rate of craft

FOOTNOTES:

a. Employer contributes $2.50 per hour to a combined health and welfare and pension fund.

b. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day; Thanksgiving Day and Christmas Day.

DECISION NO. PA78-3065

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$12.44	7%	10.3%	a	1.8%
GROUP 2	12.15	7%	10.3%	a	1.8%
GROUP 3	11.28	7%	10.3%	a	1.8%
GROUP 4	10.51	7%	10.3%	a	1.8%
GROUP 5	10.04	7%	10.3%	a	1.8%
GROUP 6	9.13	7%	10.3%	a	1.8%
GROUP 7	12.69	7%	10.3%	a	1.8%
GROUP 7-A	12.94	7%	10.3%	a	1.8%
GROUP 7-B	13.18	7%	10.3%	a	1.8%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: Pennsylvania

COUNTIES: Columbia, Montour & Snyder

DECISION NO.: PA78-3066

DATE: Date of Publication

Supersedes Decision No. PA77-3100 dated July 15, 1977 in 42 FR 36775.

DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
ZONE I	$11.325	.65	.60		.01
ZONE II	10.91	.52	.90		.01

AREA COVERED BY ASBESTOS WORKERS

ZONE I - Columbia & Montour Counties

ZONE II - Snyder County

BOILERMAKERS	13.775	1.075	1.00		.02
BRICKLAYERS & STONEMASONS					
ZONE I	10.00	.55	.65		
ZONE II	9.70	.55	.70		.01

AREA COVERED BY BRICKLAYERS & STONEMASONS ZONES

ZONE I - Montour & Snyder Counties

ZONE II - Columbia County

CARPENTERS	10.30	.50	.55		.05
CEMENT MASONS					
ZONE I	10.50				.01
ZONE II	9.05	.55	.70		.01

AREA COVERED BY CEMENT MASONS ZONES

ZONE I - Montour & Snyder Counties

ZONE II - Columbia County

DECISION JO. PA78-3066

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS					
ZONE I	11.45	.50	3%+.20		.05
ZONE II	10.77	.55	3%+.25	a	.12
ZONE III	10.86	.65	3%+.49		½ of 1%

AREA COVERED ELECTRICIANS ZONES

ZONE I - Montour County; North of U.S. Highway #522 and Selesgrove Township in Snyder County and Remainder of Columbia County

ZONE II - Berwick Borough in Columbia County

ZONE III - South of U.S. Highway #522 in Snyder County

GLAZIERS					
ZONE I	9.14	.40	.30		.01
ZONE II	9.79	.40	.30		.01
ZONE III	9.75	.40	.70		

AREA COVERED BY GLAZIERS ZONES

ZONE I - Roaring Creek, Locust, Cleveland, Cunningham, Mt. Carmel Townships in Columbia County, Montour County

ZONE II - Snyder County

ZONE III - Remainder of Columbia County

IRONWORKERS					
ZONE I	11.28	.84	1.36		.03
ZONE II					
Structural and Ornamental	12.25	b			.10
Reinforcing	12.15	b			.10

AREA COVERED BY IRONWORKERS ZONES

ZONE I - Montour & Snyder Counties

ZONE II - Columbia County

DECISION NO. PA78-3066

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
ZONE I					
CLASS I	7.31	.30	.70		
CLASS II	7.71	.30	.70		
CLASS III	7.41	.30	.70		
CLASS IV	7.56	.30	.70		
ZONE II					
CLASS I	7.45	.40	.45		
CLASS II	7.60	.40	.45		
ZONE III					
CLASS I	7.90	.35	.40		
CLASS II	8.05	.35	.40		
CLASS III	8.37	.35	.40		
CLASS IV	8.47	.35	.40		
CLASS V	7.55	.35	.40		

AREA COVERED BY LABORERS ZONES AND CLASSIFICATIONS

ZONE I - Columbia County

CLASS I - Unskilled laborers and window washers

CLASS II - Mason tenders and scaffold builders

CLASS III - Pnuematic electrical tool operator under the jurisdiction of laborers 2' pump-non-metallic pipe laying and making joints clay, terra cotta, ironstone, vitrified concrete, handling of burning torches, asphalt or other hot material; cement finishers and blasters helpers, power buggies, and walk along hoist

CLASS IV - Plasterers tenders, blasters and wagon drill operator

ZONE II - Montour County

CLASS I - Unskilled laborers, scaffold builders, wrecking, window cleaners & demolition

DECISION NO. PA78-3066

AREA COVERED BY LABORERS ZONES AND CLASSIFICATIONS (CONT'D)

ZONE II (CONT'T)

CLASS II - Operators of jackhammers, paving breakers, vibrators & other pneumatic & mechanical tools coming under the jurisdiction of laborers, wagon drill operators, excavating for caisson, under pinning & pier holes (below 12') non-metallic pipe layers, plasterers tenders, mortar men (mixed by hand), handling & using cutting or burning torches in the wrecking of buildings, masons tenders

ZONE III - Snyder County

CLASS I - Unskilled laborers

CLASS II - Air, fuel and electric tool operators and all other pneumatic and mechanical tools including blow-pipe and vacuum cleaners, pipelayers, power-buggy, precast slab placers and signal men

CLASS III - Plasterer and cment mason tenders, machine mixers, plasterer pump and scaffold builders (excluding masonry scaffolding) for cassion workers, blasters, wagon air track and diamond point drill operators, burning torches, green cutting machine and steam jenny

CLASS IV - Mason tenders, machine mixers, motorizsd stockers, scaffold builders (masonry), mortar pump, conveyors, mechanical cleaners and sandblasting for masonry and masonry equipment

CLASS V - Nursery workers, window washers, floor scrubbers

DECISION NO. PA78-3066

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS					
ZONE I	11.28		.35		.01
ZONE II	10.11	.40	.25		.01
ZONE III	10.93		.20		.01

AREA COVERED BY LATHERS ZONES

ZONE I - Columbia County

ZONE II - Montour County

ZONE III - Snyder County

LEADBURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION					
Linemen, dynamite man, heavy equipment operator	10.80	.50	3%		3/8 of 1%
Winch truck operator	7.59	.50	3%		3/8 of 1%
Groundman	7.26	.50	3%		3/8 of 1%
MARBLE SETTERS	10.00		.50		
MILLWRIGHTS	11.45	.50	.55		.05
PAINTERS					
Brush	9.55	.75	.40		.10
Tapers	9.81	.75	.40		.10
Hazardous	10.81	.75	.40		.10
PILEDRIVERMEN	11.12	2.33	1.35	d	.12
PLASTERERS					
ZONE I	9.05	.55	.70		.01
ZONE II	10.20				

AREA COVERED BY PLASTERERS ZONES

ZONE I - Columbia County

ZONE II - Snyder County & Montour

DECISION NO. PA78-3066

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAMFITTERS	11.30	.70	.80		.12
ROOFERS					
ZONE I	10.15	.85	.90		
ZONE II	10.41	.80	.55		

AREA COVERED BY ROOFER ZONES

ZONE I - Columbia & Montour Counties

ZONE II - Snyder County

SHEET METAL WORKERS	11.12	.73	.40		.02
SOFT FLOOR LAYERS	9.20	.50	.55		.05
SPRINKLER FITTERS	12.31	.75	1.05		.08
TRUCK DRIVERS					
ZONE I	7.20				
ZONE II					
CLASS I	8.07	a	b		
CLASS II	8.12	a	b		
CLASS III	8.08	a	b		

TRUCK DRIVERS CLASSIFICATIONS DEFINITIONS

ZONE I - Montour County

ZONE II - Columbia & Snyder Counties

CLASS I - Pick-ups and service dump and flat including "2" license

CLASS II - All trucks over "2" license

CLASS III - Fork lifts tow motors, front and pneumatic tired loaders

FOOTNOTES:

a. Employer contributes $41.00 per month to employees who have worked 60 hours or more for the employe during the preceding month.

b. Employer contributes $25.00 per month to employees who have been employed over 13 weeks.

DECISION NO. PA78-3066

WELDERS - Rate of craft

FOOTNOTES:

a. Paid Holidays: JuLY 4th, Labor Day, Thanksgiving Day and Good Friday.

b. Employer contributes $2.50 to a combined Health and Welfare and Pension Fund.

c. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Washington's Birthday; Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holidays.

d. Paid Holidays: Washington's Birthday, Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day; Thanksgiving Day and Christmas Day.

DECISION NO. PA78-3066

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr
GROUP 1	$12.44	7%	10.3%	a	1.8%
GROUP 2	12.15	7%	10.3%	a	1.8%
GROUP 3	11.28	7%	10.3%	a	1.8%
GROUP 4	10.51	7%	10.3%	a	1.8%
GROUP 5	10.04	7%	10.3%	a	1.8%
GROUP 6	9.13	7%	10.3%	a	1.8%
GROUP 7	12.69	7%	10.3%	a	1.8%
GROUP 7-A	12.94	7%	10.3%	a	1.8%
GROUP 7-B	13.18	7%	10.3%	a	1.8%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operatore (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: Pennsylvania — COUNTIES: Adams & York
DECISION NO.: PA78-3067 — DATE: Date of Publication
Supersedes Decision No. PA77-3128 dated September 16, 1977 in 42 FR 46901.
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$10.76	.67	.90		.01
Boilermakers	13.775	1.075	1.00		.02
Bricklayers & Stonemasons	9.80	.45	.45		
Carpenters (York County)	9.89	.65	.65		.03
Carpenters (Adams County)	10.30	.50	.55		.05
Cement Masons (Adams County)	10.465	.65	.50		
Cement Masons (York County)	9.84	.35	.25		.01
Electricians	10.90	.45	3%+.15		.01
Elevator Constructors	10.55	.745	.56	4%+a+b	.025
Elevator Constructors Helpers	7.385	.745	.56	4%+a+b	.025
Elevator Constructors Helpers (Prob.)	5.275				
Ironworkers	11.28	.84	1.36		.03
Laborers:					
General Laborers	6.85	.50	.57		
Operators of jackhammer (etc.)	7.05	.50	.57		
Wagon drill (etc.)	7.15	.50	.57		
Handling of all materials (etc.)	7.00	.50	.57		
Laborers assisting tile (etc.)	6.90	.50	.57		
Handling & using dynamite	7.18	.50	.57		
Caisson work (top men)	7.10	.50	.57		
Caisson work (bottom men)	7.30	.50	.57		
Mixer man	7.25	.50	.57		
Line Construction:					
Linemen, cable splicers	11.39	.45	3%		3/8%
Winch truck operators	7.97	.45	3%		3/8%
Groundman	6.83	.45	3%		3/8%
Marble, tile & terrazzo workers	8.55	.45	.45		
Millwrights (Adams County)	11.45	.50	.55		.05
Millwrights (York County)	10.59	.35	.40		.03
Painters:					
Brush	7.80	.35	.15		
Steel & Spray	8.35	.35	.15		
Piledrivermen	11.12	2.33	1.35	c	.12
Plasterers (York County)	8.60	.35	.25		.01
Plasterers (Adams County)	9.60	.65	.50		.01
Plumbers	11.30	.70	.85		.12
Roofers:					
Composition	9.25	.61	.30	.25	
Slate & tile	9.85	.61	.30	.25	

DECISION NO. PA78-3067

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sheet Metal Workers	10.05	1.39	1.18		.05
Soft Floor Layers:					
Adams County	9.20	.50	.55		.05
York County	9.89	.65	.65		.03
Sprinkler Fitters	12.31	.75	1.05		.08
Steamfitters	11.30	.70	.85		.12
Truck Drivers:					
Pickup, Dump, Service Trucks, Flat Trucks to and including 2 Highway License Plates	8.39	d	e		
Transit Mix, Winch Trucks, Tractor Trailers, all types of Euclid, Ross Lumber Carriers, and Trucks over 2 Plates	8.64	d	e		

Welders - Receive rate for craft

PAID HOLIDAYS (Where Applicable)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Paid Holidays: A through F, plus the Friday after Thanksgiving Day.

c. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans's Day; Thanksgiving Day.

d. Employer shall contributes $71.37 per month to a Health & Welfare Fund.

e. Employer shall contributes $46.80 per month to a Pension Fund.

DECISION NO. PA78-3067

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Appr. Tr.
GROUP 1	$12.44	7%	10.3%	a	1.8%
GROUP 2	12.15	7%	10.3%	a	1.8%
GROUP 3	11.28	7%	10.3%	a	1.8%
GROUP 4	10.51	7%	10.3%	a	1.8%
GROUP 5	10.04	7%	10.3%	a	1.8%
GROUP 6	9.13	7%	10.3%	a	1.8%
GROUP 7	12.69	7%	10.3%	a	1.8%
GROUP 7-A	12.94	7%	10.3%	a	1.8%
GROUP 7-B	13.18	7%	10.3%	a	1.8%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: Texas — COUNTIES: Statewide
DECISION NO.: TX78-4094 — DATE: Date of Publication
Supersedes Decision No. TX78-4025, dated March 31, 1978, in 43 FR 13739.
DESCRIPTION OF WORK: See "Area Covered by Various Zones"

	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Air Tool Man	$ -	$ 3.00	$ 3.00	$ -	$ 2.95
Asphalt Heaterman	3.95	3.30	3.60	3.50	3.00
Asphalt Raker	4.45	4.15	4.10	3.55	3.70
Asphalt Shoveler	-	3.00	3.00	2.65	2.95
Batching Plant Scaleman	5.05	4.50	4.25	3.80	4.00
Batterboard Setter	-	3.00	3.65	2.65	3.50
Carpenter	5.25	5.35	4.50	4.65	4.55
Carpenter Helper	4.30	4.00	4.00	3.60	3.50
Concrete Finisher (Paving)	5.00	5.25	4.25	4.25	4.35
Concrete Finisher Helper (Paving)	3.75	3.35	3.25	3.00	3.45
Concrete Finisher (Structures)	5.50	4.50	4.45	4.15	4.10
Concrete Finisher Helper (Structures)	4.45	3.50	4.00	3.60	3.50
Concrete Rubber	-	-	-	3.10	3.50
Electrician	-	6.75	7.50	5.50	7.25
Electrician Helper	-	3.80	-	3.60	3.50
Fireman	-	-	-	-	-
Form Builder (Structures)	5.20	4.65	4.60	3.75	4.55
Form Builder Helper (Structures)	4.00	-	4.00	3.35	3.60
Form Liner (Paving and Curb)	4.00	-	-	2.85	4.00
Form Setter (Paving and Curb)	4.40	4.70	4.85	3.85	4.15
Form Setter Helper (Paving and Curb)	3.50	4.00	4.00	3.40	3.50
Form Setter (Structures)	5.50	5.50	4.65	4.15	4.60
Form Setter Helper (Structures)	4.40	4.10	3.60	3.50	3.60
Laborer, Common	3.00	3.00	3.00	2.65	2.95
Laborer, Utility Man	4.00	3.80	3.70	3.30	3.20
Manhole Builder, Brick	4.00	4.00	3.00	3.25	4.05
Mechanic	5.50	5.00	4.50	4.25	4.70
Mechanic Helper	4.35	4.65	3.65	3.35	4.00
Oiler	4.50	4.50	4.05	3.00	4.05
Serviceman	4.35	4.00	3.75	3.85	3.55
Painter (Structures)	4.60	-	6.00	5.00	4.90
Painter Helper (Structures)	-	-	3.50	4.00	3.00
Piledrivermen	-	-	-	3.40	4.75
Pipelayer	4.90	4.00	5.00	3.50	3.50
Pipelayer Helper	4.35	3.50	3.50	3.00	3.00
Pneumatic Mortarman	-	-	-	-	3.00
Powderman	5.00	5.00	4.50	4.50	4.25
Powderman Helper	-	-	3.50	3.45	2.95
Reinforcing Steel Setter (Paving)	4.35	-	-	3.00	3.85
Reinforcing Steel Setter (Structures)	4.90	4.70	4.40	3.80	4.75
Reinforcing Steel Setter Helper	3.25	-	3.50	3.25	3.50
Steel Worker (Structural)	-	-	3.75	3.50	4.15
Steel Worker Helper (Structural)	-	-	-	-	3.50

	ZONE 1 Basic Hourly Rates	ZONE 2 Basic Hourly Rates	ZONE 3 Basic Hourly Rates	ZONE 4 Basic Hourly Rates	ZONE 5 Basic Hourly Rates
Sign Erector	$ 4.00	$ -	$ 4.00	$ 3.75	$ 3.35
Sign Erector Helper	3.50	-	3.50	3.25	-
Spreader Box Man	4.80	4.40	4.25	3.90	3.50
Swamper	3.25	3.75	-	3.40	3.50
Power Equipment Operators:					
Asphalt Distributor	4.75	4.20	4.25	3.55	4.00
Asphalt Paving Machine	5.05	4.25	4.25	3.70	4.30
Broom or Sweeper Operator	3.85	4.00	3.65	3.75	3.50
Bulldozer, 150 HP and Less	4.80	4.10	4.00	4.00	4.00
Bulldozer, over 150 HP	5.00	4.50	4.50	4.50	4.50
Concrete Paving Curing Machine	4.75	-	-	4.60	4.00
Concrete Paving Finishing Machine	5.00	4.35	-	4.80	-
Concrete Paving Form Grader	5.50	-	-	-	-
Concrete Paving Gang Vibrator	-	-	-	-	4.60
Concrete Paving Grinder	-	-	-	-	-
Concrete Paving Joint Machine	-	-	-	-	-
Concrete Paving Joint Sealer	-	-	-	-	-
Concrete Paving Longitudinal Float	-	-	-	-	-
Concrete Paving Mixer	5.00	-	-	-	4.10
Concrete Paving Saw	4.50	4.00	4.50	-	-
Concrete Paving Spreader	-	-	-	-	4.35
Paving Sub Grader	-	-	4.25	-	-
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (Less then 1½ CY)	5.10	5.00	4.40	4.30	4.00
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	5.50	5.25	5.00	5.00	5.00
Crusher or Screening Plant Operator	4.90	4.50	4.35	4.10	3.75
Elevating Grader	5.15	4.00	4.10	-	3.50
Form Loader	-	-	-	-	4.00
Foundation Drill Operator (Crawler Mounted)	5.35	5.85	4.60	4.00	7.70
Foundation Drill Operator (Truck Mounted)	6.25	6.50	5.50	-	5.50
Foundation Drill Operator Helper	4.00	4.00	-	-	3.75
Front End Loader (2½ CY and Less)	4.65	4.25	3.95	3.90	4.00
Front End Loader (Over 2½ CY)	5.25	4.70	4.50	4.55	4.50
Hoist (Double Drum and Less)	-	-	4.00	3.10	-
Mixer (Over 16 CF)	4.65	-	-	-	4.50
Mixer (16 CF and Less)	-	-	-	-	-
Motor Grader Operator, Fine Grade	5.50	5.50	5.00	5.20	5.00
Motor Grader Operator	5.05	5.00	4.25	4.50	4.50
Pump Crete	-	-	-	-	-

	ZONE 1 Basic Hourly Rates	ZONE 2 Basic Hourly Rates	ZONE 3 Basic Hourly Rates	ZONE 4 Basic Hourly Rates	ZONE 5 Basic Hourly Rates
Power Equipment Operators (Cont'd):	$	$	$	$	$
Roller, Steel Wheel (Plant-Mix Pavements)	4.35	3.50	3.80	3.50	3.00
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	4.10	3.90	3.60	3.35	3.00
Roller, Pneumatic (Self-Propelled)	4.20	3.50	3.55	3.30	3.25
Scrapers (17 CY and Less)	4.65	4.00	4.00	4.00	3.75
Scrapers (Over 17 CY)	5.10	4.50	4.50	4.50	4.50
Self-Propelled Hammer	-	-	3.50	-	3.00
Side Boom	4.00	3.25	3.50	-	3.25
Tractor (Crawler Type) 150 HP & Less	3.60	3.50	3.35	3.30	3.55
Tractor (Crawler Type) over 150 HP	4.60	4.50	3.80	3.80	4.25
Tractor (Pneumatic) 80 HP & Less	3.80	3.70	3.75	3.25	3.00
Tractor (Pneumatic) over 80 HP	4.25	4.00	4.00	3.75	3.25
Traveling Mixer	4.35	4.25	4.00	4.15	3.10
Trenching Machine, Light	4.00	4.25	4.35	3.75	3.50
Trenching Machine, Heavy	4.00	-	-	4.25	4.75
Wagon Drill, Boring Machine or Post Hole Driller Operator	4.00	4.10	4.00	4.00	4.00
Truck Drivers:					
Single Axle, Light	4.00	3.50	3.50	3.35	3.15
Single Axle, Heavy	4.15	4.05	3.70	-	-
Tandem Axle or Semitrailer	4.15	-	3.50	3.45	-
Lowboy-Float	5.50	3.60	4.00	4.05	4.00
Transit-Mix	-	-	-	3.50	-
Winch	4.25	-	3.75	-	3.60
Vibrator Man (Hand Type)	3.05	-	-	-	3.00
Weighman (Truck Scales)	3.50	3.50	3.25	3.05	-
Welder	5.50	5.25	4.65	4.60	4.60
Welder Helper	-	3.25	-	3.50	3.50

	ZONE 6 Basic Hourly Rates	ZONE 7 Basic Hourly Rates	ZONE 8 Basic Hourly Rates	ZONE 9 Basic Hourly Rates	ZONE 10 Basic Hourly Rates
Air Tool Man	$ 2.75	$ 3.00	$ 3.25	$ 3.25	$ 3.25
Asphalt Heaterman	3.90	3.50	3.25	3.75	3.50
Asphalt Raker	3.60	4.10	3.75	4.30	4.50
Asphalt Shoveler	3.60	3.20	-	4.25	3.50
Batching Plant Scaleman	4.00	3.80	3.85	4.85	4.20
Batterboard Setter	-	3.80	-	-	-
Carpenter	4.00	4.50	5.25	4.50	5.00
Carpenter Helper	3.35	3.65	4.00	3.50	3.75
Concrete Finisher (Paving)	3.35	4.50	4.10	4.75	5.00
Concrete Finisher Helper (Paving)	2.95	3.00	4.00	3.50	3.75
Concrete Finisher (Structures)	4.00	4.00	4.65	4.75	5.00
Concrete Finisher Helper (Structures)	3.50	3.65	3.25	4.00	4.05
Concrete Rubber	3.50	3.30	3.30	4.00	3.50
Electrician	7.50	6.55	6.50	7.00	6.75
Electrician Helper	-	3.15	3.00	4.00	5.00
Fireman	-	-	-	-	-
Form Builder (Structures)	4.55	4.60	4.25	4.00	5.00
Form Builder Helper (Structures)	3.75	3.75	4.00	3.25	4.15
Form Liner (Paving and Curb)	3.25	3.50	4.00	-	5.00
Form Setter (Paving and Curb)	3.75	4.10	4.10	4.50	4.00
Form Setter Helper (Paving and Curb)	2.85	3.65	3.85	3.75	3.75
Form Setter (Structures)	4.50	4.25	4.70	4.50	5.00
Form Setter Helper (Structures)	3.00	3.00	3.50	3.75	4.20
Laborer, Common	2.65	3.00	3.00	3.00	3.00
Laborer, Utility Man	3.50	3.50	3.40	3.00	3.60
Manhole Builder, Brick	3.85	3.75	-	-	-
Mechanic	4.05	4.50	5.00	4.50	5.00
Mechanic Helper	3.85	3.90	3.95	4.10	4.45
Oiler	3.25	3.75	3.75	3.75	4.20
Serviceman	3.50	3.75	3.80	3.50	4.00
Painter (Structures)	4.50	5.00	4.25	3.50	-
Painter Helper (Structures)	-	3.50	-	-	-
Piledrivermen	5.00	3.75	-	4.00	4.75
Pipelayer	3.75	3.95	4.00	4.05	4.00
Pipelayer Helper	2.85	3.25	3.50	3.50	3.50
Pneumatic Mortarman	-	-	-	-	-
Powderman	3.75	-	4.40	4.75	4.75
Powderman Helper	-	-	3.00	-	-
Reinforcing Steel Setter (Paving)	3.80	-	-	-	4.00
Reinforcing Steel Setter (Structures)	4.50	4.00	4.15	4.90	4.95
Reinforcing Steel Setter Helper	3.75	3.50	3.40	3.25	3.00
Steel Worker (Structural)	-	-	4.50	-	4.25
Steel Worker Helper (Structural)	-	-	3.70	-	3.75

	ZONE 6 Basic Hourly Rates	ZONE 7 Basic Hourly Rates	ZONE 8 Basic Hourly Rates	ZONE 9 Basic Hourly Rates	ZONE 10 Basic Hourly Rates
Sign Erector	$ 5.00	$ -	$ 4.50	$ 4.65	$ 4.75
Sign Erector Helper	3.50	-	4.00	3.10	3.90
Spreader Box Man	4.00	3.60	3.75	4.00	4.60
Swamper	-	-	-	4.00	-
Power Equipment Operators:					
Asphalt Distributor	3.75	3.85	4.00	4.30	4.45
Asphalt Paving Machine	4.25	4.65	4.35	4.25	4.50
Broom or Sweeper Operator	3.40	3.50	4.10	3.70	3.90
Bulldozer, 150 HP and Less	3.80	4.00	4.25	4.00	4.50
Bulldozer, over 150 HP	4.20	4.50	5.15	4.50	4.75
Concrete Paving Curing Machine	-	3.50	4.00	3.70	5.00
Concrete Paving Finishing Machine	-	3.00	-	-	4.95
Concrete Paving Form Grader	-	3.50	-	-	-
Concrete Paving Gang Vibrator	-	3.50	-	-	-
Concrete Paving Grinder	-	3.50	-	-	-
Concrete Paving Joint Machine	-	-	-	-	-
Concrete Paving Joint Sealer	-	-	-	-	-
Concrete Paving Longitudinal Float	-	-	-	-	4.50
Concrete Paving Mixer	-	-	-	-	4.00
Concrete Paving Saw	3.50	-	-	4.75	4.75
Concrete Paving Spreader	-	-	-	-	4.50
Paving Sub Grader	-	3.50	-	-	4.00
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	3.95	4.50	4.30	4.50	4.70
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	5.00	5.20	5.00	4.95	5.00
Crusher or Screening Plant Operator	3.50	3.50	4.75	4.20	-
Elevating Grader	-	4.00	-	-	-
Form Loader	4.00	-	-	-	3.25
Foundation Drill Operator (Crawler Mounted)	-	-	5.75	-	-
Foundation Drill Operator (Truck Mounted)	5.50	-	5.50	4.50	5.75
Foundation Drill Operator Helper	3.75	-	4.25	4.25	4.10
Front End Loader (2½ CY and Less)	3.70	3.95	3.90	4.00	4.35
Front End Loader (Over 2½ CY)	4.00	4.50	4.50	4.70	5.00
Hoist (Double Drum and Less)	-	-	-	-	-
Mixer (Over 16 CF)	-	4.25	-	-	3.75
Mixer (16 CF and Less)	3.50	-	-	-	3.75
Motor Grader Operator, Fine Grade	4.50	5.50	5.40	5.00	5.00
Motor Grader Operator	4.10	4.50	4.50	4.35	4.75
Pump Crete	-	-	-	-	-

	ZONE 6	ZONE 7	ZONE 8	ZONE 9	ZONE 10
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Power Equipment Operators (Cont'd):	$	$	$	$	$
Roller, Steel Wheel (Plant-Mix Pavements)	3.85	3.65	3.55	4.00	4.25
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.35	3.55	3.80	3.70	3.80
Roller, Pneumatic (Self-Propelled)	3.45	3.55	3.45	3.45	3.80
Scrapers (17 CY and Less)	3.50	3.75	4.00	4.00	4.50
Scrapers (Over 17 CY)	4.00	4.50	5.00	4.50	4.75
Self-Propelled Hammer	3.15	-	-	-	4.25
Side Boom	-	-	-	-	-
Tractor (Crawler Type) 150 HP & Less	2.80	3.60	3.00	3.10	3.60
Tractor (Crawler Type) over 150 HP	4.15	4.15	3.50	4.25	4.75
Tractor (Pneumatic) 80 HP & Less	3.40	3.00	3.25	3.25	3.60
Tractor (Pneumatic) over 80 HP	3.80	3.65	4.35	3.75	3.60
Traveling Mixer	3.50	3.80	-	4.15	3.75
Trenching Machine, Light	3.00	3.25	3.50	4.00	-
Trenching Machine, Heavy	-	-	4.85	4.45	5.00
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.75	3.75	3.95	3.80	4.00
Truck Drivers:					
Single Axle, Light	3.30	3.25	3.00	3.50	3.60
Single Axle, Heavy	-	-	3.25	3.50	4.00
Tandem Axle or Semitrailer	-	3.75	3.50	3.50	-
Lowboy-Float	-	3.50	3.75	-	4.85
Transit-Mix	-	-	-	-	-
Winch	3.50	-	-	-	-
Vibrator Man (Hand Type)	-	3.00	3.00	-	-
Weighman (Truck Scales)	-	-	-	3.00	3.00
Welder	4.50	4.25	5.00	4.50	5.50
Welder Helper	-	3.75	-	3.25	-

	ZONE 11	ZONE 12	ZONE 13	ZONE 14	ZONE 15
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Air Tool Man	$ 3.75	$ -	$ 3.05	$ 3.00	$ 4.00
Asphalt Heaterman	3.75	3.75	4.00	-	3.75
Asphalt Raker	5.00	3.75	4.00	3.90	4.50
Asphalt Shoveler	3.25	3.00	4.00	-	4.00
Batching Plant Scaleman	4.35	4.25	3.50	3.00	5.50
Batterboard Setter	3.25	-	-	-	4.15
Carpenter	4.75	5.50	4.25	5.10	5.80
Carpenter Helper	3.75	4.05	4.00	4.00	4.00
Concrete Finisher (Paving)	5.05	5.00	4.75	4.50	5.75
Concrete Finisher Helper (Paving)	4.00	4.10	4.00	4.00	5.00
Concrete Finisher (Structures)	4.75	4.70	5.05	5.50	5.75
Concrete Finisher Helper (Structures)	3.75	4.00	4.10	4.10	4.35
Concrete Rubber	3.25	4.50	-	-	4.25
Electrician	6.25	7.25	5.00	7.00	8.05
Electrician Helper	3.90	-	-	5.50	3.75
Fireman	-	-	3.05	3.00	-
Form Builder (Structures)	5.00	5.00	5.05	4.75	5.25
Form Builder Helper (Structures)	4.00	4.00	4.00	4.10	4.50
Form Liner (Paving and Curb)	5.00	4.00	3.75	-	5.80
Form Setter (Paving and Curb)	5.00	4.00	5.00	4.85	5.00
Form Setter Helper (Paving and Curb)	3.50	3.25	4.00	3.50	4.50
Form Setter (Structures)	4.65	4.50	5.35	5.50	5.45
Form Setter Helper (Structures)	3.85	3.90	4.00	4.00	4.15
Laborer, Common	3.00	3.00	3.00	3.00	3.75
Laborer, Utility Man	3.55	3.50	3.55	3.00	4.00
Manhole Builder, Brick	4.50	-	-	-	5.15
Mechanic	5.00	5.25	5.50	5.20	6.00
Mechanic Helper	3.75	4.05	4.00	3.75	4.25
Oiler	4.25	3.75	4.25	4.10	5.00
Serviceman	3.50	3.50	4.40	3.65	5.25
Painter (Structures)	5.50	5.25	-	-	7.90
Painter Helper (Structures)	4.50	-	-	-	4.40
Piledrivermen	-	5.25	-	-	6.00
Pipelayer	4.00	4.00	3.85	3.65	5.00
Pipelayer Helper	3.75	3.00	-	3.00	3.75
Pneumatic Mortarman	-	-	-	-	-
Powderman	5.10	4.25	-	3.40	-
Powderman Helper	-	3.25	-	-	-
Reinforcing Steel Setter (Paving)	4.60	3.75	-	4.00	4.50
Reinforcing Steel Setter (Structures)	4.65	4.55	4.00	4.00	5.15
Reinforcing Steel Setter Helper	4.00	3.75	4.00	-	3.75
Steel Worker (Structural)	4.25	5.00	-	-	5.25
Steel Worker Helper (Structural)	3.60	3.25	-	-	4.50

NOTICES

43236

	ZONE 11	ZONE 12	ZONE 13	ZONE 14	ZONE 15
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Sign Erector	$ 4.00	$ -	$ -	$ -	$ 4.25
Sign Erector Helper	3.25	-	-	-	-
Spreader Box Man	4.10	3.90	4.75	4.10	4.00
Swamper	4.00	3.30	-	-	-
Power Equipment Operators:					
Asphalt Distributor	4.30	4.10	5.00	4.00	5.00
Asphalt Paving Machine	4.00	4.00	4.50	4.10	5.00
Broom or Sweeper Operator	3.50	3.75	3.80	4.10	4.50
Bulldozer, 150 HP and Less	4.50	4.50	4.50	4.00	5.00
Bulldozer, over 150 HP	5.25	4.85	5.25	4.80	5.80
Concrete Paving Curing Machine	4.75	4.50	-	-	5.50
Concrete Paving Finishing Machine	5.25	4.50	-	-	6.00
Concrete Paving Form Grader	4.00	-	-	-	4.25
Concrete Paving Gang Vibrator	-	-	-	-	-
Concrete Paving Grinder	-	-	-	-	-
Concrete Paving Joint Machine	-	-	-	-	5.50
Concrete Paving Joint Sealer	4.00	4.00	-	-	5.50
Concrete Paving Longitudinal Float	4.50	-	-	-	4.75
Concrete Paving Mixer	5.25	4.50	-	-	-
Concrete Paving Saw	4.15	4.25	-	-	5.50
Concrete Paving Spreader	5.25	4.00	-	-	5.65
Paving Sub Grader	5.25	4.00	-	-	5.50
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.75	4.70	4.80	4.35	5.50
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	5.25	5.25	5.60	5.50	6.00
Crusher or Screening Plant Operator	4.50	3.50	4.00	3.75	5.00
Elevating Grader	-	4.25	-	-	-
Form Loader	3.25	3.75	-	-	3.80
Foundation Drill Operator (Crawler Mounted)	-	5.75	3.50	-	7.00
Foundation Drill Operator (Truck Mounted)	5.00	5.75	5.75	5.00	4.50
Foundation Drill Operator Helper	4.10	4.00	-	4.25	3.75
Front End Loader (2½ CY and Less)	4.00	4.00	4.50	4.00	4.55
Front End Loader (Over 2½ CY)	4.75	4.80	4.90	5.00	5.70
Hoist (Double Drum and Less)	-	-	-	-	3.75
Mixer (Over 16 CF)	-	4.90	3.65	-	5.50
Mixer (16 CF and Less)	3.75	-	-	-	4.50
Motor Grader Operator, Fine Grade	5.25	5.00	5.00	5.00	6.35
Motor Grader Operator	4.50	4.50	4.65	4.25	5.50
Pump Crete	3.75	-	-	-	5.00

	ZONE 11	ZONE 12	ZONE 13	ZONE 14	ZONE 15
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Power Equipment Operators (Cont'd):	$	$	$	$	$
Roller, Steel Wheel (Plant-Mix Pavements)	4.70	4.00	4.50	3.75	4.50
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.70	3.50	4.00	3.75	4.60
Roller, Pneumatic (Self-Propelled)	3.75	3.60	4.50	3.50	4.00
Scrapers (17 CY and Less)	4.35	4.25	4.60	4.00	4.50
Scrapers (Over 17 CY)	4.75	4.50	5.00	4.50	5.00
Self-Propelled Hammer	-	-	-	-	-
Side Boom	-	-	3.35	-	-
Tractor (Crawler Type) 150 HP & Less	3.75	3.25	4.00	-	4.00
Tractor (Crawler Type) over 150 HP	5.00	4.25	5.00	4.00	4.75
Tractor (Pneumatic) 80 HP & Less	3.75	3.85	3.05	3.50	3.75
Tractor (Pneumatic) over 80 HP	4.25	4.25	4.75	3.75	4.00
Traveling Mixer	3.75	4.70	3.50	3.65	5.00
Trenching Machine, Light	3.75	-	-	-	4.50
Trenching Machine, Heavy	3.85	-	-	-	5.75
Wagon Drill, Boring Machine or Post Hole Driller Operator	4.50	4.50	-	3.75	3.75
Truck Drivers:					
Single Axle, Light	3.50	3.45	3.85	3.25	4.00
Single Axle, Heavy	4.00	3.50	4.10	3.50	4.50
Tandem Axle or Semitrailer	4.00	3.55	-	3.75	4.10
Lowboy-Float	4.50	-	5.00	-	4.75
Transit-Mix	4.00	-	-	-	5.00
Winch	3.60	-	-	-	-
Vibrator Man (Hand Type)	3.50	3.00	-	-	-
Weighman (Truck Scales)	3.00	3.50	3.00	3.00	3.75
Welder	4.50	5.00	4.50	3.60	6.00
Welder Helper	3.75	3.00	-	-	4.50

NOTICES

43237

	ZONE 16				
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Air Tool Man	$ -				
Asphalt Heaterman	4.50				
Asphalt Raker	4.70				
Asphalt Shoveler	-				
Batching Plant Scaleman	4.65				
Batterboard Setter	-				
Carpenter	3.85				
Carpenter Helper	4.50				
Concrete Finisher (Paving)	6.00				
Concrete Finisher Helper (Paving)	5.00				
Concrete Finisher (Structures)	6.00				
Concrete Finisher Helper (Structures)	4.55				
Concrete Rubber	-				
Electrician	7.60				
Electrician Helper	4.60				
Fireman	-				
Form Builder (Structures)	5.15				
Form Builder Helper (Structures)	3.85				
Form Liner (Paving and Curb)	4.50				
Form Setter (Paving and Curb)	5.00				
Form Setter Helper (Paving and Curb)	-				
Form Setter (Structures)	5.50				
Form Setter Helper (Structures)	3.90				
Laborer, Common	3.85				
Laborer, Utility Man	4.00				
Manhole Builder; Brick	-				
Mechanic	5.75				
Mechanic Helper	4.00				
Oiler	4.50				
Serviceman	4.50				
Painter (Structures)	6.00				
Painter Helper (Structures)	3.85				
Piledrivermen	5.50				
Pipelayer	6.00				
Pipelayer Helper	3.85				
Pneumatic Mortarman	-				
Powderman	-				
Powderman Helper	-				
Reinforcing Steel Setter (Paving)	5.50				
Reinforcing Steel Setter (Structures)	5.75				
Reinforcing Steel Setter Helper	4.00				
Steel Worker (Structural)	5.50				
Steel Worker Helper (Structural)	-				

	ZONE 16				
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Sign Erector	$ 4.50				
Sign Erector Helper	-				
Spreader Box Man	5.00				
Swamper	4.50				
Power Equipment Operators:					
Asphalt Distributor	6.00				
Asphalt Paving Machine	5.50				
Broom or Sweeper Operator	3.85				
Bulldozer, 150 HP and Less	5.00				
Bulldozer, over 150 HP	5.70				
Concrete Paving Curing Machine	4.50				
Concrete Paving Finishing Machine	6.00				
Concrete Paving Form Grader	4.50				
Concrete Paving Gang Vibrator	-				
Concrete Paving Grinder	-				
Concrete Paving Joint Machine	4.50				
Concrete Paving Joint Sealer	-				
Concrete Paving Longitudinal Float	4.50				
Concrete Paving Mixer	-				
Concrete Paving Saw	4.75				
Concrete Paving Spreader	4.75				
Paving Sub Grader	-				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	6.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	6.50				
Crusher or Screening Plant Operator	-				
Elevating Grader	-				
Form Loader	-				
Foundation Drill Operator (Crawler Mounted)	-				
Foundation Drill Operator (Truck Mounted)	-				
Foundation Drill Operator Helper	-				
Front End Loader (2½ CY and Less)	4.50				
Front End Loader (Over 2½ CY)	6.00				
Hoist (Double Drum and Less)	-				
Mixer (Over 16 CF)	-				
Mixer (16 CF and Less)	-				
Motor Grader Operator, Fine Grade	6.00				
Motor Grader Operator	5.50				
Pump Crete	-				

	ZONE 16				
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Power Equipment Operators (Cont'd):	$				
Roller, Steel Wheel (Plant-Mix Pavements)	4.75				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	4.30				
Roller, Pneumatic (Self-Propelled)	4.50				
Scrapers (17 CY and Less)	4.85				
Scrapers (Over 17 CY)	5.00				
Self-Propelled Hammer	-				
Side Boom	-				
Tractor (Crawler Type) 150 HP & Less	3.85				
Tractor (Crawler Type) over 150 HP	4.50				
Tractor (Pneumatic) 80 HP and Less	3.85				
Tractor (Pneumatic) over 80 HP	4.50				
Traveling Mixer	4.50				
Trenching Machine, Light	-				
Trenching Machine, Heavy	-				
Wagon Drill, Boring Machine or Post Hole Driller Operator	4.00				
Truck Drivers:					
Single Axle, Light	4.00				
Single Axle, Heavy	4.10				
Tandem Axle or Semitrailer	4.25				
Lowboy-Float	7.10				
Transit-Mix	-				
Winch	-				
Vibrator Man (Hand Type)	-				
Weighman (Truck Scales)	-				
Welder	6.55				
Welder Helper	-				

AREA COVERED BY VARIOUS ZONES

ZONE 1 - Archer, Armstrong, Baylor, Briscoe, Carson, Castro, Childress, Clay, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hardeman, Harrley, Hemphill, Hutchinson, Lipscomb, Montague, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita & Wilbarger Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 2 - Bailey, Borden, Cochran, Cottle, Crosby, Dawson, Dickens, Fisher, Floyd, Foard, Gaines, Garza, Hale, Haskell, Hockley, Jones, Kent, King, Knox, Lamb, Lubbock, Lynn, Motley, Scurry, Shackelford, Stephens, Stonewall, Terry, Throckmorton, Yoakum & Young Cos.

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 3 - Andrews, Brown, Callahan, Coke, Coleman, Comanche, Concho, Crane, Crockett, Eastland, Ector, Erath, Glasscock, Howard, Irion, Kimble, Loving, Martin, McCulloch, Menard, Midland, Mills, Mitchell, Nolan, Reagan, Runnels, San Saba, Schleicher, Sterling, Sutton, Taylor, Tom Green, Upton, Ward & Winkler Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories)

ZONE 4 - Brewster, Culberson, El Paso*, Hudspath, Jeff Davis, Pecos, Presidio, Reeves & Terrell Counties

DESCRIPTION OF WORK: Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residental construction (single family homes and garden-type apartments up to and including 4 stories).

*Not to be used for Utilities Incidental to General Building Construction in El Paso County

ZONE 5 - Atascosa, Bandera, Bexar, Comal, Dimmit, Edwards, Frio, Guadalupe, Kendall, Kerr, Kinney, LaSalle, Maverick, McMullen, Medina, Real, Uvalde, Val Verde, Wilson & Zavala Cos.

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories)

ZONE 6 - Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Kenedy, Starr, Webb, Willacy & Zapata Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects), Incidental Shore Work and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 7 - Aransas, Bee, Calhoun, DeWitt, Goliad, Jackson, Jim Wells, Karnes, Kleberg, Lavaca, Live Oak, Nueces, Refugio, San Patricio & Victoria Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects), Incidental Shore Work and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 8 - Austin, Bastrop, Blanco, Burnet, Caldwell, Colorado, Fayette, Gillespie, Gonzales, Hays, Lee, Llano, Mason, Travis & Williamson Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects), and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories)

ZONE 9 - Bell*, Bosque, Coryell*, Falls, Freestone, Hamilton, Hill, Lampasas, Limestone, McLennan & Navarro Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories)

*Not to be used for Paving & Utilities Incidental to General Building Construction in Bell & Coryell Counties

ZONE 10 - Cooke, Denton, Hood, Jack, Johnson, Palo Pinto, Parker, Sommervell, Tarrant* & Wise Counties

DESCRIPTION OF WORK: Heavy, Water & Sewer Lines and Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories)

*Not to be used for Heavy Construction & Utilities Incidental to General Building Construction in Tarrant County

ZONE 11 - Collin, Dallas, Ellis, Grayson & Rockwall Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels, dams & work performed on the site of water or sewage treatment facilities) and Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 12 - Bowie, Camp, Cass, Delta, Fannin, Franklin, Gregg, Harrison, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Raine, Red River, Rusk, Smith, Titus, Upshur, Van Zandt & Wood Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories)

ZONE 13 - Anderson, Angelina, Cherokee, Henderson, Houston, Jasper, Nacogdoches, Newton, Panola, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity & Tyler Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects) and Incidental Shore Work and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 14 - Brazos, Burleson, Grimes, Leon, Madison, Milam, Robertson, Walker & Washington Cos

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories)

ZONE 15 - Brazoria, Fort Bend, Galveston*, Harris, Matagorda, Montgomery, Waller & Wharton Counties

DESCRIPTION OF WORK: Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes & garden type apartments up to and including 4 stories).

*Not to be used for Paving & Utilities Incidental to General Building Construction on Galveston Island

ZONE 16 - Chambers, Hardin, Jefferson*, Liberty & Orange* Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects), Incidental Shore Work and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

*Not to be used for Heavy Construction, Incidental Shore Work and Paving & Utilities Incidental to General Building Construction in Jefferson & Orange Counties.

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Ector & Midland
DECISION NO.: TX78-4095 DATE: Date of Publication
Supersedes Decision No. TX78-4051, dated May 12, 1978, in 43 FR 20718.
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.30	.75	.85		.07
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS & STONEMASONS:					
Ector County	8.00				
Midland County	9.60				
CARPENTERS	9.25				.05
CEMENT MASONS	6.00				
ELECTRICIANS:					
ZONE 1 - shall include that area covered by the city limits of Midland & Odessa & extend out 20 miles therefrom	10.45	.60	3%		1/10%
ZONE 2 - shall include that area extending from the outer limits of Zone 1 out to & including 50 miles from the city limits of Midland & Odessa	10.75	.60	3%		1/10%
ZONE 3 - shall include that area extending from the outer limits of Zone 2 & shall extend to the outside limits of the Union Juriadiction	10.95	.60	3%		1/10%
GLAZIERS	5.48				
IRONWORKERS:					
Structural; Ornamental; Reinforing	9.13	.55	1.00		.10
All ironworkers on jobs 30 miles or more from Terminal (midway Odessa-Midland)	9.255	.55	1.00		.10
LABORERS	3.94				
LATHERS	9.45				
PAINTERS:					
Brush	7.35	.30	.20		.04
Spray & sandblasters	8.10	.30	.20		.04
PLASTERERS	8.20				.01
PLUMBERS & PIPEFITTERS:					
ZONE 1 - shall be 15 miles or less from the Courthouse of either Odessa	9.11		.44		.02
ZONE 2 - shall be more than 15 miles but less than 30 miles	9.21		.44		.02
ZONE 3 - shall be more than 30 miles but less than 45 miles	9.31		.44		.02
ZONE 4 - shall be more than 45	9.61		.44		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$ 5.65				
SHEET METAL WORKERS	6.32				
TILE SETTERS	5.25				
TRUCK DRIVERS	3.94				
POWER EQUIPMENT OPERATORS:					
Asphalt paving machines	4.25				
Asphalt rakers	4.00				
Backhoes	4.90				
Bulldozers	4.50				
Cranes, derricks & draglines	5.59				
Foundation drills	4.12				
Front end loaders	4.00				
Motor graders	5.25				
Scrapers	4.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Bell, Bosque, Coryell, Falls, Hill & McLennan

DECISION NO.: TX78-4096 DATE: Date of Publication

Supersedes Decision No. TX78-4073, dated July 21, 1978, in 43 FR 31569.

DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction in Bosque, Falls, Hill & McLennan Counties).

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
ZONE 1 - Bell Coryell & Falls	$11.05	.60	.60		.08
ZONE 2 - Bosque, Hill & McLennan	10.43	.40	.76		.03
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS	10.10		.55		.03
CARPENTERS:					
ZONE 1 - Bell & Coryell Cos.					
Carpenters	8.70				
Millwrights	8.95				
ZONE 2 - Bosque, Falls, Hill & McLennan:					
Carpenters	8.95				
Millwrights	9.35				
CEMENT MASONS	9.24	.50	.55		
ELECTRICIANS:					
ZONE 1 - Bell (that part which is nearer to Waco than Austin but excluding that part of Ft. Hood, the boundary which presently is located approx. 2 miles inside the Bell Co. line & the City of Killeen), Bosque, Coryell (except that part of Ft. Hood south of Cowhouse Creek), Falls, Hill & McLennan Cos.	9.70	.60	3%		1/4%
ZONE 2 - Bell (that part which is nearer to Austin than Waco & not to exceed more than 2 miles into Bell Co. from the southeast boundary line of Coryell Co., Gray Field & the City of Killeen) & Coryeall (that part south of Cowhouse Creek) Counties	11.10		8%		.8%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.91	.745	.35	4%+a+b	.02
Helpers	70%JR	.745	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
GLAZIERS	7.20				
IRONWORKERS	10.05	.55	1.00		.12
LABORERS:					
Unskilled	2.97				
Mason tenders & mortar mixers	3.55				
LATHERS	9.30			.80	.05
LINE CONSTRUCTION:					
Linemen; Linemen operators	12.15		3%		1/2%
Cable splicers	13.37		3%		1/2%
Groundman, 1st 6 months	7.29		3%		1/2%
Groundman, 2nd 6 months	7.90		3%		1/2%
Groundman, 1 year & over	8.51		3%		1/2%
PAINTERS:					
GROUP 1 - Brush	7.60				.04
GROUP 2 - Boiler pipe & steel, structural steel, window jacks, roofs, stage work, smoke stack, water towers, boatswain chair	8.10				.04

Page 2

DECISION NO. TX78-4096

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 3 - Ames tools for dry wall	$ 8.20				.04
GROUP 4 - Spray work & self-feeding rollers	8.35				.04
GROUP 5 - Steam cleaning, sandblasting & hazardous work	8.70				.04
PLASTERERS	9.99	.45	.55		.01
PLUMBERS & PIPEFITTERS:					
ZONE 1 - Area within a 35 mile radius of Waco including Temple, Marlin, Clifton, Hillsboro & Belton	9.18	.30	.33		.03
ZONE 2 - All other areas	9.58	.30	.33		.03
ROOFERS:					
GROUP 1 - Slate, tile, asbestos, roofing & siding	6.95				.03
GROUP 2 - Composition, built-up, damp & waterproofing	6.80				.03
GROUP 3 - Kettlemen	5.10				.03
SHEET METAL WORKERS:					
ZONE 1 - Within a radius of 20 miles from the McLennan Co. Court House, Waco	9.19	.45	.44		.07
ZONE 2 - Over 20 miles but less than 45 miles including the towns of Hillsboro, Temple, Marlin, Gatesville & Clifton	9.69	.45	.44		.07
ZONE 3 - Over 45 miles	10.19	.45	.44		.07
SPRINKLER FITTERS	11.60	.75	1.05		.08
TRUCK DRIVERS	2.80				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly r
b - Paid Holidays A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgivin Day; F-the Friday after Thanksgiving Day; G-Christmas Day

Page 3

DECISION NO. TX78-4096

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$10.44		.40		
GROUP 2	9.37		.40		
GROUP 3	8.13		.40		
GROUP 4	8.04		.40		

GROUP 1 - Heavy Duty Mechanic; Blade Grader - Self-propelled; Bull Clam; Back Filler; Derricks, power operated (all types); Dragline; Push Cat Operator; Euclid Operator; Bull Dozer and all types of Cat Tractors; Cable-Way; Back Hoe; Crane, Power Operated (all types); Elevating Grader, self-propelled; Hoist, Motor-Driven, two drums or more; Mix Mobile; High-Lifts & loaders, over 1/3 cu. yd. capacity; Winch Truck; Locomotive; Mixer, 14 cu. ft. or over; Paving Mixer (all sizes); Scraper; Trenching Machine (all sizes); Gradall; Foundation Boring Machine; Scoopmobile; Shovel, power operated; Pump Crete Machines; Clam Shell Operator; Rock Crusher Operated on Job; Welding Machine, 6 to 12; Two 125 cu. ft. Compressors; Well points, including installations

GROUP 2 - Blade Grader, Towed; Flex Plane; Form Grader; Mixer, less than 14 cu. ft.; Pulsometer; Truck Crane Driver & Oiler, Combination man; Gasoline or Diesel Driven Welding Machine, 3 to 6; Hoist, Single Drum; Pump, 2½ in. or larger; Pneumatic Roller; High-Lifts & Loaders, 1/3 cu. yd. or less; Forklift, 1500 lbs. capacity or less; Air Compressors, anytime there are two or more attachments operating on a 125 cu. ft. compressor, a light equipment operator shall be employed. One 125 cu. ft. air compressor and one welding machine requires no operator. One 125 cu. ft. compressor and two welding machines or any 2 air compressors equivalent to a 125 cu. ft. air compressor requires a light equipment operator

GROUP 3 - Fireman

GROUP 4 - Oiler

DECISION NO. TX78-4096

Page 4

INCIDENTAL PAVING & UTILITIES (BELL & CORYELL COUNTIES)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 3.25				
Asphalt Heaterman	3.75				
Asphalt Raker	4.30				
Asphalt Shoveler	4.25				
Batching Plant Scaleman	4.85				
Carpenter	4.50				
Carpenter Helper	3.50				
Concrete Finisher (Paving)	4.75				
Concrete Finisher Helper (Paving)	3.50				
Concrete Finisher (Structures)	4.75				
Concrete Finisher Helper (Structures)	4.00				
Concrete Rubber	4.00				
Electrician	7.00				
Electrician Helper	4.00				
Form Builder (Structures)	4.00				
Form Builder Helper (Structures)	3.25				
Form Setter (Paving & Curb)	4.50				
Form Setter Helper (Paving & Curb)	3.75				
Form Setter (Structures)	4.50				
Form Setter Helper (Structures)	3.75				
Laborer, Common	3.00				
Laborer, Utility Man	3.00				
Mechanic	4.50				
Mechanic Helper	4.10				
Oiler	3.75				
Serviceman	3.50				
Painter (Structures)	3.50				
Piledriverman	4.00				
Pipelayer (Concrete & Clay)	4.05				
Pipelayer Helper(Concrete & Clay)	3.50				
Plumbers:					
Zone 1 - 35 miles from Waco including towns of Temple & Belton	9.18	.30	.33		.03
Zone 2 - all area not included in Zone 1	9.58	.30	.33		.03
Powderman	4.75				
Reinforcing Steel Setter (Structures)	4.90				
Reinforcing Steel Setter Helper	3.25				
Sign Erector	4.65				
Sign Erector Helper	3.10				
Spreader Box Man	4.00				
Swamper	4.00				
Power Equipment Operators:					
Asphalt Distributor	4.30				
Asphalt Paving Machine	4.25				
Broom or Sweeper Operator	3.70				
Bulldozer, 150 HP and Less	4.00				
Bulldozer, over 150 HP	4.50				
Concrete Paving Curing Machine	3.70				

Page 5

DECISION NO. TX78-4096

INCIDENTAL PAVING & UTILITIES (BEE & CORYELL COUNTIES)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Concrete Paving Saw	$ 4.75				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.50				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.95				
Crusher or Screening Plant Op.	4.20				
Foundation Drill Op. (Truck Mounted)	4.50				
Foundation Drill Op. Helper	4.25				
Front End Loader (2½ CY & Less)	4.00				
Front End Loader (Over 2½ CY)	4.70				
Motor Grader Op., Fine Grade	5.00				
Motor Grader Operator	4.35				
Roller, Steel Wheel (Plant-Mix Pavements)	4.00				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.70				
Roller, Pneumatic (Self-Propelled)	3.45				
Scrapers (17 CY and Less)	4.00				
Scrapers (Over 17 CY)	4.50				
Tractor (Crawler Type) 150 HP & Less	3.10				
Tractor (Crawler Type) over 150 HP	4.25				
Tractor (Pneumatic) 80 HP & Less	3.25				
Tractor (Pneumatic) over 80 HP	3.75				
Traveling Mixer	4.15				
Trenching Machine, Light	4.00				
Trenching Machine, Heavy	4.45				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.80				
Truck Drivers:					
Single Axle, Light	3.50				
Single Axle, Heavy	3.50				
Tandem Axle or Semitrailer	3.50				
Weighman (Truck Scales)	3.00				
Welder	4.50				
Welder Helper	3.25				

SUPERSEDEAS DECISION

STATE: Virginia

COUNTIES: Bland, Buchanan, Dickenson, Grayson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise & Wythe

DECISION NO.: VA78-3062
Supersedes Decision No. VA76-3253, dated September 24, 1976 in 41 FR 42154.
DESCRIPTION OF WORK: Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asphalt Raker	$ 3.50				
Carpenter, Structure	4.91				
Carpenter Helper, Structure	3.81				
Concrete Finisher	4.54				
Concrete Finisher Helper	3.75				
Guardrail/Fence Erector	3.47				
Iron Worker, Reinf.	5.00				
Iron Worker, Reinf. Helper	3.50				
Iron Worker, Structural	5.00				
Iron Worker, Structural, Helper	3.00				
Laborer, Unskilled	3.00				
Mechanic	4.89				
Mechanic Helper	3.75				
Painter, Bridge	5.32				
Powderman Blaster	4.75				
Asphalt Distributor Operator	3.65				
Asphalt Paver Operator	4.05				
Backhoe Operator	5.08				
Bulldozer Operator	4.97				
Bulldozer Operator (Utility)	4.00				
Concrete Paving Machine Operator	3.75				
Crane, Derrick, Dragline Operator (1 Yd. & Under)	5.25				
Crane, Derrick, Dragline Operator (Over 1 Yd.)	5.36				
Drill Operator	4.29				
Loader Operator (2 Yds. & Under)	4.00				
Loader Operator (Over 2 Yds.)	5.14				
Motor Grader Operator (Fine Grade)	5.12				
Motor Grader Operator (Rough Grade)	5.12				
Oiler Greaser	3.89				
Power Tool Operator	5.00				
Roller Operator (Rough)	3.36				
Roller Operator (Finish)	3.50				
Scraper Pan Operator	4.50				
Shovel Operator (1 Yd. & Under)	4.85				
Shovel Operator (Over 1 yd.)	4.92				
Stone Spreader Operator	3.75				
Transit Mix Truck Operator	3.28				
Truck Driver, Heavy Duty (7 C.Y. & Under)	3.50				

Page 2

DECISION NO. VA78-3062

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Driver, Heavy Duty (Over 7 C.Y.)	$ 3.91				
Truck Driver (Multi-Rear Axle)	3.59				
Truck Driver (Single-Rear Axle)	3.43				

SUPERSEDEAS DECISION

STATE: Virginia
DECISION NO.: 78-VA-3063

COUNTY: Alleghany, Augusta, Bath Clerke, Frederick, Highland Page, Rockbridge, Rockingham Shenandoah & Warren

DATE: Date of Publication

Supersedes Decision No. VA76-3245, dated September 10, 1976 in 41 FR 38748.
DESCRIPTION OF WORK: Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASPHALT RAKER	3.50				
CARPENTER, STRUCTURE	5.59				
CARPENTER HELPER, STRUCTURE	4.20				
CONCRETE FINISHER	4.98				
CONCRETE FINISHER HELPER	3.55				
ELECTRICIAN	6.67				
FIREMAN	3.00				
FORM SETTER ROAD	7.00				
GUARDRAIL/FENCE ERECTOR	5.17				
IRONWORKER, REINF.	4.00				
IRONWORKER, STRUCTURAL	6.25				
IRONWORKER, STRUCTURAL, HELPER	3.00				
LABORER, UNSKILLED	3.00				
LANDSCAPE WORKER	4.12				
MASON, STRUCTURE	5.65				
MECHANIC	5.05				
MECHANIC, HELPER	4.18				
PAINTER	5.42				
PAINTER, BRIDGE	4.00				
PILE DRIVER LEADMAN	7.00				
PIPE LAYER	3.75				
POWDERMAN BLASTER	5.60				
SIGN ERECTOR	4.40				
AIR COMPRESSOR OPERATOR	4.50				
ASPHALT DISTRIBUTOR OPERATOR	3.50				
ASPHALT PAVER OPERATOR	4.29				
BACKHOE OPERATOR	5.11				
BULLDOZER OPERATOR	5.15				
BULLDOZER OPERATOR (UTILITY)	3.50				
CONCRETE PAVING MACHINE OPERATOR	5.25				
CRANE, DERRICK, DRAGLINE OPERATOR (1 YD. & UNDER)	5.50				
CRANE, DERRICK, DRAGLINE OPERATOR (OVER 1YD.)	5.50				
CRUSHER FEEDER OPERATOR	3.25				
DRILL OPERATOR	4.00				
FORM GRADER OPERATOR	4.25				
LOADER OPERATOR (2 YDS. & UNDER)	4.35				
LOADER OPERATOR (OVER 2 YDS.)	4.81				
MOTOR GRADER OPERATOR (FINE GRADE)	5.47				
MOTOR GRADER OPERATOR (ROUGH GRADE)	5.47				
OILER GREASER	3.75				

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PAGE 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER TOOL OPERATOR	3.50				
ROLLER OPERATOR (ROUGH)	3.50				
ROLLER OPERATOR (FINISH)	4.04				
SCRAPER PAN OPERATOR	5.00				
SHOVEL OPERATOR (1 YD. & UNDER)	4.60				
SHOVEL OPERATOR (OVER 1 YD.)	4.69				
STONE SPREADER OPERATOR	4.08				
SUBGRADE MACHINE OPERATOR	3.50				
TRACTOR OPERATOR (UTILITY)	4.25				
TRUCK DRIVER, HEAVY DUTY (7 C.Y. & UNDER)	3.88				
TRUCK DRIVER, HEAVY DUTY (OVER 7 C.Y.)	3.88				
TRUCK DRIVER (MULTI-REAR AXLE)	3.84				
TRUCK DRIVER (SINGLE-REAR AXLE)	3.52				

DECISION #78-VA-3063

[FR Doc. 78-26428 Filed 9-21-78; 8:45 am]

federal register

FRIDAY, SEPTEMBER 22, 1978
PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

SPECIAL DIETARY FOODS

Label Statements

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket 75N-0318]

PART 105—FOODS FOR SPECIAL DIETARY USE

Label Statements

AGENCY: Food and Drug Administration.

ACTION: Final order following a public hearing on regulations.

SUMMARY: This final order revises label statements for special dietary foods used in reducing or maintaining body weight or caloric intake or in the diet or diabetics and prevents misleading label statements on foods that are not useful for special dietary purposes. The regulations have been issued following a formal evidentiary public hearing and publication of a tentative order.

DATES: Labeling may be changed to comply with the final regulation on September 22, 1978; all products initially introduced into interstate commerce after July 1, 1979, shall comply.

FOR FURTHER INFORMATION CONTACT:

Taylor M. Quinn, Bureau of Foods (HFF-300), Food and Drug Administration, Department of Health, Education, and Welfare, Federal Building 8, 200 C Street SW., Washington, D.C. 20204, 202-245-1243.

SUPPLEMENTARY INFORMATION: In the matter of revising regulations for food for special dietary uses, the Commissioner of Food and Drugs is issuing a final order, following a formal evidentiary public hearing, setting forth regulations with respect to label statements on special dietary foods used in reducing or maintaining body weight or in the diet of diabetics, and to related misleading label statements on other foods.

In a tentative order published in the FEDERAL REGISTER of July 19, 1977 (42 FR 37166), the Commissioner issued proposed statements of reasons, findings of fact, and conclusions of law, and tentative regulations in this matter. Interested persons were invited to submit written exceptions to the tentative order within 30 days. Time for filing exceptions was subsequently extended through October 18, 1977, by a notice published in the FEDERAL REGISTER of August 12, 1977 (42 FR 40921).

Twenty-six exceptions were received, three of which were incorrectly designated as comments by the hearing clerk. Nineteen other comments were received. Some late submissions have been received. All have been considered. Four comments expressed general support for the regulation. Some submissions opposed the issuance of any regulation on the basis of the present record, while others disagreed with specific provisions. Based on the submissions, the Commissioner has made some modifications in the order. Each of the significant contentions is discussed below.

The Commissioner adopts the proposed statement of reasons as published in the tentative order as the final statement of reasons, with the modifications stated below in the responses to exceptions and comments.

PROCEDURAL MATTERS

1. Several exceptions stated that the record for this proceeding is stale and out-of-date and fails to take account of new developments since the close of the hearing in 1970. Several cited the concerns about the safety of saccharin and the possible unavailability of any nonnutritive sweetener as a new development not reflected in the record. Others cited the establishment of nutrition labeling and its adequacy to provide caloric information. They objected to the issuance of any final order based on the existing record. They urged that, instead, the Commissioner commence a new proceeding or reopen the hearing to consider new developments and to permit rebuttal of findings relating to new provisions not found in the regulations stayed for the hearing.

The Commissioner is aware that the proceeding to revise the special dietary food regulations has been a lengthy one. The subject matter encompassed in this proceeding was broad and included claims for infant foods, hypoallergenic foods, vitamins and minerals, and other matters. Orders were issued separately on these different claims to ease the workload demands. The weight control regulations are the concluding matter. A great deal of information on this subject was accumulated in the record and had to be considered. Furthermore, formal evidentiary public hearings take considerable time to prepare, to hold, and to evaluate. The agency's procedures governing these hearings have been improved since the time the hearing on this matter was held, but it must be recognized that considerable time would be involved if any new proceeding were begun or the hearing reopened.

The Commissioner would start a new proceeding if he thought the present record were inadequate to reach a fair and sound decision. The basic principles of weight control have not altered since the close of the hearing. Interested persons have had an opportunity to submit exceptions to the tentative order. the Commissioner has given careful attention to the submissions, and he discusses them in more detail below. In response to the submissions, he has made a number of changes in the regulations issued in this order.

Obesity problems are widespread and public interest in special dietary foods is strong. Therefore, it is important to issue regulations to protect and inform the public about foods that are useful in controlling weight. Furthermore, uncertainty exists in industry about the type of label claims considered appropriate, and the existence of that uncertainty may discourage some firms even from making appropriate claims for foods that are useful. The commissioner believes that a pressing need for final regulations exists and that an adequate record supports the regulations as revised.

Under § 105.67 (21 CFR 105.67; formerly 21 CFR 125.6, before recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), the only label statement specifically required for foods offered for weight control relate to a statement about calories, protein, fat, and carbohydrates in the food, a requirement that can be met through nutrition labeling. No regulations specify either the conditions under which foods may claim to be "reduced calorie" or "low calorie," or the nature of labeling information that must appear. Nutrition labeling provides important information about the nutrition content of the labeled foods and is required for all foods bearing nutrition claims, including claims about caloric content. The nutrition labeling regulation was established after the close of the hearing, but it does not eliminate the need for the regulations in this order. For example, nutrition labeling does not provide information about the amount of caloric reduction in foods that claim to be useful in weight control because of a caloric reduction. The nutrition labeling regulation does not establish criteria to prevent misleading claims, and although it would provide for listing the number of calories in food on the information panel, it would not prevent a food containing 200 or more Calories from being offered as "low calorie."

The developments with respect to the safety of nonnutritive sweeteners were not specifically anticipated in the record. A decision about the availability of saccharin has been deferred under the Saccharin Study and Labeling Act, Pub. L. 95-203 (Nov. 23, 1977). The final regulations established by this order are general and permit appropriate claims by foods that achieve their caloric reductions in a variety of ways, including means that do not involve the use of a nonnutritive sweetener. The regulations are concerned with labeling claims rather than the separate matter of the safety of nonnutritive sweeteners or any other food ingredient. A nonnutritive sweetener is available at present; but the Commissioner believes that even if a nonnutritive sweetener were not available, the regulations would be appropriate. They permit varied foods useful in weight control diets to make suitable claims. The petition process for establishing alternative criteria would be available if at some point the full degree of ordinarily useful calorie reduction were not technologically achievable.

LOW CALORIE CLAIMS AND UNPROCESSED FOODS

2. Some submissions supported the provision on low calorie foods, including one submission from the Society for Nutrition Education, which stated that these provisions appeared to allow claims for foods generally considered useful in weight control diets in relatively unrestricted amounts. A few comments urged that foods containing more than 40 Calories per serving should be considered "low calorie." A comment pointed out that some fruits and vegetables, such as beets, corn, peas, and applesauce, would not be considered "low calorie" under the tentative order.

The "low calorie" food designation identifies foods that are genuinely low in calories, and many vegetables and other unprocessed foods would satisfy the criteria. Not all fruits and vegetables, however, are genuinely low in calories. Consequently, the regulations are not made inappropriate solely by the fact that some vegetables and fruits do not satisfy the criteria.

CALORIC DENSITY

3. Several submissions objected to the establishment of any maximum caloric density limit for low calorie foods, maintaining that the limit would bar low calorie claims that are useful in diets. Many foods, including some calorically reduced jellies and preserves, gelatine desserts, salad dressings, sugar substitutes, cookies, and candies, presently bear such claims. The submissions viewed the caloric density requirement as unnecessary to prevent consumers from eating foods in multiple servings at will, and cited the information in the record (Hirsch Tr. 30, 305-07, Mayer WD-53-Mayer, p. 32, Tr. 28840-44, Swanson Tr. 22523, 22511) that consumers do not increase portion sizes of foods. An exception maintained that the Commissioner overlooked testimony that caloric density should not be used to classify foods, and tha nutrient density must also be considered. (Darby Tr. 26, 309, WD-49-Howard, pp. 17-20.) Furthermore, it was claimed that the statement of calories per serving would alert the consumer to the fact that increased servings would increase calories. The particular caloric density figure of 0.4 Calorie per gram was described as capricious in that there was no more support for it than for any other figure.

The submissions also maintained that the testimony cited in the tentative order as support for the caloric density limit related to unaltered foods. Some exceptions suggested that a caloric density limit might be useful to prevent inappropriate claims for unaltered foods that contain many calories in a small serving (e.g., sugar), but that it should not apply to foods containing 40 Calories or less that have been altered to reduce their calorie content significantly or those that are significantly less calorically dense than the unaltered food. According to these exceptions, many of these foods are not likely to be consumed in excess; salad dressing was cited as an example of a food that is consumed in limited quantities, because of taste, and for a specific use, solely on salads.

Another exception noted that sugar substitutes contain nutritive sweeteners for technological reasons and consequently exceed the caloric density level set in the tentative order, but contain only 4 Calories per serving and are regarded by consumers as low in calories. Another comment suggested that, if the aim were to prevent diet claims by snack foods, the restriction be made directly in those terms. Several comments complained of a lack of notice and opportunity to present testimony at a hearing on a caloric density provision and urged that a notice of proposed rulemaking be issued before establishing such a provision or that the record be reopened with notice of opportunity to rebut this provision.

The testimony cited in the submissions indicated the difficulty in developing a low calorie standard and the need for some limitations. One expert testified that low calorie claims present "a complex situation," that a statement of calories per serving would discourage "binges," that there may be difficulties in determining serving sizes, and that some decision may well have to be made on certain classes of low calorie foods separately from a blanket decision (Mayer Tr. 28840-47). Another expert recognized that there could be excess consumption of "diet foods but that excess consumption was unlikely when the individual received proper nutritional education. The testimony cited in the exceptions as being overlooked by the Commissioner is not entirely clear in meaning, but it appears that one of the experts cited considered caloric density of some relevance in classifying foods as low calorie. The expert considered most, but not necessarily all, foods containing below a certain number of calories as useful in a low calorie diet. The expert later indicated he did not believe that "low calorie" would convey "the proper concept" for salad dressing and mayonnaise in their unaltered form, but that a "lower" calorie claim would be appropriate if the food were reduced in caloric density (Darby Tr. at 26309-13).

The Commissioner points out that the caloric density requirement would not prohibit "reduced calorie" claims for foods such as those mentioned in the comments, if significant caloric reductions have been made. Such foods could be labeled as "Reduced Calorie." That language would clearly indicate their usefulness in weight control diets. The Commissioner is of the opinion that the use of the term "Low Calorie" in labeling these foods would be potentially misleading, unless the food were distinctly low in caloric content and not likely to be consumed in excess because of its small serving size.

The Commissioner believes that the record reflects general agreement that foods labeled "Low Calorie" should be genuinely useful to consumers as low in calories. Furthermore, to be useful, the designation "low calorie" should not be applied to foods which have few calories per piece or serving but which may be frequently consumed in large amounts during the day. Calorically dense foods such as sugar, many candies, or potato chips may have a low number of calories in a single small portion but are not appropriately viewed as low calorie.

The same difficulties can also exist with respect to reduced calorie foods, even if the foods have less than 40 Calories in a serving. For example, a candy, jam, or salad dressing might have a one-third reduction in calories and contain 40 Calories or less in a single piece or serving. The Commissioner does not believe a "low calorie" claim should be automatically permitted on all reduced calorie foods that contain 40 Calories or less per serving. Low calorie claims should be permitted on these foods, in addition to any reduced calorie claim they may bear, only if the food is numerically low in calories and not likely to be consumed because of its small serving sizes in an amount that is excessive in view of the weight control purpose. The Commissioner does not see any way to assure that the category of low calorie food is thus circumscribed except by using a

caloric density approach, by adopting a total daily consumption approach for low calorie foods, or by establishing the maximum amount of calories in a low calorie food at a very low level. The caloric density approach is simpler to apply, and is less prone to abuse, than a total consumption approach. Setting a very low maximum amount of calories in low calorie foods would exclude useful foods. Accordingly, the Commissioner relies on the support in the record for a daily consumption limit for low calorie foods to substantiate the need for a caloric density requirement. The Commissioner has accepted finding 64 that a daily consumption limit is inappropriate because of the difficulties in applying such a limit, but he believes that there is a need to limit low calorie claims either through a daily consumption or caloric density standard.

Of the foods mentioned in the comments, the only one that appears to call for a different treatment is sugar substitutes. As an exception noted, sugar substitutes have about 4 calories in a 1-gram packet and have a 90-percent caloric reduction in comparison with a 2-teaspoon serving of sugar, containing 36 calories, that is equivalent in sweetness. According to handbook 8, there are 3.85 calories in a gram of granulated sugar. Thus, a 2-teaspoon serving of sugar would weigh more than 9 grams. If a sugar substitute had the same weight as the sugar it replaces, it would have a caloric density of approximately 0.4 calorie per gram, the level set in the regulation. Because consumers use only the amount of a sugar substitute that provides an equivalent degree of sweetness as the sugar replaced, it is reasonable to evaluate the caloric density of the sugar substitute in relationship to the weight of the food it replaces. The caloric density maximum guards against low calorie labeling on foods that may be consumed in excess amounts due to their small serving sizes. Because of the negligible caloric content of the sugar substitutes and its replacement of a food with a considerably higher number of calories and greater weight, it is not likely that consumers will consume an excessive number of calories from repeated servings of sugar substitutes.

The other foods mentioned in the exceptions do not appear to have the same features that warrant special treatment of the sugar substitutes. The other foods do not have the same negligible amount of calories. They also do not achieve their caloric reduction in a way that reduces the weight of the food in relationship to its organoleptic effect.

If foods other than sugar substitutes can be shown to deserve exemption from the general rule, the Commissioner will propose an exemption upon receipt of a petition setting forth facts that demonstrate that an exemption is warranted.

The Commissioner has set the caloric density level at 0.4 calorie per gram based on the information in the record that indicates that most soups, juices, fruits, and vegetables containing 40 calories or less per serving can satisfy this density level. It is appropriate to have the low calorie criteria reflect the characteristics of these foods because they are generally considered the most useful types of low calorie foods.

The testimony cited in the exceptions supporting the relevance of a nutrient density requirement was directed at the stayed regulations' requirements for a 50-percent reduction for calorically reduced foods rather than low calorie foods. That testimony favored an individual determination of each food's usefulness in weight control programs (WD-49-Howard, pp. 17-20).

The Commissioner has already discussed in the preamble to the tentative order his reasons for lowering the percentage reduction for calorically reduced foods. He also believes it important to have general regulations rather than ad hoc standards for determining when foods may bear low calorie and comparative caloric reduction claims. If a food that does not meet the general criteria is useful as a reduced calorie or low calorie food because of its nutrient density or other factors, a petition may be submitted to amend the regulations to provide for appropriate claims on that food.

REDUCED CALORIE FOODS

4. Several submissions supported the provision that reduced calorie foods have at least a one-third reduction in calories, but some urged that a reduction of less than one-third be deemed sufficient. One submission suggested a 10-percent reduction to encompass the lowest figure receiving support from an expert at the hearing. A 20-percent reduction was considered significant, based on certain determinations relating to protein and other nutrients in § 101.9 of the nutrition labeling regulation (21 CFR 101.9; formerly 21 CFR 1.17). One comment suggested consideration of allowing a 20-percent reduction in caloric density for the four major food groups because a significant reduction in the total diet might result.

Most of the submissions suggesting a lower number urged that it be established at a 25-percent reduction to allow more foods to bear claims; such a reduction, these submissions claimed, would be consistent with the aim of achieving weight reduction through moderate sustained reductions in various foods. One submission disagreed with the hearing examiner that the selection of a specific figure for a minimum reduction was somewhat arbitrary and maintained that a 25-percent reduction should be set because it received the widest support from industry experts at the hearing. By contrast, according to the submission, the figure of 33⅓ percent adopted in the tentative order had no particular support. Some comments stated the petition procedure for establishing alternative criteria would be unnecessary if the amount of the reduction were set at a lower figure that the commenters considered more appropriate. One submission noted that the hearing examiner had found a 35-percent reduction reasonable but that the Commissioner had not specifically made such a finding about the reasonableness of a 33⅓-percent reduction.

The Commissioner finds that reduced calories foods should have at least a one-third reduction in calories. It is feasible for many foods to achieve a reduction of this degree. Alternative criteria will be established for foods, including those in the major food groups, on the basis of a showing that the foods cannot achieve a one-third reduction but are useful to include in a diet program. The Commissioner agrees that a diet program should have a moderate sustained reduction; but because not all foods can be calorically altered, it is important to have a reasonably large reduction in those that can be altered and that are offered for sale specifically on the basis of their caloric reduction. These foods are being offered for use by large numbers of people, not all of whom may follow the strict diet that might make small reductions in a few foods useful to some dieters. Many consumers would expect reduced calorie foods to have a substantial reduction and will purchase and use the foods with that expectation.

The Commissioner does not believe the one-third reduction requirement is arbitrary. It is well within the range of figures receiving support from experts at the hearing, and it is more likely to be easily understood by consumers.

The Commissioner does not believe that the percentage reduction for reduced calorie foods should be determined on the basis of percentage levels considered significant in the nutrition labeling regulation for various claims concerning all types of nutrients. The problems with nutrient levels and calories are not similar enough to justify the use of the same criteria. Furthermore, the record provides specific information about the degree of reduction appropriate for reduced calorie foods in light of the important health concerns about obesity.

5. Many exceptions and comments urging a lower percentage reduction for reduced calorie foods were concerned with the effect of the regulation on bakery products, particularly bread. One exception contained a petition urging that a separate regulatory provision permit bread to be labeled "Reduced Calorie" if it achieved a 25-percent reduction. According to this submission, even though some breads could be made which had a greater reduction, these breads had a coarser texture and less satisfactory taste for consumers. The submission maintained that frequent consumption of bread at meals warranted special treatment because a reduction of 25 percent in each of three daily servings of bread could constitute a significant moderate reduction in the total diet. They cited testimony that the special dietary usefulness of foods should be evaluated individually, an approach they considered particularly appropriate for a basic food like bread.

The Commissioner has reviewed the petition and believes that it gives sufficient reasons to warrant its publication as a proposal. He believes, however, that such a change from the general rule should be made only after publication as a proposal and consideration of comments from consumers, nutritionists, and other interested persons. The submission indicated that it is technologically feasible to make bread with a greater calorie reduction but that the food would not be as palatable and acceptable to consumers. Comment on this matter would be particularly useful. The Commissioner, therefore, is not going to change the final rule for bread or other bakery products at this time but has published elsewhere in this issue of the FEDERAL REGISTER a proposal based on the petition to amend the regulation. Final action will be taken on the proposal after consideration of the comments received.

6. Several submissions objected to the requirement that to bear a reduced calorie claim a food have at least 25 fewer Calories per serving. The comments criticized the provision because it had not been in the stayed regulations on which the hearing was held and therefore did not have adequate support on the record. The comments expressed particular concern because the requirement would prevent usefulness claims concerning jams and jellies, which, because of the small serving sizes used, may have as much as a 50-percent reduction in calories without at least a 25-Calorie reduction in an individual serving. The comments urged that the number of servings in the total daily diet be considered in judging whether the food is of caloric importance and a reduction significant. Even if the provision had support with respect to inappropriate claims for foods used in small amounts (e.g., spices or condiments), the submission argued, the provision should not apply to accessory foods such as jellies that are of caloric importance because of their frequent use in the daily diet. Another submission maintained that no consensus developed at the hearing about the meaning of calorie importance and that, because the statement of the amount of the caloric reduction will protect the consumer, there was no need to preclude claims based on calorie importance.

Upon consideration of the comments, the Commissioner agrees that insistence upon at least a 25-calorie reduction per serving in all cases could result in prevention of "reduced calorie" claims for some foods that might be useful as substitutes for higher calorie foods. He has, therefore, removed this provision. He points out, however, that current law prohibits false and misleading claims. Compliance with § 105.66 of this amendment (designated § 125.5 when initially proposed) does not relieve products from complying with the statutory prohibition against false and misleading claims. Claims may be misleading in a way not specifically dealt with in the regulation, e.g., reduced calorie claims for foods that were already low calorie before manipulation.

7. One submission suggested deletion of the provision that a food be offered as reduced in calories only if the higher calorie reference food is sold in sufficient quantities that awareness of the lower calorie substitute would be useful to those on caloric restricted diets. The submission pointed out that there is no meaningful definition of sales "in sufficient quantity."

The Commissioner agrees and has removed the provision concerning quantity of sales of the reference food.

8. A few submissions objected to the provisions concerning alternative criteria for reduced calorie food because of the requirement to show that the reduction in the food would be significant in the daily diet. The submissions argued that it would be unreasonable to expect a single food to achieve a significant reduction in the daily diet in view of the 20 or more foods consumed during a day.

The Commissioner agrees that the food itself need not be the sole source of a significant reduction in the daily diet and has modified the regulation to provide that the food be shown to contribute to a significant reduction in calories and be useful to those in weight control programs.

9. Several submissions criticized as new, unsupported in the record, and subjective, the requirement that a reduced calorie food have organoleptic properties similar to those of the food with which it is compared. Only foods with nonnutritive sweeteners could meet the test with respect to sweetness. The Submissions claimed that, even though other calorically altered foods have some perceptible differences in taste or other characteristics, consumers accept the differences and that label statements indicating how the caloric reduction has been achieved adequately alert consumers to the differences. Other comments reflected confusion about whether foods having a significant caloric reduction, but dissimilar in organoleptic properties, could bear any claims of usefulness in weight control.

Both the tentative order and the final regulations provide that a food can bear claims of dietary usefulness in relationship to a food dissimilar in organoleptic properties if the caloric difference is significant. For example, the labeling might bear a diet claim separate from the name and bear a caloric comparison to another food for which the labeled food may substitute. This comparison may appear on either the principal display panel or the information panel.

Under the tentative order, however, the food could neither be labeled as reduced in calories nor bear a term immediately in juxtaposition to its name or in its labeling that suggested the food was identical in organoleptic properties to the food with which it was being compared. For example, the Commissioner would regard it as misleading to label water-packed pears simply as "reduced calorie pears" or "diet pears," based on a caloric comparison with pears in heavy syrup, because the labeling misleadingly suggests that the labeled product is similar in all its properties, including sweetness, to the sweetened pears. The Commissioner still considers it misleading to include "reduced calorie," "diet," or other similar terms immediately in juxtaposition to the common or usual name of a food that does not have organoleptic properties similar to those of the food with which it is compared. However, he has revised the regulation to clarify that foods may use "reduced calorie" and "diet" terms in making weight control claims so long as the material differences in organoleptic properties are indicated in conjunction with the labeling. For example, the labeling might state that the food is reduced in calories and less sweet than a specified food or that it is water packed and reduced in calories in comparison with a food packed in heavy syrup.

The need to take account of organoleptic differences between foods in comparative statements is a matter of avoiding misleading statements, rather than a matter of the labeling about dietary properties needed in special di-

etary foods. The stayed regulations did not expressly address this labeling issue. Because the record does not specifically indicate which claims are misleading on this basis, the final regulation has been revised to delete specific examples but to incorporate the general principle that materially misleading statements concerning the organoleptic similarities or differences between compared foods should not be made. In each individual case, a decision as to how these general principles apply and whether the particular labeling is actually misleading will be made, based on the labeling for a particular food.

10. Several comments pointed out an error in § 105.66(d)(1) (ii) and (iv) of the tentative amendment. When a calorically reduced food has one-third fewer calories than another food, the higher calorie food has half again as many calories as the reduced calorie food, not one-third more calories as misstated in the tentative order.

The correction has been made in the final regulation in paragraph (d)(1)(ii). Paragraph (d)(1)(iv) has been deleted for the reason explained above.

11. A comment asked for a clarification that a serving can be equivalent for purposes of making caloric comparisons even if the serving does not have the same weight or volume.

The Commissioner agrees that in instances such as that of the sugar substitutes mentioned earlier, the serving size does not have to be the same as long as the effect is the same, i.e., the same amount of sweetening effect. In most instances, however, the serving sizes will be the same. If, for example, a reduced calorie claim for bread were based on slicing the bread half as thick, the claim would be misleading.

12. On the basis that the provision is new, some exceptions objected to the provision that a reduced calorie food be nutritionally equivalent to the food with which it is compared.

The Commissioner maintains that the provision is adequately supported by the testimony about the importance of maintaining nutrition in weight control diets as explained in the tentative order.

Other Labeling Requirements

13. Several submissions objected to the provision that the principal display panel contain a clear and concise statement of how the special dietary usefulness had been achieved and the percentage by weight of nonnutritive ingredients. They viewed the statement as unnecessary in view of the ingredient statement and other labeling information and the finding that the manner of the caloric alteration does not affect the caloric significance. According to the submissions, the statement was not useful or needed "fully to inform" consumers, as required by section 403(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(j)), of the value of the food for its intended special dietary use. Several submissions particularly objected to the requirement that the information appear on the principal display panel where space is limited. Several asked for clarification about the degree of detail required (e.g., whether it would be sufficient to state "less fat" instead of detailing how the fat was reduced). Another exception stated that it would be impossible to state clearly and concisely how fruit sugars are used in lieu of sucrose to achieve calorie reduction and suggested that the disclosure be limited to nonnutritive ingredients.

Others pointed out that nonnutritive ingredients are added for technological reasons to calorically altered foods and that the statement would be lengthy and complex. One submission asked whether water would be considered a nonnutritive ingredient whose use would be required to be disclosed, and others asked whether a food that is not a source of calories would be considered nonnutritive according to the criteria used in § 105.3(d) (21 CFR 105.3(d); formerly 21 CFR 125.1(d)) to define an artificial sweetener. Other submissions suggested the statement might be misleading in containing a declaration of added nutritive and nonnutritive sweeteners or the percentage of nonnutritive constitutents, without disclosing that the food inherently contained other constitutents of the same type. Several exceptions objected to naming nonnutritive and nutritive sweeteners as unnecessary. One comment urged that the percentage of nonnutritive sweeteners also be declared. One submission thought the requirements duplicated the provisions in § 105.79 (21 CFR 105.79; formerly 21 CFR 125.7), and others regarded the declaration of nonnutritive constitutents as unnecessary and unsupported by the testimony in the record.

The provision in the tentative order requiring a statement of how the caloric alteration has been achieved has been deleted because, as noted in the submisssion, it is not necessary in view of the ingredient statement and other labeling information.

The regulation has been revised to require on the principal display panel or information panel a statement indicating the presence of any nonnutritive and nutritive sweeteners and the identity and percentage of ingredients not utilized in normal metabolism that are used to achieve the special dietary usefulness in weight control. This information was required by the stayed regulations and is supported by the record. The requirement replaces a provision with a similar purpose found in § 105.79 that is being revoked by this order. That section is being revoked with the issuance of this order because the revised special dietary food regulations were intended to replace completely the earlier regulations on this topic. Because they are not the principal means of achieving the special dietary usefulness, the nonnutritive ingredients used solely for technological purposes would not have to be declared in this statement.

As revised, the regulations do not require the statement to name the specific nonnutritive constitutents or sweeteners used. The specific names will appear in the ingredient statement.

For purposes of this label declaration, the term "nonnutritive sweetener" has the same meaning as the definition of "artificial sweetener" in § 105.3. Other constitutents will be considered nonnutritive if they are not utilized in normal metabolism. To alert those consumers who are avoiding the use of nutritive sweeteners, the regulation provides for a declaration of the presence of nutritive sweeteners in any food that achieves its special dietary usefulness through the use of nonnutritive sweeteners. Water is not regarded as a nonnutritive constituent.

14. A few submissions objected to the label declaration in § 105.66(a)(2) of the tentative order that "weight control by diet requires limiting total intake of calories." They based their objection on the absence of the requirements in the stayed regulations and on the shortage of labeling space resulting from other labeling requirements established since the close of the hearing. Furthermore, they stated that the statement is unnecessary in view of the finding that consumers understand the relationship between food consumption and weight.

Upon reconsideration, the Commissioner has decided that this statement is unnecessary and has removed the requirement.

15. Some submissions objected that the minimum type size requirements were not in the stayed regulations and took additional label space.

The Commissioner points out that the only portions of the tentative regulation that require minimum type size are § 105.66 (c)(1)(iii), (d)(2)(i), and (f)(2). The Commissioner agrees that minimum type sizes are not in the stayed regulations. He has, therefore, removed the minimum type size requirements from the regulations. He points out, however, that § 101.2 (21 CFR 101.2; formerly 21 CFR 1.8d) requires that any information required by part 105 to appear on the label of a food appear prominently and conspicuously and in type size at least 1/16 inch in height. Therefore, if all information required by § 105.66 to be on the label were not both prominent and conspicuous and in type size at least 1/16 inch in height, the label would be illegal unless covered by an exemption.

16. Some exceptions objected to the requirement for nutrition labeling in § 101.9 on the grounds that the applicability of nutrition labeling depends on the validity of that section of the regulations and cannot be required for special dietary foods based on this proceeding because nutrition labeling was not provided for in the regulations on which the hearing was held.

Others asked that a narrative form be permissible for nutrition labeling on small labels or that a shortened statement be provided for foods that are not meaningful sources of nutrition. One exception viewed nutrition labeling as a significant intervening event and asked that the record be reopened to allow evidence on the adequacy of nutrition labeling to provide calorie information.

Nutrition labeling is validly required by § 101.9 for any food making a nutrition claim, including any food making a calorie claim. The final regulation issued in this order refers to the nutrition labeling requirement merely to insure that it will not be overlooked. Nutrition labeling is required if the conditions of § 101.9 are met, whether or not that requirement is mentioned in this document. Thus, no additional information is being required.

If a narrative form is thought necessary for presenting nutrition information, the proper procedure is to file a petition under part 10 (21 CFR Part 10) to seek an amendment of format for all foods similarly situated.

Other Diet Claims

17. Some submissions urged that the regulation deal only with reduced calorie and low calorie claims. They argued that the stayed regulations were not intended to preclude other types of claims relating to weight control. Several comments and exceptions maintained that a food could be useful in weight control even though it was not low calorie or comparatively reduced or lower in calories.

Under the tentative order, § 105.66(e) generally restricted the use of special dietary usefulness claims for foods that were not low calorie, reduced calorie, or comparatively useful within the meaning of paragraphs (c) and (d). The final regulation has been revised to provide that any food may make a claim of special dietary usefulness for weight control on some basis other than its being "low calorie," "reduced calorie," or comparatively useful within the meaning of paragraphs (c) and (d). The claim must not be misleading and the basis for the claim must be conspicuously and clearly stated in conjunction with the claim. These foods may make appropriate claims, e.g., "for calorie restricted diets" or "useful for weight control."

Any food that purports to be useful for weight control will be subject to the provisions of § 105.66 (a) and (b) as revised. These provisions note the requirement that the food bear nutrition labeling, labeling about the presence of nonnutritive ingredients, and a conspicuous and nonmisleading statement of the basis of the claim.

Sections 105.66(f) and 105.67 with respect to "sugarless," "dietetic," "diabetic," and similar claims have not been changed in their applicability. The record upon which this regulation is based shows that "sugarless," "dietic," and similar claims may be regarded as low calorie and reduced calorie claims. Thus, these terms cannot generally be used without a disclaimer on foods that are not low calorie or comparatively reduced within the meaning of § 105.66 (c) or (d).

The Commissioner advises that he would not regard as a claim of special dietary usefulness for weight control labeling that simply stated in factual terms the number of calories per serving in the food or that compared the calories in the food with another food. However, the labeling would be regarded as a claim of special dietary usefulness if the labeling otherwise suggests usefulness for weight control. In any case, such caloric declarations trigger nutrition labeling in accordance with § 101.9.

18. Several exceptions and comments urged that the regulation state the importance of portion controlled diets for weight regulation. These points were cited by Weight Watchers International as support for its position that foods can be considered of use for weight control based on a total diet program like that offered by that organization. The submissions contained information on the history and nature of the organization's weight control programs and petitioned that the regulations be amended so that they would not apply to foods whose labeling clearly shows that they are useful as part of a total planned dietary program that provides for a nutritionally balanced diet with a daily caloric intake adequate to permit weight loss or weight control.

The Commissioner agrees that a total dietary program in which adequate amounts and balances of nutrients are provided and in which total calories are controlled may be useful in weight reduction and weight control. A food used in such a program may bear appropriate claims of usefulness in weight control as described above. To avoid the possibility of misleading consumers, foods that are neither low calorie nor reduced calorie, but which claim to be of use as part of a particular dietary program, should be explicitly labeled to state that they are useful in weight control only as part of the specified dietary plan. It is also inappropriate and potentially misleading to imply that a food becomes a "low calorie" or "reduced calorie" food simply by reducing the serving size. Claims for the usefulness of portion control can be made, provided the manufacturer explains that calorie reduction is achieved through changes in serving size; thus, consumers will not be misled into believing that such foods are different from other foods in the marketplace (i.e., consumers will not think portion control ice cream contains fewer calories than other ice cream on a volume-for-volume basis).

19. Two exceptions urged that foods offered as components of controlled diet meals be allowed to make claims of usefulness for weight control or be exempt, like low calorie meals and formulated meal replacements, from the present regulation, pending the issuance of regulations concerning such foods, e.g., cold cereals in a specified breakfast program.

As explained above, foods may make claims of usefulness in weight control even though they are not low calorie or significantly reduced in calories. The regulation has been revised to clarify that other nonmisleading claims of usefulness for weight control may be made, and, consequently, there appears to be no need to provide a specific exemption for components of controlled diet meals.

20. Some submissions expressed concern that the tentative order might be interpreted to treat as weight control claims statements (e.g., "unsweetened") that indicated that no additional sugars had been added to a food. According to the submissions, a statement that a food contains no added sweeteners is of interest to consumers, and unlike claims that a food contains no sugar, the claim did not imply a caloric reduction or a low calorie food.

The regulation is not intended to apply to factual statements that a food is "unsweetened" or that no sweeteners have been added to foods (e.g., juices) that contin inherent sugars. Section 105.66(f) has been revised accordingly.

Sugarless

21. One comment from the American Dietetic Association supported a requirement that foods that are labeled "sugar-free" or "no sugar" be labeled to state that they are not calorie reduced. Some submissions objected to this requirement insofar as it would

V 43 / 185 SEP 22 78

apply to sugarless gums and mints offered as helpful in avoiding tooth decay. According to the submission, no evidence in the record suggests that consumers would view the sugarless claim as applied to gums and mints as a weight control claim, particularly because consumers do not consider gum a food. The comments stated that the disclaimer is unnecessary because the gums and mints do not contain a significant number of calories and because the disclaimer could misleadingly suggest that these foods contain a high number of calories or significantly more calories than similar foods made with sucrose. The submission cited testimony from a hearing before the Federal Trade Commission that the foods are useful in not promoting tooth decay and argued that the disclaimer would confuse the consumer about the usefulness of the food for this other purpose. The comments pointed out the need to correct an ambiguity as to whether § 105.66(f)(2) applies to "sugar-free" and other claims in addition to "sugarless" claims.

The Commissioner points out that testimony at the hearing on which this regulation is based did, indeed, indicate that consumers might think "sugarless" claims were low calorie or reduced calorie claims. All the regulation calls for is a simple statement to remove the possibility of misleading the consumer. The Commissioner does not see how the statement required by the regulation could confuse the consumer as to the possible usefulness for not promoting tooth decay. No specific information was offered in the exceptions that would show that such confusion would occur. Furthermore, foods can be labeled in other ways to suggest usefulness in not promoting tooth decay without using terms such as "sugarless" that suggest a weight control purpose, e.g., "non-cariogenic" or "does not promote tooth decay." The Commissioner has also revised the regulation to provide additional alternative statements, such as "not for weight control," "useful only in not promoting tooth decay," or "contains carbohydrates which do not promote tooth decay," to indicate that the food is not being offered for use in weight control.

To remove the ambiguity pointed out in the exception, § 105.66(f)(2) has been changed to show that it applies to "sugarless" and other similar claims.

Diabetic Claims

22. Some submissions objected to the labeling statements provided for foods offered for use in the diet of diabetics in that the disclaimer of value in weight control programs was confusing and unnecessary. The comments claimed that the record demonstrated the value of hexitol-sweetened foods to diabetics. One submission stated that "dietetic" was an appropriate labeling identification for diabetic foods. A comment from the society for Nutrition Education supported as necessary the provision in the tentative order because the use of "diet" and "diabetic" has caused "confusion and misrepresentation" for years. The American Dietetic Association questioned the need for special labeling of foods for diabetics and stated that special labeling implying that some foods are better or desirable in the diet of the well-regulated diabetic is false and misleading.

The submissions have not noted any significant new information. The statement of reasons in the tentative order gave the reasons for believing that the provisions as found in the tentative order are needed.

The Commissioner continues to believe that the disclaimer is necessary to prevent consumers from being misled into thinking such products are low calorie or calorie reduced foods. Information in the record indicates that "dietetic" labeling might cause consumers to think that foods so labeled were low calorie or calorie reduced. (See findings of fact 16, 20, and 21 (42 FR 37172).)

Miscellaneous

23. One comment described finding of fact 10 (see 42 FR 37172) as giving confusing information about mannitol, since mannitol is not metabolized like sorbitol and is instead rapidly excreted, according to the comment. The Commissioner recognizes that there are differences in the absorption and excretion rates for sorbitol and mannitol in that mannitol is variably absorbed and readily excreted in the urine. However, the metabolism of both sugar alcohols proceeds through fructose and is essentially the same.

24. One comment recommended that references to calories in the sense of kilocalories be capitalized to indicate the kilocalorie.

The Commissioner is aware that it is traditional in nutrition literature to capitalize the word "Calorie" when used to represent kilocalories when a numerical value is expressed. Although this distinction is not likely to be recognized by consumers; it is also not likely to confuse them. Therefore, the Commissioner agrees that the word "Calorie" when used to represent the word "kilocalorie" should be capitalized when associated with a numerical value, and this change has been made.

25. A comment stated that the labeling statements provided for in the tentative order "appear complicated," but the comment offered no specific suggestions for simplification.

Some of the labeling statement requirements have been removed, and the Commissioner believes the others are as simple as possible in view of the complicated nature of the subject matter.

26. Some comments suggsted that it would be inappropriate to allow only processed foods to bear claims of usefulness in weight control and that labeling should permit the designation of foods that are low in calories generally, or "low in calories" compared to the class of foods to which they belong, including possibly very lean meats and fish.

Both processed and unprocessed foods may bear appropriate claims under the regulation. The Commissioner points out, however, that "low calorie" designation on lean meats that contain more than 40 Calories per serving could be potentially confusing to consumers, who associate "low calorie" claims with foods generally low in calories. Some type of comparative caloric claims may be appropriate to designate the lower calorie foods in high calorie food groups, but there are difficulties in developing appropriate claims for foods that are compared with foods having considerable differences in nutritional values.

Some editorial corrections have been made in the text of the regulation.

Findings of Fact Relevant to § 105.66 of Final Order

1. Obesity is a major public health problem in the United States today. The degree of health hazard is not necessarily proportional to the degree of obesity, and there can be significant health hazards of interference with body functions from relatively small amounts of excess weight[1] (WD-53-Mayer, pp. 26-27). (Based on HEF 427, the Commissioner has omitted a finding about whether obesity is increasing because it is not necessary and because current statistics have not been examined.)

2. The likelihood of successful weight reduction is in significant part a function of the prior duration of the obesity, and the longer the duration the less the likelihood of success. In treating obese patients, the object is to enable the patient to moderate his intake for the rest of his life and it is advisable to modify, in the main, the quantity of foods to which he is habituated (WD-53-Mayer, pp. 16-17, 26-27; Stare, transcript 29220; WD-G-Levine, Q. and A. 37 (HEF 428)).

[1]The Commissioner has deleted the term "obese overweight" whenever it appeared in the Hearing Examiner's findings because the term is redundant, and he has substituted the correct term "excess weight."

3. Obesity is caused by an excess of caloric intake over caloric expenditure in the same time period (WD-53-Mayer, pp. 15-16; WD-3A-Sebrell, p. 22; WD-G-Ricketts, p. 3; WD-G-Levine, Q. and A. 33-34; WD-76-Stare, Q. and A. 11-13 (HEF 429)).

4. Obesity can be psychologically damaging, particularly to adolescents, even if subsequently reduced. Obese persons frequently regain lost weight (WD-53-Mayer, pp. 14-15, 17-20; Ricketts, transcript 20795; Levine, transcript 22371). (Based on HEF-430, the Commissioner has omitted a finding about the exact percentage of obese children who become obese adults because it is not necessary and he is uncertain about the precise percentage.)

5. Regaining of lost weight may be dangerous to health, and is particularly discouraging to patients and therapists. Prevention of further obesity is as important to public health in the United States as reduction of already-existing obesity (WD-53-Mayer, pp. 16, 21; Levine, transcript 22371-72, 22400; Ricketts, transcript 20740, 20795; WD-49-Hirsch, p. 4; Darby, transcript 26303; Stare, transcript 29220 (HEF 431)).

6. A food may be of value for special dietary use by reason of its value in preventing obesity. A food may be of value for special dietary use by reason of its value in maintenance of reduced body weight. A food may be of value for special dietary use by reason of its value in reducing excess weight (WD-53-Mayer, pp. 34-35; Darby, transcript 26293-94 (HEF 432)).

7. Body weight can be reduced by restricting total caloric intake and, if possible, increasing physical activity. Body weight can be raised by increasing caloric intake (WD-G-Ricketts, Q. and A. 15-16, 18; WD-G-Levine, Q. and A. 36; WD-76-Stare, Q. and A. 16 (HEF 443)).

8. A pound of weight (due to fat) in human beings is produced by approximately 3,500 calories in excess of expenditure in a given time period, and a deficit of this amount in a given time period will reduce 1 pound of weight due to fat (WD-53-Mayer, p. 15). (Based on HEF 435, the Commissioner has accepted the Hearing Examiner's finding with the addition of the bracketed term.)

9. The goals of prevention of weight gain, maintenance of reduced weight, and reduction of weight, for large groups of people, are compatible with each other in that a balanced diet with moderate caloric reduction is the optimum route to each of these three goals since, as stated in the Final Report to the President of the White House Conference on Food, Nutrition, and Health by the Subpanel on Obesity of the Panel on Adults in an Affluent Society: The Degenerative Diseases of Middle Age: "It is clear that the best and most effective results occur with a balanced diet of the usually available foodstuffs but with a decrease in total caloric intake of a type that can be used both for weight reduction and for the maintenance of lower body weight after reduction has been achieved" (WD-53-Mayer, pp. 29-30, 22-24, 41-42; WD-49-Hirsch, 26A, p. 14, transcript 30,331; Darby, transcript 26,294; WD-3A-Sebrell, pp. 22-23, transcript 26,150; exhibit 0-695-53).

10. Sorbitol and mannitol are sugar alcohols. Sorbitol is readily metabolized into fructose and thereafter forms part of a general pool with protein, fats, vitamins, and other substances from which pool the body may produce glucose as needed. When this glucose is released into the blood, insulin may be required. Sorbitol produces approximately 4 kcal (kilocalorie) per gram. Mannitol is variable in its caloric value. Like sorbitol, mannitol, after it is initially metabolized, enters the general pool from which glucose is derived by the body (WD-G-Levine, Q. and A. 25-27, 80, 191; WD-G-Ricketts, Q. and A. 37-38; Bondy, transcript 30060, 30062; Steinke, transcript 30563-5; WD-49-Shuman, p. 10 (HEF 436)).

11. "Artificial sweetener" is a sweetening substance not used in normal metabolism as a source of calories (WD-G-Levine, Q. and A. 81 (HEF 437)).

12. The most common use of artificial sweeteners in foods is for the purpose of reducing or maintaining the body weight and in the diets of diabetics (WD-G-Moses, Q. and A. 21 (HEF 438)).

13. Purchasers regard foods labeled as being artificially sweetened to be for caloric restriction and weight reduction (WD-G-Swanson, Q. and A. 22-24 (HEF 439)).

Label Information

14. Purchasers in the United States are aware of the relationship between their body weight and the foods they eat. Purchasers in the United States are highly responsive to the labeling, promotion, and advertising of foods (WD-G-Swanson, Q. and A. 15-17 (HEF 440)).

15. The FDA survey reports the following: 53 percent of the respondents have used products labeled "artificially sweetened"; 27 percent, "dietetic"; 45 percent, "low calorie"; 36 percent, "lower in calories"; 35 percent, "sugar free"; 10 percent, "diabetic"; 16 percent, "salt restricted". (Exh. P-1151, d-1, Q. 43 (HEF 441)).

16. The FDA survey reports the following: Of those who used the products labeled as described in the preceding finding, 55 percent used the products labeled "artificially sweetened" on their own initiative; 25 percent did so with products labeled "dietetic"; 45 percent, "low calorie"; 36 percent, "lower in calories"; 33 percent, "sugar free"; 4 percent, "diabetic"; 5 percent, "salt restricted" (Exh. P-1151, d-2, Q. 44 (HEF 442)).

17. The FDA survey reported the following: 66 percent of the respondents understood that a food with the label statement "for calorie restricted diets" was intended for use in a reducing diet and 8 percent, for use in a diabetic diet; 22 percent understood the label statement "dietetic" as intended for people on a reducing diet and 28 percent, for people on a diabetic diet; 36 percent understood the label statement "diet" to mean that the food was of value in a weight reducing diet and 9 percent, as intended for use by diabetics (Exh. P-1151, d-5, Q. 50-52 (HEF 444)).

18. The great variety of labels, labeling, promotional material, and advertising for foods offered for special dietary uses because of their reduced caloric or carbohydrate content in the United States tends to confuse and mislead (WD-G-Ricketts, Q. and A. 73-80; WD-G-Iverson, Q. and A. 30-38, 42-47, 52-61, 68 (HEF 445)).

19. There is no uniformity to the labeling information or the descriptive phrases used to indicate that a food is of value in a calorie or carbohydrate restricted diet (WD-G-Moses, pp. 39-40, 50-128 (HEF 446)).

20. The label statement "low calorie" appears on the following labels: Exhs. P-794, P-800-802, P-807, P-809, P-812, P-814, P-829, P-832, P-837-844, P-856, P-872, P-916, P-918-920, P-930-934, P-936-943, P-945-949, P-955-957, P-960, P-962-964, P-972, P-975, P-991, P-993, P-1003, P-1009; WD-G-Moses, pp. 50-51; "lower in calories", Exhs. P-774, P-776, P-777, P-906, P-929, P-971, P-990; WD-G-Moses, p. 63; "low in carbohydrate," "no available carbohydrate," "starch free," P-1038-1039, P-803, P-805, P-806, P-815, P-850, P-851, P-854, P-955, P-965, P-985, P-987, P-1018; WD-G-Moses, p. 71; representations that sugar was absent, such as, "for sugar restricted diets," "sugarless," "sugar free," "no added sugar," "prepared without sugar," Exhs. P-773-774, P-776, P-778, P-779, P-780-781, P-783-798, P-804, P-816, P-818-820, P-824, P-828, P-834-837, P-839-842, P-844, P-846-847, P-849-855, P-857-868, P-870, P-883-884, P-906, P-908, P-917-918, P-920-930, P-947, P-949-950, P-954, P-959, P-972-974, P-983, P-987-988, P-992, P-1015, P-1017-1018; WD-G-Moses, pp. 84-85; "low fat," "lower in fat," Exhs. P-692, P-898, P-966, P-968-969, P-971-972, P-1002, P-1017; WD-G-Moses, pp. 92-93; "dietetic," Exhs. P-771-772, P-777-790, P-794-

797, P-803, P-805-806, P-808, P-811, P-813, P-815, P-817-818, P-823, P-825, P-834-835, P-842, P-845, P-847, P-849-854, P-857-862, P-870, P-888, P-897, P-906, P-916-917, P-919-920, P-922, P-924-928, P-954, P-974, P-983, P-987; WD-G-Moses, pp. 101-102; "diet," Exhs. P-767-768, P-823, P-827, P-846, P-895, P-898, P-909-915, P-929-930, P-932, P-935-936, P-939-940, P-949, P-959-960, P-982, P-992, P-995-996, P-998; WD-G-Moses, p. 102; "artificially sweetened," Exhs. P-775-776, P-807, P-809-810, P-812, P-814, P-816-817, P-819-822, P-824, P-827-828, P-830, P-833-841, P-843-844, P-847, P-855-856, P-866-867, P-872, P-932, P-934-936, P-939, P-946-950, P-955-957, P-959-964, P-972-974, P-958, P-1003, P-1015, P-1017-1021; WD-G-Moses, p. 125; "diabetic," "diabetes," "for diabetics," Exhs. P-816, P-819-822, P-826, P-873-881, P-883-888, P-894, P-1017; WD-G-Moses, p. 147; "special formula" bread, etc., Exhs. P-896, P-901-902, P-997, P-999-1001, P-1012; WD-G-Moses, p. 114 (HEF 447)).

21. The great variety and multiplicity of label designations for foods offered for special dietary use because of their reduced caloric or carbohydrate content has an adverse effect upon the purchasers' understanding of those products, and the potential for misunderstanding and error in perception increases as the number of such designations increases with respect to the ability of the purchaser to intelligently choose among such foods (WD-G-Swanson, Q. and A. 19 (HEF 448)).

22. As of 1970 the different methods used on the various labels, to express the amounts of protein, fat, and available carbohydrates present in the product, were in terms which were difficult to understand (WD-G-Moses, Q. and A. 34-37; WD-G-Iverson, Q. and A. 66, Exhs. P-640, P-641, P-647, P-688, P-767-847, P-849-868, P-870-1021, P-1035-1039, P-1042-1044, P-1090-1102, P-1104-1111). (Based on HEF 449, the Commissioner accepts the Hearing Examiner's findings as of 1970 because the subsequent institution of a requirement for nutrition labeling alleviated these difficulties.)

23. As of 1970, relatively few labels of foods offered as reduced in calories or carbohydrates provide information whereby the reduction in calories or carbohydrates can be measured or evaluated by purchasers. Frequently, when both nutritive and nonnutritive sweeteners are used in a food for special dietary use, the presence of the nutritive sweeteners and the proportion of the food which is comprised of nutritive substances is not made apparent (WD-G-Moses, Q. and A. 34-37, 56, 219-221; Exhs. P-640, P-641, P-647, P-688, P-690-698, P-767-847, P-849-869, P-870-1021, P-1035-1039, P-1042-1044, P-1090-1102, P-1104-1111; WD-G-Moses, pp. 131-134). (Based on HEF 455, the Commissioner accepts the Hearing Examiner's finding as of 1970 because the subsequent institution of a requirement for nutrition labeling alleviated these difficulties.)

24. Regulations of the Food and Drug Administration in effect in 1970 with respect to foods offered for the reduction or maintenance of body weight do not require label information sufficient to inform as to the number of calories that will be obtained through ingestion of an ordinary serving of the food (WD-53-Mayer, pp. 46-48; WD-G-Iversen, p. 18). (Based on HEF 456, the Commissioner accepts the Hearing Examiner's finding as of 1970 because the subsequent institution of a requirement for nutrition labeling alleviated these difficulties.)

25. Regulations of the Food and Drug Administration presently in effect governing goods offered for weight reduction or maintenance do not require label information which fully informs consumers as to the value of the food for special dietary use in that the regulations do not require the label to compare the number of calories contained in a reduced calorie food with the number of calories in the same food as ordinarily consumed (WD-G-Moses, pp. 31, 32; WD-53-Mayer, p. 48; WD-G-Levine, pp. 18-19, 25-26; WD-G-Ricketts, p. 10 (HEF 457)).

26. It is necessary to make an intelligent evaluation of the value of a food offered for special dietary use to increase, reduce or maintain body weight, or for the diets of diabetics, to know the amount of protein, fat, carbohydrates and calories contained in a serving of the food (WD-G-Levine, Q. and A. 28-32, 65, 68, 70; WD-G-Ricketts, Q. and A. 21-24, 26, 27, 97; WD-G-Ross, Q. and A. 69; WD-G-Iverson, Q. and A. 65, 66 (HEF 458)).

27. Amounts of protein, fat, and available carbohydrates are customarily expressed in grams (WD-G-Ricketts, Q. and A. 30; WD-G-Levine, Q. and A. 71 (HEF 459)). 8

28. Caloric content, in order fully to inform consumers, should be expressed in terms of an amount which constitutes an ordinary serving of the food (WD-G-Moses, pp. 19-20; WD-53-Mayer, pp. 46-48; WD-G-Levine, Q. and A. 73, 74; WD-G-Swanson, Q. and A. 49; WD-G-Ricketts, Q. and A. 31-33; WD-G-Ross, Q. and A. 69-71; WD-G-Iversen, Q. and A. 65, 66; (HEF 460)).

29. The phrase "for calorie restricted diets" is not necessary in order fully to inform consumers of the value of a food which purports to be or is represented as being for special dietary use by reason of being low or lower in calories (Mayer, Tr. 28, 912-913; Swanson, Tr. 22,905-906; WD-49-Hirsch, p. 20, Tr. 30,302).

Label Information on Fabrication or Alteration to Lower Calorie Content

30. Artificial sweeteners used to sweeten foods may be nutritive, nonnutritive or a combination of these. A diabetic or a person seeking to reduce or maintain his body weight must know the nature of the sweeteners used in the food to properly plan a diet. It is necessary that some designation such as "artifically sweetened" be used on the food's label to call attention to the presence of such sweeteners, and whether the artificial sweetener is nutritive or nonnutritive should be displayed. If the name of the artificial sweetener is used on the label, it is necessary and appropriate that the fact that it is nonnutritive be stated (WD-G-Levine, Q. and A. 87; WD-G-Ricketts, Q. and A. 40, 46, 58-60; WD-G-Ross, Q. and A. 79-82; (HEF 463)).

31. It will further the purpose of fully informing the purchaser as to the value of a food offered for special dietary use in which an artificial sweetener has been used to require that the label carry a statement comparing the caloric content of a specified serving of such food with an equivalent serving of the same food made with an amount of ordinary sugar which would produce sweetness equal to that produced by the use of the artificial sweetener (WD-G-Ricketts, Q. and A. 47, 28; WD-G-Levine, Q. and A. 90,91). (Based on HEF 467, the Commissioner does not accept this finding insofar as it relates to the labeling of low calorie foods.)

32. One gram of saccharin or of a saccharin salt is equivalent in sweetness to 300 grams of sugar (WD-G-Blomquist, Q. and A. 6-11; (HEF 468)).

33. Sweetness is an important component of palatability. Nonnutritive sweeteners provide the sensation of sweetness without adding calories (WD-53-Mayer, pp. 43-44; Sebrell, Tr. 26147; WD-G-Levine, pp. 9, 17, Tr. 22337; WD-G-Ricketts, p. 7; Iversen, Tr. 21844-45; (HEF 469)).

34. Food constituents, other than artificial sweeteners, which are not utilized in normal metabolism as a source of calories, are also useful as ingredients in foods for special dietary uses (WD-G-Ricketts, Q. and A. 61; WD-G-Ross, Q. and A. 87; (HEF 487)).

35. Such constituents include fibrous plant matter, commonly called "crude fiber." This material is not assimilated by the body (WD-G-Ricketts, Q. and A. 62-64; WD-G-Levine, Q. and A. 113-119; (HEF 488)).

36. Where a food that contains one or more of such constituents is offered for special dietary use for reduction or maintenance of body weight or the regulation of carbohydrate intake, it is necessary for the purpose of fully informing purchasers as to the value of the food, that the label state the percent by weight of such ingredients and whether they are nutritive or nonnutritive. The label should also bear a statement of comparison between the calorie content of a specified serving of such food and an equivalent serving of the same food which does not contain such constituents, or with a food without the fabrication or alteration (WD-G-Ricketts, Q. and A. 65; WD-G-Levine, Q. and A. 121-122, 127; WD-G-Ross, Q. and A. 88). (Based on HEF 489, the Commissioner has accepted the finding with the addition of the final clause in the last sentence in order to take account of the alternative means of making the comparison permitted under the stayed regulations and the regulation in the tentative order. In addition, he has not accepted the finding that labeling about non-nutritive constituents is necessary in order to inform persons with intestinal disorders; the listing of the constituent in the statement of ingredients would generally be adequate for this purpose, and it would not be necessary solely for this purpose to require an additional label statement about the presence of nunnutritive constituents.)

Reduced Calorie Foods

37. Many foods for special dietary use on the basis that they have been reduced in calories or carbohydrates are not significantly different from the unaltered food (WD-G-Levine, Q. and A. 93-98, 136, 222; (HEF 4511)).

38. Some foods, reduced in calories or carbohydrates, are not ordinarily eated in large enough amounts to have an appreciable value in the diet although the reductions are high on a percentage basis (WD-G-Levine, Q. and A. 159-163, 227; (HEF 453)).

39. Condiments and seasonings are not of caloric importance in the diet. They are consumed in small amounts. Caloric or carbohydrate reduction in such foods would have little effect in the diet of persons who desire to restrict their calorie carbohydrate intake. Even if the percentage of reduction is high, it is not scientifically reasonable to describe such foods as "low calorie" foods (WD-G-Levine, Q. and A. 159-163; WD-G-Ross, 96; WD-G-Ricketts, Q. and A. 72; (HEF 466)).

40. Artificial sweeteners, both nutritive and nonnutritive, can be useful in diets designed for the restriction of caloric intake and if promoted on this basis the caloric reduction resulting from the use of the artificial sweetener should be significantly large (WD-G-Ricketts, Q. and A. 34, 35, 49, 50; (HEF 470)).

41. The caloric significance of a given caloric reduction in a food is not affected by the manner in which the reduction is achieved. Where a food for special dietary use if promoted on the basis of a reduction in its caloric content by a means other than the use of nunnutritive sweeteners, the reduction should be significantly large (WD-G-Ricketts, Q. and A. 49, 50; WD-G-Levine, Q. and A. 128, 129, 164; WD-G-Ross, Q. and A. 91; WD-G-Iversen, Q. and A. 68; (HEF 471)).

42. The nutritional significance of a given caloric reduction in a food may be adverse depending upon the manner in which the caloric reduction was achieved, for example, where the caloric reduction results in elimination of protein, vitamins or minerals (WD-49-Hirsch, pp. 10-11).

43. A 50-percent reduction requirement would require some foods which are good sources of protein, such as dairy products, to reduce not only fat and carbohydrate content but protein content as well (WD-49-Howard, pp. 18-20). (Based on HEF 474, the Commissioner has limited the finding to "some" foods, since he does not believe it would be correct with respect to all foods.)

44. Significantly more foods can achieve a caloric reduction below 50 percent, and a 50-percent requirement is not consistent with the goal of a moderate reduction in as many foods as possible (WD-53-Mayer, pp. 50-51; Mayer, Tr. 28,806; WD-49-Hirsch, p. 16; WD-3A-Sebrell, p. 23). (Based on HEF 475, the Commissioner has not accepted the part of findings with respect to a 25-percent reduction for the reasons given in the statement of reasons.)

45. The size of the caloric reduction in a food for special dietary use, whether produced by the use of a nonnutritive artificial sweetener or by some other means, which would justify promotion on the basis of the reduction achieved was the subject of sharp disagreement among the expert witnesses who spoke to the matter (HEF 476).

46. Dr. Ricketts Stated: "And I stated several times before that the figure of 50 percent was an approximate one, an arbitrary one, and that I had no strong feelings about keeping it there or making it 60 percent or 40 percent. And I suppose I could not quibble very hard about 35 percent" (emphasis added) (Transcript 20826; (HEF 477)).

47. Dr. Levine stated: "When it comes to the selection of 50 percent, sure, everything has to be, in a sense arbitrary. But let us say you have a 100-calorie portion of something. If this is going to be really useful for reduction of weight it should be around 50 calories for the same serving, because there are certain foods that will never be reduced in caloric content" (emphasis added) Transcript 22212. And at Transcript 22275-76, he stated that he would consider an approximate reduction of 40 percent in the caloric value of pudding to be significant (HEF 478).

48. There was no more agreement on a single percentage figure among the expert witnesses who testified on behalf of the opponents whose estimates ranged from 10 percent, WD-49-Eisenstein, p. 16, Transcript 29419; to 25 percent, WD-49-Graham, p. 16; WD-49-Hirsch, p. 18; WD-3A-Darby, p. 6; WD-53-Mayer, p. 49, Transcript 28796; to from 25 to 30 percent, Stare, Transcript 29197-98; to 33 percent, WD-49-Olson, p. 21; (HEF 479)).

49. A 50-percent minimum requirement may operate to encourage the use of "fillers" in situations where products narrowly fall short of meeting the percentage (WD-49-Hirsch, p. 15; (HEF 480)).

50. The hearing examiner stated: "It appears that the selection of a minimum percentage figure of reduction in caloric value as significant for the purpose of justifying the promotion of a food for special dietary use on the basis of such reduction, is necessarily tinged with some arbitrariness. Under the circumstances and in the light of the evidence, I am persuaded to suggest that the figure of 35 percent is reasonable, workable, and most equitable * * *." (For the reasons given in the statement of reasons, the Commissioner has not accepted the part of the hearing examiner's findings (HEF-481) with respect to the diet of diabetics.)

51. A reduced calorie food should have at least a ⅓ reduction in calories per serving compared with the caloric content of an equivalent serving of the same food without fabrication or alteration. (HEF-481 and the reasons given in the Statement of Reasons.)

51a. Where a food for special dietary use is promoted on the basis that it is "lower in calories," it is reasonable and necessary to fully inform a purchaser as to the value of the food that the label bear a statement of comparison showing the caloric content of a specified serving of the food and the caloric content of an equivalent serving of the food and the caloric content of an equivalent serving of a similar food as customarily made and consumed (WD-G-Ricketts, Q. and A. 67; WD-G-Levine, Q. & A. 155, 156; WD-G-Ross, Q. and A. 90; (HEF 482)).

Low Calorie Foods

52. In spite of the wide usage of the term "low in calories" in the labeling of foods for special dietary use in reducing or maintaining body weight, there is no common standard to deter-

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mine when a food is "low in calories" (WD-G-Moses, Q. and A. 60, 62, 75-89; WD-G-Iversen, Q. and A. 67; e.g., 81-140 calories per serving, Exhs. P-1031-10-34; 40-130 calories per serving, Exhs. P-801, P-807, P-812, P-814, P-856, P-940, P-941, P-943, P-945, P-946, P-947, P-949, P-956, P-972, P-991, P-1003, P-1009; (HEF 454)).

53. A food for special dietary use which is promoted on the basis that it is a "low calorie" food should, in order to fully inform a purchaser as to its value, be required to meet a caloric standard designating a food as a "low calorie" food (WD-G-Levine, Q. and A. 142-145; WD-G-Ricketts, Q. and A. 81; (HEF 483)).

54. The dispute concerning the standard for "low calorie" was less sharp than that involving the significance of caloric reduction. Drs. Ricketts, Levine, and Ross stated that a serving of such a food should not exceed 15 to 25 calories and that the total contribution to a day's diet should not exceed 50 calories (WD-G-Ricketts, Q. and A. 81, 82; WD-G-Levine, Q. and A. 139, 140; WD-G-Ross, Q. and A. (HEF 484)).

55. Dr. Mayer was of the opinion that the definition should include foods ranging from 25 to 75 calories (WD-53-Mayer, 54-55; (HEF 485)).

56. The hearing examiner stated: "As in 'significant reduction' fixing a standard for qualification of a food as 'low calorie' is more or less arbitrary in nature. In view of the evidence it is suggested that a fair figure would be not more than 25 kilocalories per serving with a daily ceiling of 65 calories." (For the reasons given in the statement of reasons, the Commissioner has not accepted the part of the findings relating to the particular figure that should be set.)

57. Caloric density, that is, the ratio of calories to weight, varies among foods (P-719).

58. Government and opponent witnesses testified that caloric density should be considered in determining the special dietary value of a food as a low calorie food (Darby, Traanscript 26,305, 26,309, 26,313; WD-G-Ricketts, p. 15; Levine, Transcript 22,353-54, 22,239).

59. The ratio of calories to gram of sugar is approximately 4:1, that is, 4 calories to a gram (P-719, p. 73).

60. Sugar, as pure carbohydrate, is a calorically dense food (Levine, 22,353-54, 22,239).

61. Those soups, juices, fruits, and vegetables which contain less than 65 calories in an ordinary serving contain a ratio of calories to grams of from 1:2 to 1:20, that is, one-half to one-twentieth of a calorie per gram, and most contain one-third to one-sixth of a calorie per gram (P-719, pp. 66-69, 47-49, 39-46, 77-86).

62. Soups, juices, fruits, and vegetables containing less than 65 calories in an ordinary serving are from one-eighth to one-eightieth as calorically dense as sugar, and most are from one-twelfth to one twenty-fourth as calorically dense as sugar.

63. The caloric densities of soups, juices, fruits, and vegetables are among the lowest of all foods eaten in the United States (P-719).

63a. Based on the foregoing, the Commissioner finds that a 40 calorie per serving maximum, in conjunction with a caloric density requirement of 0.4 calories per gram, is a reasonable requirement, and he further finds that together these requirements are appropriate and encompass a number of foods that are distinctly low in calories and that will not be consumed in excess due to small serving sizes.

64. There is no justifiable reason for restricting the term "low calorie" on the basis of average total daily intake of the food since the overall nutritional contribution of the food must be considered in dietary planning (WD-3A-Darby, p. 6).

FINDINGS OF FACT RELEVANT TO §105.67 OF FINAL ORDER

65. There were approximately 2.3 million "diabetics" in the United States in 1970. The median ages were 60.2 years for males and 61.8 years for females. Two-thirds of all diabetics were over 55 years of age. Diabetics who were under age 25 comprised 5 percent of the total. Undetected cases of this disease may have amounted to approximately 2 percent of the population in addition. Persons suffering from diabetes mellitus are known as "diabetics" (Exh. P-1082, pp. 3-4; WD-G-Levine, Q. and A. 171). (Based on HEF 490, the Commissioner accepts the statistical findings as valid as at the time of the hearing.)

66. There are no regulations presently having specific reference to foods for use in the diets of diabetics (WD-G-Moses, Q. and A. 72, p. 39 (HEF 491)).

67. The stayed regulations, which are the subject of the public hearing herein, published in December 1966; H.E. Exh. No. 3, includes § 125.6 (a), (b), (c), and (d) which regulates label statements for foods represented for the special dietary use of diabetics (HEF 492).

68. On June 6, 1969 during the course of the public hearing, the Chief of the Food Case Branch, Division of Case Guidance, Bureau of Regulatory Compliance of the FDA offered testimony suggesting the elimination of stayed § 125.6 (WD-G-Moses p. 41 (HEF 493)).

69. Such elimination was suggested because "at the time stayed § 125.6 was drafted, I thought it might be advisable to require a clear and direct declaration when a food was intended for use in diabetic diets, since this might be less likely to mislead consumers than the many indefinite descriptive terms now being used on such foods. Since that time, however, further experience has caused me to reconsider—I am informed that usually the diet of diabetics must be restricted in calories as well as in readily assimilated sugar and carbohydrates. The information needed by diabetics to control their intake of calories is required by stayed § 125.5. I therefore do not believe stayed § 125.6 is necessary" (WD-G-Moses, pp. 40-41 (HEF 494)).

70. The diets recommended for diabetics are not identical to diets recommended for weight reduction or weight control (WD-49-Shuman, p. 2; WD-49-Graham, p. 13; WD-49-Marble, p. 2; WD-98-Bondy, p.3; Steinke, Transcript 30551; WD-G-Ricketts, Q. and A. 87; WD-G-Levine, Q. and A. 187; WD-G-Ross, Q. and A. 80-82; (HEF 495)).

71. The carbohydrate intake recommended for diabetics depends on many factors, including the ratio of fat to protein in the food consumed. Caloric reduction per se has greater significance in diets for weight reduction or weight control than in the diets of diabetics. Many persons with diabetes are of normal weight, or even underweight, and do not need low calorie diets. If a diabetic is not overweight, his diet is not the same as that of an overweight person (WD-49-Kagan, p. 22, Transcript 30611; WD-49-Shuman, p. 2; WD-49-Marble, p. 2; WD-49-Hirsch, p. 23; Steinke, Transcript 30554-55). (Based on HEF 496, the Commissioner has not accepted the part of the findings relating to the nature of the dietary needs of diabetics for the reasons given in the Statemant of Reasons.)

72. Diabetics are sophisticated in their choice of foods and the label statement "for the diets of diabetics" as the means of identification of foods intended for such use would be beneficial and assist in fully informing such purchasers as to the value of the foods (Bondy, Transcript 30073-74; WD-49-Gitter, p. 22; Steinke, Transcript 30555-56 (HEF 497)).

CONCLUSIONS OF LAW

A. With respect to § 105.66 label statements relating to usefulness in maintaining or reducing caloric intake or body weight:

The Commissioner concludes, based on the statement of reasons, in conjunction with the findings of fact herein published, that:

1. It is reasonable and necessary, to fully inform purchasers of the value of foods for special dietary uses, to require that the labels of any food that purports to be or is represented as useful in maintaining or reducing caloric intake or body weight bear label statements as required by § 105.66 as set forth in the order.

2. It is reasonable and necessary to prevent purchasers of special dietary foods for use in maintaining or reducing caloric intake or body weight from being misled about foods which are not of special dietary usefulness for such purpose to restrict the use of label statements, and/or to require certain disclosures on foods that are not of such special dietary usefulness as required by § 105.66 as set forth in the order.

B. With respect to § 105.67 label statements relating to food for use in the diet of diabetics:

The Commissioner concludes, based on the statement of reasons, in conjunction with the findings of fact herein published, that:

1. It is reasonable and necessary, to fully inform purchasers of the value of foods for special dietary uses, to require that the labels of any food that purports to be or is represented for use in the diet of diabetics bear the label statements as required by § 105.67 as set forth in the order.

2. It is reasonable and necessry to prevent purchasers of special dietary foods for use in the diet of diabetics from being misled about foods that are not of special dietary usefulness for such purpose to restrict the use of label statements as required by § 105.67 as set forth in the order.

Under § 25.1(f)(12) (21 CFR 25.1(f)(12)), the Commissioner has determined that this action will have no significant effect on the environment. No environmental impact statement is required.

FINAL ORDER

Therefore, on the basis of the foregoing statement or reasons, findings of fact, conclusions of law drawn therefrom and the record of the above proceeding and under the Federal Food, Drug, and Cosmetic Act (Sec. 201(n), 403 (a) and (j), 701 (a) and (e), 52 Stat. 1041 as amended, 1047-1048 as amended, 1055, 70 Stat. 919 as amended (21 U.S.C. 321(n), 343 (a) and (j), 371 (a) and (e))) and under the authority delegated to the Commissioner (21 CFR 5.1): *It is ordered*, That:

1. The stay of the effective date of §§ 125.5 and 125.6 (now 105.67) as promulgated in the FEDERAL REGISTER of December 14, 1966 (31 FR 15730), be ended and that these provisions be redesignated as §§ 105.66 and 105.67, respectively, and revised to read as follows:

§ 105.66 Label statements relating to usefulness in reducing or maintaining caloric intake or body weight.

(a) *General requirements.* Any food that purports to be or is represented for special dietary use because of usefulness in maintaining or reducing caloric intake or body weight, including, but not limited to, any food that bears representations that it is low or reduced in calories, shall bear:

(1) Nutrition labeling in conformity with § 101.9 of this chapter, unless exempt under that section; and

(2) The labeling provided for in paragraph (c) or (d) of this section, or a conspicuous statement of the basis upon which the food claims to be of special dietary usefulness.

(b) *Nonnutritive ingredients.* (1) Any food subject to paragraph (a) of this section that achieves its special dietary usefulness by use of a nonnutritive ingredient (i.e., one not utilized in normal metabolism) shall bear on its label a statement that it contains a nonnutritive ingredient and the percentage by weight of the nonnutritive ingredient.

(2) A special dietary food may contain a nonnutritive sweetener or other ingredient only if the ingredient is safe for use in the food under the applicable law and regulations of this chapter. Any food that achieves its special dietary usefulness in reducing or maintaining caloric intake or body weight through the use of a nonnutritive sweetener shall bear on its label the statement required by paragraph (b)(1) of this section, but need not state the percentage by weight of the nonnutritive sweetener. If a nutritive sweetener(s) as well as nonnutritive sweetener(s) is added, the statement shall indicate the presence of both type of sweeteners, e.g., "Sweetened with nutritive sweetener(s) and nonnutritive sweetener(s)."

(c) *"Low calorie" foods.* (1) A food may purport to be or be represented as "low calorie" only if:

(i) A serving of the food supplies no more than 40 calories, and

(ii) The food does not provide more than 0.4 calorie per gram, as consumed, or is a sugar substitute, and

(iii) The food bears on its principal display panel the term "low calorie," "low in calories," or "a low calorie food" in type size no smaller than one-half of the largest type size used on the label to represent, suggest, or imply special dietary usefulness, or type size 1/16 inch in height, whichever is larger.

(2) Foods that are low calorie within the meaning of paragraph (c)(1) of this section, as naturally occurring, without having any fabrication or alteration, may be labeled as a low calorie food, e.g., "celery, a low calorie food." They may not be labeled with the term "low calorie" immediately preceding the name of the food because such terminology would imply that the food has been altered to lower its calories with respect to other foods of the same type.

(d) *"Reduced calorie" foods, and other comparative claims.* (1) A food may be labeled as "reduced calorie," or with other terms representing or suggesting special dietary usefulness on the basis of a fabrication or alteration that makes the food lower in calories than a food it can substitute for in the diet only if:

(i) A comparison of the calorie content of a specified serving of the food with the calorie content of an equivalent serving of the same food without the fabrication or alteration of special dietary significance reveals a calorie reduction of at least one-third;

(ii) The food bears on its label a statement that clearly and concisely describes the comparison upon which the claim of special dietary usefulness is made. The statement shall either identify a specific food having at least one and a half times as many calories per serving for which the food can substitute, or indicate that the claim of special dietary usefulness is based on a comparison with the same food without the fabrication or alteration of special dietary significance. The statement shall also include a comparison between the calorie content of a specified serving of the food and an equivalent serving of the food it substitutes for, or the same food without the fabrication or alteration of special dietary significance, and

(iii) The food is not nutritionally inferior, under the criteria set forth in § 101.3(e) of this chapter, to the food for which it substitutes or the same food without the fabrication or alteration of special dietary significance.

(2)(i) Any food subject to this paragraph (d) that is similar in all its organoleptic properties to the food it is represented as substituting for, or to the food without the fabrication or alteration of special dietary significance, shall be labeled as "reduced calorie," "reduced in calories," or "a reduced calorie food."

(ii) Any food subject to this paragraph (d) that does not resemble in all its organoleptic properties the specific food for which it substitutes, e.g., canned pears packed in unsweetened water, in comparison with pears in heavy syrup, may be labeled with appropriate terms to indicate its dietary

usefulness, but in immediate proximity such labeling shall indicate material differences in organoleptic properties between it and the food to which it is compared. The food shall not bear terms in juxtaposition with its name or in the labeling that represent or suggest that the food is essentially the same as the other food in all its organoleptic properties except for a reduction in calories.

(3) It may not be technologically feasible to manufacture a "reduced calorie" food under the criteria set forth in this paragraph for all foods that are significant dietary sources of calories and for which it would be useful to those on calorie-restricted diets to have a reduced calorie substitute. Accordingly, the Commissioner may establish by regulation acceptable alternative criteria for a "reduced calorie" food, in a regulation issued pursuant to section 401 of the act establishing a standard of identity for the food, in a regulation in part 102 of this chapter establishing a common or usual name for the food, in an amendment to this section, or in a regulation issued pursuant to sections 201(n) and 403(a) of the act. A petition requesting such a regulation shall be submitted to the hearing clerk in the form established by part 10 of this chapter. Under no circumstances will a food be permitted to be labeled as "reduced calorie" unless (i) the petition demonstrates that it is not feasible to attain a greater caloric reduction than that for which approval is sought and (ii) the petition demonstrates that the use of the food, with the caloric reduction attained, will result in a significant reduction in calories in the diet and be useful to those on weight control programs.

(e) *Label terms suggesting usefulness as low calorie or reduced calorie foods.* (1) Except as provided in paragraph (e) (2) and (3) of this section, a food may be labeled with terms such as "diet," "dietetic," "artificially sweetened," "sweetened with nonnutritive sweetener," or other such terms representing or suggesting that the food is low calorie or reduced calorie or that the food may make a comparative claim of special dietary usefulness, only if: The food is labeled "low calorie" or "reduced calorie" or bears a comparative claim of special dietary usefulness in compliance with paragraph (c) or (d) of this section.

(2) Paragraph (e)(1) of this section shall not apply to any use of such terms that is specifically authorized by a regulation governing a particular food, or, unless otherwise restricted by regulation, to any use of the term "diet," which clearly shows that the food is offered solely for dietary use(s) other than regulating caloric intake or body weight, e.g., "for low-sodium diets."

(3) Paragraph (e)(1) of this section shall not apply to any use of such terms on a formulated meal replacement, low calorie meal, or other food that is represented to be of special dietary use as a whole meal, pending the issuance of a regulation governing the use of such terms on such foods.

(f) *Use of terms such as "sugar free," "sugarless," "no sugar," etc.* (1) Consumers may reasonably be expected to regard terms that represent that the food contains no sugars or sweeteners, e.g., "sugar free," "sugarless," "no sugar," as indicating a product which is low in calories or significantly reduced in calories. Consequently, except as provided in paragraph (f)(2) of this section, a food may not be labeled with such terms unless:

(i) It is labeled "low calorie" or "reduced calorie" or bears a comparative claim of special dietary usefulness labeled in compliance with paragraph (c) or (d) of this section, or

(ii) Such term is immediately accompanied, each time it is used, by the statement "Not a reduced calorie food," "Not a low calorie food," "Not for weight control," "Useful only in not promoting tooth decay," or other term indicating that the sole special usefulness of the food is for a specified purpose other than weight control.

(2) Paragraph (f)(1) of this section shall not apply to a factual statement that a food is unsweetened or contains no added sweeteners in the case of a food that contains apparent substantial inherent sugar content, e.g., juices.

§ 105.67 Label statement relating to food for use in the diet of diabetics.

(a) A food that purports to be represented for special dietary use because of usefulness in the diet of diabetics shall bear nutrition labeling in compliance with § 101.9 of this chapter, unless exempt under that section, and the statement "Diabetics: This product may be useful in your diet on the advice of a physician. This food is not a reduced calorie food." If the food is useful in maintaining or reducing calorie intake or body weight and labeled in conformity with § 105.66, the last sentence may be eliminated.

(b) A food shall not be represented to be useful in the diets of diabetics if such representation is false or misleading.

(c) The term "diabetic," "for diabetics," "diabetes," or the like, shall not be included as part of the name of any food, or otherwise be included on the labeling more prominently than the statement required by paragraph (a) of this section.

(d) The term "dietetic," "diet," or the like, shall not be included in the labeling of a food solely because of its possible usefulness in the diet of diabetics.

(e) A food shall not purport to be or be represented for special dietary use because of usefulness in the diet of diabetics solely by virtue of its being a food useful in reducing or maintaining caloric intake or body weight.

§ 105.79 [Revoked]

2. Section 105.79 *Nonnutritive constituents* is revoked.

Effective date. Compliance with this final regulation, including any required labeling change, may begin September 22, 1978; all products initially introduced into interstate commerce on or after July 1, 1979, shall fully comply.

(Secs. 403, 701, 52 Stat. 1047-1048 as amended, 1055-1056 as amended (21 U.S.C. 343, 371).)

Dated: September 15, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 78-26623 Filed 9-21-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 105]

[Docket No. 78P-0207]

SPECIAL DIETARY FOODS LABEL STATEMENTS; MISLEADING STATEMENT

Reduced Calorie Labeling for Bread

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: In response to a petition, the Commissioner is issuing a proposed rule which would permit bread to bear "reduced calorie" labeling if the bread has a 25-percent reduction in calories. Under a final order published elsewhere in this issue of the FEDERAL REGISTER, other foods are required to have a reduction in calories of 33⅓ percent to be labeled "reduced calorie."

DATES: Comments by November 21, 1978; tentative effective date; July 1, 1979.

ADDRESS: Comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Taylor M. Quinn, Bureau of Foods (HFF-300), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1243.

SUPPLEMENTARY INFORMATION: Folowing a public hearing, the Commissioner of Food and Drugs has issued a final order and regulation, published elsewhere in the issue of the FEDERAL REGISTER, on label statements for special dietary foods for use in reducing or maintaining body weight (§ 105.66 (21 CFR 105.66)). That regulation establishes, among other things, the labeling that shall appear on foods that are offered as reduced in calories, and it also establishes the size of the caloric reduction a food must have in order to carry a nonmisleading claim. Under the regulation, in order for a food to be labeled as "reduced calorie," it must have a one-third reduction in calories compared with a food for which it can substitute that does not have the fabrication or alteration of special dietary significance. The regulation also provides that alternative criteria may be established by regulation to permit "reduced calorie" claims on foods for which it is not technologically feasible to achieve a one-third reduction.

Before issuing the final order, the Commissioner issued a tentative order in the FEDERAL REGISTER of July 19, 1977 (42 FR 37166) and invited the submission of exceptions. Some of these exceptions maintained that the 33⅓-percent reduction figure was too high, and that a lower figure should be set to govern reduced caloric claims in all foods. The Commissioner has not accepted these exceptions for the reasons discussed in the final order published elsewhere in this issue of the FEDERAL REGISTER. These exceptions requested that if no change were made in the general one-third caloric reduction requirement, alternative criteria be established by regulation to permit bread to be labeled as reduced in calories if the bread achieved a 25-percent reduction or a 15- to 20-percent reduction. One exception also asked that the exception be treated as a petition to establish a separate regulatory provision providing a 25-percent minimum caloric reduction for bread. This proposal is being published pursuant to that request.

The petition indicates that, although it is technologically feasible to make bread with a greater caloric reduction, the food would not be as palatable and acceptable to consumers. The Commissioner particularly invites comments from consumers, nutritionists, and food technologists on this matter. The administrative file for this proceeding contains the full text of the petition. The most pertinent parts of the petition are printed below with some citations omitted, and editorial changes to reflect that the document is being treated for this purpose as a petition to propose a rule rather as an exception to the tentative order on special dietary foods.

Interstate developed its "Light White" and "Light Wheat" breads to meet consumer demand for breads with reduced calories and higher fiber. It started by producing a product very similar in its properties to the other reduced calorie/high fiber breads presently being marketed. Such breads, and the initial Interstate products, have a caloric content for a two-slice serving of 100 to 106 Calories. However, such breads do not have a desirable taste or appearance compared to standardized and other conventional breads. Interstate's researchers described their 106 Calorie high fiber product as follows:

• • • the bread was extremely inferior. The volume of the bread was slightly reduced; dark, coarse, open grain; harsh chewy texture; poor symmetry. Also, the dough did not have the tolerance to handling and machining, and make-up was much more difficult • • •.

This same poor appearance also generally applies to competitive reduced calorie/high fiber breads presently being marketed. Consequently, Interstate's researchers attempted different formulations to improve taste, texture, and other organoleptic properties of its breads. In doing so, it discovered that formulations with a caloric content of 112-115 Calories per serving were significantly better than those below this range.

• • • • • •

The basis for this petition is that even if a general 25-percent caloric reduction requirement is not accepted • • •, as Interstate believes it should be, a food such as bread, which is a very important component of the diet and consumed by most persons several times a day, stands in a special position. In the assessment of usefulness for special dietary purposes, each type of food may be separately examined and considered, rather than applying a single minimum caloric reduction requirement indiscriminately to all foods • • •. Because of the frequency with which bread is consumed, a lesser caloric reduction of such a food is very significant even if the same reduction would not be significant as to a less frequently consumed food. The special significance of a frequently consumed food like bread is illustrated by the following example: Consumption of three portions of 25-percent calorie reduced bread would provide a greater caloric reduction than consumption of two portions of a one-third calorie reduced food of an equivalent caloric content.

• • • Based on our most conservative assumption, which required six portions of 25-percent calorie reduced foods to achieve the desired 10-percent reduction in total daily caloric intake, the three daily servings of bread which many people eat, taken alone, would provide 50 percent of this goal. Obviously, when the consideration of increased exercise and consumption of "low calorie" foods lessens the number of portions of "reduced calorie" foods necessary to reach the 10-percent total daily caloric reduction goal, three servings of bread alone could fulfill this goal • • •.

The importance of bread in the daily diet of most Americans is hard to overemphasize. It is common knowledge that it is consumed by many persons at practically every meal. Moreover, such consumption at every meal is recommended by many nutritionists. The bread/cereal group of foods comprises one of the four basic food groups from which a well-balanced diet containing all essential nutrients should be composed • • •. Bread thus constitutes a substantial portion of virtually every American's diet.

• • • [T]he the palatability of foods is very important to the dieter, and every effort should be made to make available for weight control purposes the widest variety of the most palatable foods. Therefore, the data reported in • • • this submission as to the superior palatability of Interstate's "Light White" bread is of special significance and is an important justification for this petition to establish a special minimum caloric reduction requirement for bread.

This petition also relies on the lack of technological feasibility of producing a "reduced calorie" bread of acceptable palatability to assure an adequate level of consumption by consumers. Interstate's experiments showing such technological infeasibility are reported (in the submission on file with the Hearing Clerk). Interstate is prepared to demonstrate by evidence based on the research and development of its "Light White" bread the lack of technological feasibility of producing reduced calorie/high fiber bread which is acceptable to the con-

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sumer and which achieves a 33⅓-percent caloric reduction.

In response to this petition, the Commissioner is issuing a proposal to permit breads with a one-quarter calor- ic reduction to bear reduced calorie claims if the bread otherwise complies with the regulations governing special dietary foods offered for weight control. The tentative effective date for this proposed rule is July 1, 1979, the same date upon which the regulation governing label statements on special dietary foods offered for weight control becomes mandatory. This proposed rule would allow additional foods to be "reduced calorie" claims. If action on the proposal is not taken by the July 1, 1979 effective date, the Commissioner does not intend to take regulatory action with respect to products labeled in accordance with this proposal until action is taken either to issue a final rule or to withdraw the proposal.

The Commissioner is issuing this proposal under the authority in sections 201(n) and 403(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(n) and 343(a)) to prohibit false and misleading claims. These provisions provide adequate authority to take the proposed action without relying on section 403(j) of the act, which governs labeling statements on special dietary foods.

Under § 25.1(f)(12) (21 CFR 25.1(f)(12)), the Commissioner has determined that this proposed action will have no significant effect on the environment. No environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403(a), 701(a), 52 Stat. 1041, 1047 as amended, 1055 (21 U.S.C. 321(n), 343(a), 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that part 105 be amended in § 105.66 by adding new paragraph (d)(4) to read as follows:

§ 105.66 Label statements relating to usefulness in reducing or maintaining caloric intake or body weight.

* * * * *

(d) * * *

(4) A bread may bear the labeling provided for in paragraph (d) (1), (2), and (3) of this section if it achieves a one-quarter caloric reduction, rather than the one-third reduction specified in paragraph (d)(1) of this section, and if it otherwise complies with all the provisions of this section.

* * * * *

Interested persons may, on or before November 21, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: September 15, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 78-26624 Filed 9-21-78; 8:45 am]

federal register

FRIDAY, SEPTEMBER 22, 1978
PART V

DEPARTMENT OF LABOR

Wage and Hour Division

federal register

AGE DISCRIMINATION IN EMPLOYMENT ACT

Employee Benefit Plans

[4510-27]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 860]

AGE DISCRIMINATION IN EMPLOYMENT ACT

Employee Benefit Plans

AGENCY: Wage and Hour Division, Labor.

ACTION: Proposed amendment to interpretative bulletin and notice of hearing thereon.

SUMMARY: The interpretative bulletin on the Age Discrimination in Employment Act of 1967, as amended ("ADEA" or "Act"), sets forth various interpretations which indicate the construction of the ADEA that the Department of Labor believes to be correct and which will guide it in the performance of its administrative and enforcement duties under the Act. As a result of the Age Discrimination in Employment Act Amendments of 1978, Pub. L. 95-256, 92 Stat. 189 (approved April 6, 1978), several sections of the interpretative bulletin must be revised, and new sections must be added, in order to take account of the amendments, as well as to clarify interpretations which have previously been misunderstood. The revisions and additions reflect the statutory changes in 1978, the intent of Congress as reflected in the legislative history, and the general purposes of the Act. Each major change in the interpretative bulletin necessitated by the 1978 amendments will be published as a separate document in the FEDERAL REGISTER. This document deals with employee benefit plans. Other documents to be published deal with involuntary retirement, and with exemptions to the Act with respect to certain executive and policymaking employees and tenured faculty members.

DATES: Written comments must be received by the Department of Labor on or before November 21, 1978. A public hearing on the proposed amendment will be held beginning at 10 a.m. on October 23, 1978. Persons or organizations wishing to present their views at the hearing may not all be able to do so, because of time limitations. Priority will be given to persons or organizations which provide the Department with written comments on this proposed amendment by October 16, 1978.

ADDRESSES: The hearing will be held in Conference Room N-3437, A, B, and C, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210. Written comments and requests to testify at the hearings should be submitted in quadruplicate to Francis V. LaRuffa, Jr., Chief, Branch of Age Discrimination, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-3028, Washington, D.C. 20210. A copy of all public documents may be examined during normal business hours at the office of Xavier M. Vela, Administrator, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-3502, Washington, D.C. 20210. The entire record, or any part thereof, may be purchased at the actual cost of duplication as computed pursuant to the fee schedule in 29 CFR 70.62(b).

FOR FURTHER INFORMATION CONTACT:

Francis V. LaRuffa, Jr., Chief, Branch of Age Discrimination, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-3028, Washington, D.C. 20210, telephone 202-523-7640. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department has under consideration a proposal to amend § 860.120 of the interpretative bulletin on the Age Discrimination in Employment Act, which deals with employee benefit plans under section 4(f)(2) of the Act, 29 U.S.C. 623(f)(2).

Prior to the 1978 amendments section 4(f)(2) provided:

> (f) It shall not be unlawful for an employer, employment agency, or labor organization—• • •
>
> (2) to observe the terms of • • • any bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this Act, except that no such employee benefit plan shall excuse the failure to hire any individual • • •.

The 1978 amendments added a final clause to this section so that it now reads:

> (f) It shall not be unlawful for an employer, employment agency, or labor organization—• • •
>
> (2) to observe the terms of • • • any bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this Act, except that no such employee benefit plan shall excuse the failure to hire any individual, and no such • • • employee benefit plan shall require or permit the involuntary retirement of any individual specified by section 12(a) of this Act because of the age of such individual • • •.

The 1978 amendments also expanded the age group protected by the Act from individuals at least 40 years of age but less than 65 years of age to individuals at least 40 but less than 70, effective January 1, 1979, in the non-Federal sector.

The raising of the age limitation of those protected by the Act from 65 to 70 will have a great impact on past employment practices, because the common practice of mandatorily retiring employees at age 65, and cutting off their entitlements to health and life insurance and other employee benefit plans at that age, will no longer be lawful. The amendment to section 4(f)(2) is also very important, because Congress, in making clear that section 4(f)(2) does not authorize involuntary retirement of protected employees on account of age, also reiterated the original intent of that exception as enacted in 1967.

Section 4(f)(2) is an exception to the Act's prohibitions against discrimination based on age contained elsewhere in section 4. Generally speaking, section 4(f)(2) permits a reduction in benefits for older workers on the bases of actuarially significant cost considerations. It is important to keep in mind, however, that any such reduction in employee benefits by an employer on the basis of age violates section 4(a)(1) of the Act (if not also section 4(a)(2)), since it is plainly "discriminat[ion] against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age • • •." Accordingly, under normal rules of statutory construction, an employer seeking to invoke section 4(f)(2) as a defense to such a discriminatory reduction in employee benefits based on age bears the heavy burden of proving clearly and unmistakably that every test of the exception has been met.

In fashioning the section 4(f)(2) exception with respect to employee benefit plans, Congress explicitly recognized that the cost of providing certain benefits to older workers is greater than providing those same benefits to younger workers. To require that the same benefits be provided to all workers without regard to age, Congress feared, would discourage the employment of older workers or would unduly burden the employer and thereby jeopardize the continued maintenance and operation of such plans. As explained by Senator Javits during passage of the original bill in 1967, section 4(f)(2) is "particularly significant," "since, in its absence, employers might actually have been discouraged from hiring older workers because of the increased costs involved in providing certain types of benefits to them" (S. Rept. 723, 90th Cong., 1st Sess. (1967), p. 14; 113 Cong. Rec. 31254-31255). Senator Javits also stated: "The meaning of this provision is as follows: An employer will not be compelled under this section to afford to older workers exactly the same pension, retirement, or insurance benefits as he affords to younger workers" (113 Cong. Rec. 32155). In a similar vein, Representative Daniels pointed out that section 4(f)(2) was "designed to maximize employment possibilities

without working an undue hardship on employers in providing special and costly benefits" (113 Cong. Rec. 34727). See also Hearings before the Senate Labor Subcommittee on S. 830 and S. 788, 90th Cong., 1st Sess., 1967, pp. 27-30, 53, 106-107.

Essentially the same explanations were made during passage of the 1978 amendments. Thus, Senator Williams agreed with the following statement by Senator Javits (124 Cong. Rec. S. 4450-S. 4451, daily ed., March 23, 1978):

> The purpose of section 4(f)(2) is to take account of the increased cost of providing certain benefits to oler workers as compared to younger workers.
>
> Welfare benefit levels for older workers may be reduced only to the extent necessary to achieve approximate equivalency in contributions for older and younger workers. Thus a retirement, pension, or insurance plan will be considered in compliance with the statute where the actual amount of payment made, or cost incurred in behalf of an older worker is equal to that made or incurred in behalf of a younger worker, even though the older worker may there by receive a lesser amount of pension or retirement benefits, or insurance coverage. This is consistent with the following statement I made during the November 6, 1967 floor consideration of the original act:
>
> The amendment relating to • • • employee benefit plans is particularly significant: Because of it an employer will not be compelled to afford older workers exactly the same pension, retirement, or insurance benefits as younger workers and thus employers will not, because of the often extremely high cost of providing certain types of benefits to older workers, actually be discouraged from hiring older workers. At the same time, it should be clear that this amendment only relates to the observance of bona fide plans. No such plan will help an employer if it is adopted merely as a subterfuge for discriminating against older workers.

Congressman Hawkins spoke to the same effect during House floor debate (124 Cong. Rec. H 2270. daily ed., March 21, 1978):

> Benefits would not have to be equal where there is a legitimate economic or business purpose other than age which justifies the differential in benefits. The purpose of section 4(f)(2) is to encourage the employment of older workers by permitting age-based variations in benefits where the cost of providing the benefits to older workers is substantially higher. Any age-based differences in benefits would have to [be] evaluated under the standard in section 4(f)(2).

In making similar remarks, Congressman Pepper cautioned that

> [p]assage of this act should not be construed by any employer, or any court, to permit the sudden, total and unilateral termination of a capable and healthy worker from a health, insurance, or other welfare benefit plan solely on the basis of age and without full economic justification. (124 Cong. Rec. H 2275, daily ed., March 21, 1978)

Similar statements were made by Congressman Weiss, a sponsor of the amendment to section 4(f)(2) (id. at H 2276):

> It should be noted that it is not the intention of this amendment to have older workers cut off from their health and benefit plans the day they reach age 65. While employers, under this section, may not be required to fully integrate older workers into their seniority and pension benefit plans, they should not interpret the 1977 [sic] amendments to the ADEA as a license to cease to provide reasonable benefits to their older employees.

The legislative history of the 1978 amendments establishes one exception to the otherwise uniform rule under section 4(f)(2) that age-based reductions in employee benefit plans must be justified by actuarially significant cost considerations. That exception is with respect to certain retirement plans—both defined contribution plans and defined benefit plans. The legislative history make clear that

> an employer will be permitted under the act, as amended, to maintain a defined contribution plan—other than a plan which is merely supplemental to a defined benefit or defined contribution plan maintained by the employer—which precludes employer and, if applicable, employee contributions to such a plan subsequent to an employee's attainment of the plan's normal retirement age. [124 Cong. Rec. S 4450, daily ed., March 23, 1978, remark of Sen. Javits.]

This statement by Senator Javits, with which Senator Williams concurred, is identical in all material respects to a statement by Congressman Dent with which Congressman Hawkins concurred (see 124 Cong. Rec. H2271, daily ed., March 21, 1978).

The legislative history also makes clear that under the ADEA, as amended, an employer maintaining a defined benefit retirement plan is not required (1) to credit, for purposes of benefit accrual, those years of service which occur after an employee has attained the normal retirement age under the plan; (2) to pay the actuarial equivalent of normal retirement benefits to an employee who continues to work beyond normal retirement age under such a plan; or (3) to provide for the accrual of benefits under such a plan during any years of service by an employee after normal retirement age.

Many questions about the effect of this legislative history have been raised over the last several months. Some of these questions have been quite general and some have dealt with individual employee benefit plans, particularly life insurance, health insurance, long-term disability and retirement benefits. These questions are listed below. Following each question is a brief discussion of the Department's proposed interpretation, including the rationale for the proposed interpretation. In most instances there is also an indication of the particular types of comments the Department believes would be especially helpful in formulating final interpretations.

1. WHAT KINDS OF EMPLOYEE BENEFIT PLANS FALL WITHIN SECTION 4(f)(2)?

With the single, limited exception required by the legislative history and noted above, section 4(f)(2) applies only to plans in which age is an actuarially significant factor in plan design. It is not relevant that salary and seniority may be significant factors in plan design. One example of a benefit where age is an actuarially significant factor is life insurance. Thus, the monthly premium cost of group term life insurance for each $1,000 in face value increases in proportion to the age of any particular individual in the covered group. On the other hand, age is not an actuarially significant factor in the design of time-off with pay plans, such as paid vacations and paid sick leave. Accordingly, time-off with pay plans could not lawfully provide lesser benefits to older workers on account of age.

The legislative history with respect to retirement plans, as described earlier, specifically permits certain reductions in benefits for older workers even though the reductions are not necessarily cost-justified. Exclusion from participation in retirement plans is not permitted, except under specified circumstances. The special rules on this subject are discussed below in the section on retirement benefits.

2. WHAT KINDS OF COST DATA MAY BE RELIED ON TO SHOW THAT AGE IS AN ACTUARIALLY SIGNIFICANT FACTOR IN PLAN DESIGN?

An employer may rely on data which show the actual cost to him of providing the particular benefit in question. However, there may be situations where cost data are not statistically significant, particularly for smaller employers, or where such data do not exist, as may be the case with respect to providing certain benefits to employees over age 65. In such circumstances, an employer may rely on reasonable actuarial data on benefit cost a for similarly situated employees. Such data, for example, may be available from the Social Security Administration or the Society of Actuaries, or from similar sources.

3. MAY COMPARISONS OF BENEFIT COSTS AT DIFFERENT AGE LEVELS BE MADE WITH RESPECT TO THE BENEFIT PACKAGE AS A WHOLE, OR MUST THE COST COMPARISON BE MADE ON A BENEFIT-BY-BENEFIT BASIS?

The proposed interpretation requires cost comparison on a benefit-

by-benefit basis. There are two major reasons for this approach.

First, this approach is more consistent with the general nondiscrimination policy underlying the Act, which is that employees are to be treated as individuals regardless of age except to the extent that age-based cost differences in benefits dictate otherwise. A "benefit package" approach would permit drastic reductions in one benefit because of rising costs for another benefit. As a result an individual employee might be deprived because of age of a benefit of particular value to him in a way unjustified by the age-related costs of that benefit.

Second, this approach seems far more workable, since reference to available actuarial data regarding one benefit without a complete analysis of an employer's benefit levels and actual experience will frequently be sufficient to indicate compliance or possible noncompliance.

The benefit-by-benefit approach is, however, subject to the criticisms that it limits employer flexibility in meeting employee needs and in dealing with providers of benefits and that it may permit employers to reduce one benefit for older workers (for example, life insurance) while realizing a cost savings with respect to another benefit (for example, health insurance when Medicare is available). The Department would welcome comments on the benefit-by-benefit approach and on workable alternative approaches.

4. MAY THE LEVEL OF A BENEFIT BE REDUCED ON THE BASIS OF THE AVERAGE COST OF THE BENEFIT FOR ALL EMPLOYEES WITHIN AN AGE RANGE (SUCH AS 6 TO 70 YEARS OLD), OR MUST THE COST OF THE BENEFIT BE CALCULATED ON A YEAR-BY-YEAR BASIS?

The proposed interpretation provides that cost comparisons and adjustments are to be made on a year-by-year basis. The approach seems most consistent with the policy and legislative history of the Act, as amended, to the effect that benefit reductions should not be greater than costs actually justify. If another approach were taken—if, for example, life insurance benefits were reduced at age 65 on the basis of the cost for employees age 65 to 69 as compared to the cost for employees age 60 to 64—employees would experience in their 65th year a large and sudden reduction in benefits unjustified by cost considerations with respect to that year. The Department would welcome comments on the year-by-year approach and on alternative approaches which would also protect employees from precipitous reductions in benefits.

5. WHERE THE GOVERNMENT PAYS FOR CERTAIN BENEFITS TO EMPLOYEES ON THE BASIS OF AGE—SUCH AS MEDICARE BEGINNING AT AGE 65—MAY AN EMPLOYER CEASE TO PROVIDE THOSE SAME BENEFITS UNDER HIS EMPLOYEE BENEFIT PLAN, EVEN THOUGH AS A RESULT THE COST TO THE EMPLOYER OF PROVIDING MEDICAL BENEFITS TO OLDER EMPLOYEES MAY BE LESS THAN FOR YOUNGER EMPLOYEES?

The proposed interpretation permits such coordination of benefits, even though the availability of the Government-financed benefits may be based on age, provided that, when the Government-financed benefits are included, older employees still enjoy no less of any specific benefit than younger employees. It is in the nature of many employee benefit plans to respond to individual needs, and it would seem reasonable for such plans to take into account the extent to which individual needs are met by other benefits provided by the Government.

6. MAY AN EMPLOYER REQUIRE THAT AN OLDER EMPLOYEE MAKE GREATER CONTRIBUTIONS INTO A BENEFIT PLAN AS A CONDITION OF EMPLOYMENT OR OF PARTICIPATION IN THE PLAN, IN ORDER FOR THE EMPLOYEE TO BE ABLE TO RECEIVE THE SAME LEVEL OF BENEFITS AS A YOUNGER EMPLOYEE?

The proposed interpretation answers this question in the negative. To impose such a requirement as a condition of employment would seem to violate the special restrictions in section 4(f)(2), as amended, which make clear that no employee benefit plan shall excuse the failure to hire any individual, nor may such a plan require or permit the involuntary retirement of any individual, within the protected age group. To impose such a requirement as a condition of participation in the plan would be inconsistent with the language and legislative history of section 4(f)(2). These authorities indicate that this provison contemplates adjustments in benefits, not adjustments in pay or in employee contributions which are a condition of employment or of participation in a benefit plan. A reduction in take-home pay would obviously discourage older employees from continuing their employment and would be deemed a subterfuge to evade the purposes of the Act. The proposed interpretation makes clear, however, that an older employee may be given the option to make the additional contribution necessary to prevent a reduction in benefits otherwise justified under section 4(f)(2).

7. HOW WOULD SECTION 4(f)(2), AS AMENDED, APPLY TO VARIOUS EMPLOYEE BENEFIT PLANS?

(a) *Life insurance.* Many if not most employers providing life insurance coverage to employees maintain group plans which either terminate or begin a percentage reduction at normal retirement age. A sudden, total cut-off of such benefits while an employee is in the protected age category cannot be cost justified based on the mortality tables commonly used and accepted by the insurance industry. It is clear from the statutory language and the legislative history that a sudden cessation of benefits, even where the cost of providing the benefits gradually increases with age, would not qualify for the Act's exception at section 4(f)(2). The reason for this conclusion is that in any given year, the cost of providing life insurance coverage increases with increased likelihood of mortality, but in no year, according to the actuarial tables, does the cost increase by such a large percentage as to justify total cessation of coverage. However, where an employer can demonstrate under section 4(f)(2) that a percentage reduction in coverage in any one year is justified by an increase in insurance cost, no violation of the ADEA would result.

(b) *Health insurance.* It is the Department's understanding that, ordinarily, health insurance coverage does not vary significantly with age up to age 65. Where employees are not now subject to mandatory retirement at that age, coverage after that age is almost invariably reduced to take account of Medicare. In view of the availability of Medicare starting at age 65, the proposed interpretation takes the position that reductions in total health benefits (Medicare plus benefits from other sources) for employees age 65 to 70 will not be justified.

(3) *Long-term disability.* Long-term disability plans raise some uniquely difficult problems under the Act. The purpose of these plans is to replace, at least partially, income which an employee would have earned but is unable to earn because of disability. There is a wide variation in the duration of benefits. The most common limitations are 5 years, 10 years, or to age 65. Some plans provide benefits until the employee reaches normal retirement age. There are many variations, not only in the duration of benefits but also in the types of disabilities covered. No problem arises where disability benefits are provided for a certain number of months or years regardless of age or where a disability pension is provided for life, regardless of age, for a permanent disability. The problem arises with plans which provide benefits until a specific age, where that age is less than 70.

The Act as amended protects an employee's expectation of employment up to age 70. It is therefore consistent with the Act to permit long-term disability plans to use age 70 as the upper limit on an employee's expected working life. Thus, an employee disabled at age 50 could receive 20 years of benefits and an employee disabled at 65 could receive 5 years of benefits.

Reductions in the level of long-term disability benefits on the basis of age are permissible where justified by age-related cost considerations as described elsewhere in this preamble and set forth in the proposed interpretation.

With respect to the cutting off of all long-term disability beneifts on account of age before age 70, the proposed interpretation sets forth two alternative proposals. Comments are invited on each approach. Under the first alternative, it would be unlawful for long-term disability benefits to cease at an age certain (prior to age 70), just as it would be unlawful for employees above an age certain to have no long-term disability coverage at all. This approach is consistent with that part of the legislative history which forbids total termination of employee benefits without a full economic justification.

The second alternative, while not ignoring this legislative history, tries to come to grips with a potentially serious flaw underlying the first alternative. This problem requires some discussion.

The first alternative approach to long-term disability benefits under section 4(f)(2) has been criticized on the ground that it rests on the unwarranted assumption that a worker who suffers from a long-term disability would, in the absence of the disability, have worked until age 70, despite the worker's entitlement to full retirement benefits at an earlier age. Accordingly, this criticism contends, the proposed first alternative interpretation would require a long-term disability plan to replace (at least partially) wages or salary which employees would not have expected to receive, since many if not most employees would have voluntarily left the work force prior to age 70 had then not become disabled.

The underlying problem is that expected working life is an individual and subjective matter. If one considered all objective characteristics, which on the basis of longitudinal studies can be shown to correlate with future working life, each disabled employee would receive disability benefits for the future working life computed on the basis of his or her individual characteristics. This individual employee approach would, however, be extremely unwieldy (if not impossible) for a group insurance plan, even where the necessary information was available.

Perhaps the approach which best responds to both the concerns of the Act and the practicalities of group insurance is a modification of the approach already used by many plans, that is, the assumption that employees "would retire" at a certain age. It is likely that within a group of employees under a disability plan, age is the best predictor of future working life. The use of a fixed "probable retirement age" makes use of this predictor. Under this approach, the probable retirement age would be an age by which most employees actually do choose to retire. Where employees choose to work beyond this age and then become disabled, another age would have to be uses.

In this connection, is should be noted that the most common age at which employees retire is 65. However, for those individuals still employed at age 60 (or later), the average remaining worklife is about 5 years. (See Length of Working Life of Men and Women, 1970, (U.S. Department of Labor, Bureau of Labor Statistics, Special Labor Force Report 187). This publication includes, in addition to detailed tables and a technical appendix, an article of the same name from the Monthly Labor Review of Feb. 1976.)

On the basis of such data, the second alternative interpretation would be not to question the cessation of long-term disability payments at age 65 for any employee who becomes disabled at age 60 or less. However, with respect to any employee who becomes disabled after age 60, the disability payments may not be cut off until at least 5 years after the disability occurs (except that disability payments would not have to continue beyond age 70).

This second alternative interpretation has the advantage of taking into account the fact that most employees do not work until age 70. However, the second alternative has been criticized on two grounds. One is that it is based on a study which was conducted at a time when mandatory retirement at age 65 was not forbidden by the ADEA. Even though it is well known that many employees retire by age 65 even when not compelled to do so, it is not certain whether this practice will continue once the ADEA's maximum age limitation is raised to 70. The Department would therefore welcome information and explanations which will permit a reasonable estimate to be made of the proportion of employees who are likely to retire by age 65 even after the maximum age limitation is exceeded to 70.

The other criticism of the second alternative approach is that it relies on age stereotypes. Plainly not every employee who is disabled before age 60 would have retired by age 65 had the disability not occurred. (On the other hand, of course, some employees who are disabled before age 60 would have retired before age 65 if they had not been disabled.) In defense of the second alternative approach, it should be noted that section 4(f)(2) was designed to permit age-triggered changes in benefit plans based not on individual characteristics, but on group characteristics. Thus, the face value of life insurance benefits under a group plan could be lower for 61 year olds than for 60 year olds, even though a particular 61-year-old has a significantly longer life expectancy than a particular 60-year-old. The Department would welcome comments on the ramifications of an approach to long-term disability based on assumptions about average or typical employees of specified ages.

(d) *Retirement plans.* There are two major types of retirement plans: Individual account plans and defined benefit plans. See ERISA, section 3(34) and section 3(35). Individual account plans (defined contribution plans) generally provide that each participant has an individual account and the participant's benefits are based solely on the account balance. No set benefit is promised in defined contribution plans, and the final amount is a result not only of the actual contributions, but also of other factors, such as investment gains and losses. Any pension plan which is not an individual account plan is a defined benefit plan, which provides a definitely determinable benefit, by specifying either a flat monthly pension payment or a schedule of payments based on a formula (frequently involving salary and years of service), and funded according to actuarial principles over the employee's period of participation.

The legislative history as outlined previously sets forth several explicit rules with respect to retirement benefits, and these have been adopted in the Department's proposed interpretations. Because of the possibility of inadvertent or willful abuse flowing from that part of the legislative history which permits cessation of employer contributions and of benefit accruals after normal retirement age, the Department will scrutinize carefully, as a potential subterfuge to evade the purposes of the Act, any plan providing for an unusually low normal retirement age.

According to the legislative history, a defined contribution plan which is "supplemental" to a defined benefit or defined contribution plan may not provide for the cessation of employer contributions after normal retirement age. It appears from this legislative history that Congress intended to

permit certain individual account plans to cease making or permitting contributions for participants who have reached normal retirement age. The proposed intepretation takes the position that any defined contribution plan is "supplemental" if it is maintained by an employer in addition to a defined benefit plan.

Where an employer has no defined benefit plan but two or more defined contribution plans, all but one of the defined contribution plans are "supplemental." The one defined contribution plan which is not supplemental would not be required to provide for contributions after normal retirement age. In such circumstances, it would be left to the employer to designate which one of the defined contribution plans was not supplemental.

While most of the proposed interpretations on retirement benefits deal with adjustments in the level of benefits, the question of whether an individual may be lawfully excluded from participation in a retirement benefit plan is also important. Since the legislative history permits the cessation of employer contributions to a defined contribution plan and the cessation of benefit accruals in a defined benefit plan at normal retirement age, the Department would not view it as a violation of the ADEA if an employee hired after normal retirement age were excluded from participation in either such plan.

With respect to an employee hired prior to normal retirement age, the situation is different. The proposed interpretation takes the position that the exclusion of such an employee from participation in a defined contribution plan is a violation of the ADEA that is not excused by section 4(f)(2). The reason for this is that in a defined contribution plan, the employer does not have to fund to achieve promised, definitely determinable benefits; the employer's obligation is simply to contribute the amounts called for under the plan. Accordingly, neither actuarial considerations nor age affect the level of an employer's contributions. (The reasons in favor of this position on defined contribution plans apply equally to employees who are hired after normal retirement age, but to adopt such a position with respect to those employees appears to be contrary to congressional intent.)

With regard to defined benefit plans, the proposed interpretation permits the exclusion from participation of any employee who is hired within 5 years of normal retirement age. Under such circumstances, the Department believes that an employer would be able to demonstrate that the plan provision authorizing exclusion is not a subterfuge to evade the purposes of the Act, since the substantial cost of funding a specific level of benefits in a relatively short period of time would be the reason for the exclusion. The same rule applies under the Employee Retirement Income Security Act (see section 202(a)(2) of ERISA and section 410(a)(2) of the Internal Revenue Code).

The exclusion from participation in a defined benefit plan of any employee hired more than 5 years from normal retirement age is forbidden by ERISA with respect to those plans covered by ERISA. Plans not covered by ERISA could exclude such employees only if it could be demonstrated that the exclusion was based on substantial cost considerations. Total exclusion would probably be very difficult if not impossible to justify on the basis of cost, but it might be possible to justify a differential in benefit formula in which age is not a factor. For example, a formula which provides for a specified percentage of salary for the first 5 years of service and a slightly higher percentage for each year thereafter would not be unlawful under the ADEA. However, a plan subject to ERISA or a tax-qualified plan would have to conform to the applicable rules forbidding excessive back loading.

This document was prepared under the direction and control of Xavier M. Vela, Administrator, Wage and Hour Division. The principal authors were James B. Leonard, Counsel for Legal Advice, and Thomas J. Allen, Attorney, Office of the Solicitor, and Sandra K. Bollhoefer, Wage-Hour Analyst, Wage and Hour Division. They were assisted by staff from the Office of the Solicitor and the Wage and Hour Division.

Accordingly, it is proposed to amend § 860.120 of Title 29, Code of Federal Regulations, as follows:

§ 860.120 Costs and benefits under employee benefit plans.

(a) *General.* Section 4(f)(2) of the Act provides that it is not unlawful for an employer, employment agency, or labor organization "to observe the terms of * * * any bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this Act, except that no such employee benefit plan shall excuse the failure to hire any individual, and no such * * * employee benefit plan shall require or permit the involuntary retirement of any individual specified by section 12(a) of this Act because of the age of such individual." The legislative history of this provision indicates that its purpose is to permit age-based reductions in employee benefit plans where such reductions are justified by significant cost considerations. Accordingly, section 4(f)(2) does not apply to time-off with pay plans, such as paid vacations and paid sick leave. Where employee benefit plans do meet the criteria in section 4(f)(2), benefit levels for older workers may be reduced to the extent necessary to achieve approximate equivalency in cost for older and younger workers. A benefit plan will be considered in compliance with the statute where the actual amount of payment made, or cost incurred, in behalf of an older worker is equal to that made or incurred in behalf of a younger worker, even though the older worker may thereby receive a lesser amount of benefits or insurance coverage. Since section 4(f)(2) is an exception from the general nondiscrimination provisions of the Act, the burden is on the one seeking to invoke the exception that every element has been clearly and unmistakably met. The exception must be narrowly construed. The following sections explain three key elements of the exception: (1) What a "bona fide employee benefit plan" is; (2) what it means to "observe the terms" of such a plan; and (3) what kind of plan, or plan provision, would be considered "a subterfuge to evade the purposes of [the] Act." There is also a discussion of the application of the general rules governing all plans with respect to specific kinds of employee benefit plans. For a discussion of the provisions in section 4(f)(2) forbidding the failure to hire any individual or the involuntary retirement of any individual, see § 860.110 of this chapter.

(b) *"Bona fide employee benefit plan."* Section 4(f)(2) applies only to bona fide employee benefit plans. A plan is considered "bona fide" if its terms (including cessation of contributions or accruals in the case of retirement income plans) have been accurately described in writing to all employees and if it actually provides the benefits in accordance with the terms of the plan. Notifying employees promptly of the provisions and changes in an employee benefit plan is essential if they are to know how the plan affects them. For these purposes, it would be sufficient under the ADEA for employers to follow the disclosure requirements of ERISA and the regulations thereunder. The plan must actually provide the benefits its provisions describe, since otherwise the notification of the provisions to employees is misleading and inaccurate. An "employee benefit plan" is a plan, such as a retirement, pension, or insurance plan, which provides employees with what are frequently referred to as "fringe benefits." The term does not refer to wages or salary in cash; neither section 4(f)(2) nor any other section of the Act excuses the payment of lower wages or salary to older employees on account of age. Whether or not any particular employee benefit plan may lawfully provide lower benefits to older employees on account of age depends on whether all of the elements of the exception have been met.

(c) *"To observe the terms" of a plan.* In order for a bona fide employee benefit plan which provides lower benefits to older employees on account of age to be within the section 4(f)(2) exception, the lower benefits must be provided in "observ[ance of] the terms of" the plan. As this statutory text makes clear, the section 4(f)(2) exception is limited to otherwise discriminatory actions which are actually prescribed by the terms of a bona fide employee benefit plan. Where the employer, employment agency, or labor organization is not required by the express provisions of the plan to provide lesser benefits to older workers, section 4(f)(2) does not apply. Important purposes are served by this requirement. Where a discriminatory policy is an express term of a benefit plan, employees presumably have some opportunity to know of the policy and to plan (or protest) accordingly. Moreover, the requirement that the discrimination actually be prescribed by a plan assures that the particular plan provision will be equally applied to all employees of the same age. Where a discriminatory provision is an optional term of the plan, it permits individual, discretionary acts of discrimination, which do not fall within the section 4(f)(2) exception.

(d) *"Subterfuge."* In order for a bona fide employee benefit plan which prescribes lower benefits for older employees on account of age to be within the section 4(f)(2) exception, it must not be "a subterfuge to evade the purposes of [the] Act." In determining whether a plan or plan provision is a subterfuge, it is irrelevant whether or not the plan or provision became effective before the original enactment of the ADEA or before the 1978 amendments. In general, a plan or plan provision which prescribes lower benefits for older employees on account of age is not a "subterfuge" within the meaning of section 4(f)(2), provided that the lower level of benefits is justified by age-related cost considerations. (The only exception to this general rule is with respect to certain retirement plans. See paragraph (f)(4) below.) There are certain other requirements that must be met in order for a plan not to be a subterfuge. These requirements are set forth below.

(1) *Cost data—General.* Cost data used in justification of a benefit plan which provides lower benefits to older employees on account of age must be valid and reasonable. This standard is met where an employer has cost data which show the actual cost to him of providing the particular benefit in question. Where such data do not exist or where the data exists but are based on a universe of employees too small to be statistically significant, the standard is met by reliance on reasonable actuarial data on benefit costs for similarly situated employees.

(2) *Cost data—Individual benefit basis.* Cost comparisons and adjustments under section 4(f)(2) must be made on a benefit-by-benefit basis. Thus, higher health insurance costs for older employees could justify a decrease in health insurance coverage but could not justify a decrease in any other benefit.

(3) *Cost data—Annual basis.* Cost comparisons and adjustments under section 4(f)(2) must be made on a year-by-year basis. Thus, a plan may not reduce a benefit respecting employees of a particular age if the cost per employee of the reduced benefit would be less than the cost incurred to provide the unreduced benefit to employees of any younger age. For example, where an employer chooses to provide unreduced life insurance benefits until age 65 and where the cost to the employer of the unreduced benefits is greatest for employees age 64, benefits for employees age 65 may be reduced only to the extent necessary to achieve approximate equivalency in cost for the employees age 65 and the employees age 64.

(4) *Mandatory reductions in take-home pay.* Any employee benefit plan which, on the basis of age, requires an individual specified in section 12(a) of the Act to make greater contributions than any younger employee in support of an employee benefit plan in order to receive the same level of benefits as the younger employee is a subterfuge to evade the pruposes of the Act. However, it is not a subterfuge to give an older employee the option, as an individual, to make the additional contribution necessary to receive the same level of benefits as younger employees (provided that the contemplated reductions in benefits is otherwise justified by section 4(f)(2)).

(5) *Forfeiture clauses.* Clauses in employee benefit plans which state that litigation or participation in any manner in a formal proceeding by an employee will result in the forfeiture of his rights are unlawful insofar as they may be applied to those who seek redress under the Act. This is by reason of section 4(d) which provides that it is unlawful for an employer, employment agency, or labor organization to discriminate against any individual because such individual "has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation under this Act."

(6) *Refusal to hire clauses.* Any provision of an employee benefit plan which requires or permits the refusal to hire an individual specified in section 12(a) of the Act on the basis of age is a subterfuge to evade the purposes of the Act, regardless of the costs of providing the benefits specified in the plan.

(7) *Involuntary retirement clauses.* Any provisions of an employee benefit plan which requires or permits the involuntary retirement of any individual specified in section 12(a) of the Act on the basis of age is a subterfuge to evade the purpose of the Act, regardless of the costs of providing the benefits specified in the plan. (See also § 860.110, on involuntary retirement.)

(e) *Employee benefits provided by the Government.* An employee benefit plan does not violate the Act by permitting certain benefits to be provided by the Government, even though the availability of those benefits may be based on age. For example, an employee health benefit plan does not violate the Act by permitting certain health benefits to be paid for by medicare rather than by the plan. However, the availability of benefits from the Government will not justify a benefit reduction in an employer-provided plan if the result is that, taking the employer-provided and Government-provided benefits together, an older employee is entitled to a lesser benefit of any type that a similarly situated younger employee. For example, the availability of certain benefits to an older employee under medicare will not justify a plan which denies an older employee a benefit which is provided to younger employees and is not provided to the older employee by medicare. In other words, overall medical benefits (including medicare) for employees 65 to 70 must be no less than the lowest level of medical benefits for employees under 65.

(f) *Application of section 5(f)(2) to selected employee benefit plans.* Four of the most common types of employee benefit plans are life insurance, health insurance, long-term disability, and retirement benefits.

(1) *Life insurance.* It is not uncommon for life insurance coverage to remain constant until a specified age, frequently 65, and then be reduced. This practice will not violate the Act (even if reductions start before age 65), provided that the reduction in any 1 year for an employee of a particular age is no greater than is justified by the increased cost of coverage for that year. In the case of employees between ages 65 and 70, standard actuarial tables justify about an 8 percent yearly reduction in coverage in any 1 year, and the Department would not assert a violation where the reduction is no greater than this amount. It should be noted, however, that expulsion from a life insurance plan, on the

V 43/185 SEP 22 78

basis of age, would never be justified. It is not unlawful for life insurance coverage to cease at age 70 or upon separation from service, whichever occurs first.

(2) *Health insurance.* The great variety of health insurance plans makes it difficult to offer a general guideline as to what reductions might be justified by increased costs. Reductions may not be concentrated on certain items so as to make coverage less attractive to older workers. As a result of the savings to employers when benefits are available through medicare, reductions in total health benefits for employees age 65 to 70 will not be justified. As in the case of life insurance, exclusion from a health insurance plan, on the basis of age would never be justified. It is not unlawful for health insurance coverage to cease at age 70 or upon separation from service, whichever occurs first.

(3) *Long-term disability.* Reductions in the level of benefits on the basis of age are permissible only where justifiable by age-related cost considerations as set forth elsewhere in this section. [This position would be supplemented by one of two alternative positions. The first alternative is: "However, the cutting-off of all long-term disability benefits on account of age before age 70 is unlawful and not excused under section 4(f)(2)." The second alternative is: "However, the cutting-off of all long-term disability benefits on account of age before age 70 is unlawful and not excused *unless* the following conditions are met:

["(i) With respect to disabilities which occur at age 60 or less: The cessation of benefit payments occurs no earlier than age 65.

["(ii) With respect to disabilities which occur after age 60: The cessation of benefit payments occurs no less than 5 years after the onset of the disability (except that no payments need be made after age 70)."]

(4) *Retirement plans.* (i) *Participation.* No employee hired prior to normal retirement age may be excluded from a defined contribution plan. With respect to defined benefit plans not subject to the Employee Retirement Income Security Act (ERISA), Pub. L. 93-406, 29 U.S.C. 1001, 1003 (a) and (b), no employee hired at an age more than 5 years prior to normal retirement age may be excluded from such a plan unless the exclusion is justifiable on the basis of cost considerations as set forth elsewhere in this section. With respect to defined benefit plans subject to ERISA, such an exclusion would be unlawful. An employee hired at an age less than 5 years prior to normal retirement age may be excluded from a defined benefit plan, regardless of whether or not the plan is covered by ERISA. An employee hired after normal retirement age may be excluded from a defined benefit plan or a defined contribution plan.

(ii) *Benefits.* Except as provided in this paragraph, the benefits provided under a retirement plan must meet the requirements as set forth elsewhere in this section.

(A) A defined contribution plan may provide for the cessation of employer contributions after the normal retirement age of any participant in the plan. However, this provision applies only with respect to plans which are not "supplemental." Any defined contribution plan is deemed "supplemental" if it is maintained by an employer in addition to a defined benefit plan. Where an employer has no defined benefit plan but two or more defined contributions plans, all but one of the defined contribution plans are "supplemental." The one defined contribution plan which is not supplemental could provide for the cessation of employer contributions after normal retirement age. The employer can designate which one of the defined contributions plans is not supplemental.

(B) A defined benefit plan may fail to credit, for purposes of benefit accrual, service which occurs after an employee's normal retirement age.

(C) A defined benefit plan need not pay the actuarial equivalent of normal retirement benefits to an employee who retires after working beyond a plan's normal retirement age. (A defined contribution plan would have to pay the balance in the individual account.)

Signed at Washington, D.C., on this 19th day of September 1978.

XAVIER M. VELA,
Administrator,
Wage and Hour Division.

[FR Doc. 78-26680 Filed 9-20-78; 8:45 am]

federal register

FRIDAY, SEPTEMBER 22, 1978
PART VI

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

FOOD STAMP PROGRAM

[3410-30]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amdt. No. 136]

Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule tightens the criteria for authorizing retailers and wholesalers to accept and redeem food stamps, sets forth criteria for determining periods of disqualification for retailers and wholesalers who have been found to have violated food stamp program regulations, allows the Food and Nutrition Service (FNS) to substitute a civil money penalty for a period of disqualification for a retailer or wholesaler if a disqualification would cause hardship to participating households, details the method for assessing a civil money penalty and requires retailers to provide cash change in amounts less than $1 in food stamp transactions. These regulations implement the Food Stamp Act of 1977.

EFFECTIVE DATE: The amendments to parts 270 and 271, and the new parts 278 and 279 take effect on January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Nancy Snyder, Deputy Administrator, Family Nutrition Programs, Food and Nutrition Service, USDA; Washington, D.C. 20250, 202-447-8982.

SUPPLEMENTARY INFORMATION: On May 2, 1978, the Department published a proposed rule (43 FR 18874-18958) to amend parts 271, 272, 273, and 274 of the food stamp program regulations and to add new parts 278, 279, and 282. As noted in the preamble to those proposed regulations the "* * * existing provisions (current regulations) regarding retailer/wholesaler activities have generally been considered successful (and therfore) major portions of this (proposed) section are a restatement of existing regulations, instructions or procedures." (43 FR at 18903.) Almost no comments were received on those existing regulations and provisions as republished in the proposal. Moreover, as compared to the other parts, relatively few comments were received regarding the retailer and wholesaler proposals. These comments led to few changes in the proposed retailer-wholesaler rules.

Rather than delay these final rules to combine them in a single massive publication likely to be issued later this month, and to allow firms sufficient time to plan for implementation of these regulations, the Department has decided to publish parts 278, 279, and those protions of part 271 related to parts 278 and 279, before publishing the remaining rules. A number of wording changes have been made to improve clarity. No specific mention of these changes will be made in this summary. The significant changes are discussed as follows:

Staple foods. Three commenters were concerned that the list of staple foods found in section 3(k) of the Food Stamp Act of 1977 (Act) mentions no bakery product but bread and that few bakeries have more than 50 percent bread sales.[1] As pointed out in the those comments,[2] the proposed regulations might be interpreted to exclude many bakeries despite the clear expression found in the House Report[3] that bakeries were to be authorized if they sold bread and breadstuffs which met the 50 percent staple foods test found in section 3(k) of the Act. The House Report stated that:

> To satisfy the 50 percent test, the store * * * should offer a variety of such staples, meaning a spectrum of * * * breadstuffs * * *, since the Committee has no reason to foreclose * * * bakeries * * * from being able to accept food stamps in trade.

Thus, to insure uniform administration of this requirement, in accord with the clear intent of the House Report, the Department has modified the list of staple foods to include "bread and breadstuffs." However, this change is not intended to permit the participation of pastry and donut shops that do not sell bread. The House Report noted that " * * * the intent of the Committee is * * * to eliminate without question certain stores, such as * * * speicalty donut stores not selling other bakery or bread products * * *. This intent would be effectuated by authorizing pastry, donut or bakery shops only if a line of basic bread products (breads and rolls) is customarily sold, in addition to the sales of other staple foods. This same rational extends to, for example, shops which only sell ice cream. These shops would not be authorized unless they customarily sold other dairy products in addition to ice cream.[4]

Delegation of authority. Approval or denial of authorization of retail or wholesale stores to accept food stamps is currently delegated to the officers in charge (OIC's of FNS field offices. Although no comments were received on this point, the Department has decided, for the sake of clarity, to specify when this authority lies with the OIC. The final rule is not intended to represent a change in current policy.

Approval of retailers and wholesalers. A number of commenters expressed fear that the 50 percent staple foods requirement would exclude many small grocery stores, especially rural grocery stores and convenience stores, from participation in the program.[5] The Department believes that these fears arise largely from misunderstanding of that statutory requirement. According to sections 3 (g) and (k) of the Act, staple food sales must be more than 50 percent of the store's eligible food sales only—not of the store's gross sales (their total sales of food and nonfood items). Sales of nonfood items, alcoholic beverages, hot food prepared for immediate consumption, newspapers, sundries, and general merchandise are not to be counted in determining the total food sales volume which is to be compared to the amount of staple food sales. The Department intends to implement this statutory requirement by asking retailers to estimate what percentage of their total food sales are comprised of staple food items on a simple self-declaration form. As noted in the preamble to the proposal, "[t]he House Report explains that retailers should not be required to set up any elaborate system of recordkeeping to prove to FNS that sales of staple foods warranted authorization." (43 FR at 18903.) As provided in the Act, any retailer which has food sales that are 50 percent or less staple foods will not be eligible for participation in the program. The final regulatory language regarding this point is merely designed to clarify what was intended in the proposed language.

The section on authorization of wholesalers has been changed to allow

[1] Sec. 3(k) of the Act defines a retail food store, in part, as " * * * an establishment or recognized department thereof or house-to-house trade route, over 50 percentum of whose food sales volume consists of staple food items for home preparation and consumption, such as meat, poultry, fish, bread, cereals, vegetables, fruits, dairy products, and the like, but not including accessory food items, such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments, and spices * * *."

[2] The Associated Retail Bakers of America, letter of June 3, 1978, provided a detailed and useful analysis of the bakery product issue. All retailer/wholesaler comments are available for public inspection and copying at FNS Offices, Room 640, 500 12th Street SW., Washington, D.C. 20250.

[3] House Committee on Agriculture (H. Rept. 95-464; June 24, 1977).

[4] As noted in the preamble to the proposal, the statutory intention was "* * * to eliminate certain stores such as candy and ice cream stores, spice stores (and) donut shops which do not also sell bread products * * *" (43 FR at 18903.)

[5] The letter of June 14, 1978, from NARGUS (the National Association of Retail Grocers of the United States), is representative of the comments concerning the feared loss of authorization for convenience stores and small rural groceries

FNS officials to consider local conditions more fully in deciding whether wholesalers are needed for the efficient and effective operation[6] of the program. Several commenters stated that the proposed rule provided insufficient flexibility to local FNS officials to allow them to carefully determine the need for wholesaler participation. Since the Act requires that this determination be made, the Department agrees that is is important not to limit FNS review of relevant considerations regarding the particular factors in each situation.

The proposed regulations stated that a firm could not be authorized as a wholesaler if its owner owners also owned an authorized retail foodstore, even though the retail food store was operated through a different firm. Several commenters objected to this proposal as unnecessarily hampering the authority of FNS to approve food outlets which could have a beneficial impact on program operations. The Department is convinced that the proposed requirement would disrupt the normal patterns of business for certain firms in a manner which would not necessarily be advantageous to participating households. Moreover, close scrutiny of joint ownership situations should prevent program abuse while allowing for authorization of firms required for the effective and efficient operation of the food stamp program.

The proposed regulations were also criticized as providing insufficient guidance for handling restaurants. Section 3(g) of the Act provides that certain aged, blind, or disabled persons may use coupons to buy meals in certain restaurants "* * * that contract with the appropriate agency of the State to offer meals * * * at concessional prices * * *." The final regulations clarify the procedures governing the activities of restaurants authorized to accept food coupons.

Participation of retail foodstores. The Department has dropped the requirement that retail food stores post the official food list. Several commenters stated that the list is inappropriate for posting in a communal dining facility, which is included in the definition of a "retail foodstore" in §271.2. However, retail foodstores should let any interested person inspect a copy of the official food list.

Implementation. These rules take effect on January 1, 1979, except that all authorizations still valid on that date shall remain valid unless the officer in charge informs the retailer or wholesaler that action will be taken to withdraw or deny authorization to the firm. The procedures provided under § 278.1 shall be followed in those circumstances.

Making change. A number of retailers commented that it was unfair to ask them to police the proposed rule which provided that: "An authorized retailer may not engage in a series of coupon transactions of less than $1 the purpose of which is to provide the same food stamp customer an amount of cash change greater than the maximum 99 cents cash change allowed in one transaction." (7 CFR 278.2(i), proposed.) The Department does not believe that this rule imposes a significant burden on retailers. As mentioned in the preamble to the proposal, this rule only prohibits the knowing abuse of the cash change procedure and provides retailers with grounds to refuse obvious attempts to abuse the cash change provisions. The Department believes that it is sufficiently important to attempt to prevent participants from converting large amounts of coupons into cash to impose this prohibition.

Accepting coupons before delivery. Two commenters suggested allowing nonprofit cooperative food-buying clubs to deliver food bought with food stamps up to 14 days after the participants submitted their orders and paid for the ordered food with food stamps. For the protection of participating households, the proposed regulations allowed cooperative food-buying clubs up to 10 days to deliver the food. The Department believes that a 14-day period is sufficiently short to insure the timely delivery of food to participating households and has changed the regulations accordingly.[7] Households, of course, may enter into agreements providing for the quicker delivery of food than the 14-day maximum.

Checking certain participants' ID cards. The Department has decided that it is necessary to mark communal dining facility participants' ID cards, to show that they are eligible to use their food stamps at those facilities, and to require the personnel or restaurants operating under State contracts to check the ID cards, where necessary to insure that food stamp program participants eating at restaurants are eligible to pay with food stamps. Stamped ID cards would facilitate the determination of eligibility to purchase prepared food and might avoid the adverse public reaction if ineligible persons could easily buy meals with food stamps.

Loss of coupons by banks. The current and proposed regulations allow FNS to honor claims for food stamps lost in transit between banks. During the comment period, FNS received a claim by a bank for a food stamp loss caused by the theft of stamps which were not in transit. At that time, there was no authority to honor such a claim. However, since there is no absolute protection against the theft of redeemed food stamps, and so that banks will not be discouraged from participating nor made to suffer losses which are not their fault, these final regulations provide that FNS will consider claims from banks for canceled food stamps lost as a result of burglary or robbery.

Amount of civil money penalty. The proposed regulations provide that FNS may impose civil money penalties on certain firms, which equal the average monthly food stamp redemption rate times 5 percent. The Department is concerned that in some cases a retailer could pay the 5-percent fine and still make a net profit on the food stamp business. The fine could represent merely a kind of fee or license to violate the regulations and act. To discourage this sort of practice, the Department has reserved the right to double the 5-percent multiplier for repeat violators.

Disqualification penalties. The final rules clarify when certain penalties are appropriate and reorganize the penalty schedule. The reorganization is designed to more heavily punish serious violations, especially where the firm had been previously warned by FNS, and especially if the violations were related to management policy.

PART 270—GENERAL INFORMATION AND DEFINITIONS

§ 270.2 [Amended]

Accordingly, 7 CFR part 270 is amended as follows:

Paragraphs (f), (g), (l), (m), (n), (q), (s), (x), (cc), (kk), (ll), (mm), (rr), (ss), and (zz) of § 270.2 are deleted and reserved.

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

§ 271.2 [Redesignated as § 271.11]

Part 271 is amended as follows:

Section 271.2 is redesignated as § 271.11. A new § 271.2 is added, reading as follows:

§ 271.2 Definitions.

"Communal dining facility" means a public or nonprofit private establishment, approved by FNS, which prepares and serves meals for elderly persons, or for supplemental security

[6] Section 9(b) of the Act provides that: "No wholesale food concern may be authorized to accept and redeem coupons unless the Secretary determines that its participation is required for the effective and efficient operation of the food stamp program. In addition, no firm may be authorized to accept and redeem coupons as both a retail food store and as a wholesale food concern at the same time."

[7] The letter from Don R. Hancock, dated June 3, 1978, noted, based on his cooperative food-buying experience, that 10 days was insufficient time to order and receive bulk foods from distant States.

income (SSI) recipients, and their spouses. It also includes senior citizens' centers, apartment buildings occupied primarily by elderly persons or SSI recipients, and their spouses, public or private nonprofit establishments (eating or otherwise) that feed elderly persons or SSI recipients, and their spouses, and federally subsidized housing for the elderly at which meals are prepared for and served to the residents. It also includes private establishments that contract with an appropriate State or local agency to offer meals at concessional prices to elderly persons or SSI recipients, and their spouses.

"Coupon" means any coupon, stamp, or type of certificate provided pursuant to the provisions of this subchapter for the purchase of eligible food.

"Drug addiction or alcoholic treatment and rehabilitation program" means any drug addiction or alcoholic treatment and rehabilitation program conducted by a private nonprofit organization or institution which is certified by the State agency or agencies designated by the Governor as responsible for the adiminstration of the State's programs for alcoholics and drug addicts pursuant to Pub. L. 91-616, "Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment and Rehabilitation Act of 1970" and Pub. L. 92-255, "Drug Abuse Office and Treatment Act of 1972" as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics.

"Elderly person" means a person 60 years of age or older.

"Eligible food" means: (1) Any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot food products prepared for immediate consumption; (2) seeds and plants to grow foods for the personal consumption of eligible households; (3) meals prepared and delivered by an authorized meal delivery service, or served by a communal dining facility for the elderly or SSI households, to households eligible to use coupons for delivered meals or communal dining; (4) meals prepared and served by an authorized drug addict or alcoholic treatment and rehabilitation center to households eligible to use coupons for those meals; and (5) in the case of certain eligible households living in areas of Alaska where access to food stores is extremely difficult and the households rely on hunting and fishing for subsistence, equipment for the purpose of procuring food for eligible households, including nets, lines, hooks, fishing rods, harpoons, knives, and other equipment necessary for subsistence hunting and fishing but not equipment for the purpose of transportation, clothing, or shelter nor firearms, ammunition, or other explosives.

"Meal delivery service" means a political subdivision, a private nonprofit organization, or a private establishment with which a State or local agency has contracted for the preparation and delivery of meals at concessional prices to elderly persons, and their spouses, and to the physically or mentally handicapped and persons otherwise disabled, and their spouses, such that they are unable to adequately prepare all of their meals.

"Nonprofit cooperative food purchasing venture" means any private nonprofit association of consumers whose members pool their resources to buy food.

"Retail foodstore" means: (1) An establishment or recognized department of an establishment, or a house-to-house trade route, whose eligible food sales volume is more than 50 percent staple food items for home preparation and consumption; (2) public or private communal dining facilities and meal delivery services and drug addict or alcoholic treatment and rehabilitation programs; (3) any store selling equipment for procuring food by hunting and fishing to eligible households in Alaska, as specified in the definition of eligible food; (4) any private nonprofit cooperative food purchasing venture, including those whose members pay for food prior to receipt of the food; and (5) a farmers' market.

"Staple food" means those food items intended for home preparation and consumption, which include meat, poultry, fish, bread and breadstuffs, cereals, vegetables, fruits, fruit and vegetable juices, and dairy products. Accessory food items, such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments, and spices are not staple foods for the purpose of qualifying a firm to participate in the program as a retail foodstore.

"Wholsale food concern" means an establishment which sells eligible food to retail food stores or to meal services for resale to households.

PART 272—[REDESIGNATED]

Part 272 is redesignated as part 278 as set forth below.

Part 272 is redesignated as part 278 and is revised to read as follows:

PART 278—PARTICIPATION OR RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND BANKS

Sec.

278.1 Approval of retail foodstores and wholesale food concerns.
278.2 Participation of retail food stores.
278.3 Participation of wholesale food concerns.
278.4 Procedures for redeeming coupons.
278.5 Participation of banks.
278.6 Disqualification of retail foodstores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualifications.
278.7 Determination and disposition of claims—retail foodstores and wholesale food concerns.
278.8 Administrative review—Retail foodstores and wholesale food concerns.

AUTHORITY: 91 Stat. 958 (7 U.S.C. 2011-2027).

§ 278.1 Approval of retail food stores and wholesale food concerns.

(a) *Application.* Any firm desiring to participate in the program shall file an application as prescribed by FNS. The FNS officer in charge shall deny or approve authorization, or request more information, within 30; days of receipt of the application.

(b) *Determination of authorization.* An applicant shall provide sufficient data on the nature and scope of the firm's business for the FNS officer in charge to determine whether the applicant's participation will further the purposes of the program. In making this determination the FNS officer in charge shall consider all of the following:

(1) *The nature and extent of the food business conducted by the applicant.* (i) Retail food stores which sell primarily food for home preparation and consumption and in which one or more staple food items, as defined in § 271.2, make up more than 50 percent of eligible food sales shall normally be considered to have food business of a nature and extent which will further the purposes of the program. These stores shall include: Full-line grocery stores; convenience stores; stores which sell meat, poultry, or, fish; stands which sell agricultural commodities; farmers markets; milk routes; bread routes; day-old bread stores; bakeries which sell bread; and nonprofit cooperative food-purchasing ventures which are properly licensed to sell food in the state and locality in which they are operating.

(ii) Firms whose primary business is not the sale of food for home preparation and consumption, but who have recognized grocery departments in which staple foods make up more than 50 percent of eligible food sales, shall normally be considered to have food business of a nature and extent which will qualify the store for participation in the program. In determining whether a store's staple food business is sufficient for the store to qualify for participation in the program, the FNS officer in charge shall also consider:

(A) The volume of staple food business the store does;

(B) The amount of sales of staple foods compared to other business conducted by the firm; and

(C) The availability of other authorized food stores in the area.

(iii) Wholesale food concerns whose primary business is the sale of eligible food at wholesale, and in which one or more staple food items, as defined in § 271.2, make up more than 50 percent of eligible food sales, shall normally be considered to have adequate food business for the purposes of the program.

(2) *The volume of coupon business which FNS may reasonably expect the firm to do.* The FNS officer in charge may consider such factors as the location of a store and previous food sales volumes in evaluating the ability of an applicant firm to attract food stamp business.

(3) *The business integrity and reputation of the applicant.* The FNS officer in charge may consider:

(i) Criminal conviction records reflecting on the honesty or integrity of officers or managers of the applicant firm;

(ii) Official records of removal from other Federal, State, or local programs;

(iii) Judicial determinations in civil litigation adversely reflecting on the integrity of officers or managers of the applicant firm;

(iv) Evidence of an attempt to circumvent a period of disqualification from the food stamp program or a civil money penalty imposed for violations of the Food Stamp Act and this part;

(v) Evidence of prior fraudulent behavior of officers, managers or employees of the applicant firm; and

(vi) Any other evidence reflecting on the business integrity and reputation of the applicant.

(4) *Other factors.* Any other factors which the FNS officer in charge considers pertinent to the application under consideration.

(c) *Wholesalers.* A wholesale food concern may be authorized if it meets the requirements of paragraphs (a) and (b) of this section and the FNS officer in charge determines that the firm is needed as a redemption outlet for authorized retail food stores. In addition, no firm may be authorized to accept and redeem coupons both as a retail food store and a wholesale food concern at the same time.

(d) *Meal services.* A meal delivery service or communal dining facility desiring to prepare and serve meals to households eligible to use coupons for those meals in addition to meeting the requirements of paragraphs (a) and (b) of this section, must establish that:

(1) It is recognized as a tax exempt organization by the Internal Revenue Service; or

(2) It is a senior citizens' center or apartment building occupied primarily by elderly persons and SSI recipients, and their spouses; or

(3) It is a private establishment operating under a contract with a State or local agency to prepare and serve (or deliver) low-cost meals to elderly persons and SSI recipients (and, in the case of meal delivery services, to elderly persons or handicapped persons) and their spouses. The contracts of private establishments must specify the approximate prices which will be charged.

(e) *Treatment programs.* Drug addict or alcoholic treatment and rehabilitation programs wishing to prepare and serve meals to households eligible to use coupons for those meals must, in addition to meeting requirements of paragraphs (a), (b), and (d)(1) of this section, be certified by the State agency or agencies designated by the Governor as responsible for the State's programs for alcoholics and drug addicts under Pub. L. 91-616, "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970" and Pub. L. 92-255, "Drug Abuse Office and Treatment Act of 1972," as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics. In addition, the certification must show that the treatment program meets the standards required of treatment programs under the supervision of the State agency or agencies designated by the Governor as responsible for the State's programs for alcoholics and drug addicts. Approval to participate is automatically canceled at any time that a program loses its certification from the State agency or agencies.

(f) *Authorization card.* Upon approval, FNS shall issue a nontransferable authorization card to the firm. The authorization card shall be retained by the firm until superseded, surrendered, or revoked as provided in this part.

(g) *Denying authorization.* FNS shall deny the application of any firm if it determines that:

(1) The firm does not qualify for participation in the program as specified in paragraphs (b), (c), (d), and (e) of this section; or

(2) The firm has failed to pay in full any fiscal claim assessed against the firm under § 278.7. The FNS officer in charge shall issue a notice to the firm by certified mail or personal service of any authorization denial and shall advise the firm that it may request review of that determination.

(h) *Withdrawing authorization.* FNS shall withdraw the authorization of any firm authorized to participate in the program if it determines that the firm's continued participation will not further the purposes of the program. The FNS officer in charge shall issue a notice to the firm by certified mail or personal service to inform the firm of the determination and of the review procedure. FNS shall remove the firm from the program if the firm does not request review within the period specified in § 279.5.

(i) *Updating information.* FNS may require, from time to time, but not more than once each Federal fiscal year, a firm to update any or all of the information on the firm's application form. Failure to provide this information may result in the withdrawal of the firm's approval to participate in the program.

(j) *Applications containing false information.* The filing of any application containing false or misleading information may result in the denial or withdrawal of approval to participate in the program and may subject the firm and persons responsible to civil or criminal action.

(k) *Administrative review.* Any withdrawal or denial of authorization to participate in the program shall be subject to administrative review under § 278.8.

(l) *Safeguarding privacy.* The contents of applications or other information furnished by firms, including information on their gross sales and food sales volumes and their redemptions of coupons, may not be used or disclosed to anyone except for purposes directly connected with the administration and enforcement of the Food Stamp Act and these regulations.

§ 278.2 Participation of retail food stores.

(a) *Use of coupons.* Coupons shall be accepted by an authorized retail food store only in exchange for eligible food. Coupons may not be accepted in exchange for cash, except when cash is returned as change in a transaction in which coupons were accepted in payment for eligible food, under paragraph (d) of this section. Coupons may not be accepted in payment of interest on loans, or for any other nonfood use.

(b) *Equal treatment for coupon customers.* Coupons shall be accepted for eligible foods at the same prices and on the same terms and conditions applicable to cash purchases of the same foods at the same store. However, nothing in this part may be construed as authorizing FNS to specify the prices at which retail food stores may sell food. No retail food store may single out coupon users for special treatment in any way.

(c) *Accepting coupons.* No authorized retail food store may accept coupons marked "paid," "canceled," or "specimen." Nor may a retail food store accept coupons bearing any cancellation or endorsement, or coupons of other than the 1-dollar denomination which have been detached from the coupon books prior to the time of

V 43 / 185 SEP 22 78

purchase or delivery of eligible food unless the detached coupons are accompanied by the coupon books which bear the same serial numbers that appear on the detached coupons. It is the right of the household member or the authorized representative to detach the coupons from the book.

(d) *Making change.* An authorized retail food store shall use, for the purpose of making change, uncanceled and unmarked 1-dollar coupons which were previously accepted for eligible foods. If change in an amount of less than 1-dollar is required, the eligible household shall receive the change in cash. At no time may cash change in excess of 99 cents be returned in a coupon transaction. An authorized retail food store may not engage in a series of coupon transactions of less than 1 dollar the purpose of which is to provide the same food stamp customer an amount of cash change greater than the maximum 99 cents cash change allowed in one transaction.

(e) *Accepting coupons before delivery.* Food retailers may not accept coupons before delivering the food, retain custody of any unspent coupons, or in any way prevent an eligible household from using coupons in making purchases from other authorized firms. However, a nonprofit cooperative food purchasing venture may accept coupons from a member of the cooperative at the time the member places a food order. The food ordered must be made available to the member within 14 days from the day the cooperative receives the member's coupons.

(f) *Paying credit accounts.* Coupons may not be accepted by an authorized retail food store in payment for any eligible food sold to a household on credit.

(g) *Redeeming coupons.* Authorized retail food stores may exchange coupons in accordance with this part for face value, upon presentation through the banking system or through a wholesale food concern authorized to accept coupons from that retailer. Authorized drug addict and alcoholic treatment and rehabilitation programs may present coupons for redemption through authorized wholesale food concerns, or may purchase food in authorized retail food stores as authorized representatives of households participating in drug addict and alcoholic treatment and rehabilitation programs. Authorized drug addict and alcoholic treatment and rehabilitation programs may not present coupons directly to a bank for redemption.

(h) *Identifying coupon users.* Coupons may not knowingly be accepted from persons who have no right to possession of coupons. If a food retailer has any cause to believe that a person presenting coupons has no right to use the coupons, the food retailer should request the person to show the ID card of the household to establish the right of that person to use the coupons.

(i) *Checking meal delivery service recipients.* A nonprofit meal delivery service shall require the recipient of a delivered meal to show the marked ID card establishing the recipient's right to use coupons for that service the first time that the recipient offers coupons in payment for the service, and shall request the marked ID card at any time the nonprofit meal delivery service has cause to question the continued eligibility of the recipient to use coupons for delivered meals.

(j) *Checking hunting and fishing equipment users.* Authorized Alaskan retailers shall require coupon customers wanting to purchase hunting and fishing equipment with coupons to show their ID cards to determine that they live in an area designated by FNS as one in which persons are dependent upon hunting and fishing for subsistence.

(k) *Checking participants in restaurants.* A restaurant operating under a State contract shall require a household purchasing meals to show the marked ID card establishing the household's right to purchase meals with coupons unless the personnel of the restaurant know that the program participant tendering coupons is eligible to use coupons to purchase meals.

§ 278.3 Participation of wholesale food concerns.

(a) *Accepting coupons.* A wholesale food concern may redeem endorsed coupons from an authorized retail food store or authorized drug addict or alcoholic treatment program, if the coupons are accompanied by a properly filled-out and signed redemption certificate, and are not marked "paid," "canceled," or "specimen."

(b) *Accepting legally obtained coupons.* No authorized wholesale food concern may accept coupons if the wholesaler knows or has reasonable cause to believe that the coupons were not legally obtained for eligible food.

(c) *Redeeming coupons.* An authorized wholesale food concern may redeem coupons, properly accepted from retailers, through the banking system, upon presentation of the coupons with:

(1) The authorized retail food store's properly filled-out and signed redemption certificate for the coupons; and

(2) The authorized wholesale food concern's properly filled-out and signed redemption certificate.

(d) *Handling retailer redemption certificates.* No authorized wholesale food concern may alter, prepare, or complete an authorized retail food store's redemption certificate.

§ 278.4 Procedure for redeeming coupons.

(a) *Coupons accepted without authorization.* Coupons accepted by a retail food store or a wholesale food concern before the receipt by the firm of an authorization card from FNS may not be presented for redemption unless the FNS officer in charge has approved the redemption under § 278.7(b). Burned or mutilated coupons shall be presented for redemption to the FNS officer in charge as provided in § 278.7(c).

(b) *Endorsing coupons.* Each authorized retail food store or authorized wholesale food concern shall mark its authorization number or name on each coupon before it presents the coupons for redemption.

(c) *Using redemption certificates.* FNS will provide all authorized firms with redemption certificates. Wholesale food concerns and retail food stores, except for drug addict and alcoholic treatment and rehabilitation programs, shall use the redemption certificates to present coupons to banks for credit or for cash. All retail food stores which wish to redeem coupons at wholesale food concerns shall use the redemption certificates for that purpose. An authorized retail firm using redemption certificates to redeem coupons shall fill out the redemption certificate to show the value of the coupons redeemed, the name of the bank or wholesaler, the date, and the signature and title of the official of the firm redeeming coupons.

§ 278.5 Participation of banks.

(a) *Accepting coupons.* Banks may redeem coupons only from authorized retail food stores, meal services, and wholesale food concerns in accordance with this part and the instructions of the Federal Reserve Banks. Coupons submitted to banks for credit or for cash must be properly endorsed in accordance with § 278.4 and shall be accompanied by a properly filled-out and signed redemption certificate. Banks may require persons presenting coupons for redemption to show their authorization cards. Redemption certificates accepted by receiving banks shall be forwarded at least once a week to:

Minneapolis ADP Field Center, Food and Nutrition Service, USDA, 3930 West 65th Street, Minneapolis, Minn. 55435.

Coupons redeemed must be canceled by or for the first bank receiving the coupons by indelibly marking "paid" or "canceled" together with the name of the bank, or its routing symbol transit number, on each coupon. A portion of a coupon consisting of less than three-fifths of a whole coupon may not be redeemed by banks. Banks which are members of the Federal Reserve System, nonmember clearing banks, and nonmember banks which have arranged with a Federal Reserve Bank to deposit coupons for credit to the account of a member bank on the books of the Federal Reserve Bank may forward canceled coupons directly to the Federal Reserve Banks. Other banks may forward canceled coupons through ordinary collection channels.

(b) *Role of Federal Reserve Banks.* Federal Reserve Banks, acting as fiscal agents of the United States, will receive canceled coupons for collection as cash items from armed forces installations, member banks of the Federal Reserve System, nonmember clearing banks, and nonmember banks which have arranged with a Federal Reserve Bank to deposit coupons for credit to the account of a member bank on the books of the Federal Reserve Bank, and will charge those items to the general account of the Treasurer of the United States.

(c) *FNS liability for loss in transit.* (1) FNS shall be liable for losses of shipments of canceled coupons while in transit to Federal Reserve or correspondent banks, except that:

(i) Coupons are not in transit while in the custody of the transmitting bank, the Federal Reserve, the correspondent bank, or their employees.

(ii) The bank must be unable to recover the loss from the carrier, and when there is a partial loss, there must be evidence that the package was tampered with or damaged in transit. The Federal Reserve and correspondent bank shall record the condition of packages which on receipt appear to have been tampered with or damaged in transit.

(iii) The Federal Reserve or correspondent bank must provide a statement that the shipment or part of the shipment was not received. In the event of a partial loss, this statement shall specify the condition of the package upon receipt and state whether it appeared to have been tampered with or damaged in transit.

(2) The commercial bank shall give a prompt written report of loss or damage to the post office or other carrier.

(3) Commercial banks shall submit the following documents to FNS in support of any claim for payment for coupons lost in transit:

(i) A copy of the notification of loss to the post office or other carrier;

(ii) An affidavit detailing the facts and the bank's procedures for making the shipment, the expected recovery from the carrier, and for partial losses, the condition of the package upon receipt and the basis for asserting whether it appeared to have been tampered with or damaged in transit;

(iii) A statement from the Federal Reserve or correspondent bank that the shipment or part of the shipment was not received. In the event of a partial loss, this statement shall state the basis for asserting whether the loss resulted from the package being tampered with or damaged in transit;

(iv) A copy of the cash letter which transmitted the shipment.

(4) FNS will obtain copies of the redemption certificates corresponding to claims.

(d) *Loss of coupons by burglary or robbery.* FNS will consider claims from banks for canceled coupons lost as the result of a burglary or robbery. The bank must provide FNS with (1) documentation showing that the stolen canceled coupons were in possession of the bank at the time of the burglary or robbery, (2) evidence that the amount of coupons not recovered will not be compensated by its insurer, (3) an investigation report detailing the facts of the robbery or burglary, and (4) evidence that negligence on the part of the bank did not contribute to the loss. Stolen coupons, later recovered, for which the bank was compensated by a claims payment from FNS shall be returned to FNS and shall not be redeemed.

(e) *FNS use of coupons to detect violations.* Regardless of any other provision in these regulations, coupons may be issued to, purchased by, or redeemed by persons authorized by FNS to use those coupons in examining and inspecting program operations, and for other purposes determined by FNS to be required for proper administration of the program. Coupons which have been so issued and used, as well as any coupons which have been issued under paragraph (g) of this section, or which FNS believes may have been issued, transferred, negotiated, used, or received in violation of this subchapter or of any applicable statute, shall at the request of FNS and on issuance of a receipt for them be turned over to FNS by the bank receiving the coupons, or by any other person to whom the request is addressed, together with any certificate(s) of redemption accompanying the coupons. Any coupons so requested shall not be eligible for redemption through Federal Reserve Banks or other collection channels. However, FNS may redeem coupons from any bank or person by payment of the face amount of the coupons upon determination by FNS that this direct redemption of coupons is warranted. FNS shall determine the proper disposition of any coupons held by FNS on completion of the examination or inspection in which the coupons were used. Claims or demands for unredeemed coupons surrendered to FNS may be mailed to the local FNS field office for the project area involved.

(f) *Selling coupons to stores for internal checks.* FNS may sell coupons at face value to any authorized retail food store which wishes to use coupons to conduct internal checks of coupon transactions. The retail food store must submit a written request to FNS which shall include a certification that the store recognizes that its use of coupons will not affect FNS action to enforce program regulations and that the requested coupons will be used only for internal checks of the store's employees and only to uncover sales of items other than eligible foods. The request shall also include the name of the city or county in which the stores to be checked through the use of the requested coupons are located and the name and address of any outside agency with which the retail food store has or will have a contract to conduct checks of the store's employees using coupons. The request shall be directed to the Federal Operations Division, FNS, U.S. Department of Agriculture, Washington, D.C. 20250, and shall be accompanied by a check or money order made payable to the Food and Nutrition Service to cover the face value cost of the coupons requested. Coupons bought by retail food stores for use in internal checks may be later redeemed for full value in accordance with § 278.4, and in redeeming those coupons, retail food stores are authorized to make the certification required for redemption.

(g) *Continued participation of households under investigation.* Upon the written request of Federal, State, or local government agencies which have authority to investigate, and are investigating, suspected violations of Federal or State statutes concerning the enforcement of the Food Stamp Act or the regulations, the State agency may allow ineligible households to continue program participation. The State agency may allow the households to continue participation in the program until the earlier of (1) expiration of the period of 90 days after the request is received or any longer period which FNS, upon request of the State agency, may approve in a particular case, or (2) receipt of notification from the investigative agency that participation may be terminated or that the investigation has been completed. Regardless of any other provision of these regulations, FNS may not hold the State agency liable for the value of any coupons issued to households under this paragraph.

278.6 Disqualification of retail food stores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualifications.

(a) *Authority to disqualify or subject to a civil money penalty.* FNS may disqualify any authorized retail food store or authorized wholesale food

V 43 \ 185 SEP 22 78

concern from further participation in the program for a reasonable period of time, not to exceed 3 years, as FNS may determine, if the firm fails to comply with the Food Stamp Act or this part. Any firm which has been disqualified and which wishes to be reinstated at the end of the period of disqualification or at any later time shall file a new application so that FNS may determine whether reinstatement is appropriate. The application may be filed starting 10 days before the end of the period of disqualification. FNS may, in lieu of a disqualification, subject the firm a to civil money penalty of up to $5,000 for each violation if FNS determines that a disqualification would cause hardship to participating households. For purposes of this section, unless otherwise noted, firm means the ownership or managment of an authorized retail food store or wholesale food concern or any person acting on behalf of the ownership or managment.

(b) *Charge letter.* Any firm considered for disqualification or imposition of a civil money penalty under paragraph (a) of this section shall have full opportunity to submit to FNS information, explanation, or evidence concerning any instances of noncompliance before FNS makes a final administrative determination. The FNS regional office shall send the firm a letter of charges before the determination. The letter shall specify the violations or actions which FNS believes constitute a basis for disqualification or imposition of a civil money penalty. The letter shall inform the firm that it may respond either orally or in writing to the charges contained in the letter within 10 days of receiving the letter. The firm's response shall set forth a statement of evidence, information, or explanation concerning the specified violations or acts. The firm shall make its response, if any, to the officer in charge of the FNS field office which has responsibility for the project area in which the firm is located.

(c) *Review of evidence.* The letter of charges, the response, and any other information available to FNS shall be reviewed and considered by the appropriate FNS regional office, which shall then issue the determination.

(d) *Basis for determination.* The FNS regional office making a disqualification or penalty determination shall consider: (1) the nature and scope of the violations committed by personnel of the firm, (2) any prior action taken by FNS to warn the firm about the possibility that violations are occurring, and (3) any other evidence that shows the firm's intent to violate the regulations.

(e) *Penalties.* FNS shall take action as follows against any firm determined to have violated the Act or regulations. The FNS regional office shall:

(1) Disqualify the firm for 3 years if the firm has committed flagrant violations of this part, such as buying large amounts of coupons or trafficking in ATP cards, which have resulted in major diversions of food stamps from their intended purpose.

(2) Disqualify the firm for 1 year if: (i) The evidence shows that: (A) It is the firm's policy to sell expensive or conspicuous nonfood items, cartons of cigarettes, or alcoholic beverages, in exchange for food coupons, and the firm has engaged in such practices, or

(B) The firm bought coupons at discount, and

(ii) The firm was warned about the possibility that violations were occurring and of the possible consequences of violating the regulations. The regional office may disqualify a firm for 1 year, even though the firm was not warned about the possibility that violations were occurring, if the regional office finds that the firm has committed unusually serious violations of the kind described in (i) (A) or (B) of this subparagraph.

(iii) The evidence shows that the firm's coupon redemptions for a specified period of time exceed its food sales for the same period of time.

(3) Disqualify the firm for 6 months if:

(i) The evidence shows that it is the firm's policy to commit violations such as the sale of common nonfood items in amounts normally found in a shopping basket and the firm was warned about the possibility that violations were occurring and of the possible consequences of violating the regulations, or

(ii) Violations such as those described in (2)(i) (A) or (B) of this subsection occurred but FNS has not specifically warned the firm that violations are occurring and of the possible consequences of violating the regulations.

(4) Disqualify the firm for 90 days if the ownership or managment personnel of the firm have committed violations such as described in paragraph (3)(i) of this subsection, and there is no indication that FNS has specifically warned the firm about the possibility that violations are occurring and of the possible consequences of violating the regulations.

(5) Disqualify the firm for 60 days if the evidence shows that violations such as those described in paragraph (3)(i) of this subsection occurred, but that the violations resulted from carelessness or poor supervision by the firm's ownership or management.

(6) Disqualify the firm for 30 days if the evidence shows that:

(i) Violations such as those described in paragraph (3)(i) of this subsection occurred as a result of carelessness or poor supervision by the firm's ownership or management, but FNS has not specifically warned the firm about the possibility that violations are occurring and of the possible consequences of violating the regulations, or

(ii) The violations are limited in nature and scope, and FNS has made a specific attempt to warn the firm that violations may be occurring and of the possible consequences of violating the regulations.

(7) Send the firm a warning letter if violations are too limited to warrant a disqualification.

(f) *Previous penalties.* The FNS regional office may assign a penalty that is more severe than the penalty normally warranted by the evidence of violations if the same firm has been previously disqualified or has been previously assigned a civil money penalty.

(g) *Criteria for civil money penalty.* FNS may impose a civil money penalty in lieu of disqualification only when the firm subject to a disqualification is selling a substantial variety of staple food items, and the firm's disqualification would cause hardship to food stamp households because there is no other authorized retail food store in the area selling as large a variety of staple food items at comparable prices.

(h) *Amount of civil money penalty.* FNS shall determine the amount of the civil money penalty as follows:

(1) Determine the firm's average monthly redemptions of coupons for the 12-month period ending at the time the firm was charged with violations.

(2) Multiply the average monthly redemption figure by 5 percent to represent the loss of profits that would result from the loss of coupon business and related cash business. FNS may double the 5 percent multiplier in cases in which the firm has been disqualified or subjected to a civil money penalty previously.

(3) Multiply the product arrived at in subparagraph (2) by the number of months for which the firm would have been disqualifed under paragraph (e) of this section. The civil money penalty may not exceed $5,000 for each violation.

(i) *Notifying the firm of civil money penalty.* The regional office FNS shall inform the firm in writing that it has 15 days in which to pay the fine or notify the regional office in writing of its intent to pay in installments as specified by the FNS regional office. In any event, the fine must be paid in full by the end of the period for which the firm would have been disqualified. FNS shall disqualify the firm for:

(1) The period determined to be appropriate under paragraph (e) of this section if the firm refuses to pay the fine; or

(2) A period corresponding to the unpaid part of the fine, if the firm does not pay the fine in full or in installments as specified by the FNS regional office.

(j) *Review of determination.* The determination of the FNS regional office shall be final and not subject to further administrative or judicial review unless a written request for review is filed within the period stated in § 279.5.

(k) *Delivery of notice.* The delivery by certified mail or personal service of any notice required of FNS by this part will constitute notice to the addressee of its contents.

§ 278.7 Determination and disposition of claims—retail food stores and wholesale food concerns.

(a) *Claims against violators.* FNS may establish a claim against an authorized firm which has accepted coupons in violations of the Food Stamp Act or of this part. If a firm fails to pay the claim, FNS may collect the claim by offset against the amounts due the firm on redemption of other coupons, or deny an application for reauthorization by a firm which has been disqualified and has failed to pay a claim.

(b) *Coupons accepted without authorization.* (1) The FNS officer in charge may approve the redemption under § 278.4 of coupons accepted by firms before the receipt of an authorization card from FNS if the following conditions exist:

(i) The coupons were received in accordance with the requirements of this part governing acceptance of coupons except the requirement that the firm be authorized before acceptance;

(ii) The coupons were accepted by the firm in good faith, and without intent to circumvent this part; and

(iii) The firm receives authorization to participate in the program.

(2) Firms seeking approval to redeem coupons accepted without authorization shall present a written application for approval to the local FNS field office. This application shall be accompanied by a written statement signed by the firm of all the facts about the acceptance of the coupons. The statement shall also include a certification that the coupons were accepted in good faith, and without any intent to circumvent this part.

(c) *Burned or mutilated coupons.* FNS may redeem burned or mutilated coupons only to the extent that the Bureau of Engraving and Printing of the United States Treasury Department can determine the value of the coupons. The firm presenting burned or mutilated coupons for redemption shall submit the coupons to the local FNS field office with a properly filled-out redemption certificate. In the section of the redemption certificate for entering the amount of coupons to be redeemed, an estimate of the value of the burned or mutilated coupons submitted for redemption shall be entered if the exact value of the coupons is unknown. The phrase "Deputy Administrator for Fiscal Management, FNS, USDA," should be entered in the section of the redemption certificate for entering the name and address of the bank or wholesaler.

(d) *Old series coupons.* FNS may redeem the old series food coupons issued in 50-cent, 2-dollar, and 5-dollar denominations when they are presented for redemption. Firms presenting the coupons for redemption shall submit the coupons to the local FNS field office with a properly completed redemption certificate and a written statement, signed by a representative of the firm, detailing the circumstances of the acceptance of the coupons.

(e) *Denials of claims.* If a claim under this section is denied in whole or in part, notification of this action shall be sent to the firm by certified mail or personal service. If the firm is aggrieved by this action, it may seek administrative review as provided in § 278.8.

(f) *Lost or stolen coupons.* FNS may not be held liable for claims from retail food stores, meal services, or wholesale food concerns for lost or stolen coupons.

§ 278.8 Administrative review—retail food stores and wholesale food concerns.

(a) *Requesting review.* A food retailer or food wholesaler aggrieved by administrative action under §§ 278.1, 278.6 or 278.7 may, within the period stated in § 279.5, file a written request for review of the administrative action with the food stamp review officer. On receipt of the request for review, the questioned administrative action shall be stayed pending disposition of the request for review by the food stamp review officer.

(b) *Addressing the request.* The request for review shall be filed with the Director, Administrative Review Staff, FNS, U.S. Department of Agriculture, Washington, D.C. 20250.

(c) *Review procedure.* The procedure for food stamp reviews is published in part 279 and is available upon request from the Director, Administrative Review Staff.

Part 273 is redesignated as Part 279, and is revised to read as follows:

PART 279—ADMINISTRATIVE AND JUDICIAL REVIEW—FOOD RETAILERS AND FOOD WHOLESALERS

Subpart A—Administrative Review—General

Sec.
279.1 Scope and purpose.
279.2 Food Stamp Review Officer.
279.3 Authority and jurisdiction.
279.4 Rules of procedure.

Subpart B—Rules of Procedure

279.5 Manner of filing requests for review.
279.6 Content of requests for review.
279.7 Action upon receipt of a request for review.
279.8 Determination of the Food Stamp Review Officer.
279.9 Legal advice and extensions of time.

Subpart C—Judicial Review

279.10 Judicial Review.

AUTHORITY: 91 Stat. 958 (7 U.S.C. 2011-2027).

Subpart A—Administrative Review—General

§ 279.1 Scope and purpose.

Subpart A sets forth the procedure for the designation of the food stamp review officers and the authority and jurisdiction of those officers. Subpart B states the rules of procedure to be followed in the filing and disposition of the requests for review provided for in § 278.8. Subpart C concerns the rights of food retailers and food wholesalers to judicial review of the final determinations of the food stamp review officer.

§ 279.2 Food stamp review officer.

(a) *Designation of review officers.* The Administrator, FNS, shall designate one or more persons to act as food stamp review officers.

(b) *Assigning cases to review officers.* The officers shall serve for periods which the Administrator, FNS, shall determine. Changes in designations and additional designations may be made from time to time at the discretion of the Administrator, FNS. When more than one food stamp review officer has been designated, requests for review will be assigned for handling to individual food stamp review officers by a person designated by the Administrator, FNS. The names of the food stamp review officers shall be on file in the Office of the Administrator, FNS.

§ 279.3 Authority and jurisdiction.

(a) *Jurisdiction.* A food stamp review officer shall act for the Department on requests for review filed by firms aggrieved by any of the following actions:

(1) Denial of an application or withdrawal of authorization to participate in the program under § 278.1;

(2) Disqualification from participation in the program or imposition of a civil money penalty under § 278.6; or

(3) Denial of all or any part of any claim under § 278.7.

(b) *Authority.* The determination of the food stamp review officer shall be the final administrative determination of the Department, subject, however, to judicial review under section 14 of the Food Stamp Act and subpart C of this part.

§ 279.4 Rules of procedure.

Rules of procedure for the orderly filing and disposition of requests for review of firms submitted in accordance with § 279.5 are issued in subpart B of this part. The Administrator, FNS, may later issue amendments to any rules of procedure which are appropriate.

Subpart B—Rules or Procedure

§ 279.5 Manner of filing requests for review.

(a) *Addressing requests for review.* Requests for review submitted by firms shall be mailed to or filed with "Director, Administrative Review Staff, FNS, U.S. Department of Agriculture, Washington, D.C. 20250."

(b) *Content of requests.* Requests for review shall be in writing and shall state the name and business address of the firm involved, and the name, address and position with the firm of the person who signed the request. The request shall be signed by the owner of the firm, an officer or partner of the firm, or by counsel, and need not be under oath.

(c) *Time limit for requesting review.* A request for review shall be filed with the Director, Administrative Review Staff, within 10 days of the date of delivery of the notice of the action for which review is requested. For purposes of determining whether a request was timely:

(1) The filing date shall be the postmark date of the request, or equivalent if the written request is filed by a means other than mail;

(2) In computing the 10 day period, the day of delivery of the notice of the action for which review is requested may not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. In that case, the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. As used in this paragraph, "legal holiday" includes New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day designated as a holiday by the President or the Congress of the United States.

§ 279.6 Content of request for review.

(a) *Identifying the request.* Requests for review shall clearly identify the administrative action from which the review is requested. This identification shall include the date of the letter or other written communication notifying the firm of the administrative action, the name and title of the person who signed the letter or other communication, and whether the action under appeal concerns a denial of an application or a withdrawal of authorization to participate, a disqualification from further participation, a civil money penalty, or a denial of all or any part of a claim.

(b) *Supporting the request.* The request shall include information in support of the request showing the grounds on which review is being sought, or shall state that supporting information will be filed in writing at a later date. In the later case, the food stamp review officer shall notify the firm of the date by which the information must be filed. The firm requesting review may ask for an opportunity to appear before the food stamp review officer in person. However, any information submitted in person shall, if directed by the food stamp review officer, be put in writing by the firm and filed with the food stamp review officer within a period which the review officer shall specify.

§ 279.7 Action upon receipt of a request for review.

(a) *Holding action.* Upon receipt of a request for review of a disqualification action, of a civil money penalty, or of a withdrawal of authorization to participate, the food stamp review officer shall notify the appropriate FNS regional office, in writing, of the action under review and shall direct that the administrative action shall be held in abeyance until the food stamp review officer has made a determination. Upon receipt of a request for review of a denial of application to participate in the program, or of a denial of a claim, the food stamp review officer shall notify the appropriate FNS regional office, in writing, of the action under review and shall direct that the firm shall not be approved for participation or paid any part of the disputed claim until the food stamp review officer has made a determination. In any case, notice to the appropriate FNS regional office shall be accompanied by a copy of the request filed by the firm.

(b) *Filing supporting information.* If the request filed by the firm includes a request for an opportunity to file written information in support of its position at a later date, the food stamp review officer shall promptly notify the firm of the date by which the information shall be filed. If the firm fails to file any information in support of its position by the designated date, the information submitted with the original request shall be considered to be the only information submitted by the firm. In that case, if no information in support of the firm's position was submitted with the original request, the action of the appropriate FNS regional office shall be final.

(c) *Failure to meet with review officer.* If the firm filing the request for review asks to appear before the food stamp review officer in person, the review officer shall promptly notify the firm of the date, time and place set for the appearance. If the firm fails to appear before the food stamp review officer as specified, any written information timely submitted in accordance with this section shall be considered to be the only information submitted by the firm.

(d) *Basis for regional office determination.* The food stamp review officer shall require the appropriate FNS regional office to promptly submit, in writing, all information which was the basis for the administrative action for which the review has been requested.

§ 279.8 Determination of the food stamp review officer.

(a) *Basis for review officer determination.* The food stamp review officer shall make a determination based upon:

(1) The information submitted by the FNS regional office;

(2) Information submitted by the firm in support of its position; and

(3) Any additional information, in writing, obtained by the review officer from any other person having relevant information.

(b) *Review of denial of application or withdrawal of approval.* In the case of a request for review of a denial of an application or withdrawal of approval to participate in the program, the determination of the food stamp review officer shall sustain the action under review or shall direct that the firm be approved for participation.

(c) *Review of disqualification or civil money penalty.* In the case of a request for review of action disqualifying a firm from participation in the program or assessing a civil money penalty against the firm, the determination of the food stamp review officer shall sustain the action under review or specify a shorter period of disqualification or a reduced civil money penalty, direct that an official warning letter be issued to the firm in lieu of any period of disqualification or civil money penalty, or direct that no administrative action be taken. The food stamp review officer may change a disqualification of a firm selling a substantial variety of staple foods to a

civil money penalty if the review officer receives information that the disqualification would cause a hardship to participating households because there are no other firms in the area selling as large a variety of staple food items at comparable prices, and this information was not available to the regional office when the regional office made its determination to disqualify the firm. In such a case, the food stamp review officer, before he/she makes a determination, shall provide the information to the regional office, which shall report to the food stamp review officer whether the new information warrants a civil money penalty in lieu of disqualification. if the food stamp review officer determines that a civil money penalty in lieu of a disqualification is warranted, the review officer shall determine the amount of the penalty in accordance with § 278.6.

(d) *Review of denial of claim.* In the case of a request for review of a denial of all or part of a claim of a firm, the determination of the food stamp review officer shall sustain the action under review or shall specify the amount of the claim to be paid by FNS.

(e) *Notice of Review Officer determination.* The food stamp review officer shall notify the firm of the determination by certified mail. The notification shall be sent to the representative of the firm who filed the request for review.

(f) *Notifying the Regional Office.* The food stamp review officer shall send a copy of the notification to the firm to the appropriate FNS regional office, which shall take any action which may be necessary to comply with the determination of the review officer.

(g) *Effective date.* The determination of the food stamp review officer shall take effect 30 days after the date of delivery of the determination to the firm.

§ 279.9 Legal advice and extensions of time.

(a) *Advice from Office of the General Counsel.* If any request for review involves any doubtful questions of law, the food stamp review officer shall obtain the advice of the Department's Office of the General Counsel.

(b) *Extensions of time.* Upon timely written request to the food stamp review officer by the firm requesting the review, the food stamp review officer may grant extensions of time if, in the review officer's discretion, additional time is required for the firm to fully present information in support of its position. However, no extensions may be made in the time allowed for the filing of a request for review.

Subpart C—Judicial Review.

§ 279.10 Judicial review.

(a) *Filing for judicial review.* A firm aggrieved by the determination of the food stamp review officer may obtain judicial review of the determination by filing a complaint against the United States in the U.S. district court for the district in which the owner resides or is engaged in business, or in any court of record of the State having competent jurisdiction. The complaint must be filed within 30 days after the date of delivery or service upon the firm of the notice of determination of the food stamp review officer in accordance with § 279.8(e); otherwise the determination shall be final.

(b) *Summons and complaint.* Service of the summons and complaint in any such action shall be made in accordance with the rules of civil procedure for the U.S. district courts. The copy of the summons and complaint required by the rules to be served on the officer or agency whose order is being attacked shall be sent by registered or certified mail to the person in charge of the applicable regional office of FNS.

(c) *Trial de novo.* The suit in the U.S. district court or in the State court, as the case may be, shall be a trial de novo by the court in which the court shall determine the validity of the questioned administrative action. If the court determines that the administrative action is invalid, it shall enter a judgment or order which it determines is in accordance with the law and the evidence.

(d) *Stay of action.* Pending the judicial review, or any appeal from the judicial review, the administrative action under review shall remain in force, unless the firm makes application to the court and, after a hearing on the action showing irreparable injury, the court temporarily stays the administrative action under review pending disposition of the de novo trial or an appeal from the trial.

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A107.

NOTE.—The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Dated: September 19, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-26692 Filed 9-21-78; 8:45 am]

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Vol. 43—No. 186
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PAGES
43283-43427

Federal Register

MONDAY, SEPTEMBER 25, 1978

highlights

SUNSHINE ACT MEETINGS 43408

NATIONAL FOREST PRODUCTS WEEK
Presidential proclamation 43283

IMPORTS FROM INDIA
Presidential proclamation reducing rates of duty 43285

ADVANCED NURSE TRAINING PROGRAMS
HEW/PHS sets forth requirements for grants to public and nonprofit private collegiate schools of nursing; effective 9-25-78 (Part II of this issue) 43414

HANDICAPPED PERSONS
HEW/OE issues position statement on vocational education . 43388

HAZARDOUS WASTE MANAGEMENT
EPA establishes rules governing grants to States; effective 9-25-78; comments by 11-24-78 (Part IV of this issue) 43424

NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES
EPA clarifies certification and testing regulations for air pollution control; effective 9-25-78 43299

AIR POLLUTION EMERGENCIES
EPA proposes to amend requirements for preparation of contingency plans; comments by 10-25-78 43331

UNDERGROUND DRINKING WATER SOURCES
EPA publishes initial list of States needing underground injection control programs; effective 9-25-78 (Part III of this issue).. 43420

RAILROAD SAFETY STANDARDS
DOT/FRA announces hearings for 10-18 and 10-19-78 and 11-15 and 11-16-78 43339

WHALING
Commerce/NOAA increases quota for taking of Bering Sea stock of bowhead whales; effective 10-19-78 43309

SUGAR FROM BELGIUM, FRANCE, AND WEST GERMANY
ITC determines "reasonable indication of injury" to U.S. sugar industry due to imports 43392

MULTIFIBER AGREEMENT WITH REPUBLIC OF THE PHILIPPINES
CITA announces import restraint levels; effective 9-25-78 43344

CONTROLLED SUBSTANCES
Justice/DEA adds PCE and PHP to the list of hallucinogenic substances in Schedule I 43295

CONTINUED INSIDE

V 43 186 SEP 25 78 V

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

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DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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Public Briefings: "How To Use the Federal Register."	523-3517
Code of Federal Regulations (CFR)	523-3419 523-3517
Finding Aids	523-5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523-5233
Weekly Compilation of Presidential Documents.	523-5235
Public Papers of the Presidents	523-5235
Index	523-5235
PUBLIC LAWS:	
Public Law dates and numbers	523-5266 523-5282
Slip Laws	523-5266 523-5282
U.S. Statutes at Large	523-5266 523-5282
Index	523-5266 523-5282
U.S. Government Manual	523-5230
Automation	523-3408
Special Projects	523-4534

HIGHLIGHTS—Continued

NATIONAL BANK LOANS SECURED BY REAL ESTATE
Treasury/Comptroller revises selected interpretive rulings and proposes other standards; effective 10-25-78; comments by 11-24-78 43289

TREASURY SECURITIES
Treasury/Secretary announces auction of bonds of 1993 43404

LICENSED NUCLEAR MATERIALS AND FACILITIES
NRC announces GAO approval of reporting and recordkeeping requirements; effective 6-6-78 43289

WATER SAFETY
DOT/CG announces hearings for 10-12 and 10-20-78 on notification of arrivals, departures, hazardous conditions, and certain dangerous cargoes 43330

MEETINGS—
Commerce/ITA: Management-Labor Textile Advisory Committee, 10-12-78 43343
NOAA: Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council, 10-19-78 43343
Pacific Fishery Management Council, Groundfish/Sablefish Advisory Subpanel and Plan Development Team, 10-10 and 10-11-78 43343
DOD/AF: USAF Scientific Advisory Board, Ad Hoc Committee on Wide Area Munitions, 10-11 and 10-12-78 43345
DOT/CG: Chemical Transportation Advisory Committee, Liquefied Gas Facilities Subcommittee, 10-24-78 43402
HEW/OE: National Advisory Council on the Education of Disadvantaged Children, 10-13 and 10-14-78 43388
Sec'y: Secretary's Advisory Committee on Rights and Responsibilities of Women, Family Policy Task Force, 10-30-78 ..... 43388, 43389
Justice/FBI: National Crime Information Center Advisory Policy Board, 12-6 and 12-7-78 43396
Minimum Wage Study Commission: Meeting, 9-28-78 43397
NFAH: Media Arts Advisory Panel, 10-12 and 10-13-78 43397
NSF: Astronomy Advisory Committee, 10-12 and 10-13-78 43397
International Decade of Ocean Exploration Ad Hoc Subcommittee, 10-16 and 10-17-78 43397
Subcommittee on Molecular Biology, 10-16 and 10-17-78 43398
Subcommittee on Systematic Biology, 10-16 and 10-17-78 43398
State: Shipping Coordinating Committee, 10-12-78 43401
Shipping Coordinating Committee, National Committee for the Prevention of Marine Pollution, 11-28-78 43402
VA: Voluntary Service National Advisory Committee, 10-25 through 10-27-78 43405

RESCHEDULED MEETING—
Commerce/NOAA: Pacific Fishery Management Council, Scientific and Statistical Committee, 10-10 and 10-11-78 43343

SEPARATE PARTS OF THIS ISSUE—
Part II, HEW/PHS 43414
Part III, EPA 43420
Part IV, EPA 43424

contents

THE PRESIDENT

EXECUTIVE AGENCIES

AGRICULTURAL MARKETING SERVICE
Proposed Rules
Milk marketing orders:
Eastern Colorado 43326
Iowa 43327
Kansas City 43328
Nebraska-Western Iowa 43329

AGRICULTURE DEPARTMENT
See also Agricultural Marketing Service; Forest Service.
Notices
Meetings:
Agricultural Research and Education Advisory Board 43343

ARMY DEPARTMENT
Notices
Meetings:
Science Board 43345

CIVIL AERONAUTICS BOARD
Notices
Hearings, etc.:
Air Florida, Inc. 43345
Braniff Airways, Inc. 43345
Eastern Air Lines, Inc. 43346
Frontier Airlines, Inc. 43346
Hughes Airwest 43346
Mohawk Airlines, Inc. 43346
Ozark Air Lines, Inc. 43347
Pacific Southwest Airlines 43347
Piedmont Aviation, Inc. 43347
Southern Airways, Inc. 43347
Trans World Airlines, Inc. 43348
United Air Lines, Inc. 43348
Western Air Lines, Inc. 43348

COMMERCE DEPARTMENT
See International Trade Administration; National Oceanic and Atmospheric Administration.

COMMODITY FUTURES TRADING COMMISSION
Notices
Hearings, etc.:
Chicago Board of Trade 43349
Chicago Mercantile Exchange 43349
Commodity Exchange, Inc. 43350
Kansas City Board of Trade 43350
Minneapolis Grain Exchange 43350
New York Cotton Exchange 43350
New York Mercantile Exchange 43351
Petitions for exemption:
Chicago Board of Trade 43351
Chicago Mercantile Exchange 43351
Commodity Exchange, Inc. 43352
Kansas City Board of Trade 43352
Minneapolis Grain Exchange 43352
New York Cotton Exchange 43352
New York Mercantile Exchange 43352

CONSUMER PRODUCT SAFETY COMMISSION
Notices
Meetings:
Consumer Product Safety Standards Committee 43353

DEFENSE DEPARTMENT
See Army Department; Navy Department.

ENERGY DEPARTMENT
See Federal Energy Regulatory Commission.

ENVIRONMENTAL PROTECTION AGENCY
Rules
Pesticides; tolerances, registration, etc.:
Dimethoate 43332
Notices
Meetings:
Science Advisory Board 43353

FEDERAL ENERGY REGULATORY COMMISSION
Notices
Hearings, etc.:
Arkansas Power & Light Co 43353
Georgia Power Co 43353
Goodlett, Orion M 43353
Gulf States Utilities Co 43353

FEDERAL MARITIME COMMISSION
Notices
Agreements filed, etc. 43386

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
See Federal Insurance Adminis-

contents

THE PRESIDENT

Proclamations

Forest Products Week, National 43283
India, imports; reduction of rates of duty 43285

EXECUTIVE AGENCIES

AIR FORCE DEPARTMENT

Notices

Meetings:
Scientific Advisory Board 43345

ARTS AND HUMANITIES, NATIONAL FOUNDATION

NOTICES

Meetings:
Media Arts Advisory Panel 43397

COAST GUARD

Rules

Criminal penalties, and casualty or accident reports; editorial amendments 43297

Proposed Rules

Dangerous cargoes, arrival, departure, hazardous conditions; notification; hearings and extension of time 43330

Notices

Meetings:
Chemical Transportation Advisory Committee 43402

COMMERCE DEPARTMENT

See Industry and Trade Administration; National Oceanic and Atmospheric Administration.

COMPTROLLER OF CURRENCY

Rules

Rulings:
Loans secured by real estate ... 43289

Proposed Rules

Rulings:
Loans secured by real estate ... 43310

DEFENSE DEPARTMENT

See Air Force Department.

DRUG ENFORCEMENT ADMINISTRATION

Rules

Schedules of controlled substances:
N-Ethyl-1-phenylcyclohexylamine and 1-(1-phenylcyclohexyl)pyrrolidine 43295

EDUCATION OFFICE

Notices

Handicapped persons; vocational education availability and accessibility statement .. 43388

Meetings:
Education of Disadvantaged Children National Advisory Council 43388

ENERGY DEPARTMENT

See also Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.

Notices

Committees; establishment, terminations, renewals, etc.:
Public Utility Advisory Committee 43380
Environmental statements; availability, etc.:
Livermore Site, Livermore, Calif 43379

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air pollution control, new motor vehicles and engines:
Certification and testing for vehicles and engines 43299
Air quality implementation plans; enforcement by State and Federal Governments after statutory deadlines:
Ohio 43298
Grants, State and local assistance:
Hazardous waste management support grants 43424
Water pollution; effluent guidelines for certain point source categories:
Sugar processing 43304

Proposed Rules

Air quality implementation plans; enforcement by State and Federal Governments after statutory deadlines:
Ohio 43334
West Virginia (8 documents) .. 43332, 43333, 43335–43339
Air quality implementation plans; preparation, adoption, and submittal:
Prevention of air pollution emergency episodes 43331
Air quality standards, National primary and secondary:
Photochemical oxidants; extension of time 43381

Notices

Environmental statements; availability, etc.:
Agency statements, weekly receipts 43384
Pesticide and feed additive petitions:
Thiabendazole, etc. 43384
Pesticide registration applications 43382
Pesticides; tolerances, registration, etc.:
2,2-Dimethyl-1,3-benzodioxol-4-ol methylcarbamate, etc ... 43380
Diquat, etc 43381
GOAL 2E (NBFT) 43384
Oxamyl, etc 43381
Tebuthiuron, etc 43380
Water pollution control:
Safe drinking water; underground injection control program; State list 43420
Water pollution control; discharge of pollutants:
Illinois 43380

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Notices

Records and reports:
State and local government information report; extension of time for filing 43386

FEDERAL AVIATION ADMINISTRATION

Rules

Airworthiness directives:
Bell 43293
Callair 43292
Control area and transition area; correction 43294
Control zones 43293
Jet routes 43294

Proposed Rules

Airworthiness directives:
Boeing; correction 43312

FEDERAL BUREAU OF INVESTIGATION

Notices

Meetings:
National Crime Information Center Advisory Board 43396

FEDERAL ENERGY REGULATORY COMMISSION

Notices

Hearings, etc:
An-Son Corp 43345
Arkansas Louisiana Gas Co 43345
Bangor Hydro-Electric Co 43347
Bear Creek Storage Co. et al .. 43347
Carolina Power & Light Co. (2 documents) 43347
Central Vermont Public Service Corp. (2 documents) 43347, 43348
Cities Service Gas Co 43349
Columbia Gas Transmission Corp 43348
Consolidated Gas Supply Corp. (2 documents) .. 43348, 43349
Duke Power Co. (2 documents) 43350
El Paso Electric Co 43350
El Paso Natural Gas Co. (2 documents) 43351, 43352
Dougherty, Dudley Tarlton, estate of, et al 43350

Georgia Power Co 43353
Goodlett, Orion M 43353
Gulf States Utilities Co 43353
Indiana & Michigan Electric Co 43354
Iowa-Illinois Gas & Electric Co 43354
Kansas Gas & Electric Co 43354
Kentucky Utilities Co 43354
Louisiana-Nevada Transit Co. et al 43355
Massachusetts Electric Co 43355
McGinley, John R., Jr 43355
Metropolitan Sanitary District of Greater Chicago 43356
Mississippi River Transmission Corp. 43356
Montaup Electric Co 43356
Mountain Fuel Resources, Inc., et al 43357
National Exploration Co 43357
Natural Gas Pipeline Co. of America (2 documents) 43357
New England Power Co 43358
New England Power Co. et al 43358
New England Power Pool (2 documents) 43358, 43359
North Penn Gas Co 43359
Northern Natural Gas Co 43359
Northwestern Public Service Co 43360
Pacific Interstate Transmission Co 43361
Pacific Interstate Transmission Co. et al 43361
Panhandle Eastern Pipe Line Co 43360
Public Service Co. of Oklahoma 43361
Raton Natural Gas Co. (2 documents) 43362
Sidwell Oil & Gas Co., Inc 43363
South Georgia Natural Gas Co 43362
Southern California Edison Co 43362
Tennessee Gas Pipeline Co 43363
Texas Eastern Transmission Co 43364
Texas Gas Transmission Corp 43363
Transcontinental Gas Pipe Line Corp. (2 documents) 43364
Trunkline Gas Co 43365
Washington Water Power Co. 43365

FEDERAL INSURANCE ADMINISTRATION

Proposed Rules

Flood elevation determinations:
Michigan (3 documents) 43317, 43318
Minnesota (6 documents) 43319–43321, 43327
Mississippi (3 documents) 43322, 43323
Missouri (1 document) 43324
New Jersey (2 documents) 43325
Ohio (2 documents) 43326

FEDERAL MARITIME COMMISSION

Notices

Agreements filed, etc 43386

FEDERAL RAILROAD ADMINISTRATION

Proposed Rules

Practice rules:
Safety regulatory program; inquiry; hearing 43339

Notices

Loan guarantee obligations:
Chicago & North Western Transportation Co 43402

FEDERAL RESERVE SYSTEM

Notices

Applications, etc.:
Alabama Bancorporation 43387
Ankeny Bancshares, Inc 43387
First Temple Corp 43387
NCNB Corp 43388
Southwest Bancshares, Inc 43387
Federal Open Market Committee:
Domestic open market operations, authorization 43387

FEDERAL TRADE COMMISSION

Proposed Rules

Consent orders:
Vitale et al 43313

FISCAL SERVICE

Notices

Surety companies acceptable on Federal bonds:
Continental Surety and Fidelity Insurance Co 43403

FISH AND WILDLIFE SERVICE

Rules

Hunting:
Tewaukon National Wildlife Refuge, N. Dak 43308

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Education Office; Public Health Service; Social Security Administration.

Notices

Meetings:
Women, Rights and Responsibilities, Secretary's Advisory Committee 43388, 43389
Organization, functions, and authority delegations:
Management Analysis and Systems Office 43389

HEARINGS AND APPEALS OFFICE, ENERGY DEPARTMENT

Notices

Applications for exception:
Cases filed 43376
Decisions and orders (5 documents) 43366–43373

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Insurance Administration.

INDIAN AFFAIRS BUREAU

Proposed Rules

Enrollment:
Eastern Creek Indians 43327

INDUSTRY AND TRADE ADMINISTRATION

Notices

Meetings:
Management-Labor Textile Advisory Committee 43343

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau.

Notices

Committees; establishment, renewals, terminations, etc.:
Oil Shale Environmental Advisory Panel 43392
Environmental statements; availability, etc.:
Cerbat/Black Mountain Planning Units, Phoenix District, Ariz.; livestock grazing program 43392

INTERNAL REVENUE SERVICE

Proposed Rules

Income, estate, and gift taxes:
Real estate investment trusts; extension of time 43318
Income taxes:
Cemetery perpetual care funds distribution, treatment; extension of time 43329

INTERNATIONAL TRADE COMMISSION

Notices

Import investigations:
Sugar from Belgium, France, and West Germany 43392

INTERSTATE COMMERCE COMMISSION

Notices

Motor carriers:
Temporary authority applications; correction 43405
Transfer proceedings 43406
Railroad operation, acquisition, construction, etc.:
National Railway Utilization Corporation 43406

JUSTICE DEPARTMENT

See also Drug Enforcement Administration; Federal Bureau of Investigation.

Rules

Organization, functions, and authority delegations:
Attorney-in-Charge, Customs Litigation Field Office; service in customs litigation 43296

Management and Finance Office; disposition of unclaimed property 43296

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rules

Fishery conservation and management:
Foreign fishing; correction 43308

Proposed Rules

Fishery conservation and management:
Foreign fishing 43340

Notices

Meetings:
Mid-Atlantic Fishery Management Council 43343
Pacific Fishery Management Council 43343

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Rules

Hazardous materials:
Miscellaneous amendments 43309
Pipeline safety:
Gas pipeline safety standards; corrections 43309

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
Boston Stock Exchange, Inc 43376
Cincinnati Stock Exchange, Inc 43376
Midwest Stock Exchange, Inc 43376
National Association of Securities Dealers, Inc 43377
New York Stock Exchange, Inc 43377
Pacific Stock Exchange, Inc 43378
Philadelphia Stock Exchange, Inc 43378
Self-regulatory organizations; proposed rule changes 43378

SMALL BUSINESS ADMINISTRATION

Notices

Applications, etc.:
Capital Investment Co of Texas 43379
Meetings:
Region VIII Advisory Council 43379

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; Federal Railroad Administration; Research and Special Programs Administration.

TREASURY DEPARTMENT

See Comptroller of Currency; Fiscal Service; Internal Revenue Service.

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A

Management and Finance Office; disposition of unclaimed property 43296
Policy statements:
Ex parte communications in informal rulemaking proceedings 43297

Proposed Rules

Privacy Act; implementation 43318

Notices

Voting rights, certification of reappointment of examiners:
Russell County, Ala 43396

LAND MANAGEMENT BUREAU

Rules

Public land orders:
Oregon 43304

Notices

Authority delegations:
Utah State Office, Cadastral Survey Branch Chief 43392
Coal leases:
Colorado 43391

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; list of requests 43401

MATERIALS TRANSPORTATION BUREAU

See also Research and Special Programs Administration.

Rules

Pipelines transportation of gas:
Plastic pipelines, design; correction 43308

MINIMUM WAGE STUDY COMMISSION

Notices

Meetings 43397

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Rules

Motor vehicle safety standards:
Air brake systems for trucks, buses, and trailers; correction 43308

Notices

Motor vehicle safety standards; exemption petitions, etc.:
Armored Vehicle Builders, Inc.; glazing materials 43403

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rules

Whaling Commission, International; Bering Sea bowhead whale quota increases 43309

Notices:

Meetings:
Gulf of Mexico Fishery Management Council et al 43343
Pacific Fishery Management Council (2 documents) 43343

NATIONAL SCIENCE FOUNDATION

Notices

Meetings:
Astronomy Advisory Committee 43397
Environmental Biology Advisory Committee 43398
Ocean Sciences Advisory Committee 43397
Physiology, Cellular and Molecular Biology Advisory Committee 43398

NUCLEAR REGULATORY COMMISSION

Rules

Nuclear materials and facilities, licensed; licensee safeguards contingency plans 43289

Notices

Applications, etc.:
Arizona Public Service Co. et al 43398
Boston Edison Co 43399
Northern States Power Co 43399
Public Service Co. of Oklahoma et al 43399
Transnuclear, Inc., et al 43400
Regulatory guides; issuance and availability (2 documents) 43400

POSTAL RATE COMMISSION

Notices

Visits to postal facilities 43401

PUBLIC HEALTH SERVICE

Rules

Grants:
Nurse training programs, advanced 43414

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Rules

Organization and functions:
Redesignation and technical amendments 43305

SOCIAL SECURITY ADMINISTRATION

Notices

Authority delegations:
Deputy Commissioner et al.; supplemental security income, State administrative reimbursements, etc 43390

STATE DEPARTMENT

Notices

Meetings:
Shipping Coordinating Committee (2 documents) 43401, 43402

TEXTILE AGREEMENTS IMPLEMENTATION COMMITTEE

Notices

Multifiber agreement with Republic of Philippines; import restraint levels 43344

TRANSPORTATION DEPARTMENT

See also Coast Guard; Federal Aviation Administration; Federal Railroad Administration; Materials Transportation Bureau; National Highway Traffic Safety Administration; Research and Special Programs Administration.

Rules

Cargo security advisory standards; redesignated as RSPA regulation 43305

TREASURY DEPARTMENT

See also Comptroller of Currency; Fiscal Service; Internal Revenue Service.

Notices

Bonds, Treasury:
1993 series 43404

VETERANS ADMINISTRATION

Notices

Meetings:
Voluntary Service National Advisory Committee 43405

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR

EXECUTIVE ORDERS:
11846 (See Proc. 4600) 43285

PROCLAMATIONS:
4599 43283
4600 43285

10 CFR

Ch. I 43289

12 CFR

7 43289

PROPOSED RULES:
7 43310

14 CFR

39 (2 documents) 43292, 43293
71 (2 documents) 43293, 43294
75 43294

PROPOSED RULES:
39 43312

16 CFR

PROPOSED RULES:
13 43313

21 CFR

1308 43295

24 CFR

PROPOSED RULES:
1917 (17 documents) ... 43317-43327

25 CFR

PROPOSED RULES:
43 43327

26 CFR

PROPOSED RULES:
1 (2 documents) 43329, 43330
20 43330

28 CFR

0 (2 documents) 43296
21 43296
50 43297

PROPOSED RULES:
16 43330

33 CFR

1 43297
146 43297

PROPOSED RULES:
124 43330
126 43330
161 43330

40 CFR

35 43420
65 43298
86 43299
409 43304

PROPOSED RULES:
50 43319
51 43319
65 (9 documents) 43320-43339

42 CFR

57 43414

43 CFR

PUBLIC LAND ORDERS:
5646 43304

49 CFR

Ch. I 43305
85 43305
101 43305
192 43308
571 43308

PROPOSED RULES:
Ch. II 43339

50 CFR

33 43308
351 43309

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

CSC—Uniform guidelines on employee selection procedures (1978) 38290; 8-25-78
DOT/NTSB—Surface accident reports; requests for reconsideration and modifications of editorial changes 37690; 8-24-78
EEOC—Uniform guidelines on employee selection procedures (1978) 38290; 8-25-78
FCC—FM broadcast stations; table of assignments:
Las Vegas, Nev 36944; 8-21-78
Interior/Secy—Authority of the Secretary over the administrative appeals process .. 37689; 8-24-78
Justice/AG—Uniform guidelines on employee selection procedures (1978) 38290; 8-25-78
Labor/Secy—Uniform guidelines on employee selection procedures (1978) 38290; 8-25-78
NCUA—Real estate lending regulation and establishment of limits on loan origination fees Federal Credit Unions may charge to borrowers; amendment 37984; 8-25-78

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

[Last Listing: September 22, 1978]

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING SEPTEMBER

The following numerical guide is a list of parts of each title of the Code

FEDERAL REGISTER

15 CFR

46 43020

21 CFR

105 43248
430 41194

25 CFR—Continued

PROPOSED RULES:
43 43327

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.

1 CFR

Ch. I 39069

3 CFR

EXECUTIVE ORDERS:
10536 (Revoked by EO 12079) 42233
10616 (Revoked by EO 12082) 42727
11030 (Amended by EO 12080) .. 42235
11151 Revoked by EO 12082) 42727
11437 (Revoked by EO 12082) 42727
11554 (Revoked by EO 12082) 42727
11846 (See Proc. 4600) 43285
12024 (See EO 12078) 39741
12078 39741
12079 42233
12080 42235
12081 42237
12082 42727

MEMORANDUMS:
September 8, 1978 40449

PROCLAMATIONS:
4591 39561
4592 39739
4593 40197
4594 40451
4595 41013
4596 41941
4597 42725
4598 43011
4599 43283
4600 43285

REORGANIZATION PLANS:
No. 3 of 1978 41943

4 CFR

416 42239

5 CFR

213 ..... 39069, 39070, 39951–39953, 40453, 41947
930 43013

7 CFR

2 ..... 39953, 41371
245 39070
250 ..... 39070, 41947
270 43273
271 ..... 41947, 43273
272 43274
278 43274
279 43279
282 ..... 39074, 39075
301 40528
330 39953
401 41371
905 43013
908 ..... 39743, 42247
910 ..... 39080, 39319, 39954, 41372, 41949, 43015, 43016
911 39319
915 39321
927 39323
931 39323

7 CFR—Continued

932 39743
944 43013
993 40199
1004 ..... 39744, 39745, 41990
1036 40801
1071 39325
1073 39326
1097 39328
1102 39328
1104 39329
1106 39331
1108 39333
1120 39334
1125 42729
1126 39335
1132 39337
1133 39955
1138 39338
1435 39563
1464 41991
1701 41181
1822 43016
1823 ..... 39746, 40199
1955 41373

PROPOSED RULES:
6 ..... 39110, 40530
17 40872
722 39117
918 40027
948 40027
965 40028
981 39393
1079 40028
1126 40030
1427 39118
1701 ..... 40036, 41215
1822 41215
1940 41047–41049
1944 41215
2852 43027

8 CFR

108 40879
236 40801

PROPOSED RULES:
108 40879

9 CFR

54 41103
91 39080
94 ..... 39956, 43017
113 41185
355 39340

PROPOSED RULES:
1 42200
3 42200
92 40037
316 43027
317 39394
318 ..... 39119, 39394
319 39394

10 CFR

Ch. I 43289
35 39747
51 41373
73 41187
205 ..... 39080, 40200
212 ..... 40682, 42984

PROPOSED RULES:
51 39801
210 41224
211 ..... 40233, 41224
212 ..... 40233, 41224
430 40192
1004 40530

12 CFR

7 43289
202 39341
217 41015
226 ..... 40210, 41015, 43018

PROPOSED RULES:
7 ..... 41406, 43310
226 41993

13 CFR

107 39563
108 43019
Ch. IV 40803

PROPOSED RULES:
123 42016
130 39394
309 41408

14 CFR

39 ..... 39346–39348 39748, 39750, 41016, 41374–41376, 42730–42732, 43292, 43293
71 ..... 39439 39750–39753, 40211–40213, 41017, 41018, 41381–41383, 42734, 43293, 43294
73 ..... 40214, 40215, 42734
75 ..... 39753–39755, 43294
97 ..... 41019, 42734
207 42736
221 39536
241 40454
298 41187
302 ..... 39536, 41021
385 40803
399 39522

PROPOSED RULES:
Ch. II 41410
39 ..... 40233, 42766, 43312
71 ..... 39803, 40237, 41051, 41408, 41409, 42766
73 ..... 39803, 39804
223 39805
250 39806
298 39587
380 ..... 39807, 40880

15 CFR

46 43020
399 42741

PROPOSED RULES:
500 41230

16 CFR

1 39083
13 ..... 39350, 40454
14 42741
422 43022
212 39564

PROPOSED RULES:
13 ..... 39120, 40536, 40537, 40882, 41233, 42017, 43313
305 41410
306 43028
451 41051
1209 39564

17 CFR

1 39956
8 41950
111 41192
210 ..... 40688, 41022
211 40730
230 ..... 41193, 41383
239 39554
249 39554
270 39553
274 39553

PROPOSED RULES:
150 43034
210 ..... 40724, 40726
229 40720
230 41235
239 41052
240 43035
241 43035
249 43035
270 39396

18 CFR

1 ..... 39982, 41965
3 40217
4 40217
16 40217
131 40217

PROPOSED RULES:
1 ..... 39122, 40037

19 CFR

153 40804

PROPOSED RULES:
6 40238
177 41236

20 CFR

416 39564
801 41990
802 41990
901 39756

PROPOSED RULES:
404 ..... 39266, 42017
416 41054
620 39124
653 39124

21 CFR

105 43248
430 41194
431 ..... 41194, 41195
510 39086
514 41195
520 ..... 39084, 39085
522 40455
524 40455
556 41965
558 ..... 39086, 39350, 41965
561 ..... 40456, 41385, 41386
1308 43295

PROPOSED RULES:
73 42017
102 ..... 42118, 43035
105 43261
131 42118
133 ..... 42118, 42126, 42127
145 39126
182 43036
186 43036
310 39126
314 39126
337 39544
347 42018
436 40038
469 40038
546 43036
808 43037
1308 40884

22 CFR

64 42247
516 42247

23 CFR

17 41387
190 42742

PROPOSED RULES:
625 40539

24 CFR

207 43023
221 39570
841 41198
886 40402
1914 ..... 41028, 41030, 41966, 42743, 42747
1915 41967
1916 39572
1917 ..... 39351–39360, 39573–39582, 39761–39771, 39983–39987, 41204
1920 39771–39774

PROPOSED RULES:
58 42220
201 39593
570 41369
1917 ..... 39129, 39141, 41237, 42018, 42261–42281, 43037–43048, 43317–43327
3500 ..... 39701, 40539

25 CFR

11 40804
41 41388
43k 40457
54 39361
178 40458
258 39086

25 CFR—Continued

PROPOSED RULES:
43 43327
251 42768

26 CFR

1 ..... 40219, 40459, 41204
48 41388
301 ..... 40219, 40459

PROPOSED RULES:
1 ..... 39142, 39822, 41237, 43048, 43329
20 43330
31 ..... 39142, 39149
301 39142

28 CFR

0 43296
21 43296
50 43297

PROPOSED RULES:
2 ..... 41411, 42282
16 43330

29 CFR

1601 39775
1610 40222
1910 39087
2520 41205

PROPOSED RULES:
860 43264
1601 39831

30 CFR

41 39988
70 40760
71 40760
301 41974
302 41974

PROPOSED RULES:
Ch. VII . 41662, 42018, 42282, 42769
55 40766
56 40766
57 40766

31 CFR

1 42249
51 40223
223 39088

32 CFR

42 39988
581 40498
641 41975
837 42249
902 39089
931 39101
1288 40806
1804 39776

PROPOSED RULES:
47 40884

33 CFR

1 43297
3 40224
117 ..... 39777, 41032, 41389, 41390
127 42748
146 43297
161 ..... 39994, 40224
165 42748

33 CFR—Continued

PROPOSED RULES:

40 CFR—Continued

PROPOSED RULES—Continued

45 CFR—Continued

PROPOSED RULES:

49 CFR—Continued

PROPOSED RULES—Continued
1309 39157

50 CFR—Continued

32 ..... 39105–39107, 39584, 39585, 39799, 39800,

50 CFR—Continued

651 ..... 39108, 41405, 42764
652 ..... 40527, 42765

V 43 / 186 SE 25 78 V

33 CFR—Continued

PROPOSED RULES:

89 39946
117 ..... 41412, 41413
124 43330
126 ..... 39832, 43330
161 43330
183 ..... 41056, 43006

36 CFR

214 40998
261 42749
1207 40808

PROPOSED RULES:

28 41414

37 CFR

202 41975
302 40225
303 40498
305 40501

38 CFR

2 39364
14 39365

PROPOSED RULES:

3 40239
21 39832
36 ..... 39150, 39833

39 CFR

111 ..... 39583, 39995, 40810
221 41984
224 ..... 41984, 42249
265 42250
602 42249

PROPOSED RULES:

111 ..... 39593, 42769
266 41391

40 CFR

2 ..... 39997, 42251
35 ..... 42251, 43420
51 40009
52 ..... 39366, 40009-40011, 41032-41039
65 ..... 40015, 40226, 43298
81 ..... 39101, 40412, 40436, 40502
86 43299
125 40859
180 ..... 41206, 41391-41396, 42749
409 43304
423 43023
600 39367
730 41206

PROPOSED RULES:

35 40742
50 43319
51 43319
52 ..... 39151, 39152, 40009-40011, 40240, 40245, 42018, 42282
60 ..... 42154, 42183, 42186
65 ..... 39152, 39153, 39397, 39834, 40015, 40247, 40248, 40539, 41238, 41239, 42283, 43320-43339
81 40436
125 39282
130 40742
131 40742

40 CFR—Continued

PROPOSED RULES—Continued

151 39276
162 39644
180 ..... 40249, 41240, 42770
233 39398
761 43048
762 42771

41 CFR

Ch. I 40015, 41044
Ch. 18 40018
3-56 39778
5B-2 40227
14-1 ..... 39377, 39787, 41207
14-2 ..... 39378, 39788
14-3 39788
14-4 39378
14-7 39379
14-12 39379
14-18 39379
14-30 39380
14-55 39380
Ch. 101 40019
101-30 42257
101-37 40228
114-45 42750
114-50 42751-42756

PROPOSED RULES:

101-20 40250
105-64 43049
114-50 42772

42 CFR

36 41214
54a 40386
57 ..... 39380, 43414
58 ..... 39384, 40862

PROPOSED RULES:

59 42019
110 40378
405 39155
449 39155

43 CFR

26 41004
428 41396
6000 40734
6010 40734
6200 40734
6220 40734
6250 40734
6260 40734
6270 40734
6290 40734
8000 40734
8200 40734
8300 40734
8340 40734
8350 40734
8360 40734
8370 40735

PROPOSED RULES:

420 41241

PUBLIC LAND ORDERS:

5646 43304

45 CFR

5b 40229
801 39387

45 CFR—Continued

PROPOSED RULES:

177 41056
1340 39593

46 CFR

502 41040
510 40524
512 40524
528 42757
542 39102

PROPOSED RULES:

151 40250
153 40250
157 41178
531 39399
536 39399

47 CFR

2 41985
73 ..... 39388, 39584, 39704, 40250, 40251, 41400
74 ..... 39704, 41401
87 ..... 41214, 41986
89 41987

PROPOSED RULES:

1 41241
31 ..... 39385, 40886
33 ..... 39385, 40886
42 ..... 39385, 40886
43 ..... 39385, 40886
63 40541
73 ..... 39400, 39593, 39594, 40250, 40251, 40887, 40888, 41241
83 40889
87 42285

49 CFR

Ch. I 43305
71 42763
85 43305
101 43305
172 39789
173 39791
175 39792
176 39792
177 41401
179 39792
192 ..... 39389, 43308
571 ..... 39390, 43308
581 40229
609 41987
1008 41040
1033 ..... 39103, 39104, 39794-39796, 41403, 42257
1056 39798

PROPOSED RULES:

Ch. II 43339
Ch. X 39157
172 39835
173 39835
192 ..... 39401, 42773, 42774
195 39402
571 ..... 39835, 41056
1033 40891
1060 41242
1121 41245
1307 39157

49 CFR—Continued

PROPOSED RULES—Continued

1309 39157
1310 39157
1320 ..... 39404, 41059
1322 ..... 39404, 41059

50 CFR

20 ..... 39186, 42960
26 ..... 39798, 41042

50 CFR—Continued

32 ..... 39105-39107, 39584, 39585, 39799, 39800, 40021-40024, 40232, 40524, 40867, 41042, 41043, 41404, 42258, 42260, 42763
33 ..... 41044, 43308
216 40025
230 43025
285 ..... 39107, 41044
351 43309
611 39586

50 CFR—Continued

651 ..... 39108, 41405, 42764
652 ..... 40527, 42765
662 40868
810 39306

PROPOSED RULES:

17 41060
32 40893
230 40045
611 ..... 41062, 41244
652 39161

FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

Pages	Date	Pages	Date
39069-39317	Sept. 1	41013-41179	14
39319-39560	5	41181-41369	15
39561-39738	6	41371-41940	18
39739-39950	7	41941-42232	19
39951-40195	8	42233-42724	20
40197-40448	11	42725-43009	21
40449-40799	12	43011-43281	22
40801-41011	13	43283-43427	25

presidential documents

V 43 / 186 SEP 25 78

[3195-01]

Title 3—The President

PROCLAMATION 4599

National Forest Products Week, 1978

By the President of the United States of America

A Proclamation

When we Americans stop to reflect about our wealth of natural resources and the benefits they bestow, we quickly realize the worth of our Nation's forests. One-third of our land, some 740 million acres, is forested, and we get a wide range of essential products from many of these forests. Trees become houses to shelter us, books to convey our thoughts, packaging to protect our food, energy to power our factories or heat our homes.

A forest can be many things at the same time. With sound management, we need never fear running out of trees. A forest is a renewable resource. But for all its powers of regeneration, a forest is not invulnerable. If we use it unwisely or wastefully, it can disappear. If we ignore the diverse needs of our people, the forests will cease to preserve the natural watersheds, to provide a home for wildlife or a wilderness where our people can renew their spirits. Many of the earth's problems today are the result of generations of destructive deforestation that has left lands barren and wasted. We must make sure that man's works lie gently on our land, so that we may leave for future generations a richer, more abundant, more beautiful land than we inherited.

Research is helping to show the ways to get as much usable material as possible from each harvested tree, finding better methods for protecting wood products so they last longer and developing ways to recycle used wood into new products. Our scientists are also finding ways to make trees grow faster, and to protect the forest from its natural enemies of fire, insects, and disease.

The Congress has designated the third week of October in each year as National Forest Products Week to remind us of the importance of forests in our national life.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the week of October 15 through 21, 1978, as National Forest Products Week and ask all Americans to reflect upon the value of our forests.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of September, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 78-26984 Filed 9-21-78; 2:22 pm]

FEDERAL REGISTER, VOL. 43, NO. 186—MONDAY, SEPTEMBER 25, 1978

V 43/186
SE 25 78
V

[3195-01]

Proclamation 4600 September 21, 1978

Temporary Staged Reduction of Rates of Duty on Certain Products

By the President of the United States of America

A Proclamation

1. The President has determined, pursuant to section 101(a) of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2111(a)), that certain existing duties of the United States are unduly burdening and restricting the foreign trade of the United States and that one or more of the purposes of the Trade Act would be promoted by entering into the trade agreement with India identified in the fifth recital of this proclamation.

2. Pursuant to section 131(a) of the Trade Act (19 U.S.C. 2151(a)), the President, on January 14, 1975, published and furnished the United States International Trade Commission (USITC) with lists of articles which may be considered for modifications or continuance of the existing United States duties, continuance of United States duty-free or excise treatment, or additional duties, in the negotiation of trade agreements, including the trade agreement with India identified in the fifth recital of this proclamation. The USITC, after holding public hearings, has advised the President with respect to each such article of its judgment as to the probable economic effect of such modifications of duties on industries producing like or directly competitive articles and on consumers.

3. Pursuant to section 133 of the Trade Act (19 U.S.C. 2153) and in accordance with section 4(c) of Executive Order No. 11846 of March 27, 1975, the Special Representative for Trade Negotiations designated the Trade Policy Staff Committee to afford an opportunity, through public hearings and other means, for any interested person to present his views concerning any article on the lists identified in the second recital of this proclamation or any other matter relevant to the trade agreement negotiations, including the negotiation of the trade agreement with India identified in the fifth recital of this proclamation. The Trade Policy Staff Committee has furnished the President with a summary of its hearings.

4. Pursuant to section 132 of the Trade Act (19 U.S.C. 2152) the President has received information and advice with respect to the trade agreement with India identified in the fifth recital of this proclamation, from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State and the Treasury, from the Special Representative for Trade Negotiations, and from such other sources as the President has deemed appropriate.

5. Pursuant to section 101(a) of the Trade Act (19 U.S.C. 2111(a)), the President, through his duly empowered representative, on July 26, 1978, entered into a temporary trade agreement with India pursuant to which United States rates of duty on certain products would be temporarily modified, as hereafter proclaimed and as provided for in the Annexes to this proclamation, in exchange for certain measures which will benefit United States exports to India.

6. In order to implement the trade agreement referred to in recital 5 of this proclamation it is necessary to modify the Appendix to the Tariff Sched-

ANNEX I—Continued

6. In order to implement the trade agreement referred to in recital 5 of this proclamation it is necessary to modify the Appendix to the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) as provided for in the Annexes to this proclamation, attached hereto and made a part hereof.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes, including sections 101, 109, and 604 of the Trade Act (19 U.S.C. 2111, 2119 and 2483), do proclaim that—

(1) Part 2 of the Appendix to the TSUS is modified as provided in Annexes I and II to this proclamation.

(2) Each of the temporary modifications to the Appendix of the TSUS made by this proclamation shall be effective as to articles entered, or withdrawn from warehouse, for consumption on or after October 1, 1978, and each such modification will continue in force until it is superseded by a permanent modification of the appropriate provision in schedule 1, 3, 4, or 5 of the TSUS proclaimed pursuant to multilateral negotiations under the General Agreement on Tariffs and Trade.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of September, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

ANNEX I

Part 2 of the Appendix to the Tariff Schedules of the United States is modified by inserting the following new subpart C immediately following subpart B:

Item	Article	Rates of Duty 1	Rates of Duty 2
	Subpart C.—Reduced Duties, Pursuant to Temporary Trade Agreements		
946.02	Frog meat (except meat offal), fresh, chilled, or frozen (provided for in item 106.60)	Free	No change
946.14	Mangoes, prepared or preserved (provided for in item 147.96)	2.3¢ per lb.	No change
	Yarns and roving, of jute:		
	Singles:		
946.42	Measuring under 720 yards per pound (provided for in item 305.20)	4.5% ad val.	No change
946.44	Measuring 720 yards or over per pound (provided for in item 305.22)	8% ad val.	No change
946.46	Plied, measuring under 720 yards per pound (provided for in item 305.28)	7% ad val.	No change
946.50	Woven fabrics, wholly of jute, bleached, colored, or flame resistant (provided for in item 335.50)	1% ad val.	No change
946.52	Webbing of jute (provided for in item 347.30)	11% ad val.	No change
	Floor coverings of pile or tufted construction, of textile materials, in which the pile was inserted or knotted during weaving or knitting:		
	With pile hand-inserted or hand-knotted:		
	With not over 50 percent by weight of the pile being hair of the alpaca, guanaco, huarizo, llama, misti, suri, or any combination of these hairs:		
946.54	Valued over 66-⅔ cents per square foot, with not over 160 knots per square inch (provided for in item 360.15)	8% ad val.	No change
946.56	With pile not hand-inserted and not hand-knotted, of coir (provided for in item 360.35)	3.6¢ per sq. ft.	No change

ANNEX I—Continued

Item	Article	Rates of Duty 1	Rates of Duty 2
946.58	Bags and sacks, or other shipping containers, of vegetable fibers, except cotton, not bleached, not colored, and not rendered nonflammable (provided for in item 385.45	Free	No change
946.60	Pile matting and pile mats, of coir (not including floor coverings) (provided for in item 385.95)	4.2¢ per sq. ft.	No change
946.62	Opium (provided for in item 435.70)	Free	No change
	Mica, cut or stamped to dimensions, shape, or form, whether or not perforated or indented, and whether or not dedicated to a specific use:		
946.64	Not over 0.006 inch in thickness (provided for in item 516.71)	8% ad val.	No change
946.66	Over 0.006 inch in thickness and perforated or indented (provided for in item 516.76	9.5% ad val.	No change
946.68	Articles not specially provided for, of mica (provided for in item 516.94)	9.5% ad val.	No change

ANNEX II

Staged-rate Modification of the Tariff Schedules of the United States

Each rate in the following table, for an item in the Appendix to the Tariff Schedules of the United States (TSUS) identified therein, is inserted in column numbered 1 in such item, effective for articles provided for therein which are entered, or withdrawn from warehouse, for consumption on and after the date at the head of the column in which such rate is set forth and, except for rates in the final column, such rate shall be superseded by the rate for that item in the immediately following column, effective for articles which are entered, or withdrawn from warehouse, for consumption on and after the date at the head of such latter column:

Item in TSUS as Modified by Annex I	Rates of duty, effective on and after October 1,— 1978	1979	1980	1981
946.02	Free	Free	Free	Free
946.14	2.3¢ per lb.	1.5¢ per lb.	1.5¢ per lb.	1.5¢ per lb.
946.42	4.5% ad val.	3% ad val.	3% ad val.	3% ad val.
946.44	8% ad val.	5% ad val.	4.4% ad val.	4.4% ad val.
946.46	7% ad val.	4% ad val.	4% ad val.	4% ad val.
946.50	1% ad val.	1% ad val.	1% ad val.	1% ad val.
946.52	11% ad val.	8% ad val.	5.6% ad val.	5.6% ad val.
946.54	8% ad val.	8% ad val.	8% ad val.	8% ad val.
946.56	3.6¢ per sq. ft.	2.2¢ per sq. ft.	2¢ per sq. ft.	2¢ per sq. ft.
946.58	Free	Free	Free	Free
946.60	4.2¢ per sq. ft.	3.4¢ per sq. ft.	2.6¢ per sq. ft.	2¢ per sq. ft.
946.62	Free	Free	Free	Free
946.64	8% ad val.	5% ad val.	4.4% ad val.	4.4% ad val.
946.66	9.5% ad val.	6.5% ad val.	5% ad val.	5% ad val.
946.68	9.5% ad val.	6.5% ad val.	5% ad val.	5% ad val.

[FR Doc. 78-27077 Filed 9-22-78; 10:45 am]

rules and regulations

V 43/186 SEP 25 78

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

LICENSED NUCLEAR MATERIALS AND FACILITIES

Licensee Safeguards Contingency Plans

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Approval of reporting and recordkeeping requirements by Comptroller General.

SUMMARY: On March 23, 1978, (43 FR 11962) the Nuclear Regulatory Commission published in the FEDERAL REGISTER a notice of rulemaking, effective June 6, 1978, amending its regulations 10 CFR, Parts 50, 70, and 73 to require that specified licensees develop and implement acceptable plans for responding to threats, thefts, and industrial sabotage of licensed nuclear materials and facilities.

The notice included the following note:

• NOTE.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for review of its reporting requirement under the Federal Reports Act, as amended, 44 U.S.C. 3512. The date on which the reporting requirement of the rule becomes effective, unless advised to the contrary, includes a 45-day period which that statute allows for Comptroller General review (44 U.S.C. 3512(c)(2)).

Notice is hereby given that the reporting requirements set out in the rule have been approved by the U.S. General Accounting Office.

EFFECTIVE DATE: June 6, 1978.

The reporting requirements set out in the notice of rulemaking which was published in the FEDERAL REGISTER on March 23, 1978 (43 FR 11962) have been approved by the U.S. General Accounting Office under number B-180225 (R0071) for the reporting requirements in 10 CFR, Part 50; B-180225 (R0061) for the reporting requirements in 10 CFR Part 70; and B-180225 (R0039) for the reporting requirements in 10 CFR, Part 73.

FOR FURTHER INFORMATION CONTACT:

Gerald L. Hutton, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone: 301-492-7211.

Dated at Bethesda, Md. this 14th day of September 1978.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc. 78-26916 Filed 9-22-78; 8:45 am]

[4810-33]

Title 12—Banks and Banking

CHAPTER 1—COMPTROLLER OF THE CURRENCY

DEPARTMENT OF THE TREASURY

PART 7—INTERPRETIVE RULINGS

Loans Secured by Real Estate

AGENCY: Comptroller of the Currency.

ACTION: Final rule.

SUMMARY: This amendment revises selected interpretive rulings issued by the Comptroller relating to loans by national banks which are secured by real estate. The revisions were necessary in order to conform the rulings with the governing statute under which national banks may make real estate loans (12 U.S.C. 371, as amended).

EFFECTIVE DATE: October 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard [illegible] Neiman, Staff Attorney, Office of the Comptroller of the Currency, Washington, D.C. 20219, 202-447-1800.

SUPPLEMENTARY INFORMATION: On February 16, 1978, the Comptroller of the Currency published for comment (43 FR 6801) a proposed amendment to 12 CFR, Part 7 to revise selected interpretive rulings relating to loans by national banks which are secured by real estate. The revisions are necessary in order to conform the rulings with the governing statute under which national banks may make real estate loans (12 U.S.C. 371, as amended).

In response to the proposed amendment, written comments were received from national banks, bank counsel, and a bank trade association. All comments were reviewed and analyzed in detail insofar as they related to matters within the scope of the proposed amendment. Many of the comments proved quite helpful in bringing to the attention of the Comptroller those particular sections of 12 U.S.C. 371 which certain writers believed required further clarification or interpretation.

As a result of the suggestions made in the comments and after further study by OCC staff, the Comptroller has decided to: (1) adopt in final form, those rulings which were slightly altered or left unchanged from the February proposal and (2) repropose for comment those rulings which were substantially changed from the February proposals or which were not specifically addressed in the February proposal. Those rulings which are being published for comment appear in the "Proposed Rules" section of today's FEDERAL REGISTER.

DISCUSSION OF COMMENTS

HOME IMPROVEMENT LOANS

The February proposal proposed to delete paragraph (f) of 12 CFR 7.2000. The reason given for the proposed deletion was that under 12 U.S.C. 371, as amended, national banks can now make certain loans secured by junior liens even though relying on real estate as security. Three comments expressed concern that omitting this paragraph implied that all home improvement loans would be counted against the bank's limit of real estate loans secured by other than first liens. Any such implication is clearly incorrect and was not the intention of the proposed deletion. Further, the Comptroller continues to believe that a specific reference in the rulings to home improvement loans is unnecessary. As noted above, the statute which now permits national banks to make home improvement loans where a junior lien on real estate is the primary security, also states in part:

Loans made to any borrower (i) where the association looks for repayment by relying

Under the proposed ruling, loans secured by improved farmland will be treated the same as loans secured by

where the real estate is unimproved or the leasehold is subject to a prior lien, the Comptroller proposed to retain

ovate, remodel, or rehabilitate existing residential structures are considered construction loans." This proposal ap-

loan within the meaning of 12 U.S.C. 371.

(d) *Loan secured by building and*

the bank is adequately protected by the terms of the participation agreement.

Loans made to any borrower (i) where the association looks for repayment by relying *primarily* on the borrower's general credit standing and forecast of income, with or without security, * * * shall *not* be considered as real estate loans within the meaning of this section but shall be classed as commercial loans. (Emphasis added) 12 U.S.C. 371(e).

Additionally, § 7.2000(a) further interprets the meaning of a loan secured by real estate under 12 U.S.C. 371. To make a specific reference to home improvement loans in the rulings would be duplicative of the amended statute and the existing ruling.

INTERIM FINANCING

The February proposal proposed to revise paragraph (i) of 12 CFR 7.2000 to reflect a statutory change to 12 U.S.C. 371 and to redesignate it as paragraph (g). One writer noted, however, that the revised paragraph was partially inaccurate because of the amended language in 12 U.S.C. 371(c) concerning construction loans. Proposed paragraph (g) has therefore been modified to bring it into complete conformity with the amended statute. The ruling as adopted now reads:

A loan secured by a real estate mortgage is not a real estate loan if there is a valid and binding agreement by a financially responsible third party to purchase the loan within 60 months from the date of the making of the loan. *However, such loans may be subject to the restrictions and aggregate limitations of 12 U.S.C. 371(c) governing construction loans.* [Emphasis indicates new language].

LOAN TO VALUE RATIOS

Several comments indicated a degree of confusion about permissible loan to value ratios under 12 U.S.C. 371, as amended. For example, two writers noted that neither the statute nor the rulings specified the proportion of appraised value which a bank may advance on loans secured by improved farmland. In order to address these comments and to clarify the loan to value ratios set out in 12 U.S.C. 371(a)(1), the Comptroller is proposing, in the "Proposed Rules" section of today's FEDERAL REGISTER, to delete section 7.2020 entitled, "Improved real estate", and to adopt a new section 7.2010 entitled, "Loan to value ratios." The new section 7.2010 will incorporate certain portions of the former 7.2020 where applicable. The new section will address loans secured by:

(a) Unimproved real estate,

(b) Real estate improved by off-site improvements,

(c) Real estate in the process of being improved by a building or buildings to be constructed or in the process of construction, and

(d) Real estate improved by a building or buildings.

Under the proposed ruling, loans secured by improved farmland will be treated the same as loans secured by real estate improved by a building or buildings, i.e., loan to value ratio can not exceed 90 percent of the appraised value. The appraised value of improved farmland is based upon its value for agricultural purposes.

DEVELOPMENT LOANS

Four comments expressed concern over the proposal to delete paragraph (f) of § 7.2020 concerning development loans. As stated in the February proposal, the reason for deleting this paragraph was that 12 U.S.C. 371, as amended, now specifically sets forth the requirements for loans secured by undeveloped property. These comments requested either retention of the existing ruling or an interpretation clarifying the amended statute with respect to land acquisition and development loans. The Comptroller, therefore, is proposing, in the "Proposed Rules" section of today's FEDERAL REGISTER, a new § 7.2015 interpreting the amended statute in this regard. Under this proposed ruling, national banks will be allowed to make commitments to make acquisition and development loans based upon the appraised value of the final project, However, advances at various stages of construction are subject to the limitations contained in 12 U.S.C. 371 and § 7.2010 as proposed.

FIRST LIENS

Although no comments were received in response to the February proposal concerning § 7.2040 entitled "First liens", several questions have arisen regarding application of § 7.2040(d)(2) to "wrap-around" mortgages (§ 7.2040(c)(2) in the February proposal). The Comptroller is therefore reproposing, in the "Proposed Rules" section of today's FEDERAL REGISTER, § 7.2040 with modifications which specifically addressed wrap-around mortgage transactions.

LOAN IN EXCESS OF APPRAISED VALUE

Section 7.2150, concerning loans in excess of appraised value, was not affected by the February proposal. However, one writer noted that the language of that section was narrower than the amended statutory language under 12 U.S.C. 371. The Comptroller has therefore revised the language of this section to conform to the amended statute.

REAL ESTATE LOANS SECURED BY LEASEHOLDS

Two writers noted that notwithstanding the fact that the new statutory language of 12 U.S.C. 371 seems to permit loans secured by leaseholds where the real estate is unimproved or the leasehold is subject to a prior lien, the Comptroller proposed to retain the requirements that the security be a first lien on the leasehold and the leasehold be on improved real estate. In this regard, it should be pointed out that the amended statute clearly gives the Comptroller the authority to require that leasehold loans be so secured. However, after considering the general liberal spirit of the amended statute, which now specifically permits real estate loans secured by junior liens, the Comptroller has decided to permit loans secured by junior liens on leaseholds, where otherwise considered a prudent banking practice. Accordingly, these restrictions have been deleted from § 7.2200.

One writer also expressed concern over the requirement in paragraph (b) of § 7.2200 that the "covenants and restrictions contained in the lease which provide for forfeiture or reversion in the event of a breach must not be more onerous or burdensome than those contained in leases in general use in the area in which such bank is located * * *" The writer stated that the reference to the area in which the bank is located may not be appropriate when a bank makes a loan secured by a leasehold located in another part of the country, and requested that the ruling be amended to refer to the area where the leasehold is located, rather than where the bank is located. The Comptroller, recognizing the difficulty involved in trying to impose the standards of a bank's area upon individual leases in the area where the loan is made, has decided to revise the ruling accordingly.

CONSTRUCTION LOANS

One writer questioned whether § 7.2400 concerning loans made to finance the construction of buildings intended primarily for residential purposes included the construction of apartment buildings. Because apartment buildings are primarily used for residential purposes, the Comptroller has in the past and continues to consider such buildings as residential buildings within the meaning of 12 U.S.C. 371(c). The Comptroller, therefore, is revising the language of this section to clarify any confusion on this point.

One comment also raised the question whether 12 U.S.C. 371(c) refers only to construction loans for new buildings or whether national banks may treat housing rehabilitation loans as construction loans. In order to clarify any questions arising in this regard, the Comptroller is proposing as paragraph (b) to § 7.2400 an interpretation which states: "For purposes of 12 U.S.C. 371(c) loans, the proceeds of which are used to substantially renovate, remodel, or rehabilitate existing residential structures are considered construction loans." This proposal appears in the "Proposed Rules" section of today's FEDERAL REGISTER.

NONCONFORMING LOANS

Although not directed toward a specific section of the February proposal, comments were received suggesting that the Comptroller, in order to assist both the bank and OCC examining personnel, adopt a requirement that each national bank maintain an up-to-date list of its nonconforming real estate loans. After further study and analysis by OCC staff, the Comptroller has decided to propose in the "Proposed Rules" section of today's FEDERAL REGISTER, a new ruling, § 7.2700, in this regard.

DRAFTING INFORMATION

The principal drafters of this document were Mr. Richard H. Neiman, attorney, and Mr. Michael B. Mierzewski, legal clerk.

ADOPTION OF AMENDMENTS

12 CFR Part 7 is amended by deleting §§ 7.2100 and 7.2170 and by revising §§ 7.2000, 7.2005, 7.2120, 7.2125, 7.2145, 7.2150, 7.2155, 7.2190, 7.2200, 7.2410, and 7.2600 to read as follows:

§ 7.2000 Real estate loans.

(a) *General definition.* A real estate loan within the meaning of 12 U.S.C. 371 is any loan secured by real estate where the bank relies upon such real estate as the primary security for the loan. Where the bank in its judgment relies substantially upon other factors, such as the general credit standing of the borrower, guaranties, or security other than real estate, the loan does not constitute a real estate loan within the meaning of 12 U.S.C. 371, although as a matter of prudent banking practice it may also be secured by real estate. Appropriate evidence to demonstrate justification for such reliance should be retained in the bank's files.

(b) *Mortgage taken as security for debt previously contracted.* Where a real estate mortgage is taken in good faith to secure a loan previously made, the loan so secured is not a real estate loan within the meaning of 12 U.S.C. 371.

(c) *Land contracts.* Where real estate is sold under a contract which provides that legal title to the real estate is not be conveyed to the purchaser until all or a specified portion of the purchase price is paid, but remains in the seller (or in a trustee) as security for such payment, the contract plus the security title retained by the seller constitutes a loan secured by real estate which may be a real estate loan within the meaning of 12 U.S.C. 371.

(d) *Loan secured by building and machinery.* Machinery and equipment in a building which are adapted to the use being made of the land and building, and which are intended to be permanent additions thereto, in general will constitute a portion of the real estate and may be taken into account in calculating the maximum permissible loan for purposes of 12 U.S.C. 371. This standard governs the application of 12 U.S.C. 371 to national banks throughout the country, notwithstanding that the law of the particular State is otherwise for tax or other special purposes.

(e) *Perfecting personal property security interest.* A loan made in reliance upon the security of a mobile home will not be considered a real estate loan, although as a prudent banking practice the security interest is recorded or otherwise perfected as if the mobile home were real estate.

(f) *Reliance on rentals.* A loan made to a lessor of real estate in substantial reliance upon the creditworthiness of the lessee, including an assignment of rentals to be due from the lessee following completion and occupancy of the leased premises, is not a real estate loan, although as a matter of prudent banking practice the loan may also be secured by a mortgage upon the real estate.

(g) *Interim financing.* A loan secured by a real estate mortgage is not a real estate loan if there is a valid and binding agreement by a financially responsible third party to purchase the loan within 60 months from the date of the making of the loan. However, such loans may be subject to the restrictions and aggregate limitations of 12 U.S.C. 371(c) governing construction loans.

§ 7.2005 Loans secured by real estate mortgages of others.

Where the borrower pledges or assigns a real estate mortgage of another to secure a loan for his own account, the loan is not a real estate loan within the meaning of 12 U.S.C. 371.

* * * * *

§ 7.2100 [Deleted]

§ 7.2120 Participation in real estate loans.

A national bank may not invest in real estate bonds in the guise of purchasing a participation in real estate loans. Purchase of such bonds shall be in compliance with the Investment Securities Regulations (12 CFR Part 1).

However, a national bank may participate in the making of real estate loan and may purchase or sell a participation in an existing real estate loan if the participation interests of the bank is adequately protected by the terms of the participation agreement.

§ 7.2125 Amortization of real estate loans.

(a) *Amortization.* Amortization requires that there be reduction of the principal of the debt during the life of the loan. This ordinarily contemplates a regular schedule of payments. Any deviation from a regular schedule of such payments should be based on prudent banking judgment. The period between payments cannot exceed 1 year.

(b) *When amortization is required.* A real estate loan must be amortized when the amount of the loan exceeds 75 percent of the appraised value of the property which secures it, or the real estate is improved with a one-to-four family dwelling.

(c) *Amortization requirements of 12 U.S.C. 371.* When amortization is required, payments may be based on an amortization schedule of not more than 30 years, even though the term of the loan may be less than 30 years.

§ 7.2145 Real estate loans insured or guaranteed.

(a) *Government-insured loans.* Where the bank is its judgment relies substantially on the insurance or guaranty of a governmental agency in making a loan, it does not constitute real estate loan within the meaning of 12 U.S.C. 371. See § 7.2000.

(b) *Veterans Administration guaranteed loans.* Any loan at least 20 percent of which is guaranteed or insured by the Administrator of Veterans Affairs is not a real estate loan within the meaning of 12 U.S.C. 371 and, therefore, not subject to the restrictions thereof.

(c) *Private mortgage insurance or guaranty.* Where a national bank makes a loan in substantial reliance upon private company mortgage insurance or guaranty, the loan does not constitute a real estate loan within the meaning of 12 U.S.C. 371 to the extent of the guaranty. Appropriate evidence to demonstrate justification for such reliance should be retained in the bank's files.

(d) *Real estate as additional security.* Where the bank in its judgment makes a loan in substantial reliance on the insurance or guaranty of a governmental agency, private company mortgage insurance or guaranty, the creditworthiness of the borrower, or collateral other than real estate, the loan may also be secured by real estate as a matter of prudent banking practice or because such security is required by the insurer or guarantor, and such loan does not constitute a real estate

loan within the meaning of 12 U.S.C. 371.

§ 7.2200 Real estate loans secured by leaseholds.

and good cause exists for making this amendment effective in less than 30

Issued in Fort Worth, Tex., on September 8, 1978.

adopted as proposed with a statement of the problem which the AD seeks to prevent being included above the text

loan within the meaning of 12 U.S.C. 371.

* * * * *

§ 7.2150 Loans in excess of appraised value.

A real estate loan which is excessive in relation to the appraised value of the real estate will not be considered in violation of the statute if the excessive portion is fully guaranteed or is fully secured by pledged collateral in the form of a saving account, certificate of deposit, assignment of rents, or other security. Only the amount by which the loan exceeds the collateral value of such other security shall be considered a loan upon the security of real estate.

§ 7.2155 Maximum aggregate of real estate loans.

(a) *In general.* The aggregate outstanding balance of real estate loans made or purchased may not exceed at the time of making a real estate loan the unimpaired capital plus the unimpaired surplus of the bank or 100 percent of the time and savings deposits of the bank, whichever is greater. Up to 10 percent of the total permissible amount of real estate loans need not comply with the individual loan restrictions of 12 U.S.C. 371.

(b) *Existing commitment.* An existing commitment to make a real estate loan is not includable in the aggregate amount of real estate loans which a bank is permitted to make under 12 U.S.C. 371.

* * * * *

§ 7.2170 [Deleted]

§ 7.2190 Demand and short-term real estate and construction loans.

(a) A real estate loan which is required to be amortized may be made on a demand basis if provision in writing is made whereby in the absence of demand the entire principal of the loan will be liquidated in accordance with the requirements of § 7.2125.

(b) Loans made to finance the construction of industrial or commercial buildings or of residential or farm properties may come within the meaning of 12 U.S.C. 371(c), even though they are made payable on demand instead of having a stated maturity of not more than 60 months, provided that the parties intend that the loan be paid off or refinanced within the 60-month period, and provided that demand is made or the loan paid within such period.

* * * * *

§ 7.2200 Real estate loans secured by leaseholds.

Any real estate loan secured by a leasehold within the meaning of 12 U.S.C. 371 must satisfy the following conditions:

(a) In order to qualify as an acceptable leasehold for security for a real estate loan made by a national bank, the covenants and restrictions contained in the lease which provide for forfeiture or reversion in the event of a breach must not be more onerous or burdensome than those contained in leases in general use in the area where the loan is made, and the lease should permit acquisition of the leasehold by the lending bank by voluntary conveyance or assignment by the lessee, and acquisition and sale under judicial process, without being subject to such restrictions as would jeopardize recovery of the security value of such leasehold.

(b) The security instrument must be a mortgage, trust deed, or similar instrument.

(c) The loan must mature at least 10 years before the date on which the lease is due to expire. This requirement may be met by an option to renew the lease for a period of 10 years beyond the term of the mortgage.

(d) The loan must be amortized in accordance with § 7.2125.

The "appraised value" of a leasehold, for the purpose of 12 U.S.C. 371 shall be determined by the use of accepted and reliable methods of appraising leasehold values including, in areas where such information is available, a consideration of the sales prices of comparable leaseholds.

* * * * *

§ 7.2410 Construction loans held beyond the permissible period.

Construction loans which have been held by a bank for a period exceeding 60 months and which are secured by liens on realty are to be considered real estate loans subject to 12 U.S.C. 371. The total amount of such loans must be taken into account in determining whether the bank can make additional real estate loans within the aggregate limit prescribed by 12 U.S.C. 371.

§ 7.2600 Loans on forest tracts.

Where the laws of a State permit a valid chattel mortgage on standing timber, a loan so secured is not a real estate loan under the second paragraph of 12 U.S.C. 371.

Dated: September 19, 1978.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc. 78-26918 Filed 9-22-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 78-ASW-43; Amdt. 39-3299]

PART 39—AIRWORTHINESS DIRECTIVES

Aircraft Parts & Development Corp. (Callair) A-9 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive inspections and repair, as necessary, of fuselage main carry-through tube for wing struts on Aircraft Parts & Development Corp. (Callair) A-9 series airplanes. The AD is needed to prevent failure of the wing strut carry-through tube which could result in wing failure and consequent loss of the airplane.

DATE: Effective date: October 4, 1978. Compliance required within the next 25 hours time in service after the effective date of this AD unless already accomplished within the last 25 hours time in service.

ADDRESSES: The applicable service information may be obtained from persons or offices noted in this AD.

FOR FURTHER INFORMATION CONTACT:

Milton G. Martin, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex., telephone 817-624-4911, extension 516.

SUPPLEMENTARY INFORMATION: Extensive corrosion in the wing strut main carry-through tube on an Aircraft Parts & Development Corp. (Callair) A-9B airplane caused a wing failure and subsequent accident (nonfatal). Inspection of another aircraft also revealed extensive corrosion of the main carry-through tube. Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires an inspection and repair, as necessary, of the main carry-through tube on Aircraft Parts & Development Corp. (Callair) A-9 series airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

AIRCRAFT PARTS & DEVELPMENT CORP. (CALLAIR). Applies to models A-9, A-9A, and A-9B (serial Nos. 1451 and up) airplanes equipped with hoppers, P/N 13733, certificated in all categories.

Compliance required within the next 25 hours time in service after the effective date of this AD, unless already accomplished within the last 25 hours. To prevent failure of the main carry-through tube, P/N 11013, due to corrosion from exposure to corrosive chemicals in airplanes equipped with the large hopper, P/N 13733, accomplish the following:

(a) Determine the configuration of the hopper. The part No. 13733 hopper has a removable top 48 inches long. The standard hopper removable top is 21 to 22 inches long.

(b) Remove the hopper top of the hopper, P/N 13733, and visually inspect the fiberglass wrapping over the main carry-through tube for cracks. The main carry-through tube is located 25 inches aft of the hopper forward bulkhead and 6 inches below the hopper surface.

(c) If the fiberglass wrapping is cracked, remove all the fiberglass wrapping and visually inspect the main carry-through tube for corrosion.

(d) Remove all corrosion found on the main carry-through tube. If the corrosion removal exceeds a depth of 0.010 inch in any one location or 2 percent of the tube cross-sectional area, the main carry-through tube, P/N 11013, must be replaced. The nominal cross-sectional area is 0.42 square inch. Finish the tube with two coats of zinc chromate primer after corrosion removal. Rewrap the exposed tube inside the hopper with a fiberglass laminate. The fiberglass laminate must include a minimum of three layers of MIL-C-9084 glass cloth of the 181 type with a Volan A or Garan 136 finish. Use a Reichhold 33-402 chemical resistant resin.

(e) Aircraft may be flown in accordance with FAR 21.197 to a base where this AD can be accomplished.

(f) Equivalent methods of complying with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region. (Service information concerning this tubing inspection and replacement may be obtained upon request to Service Manager, Aircraft Parts & Development Corp., L.A.F.B. Building 162, Laredo, Tex. 78040.)

This amendment becomes effective October 4, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.89).)

Issued in Fort Worth, Tex., on September 8, 1978.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 78-26654 Filed 9-22-78; 8:45 am]

[4910-13]

[Airworthiness Docket No. 78-ASW-23; Amdt. 39-3303]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Models 204B, 205A-1, and 212 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires replacement of certain main rotor inboard strap fittings at 1,200 hours total time in service on Bell Models 204B, 205A-1, and 212 helicopters. The AD is prompted by reports of five model 212 fittings, P/N 212-010-103-5, that had fatigue cracks in the thrust shoulder radius. Cracks in the thrust shoulder could result in failure of the fitting, loss of a retention strap and a main rotor blade.

DATES: Effective October 25, 1978. Compliance is required as prescribed in the body of the AD.

FOR FURTHER INFORMATION CONTACT:

James H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex., telephone, 817-624-4911, extension 516.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of certain main rotor inboard strap fittings on or before attaining 1,200 hours total time in service for Bell Models 204B, 205A-1, and 212 helicopters was published in 43 FR 31940. The proposal was prompted by reports of three Model 212 main rotor inboard fittings having cracks in the thrust shoulder radius. Bell Helicopter Textron had two additional reports of cracked fittings. The reported cracks may result in failure of the fitting thrust shoulder and possible loss of a main rotor blade. The models 204B and 205A-1 helicopters use fittings similar to the model 212 fittings and are subject to similar operating conditions.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received. The rule will be adopted as proposed with a statement of the problem which the AD seeks to prevent being included above the text of the AD.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

BELL.—Applies to Bell Models 204B and 205A-1 helicopters equipped with fittings, P/N 204-012-102-5, and model 212 helicopters equipped with fittings, P/N 212-010-103-5, certificated in all categories. Compliance required as indicated.

To prevent possible failure of a fitting as a result of a crack in the thrust shoulder radius, accomplish the following:

(a) Remove main rotor inboard strap fittings with 1,100 or more hours total time in service on the effective date of this airworthiness directive (AD) within 100 hours time in service.

(b) Remove main rotor inboard strap fittings with less than 1,100 hours total time in service on the effective date of this AD, prior to attaining 1200 hours' total time in service.

(c) The retirement time of the fittings P/N 204-012-102-5 and 212-010-103-5 is reduced from 3,000 to 1,200 hours time in service.

This amendment becomes effective October 25, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Issued in Fort Worth, Tex., on September 11, 1978.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 78-26653 Filed 9-22-78; 8:45 am]

[4910-13]

[Docket No. 78-SO-56]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zones, Cocoa (Patrick AFB), Fla., and Melbourne, Fla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Cocoa (Patrick AFB) and Melbourne, Fla., control zones. The present descriptions require that the control zones be depicted on aeronautical charts as overlapping. This has caused confusion among some pilots as they

are unable to determine which air traffic control facility has responsibility for aeronautical operations in the

Subpart F, § 71.171 (43 FR 355), is amended by deleting the present descriptions of the Cocoa (Patrick AFB)

thereby conforms with the area proposed in the notice of proposed rulemaking.

Ala., to the route structure. This realinement will provide pilots with improved navigational guidance.

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant

SUPPLEMENTARY INFORMATION: A notice was published in the FEDERAL REGISTER on August 11, 1978 (43 FR

V 43/186 SEP 25 78

are unable to determine which air traffic control facility has responsibility for aeronautical operations in the area of charted overlap. This rule will redefine the control zones so that they may be depicted without an overlap. This rule will also amend the Melbourne control zone description by amending the geographical coordinates to reflect the center point of the Melbourne Regional Airport. Additionally, a Melbourne control zone extension predicated on a VOR radial will be deleted and the required airspace will be designated by increasing the width of an extension predicated on a radio beacon bearing from 3 miles in width to 3.5 miles on the south side of the bearing.

EFFECTIVE DATE: 0901 G.m.t., December 28, 1978.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

Donald Ross, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: The Cocoa (Patrick AFB), Fla., control zone operates on a part-time basis, 0700 to 2300 hours, local time, daily. This control zone is depicted on aeronautical charts as a 5-mile radius circle and is annotated with the hours of operation.

The Melbourne, Fla., control zone operates 24 hours per day but excludes the airspace within the Cocoa (Patrick AFB) control zone during the hours the Cocoa control zone is activated. Thus, the Melbourne control zone is depicted as a 5-mile radius circle, with appropriate extensions, and this depicted circle overlaps the Cocoa control zone.

This alteration of the two control zones will permit charting agencies to depict the control zones without an overlap and will aid pilots in determining with which air traffic control facility they should communicate.

The change in coordinates of the Melbourne Regional Airport is required to reflect the correct geographical point of the airport and the change in the description of the extension west of the airport will reduce the verbiage in the description.

Since these alterations are editorial in nature, notice and public procedures hereon are not necessary.

ADOPTION OF THE AMENDMENT

Accordingly, part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., December 28, 1978, as follows:

Subpart F, § 71.171 (43 FR 355), is amended by deleting the present descriptions of the Cocoa (Patrick AFB), Fla., control zone and the Melbourne, Fla., control zone and substituting the following descriptions therefor:

MELBOURNE, FLA.

Within a 5-mile radius of the Melbourne Regional Airport (Latitude 28°06'06" N., Longitude 80°38'36" W.); within 3 miles each side of the Melbourne VOR 100° radial, extending from the 5-mile radius zone to 8.5 miles east of the VOR; within 3 miles north and 3.5 miles south of the 267° bearing from the Satellite RBN, extending from the 5-mile radius zone to 8.5 miles west of the RBN; excluding the portion north of a line connecting the two points of intersection within a 5-mile radius circle centered on Patrick AFB (Latitude 28°14'21" N., Longitude 80°36'28" W.).

COCOA (PATRICK AFB), FLA.

Within a 5-mile radius of Patrick AFB (Latitude 28°14'21" N., Longitude 80°36'28" W.); excluding the portion south of a line connecting the two points of intersection within a 5-mile radius circle centered on Melbourne Regional Airport (Latitude 28°06'06" N., Longitude 80°38'36" W.). This control zone is effective from 0700 to 2300 hours, local time, daily.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in East Point, Ga., on September 12, 1978.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 78-26652 Filed 9-22-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-NE-19]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Area and Transition Area; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In a rule published in the FEDERAL REGISTER of September 7, 1978, volume 43, page 39750, the longitude was incorrectly printed as 66°57'30" W., rather than 66°59'15" W., in the third set of coordinates defining the Gloucester, Mass., transition area. This action corrects that error and thereby conforms with the area proposed in the notice of proposed rulemaking.

EFFECTIVE DATE: September 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION: FEDERAL REGISTER document 78-25116 was published on September 7, 1978 (43 FR 39750) and amended the description of the Gloucester, Mass., transition area. A typographical error was made in the description of the third coordinate. This action corrects that coordinate.

ADOPTION OF THE CORRECTION

Accordingly, pursuant to the authority delegated to me by the Administrator, FEDERAL REGISTER document 78-25116 as published in the FEDERAL REGISTER on September 7, 1978, starting on page 39750 is amended in the sixth line of the last paragraph in the center column of page 39751 by deleting "Long. 66°57'13" W.;" and substituting "Long. 66°59'15" W.;" therefore.

(Secs. 307(a), 313(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; Mar. 8, 1978).

Issued in Washington, D.C., on September 15, 1978.

WRAY R. MCCLUNG,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-26625 Filed 9-22-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-SO-52]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment redescribes the alignment of jet route No. 2 between New Orleans, La., and Crestview, Fla., by adding Semmes, Ala., to the route structure. This realinement will provide pilots with improved navigational guidance.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8525.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to subpart B of part 75 of the Federal Aviation Regulations (14 CFR Part 75) is to realign a portion of J-2 between New Orleans, La., and Montgomery, Ala., so that the intersection in the present description is replaced by the Semmes VORTAC which is at the same geographical location. Presently en route aircraft have a tendency to stray north of the course when proceeding inbound to Crestview, Fla., VORTAC. This creates an additional workload for controllers who must monitor each flight to insure against straying east of the course centerline. By designating Semmes VORTAC in the route alinement, in lieu of the intersection, pilots will be able to remain on the centerline of J-2. There is no change in the currently designated airspace. Section 75.100 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 714).

Under the circumstances presented, the FAA concludes that there is an immediate need for the safety of flight and security benefits of this minor modification to the airspace designation in the affected area. In order to affect that action before the next aeronautical charting date on November 2, 1978, it is necessary to immediately adopt this regulation change; accordingly, I find good cause that notice and public procedure thereon is impracticable and unnecessary.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 75.100 of the Federal Aviation Regulations (14 CFR Part 75) as republished (43 FR 714) is amended, effective 0901 G.m.t., November 2, 1978, as follows:

Under jet route No. 2, "New Orleans; INT of the New Orleans 066° and the Crestview, Fla., 266° radials; Crestview;" is deleted and "New Orleans; Semmes, Ala.; Crestview, Fla.;" is substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; Mar. 8, 1978).

Issued in Washington, D.C., on September 15, 1978.

WRAY R. MCCLUNG,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-26626 Filed 9-22-78; 8:45 am]

[4410-09]

Title 21—Food and Drugs

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Placement of N-ethyl-1-phenylcyclohexylamine and 1-(1-phenylcyclohexyl)pyrrolidine Into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final Rule.

SUMMARY: This rule requires that the manufacture, distribution, dispensing, importation and exportation of PCE, which is N-ethyl-1-phenyl-cyclohexylamine, and PHP, which is 1-(1-phenylcyclohexyl)pyrrolidine, be subject to the regulations applicable to substances in schedule I of the Controlled Substances Act. This rule results from a recommendation of the Assistant Secretary for Health, Department of Health, Education, and Welfare, on behalf of the Secretary that these substances be placed into schedule I, review thereof by the Drug Enforcement Administration (EDEA) and subsequent publication in the FEDERAL REGISTER (43 FR 35743, Aug. 11, 1978), of a notice of proposed rulemaking to place PCE, PHP, and salts, isomers and salts of isomers thereof into schedule I. No comments or objections were received in response to the notice.

EFFECTIVE DATE: The effective date of schedule I control is October 25, 1978, except as otherwise provided in the Supplementary Information section of this order.

FOR FURTHER INFORMATION CONTACT:

Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement Administration, telephone 202-633-1366.

SUPPLEMENTARY INFORMATION: A notice was published in the FEDERAL REGISTER on August 11, 1978 (43 FR 35734) proposing that any material, compound, mixture, or preparation which contains any quantity of N-ethyl-1-phenylcyclohexylamine or 1-(1-phenylcyclohexyl)pyrrolidine or which contains any of their salts, isomers, or salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (the term "isomer" includes optical, position and geometric isomers) be placed into schedule I of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801-966) and that title 21 of the Code of Federal Regulations, § 1308.11 (schedule I) be amended accordingly. All interested persons were given until September 11, 1978 to submit their comments or objections in writing regarding this proposal.

No comments or objections were received, nor were there any requests for a hearing. In view thereof, and based upon the investigations and review conducted by the Drug Enforcement Administration and upon the recommendation of the Assistant Secretary for Health on behalf of the Secretary of Health, Education, and Welfare, the Administrator of the Drug Enforcement Administration finds, pursuant to the authority delegated to him by regulations of the Department of Justice, that:

1. N-ethyl-1-phenylcyclohexylamine and 1-(1-phenylcyclohexyl)pyrrolidine each has a high potential for abuse;

2. Neither substance has a currently accepted medical use in treatment in the United States;

3. N-ethyl-1-phenylcyclohexylamine and 1-(1-phenylcyclohexyl)pyrrolidine each lacks accepted safety for use under medical supervision.

Therefore, under the authority vested in him by the Act and by regulations of the Department of Justice, the Administrator of the Drug Enforcement Administration hereby orders that § 1308.11(d) of title 21 of the Code of Federal Regulations be amended to read as follows:

§ 1308.11 Schedule I.

* * * * * *

(d) *Hallucinogenic substances.* * * *

(21) Ethylamine analog of phencyclidine	7455
Some trade of other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE.	
(22) Pyrrolidine analog of phencyclidine	7458
Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP.	

(23) Thiophene analog of phencyclidine	7470
Some trade or other names: 1-[1-(2-thienyl)cyclohexyl]-piperidine, 2-thienyl analog of PCP, TCP.	

date on which the inventory of such substances is taken;

official designated to receive service in customs litigation. The official is changed from the Chief of the Cus-

§ 0.76 [Amended]

1. By revoking § 0.76(o) and the appendix to subpart O of part 0

Regulations is hereby amended by the addition of § 50.17, as follows:

[4910-14]

Title 33—Navigation and Navigable Waters

(23) Thiophene analog of phencyclidine	7470
Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP.	

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EFFECTIVE DATES

As to N-ethyl-1-phenyl-cyclohexylamine and 1-(1-phenylcyclohexyl)-pyrrolidine:

1. *Registration.* Any person who manufactures, distributes, dispenses, imports or exports such substances or who proposes to engage in such activities, shall submit an application for registration to conduct such activities in accordance with parts 1301 and 1311 of title 21 of the Code of Federal Regulations on or before October 25, 1978;

2. *Security.* Such substances must be manufactured, distributed, and stored in accordance with §§ 1301.71, 1301.72 (a), (c), and (d), 1301.73, 1301.74(a)-(f), 1301.75(a), and 1301.76 of title 21 of the Code of Federal Regulations on or before November 24, 1978. From now until the effective date of this provision, it is expected that manufacturers and distributors of such substances will initiate whatever preparation as may be necessary in order to provide adequate security in accordance with DEA regulations so that substantial compliance with this provision can be met by November 24, 1978. In the event that this imposes special hardships, the Drug Enforcement Administration will entertain any justified requests for extensions of time;

3. *Labeling and packaging.* All labels on commercial containers of, and all labeling of such substances packaged after November 24, 1978, shall comply with the requirements of §§ 1302.03-1302.05, 1302.07, and 1302.08 of title 21 of the Code of Federal Regulations. In the event this effective date imposes special hardships on any manufacturer, as defined in section 102(14) of the Controlled Substances Act (21 U.S.C. 802(14)), the Drug Enforcement Administration will entertain any justified requests for an extension of time;

4. *Quotas.* All persons required to obtain quotas with respect to either of such substances shall submit applications pursuant to §§ 1303.12 and 1303.22 of title 21 of the Code of Federal Regulations on or before November 24, 1978.

5. *Inventory.* Every registrant required to keep records who possesses any quantity of such substances shall take an inventory pursuant to §§ 1304.11-1304.19 of title 21 of the Code of Federal Regulations, of all stocks of such substances on hand on November 24, 1978;

6. *Records.* All registrants required to keep records pursuant to §§ 1304.21-1304.27 of title 21 of the Code of Federal Regulations shall do so regarding such substances commencing on the date on which the inventory of such substances is taken;

7. *Reports.* All registrants required to submit reports pursuant to §§ 1304.37-1304.41 of title 21 of the Code of Federal Regulations shall do so regarding such substances commencing on the date on which the inventory of such substances is taken;

8. *Order forms.* The order form requirements of §§ 1305.01-1305.16 of title 21 of the Code of Federal Regulations shall be in effect on the date which the initial inventory of these schedule I controlled substances is taken;

9. *Importation and exportation.* All importation and exportation of such substances shall, on or after November 24, 1978, be required to be in compliance with part 1312 of title 21 of the Code of Federal Regulations;

10. *Criminal liability.* The Administrator, Drug Enforcement Administration, hereby orders that any activity with respect to N-ethyl-1-phenylcyclohexylamine and 1-(1-phenylcyclohexyl)pyrrolidine, not authorized by or in violation of the Controlled Substances Act or the Controlled Substances Import and Export Act, conducted after October 25, 1978, shall be unlawful, except that any person who is entitled to registration under such acts may continue to conduct normal business, research or professional practice with such substances between the date on which this order is published and the date on which he obtains or is denied registration: *Provided,* That application for such registration is submitted on or before October 25, 1978;

11. *Other.* In all other respects, this order is effective October 25, 1978.

Dated: September 19, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-26835 Filed 9-22-78; 8:45 am]

[4410-01]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 802-78]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Service in Customs Litigation

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order amends the Department of Justice organizational regulations to reflect the Civil Division reorganization by changing the official designated to receive service in customs litigation. The official is changed from the Chief of the Customs Service, to the Attorney-in-Charge of the Field Office for Customs Litigation.

EFFECTIVE DATE: September 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Barbara Allen Babcock, Assistant Attorney General, Civil Division, U.S. Department of Justice, Washington, D.C. 20530, 202-739-3301.

By virtue of the authority vested in me by 28 U.S.C. 509, 510, and 516, and 5 U.S.C. 301, section 0.48 of subpart I of part 0 of chapter I of title 28, Code of Federal Regulations, is amended by inserting "The Attorney-in-Charge, Field Office for Customs Litigation" for "The Chief, Customs Section."

Dated: September 14, 1978.

GRIFFIN B. BELL,
Attorney General.

[FR Doc. 78-26858 Filed 9-22-78; 8:45 am]

[4410-01]

[Order No. 800-78]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

PART 21—WITNESS FEES

Technical Amendments

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The regulations governing the disposition of unclaimed property in the Department of Justice are presently published in § 0.76(o), and the appendix to subpart O, part 0 of title 28, Code of Federal Regulations. Those regulations are being replaced by revised regulations to be issued by the Assistant Attorney General for Administration, and will be codified in part 128-48 of title 41, Code of Federal Regulations. This order, therefore, revokes § 0.76(o), and the appendix to subpart O. The order also updates references to the Federal Travel Regulations in 28 CFR 0.76, 0.142 and 21.1.

EFFECTIVE DATE: August 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Vincent A. Lobisco, Chief, Administrative Programs Group, Administrative Programs Management Staff, Office of Management and Finance, Department of Justice, Washington, D.C. 20530, 202-739-2971.

By virtue of the authority vested in me by 28 U.S.C. 509, 510, and 5 U.S.C. 301, chapter I of title 28, Code of Federal Regulations, is amended as follows:

§ 0.76 [Amended]

1. By revoking § 0.76(o) and the appendix to subpart O of part 0.

2. By substituting "paragraph 1-7.2 of the Federal Travel Regulations (FPMR 101-7)" for "paragraph 6.2c of the Standardized Government Travel Regulations" in section 0.76(c) of subpart O of part 0.

§ 0.142 [Amended]

3. By substituting "5 U.S.C. 5721-5733" for "5 U.S.C. 5721-5732" in section 0.142(d) of subpart X of part 0.

§ 21.1 [Amended]

4. By substituting "Administrator of General Services" for "Office of Management and Budget" in § 21.1(c) of part 21.

Dated: August 30, 1978.

GRIFFIN B. BELL,
Attorney General.

[FR Doc. 78-26821 Filed 9-22-78; 8:45 am]

[4410-01]

PART 50—STATEMENTS OF POLICY

[Order No. 801-78]

Ex Parte Communications in Informal Rulemaking Proceedings

AGENCY: Department of Justice.

ACTION: Statement of policy.

SUMMARY: Certain offices, boards, bureaus and divisions of the Department of Justice participate, from time to time, in rulemaking proceedings subject only to the procedural requirements of 5 U.S.C. 553 (informal rulemaking). In the course of such rulemaking proceedings ex parte communications may be received. The following statement of policy outlines the Department's position concerning receipt of ex parte communications after notice of proposed informal rulemaking and describes steps to be taken to insure that interested parties, the public, and the courts are not denied access to significant ex parte communications received. This statement of policy implements recommendation No. 77-3 of the Administrative Conference of the United States, 42 FR 54, 253 (1977).

EFFECTIVE DATE: September 14, 1978.

FOR FURTHER INFORMATION CONTACT:

John M. Harmon, Assistant Attorney General, Office of Legal Counsel, Department of Justice, Washington, D.C. 20530, 202-739-2041.

By virtue of the authority vested in me by 28 U.S.C. § 509, part 50 of chapter I of title 28 of the Code of Federal Regulations is hereby amended by the addition of § 50.17, as follows:

§ 50.17 Ex parte communications in informal rulemaking proceedings.

In rulemaking proceedings subject only to the procedural requirements of 5 U.S.C. § 553:

(a) A general prohibition applicable to all offices, boards, bureaus and divisions of the Department of Justice against the receipt of private, ex parte oral or written communications is undesirable, because it would deprive the Department of the flexibility needed to fashion rulemaking procedures appropriate to the issues involved, and would introduce a degree of formality that would, at least in most instances, result in procedures that are unduly complicated, slow, and expensive, and, at the same time, perhaps not conducive to developing all relevant information.

(b) All written communications from outside the Department addressed to the merits of a proposed rule, received after notice of proposed informal rulemaking and in its course by the Department, its offices, boards, and bureaus, and divisions or their personnel participating in the decision, should be placed promptly in a file available for public inspection.

(c) All oral communications from outside the Department of significant information or argument respecting the merits of a proposed rule, received after notice of proposed informal rulemaking and in its course by the Department, its offices, boards, bureaus, and divisions or their personnel participating in the decision, should be summarized in writing and placed promptly in a file available for public inspection.

(d) The Department may properly withhold from the public files information exempt from disclosure under 5 U.S.C. 552.

(e) The Department may conclude that restrictions on ex parte communications in particular rulemaking proceedings are necessitated by considerations of fairness or for other reasons.

Dated: September 14, 1978.

GRIFFIN B. BELL,
Attorney General.

[FR Doc. 78-26807 Filed 9-22-78; 8:45 am]

[4910-14]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 78-110]

PART 1—GENERAL PROVISIONS

PART 146—OPERATIONS

Editorial Corrections; Miscellaneous Cross-References

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: During a previous reorganization of Title 46 Code of Federal Regulations certain regulations were relocated within the title. Some cross-references to these regulations in title 33 were not changed at that time. This document will update title 33 by deleting the incorrect references and inserting current cross-references.

EFFECTIVE DATE: This amendment is effective on September 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Capt. Philip J. Danahy, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: This amendment corrects references to Marine investigation regulations and suspension and revocation proceedings found in title 33 of the Code of Federal Regulations (CFR). The referenced regulations were previously contained in 46 CFR Parts 136 and 137. These regulations are now 46 CFR Parts 4 and 5 respectively. References to these regulations in title 33 still give the old citation. This document will amend references to regulations in 46 CFR Part 136 or 137 to give the correct reference in 46 CFR Part 4 or 5, as appropriate.

DRAFTING INFORMATION

The principal persons involved with the drafting of this regulation are: Ens. J. F. Springer, Project Manager, Office of Merchant Marine Safety and Lt. G. S. Karavitis, Project Attorney, Office of Chief Counsel.

EVALUATION

This proposal has been reviewed under the Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (43 FR 9582, March 8, 1978). A final evaluation of the proposal has been prepared, and has been included in the public docket.

In accordance with the foregoing, chapter 1, title 33 of the Code of Fed-

[FRL 957-8]

PART 65—DELAYED COMPLIANCE

pital is unable to immediately comply with these regulations. The order also imposes interim requirements which

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date

features enabling off-street or off-highway operation and use."

It appears that the Act and the reg-

In accordance with the foregoing, chapter 1, title 33 of the Code of Federal Regulations is amended as follows:

1. By amending Part 1, § 1.01-40 to read as follows:

§ 1.01-40 Delegation to the Vice Commandant.

The commandant delegates to the vice commandant authority to take final agency action under 46 CFR Subparts 5.25, 5.30 and 5.35 on each petition to reopen a hearing and on each appeal from a decision of an administrative law judge, except on petition or appeal in a case in which an order of revocation has been issued. This delegation does not prevent the vice commandant from acting as commandant, as prescribed in 14 U.S.C. 47(a), for all purposes of 46 CFR Part 5.

2. By amending Part 1, § 1.07-15(b)(2) to read as follows:

§ 1.07-15 Criminal penalties.

• • • • •

(b) • • •

(1) • • •

(2) Marine Boards (46 CFR Part 4).

• • • • •

3. By amending part 146, § 146.01-20(c) to read as follows:

§ 146.01-20 Casualty or accident report.

• • • • •

(c) In the investigations of casualties and accidents occurring on artificial islands or fixed structures, the procedures in 46 CFR Part 4 for marine casualties will be followed to the extent applicable.

(5 U.S.C. 552; 14 U.S.C. 633.)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Dated: September 18, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-26837 Filed 9-22-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 957-8]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Central Ohio Psychiatric Hospital

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of EPA issues a delayed compliance order to the Central Ohio Psychiatric Hospital. The order requires the hospital to bring air emissions from its boiler house at Columbus, Ohio, into compliance with regulation AP-3-11 contained in the federally approved Ohio State Implementation Plan (SIP). The hospital's compliance with the order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the order.

DATE: This rule takes effect September 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael G. Smith, Enforcement Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Ill. 60604, telephone, 312-353-2082.

SUPPLEMENTARY INFORMATION: On April 17, 1978, the Acting Regional Administrator of EPA's Region V Office published in the FEDERAL REGISTER (43 FR 16195) a notice setting out the provisions of a proposed Federal delayed compliance order for the hospital. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed order. No public comments and no request for a public hearing were received in response to the proposed notice.

The final order was revised slightly from the proposed order to specify the installation of a baghouse control system. The order requires final compliance by the same date by means of equivalent or superior control equipment.

Therefore, a delayed compliance order effective this date is issued to the Central Ohio Psychiatric Hospital by the Administrator of EPA pursuant to the authority of section 113(d)(1) bof the Clean Air Act, 42 U.S.C. 7413(d)(1). The order places the Hospital on a schedule to bring its boiler house at Columbus, Ohio, into compliance as expeditiously as practicable with regulation AP-3-11, a part of the federally approved Ohio SIP. The hospital is unable to immediately comply with these regulations. The order also imposes interim requirements which meet sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the order are met, it will permit the hospital to delay compliance with the SIP regulations covered by the order until July 1, 1979.

Compliance with the order by the hospital will preclude Federal enforcement action under section 113 of the Act for violations of the SIP regulations covered by the order. Citizen suits under section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the order, and for violations of the regulations covered by the order which occurred before the order was issued by EPA or after the order is terminated. If the Administrator determines that the hospital is in violation of a requirement contained in the order, one or more of the actions required by section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under section 307(b) of the Act.

The provisions of the order will be summarized, as set forth below, in 40 CFR part 65. The provisions of 40 CFR part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of an order under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 149876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

EPA has determined that the order shall be effective upon publication of this notice because of the need to immediately place on a schedule for compliance with the State implementation plan.

(42 U.S.C. 7413(d), 7601.)

Dated: September 13, 1978.

DOUGLAS M. COSTLE,
Administrator, U.S. Environmental Protection Agency.

In consideration of the foregoing, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

1. By amending § 65.400 to read as follows:

§ 65.400 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Central Ohio Psychiatric Hospital.	Columbus, Ohio....	EPA-5-78-A-19...	Apr. 17, 1978.	AP-3-11	July 1, 1979.

[FR Doc. 78-26710 Filed 9-22-78; 8:45 am]

[6560-01]

[FRL 951-4]

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES CERTIFICATION AND TEST PROCEDURES

Clarification and Technical Amendments

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice publishes as final technical amendments to the certification and testing regulations for new motor vehicles and new motor vehicle engines. The changes are required to bring those regulations into conformance with the Clean Air Act as amended August 7, 1977. These amendments pertain to light-duty vehicle exhaust emission standards for model years 1979 and 1980 and to high-altitude certification provisions of the regulations.

DATE: These amendments are effective September 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Paul A. J. Wilson, Regulatory Management Staff, Office of Mobile Source Air Pollution Control (AW-455), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-0596.

SUPPLEMENTARY INFORMATION: The Clean Air Act (hereinafter known as "the Act") amendments signed into law on August 7, 1977, revoked the requirements of several sections of the EPA certification regulations contained in 40 CFR Part 86 and enacted several definitions which, although not in substantive contradiction to the current EPA regulations, are different from those regulations and, thus, have the potential for creating confusion and misunderstanding. The purpose of these amendments is to bring the regulations into conformance with the 1977 amendments to the Act and to clarify the Agency's interpretation of those regulations which might be unclear.

The areas affected by the amendments and the corrective action taken are discussed below:

1. CLASSIFICATION OF MOTORCYCLES AS HEAVY-DUTY VEHICLES

Section 202(a)(3)(F) states that for the purposes of establishing emission standards, motorcycles and motorcycle engines shall be treated in the same manner as heavy-duty vehicles and engines unless the Administrator promulgates a rule either reclassifying motorcycles as light-duty vehicles or requiring motorcycles to meet separate emission standards as a separate class or category of vehicles. The Administrator has defined motorcycles as a separate class of vehicles and issued separate standards for motorcycles on January 5, 1977 (42 FR 1122). This action was recognized by the conference committee (Conference Report, U.S. House of Representatives Report 95-564, p. 164) as being consistent with the authority granted in the amendments. Thus, no change to the regulations regarding motorcycles is necessary to exercise the option provided by section 202(a)(3)(F) of the Act, and EPA hereby affirms that motorcycles are a separate class of vehicles as established by the Agency on January 5, 1977.

2. CLASSIFICATION OF HEAVY-DUTY VEHICLES

On December 28, 1976 (41 FR 56316) EPA published regulations extending the light-duty truck class to include trucks of 6,000 to 8,500 pounds gross vehicle weight rating (GVWR) which were formerly classed as heavy-duty vehicles. That action made the 6,000 to 8,500 pound trucks subject to more stringent emission standards than those applicable to heavy-duty vehicles. However, section 202(b)(3)(C) of the Act defines the term "heavy-duty vehicles" as "a truck, bus, or other vehicle manufactured primarily for use on the public streets, roads, and highways (not including any vehicle operated exclusively on a rail or rails) which has a gross vehicle weight (as determined under regulations promulgated by the Administrator) in excess of 6,000 pounds. Such term includes any such vehicle which has special features enabling off-street or off-highway operation and use."

It appears that the Act and the regulation are inconsistent with respect to the classification of 6,000 to 8,500 pound trucks; however, this is not the case. The Act (sec. 202(a)(3)(A)(iv)) permits the Administrator to establish classes or categories of vehicles based on gross vehicle weight, horsepower, or other appropriate factors for the purpose of prescribing motor vehicle emission standards. This provision has been interpreted by the conference committee as permitting the December 28 reclassification as follows: "The recent classification of vehicles between 6,000 and 8,500 pounds as light-duty trucks would continue to be appropriate provided regulations developed for such vehicles conform to this section" (Conference Report, U.S. House of Representatives Report No. 95-564, p. 164).

The principal provision that the 6,000 to 8,500 pound trucks must conform to is that the emission standards for these vehicles be at least as stringent as the heavy-duty vehicle emission standards, that is, representing a 90-percent reduction from the gasoline heavy-duty engine baseline for hydrocarbon and carbon monoxide emissions by 1983, and a 75-percent reduction in NO_x emissions from the same baseline by 1985. Light-duty trucks under 6,000 pounds are not subject to the emission reduction requirements of the Act stated above, and it could be argued that they should be in a separate class from the 6,000 to 8,500 pound trucks which are subject to the heavy-duty vehicle requirements. However, there is no justification for requiring trucks of less than 6,000 pounds GVWR to meet less stringent emission standards than heavier trucks. Therefore, since EPA has found that these trucks are similar in function and are appropriately classed together, no corrective action needs to be taken. The definitions of heavy-duty vehicle and light-duty truck as published in the EPA regulations on December 28, 1976, will continue in effect, and the entire light-duty truck class will be subject to the requirements of section 202(a)(3) of the Act.

3. LIGHT-DUTY VEHICLE EXHAUST EMISSION STANDARDS

One of the most significant effects of the 1977 amendments to the Act was to change the statutory exhaust emission standards for 1978 and later model year light-duty vehicles. A technical amendment published on August 11, 1977 (42 FR 40697), changed the emissions standards in the regulations for the 1978 model year. This rulemaking will amend the hydrocarbon (HC), carbon monoxide (CO) and oxides of nitrogen (NO_x) standards for 1979 and

1980 model year vehicles to conform with the provisions of the Act.

The exhaust emission standards for

titude be capable of meeting emission standards at high altitude. Section 202(f)(1) of the Act revoked this re-

ments which do not adversely affect any interested party (the actions having substantively been taken by

Section	Change	Reason
8. § 88.079-24		

1980 model year vehicles to conform with the provisions of the Act.

The exhaust emission standards required by the Act are as follows:

[Grams per vehicle mile]

	HC	CO	NO_x
1979	1.50	15.0	2.0
1980	.41	7.0	2.0

4. Rescission of the High-Altitude Certification Regulations

On October 18, 1974 (39 FR 37300), EPA published a final rule requiring that beginning with the 1977 model year, manufacturers of light-duty vehicles and light-duty trucks demonstrate through certification that new motor vehicles sold for use at high altitude be capable of meeting emission standards at high altitude. Section 202(f)(1) of the Act revoked this requirement beginning with the 1978 model year.

Although EPA could revoke all portions of the regulations pertaining to the certification of high-altitude vehicles in response to section 202(f)(1), the Agency is retaining these sections of the regulations on a nonmandatory basis. This approach will permit manufacturers voluntarily to demonstrate compliance with applicable emission standards at high altitude. This action is taken because the Agency recognizes the additional air quality benefits from designing vehicles which will be operated principally in high-altitude areas to meet the emission standards at high altitudes.

Publication without comment. Since these are merely conforming amendments which do not adversely affect any interested party (the actions having substantively been taken by the Act itself), notice and public procedure on these amendments are unnecessary. Therefore, EPA finds good cause to dispense with notice and public comment. Because some of the regulations herein established are to take effect in the 1979 model year, which has already begun, EPA has determined that these regulations should be effective September 25, 1978.

Note.—The Environmental Protection Agency has determined that this document is not a "significant" regulation and does not require preparation of a regulatory analysis under Executive Order 12044.

Dated: September 13, 1978.

Douglas M. Costle,
Administrator.

Section	Change	Reason
1. § 86.078–1	Adds paragraphs (c), (c)(i), and (c)(ii)	To make clear that, as a result of the Clean Air Act (CAA) amendments of Aug. 7, 1977, the high altitude provisions are rescinded. However, the EPA encourages manufacturers to continue to demonstrate compliance with the emission standards at high altitude at their option.
2. § 86.078–24		
(b)(1)(v)	Revises the emission-data vehicle selection criteria for high altitude vehicles.	To make selection of the high-altitude emission data vehicle optional rather than compulsory.
(b)(1)(vii)(D)	Revises the evaporative emission vehicle selection criteria for high altitude vehicles.	To make selection of the high-altitude evaporative emission vehicle optional rather than compulsory.
3. 86.078–30		
(a)(1)	Deletes the last sentence of the paragraph: "If applicable, the certificate * * *.".	This sentence states that vehicles will be certified for sale at high altitude. This requirement is no longer applicable; therefore it is being deleted.
(a)(1)(i)	Paragraph added to state that the EPA will indicate on the certificate of conformity the altitude at which the vehicles demonstrated compliance.	To allow the Administrator to distinguish between those vehicles which did and did not demonstrate compliance at high altitude.
(a)(4)	Deletes and reserves the existing paragraph which states that sale of vehicles in high-altitude areas not covered by a high-altitude certificate is a violation of § 203(a)(1) of the Clean Air Act.	§ 202(f)(1) of the Act rescinds the high-altitude certification regulations.
(a)(5)	Amends introductory statement to list of high-altitude counties	Designation of high-altitude locations for the purposes of § 86.078–30(a) is no longer meaningful following rescission of the high-altitude regulations by the CAA amendments. The list of counties located substantially above 1219 meters in elevation set out in paragraph (a)(5) is being retained for informational purposes and for subsequent Agency rulemaking actions under § 215 of the Act.
(a)(6)	Deletes the waiver of high-altitude requirement for California, reserves paragraph.	The requirement is being dropped; therefore, the waiver provision is unnecessary.
4. § 86.078–35		
(a)(1)(iii)(D)	Deletes the phrase "in accordance with the altitude at which the vehicle is to be sold." Adds statement permitting manufacturer to provide, on engine compartment label, specifications, or reference to such specifications, for operation of a vehicle at an altitude other than that at which it demonstrated compliance.	There are no longer altitude restrictions with respect to the selling of vehicles. Change to engine compartment label could permit a vehicle owner operating his vehicle at an altitude other than that at which compliance was demonstrated to have access to appropriate tune-up specifications.
(a)(1)(iii)(F)	Replaces the phrase "* * * is intended for sale to the public * * *" with "* * * has demonstrated compliance * * *," and adds example of acceptable statement.	There are no longer altitude restrictions with respect to the selling of vehicles.
5. § 86.078–38		
(c)(1)	Corrects reference from "§§ 86.078–25(a)(2) or 86.078–25(b)(2)" to "§ 86.078–25(a).".	Incorrect reference cited.
(c)(2)	Deletes and reserves paragraph	The CAA amendments have rescinded high-altitude certification regulations.
(c)(3)	Deletes and reserves parapgraph	The CAA amendments have rescinded high-altitude certification regulations, and provisions in these technical amendments have specifically stated that a high-altitude vehicle need not demonstrate compliance at low altitude.
(d)(1)	Revises paragraph	Due to an oversight when the light-duty diesel regulations were promulgated, the specific provision for including instructions used to perform scheduled maintenance was omitted. Also the CAA amendments have rescinded high-altitude certifcation regulations.
(d)(2)	Deletes and reserves paragraph	The CAA amendments have rescinded high-altitude certification regulations and provisions in these technical amendments have specifically stated that a high-altitude vehicle need not demonstrate compliance at low altitude.
6. § 86.079–1	Adds paragraphs (c), (c)(i), and (c)(ii)	To make clear that, as a result of the CAA amendments of Aug. 7, 1977, the high-altitude provisions are rescinded. However, the EPA encourages manufacturers to continue to demonstrate compliance with the emission standards at high altitude at their option.
7. § 86.079–8	Changes the light-duty vehicle exhaust emission standards for the 1979 model year from 0.41 g/mi hydrocarbons (HC), 3.4 g/mi carbon monoxide (CO), 0.4 g/mi oxides of nitrogen (NO_x), to 1.5 g/mi HC, 15 g/mi CO, and 2.0 g/mi NO_x.	These changes in the exhaust emission standards were made by the 1977 amendments to the Act.

Section	Change	Reason
8. § 86.079–24		
(b)(1)(v)	Revises the emission-data vehicle selection criteria for high-altitude vehicles.	To make selection of a high-altitude emission-data vehicle optional rather than compulsory.
(b)(1)(vii)(D)	Revises the evaporative emission vehicle selection criteria for high-altitude vehicles.	To make selection of a high-altitude evaporative emission vehicle optional rather than compulsory.
9. § 86.079–30		
(a)(1)	Deletes the last sentence of the paragraph: "If applicable, the certificate * * *.".	This sentence states that vehicles will be certified for sale at high altitude. This requirement is no longer applicable; therefor it is being deleted.
(A)(1)(i)	Paragraph added to state that the EPA will indicate on the certificate of conformity the altitude at which the vehicles denomstrate compliance.	To allow the Administrator to distinguish between those vehicles which did and did not demonstrate compliance at high altitude.
(a)(4)	Deletes and reserves the existing paragraph which states that sale of vehicles in high-altitude areas not covered by a high-altitude certificate is a violation of § 203(a)(1) of the Clean Air Act.	§ 202(f)(1) of the Act rescinds the high-altitude certification regulations.
(a)(5)	Amends introductory statement to list of high-altitude counties	Designation of high-altitude locations for the purposes of § 86.079–30(a) is no longer meaningful following rescission of the high-altitude regulations by the CAA amendments. The list of counties located substantively above the 1,219 meters in elevation set out in paragraph (a)(5) is being retained for informational purposes and for subsequent Agency rulemaking actions under § 215 of the Act.
(a)(6)	Deletes the high-altitude waiver requirement for California, reserves paragraph.	The requirement is being dropped; therefore, the waiver provision is unnecessary.
10. § 86.079–35		
(a)(1)(iii)(D)	Replaces the phrase "in accordance with the altitude at which the vehicle is to be sold." Adds statement permitting manufacturer to provide, on engine compartment label, specifications, or reference to such specifications, for operation of a vehicle at an altitude other than that at which compliance was demonstrated to have access to appropriate tune-up specifications.	There are no longer altitude restrictions with respect to the selling of vehicles. Change to engine compartment label could permit a vehicle owner operating his vehicle at an altitude other than that at which compliance was demonstrated to have access to appropriate tune-up specifications.
(a)(1)(iii)(F)	Replaces the phrase "* * * is intended for sale to the public * * *" with "* * * has demonstrated compliance * * *" and adds example of an acceptable statement.	there are no longer altitude restrictions with respect to the selling of vehicles.
11. § 86.079–38		
(c)(1)	Corrects reference from "§§ 86.6.078–25(a)(2) or 86.078–25(b)(2)" to "§ 86.078–25(a).".	Incorrect reference cited.
(c)(2)	Deletes and reserves paragraph	The CAA amendments have rescinded high-altitude certification regulations.
(c)(3)	Deletes and reserves paragraph	The CAA amendments have rescinded high-altitude certification regulations, and provisions in these technical amendments have specifically stated that a high-altitude vehicle need not demonstrate compliance at low altitude.
(d)(1)	Revises paragraph	Due to an oversight when the light-duty diesel regulations were promulgated, the specific provision for including instructions used to perform scheduled maintenance was omitted. Also the CAA amendments have rescinded high-altitude certification regulations.
(d)(2)	Deletes and reserves paragraph	The CAA amendments have rescinded high-altitude certification regulations, and provisions in these technical amendments have specifically stated that a high-altitude vehicle need not demonstrate compliance at low altitude.
12. § 86.080–8	Changes the light-duty vehicle exhaust emission standards for CO and NO_x for the 1980 model year from 3.4 g/mi CO and, 0.4 g/mi NO_x, to 7.0 g/mi CO and, 2.0 g/mi NO_x. The 0.41 g/mi HC standard is required beginning in 1980.	These changes in the exhaust emission standards were made by the 1977 amendments to the Act.
13. § 86.080–24		
(b)(1)(V)	Revises the emission-data vehicle selection criteria for high-altitude vehicles.	To make selection of a high-altitude emission-data vehicle optional rather than compulsory.
(b)(1)(vii)(D)	Revises the evaporative emission vehicle selection criteria for high-altitude vehicles.	To make selection of a high-altitude evaporative emission vehicle optional rather than compulsory..

1. By adding a new paragraph (c) to § 86.078–1 to read as follows:

§ 86.078–1 General applicability.

* * * * * *

(c) (1) Section 202(f)(1) of the Clean Air Act, as amended, 1977, rescinded the provisions of this subpart which pertain to the requirement that light-duty vehicles and light-duty trucks intended for sale at elevations above 1,219 meters (4,000 ft.) (hereinafter "high altitude") demonstrate compliance with applicable emission standards at high altitude. However, a manufacturer of light-duty vehicles or light-duty trucks may request to demonstrate compliance with the applicable emission standards at high altitude.

(2) The provisions of this subpart applicable to the certification of light-duty vehicles and light-duty trucks at high altitude shall apply to any manufacturer who elects to demonstrate compliance with applicable emission standards at such elevations.

(3) A vehicle that demonstrates compliance with the applicable emission standards at elevations above 1,219 meters shall not be required to demonstrate compliance with such standards at elevations below 1,219 meters.

* * * * * *

2. By revising paragraphs (b)(1)(v) and 9(b)(1)(vii)(D) of § 86.078–24 to read as follows:

§ 86.078–35 Labeling.

(a) * * *

(1) * * *

(i) Such instructions shall specify the performance of all scheduled maintenance performed by the manu-

RULES AND REGULATIONS **43303**

(b) (1) Fuel evaporative emissions from 1979 and later model year gasoline-fueled light-duty vehicles shall

(4) [Reserved]

* * * * * *

(c) *For gasoline-fueled light-duty vehicles and light-duty trucks.* (1) Such instructions shall specify the perform-

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2. By revising paragraphs (b)(1)(v) and 9(b)(1)(vii)(D) of § 86.078-24 to read as follows:

§ 86.078-24 Test vehicles and engines.

* * * * *

(b) * * *
(1) * * *
(v) Within an engine family the Administrator may select one additional vehicle for each engine-system combination with which a manufacturer chooses to demonstrate compliance with applicable emission standards at high altitude.

* * * * *

(vii) * * *
(D) The Administrator may also select one additional vehicle for each evaporative emission control system within each evaporative family for those vehicles with which the manufacturer chooses to demonstrate compliance with applicable emission standards at high altitude.

* * * * *

3. By revising paragraph (a)(1), adding paragraph (a)(1)(i), deleting and reserving paragraphs (a)(4) and (a)(6), and by amending the first sentence of paragraph (a)(5) of § 86.078-30 as follows:

§ 86.078-30 Certification.

(a) (1) If, after a review of the test reports and data submitted by the manufacturer, data derived from any inspection carried out under § 86.078-7(c), and any other pertinent data or information, the Administrator determines that a test vehicle(s) (or test engine(s)) meet(s) the requirements of the Act and of this subpart, he will issue a certificate of conformity with respect to such vehicle(s) (or engine(s)) except in cases covered by paragraph (c) of this section.

(i) Each certificate of conformity shall state the altitude(s) at which the vehicle(s) covered by the certificate has demonstrated compliance with the applicable emission standards.

* * * * *

(4) [Reserved]

(5) The counties identified below have substantially all of their area located above 1,219 meters (4,000 ft.):

* * * * *

(6) [Reserved]

* * * * *

4. By revising paragraphs (a)(1)(iii)(D) and (a)(1)(iii)(F) of § 86.078-35 as follows:

§ 86.078-35 Labeling.

(a) * * *
(1) * * *
(iii) * * *

(D) Engine tuneup specifications and adjustments, as recommended by the manufacturer to the ultimate purchaser, including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable) as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air-conditioner), if any, should be in operation. If a manufacturer provides tuneup specifications and adjustments for his vehicle for operation at an altitude other than that at which compliance was demonstated, e.g., adjustments for operation below 1,219 meters for vehicles that demonstrated compliance at elevations above 1,219 meters, the manufacturer may either include these specifications and adjustments on his engine compartment label, or may indicate on the label where these adjustments might be found, i.e., by reference to the appropriate owner's manual or shop manual.

* * * * *

(F) The altitude at which the vehicle has demonstrated compliance with the applicable emission standards as specified by the certificate of conformity issued under § 86.078-30. (An example of an acceptable statement is: "Compliance demonstrated above/below 4,000 ft.")

* * * * *

5. By revising paragraphs (c)(1) and (d)(1) and by deleting and reserving paragraphs (c)(2), (c)(3), and (d)(2) of § 86.078-38 as follows:

§ 86.078-38 Maintenance instructions.

* * * * *

(c) For gasoline-fueled light-duty vehicles and light-duty trucks.

(1) Such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.078-25(a) and shall explain the conditions under which EGR system and catalytic converter maintenance are to be performed (e.g., what type of warning device is being employed and whether the device is activated by component failure or the need for periodic maintenance).

(2) [Reserved]

(3) [Reserved]

(d) For diesel light-duty vehicles and light-duty trucks.

(1) Such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.078-25(a) and shall explain the conditions under which EGR system and catalytic converter maintenance are to be performed (e.g., what type of warning device is being employed and whether the device is activated by component failure or the need for periodic maintenance).

(2) [Reserved]

* * * * *

6. By adding a new paragraph (c) to § 86.079-1 to read as follows:

§ 86.079-1 General applicability.

* * * * *

(c) (1) Section 202(f)(1) of the Clean Air Act, as amended, 1977, rescinded the provisions of this subpart which pertain to the requirement that light-duty vehicles and light-duty trucks intended for sale at elevations above 1,219 meters (4,000 ft.) (hereinafter "high altitude") demonstrate compliance with applicable emission standards at high altitude. However, a manufacturer of light-duty vehicles or light-duty trucks may request to demonstrate compliance with the applicable emission standards at high altitude.

(2) The provisions of this subpart applicable to the certification of light-duty vehicles and light-duty trucks at high altitude shall apply to any manufacturer who elects to demonstrate compliance with applicable emission standards at such elevations.

(3) A vehicle that demonstrates compliance with the applicable emission standards at elevations above 1,219 meters shall not be required to demonstrate compliance with such standards at elevations below 1,219 meters.

* * * * *

7. By adding a new § 86.079-8 reading as follows:

§ 86.079-8 Emission standards for 1979 light-duty vehicles.

* * * * *

(a) (1) Exhaust emissions from 1979 model year light-duty vehicles shall not exceed:

(i) *Hydrocarbons.* 1.5 grams per vehicle mile.

(ii) *Carbon monoxide.* 1.5 grams per vehicle mile.

(iii) *Oxides of nitrogen.* 2.0 grams per vehicle mile.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in subpart B of this part and measured and calculated in accordance with those procedures.

(b) (1) Fuel evaporative emissions from 1979 and later model year gasoline-fueled light-duty vehicles shall not exceed:

(i) *Hydrocarbons.* 6.0 grams per test.

(2) The standard set forth in paragraph (b)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in subpart B of this part and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1979 and later model year gasoline-fueled light-duty vehicle.

8. By revising paragraphs (b)(1)(v) and (b)(1)(vii)(D) of § 86.079-24 to read as follows:

§ 86.079-24 Test vehicles and engines.

* * * * *

(b) * * *
(1) * * *
(v) The Administrator may select one additional vehicle for each engine-system combination with which a manufacturer chooses to demonstrate compliance with applicable emission standards at high altitude.

* * * * *

(vii) * * *
(D) The Administrator may also select one additional vehicle for each evaporative emission control system within each evaporative family for those vehicles with which the manufacturer chooses to demonstrate compliance with applicable emission standards at high altitude.

* * * * *

9. By revising paragraph (a)(1), adding paragraph (a)(1)(i), deleting and reserving paragraphs (a)(4) and (a)(6), and by amending the first sentence of paragraph (a)(5) of § 86.079-30 as follows:

§ 86.079-30 Certification.

(a)(1) If, after a review of the test reports and data submitted by the manufacturer, data derived from any inspection carried out under § 86.078-7(c), and any other pertinent data or information, the Administrator determines that a test vehicle(s) (or test engine(s)) meet(s) the requirements of the Act and of this subpart, he will issue a certificate of conformity with respect to such vehicle(s) (or engine(s)) except in cases covered by paragraph (c) of this section.

(i) Each certificate of conformity shall state the altitude(s) at which the vehicle(s) covered by the certificate has demonstrated compliance with the applicable emission standards.

* * * * *

(4) [Reserved]

(5) The counties identified below have substantially all of their area located above 1,219 meters (4,000 ft):

* * * * *

(6) [Reserved]

* * * * *

10. By revising paragraphs (a)(1)(iii)(D) and (a)(1)(iii)(F) of § 86.079-35 as follows:

§ 86.079-35 Labeling.

(a) * * *
(1) * * *
(iii) * * *

(D) Engine tuneup specifications and adjustments, as recommended by the manufacturer to the ultimate purchaser, including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable) as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air-conditioner), if any, should be in operation. If a manufacturer provides tuneup specifications and adjustments for his vehicle for operation at an altitude other than that at which compliance was demonstrated, e.g., adjustments for operation below 1,219 meters for vehicles which demonstrated compliance at elevations above 1,219 meters, the manufacturer may either include these specifications and adjustments on his engine compartment label, or may indicate on the label where these adjustments might be found, i.e., by reference to the owner's manual or shop manual.

* * * * *

(F) The altitude at which the vehicle has demonstrated compliance with the applicable emission standards as specified by the certificate of conformity issued under § 86.079-30. (An example of an acceptable statement is: "Compliance demonstrated above/below 4,000 feet.")

* * * * *

11. By revising paragraphs (c)(1) and (d)(1) and by deleting and reserving paragraphs (c)(2), (c)(3), and (d)(2) of § 86.079-38 as follows:

§ 86.079-38 Maintenance instructions.

* * * * *

(c) *For gasoline-fueled light-duty vehicles and light-duty trucks.* (1) Such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.079-25(a) and shall explain the conditions under which EGR system and catalytic converter maintenance are to be performed (e.g., what type of warning device is being employed and whether the device is activated by component failure or the need for periodic maintenance).

(2) [Reserved]

(3) [Reserved]

(d) *For diesel light-duty vehicles and light-duty trucks.* (1) Such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 86.079-25(a) and shall explain the conditions under which EGR system and catalytic converter maintenance are to be performed (e.g., what type of warning device is being employed and whether the device is activated by component failure or the need for periodic maintenance).

(2) [Reserved]

* * * * *

12. By adding a new section § 86.080-8 which reads as follows:

§ 86.080-8 Emission standards for 1980 light-duty vehicles.

(a) (1) Exhaust emissions from 1980 and later model year light-duty vehicles shall not exceed:

(i) *Hydrocarbons.* 0.41 gram per vehicle mile.

(ii) *Carbon monoxide.* 7.0 grams per vehicle mile.

(iii) *Oxides of nitrogen.* 2.0 grams per vehicle mile.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in subpart B of this part and measured and calculated in accordance with those procedures.

(b) (1) Fuel evaporative emissions from 1980 and later model year gasoline-fueled light-duty vehicles shall not exceed:

(i) *Hydrocarbons.* 6.0 grams per test.

(2) The standard set forth in paragraph (b)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in subpart B of this part and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1980 and later model year gasoline-fueled light-duty vehicle.

13. By revising paragraphs (b)(1)(v) and (b)(1)(vii)(D) of § 86.080-24 to read as follows:

§ 86.080-24 Test vehicles and engines.

* * * * *

1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights,

FOR FURTHER INFORMATION CONTACT:

Guidelines Division, 401 M Street SW., Washington, D.C. 20460, 202-426-2560.

Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

In consideration of the above 40

Issued in Washington, D.C., on September 15, 1978.

§ 86.080–24 Test vehicles and engines.

* * * * *

(b) * * *

(1) * * *

(v) The Administrator may select one additional vehicle for each engine-system combination with which a manufacturer chooses to demonstrate compliance with applicable emission standards at high altitude.

* * * * *

(vii) * * *

(D) The Administrator may also select one additional vehicle for each evaporative emission control system within each evaporative family for those vehicles with which the manufacturer chooses to demonstrate compliance with applicable emission standards at high altitude.

* * * * *

(Secs. 202, 206, 301(a), Clean Air Act as amended (42 U.S.C. 7521, 7524, 7601(a)).)

[FR Doc. 78-26669 Filed 9-22-78; 8:45 am]

[6560-01]

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 972-1]

PART 409—SUGAR PROCESSING POINT SOURCE CATEGORY

Reinstatement of Suspension

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule.

SUMMARY: This notice reinstates the suspension of the interim final effluent limitations for existing sources for the Hilo-Hamakua coast of the island of Hawaii raw cane sugar processing subcategory (subpart F of part 409). The interim final regulations were published at 40 FR 8498, February 27, 1975, and the notice of suspension at 42 FR 3164, January 17, 1977. The purpose of the extension is to allow the agency additional time to reevaluate effluent limitations to be achieved by the application of the best practicable control technology currently available for subpart F.

DATE: The suspension is being extended to May 30, 1979. Comments must be received on or before October 25, 1978.

ADDRESS: Send comments to: Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, Attention: Distribution Officer (WH-552).

FOR FURTHER INFORMATION CONTACT:

Harold B. Coughlin, U.S. Environmental Protection Agency, Effluent Guidelines Division, 401 M Street SW., Washington, D.C. 20460, 202-426-2560.

SUPPLEMENTARY INFORMATION: On January 17, 1977, the Hilo-Hamakua coast of the island of Hawaii raw cane sugar processing subcategory (40 CFR, Part 409.62, Subpart F) of the sugar processing point source category was suspended until March 1, 1978. This was done to allow the Agency to reevaluate the technical bases for the interim final effluent limitations to be achieved by the application of best practicable control technology currently available for subpart F.

Interested persons were requested to submit written comments pertaining to subpart F by July 1, 1977.

The suspended regulation for the three plants in the subcategory was not reevaluated during the suspension period. Data pertaining to the Hilo-Hamakua coast cane sugar processing subcategory were not provided by industry as expected. However, such data are expected to be available by September 1978. In addition, reports on an EPA engineering evaluation of all plants in subpart F are not expected to be complete for several weeks. Further, EPA regional efforts are underway to help collect and evaluate data relative to subpart F. While the three plants affected by this suspension have permits which expire in September 1978, the State of Hawaii is expected to reissue these permits for a short term with an expiration date of November 1979. In consideration of the above, it is appropriate that the suspension of subpart F be continued to allow for full consideration of the forthcoming information. The suspension is being extended to May 30, 1979, to allow time for evaluation of data and promulgation of regulations.

Interested persons are encouraged to submit written comments pertaining to this notice. Data forwarded by industry should detail in-plant operation, type of cane harvesting, the treatment of waste water effluent, and associated costs for each of the three plants in subpart F. This data need not include the information on the three plants submitted to EPA by industry as a result of the written request made by region IX on July 31, 1978. Comments should be submitted in writing to the Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, Attention: Distribution Officer (WH-552). All comments received on or before October 26, 1978, will be considered and included in the administrative record.

A copy of all public comments will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

In consideration of the above 40 CFR, Part 409.62, the Hilo-Hamakua coast of the island of Hawaii raw cane sugar processing subcategory (subpart F) of the sugar processing point source category is suspended until May 30, 1979.

Dated: September 15, 1978.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 78-26812 Filed 9-22-78; 8:45 am]

[4310-84]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT

Appendix—Public Land Orders

[Public Land Order 5646 OR-15001]

OREGON

Transfer of Jurisdiction: Addition to Siuslaw National Forest

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: The Act of December 22, 1974, Pub. L. 93-535, 88 Stat. 1732, 16 U.S.C. 541, established the Cascade Head Scenic-Research Area and extended the boundaries of the Siuslaw National Forest to include the lands in the area not already in the national forest. The Act directs that administrative jurisdiction over the area should be with the Secretary of Agriculture and provides that any Federal property located on lands within the new boundary of the forest may be, with the approval of the agency having custody, transferred to the administrative jurisdiction of the Secretary of Agriculture and added to the forest. This public land order transfers jurisdiction over certain lands from the Secretary of the Interior to the Secretary of Agriculture, and the lands become a part of the Siuslaw National Forest.

EFFECTIVE DATE: September 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Eldon G. Hayes, 202-343-8731.

Pursuant to section 4(b) of the Act of December 22, 1974, 88 Stat. 1733, 16 U.S.C. 541, which established the Cascade Head Scenic-Research Area, and by virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public lands lying within the boundaries of the Cascade Head Scenic-Research Area, is hereby transferred from the Secretary of the Interior to the administrative jurisdiction of the Secretary of Agriculture:

WILLAMETTE MERIDIAN

T. 6 S., R. 11 W.,
Sec. 14, lots 1, 2, 11;
Sec. 15, lot 15;
Sec. 23, lots 13 and 33;
Sec. 24, lots 34, 35, 36;
Sec. 25, lot 34;
Sec. 26, lots 12 and 13;
Sec. 27, lot 15.

Containing 118.46 acres in Tillamook and Lincoln Counties.

2. Subject to valid existing rights, the above described lands are hereby made a part of the Siuslaw National Forest and shall hereafter be subject to all laws and regulations applicable thereto.

3. Section 7 of the Act of December 22, 1974, withdraws the lands described in paragraph 1 from the mining and mineral leasing laws.

GUY R. MARTIN,
Assistant Secretary of the Interior.

SEPTEMBER 14, 1978.

[FR Doc. 78-26899 Filed 9-22-78; 8:45 am]

[4910-62]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 32; Amdt. 85-1]

PART 85—CARGO SECURITY ADVISORY STANDARDS

PART 101—OFFICE OF TRANSPORTATION SECURITY—CARGO SECURITY ADVISORY STANDARDS

Miscellaneous Amendments

AGENCY: Department of Transportation.

ACTION: Final rule; redesignation.

SUMMARY: A recent reorganization of the Department of Transportation resulted in transferring some functions of the Office of the Secretary to a new Research and Special Programs Administration (RSPA). This amendment effectuates the necessary changes to the Code of Federal Regulations.

EFFECTIVE DATE: September 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Evan C. Braude, Office of the Chief Counsel, Research and Special Programs Administration, Department of Transportation, Washington, D.C. 20590, 202-755-4972.

SUPPLEMENTARY INFORMATION: The establishment of RSPA created a need to provide space in Title 49, Code of Federal Regulations, for present and future rulemaking. RSPA has determined that the most appropriate place is within chapter I of subtitle B of 49 CFR, since this is where the regulations of RSPA's largest unit, the Materials Transportation Bureau, are exclusively located.

In addition, the Office of Transportation Security, which is responsible for developing and issuing the Department's cargo security advisory standards, was transferred from the Office of the Secretary of Transportation to RSPA's Transportation Programs Bureau; the regulations governing issuance of the advisory standards as well as the advisory standards themselves must be moved from subtitle A of 49 CFR to chapter I of subtitle B. This change can be accomplished by redesignating part 85, where the cargo security advisory standards were located, as part 101 of chapter I of subtitle B, renumbering its sections accordingly, and retitling it "Office of Transportation Security—Cargo Security Advisory Standards."

The reorganization also prompted changes in titles of offices and officers (e.g., Assistant General Counsel for Materials Transportation Law is now Chief Counsel of RSPA), which must be reflected in the CFR. Published elsewhere in today's FEDERAL REGISTER is an RSPA document effectuating these changes.

Since this amendment relates to departmental management, procedures, and practice, notice and public procedure on it are unnecessary and it may be made effective in fewer than 30 days after publication in the FEDERAL REGISTER.

The person principally responsible for drafting this document is Robert I. Ross, an attorney in the General Counsel's Office.

PART 85—[REDESIGNATED AS PART 101 AND RETITLED]

In consideration of the foregoing, subtitle A and chapter I of subtitle B of title 49, Code of Federal Regulations, are amended by redesignating part 85 as part 101 and retitling it "Office of Transportation Security—Cargo Security Advisory Standards."

(Sec. 9(e), Department of Transportation Act (49 U.S.C. 1657(e).)

Issued in Washington, D.C., on September 15, 1978.

BROCK ADAMS,
Secretary of Transportation.

[FR Doc. 78-26829 Filed 9-22-78; 8:45 am]

[4910-60]

CHAPTER I—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, TRANSPORTATION PROGRAMS BUREAU, MATERIALS TRANSPORTATION BUREAU

[Docket No. HM-165; Amdt. Nos. 101-1, 102-1, 106-1, 107-4]

Redesignation and Revision

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

ACTION: Final rule: Redesignation and revision.

SUMMARY: The recent reorganization of the Department of Transportation (DOT) created the Research and Special Programs Administration (RSPA). Therefore, redesignation and minor technical revisions of chapter I of title 49 CFR and its several parts is appropriate and necessary to conform to the DOT reorganization, and to allow for future rulemaking.

EFFECTIVE DATE: September 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Evan Braude, Office of the Chief Counsel, Research and Special Programs Administration, Department of Transportation, Washington, D.C. 20590, 202-755-4972.

SUPPLEMENTAL INFORMATION: The creation of the RSPA and its three bureaus created a need to provide space in title 49, Code of Federal Regulations, for present and future rulemaking. The RSPA has determined that chapter I, 49 CFR is the logical and appropriate CFR unit since the largest of the RSPA units, the Materials Transportation Bureau (MTB), is presently and exclusively located within this chapter.

In addition, it was determined that only minor disruption would ensue from the transferring of part 102 and the renaming of chapter I, its subchapters and parts.

All of these changes can be accomplished by the following actions:

1. Chapter I, entitled "Materials Transportation Bureau, Department of Transportation," is retitled "Research and Special Programs Administration, Department of Transportation."

2. Subchapter A, entitled "Office of the Director, Materials Transportation Bureau," is retitled "Transportation

176	Carriage by vessel.
177	Carriage by public highway.
178	Shipping container specifications.

§ 101.7 [Amended]

6. In § 101.7(a) (formerly § 85.7), the

(c) Associate Director, Office of Operations and Enforcement.

(4) The Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq.

107.107	107.115 (a), (b), and (c)
107.109 (a), (b), (c), (d), and (e)	107.117(a)

2. Subchapter A, entitled "Office of the Director, Materials Transportation Bureau," is retitled "Transportation Programs Bureau."

3. Part 102, entitled "Rulemaking procedures," is redesignated part 106.

4. Subchapter B, entitled "Hazardous Materials" and including parts 106–169, is retitled "Materials Transportation Bureau, Department of Transportation," and included parts 106–109.

5. Part 107, entitled "Procedures," is retitled "Hazardous Materials Program Procedures."

6. Subchapter C, which includes parts 170–189, is expanded to include parts 110–189.

The reorganization also prompted changes in titles of offices and officers (e.g., Assistant General Counsel for Materials Transportation Law is now Chief Counsel of RSPA), which must be reflected in the CFR.

Section 107.125 has been deleted since it is no longer timely and references a part of title 14 which has been previously incorporated in title 49 CFR, parts 170–179.

The Secretary of Transportation by separate document and published in today's FEDERAL REGISTER is transferring part 85 of subtitle A, title 49 to part 101 of chapter I of subtitle B, title 49.

The following table of contents for revised Chapter I, 49 Code of Federal Regulations, is printed for clarification:

CHAPTER I—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION (PARTS 100–199)

SUBCHAPTER A—TRANSPORTATION PROGRAMS BUREAU

Part
100 [Reserved]
101 Office of Transportation Security—Cargo security advisory standards.
102–105 [Reserved]

SUBCHAPTER B—MATERIALS TRANSPORTATION BUREAU

106 Rulemaking procedures.
107 Hazardous materials program procedures.
108–109 [Reserved]

SUBCHAPTER C—HAZARDOUS MATERIALS REGULATIONS

110–170 [Reserved]
171 General information, regulations, and definitions.
172 Hazardous materials table and hazardous materials communications regulations.
173 Shippers—General requirements for shipments and packagings.
174 Carriage by rail.
175 Carriage by aircraft.
176 Carriage by vessel.
177 Carriage by public highway.
178 Shipping container specifications.
179 Specifications for tank cars.
180–189 [Reserved]

SUBCHAPTER D—PIPELINE SAFETY

190 Interim minimum Federal safety standards for the transportation of natural and other gas by pipeline.
191 Transportation of natural and other gas by pipeline; reports of leaks.
192 Transportation of natural and other gas by pipeline: Minimum Federal safety standards.
195 Transportation of liquids by pipeline.
196–199 [Reserved]

Since these amendments are merely technical and editorial and relate to departmental management, procedures, and practice, notice and public procedure are unnecessary and they may be made effective in fewer than 30 days after publication in the FEDERAL REGISTER.

The person principally responsible for drafting this document is Evan Braude, an attorney in the Chief Counsel's Office of the Research and Special Programs Administration.

In consideration of the foregoing, chapter I of subtitle B, title 49 is amended as follows:

1. The heading of chapter I is revised to read as follows:

CHAPTER I—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

2. The heading of subchapter A is revised to read as follows:

SUBCHAPTER A—TRANSPORTATION PROGRAMS BUREAU

PART 101—OFFICE OF TRANSPORTATION SECURITY—CARGO SECURITY ADVISORY STANDARDS

§ 101.1 [Amended]

3. In § 101.1, paragraph (b) (formerly § 85.1), the words "Office of the Secretary" are changed to read "Research and Special Programs Administration, Department of Transportation."

4. In § 101.1, paragraph (b) (formerly § 85.1), the definition of "Secretary" is deleted and the following is substituted:

"Administrator" means the administrator of the Research and Special Programs Administration.

§ 101.3 [Amended]

5. In § 101.3 (formerly § 85.3), the word "Secretary" is changed to read "Administrator."

§ 101.7 [Amended]

6. In § 101.7(a) (formerly § 85.7), the words "Office of the Secretary" are changed to read "Research and Special Programs Administration, Department of Transportation," and the words "Department of Transportation" are changed to read "Research and Special Programs Administration, Department of Transportation."

§ 101.11 [Amended]

7. In § 101.11 (formerly § 85.11), paragraph (b)(1), the words "General Counsel, Department of Transportation" are changed to read "Chief Counsel, Research and Special Programs Administration, Department of Transportation."

§§ 101.7, 101.13, 101.31 and 101.33 [Amended]

8. The words "General Counsel" are changed to read "Chief Counsel" each time they appear in the following sections:

101.7(a) (formerly 85.7(a))	101.31 (formerly 85.31)
101.13 (formerly 85.13)	101.33 (formerly 85.33)

9. Subchapter B heading entitled "Hazardous Materials" is revised to read as follows:

SUBCHAPTER B—MATERIALS TRANSPORTATION BUREAU

PART 106—RULEMAKING PROCEDURES

10. Part 102 entitled "Rulemaking Procedures" is redesignated as part 106 in its entirety. Therefore, any present reference to part 102 or its subparts is revised to conform to the redesignation. Further, part 102 will return to the status of being reserved.

11. "Authority" for former part 102 (now part 106) is revised as follows:

AUTHORITY: R.S. 4472(7) (46 U.S.C. 170(7)); sec. 902(h)(1), Pub. L. 85-726, 72 Stat. 784 (49 U.S.C. 1472(h)(1)), sec. 3, Pub. L. 90-481, 82 Stat. 720 (49 U.S.C. 1672); sec. 105, Pub. L. 93-633, 88 Stat. 2157 (49 U.S.C. 1804); sec. 21(a), Pub. L. 93-627, 88 Stat. 2146 (33 U.S.C. 1520) (18 U.S.C. 831-835) (49 CFR 1.45 and 1.53 and app. A of part I), Pub. L. 89-670 (49 U.S.C. 1653(d), 1655, 1657(e)).

12. Section 106.3 (formerly 102.3), paragraphs (a) and (b) are revised; paragraph (c) is added to read as follows:

§ 106.3 Delegations.

* * * * *

(a) Associate Director, Office of Hazardous Materials Regulation.

(b) Associate Director, Office of Pipeline Safety Regulation.

(c) Associate Director, Office of Operations and Enforcement.

§§ 106.27, 106.29, 106.33 and 106.37 [Amended]

13. The words "General Counsel" are changed to read "Chief Counsel" each time they appear in the following sections:

106.27(c) (formerly 102.27(c))	106.33(d) (formerly 102.33(d))
106.29 (formerly 102.29)	106.37(a) (formerly 102.37(a)).

14. Appendix A of part 106 is revised as follows;

Pursuant to § 106.3, the following officials of the Materials Transportation Bureau are authorized dto conduct rulemaking proceedings under this part, as specified in this appendix.

(a) The Associate Director, Office of Hazardous Materials Regulation, is authorized to conduct all rulemaking proceedings, except the issuance of final rules and the grant or denial of petitions for reconsideration and as provided by paragraph (c) of this appendix, under:

(1) Chapter 39 of title 18, United States Code, as it relates to hazardous materials;

(2) R.S. 4472(7), 46 U.S.C. 170(7), except to the extent it relates to: (i) Ship's stores and supplies, or (ii) the bulk transportation of hazardous materials which are loaded or carried onboard a vessel without benefit of containers or labels, and received and handled by the vessel without mark or count;

(3) Section 902(h)(1) of the Federal Aviation Act, as amended, 49 U.S.C. 1472(h)(1); and

(4) The Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq., except to the extent it relates to: (i) Ship's stores or supplies, (ii) the bulk transportation of hazardous materials which are loaded or carried onboard a vessel without benefit of containers or labels, and received and handled by the vessel without mark or count, or (iii) pipelines.

(b) The Associate Director, Office of Pipeline Safety Regulation, is authorized to conduct all rulemaking proceedings, except issuance of final rules and the grant or denial of petitions for reconsideration, and as provided by paragraph (c) of this appendix, under:

(1) Chapter 39 of title 18, United States Code, as it relates to pipelines;

(2) The Natural Gas Pipeline Safety Act of 1968, as amended, 49 U.S.C. 1671 et seq.;

(3) Section 21(a) of the Deepwater Port Act of 1974, 33 U.S.C. 1520(a); and

(4) The Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq., as it relates to pipelines.

(c) The Associate Director, Office of Operations and Enforcement, is authorized to conduct all proceedings relating to enforcement and preemption matters except issuance of final rules and the grant or denial of petitions for reconsideration, under:

(1) Chapter 39 of title 18, United States Code, as it relates to operations and enforcement;

(2) The Natural Gas Pipeline Safety Act of 1968, as amended, 49 U.S.C. 1671 et seq.;

(3) Section 21(a) of the Deepwater Port Act of 1974, 33 U.S.C. 1520(a); and

(4) The Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq.

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

15. The heading of part 107 is revised to read as set forth above.

16. "Authority" for part 107 is revised as follows:

AUTHORITY: 18 U.S.C. 831-835; 46 U.S.C. 170(11); 49 U.S.C. 1421(c); 49 U.S.C. 1802, 1806, 1808-1811; 49 CFR 1.45 and 1.53 and app. A of part 1, Pub. L. 89-670 (49 U.S.C. 1653(d), 1655, 1657(e)).

17. Section 107.1 paragraph (a) is revised to read as follows:

§ 107.1 Purpose and scope.

(a) This part prescribes procedures utilized by the Materials Transportation Bureau, the Office of Hazardous Materials Regulation and the Office of Operations and Enforcement in carrying out their duties under the laws pertaining to the transportation of hazardous materials.

18. Section 107.3 is amended by changing "OHMO" to read "OHMR"; the definitions of "OHMR" and "Respondent" are revised; "OOE" is added to read as follows:

§ 107.3 Definitions.

* * * * *

"OHMR" means the Office of Hazardous Materials Regulation.

"OOE" means the Office of Operations and Enforcement.

"Respondent" means a person upon whom the OOE has served a notice of probable violation.

* * * * *

§ 107.5, 107.7, 107.9, 107.119, 107.121, 107.333, and 107.373 [Amended]

19. The letters "OHMO" are changed to read "OHMR or OOE" each time they appear in the following sections:

107.5 (a) and (b)	107.121
107.7 (a) and (c)	107.333
107.9(f)	107.373
107.119 (b) and (c)	

§ 107.9 [Amended]

20. The letters "OHMO" are changed to read "OHMR" in § 107.9(a).

§§ 107.103, 107.107, 107.109, 107.111, 107.113, 107.115, 107.117, 107.119, and 107.123 [Amended]

21. The words "Director, OHMO" are changed to read "Associate Director, OHMR" each time they appear in the following sections:

107.103 (a) and (c)	107.113(c)
107.107	107.115 (a), (b), and (c)
107.109 (a), (b), (c), (d), and (e)	107.117(a)
107.111 (a), (c), and (d)	107.119(d)
	107.123(b)

§§ 107.119, 107.121, 107.201, 107.207, 107.209, 107.219, 107.221, 107.311, 107.313, 107.315, 107.319, 107.347, 107.351. 107.353, and 107.355 [Amended]

22. The word "Director" is changed to read "Associate Director of" each time it appears in the following sections:

107.119 (b) and (c)	107.313 (a), (b), and (b)(1)
107.121	107.315(a)
107.201(d)	107.319 (a), (c), and (d)
107.207 (a) and (b)	107.347(c)
107.209 (a), (b), and (c)	107.351(d)
107.219 (a), (b), and (c)	107.353 (a), (b), and (c)
107.221 (a), (b), and (d)	107.355(a)
107.311 (e) and (f)	

§§ 107.201, 107.203, 107.205, 107.207, 107.209, 107.215, 107.217, 107.219, 107.223, 107.301, 107.303, 107.305, 107.307, 107.309, 107.311, 107.313, 107.315, 107.341, 107.343, 107.345, 107.347, 107.351, 107.353, and 107.355 [Amended]

23. The letters "OHMO" are changed to read "OOE" each time they appear in the following sections:

107.201(d)	107.307
107.203(a)	107.309 (a) and (c)
107.205 (a) and (c)	107.311 (a), (e), and (f)
107.207 (a) and (b)	107.313 (a) and (b)
107.209 (a), (b), (c), and (e)	107.315 (a) and (c)
107.215(a)	107.341
107.217 (a), (b)(2), (c), (d), and (e)	107.345
107.219 (a), (b), (c), and (d)	107.347 (b) and (c)
107.223	107.351 (a), (b), (c), and (d)
107.301(e)	107.353 (a), (b), and (c)
107.303	107.355 (a) and (c)
107.305 (a), (b), (c), (d), and (e)	

§ 107.117 [Amended]

24. The letters "OHMO" in § 107.117(b) are changed to read "OHMR or MTB."

§ 107.331 [Amended]

25. The letters "OHMO" appear twice in § 107.331. The first reference to "OHMO" is changed to read "OHMR or OOE." The second reference to "OHMO" is changed to read "OOE."

§§ 107.103, 107.105, 107.111, and 107.123 [Amended]

26. The words "Office of Hazardous Materials Operations" are changed to read "Office of Hazardous Materials

Regulation" each time they appear in the following sections:

107.307	107.311 (a), (e), and (f)
107.309 (a) and (c)	107.313 (a) and (b)

§ 107.373 Referral for prosecution.

If an inspector or other employer of

[4910-59]

hunting of Tewaukon National Wildlife Refuge is compatible with the objectives for which the area was estab-

[3510-22]

At its 30th annual meeting held in London, June 26-30, 1978, the IWC agreed on annual amendments to the

Regulation" each time they appear in the following sections:

107.103(b)(1)
107.105(a)(1) 107.111(b)(1)
107.123(a)

§§ 107.203 and 107.215 [Amended]

27. The words "Office of Hazardous Materials Operations" are changed to read "Office of Operations and Enforcement, Materials Transportation Bureau," each time they appear in the following sections:

107.203(b)(1) 107.215(b)(1)

§§ 107.13, 107.349, and 107.373 [Amended]

28. The words "Assistant General Counsel for Materials Transportation Law" are changed to read "Chief Counsel, Research and Special Programs Administration" each time they appear in the following sections:

107.13(a) 107.373
107.349(a)

§§ 107.349 and 107.373 [Amended]

29. The words "Assistant General Counsel" are changed to read "Chief Counsel" each time they appear in the following sections:

107.349(b) 107.373

§ 107.101, 107.105, and 107.113 [Amended]

30. The words "14 CFR Part 103, or" are deleted from §§ 107.101, 107.105(d), and 107.113(a).

31. In § 107.103 the introductory text of paragraph (a) is revised to read as follows:

§ 107.103 Application for exemption.

(a) Any person who is subject to the requirements of this subchapter, subchapter C of this chapter, 46 CFR part 64 or part 146 may apply to the Associate Director, OHMR, for an exemption from those requirements.

* * * * * *

§ 107.125 [Deleted]

32. Section 107.125 is deleted.

33. Section 107.205(b) is revised to read as follows:

§ 107.205 Notice.

* * * * * *

(b) The OOE may be serving notice on any other persons readily identifiable by either the OHMR or OOE as persons who will be affected by the ruling sought or by publication in the FEDERAL REGISTER afford those persons an opportunity to file written comments on the application.

* * * * * *

34. Section 107.373 is revised to read as follows:

§ 107.373 Referral for prosecution.

If an inspector or other employer of the OHMR or the OOE becomes aware of a possible willful violation of the Act, this chapter or subchapter C of this chapter for which the OOE exercises enforcement responsibility, he reports it to the Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, D.C. 20590. If appropriate, the Chief Counsel refers the report to the Department of Justice for criminal prosecution of the offender.

35. Appendixes A and B to part 107 which now appear at the end of the part are relocated to appear at the end of subpart B.

36. In appendix B to part 107, the reference "§ 173.427" in paragraph (2) is changed to read "§ 172.203."

37. Parts 110–169 are presently reserved and their status will remain the same, however, they are removed from subchapter B and redesignated as part of Subchapter C—Hazardous Materials Regulations.

(Pub. L. 89-670 (49 U.S.C. 1653(d), 1655, 1657(e)) (18 U.S.C. 331-835; 49 CFR 1.45 and 1.53.)

Issued in Washington, D.C., on September 15, 1978.

JOHN D. HODGE,
Acting Administrator, Research and Special Programs Administration.

[FR Doc. 78-26828 Filed 9-22-78; 8:45 am]

[1505-01]

SUBCHAPTER D—PIPELINE SAFETY

[Amdt. 192-31; Docket No. OPSO-42]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE

Design of Plastic Pipelines

Correction

In FR Doc. 78-8757 appearing at page 13880 in the issue for Monday, April 3, 1978, in the middle column of page 13883, the formula appearing in § 192.121 should have read as set forth below:

$$P = 2S \frac{t}{(D-t)} \times 0.32$$

P = Design pressure, gage, kPa (psi)
S = For thermoplastic pipe the long-term hydrostatic strength determined in accordance with the listed specification at a temperature equal to 23°C (73°F), 38°C (100°F), 49°C (120°F), or 60°C (140°F); for reinforced thermosetting plastic pipe, 75,800 kPa (11,000 psi)

[4910-59]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-16; Notice 23]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Air Brake Systems; Correction

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Correction.

SUMMARY: This notice corrects FR Doc. No. 78-24903, appearing at page 39390 in the issue of Tuesday, September 5, 1978, which amended certain test procedures and conditions in air brake standard No. 121 in response to a court remand. The date for filing petitions for reconsideration of the amendments was stated incorrectly and should have read "October 5, 1978" to provide the 30-day period specified in NHTSA regulations.

DATES: The correct date for filing petitions for reconsideration is October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Tad Herlihy, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-9511.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on: September 19, 1978.

MICHAEL FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-26911 Filed 9-22-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—HUNTING—ARCHERY DEER

Open Part of Tewaukon National Wildlife Refuge, North Dakota, to Public Hunting of Archery Deer

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to public hunting of Tewaukon National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource and will provide additional recreational opportunity to the public.

DATES: November 27, 1978 through December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Forrest W. Cameron, Refuge Manager, Tewaukon National Wildlife Refuge, Cayuga, N. Dak. 58013, 701-724-3598.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game for individual wildlife refuge areas.

Public bow hunting of deer on part of the Tewaukon National Wildlife Refuge, North Dakota, is permitted from November 27, 1978, through December 31, 1978, only on that part of the refuge which lies west of Sargent County Road No. 12 and also is permitted on the Sprague Lake area of Tewaukon National Wildlife Refuge. These areas are delineated on maps available at refuge headquarters and from the office of the Area Manager, Box 1897, Bismarck, N. Dak. 58501. Hunting shall be in accordance with all applicable State and refuge regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 18, 1978.

FORREST W. CAMERON,
Refuge Manager.

[FR Doc. 78-26811 Filed 9-22-78; 8:45 am]

[3510-22]

CHAPTER III—INTERNATIONAL REGULATORY AGENCIES (FISHING AND WHALING)

PART 351—WHALING

Subpart B—International Whaling Commission

CURRENT SCHEDULE

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: This final rule consists of an amendment to the Schedule of the International Convention for the Regulation of Whaling, 1946 ("Convention"). This amendment increases the quota for the taking of the Bering Sea stock of bowhead whales for calendar year 1978 from 12 landed or 18 struck, whichever occurs first, to 14 landed or 20 struck, whichever occurs first. This amendment was made by the International Whaling Commission at its annual meeting held in London on June 26-30, 1978.

DATES: This regulation will be effective at noon, October 19, 1978.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Marine Mammals and Endangered Species Division, National Marine Fisheries Service, 300 Whitehaven Street NW., Washington, D.C. 20235, telephone 202-634-7461.

SUPPLEMENTARY INFORMATION: Pursuant to section 916k of the Whaling Convention Act, 16 U.S.C. 916 et seq., the schedule to the convention is implemented domestically through its publication in the FEDERAL REGISTER. The Schedule adopted by the International Whaling Commission (the "IWC") in June 1977, and amended at a special meeting on December 6-8, 1977, is published at 43 FR 9481 (March 8, 1978).

At its 30th annual meeting held in London, June 26-30, 1978, the IWC agreed on annual amendments to the schedule. Under the provisions of the Convention, in the absence of an objection by any contracting government, these amendments will become effective at noon, October 19, 1978.

One of the schedule amendments adoped at the 30th annnual meeting increased the quota for the taking of the Bering Sea stock of bowhead whales for calendar year 1978 from 12 landed or 18 struck, whichever occurs first, to 14 landed or 20 struck, whichever occurs first. This regulation is a verbatim recitation of the pertinent portions of that schedule amendment.

Regulations under the Whaling Convention Act which implement this amendment to the schedule are being published concurrently with this regulation. Those regulations appear in 50 CFR, Part 230.

Dated: September 19, 1978.

TERRY LEITZELL,
Assistant Administrator for Fisheries.

Section 351.36 is revised to read as follows:

§ 351.36 Limitations on the taking of humpback, gray, and bowhead whales.

(a) Notwithstanding the provisions of § 351.34, the taking of 10 humpback whales not below 35 feet (10.7 meters) in length per year is permitted in Greenland waters: *Provided*, That whale catchers of less than 50 gross register tonnage are used for this purpose, and the taking of gray whales, and of bowhead whales from the Bering Sea stock, by aborigines or a contracting government on behalf of aborigines is permitted, but only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines and further provided, with respect to the Bering sea stock of bowhead whales that:

(1) In 1978, hunting shall cease when either 20 have been struck or 14 landed.

(2) It is forbidden to strike, take, or kill calves or any bowhead whale accompanied by a calf.

[FR Doc. 78-26904 Filed 9-22-78; 8:45 am]

proposed rules

sence, considers wraparound loans similar to refinanced loans. However, the proposal requires that in order for

DRAFTING INFORMATION

The principal drafters of this docu-

Examples of permanent structures contributing substantially to the value of the property, other than conven-

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[4810-33]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 7]

LOANS SECURED BY REAL ESTATE

Notice of Proposed Rulemaking

AGENCY: Comptroller of the Currency.

ACTION: Proposed rule.

SUMMARY: This proposed amendment supplements an earlier proposal published in February 1978 (43 FR 6801) relating to loans by national banks which are secured by real estate. After taking into consideration the comments received in response to the February proposal, the Comptroller is (1) reproposing certain rulings for further comment and (2) proposing for initial comment certain rulings relating to areas not specifically addressed in the earlier proposal. The revisions are necessary in order to conform the Comptroller's interpretive rulings with 12 U.S.C. 371, as amended.

DATE: Written comments must be received on or before November 24, 1978.

ADDRESS: Comments should be addressed to Mr. John E. Shockey, Chief Counsel, Office of the Comptroller of the Currency, Washington, D.C. 20219.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard H. Neiman, Staff Attorney, Office of the Comptroller of the Currency, Washington, D.C. 20219, 202-447-1880.

SUPPLEMENTARY INFORMATION: On February 16, 1978, the Comptroller of the Currency published for comment (43 FR 6801) a proposed amendment to 12 CFR Part 7 to revise selected interpretive rulings relating to loans by national banks which are secured by real estate. These revisions are necessary in order to conform the rulings with the governing statute under which national banks may make real estate loans (12 U.S.C. 371, as amended).

After review of the comments and after further analysis by OCC staff, the Comptroller has decised to: (1) Adopt in final form those rulings which were slightly altered or left unchanged from the February proposal and (2) repropose for comment those rulings which were substantially changed from the February proposal or which were not specifically addressed in the February proposal.

Those rulings which are being adopted in final form appear in the "Rules and Regulations" section of today's FEDERAL REGISTER. Those rulings which are being proposed for comment are discussed below.

DISCUSSION OF PROPOSED RULINGS

LOAN-TO-VALUE RATIO

Several comments in response to the February proposal indicated a degree of confusion about permissible loan-to-value ratios under 12 U.S.C. 371, as amended. For example, it was noted by two writers that neither the statute nor the rulings specified the proportion of appraised value which a bank may advance on loans secured by improved farmland. In order to address these comments and to clarify the loan-to-value ratios set out in 12 U.S.C. 371(a)(1), the Comptroller is now proposing to delete § 7.2020 entitled, "Improved real estate" and adopt a new § 7.2010 entitled, "Loan to value ratios." The new section will incorporate certain portions of § 7.2020 where applicable. The new section will address loans secured by:

(a) Unimproved real estate,

(b) Real estate improved by offsite improvements,

(c) Real estate in the process of being improved by a building or buildings to be constructed or in the process of construction, and

(d) Real estate improved by a building or buildings.

Under the proposed ruling, loans secured by improved farmland will be treated the same as loans secured by real estate improved by a building or buildings, i.e., the loan-to-ralue ratio cannot exceed 90 percent of the appraised value. The appraised value of improved farmland is based upon its value for agricultural purposes.

DEVELOPMENT LOANS

Four comments in response to the February proposal requested either retention of § 7.2020(f) entitled "Development loans" or an interpretation clarifying 12 U.S.C. 371, as amended, with respect to land acquisition and development loans. The Comptroller, after reviewing these comments, is now proposing a new § 7.2015 entitled, "Land acquisition and development loans" interpreting the amended statute in this regard. Under the proposed ruling, national banks will be allowed to make commitments to make acquisition and development loans based upon the appraised value of the final project. However, advances at various stages of construction will be subject to the limitations contained in 12 U.S.C. 371 and § 7.3010, as proposed.

WRAPAROUND LOANS

Although no comments were received in response to the February proposal concerning § 7.2040 entitled "First liens," several questions have arisen regarding application of § 7.2040(r)(2) to "wraparound" mortgages (section 7.2040(c)(2) in the February proposal). The Comptroller is therefore reproposing this section with modifications which specifically address wraparound mortgage transactions.

Generally, a wraparound transaction involves a real estate loan, the face amount of which equals the sum of the outstanding balance on a prior mortgage plus the amount of additional funds, if any, advanced by the wraparound lender. The loan agreement may provide for payment on the prior mortgage to be made through the wraparound lender. If the borrower fails to make payments, either to the wraparound lender or to the prior lienholder, the wraparound lender may, but is not obligated to, make payments on or pay off the prior mortgage. Thus, the second lien mortgage, in effect, wraps around the first mortgage to put the bank in a position substantially similar to that of a first lienholder on the combined amount.

The Comptroller's interpretive ruling 7.2040(d)(2) presently states that a loan secured by a subordinated lien is regarded as a first lien if the bank holds pledged funds equal to the amounts of any prior liens and has the right to pay off the prior liens. The rationale for the ruling is that the bank is in as secure a position as if it has a first mortgage in the amount of its loan plus the amount of all prior liens.

Because the typical wraparound transaction provides approximately the same degree of security as if the bank were in a first lien position, the Comptroller is proposing to modify paragraph (c)(2) of § 7.2040 so as to specifically address wraparound mortgage transactions. The proposal, in essence, considers wraparound loans similar to refinanced loans. However, the proposal requires that in order for the bank to treat the wraparound loan as a "first lien," the bank must be able, at the inception of the loan, to fund the amount advanced to the borrower plus the amount outstanding on prior liens without violating 12 U.S.C. 84, 12 U.S.C. 371, 12 U.S.C. 371c, or any other statute, regulation, or ruling. The proposed ruling does not address the applicability of various State statutes, such as those prohibiting usurious loans.

CONSTRUCTION LOANS

One writer questioned whether § 7.2400 concerning loans made to finance the construction of buildings intended primarily for residential purposes included the construction of apartment buildings. Because apartment buildings are primarily used for residential purposes, the Comptroller has in the past and continues to consider such buildings as residential buildings within the meaning of 12 U.S.C. 371(c). Accordingly, the Comptroller is revising § 7.2400 to clarify this point.

One comment also raised the question whether 12 U.S.C. 371(c) refers only to construction loans for new buildings or whether national banks may treat housing rehabilitation loans as construction loans. In order to clarify any questions arising in this regard, the Comptroller is proposing as paragraph (b) to § 7.2400 and interpretation which states: "For purposes of 12 U.S.C. 371(c), loans, the proceeds of which are used to substantially renovate, remodel, or rehabilitate existing residential structures are considered construction loans."

NONCONFORMING LOANS

Finally, the Comptroller has decided to propose for comment a new § 7.2700 concerning nonconforming loans, a section which did not appear in the February proposal. Under 12 U.S.C. 371(f) national banks are permitted to make loans secured by real estate that do not comply with the limitations and restrictions of 12 U.S.C. 371, so long as the aggregate unpaid amount of nonconforming loans does not exceed 10 percent of the amount that the bank could invest in real estate loans. In order to assist both the bank and the OCC's examining personnel, the Comptroller believes that a bank should at all times know exactly what portion of its real estate loan portfolio is comprised of nonconforming loans. The Comptroller is therefore proposing a new § 7.2700 to require each national bank to maintain records indicating which loans are to be counted against the bank's limit on nonconforming real estate loans.

DRAFTING INFORMATION

The principal drafters of this document were Mr. Richard H. Neiman, attorney, Mr. Andrew J. Levinson, attorney, and Mr. Michael B. Mierzewski, legal clerk.

PROPOSED AMENDMENT

The Comptroller proposes to amend 12 CFR Part 7 by deleting § 7.2020, by adding §§ 7.2010, 7.2015, and 7.2700 and by revising §§ 7.2040 and 7.2400. The proposed rulings read as follows:

§ 7.2010 Loan-to-value ratios.

(a) *Unimproved real estate.* Real estate is unimproved if there are no offsite improvements or substantial and permanent onsite improvements significantly enhancing the value of the property. National banks may make loans secured by unimproved real estate in an amount not to exceed 66⅔ percent of the appraised value of such real estate.

(b) *Real estate improved by offsite improvements.* Offsite improvements are those improvements which substantially enhance the value of otherwise unimproved real estate. Whether an improvement qualifies as an offsite improvement for purposes of 12 U.S.C. 371 is a question of fact to be determined in each case. National banks may make loans upon the security of such real estate in an amount not to exceed 75 percent of its appraised value. Common examples of offsite improvements are: Streets, sewers, water, other utilities, and real property whose value is enhanced because it is located in a rapidly developing area.

(c) *Real estate in the process of being improved by a building or buildings to be constructed or in the process of construction.* National banks may make loans upon the security of such real estate in an amount not to exceed 75 percent of its appraised value. The appraised value may be based upon the value of the completed building or buildings, however, prudent banking requires that the disbursement of loan proceeds be made proportionately to the development of the project. For purposes of 12 U.S.C. 371, a completed building or buildings is defined as a permanent structure contributing substantially to the value of the property. Examples of such are cited in paragraph (d) of this section.

(d) *Real estate improved by building or buildings.* National banks may make loans upon real estate improved by a building or buildings in an amount not to exceed 90 percent of its appraised value. For purposes of 12 U.S.C. 371, a completed building or buildings is defined as a permanent structure contributing substantially to the value of the property.

Examples of permanent structures contributing substantially to the value of the property, other than conventional buildings, within the meaning of paragraphs (c) and (d) are as follows:

(1) A commercial recreation area which may include such amenities as: Numerous campsites, picnic tables, tent bases, toilet facilities, fireplaces, or dockage and a beach;

(2) A trailer park consisting of numerous sites with facilities for sewage, running water, and electricity;

(3) Farmland which is improved. Farmland is improved when it is useful for agricultural purposes without further substantial improvements. Agricultural purposes include animal husbandry as well as the growing of crops. Usefulness for such purposes may be demonstrated either by actual past or present use, by the appraisal of persons familiar with the value of agricultural land or by both. The appraised value of improved farmland is to be based upon its value for agricultural purposes.

The appraised value, for purposes of this ruling, may be based upon the current market value, the cost approach to value, the capitalization of income approach to value or any other acceptable appraisal standard appropriate for the particular type of loan.

§ 7.2015 Land acquisition and development loans.

National banks may make commitments to make acquisition and development loans based upon the appraised value of the final project. Advances at various stages of construction, however, must not exceed the limitations contained in 12 U.S.C. 371 and in 12 CFR 7.2010.

§ 7.2020 [Deleted]

§ 7.2040 First liens.

(a) *General definition.* A first lien on real estate within the meaning of 12 U.S.C. 371 is any lien which grants to the lienholder a claim against the property so secured which is prior to the rights of all others. Such a lien will normally be created by an instrument in the form of a mortgage or deed of trust but may also consist of a judgment which by operation of law creates a lien against certain property of the judgment debtor or a land contract such as that described in 7.2000(c).

(b) *Effect of life estates and similar claims.* A mortgage on the fee simple interest in real estate which is subject to an existing life tenancy or other existing or potential claim whereby under local law the interest of the life tenant or other claimant may vest in whole or in part in a third party free of the mortgage is not an eligible first

lien under 12 U.S.C. 371 unless the third party joins in the mortgage or otherwise agrees to subordinate his interest to the lien of the mortgage. Such an agreement may be implied from the circumstances. For example, a lease which contains a provision that the lessee will not encumber the property without the consent of the lessor is a subordination agreement. Similarly, a lease which contains a provision that the lessee will not encumber the property without the consent of the lessor is a subordination agreement. Similarly, a lease which contains a provision that the lessee will not encumber the property without the consent of the lessor is a subordination agreement.

(c) *Effect of future advances.* Future advances secured by a first lien on real estate are considered first liens if the mortgage or deed of trust or other instrument creating the lien contains a provision that the lien secures future advances. Future advances are considered first liens whether or not the mortgage or deed of trust or other instrument creating the lien contains a provision that the lien secures future advances. Future advances are considered first liens whether or not the mortgage or deed of trust or other instrument creating the lien contains a provision that the lien secures future advances.

(d) *Effect of prior liens.* A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property.

(e) *Effect of subsequent liens.* A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property.

(f) *Effect of subsequent liens.* A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property.

(g) *Effect of subsequent liens.* A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property.

(h) *Effect of subsequent liens.* A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property.

(i) *Effect of subsequent liens.* A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property.

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(k) *Effect of subsequent liens.* A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property.

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(q) *Effect of subsequent liens.* A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property.

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(u) *Effect of subsequent liens.* A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property.

(v) *Effect of subsequent liens.* A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property.

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(x) *Effect of subsequent liens.* A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property.

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(z) *Effect of subsequent liens.* A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property. A first lien on real estate is a lien which is prior to all other liens on the property.

[4910-13]

DEPARTMENT OF TRANSPORTATION

op an alteration which would prevent missequencing of the main landing gear and wheel well doors due to lock

ACTION: Provisional consent agreement.

[Docket No. 9082]

VITAL-E ET AL.

lien under 12 U.S.C. 371 unless the third party joins in the mortgage or otherwise agrees to subordinate his interest in the mortgaged property.

(c) *Effect of certain permitted liens.* (1) A mortgage on real estate will be subject from time to time to various liens, charges, and encumbrances which, although they may be paramount to the bank's security claim in the form of a mortgage, do not substantially affect the value or use of the real estate. Liens for taxes and assessments imposed by a governmental body for the current year, zoning laws and ordinances, construction liens not yet filed or relating to obligations not overdue, permits, rights-of-ways, easements, leases, and encumbrances will not prevent such mortgage from constituting a first lien within the meaning of 12 U.S.C. 371.

(2) A subordinate lien on real estate may be treated as a "first lien" within the meaning of 12 U.S.C. 371 if:

(i) The bank has the right to pay off the prior liens and become a first lienholder; and

(ii) (A) The bank holds funds pledged by or on behalf of the borrower in an amount sufficient to pay off the prior liens; or

(B) (1) The borrower is obligated for all funds advanced by the bank, including any amount advanced to perfect or secure the bank's first lien position; and

(2) The bank, at the inception of the loan, could fund the amount advanced to the borrower plus the amount outstanding on prior liens without violating 12 U.S.C. 84, 12 U.S.C. 371, 12 U.S.C. 371c, or any other statute, regulation, or ruling.

(d) *Exclusion of oil, gas, or mineral rights from lien of mortgage.* A mortgage on the fee title to realty is a first lien despite the fact that the mortgage may expressly provide that it does not cover oil, gas, or mineral rights. This is true regardless of whether the mortgagor has already transferred or mortgaged such rights to a third person or simply retains such rights by excluding them from the lien of the mortgage given to the bank.

(e) *Merger of first and second liens.* If a national bank holds a first and junior mortgage on real estate and there is no intervening lien, the combined mortgages will be regarded as merged into one first lien with the combined indebtedness being considered a single loan when applying the provisions of 12 U.S.C. 371. A lien which arises only upon the bank's election of its remedy under mortgage insurance or guaranty, applicable to the first lien, is not an intervening lien.

(f) *"Cover-all" or "open-end" mortgages.* Mortgages sometime contain a provision that the mortgaged properties shall secure both the loan for which it is given as well as all other present and future indebtedness of the borrower to the bank, i.e., a "cover-all clause," such mortgage being frequently termed an "open-end" mortgage. In such case, the amount of all loans made by the bank in primary reliance upon the security of the real estate must be added together to determine if the requirements of 12 U.S.C. 371 have been met.

(g) *Personal liability of mortgagor.* The requirement of 12 U.S.C. 371 that a real estate loan shall be secured by a lien on real estate does not require that the mortgagor have personal liability for the mortgage loan.

* * * * *

§ 7.2400 Construction loans.

(a) Loans made to finance the construction of buildings, including apartment building, which are intended primarily for residental purposes, even though some commercial use may be made of a part of the building, are considered loans to finance the construction of residential buildings within the meaning of 12 U.S.C. 371(c).

(b) For purposes of 12 U.S.C. 371(c), loans, the proceeds of which are used to substantially renovate, remodel, or rehabilitate existing residential structures are considered construction loans.

* * * * *

§ 7.2700 Nonconforming loans.

Paragraph (f) of 12 U.S.C. 371 permits a national bank to make loans secured by real estate which do not comply with the limitations and restrictions in that section, provided the aggregate unpaid amount on the nonconforming loans does not exceed 10 percent of the amount the bank may invest in real estate loans. The bank shall keep records available for examination that indicate which loans are to be counted against the limit on nonconforming loans. All nonconforming loans shall be earmarked as such and carried in a separate general ledger account.

The bank's records shall also indicate those loans which were at one time nonconforming but have subsequently come into compliance with the limitations and restrictions of 12 U.S.C. 371.

Dated: September 19, 1978.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc. 78-26917 Filed 9-22-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 78-NW-9-AD]

AIRWORTHINESS DIRECTIVES

Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Extension of time for comments on NPRM.

SUMMARY: A notice of proposed rulemaking (NPRM) was published April 24, 1978, in 43 FR 17364, proposing an airworthiness directive which would require inspections and/or replacement of main landing gear lock system components on Boeing model 727 series airplanes, to prevent gear-up landings. The original comment period was extended to September 15, 1978, to permit evaluation and commenting on a technical improvement of the lock system under development by the Boeing Co. The improvement is intended to be a simpler and less costly alternate means of compliance with the terminating action requirements of the proposed AD. To permit adequate evaluation of the design changes and development of comments by the affected operators, the FAA has determined that the comment period for the NPRM should be further extended.

DATE: Comment period is extended until November 1, 1978.

ADDRESS: Send comments on the proposal in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, attention: Airworthiness rules docket, docket No. 78-NW-9-AD, 9010 East Marginal Way South, Seattle, Wash. 98108.

FOR FURTHER INFORMATION, CONTACT:

Gerald R. Mack, Airframe Section, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108, telephone 206-767-2516.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration issued a notice of proposed rulemaking (43 FR 17364) on April 13, 1978, which solicited comments on an inspection/replacement program of the main landing gear lock system components on Boeing model 727 series airplanes. Failure of these components has resulted and can result in gear-up landings.

The Boeing Co. has recently notified the FAA of its design efforts to develop an alteration which would prevent missequencing of the main landing gear and wheel well doors due to lock system component failure and subsequent jamming (main landing gear tires lodging on the door). Boeing advised that the final design of the alteration was scheduled to be completed by August 1, 1978. Based on this information, the Air Transportation Association requested that the closing date for comments be extended to September 15, 1978. They stated that the extension would provide time for Boeing to refine its design changes and permit the operators to evaluate these changes prior to making final comments on the NPRM. The FAA determined that the extension was justified and issued the extension on June 30, 1978 (43 FR 29585).

Boeing has completed the design changes and met with the operators of Boeing model 727 series airplanes on August 31, 1978, to discuss these changes. It appears that further time is necessary for the operators to digest the advantages/disadvantages of the changes.

Based on the above and the complexity of the proposal, the FAA believes justification exists to further extend the comment period to November 1, 1978.

EXTENSION OF COMMENT PERIOD

Accordingly, the deadline for comments on the notice of proposed rulemaking in docket No. 78-NW-9-AD is hereby extended to November 1, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Seattle, Wash., on September 13, 1978.

C. B. WALK, JR.,
Director,
Northwest Region.

[FR Doc. 78-26912 Filed 9-22-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[Docket No. 9082]

VITAL-E ET AL.

Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Tarzana, Calif. mail order firm, and its advertising agency, to cease disseminating advertisements which misrepresent that any dietary drug, plan, or device will cause weight loss without exercise or caloric restriction; or that any vitamin supplement, food, or drug will eliminate adverse skin conditions, stop or reverse the aging process, or enhance sexual potency or drives. The firms would be further required to disclose health or cosmetic risks posed by products and offer refunds for products which pose such risks; and furnish substantiation for all claims regarding product performance, safety, and efficacy. Additionally, the order would prohibit the firms from misrepresenting product sources, or Government associations.

DATE: Comments must be received on or before November 20, 1978.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Carol G. Emerling, Regional Director, Los Angeles Regional Office, 11000 Wilshire Boulevard, Los Angeles, Calif. 90024, 213-824-7575.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's rules of practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[Docket No. 9082]

VITAL-E ET AL.

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

In the matter of Vital-E, a corporation trading and doing business under its own name and as Mail Order Services, and, Advertising Unlimited of America, Inc., a corporation trading and doing business as Normond Linder & Associates, and Milton Kalman, individually and as an officer of corporate respondent Vital-E, and Sharon Kalman, also known as Sharon Fernandez and as Sharon Huffman, individually and as an officer of corporate respondent Vital-E, and Normond Linder, individually and as an officer or former officer of corporate respondent Vital-E and as an officer of corporate respondent Advertising Unlimited of America, Inc.

The agreement herein, by and between Vital-E, a corportion trading and doing business under its own name and as Mail Order Services, by its duly authorized officer; and Advertising Unlimited of America, Inc., a corporation trading and doing business as Normond Linder & Associates, by its duly authorized officer; and Milton Kalman, individually and as an officer of corporate respondent Vital-E; and Sharon Kalman, also known as Sharon Fernandez and as Sharon Huffman (incorrectly named in the complaint as "Sharon Hoffman"), individually and as an offficer of corporate respondent Vital-E; and Normond Linder, individually and as an officer or former officer of corporate respondent Vital-E and as an officer of corporate respondent Advertising Unlimited of America, Inc., respondents in a proceeding initiated by the Federal Trade Commission through the issuance of its complaint on May 11, 1976, and their counsel, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's rule governing consent order procedure.

1. Respondent Vital-E is or was a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, trading and doing business under its own name and as Mail Order Services, with its principal office and place of business located at 18588 Ventura Boulevard, Tarzana, Calif. 91356.

Respondent Advertising Unlimited of America, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, trading and doing business as Normond Linder & Associates, with its principal office and place of business located at 12400 Santa Monica Boulevard, Los Angeles, Calif. 90025.

Respondents Milton Kalman, Sharon Kalman, also known as

sequently withdrawn by the Commission pursuant to the provisions of

officer of corporate respondent Advertising Unlimited of America, Inc.; and

J. Vitamin E, vitamin E oil, ginseng oil, any diet plan, dietary or vitamin supplement, or any other purported

O. The consumption of grapefruit, its constituents or extracts, vitamin E, or any other food or drug may or will

nated or approved for dissemination, or said statement or representation is made by respondents, and for a fur-

V 43/186 SEP 25 78

Respondents Milton Kalman, Sharon Kalman, also known as Sharon Fernandez and as Sharon Huffman, and Normond Linder are individuals and are or were officers of corporate respondent Vital-E. They formulate(d), direct(ed) and control(led) the acts and practices of corporate respondent Vital-E. Respondents Milton Kalman and Sharon Kalman, individually and with each other, have also operated various other business entities under various fictitious trade names. Respondent Normond Linder is an officer of corporate respondent Advertising Unlimited of America, Inc. Respondent Normond Linder formulates, directs, and controls the acts and practices of respondent Advertising Unlimited of America, Inc. The business address of respondent Milton Kalman is 18588 Ventura Boulevard, Tarzana, Calif. 91356. The business address of Sharon Kalman is 18584 Ventura Boulevard, Tarzana, Calif. 91356. The business address of respondent Normond Linder is 12400 Santa Monica Boulevard, Los Angeles, Calif. 90025.

2. Respondents have been served with a copy of the complaint, charging them with violation of sections 5 and 12 of the Federal Trade Commission Act, and with a copy of the administrative law judge's order dated October 18, 1976, amending the complaint.

3. Respondents admit all jurisdictional facts set forth in the complaint.

4. Respondents waive: (a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission of comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

6. This agreement is for settlement purposes only with respect to administrative proceedings in this matter and does not constitute an admission by respondents that the facts as alleged in the complaint are true or that any law has been violated.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(d) of the Commission's rules, the Commission may, without further notice to respondents, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the decision containing the agreed-to order to respondents' addresses as stated in this agreement shall constitute service. Respondents waive any right they may have to other manner of service. The complaint, as amended, may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Respondents have read the complaint and order contemplated hereby, and they understand that once the order has been issued they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

DEFINITIONS

"Capacity of an advertising agent" refers to the creation, preparation, or placement of advertising by a designated respondent (or the respondent's officers, agents, representatives, and employees) on the behalf of other for the receipt of compensation which is reasonable and customary in the advertising industry.

"Food," "drug," "cosmetic," and "device," when explicitly or implicitly referring to products, shall be defined as these terms are defined in the Federal Trade Commission Act, as amended.

I. *It is ordered,* That respondents Vital-E, a corporation trading and doing business under its own name and as Mail Order Services; and Advertising Unlimited of America, Inc., a corporation trading and doing business as Normond Linder & Associates; and Milton Kalman, individually and as an officer of corporate respondent Vital-E; and Sharon Kalman, also known as Sharon Fernandez and as Sharon Huffman, individually and as an officer of corporate respondent Vital-E; and Norman Linder, individually and as an officer of former officer of corporate respondent Vital-E and as an officer of corporate respondent Advertising Unlimited of America, Inc.; and each of the respondents, their successors and assigns, and respondents' officers, agents reprsentatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale or distribution of skin creams, oils and lotions; weight-reduction and body-size-reduction devices; physical-appearance-improvement devices; diet plans; dietary and vitamin supplements; any food, drug, cosmetic, or device; or any other products; do forthwith cease and desist from:

1. Disseminating, or causing to be disseminated, by means of the U.S. mails or by any means in, effecting, or having an effect upon commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, any advertisement which represents, directly or by implication, that:

A. Vitamin E, vitamin E oil, or ginseng oil is effective or has value in transmitting oxygen to skin areas.

B. The transmission of oxygen to adversely affected skin areas is of therapeutic or cosmetic value.

C. Vitamin E is effective or of value in making suntanning safer or more effective.

D. Vitamin E, vitamin E oil, or ginseng oil is effective or of value in treating rough skin, blemishes, scars, stretch marks or any other adverse skin condition.

E. Any cream, oil lotion, drug, cosmetic, or any other product is effective or of value in treating or elimanating blemishes, scars, burns, wounds, stretch marks, or any other adverse skin condition, unless respondents can establish such is the fact.

F. Vitamin E, vitamin E oil, genseng oil, or any cream, oil, lotion, cosmetic, drug, or other product is effective or of value in treating or eliminating wrinkles, creases, aging skin, or is effective or of value in hindering, stopping, or reversing the aging process.

G. The "reducing belt," "sauna suit," or any other device purported to be effective or of value for the purpose of weight control, weight reduction, or reduction in body size, without dieting or exercise, is effective or of value for that said purpose.

H. The "trim-a-chin" or any other device purported to firm, contour, or eliminate sagging jowls is effective or of value in firming, contouring, or eliminating sagging jowls.

I. Any diet plan, dietary or vitamin supplement, or any other purported weight-control, weight-reducing, or body-size-reducing product is based upon recent significant or revolutionary scientific or medical discoveries or techniques, unless respondents can establish such is the fact.

J. Vitamin E, vitamin E oil, ginseng oil, any diet plan, dietary or vitamin supplement, or any other purported weight-control, weight-reducing or body-size-reducing device, or any food, drug, cosmetic, or device, or other product has any health, nutritional, cosmetic, or other use, when such use poses any health or cosmetic risk known to respondents or established by competent and reliable medical or scientific evidence, without

(i) Clearly and conspicuously stating in any advertisement for said product that the product may pose health or cosmetic risks to some users;

(ii) Clearly and conspicuously stating on the product or its container, or in instructions accompanying the product, the extent and nature of suchy risks;

(iii) Making to the purchaser a bona fide offer of a full refund of the price paid by the purchaser, with this refund to be paid within a reasonably period of time; and

(iv) Clearly and conspicuously stating in immediate conjunction with the statement required by provision I.1.J. (ii) that the purchaser may receive a refund as described in provision I.1.J.(iii).

K. Any diet plan, dietary or vitamin supplement, or any other purported weight-control, weight-reducing, or body-size-reducing product will cause any amount of weight reduction or reduction in body size, or any amount of weight reduction or reduction in body size within any particular period of time, unless respondents can establish such is the fact.

L. Any diet plan, dietary or vitamin supplement, or any other purported weight-control, weight-reducing, or body-size-reducing product will cause any amount of weight reduction or reduction in body size, or any amount of weight reduction or reduction in body size within any particular period of time, when most of such reduction in weight or body size will be due to fluid loss.

M. Any diet plan, dietary or vitamin supplement, or any other purported weight-control, weight-reducing, or body-size-reducing product is effective or of value for the purpose of weight control or reducing weight or body size, unless in immediate conjunction therewith it is disclosed clearly and conspicuously that any weight control or reduction in weight or body size which might result after use of said product would be by reason of exercise or restriction in caloric intake or a combination of the two.

N. Any diet plan, dietary or vitamin supplement, or any other purported weight-control, weight-reducing, or body-size-reducing product will allow the user to lose weight without exercise or restriction in caloric intake.

O. The consumption of grapefruit, its constituents or extracts, vitamin E, or any other food or drug may or will cause weight loss in whole or in part.

P. The consumption of grapefruit, its constituents or extracts, vitamin E, or any other vitamins, or minerals will have a physiological effect which may or will significantly reduce or eliminate hunger or the desire to eat.

Q. The consumption of any food or drug or the use of any other product will significantly reduce or eliminate hunger or the desire to eat, unless respondents can establish such is the fact.

R. Any diet plan, food, drug, cosmetic, device, or other product has been used, tested, or proved effective by a significant number of individuals, unless respondents can establish such is the fact.

S. Any individual is a nutritionist or has any formal qualifications, training, credentials, scientific, medical, or other kind of expert reputation, unless respondents can establish such is the fact.

T. "E-Pill" or vitamin E will restore, maintain, enhance, or rejuvenate sexual potency or sexual drives.

U. Any food, drug, or device, other than "E-Pill" or vitamin E, will restore, enhance, or rejuvenate sexual potency or sexual drives, unless respondents can establish such is the fact.

2. With the exception of respondents Advertising Unlimited of America, Inc. (a corporation trading and doing business as Normond Linder & Associates) and Normond Linder (individually and as an officer of corporate respondent Advertising Unlimited of America, Inc.), but only to extent that they act in the capacity of an advertising agent—making any statement or representation, directly or by implication, in, affecting, or having an effect upon commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, concerning the safety, performance, or effectiveness of any skin cream, oil, or lotion; any physical-appearance-improvement device; any diet plan, dietary or vitamin supplement or other purported weight-control, weight-reducing, or body-size-reducing product; or any food, drug, cosmetic, or device; unless—

A. The statement or representation is substantiated by controlled scientific tests, conducted by recognized experts on behalf of respondents or others, with these tests relied upon by respondents at the time said statement or representation is made; and

B. The results and methodology of the tests required by provision I.2.A., together with the original data collected, are maintained by respondents for so long as material containing said statement or representation is disseminated or approved for dissemination, or said statement or representation is made by respondents, and for a further period of three (3) years after respondents' last dissemination of such material, termination of approval of dissemination of such material, or last such statement, whichever period is longest; and

C. The records described in provision I.2.B. are so organized as to refer to the said statement or representation and may be inspected by Commission staff members upon reasonable notice.

3. Excluding respondents Vital-E, Milton Kalman and Sharon Kalman, as these respondents are described in the main preamble, but including, to the extent that they act in the capacity of an advertising agent, respondents Advertising Unlimited of America, Inc. (a corporation trading and doing business as Normond Linder & Associates) and Normond Linder (individually and as an officer of corporate respondent Advertising Unlimited of America, Inc.)—

A. Making any statement or representation, directly or by implication, in, affecting, or having an effect upon commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, concerning the safety, performance, or effectiveness of any skin cream, oil, or lotion; any physical-appearance-improvement device; any diet plan, dietary or vitamin supplement, or other purported weight-control, weight-reducing, or body-size-reducing product; or any food, drug, cosmetic, or device; unless there exists competent and reliable scientific or medical evidence to provide a reasonable basis for such statement or representation upon which respondents relied at the time such statement or representation was made.

B. Failing to keep adequate records which may be inspected by Commission staff members upon reasonable notice:

(i) Which provided the basis upon which respondents relied at the time the statement or representation as described in provision I.3.A. was made; and

(ii) Which shall be maintained by respondents for so long as material containing said statement or representation is disseminated or approved for dissemination, or said statement or representation is made by respondents, and for a further period of three (3) years after respondents' last dissemination of such material, termination of approval of dissemination of such material, or last such statement, whichever period is longest.

4. With the exception of respondents Advertising Unlimited of America, Inc. (a corporation trading and doing business as Normond Linder & Associates) and Normond Linder (individually and

as an officer of corporate respondent Advertising Unlimited of America, Inc.), but only to the extent that they

sponsored, endorsed by or affiliated with any government agency or entity, or are supported, sponsored, endorsed

device, for a period of three (3) years from the effective date of this order, upon the submission of an advertise-

change in the corporation which may affect complaince obligations arising out of this order.

posed order and is not intended to constitute an official interpretation of the agreement and proposed order or to

of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968

as an officer of corporate respondent Advertising Unlimited of America, Inc.), but only to the extent that they act in the capacity of an advertising agent—misrepresenting by any means or in any manner in, affecting, or having an effect upon commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, the quality, merits, or result of use of any food, drug, cosmetic, or device, or advertising, offering for sale, selling, or distributing the said product or products with the effect, purpose or intent to deceive, to mislead, or to make any false or unsubstantiated claim concerning the quality, the merits, or the result of the use of the said product or products.

5. Disseminating, or causing to be disseminated, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of any skin cream, oil, or lotion, weight-reduction or body-size-reduction device, physical-appearance-improvement device, diet plan, dietary or vitamin supplement, or any food, drug, cosmetic, or device, in, affecting, or having an effect upon commerce as "commerce" is defined in the Federal Trade Commission Act, as amended, any advertisement which contains any representations prohibited in provisions I. 1., 2., 3., and 4. hereto.

II. *It is further ordered,* That respondents Vital-E, a corporation trading and doing business under its own name and as Mail Order Services; and Advertising Unlimited of America, Inc., a corporation trading and doing business as Normond Linder & Associates; and Milton Kalman, individually and as an officer of corporate respondent Vital-E; and Sharon Kalman, also known as Sharon Fernandez and as Sharon Huffman, individually and as an officer of corporate respondent Vital-E; and Normond Linder, individually and as an officer or former officer of corporate respondent Vital-E and as an officer of corporate respondent Advertising Unlimited of America, Inc.; and each of the respondents, their successors and assigns, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale, or distribution of art prints, order blank forms for reserving the right to purchase lottery tickets or to enter a lottery or lotteries, or any other product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Representing, directly or by implication, that any businesses or enterprises are government agencies or entities, or that any businesses, enterprises, or products are supported, sponsored, endorsed by or affiliated with any government agency or entity, or are supported, sponsored, endorsed by, or affiliated with any government officers, agents, representatives, or employees in their official capacities, unless respondents can establish such is the fact.

2. With the exception of respondent Advertising Unlimited of America, Inc., a corporation trading and doing business as Normond Linder & Associates, misrepresenting in any manner the nature or scope of respondents' business operations or the source of any product.

3. Advertising for the sale of order blank forms to be used for reserving the right to purchase lottery tickets or to enter a lottery or lotteries without clearly and conspicuously stating therewith that the purchaser is not entering a lottery or lotteries.

III. *It is further ordered,* That for a period of ten (10) years from the effective date of this order the individual respondents named herein shall promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment engaged, during the time of such employment or affiliation, in the advertising, offering for sale, sale, or distribution of diet plans; dietary and vitamin tablets; products to be applied to skin; physical-appearance-improvement devices; weight-reducing or body-size-reducing devices; foods; drugs; cosmetics; devices; art prints; or order blank forms to be used for reserving the right to purchase lottery tickets or to enter a lottery or lotteries.

It is further ordered, That for a period of ten (10) years from the effective date of this order the individual respondents named herein shall promptly notify the Commission of their acquisition, directly or indirectly, of 10 percent or more of the beneficial ownership of voting stock in any corporation, or of their disposition of such stock, whenever such disposition results in their beneficial ownership decreasing below 10 percent: *Provided, however,* This provision shall be limited to corporations engaging or which have been engaged in the advertising, offering for sale, sale, or distribution of diet plans; dietary and vitamin tablets; products to be applied to skin; physical-appearance-improvement devices; weight-reducing or body-size-reducing devices; foods; drugs; cosmetics; devices; art prints; or order blank forms to be used for reserving the right to purchase lottery tickets or to enter a lottery or lotteries.

It is further ordered, That respondents, including respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, for a period of three (3) years from the effective date of this order, upon the submission of an advertisement for publication or broadcasting, shall furnish each newspaper, periodical, or other advertising medium with a written statement indicating for which respondents, as respondents are named in this order, the advertisement was created, prepared, disseminating, or caused to be disseminated: *Provided, however,* This provision shall be limited to the submission of advertisements pertaining to the advertising, offering for sale, sale, or distribution of diet plans; dietary and vitamin tablets; products to be applied to skin; physical-appearance-improvement devices; weight-reducing or body-size-reducing devices; foods; drugs; cosmetics; devices; art prints; or order blank forms to be used for reserving the right to purchase lottery tickets or to enter a lottery or lotteries.

It is further ordered, That respondents, including respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, for a period of three (3) years following an advertisement's last dissemination, shall retain and make available for inspection by Commission staff members upon reasonable notice any advertisement which respondents created, prepared, disseminated, or caused to be disseminated, as well as those records indicating the media, by name and address, and date of each dissemination of said advertisement: *Provided, however,* This provision shall be limited to advertisements pertaining to the advertising, offering for sale, sale, or distribution of diet plans; dietary and vitamin tablets; products to be applied to skin; physical-appearance-improvement devices; weight-reducing or body-size-reducing devices; foods; drugs; cosmetics; devices; art prints; or order blank forms to be used for reserving the right to purchase lottery tickets or to enter a lottery or lotteries.

It is further ordered, That respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions engaged in advertising or in mail order sales.

It is further ordered, That respondents shall, within sixty (60) days after service upon them or this order, file with the Commission a written report setting forth in detail the manner and form in which they have complied with this order.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect complaince obligations arising out of this order.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement containing a proposed consent order from Vital-E, a mail-order business in Tarzana, Calif.; Advertising Unlimited of America, Inc., an advertising agency doing business in Los Angeles, Calif., as Normond Linder & Associates; Milton Kalman; Sharon Kalman (also known as Sharon Fernandez and Sharon Huffman); and Normond Linder.

The proposed consent order has been placed on the public record for sixty (60) days for the reception of comments by interested parties of the public. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint, as amended, charged respondents with falsely advertising that respondents' mail-order products, consisting of diet plans, physical-appearance-improvement devices, and various foods and drugs (such as vitamin E, grapefruit extract, and ginseng) would cause weight loss without exercise or caloric restriction, would stop or reverse aging, or would enhance sexual potency or drives. It also charged that respondents falsely advertised that order blank forms were lottery tickets, and that respondents and the art prints which they sold were officially associated with the Federal Government.

The proposed order would prohibit respondents from advertising that weight loss can occur without exercise or caloric restriction that any product can stop of reverse aging, and that vitamin E enhances sexual potency or drives. The order also requires respondents to disclose any health or cosmetic risks their products pose and to offer in the future full refunds to purchasers if these products pose such risks. Respondents are further required to possess controlled scientific tests substantiating safety, performance, and effectiveness claims make for devices affecting body structure or function, foods, drugs, and cosmetics.

Finally, the order prohibits respondents from misrepresenting the source of their products or that respondents or their products are in any way associated with any level of government. It also requires respondents to disclose that certain order blank forms which they sell are not lottery tickets.

The purpose of this analysis is to facilitate public comment on the proposed order and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-26711 Filed 9-22-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4520]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Bangor, Bay County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Bangor, Bay County, Mich. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Township Hall, 3921 Wheeler Road, Bay City, Mich. Send comments to: Ms. Virginia Weiss, Township Clerk, Township of Bangor, Township Hall, 3921 Wheeler Road, Bay City, Mich. 48706.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Bangor, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kawkawlin River ..	Detroit and Mackinac RR*.	585
	State Park Rd*	585
	Euclid Ave., 100 ft upstream from centerline.	586
	Upstream corporate limits.	588
Saginaw Bay	Confluence with Kawkawlin River.	585
Saginaw River	Confluence with Saginaw Bay.	585
	Detroit and Mackinac RR*.	585

*At centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 13, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26603 Filed 9-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4521]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Ingalliston, Menominee County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or

The proposed base (100-year) flood elevations for selected locations are:

Township Hall, 1827 North Squirrel Road, Pontiac, Mich. 48057.

		Elevation in feet,

9150 Central Avenue NE., Blaine, Minn. Send comments to: Hon. Francis Haggerty, Mayor, City of Blaine, City

Source of flooding	Location	Elevation in feet, national

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Ingallston, Menominee County, Mich. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Township Hall, 2511 10th Street, Menominee, Mich. Send comments to: Hon. Harry Johnson, Mayor, Township of Ingallston, Township Hall, 2511 10th Street, Menominee, Mich. 49858.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Ingallston, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Green Bay	State Highway M-35, 250 ft northeast from intersection with Johnson Lane.	584
	Birch Creek Rd. (extended) 125 ft east of intersection with State Highway 35.	584

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 13, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26604 Filed 9-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4522]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Pontiac, Oakland County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Pontiac, Oakland County, Mich. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Pontiac Township Hall, 1827 North Squirrel Road, Pontiac, Mich. Send comments to: Mr. Robert Grusnick, Town Supervisor, Township of Pontiac, Pontiac Township Hall, 1827 North Squirrel Road, Pontiac, Mich. 48057.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Pontiac, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clinton River	At eastern corporate limits.	832
	At upstream side of Hamlin Rd.	840
	At upstream side of route 59.	843
	1,300 ft downstream of Squirrel Rd.	844
	Upstream face at Squirrel Rd.	848
	1,800 ft downstream of Interstate 75.	862
	At Interstate 75	864
	At Van Horn Bridge	865
	At Auburn Rd	867
	At Opdyke Rd	869
Galloway Creek	200 ft upstream of eastern corporate limit.	835
	Upstream of a private road, 700 ft downstream of Squirrel Rd.	841
	Upstream of Squirrel Rd.	846
	At private bridge, 1.2 mi downstream of Interstate 75.	869
	160 ft upstream of Interstate 75.	898
	At Opdyke Rd	906
	Upstream at University Dr.	910
	Just upstream of Collier Rd.	938
	Upstream at Joslyn Rd	940
	Upstream at Grand Trunk Western RR.	947
	Upstream at Collier Rd	950
	Downstream at Baldwin Rd.	950
Galloway ditch	At corporate limit with Pontiac City.	933
	At Golf Course Dr.	934
	At Interstate 75	935

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26605 Filed 9-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4523]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Blaine, Anoka County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Blaine, Anoka County, Minn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 9150 Central Avenue NE., Blaine, Minn. Send comments to: Hon. Francis Fogerty, Mayor, City of Blaine, City Hall, 9150 Central Avenue NE., Blaine, Minn. 55434.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Blaine, Minnesota, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
County ditch 39	4th St. NE., 50 ft*	893
	Jefferson St. NE., 100 ft*.	894
County ditch 41 (Sand Creek).	University Ave., 25 ft*	889
	Jefferson St. NE., 25 ft*.	890
County ditch 60 (branch 1).	Main St. downstream crossing, 50 ft**.	890
	Main St. downstream crossing, 50 ft*.	895
	Main St. (upstream crossing), at centerline.	897
County ditch 60 (branch 2).	Paul Parkway, 50 ft*	895
	Duke Dr., 50 ft*	895
County ditch 17	University Ave., 50 ft*	892
	U.S. Highway 10, 100 ft*	895
	Quincy St. NE., 50 ft*	901
Pleasure Creek	University Ave., 50 ft*	897
	99th Ave. NE., at centerline.	897
Rice Creek	85th St. NE., 50 ft*	885
Tributary to Rice Creek.	Flowerfield Rd., 50 ft*	885
Laddie Lake	From crossing of western shoreline and corporate limit to 50 ft west along corporate limit.	905
Blaine Pond	50 ft outward from shoreline.	885

*Upstream of centerline.
**Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 13, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26606 Filed 9-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4524]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Chanhassen, Carver County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Chanhassen, Carver County, Minn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Chanhassen City Hall, 7610 Laredo Drive, Chanhassen, Minn. 55317. Send comments to: Mayor Walter Hobbs or Mr. Don Ashworth, City Manager, City Hall, 7610 Laredo Drive, Chanhassen, Minn. 55317.

FOR FURTHER INFORMATION CONTACT:

gation of authority to Federal Insurance Administrator, 43 FR 7719.)

1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing

[4210-01]

[24 CFR Part 1917]

ment requirements. The community may at any time enact stricter require-

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FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Chanhassen, Carver County, Minn. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rice Marsh Lake	Just downstream of State Highway 101.	881
Lake Susan	Just upstream of State Highway 101.	884
Riley Creek	Approximately 100 ft downstream of Chicago, Milwaukee, St. Paul, Pacific RR.	895
	Approximately 150 ft upstream of Chicago, Milwaukee, St. Paul, Pacific RR.	899
	Just downstream of State Highway 5 (Arboretum Blvd.).	931
Lake Minnewashta	Entire shoreline	945
Lake Ann	do	957
Lake Lucy	do	957
Lotus Lake	do	698

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26607 Filed 9-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4526]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Unincorporated Areas of Mower County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the unincorporated areas of Mower County, Minn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Mower County Courthouse, Austin, Minn. 55912. Send comments to: Mr. Robert Finbraten, Chairman, Mower County Board of Commissioners, or Mr. Daryl Franklin, Director, Mower County Planning Department, Mower County Courthouse, Austin, Minn. 55912.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the unincorporated areas of Mower County, Minn., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Main Stem Little Cedar River.	Just upstream of County-State Aid Highway 7.	1,259
Main Stem Little Cedar River.	Approximately 200 ft downstream of Township Road 67.	1,270
	Just upstream of Minnesota Highway 56.	1,284
West Branch of Little Cedar River.	Approximately 100 ft downstream of Chicago Milwaukee, Saint Paul, and Pacific RR. bridge.	1,268
Middle Branch of Little Cedar River.	Approximately 100 ft upstream of Township Road 29.	1,282
	Approximately 150 ft downstream of County-State Aid Highway 4.	1292
East Fork of Middle Branch of Little Cedar River.	Approximately 200 ft downstream of County-State Aid Highway 7.	1,292
Cedar River	Just upstream of Township Road 159.	1,151
	Just upstream of County-State Aid Highway 4.	1,175
	Just downstream of County-State Aid Highway 28.	1,185
	Approximately 200 ft downstream of County-State Aid Highway 25 (downstream crossing).	1,206
	Approximately 200 ft downstream of County-State Aid Highway 1.	1,236
Upper Iowa River	Just upstream of Minnesota Highway 56.	1,261
	Just upstream of Township Road 237.	1,279
Rose Creek	Just downstream of County-State Aid Highway 29.	1,179
	Just downstream of Township Road 54.	1,198

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Just downstream of Township Road 18.	1,245
Wolf Creek	Just downstream of the Chicago, Milwaukee, Saint Paul, and Pacific RR. bridge.	1,204
	Just downstream of northern-most crossing of County-State Aid Highway 16.	1,222
East tributary to Wolf Creek.	Just downstream of County Road 61.	1,223
Roberts Creek	Approximately 100 ft upstream of County-State Aid Highway 16 bridge.	1,241
	Just downstream of Minnesota Highway 56 bridge.	1,262
South Branch Roberts Creek.	Just upstream of Township Road 136.	1,274
Middle Branch Roberts Creek.	Just downstream of the westernmost crossing at Township Road 136 bridge.	1,302
Deer Creek	Approximately 100 ft upstream of U.S. Highway 16 bridge.	1,317
	Approximately 150 ft downstream of County-State Aid Highway 8 bridge.	1,333
North Fork of Dobbins Creek.	Approximately 150 ft downstream of County-State Aid Highway 24.	1219
	Just downstream of Township Road 296 bridge.	1,228
South Fork of Dobbins Creek.	Just downstream of County-State Aid Highway 24.	1,219
	Approximately 100 ft downstream of Township Road 296.	1,231
Waltham Creek	Just downstream of Township Road 138 bridge.	1,303
	Just downstream of Chicago Northwestern RR. bridge.	1,308
Waltham Creek	Just downstream of Township Road 134 bridge.	1,350
Turtle Creek	Just downstream of 4th Dr.	1,189
	Just upstream of Oakland Ave. (U.S. Highway 16).	1,192
	Approximately 400 ft upstream of Interstate 90.	1,193

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26609 Filed 9-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4527]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Rockville, Stearns County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Rockville, Stearns County, Minn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Rockville City Hall, Rockville, Minn. Send comments to: Hon. Al Maselter, Mayor, City of Rockville, Rockville City Hall, Box 51, Rockville, Minn. 56369.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Rockville, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sauk River	Downstream corporate limits.	1,070
	Just downstream of Mill St. Bridge.	1,071
	Upstream corporate limits.	1,072

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26610 Filed 9-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4528]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Rose Creek, Mower County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Rose Creek, Mower County, Minn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines

the city of Kosciusko, Attala County, Miss. These base (100-year) flood ele-

Source of flooding	Location	Elevation in feet, national

are available for review at the County Offices, Vicksburg, Miss. Send com-

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Rose Creek City Hall, Rose Creek, Minn. Send comments to: The Honorable Bernard Chammel, Mayor, City of Rose Creek, Rose Creek City Hall, Rose Creek, Minn. 55920.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Rose Creek, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rose Creek	At western corporate limit.	1,239
	Just upstream of Chicago, Milwaukee, St. Paul & Pacific RR.	1,240
	Upstream side of State Highway 56.	1,243
	At northern corporate limits.	1,243

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26611 Filed 9-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4529]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Canton, Madison County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Canton, Madison County, Miss. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's Office, City Hall, P.O. Box 53, Canton, Miss. 39046. Send comments to: Mayor Harry Baldwin, City Hall, P.O. Box 53, or Mr. Harry Tyner, City Engineer, City Hall, P.O. Box 143, Canton, Miss. 39046.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Canton, Madison County, Miss., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bear Creek	Intersection of West Fulton St. and 1st Ave.	218
	Intersection of Dinkins St. and Union St.	224
Bachelor Creek	Approximately 250 ft upstream of Owens Rd.	218
	Just downstream of North Union St.	223
	Just downstream of Dobson Ave.	225
	Approximately 100 ft upstream of Miller St.	229
Stream A	Just downstream of Frey St.	223

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26612 Filed 9-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4530]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Kosciusko, Attala County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Kosciusko, Attala County, Miss. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 105 West Jefferson Street, Kosciusko, Miss. 39090. Send comments to: Mayor H. G. Hutchison or Mr. Arthur Cook, City Engineer, City Hall, 105 West Jefferson Street, Kosciusko, Miss. 39090.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Kosciusko, Attala County, Miss., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Canal Creek	Southeastern corporate limits.	396
	Just downstream of Jefferson St.	405
	Just downstream of State Highway 35.	412
Dye ditch	Just upstream of State Highway 43.	402
	Just upstream of Jefferson St.	420
	Just upstream of Rockport Rd. (State Highway 19).	447
East Fork Creek	Just downstream of Jefferson St.	404
	Just downstream of State Highway 12.	409
	Just upstream of Fairgrounds Rd.	423
East Fork Creek tributary 1.	Northern corporate limits.	424

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26613 Filed 9-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4531]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Unincorporated Areas of Warren County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Warren County, Miss. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the County Offices, Vicksburg, Miss. Send comments to: The Honorable Clyde Bonnell, President, Board of Supervisors, Warren County, P.O. Box 351, Vicksburg, Miss. 39180.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Warren County, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River	Downstream county boundary.	96
	Upstream county boundary.	110
Yazoo River	At mouth of Yazoo Canal.	102
	1 mi upstream of Kings Ferry.	104
	Confluence of Little Sunflower River.	106
Hatcher Bayou	Just downstream of the U.S. Route 61 bridge located downstream of the Stouts Bayou confluence.	101
	Just upstream of the Illinois Central Gulf RR bridge located downstream of the Stouts Bayou confluence.	105

Source of flooding	Location	Elevation in feet, national geodetic vertical datum

Source of flooding	Location	Elevation in feet, national geodetic vertical datum

Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures

FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's dele-

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Just upstream of the U.S. Route 61 bridge located just upstream of the Hatcher Bayou Tributary No. 1 confluence.	115
	2,850 ft downstream of the confluence of Durden Creek.	116
	Just upstream of Halls Ferry Rd.	136
	At confluence of Hatcher Bayou Tributary No. 4.	145
	Just upstream of Lee Rd	164
	At confluence of Hatcher Bayou Tributary No. 8.	177
	Just upstream of Warriors Trail.	182
	Just upstream of the Illinois Central Gulf RR bridge located upstream of Warriors Trail.	189
	Just upstream of the south entrance to the Warren Central High School.	202
	3,700 ft upstream of the south entrance to the Warren Central High School.	204
Hatcher Bayou Tributary No. 1.	Confluence with Hatcher Bayou.	114
	At the city of Vicksburg-Warren County boundary line located 3,540 ft upstream from mouth.	120
	5,175 ft upstream of mouth.	141
Hatcher Bayou Tributary No. 3.	At confluence with Hatcher Bayou.	134
	At confluence of Hatcher Bayou Tributary No. 3B.	138
	Just upstream of Halls Ferry Rd.	166
	3,700 ft upstream of Halls Ferry Rd.	176
	6,340 ft upstream of Halls Ferry Rd.	195
Hatcher Bayou Tributary No.3A.	At confluence with Hatcher Bayou Tributary No. 3.	133
	Just downstream of Halls Ferry Rd.	133
	400 ft upstream of Halls Ferry Rd.	135
	100 ft upstream of Greenbriar Dr.	144
	2,400 ft upstream of Greenbriar Dr.	152
Hatcher Bayou Tributary No. 3B.	At confluence with Hatcher Bayou Tributary No. 3.	138
	630 ft upstream of confluence with Hatcher Bayou Tributary No. 3.	138
	2,220 ft upstream of confluence with Hatcher Bayou Tributary No. 3.	145
Hatcher Bayou Tributary No. 3C.	At confluence with Hatcher Bayou Tributary No. 3.	161
	1,000 ft upstream of confluence with Hatcher Bayou Tributary No. 3.	162
	2,850 ft upstream of the confluence with Hatcher Bayou Tributary No. 3.	169
Hatcher Bayou Tributary No. 4.	At confluence with Hatcher Bayou.	145
	1,580 ft upstream of confluence with Hatcher Bayou.	146
	1,700 ft upstream of Lee Rd.	167
	1,200 ft downstream of Warriors Trail.	188
	520 ft upstream of Warriors Trail.	214
Hatcher Bayou Tributary No. 4A.	At confluence with Hatcher Bayou Tributary No. 4.	185
	530 ft upstream of confluence with Hatcher Bayou Tributary No. 4.	185
	160 ft downstream of State Highway 27.	198
	50 ft upstream of State Highway 27.	207
Hatcher Bayou Tributary No. 5.	Confluence with Hatcher Bayou.	148
	2,300 ft upstream of the confluence with Hatcher Bayou.	148
	3,750 ft upstream of the confluence with Hatcher Bayou.	153
	100 ft upstream of New St.	198
	Just upstream of Inglewood St.	214
Hatcher Bayou Tributary No. 6.	Confluence with Hatcher Bayou.	155
	1,425 ft upstream of the confluence with Hatcher Bayou.	155
	600 ft downstream of New St.	171
	130 ft upstream of New St.	189
	Just downstream of East Indiana Ave.	202
	210 ft upstream of East Indiana Ave.	207
Hatcher Bayou Tributary No. 7.	Confluence with Hatcher Bayou.	168
	1,050 ft upstream of the confluence with Hatcher Bayou.	168
	Just upstream of State Highway 27.	197
Hatcher Bayou Tributary No. 8.	At confluence with Hatcher Bayou.	177
	Just downstream of Warriors Trail.	178
	100 ft upstream of Warriors Trail.	181
	50 ft downstream of the Illinois Central Gulf RR bridge.	184
	100 ft upstream of Illinois Central Gulf RR.	195
Stouts Bayou	Confluence with Hatcher Bayou.	109
	1,000 ft upstream of the confluence with Hatcher Bayou.	110
	100 ft downstream of Rifle Range Rd.	110
	Just upstream of Rifle Range Rd.	115
Durden Creek	Vicksburg corporate limit south of Porters Chapel Rd.	159
	2,100 ft upstream of Porters Chapel Rd.	180
	4,650 ft upstream of Porters Chapel Rd.	194

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26614 Filed 9-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4532]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for City of Hazelwood, St. Louis County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in city of Hazelwood, St. Louis County, Mo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 7900 North Lindbergh, Hazelwood, Mo. Send comments to: The Honorable Douglas W. Palmer, Mayor, City of Hazelwood, City Hall, 7900 North Lindbergh, Hazelwood, Mo. 63042.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for city of Hazelwood, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the

Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Coldwater Creek	North corporate limits	514
	Dunn Rd	516
	Interstate 270	516
	Pershall Rd	519
	Wabash RR	520
	South corporate limits	522
Lynn Haven/Elm Grove Creek.	Confluence with Coldwater Creek.	516
	950 ft downstream of Lindbergh Blvd.	516
	Lindbergh Blvd	520

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 13, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26615 Filed 9-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4533]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Pemberton, Burlington County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Pemberton, Burlington County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Borough Hall, 114 Hanover Street, Pemberton, N.J. Send comments to: Hon. H. Lyman Simkin, Mayor, Borough of Pemberton, Borough Hall, 114 Hanover Street, Pemberton, N.J. 08068.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the borough of Pemberton, N.J., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North branch Rancocas Creek.	Hanover St., 100 ft*	36
Budds Run	Confluence with north branch Rancocas Creek.	35
	Hanover St., 100 ft*	40

*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26616 Filed 9-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4534]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Shrewsbury, Monmouth County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Shrewsbury, Monmouth County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Municipal Building, 419 Lycamore Avenue, Shrewsbury, N.J. Send comments to: Honorable Joseph F. Dennis, Mayor, Borough of Shrewsbury, Municipal Building, 419 Lycamore Avenue, Shrewsbury, N.J. 07701.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insur-

ance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-

[4210-01]

any existing ordinances that are more stringent in their flood plain manage-

EFFECTIVE DATE: June 7, 1978.

FOR FURTHER INFORMATION

DATES: The period for comment will be ninety (90) days following the second publication of this proposed

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33

ance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the borough of Shrewsbury, N.J. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat., 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Parkers Creek	1,370 ft downstream of confluence with north branch Parkers Creek.	9
	Broad St. (State Route 35), 50 ft*.	12
North branch Parkers Creek.	500 ft upstream of confluence with Parkers Creek.	9
	Avenue of the Common, 90 ft**.	15
	Broad St. (State Route 35), 30 ft*.	17

*Downstream of centerline
**Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26617 Filed 9-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4535]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Grand River, Lake County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Grand River, Lake County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Grand River Village Hall, Singer Road, Grand River, Ohio. Send comments to: The Honorable Eugene Jones, Mayor, Village of Grand River, Grand River Village Hall, Singer Road, Grand River, Ohio 44045.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of Grand River, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Grand River	Southern corporate limit.	576
	3,720 ft downstream from Fairport, Painesville & Eastern RR.	576
	3,120 ft downstream from Fairport, Painesville & Eastern RR.	576
	2,280 ft downstream from Fairport, Painesville & Eastern RR.	576
	840 ft downstream from Fairport, Painesville & Eastern RR.	576
	At Fairport, Painesville & Eastern RR.	576
	800 ft upstream from Fairport, Painesville & Eastern RR.	577

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26618 Filed 9-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4215]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Mason, Warren County, Ohio; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 24707 of the FEDERAL REGISTER of June 7, 1978.

EFFECTIVE DATE: June 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Muddy Creek branch No. 1.	Western corporate limit.	820

The following elevation should be corrected to read:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Muddy Creek branch No. 1.	Western corporate limit.	817

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26619 Filed 9-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4525]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Houston, Houston County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Houston, Houston County, Minn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 314 South Jefferson Street, Houston, Minn. Send comments to: The Honorable Richard A. Dittman, Mayor, City of Houston, City Hall, 314 South Jefferson Street, Houston, Minn. 55943.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Houston, Houston County, Minn., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Root River	East corporate limit	683
	Downstream of State Highway 76.	685
	500 ft upstream of State Highway 76.	688
	West corporate limit	690

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 8, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-26608 Filed 9-22-78; 8:45 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 43]

PREPARATION OF A ROLE OF EASTER CREEK INDIANS

Preparation, Certification and Approval of Roll

SEPTEMBER 5, 1978.

AGENCY: Bureau of Indian Affairs.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs proposes to add a new part to its regulations to establish procedures for the preparation of a roll of Eastern Creek Indians eligible to share in the distribution of judgment funds.

DATE: Comments must be received on or before October 25, 1978.

ADDRESS: Written comments should be addressed to: Chief, Division of Tribal Government Services, Bureau of Indian Affairs, 1951 Constitution Avenue NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT:

Ms. Janet L. Parks, Chief, Branch of Tribal Enrollment Services, Bureau of Indian Affairs, telephone 202-343-2985.

SUPPLEMENTARY INFORMATION: The Creek Nation of Indians was awarded a judgment by the Indian Claims Commission in docket 275. Funds to satisfy the award were appropriated by Congress and the plan for the use and distribution of the funds became effective on June 15, 1978. This proposal establishes rules and procedures for preparing a roll of Eastern Creeks to serve as a basis for distributing their portion of the judgment funds. The proposed regulations provide a deadline for filing applications and procedures for processing them.

The authority for issuing these regulations is contained in 5 U.S.C. 301 and sections 463 and 465 of the revised statutes (25 U.S.C. 2 and 9), and 230 DM 1 and 2.

The primary author of this document is Ms. Janet L. Parks, Chief, Branch of Tribal Enrollment Services, Bureau of Indian Affairs.

Subchapter F of chapter I of title 25 of the Code of Federal Regulations is

(j) "1968 roll" means the roll of persons designated as Eastern Creek who

(E) Any lists of self-emigrant Creek claimants (including those contained

§ 43.5 Filing of applications and information forms.

ment of receipt, (3) of personal delivery, or (4) of the return by the post office of an undelivered certified or

special instructions not inconsistent with the regulations in this part.

FORREST J. GERARD,

V 43 / 186 / SE 25 78 / V 4

Subchapter F of chapter I of title 25 of the Code of Federal Regulations is amended by the addition of a new part to read as follows:

PART 43—PREPARATION OF A ROLL OF EASTERN CREEK INDIANS

Sec.
43.1 Definitions.
43.2 Purpose.
43.3 Qualifications for enrollment and the deadline for filing.
43.4 Application and information forms.
43.5 Filing of applications and information forms.
43.6 Burden of proof.
43.7 Action by the Director.
43.8 Appeals.
43.9 Decision of the Secretary on appeals.
43.10 Preparation of roll.
43.11 Certification and approval of the roll.
43.12. Special instructions.

AUTHORITY: 5 U.S.C. sec. 301, R.S. secs. 463 and 465; 25 U.S.C. 2 and 9, and 87 Stat. 466.

§ 43.1 Definitions.

As used in these regulations:

(a) "Plan" means the plan for the use and distribution of Creed judgment funds awarded in docket 275 before the Indian Claims Commission, prepared pursuant to the Act of October 19, 1973, and effective June 15, 1978.

(b) "Secretary" means the Secretary of the Interior or his authorized representative.

(c) "Assistant Secretary" means the Assistant Secretary of the Interior for Indian Affairs or his authorized representative.

(d) "Director" means the Area Director, Muskogee Area Office, Bureau of Indian Affairs, or his authorized representative acting under delegated authority.

(e) "Staff officer" means the Enrollment Officer or other person authorized to prepare the roll.

(f) "Living" means born on or prior to and living on the date specified.

(g) "Lineal ancestor" means an ancestor, living or deceased, who is related to the applicant by direct ascent; namely, parent, grandparent, et cetera. It does not include collateral relatives such as brothers, sisters, aunts, uncles, et cetera.

(h) "Descendants" means those persons who are the issue of the ancestor through whom enrollment rights are claimed, namely the children, grandchildren, et cetera. It does not include collateral relatives such as brothers, sisters, nieces, nephews, cousins, et cetera.

(i) "Sponsor" means a parent, recognized guardian, next friend, next of kin, spouse, executor, or administrator of estate, the Director, or other person who files an application for enrollment on behalf of another person.

(j) "1968 roll" means the roll of persons designated as Eastern Creek who were eligible to share in the distribution of Creek judgment funds in docket 21 prepared under the act of September 21, 1968, 82 Stat. 855. It does not include those Creek descendants who established eligibility through an ancestor who was a member of the Creek Nation of Oklahoma.

(k) "Indian lineage" means descent by blood from an Indian lineal ancestor.

§ 43.2 Purpose.

The regulations in this part are to govern the compilation of a roll of persons who meet the requirements specified in the plan to serve as the basis for distributing the Eastern Creek portion of judgment funds awarded the Creek Nation of Indians in Indian Claims Commission Docket 275.

§ 43.3 Qualifications for enrollment and the deadline for filing.

(a) The roll shall contain the names of persons living on June 15, 1978, who were listed on the 1968 roll as Eastern Creeks and those who file timely applications and establish that:

(1) They are the children of persons whose names appear on the 1968 roll, regardless of whether the enrolled parent is living or deceased.

(2) They were not enrolled on the 1968 roll although they met the requirements for enrollment as Eastern Creeks as specified in section 1 of the act of September 21, 1968, 82 Stat. 855, i.e.,

(i) They were living on September 21, 1968.

(ii) Their names or the names of lineal ancestors appear on any of the documents listed below or on any available census rolls or other records acceptable to the Secretary, which identify the person as a Creek Indian, including ancient documents or records of the United States located in the National Archives, State, or county records in the archives of the several States or counties therein, or in the courthouses thereof, and other records that would be admissible as evidence in an action to determine Indian lineage.

(A) Claims of Friendly Creek Indians paid under the act of March 3, 1817 (H.R. Doc. 200, 20:1, 1828);

(B) Census of the Creek Nation, 1833, made pursuant to article 2 of the treaty concluded March 24, 1832 (Senate Doc. 512, 1835, Emigration Correspondence, 1831—33, pp. 239-395);

(C) Land Location Registers of Creek Indian Lands, made pursuant to the treaty of March 25, 1832;

(D) Any emigration or muster rolls of Creek Indians;

(E) Any lists of self-emigrant Creek claimants (including those contained in Senate Ex. Doc. 198, 50:1, 1888, and H.R. Ex. Doc. 238; 51:2, 1891).

(3) They are children of persons who qualify for enrollment under (2) of this paragraph.

(b) Applications must be filed with the Area Director, Bureau of Indian Affairs, Federal Building, Muskogee, Okla. 74401, and must be received in his office no later than the close of business on (date to be inserted in final regulations). Applications received after that date will be rejected for failure to file on time, regardless of whether the applicant otherwise meets the requirements for enrollment. If the filing deadline falls on a Saturday, Sunday, or legal holiday or other nonbusiness day, the deadline will be the next working day thereafter.

§ 43.4 Application and information forms.

(a) Persons entitled to enrollment under paragraph (a)(1) of § 43.3 (1968 enrollees) do not need to reapply for enrollment. They must, however, complete an information form advising the Director of any changes in name and/or address. The Director shall mail an information form to each person on the 1968 roll using the last address of record. Changes in information on the roll will be made only if information form is signed by an adult 1968 enrollee, if living, or the parent or guardian having legal custody of a minor 1968 enrollee. The information form may also be used to notify the Director of the date of death of a deceased 1968 enrollee.

(b) Applications to be filed by applicants for enrollment will be furnished by the Director, or other designated persons upon written or oral request. Each person furnishing application forms shall keep a record of the names of individuals to whom applications are given, as well as the control numbers of the forms and the date furnished. Instructions for completing and filing applications shall be furnished with each form. The form shall indicate prominently the deadline for filing applications.

(c) Among other information, each application shall contain:

(1) Certification as to whether application is for a natural child or an adopted child of the parent through whom eligibility is claimed.

(2) If the application is filed by a sponsor, the name and address of sponsor and relationship to applicant.

(3) A control number for the purpose of keeping a record of applications furnished interested individuals.

§ 43.5 Filing of applications and information forms.

(a) Any person, except a 1968 enrollee, who desires to be enrolled and believes he meets the requirements for enrollment specified in the plan and the regulations in this part must file or have filed for him a completed application form with the Director or other designated person on or before the deadline specified in § 43.3.

(b) Written application forms for minors, mentally incompetent persons or other persons in need of assistance, for members of the Armed Services or other services of the U.S. Government and/or members of their families stationed in Alaska, Hawaii, or elsewhere outside the continental United States, or for a person who died after June 15, 1978, may be filed by the sponsor on or before the deadline.[1]

(c) Every applicant or sponsor shall furnish the applicant's mailing address on the application. Thereafter, he shall promptly notify the Director of any change in address, giving appropriate identification of the application; otherwise the address as stated shall be acceptable as the proper address.

§ 43.6 Burden of Proof.

The burden of proof of eligibility for enrollment rests upon the applicant. Documentary evidence such as birth certificates, baptismal records, death certificates, copies of probate findings or affidavits must be used to support claim for enrollment.

§ 43.7 Action by the Director.

(a) The Director shall consider each application. Upon determining an applicant's eligibility, the Director shall notify the applicant or sponsor, as applicable, in writing of his decision. If the decision is favorable, the name of the applicant shall be placed on the roll. If the Director decides the applicant is not eligible, he shall notify the applicant or sponsor, as applicable, in writing by certified mail, to be received by the addressee only, return receipt requested, and shall explain fully the reasons for rejection and of the right to appeal to the Secretary. (If correspondence is sent out of the States of the United States, it may be necessary to use registered mail.) If an individual files applications on behalf of more than one person, one notice of eligibility or rejection may be addressed to the person who filed the applications. However, said notice must list the name of each person involved.

(b) A notice of eligibility or rejection is considered to have been made on the date (1) of delivery indicated on the return receipt, (2) of acknowledgement of receipt, (3) of personal delivery, or (4) of the return by the post office of an undelivered certified or registered letter.

(c) In all cases where an applicant is represented by an attorney, such attorney will be recognized as fully controlling the same on behalf of his client; and service of any document relating to the application shall be considered to be service on the applicant he represents. Where an applicant is represented by more than one attorney, service upon one of the attorneys shall be sufficient.

(d) To avoid hardship or gross injustice, the Director may waive technical deficiencies in applications or other submissions. Failure to file by the deadline does not constitute a technical deficiency.

§ 43.8 Appeals.

Appeals from rejected applications must be in writing and must be filed pursuant to part 42 of this subchapter, a copy of which shall be furnished with each notice of rejection.

§ 43.9 Decision of the Secretary on appeals.

The decision of the Secretary on an appeal shall be final and conclusive, and written notice of the decision shall be given to the applicant or sponsor. When so directed by the Secretary, the Assistant Secretary shall cause to be entered on the roll the name of any person whose appeal has been sustained.

§ 43.10 Preparation of roll.

The staff officer shall prepare a minimum of five copies of the roll of those persons determined to be eligible for enrollment, including those whose appeals were sustained. In addition to other information which may be shown, the complete roll shall contain for each person an identification number, name, address, sex, date of birth, and in the remarks column, when applicable, the basic roll number, date of the basic roll, and name and relationship of the ancestor on the basic roll through whom eligibility was established.

§ 43.11 Certification and approval of the roll.

A certificate shall be attached to the roll by the staff officer certifying that to the best of his knowledge and belief the roll contains only the names of those persons who were determined to meet the requirements for enrollment. The Director shall approve the roll.

§ 43.12 Special instructions.

To facilitate the work of the Director the Assistant Secretary may issue special instructions not inconsistent with the regulations in this part.

FORREST J. GERARD,
Assistant Secretary—Indian Affairs.

[FR Doc. 78-26810 Filed 9-22-78; 8:45 am].

[1] Criminal penalties are provided by statute for knowingly filing false information in such settlements. (18 U.S.C. 1001.)

This document does not meet the criteria for significant regulations set

public hearing with respect to the proposed rules were to be delivered or

DATES: Withdrawal of the proposed rulemaking is effective immediately.

2. Public hearings will be held at the following locations:

[6560-01]

ENVIRONMENTAL PROTECTION

SUMMARY: This notice proposes to amend the requirements for the preparation of contingency plans for air

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-287-76]

INCOME TAX

Tax Treatment of Cemetery Perpetual Care Funds; Extension of Comment Period

AGENCY: Internal Revenue Service, Treasury.

ACTION: Extension of time for comments and requests for a public hearing.

SUMMARY: This document provides notice of an extension of time for submitting comments and requests for a public hearing concerning the notice of proposed rulemaking with respect to the treatment of certain distributions made by cemetery perpetual care funds for the care and maintenance of gravesites. The extended deadline for submission of comments and requests for a public hearing is October 30, 1978.

DATE: Written comments and requests for a public hearing must be delivered or mailed by October 30, 1978.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-287-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Robert Coplan of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, CC:LR:T; 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION: By a notice of proposed rulemaking published in the FEDERAL REGISTER for Wednesday, August 2, 1978 (43 FR 33936), comments and requests for a public hearing with respect to the proposed rules were to be delivered or mailed to the Commissioner of Internal Revenue, Attention: CC:LR:T (LR-287-76), Washington, D.C. 20224, by October 2, 1978. The date by which such comments or requests must be delivered or mailed is hereby extended to October 30, 1978.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

ROBERT A. BLEY,
Director, Legislation and Regulations Division.

[FR Doc. 78-26929 Filed 9-22-78; 8:45 am]

[4830-01]

[26 CFR PARTS 1 and 20]

[LR-203-76]

VARIOUS ESTATE TAX ELECTIONS, NET EARNINGS FROM SELF-EMPLOYMENT, AND SPECIAL USE VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY

Extension of Comment Period

AGENCY: Internal Revenue Service, Treasury.

ACTION: Extension of time for comments and requests for a public hearing.

SUMMARY: This document provides notice of an extension of time for submitting comments and requests for a public hearing concerning two notices of proposed rulemaking with respect to:

1. Various estate tax elections under the Tax Reform Act of 1976,

2. Definition of net earnings from self-employment for certain owners and tenants of farms; and material participation requirements for valuation of certain farm and closely held business real property and method of valuing farm real property according to actual use.

The extended deadline for submission of comments and requests for a public hearing is November 17, 1978.

DATE: Written comments and requests for a public hearing must be delivered or mailed by November 17, 1978.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-203-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

H. B. Hartley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, CC:LR:T, 202-566-6624, not a toll-free call.

SUPPLEMENTARY INFORMATION: By two notices of proposed rulemaking published in the FEDERAL REGISTER for Thursday, July 13, 1978 (43 FR 30070), and Wednesday, July 19, 1978 (43 FR 31039), comments and requests for public hearing with respect to the proposed rules were to be delivered or mailed to the Commissioner of Internal Revenue, Attention: CC:LR:T (LR-203-76), Washington, D.C. 20224, by September 14, 1978, and by September 18, 1978, respectively. The date by which such comments and requests must be delivered or mailed is hereby extended to November 17, 1978.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

ROBERT A. BLEY,
Director, Legislation and Regulations Division.

[FR Doc. 78-26928 Filed 9-22-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Antitrust Division

[28 CFR Part 16]

EXEMPTION OF RECORDS SYSTEMS UNDER THE PRIVACY ACT

AGENCY: Department of Justice, Antitrust Division.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: Pursuant to 5 U.S.C. 552a(k)(2), on May 30, 1978, the Department of Justice, Antitrust Division, published in the FEDERAL REGISTER a proposed rule to exempt the Freedom of Information/Privacy Requester/Subject Index File (Justice/ATR-008) from the provisions of subsections (c)(3) and (d) of the Privacy Act, 5 U.S.C. 552a. The purposes for the exemption set forth were to maintain the confidentiality and security of information compiled for purposes of criminal investigation or civil or regulatory law enforcement or of reports compiled at any stage of the law enforcement process and to maintain the confidentiality and security of information that is specifically authorized to be kept secret in the interests of national defense or foreign policy. Though it was stated that some records contained in this system of records might not be subject to exemption and that a determination would be made as to the exemption of a specific record at the time a request for notification or access was made, the Antitrust Division has decided to withdraw the proposal to exempt the system. It has become apparent that information of the nature for which the exemption was originally proposed cannot be accessed by individual identifier; therefore, it is not necessary to exempt this system of records from the provisions of the Privacy Act.

DATES: Withdrawal of the proposed rulemaking is effective immediately.

ADDRESSES: Legal and Legislative Group, Office of Management and Finance, Department of Justice, 10th and Constitution Avenue NW., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT:

Bronson E. Clayton, 202-739-4165.

Dated: September 14, 1978.

KEVIN D. ROONEY,
Assistant Attorney General for Administration.

[FR Doc. 78-26808 Filed 9-22-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Parts 124, 126, and 161]

[CGD 75-238]

NOTIFICATION OF ARRIVALS, DEPARTURES, HAZARDOUS CONDITIONS, AND CERTAIN DANGEROUS CARGOES

Public Hearing

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking—public hearings; extension of comment period.

SUMMARY: The Coast Guard intends to hold two public hearings concerning the proposed notification requirements for arrivals, departures, hazardous conditions, and certain dangerous cargoes (CGD 75-238). Requests in writing from interested persons who raised genuine issues on which they desired to comment orally at a public hearing were received by the Coast Guard. This document grants the requests for public hearings and sets out a new deadline for the receipt of written comments because of the considerable interest shown in the proposal.

DATES: 1. Written comments must be received on or before November 15, 1978.

2. The Coast Guard will hold two public hearings concerning this proposal. The first will be held on October 12, 1978 beginning at 8:30 a.m. in Washington, D.C. The second will be held on October 20, 1978 beginning at 9:00 a.m. in Houston, Tex.

ADDRESSES: 1. Written comments should be submitted to Commandant (G-CMC/81), (CGD 75-238), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

2. Public hearings will be held at the following locations:

a. October 12, 1978, 8:30 a.m., Department of Transportation, Nassif Building, 400 Seventh Street SW., Room 2230, Washington, D.C.

b. October 20, 1978, 9 a.m., Houston Host International Hotel, Boardrooms 1 and 2, 18700 Kennedy Boulevard, Houston, Tex.

FOR FURTHER INFORMATION CONTACT:

Lt. Comdr. Edward H. Bonekemper, III, Port Safety Branch (G-WLE-1/73), Room 7319C, U.S. Coast Guard, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1927.

SUPPLEMENTARY INFORMATION: Interested persons are invited to attend the public hearings and present oral or written statements on the proposed regulation which was published in the June 15, 1978 issue of the FEDERAL REGISTER (43 FR 25958), as corrected in the July 27, 1978 issue (43 FR 32440). It is requested that anyone desiring to make an oral statement at the public hearings notify the Executive Secretary, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477, at least 10 days before the scheduled date of each public hearing. In this notification, it is requested that the approximate length of time needed for the presentation be specified. It is urged that a written summary or copy of the oral presentation be included with this notification.

DRAFTING INFORMATION

The principal persons involved in drafting this supplemental notice are: Lt. Comdr. Edward H. Bonekemper, III, Project Manager, Office of Marine Environment and Systems, and Stanley M. Colby, Project Attorney, Office of the Chief Counsel.

(88 Stat. 427 (33 U.S.C. 1224); 49 CFR 1.46(n)(4).)

Dated: September 19, 1978.

R. H. SCARBOROUGH,
Vice Admiral, U.S. Coast Guard Acting Commandant.

[FR Doc. 78-26836 Filed 9-22-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 50]

[Docket No. OAQPS 78-8; FRL 973-8]

NATIONAL AMBIENT AIR QUALITY STANDARDS

Proposed Revision of the National Ambient Air Quality Standards for Photochemical Oxidants; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: On June 22, 1978, the Environmental Protection Agency proposed in the FEDERAL REGISTER (43 FR 26962) revisions to the national ambient air quality standard for photochemical oxidants. In a subsequent notice (43 FR 30315) published on July 14, 1978, and expanded public hearing schedule was announced and the comment period for the proposed standard revision was extended from August 18, 1978, to September 24, 1978. In order to provide an opportunity for full and complete public review of the proposed standard the comment period is being further extended to October 16, 1978.

DATES: Comments are due on or before October 16, 1978.

ADDRESS: Send comments to Mr. Joseph Padgett (MD-12), Director, Strategies and Air Standards Division, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph Padgett (MD-12), Strategies and Air standard Division, Research Triangle Park, N.C. 27711, telephone 919-541-5204.

Dated: September 18, 1978.

DAVID G. HAWKINS,
Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 78-26932 Filed 9-22-78; 8:45 am]

[6560-01]

[40 CFR Part 51]

[932-4]

PREVENTION OF AIR POLLUTION EMERGENCY EPISODES

Proposed Regulatory Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes to amend the requirements for the preparation of contingency plans for air pollution emergency episodes in priority I and II regions. The proposed amendments would allow the Administrator to exempt attainment and unclassifiable areas from the requirements, and to limit the requirements for specifying emission control actions to urbanized areas and major emitting facilities outside the urbanized area. Reference to appendix L of 40 CFR Part 51 has been clarified to explain the Agency's intended use of the example regulations contained therein. The requirement in § 51.16 for acquiring updates of atmospheric stagnation forecasts is being changed to reflect current National Weather Service procedures.

DATES: Comments must be received on or before October 25, 1978.

ADDRESSES: Send comments to Darryl D. Tyler, Chief, Standards Implementary Branch (MD 15), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, N.C. 27711.

FOR FURTHER INFORMATION CONTACT:

Daniel J. deRoeck, Control Programs Development Division (MD 15), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, N.C. 27711, 919-541-5437 (commercial, 629-5437 (FTS).

SUPPLEMENTARY INFORMATION: On August 11, 1977, at 42 FR 40695, the Environmental Protection Agency revoked its previous approval of the California air pollution emergency episode plan pursuant to an order of the U.S. District Court for the Central District of California. The litigation has resulted in a resource intensive commitment to prepare episode contingency plans which in certain cases are without substantive purpose. Specifically, contingency plans must be submitted for each of the 43 California air pollution control districts (APCD) within nine priority I and II air quality control region [1] based on

[1] Following enactment of the 1970 amendments to the Clean Air Act, States were required pursuant to EPA regulations to classify their air quality control regions into priority classification (priority I, II, or III) depending on the magnitude of the air quality problem. Priority I regions represent the most serious air quality problems, being those where measure air quality concentrations generally exceeded the national primary ambient air quality standards. Where no air quality data was available, urban place population was used as the criteria for classification. Priority II regions were areas whose pollutant concentrations were generally between the primary and secondary standards. Priority III regions were areas whose pollutant concentrations were either

Footnotes continued on next page

the regional contingency plan requirements in 40 CFR 51.16. The jurisdic-

adopt the example regulations, or a part thereof, the introductory para-

frequently as they are issued by the National Weather Service.

ance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the

similarly precluded. If approved, the order would also constitute an addition to the West Virginia SIP.

order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the

the regional contingency plan requirements in 40 CFR 51.16. The jurisdiction of many of the affected APCD's lies entirely within rural counties characterized by relatively few sources, low population, and generally acceptable air quality.

In response to this situation, the Agency proposes to provide the Administrator with discretionary authority to waive certain requirements for contingency plans under appropriate circumstances. Under this proposal, exemptions from the requirements could be granted to areas which have been formally designated as attainment or unclassifiable. Such designations are based on procedures set forth in section 107 of the Clean Air Act, as amended in August 7, 1977. These procedures modify the original priority classification system by allowing States to divide air quality control regions into various nonattainment, attainment, and unclassifiable portions, independently of the original priority classification. An attainment designation represents an area having ambient air quality levels better than the national primary and secondary standards. Unclassifiable indicates that the defined area cannot be classified on the basis of available information.

In addition, the Administrator could limit requirements for emission control actions in a priority I region to urbanized areas and any major emitting facilities located outside the urbanized area, yet still within the priority I region. This provision could result in a significant reduction in the cost of contingency plan preparation while continuing to address the effect of concentrated emissions from urbanized areas as well as the contribution of large sources located outside the urbanized area. Urbanized areas are as identified in the 1970 Census of Population and may include more than one urban center in some instances (e.g., San Francisco-Oakland). While simplifying the procedural requirments when it is appropriate to do so, the change would not interfere with the authority of either the Administrator or the States to abate air pollution emissions at any location on an emergency basis. Emergency authority is retained in sections 303 and 116 of the Clean Air Act.

The Agency is also proposing a modification within paragraph (b) to clarify the intended use of appendix L of 40 CFR Part 51. The appendix contains example regulations for controlling specific types of air pollution sources at various episode stages. Although many States have chosen to adopt the example regulations, or a part thereof, the introductory paragraph to the appendix plainly indicates that States are not necessarily required to adopt those specific regulations. The Agency does not intend to discourage the development of other effective emission control actions which specifically address local air pollution situations. EPA will review plans which include such other control actions on a case-by-case basis to determine whether the requirements of section 51.16 are met. Plans which meet the requirements will be regarded as equivalent plans and will be approved on that basis.

Finally, the Agency uses this opportunity to make two additional revisions to the existing requirements. First: Subparagraph (e)(1) is revised to eliminate the requirement for 12-hour updates of atmospheric stagnation forecasts. The National Weather Service no longer issues such updates on an automatic schedule. Second: Paragraph (g) is modified to correct a typographical error.

All interested persons are invited to submit written comments on the proposed regulatory changes set forth below to Darryl D. Tyler at the address provided above. Comments received by EPA will be available for inspection during normal business hours at the Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460. All relevant comments received no later than October 25, 1978, will be considered.

Dated: September 15, 1978.

DOUGLAS M. COSTLE,
Administrator.

§ 51.16 [Amended]

In title 40, chapter I, Subchapter C, part 51, EPA proposes to amend § 51.16 as follows:

1. Paragraph (g) is amended by changing the word "or" to "of".

2. Paragraph (b)(3) is revised to read as follows:

* * * * * * *

(b) * * *

* * *

(3) Specify adequate emission control actions to be taken at each episode stage. (Examples of emission control actions are set forth in appendix L.)

* * * * * * *

3. Paragraph (e)(1) is revised to read as follows:

* * * * * * *

(e) * * *

(1) Prompt acquisition of forecasts of atmospheric stagnation conditions and of updates of such forecasts as frequently as they are issued by the National Weather Service.

4. Paragraph (h) is added as follows:

* * * * * * *

(h) Notwithstanding the preceding requirements of this section, the Administrator may, at his discretion:

(1) Exempt from the requirements of this section, those portions of priority I or II regions which have been designated as attainment or unclassifiable for national primary and secondary standards under section 107 of the Act;

(2) Limit the requirements pertaining to emission control actions in priority I regions to:

(i) Urbanized areas as identified in the "1970 Census of Population; Supplementary Report: Population of Urbanized Areas Established Since the 1970 Census, for the United States: 1970," U.S. Bureau of Census, PC(S)-106, U.S. Government Printing Office, Washington, D.C., October 1976, and

(ii) Major emitting facilities as defined by section 169(1) of the Act, outside the urbanized areas.

* * * * * * *

(Secs. 110, 301(a), Clean Air Act, as amended (42 U.S.C. 7410, 7601).)

[FR Doc. 78-26930 Filed 9-22-78; 8:45 am]

Footnotes continued from last page
below both primarry and secondary standards or would become so as a result of the Federal motor vehicle emission control program.

[6560-01]

[40 CFR Part 65]

[FRL 973-2]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by West Virginia Air Pollution Control Commission to Koppers Co., Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the West Virginia Air Pollution Control Commission to the Koppers Co., Inc. The order requires the company to bring air emissions from its coal-fired boilers in Follansbee, W.Va., into compliance with certain regulations contained in the federally approved West Virginia State implementation plan (SIP) by March 31, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before October 25, 1978.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Patrick McManus (3EN12), U.S. EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106, 215-597-4561.

SUPPLEMENTARY INFORMATION: Koppers Co., Inc. operates an industrial facility at Fullansbee, W.Va. The order under consideration addresses emissions from the coal-fired boilers at the facility, which are subject to Regulation II—"To Prevent and Control Particulate Air Pollution From Combustion of Fuel in Indirect heat Exchangers."

The regulation limits the emissions of particulate emissions, and is part of the federally approved West Virginia State implementation plan. The order requires final compliance with the regulation by March 31, 1979, for coal-fired boilers No. 4 and No. 5 through the installation of control equipment. Coal-fired boiler No. 3 is required to come into compliance by May 1, 1978, through a switch to oil. On June 15, 1978, Koppers Co., Inc. consented to the terms of this order. The company has met all requirements of the schedule to date.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source would be similarly precluded. If approved, the order would also constitute an addition to the West Virginia SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: September 12, 1978.

JACK J. SCHRAM,
Regional Administrator,
Region III.

[FR Doc. 78-26700 Filed 9-22-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 973-3]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by West Virginia Air Pollution Control Commission to Brockway Glass Co., Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA has proposed to approve an administrative order issued by the West Virginia Air Pollution Control Commission to the Brockway Glass Co., Inc. The order requires the company to bring air emissions from its glass furnace in Vienna, W. Va., into compliance with certain regulations contained in the federally approved West Virginia State implementation plan (SIP) by December 30, 1978. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before October 25, 1978.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Curtis Building, Sixth and Walnut Streets Philadelphia, Pa. 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Patrick McManus (3EN12), U.S. EPA, Region III, Curtis Building, Sixth and Walnut Streets Philadelphia, Pa. 19106, 215-597-4561.

SUPPLEMENTARY INFORMATION: Brockway Glass Co. operates a glass furnace at Vienna, W. Va. The order under consideration addresses emissions from the glass furnace at the facility, which are subject to Regulation VII, "To Prevent and Control Particulate Air Pollution From Manufacturing Process Operations."

The regulation limits the emissions of particulate matter, and is part of the federally approved West Virginia State implementation plan. The order requires final compliance with the regulation by December 30, 1978, through electrical power modifications and installation of electodes in the glass furnace. On June 16, 1978, Brockway Glass Co. consented to the terms of this order. The company has met all requirements of the order to date.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source would be similarly precluded. If approved, the order would also constitute an addition to the West Virginia SIP.

All interested persons are invited to submit written comments on the pro-

posed order. Written comments received by the date specified above will

5. OAC §§3745-35-02 and 03 state that no air contaminant source may be operated unless a permit to operate or a variance is obtained from the OEPA. The above-mentioned variance was granted to Chevron on the condition that Chevron comply with the terms of the Director's Findings and Orders. Chevron has been in violation of the terms of the Director's Findings and Orders since December 31, 1977, and is in violation of OAC §§3745-35-02 and 03.

6. Chevron has been in violation of OAC §3745-17-11 since December 31, 1977, and will be in violation of this regulation until it is in compliance with section 3745-17-11 of the OAC has been demonstrated to the satisfaction of the Director through appropriate stack tests.

7. Chevron shall reduce the total particulate emissions from the Chevron Refinery to 1,000 tons per year by December 31, 1978, and shall maintain the total particulate emissions from the Chevron Refinery at 1,000 tons per year or less thereafter.

8. Chevron shall submit to the Director by January 31, 1979, a report which demonstrates that the total particulate emissions from the Chevron Refinery during 1978 were 1,000 tons or less.

9. Chevron shall submit to the Director by January 31, 1979, a report which demonstrates that the total particulate emissions from the Chevron Refinery during 1978 were 1,000 tons or less.

10. Chevron shall submit to the Director by January 31, 1979, a report which demonstrates that the total particulate emissions from the Chevron Refinery during 1978 were 1,000 tons or less.

11. Chevron shall submit to the Director by January 31, 1979, a report which demonstrates that the total particulate emissions from the Chevron Refinery during 1978 were 1,000 tons or less.

12. Chevron shall submit to the Director by January 31, 1979, a report which demonstrates that the total particulate emissions from the Chevron Refinery during 1978 were 1,000 tons or less.

13. Chevron shall submit to the Director by January 31, 1979, a report which demonstrates that the total particulate emissions from the Chevron Refinery during 1978 were 1,000 tons or less.

14. Chevron shall submit to the Director by January 31, 1979, a report which demonstrates that the total particulate emissions from the Chevron Refinery during 1978 were 1,000 tons or less.

15. Chevron shall submit to the Director by January 31, 1979, a report which demonstrates that the total particulate emissions from the Chevron Refinery during 1978 were 1,000 tons or less.

16. Chevron shall submit to the Director by January 31, 1979, a report which demonstrates that the total particulate emissions from the Chevron Refinery during 1978 were 1,000 tons or less.

17. Chevron shall submit to the Director by January 31, 1979, a report which demonstrates that the total particulate emissions from the Chevron Refinery during 1978 were 1,000 tons or less.

18. Chevron shall submit to the Director by January 31, 1979, a report which demonstrates that the total particulate emissions from the Chevron Refinery during 1978 were 1,000 tons or less.

19. Chevron shall submit to the Director by January 31, 1979, a report which demonstrates that the total particulate emissions from the Chevron Refinery during 1978 were 1,000 tons or less.

20. Chevron shall submit to the Director by January 31, 1979, a report which demonstrates that the total particulate emissions from the Chevron Refinery during 1978 were 1,000 tons or less.

Board of Review, and it hereby waives any and all rights it might have to seek judicial review of said findings and orders before any court of compe-

posed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: September 12, 1978.

JACK J. SCHRAMM,
Regional Administrator, Region III.

[FR Doc. 78-26701 Filed 9-22-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 973-4]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order By the Ohio Environmental Protection Agency to Chrysler Casting Corp., Fostoria Foundry Division

AGENCY: United States Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (U.S. EPA) proposes to approve an administrative order issued by the Ohio Environmental Protection Agency to the Chrysler Casting Corp., Fostoria Foundry Division. The order requires the company to bring air emissions from its three gray iron pouring lines in Fostoria, Ohio, into compliance with certain regulations contained in the federally-approved Ohio State Implementation Plan (SIP) by June 30, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by U.S. EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on U.S. EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before October 25, 1978.

ADDRESSES: Comments should be submitted to Mr. James O. McDonald, Director, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Arthur E. Smith, Jr., Enforcement Attorney, 230 South Dearborn Street, Chicago, Ill. 60604, 312-353-2082.

SUPPLEMENTARY INFORMATION: Fostoria Foundry Division operates gray iron pouring lines at Fostoria, Ohio. The order under consideration addresses emissions from pouring lines "A," "C," and "D" at the facility, which are subject to Ohio AP-3-12 (OAC 3745-17-11(B) (5)). The regulation limits the emission of particulates, and is part of the federally approved Ohio State Implementation Plan. The order requires final compliance with the regulation by June 30, 1979, through termination of "C" molding unit by June 30, 1978, termination of "A" molding unit by June 30, 1979, and compliance at each of two separate process operations of the "D" molding line by September 1, 1978. The source has consented to the terms of the following order. Because this above order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, It must be approved by U.S. EPA before it becomes effective as a delayed compliance order under section 113(d) of the Act. U.S. EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by U.S. EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (sec. 304) would be similarly precluded. If approved, the order would also constitute an addition to the Ohio SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether U.S. EPA may approve the order. After the public comment period, the Administrator of U.S. EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by U.S. EPA soon, and will contain the procedure for U.S. EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by U.S. EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (Apr. 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: June 30, 1978.

VALDAS V. ADAMKUS,
Acting Regional Administrator, Environmental Protection Agency, Region V.

BEFORE THE OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of Chrysler Corp. (Fostoria Foundry Division), 1300 North Main Street, Fostoria, Ohio 44830.

DIRECTOR'S FINDINGS AND ORDERS

Pursuant to section 3701.03(S), revised code, and section 113(d) of the Clean Air Act, as amended, the Director of the Environmental Protection Agency hereby makes the following findings of fact and issues the following orders.

FINDINGS OF FACT

1. Chrysler Corp., Fostoria Foundry Division, hereinafter referred to as "Chrysler," owns and operates a facility that produces air contaminants located in Fostoria, Ohio.

2. Section 3704.03(S), revised code, states, in part, that the Director of Environmental Protection may issue, modify or revoke orders prohibiting or abating emissions which violate applicable emission standards, or requiring emission control devices or measures in order to comply with applicable emission standards.

3. Chrysler, at Fostoria Foundry, owns and operates three gray iron pouring lines, known as the "A," "C," and "D" molding units.

4. Each line is regarded as consisting of two dissimilar process opertaions, namely (1) casting (including mold machine, core setting, closing mold, pouring, cooling, mold shakeout, and sand conveyance away from shakeout to screening), and (2) sand preparation (including screening, mulling, aeration, and conveyance to finished sand hopper). These processes are the sources of inadequately controlled emissions of particulate matter, in violation of Ohio Administrative Code (OAC), Section 3745-17-11(B) (4) and (5), and Chrysler is unable to comply with this regulation with the facility's present pollution control equipment. Complaints against this entity have been received by OEPA.

5. OAC §§3745-35-02 and 03 state that no air contaminant source may be operated unless a permit to operate or a variance is obtained from the OEPA. The above-mentioned sources cannot currently be issued a permit to operate, since compliance with applicable air pollution regulations is a prerequisite to issuance of such permits. The sources cannot be issued a variance, since all variances must require these sources to comply with OAC §3745-17-11(B)(4) by April 15, 1977, unless Chrysler were to demonstrate that noncompliance would not interfere with attainment and maintenance of national ambient air quality standards by such date and otherwise satisfy the requirements of section 3704.03(H), revised code. No such demonstration has been made.

6. The following represent allowable emissions of particulate matter pursuant to OAC 3745-17-11(B)(5) from the several operations referred to in findings 3 and 4 above:

1. Casting operation of "A" line—50 pounds per hour.
2. Sand preparation operation of "A" line—50 pounds per hour.
3. Casting operation of "D" line—50 pounds per hour.
4. Sand preparation operation of "D" line—50 pounds per hour.

7. Potential emissions of air pollutants from these sources are equal to or more than 100 tons per year, and therefore these sources constitute a major stationary source as defined in section 302(j) of the Clean Air Act, as amended.

8. Particulate matter from the three molding units, A, C, and D, is emitted from their respective stacks. In addition, one or more units contribute substantial particulate emissions to the ambient air through roof vents and ducts, including one located in the "high-bay" area of the facility. The latter emissions are fugitive emissions which are not being captured by existing pollution control equipment.

9. Chrysler believes the molding unit A may in fact be operating in compliance with OAC § 3745-17-11 but that this can not be adequately demonstrated until Chrysler has complied with orders 1 and 3.

10. The cost to Chrysler of actual compliance with respect to the "A" and "C" molding units, plus the economic value which may accrue to Chrysler by reason of failure to comply with OAC § 3745-17-11, is estimated to be $320,000 and $300,000, respectively. These figures consequently represent the amounts of the forfeiture bonds posted by Chrysler in compliance with section 113(d)(3) of the Clean Air Act, as amended.

11. The compliance schedules set forth in the orders below require compliance with applicable emission limitations as expeditiously as practicable.

12. Implementation by Chrysler of interim control measures contained in the orders below will fulfill the requirements of section 113(d)(7) of the Clean Air Act, as amended.

13. The Director's determination to issue the orders set forth below is based on his consideration of reliable and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such orders, and their relation to benefits to the people of the State to be derived from such compliance.

ORDERS

1. Chrysler shall shut down the "C" molding unit on or before June 30, 1978.

2. Chrysler shall shut down the "A" molding unit on or before June 30, 1979, unless compliance with section 3745-17-11 of the OAC has been demonstrated to the satisfaction of the Director through appropriate stack tests.

3. Chrysler shall reduce the total particulate emissions from each of the two separate operations of the "D" molding unit to 50 lbs. per hour or less by September 1, 1978.

4. Chrysler shall comply with the following schedule for attainment of the limits specified in order 3:

Submission of final control plan for source to OEPA.	Dec. 1, 1977.
Awarding of contracts for emission control system or issuing of purchase orders for component parts to accomplish emission control or process modification.	Oct. 15, 1977. Mar. 15, 1978.
Initiation of on-site construction or installation of emission control equipment or process modification.	Feb. 1, 1978.
Completion of on-site construction or installation of emission control equipment or process modification.	Aug. 1, 1978.
Achievement of final compliance with all applicable State and Federal regulation.	Sept. 1, 1978

5. On or before October 1, 1978, Chrysler shall conduct stack tests, in accordance with methods approved by OEPA, on all stacks, vents or other ducts which conduct emissions from the "D" molding unit to the ambient air. Chrysler shall notify the OEPA of the intended time of performance of such test so that OEPA's respresentative may observe or participate in the test, as provided in OAC 3745-35-02(C)(4).

6. Chrylser shall report to the OEPA the results of the performance tests specified in order 5 within 2 weeks of completion of such tests.

7. In the event that Chrysler fails to achieve final compliance with all orders contained herein by July 1, 1979, Chrysler shall be required to pay a noncompliance penalty pursuant to section 120 of the Clean Air Act, as amended.

8. Notwithstanding final compliance schedules and dates herein, Chrysler shall use the best practicable system of emission reduction for each source within "A", "C", and "D" molding units to assure compliance with OAC 3745-17-11 insofar as Chrysler is able for the period during which this order is in effect. Such interim measures shall consist of regular monitoring and maintenance of existing pollution control equipment on the "A", "C", and "D" molding units to assure no degradation of same.

9. The August 24, 1977 order issued by OEPA to Chrysler is hereby revoked.

10. Upon compliance with order 2, 3, 5 and 6 above, Chrysler shall apply for operating permits pursuant to OAC 3745-35-02 for its "D" molding unit, and, if necessary, its "A" molding unit. Upon issuance of such operating permits, and compliance with order 1, this order shall terminate.

Dated: March, 2, 1978.

OHIO ENVIRONMENTAL PROTECTION AGENCY,
NED E. WILLIAMS,
Director.

WAIVER

Chrysler Corp. agrees to comply with the attached orders and that the attached findings and orders are lawful and reasonable. Chrysler Corp. hereby waives the right to appeal the issuance or terms of the attached findings and orders to the Environmental Board of Review, and it hereby waives any and all rights it might have to seek judicial review of said findings and orders before any court of competent jurisdiction. Chrysler Corp. also waives any and all rights it might have to such judicial review of any approval by U.S. EPA of the attached findings and orders and to seek a stay of enforcement of said findings and orders in connection with any judicial review of Ohio's air implementation plan (or portion thereof).

H. J. PRIDMORE,
Authorized Representative of Chrysler Corporation.

[FR Doc. 78-26703 Filed 9-22-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 972-4]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Partial Approval and Partial Disapproval of an Administrative Order Issued by West Virginia Air Pollution Control Commission to Triangle PWC, Inc.

AGENCY: Enironmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA has proposed to approve in part an administrative order issued by the West Virginia Air Pollution Control Commission to Triangle PWC, Inc. The order requires the company to bring air emissions from its three boilers in Glen Dale, Marshall County, West Virginia into compliance with certain regulations contained in the federally-approved West Virginia State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If part of the order is approved by EPA, that part of the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the approved part of the Order. The purpose of this notice is to invite public comment on EPA's proposed partial approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before October 25, 1978.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Curtis

Building, 6th and Walnut Sts., Philadelphia, Pa. 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Thomas J. Maslany, Air Programs Branch, Enforcement Division, EPA, Region III, Curtis Building, 6th and Walnut Sts., Philadelphia, Pa. 19106, 215-597-9814.

SUPPLEMENTARY INFORMATION: Triangle PWC, Inc. operates three boilers in Glen Dale, Marshall County, West Virginia. The order under consideration addresses emissions from the boilers which are subject to West Virginia Regulation APC-3 (WVAC 3745-17-11(B)). The regulation limits the emission of particulates, and is part of the federally approved West Virginia State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979, through termination of operation of boiler #1 by July 1, 1978, and compliance at each of two separate process operations of boiler #2 by July 1, 1979. The source has consented to the terms of the following order. Because this above order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, It must be approved by U.S. EPA before it becomes effective as a delayed compliance order under section 113(d) of the Act. U.S. EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by U.S. EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against those facilities covered by the approved order or part thereof, for violations of the regulations covered by the approved part of the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: September 12, 1978.

JACK J. SCHRAMM,
Regional Administrator, Region III.

[FR Doc. 78-26702 Filed 9-22-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 973-3]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order By the Ohio Environmental Protection Agency to Chrysler Corp., Fostoria Foundry Division

AGENCY: United States Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (U.S. EPA) proposes to approve an administrative order issued by the Ohio Environmental Protection Agency to the Chrysler Corp., Fostoria Foundry Division. The order requires the company to bring air emissions from its three gray iron pouring lines in Fostoria, Ohio, into compliance with certain regulations contained in the federally-approved Ohio State Implementation Plan (SIP) by June 30, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by U.S. EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the approved part of the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before October 25, 1978.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Arthur E. Smith, Jr., Enforcement Attorney, 230 South Dearborn Street, Chicago, Ill. 60604, 312-353-2082.

SUPPLEMENTARY INFORMATION: Chrysler Corp. operates gray iron pouring lines at Fostoria, Ohio. The order under consideration addresses emissions from pouring lines "A," "C," and "D" at the facility, which are subject to Ohio AP-3-12 (OAC 3745-17-11(B) (5)). The regulation limits the emission of particulates, and is part of the federally approved Ohio State Implementation Plan. The order requires final compliance with the regulation by June 30, 1979, through termination of "C" molding unit by June 30, 1978, termination of "A" molding unit by June 30, 1979, and compliance at each of two separate process operations of the "D" molding line by September 1, 1978. The source has consented to the terms of the following order. Because this above order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, It must be approved by U.S. EPA before it becomes effective as a delayed compliance order under section 113(d) of the Act. U.S. EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by U.S. EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (sec. 304) would be similarly precluded. If approved, the order would also constitute an addition to the Ohio SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether U.S. EPA may approve the order. After the public comment period, the Administrator of U.S. EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by U.S. EPA soon, and will contain the procedure for U.S. EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by U.S. EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (Apr. 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: June 30, 1978.

VALDAS V. ADAMKUS,
Acting Regional Administrator, Environmental Protection Agency, Region V.

BEFORE THE OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of Chrysler Corp. (Fostoria Foundry Division), 1300 North Main Street, Fostoria, Ohio 44830.

DIRECTOR'S FINDINGS AND ORDERS

Pursuant to section 3701.03(S), revised code, and section 113(d) of the Clean Air Act, as amended, the Director of the Environmental Protection Agency hereby makes the following findings of fact and issues the following orders.

FINDINGS OF FACT

1. Chrysler Corp., Fostoria Foundry Division, hereinafter referred to as "Chrysler," owns and operates a facility that produces air contaminants located in Fostoria, Ohio.

2. Section 3704.03(S), revised code, states, in part, that the Director of Environmental Protection may issue, modify or revoke orders prohibiting or abating emissions which violate applicable emission standards, or requiring emission control devices or measures in order to comply with applicable emission standards.

3. Chrysler, at Fostoria Foundry, owns and operates three gray iron pouring lines, known as the "A," "C," and "D" molding units.

4. Each line is regarded as consisting of two dissimilar process opertaions, namely (1) casting (including mold machine, core setting, closing mold, pouring, cooling, mold shakeout, and sand conveyance away from shakeout to screening), and (2) sand preparation (including screening, mulling, aeration, and conveyance to finished sand hopper). These processes are the sources of inadequately controlled emissions of particulate matter, in violation of Ohio Administrative Code (OAC), Section 3745-17-11(B) (4) and (5), and Chrysler is unable to comply with this regulation with the facility's present pollution control equipment. Complaints against this entity have been received by OEPA.

5. OAC §§3745-35-02 and 03 state that no air contaminant source may be operated unless a permit to operate or a variance is obtained from the OEPA. The above-mentioned sources cannot currently be issued a permit to operate, since compliance with applicable air pollution regulations is a prerequisite to issuance of such permits. The sources cannot be issued a variance, since all variances must require these sources to comply with OAC §3745-17-11(B)(4) by April 15, 1977, unless Chrysler were to demonstrate that noncompliance would not interfere with attainment and maintenance of national ambient air quality standards by such date and otherwise satisfy the requirements of section 3704.03(H), revised code. No such demonstration has been made.

6. The following represent allowable emissions of particulate matter pursuant to OAC 3745-17-11(B)(5) from the several operations referred to in findings 3 and 4 above:

1. Casting operation of "A" line—50 pounds per hour.
2. Sand preparation operation of "A" line—50 pounds per hour.
3. Casting operation of "D" line—50 pounds per hour.
4. Sand preparation operation of "D" line—50 pounds per hour.

7. Potential emissions of air pollutants from these sources are equal to or more than 100 tons per year, and therefore these sources constitute a major stationary source as defined in section 302(j) of the Clean Air Act, as amended.

8. Particulate matter from the three molding units, A, C, and D, is emitted from their respective stacks. In addition, one or more units contribute substantial particulate emissions to the ambient air through roof vents and ducts, including one located in the "high-bay" area of the facility. The latter emissions are fugitive emissions which are not being captured by existing pollution control equipment.

9. Chrysler believes the molding unit A may in fact be operating in compliance with OAC § 3745-17-11 but that this can not be adequately demonstrated until Chrysler has complied with orders 1 and 3.

10. The cost to Chrysler of actual compliance with respect to the "A" and "C" molding units, plus the economic value which may accrue to Chrysler by reason of failure to comply with OAC § 3745-17-11, is estimated to be $320,000 and $300,000, respectively. These figures consequently represent the amounts of the forfeiture bonds posted by Chrysler in compliance with section 113(d)(3) of the Clean Air Act, as amended.

11. The compliance schedules set forth in the orders below require compliance with applicable emission limitations as expeditiously as practicable.

12. Implementation by Chrysler of interim control measures contained in the orders below will fulfill the requirements of section 113(d)(7) of the Clean Air Act, as amended.

13. The Director's determination to issue the orders set forth below is based on his consideration of reliable and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such orders, and their relation to benefits to the people of the State to be derived from such compliance.

ORDERS

1. Chrysler shall shut down the "C" molding unit on or before June 30, 1978.

2. Chrysler shall shut down the "A" molding unit on or before June 30, 1979, unless compliance with section 3745-17-11 of the OAC has been demonstrated to the satisfaction of the Director through appropriate stack tests.

3. Chrysler shall reduce the total particulate emissions from each of the two separate operations of the "D" molding unit to 50 lbs. per hour or less by September 1, 1978.

4. Chrysler shall comply with the following schedule for attainment of the limits specified in order 3:

Submission of final control plan for source to OEPA.	Dec. 1, 1977.
Awarding of contracts for emission control system or issuing of purchase orders for component parts to accomplish emission control or process modification.	Oct. 15, 1977. Mar. 15, 1978.
Initiation of on-site construction or installation of emission control equipment or process modification.	Feb. 1, 1978.
Completion of on-site construction or installation of emission control equipment or process modification.	Aug. 1, 1978.
Achievement of final compliance with all applicable State and Federal regulation.	Sept. 1, 1978

5. On or before October 1, 1978, Chrysler shall conduct stack tests, in accordance with methods approved by OEPA, on all stacks, vents or other ducts which conduct emissions from the "D" molding unit to the ambient air. Chrysler shall notify the OEPA of the intended time of performance of such test so that OEPA's respresentative may observe or participate in the test, as provided in OAC 3745-35-02(C)(4).

6. Chrylser shall report to the OEPA the results of the performance tests specified in order 5 within 2 weeks of completion of such tests.

7. In the event that Chrysler fails to achieve final compliance with all orders contained herein by July 1, 1979, Chrysler shall be required to pay a noncompliance penalty pursuant to section 120 of the Clean Air Act, as amended.

8. Notwithstanding final compliance schedules and dates herein, Chrysler shall use the best practicable system of emission reduction for each source within "A", "C", and "D" molding units to assure compliance with OAC 3745-17-11 insofar as Chrysler is able for the period during which this order is in effect. Such interim measures shall consist of regular monitoring and maintenance of existing pollution control equipment on the "A", "C", and "D" molding units to assure no degradation of same.

9. The August 24, 1977 order issued by OEPA to Chrysler is hereby revoked.

10. Upon compliance with order 2, 3, 5 and 6 above, Chrysler shall apply for operating permits pursuant to OAC 3745-35-02 for its "D" molding unit, and, if necessary, its "A" molding unit. Upon issuance of such operating permits, and compliance with order 1, this order shall terminate.

Dated: March, 2, 1978.

OHIO ENVIRONMENTAL PROTECTION AGENCY,
NED E. WILLIAMS,
Director.

WAIVER

Chrysler Corp. agrees to comply with the attached orders and that the attached findings and orders are lawful and reasonable. Chrysler Corp. hereby waives the right to appeal the issuance or terms of the attached findings and orders to the Environmental Board of Review, and it hereby waives any and all rights it might have to seek judicial review of said findings and orders before any court of competent jurisdiction. Chrysler Corp. also waives any and all rights it might have to such judicial review of any approval by U.S. EPA of the attached findings and orders and to seek a stay of enforcement of said findings and orders in connection with any judicial review of Ohio's air implementation plan (or portion thereof).

H. J. PRIDMORE,
Authorized Representative of Chrysler Corporation.

[FR Doc. 78-26703 Filed 9-22-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 972-4]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Partial Approval and Partial Disapproval of an Administrative Order Issued by West Virginia Air Pollution Control Commission to Triangle PWC, Inc.

AGENCY: Enironmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA has proposed to approve in part an administrative order issued by the West Virginia Air Pollution Control Commission to Triangle PWC, Inc. The order requires the company to bring air emissions from its three boilers in Glen Dale, Marshall County, West Virginia into compliance with certain regulations contained in the federally-approved West Virginia State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If part of the order is approved by EPA, that part of the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the approved part of the Order. The purpose of this notice is to invite public comment on EPA's proposed partial approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before October 25, 1978.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Curtis

Building, 6th and Walnut Sts., Philadelphia, Pa. 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Patrick McManus (3EN12), U.S. EPA, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, Pa. 19106, 215-597-4561

SUPPLEMENTARY INFORMATION: Triangle PWC, Inc., operates an industrial facility at Glen Dale, W. Va. The order under consideration addresses emissions from three boilers at the facility, which are subject to West Virginia Air Pollution Control Commission Regulation II, "To Prevent and Control Particulate Air Pollution From Combustion of Fuel in Indirect Heat Exchangers."

The regulation limits the emissions of particulate matter, and is part of the federally approved West Virginia State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979 through installation of particulate collection equipment (boiler 1) and shutdown (boilers 2 and 3).

The compliance program for boiler 1 fulfills the requirements pursuant to section 113(d) of the Act, and is therefore approvable as a DCO. However, the compliance program for boilers 2 and 3 calls for shutdown of these boilers on June 30, 1979, after which control equipment will be installed. However, there are no increments of progress included in the order to show the progress of the company's compliance program for the period prior to June 30, 1979. Therefore, the order is not approvable for boilers 2 and 3.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order or part of the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under section 113 of the Act against those facilities covered by the approved order or part thereof, referred to in the order during the period the order is in effect. That part of the order which is approved would also constitute an addition to the West Virginia SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR, Part 65.

The provisions of 40 CFR, Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: September 12, 1978.

JACK J. SCHRAMM,
Regional Administrator,
Region III.

[FR Doc. 78-26704 Filed 9-22-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 972-5]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Partial Approval and Partial Disapproval of an Administrative Order Issued by West Virginia Air Pollution Control Commission, to FMC Corp.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA has proposed to approve in part an administrative order issued by the West Virginia Air Pollution Control Commission to FMC Corp. The order requires the company to bring air emissions from its eight boilers in South Charleston, Kanawha County, W. Va., into compliance with certain regulations contained in the federally-approved West Virginia State Implementation Plan (SIP) by June 30, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If part of the order is approved by EPA, that part of the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the approved part of the order. The purpose of this notice is to invite public comment on EPA's partial approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before October 25, 1978.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Patrick McManus (3EN12), U.S. EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106, 215-597-4561.

SUPPLEMENTARY INFORMATION: FMC Corp. operates an industrial chemical plant at South Charleston, W. Va. The order under consideration addresses emissions from eight boilers at the facility, which are subject to West Virginia Air Pollution Control Commission Regulation II, "To Prevent and Control Particulate Air Pollution From Combustion of Fuel in Indirect Heat Exchangers."

The regulation limits the emissions of particulate matter, and is part of the federally approved West Virginia State Implementation Plan. The order requires final compliance with the regulation by June 30, 1979, through upgrading electrostatic precipitators (boilers 13, 14, 15, 16, 17, and 18), shutdown (boilers 11 and 12), and other actions (all boilers).

The compliance program for boilers 13, 14, 15, 16, 17, and 18 fulfills the requirements pursuant to section 113(d) of the Act, and is therefore approvable as a DCO. However, the compliance program for boilers 11 and 12 calls for ultimate shutdown by June 30, 1979. This is not approvable because section 113(d)(3) of the Act requires that a bond be posted when shutdown is the ultimate compliance plan, and the subject order does not require such a bond.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order or part of the order is approved by EPA, source compliance with its terms would preclude Federal

enforcement action under section 113 of the Act against those facilities covered by the approved order or part thereof, for violations of the regulations referred to in the order during the period the order is in effect. That part of the order which is approved would also constitute an addition to the West Virginia SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (Apr. 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: September 12, 1978.

JACK J. SCHRAMM,
Regional Administrator,
Region III.

[FR Doc. 78-26705 Filed 9-22-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 972-6]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by West Virginia Air Pollution Control Commission, to Pennsylvania Glass Sand Corp.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposed to approve an administrative order issued by the West Virginia Air Pollution Control Commission to Pennsylvania Glass Sand, Berkeley Springs, W. Va. The order requires the company to bring air emissions from its coal fired boilers in Berkeley Springs, W. Va., into compliance with certain regulations contained in the federally approved West Virginia State Implementation Plan (SIP) by June 30, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before October 25, 1978.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Patrick McManus (3EN12), U.S. EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106, 215-597-4561.

SUPPLEMENTARY INFORMATION: Pennsylvania Glass Sand Corp. operates coal fired boilers at Berkeley Springs, W. Va. The order under consideration addresses emissions from the coal fired boilers at the facility, which are subject to regulation II (40 CFR 52.2520).

The regulation limits the emissions of particulate matter, and is part of the federally approved West Virginia State Implementation Plan. The order requires final compliance with the regulation by June 30, 1979, through revision of the coal firing methods and improving operating parameters. If these improvements do not bring the boilers into compliance, a baghouse or scrubber will be installed according to the schedule included in the order.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source would be similarly precluded. If approved, the order would also constitute an addition to the West Virginia SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (Apr. 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations

(42 U.S.C. 7413, 7601.)

Dated: September 12, 1978.

JACK J. SCHRAMM,
Regional Administrator,
Region III.

[FR Doc. 78-26706 Filed 9-22-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 972-7]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by West Virginia Air Pollution Control Commission, to Banner Fibreboard Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the West Virginia Air Pollution Control Commission to Banner Fibreboard Co. The order requires the company to bring air emissions from its oil and coal fired boilers in Wellsburg, W. Va., into compliance with certain regulations contained in the federally-approved West Virginia State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the

SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before October 25, 1978.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Patrick McManus (3EN12), U.S. EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106, 215-597-4561.

SUPPLEMENTARY INFORMATION: Banner Fibreboard Co. operates at Wellsburg, W. Va. The order under consideration addresses emissions from oil and coal fired boilers at the facility, which are subject to regulation II (40 CFR 52.2520).

The regulation limits the emissions of particulate matter, and is part of the federally approved West Virginia State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979, through the installation of a new rotary valve on the discharged hopper of the existing multiclone on the company's coal fire boilers and any other modifications needed to bring the oil and coal fired boilers into compliance.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source would be similarly precluded. If approved, the order would also constitute an addition to the West Virginia SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (Apr. 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601)

Dated: September 12, 1978.

JACK J. SCHRAMM,
Regional Administrator,
Region III.

[FR Doc. 78-26707 Filed 9-22-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 972-8]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued By West Virginia Air Pollution Control Commission, To Union Carbide Corp.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA has proposed to approve an administrative order issued by the West Virginia Air Pollution Control Commission to Union Carbide Corp. The order requires the company to bring air emissions from its boilers in South Charleston, Kanawha County, W. Va. into compliance with certain regulations contained in the federally-approved West Virginia State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before October 25, 1978.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Patrick McManus (3EN12), U.S. EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106, 215-297-4561.

SUPPLEMENTARY INFORMATION: Union Carbide Corp. operates an industrial facility at South Charleston, W. Va. The order under consideration addresses emissions from boilers at the facility, which are subject to West Virginia Air Pollution Control Commission Regulation II, "To Prevent and Control Particulate Air Pollution From Combustion of Fuel in Indirect Heat Exchangers."

The regulation limits the emissions of particulate matter, and is part of the federally approved West Virginia State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979 through purchase and use of low ash (less than 8.5 percent) coal, improved operating/maintenance procedures, boiler modifications, and reduction of operating capacity.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source would be similarly precluded. If approved, the order would also constitute an addition to the West Virginia SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 CFR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601)

Dated: September 12, 1978.

JACK J. SCHRAMM,
Regional Administrator,
Region III.

[FR Doc. 78-26708 Filed 9-22-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 973-1]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by West Virginia Air Pollution Control Commission, to the Pennzoil Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA has proposed to approve an administrative order issued by the West Virginia Air Pollution Control Commission to the Pennzoil Co. The order requires the company to bring air emissions from its Elk Refining Division in Falling Rock, W. Va. into compliance with certain regulations contained in the federally-approved West Virginia State Implementation Plan (SIP) by November 15, 1978. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before October 25, 1978.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Patrick McManus (3EN12), U.S. EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106, 215-597-4561.

SUPPLEMENTARY INFORMATION: Pennzoil Co. operates a lubricating oil refinery at Falling Rock, W. Va. The order under consideration addresses emissions from its flare system and furnaces at the facility, which are subject to regulation VII of the West Virginia Air Pollution Control Commission.

The regulation limits the emissions of particulate matter, and is part of the federally approved West Virginia State Implementation Plan. The order requires final compliance with the regulation by November 5, 1978 through instrument modifications to the flare system and furnace modifications to the Nichols Herreshoff furnaces. On June 16, 1978 Pennzoil Co. consented to the terms of this order. The company has met all requirements of the schedule to date.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source would be similarly precluded. If approved, the order would also constitute an addition to the West Virginia SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601)

Dated: September 12, 1978.

JACK J. SCHRAMM,
Regional Administrator,
Region III.

[FR Doc. 78-26709 Filed 9-22-78; 8:45 am]

[4910-06]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Chapter II]

[Docket No. RSSI-78-5, Notice No. 4]

GENERAL SAFETY INQUIRY

Public Hearing

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of public hearing.

SUMMARY: As a part of the general railroad safety inquiry initiated in the notice published in the May 8, 1978, issue of the FEDERAL REGISTER (43 FR 19696), FRA will conduct the fourth of a series of five 2-day hearings to obtain information from the public to assist in evaluating and improving the effectiveness of its safety regulatory program. The fourth hearing will address the FRA track safety standards contained in 49 CFR Part 213.

DATES: (1) The fourth 2-day public hearing will begin at 10 a.m. on October 18, 1978. The fifth 2-day hearing has been rescheduled for November 15 and 16.

(2) Prepared written statements for the October hearing should be submitted by October 11, 1978, in triplicate to the Docket Clerk, Office of Chief Counsel (RCC-1), Federal Railroad Administration, Room 4406, 2100 Second Street SW., Washington, D.C. 20590.

(3) Persons desiring to participate in the October hearing should notify the principal program person by October 11, 1978, and indicate the amount of time they need to present their views.

ADDRESS: Hearing Location: Trans Point Building, Room 3201, 2100 Second Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

DESIGNATION OF QUALIFIED PERSONS

Section 213.7 of the existing standard

tion of load application, vehicle center of gravity, and vehicle configuration?

21. The present standards allow a

CONTINUOUS WELDED RAIL (CWR)

36. Are the present requirements of § 213.119 adequate?

V 43 / 186 SEP 25 78 V 4

FOR FURTHER INFORMATION CONTACT:

Principal Program Person: Rolf Mowatt-Larssen, Office of Safety (RRS-20), FRA, Room 4414N, 2100 Second Street SW., Washington, D.C. 20590, phone 202-426-0924.

Principal Attorney: Edward F. Conway, Jr., Office of Chief Counsel (RCC-30), FRA, Room 4406, 2100 Second Street SW., Washington, D.C. 20590, phone 202-426-8836.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to § 211.61 of its rules of practice (49 CFR 211.61), FRA is conducting a general safety inquiry to examine in depth selected topics covered by its safety regulations. FRA will use the information it receives in this inquiry in an assessment of the effectiveness of its safety regulatory program. On the bais of this and other information, existing regulations may be expanded in scope, revised, or revoked to reflect changed conditions. The general inquiry encompasses three general areas: (1) Rolling equipment; (2) track and related structures, appliances, and devices; and (3) signal and communications systems.

The first general area, rolling equipment, consists of these topics: Locomotives, freight cars and their safety appliances, and the power brake systems on all equipment. Each of these topics was considered in separate 2-day hearings. The first hearing was conducted on June 14 and 15, 1978; its subject was locomotives. The second hearing was held on July 12 and 13, 1978; its subject was freight cars and their safety appliances. The third hearing was held on September 13 and 14, 1978; its subject was power brakes.

The second general area, which covers track and related structures, appliances, and devices, will be the subject of the hearing scheduled for October 18 and 19, 1978.

The third general area, signal and communications systems, will be the subject of the fifth and final hearing. This hearing is scheduled to take place in Washington, D.C., on November 15 and 16, 1978. A notice will be published at a later date setting forth the specific time and place for this hearing.

HEARING ON TRACK AND RELATED STRUCTURES, APPLIANCES, AND DEVICES

The purpose of the October hearing is to elicit information to assist FRA in reviewing its present safety regulatory program with respect to track and related structures, appliances, and devices.

The initial safety standards for track and track inspection were issued by FRA on October 20, 1971, and are contained in part 213 (49 CFR Part 213). These regulations were promulgated under the authority of section 202(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(e)). That section directed the Secretary of Transportation to issue initial railroad safety rules, regulations, and standards based on existing safety data and standards.

Before the initial regulations were issued, the FRA decided that the railroad industry would need additional time to bring existing tract into compliance with a number of requirements in part 213 pertaining to track geometry and crossties. The need for this additional time was based on two considerations. First, the railroads could not obtain sufficient crossties to meet the requirements. Also, additional time was needed for "reworking" of track to restore it to its original geometric configuration. For these reasons, the track safety standards went into effect in two stages. Subparts A, B, D (except § 213.109), E, and F became effective on October 16, 1972. Subpart C (Track Geometry) and § 213.109 of Subpart D (Crossties) went into effect on October 16, 1973.

There has not been a major change to these standards since they were issued. However, there have been three minor amendments, two of which became effective before October 16, 1973, the date the initial standards became fully effective. The third and most recent change adds to the track safety standards a schedule of specific civil penalties for violations of particular sections of the regulations.

FRA is considering a major review of the track safety standards. This review will not be limited to eliminating or updating existing requirements that are obsolete or no longer necessary. It will also include the development of new requirements to meet the needs of the present railroad operating environment. The issues to be addressed in this hearing have been placed in several categories and are discussed below.

Issues not listed may be addressed provided they pertain to or significantly affect tract and related structures, appliances, and devices. Statements made in response to these questions, or addressing other pertinent issues, should be specific and contain detailed supporting information, which is factual and based on scientific principles, empirical data, or practical experience.

Among the issues to be addressed at the hearing are the following:

GENERAL ISSUES

1. What criteria should be used in reviewing and revising the track safety standards?

2. Should FRA develop and issue performance standards to replace the existing safety standards? If performance standards are developed, what timetable should be used to implement these standards? What considerations should be given to determining compliance with performance standards? Should each track owner be given the option of complying with prescribed performance standards or the existing safety standards?

3. What consideration should be given to vehicle performance and axle loading in the development of new track standards?

4. The standards are written and intended to be used as minimum safety requirements. Do such minimum requirements encourage reduced or deferred maintenance?

5. Because of the greater hazards inherent in the movement of hazardous materials, should FRA consider establishing more rigid requirements for track used in the transportation of these materials? Should these standards vary according to the types and amounts of these materials that move over the track?

6. Should there be more stringent requirements for track located in densely populated areas?

COMBINATION OF TRACK CONDITIONS

A general statement is contained in § 213.1 of the existing standards concerning remedial action required to provide safe operation over track containing a combination of track conditions, none of which individually amounts to a deviation from the requirements.

7. Should the existing standards be amended to identify the combinations of conditions? Also, should specific thresholds and remedial actions to be taken be prescribed for each combination? Be specific in your response and identify the types of conditions and various combinations that should be considered and the threshold limits for each.

RESPONSIBILITY OF TRACK OWNERS

Section 213.5 of the existing standards holds the owner of track responsible for compliance unless a petition for assignment of that responsibility is approved by the Administrator of the FRA.

8. Has this provision hindered the effective implementation of the standards?

9. Should each railroad also be held responsible for compliance with the track safety standards with respect to track over which it operates trains?

10. Section 213.5 provides that any owner of track to which this part applies who knows or has notice that its track does not comply with the requirements of the track safety standards, shall bring the track into compliance or halt operations. Should this section be revised to eliminate the knowledge requirement?

DESIGNATION OF QUALIFIED PERSONS

Section 213.7 of the existing standards requires that each track owner to designate qualified track inspectors and maintenance supervisors. It also prescribes the qualifications they must have.

11. Are these qualifications adequate?

12. What qualifications should they have?

13. Should FRA, rather than each track owner, determine whether the designated inspectors and supervisors are qualified?

CLASSES OF TRACK: OPERATING SPEED LIMITS

In 1972, § 213.9 of the standards was amended to permit increased speeds for passenger trains in each track class. The recent increase in rate of track-caused passenger train derailments appears to indicate a need for more stringent safety requirements for this type of operation.

14. Should the maximum allowable operating speed for passenger trains be lowered?

15. What other safety measures should be considered?

16. Present track standards limit the maximum authorized operating speed to 110 m.p.h. What track standards should be prescribed for speeds in excess of 110 m.p.h.? What other safety requirements should be imposed on operations at speeds greater than 110 m.p.h.?

TRACK GEOMETRY

The requirements of subpart C of the existing standards (track geometry) do not take into consideration the various types of rail vehicles and their response to deviations in track geometry.

17. How should behavior variations of vehicles, such as bounce, pitch, and rock and roll, be taken into account in the track safety standards?

ALINEMENT

Section 213.55 of the existing standards prescribes specific thresholds for track alinement.

18. Are the present requirements adequate?

19. Should the method of determining deviations be changed?

CURVES: ELEVATION AND SPEED LIMITATIONS

Section 213.57 of the existing standards prescribes a formula to determine the maximum operating speed for each curve. This formula is based on a 3-inch unbalanced superelevation.

20. Should this section be revised to take into consideration lateral, vertical, and longitudinal forces, time duration of load application, vehicle center of gravity, and vehicle configuration?

21. The present standards allow a maximum superelevation of 6 inches plus the deviations permitted in § 213.63. This can result in an actual superelevation of 9 inches or reverse superelevation of 3 inches on class 1 track. Should these limits be changed?

22. Should revisions be made to the limits of other classes of track?

TRACK SURFACE

Section 213.63, as it appears in the existing standards, was based on practical experience and the best empirical data available at the time it was issued.

23. Are the present requirements adequate? If not, how should they be changed?

24. Should requirements that address track profile be included in the revised track safety standards?

CROSSTIES

25. Section 213.109 of the existing standards prescribes requirements for crossties. Should the requirements for crossties reflect factors such as rail weight, curvature, ballast conditions, and dynamic response of rail vehicles?

26. Are the present maximum distances between crossties for each class of track adequate?

27. Do the existing crosstie requirements provide adequate support for curved track? If not, how should the requirements be modified?

28. What modifications should be made to this section with respect to crossties made of various materials?

DEFECTIVE RAILS

Section 213.113 of the existing standards prescribes the remedial action that must be taken when a track owner learns that a rail in track contains a defect.

29. Should the remedial action required by this section take into consideration rail weight, rail age, axle load, and traffic density?

30. What is the shortest rail length that should be permitted on each class of track?

31. Should restrictions be imposed on the use of noncontrolled cooled rails? What should they be?

32. Are the defect dimensions contained in this section adequate? If not, what should they be?

33. Remedial action in the existing regulations is limited to removal of the rail, installation of angle bars, slow orders, and reinspection. Are these remedial actions adequate?

34. What other remedial actions should be taken to assure safe operation?

35. Should rail wear limits be prescribed? What should they be?

CONTINUOUS WELDED RAIL (CWR)

36. Are the present requirements of § 213.119 adequate?

37. Should track owners be required to keep records indicating the temperature of CWR when it was installed and adjusted?

38. Should specific provisions be added that would prohibit disturbing CWR at certain temperatures?

RAIL ANCHORING

39. Are the existing requirements for rail anchors in § 213.125 adequate? If not, what additional requirements should be considered?

SWITCHES

40. Section 213.135(h) provides that a switch point that is "unusually chipped or worn" must be repaired or replaced. Can condemning limits for switch points be quantitatively defined? What should these limits be?

41. In establishing condemning limits for switch points, how should the condemning limits of wheel flanges on the rail vehicles be taken into account?

DERAILS

42. Are the existing requirements concerning derails in § 213.205 adequate? If not, how should they be changed?

INSPECTIONS

Subpart F prescribes requirements for the frequency and manner of inspecting track and rail to detect deviations from the standards. It also contains recordkeeping requirements for both track and rail inspections.

43. Should the FRA track safety standards specify how and when track must be inspected, or should they just require that track comply with the standards? Response to this question should contain specific detailed information to justify your position.

44. Are existing inspection requirements adequate?

45. Should a periodic "walking" inspection of track be required? For what classes of track? How frequently should this be required?

46. Each track owner is now required to have a qualified inspector inspect its track at specified frequencies. It is the inspector's responsibility to identify all defects that exist in the track, record those defects, and see that the proper remedial action is taken to bring the track into compliance before the operation of the next train. What, if any, other requirements should be added to assure that proper remedial action is promptly taken?

47. How should automated geometry inspection vehicles be included in the inspection requirements of the track safety standards?

48. Are existing requirements concerning inspection of rail adequate? How often should rail inspections be

nizations, and other interested parties participate actively in this hearing by providing knowledgeable spokesper-

notices

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48. Are existing requirements concerning inspection of rail adequate? How often should rail inspections be made? What classes of track should be inspected for internal rail defects and why?

49. Should consideration be given to rail age, rail wear, rail weight, and traffic density and total accumulated tonnage in establishing requirements for rail inspection?

PUBLIC PARTICIPATION

FRA requests that the Association of American Railroads, the American Short Line Railroad Association, individual railroads, track material suppliers, the National Transportation Safety Board, railroad employee organizations, and other interested parties participate actively in this hearing by providing knowledgeable spokespersons and pertinent technical, manufacturing, service, and cost data. FRA further requests that these spokespersons present detailed information to justify their positions.

(Secs. 202 and 208, Federal Railroad Safety Act of 1970 (45 U.S.C. 431 and 437); § 1.49(n), Regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).)

Issued in Washington, D.C., on September 20, 1978.

ROBERT E. GALLAMORE,
Acting Administrator.

[FR Doc. 78-26814 Filed 9-22-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

MANAGEMENT-LABOR TEXTILE ADVISORY COMMITTEE

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Management-Labor Textile Advisory Committee will be held on October 12, 1978 at 1:30 p.m. in Room 4833, Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230.

The Committee was established by the Secretary of Commerce on October 18, 1961 to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel.

The agenda for the meeting will be as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report on conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meetings to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the ITA Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Telephone requests for the minutes of the meetings and requests for further information concerning the Committee may be directed to Arthur Garel, Director, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5078.

Dated: September 20, 1978.

ROBERT E. SHEPHERD,
Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-26938 Filed 9-22-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL, SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico and South Atlantic Fishery Management Councils were established by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265). The South Atlantic Council's Mackerel Steering Committee and/or the Council's Ad Hoc Advisory Panel will meet with the Gulf Council's Coastal Migratory Pelagics Resources Subpanel to review a draft fishery management plan on coastal migratory pelagics (mackerels).

DATES: The meeting will convene at 8 a.m.; adjourn at 3 p.m., on Tuesday, October 10, 1978. This meeting will be open to the public.

ADDRESS: The meeting will take place in the Wolman Room of the Holiday Inn Airport, 1380 Virginia Avenue, Atlanta, Ga.

FOR FURTHER INFORMATION CONTACT:

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Fla. 33609, telephone 813-228-2815.

Dated: September 20, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-26822 Filed 9-22-78; 8:45 am]

[3510-22]

PACIFIC FISHERY MANAGEMENT COUNCIL, SCIENTIFIC AND STATISTICAL COMMITTEE

Changed Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Amended meeting notice.

SUMMARY: The Scientific and Statistical Committee of the Pacific Fishery Management Council established by section 302(g) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has changed its October meeting dates and times (FR Vol. 43, No. 174, dated September 7, 1978).

DATES: The committee will now meet from 1 to 5 p.m. on October 10, 1978, and from 8 a.m. to 5 p.m. on October 11, 1978. The public comment period will be at 3:30 p.m. on October 10, 1978.

ADDRESS: The Scientific and Statistical Committee will meet at the Marriott Hotel located at 5855 West Century Boulevard, Los Angeles, Calif.

FOR FURTHER INFORMATION CONTACT:

Mr. Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 Southwest Mill Street, Second Floor, Portland, Oreg. 97201, telephone 503-221-6352.

Dated: September 20, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-26823 Filed 9-22-78; 8:45 am]

[3510-22]

PACIFIC FISHERY MANAGEMENT COUNCIL, GROUNDFISH/SABLEFISH ADVISORY SUBPANEL AND PLAN DEVELOPMENT TEAM

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The Groundfish/Sablefish Advisory Subpanel and Plan Development Team of the Pacific Fishery Management Council established under section 302(a) of the Fishery Conservation and Management Act (Pub. L. 94-265) will meet to discuss the first draft of the goundfish management plan..

DATES: The meeting will convene at 10 a.m. on October 10, 1978, and at 8 a.m. on October 11, 1978, adjourning at about 5 p.m. on both days.

ADDRESS: The meeting will take place at the Marriott Hotel located at 5855 West Century Boulevard, Los Angeles, Calif.

FOR FURTHER INFORMATION CONTACT:

this period will be charged to the new levels.

A description of the textile categories in terms of HTS numbers is available upon request.

333/334—69,314 dozen of which not more than 27,000 dozen shall be in Cat. 333.
338/339—676,076 dozen.

[3910-01]

DEPARTMENT OF DEFENSE

ered by it in determining the appropriate action to be taken but will not serve to make the protestants parties

are discriminatory against Winfield and make it impossible for Winfield to resell the gas it purchases from Arkla

FOR FURTHER INFORMATION CONTACT:

Mr. Lorry M. Nakatsu, Executive Director Pacific Fishery Management Council, 526 South West Mill Street, Second Floor, Portland, Oreg. 97201, telephone 503-221-6352.

Dated September 20, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-26824 Filed 9-22-78; 8:45 am]

[3510-25]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

ANNOUNCING IMPORT RESTRAINT LEVELS UNDER NEW MULTIFIBER AGREEMENT WITH THE REPUBLIC OF THE PHILIPPINES

SEPTEMBER 21, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton and man-made fiber textile products from the Philippines during the 12-month period beginning on January 1, 1978, pursuant to a new bilateral agreement.

SUMMARY: The Governments of the United States and the Republic of the Philippines exchanged notes dated August 22 and 24, 1978, establishing a new Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement for the 5-year period beginning on January 1, 1978, and extending through December 31, 1982. Within the aggregate ceiling the agreement establishes levels of restraint for the following nontraditional apparel products of cotton and man-made fibers: 331, 333/334, 338/339, 340, 347, 604, 631, 633, 634, 636, 638/639, 641, 643, 645/646, 649, 650, and 651 for the 12-month period beginning on January 1, 1978. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to limit imports for consumption, or withdrawals from warehouse for consumption, of cotton and man-made fiber textile products in the foregoing categories to the designated amounts, pursuant to the new agreement. The levels of restraint set forth in the letter have been adjusted to include all swing, carryover, and carryforward and 4-percent growth for the term of the agreement. Three percent additional growth will be applied in the second and each succeeding year. The levels of restraint have not been adjusted to account for imports during the period beginning on January 1, 1978, and extending through the effective date of this action. Imports during this period will be charged to the new levels.

(A description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773) and September 5, 1978 (43 FR 39408.)

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: September 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

EDWARD GOTTFRIED,
Acting Chairman, Committee for the Implementation of Textile Agreements.

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., September 21, 1978.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C.

DEAR MR. COMMISSIONER: This directive cancels and supersedes the directive of December 23, 1977, which directed you to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of certain specified categories of cotton and man-made fiber textile products, produced or manufactured in the Republic of the Philippines and exported to the United States during the 12-month period beginning on January 1, 1978, and extending through December 31, 1978.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1978, between the Governments of the United States and the Republic of the Philippines; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on September 25, 1978, and for the 12-month period beginning on January 1, 1978, and extending through December 31, 1978, entry into the United States for consumption, and withdrawal from warehouse for consumption of cotton and man-made fiber textile products, exported from the Republic of the Philippines in the following categories, in excess of the indicated 12-month levels of restraint:

Category and 12-Month Level of Restraint[1]
331—551,467 dozen pairs.
333/334—69,314 dozen of which not more than 27,000 dozen shall be in Cat. 333.
338/339—676,076 dozen.
340—207,835 dozen.
347—216,331 dozen.
604—1,916,407 pounds.
631—1,425,156 dozen pairs.
633—15,639 dozen.
634—167,652 dozen.
636 [2]—37,939 dozen.
638/639—765,350 dozen.
641 [3]—153,967 dozen.
643—39,975 dozen of which not more than 25,000 shall be in T.S.U.S.A. Nos. 380.0464, 380.5176, 380.8451 and 380.8452.
645/646 [4]—84,140 dozen.
649—3,400,404 dozen.
650—16,849 dozen.
651—85,932 dozen.

In carrying out this directive, entries of cotton and man-made fiber textile products in the foregoing categories, produced or manufactured in the Philippines and exported to the United States prior to January 1, 1978, and entered on and after the effective date of this directive, shall not be charged against the levels of restraint established in this directive.

Cotton and man-made fiber textile products in the foregoing categories that have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) before the effective date of this directive shall not be denied entry under this directive.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773) and September 5, 1978 (43 FR 39408).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton and man-made fiber textile products from the Phillippines have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

EDWARD GOTTFRIED,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 78-26995 Filed 9-22-78; 8:45 am]

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1977.

[2] Excluding T.S.U.S.A. Nos. 382.0414, 382.0467, 382.7818, and 382.8121.

[3] Excluding T.S.U.S.A. Nos. 382.0460 and 382.8103.

[4] Excluding T.S.U.S.A. Nos. 382.0427 and 382.7870.

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

SEPTEMBER 14, 1978.

The USAF Scientific Advisory Board ad hoc Committee on Wide Area Munitions will hold meetings at the Pentagon on October 11 and 12, 1978, from 8:30 a.m. to 5 p.m., each day.

The Committee will receive classified briefings and hold classified discussions on Air Force munitions research and procurement programs. The meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

CAROL M. ROSE,
Air Force Alternate Federal Register Liaison Officer.

[FR Doc. 78-26722 Filed 9-22-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RI78-84]

AN-SON CORP.

Petition for Special Relief

SEPTEMBER 15, 1978.

Take notice that on August 4, 1978, An-Son Corp. (Petitioner), 3814 North Santa Fe, Oklahoma City, Okla. 73118, filed a petition for special relief in docket No. RI 78-84 pursuant to section 2.76 of the Commission's general policy and interpretations (18 CFR 2.76).

Petitioner requests authorization to charge 49.9¢ per Mcf for the sale of gas from its Edna Nine No. 1 well, section 26-2N-28 ECM, Beaver County, Okla. to Northern Natural Gas Co. To remedy the effects of declining pressure in said well and thus insure continued production, Petitioner proposes to install compression equipment and a plunger lift.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before October 10, 1978. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26749 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket Nos. RP74-61 (PGA77-5); RP76-10 (PGA77-5); RP77-54 and RP77-55]

ARKANSAS LOUISIANA GAS CO.

Order Approving, Subject to Conditions, Amendment to Petition To Intervene Raising "Price Squeeze" Issue and Granting Petition To Intervene

SEPTEMBER, 18, 1978.

On April 15, 1977, Arkansas Louisiana Gas Co. (Arkla) filed for a rate increase in docket Nos. RP77-54 and RP77-55. The filings were suspended for 5 months and became effective subject to refund thereafter. These proceedings were consolidated with docket Nos. RP74-61 (PGA77-5) and RP76-10 (PGA77-5) and set for hearing. The consolidated proceeding is before the administrative law judge at this time. On February 7, 1978, the city of Winfield, Kans. (Winfield), filed an "amendment" to its petition to intervene in docket Nos. RP77-54 and RP77-55. In this "amendment" Winfield:

asks the Commission to implement the procedures previously approved by the Commission for handling price squeeze issues in wholesale electric rate proceedings set forth in Section 2.17 of the Commission's general policy and interpretation * * * These procedures first call for the convening of a prehearing conference before the presiding administrative law judge within 15 days from the date of the Commission's order taking cognizance of the price squeeze issue. * * * [1]

In its amendment Winfield alleges that "the respective levels of Arkla's wholesale rates to its G-2 distribution-customers and its retail rates approved by the State Corporation Commission of Kansas ("Kansas Commission") create a price discrimination, which has a harmful, anticompetitive effect upon Winfield." [2] Specifically, Winfield alleges that the typical Arkla residential customer would pay $1.25 per Mcf whereas the weighted average wholesale rate paid by Winfield to Arkla is $1.12 per Mcf. Winfield submits "that its and Arkla's distribution costs substantially exceed 13 cents per Mcf, such that Arkla's wholesale rate are discriminatory against Winfield and make it impossible for Winfield to resell the gas it purchases from Arkla at rates competitive with Arkla's own retail rates." [3]

On February 22, 1978, Arkla filed a response to Winfield's "amendment" in which it denies that any price squeeze issue is properly before the Commission. It suggests that Winfield has not set out a prima facie case in its pleadings sufficient to meet the requirements of § 2.17 of the Commission's rules. This is responded to by Winfield with the suggestions that § 2.17 does not require the filing of a prima facie case at this stage of the proceeding. Additionally, Winfield states that it has raised the issue of franchise competition sufficiently to bring the issue properly before the Commission. We agree.

On May 16, 1978, Mangum Utilities Authority (Mangum) filed a petition to intervene which, among other things, requested intervention in this proceeding and the right to raise the "price squeeze" issue. Mangum's pleading is essentially similar to Winfield's pleading as to the "price squeeze" issue. The other relief requested in Mangum's pleading was denied by the Commission's recent order issued May 19, 1978, in *Arkansas Louisiana Gas Company*, docket No. RP74-61 (PGA78-2) et al., and thus merits no further discussion in the instant order.

In *F.P.C. v. Conway Corp.*, [4] the Supreme Court determined that this Commission has jurisdiction under section 205(b) of the Federal Power Act to remedy the anticompetitive effects of wholesale-retail rate discrimination. Section 205(b) of the Power Act provides that:

No public utility shall, with respect to any transmission or rate subject to the jurisdiction of the Commission, (1) make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, or (2) maintain any unreasonable differences in rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service.

In like manner, section 4(b) of the Natural Gas Act provides:

No natural gas company shall, with respect to any transportation or sale of natural gas subject to the jurisdiction of the Commission, (1) make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, (2) maintain any unreasonable difference in rates, charges, service, facilities, or any other respect, either as between localities or as between classes of service.

The statutory mandates applicable to interstate natural gas pipelines and

[1] Amendment at 3.

[2] Id. at 1.

[3] Id. at 2.

[4] 426 U.S. 271 (1976).

wholesale electric utilities are indistinguishable. Thus, it is appropriate that the procedural requirements for devel-

tive law judge shall convene a prehearing conference for the purpose of hearing Customers' request for data

participation of the intervenor shall be limited to matters affecting asserted rights and interests specifically set

By the Commission.

KENNETH F. PLUMB,
Secretary.

North Capitol Street NE., and all parties may at their option attend.

KENNETH F. PLUMB,

2. *Randolph EMC.* The proposed conversion of the supply voltage for the Liberty 115 kV point of delivery from 68 kV to 115 kV. The effective

wholesale electric utilities are indistinguishable. Thus, it is appropriate that the procedural requirements for development of the "price squeeze" issue in this case be similar to those prescribed in section 2.17.

Although Winfield and Mangum (Customers) request the Commission to establish "price squeeze" procedures pursuant to section 2.17 of the Commission's general policy and interpretations, we note that section 2.17 by its terms applies only to wholesale electric rate proceedings subject to this Commission's jurisdiction. Therefore, since the Commission is operating under similar statutory mandates, as noted above, for interstate natural gas pipelines and wholesale electric utilities, the Commission shall prescribe procedural requirements for the development of the "price squeeze" issue in this case which are similar to those prescribed for wholesale electric utilities under section 2.17.

In light of the above, we find that Winfield and Mangum (Customers) are not obliged at this stage of the proceeding to file a prima facie case provided that they file a prima facie case at such time as their discovery is complete and their direct "price squeeze" case is filed, as provided thereafter. The Commission finds further that Customers should be permitted to raise the "price squeeze" issue subject to the conditions set forth below.

Customers should show in their prima facie case the following, as well as any other evidence deemed relevant:

(1) Specification of the filing utility's retail rate schedules with which the intervening wholesale customer is unable to compete due to purchased gas costs;

(2) A showing that a competitive situation exists in that the wholesale customer competes in the same market as the filing utility;

(3) A showing that the retail rates are lower than the proposed wholesale rates for comparable service;

(4) The wholesale customer's prospective rate for comparable retail service, i.e., the rate necessary to recover purchased gas costs (at the proposed wholesale rate) and distribution costs;

(5) An indication of the reduction in the wholesale rate necessary to eliminate the price squeeze alleged.

Customers or any other party, are, of course, free to argue that different standards should be applied to judge whether or not Customers' direct case presents a proper prima facie case in this proceeding. In addition to the above, the following procedures shall be prescribed:

(a) Within 15 days of the date of issuance of this order, the administrative law judge shall convene a prehearing conference for the purpose of hearing Customers' request for data required to present their case, including their prima facie showing, on price squeeze issues.

(b) Within 30 days from the date of the conference Arkla shall respond to the data requests authorized by the administrative law judge.

(c) Within 30 days from Arkla's response, Customers shall file their case-in-chief on price squeeze issues, which shall include their prima facie case.

(d) The burden of proof (i.e., the risk of nonpersuasion) to rebut the allegations of price squeeze and to justify the proposed rates are on Arkla pursuant to section 4 of the Natural Gas Act.

(e) The Secretary shall include the state commissions agencies or bodies which are responsible for regulation of retail rates in the states affected in the service list maintained under 18 CFR 1.17(c) in the docket.

As noted in order No. 563-A,[3] the FPC stated its intention to review the "price squeeze" procedures prescribed therein at such time as experience was gained in the various electric rate cases where this issue was raised. This Commission believes that it is now appropriate to undertake such a review to determine whether, among other things, the standards for making a prima facie case should be changed, whether the "price squeeze" procedures in section 2.17 should be amended to include trial of the "price squeeze" issue where raised in natural gas pipeline rate proceedings or for other purposes, and, if so, whether the standards should be the same for natural gas pipeline rate cases and wholesale electric rate cases. Accordingly, the Commission intends to undertake such a review and take whatever action is deemed appropriate in a separate proceeding. If general standards are established for resolution of the "price squeeze" issue in natural gas pipeline rate cases which differ from those prescribed in the instant order during the trial of that issue in the instant proceeding, the Commission shall take whatever action is appropriate in the instant proceeding in light of such change in general standards.

The Commission finds: Customers shall be permitted to raise the "price squeeze" issue in this proceeding subject to the conditions set forth below.

The Commission orders: (A) Winfield's amended petition to intervene is granted subject to the conditions set forth below.

(B) Mangum shall be permitted to intervene in this proceeding subject to the Commission's rules and regulations; *Provided, however,* That the participation of the intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervener shall not be construed as recognition that it might be aggrieved by any order entered in this proceeding. The intervention granted is subject to the conditions set forth below.

(C) Customers should show in their prima facie case the following, as well as any other evidence deemed relevant:

(1) Specification of the filing utility's retail rate schedules with which the intervening wholesale customer is unable to compete due to purchased gas costs;

(2) A showing that a competitive situation exists in that the wholesale customer competes in the same market as the filing utility;

(3) A showing that the retail rates are lower than the proposed wholesale rates for comparable service;

(4) The wholesale customer's prospective rate for comparable retail service, i.e., the rate necessary to recover purchased gas costs (at the proposed wholesale rate) and distribution costs;

(5) An indication of the reduction in the wholesale rate necessary to eliminate the price squeeze alleged.

Customers or any party, are, of course, free to argue that different standards should be applied to judge whether or not Customers' direct case presents a proper prima facie case in this proceeding.

(D) Within 15 days of the date of issuance of this order, the administrative law judge shall convene a prehearing conference for the purpose of hearing Customers' request for data required to present their case, including their prima facie showing, on price squeeze issues.

(E) Within 30 days from the date of the conference Arkla shall respond to the data requests authorized by the administrative law judge.

(F) Within 30 days from Arkla's response, Customers shall file their case-in-chief on price squeeze issues, which shall include their prima facie case.

(G) The burden of proof (i.e., the risk of nonpersuasion) to rebut the allegations of price squeeze and to justify the proposed rates is on Arkla pursuant to section 4 of the Natural Gas Act.

(H) The secretary shall include the State commissions agencies or bodies which are responsible for regulation of retail rates in the States affected in the service list maintained under 18 CFR 1.17(c) in the docket.

(I) The Secretary of the Commission shall cause prompt publication of this order in the FEDERAL REGISTER.

[3] Order issued May 20, 1977, in docket No. RM76-29.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26750 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-608]

BANGOR HYDRO-ELECTRIC CO.

Proposed Rate Filing

SEPTEMBER 15, 1978.

Take notice that Bangor Hydro-Electric Co. (Bangor) and Central Maine Power Co. (Central Maine) on September 11, 1978, tendered for filing a proposed transmission contract. The contract provides for the transmission by Bangor to Central Maine of energy from January 1, 1978, through April 30, 1978, according to the company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with section 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 2, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26751 Filed 9-22-78; 8:45 am]

[6740-02]

BEAR CREEK STORAGE CO., ET AL.

Technical Conference

SEPTEMBER 14, 1978.

Bear Creek Storage Co., Southern Natural Gas Co., Tennessee Gas Pipeline Co. (Docket No. CP78-266), Southern Natural Gas Co., Tennessee Gas Pipeline co. (Docket No. CP78-287).

Take notice that at 9:30 a.m. on Thursday, September 21, 1978, staff will meet with representatives of the above-captioned companies for the purposes of obtaining clarification of certain data already submitted regarding the calculation of depreciation allowance and other matters of accounting and finance.

The conference will be held in room 8402 of the Commission's office at 825 North Capitol Street NE., and all parties may at their option attend.

KENNETH F. PLUMB,
Secretary.

[FR Doc.78-26752 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-597]

CAROLINA POWER & LIGHT CO.

Proposed Cancellation

SEPTEMBER 14, 1978.

Take notice that Carolina Power & Light Co. on September 5, 1978, tendered for filing the termination and cancellation of rate schedule FERC 100 with South Carolina Electric & Gas Co.

This rate schedule is for the sale of electrical power by Carolina Power & Light Co. to South Carolina Electric & Gas Co., on a temporary basis, from C.P. & L.'s Sutton No. 3 unit.

Carolina Power & Light Co. proposes an effective date of October 6, 1978.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26753 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-607]

CAROLINA POWER & LIGHT CO.

Filing

SEPTEMBER 15, 1978.

Take notice that Carolina Power & Light Co. on September 11, 1978, tendered for filing changes outlined below in its agreements with certain electric membership corporations.

1. *Lumbee River EMC.* The proposed termination and cancellation of meter pulse information facilities for the South Lumberton 23 kV point of delivery proposed to be effective September 12, 1978.

2. *Randolph EMC.* The proposed conversion of the supply voltage for the Liberty 115 kV point of delivery from 68 kV to 115 kV. The effective date proposed is September 12, 1978.

3. *Wake EMC.* The proposed establishment of a new point of delivery at 69 kV to be known as Rolesville, proposed to be effective September 12, 1978.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 2, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a part must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26754 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-587]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Proposed Tariff Change

SEPTEMBER 15, 1978.

Take notice that Central Vermont Public Service Corp. (Central Vermont) on August 29, 1978, tendered for filing proposed changed in its FPC electric service rate No. 97. Central Vermont states that the proposed changes would increase revenues from jurisdictional sales and service by $3,229 for the 12-month period ending October 31, 1978.

Central Vermont further states that the change is proposed in accordance with the provisions of article III of the Company's transmission service agreement with the Village of Ludlow Electric Light Department, which provides that charges will be updated annually to incorporate the Company's experience for the preceding calendar year. Central Vermont proposes an effective date of November 1, 1978.

Copies of the filing were served upon the Village of Ludlow Electric Light Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE.,

Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and proce-

must file a petition to intervene. Copies of this application are on file with the Commission and are available

must file a petition to intervene. Copies of this filing are on file with the Commission and are available for

Creek District, Rockbridge County, Va., for use at Rea's Buena Vista plant. Applicant states that its trans-

(Western) in Texas County, Okla. By this amendment petitioner requests the Commission to approve the sale of

serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or

Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26755 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-588]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Proposed Tariff Change

SEPTEMBER 15, 1978.

Take notice that Central Vermont Public Service Corp. (Central Vermont) on August 29, 1978, tendered for filing a proposed change in its FPC electric service rate No. 96. Central Vermont states that the proposed change would increase revenues from jurisdictional sales and service by $13,884 for the 12-month period ending October 31, 1978.

Central Vermont further states that the change is proposed in accordance with article V of the Company's agreement with the Village of Ludlow Electric Light Department, which provides that charges under the agreement will be updated annually to incorporate the Company's purchased power cost experience for the preceding 12 months ending April and the Company's capacity cost associated with company-owned generating facilities for the preceding calendar year. Central Vermont proposes an effective date of November 1, 1978.

Copies of the filing were served upon the Village of Ludlow Electric Light Department and the Vermont Public Service Board.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before September 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.78-26756 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. RP72-157]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FERC Gas Tariff

SEPTEMBER 15, 1978.

Take notice that Consolidated Gas Supply Corp. (Consolidated) on August 31, 1978 tendered for filing proposed changes in its FERC Gas Tariff Third Revised Volume No. 1, pursuant to its PGA clause for rates to be effective September 1, 1978.

Consolidated states that the filing included rate changes filed by Texas Eastern Transmission Corp. (Texas Eastern) and Transcontinental Gas Pipe Line Corp. both for effectiveness September 1, 1978. Texas Eastern has advised Consolidated that it will revise its rates at a later date, at which time Consolidated will also submit its revision.

Additionally, Consolidated has included a proposed flow through of a refund received from Tennessee Gas Pipeline Co. Precedent for the proposed refund flow through, to commence September 1, 1978 for a 12-month period, is contained in the Commission's order issued in National Fuel Gas Supply Corp., docket No. RP 74-100 (PGA 78-1, 78-1A) and Consolidated Gas Supply Corp., docket No. RP72-157, (PGA 78-3) on December 15, 1977.

Consolidated requests a waiver of any of the Commission's rules and regulations as may be deemed necessary, to allow the rates, shown on Sixth Revised Sheet No. 16 to become effective as proposed herein.

Copies of this filing were served upon Consolidated's jurisdictional customers as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Steet NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26757 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. CP77-637]

COLUMBIA GAS TRANSMISSION CORP.

Amendment

SEPTEMBER 15, 1978.

Take notice that on August 29, 1978, Columbia Gas Transmission Corp. (applicant), P.O. Box 1273, Charleston, W. Va. 25325, filed in docket No. CP77-637 an amendment pursuant to section 7(c) of the Natural Gas Act and section 2.79 of the Commission's general policy and interpretations (18 CFR 2.79) so as to authorize applicant to transport gas for Rea Magnet Wire Co., Inc. (Rea) for a 2-year period, all as more fully set forth in the application to amend on file with the Commission and open to public inspection.

It is indicated that by temporary certificate issued January 13, 1978, the Commission authorized applicant and Texas Gas Transmission Corp. (Texas Gas) to transport up to 254 Mcf of natural gas per day for the account of Rea. This authorization and the transportation of gas thereunder terminated on July 1, 1978, which was also the termination date of the gas supply contract between Rea and PAR Oil Corp. and others, it is stated.

Applicant states that Rea's plant in Buena Vista, Va. is still being curtailed in its gas usage in priority 2.

Applicant indicates that Rea has contracted with Harkins & Co., First Mississippi Corp., St. Joe Petroleum (U.S.) Corp., and Amerada Hess Corp. for the purchase of up to 272 million Btu per day for use in Rea's Buena Vista, Va. plant for 2 years from the date of initial delivery at a cost of $1.745 per million Btu for the first contract year and $1.92 per million Btu for the second contract year. Rea has a take or pay obligation for 153 million Btu per day, which volumes, if not used in the contract period can be delivered during the 6-month period immediately following the contract term, it is said.

Applicant requests authorization to transport up to 262 Mcf per day for Rea, which volumes, it says, would be received at an existing point of delivery from Transcontinental Gas Pipe Line Corp. (Transco) to applicant near Dranesville, Fairfax County, Va. and redelivered for the account of Rea to Columbia Gas of Virginia, Inc. at an existing point of delivery in Walkers

Creek District, Rockbridge County, Va., for use at Rea's Buena Vista plant. Applicant states that its transportation charge for this service would be its average system-wide unit storage and transmission cost exclusive of company-use and unaccounted-for gas, which is 23.05 cents per Mcf. Applicant indicates it would retain for company-use and unaccounted-for gas a percentage, which is currently 2.51 percent, of the total volumes received for the account of Rea.

Applicant states that its capacity to perform this transportation service for Rea is 0 Mcf on a peak day, 8,400 Mcf on an average day and 3,066,000 Mcf on an annual basis.

It is further stated that Transco either has or will file an application for authority to transport the subject gas.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 10, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26758 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. G-18545]

CITIES SERVICE GAS CO.

Amendment to Petition To Amend

SEPTEMBER 15, 1978.

Take notice that on September 1, 1978, Cities Service Gas Co. (Petitioner), P.O. Box 25128, Oklahoma City, Okla. 73125, filed in docket No. G-18545,[1] an amendment to its petition to amend the order of March 7, 1960, issued in said docket (23 FPC 481) pursuant to section 7(c) of the Natural Gas Act which authorized the sale and exchange of volumes of gas to and with Western Gas Interstate Co. (Western) in Texas County, Okla. By this amendment petitioner requests the Commission to approve the sale of gas to Western at a rate designed to erase an exchange deficit Petitioner had with Western under the existing agreement, all as more fully described in the amendment to the petition to amend which is on file with the Commission and open to public inspection.

Under an existing exchange agreement Petitioner receives gas purchased by Western from the Fanning No. 1 well located in Texas County, Okla. and was to deliver gas to Western at another point in Texas County. Petitioner states that there is owing to Western a deficit balance under the existing exchange agreement, and in order to correct this deficit a new exchange agreement has been drawn, superseding the existing agreement and all amendments thereto. Under the new agreement Petitioner states that it would receive for Western's account gas from the Fanning No. 1 well and Western would deliver to Petitioner for Western's account, gas at the North Guymon Exchange Point and the West Guymon Exchange Point, Texas County. Petitioner asserts that it would deliver exchange gas to Western at two points in Texas County, Okla. The Adams delivery point and the West Guymon exchange point.

The new agreement further provides for deletion of the abandonment feature of the original petition to amend and for the continuation under a different rate schedule the sale of gas by Petitioner to Western which was proposed to be abandoned, it is indicated.

It is further indicated that subject to Petitioner's ability to deliver and Western's ability to receive such gas, Petitioner would deliver volumes of gas in addition to the exchange volumes as may be requested by Western until the balance owing to Western is reduced to an amount equal to the volumes Petitioner receives each month from Western. The total deliveries by Petitioner to Western under the proposed arrangements would not exceed 1,500 Mcf per day, it is said.

No new facilities are necessary to effectuate these arrangements as all of the proposed receipts and deliveries of gas would be made through existing interconnections, it is asserted.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 10, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons having heretofore filed need not do so again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26759 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. RP72-157 (PGA78-11)]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FERC Gas Tariff

SEPTEMBER 15, 1978.

Take notice that Consolidated Gas Corp. (Consolidated), on August 30, 1978, tendered for filing proposed changes to its FERC Gas Tariff, Third Revised Volume No. 1 for rates to be effective August 1, 1978 in lieu of rates filed June 30, 1978.

The revised filing, made pursuant to a Commission letter order dated July 28, 1978, reflects the reduced rates of Texas Gas Transmission Corp., filed July 25, 1978, and Texas Eastern Transmission Corp., filed August 28, 1978, both for effectiveness August 1, 1978.

Consolidated requested a waiver of the Commission's rules and regulations, specifically section 154.22, Notice Requirements, citing that it did not receive the rate change in time to make a timely filing. Additionally, Consolidated requested a waiver of any other of the Commission's rules and regulations as may be deemed necessary, to permit the rates, shown on Substitute Fifth Revised Sheet No. 16, to become effective as proposed.

Copies of this filing were served upon Consolidated's jurisdictional customers, as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

the Commission and are available for public inspection.

[6740-02]

[Docket No. ER78-599]

September 5, 1978, a proposed supplement to the company's electric power contract with Laurens Electric Cooper-

pursuant to section 204 of the Federal Power Act and part 34 of the Commission's regulations, for authorization to

[6740-02]

[Docket Nos. RP72-155 and RP78-18]

er categories, as of June 30, 1978. After giving consideration to the elimination of the surcharge adjustments

the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26760 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. RI78-89]

ESTATE OF DUDLEY TARLTON DOUGHERTY, ET AL.

Petition for Special Relief

SEPTEMBER 15, 1978.

Take notice that on August 22, 1978, The Estate of Dudley Tarlton Dougherty, et al. (Petitioners), 1140 Connecticut Avenue NW., Washington, D.C. 20036, filed a petition for special relief in docket No. RI78-89 pursuant to section 2.76 of the Commission's general policy and interpretations (18 CFR 2.76).

Petitioner request a rate increase from 26 cents per Mcf to $1.63 per Mcf for the sale of gas from eight wells located on the Hicks Lease, Normanna Field, Bee County, Texas to Natural Gas Pipeline Co. of America. Should special relief be granted, petitioners plan to invest approximately $1.1 million to rework the eight existing wells and to attempt new completions over a 5-year period. Petitioners estimate that over 4 million Mcf of gas attributable to their interest can be recovered through this remedial work.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before October 10, 1978. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26792 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-599]

DUKE POWER CO.

Proposed Supplement to Electric Power Contract

SEPTEMBER 15, 1978.

Take notice that Duke Power Co. (Duke Power) tendered for filing on September 5, 1978, a proposed supplement to the company's electric power contract with Broad River Electric Cooperative, Inc. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Co. rate schedule FPC No. 143.

Duke Power further states that the company's proposed contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increases in designated demand: From 1,500 KW to 3,400 KW.

Duke Power indicated that this proposed supplement also includes an estimate of sales and revenue for 12 months immediately preceding and for the 12 months immediately succeeding the effective date. Duke Power proposes an effective date of October 19, 1978.

According to Duke Power copies of this filing were mailed to Broad River Electric Cooperative, Inc. and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 6, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26761 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-600]

DUKE POWER CO.

Proposed Supplement to Electric Power Contract

SEPTEMBER 15, 1978.

Take notice that Duke Power Co. (Duke Power) tendered for filing on September 5, 1978, a proposed supplement to the company's electric power contract with Laurens Electric Cooperative, Inc. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Co. rate schedule FPC No. 144.

Duke Power further states that the company's proposed contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increases in designated demand:

Delivery point No. 4, from 3,200 kW to 3,800 kW;
Delivery point No. 10, from 3,600 kW to 4,000 kW;
Delivery point No. 12, from 2,800 kW to 3,600 kW;
Delivery point No. 13, from 2,500 kW to 3,000 kW;
Delivery point No. 15, from 2,200 kW to 2,800 kW; and
Delivery point No. 21, from 3,600 kW to 4,400 kW.

Duke Power indicates that this proposed supplement also includes an estimate of sales and revenue for 12 months immediately preceding and for the 12 months immediately succeeding the effective date. Duke Power proposes an effective date of October 19, 1978.

According to Duke Power copies of this filing were mailed to Laurens Electric Cooperative, Inc. and South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 6, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26762 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ES78-50]

EL PASO ELECTRIC CO.

Application

SEPTEMBER 15, 1978.

Take notice that on August 31, 1978, El Paso Electic Co. (Applicant) filed an application with the Commission pursuant to section 204 of the Federal Power Act and part 34 of the Commission's regulations, for authorization to issue and sell in a private placement up to $15 million of cumulative preferred stock.

Applicant is incorporated under the laws of the State of Texas with its principal business office at El Paso, Tex., and is engaged in the generation, transportation, distribution, and sale of electrical energy in the States of Texas and New Mexico.

According to Applicant, the proceeds from the financing will be used to reduce outstanding short-term debt incurred for construction purposes. The short-term debt is expected to aggregate $41,000,000 immediately prior to the time of issuance of the new preferred stock. The Applicant's constuction program for the period 1978 through 1981 will require approximately $521,889,000, including approximately $445,712,000 cash and approximately $66,177,000 in related allowance for funds used during construction.

The Applicant indicates that a negotiated sale by private placement of preferred stock would be advantageous to it because an analysis of recent issues of preferred stock shows that the cost of issuance of preferred stock sold in the public market is more costly than the issuance of preferred stock in the private placement market. Therefore, the Applicant is applying to the Commission for exemption from competitive bidding requirements of section 34.1a (b) and (c) of the Commission's regulations under the Federal Power Act.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Fedral Energy Regulatory Commission, 825 North Capitol Street NW., Washinton, D.C. 20426, in accordance with section 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests shall be filed on or before September 25, 1978. Protests will be considered by the Commission in determing the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26763 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket Nos. RP72-155 and RP78-18]

EL PASO NATURAL GAS CO.

Proposed Change in Rate Pursuant to Purchased Gas Cost Adjustments

SEPTEMBER 15, 1978.

Take notice that El Paso Natural Gas Co. ("El Paso") on August 31, 1978, tendered for filing a notice of change in rates for jurisdictional gas service rendered to customers served by its interstate gas transmission system. Such service is rendered under rate schedules affected by and subject to Article 19, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in the General Terms and Conditions applicable to El Paso's FERC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A, and under rate schedules affected by and subject to the PGAC, Clean High Pressure Gas Provision ("PGAC-CHPG") contained in El Paso's FERC Gas Tariff, Original Volume No. 2A.

El Paso states that it submitted the subject notice of change in rates on an alternative basis comprised of:

(i) The notice of change in rate under El Paso's currently effective PGAC provisions contained in its FERC Gas Tariff, or

(ii) The notice of change in rate under El Paso's revised PGAC provision and settlement of issues proposed under the Stipulation and Agreement dated June 23, 1978, at docket No. RP78-18 ("Stipulation and Agreement").

El Paso states that the change in rate provided in (i) above, occasioned by the PGAC and PGAC-CHPG provisions, will compensate El Paso for changes in the cost of purchased gas (including certain produced gas from leases acquired after October 7, 1969), which will become effective on or before October 1, 1978, applied to volumes of natural gas purchased (or produced) for the twelve (12) month period ending June 30, 1978, as adjusted, and carrying charges applicable to the balance in El Paso's Account 191, Unrecovered Purchased Gas Cost.

The current PGAC adjustments for El Paso's East-of-California ("EOC") customers and California customers are 20.51 cents per Mcf and 18.34 cents per Mcf, respectively. Such current PGAC adjustments are comprised of a gas cost adjustment of 6.34 cents per Mcf, representing the annualized increase in gas purchase costs to be experienced by El Paso as of June 30, 1978, plus 14.17 cents per Mcf, as to the EOC customers, and 12.00 cents per Mcf, as to the California customers, representing the unrecovered purchased gas cost balance in Account 191, applicable to each of said customer categories, as of June 30, 1978. After giving consideration to the elimination of the surcharge adjustments of 12.19 cents per Mcf and 16.53 cents per Mcf applicable to the EOC customers and the California customers, respectively, which are presently included in El Paso's currently effective rates,[1] the net adjustments attributable to the instant PGAC, as contained on the tendered tariff sheets is an increase of 8.32 cents per Mcf applicable to the EOC customers and an increase of 1.81 cents per Mcf applicable to the California customers. The tariff sheets containing said adjusted rates are identified on the attached appendix.

El Paso states the current PGAC-CHPG adjustment, for which notice is also given herein, aggregates a decrease of 9.4468 cents per Mcf, applicable to those special rate schedules contained in El Paso's Original Volume No. 2A tariff subject to the provisions of said PGAC-CHPG. Such current adjustment is comprised of an increase in the weighted average purchased cost of clean, high-pressure gas equating to 3.8057 cents per Mcf and a surcharge adjustment of (1.1976 cents) per Mcf representing the unrecovered purchased gas cost balance in Account 191 as of June 30, 1978. After giving consideration to the elimination of the surcharge adjustment of 12.0549 cents per Mcf which is presently included in El Paso's currently effective rates, the net adjustment applicable to the affected special rate schedules is a decrease of 9.4468 cents per Mcf attributable to the instant PGAC-CHPG notice of change. The tariff sheet containing such adjusted rate is identifed on the attached appendix.

El Paso states that with respect to (ii) above, El Paso's Stipulation and Agreement dated June 23, 1978, is designed to settle all issues in the proceeding at docket No. RP78-18, except for a severed issue involving the matter of the proper rate treatment of timing difference items in the computation of El Paso's allowance for Federal Income Taxes. Said Stipulation which will (i) modify El Paso's currently effective PGAC by changing, inter alia, the methodology utilized to determine the annualized gas cost adjustment calculation, and (ii) establish certain adjustment mechanisms designed to track variations in El Paso's costs attributable to advance payments, transportation costs and revenues, and gas well royalty cost variations. El Paso further states that the modification of the PGAC gas cost adjustment provided by the Stipulation and Agreement results in an annualized purchased gas cost increase

[1] El Paso's currently effective rates are those placed into effect on June 1, 1978, pursuant to the Commission's order issued May 31, 1978, at docket No. RP78-18.

equating to 13.04 cents per Mcf, as compared to the purchased gas cost increase of 6.34 cents per Mcf based

sion's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regula-

thorizing arrangements whereby certain volumes of gas, to which South-

the Commission will be considered by it in determining the appropriate action to be taken but will not serve to

fails to comport with GPC's present PR-3 rate on file with the Commission.

[6740-02]

[Docket No. ES78-57]

equating to 13.04 cents per Mcf, as compared to the purchased gas cost increase of 6.34 cents per Mcf based upon El Paso's currently effective PGAC methodology. The surcharge adjustments of 14.17 cents per Mcf applicable to EOC customers and 12.00 cents per Mcf applicable to the California customers are not affected by the provisions of the Stipulation and Agreement. However, the cost per Mcf adjustments provided by the Stipulation and Agreement have the following impact upon the proposed sales rate as provided by the alternative tariff sheets tendered herewith:

Adjustment	EOC rate	California rate
Advance payment	(0.05)	(0.05)
Transportation	.03	.03
Gas well royalty	(3.55)	(3.55)

As a result of the above described costs and adjustments, the net increase in El Paso's currently effective rates, based upon El Paso's Stipulation and Agreement at docket No. RP78-18, is 11.45 cents per Mcf as to the EOC customers and 4.94 cents per Mcf as to the California customers. The tariff sheets containing such adjusted rates are identified on the attached appendix.

El Paso has requested that waiver be granted of all applicable rules, orders and regulations of the Commission, as may be deemed necessary, to permit the effectiveness on October 1, 1978, of the appropriate tariff sheets tendered as part of the instant notice of change in rates. In the event that El paso's Stipulation and Agreement at docket No. RP78-18, approved by the Commission, becomes effective on or before October 1, 1978, El Paso has also requested that the Commission accept for filing and permit to become effective on October 1, 1978, those tariff sheets containing the rates which reflect the implementation of the aforementioned provision contained in said Stipulation and Agreement in lieu of their respective counterparts containing increased rates proposed under the currently effective PGAC provisions.

El Paso states that copies of the filing and attachments have been served upon all parties of record in docket Nos. RP72-155 and RP78-18 and, otherwise, upon all affected customers and interested State regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before September 22, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

APPENDIX

El Paso Natural Gas Co.

(i) Tariff sheets included under the tab denominated "Tariff Sheets" which contain rates based upon El Paso's currently effective PGAC provisions:

Tariff Volume and Tariff Sheet

Original Volume No. 1—Twenty-third Revised Sheet No. 3-B
Third Revised Volume No. 2—Thirteenth Revised Sheet No. 1-D
Original Volume No. 2A—Fifteenth Revised Sheet No. 1-C, Eleventh Revised Sheet No. 1-D

(ii) Tariff sheets included under the tab denominated "Alternative Tariff Sheets" which contain rates based upon the implementation of the provisions set forth in El Paso's Stipulation and Agreement at Docket No. RP78-18:[1]

Tariff Volume and Tariff Sheet

Original Volume No. 1—Twenty-third Revised Sheet No. 3-B
Third Revised Volume No. 2—Thirteenth Revised Sheet No. 1-D
Original Volume No. 2A—Fifteenth Revised Sheet No. 1-C

[FR Doc. 78-26734 Filed 9-21-78; 8:45 am]

[6740-02]

[Docket No. CP78-500]

EL PASO NATURAL GAS CO.

Application

SEPTEMBER 15, 1978.

Take notice that on August 30, 1978, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed in docket No. CP78-500 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing arrangements whereby certain volumes of gas, to which Southern Union Gas Co. (Southern Union) and Compania Minera de Cananea, S.A. de C.U. (Cananea) have an entitlement (pursuant to Commission opinion No. 800-B issued December 30, 1977, in docket No. CP74-289 et al.) but who wish to relinquish such entitlement in exchange for compensation, such gas would be transported and sold on a direct sale basis to various other parties, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that Southern Union and Cananea have each advised it that, for certain consideration, they would be willing to relinquish their respective shares of the remaining payback gas to which they are entitled under opinion No. 800-B for sale by Applicant to other affected east-of-California (EOC) customers of Applicant. Applicant further states that it would enter into letter agreement with Southern Union and Cananea whereby it would undertake (i) to transport, deliver, and sell on a direct-sale basis to certain designated purchasers their allotment of payback volumes of gas (approximately 708,000 Mcf in the case of Southern Union, and some 416,000 Mcf in the case of Cananea) and (ii) to pay to each of these two customers the difference between the proceeds of such direct sale at the rate of $1.75 per Mcf, and the sum of Applicant's effective rate schedule B-1 rate at the time of such direct sale plus $0.07 (representing the tax imposed by the State of Arizona on the proceeds of the sale).

Applicant indicates that it has been advised by Arizona Public Service Co., Phelps Dodge Corp., Kennecott Copper Corp., Ray Mines Division, and Salt River Project Agricultural Improvement and Power District that each would be willing to purchase at the rate of $1.75 per Mcf all or a portion of the payback volumes relinquished by southern Union and Cananea. Pursuant to proposed letter agreements with each buyer, Applicant would transport and deliver to each buyer its allocable share of the maximum quantity of the relinquished volumes of payback gas as is available each day, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 10, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee, on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26736 Filed 9-22-78; 8:45 am]

[1] In the event that its Stipulation and Agreement at docket No. RP78-18, as approved by the Commission, becomes effective on or before October 1, 1978, El Paso has requested that the Commission accept for filing those tariff sheets attached under the tab "Alternative Tariff Sheets" in lieu of the respective counterparts included under the tab "Tariff Sheets".

[6740-02]

[Docket No. EL78-40]

GEORGIA POWER CO.

Complaint and Motion for Summary Disposition and Rejection of Illegal Practice and Order Directing Immediate Refund

SEPTEMBER 19, 1978.

Take notice that on August 30, 1978, Municipal Electric Authority of Georgia (MEAG) tendered for filing a complaint and motion for summary disposition and rejection of illegal practice and order directing immediate refund. MEAG states that by this filing, it complains strongly to the Commission about the recently attempted Georgia Power Co. (GPC) practice of additionally including variable operation and maintenance (variable O. & M.) expenses within the energy charge component of its PR-3 rate for partial requirements wholesale electric service to MEAG in contravention of GPC's filed PR-3 rate and tariff.

MEAG further states that this practice by GPC of recovering variable O. & M. costs as part of its energy charge to its partial requirements customers constitutes a blatant violation of the filed rate doctrine because it patently fails to comport with GPC's present PR-3 rate on file with the Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26793 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ID-1706]

ORION M. GOODLETT

Notice of Application

SEPTEMBER 15, 1978.

Take notice that on August 25, 1978, Orion M. Goodlett (Applicant), filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Treasurer, assistant secretary; Kentucky Utilities Co., public utility.

Treasurer, assistant secretary; Old Dominion Power Co., public utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26748 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ES78-57]

GULF STATES UTILITIES CO.

Application

SEPTEMBER 18, 1978.

Take notice that on September 1, 1978, Gulf States Utilities Co. (Applicant) filed an application seeking an order pursuant to section 204(a) of the Federal Power Act authorizing the issuance of $200,000,000 principal amount of unsecured short-term promissory notes.

Applicant is incorporated under the laws of Texas with its principal business office at Beaumont, Tex., and is engaged in the electric utility business in portions of Louisiana and Texas. Natural gas is purchased at wholesale and distributed at retail in the city of Baton Rouge, La., and vicinity.

Applicant proposes to issue the notes to commercial banks, merchant banks, insurance companies, other institutions and investors, and commercial paper dealers. Notes will be issued on various dates and for varying periods of time, but no note issued to a commercial bank, merchant bank, insurance company, or similar institution will have a maturity of more than 1 year from the date of its issuance and no note issued in the form of commercial paper will have a maturity of more than 9 months from the date of its issuance. In no event shall any such notes have a maturity after December 31, 1980.

The proceeds from the notes will be added to the general funds of the Applicant and will be used, among other things, to provide part of the interim funds for current construction expenditures made and to be made.

Applicant has requested that the issuance of the commercial paper be exempted from competitive bidding requirements.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 29, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commis-

sion and available for public inspection.

[6740-02]

[Docket No. ER78-604]

time and other loads transferred from other delivery points from time to time. KU further states that copies of

would be made for the exchange Applicants state.

Any person desiring to be heard or to make any protest with reference to

have been leased to New England Power Co. (NEP), an affiliate of Mass. Electric which engages in the whole-

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sion and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26794 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-602]

INDIANA & MICHIGAN ELECTRIC CO.

Notice of Proposed Changes in Rates and Charges

SEPTEMBER 15, 1978.

Take notice that American Electric Power Service Corp. (AEP) on September 8, 1978, tendered for filing on behalf of its affiliate Indiana & Michigan Electric Co. (I. & M.), modification No. 11 dated September 1, 1978, to the Interconnection agreement dated November 27, 1961, between Illinois Power Co. and Indiana & Michigan Electric Co., I. & M.'s rate schedule FPC No. 23.

Applicant states that sections 1 and 3 of modification No. 11 provide for an increase in the demand charge for short-term power and limited-term power from $0.60 to $0.70 per kilowatt per week and $3.25 to $3.75 per kilowatt per month respectively. Sections 2 and 4 provide for an increase in the short-term power and limited-term power transmission charges from $0.15 to $0.175 per kilowatt per week and $0.65 to $0.75 per kilowatt per month respectively, both schedules proposed to become effective October 9, 1978.

Applicant states that since the use of short-term power cannot be accurately estimated, for the 12-month period succeeding the date of filing, it is impossible to estimate the increase in revenues resulting from this modification for such period. Applicant's exhibit I which was included with the filing of this modification, demonstrates that the increase in revenues which would have resulted had the modification been in effect during the 12-month period ending December 1977, would have been $10,000 (i.e., from $287,484.40 to $297,484.40) for sales, according to Applicant.

Copies of the filing were served upon Illinois Power Co., the Public Service Commission of Indiana, and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before September 25, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26737 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-596]

IOWA-ILLINOIS GAS & ELECTRIC CO.

Proposed Cancellation

SEPTEMBER 15, 1978.

Take notice that on September 1, 1978, Iowa-Illinois Gas & Electric Co. (Iowa-Illinois) tendered for filing a notice of cancellation of a September 19, 1973, participation power agreement between Iowa-Illinois, Board of Water & Light Trustees of Muscatine, Iowa (Muscatine), and Iowa Power & Light Co. (Iowa Power), designated Iowa-Illinois Gas & Electric Co. rate schedule FPC No. 36, as supplemented, to become effective November 1, 1978.

Iowa-Illinois states that the agreement is to expire on its own terms on October 31, 1978; that the notice of cancellation was mailed to Iowa Power, the only passthrough purchaser from Iowa-Illinois during specified periods under the agreement; and that the filing was mailed to Muscatine, Iowa Power, the Iowa State Commerce Commission, and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26795 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-604]

KANSAS GAS & ELECTRIC CO.

Notice of Proposed Tariff Change

SEPTEMBER 15, 1978.

Take notice that Kansas Gas & Electric Co. (Kansas) on September 8, 1978, tendered for filing proposed changes in its FPC electric service tariff No. 46. The proposed amendment changed the maximum and minimum amounts of power at delivery point Nos. 3, 4, and 7 and establishes new delivery point No. 11 for the Butler Rural Electric Cooperative Association Inc.

Kansas states that the amendment is necessary because the cooperative has exceeded the power requirements at delivery point Nos. 3, 4, and 7 and has requested an additional delivery point.

According to Kansas, copies of the filing were served upon the Butler Rural Electric Cooperative Association, Inc.

Kansas proposes as an effective date the date service is rendered to the new delivery point No. 11.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 25, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26739 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-613]

KENTUCKY UTILITIES CO.

New Delivery Point

SEPTEMBER 18, 1978.

Take notice that on September 14, 1978, the Kentucky Utilities Co. (KU) tendered for filing an agreement for electric service to the city of Madisonville (City) at the delivery point known as Hopkins County Hospital.

KU states that no reasonable billing estimates can be made since the load served will build up over a period of

time and other loads transferred from other delivery points from time to time. KU further states that copies of the tendered filing have been sent to City and the Kentucky Public Service Commission. KU proposes an effective date of October 15, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 2, 1978. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26776 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. CP78-395]

LOUISIANA-NEVADA TRANSIT CO. AND UNITED GAS PIPE LINE CO.

Notice of Application

SEPTEMBER 15, 1978.

Take notice that on August 28, 1978, Louisiana-Nevada Transit Co. (LNT), P.O. Box 8789, Denver, Colo. 80201, and United Gas Pipe Line Co. (United), P.O. 1407, Shreveport, La. 71102 (jointly referred to as Applicants) filed in docket No. CP78-395 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicants to implement a gas exchange agreement entered into by Applicants on August 25, 1978, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that under the terms of the agreement they have entered into United would receive gas to which LNT is contractually entitled at the tailgate of the Beacon gas plant in Webster Parish, La. In turn, equivalent volumes of gas to which United is contractually entitled would be delivered to LNT at the outlet side of the Cotton Valley Operators Committee plantsite in Webster Parish, La. the purpose of the exchange, it is said, is for LNT to avoid using a lateral line from the Beacon plant which is deteriorated and which causes substantial line losses when used. No charges would be made for the exchange Applicants state.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 10, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission shall be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee, or this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. It a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26740 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. EL78-39]

MASSACHUSETTS ELECTRIC CO.

Proposed Sale of Certain Electric Facilities

SEPTEMBER 19, 1978.

Take notice that on August 31, 1978, Massachusets Electric Co. (Mass. Electric) tendered for filing an application for the disposition by sale of certain facilities by Mass. Electric to the city of Peabody, Mass.

Mass. Electric states that although the facilities which are described in detail in the application filed are owned by Mass. Electric, a Massachusetts retail distribution company, they have been leased to New England Power Co. (NEP), an affiliate of Mass. Electric which engages in the wholesale sale of electricity in interstate commerce, and have been utilized by NEP in providing wholesale electric service to Peabody. Mass. Electric further states that the facilities are subject to the jurisdiction of the Commission under section 201(b) of the Federal Power Act.

Mass. Electric indicates that on September 23, 1977, Mass. Electric, NEP, and Peabody entered into a letter agreement which provides for (1) the transfer of facilities for which approval is sought, (2) the construction by Peabody of new interconnection facilities (115kV) between its system and that of NEP, and (3) the establishment of new 115 kV wholesale electric service delivery points between the systems of NEP and Peabody. Mass. Electric further states that the three party agreement resolves existing interconnection disputes between NEP and Peabody and is in conformance with an agreement entered into between NEP and Peabody in conjunction with the settlement agreement reached in New Englnad Power Co., docket No. E-9140, on February 25, 1976, which was approved by the Commission's order dated July 12, 1976.

Any person desiring to be heard or to protest said applicaion should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 6, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26797 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. CI73-815]

JOHN R. MC GINLEY, JR.

Petition for Declaratory Order

SEPTEMBER 15, 1978.

Take notice that on August 9, 1978, John R. McGinley, Jr. (Petitioner), 530 Beacon Building, Tulsa, Okla. 74103, filed a petition with the Commission in docket No. CI73-815 for a declaratory order pursuant to § 1.7(c)

of the Commission's rules of practice and procedure (18 CFR 1.7(c)).

Petitioner states that he owns a royalty interest in the Hugoton Field and that he has been receiving gas from Panhandle Eastern Pipe Line Co. (Panhandle) under a contract dated June 1, 1949, as amended. Petitioner states that Panhandle has filed a petition for declaratory order in docket No. CI78-1186 requesting authorization to abandon sales to Petitioner. Petitioner states that he has filed a protest in docket No. CI78-1186 opposing Panhandle's petition.

Petitioner requests that the Commission issue a declaratory order finding that Petitioner is entitled to receive gas from Panhandle under the contract dated June 1, 1949, as amended, and that Panhandle is not entitled to abandon sales to Petitioner.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 10, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission shall be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee, or this petition if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Petitioner to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26798 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. EL78-34]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE

Proposed Sale of Certain Electric Facilities

SEPTEMBER 19, 1978.

Take notice that on August 31, 1978, Public Service Co. of New Hampshire (PSNH) tendered for filing an application for the disposition by sale of certain facilities by PSNH to the city of Peabody, Mass.

PSNH states that although the facilities which are described in detail in the application filed are owned by PSNH, a New Hampshire retail distribution company, they have been leased to New England Power Co. (NEP), an affiliate of PSNH which engages in the wholesale sale of electricity in interstate commerce, and have been utilized by NEP in providing wholesale electric service to Peabody. PSNH further states that the facilities are subject to the jurisdiction of the Commission under section 201(b) of the Federal Power Act.

PSNH indicates that on September 23, 1977, PSNH, NEP, and Peabody entered into a letter agreement which provides for (1) the transfer of facilities for which approval is sought, (2) the construction by Peabody of new interconnection facilities (115kV) between its system and that of NEP, and (3) the establishment of new 115 kV wholesale electric service delivery points between the systems of NEP and Peabody. PSNH further states that the three party agreement resolves existing interconnection disputes between NEP and Peabody and is in conformance with an agreement entered into between NEP and Peabody in conjunction with the settlement agreement reached in New Englnad Power Co., docket No. E-9140, on February 25, 1976, which was approved by the Commission's order dated July 12, 1976.

Any person desiring to be heard or to protest said applicaion should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 6, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26799 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. CP78-396]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

SEPTEMBER 15, 1978.

Take notice that on August 28, 1978, Transcontinental Gas Pipe Line Corp. (Transco), P.O. Box 1396, Houston, Tex. 77001, filed in docket No. CP78-396 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Transcontinental Gas Pipe Line Corp. (Transco) and the retention and operation of facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco states that it has entered into a gas exchange agreement with Louisiana-Nevada Transit Co. (LNT) dated August 25, 1978, whereby Transco would receive gas at the tailgate of the Beacon gas plant in Webster Parish, La. In turn, equivalent volumes of gas to which Transco is contractually entitled would be delivered to LNT at the outlet side of the Cotton Valley Operators Committee plantsite in Webster Parish, La. the purpose of the exchange, it is said, is for LNT to avoid using a lateral line from the Beacon plant which is deteriorated and which causes substantial line losses when used. No charges would be made for the exchange Applicants state.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee, or this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26800 Filed 9-22-78; 8:45 am]

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of the Commission's rules of practice and procedure (18 CFR 1.7(c)).

Petitioner states that he owns a royalty interest in gas produced from the Forest-Oil Sabine gas unit No. 1 well, section 74, block OW Tex-Mex Ry. Co. survey, Pecos County, Tex. Following previous sales in interstate commerce, Petitioner now seeks to sell this gas to an intrastate purchaser. Accordingly, Petitioner requests an order determining that the certificate of public convenience and necessity issued August 6, 1973 to Petitioner, which authorized interstate sales, contains a pregranted abandonment clause effective in August 1974.

According to the petition, from August 1973 to August 1974, Petitioner sold all its royalty gas to Northern Natural Gas Co. (Northern), an interstate purchaser, under the terms of the above certificate. Since August 1974, Petitioner asserts no further sales have been made. Sometime after Petitioner's last sale to Northern, Petitioner ratified a contract between the unit operator, Forest Oil Corp. and Lovaca Gathering Co. (Lovaca), an intrastate purchaser, which covered the sale of the royalty gas to Lovaca.

The petition further states that in 1977, Lovaca learned of Petitioner's prior sales to Northern and discovered that Northern may have retained further rights to the royalty gas. Lovaca declined to execute the sales agreement absent a determination that the 1973 certificate contains an effective pregranted abandonment clause and that Petitioner is entitled to sell his royalty gas to an intrastate purchaser.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before October 10, 1978. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26738 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. EL78-34]

METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO

Granting Extension of Time

SEPTEMBER 14, 1978.

On September 5, 1978, the Metropolitan Sanitary District of Greater Chicago (District) filed a motion for an extension of time to October 13, 1978, for answering the Commission's order to show cause issued August 14, 1978, in the captioned proceeding.

Upon consideration, notice is hereby given that the District shall respond to the order to show cause on or before September 27, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26741 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. RP72-149]

MISSISSIPPI RIVER TRANSMISSION CORP.

Notice of a Proposed Change in Rates

SEPTEMBER 15, 1978.

Take notice that Mississippi River Transmission Corp. ("Mississippi") on September 1, 1978, tendered for filing six (6) copies of Sixty-Eighth Revised Sheet No. 3A to its FERC Gas Tariff, First Revised Volume No. 1, to become effective October 1, 1978.

Mississippi states that the instant tariff sheet is being submitted pursuant to the purchased gas cost adjustment clause of its tariff and provides for the recovery of amounts accumulated in its unrecovered purchased gas cost account and an updating of the base average unit cost of gas purchased from producers. Such filing also reflects the passthrough of the jurisdictional portion of a pipeline supplier rate refund received from Natural Gas Pipeline Co. of America at docket No. RP73-110. Finaly, Mississippi states that Sixty-Eighth Revised Sheet No. 3A reflects adjustments to clear the deferred transportation cost account and to update the base average cost of transportation, all as provided for by article V of Mississippi's stipulation and agreement at docket No. RP76-77.

Mississippi submitted schedules containing computations supporting the rate changes which are proposed to become effective October 1, 1978, and further states that copies of its filing were served on Mississippi's jurisdictional customers and the State Commissions of Arkansas, Illinois, and Missouri.

Any person desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene unless such petition has previously been filed. Copies of the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26742 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-611]

MONTAUP ELECTRIC CO.

Filing Revising Interconnection Agreement

SEPTEMBER ,1978.

Take notice that on September 13, 1978, Montaup Electric Co. (Montaup) tendered for filing an executed supplemental agreement revising certain provisions of its effective interconnection agreement with the city of Taunton, Mass. Montaup states that the filing:

(1) Revises provisions of the existing agreement for Montaup's purchase of capacity of Taunton's Cleary No. 9 generating unit which is not used by Taunton;

(2) Extends the term of Taunton's purchase from Montaup's Somerset No. 6 generating unit from October 31, 1979 to October 31, 1984 and provides for an additional purchase by Taunton from Montaup's Canal No. 2 generating unit for the period November 1, 1978 through October 31, 1984; and

(3) Lowers the maximum amount of capacity Montaup may be required to purchase from Cleary No. 9 from 95,000 kilowatts to 80,000 kilowatts.

Montaup requests that the supplemental agreement be made effective on November 1, 1978. According to Montaup, the filing was served on Taunton, the Massachusetts Department of Public Utilities and the Rhode Island Public Utilities Commission Division of Public Utilities and carriers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions

or protests should be filed on or before October 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26796 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket Nos. CP76-285, et al.]

MOUNTAIN FUEL RESOURCES, INC., ET AL.

Informal Conference

SEPTEMBER 15, 1978.

Take notice that on September 25, 1978, at 10 a.m., an informal conference of all interested persons will be convened concerning the above-captioned matter. The conference will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention.

All parties will be expected to appear fully prepared to discuss (1) potential stipulation of material facts not in issue, (2) common issues as expressed in pleadings or letter, (3) ask or answer technical question of any other party, and (4) discuss any procedural matters and explore or make commitments with respect to any or all of the issues and any offers of settlement or stipulations discussed at the conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26799 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. CP78-504]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Application

SEPTEMBER 18, 1978.

Take notice that on September 1, 1978, Natural Gss Pipeline Co. of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in docket No. CP 78-504 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Transcontinental Gas Pipe Line Corp. (Transco) and the retention and operation of facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that Applicant and Transco have entered into a gas transportation agreement dated June 1, 1978, whereby Transco would deliver up to 6,000 MCF per day of natural gas to Applicant in Zapata County, Tex. Applicant states that it would redeliver to Transco thermally equivalent volumes less the volumes of fuel used at an existing common point of connection at the outlet of Mobil Oil Corp.'s Cameron gas plant located in Cameron Parish, La.

Applicant proposes to retain and operate an unused measuring facility and tap connection on its Los Mogotes lateral in Zapata County, Tex.

Applicant proposes to charge Transco 13.5 cents per Mcf of gas redelivered to Transco at the point of redelivery.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 10, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed with in the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a fomal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26800 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. RP73-110]

NATURAL GAS PIPELINE CO. OF AMERICA

Notice of Filing of Report of Refund

SEPTEMBER 15, 1978.

Take notice that Natural Gas Pipeline Co. of America (Natural), on August 28, 1978, tendered for filing its verified report of distribution of refunds for the period December 1, 1973, through November 30, 1974, paid to its jurisdictional customers on June 28, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 25, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26744 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. CI78-900]

NATIONAL EXPLORATION CO.

Notice of Petition for Waiver of Section 157.29 and Authorization of Emergency Sales

SEPTEMBER 15, 1978.

Take notice that on June 19, 1978, National Exploration Co. ("NEC") respectfully filed a petition for waiver of § 157.29 and authorization of emergency sales, pursuant to § 1.7(b) of the rules of practice and procedure. NEC in its petition requested the Commission for waiver of the requirement in § 157.29 that emergency sales be limited to a single period of not more than 60 days in order to qualify for an exemption from section 7(c) certificate authorization under the Natural Gas Act. NEC specifically requests Commission authorization under § 157.29 for an emergency sale of natural gas

which it proposes to make to Tennessee Gas Pipeline Co. ("Tennessee"), a division of Tenneco, Inc. NEC has pre-

ferred to as Companies) tendered for filing a joint application for the disposition by sale of certain electric facili-

[6740-02]

[Docket No. ER78-614]

with the notice requirements of section 35.3 of the Commission's regulations, NEP therefore has requested

the Commission and are available for public inspection.

Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure

which it proposes to make to Tennessee Gas Pipeline Co. ("Tennessee"), a division of Tenneco, Inc. NEC has previously made one 60-day emergency sale to Tennessee and by its petition seeks to make another 60-day emergency sale to Tennessee from its J. Yzaguirre No. 1 well in Falcon field, Zapata County, Tex., at a price not in excess of the applicable ceiling under opinion No. 770, as amended.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 10, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26745 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. EL78-38]

NEW ENGLAND POWER CO. AND MASSACHUSETTS ELECTRIC CO.

Joint Application for the Disposition by Sale of Certain Electric Facilities

SEPTEMBER 19, 1978.

Take notice that on August 31, 1978, New England Power Co. and Massachusetts Electric Co. (collectively referred to as Companies) tendered for filing a joint application for the disposition by sale of certain electric facilities by the Companies to the town of Danvers, Mass. (Danvers).

The Companies state that the facilities described in detail in the joint application filed are subject to the jurisdiction of the Commission under section 201(b) of the Federal Power Act. The Companies further state that the facilities owned by New England Power Co. have been utilized by New England Power Co. in providing wholesale electric service to the towns of Danvers, Middletown, and Peabody, Mass. According to the Companies the facilities owned by Massachusetts Electric, a Massachusetts retail distribution company, have been leased to New England Power Co. and have been utilized by New England Power Co. in providing wholesale electric service to the aforementioned towns.

The Companies indicate that the towns of Danvers and Middletown have agreed to a joint taking of contract demand service from NEP and Danvers will enter into a contract demand contract with New England Power Co. covering both towns. The Companies further indicate that the transformation and subtransformation facilities currently utilized by NEP in providing subtransmission service to the towns will be sold to Danvers and New England Power Co. will deliver electricity to the towns at a 115kV delivery point.

Any person desiring to be heard or to protest said application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 6, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26803 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-614]

NEW ENGLAND POWER POOL

Filing of Amendment to the New England Power Pool Agreement

SEPTEMBER 18, 1978.

Take notice that on September 14, 1978, the New England Power Pool (NEPOOL) filed an agreement, the NEPOOL Power Pool Agreement (Amendment), dated August 15, 1978, which modifies the provisions of the New England Power Pool Agreement dated as of September 1, 1971.

NEPOOL indicates that the Amendment provides for a technical revision of § 6.1 of the NEPOOL Power Pool Agreement to provide clarification of the authority of the NEPOOL executive committee to fill vacancies which may occur in its membership.

NEPOOL requests that the Commission waive its notice requirements to permit the Amendment to become effective as of October 1, 1978.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 2, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26804 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-605]

NEW ENGLAND POWER CO.

Notice of Filing

SEPTEMBER 15, 1978.

Take notice that New England Power Co. (NEP) on September 11, 1978, tendered for filing power contracts between itself and Central Vermont Public Service Corp. and Green Mountain Power Corp. that provide for a purchase by these utilities of capacity and energy during the period of July 17, 1978, through July 30, 1978.

NEP states that due to the brief period of time available for the negotiation and execution of the power contracts, that it was unable to comply

with the notice requirements of section 35.3 of the Commission's regulations. NEP, therefore, has requested waiver from such requirements and has proposed an effective date of July 17, 1978.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 2, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26746 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-606]

NEW ENGLAND POWER POOL

Filing

SEPTEMBER 18, 1978.

Take notice that New England Power Pool on September 11, 1978, tendered for filing a NEPOOL Power Pool Agreement dated September 1, 1971, as amended. NEPOOL indicates that this agreement has previously been filed with the Commission as a rate schedule (designated NEPOOL FPC No. 1).

It is proposed that the tendered agreement, as related to the Princeton municipal electric system, commence on October 1, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before October 2, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26801 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. RP73-8]

NORTH PENN GAS CO.

Proposed Changes in FERC Gas Tariff

SEPTEMBER 14, 1978.

Take notice that North Penn Gas Co. (North Penn) on September 5, 1978, tendered for filing proposed changes in its FERC gas tariff, first revised volume No. 1, pursuant to its PGA clause for rates to be effective September 1, 1978.

The rates contained in Fifty-Seventh Revised Sheet No. PGA-1 reflect an increase of 1.261 cents per Mcf over the rates contained in Substitute Fifty-Sixth Revised Sheet No. PGA-1 filed on September 5, 1978, for effectiveness August 1, 1978.

Fifty-Seventh Revised Sheet No. PGA-1 reflects the decrease in rates filed by Consolidated Gas Supply Corp. (ConGas) on August 31, 1978, for effectiveness September 1, 1978, and the increase in rates filed by Transcontinental Gas Pipe Line Corp. (Transco) on August 1, 1978, for effectiveness September 1, 1978.

Additionally, North Penn submits ten (10) copies of Fifty-Eighth Revised Sheet No. PGA-1 proposed to be effective September 2, 1978.

Fifty-Eighth Revised Sheet No. PGA-1 contains an increase of 0.503 cents per Mcf to reflect the increase in rates filed by Transco on August 1, 1978, for effectiveness September 2, 1978.

North Penn requests a waiver of the Commission's rules and regulations, specifically section 154.22, notice requirements, stating that good cause exists to grant such waiver since the change in rates filed by ConGas was not received by North Penn until September 1, 1978, and further states that it did not have Commission approved rates of its own upon which to build this filing. Additionally, North Penn requests a waiver of any other of the Commission's rules and regulations as may be deemed necessary to allow the revised rates to become effective as proposed.

Copies of this filing were served upon North Penn's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26747 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. CP78-505]

NORTHERN NATURAL GAS CO.

Pipeline Application

SEPTEMBER 18, 1978.

Take notice that on September 1, 1978, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in docket No. CP78-505 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing applicant to sell natural gas to Panhandle Eastern Pipe Line Co. (Panhandle), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant has contracted to purchase thirty percent (30%) of Exxon Corp.'s interest in West Cameron block 630, offshore Louisiana. Applicant has entered into certain transportation arrangements with Panhandle and Trunkline Gas Co. which provide for the transportation and redelivery of such gas to Applicant's system. As partial consideration for the transportation of Applicant's offshore gas, Panhandle has a continuing option to purchase up to twenty percent (20%) of the volume of Applicant's block 630 gas received by Trunkline.

Accordingly, Applicant proposes to sell natural gas to Panhandle for resale in interstate commerce. The gas will be sold to Panhandle on a monthly cost of service basis, which cost represents Applicant's cost of gas at the point of delivery to Trunkline. The estimated average cost of service per Mcf for the first year of operations is $1.86.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 10, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance

with the requirements of the Commission's rules of practice and procedure

mitting distributing, and selling electric energy in the east central portion

[6740-02]

[Docket No. CP77-383 (Phase II)]

Additionally, Applicant requests authorization to gather and transport gas for FMC from wells in the Storm

suant to section 7(c) of the Natural Gas Act to amend the order issued by the Commission on July 5, 1978, in

Michigan Wisconsin Pipe Line Co. (docket No. CP78-452).

Take notice that at 9:30 a.m. on

with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26802 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ES78-52]

NORTHWESTERN PUBLIC SERVICE CO.

Notice of Application

SEPTEMBER 15, 1978.

Take notice that on September 5, 1978, Northwestern Public Service Co. (Applicant) filed an application with the Federal Energy Regulatory Commission seeking an order pursuant to section 204 of the Federal Power Act authorizing it to issue, not to exceed 50,000 shares ($5,000,000 aggregate par value) of cumulative preferred stock, par value $100 per share, in a negotiated private placement. Included in such application is a request for exemption from the competitive bidding requirements of § 34.1a(b)(c) of the regulations under the Federal Power Act for transactions.

Applicant is incorporated under the laws of the State of Delaware and is qualified to do business in the States of Iowa, Nebraska, North Dakota, and South Dakota, with its principal business office being in Huron, S. Dak. Applicant is engaged in generating, transmitting distributing, and selling electric energy in the east central portion of South Dakota where it furnishes electric service in 108 communities and in distributing and selling natural gas in 3 Nebraska communities and in 24 communities in South Dakota.

The cumulative preferred stock will be issued as a new series of such stock and will rank on a parity with the presently issued and outstanding cumulative preferred stock of applicant. It is proposed that the sales price, the dividend rate, liquidation preferences, redemption prices, sinking fund provisions, and other terms of the new series will be fixed by negotiation with the purchasers.

The sale of the cumulative preferred stock is expected to provide Applicant with up to approximately $5,000,000 of proceeds which will be used to reduce outstanding short-term bank loans and to pay part of the costs of applicant's 1978 construction program.

As of the date of this application, Applicant had outstanding $14,000,000 of short-term bank loans which were used in part to finance a portion of Applicant's 1978 construction.

Applicant's 1978 construction expenditures are estimated to be $26,793,000 consisting of approximately $20,349,000 for electric generating facilities, $1,620,000 for transmission lines, $2,218,500 for major electric substations, $992,400 for miscellaneous extensions and additions to electric systems, $977,000 for miscellaneous extensions and additions to gas distribution systems, and $636,100 for miscellaneous, general, and transportation facilities.

Any person desiring to be heard or to make any protest with reference to said application should, on or before September 25, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26743 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. CP77-383 (Phase II)]

PANHANDLE EASTERN PIPE LINE CO.

Amendment to Application

SEPTEMBER 15, 1978.

Take notice that on August 31, 1978, Panhandle Eastern Pipe Line Co. (Applicant), P.O. Box 1642, Houston, Tex. 77001, filed in docket No. CP77-383 an amendment to the application for a certificate of public convenience and necessity, pursuant to section 7(c) of the Natural Gas Act, authorizing the construction and operation of certain natural gas pipeline facilities in the East LaBarge area of Wyoming and requesting additional authorization to transport natural gas through proposed facilities for the FMC Corp. (FMC) and to sell gas to Colorado Interstate Gas Co. (CIG), all as more fully set forth in the amendment to the application which is on file with the Commission and open to public inspection.

Applicant states that on February 17, 1978 the Commission issued an order in the instant docket authorizing Applicant's construction and operation of phase I facilities in this proceeding and that phase II of this proceeding is still pending. Phase II, Applicant states, consisted of Applicant's request for authorization to construct and operate pipeline facilities to connect new wells to be developed in the East LaBarge area in the Green River Basin of Wyoming at an estimated cost of $37.3 million. Subsequent to the order of February 17, 1978, Applicant states that on June 28, 1978 it entered into a transportation and exchange agreement with Mountain Fuel Supply Co. (Mountain Fuel) for the purpose of transporting the gas to be produced from the newly developed wells in the East LaBarge area. Consequently, Applicant seeks to amend its original application stating that it now seeks authorization to construct and operate pipeline facilities to interconnect with Mountain Fuel's existing Whiskey Butte 10-inch supply line located in the southern portion of the East LaBarge area at an estimated cost of $2,455,000. Applicant states that Mountain Fuel would accept such volumes of gas as Applicant delivered to it and deliver thermally equivalent volumes to CIG, at existing points of interconnection, for Applicant's account. Applicant would pay to Mountain Fuel an initial transportation charge equal to 15.12 cents per Mcf of gas, it is stated. It is further stated that the agreement contains a "swig gas provision" which allows Mountain Fuel to retain up to 20,000 Mcf of gas per day during the winter season and repay equivalent volumes to Applicant during the summer season.

Additionally, Applicant requests authorization to gather and transport gas for FMC from wells in the Storm Shelter area to a Storm Shelter compressor station which Applicant proposes to build in Sweetwater County, Wyoming. Applicant states that FMC has an ownership interest in certain gas from such wells and that these wells are the same ones from which Applicant purchases its gas. The purpose of the transportation service proposed, it is stated, is to avoid duplicate facilities. Applicant states that FMC would pay Applicant an amount, computed on a cost of service basis, which is equal to 14.72 cents per Mcf of gas for deliveries which Applicant would make upstream of the proposed Storm Shelter compressor station, and 28.02 cents per Mcf of gas delivered downstream of the proposed compressor station.

Applicant further requests authorization to sell natural gas to CIG pursuant to a purchase and exchange agreement entered on December 3, 1976. Applicant states that under the terms of the agreement CIG has an option to purchase from Applicant up to 25 percent of all gas delivered to CIG under the agreement.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 10, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26764 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. CP77-381]

PACIFIC INTERSTATE TRANSMISSION CO.

Petition To Amend

SEPTEMBER 15, 1978.

Take notice that on September 1, 1978, Pacific Interstate Transmission Co. (Petitioner), 720 West Eighth Street, Los Angeles, Calif. 90017, filed in docket No. CP77-381 a petition pursuant to section 7(c) of the Natural Gas Act to amend the order issued by the Commission on July 5, 1978, in docket No. CP77-381 so as to extend the period in which it is authorized to sell gas to Southern California Gas Co. (SoCal), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that Petitioner was authorized to sell up to 200 billion Btu's of gas per day to Socal at the California-Arizona border for the period from June 1, 1977 to October 31, 1978. Petitioner states that it has a gas purchase agreement with Northwest Pipeline Co. (Northwest) for the purchase of gas imported from British Columbia which enables Petitioner to sell equivalent volumes of gas to SoCal. Petitioner further states that its gas purchase agreement with Northwest was amended on July 14, 1978, to extend until October 31, 1981, with an automatic extension of the term to and including September 30, 1989. Consequently, Petitioner requests that the order of July 5, 1978, in the instant docket be amended to extend the period of authorization from October 31, 1978, through September 30, 1989.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 10, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26765 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. CP78-398 et al.]

PACIFIC INTERSTATE TRANSMISSION CO. ET AL.

Technical Conference

SEPTEMBER 15, 1978.

In the matter of Pacific Interstate Transmission Co. (docket No. CP78-398), Michigan Consolidated Gas Co. (docket No. CP78-401), Transwestern Pipeline Co. (docket No. CP78-418), Michigan Wisconsin Pipe Line Co. (docket No. CP78-452).

Take notice that at 9:30 a.m. on Tuesday, September 26, 1978, staff will meet with representatives of the above-captioned companies for the purposes of obtaining clarification of issues and certain data already submitted regarding the matters contemplated in the several applications herein. Commission facilities will be available the following day for further discussions should the same be deemed propitious.

The conference will be held in the Commission's offices at 825 North Capitol Street NE., and all interested persons may at their option attend; however, their attendance will not be deemed to authorize intervention in the captioned proceedings.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26805 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-601]

PUBLIC SERVICE CO. OF OKLAHOMA

Proposed Cancellation

SEPTEMBER 14, 1978.

Take notice that Public Service Co. of Oklahoma, tendered for filing on September 5, 1978, a proposed cancellation of 1977 rate schedule FERC No. 177 and rate schedule FERC No. 178, effective October 10, 1968, and filed with the Federal Energy Regulatory Commission by the Company.

Public Service Co. of Oklahoma proposes an effective date of December 31, 1977.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26766 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. RP78-84]

cost increase results in increased rate from $1.40 to $1.53 per MCF demand and from 116.54 cents to 148.0 cents

§§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions

Copies of this filing are on file with the Commission and are available for public inspection.

docket No. CP78-499 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public con-

required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the

[6740-02]

[Docket No. RP78-84]

RATON NATURAL GAS CO.

Change in Rates

SEPTEMBER 15, 1978.

Take notice that Raton Natural Gas Co. (Raton) on August 28, 1978, tendered for filing, proposed changes in its FPC gas tariff, volume No. 1, consisting of Eighteenth Revised Sheet No. 3a. The change in rate is for jurisdictional sales and service.

Raton states that the instant change in rates is designed to enable Raton to recover increases in gas purchase cost, operating costs, inereased return and related income tax requirements. The proposed rates would increase revenues by $361,325. Gas purchase cost increase accounts for 91 percent of total increase.

Copies of Raton's filing are on file with the Commission and are available for public inspection. In addition, copies have been served on Raton's jurisdictional customer and the New Mexico Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 25, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26767 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. RP73-92 (PGA78-3)]

RATON NATURAL GAS CO.

Changes in Rates

SEPTEMBER 15, 1978.

Take notice that Raton Natural Gas Co. (Raton) on August 28, 1978, tendered for filing, proposed changes in its FPC gas tariff, volume No. 1, consisting of Alternate Eighteenth Revised Sheet No. 3a. The change in rates is for jurisdictional gas service. The proposed effective date is October 1, 1978.

Raton states that the instant notice of change in rates is occasioned solely by increase in the cost of gas purchased from Colorado Interstate Gas Co. (CIG). The tracking of CIG gas cost increase results in increased rate from $1.40 to $1.53 per MCF demand and from 116.54 cents to 148.0 cents per MCF Commodity. The annual revenue increase, by reason of the tracking, amounts to $330,193.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 25, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26768 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-603]

SOUTHERN CALIFORNIA EDISON CO.

Notice of Proposed Tariff Change

SEPTEMBER 14, 1978.

Take notice that Southern California Edison Co. (Edison) on September 8, 1978, tendered for filing a change of certain monthly carrying charges under the provisions of Edison's agreement with the Arizona Power Pool Association, as embodied in rate schedule FERC No. 92. The monthly charge for services is $42, 325, and this is an increase of $1,510, according to Edison. Edison proposes an effective date of July 26, 1978, and therefore, requests waiver of the Commission's notice requirements. Edison states said filing is in accordance with terms of the agreement stating that whenever the California Public Utilities Commission (CPUC) finds a new overall rate of return on retail operations to be reasonable for Edison * * * the charges shall be adjusted based on said new rate of return. Said new rate of return was authorized in CPUC decision Nos. 89130 and 89175, according to Edison.

Copies of this filing were served upon the Arizona Power Pool Association, Arizona, and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest this application should file petitions to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26769 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. RP77-32 (PGA No. 78-2a)]

SOUTH GEORGIA NATURAL GAS CO.

Notice of Revised PGA Rate Increase

SEPTEMBER 14, 1978.

Take notice that, on September 5, 1978, South Georgia Natural Gas Co. (South Georgia) tendered for filing Second Substitute Seventh Revised Sheet No. 4 and Substitute Second Revised Sheet No. 30 to First Revised Volume No. 1 of its FPC Gas Tariff. The proposed changes would decrease South Georgia's jurisdicational rates $228,165.

South Georgia states that the instant rate decrease filing is in compliance with the Commission's order issued July 6, 1978 in docket No. RP77-32 (PGA No. 78-2) and reflects amended rates filed by South Georgia's pipeline supplier, Southern Natural Gas Co. (Southern), which became effective July 2, 1978 by order of the Commission issued August 10, 1978.

South Georgia is making this filing pursuant to section 14 (purchased gas adjustment) of the general terms and conditions of its FPC Gas Tariff, First Revised Volume No. 1. Therefore, South Georgia requests this proposed decrease to be made effective July 2, 1978, the effective date of Southern's decreased rates.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 21, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26770 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. RI78-83]

SIDWELL OIL & GAS, INC.

Notice of Petition for Special Relief

SEPTEMBER 15, 1978.

Take notice that on July 28, 1978, Sidwell Oil & Gas, Inc. (Petitioner), P.O. Box 2475, Pampa, Tex. 79065, filed a petition for special relief in docket No. RI78-83 pursuant to § 2.76 of the Commission's general policy and interpretations (18 CFR 2.76).

Petitioner seeks a rate increase from the present rate of 40.05¢ per Mcf to 69.44¢ per Mcf for the sale of gas from its L. O. Brooks No. 1 Well, Farwell Creek (Lower Morrow) Field, Hansford County, Tex. to Panhandle Eastern Pipeline Co. Petitioner requests this relief in order to purchase and install pumping equipment it deems necessary to recover remaining reserves.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before October 10, 1978. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26771 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. CP78-499]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO, INC.

Notice of Application

SEPTEMBER 15, 1978.

Take notice that on August 30, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc. (Applicant), P.O. Box 2511, Houston, Tex. 77001, filed in docket No. CP78-499 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the Berkshire Gas Co. (Berkshire), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to receive from Boston Gas Co., at Applicant's existing Arlington Sales Meter Station delivery point located in Middlesex County, Mass., daily volumes of natural gas as requested by Berkshire up to a maximum daily volume of 1,190 Mcf. Applicant would then deliver equivalent volumes to Berkshire at Applicant's existing North Adams Sales Meter Station delivery point located in Berkshire County, Mass. The purpose of the transportation service proposed, it is stated, is to enable Berkshire to receive volumes of natural gas equivalent to volumes of liquefied natural gas which Berkshire would purchase from Distrigas of Massachusetts Corp. The charge for the transportation service would, Applicant states, be based on a monthly demand charge equal to the product of $1.02 multiplied by the specified maximum daily volume and a volume charge equal to the product of 12.17 cents per Mcf of gas multiplied by the total of the scheduled daily volumes during the month.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 10, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission, or its designee, on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26772 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. CP78-507]

TEXAS GAS TRANSMISSION CORP.

Pipeline Application

SEPTEMBER 18, 1978.

Take notice that on September 5, 1978, Texas Gas Transmission Corp. (Applicant), P.O. Box 1160, Owensboro, Ky. 42301, filed in docket No. CP78-507, an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of: Approximately 4.6 miles of 12¾-inch pipeline and appurtenant facilities extending from the platform owned by Union Oil Co. of California and Texas Gas Exploration Corp. in block 237, West Cameron area, to an interconnection with Texas Eastern Transmission Corp.'s 30-inch pipeline in block 250, West Cameron area, offshore Louisiana, all as more fully set forth in the application on file with the Commission and open to public inspection.

The facilities proposed by Applicant are to provide a connection between the reserves to be produced in the block 237 West Cameron area, offshore Louisiana. Applicant shows that the total estimated cost of the proposed facilities is $2,592,400.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 10, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon

Amerada Hess Corp. (Producers) up to 272 dt equivalent of natural gas per day to be produced from certain wells

action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to

before September 25, 1978. Protests will be considered by the Commission in determining the appropriate action

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Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26806 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket Nos. G-12706 and G-18841; RP65-59, RP69-13]

TEXAS EASTERN TRANSMISSION CO.

Notice of Filing of Refund Report

SEPTEMBER 15, 1978.

Take notice that Texas Eastern Transmission Corp. (Texas Eastern), on September 5, 1978, tendered for filing a refund report containing schedules of refunds which it has made pursuant to the Commission's orders in the above dockets.

The report includes copies of detailed refund calculations submitted by Texas Eastern to Algonquin Gas Transmission Co. Texas Eastern states that these calculations are representative of the refund calculations submitted to all of Texas Eastern's customers. The report also contains copies of all releases received as of this date by Texas Eastern from its customers with respect to the reported refunds.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 2, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26773 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. CP78-508]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

SEPTEMBER 18, 1978.

Take notice that on September 5, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in docket No. CP78-508 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 20,500 dekatherms (dt) equivalent of natural gas per day on an interruptible basis for the Brooklyn Union Gas Co. (BUG), one of Applicant's CD-3 rate schedule customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that BUG will purchase 13,630,000 dt of liquefied natural gas each year from Distrigas of Massachusetts Corp. (DOMAC) and that BUG will arrange to have the natural gas equivalent of up to 20,500 dt of such LNG per day delivered to Applicant by Tennessee Gas Pipeline Co., a Division of Tenneco, Inc. (Tennessee) at the existing Rivervale point of interconnection between the two systems in Bergen County, N.J. Applicant proposes to redeliver the transportation quantities to existing points of delivery to BUG. In accordance with Applicant's rate schedule T, BUG would pay Applicant an initial charge of 7.0 cents per dt delivered, and Applicant would retain, initially, 0.6 percent of the transportation quantities for compressor fuel and line loss makeup, it is asserted.

Applicant asserts that the gas being made available to BUG under the proposed arrangement is needed to offset curtailments of deliveries BUG has experienced due to the alleged shortage of gas supplies on the Transco system.

No additional facilities are proposed to render this service.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 10, 1978, file with the STET, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon STET Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commisison on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26730 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. CP78-501]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

SEPTEMBER 15, 1978.

Take notice that on August 30, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in docket No. CP78-501 an application pursuant to section 7(c) of the Natural Gas Act and § 2.79 of the Commission's general policy and interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 272 dekatherms (dt) equivalent of natural gas per day on an interruptible basis for a term of 2 years for Rea Magnet Wire Co. (Rea), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 272 dt equivalent of natural gas per day for Rea, an existing industrial customer of Columbia Gas of Virginia, Inc. (Columbia-Virginia) which receives all of its natural gas from Columbia Gas Transmission Corp. (Columbia).

It is stated that Rea purchased from Harkins & Co., First Mississippi Corp., St. Joe Petroleum (U.S.) Corp., and Amerada Hess Corp. (Producers) up to 272 dt equivalent of natural gas per day to be produced from certain wells in the Greens Creek Field, Jefferson Davis County, Miss., at a price of $1.745 per million Btu's for the first year and $1.92 per million Btu's during the second year. It is further stated that the gas purchase contracts provide for a minimum take-or-pay quantity of 153 million Btu's per day, and for a 6-month makeup period following the initial term of the agreement to make up gas paid for but not taken.

Applicant would take delivery of the subject gas in Jefferson Davis County, Miss., and redeliver it to Columbia at an existing delivery point near Dranesville, Va., for the account of Rea. Columbia, it is stated, would then deliver the gas to Columbia-Virginia for delivery to Rea's Buena Vista, Va., plant. Applicant proposes to charge 23.5 cents per dt for all quantities transported and would retain 3.8 percent of the volumes received as makeup for compressor fuel and line loss.

Applicant asserts that since the service is interruptible, there exists sufficient pipeline capacity to perform the service on a peak day, average day, and annual basis, and that the proposed service will have no impact on Applicant's ability to provide systemwide deliveries for priority 1 markets. Applicant further asserts that it was unable to purchase the subject gas because of the unwillingness of Producers to sell the gas for resale in the interstate market.

It is stated that the gas purchase agreement between Rea and First Mississippi Corp. was concluded with the use of Consul, Ltd. as an intermediary and that Rea has agreed to pay Consul, Ltd. 20 cents per million Btu of gas delivered for its services.

It is stated that the subject gas would be utilized by Rea in large baking chambers for the production of magnet wire. It is further stated that Rea is in the process of studying the conversion of its baking chambers to oil, but that process will take much time. Columbia-Virginia, it is stated, has informed Rea that it is highly uncertain that it can provide gas supplies to meet Rea's priority 2 needs because it is being curtailed by Columbia.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 10, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission, or its designee, on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26774 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. RP78-83]

TRUNKLINE GAS CO.

Notice of Change in Rates

SEPTEMBER 15, 1978.

Take notice that Trunkline Gas Co. (Trunkline) on August 28, 1978, tendered for filing 18th revised sheet No. 37 to its FERC gas tariff, original volume No. 2. Trunkline requests that this rate change to its FERC rate schedule F-2 become effective October 1, 1978.

Trunkline states that this rate change reflects the price to be paid under rate schedule F-2 as prescribed by the Commission in opinion No. 770-A in FPC docket No. RM75-14 and pursuant to § 2.56a(a)(1) of the Commission's regulations.

A copy of this filing has been furnished to Tennessee Gas Pipe Line Co.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 25, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26775 Filed 9-22-78; 8:45 am]

[6740-02]

[Docket No. ER77-588]

WASHINGTON WATER POWER CO.

Notice of Refund Report

SEPTEMBER 19, 1978.

Take notice that Washington Water Power Co. on September 11, 1978, tendered for filing in compliance with the Commission's letter of August 7, 1978, reports relating to wholesale customer billings which show the following information: (1) Monthly billing determinants, (2) revenues under rates in effect immediately prior to the December 18, 1977, increase, revenues under rates effective December 18, 1977 (subject to refund), and revenues under approved settlement rates, (3) monthly revenue refund amounts, (4) monthly interest computations, and (5) total revenue refund and total interest for the period December 1977 through July 1978.

The company indicates that all refunds have been made and applicable reports were supplied to the wholesale customers.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before October 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26731 Filed 9-22-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

credit against a portion of its 1977-78 excise taxes. *See Commonwealth Oil Refining Co., Inc.*, 6 FEA Par. 83,058 (August 26, 1977). The DOE found that CORCO and the firm's monthly entitlement purchase obligations by $121,659 during the period June 1, 1978 through November 30, 1978.

verted its commission agents to branded independent jobbers and sold its company-owned bulk plants to these new independent jobbers. The specific relief which Amoco re-

intend to use the entire amount of money which the DOE had allocated for the salaries of EPTF employees, and it requested that it be permitted to devote the unspent

Commonwealth Oil Refining Co., Inc., Penuelas, P.R., DEN-1369, Crude Oil

Commonwealth Oil Refining Co., Inc.

[3128-01]

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

ISSUANCE OF DECISIONS AND ORDERS

Week of July 17 through July 21, 1978

Notice is hereby given that during the week of July 17 through July 21, 1978, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the office of hearings and appeals and the basis for the dismissal.

APPEAL

Miller & Chevalier, Washington, D.C., DFA-0196, Freedom of Information

The law firm of Miller & Chevalier appealed from a partial denial by the DOE information access officer of a request for information which the firm had filed under the Freedom of Information Act (the Act). In its initial request, Miller & Chevalier sought copies of documents which discussed or analyzed the measurement of interest costs for purposes of the DOE price regulations. Although the DOE information access officer released several documents within the scope of the firm's request, Miller & Chevalier contended on appeal that it had been informed by a DOE employee that the agency possessed additional documents which were responsive to its request for information but which had not been released. In considering the appeal, the DOE confirmed the validity of the firm's contention that additional documents within the agency's possession had not been forwarded to the Freedom of Information officer for a determination regarding their releasability. The DOE therefore remanded the proceeding to the information access officer with instructions to conduct a more thorough search of the agency's files and to release those documents which were not exempt from disclosure under the Act.

REQUESTS FOR EXCEPTION

Commonwealth Oil Refining Co., Inc., Washington, D.C., DPI-0003 naphtha, crude oil

Commonwealth Oil Refining Co., Inc. (CORCO) filed an Application for exception from the provisions of 10 CFR 213.35(c) which, if granted, would eliminate the requirement that CORCO pay license fees on certain quantities of crude oil and naphtha which the firm imported into Puerto Rico during the 1977-78 allocation period. The relief which CORCO sought would have the actual effect of reducing the Puerto Rican excise taxes for the 1977-78 allocation period which the firm is required to pay in lieu of license fees. In considering the CORCO exception request, the DOE noted that the Federal Energy Administration had already granted CORCO license fee-exempt authority for the 1977-78 allocation period, but limited the extent of that relief on the assumption that CORCO would have a bank of customs duties to be used as a credit against a portion of its 1977-78 excise taxes. *See Commonwealth Oil Refining Co., Inc.*, 6 FEA Par. 83,058 (August 26, 1977). The DOE found that CORCO and the Puerto Rican Government were engaged in a dispute regarding the proper method of offsetting the firm's custom duties against its excise taxes and that it was therefore unclear whether CORCO had accumulated a bank during the 1977-78 allocation period. The DOE concluded that, in view of this uncertainty, CORCO would potentially be subject to the payment of substantial excise taxes and license fees unless additional fee-exempt authority were granted. This result would contravene the intent of the August 26, 1977 decision and order, in which the FEA concluded that CORCO would experience an exceptional hardship unless it received exception relief from the license fee provisions. The DOE therefore granted the firm the appropriate additional fee-exempt authority.

R. W. Tyson Producing Co., Inc., Jackson, Miss., FEE-4380, FEE-4438, FEE-4439, FEE-4441, crude oil

R. W. Tyson Producing Co., Inc., filed four applications for exception from the provisions of 10 CFR, part 212, subpart D. The exception requests, if granted, would permit Tyson to sell the crude oil which it produces from the Carter No. 1, the Vickers No. 3, the Federal Land Bank No. 1, and the McCann No. 1 wells, located in the Ovett field in Jones County, Miss., at upper tier ceiling price levels or market price levels. In considering the applications, the DOE found that Tyson's incentive to continue its crude oil production activities at the Ovett field wells was not influenced by the non-cash or capital expenditures that the firm had already incurred. Accordingly, those expenditures were excluded from the DOE's assessment of Tyson's current incentive to continue to produce from the Ovett field. Upon assessing Tyson's operating position at the Ovett field wells, the DOE determined that the levels of operating expenses exceeded the applicable ceiling prices at the Vickers, Federal, and McCann wells. The DOE found that in the absence of exception relief, the working interest owners of those three wells would lack an economic incentive to continue the production of crude oil. On the basis of the operating data which Tyson submitted, the DOE concluded that partial exception relief should be granted to the working interest owners for the Vickers and Federal wells permitting them to sell crude oil at upper tier ceiling prices. The DOE also determined that Tyson should be permitted to sell 100 percent of the crude oil produced from the McCann well for the benefit of the working interest owners at market price levels. However, since the data which Tyson submitted with respect to the Carter well indicated that crude oil had been produced from that property on a profitable basis, Tyson's request for relief for that well was denied.

Standard Oil Co. of Indiana, Chicago, Ill. DEE-0905, motor gasoline

Standard Oil Co. of Indiana (Amoco) filed an application for exception from the provisions of 10 CFR 212.83(c) which, if granted, would permit the firm to adjust the manner in which it calculates its increased marketing costs subsequent to the conversion of certain of its marketing operations. During the period 1975 through 1977, Amoco converted its commission agents to branded independent jobbers and sold its company-owned bulk plants to these new independent jobbers. The specific relief which Amoco requested was to be permitted to deduct the costs associated with the divested properties from its May 15, 1973, marketing costs. In considering the firm's request, the DOE found that, following the divestitures, Amoco no longer incurred any costs relating to the divested properties, and therefore that there would be no comparability between its May 15, 1973, marketing costs and its current costs. The DOE determined that this result would seriously distort the intent of section 212.83(c) and would result in a gross inequity to Amoco. Consequently, the DOE held that the requested exception relief should be granted. In addition, the DOE determined that since there had been undue administrative delay in the consideration of Amoco's request, the exception relief should be made retroactive to the date on which Amoco originally sought relief.

Newhall Refining Co., Inc., Newhall, Calif., DXE-0418, crude oil

Newhall Refining Co., Inc. filed an application for exception from the provisions of 10 CFR 211.67. The exception request, if granted, would result in the extension of exception relief previously granted to Newhall by reducing the firm's obligation to purchase entitlements under the provisions of the entitlements program. See Newhall Refining Co., Inc., 6 FEA par. 83,055 (August 12, 1977). In considering the Newhall exception request and its statement of objections to the proposed decision and order issued in this case, the DOE found that, in the absence of exception relief from the entitlements program, the firm would not attain a profit margin during its current fiscal year. Accordingly, the DOE determined that exception relief should be granted to reduce the entitlement purchase obligations that Newhall would otherwise incur by $462,667 per month during the period from February 1 through July 31, 1978

Warrior Asphalt Co. of Alabama, Inc., Washington, D.C., DXE-1050, crude oil

Warrior Asphalt Co. of Alabama, Inc. filed an application for exception from the provisions of 10 CFR 211.67 (the entitlements program) which, if granted, would relieve the firm of its obligation to purchase entitlement beginning with the month of June 1978. In support of its application, Warrior submitted projected financial and operating data for its current fiscal year ending March 31, 1979. On the basis of the Warrior submission, the DOE determined that the firm would incur an obligation to purchase entitlements during its current fiscal year which would prevent it from achieving its historical profit margin as well as its historical return on invested capital (ROIC). The DOE therefore concluded that exception relief was warranted under the criteria set forth in Beacon Oil Co., 3 FEA par. 83,209 (June 8, 1976), and Delta Refining Co., 2 FEA par. 83,275 (September 11, 1975). In determining the amount of exception relief to be granted under the Delta-Beacon criteria, the DOE reviewed Warrior's projections and found that, even if the firm were relieved of its entire entitlement purchase obligation for the current fiscal year, it would still not attain either its historical profit margin or its ROIC. Accordingly, the DOE granted Warrior an exception which reduced the

firm's monthly entitlement purchase obligations by $121,659 during the period June 1, 1978 through November 30, 1978.

REQUESTS FOR STAY

Northland Oil & Refining Co., Tulsa, Okla., DES-0089, crude oil

Northland Oil & Refining Co. requested that its obligation to purchase entitlements under 10 CFR 211.67 (the entitlements program) be stayed for the month of July 1978, pending a determination on the merits of an application for exception which it had previously filed. In considering the Northland request, the DOE found that the material which the firm submitted made a prima facie showing that Northland did not possess the financial resources which would enable it to purchase entitlements during July 1978. As a result, the DOE concluded that it would be impossible for Northland to satisfy its July entitlement purchase obligation. The DOE therefore granted a stay for the month of July 1978 pending a determination on the firm's application for exception.

O. B. Mobley, Jr., Shreveport, La., DES-1021, Crude Oil

Mr. O. B. Mobley, Jr., filed an application for stay from the provisions of 10 CFR 212.72, pending the final determination on the application for exception involving his crude oil production operations at the Lewisville Smackover Lime Unit (Lewisville Unit) in Lafayette County, Ark. In a previous decision, Mobley had been granted stay relief which permitted him to retain in an escrow account the disputed funds which he had received prior to March 16, 1978, as the result of charging prices in excess of the maximum lawful levels allowed under section 212.72. *O. B. Mobley, Jr.*, 1 DOE Par. 82,050 (May 15, 1978). In its present stay application, Mobley requested that it be permitted to continue to charge higher prices pending a final determination on its exception application. In considering the submission, the DOE determined that the Lewisville Unit would generate significant profits during 1978 and that Mobley would not be irreparably injured in the event that stay relief were denied. Therefore, the DOE concluded that Mobley's stay request should be denied.

REQUEST FOR MODIFICATION OR RESCISSION

Energy Policy Task Force of the Consumer Federation of America, Washington, D.C., DMR-0026 No. 2 Heating Oil

The Energy Policy Task Force of the Consumer Federation of America (EPTF) filed and application for modification of a decision and order which the DOE issued to the firm on April 27, 1979. In that decision, the DOE directed that financial assistance be provided to EPTF in order to enable it to participate fully in an evidentiary hearing to be held in August 1978 concerning No. 2 (home) heating oil. On May 5, 1978, that decision had been modified with respect to the level of financial assistance to be provided for services performed by attorneys and staff members of the EPTF. In its present application, EPTF requested that it be permitted to adjust its budget for the evidentiary hearing and to reallocate certain of the expenditures which the DOE had approved in the April 27 and May 5 decisions and orders. EPTF stated that it did not intend to use the entire amount of money which the DOE had allocated for the salaries of EPTF employees, and it requested that it be permitted to devote the unspent portion of the money to increase the level of participation of its economic and financial consultants. In considering that request, the DOE noted that the April 27 and May 5 decisions had indicated that the allocation of funds which EPTF had proposed was an estimate and that modifications in the budget might be necessary in the future. The DOE also found that the proposed change would contribute to the quality and usefulness of EPTF's presentation. The DOE therefore determined that EPTF should be permitted to adjust its budget with respct to certain funds provided for staff salaries and financial and economic consultants' fees. In its application, EPTF also requested that it be permitted to increase the salary of one of its staff members who was hired to participate in the evidentiary hearing. High respect to this request, the DOE found that no additional financial assistance would be necessary since EPTF would be able to draw on the funds allocated for staff salaries. The DOE concluded that the increased salary which was requested was in the low range of salaries paid to new attorneys. Therefore, EPTF's application for modification was granted.

SUPPLEMENTAL ORDERS

Bassett Oil & Equipment Co., Inc., Alexandria, Va., DRX-0096, Kerosene; No. 2 Fuel Oil

On May 31, 1978, the DOE issued a decision and order to Bassett Oil & Equipment Co., Inc. *See Bassett Oil and Equipment Co., Inc.*, 1 DOE Par. 80,260 (May 31, 1978). The May 31 order granted in part an appeal which Bassett had file from a revised remedial order issued to the firm by the Acting Director of Enforcement of DOE region III. The DOE therefore remanded the matter to the regional office with instructions to issue a second revised remedial order within 60 days. On July 12, 1978, the Director of Enforcement of DOE region III informed the Office of Hearings and Appeals that an additional 30 days would be necessary to prepare the revised remedial order for issuance. Consequently, the DOE modified the May 31 order to specify that a revised remedial order shall be issued by the Director of Enforcement within 90 days of the date of that order.

Plymouth Rock Fuel Corp., Brooklyn, N.Y., DRX-0090, No. 6 Fuel Oil

On April 19, 1978, the Director of Enforcement of DOE region II issued a proposed remedial order to Plymouth Rock Fuel Corp. in which he determined that, during the period November 1, 1973, through May 31, 1974, Plymouth Rock had charged prices for No. 6 fuel oil which exceeded the firm's maximum allowable prices and directed the firm to refund overcharges to members of its realty management class of purchaser. Although Plymouth Rock had been informed of its right to object to the proposed remedial order, the time period to file a notice of objection had expired and no objection had been received from Plymouth Rock or any other aggrieved party. Accordingly, the DOE held that Plymouth Rock was deemed to consent to the proposed remedial order and directed the Regional Director of Enforcement to issue the remedial order in final form.

Commonwealth Oil Refining Co., Inc., Penuclas, P.R., DEN-1369, Crude Oil

Commonwealth Oil Refining Co., Inc. (Corco), filed an application for interim relief in which it requested that the exception relief set forth in a proposed decision and other issued to the firm on June 30, 1978, be approved on an interim basis pending the issuance of a final determination on its application for exception. In the June 30 proposed decision, the DOE tentatively concluded that exception relief should be granted to Corco which would provide it with an economic incentive to transport up to 50,000 barrels of crude oil per day from California to the firm's refinery in Puerto Rico. Subsequent to the issuance of the proposed decision, the DOE received notices of objection from a number of domestic refiners. Under the DOE's proposed procedural regulations, a final determination ordinarily cannot be reached until the DOE has had an opportunity to consider all of the statements of objection filed in a particular matter. However, in considering the Corco request for interim relief, the DOE emphasized its strong belief that prompt administrative action was necessary to alleviate the difficulties currently being experienced by California crude oil producers. The DOE also observed that the exception relief which it proposed to grant to Corco will further a number of important national policy objectives, including the enhancement of domestic energy production and the substitution of domestic energy sources for the foreign crude oil that Corco currently purchases. Finally, the DOE determined that the intent of the proposed decision would be significantly frustrated if the implementation of that decision were delayed pending full consideration of the statements of objection. Therefore, the DOE approved the Corco request by permitting the firm for a period of 60 days to recover the costs associated with the transportation of up to 25,000 barrels of California crude oil per day to Puerto Rico.

MOTION FOR EVIDENTIARY HEARING

Custer Gas Service, Custer, S. Dak., DRH-0027, Liquid Propane

Custer Gas Service filed a motion for evidentiary hearing in connection with a proposed remedial order which the Department of Energy region VIII Office of Enforcement issued to the firm on March 29, 1978. After considering Custer's motion, the DOE concluded that it contained no discussion of any facts that were allegedly in dispute. Accordingly, Custer's request for an evidentiary hearing was denied.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Illinois Petroleum Marketers Association; FS Services & Affiliated Co., Alexandria, Va., DEE-949, DEE-0950

Pyrofax Gas Corp., Houston, Tex., DRO-0044

Sun Co., Inc., Dallas, Tex., DEE-0998, DEE-1001

Triad Oil & Gas Co., Jackson, Miss., DEE-0525

Webber Fuels, Inc., Grafton, Mass., DRO-0062

selling prices for the purpose of making restitution for prior overcharges. *See, e.g., Mid-Continent, Inc.*, 3 FEA Par. 80,507 (Nov. 14,

exempt from mandatory public disclosure pursuant to section 552(b)(5) of the Act which protects from mandatory disclosure

ingly, Perrault's exception request with respect to the Cudjo lease was denied.

chase obligation of Arizona Fuels should be stayed to the extent specified in the proposed order until the conclusion of the pending exception proceeding.

tain factual assertions concerning the suspension of production of crude oil from its J. W. Bailey Lease. After considering the request, the DOE concluded that the facts

Webber Fuels, Inc., Grafton, Mass., DRO-0062

The following submission was dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained and an application for exception was therefore premature:

James A. Leonard, Austin, Tex., FEE-4835

The following submission was dismissed after a determination made by the DOE that the relief requested was no longer necessary:

Bassett Oil & Equipment Co., Alexandria, Va., DRR-0024

Copies of the full text of these decisions and orders are available in the public docket room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

SEPTEMBER 15, 1978.

[FR Doc. 78-26585 Filed 9-22-78; 8:45 am]

[3128-01]

ISSUANCE OF DECISIONS AND ORDERS

Week of July 10 Through July 14, 1978

Notice is hereby given that during the week of July 10 through July 14, 1978, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

APPEALS

E. Lyle Johnson, Oklahoma City, Okla., DRA-0104, Crude oil

E. Lyle Johnson appealed from a remedial order which the Economic Regulatory Administration (ERA) issued to him December 21, 1977. In the remedial order, the ERA found that Johnson had improperly sold the crude oil produced from the Williams property, located in Cleveland County, Okla., at prices which exceeded the applicable ceiling price levels. The remedial order directed Johnson to refund the overcharges plus interest through price reductions in future sales of crude oil. In considering the Johnson appeal, the DOE affirmed that it has authority to direct a person to make refunds to correct for past violations of the DOE price regulations. The DOE also rejected Johnson's contention that the amount of overcharges should be offset by certain alleged undercharges since Johnson had failed to show that he had reduced his selling prices for the purpose of making restitution for prior overcharges. *See, e.g., Mid-Continent, Inc.*, 3 FEA Par. 80,507 (Nov. 14, 1975). The DOE also determined that it has authority to require the payment of interest as a part of remedial action and that the assessment of interest was appropriate in the present case. Finally, the DOE determined that exception relief was not appropriate, since Johnson had failed to submit any evidence in support of his contention that he would experience a serious hardship if he were required to make the refunds required by the December 21 remedial order. Accordingly, the Johnson appeal was denied.

James A. Leonard, Austin, Tex., FRA-1476, Crude Oil

James A. Leonard filed an appeal of a remedial order which had been issued to him by the regional compliance director of region VI on September 1, 1977. In that remedial order the regional compliance director found that Leonard had improperly classified five drilling locations in Burleson County, Tex., as five separate properties instead of as a single property and had sold crude oil produced from these sites at prices which exceeded the ceiling levels permitted by the provisions of 8 CFR 150.354 and 10 CFR 212.73. Based on these findings, the remedial order required Leonard to refund $71,313.99 plus interest in overcharges to the purchaser of the crude oil. In his appeal, Leonard argued that the five drill sites constituted separate properties as a result of a January 13, 1971, exploration agreement between Leonard and the holder of the oil and gas lease which covered those sites. The DOE did not agree. It found that the January 13, 1971, exploration agreement did not transfer to Leonard a right to produce crude oil and that Leonard did not receive such a right to produce until after January 1, 1972. Consequently, the DOE held that because all five drill sites were subject to the same right to produce crude oil contained in an oil and gas lease in existence on January 1, 1972, all five drill sites constituted a single property. Leonard also argued that even if he did not have a right to produce crude oil on January 1, 1972, each drill site became a separate property as soon as he first produced crude oil from each site during 1972. The DOE found that the creation of a property depends upon the existence of the right to produce crude oil and that there is no requirement that crude oil actually be produced either before, during, or after 1972. Therefore, the DOE rejected Leonard's second argument and affirmed the remedial order's finding that Leonard had overcharged the purchaser of the crude oil produced and sold from the drill sites. However, the DOE remanded the case to the regional office for further findings regarding the appropriateness of permitting Leonard to reduce the overcharges by certain undercharges which Leonard alleged had resulted from the improper classification of the five drill sites as separate properties.

Pyrofax Gas Corp., Houston, Tex., DFA-0189, Freedom of Information

Pyrofax Gas Corp. appealed from a partial denial of a request for information which the firm filed under the Freedom of Information Act (the Act) (5 U.S.C. 552). In that determination the information access officer withheld from disclosure five documents on the grounds that they were exempt from mandatory public disclosure pursuant to section 552(b)(5) of the Act which protects from mandatory disclosure material which reflects the deliberative processes of an agency. The information access officer also determined that the release of the documents would not be in the public interest pursuant to the provisions of 10 CFR 202.1. In its appeal, Pyrofax contended that the five documents constitute the effective law of the agency and contain segregable factual material and that they were therefore not protected from disclosure under the judicial and administrative interpretations of exemption 5. In considering the Pyrofax appeal, the DOE determined that the withheld documents formed part of the deliberative processes of the agency which culminated in the issuance of an interpretation to Petrolane, Inc. The documents were found to contain precisely the type of material which exemption 5 is intended to protect from disclosure. Moreover, the DOE determined that the documents did not contain segregable portions of factual material and that their release would not be in the public interest. On the basis of the above determinations, the DOE held that the five documents which were the subject of the Pyrofax appeal had been properly withheld by the information access officer, and the appeal was denied.

REQUESTS FOR EXCEPTION

Perrault Production Co., Tulsa, Okla., DEE-0115, Crude Oil

The Perrault Production Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted the firm to sell at upper-tier ceiling prices the crude oil produced from the Fisk Varnum lease, the D. W. Anderson lease, and the Cudjo Palmer lease, which are located in Seminole County, Okla. In considering the exception request, the DOE found that Perrault's operating costs at the Varnum and Anderson leases had increased to the point that the firm no longer had an economic incentive to continue the production of crude oil from those leases if the crude oil were subject to the lower-tier ceiling price rule. The DOE also determined that if Perrault abandoned its operations at the Varnum lease or the Anderson lease, a substantial quantity of otherwise recoverable domestic crude oil would not be produced. On the basis of criteria applied in previous decisions, the DOE determined that Perrault should be permitted to sell at upper-tier ceiling prices 66.39 percent of the crude oil produced from the Varnum lease for the benefit of the working interest and 100 percent of the crude oil produced from the Anderson lease for the benefit of the working interest. With respect to the Cudjo lease the DOE found that a substantial investment would be necessary to rework the well located on that lease in order to resume production of crude oil. However, the firm's data indicated that, even in the absence of exception relief, the revenues which Perrault would receive during the remaining economic life of the Cudjo lease would provide it with a sufficient economic incentive to undertake the necessary capital investment to rework the well. The DOE also found that in the absence of exception relief with respect to the Cudjo lease, Perrault would realize an internal rate of return on its investment of 22 percent if the well were reworked. Accordingly, Perrault's exception request with respect to the Cudjo lease was denied.

Requests for Stay

Wesreco, Inc., Woods Cross, Utah, DES-0085 and DST-0011, Crude Oil

Wesreco, Inc. requested that the application to it of 10 CFR 211.65 (the mandatory crude oil buy sell program) be stayed pending a final determination of the firm's Appeal of the current buy/sell list. If its applications for temporary stay and stay were approved, Wesreco would be permitted to purchase a substantially greater quantity of crude oil under the buy/sell program during the current allocation period ending September 30, 1978. Wesreco contended that if its purchases during the current allocation period were limited to the volume of crude oil specified in the March 3, 1978 buy/sell list, Wesreco would be forced to curtail operations at its Woods Cross refinery. The firm also claimed that a stay of the provisions of section 211.65 was desirable for public policy reasons to preserve the status quo ante, and that stay relief was warranted because there was substantial likelihood that Wesreco would succeed on the merits of its Appeal. In considering the applications, the DOE noted that since the relief which the firm seeks is in the nature of an interim exception from the buy/sell program, Wesreco must therefore make a very strong showing that it satisfies the criteria under which a Stay may be granted. As an initial matter the DOE determined that contrary to the position which Wesreco adopted, the issuance of a Stay would alter the status quo ante in favor of Wesreco, rather than preserving the position that it otherwise occupied under the buy/sell program. Nevertheless, the DOE stated that it would consider granting the type of interim relief which Wesreco requested if the firm were able to demonstrate that there is likelihood of success on the merits of the underlying Appeal. The DOE concluded however, that Wesreco had failed to substantiate its claims. While the financial and operating data which Wesreco submitted appeared to indicate that the firm will experience some termporary financial strain while its appeal is pending, that material did not indicate that Wesreco would incur such a severe and immediate financial hardship so as to result in an irreparable injury to the firm. The application for stay and application for temporary stay were accordingly denied.

Supplemental Orders

Arizona Fuels Corp., Salt Lake City, Utah, DEX-0094, Crude Oil

On July 14, 1978, the DOE issued a decision and order to the Arizona Fuels Corp. (Arizona Fuels) staying the firm's obligation to purchase entitlements to the extent specified in a proposed decision and order which was issued to the firm on the same date. In granting the stay, the DOE stated that as a result of new exception procedures which had been adopted effective September 14, 1977, the July 14, 1978 proposed decision and order would not be finalized for some time. During the interim period, entitlements notices would continue to be issued which did not take into consideration the relief proposed for Arizona Fuels in the July 14, 1978 order. Therefore, based on the criteria established in previous decisions, the DOE determined that the entitlement purchase obligation of Arizona Fuels should be stayed to the extent specified in the proposed order until the conclusion of the pending exception proceeding.

Pennzoil Producing Co., Houston, Tex., DEX-0092, Crude Oil

On May 15, 1978, the Department of Energy issued a decision and order to the Pennzoil Producing Co. (Pennzoil) which permitted the firm to sell 52.15 percent of the crude oil produced from the Perry Sand Waterflood Unit, North Segment, for the benefit of the working interest owners at upper tier ceiling prices. In calculating the extent of that exception relief, the DOE inadvertently omitted certain expenditures from Pennzoil's operating expenses. As a result, the level of exception relief approved in that decision and order was lower than it should have been. Accordingly, the DOE amended the May 15, 1978 order and permitted Pennzoil to sell 55.18 percent of the crude oil produced from the Perry Unit for the benefit of the working interest owners at upper tier ceiling prices.

Motions for Evidentiary Hearing

Guam Oil & Refining Co., Inc., Dallas, Tex., DEH-0006, Crude Oil

Guam Oil & Refining Co., Inc. (Gorco) filed a motion for evidentiary hearing in connection with a statement of objections which the firm had submitted in response to a proposed decision and order issued to it by the DOE on April 14, 1978. In the proposed decision, the DOE indicated its preliminary determination to deny Gorco's application for exception from the provisions of 10 CFR 211.67. The motion for evidentiary hearing, if granted, would permit Gorco to present testimony with respect to disputed issues of fact in an effort to seek a reversal of the DOE's preliminary determination. The firm's first request related to Gorco's ability to seek reimbursement from one of its purchasers for entitlement benefits which it had improperly obtained. In considering the motion, the DOE found that this issue was legal rather than factual in nature, and would best be resolved through the submission of written memoranda instead of oral testimony. Gorco also requested that it be permitted to present testimony relating to the Agency's preliminary conclusions as to the likely impact on the Guamanian economy if exception relief were denied to Gorco. The DOE found that the issue as well involved a dispute regarding the legal interpretation of facts, rather than whether the facts found to exist in the proposed decision were correct. Accordingly, the DOE concluded that Gorco's claim should be presented in the context of an oral argument, rather than an evidentiary hearing. Finally, the DOE held that Gorco's request to present evidence relating to the potential financial impact on its operations should be denied, since financial information is generally presented more effectively in written form. The motion of evidentiary hearing filed by Gorco was therefore denied.

W. W. Lindsey & W. E. Elliott, Pikeville, Ky., DRH-0014, Crude Oil

W. W. Lindsey and W. E. Elliott (L&E) filed a motion for evidentiary hearing in connection with a proposed remedial order issued to the firm on March 6, 1978, by the Office of Enforcement of Region IV of the Department of Energy. In its motion L&E requested that it be permitted to prove certain factual assertions concerning the suspension of production of crude oil from its J. W. Bailey Lease. After considering the request, the DOE concluded that the facts that L&E wished to establish were not in dispute. Accordingly, L&E's request for an evidentiary hearing was denied. However, the firm's position with respect to the issues it wished to prove was accepted as correct for purposes of all further proceedings in this case.

Toby Moffett; State of Wisconsin, DEH-0057; DEH-0060, No. 2 (Home) Heating Oil

On June 21, 1978, the Office of Hearings and Appeals of the Department of Energy received a petition to intervene submitted by the Honorable Toby Moffett, the United States Representative from the 6th Congressional District of Connecticut. In that petition, Mr. Moffett requested that he be permitted to participate in an evidentiary hearing which will be held in August 1978 concerning No. 2 (home) heating oil. See 43 FR 24588 (June 6, 1978). In addition, on June 13, 1978, the Office of Hearings and Appeals received a submission from the State of Wisconsin in which it also requested permission to participate in the evidentiary hearing. In their submissions, Congressman Moffett and the State of Wisconsin indicated that they intended to limit their direct involvement in the hearing to the submission of a written brief and that for the purpose of presenting evidence and testimony at the evidentiary hearing, their interests would be represented by the Energy Policy Task Force of the Consumer Federation of America. In considering the petitions, the Office of Hearings and Appeals noted that under the rules of procedure which were adopted to govern the hearing, Congressman Moffett and the State of Wisconsin did not require permission to participate in the proceeding in the manner which they requested. However, to avoid any possible ambiguities which might exist with regard to the issue, an order was entered affirming the right of Congressman Moffett and the State of Wisconsin to submit written comments.

No. 2 (Home) Heating Oil, DEH-0058

On May 31, 1978, the Office of Hearings and Appeals adopted certain rules of procedure to govern an evidentiary hearing to be held in August 1978 concerning No. 2 (home) heating oil. 43 FR 24588 (June 6, 1978). The purpose of this decision and order was to implement rule 8(c) of the rules of procedure by specifying the procedures that will be followed with respect to the following matters:

(i) The assignment of the burden of proof with respect to disputed factual assertions and the standard of proof which must be met in order to establish that an assertion should be accepted as fact;

(ii) The rules of evidence to be applied at the evidentiary hearing;

(iii) The order and format in which the participants will make their presentations at the evidentiary hearing.

On June 27, 1978, a determination relating to these matters was issued in proposed form. The parties to the proceeding were then afforded an opportunity to comment on the manner in which the Office of Hearings and Appeals intended to resolve the issues. In considering those comments, the Office of Hearings and Appeals rejected

proposals advanced by the Energy Policy Task Force and the Department of Justice that it adopt certain presumptions of fact

Appeals set forth in final form the procedures with regard to the burden of proof, standard of proof, and the rules of evidence

appeal from a remedial order which was issued to it by the Federal Energy Administration, Region IV. In its appeal, Champlin

e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a

and 5 p.m., e.d.t., except Federal holidays.

MELVIN GOLDSTEIN,

actively the January 1972 base production control level (BPCL) for the Mickie No. 1 lease located in Dewey County, Okla. On August 21, 1978, the DOE issued a proposed

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proposals advanced by the Energy Policy Task Force and the Department of Justice that it adopt certain presumptions of fact with respect to the ultimate issue of the need for further regulatory action regarding home heating oil. In this regard, the Office of Hearings and Appeals noted that if the issue of whether some form of regulatory action should be taken with respect to home heating oil were to be considered through the use of one or more presumptions, the opportunity to present relevant facts would be less complete than desired. Therefore, the Office of Hearings and Appeals determined that it would not adopt any factual or legal presumptions which have not been established through the proper introduction of evidence. The Office of Hearings and Appeals also declined to accept the position held by certain parties that the validity of factual assertions be established solely on the basis of a preponderance of the evidence. In this regard, the Office of Hearing and Appeals observed that since the parties to the proceeding were not obligated to address every issue presented at the hearing, a situation might arise in which certain factual assertions would not be refuted through the presentation of opposing evidence. the Office of Hearings and Appeals noted that it was therefore desirable that the presiding officer at the evidentiary hearing have the discretion to determine whether each factual assertion has been supported by evidence which is sufficiently convincing to establish it as a fact. In the decision and order, the Office of Hearings and Appeals also refused to adopt two motions submitted by the Department of Justice and the DOE Office of General Counsel which requested that all parties be required to submit their direct testimony in written form prior to the evidentiary hearing. In considering the motions, the Office of Hearings and Appeals noted that as an initial matter, it was improper to contemplate such a substantial change in the procedures after the period for comments on the procedures had passed. Furthermore, the Office of Hearings and Appeals felt that it would be more useful to afford a full development of the evidence through testimony presented at the hearing itself. Finally, the Office of Hearings and Appeals set forth in final form the procedures with regard to the burden of proof, standard of proof, and the rules of evidence which would be applicable at the evidentiary hearing.

Motion for Discovery

Lakes Gas Co., Forest Lake, Minn., DRD-0040, Propane

Lakes Gas Co. (Lakes) filed a Motion for discovery in connection, with a statement of objections to a proposed remedial order which DOE Region V issued to Lakes on April 12,1978. The motion for discovery, if granted, would require te DOE Office of Enforcement to respond to written interrogatories and requests for admissions and would also permit Lakes to take the depositions of its own president and two DOE officials. After considering the motion, the DOE found that Lakes' interrogatories concerned the appropriate accounting method to be used in calculating its increased product costs. Since the selection of a particular accounting method can affect the amount of any alleged overcharges, the DOE determined that a dispute as to whether the accounting method reflected in the proposed remedial order was an appropriate one was relevant to the objection proceeding. Consequently, the Office of Enforcement was directed to respond to the interrogatories. The Office of Enforcement was further directed to respond to Lakes' requests for admissions on the grounds that the requests were relevant to issues raised in Lakes' statement of objections and that enforcement's responses to those matters might establish conclusively what facts were in dispute. Finally, the DOE noted that a determination as to whether the taking of depositions should be allowed would depend in part on enforcement's responses to the interrogatories and admissions requests. Accordingly, that portion of Lakes' motion which requested that depositions be permitted was dismissed without prejudice.

Interlocutory Order

Champlin Petroleum Co., Fort Worth, Tex., DRZ-0012, Regular Gasoline

The Champlin Petroleum Co. filed an appeal from a remedial order which was issued to it by the Federal Energy Administration, Region IV. In its appeal, Champlin requested an opportunity to rebut certain factual findings made by the Regional Office through the presentation of evidence in the context of an evidentiary hearing. On June 6, 1978, a conference was held regarding Champlin's request for an evidentiary hearing. At the pre-hearing conference, the participants raised a number of questions concerning the manner in which the appeal proceeding would be conducted. The present decision and order was issued in order to clarify and expand upon the determinations made by the presiding officer at the conference. In this decision and order, the DOE noted that the new procedures which the DOE adopted regarding remedial order proceedings were not applicable to the Champlin appeal. However, the DOE determined that because of the importance of the issues raised in the Champlin appeal and in view of Champlin's request for an evidentiary hearing, the Office of Special Counsel would be designated a party to the proceeding. In addition, the DOE observed that any aggrieved party could submit written comments on the Champlin appeal, although for purposes of oral presentations at an evidentiary hearing, a common counsel would be designated to represent the interests of all the aggrieved parties. The DOE also determined that if an evidentiary hearing were to be held with regard to this matter, Champlin would have the burden of persuading the factfinder that the determinations reached in the remedial order are erroneous. The DOE further stated that the validity of any factual position asserted by a party would be established by a preponderance of the evidence advanced in support of that position. With respect to the rules of evidence which would be applicable at an evidentiary hearing, the DOE determined that it would admit all evidence that is material and germane to any contested factual issue addressed at the hearing. However, the DOE noted that the presiding officer may exclude upon objection marginally relevant data that might be misleading.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Hearings and Appeals of the Department of Energy has issued decisions and orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain nonproduct cost increases:

Company	Case No.	Plant	Location (County and State)	Amount of price increase (per gallon)
MAPCO, Inc	DXE-0986	Altonah	Duchesne, Utah	$0.1132
	DXE-0987	Tyrone	Texas, Okla	.0330

Dismissals

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

De Martin Truck Lines, Inc., Bakersfield, Calif., DES-0075.

Fuelgas, Inc., Riviera Beach, Fla., DEE-0126.

The following submission was dismissed on the grounds that the relief requested was no longer necessary:

Reed & Stevens, Inc., Washington, D.C., DRO-0047.

The following submission was summarily denied on the grounds that the appeal was untimely filed:

Redford Service & Heating Co., Indian River, Mich., DRA-0193.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

SEPTEMBER 15, 1978.

[FR Doc. 78-26586 Filed 9-22-78; 8:45 am]

[3128-01]

ISSUANCE OF PROPOSED DECISIONS AND ORDERS

August 21 through August 25, 1978

Notice is hereby given that during the period August 21 through August 25, 1978, the proposed decisions and orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception which had been filed with that office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the proposed decision and order in final form may file a written notice of objection within 10 days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a notice of objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the proposed decision and order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In that statement of objections an aggrieved party must specify each issue of fact or law contained in the proposed decision and order which it intends to contest in any further proceeding involving the exception matter.

Copes of the full text of these proposed decisions and orders are available in the public docket room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

SEPTEMBER 15, 1978.

PROPOSED DECISIONS AND ORDERS

APCO Oil Corp., Washington, D.C., DEE-0977, motor gasoline

Apco Oil Corp. filed an application for exception from the provisions of part 211 of the mandatory petroleum regulations in order to facilitate its sale of 15 retail service stations to Kerr-McGee Refining Corp. The exception request, if granted, would result in the issuance of an order (i) terminating Apco's base period supply obligations to the affected service stations and reassigning those obligations to Kerr-McGee, (ii) substituting Kerr-McGee for Apco as the base period purchaser of motor gasoline with respect to the quantities of motor gasoline which Apco previously supplied to the stations, and (iii) permitting Apco to sell the allocated product inventories at the service stations to Kerr-McGee without first including those products in its "allocable supply" as required under 10 CFR 211.10(b). On August 21, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted.

L. W. Babcock, Montecito, Calif., DEE-1408, crude oil

L. W. Babcock filed an application for exception in which he requested that he be permitted to sell certain quantities of the crude oil produced for the benefit of the working interest from the Union Avenue field, located in Kern County, Calif., at upper tier ceiling prices. On August 21, 1978, the Department of Energy issued a proposed decision and order which determined that the exception request should be granted.

Vern H. Bolinder, Salt Lake City, Utah, DEE-0438, crude oil

Vern H. Bolinder filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D, in which he requested that he be permitted to sell crude oil which is produced from the Grassy Trails No. 2 and C-1 wells, located in the Grassy Trails field in Emery County, Utah, at market prices. On August 21, 1978, the DOE issued a proposed decision and order in which it determined that the Bolinder exception request be granted.

Crest Resources and Exploration Corp., Houston, Tex., DEE-0944, crude oil

Crest Resources and Exploration Corp. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Crest to sell crude oil produced from the Cecile Williams Well No. 1 lease at upper tier and market prices. On August 22, 1978 the DOE issued a proposed decision and order which it determined that the exception request be granted.

C. W. Culpepper, Oklahoma City, Okla., DEE-0248, crude oil

C. W. Culpepper filed an application for exception from the provisions of 10 CFR 212.72. The exception request, if granted, would permit Culpepper to recompute retroactively the January 1972 base production control level (BPCL) for the Mickie No. 1 lease located in Dewey County, Okla. On August 21, 1978, the DOE issued a proposed decision and order which it determined that the exception request be granted.

Getty Oil Co., Oklahoma City, Okla., DXE-1464, crude oil

Getty Oil Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D, in which the firm requested that it be permitted to continue to sell certain of the crude oil produced from the Ed Dillon No. 2 well, located in Oklahoma County, Okla., at upper tier ceiling prices. On August 22, 1978, the DOE issued a proposed decision and order which it determined that the Getty exception request should be granted.

Great Southern Oil & Gas Co., Inc., Lafayette, La., DEE-0455, crude oil

On January 11, 1978, Great Southern Oil & Gas Co., Inc. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would permit the working interest owners of the St. Martin Bank & Trust Co. No. 1 lease to sell a portion of the crude oil produced for their benefit at upper tier ceiling prices. On August 22, 1978, the DOE issued a proposed decision and order which permits the working interest owners of the St. Martin lease to sell at upper tier ceiling prices 80.03 percent of the crude oil produced for their benefit.

Joseph I. O'Neill, Jr., Oil Properties, Midland, Tex., DXE-1463, crude oil

On August 10, 1978, Joseph I. O'Neill, Jr., Oil Properties filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would result in an extension of the exception relief previously granted in a decision and order which the Department of Energy issued to O'Neill on April 14, 1978. On August 25, 1978, the DOE issued a proposed decision and order which it determined that O'Neill should be permitted to continue to sell at upper tier ceiling prices 33.63 percent of the crude oil which is produced for its benefit from the Feldman & Pardo Lease located in Scurry County, Tex.

Laketon Asphalt Refining, Inc., Evansville, Ind., DXE-1293, crude oil

Laketon Asphalt Refining, Inc. filed an application for exception from the provisions of 10 CFR 211.67 (the domestic crude oil entitlements program). The exception request, if granted, would relieve Laketon of its entitlements purchase obligations under the provisions of 10 CFR 211.67 for the months of August 1978 through January 1979 to account for its crude oil receipts and runs to stills during the months of June through November 1978. On August 21, 1978, the DOE issued a proposed decision and order which it determined that Laketon's entitlements purchase obligation be reduced by the amount of $305,150 per month during the period specified above.

Milltown Skelgas, Inc., Milltown, Wis., DEE-0958, propane

Milltown Skelgas, Inc. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart F. The exception request, if granted, would permit Milltown to increase its selling prices for propane. The

firm would also be permitted to retain the revenues that it obtained in selling propane since November 1, 1973. On August 21, 1978,

mined that the O'Meara exception request be granted.

produced from the Aztec Totah Unit at prices in excess of the ceiling price levels. On August 25, 1978, the DOE issued a pro-

posed Decision and Order which determined that the exception request be granted to permit brown to earn a 15 percent rate of

had sold crude oil produced from the V. L. Neis lease at unlawful price levels. The remedial order therefore required Brooks to

Aspen Park Gas Co., Inc. filed an application for exception from the provisions of 10 CFR 210.62(a). The exception request, if granted, would permit Aspen to alter a dis-

firm would also be permitted to retain the revenues that it obtained in selling propane since November 1, 1973. On August 21, 1978, the DOE issued a proposed decision and order which it determined that Milltown should be permitted to increase its selling prices for propane by $0.0221 per gallon. The proposed decision also determined that Milltown's request for retroactive relief should be denied.

Robert W. O'Meara, New Orleans, La., DXE-1552, crude oil

Robert W. O'Meara filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D, in which the firm requested that it be permitted to continue to sell certain of the crude oil produced from the Louisiana Fruit Lease No. 2 well, located in the Tiger Pass field of Plaquemines Parish, La., at upper tier ceiling prices. On August 22, 1978, the DOE issued a proposed decision and order which determined that the O'Meara exception request be granted.

South Hampton Co., Silsbee, Tex., FEE-4778, crude oil

South Hampton Co. filed an application for exception from the provisions of 10 CFR 211.67. The exception request, if granted, would permit South Hampton to earn additional entitlements for its crude oil receipts and runs to stills during the period October 1975 through March 1976. On August 23, 1978, the DOE issued a proposed decision and order which determined that the exception request be denied.

Southland Royalty Co., Fort Worth, Tex., DXE-1555, crude oil

Southland Royalty Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to continue to sell a portion of the crude oil produced from the Aztec Totah Unit at prices in excess of the ceiling price levels. On August 25, 1978, the DOE issued a proposed decision and order which determined that the exception request should be granted.

Union Oil Co. of California, Los Angeles, Calif., DXE-0413, crude oil

On December 19, 1978, the Union Oil Co. of California filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Union to continue to sell at upper tier ceiling prices certain volumes of the crude oil which it produces from the State P.R.C. 2879.1 lease and the Coast Guard lease, which are located in the Point Conception field, Santa Barbara County, Calif. On August 25, 1978, the DOE issued a proposed decision and order which permits Union to sell at upper tier ceiling prices certain volumes of the crude oil which it produces from the two leases.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Hearings and Appeals of the Department of Energy has issued a proposed decision and order granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processor listed below. The proposed exception relief permits the firm involved to increase the prices of the production of the gas plants listed below to reflect certain nonproduct cost increases:

Company	Case No.	Plant	Location (County and State)	Amount of price increase (per gallon)
Marathon Oil Co.	DXE-1450	Elk Basin	Park County, Wyo	$0.0240
	DXE-1451	Susan Peak	Tom Green County, Tex	.0406

[FR Doc. 78-26587 Filed 9-22-78; 8:45 am]

[3128-01]

ISSUANCE OF PROPOSED DECISIONS AND ORDERS

September 5 through September 8, 1978

Notice is hereby given that during the period September 5 through September 8, 1978, the proposed decisions and orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the proposed decision and order in final form may file a written notice of objection within 10 days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a notice of objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the proposed decision and order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In that statement of objections an aggrieved party must specify each issue of fact or law contained in the proposed decision and order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the public docket room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

SEPTEMBER 15, 1978.

PROPOSED DECISIONS AND ORDERS

Continental Oil Co., Houston, Tex., DEE-1170 crude oil

The Continental Oil Co. filed an application for exception which, if granted, would result in the elimination of the current cumulative deficiency which accumulated at the Grubb Lease in Ventura County, Calif., during the month of March 1978. On September 6, 1978, the DOE issued a proposed decision and order which determined that the exception request should be denied.

Kock Exploration Co., Wichita, Kans., DXE-1427, DXE-1428, crude oil

Kock Exploration Co. filed two applications for exception from the provisions of 10 CFR 212.73. The requests, if granted, would result in extension of exception relief previously granted and permit the firm to continue to sell crude oil which it produces from the Cedar Rim No. 3 lease and the Sink Draw No. 1 lease located in Duchesne County, Utah, at upper tier ceiling prices. On September 5, 1978, the DOE issued a proposed decision and order which determined that the exception requests should be granted.

The Maurice L. Brown Co., Kansas City, Mo., DEE-1055, crude oil

The Maurice L. Brown Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Brown to sell the crude oil which it will produce from the S. E. Anderson lease, located in Lea County, N. Mex., at prices which exceed the applicable lower tier ceiling price levels. On September 7, 1978, the DOE issued a proposed Decision and Order which determined that the exception request be granted to permit brown to earn a 15 percent rate of return on the investment which it proposed to make.

O. B. Mobley, Jr., Shreveport, La., DEE-1021, crude oil

Mr. O. B. Mobley, Jr. filed an application for exception from the provisions of 10 CFR 212.72. The exception request, if granted, would permit Mobley to establish a unit base production control level for the Lewisville Smackover Lime Unit pursuant to section 212.75 and thus to sell a greater percentage of the crude oil produced from the unit at upper tier ceiling price levels. On September 6, 1978, the DOE issued a proposed decision and order which determined that the exception request be denied.

Mull Drilling Co., Inc., Wichita, Kans., DXE-1674, crude oil

Mull Drilling Co., Inc. filed an application for exception from the provisions of 10 CFR 212.73. The request, if granted, would result in extension of exception relief previously granted and would permit the firm to continue to sell a portion of the crude oil which it produces from the Roth lease located in Cheyenne County, Wyo., at upper tier ceiling prices. On September 5, 1978, the DOE issued a proposed decision and order which determined that the exception request should be denied.

Texaco, Inc., Denver, Colo., DEE-1085, crude oil

Texaco, Inc. filed an application for exception from the provisions of 10 CFR, Part 212, subpart D. The exception request, if granted, would permit Texaco to sell a portion of the crude oil produced from the Maudlin Gulch Unit (Dakota participating area) in Moffat County, Colo. at upper tier ceiling prices. On September 5, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted.

[FR Doc. 78-26588 Filed 9-22-78; 8:45 am]

[3128-01]

ISSUANCE OF DECISIONS AND ORDERS

Week of July 3 Through July 7, 1978

Notice is hereby given that during the week of July 3 through July 7, 1978, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

APPEALS

E. B. Brooks, Jr., Dallas, Tex., FRA-1416, crude oil

E. B. Brooks, Jr. filed an appeal of a remedial order which was issued to him by FEA Region VI on July 25, 1977. In that remedial order, the Regional Compliance Director found that during the period September 1, 1973 through December 31, 1976, Brooks had sold crude oil produced from the V. L. Neis lease at unlawful price levels. The remedial order therefore required Brooks to refund $161,188.66 in overcharges plus interest. In his appeal, Brooks argued that his liability for the refunds specified in the remedial order should be limited to his share of the working interest in the lease. In considering this contention, the DOE noted that Brooks was both the operator of the lease and the owner of a 75 percent working interest. The DOE found that Brooks had failed to submit any material to rebut the presumption that the operator of a crude oil producing property is the appropriate party upon whom a remedial order should be served. That presumption is based on the DOE's belief that the operator is generally responsible for establishing the price for the crude oil which is produced and sold from a particular property. Consequently, the DOE concluded that the Brooks appeal should be denied.

General Motors Corp., Detroit, Mich., DEA-0036, natural gas liquids

The General Motors Corp. appealed from a decision and order which the Economic Regulatory Administration (ERA) issued to the Consumers Power Co. on October 13, 1977. The October 13 order assigned to Consumers the same base period use of feedstock for its Marysville, Mich. SNG plant as had been assigned to it under prior orders. As an initial matter, the DOE rejected the contention that General Motors was not an "aggrieved party" with standing to file the present appeal. The DOE found that General Motors' standing to appeal had been recognized by the agency in similar previous matters and that, as one of Consumers' largest customers, General Motors was vitally affected by the impact which the October 13 order had upon the price of gas which it purchased from Consumers. In considering the General Motors appeal, the DOE found that contrary to the firm's assertion, the ERA had not disregarded evidence of the diminished need of Consumers' customers for SNG. The ERA had found, nevertheless, that Consumers might have to play an important role in mitigating the effects of possible nationwide natural gas shortages during the coming winter. The DOE further found that General Motors had not demonstrated that the relative weight that the ERA accorded to the conflicting evidence regarding the need for Consumers' SNG production was unreasonable. In addition, the DOE found that a proper evidentiary basis existed for the ERA's determination that the issuance of an order which limited Consumers' access to surplus natural gas liquids arriving at Sarnia, Ontario could adversely affect the efficiency of the pipeline transportation of propane and butane to Sarnia and result in a net loss of energy to the United States. The DOE also observed that the ERA had not found that the provisions of the National Environmental Policy Act of 1969 constituted an absolute bar to the issuance of an order reducing Consumers' feedstock allocation. The DOE therefore concluded that General Motors had not shown that the October 13 order was arbitrary or erroneous, and accordingly denied the firm's appeal.

REQUESTS FOR EXCEPTION

Aspen Park Gas Co., Inc., Conifer, Colo., FEE-4452, propane

Aspen Park Gas Co., Inc. filed an application for exception from the provisions of 10 CFR 210.62(a). The exception request, if granted, would permit Aspen to alter a discount for early payment which it offered certain of its propane customers on May 15, 1973. Aspen wished to use a flat rate per gallon discount instead of a percentage of sales price discount. In considering the firm's exception request, the DOE observed that the per gallon value of Aspen's early payment percentage discount had increased since 1973 because the firm's propane sales prices had increased. However, the DOE also observed that the increased cost to Aspen of providing this percentage discount was almost certainly offset by the increased economic benefit to the firm of receiving additional early payment dollars. In addition, the DOE found that Aspen's early payment discounts had not contributed substantially to a decline in profitability which the firm alleged it was experiencing. The DOE determined that any decline in profitability which Aspen was experiencing resulted primarily from competitive market conditions which precluded Aspen from reflecting all of its operating expenses in its selling prices of propane. Since the DOE regulations permit Aspen to increase its selling prices to reflect its current level of operating costs, the DOE concluded that Aspen is not incurring either a hardship or inequity as a result of continuing the discount practice. On the basis of these considerations, the DOE determined that Aspen's exception application should be denied.

Damson Oil Corp., Los Angeles, Calif., FXE-4461, crude oil

Damson Oil Corp. filed an application for exception which, if granted, would extend the exception relief previously granted and permit the firm to continue to sell a portion of the crude oil produced from the city of Los Angeles Lease No. 135 (the Venice Beach Lease) at upper tier ceiling prices. In considering the exception application, the DOE found that the firm continued to experience increased operating costs at the lease and that, in the absence of exception relief, the working interest owners would not have a sufficient economic incentive to continue producing crude oil. On the basis of the operating data presented for the most recent 6-month period, the DOE issued a proposed decision and order which tentatively determined that Damson should be permitted to sell 62.94 percent of the crude oil produced from the Venice Beach Lease at upper tier ceiling prices. Damson filed a statement of objections to the proposed decision and order in which it contended that in calculating the level of exception relief the DOE should have considered the administrative overhead expenses incurred by the firm in its operations at the Venice Beach Lease. After considering the statement of objections, the DOE agreed with the firm's contention and amended its calculations accordingly. Damson also contended that the DOE should have used the actual market price for new crude oil produced from the Venice Beach Lease rather than the upper tier ceiling price because of the present depressed market conditions in the California crude oil market. The DOE determined that this contention should also be adopted since the use of the upper tier ceiling price to compute the level of exception relief would not provide the firm with a sufficient incentive to continue production. However, the DOE

rejected Damson's contention that retroactive relief should be granted. Accordingly, the DOE determined that Damson should

ception relief on the ground that he was experiencing a gross inequity. The DOE also found that Hoxsey had not demonstrated

geezi filed to the proposed decision and order, the DOE Office of Hearings and Appeals determined that the increased volume

San Joaquin Refining Co., Newport Beach, Calif., FEX-0180, crude oil

was granted in accordance with the standards established in *Beacon Oil Company*, 3 FEA Par. 83,209 (June 8, 1976) and *Delta*

quire San Joaquin to buy or sell additional entitlements to adjust for any discrepancy between projected and actual financial re-

rejected Damson's contention that retroactive relief should be granted. Accordingly, the DOE determined that Damson should be permitted to sell 70.06 percent of the crude oil produced from the Venice Beach Lease at a price not to exceed the actual upper tier market price of $9.62 per barrel for the period from September 1, 1977 through August 31, 1978.

El Paso Natural Gas Co., El Paso, Tex., FEE-4466, FEE-4468, natural gas liquids

El Paso Natural Gas Co. (El Paso) requested that exception relief from the provisions of 10 CFR 212.165 which was previously granted to it be extended for an additional period of time. In considering the request, the DOE found that El Paso had continued to incur increased nonproduct costs at its Jal and San Juan natural gas processing plants which materially exceeded the $0.005 per gallon passthrough permitted under 10 CFR 212.165. Based upon the criteria set forth in *Superior Oil Co.*, 2 FEA Par. 83,271 (Aug. 29, 1975), the DOE issued a proposed decision and order which tentatively determined that El Paso should be granted exception relief from the provisions of section 212.165 for the period October 17, 1977, through March 31, 1978. El Paso filed a statement of objections to the proposed decision in which it contended that the exception relief should also be granted on a retroactive basis. El Paso asserted that an earlier application for exception which it filed had been dismissed by the Federal Energy Administration because the firm did not comply with the FEA's request that it submit nonproduct cost data on a plant-by-plant basis. The firm therefore requested retroactive relief in order to recover the cost which it incurred to comply with the FEA data requirements. However, the DOE concluded that El Paso failed to make any showing that it actually made substantial efforts or incurred significant costs in order to comply with these requirements. Furthermore, the DOE determined that the firm failed to show that compelling reasons existed for retroactive relief, or that it would experience a severe and irreparable injury in the absence of retroactive relief. Accordingly, the contentions which El Paso raised in its statement of objections were rejected and the proposed decision and order was issued in final form.

Merwin Hoxsey, d.b.a. Hoxsey Shell Service, San Diego, Calif., FEE-4293, motor gasoline

Merwin Hoxsey d.b.a. Hoxsey Shell Service (Hoxsey) filed an application for exception which, if granted would result in the issuance of an order by the Department of Energy modifying a compliance agreement with Hoxsey entered into with the Federal Energy Administration on June 30, 1975. Under the terms of the compliance agreement, Hoxsey was required to pay $24,000 to the U.S. Treasury in lieu of refunding that amount to retail gasoline customers which he overcharged in 1974. In his application, Hoxsey requested retroactive exception relief which would increase his maximum permissible selling prices during the overcharge period. In considering that request, the DOE found that Hoxsey had not demonstrated that his May 15, 1973 gross sales margin for motor gasoline was unrepresentative of the margin which he historically had maintained. The DOE therefore concluded that Hoxsey was not entitled to exception relief on the ground that he was experiencing a gross inequity. The DOE also found that Hoxsey had not demonstrated that he is entitled to exception relief from the provisions of section 212.93 on the grounds that the DOE regulations are causing him to experience a serious financial hardship. In addition, the DOE noted that Hoxsey has not made any payments since November 1976 under the compliance agreement, and therefore Hoxsey's argument that that agreement is currently causing him to experience a serious hardship is baseless. Finally, the DOE determined that even if the compliance agreement were causing Hoxsey to incur financial difficulties, it would be inappropriate for the DOE Office of Hearings and Appeals to consider modifying an agreement which Hoxsey and a DOE regional office entered into voluntarily. Section 205.199J of the DOE regulations specifically provides a procedure under which Hoxsey may request the DOE regional office to modify the compliance agreement. On the basis of these considerations, the Hoxsey application for exception was denied.

Maine Gas & Appliances, Inc., Waterville, Maine, DEE-1019, propane

Maine Gas & Appliances, Inc. (Maingas) filed an application for exception which, if granted, would permit Maingas to retain revenues which it allegedly obtained by charging prices for propane which exceeded the maximum permissible selling prices computed pursuant to 6 CFR 150.359 and 10 CFR 212.93. In its exception application, Maingas stated that it had been issued a proposed remedial order (PRO) by DOE Region I which alleged that the firm overcharged its customers for propane during the period October 15, 1973 through February 28, 1974. Maingas argued that the findings of the PRO are erroneous because the method by which the DOE computed the firm's maximum allowable selling prices is contrary to both the DOE pricing regulations and the DOE's published guidelines. The DOE found that Maingas' arguments concerning the factual and legal basis of the PRO should appropriately be raised in the context of a statement of objections to the PRO rather than in an exception proceeding. The DOE also determined that Maingas' claim that it will experience a severe and irreparable injury if it is required to refund the alleged overcharges is premature in view of the fact that a final remedial order has not yet been issued and the precise magnitude of any violation which may have occurred is uncertain. Accordingly, the Maingas exception application was dismissed.

Nageezi Trading Post, Nageezi, N. Mex., DRC-0005, motor gasoline

Nageezi Trading Post (Nageezi) filed on application for exception from the provisions of 10 CFR 211.9. The exception request, if granted, would increase Nageezi's base period annual volume of motor gasoline from 82,596 gallons to 420,000 gallons. On October 12, 1977, the DOE Region VI issued a proposed decision and order to Nageezi which deterimed that Nageezi's application for exception should be denied. In that proposed decision, the regional office concluded that Nageezi had access to sufficient amounts of motor gasoline to meet the firm's present and future needs. In reviewing the statement of objections which Nageezi filed to the proposed decision and order, the DOE Office of Hearings and Appeals determined that the increased volume of motor gasoline which the firm was able to sell did not result either from any significant increase in demand in Nageezi's marketplace or from a decrease in supplies offered by Nageezi's competitors. Instead, it was caused by Nageezi's own decision to change its marketing strategy by reducing prices and extending its business hours. The DOE also concluded from the record that although Nageezi has not been able to enter into long-term supply contracts, sufficient surplus motor gasoline was available to Nageezi to enable the firm to meet its present and future needs. Consequently, the DOE concluded that Nageezi's objections were not persuasive, and the proposed decision and order denying Nageezi exception relief was issued in final form.

REQUEST FOR STAY

Berry Holding Co., Fresno, Calif., DRS-0069, crude oil

On June 23, 1978, Berry Holding Co. (Berry) filed an application for stay of a remedial order which directed the firm to refund crude oil overcharges of $3,401,108.30, plus interest, and to provide information regarding prices it charged for crude oil subsequent to the period covered by the DOE's audit of the firm. Berry contended that it would incur an irreparable injury if the remedial order were not stayed pending judicial review. The DOE rejected the claim that the firm would be unable to recover the revenues if Berry succeeded in its judicial challenge since the DOE could make entitlement adjustments to insure that the firm recovers the amounts refunded. The DOE also rejected Berry's claim that it would incur irreparable harm if the reporting requirement set out in the remedial order were not stayed. In this regard, the DOE noted that in view of the fact that Berry's administrative appeal of the remedial order had been rejected, it was unreasonable to delay the submission of information necessary to ascertain whether Berry complied with the DOE regulations subsequent to the audit period. Finally, the DOE rejected Berry's argument that there was considerable likelihood that it would prevail on the merits in its judicial challenge, and its application was denied.

SUPPLEMENTAL ORDERS

Energy Policy Task Force of the Consumer Federation of America, Washington, D.C., DEX-0091, No. 2 heating oil

On April 27, 1978, the DOE issued a decision and order to the Consumer Federation of American (CFA) which directed that financial assistance be provided to it to enable it to participate fully in an evidentiary hearing to be held in August 1978 concerning No. 2 (home) heating oil. The April 27 decision was subsequently modified by a decision and order which was issued to CFA on May 5, 1978. In both of those decisions and orders the DOE did not refer to the petitioner by its complete name. The April 27 and May 5 decisions and orders were therefore amended to refer to the petitioner as the Energy Policy Task Force of the Consumer Federation of America.

San Joaquin Refining Co., Newport Beach, Calif., FEX-0180, crude oil

On June 18, 1976, December 15, 1976, and June 14, 1977, the FEA issued decisions and orders to San Joaquin Refining Co. in which it relieved the firm of its obligation under the provisions of 10 CFR 211.67 (the old oil entitlements program) to purchase entitlements during its fiscal year ended April 30, 1977. *San Joaquin Refining Co.*, 3 FEA Par 83,234 (June 18, 1976); *San Joaquin Refining Co.*, 4 FEA Par. 83,256 (Dec. 15, 1976); and *San Joaquin Refining Co.*, 6 FEA Par. 83,018 (June 14, 1977). That exception relief was granted in accordance with the standards established in *Beacon Oil Company*, 3 FEA Par. 83,209 (June 8, 1976) and *Delta Refining Company*, 2 FEA Par. 83,275 (Sept. 11, 1975), and applied to the firm's crude oil receipts and runs to stills during the period May 1, 1976 through April 30, 1977. In those orders the FEA indicated that it would conduct a review of the exception relief which had been granted to San Joaquin at the completion of the firm's fiscal year to determine whether San Joaquin had received either excessive or insufficient benefits during its fiscal year, and would then require San Joaquin to buy or sell additional entitlements to adjust for any discrepancy between projected and actual financial results. The DOE therefore conducted a review of the exception relief which had been approved for San Joaquin's 1977 fiscal year. Based on that review, the DOE determined that San Joaquin had received an excessive amount of exception relief during the May 1976 through April 1977 period. San Joaquin was therefore required to purchase additional entitlements having a total value of $1,321,869 during the period July 1978 through June 1979.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Hearings and Appeals of the Department of Energy has issued decisions and orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain nonproduct cost increases:

Company	Case No.	Plant	Location (County and State)	Amount of price increase (per gallon)
Associated Programs, Inc	DEE-0622	Yenter	Logan, Colo	$0.0388
Atlantic Richfield Co	DEE-0687	Putnam Oswego	Dewey, Okla	.0262
Ben R. Briggs & Hugh M. Briggs	DEE-1067	East Texas	Panola, Tex	.0541
	DEE-1068	do	do	.0541
C. F. Braun & Co	DEE-1065	Mooreland	Woodward, Okla	(1)
	DEE-1066	Selling	Dewey, Okla	.0070
Coastal States Gas Corp	DXE-1072	Hidalgo	Hidalgo, Tex	.0616
	DEE-0458	Lakin	Kearney, Mo	.0270
Doric Petroleum, Inc	DXE-0953	Hennessey	Kingfisher, Okla	.0173
	DXE-0954	Newcastle	Grady, Okla	.0191
Farmland Industries, INc	DXE-1039	Gillette	Campbell, Wyo	.0667
	DXE-1040	Lamont	Grant, Okla	.0862
	DXE-1041	Mertzon	Irion, Tex	.0181
	DXE-1042	Quitman	Wood, Tex	.0238
Gary Operating Co	DXE-1043	Altonah	Duchesne, Utah	.0530
	DXE-1044	Bluebell	do	.0789
Gas Engine & Compressor Service, Inc	DXE-0945	Freestone	Freestone, Tex	.04867
Getty Oil Co	DEE-0805	E. Vealmoor	Howard, Tex	(1)
	DEE-0806	Grand Chenier	Cameron Parish, La	(1)
	DEE-0807	Katy	Harris, Tex	.0061
	DEE-0808	North Cowden	Ector, Tex	.0061
	DEE-0809	Red Fish Bay	San Patricio, Tex	(1)
	DEE-0810	Yscloskey	St. Bernard Parish, La	(1)
Hunt Petroleum Corp	DXE-0940	Kinder	Allen Parish, La	.0277
Indian Wells Oil Co	DXE-1018	Indian Wells	Crockett, Tex	.06648
International Telephone & Telegraph Co	DEE-0922	Ames	Major, Okla	.0214
	DEE-0923	Beaver	Beaver, Okla	.0317
	DEE-0924	Dubach	Lincoln Parish, La	.0124
	DEE-0925	Elmwood	Beaver, Okla	.0329
	DEE-0926	Gillette	Campbell, Wyo	.0414
	DEE-0927	Lacasane	Cameron Parish, La	.0455
	DEE-0928	Okeene	Blaine, Okla	.0142
	DEE-0929	Thomas	Dewey, Okla	.0069
Lewtex Oil & Gas Co., Inc	DEE-0436	Olney	Archer, Tex	.01862
MAPCO, Inc	DEE-0559	Westpan	Hutchison, Tex	.0091
Marathon Oil Co	DEE-0376	Elk Basin	Park, Wyo	.0488
	DEE-0377	Susan Peak	Tom Green, Tex	.0426
Matrix Land Co	DXE-0748	Box-Elmdale/Tuscola	Taylor and Callahan, Tex	.31262
Mobil Oil Corp	DEE-0698	Aurelius	Ingham, Mich	.0302
	DEE-0699	Grand Chenier	Cameron Parish, La	.0134
	DEE-0700	Waha	Pecos, Tex	.0149
Oklahoma Natural Gas Co	DXE-1045	Garvin	Garvin, Okla	.0241
Sid Richardson Carbon & Gasoline Co	DXE-1064	Keystone	Winkler, Tex	.0235
Standard Oil Co. (Indiana)	DEE-0643	Kinsler	Grant, Kans	.00879
	DEE-0836	Indian Basin	Eddy, N. Mex	.00790
Tenneco Oil Co	DEE-0868	Ames	Major, Okla	.0130
	DEE-0869	Altonah	Duchesne, Utah	.0665
	DEE-0870	Heyser	Calhoun, Tex	.2784
	DEE-0871	Hobart Ranch	Hemphill, Tex	.0054
	DEE-0872	Red Fish Bay	San Patricio, Tex	.0130
	DEE-0873	Yscloskey	St. Bernard Parish, La	.0129
Texaco, Inc	DEE-0948	Dover Hennessey	Kingfisher, Okla	.0055
Texas Pacific Oil Co., Inc	DEE-0910	Enville	Love, Okla	.0074
	DXE-0911	Adena	Morgan, Colo	.1610
	DXE-0912	Hamlin	Fisher, Tex	.0347
	DXE-0913	South Fullerton	Andrews, Tex	.0063

[1] Denied.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indi-

are also available in Energy Management: Federal Energy Guidelines, a commercially published looseleaf re-

with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regula-

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Aug. 18 through Aug. 25, 1978]

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Colonial Oil Co., Alexandria, Va., DEE-1075

Sun Co., Inc., Dallas, Tex., DXE-1360

Swann Oil, Inc., Washington, D.C., DEE-1351

The following submission was dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

Texaco, Inc., Denver Colo., DSG-0018

Copies of the full text of these decisions and orders are available in the public docket room of the Office of Hearings and Appeals, room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published looseleaf reporter system.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

SEPTEMBER 15, 1978.

[FR Doc. 78-26590 Filed 9-22-78; 8:45 am]

[3128-01]

CASES FILED

Week of August 18 Through August 25, 1978

Notice is hereby given that during the week of August 18 through August 25, 1978, the appeals and applications for exception or other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Departmant of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN
Director, Office of Hearings and Appeals.

SEPTEMBER 14, 1978.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*

[Week of Aug. 18 through Aug. 25, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Aug. 18, 1978	Arkansas-Louisiana Gas Co., Shreveport, La.	DXE-1611 and DXE-1612.	Extension of relief granted in *Arkansas-Louisiana Gas Company*, case Nos. DXE-0665, DXE-0666 (decided Apr. 20, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Bistineau and Waskom plants.
Do	Bodcaw Co., Dallas, Tex	DXE-1613	Extension of relief granted in *Bodcaw Company*, case No. DEE-0488 (decided May 5, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Cotton Valley plant.
Do	Hewit & Dougherty, Austin, Tex	DXE-1614	Extension of relief granted in *Hewit & Dougherty*, case No. DXE-1614 (decided Apr. 21, 1978) (unreported decision). If granted: Hewit & Dougherty would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at the Roche plant.
Do	M. J. Mitchell, Dallas, Tex	DXE-1666	Extension of relief granted in *M. J. Mitchell*, 1 DOE par. 81,118 (Apr. 26, 1978). If granted: M. J. Mitchell would be permitted to sell the crude oil produced from the Pickerel Ranch Minnelusa Sand Unit at market prices.
Do	Mapco, Inc.,Tulsa, Okla	DXE-1615 and DXE-1616.	Extension of relief granted in *Mapco, Inc.*, case Nos. DXE-0988 and DXE-0987 (decided July 10, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Altonah and Tyrone plants.
Do	Mid-America Refining Co.; Inc., Washington, D.C.	DES-0099	Stay request. If granted: Mid-America Refining Co., Inc., would be granted a stay of its obligations to purchase entitlements under the provisions of 10 CFR 211.67 pending a determination of and application for exception which the firm filed on July 31, 1978.
Do	Mobil Oil Corp., New York, N.Y	DXE-1619 through DXE-1634.	Extension of relief granted in *Mobil Oil Corporation*, case nos. DXE-0701 through DXE-0704, DXE-0706 through DXE-0709, DXE-0712 through DXE-0715, DXE-0717, DXE-0721, DXE-0722 and DXE-0725 (decided Apr. 28, 1978) (unreported decisions). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Bradley, Burnell North Pettus, Cameron, Chitwood, Desdemona, Dollarhide, Electra, Hichik, Kermit, Kettlemen North Dome, La Gloria, Levelland, Nueces River, Sholem Alechem, Slaughter, and West Seminole plants.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Aug. 18 through Aug. 25, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Phillips Petroleum Co., Bartlesville, Okla	DFA-0203	Appeal of an information request denial. If granted: The DOE's June 23, 1978, information request denial would be rescinded and Phillips Petroleum Co. would be granted access to certain FEA price data for the period October 1973 through May 1975.
Do	do	DXE-1635 through DXE-1653.	Extension of relief granted in *Phillips Petroleum Company*, case Nos. FXE-4537 (decided Nov. 4, 1977) (unreported decision), case No. FEE-3497 (decided Feb. 18, 1977) (unreported decision), case Nos. DEE-0485 through DEE-0487 (decided May 3, 1978) (unreported decisions), case Nos. DXE-0811 through DXE-0817, DXE-0819 through DXE-0825 (decided Apr. 21, 1978) (unreported decisions). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Andrews Benedum, Bradley, Crane, Douglas, Dumas, Edmond, Gray, Lee, Lovington, North, Oklahoma, Pantex, Sanford, Sher-han, Sneed, Spraberry, Turnstill, and Vermilion plants.
Do	R. H. Engelke, San Antonio, Tex	DXE-1667	Extension of relief granted in *R. H. Engelke*, 1 DOE par. —— (June 2, 1978). If granted: R. H. Engelke would be permitted to sell the crude oil produced from the Bertha Copsey lease, located in Jackson County, Tex., at upper tier ceiling prices.
Do	Standard Oil Co. (Indiana), Chicago, Ill	DXE-1655 through DXE-1663.	Extension of relief granted in *Standard Oil Company (Indiana)*, case No. DEE-0253 (decided May 15, 1978) (unreported decision), case Nos. DXE-0644, DXE-0827 through DXE-0833 (decided Apr. 20, 1978) (unreported decisions). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Beaver Creek, Elk Basin, Elmwood, Levelland, Midland Farms, Monahans, North Cowden, Peoria, and Slaughter plants.
Do	United Energy Resources, Inc., Houston, Tex.	DXE-1609	Extension of relief granted in *United Energy Resources, Inc.*, case No. DEE-0345 (decided May 3, 1978) (unreported decision). If granted: United Energy Resources, Inc., would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at the Galveston Bay plant.
Aug. 21, 1978	Meeker & Co., Fort Worth, Tex	DEE-1669	Price exception (sec. 212.72). If granted: Meeker & Co. would be permitted to use an imputed base production control level to determine the selling prices for the crude oil produced from the D. M. Curlee lease.
Do	Pacific Resources, Inc., Honolulu, Hawaii	DEE-1668	Exception to the entitlements program. If granted: Pacific Resources, Inc., would be granted an exception to the provisions of 10 CFR 211.67 applicable to the firm's imports of crude oil.
Do	Robert B. Sahagen & Co., Inc., Rochdale, Mass.	DMR-0030	Request for modification. If granted: The consent order entered into by the Economic Regulatory Administration and Robert B. Sahagen & Co., Inc., would be modified to permit the firm to increase its prices to reflect nonproduct costs incurred since May 1973.
Do	Southland Oil Co./VGS Corp., Jackson, Miss.	DEE-1670	Exception to the entitlements program. If granted: Southland Oil Co./VGS Corp. would receive an exception from the provisions of 10 CFR 211.67, which will provide sufficient entitlements to permit the firm to purchase heavy California crude oil for processing in its refineries.
Do	Wesreco, Inc., Woods Cross, Utah	DEE-1671	Exception to the entitlements program. If granted: Wesreco, Inc., would receive an exception from the provisions of 10 CFR 211.67, which will provide sufficient entitlements to permit the firm to purchase heavy California crude oil for processing in its refinery at Woods Cross, Utah.
Aug. 22, 1978	Atlantic Richfield Co., Dallas, Tex	DXE-1664 and DXE-1665.	Extension of relief granted in *Atlantic Richfield Company*, case No. DXE-0144 (decided Feb. 13, 1978) (unreported decision), case No. DEE-0322 (decided May 3, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Seiling and Stevens-Calidon plants.
Do	Champlin Petroleum Co., Fort Worth, Tex	DXE-1677	Extension of relief granted in *Champlin Petroleum Company*, case No. DXE-0629 (decided Apr. 25, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Witcher plant.
Do	Cities Service Co., Tulsa, Okla	DXE-1682 through DXE-1701.	Extension of relief granted in *Cities Service Company*, case Nos. DXE-0780 through DXE-0787, DXE-0789 through DXE-0791, DXE-0793 through DXE-0802 (decided Apr. 20, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Ambrose, Bryans Mill, Camrick, Chico, Crowley, Dollarhide, East Texas, Elmwood, Lapeyrouse, Lefors, Maysville, North Cowden, Pampa, Price, Roberts Ranch, Rodman, San Antonio, Stonewall, Waco, West Seminole, and Wichita plants.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Aug. 18 through Aug. 25, 1978]

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Aug. 18 through Aug. 25, 1978]

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Aug. 18 through Aug. 25, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Delta Drilling Co. (Etexas), Tyler, Tex	DXE-1678	Extension of relief granted in *Delta Drilling Company*, case No. FXE-4804 (decided Nov. 2, 1977) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Etexas plant.
Do	Dome Petroleum Corp., Chicago, Ill	DPI-0018	Exception from base fee requirements. If granted: Dome Petroleum Corp. would receive a refund of license fees paid with respect to its import of crude oil during the 12-month periods beginning May 1, 1974, and May 1, 1975.
Do	Hunt Petroleum Co., Dallas, Tex	DXE-1679	Extension of relief granted in *Hunt Petroleum Co.*, case No. DXE-0940 (decided July 7, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Zoller plant.
Do	Getty Oil Co., Los Angeles, Calif	DEE-1702 through DEE-1706.	Price exception (sec. 212.165). If granted: Getty Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Gran Chenier, Kermit, Promix, South Cole Levee, and Ysclosky plants.
Do	Mills Bennett Estate, Houston, Tex	DEE-1675	Price exception (sec. 212.73). If granted: Mills Bennett Estate would be permitted to sell the crude oil produced at the J. F. Barclay and Wilburn B leases at upper tier ceiling prices.
Do	Mull Drilling Co., Inc., Wichita, Kans	DXE-1674	Extension of relief granted in *Mull Drilling Company, Inc.*, 1 DOE par. 81,142 (June 2, 1978). If granted: Mull Drilling Co., Inc., would be permitted to sell the crude oil produced from the Roth lease at upper tier ceiling prices.
Do	Southland Oil Co./VGS Corp., Jackson, Miss.	DEE-1672	Price exception (sec. 212.83). If granted: Southland Oil Co./VGS would receive an exception from the provisions of 10 CFR 212.83 (the refiner price regulations) which would enable the firm to increase its May 15, 1973, base prices for motor gasoline.
Do	Texaco, Inc., White Plains, N.Y	DEE-1673	Price exception (sec. 212.82). If granted: Texaco, Inc., would be permitted to reduce the discount it offers to certain "wholesale purchaser-consumers" to which it sells motor gasoline.
Do	Texaco, Inc., Tulsa, Okla	DEE-1676	Extension of relief granted in *Texaco, Inc.*, 1 DOE Par. —— (Aug. 16, 1978). If granted: Texaco, Inc., would be permitted to sell the crude oil produced from the Dolly Cain No. 1 well, located in Payne County, Okla., at upper tier ceiling prices.
Do	Texaco, Inc., Houston, Tex	DXE-1729 through DXE-1746.	Extension of relief granted in *Texaco, Inc.*, case Nos. DXE-0737 through DXE-0747 (decided Apr. 20, 1978) (unreported decisions), case Nos. DEE-0102, DEE-0103, DEE-0426, DEE-0428 through DEE-0430, DEE-0433 (decided May 3, 1978) (unreported decisions). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Crossett, Enville, Fairway, Fordoche, Garvin County, Handy, Kittie, Levelland, Luby, Mabee, New Hope, Putnam Oswego, Roos South Compana, S. Lake Arthur, South Kermit, Tijerina, TXL, and Van plants.
Aug. 23, 1978	Continental Oil Co., Houston, Tex	DEE-1775	Price exception (sec. 212.73). If granted: Continental Oil Co. would be permitted to sell the crude oil produced from the Shoshone 63 lease, located in Fremont County, Wyo., at market prices.
Do	Getty Oil Co., Los Angles, Calif	DXE-1707 through DXE-1728.	Extension of relief granted in *Getty Oil Company*, case Nos. DXE-0688 through DXE-0697 (decided Apr. 21, 1978) (unreported decisions), case Nos. DEE-0295 through DEE-0307 (decided May 3, 1978) (unreported decisions), case Nos. FEE-3307 and FEE-3314 (decided Dec. 3, 1976) (unreported decisions). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Bastian, Calumet, Camrick, Coalinga Nose, Cocodrie, Elmwood, Eunice, Fashing, Fuller, Headlee, Hollywood, Houma, Huildate, Levelland, Medicine Lodge, Mooreland, Schafter, Snyder, Spearman, Velma, Venice, and Vermillion plants.
Do	....do	DXE-1776	Extension of relief granted in *Getty Oil Company*, case No. DXE-0071 (decided June 26, 1978) (unreported decision). If granted: Getty Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at the Stevens-Calidon plant.
Do	Gulf Oil Corp., Tulsa, Okla	DXE-1747 through DXE-1774, DXE-1781.	Extension of relief granted in *Gulf Oil Corporation*, case Nos. DXE-0560, DXE-0562 through DXE-0565, DXE-0567 through DXE-0590 (decided Apr. 21, 1978) (unreported decisions). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Adena, Breckenridge, Camrick, Chesterville, Como, Encinal, Enville, Eunice, Fannett, Fashing, Gladewater, Headlee, Kalkaska, Krotz Springs, Lake Washington, Mermentau, Monahans, Monument, Moores Orchard, North Port Neches, Saunders, Shackelford, South Fullerton, Spear, Vada, Waddell, Worsham, Yates, and Maysville plants.
Do	Young Refining Corp., Washington, D.C.	DEX-0104	Supplemental order. If granted: The DOE would review the entitlements exception relief granted to Young Refining Corp. during its 1978 fiscal year in order to determine whether the level of relief accorded the firm was appropriate.
Aug. 24, 1978	Advanced Sales Corp., St. Petersburg, Fla	DEE-1778	Request for change of supplier. If granted: Advanced Sales Corp. would be assigned a new base period supplier of motor gasoline to replace Triangle Refineries, Inc.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Aug. 18 through Aug. 25, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Beard Oil Co., Oklahoma City, Okla	DEE-1779	Price exception (sec. 212.165). If granted: Beard Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the Gillette plant.
Do	Parente's Oil Service, Inc., Coventry, R.I	DEE-1780	Exception to the reporting requirements. If granted: Parente's Oil Service, Inc., would not be required to file Form EIA-9 (No. 2 Heating Oil Supply/Price Monitoring Report).
Aug. 25, 1978	Tesoro Petroleum Corp., San Antonio, Tex	DPI-0019	Exception from base fee requirements. If granted: Tesoro Petroleum Corp. would be permitted to import residual fuel oil on a fee-exempt basis and would receive a refund of fees already paid.

Notices of Objection Received Regarding Proposed Remedial Orders

Date	Name and location of applicant	Case No.
Aug. 22, 1978	Amerada Hess Corp., Washington, D.C	DRO-0096
Aug. 23, 1978	North American Production Co., Seminole, Okla	DRO-0097

Notices of Objection Received Regarding Proposed Decisions on Applications for Exception

Aug. 18, 1978	Earl E. Wall (joint venture), Atlanta, Ga	FEE-4465
Do	Jedco, Inc., Mobile, Ala	DEO-0095
Aug. 23, 1978	Union Oil Co. of California, Los Angeles, Calif	DEE-1024
Do	Caribbean Gulf Refining Co., Houston, Tex	DEE-1053
Aug. 24, 1978	Bultman, Inc., Elkhart, Kans	DEO-0098

[FR Doc. 78-26589 Filed 9-22-78; 8:45 am]

[3128-01]

Office of Environment

[DOE/EIS-0028-D]

LIVERMORE SITE, LIVERMORE, CALIF.

Availability of Draft Environmental Impact Statement

Notice is hereby given that the U.S. Department of Energy (DOE) has issued a draft environmental impact statement, DOE/EIS-0028-D, Livermore Site, Livermore, Calif. The draft environmental impact statement (DEIS) was prepared pursuant to implementation of the National Environmental Policy Act of 1969 to assess the environmental impact of continued operation of the Lawrence Livermore and Sandia Laboratories located in Alameda County near Livermore, Calif. The laboratories were established in 1952 and 1956, respectively, for development of nuclear weapons. Activities have been expanded to include magnetic and laser fusion, laser isotope separation, biomedical, and energy research.

The DEIS assesses the potential cumulative environmental impacts associated with current and continuing activities at the Livermore site. This includes the adverse impacts from postulated accidents associated with the activities. Various effluents including radioactive ones are released to the environment. However, a continuing, comprehensive, monitoring program is carried out to assist in the control of hazardous effluents.

Copies of the DEIS have been distributed for review and comment to appropriate Federal, California State, and local agencies, and other organizations and individuals who are known to have an interest in the activities at the site.

Copies of the DEIS are available for public inspection at the DOE public reading rooms located at:

Library, Room 1223, 20 Massachusetts Ave. NW., Washington, D.C.
Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, N. Mex.
Chicago Operations Office, 9800 South Cass Ave., Argonne, Ill.
Chicago Operations Office, 175 West Jackson Blvd., Chicago, Ill.
Idaho Operations Office, 550 2d St., Idaho Falls, Idaho.
Nevada Operations Office, 2753 South Highland Dr., Las Vegas, Nev.
Oak Ridge Operations Office, Federal Bldg., Oak Ridge, Tenn.
Richland Operations Office, Federal Bldg., Richland, Wash.
San Francisco Operations Office, 1333 Broadway, Oakland, Calif.
Savannah River Operations Office, Savannah River Plant, Aiken, S.C.

Comments and views concerning the DEIS are requested from other interested agencies, organizations, and individuals. Single copies of the DEIS will be furnished for review and comment upon request addressed to W. H. Pennington, Mail Station E-201, U.S. Department of Energy, Washington, D.C. 20545, 301-353-4241. Comments should be sent to the same address.

In accordance with the guidelines of the Council on Environmental Quality, those submitting comments on the DEIS should endeavor to make their comments as specific, substantive, and factual as possible without undue attention to matters of form in the impact statement. However, it would assist in the review of the comments if the comments were organized in a manner consistent with the structure of the DEIS. Commenting entities may recommend modifications and/or new alternatives that will enhance environmental quality and avoid or minimize adverse environmental impacts.

Copies of comments received on the DEIS will be placed in the above referenced locations for inspection and will be considered in the preparation of the final environmental impact statement, if received on or before December 22, 1978.

Dated at Washington, D.C., this 19th day of September 1978.

For the United States Department of Energy.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-26815 Filed 9-22-78; 8:45 am]

[3128-01]

Office of Intergovernmental and Institutional

permit is effective from June 16, 1978, to June 16, 1979.

No. 2224-EUP-10. Mobil Chemical Co., Richmond, Va. 23261. This experimental use permit allows the use of 2,000 pounds of the insecticide 2,2-dimethyl-1,3-benzodioxol-4-ol methylcarbamate on turf to evaluate control of various insects; this use was authorized in a previous experimental use permit. A total of

tablished the national pollutant discharge elimination system (NPDES) permit program, under which the Administrator of the U.S. Environmental

has reviewed information submitted by the State and has determined that Illinois has authority to issue NPDES permits to Federal facilities.

No. 239-EUP-90. Chevron Chemical Co., Richmond, Calif. 94804. This experimental use permit allows the use of 960 pounds of the insecticide O,S-dimethyl

[3128-01]

Office of Intergovernmental and Institutional Relations

ELECTRICITY AND STATE REGULATORY ADVISORY COMMITTEES

Name Change and Merger

This notice is to advise that, following consultation with the Committee Management Secretariat, General Services Administration, the name of the Electricity Advisory Committee has been changed to the Public Utility Advisory Committee; the State Regulatory Advisory Committee has been abolished and the functions thereof absorbed by the Public Utility Committee. This merger was effected due to the overlapping functions of the two committees; the name change reflects expanded responsibilities.

The Public Utility Committee will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), the Department of Energy Organization Act (Pub. L. 95-91), OMB Circular No. A-63 (Revised) and other directives and instructions issued in implementation of those acts.

Further information regarding this Committee may be obtained from the Department of Energy Advisory Committee Management Office, 202-566-9996.

Issued at Washington, D.C., on September 20, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-26816 Filed 9-22-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 973-5; OPP-50380]

ISSUANCE OF EXPERIMENTAL USE PERMITS

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR, part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 1471-EUP-62. Elanco Products Co., Indianapolis, Ind. 46206. This experimental use permit allows the use of 1,740 pounds of the herbicide tebuthiuron on railway roadbeds, ballast, and yards to evaluate control of various grasses and weeds. A total of 3,144 acres is involved; the program is authorized only in the States of Alabama, Arkansas, California, Georgia, Kansas, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. The experimental use permit is effective from June 16, 1978, to June 16, 1979.

No. 2224-EUP-10. Mobil Chemical Co., Richmond, Va. 23261. This experimental use permit allows the use of the remaining supply of approximately 2,804 pounds of the herbicide bifenox on corn, sorghum, rice, and small grains to evaluate control of various weeds and grasses; this use was authorized in a previous experimental use permit. The program is authorized only in the States of Alabama, Arizona, Arkansas, California, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Virginia, Washington, and Wisconsin. The experimental use permit is effective from June 16, 1978, to June 16, 1979. Temporary tolerances for residues of the active ingredient in or on barley, oats, rice, wheat, and sorghum have been established.

No. 719-EUP-6. Woolfolk Chemicals Works, Inc., Fort Valley, Ga. 31030. This experimental use permit allows the use of 1,216 pounds of the insecticide calcium polysulphide on pecans to evaluate control of insects and mites. A total of 82.5 acres is involved; the program is authorized only in the States of Alabama, Georgia, and South Carolina. The experimental use permit is effective from June 9, 1978, to June 9, 1979.

Interested parties wishing to review the experimental use permits are referred to room E-315, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA headquarters office so that the appropriate permits may be made conveniently available for review purposes. These files will be made available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday.

Sec. 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: September 18, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-26712 Filed 9-22-78; 8:45 am]

[6560-01]

[FRL 973-6; OPP-50381]

ISSUANCE OF EXPERIMENTAL USE PERMITS

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR, part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 10065-EUP-9. Fisons Corp., Bedford, Mass. 01730. This experimental use permit allows the use of the remaining supply of approximately 585 pounds of the insecticide 2,2-dimethyl-1,3-benzodioxol-4-ol methylcarbamate on turf to evaluate control of various insects; this use was authorized in a previous experimental use permit. A total of 308 acres is involved. The experimental use permit is effective from July 18, 1978, to July 18, 1979.

No. 10065-EUP-10. Fisons Corp., Bedford, Mass. 01730. This experimental use permit allows the use of the remaining supply of approximately 152 pounds of the insecticide 2,2-dimethyl-1,3-benzodioxol-4-ol methylcarbamate on turf to evaluate control of various insects; this use was authorized in a previous experimental use permit. A total of 76 acres is involved; this program and the one above are authorized only in the States of California, Flordia, Georgia, Illinois, Indiana, Kansas, Kentucky, Maryland, Massachusetts, Mississippi, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Virginia, and West Virginia. This experimental use permit is also effective from July 18, 1978, to July 18, 1979. The permits will use the same active ingredient, but different formulations.

No. 2139-EUP-23. Nor-Am Agricultural Products, Inc., Weedstock, Ill. 60097. This experimental use permit allows the use of 22.5 pounds of the defoliant N-phenyl-N-1,2,3-thiadiazol-5-ylurea on cotton to evaluate defoliation. A total of 111 acres is involved. The program is authorized only in the States of Alabama, Arizona, Arkansas, California, Louisiana, Mississippi, Oklahoma, South Carolina, and Texas. The experimental use permit is effective from July 1, 1978, to July 1, 1979.

Interested parties wishing to review the experimental use permits are referred to room E-315, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA headquarters office so that the appropriate permits may be made conveniently available for review purposes. These files will be made available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated: September 18, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-26713 Filed 9-22-78; 8:45 am]

[6560-01]

[FRL 972-3]

STATE OF ILLINOIS

Request for Authority to Issue Permits to Federal Facilities

On October 18, 1972, Congress passed the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251-1376. Supp. 1973; hereinafter the "Act"). This legislation established the national pollutant discharge elimination system (NPDES) permit program, under which the Administrator of the U.S. Environmental Protection Agency (USEPA) or an approved State may issue permits to municipal, industrial, and agricultural entities to control the discharge of pollutants into navigable waters. Under section 402(b) of the Act, and after a public hearing, Illinois was given authority on October 23, 1977, to issue NPDES permits to all point-source dischargers except for Federal facilities. At that time, Federal law precluded States from issuing permits to Federal facilities and this responsibility was retained by USEPA.

On December 27, 1977, the Act, which is now popularly known as the Clean Water Act (CWA), was amended. The recent amendments to the Act have significantly changed the regulatory relationship of States to Federal facilities. First: Section 313 of the Act was substantially amended to provide that Federal facilities must comply with substantive and procedural requirements of State law regarding the control of water pollution including State permits. Second: Federal permits to Federal agencies now require State certification under section 401. Under the CWA Amendments, States may now be authorized to issue NPDES permits to Federal facilities. Only approved NPDES States can issue Section 402 permits. Where a nonapproved State issues a State permit to a Federal facility, the USEPA will continue to issue an EPA permit in the same manner as any other NPDES permit.

Accordingly, all NPDES programs, approved before the 1977 amendments must be modified, including the memoranda of agreement, to reflect the States new authority to issue and enforce Federal facilities permits. As part of this modification, the State has been asked to submit a statement that the laws of the State provide adequate authority for issuance of permits to Federal facilities and to carry out the reporting, monitoring, inspection, and entry authorities of the NPDES permit programs. NPDES program modifications are subject to public notice and opportunity for public comment and must be approved by the Administrator, USEPA.

In a July 26, 1978, letter, Mr. Michael P. Mauzy, Acting Director, Illonis Environmental Protection Agency, requested authority to issue permits to Federal facilities, and submitted a signed statement from the Illinois attorney general that the Illinois Environmental Protection Agency had the necessary authority and a signed revision to the memorandum of agreement worked out with the regional office. USEPA regional counsel has reviewed information submitted by the State and has determined that Illinois has authority to issue NPDES permits to Federal facilities.

Prior to making a final recommendation to the Administrator, USEPA, the Regional Administrator, region V, is providing opportunity for public comment on the State of Illinois request. Any interested person may comment upon the State request by writing to the USEPA, Region V Office, 230 Dearborn Street, Chicago, Ill. 60604, Attention: Permit Branch. Such comments will be made available to the public for inspection and copying. All comments or objections received by October 31, 1978, will be considered by USEPA before taking final action on the Illinois request for authority to issue permits to Federal facilities.

The State's request, related documents, and all comments received are on file and may be inspected and copied (at 20 cents per page) at the USEPA, region V office, in Chicago.

Copies of this notice are available upon request from the Enforcement Division of USEPA, region V, by contacting Dorothy A. Price, public notice clerk, 313-353-2105, at the above address.

VALDAS V. ADAMKUS,
Acting Regional Administrator.

SEPTEMBER 12, 1978.

[FR Doc. 78-26714 Filed 9-22-78; 8:45 am]

[6560-01]

[FRL 974-3, OPP-50382]

CHEVRON CHEMICAL CO. AND MOBAY CHEMICAL CORP.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 239-EUP-66. Chevron Chemical Co., Richmond, Calif. 94804. This experimental use permit allows the use of the remaining supply of approximately 600 pounds of the insecticide Diquat on potatoes to evaluate control of its effectiveness as a preharvest potato vine desiccant. In addition, desiccation of broadleaf weeds and grasses will be recorded; this use was authorized in a previous experimental use permit. A total of 1,220-2,400 acres is involved; the program is authorized only in the States of Alabama, Colorado, Florida, Idaho, Iowa, Maryland, Maine, Michigan, Minnesota, New Jersey, New York, North Carolina, North Dakota, Oregon, Virginia, Washington, and Wisconsin. The experimental use permit is effective from August 29, 1978 to November 30, 1979. A temporary tolerance for residues of the active ingredient in or on potatoes has been established.

No. 239-EUP-90. Chevron Chemical Co., Richmond, Calif. 94804. This experimental use permit allows the use of 960 pounds of the insecticide O,S-dimethyl acetylphosphoramidothioate on lettuce to evaluate control of various insects. A total of 192 acres is involved; the program is authorized only in the States of Michigan, New Jersey, New York, and Ohio. The experimental use permit is effective from June 16, 1978 to November 30, 1979. A permanent tolerance for residues of the active ingredient in or on head lettuce has been established (40 CFR 180.315).

No. 3125-EUP-140. Mobay Chemical Corp., Kansas City, Mo. 64120. This experimental use permit allows the use of 7,750 pounds of the avicide 3,5-dimethyl-4-(methylthio)phenyl methylcarbamate on grapes to evaluate control of bird species such as starlings, robins, and finches. A total of 650 acres is involved; the program is authorized only in the States of California, Michigan, New York, Ohio, and Pennsylvania. The experimental use permit is effective from June 30, 1978 to June 30, 1979. Temporary tolerances for residues of the active ingredient in or on grapes, meat, fat, meat byproducts of cattle, goats, hogs, horses, poultry, and sheep, and milk and eggs have been established. Temporary food additive regulations for residues of the active ingredient in raisins, grape pomace, and raisin waste have been established.

Interested parties wishing to review the experimental use permits are referred to room E-315, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office so that the appropriate permits may be made conveniently available for review purposes. These files will be made available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; (7 U.S.C. 136(a) et seq.)).)

Dated: September 19, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-26910 Filed 9-22-78; 8:45 am]

[6560-01]

[FRL 974-4; OPP-50383]

PINEAPPLE GROWERS ASSOCIATION OF HAWAII AND FISONS CORP.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applications. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 38412-EUP-3. Pineapple Growers Association of Hawaii, Honolulu, Hawaii 96813. This experimental use permit allows the

[6560-01]

[FRL 974-2; OPP-3000/559]

under section 3(c)(1)(D) for such use of his data and wishes to preserve his right to have the Administrator deter-

gredients: Tetramethrin [(1-Cyclohexene-1,2-dicarboximide) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecar- boxylate] 12.00%; 3-Phenoxybenzyl d-cis and

Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 6720-175. Southern Mill Creek Products Co., Inc., P.O. Box 1096,

pounds 0.027; Aromatic petroleum hydrocarbons 0.265; Petroleum distillate 99.500%. Method of support: Application proceeds under 2(b) of interim policy.

No. 38412-EUP-3. Pineapple Growers Association of Hawaii, Honolulu, Hawaii 96813. This experimental use permit allows the use of 6,000 pounds of the insecticide/nematocide oxamyl on pineapples to evaluate control of reinform and root-knot nematodes and mealybugs. A total of 108 acres is involved; the program is authorized only in the State of Hawaii. The experimental use permit is effective from July 28, 1978 to July 28, 1981. A permanent tolerance for residues of the active ingredient in or on pineapples has been established (40 CFR 180.303). A permanent feed additive regulation for residues of the active ingredient in pineapple bran has also been established (21 CFR 561.385). (Room: E-229, telephone 202-426-9426).

No. 10065—EUP-5. Fisons Corp., Bedford, Mass. 01730. This experimental use permit allows the use of 1,875 pounds of the herbicide 2-ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate on grass seed crops to evaluate control of various weeds. A total of 1,250 acres is involved. The experimental use permit is effective from August 3, 1978 to December 31, 1979. (Room: E-351, telephone 202-755-1397).

No. 10065-EUP-8. Fisons Corp., Bedford, Mass. 01730. This experimental use permit allows the use of 400 pounds of the herbicide 2-ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate on grass seed crops to evaluate control of various weeds. A total of 400 acres is involved; this program and the one above are authorized only in the States of Idaho, Oregon, and Washington. This experimental use permit is also effective from August 3, 1978 to December 31, 1979. The permits will use the same active ingredient, but different formulations. These permits are being issued with the limitation that all of the treated grasses will be used for seed production only. None of the treated grasses will be used for forage, feed, or grazing of livestock. (Room: E-351, telephone 202-755-1397).

Interested parties wishing to review the experimental use permits are referred to the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; (7 U.S.C. 136(a) *et seq.*)).)

Dated: September 19, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-26909 Filed 9-22-78; 8:45 am]

[6560-01]

[FRL 974-2; OPP-3000/559]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement which were effected by the enactment of the amendments to FIFRA on November 28, 1975 (Pub. L. 94-140), and the regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street SW., Washington, D.C. 20460. In the case of applications subject to the section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, are being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data and wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, or (d) wishes to assert confidential status under section 10 for his data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 12 and 16—202-755-9315.
PM 21 and 22—202-426-2454.
PM24—202-755-2196.
PM 31 and 32—202-426-2635.
PM 15 and 17—202-426-9427.
PM 23—202-755-1397.
PM 25—202-426-2632.

The Interim Policy Statement requires that claims for compensation be filed on or before November 24, 1978. EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under section 10 of FIFRA, as amended, should be made on or before October 25, 1978. Registration will be delayed pending resolution of section 10 claims.

Dated: September 19, 1978.

DOUGLAS D. CAMPT,
Acting Director.
Registration Division.

APPLICATIONS RECEIVED 33000/559

EPA Reg. No. 1016-78. Union Carbide Corp., Agricultural Products Division, 7825 Baymeadows Way, Jacksonville, Fla. 32216. TEMIK ALDICARB PESTICIDE. Active ingredients: Aldicarb [2-methyl-2-(methylthio) propionaldehyde *O*-(methylcarbamoyl) oxime] 15%. Method of support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM12

EPA Reg. No. 1016-80. Union Carbide Corp., Agricultural Products Division. TEMIK ALDICARB PESTICIDE FOR AGRICULTURAL USE. Active ingredients: Aldicarb [2-methyl-2-(methylthio) propionaldehyde *O*-(methylcarbamoyl) oxime] 10%. Method of support: Application proceeds under 2(b) of interim policy. PM12

EPA File Symbol 1021-RGOR. McLaughlin, Gormley, King Co., 8810 Tenth Avenue North, Minneapolis, Minn. 55427. MULTICIDE CONCENTRATE 2120. Active ingredients: Tetramethrin [(1-Cyclohexene-1,2-dicarboximide) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecar- boxylate] 12.00%; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-2-(2-methylpropenyl) cyclopropanecarboxylate 3.83%: Other isomers 0.18%; Aromatic petroleum distillate 40.00%; Petroleum distillate 42.21%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 1203-AG. Delta Foremost Chemical Corp., 3915 Air Park Street, Memphis, Tenn. 38130. DELTA FOREMOST FOG 'N SPRAY. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.500%; Related compounds 0.068%; Aromatic petroleum hydrocarbons 0.662%; Petroleum distillate 98.750%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 1769-234. National Chemsearch, Division of USAchem, Inc., 2727 Chemsearch Boulevard, Irving, Tex. 75062. NATIONAL CHEMSEARCH CIMACIDE. Active ingredients: Simazine [2-Chloro - 4,6 - bis(ethylamino)-s-triazine] 1.0%. Method of support: Application proceeds under 2(b) of interim policy. PM23

EPA Reg. No. 2204-12. Diamond Shamrock Corp., Process Chemicals Division, Morristown, N.J. 07960. NOPOCIDE N-96. Active ingredients: Chlorothalonil (tetrachloroisophthalonitrile) 96.0%. Method of support: Application proceeds under 2(a) of interim policy. Republished: Amendment. PM21

EPA File Symbol 2596-AU. Hartz Mountain Corp., 700 South Fourth Street, Harrison, N.J. 07029. HARTZ DOG TICK & FLEA KILLER. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 3125-196. Mobay Chemical Corp., Chemagro Agricultural Division, P.O. Box 4913, Kansas City, Mo. 64120. DASANIT 10% GRANULAR. Active ingredients: *O,O*-diethyl *O*-[4-(methylsulfinyl) phenyl] phosphorothioate 10%. Method of support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM15

EPA Reg. No. 3125-213. Mobay Chemical Corp., Chemagro Agricultural Division. DASANIT 15% GRANULAR. Active ingredients: *O,O*-diethyl *O*-[4-(methylsulfinyl) phenyl] phosphorothioate 15%. Method of support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM15

EPA Reg. No. 3125-277. Mobay Chemical Corp., Chemagro Agricultural Division. SENCOR 50% WETTABLE POWDER HERBICIDE. Active ingredients: 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one 50%. Method of support: Application proceeds under 2(b) of interim policy. Republished: Amendment. PM25

EPA File Symbol 3282-LO. Thompson-Koch Co., Inc., 90 Park Avenue, New York, N.Y. 10016. D-CON FOUR/GONE AUTOMATIC ROOM FOGGER. Active ingredients: d-trans Allethrin (allyl homolog of Cinerin I) 0.300%; Related compounds 0.023%; 3-Phenoxybenzyl d-cis and trans 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.191%; Other isomers 0.009%; Petroleum distillate 14.477%.

Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 6720-175. Southern Mill Creek Products Co., Inc., P.O. Box 1096, Tampa, Fla. 33601. DURSBAN MOLE CRICKET BAIT INSECTICIDE. Active ingredients: Chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 0.50%. Method of support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM12

EPA Reg. No. 6720-206. Southern Mill Creek Products Co., Inc. DURSBAN 4E. Active ingredients: Chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 40.8%; Aromatic petroleum derivative solvent 47.9%. Method of support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM12

EPA Reg. No. 7001-144. Occidental Chemical Co., P.O. Box 198, Lathrop, Calif. 95330. 50% MALATHION INSECT SPRAY. Active ingredients: Malathion 50.0%; Xylene 35.4%. Method of support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM16

EPA File Symbol 7056-IA. CSA Ltd., Inc., P.O. Box 38073, Houston, Tex. 77088. CSA HOUSEHOLD AND INDUSTRIAL INSECTICIDE. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%; Related compounds 0.028%; d-trans Allethrin (allyl homolog of Cinerin I) 0.400%; Related compounds 0.030%; Aromatic petroleum hydrocarbons 0.272%; Petroleum distillate 6.500%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 7056-II. CSA Ltd, Inc. CSA HOUSE AND GARDEN SPRAY. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250; Related compounds 0.034%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 7056-OE. CSA Ltd., Inc. CSA AQUEOUS PRESSURIZED INSECT KILLER. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%; Related compounds 0.027%; d-trans Allethrin (allyl homolog of Cinerin I) 0.200%; Related compounds 0.015%; Aromatic petroleum hydrocarbons 0.265%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 7056-OG. CSA Ltd., Inc. CSA RESIDUAL HOUSEHOLD INSECT KILLER. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.350%; Related compounds 0.048%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 7056-OH. CSA Ltd., Inc. CSA INSECT KILLER. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.100%; Related compounds 0.014%; Aromatic petroleum hydrocarbons 0.132%; Petroleum distillate 99.750%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 7056-OL. CSA Ltd., Inc. CSA LIQUID INSECT KILLER. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%; Related compounds 0.027; Aromatic petroleum hydrocarbons 0.265; Petroleum distillate 99.500%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 7056-ON CSA Ltd., Inc. CSA LIQUID INSECT KILLER #2. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.331%; Petroleum distillate 99.375%. Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 7056-OR. CSA Ltd., Inc. CSA AEROSOL INSECTICIDE. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 2.00% Method of support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 7173-RUN. Chempar Chemical Co., Inc., 260 Madison Avenue, New York, N.Y. 10016. ROZOL RODENTICIDE GROUND SPRAY CONCENTRATE. Active ingredients: 2-[(p-chlorophenyl) phenylacetyl]-1,3-Indandione 5.34%. Method of support: Application proceeds under 2(b) of interim policy. PM16

EPA Reg. No. 9779-142. Riverside Chemical Co., P.O. Box 171376, Memphis, Tenn. 38117. RIVERSIDE SODIUM CHLORATE. Active ingredients: Sodium Chlorate 29.5%. Method of support: Application proceeds under 2(b) of interim policy. PM25

EPA File Symbol 9852-LR. Bite Off Corp., 163 Dupont Street, Plainview, N.Y. 11803. BITE OFF SYNTHRIN INDUSTRIAL SPRAY LIQUID INSECTICIDE. Active ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.329%; Petroleum distillate 99.375%. Method of support: Application proceeds under 2(b) of interim policy. PM17

[FR Doc. 78-26908 Filed 9-22-78; 8:45 am]

[6560-01]

[FRL 974-5; PF—110]

PESTICIDE PROGRAMS

Filing of Pesticide/Feed Additive Petitions

Pursuant to sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) gives notice that the following petitions have been submitted to the Agency for consideration.

PP 8F2108. Merck & Co., Inc., P.O. Box 2000, Rahway, N.J. 07065. Proposes that 40 CFR 180.242 be amended by establishing a tolerance for residues of the fungicide thiabendazole (2-(4-thiazolyl)benzimidazole in or on the raw agricultural commodities wheat grain at 0.20 part per million (ppm) and wheat straw at 1.0 ppm. The proposed analytical method for determining residues is by high pressure liquid chromatography in combination with spectroflourometry. PM21. (202-426-2456)

PP 8F2099. ICI Americas, Concord Pike & New Murphy Road, Wilmington, Del. 19897. Proposes that 40 CFR Part 180 be amended

2E (NBFT) Herbicide (EPA File Symbol 707-RUL), containing 23.5% of the active ingredient 2-chloro-1-(3-

[6560-01]

[FRL 974-1]

tember 11: Proposed is a land management plan for the High Uintas South Slope, Ashley National Forest, Wasatch, Uintah, and Duchesne Counties, Utah. The unit encompasses 1,000 acres. The statement supplements a final EIS filed in June 1978 to consider alternate sites for the expansion of Kings Island Turning Basin located in the Savannah Harbor, Chatham

Final

Coal Loan Guarantee Program, September 11: Proposed is a coal loan guarantee program to encourage the production of

PP 8F2099. ICI Americas, Concord Pike & New Murphy Road, Wilmington, Del. 19897. Proposes that 40 CFR Part 180 be amended by establishing a tolerance for residues of the insecticide permethrin (3-phenoxyphenyl)methyl (±)-cis, trans-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate in or on the following raw agricultural commodities:

Commodity:	Part per million
Animal fat	0.50
Celery	3.00
Eggs	.05
Meat and meat byproducts of cattle, goats, hogs, horses, and sheep	.10
Milk fat	1.00
Milk (whole)	.05
Poultry	.10
Soybeans	.10
Tomatoes	.50

The proposed analytical method for determining residues is by gas liquid chromatography procedure using electron capture detection. PM17. (202-426-9425)

FAP8H5190. ICI Americas. Proposes that 21 CFR 561 be amended by permitting the use of the insecticide permethrin on tomatoes and soybeans with a tolerance limitation of 75 ppm for tomato pomace, 25 ppm for tomato pulp, and 0.5 ppm for soybean hulls resulting in animal feeds. PM17.

Interested persons are invited to submit written comments on these petitions to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Inquiries concerning these petitions may be directed to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesiticide Programs, at the above address, or by telephone at the numbers cited. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: September 19, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-26907 Filed 9-22-78; 8:45 am]

[6560-01]

[FRL 974-6; OPP-30153]

PESTICIDE PROGRAMS

Receipt of Application To Register a Pesticide Product Containing a new Active Ingredient

Rohm & Haas, Independence Hall West, Philadelphia, Pa. 19105, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticide product GOAL 2E (NBFT) Herbicide (EPA File Symbol 707-RUL), containing 23.5% of the active ingredient 2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4- (trifluoromethyl) benzene which has not been included in any previously registered pesticide products. The application proposes that the product be classified for general use for the preemergence and postemergence control of certain broadleaf weeds in fruit and nut plantings.

Notice of receipt of this application does not indicate a decision by the Agency on the application. Interested persons are invited to submit written comments on this application to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington D.C. 20460. The comments must be received on or before October 25, 1978, and should bear a notation indicating the EPA file Symbol "707-RUL". Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application should be directed to Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, at the above address or by telephone at 202-426-2632. The label furnished by Rohm & Haas, as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Notice of approval or denial of this application to register GOAL 2E (NBFT) HERBICIDE will be announced in the FEDERAL REGISTER. Except for such material protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the FEDERAL REGISTER if an application is approved.

Dated: September 18, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-26906 Filed 9-22-78; 8:45 am]

[6560-01]

[FRL 974-1]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

President Carter's Reorganization Plan No. 1 (see President's message of July 15, 1977) transferred certain functions from the Council on Environmental Quality (CEQ) to the Environmental Protection Agency (EPA). Some of these functions relate to operational duties associated with the administration aspects of the environmental impact statement (EIS) process. In memorandum of agreement No. 1 entered into between CEQ and EPA, dated March 29, 1978, it was agreed that EPA would be the official receipt of EIS's and would publish the availability of each EIS received on a weekly basis. This is the duty formerly carried out by CEQ pursuant to § 1500.11(c) of the CEQ guidelines.

Traditionally, the FEDERAL REGISTER notice for EIS's received during a given week has been published on the Friday of the following week. However, effective with this notice, the EPA weekly notice will be published in the FEDERAL REGISTER on the second Monday following the given week. However, computation of review periods will not be altered, that is, the 45-day review period for draft EIS's will continue to be computed from the Friday following the given week and the 30-day wait period for final EIS's will be computed from the date of receipt of the EIS by EPA and commenting parties.

The following is a list of environmental impact statements received by the Environmental Protection Agency from September 11, 1978, through September 15, 1978; the date of submission of comments on draft EIS's as computed from September 22, 1978, is November 6, 1978.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: September 20, 1978.

WILLIAM D. DICKERSON,
Acting Director,
Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

High Uintas South Slope Land Management, Ashley, National Forest, Wasatch, Uintah, and Duchesne Counties, Utah, September 11: Proposed is a land management plan for the High Uintas South Slope, Ashley National Forest, Wasatch, Uintah, and Duchesne Counties, Utah. The unit encompasses approximately 536,227 acres of land. The preferred alternative calls for the development of recreation facilities around the central Utah project reservoirs in the canyon bottoms, and commodity production from the intervening plateaus. Also included in this statement is the High Uintas roadless area review. Four alternatives are considered. (USDA-FS-R4-DES)ADM—R4-78-9.) (EIS Order No. 80991.)

Zeigler Planning Unit, Kootenai, National Forest, Lincoln County, Mont., September 12: Proposed is a land management plan for the Ziegler planning unit of the Kootenai National Forest located in Lincoln County, Mont. Features of the proposal are: (1) Maintenance or improvement of stream recreation, (2) protection of fisheries, watershed, and wildlife throughout the unit, (3) management of Forest Development Road as a land access road, (4) use and management of wood, water, and forage resources, and (5) reevaluation of wilderness resource areas. Two alternatives are considered which include: (1) Emphasis on economic development, and (2) emphasis on natural quality and wilderness study. (R1-78-12-USDA-FS-DES(ADM.) (EIS Order No. 80995.)

Paw-Paw Bottoms R.C. & D. Measure Plan, Sequoyah County, Okla., September 14: Proposed is a R.C. & D. measure plan for 4,030 acres of alluvial area within Paw-Paw Bottoms located in Sequoyah County, Okla. The planned measure involves 8.13 miles of channel work and three grade control structures. The channel will be trapezoidal in shape. In addition to no project, two alternatives were considered which consisted of: (1) Channel structural measures, and (2) non-structural measures including use of higher natural levees for crops, areas with moderate problems for pasture and hay land, and use of severe areas as natural wildlife areas. (USDA-SCS-EIS-R.C. & D. (ADM)77-3-D-OK.) (EIS Order No. 81004.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn.: DAEN-CEW-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Final

Santa Ana River Main Stem and Santiago Creek, Orange, Riverside, and San Bernadino Counties, Calif., September 22. The project includes the construction of a new reservoir upstream of Prado Dam; modification and expansion of the existing Prado Reservoir; improvement of the existing Santa Ana River channel; improvement of the Lower Santiago Creek channel; development of water conservation, recreational, and wildlife enhancement facilities in and along the above; acquisition and protection of natural amenities in Santa Ana Canyon; and acquisition and preservation of a 92-acre salt marsh area. (Los Angeles District.) Comments made by: DOC, EPA, HEW, DOI, USDA, USCG, HUD, and State and local agencies. (EIS Order No. 81002.)

Final supplement

Kings Island Turning Basin, Enlargement, Chatham County, Ga., January 12: This statement supplements a final EIS filed in June 1978 to consider alternate sites for the expansion of Kings Island Turning Basin located in the Savannah Harbor, Chatham County, Ga. The studies presented in the report are limited to reaffirming or modifying the authorized improvement or enlarging the basin. There are four alternate sites being considered. (Savannah District.) Comments made by: EPA, DOI, USDA, HEW, State and local agencies, and groups and businesses. (EIS Order No. 80994.)

Southern Branch of Elizabeth River, Chesapeake, Va., September 14: This statement supplements a final EIS filed in January 1976 concerning the deepening and modifying the southern branch of the Elizabeth River located in Chesapeake, Va. The project consists of modifying the existing project to provide a channel 35 feet deep and 250 feet wide from the terminus of the existing 35-foot channel upstream a distance of 1.5 miles to the Norfolk & Portsmouth Belt Line Railroad bridge. (Norfolk District.) Comments made by: EPA, DOI, and State agencies. (EIS order No. 81005.)

DELAWARE RIVER BASIN COMMISSION

Contact: Mr. J. W. Thursby, Head, Environmental Unit, Delaware River Basin Commission, P.O. Box 7360, West Trenton, N.J. 08628.

Final

Bulk Chemical Storage and Distribution, Bordentown, Bordentown County, N.J., September 13: Proposed, by the Dow Chemical Co., is the construction and operation of a bulk chemical storage terminal along the Delaware River in Bordentown Township, N.J. Construction would involve dredging 307,000 cubic yards of river sediment to provide access from the channel and to provide a berthing area. Dredge spoil disposal would be to reverine (8 acres) and upland areas. Oceangoing tankers (30 per year) up to 700 feet in length and smaller barges (24 per year) would service the facility. Adverse effects include the slight reduction of air quality around Bordentown Township, and elimination of present terrestrial habitat. (DRBC-EU-D-75-128) Comments made by: EPA, COE, USCG, DOC, DOI, USDA, DOI, State and local agencies, and groups, individuals and businesses. (EIS Order No. 80998.)

DEPARTMENT OF ENERGY

Contact: Mr. Robert Stern, Office of NEPA Affairs, Department of Energy, 1200 Pennsylvania Avenue NW., Room 7119, Washington, D.C. 20461, 202-566-9760.

Draft

500-kV Transmission Line, Minnesota to Canada, several Minnesota counties, September 11: Proposed is the construction and operation of a 500-kV single circuit transmission line traveling from a substation near Forbes, and through the counties of Saint Louis, Itasca, Koochiching, Beltrami, and Lake of the Woods, Minn., to a point on the United States-Canadian Border, approximately 3 miles west of Marvin Lake in Roseau County, Minn. This transmission facility would permit the sale of electrical energy between the Northern States Power Co., the Minnesota Power Co., and the Canadian Manitoba Hydroelectric Board. (DOE/EIS-0032-D.) (EIS Order No. 80988.)

Final

Coal Loan Guarantee Program, September 11: Proposed is a coal loan guarantee program to encourage the production of low- and high-sulfur coal by small underground coal producers. A loan guarantee ceiling of 750 million dollars has been set of which 80 percent of the loans for any given year are restricted to financing low-sulfur coal production. The funds may be used by small underground operators to: (1) Open new underground mines, and (2) expand or reopen existing facilities. The funds may also be used for facilities at the minesite such as coal production plants. Comments made by: EPA, DOE, and individuals. (EIS Order No. 80962.)

Proton-Proton Storage Accelerator Facility, Suffolk County, N.Y., September 14: Proposed is the construction and operation of a proton-proton storage accelerator facility (Isabelle), Brookhaven National Laboratory in Upton, Suffolk County, N.Y. The Isabelle accelerator will be used for advanced research in the high energy physics program by the Department of Energy and will provide higher levels of interaction than are presently available. (DOE/EIS-0003-D.) Comments made by: DOT, USDA, HEW, EPA, FDA, DOI, NRC, and State Agencies. (EIS Order No. 81000).

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. John Hagan, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, 215-257-7458.

Final

Swift Creek Chemical Complex, Hamilton County, Fla., September 11: This proposal concerns the issuance of an NPDES permit to the Occidental Chemical Co. for the construction of a new chemical plant in Hamilton County, Fla. The construction of the new Swift Creek chemical complex is part of a two-phase plan to increase the superphosphoric acid capacity of its north Florida phosphate fertilizer manufacturing complex. The facility will require approximately 50 acres for the plant and 275 acres for a cooling pond and other features. (EPA 904/9-78-020.) Comments made by: FERC, USDA, DOC, HEW, EPA, State and local agencies, and interested groups. (EIS Order No. 80992.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Executive Director, Environmental Affairs Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, 202-566-0405.

Final

U.S. Federal Courthouse Annex, Detroit, Wayne County, Mich., September 14: Proposed is the construction of a detention facility by the Federal Bureau of Prisons (BOP) near the U.S. courthouse in downtown Detroit. Designed as a short-term detention/correctional facility, the Federal Courthouse Annex (FCA) will be occupied primarily by detainees awaiting trial or sentencing. Adverse impacts include the displacement of three commercial concerns. Comments made by: USDA, COE, EPA, DOI, DOC, FERC, State and local agencies, and groups and individuals. (EIS Order No. 81003.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Depart-

S.R 111, Appalachian development highway, White and Putnam Counties, Tenn., September 12, 1978: The proposed highway

[6730-01]

FEDERAL MARITIME COMMISSION

Summary: Agreement No. T-3155-1, among the Port Authority of New York and New Jersey (Port), Moller Steamship Co.,

Board of Governors of the Federal Reserve System, September 15, 1978.

JOHN M. WALLACE,

[6210-01]

FIRST TEMPLE CORP.

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-6308.

Draft

Maryvale Terrace, Phoenix, Maricopa County, Ariz., September 15: Proposed is the issuance of home mortgage insurance for the Maryvale Terrace Subdivision located in Phoenix, Maricopa County, Ariz. The project will encompass approximately 141 acres and consist of the development of 618 living units. Alternatives considered include: (1) No development, (2) increased density, (3) decreased density, and (4) recreational use. (HUD-PI09-EIS-78-3D.) (EIS Order No. 81006.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

Draft

Extension of Industries Road, Richmond, Wayne County, Ind., September 13, 1978: Proposed is the development of a continuous east-west arterial across the north edge of Richmond in Wayne County, Ind. The partially access-controlled roadway will include two-lane pavements 24 feet wide with a 16-foot median, and a 90-foot right-of-way typically with as much as 300 feet in areas of cut or fill. The project extends from Chester Boulevard on the east to Salisburg on the west. The three principle study lines being evaluated range in length from approximately 2.74 miles to 2.93 miles. (FHWA-IND-EIS-78-02-D.) (EIS Order No. 80999.)

Final

U.S. 30 and Nebraska highway improvements, Schuyler and Colfax Counties, Nebr., September 11, 1978: This statement discusses three proposed FHWA projects which represent improvements to U.S. Highway 30 and Nebraska Highway 15 in the Schuyler-Colfax County Nebr., area. FR-15-3(103)119 extends south from 11th and Colfax a distance of 1.7 miles in Nebraska Highway 15. FR-FG-3(102)119 represents a new four-lane divided viaduct over the Union Pacific tracks on Nebraska Highway 15 from 11th to 16th Streets in Schuyler. RF-15-3(101)119 would improve U.S. 30 from Denver Street east to B Street and also Nebraska Highway 15 from the intersection with U.S. 30 north to 17th Street. A 4(f) statement is included. (Region 7.) (FHWA-NEBR-EIS-76-05-F.) Comments made by: USDA, DOI, EPA, State agencies. (EIS Order No. 80989.)

I-980/17 corridor development, Oakland, Alameda County, Calif., September 11, 1978: Proposed is the construction of an improved highway facility connecting the existing terminus of I-980 (24) and Route 17 in the city of Oakland, Calif. The project is designated as Interstate 980, and will extend for a distance of 0.75 mile. Subject to the alternate selected, approximately 23 acres of land will be irreversibly devoted to highway use. Adverse effects include the relocation of 4 churches and 22 businesses, and the disturbance of 503 housing units. (Region 9.) Comments made by: EPA, HEW, DOT, DOI, USDA, AHP. (EIS Order No. 80990.)

S.R 111, Appalachian development highway, White and Putnam Counties, Tenn., September 12, 1978: The proposed highway improvement involves the reconstruction of State Route 42 (to be redesignated S.R. 111), which is a section of the Appalachian development highway corridor "J", in White and Putnam Counties. Adverse effects include displacement of residences, reduction of productive agricultural acreage, loss of wildlife habitat, temporary siltation of two streams, increased noise levels and air pollution, and possible attraction of strip development if not controlled by zoning. (Region 4.) (FHWA-TN-EIS-76-01-F.) Comments made by: EPA, DOC, DOT, DOI, COE. (EIS order No. 80996.)

VETERANS ADMINISTRATION

Contact: For Housing Programs—Mr. Lyman T. Miller, Assistant Director for Construction and Valuation, Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420, 202-389-2691. Medicine and Surgery—Mr. Jon E. Baer, Chief, Environmental Planning Division, Veterans Administration, Washington, D.C. 202-389-3316.

Final

VA replacement hospital, Richmond, Va., September 14, 1978: Proposed is the construction of an 820-bed replacement Veterans Administration Hospital to be located on the existing 130-acre Veterans Administration property in Richmond, Va. The proposed new construction will replace a functionally inadequate and outmoded facility presently existing at the Veterans Administration Hospital, Richmond. Adverse effects include impacts on soil erosion and increased dust and noise levels. Comments made by: EPA, DOI, HEW, HUD, DOT, USDA, State and local agenices. (EIS Order No. 81001.)

[FR Doc. 78-26905 Filed 9-22-78; 8:45 am]

[6570-06]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

RECORDS AND REPORTS

State and Local Government Information (EEO-4); Extension of Deadline for Filing Report

Notice is hereby given that the deadline for filing the 1978 State and local government information (EEO-4) report required by 29 CFR 1602.32 is extended from September 30, 1978 to January 31, 1979. The payroll period for the EEO-4 remains unchanged.

Signed at Washington, D.C., this 18th day of September 1978.

ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission.

[FR Doc. 78-26927 Filed 9-22-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814)

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street NW., room 10218; or may inspect the agreements at the field offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill., and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 16, 1978, in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall duscuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-2925-B.

Filing party: Joe H. Hamner, Jr., Attorney, Board of Commissioners of the Port of New Orleans, P.O. Box 60046, New Orleans, La. 70160.

Summary: Agreement No. T-2925-B, between Panamericana Insurgentes (Bermuda), Ltd. (PIL), and Seatrain Transportation, Inc. (STI), is an assignment of lease whereby PIL transfers and assigns to PIL all of its rights, title, and interest under FMC Agreement No. T-2925-A which provides for the Port of New Orleans' construction and lease to PIL of the Dwyer Road roll-on/roll-off platform and related properties at New Orleans, La., for the berthing of vessels and for the marshaling, receipt, and delivery of containers and breakbulk cargoes. Agreement No. T-2925-A superseded Agreement No. T-2925, between the Port and United Brands C. (United), when United assigned to PIL, effective May 10, 1977, all of its rights, title, and interest under FMC Agreement No. T-2925.

Agreement No. T-3155-1.

Filing party: Albert B. Dearden, Deputy Chief, Leases and Operating Agreements Division, the Port Authority of New York and New Jersey, 1 World Trade Center, New York, N.Y. 10048.

Summary: Agreement No. T-3155-1, among the Port Authority of New York and New Jersey (Port), Moller Steamship Co., Inc. (Moller), and Maersk Container Service Co., Inc. (Maersk), modifies the basic agreement between the Port and Moller providing for the 25-year lease of a marine terminal at Port Newark, N.J. The purpose of the modification is to provide for Moller's assignment to Maersk, with the Port's consent, of Lease Agreement No. T-3155, subject to all the terms, provisions, convenants, and conditions, therein contained.

Agreement No. 9882-1.

Filing party: William Karas, Esq., Galland, Kharasch, Calkins & Short, 1054 31st Street NW., Washington, D.C. 20007.

Summary: Agreement 9882, as now approved, permits the operation of a joint service known as Pacific Australia Direct Line in the trade between Australia and west coast ports of the United States and Canada. Agreement 9882-1 would amend the basic agreement by the addition of the following language to the preamble:

"Vessels operated under this agreement may transport intermodal shipments (whether or not under through documentation) moving through any ports which such vessels are authorized to serve, and in addition shall have the full intermodal privileges of any conference under whose jurisdiction they operate."

Dated: September 20, 1978.

By order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc. 78-26864 Filed 9-22-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

ALABAMA BANCORPORATION

Acquisition of Bank

Alabama Bancorporation, Birmingham, Ala., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Lee County Bank, Opelika, Ala., the proposed purchaser of substantially all the assets and assumptor of substantially all the liabilities of the Bank of East Alabama, Opelika, Ala. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 16, 1978.

Board of Governors of the Federal Reserve System, September 15, 1978.

JOHN M. WALLACE,
Assistant Secretary to the Board.

[FR Doc. 78-26860 Filed 9-22-78; 8:45 am]

[6210-01]

ANKENY BANCSHARES, INC.

Formation of Bank Holding Company

Ankeny Bancshares, Inc., Ankeny, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Ankeny National Bank, Ankeny, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than October 19, 1978.

Board of Governors of the Federal Reserve System, September 19, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-26859 Filed 9-22-78; 8:45 am]

[6210-01]

FEDERAL OPEN MARKET COMMITTEE

Authorization for Domestic Open Market Operations

In accordance with the Committee's rules regarding availability of information, notice is given that on September 19, 1978, paragraph 1(a) of the Committee's authorization for domestic open market operations was amended to raise from $3 billion to $4 billion the limit on changes between Committee meetings in system account holdings of U.S. Government and Federal agency securities, effective immediately for the period ending with the close of business October 17, 1978.

NOTE.—For paragraph 1(a) of the authorization see 36 FR 22697.

By order of the Federal Open Market Committee, September 20, 1978.

MURRAY ALTMANN,
Secretary.

[FR Doc. 78-26863 Filed 9-22-78; 8:45 am]

[6210-01]

FIRST TEMPLE CORP.

Formation of Bank Holding Company

First Temple Corp., Temple, Okla., has applied for the Board's approval under section (a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First State Bank, Temple, Okla. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than October 16, 1978.

Board of Governors of the Federal Reserve System, September 15, 1978.

JOHN M. WALLACE,
Assistant Secretary of the Board.

[FR Doc. 78-26861 Filed 9-22-78; 8:45 am]

[6210-01]

SOUTHWEST BANCSHARES, INC.

Acquisition of Bank

Southwest Bancshares, Inc., Houston, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Gulf Freeway National Bank, Houston, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 16, 1978.

Board of Governors of the Federal Reserve System, September 18, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-26862 Filed 9-22-78; 8:45 am]

[6210-01]

NCNB CORP.

Washington, D.C. 20551, not later than October 18, 1978.

[4110-02]

VOCATIONAL EDUCATION OF HANDICAPPED

21 population, but rather that there is a deficiency in the number of appropriately designed programs to meet

al instruction and training appropriate to the needs and progress of each handicapped individual.

[4110-12]

SECRETARY'S ADVISORY COMMITTEE ON THE

[6210-01]

NCNB CORP.

Proposed Retention of TranSouth Financial Corp. and Its Wholly-Owned Subsidiary, TranSouth Mortgage Corp.

NCNB Corp., Charlotte, N.C., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)) and § 225.4(b)(2) of the Board's regulation Y (12 CFR 225.4 (b)(2)), for permission to retain voting shares of TranSouth Financial Corp. and TranSouth Mortgage Corp., both of Florence, S.C. Notice of the application was published in newspapers of general circulation in each of the communities served by the offices of the subsidiaries to be retained. TranSouth and its subsidiaries operate offices in the State of North Carolina, South Carolina, Tennessee and Virginia.

Applicant states that the proposed subsidiary performs the activities of making direct loans for consumer and other purposes; discounting retail instalment notes or contracts; purchasing of recreational lot notes; extending direct loans to dealers for the financing of inventory (floor planning) and working capital purposes; purchasing of personal property lease contracts and acting as agent for the sale of credit life and credit accident and health insurance and physical damage insurance directly related to extensions of credit by TranSouth Financial Corp. and TranSouth Mortgage Corp. Such activities have been specified by the Board in § 225.4(a) of regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 18, 1978.

Board of Governors of the Federal Reserve System, September 18, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-26854 Filed 9-22-78; 8:45 am]

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held on Friday, October 13, and on Saturday, October 14, 1978. The meeting will be held on Friday from 9 a.m. until 5 p.m., and on Saturday from 9 a.m. until 1 p.m. The 2-day meeting will be held at 425 13th Street NW., Suite 1012, Washington, D.C. 20004.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The purpose of the meeting is to:

1. Review and comment on drafts of special reports on migrant education, mandated studies, and urban education,
2. Hear reports from members who represented the Council at various conferences, and
3. Outline activities for upcoming meetings.

The entire meeting will be open to the public. Because of limited space, all persons wishing to attend should call for reservations by October 10, 1978, area code 202-724-0114, and speak with Mrs. Lisa Haywood.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children located at 425 13th Street NW., Suite 1012, Washington, D.C. 20004.

Signed at Washington, D.C., on September 19, 1978.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc. 78-26729 Filed 9-22-78; 8:45 am]

[4110-02]

VOCATIONAL EDUCATION OF HANDICAPPED PERSONS

Position Statement

AGENCY: Office of Education, HEW.

ACTION: Position statement.

SUMMARY: The Commissioner of Education issued the following statement on June 10, 1978:

It is the position of the U.S. Office of Education that an appropriate comprehensive vocational education will be available and accessible to every handicapped person.

This statement was developed jointly by the Bureau of Education for the Handicapped and the Bureau of Occupational and Adult Education to reflect the goals of the U.S. Office of Education to provide access, excellence, and equity in the Nation's education enterprise.

FOR FURTHER INFORMATION CONTACT:

Dr. William Halloran, Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 245-9815.

Mrs. Frances G. Saunders, Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 245-3484.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Vocational education is an integral part of the American education system. Throughout the years it has prepared individuals to work in the labor force, which is crucial to the maintenance of society. In the past 5 years there have been a renewed national interest in expanding and improving vocational education opportunities for handicapped persons. As a result of current Federal and State legislation, litigation, and the efforts of various advocacy groups, there is urgent need to provide an appropriate vocational education for handicapped persons. The Education for All Handicapped Children Act of 1975, the Education Amendments of 1976, and section 504 of the Rehabilitation Act of 1973, all consistently emphasize this need and give particular prominence to assisting handicapped persons to participate in regular vocational education.

It is estimated that approximately nine percent (9%) of the compulsory school aged population is enrolled in special education programs for the handicapped. The concentration of these enrollments is between the ages of 6 and 16 with a sharp decline from ages 17 through 21. It should not be interpreted that there is a decline in the need of services for the 17 through

21 population, but rather that there is a deficiency in the number of appropriately designed programs to meet the needs of these handicapped persons.

There are practical reasons supporting the concept of appropriate comprehensive vocational education for handicapped persons. According to the 1970 census data, only 42 percent of the handicapped are employed, compared with 59 percent of the total population. The fact that a substantial number of handicapped students leave the educational system without basic and occupational skills may contribute to the problem of unemployed handicapped adults. Recent national research studies and program audits of the General Accounting Office have identified as a major problem the limited access that handicapped youth and adults have to qualified appropriate comprehensive vocational education programs.

Handicapped individuals have not had adequate access to the educational system and have received less than a proportionate share of the vocational education provided in the public education sector.

The challenge for the future is for all segments of the USOE to work cooperatively to overcome the attitudinal, programmatic, and physical barriers that exist, and to develop a new level of awareness regarding the critical need to facilitate handicapped persons' participation in the total educational system.

ASSUMPTIONS

The position that an appropriate comprehensive vocational education will be available and accessible to every handicapped person has been developed to reflect the goals of the U.S. Office of Education of providing access, excellence, and equity in the Nation's educational enterprise.

The following assumptions form the basis of the Office of Education's position:

1. The provision of appropriate comprehensive vocational education for the handicapped is dependent upon all segments of the education system. Elementary, secondary, and adult education must provide the programs and services necessary for students to develop basic skills and make career choices. Vocational education must provide the education and training to develop occupational competencies.
2. Appropriate comprehensive vocational education for the handicapped must include cooperative relationships between the educational sector and the employment sector to facilitate the transition from school to work.
3. Appropriate comprehensive vocational education for handicapped persons will provide sequential education-al instruction and training appropriate to the needs and progress of each handicapped individual.
4. Appropriate comprehensive vocational education will reduce the number of handicapped persons who are unemployed by providing the education needed for effective participation in the labor force. This also will assist employers to meet their affirmative action goals for employment of the handicapped.
5. Appropriate comprehensive vocational education will, to the maximum extent possible, identify and eliminate factors such as attitudinal and environmental barriers, which determine to a large degree the impact that specific handicaps have on individuals.

IMPLEMENTATION OF THE OFFICE OF EDUCATION POSITION

To implement the stated position that an appropriate comprehensive vocational education will be available and accessible to every handicapped person, the Office of Education will:

1. Assess and evaluate progress of the educational community toward achievenment of the goal of appropriate comprehensive vocational education for all handicapped persons.
2. Develop the primary interagency and intradepartmental agreements needed in the appropriate comprehensive vocational education effort at the national level and encourage development of similar agreements at State and local levels.
3. Provide for the effective participation of members of the handicapped population in the policy formulation, planning, implementation, and evaluation of appropriate comprehensive vocational education at national, State, and local levels.
4. Demonstrate national leadership in the recruitment, hiring, and promotion of handicapped persons within the U.S. Office of Education as a model for replication by national, State, and local public agencies.
5. Reflect the priority of improving appropriate comprehensive vocational education for handicapped persons in USOE research and development activities.
6. Assume leadership for insuring that the civil rights of the handicapped are fully protected in all appropriate comprehensive vocational education activities.

Dated: September 18, 1978.

ERNEST L. BOYER,
Commissioner of Education.

[FR Doc. 78-26727 Filed 9-22-78; 8:45 am]

[4110-12]

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health, Education, and Welfare on the impact of the policies, programs, and activities of the Department on the status of women, will hold its family policy task force meeting on Monday, October 30, 1978, from 9 a.m. to 3:30 p.m., in Room 529-A, HEW—Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. The agenda will include discussion on domestic violence programs, child care, and social security.

Further information on the Committee may be obtained from: Susan C. Lubick, Executive Secretary, telephone 202-245-8454. These meetings are open to the public.

Dated: September 18, 1978.

SUSAN C. LUBICK
Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 78-26820 Filed 9-22-78; 8:45 am]

[4110-12]

Office of the Secretary

OFFICE OF MANAGEMENT ANALYSIS AND SYSTEMS

Statement of Organization, Functions, and Delegations of Authority

Part A (Office of the Secretary) of the statement of organization, functions, and delegations of authority for the Department of Health, Education, and Welfare contains the statement of organization, functions, and delegations of authority for the Office of the Secretary. This notice amends chapter AMM, the organization of the Office of Management Analysis and Systems (OMAS), published in the FEDERAL REGISTER on July 14, 1977 (42 FR 36312-13), and reflects organizational changes necessary to enable OMAS to better perform its principal function: Providing the Secretary and the Assistant Secretary for Management and Budget with advice on management issues and all aspects of departmental operations.

The changes include the following: (1) Transfer of Freedom of Information Act appeals responsibilities to the fair information practice staff; (2) establish the Office of Management Analysis in place of the Office of Management Planning; (3) establish the Office of Management Control in

place of the management control staff; (4) establish responsibility for implementation planning in the Office of

or Presidential or Secretarial directive).

(2) Provides advice and develops de-

ing proficiency in the areas of quantitative analysis and operations research.

the Social Security Administration (SSA) make medicaid eligibility determinations on behalf of States. Effec-

tion to the Commissioner was subject to the same reservations and limita-

the date that this notice is published in the FEDERAL REGISTER, by the incumbents of the SSA positions desig-

place of the management control staff; (4) establish responsibility for implementation planning in the Office of management Control; (5) transfer responsibility for word processing systems from the Office of Management Planning to the Office of Computer and Information Systems.

The following changes are made in Chapter AMM, Organization and Functions:

Section AMM 10 is revised to read: The office of Management Analysis and Systems reports to the Assistant Secretary for Management and Budget. The office consists of the following elements:

Immediate Office.
Fair Information Practice Staff.
Office of Management Control.
Office of Computer and Information Systems.
Office of Management Analysis.
Office of Environmental Affairs.
Office of International Affairs.

Section AMM 20B is revised by adding the following last sentence:

(7) Analyzes, evaluates, and recommends action on Freedom of Information Act appeals for records denied by Office of the Secretary. Advises the Assistant Secretary for Management and Budget on Freedom of Information Act appeals.

Section AMM 20C is revised to read:

c. *Office of Management Control* (consisting of the Division of Control Systems and the Division of Implementation Planning).

DIVISION OF CONTROL SYSTEMS

(1) Provides the Secretary and other key officials with advice and assistance in the installation and operations of management systems for achieving end results from the Department's programs.

(2) Administers HEW's management-by-objectives process (the major initiatives tracking system) and provides the Secretary with periodic assessments of the Department's programs.

(3) Provides assistance to the principal operating components in the installation of management control system. (4) Provides management advice on regulations, project proposals, and decisions submitted for the Secretary's approval.

(5) Advises the Secretary and other principal officials of the Department on management problems of the principal operating components and their effect on policy decisions.

DIVISION OF IMPLEMENTATION PLANNING

(1) Develops and administers HEW's implementation planning for major new programs (that is, those programs created by legislation or changed significantly by amendatory legislation or Presidential or Secretarial directive).

(2) Provides advice and develops detailed strategies and plans to guide the implementation of programs.

(3) Provides assistance in various technical areas of program implementation.

(4) Provides periodic reports to the Secretary on progress made and problems encountered in program implementation.

Section AMM 20D is revised by adding the following last sentence:

(11) Plans, directs, and coordinates policies and procedures relating to departmental and other Federal requirements for word processing.

Section AMM 20E is revised to read:

Office of Management Analysis (consisting of the Division of Organizational Analysis, the Division of Quantitative Analysis, and the Division of Management Evaluation.

DIVISION OF ORGANIZATIONAL ANALYSIS

(1) Serves as the principal source of advice to the Secretary in all aspects of departmentwide organizational analysis including; (a) Planning for new organizational elements, (b) evaluating current organizational structure for effectiveness, (c) conducting the review process for organizational proposals, and (d) maintaining documentation of the entire HEW organization to the division level.

(2) Reviews and documents functional assignments and delegations of authority.

(3) Analyzes legislation proposed by Congress and agencies of the executive branch, identifying potential impacts on the structure and management of the Department and formulates departmental positions.

(4) Codifies Secretarial directives into established operating procedures.

(5) Recommends and promulgates plans, policies, and procedures in the management of the departmentwide printing and publications management program.

(6) Provides staff and technical assistance and policy recommendations in the analysis, design, development, and operation of media management information systems within the Office of the Secretary; coordinates and assists in the establishment or promulgation of such systems.

DIVISION OF QUANTITATIVE ANALYSIS

(1) Plans, organizes, and conducts analytical, quantitative management studies and program analyses involving major agency programs or interagency programs using mathematical, statistical, and operations research tools of analysis.

(2) Provides guidance and technical assistance to principal operating components of the Department in developing proficiency in the areas of quantitative analysis and operations research.

(3) Develops quantitative indicators for major Secretarial initiatives.

(4) Develops mathematical models for selected program areas.

DIVISION OF MANAGEMENT EVALUATION

(1) Provides the principal departmental resource for the management evaluation of programs and major functions using a wide range of analytical methods to insure efficient use of resources and improvement of program effectiveness through the identification and resolution of management problems.

(2) Analyzes programs to determine costs and efficiencies and to suggest alternative operating procedures where appropriate.

(3) Conducts management studies, surveys, and analyses of intergency and intraagency programs, functions, and processes.

(4) Analyzes feasibility of and recommends alternatives for undertaking special short-term corrective action plans.

Dated: September 18, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-26819 Filed 9-22-78; 8:45 am]

[4110-07]

Social Security Administration

REDELEGATIONS OF AUTHORITY UNDER CERTAIN PROVISIONS OF TITLE XVI OF THE SOCIAL SECURITY ACT, AS AMENDED AND PUB. L. 93-66

Section 301 of title III of Pub. L. 92-603 (the Social Security Amendments of 1972, 86 Stat. 1465-1478) amended title XVI of the Social Security Act (the Act) to establish a new Federal program of supplemental security income for the aged, blind, and disabled (SSI benefits), to be administered by the Secretary of Health, Education, and Welfare (the Secretary). Part A of section 301, which deals with determinations of eligibility and amount of SSI benefits, contains sections 1601, 1602, 1611, 1612, 1613, 1614, 1615, and 1616 of the Act. Section 1616, which is pertinent here, deals with the program for optional State supplementation of SSI benefits. Part B of section 301, which deals with procedures for payment of SSI benefits and general administrative provisions governing the SSI program, contains sections 1631, 1632, 1633, and 1634 of the amended title XVI. Section 1634, which is also pertinent here, deals with the program under which States may agree with the Secretary to have the Social Security Administration (SSA) make medicaid eligibility determinations on behalf of States. Effective June 14, 1973 (38 FR 15648), the Secretary delegated his authority under section 301 of title III of Pub. L. 92-603, exclusive of authority to conduct hearings and to review hearing decisions, as well as his authority under sections 305, 401, and 402 of this statute, to the Commissioner of Social Security (the Commissioner), with authority to redelegate. This delegation to the Commissioner was subject to the general reservations of authority to the Secretary specified in section 1A30 (now section AA30, pursuant to the new standard administrative code for the Department of Health, Education, and Welfare published in the FEDERAL REGISTER on Dec. 1, 1976, 41 FR 52724) of the statement of organization, functions, and delegations of authority for the Department of Health, Education, and Welfare, as well as to any additional limitations specified in section 8-E of the SSA statement of organization, functions, and delegations of authority published in the FEDERAL REGISTER on April 16, 1968 (33 FR 5837).

Section 212 Pub. L. 93-66 (amendments to the Renegotiation Act of 1951 and to the Social Security Act, 87 Stat. 155-158) established a program of mandatory minimum State supplementation of Federal SSI benefits. Subsection (b)(1) of section 212 authorizes the Secretary to make mandatory minimum, supplementation payments on behalf of any State that enters into an agreement with the Secretary under subsection (a) of section 212. Effective November 28, 1973 (38 FR 32828), the Secretary delegated his authority under section 212 Pub. L. 93-66, as well as his authority under sections 210, 211, 213, and 214 of Pub. L. 93-66, to the Commissioner, with authority to redelegate. This delegation to the Commissioner was subject to the same reservations to the Secretary and other limitations specified in the general delegation of authority to administer the SSI program delegated to the Commissioner by the Secretary on June 14, 1973, as described above.

Section 5 of Pub. L. 93-368, 88 Stat. 420-21, which became law on August 7, 1974, amended section 1631 of title XVI by adding to it subsection (g), which established a program where, under certain circumstances, States or their political subdivisions providing interim assistance payments to individuals applying for Federal SSI benefits may be reimbursed by the Secretary for such interim assistance payments. On September 11, 1975, the Secretary delegated his authority under section 5 of Pub. L. 93-368 to the Commissioner, with authority to redelegate (40 FR 42233). This delegation to the Commissioner was subject to the same reservations and limitations specified for the SSI program administrative delegation made by the Secretary on June 14, 1973, as described above.

I. Notice is hereby given that the Acting Commissioner has redelegated his authority under the delegations from the Secretary specified above, as follows:

A. AUTHORITIES

1. Authority to determine the amount of reimbursement to States for administrative expenses incurred by them in the performance of functions pursuant to their agreements with the Secretary under subsection (b) of section 212 of Pub. L. 93-66 (program for mandatory minimum State supplementation of Federal SSI benefits) and under section 1616 (program for optional State supplementation of Federal SSI benefits) of the Act, as well as authority to authorize payment of such amounts to States.

2. Authority to take final agency action in terminating agreements between States and the Secretary under subsection (b) of section 212 of Pub. L. 93-66 and under sections 1616, 1631 (program for reimbursement of States or their political subdivisions for interim assistance payments made to applicants for Federal SSI benefits) and 1634 (program for medicaid eligibility determinations on behalf of States) of the Act, in cases where such termination action is requested by a State.

B. DELEGATES

1. Deputy Commissioner of Social Security.

2. Associate Commissioner for Program Operations and Deputy Associate Commissioner for Program Operations, SSA.

3. Director and Deputy Director, Bureau of Supplemental Security Income, Office of Program Operations, SSA.

4. Regional Commissioners, SSA.

C. CONDITIONS

1. These redelegations must be exercised in accordance with all pertinent provisions of law, regulations, policies, and procedures.

2. Where agreements with States are terminated by delegates in the Office of Program Operations, pursuant to the authority specified in part A.2. above, notice of such action is to be provided concurrently to the Office of the Commissioner.

3. Further redelegations may not be made.

II. The redelegations specified in section I. of this notice shall be effective as of the date that the notice is published in the FEDERAL REGISTER. To the extent that actions taken prior to the date that this notice is published in the FEDERAL REGISTER, by the incumbents of the SSA positions designated in part B. of section I. of this notice, in effect, involve the exercise of any of the authorities specified in part A. of section I. of this notice, such actions are hereby affirmed and ratified, provided they fall within the scope of these redelegations.

Dated: September 18, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

[FR Doc. 78-26827 Filed 9-22-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C-23396]

ROUTT COUNTY, COLO.

Coal Lease Offering by Sealed Bid and Oral Auction

SEPTEMBER 18, 1978.

U.S. Department of the Interior, Bureau of Land Management, Colorado State Office, 700 Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202. Notice is hereby given that lands hereinafter described in Routt County, Colo., will be offered for lease by sealed bid of $25-per-acre minimum followed by oral auction to the qualified bidder of the highest cash amount per acre. Only those applicants submitting acceptable sealed bids will be permitted to bid orally. The sale will be held at 2 p.m., October 17, 1978, in Room 708, Colorado State Bank Building, Denver, Colo.

Sealed bids may not be modified or withdrawn unless such modification or withdrawal is received before the date, time, and place set for opening of such bids.

Lands offered. The following described lands are located in Routt County, Colo., approximately 23 miles southwest of Steamboat Springs, Colo.:

T. 4 N., R. 86 W., 6th P. M.,
Sec. 33, SE¼NE¼, NE¼SE¼.
Containing 80 acres.

The estimated total coal reserves recoverable by underground mining methods in the Pinnacle bed are 119,560 tons. There are no other known commerical coal deposits in the above lands. The coal has a heating value of approximately 12,340 Btu per pound of coal and an average sulfur content of 0.7 percent. The No. 2 or Pinnacle coal bed has an average thickness of 4.5 feet.

Public comments: The public is invited to submit written comments and any recommendations concerning fair

market value of the coal reserves to the Bureau of Land Management for its consideration of fair market value

Environmental Advisory Panel. The second charter for the Panel expired December 29, 1977.

ously been set aside for wildlife management at the southern end of the Black Mountain planning unit; these

is likely to be injured by reason of the importation of sugar, provided for in items 155.20 and 155.30 of the Tariff

nal notice in the FEDERAL REGISTER of August 31, 1978 (43 FR 38948).

The Treasury Department instituted

volume of trade. If within 30 days after receipt of such information, the Commission determines that there is

market value of the coal reserves to the Bureau of Land Management for its consideration of fair market value and for U.S. Geological Survey consideration of resource economic evaluation. Public comments will be sent to the State Director (CO-946H), Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, to arrive no later than October 13, 1978.

Notice of availability. Bidding instructions are included in the detailed statement concerning the terms and conditions of lease offer and lease. A copy of the statement and the proposed coal lease are available at the Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202. All case file documents and written comments submitted by the public on fair market value or royalty rates, except those portions identified as proprietary by the commenter and meeting exemptions stated in the Freedom of Information Act, are available for public inspection in Room 701.

The successful bidder is obligated to pay for the newspaper publications of this notice.

ANDREW W. HEARD, JR.,
Leader, Craig Team,
Branch of Adjudication.

[FR Doc. 78-26723 Filed 9-22-78; 8:45 am]

[4310-84]

CHIEF, BRANCH OF CADASTRAL SURVEY, UTAH STATE OFFICE

Redelegation of Authority

SEPTEMBER 13, 1978.

1. Pursuant to the authority contained in part I, § 1.1(a) of Bureau order No. 701 of July 23, 1964, as amended, I hereby redelegate to the Chief, Branch of Cadastral Survey in the Division of Technical Services, authority to take action under the following parts: Part I-§ 1.4(a) (1) and (3).

2. Effective date: This redelegation will become effective October 1, 1978.

PAUL L. HOWARD,
State Director.

[FR Doc. 78-26839 Filed 9-22-78; 8:45 am]

[4310-10]

Office of the Secretary

OIL SHALE ENVIRONMENTAL ADVISORY PANEL

Reestablishment and Functions

AGENCY: Office of the Assistant Secretary—Land and Water Resources.

ACTION: Notice.

SUMMARY: This notice announces the reestablishment of the Oil Shale Environmental Advisory Panel. The second charter for the Panel expired December 29, 1977.

SUPPLEMENTARY INFORMATION: This notice is issued because of the requirements of section 5(b) of the Administrative Procedure Act (5 U.S.C. 552(a)(1)) and section (9)(a) of the Federal Advisory Committee Act (5 U.S.C. app. I). In 1974, the Secretary of the Interior originally established an Oil Shale Environmental Advisory Panel and issued a departmental directive related to the prototype oil shale leasing program conducted in the States of Colorado and Utah. The charter of the Panel was subsequently renewed and expired on December 29, 1977. The departmental directive, chapter 3 of part 615 of the departmental manual, describes the responsibilities of the Panel as advising departmental officials in the enforcement of the provisions of the prototype oil shale leases for the protection of the environment.

The formation of this commitee is determined to be in the public interest in connection with the supervision of oil shale leases issued pursuant to section 21 of the Mineral Leasing Act, as amended (30 U.S.C. 241), and pursuant to the policies enunciated in the National Environmental Policy Act of 1960 (42 U.S.C. 4321-4347).

FOR FURTHER INFORMATION, CONTACT:

Craig Hall, Office of the Assistant Secretary—Land and Water Resources, Department of the Interior, 19th and E Streets NW., Washington, D.C. 20240, or call 202-343-8058.

CECIL D. ANDRUS,
Secretary of the Interior.

SEPTEMBER 19, 1978.

[FR Doc. 78-26697 Filed 9-22-78; 8:45 am]

[4310-84]

[INT FES 78-21]

PROPOSED LIVESTOCK GRAZING PROGRAM CERBAT/BLACK MOUNTAIN PLANNING UNITS

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement concerning a proposed intensive livestock grazing program for the Cerbat/Black Mountain planning units in Mohave County, Ariz. The proposal involves the analysis of 26 allotment managment plans (AMP's) covering about 93 percent of the 1.6 million-acre area. The AMP's integrate livestock grazing with other land uses. More than 150,000 acres have previously been set aside for wildlife management at the southern end of the Black Mountain planning unit; these acres are not addressed in this statement.

Comments on the draft environmental statement were solicited from public agencies, and interested individuals and entities. The comments were incorporated into the final environmental statement.

A limited number of copies of the final environmental statement are available upon request at the following offices:

Arizona State Office (911), Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Ariz. 85073, 602-261-4127.

Phoenix District Office, Bureau of Land Management, 2929 West Clarendon Avenue, Phoenix, Ariz. 85017, 602-261-4231.

Kingman Resource Area, Bureau of Land Management, 2475 Beverly Avenue, Kingman, Ariz. 86401, 602-757-4011.

Final environmental statement copies will be available for public reading and review at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18 and C Streets NW., Washington, D.C. 20240, 202-343-5717.

Phoenix District Office, Bureau of Land Management, 2929 West Clarendon Avenue, Phoenix, Ariz. 85017, 602-261-4231.

Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Ariz. 85073, 602-261-3706.

Kingman Resource Area, Bureau of Land Management, 2475 Beverly Avenue, Kingman, Ariz. 86401, 602-757-4011.

Dated: September 20, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-26933 Filed 9-22-78; 8:45 am]

[7020-02]

UNITED STATES INTERNATIONAL TRADE COMMISSION

[AA1921-Inq.-20, AA1921-Inq.-21, and AA1921-Inq.-22]

SUGAR FROM BELGIUM, FRANCE, AND WEST GERMANY

Commission Determines "A Reasonable Indication of Injury"

On the basis of information developed during the course of inquiries Nos. AA1921-Inq.-20, AA1921-Inq.-21, and AA1921-Inq.-22 undertaken by the United States International Trade Commission under section 201 of the Antidumping Act, 1921, as amended, the Commission determines that there is a reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of sugar, provided for in items 155.20 and 155.30 of the Tariff Schedules of the United States (TSUS), from Belgium, France, and West Germany allegedly sold at less than fair value as indicated by the Department of the Treasury.[1]

On August 18, 1978, the Commission received advice from the Department of the Treasury that, in accordance with section 201(c)(1) of the Antidumping Act, 1921, as amended, an antidumping investigation was being initiated with respect to sugar from Belgium, France, and West Germany, and that, pursuant to section 201(c)(2) of the act, information developed during Treasury's preliminary investigation led to the conclusion that there is substantial doubt that an industry in the United States is being or is likely to be injured by reason of the importation of sugar from Belgium, France, or West Germany into the United States. Accordingly, the Commission, on August 24, 1978, instituted inquiries Nos. AA1921-Inq.-20, AA1921-Inq.-21, and AA1921-Inq.-22, under section 201(c)(2) of the act to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on September 6, 1978, in Washington, D.C. Public notice of both the institution of the inquiries and of the hearing was duly given by posting copies of the notice at the Secretary's office in the Commission in Washington, D.C., and at the Commission's office in New York City, and by publishing the original notice in the FEDERAL REGISTER of August 31, 1978 (43 FR 38948).

The Treasury Department instituted its investigation after receiving a properly filed complaint on July 10, 1978, from counsel acting on behalf of the Florida Sugar Marketing and Terminal Association, Inc., Riviera, Fla. Treasury's notice of its antidumping proceeding was published in the FEDERAL REGISTER of August 18, 1978 (43 FR 36746).

STATEMENT OF REASONS OF CHAIRMAN JOSEPH O. PARKER AND COMMISSIONERS GEORGE M. MOORE AND CATHERINE BEDELL

On August 18, 1978, the United States International Trade Commission received advice from the Secretary of Treasury that, during the course of a preliminary investigation with respect to imports of sugar from Belgium, France, and West Germany allegedly sold at less than fair value (LTFV), he concluded from the information available "that there is substantial doubt that an industry in the United States is being, or is likely to be, injured by reason of the importation of this merchandise into the United States." Acting upon this advice, the Commission, on August 24, 1978, instituted inquiries Nos. AA1921-Inq.-20, AA1921-Inq.-21, and AA1921-Inq.-22 under section 201(c)(2) of the Antidumpting Act, 1921, as amended, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

DETERMINATION

On the basis of the information developed during the course of these inquiries, we determine that the standards set forth in section 201(c)(2) of the Antidumping Act, 1921, as amended, for terminating the Treasury investigation have not been satisfied.

STATUTORY CRITERIA OF SECTION 201(c)(2)

Section 201(c)(2) of the Antidumping Act, 1921, as amended, under which these inquiries are being conducted, provides that if, in the course of making a determination whether to initiate an investigation under the Antidumping Act, the Secretary of the Treasury concludes, from the information available to him, that there is substantial doubt whether an industry in the United States is being or is likely to be injured, he shall forward to the Commission the reasons for such substantial doubt and a preliminary indication concerning possible sales at less than fair value, including possible margins of dumping and the volume of trade. If within 30 days after receipt of such information, the Commission determines that there is no reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of such merchandise into the United States it shall advise the Secretary of its determination and any investigation then in progress shall be terminated.

The bases for the Secretary's determination of substantial doubt are summarized in the Antidumping Proceeding Notice published by Treasury in the FEDERAL REGISTER of August 18, 1978.[2] That notice states in part:

The evidence of injury contained in the petition rested primarily on the impact of the alleged less than fair value sales in the regional market in which the bulk of those sales were made, the Southeast United States. However, although imports from these three countries have increased, they still account for only approximately 1.0 percent of total U.S. raw sugar production and 0.5 percent of total U.S. consumption of sugar. Even using the regional definition of the domestic market for sugar produced by petitioner, the imports in question only represent about 6 percent of domestic production in that region.

The likelihood of future increases in imports from these countries is significantly reduced, if not totally eliminated, as the result of the imposition of a 10.8 cents/pound countervailing duty effective July 31, 1978 on sugar exported to the U.S. from all European Community (EC) member states, including that covered by this investigation. Sugar from the European Community, Final Countervailing Duty Determination, 43 FR 33237 (1978). Even at currrent world prices, the imposition of this duty will raise the c.i.f. duty-paid price of the subject sugar well above domestic U.S. prices.

The notice also states, "• • • petitioner alleges that a margin of dumping of 170 percent exists • • •."

DISCUSSION

The imported sugar which is the subject of these inquiries is from Belgium, France, and West Germany. All three countries are members of the European Community (EC) and the sugar produced in all three countries is subject to the Community's Common Agrigultural Policy (CAP). Because all three countries are members of the EC and all their sugar is covered by the CAP, sugar from these countries will be considered, for purposes of this discussion, as coming from one source.

On July 31, 1978, the Treasury Department imposed a countervailing duty of 10.8 cents per pound on sugar imported from the Community on which an export restitution payment has been made (see Treasury's notice published in the FEDERAL REGISTER of July 31, 1978 (43 FR 33237)). That duty, according to Treasury, repre-

[1] Vice Chairman Bill Alberger and Commissioners George M. Moore and Catherine Bedell, voting to continue the investigation, determine that, on the basis of information developed during the course of these inquiries, there is a reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of sugar from Belgium, France, and West Germany, allegedly sold at less than fair value as indicated by the Department of the Treasury. Chairman Joseph O. Parker, also voting to continue the investigation, does not determine that there is no reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of sugar from Belgium, France, and West Germany, allegedly sold at less than fair value as indicated by the Department of the Treasury. Commissioner Italo H. Ablondi determines that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of sugar from Belgium, France, or West Germany, allegedly sold at less than fair value as indicated by the Department of the Treasury. Commissioner Daniel Minchew did not participate in the determinations.

[2] 43 FR 36746.

sents an "accurate approximation" of the subsidy being paid.

However, information developed

mary refiner in Georgia, are particularly affected by such imports.

The Florida growers maintain that

Commission developed information from various sources and did not consider the information received from

the Savannah refinery could purchase sugar from European Community (EC) sources at prices lower than the

appear to be concentrated in the southeast, and it is possible the Commission could apply accepted princi-

vestigation. Although the quantum of proof required in inquiries under section 201(c)(2) is less than that re-

sents an "accurate approximation" of the subsidy being paid.

However, information developed during the Commission's inquiry indicates that not all EC sugar is directly eligible for export restitution payments. Under the sugar program of the EC, imports are restricted and the price of domestically produced sugar generally is maintained at prices substantially in excess of world prices. The sugar for the domestic consumption is called "A" sugar. Similarly, a volume of domestically produced sugar, called "B" sugar, is eligible for export restitution payments. Sugar produced in excess of the "A" and "B" quantities can only be marketed for export and is not eligible for export restitution payments. In order to be competitive in the world market, this sugar must be sold at prices substantially less than the home market price in the EC countries. Information received during the Commission's inquiry indicates that for the years 1978 and 1979, the quantity of "C" sugar available for export may equal about 10 percent of the total EC sugar production, or about 200,000 to 300,000 tons annually.[3]

It is this so-called "C" sugar which may pose a threat to U.S. sugar producers. Such sugar may not be subject to the countervailing duties on the ground that it is not eligible for the export restitution payment by the EC. With the large supplies of world sugar stocks available and with the U.S. market being the largest and highest price market into which world sugar may freely enter, "C" sugar from the EC, if sold at LTFV and not subject to either the countervailing duties or antidumping duties, may enter the United States and be marketed at prices below the price support level and injure U.S. sugar producers.

Traditionally, sugar imports from the EC and, specifically, Belgium, France, and West Germany have been very small. However, sugar imports from these countries increased in recent years to 49,000 short tons in 1977 and an estimated 75,000 short tons in January-July 1978 and prompted the petition for the imposition of countervailing duties.

While overall such imports have been and still are almost negligible, vis-a-vis, all sugar imports (about 1 percent of total imports), information received by the Commission indicates that an estimated 90 percent of such imports entered the southeastern U.S. market in recent months. Such imports equaled about 6 percent of domestic production in the Florida producing area. Thus, Florida growers, petitioners in this antidumping proceeding, who normally sell about 85 percent of their crop to the region's primary refiner in Georgia, are particularly affected by such imports.

The Florida growers maintain that the EC imports have taken nearly 100 percent of their sales in several recent months.[4] These growers maintain that they have been unable to sell any of their sugar to the primary refiner located in the Southeast, or to any other refiner since April 1978, since the market prices have been below price support levels. Imports from the EC were capturing this market on the basis of lower prices.

U.S. inventories of sugar, including those held by Florida producers, were at record high levels in each month considered in 1978. A large part of these inventories is held by domestic producers under price-support loans. Data available to the Commission indicate that many domestic sugar producers were losing money in the 1976-77 crop year, and that such losses may have continued in the 1977-78 crop year. Florida growers reported losses on their sugar operations in each of the crop years 1975-76, 1976-77, and 1977-78.

CONCLUSION

On the basis of the information available from the Commission's inquiries, imports from the EC, if sold at LTFV, could enter the U.S. market at prices below the price-support level and might cause injury to U.S. procuders. In these circumstances, the antidumping investigation should not be terminated.

STATEMENT OF REASONS OF VICE CHAIRMAN BILL ALBERGER

STATUTORY CRITERIA OF SECTION 201(C)(2)

Section 201(c)(2) of the Antidumping Act, 1921, as amended, under which these inquiries are being conducted, states, in effect, that if the Secretary of the Treasury concludes, during a preliminary investigation under the Antidumping Act, that there is substantial doubt regarding possible injury to an industry in the United States, he shall forward to the United States International Trade Commission his reasons for such doubt. If, within 30 days of the Commission's receipt of such information, the Commission determines that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of merchanise allegedly sold in the United States at less than fair value (LTFV), it shall advise the Secretary of its determination and any investigation then in progress shall be terminated. In making its determinations in these inquiries, the Commission developed information from various sources and did not consider the information received from Treasury as determinative.

DETERMINATION

On the basis of the information developed during the course of these inquiries, I determine that there is a reasonable indication that an industry in the United States is being or is likely to be injured [5] by reason of the importation of sugar into the United States from Belgium, France, and West Germany allegedly sold at less than fair value as indicated by the Department of the Treasury.

A REASONABLE INDICATION OF INJURY

Market penetration by alleged LTFV imports.—U.S. imports of sugar from Belgium, France, and West Germany, all of which are subject to the current LTFV investigation, have increased considerably in 1977. While the overall volume of such imports is still quite small compared to U.S. consumption (0.43 percent), it has risen from zero in 1972 to 48.8 thousand short tons, raw value, in 1977. Moreover, the approximately 75,000 tons imported in 1978 account for 55 percent of imports into the southeastern United States.

Profitability.—The Commission has received data indicating losses on the 1976-77 crop. The low profitability should continue given the current depressed prices and large volume of imports. Petitioners, who serve the southeastern market, have reported continued losses of significant proportions.

Prices.—Data from the United States Customs Service indicate that the price of sugar imports from Belgium, France, and West Germany, f.o.b., foreign port, was 7.09 cents per pound. Adding the costs of insurance and freight, and applicable duties and fees, the price of such imports delivered at Savannah, Ga., the primary market for both the alleged LTFV imports and the Florida sugar producers, would be about 13.59 cents per pound. Data supplied by petitioner indicate that the average delivered selling price for their sugar during January-July 1978, at Savannah was substantially higher than the import price with the margin of underselling more than accounted for by the alleged LTFV margin.

Lost sales.—The petitioner, who sells primarily in the southeastern market, has allegedly not made any sales since late April 1978. Petitioner's major purchaser prior to 1978, the refinery at Savannah, has purchased the overwhelming bulk of the alleged LTFV sales. This would tend to indicate that

[3] Transcript of hearing, pp. 24, 53.

[4] Transcript of hearing, p. 82.

[5] Prevention of establishment of an industry in this inquiry is not in question and will not be discussed further in these views.

the Savannah refinery could purchase sugar from European Community (EC) sources at prices lower than the price-support levels, and therefore undersell the petitioners. Through the final 7 months of this year, about 75,000 short tons of sugar from Belgium, France, and West Germany has been sold in the United States, most of it to the Savannah refinery.

Likelihood of injury.—Given the announcement of a 10.8 cents per pound countervailing duty on sugar from the EC, it is arguable that no likelihood of future injury exists. However, testimony before the Commission, and staff discussions with Treasury, have both verified that a considerable volume of EC sugar cannot qualify for export subsidies. This so-called "C" sugar may amount to 300,000 metric tons. Treasury has informally indicated that upon presentation of an EC declaration, importers of such sugar could avoid the countervailing duty. Hence, the future likelihood of injury cannot be dismissed, even though the antidumping duties would be inapplicable to the extent bounties or grants are subject to a countervailing duty.[6]

CONCLUSION

In making our determination under section (201)(c)(2), the Commission need only consider whether a "reasonable indication" of injury, or likelihood thereof, is either present or totally absent. Therefore, our analysis of the record is concerned with factors which may present a "reasonable indication" of injury, even if later examination of the full record shows that the weight of the evidence militates against a final injury determination.

Summarizing the criteria of injury enumerated above, it is clear that Treasury should proceed with its investigation. Petitioner has shown evidence of lost sales, price suppression and substantially increased market share from those countries which are the source of the LTFV sales. While these market penetration figures are still very low, and while the LTFV sales do not represent a large portion of U.S. consumption, two observations can be made to indicate their importance. First, these countries have substantial capacity to export larger quantities in future years, although our obligations under the International Sugar Agreement (ISA) may limit them. Second, it is conceivable the Commission could find injury within the regional market of the southeast, where import penetration has been more significant. It appears that the factors which have led the Commission in previous instances to find injury to a regional industry may be present, and I do not wish to dismiss such a possibility.[7] The LTFV sales appear to be concentrated in the southeast, and it is possible the Commission could apply accepted principles of regional industry analysis. Therefore, I find that the Treasury antidumping investigation of sugar from Belgium, France, and West Germany should not be terminated.

STATEMENT OF REASONS OF COMMISSIONER ITALO H. ABLONDI

On August 18, 1978, the United States International Trade Commission received advice from the Department of the Treasury that, during the course of a preliminary investigation with respect to sugar from Belgium, France, and West Germany, Treasury had concluded from the information available "that there is substantial doubt that an industry in the United States is being, or is likely to be, injured by reason of the importation of this merchandise into the United States." Acting upon this advice, the Commission, on August 24, 1978, instituted inquiries Nos. AA1921-Inq.-20, AA1921-Inq.-21, and AA1921-Inq.-22 under section 201(c)(2) of the Antidumping Act, 1921, as amended, to determine whether there is no reasonable indication that an industry is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

DETERMINATION

On the basis of information developed during the course of these inquiries, I determine that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established,[8] by reason of the importation of sugar into the United States from Belgium, France, or West Germany allegedly sold at less than fair value as indicated by the Department of the Treasury.

DISCUSSION

The legislative intent in the enactment of section 201(c)(2) of the Antidumping Act, 1921, as amended, is "to eliminate unnecessary and costly investigations which are an administrative burden and an impediment to trade." This intent is effectuated when the Commission determines, pursuant to section 201(c)(2), that "there is no reasonable indication that a domestic industry is being or is likely to be injured" by reason of the subject imports, thereby eliminating an unnecessary, costly, and burdensome investigation. Although the quantum of proof required in inquiries under section 201(c)(2) is less than that required in full investigations under section 201(a) of the Antidumping Act, 1921, as amended, the information obtained in these inquiries a finding that there is no reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of sugar from Belgium, France, or West Germany allegedly sold at less than fair value.

Market penetration by alleged LTFV imports.—In a number of past investigations under the Antidumping Act, 1921, as amended, the Commission has held that LTFV imports sold in the United States in insignificant quantities compared with the quantity of domestic consumption have not caused injury to the domestic industry.[9] In a number of other investigations under the Act, the Commission has found no injury when imports sold at LTFV constituted less than 1 percent of apparent U.S. consumption.[10] While each investigation must be examined according to the individual facts peculiar to each, as regards sugar, I determine that market penetration of less than 1 percent of apparent U.S. consumption is insignificant and should not warrant a continued investigation.

The share of apparent U.S. consumption of sugar accounted for by the alleged LTFV imports from Belgium amounted to only 0.0148 percent in 1977; the share accounted for by imports from France was only 0.2383 percent; and that accounted for by imports from West Germany was only 0.1743 percent. None of the three countries considered individually accounted for even as much as a quarter of 1 percent of apparent U.S. consumption in 1977. In view of the fungible nature of the commodity in question, it is arguable that imports from Belgium, France, and West Germany should be cumulates. However, even if the imports from the three countries are cumulated, the total import penetration of the U.S. market would still be less than half of 1 percent. I determine, therefore, whether the countries are considered separately or cumulatively, that under current conditions there is no reasonable indication that an industry in the United States is being injured by reason of alleged LTFV imports of sugar from Belgium, France, or West Germany.

[6] See 19 U.S.C. § 163.

[7] See USITC Publication 882, Carbon Steel Plate from Japan, Inv. No. AA1921-179, Views of Chairman Minchew and Commissioner Alberger; T.C. Publication 314, Steel Bars, Reinforcing Bars, and Shapes from Australia, Inv. No. AA 1921-62.

[8] Prevention of establishment of an industry in these inquiries is not in question and will not be discussed further in these views.

[9] See Cast Iron Soil Pipe From Australia, Investigation No. AA1921-35, TC Publication 124, 1964.

[10] See, for example, Welded-Wire Mesh From Belgium • • • Investigation No. AA1921-94, TC Publication 497, 1972; Titanium Dioxide From Japan • • • Investigation No. AA1921-47, TC Publication 174, 1966; and White Portland Cement From Japan, Investigation No. AA1921-38, TC Publication 129, 1964.

Likelihood of injury.—The United States Customs Service has announced a countervailing duty determination

Belgium, France, or West Germany to the United States. By reason of the imposition of countervailing duties on

By order of the Commission.

KENNETH R. MASON,
Secretary.

along with a capsulized version of the statement to be given, and an outline of the material to be offered.

and recommendation on applications for financial assistance under the National Foundation on the Arts and the

1022—C. Theory and Laboratory Astrophysics Subcommittee.
1100—Current budget situation/long-range

Likelihood of injury.—The United States Customs Service has announced a countervailing duty determination for sugar imports from the European Community that benefit from bounties or grants. Such imports will be subject to a countervailing duty of 10.8 cents per pound. This, together with other duties and fees on sugar imports of about 5.51 cents per pound, results in total import duties and free of 16.3 cents per pound on sugar from the European Community subject to countervailable bounties and grants. Since the current price of U.S. sugar imports, landed and duty paid, is about 13.5 cents per pound, further imports of European Community sugar that benefit from bounties or grants are uncompetitive and highly unlikely.

Information available to the Commission, however, indicates that most, but not all, sugar produced in the European Community is subsidized under the Common Agriculutral Policy (CAP). The CAP provides for three accounting categories for all sugar produced in the Community. The first two categories, labeled "A" and "B," are quota amounts and are subject to bounties and grants that will result in countervailing duties if the sugar is imported into the United States. The "C" category is excess production over the "A" and "B" quotas, reportedly is not subsidized, and accordingly is not subject to countervailing duties if imported into the United States. The "A," "B," and "C" sugar are completely fungible, and their respective designations are for accounting purposes only.

The "A" sugar quota equals 105 percent of annual European Community human sugar consumption; the "B" sugar quota equals 27 percent over the "A" quota; and all sugar produced in excess of the "A" and "B" qoutas, or in excess of 132 percent of annual European Community human sugar consumption, is "C" sugar and is required to be exported. "C" sugar generally accounts for about 10 percent of annual Community sugar production and forecasts for marketing years 1979 and 1980 indicate that the annual quantity of "C" sugar to be produced and exported is 200,000 to 300,000 metric tons, raw value, in each of the 2 years. Virtually all the "C" sugar produced in the European Community in recent years has been produced by Belgium, France, and West Germany, and virtually all exports from the Community are of sugar produced by the countries.

In 1977, export shipments of raw sugar from the European Community to all outside markets totaled 3 million metric tons, of which three-quarters consisted of "A" and "B" sugar. There is no documentary evidence that any "C" sugar has ever been exported by Belgium, France, or West Germany to the United States. By reason of the imposition of countervailing duties on "A" and "B" sugar, the bulk of sugar formerly exported by the Community should not compete and in all likelihood will be sold elsewhere and not in the U.S. market. In addition, exports from the EC to the United States never accounted for a significant proportion of these exports, and accounted for only 1.6 percent of the total in 1977. Furthermore, the only sugar that can be exported to the United States without countervailing duties is "C" sugar. The anticipated production of "C" sugar in 1979 and 1980 is only 200,000 to 300,000 metric tons, substantially below the 750,000 metric tons produced in 1977. Since U.S. imports have never been equvalent to more than a mere fraction of total production of "C" sugar—48,800 short tons, or less than 7 percent of the total in 1977—it cannot be anticipated that all or most of the "C" sugar produced in Belgium, France, and West Germany will be exported to the United States. In fact, in view of the sharp decline in the availability of "C" sugar from the European Community it is quite likely that U.S. imports of sugar from Belgium, France, and West Germany may decline in the near future.

In the absence of special incentives, therefore, the U.S. market should not increase its share of total exports of sugar from Belgium, France, or West Germany. A higher U.S. price for foreign sugar than could be obtained in other markets would be a special incentive for exporters to direct their sugar to the U.S. market; however, no such incentive exists. The U.S. market price for sugar is substantially higher than the world price, but the difference is accounted for by transportation charges and import fees and duties. Exporters receive the same price for their sales to the U.S. markets as they do for their sales to other markets. In view of the foregoing, together with extremely low levels of current imports from the three countries in question, I determine that there is no reasonable indication that an industry in the United States is likely to be injured by reason of alleged LTFV imports of sugar from Belgium, France, or West Germany.

CONCLUSION

On the basis of the above, I determine that there is no reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of sugar from Belgium, France, or West Germany allegedly sold at less than fair value as indicated by the Department of the Treasury.

Issued: September 19, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-26825 Filed 9-22-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Attorney General

VOTING RIGHTS ACT

Certification of Reappointment of Examiners

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fifteenth Amendment to the Constitution of the United States of America in Russell County, Alabama. This county is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965 and published in the FEDERAL REGISTER on August 7, 1965 (30 FR 9897).

GRIFFIN B. BELL,
Attorney General of the United States.

SEPTEMBER 21, 1978.

[FR Doc. 78-27073 Filed 9-22-78; 9:46 am]

[4410-01]

Federal Bureau of Investigation

NATIONAL CRIME INFORMATION CENTER ADVISORY POLICY BOARD

Open Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the National Crime Information Center (NCIC) Advisory Policy Board will be held on December 6-7, 1978, Coral Reef Motor Inn, St. Petersburg Beach, Fla. The meeting will begin at 9 a.m. and terminate at 5 p.m. each day.

The purpose of this meeting will be to discuss policy matters relating to NCIC including the wanted and missing persons file, stolen property files and the computerized criminal history file.

The meeting will be open to the public. Persons who wish to make statements and ask questions of the Board members must notify the Designated Federal Employee (DFE) identified below or the Assistant Director, Technical Services Division, FBI, Washington, D.C. 20535, at least 24 hours prior to the commencement of the session. Name, corporate designation, consumer affiliation or Government designation must be provided along with a capsulized version of the statement to be given, and an outline of the material to be offered.

Additional information may be obtained from the DFE, Mr. Frank B. Buell, Chief, NCIC Section, Technical Services Division, FBI Headquarters, Washington, D.C. 20535, telephone 202-324-2606.

Minutes of the meeting will be available upon request from the above-designated FBI official.

WILLIAM H. WEBSTER,
Director.

[FR Doc. 78-26840 Filed 9-22-78; 8:45 am]

[4510-23]

MINIMUM WAGE STUDY COMMISSION

MEETING

The fourth meeting of the Minimum Wage Study Commission will be held on September 28, 1978, at 10 a.m. in Room 550, 2000 K Street NW., Washington, D.C. The meeting is open to the public. The agenda for the meeting will be concerned with:

I. Recent developments.
II. Budget overview, contracting, and priorities.
III. Contract review funding and management procedures.
IV. Future meetings.
V. Communications.

It was impossible to give the required period of advance notice because of scheduling difficulties.

Telephone inquiries and communications concerning this meeting should be directed to: Mr. Lewis E. McConnell, Executive Director, 1730 K Street NW., Suite 206, Washington, D.C. 20036, telephone 202-653-5587.

LOUIS E. MCCONNELL,
Executive Director.

[FR Doc. 78-26957 Filed 9-22-78; 8:45 am]

[7537-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

MEDIA ARTS ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that meeting of the Media Arts Advisory Panel (AFI) to the National Council on the Arts will take place on October 12, 1978, from 9 a.m. to 5:30 p.m., and on October 13, 1978, from 9 a.m. to 5:30 p.m., in Room 1422, Columbia Plaza, 2401 E Street Northwest, Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c)(4), (6), and 9(B) of section 552 of title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 78-26728 Filed 9-22-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

ASTRONOMY ADVISORY COMMITTEE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Astronomy Advisory Committee.
Date and time: October 12 and 13, 1978, 8:30 a.m. to 5 p.m. each day.
Place: Board room, Kitt Peak National Observatory, Tucson, Ariz.
Type of meeting: Open.
Contact person: Dr. William E. Howard III, Director, Division of Astronomical Sciences, Room 615, National Science Foundation, Washington, D.C.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of committee: To provide advice and recommendations concerning research programs, proposals, and projects in NSF funded astronomy with the objective of achieving the highest quality forefront research for the funds allocated. To provide advice and recommendations concerning short range and long range plans in astronomy, including a recommendation of relative priorities.
Agenda:

OCTOBER 12, 1978

Time
0830—Introductory remarks.
0835—Minutes of previous meeting.
0842—Short status report.

COMMITTEE AND SUBCOMMITTEE ACTIVITIES ON PRIORITIES AND INITIATIVES

0902—A. Optical I/R Subcommittee.
0942—B. Radio Subcommittee.
1022—C. Theory and Laboratory Astrophysics Subcommittee.
1100—Current budget situation/long-range plans.
1120—General discussion.
1400—Presentation and discussion of current dated long-range plan.

OCTOBER 13, 1978

0830—Grant program presentation: Solar studies.
0930—Manpower situation.
1000—Statistics on balance of funding.
1045—Penzias letter and reply.
1105—Astronomical-atmospheric sciences funding interface.
1135—General discussion.
1400—Discussion of problem areas in astronomy, as perceived by the Centers' Directors.
1500—Large contract/grant reviews.
1530—Problems of the astronomical community as voiced by the Committee.
1600—Other business as suggested by the Committee.
1630—Critique of the meeting by the Chairman.
1645—Date for next meeting.
1700—Adjourn.

M. REBECCA WINKLER,
Committee Management Coordinator.

SEPTEMBER 19, 1978.

[FR Doc. 78-26694 Filed 9-22-78; 8:45 am]

[7555-01]

INTERNATIONAL DECADE OF OCEAN EXPLORATION AD HOC SUBCOMMITTEE

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Ad hoc Subcommittee on the MANOP project, of the Advisory Committee for Ocean Sciences.
Date and time: October 16-17, 1978, 9 a.m. to 5 p.m.
Place: Scripps Institution of Oceanography, La Jolla, Calif.
Type of meeting: Closed.
Contact person: Dr. Bruce Malfait, International Decade of Ocean Exploration Section, Room 606, National Science Foundation, Washington D.C. 20550, telephone 202-632-7356.
Purpose of ad hoc subcommittee: To provide the IDOF ad hoc Subcommittee members with additional expertise in the review and evaluation of proposals relating to oceanographic research related to the MANOP Project.
Agenda: Detailed review and evaluation of proposals for support of the MANOP project.
Reason for closing: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C.; 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of

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[7555-01]

SUBCOMMITTEE ON SYSTEMATIC BIOLOGY

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to compete successfully with Arizona for retail customers.

It is our opinion that the ownership of PVNGS Units 4 and 5 by these three applicants will not create or maintain a situation

You have requested our advice pursuant to the provisions of section 105c of the Atomic Energy Act of 1954, as amended, in

does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment

set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

SEPTEMBER 19, 1978.

[FR Doc. 78-26695 Filed 9-22-78; 8:45 am]

[7555-01]

SUBCOMMITTEE ON MOLECULAR BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Molecular Biology, Group B, of the Advisory Committee for Physiology, Cellular, and Molecular Biology.
Date and time: October 16 and 17, 1978; 9 a.m. to 5 p.m. each day.
Place: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Frederick I. Tsuji, Program Director, Biochemistry Program, Room 330, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4260.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in molecular biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of sections 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

SEPTEMBER 19, 1978.

[FR Doc. 78-26693 Filed 9-22-78; 8:45 am]

[7555-01]

SUBCOMMITTEE ON SYSTEMATIC BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Systematic Biology of the Advisory Committee for Environmental Biology.
Date and time: October 16 and 17, 1978; 8:30 a.m. to 5 p.m. each day.
Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of Meeting: Closed.
Contact person: Dr. William Louis Stern, Program Director, Systematic Biology Program, Room 336, National Science Foundation, Washington, D.C. 20550, telephone 202-632-5846.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in systematic biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

SEPTEMBER 19, 1978.

[FR Doc. 78-26696 Filed 9-22-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-592A and 50-593A]

ARIZONA PUBLIC SERVICE CO., ET AL.

Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following advice from the Attorney General of the United States, dated September 13, 1978, with respect to a construction permit application for Palo Verde Nuclear Generating Station, units 4 and 5:

You have requested our advice pursuant to the provisions of section 105c of the Atomic Energy Act of 1954, as amended, in regard to the above-cited application.

The Palo Verde Nuclear Generating Station (PVNGS) Units 4 and 5 are two additional units planned for construction at the same site as Units 1, 2, and 3 currently being built pursuant to construction permits issued by the Nuclear Regulatory Commission in NRC dockets Nos. STN 50-528, STN 50-529, and STN 50-530, respectively. Units 4 and 5 will be jointly owned by Arizona Public Service Co. (Arizona), El Paso Electric Co. (El Paso), and Southern California Edison Co. (Southern California).[1]

The Department of Justice rendered antitrust advice to the Commission by letter of April 8, 1975, with respect to the then proposed participation in PVGNS Units 1, 2, and 3 by Arizona and El Paso. At that time Arizona had agreed to a license condition relating to transmission services that satisfactorily eliminated the anticompetitive effects of certain restrictions placed upon its wholesale customers' ability to resell power wheeled to them by Arizona. Since there was no evidence then before the Department that any of the applicants, including El Paso, was exercising any other market power they might have had to inhibit competition, we concluded that an antitrust hearing was not necessary.

Subsequent to our antitrust advice of April 8, 1975, one of the six original participants in PVNGS Units 1, 2, and 3, Tucson Gas & Electric Co. was replaced by Southern California. We advised you by letter of April 6, 1976, that no antitrust hearing would be necessary as a result of the addition of Southern California as a part owner in PVNGS Units 1, 2, and 3. The basis for our recommendation was that Southern California had earlier agreed to accept license conditions in connection with its San Onofre Nuclear Generating Station, Units 2 and 3, AEC docket Nos. 50-361A and 50-362A[2] and that there was no other information that would warrant an antitrust hearing.

Our review of the instant application has not disclosed any evidence that any of the applicants has used its size or ownership of transmission facilities in such a manner as to inhibit competition in the area in which they operate. The Department did receive a complaint from electrical district No. 2, an electric distribution system competing with Arizona for retail loads in the area of the city of Casa Grande in Pinal County, Ariz. Electrical district No. 2 alleged that Arizona had instituted lawsuits against the district and had threatened lawsuits against prospective retail customers in order to prevent the district from serving anything other than agricultural pumping and incidental farm domestic loads. The dispute, however, appears to be concerned primarily with the interpretation of certain Arizona State statutes regulating retail service by electrical districts within the State. Electrical district No. 2 does not rely on Arizona for its bulk power supply and apparently has been able

[1] The Department has received your request of August 25, 1978, for advice with respect to the participation in units 4 and 5 of an additional eight electric utilities. This advice letter, however, covers only the three companies referenced in your letter of March 1, 1978.

[2] See our advice letter to the Commission of June 23, 1974.

to compete successfully with Arizona for retail customers.

It is our opinion that the ownership of PVNGS Units 4 and 5 by these three applicants will not create or maintain a situation inconsistent with the antitrust laws. We do not, therefore, believe it necessary for the Commission to hold an antitrust hearing.

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's "rules of practice," 10 CFR part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by October 25, 1978, either (1) by delivery to the NRC Docketing and Service Branch at 1717 H Street NW., Washington, D.C., or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

For the Nuclear Regulatory Commission.

JEROME SALTZMAN,
Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

[FR Doc. 78-26847 Filed 9-22-78; 8:45 am]

[7590-01]

[Docket No. 50-293]

BOSTON EDISON CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 34 to facility operating license No. DPR-35, issued to Boston Edison Co., which revised the technical specifications for operation of the Pilgrim Nuclear Power Station, Unit No. 1, located near Plymouth, Mass. The amendment is effective as of the date of its issuance.

This amendment changes the trip level setting for the high flow main steam line instruments from 0120 percent to 0140 percent of rated steam flow. The new setpoint is consistent with assumptions used in the final safety analysis report for main steam line high flow differential pressure switch trip settings.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) application for amendment dated March 22, 1978, (2) amendment No. 34 to license No. DPR-35, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Plymouth Public Library, on North Street in Plymouth, Mass. 02360. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 19th day of September 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-26848 Filed 9-22-78; 8:45 am]

[7590-01]

[Docket No. 50-263]

NORTHERN STATES POWER CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 35 to provisional operating license No. DPR-22 issued to Northern States Power Co. (NSP) (the licensee) which revised the technical specifications for operation of the Monticello Nuclear Generating Plant (the facility) located in Wright County, Minn. The amendment is effective as of its date of issuance.

The amendment revised the technical specifications to provide operating limits and procedures for the recirculation pump trip system for Monticello Nuclear Generating Station.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 1, 1978, (2) amendment No. 35 to license No. DPR-22, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minn. 55401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactor.

Dated at Bethesda, Md., this 15th day of September 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-26849 Filed 9-22-78; 8:45 am]

[7590-01]

[Docket Nos. STN 50-556, STN 50-557]

PUBLIC SERVICE COMPANY OF OKLAHOMA, ASSOCIATED ELECTRIC COOPERATIVE, INC., AND WESTERN FARMERS ELECTRIC COOPERATIVE, INC., (BLACK FOX STATION, UNITS 1 AND 2)

Second Amended Order Setting Evidentiary Hearing on Health and Safety Issues

Our first Amended Order Setting Evidentiary Hearing On Health And Safety Issues dated August 28, 1978 and published in the FEDERAL REGISTER on September 1, 1978 (43 FR 39198), noticed, inter alia, that the evidentiary hearing beginning on October 10, 1978 would be held in Courtroom No. 3, U.S. Courthouse, 333 West Fourth Street, Tulsa, Okla. This courtroom is no longer available.

Accordingly, please take notice and it is hereby ordered that the evidentiary hearing on health and safety issues specified in our initial order dated August 17, 1978 (43 FR 37502, August 23, 1978), is scheduled to begin

at 9:30 a.m. on October 10, 1978, in the Camelot Inn, I-44 and Peoria Avenue, Tulsa, Okla. This hearing will continue on weekdays through October 20,

Revision 1, will, however, be particularly useful in evaluating the need for an early revision if received by Novem-

changed from "Antitrust Review" to "Antitrust and Financial Review."

Comments and suggestions in con-

For the Nuclear Regulatory Commission.

GERALD G. OPLINGER,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

at 9:30 a.m. on October 10, 1978, in the Camelot Inn, I-44 and Peoria Avenue, Tulsa, Okla. This hearing will continue on weekdays through October 20, 1978.

Members of the public are invited to attend this evidentiary public hearing. Pursuant to 10 C.F.R. 2.715(a), individuals or organizations wishing to make limited appearances in order to state their positions on the issues will be permitted to do so on October 10, 1978. In order to accommodate those who desire to make limited appearance statements, evening sessions between 7 p.m. and 10 p.m. will be held also on October 10 and 11, 1978. Oral statements will be limited to five (5) minutes each but written statements may be submitted without limitation on length. Those individuals and organizations making limited appearance statements are reminded that they are not parties in this proceeding and do not have a right to participate therein other than to present their statements.

Dated at Bethesda, Md., this 19th day of September 1978.

It is so ordered.

For the Atomic Safety and Licensing Board.

SHELDON J. WOLFE,
Chairman.

[FR Doc. 78-26850 Filed 9-22-78; 8:45 am]

[7590-01]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.8, Revision 1, "Preparation of Environmental Reports for Uranium Mills," identifies information needed by the NRC staff in its assessment of the potential environmental effects of a proposed uranium mill and directly associated activities and establishes a format acceptable to the staff for its presentation.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 3.8, Revision 1, will, however, be particularly useful in evaluating the need for an early revision if received by November 24, 1978.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 18th day of September 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc. 78-26852 Filed 9-22-78; 8:45 am]

REGULATORY GUIDE

Issuance and Availability; Change of Division Title

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 9.4, "Suggested Format for Cash Flow Statements Submitted as Guarantees of Payment of Retrospective Premiums," provides guidance to nuclear reactor licensees who choose to submit cash flow statements as guarantees for payment of Price-Anderson retrospective premiums in accordance with § 140.21 of 10 CFR Part 140. The guide suggests a simplified format that should reduce the burden to licensees of preparing cash flow statements and to the NRC of analyzing them.

With the issuance of this guide, the title of Regulatory Guide Division 9 is changed from "Antitrust Review" to "Antitrust and Financial Review."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 9.4 will, however, be particularly useful in evaluating the need for an early revision if received by November 20, 1978.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 13th day of September 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of
Standards Development.

[FR Doc. 78-26853 Filed 9-22-78; 8:45 am]

[7590-01]

TRANSNUCLEAR, INC. AND WESTINGHOUSE ELECTRIC CORP.

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70, "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses during the period of August 27 to September 9, 1978. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street NW., Washington, D.C.

Dated this day September 18, 1978, at Bethesda, Md.

For the Nuclear Regulatory Commission.

GERALD G. OPLINGER,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

Major License Applications Received

[Aug. 27 to Sept. 9, 1978]

Name of applicant, date of application, date received, application number	Material in kilograms or reactor type and power level	Enrichment	End-use	Country of destination
Transnuclear, Inc., Aug. 28, 1978, Aug 28, 1978, XSNM01367.	24,062—uranium	3.40	Fuel for reactor Kernkraftwerk Isar Reload.	West Germany.
Westinghouse Electric Corp., Aug. 31, 1978, Sept. 6, 1978, XSNM01045 (amendment No. 01).	Additional 17,600—uranium.	3.6	Additional reloads for Jose Cabresa reactor.	Spain.

[FR Doc. 78-26851 Filed 9-22-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 18, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

U.S. INTERNATIONAL TRADE COMMISSION

Importers Questionnaire for Inv. TA-201-38, Certain Machine Needles, single time, importers of certain machine needles, 50 responses, 1,000 hours, C. Louis Kincannon, 395-3211.

National Institute of Education, Cities in Schools Evaluation, NIE-194, semiannually, prog. students, cont. students, and pro. staff, 1,980 responses, 1,565 hours, Laverne V. Collins, 395-3214.

Health Services Administration, BCHS Quarterly Report on Abortions, quarterly, grant-supported private nonprofit and local Government agencies, 4,800 responses, 240 hours, Richard Eisinger, 395-3214.

Alcohol, Drug Abuse, and Mental Health Administration, Training Family Practice Residents To Recognize Psychiatric Disturbance, single time, patients/physicians, 1,706 responses, 1,706 hours, Richard Eisinger, 395-3214. Health Resources Administration, Analytical Study of Physicians Career Decisions, single time, physicians and spouses, 6,513 responses, 651 hours, Office of Federal Statistical Policy and Standard, 673-7956.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration, Study of the Prescription Experience of Clients in Drug Programs (Study No. 3), single time, drug treatment program clients, Office of Federal Statistical Policy and Standard, 673-7956.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-26935 Filed 9-22-78; 8:45 am]

[7715-01]

POSTAL RATE COMMISSION

VISIT TO POSTAL FACILITY

SEPTEMBER 18, 1978.

Notice is hereby given that employees of the Postal Rate Commission will be visiting the Rates and Classification Department, U.S. Postal Service Headquarters, L'Enfant Plaza, on October 6, 1978, at 10 a.m., for the general purpose of identifying ways to simplify and/or expedite the flow of required information pertaining to rate case cost attributions using computer capabilities to the maximum extent possible.

No particular matter at issue in contested proceedings before the Commission nor the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission will be discussed.

A report of the visit will be on file in the Commission's docket room.

By direction of the Commission.

DAVID F. HARRIS,
Secretary.

[FR Doc. 78-26728 Filed 9-22-78; 8:45 am]

[4710-07]

DEPARTMENT OF STATE

[Public Notice CM-8/104]

SHIPPING COORDINATING COMMITTEE

Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:30 a.m. on Thursday, October 12, 1978, in room 8236 of the Department of Transportation Building, 400 Seventh Street SW., Washington, D.C.

The purpose of this meeting is to finalize preparations for the 41st session of the Council and the 37th session of the Legal Committee of the Intergovernmental Maritime Consultative Organization to be held in London October 23-27, 1978 and November 20-24, 1978, respectively. In particular, the Shipping Coordinating Committee will discuss development of U.S. positions dealing with, inter alia, the following topics:

COUNCIL

Status of IMCO Convention.
Financial matters.
Personnel matters.

Report on arrangements for convening first session of the Assembly of the International Oil Pollution Fund.

Relations with the United Nations and other international organizations.

The chairman will entertain comments from the public as time permits.

Issued in Washington, D.C., on September 19, 1978.

JOHN LLOYD,
Chairman,
Shipping Coordinating Committee.

W. D. MARKLE, JR.,
Executive Director.

Year	Miles of reusable rail	Location
1980	155.35	Illinois, Iowa, Minnesota
1981	155.35	Illinois, Iowa, Minnesota
1982	155.35	Illinois, Iowa, Minnesota
1983	155.35	Illinois, Iowa, Minnesota
1984	155.35	Illinois, Iowa, Minnesota

[4910-59]

National Highway Traffic Safety Administration

Motor Vehicle Safety Standard No. 205, Glazing Materials

Petition for Rulemaking

This notice denies a petition for rulemaking to amend Motor Vehicle Safety Standard No. 205, Glazing Materials, to require that glazing materials meet the requirements of the American National Standard Z26.1-1977, "Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways."

The petition was submitted by Libbey-Owens-Ford Company. The petitioner stated that it passed certain requirements of Z26.1 incorporated by reference in standard No. 205.

One comment was received on the

Report on arrangements for convening first session of the Assembly of the International Oil Pollution Fund.
Relations with the United Nations and the Specialized Agencies.

LEGAL COMMITTEE

Discussion of new convention on strict liability for shipment of hazardous substances.
Relationship between, and liability of, shippers and carriers and possibility of a fund.

Further information may be obtained by writing to Capt. R. A. Biller, Chief, International Affairs Division, U.S. Coast Guard (G-AIA/83), 400 Seventh Street SW., Washington, D.C., or by calling (Area Code 202) 426-2280.

The chairman will entertain comments from the public as time permits.

JOHN LLOYD III,
Acting Director,
Office of Maritime Affairs.

SEPTEMBER 18, 1978.

[FR Doc. 78-26724 Filed 9-22-78; 8:45 am]

[4710-01]

SHIPPING COORDINATING COMMITTEE

NATIONAL COMMITTEE FOR THE PREVENTION OF MARINE POLLUTION

[Public Notice CM-8/108]

Meeting

The National Committee for the Prevention of Marine Pollution, a component of the Shipping Coordinating Committee (SHC), will conduct an open meeting at 9:30 a.m. on Tuesday, November 28, 1978 in Room 8236 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

The purpose of the meeting is to finalize preparations for the 10th session of the Marine Environment Protection Committee of the Intergovernmental Maritime Consultative Organization which is scheduled for December 4-8, 1978 in London. In particular, the National Committee will discuss development of U.S. positions dealing with inter alia, the following topics:

Provisions of reception facilities.
Oily-water separators and monitoring equipment.
Survey and certification.
Reporting system of incidents.
Anti-pollution measures.
Identification of the sources of discharged oil.

Interested persons may seek information by writing to Capt. R. A. Biller, Chief, International Affairs Division, U.S. Coast Guard (G-AIA/83), 400 Seventh Street, SW., Washington, D.C. 20590, or by calling (202) 426-2280.

The chairman will entertain comments from the public as time permits.

JOHN LLOYD,
Acting Director,
Office of Maritime Affairs.

SEPTEMBER 18, 1978.

[FR Doc. 78-26725 Filed 9-22-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD (78-131)]

CHEMICAL TRANSPORTATION ADVISORY COMMITTEE

Meeting of Subcommittee on Liquefied Gas Facilities

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. I) notice is hereby given of a meeting of the Chemical Transportation Advisory Committee's Subcommittee on Liquefied Gas Facilities to be held on Tuesday, October 24, 1978, beginning at 9 a.m., Room 8334, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. The agenda for this meeting is as follows:

The subcommittee will discuss plans for continuing its project of developing safety recommendations applicable to waterfront facilities that handle and store liquefied gases in bulk. On June 30, 1977, detailed recommendations covering liquefied natural gas (LNG) waterfront facilities were submitted to the Coast Guard. Subsequently, on August 3, 1978, the Coast Guard published in the FEDERAL REGISTER an advance notice of proposed rulemaking on LNG waterfront facilities. The notice incorporated many of the subcommittee's recommendations. The subcommittee will now focus on waterfront facilities that handle and store such products as liquefied petroleum gas (LPG), anhydrous ammonia, butadiene, and vinyl chloride.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements. Any member of the public may present a written statement to the subcommittee at any time. For additional information, contact:

Capt. William N. Spence, Commandant (G-MHM/83), U.S. Coast Guard, Washington, D.C. 20590, 202-426-2306.

For scheduling and for providing adequate seating, those wishing to present oral statements or attend the meeting should notify the above office no later than the day before the meeting.

Issued in Washington, D.C., on September 19, 1978.

W. D. MARKLE, Jr.,
Captain, U.S. Coast Guard,
Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 78-26818 Filed 9-22-78; 8:45 am]

[4910-06]

Federal Railroad Administration

[Docket No. RFA 511-78-2]

GUARANTEE OF OBLIGATIONS

Receipt of Application

Project: Notice is hereby given that the Chicago and North Western Transportation Co. ("applicant"), 400 West Madison Street, Chicago, Ill. 60606, has filed an application with the Federal Railroad Administration ("FRA") under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 ("4R Act"), 45 U.S.C. 831, to secure a commitment by the United States to guarantee obligations or other evidence of indebtedness to be issued by the applicant in the principal amount of $6,205,902. Although all loan arrangements have not been completed at this time, applicant proposes to provide FRA with a mortgage on its properties as security for the guarantee.

The application is filed by the applicant in conjunction with its prior application under docket No. RFA 505-78-1 for $120,770,000 in rehabilitation and improvement project financing under section 505 of the 4R Act. The terms of that project financing require the applicant to cover project costs with its own funds in an amount equal to an agreed value of railroad material which becomes available for reuse on other parts of applicant's rail system as work on that project progresses. The principal amount of the loan for which applicant seeks a guarantee in this application equals the computed value of such reusable railroad material as agreed to by the applicant and FRA.

The applicant plans to apply the reusable railroad material to its rail system in accordance with maintenance programs for 1978 through 1982 which applicant has submitted to FRA. These programs currently contain the following schedule for the reuse of rail by the applicant:

Year	Miles of reusable rail	Location
1978	111.75	Illinois, Iowa, Michigan, Minnesota, South Dakota, and Wisconsin.
1979	154.70	Iowa, Michigan, Nebraska, South Dakota, and Wisconsin.

Year	Miles of reusable rail	Location
1980	186.35	Illinois, Iowa, Minnesota, Nebraska, South Dakota, and Wisconsin.
1981	156.20	Iowa, Nebraska, South Dakota, and Wisconsin.
1982	169.50	Illinois, Iowa, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin.

Justification for Project: The applicant states that the loan will permit it to use reusable railroad material for implementation of its track maintenance and other maintenance programs. Accomplishment of these programs will, according to the applicant, meet demonstrable needs for rail service and provide improved service over its rail system.

Comments: Interested persons may submit written comments on the application to the Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590, not later than the comment closing date shown below. Such submission shall indicate the docket number shown on this notice and state whether the commenter supports or opposes the application and the reasons therefor.

To the extent permitted by law, the application will be made available for inspection during normal business hours in room 5415 at the above address of the FRA in accordance with the regulations of the Office of the Secretary of Transportation set forth in part 7 of title 49 of the Code of Federal Regulations.

The comments will be taken into consideration by the FRA in evaluating the application. However, formal acknowledgement of the comments will not be provided.

The FRA has not approved or disapproved this application, nor has it passed upon the accuracy or adequacy of the information contained herein.

(Sec. 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210), as amended.)

Dated: September 18, 1978.

Comment closing date: October 25, 1978.

CHARLES SWINBURN,
Associate Administrator for Federal Assistance, Federal Railroad Administration.

[FR Doc. 78-26841 Filed 9-22-78; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

[Docket No. IP77-16; Notice 2]

ARMORED VEHICLE BUILDERS, INC.

Decision on Petition for Determination of Inconsequential Noncompliance

This notice denies and grants in part the petition by Armored Vehicle Builders, Inc. of Pittsfield, Mass., to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act 15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.205, Glazing Materials. The basis of the petition was that the noncompliance was inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on March 16, 1978, and an opportunity afforded for comment (43 FR 11002).

Petitioner is a manufacturer of vehicles equipped with bullet resistant glazing materials. Standard No. 205 incorporates by reference the American National Standard "Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways," Z26.1-1966. Section S6 specifies that each piece of glazing must be marked, and lists the markings that must appear—manufacturer's distinctive designation or trademark, model number, and the character "AS" followed by a numeral, 1 to 13, depending upon which set of requirements apply to the glazing. Glazing material supplied the petitioner by General Electric Corp. for use in windshield and front door windows was not marked AS-1, the type required. This type of material, termed "1¼ inch Lexgard" was successfully tested for compliance on March 16, 1977, with the performance requirements of standard No. 205, according to petitioner. Unmarked glazing was used in 108 armed vehicles manufactured between November 1975 and August 15, 1977, constructed on Ford Econoline E350 vans, GMC Vandura vans, "and a few speciality vehicles for local and Federal use."

In notice 1, NHTSA noted that it had a different view of petitioner's problem, stemming from an investigation (CIR file 1712) of petitioner's compliance with standard No. 205. Some of the unmarked glazing was used as windshields. A rigid plastic material such as Lexgard may not be used as windshield under standard No. 205 as it must have outside surface glass. Therefore, with respect to some of the glazing, the marking issue is secondary to that of improper use. The ETL report to which petitioner referred did not state that Lexgard complies with standard No. 205, only that it passed certain requirements of Z26.1 incorporated by reference in standard No. 205.

One comment was received on the petition, from the California Highway Patrol which opposed it. In addition petitioner submitted its views of the advantages of using "Lexan" plastic as a ballistics shield.

California concurred with the agency's view that the primary problem is the use of plastic material as windshields. It expressed concern that the normal use of various window-cleaning devices and the use of such a window-cleaning material as undiluted denatured alcohol would, in all probability, degrade the plastic glazing. The agency's review of the matter has led it to conclude that the marking problem and the apparent noncompliance of glazing use arose though carelessness, and that the abrasion of plastic windshields over time will decrease driver visibility and other optical properties, with the potential of creating a safety hazard. This potential for degradation cannot be termed inconsequential. The marking issue therefore becomes either moot or unimportant with respect to glazing used on vehicle windshields.

Accordingly the agency has decided to deny in part and grant in part the petition by Armored Vehicle Builders, Inc. With respect to glazing used as windshields, petitioner has not met its burden of persuasion that the marking failure is inconsequential as it relates to motor vehicle safety and its petition with respect to vehicles using "Lexgard" as windshields is hereby denied. Its petition, however, is granted with respect to those vehicles using unmarked "Lexgard" in area not requisite for driving visibility.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on September 20, 1978,

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-26846 Filed 9-22-78; 8:45 am]

[4810-35]

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1978; Rev., Supp. No. 4]

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

Continental Surety and Fidelity Insurance Co.

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under sections 6 to 13 of title 6 of the United States Code. An underwrit-

ing limitation of $45,000 has been established for the company.

NAME OF COMPANY, BUSINESS ADDRESS, AND

subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed

tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks ac-

ury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in

in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and

delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

ing limitation of $45,000 has been established for the company.

NAME OF COMPANY, BUSINESS ADDRESS, AND STATE IN WHICH INCORPORATED

Continental Surety and Fidelity Insurance Co., 2590 West Main Street, Littletown, Colo. 80120.

Certificates of authority expire on June 30 each year, unless sooner revoked, and new certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in department circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: September 14, 1978.

D. A. PAGLIAI,
Commissioner, Bureau of Government Financial Operations.

[FR Doc. 78-26716 Filed 9-22-78; 8:45 am]

[4810-40]

Office of the Secretary

[Public Debt Series No. 23-78]

TREASURY BONDS OF 1993

Invitation for Tenders

SEPTEMBER 20, 1978.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $1.5 billion of U.S. securities, designated Treasury Bonds of 1993 (CUSIP No. 912810 CD 8). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued for cash to Federal Reserve banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated October 10, 1978, and will bear interest from that date, payable on a semiannual basis on May 15, 1979, and each subsequent 6 months on November 15 and May 15, until the principal becomes payable. They will mature on November 15, 1993, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1 million. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing U.S. securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve banks and branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., eastern daylight saving time, Wednesday, September 27, 1978. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, September 26, 1978.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1 million.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowing on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a 1/8 of 1 percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 96.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Tuesday, October 10, 1978, at the Federal Reserve bank or branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing U.S. securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Thursday, October 5, 1978, if the check is drawn on a bank in the Federal Reserve district of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Wednesday, October 4, 1978, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve bank or branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve bank or branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

[FR Doc. 78-26831 Filed 9-20-78; 2:17 pm]

[8320-01]

VETERANS ADMINISTRATION

VOLUNTARY SERVICE NATIONAL ADVISORY COMMITTEE

Meeting

The Veterans Administration gives notice that the annual meeting of the Veterans Administration Voluntary Service National Advisory Committee, composed of representatives of 44 national voluntary organizations, will be held at the Dupont Plaza Hotel, Connecticut and Massachusetts Avenues NW., Washington, D.C., October 25-27, 1978.

Registration of the conferees and preliminary meetings on procedural matters will be held beginning at 8:30 a.m. on October 25, 1978. The meeting will officially convene with a Plenary session at 9 a.m., October 26, in the Embassy Hall of the hotel and will conclude at noon on October 27, 1978.

The purposes of the meeting are to instruct committee members and officials of their organizations in obligations they have accepted for volunteer recruitment, communications and program interpretation, and to seek the advice of the committee in further developing volunteer participation in the care and treatment of veteran patients throughout the Agency's nationwide medical program.

Dated: September 15, 1978.

MAX CLELAND,
Administrator.

[FR Doc. 78-26826 Filed 9-22-78; 8:45 am]

[1505-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 167]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-26188 appearing on page 41454 in the issue of Monday, September 18, 1978, on page 41455, the last paragraph, the application

number should read as follows, "MC 124692 (Sub-78TA), • • • ."

[7035-01]

July 15, 1959, and January 22, 1968, respectively; and the operating rights as set forth in certificate MC 3470 issued

[Finance Docket No. 28727 (Sub-1F)]

Interested persons may participate formally in a proceeding by submitting written comments regarding the appli-

number should read as follows, "MC 124692 (Sub-78TA), • • • ."

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 109]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the applications, which may include a request for oral hearing, must be filed with the Commission on or before October 25, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

REPUBLICATION

MC-FC-77742, filed August 31, 1978. Transferee: GENERAL FREIGHTS, INC., P.O. Box 157, Hancock, MD 21750. Transferor: Hagerstown Motor Express Co., Inc., Route No. 6, Middleburg Pike, Hagerstown, MD 21740. Representative: Edward N. Button, Esq., 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Authority sought for purchase by transferee of the operating rights of transferor as set forth in certificates MC 62499 and (Subs-3, -5, and -7), issued December 13, 1954, August 1, 1957, July 15, 1959, and January 22, 1968, respectively; and the operating rights as set forth in certificate MC 3470 issued to the Fleet Transfer Co. July 26, 1940, and acquired by transferor in MC-F-12890, approved April 6, 1977, and consummated May 9, 1977, as follows: *General commodities* between Hagerstown, MD and Baltimore, MD; *specified commodities* between Hagerstown, MD and Washington, DC, between Hagerstown and Baltimore, MD, and between Hagerstown, MD and Newville, PA; *grain, grain products, animal or poultry feed, etc.*, between Hagerstown, MD on the one hand, and, on the other, points in MD, VA, PA, and the DC within 75 miles of Hagerstown; *Household goods* between specified points in PA and MD; *new uncrated furniture, fixtures, etc.*, used in stores and bars from Baltimore, MD to points in MA, CT, RI, NY, NJ, DE, PA, MD, WV, VA, NC, SC, GA, FL, and DC; *general commodities*, with exceptions, between points in Frederick County, MD, and between Baltimore, MD on the one hand, and, on the other, points in Frederick County, MD; and *general commodities* between Baltimore, MD and Washington, DC. This corrects the notice of August 31, 1978, by deleting MC 62499 (Sub-6 and -11), and adding the authority set forth in MC 3470.

MC-FC-77805, filed August 8, 1978. Transferee: BRADLEY J. FAGERLAND, Route 2, Ellsworth, WI 54011. Transferor: Timothy P. Huppert, Route 2, Ellsworth, WI 54011. Representative: James T. Flescher, Practitioner, 1745 University Avenue, St. Paul, MN 55104. Authority sought for purchase by transferee of the operating rights of transferor in certificate MC 64897 (Sub-1) issued October 18, 1976, as follows: *Farm machinery, twine, feed, etc.*, from St. Paul and South St. Paul, MN to specified points in WI; *grain* from the above-specified WI points to Red Wing and Lake City, MN; and *livestock* between points in the above-specified WI points on the one hand, and, on the other, South St. Paul and Newport, MN. Transferee presently holds no authority from this Commission. Application for temporary authority under section 210a(b) has not been filed.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26856 Filed 9-22-78; 8:45 am]

[7035-01]

[Finance Docket No. 28727 (Sub-1F)]

NATIONAL RAILWAY UTILIZATION CORP.—CONTROL—PENINSULA TERMINAL CO.

Notice of Application

National Railway Utilization Corp. (NRUC), 1100 Centre Square East, 1500 Market Street, Philadelphia, Pa. 19102, represented by Andrew P. Goldstein, 706 Ring Building, 1200 Eighteenth Street NW., Washington, D.C. 20036, hereby give notice that on the 31st day of August, 1978, it filed with the Interstate Commerce Commission at Washington, D.C., an application under section 5(2) of the Interstate Commerce Act for a decision approving and authorizing NRUC, a class III common carrier by railroad, to purchase all of the outstanding common stock of Peninsula Terminal Co. (PTC), a class III switching railroad operating 1.3 miles of track at Portland, Oreg., from United Stockyards Corp. (USC), a class III, non-operating carrier engaged primarily in business activities totally unrelated to railroad operations. Through this transaction, NRUC would obtain 100 percent control of PTC.

Approval of the proposed transaction will be to remove PTC from the control of USC, which is no longer interested in controlling or developing an operating railroad, and to place that control in NRUC, which is actively engaged in short-line railroad operations, including the dissemination of general purpose boxcars bearing short-line railroad markings. It is anticipated that control of PTC by NRUC will improve the financial viability of both PTC and NRUC, and will be consistent with and in the public interest by placing PTC under the control of a profitable operating carrier willing and able to devote its full time railroad expertise and resources to the management and operation of PTC.

In the opinion of the applicant, the granting of the authority sought will not consititute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969*, 352 ICC 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra*, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation finance docket No. 28727 (Sub-No. 1F) and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than 45 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. Such a written comment shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-26855 Filed 9-22-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1
Commodity Futures Trading Commission	2
Federal Energy Regulatory Commission	3, 4
Federal Home Loan Bank Board	5
International Trade Commission	6
Legal Services Corporation	7
National Railroad Passenger Corporation	8
Renegotiation Board	9, 10
Securities and Exchange Commission	11

[6320-01]

1

[M-164, Amdt. 4; Sept. 19, 1978]

CIVIL AERONAUTICS BOARD.

Notice of deletion and addition of items to the September 20, 1978, meeting agenda.

TIME AND DATE: 10 a.m., September 20, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

7a. Tradewinds Airways Ltd.; Petition for review of staff action denying authority under Part 375 to operate two cargo charter flights (BIA, OGC).

Delete: 7. Docket 30332, IATA agreements proposing varying increases in North Atlantic cargo rates through September 30, 1979, to compensate for cost increases. Pan American and TWA support the agreements in their entirety while Seaboard supports the increases with some exceptions. Both the Air Freight Forwarders Association and the Ad Hoc Committee for the Development of Air Freight oppose some of the structural aspects of the agreements (Memo 8176, BPDA, BIA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: By telegraphic request received on September 5, 1978, Tradewinds requested permission to operate two cargo flights on September 23 and 24. The staff denied the request under delegated authority on September 14 and a petition for review of staff action has been filed. The Board meeting scheduled for Wednesday, September 20, 1978, is the last remaining public meeting prior to the scheduled departure date of the flights. Item 7 is being deleted because this subject was necessarily distributed too late for full consultation and coordination by the staff. Accordingly, the following Members have voted that agency business requires the addition of item 7a and the deletion of item 7 and that no earlier announcement of these changes was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-1932-78 Filed 9-21-78; 11:16 am]

[6351-01]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., September 29, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1939-78 Filed 9-21-78; 3:37 pm]

[6740-02]

3

SEPTEMBER 20, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m. September 27, 1978.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

POWER AGENDA—163RD MEETING, SEPTEMBER 27, 1978, REGULAR MEETING

CAP-1. Docket No. ER76-530, et al., Arizona Public Service Co.
CAP-2. Docket No. ER78-589, Idaho Power Co.
CAP-3. Docket Nos. ER78-583 and ER78-584, Mississippi Power & Light Co.
CAP-4. Docket No. ER78-504, Detroit Edison Co.
CAP-5. Docket No. ER77-474, Wisconsin Public Service Corp.
CAP-6. Docket No. ES78-50, El Paso Electric Co.
CAP-7. Docket No. ES78-51, Gulf States Utilities Co.
CAP-8. Docket No. ES78-52, Northwestern Public Service Co.
CAP-9. Docket No. ES78-55, Pacific Power and Light Co.
CAP-10. Docket No. E-7561, Project Nos. 1904, 1855, and 1892, New England Power Co.

I. ELECTRIC RATE MATTERS

ER-1. (A) Docket No. ER78-417, Kentucky Utilities Co. (B) Docket Nos. ER78-417 and EL78-22, Kentucky Utilities Co.
ER-2. Docket Nos. ER78-293, ER78-298, and ER78-302, Illinois Power Co.
ER-3. Docket No. ER78-494, Pennsylvania Electric Co.
ER-4. Docket No. ER76-495 (Phase II), Carolina Power & Light Co.
ER-5. Docket Nos. E-9499 and E-9502, Minnesota Power & Light Co. Docket No. ER76-20, Superior Water, Light & Power Co.
ER-6. Docket Nos. ER76-469 and ER76-508, Idaho Power Co.
ER-7. Docket No. ER78-304, Boston Edison Co.
ER-8. Docket No. ER76-539, Missouri Power & Light Co.
ER-9. Docket Nos. ER78-19 (Phase I) and ER78-81, Florida Power & Light Co.
ER-10. Docket Nos. ER76-39, ER76-340, and ER76-363, Kansas Power & Light Co.
ER-11. Docket Nos. ER76-304, ER76-317, and ER76-498, New England Power Co.
ER-12. Docket No. ER77-278, Arkansas Power & Light Co.
ER-13. Docket No. ER76-205, Southern California Edison Co., Docket No. E-7777 (Phase II), Pacific Gas & Electric Co., Docket No. E-7796, Pacific Gas & Electric Co.
ER-14. Docket No. ES78-40, Montana-Dakota Utilities Co.

MISCELLANEOUS AGENDA—163D MEETING, SEPTEMBER 27, 1978, REGULAR MEETING

CAM-1. Metropolitan Edison Co.
CAM-2. Secretary of Energy's proposed regulations regarding emergency standby mandatory crude oil and refinery yield control programs.
M-1. Docket No. RM78-10, procedures for review by the Federal Energy Regulatory Commission of remedial orders issued by the Secretary of Energy.
M-2. Docket No. R-441, revision in section 2.75 of title 18 of the Code of Federal Regulations to amend optional procedure requirements.
M-3. Docket No. RM78-14, revision in section 2.56a, section 154.94, and section 260.6 of title 18 of the Code of Federal Regulations to eliminate certain rate change filing requirements.
M-4. Docket No. RM78- , applications for certificates of public convenience and necessity and for orders permitting and approving abandonment under section 7 of the Natural Gas Act.
M-5. Docket No. RM78- , policy with respect to the amendment of certificates to conform to actual construction.
M-6. Suggested procedures to simplify pipeline certificate agenda.

GAS AGENDA—163D MEETING, SEPTEMBER 27, 1978, REGULAR MEETING

CAG-1. Docket No. RP73-91 (PGA78-4), McCulloch Gas Corp.
CAG-2. Docket Nos. RP78-50, RP72-154, (PGA78-3), RP74-72 (DCA78-2), RM77-14, Northwest Pipeline Corp.
CAG-3. Docket Nos. RP72-155 and RP78-18 (PGA78-2), El Paso Natural Gas Co.
CAG-4. Docket No. RP72-157 (PGA78-12), Consolidated Gas Supply Corp.
CAG-5. Docket No. CP73-329 (PGA Nos. 78-7 and 78-8), Chattanooga Gas Co.
CAG-6. Docket No. RP78-84, Raton Natural Gas Co.
CAG-7. Docket No. RP76-135, Cities Service Gas Co.
CAG-8. Docket No. RI77-128, Herbert S. Woods & Associates.
CAG-9. Docket No. RI77-70, Interstate Drilling, Inc. (operator).
CAG-10. (A) Docket No. RI76-124, Glen E. Jeffrey. (B) Docket No. RI77-38, Mesa Petroleum Co.
CAG-11. Docket No. CS73-380, Watson Oil Co., Watson Petroleums Exploration, Inc., and Watson Petroleums Exploration, Ltd.
CAG-12. Docket No. CI78-574, Transwestern Gas Supply Co. Docket No. CI77-515, Transco Exploration Co. Docket No. CI78-1002, Southland Royalty Co. Docket No. CI78-363, Mesa Petroleum Co. Docket Nos. CS78-265, et al., Gene McDaniel, et al. Docket No. CI78-979, The Louisiana Land & Exploration Co. Docket No. CI78-430, J. M. Huber Corp. Docket No. CI69-262, Exxon Corp. Docket No. CI78-997, Cotton Petroleum Corp. Docket Nos. CS77-87, et al., Cordillera Corp. et al. Docket No. CI78-906, Cities Service Co. Docket Nos. CI77-133, CI77-483, CIG Exploration, Inc. Docket No. CS78-300, Thomas R. Cambridge and A. L. Nail d.b.a. Cambride & Nail. Docket No. CI78-146, Belco Petroleum Corp. Docket No. G-3894, et al., Atlantic Richfield Co., et al. Docket No. CI78-426, Continental Oil Co. Docket No. CI78-427, Farmland International Energy Co. Docket No. CI78-556, Cotton Petroleum Corp. Docket No. CI78-778, American Petrofina Co. of Texas. Docket No. CI78-871, American Natural Gas Production Co. Docket Nos. CS77-364, et al., George J. Ablah, d.b.a. Little George Oil Co. & Magnum Land Corp. (formerly George J. Ablah d.b.a. Little George Oil Co.) et al.
CAG-13. Docket No. CI78-1032, Rex Oil & Gas Co.
CAG-14. Docket Nos. G-5045, et al., Shell Oil Co., et al.
CAG-15. Docket Nos. G-4547, et al., Atlantic Richfield Co., et al.
CAG-16. Docket No. CP78-34, Transcontinental Gas Pipe Line Corp. Docket No. CP78-84, United Gas Pipe Line Co.
CAG-17. Docket No. CP78-421, Texas Gas Transmission Co. and Tennessee Gas Pipeline Co., a division of Tenneco, Inc.
CAG-18. Docket No. CP78-455, Arkansas Louisiana Gas Co.
CAG-19. Docket No. CP78-377, Consolidated Gas Supply Corp., Texas Eastern Transmission Corp.
CAG-20. Docket No. CP78-49, Transcontinental Gas Pipe Line Corp.
CAG-21. Docket No. CP77-280, Transcontinental Gas Pipe Line Corp. Docket No. CP77-358, Texas Gas Transmission Corp.
CAG-22. Docket No. CP78-220, Northwest Pipeline Corp. Docket No. CP78-259, RMNG Gathering Co. Docket No. CP78-389, Rocky Mountain Natural Gas Co., Inc.
CAG-23. Docket No. CP72-300, Consolidated Gas Supply Corp. and Columbia Gas Transmission Corp.
CAG-24. Docket No. CP78-476, Transcontinental Gas Pipe Line Corp.
CAG-25. Docket No. CP76-379, Colorado Interstate Gas Co.
CAG-26. Docket No. RP75-79, *Lehigh Portland Cement Co.*v. *Florida Gas Transmission Co.*

I. PIPELINE RATE MATTERS

RP-1. Docket No. RP78-87, Texas Eastern Transmission Corp.
RP-2. Docket No. RP78-88, Transwestern Pipeline Co.
RP-3. Docket Nos. RP71-18, et al., and RP-73-85, Columbia Gas Transmission Corp.
RP-4. Docket No. RP78-72, Algonquin Gas Transmission Co.
RP-5. Docket No. RP74-85 (PGA78-2), Western Gas Interstate Co.
RP-6. Docket No. RP74-100 (PGA78-8), National Fuel Gas Supply Corp.
RP-7. Docket Nos. AR61-2, et al., and AR69-1, Area Rate Proceeding et al. (Southern Louisiana Area).
RP-8. Docket No. RP76-31, Louisiana-Nevada Transit Co.

II. PRODUCER CERTIFICATE MATTERS

CI-1. Docket No. CI75-45, Tenneco Oil Co. Docket Nos. CI75-107 and CI75-684, Shell Oil Co.

III. PIPELINE CERTIFICATE MATTERS

CP-1. Docket No. CP78-272, The Brooklyn Union Gas Co. Docket Nos. CP77-495, et al., Transcontinental Gas Pipe Line Corp.
CP-2. Docket No. CP77-363, Columbia Gas Transmission Corp., National Fuel Gas Supply Corp.
CP-3. Docket No. CP76-492, National Fuel Gas Supply Corp., National Gas Storage Corp.
CP-4. Docket No. CP74-317, et al., Great Lakes Gas Transmission Co.
CP-5. Docket No. ——, The Montana Power Co.
CP-6. Docket No. CP77-413, Algonquin LNG, Inc., Algonquin Gas Transmission Co. Docket No. CP78-256, Algonquin LNG, Inc., Algonquin Gas Transmission Co.

KENNETH F. PLUMB, *Secretary.*

[S-1934-78 Filed 9-21-78; 11:16 am]

[6740-02]

4

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published September 25, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., September 27, 1978.

CHANGE IN THE MEETING:

Item No., Docket No., and Company

ER-15.—ER78-536, Duke Power Co.
M-7.—July 31, 1978, Comptroller General's report to the Congress "Liquefied Energy Gases Safety."
CI-2.—CI77-412, Phillips Petroleum Co.
CP-7.—CP76-85, et al., Algonquin Gas Transmission Co.

KENNETH F. PLUMB, *Secretary.*

[S-1940-78 Filed 9-21-78; 3:37 pm]

[6720-01]

5

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 179, September 14, 1978, page 41159.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., September 20, 1978.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

CHANGES IN THE MEETING: The following item has been withdrawn from the agenda for the open meeting:

Proposed Regulations Regarding Forward Commitments to Purchase Securities.

No. 185, September 20, 1978.

RONALD A. SNIDER, *Assistant Secretary.*

[S-1941-78 Filed 9-21-78; 3:37 pm]

[7020-02]

6

Issued: September 21, 1978.

THOMAS EHRLICH, *President.*

eral Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

A closed meeting will be held on Thursday, September 21, 1978, immediately following the open meeting scheduled for 2:30 p.m.

[7020-02]

6

[USITC SE-78-48]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, October 4, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public.

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
6. Fiscal year 1980 budget.
7. Any items left over from previous agenda.

Portions closed to the public.

5. Status report on Investigation 332-101 (MTN).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1936-78 Filed 9-21-78; 11:16 am]

[6820-85]

7

LEGAL SERVICES CORPORATION (COMMITTEE ON APPROPRIATIONS AND AUDIT).

TIME AND DATE: 10 a.m., Thursday, September 28, 1978.

PLACE: Seventh floor conference room, Legal Services Corporation, 733 15th Street NW., Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Adoption of agenda.
2. Approval of minutes of previous meetings: (a) April 4, 1978 and (b) June 19, 1978.
3. Status of the annual audit.
4. Status of the fiscal year 1978 budget.
5. Proposed allocation of the fiscal year 1979 budget.
6. Discussion of the fiscal year 1980 budget request.
7. Status of the financial management improvement program.
8. Agreement with Treasury Department for disbursement of fiscal year 1979 appropriation.
9. Other business.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Dellanor Young, Office of the President, telephone 202-376-5100.

Issued: September 21, 1978.

THOMAS EHRLICH,
President.

[S-1942-78 Filed 9-21-78; 3:37 pm]

8

NATIONAL RAILROAD PASSENGER CORPORATION.

BOARD OF DIRECTORS MEETING
ADDITIONAL AGENDA ITEM FOR MEETING

In accordance with rule 4d. of appendix A of the bylaws of the National Railroad Passenger Corporation, notice is given that the following item will be added to the agenda for the Board of Directors meeting of September 27, 1978: 9. Approval of Consulting Contract.

Board members Adams, Boyd, Edwards, Head, Jacobs, Langdon, Luna, Mills, and Quinn, determined by recorded vote that the business of the Corporation requires the change in subject matter by addition of the agenda item, and affirmed that no earlier announcement of the change was possible, and directed the issuance of this notice at the earliest practicable time. Board members Dunlop, Nathan, and Neel could not be reached for the vote on September 20, 1978.

The revised agenda to be discussed at the meeting follows:

AGENDA—NATIONAL RAILROAD PASSENGER CORPORATION

MEETING OF THE BOARD OF DIRECTORS, SEPTEMBER 27, 1978

Closed session (10:15)

1. Internal personnel matters.
2. Litigation matters.

Open session (11:15).

3. Approval of minutes of regular meeting of August 30, 1978.
4. Election of Corporate officers.
5. Delegation of authority.
6. Resolution authorizing the exchange of real estate.
7. Commitment approval requests:
   77-265-S1. Overhaul and modification of metroliners.
   77-266-S1. Purchase of 15 new lightweight electric locomotives.
   78-136. Replacement and additional equipment, Wilmington maintenance facility.
   78-138. Upgrade seven ARS-16 locomotives.
   78-146. Construct self-contained station—Pittsburgh, Pa.
8. Capital budget fiscal year 1979.
9. Approval of consulting contract.
10. Southern Crescent service.
11. Board Committee reports: Equipment, Northeast Corridor Improvement Project, Organization and Compensation, and Planning and Finance.
12. President's report.
13. New business.
14. Adjournment.

Inquiries regarding the agenda for the September 27, 1978, Board meeting should be directed to the Corporate Secretary at 202-383-3973.

Dated: September 20, 1978.

ELYSE G. WANDER,
Corporate Secretary.

[S-1933-78 Filed 9-21-78; 11:16 am]

[7910-01]

9

THE RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 42101, September 19, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Thursday, September 28, 1978; 10 a.m.

CHANGE IN MEETING: Matters 6 through 14 are added to the previously announced agenda:

MATTERS TO BE CONSIDERED:

6. Recommended determination of excessive profits: ESL Inc., fiscal year ended December 31, 1974.
7. Recommended determination of clearance: OEA, Inc., consolidated with: Mathewson Tool Co., Explosive Technology, Inc., Aerotest Operations, Inc., Pyrotechnics Devices, Inc., and Hi-Gear Manufacturing Co., Inc., fiscal years ended July 31, 1974 and 1975.
8. Request for special accounting agreement: University Computing Co., SII to: Computer Technology, Inc., fiscal years ended December 31, 1970, 1971, and 1972.
9. Recommended determination of excessive profits: Kings Point Industries, consolidated with: Kings Point Manufacturing Co., Inc., fiscal years ended April 30, 1969, 1970 and 1971, affiliated with: Victory Enterprises, Inc., fiscal year ended September 30, 1969.
10. Recommended determination of excessive profits: OEA, Inc., consolidated with: Mathewson Tool Co., Matco Equipment Corp., and Explosive Technology, Inc., fiscal years ended July 31, 1970, 1971, 1972, and 1973.
11. Recommended determination of excessive profits: OSO Corp., fiscal year ended October 31, 1973.
12. Court of Claims Case: *Republic Corporation v. United States*, Court of Claims No. 64-76.
13. Request for:
   (A) Statement of facts and reasons,
   (B) Extension of time for payment of order,
   (C) Concurring and dissenting opinions, and
   (D) Special accounting agreement for fiscal year 1973 and subsequent years, Vinnell Corp., fiscal year ended December 31, 1972.
14. Discussion of personnel matters.

STATUS: Matters 6 through 11 are open to public observation. Matters 12 through 14 are closed to public observation.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: September 20, 1978.

GOODWIN CHASE,
Chairman.

[S-1937-78 Filed 9-21-78; 11:16 am]

[7910-01]

10

THE RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, October 3, 1978; 10 a.m.

PLACE: Conference room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 and 2 are open to public observation. Matters 3 and 4 are not applicable for status.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held September 28, 1978, and other Board meetings, if any.
2. Partial mandatory exemption of new durable productive equipment; Allis Chalmers Mfg. Co., fiscal year ended December 31, 1975.
3. Approval of agenda for meeting to be held October 10, 1978.
4. Approval of agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: September 20, 1978.

GOODWIN CHASE,
Chairman.

[S-1938-78 Filed 9-21-78; 11:16 am]

[8010-01]

11

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 41161, September 11, 1978.

STATUS: Closed meeting and open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

The following additional item was considered by the Commission at the closed meeting on Wednesday, September 20, 1978:

Regulatory matter bearing enforcement implications.

A closed meeting will be held on Thursday, September 21, 1978, immediately following the open meeting scheduled for 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for calendared matters may be present.

The subject matter of the closed meeting scheduled for Thursday, September 21, 1978, immediately following the open meeting scheduled for 2:30 p.m., will be:

Regulatory matter bearing enforcement implications.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items considered, or to be considered, at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required consideration of these matters and that no earlier notice thereof was possible.

SEPTEMBER 20, 1978.

[S-1935-78 Filed 9-21-78; 11:16 am]

V 43 / 186 SE 25 78 V 4

MONDAY, SEPTEMBER 25, 1978
PART II

V 43/186
SE 25 78
V 4

federal register

MONDAY, SEPTEMBER 25, 1978
PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

■

GRANTS FOR ADVANCED NURSE TRAINING PROGRAMS

Final Regulations

[4110-83]

Title 42—Public Health

ters were received during the comment period from nursing professional and educational associations, collegiate

toring systems and complex treatment methods point to the need for nurses with advanced preparation in this spe-

4. Individuals between adolescence and old age (adult nursing).
5. Individuals who are seriously ill and in-

posed to encourage graduates to practice in States in need of nurses in the specialty in which training is to be

training grants. The Department cannot accept these suggestions, however, because the statute specifies that

V 43 / 186 SEP 25 78

[4110-83]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS AND STUDENT LOANS

Subpart Z—Grants for Advanced Nurse Training Programs

AGENCY: Public Health Service, HEW.

ACTION: Final regulations.

SUMMARY: These regulations set forth requirements for grants to public and nonprofit private collegiate schools of nursing to meet the costs of projects to plan, develop, and operate, significantly expand, or maintain existing programs for the advanced training of professional nurses.

EFFECTIVE DATE: These regulations are effective September 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Miss Edith Rathbun, Special Assistant to the Director, Division of Nursing, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 3-50, 3700 East-West Highway, Hyattsville, Md. 20782, phone 301-436-6684.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of January 24, 1978 (43 FR 3344), the Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, proposed to amend part 57 by adding a new subpart Z to implement section 821 of the Public Health Service Act (42 U.S.C. 2961) as added by the Nurse Training Act of 1975, title IX of Pub. L. 94-63. That section authorizes the Secretary of Health, Education, and Welfare to award grants to public and nonprofit private collegiate schools of nursing to meet the costs of projects to: (1) Plan, develop, and operate, (2) significantly expand, or (3) maintain existing programs for the advanced training of professional nurses to teach in the various fields of nurse training, to serve in administrative or supervisory capacities, or to serve in other professional nursing specialities (including service as nurse clinicians) determined by the Secretary to require advanced training.

Interested persons were invited to participate in the rulemaking process by submitting comments on or before February 23, 1978. More than 200 letters were received during the comment period from nursing professional and educational associations, collegiate schools of nursing, and other interested organizations and individuals.

Comments were mainly directed to three features of the proposed regulations on which the Department had specifically invited comment. The features were: (1) The six clinical specialties proposed to require advanced training and eligible for support under § 57.2502; (2) the three clinical specialties proposed to receive preference in funding under § 57.2506; (3) criteria relating to geographic distribution in the evaluation of grant applications under § 57.2506. These features reflected proposed changes from earlier policies under which grants for these advanced nurse training projects were awarded.

Comments concerning the designation of the six clinical specialties and the further designation of three of them for preference in funding generally addressed both issues together. The comments were virtually all critical. A number of comments opposed identifying clinical specialties altogether, stating that there is a need for nurses prepared at the graduate level in all clinical specialties and that the proposed approach was not sufficiently flexible to enable and encourage development of graduate nursing curricula based on new models and concepts of nursing care. Others felt that determining clinical specialty areas that require advanced nurse training should be left by the Secretary to the nursing education community. Other comments, while not rejecting the proposed approach entirely, questioned the Secretary's choice of specialties, suggesting that others such as psychiatric nursing be included, and requested an explanation of how the proposed specialties were chosen.

The Secretary recognizes that there may be a general need for nurses with advanced preparation in all clinical specialties. However, due to the limited funds available for this program, the Secretary has elected to support six clinical specialties which reflect areas of significant and growing health care need. Therefore, in addition to the advanced training specialties in teaching and administration as specified in the statute, six clinical areas have been designated for support under this authority.

The six areas are geriatric, community health, maternal-child, adult, acute care, and medical-surgical. Recent trends in the increased utilization of the nurse clinical specialist in the hospital setting highlight the importance attached to nurses with advanced preparation in the medical-surgical area. In acute and intensive care settings the use of sophisticated monitoring systems and complex treatment methods point to the need for nurses with advanced preparation in this special area of practice. Support for advanced preparation in adult nursing is considered essential to obtain an adequate supply of nurses to provide highest quality care to the vast segment of the population between adolescence and old age.

Preference in funding will be given to programs in geriatric nursing, community health nursing and maternal-child nursing. The Secretary is especially concerned about care for the increasing percentage of older Americans; improving health care for infants and children; increasing the amount of community-based care to improve access to treatment and preventive services and to reduce health care costs. In this regard, the Congress has made the achievement of equal access to quality health care at reasonable cost a priority of the Federal Government, and has determined that large segments of the public are lacking in basic knowledge regarding proper personal health care and methods for effective use of available health services.[1] Consequently, the Secretary thinks it is desirable, to the extent possible, to focus limited Federal moneys in areas that will respond to these particular pressing and future health care needs, and in this case to give preference to supporting grants to advanced nurse training programs in these three areas of high Department priority. The Department has clearly been on record in support of major initiatives which address needs in geriatric, community health, and maternal-child health care. Obtaining an adequate nurse training capacity in these areas represents a pivotal step to assure success in meeting these respective health care objectives.

Several commenters asked for definitions for the six specialties listed in the proposed regulations, in particular adult nursing and community health nursing. The Department agrees that further guidance in this regard would be beneficial, but believes that definitive, or highly detailed definitions could limit eligibility unnecessarily. Consequently, the designated clinical specialties incorporate preventive, curative, and rehabilitative aspects of nursing care, and apply technical, interpersonal analytical, and organizational skills to:

1. The aged (geriatric nursing).
2. Communities, and problems of health as they affect communities (community health nursing).
3. The reproductive family and children from birth through adolescence (maternal-child nursing).
4. Individuals between adolescence and old age (adult nursing).
5. Individuals who are seriously ill and injured, including those in intensive care and coronary care units (acute care nursing).
6. Individuals with medical conditions, or with conditions requiring surgical intervention (medical-surgical nursing).

These grants for advance training will prepare nurses to function in leadership positions in a variety of health care settings. The Secretary is aware that these specialties are not mutually exclusive, but believes their breadth will permit flexibility in determining eligibility for this grant assistance. It should be understood that the title or designation given by an institution to a particular advanced nurse training program will not be the determining factor in establishing eligibility for this support. Instead, the Secretary intends that an individual determination be made that the proposed training program is within the listed specialties based on a review of the training described in the application and the school catalog.

It should be noted that the designation of clinical specialties in these regulations is a limitation only on programs which may receive Federal funding under this authority. It does not preclude schools from developing advanced training programs in other clinical specialties.

The preamble to the proposed regulations indicated that the proposed clinical specialty restrictions would apply not only to proposed new grants, but would also apply to the continuation of funding of previously approved projects. Many comments were received which opposed this proposal, noting that any modification or change in the original program purposes would be disruptive to schools, faculty, and students. The majority of these respondents noted that students would be unable to complete their course of studies and that grantees would be unable to meet contractual commitments to faculty and clinical practice sites.

The Secretary has reconsidered this provision in view of these comments and agrees with the concerns expressed. Consequently, a footnote is added to § 57.2503 making continuation support available for grants awarded prior to the effective date of these regulations for training which is not in any of the six specialty areas designated in § 57.2502.

With respect to the evaluation of grant applications, many comments questioned the proposed inclusion of criteria relating to the degree to which an applicant proposes to recruit students from States in need of nurses in the specialty in which training is to be provided, to promote their return to these States following training, and the degree to which an applicant proposed to encourage graduates to practice in States in need of nurses in the specialty in which training is to be provided. The main concerns expressed by these comments were the absence of available data for all States to determine need, the requirements of many public institutions for intrastate or local recruitment, and the possible adverse effect on affirmative action and minority recruitment programs. Commenters also pointed out that graduate schools enroll students from all over the country and that the subsequent employment of graduates is equally diverse and dependent upon availability of positions, appropriate utilization, and salary. The Secretary recognizes the many difficulties inherent in attempting to respond to problems of geographic maldistribution of health manpower personnel. However, the Department has placed a high priority on efforts to correct this maldistribution. The Secretary believes that active steps must be taken to focus departmental programs toward meeting geographic concerns, and that otherwise qualified applicants that propose an extra measure of outreach—through targeted recruiting from States in need of nurses, and through special efforts to place graduates in these States—should receive extra consideration in the grant review process.

A number of comments objected to the requirement that enrollment in advanced nurse training programs supported by these grants be limited to currently licensed registered nurses. These comments pointed out that certain programs enrolled both licensed and unlicensed students, and that there is no evidence for concluding that graduates of otherwise acceptable advanced nurse training programs are less qualified upon graduation simply because they were not registered nurses upon entrance into the program. According to these comments, removal of this enrollment restriction would allow the funding of these programs and thereby increase access to advanced training for students who are not registered nurses at the beginning of the training. After consideration of these comments, the Secretary is revising § 57.2505 to permit enrollment of students who are not licensed as nurses but will be licensed at or prior to completion of the program. The Secretary believes that removal of this restriction will encourage larger enrollment in the programs, an end which should be encouraged in light of the recognized need for nurses with advanced training in administration, teaching, and the six clinical specialties specified in the proposed regulations.

Two commenters suggested that diploma and associate degree programs be eligible for these advanced nurse training grants. The Department cannot accept these suggestions, however, because the statute specifies that these grants be made to collegiate schools of nursing as defined in section 853(3) of the Act and in § 57.2502 of these regulations.

A few suggested that the regulations include as an additional requirement a baccalaureate degree in nursing as a prerequisite for a graduate degree in nursing. This suggestion has not been accepted because the Department believes that any more specific entrance requirements are the prerogative of the institution offering the graduate degree.

One commenter objected to the provisions in §§ 57.2508 and 57.2509 which preclude expenditure of grant funds for sectarian instruction or for any religious purpose, and which preclude grantees from discriminating on the basis of religion in the admission of individuals to their training programs. The Department, however, continues to make explicit in its regulations the constitutional prohibition against Federal assistance for sectarian instruction or for other religious activities. With respect to the issue of discrimination on the basis of religion in the admission of students to church-affiliated schools, the Department considers discriminatory practices of this nature to be contrary to the objectives of the advanced nurse training grant program. The purpose of the program is to increase the supply and improve the distribution of nurses with advanced training in designated specialties in the United States. Any nursing school which denies admission to qualified applicants for reasons unrelated to their qualifications for the training involved, such as religion or creed, is less effective in meeting the Nation's need for nurses with this advanced training because it arbitrarily excludes an element of the population which otherwise would be available to provide needed nursing services. Moreover, the capacity of a nursing school will not be utilized to the extent it would be were its students freely selected from among those persons best qualified to pursue its training program. For these reasons, §§ 57.2508 and 57.2509 have not been amended or deleted.

In addition, the Department has made many minor editorial and technical changes in the proposed regulations for clarity.

Accordingly, a new subpart Z is added to 42 CFR part 57 and is adopted as set forth below.

Dated: June 28, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: September 15, 1978.

HALE CHAMPION,
Acting Secretary.

[1] Sec. 2(a) of Pub. L. 93-641, 42 U.S.C. 300k, the National Health Planning and Resources Development Act of 1974.

Subpart Z—Grants for Advanced Nurse Training Programs

Sec.
57.2501 Definitions.
57.2502 Purpose.
57.2503 Duration of support.
57.2504 Application.
57.2505 Eligibility.
57.2506 Criteria for approval.
57.2507 Amount of grant.
57.2508 Use of funds.
57.2509 Limitations on use of funds.
57.2510 Payments.
57.2511 Reports.
57.2512 Nondiscrimination.

AUTHORITY: Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216. Sec. 821, 89 Stat. 400; 42 U.S.C. 296l.

§ 57.2501 Definitions.

As used in this subpart:

(a) "Act" means the Public Health Service Act, as amended.

(b) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(c) "Applicant" means a public or nonprofit private collegiate school of nursing which has submitted an application for a grant under this subpart.

(d) "Grantee" means the applicant which receives a grant under this subpart.

(e) "School of nursing" means a collegiate unit, college, or academic administrative unit in a college or university which provides primarily or exclusively a program of education in professional nursing and related education for students, and which meets the requirements of § 57.2505.

(f) "Project" means (1) the activities of a grantee which are undertaken to plan, develop, and operate an advanced nurse training program (which will enroll students

available adequate resources for the conduct of the proposed project, including adequate faculty, staff, equipping: (A) The current or anticipated need for professional nurses trained in the specialty; and (B) the relative

(3) Neither the approval of any project nor the award of any grant shall

Subpart Z—Grants for Advanced Nurse Training Programs

Sec.
57.2501 Applicability.
57.2502 Definitions.
57.2503 Eligibility.
57.2504 Application.
57.2505 Project requirements.
57.2506 Evaluation and grant awards.
57.2507 Grant payments.
57.2508 Expenditure of grant funds.
57.2509 Nondiscrimination.
57.2510 Human subjects.
57.2511 Grantee accountability.
57.2512 Publications and copyright.
57.2513 Applicability of 45 CFR Part 74.
57.2514 Additional conditions.

AUTHORITY: Sec. 215, 58 Stat. 690, as amended (42 U.S.C. 216); sec. 821, 89 Stat. 361 (42 U.S.C. 296*l*).

Subpart Z—Grants for Advanced Nurse Training Programs

§ 57.2501 Applicability.

The regulations of this subpart apply to the award of grants to public and nonprofit private collegiate schools of nursing under section 821 of the Public Health Service Act (42 U.S.C. 296*l*) to meet the costs of projects to: (1) Plan, develop, and operate, (2) significantly expand, or (3) maintain existing programs for the advanced training of professional nurses to teach in the various fields of nurse training, to serve in administrative or supervisory capacities, or to serve in other professional nursing specialties (including service as nurse clinicians) determined by the Secretary to require advanced training.

§ 57.2502 Definitions.

As used in this subpart:

"Act" means the Public Health Service Act, as amended.

"Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

"Council" means the National Advisory Council on Nurse Training established by section 851(a) of the Act.

"Budget period" means the interval of time into which the approved activity is divided for budgetary purposes, as specified in the grant award document.

"Project period" means the total time for which support for a project has been approved, as specified in the grant award document.

"State" means a State, the Commonwealth of Puerto Rico, the District of Columbia, the Canal Zone, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

"Collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing, and including advanced training related to this type of educational program provided by the school, but only if the program, or unit, college or university is accredited.

"Advanced nurse training program" means a program of study in a collegiate school of nursing leading to a graduate degree in nursing which trains professional nurses to teach in the various fields of nurse training, to serve in administrative or supervisory capacities, or to serve in other professional nursing specialties (including service as nurse clinicians) determined by the Secretary to require advanced training. For purposes of this section, the Secretary has determined that the following professional nursing specialties require advanced nurse training:

(1) Geriatric nursing, (2) community health nursing, (3) maternal-child nursing, (4) acute care nursing, (5) medical-surgical nursing, and (6) adult nursing.

"Professional nurse" means a registered nurse who has received initial nursing preparation from a diploma, associate degree, or collegiate school of nursing as defined in section 853 of the Act and who is currently licensed to practice nursing.

"Nonprofit" as applied to any school means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures or may lawfully inure, to the benefit of any private shareholder or individual.

"Construction" means (1) the construction of new buildings and the acquisition, expansion, remodeling, replacement, and alteration of existing buildings including architects' fees but not including the cost of acquisition of land (except in the case of acquisition of an existing building), offsite improvements, living quarters, or patient-care facilities, and (2) equipping new buildings and existing buildings, whether or not acquired, expanded, remodeled, or altered.

§ 57.2503 Eligibility.

(a) *Eligible applicants.* To be eligible for a grant under this subpart the applicant shall:

(1) Be a public or nonprofit private collegiate school of nursing.

(2) Be located in a State.

(b) *Eligible projects.*[1] A grant under this subpart may be made to an eligible applicant to meet the cost of:

(1) A project to plan, develop, and operate an advanced nurse training program (which will enroll students before the end of the project period);

(2) A project to significantly expand an advanced nurse training program through one of the following activities:

(i) The addition to the program of a new clinical or functional (administration or teaching) specialty area,

(ii) A planned increase in student enrollment during the project period, or

(iii) The addition of a new training site for the program; or

(3) A project to maintain an existing advanced nurse training program.

§ 57.2504 Application.

(a) Each eligible applicant desiring a grant under this subpart shall submit an application in the form and at the time which the Secretary may require.[2]

(b) The application shall be signed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this subpart.

(c) In addition to other pertinent information which the Secretary may require, an application for a grant under this subpart shall contain:

(1) A proposal for a project to: (i) Plan, develop, and operate, (ii) significantly expand, or (iii) maintain an existing, advanced nurse training program.

(2) Information documenting the need for the proposed project.

(3) A description of specific attainable and measurable objectives for the proposed project consistent with the purposes of section 821 of the Act.

(4) A detailed plan for achieving and measuring the stated objectives of the proposed project.

(5) A description of the anticipated impact of the proposed project, including its potential contribution to nursing.

(6) Evidence satisfactory to the Secretary that the applicant will have

[1] Projects for training not in one of the specialty areas identified in the definition of "advanced nurse training" under § 57.2502, which received a grant prior to the effective date of these final regulations, may receive continuation support through the end of the approved period of support, subject to the satisfactory progress of the project and the availability of funds. However, any additional continuation or expansion of a project awarded a grant prior to this effective date will be approved only if the project is for training in one of the identified specialty areas and meets all other requirements of this subpart.

[2] Applications and instructions may be obtained from the Division of Nursing, Bureau of Health Manpower, Health Resources Administration, Department of Health, Education, and Welfare, Center Building, Room 3-50, 3700 East-West Highway, Hyattsville, Md. 20782.

available adequate resources for the conduct of the proposed project, including adequate faculty, staff, equipment, facilities, and an appropriate clinical practice setting or settings.

(7) A detailed budget for the proposed project and a justification of the amount of grant funds requested.

(8) A description of any Federal financial support related to the proposed project which the applicant is currently receiving.

(9) A detailed timetable for carrying out the activities of the proposed project, including any plans for continuing activities beyond the project period.

(10) A description of the background and qualifications of the project staff and any proposed consultants.

(11) Information concerning the source and number of potential students for the training program, and a description of plans, if any to encourage graduates of the training program to practice in States in need of nurses trained in the specialty in which training is to be provided.

(d) In the case of a project to significantly expand or to maintain an existing advanced nurse training program, the application shall contain an assurance satisfactory to the Secretary that the applicant will expend, in carrying out the program during the fiscal year for which a grant under this subpart is sought, an amount of non-Federal funds (excluding costs of construction) at least as great as the average amount of non-Federal funds (excluding expenditures of a nonrecurring nature, including costs of construction) expended for this purpose during the 3 fiscal years immediately preceding the fiscal year for which the grant is sought.

§ 57.2505 Project requirements.

(a) A project supported under this subpart shall be conducted in accordance with its approved application.

(b) A project supported under this subpart shall enroll professional nurses, as defined in § 57.2502, or students who will be professional nurses, as defined in § 57.2502, at or prior to completion of the advanced nurse training program.

§ 57.2506 Evaluation and grant awards.

(a) *Evaluation.* Within the limits of funds available for this purpose, the Secretary, after consultation with the Council, may award grants to those applicants whose projects will, in his or her judgment, best promote the purposes of section 821 of the Act, taking into consideration among other pertinent factors:

(a) The need for the proposed project including, with respect to projects to provide training in professional nursing specialties determined by the Secretary to require advanced training: (A) The current or anticipated need for professional nurses trained in the specialty; and (B) the relative number of programs offering advanced training in the specialty;

(2) The need for nurses in the specialty in which training is to be provided in the State in which the training program is located, as compared with the need for these nurses in other States;

(3) The degree to which the applicant proposes to recruit students from States in need of nurses in the specialty in which training is to be provided, and to promote their return to these States following training;

(4) The degree to which the applicant proposes to encourage graduates to practice in States in need of nurses in the specialty in which training is to be provided;

(5) The potential effectiveness of the proposed project in carrying out the training purposes of section 821 of the Act and this subpart;

(6) The capability of the applicant to carry out the proposed project;

(7) The soundness of the fiscal plan for assuring effective utilization of grant funds; and

(8) The potential of the project to continue on a self-sustaining basis after the period of grant support.

(b) *Funding preference.* In making awards under this paragraph, the Secretary will give preference to applications for projects for advanced nurse training in geriatric nursing, community health nursing, and maternal-child nursing.

(c) *Grant awards.* (1) The amount of any award under this subpart will be determined by the Secretary on the basis of his or her estimate of the sum necessary for all or a designated portion of the direct costs of the project plus an additional amount for indirect costs, if any, which will be calculated by the Secretary either: (i) On the basis of his or her estimate of the actual indirect costs reasonably related to the project, or (ii) on the basis of a percentage of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of this percentage will not exceed the approximate actual indirect costs. The award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee for provisional items has been determined by the Secretary.

(2) All grant awards shall be in writing and shall set forth the amount of funds granted and the period for which the funds will be available for obligation by the grantee.

(3) Neither the approval of any project nor the award of any grant shall commit or obligate the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved project or portion thereof. For continuation support, grantees must make separate application annually in a form and at the time that the Secretary may require.

(d) *Noncompeting continuation awards.* Within the limits of funds available for this purpose, the Secretary may make a grant award for an additional budget period for any previously approved project on the basis of an application and those progress and accounting records which may be required. If the Secretary finds that the project's activities during the current budget period justify continued support of the project for an additional budget period, and the Secretary decides to continue support, the amount of the grant award will be determined in accordance with paragraph (c)(1) of this section. If the Secretary decides not to continue support for an additional budget period, he or she will notify the grantee in writing before the end of the current budget period. The Secretary may provide financial support for the orderly phase-out of the supported project, if he or she determines that this support is necessary.

§ 57.2507 Grant payments.

The Secretary will from time to time make payments to the grantee of all or a portion of any grant award, either by way of reimbursement for expenses incurred in the budget period, or in advance for expenses to be incurred, to the extent he or she determines these payments necessary to promote prompt initiation and advancement of the approved project.

§ 57.2508 Expenditure of grant funds.

(a) Any funds granted under this subpart as well as other funds to be used in performance of the approved project shall be expended solely for carrying out the approved project in accordance with section 821 of the Act, the regulations of this subpart, the terms and conditions of the award, except that funds shall not be expended for sectarian instruction or for any religious purpose.

(b) Any unobligated grant funds remaining in the grant account at the close of a budget period may be carried forward and be available for obligation during subsequent budget periods of the project period. The amount of a subsequent award will take into consideration the amount remaining in the grant account. At the end of the last budget period of the project period, any unobligated grant funds

remaining in the grant account must be refunded to the Federal Government.

awards. With respect to each approved project the grantee shall account for the sum total of all amounts paid by

a full account, as of the date of the termination of grant support. The Secretary may require other special and

MONDAY, SEPTEMBER 25, 1978
PART III

V 43 186 SE 25 78 V4

remaining in the grant account must be refunded to the Federal Government.

57.2509 Nondiscrimination.

(a) Recipients of grants under this subpart are advised that in addition to complying with the terms and conditions of these regulations, the following laws and regulations are applicable:

(1) Section 855 of the Act (42 U.S.C. 298b-2) and its implementing regulation, 45 CFR Part 83 (prohibiting discrimination on the basis of sex in the admission of individuals to training programs).

(2) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq. and its implementing regulation, 45 CFR Part 80 (prohibiting discrimination in federally assisted programs on the ground of race, color, or national origin).

(3) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and its implementing regulation, 45 CFR Part 86 (prohibiting discrimination on the basis of sex in federally assisted education programs).

(4) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulation, 45 CFR Part 84 (prohibiting discrimination in federally assisted programs on the basis of handicap).

(b) The grantee shall not discriminate on the basis of religion in the admission of individuals to its training programs.

§ 57.2510 Human subjects.

No award may be made under this subpart unless the applicant has complied with 45 CFR Part 46 and any other applicable requirements pertaining to the protection of human subjects.

§ 57.2511 Grantee accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other funds, including funds derived from other grant awards. With respect to each approved project the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart. When the amount awarded for indirect costs was based on a predetermined fixed percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of these predetermined fixed-percentage rates applied to the total or selected elements of the reimbursable direct costs incurred.

(b) *Accounting for royalties.* Royalties received by grantees from copyrights on publication or other works developed under the grant, or from patents or inventions conceived or first actually reduced to practice in the course of or under the grant shall be accounted for as follows:

(1) Royalties received during the period of grant support as a result of copyrights or patents may be retained by the grantee and, in accordance with the terms and conditions of the grant, use in either or both of the following ways:

(i) Used by the grantee for any purposes that further the objectives of section 821 of the Act.

(ii) Deducted from the total project costs for the purpose of determining the net costs on which the Federal share of costs will be based.

(2) Royalties received after the completion or termination of grant support shall be treated as follows:

(i) Patent royalties will be governed by agreements between the Assistant Secretary for Health, Department of Health, Education, and Welfare, and the grantee under the Department's patent regulations (45 CFR Pts. 6 and 8).

(ii) Copyright royalties may be retained by the grantee, unless the terms and conditions of the grant or a specific agreement negotiated between the Secretary and the grantee provide otherwise.

(c) *Grant closeout.*—(1) *Date of final accounting.* A grantee shall submit, with respect to each approved project, a full account, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of: (i) Any amount not accounted for under paragraphs (a) and (b) of this section; and (ii) any other amounts due under subparts F, M, and O of 45 CFR Part 74. This total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assigns by setoff or other lawful action.

§ 57.2512 Publications and copyright.

The policies of 45 CFR 74.140 shall apply to grants made under this subpart.

§ 57.2513 Applicability of 45 CFR Part 74.

The relevant provisions of the following subparts of part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants awarded under this subpart:

Subpart

A General.
B Cash depositories.
C Bonding and insurance.
D Retention and custodial requirements for records.
F Grant-related income.
G Matching and cost sharing.
K Grant payment requirements.
L Budget revision procedures.
M Grant closeout, suspension, and termination.
O Property.
Q Cost principles.

§ 57.2514 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his or her judgment such conditions are necessary to assure or protect advancement of the approved project, the interests of the public health, or the conservation of grant funds.

[FR Doc. 78-26668 Filed 9-22-78; 8:45 am]

federal register

MONDAY, SEPTEMBER 25, 1978
PART III

ENVIRONMENTAL PROTECTION AGENCY

UNDERGROUND INJECTION CONTROL

List of States Requiring Programs

[6560-01]

ENVIRONMENTAL PROTECTION

the Administrator subsequently determines that a State's program no longer meets the conditions for primacy. The other five criteria reflect the present level of activi-

ed with underground drinking water sources in a State.

AVAILABILITY OF BACKGROUND DOCUMENTS AND OPPORTUNITY FOR PUBLIC COMMENT

These documents are available for copying and inspection at EPA Head-quarters and Regional offices. Persons

V 43 / 186 SEP 25 78

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 942-6]

UNDERGROUND INJECTION CONTROL

List of States Requiring Programs

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Safe Drinking Water Act requires the Administrator of the Environmental Protection Agency to list in the FEDERAL REGISTER "each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources." The Act further provides that "such list may be amended from time to time." For those States listed, the Act requires the development of programs to protect underground drinking water sources. EPA's initial list of States is published below. This initial list is based on EPA's evaluation of relative need for programs among the States. EPA anticipates that the designation list will eventually be expanded to include all States.

DATES: The list is effective on September 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Thomas E. Belk, Office of Drinking Water (WH-550), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone 202-426-3934.

The Act further requires the Administrator (section 1422(a)) to "* * * list in the FEDERAL REGISTER each State for which in his judgment a State underground injection control program may be necessary to assure that underground injection will not endanger drinking water sources * * *". Section 1422(b) requires each listed State, within 270 days from the date of final promulgation of the "minimum requirements" regulations under section 1421, to submit an application to the Administrator declaring its intent to implement a UIC program in response to these requirements. The Administrator may, for good cause, extend the date for submission of an application of any State for an additional 270 days.

If the Administrator approves the States's application, the State shall have primary enforcement responsibility for its program (section 1422(b)(3)). If the Administrator disapproves the application in whole or in part, if the State fails to make application within the allowed time, or if the Administrator subsequently determines that a State's program no longer meets the conditions for primacy, the Administrator must prescribe a program applicable to such State within 90 days after the date of such disapproval under section 1422(a).

EPA will soon propose the basic "minimum requirements" regulations under section 1421. In order to provide ample notice to interested parties who are most likely to be affected, EPA is today publishing its initial list of States under section 1422(a).

List of States Requiring a State Underground Injection Control Program

The following 22 States are hereby listed as requiring a State underground injection control program to assure that underground injection will not endanger drinking water sources:

Arizona	Michigan
Arkansas	Mississippi
California	New Mexico
Colorado	New York
Florida	Ohio
Illinois	Oklahoma
Indiana	Pennsylvania
Iowa	Texas
Kansas	Utah
Kentucky	West Virginia
Louisiana	Wyoming

Methodology for Designating States

The Safe Drinking Water Act does not detail any method for designating States. This task, therefore, falls to the Agency. In this regard, EPA evaluated many options and numerous models in its desire to fashion a reasonably objective and quantifiable methodology. For example, it considered designating States on the exclusive criterion of population reliance on ground water, ground water use, number of oil and gas operations, number of conventional wells, etc.

After this review, the Agency selected criteria which it believes are critical factors in assessing States' needs for a UIC program:

A=The State population relying on underground drinking water sources including both public and private water systems;
B=The State's dependence on underground drinking water sources which is the ratio of the State groundwater population to total State population;
C=The number of industrial and municipal waste disposal wells;
D=The volume of brine (bbl/day) injected in association with oil and gas extraction;
E=The number of solution mining sites;
F=The number of gas storage reservoirs; and
G=The number of manufacturing and service establishments.

Criterion A is a direct measure of the relative importance of underground sources of drinking water. Criterion B measures the indirect socio-economic and health impact associated with underground drinking water sources in a State. The other five criteria reflect the present level of activity of injection practices in each State and thereby serve as a surrogate measure of the potential for endangerment.

For each of the seven criteria, EPA calculated a rating scale based on transforming the absolute number of each State's practices to a percent of the national total number of practices. EPA then weighted each of the five "surrogate criteria" to reflect relative potential for endangerment. Due to the greater volumes of contaminants they inject, EPA increased weightings for brine disposal wells (criterion D), solution mining wells (criterion E), and gas storage reservoirs (criterion F), producing the following final formula for assessing State need. (Shallow disposal wells, covered by criterion G, may seriously threaten groundwater. However, because of insufficient data, it received no increased rating).

Need rating per State
$=A+B+C+2.5D+1.5E+2F+G$

The need rating of each State and the cumulative percent of needs are presented in the appendix.

Selection of States

The 22 States selected today collectively account for 85 percent of the total national need. They also account for the following national totals of each individual criterion.

62 percent of the national population using ground water from public and private water systems;
95 percent of the industrial and municipal deep disposal wells;
98 percent of the brine volume injected;
98 percent of the mining sites;
97 percent of the gas storage reservoirs; and
65 percent of the manufacturing and service establishments.

These States will be required to establish UIC programs in accordance with the timetable of section 1422(b) described above. As noted above, this timetable will not be set in motion until EPA issues final "minimum requirements" regulations under section 1421(a). EPA will soon propose these regulations for public comments.

Today's action should be viewed as an initial listing of States. It represents an effort to focus limited resources in the most effective manner. By listing these 22 States, EPA is not ruling out the eventual need for underground drinking water protection in the other States. In accordance with the expectations of Congress (H.R. Report No. 93-11895, p. 32), EPA will continue to review the best available data and information and supplement this list accordingly. It is likely that most or all of the remaining States will eventually be listed.

Availability of Background Documents and Opportunity for Public Comment

Although the act does not require public comment on listings under section 1422(a), it is EPA's policy to provide for public participation in its decisions. Accordingly, EPA is soliciting written public comments on today's action. Comments should be sent to Thomas E. Belk at the address noted above. EPA will accept comments until the end of the public comment period on the section 1421 "minimum requirements" regulations which will soon be proposed. A closing date will be specified in the FEDERAL REGISTER notice for that proposal. EPA will consider all comments carefully, and issue a response in the FEDERAL REGISTER which either reconfirms today's list or makes appropriate revisions in light of the comments.

During the comment period, any State which is not now listed may ask to be included. EPA will carefully consider any such request which indicates a State's commitment to develop an approvable program under section 1421 in a timely fashion.

Persons preparing comments on today's list may find it helpful to refer to certain background documents used by EPA in the preparation of this notice. These documents are as follows:

(1) U.S. Geological Survey Circular 765, "Estimated Use of Water in the United States in 1975", 1977.
(2) National Environmental Research Center Report, "Review and Assessment of Deep Well Injection of Hazardous Waste", 1975.
(3) Interstate Oil Compact Commission, "Water Problems Associated with Oil Production in the United States", Oklahoma City, Okla.
(4) U.S. Department of Interior, Bureau of Mines, "Mineral Industry Services, Directory of Company Producing Salts in U.S.", 1976.
(5) American Gas Association 25th Annual Report "The Underground Storage of Gas in the United States and Canada", December 31, 1975.
(6) U.S. Department of Commerce, Bureau of Census "Statistical Abstract of the United States", 1977.
(7) EPA Staff Documents, "Development of the Methodology for Listing States" (with supporting data.)

These documents are available for copying and inspection at EPA Headquarters and Regional offices. Persons wishing to receive copies by mail may do so by contacting Mr. Thomas E. Belk at the address noted above.

Dated: September 15, 1978.

DOUGLAS M. COSTLE,
Administrator.

APPENDIX.—*Rank and Need Rating for 57 States and Territories*

	Rank and State	Need rating	Cumulative percent
1	Texas	181.3	18.1
2	Pennsylvania	73.1	25.4
3	Louisiana	67.7	32.2
4	California	57.8	38.0
5	Kansas	55.8	43.5
6	Michigan	51.0	48.6
7	Illinois	45.2	53.2
8	Wyoming	37.6	56.9
9	New York	32.6	60.2
10	Ohio	31.7	63.4
11	Oklahoma	30.1	66.4
12	West Virginia	29.8	69.3
13	Indiana	27.4	72.1
14	New Mexico	18.9	74.0
15	Florida	18.2	75.8
16	Kentucky	17.0	77.5
17	Utah	15.1	79.0
18	Colorado	14.9	80.5
19	Mississippi	11.8	81.7
20	Iowa	10.8	82.7
21	Arizona	10.5	83.8
22	Arkansas	9.9	84.8
23	Alabama	8.3	85.6
24	North Carolina	8.1	86.4
25	New Jersey	7.7	87.2
26	Montana	7.2	87.9
27	Minnesota	7.2	88.6
28	Washington	7.2	89.3
29	Wisconsin	7.0	90.0
30	Tennessee	6.4	90.7
31	Georgia	6.0	91.3
32	Nebraska	5.8	91.9
33	Missouri	5.7	92.4
34	Massachusetts	5.6	93.0
35	Hawaii	5.2	93.5
36	Virginia	4.7	94.0
37	South Carolina	4.7	94.5
38	North Dakota	4.6	94.9
39	Oregon	4.6	95.4
40	Maryland	4.3	95.8
41	Alaska	4.1	96.2
42	Idaho	4.1	96.6
43	Connecticut	3.4	97.0
44	South Dakota	3.4	97.3
45	Samoa	3.0	97.6
46	Mariana	2.9	97.9
47	New Hampshire	2.8	98.2
48	Delaware	2.7	98.4
49	Nevada	2.5	98.7
50	Maine	2.4	98.9
51	Vermont	2.4	99.2
52	Guam	2.3	99.4
53	Puerto Rico	1.9	99.6
54	Rhode Island	1.7	99.8
55	Trust Territories	1.3	99.9
56	Virgin Islands	.8	99.9
57	District of Columbia	.5	100.0

Need rating per State=$A+B+C+2.5D+1.5E+2F+G$

[FR Doc. 78-26715 Filed 9-22-78; 8:45 am]

V 43 / 186 SEP 25 78

MONDAY, SEPTEMBER 25, 1978
PART IV

V 43 / 186

SE 25 78

Federal Register

MONDAY, SEPTEMBER 25, 1978
PART IV

ENVIRONMENTAL PROTECTION AGENCY

FRL 956-5

AMENDMENTS TO INTERIM GRANT REGULATIONS TO IMPLEMENT THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976

[6560-01]

Title 40—Protection of the

from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION

potential generators of hazardous wastes within the States was also available from a separate study in sup-

cludes mining activities from consideration in the allocation formula, since regulation of these wastes has been postponed pending completion of the

Therefore, in order to appropriately foster the development of these new programs and the expansion of exist-

plementation of the State/EPA Agreement.

EFFECTIVE DATE

V 43 / 186 SE 25 78 V 4

[6560-01]

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER B—GRANTS AND OTHER FEDERAL ASSISTANCE

[FRL 956-5]

PART 35—STATE AND LOCAL ASSISTANCE

Amendments to Interim Grant Regulations to Implement the Resource Conservation and Recovery Act of 1976

AGENCY: Environmental Protection Agency.

ACTION: Interim regulations; amendments.

SUMMARY: These regulations are amendments to Part 35, State and Local Assistance, of the current Environmental Protection Agency regulation governing Federal assistance under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580). Part 35 is amended to supplement regulations governing State hazardous waste management program support grants under section 3011 of the Act. Interim regulations implementing hazardous waste and other grant programs under the Act were published on October 20, 1977 (42 FR 56050). No specific allocation formula for hazardous waste funds was included. EPA specified that limited implementation of the hazardous wastes provisions of the Act would occur during fiscal year 1978 through funding of hazardous waste work elements of the State solid waste management program. EPA also specified that supplemental regulations would be issued for the hazardous wastes program. This publication contains those regulations.

DATES: These regulations are effective September 25, 1978. Comments received on or before November 24, 1978, will be considered in the development of final regulations.

ADDRESS: Comments on these regulations should be addressed to the Deputy Assistant Administrator for Solid Waste (WH-562), Attention: Docket No. 3011, U.S. Environmental Protection Agency, Washington, D.C. 20460. The official record for this rulemaking is located in Room 2111D, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, and is available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT:

Dan Derkics, Hazardous Waste Management Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, Washington, D.C. 20460, telephone 202-755-9190.

SUPPLEMENTARY INFORMATION: On October 21, 1976, the President signed the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580), which amended the Solid Waste Disposal Act (Pub. L. 89-272). Section 3011(a) of the Act authorizes grants to the States for the purpose of assisting States in the development and implementation of authorized State hazardous waste management programs. (Guidelines for such State programs, under section 3006 of the Act, appear in 40 CFR Part 250, Subpart F.) Section 3011(b) of the Act directs the Administrator of EPA to allocate funds among the States based on: (1) The extent to which hazardous waste is generated, transported, treated, stored, and disposed within the States; (2) the extent of exposure of human beings and the environment within the States to hazardous wastes; and (3) any other factors the Administrator deems appropriate.

A paper describing issues in the development of State hazardous waste management program grant regulations was circulated for comment to all States and many environmental and other public interest groups. All comments received were reviewed and considered in the drafting of these amendments. The draft amendments were then circulated for comment in accordance with the Office of Management and Budget (OMB) Circular A-85 review requirements and also were circulated again among the States. The comment period closed July 2, 1978. The comments received on the draft were reviewed and considered in redrafting. EPA's response to several recurring substantial comments, and discussions of certain program decisions, are set forth below.

Allocation Formula

In determining the distribution of funds, section 3011(b) requires that the extent of generation of hazardous wastes within each State be taken into account in allocating funds to State hazardous waste management programs. The definition of "hazardous waste" which EPA is required to develop under section 3001 of the Act is not completed.

However, the quantities of potentially hazardous wastes generated within the States are available from a series of industry studies by EPA's Office of Solid Waste. The maximum number of potential generators of hazardous wastes within the States was also available from a separate study in support of the notification activities required under section 3010(a) of the Act. The majority of commenters agreed that both the quantities of hazardous waste generated and the number of generators of such waste should be used as indicators of the extent of generation of hazardous wastes in each State, and the regulations reflect this consensus.

Section 3011(b) also requires EPA to consider the extent of transportation, storage, treatment, and disposal of hazardous waste within the State. However, no definitive information on these activities within all States is available at this time. To some extent, the land area of the State, number of hazardous waste generators, and quantities of hazardous waste generated indirectly reflect the problems of transportation, storage, treatment, and disposal of such wastes. Detailed data will become available upon the implementation of: (1) The required notification of potentially affected persons (section 3010(a) of the Act), (2) the facility permit process (section 3005), and (3) the use of the transportation manifest system (section 3002). Until these data become available, transportation, storage, treatment and disposal cannot be addressed more definitively.

The extent of exposure of human beings and the environment within the States is another element which the Act requires EPA to consider in allocating funds. Population data was chosen as the most meaningful, currently available indicator of the extent of exposure of human beings. The revised 1976 Census Bureau estimates of the population of States was used as the most recent information available for both: (1) The continental United States, Alaska, Hawaii, and (2) outlying areas. Land area of the State is also included, since it is considered to be related to this element. (Land area statistics are available in the Bureau of Census Area Measurement Reports.) No other nationally applicable and readily available indicator of extent of exposure of the environment could be identified or defined at this time.

No need was indentified to establish allocation factors other than those explicitly identified in section 3011(b) of the Act. While a few commenters suggested additional factors, a concensus on their applicability or use could not be reached.

The Interim Formula

The allocation formula in the interim regulations was unanimously approved by more than 20 State representatives of the National Governor's Association. The formula currently excludes mining activities from consideration in the allocation formula, since regulation of these wastes has been postponed pending completion of the special mining study mandated by section 8002(f) of the Act. During fiscal years 1979 and 1980, data received as a result of operating hazardous waste management programs will be compiled, evaluated, and may be used with other studies to establish a new allotment mechanism applicable to future fiscal years.

Transition

The amendments delete several provisions which reference the grantee's responsibility in fiscal year 1978 for "movement toward the development of a hazardous waste program." While the grantee's responsibilities for fiscal year 1979 and subsequent years are made more specific by these amendments, the grantee is not relieved of any obligation identified in its fiscal year 1978 grant agreement for hazardous waste outputs, except as set forth in a grant amendment developed in accordance with this chapter.

Program Decisions

Funds alloted under section 3011 of the Act are to be applied to the development and implementation of authorized State hazardous waste programs (i.e., State programs which will meet the substantive and procedural requirements of section 3006 (b) or (c) of the Act). "Development" may include activities conducted by the State before full authorization under sections 3006(b), including limited interim authorization activities under section 3010(a) of the Act. However, it is EPA's policy that: (1) States will not be eligible for funding for partial authorization under 40 CFR 250.72(b) during the 2-year period in which interim authorization programs under 40 CFR 250.73 may be conducted, and (2) hazardous waste management facility site planning will not be funded under section 3011, but will be funded as an element of the solid waste work program development.

During the interim authorization period, many States will be developing new programs (or expanding existing ones) to meet the requirements of full authorization under section 3006(b) of the Act. The interim authorization period provides States with programs at differing stages of development an opportunity to upgrade to a nationally uniform level.

EPA's philosophy is consistent with congressional intent to maximize the participation of States in the hazardous waste regulatory program. Furthermore, it is recognized that these new programs can be resource-intensive at the outset and that adequate funding may be difficult to obtain. Therefore, in order to appropriately foster the development of these new programs and the expansion of existing programs, these grant regulations have been written so as to allow a Federal contribution of up to 100 percent of the costs of such developmental activities, while limiting the Federal share of funding of all other activities to the conventional level of up to 75 percent (see sec. 35.714(b)).

Because EPA is required to carry out a Federal hazardous waste management program in any State which declines or is not granted authorization under section 3006 of the Act, provisions have been made in these grant regulations (see § 35.710(c)(2)) to allow the Administrator the alternative of administratively transferring unused section 3011 State grant funds for EPA's use in meeting the cost of the required Federal program's contractual implementation under the general authorization provisions of section 2006 of the Act. It is EPA's current intention that funds transferred in this manner will be used within the State to which they have been allotted, and that the Administrator will not exercise this alternative in fiscal year 1979.

These grant regulations also require that States demonstrate their interest by providing a letter of intent to seek authorization (see § 35.738-4) and by maintaining their past level of contributions (see § 35.738-2(b)), inasmuch as the Federal share is meant to supplement existing State funds (see § 35.738-3).

In these and other regulations currently under review and revision, EPA is including the concept of a State/EPA Agreement. The Agreement will provide a way for EPA Regional Administrators and States to coordinate and, to the maximum extent feasible, integrate a variety of programs under the Clean Water Act, the Resource Conservation and Recovery Act, the Safe Drinking Water Act and, potentially, other laws administered by EPA. Since the regulations in § 35.700-744 govern only that portion of the State/EPA Agreement relating to solid and hazardous waste management program support grants, other programs included in the State/EPA Agreement will be governed by the applicable provisions found elsewhere in this chapter. (For an example of State/EPA Agreement provisions, the reader is referred to proposed regulations governing grants for water quality management planning and implementation, published in the September 12, 1978 Federal Register, on pages 40742-40757.) Guidance will be issued by EPA concerning development and content of the State/EPA Agreement. In particular, comments and suggestions are requested on the content and implementation of the State/EPA Agreement.

Effective Date

Delay in the effective date of these regulations would be contrary to the public interest, since fiscal year 1979 grants must be processed immediately to allow timely initiation of State programs. Therefore, these regulations are effective September 25, 1978.

Dated: September 15, 1978.

Douglas M. Costle,
Administrator.

40 CFR Part 35 is amended as follows:

§ 35.702 [Amended]

1. By deleting the fifth sentence of § 35.702(e) which reads, "Outputs under two program elements are specifically required, namely, the inventory of open dumps and movement toward development of a hazardous waste program."

2. By revising § 35.704 to read as follows:

§ 35.704 Eligibility for funding.

(a) *General.* Grants will be awarded to a State only if the State has submitted a work program under section 35.718 as part of its grant application, and the work program meets the requirements of this chapter and is approved by the Regional Administrator.

(b) *For solid waste plan development and implementation § 35.722(a)).* (1) The Governor shall designate a single State agency to carry out the work program or coordinate distribution of funds and work responsibilities among State and substate entities.

(2) Funds shall be allocated within the State only to the agency or agencies (State or substate) identified under section 4006 of the Act and part 255 of this chapter. For fiscal year 1978, in States where the agency identification process under part 255 is not complete, such funds shall be allocated to the agency or agencies which the Governor (with the Regional Administrator's concurrence) determines are most appropriate to undertake the work elements in view of the requirements of part 255. This determination by the Governor is not required where the Regional Administrator determines that an agency has explicit authority under State law to carry out these responsibilities.

(3) Funds for rural communities assistance will be allocated by the State only to entities eligible under § 35.734.

(4) Grants to States and substate agencies for certain implementation activities under section 4008(a)(2) of the Act will be awarded only for activities which are certified by the State to be consistent with the plan developed under part 256 of this chapter and the

State's work program under § 35.718. Further eligibility criteria are set forth in § 35.732.

Table I—Continued

	ties under Section 35.772(b). The Federal share of hazardous waste program development and implementation ac-

§ 35.730-2 [deleted].

8. By deleting § 35.730-2 as follows:

9. By revising § 35.738-2 to read as

(1) No State will be eligible to receive any grant in fiscal year 1979, 1980, or 1981 for activities under the

or his designee submits a letter affirming the State's intent to seek authorization under 40 CFR part 250 subpart F or conduct the notification activities

State's work program under § 35.718. Further eligibility criteria are set forth in § 35.732.

(c) *For hazardous waste program development and implementation (§ 35.722(b)).* Grants will be awarded to the lead agency designated under § 250.72(a)(1) (vi) of this chapter.

3. By adding a new § 35.706–2 to read as follows:

§ 35.706–2 Hazardous waste management program development and implementation.

(a) Sums which the Administrator determines will be available in each fiscal year for grants under section 3011 of the Act will be allotted among all States on the basis of the following factors and weightings of factors, except that no State shall receive an allotment of less than one-half of one percent of the sums available:

(1) The ratio that the population in each State bears to the population in all States (40 percent);

(2) The ratio that the amount of hazardous waste generated in each State bears to the amount of hazardous waste generated in all States (40 percent);

(3) The ratio that the number of generators of hazardous waste in each State bears to the number of generators of hazardous waste in all States (15 percent); and

(4) The ratio the land area of each State bears to the land area of all States (5 percent).

(b) The allotment ratios developed using paragraph (a) of this section are as follows:

TABLE I

State	Allotment ratios
1. Alabama	0.01948
2. Alaska	.00861
3. Arizona	.01268
4. Arkansas	.00676
5. California	.07917
6. Colorado	.01014
7. Connecticut	.01194
8. Delaware	.00500
9. District of Columbia	.00500
10. Florida	.02599
11. Georgia	.01704
12. Hawaii	.00500
13. Idaho	.00554
14. Illinois	.04678
15. Indiana	.03080
16. Iowa	.00934
17. Kansas	.00885
18. Kentucky	.01734
19. Louisiana	.03280
20. Maine	.00500
21. Maryland	.01365
22. Massachusetts	.02129
23. Michigan	.04096
24. Minnesota	.01201
25. Mississippi	.00684
26. Missouri	.01560
27. Montana	.00574
28. Nebraska	.00501
29. Nevada	.00500
30. New Hampshire	.00500
31. New Jersey	.02977
32. New Mexico	.00500
33. New York	.05608
34. North Carolina	.01963
35. North Dakota	.00500
36. Ohio	.05458
37. Oklahoma	.00929
38. Oregon	.01319
39. Pennsylvania	.05456
40. Rhode Island	.00652
41. South Carolina	.01467
42. South Dakota	.00500
43. Tennessee	.02570
44. Texas	.09977
45. Utah	.00640
46. Vermont	.00500
47. Virginia	.01275
48. Washington	.01462
49. West Virginia	.01847
50. Wisconsin	.01898
51. Wyoming	.00500
52. American Samoa	.00500
53. Guam	.00500
54. Puerto Rico	.00586
55. Northern Mariana Islands	.00500
56. Virgin Islands	.00500

4. By redesignating existing paragraph (c) of § 35.710 as subparagraph (c)(1) and adding a new subparagraph (2) to read as follows:

§ 35.710 Grant amount.

* * * * * * *

(c) (1) * * *

(2) For hazardous waste management program grant funds, the Administrator may, subject to the limitations contained in Appropriations Acts, use part or all of the funds from the following sources to meet the costs of a required Federal program in any State which has not applied for or which has been denied full or interim authorization:

(i) Unobligated grant funds remaining after negotiation with States in a region;

(ii) Funds for which no grant application has been received from the State by August 1 of each year; and

(iii) Unobligated grant funds remaining after negotiation with a State which has applied for or been granted partial authorization.

5. By revising § 35.714 to read as follows:

§ 35.714 Federal share.

(a) *For solid waste planning and implementation activities under Section 35.722(a).* The Federal share for solid waste planning and implementation activities under § 35.722(a) shall not exceed 75 percent of total allowable work program costs, except that the Regional Administrator may award up to 100 percent of allowable costs of conducting the inventory of open dumps under the work element in sections 35.722(a)(2) and 35.730–1.

(b) *For hazardous waste program development and implementation activities under Section 35.772(b).* The Federal share of hazardous waste program development and implementation activities under section 35.722(b) shall not exceed:

(1) For fiscal years 1979, 1980, and 1981, 100 percent of the allowable work program costs of development of a fully authorized hazardous waste program, and 75 percent of all other work program costs. The Regional Administrator shall determine which costs are associated with program development.

(2) For fiscal year 1982 and subsequent fiscal years, 75 percent of the allowable work program costs.

6. By revision § 35.722(a)(3) and adding a new (b) (11), (12), and (13) to read as follows:

§ 35.722 Program elements.

(a) * * *

(3) Hazardous waste management facility site identification and assessment.

* * * * * *

(b) * * *

(11) Development and implementation of emergency response systems.

(12) Notification activities under section 3010 of the Act.

(13) Implementation and operation of waste exchange programs.

* * * * * *

7. By revising § 35.726 to read as follows:

§ 35.726 Public participation.

The State work program, and any other program or project for which assistance is sought under these regulations, shall be the subject of public participation which is consistent with part 25 of this chapter (or, until the effective date of part 25, with part 249 of this chapter). The State must also afford an opportunity for substate involvement in work program development in accordance with § 35.720. Each State work program or other project application shall contain a work element for public participation which will include the following: Identification of staff and budget resources to be devoted to public participation, a proposed schedule of public participation activities according to the major points in the work program, types of consultation and information mechanisms to be used, the segments of the public targeted for involvement, and in the case of State programs, provisions for the preparation of a summary of public participation (including agency response to public input) to be available to the public and to EPA at the time of the end-of-year review required by § 35.744(b).

§ 35.730–2 [deleted].

8. By deleting § 35.730–2 as follows:

9. By revising § 35.738–2 to read as follows:

§ 35.738–2 Maintenance of effort.

(a) *For solid waste plan development and implementation (Section 35.722(a)).* No State will be eligible to receive any grant for activities under the work elements in § 35.722(a) (solid waste plan development and implementation) during any fiscal year when its expenditures of non-Federal funds for other nonrecurrent expenditures for such activities will be less than its expenditures were for such activities during fiscal year 1975, except that such funds may be reduced by an amount equal to their proportionate share of any general reduction of State spending ordered by the Governor or legislature of such State.

(b) *For hazardous waste program development and implementation (section 35.722(b)).*

(1) No State will be eligible to receive any grant in fiscal year 1979, 1980, or 1981 for activities under the work elements in § 35.722(b) (hazardous waste program development and implementation) when its expenditures of non-Federal funds for other than nonrecurrent expenditures for such activities will be less than its expenditures were for such activities during fiscal year 1977, except that such funds may be reduced by an amount equal to their proportionate share of any general reduction of State spending ordered by the Governor or legislature of such State.

10. By adding new §§ 35.738–4, 35.738–5, and 35.738–6 to read as follows:

§ 35.738–4 Letter of intent.

No State will be eligible to receive any grant for activities under the work elements in section 35.722(b) (hazardous waste program development and implementation) unless the Governor or his designee submits a letter affirming the State's intent to seek authorization under 40 CFR part 250 subpart F or conduct the notification activities required by 40 CFR part 250 subpart G. This letter may be submitted as part of a State's initial hazardous waste program development and implementation grant application.

§ 35.738–5 Partial authorization.

During the 2-year period that interim authorization is available under § 250.73 of this chapter, grants will be awarded only for development and implementation of interim or fully authorized hazardous waste programs.

§ 35.738–6 State/EPA agreement.

Beginning in fiscal year 1980, State programs funded under the Act will be part of the State/EPA agreement, and the State/EPA agreement must be completed before grant award.

[FR Doc. 78–26931 Filed 9–22–78; 8:45 am]

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V 43 / 186

S E 25 78

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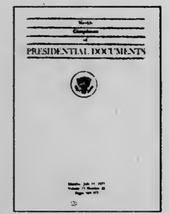

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highlights

HOW TO USE THE FEDERAL REGISTER

Resumption of regularly scheduled workshops Washington, D.C.

October 27 and 28, 1978

See inside cover for details.

SUNSHINE ACT MEETINGS 43615

NATIONAL GOOD NEIGHBOR DAY
Presidential proclamation 43429

STATE CAPACITY BUILDING DEMONSTRATION PROGRAM
HEW/HDSO announces availability of grant funds; apply by 11-15-78 43564

EDUCATIONAL EQUITY RESEARCH GRANTS PROGRAM
HEW/NIE issue rule on eligibility requirements and funding criteria for the awarding of Federal funds 43672

DISCRIMINATION BASED ON HANDICAP
CSC proposes new rules applicable to recipients of Federal grants under Intergovernmental Personnel Act; comments by 11-27-78 43465

COMPREHENSIVE EMPLOYMENT AND TRAINING
Labor/ETA publishes final rules to implement Youth Community Conservation and Improvement Projects and the Youth Employment and Training Programs; effective 10-26-78 (Part III of this issue) 43654

INPATIENT AND OUTPATIENT MEDICAL CARE
DOD issues notice of medical reimbursement rates for FY 1979 43540

MEDICARE PROGRAM
HEW/HCFA issues notice of schedule of limits on hospital inpatient general routine service costs; effective 10-1-78 43558

ALCOHOLIC BEVERAGES AND TOBACCO PRODUCTS
Treasury/Customs amends import rules; effective 9-26-78 43452

SECURITIES BROKERS AND DEALERS
FRS permits extension and maintenance of credit on non-convertible debt securities; effective 10-30-78 43446

CONTINUED INSIDE

V 43 / 187

SE 26 78

V 4

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Code of Federal Regulations (CFR)	523–3419
	523–3517
Finding Aids	523–5227
PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235
PUBLIC LAWS:	
Public Law dates and numbers	523–5266
	523–5282
Slip Laws	523–5266
	523–5282
U.S. Statutes at Large	523–5266
	523–5282
Index	523–5266
	523–5282
U.S. Government Manual	523–5230
Automation	523–3408
Special Projects	523–4534

HIGHLIGHTS—Continued

TELESCOPIC SIGHT MOUNTS
ITC issues determination order and memorandum opinion **43570**

REFORESTATION AND TIMBER STAND IMPROVEMENT POLICY
USDA/FS proposes policy modification; comments by 11–13–78 ..... **43506**

PRIVATE MORTGAGE LENDERS
HUD/FHC proposes eligibility requirements, contract rights and obligations under coinsurance program; comments by 11–13–78 (Part V of this issue) **43676**

TRAWL FISHERY OF GULF OF ALASKA
Commerce/NOAA issues rule on incremental apportionment of total allowable level of foreign fishing; effective 9–20–78 .... **43462**

MEDICAL DEVICES
HEW/FDA solicits comments on reclassification of glycosylated (fast fraction) hemoglobin quick column methodology; comments by 10–26–78 ..... **43555**

BOLSON TORTOISE
Interior/FWS proposes endangered species status; comments by 12–25–78 (Part VII of this issue) **43692**

LEATHERBACK SEA TURTLE
Interior/FWS issues rule to determine critical habitat; effective 10–26–78 (Part VI of this issue) **43688**

TOMATO JUICE
HEW/FDA gives notice of extension of temporary permit to market test; effective 9–26–78 ..... **43558**

1,2-DICHLOROETHANE CARCINOGENICITY REPORT
HEW/NIH announces availability of bioassay results **43564**

LIVESTOCK LUNGS AND LUNG LOBES
USDA/FSQS amends regulations to relieve restrictions on importation and movement in commerce; effective 10–23–78 **43444**

ANTIBIOTIC DRUGS
HEW/FDA provides new restrictions for a diluting fluid used in sterility testing of ophthalmic ointments; effective 10–26–78 ... **43457**
HEW/FDA proposes dissolution test requirement for certain tetracycline oral dosage forms; comments by 11–27–78 ..... **43468**
HEW/FDA provides for certification of mystatin vaginal suppositories; comments by 10–26–78; effective 9–26–78 ..... **43457**

ALLERGENIC PRODUCTS
HEW/FDA proposes additional criteria for source material; comments by 11–27–78 ..... **43472**

X-RAY EQUIPMENT
HEW/FDA partially withdraws advance notice of proposed rulemaking regarding performance standard; effective 9–26–78 ..... **43473**

RAISIN BREAD
HEW/FDA revokes stayed regulation for identity standard; effective 11–27–78 ..... **43456**

PINEAPPLE PRODUCTS
HEW/FDA announces availability of a revised guideline concerning action levels for mold **43554**

FOOD ADDITIVES
HEW/FDA responds to objections regarding regulations permitting use of glandless cottonseed for human consumption .. **43556**

GREAT LAKES MARINE SAFETY
FCC proposes to change radio requirements for vessels; comments by 10–27–78; reply comments by 11–6–78 ..... **43476**

COTTON, WOOL AND MAN-MADE TEXTILES FROM INDIA
CITA issues notice to adjust import levels **43539**

EXPORT OF TRANSISTORS AND DIODES
Commerce/ITA amends the commodity control list **43450**

HIGHLIGHTS—Continued

SPRAY APPLIED CELLULOSIC THERMAL INSULATION
HUD/FHC/OASH makes available for comments Use of Materials Bulletin; comments by 11–27–78 ..... **43562**

Interior/NPS: Chesapeake and Ohio Canal National Historic Park Commission, 10–21–78 ..... **43568**
Desert National Scenic Trail Feasibility Study, October 1978 ..... **43568**

contents

THE PRESIDENT
Proclamations
Mississippi **43531**

CIVIL SERVICE COMMISSION

DRUG ENFORCEMENT ADMINISTRATION
Notices

SPRAY APPLIED CELLULOSIC THERMAL INSULATION

HUD/FHCOASH makes available for comments Use of Materials Bulletin No. 80; comments by 10–26–78 43566

TOBACCO

USDA/ASCS issues rule on transfer of flue-cured tobacco quotas by lease; effective 9–26–78 43444

USDA/ASCS issues rule to provide 1977–78 average market price and 1978–79 penalty rate for fire-cured, dark air-cured, Virginia Sun-cured, cigar binder, cigar filler and binder tobacco; effective 9–26–78 43443

PRIVACY ACT

Systems of records; annual publication; (Part II of this issue) .. 43632
- State/AID 43632
- CFTC 43633
- Committee for Purchase from the Blind and Other Severly Handicapped 43639
- NLRB 43639
- Panama Canal Zone 43641
- Railroad Retirement Board 43642

MEETINGS—

- CRC: Maryland Advisory Committee, 10–21–78 43530
  Mississippi Advisory Committee, 10–19–78 43531
- Commerce/ITA: Telecommunications Equipment Technical Advisory Committee, 10–17–78 43531
- DOE/ERA: Fuel Oil Marketing Advisory Committee, 10–23 and 10–24–78 43548
- HEW: Advisory Council on Education Statistics, 10–26 and 10–27–78 43566
- Interior/NPS: Chesapeake and Ohio Canal National Historic Park Commission, 10–21–78 43568
  Desert National Scenic Trail Feasibility Study, October and November meetings 43569
  Indiana Dunes National Lakeshore Advisory Commission, 10–20–78 43569
- Justice: United States Circuit Judge Nominating Commission, Sixth Circuit Panel, 10–17 and 11–1–78 43570
  United States Nominating Commission, District of Columbia Panel, 11–4 and 11–12–78 43570
- National Commission for Manpower Policy, 11–3–78 43590
- NFAH/NEH: Humanities Panel Advisory Committee, 10–12, 10–13, 10–14, 10–16, 10–19, 10–20, and 10–23–78 (2 documents) 43590, 43591
- NRC: Advisory Committee on Reactor Safeguards, Subcommittee on Waste Management, 10–11 and 10–12–78 43591
- Office of Special Representative for Trade Negotiations: Advisory Committee for Trade Negotiations, 10–25–78 43592
- SBA: Region II Advisory Council, 10–19–78 43592
  Region V Advisory Council, 10–12–78, 10–19, and 11–17–78 43592
- VA: Career Development Committee, 10–30 and 10–31–78 43595
  Cooperative Studies Evaluation Committee, 10–23 and 10–24–78 43595

SEPARATE PARTS OF THIS ISSUE

- Part II, Privacy Act Notices—various agencies 43632
- Part III, Labor/Secy 43654
- Part IV, HEW/NIE 43672
- Part V, HUD 43676
- Part VI, Interior/FWS 43688
- Part VII, Interior/FWS 43692
- Part VIII, Labor/PWBP 43696

contents

THE PRESIDENT

Proclamations

Good Neighbor Day, National ... 43429

EXECUTIVE AGENCIES

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notices

Privacy Act; systems of records; annual publication 43632

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules

Tobacco (fire-cured, etc.); marketing quotas and acreage allotments 43443

Tobacco (flue-cured); marketing quotas and acreage allotments 43444

AGRICULTURE DEPARTMENT

See also Agricultural Stabilization and Conservation Service; Food Safety and Quality Service; Forest Service.

Rules

Conduct standards 43431

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Notices

Meetings:
- Humanities Panel (2 documents) 43590, 43591

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM

Notices

Privacy Act; systems of records; annual publication 43639

CENTER FOR DISEASE CONTROL

See Disease Control Center.

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
- Aerolineas Dominicanas, S.A .. 43508
- Allegheny Airlines, Inc., et al . 43515
- Braniff Airways, Inc 43508
- Eastern Air Lines, Inc 43509
- Eastern Air Lines, Inc., et al ... 43510
- Hughes Air Corp 43512
- Northwest Airlines, Inc 43514
- Omaha-Dallas/Ft. Worth Subpart N proceeding 43529
- Pan American World Airways 43529
- St. Louis-Kansas City Subpart M proceeding 43530
- Supplemental air transportation investigation 43512
- United Air Lines, Inc 43530

CIVIL RIGHTS COMMISSION

Notices

Meetings, State advisory committees:
- Maryland 43530
- Mississippi 43531

CIVIL SERVICE COMMISSION

Rules

Excepted services:
- Administrative Office of United States Courts 43431
- Health, Education, and Welfare Department 43431
- Housing and Urban Development Department 43431
- Voting Rights Program; Alabama; new office location 43464

Proposed Rules

Intergovernmental Personnel Act programs:
- Handicapped, nondiscrimination in federally-assisted programs 43465

Notices

Committees; establishment, renewals, terminations, etc.:
- Federal Prevailing Rate Advisory Committee 43531
- Health Alliance Health Plan; termination (2 documents) .. 43531

COMMERCE DEPARTMENT

See also Industry and Trade Administration; National Oceanic and Atmospheric Administration; National Technical Information Service.

Notices

Organizations and functions:
- Economic Analysis Bureau 43534
- Minority Business Enterprise Office 43537
- National Bureau of Standards 43534

COMMODITY FUTURES TRADING COMMISSION

Rules

Organization and functions:
- Business disposition by seriatim Commission consideration 43451

Notices

Privacy Act; systems of records; annual publication 43633

CUSTOMS SERVICE

Rules

Alcoholic beverages and tobacco products; importation 43452

DEFENSE DEPARTMENT

Notices

- Medical care, reimbursement rates; 1979 FY 43540
- Privacy Act; systems of records 43539

DISEASE CONTROL CENTER

Notices

Programs and Policies Advisory Committee; final report filed; availability 43553

DRUG ENFORCEMENT ADMINISTRATION

Notices

Registration applications, etc.; controlled substances:
- Bennett, Thomas Edward, D.O 43571
- Ciba-Geigy Corp 43571
- Eli Lilly & Co 43571

ECONOMIC REGULATORY ADMINISTRATION

Notices

Meetings:
- Fuel Oil Marketing Advisory Committee 43548

Power rates and charges:
- Laurel Project, Southeastern Power Administration 43547

ENERGY DEPARTMENT

See Economic Regulatory Administration; Federal Energy Regulatory Commission; Intergovernmental and Institutional Relations Office, Energy Department.

ENGRAVING AND PRINTING, BUREAU OF

Rules

Conduct on Bureau of Engraving and Printing grounds 43459

FEDERAL AVIATION ADMINISTRATION

Rules

Operating and flight rules:
- Carriage of candidates in Federal elections 43463

FEDERAL COMMUNICATIONS COMMISSION

Proposed Rules

Maritime services, land and shipboard stations:
- Great Lakes safety; U.S. and Canadian agreement; technical radio requirements for vessels 43476

FEDERAL CONTRACT COMPLIANCE PROGRAMS OFFICE

Notices

Equal employment opportunity; preaward clearance requests; contact points 43572

FEDERAL ENERGY REGULATORY COMMISSION

Notices

Hearings, etc.:
- Algonquin Gas Transmission Co 43540
- An-Son Corp 43541
- Carnegie Natural Gas Co 43549
- Cliffs Electric Service Co 43541
- Columbia Gas Transmission Corp 43549
- Columbia Gulf Transmission Co 43542
- Davis, Claud Frederick 43541
- Dayton Power & Light Co 43550
- Detroit Edison Co 43542
- Duke Power Co 43550

- East Tennessee Natural Gas Co 43542
- El Paso Electric Co 43543
- El Paso Natural Gas Co 43543

CONTENTS

FOOD AND DRUG ADMINSTRATION

Rules

Bakery products:

- Missouri Public Service Commission 43553

HEALTH CARE FINANCING

CONTENTS

Notices

Meetings:
- Telecommunications Equip-

Notices

Adjustment assistance:
- American Biltrite, Inc 43573
- ASARCO, Inc 43573

MINES BUREAU

Rules

Coal analysis for non-Federal

East Tennessee Natural Gas Co 43542
El Paso Electric Co 43543
El Paso Natural Gas Co 43543
Exxon Pipeline Co. of California 43550
Inter-City Minnesota Pipelines Ltd., Inc 43550
Iowa Power & Light Co 43550
Mountain Fuel Resources, Inc 43551
Nantahala Power & Light Co. (2 documents) 43552
Panhandle Eastern Pipe Line Co. (2 documents) 43552
Tennessee Gas Pipeline Co 43552
Texas Gas Transmission Corp., et al 43545
United Gas Pipe Line Co. et al 43546
United Gas Pipeline Co. (2 documents) 43552, 43553
Western Gas Interstate Co. (2 documents) 43546
Whitley, Michael R 43545
Wilson, Charles B., Jr., Ltd 43541
Wisconsin Public Service Corp 43547
Natural gas companies:
Small producer certificates, applications 43544

FEDERAL HOME LOAN BANK BOARD

Rules

Federal Savings and Loan Insurance Corporation:
Tax and loan depositories; savings and loan participation; operations and definitions ... 43446

FEDERAL INSURANCE ADMINISTRATION

Proposed Rules

Flood elevation determinations:
Kansas; correction 43475

FEDERAL RESERVE SYSTEM

Rules

Credit by brokers and dealers:
Non-convertible corporate debt securities; extension to unlisted securities and uniform loan value 43446

FISH AND WILDLIFE SERVICE

Rules

Endangered and threatened species; fish, wildlife, and plants:
Turtle, leatherback sea; critical habitat 43688
Hunting:
Ouray National Wildlife Refuge, Utah 43461

Proposed Rules

Endangered and threatened species; fish, wildlife, and plants:
Tortoise, Bolson 43692

FOOD AND DRUG ADMINSTRATION

Rules

Bakery products:
raisin bread, enriched; identity standards; revocation of stayed regulations 43456
Human drugs:
Isopropyl myristate sterility test 43457
Nystatin vaginal dosage forms 43457

Proposed Rules

Animal drugs, feeds, and human drugs:
Tetracycline and oxytetracycline hydrochloride tablets and capsules 43468
Biological products:
Allergenic products, source material criteria 43472
Bioresearch monitoring program; clarification 43468
Radiological health:
Diagnostic X-ray equipment; partial withdrawal 43473

Notices

Food additives, petitions filed or withdrawn:
Cottonseed products, modified; response to objections 43556
Medical devices:
Glycosylated (fast fraction) hemoglobin quick column methodology; petition for reclassification 43555
Serum alcohol control; petition for reclassification 43553
Pineapple and pineapple juice, canned; level of defects; guideline availability.. 43554
Tomato juice; identity standard; temporary permits for market testing 43558

FOOD SAFETY AND QUALITY SERVICE

Rules

Meat and poultry inspection, mandatory:
Transportation; livestock lungs and lung lobes 43444

Notices

Humanely slaughtered livestock, identification of carcasses; list of establishments .. 43479

FOREST SERVICE

Notices

Reforestation and timber stand improvement policy; proposed modification 43506

GENERAL SERVICES ADMINISTRATION

See also National Archives and Records Service.

Notices

Authority delegations:
Defense Department Secretary (2 documents) 43553
Public utilities; hearings, etc.:
Missouri Public Service Commission 43553

HEALTH CARE FINANCING ADMINISTRATION

Proposed Rules

Professional standards review:
Area designations; Illinois 43475

Notices

Health insurance program; schedule of limits for cost-reporting periods, 1979 FY 43558

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Disease Control Center; Food and Drug Administration; Health Care Financing Administration; Human Development Services Office; National Institute of Education; National Institutes of Health.

Notices

Meetings:
Education Statistics Advisory Council 43566

HERITAGE CONSERVATION AND RECREATION SERVICE

Notices

Historic Places National Register; additions, deletions, etc.:
California et al 43567

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See also Federal Insurance Administration.

Proposed Rules

Mortgage and loan insurance programs:
Coinsurance for private mortgage lenders; eligibility requirements, contract rights and obligations 43676

Notices

Thermal insulation, spray applied cellulosic; standards 43566

HUMAN DEVELOPMENT SERVICES OFFICE

Notices

Grant applications; availability, etc.:
State capacity building demonstration program 43564

INDUSTRY AND TRADE ADMINISTRATION

Rules

Export licensing:
Export clearance; corrections to shipper's export declarations 43450
One-cent coins 43449
Republic of South Africa and Namibia restrictions; interpretation 43449
Semiconductor diodes and transistors 43450
Technical data; validating license control 43449

Notices

Meetings:
Telecommunications Equipment Technical Advisory Committee 43531

INTERGOVERNMENTAL AND INSTITUTIONAL RELATIONS OFFICE, ENERGY DEPARTMENT

Notices

Committees; establishment, renewals, terminations, etc.:
Environmental Advisory Committee 43548

INTERIOR DEPARTMENT

See Fish and Wildlife Service; Heritage Conservation and Recreation Service; Land Management Bureau; Mines Bureau; National Park Service.

INTERNAL REVENUE SERVICE

Notices

Employee benefit plans:
Prohibition on transactions; exemption proceedings, applications, hearings, etc 43593

INTERNATIONAL TRADE COMMISSION

Notices

Import investigations:
Novelty glasses 43570
Telescopic sight mounts 43570

INTERSTATE COMMERCE COMMISSION

Proposed Rules

Motor carriers;
Operating rights application proceedings; rate evidence guidelines; withdrawn 43478

Notices

Hearing assignments 43596
Motor carriers:
Permanent authority applications 43597
Temporary authority applications (3 documents) 43607, 43610, 43614

JUSTICE DEPARTMENT

See also Drug Enforcement Administration.

Notices

Meetings:
Circuit Judge Nominating Commission, U.S. (2 documents) 43570

LABOR DEPARTMENT

See also Federal Contract Compliance Programs Office; Mine Safety and Health Administration; Pension and Welfare Benefit Programs Office.

Rules

Comprehensive Employment and Training Act:
Youth programs 43654

Notices

Adjustment assistance:
American Biltrite, Inc 43573
ASARCO, Inc 43573
Bentley Knitwear Corp 43574
Birk Transfer, Inc 43575
Boat Gertrude "D", et al 43587
Botany 500 43575
Bridon American Corp 43575
Casa La Gata, Inc., et al 43588
Cath-Gar Textile Co., Inc 43576
Chloride Pyrotector, Inc 43577
Conval Penn, Inc 43578
Erie Scientific Co., et al 43589
Eva Fisher Dress Co 43577
Olds, F. E., & Son, Inc 43578
GAMS 43579
General Cable Corp 43579
Grace Coat Co 43579
Handi-Bag Co., Inc., et al 43580
Helga, Inc 43580
International Telephone & Telegraph Co 43581
JZ Coat Co 43581
Kadimah Knits, Inc 43581
Kaiser Steel Corp 43582
Kennecott Copper Corp 43577
Lido Fashions, Inc 43583
N & R Fashions, Inc 43583
Phelps Dodge Refining Corp.. 43584
Pratt Manufacturing Co 43584
Riverpark Manufacturing Co.. 43585
SCM Corp 43576
S.J. Knits, Inc 43585
Vernitron, Inc 43586
Victor Gloves Manufacturing Corp 43586
Whitinsville Spinning Ring Co 43587
Young, Warren 43586
Industry study reports for adjustment assistance eligibility:
Unalloyed unwrought copper.. 43589

LAND MANAGEMENT BUREAU

Notices

Motor vehicles, off-road, etc.; area closures:
Montana 43567

MANPOWER POLICY, NATIONAL COMMISSION

Notices

Meetings 43590

MINE SAFETY AND HEALTH ADMINISTRATION

Rules

Establishment of CFR Chapter, transfer of MESA regulations, and nomenclature changes; correction 43458

Proposed Rules

Metal and nonmetallic mine safety:
Open pit mines, underground mines, etc.; health and safety standards; extension of time 43475

MINES BUREAU

Rules

Coal analysis for non-Federal applicants; transfer of functions to Energy Department; correction 43459

NATIONAL ARCHIVES AND RECORDS SERVICE

Rules

Property management:
Disposition of Federal records; vital records during emergency 43460

NATIONAL INSTITUTE OF EDUCATION

Rules

Grant programs:
Educational equity research .. 43672

NATIONAL INSTITUTES OF HEALTH

Notices

Carcinogenesis bioassay reports; availability:
1, 2-Dichloroethane 43564

NATIONAL LABOR RELATIONS BOARD

Notices

Privacy Act; systems of records; annual publication 43640

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rules

Fishery conservation and management:
Foreign fishing; trawl fisheries in Gulf of Alaska PMP.... 43462

NATIONAL PARK SERVICE

Notices

Environmental statements; availability, etc.:
Yosemite National Park, Calif 43569
Meetings:
Chesapeake and Ohio Canal National Historical Park Commission 43568
Desert National Scenic Trail feasibility study 43569
Indiana Dunes National Lakeshore Advisory Commission 43569

NATIONAL TECHNICAL INFORMATION SERVICE

Notices

Inventions, Government-owned; availability for licensing (2 documents) 43533

NUCLEAR REGULATORY COMMISSION

Notices

Applications, etc.:
Public Service Co. of New Hampshire et al.; republication 43591

Meetings:
Advisory Committee on

RAILROAD RETIREMENT BOARD

Notices

TRADE NEGOTIATIONS, OFFICE OF SPECIAL REPRESENTATIVE

Notices

list of cfr parts affected in this issue

Meetings:
Advisory Committee on Reactor Safeguards, Subcommittee on Waste Management 43591

PANAMA CANAL
Notices
Privacy Act; systems of records; annual publication 43641

PENSION AND WELFARE BENEFIT PROGRAMS OFFICE
Notices
Employee benefit plans:
Actuarial information form, Schedule B; proposed revision 43696
Prohibitions on transactions; exemption proceedings, applications, hearings, etc 43593
Reporting and disclosure requirements:
Actuarial information (Schedule B); revision 43697-43700

RAILROAD RETIREMENT BOARD
Notices
Privacy Act; systems of records; annual publication 43642

SMALL BUSINESS ADMINISTRATION
Notices
Disaster areas:
Michigan (2 documents) 43593
Texas 43593
Wisconsin 43593
Meetings, advisory councils:
Chicago (2 documents) 43592
Detroit 43592
Newark 43592

STATE DEPARTMENT
See Agency for International Development.

TEXTILE AGREEMENTS IMPLEMENTATION COMMITTEE
Notices
Cotton, wool, and man-made textiles:
India 43539

TRADE NEGOTIATIONS, OFFICE OF SPECIAL REPRESENTATIVE
Notices
Meetings:
Trade Negotiations Advisory Committee 43592

TREASURY DEPARTMENT
See Customs Service; Engraving and Printing, Bureau of; Internal Revenue Service.

VETERANS ADMINISTRATION
Notices
Environmental statements; availability, etc.:
Bourne, Mass., National Cemetery; excessed Otis AFB land 43596
Meetings:
Career Development Committee 43595
Cooperative Studies Evaluation Committee 43595

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR
PROCLAMATIONS:
4601 43429

5 CFR
213 (3 documents) 43431
PROPOSED RULES:
900 43465

7 CFR
0 43431
724 43443
725 43444

9 CFR
325 43444

12 CFR
220 43446
523 43448
526 43448
545 43448
581 43448
563 43448
564 43449

14 CFR
91 43463
121 43463
127 43463
135 43463

15 CFR
370 43449
379 43449
385 43449
386 43450
399 43450

17 CFR
140 43451

19 CFR
10 43453
11 43454
12 43454
19 43454
22 43455
141 43455
143 43455
144 43455
145 43455
159 43455
161 43456

21 CFR
136 43456
436 43457
449 43457
PROPOSED RULES:
50 43468
52 43468
54 43468
56 43468
57 43468
58 43468
436 43468
446 43468
546 43468
680 43472
1020 43473

24 CFR
PROPOSED RULES:
255 43676
1917 43475

29 CFR
94 43654
97 43654

30 CFR
Ch. I 43458
610 43459
PROPOSED RULES:
55 43475
56 43475
57 43475

31 CFR
605 43459

41 CFR
101-11 43460

42 CFR
PROPOSED RULES:
460 43475

45 CFR
801 43464
1490 43672

47 CFR
PROPOSED RULES:
83 43476

49 CFR
PROPOSED RULES:
Ch. X 43478

50 CFR
17 43688
32 43461
611 43462
PROPOSED RULES:
17 43692

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

FCC—FM broadcast stations; table of assignments:
Amherst and Crozet, Va. 36942; 8-21-78

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.
[Last Listing: September 22, 1978]

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during

14 CFR—Continued
221 39536
241 40454

18 CFR—Continued
131 40217
PROPOSED RULES:

21 CFR—Continued
PROPOSED RULES—Continued
546 ..... 43036, 43472

V 43 / 187 SEP 26 78

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.

1 CFR

Ch. I 39069

3 CFR

EXECUTIVE ORDERS:

10536 (Revoked by EO 12079) 42233
10616 (Revoked by EO 12082) 42727
11030 (Amended by EO 12080) 42235
11151 Revoked by EO 12082) 42727
11437 (Revoked by EO 12082) 42727
11554 (Revoked by EO 12082) 42727
11846 (See Proc. 4600) 43285
12024 (See EO 12078) 39741
12078 39741
12079 42233
12080 42235
12081 42237
12082 42727

MEMORANDUMS:

September 8, 1978 40449

PROCLAMATIONS:

4591 39561
4592 39739
4593 40197
4594 40451
4595 41013
4596 41941
4597 42725
4598 43011
4599 43283
4600 43285
4601 43429

REORGANIZATION PLANS:

No. 3 of 1978 41943

4 CFR

416 42239

5 CFR

213 ..... 39069, 39070, 39951–39953, 40453, 41947, 43431
930 43013

PROPOSED RULES:

900 43465

7 CFR

0 43431
2 ..... 39953, 41371
245 39070
250 ..... 39070, 41947
270 43273
271 ..... 41947, 43273
272 43274
278 43274
279 43279
282 ..... 39074, 39075
301 40528
330 39953
401 41371
724 43443
725 43444
905 43013

7 CFR—Continued

908 ..... 39743, 42247
910 ..... 39080, 39319, 39954, 41372, 41949, 43015, 43016
911 39319
915 39321
927 39323
931 39323
932 39743
944 43013
993 40199
1004 ..... 39744, 39745, 41990
1036 40801
1071 39325
1073 39326
1097 39328
1102 39328
1104 39329
1106 39331
1108 39333
1120 39334
1125 42729
1126 39335
1132 39337
1133 39955
1138 39338
1435 39563
1464 41991
1701 41181
1822 43016
1823 ..... 39746, 40199
1955 41373

PROPOSED RULES:

6 ..... 39110, 40530
17 40872
722 39117
918 40027
948 40027
965 40028
981 39393
1079 40028
1126 40030
1427 39118
1701 ..... 40036, 41215
1822 41215
1940 41047–41049
1944 41215
2852 43027

8 CFR

108 40879
236 40801

PROPOSED RULES:

108 40879

9 CFR

54 41103
91 39080
94 ..... 39956, 43017
113 41185
325 43444
355 39340

PROPOSED RULES:

1 42200
3 42200

9 CFR—Continued

PROPOSED RULES—Continued

92 40037
316 43027
317 39394
318 ..... 39119, 39394
319 39394

10 CFR

Ch. I 43289
35 39747
51 41373
73 41187
205 ..... 39080, 40200
212 ..... 40682, 42984

PROPOSED RULES:

51 39801
210 41224
211 ..... 40233, 41224
212 ..... 40233, 41224
430 40192
1004 40530

12 CFR

7 43289
202 39341
217 41015
220 43446
226 ..... 40210, 41015, 43018
523 43448
526 43448
545 43448
561 43448
563 43448
564 43449

PROPOSED RULES:

7 ..... 41406, 43310
226 41993

13 CFR

107 39563
108 43019
Ch. IV 40803

PROPOSED RULES:

123 42016
130 39394
309 41408

14 CFR

39 ..... 39346–39348 39748, 39750, 41016, 41374–41376, 42730–42732, 43292, 43293
71 ..... 39439 39750–39753, 40211–40213, 41017, 41018, 41381–41383, 42734, 43293, 43294
73 ..... 40214, 40215, 42734
75 ..... 39753–39755, 43294
91 43463
97 ..... 41019, 42734
121 43463
127 43463
135 43463
207 42736

14 CFR—Continued

221 39536
241 40454
298 41187
302 ..... 39536, 41021
385 40803
399 39522

PROPOSED RULES:

Ch. II 41410
39 ..... 40233, 42766, 43312
71 ..... 39803, 40237, 41051, 41408, 41409, 42766
73 ..... 39803, 39804
223 39805
250 39806
298 39587
380 ..... 39807, 40880

15 CFR

46 43020
370 43449
379 43449
385 43449
386 43450
399 ..... 42741, 43450

PROPOSED RULES:

500 41230

16 CFR

1 39083
13 ..... 39350, 40454
14 42741
422 43022
1209 39564

PROPOSED RULES:

13 ..... 39120, 40536, 40537, 40882, 41233, 42017, 43313
305 41410
306 43028
451 41051
1209 39564

17 CFR

1 39956
8 41950
111 41192
140 43451
210 ..... 40688, 41022
211 40730
230 ..... 41193, 41383
239 39554
249 39554
270 39553
274 39553

PROPOSED RULES:

150 43034
210 ..... 40724, 40726
229 40720
230 41235
239 41052
240 43035
241 43035
249 43035
270 39396

18 CFR

1 ..... 39982, 41965
3 40217
4 40217
16 40217

18 CFR—Continued

131 40217

PROPOSED RULES:

1 ..... 39122, 40037

19 CFR

10 43453
11 43454
12 43454
19 43454
22 43455
141 43455
143 43455
144 43455
145 43455
153 40804
159 43455
161 43456

PROPOSED RULES:

6 40238
177 41236

20 CFR

416 39564
801 41990
802 41990
901 39756

PROPOSED RULES:

404 ..... 39266, 42017
416 41054
620 39124
653 39124

21 CFR

105 43248
136 43456
430 41194
431 ..... 41194, 41195
436 43457
449 43457
510 39086
514 41195
520 ..... 39084, 39085
522 40455
524 40455
556 41965
558 ..... 39086, 39350, 41965
561 ..... 40456, 41385, 41386
1308 43295

PROPOSED RULES:

50 43468
52 43468
54 43468
56 43468
57 43468
58 43468
73 42017
102 ..... 42118, 43035
105 43261
131 42118
133 ..... 42118, 42126, 42127
145 39126
182 43036
186 43036
310 39126
314 39126
337 39544
347 42018
436 ..... 40038, 43468
446 43468
469 40038

21 CFR—Continued

PROPOSED RULES—Continued

546 ..... 43036, 43472
680 43472
808 43037
1020 43473
1308 40884

22 CFR

64 42247
516 42247

23 CFR

17 41387
190 42742

PROPOSED RULES:

625 40539

24 CFR

207 43023
221 39570
841 41198
886 40402
1914 ..... 41028, 41030, 41966, 42743, 42747
1915 41967
1916 39572
1917 ..... 39351–39360, 39573–39582, 39761–39771, 39983–39987, 41204
1920 39771–39774

PROPOSED RULES:

58 42220
201 39593
255 43676
570 41369
1917 ..... 39129–39141, 41237, 42018, 42261–42281, 43037–43048, 43317–43327, 43475
3500 ..... 39701, 40539

25 CFR

11 40804
41 41388
43k 40457
54 39361
178 40458
258 39086

PROPOSED RULES:

43 43327
251 42768

26 CFR

1 ..... 40219, 40459, 41204
48 41388
301 ..... 40219, 40459

PROPOSED RULES:

1 ..... 39142, 39822, 41237, 43048, 43329
20 43330
31 ..... 39142, 39149
301 39142

28 CFR

0 43296
21 43296
50 43297

PROPOSED RULES:

2 ..... 41411, 42282
16 43330

V 43 / 187 SEP 26 78

29 CFR

94 43654
97 43654

29 CFR—Continued

303 40498
305 40501

38 CFR

14–18 39379
14–30 39380
14–55 39380

47 CFR

2 41985

49 CFR—Continued

176 39792

50 CFR

17 43688

29 CFR

94 43654
97 43654
1601 39775
1610 40222
1910 39087
2520 41205

PROPOSED RULES:

860 43264
1601 39831

30 CFR

Ch. I 43458
41 39988
70 40760
71 40760
301 41974
302 41974
610 43459

PROPOSED RULES:

Ch. VII . 41662, 42018, 42282, 42769
55 ..... 40766, 43475
56 ..... 40766, 43475
57 ..... 40766, 43475

31 CFR

1 42249
51 40223
223 39088
605 43459

32 CFR

42 39988
581 40498
641 41975
837 42249
902 39089
931 39101
1288 40806
1804 39776

PROPOSED RULES:

47 40884

33 CFR

1 43297
3 40224
117 ..... 39777, 41032, 41389, 41390
127 42748
146 43297
161 ..... 39994, 40224
165 42748

PROPOSED RULES:

89 39946
117 ..... 41412, 41413
124 43330
126 ..... 39832, 43330
161 43330
183 ..... 41056, 43006

36 CFR

214 40998
261 42749
1207 40808

PROPOSED RULES:

28 41414

37 CFR

202 41975
302 40225
303 40498
305 40501

38 CFR

2 39364
14 39365

PROPOSED RULES:

3 40239
21 39832
36 ..... 39150, 39833

39 CFR

111 ..... 39583, 39995, 40810
221 41984
224 ..... 41984, 42249
265 42250
602 42249

PROPOSED RULES:

111 ..... 39593, 42769
266 41391

40 CFR

2 ..... 39997, 42251
35 ..... 42251, 43420
51 40009
52 ..... 39366, 40009–40011, 41032–41039
65 ..... 40015, 40226, 43298
81 ..... 39101, 40412, 40436, 40502
86 43299
125 40859
180 ..... 41206, 41391–41396, 42749
409 43304
423 43023
600 39367
730 41206

PROPOSED RULES:

35 40742
50 43319
51 43319
52 ..... 39151, 39152, 40009–40011, 40240, 40245, 42018, 42282
60 ..... 42154, 42183, 42186
65 ..... 39152, 39153, 39397, 39834, 40015, 40247, 40248, 40539, 41238, 41239, 42283, 43320–43339
81 40436
125 39282
130 40742
131 40742
151 39276
162 39644
180 ..... 40249, 41240, 42770
233 39398
761 43048
762 42771

41 CFR

Ch. I 40015, 41044
Ch. 18 40018
Ch. 101 40019
3–56 39778
5B–2 40227
14–1 ..... 39377, 39787, 41207
14–2 ..... 39378, 39788
14–3 39788
14–4 39378
14–7 39379
14–12 39379
14–18 39379
14–30 39380
14–55 39380
101–11 43460
101–30 42257
101–37 40228
114–45 42750
114–50 42751–42756

PROPOSED RULES:

101–20 40250
105–64 43049
114–50 42772

42 CFR

36 41214
54a 40386
57 ..... 39380, 43414
58 ..... 39384, 40862

PROPOSED RULES:

59 42019
110 40376
405 39155
449 39155
460 43475

43 CFR

26 41004
428 41396
6000 40734
6010 40734
6200 40734
6220 40734
6250 40734
6260 40734
6270 40734
6290 40734
8000 40734
8200 40734
8300 40734
8340 40734
8350 40734
8360 40734
8370 40735

PROPOSED RULES:

420 41241

PUBLIC LAND ORDERS:

5646 43304

45 CFR

5b 40229
801 ..... 39387, 43464
1490 43672

PROPOSED RULES:

177 41056
1340 39593

46 CFR

502 41040
510 40524
512 40524
528 42757
542 39102

PROPOSED RULES:

151 40250
153 40250
157 41178
531 39399
536 39399

47 CFR

2 41985
73 ..... 39388, 39584, 39704, 40250, 40251, 41400
74 ..... 39704, 41401
87 ..... 41214, 41986
89 41987

PROPOSED RULES:

1 41241
31 ..... 39385, 40886
33 ..... 39385, 40886
42 ..... 39385, 40886
43 ..... 39385, 40886
63 40541
73 ..... 39400, 39593, 39594, 40250, 40251, 40887, 40888, 41241
83 ..... 40889, 43476
87 42285

49 CFR

Ch. I 43305
71 42763
85 43305
101 43305
172 39789
173 39791
175 39792

49 CFR—Continued

176 39792
177 41401
179 39792
192 ..... 39389, 43308
571 ..... 39390, 43308
581 40229
609 41987
1008 41040
1033 ..... 39103, 39104, 39794–39796, 41403, 42257
1056 39798

PROPOSED RULES:

Ch. II 43339
Ch. X 39157, 43478
172 39835
173 39835
192 ..... 39401, 42773, 42774
195 39402
571 ..... 39835, 41056
1033 40891
1060 41242
1121 41245
1307 39157
1309 39157
1310 39157
1320 ..... 39404, 41059
1322 ..... 39404, 41059

50 CFR

17 43688
20 ..... 39286, 42960
26 ..... 39798, 41042
32 ..... 39105–39107, 39584, 39585, 39799, 39800, 40021–40024, 40232, 40524, 40867, 41042, 41043, 41404, 42258, 42260, 42763, 43461
33 ..... 41044, 43308
216 40025
230 43025
285 ..... 39107, 41044
351 43309
611 ..... 39586, 43462
651 ..... 39108, 41405, 42764
652 ..... 40527, 42765
662 40868
810 39306

PROPOSED RULES:

17 ..... 41060, 43692
32 40893
230 40045
611 ..... 41062, 41244
652 39161

FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

Pages	Date
39069–39317	Sept. 1
39319–39560	5
39561–39738	6
39739–39950	7
39951–40195	8
40197–40448	11
40449–40799	12
40801–41011	13
41013–41179	14
41181–41369	15
41371–41940	18
41941–42232	19
42233–42724	20
42725–43009	21
43011–43281	22
43283–43427	25
43429–43701	26

presidential documents

[3195-01]

V 43/187 SEP 26 78

[3195-01]

Title 3—The President

PROCLAMATION 4601

National Good Neighbor Day, 1978

By the President of the United States of America

A Proclamation

As our Nation struggles to build friendship among the peoples of this world, we are mindful that the noblest human concern is concern for others.

Understanding, love, and respect build cohesive families and communities. The same bonds cement our Nation, and the nations of the world.

For most of us, this sense of community is nurtured and expressed in our neighborhoods where we give each other an opportunity to share and feel part of a larger family.

In recognition of the importance of fostering compassion and respect in ourselves for our neighbors, the Congress has requested the proclamation of September 24, 1978, as National Good Neighbor Day (S.J. Res. 133).

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim Sunday, September 24, 1978, as National Good Neighbor Day.

I call upon the people of the United States and interested groups and organizations to observe such day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of September, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 78-27243 Filed 9-25-78; 11:03 am]

V 43/187 SEP 26 78

V 43/187 SEP 26 78

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Administrative Office of the U.S. Courts

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: To allow coverage of an additional source of qualified candidates that does not change the impracticability of competitive examination for the positions, this amendment adds Pretrial Services Officers to the kinds of candidates who may fill Federal Probation System Administrator positions excepted under schedule B in the Administrative Office of the U.S. Courts.

EFFECTIVE DATE: September 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3272(a) is amended as set out below:

§ 213.3272 Administrative Office of the U.S. Courts.

(a) Not to exceed 13 positions of Federal Probation System Administrator in the Division of Probation, when filled by Federal Probation Officers and/or Pretrial Services Officers on active service in the U.S. Courts.

* * * * *

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant
To the Commissioners.

[FR Doc. 78-26915 Filed 9-25-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Ten positions of interns, residents, and fellows for work in mental health and deafness at St. Elizabeths Hospital are excepted under schedule A because it is impracticable to examine for them. No one may serve more than 1 year under this authority.

EFFECTIVE DATE: September 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3116(a)(12) is added as set out below:

§ 213.3116 Department of Health, Education, and Welfare.

(a) *St. Elizabeths Hospital* * * *

(12) Ten positions of interns, residents, and fellows for work in mental health and deafness. Employment under this authority may not exceed 1 year for any individual.

* * * * *

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc. 78-26914 Filed 9-25-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Deputy Special Assistant to the Secretary for Indian and Alaska Native Programs, Department of Housing and Urban Development, is excepted under schedule B because it is impracticable to hold a competitive examination for it.

EFFECTIVE DATE: September 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael D. Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3284 is added as set out below:

§ 213.3284 Department of Housing and Urban Development

(a) *Office of the Secretary.* (1) One Deputy Special Assistant for Indian and Alaska Native Programs.

* * * * * *

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc. 78-26913 Filed 9-25-78; 8:45 am]

[3410-96]

Title 7—Agriculture

SUBTITLE—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 0—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Final Rules

AGENCY: Office of Personnel, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture revises its regulations on employee responsibilities and conduct. The revision incorporates into the Department's regulations adequate criteria to identify positions whose incumbents should file employment and financial disclosure statements; clarifies procedures to assure the prompt collection of such statements; and provides procedures for the coordination and monitoring of the activities of review officials to enhance consistency and avoid confusion in the review of

V 43/187 SEP 26 78

employment and financial statements. The revisions of Part 0 will assure an effective employment and financial

tures Trading Commission, Environmental Protection Agency and Sugar Act; includes several new statutory

0.735-38 Interests of employee's relatives.
0.735-39 Information not known by employee.

tained, designated, appointed, or employed to perform temporary duties either on a full-time or intermittent basis, with or without compensation,

guidance on most matters covered by this part.

(d) All employees are to be notified of the availability of counseling and

maintaining high standards of ethics and conduct. They must become familiar with the regulations in this part and apply the standards to themselves

V 43 / 187 SEP 26 78 V 43

employment and financial statements. The revisions of Part 0 will assure an effective employment and financial disclosure system.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Clyde W. Fisk, Chief, Security and Employee Relations Division, Office of Personnel, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7654.

SUPPLEMENTARY INFORMATION: The revision of Part 0, Title 7 also contains numerous editorial and clarifying changes. These appear in §§ 0.735-2, 0.735-3, 0.735-4, 0.735-11, 0.735-12, 0.735-13, 0.735-14, 0.735-15, 0.735-19, 0.735-20, 0.735-23, 0.735-24, 0.735-31, 0.735-33, 0.735-34, 0.735-35, 0.735-36, and 0.735-42. These changes are as follows: redefines "Agency" and "Agency Head" and adds definitions for "Supervisor," "Outside employment or activity," and "Members of family"; authorizes the General Counsel to designate the Department Counselor; provides that Agencies may issue such additional regulations as are necessary, consistent, and of necessity more restrictive than these regulations, subject to the prior approval of the Director of Personnel; provides an exception to the monitoring or recording of telephone and nontelephone conversations in criminal investigations; includes substantial changes in the existing law regulating the acceptance and retention by employees of gifts and decorations from foreign governments; contains additional restrictions on an employee's outside employment or activity; restricts an employee from disclosing information obtained in his or her employment for the benefit of another; eliminates the exemption concerning the reporting of stocks, bonds, and other securities when the aggregate value is less than $5,000 and less than 1 percent of the value of the outstanding stocks, bonds or other securities; provides that tardiness can result in a charge to annual leave in multiples of 15 minutes; provides that the approval of leave is reserved to the supervisor and conditioned on the needs of the Service; permits an employee to run for elective office if authorized by the Department or by the Civil Service Commission regulations; contains several references to the Freedom of Information Act; restricts employees from purchasing products or receiving services directly or indirectly from persons, firms, or establishments for which such employees conduct inspection, grading, or similar regulatory activities without express approval from their Agency; deletes several miscellaneous statutory provisions relating to the Commodity Futures Trading Commission, Environmental Protection Agency and Sugar Act; includes several new statutory provisions and lists all statutory provisions in numerical order according to U.S. Code citations; requires employment and financial statements from certain types of employees when their duties and responsibilities could affect the agriculture industry and from all employees who perform functions under the Surface Mining Control and Reclamation Act; provides appropriate disciplinary action for an employee who refuses to file an employment and financial statement; requires that initial statements be submitted prior to appointment to a position requiring the submission of a statement; requires supplementary statements to be reported as of March 31 and submitted no later than April 30 of each year; expands the types of interests to be reported; and revises the responsibilities of Agency Heads with respect to the review and determination of statements and indicates the level to which such responsibilities can be delegated.

Accordingly, 7 CFR Part 0 is revised to read as follows:

Subpart A—General Provisions

Sec.
0.735-1 Purpose.
0.735-2 Definitions.
0.735-3 Counseling and advisory service.
0.735-4 Agency supplementation.
0.735-5 Remedial action.
0.735-6 Responsibilities of supervisors.

Subpart B—Conduct and Responsibilities of Employees

0.735-11 Prohibited conduct—general.
0.735-12 Gifts, gratuities, entertainment, and favors.
0.735-13 Outside employment and activities.
0.735-14 Conflict of interest.
0.735-15 Attendance and leave.
0.735-16 Use of Government property, facilities and services.
0.735-17 Use of vehicles.
0.735-18 Indebtedness.
0.735-19 Political activity.
0.735-20 Use, protection, and release of information.
0.735-21 Activities with regard to farm organizations.
0.735-22 Prohibitions upon employees serving abroad.
0.735-23 Miscellaneous provisions.
0.735-24 Miscellaneous statutory provisions.

Subpart C—Statements of Employment and Financial Interests

0.735-31 Employees required to submit statements.
0.735-32 Exceptions.
0.735-33 Identification of employees required to submit statements.
0.735-34 Time and place for submission of employees' statements.
0.735-35 Supplementary statements.
0.735-36 Types of interests to be reported.
0.735-37 Information prohibited.
0.735-38 Interests of employee's relatives.
0.735-39 Information not known by employee.
0.735-40 Effect of employee's statement.
0.735-41 Specific provisions for special Governments employees..
0.735-42 Review of statements and determination of conflicting interests.
0.735-43 Protection of employees' statements.

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Subpart A—General Provisions

§ 0.735-1 Purpose.

The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government. The confidence of citizens in their Government is influenced not only by the manner in which employees serve the public but in the way they conduct themselves in the eyes of the public. The avoidance of misconduct and conflicts-of-interests on the part of Government employees through informed judgment is indispensable to the maintenance of these standards. To accord with these concepts, this part sets forth the regulations for employees of the U.S. Department of Agriculture, prescribing standards of conduct and responsibilities and governing the reporting of employment and financial interests.

§ 0.735-2 Definitions.

In this part:

(a) "Agency" means an independent subagency or departmental staff office of the U.S. Department of Agriculture.

(b) "Agency Head" means the Administrator or Chief Executive Officer of an independent subagency or departmental staff office.

(c) "Conflict-of-interest" means a situation in which a Federal employee's private interest, usually of an economic nature, conflicts with his or her Government duties and responsibilities.

(d) "Appearance of conflict-of-interest" means a situation where it could reasonably be concluded that an employee's private interest is in conflict with his or her Government duties and responsibilities, even though there may not actually be such a conflict.

(e) "Employee" means a regular officer or employee of the Department of Agriculture including excepted and WOC employees and includes a special Government employee unless otherwise provided.

(f) "Special Government employee" means an officer or employee of the Department of Agriculture who is retained, designated, appointed, or employed to perform temporary duties either on a full-time or intermittent basis, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days.

(g) "Supervisor" means an employee having authority, in the interest of an Agency, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees or responsibility to direct them, or to adjust their grievance; or effectively recommend such action, if in connection with the foregoing the exercise of authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(h) "Outside employment or activity" means any outside work, service, or activity performed by an employee other than in the performance of official duties. It includes but is not limited to such activities as writing, editing, publishing, teaching, lecturing, consulting services, self-employment, working for another employer, management or operation of a private business, personally owned business, partnership, corporation, or any work performed with or without compensation.

(i) "Members of family" means those blood and in-law relations who are residents of the employee's household.

(j) "The Executive Order" means Executive Order 11222 of May 8, 1965.

§ 0.735-3 Counseling and advisory service.

(a) The General Counsel shall designate an employee of the Office of the General Counsel to serve as the Department Counselor and designee to the Civil Service Commission on matters covered by the regulations in this part. Employees shall be notified semi-annually of the name and title of the Department Counselor and also upon the designation of a new employee to that position. The Department Counselor shall have overall responsibility for coordination of the Department's counseling and advisory service, and for assuring advice and interpretations on questions of conflict or apparent conflicts-of-interest and other matters covered by the regulations in this part are available to Deputy Counselors and Assistant Deputy Counselors hereinafter designated.

(b) The Director of Personnel and the Chief, Security and Employee Relations Division, Office of Personnel, shall be Department Deputy Counselors.

(c) Agency Heads will be Agency Deputy Counselors. If necessary, in order to assure that counseling and advisory service is available to all Washington and field employees, the Agency Head may designate as Agency Assistant Deputy Counselors such employees as are qualified and in a position to give authoritative advice and guidance on most matters covered by this part.

(d) All employees are to be notified of the availability of counseling and by whom this service is provided. Initial notification must be made within 90 days after issuance of this part, and perodically thereafter. A new employee or new special Government employee must be notified at or before the time of his or her entrance on duty.

(e) Each new employee shall be furnished at the time of hiring a copy of this part. Current employees shall be furnished a copy of these regulations within 90 days following issuance. Subsequent changes to these regulations will be furnished employees upon issuance. Each employee shall be reminded of the regulations in this part semi-annually.

(f) The regulations in this part will be discussed with each employee annually in conjunction with the employee's performance evaluation. Each employee will certify on the performance evaluation form or other Agency form that he or she has a copy of this part and has discussed it with his or her supervisor.

§ 0.735-4 Agency supplementation.

Agencies of the Department may issue such additional regulations as are necessary, consistent, and of necessity more restrictive than the regulations in this part, subject to the prior approval of the Director of Personnel. Agencies are expected to issue such supplemental regulations, with respect to employees assigned to particular programs, as are necessary to prevent such employees from being in a potential conflict-of-interest situation or a situation giving the appearance of a conflict-of-interest. Such Agency regulations shall be furnished to employees in the same manner as the regulations in this part.

§ 0.735-5 Remedial action.

(a) A violation of this part by an employee may be cause for remedial action. Remedial action may include, but is not limited to:

(1) Changes in assigned duties;

(2) Divestment by the employee of a conflicting interest;

(3) Disqualification for a particular assignment; or

(4) Disciplinary action which may be in addition to any penalty prescribed by law.

(b) Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive Orders, and regulations.

§ 0.735-6 Responsibilities of supervisors.

(a) Supervisors, because of their day-to-day relationships with employees, are responsible to a large degree for maintaining high standards of ethics and conduct. They must become familiar with the regulations in this part and apply the standards to themselves and employees they supervise.

(b) Supervisors shall advise an employee who comes to them with questions on matters covered by these regulations, or when they consider it appropriate, refer the employee or the questions to a counselor designated in § 0.735-3.

Subpart B—Conduct and Responsibilities of Employees

§ 0.735-11 Prohibited conduct—general.

(a) An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding Government efficiency or economy;

(4) Losing complete independence or impartiality;

(5) Making a Government decision outside of official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government.

(b) Employees are specifically prohibited from:

(1) Engaging in criminal, infamous, dishonest or notoriously disgraceful conduct, or other conduct prejudicial to the Government;

(2) Betting or participating in any gambling activity, including the operation of a gambling device, conducting a lottery or pool, or selling or buying a number slip or ticket, while on Government-owned or leased property or while on duty for the Government;

(3) Using intoxicating beverages or narcotic drugs on Government-owned or leased property, or transporting such beverages or drugs in Government-owned or leased vehicles, or using such beverages or drugs at any time or place to the extent that it adversely affects performance of official duties;

(4) Lending funds at usurious interest rates;

(5) Provoking or harassing other employees, or making unwarranted criticism or accusations against other employees;

(6) Except as authorized by the Inspector General with the consent of a party to the conversation when necessary in criminal investigations, monitoring or recording, or authorizing or permitting others under their administrative control to monitor or record, telephone conversations for the purpose of taking a verbatim transcript of all or part of the conversation unless such monitoring or recording is agreed

to in advance by all participants in the conversation;

(7) Except as authorized by the Inspector General with the consent of a

(b) Gifts, gratuities, favors, entertainment, loans, unusual discounts, special considerations and any other thing of monetary value bestowed

(c) Pursuant to 5 U.S.C. 7342, the acceptance by an employee of a gift, present, decoration or other thing from a foreign government or agent

from the donor, preferably in the form of a citation, which shows the basis for tender of the award. A request from the

firms, companies, institutions, professional societies, or State or local governments. Incompatible activities include but are not limited to:

not reflect discredit on the Government or the Department.

(c) Except as provided in paragraphs

to in advance by all participants in the conversation;

(7) Except as authorized by the Inspector General with the consent of a party to the conversation when necessary in criminal investigations, utilizing a mechanical or electronic device to monitor or record nontelephone conversations, unless such monitoring or recording is agreed to in advance by all participants in the conversation;

(8) Soliciting, making collections, canvassing for the sale of any article, or distributing or posting literature, advertising matter, or any other graphic matter, in any space occupied by the Department, except as authorized in writing by the Director of Personnel;

(9) Soliciting money from, or selling tickets to, persons outside the Government for the benefit of any organization of the Department;

(10) Taking any action which might prejudice the Government's interest in a criminal or civil case;

(11) Giving aid or assistance, other than in the discharge of official duties, to any claimant in prosecuting any claim against the United States; or

(12) Distributing through the Department's mail and messenger service, or otherwise distributing or posting, in any space occupied by the Department, any circulars, flyers, announcements, pictures, or other graphic matters, etc., that:

(i) Directly or indirectly attack or adversely reflect on the integrity of any official, officer or employee of any branch of the Government; or

(ii) Directly or indirectly condemn or criticize the policies of any Government department or agency.

§ 0.735-12 Gifts, gratuities, entertainment, and favors.

(a) Except as provided in paragraphs (c) and (f) of this section, employees shall not solicit or accept, for themselves or another person, directly or indirectly, any gift, gratuity, favor, entertainment, loan, unusual discount, special consideration or any other thing of monetary value (including complimentary meals and beverages, tangible items, tickets and passes) from any interested party. An "interested party" is any person, firm, corporation, other entity, or an individual acting in behalf thereof, which:

(1) Has or is seeking to engage in, procurement activities or other contractual, business, or financial relations with the Department;

(2) Conducts operations or activities that are regulated by the Department; or

(3) Has interests that may be substantially affected by the performance or nonperformance of the official duty of the employee concerned.

(b) Gifts, gratuities, favors, entertainment, loans, unusual discounts, special considerations and any other thing of monetary value bestowed upon members of the employee's immediate family are considered to be the same as if bestowed upon the employee. Acceptance of items, no matter how innocently offered or accepted from "interested parties" may be a source of embarrassment to the Department and the employee involved, may affect the objective and impartial judgment of the employee, and may impair confidence of the public in the integrity of the employee and the Department.

(c) The restrictions in paragraph (a) of this section do not prohibit:

(1) Exchange of social gifts in an obvious family or personal relationship (such as those between the employee and parents, spouse, children, or close personal friends of the employee) when the circumstances make it clear that it is those relationships rather than the business of the "interested party" which are the motivating factors;

(2) Exchange of customary social courtesies which are wholly free of any embarrassing or improper implications, and which are of trivial value (e.g., soft drink or cup of coffee);

(3) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as automobile and home mortgage loans;

(4) Acceptance of unsolicited advertising or promotional material of clearly trivial value, such as: pens, pencils, note pads, calendars, and other things of nominal or trifling value. Acceptance of gifts, such as meat products, alcoholic beverages, fruit baskets, boxes of candy, wallets, jewelry, and cuff links is, however, strictly prohibited; or

(5) Acceptance of food and refreshments of nominal value on infrequent occasions when the interest of the Government is served by participation of Department employees in industry-sponsored activities at which a luncheon or dinner may be served, and where the discussion of matters of mutual interest to the Government and industry will take place.

(d) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself or herself (5 U.S.C. 7351). However, this paragraph does not prohibit the voluntary giving or acceptance of a gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(e) Pursuant to 5 U.S.C. 7342, the acceptance by an employee of a gift, present, decoration or other thing from a foreign government or agent thereof (including an international organization whose membership includes a unit of foreign government, or any agent of a foreign government) is subject to the following conditions:

(1) An employee may not request or otherwise encourage the tender of a decoration or gift (including travel and travel expenses);

(2) An employee may accept and retain a gift that is tendered and received as a souvenir or a mark of courtesy if the gift has a retail value in the United States of $100 or less at the time of acceptance;

(3) An employee may accept a gift of more than $100 when such gift is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States. An employee may also accept gifts of travel or expenses for travel entirely outside the United States provided the employee obtains prior approval from the Head of the employing Agency or his or her designee;

(4) The acceptance of a tangible gift of more than $100 is deemed to have been accepted on behalf of the United States and becomes the property of the United States. It must be deposited by the employee within 60 calendar days with his or her employing Agency's Property Management Officer with a statement indicating:

(i) Name and position of the employee;

(ii) Brief description of the gift and the circumstances justifying acceptance;

(iii) Identity, if known, of the foreign government and name and position of the individual who presented the gift;

(iv) Date of acceptance of gift;

(v) Estimated value in the United States of the gift at time of acceptance; and

(vi) Disposition and current location of the gift.

If the gift is for travel or travel expenses, the employee must file a statement with his or her employing Agency Head within 30 calendar days after acceptance indicating: Name and position of the employee, brief description of the gift and the circumstances justifying acceptance, and identity, if known, of the foreign government and name and position of the individual who presented the gift;

(5) An employee may accept, retain, and wear a foreign decoration, if tendered in recognition of active field service or unusually meritorious service and if supported by a statement

from the donor, preferably in the form of a citation, which shows the basis for tender of the award. A request from the Head of the employing Agency for approval of the acceptance of the decoration will be forwarded to the Administrator of the Foreign Agricultural Service or his or her designee for concurrence or disapproval. The request from the employing Agency must contain a recommendation as to whether or not the acceptance, retention, and wearing of the foreign decoration by the employee would be in the best interest of the United States. The Administrator of the Foreign Agricultural Service shall notify the employing Agency of his or her concurrence or disapproval of the retention of the foreign decoration. Disapprovals by the Foreign Agricultural Service shall constitute acceptance on behalf of the United States and the decoration shall be deposited by the employee with the Agency's Property Management Officer within 60 calendar days. The Property Management Officer shall report the decoration as required by the Agriculture Property Management Regulations;

(6) Violation of the provisions of the law including the failure by an employee to report such a gift may result in a civil penalty against the employee for the value of the gift plus $5,000; and

(7) The definition of "employee" includes all employees of the Department, experts, or consultants under contract with the United States, spouses of all such individuals, and blood and in-law relations who are residents of the employee's household.

(f) Neither this section nor § 0.735-13(a) precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel, and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his or her behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits; nor does it allow an employee to be reimbursed for travel on official business under Agency orders when reimbursement is proscribed by decision B-128527 of the Comptroller General dated March 7, 1967 (46 Comp. Gen. 689).

§ 0.735-13 Outside employment and activities.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his or her Government employment whether on his or her behalf, or for private individuals, firms, companies, institutions, professional societies, or State or local governments. Incompatible activities include but are not limited to:

(1) Outside employment or activity (including the acceptance of a fee, compensation, gift, payment of expenses or any other thing of monetary value) which may result in, or create the appearance of a conflict-of-interest;

(2) Outside employment or activity which tends to impair the employee's mental or physical capacity to perform his or her Government duties and responsibilities in an acceptable manner;

(3) Outside employment or activity that takes the employee's time and attention during his or her official work hours;

(4) Outside employment or activity which may be construed by the public to be official acts of the Department, or of a nature closely paralleling the work of the Department;

(5) Outside employment or activity which involves participation in a commercially sponsored broadcast, or which relates to a written discussion of policies or official work of the Department, unless authorized in advance by the Office of Governmental and Public Affairs;

(6) Outside employment or activity which involves permission, or the appearance of permission to use an employee's name in the advertising of organizations commercializing the results of research conducted by the Department, regardless of any merits which such enterprises may appear to possess;

(7) Outside employment or activity which may involve the use of information secured as the result of employment in the Department and to the detriment of the public service;

(8) Any outside employment or activity which may tend to bring criticism of, or cause embarrassment to, the Department;

(9) Outside employment or activity which would involve the use by the employee of official facilities, e.g., office space, office machines, supplies, telephones, or the services of other employees; and

(10) Outside employment or activity which would involve the violation of a Federal or State statute, a local ordinance, Executive order, or regulation to which the employee is subject.

(b) Outside employment or activity (including self-employment) is permitted to the extent that it does not conflict with other requirements of this part, or tend to create a conflict-of-interest, or appearance of conflict-of-interest, between the private interests of an employee and the employee's official responsibilities. The employee's outside employment or activity shall not reflect discredit on the Government or the Department.

(c) Except as provided in paragraphs (c) (1) through (4) of this section, employees shall obtain advance approval for outside employment or activity whether paid or unpaid. Each Agency shall establish the approval level and shall advise each employee. A record of each approval shall be filed in the employee's official personnel folder. The term outside employment or activity as used in this paragraph does not include:

(1) Memberships in, or volunteer work with, charitable, religious, social, fraternal, recreational, public service, civic, or similar nonbusiness and nonprofit organizations;

(2) Memberships in professional organizations;

(3) Performance of duties in the Armed Forces, Reserve, or National Guard; or

(4) Acting as an officer of a labor organization pursuant to section 18 of Executive Order 11491, as amended.

(d) In considering requests for approval of outside employment, the following criteria should be applied:

(1) The provisions of applicable laws;

(2) The policies incorporated in this part including the possibility of conflict-of-interest or appearance of conflict-of-interest;

(3) The general attendance record of the employee;

(4) The nature of the employee's official duties in relation to the nature of the duties which will comprise the outside employment or activity; and

(5) The amount of time and hours of work required by the outside employment or activity.

(e) Employees are specifically prohibited from acting as the agent of a foreign principal registered under the Foreign Agent's Registration Act (18 U.S.C. 219).

(f) No employee, whether in a duty or nonduty status, shall accept outside employment or activity, with or without compensation, from any foreign government, corporation, partnership, or individual without written prior approval from a counselor designated under § 0.735-3.

(g) It is the policy of the Department to grant permission to an employee to teach, lecture, or write including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Civil Service Commission or Board of Examiners for the Foreign Service, provided:

(1) Prior written authorization is obtained from the agency head, or a counselor designated under § 0.735-3;

(2) Such teaching, lecturing, or writing is not performed at or for any educational institution or other organization that discriminates because of

race, creed, color, sex, age, national origin, or physical or mental handicapped, in the admission or subse-

porate stocks or bonds, commodities, or other property for speculative purposes if such action might tend to in-

such written determinations may not be redelegated by the agency head or the director of personnel.

this part, or Agency regulations supplementing this part.

(g) This section does not purport to paraphrase the restrictions contained

obtainable in quantities not exceeding the needs of their immediate household;

(2) Special clothing and other arti-

government, he or she shall be advised of the complaint and told to make payment arrangements satisfactory with that unit of government.

race, creed, color, sex, age, national origin, or physical or mental handicapped, in the admission or subsequent treatment of students;

(3) Such teaching, lecturing, or writing is not dependent on information obtained as a result of his or her employment or activity with the Department, except when that information has been made available to the general public or when the agency head or agency head's designee gives specific authorization for the use of nonpublic information in the public interest; and

(4) Such teaching, lecturing, or writing is not otherwise incompatible with the provisions of this part.

(h) Articles prepared officially are the property of the Government, and authors thereof may not accept payment for such articles published in outside journals, magazines, or newspapers.

(i) Employees may not accept honorariums for written articles, speaking engagements, or addresses on radio or television or other appearances performed as part of their official duties. This restriction on the acceptance of honorariums applies even if the Government official endorses the check to a charitable organization or asks that the check be sent to a charitable organization.

(j) No employees, except special Government employees, shall accept compensation for services as consultants or advisors to any organization, public or private, in any manner which draws upon the experience, competence, or professional standing acquired or enhanced by or through their position in this Department unless they have received permission from their agency head. Special Government employees shall not use their employment or activity with the Department for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for themselves or another (41 FR 24108, June 15, 1976).

§ 0.735–14 Conflict-of-interest.

(a) The following prohibitions apply to both a regular employee and a special Government employee:

(1) He or she may not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his or her responsibilities and duties as a Federal employee;

(2) He or she may not engage, directly or indirectly, in a financial transaction relying upon information obtained through his or her employment for his or her personal benefit or disclose such information for the benefit of another;

(3) He or she may not participate directly or indirectly in any transaction concerning the purchase or sale of corporate stocks or bonds, commodities, or other property for speculative purposes if such action might tend to interfere with the proper and impartial performance of his or her duties or bring discredit upon the Department;

(4) If he or she is concerned in any way with the administration of programs for the purchase or sale of commodities, price support programs, commodity loan programs, or other programs which directly affect market prices of agricultural commodities, he or she may not directly or indirectly speculate in any agricultural commodity;

(5) He or she may not, after his or her Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he or she participated personally and substantially for the Government (18 U.S.C. 207(a));

(6) He or she may not, for 1 year after his or her Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his or her official responsibility during the last year of his or her Government service (18 U.S.C. 207(b)); or

(7) Except as permitted by paragraphs (b) and (c) of this section, he or she may not participate personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his or her knowledge, he or she, his or her spouse, minor child, partner, organization in which he or she is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he or she is negotiating or has any arrangement concerning prospective employment, has a financial interest (18 U.S.C. 208(a)).

(b) The prohibition in paragraph (a)(7) of this section shall not apply if the employee first advises his or her agency head or the director of personnel of the nature and circumstances of the particular Government matter involved and makes full disclosure of the financial interest and receives in advance a written determination made by the agency head of the director of personnel that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from the employee. Authority to make such written determinations may not be redelegated by the agency head or the director of personnel.

(c) Any holding in a widely held mutual fund or regulated investment company which does not specialize in a particular industry or commodity and as to which the employee has no managerial control or directorship, except where otherwise prohibited by statute or regulation, are exempted from the prohibition in paragraph (a)(7) and the requirements of paragraph (b) of this section as being too remote or too inconsequential to affect the integrity of an employee's services to the Government.

(d) The following prohibitions apply only to a regular employee:

(1) He or she may not, except in the discharge of his or her official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest (18 U.S.C. 203 and 205); or

(2) He or she may not receive any salary or supplementation of his or her Government salary, from a private source as compensation for his or her services to the Government (18 U.S.C. 209).

(e) The following prohibitions apply only to a special Government employee:

(1) He or she may not, except in the discharge of his or her official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest and in which he or she has at any time participated personally and substantially for the Government (18 U.S.C. 203 and 205); or

(2) He or she may not, except in the discharge of his or her official duties represent anyone else in a matter pending before the Government agency he or she serves unless he or she has served there no more than 60 days during the past 365 days (18 U.S.C. 203 and 205).

(f) This section does not preclude an employee from:

(1) Acting without compensation, and if not inconsistent with the faithful performance of his or her duties, as agent or attorney for any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings;

(2) Giving testimony under oath or making statements required to be made under penalty for perjury or contempt; or

(3) Having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government, provided it is not prohibited by law, Executive Order 11222, 5 CFR Part 735,

this part, or Agency regulations supplementing this part.

(g) This section does not purport to paraphrase the restrictions contained in 18 U.S.C., Chapter 11. The omission of a restriction in no way relieves an employee of the legal effect of such restriction.

§ 0.735–15 Attendance and leave.

(a) Employees must observe designated duty hours and be punctual in reporting for work and returning from lunch periods. Tardiness can result in employees being placed in a nonpay status or in a charge against annual or compensatory leave in multiples of 15 minutes or 1 hour as appropriate, and/or subject to disciplinary action.

(b) Employees normally must obtain advance authorization for absence from duty. Approval of leave is a discretionary matter reserved to the supervisor. The taking of leave is not an absolute right afforded the employee but is conditioned on the needs of the Service. Where absence from duty results from illness or an emergency, employees are required to notify their supervisor or other appropriate person as soon as possible. When an employee fails to properly notify his or her supervisor, absence may be charged as an unauthorized absence. It also may result in appropriate disciplinary action.

(c) Sick leave is to be used by employees only when they are incapacitated from duty because of sickness or injury, when they need to obtain medical, dental, or optical examination or treatment, when they are subject to quarantine imposed by local health authorities, or when they are required to give care to a member of their immediate family who has a contagious disease.

§ 0.735–16 Use of Government property, facilities, and services.

(a) Employees are prohibited from directly or indirectly using, or allowing the use of, Government property, facilities, or services of any kind, including those leased to or otherwise paid for by the Government, for other than officially approved activities. Employees have a positive duty to conserve and protect Government property.

(b) Personal property offered for sale by the Department may be purchased by employees only when the sale of such property is based upon competitive bids: *Provided,* That no purchase may be made, either directly or indirectly, by the employee who was formerly accountable for the property, who formerly used the property, or who was in any way connected with its condemnation, declaration as excess, or sale, except:

(1) Surplus perishable products may be sold to employees at the best price obtainable in quantities not exceeding the needs of their immediate household;

(2) Special clothing and other articles or personal equipment purchased for the exclusive use of and fitted to an individual employee may, when not otherwise usable by the Department and in all respects surplus to the needs of the Government, be sold to such employees at the best price obtainable in the event of his or her separation from the Service or permanent assignment to duties not requiring such clothing or equipment.

§ 0.735–17 Use of vehicles.

(a) An employee who willfully uses or authorizes the use of a Government-owned or leased passenger motor vehicle or aircraft for other than official purposes shall be suspended for 1 month or removed from office in accordance with 31 U.S.C. 638a(c)(2).

(b) An employee who willfully uses or authorizes the use of any Government-owned or leased conveyance whether passenger carrying or not, for other than official purposes, is subject to disciplinary action up to and including removal.

(c) An employee shall not store Government-owned or leased motor vehicles in or near his or her private residence or use such vehicles for transportation between his or her residence and place of employment unless such storage or use shall have been specifically authorized by the Secretary or another official to whom such authority has been delegated.

§ 0.735–18 Indebtedness.

(a) Employees who fail to pay their just financial obligations in a timely and proper manner will be subject to such disciplinary action as the agency head or his or her designee considers appropriate. For the purpose of this section, "just financial obligations" are those acknowledged by the employee, reduced to judgment by a court, or confirmed by a final administrative determination of a unit of the Federal, State, or local government. A "proper and timely manner" means in a manner which the agency head or his or her designee determines does not, under the circumstances, reflect adversely on the Department as his or her employer.

(b) In cases where a legal judgment exists against the employee, the employee concerned will be required to satisfy the judgment within a reasonable period of time unless he or she can arrange to have it modified or set aside.

(c) When an employee is the subject of a complaint for failure to pay taxes or other debts that are the subject of a final administrative determination by a unit of the Federal, State, or local government, he or she shall be advised of the complaint and told to make payment arrangements satisfactory with that unit of government.

(d) When an employee is the subject of a letter of complaint from a creditor who does not hold a legal judgment, the agency head or his or her designee shall determine whether the employee acknowledges the debt and call the provisions of this section to the employee's attention. Subsequent action, if any, will be taken in accord with the facts of the case and the provisions of this section.

§ 0.735.19 Political activity.

A Federal employee other than an officer exempted by 5 U.S.C. 7324(d) may not take an active part in political management or in a political campaign or run for elective political office except when authorized by Department or Civil Service Commission regulations. He or she may not solicit or receive any assessment, subscription, or contribution for any political purpose from an officer or employee of the Government. Whatever the employee may not do directly, he or she may not do indirectly or through an agent, officer, or employee chosen by him or her or subject to his or her control.

§ 0.735–20 Use, protection, and release of information.

(a) An employee is prohibited from using or giving information acquired through his or her official position, prior to its release to the general public, to advance the interests of himself or herself, his or her family, associates, or friends, or any other person or enterprise.

(b) Classified defense information and restricted information shall be safeguarded and released in accordance with the provisions of applicable directives, statutes, or regulations. For further information consult the USDA Regulations for Classification, Declassification, and Safeguarding Classified Information.

(c) "For Official Use Only" material shall not be examined by, released to, nor discussed with any person except in the performance of official duties or as required by the Freedom of Information Act.

(d) Unauthorized, premature disclosure of information which might influence or affect the market value of any product of the soil grown within the United States, or of information which by law or rule of the Department is required to be withheld from publication until a fixed time is punishable by fine and imprisonment unless such release is determined to be required by the Freedom of Information Act.

(e) The subject matter of public hearings with respect to the proposed

issuance of an order, regulation, or other administrative determination, after the close of the hearing and

partment that it is not permissible for any of them to:

(1) Participate in establishing any

§ 0.735–22 Prohibitions upon employees serving abroad.

An employee on foreign assignment

(e) Employees shall not purchase products or receive services directly or indirectly from persons, firms, or es-

(11) The prohibition against a person licensed or authorized to perform any official function under the U.S. Grain Standards Act, or em-

ment Act, other than such salary, fee or compensation as he or she may receive as an officer or employee. In ad-

V 43 / 187 SEP 26 78

issuance of an order, regulation, or other administrative determination, after the close of the hearing and prior to issuance by the Secretary of the order, regulation, or other administrative determination shall not be discussed with any interested person or with any representative of an interested person without written permission of the Secretary. However, this shall not preclude an employee who has been assigned to or has supervision over a proceeding from discussing with interested persons or their representatives matters of procedure in connection with such proceeding.

(f) Official mail shall be safeguarded from indiscriminate publication. It is prohibited to use or to quote in whole or in part any letters from the White House to this Department.

(g) Information concerning inventions and patent applications may be revealed only for official purposes. Employee inventors and employees who handle or obtain information concerning inventions of employee inventors or concerning any other inventions in which the Department may have an interest shall not reveal such information prior to the issuance of the patent, except for official purposes, unless such release is determined to be required by the Freedom of Information Act.

(h) Lists of names of farmers, business people, or employees that may be available in the Department shall not be released to anyone unless it is determined that such release is required by the Freedom of Information Act. Lists of manufacturers, dealers, breeders, etc., should not be furnished so as to imply that the Department endorses certain firms to the possible detriment of others, or that the lists necessarily include all dealers of a certain line.

§ 0.735–21 Activities with regard to farm organizations.

(a) Department employees shall refrain from participating actively in meetings and in other activities concerned with the establishment of general or specialized farm organizations, or with recruiting members for existing organizations such as the National Grange, the American Farm Bureau Federation, the National Farmers Organization, the Farmers' Union, the National Association of Soil Conservation Districts, the National Rural Electric Cooperative Association, the National Council of Farmer Cooperatives and Breed and Commodity Organizations. This is a necessary corollary of the equally long-established policy of the Department that it shall deal fairly with all organizations and deal with each upon the same basis. As a continuation of this policy, it should be understood by employees of the Department that it is not permissible for any of them to:

(1) Participate in establishing any general or specialized farm organization;

(2) Act as organizer for any such organization, or hold any other office therein;

(3) Act as financial or business agent for any such organization;

(4) Participate in any way in any membership campaign or other activity designed to recruit members for any such organization;

(5) Accept the use of free office space or contributions for salary or traveling expense from any such organization;

(6) Advocate that any particular general or specialized organization of farmers is better adapted for carrying out the work of this Department than any individual citizen, group of citizens, or organizations;

(7) Advocate that the responsibilities of any Agency of this Department or any other Federal agency should be carried out through any particular general or specialized organization of farmers;

(8) Advocate or recommend that any State or local agency should carry out its responsibilities through any particular general or specialized organization of farmers; or

(9) Approve contracts for the Department with any cooperative or other commercial organization whenever such cooperative or other commercial organization deducts or checks off from payments due farmers, membership dues of such farmers to any general or specialized organization of farmers, except as it is determined that current authorization for such deduction has been knowingly filed by such individual farmers with the cooperative or other commercial organization.

(b) The restrictions set forth in paragraph (a) of this section do not:

(1) Apply to members of an FmHA County Committee;

(2) Apply to specialized organizations of farmers such as cow testing associations and similar groups; or

(3) Prohibit employees from participating in the organization of groups that are needed in carrying out federally authorized programs, for example, an REA cooperative and similar groups determined by the appropriate Agency Head to be essential in effectuating federally authorized programs.

(c) If any violations of any of the provisions of this section should occur, full information with reference thereto should at once be submitted to the Office of the Inspector General by the Head of the Agency in which the person violating any of these provisions is employed.

§ 0.735–22 Prohibitions upon employees serving abroad.

An employee on foreign assignment may not:

(a) Violate Department of State regulations governing the post to which he or she is assigned;

(b) Receive a "profit" from the sale of his or her personal car or other property when such "profit" accrues from import privileges granted him or her by reason of his or her official status. "Profit" for the purposes of this paragraph is as defined in the Department of State regulations or directives governing the post of assignement;

(c) Engage in political activities in the country of assignment;

(d) Violate the laws of the country in which he or she is assigned;

(e) Have an interest in any business enterprise or engage in any profession in any country to which assigned; or

(f) Speculate in any foreign real estate, bonds, shares, stocks, and currencies.

§ 0.735–23 Miscellaneous provisions.

(a) Any money, property, or other thing of value received by or coming into custody of an employee in connection with the discharge of his or her duties must be accounted for, deposited or otherwise disposed of in accordance with established procedures.

(b) Employees are required under § 5.3 of Civil Service Rule V (5 CFR 5.3) to give the Civil Service Commission and its authorized representatives all information and testimony in regard to matters arising under laws, rules, and regulations administered by the Commission.

(c) Employees are obligated to give information to authorized representatives of the Department when called upon if the inquiry relates to official matters and the information is obtained in the course of employment or as a result of relationships incident to such employment. This shall include the furnishing of a signed statement. Failure to respond to requests for information or to appear as a witness in an official proceeding may result in disciplinary penalty. (Nothing herein shall be deemed to infringe upon an employee's right to invoke the protection of the Fifth Amendment to the Constitution with respect to self-incrimination.)

(d) Agency officials have the authority to transfer and reassign employees within their respective jurisdictions whenever necessary to meet operational needs. Employees have an obligation to the Department to accept transfers and changes in assignment. Failure to accept a transfer or reassignment may result in the separation of the employee.

(e) Employees shall not purchase products or receive services directly or indirectly from persons, firms, or establishments for which such employees conduct inspection, grading, or similar regulatory activities without express approval. Each Agency shall establish the approval level and shall advise each employee. Agencies shall utilize the following criteria in granting such approvals:

(1) Proximity of the employee to other retail outlets;

(2) The number of retail outlets in the commuting area;

(3) Whether the outlet is a sole source;

(4) Whether the firm is selling the item or service at the prevailing price to the general public as well as the employee; and

(5) Whether the outlet is open to the general public.

§ 0.735–24 Miscellaneous statutory provisions.

(a) Each employee has a positive duty to acquaint himself or herself with each statute that relates to his or her ethical and other conduct as an employee of his or her Agency, of the Department, and of the Government. The attention of each employee is directed to the following statutory provisions:

(1) House Concurrent Resolution 175, 85th Congress, second session, 72 Stat. B12, the "Code of Ethics for Government Service;"

(2) Chapter 11 of Title 18, United States Code, relating to bribery, graft, and conflicts-of-interest;

(3) The prohibition against wrongful disclosure of individually identifiable informations or wrongful maintenance of a system of records (5 U.S.C. 552a(i));

(4) The prohibition against a public official appointing or promoting a relative, or advocating such an appointment or promotion (5 U.S.C. 3110);

(5) The prohibitions against disloyalty and striking (Executive Order 10450, as amended, 5 U.S.C. 7311, 18 U.S.C. 1918); (6) The prohibition against the employment of a person convicted of a felony for participating in or promoting a riot or civil disorder (5 U.S.C. 7313);

(7) The prohibitions against proscribed political activities (5 U.S.C. 7324, and 18 U.S.C. 602, 603, 607, and 608);

(8) The provisions relating to the receipt and disposition of foreign gifts and decorations (5 U.S.C. 7342);

(9) The prohibition against gifts to superiors by employees (5 U.S.C. 7351);

(10) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352);

(11) The prohibition against a person licensed or authorized to perform any official function under the U.S. Grain Standards Act, or employed by the Department to carry out the provisions of the Grain Standards Act being financially or otherwise interested in an entity owning or operating a grain elevator or warehouse or engaging in the merchandising of grain, or be employed by or accept gratuities from any such entity (7 U.S.C. 87(a));

(12) The prohibition against the unauthorized release of information, in the Packers and Stockyards Act (7 U.S.C. 222);

(13) The prohibition against the release of information in an employee's possession concerning cotton standards, estimates, tests, and analyses unless authorized by the Secretary (7 U.S.C. 472);

(14) The prohibitions against the release of information acquired from parties to any marketing agreement, and handlers subject to marketing agreement orders, except as authorized by the Secretary for the purposes of suit or administrative hearings (7 U.S.C. 608d(2));

(15) The prohibition against persons administering activities concerned with cotton option contracts and commodity benefits as provided by the Agricultural Adjustment Act, speculating in agricultural commodities or products to which such contracts or benefits apply, or in contracts relating thereto, or in the stock or memberships interest of any association or corporation handling such commodities or products (7 U.S.C. 610(g));

(16) Limitations on the use or availability of information furnished in connection with marketing agreements and orders (7 U.S.C. 610(i));

(17) The availability of information furnished in connection with marketing agreements and orders, and applicable to marketing agreements for anti-hog-cholera serum and hog-cholera virus is restricted (7 U.S.C. 855);

(18) Information furnished in connection with collection of peanut statistics shall be used only for statistical purposes for which supplied. No publication shall be made where the data furnished by any establishment can be identified (7 U.S.C. 955);

(19) Information furnished in connection with the establishment and adjustment of farm marketing quotas shall be disclosed only as authorized by the Secretary for the purpose of suit or administrative hearing (7 U.S.C. 1373(c));

(20) The prohibition against an officer or employee being the beneficiary of or receiving any fee, commission or gift for or in connection with any transaction or business under the Consolidated Farm and Rural Development Act, other than such salary, fee or compensation as he or she may receive as an officer or employee. In addition, members of an FmHA County Committee are prohibited from making any certification with respect to a loan to purchase any land in which they or any person related to them have any financial interest (7 U.S.C. 1986);

(21) The prohibition against unauthorized release of information relating to the production and marketing of cotton (7 U.S.C. 2105(c));

(22) The prohibition against unauthorized release of information relating to plant variety protection (7 U.S.C. 2426);

(23) The prohibition against unauthorized release of information relating to the production and marketing of eggs (7 U.S.C. 2706(c));

(24) The prohibition against the unauthorized prediction as to cotton prices in a Governmental publication (12 U.S.C. 1141j(d));

(25) The prohibition against the making of false statements in connection with activities of the Commodity Credit Corporation or embezzlement or conversion of anything of value belonging or pledged to the Corporation, or conspiring to commit such acts (15 U.S.C. 714m);

(26) The prohibition against the acceptance of any fee, gift, or other consideration for compromise, adjustment, or cancellation of farm indebtedness (18 U.S.C. 217);

(27) The prohibition against an employee acting as an agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219);

(28) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285);

(29) The prohibition against an employee contracting with a Member of Congress (18 U.S.C. 432);

(30) The prohibition against paying a larger sum than appropriated for erection, repair, or furnishing of any public building or improvement thereof (18 U.S.C. 435);

(31) The prohibition against contracting for convict labor (18 U.S.C. 436);

(32) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508);

(33) The prohibition against acceptance of excessive honorariums (18 U.S.C. 616 repealed, now 2 U.S.C. 441i);

(34) The prohibition against embezzlement of Government money or property (18 U.S.C. 641);

(35) The prohibition against failing to account for public money (18 U.S.C. 643);

V 43 / 187 SEP 26 78

(36) The prohibition against misuse of public funds by custodian (18 U.S.C. 648);

(53) The prohibition against speculation in agricultural commodities to which the Federal Crop Insurance Act

(66) The prohibition against acceptance of voluntary services (31 U.S.C. 665).

trol and Reclamation Act of 1977 (Pub. L. 95-87).

(g) An employee who refuses to file a statement for reasons other than

availability of counseling with respect thereto. Submission of the initial statement shall be made prior to appointment to a position requiring the

nancial interest must be listed on the financial statement. Shares in credit unions, building and loan associations, social or religious organizations, or de-

V 43 / 187 SE 26 78 V 4

(36) The prohibition against misuse of public funds by custodian (18 U.S.C. 648);

(37) The prohibition against custodian failing to deposit money in his or her possession (18 U.S.C. 649);

(38) The prohibition against disbursing officers falsely certifying full payment (18 U.S.C. 651);

(39) The prohibition against disbursing officers paying less than lawful amount (18 U.S.C. 652);

(40) The prohibition against disbursing officers misusing public funds (18 U.S.C. 653);

(41) The prohibition against embezzlement of the money or property of another person in the possession of an employee by reason of his or her employment (18 U.S.C. 654);

(42) The prohibition against the embezzlement of money or property of the Federal Crop Insurance Corporation and the Farmers Home Administration, and of pledged or entrusted property (18 U.S.C. 657);

(43) The prohibition against the conversion of property mortgaged or pledged to the Farmers Home Administration and the Federal Crop Insurance Corporation, with intent to defraud (18 U.S.C. 658);

(44) The prohibitions against the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783);

(45) The prohibition against extortion by Government employees (18 U.S.C. 872);

(46) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001);

(47) The prohibition against the making of false entries, or participation in any benefit through any transaction in connection with Departmental activities concerned with agricultural loans (18 U.S.C. 1006);

(48) The prohibition against the making of false statements or reports, or wilfully overvaluing land, property or security to influence action in connection with agricultural loans (18 U.S.C. 1014);

(49) The prohibition against depredation of Government property (18 U.S.C. 1361);

(50) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719);

(51) The prohibition against the wilful disclosure of official information which might influence or affect the market value of crops prior to authorized publication. An employee acquiring by reason of his or her employment, information as to the market value of agricultural crops, which information is required to be withheld, is prohibited from speculating in such product (18 U.S.C. 1902);

(52) The prohibition against the disclosure of confidential information (18 U.S.C. 1905);

(53) The prohibition against speculation in agricultural commodities to which the Federal Crop Insurance Act applies or to contracts relating thereto, or stock or membership interests of corporations or associations handling such commodities by any person administering such law (18 U.S.C. 1903);

(54) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913);

(55) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917);

(56) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071);

(57) The prohibition against the compilation of issuance of false crop reports (18 U.S.C. 2072);

(58) The prohibition against employee making false or fictitious entry or record in a matter related to his or her duties (18 U.S.C. 2073);

(59) The prohibition against any person using to his or her own advantage or improperly revealing information concerning trade secrets acquired under the Poultry Products Inspection Act (21 U.S.C. 458);

(60) The prohibition against the acceptance by an employee of money or other things of value given with intent to influence a decision in connection with the performance of duties under the Federal Meat Inspection Act, or when received from a person or firm engaged in commerce given for any purpose whatever (21 U.S.C. 622);

(61) The tax imposed on certain employees (e.g., Presidential appointees, employees excepted under Schedule C, employees in GS-16 or above or a comparable pay level) who knowingly engage in self-dealing with a private foundation (26 U.S.C. 4941, 4946). "Self-dealing" is defined in the statute to include certain transactions involving an employee's receipt of pay, a loan, or reimbursement for travel or other expenses from, or his or her sale to or purchase of property from, a private foundation;

(62) The prohibition against any employee subject to the Surface Mining Control and Reclamation Act from owning any direct or indirect financial, real property, employment and/or creditor interests in an underground or surface coal-mining operation (30 U.S.C. 1201);

(63) The prohibition against false claims (31 U.S.C. 231);

(64) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a);

(65) The prohibition against expenditure or obligation in excess of amount apportioned or appropriation available (31 U.S.C. 665); and

(66) The prohibition against acceptance of voluntary services (31 U.S.C. 665).

(b) This section does not purport to enumerate or paraphrase all statutory restrictions imposed on employees. The omission of a restriction in no way relieves an employee of the legal effect of such restriction.

Subpart C—Statements of Employment and Financial Interests

§ 0.735–31 Employees required to submit statements.

Except as provided in § 0.735–32 the following employees shall submit a statement of employment and financial interests on USDA Form AD-392 in accordance with this part:

(a) Employees paid at a level of the Executive Schedule in Subchapter II of 5 U.S.C., Chapter 53;

(b) Employees appointed as Administrative Law Judges under 5 U.S.C. 3105;

(c) Employees classified at GS–13 or above under 5 U.S.C. 5332, or at a comparable pay level under other authority who are in positions the basic duties and responsibilities of which require the incumbent to exercise judgment in making a Government decision or in taking Government action on contracting or procurement, administering or monitoring grants or subsidies, regulating or auditing private or other non-Federal enterprise, or other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise;

(d) Employees classified at GS–13 or above under 5 U.S.C. 5332, or a comparable pay level under other authority, who are in positions which the Agency has determined have duties and responsibilities which require that the incumbents report their employment and financial interests in order to avoid involvement in a possible conflict-of-interests situation and carry out the purpose of law, Executive Order, Part 735 of the Civil Service Commission's regulations, this part, and applicable Agency regulations;

(e) Employees classified below GS–13 under 5 U.S.C. 5332, or at a comparable pay level under other authority, where the Agency has determined that they are in positions which otherwise meet the criteria in paragraphs (c) and (d) of this section and that a statement from them is essential to protect the integrity of the Government and avoid employee involvement in a possible conflict-of-interests situation: *Provided*, Such determination has been approved in writing by the Civil Service Commission; and

(f) All employees regardless of grade, pay level or type of appointment who perform any function or duty under the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95–87).

(g) An employee who refuses to file a statement for reasons other than that the duties and responsibilities of the position do not come within the criteria for reporting as set forth in this part, or who refuses to file after a final determination that the duties and responsibilities of the position do come within the criteria, will be subject to appropriate disciplinary action.

§ 0.735–32 Exceptions.

(a) A statement of employment and financial interests is not required from a Presidential appointee covered by section 401(a) of the Executive Order. Such appointees are subject to separate reporting requirements under section 401 of the Executive Order.

(b) Employees in positions that meet the criteria in § 0.735–31(c) may be excluded from the reporting requirement when the Department Counselor determines that:

(1) The duties of a position are such that the likelihood of the incumbent's involvement in a conflict-of-interest situation is remote, or

(2) The duties of a position are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government.

(c) Exceptions will be considered by the Department Counselor at the request of the Agency Head.

(d) An employee shall be afforded the opportunity for a review, through the Departmental grievance procedure as described in Chapter 771 of the Department Personnel Manual, of the designation of his or her position as one requiring the submission of a statement of employment and financial interests.

§ 0.735–33 Identification of employees required to submit statements.

Agency Heads are responsible for identifying those employees who are required to file statements of outside employment and financial interests under § 0.735–31. For control and reporting purposes, those employees required to submit statements shall be specifically identified in the personnel records system.

§ 0.735–34 Time and place for submission of employees' statements.

(a) When a decision is reached to make an appointment to a position requiring submission of a statement of employment and financial interests, the prospective employee should be informed of the requirement, furnished a copy of these regulations and the statement form, and advised of the availability of counseling with respect thereto. Submission of the initial statement shall be made prior to appointment to a position requiring the submission of a statement. Review of the statement and resolution of any conflict questions should be made promptly and, if possible, prior to appointment.

(b) Employees and prospective employees in the following positions will submit statements directly to the Director of Personnel:

(1) Positions in the immediate staff and offices of the Office of the Secretary;

(2) Agency Heads, Associates, Deputies and Assistants; and

(3) All Noncareer Executive or Schedule C positions.

(c) Those in other positions will submit statements to the Agency Head or to an employee designated by him or her.

(d) Agencies are responsible for assuring that persons subject to the reporting requirements are notified of those requirements and are provided the necessary forms and instructions.

§ 0.735–35 Supplementary statements.

Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in an annual supplementary statement as of March 31 and submitted no later than April 30 of each year. If no changes or additions occur, a report so stating is required. Notwithstanding the filing of the annual statement required by this section, each employee shall at all times avoid acquiring a financial interest or taking an action that could result in violation of the conflicts-of-interests provisions of section 208 of Title 18, United States Code, or § 0.735–14.

§ 0.735–36 Types of interests to be reported.

The employment and financial interests statements shall include the following:

(a) A list of the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations and educational or other institutions with which the employee is connected as an employee, officer, owner, director, trustee, member, partner, advisor, or consultant, or in which he or she has any continuing financial interest through a pension or retirement plan, shared income or otherwise as a result of any current or prior employment or business or professional associations, or in which he or she has any financial or beneficial interest through the ownership of stock, stock options, bonds, securities or other arrangements including trusts. The dollar value of each financial interest must be listed on the financial statement. Shares in credit unions, building and loan associations, social or religious organizations, or deposits in savings and loan associations and banks, and interests exempted under § 0.735–14(c) need not be reported.

(b) A list of the names of his or her creditors other than those to whom he or she may be indebted by reason of mortgage on property which he or she occupies as a personal residence or to whom he or she may be indebted for current and ordinary household and living expenses such as household furnishings, automobile, education, vacation, and similar expenses. Indebtedness on owner-occupied farms must be reported.

(c) A list of interests in real property or rights in land and minerals such as farmland, timberland and/or undeveloped land with their value, total acreage, total number of farm animals, types of crops, types of farm animals, number of acres of each crop and/or number of each farm animal, average annual income derived from sales of crops and/or farm animals, other than property which the employee occupies as a personal residence. Owner-occupied farms must be listed. Property acquired for the personal use of the employee and members of his or her family, such as beach lots and cemetary lots need not be listed.

(d) The interests and obligations as listed above of a spouse, minor child, or relative who are full-time residents of the employee's household.

§ 0.735–37 Information prohibited.

The regulations in this part do not require an employee to submit any information relating to the employee's connection with, or interest in, a union, professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in employee's statement of employment and financial interests.

§ 0.735–38 Interests of employee's relatives.

(a) The financial interest of a spouse, minor child, or other member of an employee's immediate household shall be reported to the same extent as the financial interest of the reporting employee. An "other member" of the immediate household means a relative who is a full-time resident of the employee's household (§ 0.735–2(i)).

(b) The employment of such persons need not be reported unless such person is engaged in an activity, which

procured to provide care and service to patients; or

(2) A veterinarian whose services are

(1) Responsibility for review and determination may be delegated only to a responsible Agency official in the na-

from each referring official setting forth his or her recommendation as to a final determination and the reasons

392A)," as appropriate, and "To Be Opened by Addressee Only."

These regulations were approved by

their crops of fire-cured, dark air-cured, Virginia sun-cured, cigar-binder (types 51 and 52), and cigar-filler and

V 43 / 187 SEP 26 78

(b) The employment of such persons need not be reported unless such person is engaged in an activity, which if held by the employee, would place him or her in a conflict or apparent conflict-of-interest situation.

§ 0.735–39 Information not known by employee.

If any information required to be included on a statement of employment and financial interests, or supplement thereto, including holdings placed in trusts, is not known to the employee but is known to another person, the employee shall ask such person to furnish the information in his or her behalf.

§ 0.735–40 Effect of employee's statement.

The statements of employment and financial interests and supplementary statements required under this part are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, the Executive order, or regulation. The submission of a statement or supplementary statement by an employee does not permit him or her or any other person to participate in a matter in which his or her or the other person's participation is prohibited by law, the Executive order, or the regulations in this part.

§ 0.735–41 Specific provisions for special Government employees.

(a) Except as provided in paragraph (b) of this section, each special Government employee shall submit a statement of employment and financial interests on USDA Form AD–392A which reports:

(1) All other employment; and

(2) The financial interests of the special Government employee which relate either directly or indirectly to the duties and responsibilities of the special Government employee with the Department.

(b) An Agency Head may waive the requirements in paragraph (a) of this section for the submission of a statement of employment and financial interests in the case of a special Government employee who is not a consultant or expert when the Agency Head finds that the duties of the position held by that special Government employee are of a nature and at such a level or responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. For the purpose of this paragraph, "consultant" and "expert" have the meanings given those terms by Chapter 304 of the Federal Personnel Manual but do not include:

(1) A physician, dentist, or allied medical specialist whose services are procured to provide care and service to patients; or

(2) A veterinarian whose services are procured to provide care and service to animals.

(c) A statement of employment and financial interests required to be submitted under this section shall be submitted to the Head of the Agency in which the special Government employee is to serve not later than the time of employment. Each special Government employee shall keep his or her statement of employment and financial interests current throughout his or her employment with the Department by the submission of supplementary statements.

§ 0.735–42 Review of statements and determination of conflicting interests.

(a) The Assistant Secretary for Administration is responsible for assuring that all personnel required to file are properly identified, all statements are submitted timely and that Agency Heads identify review officials who possess the knowledge and experience to be able to properly evaluate the listed interest. This pertains to filings under both Executive Order 11222 and the Surface Mining Control and Reclamation Act of 1977. All Agencies shall report to the Assistant Secretary for Administration by May 30 each year the number of statements submitted, the number that have been closed favorably and the number that have not been closed. In the latter instance, the Assistant Secretary for Administration shall be advised the reasons for the cases remaining open and shall be advised on a monthly basis of the status of all open cases.

(b)(1) The Director of Personnel is responsible for the review of, and determination on, those statements submitted directly to him or her pursuant to § 0.735–34(b).

(2) Agency Heads will be responsible for annually identifying employees required to file employment and financial statements, for collecting and initially reviewing the statements, for identifying and designating those employment and financial interests that are not in conflict, and for signing and dating the statements.

(c) Agency Heads are responsible for the review of, and determination on, those statements submitted to an Agency official. Original and supplementary statements shall be reviewed and determiniations made within 2 months of receipt of such statements. Disciplinary action will be taken against those who falsely certify that the employment and financial interests statements have been received and reviewed. This responsibility may be delegated, subject to the following restrictions:

(1) Responsibility for review and determination may be delegated only to a responsible Agency official in the national office, who the Agency Head determines has sufficient experience, judgment, and understanding of the conflict-of-interest problem to properly carry out such responsibilities. The initial processing and receiving of the statements can be delegated to the field facilities where the person is employed. If the statement, when received, shows any holding of any sort, it shall be referred for review to the official identified by the Agency Head as having the responsibility, with a statement indicating whether the holding does, does not, or appears to have some relationship to the duties the employee performs.

(2) Responsibility for final determinations in cases involving substantial conflict questions may be delegated only to Associate, Deputy, and Assistant Agency Heads. The Agency Head shall set criteria identifying the types of cases which must be referred to such officials for final determination.

(d) Delegations of review and determination responsibility must be in writing from the Director of Personnel or the Agency Head, as appropriate.

(e) The Director of Personnel shall issue general guidelines covering the review of statements, recognizing possible conflicts or the appearance thereof, obtaining additional information, resolving conflict situations, documentation, and remedial action. Agencies shall supplement these with more specific guidelines applicable to the particular Agency. A copy of both the general and the specific guidelines shall be furnished to each employee to whom review and determination responsibility has been delegated.

(f) Whenever a question of a conflict or appearance of conflict arises, a written determination must be made. The basis of the determination must also be documented in writing. The employee must be advised in writing of the determination, and, if the determination involves a change in duties or disqualification for a particular assignment, a copy of the determination should be furnished to the employee's immediate supervisor. Where affirmative action by the employee is required, a report of his or her compliance shall be obtained and made a part of the record.

(g) If a determination cannot be made at the Agency level, the case shall be referred to the Director of Personnel. If the Director of Personnel cannot make a determination, he or she shall refer the case to the Department Counselor for his or her determination or referral to the Secretary for determination. The record shall include copies of all pertinent documents and a written statement from each referring official setting forth his or her recommendation as to a final determination and the reasons therefor.

(h) Before a final determination requiring any remedial action is made, the employee concerned shall be given an opportunity to explain the conflict or appearance thereof and to offer any suggestions he or she may wish as to how the matter might be resolved. If an employee feels that the final determination will cause him or her undue hardship, he or she may request a review and modification by forwarding to the Director of Personnel a written statement setting forth all the facts and circumstances in support of his or her request and any alternative solution which he or she thinks appropriate.

(i) If the final determination requires positive action on the part of the employee, he or she shall take such action as soon as possible and advise the determining official when he or she has done so. Failure to take a required action within a reasonable time may result in disciplinary action.

§ 0.735–43 Protection of employees' statements.

(a) The statements of employment and financial interests, and supplements thereto, required by or pursuant to the regulations in this part shall be held in confidence and afforded adequate physical security. No information as to the contents thereof shall be disclosed except to the head of the employing agency and such other persons as may be designated custodians or reviewers of such reports unless specific authorization has been obtained from the Department Counselor. An official, custodian, reviewer, or other employee having possession of a statement of employment and financial interests shall not allow access to, or allow information to be disclosed from, the statement except to carry out the purpose of this subpart C.

(b) Information from a statement of employment and financial interests shall not be disclosed outside of the Department except as the Civil Service Commission or the Secretary of Agriculture may determine for good cause shown.

(c) Reports shall be separately maintained by the officials designate as custodians for such reports and shall not be made a part of the official personnel folders.

(d) Regardless of the means or manner of transmission, when these reports leave the physical custody of employees or a designated reviewer, they shall be enclosed in a double sealed envelope. The inner envelope shall be marked: "For Official Use Only," "Contains AD–392 (or AD–392A)," as appropriate, and "To Be Opened by Addressee Only."

These regulations were approved by the Civil Service Commission on March 29, 1978.

Done this 21st day of September 1978, at Washington, D.C.

BOB BERGLAND,
Secretary.

[FR Doc. 78–26972 Filed 9–25–78; 8:45 am]

[3410–05]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 8]

PART 724—FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR BINDER (TYPES 51 AND 52), CIGAR FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55) TOBACCO

Subpart—Tobacco Allotment and Marketing Quota Regulations, 1972–73 and Subsequent Marketing Years

1977–78 AVERAGE MARKET PRICE AND 1978–79 PENALTY RATE

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule provides the average market price received by producers for 1977–78 marketings and the penalty rate that applies to tobacco which may be subject to a marketing quota penalty during the 1978–79 marketing year. The penalty rate is 75 percent of the previous marketing years' average market price, as required by section 314 of the Agricultural Adjustment Act of 1938, as amended.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Maurice Reddick, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, 202–447–7935.

SUPPLEMENTARY INFORMATION: Since the 1977–78 average market price which producers received for their crops of fire-cured, dark air-cured, Virginia sun-cured, cigar-binder (types 51 and 52), and cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco, and the rate of the marketing quota penalty that applies to the 1978–79 marketings of tobacco reflect mathematical computations rather than substantive changes, it is hereby determined that compliance with the notice of proposed rulemaking, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 and the requirements of Executive Order 12044 are impracticable, unnecessary and contrary to the public interest.

FINAL RULE

Accordingly, 7 CFR Part 724 is amended by adding paragraph (j) to § 724.88 to read as follows:

§ 724.88 Rate of penalty.

* * * * *

(j)(1) *The 1977–78 average market price.* The average market price for the kinds of tobacco listed below as determined by the Crop Reporting Board, Statistical Reporting Service, U.S. Department of Agriculture, for the 1977–78 marketing year was:

AVERAGE MARKET PRICE

Kind of tobacco:	Cents per Pound
Fire-cured (type 21)	96.3
Fire-cured (types 22, 23, 24)	125.6
Dark air-cured	116.6
Virginia sun-cured	100.0
Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55)	82.6
Cigar-binder (types 51 and 52)	121.3

(2) *1978–79 rate of penalty per pound.* The penalty rate per pound for the kinds of tobacco listed below upon marketings of excess tobacco subject to marketing quotas during the 1978–79 marketing year shall be:

RATE OF PENALTY

Kinds of tobacco:	Cents per pound
Fire-cured (type 21)	72
Fire-cured (types 22, 23, 24)	94
Dark air-cured	87
Virginia sun-cured	75
Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55)	62
Cigar-binder (types 51 and 52)	(1)

[1]Quotas terminated for 1978 crop.

(Secs. 301, 313, 314, 316, 318, 363, 372–375, 377, 378, 52 Stat. 38, as amended, 48, as amended, 75 Stat. 469, as amended, 81 Stat. 120, as amended, 52 Stat. 63, as amended, 65, as amended, 66, as amended, 70 Stat. 206 as amended, 72 Stat. 995, as amended (7 U.S.C. 1301, 1313, 1314, 1314b, 1314d, 1363, 1372–1375, 1377, 1378).)

Signed at Washington, D.C., on September 18, 1978.

RAY FITZGERALD,
Director of Personnel.

[FR Doc. 78–26973 Filed 9–25–78; 8:45 am]

[3410–05]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 9]

PART 725—PEANUTS

Subpart—Peanut Allotment and Marketing Quota Regulations, 1973 and Subsequent Crops

1978 CROP PEANUT MARKETING QUOTA PENALTY RATE

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule provides the 1978 crop peanut marketing quota penalty rate. The penalty rate is 75 percent of the 1978 crop support rate, as required by section 358 of the Agricultural Adjustment Act of 1938, as amended.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Maurice Reddick, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, 202–447–7935.

SUPPLEMENTARY INFORMATION: Since the 1978 crop peanut marketing quota penalty rate reflects mathematical computations rather than substantive changes, it is hereby determined that compliance with the notice of proposed rulemaking, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 and the requirements of Executive Order 12044 are impracticable, unnecessary and contrary to the public interest.

FINAL RULE

Accordingly, 7 CFR Part 725 is amended by revising paragraph

collection firms who supply materials to the pet food industry. One comment stated that such firms supply about one-half of the materials used

section 201 of the Federal Meat Inspection Act (21 U.S.C. 641). Furthermore, the regulation also has been changed to require the name and ad-

of the packer or distributor shall be shown on the immediate container of the product. In addition, the country of origin shall be shown on the imme-

Signed at Washington, D.C., on September 18, 1978.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-26974 Filed 9-25-78; 8:45 am]

[3410-05]

[Amdt. 10]

PART 725—FLUE-CURED TOBACCO

Subpart—Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations, 1973-74 and Subsequent Marketing Years

TRANSFER OF FLUE-CURED TOBACCO QUOTAS BY LEASE

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule clarifies that lessor farms with effective marketing quotas not in excess of 2,000 pounds are not required to make reasonable and customary efforts to produce the effective farm marketing quota to be eligible to lease and transfer marketing quotas after June 14.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Maurice Reddick, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, 202-447-7935.

SUPPLEMENTARY INFORMATION: Amendment 7, issued on January 3, 1978, did not make it clear that a producer need not exert reasonable and customary efforts to produce the effective farm marketing quota as a condition of eligibility to lease and transfer marketing quotas after June 14 from lessor farms with effective marketing quotas not in excess of 2,000 pounds. The present amendment clarifies this rule.

Since the change provided in this amendment is primarily a clarification of a previous rule and producers are in the process of making plans for leasing and transferring quota for marketing the 1978 crop, it is hereby determined that compliance with the notice of proposed rulemaking, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 and the requirements of Executive Order 12044 are impracticable and contrary to the public interest.

FINAL RULE

Accordingly, 7 CFR Part 725 is amended by revising paragraph (c)(3)(iv) of 725.72 to read as follows:

§ 725.72 Lease and transfer of tobacco marketing quotas.

* * * * *

(c) * * *

(3) * * *

(iv) Not be made, except for lessor farms with effective farm marketing quotas of 2,000 pounds or less, if the county committee determines that the producer on the lessor farm did not make reasonable and customary efforts to produce the effective farm marketing quota.

(Secs. 301, 313, 314, 316, 317, 363, 372-375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 79 Stat. 66, 52 Stat. 63, as amended, 65-66, as amended, 72 Stat. 995; sec. 401, 63 Stat. 1504, as amended, secs. 106, 122, 125, 70 Stat. 191, 195, 198, as amended, sec. 16(e), 76 Stat. 606 (7 U.S.C. 1301, 1313, 1314, 1314b, 1314c, 1363, 1372-1375, 1377, 1378, 1421, 1813, 1824, 1836) (16 U.S.C. 590p(e)).)

Signed at Washington, D.C., on September 18, 1978.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-26973 Filed 9-25-78; 8:45 am]

[3410-37]

Title 9—Animals and Animal Products

CHAPTER III—FOOD SAFETY AND QUALITY SERVICE, MEAT AND POULTRY INSPECTION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—MANDATORY MEAT INSPECTION

PART 325—TRANSPORTATION

Livestock Lungs and Lung Lobes

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the Federal meat inspection regulations by relieving certain restrictions on the importation and movement in commerce of livestock lungs and lung lobes. The Department has determined, after a thorough review of public comments and other relevant information, that such restrictions are no longer necessary.

EFFECTIVE DATE: October 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. A. V. Giesemann, Acting Chief Staff Officer, Inspection Standards and Regulations Staff, Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3219.

SUPPLEMENTARY INFORMATION: On March 30, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 13362), to amend § 325.8 of the Federal meat inspection regulations (9 CFR 325.8) in order to relieve certain restrictions on the importation and movement in commerce of livestock lungs and lung lobes.

Specifically, the proposal provided for the revocation of the requirements that official establishments obtain permits and prepare certificates in order to ship lungs or lung lobes from their establishments. The other requirements for shipping such products, namely the labeling, container closure, and ultimate destination requirements, were to remain in effect. One change in the labeling language, however, was specified. Also, the requirements concerning secure closure of containers were modified so as to allow the use of certain additional suitable packaging and closing materials.

The proposal further provided for the importation and movement, in commerce, under the same requirements imposed on shipments from official establishments, of lungs and lung lobes produced in certified and approved foreign establishments or in State inspected establishments. These transactions, however, were also required to meet certain other criteria.

Six individuals commented on the proposed rule. Additional views were also presented by the staff. Careful consideration has been given to all comments and views as well as to records, reports, and other relevant data and certain modifications to the proposal have been made as a result.

One respondent expressed dissatisfaction with the fact that lungs were permitted in pet food and not in human food. In June 1971, the Department determined, on the basis of microscopic examination of lung tissue, that lungs were adulterated within the meaning of the Federal Meat Inspection Act and, therefore, unfit for human consumption. This commenter furnished no information to alter that determination. Therefore, no change of the proposed regulation has been made in that regard.

All other respondents supported the proposed amendment, although suggestions for changes were made. Specifically, all five of the remaining comments suggested that permission to handle undenatured lungs and lung lobes should be extended to byproduct

collection firms who supply materials to the pet food industry. One comment stated that such firms supply about one-half of the materials used by the pet food industry, and that they perform a service for many small slaughtering plants by removing and storing lungs, which increases their value. Though the proposed regulation has not been amended to allow byproduct collectors to participate in the trade of undenatured lungs, the Department agrees that the request to allow this may be justified. Therefore, a subsequent amendment will be proposed to extend the privilege, under proper safeguards, to such collectors.

The comments also stated that pet food users or manufacturers needed to be able to ship lungs and lung lobes from one storage warehouse to another in order to facilitate the handling and storage of these products. This suggestion was considered reasonable and has been adopted in the final rule. The proposed regulation has been changed, in response to these comments, so as to allow the transportation of lungs and lung lobes between warehouses for the account of a pet food user or manufacturer, as well as for the direct shipments permitted in the original proposal.

Although the proposal modified the requirements concerning secure closure of containers of lungs and lung lobes so as to allow the use of certain additional packaging and closing materials, the comments suggested that the use of many, if not all, of the allowed materials might pose a safety hazard. Furthermore, input from the staff indicated that experience had shown that the use of these materials was not necessary to effectively keep lungs and lung lobes from being diverted into human food channels. Since prevention of diversion of these products into human food channels was the principal reason for requiring the use of the materials, and since the use of the materials posed a possible safety hazard, it was decided that the necessary segregation and ease of identification of the products could be achieved in another way, namely by allowing the use of a 1-inch (2.5 cm) bright orange band imprinted around the boxes of lungs and lung lobes. The proposed regulation has been changed accordingly.

As a result of additional views presented by the staff, paragraph (a) of the proposed regulation has been modified so that the transactions involving lungs and lung lobes regulated pursuant to this section will include sales, offers for sale, or transportation, and receipts for transportation, as well as transportations.

This change was made in order to fully comply with the requirements of section 201 of the Federal Meat Inspection Act (21 U.S.C. 641). Furthermore, the regulation also has been changed to require the name and address of the packer or distributor to be on the immediate container. This change was made in order to conform with the general requirement included in part 317 of the regulations (9 CFR, part 317).

Certain other minor changes have been made to the regulation as proposed. The metric equivalents for size requirements of labeling have been added in anticipation of the pending conversion to that system. All other minor changes were made to correct inadvertent errors.

Therefore, § 325.8 of the Federal meat inspection regulations (9 CFR 325.8) is amended to read as follows:

§ 325.8 Transportation and other transactions concerning certain undenatured lungs or lung lobes from official establishments or in commerce; provisions and restrictions.

(a) Lungs or lung lobes, other than those condemned under § 310.16(b) of this subchapter, that are prepared at any official establishment, may be sold, transported, offered for sale or transportation, or received for transportation from the establishment, in commerce or otherwise, without denaturing as prescribed in § 314.1 or § 314.3 of this subchapter: *Provided:*

(1) The lungs or lung lobes are sold, transported, or offered for sale or transportation to, or received for transportation by: An animal food manufacturer for use in manufacturing animal food; a zoo, mink farm, or other establishment for use as animal food without further processing; a warehouse in the United States for storage and subsequent movement to such a manufacturer or establishment in the United States, or from one warehouse to another for the account of and subsequent movement to such a manufacturer or establishment, or for export, for nonhuman food purposes.

(2) The boxes or other containers used for shipping the undenatured lungs or lung lobes are closed with nylon filament tape, metallic on nonmetallic straps, round wire, or other similar materials that securely effect closure of such containers, and the containers are permanently identified in at least 2-inch (5 cm) high lettering with the statement "(Species) Lungs—Not Intended for Human Food." In lieu of securely closing the immediate container with any of the above materials, a 1-inch (2.5 cm) wide bright orange band, imprinted around the length and width of the container may be used.

(3) The name and place of business of the packer or distributor shall be shown on the immediate container of the product. In addition, the country of origin shall be shown on the immediate container of imported lungs or lung lobes.

(b) Lungs or lung lobes, other than those condemned under a State law or regulation at least equal to § 310.16(b) of this subchapter, that are prepared at any State inspected establishment may be sold, transported, offered for sale, or transportation or received for transportation from that establishment, in commerce, without denaturing as prescribed under section 201 of the Act, provided the State law or regulations permit such disposition and provided there is compliance with the provisions of paragraph (a) of this section.

(c) Foreign establishments shall be eligible to export lungs or lung lobes, other than those condemned for reasons set forth in § 310.16(b) of this subchapter, to the United States from such foreign country under this section, only if such establishments are certified and approved for export of products to the United States under part 327 of this subchapter, and such product complies with the applicable regulations for preventing the introduction into the United States of diseases (9 CFR 94), in addition to the requirements of paragraph (a) of this section.

(d) All such lungs or lung lobes, if intended for animal food, are subject to the Federal Food, Drug, and Cosmetic Act.

(Sec. 21, 34 Stat. 1260, as amended (21 U.S.C. 621); 42 FR 35625, 35632.)

It does not appear that further public participation in rulemaking proceedings would make additional information available to the Department. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found that further rulemaking procedures are unnecessary.

NOTE.—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., on September 19, 1978.

SYDNEY J. BUTLER,
Acting Administrator, Food Safety and Quality Service.

[FR Doc. 78-26866 Filed 9-25-78; 8:45 am]

[6210-01]

Title 12—Banks and Banking

Accordingly, pursuant to sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and

count subject to § 220.4(i) shall be determined by the creditor in good faith.

withdrawable accounts—tax and loan accounts and note accounts.

The Bank Board proposed to alter a number of its other regulations to fit

account is a special device which can only be used in the tax and loan context.

This respondent also stated that it

With regard to calculation of FIR and insurance premiums, the respondent objected to the fact that associations will be required to keep daily

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

[Reg. T; Docket No. R-0080]

PART 220—CREDIT BY BROKERS AND DEALERS

Nonconvertible Debt Securities

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This amendment will permit brokers and dealers, for the first time, to extend and maintain credit on nonconvertible debt securities not listed on national securities exchanges which satisfy certain criteria as to size of issue, availability of information and status of payments for principal and interest. The loan value of these unlisted debt securities will be set at the same "good faith" loan value presently effective for nonconvertibe debt securities traded on exchanges. The Board is adopting this rule change under authority of sections 7 and 23 of the Securities Exchange Act of 1934 to improve the efficiency of capital markets and to promote competitive equality between brokers and banks.

EFFECTIVE DATE: October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert S. Plotkin, Assistant Director, or Laura Homer, Chief Attorney, Securities Regulation, Divison of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2782.

SUPPLEMENTARY INFORMATION: The Board published for comment a proposal to amend §§ 220.4 and 220.8 of regulation T in the FEDERAL REGISTER on May 16, 1978 (43 FR 21008) and asked for comments. The only substantive difference between that proposal and this adopted amendment is in the loan value which brokers may assign to nonconvertible debt securities. The original proposal would have set a uniform 70 percent loan value (i.e., a 30 percent initial margin), for all eligible debt securities. In response to comments received, the present "good faith" margin rule will be continued for nonconvertible debt securities traded on exchanges and extended to nonconvertible debt securities meeting certain criteria which will be designated in the rule as "OTC margin bonds." Certain other technical changes suggested by commentators are also incorporated in the adopted amendment.

Accordingly, pursuant to sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and w) the board amends 12 CFR Part 220 as follows:

In § 220.2, paragraph (f) is revised and paragraph (i) is added to read as follows:

§ 220.2 Definitions.

* * * * *

(f) The term margin security means any registered security, OTC margin stock or OTC margin bond.

* * * * *

(i) The term "OTC margin bond" means a debt security not traded on a national securities exchange which meets all of the following requirements:

(1) At the time of the extension of credit, a principal amount of not less than $25,000,000 of the issue is outstanding.

(2) The issue was registered under section 5 of the Securities Act of 1933 and the issuer either files periodic reports pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 or is an insurance company which meets all of the conditions specified in section 12 (g)(2)(G) of the Act.

(3) At the time of the extension of credit, the creditor has a reasonable basis for believing that the issuer is not in default on interest or principal payments.

In § 220.4, paragraph (i) is added to read as follows:

§ 220.4 Special accounts.

* * * * *

(i) *Special bond account.* In a special bond account a creditor may extend and maintain credit on any exempted security, registered nonequity security or OTC margin bond. The maximum loan value of securities held in this account shall be as prescribed from time to time in § 220.8 (the supplement to regulation T). Call options may be issued, endorsed, or guaranteed in this account on any underlying equity security which is held in this account because it is an exempted security.

* * * * *

In § 220.8, paragraph (b) is revised to read as follows:

§ 220.8 Supplement.

* * * * *

(b) *Maximum loan value for special bond account.* The maximum loan value of an exempted security, a registered nonequity security or an OTC margin bond held in a special bond account subject to § 220.4(i) shall be determined by the creditor in good faith.

* * * * *

By order of the Board of Governors, September 20, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-26964 Filed 9-25-78; 8:45 am]

[6720-01]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 78-515]

Amendments Concerning Tax and Loan Accounts

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: By these amendments the Federal Home Loan Bank Board permits Federal savings and loan associations to participate as depositories for Federal taxes and as Treasury tax and loan depositories, as authorized by Pub. L. 95-147 of October 28, 1977. This action is needed because the Bank Board's present regulations do not authorize such participation.

EFFECTIVE DATE: September 29, 1978.

FOR FURTHER INFORMATION, CONTACT:

Rebecca H. Laird, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552-202-377-6446.

SUPPLEMENTARY INFORMATION: Pub. L. 95-147 has made it possible for savings and loan associations, including those with Federal charters, to participate in the Treasury tax and loan account system. Previously, only incorporated banks and trust companies were eligible.

By Resolution No. 78-251, dated April 18, 1978 (43 FR 17831), the Federal Home Loan Bank Board proposed various minor regulatory changes to facilitate such participation by Federal savings and loan associations. Basically, the changes would explicitly authorize Federal associations to pledge collateral and maintain appropriate

withdrawable accounts—tax and loan accounts and note accounts.

The Bank Board proposed to alter a number of its other regulations to fit tax and loan and note accounts into the existing provisions governing liquidity, insurance coverage and premiums, Federal insurance reserve, and borrowings.

Concerning liquidity, both tax and loan accounts and note accounts would be counted in the liquidity base. However, if the collateral pledged by an association against either a tax and loan account or a note account contained liquid assets as defined by the Bank Board, the assets could be counted toward meeting a portion of the liquidity requirement.

Insurance coverage would be $40,000, and would extend only to the tax and loan account (§§ 564.8(c), 561.3). With respect to insurance premiums and FIR, calculations pertaining to tax and loan accounts would be done on an averaged basis, rather than as of year end, to take into account possible large fluctuations in the balances of such accounts. Since note accounts are not considered eligible for insurance, they would not be taken into account for either premium or FIR purposes. Regarding the regulation imposing restrictions on borrowings, note accounts would be exempted from coverage (§ 563.8).

The remaining changes would clarify the status or effects of the new accounts. They would expressly remove note accounts from rate control (§ 526.2-1), and exclude both types of accounts from the prohibition against issuance by insured institutions of demand securities (§ 563.6). In addition, to ensure conformity of terminology and avoid confusion of tax and loan accounts and note accounts with savings accounts or savings deposits, new definitional language would be added (§§ 526.1 (e), (n), (o), 561.11b, 561.11c).

In response to its invitation for comments on these proposed amendments by May 26, 1978, the Bank Board received comments from two trade associations and two savings and loan associations.

One respondent feared that the stipulation in § 526.1(n) that tax and loan accounts are subject to the right of immediate withdrawal, and that they are not savings accounts or savings deposits, could cause them to be regarded as demand deposits. The Bank Board believes that the proposed regulation clearly does not grant demand deposit authority. It merely ensures that Federal associations have the authority to assure the Treasury Department that it can have the right of immediate access to tax moneys deposited in Federals. The Bank Board believes it is clear that the tax and loan account is a special device which can only be used in the tax and loan context.

This respondent also stated that it believed the Bank Board's regulations should explain that tax and loan account withdrawals are processed through the Federal Reserve, and thus will be subject to a new type of withdrawal procedure. The Bank Board believes such an explanation would be superfluous. Any institution interested in participating in the TT&L system will have to comply with Treasury Department regulations on the subject, which are clear as to the manner in which withdrawals are to be processed.

Another respondent objected to inclusion of tax and loan accounts and note accounts in an institution's liquidity base, and in the calculations of its FIR and insurance premiums, as well as to wording in one section which it believed implicitly acknowledged a higher degree of Treasury Department control over S&L participation in the TT&L program than was intended by Congress. In addition, the respondent urged that the Bank Board take certain collateral actions having no precise bearing on the regulatory proposal, which will not be discussed here.

Concerning liquidity, the respondent basically argued that there is no safety justification for including tax and loan accounts and note accounts in liquidity base computations because the accounts will be collateralized to the extent they are not covered by insurance. It argued that to require S&Ls to increase their liquidity to cover the new accounts will simply make less money available for mortgage loans, and, further, that the fluctuating nature of the balances in the accounts will make it more difficult for associations to comply with the liquidity requirement. In addition, it stated that banks do not have comparable restrictions, and that including the accounts in the liquidity base could thus serve as a deterrent to S&L participation.

The safety issue is one which the Bank Board has considered at some length. The Bank Board has concluded that because these accounts will rarely, if ever, be collateralized by assets which are not liquid it is not necessary that they be included in an institution's regulatory liquidity base. The proposed definitions of "withdrawable accounts" and "short-term borrowings" in §§ 523.10 (d) and (e) have therefore been changed to exclude tax and loan accounts and note accounts. Section 523.10(j), which would have permitted a portion of liquid assets collateralizing such accounts to be counted as required liquidity, has been omitted as unnecessary.

With regard to calculation of FIR and insurance premiums, the respondent objected to the fact that associations will be required to keep daily records of relevant balances, which they will have to average at year-end. It argued that this will create unnecessary recordkeeping problems, pointed out that in other cases keeping of average daily balances is not required, and suggested that tax and loan accounts should have neither FIR nor insurance premium consequences. In the Bank Board's view, daily balances must be recorded because of the volatile nature of the accounts. There would simply be too much risk that whatever figure appeared on the last day of the year would be completely unrepresentative of a "normal" day's balance. Since the Treasury Department has structured the TT&L system in such a way that daily cognizance must be taken of balances, the Bank Board does not believe it will cause institutions any appreciable burden to make the required daily calculations. As for the suggestion that the accounts not count for FIR and premium purposes, the Bank Board believes it would be inappropriate for the FSLIC to extend insurance coverage to an account without receiving a premium and the protection afforded by the required reserve increment.

Respecting the general authorization in § 545.24-4 allowing Federal associations to participate in the TT&L system, "subject to regulations of the U.S. Treasury Department," the respondent asserted that the quoted language implies that Treasury could, by regulation, effectively abort or curtail the power conferred by Congress upon those associations. The respondent suggested that the regulation be changed to read as follows:

> Federal associations may serve as depositories for Federal taxes or as Treasury tax and loan depositories, and satisfy any requirement of U.S. Treasury Department regulations in connection therewith, including maintaining accounts described in §§ 526.1(n) and 526.1(o) of this chapter, and pledging collateral.

As a practical matter, the Bank Board does not see any difference between its proposal and that of the respondent. Furthermore, the Bank Board considers respondent's fears of Treasury overreaching groundless, and therefore fails to see any need to change its proposed § 545.24-4 in accord with the respondent's suggestion.

Accordingly, the Bank Board hereby amends: Part 523 by revising § 523.10 (d) and (e); Part 526 by revising paragraph (e) of § 526.1 and adding new paragraphs (n) and (o), and adding a new § 526.2-1; Part 545 by adding new § 545.24-4; Part 561 by revising § 561.3, and adding new §§ 561.11b and 561.11c;

Part 563 by revising § 563.6, adding a new paragraph (e) to § 563.8, and revising §§ 563.13(a)(1) and 563.15(a); and

cluding maintaining accounts described in §§ 526.1(n) and 526.1(o) of this chapter, and pledging collateral.

savings account balances on such closing date; or (ii) the average of such account balances on such closing date

§ 564.8 Public unit accounts.

* * * * *

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

Accordingly, § 379.4(d) of the Export

Part 563 by revising § 563.6, adding a new paragraph (e) to § 563.8, and revising §§ 563.13(a)(1) and 563.15(a); and Part 564 by adding to § 564.8 a new paragraph (c)—all of which to read as set forth below.

§ 523.10 Definitions.

For the purposes of this section, §§ 523.11, and 523.12:

• • • • •

(d) The term "net withdrawable accounts" means the amount of all withdrawable accounts less the unpaid balance of all loans on the security of such accounts, but does not include tax and loan accounts or note accounts.

(e) The term "short-term borrowings" means the amount of all borrowings which are payable on demand or which are due for payment in 1 year or less, but does not include tax and loan accounts or note accounts.

• • • • •

§ 526.1 Definitions.

As used in this Part 526:

• • • • •

(e) *Savings account.* The term "savings account" means any deposit, withdrawable or repurchasable share, investment certificate, or other withdrawable account, except a tax and loan account or note account.

• • • • •

(n) *Tax and loan account.* The term "tax and loan account" means an account, the balance of which is subject to the right of immediate withdrawal, established for receipt of payments of Federal taxes and certain U.S. obligations; such accounts are not savings accounts or savings deposits.

(o) *Note account.* The term "note account" means a note, subject to the right of immediate call, evidencing funds held by depositories electing the note option under applicable U.S. Treasury Department regulations. Note accounts are not savings accounts or savings deposits.

§ 526.2-1 Rate of return payable on note accounts.

Member institutions shall pay a return on note accounts at the rates required by the U.S. Treasury Department.

§ 545.24-4 Tax and loan depositories.

Subject to regulations of the U.S. Treasury Department, Federal associations may serve as depositories for Federal taxes or as Treasury tax and loan depositories, and satisfy any requirement in connection therewith, including maintaining accounts described in §§ 526.1(n) and 526.1(o) of this chapter, and pledging collateral.

§ 561.3 Insured account.

An "insured account" is a savings account, tax and loan account, or checking account held by an insured member in an institution insured by the corporation. Accounts which by the terms of the contract of the holder with the institution or by provisions of State law cannot be withdrawn or the value thereof paid to the holder until all of the liabilities, including other classes of share liabilities, of the institution have been fully liquidated and paid upon the winding up of the institution are not insurable, and are hereinafter referred to as "nonwithdrawable accounts". Subordinated debt securities and mortgage-backed bonds issued by an insured institution are deemed not to be "accounts", and such securities are not insurable.

§ 561.11b Tax and loan account.

The term "tax and loan account" shall have the meaning given in § 526.1(n) of this chapter.

§ 561.11c Note account.

The term "note account" shall have the meaning given in § 526.1(o) of this chapter.

§ 563.6 Demand securities.

No insured institution may issue any demand securities or advertise or represent that it will pay holders of its securities on demand, except that this section does not apply to checking accounts as defined in § 561.11a of this subchapter, or to tax and loan accounts or note accounts.

§ 563.8 Limitation upon borrowing.

• • • • •

(e) For purposes of this section, note accounts are not borrowings.

§ 563.13 Required amounts and maintenance of Federal insurance reserve and net worth.

(a) *Federal insurance reserve requirements.* (1) *Minimum required amounts.* After the fiscal year in which a certificate of insurance is issued, each insured institution shall build up its Federal insurance reserve account so that, as of the close of business on the annual closing date following each anniversary of the date of insurance of accounts, such account shall be at least equal to the amount obtained by multiplying the percentage corresponding to such anniversary date, as set forth in the table below, by either (i) The amount of the institution's checking, tax and loan, and savings account balances on such closing date; or (ii) the average of such account balances on such closing date and on one or more of the four immediately preceding annual closing dates, provided all such dates are consecutive. In any event, unless otherwise permitted in writing by the corporation, each insured institution shall build up its Federal insurance reserve account so that, at any one annual closing date prior to the 26th anniversary of its insurance of accounts, such account shall be at least equal to 5 percent of the institution's checking, tax and loan, and savings account balances on such closing date. For purposes of this section, the amount of tax and loan account balances on an annual closing date shall be the average daily amounts in such accounts during the applicable year.

• • • • •

§ 563.15 Insurance premiums.

(a) *General provisions.* Except as provided in paragraph (b) of this section, each institution whose application for insurance is approved by the corporation shall pay to the corporation a premium charge for such insurance equal to one-twelfth of 1 percent of the total amount of all accounts (except note accounts) of the insured members of such institution. Each insured institution shall pay such premium at the time its certificate of insurance is issued by the corporation and thereafter annually on the anniversary of the issuance of such certificate. The amount of each premium to be paid by an insured institution shall be determined on the basis of the most recent report filed by such institution with the corporation, except that any insured institution which has not filed such a report within 60 days of any premium anniversary date shall provide more recent information if requested to do so by the corporation. Any amount contained in any such report covering interest accrued, but not due and payable, or dividends declared but not due and distributable, upon an account of an insured member will not be included by the corporation in the computation of premiums. For purposes of this section, the total amount of a tax and loan account shall be the average daily balance in such account since the institution's last premium anniversary date, unless the account has been established after such date, in which case the average shall be calculated from the date of establishment of the account.

• • • • •

§ 564.8 Public unit accounts.

• • • • •

(c) This section does not apply to tax and loan accounts.

(Pub. L. 95-147 of October 28, 1977, sec. 4, 82 Stat. 856, sec. 4, 80 Stat. 824, and sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425a, 1425b, and 1437). Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464), Secs. 401-405, 407, 48 Stat. 1255-1260, as amended (12 U.S.C. 1724-1728, 1730), Reorg. Plan No. 3 of 1947, 172 FR 4891, 3 CFR, 1943-1948 Comp., p. 1071.)

Dated: September 20, 1978.

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 78-27062 Filed 9-25-78; 8:45 am]

[3510-25]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, BUREAU OF TRADE REGULATION

PART 370—EXPORT LICENSING GENERAL POLICY AND RELATED INFORMATION

Revision of Exports Controlled by Other Agencies; Treasury Department

AGENCY: Office of Export Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: Department of Commerce regulations govern the export of all commodities and technical data not specifically controlled by other Government departments and agencies. These other departments and agencies are listed in the Department's Export Administration Regulations. The Department of the Treasury announced recently that changed economic conditions and other factors made it unnecessary for Treasury to continue controlling exports of 1-cent coins (43 FR 24691, June 7, 1978). The Treasury action was effective June 7, 1978. This revision makes exports of 1-cent coins subject to the Export Administration Regulation as of that date. Under Commerce regulations, commercial exports of 1-cent coins may be made under General License G-DEST (i.e., no application is required and no license document issued) to all destinations except Southern Rhodesia, North Korea, Vietnam, Cambodia, and Cuba.

EFFECTIVE DATE: June 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

Accordingly, § 370.10(c) of the Export Administration Regulations (15 CFR Part 370) is deleted and reserved.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

SEPTEMBER 20, 1978.

[FR Doc. 78-26954 Filed 9-25-78; 8:45 am]

[3510-25]

PART 379—TECHNICAL DATA

Revision of General License GTDR: Technical Data Under Restriction

AGENCY: Office of Export Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: Export licensing jurisdiction over "Airborne detection and tracking equipment using infrared radiation" has recently been transferred from the Office of Munitions Control in the Department of State to the Office of Export Administration in Department of Commerce. Because these commodities have military as well as civilian applications, the export of such commodities has been made subject to validated licensing control under the Export Administration Regulations (CCL entry No. 1502). This rule places exports of all technical data relating to such commodities except for that exportable under General License GTDA (15 CFR 379.3), under validated licensing control. The Department of Commerce has concluded, in consultation with other Federal departments and agencies that advise it regarding export licensing matters, that a case-by-case review of the export of such data through the validated licensing system is necessary in order to carry out the policies set forth in section 3(2)(c) of the Export Administration Act of 1969, as amended.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

Accordingly, § 379.4(d) of the Export Administration Regulations (15 CFR 379.4(d)) is revised by deleting the word "and" at end of paragraph sub (7), adding a new subparagraph (8), and renumbering present paragraph sub (8) to (9), as follows:

• • • • •

(d) *Restrictions Applicable to all Destinations Except Canada* • • •

(8) Airborne detection and tracking equipment using infrared radiation; and

(9) Any other commodity • • •

• • • • •

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

SEPTEMBER 20, 1978.

[FR Doc. 78-26838 Filed 9-25-78; 8:45 am]

[3510-25]

PART 385—SPECIAL COUNTRY POLICIES AND PROVISIONS

Interpretation of Regulations on Exports and Reexports to Republic of South Africa and Namibia

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: On February 16, 1978, an embargo was established on the export and reexport of all U.S.-origin commodities and technical data (except data generally available to the public) when the shipment was to or for use by or for military or police entities in the Republic of South Africa and Namibia. The Department has received inquiries as to whether certain entities in the Republic of South Africa and Namibia are considered police or military entities and hence subject to the embargo policy. To provide guidance for all persons involved in exporting or reexporting U.S.-origin commodities and technical data to these destinations, the Department is publishing an interpretation with respect to the entities mentioned in the inquiries.

EFFECTIVE DATE: September 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles C. Swanson, Director, Oper-

SUMMARY: This revision conforms the Export Administration Regulations and Foreign Trade Statistics Regulations with respect to the proce-

Export Declaration if the originally filed Declaration has not already been mailed to the Bureau of the Census. If the originally filed Shipper's Export

People's Republic of China to the detriment of U.S. national security. The foreign availability of these commodities was taken into account in reach-

North Korea, Vietnam, Cambodia, and Cuba, and to the Republic of South Africa and Namibia if intended for military or police entities. Exports to

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director,

FOR FURTHER INFORMATION CONTACT:

Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

Accordingly, Supplement No. 2 is added to part 385 of the Export Administration Regulations (15 CFR Part 385) to read as follows:

INTERPRETATIONS

[Supplement No. 2 to Part 385]

1. The Department has received inquiries as to whether certain entities in the Republic of South Africa and Namibia are considered police or military entities and hence subject to the embargo policy set forth in § 385.4.

(a) It is the Department's position that the following are police or military entities: ARMSCOR (Armaments Development and Production Corporation); Department of Prisons; Bureau of State Security; and South African Railways Police Force.

(b) It is also the Department's position that certain municipal and provincial law enforcement officials, such as traffic inspectors and highway patrolmen, although separate from the South African police, are police entities because they have functions that are performed by the police in the United States. Other law enforcement entities and officials that do not have functions performed by the police in the United States, such as the Department of Customs, Department of Justice, health inspectors and licensing authorities, are not considered police entities.

(c) The Department does not consider the National Institute of Defense Research (NIDR) to be a military entity, because it does research for private as well as military organizations. However, the provisions of section 385.4 would apply if, in an individual transaction, the person or firm intending to export or reexport commodities or technical data to NIDR knows or has reason to know that the goods or data will be used in a research project for the military or police.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

RAUER H. MEYER,
Acting Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-27015 Filed 9-21-78; 3:44 pm]

[3510-25]

PART 386—EXPORT CLEARANCE

Corrections to Shipper's Export Declarations

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: This revision conforms the Export Administration Regulations and Foreign Trade Statistics Regulations with respect to the procedures for amending Shipper's Export Declarations (SED's). Exporters or their agents are now permitted to correct or amend SED's by making the appropriate changes on a copy of the SED, without the need for filing a Shipper's Export Declaration Correction Form (Form 7403).

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-4196.

Accordingly, Part 386 of the Export Administration Regulations (15 CFR Part 386) is amended by revising §§ 386.3(k)(4), and 386.3(q) (1) and (2) as follows:

§ 386.3 Shipper's Export Declaration.

* * * * *

(k) *Optional ports of unlading.* * * *

(4) *Correcting the declaration.* As soon as the exporter, his forwarding agent or his carrier determines at which port the shipment is to be unloaded (whether in the country of ultimate destination or in a country of transit) such person shall correct the Shipper's Export Declaration to show the specific port of unloading and the name and address of the intermediate consignee to whom delivery is to be made. An intermediate consignee must be shown if the port of unloading is located in a country other than the country of destination. If the export is unloaded at more than one port, the quantity and value unloaded at each port and the name and address of each intermediate consignee should be given. The procedures for correcting and filing declarations are set forth in § 386.3(q).

* * * * *

(q) *Correction, cancellation, addition or amendment of information on Declaration*—(1) *Methods of changing declarations.* Exporters (or their agents) shall report corrections, cancellations, additions or amendments to information reported on Shipper's Export Declarations to the Customs Director at the port of exportation (or, in the case of mail shipments, to the Postmaster at the post office where the shipment was mailed) as soon as the need for such changes is determined. Changes may be made directly on the originally filed Shipper's Export Declaration if the originally filed Declaration has not already been mailed to the Bureau of the Census. If the originally filed Shipper's Export Declaration has already been mailed to the Bureau of the Census, a photocopy, carbon, or other legible copy of the originally filed Shipper's Export Declaration, on which the incorrect data are neatly lined out and the corrected data entered, shall be promptly filed with the Customs Director at the port of exportation (or, in the case of mail shipments, with the Postmaster at the post office where the shipment was mailed). Any changes to the declaration should be identified as such on the face of the declaration. (A copy of the changed declaration should also be filed with the Director, Compliance Division, Office of Export Administration, if the original declaration was required under § 386.3(o)(i) to be so filed.) Such changed copies should have the words "CORRECTION COPY" conspicuously shown in the upper right portion of the form.

(2) *Responsibility.* Nothing herein shall relieve any person or firm making changes on the Declaration from responsibility for any such changes. Acceptance of a changed declaration by the Customs office does not imply approval of any act involved in the shipment or the truth or accuracy of the information provided.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

SEPTEMBER 20, 1978.

[FR Doc. 78-26834 Filed 9-25-78; 8:45 am]

[3510-25]

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

Revision of Commodity Control List

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce

ACTION: Final rule.

SUMMARY: The Office of Export Administration (OEA) has determined that the transistors and diodes listed below do not meet the Department of Commerce security guidelines in that they would not contribute significantly to the development, production, or use of military hardware in the U.S.S.R., the other Communist countries of Eastern Europe, Laos, or the People's Republic of China to the detriment of U.S. national security. The foreign availability of these commodities was taken into account in reaching this decision.

Previously, a firm was required to submit an application to OEA and receive specific authorization before exporting these transistors and diodes to all destinations except Canada.

This revision retains these commodities under validated license control for export only to southern Rhodesia, North Korea, Vietnam, Cambodia, and Cuba, and to the Republic of South Africa and Namibia if intended for military or police entities. Exports to other destinations may now be made under General License G-DEST (see § 371.3). The two entries listed below will be deleted and the commodities will be included in CCL entry No. 6599.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-4196.

Accordingly, the Commodity Control List, incorporated by reference in 15 CFR Part 399, is revised by deleting the following entries:

Export control commodity number and commodity description	Unit	Processing code	Validated license required	GLV $ value limits T	V	Q
4544B Semiconductor diodes and thyristors, n.e.s., having a bulk material other than selenium or copper oxide, as follows:		EE	SX			
(a) Bulk effect devices and oscillator diodes used for the direct conversion of DC to RF power designed or rated for use at output frequencies greater than 300 MHz but not exceeding 1 GHz;						
(b) Fast recovery diodes having a rated maximum reverse recovery time of less than 2 nanoseconds but not less than 1 nanosecond;						
(c) Tunnel diodes having both of the following characteristics: (i) a resistive cut-off frequency (F_{co}) of 20 GHz or less, and (ii) a maximum reverse recovery time of 1 nanosecond or greater; and:						
(d) Parts and accessories therefor.						
4545B Transistors, n.e.s., having any of the following characteristics:		EE	SZ			
(a) Germanium types having either:						
(1) An average f_T in MHz, or						
(2) A product of the average f_T in MHz and the maximum collector dissipation in Watts exceeding 1,000;						
(b) Silicon types having any of the following characteristics:						
(1) An average f_T greater than 700 MHz up to and including 2000 MHz,						
(2) A product of the average f_T in MHz and the maximum collector dissipation in Watts exceeding 350 up to and including 3000, or,						
(3) Field effect transistors encapsulated in nonhermetically sealed cases and having a maximum power dissipation of 500 mW or less and a maximum operating frequency of 250 MHz or less; and,						
(c) Parts and accessories therefore.						

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

SEPTEMBER 20, 1978.

[FR Doc. 78-26955 Filed 9-25-78; 8:45 am]

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 140—ORGANIZATION, FUNCTIONS AND PROCEDURES OF THE COMMISSION

Disposition of Business by Seriatim Commission Consideration

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts procedures used when action is authorized or business conducted through the consideration and approval of individual Commissioners rather than through joint deliberation. These procedures are designated to facilitate the orderly conduct of agency business.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Jane Stuckey, Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, 202-254-6314.

SUPPLEMENTARY INFORMATION: The Commission has adopted regulation 140.12 to codify its existing practice by which the Commission occasionally conducts business without joint deliberation of its members. This procedure consists of circulating the relevant documents to the individual members of the Commission for their consideration and approval and is generally used when time constraints do not permit any other means of consideration or when joint deliberation is unnecessary. The procedure is used, for example, when the Commission has considered a staff proposal at a Commission meeting and has determined that the proposal should be approved with certain amendments. Rather than rescheduling the matter for a later Commission meeting, the

documents containing the amended proposal are circulated among the members of the Commission for their individual consideration and approval.

Issued in Washington, D.C., on September 20, 1978, by the Commission.

GARY L. SEEVERS,

United States serving in a combat zone, was deleted by Treasury decision 76-268 on September 24, 1976 (41 FR

Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices

When shipments are made in tank cars or trucks, the Customs officer shall report details of the gauge of

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documents containing the amended proposal are circulated among the members of the Commission for their individual consideration and approval. Because the documents or other materials would generally be reviewed only to determine whether they properly reflect the Commission's previous determination, further joint deliberation would be unnecessary.

As adopted, § 140.12 provides that if the Chairman of the Commission determines that joint deliberation among the members of the Commission upon any matter is unnecessary in light of the nature of the matter, impracticable, or would impede the orderly disposition of agency business, a matter may be disposed of by circulation of the relevant materials to the individual Commissioners. Section 140.12 further provides that upon the request of any member of the Commission, a matter being circulated for seriatim consideration shall be withdrawn from circulation and scheduled for a Commission meeting.

The Commission finds that § 140.12 relates solely to agency practice and procedure and that the relevant provisions of the Administrative Procedure Act, 5 U.S.C. § 553, requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are not required.

In consideration of the foregoing the Commission hereby amends 17 CFR Part 140 by adding a new § 140.12 to read as follows:

§ 140.12 Disposition of business by seriatim Commission consideration.

(a) Whenever the Chairman of the Commission is of the opinion that joint deliberation among the members of the Commission upon any matter is unnecessary in light of the nature of the matter, impracticable, or would impede the orderly disposition of agency business, but is of the view that such matter should be the subject of a vote of the Commission, such matter may be disposed of by circulation of any relevant materials concerning the matter. The relevant materials shall be circulated to each member of the Commission, unless a member is unavailable or has determined not to participate in the matter. A written record of the vote of each participating Commission member shall be reported to the Secretariat who shall retain it in the records of the Commission.

(b) Whenever any member of the Commission so requests, any matter circulated for disposition pursuant to paragraph (a) of this section shall be withdrawn from circulation and scheduled instead for a Commission meeting.

(Sec. 2a(11) of the Act, 7 U.S.C. 4(a)(j) (1976).)

Issued in Washington, D.C., on September 20, 1978, by the Commission.

GARY L. SEEVERS,
Vice Chairman.

[FR Doc. 78-26953 Filed 9-25-78; 8:45 am]

[4810-22]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 78-329]

IMPORTATION OF ALCOHOLIC BEVERAGES AND TOBACCO PRODUCTS

Miscellaneous Amendments

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: Various sections of the Customs regulations relating to the importation of alcoholic beverages and tobacco products cite sections of the Internal Revenue Service regulations. This rule will amend the Customs regulations to reflect the transfer of certain functions, powers, and duties of the Internal Revenue Service in connection with the importation of these articles to the Bureau of Alcohol, Tobacco and Firearms (BATF), to make other conforming changes, and to eliminate a requirement that importers of tobacco products prepare extra copies of certain Customs entry forms for BATF statistical purposes.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Todd J. Schneider, Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-8237.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Treasury Department order 221, dated June 6, 1972 (37 FR 11696), transferred certain functions, powers, and duties of the Internal Revenue Service relating to alcohol, tobacco, firearms, and explosives to the Bureau of Alcohol, Tobacco and Firearms. On April 15, 1975 (40 FR 16835), the Internal Revenue Service regulations formerly codified as 26 CFR Parts 170 through 299 were redesignated as the regulations of the Bureau of Alcohol, Tobacco and Firearms and codified in 27 CFR Parts 170 through 299. Because various sections of the Customs regulations refer to the former Internal Revenue Service regulations, conforming amendments to reflect this change are necessary.

In addition, §§ 19.16(g), 143.1(b), 143.26, and 144.38(b) of the Customs regulations (19 CFR 19.16(g), 143.1(b), 143.26, 144.38(b)) require that an additional copy of either Customs Form 7501, Consumption Entry; Customs Form 5199-A, Informal Entry; or Customs Form 7505, Duty Paid Warehouse Withdrawal for Consumption, marked or stamped "For Internal Revenue Purposes," be presented for each entry for consumption, or withdrawal from warehouse for consumption, of cigars, cigarettes, or cigarette papers or tubes, when the entry or release from Customs custody of those articles is subject to part 275 of the Internal Revenue Service regulations (26 CFR Part 275) and tax is payable to Customs.

This requirement was based on former § 275.81 of the regulations of the Bureau of Alcohol, Tobacco and Firearms (27 CFR 275.81), previously § 275.81 of the Internal Revenue Service regulations (26 CFR 275.81). This section required an importer of cigars, cigarettes, and cigarette papers and tubes to prepare an extra copy of the appropriate Customs form for each entry for consumption, or withdrawal from warehouse for consumption, of those articles and file it with Customs for transmittal to the assistant regional commissioner of the Internal Revenue Service of the region where the Customs district is located.

Until recently, the Bureau of Alcohol, Tobacco and Firearms needed the extra copy of the Customs forms to maintain statistics on importations of tobacco products. However, through cooperation of Customs, the Bureau of Alcohol, Tobacco and Firearms, the Bureau of the Census, and the International Trade Commission, it no longer is necessary for importers of cigars, cigarettes, and cigarette papers and tubes to prepare an extra copy of the Customs forms. Statistics now may be obtained directly from the Bureau of the Census.

Therefore, on June 14, 1976, the Bureau of Alcohol, Tobacco and Firearms amended § 275.81 of its regulations (27 CFR 275.81) to dispense with the requirement for the extra copy of the Customs form (41 FR 23950). Section 275.81 now requires that certain specified internal revenue tax information be included on the Customs form when cigars, cigarettes, or cigarette papers or tubes enter the United States for consumption, or when they are withdrawn from warehouse for consumption.

Additionally, § 54.3, Customs regulations, relating to bona fide gifts from members of the Armed Forces of the United States serving in a combat zone, was deleted by Treasury decision 76-268 on September 24, 1976 (41 FR 41911). Therefore, it also is necessary to remove the reference to this section in § 11.3 of the Customs regulations (19 CFR 11.3).

The following sections of the Customs regulations are amended to reflect the foregoing changes:

Customs Regulations and 19 CFR section	Relating to—
10.99	Importations of ethyl alcohol for nonbeverage purposes.
11.1(b)	Packing and stamping of cigars and cigarettes.
11.2a	Release from Customs custody of cigars, cigarettes, cigarette papers or tubes without payment of tax.
11.3	Package and notice requirements for cigars, cigarettes, and cigarette papers and tubes.
11.7	Importation of distilled spirits and other alcoholic beverages in bottles and similar containers.
12.37(c)	Blending or rectifying of wines or distilled spirits in manufacturing warehouses, or the bottling of imported distilled spirits in manipulation warehouses.
19.16 (a) and (g)	Cigar-manufacturing warehouses.
22.23(e)	Drawback procedures for medicinal preparations and flavoring extracts.
22.25	Drawback claims for alcohol used in manufacturing.
141.61(h)	Entry of cigars, cigarettes, or cigarette papers or tubes.
141.102(b)	Transfer of distilled spirits in bulk to the bonded premises of a distilled spirits plant.
143.1(b)	Consumption entries of cigarettes, cigars, or cigarette papers or tubes.
143.26	Informal entries of cigars, cigarettes, or cigarette papers or tubes.
144.38 (b) and (c)	Withdrawals for consumption of cigars, cigarettes, or cigarette papers or tubes.
145.13(b)	Release of cigars, cigarettes, or cigarette papers or tubes for a manufacturer without payment of tax.
145.53	Importations of firearms, munitions of war, and related articles.
159.4(b)	Methods for the computation of duties and taxes on distilled spirits.
161.2(a)	Laws enforced by the Customs Service for other agencies.

Because these amendments merely conform the Customs regulations to the regulations of the Bureau of Alcohol, Tobacco and Firearms and relieve a filing requirement, notice and public procedure thereon are unnecessary and good cause exists for dispensing with the delayed effective date requirements of 5 U.S.C. 553.

DRAFTING INFORMATION

The principal author of this document was Todd J. Schneider, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

AMENDMENTS TO THE REGULATIONS

Parts 10, 11, 12, 19, 22, 141, 143, 144, 145, 159, and 161 of the Customs regulations (19 CFR Parts 10, 11, 12, 19, 22, 141, 143, 144, 145, 159, and 161) are amended as set forth below:

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Section 10.99 is amended to read as follows:

§ 10.99 Importation of ethyl alcohol for nonbeverage purposes.[90]

(a) If claim is made by an importer other than the United States or a governmental agency thereof for the classification of ethyl alcohol of 185 degrees or more of proof under item 427.88, Tariff Schedules of the United States,[91] the importer or his agent shall file in connection with the entry a declaration that the alcohol is to be used for nonbeverage purposes only.

(1) Customs shall release the alcohol upon deposit of estimated duty, if any, and without payment of the internal revenue tax, only upon receipt of an application on Alcohol, Tobacco and Firearms (ATF) form 2609 (5110.16) submitted by the proprietor of the distilled spirits plant and approved by the appropriate Alcohol, Tobacco and Firearms officer. The ATF form 2609 (5110.16) allows the transfer of the alcohol under internal revenue bond to the bonded premises of the proprietor's plant for nonbeverage use.

(2) Before release of the alchohol from Customs custody, the Customs officer shall prepare four copies of ATF form 236 (5110.27) when the alcohol is to be removed in packages, or five copies when the alcohol is to be removed by pipeline or by bulk conveyance. The ATF form 236 (5110.27) should be appropriately modified to show:

(i) Serial number and date of the ATF form 2609 (5110.16);

(ii) Customs port of entry and entry number;

(iii) Consignee;

(iv) Kind of spirits;

(v) Name of the importer;

(vi) Country of origin (manufacture or production);

(vii) Method of transfer;

(viii) Elements of bulk gauge (if any);

(ix) Quantity to be transferred;

(x) Customs seals used (if any);

(xi) Date of release; and

(xii) Signature and title of the Customs officer instead of the proprietor. When shipments are made in tank cars or trucks, the Customs officer shall report details of the gauge of each car or truck separately. In the case of barrels, drums, or similar portable containers, he shall show details of the gauge on three copies of ATF form 2630 (5110.45). The Customs officer also shall note on ATF form 236 (5110.27) the rate of Customs duty paid and the rate which would have been applicable had the alcohol been imported for beverage purposes.[92] Upon compliance with Customs entry requirements and completion of the appropriate ATF forms, the Customs officer shall release the alcohol for transfer to the distilled spirits plant. The Customs officer shall retain one copy of ATF form 236 (5110.27) (and ATF form 2630 (5110.45), if any); forward one copy of ATF form 236 (5110.27) to the regional regulatory administrator, Bureau of Alcohol, Tobacco and Firearms, at the address shown on ATF form 2609 (5110.16); and forward the original and remaining copy (or copies) of ATF form 236 (5110.27) (and ATF form 2630 (5110.45), if any) to the Alcohol, Tobacco and Firearms officer at the distilled spirits plant.

(3) Before a shipment in a tank car or truck is released, a Customs officer shall seal all openings affording access to the alcohol with Customs seals in a manner which prevents unauthorized removal of the alcohol.

(4) When the distilled spirits plant is equipped with suitable dock facilities, the alcohol, subject to all requirements of the Customs laws and regulations, (i) may be transferred by pipeline from the importing vessel or barge through weighing tanks or other suitable measuring tanks into locked empty storage tanks on the bonded premises of the distilled spirits plant; or (ii) may be transferred directly into empty storage tanks on the premises, if the tanks are equipped with suitable measuring devices for correctly indicating the actual contents and the outlets are locked. In all pipeline transfers, the alcohol shall be transferred under Customs supervision, gauged immediately by a Customs officer, and then released for deposit in the distilled spirits plant. The Customs officer shall report the details of the gauge for internal revenue purposes on ATF form 236 (5110.27). Copies of the form shall be distributed as prescribed in subparagraph (2) of this paragraph.

(b) If ethyl alcohol is to be withdrawn from Customs custody by the United States or any governmental agency thereof for its own use for nonbeverage purposes, either before release under the entry without the deposit of estimated duties, if any, and internal revenue tax, or before release

in accordance with the provisions of § 141.102(d) of this chapter (when deposit of estimated duties or taxes is

entry or withdrawal form and three copies of Alcohol, Tobacco and Firearms form 2145 (5200.11) or 3072

tion except upon compliance with all applicable regulations. Customs shall keep a record of all cigars so returned

PART 22—DRAWBACK

1. The second and fourth sentences of paragraph (e) of § 22.23 are amend-

5100.4 must state, in addition to other required information:

(1) Name of the rectifier;

(2) Quantity in wine gallons of recti-

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

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in accordance with the provisions of § 141.102(d) of this chapter (when deposit of estimated duties or taxes is not required), an appropriate permit on ATF form 1444 (5150.33), shall be filed with the district director. The permit also may cover future withdrawals at that port, pursuant to appropriate entry in each case. The Customs officer who gauges the alcohol shall prepare three copies of a report of gauge on ATF form 2629 (5110.26). The alcohol then may be released for shipment to the governmental agency named in the permit, ATF form 1444 (5150.33). The Customs officer shall make the appropriate notation of the withdrawal on ATF form 1444 (5150.33), and shall state the permit number of the ATF form 1444 (5150.33) involved on each copy of ATF form 2629 (5110.26). The Customs officer shall retain the original of the ATF form 2629 (5110.26) with the permit on ATF form 1444 (5150.33), and shall forward one copy of ATF form 2629 (5110.26) to the governmental agency involved and one copy to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226.

(c) Paragraphs (a) and (b) of this section are not applicable to withdrawal free of tax on the entry of ethyl alcohol for nonbeverage purposes from the Virgin Islands. Provisions for the release free of tax of distilled spirits, denatured distilled spirits, and products containing denatured spirits produced and withdrawn in the Virgin Islands are found in subpart O of Part 250, Bureau of Alcohol, Tobacco and Firearms Regulations (27 CFR Part 250, Subpart O).

(d) Upon completion of the applicable procedures outlined in this section, the entry shall be liquidated with the assessment of duty at the appropriate rate, if any, and without the assessment of internal revenue tax.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 11—PACKING AND STAMPING; MARKING

§ 11.1 [Amended]

1. The first sentence in paragraph (b) of § 11.1 is amended by substituting "Bureau of Alcohol, Tobacco and Firearms" for "Internal Revenue Service".

2. Section 11.2a is amended to read as follows:

§ 11.2a Release from Customs custody without payment of tax on cigars, cigarettes and cigarette papers and tubes.

Cigars, cigarettes, and cigarette papers and tubes may be released from Customs custody without payment of any applicable internal revenue tax upon presentation of the Customs entry or withdrawal form and three copies of Alcohol, Tobacco and Firearms form 2145 (5200.11) or 3072 (5210.14), certified by the appropriate regional regulatory administrator, Bureau of Alcohol, and Tobacco and Firearms. The Customs officer shall complete the notice of release, retain one copy, send one copy to the regional regulatory administrator, and return one copy to the manufacturer. The release may not be made under a mail entry. See § 145.13(b) of this chapter.

§ 11.3 [Amended]

3. The first and last sentences of § 11.3 are amended by substituting "(27 CFR Part 275)" for "(26 CFR Part 275)". The third sentence of § 11.3 is amended by deleting the reference to § 54.3 of the Customs regulations.

4. The section heading and first sentence of § 11.7 are amended to read as follows:

§ 11.7 Distilled spirits and other alcoholic beverages imported in bottles and similar containers; regulations of the Bureau of Alcohol, Tobacco, and Firearms.

The importation of distilled spirits and other alcoholic beverages in bottles and similar containers is subject to regulations of the Bureau of Alcohol, Tobacco and Firearms relating to strip stamps and other matters. (27 CFR Parts 5, 201, and 251).* * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 12—SPECIAL CLASSES OF MERCHANDISE

§ 12.37 [Amended]

1. Paragraph (c) of § 12.37 is amended by substituting "Bureau of Alcohol, Tobacco and Firearms" for "Alcohol Tax Unit, Internal Revenue Service."

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

1. The third and fourth sentences of paragraph (a), and paragraph (g) of § 19.16 are amended to read as follows:

§ 19.16 Cigar-manufacturing warehouses.

(a) * * * When tax-paid cigars are returned to the manufacturing department of a cigar manufacturing warehouse from which withdrawn, in accordance with § 275.172 of the regulations of the Bureau of Alcohol, Tobacco and Firearms (27 CFR 275.172), they shall be accounted for properly and shall not be released for consumption except upon compliance with all applicable regulations. Customs shall keep a record of all cigars so returned to the manufacturing department, together with a copy of the schedule on Alcohol, Tobacco and Firearms form 3069 (5200.7).* * *

* * * * *

(g) Before removal from the bonded premises for consumption, each package of cigars shall be marked by legibly imprinting or branding on the package, or on a label securely affixed to the package, the statement (for Customs purposes) "Made in No. ——, Customs bonded manufacturing warehouse, class 6"; and as required in regulations of the Bureau of Alcohol, Tobacco and Firearms (27 CFR Part 275), a statement of the quantity and classification or class designation (for large cigars) of the cigars contained in each package.

(1) Upon withdrawal (release) for consumption of cigars subject to internal revenue tax, the manufacturer or proprietor of the class 6 warehouse shall pay the applicable tax to Customs by return, as provided in regulations of the Bureau of Alcohol, Tobacco and Firearms (27 CFR Part 275). The manufacturer or proprietor shall file two copies of the return on an appropriately modified Customs form 7505 (yellow) and one copy of Customs form 7505-A with the district director of Customs of the port where the warehouse is located. One return shall cover all cigars withdrawn (released) on any one day and shall be filed on the first business day after the date of withdrawal (release). The taxes covered by the return shall be secured by the Proprietor's Manufacturing Warehouse Bond, Customs form 3583.

(2) The taxpayer shall prepare the return to show, for tax purposes, the quantity and kind of cigars, the applicable rate of tax, and the amount of tax (see 27 CFR 275.81). The taxpayer, or his authorized agent under whose bond release is made, shall sign the return. The return will not be required to duplicate the information required for duty purposes under subpart D of part 144 of this chapter. One copy of the Customs form 7505 (yellow) shall be returned to the taxpayer, and one copy shall be retained by Customs. When accepted, the return shall be treated as an entry and liquidated upon payment of the taxes on the cigars and charges, if any.

* * * * *

(R.S. 251, as amended, secs. 484, 498, 624, 46 Stat. 722, as amended, 728, as amended, 759 (5 U.S.C. 301, 19 U.S.C. 66, 1484, 1498, 1624))

PART 22—DRAWBACK

1. The second and fourth sentences of paragraph (e) of § 22.23 are amended to read as follows:

§ 22.23 Procedure.

* * * * *

(e) * * * If no claim has been or will be filed with the Bureau of Alcohol, Tobacco and Firearms for the domestic drawback, the manufacturer shall submit two copies of a statement setting forth that fact to the regional regulatory administrator of the Bureau of Alcohol, Tobacco and Firearms for the region in which the manufacturer's factory is located. * * * The regional regulatory administrator shall verify the statement, forward the original of the document to the port designated, and retain the copy.* * *

* * * * *

2. Section 22.25 is amended to read as follows:

§ 22.25 Bureau of Alcohol, Tobacco and Firearms certificates and extracts.

(a) *Request.* The drawback claimant or manufacturer shall make a written request to the regional regulatory administrator, Bureau of Alcohol, Tobacco and Firearms where the alcohol used in manufacture was withdrawn, for the issuance of a tax-paid certificate on Alcohol, Tobacco and Firearms (ATF) form 5100.4, to the regional commissioner of Customs with whom the drawback claim will be processed.

(b) *Contents.* The request must state:

(1) Quantity of alcohol in taxable gallons;

(2) Serial number of each package;

(3) Serial number of the stamp;

(4) Amount of tax paid on the alcohol;

(5) Name, registry number, and location of the warehouse;

(6) Date of withdrawal;

(7) Name of the manufacturer using the alcohol in producing the exported articles;

(8) Address of the manufacturer and his manufacturing plant; and

(9) Customs region where the drawback claim will be processed.

(c) *Request accompanied by Customs form 7545.* If the request is accompanied by a Custom form 7545 showing any of the information required in paragraph (b) of this section, that information need not be repeated in the request.

(d) *Articles manufactured with the use of rectified or redistilled alcohol.* For drawback on flavoring extracts or medicinal or toilet preparations manufactured with the use of rectified or redistilled alcohol, the ATF form 5100.4 must state, in addition to other required information:

(1) Name of the rectifier;

(2) Quantity in wine gallons of rectified alcohol produced;

(3) Proof;

(4) Quantity in proof gallons produced;

(5) Amount of tax paid;

(6) Date of withdrawal; and

(7) Serial numbers of the rectifier's stamps covering the alcohol.

(e) *Extracts from Alcohol, Tobacco and Firearms certificates.* If a certification of any portion of the alcohol described in a certificate on AFT form 5100.4 is required for the liquidation of drawback entries processed in another region, the Regional Commissioner of Customs, on written application of the person who requested its issuance, shall transmit a copy of the extract from the certificate for use at that regional office. The Regional Commissioner shall note that the copy of the extract was prepared and transmitted.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 141—ENTRY OF MERCHANDISE

1. Paragraph (h) of § 141.61 is amended to read as follows:

§ 141.61 Completion of entry papers.

* * * * *

(h) *Cigars, cigarettes, or cigarette papers or tubes.* On each entry of cigars, cigarettes, or cigarette papers or tubes (as those articles are defined in 27 CFR Part 275), which is subject to the regulations of the Bureau of Alcohol, Tobacco and Firearms, the separate statement for tax purposes required by § 275.81 (27 CFR 275.81) shall be made on the entry form.

2. Paragraph (b) of § 141.102 is amended to read as follows:

§ 141.102 When deposit of estimated duties not required.

* * * * *

(b) *Bulk distilled spirits transferred to the bonded premises of a distilled spirits plant.* An importer may transfer distilled spirits in bulk to the bonded premises of a distilled spirits plant under the provisions of section 5232(a), Internal Revenue Code of 1954, as amended (26 U.S.C. 5232(a)), and the regulations of the Bureau of Alcohol, Tobacco and Firearms (27 CFR Part 251), by filing an approved original copy of Alcohol, Tobacco and Firearms form 2609 (5110.16) with the entry or withdrawal for consumption, instead of depositing taxes.

* * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 143—CONSUMPTION, APPRAISEMENT, AND INFORMAL ENTRIES

§ 143.1 [Amended]

§ 143.26 [Reserved]

1. Part 143 is amended by deleting §§ 143.1(b) and 143.26 and marking those sections "Reserved."

(R.S. 251, as amended, secs. 484, 498, 624, 46 Stat. 722, as amended, 728, as amended, 759 (5 U.S.C. 301, 19 U.S.C. 66, 1484, 1498, 1624).)

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

1. Section 144.38 is amended by deleting paragraph (b) and marking that paragraph "Reserved" and by amending the last sentence of paragraph (c) to read as follows:

§ 144.38 Withdrawal for consumption.

* * * * *

(c) *Information to be shown on withdrawal.* * * * Additionally, on each withdrawal of cigars, cigarettes, or cigarette papers or tubes subject to internal revenue tax, the statement for tax purposes required by § 275.81 of the regulations of the Bureau of Alcohol, Tobacco and Firearms (27 CFR 275.81) shall be made on the withdrawal form.

* * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 145—MAIL IMPORTATIONS

§ 145.13 [Amended]

1. Paragraph (b) of § 145.13 is amended by substituting "27 CFR Part 275" for "26 CFR Part 275."

§ 145.53 [Amended]

2. Section 145.53 is amended by substituting "27 CFR Parts 47, 178, 179" for "26 CFR Parts 178-180."

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 159—LIQUIDATIONS OF DUTIES

§ 159.4 [Amended]

1. Paragraph (b)(1) of § 159.4 is amended by substituting "Bureau of Alcohol, Tobacco and Firearms" for "Internal Revenue Service."

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 161—GENERAL ENFORCEMENT PROVISIONS

SUPPLEMENTARY INFORMATION: On October 26, 1976 (41 FR 46851), the Food and Drug Administration

beyond that provided by the enriched flour.

The Commissioner has reviewed the

so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hear-

sioner of Food and Drugs proposed that only isopropyl myristate with a pH of 5.5 or greater be used for the

the isopropyl myristate that has been passed through the aluminum oxide column. Sterilize isopropyl myristate

PART 161—GENERAL ENFORCEMENT PROVISIONS

§ 161.2 [Amended]

1. Paragraph (a)(1) of § 161.2 is amended by substituting "Bureau of Alcohol, Tobacco and Firearms" for "Internal Revenue Service."

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: September 11, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

[FR Doc. 78-26965 Filed 9-25-78; 8:45 am]

[4110-03]

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 75N-3060]

PART 136—BAKERY PRODUCTS

Revocation of Stayed Standard for Enriched Raisin Bread

AGENCY: Food and Drug Administration.

ACTION: Revocation of stayed regulation.

SUMMARY: This document revokes the regulation establishing a standard of identity for enriched raisin bread which was stayed by the filing of an objection and request for a hearing. The Commissioner of Food and Drugs believes that the standard is made unnecessary by providing advice on the appropriate labeling for raisin bread made with enriched flour instead of flour and raisin bread enriched to the level of enriched white bread.

DATES: Effective November 27, 1978; objections by October 26, 1978.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20906.

FOR FURTHER INFORMATION CONTACT:

Harold Salwin, Bureau of Foods (HFF-416), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-8531.

SUPPLEMENTARY INFORMATION: On October 26, 1976 (41 FR 46851), the Food and Drug Administration (FDA) issued a final regulation for the standard of identity for enriched raisin bread (21 CFR 136.165, formerly § 17.60, prior to recodification in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)). The regulation provided for the production of enriched raisin bread containing the same amount of nutrients required by the standard of identity for enriched bread (21 CFR 136.115) and the same quantity of raisins required by the standard for raisin bread (21 CFR 136.160). Although the identity standard for raisin bread makes no explicit provision for the use of enriched flour, the policy of FDA has been to refrain from taking action against raisin bread that deviates from the standard only in that it is made with enriched flour or that nutrients are added so that the raisin bread contains the levels of nutrients required by § 136.115.

The standard of identity for enriched raisin bread was proposed in the FEDERAL REGISTER of February 12, 1976 (41 FR 6269), in response to a recommendation by the American Bakers Association (ABA) that provision be made for raisin bread conforming to the nutrient requirements of the standard of identity prescribed for enriched white bread in § 136.115. The enrichment requirements in § 136.115 are expressed in units of milligrams of thiamine, riboflavin, niacin, and iron per pound of bread. In the manufacture of enriched white bread, the level of nutrients required can be provided simply by using flour that is enriched in accordance with the standard of identity for enriched flour (21 CFR 137.165). As the preamble to the proposal of February 12, 1976, recognized, however, in the manufacture of enriched raisin bread with enriched flour some of the enriched flour is displaced by raisins, with the result that the levels of enrichment will no longer meet the requirements of § 136.115 unless adjustments are made by the baker. There were no adverse comments regarding these particulars of the proposal. However, the final regulation, which is consistent with the proposal, has been stayed by the filing of an objection and request for a hearing by the ABA on the grounds that the provisions will not promote honesty and fair dealing in the interest of consumers under section 401 of the Federal Food, Drug, and Cosmetic Act. According to the ABA, additional facilities and costs would be required to supplement the enriched flour with additional enrichment ingredients to meet the requirements of the standard. The ABA now claims that there is no need for additional enrichment beyond that provided by the enriched flour.

The Commissioner has reviewed the facts in an effort to resolve the issue in a manner, consistent with consumer interests, that does not impose an unnecessary hardship on any producer. The difference in the nutritional quality of raisin bread made with enriched flour and of enriched raisin bread made to comply with the nutrient content requirements of § 136.115 is very small. There are differences analytically in several nutrients, but the Commissioner concludes that these differences will not significantly affect consumers' intakes of the nutrients. Furthermore, he advises that a raisin bread conforming to the requirements of § 136.160 except that it is made with enriched flour, enriched brominated flour, or a combination, as the sole farinaceous ingredient may be sold as a nonstandardized bread under a suitable name, e.g., "raisin bread made with enriched flour." Many breads are sold as nonstandardized foods when they contain and are named to identify ingredients not provided for in the standard for bread that provide a distinctive flavor, color, or other feature important to consumers, e.g., rye bread. If a raisin bread has been enriched to the nutrient levels in § 136.115, (with additional amounts of nutrients added to compensate for the flour displaced by the raisins), the food may be sold as "enriched raisin bread." Either raisin bread so labeled must also bear nutrition labeling in accordance with § 101.9 (21 CFR 101.9).

Since there is no further need for a separate identity standard for enriched raisin bread, the Commissioner is hereby giving notice that he is revoking the identity standard.

§ 136.165 [Revoked]

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 136 is amended by revoking § 136.165 *Enriched raisin bread, rolls, and buns.*

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 26, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically

so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the hearing clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective November 27, 1978, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

Dated: September 18, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-26813 Filed 9-25-78; 8:45 am]

[4110-03]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 77N-0129]

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

Isopropyl Myristate Sterility Test

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the antibiotic drug regulations by adding new restrictions to a diluting fluid to insure its suitability for the sterility testing of ophthalmic ointments.

EFFECTIVE DATE: October 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Joan M. Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4292.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of February 24, 1978 (43 FR 7653), the Commissioner of Food and Drugs proposed that only isopropyl myristate with a pH of 5.5 or greater be used for the sterility testing of ophthalmic ointments under § 436.20(d)(5) (21 CFR 436.20(d)(5)).

One comment objected to the description of isopropyl myristate as "microbially nontoxic" when the pH is 5.5 or greater. The comment suggested that the term "reduced toxicity" replace "microbially nontoxic."

The Commissioner acknowledges that isopropyl myristate with a pH of 5.5 or greater is not "microbially nontoxic," but rather, the toxicity is reduced to a usable level that allows recovery of sensitive organisms in the time necessary to perform a sterility test. The Commissioner has reconsidered the matter in view of the comment and concludes that the appropriate requirement is that isopropyl myristate "have a water-extract pH of 5.5 or greater." Therefore, the phrase "and microbially nontoxic" has been deleted from the proposed test procedure.

No other comments were received; therefore, the Commissioner concludes that the remainder of the amendment should be adopted as proposed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), § 436.20(d)(5) is revised to read as follows:

§ 436.20 Sterility test methods and procedures.

* * * * * *

(d) * * *

(5) *Diluting fluid E.* Use isopropyl myristate that is sterile and that has a water-extract pH of 5.5 or greater. Determine the water-extract pH of a portion of the isopropyl myristate as follows: Place 100 milliliters of the isopropyl myristate sample and 10 milliliters of distilled water into a centrifuge bottle of approximately 250 milliliters capacity and seal the bottle tightly. Place the centrifuge bottle on a shaker so that its longest dimension is oriented in the direction of shaker movement and shake at 250 cycles per minute for 1 hour. Centrifuge the bottle at 1,800 revolutions per minute for 20 minutes. With a suitable vacuum system, remove and discard the upper layer; then pipet 5 milliliters of the lower water layer into a beaker and determine the pH using a standardized pH meter. If the water-extract pH is less than 5.5, pass the isopropyl myristate through a glass column packed with basic aluminum oxide, activity grade No. 1. Determine the water-extract pH of a portion of the isopropyl myristate that has been passed through the aluminum oxide column. Sterilize isopropyl myristate by filtration through a 0.22-micron membrane filter and aseptically dispense 100-milliliter portions into sterile 250-milliliter flasks.

* * * * * *

Effective date: This amendment shall become effective October 26, 1978.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

Dated: September 20, 1978.

MARY A. MCENIRY,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 78-26950 Filed 9-25-78; 8:45 am]

[4110-03]

[Docket No. 78N-0249]

PART 449—ANTIFUNGAL ANTIBIOTIC DRUGS

Nystatin Vaginal Dosage Forms

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document revises the antibiotic drug regulations to provide for the certification of nystatin vaginal suppositories. Under section 507 of the Federal Food, Drug, and Cosmetic Act, the manufacturer has supplied sufficient data and information to establish the safety and efficacy of nystatin vaginal suppositories.

DATES: Effective September 26, 1978; comments by October 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Joan Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs, having evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of nystatin vaginal suppositories, concludes that the data supplied by the manufacturer are adequate to establish the safety and efficacy of nystatin vaginal suppositories when used as directed in the labeling, and that the regulations should be revised.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357))

and under authority delegated to the Commissioner (21 CFR 5.1), Part 449 is amended as follows:

1. Section 449.650 is redesignated as

Dated: September 21, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for

ACTION: Final rule.

SUMMARY: The Bureau of Engraving and Printing is republishing its regula-

grounds and the Bureau of Engraving and Printing Annex Building and grounds located in Washington, D.C., at 14th and C Streets SW., are promul-

and under authority delegated to the Commissioner (21 CFR 5.1), Part 449 is amended as follows:

1. Section 449.650 is redesignated as § 449.650a and a new § 449.650 is added to read as follows:

§ 449.650 Nystatin vaginal dosage forms.

§ 449.650a Nystatin vaginal tablets.

* * * * * *

2. A new § 449.650b is added to read as follows:

§ 449.650b Nystatin vaginal suppositories.

(a) *Requirements for certification.*—(1) *Standards of identity, strength, quality, and purity.* Nystatin vaginal suppositories contain in each suppository 100,000 units of nystatin in a suitable and harmless water soluble base. Its potency is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of nystatin that it is represented to contain. Its moisture content is not more than 1.5 percent. The nystatin used conforms to the standards prescribed by § 449.50(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The nystatin used in making the batch for potency, safety, loss on drying, pH, and identity.

(*b*) The batch for potency and moisture.

(ii) Samples required:

(*a*) The nystatin used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch: A minimum of 30 suppositories.

(b) *Tests and methods of assay.*—(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place a representative number of suppositories into a high-speed glass blender jar containing sufficient dimethylformamide to give a convenient concentration. Blend for 3 to 5 minutes. Dilute an aliquot with sufficient dimethylformamide to obtain a concentration of 400 units of nystatin per milliliter (estimated). Further dilute an aliquot with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to the reference concentration of 20 units of nystatin per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

Because the conditions prerequisite to providing for certification of this drug have been complied with and as the matter is noncontroversial, the Commissioner finds for good cause that prior notice and public procedure and delayed effective date are unnecessary. However, interested persons may, on or before October 26, 1978, file with the Hearing Clerk (HFA-305), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments, in four copies and identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the hearing clerk between 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

Effective date: This regulation shall be effective September 26, 1978.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

Dated: September 20, 1978.

MARY A. MCENIRY,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 78-26946 Filed 9-25-78; 8:45 am]

[4510-43]

Title 30—Mineral Resources

CHAPTER I—MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

FEDERAL MINE SAFETY AND HEALTH

Technical, Nonsubstantive Revisions and Miscellaneous Amendments: Corrections

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Correction of rules and regulations.

SUMMARY: This document corrects amendments to rules and regulations that appeared on pages 12313 through 12320 in the FEDERAL REGISTER on Friday, March 24, 1978 (FR Doc. 78-7775).

FOR FURTHER INFORMATION CONTACT:

Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 629, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-1910.

CORRECTIONS: In FR Doc. 78-7775 appearing on pages 12313 through 12320 in the FEDERAL REGISTER on Friday, March 24, 1978, make the following changes:

1. On page 12312 immediately below the new title of chapter I in column 3 insert the following:

Each authority in parts 1, 11, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, 50, 55, 56, 57, 70, 71, 74, 75, 77, and 90 is revised by adding the following:

Sections 301(a) and 302(a) of the Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164, 30 U.S.C. 961 and 951 and 29 U.S.C. 577a, 91 Stat. 1317 and 91 Stat. 1319; section 508 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 30 U.S.C. 957, 80 Stat. 803.

2. In part 11 on page 12313 the instruction for item 4 in column 1 is revised to read as follows:

In § 11.3, add a new definition (ll), after (kk) as follows: "'MSHA' means * * *."

3. In part 32 on page 12317, the fifth line of applicable sections for item 1 in column 2 is revised to read as follows:

32.5(b), 32.5(c), 32.6(a)(1), 32.6(a)(2), 32.6(a)(4),

4. In part 36 on page 12318, the 11th line of amended sections listed in column 1 is revised to read as follows:

36.43(b), 36.44(a), 36.45(b), 36.46(b), 36.46(c),

5. In part 57 on page 12319, the sixth line of amended sections listed in column 1 is revised to read as follows:

28(d), 57.18-28(e), 57.21-95, 57.21-96,

6. In part 57 on page 12319, the fifth and sixth lines of applicable sections for item 1 in column 1 are revised to read as follows:

28(b), 57.18-28(d), 57.18-28(e), 57.21-95, 57.21-96, 57.26-1.

7. In part 57 on page 12319, add an item 5 to read as follows:

5. In standard 57.5-40, delete "(b) * * *."

8. In part 70 on page 12319, the second line of applicable sections for item 1 in column 1 is revised to read as follows:

70.305-1, 70.400-1, 70.504, 70.504-1(a), 70.504-1(b),

9. In part 75 on page 12320, the first line of item 7 is revised to read as follows:

7. In §§ 75.1719-1(f), 75.1719-2(c)(2),

10. In part 90 on page 12320, the third line of amended sections listed in column 2 is revised to read as follows:

90.30, 90.31(a), 90.32, 90.33(b), Subpart E.

11. In part 90 on page 12320, the second line of applicable sections for item 6 in column 2 (last line) is revised to read as follows:

90.33(b), Subpart E (title), and 90.40(b) (figure 1).

Dated: September 21, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-27076 Filed 9-25-78; 8:45 am]

[4310-53]

CHAPTER VI—BUREAU OF MINES, DEPARTMENT OF THE INTERIOR

PART 610—COAL ANALYSIS FOR NON-FEDERAL APPLICANTS

Deletion of Regulations; Correction

AGENCY: Bureau of Mines, Interior.

ACTION: Correction of final rule.

SUMMARY: In FR Doc. 78-22283, which deleted regulations on coal analysis for non-Federal applicants and which appeared on page 35477 in the FEDERAL REGISTER of August 10, 1978, the contact person for the Department of Energy is corrected to read as follows:

William Schmidt, Acting Deputy Director, Division of Fossil Fuel Extractions, 4040 North Fairfax Drive, Arlington, Va. 22203, telephone 703-235-2700.

FOR FURTHER INFORMATION CONTACT:

William Schmidt, Acting Deputy Director, Division of Fossil Fuel Extraction, 703-235-2700.

Dated: September 15, 1978.

JOAN M. DAVENPORT,
Assistant Secretary of the Interior.

[FR Doc. 78-26937 Filed 9-25-78; 8:45 am]

[4810-34]

Title 31—Money and Finance: Treasury

CHAPTER VI—BUREAU OF ENGRAVING AND PRINTING, DEPARTMENT OF THE TREASURY

PART 605—REGULATIONS GOVERNING CONDUCT ON BUREAU OF ENGRAVING AND PRINTING BUILDING AND GROUNDS AND BUREAU OF ENGRAVING AND PRINTING ANNEX BUILDING AND GROUNDS

Republication and Amendment

AGENCY: Bureau of Engraving and Printing, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Bureau of Engraving and Printing is republishing its regulations concerning conduct in its buildings and on its grounds. The regulations are being republished to reflect recent changes in security measures and to reflect the prohibition of intoxicants and dangerous drugs on Bureau premises.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

H. T. Krisak, Superintendent, Management Services Division, Bureau of Engraving and Printing, 14th and C Streets SW., Washington, D.C. 20228, 202-447-0261.

SUPPLEMENTARY INFORMATION: This republication incorporates several minor editorial changes, and it also makes the following amendments to §§ 605.3, 605.8, and 605.9:

1. Section 605.3 is amended by adding the following sentence at the end: "Individuals entering the property submit themselves to possible video surveillance."

2. Section 605.8 is amended by adding the following sentence at the end: "Intoxicants, nonprescription narcotics, and other controlled substances (21 CFR Part 1308) are prohibited on the property."

3. Section 605.9 is amended by inserting the phrase, "other than as provided by law" in the first sentence, to read as set forth below.

Under the provisions of 5 U.S.C. 553(a)(2), public notice is not required as these regulations involve a matter relating to the management of public property.

As amended, part 605, 31 CFR, reads as follows:

Sec.
605.1 Authority.
605.2 Applicability.
605.3 Recording presence.
605.4 Preservation of property.
605.5 Compliance with signs and directions.
605.6 Nuisances.
605.7 Gambling.
605.8 Intoxicating beverages, narcotics, and drugs.
605.9 Soliciting, vending, debt collection, and distribution of handbills.
605.10 Photographs.
605.11 Dogs and other animals.
605.12 Vehicular and pedestrian traffic.
605.13 Weapons and explosives.
605.14 Penalties and other law.

AUTHORITY: 5 U.S.C. 301; Delegation, Administrator, General Services, Treasury Department Order No. 177-25 (Revision 2).

§ 605.1 Authority.

The regulations in this part governing conduct in and on the Bureau of Engraving and Printing Building and grounds and the Bureau of Engraving and Printing Annex Building and grounds located in Washington, D.C., at 14th and C Streets SW., are promulgated pursuant to the authority vested in the Secretary of the Treasury, including 5 U.S.C. 301 and that vested in him by delegation from the Administrator of General Services, 38 FR 20650 (1973), and in accordance with the authority vested in the Director of the Bureau of Engraving and Printing by Treasury Department order No. 177-25 (revision 2), dated August 8, 1973, 38 FR 21947 (1973).

§ 605.2 Applicability.

These regulations apply to the building and grounds of the Bureau of Engraving and Printing Building and the Bureau of Engraving and Printing Annex Building located in Washington, D.C., at 14th and C Streets SW., and to all persons entering in or on such property. Unless otherwise stated herein, the Bureau of Engraving and Printing Building and grounds and the Bureau of Engraving and Printing Annex Building and grounds shall be referred to in these regulations as the "property." It is the responsibility of the occupant agencies to require observance of the regulations in this part by their employees.

§ 605.3 Recording presence.

Except as otherwise ordered, the property shall be closed to the public during other than normal working hours. The property shall also be closed to the public in emergency situations and at such other times as may be necessary for the orderly conduct of the Government's business. Admission to the property during periods when such property is closed to the public will be limited to authorized individuals who will be required to sign the register and/or display identification documents when requested by the guard. Individuals entering the property submit themselves to possible video surveillance.

§ 605.4 Preservation of property.

It shall be unlawful for any person without proper authority to willfully destroy, damage, deface, or remove property or any part thereof or any furnishings therein.

§ 605.5 Compliance with signs and directions.

Persons in and on the property shall comply with the instructions of uniformed Bureau of Engraving and Printing guards (U.S. Special Policemen), other authorized officials, and official signs of a prohibitory or directory nature.

§ 605.6 Nuisances.

The use of loud, abusive, or profane language, unwarranted loitering, unauthorized assembly, the creation of

§ 605.10 Photographs.

The taking of photographs on the property is prohibited, without the written permission of the Director

Dated: September 20, 1978.

SEYMOUR BERRY,
Director, Bureau of Engraving and Printing.

Subpart 101-11.4—Disposition of Federal Records

(a) "Emergency operating records" are records vital to the essential functions of the Federal Government for

of vital records on magnetic tape and photographic film.

(b) Agencies may make arrange-

§ 605.6 Nuisances.

The use of loud, abusive, or profane language, unwarranted loitering, unauthorized assembly, the creation of any hazard to persons or things, improper disposal of rubbish, spitting, prurient prying, the commission of any obscene or indecent act, or any other disorderly conduct on the property is prohibited. The throwing of any articles of any kind in, upon, or from the property and climbing upon any part thereof is prohibited. The entry, without specific permission, upon any part of the property to which the public does not customarily have access is prohibited.

§ 605.7 Gambling.

(a) Participating in games for money or other property, the operation of gambling devices, the conduct of a lottery or pool, the selling or purchasing of numbers tickets, or any other gambling in or on the property is prohibited.

(b) Possession in or on the property of any numbers slip or ticket, record, notation, receipt or other writing of a type ordinarily used in any illegal form of gambling such as a tip sheet or dream book, unless explained to the satisfaction of the head of the Bureau or his delegate, shall be prima facie evidence that there is participation in an illegal form of gambling in or on such property.

§ 605.8 Intoxicating beverages, narcotics, and drugs.

Entering or being on the property, or operating a motor vehicle thereon, by a person under the influence of intoxicating beverages, narcotics, hallucinogenic or dangerous drugs, or marijuana, or the consumption of such beverages or the use of such drugs or marijuana in or on the property is prohibited. Intoxicants, nonprescription narcotics, and other controlled substances (21 CFR Part 1308) are prohibited on the property.

§ 605.9 Soliciting, vending, debt collection, and distribution of handbills.

The unauthorized soliciting of alms and contributions, the commercial soliciting and vending of all kinds, the display or distribution of commercial advertising, or the collecting of private debts other than as provided by law, in or on the property is prohibited. This rule does not apply to Bureau of Engraving and Printing concessions or notices posted by authorized employees on the bulletin boards. Distribution of material such as pamphlets, handbills, and flyers is prohibited without prior approval from the Director, Bureau of Engraving and Printing, or his delegate.

§ 605.10 Photographs.

The taking of photographs on the property is prohibited, without the written permission of the Director, Bureau of Engraving and Printing. Title 18, U.S.C., Section 474 provides, in part, that whoever photographs any obligation or other security of the United States, or any part thereof, shall be fined not more than $5,000 or imprisoned not more than 15 years, or both.

§ 605.11 Dogs and other animals.

Dogs and other animals, except seeing-eye dogs, shall not be brought upon the property for other than official purposes.

§ 605.12 Vehicular and pedestrian traffic.

(a) Drivers of all vehicles in or on the property shall drive in a careful and safe manner at all times and shall comply with the signals and directions of guards and all posted traffic signs.

(b) The blocking of entrances, driveways, walks, loading platforms, or fire hydrants in or on the property is prohibited.

(c) Parking in or on the property is not allowed without a permit or specific authority. Parking without authority, parking in unauthorized locations or in locations reserved for other persons or continuously in excess of 8 hours without permission, or contrary to the direction of a uniformed Bureau of Engraving and Printing guard or of posted signs is prohibited.

(d) This paragraph may be supplemented from time to time with the approval of the Director, Bureau of Engraving and Printing, or his delegate by the issuance and posting of such specific traffic directives as may be required and when so issued and posted such directives shall have the same force and effect as if made a part hereof.

§ 605.13 Weapons and explosives.

No person while on the property shall carry firearms, other dangerous or deadly weapons, or explosives, either openly or concealed, except for official purposes.

§ 605.14 Penalties and other law.

Whoever shall be found guilty of violating the regulations in this part while on the property is subject to a fine of not more than $50 or imprisonment of not more than 30 days, or both (see 40 U.S.C. 318c). Nothing contained in the regulations in this part shall be construed to abrogate any other Federal laws or regulations or those of the District of Columbia applicable to the property referred to in § 605.2 and governed by the regulations in this part.

Dated: September 20, 1978.

SEYMOUR BERRY,
Director, Bureau of Engraving and Printing.

[FR Doc. 78-27060 Filed 9-25-78; 8:45 am]

[6820-26]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

[FPMR Amdt. B-41]

PART 101-11—RECORDS MANAGEMENT

Disposal Clearances; Vital Records Program

AGENCY: General Services Administration, National Archives and Records Service (NARS).

ACTION: Final rule.

SUMMARY: This rule amends the procedure for obtaining agency clearance to dispose of records stored in Federal records centers by extending the notification period from 30 to 90 days. This rule also eliminates the reporting requirements and provides additional guidance to Federal agencies on the management of their vital records programs. The notification period is being extended because of requests from certain agencies that felt they did not have enough time to review the status of their records. The reports are no longer needed since the information may be gathered in the course of Federal Preparedness Agency inspections.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Walter W. Stender, Assistant Archivist for Federal Records Centers, NARS, telephone 202-724-1598 (mailing address: General Services Administration (NC), Washington, DC 20408).

The table of contents for Part 101-11 is amended by revising the following entries:

Sec.
101-11.701 Emergency preparedness program; vital records.
101-11.701-4 Definitions.
101-11.701-5 Program considerations.
101-11.701-6 Vital records storage at GSA Federal Archives and Records Centers.
101-11.701-7 through 101-11.701-10 [Deleted].
101-11.4909 [Reserved].
101-11.4917 [Reserved].
101-11.4918 [Reserved].

Subpart 101-11.4—Disposition of Federal Records

Section 101-11.410-8 is amended by revising paragraph (b) to read as follows:

§ 101-11.410-8 Disposal clearances.

* * * * *

(b) Other records of Federal agencies held by records centers will be disposed of upon approval of the agency concerned by use of GSA Form 3144 (previously numbered GSA Form 7019), FRC Holdings Control Input, GSA Form 7015, Notice of Intent to Dispose of Records, or other written concurrence for each disposal action. If an agency is notified of the eligibility of its records for disposal and the agency fails to respond to this notification within 90 calendar days, the records will be disposed of in accordance with the appropriate authority.

Subpart 101-11.7—Vital Records: Records During an Emergency

1. Section 101-11.701 is recaptioned as set forth below and §§ 101-11.701-1 and 101-11.701-3 through 101-11.701-6 are revised to read as follows:

§ 101-11.701 Emergency preparedness program; vital records.

* * * * *

§ 101-11.701-1 Purpose.

This § 101-11.701 provides for the selection and protection of vital records required in the development of Federal agency emergency preparedness programs.

§ 101-11.701-3 Background.

(a) *General.* The original requirements for vital operating records protection programs were set forth in Bureau of the Budget Bulletins No. 51-14, May 22, 1951, and No. 52-5, September 6, 1951. Subsequent Government organizational and functional changes caused revisions in reporting requirements. The annual report reflecting the status of the vital records program of each Federal agency is no longer required.

(b) *Criteria and guides.* The Federal vital records program includes two basic categories: Emergency operating records and rights and interests records. The GSA Records Management Handbook entitled "Federal Archives and Records Center" provides further clarification of the two categories of records.

§ 101-11.701-4 Definitions.

The following definitions are pertinent to the development of a vital records program:

(a) "Emergency operating records" are records vital to the essential functions of the Federal Government for the duration of an emergency if the country is attacked. These records include those necessary for the military effort; the mobilization and protection of material and manpower resources, of services, and of systems; the maintenance of public health, safety, and order; and the conduct of essential civil defense activities. These records must be available as needed at or in the vicinity of emergency operating centers.

(b) "Rights and interests records" are records essential to the preservation of the legal rights and interests of individual citizens and their Government. These records include such groups as social security records, retirement records, payroll records, insurance records, and valuable research records. These records require protection, but storage points do not have to be at or in the vicinity of emergency operating centers.

§ 101-11.701-5 Program considerations.

(a) Strong management support is required within each department and agency to meet the records needs of emergency preparedness. Sound judgment must be exercised in identifying records essential to an agency's effectiveness during an emergency. Agencies should be aware that during an emergency those who will be using records may not be the same as those who refer to them under normal conditions.

(b) In identifying its vital records, an agency should keep the volume of records at a manageable level, and retrieval procedures should require only routine effort to locate needed information. The program should be simple and concise, avoiding complex and difficult procedures whenever possible.

(c) An agency's vital records protection program should be reviewed on an annual basis. The program may be considered effective if the records selected for inclusion are current, complete, adequately protected, accessible, and immediately usable.

§ 101-11.701-6 Vital records storage at GSA Federal Archives and Records Centers.

(a) The General Services Administration provides for the storage, protection, and servicing of rights and interests vital records. The facilities of all Federal records centers, regardless of geographic location, are available for agencies desiring to store these records. In addition to storage space for paper records, each GSA records center (except the FRC in Mechanicsburg, PA) has environmentally controlled space suitable for the storage of vital records on magnetic tape and photographic film.

(b) Agencies may make arrangements for the transfer of their rights and interests records to any of the records centers by contacting the appropriate center director, NARS Regional Commissioner, or the Office of Federal Records Centers (mailing address: General Services Administration (NC), Washington, DC 20408).

2. Sections 101-11.701-7 through 101-11.701-10 are deleted as follows:

§ 101-11.701-7 [Deleted].

§ 101-11.701-8 [Deleted].

§ 101-11.701-9 [Deleted].

§ 101-11.701-10 [Deleted].

Subpart 101-11.49—Forms and Reports

Sections 101-11.4909, 101-11.4917, and 101-11.4918 are deleted and reserved as follows:

§ 101-11.4909 [Reserved].

§ 101-11.4917 [Reserved].

§ 101-11.4918 [Reserved].

(Sec. 205(c), 63 Stat. 390, (40 U.S.C. 486(c)))

Dated: September 8, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-26968 Filed 9-25-78; 8:45 a.m.]

[4320-55]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—UPLAND GAME HUNTING

Opening of Ouray National Wildlife Refuge, Utah, to Upland Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Ouray National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 4, 1978, through December 3, 1978, inclusive.

FOR FURTHER INFORMATION CONTACT:

Refuge manager, Ouray National Wildlife Refuge, 447 East Main Street, Suite 4, Vernal, Utah 84078,

ACTION: Amendment to regulations.

SUMMARY: This document amends

This amendment releases certain of those reserves to increase TALFF's as follows:

[4910-13]

Title 14—Aeronautics and Space

Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, tele-

tional burden on any person, and is needed to avoid the possibility of aircraft operators' experiencing conflicts

V 43/187 SEP 26 78 V 4

Refuge manager, Ouray National Wildlife Refuge, 447 East Main Street, Suite 4, Vernal, Utah 84078, telephone 801-789-0351.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game hunting; for individual wildlife refuge areas.

Upland game hunting is permitted on the Ouray National Wildlife Refuge, Utah, only on the areas designated by signs as being open to upland game hunting. These areas, comprising 7,500 acres, are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 134 Union Boulevard, P.O. Box 25486, Denver, Colo. 80215. Upland game hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Pheasants only may be hunted.

The provisions of this special regulation supplement the regulations which govern upland game hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

HERBERT G. TROESTER,
Refuge Manager, Ouray National Wildlife Refuge, Vernal, Utah.

SEPTEMBER 12, 1978.

[FR Doc. 78-26997 Filed 9-25-78; 8:45 am]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING

Incremental Apportionment of Total Allowable Level of Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Amendment to regulations.

SUMMARY: This document amends the trawl fishery of the Gulf of Alaska preliminary management plan (PMP) by releasing to foreign fishermen a portion of the reserves of certain species. Accordingly, the foreign fishing regulations are amended to increase the total allowable level of foreign fishing (TALFF) for those species.

EFFECTIVE DATE: September 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry L. Reitze, Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99801, telephone 907-586-7221.

SUPPLEMENTARY INFORMATION: The trawl fishery of the Gulf of Alaska PMP (42 FR 8782), as amended by the supplement to the final environmental impact statement/preliminary management plan, noticed in the FEDERAL REGISTER (42 FR 60945) on November 30, 1977, provided for a distribution of the optimum yield of groundfish species among three categories. The first category was a provision for domestic fishermen based on the best available estimate of the probable U.S. harvest (U.S. capacity). The second category was a reserve established to provide for increased U.S. harvest. The third category was an allocation to foreign fishermen of the surplus remaining after the U.S. capacity and the reserve were subtracted from the optimum yield (OY) for the species. The reserves were to be released to foreign fishermen if the National Marine Fisheries Service (NMFS) determined that domestic fishermen woud not harvest those amounts of those species.

There has been less U.S. fishing effort for groundfish in the Gulf of Alaska in 1978 than had been expected. The NMFS has reestimated U.S. harvest to November 1, 1978, and has concluded that part of the reserve can be released. Consequently, table 11 of the trawl fishery of the Gulf of Alaska PMP which was originally published February 11, 1977 (42 FR 8800), and was amended on November 30, 1977 (42 FR 60945) by creating reserves for groundfish species is further amended. This amendment releases certain of those reserves to increase TALFF's as follows:

Species:	*metric tons*
Pacific cod	8,120
Flounder	6,700
Sablefish	2,200
Squid	300

The Assistant Administrator for Fisheries finds and determines that the Administrative Procedure Act requirements must be waived since delay in implementing this release is unnecessary, impractical, and contrary to the public interest. There is no environmental significance in this action.

Signed at Washington, D.C., this 20th day of September 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

§ 611.20 [Amended]

Amend 50 CFR 611.20(c) by revising table I as follows:

1. In the fourth column heading revise "Initial TALFF" to read "TALFF as of 9/8/78."
2. In line 16, under Code 002 and 003, "Flounders, including yellowfin sole," strike "17,600," substitute "24,300."
3. In line 21, Code 007, under "Sablefish," strike "8,000," substitute "10,200."
4. In line 15, Code 006, under "Pacific Cod," strike "16,980," substitute "25,100."
5. In line 22, Code 001, under "Squid," strike "1,600," substitute "1,900."

§ 611.92 [Amemded]

Amend 50 CFR 611.92 by revising table I as follows:

1. In column one, bottom line, revise "Initial TALFF" to read "TALFF as of 9/8/78".
2. In species column four, under "Flounders", strike "17,600", substitute "24,300".
3. In species column five, under "Sablefish", strike "8,000", substitute "10,200".
4. In species column seven, under "Pacific Cod", strike "16,980", substitute "25,100".
5. In species column eight, under "Squid", strike "16,00", substitute "1,900".

[FR Doc. 78-26967 Filed 9-25-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 18313; SFAR No. 37]

PART 91—GENERAL OPERATING AND FLIGHT RULES

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

PART 127—CERTIFICATION AND OPERATIONS OF SCHEDULED AIR CARRIERS WITH HELICOPTERS

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT

Special Federal Aviation Regulation Number; Carriage of Candidates in Federal Elections

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This special regulation allows persons who are not in the air transportation business to receive limited payments for carriage of candidates in Federal elections without that carriage being considered as a commercial operation. Federal Election Commission (FEC) rules require a candidate to pay for carriage in an aircraft. On the other hand, an aircraft operator must comply with the FAA's commercial operations regulations to receive compensation for a flight. This amendment will harmonize rules of the FAA and FEC consistent with the President's regulatory reform philosophy in Executive Order 12044.

DATES: Effective date: September 26, 1978. Comments by February 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-755-8716.

SUPPLEMENTAL INFORMATION:

BACKGROUND

Under the rules of the Federal Election Commission (FEC), a candidate in a Federal election must pay for carriage in an aircraft. Ordinarily, under the Federal Aviation regulations where common carriage is not involved, receipt of payment for carriage by an aircraft operator requires an appropriate commercial operator certificate. The FAA has been advised that several instances have occurred in which individuals or corporations operating aircraft have desired to carry a candidate in a Federal election, free of charge, but the candidate would be required to make payment to those aircraft operators in order to comply with the rules of the FEC. Receipt of the payment by an aircraft opertor without an appropriate commercial operator certificate could result in a violation of the Federal Aviation regulations. A situation is, therefore, created in which compliance with the regulations of one agency of the Federal Government results in a violation of the regulations of another agency.

The carriage of candidates in Federal elections is infrequent and the aircraft operator does not intend to engage in the business of an air carrier or commercial operator. The FAA has reviewed this situation and has concluded that it would be in the public interest to allow certain aircraft operators to receive payments required by the Federal Election Commission wihout being required to comply with the rules applicable to operations for compensation or hire. Pursuant to this regulation, the carriage of candidates would be governed by the rules of part 91. However, the regulation would not relieve part 121, 127 or 135 certificate holders of the obligation to comply with the rules under which they are certificated even if a candidate is carried and the payment is limited to the amount required by the FEC rules.

It also would not relieve an operator whose primary business is as an air carrier or commercial operator from complying with parts 121, 127 or 135.

NEED FOR IMMEDIATE ADOPTION

Since this special regulation relieves a restriction, does not impose an additional burden on any person, and is needed to avoid the possibility of aircraft operators' experiencing conflicts between the regulations of the FAA and FEC in the imminent Federal election campaigns of 1978, I find that notice and public procedure are impracticable and contrary to the public interest and that good cause exists for making this amendment effective in less than 30 days. However, the FAA intends to review operating experience under this special regulation. Consequently, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this SFAR. Communications should identify the Docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before February 1, 1979, will be considered by the Administrator and this SFAR may be changed in the light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

ADOPTION OF THE AMENDMENT

Accordingly, the following special Federal Aviation regulation is adopted, effective, September 26, 1978:

§ 1 Applicability.

Contrary provisions of parts 91, 121, 127 and 135 of the Federal Aviation regulations notwithstanding, an aircraft operator, other than one opertting an aircraft under the rules of part 121, 127 or 135 of this chapter, may receive payment for the carriage of a candidate in a Federal election, an agent of the candidate, or a person traveling on behalf of the candidate, if—

(a) That operator's primary business is not as an air carrier or commericial operator;

(b) The carriage is conducted under the rules of part 91; and

(c) The payment for the carriage is required, and does not exceed the amount required to be paid, by regulations of the Federal Election Commission (11 CFR et seq.).

§ 2 Definitions.

For the purpose of this special Federal Aviation regulation, the terms "candidate" and "election" have the

same meaning as that set forth in the regulations of the Federal Election Commission.

Federal observers (under the administrative direction of the U.S. Civil Service Commission) to be on site at the

proposed rules

same meaning as that set forth in the regulations of the Federal Election Commission.

This special Federal Aviation regulation terminates June 30, 1980, unless sooner superseded or rescinded.

(Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1424); and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document is not significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on September 22, 1978.

LANGHORNE BOND,
Administrator.

[FR Doc. 78-27199 Filed 9-25-78; 8:45 am]

[6325-01]

Title 45—Public Welfare

CHAPTER VIII—UNITED STATES CIVIL SERVICE COMMISSION

PART 801—VOTING RIGHTS PROGRAM

Appendix A: Alabama

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The State of Alabama is having runoff elections on September 26. The Attorney General has designated an additional county (Russell County) as coming under the provisions of the Voting Rights Act of 1965, as amended. This designation requires Federal observers (under the administrative direction of the U.S. Civil Service Commission) to be on site, at the specified place, to monitor the election. This identifies the location of a new office for the filing of applications or complaints under the Voting Rights Act of 1965, as amended.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles J. Dullea, Coordinator, Voting Rights Program, U.S. Civil Service Commission, Washington, D.C. 20415, 202-632-4604.

SUPPLEMENTARY INFORMATION: The Attorney General has designated Russell County, Ala., as coming under the provisions of the Voting Rights Act of 1965, as amended.

Accordingly, 45 CFR Part 801, Appendix A, is amended to show an additional place under the heading "Dates, Times, and Places" for filing in Alabama, as follows:

ALABAMA

County; place for filing; beginning date.
• • • • • •
Russell; Phoenix City—U.S. Post Office, 1310 Ninth Avenue; September 26, 1978.
• • • • • •

(Secs. 7, 9, 79 Stat. 440, 441 (42 U.S.C. 1973e, 1973g).)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-27167 Filed 9-25-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.119

[6325-01]

CIVIL SERVICE COMMISSION

[5 CFR Part 900]

INTERGOVERNMENTAL PERSONNEL ACT PROGRAMS

Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting From Federal Financial Assistance

AGENCY: U.S. Civil Service Commission.

ACTION: Proposed rulemaking.

SUMMARY: These rules are proposed to implement section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, with regard to Federal financial assistance administered by the U.S. Civil Service Commission (USCSC). Section 504 provides that: "No otherwise qualified handicapped individual in the Unites States • • • shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." The rules would apply to all recipients of Federal grant funds from USCSC under the Intergovernmental Personnel Act (IPA), and are intended to insure that their federally assisted programs are operated without discrimination on the basis of nondisqualifying handicap. The proposed rules define and forbid acts of discrimination against qualified handicapped persons in employment and in the operation of programs and activities receiving financial assistance under the IPA. As employers, recipients must make reasonable accommodation to handicapped applicants and employees under any program or activity to which this subpart applies unless the accommodation would cause the employer undue hardship.

DATE: Comments must be received on or before November 27, 1978.

ADDRESS: Comments should be addressed to Bureau of Intergovernmental Personnel Program, 1900 E Street NW., Washington, D.C. 20415, Attention: Allan D. Heuerman, Associate Director for Grants Administration.

FOR FURTHER INFORMATION CONTACT:

Kathleen Hohman at the above address or by telephone at 202-632-6274. Braille copies of the proposed regulations are available by contacting Ms. Hohman.

SUPPLEMENTARY INFORMATION: Under Executive Order 11914 (41 FR 17871, April 29, 1976) HEW (Department of Health, Education, and Welfare) was required to issue general standards for other agencies and departments to follow in writing their regulations to implement section 504. The standards were published at 43 FR 2132, January 13, 1978. Generally, the standards set forth enforcement procedures, standards for determining which persons are handicapped, and guidelines for determining what practicies are discriminatory.

The proposed rule forbids discrimination against qualified handicapped persons in employment and in the operation of programs receiving grant funds from the U.S. Civil Service Commission under the Intergovernmental Personnel Act. Recipients must make reasonable accommodation to the handicaps of employees, unless the accommodations would cause the recipient undue hardship. As providers of services, recipients are required to make programs operated in existing facilities accessible to handicapped persons, and to operate their programs in a nondiscriminatory manner.

It is proposed to add subpart G to part 900 of title 5 of the Code of Federal Regulations as set forth below.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

PART 900—INTERGOVERNMENTAL PERSONNEL ACT PROGRAMS

• • • • • •

Subpart G—Nondiscrimination on Basis of Handicap in Federally Assisted Programs of the U.S. Civil Service Commission

Sec.
900.701 Purpose.
900.702 Applicability.
900.703 Definition.
900.704 Program consistency with merit principles.
900.705 Discrimination against participants and beneficiaries.
900.706 Program accessibility.
900.707 Employment practices.
900.708 Certification required.
900.709 Self-evaluation.
900.710 Notice and consultation.
900.711 Procedure for effecting compliance.

AUTHORITY: Secs. 503, 507, Intergovernmental Personnel Act of 1970 (Pub. L. 91-648, 84 Stat. 1909); sec. 504, Rehabilitation Act of 1973, as amended (29 U.S.C. 794).

Subpart G—Nondiscrimination on Basis of Handicap in Federally Assisted Programs of the U.S. Civil Service Commission

§ 900.701 Purpose.

The purpose of this part is to effecutate section 504 of the Rehabilitation Act of 1973, to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance under the Intergovernmental Personnel Act (IPA).

§ 900.702 Applicability.

This subpart applies to each program or project receiving Federal financial assistance under the IPA from the date this subpart is approved. The duration of the applicability is the period of time for which the assistance is authorized.

§ 900.703 Definitions.

Unless the content requires otherwise, in this subpart:

(a) "Recipient" means any State or its political subdivisions, any instrumentality of a State or its political subdivisions, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(b) "Federal financial assistance" means a grant of Federal funds authorized by the IPA.

(c) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(d) "Handicapped person" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

(1) As used in paragraph (d) of this section, the phrase "physical or mental impairment" means (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; cardiovascular; reproductive; digestive:

genitourinary; hemic and lymphatic; skin; and endocrine; or (ii) any mental

service that is not equal to that afforded others.

ecutive order to handicapped persons or the exclusion of a specific class of

V 43 / 187 / SE 26 78 V 4

genitourinary; hemic and lymphatic; skin; and endocrine; or (ii) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, and emotional illness.

(2) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such impairment" means has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.

(4) "It is regarded as having an impairment" means (i) has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation; (ii) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (iii) has none of the impairments defined in paragraph (e)(1) of this section but is treated by a recipient as having such an impairment.

§ 900.704 Program consistency with merit principles.

The substance, design, and administration of a program shall assure the fair treatment of any applicants, employees, participnts, or beneficiaries who are affected by the program or project receiving IPA financial assistance without regard to nondisqualifying handicap.

§ 900.705 Discrimination against participants and beneficiaries.

(a) No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance under the IPA.

(b) (1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others.

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

(vi) Deny a qualified person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving aid, benefit, or service.

(2) A recipient may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(4) A recipient may not, in determining the site or location of a facility, make selections (i) that have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or executive order to a different class of handicapped persons is not prohibited by this part.

(d) Recipients shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

(e) Recipients shall take appropriate steps to insure that no handicapped individual is denied the benefits of, excluded participation in, or otherwise subjected to discrimination in any program receiving IPA financial assistance because of the absence of auxiliary aids for individuals with impaired sensory, manual, or speaking skills.

§ 900.706 Program accessibility.

(a) No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this subpart applies.

(b) A recipient shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This subparagraph does not necessarily require a recipient to make each of its existing facilities or every part of an exising facility accessible to and usable by handicapped persons. Where structural changes are necessary to make programs or activities in existing facilities accessible, such changes shall be made as soon as practicable, but in no event later than 3 years after the effective date of the regulation.

(c) New facilities shall be designed and constructed to be readily accessible to and usable by handicapped persons. Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to be readily accessible to and usable by handicapped persons.

§ 900.707 Employment practices.

(a) *General.* (1) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under a program or activity supported fully or partially by Federal financial assistance under the IPA.

(2) Nothing in this section shall prohibit an organization from conditioning an offer of employment under any program or activity receiving Federal financial assistance under the IPA on the results of a medical examination conducted prior to the employee's entrance on duty: *Provided,* That: (i) All entering employees are subjected to

such an examination of handicap or when a preemployment medical questionnaire used for positions which do not routinely require medical examination indicates a condition for which further examination is required because of the job-related nature of the condition, and (ii) the results of such an examination are used in accordance with the requirements of this subpart.

(3) A recipient shall make all decisions concerning employment under any program or activity to which this subpart applies in a manner which insures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(4) The prohibition against discrimination in employment applies to the following activities:

(i) Recruitment, advertising, and the processing of applications for employment;

(ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(iii) Rates of pay or any other form of compensation and changes in compensation;

(iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(v) Leaves of absence, sick leave, or any other leave;

(vi) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(vii) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(viii) Employer sponsored activities, including social or recreational programs; and

(ix) Any other term, condition, or privilege of employment.

(5) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(b) *Reasonable accommodation.* (1) A recipient shall make reasonable accommodation to the known physical or mental limitations of a qualified handicapped applicant or employee under any program or activity receiving Federal financial assistance under the IPA unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(2) Reasonable accommodation may include, but shall not be limited to: (i) Making facilities readily accessible to and usable by handicapped persons, acquisition or modification of equipment or devices; appropriate adjustment or modification of examinations, the provision of readers and interpreters, and other similar actions.

(3) In determining pursuant to paragraph (b)(1) of this section whether an accommodation would impose an undue hardship on the operation of the recipient in question, factors to be considered include: (i) The overall size of the recipient's program receiving Federal financial assistance under the IPA with respect to the number of employees, number and type of facilities, and size of budget; (ii) the type of operation, including the composition and structure of the work force; and (iii) the nature and the cost of the accommodation.

(c) *Employment criteria.* (1) A recipient involved in activities receiving IPA financial assistance may not make use of any employment test or other selection criterion that screens out or tends to screen out qualified handicapped persons or any class of handicapped persons in any program or activity that receives Federal financial assistance under the IPA unless the test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question and alternative job-related tests or criteria that do not screen out as many handicapped persons are not available.

(2) A recipient shall select and administer tests concerning employment so as to insure that, when administered under any program or activity that receives Federal financial assistance under the IPA, to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's employee's ability to perform the duties of the type of position in question rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

(d) *Preemployment inquiries.* (1) Except as provided in paragraph (c)(2) of this section, a recipient, when considering an applicant for employment under any program or activity receiving Federal financial assistance under the IPA, may not conduct a preemployment medical examination and may not make preemployment inquiry of an applicant as to whether the applicant is a handicapped persons or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability, to meet medical qualification requirements with or without reasonable accommodation, of the position in question, i.e., the minimum abilities necessary for safe and efficient performance of the duties of the position in question.

§ 900.708 Certification required.

(a) *General.* Each application for IPA financial assistance, as a condition to its approval and the extension of financial assistance, shall contain or be accompanied by, a certification from the applicant that the program will be conducted in compliance with the requirements of this subpart. The assurance shall obligate the recipient for the period during which the IPA financial assistance is extended to the program.

(b) *Certification from subgrantees.* A certification shall be required of all subgrantees receiving financial assistance under the IPA to the effect that all programs or parts thereof carried out by subgrantees shall be in compliance with the requirements of this subpart. The IPA grant recipient shall be responsible for securing the certification from subgrantees.

(c) *Certification from "other organization."* In an application for IPA financial assistance from an other organization, as this term is used in section 304 of the IPA, the certification required by this section shall apply to the admission, membership, and all other practices relating to the treatment of members, unless the applicant establishes, to the satisfaction of the responsible Commission official, that the practices of the organization in no way affect (1) its practices in the program or part of the organization for which IPA financial assistance is sought, or (2) the beneficiaries of or participants in, or persons affected by the program, or (3) employees or applicants for employment in that part of the organization.

§ 900.709 Self-evaluation.

Each recipient that employs 25 or more persons shall, within 1 year of the receipt of IPA grant funds, conduct a self-evaluation of its compliance with this subpart, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. Each such recipient shall evaluate its current policies and practices and their effects, and modify any that do not meet the requirements of this part. Each such recipient shall permit the Commission, during normal business hours, to examine its self-evaluation along with its books, records, accounts, facilities and other sources of informa-

tion as may be useful to determine whether there has been compliance with this subpart. Self-evaluation re-

20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs

tetracycline hydrochloride capsules for human use, and (2) delete the requirement for disintegration testing

brands of tetracycline hydrochloride 250-mg tablets against a commercial brand of a 250-mg reference capsule

1975, four commercial oxytetracycline hydrochloride products from three manufacturers were compared with another commercial oxytetracycline

in the tablets or capsules is dissolved in 30 minutes and not less than 85 percent is dissolved in 60 minutes for the average of all tablets or capsules

tion as may be useful to determine whether there has been compliance with this subpart. Self-evaluation required under other Federal programs may be accepted by the Commission if the information pertaining to activities receiving IPA financial assistance is included and the records are available to Commission representatives.

§ 900.710 Notice and consultation.

(a) Programs and activities receiving IPA financial support shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, that it does not discriminate on the basis of handicap in violation of section 504 and this subpart.

(b) As appropriate, a recipient shall consult with interested persons, including handicapped persons or organizations representing handicapped persons, in achieving compliance with this subpart.

§ 900.711 Procedure for effecting compliance.

When the Commission determines that a recipient has failed or threatens to fail to comply with this subpart and the noncompliance or threatened noncompliance cannot be corrected by informal means, the Commission may suspend or terminate or refuse to grant or continue IPA financial assistance as provided in §§ 900.204 and 900.205 of subpart B of part 900 of title 5 of the Code of Federal Regulations.

[FR Doc. 78-26865 Filed 9-25-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 50, 52, 54, 56, 57, and 58]

[Docket No. 78N-0282]

BIORESEARCH MONITORING PROGRAM

Clarification of Part Designations

AGENCY: Food and Drug Administration.

ACTION: Proposal.

SUMMARY: This document is an editorial clarification of the assignment of part numbers for the agency's proposed regulation implementing the bioresearch monitoring program.

FOR FURTHER INFORMATION CONTACT:

John A. Richards, Federal Register Writer (HFC-11), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs has proposed regulations under several new parts of subchapter A of title 21 concerning related aspects of bioresearch monitoring, both before and after completion of the reorganization and republication of that subchapter in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553). In the interest of clarity, the recodified proposed and projected part designations for the bioresearch monitoring program are as follows:

Part heading	Proposal published in the FEDERAL REGISTER
Pt. 50—Protection of Human Subjects.	May 5, 1978 (43 FR 19417).
Pt. 52—Obligations of Sponsors and Monitors of Clinical Investigations.	Sept. 27, 1977 (42 FR 49812).
Pt. 54—Clinical Investigations	Aug. 8, 1978 (43 FR 35210).
Pt. 56—Institutional Review Boards.	Aug. 8, 1978 (43 FR 35186).
Pt. 57—Clincial Laboratories—[Reserved].	
Pt. 58—Good Laboratory Practices for Nonclinical Laboratory Studies.	Nov. 19, 1976 (41 FR 51208) under former Pt. 3e.

The proposed regulations under parts 50, 52, 54, and 56 cross-referenced part 58, which is the part number for the anticipated final rule on good laboratory practices proposed under former part 3e before final recodification of the subchapter. The Commissioner believes that setting forth the currently designated parts for bioresearch monitoring regulations will eliminate a possible source of confusion.

Dated: September 20, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-26948 Filed 9-25-78; 8:45 am]

[4110-03]

[21 CFR Parts 436, 446, and 546]

[Docket No. 78N-0220]

TETRACYCLINE HYDROCHLORIDE TABLETS AND CAPSULES AND OXYTETRACYCLINE HYDROCHLORIDE CAPSULES

Proposed Dissolution Test for Human and Animal Drugs

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This is a proposal to amend the antibiotic drug reguations to: (1) Require dissolution testing for tetracycline hydrochloride tablets and capsules for human and animal use and require dissolution testing for oxytetracycline hydrochloride capsules for human use, and (2) delete the requirement for disintegration testing for tetracycline hydrochloride tablets. This action is being taken to provide a method by which the bioequivalence of these products can be assured.

DATE: Comments by November 26, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Jerome P. Skelly, Bureau of Drugs (HFD-525), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville Md. 20857, 301-443-4750.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs is proposing to amend the antibiotic drug regulations to require dissolution testing for tetracycline hydrochloride tablets and capsules for human and animal use and to require dissolution testing for oxytetracycline hydrochloride capsules for human use.

Date available to the Food and Drug Administration (FDA) show that there have been batches of tetracycline hydrochloride tablets and capsules and oxytetracycline hydrochloride capsules that met the requirements of their respective official monographs but were not bioequivalent to a reference product.

TETRACYCLINE HYDROCHLORIDE

In a 1972 study conducted by the School of Pharmacy and Medicine of the State University of New York at Buffalo, three commercial brands of tetracycline hydrochloride 250-mg capsules were used to assess the biological availability of tetracycline products in man (Ref. 1). Both the single and multiple-dose studies demonstrated the biological inequivalence of two of the brands produced by the same manufacturer in comparison to the third brand. Microbiological assays performed on several capsules of each brand showed that the capsules contained the labeled amounts.

In 1974-75, the Virginia Commonwealth University (VCU) College of Pharmacy conducted tetracycline bioavailability studies under an FDA contract (ref. 2). Data from the studies showed two tetracycline hydrochloride products to be bioinequivalent in comparison to the reference product and a third product to be a potential bioavailability problem, i.e., data showed borderline bioavailability in comparision to the reference product.

The VCU studies also made in vivo evaluations of three commercial brands of tetracycline hydrochloride 250-mg tablets against a commercial brand of a 250-mg reference capsule (ref. 3). One brand of the tablet product was bioinequivalent as compared to the reference capsule, and the lot of this tablet product also had very poor dissolution properties. Two other lots not included in the in vivo study but manufactured by the same firm also had poor dissolution properties. One of these lots was later used at VCU in a multiple dose study to evaluate its bioavailability in comparison to a reference tetracycline hydrochloride capsule (ref. 4). The study showed that the tablet product was bioinequivalent to the reference capsule.

In a 1975 study, three commercially available tetracycline hydrochloride tablets that had passed in vitro batch certification standards were evaluated with regard to their bioavailability in a three-way crossover study. The Potency, moisture content, and disintegration time specifications were within acceptable limits. The bioavailability study, however, demonstrated that one tablet product was bioinequivalent with the other two, being only 26 percent as bioavailable as the other products. The deficient product showed blood levels that were significantly lower at all sampling times than the blood levels seen with the other two products. The dissolution rate of the deficient tablet product was considerably lower than the rate for the other two tablet products (ref. 5).

OXYTETRACYCLINE HYDROCHLORIDE

As early as 1969, an article was published that reported a study of 16 lots of oxytetracycline hydrochloride 250-mg capsules distributed by 13 different suppliers that demonstrated significant differences in biological availability among these lots (ref. 6). Each of the lots had been certified by FDA. Seven of the lots produced blood levels below 0.6 microgram per milliliter (μg/ml), a level stated by the authors to be the usually accepted minimum therapeutic level. The authors also found that lots with a slow rate of dissolution performed poorly in the bioavailability testing.

In 1970, the FDA conducted a study to determine the bioavailability of oxytetracycline hydrochloride capsules from all 11 manufacturers supplying the U.S. market at that time. The agency used a recently certified lot of the first commercial oxytetracycline hydrochloride product as the reference product (ref. 7). Seven products showed significantly lower serum levels than the reference product at all sampling times; serum levels were approximately 50 percent of those for the reference product.

In bioavailability study conducted under an FDA contract at VCU in 1975, four commercial oxytetracycline hydrochloride products from three manufacturers were compared with another commercial oxytetracycline hydrochloride product (ref. 8). One product had a relative bioavailability of only 45 percent in comparison with the reference product, and the serum levels at most of the sampling times were approximately 50 percent of those for the reference product.

THE DISSOLUTION REQUIREMENT

On the basis of the above data, the Commissioner is persuaded that current batch certification requirements for the tetracyclines discussed in this document do not always assure equivalency of performance relative to a reference product. Further, the tetracycline hydrochloride tablets shown to be bioinequivalent in the studies cited above had passed the disintegration time test required by the monograph. Dissolution testing of tablets from the same lot, using either the United States Pharmacopeia rotating basket or paddle method at 50 or 75 revolutions per minute (r/min) in water, showed that the tablets dissolved poorly (refs. 3 and 9). Meeting a disintegration time specification thus does not necessarily assure good dissolution performance for the tablet products. The Commissioner believes that tetracycline hydrochloride tablets dissolving 80 percent or better in 60 minutes do not have bioavailability problems.

Although manufacturers of the tetracycline products shown to have been bioinequivalent in the studies cited above have taken corrective action to produce bioequivalent products, the Commissioner has determined that there should be a method to assure the bioequivalence of each batch of these tetracyclines. The FDA recognizes that results of in vitro dissolution testing are a useful and reliable indicator of uniformity in manufacturing a product and that the rate of dissolution does influence the bioavailability of the drug. Therefore, the Commissioner tentatively concludes that a dissolution test method and specifications should be added to the monographs for tetracycline hydrochloride tablets and capsules for human use and oxytetracycline hydrochloride capsules for human use so as to assure their bioequivalence. The Commissioner proposes, therefore, to amend the monographs for these tetracyclines in Part 446 (21 CFR part 446) to establish an in vitro dissolution test method and standard.

Under this proposed regulation, tetracycline hydrochloride tablets and capsules and oxytetracycline hydrochloride capsules would be considered to meet the dissolution test specification if not less than 60 percent of the labeled amount of the antibiotic drug in the tablets or capsules is dissolved in 30 minutes and not less than 85 percent is dissolved in 60 minutes for the average of all tablets or capsules tested, and not less than 70 percent of the labeled amount is dissolved in 60 minutes for each tablet or capsule tested.

These proposed dissolution test specifications are based on data obtained by FDA from dissolution testing of marketed products (Refs. 9 and 10). The proposed in vitro dissolution test for tetracycline hydrochloride 250 mg tablets and capsules has been correlated with human in vivo bioavailability data. Both the U.S.P. rotating basket and the FDA paddle methods were used at different speeds of rotation in various media (deionized water, 0.1N hydrochloric acid, pH 5.6 acetate buffer) in order to arrive at a discriminating dissolution test.

Under these proposed amendments, the disintegration test would be deleted from the monograph for tetracycline hydrochloride tablets. The Commissioner believes that this test is no longer necessary in light of the proposed dissolution test.

The Commissioner is of the view that the requirement for dissolution testing for tetracycline hydrochloride tablets and capsules for human use should also apply to those products for animal use to assure their bioequivalence. The Commissioner therefore proposes to amend the appropriate monographs in Part 546 (21 CFR Part 546) accordingly. Section 546.180a (21 CFR 546.180a), the monograph for tetracycline hydrochloride capsules under Part 546, references the requirements of 21 CFR 446.181e; therefore no amendment to § 546.180a is necessary. Oxytetracycline hydrochloride is not subject to certification when intended for animal use and is thus excluded from consideration in this proposal.

The Commissioner advises that when these requirements are published in the FEDERAL REGISTER as a final regulation, a fee for the dissolution testing of each batch of an antibiotic drug subject to this requirement will be established.

REFERENCES

Copies of all references cited below are on public display in the office of the Hearing Clerk, Food and Drug Administration.

1. Barr, W. H., L. M. Gerbracht, K. Letcher, M. Plant, and N. Strahl, "Assessment of the Biologic Availability of Tetracycline Products in Man," Clinical Pharmacology and Therapeutics, 13(1):97-108, 1972.

2. Wood, J. H., "Bioavailability Testing of Tetracycline and Oxytetracycline and Its Correlation to In Vitro Tests, Part IB—In Vivo Tests of Tetracycline Hydrochloride," Technical Report under FDA Contract No 223-74-3153, 1975.

3. Wood, J. H., "Bioavailability Testing of Tetracycline and Oxytetracycline and Its Correlation to In Vitro Tests, Part III—In Vivo Testing of Tetracycline Hydrochloride and In Vitro Correlation," Technical Report under FDA Contract No. 223-74-3153, 1976.

4. Wood, J. H., K. P. Flora, and R. J. Duma, "Tetracycline Another Example of Generic Bioinequivalence," Journal of the American Medical Association, 239(18):1874-1876, 1978.

5. DeSante, K. A., A. R. DiSanto, D. J. Chodos, and R. G. Stoll, "Antibiotic Batch Certification and Bioequivalence," Journal of the American Medical Association, 232(13):1349-1351, 1975.

6. Brice, G. W. and H. F. Hammer, "Therapeutic Nonequivalence of Oxytetracycline Capsules," (letter), Journal of the American Medical Association, 208(7):1189-1190, 1969.

7. Blair, D. C., R. W. Barnes, E. L. Wildner, and W. J. Murray, "Biological Availability of Oxytetracycline HCl Capsules," Journal of the American Medical Association, 215(2):251-254, 1971.

8. Wood, J. H., "Bioavailability Testing of Tetracycline and Oxytetracycline and Its Correlation to In Vitro Tests, Part IA—In Vivo Tests of Oxytetracycline Hydrochloride," Technical Report under FDA Contract No. 223-74-3153, 1975.

9. Dighe, S. V., B. E. Cabana, V. K. Prasad, and J. H. Wood, "In Vitro/In Vivo Correlation of Tetracycline Hydrochloride Tablets and Capsules—Part III Bioequivalence Establishment," speech presented by Shrikant V. Dighe to the APHA Academy of Pharmaceutical Sciences 22d national meeting, May 18, 1977.

10. Shah, V. P., J. P. Hunt, V. K. Prasad, and B. E. Cabana, "In Vitro/In Vivo Correlation of Tetracycline Hydrochloride Capsules—Part II Bioequivalence Specifications," speech presented by Vinod P. Shah to the APHA Academy of Pharmaceutical Sciences 22d national meeting, May 18, 1977.

The Commissioner has determined that this action is not covered by 21 CFR 25.1(b) (1) through (15), and it does not fall within the requirements of 21 CFR 25.1(b)(16) because it could not significantly affect the quality of the human environment. Therefore, neither an environmental impact analysis report nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512(n), 59 Stat. 463, as amended, 82 Stat. 350-351 (21 U.S.C. 357, 360b(n))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Parts 436, 446, and 546, be amended as follows:

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

1. In Part 436, by adding new § 436.541 to read as follows:

§ 436.541 Dissolution test.

(a) *Equipment*—(1) *Water bath.* A thermostatically controlled water bath maintained at 37° C±0.5° C.

(2) *Vessel.* A 1-liter, spherical bottom, cylindrical vessel, 16 centimeters high and 10 centimeters inside diameter, which is made of glass or any other inert transparent material. The vessel is flanged at the top to accept a cover that has four holes, one of which is centered; such as Kimble Glass No. 33710 S1[1] or [2], or equivalent.

(3) *Motor.* A motor capable of rotating the blade to within ±5 percent of the specified rate.

(4) *Shaft.* A shaft, 10 millimeters ±1 millimeter in diameter, which extends from the motor through the centered hole in the vessel cover along the cylindrical axis of the vessel and which rotates without perceptible wobble. It is made of metal but may be coated with a suitable fluorocarbon polymer, such as Hanson Research No. 65-700-001 [2] or equivalent.

(5) *Stirring blade.* The stirring blade is made of a fluorocarbon polymer or fluorocarbon polymer-coated metal. It is 4.0 millimeters ±0.5 millimeter thick. It forms a section of a circle having a diameter of 83 millimeters and is marked off by parallel chords of 42 millimeters ±2.0 millimeters and 77 millimeters ±2.0 millimeters. The distance between the two chords is 18 millimeters. The blade is positioned horizontally at the end of the shaft with the 42-millimeter ±2.0-millimeter edge at the bottom. The blade is attached by suitable means to the center of the shaft so that the lower edge of the blade is at or below the bottom edge of the shaft. The blade must be held firmly so that the horizontal position is maintained during the test; such as Sargent S-76637, size B, 3-inch length [3], or [3], or equivalent. A distance of 4.5±0.5 centimeters is maintained between the lower edge of the blade and the lowest inner surface of the vessel during the test.

(b) *Procedure.* For each dosage form listed in the table in this paragraph, select the appropriate dissolution medium, stirring blade rotation rate, and sampling time and proceed as follows: Place 900 milliliters of the appropriate dissolution medium into the vessel which has been immersed in the water bath. Allow the dissolution medium to reach a temperature of 37° C±0.5° C. Place one tablet or capsule into the vessel and rotate at the appropriate stirring blade speed. If the capsule floats, wrap a stainless steel 22-gage wire loosely three to five times around the capsule, to form a coil or helix around the capsule for the full length of the capsule. Withdraw a portion of the dissolution medium at the specified sampling time(s). Filter through a suitable membrance filter [4] with a minimal porosity of 8 microns to separate the solution from the undissolved particles. Determine the amount of drug substance dissolved by performing the assay described in paragraph (c) of this section. Maintain a constant volume of dissolution medium in the vessel throughout the test by replacing that which is removed for sampling purposes, except that the amount removed may be disregarded if the amount removed (other than the last sample) is not more than 10 milliliters.

[1] Available from Owens Illinois, P.O. 230, Vineland, N.J. 08360.

[2] Available from Hanson Research, 19727 Bahama St., P.O. 35, Northridge, Calif. 91324.

[3] Available from Sargent Welch Scientific Co., 35 Stern Ave., Springfield, N.J. 07081.

Dosage form	Dissolution medium	Stirring blade rotation rate (r/m)	Sampling time(s)
Oxytetracycline hydrochloride capsules	De-aerated distilled water	75	30 min and 60 min
Tetracycline hydrochloride capsules	De-aerated distilled water	75	30 min and 60 min
Tetracycline hydrochloride tablets	De-aerated distilled water	75	30 min and 60 min

(c) *Antibiotic drug content*—(1) *Tetracycline hydrochloride*—(i) *Preparation of working standard solution.* Accurately weigh 20 to 30 milligrams of tetracycline hydrochloride working standard into a suitable-sized volumetric flask. Dissolve and dilute to volume with water. Further dilute an accurately measured portion with distilled water to obtain a known concentration of 0.01 to 0.02 milligram of tetracycline hydrochloride per milliliter.

[4] Filter SCWP is suitable. Available from Millipore Corp., Bedford, Mass. 01730.

(ii) *Preparation of sample solutions.* Dilute an accurately measured portion of the sample filtrate prepared as directed in paragraph (b) of this section with sufficient distilled water to obtain a concentration of 0.01 to 0.02 milligram of tetracycline hydrochloride per milliliter (estimated).

(iii) *Procedure.* Using a suitable spectrophotometer and water as the blank, determine the absorbance of each standard and sample solution at the absorbance peak at approximately 276 nanometers. Determine the exact position of the absorption peak for the particular instrument used.

(iv) *Calculation.* Determine the total amount of tetracycline hydrochloride dissolved as follows:

$$\text{Milligrams of drug dissolved} = \frac{\text{Absorbance of sample} \times \text{Concentration of standard in milligrams} \times \frac{d}{} \times 900}{\text{Absorbance of standard}}$$

Where:

d = Dilution factor of sample filtrate.

(2) *Oxytetracycline hydrochloride.* Proceed as directed in paragraph (c)(1) of this section except measure the absorbance at the absorption peak at approximately 273 nanometers.

(d) *Evaluation.* The tablets or capsules pass the dissolution test if six tablets or capsules dissolve to the extent specified in the section for the antibiotic product to be tested. The tablets or capsules do not pass the dissolution test if the requirement specified for the individual dosage unit is not met. If the requirements specified for the average of all tablets or capsules are not met, but the requirement specified for the individual dosage unit is met, repeat the test on six additional dosage units. The tablets or capsules pass the dissolution test if all tablets or capsules dissolve to the extent specified in the section for the antibiotic product to be tested.

PART 446—TETRACYCLINE ANTIBIOTIC DRUGS

2. In Part 446:

a. Section 446.167 is amended by revising the last two sentences in paragraph (a)(1), by revising (a)(3)(i)(*b*), and by adding new paragraph (b)(3) to read as follows:

§ 446.167 Oxytetracycline hydrochloride capsules.

(a) * * * (1) * * * The loss on drying is not more than 5.0 percent. The capsules shall dissolve not less than 60 percent of the labeled amount of oxytetracycline in 30 minutes and not less than 85 percent in 60 minutes for an average of all capsules tested and not less than 70 percent of the labeled amount of oxytetracycline in 60 minutes for each capsule. The oxytetracycline hydrochloride used conforms to the standards prescribed by § 446.67(a)(1).

* * * * *

(3) * * *

(i) * * *

(*b*) The batch for potency, loss on drying, and dissolution.

* * * * *

(b) * * *

(3) *Dissolution.* Proceed as directed in § 436.541 of this chapter.

b. Section 446.181d is amended by revising the fourth and fifth sentences in paragraph (a)(1) and by revising paragraphs (a)(3)(i)(*b*) and (b)(3) to read as follows:

§ 446.181d Tetracycline hydrochloride tablets.

(a) * * * (1) * * * Its loss on drying is not more than 3.0 percent. The tablets shall dissolve not less than 60 percent of the labled amount of tetracycline hydrochloride in 30 minutes and not less than 85 percent in 60 minutes for an average of all tablets tested and not less than 70 percent of the labeled amount of tetracycline hydrochloride in 60 minutes for each tablet. * * *

* * * * *

(3) * * *

(i) * * *

(*b*) The batch for potency, loss on drying, dissolution, and 4-epianhydrotetracycline content.

* * * * *

(b) * * *

(3) *Dissolution.* Proceed as directed in § 436.541 of this chapter.

* * * * *

c. Section 446.181e is amended by revising the last two sentences in paragraph (a)(1), by revising paragraph (a)(3)(i)(*b*), and by adding new paragraph (b)(4) to read as follows:

§ 446.181e Tetracycline hydrochloride capsules.

(a) * * *

(1) * * * Its 4-epianhydrotetracycline content is not more than 3.0 percent. The capsules shall dissolve not less than 60 percent of the labeled amount of tetracycline hydrochloride in 30 minutes and not less than 85 percent in 60 minutes for an average of all capsules tested and not less than 70 percent of the labeled amount of tetracycline hydrochloride in 60 minutes for each capsule. The tetracycline hydrochloride used conforms to the standards prescribed by § 446.81(a)(1).

* * * * *

(3) * * *

(i) * * *

(*b*) The batch for potency, loss on drying, 4-epianhydrotetracycline content, and dissolution.

* * * * *

(b) * * *

(4) *Dissolution.* Proceed as directed in § 436.541 of this chapter.

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

3. In Part 546, § 546.110d is amended by revising the fourth sentence in paragraph (a)(1), by revising paragraph (a)(5)(ii)(*a*), and by adding new paragraph (b)(4) to read as follows:

§ 546.110d Chlortetracycline hydrochloride tablets.

(a) * * * (1) * * * Chlortetracycline hydrochloride or tetracycline tablets not exceeding 15 millimeters in diameter, or not intended solely for use in preparing solutions shall disintegrate in 1 hour. Tetracycline hydrochloride tablets not exceeding 15 millimeters in diameter or not intended solely for use in preparing solutions shall dissolve not less than 60 percent of the labeled amount of tetracycline hydrochloride in 30 minutes and not less than 85 per-

cent in 60 minutes for an average of all tablets tested and not less than 70 percent of the labeled amount of te-

Allergenic Products. These amendments would establish additional criteria for source material to ensure the animals used as allergenic source materials. In the future, as technical knowledge permits, the biologics regulations will be amended to include reg-

and birds that cannot meet the requirements prescribed in § 600.11(f) may be used as a source of material

(3), and (6) of this chapter, the package label and the package insert of the final Allergenic Product state that the product was prepared from animals

2. Section 680.2 by adding new paragraph (f) to read as follows:

§ 680.2 Manufacture of Allergenic Prod-

cent in 60 minutes for an average of all tablets tested and not less than 70 percent of the labeled amount of tetracycline hydrochloride in 60 minutes for each tablet. • • •

• • • • •

(5) • • •
(ii) • • •

(*a*) The batch: Average potency per tablet, average moisture, disintegration time if it is chlortetracycline hydrochloride or tetracycline tablets and dissolution if it is tetracycline hydrochloride tablets.

• • • • •

(b) • • •
(4) *Dissolution.* Proceed as directed in § 436.541 of this chapter.

• • • • •

Interested persons may, on or before November 26, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. Comments shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: September 20, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-26947 Filed 9-25-78; 8:45 am]

[4110-03]

[21 CFR Part 680]

[Docket No. 78N-0235]

ALLERGENIC PRODUCTS

Proposed Criteria for Source Material

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Commissioner of Food and Drugs is proposing to amend the biologics regulations concerning Allergenic Products. These amendments would establish additional criteria for source material to ensure the safety, purity, potency, and effectiveness of the final Allergenic Product.

DATE: Comments by November 26, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Michael L. Hooton, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-1306.

SUPPLEMENTARY INFORMATION: Licensed Allergenic Products are widely used by physicians for the diagnosis and treatment of reactions (allergies) thought to be caused by or associated with allergenic substances (allergens). Source (starting) material used to produce Allergenic Products includes allergens such as molds, feathers, and hairs. It is essential that the source material be suitable for manufacture into final Allergenic Products, most of which are administered by injection.

The use of an Allergenic Product produced from molds that have been contaminated or inadequately identified may result in false positive reactions in the patient or may cause sensitization of the patient to the mold. Accordingly, proposed § 680.1(b)(2)(i) would require that molds used as a source material (1) meet the requirements concerning storage, maintenance, identity, and verification prescribed in § 610.18 (21 CFR 610.18) and (2) conform to the quality and purity requirements prescribed in § 680.(2) (a) and (b) (21 CFR 680.2 (a) and (b)). Proposed § 680.1(b)(2)(ii) would require that molds contain no foreign materials.

Allergenic Products produced from animal origin may also be unsuitable for injection into humans if the source material (feathers, hair, and danders) is prepared from sick animals or animals that have died from undetermined causes. Accordingly, the proposed regulations would require (1) in § 680.1(b)(3)(i) that pets, farm animals, and other domesticated mammals and birds meet the requirements concerning care, quarantine, immunization against tetanus, and reporting of certain diseases that are prescribed in § 600.11(f) (1), (2), (3), and (6) (21 CFR 600.11(f) (1), (2), (3), and (6)) and that animals be in good health at the end of the quarantine period as determined by a licensed veterinerian; (2) in § 680.1(b)(3)(ii) that wild mammals and birds that cannot meet the requirements prescribed in § 600.11(f) may be used as a source of material only when the package label and the package insert of the final Allergenic Product state that it was prepared from animals whose state of health could not be determined; and (3) in § 680.1(b)(3)(iii) that dead animals may be used as source material only if the animals are properly stored so that the allergen will not be adversely affected and if the other applicable requirements concerning animals in § 680.1(b)(3) are met. The proposed regulations also would provide, in § 680.1(b)(3)(iv), that mammals and birds that have been inspected by the U.S. Department of Agriculture and found suitable as food are exempt from the requirements of proposed § 680.1(b)(3) (i) and (ii).

Many licensed Allergenic Products are manufactured from source material that is propagated and prepared at nonlicensed establishments. The licended final product manufacturer has no assurance that the source material has been properly identified, obtained, or processed. Therefore, the Commissioner is proposing to add a new § 680.1(c) to require that manufacturers of the licensed final product establish and maintain a written agreement with each nonlicensed source material supplier that will permit authorized representatives of the Food and Drug Administraton (FDA) to inspect the nonlicensed establishment during reasonable business hours. The Commissioner recognizes that a written agreement and inspection may normally be unnecessary and impractical when the source material is to be obtained under certain circumstances (e.g., house dust from an individual's home) in which inspection will provide no additional assurances of safety. Accordingly, proposed § 680.1(c)(2) would provide exemptions to the agreement and inspection requirements.

The biologics regulations currently require, in § 600.12 (21 CFR 600.12), that records be made concurrently with the performance of each step in the manufacture and distribution of products. Proposed § 680.2(f) would require that a copy of such records be available at the establishment of the licensed manufacturer of the finished product. This record requirement will facilitate a complete and expeditious FDA inspection of the licensed manufacturer of the finished product.

Although numerous substances (e.g., molds, feathers, hair, dander, saliva, insects, venoms, dust, poison ivy, and pollens) are used as source material for manufacture into licensed Allergenic Products, the proposed requirements concerning suitability of source materials in § 680.1(b) (2) and (3) would cover only molds and certain animals used as allergenic source materials. In the future, as technical knowledge permits, the biologics regulations will be amended to include regulations to govern the propagation or preparation of other specific allergenic sources, such as invertebrate animals, pollens, and foods. The proposed requirements concerning FDA inspection of nonlicensed establishments and recordkeeping in §§ 680.1(c) and 680.2(f) would apply to all licensed allergenic products manufacturers who use any allergenic source material to manufacture a final product.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, as concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 680 of Subchapter F of Title 21 of the Code of Federal Regulations as follows:

1. In § 680.1 by redesignating the existing text of paragraph (b) as paragraph (b)(1) and adding new paragraphs (b) (2) and (3) and (c), to read as follows:

§ 680.1 Allergenic Products.

• • • • •

(b) *Source materials*—(1) *Criteria for source material.* • • •

(2) *Molds.* (i) Molds used as source material in the manufacture of an Allergenic Product shall meet the requirements of § 610.18 of this chapter and § 680.2 (a) and (b).

(ii) Molds shall contain no foreign materials.

(3) *Animals*—(i) *Pets, farm animals, and other domesticated mammals and birds.* The provisions of § 600.11(f) (1), (2), (3), and (6) of this chapter shall be applicable to pets, farm animals, and other domesticated mammals and birds, such as canaries, cats, chickens, dogs, guinea pigs, horses, mice, parakeets, and rabbits that are intended as a source material in the manufacture of an Allergenic Product. The determination of good health at the end of the quarantine period shall be made by a licensed veterinarian.

(ii) *Wildlife.* Mammals and birds that are not housed and cared for in animal quarters and cages may be used as a source of material in the manufacture of an Allergenic Product: *Provided,* That in lieu of the requirements prescribed in § 600.11(f) (1), (2), (3), and (6) of this chapter, the package label and the package insert of the final Allergenic Product state that the product was prepared from animals whose health could not be determined.

(iii) *Dead animals.* Dead animals may be used as a source of material in the manufacture of an Allergenic Product: *Provided,* That (1) the carcasses shall be frozen or kept cold until the allergen can be collected, or shall be stored under other acceptable conditions so that the postmortal decomposition processes do not adversely affect the allergen, and (2) pets, farm animals, and other domesticated mammals and birds, when alive, met the requirements prescribed in paragraph (b)(3)(i) of this section, or a final Allergenic Product whose source is wildlife that did not meet the requirements prescribed in paragraph (b)(3)(i) when alive is labeled in compliance with paragraph (b)(3)(ii) of this section.

(iv) *Mammals and birds inspected by the U.S. Department of Agriculture.* Mammals and birds subject to and inspected by the U.S. Department of Agriculture at the time of slaughter and found suitable as food may be used as a source of material, and the requirements of paragraph (b)(3) (i) and (ii) of this section do no apply in such cases. Notwithstanding U.S. Department of Agriculture inspection, the carcasses of such inspected animals shall be frozen or kept cold unitl the allergen can be collected, or shall be stored under other acceptable conditions so that the postmortal decompmsition processes do not adversely affect the allergen.

(c) *Source material from nonlicensed establishments*—(1) *Establishment inspection.* Source materials propagated or prepared in a nonlicensed establishment may be used by a licensed manufacturer for the preparation of a final Allergenic Product: *Provided,* That the licensed manufacturer has entered into and maintains a written agreement with the nonlicensed establishment that the nonlicensed source material supplier will permit authorized representatives of the Food and Drug Administration to inspect its manufacturing procedures, facilities, and records during reasonable business hours. The licensed manufacturer shall notify the Director, Bureau of Biologics, of all source material suppliers with whom a written agreement has been entered into. Such notification shall be made at the time of the written agreement and annually thereafter.

(2) *Exemptions.* Exemptions from the requirements under paragraph (c)(1) of this section shall be made only upon written approval by the Director, Bureau of Biologics.

2. Section 680.2 by adding new paragraph (f) to read as follows:

§ 680.2 Manufacture of Allergenic Products.

• • • • •

(f) *Records.* A copy of the records of each step in the manufacturing process of each lot of source material intended for manufacture of a final Allergenic Product shall be available at the establishment of the licensed manufacturer of the final product, regardless of the origin of the source material. Such records shall meet the requirements prescribed under § 600.12 of this chapter.

Interested persons may, on or before November 26, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: September 20, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-26949 Filed 9-25-78; 8:45 am]

[4110-03]

[21 CFR Part 1020]

[Docket No. 75N-0046]

DIAGNOSTIC X-RAY EQUIPMENT

Partial Withdrawal of Advance Notice of Proposed Rulemaking

AGENCY: Food and Drug Administration.

ACTION: Partial Withdrawal of Advance Notice of Proposed Rulemaking.

SUMMARY: The agency is withdrawing parts of an advance notice of proposed rulemaking concerning the diagnostic X-ray performance standard. Information received in response to the document and data developed

since its publication have led the agency to reconsider the need to amend the performance standard for

the patient indicate that even if leakage radiation occurred at the permissible limit, unwanted X-ray exposure in

cal Health were advised of the Commissioner's conclusions in a letter that was sent to them on January 26, 1978

b. Finally, the Commissioner announced in the advance notice that he was considering amending the regulations to require that manufacturers of

Dated: September 20, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

metal mines. Interested persons were given until October 9, 1978, to submit comments and data. The comment period is extended to October 17, 1978.

V 43 / 187 SEP 26 78

since its publication have led the agency to reconsider the need to amend the performance standard for diagnostic X-ray systems and their major components as considered in the document.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Joseph Wang, Bureau of Radiological Health (HFX-460), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: In an advance notice of proposed rulemaking published in the FEDERAL REGISTER of June 19, 1975 (40 FR 25830), the Commissioner of Food and Drugs announced that he was considering amending the performance standard for diagnostic X-ray systems and their major components under §§ 1020.30, 1020.31, and 1020.32 (21 CFR 1020.30, 1020.31, and 1020.32) to add certain requirements for dental X-ray equipment and other requirements for all X-ray equipment. The advance notice of proposed rulemaking was issued in accordance with Food and Drug Administration (FDA) policy of early public disclosure of rulemaking activities, and it was intended to solicit comments from interested persons concerning the amendments under consideration. Data and information collected by Bureau of Radiological Health, coupled with 14 comments from X-ray equipment users and 12 from X-ray equipment manufacturers, have caused the Commissioner to reconsider the proposals discussed in the advance notice of proposed rulemaking. Comments from these interested persons will be addressed later by FEDERL REGISTER notices relating to the continuing issues in the advance proposal. This current document withdraws some of the proposals considered in the advance notice document and informs the public of the current status for those still under consideration.

1. *Dental X-ray equipment*—a. In the June 19, 1975 document, the Commissioner advised that he was considering establishing a limit on the leakage radiation from the diagnostic source assembly at the minimum source-to-skin distance (SSD) for which a dental X-ray machine is used. Because most dental X-ray equipment is used at short SSD's and is frequently installed in confined quarters, the Commissioner believed a leakage limit at the minimum SSD would reduce patient exposure from such radiation. But leakage radiation levels now being found are only a small fraction of that permitted by the current standard. In addition, calculations of X-ray radiation dose to the patient indicate that even if leakage radiation occurred at the permissible limit, unwanted X-ray exposure in the vicinity of the patient is quite low, if high-speed film is used, and would be a small percentage of the useful beam. Further, setting a minimum SSD leakage radiation limit would require measurement of the leakage radiation for dental X-ray equipment at SSD's shorter than the 1 meter specified by the current regulation, § 1020.30(k) (21 CFR 1020.30(k)). This change would require additional test equipment not now available to the manufacturers of diagnostic X-ray systems. The Commissioner is concerned that additional test equipment would lead to increased cost of medical care without demonstrated dose savings and therefore cannot be justified. For these reasons, the Commissioner has determined that no further action will be taken at this time concerning this issue, and he withdraws the proposal.

b. In the June 19, 1975 document, the Commissioner announced consideration of means to reduce patient dose and to improve the quality of dental radiographs by changing requirements for dental X-ray beam quality. Requirements under consideration included specifying minimum peak X-ray tube potential and/or adding specifications on the X-ray spectrum for dental X-ray systems. The agency will continue efforts in this area and will announce its activities in future FEDERAL REGISTER publications under the docket number found in the heading of this document.

c. In the June 19, 1975, document, the Commissioner advised that the Bureau of Radiological Health was evaluating the use of open-ended, shielded, position-indicating devices (PID's) and assessing the effect of such devices on possible X-ray exposure reduction during typical dental X-ray procedures. This evaluation was completed, and a report was submitted to the Commissioner on August 12, 1975 (a copy of this report is on file with the Hearing Clerk (HFA-305), Food and Drug Administration). The report concludes that the long, open-ended, shielded PID could reduce the dose when used with a long-cone, paralleling technique and that its use with such technique is to be encouraged. But when used with the bisecting angle technique, the dose to the patient could be larger than with a pointer cone (closed-ended PID). No additional data are available to the agency to contradict the August 12, 1975, evaluation, and the Commissioner concludes that Federal requirements concerning open-ended PID's are unwarranted at this time. Interested persons who initiated this issue by inquiries to the Bureau of Radiological Health were advised of the Commissioner's conclusions in a letter that was sent to them on January 26, 1978 (copy on file with the Hearing Clerk). This proposal is withdrawn, and FDA is currently contemplating no further action concerning requirements for open-ended PID's.

d. In the June 19, 1975, document, the Commissioner announced consideration of an amendment to the standard to specify location of dental X-ray equipment exposure controls.

The Commissioner believes that a requirement concerning exposure control location may reduce operator exposure by allowing operation of the X-ray equipment from a specified minimum distance from the X-ray source. However, because exposure control location for the most part is determined by independent dealers and varies with the design of each dental suite, the Commissioner believes that this type of requirement can be more appropriately regulated by State radiation control agencies that are responsible for regulation of facility design. Thus, this proposed revision is withdrawn.

2. *All X-ray equipment*—a. In the June 19, 1975, document, the Commissioner announced consideration of the need to amend the general provisions of §§ 1020.30, 1020.31, and 1020.32 to require manufacturers of film-screen combinations to supply information to allow users to match screen emission characteristics with film sensitivity characteristics. As a related matter the Commissioner also considered establishing performance requirements for film cassettes to assure proper film-screen contact.

Under the Medical Device Amendments of 1976 (Pub. L. 94-295) amending the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), all medical devices intended for human use must be classified into one of three regulatory classes (categories) based on the extent of control necessary to assure the safety and effectiveness of each device. The Radiological Device Classification Panel has recommended to the Commissioner that X-ray film be classified as a Class I device. Devices under this category are subject only to general controls and not standards or premarket approval. The Commissioner is withdrawing the proposal and is deferring action concerning film-screem combinations and film cassettes until after a final decision is made on the classification of X-ray film under the Food, Drug, and Cosmetic Act. Further action under authority of the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602 (42 U.S.C. 263F)) may be considered in a future FEDERAL REGISTER publication under a separate docket number.

b. Finally, the Commissioner announced in the advance notice that he was considering amending the regulations to require that manufacturers of X-ray tubes specify focal spot size of the tubes and describe the manner in which focal spot size was determined.

The Commissioner recognizes the technical pitfalls associated with the quantification of focal spot size. Besides its size, the actual focal spot of a diagnostic X-ray tube must be also be quantified in terms of the intensity distribution. For most X-ray tubes presently in use, the focal spot intensity distribution is nonuniform, usually having a twin peaked distribution. Its size and intensity distribution can further be affected by changes in voltage and current applied to the X-ray tube. The focal spot often is enlarged as current is increased and voltage is reduced. The Commissioner has determined that because the techniques for the quantification of focal spot size are still in the evolving stage, the issuance of a regulatory standard which specifies a particular method for focal spot determination may not be appropriate at this time. The Radiological Device Classification Panel examined this problem in relation to its review of X-ray tubes and suggested that labeling requirements concerning focal spot size would be useful to the X-ray tube user. The Commissioner agrees that information concerning X-ray tube focal spot size would be of value to the user of the tube, and believes this can be appropriately accomplished through alternative means such as a voluntary standard. Thus, the Commissioner is now withdrawing the proposal for a regulatory standard but advises that this issue may be considered under a separate docket number in a future FEDERAL REGISTER publication.

This notice is issued under the authority of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602 (42 U.S.C. 263f)) and under authority delegated to the Commissioner (21 CFR 5.1).

The documents concerning these issues and all related correspondence, except information covered by the confidentiality provisions of section 360A(e) of the Public Health Service Act (42 U.S.C. 263i(e)), have been placed on public display in the Office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be seen Monday through Friday from 9 a.m. to 4 p.m., except on Federal legal holidays.

Dated: September 20, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-26945 Filed 9-25-78; 8:45 am]

[1505-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4437]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Emporia, Lyon County, Kans.

Correction

In FR Doc. 78-24030 appearing at page 38713 in the issue for Wednesday, August 30, 1978, in the table in the second column of page 38714, the entry for "Prairie Drain" should have read as set forth below:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
•	•	•
Prairie Drain	At mouth	1,108
	2,400 ft downstream of South Ave.	1,110
	At South Ave.	1,114
	1,000 ft upstream of Santa Fe Ry.	1,117
	400 ft downstream of Seventh Ave.	1,127
	100 ft downstream of Eighth Ave.	1,129

[4510-43]

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[30 CFR Parts 55, 56, and 57]

METAL AND NONMETAL MINES

Extension of Comment Period

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Extension of time for comments.

SUMMARY: On Tuesday, September 12, 1978 (43 FR 40766-40799), proposed rules were published as part VIII in the FEDERAL REGISTER under section 301(b)(2) of the Federal Mine Safety and Health Amendments Act of 1977. These proposed rules would revoke or revise and make mandatory existing safety and health advisory standards applicable to metal and nonmetal mines. Interested persons were given until October 9, 1978, to submit comments and data. The comment period is extended to October 17, 1978.

DATE: Comments must be received on or before October 17, 1978.

ADDRESS: Comments should be sent to Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 629, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203.

FOR FURTHER INFORMATION CONTACT:

Frank A. White, Room 629, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-1910.

SUPPLEMENTARY INFORMATION: The public comment period on the proposed rule is extended until October 17, 1978, because of delays in mailing copies of the proposed regulations to mine operators and other interested persons and organizations, and to provide the public an adequate opportunity to submit any and all comments on these regulations, which are of great importance to the metal and nonmetal mining industries.

The effort made by many persons and organizations to submit written comments by October 9, 1978, is greatly appreciated and they may submit additional comments within the extended time.

Dated: September 21, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-27075 Filed 9-22-78; 10:40 am]

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 460]

PROFESSIONAL STANDARDS REVIEW

Redesignation of PSRO Areas in Illinois

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: This proposed rule would redesignate PSRO areas in Illinois in order to transfer Madison and Clinton Counties (currently in area VIII), and McDonough County (currently in area V), to area VII. As a result of the proposed redesignations, PSRO area VII will better coincide with the existing boundaries of the local medical review organization.

DATES: Consideration will be given to written comments or suggestions received by November 27, 1978.

ADDRESSES: Address comments to: Steven A. Suard, Room 13A-19, 5600 Fishers Lane, Rockville, Md. 20857. In commenting, please refer to File Code HSQ-51-P. Comments will be available for public inspection beginning approximately 2 weeks after publication, in Room 16A-55 of the Department's offices at 5600 Fishers Lane, Rockville, Md. on Monday through Friday of each week from 8:30 a.m. to 5 p.m., telephone 301-443-3880.

FOR FURTHER INFORMATION, CONTACT:

Steven A. Suard, 301-443-6477.

SUPPLEMENTARY INFORMATION: On March 18, 1974, regulations were published in the FEDERAL REGISTER (39 FR 10204) designating eight PSRO areas within Illinois. The purpose of the present proposal is to redesignate PSRO areas V, VII, and VIII so that three counties, Madison and Clinton (currently in area VIII) and McDonough (currently in area V), are transferred to area VII.

Guidelines for the redesignation of PSRO areas (42 CFR 460.2) provide that we may revise area designations when we determine it is necessary, and that we may consider the existing boundaries of local medical review organizations in our redesignation decisions. The Western Illinois Foundation for Medical Care (the Foundation) is a local medical review organization responsible under the hospital admission and surveillance program (HASP) for review of care provided to medicaid patients. The Foundation's review area currently includes 13 of the 18 counties in area VII as well as the counties of Madison, Clinton, McDonough, and Bond. In order to make the boundaries of area VII more congruent with the Foundation's review area, we propose to transfer the counties of Madison, Clinton, and McDonough to area VII. Bond County will remain in area VIII at the request of the County Medical Society.

The Foundation is ready and willing to enter into an agreement for designation as a PSRO for the redesignated area VII. The redesignation would thus facilitate the implementation of PSRO activity in the only area in Illinois where PSRO review has not yet been initiated.

42 CFR 460.17 is amended by revising areas V, VII, and VIII to read as follows:

§ 460.17 Illinois.

Eight Professional Standards Review Organization areas are designated in Illinois, composed of the following counties:

AREA I

Jo Daviess	Ogle
Stephenson	De Kalb
Winnebago	Whiteside
Boone	Lee
Carroll	

AREA II

McHenry	Kane
Lake	Du Page

AREA III

Cook

AREA IV

Kendall	Grundy
Will	Kankakee

AREA V

Rock Island	Knox
Mercer	Stark
Henry	Marshall
Bureau	Fulton
Putnam	Peoria
La Salle	Tazewell
Henderson	Woodford
Warren	

AREA VI

Livingston	Morgan
Ford	Moultrie
Iroquois	Douglas
McLean	Edgar
De Witt	Shelby
Piatt	Coles
Champaign	Cumberland
Vermilion	Clark

AREA VII

Adams	Morgan
Schuyler	Sangamon
Brown	Christian
Cass	Calhoun
Mason	Greene
Menard	Jersey
Logan	Macoupin
Pike	Montgomery
Scott	Hancock
Clinton	McDonough
Madison	

AREA VIII

Bond	Richland
Fayette	Williamson
Effingham	Saline
Jasper	Gallatin
Crawford	Union
Randolph	Johnson
Perry	Lawrence
Franklin	Washington
Hamilton	Jefferson
White	Wayne
Jackson	Edwards
Monroe	Wabash
St. Clair	Pope
Marion	Hardin
Clay	Alexander
	Pulaski
	Massac

(Secs. 1102, 1152, Social Security Act, (42 U.S.C. 1302 and 1320c-1))

Dated: August 17, 1978

WILLIAM D. FULLERTON,
Acting Administrator, Health Care Financing Administration.

Approved: September 19, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-26975 Filed 9-25-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 83]

[Gen. Docket No. 78-290; FCC 78-629]

IMPLEMENTING CHANGES IN THE TECHNICAL REGULATIONS ANNEXED TO THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND CANADA FOR PROMOTION OF SAFETY ON THE GREAT LAKES BY MEANS OF RADIO, 1973

Proposed Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: We are proposing to change certain technical radio requirements for vessels operating on the Great Lakes. This action was requested by the Canadian Department of Transportation. We expect that these changes will rectify present problems in administering the agreement between the United States and Canada concerning the use of radio by vessels operating on the Great Lakes.

DATES: Comments must be received on or before October 27, 1978, and reply comments must be received on or before November 6, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Nicholas G. Bagnato, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: September 11, 1978.

Released: September 20, 1978.

In the matter of amendment of part 83 of the rules to implement changes in the technical regulations annexed to the Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973, Gen. Docket No. 78-290.

1. Notice of proposed rulemaking in above-captioned matter is hereby given.

2. In the report and order in docket 20273, released May 1, 1975, and published in the FEDERAL REGISTER on May 6, 1975 (40 FR 19646), the Commission adopted rules implementing the mandatory VHF radiotelephone requirements as set forth in the Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973 (GLA).

3. Article XVIII of the GLA describes the procedures to be followed in amending the technical regulations annexed to the agreement. It provides for the amendment to be effected by an exchange of diplomatic notes between the contracting governments and such amendments shall enter into force on the first day of February of the year following the exchange of notes. We are currently in the process of working out several amendments to the technical regulations with Canada. It is anticipated that these changes will be agreed to by both countries this year and hence February 1, 1979, will be the effective date. In view of the limited time available, this notice of proposed rulemaking is being issued while the GLA amendment process is still active. Is is not anticipated that there will be any significant changes to the proposal contained herein when final agreement on the amendments to the GLA is reached.

4. The general substance of the rule amendments in the appendix is as follows:

a. Add a requirement that all ships over 38 meters (124 feet) in length be equipped with a second VHF installation which fully complies with the rules;

b. The required frequencies are amended to allow the ship to install the necessary ship movement frequencies for its area of operation;

c. Regulation 15 (bis) (c), chapter IV of the Safety Convention establishes a 10-watt FR carrier power minimum power requirement applicable to foreign ships. We believe that this 10-watt minimum requirement is reasonable and propose to make it applicable to U.S. ships; and

d. Amend the definition of the Great Lakes to relect the connecting and tributary waters contained in the new regulation 8.

5. The proposed amendments, as set forth below, are issued pursuant to the authority contained in the Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973, and in sections 4(i) and 303 (c), (e), and (r) of the Communications Act of 1934, as amended.

6. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before October 27, 1978, and reply comments on or before November 6, 1978. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in the proceeding, the commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

7. In accordance with the provisions of § 1.419 of the Commission's rules, an original and five copies of all statements, briefs, or comments shall be furnished the Commission. All comments received in response to this notice of proposed rulemaking, will be available for public inspection in the Docket Reference Room in the Commission's offices in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Part 83 of chapter I of title 47 of the Code of Federal Regulations is amended to read as follows:

1. The introductory portion of § 83.536 which precedes paragraph (a) is amended to define applicable waters of the Great Lakes and paragraphs (a) and (b) are amended to reflect the lengths in meters as follows:

§ 83.536 Applicability to vessels.

The Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973, applies to vessels of all countries when navigated on the Great Lakes. The Great Lakes agreement defines the Great Lakes as "all waters of Lakes Ontario, Erie, Huron (including Georgian Bay), Michigan, Superior, their connecting and tributary waters and the River St. Lawrence as far east as the lower exit of the St. Lambert Lock at Montreal in the Province of Quebec, Canada, but shall not include such of the connecting and tributary waters as may be specified in the technical regulations." The technical regulations do not include any connecting and tributary waters except the St. Mary's River, the St. Clair River, Lake St. Clair, the Detroit River, and the Welland Canal. A vessel to which the Great Lakes agreement applies and which falls into the specific categories by paragraph (a), (b), or (c) of this section and not excepted by paragraph (d) or (e) of this section shall comply with this subpart while navigated on the Great Lakes.

(a) Every vessel of 20 meters (65 feet) or over in length (measured from end to end over the deck, exclusive of sheer).

(b) Every vessel engaged in towing another towing vessel or floating object, except:

(1) Where the maximum length of the towing vessel, measured from end to end over the deck exclusive of sheer, is less than 8 meters (26 feet), and the length or breadth of the tow, exclusive of the towing line is less than 20 meters (65 feet);

(2) Where the vessel towed complies with this subpart;

(3) Where the towing vessel and tow are located within a booming ground (an area in which logs are confined); or

(4) Where the tow has been undertaken in an emergency and neither the towing vessel nor the tow can comply with this part.

* * * * *

2. Section 83.539 is amended by amending paragraph (a), adding a new paragraph (b), amending existing paragraph (b) and redesignating as (c), and redesignating existing paragraph (c) as (d) to read as follows:

§ 83.539 Radiotelephone installation.

(a) Each vessel of the United States of less than 38 meters (124 feet) registered length while subject to the requirements of the Great Lakes radio agreement shall be fitted with a radiotelephone in effective operating condition meeting the provisions of this subpart in addition to the provisions of such other rules in this part, governing ship stations using telephony, as are applicable.

(b) Each vessel of the United States of 38 meters (124 feet) or more while subject to the requirements of the Great Lakes radio agreement shall be fitted with two VHF radiotelephone installations in effective operating condition meeting the provisions of this subpart in addition to the provisions of such other rules in this part, governing ship stations using telephony, as are applicable. The second VHF installation shall be electrically separate from the first VHF installation, however, both may be connected to the main source of energy provided one installation can be operated from a separate source of energy located as high as practicable on the vessel.

(c) The term "radiotelephone installation," for the purpose of the Great Lakes agreement, means a ship radio station (including the source of power necessary to energize the apparatus) capable of transmitting and receiving speech on at least the following VHF channels:

Channel 16—156.8 MHz—Distress, safety, and calling.

Channel 6—156.3 MHz—Primary intership.

Those of the following vessel traffic service channels appropriate to the vessel area of operation: Channel 11—156.55 MHz, channel 12—156.60 MHz, channel 13—156.65 MHz, or channel 14—156.7 MHz.

One public correspondence frequency appropriate to the area of operation.

One channel for receiving marine navigational warnings for the area of operation.

Such other frequencies as are required for their service. Nothing contained in this paragraph shall be construed to

require or prohibit the availability of other frequencies for use by the same "radiotelephone installation" for com-

* * * * *

[FR Doc. 78-26919 Filed 9-25-78; 8:45 am]

the comments received, the Commission has decided not to promulgate specific regulations. Rather, the

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and

require or prohibit the availability of other frequencies for use by the same "radiotelephone installation" for communication authorized by this part on other frequencies.

(d) • • •

3. Section 83.542(b) is amended to reduce the minimum power requirement as follows:

§ 83.542 Radiotelephone transmitter.

• • • • • •

(b) The transmitter shall be of a type which has been demonstrated in the process of type acceptance as being capable of delivering a carrier power of at least 10 watts, but not more than 25 watts, on each of the frequencies 156.8 MHz and 156.3 MHz into 50 ohms effective resistance, when operated with its applied primary supply voltage. The transmitter shall be capable of readily reducing the carrier power to 1 watt or less.

• • • • • •

[FR Doc. 78-26919 Filed 9-25-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Chapter X]

[Ex Parte No. MC-116]

CONSIDERATION OF RATES IN OPERATING RIGHTS APPLICATION PROCEEDINGS (GENERAL POLICY STATEMENT)

Withdrawal of Proposed Rulemaking

AGENCY: Interstate Commerce Commission.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: The Commission published a notice of proposed rulemaking on February 24, 1978, in this proceeding (43 FR 7675). Upon consideration of the comments received, the Commission has decided not to promulgate specific regulations. Rather, the Commission has issued a proposed general policy statement setting forth guidelines for the consideration of rates in operating rights application proceedings (43 FR 42097, September 19, 1978). The public is invited to comment on the proposed policy statement.

ADDRESSES: Comments should be filed with the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423.

DATES: Comments must be received by October 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak or Harvey Gobetz, 202-275-7693.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27061 Filed 9-25-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-37]

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; List of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 391.1, the following table lists the establishments operating under Federal inspection pursuant to the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), which have been officially reported as using humane methods of slaughter and incidental handling of the species of livestock respectively designated for such establishments in the table. Additions to and deletions from this list will be made from time to time as the facts may warrant by notices published in the FEDERAL REGISTER. The establishment number given with the name of the establishment is branded on each carcass of livestock inspected and passed at that establishment. The table should not be understood to indicate that all species of livestock slaughtered at a listed establishment are slaughtered and handled by humane methods unless all such species are listed for that establishment in the table, nor should the table be understood to indicate that the affiliates of any listed establishment use only humane methods.

NAME OF ESTABLISHMENT	EST.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINES

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
ARMOUR & CO-	2AT					(*)	
ARMOUR & CO-	2CC	(*)					
ARMOUR & CO-	2H					(*)	
ARMOUR & CO-	2SD					(*)	
ARMOUR & CO-	2W					(*)	
ARMOUR & CO-	2WN	(*)				(*)	
SWIFT & CO	3AE					(*)	
SWIFT & CO	3BW	(*)	(*)	(*)	(*)		
SWIFT FRESH MEATS CO	3C	(*)				(*)	
SWIFT & CO	3CN			(*)	(*)		
SWIFT FRESH MEATS CO	3D	(*)					
SWIFT & CO	3G	(*)					
SWIFT FRESH MEATS CO	3GI	(*)					
SWIFT & CO	3GW					(*)	
SWIFT & CO	3H	(*)				(*)	
SWIFT & CO	3L					(*)	
SWIFT & CO	3N	(*)				(*)	
SWIFT & CO	3S					(*)	
SWIFT & CO	3Y	(*)					
SWIFT & CO	3Z	(*)					
LYKES BROS INC	8	(*)	(*)				
LYKES BROS INC	8B	(*)	(*)				
PAULY PACKING CO INC	10	(*)	(*)				
FRENCH CITY MEATS INC	11	(*)	(*)			(*)	
HYGRADE FOOD PRODUCTS CORPORATION	12A					(*)	
HYGRADE FOOD PRODUCTS CORPORATION	12FW	(*)	(*)				
HYGRADE FOOD PRODUCTS CORPORATION	12P	(*)					
JOHN MORRELL AND CO	17A	(*)				(*)	
JOHN MORRELL & CO	17D	(*)		(*)		(*)	
JOHN MORRELL & CO	17E					(*)	
JOHN MORRELL & CO	17U	(*)					
C FINKBEINER INC	18	(*)				(*)	
WILSON FOODS CORPORATION	20H					(*)	
WILSON FOODS CORPORATION	20I	(*)				(*)	
WILSON FOODS CORPORATION	20L	(*)				(*)	
WILSON FOODS CORPORATION	20MO					(*)	
WILSON FOODS CORPORATION	20Q	(*)	(*)			(*)	
WILSON FOODS CORPORATION	20Y	(*)	(*)	(*)		(*)	
PATRICK CUDAHY INC	28					(*)	
KREINBERG AND KRASNY INC	30	(*)					
SUPERIOR BRAND MEATS INC	31	(*)				(*)	
THE ROEGELEIN CO	32					(*)	
VALLEYDALE PACKERS INC	34	(*)	(*)			(*)	
KENTON PACKING CO-	36	(*)	(*)			(*)	
TOP-LINE PACKING CO-	37	(*)	(*)			(*)	
SUNNYLAND FOODS INC-	43					(*)	
BROOKS COUNTY PACKING CO INC	43B					(*)	
IDAHO MEAT PACKERS	46	(*)		(*)			
DUGDALE PACKING CO	53	(*)				(*)	
INSEL & INSEL-	54				(*)		
SUNNYLAND PACKING CO OF ALABAMA-	56	(*)					
SUNNYLAND PACKING CO OF ALABAMA-	56A					(*)	
GLOVER PACKING CO-	60A	(*)				(*)	
GOOCH PACKING CO INC	61	(*)	(*)		(*)	(*)	
SUNFLOWER BEEF PACKERS INC	62	(*)					
SANDUSKY DRESSED BEEF CO	63	(*)					
BARC MEAT PROCESSING PLANT	68	(*)	(*)	(*)		(*)	
AUBURN UNIVERSITY MEAT LABORATORY	71	(*)		(*)		(*)	
COUNTRY MEATS INC-	72	(*)				(*)	
BROWN THOMPSON & SON	73					(*)	
GLASGOW PACKING CO	76	(*)					
DINNER BELL FOODS INC-	79A					(*)	
DINNER BELL FOODS INC-	79B	(*)				(*)	
DINNER BELL FOODS INC-	79C					(*)	
CUDAHY CO-	81					(*)	
EDGAR PACKING CO INC	84		(*)				
MBPXL CORPORATION-	86	(*)					
MBPXL CORPORATION-	86D	(*)					

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
MBPXL CORPORATION-	86E	(*)					
MBPXL CORPORATION-	86M	(*)					
UTICA VEAL CO INC-	88	(*)					
KAHN'S & CO-	89	(*)	(*)			(*)	
PEET PACKING CO-	90					(*)	
LAREDO PACKING CO INC-	91	(*)					
SUGARDALE FOODS INC-	92	(*)				(*)	
LANE PACKING INC	93	(*)	(*)	(*)		(*)	
THE VAL DECKER PACKING CO-	95	(*)				(*)	
CENTRAL PACKING CO INC	96	(*)	(*)				
A KOCH'S SONS INC-	98	(*)	(*)				
ARMOUR & CO-	100	(*)			(*)		
LIBERTY PACKING CO	101	(*)	(*)				
WILSON FOODS CORPORATION	111	(*)		(*)		(*)	
M & R PACKING CO E	113						(*)
M & R PACKING CO E	113W						(*)
FARMLAND FOODS INC	114	(*)					
THE MERCHANTS CO	116	(*)	(*)			(*)	
JOHN MORRELL & CO-	126	(*)					
CASH BROTHERS PACKING-	127	(*)	(*)	(*)	(*)	(*)	
JOHN ROTH AND SON INC-	130	(*)					
FERRARA MEAT CO INC-	134	(*)	(*)				
NEBRASKA BEEF PACKERS INC-	135	(*)					
KLUENER PACKING CO	142	(*)	(*)				
R B RICE COMPANY OF MISSOURI INC	144	(*)				(*)	
OLLIE WELCH MEAT CO INC-	153	(*)	(*)				
DALLAS CITY PACKING INC-	156	(*)	(*)				
CORNLAND DRESSED BEEF CO	157	(*)					
GREAT PLAINS BEEF CO	158	(*)					
CORNELL UNIVERSITY ANIMAL SCIENCE-	165	(*)	(*)	(*)		(*)	
BROWN PACKING CO	167				(*)		
E W KNEIP INC-	169	(*)					
BUB DAVIS PACKING INC-	171			(*)	(*)		
ARMOUR AND CO-	177	(*)					
THE AMERICAN MEAT PACKING CORPORATION-	180					(*)	
THE RATH PACKING CO-	186					(*)	
CARL'S SAUSAGE CO-	188					(*)	
SEATTLE PACKING CO	191					(*)	
HYNES PACKING CO	197	(*)	(*)	(*)			
UNITED PACKING CO-	198	(*)				(*)	
GEORGE A HORMEL & CO	199	(*)				(*)	
GEORGE A HORMEL & CO	199A	(*)				(*)	
GEORGE A HORMEL & CO	199D					(*)	
GEORGE A HORMEL & CO	199H	(*)					
GEORGE A HORMEL & CO	1991					(*)	
GEORGE A HORMEL & CO	199N	(*)				(*)	
GEORGE A HORMEL & CO	1990					(*)	
CAVINESS PACKING CO INC-	200	(*)					
OUGDALE PACKING CO	203	(*)					
EMGE PACKING CO INC-	205	(*)				(*)	
NATIONAL BEEF PACKING CO	208A	(*)					
PENN PACKING CO-	212					(*)	
E W KNEIP INC-	213	(*)					
MARSHALL MEAT PRODUCTS	215	(*)					
LINCOLN MEAT CO INC-	217	(*)					
YORK PACKING CO INC-	220					(*)	
ITT GWALTNEY INC	221A					(*)	
DE JONG PACKING CO	223	(*)	(*)				
HYGRADE FOOD PRODUCTS CORPORATION-	224	(*)				(*)	
HYGRADE FOOD PRODUCTS CORPORATION-	224B	(*)	(*)				
INDEPENDENCE MEAT CO	226	(*)	(*)			(*)	
GOLD MERIT BEEF PROCESSORS INC	232	(*)	(*)				
JOHN MORRELL & CO-	234	(*)					
TEXAS TECHNOLOGICAL UNIV MEAT LAB-	236	(*)		(*)		(*)	
SIOUX-PAC OF IOWA INC-	237	(*)					
SHREVEPORT PACKING CO INC OF KANSAS-	239	(*)					
LUBBOCK BEEF PROCESSORS INC-	239R	(*)					
P D AND J MEATS-	240	(*)	(*)	(*)			

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
ARMOUR & CO-	2AT					(*)	
ARMOUR & CO-	2CC	(*)					
ARMOUR & CO-	2H					(*)	
ARMOUR & CO-	2SD					(*)	
ARMOUR & CO-	2W					(*)	
ARMOUR & CO-	2WN	(*)				(*)	
SWIFT & CO	3AE					(*)	
SWIFT & CO	3BW	(*)	(*)	(*)	(*)		
SWIFT FRESH MEATS CO	3C	(*)				(*)	
SWIFT & CO	3CN			(*)	(*)		
SWIFT FRESH MEATS CO	3D	(*)					
SWIFT & CO	3G	(*)					
SWIFT FRESH MEATS CO	3GI	(*)					
SWIFT & CO	3GW					(*)	
SWIFT & CO	3H	(*)				(*)	
SWIFT & CO	3L					(*)	
SWIFT & CO	3N	(*)				(*)	
SWIFT & CO	3S					(*)	
SWIFT & CO	3Y	(*)					
SWIFT & CO	3Z	(*)					
LYKES BROS INC	8	(*)	(*)				
LYKES BROS INC	8B	(*)	(*)				
PAULY PACKING CO INC	10	(*)	(*)				
FRENCH CITY MEATS INC	11	(*)	(*)			(*)	
HYGRADE FOOD PRODUCTS CORPORATION	12A					(*)	
HYGRADE FOOD PRODUCTS CORPORATION	12FW	(*)	(*)				
HYGRADE FOOD PRODUCTS CORPORATION	12P	(*)					
JOHN MORRELL AND CO	17A	(*)				(*)	
JOHN MORRELL & CO	17D	(*)		(*)		(*)	
JOHN MORRELL & CO	17E					(*)	
JOHN MORRELL & CO	17U	(*)					
C FINKBEINER INC	18	(*)				(*)	
WILSON FOODS CORPORATION	20H					(*)	
WILSON FOODS CORPORATION	20I	(*)				(*)	
WILSON FOODS CORPORATION	20L	(*)				(*)	
WILSON FOODS CORPORATION	20MO					(*)	
WILSON FOODS CORPORATION	20Q	(*)	(*)			(*)	
WILSON FOODS CORPORATION	20Y	(*)	(*)	(*)		(*)	
PATRICK CUDAHY INC	28					(*)	
KREINBERG AND KRASNY INC	30	(*)					
SUPERIOR BRAND MEATS INC	31	(*)				(*)	
THE ROEGELEIN CO	32					(*)	
VALLEYDALE PACKERS INC	34	(*)	(*)			(*)	
KENTON PACKING CO-	36	(*)	(*)			(*)	
TOP-LINE PACKING CO-	37	(*)	(*)			(*)	
SUNNYLAND FOODS INC-	43					(*)	
BROOKS COUNTY PACKING CO INC	43B					(*)	
IDAHO MEAT PACKERS	46	(*)		(*)			
DUGDALE PACKING CO	53	(*)				(*)	
INSEL & INSEL-	54				(*)		
SUNNYLAND PACKING CO OF ALABAMA-	56	(*)					
SUNNYLAND PACKING CO OF ALABAMA-	56A					(*)	
GLOVER PACKING CO-	60A	(*)				(*)	
GOOCH PACKING CO INC	61	(*)	(*)		(*)	(*)	
SUNFLOWER BEEF PACKERS INC	62	(*)					
SANDUSKY DRESSED BEEF CO	63	(*)					
BARC MEAT PROCESSING PLANT	68	(*)	(*)	(*)		(*)	
AUBURN UNIVERSITY MEAT LABORATORY	71	(*)		(*)		(*)	
COUNTRY MEATS INC-	72	(*)				(*)	
BROWN THOMPSON & SON	73					(*)	
GLASGOW PACKING CO	76	(*)					
DINNER BELL FOODS INC-	79A					(*)	
DINNER BELL FOODS INC-	79B	(*)				(*)	
DINNER BELL FOODS INC-	79C					(*)	
CUDAHY CO-	81					(*)	
EDGAR PACKING CO INC	84		(*)				
MBPXL CORPORATION-	86	(*)					
MBPXL CORPORATION-	86D	(*)					

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
MBPXL CORPORATION-	86E	(*)					
MBPXL CORPORATION-	86M	(*)					
UTICA VEAL CO INC-	88	(*)					
KAHN'S & CO-	89	(*)	(*)			(*)	
PEET PACKING CO-	90					(*)	
LAREDO PACKING CO INC-	91	(*)					
SUGARDALE FOODS INC-	92	(*)				(*)	
LANE PACKING INC	93	(*)	(*)	(*)		(*)	
THE VAL DECKER PACKING CO-	95	(*)				(*)	
CENTRAL PACKING CO INC	96	(*)	(*)				
A KOCH'S SONS INC-	98	(*)	(*)				
ARMOUR & CO-	100	(*)			(*)		
LIBERTY PACKING CO	101	(*)	(*)				
WILSON FOODS CORPORATION	111	(*)		(*)		(*)	
M & R PACKING CO E	113						(*)
M & R PACKING CO E	113W						(*)
FARMLAND FOODS INC	114	(*)					
THE MERCHANTS CO	116	(*)	(*)			(*)	
JOHN MORRELL & CO-	126	(*)					
CASH BROTHERS PACKING-	127	(*)	(*)	(*)	(*)	(*)	
JOHN ROTH AND SON INC-	130	(*)					
FERRARA MEAT CO INC-	134	(*)	(*)				
NEBRASKA BEEF PACKERS INC-	135	(*)					
KLUENER PACKING CO	142	(*)	(*)				
R B RICE COMPANY OF MISSOURI INC	144	(*)				(*)	
OLLIE WELCH MEAT CO INC-	153	(*)	(*)				
DALLAS CITY PACKING INC-	156	(*)	(*)				
CORNLAND DRESSED BEEF CO	157	(*)					
GREAT PLAINS BEEF CO	158	(*)					
CORNELL UNIVERSITY ANIMAL SCIENCE-	165	(*)	(*)	(*)		(*)	
BROWN PACKING CO	167				(*)		
E W KNEIP INC-	169	(*)					
BUB DAVIS PACKING INC-	171			(*)	(*)		
ARMOUR AND CO-	177	(*)					
THE AMERICAN MEAT PACKING CORPORATION-	180					(*)	
THE RATH PACKING CO-	186					(*)	
CARL'S SAUSAGE CO-	188					(*)	
SEATTLE PACKING CO	191					(*)	
HYNES PACKING CO	197	(*)	(*)	(*)			
UNITED PACKING CO-	198	(*)				(*)	
GEORGE A HORMEL & CO	199	(*)				(*)	
GEORGE A HORMEL & CO	199A	(*)				(*)	
GEORGE A HORMEL & CO	199D					(*)	
GEORGE A HORMEL & CO	199H	(*)					
GEORGE A HORMEL & CO	1991					(*)	
GEORGE A HORMEL & CO	199N	(*)				(*)	
GEORGE A HORMEL & CO	1990					(*)	
CAVINESS PACKING CO INC-	200	(*)					
OUGDALE PACKING CO	203	(*)					
EMGE PACKING CO INC-	205	(*)				(*)	
NATIONAL BEEF PACKING CO	208A	(*)					
PENN PACKING CO-	212					(*)	
E W KNEIP INC-	213	(*)					
MARSHALL MEAT PRODUCTS	215	(*)					
LINCOLN MEAT CO INC-	217	(*)					
YORK PACKING CO INC-	220					(*)	
ITT GWALTNEY INC	221A					(*)	
DE JONG PACKING CO	223	(*)	(*)				
HYGRADE FOOD PRODUCTS CORPORATION-	224	(*)				(*)	
HYGRADE FOOD PRODUCTS CORPORATION-	224B	(*)	(*)				
INDEPENDENCE MEAT CO	226	(*)	(*)			(*)	
GOLD MERIT BEEF PROCESSORS INC	232	(*)	(*)				
JOHN MORRELL & CO-	234	(*)					
TEXAS TECHNOLOGICAL UNIV MEAT LAB-	236	(*)		(*)		(*)	
SIOUX-PAC OF IOWA INC-	237	(*)					
SHREVEPORT PACKING CO INC OF KANSAS-	239	(*)					
LUBBOCK BEEF PROCESSORS INC-	239R	(*)					
P D AND J MEATS-	240	(*)	(*)	(*)			

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NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
GREENWOOD PACKING PLANT	242	(*)				(*)	
IOWA BELF PROCESSORS INC	245	(*)					
IOWA BEEF PROCESSORS INC	245A	(*)					
IOWA BEEF PROCESSORS INC	245B	(*)					
IOWA BEEF PROCESSORS INC	245C	(*)					
IOWA BEEF PROCESSORS INC	245D	(*)					
IOWA BEEF PROCESSORS INC	245E	(*)					
COLUMBIA FOODS DIV IOWA BEEF PROCESSORS INC	245G	(*)					
JOHN MORRELL & CO	246	(*)				(*)	
FEDERAL PACKING CO INC	249	(*)	(*)				
MAGIC VALLEY PACKING CO	258	(*)					
GEM PACKING CO INC	259	(*)	(*)				
HYPLAINS DRESSED BEEF INC	262	(*)					
JONES DAIRY FARM	263					(*)	
FARM PAC KITCHENS INC	266	(*)		(*)		(*)	
GOLDEN VALLEY PACKING CO	271	(*)					
TOG PACKING CO INC	273	(*)					
ALPHA BETA ACME MARKETS INC	279	(*)	(*)	(*)			
PARNETT PACKING CORPORATION	283	(*)					
SOLANO MEAT CO	285	(*)	(*)	(*)			
FLAVORLANG INDUSTRIES INC	288	(*)					
ARBOGAST & BASTIAN INC	289					(*)	
SAN JOSE MEAT CO INC	291	(*)	(*)				
ARMOUR & CO	292					(*)	
IOWA BEEF PROCESSORS INC	292A	(*)					
GUS JUENGLING AND SON INC	298	(*)	(*)				
PACIFIC BY-PRODUCTS INC	302	(*)					
UNION PACKING CO	305	(*)	(*)				
SERV U MEAT PACKING CO	306	(*)					
A GEMMEN & SONS INC	308	(*)	(*)			(*)	
KAUFMAN MEATS	310	(*)	(*)				
RUDYS FARM CO	315					(*)	
ESTES PACKING CO	319	(*)	(*)			(*)	
STADLER PACKING CO INC	320	(*)				(*)	
PIERCE PACKING	322	(*)	(*)	(*)	(*)	(*)	
RUDNICK PACKING CO INC	325	(*)		(*)			
GOLDEN STATE FOODS CORPORATION	327	(*)		(*)	(*)	(*)	
C & M MEAT PACKING CORPORATION	329	(*)	(*)				
ROYAL PACKING CO	331A	(*)					
SHAPIRO PACKING CO INC	332	(*)					
GREAT WESTERN PACKING CO INC	334	(*)					
NOBLE'S MEAT CO	335	(*)	(*)				
DAIRY VALLEY MEAT INC	336	(*)	(*)				
SAM KANE BEEF PROCESSORS INC	337	(*)	(*)				
GREEN & OLIVER SAUSAGE CO	338					(*)	
MIDLAND EMPIRE PACKING CO INC	339	(*)					
BOOKEY PACKING CO	340	(*)					
PUCKETT PACKING CO	343	(*)				(*)	
GOLD-PAK MEAT CO INC	344	(*)	(*)				
ANZA MEAT PACKING CO	345	(*)					
UNION PACKING CO OF OMAHA	351	(*)					
FRESNO MEAT PACKING CO	354	(*)	(*)				
HERNANDO PACKING CO	355	(*)	(*)				
SUNSTAR FOODS	357	(*)					
CLOUGHERTY PACKING CO	360					(*)	
MYER BEEF INC	363	(*)					
FARGO BEEF INDUSTRIES	364	(*)					
KERSEY MEAT PROCESSING CO	366	(*)		(*)		(*)	
WILSON FOODS CORPORATION	374	(*)				(*)	
CROSS BROS MEAT PACKERS INC	376	(*)		(*)			
SALINAS MEAT CO	378	(*)	(*)	(*)		(*)	
EMGE PACKING CO INC	380	(*)				(*)	
SMITHFIELD PACKING CO INC	382	(*)				(*)	
AMERICAN STORES PACKING CO	384	(*)					
FREEDMAN PACKING INC	387	(*)	(*)				
DUBDALE PACKING CO	390	(*)					
OLDHAM'S FARM SAUSAGE CO INC	392					(*)	
HUISKEN MEAT CENTER	394	(*)	(*)	(*)		(*)	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
DUBUQUE PACKING CO	396	(*)	(*)	(*)		(*)	
DUBUQUE PACKING CO	396C	(*)					
DUBUQUE PACKING CO	396D	(*)					
DUBUQUE PACKING CO	396E	(*)				(*)	
DUBUQUE PACKING CO	396H	(*)					
WATSONVILLE DRESSED BEEF INC	398	(*)					
LOS BANOS ABATTOIR	400	(*)	(*)				
OAKRIDGE SMOKEHOUSE	401	(*)	(*)	(*)		(*)	
OWENS COUNTRY SAUSAGE INC	403					(*)	
WILLISTON PACKING CO INC	405	(*)					
NEUHOFF BROS	406	(*)	(*)				
GREEN BAY DRESSED BEEF INC	410	(*)					
ALPINE PACKING CO	412	(*)	(*)				
THE LUNDY PACKING CO	413					(*)	
THE LUNDY PACKING CO	413A					(*)	
MURRAY PACKING CO INC	421	(*)					
E W KNEIP INC	422	(*)					
THE COLLINS PACKING CO	423					(*)	
KENOSHA BEEF INTERNATIONAL LTD	425	(*)					
FINEBERG PACKING CO	428	(*)	(*)	(*)	(*)	(*)	
SCHNEIDER PACKING CO	439	(*)					
GERBER PRODUCTS CO	440	(*)					
OMAHA DRESSED BEEF CO INC	441	(*)					
OMAHA DRESSED BEEF CO INC	441A	(*)	(*)				
DEL CURTO MEAT CO	445	(*)	(*)	(*)	(*)	(*)	
THE DICILLO CORPORATION	448	(*)	(*)				
ECONOMY PACKING HOUSE	451	(*)	(*)				
DEWITT PACKING CORPORATION	456	(*)	(*)				
MORRIS RIFKIN & SONS INC	460	(*)					
PIONEER BONELESS BEEF INC	461	(*)					
LANCASTER PACKING CO	462	(*)	(*)				
LITVAK PACKING CO	465	(*)					
BECWAR PACKING CO	467	(*)	(*)			(*)	
CORNHUSKER PACKING CO	468	(*)					
SIOUXLAND BEEF PROCESSING CO	476	(*)					
ARMOUR & CO	477	(*)					
GOTHAM PROVISION CO INC	481	(*)	(*)				
ST CROIX ABATTOIR	482	(*)	(*)	(*)	(*)	(*)	
ROBEL BEEF PACKERS INC	485	(*)					
EAST TENNESSEE PACKING CO	487	(*)				(*)	
BURING FOOD GROUP INC	488	(*)				(*)	
E W KNEIP INC	489	(*)					
WARD FOODS INC	490	(*)	(*)	(*)	(*)		
FAIRBANK FARMS INC	492	(*)	(*)			(*)	
QUALITY HOUSE PROVISIONS INC	494	(*)	(*)				
ROBERTS MEAT PACKING CORP	495					(*)	
VIENNA SAUSAGE MANUFACTURING CO	496	(*)					
BARTELL'S MEAT CO	497	(*)	(*)	(*)			
PELLA PACKING CO INC	498	(*)					
BANEY MEATS	501	(*)	(*)	(*)		(*)	
STUTZMAN SLAUGHTERHOUSE	507	(*)	(*)	(*)	(*)	(*)	
SHENANDOAH VALLEY MEAT PACKERS INC	511	(*)				(*)	
SNIDER BROS INC	512	(*)	(*)				
CAPITOL PACKING CO	513	(*)					
SHOEMAKER & ROSS MEATS INC	518	(*)		(*)			
PORK PACKERS INTERNATIONAL INC	520					(*)	
OKLAHOMA STATE UNIV MEAT LABORATORY	526	(*)	(*)	(*)		(*)	
RANCHO FEEDING CORPORATION	527	(*)	(*)			(*)	
ARMOUR & CO	528	(*)	(*)				
SMALLWOOD PACKING CO INC	529	(*)					
MARYSVILLE MEAT PACKING CO INC	533	(*)	(*)			(*)	
PEPPER PACKING CO	536	(*)					
OSCAR MAYER & CO INC	537A	(*)				(*)	
OSCAR MAYER & CO INC	537B					(*)	
OSCAR MAYER & CO INC	537C					(*)	
OSCAR MAYER & CO INC	537E					(*)	
MIDWEST PACKING CO INC	538	(*)					
GOEHRING MEAT PRODUCTS CORPORATION	548	(*)	(*)	(*)		(*)	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
CASCADE MEAT PACKING CO	550	(*)		(*)		(*)	
BLACK HILLS PACKING CO	554	(*)					
MID SOUTH PACKERS INC	557	(*)				(*)	
D & W PACKING CO	560	(*)	(*)			(*)	
UNITED DRESSED BEEF CO INC	561	(*)	(*)			(*)	
PACKERLAND PACKING CO INC	562	(*)					
PECK MEAT PACKING CORPORATION	567	(*)					
ELMER BENDER & SON INC	569		(*)	(*)			
PERRETTA PACKING CO INC	571	(*)				(*)	
COIL PACKING INC	575	(*)					
ARMOUR AND CO	579	(*)				(*)	
BEAVERCREEK MEAT CO INC	580	(*)				(*)	
MONARCH PACKING CO	581	(*)	(*)				
COFFEYVILLE PACKING CO INC	583	(*)					
FREDERICK & HERROD INC	586					(*)	
DAWSON-BAKER PACKING CO INC	588	(*)					
ELK GROVE MEAT CO	601	(*)					
SAN ANTONIO PACKING CO	602	(*)	(*)	(*)	(*)	(*)	
SAN ANTONIO PACKING CO	602A	(*)	(*)	(*)	(*)	(*)	
COPPER STATE PHOENIX MEAT CO	604	(*)	(*)				
WILSON FOODS CORPORATION	606					(*)	
WESTERN MEATS	608	(*)	(*)	(*)	(*)	(*)	
EASTERN OREGON MEAT CO INC	611	(*)	(*)	(*)		(*)	
PALAMERA BEEF CORP	613	(*)					
DONNER PACKING CO INC	614	(*)					
KUMMER MEAT CO INC	617	(*)	(*)	(*)		(*)	
DOSKOCIL SAUSAGE INC	623					(*)	
BIG FOOT PACKING CO INC	627	(*)	(*)				
E A MILLER & SONS PACKING CO INC	628	(*)	(*)				
H H KEIM CO	630	(*)	(*)				
EBNER BROS PACKERS	633	(*)					
CARTERET ABATTOIR INC	639	(*)	(*)	(*)	(*)	(*)	
FLANERY MEATS INC	643	(*)					
ERNST BUTCHERING SERVICE	645	(*)	(*)	(*)		(*)	
TRANSCONTINENT PACKING CO	E 646						(*)
BIRD PROVISION CO	647					(*)	
SCHLUDERBERG-KURDLE CO INC	649	(*)				(*)	
JOHN MORRELL & CO	650					(*)	
WILSON FOODS CORPORATION	655	(*)	(*)	(*)	(*)		
BAUMS BOLOGNA INC	657	(*)					
QUALITY MEAT PACKING CO	661	(*)					
COLORADO WEST PACKERS INC	662	(*)	(*)	(*)		(*)	
GLOBE PACKING CO	663	(*)					
WEBER FARMS INC	665					(*)	
FLANERY FOODS INC	667	(*)					
UNION PACKING CO INC	673	(*)					
S & S PACKING CO INC	674	(*)				(*)	
CAVINESS PACKING CO INC	675	(*)					
TRES AMIGO'S MEAT CO	676	(*)		(*)			
CALDWELL PACKING CO INC	683	(*)					
CENTRAL FALLS PROVISION CO	686	(*)					
CALLAWAY PACKING CO	688	(*)					
PIERCE PACKING CO	691					(*)	
KANSAS STATE UNIV ANIMAL SCIENCE & INDUSTRY	694	(*)	(*)	(*)		(*)	
GULF PACKING CO	696	(*)					
TRIOLO BROTHERS	706					(*)	
CENTRAL NEBRASKA PACKING INC	E 713						(*)
DAVENPORT PACKING CO INC	716	(*)					
FARMLAND FOODS INC	717					(*)	
FARMLAND FOODS INC	717A					(*)	
FARMLAND FARMS INC	717CR					(*)	
A DARLINGTON STRODE	718					(*)	
DECKER & SON	727					(*)	
ROUDE PACKING CO INC	729	(*)					
OHIO PACKING CO	736	(*)	(*)			(*)	
PARNELLS PACKING CO	738	(*)	(*)	(*)		(*)	
THE JACOB SCHLACHTER'S SON & CO	739	(*)	(*)				
THE O K PACKING CO	749	(*)	(*)				

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
JACK'S MEAT PACKING PLANT	754	(*)	(*)	(*)		(*)	
SEITZ FOODS INC	756A	(*)					
THE AMERICAN MEAT PACKING CORPORATION	760					(*)	
SCHAAKE PACKING CO INC	761	(*)					
KARLER PACKING CO	767	(*)					
SHERIDAN MEAT CO INC	768	(*)	(*)	(*)		(*)	
EARL C GIBBS INC	770	(*)					
HANFORD MEAT PACKING CO	773	(*)	(*)				
BRISTOL FOODS INC	775	(*)					
CENTRAL PACKING CO	777	(*)				(*)	
THE CUDAHY PACKING CO	779	(*)	(*)	(*)		(*)	
BRYAN FOODS INC	780	(*)	(*)			(*)	
DIAMOND MEAT CO INC	783	(*)					
GRANITE STATE PACKING CO	785	(*)	(*)	(*)			
AURORA PACKING CO INC	788	(*)					
HATFIELD PACKING CO	791					(*)	
BAUM'S MEAT PACKING INC	792	(*)	(*)				
HURON DRESSED BEEF	798	(*)					
AMERICAN BEEF PACKERS INC	807	(*)					
THE G ERHARDT SONS INC	810	(*)	(*)				
S & R BEEF CO	811	(*)	(*)				
FLOYD VALLEY PACKING CO	812					(*)	
ROCHESTER INDEPENDENT PACKER INC	817	(*)					
J H ROUTH PACKING CO	818					(*)	
STRAUB & SMITH PACKING CORPORATION	820	(*)	(*)	(*)	(*)	(*)	
STERLING COLORADO BEEF CO	823	(*)					
FOREMOST PACKING CO	824	(*)				(*)	
SUPERIOR PACKING CO INC	825		(*)				
LOOKOUT MOUNTAIN PACKERS INC	826	(*)		(*)			
BERCHEMS MEAT CO	830	(*)					
DELTA MEAT PACKING CO INC	834	(*)	(*)				
LEE-JOHNSON INC	835	(*)				(*)	
FREDERICK COUNTY PRODUCTS INC	838	(*)	(*)	(*)			
VALLEYDALE PACKERS INC	840	(*)				(*)	
G BARTUSCH PACKING CO	843	(*)					
ARENA DRESSED BEEF CO	853	(*)					
FLAVORLAND INDUSTRIES INC	8570	(*)					
JORDAN MEAT & LIVESTOCK CO INC	858	(*)	(*)	(*)	(*)	(*)	
FRESNO BEEF PROCESSORS INC	862	(*)	(*)				
TENNESSEE DRESSED BEEF CO	865	(*)					
HARDY & CO INC	869	(*)	(*)			(*)	
IMPERIAL BEST MEATS	870	(*)	(*)				
PAHLER PACKING CORPORATION	880	(*)					
REM PACKING CO	882	(*)					
SWANTON PACKING INC	883	(*)					
ALCO PACKING CO INC	885	(*)	(*)	(*)	(*)	(*)	
WALTER H LYONS INC	886	(*)	(*)				
HAMILTON PACKING CO	891	(*)	(*)	(*)		(*)	
SAMBOL PACKING CO	892	(*)					
TOBIN PACKING CO INC	893					(*)	
VERNON CALHOUN PACKING CO	897	(*)	(*)				
SIGMAN MEAT CO INC	901B					(*)	
PARTY PACKING CORPORATION	902	(*)					
LIBERTY MEAT PACKING CORPORATION	910	(*)					
CHIAPETTI PACKING CO	916					(*)	
B CONSTANTINO & SONS CO	918	(*)					
ALICE PACKING CO	921	(*)					
VALLEYDALE PACKERS INC	922	(*)	(*)			(*)	
SCHMALTZ MEATS	926	(*)				(*)	
TARPUFF PACKING CO	931	(*)					
PARSONS BEEF CO INC	932	(*)	(*)				
E B MANNING AND SON	934	(*)					
VOLZ PACKING CO	938	(*)					
GENTNER PACKING CO INC	941	(*)					
WHITEHALL PACKING CO INC	946	(*)					
MEILMAN FOOD INDUSTRIES INC	946B	(*)					
M BRIZER & CO INC	948	(*)		(*)			
JOE OOCTORMAN & SON PACKING CO INC	949	(*)	(*)	(*)		(*)	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
KENNEDYS SAUSAGE CO	950					(*)	
BOB EVANS FARMS INC	952	(*)				(*)	
GREATER OMAHA PACKING CC INC	960	(*)					
POTTER SAUSAGE PRODUCT INC	961	(*)				(*)	
VIRGINIA PACKING CO INC	963	(*)	(*)	(*)			
T L LAY PACKING CO	967	(*)				(*)	
MONFORT PACKING CO	969	(*)		(*)			
HAWAII MEAT CO LTD	970	(*)					
LONGHORN MEAT PACKERS INC	976	(*)					
BANNER BEEF CO	985	(*)					
J F O'NEILL PACKING CC	987	(*)					
KLARER OF KENTUCKY INC	995					(*)	
THE HOME PRIDE PROVISIONS INC	1029	(*)	(*)	(*)	(*)		
ARMOUR & CO	1085	(*)	(*)				
LANDY PACKING CO	1171	(*)					
A F MOYER & SON	1311	(*)	(*)				
MCCABE PACKING PLANT	1312	(*)	(*)				
BEEF NEBRASKA INC	1318	(*)					
SEVIER VALLEY MEATS INC	1420	(*)		(*)		(*)	
LA BRIER MEAT PROCESSING CO	1463	(*)	(*)	(*)	(*)	(*)	
ASSOCIATED MEAT PACKERS INC	1472	(*)	(*)			(*)	
STEVENS MEAT CO INC	1485	(*)	(*)				
OSMOND LOCKERS INC	1507	(*)				(*)	
OMAHA PORKERS INC	1526					(*)	
HENDERSON MEAT PROCESSORS	1527	(*)				(*)	
CABLE LINE MEATS INC	1589	(*)	(*)	(*)	(*)	(*)	
KAPOWSIN MEAT PACKERS	1626	(*)				(*)	
ABBYLAND PROCESSING INC	1633	(*)	(*)			(*)	
KAH & CO INC	1664	(*)	(*)	(*)		(*)	
DOUBLE J MEAT CO	1669	(*)	(*)	(*)		(*)	
HOUSE OF MEATS	1685	(*)				(*)	
K L & H MEATS INC	1713	(*)				(*)	
JAMES SAUSAGE CO	1718					(*)	
DE KALB COUNTRY PACKING INC	1737			(*)	(*)	(*)	
HOLSTEIN PROCESSING INC	1738	(*)				(*)	
R-BEEF OF IOWA INC	1739	(*)				(*)	
RAWHIDE RANCH BAVARIAN MEAT	1741	(*)	(*)	(*)		(*)	
ROBERT L RUNTZ INC	1750	(*)	(*)				
B & B MEAT PACKING	1765	(*)				(*)	
LITTLE RIVER PACKING	1771	(*)	(*)	(*)	(*)	(*)	
PINE CITY FROZEN FOODS INC	1772	(*)	(*)	(*)	(*)	(*)	
GOLDEN WEST MEAT CO INC	E 1796						(*)
B C DRESSED BEEF INC	1803	(*)					
ROCK DELL MEATS & PROCESSING	1894	(*)		(*)			
MINDEN BEEF CO	1914M	(*)					
PACKERLAND PACKING CO OF CHIPPEWA FALLS INC	2032	(*)					
CROCKETT PACKING CO	2033	(*)	(*)				
IOWA STATE UNIVERSITY MEAT LABORATORY	2049	(*)	(*)	(*)		(*)	
MR BEEF PACKING	2061	(*)	(*)			(*)	
ABBEY PACKING CO	2080	(*)	(*)			(*)	
MIDWAY MEATS DIV COUNTRY PRIDE INC	2081		(*)			(*)	
BRAUNFELS MEATS INC	2083	(*)	(*)	(*)		(*)	
ODUM SAUSAGE CO OF NTUCKY INC	2094					(*)	
ALEWELS INC	2101	(*)	(*)	(*)	(*)	(*)	
HONEY BEEF HOUSE	2104	(*)	(*)				
P & H PACKING CO I	2211	(*)	(*)				
HANDY PACKING CO I	2215	(*)	(*)	(*)	(*)	(*)	
YOAKUM PACKING CO	2216	(*)				(*)	
CLARK PACKING CO	2219	(*)	(*)	(*)	(*)	(*)	
BURLISON PACKING CO	2224	(*)					
PACE PACKING CO	2228	(*)	(*)			(*)	
RIDLEY PACKING CO	2229	(*)	(*)				
SOUTH TEXAS PACKLF INC	2230	(*)					
AMERICAN MEAT PAC S INC	2232	(*)				(*)	
GEORGE BRAUN PACKI CO INC	2239	(*)	(*)	(*)	(*)		
BRYAN SAUSAGE CO	2249					(*)	
SS CHAROLAIS MEAT	2252	(*)					
LOVELAND PACKING INC	2259	(*)				(*)	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
G & C PACKING CO	2262	(*)	(*)				
RIDLEY PACKING CO	2265	(*)	(*)			(*)	
L A FREY & SONS INC	2266A	(*)				(*)	
KRIGHT MEAT PACKING CC INC	2269	(*)	(*)			(*)	
CENTENO MEAT COMMISSARY	2271	(*)					
LAMESA MEAT CO	2272	(*)		(*)		(*)	
AMARILLO PACKING CO	2273	(*)					
HUSBAND BROTHERS PACKING CO	2284	(*)	(*)				
GLN GRANTHAM MEAT PACKERS	2290	(*)	(*)			(*)	
DANKWORTH PACKING CO INC	2296	(*)				(*)	
BARKER ENTERPRISES INC	2315	(*)	(*)	(*)		(*)	
FRUITLAND PACKING CO INC	2316	(*)	(*)		(*)	(*)	
HEIGHTS MEAT CENTER	2319	(*)	(*)	(*)	(*)	(*)	
COMANCHE MEATS INC	2329	(*)	(*)			(*)	
MINCO MEAT CO	2330	(*)	(*)	(*)	(*)	(*)	
CORNETT PACKING CO	2333	(*)	(*)	(*)		(*)	
FLYING SPUR MEAT CO	2344	(*)				(*)	
LARON MEAT SERVICE	2356	(*)				(*)	
AMANA SOCIETY	2357	(*)					
WM J RAHE & SONS INC	2358	(*)		(*)	(*)	(*)	
THIES PACKING CO INC	2367	(*)				(*)	
GROTE MEAT CO	2369	(*)	(*)	(*)		(*)	
CANADIAN VALLEY MEAT CC	2370	(*)	(*)				
CLAYTON PACKING CO	2373		(*)				
SMIT & SON PACKING CO	2376	(*)				(*)	
SPENCER FOODS INC	2379	(*)					
ERNIE'S SUPERMARKETS CORP	2380	(*)	(*)			(*)	
MARTIN SAUSAGE CO	2385					(*)	
MARSHALL PACKING CO INC	2386	(*)				(*)	
CLINTON PACKING CO	2387					(*)	
MOTT PACKING CO	2394	(*)	(*)	(*)	(*)	(*)	
UNITED MEAT CO INC	2396	(*)					
PONY EXPRESS RANCH	2398	(*)	(*)	(*)		(*)	
P H CUSTOM MEATS INC	2401	(*)	(*)	(*)	(*)	(*)	
HACKER PACKING CO INC	2425	(*)					
HILLSHIRE FARM CO	2435					(*)	
RANCHLAND PACK INC	2439	(*)	(*)	(*)		(*)	
STRAUSS BROTHERS PACKING CO INC	2444			(*)			
H. RICHBERG & SON	2447	(*)	(*)				
JOHN R DAILY INC	2450	(*)	(*)			(*)	
CIMPL PACKING CO	2460	(*)					
LINK BROS INC	2472	(*)	(*)	(*)	(*)	(*)	
WENNING PACKING CO INC	2533	(*)					
NEW GLARUS FOODS INC.	2585	(*)	(*)	(*)		(*)	
WEYHAUPT BROS PACKING CO	2594	(*)				(*)	
BARTLOW BROS INC	2595	(*)				(*)	
TEETERS PACKING CO	2598					(*)	
DUQUOIN PACKING CO	2599	(*)				(*)	
MCDONALD MEATS	2603	(*)	(*)			(*)	
FOUTCH PACKING CO	2604	(*)				(*)	
BUNDY BROTHERS MEATS PROCESSING	2611	(*)				(*)	
J W TREUTH & SON INC	2612	(*)					
MANASSAS FROZEN FOODS	2621					(*)	
MANASSAS FROZEN FOODS	2621A	(*)	(*)			(*)	
LOOMIS PACKING CO	2636	(*)				(*)	
CURTIS PACKING CO	2642	(*)	(*)	(*)		(*)	
H P DEALE & SONS INC	2682					(*)	
FARMBOY MEATS	2698	(*)				(*)	
YODERS LOCKER PLANT	2699	(*)		(*)		(*)	
VERMONT PACKING CO INC	2712	(*)	(*)	(*)	(*)	(*)	
V K MITMAN MEATS	2739	(*)	(*)			(*)	
E G COUNTRY BUTCHERS	2751	(*)	(*)	(*)	(*)	(*)	
WAGNER PROVISIONS CO INC	2770	(*)	(*)			(*)	
GEORGE BROWN	2794	(*)	(*)	(*)		(*)	
STOEVEN BROTHERS	2800	(*)	(*)	(*)			
TOBLER'S MEATS	2814	(*)	(*)	(*)	(*)	(*)	
BLUE MOUNTAIN MEATS	2825	(*)	(*)	(*)		(*)	
LEWIS & MCDERMOTT	2847	(*)					

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
BASIN PACKING CO	2850	(*)	(*)	(*)		(*)	
VISTA MEAT PACKING CO INC	2854	(*)	(*)	(*)			
GRANITE MEAT & LIVESTOCK CO	2856	(*)	(*)				
TOP OF INDIANA BEEF CO INC	2906	(*)					
ARMBRUST MEATS	2912	(*)	(*)			(*)	
JENNIE-O FOODS INC	2916	(*)					
MADISON FOOD INC	2923					(*)	
MARYVILLE PACKING CO	2927	(*)	(*)	(*)	(*)	(*)	
PETTIS COUNTY LOCKER SYSTEM	2929	(*)	(*)	(*)	(*)	(*)	
RUNYON FROZEN FOOD SERVICE	2932	(*)				(*)	
STAR PACKING CO INC	2934	(*)					
WINTER'S MEAT PROCESSING	2936	(*)	(*)	(*)	(*)	(*)	
WOODS LOCKER & ABATTOIR	2938	(*)	(*)	(*)	(*)		
YONTZ PACKING CO	2939	(*)					
WEST PLAINS PACKING CO	2944	(*)				(*)	
WEST SLAUGHTER HOUSE	2945	(*)				(*)	
P & H MEATS INC	2946	(*)	(*)	(*)	(*)	(*)	
PEMISCOT PACKING CO	2948	(*)				(*)	
BUTT'S PACKING	2950	(*)	(*)	(*)		(*)	
CROUCH'S LOCKER & PROCESSING	2951	(*)	(*)	(*)	(*)	(*)	
NADLER'S MEATS INC	2956	(*)	(*)	(*)	(*)	(*)	
MAXWELL'S LOCKERS	2959	(*)				(*)	
WELLINGTON QUALITY MEATS INC	2960	(*)	(*)	(*)		(*)	
MAC DYE PACKING CO	2962	(*)	(*)	(*)	(*)	(*)	
BOLIVAR LOCKER PLANT	2964	(*)	(*)	(*)	(*)	(*)	
FRANCIS PACKING CO	2965	(*)					
SWISS PROCESSING PLANT	2969	(*)	(*)	(*)	(*)	(*)	
SLAGLE MEAT MARKET INC	2970	(*)	(*)	(*)	(*)	(*)	
MURPHY SLAUGHTERHOUSE	2972	(*)				(*)	
SINGER LOCKER SERVICE	2975	(*)	(*)	(*)		(*)	
DELALOYE & SONS MEAT PACKING INC	2977	(*)			(*)		
RINEHART'S MEAT PROCESSING INC	2978		(*)	(*)		(*)	
MIRABILE MEAT PROCESS	2982	(*)					
DAVIS MEAT PROCESSING	2984	(*)	(*)	(*)	(*)	(*)	
DIGGS PACKING CO	2985	(*)				(*)	
OZARK PACKING CO	2986A	(*)	(*)	(*)	(*)	(*)	
HIGHLANDVILLE PACKING CO	2987	(*)	(*)	(*)	(*)	(*)	
GLEN'S CUSTOM BUTCHERING	2989	(*)	(*)	(*)	(*)	(*)	
FOUR QUARTER SLAUGHTERING	2990	(*)		(*)		(*)	
HERROD PACKING CO INC	2991	(*)					
HOLDEN LOCKER PLANT	2993	(*)	(*)	(*)	(*)	(*)	
DIAMOND MEAT CO INC	2994	(*)	(*)	(*)		(*)	
COUNTRY BUTCHER SHOP	2995	(*)		(*)	(*)	(*)	
COUNTRY BUTCHER SHOP	2995A	(*)	(*)	(*)	(*)	(*)	
COUNTRY BUTCHER SHOP	2995B	(*)	(*)	(*)	(*)	(*)	
MILEY & LAWSON MEAT PROCESSING	2997	(*)	(*)			(*)	
MISSOURI STATE PENITENTIARY FOR MEN	2998	(*)				(*)	
GEHMAN'S QUALITY MEATS	4014	(*)	(*)	(*)	(*)	(*)	
DIETRICH'S COUNTRY MEATS	4022	(*)	(*)	(*)		(*)	
HOFFER'S LIGONIER VALLEY PACKING	4025	(*)	(*)	(*)	(*)	(*)	
HOST ACRES FARMS QUALITY MEATS	4034	(*)	(*)	(*)		(*)	
WAYNE H HOFFMAN & SON	4040	(*)	(*)	(*)		(*)	
CLARENCE H CRAMER	4043	(*)	(*)			(*)	
STAWICKI PROVISION	4045	(*)	(*)	(*)	(*)	(*)	
FARMLAND MEATS	4049	(*)	(*)	(*)		(*)	
LEE PACKING CO	4055	(*)				(*)	
THE DEVEREUX FOUNDATION FARM	4065	(*)	(*)	(*)		(*)	
BOWMAN'S MEAT PROCESSING INC	4073	(*)	(*)			(*)	
C & C PACKING CO INC E	4094						(*)
JOHN A ROOK	4095	(*)		(*)		(*)	
MIDVALE PACKING CO	4133	(*)	(*)				
TALONE PACKING CO	4152	(*)	(*)				
UPLAND PACKING CO	4165	(*)	(*)				
GREEN'S QUALITY MEAT SERVICE	4202	(*)	(*)	(*)	(*)	(*)	
TINY'S MEAT	4206	(*)		(*)		(*)	
VALLEY MEATS INC	4213	(*)				(*)	
HAHARDEN OF IOWA INC	4216	(*)					
SPRINGFIELD QUALITY BEEF INC	4220	(*)	(*)				

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
LIBERTY PACKING CORP E	4241						(*)
PULVERMACHER INC MEAT PROCESSING	4244	(*)	(*)	(*)		(*)	
WEBSTER CITY CUSTOM MEATS INC	4246	(*)		(*)		(*)	
JOE PAGLIUSO & BROS INC	4253	(*)	(*)				
SCHREIBER SON'S MARKET INC	4254	(*)				(*)	
POOK'S WHOLESALE MEATS INC	4263	(*)	(*)		(*)	(*)	
STATE UNIV OF NEW YORK AGRI & TECH COLLEGE	4266	(*)		(*)	(*)	(*)	
JIM SIMON'S MEATS	4285	(*)	(*)	(*)	(*)		
DEL SONNO'S CUSTOM MEATS INC	4330	(*)	(*)	(*)		(*)	
ALPHONSO CUOMO	4342	(*)	(*)			(*)	
S & J SLAUGHTERHOUSE	4346	(*)					
F K & SON INC	4353	(*)					
KLINCK BROS INC	4354	(*)					
DONALD H CLOY	4355	(*)	(*)				
BERNACKI BROS	4358	(*)	(*)				
SMITH PACKING CO	4371	(*)				(*)	
CARLSON BROTHERS MEATS INC	4372	(*)				(*)	
J H BOSTWICK AND SONS INC	4373	(*)					
ROBERT & RONALD VAN CAMP	4374	(*)	(*)	(*)			
SIPPERLY BROS INC	4388	(*)					
NESSLE BROTHERS MEATS	4389	(*)	(*)				
WALLKILL CORRECTIONAL FACILITY	4416	(*)					
KARL'S SLAUGHTERHOUSE	4418	(*)				(*)	
FIORENTINO BROS MEAT PROCESSORS	4419	(*)					
L & C MEATS CO	4421	(*)					
LEWIS A IVES	4422	(*)	(*)	(*)			
LOFFT'S MARKET	4423	(*)	(*)	(*)		(*)	
HERBERT M ZIFF INC	4424	(*)	(*)				
SHAPPEE'S MEAT PLANT	4426	(*)	(*)		(*)		
P BRENNAN INC	4429	(*)			(*)	(*)	
WILLIAM G MEAT PACKING CO	4431	(*)	(*)		(*)		
GREEN HAVEN CORRECTIONAL FACILITY	4463	(*)					
FRANK BROTHERS FARM INC	4464	(*)			(*)	(*)	
NOHER CUSTOM SLAUGHTERING	4468	(*)	(*)				
KAMERY'S WHOLESALE MEATS	4470	(*)	(*)	(*)	(*)	(*)	
FREDERICK BOND	4471	(*)	(*)				
PACKER'S WHOLESALE MEATS	4473	(*)					
GREENVILLE PACKING CORPORATION	4474	(*)					
LUTZ PACKERS INC	4475	(*)	(*)			(*)	
BRICCETTI'S BEDFORD MARKET	4476	(*)	(*)				
JOSEF MEILLER'S SLAUGHTERHOUSE INC	4477	(*)	(*)			(*)	
CROGHAN MEAT MARKET INC	4480	(*)					
F J LEWIS	4482	(*)	(*)	(*)			
HOKAN'S SLAUGHTERHOUSE	4483	(*)	(*)				
STEINER PACKING CO INC	4486	(*)	(*)	(*)	(*)	(*)	
VICTORIA POLYNIAK	4488	(*)				(*)	
STEIGER'S SLAUGHTER HOUSE	4489	(*)	(*)	(*)		(*)	
ORLEANS MEAT PROCESSING CO	4490	(*)	(*)	(*)	(*)		
PAT ROBUSTJN INC	4491	(*)					
DILLION'S SLAUGHTER HOUSE	4492	(*)	(*)				
E D BEADLES SLAUGHTER HOUSE	4493	(*)					
TRI-TOWN CORPORATION	4499	(*)	(*)	(*)		(*)	
RADEL'S MEAT MARKET	4517	(*)					
CUDLIN'S MARKET	4528	(*)	(*)	(*)		(*)	
CLIFFORD H SCHRADER	4529	(*)					
JOHN BRITT	4530	(*)					
STATE UNIV OF NEW YORK AT ALFRED AGRI & TECH	4531	(*)	(*)	(*)			
OWASCO MEAT CO	4532	(*)				(*)	
MAPLE GROVE FARMS	4533	(*)	(*)				
GORHAM PACKING CORPORATION	4534	(*)	(*)			(*)	
TEAR'S MARKET	4535	(*)	(*)	(*)	(*)	(*)	
SOUTH DAYTON MEAT MARKET	4540	(*)					
MANWARING'S CUSTOM PROCESSING	4541	(*)	(*)	(*)	(*)	(*)	
LAZY FARMS INC	4542	(*)	(*)				
THE HILLSDALE PACKING CO INC	4546	(*)	(*)				
GREENBRIER FOODS INC	4593	(*)		(*)		(*)	
MULLEN'S SLAUGHTERHOUSE	4623	(*)	(*)				
FORD BROS WHOLESALE MEATS INC	4625	(*)	(*)				

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
MILFORD MEAT P[illegible]	4633	(*)	(*)			(*)	
HARSAW PACKING [illegible]	4638	(*)					
RITE WAY MEAT P[illegible] INC	4662	(*)	(*)	(*)		(*)	
STRANDBURG'S WHOLESALE MEATS	4666	(*)	(*)		(*)	(*)	
SUFFOLK COUNTY FARM CORP	4675	(*)				(*)	
KENNEDY MEAT [illegible]	4677	(*)	(*)			(*)	
HOBART'S KERRY [illegible] SERVICE	4679	(*)	(*)		(*)		
POTTER PACKING [illegible] INC	4689	(*)				(*)	
LILLIES WHOLE[illegible] MEATS	4697	(*)	(*)				
FRANK DEMARTINO & SON & SONS	4707	(*)					
SOUTHINGTON PA[illegible] PKG CO	4708	(*)	(*)	(*)	(*)	(*)	
DAN BROOK PACK[illegible] CO	4709	(*)	(*)	(*)		(*)	
MAURICE'S COUNTRY MEAT MARKET	4714	(*)	(*)	(*)	(*)		
LECCE PACKING [illegible]	4715	(*)	(*)	(*)	(*)	(*)	
C & J FARMS	4716	(*)	(*)	(*)	(*)	(*)	
UNIV OF CONNECTICUT MEAT LABORATORY	4717	(*)	(*)	(*)		(*)	
DON J LYNCH PACKING HOUSE	4727	(*)	(*)		(*)		
MATTICE'S SLAUGHTERHOUSE	4728	(*)	(*)	(*)	(*)		
ESSEX AGRICULTURAL & TECHNICAL INSTITUTE	4751	(*)	(*)	(*)		(*)	
WARRINGTON FARM	4752	(*)	(*)			(*)	
K & R MEAT SHOP	4763	(*)		(*)		(*)	
HARSTELLER'S FARM MEATS	4776	(*)	(*)				
ROBERT E RILEY	4788	(*)	(*)				
RUSSELL MEAT PACKING INC	4789	(*)	(*)			(*)	
ROSE VALLEY FARM	4791	(*)	(*)	(*)		(*)	
CURRY COUNTY PACKERS INC	4602	(*)	(*)	(*)	(*)	(*)	
JOEY PAUL DBA [illegible] MOUNTAIR PROCESSORS INC	4804	(*)	(*)	(*)		(*)	
DON HERD'S BIG CREEK PACKING CO	4805	(*)	(*)	(*)		(*)	
GREAT WESTERN [illegible] CO	E 4816						(*)
CATTLEMAN'S CHOICE BEEF & PORK OUTLET	4819	(*)	(*)			(*)	
CALIFORNIA STATE [illegible] SAN LUIS OBISPO	4869	(*)		(*)		(*)	
CALIFORNIA STATE POLYTECHNIC UNIV POMONA	4902	(*)	(*)	(*)		(*)	
KLAPP'S COUNTRY MARKET & PACKING HOUSE	4903	(*)	(*)	(*)	(*)	(*)	
RICKERT MEAT [illegible]	4982	(*)	(*)	(*)		(*)	
SELECTED MEAT PACKERS INC	5109	(*)				(*)	
DOUBLE A MEAT PACKING CO	5162	(*)	(*)	(*)	(*)	(*)	
ANTHONY PARRILLI INC	5193	(*)	(*)	(*)	(*)	(*)	
RALPH PACKING CO INC	5228	(*)	(*)				
JOHNSTON DRESSED BEEF & VEAL CO INC	5300	(*)	(*)	(*)	(*)		
HAYES PACKING CORPORATION	5301	(*)	(*)				
GEO WALDENMAIER & SONS	5327			(*)	(*)		
A ARENA & SONS INC	5346	(*)					
S MARESCA & SONS INC	5416	(*)	(*)	(*)	(*)		
SALEM PACKING CO	5425	(*)	(*)	(*)		(*)	
BRINGHURST BROS INC	5426	(*)	(*)	(*)	(*)	(*)	
VINELAND DRESSED BEEF INC	5430	(*)	(*)	(*)			
WHIPPANY MEAT PACKING INC	5437	(*)				(*)	
KLEEMEYER & METZ INC	5439	(*)					
MUENCH MEATS & SONS CO	5442	(*)					
SIEGEL BROS INC	5457	(*)	(*)	(*)			
BUTTER LANE FARM	5462	(*)					
MARLBORO PSYCHIATRIC HOSPITAL	5464	(*)				(*)	
PERSON'S PROCESSING	5469	(*)	(*)		(*)	(*)	
RUSSO PACKING CO	5471	(*)	(*)	(*)	(*)		
RUSSO PACKING CO	5471A	(*)					
WINCHESTER PACKING CO INC	5500	(*)				(*)	
PAULLINA BEEF PROCESSORS INC	5501	(*)					
MORELAND & MAY PROCESSING PLANT	5507	(*)	(*)			(*)	
AMEND PACKING CO	5509	(*)					
GIBBON PACKING CO	5511	(*)					
HERB'S LOCKER & SLAUGHTER INC	5514	(*)					
CENTRAL FOODS INC	5519	(*)	(*)			(*)	
NEWLETT WHOLESALE MEATS	5524	(*)	(*)				
CASE MEAT PROCESSING	5530	(*)	(*)			(*)	
SIOUX-PREME PACKING CO	5537					(*)	
JACK POLEN PACKING CO	5548	(*)					
IOLA MEAT PROCESSORS INC	5555	(*)					
THE FANESTIL PACKING CO INC	5562	(*)					

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
HAVILAND BROS PACKING CO INC	5565	(*)	(*)	(*)		(*)	
TAMA MEAT PACKING CORPORATION	5569	(*)					
STANKO PACKING CO	5572	(*)					
BUTCHERS INC	5575	(*)	(*)	(*)	(*)	(*)	
GRABILL COUNTRY MEATS #1 INC	5593	(*)		(*)	(*)		
WIMMER'S MEAT PRODUCTS INC	5601	(*)	(*)	(*)	(*)	(*)	
HERMAN THE GERMAN SLAUGHTERHOUSE	5604	(*)	(*)	(*)		(*)	
JACK'S PROCESSING	5608	(*)		(*)		(*)	
URO COLD STORAGE	5610	(*)				(*)	
JOHNSON'S FROZEN FOODS	5612	(*)	(*)	(*)	(*)	(*)	
JIMMY DEAN MEAT CO INC	5614					(*)	
DE LUCA PACKING CO INC	5621	(*)	(*)	(*)		(*)	
ALBION LOCKERS	5622	(*)		(*)	(*)	(*)	
ALEXANDRIA PACKING CO	5623	(*)	(*)	(*)		(*)	
BRAATEN & PALMER MEATS	5626	(*)	(*)	(*)	(*)	(*)	
GOERTZEN'S PROCESSING	5630	(*)	(*)	(*)	(*)	(*)	
CARLSON'S INC	5632	(*)	(*)	(*)	(*)	(*)	
OSAKIS MEAT & PROCESSING	5633	(*)	(*)	(*)	(*)	(*)	
DUTY PACKING CO INC	5634	(*)		(*)		(*)	
GRUNKEMEYER MEATS	5635	(*)				(*)	
DTTE PACKING	5638	(*)	(*)	(*)		(*)	
E & E MEATS PROCESSING	5639	(*)		(*)		(*)	
F & S SAUSAGE CO INC	5640	(*)		(*)	(*)	(*)	
JOHNSON STEAK MASTER	5641	(*)		(*)	(*)	(*)	
DESHLER ZERO PANTRY	5645	(*)					
PETERSON'S LOCKERS INC	5647	(*)		(*)		(*)	
TATUM'S PROCESSING PLANT	5649	(*)	(*)	(*)		(*)	
CUSTOM PACK INC	5650	(*)	(*)	(*)			
ANDERSON'S LOCKER & PACKING CO INC	5651	(*)				(*)	
CITY MEAT MARKET INC	5652	(*)	(*)	(*)		(*)	
UERLING LOCKER	5653	(*)				(*)	
BELINDE'S LOCKER PLANT	5654	(*)		(*)		(*)	
EPLER MERCANTILE CO	5655	(*)		(*)	(*)	(*)	
KIMBALL LOCKERS	5656	(*)		(*)		(*)	
TRAUTMAN'S MEAT CENTER INC	5657	(*)		(*)	(*)	(*)	
UNIV OF NEBRASKA LOEFFEL MEAT LABORATORY	5658	(*)		(*)		(*)	
BUTLER'S BEEF ACRES	5660	(*)	(*)	(*)	(*)	(*)	
ROMAN PACKING CO INC	5662	(*)	(*)	(*)	(*)	(*)	
PETERSBURG LOCKER INC	5668	(*)	(*)	(*)		(*)	
MERTZ MEAT MARKET	5671	(*)	(*)	(*)		(*)	
YOST PACK INC	5672	(*)	(*)	(*)	(*)	(*)	
HOLLSTEIN PACKING CO	5673	(*)	(*)	(*)		(*)	
HASTINGS MEAT SUPPLY INC	5674	(*)				(*)	
KREIMER'S STORE	5681	(*)	(*)	(*)		(*)	
TECUMSEH LOCKER	5682	(*)	(*)	(*)	(*)	(*)	
VALENTINE LOCKER	5683	(*)	(*)	(*)		(*)	
WAKEFIELD LOCKER SERVICE	5685	(*)					
WAUSA LOCKERS	5686	(*)	(*)	(*)		(*)	
IOWA PORK INDUSTRIES INC	5689	(*)				(*)	
HAROLD'S GROCERY & LOCKER	5693	(*)					
BIRDGE & ZIMMERMAN INC	5700	(*)	(*)	(*)	(*)	(*)	
HAVLIK'S LOCKER PLANT	5729	(*)		(*)		(*)	
BANFIELD OF TULSA INC	5763	(*)	(*)	(*)		(*)	
SHERMAN CUSTOM SLAUGHTERING	5764	(*)				(*)	
ALEWEL'S INC	5766	(*)		(*)		(*)	
LEROY'S SLAUGHTER	5767	(*)					
V-B MEAT CO	5769	(*)	(*)	(*)	(*)	(*)	
PERRYVILLE PACKING CO	5770	(*)	(*)	(*)	(*)	(*)	
HASTY PACKING CO	5772	(*)	(*)	(*)		(*)	
KAHRE & SONS SLAUGHTERING & PROCESSING	5775	(*)	(*)	(*)	(*)	(*)	
FRIGID FOOD SERVICE	5776	(*)		(*)	(*)	(*)	
UNIVERSITY OF MISSOURI FS & N DEPT	5777	(*)		(*)		(*)	
SPRAGUE SLAUGHTER HOUSE	5779	(*)	(*)	(*)		(*)	
EDENS DUTCH PACKING CO	5781	(*)	(*)	(*)	(*)	(*)	
THE DEEP-FREEZE INC	5782	(*)		(*)	(*)	(*)	
LUMLEY LOCKER	5788	(*)		(*)		(*)	
SEATON MEAT CO	5791	(*)		(*)	(*)	(*)	
PARIS LOCKER & ABATTOIR	5795	(*)		(*)		(*)	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
MILFORD MEAT P[illegible]	4633	(*)	(*)			(*)	
HARSAW PACKING [illegible]	4638	(*)					
RITE WAY MEAT P[illegible] INC	4662	(*)	(*)	(*)		(*)	
STRANDBURG'S WHOLESALE MEATS	4666	(*)	(*)		(*)	(*)	
SUFFOLK COUNTY FARM CORP	4675	(*)				(*)	
KENNEDY MEAT [illegible]	4677	(*)	(*)			(*)	
HOBART'S KERRY [illegible] SERVICE	4679	(*)	(*)		(*)		
POTTER PACKING [illegible] INC	4689	(*)				(*)	
LILLIES WHOLE[illegible] MEATS	4697	(*)	(*)				
FRANK DEMARTINO & SON & SONS	4707	(*)					
SOUTHINGTON PA[illegible] PKG CO	4708	(*)	(*)	(*)	(*)	(*)	
DAN BROOK PACK[illegible] CO	4709	(*)	(*)	(*)		(*)	
MAURICE'S COUNTRY MEAT MARKET	4714	(*)	(*)	(*)	(*)		
LECCE PACKING [illegible]	4715	(*)	(*)	(*)	(*)	(*)	
C & J FARMS	4716	(*)	(*)	(*)	(*)	(*)	
UNIV OF CONNECTICUT MEAT LABORATORY	4717	(*)	(*)	(*)		(*)	
DON J LYNCH PACKING HOUSE	4727	(*)	(*)		(*)		
MATTICE'S SLAUGHTERHOUSE	4728	(*)	(*)	(*)	(*)		
ESSEX AGRICULTURAL & TECHNICAL INSTITUTE	4751	(*)	(*)	(*)		(*)	
WARRINGTON FARM	4752	(*)	(*)			(*)	
K & R MEAT SHOP	4763	(*)		(*)		(*)	
HARSTELLER'S FARM MEATS	4776	(*)	(*)				
ROBERT E RILEY	4788	(*)	(*)				
RUSSELL MEAT PACKING INC	4789	(*)	(*)			(*)	
ROSE VALLEY FARM	4791	(*)	(*)	(*)		(*)	
CURRY COUNTY PACKERS INC	4602	(*)	(*)	(*)	(*)	(*)	
JOEY PAUL DBA [illegible] MOUNTAIR PROCESSORS INC	4804	(*)	(*)	(*)		(*)	
DON HERD'S BIG CREEK PACKING CO	4805	(*)	(*)	(*)		(*)	
GREAT WESTERN [illegible] CO	E 4816						(*)
CATTLEMAN'S CHOICE BEEF & PORK OUTLET	4819	(*)	(*)			(*)	
CALIFORNIA STATE [illegible] SAN LUIS OBISPO	4869	(*)		(*)		(*)	
CALIFORNIA STATE POLYTECHNIC UNIV POMONA	4902	(*)	(*)	(*)		(*)	
KLAPP'S COUNTRY MARKET & PACKING HOUSE	4903	(*)	(*)	(*)	(*)	(*)	
RICKERT MEAT [illegible]	4982	(*)	(*)	(*)		(*)	
SELECTED MEAT PACKERS INC	5109	(*)				(*)	
DOUBLE A MEAT PACKING CO	5162	(*)	(*)	(*)	(*)	(*)	
ANTHONY PARRILLI INC	5193	(*)	(*)	(*)	(*)	(*)	
RALPH PACKING CO INC	5228	(*)	(*)				
JOHNSTON DRESSED BEEF & VEAL CO INC	5300	(*)	(*)	(*)	(*)		
HAYES PACKING CORPORATION	5301	(*)	(*)				
GEO WALDENMAIER & SONS	5327			(*)	(*)		
A ARENA & SONS INC	5346	(*)					
S MARESCA & SONS INC	5416	(*)	(*)	(*)	(*)		
SALEM PACKING CO	5425	(*)	(*)	(*)		(*)	
BRINGHURST BROS INC	5426	(*)	(*)	(*)	(*)	(*)	
VINELAND DRESSED BEEF INC	5430	(*)	(*)	(*)			
WHIPPANY MEAT PACKING INC	5437	(*)				(*)	
KLEEMEYER & METZ INC	5439	(*)					
MUENCH MEATS & SONS CO	5442	(*)					
SIEGEL BROS INC	5457	(*)	(*)	(*)			
BUTTER LANE FARM	5462	(*)					
MARLBORO PSYCHIATRIC HOSPITAL	5464	(*)				(*)	
PERSON'S PROCESSING	5469	(*)	(*)		(*)	(*)	
RUSSO PACKING CO	5471	(*)	(*)	(*)	(*)		
RUSSO PACKING CO	5471A	(*)					
WINCHESTER PACKING CO INC	5500	(*)				(*)	
PAULLINA BEEF PROCESSORS INC	5501	(*)					
MORELAND & MAY PROCESSING PLANT	5507	(*)	(*)			(*)	
AMEND PACKING CO	5509	(*)					
GIBBON PACKING CO	5511	(*)					
HERB'S LOCKER & SLAUGHTER INC	5514	(*)					
CENTRAL FOODS INC	5519	(*)	(*)			(*)	
NEWLETT WHOLESALE MEATS	5524	(*)	(*)				
CASE MEAT PROCESSING	5530	(*)	(*)			(*)	
SIOUX-PREME PACKING CO	5537					(*)	
JACK POLEN PACKING CO	5548	(*)					
IOLA MEAT PROCESSORS INC	5555	(*)					
THE FANESTIL PACKING CO INC	5562	(*)					

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
HAVILAND BROS PACKING CO INC	5565	(*)	(*)	(*)		(*)	
TAMA MEAT PACKING CORPORATION	5569	(*)					
STANKO PACKING CO	5572	(*)					
BUTCHERS INC	5575	(*)	(*)	(*)	(*)	(*)	
GRABILL COUNTRY MEATS #1 INC	5593	(*)		(*)	(*)		
WIMMER'S MEAT PRODUCTS INC	5601	(*)	(*)	(*)	(*)	(*)	
HERMAN THE GERMAN SLAUGHTERHOUSE	5604	(*)	(*)	(*)		(*)	
JACK'S PROCESSING	5608	(*)		(*)		(*)	
URO COLD STORAGE	5610	(*)				(*)	
JOHNSON'S FROZEN FOODS	5612	(*)	(*)	(*)	(*)	(*)	
JIMMY DEAN MEAT CO INC	5614					(*)	
DE LUCA PACKING CO INC	5621	(*)	(*)	(*)		(*)	
ALBION LOCKERS	5622	(*)		(*)	(*)	(*)	
ALEXANDRIA PACKING CO	5623	(*)	(*)	(*)		(*)	
BRAATEN & PALMER MEATS	5626	(*)	(*)	(*)	(*)	(*)	
GOERTZEN'S PROCESSING	5630	(*)	(*)	(*)	(*)	(*)	
CARLSON'S INC	5632	(*)	(*)	(*)	(*)	(*)	
OSAKIS MEAT & PROCESSING	5633	(*)	(*)	(*)	(*)	(*)	
DUTY PACKING CO INC	5634	(*)		(*)		(*)	
GRUNKEMEYER MEATS	5635	(*)				(*)	
DTTE PACKING	5638	(*)	(*)	(*)		(*)	
E & E MEATS PROCESSING	5639	(*)		(*)		(*)	
F & S SAUSAGE CO INC	5640	(*)		(*)	(*)	(*)	
JOHNSON STEAK MASTER	5641	(*)		(*)	(*)	(*)	
DESHLER ZERO PANTRY	5645	(*)					
PETERSON'S LOCKERS INC	5647	(*)		(*)		(*)	
TATUM'S PROCESSING PLANT	5649	(*)	(*)	(*)		(*)	
CUSTOM PACK INC	5650	(*)	(*)	(*)			
ANDERSON'S LOCKER & PACKING CO INC	5651	(*)				(*)	
CITY MEAT MARKET INC	5652	(*)	(*)	(*)		(*)	
UERLING LOCKER	5653	(*)				(*)	
BELINDE'S LOCKER PLANT	5654	(*)		(*)		(*)	
EPLER MERCANTILE CO	5655	(*)		(*)	(*)	(*)	
KIMBALL LOCKERS	5656	(*)		(*)		(*)	
TRAUTMAN'S MEAT CENTER INC	5657	(*)		(*)	(*)	(*)	
UNIV OF NEBRASKA LOEFFEL MEAT LABORATORY	5658	(*)		(*)		(*)	
BUTLER'S BEEF ACRES	5660	(*)	(*)	(*)	(*)	(*)	
ROMAN PACKING CO INC	5662	(*)	(*)	(*)	(*)	(*)	
PETERSBURG LOCKER INC	5668	(*)	(*)	(*)		(*)	
MERTZ MEAT MARKET	5671	(*)	(*)	(*)		(*)	
YOST PACK INC	5672	(*)	(*)	(*)	(*)	(*)	
HOLLSTEIN PACKING CO	5673	(*)	(*)	(*)		(*)	
HASTINGS MEAT SUPPLY INC	5674	(*)				(*)	
KREIMER'S STORE	5681	(*)	(*)	(*)		(*)	
TECUMSEH LOCKER	5682	(*)	(*)	(*)	(*)	(*)	
VALENTINE LOCKER	5683	(*)	(*)	(*)		(*)	
WAKEFIELD LOCKER SERVICE	5685	(*)					
WAUSA LOCKERS	5686	(*)	(*)	(*)		(*)	
IOWA PORK INDUSTRIES INC	5689	(*)				(*)	
HAROLD'S GROCERY & LOCKER	5693	(*)					
BIRDGE & ZIMMERMAN INC	5700	(*)	(*)	(*)	(*)	(*)	
HAVLIK'S LOCKER PLANT	5729	(*)		(*)		(*)	
BANFIELD OF TULSA INC	5763	(*)	(*)	(*)		(*)	
SHERMAN CUSTOM SLAUGHTERING	5764	(*)				(*)	
ALEWEL'S INC	5766	(*)		(*)		(*)	
LEROY'S SLAUGHTER	5767	(*)					
V-B MEAT CO	5769	(*)	(*)	(*)	(*)	(*)	
PERRYVILLE PACKING CO	5770	(*)	(*)	(*)	(*)	(*)	
HASTY PACKING CO	5772	(*)	(*)	(*)		(*)	
KAHRE & SONS SLAUGHTERING & PROCESSING	5775	(*)	(*)	(*)	(*)	(*)	
FRIGID FOOD SERVICE	5776	(*)		(*)	(*)	(*)	
UNIVERSITY OF MISSOURI FS & N DEPT	5777	(*)		(*)		(*)	
SPRAGUE SLAUGHTER HOUSE	5779	(*)	(*)	(*)		(*)	
EDENS DUTCH PACKING CO	5781	(*)	(*)	(*)	(*)	(*)	
THE DEEP-FREEZE INC	5782	(*)		(*)	(*)	(*)	
LUMLEY LOCKER	5788	(*)		(*)		(*)	
SEATON MEAT CO	5791	(*)		(*)	(*)	(*)	
PARIS LOCKER & ABATTOIR	5795	(*)		(*)		(*)	

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NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
DALE'S PACKING CO	5797	(*)	(*)				
MORVS MEAT PRODUCTS	5798	(*)	(*)	(*)	(*)	(*)	
ROWE PACKING CO	5801	(*)		(*)		(*)	
ST LOUIS MEATS INC	5807	(*)				(*)	
MARSAW MEAT PROCESSING CO INC	5812	(*)		(*)	(*)	(*)	
SCHLESWIG SAUSAGE INC	5813	(*)				(*)	
KUNBURGE LOCKER SERVICE	5820	(*)	(*)			(*)	
MOTT'S FOOD LOCKERS ABATTOIR	5821	(*)				(*)	
SKRESTON SLAUGHTERHOUSE	5824	(*)	(*)				
HOGHESVILLE SLAUGHTER PLANT	5826	(*)	(*)	(*)	(*)	(*)	
FOOS BROS INC SLAUGHTER HOUSE	5827	(*)	(*)	(*)		(*)	
LOFT'S LOCKER PLANT	5835	(*)				(*)	
GIBSON PACKING CO	5843	(*)	(*)			(*)	
C & C MEATS	5848	(*)				(*)	
WINNER PROCESSING	5857	(*)				(*)	
WINLOCK PORK PRODUCTS	5900					(*)	
CENTAUR FOODS INC	5907	(*)	(*)			(*)	
JOSEPH CHIU	5910	(*)	(*)			(*)	
DE VRIES MEAT PACKING	5911	(*)	(*)	(*)	(*)	(*)	
JOHN MARCACCI	5913	(*)	(*)	(*)	(*)	(*)	
BRISTOL BEEF	5998	(*)	(*)	(*)	(*)	(*)	
J CAGLIARDI INC	5999		(*)	(*)			
ARIZONA BEEF CO	6001	(*)	(*)				
C C PARKE & SONS CO	6003	(*)	(*)				
UNIVERSITY OF NEVADA ANIMAL SCIENCE DIVISION	6004	(*)	(*)	(*)		(*)	
FORNER MEAT CO INC	6011	(*)	(*)			(*)	
UNIVERSITY OF CALIF-DEPT OF ANIMAL SCIENCE	6012	(*)	(*)	(*)		(*)	
SONOMA VALLEY MEAT CO	6016	(*)	(*)	(*)	(*)	(*)	
BOISE MEAT PACKING CO	6017	(*)	(*)	(*)	(*)	(*)	
MOUNT VERNON MEAT CO INC	6039	(*)	(*)				
PASCO MEAT PACKERS INC	6040	(*)	(*)			(*)	
WEBER INC	6041	(*)	(*)	(*)	(*)	(*)	
ROSE PACK INC	6042	(*)	(*)	(*)		(*)	
FLORENCE PACKING CO INC	E 6043					(*)	
DAVIS MEAT CO	6044	(*)	(*)			(*)	
ARIA MEAT CO	6046	(*)	(*)				
SAFFLOY MEAT PACKING CO	6055	(*)	(*)	(*)		(*)	
SCHENK PACKING CO	6056	(*)	(*)	(*)		(*)	
TRAKE MEAT CO	6063	(*)	(*)				
REDWOOD MEAT CO	6066	(*)	(*)	(*)	(*)	(*)	
CRANVIEW PACKING CO	6083	(*)	(*)	(*)		(*)	
ARNOPOLE MEAT CO	6084	(*)	(*)			(*)	
STILSON MEATS	6094	(*)	(*)				
G & G MEATS	6099	(*)	(*)				
KRATZIG MEAT CO	6110	(*)	(*)	(*)	(*)	(*)	
ARNOLD MEAT CO	6113	(*)	(*)	(*)		(*)	
MID-CAVE MEAT PACKING CO	6114	(*)	(*)			(*)	
CEDAR PACKING CO	6118	(*)	(*)	(*)	(*)	(*)	
CUYAMACA MEAT CO	6126	(*)	(*)				
T P PACKING CO	6173	(*)	(*)				
LEWIS MEATS	6175	(*)	(*)	(*)		(*)	
R & R LOCKER PLANT	6228	(*)		(*)		(*)	
TRI MILLER PACK	6230	(*)	(*)	(*)		(*)	
THE MEAT HOUSE	6237	(*)	(*)	(*)	(*)	(*)	
EVANS MEAT CO	6243	(*)					
VALLEY MEAT CO	6269	(*)	(*)	(*)	(*)	(*)	
MC CARY MEATS	6270	(*)	(*)	(*)	(*)	(*)	
STILLWATER PACKING CO	6271	(*)		(*)		(*)	
BIG SKY MARKET	6277	(*)		(*)		(*)	
J T TRELEGAN CO	6343				(*)		
WARCSIT ABATTOIR	6344	(*)	(*)				
E L BLOOD & SON	6354	(*)	(*)	(*)	(*)	(*)	
BUDDY'S MEATS & PROVISIONS	6359	(*)	(*)	(*)	(*)	(*)	
ISRAEL SHEINMIT PACKING CO	6369	(*)	(*)				
JOHN SCALA	6376	(*)	(*)				
GOLDEN DALE RANCH MEAT CO	6411	(*)	(*)	(*)		(*)	
RICE MEAT PACKING CO	6413	(*)	(*)	(*)	(*)	(*)	
CALDWEATH PACKING CO	6420	(*)	(*)	(*)	(*)	(*)	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
WHOLESALE MEATS	6421	(*)	(*)	(*)	(*)		
MC KLENLEY MEAT PACKING CO	6423	(*)	(*)				
NORTHWEST PROCESSORS INC	E 6429						(*)
FOSS BROTHERS	6434	(*)	(*)	(*)	(*)	(*)	
WILDER PACKING PLANT	6445	(*)	(*)	(*)	(*)	(*)	
BIG COUNTRY MEAT	6446	(*)	(*)	(*)	(*)	(*)	
CREAGHE PACKING CO	6450	(*)		(*)	(*)	(*)	
WINDSOR PACKING CO	6452	(*)	(*)	(*)	(*)	(*)	
RIFLE PACKING PLANT	6453	(*)	(*)	(*)			
ELIZABETH LOCKER PLANT INC	6454	(*)	(*)	(*)	(*)	(*)	
SCANGA MEAT CO	6460	(*)	(*)	(*)		(*)	
T W PACKING	6462	(*)	(*)	(*)	(*)	(*)	
BRUSH PACKING PLANT	6463	(*)	(*)	(*)		(*)	
NELSON'S DRESSED MEATS	6470	(*)	(*)	(*)		(*)	
YORK'S MEAT	6482	(*)	(*)	(*)	(*)	(*)	
MORI WHOLESALE MEATS	6485	(*)	(*)	(*)	(*)	(*)	
K PACK MEAT CO	6487	(*)	(*)	(*)	(*)	(*)	
CARSON VALLEY MEAT CO	6491	(*)	(*)	(*)	(*)	(*)	
HOTCHKISS ICE & COLD STORAGE CO	6493	(*)	(*)	(*)		(*)	
QUALITY PACKING INC	6494	(*)	(*)	(*)	(*)	(*)	
HIGH QUALITY PACK	6495	(*)				(*)	
GREEN HILL INC	6513	(*)				(*)	
ELM HILL MEATS INC	6515	(*)				(*)	
GEORGE H MEYER SONS INC	6521	(*)	(*)	(*)		(*)	
GUARD HILL MEATS INC	6526	(*)	(*)	(*)	(*)	(*)	
MORRISTOWN PROVISION CO	6535	(*)	(*)			(*)	
GUNNOE SAUSAGE CO INC	6541					(*)	
DOOM SAUSAGE CO INC	6544					(*)	
K-M CO	6545	(*)					
SUFFOLK PACKING CO INC	6546	(*)	(*)	(*)			
MARTINS ABATTOIR & WHOLESALE MEATS	6547	(*)	(*)		(*)	(*)	
DAVIS COUNTRY SAUSAGE	6549	(*)	(*)				
NORMAN'S PACKING PLANT	6552	(*)	(*)				
THE WELLS CO INC	6554	(*)	(*)	(*)	(*)	(*)	
FAYETTE PACKING CO	6555	(*)	(*)	(*)	(*)	(*)	
GILBERT'S SLAUGHTER HOUSE	6556	(*)	(*)		(*)	(*)	
PENN HAVEN MEATS INC	6559	(*)				(*)	
HAYES PROCESSING PLANT	6560	(*)				(*)	
LINDSEY'S SLAUGHTER HOUSE	6561		(*)			(*)	
SAVANNAH PROCESSING & LOCKER	6562	(*)				(*)	
BOLIVAR PACKING CO	6563	(*)	(*)			(*)	
BROWN'S MEAT PLANT	6570	(*)				(*)	
BALTZ BROS PACKING CO INC	6573	(*)				(*)	
EDWARDS SAUSAGE CO INC	6579					(*)	
GLASGOW MARKET	6580			(*)		(*)	
M & G SLAUGHTER HOUSE	6582			(*)		(*)	
ROD'S PROCESSING CO	6584	(*)				(*)	
ELMORE COUNTY QUICK FREEZE	6585	(*)				(*)	
BROWN PACKING CO INC	6587	(*)	(*)				
RANDOLPH PACKING CO INC	6590	(*)	(*)	(*)	(*)	(*)	
LEDFORDS LIVESTOCK FARM SLAUGHTER PLANT	6591A	(*)	(*)	(*)		(*)	
QUAKER BRAND MEATS	6593				(*)		
WHITE PACKING CO	6595	(*)	(*)			(*)	
GROGAN MEAT CO	6598	(*)				(*)	
GREENBACK FOJO SPECIALTY	6601	(*)	(*)	(*)		(*)	
JAKES BROS SAUSAGE CO	6610					(*)	
MEEKS SLAUGHTER HOUSE	6612	(*)		(*)	(*)	(*)	
TENNESSEE VALLEY PACKING CO	6613					(*)	
PARKS HARRIS CO	6618		(*)	(*)	(*)	(*)	
OEAN SAUSAGE CO INC	6621					(*)	
MORRISSEY MEATS & PROVISIONS	6628	(*)	(*)	(*)	(*)		
BODNEVILLE PACKING CO	6635	(*)				(*)	
PETE'S MARKET	6636	(*)		(*)		(*)	
TUCKER'S SALSAGE	6643					(*)	
SPRING CREEK INC	6644		(*)			(*)	
BRASELTON PACKING	6652	(*)	(*)		(*)	(*)	
SAN JUAN MUNICIPAL SLAUGHTER HOUSE	6675	(*)	(*)		(*)	(*)	
MACELO DE HUMACAO	6676	(*)	(*)			(*)	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
DALE'S PACKING CO	5797	(*)	(*)				
MORVS MEAT PRODUCTS	5798	(*)	(*)	(*)	(*)	(*)	
ROWE PACKING CO	5801	(*)		(*)		(*)	
ST LOUIS MEATS INC	5807	(*)				(*)	
MARSAW MEAT PROCESSING CO INC	5812	(*)		(*)	(*)	(*)	
SCHLESWIG SAUSAGE INC	5813	(*)				(*)	
KUNBURGE LOCKER SERVICE	5820	(*)	(*)			(*)	
MOTT'S FOOD LOCKERS ABATTOIR	5821	(*)				(*)	
SKRESTON SLAUGHTERHOUSE	5824	(*)	(*)				
HOGHESVILLE SLAUGHTER PLANT	5826	(*)	(*)	(*)	(*)	(*)	
FOOS BROS INC SLAUGHTER HOUSE	5827	(*)	(*)	(*)		(*)	
LOFT'S LOCKER PLANT	5835	(*)				(*)	
GIBSON PACKING CO	5843	(*)	(*)			(*)	
C & C MEATS	5848	(*)				(*)	
WINNER PROCESSING	5857	(*)				(*)	
WINLOCK PORK PRODUCTS	5900					(*)	
CENTAUR FOODS INC	5907	(*)	(*)			(*)	
JOSEPH CHIU	5910	(*)	(*)			(*)	
DE VRIES MEAT PACKING	5911	(*)	(*)	(*)	(*)	(*)	
JOHN MARCACCI	5913	(*)	(*)	(*)	(*)	(*)	
BRISTOL BEEF	5998	(*)	(*)	(*)	(*)	(*)	
J CAGLIARDI INC	5999		(*)	(*)			
ARIZONA BEEF CO	6001	(*)	(*)				
C C PARKE & SONS CO	6003	(*)	(*)				
UNIVERSITY OF NEVADA ANIMAL SCIENCE DIVISION	6004	(*)	(*)	(*)		(*)	
FORNER MEAT CO INC	6011	(*)	(*)			(*)	
UNIVERSITY OF CALIF-DEPT OF ANIMAL SCIENCE	6012	(*)	(*)	(*)		(*)	
SONOMA VALLEY MEAT CO	6016	(*)	(*)	(*)	(*)	(*)	
BOISE MEAT PACKING CO	6017	(*)	(*)	(*)	(*)	(*)	
MOUNT VERNON MEAT CO INC	6039	(*)	(*)				
PASCO MEAT PACKERS INC	6040	(*)	(*)			(*)	
WEBER INC	6041	(*)	(*)	(*)	(*)	(*)	
ROSE PACK INC	6042	(*)	(*)	(*)		(*)	
FLORENCE PACKING CO INC	E 6043					(*)	
DAVIS MEAT CO	6044	(*)	(*)			(*)	
ARIA MEAT CO	6046	(*)	(*)				
SAFFLOY MEAT PACKING CO	6055	(*)	(*)	(*)		(*)	
SCHENK PACKING CO	6056	(*)	(*)	(*)		(*)	
TRAKE MEAT CO	6063	(*)	(*)				
REDWOOD MEAT CO	6066	(*)	(*)	(*)	(*)	(*)	
CRANVIEW PACKING CO	6083	(*)	(*)	(*)		(*)	
ARNOPOLE MEAT CO	6084	(*)	(*)			(*)	
STILSON MEATS	6094	(*)	(*)				
G & G MEATS	6099	(*)	(*)				
KRATZIG MEAT CO	6110	(*)	(*)	(*)	(*)	(*)	
ARNOLD MEAT CO	6113	(*)	(*)	(*)		(*)	
MID-CAVE MEAT PACKING CO	6114	(*)	(*)			(*)	
CEDAR PACKING CO	6118	(*)	(*)	(*)	(*)	(*)	
CUYAMACA MEAT CO	6126	(*)	(*)				
T P PACKING CO	6173	(*)	(*)				
LEWIS MEATS	6175	(*)	(*)	(*)		(*)	
R & R LOCKER PLANT	6228	(*)		(*)		(*)	
TRI MILLER PACK	6230	(*)	(*)	(*)		(*)	
THE MEAT HOUSE	6237	(*)	(*)	(*)	(*)	(*)	
EVANS MEAT CO	6243	(*)					
VALLEY MEAT CO	6269	(*)	(*)	(*)	(*)	(*)	
MC CARY MEATS	6270	(*)	(*)	(*)	(*)	(*)	
STILLWATER PACKING CO	6271	(*)		(*)		(*)	
BIG SKY MARKET	6277	(*)		(*)		(*)	
J T TRELEGAN CO	6343				(*)		
WARCSIT ABATTOIR	6344	(*)	(*)				
E L BLOOD & SON	6354	(*)	(*)	(*)	(*)	(*)	
BUDDY'S MEATS & PROVISIONS	6359	(*)	(*)	(*)	(*)	(*)	
ISRAEL SHEINMIT PACKING CO	6369	(*)	(*)				
JOHN SCALA	6376	(*)	(*)				
GOLDEN DALE RANCH MEAT CO	6411	(*)	(*)	(*)		(*)	
RICE MEAT PACKING CO	6413	(*)	(*)	(*)	(*)	(*)	
CALDWEATH PACKING CO	6420	(*)	(*)	(*)	(*)	(*)	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
WHOLESALE MEATS	6421	(*)	(*)	(*)	(*)		
MC KLENLEY MEAT PACKING CO	6423	(*)	(*)				
NORTHWEST PROCESSORS INC	E 6429						(*)
FOSS BROTHERS	6434	(*)	(*)	(*)	(*)	(*)	
WILDER PACKING PLANT	6445	(*)	(*)	(*)	(*)	(*)	
BIG COUNTRY MEAT	6446	(*)	(*)	(*)	(*)	(*)	
CREAGHE PACKING CO	6450	(*)		(*)	(*)	(*)	
WINDSOR PACKING CO	6452	(*)	(*)	(*)	(*)	(*)	
RIFLE PACKING PLANT	6453	(*)	(*)	(*)			
ELIZABETH LOCKER PLANT INC	6454	(*)	(*)	(*)	(*)	(*)	
SCANGA MEAT CO	6460	(*)	(*)	(*)		(*)	
T W PACKING	6462	(*)	(*)	(*)	(*)	(*)	
BRUSH PACKING PLANT	6463	(*)	(*)	(*)		(*)	
NELSON'S DRESSED MEATS	6470	(*)	(*)	(*)		(*)	
YORK'S MEAT	6482	(*)	(*)	(*)	(*)	(*)	
MORI WHOLESALE MEATS	6485	(*)	(*)	(*)	(*)	(*)	
K PACK MEAT CO	6487	(*)	(*)	(*)	(*)	(*)	
CARSON VALLEY MEAT CO	6491	(*)	(*)	(*)	(*)	(*)	
HOTCHKISS ICE & COLD STORAGE CO	6493	(*)	(*)	(*)		(*)	
QUALITY PACKING INC	6494	(*)	(*)	(*)	(*)	(*)	
HIGH QUALITY PACK	6495	(*)				(*)	
GREEN HILL INC	6513	(*)				(*)	
ELM HILL MEATS INC	6515	(*)				(*)	
GEORGE H MEYER SONS INC	6521	(*)	(*)	(*)		(*)	
GUARD HILL MEATS INC	6526	(*)	(*)	(*)	(*)	(*)	
MORRISTOWN PROVISION CO	6535	(*)	(*)			(*)	
GUNNOE SAUSAGE CO INC	6541					(*)	
DOOM SAUSAGE CO INC	6544					(*)	
K-M CO	6545	(*)					
SUFFOLK PACKING CO INC	6546	(*)	(*)	(*)			
MARTINS ABATTOIR & WHOLESALE MEATS	6547	(*)	(*)		(*)	(*)	
DAVIS COUNTRY SAUSAGE	6549	(*)	(*)				
NORMAN'S PACKING PLANT	6552	(*)	(*)				
THE WELLS CO INC	6554	(*)	(*)	(*)	(*)	(*)	
FAYETTE PACKING CO	6555	(*)	(*)	(*)	(*)	(*)	
GILBERT'S SLAUGHTER HOUSE	6556	(*)	(*)		(*)	(*)	
PENN HAVEN MEATS INC	6559	(*)				(*)	
HAYES PROCESSING PLANT	6560	(*)				(*)	
LINDSEY'S SLAUGHTER HOUSE	6561		(*)			(*)	
SAVANNAH PROCESSING & LOCKER	6562	(*)				(*)	
BOLIVAR PACKING CO	6563	(*)	(*)			(*)	
BROWN'S MEAT PLANT	6570	(*)				(*)	
BALTZ BROS PACKING CO INC	6573	(*)				(*)	
EDWARDS SAUSAGE CO INC	6579					(*)	
GLASGOW MARKET	6580			(*)		(*)	
M & G SLAUGHTER HOUSE	6582			(*)		(*)	
ROD'S PROCESSING CO	6584	(*)				(*)	
ELMORE COUNTY QUICK FREEZE	6585	(*)				(*)	
BROWN PACKING CO INC	6587	(*)	(*)				
RANDOLPH PACKING CO INC	6590	(*)	(*)	(*)	(*)	(*)	
LEDFORDS LIVESTOCK FARM SLAUGHTER PLANT	6591A	(*)	(*)	(*)		(*)	
QUAKER BRAND MEATS	6593				(*)		
WHITE PACKING CO	6595	(*)	(*)			(*)	
GROGAN MEAT CO	6598	(*)				(*)	
GREENBACK FOJO SPECIALTY	6601	(*)	(*)	(*)		(*)	
JAKES BROS SAUSAGE CO	6610					(*)	
MEEKS SLAUGHTER HOUSE	6612	(*)		(*)	(*)	(*)	
TENNESSEE VALLEY PACKING CO	6613					(*)	
PARKS HARRIS CO	6618		(*)	(*)	(*)	(*)	
OEAN SAUSAGE CO INC	6621					(*)	
MORRISSEY MEATS & PROVISIONS	6628	(*)	(*)	(*)	(*)		
BODNEVILLE PACKING CO	6635	(*)				(*)	
PETE'S MARKET	6636	(*)		(*)		(*)	
TUCKER'S SALSAGE	6643					(*)	
SPRING CREEK INC	6644		(*)			(*)	
BRASELTON PACKING	6652	(*)	(*)		(*)	(*)	
SAN JUAN MUNICIPAL SLAUGHTER HOUSE	6675	(*)	(*)		(*)	(*)	
MACELO DE HUMACAO	6676	(*)	(*)			(*)	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
ASOCIACION SUPLIDORES DE CARNES DEL OESTE	6677	(*)	(*)	(*)	(*)	(*)	
YAUCO MUNICIPAL GOVERNMENT	6678	(*)	(*)	(*)	(*)	(*)	
MANATI SLAUGHTER HOUSE	6679	(*)	(*)				
MUNICIPAL SLAUGHTER HOUSE	6680	(*)	(*)				(*)
MUNICIPALITY OF VIEQUES	6681	(*)					
MUNICIPALITY OF ARECIBO	6682	(*)					(*)
AGROPECUARIA DEL SUR INC	6684	(*)	(*)		(*)	(*)	
NAGUABO REGIONAL ABATTOIR	6686	(*)	(*)				(*)
SAN SEBASTIAN ABATTOIR	6687	(*)	(*)	(*)	(*)	(*)	
MACELO MUNICIPAL DE PONCE	6689	(*)	(*)	(*)	(*)	(*)	
MACELO DE COROZAL	6690	(*)	(*)				(*)
LARES SLAUGHTERHOUSE	6696	(*)	(*)	(*)	(*)	(*)	
PELE CITY MEAT PROCESSING	6728	(*)	(*)				(*)
PROVIN' DE PUERTO RICO INC	6729		(*)				
DICKSON COUNTY MEATS INC	6750	(*)		(*)		(*)	
STAR MEAT CO	6760						(*)
WALTER PACKING INC	6766	(*)					(*)
CALIHAN & CO	6775	(*)					
HICKS MEATS INC	6777	(*)	(*)	(*)		(*)	
THE ROSS ABATTOIR CO	6780	(*)	(*)	(*)			
BOB EVANS FARMS INC	6785						(*)
BERGNAN MEAT PACKING CO	6788	(*)	(*)				(*)
ILLINI BEEF PACKERS INC	6792	(*)					
BOB EVANS FARMS INC	6807						(*)
UTICA PACKING CO	6832						(*)
SIDNEY MEAT CO	6843	(*)					(*)
COLUMBIA PACKING CO INC	6853	(*)		(*)			
HARBURGER PACKING CO	6863	(*)					
LILY PACKING INC	6866	(*)					
HITCH PACKING CO INC	6887	(*)					
MILLER PROCESSING CO INC	6889	(*)	(*)	(*)	(*)	(*)	
COUNTRY PRIDE INC	E 6893						(*)
ROPAK INC	6901	(*)				(*)	
ECKERT'S INC	6917	(*)				(*)	
MEATXCOUP	E 6920						(*)
TRI STATE FOODS INC	6957	(*)					
THE CUYAHOGA MEAT CO	6963	(*)	(*)	(*)	(*)	(*)	
ADE MAY PACKING CO	6965	(*)		(*)		(*)	
SELECTED MEATS	6979	(*)	(*)				
FARMLAND FOOD SERVICES INC	6980	(*)					
WILLIAM P FROEHLICK	6982	(*)	(*)	(*)	(*)		
JUDSON PACK INC	6989	(*)	(*)	(*)		(*)	
PURDUE UNIVERSITY MEAT SCIENCE LABORATORY	6992	(*)		(*)		(*)	
SCHWARTZMAN PACKING CO	7003	(*)					
DENING PACKING CO INC	7005	(*)					(*)
CATTLEMEN'S MEAT PROCESSING CO	7007	(*)	(*)	(*)	(*)	(*)	
SURRATT PACKING CO INC	7009	(*)	(*)	(*)	(*)	(*)	
MUSKOGEE PACKING CO INC	7015	(*)	(*)	(*)	(*)		
HATCH PACKING CO INC	7021	(*)	(*)	(*)	(*)	(*)	
SIXTY-SIX PACKING CO	7023	(*)					(*)
WESTERN MEAT PACKERS INC	7028	(*)					(*)
KACHINA PACKING CO	7040	(*)		(*)	(*)	(*)	
BELTEX CORPORATION	E 7041						(*)
TAYLOR'S CUSTOM MEAT PROCESSORS INC	7048	(*)	(*)	(*)	(*)	(*)	
HARRYMAN'S MEAT PROCESSING	7052	(*)	(*)				(*)
ROCKING V BEEF INC	7054	(*)	(*)	(*)	(*)	(*)	
BROWN'S MEAT LOCKER	7055	(*)		(*)	(*)	(*)	
DONOHO BONELESS BEEF CO	7056	(*)	(*)	(*)	(*)	(*)	
BROWN PACKING CO INC	7064	(*)				(*)	
RUNYAN PACKING CO	7065	(*)	(*)	(*)	(*)	(*)	
P & S PACKING CO	7074	(*)	(*)			(*)	
TANKERSLEY BROS PACKING CO	7075	(*)	(*)	(*)	(*)	(*)	
COMMUNITY ABATTOIR INC	7075A	(*)	(*)	(*)	(*)	(*)	
HUGHSON MEAT CO INC	7086	(*)	(*)	(*)	(*)	(*)	
CLEMMIN MEATS	7090	(*)		(*)	(*)	(*)	
RANCHERS MARKETS INC ATHENS PROCESSING PLANT	7094	(*)	(*)			(*)	
TURVEY INC	7097	(*)					
E-TEX PACKING CO	7122	(*)	(*)				

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
FELICIANA MEAT SUPPLY	7128	(*)	(*)	(*)	(*)	(*)	
WINDTHORST FINE MEATS	7130	(*)		(*)	(*)	(*)	
COLORADO PACKING CO INC	7133	(*)	(*)				(*)
VALLEY MEAT SUPPLY & SERVICES	7138	(*)	(*)	(*)	(*)	(*)	
WICKHAM PACKING CO INC	7139	(*)	(*)				(*)
B & B PACKING CO	7146	(*)	(*)	(*)	(*)	(*)	
OSBURN PACKING CO	7150	(*)	(*)				(*)
DON MCDOWELL MEAT PACKING CO	7155	(*)					(*)
SOUTHERN MEAT PACKERS INC	7157						(*)
GREER'S INC	7159						(*)
BOOKER CUSTOM PACKING CO	7162	(*)	(*)		(*)	(*)	
BAUER & SON PACKING CO	7178	(*)	(*)				
ALL-STATE PACKING CO	7193	(*)	(*)		(*)		
SHALLOW PACKING CO INC	7201	(*)	(*)	(*)		(*)	
J W POSHEE DBA SINGLETREE FARMS	7203	(*)					(*)
CONCHO PACKING CO	7209	(*)	(*)	(*)	(*)	(*)	
COLUMBIA PACKING	7237	(*)	(*)				(*)
CORSICANA MEAT PACKING CO INC	7239		(*)				
AMERICAN PACKING CO INC	7248	(*)	(*)	(*)	(*)	(*)	
AMARILLO BEEF PROCESSORS INC	7254	(*)					
H & H PRODUCTS CO INC	7259	(*)	(*)	(*)		(*)	
FORREST MEAT PROCESSING	7270	(*)		(*)		(*)	
HOBSONS MEATS SLAUGHTER & PROCESSING	7274	(*)		(*)	(*)	(*)	
PALACE MEAT PACKING	7275	(*)				(*)	
PALO DURO MEAT PROCESSING INC	7282	(*)					
BEEVILLE PACKING CO	7283	(*)					
MONTGOMERY PACKING CO	7286	(*)					
THOMPSON PACKERS INC	7287	(*)		(*)			
PEOPLES BANK	7291	(*)				(*)	
CIRCLE A PACKING CO	7298	(*)				(*)	
KENTUCKY SAUSAGE CO INC	7300	(*)				(*)	
DUFFY BONELESS BEEF CO	7305	(*)	(*)				
METZGER PACKING CO INC	7306	(*)	(*)			(*)	
ENTERPRISE MEAT CO INC	7319	(*)	(*)				
CHEROKEE PACKING CO	7323	(*)	(*)			(*)	
OLE SALEM PACKING CO	7326	(*)				(*)	
MC BAR ACRES	7339						(*)
VAUGHN'S BEEF INC	7341	(*)					
JEFFERSON MEAT PROCESSING	7343	(*)	(*)			(*)	
DYER & WHITSON MEAT PROCESSORS	7345	(*)	(*)			(*)	
J-F-J PROCESSORS	7379	(*)	(*)		(*)	(*)	
ST THOMAS ABATTOIR	7385	(*)	(*)	(*)	(*)	(*)	
SAN GERMAN SLAUGHTERHOUSE	7386	(*)	(*)	(*)	(*)	(*)	
CABO ROJO MUNICIPAL SLAUGHTERHOUSE	7387	(*)	(*)	(*)	(*)	(*)	
QUEBRADILLAS MUNICIPAL SLAUGHTER HOUSE	7388	(*)	(*)	(*)	(*)	(*)	
MACELO DE AIBONITO	7390	(*)	(*)		(*)	(*)	
COLEMAN SAUSAGE CO	7401						(*)
HENRY W STAPF INC	7402		(*)				
HARRISONBURG WHOLESALE MEAT CO	7420	(*)	(*)	(*)	(*)	(*)	
DUFFEY SAUSAGE CO	7424	(*)					(*)
HAMPTON MEAT PROCESSING	7429	(*)	(*)	(*)		(*)	
SHARON FROZEN FOOD LOCKER	7430	(*)	(*)	(*)		(*)	
DINNER BELL MEAT PRODUCTS	7440	(*)	(*)	(*)		(*)	
BLUE RIDGE BEEF PLANT INC	7445	(*)					
BLUE RIDGE BEEF PLANT INC	7445A	(*)					
WILLIAMS SAUSAGE CO	7455						(*)
TITANGEL ABATTOIR	7462		(*)				(*)
F B PURNELL SAUSAGE CO INC	7464	(*)			(*)	(*)	
DIAMOND MEAT CO INC	7465	(*)		(*)		(*)	
FIELD PACKING CO	7467	(*)					
H & R CUSTOM SLAUGHTERING	7472	(*)				(*)	
BRUNDIDGE SAUSAGE CO	7475						(*)
TENNESSEE PACKERS & PROCESSORS	7482	(*)	(*)				
DANVILLE MEAT PRODUCTS CO	7486	(*)				(*)	
DUGGARD'S MEAT PROCESSING INC	7493	(*)	(*)		(*)	(*)	
HOERTER & SON	7497		(*)				
T M LANDIS INC	7517	(*)	(*)	(*)			
DEALAMAN ENTERPRISES INC	7562	(*)	(*)	(*)	(*)	(*)	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE

V 43/187 SE 26 78

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
CA[illegible]ER-HA[illegible] CO	7576	(*)					
DAKOTA PACKING CO	7600	(*)		(*)		(*)	
A[illegible] MEAT PROCESSING CO	7601	(*)	(*)	(*)		(*)	
M & N BEEF PACKERS	7602	(*)	(*)				
MISSOURI VALLEY MEAT CO	7604	(*)	(*)	(*)			
CEDAR RIDGE MEAT SERVICE	7607	(*)		(*)		(*)	
[illegible] LOCKER PLANT	7609	(*)	(*)	(*)		(*)	
CASSELTON COLD STORAGE	7611	(*)	(*)	(*)	(*)	(*)	
C[illegible] BIRD LOCKERS	7612	(*)		(*)		(*)	
FAIRMOUNT LOCKERS	7615	(*)	(*)	(*)	(*)	(*)	
S[illegible]LEYS BIG BOY ENTERPRISES INC	7616	(*)		(*)		(*)	
[illegible] MEATS	7617	(*)		(*)		(*)	
PARK RIVER LOCKER PLANT	7618	(*)		(*)		(*)	
NI[illegible] LOCKERS	7619	(*)		(*)		(*)	
[illegible] LOCKER PLANT	7620	(*)	(*)	(*)		(*)	
LANGDON LOCKERS	7622	(*)	(*)	(*)		(*)	
A[illegible]OTS LOCKER PLANT	7623	(*)		(*)		(*)	
R[illegible]LAKE LOCKER PLANT	7624	(*)		(*)		(*)	
A[illegible] MEATS	7625	(*)		(*)	(*)	(*)	
NORTH DAKOTA STATE UNIVERSITY ANIMAL SCIENCE	7627	(*)		(*)		(*)	
G[illegible]'S PROCESSING	7634	(*)		(*)		(*)	
BI[illegible]ER'S JACK & JILL	7635	(*)	(*)	(*)	(*)	(*)	
DAKOTA MEATS INC	7636	(*)	(*)	(*)	(*)	(*)	
NORTH DAKOTA STATE HOSPITAL	7639	(*)	(*)				
MYERS MEAT PROCESSING	7641	(*)		(*)		(*)	
HILLSIDE MEAT CO	7642	(*)		(*)		(*)	
CITY MEAT & LOCKER	7644	(*)		(*)		(*)	
[illegible] JACK & JILL	7646	(*)				(*)	
[illegible]	7648	(*)				(*)	
K & L PROCESSING & SALES	7655	(*)		(*)		(*)	
[illegible]	7656	(*)				(*)	
JAT CORPORATION	7661	(*)	(*)	(*)		(*)	
[illegible] COLORADO BEEF CO	7671	(*)					
CITY MEAT CO	7677	(*)		(*)		(*)	
[illegible] MEAT SERVICE	7678	(*)		(*)		(*)	
MILES CITY PACKING CO	7679	(*)	(*)	(*)			
[illegible]'S INC	7684	(*)					
SE[illegible]-BO[illegible] PROCESSING PLANT	7685	(*)		(*)		(*)	
TI[illegible]LAND PACKING CORPORATION	7687	(*)	(*)				
ROCKY MOUNTAIN PACKING CO INC	7690	(*)	(*)	(*)		(*)	
TRIANGLE PACKING CO	7691	(*)					
MARIAS PACKING CO	7692	(*)	(*)	(*)		(*)	
LLOYD B SCHMITT'S STANFORD MEAT	7694	(*)		(*)			
C & W MEAT CO	7695	(*)	(*)	(*)		(*)	
MONTANA STATE PRISON	7707	(*)				(*)	
ROBERTS PACKING PLANT	7708	(*)	(*)			(*)	
C & P PACKING PLANT INC	7710	(*)		(*)	(*)	(*)	
HI-LINE PACKING	7711	(*)		(*)			
FAR MOUNTAIN MEATS	7712	(*)	(*)	(*)		(*)	
GALLATIN VALLEY PACKING	7713	(*)	(*)	(*)	(*)	(*)	
KALISPELL MEAT CO	7716	(*)	(*)	(*)			
WHITES WHOLESALE MEATS	7717	(*)	(*)			(*)	
VANDERVA[illegible] MEATS	7718	(*)	(*)				
RASMUSSEN MEATS	7719	(*)	(*)	(*)	(*)	(*)	
TOL[illegible]N MEAT PROCESSING	7724	(*)	(*)	(*)		(*)	
DOUGLAS PROCESSING & COLD STG INC	7731	(*)		(*)		(*)	
MICKEY'S PACKING PLANT	7732	(*)	(*)	(*)		(*)	
LI[illegible] PACKING CO	7738	(*)		(*)			
MODERN LOCKER PLANT	7745	(*)	(*)	(*)	(*)	(*)	
COLORADO STATE UNIV DEPT OF ANIMAL SCIENCES	7747	(*)		(*)		(*)	
CEDAREDGE LOCKER PLANT	7748	(*)		(*)	(*)	(*)	
ROYAL GORGE PACKING CO INC	7749	(*)			(*)	(*)	
CREST PAK, INC.	7751	(*)					
BLAINE MEAT CO	7755	(*)					
JET PAK INTERNATIONAL INC	E 7755						(*)
UNIVERSITY OF MINNESOTA MEAT SCIENCE LAB	7759	(*)	(*)	(*)		(*)	
BOB EVANS FARM INC	7763					(*)	
ADA[illegible] LOCKER	7774	(*)	(*)	(*)		(*)	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
DALES MEAT PROCESSING	7781	(*)	(*)	(*)		(*)	
LINDENFELSER MEATS	7782	(*)				(*)	
HUETTLS LOCKER & DRESSING PLANT	7785	(*)	(*)	(*)		(*)	
SWANSON MEAT MARKET	7790	(*)	(*)			(*)	
CARLOS LOCKERS	7796	(*)	(*)	(*)	(*)	(*)	
HOFFMAN MEATS	7797	(*)	(*)	(*)		(*)	
CLARISSA MEATS	7799	(*)	(*)	(*)	(*)	(*)	
CCB ABATTUIR	7801	(*)	(*)	(*)			
BANGOR BEEF CO	7806	(*)			(*)		
CONTI PACKING CO INC	7814	(*)					
KENNETH BAKER FARMS	7845	(*)	(*)	(*)	(*)	(*)	
READFIELD ABATTOIR	7874	(*)	(*)	(*)	(*)	(*)	
BOVALINA PACKING CO INC	7875	(*)	(*)	(*)	(*)		
HORST CUSTOM SLAUGHTERING & PROCESSING	7862	(*)	(*)	(*)		(*)	
PETER D VILLARI INC	7867				(*)	(*)	
JAMES F ETZLER	7897	(*)				(*)	
BRADLEY PROCESSING CO	7900	(*)				(*)	
LAWSON PACKING CO	7908	(*)	(*)	(*)	(*)	(*)	
WRIGHT'S PROVISIONS INC	7920					(*)	
PARTIN'S COUNTRY SAUSAGE	7923					(*)	
ROBBINS PACKING CO INC	7932	(*)				(*)	
ELM HILL MEATS INC	7936	(*)				(*)	
KOCH BEEF CO	7937	(*)	(*)				
HIXSON PACKING CO	7938	(*)	(*)		(*)	(*)	
SOUTHERN PACKING CORPORATION	7945	(*)	(*)	(*)		(*)	
CHARLES J SCHMIDT & CO	7948			(*)			
DREHER PACKING CO INC	7957					(*)	
MATKINS MEAT PROCESSORS INC	7975	(*)	(*)			(*)	
KLING'S MEAT MARKET	7983	(*)	(*)	(*)		(*)	
DUFFEY SAUSAGE CO INC	7984	(*)					
PURCHASE PACKERS INC	8000	(*)				(*)	
TENNESSEE FARMER INC	8008	(*)					
UNIVERSITY OF KENTUCKY MEAT LABORATORY	8013	(*)		(*)		(*)	
BERRYHILL MEAT PROCESSING	8016	(*)	(*)		(*)	(*)	
V W MILLER & SONS	8022	(*)	(*)	(*)		(*)	
COUNTRY CORNER MEAT CENTER	8024	(*)	(*)	(*)	(*)	(*)	
BOURBON PACKING CO	8027	(*)		(*)		(*)	
WALTON LOCKER & SLAUGHTER PLANT	8031	(*)		(*)		(*)	
BILL WHEELER SLAUGHTER HOUSE	8034					(*)	
FARMERS SLAUGHTER HOUSE	8035	(*)		(*)	(*)	(*)	
HARRY ROSS PACKING CO	8045	(*)				(*)	
SLADE'S MEAT PACKERS INC	8054	(*)				(*)	
HUGHES MARKET	8055					(*)	
JUENGLING COMMODITIES CORPORATION	8058	(*)					
S H CAMPBELL CO INC	8062	(*)				(*)	
GRIBBLE'S PROCESSING	8066	(*)	(*)			(*)	
BOONE'S BUTCHER SHOP	8078	(*)	(*)	(*)			
KIRBY & POE SLAUGHTER HOUSE	8082	(*)				(*)	
GREGORY SLAUGHTER HOUSE INC	8083	(*)		(*)		(*)	
RIGHT BEAVER PACKING CO	8086	(*)	(*)			(*)	
ELMORE & PAYNE PACKING CO INC	8088	(*)	(*)	(*)	(*)	(*)	
PICKETT'S PROCESSING INC	8090	(*)					
IGNACIO FOOD STORE INC	8123	(*)		(*)		(*)	
IGNACIO FOOD STORE INC	8123A	(*)				(*)	
STEAMBOAT PACKING CO	8124	(*)	(*)	(*)		(*)	
JENSEN'S BLUE RIBBON PROCESSING INC	8131	(*)		(*)	(*)	(*)	
BROWNSDALE MEAT SERVICE INC	8189	(*)	(*)	(*)		(*)	
SOL'S PACKING	8195	(*)	(*)	(*)	(*)	(*)	
C V PANIZERA	8271	(*)	(*)	(*)	(*)	(*)	
SUNSHINE MEAT CO	8286	(*)	(*)	(*)	(*)	(*)	
CURTIS PACKING CO INC	8302	(*)	(*)	(*)	(*)	(*)	
NATION'S MEAT CO INC	8303	(*)				(*)	
LARRY'S SAUSAGE CO	8305					(*)	
FALCON WHOLESALE MEAT	8309	(*)				(*)	
FULLER SLAUGHTER PLANT	8312	(*)			(*)	(*)	
FORTENBERRY SAUSAGE CO	8313	(*)	(*)	(*)		(*)	
SWAGGERTY SAUSAGE CO INC	8314	(*)				(*)	
WADE AUSMUS	8315	(*)					

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V43/187 SE 26 78

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
HERRON PACKING CO	8316	*	*	*	*	*	
B-F PACKING CO	8318	*					
LINGO PACKING CO	8319	*				*	
ESTEPP SLAUGHTER	8320	*	*	*		*	
SELL MEAT CO INC	8321	*	*	*			
WADE BULLA SLAUGHTER HOUSE	8323	*	*			*	
MADISON PACKING CO	8325	*			*	*	
VALLEY SLAUGHTER & PROCESSING	8326	*	*	*			
B & B PACKING CO	8327	*	*			*	
HOLDEN BROTHERS PACKING CO	8329	*				*	
D & W PACKING INC	8331	*					
Q R S MEAT CO INC	8332	*		*		*	
COOP AGRICOLA DE CIDRA	8336	*	*	*			
PERFECTA USA INTERNATIONAL	E 8337						*
HOLLAND & DUTSON SLAUGHTER & PROCESSING	8339	*				*	
CITY PACKING CO	8341					*	
SOUTH FOODS INC	8344	*	*	*	*	*	
EMORY RIVER PROCESSING CO	8353	*				*	
R G GUNNOE FARMS INC	8392					*	
TURNER FARM MEAT PROCESSING	8401	*				*	
COLQUITT MEAT CO	8404	*			*	*	
ROBINSON SAUSAGE CO	8405	*				*	
ROBERT L BULLOCK	8461	*	*	*		*	
CENTRAL MEAT PACKING DIV CENTRAL FOOD SERVICE	8496	*	*			*	
CONNECTICUT PACKING CO	8502	*	*	*	*	*	
KARL EHMER INC	8520A	*					
BURTON BLOCK	E 8523						*
CORBIN MEAT PACKING CO	8537	*	*	*	*		
CHAMPLAIN BEEF CO	8547	*	*	*		*	
BLOUGH PACKING	8551	*	*	*	*	*	
LEALI BROS INC	8555	*	*	*		*	
NEW HOLLAND MEAT MARKET	8556	*	*			*	
SHOBER'S & SONS INC	8557	*	*				
M & J HOUSE OF BEEF & PORK INC	8558	*	*	*		*	
S WRIGHT MEAT PACKING	8559	*		*	*	*	
JUNIATA PACKING CO	8560	*	*	*		*	
GODFREY BROS	8562	*	*	*		*	
R L SIPES LOCKER PLANT	8565	*	*	*		*	
WELTERS CUSTOM SLAUGHTERING	8569	*				*	
W W SNAVELY	8570	*	*	*		*	
KNUPP BROTHERS	8572	*	*	*		*	
JAMES EBERLY	8573	*	*	*		*	
CHARLES ILYES	8576	*		*		*	
PETERS BROS MEAT MARKET INC	8581	*	*	*	*	*	
RICHARD W SERENA	8582	*					
RUSSIC SHADE PACKING	8583	*	*	*		*	
FRITZ'S MEATS	8585	*				*	
BILSKI MEATS	8586	*	*	*	*	*	
MOWRY'S MEAT PROCESSING	8587	*	*	*		*	
LLOYD & EARL YOUNDT	8588	*	*			*	
CUNNINGHAM PKG CO	8590	*	*	*		*	
CARL GOOD INC	8591	*	*			*	
JOHN M PELUSO & SONS	8592	*	*			*	
ROSE'S SLAUGHTER HOUSE	8595	*	*	*		*	
SECHRIST BROS INC	8596	*	*	*			
RILEY MEAT PROCESSING	8604	*	*	*		*	
RICHARD L BECK & SONS INC	8607	*	*	*	*	*	
CHARLES WINICK	8608	*	*	*		*	
NEW WILMINGTON SLAUGHTER HOUSE	8609	*	*	*		*	
JAMES R MCDEAVITT	8610	*	*	*		*	
WITMAN'S MEATS	8611	*	*	*		*	
KOVACEVIC BROS PACKING CO	8612	*	*	*	*	*	
KARL K KLING	8613	*	*	*			
HI WAY MEAT MARKET	8615	*	*	*		*	
ROBIE MEAT PACKERS	8616	*	*	*	*	*	
DYSINGER MEATS INC	8622	*	*	*		*	
PAUL E ADAMS	8623	*	*			*	
C M REED'S SONS	8624		*				

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
A J PEACEY & SONS	8628	*	*	*		*	
RAY T BENNER & SON	8630	*	*			*	
HARRY HARPER WAGNER	8631	*					
HONSAKER BROS MEAT MARKET	8632	*	*	*		*	
TED'S MEAT MARKET	8633	*	*	*		*	
ESPENSHADE QUALITY MEATS	8635	*	*	*			
HIRSCH MEATS	8636	*	*	*		*	
ECONOMY LOCKER STORAGE CO INC	8642	*	*	*	*	*	
CECIL F FRAKER	8643	*	*	*		*	
REBUCK FARMS	8644	*	*	*			
ROTHERMEL MEATS	8645	*	*	*	*	*	
HARVEY A KIPP	8646	*	*	*		*	
HENRY'S MEAT MARKET	8648	*	*	*		*	
GIUNTA WHOLESALE MEATS	8649	*	*	*	*	*	
HILLEN JRG PROCESSING & SLAUGHTERING	8680	*	*			*	
DAN'S COUNTRY MEATS INC	8681	*	*	*	*	*	
CLOUD PACKING CO	8682	*	*	*		*	
LE DUC PACKING CO	8687	*	*	*	*	*	
CANTON LOCKER SLAUGHTER HOUSE	8689A	*	*	*	*	*	
POLO LOCKER SYSTEM INC	8695	*	*			*	
NEW FRANKLIN LOCKER SERVICE	8696	*	*	*	*	*	
UHRIGS SLAUGHTER HOUSE	8697	*	*				
WRIGHT CITY MEAT CO	8699	*	*			*	
WEBER MEAT SERVICE	8702	*	*	*	*	*	
WARNER LOCKER INC	8703	*				*	
PRINCETON FOOD SERVICE	8705	*	*	*	*	*	
OYLER'S LOCKER SERVICE	8706	*		*			
NOVINGER FOOD LOCKER	8707	*	*	*	*	*	
HALE LOCKER PLANT	8710	*	*			*	
DON'S PLACE	8714	*	*	*	*	*	
WENTZVILLE CATTLE INVESTMENT CO	8715	*	*		*	*	
BOUCHAERT PACKING CO	8716	*					
KELLER PROCESSING SERVICE	8717	*	*	*	*	*	
GROVES PACKING CO	8724	*	*			*	
GOLDEN CITY MEAT CO	8725	*	*	*		*	
ALMA COOP LOCKER ASSN	8728	*	*	*		*	
BOOMER PACKING CO INC	8729	*	*	*	*	*	
LEWISTOWN LOCKER	8730	*	*	*		*	
UPTOWN SLAUGHTER HOUSE	8731	*	*	*		*	
PLEASANT HILL MEAT CO	8734	*	*				
MAUPIN PROCESSING PLANT	8735	*	*		*		
ADRIAN MEATS	8737	*	*	*		*	
STONYHILL MEAT	8738	*	*	*	*	*	
BAKER PACKING CO	8743	*	*	*		*	
SCHOOL OF THE OZARKS	8745	*	*			*	
GLASGOW LOCKER PLANT	8747	*	*	*		*	
HAMILTON LOCKER	8748	*	*	*		*	
THERIAULT'S ABATTOIR INC	8772	*	*			*	
CLARK PACKING CO INC	8799					*	
MONROEVILLE PACKING CO	8850	*	*	*	*	*	
AMFRAN PACKING CO INC	E 8861						*
OXFORD ABATTOIR	8866	*	*	*	*		
JOHN F MARTIN & SONS INC	8888	*	*	*		*	
WEST DOVER BUTCHER SHOP	8892	*	*				
GREGGWOOD FARM	8901					*	
ERDMAN SUPERMARKETS INC	8905	*	*	*		*	
MCDONALD'S FOOD MARKET	8915	*				*	
ST JOSEPH MEAT MARKET INC	8916	*	*	*		*	
FROZ-N-FOODS CO	8917	*	*	*	*	*	
CORDHAMER'S FOOD MARKET	8920	*				*	
RUCK'S MEAT PROCESSING CENTER INC	8921	*	*	*	*	*	
READ'S PROCESSING SERVICE	8922	*		*		*	
IHDIEKE'S MEATS	8927	*	*	*		*	
RAPIDS LOCKER	8928	*	*	*	*	*	
PLANTENBERG MARKET INC	8931	*	*			*	
KETTERS MEATS	8937	*	*	*	*	*	
CARLSON MEAT PROCESSING INC	8948	*	*	*	*		
DAVE & TED'S LOCKERS INC	8950	*	*	*	*	*	

V4

C A T | C A L | S H E | G O A | S W I | E Q U

NAME OF ESTABLISHMENT EST. | C A T T | C A L V | S H E E | G O A T | S W I N | E Q U I

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
FERGUS LOCKER PLANT	8952	(*)	(*)			(*)	
LAKELAND MEATS	8953	(*)	(*)	(*)		(*)	
SPIKES LOCKERS	8954	(*)	(*)				
HERGES MEAT MARKET INC	8959	(*)	(*)	(*)	(*)	(*)	
CITY MEAT MARKET	8960	(*)	(*)			(*)	
NEW MUNICH LOCKER PLANT	8961	(*)	(*)			(*)	
PETER'S FOOD MARKET	8963	(*)	(*)			(*)	
FORSTER PACKING CO INC	8966	(*)	(*)	(*)		(*)	
PARROT PACKING CO INC	8968	(*)	(*)			(*)	
DREWES FROZEN FOOD CENTER	8971	(*)	(*)	(*)	(*)	(*)	
FOSSTON CO-OP ASSN LOCKER DEPT	8974	(*)	(*)			(*)	
CITY MEAT MARKET	8975	(*)	(*)	(*)		(*)	
LYNCH'S FOODS	8976	(*)	(*)	(*)		(*)	
GENEVA MEATS & PROCESSING	8979	(*)	(*)	(*)	(*)		
GREENWALD LOCKER PLANT	8982	(*)	(*)				
DELFT BLUE-PROVIMI INC	8984				(*)		
JOPPRU INC.	8988	(*)		(*)	(*)	(*)	
WIDBOOM MEAT SERVICE	8989	(*)	(*)	(*)		(*)	
COUNTRY SIDE MEATS	9003	(*)	(*)	(*)	(*)	(*)	
CALIFORNIA STATE UNIV MEAT LABORATORY	9004	(*)		(*)		(*)	
JOHANSEN'S MEAT MARKET	9008	(*)	(*)	(*)	(*)	(*)	
MOXON'S GOLD STAR MEAT	9024	(*)	(*)	(*)	(*)	(*)	
MARIN MEAT CO	9025	(*)	(*)	(*)			
SWINGLE MEAT CO	9032	(*)		(*)	(*)	(*)	
THOS G EVART MEAT CO	9049	(*)	(*)	(*)	(*)	(*)	
MODOC MEAT PACKERS	9053	(*)		(*)	(*)	(*)	
WAMPLER WHOLESALE MEATS INC	9065	(*)	(*)			(*)	
THOMASTON BEEF & VEAL INC	9069	(*)	(*)	(*)	(*)	(*)	
SMITH'S MEAT PROCESSING CO	9073	(*)	(*)	(*)		(*)	
SNOW HILL PROCESSING PLANT	9075	(*)	(*)			(*)	
GOLD KIST INC	9084	(*)	(*)			(*)	
SNAPPS FERRY PROCESSING CO	9085	(*)	(*)			(*)	
W R DELOZIER SAUSAGE CO	9086	(*)	(*)			(*)	
LAUDERDALE FARMS CO	9095	(*)			(*)	(*)	
CARTERS VALLEY PACKING CO	9107	(*)		(*)	(*)	(*)	
NORTH GEORGIA PROCESSING	9108	(*)	(*)	(*)	(*)	(*)	
ELLIOTT & SON'S	9111	(*)				(*)	
FAIRPLAY MEAT PROCESSING INC	9112	(*)				(*)	
SCOTT MEAT CO	9124	(*)	(*)	(*)	(*)	(*)	
JACKSON PACKING CO	9130	(*)				(*)	
AVCO MEAT CO INC	9131	(*)					
JUSTICE PACKING CO	9136	(*)	(*)				
STEVE BROOKS MEATS	9139	(*)					
SOWEGA MEAT CO	9142	(*)	(*)	(*)	(*)	(*)	
SOUTHERN ABATTOIR MEAT SUPPLY CO	9143	(*)	(*)			(*)	
MICKEY'S MEATS	9144	(*)			(*)		
BILL OPELL'S MEAT PROCESSING	9148	(*)	(*)	(*)		(*)	
MCLENDON MEAT CO	9159	(*)		(*)	(*)	(*)	
SCOTT MEAT PACKERS INC	9160	(*)	(*)		(*)	(*)	
SHULL SAUSAGE CO INC	9161					(*)	
LAKEVIEW PACKING CO	9166	(*)				(*)	
MCCAULEY'S CUSTOM MEATS & SERVICES	9173	(*)	(*)		(*)	(*)	
PASTURES INC	E 9174						(*)
CATTLEMAN PACKING CO	9177	(*)				(*)	
CARROLL PACKING CO	9185	(*)	(*)		(*)	(*)	
RIVER ROUTE PACKING PLANT INC	9186	(*)					
PARIS MEAT PROCESSING CO	9187	(*)	(*)		(*)	(*)	
FARM FRESH MEATS INC	9189	(*)	(*)			(*)	
CLIATT-WELLS COUNTRY STYLE WHOLE HOG SAUSAGE	9190					(*)	
HAMILTON PACKING CO INC	9191	(*)				(*)	
UNIVERSITY OF TENNESSEE MEAT LABORATORY	9193	(*)		(*)		(*)	
SOUTHEASTERN MEAT PROCESSING	9196	(*)	(*)		(*)	(*)	
TWIN STATE COLD STORAGE	9199	(*)				(*)	
HILL MEAT CO INC	9201	(*)	(*)	(*)		(*)	
DELTA MEAT INC	9209	(*)	(*)	(*)	(*)	(*)	
SANTIAM MEAT PACKERS	9220	(*)	(*)	(*)	(*)	(*)	
OREGON STATE UNIV MEAT SCIENCE LABORATORY	9223	(*)		(*)		(*)	
CARLTON PACKING CO	9228	(*)	(*)	(*)		(*)	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
DAYTON MEAT CO	9230	(*)	(*)	(*)	(*)	(*)	
HABERMANS MEAT SERVICE	9232	(*)	(*)	(*)	(*)	(*)	
STAFFORD'S MEATS	9233	(*)	(*)	(*)	(*)	(*)	
JACOBSMUHLENS MEATS	9234	(*)	(*)	(*)	(*)	(*)	
A & B MEAT PACKING	9239	(*)	(*)	(*)	(*)	(*)	
POPE'S MERRILL MEAT CO	9240	(*)	(*)	(*)		(*)	
FARMER PACKING CO	9243	(*)	(*)	(*)	(*)	(*)	
HORIZON PACKING CO	9245	(*)	(*)				
BOYER MEAT CO	9246	(*)	(*)	(*)	(*)	(*)	
LOA MEATS INC	9248	(*)		(*)		(*)	
ERDMAN PACKING CO	9249	(*)	(*)	(*)	(*)	(*)	
TRI VALLEY MEAT CO	9251	(*)	(*)	(*)	(*)	(*)	
MOHAWK PACKING CO	9252	(*)	(*)	(*)	(*)	(*)	
SPRINGFIELD SLAUGHTER PLANT	9256	(*)	(*)	(*)	(*)	(*)	
GATES WAY MEAT CO	9257	(*)	(*)	(*)		(*)	
MOLALLA MEATS	9263	(*)	(*)	(*)	(*)	(*)	
LEE MEAT CO	9264	(*)	(*)	(*)	(*)	(*)	
MARKS MEAT CO	9265	(*)	(*)	(*)	(*)	(*)	
IOWA BEEF PROCESSORS INC	9268	(*)					
MT ANGEL MEAT CO	9270	(*)	(*)	(*)	(*)	(*)	
OREGON STATE PENITENTIARY ANNEX	9272	(*)				(*)	
INDEPENDENCE CUSTOM MEAT SERVICE	9273	(*)	(*)	(*)	(*)	(*)	
MCKILLIP BROS MEAT CO INC	9274	(*)				(*)	
BOSTON'S BEEF HOUSE INC	9275	(*)	(*)	(*)			
K BAR K RANCH MEATS	9276	(*)		(*)		(*)	
HOPKINS WHOLESALE MEATS	9277	(*)	(*)	(*)		(*)	
JOHN DAY VALLEY PACKING CO	9286	(*)	(*)	(*)	(*)	(*)	
D & L MEAT CO	9287	(*)	(*)	(*)	(*)	(*)	
WILDER MEAT CO	9289	(*)	(*)	(*)	(*)	(*)	
CROOKED RIVER MEAT CO	9291	(*)	(*)	(*)	(*)	(*)	
ORIO MEAT CO	E 9294						(*)
WALT'S CUSTOM SLAUGTERING	9300	(*)	(*)	(*)	(*)	(*)	
TERRY BROS INC	9315	(*)	(*)	(*)		(*)	
VERNS MOSES LAKE MEATS	9318	(*)	(*)	(*)		(*)	
CURCIO'S MEAT CO	9319	(*)	(*)		(*)	(*)	
WASHINGTON STATE UNIV MEAT SCIENCE LAB	9322	(*)	(*)	(*)		(*)	
FONDIS PACKING & CATTLE CO	9324	(*)	(*)	(*)		(*)	
LAMPAERT MEATS	9325	(*)	(*)	(*)	(*)	(*)	
OWENS PACKING CO	9331	(*)	(*)			(*)	
COLVILLE MEAT PROCESSOR'S	9334	(*)	(*)	(*)		(*)	
MC INRAY MEAT CO	9335	(*)	(*)				
WENATCHEE MEAT PACKING INC	9338	(*)	(*)			(*)	
MIDWAY MEATS	9347	(*)	(*)	(*)		(*)	
COOS COUNTY FARM	9350	(*)				(*)	
DWIGHT GORDON	9351	(*)	(*)	(*)		(*)	
FAIR VIEW FARM	9353	(*)	(*)	(*)		(*)	
RUDOLPH MAMULA	9357	(*)	(*)	(*)	(*)	(*)	
HARVEY E DELP	9359	(*)	(*)			(*)	
BALTHASER'S MEAT MARKET INC	9360	(*)	(*)	(*)	(*)	(*)	
MERVIN F MOYER	9363	(*)		(*)			
GRETTLER MEAT PACKERS	9366	(*)	(*)	(*)	(*)	(*)	
ALLENS MILLS FRESH MEATS	9367	(*)	(*)	(*)		(*)	
MIKE ZRILE MEAT	9368		(*)				
ALEX FROEHLICH PACKING CO	9369	(*)	(*)	(*)		(*)	
J T BARTON	9371	(*)	(*)	(*)		(*)	
MUTZABAUGH'S SLAUGHTER HOUSE	9372	(*)	(*)	(*)	(*)	(*)	
H L PEACHEY JR	9373	(*)	(*)	(*)		(*)	
GREGORY'S TROY MEAT PROCESSING CO INC	9374	(*)	(*)	(*)		(*)	
STOCKDALE MEAT & PROVISION	9375	(*)	(*)			(*)	
WILLIAMSON'S WHOLESALE MEATS INC	9376					(*)	
HENNINGER'S MEAT MARKET	9377	(*)	(*)	(*)		(*)	
BIERLY MEAT MARKET	9380	(*)	(*)	(*)		(*)	
ELMU MANIERI'S MEATS	9381	(*)	(*)	(*)	(*)	(*)	
MIKE'S PACKING CO	9382	(*)	(*)	(*)		(*)	
WARRINGTON PACKING CO INC	9384	(*)	(*)			(*)	
GREEN VALLEY PACKING CO	9385	(*)	(*)	(*)	(*)	(*)	
ADAM BUTZ JR	9369	(*)	(*)			(*)	
SHAW BROS INC	9390	(*)	(*)	(*)		(*)	

NAME OF ESTABLISHMENT EST. CATT CALV SHEE GOAT SWIN EQUI

EST. CATT CALV SHEE GOAT SWIN EQUI

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
ROCKINGHAM COUNTY FARM	9395	(*)					(*)
DIXON'S MEATS	9398	(*)	(*)	(*)			(*)
BRISTOL BEEF CO INC	9399	(*)	(*)	(*)	(*)	(*)	(*)
J V TAYLOR INC	9400	(*)	(*)				
BATTLES MEAT PROCESSING PLANT	9401	(*)	(*)	(*)	(*)	(*)	(*)
JOE DEFELICE & SONS	9402	(*)	(*)	(*)			(*)
GILLO BROS	9403	(*)	(*)	(*)			(*)
T P CUNNINGHAM MEATS	9410	(*)	(*)	(*)	(*)	(*)	(*)
SHUPES HOME DRESSED MEATS	9413	(*)	(*)				(*)
GINO GIULIANI	9414	(*)	(*)	(*)	(*)	(*)	(*)
EDWARD GALVANEK & SONS	9415	(*)	(*)	(*)	(*)	(*)	(*)
FRANCONIA MEATS	9417	(*)	(*)	(*)	(*)	(*)	(*)
LOVE WELLS COUNTRY MARKET	9419	(*)	(*)	(*)			(*)
RICE'S MEAT MARKET	9420	(*)	(*)	(*)	(*)	(*)	(*)
KVERAGAS MEAT PLANT	9422	(*)	(*)	(*)			(*)
STEELY MEATS	9423	(*)	(*)	(*)			(*)
PATH VALLEY MEATS	9425	(*)	(*)	(*)			(*)
HAROLD WENTWORTH	9428	(*)	(*)	(*)	(*)	(*)	(*)
ZECKMAN'S BUTCHER SHOP	9430	(*)	(*)	(*)			(*)
EDWARDS BROS PACKING CO	9431	(*)	(*)				
YAMBROVICH MEATS	9435	(*)	(*)	(*)			(*)
RUPERT'S BUTCHER SHOP	9437	(*)	(*)	(*)	(*)	(*)	(*)
THREE SONS MEAT MARKET	9438	(*)	(*)	(*)			(*)
BURKHOLDER'S MEAT MARKET	9440	(*)	(*)				
GROFF MEATS INC	9442	(*)	(*)	(*)			(*)
KREISL CO INC	9444	(*)					
SMITH'S SUPER MARKET INC	9445	(*)	(*)	(*)			(*)
GRILL'S BUTCHER SHOP	9448	(*)					
GEORGE N BYERLY	9450	(*)	(*)	(*)			(*)
SHAMOKIN PACKING CO	9451	(*)	(*)	(*)			(*)
GIORDANO SAUSAGE	9456		(*)	(*)	(*)	(*)	
RENDULIC PACKING CO	9457	(*)					(*)
ARTHUR B WENGER	9459	(*)	(*)				(*)
R E HERSHEY INC	9464	(*)	(*)	(*)			
HERFURTH BROS MEAT CO	9465	(*)	(*)	(*)			(*)
MYERS BROTHERS	9469	(*)	(*)	(*)			(*)
RANCK'S MEAT MARKET	9473	(*)	(*)				
U S PENITENTIARY	9474	(*)		(*)			(*)
ESPEY'S MEAT MARKET	9482	(*)	(*)	(*)	(*)	(*)	(*)
R V WANTZ & SONS	9483						(*)
WALTER Z DILLON	9484	(*)	(*)	(*)			(*)
MERRY PROVISION	9489	(*)	(*)	(*)	(*)	(*)	(*)
MARK R BUCHER	9492	(*)	(*)	(*)			(*)
CHRISTMAN & FOX	9494	(*)	(*)				(*)
THORNTON MEATS	9497	(*)	(*)	(*)	(*)	(*)	(*)
INDIANA SLAUGHTERING CO	9498	(*)	(*)	(*)			(*)
WINDSOR MEAT MARKET	9500	(*)	(*)	(*)	(*)	(*)	(*)
STONEBRIDGE FARM BUTCHER SHOP INC	9509	(*)	(*)	(*)			(*)
FRED E SHIVELY	9511	(*)	(*)	(*)			(*)
R P HOWRY	9513	(*)	(*)	(*)			(*)
LEIDY'S INC	9520	(*)	(*)				(*)
WEISS PACKING CO INC	9528	(*)	(*)	(*)	(*)	(*)	(*)
EAST CARSON PACKING CO	9529	(*)	(*)	(*)			
PENNER PROVISION CO	9535	(*)		(*)			
BRIGHT BYERLY	9536	(*)	(*)				(*)
KEN WEAVER MEATS	9538	(*)	(*)				(*)
CLYDE R ALBERTSON	9540	(*)	(*)	(*)			(*)
ANDERSON QUALITY MEAT MARKET	9541	(*)	(*)	(*)	(*)	(*)	(*)
LEMAY & SONS BEEF	9542	(*)	(*)	(*)			(*)
EMERSON KNIGHT	9544	(*)	(*)				(*)
UNIVERSITY OF NEW HAMPSHIRE MEAT LABORATORY	9546	(*)		(*)			(*)
EZRA W MARTIN CO	9547						(*)
WAYNE NELL & SONS MEATS	9548	(*)	(*)	(*)	(*)	(*)	(*)
JOHN J KOHLER	9549	(*)	(*)				(*)
BEACH MEAT MARKET	9550	(*)	(*)				(*)
GREAT VALLEY MEAT MKT DOMINIC PEGLI	9557	(*)	(*)	(*)	(*)		
C P RIWADES & SON INC	9559	(*)	(*)	(*)			
FORREST D KISTLER	9561	(*)	(*)				

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
GERALD ANDERSON	9562	(*)	(*)	(*)			(*)
CHARLES T HEARD & CO	9563	(*)					
PUTNAK PACKING CO	9564	(*)	(*)				(*)
MYERS MEAT	9565	(*)		(*)			(*)
PERRY PACKING	9566	(*)	(*)	(*)	(*)	(*)	(*)
PIERCE CUSTOM SLAUGHTER CO	9567	(*)	(*)	(*)	(*)	(*)	(*)
CLOVERBLOOM FARM MARKET	9570	(*)	(*)				(*)
FICHERA'S MEATS INC	9576	(*)	(*)	(*)	(*)	(*)	(*)
GOULDEY & SONS INC	9577	(*)	(*)	(*)	(*)	(*)	(*)
O J HYNES	9579	(*)	(*)	(*)			(*)
GOURLEY PACKING CO INC	9580	(*)	(*)	(*)			(*)
LIVINGSTON PACKING CO	9581	(*)	(*)	(*)			(*)
JONES ABATTOIR	9584	(*)	(*)	(*)	(*)		(*)
LOUIS KLINE INC	9589	(*)	(*)	(*)	(*)	(*)	(*)
GEORGE'S MEATS	9590	(*)	(*)				(*)
PRIM PACKING CO	9592	(*)	(*)	(*)			(*)
CONGENS AQUILANTE	9603	(*)	(*)	(*)			
HAROLD A BOMB	9605	(*)	(*)	(*)			(*)
DOWNINGTOWN WHOLESALE MEATS	9606	(*)	(*)	(*)			(*)
FRANK ESPOSITO & SONS	9607	(*)	(*)				
GOODHART MEATS	9609	(*)	(*)	(*)			(*)
LUKON MEATS INC	9616	(*)	(*)	(*)			(*)
MOCCIO PACKING	9618	(*)	(*)				
GEORGE'S MEAT MARKET INC	9620	(*)	(*)	(*)	(*)	(*)	(*)
CHARLES J PLOLINER	9622	(*)	(*)	(*)	(*)	(*)	(*)
RHODES' MEAT MARKET	9623	(*)	(*)	(*)			(*)
STOLTZFUS LOCKER & IGS FOOD MARKET	9625	(*)	(*)				
EBLING'S MEAT MARKET	9630	(*)	(*)	(*)			(*)
PIFFERETTI PACKING CO	9631	(*)	(*)	(*)	(*)	(*)	(*)
BURKHOLDER MEAT PRODUCTS	9632	(*)	(*)	(*)	(*)	(*)	(*)
JONATHAN L KING	9633	(*)	(*)	(*)			(*)
TURNER FARMS INC	9634	(*)	(*)				(*)
R D KELLY MEAT PACKING	9635	(*)	(*)	(*)			(*)
M LEPIDI & SONS INC	9636	(*)	(*)	(*)			(*)
KRALL'S MEAT MARKET	9638	(*)	(*)	(*)			(*)
F & S MEATS	9639	(*)	(*)	(*)			(*)
GLEN J ROSENBERRY	9640	(*)	(*)	(*)			(*)
ALBA'S MEAT MARKET	9643	(*)	(*)				
MRS EDITH ONDILLA	9644	(*)	(*)				(*)
SHAFFER'S ABATTOIR INC	9645	(*)	(*)	(*)			
YOST QUALITY MEATS	9646	(*)	(*)	(*)	(*)	(*)	(*)
WATSON'S HOME DRESSED MEATS	9647	(*)	(*)	(*)			(*)
JOSEPH VENEZIA DRESSED BEEF	9666	(*)	(*)				
BALDERSTON BROS	9670	(*)	(*)	(*)			
CATELLI INC	9671						(*)
PRINGLE'S HOME DRESSED MEATS	9673	(*)			(*)		(*)
FIERRO'S FOOD MARKET INC	9674	(*)					
CRISSMAN INC	9679	(*)	(*)	(*)	(*)	(*)	(*)
COHICK BROS MEAT PACKERS INC	9682	(*)	(*)	(*)			(*)
PAINTER'S MEAT PRODUCTS	9683	(*)	(*)	(*)			(*)
KECK'S MEAT PLANT	9684	(*)	(*)	(*)			(*)
FETTEROLF'S MEAT MARKET	9685	(*)	(*)	(*)			(*)
MARK BOWMAN	9686	(*)	(*)				(*)
LEE BIXLER	9687	(*)	(*)	(*)			(*)
BOYER'S MEATS	9688	(*)	(*)				(*)
KOLB'S MEAT MARKET	9689	(*)	(*)	(*)	(*)	(*)	(*)
CARL VENEZIA MEATS	9693	(*)	(*)	(*)			
PAUL H SCHNECK	9695	(*)	(*)	(*)	(*)	(*)	(*)
ROBERT L BINGMAN	9696	(*)	(*)	(*)			(*)
SMITH'S MEATS	9697	(*)	(*)	(*)			
HOLLAND BROS MEATS	9701	(*)	(*)	(*)			(*)
ALFERY'S SALSAGE CO INC #2	9702	(*)	(*)	(*)	(*)	(*)	(*)
SPRINGFIELD MEAT CO	9704	(*)	(*)	(*)			
BARINGER BROS	9706	(*)	(*)	(*)			(*)
HAGERS MEAT MARKET	9707	(*)	(*)	(*)			
HANSON'S FREEZER MEATS	9711	(*)	(*)	(*)	(*)	(*)	(*)
COFFARO CUSTOM BUTCHERING	9712	(*)	(*)	(*)	(*)	(*)	(*)
THOMA'S MEAT MARKET	9714	(*)	(*)	(*)	(*)	(*)	(*)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
ROCKINGHAM COUNTY FARM	9395	(*)					(*)
DIXON'S MEATS	9398	(*)	(*)	(*)			(*)
BRISTOL BEEF CO INC	9399	(*)	(*)	(*)	(*)	(*)	(*)
J V TAYLOR INC	9400	(*)	(*)				
BATTLES MEAT PROCESSING PLANT	9401	(*)	(*)	(*)	(*)	(*)	(*)
JOE DEFELICE & SONS	9402	(*)	(*)	(*)			(*)
GILLO BROS	9403	(*)	(*)	(*)			(*)
T P CUNNINGHAM MEATS	9410	(*)	(*)	(*)	(*)	(*)	(*)
SHUPES HOME DRESSED MEATS	9413	(*)	(*)				(*)
GINO GIULIANI	9414	(*)	(*)	(*)	(*)	(*)	(*)
EDWARD GALVANEK & SONS	9415	(*)	(*)	(*)	(*)	(*)	(*)
FRANCONIA MEATS	9417	(*)	(*)	(*)	(*)	(*)	(*)
LOVE WELLS COUNTRY MARKET	9419	(*)	(*)	(*)			(*)
RICE'S MEAT MARKET	9420	(*)	(*)	(*)	(*)	(*)	(*)
KVERAGAS MEAT PLANT	9422	(*)	(*)	(*)			(*)
STEELY MEATS	9423	(*)	(*)	(*)			(*)
PATH VALLEY MEATS	9425	(*)	(*)	(*)			(*)
HAROLD WENTWORTH	9428	(*)	(*)	(*)	(*)	(*)	(*)
ZECKMAN'S BUTCHER SHOP	9430	(*)	(*)	(*)			(*)
EDWARDS BROS PACKING CO	9431	(*)	(*)				
YAMBROVICH MEATS	9435	(*)	(*)	(*)			(*)
RUPERT'S BUTCHER SHOP	9437	(*)	(*)	(*)	(*)	(*)	(*)
THREE SONS MEAT MARKET	9438	(*)	(*)	(*)			(*)
BURKHOLDER'S MEAT MARKET	9440	(*)	(*)				
GROFF MEATS INC	9442	(*)	(*)	(*)			(*)
KREISL CO INC	9444	(*)					
SMITH'S SUPER MARKET INC	9445	(*)	(*)	(*)			(*)
GRILL'S BUTCHER SHOP	9448	(*)					
GEORGE N BYERLY	9450	(*)	(*)	(*)			(*)
SHAMOKIN PACKING CO	9451	(*)	(*)	(*)			(*)
GIORDANO SAUSAGE	9456		(*)	(*)	(*)	(*)	
RENDULIC PACKING CO	9457	(*)					(*)
ARTHUR B WENGER	9459	(*)	(*)				(*)
R E HERSHEY INC	9464	(*)	(*)	(*)			
HERFURTH BROS MEAT CO	9465	(*)	(*)	(*)			(*)
MYERS BROTHERS	9469	(*)	(*)	(*)			(*)
RANCK'S MEAT MARKET	9473	(*)	(*)				
U S PENITENTIARY	9474	(*)		(*)			(*)
ESPEY'S MEAT MARKET	9482	(*)	(*)	(*)	(*)	(*)	(*)
R V WANTZ & SONS	9483						(*)
WALTER Z DILLON	9484	(*)	(*)	(*)			(*)
MERRY PROVISION	9489	(*)	(*)	(*)	(*)	(*)	(*)
MARK R BUCHER	9492	(*)	(*)	(*)			(*)
CHRISTMAN & FOX	9494	(*)	(*)				(*)
THORNTON MEATS	9497	(*)	(*)	(*)	(*)	(*)	(*)
INDIANA SLAUGHTERING CO	9498	(*)	(*)	(*)			(*)
WINDSOR MEAT MARKET	9500	(*)	(*)	(*)	(*)	(*)	(*)
STONEBRIDGE FARM BUTCHER SHOP INC	9509	(*)	(*)	(*)			(*)
FRED E SHIVELY	9511	(*)	(*)	(*)			(*)
R P HOWRY	9513	(*)	(*)	(*)			(*)
LEIDY'S INC	9520	(*)	(*)				(*)
WEISS PACKING CO INC	9528	(*)	(*)	(*)	(*)	(*)	(*)
EAST CARSON PACKING CO	9529	(*)	(*)	(*)			
PENNER PROVISION CO	9535	(*)		(*)			
BRIGHT BYERLY	9536	(*)	(*)				(*)
KEN WEAVER MEATS	9538	(*)	(*)				(*)
CLYDE R ALBERTSON	9540	(*)	(*)	(*)			(*)
ANDERSON QUALITY MEAT MARKET	9541	(*)	(*)	(*)	(*)	(*)	(*)
LEMAY & SONS BEEF	9542	(*)	(*)	(*)			(*)
EMERSON KNIGHT	9544	(*)	(*)				(*)
UNIVERSITY OF NEW HAMPSHIRE MEAT LABORATORY	9546	(*)		(*)			(*)
EZRA W MARTIN CO	9547						(*)
WAYNE NELL & SONS MEATS	9548	(*)	(*)	(*)	(*)	(*)	(*)
JOHN J KOHLER	9549	(*)	(*)				(*)
BEACH MEAT MARKET	9550	(*)	(*)				(*)
GREAT VALLEY MEAT MKT DOMINIC PEGLI	9557	(*)	(*)	(*)	(*)		
C P RIWADES & SON INC	9559	(*)	(*)	(*)			
FORREST D KISTLER	9561	(*)	(*)				

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
GERALD ANDERSON	9562	(*)	(*)	(*)			(*)
CHARLES T HEARD & CO	9563	(*)					
PUTNAK PACKING CO	9564	(*)	(*)				(*)
MYERS MEAT	9565	(*)		(*)			(*)
PERRY PACKING	9566	(*)	(*)	(*)	(*)	(*)	(*)
PIERCE CUSTOM SLAUGHTER CO	9567	(*)	(*)	(*)	(*)	(*)	(*)
CLOVERBLOOM FARM MARKET	9570	(*)	(*)				(*)
FICHERA'S MEATS INC	9576	(*)	(*)	(*)	(*)	(*)	(*)
GOULDEY & SONS INC	9577	(*)	(*)	(*)	(*)	(*)	(*)
O J HYNES	9579	(*)	(*)	(*)			(*)
GOURLEY PACKING CO INC	9580	(*)	(*)	(*)			(*)
LIVINGSTON PACKING CO	9581	(*)	(*)	(*)			(*)
JONES ABATTOIR	9584	(*)	(*)	(*)	(*)		(*)
LOUIS KLINE INC	9589	(*)	(*)	(*)	(*)	(*)	(*)
GEORGE'S MEATS	9590	(*)	(*)				(*)
PRIM PACKING CO	9592	(*)	(*)	(*)			(*)
CONGENS AQUILANTE	9603	(*)	(*)	(*)			
HAROLD A BOMB	9605	(*)	(*)	(*)			(*)
DOWNINGTOWN WHOLESALE MEATS	9606	(*)	(*)	(*)			(*)
FRANK ESPOSITO & SONS	9607	(*)	(*)				
GOODHART MEATS	9609	(*)	(*)	(*)			(*)
LUKON MEATS INC	9616	(*)	(*)	(*)			(*)
MOCCIO PACKING	9618	(*)	(*)				
GEORGE'S MEAT MARKET INC	9620	(*)	(*)	(*)	(*)	(*)	(*)
CHARLES J PLOLINER	9622	(*)	(*)	(*)	(*)	(*)	(*)
RHODES' MEAT MARKET	9623	(*)	(*)	(*)			(*)
STOLTZFUS LOCKER & IGS FOOD MARKET	9625	(*)	(*)				
EBLING'S MEAT MARKET	9630	(*)	(*)	(*)			(*)
PIFFERETTI PACKING CO	9631	(*)	(*)	(*)	(*)	(*)	(*)
BURKHOLDER MEAT PRODUCTS	9632	(*)	(*)	(*)	(*)	(*)	(*)
JONATHAN L KING	9633	(*)	(*)	(*)			(*)
TURNER FARMS INC	9634	(*)	(*)				(*)
R D KELLY MEAT PACKING	9635	(*)	(*)	(*)			(*)
M LEPIDI & SONS INC	9636	(*)	(*)	(*)			(*)
KRALL'S MEAT MARKET	9638	(*)	(*)	(*)			(*)
F & S MEATS	9639	(*)	(*)	(*)			(*)
GLEN J ROSENBERRY	9640	(*)	(*)	(*)			(*)
ALBA'S MEAT MARKET	9643	(*)	(*)				
MRS EDITH ONDILLA	9644	(*)	(*)				(*)
SHAFFER'S ABATTOIR INC	9645	(*)	(*)	(*)			
YOST QUALITY MEATS	9646	(*)	(*)	(*)	(*)	(*)	(*)
WATSON'S HOME DRESSED MEATS	9647	(*)	(*)	(*)			(*)
JOSEPH VENEZIA DRESSED BEEF	9666	(*)	(*)				
BALDERSTON BROS	9670	(*)	(*)	(*)			
CATELLI INC	9671						(*)
PRINGLE'S HOME DRESSED MEATS	9673	(*)			(*)		(*)
FIERRO'S FOOD MARKET INC	9674	(*)					
CRISSMAN INC	9679	(*)	(*)	(*)	(*)	(*)	(*)
COHICK BROS MEAT PACKERS INC	9682	(*)	(*)	(*)			(*)
PAINTER'S MEAT PRODUCTS	9683	(*)	(*)	(*)			(*)
KECK'S MEAT PLANT	9684	(*)	(*)	(*)			(*)
FETTEROLF'S MEAT MARKET	9685	(*)	(*)	(*)			(*)
MARK BOWMAN	9686	(*)	(*)				(*)
LEE BIXLER	9687	(*)	(*)	(*)			(*)
BOYER'S MEATS	9688	(*)	(*)				(*)
KOLB'S MEAT MARKET	9689	(*)	(*)	(*)	(*)	(*)	(*)
CARL VENEZIA MEATS	9693	(*)	(*)	(*)			
PAUL H SCHNECK	9695	(*)	(*)	(*)	(*)	(*)	(*)
ROBERT L BINGMAN	9696	(*)	(*)	(*)			(*)
SMITH'S MEATS	9697	(*)	(*)	(*)			
HOLLAND BROS MEATS	9701	(*)	(*)	(*)			(*)
ALFERY'S SALSAGE CO INC #2	9702	(*)	(*)	(*)	(*)	(*)	(*)
SPRINGFIELD MEAT CO	9704	(*)	(*)	(*)			
BARINGER BROS	9706	(*)	(*)	(*)			(*)
HAGERS MEAT MARKET	9707	(*)	(*)	(*)			
HANSON'S FREEZER MEATS	9711	(*)	(*)	(*)	(*)	(*)	(*)
COFFARO CUSTOM BUTCHERING	9712	(*)	(*)	(*)	(*)	(*)	(*)
THOMA'S MEAT MARKET	9714	(*)	(*)	(*)	(*)	(*)	(*)

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NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
DAVE FINE MEAT PACKER INC	9715	(*)	(*)	(*)	(*)	(*)	
LOUTSION PACKING CO INC	9716	(*)	(*)	(*)	(*)	(*)	
LEE GASHEL & SONS INC	9717	(*)	(*)	(*)		(*)	
AMERICAN FOODS INC	9718	(*)	(*)	(*)		(*)	
STEALE 84 PACKING CO	9719	(*)	(*)	(*)		(*)	
SMITH'S FROZEN FOOD	9720	(*)	(*)	(*)	(*)	(*)	
HEINNICKEL FARMS INC	9725	(*)	(*)	(*)		(*)	
WALTER'S MEATS	9726	(*)	(*)	(*)		(*)	
HILLCREST PACKING CO	9747	(*)	(*)	(*)	(*)	(*)	
JOSEPH BENZAK JR	9753	(*)	(*)	(*)	(*)	(*)	
LEMHENEY BUTCHER SHOP INC	9755	(*)	(*)	(*)	(*)	(*)	
ROYAL SWAN FOODS INC	9758	(*)	(*)	(*)		(*)	
REHRIG'S QUALITY MEATS INC	9759	(*)	(*)	(*)		(*)	
GILBERT'S MEATS	9762	(*)					
HEINTZELMAN'S MEAT MARKET	9763	(*)	(*)				
DELBERT E HAYDT	9765	(*)				(*)	
WILLIAM MULITSCH	9766					(*)	
JOHN J ELNITSKI	9767	(*)				(*)	
WALTER JURCZAK	9770	(*)	(*)	(*)	(*)	(*)	
ALBERT GARUTH	9776	(*)					
HOWARD W DARLING	9777	(*)				(*)	
LEONA MEATS	9784	(*)	(*)	(*)		(*)	
J & B MEAT PLANT	9785	(*)	(*)	(*)		(*)	
STEPNIAK BEEF	9786	(*)	(*)	(*)		(*)	
MUSSERS INC	9788	(*)	(*)	(*)	(*)		
YOUNDT BROS	9789	(*)	(*)			(*)	
C H THOMAS SONS INC	9790	(*)				(*)	
AMOS STOLTZFUS	9792	(*)		(*)		(*)	
LOCUSTDALE PACKING CO	9799	(*)	(*)	(*)	(*)	(*)	
ALLEN I ROMBERGER	9800	(*)	(*)				
PEZZNER BROTHERS INC	9808	(*)				(*)	
ROBZEN'S INC	9809	(*)	(*)				
HOCH'S FARMS & MARKETS INC	9810	(*)					
TWIN PINE FARM	9814	(*)	(*)			(*)	
WINTER GARDENS ABATTOIR	9815	(*)	(*)	(*)		(*)	
J A HARGLEROAD & CO	9816	(*)	(*)	(*)	(*)	(*)	
THE COUNTRY BUTCHER SHOP	9819	(*)	(*)	(*)	(*)	(*)	
HERVITZ PACKING CO	9821	(*)	(*)				
LAUDERMILCH MEATS	9823	(*)				(*)	
PHARES A LONGNECKER & SONS INC	9827	(*)					
CLOVER MEAT PACKING INC	9828	(*)	(*)			(*)	
N S TROUTMAN & SONS	9832	(*)	(*)	(*)		(*)	
MIKE LEVCHIK	9834	(*)	(*)	(*)		(*)	
GLENN J BEASTON	9835	(*)	(*)			(*)	
NORMAN ZIMMERMAN & SON	9836	(*)					
HENRY S ZIMMERMAN	9837	(*)				(*)	
GEORGE E GARNER	9838	(*)	(*)	(*)		(*)	
GLENN E HENRY	9841	(*)	(*)	(*)	(*)	(*)	
FRANCIS BUNANNO PACKING CO	9842	(*)	(*)	(*)	(*)	(*)	
HUGHEY (BOBBY) HEYANDT III	9843	(*)	(*)	(*)	(*)	(*)	
PENNSYLVANIA STATE UNIV MEATS LABORATORY	9844	(*)	(*)	(*)		(*)	
CHARLES YOUNDT & SONS	9846	(*)				(*)	
FENTONS MEATS	9847	(*)	(*)	(*)		(*)	
OLIJNYK BROTHERS	9848	(*)	(*)	(*)		(*)	
PALACE MARKET INC	9860	(*)	(*)			(*)	
KERN COUNTY SHERIFF	9891	(*)				(*)	
CALIFORNIA STATE UNIV FRESNO MEAT LABORATORY	9892	(*)	(*)	(*)		(*)	
CAVALIER EXPORT CO E	9910						(*)
COMMITTEE ON MASONIC HOMES	9913	(*)	(*)			(*)	
MCGUIRE MEATS	9915	(*)	(*)			(*)	
DONALD M SEIDLE	9921	(*)	(*)	(*)		(*)	
NEWPORT PACKING CO	9926	(*)	(*)	(*)	(*)		
METZGER MEAT	9927	(*)	(*)	(*)		(*)	
SUGAR TREE MEAT PROCESSING INC	9943	(*)				(*)	
SCHALLER'S SLAUGHTERHOUSE	9955	(*)	(*)	(*)	(*)	(*)	
NASER PACKING CO	9958	(*)	(*)	(*)	(*)	(*)	
JOHN M BONHAM & SONS	9971	(*)	(*)	(*)		(*)	
AMOS BAWELL & SONS	9974	(*)	(*)	(*)		(*)	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
MINOR ACRES PACKING CO	9983	(*)	(*)	(*)			(*)
BECK-WHITE SLAUGHTER & PROCESSING	12600	(*)					(*)
BARTON MEAT PROC	12601	(*)					(*)

Done at Washington, D.C., on September 18, 1978.

SYDNEY J. BUTLER,

tect watersheds, prevent erosion, and improve other social and economic values of the forests, such as wildlife, recreation and natural beauty.

(e) Rate of growth is the increase in diameter, basal area, height, or volume of individual trees or stands in a given time period.

reforestation treatment. If the area fails to meet these standards after either the first (except for natural regeneration) or third year exam, it will

wildlife from regeneration areas, and to otherwise improve growing forests to secure planned production of trees and other multiple use values.

mented and amended; 16 U.S.C. 473-478, 479-482, 551).

(2) Knutson-Vandenberg Act of June 9, 1930 (46 Stat. 527, as amended; 16

Done at Washington, D.C., on September 18, 1978.

SYDNEY J. BUTLER,
Acting Administrator,
Food Safety and Quality Service.

[FR Doc. 78-26627 Filed 9-25-78; 8:45 am]

[3410-11]

Forest Service

REFORESTATION AND TIMBER STAND IMPROVEMENT POLICY

Modification

AGENCY: Forest Service, USDA.

ACTION: Proposed policy.

SUMMARY: This is a Forest Service proposed policy modification for reforestation and timber stand improvement (TSI). The National Forest Management Act of 1976, Pub. L. 94-588, states it is the policy of the Congress that National Forest land be maintained in appropriate forest cover, degree of stocking, rate of growth, and condition of stand to secure the maximum benefits for all resource uses. The act authorizes reforestation and TSI funding not only for timber production, but for other resource uses. The act also requires certain reports be submitted to the Congress annually, including the total acreage of needed work and estimated costs of planned work, and certification of completed work. This proposal includes Forest Service Manual (FSM) changes.

Copies of the proposed Manual changes, along with field instructions and report formats, may be reviewed at all Forest Service Regional Headquarters.

DATE: Comments must be received on or before November 13, 1978.

ADDRESS: Submit comments to: John R. McGuire, Chief, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013.

All written submissions made pursuant to this notice will be available for public inspection in the Timber Management Staff, South Agriculture Building, Room 3207, Washington, D.C., during regular business hours.

FOR FURTHER INFORMATION, CONTACT:

Robert E. Gillespie, Timber Management Staff, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013, 202-447-7495

2472—REFORESTATION

Reforestation includes tree planting and seeding, and measures to obtain natural regeneration. The work is done on National Forests to produce timber and other forest products, protect watersheds, prevent erosion, and improve other social and economic values of the forests, such as wildlife, recreation and natural beauty.

2472.01—Authority. Basic authority for reforestation is given in the following acts (FSM 1021):

(1) Reforestation on National Forest lands:

(a) Organic Administration Act of June 4, 1897 (30 Stat. 34, as supplemented and amended; 16 U.S.C. 473-478, 479-482, 551).

(b) Knutson-Vandenberg Act of June 9, 1930 (46 Stat. 527, as amended; 16 U.S.C. 576-576b).

(c) Multiple-Use Sustained-Yield Act of June 12, 1960 (74 Stat. 215, as amended; 16 U.S.C. 528-531).

(d) Supplemental National Forest Restoration Fund Act of September 18, 1972 (86 Stat. 678; 16 U.S.C. 576c-576e).

(e) Forest and Rangeland Renewable Resources Planning Act of August 17, 1974 (88 Stat. 476, as amended; 16 U.S.C. 1600-1614).

(f) National Forest Management Act of 1976 (90 Stat. 2949; 16 U.S.C. 1600).

(g) Bankhead-Jones Farm Tenant Act of July 22, 1937 (50 Stat. 525, as amended; 7 U.S.C. 1010-1012).

(2) Reforestation on National Forest lands and other lands under the administration or control of the Forest Service—Anderson-Mansfield Reforestation and Revegetation Act of October 11, 1949 (63 Stat. 762; 16 U.S.C. 581j, 581k).

2472.02—Objectives. As stated in the National Forest Management Act, the objectives on all forested lands in the National Forest System shall be to: (1) Maintain an appropriate forest cover with species of trees, degree of stocking, rate of growth, and conditions of stand designed to secure maximum benefits of multiple use sustained yield management.

Where:

(a) Forest land is land at least 10 percent occupied by forest tree species of any size, or land formerly having had such tree cover and not devoted to nonforest use.

(b) Appropriate forest cover is forested lands composed of a variety of plant communities similar to those existing in an area, distributed in a manner reflecting their natural occurrence. It includes seral and climax stages. Forbs, grasses, and shrubs in their proper ratios are important components of the forest cover.

(c) Trees are woody perennial plants typically large when mature and with a single, well-defined stem carrying a more or less definite crown.

(d) Degree of stocking is the number of trees on a given area in relation to what is considered to be the optimum to meet multiple use management objectives.

(e) Rate of growth is the increase in diameter, basal area, height, or volume of individual trees or stands in a given time period.

(f) Manipulation of stocking is designed to secure maximum benefits of multiple use sustained yield management for individual stands as determined by silvicultural prescriptions which consider all resources.

(2) Improve the quality and yield of new timber stands by controlling the source and genetic quality of seeds and trees used on reforestation projects.

(3) Develop and demonstrate successful reforestation methods and techniques and resulting benefits which will serve as an encouragement to private landowners.

2472.03—Policy. (1) Until such time as a unit of the National Forest System is managed under plans developed in accordance with the National Forest Management Act, the management of such unit may continue under existing land and resource plans as long as the plan is not in conflict with the National Forest Management Act.

(2) Reforestation for all resource uses and/or activities will be based on silvicultural prescriptions to meet specific resource and site requirements.

(3) Areas to be reforested with appropriated or Knutson-Vandenberg (K-V) Act funds shall be separated into two categories of reforestation needs as follows:

Backlog.—Consists of all acres in need of reforestation, as of July 1, 1975, by planting, seeding, and site preparation for natural regeneration for any purpose except planting ornamentals at developed sites. This definition was established to provide a common basis for determination and reporting of backlog to Congress as required by the Accelerated Reforestation Act of 1972.

Current.—Consists of all acreas in need of reforestation which have become understocked due to natural or manmade causes, or regeneration cutting since July 1, 1975.

(4) All reforestation backlog areas will be programed for reforestation (by natural or artificial means) by October 1, 1984. Forest Supervisors will prepare statements explaining why any backlog areas cannot be reforested by that time. Reasons for noncompliance with the 1984 deadline are lack of access to an area, lack of technology to reforest an area, pending classification of wilderness study areas, nonforest use, or lack of funds. All regeneration areas are to be examined for certification as meeting minimum reforestation standards established by the Regional Forester for timber or other resource objectives.

(5) Regeneration examinations will be made, as a minimum, following the first and third growing seasons after

reforestation treatment. If the area fails to meet these standards after either the first (except for natural regeneration) or third year exam, it will be returned to current needs and promptly scheduled for additional corrective treatment as necessary.

(6) Because the current needs created in 1 year normally cannot all be reforested in the following year, the current needs inventory will be greater than the program for any 1 year. After 1984 the inventory of needs should be greater than approximately three times the average annual reforestation program.

(7) As stated in the National Forest Management Act of 1976, regeneration cutting will not be done if reforestation cannot be assured within 5 years. The reforestation method—namely, planting, seeding, or natural regeneration—must be prescribed that will accomplish reforestation objectives within the maximum time constraints. In shelterwood and seed tree systems, the regeneration period shall begin with the seed cut. The 3-year certification will begin with the removal cut.

(8) Take full advantage of the K-V Act as amended (FSM 2477) to reforest timber sale areas.

(9) Reforestation of sale areas which cannot be financed with K-V funds should compete on an equal basis with other forest lands for use of appropriated reforestation funds as long as the 5-year time constraint is met.

(10) Areas to be reforested with appropriated funds should be programed to action plans on an individual resource priority basis. Wherever possible and practicable, values should be assigned for the benefits and returns for all resource purposes and uses, and be included in the economic analysis. If this is not feasible, they must be given full and appropriate consideration as intangible values and benefits. The Regional Forester will develop guidelines for assessing intangible benefits based on Washington Office advice.

(11) Reforestation primarily for purposes other than timber production, such as for unproductive forest land which may need reforestation for watershed purposes, will be financed from the same appropriated funds as timber reforestation needs and activities, but will be identified under appropriate functional codes according to procedures established in 6553.12b.

(12) Regional Foresters will comply with FSM 2496 instructions for reporting reforestation "backlog" and "current" acreage treatment needs, schedules for completion of treatments, and funding requests to implement these treatments. Needs reported shall include funds necessary to prepare sites, plant trees, build fences, or otherwise treat to exclude livestock and adverse wildlife from regeneration areas, and to otherwise improve growing forests to secure planned production of trees and other multiple use values.

(13) Seed and seedlings of exotic tree species or of native species from an offsite source (zone), will not be used to reforest an area or site. Two exceptions to this policy are the use of seed or seedlings of nonindigenous species or seed origins:

(a) Which, as a result of scientifically conducted tests, have proven adaptable to the area and site in question and are capable of producing the kind and quality of trees desired on the area to secure maximum multiple use benefits.

(b) Which have proven adaptable in tests or administrative studies carefully planned and conducted by, or in cooperation with research or knowledgeable scientists outside the Forest Service.

(14) Encourage States and private organizations to produce all the seed and seedlings they need to reforest non-Federal lands. Sell seed and seedlings to political subdivisions of States only through State foresters and when surplus to Forest Service needs.

(15) Utilize contractual services for site preparation, planting, seeding, regeneration release, and seed procurement to the fullest extent practicable where effective and efficient. Planning and administration of these activities should be done by Forest officers. Force account and contract work must be done to the same quality standards.

(16) Provide for advance review by appropriate State and Federal agencies for (a) doing any work such as animal control or (b) using chemical pesticides that are subject to State or Federal regulations (FSM 5203.52). Animal pest control activities must be done in accordance with current instructions on pesticide use in cooperation with the U.S. Fish and Wildlife Service.

(17) Reforestation monies not expended during the fiscal year in which they were appropriated may be carried over to the following fiscal year provided identified targets are attached to the funds. Otherwise they will be transferred to the Washington Office for further allocation.

(18) Inform minorities and women about the opportunities in contracting for reforestation work.

2476—TIMBER STAND IMPROVEMENT

2476.01—Authority. Basic authority for timber stand improvement operations on the National Forests is given in regulations 36 CFR 223.3 and 36 CFR 223.11 and in the following Acts: (FSM 1021)

(1) Organic Administration Act of June 4, 1897 (30 Stat. 34, as supplemented and amended; 16 U.S.C. 473-478, 479-482, 551).

(2) Knutson-Vandenberg Act of June 9, 1930 (46 Stat. 527, as amended; 16 U.S.C. 576-576b).

(3) Multiple-Use Sustained-Yield Act of June 12, 1960 (74 Stat. 215, as amended; 16 U.S.C. 528-531).

(4) Forest and Rangeland Renewable Resources Planning Act of August 17, 1974 (88 Stat. 476, as amended; 16 U.S.C. 1600-1614).

(5) National Forest Management Act of October 22, 1976 (90 Stat. 2949; 16 U.S.C. 1600).

2476.02—Objectives. (1) Design silvicultural treatments to insure that all forested land is maintained in appropriate forest cover with species of trees, degree of stocking, rate of growth, and conditions of stand designed to secure the maximum benefit of Multiple Use Management. Definition in FSM 2472.02.

(2) Increase the growth rate and/or improve the quality of trees by cultural treatments in young timber stands consistent with multiple use sustained yield management objectives.

(3) Prevent damage to trees by insects, diseases, drought, windthrow, and other causes. Prevent the buildup and spread of tree diseases and harmful insects by maintaining a diversity of plant and animal communities similar to that existing in the area. Maintain a high level of tree vigor, proper stand densities, and desirable plant species.

(4) Treat stands to maintain or improve aesthetics, recreation, fish and wildlife habitat, range, timber, soil, watershed, and other National Forest values, to the extent recognized in land management plans for the areas. Treatments must be consistent with multiple use sustained yield management objectives.

(5) Based on existing scientific knowledge, develop and demonstrate the benefit of improved methods and techniques of timber stand improvement for all resource purposes as an encouragement to private landowners.

2476.03—Policy. (1) Until such time as a unit of the National Forest System is managed under plans developed in accordance with the National Forest Management Act, the management of such unit may continue under existing land and resource management plans.

(2) Timber stand improvement can be carried out on all forested land to improve multiple use values. Timber stand improvement for purposes other than timber production will be financed from the same appropriation as TSI for timber production, but will be identified under appropriate functional codes in the program-planning budgeting process.

(3) Timber stand improvement for all resource uses and/or activities will be based on cultural treatments prescribed to meet specific resource objectives. Timber stand improvement prescribing the methods, techniques, and timing of silvicultural activities are some of the most important tasks connected with proper management of

Dated: September 15, 1978.

R. A. RESLER,
Acting Chief, Forest Service.

ing public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set

4. In the event no objections are filed to any part of this order, we will consider all further procedural steps relating to such part or parts to have

conclude that the elimination of restrictions on Eastern's operations in the Portland-Tampa market is required by the public convenience and

V 43 / 187 SEP 26 78 V 4

(3) Timber stand improvement for all resource uses and/or activities will be based on cultural treatments prescribed to meet specific resource objectives and site capabilities.

(4) Timber stand improvement objectives for all resource needs and purposes will be accomplished wherever possible by commercial sale of timber and other forest products.

(5) Timber stand improvement will be accomplished by contract to the extent it is the most cost effective method consistent with resource objectives.

(6) Promote utilization of wood and other products that can be salvaged from trees designated to be cut or killed in timber stand improvement operations, unless the dead material has in-place value for other resources.

(7) All silvicultural treatment programs will be based on multiresource needs and priorities.

(8) Follow established procedures for (a) doing any work such as animal control (FSM 2650) or (b) using chemical pesticides that are subject to State or Federal regulations (FSM 5203.52).

(9) Cooperate with private organizations, individuals, and other public agencies whose interests are affected by timber stand improvement operations and associated multiresource management. Appraise them of the nature and purpose of the work and give appropriate recognition to their interests in developing programs and project specifications.

(10) Pruning for quality improvement of timber products on productive forest lands should not be done unless demand-supply analysis demonstrates a need for this type material. Pruning may also need to be carried out to meet other resource objectives.

(11) Forest fertilization should be considered on an operational scale only where soil and hydrologic analysis indicates reasonable assurance of the desired response by the species or forest type concerned, and the treatment is within the multiple use direction for the site.

(12) Take full advantage of the Knutson-Vandenberg Act, as amended by the National Forest Management Act (FSM 1021), to finance needed cultural treatments and multiple use activities on areas cutover by timber sales (FSM 2477.03). TSI of sale areas which cannot be financed with K-V funds will compete on an equal basis with other forest lands for use of appropriated TSI funds.

(13) Inform minorities and women about the opportunities in contracting for timber stand improvement work.

2478—Silvicultural Examinations and Prescriptions

Examining National Forest lands, diagnosing treatment needs, and prescribing the methods, techniques, and timing of silvicultural activities are some of the most important tasks connected with proper management of the National Forests. The examination requires the careful and competent gathering of detailed data on the resources and conditions existing in the area. The prescription requires a high degree of professional skill by a trained silviculturist thoroughly familiar with local climatic and edaphic conditions, the silvics of the species concerned, the land management guidelines pertaining to the area, the management alternatives and resources available, cooperation with other resource specialists, and pertinent Forest Service Manual instructions and policies. It is imperative that these requirements be met in every area in which a silvicultural practice is performed.

2478.01—Authority. Authority to make silvicultural examinations, to diagnose treatment needs and prescribed silvicultural activities is inherently implied in the basic authorizations to harvest timber and carry out reforestation and stand improvement projects on National Forest land (FSM 2401).

2478.02—Objectives. (1) Secure accurate land, vegetation and other resource data on each specific stand area.

(2) Diagnose treatment needs.

(3) Prescribe the specific techniques and timing of the activities necessary to accomplish the silvicultural treatments recommended to meet the land management objective of the area and describe the consequences of feasible alternative treatments.

(4) Develop an orderly program of land treatments.

2478.03—Policy. (1) Silvicultural examinations, diagnosis of treatment needs, and prescription detailing the technique and timing of the silvicultural activity to be used are required procedures prior to initiating any silvicultural treatment on National Forest lands.

(2) Complete, detailed prescriptions with full interdisciplinary input and Environmental Analysis Report (EAR) should only be prepared where stand conditions are not likely to change significantly prior to implementation of the treatment.

(3) Establish regular periodic stand examination and silvicultural diagnosis procedures on a compartment basis in order to maintain orderly program of work.

(4) All silvicultural diagnosis prescriptions will be made or reviewed by trained and certified silviculturists. Regional Foresters are responsible for establishing standards necessary for certification of silviculturists.

Dated: September 15, 1978.

R. A. Resler,
Acting Chief, Forest Service.

[FR Doc. 78-26971 Filed 9-25-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket No. 31-654]

AEROLINEAS DOMINICANAS, S.A.

Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge Richard V. Backley to Administrative Law Judge Rudolf Sobernheim. Future communications should be addressed to Judge Sobernheim.

Dated at Washington, D.C., September 19, 1978.

Nahum Litt,
Chief Administrative Law Judge.

[FR Doc. 78-26920 Filed 9-25-78; 8:45 am]

[6320-01]

[Docket No. 33406; Order 78-9-57]

BRANIFF AIRWAYS, INC.

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 9

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of September 1978.

By Order 78-9-56, issued concurrently with this Order, the Board has proposed to realine the domestic route system of Northwest Airlines in a manner which would, among other things, give Northwest unrestricted authority in one minor market—Portland-Tampa [1]—where Braniff also holds restricted authority: One-stop via Dallas/Fort Worth.[2] As discussed in Orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Braniff as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109, 77-11-74, and 76-5-101, we tentatively find and conclude that the elimination of restrictions on Braniff's operations in the Portland-Tampa market is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final, with answers due within 10 days thereafter. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.[3]

Accordingly: 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending certificate for Route 9 so as to remove operating restrictions in the Portland-Tampa market;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, no later than October 19, 1978, file with the Board and serve upon all persons listed in Appendix I of Order 78-9-56, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed no later than October 30, 1978;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board; [4]

4. In the event no objections are filed to any part of this order, we will consider all further procedural steps relating to such part or parts to have been waived, and the case will be submitted to the Board for final action; and

5. We shall serve a copy of this order upon all persons listed in Appendix I of Order 78-9-56.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,[5]
Secretary.

[FR Doc. 78-26922 Filed 9-25-78; 8:45 am]

[6320-01]

[Docket No. 33409; Order 78-9-58]

EASTERN AIR LINES, INC.

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 10

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of September 1978.

By Order 78-9-56, issued concurrently with this Order, the Board has proposed to realign the domestic route system of Northwest Airlines in a manner which would, among, other things, give Northwest unrestricted authority in one minor market—Portland-Tampa [1]—where Eastern also holds restricted authority: 3 stops via Omaha, St. Louis, and Huntsville.[2] As discussed in Orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Eastern as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent, with our tentative findings and conclusions set forth in Orders 78-4-109, 77-11-74, and 76-5-101, we tentatively find and conclude that the elimination of restrictions on Eastern's operations in the Portland-Tampa market is required by the public convenience and necessity, and is consistent with the Board's policy of removing restricions which serve no useful purpose and which are otherwise wasteful and undesirable.

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final, with answers due within 10 days thereafter. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with opportunity for oral cross-examination is requesed, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.[3]

Accordingly: 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Eastern's certificate for Route 10 so as to remove operating restrictions in the Portland-Tampa market;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, no later than October 19, 1978, file with the board and serve upon all persons listed in Appendix I of Order 78-9-56, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed no later than October 30, 1978;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board; [4]

4. In the event no objections are filed to any part of ths order, we will consider all further procedural steps relating to such part or parts have

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[2] We further conclude that Braniff is a citizen of the United States within the meaning of the act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the act and the Board's rules, regulations, and requirements.

[4] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[1] A minor market is one with fewer than 20 true O. & D. plus interline connection passengers, a day, or 7,300 per year.

[2] There were 5,360 O. & D. plus connecting passengers in the Portland-Tampa market for the year ended September 30, 1975.

[5] All members concurred.

been waived, and the case will be submitted to the Board for final action; and

5. We shall serve a copy of this order

times, as a further justification for our grant of its applications. Finally, it believes it can provide two round trips profitably, without subsidy, and that

Order on Reconsideration in the *Improved Authority to Wichita Case,* [7] we said we would be prepared to consider the removal of its restriction in the

As we have made clear in recent decisions (see, *e.g., Service to Oakland Case,* Order 78-4-121), we believe that market forces are most likely to result

low fares naturally will continue to be reflected in any revenue estimates submitted, we are not interested in any

ing the proposed operations and depriving the public of needed service. Therefore, we find that the enforcement of section 401 of the act and the

V 43 / 187 SEP 26 78 V 4

been waived, and the case will be submitted to the Board for final action; and

5. We shall serve a copy of this order upon all person listed in Appendix I of Order 78-9-56.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[5]
Secretary.

[FR Doc. 78-26923 Filed 9-25-78; 8:45 am]

[6320-01]

[Docket Nos. 32770, etc.; Order 78-9-61]

EASTERN AIR LINES, INC., ET AL.

Order Regarding Atlanta-Memphis Service Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of September 1978.

On May 13, 1978, Eastern Air Lines applied to suspend service at Memphis for a 5-year period, pursuant to section 401(j) of the act. Eastern claims that its Memphis traffic dropped drastically after the termination of its interchange with Braniff,[1] causing it to suffer losses and to cut its service to one daily roundtrip.[2] It anticipates a net savings once its service is suspended and intends to use the Memphis-Atlanta aircraft in more productive ways elsewhere. Eastern also asserts that the suspension will not inconvenience the public since Delta provides 17 nonstop daily flights while Southern offers 17 one- and two-stop flights and may replace Eastern, since it has applied both for an exemption[3] to operate two nonstop round trips and for a certificate amendment.[4]

On May 19, 1978, Southern Airways filed concurrent applications for an exemption *pendente lite* and permanent certificate authority to operate nonstop Atlanta-Memphis service. It also filed a petition to show cause why its certificate should not be so amended. Southern relies on Eastern's imminent withdrawal, points out that it has operated one-stop service for a number of years, and argues that the market is one of the heaviest traveled in the Southeast and is entitled to the continuance of competitive nonstop service, which it can provide as a supplement to or replacement for Eastern. It points to its proposed schedule, which will fill voids in existing departure times, as a further justification for our grant of its applications. Finally, it believes it can provide two round trips profitably, without subsidy, and that its proposed operations will have no adverse impact on either Eastern or Delta.

Piedmont also seeks a certificate amendment by show cause, removing its one-stop restriction between Atlanta and Memphis, and an exemption *pendente lite* to operate two daily nonstop round trips.[6] It asks that we grant both it and Southern the requested exemption and certificate authority, since the two nonstop round trips both propose will completely replace Eastern's previous service. It further supports its exemption request by stating that it intends to offer a 40-percent off-peak fare, as well as other promotional fares, that it will provide first single-plane service to other markets, and that it can operate the route profitably.

Three other carriers, Braniff, Frontier, and Texas International, have applied for authority to serve Atlanta-Memphis.[6] Braniff and Frontier oppose both Piedmont's and Southern's requests for exemptions, on the grounds that granting them would prejudice their certificate amendment applications. As to the latter, Frontier asks that we process them by show cause proceedings and grant all of them, on a permissive basis. Braniff, on the other hand, opposes our use of show cause procedures on the grounds that there will be competing applicants for this route and that a conclusion may be reached by use of hearing procedures almost as quickly as if we use show cause procedures.

Delta, in its answer to Southern, does not oppose Southern's exemption request or certificate amendment application, provided we contemporaneously suspend or delete Eastern at Memphis and do not authorize additional carriers to provide nonstop service. It does, however, oppose the use of show cause procedures.

Southern replied to the answers of Delta, Eastern, Braniff, Frontier, and Piedmont, by pointing out that in our Order on Reconsideration in the *Improved Authority to Wichita Case*,[7] we said we would be prepared to consider the removal of its restriction in the Memphis-Atlanta market. It views its certificate amendment application as a restriction removal request that can be accomplished through the use of show cause procedures without the need to consider other applications. It argues that there is no legal requirement to consolidate the applications of Braniff, Frontier, and Texas International because no finding of a need for Southern's service in this market is required, and therefore "there will be no binding determination that the lifting of Southern's restriction will as a matter of economic fact preclude entry by other applicants at a future date." However, it is also emphasizes that its exemption and certificate amendment applications are predicated on Eastern's reduction of service to a "bare bones" minimum of one daily round trip.

Southern filed a consolidated answer to Piedmont's pleadings, opposing our grant of Piedmont's request. It notes that, while Piedmont holds Atlanta-Memphis one-stop authority, it has never operated there; it also contradicts Piedmont's claim that it would be the first to offer lower fares, in view of Southern's "Fabulous Fifty," which offer a 50-percent discount.

We have decided to institute the *Atlanta-Memphis Service Investigation*, Docket 33411; to suspend Eastern's authority to serve Memphis for a period of 5 years or until the final decision in the investigation; and to grant the concurrent applications of Southern and Piedmont for exemptions *pendente lite*, permitting them to provide two daily nonstop round trips each between Atlanta and Memphis. We are consolidating into the investigation the following dockets: 32770 (Eastern's suspension request); 32719 (Southern's certificate amendment application); 32836 (Piedmont's certificate amendment application); 32753 (Braniff's certificate amendment application); 32813 (Frontier's certificate amendment application); and 33003 (Texas International's certificate amendment application).

The investigation will consider whether the public convenience and necessity require new nonstop authority between Atlanta and Memphis; which carrier or carriers should be granted it; whether Eastern's authority at Memphis should be suspended, deleted or otherwise amended; and whether any new or existing authority should be subject to any restrictions or conditions.[8]

[5] All members concurred.

[1] This interchange provided four daily round trips between Denver and Atlanta via Memphis; it was terminated by Order 77-4-146, effective July 27, 1977.

[2] Eastern reduced its service to one daily round trip on May 1, 1978.

[3] Docket 32721.

[4] Docket 32719.

[6] Docket 32836, Piedmont's certificate amendment application; Docket 32837, Piedmont's application for temporary exemption, filed June 9, 1978. On the same date, Piedmont moved to consolidate its applications with those of Southern.

[6] Braniff's certificate application was filed in Docket 32753 on May 26, 1978, accompanied by a motion to consolidate and an answer to Southern's petition. Frontier's certificate application was filed in Docket 32813 on June 5, 1978, accompanied by an answer by an answer to Southern's application and a motion to consolidate. Texas International's application was filed in Docket 33003 on July 7, 1978; previously, on June 26, 1978, it had filed a consolidated answer to the applications of Piedmont and Southern.

[7] Order 78-5-83, May 15, 1978.

[8] Applications, amendments to applications, motions to consolidate, petitions for reconsideration and environmental submis-

Footnotes continued on next page

As we have made clear in recent decisions (see, *e.g., Service to Oakland Case*, Order 78-4-121), we believe that market forces are most likely to result in optimum service at optimum fares since the market selection process operates continuously and efficiently. We will therefore consider the possible grant of permissive authority to all fit, willing, and able applicants, and the extent to which such awards encourage the efficiency, innovation, and competition deemed to be in the public interest by section 102 of the act. In view of this, we are less inclined than we were when we laid down the policy, in our order instituting the *Chicago - Albany / Syracuse - Boston Competitive Service Investigation*, Order 77-12-50, to give heavy weight in carrier selection to the offer or failure to offer low prices, since open competition will insure these offers more effectively than restrictive carrier selections based on their promise.

We are therefore concerned about the delay and costs of the evidentiary burdens which traditional carrier-selection cases entail for the parties, the Board and the Board's staff, and particularly with the burden of introducing and evaluating evidence that will be unnecessary if the case results in multiple permissive awards. We invite the parties and the administrative law judge to explore ways of reducing the quantity of required exhibit material, eliminating duplication and superfluous detail, standardizing methodology, and focusing on the significant facts and assumptions. Specifically, we are interested in reducing or eliminating the tremendous amount of detail on schedules, traffic, profitability and diversion typically required to adjudicate the issue of comparative carrier selection. The possibility of stipulating facts and eliminating comparative selection evidence should be carefully explored. In particular, carriers interested in being selected for a market only if multiple, permissive authority is awarded generally should be excused from submitting the full panoply of comparative selection evidence for that market.[9] Further, although low fares naturally will continue to be reflected in any revenue estimates submitted, we are not interested in any detailed comparative examination of the price/quality options arrived at by the various applicants. Ultimately, of course, we leave the resolution of all of these matters to the administrative law judge.

We believe Eastern's temporary suspension at Memphis is in the public interest, in view of the losses Eastern has experienced and expects to incur if it continues to provide one daily round trip service; and the net savings it anticipates upon suspension.[10] The public will not be inconvenienced by the termination since Southern and Piedmont stand ready immediately to replace Eastern's four nonstop roundtrip frequencies, and will provide beyond market benefits. Further, Delta is operating numerous round trips in the Atlanta-Memphis market.

Our decision temporarily to exempt Piedmont and Southern from their respective one-stop restrictions is based on our belief that the Atlanta-Memphis market, as one of the largest in the Southeast [11], warrants a number of conveniently timed flights. Further, since Atlanta and Memphis are major hubs on the systems of both Piedmont and Southern, they will be able to provide replacement service at nominal risk. We emphasize that our grant to Piedmont and Southern of exemption authority to operate nonstop frequencies between Atlanta and Memphis will not influence in any way our decision in the *Atlanta-Memphis Service Investigation*. We will not take the exemption operations into account in deciding certification cases; [12] Since both Piedmont and Southern have stations at Atlanta and Memphis, the possible argument that their investments under the exemption will sway the Board to prefer them at the time of decision has little merit.

To require the carriers first to undergo a certificate proceeding in order temporarily to perform their twice daily Memphis-Atlanta round trips would be an undue burden on them, and would have the effect of precluding the proposed operations and depriving the public of needed service. Therefore, we find that the enforcement of section 401 of the act and the terms, conditions, and limitations of the certificates of public convenience and necessity of Piedmont and Southern, to the extent that they would otherwise preclude the carriers from providing nonstop service between Atlanta, Ga., and Memphis, Tenn., would be an undue burden on them by reason of the limited extent of their operations and would not be in the public interest.[13]

Accordingly, 1. We institute the Atlanta-Memphis Service Investigation, Docket 33411, be instituted under section 204 of the act and set it for hearing before an Administrative Law Judge of the Board at a time and place to be determined later;

2. The investigation instituted in paragraph 1, above, shall consider the following issues:

(a) Do the public convenience and necessity require the certification of an air carrier or carriers to engage in nonstop air transportation between Atlanta, Ga., and Memphis, Tenn.;

(b) If the answer to (a), above, is affirmative, which air carrier or carriers should be authorized and should any new or existing authority be subject to any terms, conditions, or limitations;

(c) Should Eastern's authority at Memphis, a point on segments 1, 3, and 5 of its Route 10, be suspended, deleted, or otherwise amended;

3. Any authority awarded here or in the investigation instituted by this order, shall be category II subsidy ineligible;

4. We consolidate the applications of Eastern Air Lines, in Docket 32770, Southern Airways, in Docket 32719, Braniff Airways, in Docket 32753, Frontier Airlines, in Docket 32813, Piedmont Aviation, in Docket 32836, and Texas International Airlines, in Docket 33003, to the extent they conform to the scope of this investigation, into the proceeding instituted in paragraph 1, above, and to the extent not consolidated or granted here, be dismissed;

5. We suspend the authority of Eastern Air Lines to serve Memphis, Tenn., on Route 10 be suspended under section 401(j) for a period of 5 years or until 90 days after final decision in Docket 33411, whichever occurs first;

6. We exempt Piedmont Aviation and Southern Airways from section

Footnotes continued from last page

sions shall be filed 30 days from the date of service of this order, with replies due within 10 days thereafter.

[9] Moreover, for those who wish to pursue a traditional carrier selection theory of the case, detailed cost accounting evidence, *e.g.*, separate estimates for every segment or each type of fare, need not be required to justify the various price and quality proposals. For the Board's purposes, an analysis of profit of any applicant's proposal should be adequate if the expense estimates are calculated in accordance with the methodology described for local service carrier route applicants in the Board's procedural regulations. 14 CFR 302.1101 *et seq.*, Subpart K and PR-172, April 14, 1978. Applicants, including new entrants, whose data are not included in this costing system shall submit costings based on their internal company data, in Subpart K format to the extent feasible. While all applicants are of course free to include estimates of expense computed using a different methodology, we do not believe that it is a fruitful use of the applicants', the staff's or the Board's resources to require an analysis of the cost of an applicant's proposal by a second costing method.

[10] See Eastern's Exhibits I and J for its analysis of the losses it incurred from its operations at Memphis and the benefits it will derive from suspension of its Atlanta-Memphis service.

[11] For C.Y. 1977, the market generated 267,220 O. & D. plus interline connecting passengers.

[12] See *e.g.*, Order 78-6-59, June 8, 1978.

[13] Upon review of the environmental evaluations submitted by Eastern, Piedmont, and Southern in their applications, we find that our decision does not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Act of 1969 or a major regulatory action under the Energy Policy and Conservation Act of 1975.

401 of the act and the terms, conditions, and limitations of their certificates for Routes 87 and 98, respectively, to the extent necessary to permit

the "Notice to All Interested Persons" dated August 16, 1978 (43 FR 36988, August 21, 1978), in this docket formerly denominated docket 32327-1.

tion were granted it would institute service in the fall of 1978 to one more Mexican point, with two daily nonstop round trips between Phoenix and

and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

tentative findings and conclusions set forth in this order, and (2) issues an amended certificate of public conven-

regularly scheduled nonstop service between any two points not consecutively named if nonstop service was regularly scheduled by the holder between such points prior to the

401 of the act and the terms, conditions, and limitations of their certificates for Routes 87 and 98, respectively, to the extent necessary to permit them to provide two daily nonstop round trips between Atlanta, Ga., and Memphis, Tenn., for a period of 5 years or until 90 days after the final decision in Docket 33411, whichever occurs first;

7. We deny the petitions of Piedmont and Southern for show cause procedures;

8. Applications, amendments to applications, motions to consolidate and petitions for reconsideration of this order shall be filed with the Board no later than October 19, 1978; answers to such pleadings shall be filed no later than October 30, 1978; [14]

9. All carriers filing applications in this proceedings shall file environmental evaluations under § 312.12 of the Board's Regulations no later than October 19, 1978; [15]

10. The authority granted above shall be effective on the date of adoption of this order; and

11. This order may be amended or revoked at the discretion of the Board without hearing.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR, [16]
Secretary.

[FR Doc. 78-26924 Filed 9-25-78; 8:45 am]

[6320-01]

[Docket 33361]

FORMER LARGE IRREGULAR AIR SERVICE INVESTIGATION—PHASE 1

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on October 19, 1978, at 9:30 a.m. (local time), in Room 323, U.S. Court House, 312 North Spring Street, Los Angeles, Calif. 90012.

The parties are encouraged to communicate among themselves in preparation for the conference with a view toward expediting the proceedings. Unrepresented parties are encouraged to obtain procedural assistance from Counsel for the Bureau of Pricing and Domestic Aviation, Legal Analysis Division, Civil Aeronautics Board, Washington, D.C. 20428: Attention: Steven K. McKinney, Esq., telephone 202-673-5273, as previously suggested in the "Notice to All Interested Persons" dated August 16, 1978 (43 FR 36988, August 21, 1978), in this docket formerly denominated docket 32327-1.

Dated at Washington, D.C., September 20, 1978

MARVIN H. MORSE,
Administrative Law Judge.

[FR Doc. 78-27041 Filed 9-25-78; 8:45 am]

[6320-01]

[Order 78-9-91; Docket 32049]

HUGHES AIR CORP., d.b.a. HUGHES AIRWEST

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 20th day of September 1978.

On January 30, 1978, Hughes Airwest applied to amend its certificate of public convenience and necessity for segment 2 of route 76F which now reads: "Between the coterminal points Phoenix and Tucson, Arizona, and the coterminal points Guaymas, La Paz, San Jose del Cabo, Mazatlan, Puerto Vallarta, and Guadalajara, Mexico." The amended certificate would add two new U.S. and five new Mexican coterminals. The new U.S. points are Oakland and San Jose, Calif. The new Mexican points are Loreto, Manzanillo, Mexico City, Zihuatanejo and Acapulco.[1]

Airwest petitioned the Board on May 31, 1978, to process the application by show cause procedures. In support of its request, Airwest states that it has served Mexico on route M of the United States-Mexico Air Transport Agreement for nearly 10 years; that the United States and Mexico signed an amendment to the bilateral agreement on January 20, 1978 adding the two new U.S. and five new Mexican points to route M to make route A.2; that Airwest already serves most of route A.2, which by the terms of the bilateral is an indivisible route; that it was formally designated for route A.2 by the U.S. Government on March 2, 1978; and that the certificate amendment will make segment 2 of Airwest's route 76F conform to the new route A.2.

Airwest currently operates single-plane service over a substantial portion of the expanded route A.2 by virtue of its domestic rights from Oakland and San Jose to the gateways Phoenix and Tucson.[2] If its application were granted it would institute service in the fall of 1978 to one more Mexican point, with two daily nonstop round trips between Phoenix and Mexico City. It forecasts it would carry 84,000 local, through and connecting passengers over the Phoenix-Mexico City segment in 1979. As for service to Acapulco, Manzanillo, and Zihuatanejo, Airwest is analyzing the market and growth potential of these cities to determine the best plan for inaugurating service to them. Service to Loreto is not contemplated for the foreseeable future because of the undeveloped nature of the market and the lack of an airport capable of accommodating jet aircraft.

No answers to the application or the petition for an order to show cause have been received.

We have decided to issue an order directing all interested persons to show cause why Hughes Airwest's certificate should not be amended to add the U.S. points Oakland and San Jose and the Mexican points Loreto, Manzanillo, Mexico City, Zihuatanejo and Acapulco to segment 2 of its route 76F.[3] The new authority shall be placed in category II of the list of subsidy ineligible points appended to order 78-5-16 and the new list that will be attached to the new certificate. We tentatively find and conclude that the public convenience and necessity require such an amendment, and that an oral evidentiary hearing is not required. We also tentatively find that Airwest is a citizen of the United States and is fit, willing, and able properly to perform the air transportation authorized by the proposed certificate amendment

[14] We delegate to the presiding Administrative Law Judge the authority to consolidate by order any applications which conform to the scope of the proceeding.

[15] Eastern, Piedmont, and Southern filed environmental evaluations as part of their applications.

[16] All members concurrent.

[1] The proposed new segment 2 of route 76F would read: 2. Between the coterminal points Oakland and San Jose, Calif.; Phoenix and Tucson, Ariz. and the coterminal points Guaymas, Loreto, La Paz, San Jose del Cabo, Mazatlan, Puerto Vallarta, Guadalajara, Manzanillo, Mexico City, Zihuatanejo and Acapulco, Mexico.

[2] Phoenix and Tucson will continue to be gateway points on route A.2 insofar as a restriction in the amended bilateral agreement states that flights between Oakland and San Jose, on the one hand, and Guadalajara, Mexico City, Acapulco, Mazatlan, and/or Puerto Vallarta, on the other hand, shall serve either Phoenix or Tucson as an intermediate stop. Nonstop operations between Oakland/San Jose and Puerto Vallarta, and between Oakland/San Jose and Mazatlan, will be allowed commencing October 1, 1981, and October 1, 1982, respectively. Airwest requests that these restrictions to route A.2 not be included as conditions in its amended certificate. Since Airwest is subject to these restrictions by virtue of Condition (1) contained in its certificate for route 76F, which requires it to operate "* * * in accordance with all treaties and agreements between the United States and other countries * * *," we will not include the restrictions in its amended certificate.

[3] Upon our review of Airwest's environmental evaluation, we find that the addition of two daily takeoff and landing cycles at Phoenix do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. Moreover, since Airwest's proposed operations would not result in the near-term consumption of 10 million gallons of fuel, our action here would not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975.

and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

Accordingly,

1. We direct interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated in this order and amend the certificate of public convenience and necessity of Hughes Air Corp., d.b.a. Hughes Airwest, for segment 2 of route 76F to read as follows: [4]

Between the coterminal points Oakland and San Jose, Calif.; Phoenix and Tucson, Ariz., and the coterminal points Guaymas, Loreto, La Paz, San Jose del Cabo, Mazatlan, Puerto Vallarta, Guadalajara, Manzanillo, Mexico City, Zihuatanejo, and Acapulco, Mexico.

2. We direct interested persons having objections to the issuance of an order making final the proposed findings and conclusions, or to the proposed certificate amendment set forth in this order within 10 days [5] after service of this order, to file with the Board and serve upon all persons listed in paragraph 6 below, a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections. If an oral hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant or material facts would be expected to be established through such hearing which cannot be established in written pleadings.

3. If timely and properly supported objections are filed, we will give further consideration to the matters and issues raised by the objections before we take further action: *Provided*, That the Board may proceed to enter an order in accordance with its findings and conclusions set forth in this order if it is determined that there are no factual issues present that warrant the holding of an oral evidentiary hearing.[6]

4. In the event no objections are filed, we will deem that all further procedural steps are waived, and we direct the Secretary to enter an order which, subject to the approval of the President, (1) makes final the Board's tentative findings and conclusions set forth in this order, and (2) issues an amended certificate of public convenience and necessity for route 76F to Hughes Air Corp., d.b.a. Hughes Airwest in the form attached;

5. We grant the petition of Hughes Air Corp., d.b.a. Hughes Airwest, for issuance of an order to show cause; and

6. We will serve a copy of this order upon Hughes Air Corp., d.b.a. Hughes Airwest; all certificated air carriers; the Governors of California and Arizona, the Mayor of Mexico, D.F., the Governors of Baja, Calif., Colima and Guerrero, Mexico; and the U.S. Departments of State and Transportation.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board: [7]

PHYLLIS T. KAYLOR,
Secretary.

[SPECIMEN CERTIFICATE]

UNITED STATES OF AMERICA CIVIL AERONAUTICS BOARD WASHINGTON, D.C.

[Certificate of Public Convenience and Necessity (as amended) for Route 76F]

Hughes Air Corp. d.b.a. Hughes Airwest is authorized, subject to the provisions of title IV of the Federal Aviation Act of 1958, and the Board's orders, rules and regulations, to engage in foreign air transportation of persons, property, and mail, as follows:

1. Between the terminal points Spokane, Washington, and the coterminal points Calgary and Edmonton, Alberta, Canada.

2. Between the coterminal points Oakland and San Jose, Calif.; Phoenix and Tucson, Ariz, and the coterminal points Guaymas, Loreto, La Paz, San Jose del Cabo, Mazatlan, Puerto Vallarta, Guadalajara, Manzanillo, Mexico City, Zihuatanejo, and Acapulco, Mexico.

3. Between the terminal point Las Vegas, Nevada and the coterminal points Calgary and Edmonton, Alberta, Canada.

4. Between the coterminal points Los Angeles and San Francisco, Calif., and the coterminal points Calgary and Edmonton, Alberta, Canada.

The service authorized is subject to the following terms, conditions, and limitations:

(1) The holder shall conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate shall be subject to compliance with such treaties and agreements, and to any other orders issued by the Board for the purpose of requiring compliance with such treaties and agreements.

(2) The holder shall render service between the points named except as temporary suspension of service may be authorized by the Board. The authority to serve segments 2 and 4 is permissive.

(3) The holder may continue to serve regularly any point named through the airport last regularly used by the holder to serve such point prior to the effective date of this certificate; and may continue to maintain regularly scheduled nonstop service between any two points not consecutively named if nonstop service was regularly scheduled by the holder between such points prior to the effective date of this certificate. Upon compliance with such procedures as the Board may prescribe, the holder may, in addition, regularly serve the point named through any convenient airport, and may operate nonstop service between any two points not consecutively named.

(4) The exercise of the authority granted shall be subject to the carrier's first obtaining from the appropriate foreign government such operating rights as may be necessary.

(5) The holder's authority to engage in the transportation of mail in the operations listed in appendix A, categories I and II of order ————, is limited to carriage on a nonsubsidy basis, *i.e.*, on a service mail rate to be paid entirely by the Postmaster General; the authority listed in these categories shall, for purposes of profit sharing, be treated separately. The authority to operate over the segments listed in category II is conditioned upon compliance with the interim accounting procedures for profit sharing adopted in docket 28800.

The exercise of the privileges granted by this certificate shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

The holder acknowledges and agrees that it is entitled to receive only service mail pay for the mail service rendered or to be rendered solely in connection with operations specified in paragraph (5), and that it is not authorized to request or receive any compensation for mail service rendered or to be rendered for such operations in excess of the amount payable by the Postmaster General.

This certificate shall be effective on ————: *Provided, however*, That prior to the date on which this certificate would otherwise become effective the Board, either on its own initiative or upon the timely filing of a petition or petitions seeking reconsideration of the Board's order of ————, 19—— (Order ————) insofar as such order authorizes the issuance of this certificate, may by order or orders extend such effective date from time to time; *Provided further*, That the continuing authority to operate over segment 4 and to serve Oakland and San Jose, Calif., and Loreto, Manzanillo, Mexico City, Zihuatanejo, and Acapulco, Mexico, shall be conditioned upon the timely payment, by the holder, of such license fees as may be prescribed by the Board. The authority to serve segment 4 will expire July 23, 1983.

The Civil Aeronautics Board has directed its Secretary to execute this certificate and affix the Board's seal on ————.

Secretary.

Issuance of this certificate to the holder approved by the President of the United States on ———— in ————.

[FR Doc. 78-27044 Filed 9-25-78; 8:45 am]

[4] In order to give Airwest maximum flexibility in scheduling its services, we will make the new authority permissive.

[5] In order for Airwest to commence operations by the fall of 1978, and considering the absence of objections to the application and the petition for show cause, we find that the public interest requires the allowance of only 10 days for objections to this order.

[6] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[7] All members concurrent.

[6320-01]

[Order 78-9-56; Docket Nos. 29449 and

ern Air Lines.[3] Finally, the State of Maryland and the Port of Oakland are concerned about the possible increase

could obtain under the realinement guidelines at the principal municipal airport, unless its satellite authority is

ings. General, vague, or unsupported objections will not be entertained.

Accordingly:

1. We direct all interested persons to

[6320-01]

[Order 78-9-96, Dockets 30699, et al.]

apply to that market as well. In addition, we have decided to keep the Seattle and Portland markets in this proceeding, but make them coterminals.

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[6320-01]

[Order 78-9-56; Docket Nos. 29449 and 30132]

NORTHWEST AIRLINES, INC.

For Realinement of Route 3 and Restriction Removal; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of September 1978.

By application and petition filed and supplemented on November 11, 1976, to conform to the June 25, 1976, informational guidelines in order 76-7-101, Northwest Airlines has requested the Board to issue an order directing interested persons to show cause why Northwest's certificate of public convenience and necessity for Route 3 should not be amended and modified to realine the existing segments 1-9 and 11-13 of that route into a single linear segment and to eliminate certain operating restrictions which Northwest claims impede its operating flexibility and are no longer required for competitive reasons.[1]

In support of its application and petition, Northwest alleges that the goals of route realinement for local service carriers—economic efficiency and better service to the public—are equally applicable to the unsubsidized trunk carriers. Further, it contends this proposed realinement is consistent with the Board's guidelines established in order 76-5-101, May 21, 1976.

Answers in opposition were filed by several carriers and two civic parties. The following local service carriers objected to Northwest's proposal in general because they are opposed to trunkline realinements and also objected to removal of restrictions in specific markets: Allegheny Airlines, Frontier Airlines, and North Central Airlines.[2] Objections to specific markets in Northwest's petition were filed by Air California (an intrastate airline) and the following trunk carriers: American Airlines, Continental Air Lines, Delta Air Lines, Trans World Airlines, United Air Lines, and Western Air Lines.[3] Finally, the State of Maryland and the Port of Oakland are concerned about the possible increase in dormant authority at Baltimore/Washington International Airport and Oakland, respectively, and Maryland also opposes the use of show cause procedures in place of oral hearings for realinements.

Northwest filed a reply.

As we stated in the recent Ozark, Delta, and Western route realinements,[4] it is our policy to realine the route systems of the certificated scheduled carriers to maximize the opportunities for scheduling flexibility and equipment utilization, to conform route authority to traffic flows, and to eliminate or modify certificate conditions which serve no useful purpose, impair market development, and inhibit improvement in the carrier's economic performance. These objectives are equally applicable to trunk and local service carriers.[5]

We tentatively conclude that Northwest's proposed realinement, as modified by this order, conforms with the Board's policy and objectives discussed above and that substantial service and carrier benefits will result from the realined route system. Further, the proposed realinement will offer Northwest the potential for significant improvement in operating efficiency and will permit it to provide improved service to the traveling public.

No arguments have been raised that we have not already fully discussed in the Western, Delta, Ozark, and American realinement orders. In our orders in the Western (order 76-5-101) and Delta (order 78-4-109) realinements, we have answered the concern of the local service carriers and the civic parties over the use of show-cause procedures and the increase in dormant authority which occurs when carriers receive improved authority in minor and monopoly markets; the contention that the doctrine of *Ashbacker Radio Corp.* v. *F.C.C.*, 326 U.S. 327 (1945) bars the Board's consideration of requests by Northwest for improved authority in specific markets; and the problem of realinement applicants receiving under the guidelines authority at satellite airports which is superior to what they could obtain at principal metropolitan airports under the same guidelines. As stated more fully in the previous realinement orders: Show-cause procedures protect the rights of all parties; *Ashbacker* is not a bar to our realinement decisions; and authority will not be granted to a realinement applicant at a satellite airport which is superior to that which it could obtain under the realinement guidelines at the principal municipal airport, unless its satellite authority is already superior.

Northwest has requested a waiver of the provisions of part 312 of the Board's procedural regulations, which require, the filing of an environmental evaluation. Northwest supports its request by stating that the realinement will enable it to operate more efficiently and produce greater opportunities for reduction in fuel consumption, air pollution, and ambient noise levels. Further, it states that it is not proposing increased service as a result of its proposals. We tentatively find that the action we propose here will not constitute a major Federal action significantly affecting the quality of the environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, and, under § 312.6, we waive the requirement of filing an environmental evaluation. We also tentatively find under part 313 of our procedural regulations that realinement of Northwest's Route 3 will probably lead to more efficient use of fuel through the greater opportunity to provide nonstop and single-plane service in place of multi-stop service and online connections. Therefore, our action does not constitute a major regulatory action requiring an energy statement under the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.).[6]

We further tentatively find that Northwest Airlines is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

Interested persons will be given 30 days following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final; answers will be due within 10 days thereafter. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic anaylsis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly:

1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Northwest's certificate for Route 3 in the manner set forth in the accompanying proposed certificate (appendix B);

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, no later than October 19, 1978, file with the Board and serve upon all persons listed in appendix I, a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than October 30, 1978;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board; [8]

4. In the event no objections are filed to any part of this order, we will consider all further procedural steps relating to such part or parts to have been waived, and the case will be submitted to the Board for final action;

5. We grant the motions of Air California and Trans World Airlines for leave to file otherwise unauthorized documents;

6. We grant Northwest's application for a waiver of part 312;

7. We dismiss as moot Northwest Airlines' application in docket 30132 to amend its certificate of public convenience and necessity for Route 3 to permit one-stop, single-plane service between Milwaukee, Wis., on one hand, and Los Angeles/Long Beach/Ontario and San Francisco/Oakland/San Jose, Calif., on the other hand; and

8. We shall serve a copy of this order upon all persons listed in appendix I.[9]

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[10]
Secretary.

[FR Doc. 78-26925 Filed 9-25-78; 8:45 am]

[1] In light of our tenatative conclusions in this order, we will dismiss as moot Northwest's application in docket 30132 to amend its certificate for Route 3 to authorize it to perform one-stop, single-plane service in the Milwaukee-Los Angeles/Long Beach/Ontario/San Francisco/Oakland/San Jose markets.

[2] Eight local service carriers, including these three, filed a motion requesting a stay of further procedural steps on trunkline realinement applications pending the filing of written and oral argument on certain alleged legal and policy issues concerning trunk realinements. This motion was denied in the Western realinement proceeding by order 77-11-74, Nov. 17, 1977, at 4-13. See also order 78-4-109, Apr. 19, 1978, at 3 n.6, for a fuller history of this motion.

[3] We will grant the motions for leave to file otherwise unauthorized documents filed by Air California and TWA.

[4] Orders 78-6-4, 78-4-109, and order 77-11-74, finalizing order 76-5-101, respectively.

[5] Order 78-6-4, at 2, order 78-4-109, at 4-5.

[6] We also tentatively find that the actions we propose in orders issued simultaneously with this order to amend the certificates of carriers certificated to serve the minor markets in which we are improving Northwest's authority are similarly not major Federal actions affecting the environment or major regulatory actions requiring energy statements.

[8] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[9] Appendix A-I filed as part of the original document.

[10] All members concurred.

[6320-01]

[Order 78-9-96, Dockets 30699, et al.]

OAKLAND CHAMBER OF COMMERCE, ET AL.

Oakland Service Case; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of September 1978.

In the matter of *Oakland Service* case,[1] petition of Oakland Chamber of Commerce and Port of Oakland for a service investigation (docket 30699); applications of Allegheny Airlines, Inc., Braniff Airways, Inc., Frontier Airlines, Inc., Hughes Air Corp., d.b.a. Hughes Airwest, Northwest Airlines, Inc., Texas International Airlines, Inc., Ozark Air Lines, Inc., for authority between Oakland and various points (dockets 30739, 30819, 30862, 30863, 31583, 30981, 30866, and 33127).

By order 78-4-121, served May 30, 1978, we instituted the *Oakland Service* case to consider the need for additional certificated route authority between Oakland, on the one hand, and Albuquerque, Atlanta, Boston, Chicago, Dallas/Fort Worth, Denver, Detroit, Houston, Kansas City, Minneapolis/St. Paul, Philadelphia, Phoenix, Portland, Salt Lake City, and Seattle/Tacoma, on the other. Seven carrier applications were consolidated into this proceeding, as well as the petition of the Oakland Chamber of Commerce and Port of Oakland for a service investigation. We tentatively decided to adopt, for purposes of this proceeding, a policy of awarding permissive, subsidy-ineligible authority in every market at issue in which a need for additional authority is shown, to every fit, willing, and able applicant whose illustrative service proposal indicates that it is prepared to satisfy a part of the demonstrated need. Interested persons were given an opportunity to file written comments, participate in oral argument before the Board, and file reply comments on the question of whether this proposed policy determination should be adopted. Twenty-one parties filed comments on this issue, 15 participated in the oral argument, and 3 filed reply comments. In addition, five petitions for reconsideration and two petitions for leave to intervene were filed. Appendix A to this order provides an extensive summary of all of these written pleadings.

After considering all comments, both written and oral, we have decided to adopt the policy proposed in order 78-4-121. We have also decided to include the Oakland-Los Angeles market in the proceeding, since we have concluded that the findings of that order apply to that market as well. In addition, we have decided to keep the Seattle and Portland markets in this proceeding, but make them coterminals.

Summarized broadly, the arguments in the comments fall into eight categories—legal objections to certificating more applicants than a market can economically support, legal objections to permissive certification at Oakland, economic objections to applying a policy of multiple permissive certification in any situation, economic objections to applying a policy of multiple permissive certification in situations other than Oakland, economic objections to the failure to apply a policy of multiple permissive certification in all situations, objections to the Board's environmental procedures, and complete agreement with the way the Board is handling this case.

LEGAL ARGUMENTS

Since the legal arguments made here apply to multiple permissive certification in all situations, not just Oakland's, they are substantially the same as those filed in the *Improved Authority to Wichita* case, et al., docket 28848, where we invited written comments and oral argument on the general policy and legal implications of multiple permissive certification, delayed-entry awards, and backup awards. In fact, some *Oakland* comments specifically incorporate by reference comments in docket 28848.[b]

The central and crucial legal contention is that the Federal Aviation Act does not, in the circumstances of this case or generally, empower the Board to abandon comparative carrier selection and adopt in its stead a policy that we have characterized as multiple permissive entry. We of course agree with all of the pleadings filed in this and other dockets that this change in policy is fundamental, although, as detailed in order 78-4-121 at page 46, not without some precedent in past Board actions.

In broad outline we have determined that all applicants that are found to be fit, willing, and able to provide service should be authorized to operate in each of the city-pairs at issue upon an evidentiary showing that the market can economically support some service and subject to the submission by each applicant of a fully costed illustrative service proposal assuming the use of aircraft suitable for the route. Incumbent carriers at Oakland are free to submit evidence of diversion, including forecasts based on "worst case" assumptions, in order to persuade us that their ability to perform their certificate responsibilities will be threatened or that essential services would necessarily be terminated and not re-

[1] Appendix A—Summary of comments in *Oakland Service* case, docket 30699 is filed as a part of the original document.

[b] TWA, Delta (whose comments in Docket 28848 were physically reproduced), and National (who "assumes * * * that its prior comments will be given careful attention in this proceeding").

ement and restriction-removal proceedings, of granting carriers extremely flexible operating authority which

fore, that read as a whole, the legislative history confirms that the Board's discretion was intended to be very broad, and specifically broad enough to permit policies to be

propose here, argues that Oakland will get very little service under a free-entry policy. We can only interpret its

opening entry to San Francisco, and we have assured Oakland that, if multiple permissive authority does not result in improved service, we will

factor and an overreliance upon the marketplace in providing economic answers are not without some hazards, the Board's resolution in this case was sufficiently attuned to

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tificate responsibilities will be threatened or that essential services would necessarily be terminated and not replaced by an applicant or by other carriers.

Certain of the objecting parties argue that the Board cannot lawfully adopt such a policy and that the statute requires the Board to determine how many carriers can profitably operate in each market and then select from among the applicants in accordance with this determination. Hence, if only one carrier can be profitable, the Board assertedly can grant only one application and must deny the others. Absent this determination, it is directly or inferentially alleged that too many carriers would operate, leading to losses which would damage the ability of the individual airline components of the air transportation system to fulfill their service obligations.

We have anticipated and squarely met these arguments in order 78-4-121, and we address ourselves to the comments received in response to that order in detail below. Suffice it to say here that we do not assert that all carriers authorized will in fact operate. On the contrary, we are confident that if a market can support only one carrier, only one will operate. While there may be a competitive struggle, it will be short-lived: carriers will not long sustain losses which cannot be later recovered because of the competitive structure of the industry. In our view, carrier managements, and the capital markets on which they depend, are highly rational and will be adept at exploiting profitable opportunities. While we believe this to be true in general, the current absence of excess capacity in the industry makes it particularly unlikely that any carrier would ignore more profitable opportunities elsewhere in order to maintain an unprofitable operation at Oakland. In the end the market will determine selection and, importantly, it will do so continously. This is because the presence of numerous authorized but nonoperating carriers in each market will force an incumbent, in order to maintain its market share, to maintain an optimum or near-optimum mix of price and service. It will do so in order to prevent another authorized carrier from entering for the purpose of exploiting unmet demand.

A major deficiency in the traditional system of comparative selection in route cases has been the experienced difficulty in holding carriers to their service promises made in those cases, and generally in assuring the provision of adequate service by incumbent licensees. This difficulty has been accentuated, as we discussed in order 78-4-121 and develop further below, by our longstanding customary policy, most clearly exhibited in route-realignment and restriction-removal proceedings, of granting carriers extremely flexible operating authority which renders their service in particular city-pair markets wholly permissive. Although such flexible authority has many advantages, it is difficult, in the absence of a realistic threat that other carriers can immediately enter a market to correct service quality or price deficiencies, to prevent such deficiencies from occurring. By providing such a realistic threat of prompt new entry or reentry, our new policy is designed to assure adequate service and price performance, while retaining the benefits of flexible operating authority.

Particular objections are appraised in greater detail in the comments below. We note in passing here, however, the following:

First, it is unchallenged that the Act grants the Board wide discretion as to the policies and procedures it may employ, subject to due-process considerations and the rule of rational decisionmaking, in achieving the objectives of the Act, which are broadly framed in its declaration of policy and make express reference to both the present and the future needs of the air transportation system.

Second, no one has alleged that our policy, as applied in this particular proceeding, is not reasonable specifically in the light of current and foreseeable economic conditions, or that it has not been rationally and fully explained, or that it is not based on substantial evidence relating to current and foreseeable economic conditions, as well as historic facts. In particular, our findings concerning the improbability of destructive or harmful competition in the Oakland markets at issue have not been rebutted on the basis of economic fact or theory.

Third, none of the objecting parties has asserted that the Act expressly in specific terms proscribes a policy of multiple permissive entry.

Fourth, those sections of the Act from which it is inferentially alleged that such a policy is unlawful (that part of section 401 which speaks of granting applications for the provision of "such transportation," and the abandonment and adequacy-of-service provisions of the Act) cannot be read as requiring mandatory service or strict public-utility-type operating licenses in light of the Board's past administration of the Act as approved by the courts.

Fifth, citations to the legislative history of the Act alleged to show the impermissibility of our proposed new policy are to some extent contradictory and ambiguous as detailed guides. On the one hand, this results from the fact that a large number of the components of the legislative history are retrospective, that is, they relate to the special conditions of the airline industry in and before 1938, particularly the method of subsidy payment under various airmail contract systems. On the other hand, the part of the legislative history that looks toward future developments suggests that Congress' very purpose in establishing the Board was to have it adapt licensing and other policies to changing conditions within both the economy as a whole and the airline industry in particular. We conclude, therefore, that read as a whole, the legislative history confirms that the Board's discretion was intended to be very broad, and specifically broad enough to permit policies to be adapted to future conditions.

Sixth, the court decisions cited against our proposal were all decided in contexts where the Board was engaging in comparative selection; they were based on the undisputed premise that the Act permits a policy of comparative selection (which for the most part the courts found to have been erroneously or improperly applied in the particular situation at hand), but not that the Act requires such a policy—i.e., they do not hold that a policy of multiple permissive authority is prohibited.

Turning to the specific grounds urged for the proposition that the Act requires us to predict the exact number and identity of the carriers that a market will support and certificate only those, Braniff argues that "the statute was designed to correct the abuses of unrestrained competition among carriers" and cites the following statement of Senator McCarran, who sponsored several of the original bills on airline regulation:

> If it could be established to the satisfaction of the Authority which is about to be set up that another line could be operated from Chicago to Salt Lake City, although that same territory is now served by United Air Lines, and the demand for service was so great as to support another line, then the Authority could • • • say "• • • there is sufficient commercial life to sustain the other lines. Therefore we can grant a franchise to another line." • • • (A)nd if the circumstances do not justify another line, say, "No, you cannot go in; you cannot set up another line, because if you do both lines will fail; both lines will go out of business, and the public that we are looking to primarily will not be served." That is the object and purpose of this entire bill. 83 Cong. Rec. 6852 (1938).

Similarly, National, in its comments in docket 28848 to which it refers in its *Oakland* comments, cites the recommendation of the 1935 Federal Aviation Commission that "there should be a certain measure of control by the Government of the right of entry into the business in order that proper standards may be enforced and irresponsible campaigns of mutual destruction on the part of operators averted." (Report of the Federal Aviation Commission, submitted January 22, 1935, page 52.) Another recommendation in that report was that "there should be a check on development of any irresponsible, unfair, or excessive competition such as has sometimes hampered the progress of other forms of transport." (Report, page 54.)

Thus, Congress enactment of the Federal Aviation Act in 1938 resulted from concern over destructive competition. And yet, rather than suggesting that multiple permissive entry at Oakland will actually produce this result, Braniff, while adducing this legislative history in opposition to the action we propose here, argues that Oakland will get very little service under a free-entry policy. We can only interpret its arguments, then, to mean that Congress intended the Board to regulate restrictively out of a fear of destructive competition *even* in situations where it is clear that nonrestrictive licensing adequately serves the public interest and will not result in destructive competition. Braniff cites no legislative history in support of such a proposition, nor can we agree that Congress intended this absurd result. As thoroughly detailed in Order 78-4-121 (pp. 24-32), we have a completely different view of how Oakland will fare in a more competitive environment, but our ultimate conclusion that there will be no destructive competition is the same as Braniff's and we continue to believe that our statutory mandate to promote healthy competition, rather than suppress it, is clear.[3]

Braniff and TWA argue that Congress contemplated a public-utility type of regulation of aviation, but both recognize that Congress did not want the Civil Aeronautics Authority to adopt the "natural monopoly" principles of conventional public-utility regulation. Our disagreement with these carriers is over how Congress intended us to effectuate the policies described in § 102 of the Act. Braniff says we have to regulate competition; but, consistently with the Supreme Court's warning in *FPC* v. *Texaco*, 417 U.S. 380 (1974), we have not abdicated our regulatory responsibilities. Here we have reviewed Oakland's need for service, we have analyzed the ability of certain Oakland markets to support service, and we have determined that multiple permissive authority is likely to be the best practical solution to Oakland's problems. No one argues that the type of destructive competition Congress feared in 1938 will occur at Oakland. Moreover, as National recognizes, we are indeed "stack[ing] the deck" in Oakland's favor for the time being since we are not simultaneously opening entry to San Francisco, and we have assured Oakland that, if multiple permissive authority does not result in improved service, we will review the situation and consider further action. Although we do not think it will be necessary to invoke these provisions of the Act, we still have the tools of §§ 401(g) and 404 at our disposal.[3]

In 1937 Senator McCarran said:

> The certificating procedure does nothing except to prevent someone with inadequate facilities, or without responsibility, from entering the public service, and to prevent the inauguration of service when it would be unjustified. The principle of convenience and necessity • • • is not the principle of monopoly. It is the principle of order, economy, and adequacy of service.[4]

We believe we are being faithful to that principle.

The opponents of our *Oakland* policy also argue that the language of the Act precludes us from awarding authority to all fit and able applicants whose illustrative service proposals demonstrate their willingness to meet some of the service needs of a particular Oakland market.[5] National and TWA argue that § 401(d)(1) allows the Board to certificate a carrier in a market only if "such transportation" *by that particular carrier* is required by the public convenience and necessity, citing *Capital Airlines* v. *CAB*, 281 F.2d 48 (D.C. Cir. 1960).

We cannot agree with such a restrictive interpretation of our authority, particularly since it is inconsistent with past Board and court decisions. Thus, for example, in the *Detroit-California Nonstop Service Investigation*, 43 CAB 557 (1966), we granted unrestricted authority to three carriers (through removal of restrictions) in the Detroit-Los Angeles/San Francisco markets without finding that these markets could support all three carriers or that *service* by all three, as opposed to authority, was required by the public convenience and necessity. The Seventh Circuit affirmed in *United Air Lines* v. *CAB*, 371 F.2d. 221 (7th Circuit 1967), stating:

> It is evident from these broadly-phrased objectives [in section 102] that a "public convenience and necessity" determination may be made without strict adherence to rigid or definitive criteria, and that the Board may exercise a broad discretion in effectuating the congressional policy. (371 F.2d 224.)

The court went on to say:

> Although we think that an indiscriminate application of the "operational flexibility" factor and an overreliance upon the marketplace in providing economic answers are not without some hazards, the Board's resolution in this case was sufficiently attuned to section 102 of the Act to require our approval. (371 F.2d 224.)

While our extensive analysis of the causes of and solutions for Oakland's needs fully comports with this admonition, we also observe that the air transportation system has undergone major changes over the years and we have been able to observe that competitive behavior in relatively unregulated areas of the system does not have undesirable results (see pp. 28-31 of Order 78-4-121). The courts have frequently held that administrative agencies have a duty to adapt their policies and opinions to changing circumstances, and to the lessons of experience.

Moreover, if, as National argues, we must interpret section 401(d)(1) restrictively and always find transportation by a particular applicant to be required, the conclusion follows that mandatory service obligations would also always be required—if service by carrier A is required by the public convenience and necessity, carrier A must provide the service. Such an interpretation, of course, is at odds with the way most route authority has historically been and is certificated today (see pp. 48-50, Order 78-4-121).

It is quite evident that National, and the other parties who have proposed similarly restrictive interpretations of the phrase "such transportation" in section 401(d)(1), have not fully thought through the ultimate logical implications of their arguments. If the Board can grant an application for a certificate only where it finds that "such transportation is required by the public convenience and necessity," and if "such transportation is required" is interpreted to mean nothing less than an imperative public requirement for actual, immediate, and continuing service by a specific applicant, then mandatory authority would appear to be the only kind the Board could properly award—authority mandatory not merely in the rather trivial sense of requiring some modicum of service at each named point, but in the sense of mandatory service of specified extent in each specific city-pair market where the Board has found such service to be "required by the public convenience and necessity." (As we develop more fully below, public need for service exists in specific markets, not merely "at" points.)

Indeed, in a route case where (for example) an applicant promises four daily nonstop round trips in one of the principal markets at issue, and is then selected to serve the market in reliance on this promise and the Board's determination that this is the specific

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[2] National persistently refused to offer its views on the outcome of applying a multiple permissive entry policy at Oakland, assuming access to San Francisco was not simultaneously eased (see particularly Oral Argument Transcript, pp. 20-27 and 46-49), stating that, since it was not a party to the case, it could not comment on the economic issues. We note that Order 78-4-121, p. 57, specifically invited "interested parties [to] address the proposed policy from the standpoint of law; fact, *economics*, and public policy" and that National filed its comments in response to this invitation. We frankly fail to see how national can offer a legal analysis criticizing the policy the Board is applying to *Oakland*, on the grounds that it does not take into account Congress concern over destructive competition, when National has not even analyzed the economic question of whether there will, in fact, be destructive competition at Oakland.

[3] See pp. 27-28 below.

[4] Proposed amendments to the Interstate Commerce Act and proposed bill to promote the safety of scheduled air transportation: Hearings on S. 2 and S. 1760 before the Subcommittee of the Committee on Interstate Commerce, 75th Cong., 1st sess., 410 (1937) (statement of Senator McCarran).

[5] See footnote 73, order 78-4-121.

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minimum quantum of service required by the public convenience and necessity, it is hard to see under National's theory how the Board could properly award a certificate which failed to require at least four round trips a day in this market.[6] Clearly the Board could not (as it has in fact done since the early years of the statute) award a certificate which failed to require any single-plane service at all in the market. Nor could it (as again it has habitually done), having found a need for additional service in one market or group of markets, award new authority in a form which allows the awardee, by tacking or by absence of restriction, to serve numerous additional markets where no such finding has been made. And most certainly it could not, as it has done since the earliest years of the Act in route consolidation and route realinement cases, award authority (frequently unrestricted nonstop authority) in large numbers of city-pair markets where no specific pattern of actual service has been proposed or shown to be needed, and where indeed the existing traffic statistics indicate that single-plane service will probably be uneconomic under most circumstances, simply on the grounds that the grant of such authority will give the carrier "operating flexibility," which flexibility is itself the basis for the Board's public convenience and necessity finding.[7] Thus, the adoption of National's restrictive construction of section 401(d)(1) would retroactively invalidate large portions of virtually all of the currently outstanding air carrier certficates, including the authority under which much of today's city-pair nonstop service is now being provided.

Moreover, such a determinedly restrictive reading of sections 401 (d) and (e) would make it impossible for the Board to carry out its responsibilities under section 102 of the Act. Read literally, these provisions appear to contemplate that each certificate application filed with the Board will be separately and individually processed; yet as soon as the Board in 1938-39 had finished with the original "grandfather" applications, it began consolidating for hearing applications by different carriers for the same or similar authority, and not long thereafter it began the practice of instituting route proceedings on its own initiative or in response to civic petitions and scoping these proceedings in accordance with its own judgment of the public interest, rather than any particular carrier's application. Thus, the great bulk of route cases have focused on the service needs of a particular city, market, group of markets, or geographical area, rather than any individual carrier's application. In such proceedings the Board has traditionally (and with the full approval of the courts) considered first the public need for new service or authority in particular markets or over particular routes, and only thereafter has considered which applicant or applicants should be awarded the requisite authority. In this context, the phrase "such transportation is required" in section 401(d)(1) has been treated as calling first for a determination of whether the public will best be served by a grant or grants of authority in the markets at issue, and only subsequently for a consideration of the identity of the carrier or carriers who will provide the needed service.

As the *State Airlines* case[8] illustrates, the courts have refused to interpret the language of section 401(d) with an inflexible restrictiveness which would impair the Board's ability to further the objectives of the statute. Here the Board will first determine the public need for air service in the Oakland markets at issue;[9] then, having in the present order concluded (subject to any showing of particular circumstances making such action inadvisable in a particular market) that this need will best be met by permissive awards to all qualified applicants, the Board will make such awards. We conclude that such awards will most reliably insure the actual, continued performance of "such transportation" (i.e., convenient, low-priced service in the Oakland markets at issue), even though the identity of the specific carriers who will actually provide "such transportation" at any particular time will remain ambiguous until determined by competitive market forces. We are convinced that this action will best fulfill our statutory responsibilities to the traveling public, and involves no violation of the true intent of section 401.

National recognizes that "[t]he record developed in a well-run route case always involves predictive uncertainty about market conditions in the forecast year. In part, these uncertainties relate to general economic variables (general economic conditions, disposalbe income, propensity to travel) outside carrier control." (Comments in Docket 28848, p. 17.) Difficult as they always are, precise forecasts of the traffic particular carriers could generate and determinations as to which carriers would provide the best service would be particularly difficult for Oakland markets.[10] Indeed, if we were

[6] Section 401(e)(4) would not preclude the Board from thus pursuing National's interpretation of the Act to its logical conclusion. That section provides that "No term, condition, or limitation of a certificate shall restrict the right of an air carrier *to add to or change schedules* * * * for performing the authorized transportation and service * * *" (emphasis added), but this language would not preclude the Board from fixing minimum standards of adequate service required by the public convenience and necessity, since "add to or change" does not as a matter of logical necessity include "reduce," particularly in view of section 404's requirement of "adequate service." See *Capital Airlines* v. *C.A.B.*, 281 F. 2d 48 (C.A.D.C. 1960); *National Airlines* v. *C.A.B.*, 300 F. 2d 711 (C.A.D.C. 1962).

On the other hand, section 401(e)(4) does appear to preclude the Board from imposing a maximum level of service on a new carrier in a market. This seems to us to undercut National's argument that the framers of the Act feared excessive competition above all else. Destructive competition, if likely to occur at all (which we have concluded it is not, under present-day conditions) would appear to be just as likely to result from excessive scheduling by a limited number of carriers in a market, as from the competitive struggles of a larger number of carriers. Why then would Congress have deprived the Board of a convenient tool to present scheduling in excess of the requirements of the public convenience and necessity, if excessive competition was its all-encompassing fear?

[7] In one of the early route consolidation cases, the Board consolidated separate grandfather routes end-to-end in a manner which eliminated required stops at former route junction points, and thus granted unrestricted authority (subject to the Board's then existing nonstop regulation, see Order 78-4-121 at p. 48, fn. 58) in numerous transcontinental markets, at a time when neither the existing traffic volumes nor the aircraft the carriers then possessed justified or permitted actual nonstop operations. *American Air. et al., Route Consolidations*, 7 CAB 337, 345 (1946). ("Granting the applications would result in single-route transcontinental service by American, TWA, and United between east coast and west coast cities of greatest population *with the likelihood* that such service *would eventually be provided* on a nonstop basis.") (Emphasis added.)

[8] *C.A.B.* v. *State Airlines*, 338 U.S. 572 (1950); see Order 78-4-121 at p. 45, fn. 51.

[9] Few if any of the respondents, incidentally, appear to question the existence of that need.

[10] National's argument, using the traffic figures in Order 78-4-121, Attachment D, to show that three Oakland markets already receive more service than they can support, has no validity. As we stated in that order, the figures we used in Attachment D were not designed or intended to indicate the probable total amount of traffic which would be carried over each segment (we assumed *no* connecting or flow traffic), or the actual costs of serving each market; they only show that even under very *conservative* assumptions, a given market could support service.

National also argues that, once we certificate new carriers in this proceeding, subsequent applicants cannot be certificated because Oakland's need for service will have been filled, and that we will therefore not be simulating true free-market conditions. What this argument ignores is our basic conclusion here that Oakland's needs are most likely to be met if the greatest possible number of qualified carriers hold authority in the markets at issue. This conclusion will continue to apply even after the present proceeding is completed, and future applicants will be able to rely on it in seeking au-

Footnotes continued on next page

to follow National's advice and certificate only the carriers we could be certain the markets would support, we could very easily shortchange the traveling public, since forecasting Oakland's response to innovative service and fare proposals would involve more than the usual amount of guesswork. This stems from its history of underutilization and the incumbents' past failure to test fully its demand potential.[11] In view of our belief that Oakland needs the maximum service possible in order to revive its airport, it would not be consistent with the public interest artificially to restrict access to it.[12]

Several Board and court decisions are cited as holding that the Board must engage in the carrier-selection process. In our opinion, however, these opinions must be interpreted in light of Board policy at the time they were decided, and not be used to draw inferences about questions which were not before the Board or the courts for decision.

TWA, the Houston parties, the Texas Aeronautics Commission, and National, for example, refer to statements in the Supreme Court's opinion in *CAB* v. *Delta Air Lines, Inc.*, 367 U.S. 316 (1961) that the Act was designed to assure security of route in order to protect the carriers' investment in operation. Rather than holding that the Board should always be guided by a fear of destructive competition, even when that would cause us to fail in our obligation to promote competition to the fullest extent required in the public interest, the Supreme Court's decision in *CAB* v. *Delta* tells the Board that it cannot, without a hearing, take away a license after it has gone into effect. The Court's stress on "security of route" is logical in that context, but the interpretation of this concept urged by the opponents of the *Oakland* policy simply does not fit today's air transportation system, the way regulation is administered by the Board, or the specific actions we contemplate here. We are not proposing to modify, let alone take away, any authority granted under existing licenses.[12a] Other than to support the abstract statement that the Board is supposed to promote "regulated competition," we fail to see, therefore, why the opponents of the *Oakland* policy cite this language. Can they mean that the Board is supposed to protect them completely from competiton? Surely not, for even they admit that the Board is supposed to assure the benefits of competition. The danger, they argue, lies in *destructive* competition. As we discussed above, however, no one argues that there will be destructive competition at Oakland if a policy of multiple permissive entry is applied there.

The danger in citing court statements out of context is shown by Delta's, Houston's, Texas', and National's reference to *Delta Air Lines* v. *CAB*, 275 F. 2d 632 (D.C. Cir. 1959), as support for the contention that the Board must decide how many carriers a market can support and certificate only that man. Houston argues that the court made the following statements as a comment "on whether the Board is empowered to award more authority than the market [can] absorb":

> The public interest * * * requires that, if there be only enough business to support operation by one licensee, there must be only one licensee (275 F. 2d 638).

In fact, however, there was no issue before the court as to the number of carriers the Board could certificate if it wished, and the court did not hold in *Delta* that the Board could select only one carrier to serve the market in question. It merely recognized that, given the policies the Board was then applying (i.e., in most instances awarding authority to only one new carrier at a time), there was a good chance that the applications involved in the Board's decisions would prove to be mutually exclusive. The court held that the Board had misled the applicants on this point and, in violation of *Ashbacker* principles, had denied them a fair opportunity to show that the applications were mutually exclusive under the Board's own standards.[12] The court's citation of its own decision in *Carroll Broadcasting Co.* v. *FCC*, 258 F. 2d 440 (D.C. Cir. 1958) provides further insight into its thinking. There it said:

> Competitors may severely injure each other to the great benefit of the public. The broadcast industry is a competitive one, but competitive effects may under some sets of circumstances produce detriment to the public interest. When that happens the public interest controls." * * * [w]e think it is not incumbent upon the Commission to evaluate the probable economic results of every license grant. Of course the public is not concerned with whether it gets service from A or B or from both combined. The public interest is not disturbed if A is destroyed by B, so long as B renders the required service. The public interest is affected when the service is affected. (258 F. 2d 443.)

We have already discussed the unlikelihood of destructive competition at Oakland and in order 78-4-121 we indicated in detail why the public interest will be better served by a policy of multiple permissive entry at Oakland. Nothing the court says in *Carroll* compels us to take a different approach; rather, the court's approval of healthy competition reinforces our opinion.

Delta, Texas, and National cite another court decision which they argue compels the Board to engage in carrier selection. The language in *Delta Air Lines* v. *CAB*, 442 F. 2d 730 (D.C. Cir. 1970), to which they refer is as follows:

> * * * [w]here there are new routes involved, the first inquiry is logically whether

Footnotes continued from last page

thority to serve these markets, unless and until the time arrives when we conclude on the basis of persuasive new evidence that the continued authorization of additional new carriers is no longer required by the public convenience and necessity.

[11] See Order 78-4-121, pp. 4-13.

[12] We found, in support of certificating all fit, willing, and able applicants in the *Chicago-Midway Low-Fare Route Proceeding*, Order 78-7-40, July 14, 1978, that permitting service by many carriers in the markets will maximize traffic stimulation at Midway. We found that "the overall impact of a nonrestrictive approach is to maximize the traffic available to both the new entrants and incumbent carriers. Equally important, carrier competition will permit the public to select the service it wants." (at p. 3)

[12a] In *American Airlines* v. *C.A.B.*, 359 F. 2d 624, 631 (C.A.D.C. 1966), *cert. denied*, 385 U.S. 843, the D. C. Circuit sitting *en banc* cistinguished the Supreme Court's holding in *C.A.B.* v. *Delta* as follows (emphasis added): "The 'security of route' principle thus gives protection to an individual carrier that has made an investment in order to carry on the certificated service, assuring it that the CAB will not worsen its position *by action addressed against it individually, by prescribing inferior routes.* Since the supreme Court gave no indication in *Delta* that it intended to depart from the *Storer* doctrine [*U.S.* v. *Storer Broadcasting Co.*, 351 U.S. 192 (1956)], we see no basis for reading *Delta* as implying that the mere fact that licensees will be affected renders general rulemaking an impermissible means of agency action governing all carriers, or an appropriate general class of carriers."

[12] National argues that continuous application by the Board, with judicial enforcement, of the *Ashbacker* doctrine (*Ashbacker Radio Corp.* v. *FCC*, 326 U.S. 327 (1945)) proves that need-for-service findings must be related to a particular applicant, since by applying *Ashbacker* principles, the Board admits that it is harder for a subsequent applicant to receive authority in the same market. This is the same as saying that because the Board has applied a particular policy in the past, it is forever bound to it. This, however, is at odds with the flexibility the Congress and the courts have accorded to administrative agencies (see footnotes 18-19 below and accompanying text). Nothing in our policy here would prevent an award to a later applicant in any of these Oakland markets. (See footnote 10 above.) In fact, the policy employed here would undoubtedly make it easier for subsequent fit applicants to receive authority there. To repeat our discussion in order 78-4-121 on this same point, "all *Ashbacker* holds is that *if* applications are mutually exclusive *then* they must be heard and decided contemporaneously. The syllogism's minor premise, mutual exclusivity, is established not by anything in the Act but by the Board's longstanding policy of treating applications for the same authority as mutually exclusive in most situations, and its specific findings of mutual exclusivity 'as a matter of economic fact' in numerous cases." (Footnote 49a, p. 44.)

the markets to be served actually need new or additional air service. This is not a perfunctory *pro forma* inquiry; the findings of a public need for the air service, with specif-

but not those of the other applicants with which it was being compared. Not only was the Board's forecast extreme-

tory action, is successfully encouraging competitive behavior in the market. Under such conditions those carriers actually serving at any given

ued to be employed by the Board in virtually all of its later decisions until fairly recently, even though the Board's actual entry policy during those years varied from

Act itself, or court interpretations of both precludes us from granting authority in the Oakland markets at issue to more carriers than we believe

or any other case and the statutory requirements that carriers provide adequate service (section 404) and obtain Board permission before suspending

V 43/187 SE 26 78 V 4

the markets to be served actually need new or additional air service. This is not a perfunctory *pro forma* inquiry; the findings of a public need for the air service, with specific details as to the quantity, quality, frequency, type, equipment required, facilities available, etc., is a fundamental starting point.[10] (442 F. 2d 733.)

Viewed in the abstract, we can see why the opponents of our *Oakland* policy use this language to bolster their argument,[14] but the footnote to the court's statement brings out clearly the assumptions under which it was working:

The court then went on:

An unsound decision on route allocation, awarding a route to a carrier when neither the need justifies it nor does the carrier have the ability to service it, hurts all concerned: The public interest by saddling the country with an inefficient and distorted air transport system, and perhaps an augmented subsidy; the carrier which would most efficiently service the route but which is barred from doing so; the "successful" carrier which may have a liability on its hands rather than what it optimistically envisioned as a financial asset. (442 F. 2d 733.)

It is evident from these passages that the court was taking the Board's own carrier-selection policy as given and discussing the possible ramifications of Board decisions made under such a policy which do not fairly and as accurately as possible determine which carrier can best meet the needs of the market. The problems the court envisioned are inherent in carrier selection by the Board, and indeed they are persuasive reasons for avoiding carrier selection to the extent we are able to do so (see order 78-4-121, pp. 35-42). The court did not hold that the Board cannot decide that carrier selection is not in the public interest in a particular situation—an issue which was in no sense before it—but only that, when the Board engages in carrier selection, it must do so on a fair, impartial basis. In the situation before the court for review, the Board had updated the economic forecast for one carrier (the winning applicant) but not those of the other applicants with which it was being compared. Not only was the Board's forecast extremely suspect, but the examiner's decision showed a loss and subsidy-need increase for the carrier chosen by the Board.[15] Interestingly, on remand, the Board decided to certificate two carriers in the market in question, even though it could not find that both carriers would be profitable.[16]

Similarly, Braniff, Delta, TWA, Houston, Texas, and National misconstrue the court's decision in *Continental Air Lines* v. *CAB*, 519 F. 2d 944 (D.C. Cir. 1975). It was in response to the Board's argument that

competition is not *per se* favored where it endangers other policy goals in the public interest, such as achievement of efficient, economical service or the fostering of sound economy of operations. (519 F. 2d 952.)

that the court stated:

The legislative history and the early CAB decisions indicate that there is no presumption of competition *per se* because competition *may* prove uneconomical and destructive of the healthy development of the industry if the relevant market is too small to support competing carriers. But when sufficient traffic exists to support competition, certification of competing carriers is mandated by the Act as providing the best means of effectuating the other public interest goals contained in § 102. (519 F. 2d 954.) (Emphasis supplied.)

The court's statement must be interpreted in that context. The Board was then arguing that it could take a restrictive view of the necessity for competition under its general policy of comparative selection, and the court told the Board that it must favor competition unless it would be destructive. The court was not passing on a multiple permissive entry policy and clearly was not indicating to the Board what situations required a finding of a likelihood of destructive competition. We have found in this case that multiple permissive awards will not lead to "uneconomical and destructive" competition at Oakland and that finding has not been rebutted. Nor was the court saying that competition effectuates the public-interest goals of section 102 only when there is sufficient traffic to support the precise number of carriers authorized to serve the market. To have so found would have been to define competition in an impermissibly restrictive sense. A market is "supporting competition," in our view, whenever the Board, through regulatory action, is successfully encouraging competitive behavior in the market. Under such conditions those carriers actually serving at any given time perceive that if they fail to meet the public's needs there are potential competitors ready and able to enter the market and attempt to do so.[17] This is "competition" even if only one carrier happens to be serving the market at the time, so long as that carrier is responding to a perceived threat of new entry.

In support of their restrictive interpretations of our statutory authority, the opponents of our *Oakland* policy refer us to court decisions likening the Board's regulatory responsibilities to those of an agency regulating a public utility. There are many features of the air transportation system, however, that make the application of traditional public-utility type regulation unrealistic, undesirable, and unnecessary. Apart from the obvious differences in mobility of the major capital asset, in most situations an air carrier with unused authority can beneficially influence the behavior of the carrier or carriers serving the market because of the ease of inaugurating competitive service. The tracks, pipes, or wires of the public utility take time and much capital investment to construct and, once in place, are typically immobile. While most of the parties citing these court decisions pay lip service to these differences by stating that Congress and the courts do not want the Board to treat air transportation as a natural monopoly, but to promote "regulated competition," the meaning they give to the latter resembles the exclusive-franchise theory of public-utility regulation and fails totally to recognize and take into account the similarities between the air transportation system and many businesses in which exclusive or nearly exclusive franchises are not awarded. It would be incongruous were we, as National urges, required to follow the interpretations of administrative agencies which regulate true public utilities.

We also note that our observation about the judicial decisions cited in opposition to our show-cause order in the *Piedmont Boston-Entry Application* (see order 78-8-97, p. 16) is relevant here. All the decisions offered in support of the argument that the Board cannot use multiple entry to advance the public-interest goals of the Act arose in the context of a relatively restrictive entry policy adopted by the Board itself in the early days of the 1938 Act, the conceptual framework of which policy continued to be employed by the Board in virtually all of its later decisions until fairly recently, even though the Board's actual entry policy during those years varied from extremely restrictive to quite liberal and back. Court decisions applying the Act quite naturally assumed the conceptual framework and underlying assumptions adopted and proclaimed by the Board itself, the more so since no party to the court appeals was contending for a contrary set of assumptions. In those circumstances, the courts' concern was to see that the Board followed procedures which ensured fairness to all parties in the context of the Board's own conceptual framework and announced entry policy. We do not think it follows from these court decisions that the Act precludes the Board from adopting a fundamentally different set of assumptions.

Braniff, TWA, and National cite a few past Board decisions and claim, in Braniff's words (Braniff comments, p. 9), that the Board has "since its inception interpreted § 102 to permit competitive awards only where the traffic would support the additional carriers." This simply is not true, as shown by the cases we cited in order 78-4-121 (p. 46), and have discussed above (p. 10). Moreover, as we recently stated in order 78-8-97, August 17, 1978, on Piedmont's entry into Boston, "numerous trunkline routes have been awarded in past cases without any express finding of profitability, and a considerable number have been awarded in the face of clear indications that they would undoubtedly *not* be profitable at the outset or for some years to come." (See fn. 26, p. 13 of that order for case cites.) Despite these cases, we recognize that the policy we are adopting here "represents a far-reaching departure from the Board's customary practice in route certification cases during the nearly forty years of its history" (order 78-4-121, p. 21). We must also keep in mind, however, that the policies of administrative agencies change; indeed, the Board's have changed, sometimes substantially, over the years, primarily as a result of prevailing economic and social circumstances.[18] The fundamental requirements are that whatever policy we adopt must be consistent with the statutory mandate, and that, when the Board alters that policy, it must articulate clearly the reasons for doing so.[19] As we demonstrate here and in order 78-4-121, our adoption of a policy of multiple permissive entry for certain Oakland markets meets these requirements.

In sum, we conclude that nothing in the legislative history of the Act, the Act itself, or court interpretations of both precludes us from granting authority in the Oakland markets at issue to more carriers than we believe the markets will be able to sustain at any one time. Indeed, awards to more carriers than the market can simultaneously sustain have been specifically upheld by the courts.

Interestingly, several parties who argue that the Board legally cannot at the outset, let market forces decide which carrier or carriers can provide the best service, argue that awards of backup authority are legal as long as they are awarded on a one-for-one basis and the authority of the first carrier terminates at the same time as the second one's becomes effective.[20] In other words, they apparently view the Act as allowing the traveling public rather than the Board ultimately to determine through the marketplace which carrier shall serve a route, so long as this is done through a long-drawn-out, administratively inefficient process of consecutive backup awards, rather than through the relatively simple and straight forward process we have proposed in our multiple permissive entry policy. We cannot believe that Congress has mandated such indirection. The opponents' concession that the Board may, by making backup awards, admit and make provision for the possibility that its choice of carrier may not be the best choice or the marketplace's choice, thus seems to us to undermine the argument that the Board must always engage in the process of carrier selection in the first place.

Permissive Awards

The second general legal argument against the policy we proposed in order 78-4-121 is that the Board has no power to made a carrier's authority at a point or over a two-point segment completely permissive. Delta, National, TWA, and Texas take this position. Although we have dealt with this argument before (see e.g., *Las Vegas-Dallas/Ft. Worth Nonstop Service Investigation*, order 78-7-116, July 21, 1978), we will discuss some of the specific contentions made here and the concept of permissive authority in the context of this case.

All four parties cite the abandonment and adequacy-of-service provisions of the Act (§§ 401(j) and 404(a)(1)) to argue that, once the Board has found that particular authority is required under § 401, the carrier awarded that authority has an obligation to provide it and cannot abandon the market without Board approval. Thus, they argue, Congress clearly has made permissive authority at a point illegal.

We see no inconsistency between awards of permissive authority in this or any other case and the statutory requirements that carriers provide adequate service (section 404) and obtain Board permission before suspending service or abandoning "any route or part thereof" (section 401 (j)). The fact that certificate authority per se is permissive does not vitiate what Congress in section 404 clearly intended to be a carrier's continuing obligation to furnish "safe and adequate service, equipment, and facilities" in accordance with its certificate. In the first place, an airline's freedom to choose whether or not to provide service does not negate its responsibility, once it determines to exercise its authority, to make sure that its service, equipment, and facilities are "safe and adequate." Moreover, we recognize that in some circumstances the adequacy standard may require single-plane or nonstop service to a permissive point, or over a permissive segment, just as in the past it has been held to authorize the Board to order a carrier to schedule flights in on-segment city-pair markets that it had no mandatory certificate obligation to serve. *Baltimore Adequacy of Service Investigation*, 30 CAB 1215 (1960), *aff'd, National Airlines* v. *CAB* 300 F. 2d 711 (D.C. Cir. 1962).

The Board has held that adequacy of service under section 404 must be evaluated on the individual facts of each case; on the basis of a market-by-market appraisal rather than the general level of service at a city; and on an analysis of the size and economic characteristics of each market, the aggregate of service being provided by all carriers, and the purpose for which each was certificated. *Fort Worth Investigation*, 27 CAB 260 (1958); *Toledo Adequacy of Service Investigation*, 30 C.A.B. 169 (1960), *aff'd. Capital Airlines* v. *CAB*, 281 F. 2d 48 (D.C. Cir. 1960); *Flint-Grand Rapids Adequacy of Service Investiagation*, 30 CAB 1120 (1960); and *Baltimore Adequacy Investigation*, above.[21]

Since the test of "adequacy" looks to the traffic and economic characteristics of markets and the overall quantum of service they receive, we see no reason why we cannot conclude, as we do here, that the best way to insure continued adequate service at Oakland is through multiple competitive authority, for the same reasons we have

[10] In the Bureau Counsel's Request for Evidence issued after the prehearing conference on 19 October 1967 detailed information was requested regarding carrier schedules and fares, air traffic, carrier financial forecasts, carrier operating statistics, present and proposed equipment, airport facilities, and economic characteristics and population trends of the cities involved. These criteria reflect the true nature of the initial inquiry *in a comparative hearing*. (Emphasis supplied.)

[14] The cited language is of course pure dictum, since the issue before the court was whether the Board had selected the right carrier to serve the routes at issue, not whether there was a need for service. The restrictive implications of this language were in any event inferentially repudiated by the same court in the *Continental* case discussed below.

[15] Order 73-2-90, Feb. 23, 1973. See order 78-8-97, p. 14, fn. 28, for a fuller discussion of this case.

[16] The Board's action in granting Southern permissive nonstop authority in the Memphis-Miami market, notwithstanding its finding that Southern would probably be unable to compete with Delta, was expressly approved by the same court in *Southern Airways* v. *CAB*, 498 F. 2d 66 (C.A.D.C. 1974).

[17] Moreover, it is noteworthy that in *Continental*, the court was in effect holding that the Board had exceeded its discretion to restrict competition for protectionist reasons.

[18] *American Trucking Associations* v. *Atchison, T. & S.F.Ry. Co.*, 387 U.S. 397, 416 (1967).

[19] *Greater Boston Television Corp.* v. *FCC*, 444 F. 2d 841 (D.C. Cir. 1971). "The administrator is expected to treat experience not as a jailer but as a teacher." *Shawmut Ass'n.* v. *FCC*, 146 F. 2d 791, 797 (1st Cir. 1945).

[20] Delta, TWA, and Houston.

[21] While each carrier has an individual obligation to provide adequate service, that obligation is tested by looking at the market's overall level of service. This follows from the need to take all facts and circumstances into account. However, not all aspects of adequate service are to be judged on an aggregate basis: "If the apparent inadequacy * * * were to be of a positive or affirmative sort—e.g., undependability, bad food, discourteous treatment, etc.—the fact that another carrier in the market provided service free of such defects would have little, if any, compensating effect * * *." *Fort Worth Investigation*, 27 CAB at 267.

already given in finding multiple entry to be conducive to the fullest and most rapid development of the Oakland markets. There is nothing new in this

is a distinction of small practical or legal significance. The Board grants new authority on the basis of the need for service in city-pair markets and not

marginal markets than they otherwise would have. The net result we are seeking is to bring more price-competitive and more market-responsive air

ing a point being compelled to continue doing so for any prolonged period.[29] Moreover, we believe that by authorizing all qualified applicants to serve

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already given in finding multiple entry to be conducive to the fullest and most rapid development of the Oakland markets. There is nothing new in this approach, since competition has always been the Board's primary tool for insuring adequacy of service. In the 1960 *Baltimore* case, cited earlier, the Board acknowledged its principal reliance on competition to maintain adequate service during the previous 20 years; and in another adequacy case of that period (*Fort Worth*), it expressly recognized the value of even unused competitive authority:

> [T]he presence of a competitor free to act if established carriers lag is in itself of value to the public, and will normally tend to insure that adequate service to the public will be provided in the market in question. (27 CAB at 266.)[22]

In fact, except for a brief spate of formal adequacy proceedings between 1958 and 1961, cited above, the Board has relied on competition to insure adequacy to the virtually exclusion of formal adequacy investigations. Since we are now placing even greater emphasis on competition than in the past, there is no reason to expect a change in that approach; however, we do not foreclose the possibility that in some unforeseen future circumstances the Board may decise to investigate the adequacy of service in Oakland markets if competition alone fails to maintain it.

As for a carrier's obligation under section 401(j) to seek Board approval before suspending service or abandoning "any route or part thereof," we have already shown that it does not prohibit the Board from granting discretionary certificate authority. Otherwise, the great flexibility that carriers have long enjoyed operating between and among points on the same segment would be impossible. We see no reason "to assume that the Act permits that kind of operating flexibility and yet prevents the Board from making a point or segment wholly permissive if the public convenience and necessary so require." *Las Vegas-Dallas/Fort Worth, supra*, p. 12.

The suspension, deletion, and abandonment provisions of section 401 (g) and (j) are designed to prohibit a carrier from eliminating all service over a route or portion thereof purely at will without Board authorization, and to provide communities and other interested parties with an opportunity to argue that service should be maintained. But nothing in the Act prevents the Board from authorizing a carrier to suspend service at or abandon a new market or point at the same time as it grants it the right to serve that market or point in the first, place—in other words, from making a permissive award—as long as the proper public convenience and necessity/public interest findings are made, the procedural prerequisites of notice and hearing are met,[23] and those opposed to a grant of permission to suspend or abandon service (and who therefore favor mandatory rather than permissive authority) have an opportunity to present their opposing views. Since these procedural and substantive requirements have been met here, we find that permissive awards are entirely proper.

In view of all this, section 401(j) requires a carrier to obtain separate Board approval of a discontinuance of service only if that service is required (not merely authorized) by its certificate. There is accordingly no need for further Board approval where the carrier fails to provide service the authority for which is permissive. This is obviously true where a carrier, for example, fails to provide nonstop service in the typical city-pair market where its nonstop authority is permissive.

The opponents' arguments on the supported unlawfulness of permissive authority, moreover, completely ignore the massive practical fact that, after 40 years of route regulation, almost the entire certificated domestic route system is built up of authority which, for all practical purposes, is wholly permissive in nature.[24]

The strained interpretation these four parties give to the Act, if valid at all, would logically apply to any type of newly-awarded authority, not just that at new points, or over new two-point segments. Thus, § 401(j) refers to the abandonment of "any route, or part thereof," not just those parts awarded in the form of two-point segments.

The Board has for many years favored the award of permissive, rather than mandatory, authority where the market at issue is already on-system or on-segment for the successful applicant; this is true even where the Board finds an affirmative need for additional service in the specific market at issue.[25] Of course, the objecting carriers have been granted such permissive authority in many discrete city-pair markets. Yet they do not argue that such a finding carries with it an obligation to serve those markets. The only difference between the permissive authority these carriers have and the permissive authority they object to is that the former requires some scintilla of service at each point on a linear route segment.[26] That, however,

[22] As previously noted, this "competitive stimulus" rationale was later expressly approved in *Southern Airways* v. *C.A.B.*, 498 F. 2d 66 (C.A.D.C. 1974).

[23] We have already explained that the statutory hearing provision does not mandate an evidentiary hearing on the general policy question of whether multiple permissive awards are required by the public convenience and necessity. See order 78-4-121, p. 57. No party has suggested or attempted to demonstrate that the argument-type procedures we have provided are inadequate for determining this policy issue, or that an evidentiary hearing on it it required.

[24] Indeed, National and Texas do not seem to recognize the existence of any permissive authority at all. National states "When the agency has found such services were required by the public convenience and necessity, as that term is construed under the relevant statute, then the agency issues a certificate which not only authorizes, but requires, the applicant to provide the service." Similarly, Texas argues, that ". . . the courts are of the uniform opinion that the Board cannot satisfy its statutory duties by the grant of permissive authority." As we show in the text, these contentions are wholly untenable.

[25] See, e.g., *Allegheny Airlines Route 97 Investigation*, 50 CAB 94, 104 (1968); *St. Louis-Dayton/Columbia/Pittsburgh – Subpart M Proceeding*, 53 CAB 624 (1970); *North Central Madison-Chicago Nonstop Service Case*, 44 CAB 315 (1966); *Eastern Air Lines-Piedmont Aviation Route Exchange*, Order 77-12-76, December 14, 1977. See also *Southern Airways Route Realignment Investigation*, Order 73-2-90, February 23, 1973, at 18, affirmed, *Southern Airways* v. *CAB*, 162 U.S. App. D.C. 115, 498 F.2d 66 (1974), where the court (in fn. 21 to its opinion) specifically approved the Board's grant of permissive authority to Southern on a "competitive stimulus" rationale, notwithstanding the Board's finding that Southern would be unable to compete in the market in question unless Delta (the principal awardee) defaulted on its service promises. (The same footnote noted the existence of Eastern's unused permissive authority in the market.)

[26] With few exceptions, route authority has been conferred in the form of long linear segments describing a terminal point, one to several dozen intermediate points, and a terminal point (see section 401(e) of the statute). Unless specifically conditioned, the license permits the carrier to operate between any two points named at any of the qualitative levels of service, i.e., nonstop, one-stop, multi-stop, or connecting. Even a connection involving a backhaul is considered to be the "provision of service" for purposes of discharging the certificate obligation, and the Board is specifically proscribed from regulating schedules or specific aircraft types. On the other hand, it has been customary for the Board to include in most domestic certificates a clause providing that "the holder shall render service to and from each of the points named herein," and this clause (rather than the statute per se) has made it necessary for the carrier to obtain Board permission under sections 401 (g) or (j) of the Act before discontinuing all service at the point. However, this is not, as a practical matter, a meaningful service requirement since the carrier is free to provide token operations to whatever point on the segment it chooses to serve, and virtually any city-pair service it chooses.

Under these circumstances, it is important to recognize that incumbent carriers in general and large incumbent carriers in particular have enjoyed an advantage over new entrants (and to a lesser extent large carriers have had an advantage over smaller). This is because new route extensions in the past have tended to involve mandatory authority at a new point for new entrants and some-

Footnotes continued on next page

is a distinction of small practical or legal significance. The Board grants new authority on the basis of the need for service in city-pair markets and not on the basis of need at a single point. There is no such thing as a public need for service "at" a point. Every airline passenger wants to fly to some specific destination; all public need for service is therefore in specific city-pair markets. A need for service—particularly for single-plane or nonstop service—between A and B is not satisfied by service between A and C.

As long as a carrier can enter and leave a particular city-pair market at will (as is the case in nearly all markets), it is effectively under no legal obligation (except possibly under section 404, see above) to provide the services permitted by the Board's grant of authority and to which its original route-case proposals and evidence were directed, "Market need" is not reasonably satisfied because a carrier is obligated to serve the individual points. In short, the objectors cannot be seriously heard to contend that permissive awards are inconsistent with the requirement of section 401(d)(1) that the authorized transportation be "required by the public convenience and necessity." If true, the argument would bring into question permissive city-pair authority repeatedly found lawful, authority which exists in over 90 percent of the domestic city-pair markets, and the only kind of authority which exists in many of the largest of them.

Moreover, even where a carrier's authority to serve a particular market is mandatory in form, the service obligation is of little value to the community (see Order 78-4-121, p. 50), particularly when both the Board and the carriers have considered one weekly round trip sufficient to fulfill whatever service obligations the certificate imposes.[27] Thus, the permissive nature of the Oakland awards we will make will not give the public less of a guarantee of genuine service than it would have under so-called "mandatory" authority, In fact, the reduced procedural burdens and permissive authority we contemplate for Oakland may encourage carriers to attempt service in more marginal markets than they otherwise would have. The net result we are seeking is to bring more price-competitive and more market-responsive air transportation to a maximum number of people, an aim which is fully consistent with the public convenience and necessity. The position of the opponents of this policy, taken to its logical conclusion, might well require the elimination of all existing permissive authority, the establishment of mandatory minimum standards of service, and the undoing of all past and current route realignments. It could require depriving carriers of a large part of their operating flexibility and the substitution of Board judgment for carrier management discretion as to levels of service and schedules on routes all over the country.[28]

Delta maintains that a carrier's obligation to serve a point (as distinct from a market) can be significant. It argues,

> If carriers may withdraw from the city at will, where is the protection for airport revenue bonds? What protection do travelers to or from that city have that some service will be provided over routes and in markets for which a public need was found?

On the second question, as our remarks above demonstrate, the requirement to provide some service in reality imposes no meaningful obligation. Moreover, we believe that, if there is in fact a public need for service, the award of multiple permissive authority will better insure its provision than will the imprecise and restrictive practice of carrier selection with all its attendant rigidities in matching the right carrier and services with changing public desires.

As for the first question, it is our view that the issuance of wholly permissive authority will not, to any significant extent, be the cause of carriers withdrawing from cities in circumstances where they would not find it easy to withdraw today or would not have found it easy in the past. The Board's past policy on permitting suspensions and deletions of service has almost without exception been extremely liberal; there are few examples of carriers desiring to cease serving a point being compelled to continue doing so for any prolonged period.[29] Moreover, we believe that by authorizing all qualified applicants to serve markets here at issue on a permissive basis, we will be maximizing the likelihood that, should any particular one withdraw from Oakland, its services will be replaced by those of a qualified carrier, quite possibly one that is more efficient or better situated to satisfy Oakland's service needs on a profitable basis.

Applying Delta's argument to the facts here, no one has suggested that Oakland's revenue bonds will be placed in jeopardy by our porposed grants of permissive authority, as they clearly have not been heretofore by the almost completely permissive nature of the nine incumbent carriers' authority at Oakland, which has not prevented the city from developing an excellent airport facility. While Houston does appear to argue that something of the sort will occur at Houston, those comments are directed to the application of multiple permissive entry policy on a large scale, and we do not understand Houston to argue that permissive Oakland-Houston authority will jeopardize its airport financing arrangements. More to the point, the issuance by the Board of permissive authority will not release any carriers from any contractual or leasehold obligations to airport authorities they have heretofore undertaken, nor we believe will it necessarily keep carriers from entering into such obligations in the future. After all, unregulated businesses routinely enter into long-term leasehold commitments to property developers (including governmental authorities), notwithstanding their lack of protection against new competitors and their complete legal freedom to leave markets at will. Finally, we are not persuaded that long-term leases of the existing kind, however desirable, are essential to the creation and maintenance of adequate airport facilities.

Having concluded that nothing in the Act precludes the policy we proposed in Order 78-4-121 as a matter of law, we now turn to an analysis of the

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times for smaller carriers, whereas improved authority was often conferred on larger carriers by merely removing a restriction to serve markets already named on one or more segments or routes, thereby almost always creating permissive city-pair authority.

[27] Both Delta and National have "mandatory" segments (Miami-San Francisco and Atlanta-San Francisco, respectively) on which they provide as little as one or two round trips per week. We note, incidentally, National's recent application to make its Atlanta-San Francisco segment permissive, in which it argues that the public convenience and necessity require such action.

[28] Delta and Texas cite *City of Lawrence* v. *CAB*, 343 F.2d 778 (D.C. Cir. 1965) in support of their position. That case, however, involved the deletion of a point from a carrier's certificate on the grounds that another carrier held authority there and could adequately meet the public's needs, when in fact the services of the two carriers were not the same. Despite the Board's findings that its action would benefit the public in the long run, it appeared that a significant number of travelers would lose service. The court's main concern was with the inadequacy of the Board's explanation of its action, and in particular its unexplained departures from previous policies. We see no relation between that case and the situation here.

[29] In the "area" cases of the 1940's and 1950's the Board permitted the trunklines to withdraw from several hundred small and medium-sized communities, most but not all of which were transferred to local service carriers. In the late 1960's and early 1970's the process was repeated as the local service carriers were permitted to terminate service at several hundred points (many the same ones previously dropped by the trunks), in most but not all cases in favor of reliance on commuter carriers, either exempted or (in a few cases) newly certificated. Notwithstanding this general policy of providing replacement service by a smaller carrier, a considerable number of once certificated communities have lost air service altogether, usually because of a paucity of traffic.

objections posed on economic and policy grounds.

ECONOMIC AND POLICY OBJECTIONS

able to show the presence or likelihood of such deterrent effects, we will retain our power to take corrective

convinced that such deterrence is a common phenomenon, or more specifically that it is likely at Oakland.

The plain fact is that there have been literally dozens, perhaps hundreds, of cases in which smaller carri-

very frequently go on to achieve a substantial, often, dominant, market position. Being big is not always an advan-

whole point of our developing policy of multiple permissive entry, and this is precisely the advantage the civic

objections posed on economic and policy grounds.

ECONOMIC AND POLICY OBJECTIONS

A number of parties (mostly civic parties and State aeronautical agencies) continue to argue that the existence of dormant authority in the Oakland markets here at issue, and in other markets elsewhere, will discourage new carriers from entering them. They accordingly urge us to adopt a policy of eliminating existing dormant authority in each market where we grant new authority. They further urge us to make the new authority mandatory, or at least to condition it so that it will lapse if service is not provided.[30]

We are not prepared to say that there never was or will be a situation in which a potential new carrier was deterred from entering a market by the existence of dormant authority in the hands of another carrier. If in any future case the interested parties are able to show the presence or likelihood of such deterrent effects, we will retain our power to take corrective measures, including the deletion or restriction of the dormant authority in question.[31] But we remain wholly unconvinced that such deterrence is a common phenomenon, or more specifically that it is likely at Oakland. Moreover, the solutions offered by the civic parties would throw away many of the prospective benefits of multiple permissive authority, and would entail serious dangers of uneconomic behavior by carriers. Accordingly, we do not find in this argument about the asserted effects of dormant authority a valid reason for not adopting a policy of multiple permissive entry, either in general or at Oakland in particular.

Thus, although there may be future occasions when we will find that the public convenience and necessity will require us to delete outstanding dormant authority to achieve the optimum level and quality of service, we expect such occasions to be the exception, and believe that in most cases the continued existence of dormant authority will be conducive to the public good. We believe events will justify the continuation of our past policy of deleting or suspending dormant authority in only a small minority of the cases brought before us.

In view of the persistence of the argument that dormant authority deters new entrants, it is remarkable how few actual cases are cited in support. We discussed in Order 78-4-121 (pp. 11-12, 20) in some detail why we do not believe that the existence of extensive dormant authority at Oakland has been one of the causes of that community's deficient service, and what we considered the true causes to be. We pointed out that in several instances small carriers have shown no hesitation in entering Oakland markets notwithstanding the dormant (or indeed, in the case of PSA in the Oakland-Los Angeles market, the active) authority of much larger carriers. We discussed in particular Hughes Airwest's successful entry into the Oakland-Las Vegas market notwithstanding the dormant authority of Western, Delta, National, and TWA, and indeed in face of Western's apparent attempt to preempt the market while Airwest's application was pending. This clearcut example of Airwest's willingness and ability to challenge one much larger carrier and to ignore the dormant authority of several others leaves us skeptical about the asserted unwillingness of Airwest, as reported by the Utah parties, to enter the Salt Lake City-Portland market simply because a larger carrier has dormant authority there. No one has offered any plausible explanation of why the same carrier's behavior should supposedly be so different in markets having as little obvious difference as Salt Lake City-Portland and Oakland-Las Vegas (or Oakland-Phoenix, also discussed in Order 78-4-121).[32]

[30] The California parties describe this as a "use-it-or-lose-it" condition. We hesitate to adopt this graphic term in the present context for fear of confusion with the Board's old "use-it-or-lose-it" policy of the 1950's and 1960's, enunciated in the *Seven States Area Investigation*, 28 CAB 680, 755 (1958), which had to do with the minimum level of enplanements newly certificated communities were expected to produce in order to continue receiving subsidized air service.

Birmingham takes a slightly different approach; it urges that each applicant be required to file a statement of commitment to initiate service and detailed descriptions of the service proposed. Since we fully expect that not all carriers awarded authority under a multiple permissive entry policy would institute service, indeed, that it would not be economic for all carriers to do so, such a requirement would be inconsistent with the way we are conducting this case. Alternatively, Birmingham requests that each applicant be required to file a statement of its plans for initiation of service on the routes applied for; similarly, Oakland requests, in its petition for reconsideration, that the evidence requests in Attachments H and I of Order 78-4-121 be expanded to include the following:

"1. How soon after certification does the applicant expect to initiate service in each market; what type equipment will be operated and at what frequency?

"2. In light of the above schedule, what are the applicants' requirements for counter and gate space, and other airport facilities or services, at the Oakland International Airport?" We think these are reasonable requests (they appear to cover Birmingham's alternate request as well) and we will therefore add them to the information requested in Attachment H (there is no need for duplication in Attachment I). The communities must understand, however, that it may be impossible for some carriers to decide whether to enter a market or how much service to provide until they know what their competition will be. As a result, the answer of some applicants to these questions may be that their plans are too indefinite to describe. Such an answer will be considered sufficient.

[31] A distinction might be drawn between (a) situations in which authority currently not being used was awarded in specific contemplation that it would not or might not be used, and where the parties have had an opportunity to address themselves to the possible future consequences of such nonuse, and (b) situations where the unused authority either is a product of pure historical accident, or was awarded in the expectation that it would be used, so that the possible future consequences of nonuse have not been considered. Into the first category would fall, for example, the permissive Memphis-Miami nonstop authority awarded Southern on remand in the *Southern Airways Route Realignment Investigation*, Order 73-2-90, February 23, 1973, discussed with approval in *Southern Airways* v. *CAB*, 498 F. 2d 66 (C.A.D.C. 1974) (see footnote 21), where the Board awarded nonstop authority to Southern as well as Delta although it fully expected that only Delta would provide nonstop service. The authority we will award here to all qualified applicants also falls into this category, since we do not expect all awardees to provide service, even though we are confident service will be provided. We would also assign to the first category the improved authority awarded in route realignment proceedings on grounds of operating flexibility without any showing of specific service plans, since the carrier's freedom to use or not use the flexible authority granted is the whole point of the award. On the other hand, the "historical accident" subdivision of the second category would appear to cover those on-segment markets in grandfather certificates where unrestricted nonstop authority flowed from the Board's repeal of its early "nonstop" regulation (see Order 78-4-121, pp. 48-49, fn. 56). The second category also covers those situations under the Board's past limited-entry policy in which a carrier promised service in a market and was granted authority on the strength of that promise, but subsequently discontinued service (or never inaugurated it) either because the authority was permissive in form or because the carrier sought and was granted suspension authority. (We note that in a number of cases during the past decade where it has suspended an incumbent carrier's authority in favor of a replacement service by a smaller carrier, the Board has imposed conditions restricting the incumbent's right to reenter the market at will.)

We suggest this possible distinction between these two categories of situations because we believe that there is no reason whatever for us to concern ourselves with the possible effects of dormant authority in the first category, having already once had the issue before us. Even as regards the second category, however, we see no present justification for (and many drawbacks in) the adoption of a general policy of deleting dormant authority in the latter category of cases. We feel certain that in most instances the existence of dormant authority in these markets will prove to have no ill effects, and that its deletion would be contrary to the true interests of the communities themselves.

[32] The other alleged incidents of deterrence by dormant authority likewise fail to

Footnotes continued on next page

The plain fact is that there have been literally dozens, perhaps hundreds, of cases in which smaller carriers have unhesitatingly sought and been awarded authority to enter markets in which larger carriers held outstanding dormant authority. In many, perhaps most, of these cases they have not even bothered to ask the Board to delete or suspend this dormant authority; where they have asked, the Board has only in a minority of cases done so, yet the applicants have pressed on and entered the markets anyway. We are not aware of a single instance, nor has any been called to our attention, in which an applicant has withdrawn from a route case because the Board has refused to delete dormant authority, or in which a successful applicant has declined to inaugurate service on that ground. If dormant authority had the deterrent effect attributed to it by the civic objectors, surely some such incident would have occurred by now.

Moreover, the deterrence theory ignores the fact that a large portion (quite probably a majority) of the route applications filed with the Board are by smaller carriers seeking permission to enter markets in which larger carriers not only hold authority but are actively engaged in service. The former are obviously in no way deterred; when awarded authority they very frequently go on to achieve a substantial, often, dominant, market position. Being big is not always an advantage; very often a small or medium-sized market will be far more important to a smaller carrier than to a larger rival, and will receive more top management attention, more innovation, service more carefully tailored to local market needs, the support of beyond-market traffic flows to which the larger carrier lacks access. (The list could be extended considerably.) Of course, the smaller carrier does not always beat out the larger, but it does so often enough to refute utterly any theory that the latter have such weighty natural advantages that the smaller ones will be driven out of the market unless the Board extends its protecting arms around them.

We suspect that the persistent desire for exclusive authority—for that is what the request to delete dormant authority comes down to—is the atavistic residue of a regulatory system which continues to bear a tantalizing albeit anachronistic resemblance to the systems appropriate for regulating the typical "naturally monopolistic" public utility. As long as carriers continue to perceive the pieces of paper issued to them by the Board under this system, called "certificates," as having a market value separate and apart from the value of their airplanes, facilities, and of the going concern, a value based on their conveying some degree of exclusiveness, carriers are behaving rationally (within the context of an irrational system) when they seek such exclusive rights wherever possible, whether or not they really need them in order to operate. Carriers considering new service to a community have every incentive to seek the support of civic parties for a grant of exclusive authority; it does not follow, however, that if they do not get it they will not serve. We believe that under a more rational regulatory system, as the mythos of the exclusive franchise fades, the demand for such franchises will diminish, and it will be more widely realized that good air service not only does not require them but will indeed be best assured by their absence.

The point that we believe has been missed by the parties asking for the deletion of dormant authority, and the grant of mandatory authority or authority conditioned on use, is that such measures are quite likely to lead to sluggish and unresponsive service. As we have said, there is little evidence that dormant authority deters new carriers from entering, except in unusual circumstances; but there is plenty of evidence that the realistic threat of prompt new entry is the best guarantee of attentive, responsive service by an incumbent. This is the whole point of our developing policy of multiple permissive entry, and this is precisely the advantage the civic parties asking for deletion of dormant authority and denial of new permissive authority would throw away.

Moreover, we believe that the policies the civic parties would have us follow would be far more likely to lead to uneconomic behavior and destructive competition than would a policy of multiple permissive entry, without at the same time producing better service. If authority were made conditional on use, a carrier finding service in a market unprofitable at present, but not wishing to give up its authority for all time to come, would have an incentive to continue the unprofitable operations. It is unlikely that such service would be genuinely responsive to community needs, since the carrier's incentive would be to minimize its losses by providing no more than the bare minimum needed to avoid forfeiting its authority. In a small market, however, such grudging and unresponsive service might well destroy the ability of another carrier to serve the market profitably. In such a holding action, the "deep pockets" of a large carrier might well give it an advantage over a smaller one with fewer resources but quite possibly greater ability to serve the market well. Feeling forced to stay in the market, the large carrier might be impelled to behave in a predatory manner, seeking to drive the others from the market and thus automatically to deprive them of their authority.[32a] If a number of carriers attempted to hold on to authority in a market which currently could be served profitably by only one or a few of them, this could produce the very conditions of destructive competition which Congress feared in 1938. Yet if a carrier whose service is currently unprofitable knows it can reenter the market at a later date without going through an elaborate and costly certification proceeding, it will be less likely to maintain a money-losing service which may prevent another from operating profitably.[33] We remind the civic parties once again that there is no free lunch or free air service, and that service rendered at a loss, unless

[32a] See Tr. 137.

[33] National argues generally (without attempting to connect its argument with the specific situation at Oakland) that multiple permissive authority will lead to predatory or destructive competition if carriers see a potential for preempting certain markets or if they think the authority they get now will be taken away from them—possibly by legislative action—if they do not use it. We responded to this argument in Order 78-7-116 (p. 4) where we observed that it simply depends upon too many unreasonable assumptions. We cannot predicate our policies on an assumption of future irrational legislative action.

directly subsidized, is rarely if ever either plentiful or convenient.[34]

In concluding that our proposed policy of awarding permissive authori-

takes this position because it expects we will apply the same policy at all Bay Area airports, and consequently expects the incentive to concentrate

writing on a clean slate, will not in itself produce any economic waste, and will, we are confident, produce services for which there is a genuine economic

which the public interest may be better served by a more restrictive approach, requiring the Board to make authority 'mandatory' and to select only one or less than

nomically irrational or predatory behavior at Oakland. We are well aware of the systemic factors which render the results of introducing changed

and will on balance be environmentally beneficial.

While the increased activity at Oakland will have a negative impact on its

directly subsidized, is rarely if ever either plentiful or convenient.[34]

In concluding that our proposed policy of awarding permissive authority to all qualified applicants is the one most likely to insure improved service to the traveling public at Oakland (or elsewhere), we do not ignore the constraints on carrier behavior imposed by temporary externalities outside regulatory control. Thus, at the rate traffic has been growing this year in response to lower fares, there may soon be a shortage of capacity which will make it difficult for carriers to inaugurate extensive new services until additional capacity can be ordered and brought on line. We have recently seen carriers reconfiguring their aircraft to add seats and rescheduling their system operations to add daily aircraft utilization, but the additional capacity that can be produced by these expedients, desirable as they are, is limited, and a temporary shortage of aircraft capacity is a real possibility. That such a shortage may temporarily limit the ability of carriers to add new services, however, in no way impairs the long-run validity of our conclusions about the merits of a policy of multiple permissive entry. Any alternative policy would have to deal with the same external constraints, and would not have the long-term merits of our proposed policy.

Braniff and National argue that multiple permissive entry will not solve Oakland's problems.[35] National takes this position because it expects we will apply the same policy at all Bay Area airports, and consequently expects the incentive to concentrate service at San Francisco to win out. On the other hand, if we are going to apply the policy at Oakland only, National calls on us to acknowledge that we are stacking the deck in Oakland's favor and that this regulatory action, not rational economic incentives, will be the driving force behind new Oakland service.

Since "rational economic incentives" have not had free play at the Bay Area airports in the past, we cannot predict with certainty how they may operate there in the future. We do not plan, for the time being, to throw open access to SFO, but we believe that our policy for Oakland is a necessary response to 30 years of regulation which helped produce concentration at SFO. Braniff's argument that we may have overestimated Oakland's traffic potential and carrier desires to tap it, and National's that carriers will not serve Oakland when they have access to SFO, assume that, given complete freedom, no one would have a rational incentive to serve Oakland. This ignores the fact that Oakland is the base of operations for two large supplemental carriers that may be applicants in this proceeding. If certificated, they will no longer be precluded from offering scheduled service there, which might well make economic sense for them even if they later acquired scheduled authority at SFO. Moreover, some new entrants to the Bay Area may well consider it easier to operate successfully at Oakland rather than try to take on the established San Francisco carriers.

There is simply no way of telling. The way to overcome the situation we have inherited as a result of restrictions imposed by the Board in the past is to open the Oakland markets to all who wish to serve them. There will be time enough at some later point, when and if we decide to open SFO as well, to ascertain whether, in those genuinely free-market circumstances, all the traffic tends to congregate there. If it does, it is at least conceivable that that is the best way of serving the public. Meanwhile, no carrier need serve Oakland under the policy we are adopting here if it feels that such service will be uneconomic. So while, if we were writing on a clean slate, the most economic pattern of service would be one that would arise if we opened both Oakland and San Francisco to all applicants, the fact that we have decided at this time to move only partially, in recognition of the fact that we are not writing on a clean slate, will not in itself produce any economic waste, and will, we are confident, produce services for which there is a genuine economic need, and which have been discouraged by our heretofore restrictive entry policies.

Finally, several comments, although not directed at Oakland specifically, discuss the systemwide implications of a multiple permissive entry policy. On the one hand, PSA apparently has no problem with the application of this policy at Oakland, but it argues that systemwide application would favor the stronger carriers; it urges that smaller carriers be given priority in route expansion opportunities. Airwest feels that the Board is now applying the multiple permissive entry policy only in small markets, which will exacerbate the problem of large-carrier dominance.[36]

On the other hand, Houston, United, and the Department of Justice argue that piecemeal application of a multiple permissive entry policy will cause irrational behavior. United reasons that carriers will not discontinue inefficient operations in markets at issue if they have nowhere else to use their equipment—"the necessary access by United and the other carriers to make the multiple and permissive policy effective does not exist." DOJ argues that, if the Board treats *Oakland* as an experiment, opposing carriers will dump excess capacity there to sabotage it.[37] Houston argues that carriers, apparently for uneconomic motives, will shift capacity from smaller markets to the ones that are "decontrolled." DOJ and United both argue that the Board's rationale in Order 78-4-121 for applying a multiple permissive entry policy at Oakland is equally relevant to the rest of the system.

We appreciate the importance of the questions raised by these parties about the comparative effects of introducing multiple permissive entry systemwide or in selected markets but this is not the forum for considering that general issue in our recent *Las Vegas-Dallas/Ft. Worth Nonstop Service Investigation* opinion, Order 78-7-116, we said:

• • • despite our general views on this subject, there may be some circumstances in

[34] Braniff also argues that the answer to Oakland's problems is exclusive, mandatory authority "with a serious policing mechanism." Aside from the question of how we could practically "police" carrier schedules, such an approach obviously would discourage carriers from testing the traffic potential of markets which would be considered marginal under traditional forecasting methods.

[35] We note Delta's argument that the Board's analysis in Order 78-4-121 ignored the existence, through August 23, 1976, of SFO Helicopters, a certificated helicopter carrier which provided service between the Oakland and San Francisco airports. Delta asserts that this service provided convenient air transportation to SFO for the Oakland area at no cost. We do not understand Delta to make this point for the purpose of influencing our decision, but merely to explain why Bay Area carriers have so largely ignored Oakland. We recognized in Order 78-4-121 that the current concentration of service at SFO is economically rational, given the Board's past certification policies (see p. 12). Moreover, if we assume the validity of Delta's argument, it strengthens our findings that Oakland passengers are now suffering serious inconvenience since they no longer have helicopter service to connect them to SFO. In any event, we disagree with Delta's implication that because the service was free (through joint-fare arrangements) and frequent, it necessarily was convenient. Short as they were, those flights added a significant amount of time to the total trip (including the wait at Oakland for the helicopter departure and the second wait at SFO for the main flight departure), plus an increased risk of lost or delayed baggage.

[36] Airwest includes *Oakland* in this category, using the Oakland-Phoenix market as an example. On the whole, however, the large carriers provide most of the Oakland service, and this case represents a greater opportunity for small carriers to expand than for large carriers to increase their dominance. For our policy to be effective, we cannot exclude one market simply because a local service carrier happens to serve it.

[37] Its counsel also stated at the oral argument, that • • • carriers might also in good conscience and indeed in their best interests shift excess capacity to those markets like Oakland that have already been freed up prior to the systemwide implementation of an eased entry policy."

which the public interest may be better served by a more restrictive approach, requiring the Board to make authority 'mandatory' and to select only one or less than all of the qualified applicants. But as we see it now, if and when we do adopt a general policy of multiple entry, it should not be limited to a few routes or areas; whatever its final form, to be effective it should be extended to the core of the system and be broad enough (and carried out rapidly enough) to create substantial new competitive opportunities for all segments of the industry, including small trunklines and local service carriers.

The general arguments on the subject should have been, and in fact were, made in the context of Docket 28848, where we are considering whether to adopt multiple permissive entry as a general policy. *Oakland*, although consistent with the Board's evolving policies, also involves special circumstances (as we pointed out in Order 78-4-121), and we believe that a multiple permissive entry policy is justified to remedy Oakland's general lack-of-service problems, regardless of whether we decide to apply the policy more broadly. Just as there may be circumstances requiring a more traditional approach even if we give the policy broad applicability, there are and will be situations calling for application of the policy if we decide not to apply it on a large scale. *Oakland* is one of these. We do not believe that the limited steps we have taken in this direction (i.e., *Oakland* and *Midway*, Order 78-7-40) will cause perverse economic behavior sufficient to cause us prematurely to decide on what scale to certificate carriers on a multiple permissive basis.

There are at least three reasons for doubting the likelihood that this experiment will be distorted by the kind of perverse behavior predicted by DOJ and Houston. First of all, capacity in the industry is already tight and promises to become tighter (see above p. 44), both because of the rate at which traffic has been growing this year, and because the carriers ordered relatively few new aircraft during the early 1970's, when a much lower level of traffic growth prevailed. In these circumstances, we believe that the carriers will have better things to do with their available capacity than to throw it deliberately into uneconomic operations.

Second, it would be irrational of them to use that capacity for this kind of purpose at Oakland, where the value of the certificates is being driven to zero, and where as a result there is no likelihood of being able in the future to recover gains through any monopoly that they might hope to achieve by predatory behavior today.

Finally, they cannot hope to sabotage the evolving policy of multiple permissive entry by engaging in economically irrational or predatory behavior at Oakland. We are well aware of the systemic factors which render the results of introducing changed concepts of regulation in isolated markets an unreliable guide to the prospective results of introducing these same concepts systemwide or on a broad scale. In this respect, DOJ has misinterpreted our use of the term "experimental" in Order 78-4-121. We are interested in seeing what effect a policy of multiple permissive entry adopted at the outset of a case will have on the time, complexity, and cost of route proceedings, and we are also interested in confirming our belief that this policy will ameliorate Oakland's longstanding service problems. But we are not relying on the results of the *Oakland* experiment to validate or invalidate the general policy of multiple permissive entry, because of the very factors DOJ cites; and, indeed, we do not expect to await the results of the *Oakland* experiment before deciding whether or not to go forward with the general policy of multiple permissive entry on a broad scale.

As we made clear in Order 78-7-116, quoted above, if we adopt the general policy we intend to apply it in many markets and rapidly enough to allow substantial new competitive opportunities for all segments of the industry. Thus no carrier can hope to derail the developing policy of mulitple permissive entry by engaging in irrationally excessive scheduling at Oakland; and if and when the Board decides to apply the policy broadly, any such strategic behavior will become exceedingly expensive, while reducing the possible future gains to zero over a wider and wider area. Under these circumstances we cannot believe that carrier managements would willfully throw large sums of money down the drain, and simultaneously forego profitable employment of their available aircraft capacity elsewhere, merely in an attempt to sabotage our policy an attempt that which would obviously be doomed to failure in any event.

Environment and Energy

For similar reasons, we are not required to look at the environmental and energy significance of a widespread application of the policy in the context of this case; rather, we will do so in the proceeding designed to focus on that issue.

As to *Oakland*, our Bureau of Pricing and Domestic Aviation has issued a draft environmental and energy impact statement. Its preliminary conclusion here is that, among the numerous alternative courses of action discussed in the EIS, the proposed action is the best on environmental grounds, and will on balance be environmentally beneficial.

While the increased activity at Oakland will have a negative impact on its environment, that impact should be more than offset by the environmental benefits to the Bay Area as a whole and by the public policy considerations favoring multiple awards. When these two benefits are combined, they far outweigh the adverse impact on Oakland Airport's environment.

Although there are some alternative actions that might lessen the effect of our action on Oakland's environment, each would reduce the positive benefits accruing to the rest of the Bay Area to an extent that would more than offset its advantages. We therefore believe that unrestricted multiple authority is the most desirable alternative.

The award of multiple permissive authority in the markets at issue should have several favorable impacts on energy efficiency and conservation. By encouraging a more desirable distribution of Bay Area air traffic, the awards will save gasoline that would otherwise have been consumed by passengers driving out of their way to take advantage of the more frequent schedules at San Francisco International. The greater utilization of Oakland will also save aviation fuel by reducing delay times at the more congested airport, SFO.

Multiple permissive authority will also encourage increased competition, with the probable result being an increased level of operations in the Bay Area. We have estimated that these increased operations will result in the use of between 1 and 24 million additional gallons of aviation fuel, the exact amount depending on how much the level of operations actually increases. However, this increased fuel usage will be offset, at least in part, by two favorable effects of the increased competition.

Increased competition will promote energy efficiency by providing an incentive to carriers to increase load factors on Bay Area flights. As carriers cut prices in their effort to increase their market shares, they will be forced to operate at higher load factors to make their operations profitable. We have estimated that increased competition would raise load factors to 65 percent on an annual basis, which is far more energy-efficient than present operations.

A second favorable energy impact of increased competition is that lower fares will divert some passengers from other modes of transportation, primarily the passenger car. Thus, the increased consumption of aviation fuel caused by the higher level of operations will be at least partially offset by the fuel savings in other modes of

transportation. Since planes operating at 65 percent load factors are relatively fuel-efficient, this diversion will also have a favorable effect on energy effi-

sion in this case.[40] In view of the substantial reduction in evidentiary requirements and the speed with which we are conducting this case, we do not

in Docket 33127 and the amended applications in Dockets 30739 and 30981 of Allegheny Airlines and Northwest Airlines, respectively, and we consoli-

reserved my position insofar as the proposed policy of multiple permissive awards is concerned, and expressed the view that, after reviewing the comments submitted in

derstanding of the Act, and that the adopted interpretation is not one that is greatly in need of being defended. In addition, I believe it is desirable for the Board's record

consequences of that policy warrant a modification. But in light of the other pronouncements in this order, I wonder whether we have not already determined this

transportation. Since planes operating at 65 percent load factors are relatively fuel-efficient, this diversion will also have a favorable effect on energy efficiency.

Finally, while this analysis, and consequently our decision, are subject to change in the final statement, proceeding with this case in the meantime does not commit us to multiple permissive licensing at Oakland if we should become convinced that the environmental consequences of such a policy warrant a modification of it.

SCOPING

Turning to the quetion of the city-pair authority at issue, we will grant Continental's and Oakland's petitions for reconsideration asking us to include the Oakland-Los Angeles market in this case. While it receives extensive low-fare service from PSA, as we pointed out in Order 78-4-121, it currently is a monopoly market (in terms of service, not authority) and undoubtedly the traveling public would benefit from competition. We will not, however, include the Oakland-New York/Washington/Baltimore markets as TIA requests. The fact that these are at issue in another case does not necessarily preclude us from considering them here, if positive reasons for doing so are put forward, but we are not persuaded that there are such reasons in this case;[38] in the interest of expedition, therefore, we will exclude these markets. However, this does not foreclose their consideration in the future. We also will not grant Airwest's request to sever the Oakland-Portland/Seattle markets from this case. It was reasonable for other potential applicants to assume that these markets would be included in Oakland's case, and it would be unfair to exclude applicants because they did not seek instead to enter the Subpart M case. Therefore, the question is whether we include the markets in *Oakland* or give everyone an opportunity to enter the Subpart M case; we think the former will be faster and more efficient. We will modify the issues slightly, however, to allow Oakland applicants to seek coterminal status for Portland and Seattle in their certificates (with local traffic rights between the two points). We often do this to afford carriers more operational flexibility.[39]

Finally, Oakland seeks exemptions for all applicants pending final decision in this case.[40] In view of the substantial reduction in evidentiary requirements and the speed with which we are conducting this case, we do not view certification as an undue burden. Therefore, we will deny this request.[41]

Accordingly:

1. We make final the policy proposed in Order 78-4-121 to award permissive authority to all qualified applicants in each of the Oakland markets in issue in which a need for additional authority is found in this proceeding;

2. We amend the issues in this proceeding to include whether the public convenience and necessity require the grant of additional certificated route authority between Oakland and Los Angeles, Calif., and to permit applicants to seek coterminal status for Portland and Seattle;

3. To the extent indicated in paragraph 2, we grant the petitions for reconsideration of Continental Air Lines and the Oakland Chamber of Commerce and Port of Oakland; otherwise we deny these petitions;

4. We deny the petitions for reconsideration of Delta Air Lines, Trans International Airlines, and Hughes Airwest;

5. We grant the petitions for leave to intervene of the Department of Transportation, the City and County of San Francisco, and the City of Kansas City and Chamber of Commerce of Greater Kansas City, and we make them parties to this proceeding;

6. We deny the exemption request of the Oakland Chamber of Commerce and Port of Oakland;

7. We grant the motions to consolidate the application of Ozark Airlines in Docket 33127 and the amended applications in Dockets 30739 and 30981 of Allegheny Airlines and Northwest Airlines, respectively, and we consolidate these appliations in this proceeding;

8. We amend Attachment H to Order 78-4-121 in accordance with our discussion in fn. 30, p. 37 of this order; and

9. We grant the motion of DHL Airways for leave to file it comments late.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[42]

PHYLLIS T. KAYLOR,
Secretary.

O'MELIA, MEMBER, INTERIM STATEMENT[43]

As the majority opinion clearly states, the Board is adopting in this order a change in policy that is fundamental. The Board is deciding that one of the major Board functions under the existing statue as a Federal regulator—that of selecting a carrier or carriers to perform transportation that the public convenience and necessity may require—is now to be turned over to the random workings of the marketplace. We are assured that we need not worry about this relegation of our statutory responsibilities in the sixteen markets in issue because "the market" will determine carrier selection, will do so continuously, and will force an incumbent carrier to maintain an optimum or near-optimum mix of price and service. I can't get over the feeling that we are imparting near-human attributes of insight, rationality, and purposefulness to the market, and I can't accept the proposition that such an impersonal agent will do the job with the same dedication to the public interest, with the same accountability, and with the same respect for due process that we as appointed officials have been called upon to demonstrate for nearly 40 years.

I am also concerned at how we are going about taking this fundamental step. We are taking this action without a full Board on hand which might have a greater balance of regulatory philosophy, and without the sense of unanimity that would have endorsed this decision under other circumstances with at least a statutory quorum. However, it may serve no purpose to delay this decision. The careful selection process that goes into the appointment mechanism would probably preclude the appearance of other discordant or deviant voices in our collegial quintet (presently, of course, sadly depleted to a trio). Another qualm that I must express is that the actual decision to delegate the function of carrier selection appears almost ministerial or perfunctory. After we met in early July to hold oral argument in this case, the Board did not need to deliberate on its decision nor to instruct its staff on the opinion that it should write. The staff on its own prepared the order to adopt the multiple permissive award policy, and the Board gave its blessing to it at its "Sunshine" meeting of September 7. This makes it all too evident that the policy decision to use multiple permissive awards was made elsewhere and at an earlier time.

On May 30, 1978 in my concerning statement to the instituting order in this case, I reserved my position insofar as the proposed policy of multiple permissive awards is concerned, and expressed the view that, after reviewing the comments submitted in this Phase I of *Oakland*, I might want to press for a different or for a modified solution for this case. The briefs and exhibits submitted by the numerous interested parties, and the oral argument held on this issue, left me far from satisfied that it is in the public interest for the Board to determine now to adopt a blanket ruling awarding multiple permissive authority in the sixteen Oakland markets in issue without first examining the needs and characteristics of those markets in a public record developed in evidentiary hearings. I have proposed to my colleagues a modified approach, which, in my opinion, would avoid the controversy and the dangers of this blanket determination, a determination which already in at least one other case had demonstrated the hazards of the multiple permissive venture. However, that modification—which was simply to defer the blanket ruling on multiple permissive awards and instead to make a decision on whether to grant such awards or to select a carrier or carriers on the basis of the evidentiary examination of each market—was not acceptable to my colleagues. For the reasons set forth in the asterisked footnote to this statement, I am agreeing to have the Board's decision issue now, with my dissent to follow at a later date.

However, I would like at this time to outline briefly the issues in this case that compel me to withhold my concurrence. First of all, I believe that we are riding rough-shod over *legal questions* that have been raised about the statutory validity, the due process aspects, and the lawfulness of a blanket determination granting multiple permissive awards without regard to specific market needs and carrier proposals. Second, I do not believe that the multiple permissive award proposition adopted without an evidentiary proceeding relating such awards to specific markets is a sound *regulatory policy*. Third, I have great uneasiness with how we are dealing with *environmental and energy conservation issues* in the Oakland proceeding. As I indicated, I plan to develop these points briefly in my dissent which is to follow, and would here only indicate why these trouble me.

The legal issue. The majority opinion does an excellent job of advocacy in examining the legislative history and case precedents bearing on the question of whether the Board is constrained to select a carrier or carriers for particular route authority on the basis of public convenience and necessity or whether it can decide to get out of that business and give awards to all who want them with only a perfunctory genuflection to public convenience and necessity. The attorneys and analysts who put this order together to support the multiple permissive award thesis are to be commended for the extensive research, the professional skill, and the scholarly approach that went into this exposition. However, I am left with the sense that all that this order has told me is that, if the Board wants to go in this direction, it can probably get away with it.

I am not interested in knowing only whether we can successful withstand judicial challenge. I would prefer to have the assurance of knowing that our reading of the Act represents the less-strained interpretation, that it is the more widely-accepted understanding of the Act, and that the adopted interpretation is not one that is greatly in need of being defended. In addition, I believe it is desirable for the Board's record that we set forth with a greater degree of balance the arguments questioning the validity and lawfulness of multiple permissive awards, just as here the Board has given prominence to the arguments supporting the lawfulness of multiple permissive awards. I think it is desirable that we set forth both sides of the issue. My dissent will attempt to a more modest extent to fill the need for that counterpoint of ideas.

The policy issue. The issue of multiple permissive awards as a regulatory policy is perhaps even more to be questioned and even more in need of discussion. Multiple permissive, is, of course, the antithesis of carrier selection. However, the majority opinion does not say that there will be no carrier selection. Instead it says that we will turn over this statutory assignment to "the market" which is far more able than the Board to pick the right carrier. In Order 78-4-121, instituting this proceeding, it was pointed out that "the Board's judgment, like all human judgments, is fallible" whereas the marketplace is a more "finely tuned mechanism" and "operates on more complete and up-to-date facts." (see page 35). I find this deference to market forces somewhat frightening. It is we who are responsible by statute for carrier selection, not some metaphysical potter tirelessly working to mold our transportation vessels. What if he turns out a real clinker? Who is responsible? The free market doesn't work like an instructed and fully subservient genie. The factors in the market are myriad and the results not all that predictable. It is very unlikely that the market—if it had cognitive intelligence—would share our views, or indeed the views of Congress, as to what constitutes the public interest.

The point to all this is that we cannot abdicate our statutory responsibilities. Congress and the President have placed in our hands the task of regulating this industry, and we have no authority to delegate that assignment to some marketplace genie. I don't think that that genie exists. If he did, and Congress had known about it, it would not have been necessary to create this Board. If we say that we are turning the carrier selection duty over to the marketplace, we are really deciding that determinations of whether the public convenience and necessity require the provision of particular air transportation are no longer to be made. I don't believe we have the right under the present Act to decide that, and I hope to touch upon this policy issue in my dissent.

The environmental and energy issue. Finally, I am concerned with the Board's treatment in this case of environmental and energy concerns. The Board has indicated in a number of cases that the exact results of multiple permissive awards are unpredictable. The Board has suggested that, with the marketplace regulating the system, the services will not be excessive, or at least not for long, but neither will they be inadequate. But the spectrum between those two extremes is broad. How can we know that we are acting consistently with our statutory responsibilities under the environmental directive (NEPA) or the energy conservation mandate (EPCA)? I recognize that the majority view states that we are not committed to multiple permissive awards if we should become convinced that the environmental consequences of that policy warrant a modification. But in light of the other pronouncements in this order, I wonder whether we have not already determined this issue. I hope that the marketplace genie that is to handle our carrier selections will also keep in mind environmental and energy considerations. In any case, in my dissent, I hope to offer some observations on this issue as well.

I concurred in April of this year with the institution of the *Oakland* case because I felt that it was manifestly true that Oakland was clearly in need of improved air service. For the same reason, I now participate in the decision that will permit this proceeding to go forward. However, it is my motive in doing this to be responsive to Oakland's air service needs, rather than to test out any proposition that will move us in the direction of nonregulation.

RICHARD J. O'MELIA.

[FR Doc. 78-27035 Filed 9-25-78; 8:45 am]

[6320-01]

[Docket 32743]

OMAHA-DALLAS/FORT WORTH SUBPART N PROCEEDING

Rescheduled Hearing

Notice is hereby given that the hearing in the above matter, now assigned to be held on October 10, 1978 (43 FR 41253, September 15, 1978), is rescheduled for October 12, 1978, at 10 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., September 20, 1978.

RICHARD M. HARTSOCK,
Administrative Law Judge.

[FR Doc. 78-27042 Filed 9-25-78; 8:45 am]

[6320-01]

[Docket 27793]

PAN AMERICAN WORLD AIRWAYS v. SABENA

Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge Richard V. Backley to Administrative Law Judge Rudolf Sobernheim. Future communications should be addressed to Judge Sovernheim.

Dated at Washington, D.C., September 21, 1978.

NAHUM LITT,
Chief Administrative Law Judge.

[FR Doc. 78-27043 Filed 9-25-78; 8:45 am]

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[38] We are not convinced that the lack of answers to TIA's petition indicates a lack of opposition to the substance of it. TIA's certificate of service states only that it served *Oakland* parties with the petition, not parties to the *Transcontinental Low-Fare Route Proceeding*, where these markets are at issue.

[39] See, *e. g., Pacific Northwest-Southwest Service Investigation*, 46 CAB 652 (1967).

[40] Oakland also wants the Board to make tentative profitability findings for the Oakland-Atlanta/Albuquerque/Kansas City markets, as we did in Order 78-4-121 for the other markets in issue. In attempting to demonstrate profitability potential, Oakland cites the high volume of connecting traffic between the Bay Area and Atlanta, and for Albuquerque and Kansas City it uses an elasticity coefficient of −2.5, as well as the costs of other carriers. It may be that these assumptions are reasonable, but, as we said in Order 78-4-121, there is enough room for doubt to require exploration of these matters at the economic hearing.

[41] Delta filed a petition for reconsideration, arguing that we cannot "split" the need and carrier selection issues, that we cannot make environmental and energy determinations without reviewing competitive schedules, and that we cannot base our diversion policy here on another order which is not final yet, referring to Order 78-4-69. Delta's first point is the same as its legal argument, which we have rejected above. It is clear from the draft environmental impact statement why we reject the second point. As to the third point, our discussion of diversion evidence in Order 78-4-121 may have incorporated the analysis in Order 78-4-69, but it did not rely on that order as the basis for our policy regarding diversion exhibits here. In any event, Order 78-4-69 has now been made final by Order 78-8-97.

[42] Chairman Kahn and Member Bailey concurred. Member O'Melia dissented and filed the attched interim statement.

[6320-01]

[Docket No. 28475]

ST. LOUIS-KANSAS CITY SUBPART M

ditional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

making final the tentative findings and conclusions stated here and amending United's certificate for Route 1 so as to remove operating re-

[6335-01]

COMMISSION ON CIVIL RIGHTS

Dated at Washington, D.C., September 20, 1978.

JOHN I. BINKLEY,

Plans Division, Bureau of Retirement, Insurance and Occupational Health, U.S. Civil Service Commis-

[6320-01]

[Docket No. 28475]

ST. LOUIS-KANSAS CITY SUBPART M PROCEEDING

Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge Richard V. Backley to Administrative Law Judge Richard M. Hartsock. Future communications should be addressed to Judge Hartsock.

Dated at Washington, D.C., September 19, 1978.

NAHUM LITT,
Chief Administrative Law Judge.

[FR Doc. 78-26921 Filed 9-25-78; 8:45 am]

[6320-01]

[Order 78-9-59; Docket 33410]

UNITED AIR LINES, INC.

Amendment of Certificate of Public Convenience and Necessity for Route 1; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of September 1978.

By order 78-9-56, issued concurrently with this order, the Board has proposed to realine the domestic route system of Northwest Airlines in a manner which would, among other things, give Northwest unrestricted authority in eight minor markets[1] where United also holds restricted authority.[2] As discussed in orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unresricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on United as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in orders 78-4-109, 77-11-74, and 76-5-101, we tentatively find and conclude that the elimination of restrictions on United's operations in the eight markets listed in appendix A[2] is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasetful and undesirable.

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final, with answers due within 10 days thereafter. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.[3]

Accordingly: 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending United's certificate for Route 1 so as to remove operating restrictions in the markets listed in appendix A;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, no later than October 19, 1978, file with the Board and serve upon all persons listed in appendix I of order 78-9-56, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed no later than October 30, 1978;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;[4]

4. In the event no objections are filed to any part of this order, we will consider all further procedural steps relating to such part or parts to have been waived, and the case will be submitted to the Board for final action and

5. We shall serve a copy of this order upon all persons listed in appendix I of order 78-9-56.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[5]
Secretary.

APPENDIX A.—*Minor Markets Where United Will Receive Unrestricted Authority*

Market	Year ending Sept. 30, 1975, traffic[1]	Present authority
Spokane to:		
Atlanta	5,370	2-stop via Cleveland and Denver.
Baltimore	2,040	1-stop via Denver.
Boston	4,360	Do.
Fort Lauderdale	750	2-stop via Cleveland and Denver.
Miami	2,410	Do.
Philadelphia	5,700	1-stop via Denver.
Tampa	1,650	2-stop via Cleveland and Denver.
Portland to Tampa	5,360	1-stop via Cleveland.

[1]True O. & D. plus interline connecting passengers.

[FR Doc. 78-26926 Filed 9-25-78; 8:45 am]

[1] A minor market is one with fewer than 20 true O. & D. plus interline connecting passengers a day, or 7,300 per year.

[2] The minor markets where both United and Northwest currently hold restricted authority are set forth in appendix A to this order.

[2] Appendix A filed as part of the original document.

[3] We further conclude that United is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[4] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5] All members concurred.

[6335-01]

COMMISSION ON CIVIL RIGHTS

MARYLAND ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maryland Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 4 p.m. on October 21, 1978, in the International Hotel at Baltimore-Washington International Airport, Baltimore, Md.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Washington, D.C. 20037.

The purpose of this meeting is to discuss plans for fiscal year 1979 project.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 20, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-27002 Filed 9-25-78; 8:45 am]

[6335-01]

MISSISSIPPI ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Mississippi Advisory Committee (SAC) of the Commission will convene at 10:30 a.m. and will end at 1:30 p.m. on October 19, 1978, in the Holiday Inn, Downtown, 200 E Amite Street, Jackson, Miss., Pecan Room (on Mezzanine).

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Atlantic Regional Office of the Commission, 75 Piedmont Avenue NE., Atlanta, Ga. 30303.

This is to be a discussion of current civil rights problem areas in Mississippi: Upsurgence of Klan activities, police/community relations, political representation and redistricting, Federal program effectiveness in reaching rural poor.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 20, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-27003 Filed 9-25-78; 8:45 am]

[6325-01]

CIVIL SERVICE COMMISSION

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Charter Renewal

Pursuant to section 14(b) of the Federal Advisory Committee Act, notice is hereby given of the renewal of the charter of the Federal Prevailing Rate Advisory Committee. The Committee was established by the Prevailing Rate Systems Act (Pub. L. 92-392) to study the prevailing rate system and from time to time advise the Civil Service Commission thereon.

The Civil Service Commission certifies that the renewal of the Advisory Committee is in the public interest. A new charter for the Committee has been approved and filed as required.

DONALD J. BIGLIN,
Advisory Committee Management Officer.

[FR Doc. 78-26969 Filed 9-25-78; 8:45 am]

[6325-01]

FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Termination of Health Alliance Health Plan

AGENCY: Civil Service Commission.

ACTION: Notice of termination of Health Alliance Health Plan under the Federal Employees Health Benefits Program.

EFFECTIVE DATE: September 23, 1978.

SUMMARY: Pursuant to the authority contained in section 8902 of title 5, chapter 89 of the United States Code and § 890.301(k) of 5 CFR Part 890, the U.S. Civil Service Commission hereby announces that the participation of the Health Alliance Health Plan, Santa Clara, Calif., in the Federal Employees Health Benefits Program will be terminated effective September 23, 1978.

Each Federal employee or annuitant enrolled in the Health Alliance Health Plan must change to another health plan offered in their area under the Federal Employees Health Benefits Program immediately. The effective date of the change will be the first day of the first pay period beginning on or after September 23, 1978. Federal employees and annuitants must submit a completed form 2809 to their personnel offices to effect this change in health plans.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gettys, Comprehensive Plans Division, Bureau of Retirement, Insurance and Occupational Health, U.S. Civil Service Commission, Washington, D.C. 20415.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-27166 Filed 9-25-78; 8:45 am]

[6325-01]

NOTICE TO PAYROLL OFFICES HAVING ENROLLEES IN HEALTH ALLIANCE HEALTH PLAN

Termination of Health Alliance Health Plan

SUBJECT: Termination of Health Alliance Health Plan under the Federal Employees Health Benefits Program.

The participation of the Health Alliance Health Plan in the Federal Employees Health Benefits Program will be terminated effective September 23, 1978. Employees who are enrolled in this plan must immediately change to another health plan offered in their area. A SF 2809 is required for each enrollee in codes CA 1 or CA 2 showing the termination of enrollment in Health Alliance Health Plan and enrollment in another health plan. The effective date of the change will be the first day of the first pay period beginning on or after September 23, 1978.

THOMAS A. TINSLEY,
Director, Bureau of Retirement, Insurance and Occupational Health.

[FR Doc. 78-27204 Filed 9-25-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

TELECOMMUNICATIONS EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of Telecommunications Equipment Technical Advisory Committee will be held on Tuesday, October 17, 1978, at 10 a.m. in room 3817, Main Commerce Building, 14th and Constitution Avenue, NW, Washington, D.C.

The Telecommunications Equipment Technical Advisory Committee was initially established on April 5, 1973. On March 12, 1975, March 16, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee pursuant to section 5(c)(1) of the Export Adminstration Act of 1969, as amended, 50 U.S.C. App. Sec.

2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to

room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Oper-

portions thereof may be closed to the public in accordance with 5 U.S.C. 552b(c).

5 U.S.C. 552b(c)(1) provides that agency meetings or portions thereof may be closed

Dated: September 5, 1978.

DANIEL GARBERN,
Acting Assistant General Counsel.

Patent application 844 336 Differential Action Extractor Comb; filed October 21, 1977.

Patent application 844 418: Furrow Opener

[3510-04]

GOVERNMENT-OWNED INVENTIONS

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2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to telecommunications equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has four parts:

GENERAL SESSION

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Nomination and election of a new Chairman.

EXECUTIVE SESSION

4. Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statement may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by Executive Order 11652 to be kept secret in the interest of national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Industry and Trade Administration, room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Telecommunications Equipment Technical Advisory Committee and of any subcommittees thereof is hereby published.

Dated: September 21, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

U.S. DEPARTMENT OF COMMERCE

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

TELECOMMUNICATIONS EQUIPMENT TECHNICAL ADVISORY COMMITTEE

DETERMINATION

In response to written requests of representatives of a substantial segment of the telecommunications equipment industry, the Telecommunications Equipment Technical Advisory Committee was established by the Secretary of Commerce pursuant to section 5(c)(1) of the Export Administration Act of 1969, 50 U.S.C. App. 2404(c)(1) (1976), to advise the Department of Commerce with respect to questions involving (A) technical matters, (B) worldwide availability, and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to telecommunications equipment, including technical data or other information related thereto, and (D) exports of the aformentioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls.

The Committee, which currently has seven members representing industry and five members representing government agencies, will terminate no later than August 29, 1980, unless extended by the Secretary of Commerce or her designee. All members of the Committee have the appropriate security clearances.

The Committee's activities are conducted pursuant to 50 U.S.C. App. 2404(c)(1); the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976); and the Office of Management and Budget Circular A-63 (Revised), Advisory Committee Management, effective May 1, 1974. Section 10 of the Federal Advisory Committee Act as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, provides that advisory committee meetings or portions thereof may be exempt from the open meeting and public participation requirements of the Federal Advisory Committee Act if the President, or the head of the agency to which the advisory committee reports, determines that such meetings or portions thereof may be closed to the public in accordance with 5 U.S.C. 552b(c).

5 U.S.C. 552b(c)(1) provides that agency meetings or portions thereof may be closed to the public where they are likely to disclose matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order.

Eight Notices of Determination authorizing the closing of meetings, or portions thereof, of the Telecommunications Equipment Technical Advisory Committee and its formal subcommittees, dealing with security classified matters, have been approved in the past.

In order to provide advice to the Department under the terms of its charter, the Committee and formal subcommittees thereof will continue to hold a series of meetings dealing with the matters set forth in the first paragraph of this Determination. These meetings will include discussions of the COCOM control list as it relates to the commodities and technical data under its purview, and with the foreign availability of these commodities and technical data. In addition, the Committee and its formal subcommittees will be preparing recommendations for the Department's consideration relating to the U.S. Government's negotiating position on COCOM-related matters. Much of the information relating to the COCOM control list, as well as proposed changes, is now or will be security classified for national defense or foreign policy reasons, pursuant to Executive Order No. 11652, 3 C.F.R. Part 339 (1974) or Executive Order No 12065, 43 FR 28949 (1978). In order for the Committee and its formal subcommittees to provide required advice to the U.S. Government, it will be necessary to provide the Committee and its formal subcommittees with such classified material. Therefore, the series of meetings or portions of meetings of the committee and of subcommittees thereof that will involve discussions of matters specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order, must be closed to the public. The remaining series of meetings or portions thereof will be open to the public.

Accordingly, I hereby determine, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the series of meetings or portions of meetings of the Committee and of any subcommittees thereof, dealing with the aforementioned classified materials shall be exempt, for the period from the date of the signing of this Determination, to August 29, 1980, from the provisions of section 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the Committee and subcommittee discussions will be concerned with matters listed in 5 U.S.C. 552b(c)(1). The remaining series of meetings of portions thereof will be open to the public.

Dated: September 6, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration.

Dated: September 5, 1978.

DANIEL GARBERN,
Acting Assistant General Counsel.

[FR Doc. 27018 Filed 9-25-78; 8:45 am]

[3510-04]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for $4 ($8 outside North American continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, Office of Judge Advocate General, Patent Division, Room 2C-455, Pentagon, Washington, D.C. 20314

Patent 4 040 896: Chemical Polish for BaF2 and CaF2; filed November 15, 1976; patented August 9, 1977; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Services Administration, Agricultural Research Service, Hyattsville, Md. 20782

Patent application 737 979: Fiber Dispersing and Feeding Method and Apparatus for D. E. Spinning; filed November 2, 1976.

Patent application 801 273: Quantitative Apparatus for Sampling Arthropods Associates with Field Crops; filed May 27, 1977.

Patent application 806 571: Lint-Cotton Reclaiming Apparatus for Cotton Gins; filed June 14, 1977.

Patent application 837 488: Electrostatic Precipitator Apparatus Using Fluid Collection Electrodes; filed September 28, 1977.

Patent application 844 336 Differential Action Extractor Comb; filed October 21, 1977.

Patent application 844 418: Furrow Opener and Apparatus for No-Tillage Transplanters and Planters; filed October 21, 1977.

Patent application 866 077: Lint Cleaning Apparatus for Automatic Control of Cotton Quality; filed December 30, 1977.

Patent application 893 366: Method of Removing Pigment from Annatto Seed; filed April 4, 1978.

Patent application 893 367: Cotton Dust Analyzer; filed April 4, 1978.

Patent application 907 473: Wax Esters of Vegetable Oil Fatty Acids Useful as Lubricants; filed May 19, 1978.

Patent application 907 474: Method of Applying Herbicide; filed May 19, 1978.

Patent 4 083 783: Removal of Heavy Metal Ions from Aqueous Solutions with Insoluble Crosslinked-Starch Xanthates; filed June 3, 1977, patented April 11, 1978. Not available NTIS.

Patent 4 084 016: Preparation of Legume Chips; filed December 28, 1976; patented April 11, 1978. Not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014

Patent application 879 492: A Cobalt Catalyzed Steroid Synthesis; filed February 21, 1978.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240

Patent application 900 830: Molybdenite Flotation; filed April 28, 1978.

Patent application 901 041: Multichannel Infrared Pyrometer; filed April 28, 1978.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546

Patent application 896 955: Liquid Metal Slip Ring; filed April 17, 1978.

Patent application 900 832: Charge Injection Method and Apparatus of Producing Large Area Electrets; filed April 28, 1978.

Patent application 907 436: Coupling Device for Moving Vehicles; filed May 19, 1978.

Patent application 910 708: Air Speed and Altitude Probe; filed May 30, 1978.

Patent application 910 794: Small Air Breathing Launch Vehicle; filed May 30, 1978.

Patent 4 083 181: Gas Turbine Engine with Recirculating Bleed; filed June 14, 1976; patented April 11, 1978. Not available NTIS.

Patent 4 083 520: Tetherline System for Orbiting Satellites; filed November 8, 1976; patented April 11, 1978. Not available NTIS.

Patent 4 084 825: Counter Pumping Debris Excluder and Separator; filed March 31, 1976; patented April 18, 1978. Not available NTIS.

[FR Doc. 78-26985 Filed 9-25-78; 8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

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Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield Va. 22161 for $4 ($8 outside North American continent). Requests for copies of patent applications must include the patent application number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, Office of Judge Advocate General, Patent Division, Room 2C-455, Pentagon, Washington, D.C. 20314.

Patent 4,036,142: Obscuration Fuze and Sensor; filed Jan. 18, 1967; patented July 19, 1976; not available NTIS.

Patent 4,036,144: Arming System; filed Jan. 29, 1959; patented July 19, 1977; not available NTIS.

Patent 4,037,782: Engine Condition Calculating Device; filed July 12, 1976; patented July 26, 1977; not available NTIS.

Patent 4,038,742: Method of Making Styrofoam Slotted Plane-Array Antenna; filed Sept. 15, 1976; patented Aug. 2, 1977; not available NTIS.

Patent 4,038,903: Two Stage Telescope Launcher; filed Aug. 23, 1976; patented Aug. 2, 1977; not available NTIS.

Patent 4,038,904: Cartridge Feed, Positioning and Ejection Control System; filed June 30, 1976; patented Aug. 2, 1977; not available NTIS.

Patent 4,038,905: Compressible Fluid Recoil System; filed Apr. 29, 1976; patented Aug. 2, 1977; not available NTIS.

Patent 4,039,360: Gelled Monomethylhydrazine Thixotropic Fuel; filed Sept. 9, 1971; patented Aug. 2, 1977; not available NTIS.

Patent 4,039,958: Circuits for Decoding Pulse Signals; filed Jan. 3, 1977; patented Aug. 2, 1977; not available NTIS.

Patent 4,039,976: Coaxial Current Probe; filed Aug. 14, 1975; patented Aug. 2, 1977; not available NTIS.

Patent 4,040,332: Variable Spring Rate

Patent 4,048,568: Wide Operating Frequency Range Superheterodyne FM Noise Analyzer; filed Aug. 30, 1976; patented Sept. 13, 1977; not available NTIS.

reports to be submitted to the Congress, shall be issued by the Secretary;"

JUANITA M. KREPS,

"2. Section 7. *National Measurement Laboratory.* The paragraph entitled *National Measurement Laboratory* is revised to read as follows:

properties of materials needed by industry, commerce, educational institutions, and government; provide advisory and research services to other Gov-

tion Technology Division is deleted. The sentence is revised to read as follows:

"The organizational units in the In-

Patent 4,039,976: Coaxial Current Probe; filed Aug. 14, 1975; patented Aug. 2, 1977; not available NTIS.
Patent 4,040,332: Variable Spring Rate Equilibrators; filed May 24, 1976; patented Aug. 9, 1977; not available NTIS.
Patent 4,040,356: Converging Wave Detonator; filed July 6, 1976; patented Aug. 9, 1977; not available NTIS.
Patent 4,040,359: Discarding Frangible Rotation Band; filed May 14, 1976; patented Aug. 9, 1977; not available NTIS.
Patent 4,040,577: Lockwood Airfoil Used in Conjunction with Man Transport Devices; filed Jan. 17, 1977 patented Aug. 9, 1977; not available NTIS.
Patent 4,040,647: Manual Controller for Vehicle Level Adjustment; filed Mar. 19, 1976; patented Aug. 9, 1977; not available NTIS.
Patent 4,041,488: Doppler Radar System; filed Apr. 19, 1976; patented Aug. 9, 1977; not available NTIS.
Patent 4,041,872: Wrapper, Structural Shielding Device; filed Sept. 10, 1971; patented Aug. 16, 1977; not available NTIS.
Patent 4,042, 927: Ability of a Monopulse Radar to Resolve and Track Jammers Passively; filed June 25, 1971; patented Aug. 16, 1977; not available NTIS.
Patent 4,042,946: Radiation Hardened Field Effect Device; filed Dec. 8, 1976; patented Aug. 16, 1977; not available NTIS.
Patent 4,043,177: Method to Observe Damage Induced in Optical Elements by Intense Thermal Radiation; filed Apr. 22, 1976; patented Aug. 23, 1977; not available NTIS.
Patent 4,043,204: Magnetic Fluid Bearing Accelerometer; filed Aug. 16, 1976; patented Aug. 23, 1977; not available NTIS.
Patent 4,043,249: Ammunition Conveyor Drive Cam; filed July 6, 1976; patented Aug. 23, 1977; not available NTIS.
Patent 4,043,250: Recoilable Gun Tube Latch; filed Jan. 28, 1976; patented Aug. 23, 1977; not available NTIS.
Patent 4,043,687: Latched Telescoping Members; filed Apr. 12, 1976; patented Aug. 23, 1977; not available NTIS.
Patent 4,044,620: Transmission; filed Dec. 10, 1975; patented Aug. 30, 1977; not available NTIS.
Patent 4,045,730: Incremental Method and System for Absolute Measurement of Coherent Power at Millimeter and Submillimeter Wave lengths; filed May 20, 1976; patented Aug. 30, 1977; not available NTIS.
Patent 4,047,114: Digital Detector; filed Aug. 6, 1976; patented Sept. 6, 1977; not available NTIS.
Patent 4,047,174: Method of Reducing the Radar Cross-Section of a Dielectric Body; filed July 7, 1968; patented Sept. 6, 1977; not available NTIS.
Patent 4,047,178: Low Loss Top Termination for Short Monopoles; files Sept. 22, 1976; patented Sept. 6, 1977; not available NTIS.
Patent 4,047,382: Thrust Management Control Propulsion System; filed Oct. 3, 1975; patented Sept. 13, 1977; not available NTIS.
Patent 4,047,484: Fuze with Bimetallic Spring Delay Module; filed June 29, 1976; patented Sept. 13, 1977; not available NTIS.
Patent 4,048,041: Electronic System for Providing Specificity in an Electrochemical Analytical Device; filed May 24, 1976; patented Sept. 13, 1977; not available NTIS.
Patent 4,048,568: Wide Operating Frequency Range Superheterodyne FM Noise Analyzer; filed Aug. 30, 1976; patented Sept. 13, 1977; not available NTIS.
Patent 4,048,580: Apparatus for Detecting a Stable Microwave Discrete Frequency; filed Oct. 18, 1976; patented Sept. 13, 1977; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Services Division, Federal Building Agriculture Research Service, Hyattsville, Md. 20782.

Patent application 694,515: A Polyfluorinated Amine Oil-Repellent, Stain-Release Fabric Treatment; filed June 9, 1976.
Patent application 730,915: Wet-Wall Electroinertial Air Cleaner; filed Oct. 8, 1976.
Patent application 787,177: Antibacterial Textile Finishes Utilizing Zirconyl Acetate Complexes of Inorganic Peroxides; filed Apr. 15, 1977.
Patent application 794,597: Clarification of Citrus Juices; filed May 6, 1977.
Patent application 904,646: Method of Shrinkproofing Animal Fiber with Ozone; filed May 10, 1978.
Patent 4,068,167: Radial Electrode for Determing the Amount of Moisture in Seed Cotton; filed Sept. 1, 1976; patented Jan. 10, 1978; not available NTIS.

[FR Doc. 78-26939 Filed 9-25-78; 8:45 am]

[3510-17]

Office of the Secretary

[Department Organization Order 35-1A, Amdt. 3; Transmitted 413]

BUREAU OF ECONOMIC ANALYSIS

Delegation of Authority

This order effective August 23, 1978, further amends the materials appearing at 40 FR 42766 of September 16, 1975, 41 FR 8520, of February 27, 1976, and 42 FR 23676 of May 10, 1977.

Department Organization Order 35-1A of August 4, 1975, is hereby further amended as shown below. The purpose of this amendment is to update a previous delegation of the Secretary's authority under the International Investment Survey Act of 1976.

Section 3. *Delegation of Authority.* Subparagraph .01e. is revised to read as follows:

"e. Executive Order 11961 of January 19, 1977, as amended by E.O. 12013 of October 7, 1977, which delegates to the Secretary of Commerce the authority of the President under sections 4(a) (1), (2), and (4), and 4(b) of the International Investment Survey Act of 1976 (Pub. L. 94-472, 90 Stat. 2059, 22 U.S.C. 3101-3108). The functions thereunder shall be carried out in coordination with the Assistant Secretary for Industry and Trade (Department Organization Order 10-3), including, to the extent feasible, the division or assignment of responsibilities. All regulations established to carry out functions under the Act, and reports to be submitted to the Congress, shall be issued by the Secretary;"

JUANITA M. KREPS,
Secretary of Commerce.
GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc. 78-27014 Filed 9-25-78; 8:45 am]

[3510-17]

[Department Organization Order 30-2B, Amdt. 1; Transmittal 411]

NATIONAL BUREAU OF STANDARDS

Organization and Function

This order effective August 15, 1978, amends the material appearing at 43 FR 15473 of April 13, 1978.

Department Organization Order 30-2B dated March 8, 1978, is hereby amended as shown below. The purpose of this amendment is to (1) revise the functional statements for the Management and Organization Division, the Center for Information Systems, and the National Measurement Laboratory, and (2) abolish the Information Technology Division.

1. Section 6. *Director of Administrative and Information Systems.* Paragraphs c. and d. are revised to read as follows:

"c. The *Management and Organization Division* shall provide consultative services to line management in organization, procedures, and management practices; maintain the directives system; perform reports management and committee management functions; and provide liaison with the Departmental Office of ADP Management.

"d. The *Center for Information Systems* shall provide computing and information processing services including operation of the central computing facility; design and maintain the automated administrative information systems; manage the publications program of NBS; provide library services; manage a network of administrative service centers and word processing centers for all Administrative and Information Systems Centers, and other organizational units in the Bureau as requested; manage support services for small purchase procurements, grants administration, and contract liaison with the Department of Commerce; manage office support services including visual arts, duplication, and forms and records management; provide consultative and advisory services on computer networking and related telecommunications requirements; coordinate the overall management and utilization of computing resources within the Bureau; and establish mechanisms to assure compliance with applicable Federal ADP Standards."

"2. Section 7. *National Measurement Laboratory.* The paragraph entitled *National Measurement Laboratory* is revised to read as follows:

"The *National Measurement Laboratory* shall provide the national system of physical and chemical and materials measurement; coordinate the system with measurement systems of other nations and furnish essential services leading to accurate and uniform physical and chemical measurement throughout the nation's scientific community, industry, and commerce; conduct materials research leading to improved methods of measurement, standards, and data on the properties of materials needed by industry, commerce, educational institutions, and government; provide advisory and research services to other Government agencies; conduct physical and chemical research; develop, produce, and distribute Standard Reference Materials; provide standard reference data; provide calibration services; and collaborate with the National Engineering Laboratory and the Institute for Computer Sciences and Technology in carrying out the responsibilities of the National Measurement Laboratory."

3. Section 10. *Institute for Computer Sciences and Technology.* In the last sentence of section 10. the *Information Technology Division is deleted. The sentence is revised to read as follows:*

"The organizational units in the Institute shall be as follows:

"Systems and Software Division; and
"Computer Systems Engineering Division."

4. The organization chart attached to this amendment supersedes the chart dated March 8, 1978. A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

GUY W. CHAMBERLIN,
Acting Secretary for Administration.

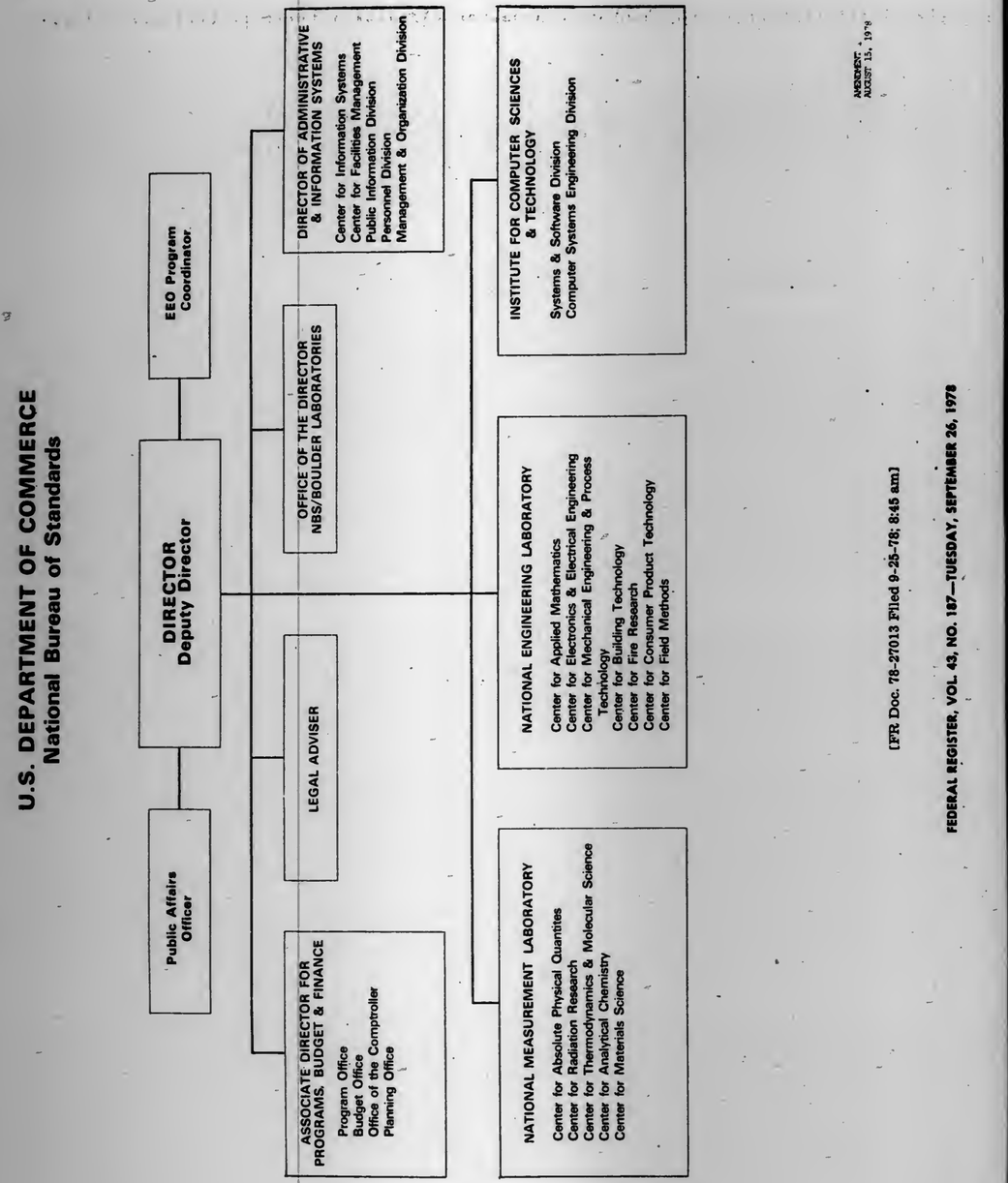
[3510-17]

[Departmental Organization Order 25-4B, Amdt. 1; Transmittal 412]

sponsible to the Under Secretary, who is chairperson of the IAC.

b. In pen and ink renumber the existing sections 4., 5., and 6. as sections

mobilize and generate Federal agency support and resources on behalf of minority business development. In carrying out this function, the Staff shall:



AMENDMENT
AUGUST 15, 1978

[FR Doc. 78-27013 Filed 9-25-78; 8:45 am]

[3510-17]

[Departmental Organization Order 25-4B, Amdt. 1; Transmittal 412]

OFFICE OF MINORITY BUSINESS ENTERPRISE

Organization and Function

This order effective August 22, 1978, further amends the materials appearing at 41 FR 21209 of May 24, 1976, and 41 FR 22291 of June 2, 1976.

Department Organization Order 25-4B of May 9, 1976, is hereby amended as shown below. The purpose of this amendment is to: establish the position of Executive Director of the Interagency Council for Minority Business Enterprise (IAC) (section 4.); establish the IAC Support Staff (section 9.); transfer certain functions from the Program Resources Division to the IAC Support Staff (section 8.); and revise the functions of the Regional Offices (section 10.).

1.a. A new section 4. is added to read as follows:

"Section 4. *Executive Director of the Interagency Council for Minority Business Enterprise.*

"The Executive Director of the Interagency Council for Minority Business Enterprise (IAC) shall direct the activities of the IAC Support Staff and otherwise support the Secretary and the Under Secretary in fulfilling their responsibilities for Federal government coordination under Executive Order 11625, as amended. The Executive Director shall report and be responsible to the Under Secretary, who is chairperson of the IAC.

b. In pen and ink renumber the existing sections 4., 5., and 6. as sections 5., 6., and 7.

2.a. In pen and ink renumber the existing section 7. as section 8.

b. Delete the word "and" after the semicolon at the end of paragraph 8.f.

c. Paragraph 8.g. is revised and new paragraphs 8.h. and 8.i. are added to read as follows:

"g. Plan, develop, and manage programs to generate and coordinate public and private sector support for the growth of minority business opportunities involving the commercialization of new and adaptive technology;

"h. Develop working relationships and agreements with other Federal departments and agencies in support of particular minority business activities; and

"i. Provide added support to the Secretary, Under Secretary, and the IAC in their Federal coordination responsibilities."

3. A new section 9. is added to read as follows:

"Section 9. *Interagency Council Support Staff.*

"The IAC Support Staff, under the direction of the IAC Executive Director, shall provide staff support for the activities of the IAC, its Chairperson, and committees, and local, interagency Minority Business Opportunity Committees (MBOC), in their efforts to mobilize and generate Federal agency support and resources on behalf of minority business development. In carrying out this function, the Staff shall:

"a. Develop and implement plans, and policy and program initiatives and studies, for IAC interagency and individual agency consideration and action, in keeping with the mission of the IAC;

"b. Assist in the development and coordination of government-wide minority business programs among Federal departments and agencies, and monitor and evaluate those programs;

"c. Provide necessary advice and counsel to IAC member agencies and committees; and

"d. Support the local Federal interagency MBOC, in carrying out their programs, as local counterparts of the IAC in many cities, to assist minority-owned businesses."

4. In pen and ink, renumber the existing section 8. as section 10. and in paragraph 10.01 delete the words "by coordinating specific Federal support regionally" that appear on lines five and six from the top of the paragraph.

5. In pen and ink, renumber the existing section 9. as section 11.

6. The attached organization chart Exhibit 1 supersedes the chart attached to the order dated May 9, 1976. A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

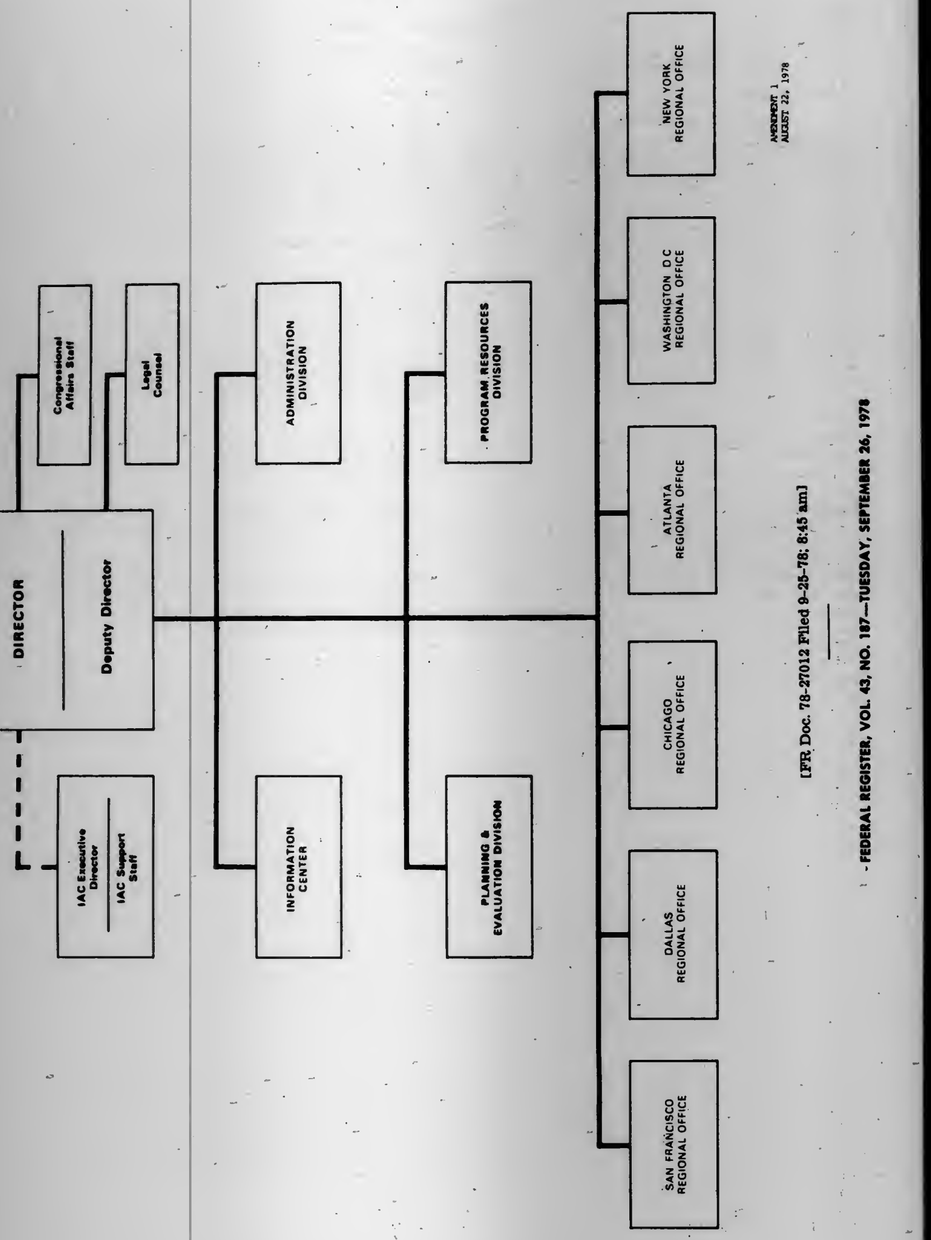
GUY W. CHAMBERLIN,
Acting Assistant Secretary for Administration.

[3510-25]

CERTAIN COTTON, WOOL, AND MAN-MADE FIBER TEXTILE PRODUCTS FROM INDIA

sumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1978 and extends through

fective as proposed without further notice on October 26, 1978, unless comments are received on or before October 26, 1978, which would result



AMENDMENT 1
AUGUST 22, 1978

[FR Doc. 78-27012 Filed 9-25-78; 8:45 am]

[3510-25]

CERTAIN COTTON, WOOL, AND MAN-MADE FIBER TEXTILE PRODUCTS FROM INDIA

Adjusting Import Levels

SEPTEMBER 21, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Deducting 10.5 million square yards equivalent charged to the level of restraint established for Group II (Categories 330-369, 431-469 and 630-669) and charging the equivalent amount in dozens to the level covering mill-made apparel made from handloomed fabric (visaed with the elephant).

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773) and September 5, 1978 (43 FR 39408)).

SUMMARY: Under the terms of paragraph 10 of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India, agreement was reached by the two governments, in consultations held the week of September 5, 1978, to reduce charges to the ceiling established for Group II during the twelve-month period which began on January 1, 1978, by 10.5 million square yards equivalent and charge the equivalent amount in dozens to the level established for mill-made apparel made from handloomed fabric. This change will affect only the Group II charges. Individual category charges within the group will not be affected.

EFFECTIVE DATE: September 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On February 2, 1978, there was published in the FEDERAL REGISTER (43 FR 4451) a letter of January 27, 1978, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, including those in Group II (Categories 330-369, 431-469, and 630-669), produced or manufactured in India, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1978 and extends through December 31, 1978. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to deduct 10.5 million square yards equivalent from the amount charged to the level for Group II and charge the equivalent amount to the level established for mill-made apparel made from handloomed fabric.

EDWARD GOTTFRIED,
Acting Chairman, Committee for the Implementation of Textile Agreements.

SEPTEMBER 21, 1978.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: To facilitate implementation of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India, you are requested, effective on September 27, 1978, to reduce the charges to Group II (Categories 330-369, 431-469 and 630-669) for goods exported after December 31, 1977 during the current agreement period by 10.5 million square yards equivalent. A charge of 650,000 dozen should be made to the level of restraint established for the same period for mill-made apparel made from handloomed fabric, visaed with the elephant. This change is to affect only the Group II charges. Individual category charges within the group will not be affected.

This letter will be published in the FEDERAL REGISTER.

Sincerely,

EDWARD GOTTFRIED,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 78-27089 Filed 9-25-78; 8:45 am]

[3710-08]

DEPARTMENT OF DEFENSE

Department of the Army

PRIVACY ACT OF 1974

New System of Records

AGENCY: Department of the Army.

ACTION: Notification of a new system of records.

SUMMARY: The Department of the Army proposes a new system of records identified as A0714.06c, entitled: "AMEDD Personnel Management System". The record system notice is published in its entirety below.

DATES: This system shall become effective as proposed without further notice on October 26, 1978, unless comments are received on or before October 26, 1978, which would result in a contrary determination requiring republication for further comments.

ADDRESS: Send comments to the system manager identified in the record system notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Guy B. Oldaker, Administrative Management Directorate, The Adjutant General Center, Department of the Army, Room GA-084, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20314, telephone 202-693-0973.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices, as prescribed by the Privacy Act have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28255 (42 FR 50396), September 28, 1977.
FR Doc. 77-32975 (42 FR 50999), November 15, 1977.
FR Doc. 78-1855 (43 FR 3151), January 23, 1978.
FR Doc. 78-9239 (43 FR 14713), April 7, 1978.
FR Doc. 78-9713 (43 FR 15353), April 12, 1978.
FR Doc. 78-17146 (43 FR 26606), June 21, 1978.
FR Doc. 78-17737 (43 FR 27882), June 27, 1978.
FR Doc. 78-18880 (43 FR 29600), July 10, 1978.
FR Doc. 78-19614 (43 FR 30594), July 17, 1978.
FR Doc. 78-21772 (43 FR 34520), August 4, 1978.
FR Doc. 78-23953 (43 FR 38070), August 25, 1978.
FR Doc. 78-25562 (43 FR 40272), September 11, 1978.

The Department of the Army has submitted a new system report on August 21, 1978, pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a(o)).

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 20, 1978.

A0714.06cDASG

System name:

AMEDD Personnel Management System

System location:

United States Army Medical Department Personnel Support Agency (USAMEDDPERSA), 1900 Half Street SW., Washington, D.C. 20324.

Categories of individuals covered by the system:

Individuals either applying for com-

site location both updated and maintained in an operational condition.

[3810-70]

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the

tervene in accordance with the Commission's rules.

KENNETH F. PLUMB,

tion 305(b) of the Federal Power Act to hold the following positions:

Controller, Kentucky Utilities Co., Public Utility.

Categories of individuals covered by the system:

Individuals either applying for commissions in, on active duty as an officer in, or recently released from active duty in one of the six Army Medical Department Corps.

Categories of records in the system:

The categories of information stored include name, social security number (SSN), sex, race, date and place of birth, home of record, dependent data, physcial profile data, religious preference, ethnic group, citizenship, marital status, personal mailing address, professional qualification data, assignment data, promotion data, education and training data, awards and badges, and incentive pay data.

Authority for maintenance of the system:

Title 5 U.S.C. Section 301; Title 10 U.S.C.; Title 37 U.S.C.; and Executive Order 9397.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Department of Army—Used for strength accounting, manpower and budgetary management, recruitment, military service career management of officers to include assigments, promotion, professional development and training, and in the administration of Variable Incentive Pay Program.

Department of Defense—Used for interdepartmental management regarding medical assets, and development of policies and statistical accounting.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are stored on computer magnetic tape and disk.

Retrievability:

Normal access is by name, the first data element in the file, with SSN or other individual or group discriminators for positive identification. Computerized indices are utilized in record retrievals.

Safeguards:

Physical security devices, limited access via building guard and personnel clearances will limit computer access be only autorized personnel. Each on-line terminal access or update to the system will be protected through a system of passwords that will restrict each user to specific data elements. Password changes will be made incrementally at the rate of 20 percent per month. System reconstruction procedures provide for two copies of files, programs, and procedures in-house and one copy at an offsite location both updated and maintained in an operational condition.

Retention and disposal:

Records are retained on an active file for three months after separation, and accumulated on an inactive file for five years after separation.

System manager(s) and address:

Commander, United States Army Medical Department Personnel Support Agency, 1900 Half Street SW., Washington, D.C. 20324.

Notification procedure:

Information may be obtained form: Commander, USAMEDDPERSA, 1900 Half Street SW., Washington, D.C. 20324.

Record access procedures:

Requests from individuals should be addressed to: Commander, USAMEDDPERSA, 1900 Half Street SW., Washington, D.C. 20324.

Written requests for information should contain the full name of the individual, SSN, current or former military status, and appropriate return address.

Vists may be made to USAMEDDPERSA. Individual should be able to provide some acceptable identification, and give some verbal information that could be verfied with his/her record.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in 32 CFR Part 505 (Army Regulation 340-21).

Record source categories:

Data contained in this system of records is obtained in document and computer readable form from the following systems of records: (1) AMEDD Officer Variable Incentive Pay, (2) Army Medical Procurement Applicant Files, (3) Officer Master File, (4) Career Management Individual Files, (5) AMEDD Training Application Status Record, (6) Long Term Civilian Training Student Contract Files, (7) Residency, Subspecialty and Fellowship Training, and (8) US Army Graduate Medical Education Trainee Card File.

Systems exempt from certain provisions of the act:

None.

[FR Doc. 78-26996 Filed 9-25-78; 8:45 am]

[3810-70]

Office of the Secretary

MEDICAL REIMBURSEMENT RATES FOR FISCAL YEAR 1979

Inpatient and Outpatient Medical Care

Notice is hereby given that the Assistant Secretary of Defense (Comptroller), on September 13, 1978, has issued the following memorandum to the Assistant Secretaries of the Army (IL&FM), Navy (FM), and Air Force (FM):

Reimbursement rates for inpatient and outpatient medical care are hereby established for fiscal year 1979 as follows:

For general patients:	
Per inpatient day:	
General medical and dental care	$242.00
Burn Center, Brooke Army Hospital	634.00
Per outpatient visit:	
General medical and dental care	23.00
For International Military Education Training (IMET) students:	
Per inpatient day:	
General medical and dental care	102.00
Burn Center, Brooke Army Hospital	328.00
Per outpatient visit	10.00
For dependents of military personnel:	
Per inpatient day	4.65
For FAA Air Traffic Controllers:	
Per examination	51.00

MAURICE W. ROCHE,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 21, 1978.

[FR Doc. 78-26998 Filed 9-25-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP72-110]

ALGONQUIN GAS TRANSMISSION CO.

Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

SEPTEMBER 15, 1978.

Take notice that Algonquin Gas Transmission Co. (Algonquin Gas) on September 5, 1978, tendered for filing Revised 42d Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin states that this sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision to reflect a change in purchased gas costs filed by its pipeline supplier, Texas Eastern Transmission Corp. and that the proposed effective date is August 1, 1978.

A copy of this filing is being served upon all affected parties and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 26, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26781 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. RI78-85]

AN-SON CORP.

Petition for Special Relief

SEPTEMBER 15, 1978.

Take notice that on August 4, 1978, An-Son Corp. (Petitioner), 3814 North Santa Fe, Oklahoma City, Okla. 73118, filed a petition for special relief in docket No. RI78-85, pursuant to § 2.76(d)(1) of the Commission's General Policy and Interpretations (18 CFR 2.76(d)(1)).

Petitioner requests authorization to charge 49.9¢ per Mcf for the sale of gas from its Barby-Featherstone No. 1 Well, section 30; T4N, R24E, Beaver County, Okla., to Northern Natural Gas Co. The increased rate is sought in order to enable Petitioner to install compression facilities to correct pressure problems in the well.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, or 1.10). All such petitions or protests should be filed on or before October 10, 1978. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26782 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. RI78-87]

CHARLES B. WILSON, JR., LTD.

Petition for Special Relief

SEPTEMBER 15, 1978.

Take notice that on August 17, 1978, Charles B. Wilson, Jr., Ltd. (Petitioner), 1616 West Loop South, Suite 310, Houston, Tex. 77027, filed a petition for special relief in Docket No. RI78-87 pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR Part 276).

Petitioner requests authorization to charge $1.35 per Mcf at 14.73 psia for the sale of gas from its Rosa B. Neff Gas Unit No. 1 Well, Keyes Field, Cimarron County, Okla., to Colorado Interstate Gas Co. Petitioner asserts that it is not economically feasible at the present rate of 65¢ per Mcf at 14.73 psia to continue the compression and saltwater disposal operations required to produce known reserves.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before October 10, 1978. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26783 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. ID-1768]

CLAUD FREDERICK DAVIS

Application

SEPTEMBER 15, 1978.

Take notice than on August 25, 1978, Claud Frederick Davis, (Applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Controller, Kentucky Utilities Co., Public Utility.
Controller, Old Dominion Power Co., Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26785 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. ER78-609]

CLIFFS ELECTRIC SERVICE CO.

Filing

SEPTEMBER 18, 1978.

Take notice that on September 12, 1978, Cliffs Electric Service Co. (CESCO) tendered for filing pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's regulations a letter agreement dated June 30, 1978 for the sale of short-term firm power by CESCO to the Upper Peninsula Power Co. (UPPCO).

CESCO states that under the proposed agreement, CESCO will sell to UPPCO 4000 Kw of firm electric generating capacity from September 3, 1978 through December 30, 1978, and continuing weekly thereafter until April 28, 1978 at the mutual agreement of the parties. CESCO requests that the effective date of this letter agreement be September 3, 1978, and requests waiver of the notice provisions of § 35.3 of the Commission's regulations.

Copies of the filing were served on UPPCO, according to CESCO.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or

before October 2, 1978. Protests will be considered by the Commission in determining the appropriate action to be

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Com-

(18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 25, 1978. Protests will be considered by the Commission in de-

with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before

erated thereby) at or shortly prior to its being loaded in the Project reactor, with the purchase price being related to the Trust's investment in the nuclear

cant in nuclear fuel is required, the Trust may invest the proceeds in commercial paper of the Applicant, notes of its subsidiaries and of Big Bend Re-

before October 2, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26784 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. CP77-8]

COLUMBIA GULF TRANSMISSION CO.

Petition to Amend Pipeline Certificate

SEPTEMBER 18, 1978.

Take notice that on September 5, 1978, Columbia Gulf Transmission Co. (Columbia Gulf), P.O. Box 683, Houston, Tex. 77001, filed in Docket No. CP77-8 a petition to amend the certificate issued May 6, 1977, to allow the transportation of gas from two (2) additional Northern Natural Gas Co. (Northern) delivery points, as a result of the unitization of the several wells into the Eugene Island 330 Field, Offshore Louisiana, all as more fully set forth in the petition on file with the Commission and open to public inspection.

Columbia Gulf states that said certificate authorized a transportation arrangement for such quantity of gas which Northern purchased from Exxon Co. U.S.A.'s interest in Block 332, Eugene Island Area. The petitioner now proposes that in addition such gas be deliverable from the aforementioned two (2) additional delivery points. The addition of gas from the two (2) additional delivery points will not cause the total volume of gas from all four (4) delivery points to exceed 14,000 Mcf of gas per day.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 10, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26786 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. ER78-612]

DETROIT EDISON CO.

Proposed Tariff Change

SEPTEMBER 18, 1978.

Take notice that The Detroit Edison Co. (Detroit Edison) on September 1, 1978, tendered for filing a new Interconnection Agreement between the City of Detroit and The Detroit Edison Company. Detroit Edison indicates that this new agreement will replace in its entirety an interconnection agreement now in effect between the parties since October 1, 1971. Detroit Edison further indicates that the new interconnection agreement does not increase current rates and charges but does expand the services available to the parties. Detroit Edison states that the new agreement provides for new Displacement Power, Diversity Power, and Wheeling services while removing obligations for specified installed reserve responsibilities.

Detroit Edison further states that the proposed changes are desirable by the parties to assure adequate and fair compensation for services rendered and to encourage the availability of the full range of services. Detroit Edison proposes an effective date of October 1, 1978.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 25, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26787 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket Nos. RP78-65 and RP75-114]

EAST TENNESSEE NATURAL GAS CO.

Report of Flow Through of Refunds

SEPTEMBER 18, 1978.

Take notice that on September 12, 1978, East Tennessee Natural Gas Co. (East Tennessee) tendered for filing a Report of Flow Through of Refunds made pursuant to the Commission's order dated August 2, 1978, in Docket No. RP78-65 and the Settlement Agreement dated June 28, 1976, in Docket Nos. RP75-114, et al., approved by the Commission's order dated October 13, 1976.

East Tennessee states that on October 24, 1977, it received a refund from Tennessee Gas Pipeline Co., a Division of Tenneco Inc., (Tennessee) representing the refund payable to East Tennessee resulting from the Commission's Opinion Nos. 769 and 769-A in Docket No. RP73-113. East Tennessee also states that in flowing through the jurisdictional portion of the refund to its jurisdictional customers on December 8, 1977, it retained a portion of the Tennessee refund pursuant to a currently effective tariff provision because such portion was not final and nonappealable. East Tennessee further states that pursuant to its tariff filing in response to a show cause proceeding as to why East Tennessee's tariff should not be revised, it is flowing through the jurisdictional portion of the retained refund with interest for the period such refund was retained. Furthermore, East Tennessee states that the refund report shows the distribution of the refund to each of its jurisdictional customers.

East Tennessee states that copies of the filing have been mailed to all its jurisdictional customers and affected State regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance

with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 27, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26788 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. ES78-56]

EL PASO ELECTRIC CO.

Application

SEPTEMBER 18, 1978.

Take notice that on September 1, 1978, El Paso Electric Company (Applicant) filed a petition with the Federal Energy Regulatory Commission seeking approval of Applicant's proposed assumption of liability for the notes to be issued by an independent trust to be established for the principal purpose of providing long-term financing of the cost of nuclear fuel to be used in the Arizona Nuclear Power Project (the Project), also known as the Palo Verde Nuclear Generating Station, in Maricopa County, Ariz., in which Applicant is a participant. Applicant estimates its total cost for such nuclear fuel will be $30 million by the time Unit 1 of the Project comes on line in 1982.

An independent trust (the Trust) will be established with authority to borrow funds necessary (i) to reimburse the Applicant for all past and future expenditures made with respect to its nuclear fuel requirements, and (ii) to permit the investment by the Trust in notes and commercial paper of Applicant, its wholly-owned subsidiaries and Big Bend Resources Trust (a trust financing arrangement for fuel oil consumed by Applicant).

Applicant will enter into a contract with the Trust providing (i) for the agreement by Applicant to assign to the Trust Applicant's interest in the nuclear fuel agreements relating to the Project, (ii) for the agreement by the Trust to borrow such sums as shall be necessary for the Trust to honor its obligations under the nuclear fuel agreements assigned to it, (iii) for the agreement by Applicant to purchase the enriched nuclear fuel (or heat generated thereby) at or shortly prior to its being loaded in the Project reactor, with the purchase price being related to the Trust's investment in the nuclear fuel and payable in accordance with various options the Applicant may elect at such time, (iv) for the agreement by Applicant at termination of the Trust to pay the Trust such amounts as shall be necessary for the Trust to honor all of its obligations, and (v) the agreement by the Trust to reimburse Applicant for all previous expenditures made with respect to the nuclear fuel covered by the nuclear fuel agreements assigned to the Trust and all subsequent expenditures by Applicant in connection therewith.

The Trust will enter into a loan arrangement with a lender (the Lender) providing for a $30 million loan commitment (the Commitment) to the Trust involving (i) the issuance by the Lender of an irrevocable letter of credit in the amount of the Commitment to back up the issuance by the Trust of commercial paper notes (the Commercial Paper Notes) not in the aggregate to exceed the amount of the Commitment less the aggregate amount of the funded notes (the Funded Notes) hereinafter described, (ii) a revolving line of credit in the amount of the Commitment the borrowings against which are to be evidenced by the Funded Notes of the Trust, (iii) the right of the Lender to terminate the Loan Agreement five (5) years after its date, provided that the Lender has given notice of its desire to terminate at least three (3) years prior to the effective date, otherwise the loan arrangement to continue for additional one (1) year periods until the necessary three (3) year notice of termination is given, (iv) the ability of the Trust to prepay the principal of the Funded Notes in whole or in part at any time without penalty and to reduce the amount of the Commitment from time to time, (v) the payment by the Trust of certain commitment fees and letter of credit fees to the Lender, (vi) the granting by the Trust to the Lender of a security interest in the Trust's interests in the nuclear fuel agreements assigned to it by Applicant and the contract in which Applicant agrees to purchase the enriched nuclear fuel, (vii) a limitation upon the investment the Trust may make in notes and commercial paper of Applicant's wholly-owned subsidiaries and Big Bend Resources Trust, and (viii) the execution by the Trust of a depository agreement governing the terms of issuance of the Commericial Paper Notes.

The Trust financing arrangement is designed to provide financing for $30 million of Applicant's nuclear fuel requirements. In the interim until the full $30 million investment by Applicant in nuclear fuel is required, the Trust may invest the proceeds in commercial paper of the Applicant, notes of its subsidiaries and of Big Bend Resources Trust (which provides Applicant's fuel oil requirements—see Docket No. ES77-9), as well as other investments.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 29, 1978. Protests will be considered by the commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26789 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. RP78-90]

EL PASO NATURAL GAS CO.

Proposed Changes in FERC Gas Tariff

SEPTEMBER 18, 1978.

Take notice that El Paso Natural Gas Co. ("El Paso"), on August 31, 1978, tendered for filing proposed changes in special Rate Schedule F-2 to its FERC Gas Tariff, Third Revised Volume No.2. The proposed changes would decrease revenues from a field sale in Dewey County, Okla., to Michigan Wisconsin Pipe Line Co. under El Paso's Rate Schedule F-2 by $33,463, based on an estimated sales volume for the twelve-month period succeeding the proposed effective date of October 1, 1978.

El Paso states that the instant filing is being made pursuant to Section 2.56a of the Commission's Statement of General Policy and Interpretations and in accordance with Article XI of said Rate Schedule F-2. Such filing reflects a 1.0 cent increase in the base rate attributable to the quarterly escalation provisions allowed by the Commission's Opinion No. 770-A issued November 5, 1976, at Docket No. RM75-14, for 1975-76 biennium gas. El Paso further states, however, that due to certain Btu adjustments utilized in the calculation of the subject rate, the proposed change in rate is a net decrease of 6.8891 cents per Mcf.

In connection with the instant notice of change, El Paso also ten-

dered for filing and acceptance Eleventh Revised Sheet No. 1-D.1 to its

with the Commission will be considered by it in determining the appropriate action to be taken, but will not

applications in which no petition to intervene is filed within the time required herein if the Commission on its

Docket No.	Date filed	Applicant

[6740-02]

[Docket No. ID-1566]

dered for filing and acceptance Eleventh Revised Sheet No. 1-D.1 to its FERC Gas Tariff, Third Revised Volume No. 2. El Paso states that said tariff sheet reflects the decreased rate proposed to be collected by El Paso under Rate Schedule F-2, commencing on October 1, 1978.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before September 25, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspections.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26790 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket Nos. CS78-673, etc.]

KAMLOK, INC., ET AL.

Applications for "Small Producer" Certificates [1]

SEPTEMBER 18, 1978.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 10, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Applicant
CS78-673	Aug. 16, 1978	KAMLOK, Inc., P.O. Box 40262, Houston, Tex. 77040.
CS78-674	Aug. 14, 1978	Inter-American Energy Corp., 1897 Northwest 21st St., Miami, Fla. 33142.
CS78-675	do	Guy S. Williams, 1370 Berkeley Way, Ukiah, Calif. 95482.
CS78-676	do	CERCO Petroleum, Inc., P.O. Box 3476, Abilene, Tex. 79604.
CS78-677	do	J.G.S. Oil Co. and Paul R. Polak, Associates, 666 Sherman St., Denver, Colo. 80203.
CS78-678	do	John I. Gordon, P.O. Box 3052, Grand Junction, Colo. 81501.
CS78-679	do	W. D. L. Enterprises, Inc., 9051 Mansfield Rd., Shreveport, La. 71118.
CS78-680	do	R. S. Livingstone, Jr., 1790 30th St., Boulder, Colo. 80301.
CS78-681	do	Costa Resources, Inc., 3303 Lee Parkway, Dallas, Tex. 75219.
CS78-682	do	Jim V. Haddox, 1000 Cypress St., West Monroe, La.
CS78-683	do	Joe Preaus, 1000 Cypress St., West Monroe, La.
CS78-684	do	Bobby Jenny, 1000 Cypress St., West Monroe, La.
CS78-685	do	Don Acree, 1000 Cypress St., West Monroe, La.
CS78-686	Aug. 15, 1978	Neva Crouch Carlisle, Patsy Ann LaMunyon, and Bobby Jeanne Bryant, trustees of the Carlisle Trust No. 1, Laverne, Okla. 73848.
CS78-687	do	McRae Exploration, Inc., 2200 Esperson Bldg., Houston, Tex. 77002.
CS78-688	do	Petrofunds, Inc., 2200 Esperson Bldg., Houston, Tex. 77002.
CS78-689	do	Clifford Resources, Inc., 1140 Northwest 63d, Suite 200, Oklahoma City, Okla. 73116.
CS78-690	Aug. 16, 1978	Philip R. Bishop, 1500 First National Bank Bldg., Fort Worth, Tex. 76102.
CS78-691	do	Sovereign Exploration Co., 4925 Greenville Ave., Suite 1330, Dallas, Tex. 75206.
CS78-693	Aug. 17, 1978	Thomas K. Glenn, P.O. Box 178, Shreveport, La. 71161.
CS78-694	Aug. 18, 1978	Roy L. McKay, P.O. Box 2014, Roswell, N. Mex.
CS78-695	Aug. 21, 1978	Heston Oil Co., Suite 4620, 1 Williams Center, Tulsa, Okla. 74103.
CS78-696	do	Logue & Patterson Inc., 1300 1 Energy Square, Dallas, Tex. 75206.
CS78-697	do	Major Oil Development Co., 2605 Virginia St. NE., Albuquerque, N. Mex.
CS78-698	Aug. 22, 1978	A. N. Munoy, 1910 Washington, Artesia, N. Mex. 88210.
CS78-700	Aug. 25, 1978	Sylvia McLane Turnbull, 3747 High Meadows, Abilene, Tex. 79605.
CS78-701	Aug. 23, 1978	Callon Petroleum Co., P.O. Box 1287, Natchez, Miss. 39120.
CS78-702	do	Jelliffe Oil Co., 901 Northeast Loop 410, Ste. 634, San Antonio, Tex. 78209.
CS78-703	Aug. 28, 1978	Beta Exploration, Inc., 601 Denver Club Bldg., Denver, Colo. 80202.
CS78-704	Aug. 24, 1978	Peter Paul Petroleum Co., 1100 Milam, Suite 580, Houston, Tex. 77002.
CS78-705	do	CALPETCO Exploration Partnership 1974, and James Michael, 465 California St., No. 906, San Francisco, Calif. 94104.
CS78-706	Aug. 25, 1978	J. E. Shelton, 7364 South Darlington, Tulsa, Okla. 74136.
CS78-707	do	Jack Hartman, 2934 Nevada St., Manhattan, Kans. 66502.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
CS78-708	do	Dr. J. M. Brooks, P.O. Box 272, Atlanta, Tex. 75551.
CS78-709	do	Colorado Gas Gathering Co., P.O. Box 8405, Midland, Tex. 79703.
CS78-710	do	Olinkraft, Inc., P.O. Box 488, West Monroe, La. 71291.
CS78-711	Aug. 28, 1978	S. Keith Engelke, D-407 Petroleum Center, San Antonio, Tex. 78209.
CS78-712	do	C. C. G. P., Ltd., P.O. Box 788, Duncan, Okla. 73533.
CS78-713	do	Rambler Oil Co., 1470C First National Center, Oklahoma City, Okla. 73102.
CS78-714	do	Southeastern Pipe Line Co., 1618 C & I Bldg., Houston, Tex. 77002.
CS78-715	do	Donnell Pipe & Supply Co., P.O. Box 1265, Kilgore, Tex. 75662.
CS78-716	do	Frank Douglass, 1515 City Bank Bldg., Austin, Tex. 78701.
CS78-717	do	Frank I. Brooner, Jr., D-410 Petroleum Center, San Antonio, Tex. 78209.
CS78-718	do	Betty W. Bohm, 700 Commercial National Bank Bldg., Shreveport, La. 71101.
CS78-719	do	Hargrove Land & Co., P.O. Drawer B, Shreveport, La. 71161.
CS78-720	do	C. R. Scurlock, 526 Louisiana Bank Bldg., Shreveport, La. 71101.
CS78-721	do	R. H. Engelke, D-407 Petroleum Center, San Antonio, Tex. 78209.
CS78-722	do	Nueve Operating Co. of Texas, 401 First State Bank Bldg., Abilene, Tex. 79602.
CS78-723	do	Glenn G. Mortimer, Jr., 8700 Crownhill Rd., Suite 506, San Antonio, Tex. 78209.
CS78-724	do	Glenn G. Mortimer, III, 8700 Crownhill Rd., Suite 506, San Antonio, Tex. 78209.
CS78-725	do	Mortco, Inc., 8700 Crownhill Rd., Suite 506, San Antonio, Tex. 78209.
CS78-726	do	Weiser-Brown Oil Co., Box 805, Magnolia, Ark. 71753.
CS78-727	Aug. 29, 1978	Great Yellowstone Corp., 2431 East 51st St., Tulsa, Okla. 74105.
CS78-728	do	Presser Royalty Co., 918 San Jacinto Bldg., Houston, Tex. 77002.
CS78-729	Aug. 31, 1978	Craig Morris Oil, Inc., P.O. Box 730, 511 Industrial Blvd., R.F.D. 4, Winfield, Kans. 67156.
CS78-730	do	Walter N. Grimes, 900 Northwest Loop 410, San Antonio, Tex. 78209.
CS78-731	do	SLR New Mexico Associates, 1420 Americana Bldg., Houston, Tex. 77002.
CS78-732	do	Best & Sherman Oil Co., P.O. Box 432, Chandler, Okla. 74834.
CS78-733	Aug. 30, 1978	Robert W. Flynn, 1626 West Pine, Wichita, Kans. 67203.
CS78-734	do	John L. Copeland, 804 Beck Bldg., Shreveport, La. 71101.
CS78-735	Sept. 1, 1978	Doverspike Gas Venture—1977, R.D. No. 1, Dayton, Pa. 16222.
CS78-736	Aug. 29, 1978	Peter M. Mark, general partner, Mark Oil & Gas Ltd. (1978 program), Suite 1030, Charleston National Plaza, Charleston, W. Va. 25301.
CS78-737	Sept. 5, 1978	Richard T. Brady, 500 National Bank of Commerce Bldg., San Antonio, Tex. 78205.
CS78-738	do	Dixie M. McLane Grandchildren's Trust, 1000 LTV Tower, Dallas, Tex. 75201.
CS78-739	do	JiCo, Inc., 3000 United Founders Blvd. 102G, Oklahoma City, Okla. 73112.
CS78-740	do	L. G. Williams Oil Co., Inc., 950 National Foundation Life Bldg., Oklahoma City, Okla. 73112.
CS78-741	do	Harold K. Quinn, P.O. Box 1738, Shreveport, La. 71166.
CS78-742	do	Everest Exploration—1978 Oil & Gas, Suite 1420, Bank & Trust Tower, Corpus Christi, Tex. 78477.
CS78-743	do	Cremer Oil Co., 900 Northeast Loop 410, San Antonio, Tex. 78209.
CS78-744	do	Roland C. Sherrer, Jr., Cove Neck Rd., Oyster Bay, N.Y. 11771.
CS78-745	Sept. 6, 1978	Mary Jean Bennett, 4645 Occan Drive No. 4A, Corpus Christi, Tex. 78412.
CS78-746	Sept. 5, 1978	David G. McLane Trust, 1000 LTV Tower, Dallas, Tex. 75201.

[FR Doc. 78-26733 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. ID-1566]

MICHAEL R. WHITLEY

Application

SEPTEMBER 15, 1978.

Take notice that on August 25, 1978, Michael R. Whitley (Applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Vice president, secretary, Kentucky Utilities Co., public utility.
Vice president, secretary, Old Dominion Power Co., public utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26778 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket Nos. G-18886, etc.]

TEXAS GAS TRANSMISSION CORP., ET AL.

Filing of Pipeline Refund Reports and Refund Plans

SEPTEMBER 15, 1978.

Take notice that the pipelines listed in the appendix below have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown in the appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before September 29, 1978. Copies of the respective filings are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Western has also filed herein Alternate Tenth Revised Sheet No. 3A to its FERC Gas Tariff, Original Volume

balance and to provide additional gas volumes to Applicant, Applicant entered into an agreement with Cities

become a party to a proceeding or to participate as a party in any hearing therein must file a petition to inter-

[3128-01]

DEPARTMENT OF ENERGY

APPENDIX

Filing date	Company	Docket No.	Type filing
Aug. 3, 1978	Texas Gas Transmission Corp	G-18886	Report.
Aug. 14, 1978	United Gas	AR69-1	Do.
Aug. 16, 1978	Clay Basin	CP77-512	Do.

[FR Doc. 78-26732 Filed 9-25-78; 8:45 am]

[6704-02]

[Docket No. CP78-515]

UNITED GAS PIPE LINE CO. AND MICHIGAN WISCONSIN PIPE LINE CO.

Pipeline Application

SEPTEMBER 15, 1978.

Take notice that on September 11, 1978, United Gas Pipe Line Co. (United), P.O. Box 1478, Houston, Tex. 77001, and Michigan Wisconsin Pipe Line Co. (Mich-Wis), One Woodard Avenue, Detroit, Mich. 48226, filed in Docket No. CP 78-515, a joint application pursuant to Section 7(c) of the Natural Gas Act, as amended, requesting authorization to particpate in the construction and operation of offshore facilities which are now under construction by Texas Gas Transmission Corp. (Texas Gas), all as more fully set forth in the application on file with the Commission and open to public inspection.

United and Mich-Wis state that pursuant to an ownership agreement dated July 31, 1978, between United and Mich-Wis will each hold a 16.665 percent undivided interest in approximately 1.19 miles of 12-inch pipeline and related facilities extending from the producer's platform in High Island Area, Block A-302 to a subsea tap on the HIOS 30-inch pipeline in Block A-303 High Island Area.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 10, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26776 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. RP74-85 (PGA78-2)]

WESTERN GAS INTERSTATE CO.

PGA Rate Increase

SEPTEMBER 15, 1978.

Take notice that on August 31, 1978, Western Gas Interstate Co. ("Western") filed herein Tenth Revised Sheet No. 3A to its FERC Gas Tariff, Original Volume No. 1. Said tariff sheet is proposed to become effective on October 1, 1978.

Western states the proposed increase in rates is being filed in accordance with its Tariff's PGA clause which permits the recovery of increases in the cost of gas and unrecovered purchased gas costs. Western further states the proposed Purchase Gas Cost Adjustment for the Northern Division is 0.68 cents per Mcf; for the Southern Division it is 17.02 cents per Mcf. The proposed surcharge adjustment is 9.52 cents per Mcf for the Northern Division and of 18.58 cents per Mcf for the Southern Division; the surcharge adjustments will only be effective over the 6-month period October 1, 1978, through March 30, 1979.

Western has also filed herein Alternate Tenth Revised Sheet No. 3A to its FERC Gas Tariff, Original Volume No. 1. The proposed effective date is October 1, 1978, and Western states that it prefers the acceptance of this alternate tariff sheet since it provides for the recovery of certain purchased gas costs which were not included in prior deferrals due to certain clerical errors made at the time of the filing settlement tariff sheets in Western's last general rate proceeding, Docket No. RP77-94.

Any person desiring to be heard and to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Western's filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26777 Filed 9-25-78; 8:45 pm]

[6740-02]

[Docket No. CP77-565]

WESTERN GAS INTERSTATE CO.

Amendment to Application

SEPTEMBER 15, 1978.

Take notice that on August 31, 1978, Western Gas Interstate Co. (Applicant), 1800 First International Building, Dallas, Tex. 75270, filed in Docket No. CP77-565 an amendment to its pending application in said docket pursuant to section 7(c) of the Natural Gas Act so as to provide for an exchange of natural gas with Cities Service Gas Co. (Cities Service), the continued use of certain facilities to be used in connection with this exchange, and the sale of such gas to Southern Union Gas Co. (Southern Union), all as more fully set forth in the amendment on file with the Commission and open to public inspection.[1]

It is indicated that pursuant to an exchange agreement dated July 11, 1951, a substantial deficit exchange balance is due to Applicant from Cities Service. In order to correct this deficit

[1]This proceeding was commenced before the FPC. By joint regulation of Oct. 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

balance and to provide additional gas volumes to Applicant, Applicant entered into an agreement with Cities Service dated June 8, 1977, providing for the exchange of gas between Cities Service and Applicant at various points in Texas County, Okla., and filed an application for certificate authorization on August 12, 1977, in this docket, it is said. Applicant states that its amendment, pursuant to an agreement between Cities Service and Applicant dated August 28, 1978, modifies its original application be deleting the request to abandon Cities Service's sale to Applicant of production from the Jones A No. 1 and B No. 1 wells, by continuing under a different rate schedule the sale of gas by Cities Service to Applicant which had been proposed to be abandoned, and by establishing an additional point of delivery under the exchange, the West Guymon delivery point.

Applicant states that the total deliveries of Cities Service to Applicant would not exceed 1,500 Mcf per day under the exchange. This arrangement would reduce the deficit balance due Applicant by Cities Service, it is said.

On December 6, 1977, the Commission issued an order consolidating the proceedings in Docket Nos. CP77-565 and G-18545 with the proceedings in Docket No. CP76-462, et al., which relate generally to the ability of Applicant, and Southern Union (which is the parent company of Applicant, a wholly owned subsidiary) to meet the requirements of Southern Union's customers on or near Applicant's East Line, it is stated. Applicant indicates that a hearing was held on March 14, 1978, in which a settlement proposal between Applicant and Cities Service was presented. Applicant states that its amendment basically formalizes the settlement proposal submitted on March 14, 1978, the principal difference being the establishment of the West Guymon Delivery Point.

Applicant states that it has requested a hearing date of September 11, 1978, for the reception of evidence in support of its amendment.

Any person desiring to be heard or to make any protest with reference to said amendment should, on or before October 10, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26780 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. ER78-598]

WISCONSIN PUBLIC SERVICE CORP.

Filing of Proposed Initial Rate Schedule

SEPTEMBER 14, 1978.

Take notice that Wisconsin Public Service Corp. (Company) on September 5, 1978, tendered for filing a proposed initial Primary Resale Service Agreement, dated August 23, 1978, with the city of Wisconsin Rapids, Wood County, Wis. The Company states that the Agreement provides for wholesale electric service to be furnished by it to the city of Wisconsin Rapids under the Company's standard W-1 form of tariff for Primary Resale Service.

An estimate of quantities of service and revenues during the 12 months immediately following the month in which this service is expected to commence, was submitted with the filing.

The Company states that there are no customers receiving service under a similar schedule except those now being served under the Company's standard W-1 form of tariff.

The Company proposes an effective date of September 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26779 Filed 9-25-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. SEPA 78-1, Supplement No. 2]

LAUREL PROJECT, SOUTHEASTERN POWER ADMINISTRATION

Order Extending Confirmation and Approval of Short-Term Power Rates

Notice is hereby given that the Assistant Administrator for Utility Systems, Economic Regulatory Administration, has issued the order published below extending through September 30, 1978, confirmation and approval of short-term power rates for the Laurel project, Southeastern Power Administration.

Pursuant to section 301(b) of the Department of Energy Organization Act (the Act), 42 U.S.C. § 7101 et seq., the function to confirm and approve rates in accordance with section 5 of the Flood Control Act of 1944, 16 U.S.C. § 825s, for power marketed by the Southeastern Power Administration was transferred to and vested in the Secretary of Energy. By delegation order No. 0204-4, effective October 1, 1977, 42 FR 60725-7 (Nov. 29, 1977), the Secretary of Energy delegated confirmation and approval authority to the Administrator of the Economic Regulatory Administration (ERA or Administrator). The Administrator has delegated this authority to the Assistant Administrator for Utility Systems, Economic Regulatory Administration.

BACKGROUND

The Laurel project began commercial operation as a hydroelectric generating facility on October 25, 1977.

It was Southeastern Power Administration's (SEPA) original intention to sell one-half of the project output to East Kentucky Power Cooperative, Inc. (East Kentucky) and to sell the other half to eight municipal customers in Kentucky. The power sold to these municipal customers was to be transmitted through the facilities of East Kentucky and Kentucky Utilities Co. (Kentucky Utilities). However, SEPA and Kentucky Utilities were unable to complete a contract for the transmission of this power to the eight municipal customers. Therefore, SEPA entered into a contract (contract No. 89-00-1501-564) for the sale of the entire output from the Laurel project to East Kentucky for the period beginning November 1, 1977, and ending January 31, 1978, at the following rate:

$56,000 per calender month for capacity, plus 10.0 mills per kilowatt hour for energy declared and made available.

The schedule of rates and charges in the SEPA contract were to apply to the period during which negotiations had been theirs, but for the failure of SEPA to negotiate satisfactory transmission services and the unwillingness to the East Kentucky Power Cooperative, Inc., as conditionally extended by the Economic Regulatory Administra-

L. 92-463, 86 Stat. 770), notice is hereby given that the Fuel Oil Marketing Advisory Committee and Ad

Issued at Washington, D.C., on September 21, 1978.

WILLIAM P. DAVIS,

originally certificated, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

V 43 / 187 SEP 26 78 V 43

The schedule of rates and charges in the SEPA contract were to apply to the period during which negotiations between SEPA and Kentucky Utilities for the transmission of power to the municipal customers were to be concluded. The contract was extended on January 26, 1978, for an additional 3-month period through April 30, 1978.

The Assistant Secretary for Resource Applications (RA or Assistant Secretary), on behalf of SEPA, requested the Administrator of ERA to confirm and approve the short-term rates of the Laurel project through April 30, 1978. On April 21, 1978, the Administrator of ERA, after notice and comment, issued an order confirming and approving the short-time rates contained in the contract through April 30, 1978, 43 FR 17857 (Apr. 26, 1978).

On May 9, 1978, the Assistant Secretary, on behalf of SEPA, requested the Administrator of ERA to extend confirmation and approval of the existing short-term rates of the Laurel project through September 30, 1978, since the transmission arrangements with Kentucky Utilities had not been completed.

DISCUSSION

On June 9, 1978, ERA issued a notice conditionally extending confirmation and approval of the Laurel project rates through September 30, 1978, and announced the Administrator's intention to exercise final confirmation and approval authority with respect to the requested extension. 43 FR 25856 (June 15, 1978). Interested persons were afforded the opportunity to file written comments on the proposal and to request a public hearing. No requests for a public hearing were filed. The cities of Barbourville, Corbin, and Falmouth, Ky. and the Frankfort Electric and Water Plant Board (Kentucky Municipals), four of the eight potential municipal customers, filed joint written comments on July 18, 1978, in response to the notice. On August 21, 1978, East Kentucky filed written comments in response to the written comments of the Kentucky Municipals. No other interested persons filed written comments.

The Kentucky Municipals request that ERA's approval of the short-term rates be conditioned upon the establishment of a banking or payback provision that would permit the Kentucky Municipals to withdraw, at a mutually agreeable time upon completion of transmission arrangements with Kentucky Utilities, up to one-half of the 70 MW of Laurel project power that is currently being sold to East Kentucky. The Kentucky Municipals maintain that the public interest requires that they be allowed "to take back the energy which would have been theirs, but for the failure of SEPA to negotiate satisfactory transmission services and the unwillingness of (Kentucky Utilities) to conclude a satisfactory transmission agreement." East Kentucky states, in response to the request of the Kentucky Municipals, that such a banking arrangement would place "unreasonable and unconscionable burdens" on its power system and it requests that ERA not condition the approval of the short-term rates on the establishment of a banking arrangement.

Section 5 of the Flood Control Act of 1944, 16 U.S.C. § 825s requires that preference in the sale of power and energy from certain federally owned generating projects be given to public bodies and cooperatives. Under this provision, public bodies and cooperatives are entitled to be given a preference over private entities. The Flood Control Act does not specifically address the issue of allocation between all potential preference customers. It is the responsibility of SEPA and the Assistant Secretary to make the necessary arrangements for the marketing of power and energy generated at the Laurel project in accordance with the Flood Control Act.

As stated above, SEPA and the Assistant Secretary have not completed making arrangements for the marketing of Laurel project power and have not proposed long-term power rates for review by ERA. The Assistant Secretary has requested only that ERA approve an extension of short-term contract rates. SEPA's marketing policies for the Laurel project are not an issue in this proceeding. Such policies, assuming they are relevant to a determination of an appropriate schedule of rates and charges for power sold by the Laurel project, would only be ripe for review by ERA at such time as SEPA and the Assistant Secretary propose long-term power rates. Therefore, ERA has not conditioned confirmation and approval of the existing short-term rates on the establishment of a banking or payback provision as requested by the Kentucky Municipals.

ERA concludes that it is appropriate to exercise final confirmation and approval authority with respect to the requested extension of the short-term rates for power sold to East Kentucky from the Laurel project through September 30, 1978.

ORDER

Pursuant to the delegation of authority set forth above, the Assistant Administrator for Utility Systems, Economic Regulatory Administration, orders:

1. Confirmation of the short-term rates for the sale of power and energy generated at the Laurel project, Southeastern Power Administration, to the East Kentucky Power Cooperative, Inc., as conditionally extended by the Economic Regulatory Administration on May 9, 1978, is hereby approved for a period ending September 30, 1978; and

2. The Assistant Secretary for Resource Applications shall cause a copy of this order to be distributed to all appropriate parties on the service list.

Issued in Washington, D.C., this 20th day of September 1978.

DOUGLAS C. BAUER,
Assistant Administrator for Utility Systems, Economic Regulatory Administration, Department of Energy.

[FR Doc. 78-26981 Filed 9-25-78; 8:45 am]

[3128-01]

Office of Intergovernmental and Institutional Relations

ENVIRONMENTAL ADVISORY COMMITTEE

Renewal

This notice is published in accordance with the provisions of section 7 of the Office of Management and Budget Circular A-63, as amended. Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Environmental Advisory Committee has been renewed for a 24-month period ending on September 30, 1980.

The renewal of this Committee has been determined necessary and in the public interest. The Committee will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), the Department of Energy Organization Act (Pub. L. 95-91) OMB Circular No. A-63 (revised), and other directives and instructions issued in implementation of those Acts.

Further information regarding this Committee may be obtained from the Department of Energy Advisory Committee Management Office, 202-252-5877.

Issued at Washington, D.C., on September 21, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-26982 Filed 9-26-78; 8:45 am]

[3128-01]

FUEL OIL MARKETING ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Fuel Oil Marketing Advisory Committee and Ad Hoc Subcommittee will meet Monday, October 23, and Tuesday, October 24, 1978, in the California Room of the Sheraton Palace Hotel, 639 Market Street, San Francisco, Calif.

The Committee was established to provide the Secretary of Energy with expert and technical advice concerning the marketing of fuel oil as it relates to the development and implementation of policies and programs by the Department of Energy.

The agenda for the meetings is as follows:

MONDAY, OCTOBER 23, 1978

Ad Hoc Subcommittee—California Room
9:00-1:00 Preparation of Recommendations for Full Committee
Full Committee—California Room
2:00-5:00
Agenda:
Old Business
Report of the Ad Hoc Subcommittee

TUESDAY, OCTOBER 24, 1978

Full Committee—California Room
9:00-5:00
Agenda:
Report on the Middle Distillate Evidentiary Hearing
Responsibility of the Committee Concerning Residual Fuel Oil
Status of Residential Conservation Program Regulations
New Business
Remarks from Floor (10 Minute Rule)

The meetings are open to the public. The Chairman of the Committee or subcommittee is empowered to conduct the meetings in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee or subcommittee will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements should inform Georgia Hildreth, Director, Advisory Committee Management, 202-252-5877, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Transcripts of the meetings will be available for public review at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4.30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcripts from the reporter.

Issued at Washington, D.C., on September 21, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-26983 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. RP77-117]

CARNEGIE NATURAL GAS CO.

Certification of Proposed Settlement Agreement

SEPTEMBER 19, 1978.

Take notice that on September 5, 1978, Administrative Law Judge Grossman certified to the Commission a stipulation and agreement proposed in settlement of the issues in the above-captioned rate proceeding. The certification states that the proposed stipulation and agreement, which was filed by joint motion on August 30, 1978, is not opposed by any party. The certification also included the official stenographers report of the settlement conference held on December 1, 1977, and the proposed stipulation and settlement agreement, dated August 30, 1978, which had been filed in the subject docket and admitted into evidence. If approved, the proposed stipulation and agreement would resolve all of the issues in this proceeding.

Any person desiring to be heard or to protest said stipulation and agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before October 24, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27022 Filed 9-25-78 8:45 am]

[6740-02]

[Docket No. CP78-67]

COLUMBIA GAS TRANSMISSION CORP.

Petition To Amend

SEPTEMBER 18, 1978.

Take notice that on September 5, 1978, Columbia Gas Transmission Corp. (Columbia), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed on docket No. CP78-67, a petition to amend the Commission's order of May 3, 1978, pursuant to section 7 of the Natural Gas Act so as to authorize the construction and operation of certain pipeline facilities varying in length, size, and location from those originally certificated, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection. The order of May 3, 1978, authorized Columbia to construct and operate certain proposed facilities and to abandon other facilities.

Specifically, Columbia has determined that due to a peak day deliverability problem project No. 10, authorized in the subject docket, should be revised and designated as project No. 10R which is described as follows:

10R The construction and operation of approximately 0.4 mile of 3-inch and 2.1 miles of 4-inch transmission pipeline replacing 2.3 miles of 4- and 8-inch pipeline located in Wayne County, Ohio.

Columbia asserts that the change from the original project No. 10 proposal is needed for the following reasons:

(1) The 3- and 4-inch pipe, rather than the 2- and 3-inch pipe of the original proposal, is required to meet the unexpectedly high demand of the communities of Reedsburg and Jefferson, Ohio, experienced by Columbia in the winter of 1977-78;

(2) Route surveys show that the length of the pipeline in the western section of the project had been underestimated by approximately 0.5 mile;

(3) That a relocation of the pipeline on the eastern section of the project was desirable and would require an additional 0.2 mile of 3-inch pipeline.

Columbia further asserts that in order to provide greater assurance of uninterrupted supply for the communities of Rowlesburg and Manheim, W. Va., project No. 30, authorized in the subject docket should be revised and designated project No. 30R which is described as follows:

30R The construction and operation of approximately 2.6 miles of 2-inch and 0.4 mile of 4-inch transmission pipeline and appurtenant measuring and regulating facilities, and the abandonment of approximately 3 miles of 6-inch pipeline located in Preston County, W. Va.

Columbia asserts that the change from the original project No. 30 proposal is required since it has determined that the location of the connection proposed in the project created a potential for supply problems during the winter period in that the area is subject to heavy snow falls and could become inaccessible and in that there is a potential for storage line freezes.

The estimated cost of project No. 10R is $100,000, and of project No. 30R is $283,000, including the Commission's filing fees and would be financed through funds generated internally, it is asserted.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 10, 1978, file with the Federal

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Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance

[6740-02]

[Docket No. ER78-415]

Minnesota Pipelines also states that copies of this filing have been served upon all its customers.

Any person desiring to be heard or

their pleading due to lack of notice. While notice was issued on July 6, 1978, petitioner indicates that its counsel did not receive actual notice

the primary cost support for the proposed increase, as reflected in the period II data, is the addition of a new generating plant as of January 1, 1979.

(F) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for that

Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act, as amended (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27023 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. ER76-887]

DAYTON POWER & LIGHT CO.

Refund Report

SEPTEMBER 19, 1978.

Take notice that Dayton Power & Light Co. on September 11, 1978, tendered for filing in compliance with the Commission's letter of August 11, 1978, a report of refunds to its 14 municipal wholesale customers on Septerber 7, 1978. The refund report consists of four schedules: Schedule A—summary of refunds made, schedule B—billing determinants and revenues for prior rates, schedule C—billing determinants and revenues on present and settlement rates, schedule D—determination of refund and interest applicable for each customer.

The company indicates that each appropriate official of the 14 municipals affected, in addition to a refund check, has been provided a copy of their particular refund report.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before October 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary

[FR Doc. 78-27024 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. ER78-415]

DUKE POWER CO.

Motion Granting Extension of Time

SEPTEMBER 19, 1978.

On August 24, 1978, Commission staff counsel filed a motion to extend until October 13, 1978, the time for filing top sheets in the above captioned proceeding in compliance with the Commission order of June 30, 1978. The motion stated that all parties agree to the requested extension.

Upon consideration, notice is hereby given that the date for filing top sheets in this proceeding is extended to and including October 13, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27025 Filed 9-25-78 8:45 am]

[6740-02]

[Docket No. CP74-35]

EXXON PIPELINE CO. OF CALIFORNIA

Informal Conference

SEPTEMBER 19, 1978.

Take notice that on October 10, 1978, at 10 a.m., an informal conference will be convened with the applicant, intervenors, Commission staff, and other interested persons, to discuss status of the construction and operation of facilities, and related matters, in the above-entitled proceeding. The conference will be held in a room whose number will be posted on the second floor hearing calendar at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27026 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. RP73-66, PGA78-1]

INTER-CITY MINNESOTA PIPELINES LTD., INC.

Proposed Rate Change Pursuant to Purchased Gas Cost Adjustment Provisions

SEPTEMBER 18, 1978.

Take notice that Inter-City Minnesota Pipelines Ltd., Inc. on September 1, 1978, tendered for filing Tenth Revised Sheet No. 4 to its FERC gas tariff, Original Volume No. 1, proposed to be effective November 1, 1978.

Minnesota Pipelines states that this filing is the annual filing for the contract year ending October 31, 1978, and reflects the rates which Minnesota Pipelines is required to pay its supplier ICG Transmission Ltd.

Minnesota Pipelines also states that copies of this filing have been served upon all its customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants party to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27027 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. ER78-467]

IOWA POWER & LIGHT CO.

Order Accepting for Filing and Suspending Proposed Rate Schedules, Waiving Notice Requirements, Providing for Hearing, Establishing Procedures, and Allowing Interventions

SEPTEMBER 14, 1978.

On August 9, 1978,[1] Iowa Power & Light Co. (I.P. & L.) submitted for filing a proposed rate increase for wholesale service to the cities of Carlisle and Neola, Iowa (Cities). Such increase would result in increased revenues of $102,701[2] based on a 12-month period ending December 31, 1979. I.P. & L. proposes an effective date of September 15, 1978, but requests that the rate schedule be suspended until January 1, 1979. I.P. & L. requests waiver of that portion of section 35.13 of the regulations which requires that period II (calendar year 1979) data be submitted for a period beginning no later than the date the rates are proposed to become effective.

Notice of the filing was issued on July 6, 1978, with comments, protests, or petitions to intervene due on or before July 14, 1978.

On July 14, 1978, petitions for leave to intervene were timely filed by the cities of Carlisle and Neola, Iowa. In its petition, the city of Carlisle requests an opportunity to supplement

[1] I.P. & L. initially submitted the filing on June 30, 1978, but was informed by Commission letter of July 25, 1978, that its submittal was deficient with respect to certain cost of service data.

[2] See attachment A for rate schedule designations.

their pleading due to lack of notice. While notice was issued on July 6, 1978, petitioner indicates that its counsel did not receive actual notice until the afternoon of July 13, 1978, the day before the end of the comment period. Under section 35.1(a) and 35.2(d) of our regulations I.P. & L. is required to mail a copy of a proposed rate schedule to each affected purchaser on the day the filing is tendered here. Thus Carlisle should have had actual notice shortly after the filing was first tendered. However, we note that section 1.11(a) of our regulations permits Carlisle to amend its pleadings, and no special permission is required in this order. The city of Carlisle also moved to reject the tendered filing in part. This motion pertains to the working capital allowance submitteed by I.P. & L. with respect to rate for demand charges. In support of this motion, Carlisle cites the initial decisions in *Carolina Power & Light Company*[3] and *Southern California Edison Co.*[4] for the proposition that the 45-day rule has been disallowed. In opinion No. 19,[5] this Commission, while recognizing the need for reexamination of the 45-day rule, allowed the rule to stand pending further review. Therefore, the city of Carlisle's motion to reject shall be denied.

The remaining issues raised by Carlisle are matters that should be raised at hearing and will not be dealt with here.

In its petition, the city of Neola also claims lack of notice, indicating that they were not apprised of I.P. & L.'s tendered filing until the last day of the comment period, July 14, 1978. In view of this, the city of Neola requests the Commission to expressly recognize the city's reservation of its right to raise issues or move to reject following completion of its analysis of the company's rate increase application. Like Carlisle, Neola is free to avail itself of the sections of our regulations permitting amendment of pleadings subsequent to the issuance of a suspension order. We shall not, however, reach the question of the city's request to reserve the right to move for rejection of the filing at a later date. We would merely note that the city as a party in this docket is free to file any motion it deems appropriate during the pendency of the proceeding.

I.P. & L.'s request for waiver of our regulations requiring that the first day of period II be no later than the first day on which the rates are proposed to be effective is denied.

I.P. & L.'s period I data does not support the proposed increase. In fact, the primary cost support for the proposed increase, as reflected in the period II data, is the addition of a new generating plant as of January 1, 1979. In effect, I.P. & L.'s request would deny the Commission the exercise of its suspension powers during the period (after January 1, 1979) that I.P. & L. claims the proposed rate would be cost-justified. Instead, we will grant I.P. & L. a waiver of our 90-day notice requirements, so that I.P. & L. need not refile its cost support and accept the proposed rate schedule for filing as of January 1, 1979.

Our review of the filing indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. We therefore will suspend the proposed rates and charges for 1 month and permit them to become effective subject to refund on February 1, 1979, pursuant to section 205(e) of the Federal Power Act.

The Commission finds that participation of the intervenors in this proceeding may be in the public interest.

The Commission orders:

(A) The city of Carlisle's motion to reject is hereby denied.

(B) The requirements of section 35.3(a) of the Commission's regulations with respect to instant filing are hereby waived and the proposed increased rates and charges are accepted for filing as of January 1, 1979, suspended, and the use thereof deferred until February 1, 1979, when they shall become effective subject to refund.

(C) The petitioners, the cities of Carlisle and Neola, Iowa, are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however,* That participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; *Provided further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act and pursuant to the Commission's rules of practice and procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Iowa Power & Light Co.

(E) The staff shall serve top sheets in this proceeding on or before January 15, 1979.

(F) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for that purpose, shall convene a conference in this proceeding to be held within ten (10) days of the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said law judge is authorized to establish procedural dates and to rule upon all motions (except motions to consolidate and sever and motions to dismiss), as provided for in the Commission's rules of practice and procedure.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT A

City of Carlisle, supplement No. 7 to rate schedule FPC No. 9 (supersedes supplement No.6)

City of Neola, supplement No. 7 to rate schedule FPC No. 13 (supersedes supplement No. 6).

[FR Doc. 78-27028 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. RP78-61]

MOUNTAIN FUEL RESOURCES, INC.

Granting Extension of Time and Postponement of Settlement Conference

SEPTEMBER 19, 1978.

On September 7, 1978, Commission staff counsel filed a motion to extend the time for filing top sheets in the above-captioned proceeding pursuant to the Commission's order of June 15, 1978. The motion states that staff counsel has contacted Mountain Fuel Resources, Inc. (MFR), and that MFR does not object to the extension. The motion further stated a joint request by staff counsel and MFR that the settlement conference in this proceeding be postponed.

Upon consideration, notice is hereby given that a limited extension of time is granted to and including October 2, 1978, for filing top sheets. Postponement of the settlement conference also is granted until October 26, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27029 Filed 9-25-78 8:45 am]

[3] Docket No. ER76-495 (phase II), issued Sept. 7, 1977.

[4] Docket No. ER76-205, issued June 1, 1978.

[5] *Carolina Power & Light Company*, opinion No. 19, issued Aug. 2, 1978.

[6740-02]

[Docket No. E-9181]

Upon consideration, notice is hereby given that an extension of time is granted to and including September

[6740-02]

[Docket Nos. CP68-146, CP67-22, CI68-621]

[6740-02]

[Docket No. RP78-68]

[6820-38]

of Defense to represent the consumer interests of the executive agencies of the Federal Government before the

V 43 / 187 SEP 26 78

[6740–02]

[Docket No. E-9181]

NANTAHALA POWER & LIGHT CO.

Notice of Filing

SEPTEMBER 19, 1978

Take notice that Nantahala Power & Light Co. on August 21, 1978, pursuant to ordering paragraph (B) of the Commission's order granting rehearing, modifying prior order determining refunds and terminating proceeding, issued July 20, 1978, tendered for filing documentation in support of the amounts which would have been collected by Nantahala under a fuel clause during the period that the rates in docket E-9181 were in effect.

Nantahala indicates that the calculations submitted herein utilize the actual TVA fuel related charges for January 1975 as a base.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with section 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before October 4, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27030 Filed 9-25-78; 8:45 am]

[6740–02]

[Docket No. E-9181]

Granting Extension of Time

SEPTEMBER 20, 1978.

On September 13, 1978, Counsel for Nantahala Power & Light Co. filed a motion for extension of time until September 29, 1978 to respond to the Town of Highlands, North Carolina's (Highlands) "Protest of Alleged Documentation of Nantahala Fuel Adjustment revenues, Motion to Reject and Strike, Motion for Reconsideration Regarding Reopening of the Record, and Motion to Require Adequate Refunds," filed August 31, 1978. The motion states that Highland's protest was not received by Nantahala's counsel until September 8, 1978, and that the technical questions raised by Highlands will require extensive research prior to response. Nantahala states that the other parties do not oppose this request.

Upon consideration, notice is hereby given that an extension of time is granted to and including September 29, 1978, during which Nantahala may respond to Highland's August 31, 1978 protest.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27031 Filed 9-25-78; 8:45 am]

[6740–02]

[Docket No. RP73-36 (PGA78-3) (DCA78-2)]

PANHANDLE EASTERN PIPE LINE CO.

Granting Extending of Time

SEPTEMBER 20, 1978.

On September 11, 1978, Commission Staff Counsel filed a motion for extension of time to file staff's statement of position in the above captioned proceeding until November 2, 1978, to comply with the Commission order issued July 31, 1978. The motion states that the extension is required to allow Panhandle to reply to Staff interrogatories and for Staff to review said reply.

Upon consideration, notice is hereby given that an extension of time is granted to and including November 2, 1978 for filing the statement of position in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27032 Filed 9-25-78; 8:45 am]

[6740–02]

[Docket No. RP78-62]

PANHANDLE EASTERN PIPE LINE CO.

Granting Extension of Service Date

SEPTEMBER 19, 1978.

On September 8, 1978, Commission Staff Counsel filed a motion requesting an extension of time for providing service of top sheets in the above captioned proceeding pursuant to the Commission's order issued May 31, 1978. The motion states that Staff Counsel has contacted counsel for Panhandle who stated that Panhandle will not oppose this request.

Upon consideration, notice is hereby given that an extension of time is granted to and including November 1, 1978, for filing top sheets in compliance with the May 31, 1978 order.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27033 Filed 9-25-78 8:45 am]

[6740–02]

[Docket Nos. CP68-146, CP67-22, CI68-621]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO, INC. AND TENNECO OIL CO.

Granting Extension of Time

SEPTEMBER 19, 1978.

On July 24, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc. (Tennessee) and Tenneco Oil Co. (Tenneco) filed a joint motion for extension of time for filing a production cost report as prescribed in Commission order dated July 30, 1969, (42 FPC 292) and amended by Commission order dated November 26, 1974 (52 FPC 1457). The motion states that because of modifications and complexities of recent FERC forms and heavy workload demands on Tenneco personnel it will be impossible for Tennessee and Tenneco to meet the ordered deadline for filing their annual production cost report (PCR) for the year 1977.

Upon consideration, notice is hereby given that the date by which Tennessee and Tenneco shall file their production cost report for the year 1977 is extended to and including October 1, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27034 Filed 9-25-78; 8:45 am]

[6740–02]

[Docket Nos. RP75-30, RP74-20, and RP74-83]

UNITED GAS PIPELINE CO.

Granting Extension of Time

SEPTEMBER 19, 1978.

On September 1, 1978, United Gas Pipeline Co. (United) filed a request for clarification or, in the alternative, for a delay in the effectiveness of ordering paragraphs (B) and (C) of Commission opinion No. 16, issued June 3, 1978, in the above captioned proceeding. The request stated that since the Commission granted rehearing for purposes of further consideration on August 29, 1978, United should not be required to file revised tariff sheets reflecting modifications in its rates nor to make refunds to its ratepayers as prescribed by ordering paragraphs (B) and (C) of opinion No. 16 until the Commission issues its order on the merits of the rehearing application.

Upon consideration, notice is hereby given that an extension is granted to and including October 30, 1978, for United to comply with ordering paragraphs (B) and (C) of opinion No. 16.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27020 Filed 9-25-78; 8:45 am]

[6740–02]

[Docket No. RP78-68]

UNITED GAS PIPE LINE CO.

Granting Extension of Time

SEPTEMBER 19, 1978.

On September 8, 1978, Commission Staff Counsel filed a motion requesting an extension of time within which to file top sheets in the above captioned procedure pursuant to the Commission's order issued June 30, 1978. The motion states that United and Staff require additional time to resolve complexities involved in securing the required data for the top sheets.

Upon consideration, notice is hereby given that an extension of time is granted to and including November 9, 1978, for filing top sheets in compliance with the June 30, 1978, order.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27021 Filed 9-25-78; 8:45 am]

[6820–38]

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 73; Docket No. ER-78-252]

MISSOURI PUBLIC SERVICE COMMISSION AND KANSAS CITY POWER & LIGHT CO.

General Rate Increase Proceeding

The Administrator of General Services seeks to intervene in a proceeding before the Missouri Public Service Commission ER-78-252 involving an application of Kansas City Power & Light Co. for an increase in rates changed for electric service. The Administrator of General Services represents the interests of the executive agencies of the U.S. Government as users of utility services.

Persons desiring to make inquiries of GSA concerning this case should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-0726, on or before October 26, 1978, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: September 6, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-26940 Filed 9-25-78; 8:45 am]

[6820–38]

[Federal Property Management Regs., Temporary Reg. F-470]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government in an electric rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the New Mexico Public Service Commission involving the application of the El Paso Electric Co. for a general increase in rate charges for electric service.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

JAY SOLOMON,
Administrator of General Services.

SEPTEMBER 12, 1978.

[FR Doc. 78-26942 Filed 9-25-78; 8:45 am]

[6820–38]

[Federal Procurement Management Regs.; Temporary Reg. F-471]

SECRETARY OF DEFENSE

Delegation of Authority

Subject: Delegation of authority.

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government in an electric rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Public Utility Commission of Texas involving the application of the El Paso Electric Co. for a general increase in rates charged for electric service.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

September 12, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-26941 Filed 9-2-78; 8:45 am]

[4110–86]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

FINAL REPORT OF CENTER FOR DISEASE CONTROL PROGRAMS AND POLICIES ADVISORY COMMITTEE (AD HOC)

Availability of Filing

Notice is hereby given that, pursuant to section 13 of Pub. L. 92-463 (5 U.S.C. Appendix I), the final report of the Center for Disease Control Programs and Policies Advisory Committee (ad hoc) has been filed with the Library of Congress.

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, and on weekdays between 9 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare, Department Library, HEW North Building, Room 1436, 330 Independence Avenue SW., Washington, D.C. 20201, telephone 202-245-6791.

Dated: September 19, 1978.

WILLIAM H. FOEGE, M.D.,
Director,
Center for Disease Control.

[FR Doc. 78-26988 Filed 9-25-78; 8:45 pm]

[4110–03]

Food and Drug Administration

[Docket No. 78P-0268]

CALBIOCHEM-BEHRING CORP.

Petition for Reclassification

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice invites interested persons to submit information,

an investigational device exemption under section 520(g) of the act (21

SUMMARY: The Food and Drug Administration (FDA) announces the

Dated: September 18, 1978.

JOSEPH P. HILE,
Associate Commissioner for

mercial distribution since that date and subsequently reclassified. Therefore, the device is classified automati-

device the name "glycosylated (fast fraction) hemoglobin" and described this type of device as a device used to

V 43 / 187 SE 26 78

SUMMARY: This notice invites interested persons to submit information, data, and views on a petition for reclassification of a medical device from class III (premarket approval) to class II (performance standards). The petition was submitted by Calbiochem-Behring Corp. for a serum alcohol control. Material submitted will be forwarded to members of the Clinical Toxicology Device Classification Panel, who will make a recommendation on the petition to the Food and Drug Administration (FDA).

DATE: Information, data, and views should be submitted by October 26, 1978.

ADDRESSES: Copies of the petition are available at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Information, data, and views should be submitted (preferably five copies) to S. K. Vadlamudi, Executive Secretary, Clinical Toxicology Device Classification Panel (address given below).

FOR FURTHER INFORMATION CONTACT:

S. K. Vadlamudi, Bureau of Medical Devices (HFK-440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7234.

SUPPLEMENTARY INFORMATION: On August 18, 1977, Calbiochem-Behring Corp., San Diego, Calif. 92112, submitted under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)), a premarket notification of its intent to market an ethanol control used to determine whether an instrument designed to measure the ethanol content in serum is properly performing. The device utilizes the enzyme trypsin to separate the ethyl ester form the *N*-α-benzoyl-L-arginine ethyl ester to produce ethanol in the serum. The manufacturer calls the device "Serum Alcohol Control." This device was determined by the agency to be not substantially equivalent to any device that was in commercial distribution before May 28, 1976, and is therefore classified into class III (premarket approval) under section 513(f) of the act (21 U.S.C. 360c(f)). On May 4, 1978, Calbiochem-Behring Corp. submitted, under section 513(f)(2) of the act, a reclassification petition for the device.

Under section 515(a)(2) of the act (21 U.S.C. 360e(a)(2)), before a device that is in class III under section 513(f)(1) of the act can be marketed, it must either be reclassified under section 513(f)(2) of the act or have an approval of an application for premarket approval under section 515 of the act, unless there is in effect for the device an investigational device exemption under section 520(g) of the act (21 U.S.C. 360j(g)).

The agency reviewed the petition and determined that it was deficient. On July 10, 1978, the manufacturer submitted additional information to complete the petition.

Section 513(f) of the act requires the Commissioner of Food and Drugs to submit the petition to a device classification panel for a recommendation concerning classification. The Panel is required to make its recommendation to the Commissioner within 90 days after the petition is referred to the Panel. Ordinarily, the petition would be discussed at an open panel meeting before the Panel makes its recommendation. However, a meeting of the Clinical Toxicology Device Classification Panel could not be scheduled so as to enable the Panel to make its recommendation within the required 90-day period. Therefore, this petition has been mailed to the voting members of the Panel for their review and recommendation to FDA. The Panel will make its recommendation to FDA by mail.

Section 513(f) of the act also requires the Commissioner to provide an opportunity for interested persons to provide information, data, and views to the Panel before it makes its recommendation. Information, data, and views will be mailed to the Panel members for their consideration before they make their recommendation. Then each voting member will send the Executive Secretary of the Panel a completed supplemental data sheet and a complete classification questionnaire applicable to the device for which a recommendation is sought. The Panel recommendation will be published in the FEDERAL REGISTER. A period for public comment will follow, and then the Commissioner will issue a final regulation approving or denying the petition no more than 210 days after the submission of an adequate petition.

Dated: September 20, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-26944 Filed 9-25-78; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 78D-0241]

CANNED PINEAPPLE AND PINEAPPLE JUICE

Availability of Guideline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of a revised administrative guideline establishing a new defect action level for pineapple juice and revising the defect action level for canned pineapple.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: Administrative guidelines developed by the FDA set forth regulatory policies which are used as a basis for legal actions. The food defect action levels established in administrative guidelines by FDA represent the levels of natural or unavoidable defects permitted in foods produced under good manufacturing practices. These action levels may be revised as necessary to reflect technological advances or changes in problems related to specific commodities.

An updated administrative guideline has been issued establishing the following revised action levels for mold in pineapple products:

1. Pineapple, canned—actionable if the average Howard mold count for six or more subsamples exceeds 20 percent or if the Howard mold count for any one subsample exceeds 60 percent.

2. Pineapple juice—actionable if the average Howard mold count for 6 or more subsamples exceeds 15 percent or if the Howard mold count for any one subsample exceeds 40 percent.

A copy of this guideline is available for public examination between 9 a.m. and 4 p.m., Monday through Friday, in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Requests for single copies of the guideline may be made in writing to that office.

Interested persons may submit written comments on the guideline to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. (Preferably four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document). Received comments will be incorporated into the public file on the guideline and may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday, except holidays.

Dated: September 18, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-26721 Filed 9-25-78; 8:45 am]

[4110-03]

[Docket No. 78P-0155]

HELENA LABORATORIES

Panel Recommendation on Petition for Reclassification

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency is publishing for public comment the recommendation of the Clinical Chemistry and Hematology Device Classification Panel that the Glycosylated (Fast Fraction) Hemoglobin Quick Column Methodology be reclassified from class III (premarket approval) into class II (performance standards). This recommendation was made after review of a reclassification petition filed by Helena Laboratories, Beaumont, Tex. 77704. After reviewing the Panel recommendation and any public comments received, the agency will approve or deny the reclassification by order in the form of a letter to the petitioner. The agency's decision on this reclassification petition will be announced in the FEDERAL REGISTER.

DATE: Comments by October 26, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Kaiser Aziz, Bureau of Medical Devices (HFK-440), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7550.

SUPPLEMENTARY INFORMATION: On February 21, 1978, Helena Laboratories, Beaumont, Tex. 77704, submitted to the Food and Drug Administration (FDA) a petition for reclassification under section 513(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)), for a device that it intended to market for the quantitation of glycosylated or fast fraction hemoglobins. The manufacturer calls this device "The Helena Glycosylated (Fast Fraction) Hemoglobin Quick Column Methodology." The reclassification petition stated that the device is not substantially equivalent to a device that was in commercial distribution before May 28, 1976, nor is the device substantially equivalent to a device that has been placed in commercial distribution since that date and subsequently reclassified. Therefore, the device is classified automatically into class III under section 513(f)(1) of the act.

Under section 515(a)(2) of the act (21 U.S.C. 360e(a)(2)), before a device that is in class III under section 513(f)(1) of the act can be marketed, it must either be reclassified under section 513(f)(2) or have an approval of an application for premarket approval under section 515 of the act, unless there is in effect for the device an investigational device exemption under section 520(g) of the act (21 U.S.C 360j(g)).

The agency reviewed the petition and determined that there was no deficiency that would prevent FDA from making a decision on the petition. However, the agency's review did raise certain questions concerning the scientific data submitted in support of the petition. On May 24, 1978, the manufacturer supplemented the petition by voluntarily submitting additional information in answer to these questions.

Section 513(f)(2) of the act requires FDA to refer a reclassification petition to the appropriate classification panel and to receive a recommendation on whether to approve or deny the petition within 90 days after referral. The act also requires FDA to provide an opportunity for interested persons to submit data and views to the panel. The Food and Drug Administration ordinarily meets the latter requirement by scheduling an open panel meeting on the petition but could not do so in this case, because a meeting of the Clinical Chemistry and Hematology Device Classification Panel could not be scheduled so as to enable the Panel to make its recommendation within the required 90-day period. As a result, FDA obtained the Panel's recommendation by mailing it to voting Panel members. The agency also published in the FEDERAL REGISTER of July 25, 1978 (43 FR 32189), a notice to interested persons to submit data, information, and views for consideration by the Panel. The notice stated that any data, information, and views submitted by August 24, 1978, would be mailed to the Panel members for their consideration before recommendations were made. Certain data, information, and views were submitted and were mailed to the Panel members. The recommendations of the Panel members were received by the agency by August 31, 1978. The Panel recommended that the device be reclassified into class II.

To determine the proper classification of the device, the Panel considered the criteria in section 513(f)(1) of the act.

For the purpose of classification, the Panel assigned to this generic type of device the name "glycosylated (fast fraction) hemoglobin" and described this type of device as a device used to quantitate the sum of the glycosylated (fast fraction) hemoglobins (A_{1a}, A_{1b}, A_{1c}) as part of the assessment of diabetic control. The device is used to determine the proper dosage of insulin for diabetic patients. Inappropriate insulin dosage could result in hyperglycemia or hypoglycemia.

SUMMARY OF REASONS FOR THE RECOMMENDATION

The Panel made the following determinations in support of its recommendation:

1. The device is not an implant, is neither life-sustaining nor life-supporting, and does not present a potential unreasonable risk of illness or injury. The device is of substantial importance in preventing impairment of human health. General controls are not sufficient to provide reasonable assurance of the safety and effectiveness of the device, but sufficient scientific and medical data exist to establish a performance standard to provide such assurance.

2. The safe and effective performance of the device depends upon the user's awareness of limitations on the value of information from the device, as discussed in the "Risks to Health" section of this notice.

SUMMARY OF DATA ON WHICH THE RECOMMENDATION IS BASED

The safety and effectiveness of the device was determined on the basis of data presented on the performance characteristics of the product.

The accuracy of the device was evaluated using fresh whole blood samples from 70 normal adult subjects and 9 diabetic patients known to be insulin-dependent. The glycosylated hemoglobin values for the 70 normal subjects showed a high correlation with the normal ranges cited in the literature. The values for the diabetic subjects were elevated over the normal ranges cited in the literature.

The precision of the methodology was established by studies of within-run reproducibility, run-to-run reproducibility, and lot-to-lot column variability. For the Helena study of within-run reproducibility, samples from 10 normal adults and 10 insulin dependent patients with diabetes mellitus were tested using 10 columns per sample per run. Coefficients of variation ranged from 2.98 to 8.39 percent for the normal samples and 1.66 to 6.06 percent for the samples from the insulin dependent diabetic patients. A clinical laboratory study of within-run reproducibility for 8 normal samples, using 20 columns per sample produced coefficients of variation of 3.9 to 7.7 percent for the normal samples and

from 3.9 to 8.6 percent for the abnormal samples.

The Helena study of run-to-run re-

RISKS TO HEALTH

The Panel noted that the device is of

mental Protection Agency (EPA) that glandless cottonseed kernels are different from glanded cottonseed and therefore require different pesticide

mitting the use of roasted or cooked glandless cottonseed kernels in baked goods, candy, and as a snack food.

and evaluated at that time. Representative data submitted by the petitioner indicated that whole raw glandless cottonseed kernels contained, on the

utilizing two strains of rats. The rat, a mammalian species, is the animal of choice (as opposed to the fish) for toxicological testing of CPFA to obtain

from 3.9 to 8.6 percent for the abnormal samples.

The Helena study of run-to-run reproducibility consisted of 10 normal samples and 10 abnormal samples tested at the rate of one sample per column per run for 20 different runs over a 5-day period. All the columns were from a single lot. The coefficients of variation ranged from 9.2 to 14.3 percent for the normal samples and from 4.2 to 6.7 percent for the abnormal samples. A clinical laboratory study of run-to-run reproducibility consisted of 4 normal samples and 7 samples from insulin-dependent diabetic patients run at the rate of one sample per column per run for 20 runs over a 5-day period. The coefficients of variation ranged from 5.7 to 8.6 percent for the normal samples and 4.6 to 9.2 percent for the abnormal samples.

A Helena study of lot-to-lot variability consisted of 10 normal samples and 10 samples from insulin-dependent diabetic patients. Each sample was tested with one column from each of five lots. The coefficients of variation ranged from 2.2 to 12.3 percent for the normal samples and from 1.8 to 8.6 percent for the samples from the diabetic patients.

The specificity of the methodology was evaluated by comparing values achieved with the Helena Quik column to those achieved with individual large columns prepared according to the method described by Trivelli, Ranney, and Lai, in "Hemoglobin Components in Patients With Diabetes Mellitus," New England Journal of Medicine, 284(7):353, 1971. The data showed correlation between the values obtained by the two methodologies.

The sensitivity of the methodology was established in a study in which varying amounts of hemoglobin A_{1c} were tested using Helena Quik columns. The results were linear over the range 1.68 to 31.8 percent, the observed range for glycosylated hemoglobin.

The effects of possible interference factors such as anticoagulants, other hemoglobin types, and sample age were also evaluated. Studies indicated that collection of blood in the presence of the anticoagulant EDTA (ethylenediaminotetraacetate) or in potassium oxalate sodium fluoride tubes produced no significant difference in the values obtained. Studies also indicated that abnormal amounts of hemoglobin F cause erroneous results for determination of glycosylated hemoglobins. Samples of blood held at 5° C for 1 to 5 days gave the same values as freshly collected blood.

Studies of the stability of the final reaction material indicated that the final reactants were stable for 24 hours.

Risks to Health

The Panel noted that the device is of substantial importance in preventing impairment of human health. There is a risk that inaccurate results obtained by the use of the device may lead to misdiagnosis or the improper classification of diabetes. Inaccurate results may occur because of lack of accuracy and precision of the device, the interference of substances such as hemoglobin F, or failure to prepare the column properly or control the conditions of use. Inappropriate insulin dosage given to a diabetic patient on the basis of inaccurate results could lead to hypoglycemia or hyperglycemia.

Additional Findings

The Panel recommended that the device be classified into class II and that a standard be developed directed toward components of the kit such as the pH and characterization of the column resin and the pH of the elution buffers. The Panel recommended that development of this standard be a medium priority. Priority was established in accordance with the relative medical significance of this device in relation to other devices.

The Panel noted that the following warnings and precautions should be specified in the product labeling:

1. The use of this test should be restricted to qualified laboratory personnel.

2. A known normal hemoglobin control should be run with every batch of patient samples.

3. Erroneous high test values can occur for nondiabetic conditions in the presence of increased levels of hemoglobin F.

4. Test results may be affected by variations in the age of the patient's red blood cells.

The petition is on file in the office of the hearing clerk, address noted above.

Dated: September 20, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-26943 Filed 9-25-78; 8:45 am]

[4110-03]

[Docket No. 76G-0095]

MODIFIED COTTONSEED PRODUCTS INTENDED FOR HUMAN CONSUMPTION

Response to Objections

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice responds to objections raised to a regulation permitting the use of roasted or cooked glandless cottonseed kernels in baked goods, candy, and as a snack food. After a comprehensive review of the data submitted in support of the objections, the Commissioner of Food and Drugs concludes that no action is warranted to amend or rescind the regulation.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of May 14, 1976 (41 FR 19933), a regulation was published which amended 21 CFR 121.1019 (21 CFR 172.894 after recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) to permit the use of roasted or cooked glandless cottonseed kernels in baked goods, candy, and as a snack food. The modified cottonseed products listed in § 172.894(a)(1) and (2) have been used for human food for a number of years. There glanded cottonseed products are derived from decorticated, partially defatted, cooked, ground cottonseed kernels, or from decorticated, ground cottonseed kernels extracted with *n*-hexane and have been permitted for human food use as refined cottonseed flour. The extracted refined oil from glanded cottonseeds has also been commonly used as an edible vegetable oil. Because glanded cottonseeds contain the toxic constituent gossypol, the whole kernel of the glanded cottonseed has not previously been used as food in the human diet. However, the recent genetic development of glandless cottonseed varieties containing significantly less pigment and gossypol than previously attainable has resulted in the production of glandless cottonseed that may be used directly for human food. The regulation of May 14, 1976 prescribed safe conditions of use for human consumption of roasted or cooked glandless cottonseeds.

Two objections to this regulation were received. These objections were not accompanied by requests for a hearing or for a stay of the regulation. The objections as well as the Commissioner's responses to them are summarized below.

1. The National Cottonseed Products Association, Inc., objected to both paragraph (d) of the regulation (21 CFR 172.894(d)) and to that portion of the preamble (see 41 FR 19934) that discussed pesticide tolerance requirements for glandless cottonseed. The Association contended that the determination by FDA and the Environmental Protection Agency (EPA) that glandless cottonseed kernels are different from glanded cottonseed and therefore require different pesticide restrictions would adversely affect the production of glandless cottonseed. It was argued that glandless cottonseed for direct human consumption as roasted or baked kernels represents only a small fraction of the glandless cottonseed that is produced, and that this limited direct food use does not justify the costs of re-registering and relabeling pesticides used on the entire commodity. The association stated that it would not object to the regulation if the pesticide restrictions applied only to glandless cottonseed intended for direct human consumption and not to those grown for other uses.

The Commissioner appreciates the concern stated in this objection regarding costs of re-registering and relabeling cottonseed pesticides which are used on the glandless commodity. It is noteworthy, however, that FDA and EPA have shared concern only over the presence of possible unsafe pesticide residues on the glandless commodity grown solely for direct human consumption. Any pesticide registered for use on conventional glanded cotton strains may be used on plantings of the glandless variety which are used solely for fiber and oil processing. On the other hand, only those pesticides specifically cleared on a case-by-case basis by the Registration Division, Office of Pesticides Programs, Environmental Protection Agency, 410 M Street SW., Washington D.C. 20460, may be used on glandless cottonseed grown for direct human consumption. In this regard, EPA has reevaluated the original residue data and toxicology on methyl parathion, trifluralin, Prowl [*n*-(1-ethylpropyl)-3,4-dimethyl-2-6 dinitrobenzenamine], and fluometuron (see 40 CFR Part 180 for tolerances) and has concluded that these four pesticides can be used in accordance with current registered use patterns without hazard to consumers of glandless cottonseed kernels intended for direct human consumption. The basis for selection of these four chemicals was information from the petitioner that adequate pest control could be achieved with these products in the limited areas where the glandless variety is grown for direct food use.

2. The second objection expressed concern that levels of cyclopropenoid fatty acids (CPFA) which may occur naturally in whole glandless cottonseed have not been considered.

The Commissioner was aware of the toxic potential of CPFA when reviewing this petition. Furthermore, analytical data demonstrating the levels of CPFA in whole raw and cooked glandless cottonseed kernels were received and evaluated at that time. Representative data submitted by the petitioner indicated that whole raw glandless cottonseed kernels contained, on the average, 0.36 percent CPFA in the extracted oil. This value decreased, on the average, to 0.13 percent CPFA upon roasting. Reports in the literature reveal that these levels in the raw kernels are approximately the same as levels of CPFA in edible cottonseed oil (0.2 to 0.45 percent). Because roasting significantly reduces the CPFA content of whole glandless cottonseed kernels, the increased intake of CPFA due to the use of the roasted or cooked commodity will be small in comparison to present intakes obtained from consumption of edible cottonseed oil. Therefore, the Commissioner concludes that the restricted uses of glandless cottonseed kernels permitted by the present regulation will not result in the introduction of deleterious quantities of CPFA into the human diet.

3. The second objection contained data reporting that the cyclopropenoid fatty acids, which occur naturally in cottonseed and other seed oils, produce liver cancer in rainbow trout when fed with and without aflatoxin B_1 and M_1. A similar increased incidence was also reported in rats fed both CPFA and aflatoxin B_1.

The Commissioner has reviewed the suitability of trout feeding studies in assessing the safety of glandless cottonseed kernels and has concluded that such tests are not appropriate for the evaluation of food additives for human consumption. The trout is a cold-blooded animal and has many features in its metabolism and physiology that differ significantly from mammalian species. It is, therefore, not unusual that test chemicals administered to fish would elicit a response different from that observed in mammals. Fish are known to be quite sensitive to some test chemicals, and a positive response in this species does not provide definitive evidence that a particular chemical is unsafe for man. The study cited by this objection as evidence for the cocarcinogenicity of CPFA in rats (Nixon et al., *Journal of the National Cancer Institute*, 53: 453, 1974) indicated that a diet of 10 percent cottonseed oil (containing 0.35 percent CPFA) and 0.04 percent *Sterculia foetida* oil (containing 50 percent CPFA) failed to induce hepatomas when fed to the Fischer and Wistar strains of rats. Furthermore, the authors concluded that, although a small increase in tumor incidence was observed, a statistically significant cocarcinogenic effect of CPFA could not be found from these studies. In summary, the positive response obtained from studies of CPFA conducted with rainbow trout could not be substantiated in feeding studies utilizing two strains of rats. The rat, a mammalian species, is the animal of choice (as opposed to the fish) for toxicological testing of CPFA to obtain data concerning the safety of glandless cottonseed kernels for human consumption. Therefore, the Commissioner concludes that this objection contains insufficient justification for rescinding this regulation.

4. As further evidence of the potential toxicity of CPFA in man, the second objection cited a 5-week feeding study on rabbits which resulted in the development of atherosclerotic plaques and elevated serum cholesterol levels.

The Commissioner has thoroughly reviewed the metabolic response of the rabbit to CPFA. The rabbit is not a useful animal species for the testing of hypercholesterolemic and atherosclerotic potential in man. The rabbit differs significantly from the human in lipid metabolism and is particularly susceptible to hypercholesterolemia because of its unusual metabolism. Such responses can be obtained in the rabbit with many common food lipids, and this animal often has been used in experiments for screening cholesterolemia because a positive response is almost assured. The rabbit, therefore, is not an appropriate species to utilize in investigating the safety of a lipid for human consumption. A more complete discussion on this subject may be found in publications in the scientific literature by (1) Lee, K. T., J. Karmolych, D. N. Kim, C. Grant, J. A. Krasney, and W. A. Thomas, *Journal of Experimental and Molecular Pathology*, 15: 170-190, 1971; (2) Wissler, R. W. and W. D. Vesselinovitch, *Annals of the New York Academy of Sciences*, 149: Article 2, p. 107, 1968; and (3) Fuller, G., E. Miller, T. M. Farber, and E. Van Loon, *Journal of Connective Tissue Research*, 1: 217-220, 1972. The Commissioner concludes from the above information that no role has been established for CPFA as a potential cause of atherosclerotic plaques and elevated serum cholesterol in humans. Therefore, this issue of the second objection raises no valid questions of human safety resulting from food use of glandless cottonseed.

5. Finally, the second objection cited reported studies in which CPFA produced toxic manifestations in rats including retardation in growth, increased liver size, alteration in tissue lipids, and impaired reproduction.

The Commissioner's review of the literature on these issues shows that the referenced studies used *S. foetida* seed oil containing approximately 30 to 50 percent CPFA at dietary levels ranging from 1 to 3 percent. Consequently, the test animals received a level of CPFA exposure many times greater than that expected from pres-

ent use levels of cooked or roasted glandless cottonseed.

In final reference to these issues, the

DATES: This extension is effective on September 26, 1978, and shall terminate either on the effective date of an

of the product, 4,200 cases of forty-eight 6-ounce cans of tomato juice from concentrate per month, as re-

Bill Goeller, Branch Chief, Provider Reimbursement Policy Branch, Division of Provider Reimbursement and

Limits was previously updated according to an inflation factor for total hospital inpatient costs, computed by the SSA Actuary. However, recent evi-

One comment stated that it was unreasonable to arrive at the 11.5-percent inflation factor by projecting a further decline in the ratio of per

ent use levels of cooked or roasted glandless cottonseed.

In final reference to these issues, the Commissioner has already discussed with the petitioner the desirability of obtaining data that could be used in establishing a "no-effect" level for CPFA in animals. The petitioner was requested to complete such studies in rats before any additional uses, besides the limited ones permitted in the present regulation, could be considered. The studies, utilizing test group exposure of up to 20 percent roasted glandless cottonseed, have been completed. However, 6 percent cottonseed oil was added to the usual feed of the control group. As a result, the control group could not be cited as having true "zero exposure." Although this makes the validity of the studies questionable for the purpose of establishing an accurate "no-effect" level for acute and reproductive effects, it is pertinent that no obvious toxic effects were observed in either the test or the control groups. Therefore, on the basis of the studies currently available and in light of existing use levels, the Commissioner is convinced that the present regulated use of roasted or cooked glandless cottonseed kernels in baked goods, candy, and as a snack food is safe.

In view of all of these facts, the Commissioner concludes that no action should be taken to amend or rescind the regulation. However, notice is given that any petitions proposing expanded uses of glandless cottonseed for human consumption will require additional studies supporting safety commensurate with the levels of usage requested.

Dated: September 18, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-26720 Filed 9-25-78; 8:45 am]

[4110-03]

[Docket No. 76P-0364]

TEXAS CITRUS EXCHANGE

Tomato Juice Deviating from Identity Standard; Extension of a Temporary Permit for Market Testing

AGENCY: Food and Drug Administration

ACTION: Notice.

SUMMARY: This document announces the extension of a temporary permit issued to the Texas Citrus Exchange to market test tomato juice from concentrate prepared from concentrated tomato liquid and water. The finished product deviates from the standard of identity for tomato juice.

DATES: This extension is effective on September 26, 1978, and shall terminate either on the effective date of an affirmative order ruling on the Food and Drug Administration's proposal to amend the identity standard for tomato juice or 30 days after a negative order ruling on the proposal, whichever the case may be.

FOR FURTHER INFORMATION CONTACT:

F. Leo Kauffman, Bureau of Foods (HFF-414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: The original permit was issued to the Texas Citrus Exchange under § 130.17 (21 CFR 130.17) concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). Notice of the issuance of the permit was published in the FEDERAL REGISTER of December 7, 1976 (41 FR 53545). The permit covered limited interstate marketing tests of tomato juice from concentrate that deviates from the standard of identity prescribed for tomato juice under § 156.145 (21 CFR 156.145); the test product is prepared by adding water to concentrated tomato liquid complying with the tomato puree requirements of § 155.191(a)(1) (21 CFR 155.191 (a)(1)). The finished product is to be equivalent to a single-strength tomato juice normally found in the marketplace. All ingredients are to be declared on the label by their commmon or usual name.

The Texas Citrus Exchange has submitted a request that its temporary permit be extended during the pendency of the administrative proceedings for the proposed amendment of the standared of identity for tomato juice published in the FEDERAL REGISTER of May 9, 1978 (43 FR 19864). The proposed amendment would, among other things: (1) Permit the use of concentrated tomato juice to prepare a single-strength tomato juice product; (2) require the name "tomato juice from concentrate" when concentrated tomato juice is used in the preparation of the canned juice; (3) establish in the identity standards a minimum tomato soluble solids requirement of 5.5 percent, by weight, for the product made from concentrate; (4) require label declaration of all optional ingredients.

The Commissioner of Food and Drugs concludes that it will be in the interest of consumers to extend the time period of the temporary permit and to permit further market testing of the product, 4,200 cases of forty-eight 6-ounce cans of tomato juice from concentrate per month, as requested. Under § 130.17, all interested persons may participate in the market test under the conditions that apply to the Texas Citrus Exchange, including the labeling requirements and the amounts to be distributed.

Any interested person who elects to participate in the extended market test shall notify the Commissioner in writing of that fact, the amount to be distributed, and the area of distribution, and shall submit the labeling under which the food will be distributed.

This permit extension, as issued to the Texas Citrus Exchange and such others who participate in accordance with the provisions set out above, is effective on September 26, 1978, and expires either on the effective date of an affirmative order ruling on the Food and Drug Administration's proposal of May 9, 1978, or 30 days after a negative order ruling on the proposal, whichever the case may be.

Dated: September 18, 1978.

JOSEPH P. HILE,
Associate Commissioner Regulatory Affairs.

[FR Doc. 78-26719 Filed 9-25-78; 8:45 am]

[4110-35]

MEDICARE PROGRAM

Schedule of Limits on Hospital Costs for Cost Reporting Periods Beginning on or After October 1, 1978

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final notice of schedule of limits on hospital inpatient general routine service costs.

SUMMARY: This notice sets forth a schedule of limits on hospital inpatient general routine service costs that may be reimbursed under Medicare for cost reporting periods beginning on or after October 1, 1978.

This revised schedule replaces the schedule published in the FEDERAL REGISTER on October 3, 1977 (42 FR 53675). It covers total inpatient general routine service costs, and applies to the entire cost reporting period of a hospital whose cost reporting period begins on or after October 1, 1978.

It does not apply to the cost of special care units or ancillary services. These limits will be revised to conform with any cost containment legislation enacted after the effective date of the schedule.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION, CONTACT:

Bill Goeller, Branch Chief, Provider Reimbursement Policy Branch, Division of Provider Reimbursement and Accounting Policy, Medicare Bureau, Health Care Financing Administration, U.S. Department of Health, Education, and Welfare, Room 405, East Highrise Building, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9820.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) authorizes the Secretary to set propsective limits on the costs that are reimbursed under Medicare (Regulation § 405.460). Such limits may be applied to the direct or indirect overall costs or to costs incurred for specific items or services furnished by a Medicare provider, and may be based on estimates of the cost necessary in the efficient delivery of needed health services. Under this authority, limits on hospital inpatient general routine service costs have been published annually since 1974. The schedule of limits set forth below was published for public comment in the FEDERAL REGISTER on June 15, 1978 (43 FR 25869). It includes several changes from previous practice.

SUMMARY OF CHANGES

The new schedule of limits provides for:

1. An inflation factor based on actual program experience for hospital inpatient general routine service costs rather than an inflation factor based on total hospital inpatient costs which was used in previous schedules.

2. As explained in the proposed notice of June 15, 1978 (43 FR 25873) an additional 1-year grace period for those hospitals that received the 1-year grace period for reclassified hospitals in their cost reporting period beginning on or after July 1, 1977, but before July 1, 1978.

3. A revised schedule of dollar limits, by geographic area and hospital size.

DISCUSSION OF MAJOR COMMENTS

Approximately 70 comments were received in response to the June 15th notice, from representatives of national, State and individual provider organizations. All of the comments or inquiries have been reviewed, evaluated and, to the extent noted below, incorporated in the development of the revised Schedule of Limits.

The most significant comments and our responses are summarized below:

1. Use of the Inflation Factor Based on Actual Program Experience for Hospital Inpatient General Routine Service Costs—As explained in the proposed notice, the Schedule of Limits was previously updated according to an inflation factor for total hospital inpatient costs, computed by the SSA Actuary. However, recent evidence demonstrates that the actual inflation rate for per diem inpatient general routine service costs is considerably lower than that for per diem total hospital inpatient costs. Since the schedule of limits only applies to general inpatient routine service costs we no longer believe it appropriate to use a projected inflation rate for per diem total hospital inpatient costs in developing the schedule.

Several commenters questioned our use of an inflation factor based on the growth of per diem inpatient routine service costs in the period 1974-1976, contending that these costs may have grown at an uncharacteristically slow pace during that period. In our view, there is no evidence to support this contention. As discussed in the proposed notice, if anything, it appears likely that there has been a further decline in the rate at which these costs have risen. For example, our data show that the portion of gross interim rates attributable to routine service costs rose by only 10.3 from August, 1976 to August, 1977. Moreover, the 11.5 percent figure is given further credence by the fact that an 11.6 percent increase is projected for per diem hospital payroll costs for 1978 and 1979 (See 1978 Annual Report of the Board of Trustees of the Federal Hospital Insurance Trust Fund); it is generally acknowledged that payroll costs are the major component of routine service costs.

We have an important responsibility under the act to assure that Medicare reimbursement for services rendered to beneficiaries is not excessive. In light of the evidence we now have that the inflation rate for per diem inpatient routine service costs has been much lower than for per diem total inpatient hospital costs, we would not be meeting this responsibility if we continued to use an inflation factor projected for per diem total inpatient hospital costs in developing the schedule of limits for per diem inpatient routine service costs. Accordingly, we have shifted to an inflation factor based on actual experience for inpatient routine service costs in developing this schedule.

Commenters also criticized our use of the 1974-1976 data on the grounds that those data are now outdated. While we do not dispute the desirability of using current data, we had to rely on the most recent data available in making our projections. Congress expressly recognized that the Department may have to rely on cost reports for much earlier accounting periods in establishing limits. See S. Rep. No. 92-1230, 92d Cong., 2d Sess. 189 (1972).

One comment stated that it was unreasonable to arrive at the 11.5-percent inflation factor by projecting a further decline in the ratio of per diem inpatient routine service costs to per diem total inpatient hospital costs. This comment was based on a misreading of our proposed notice. As explained there, we did not project a continuing decline in this ratio to reach the 11.5-percent figure. Had we projected such a continuing decline, the result would have been an inflation factor of 10 percent, rather than 11.5 percent. However, we were unwilling to make such a projection based on data from only a 3-year period.

Several commenters noted that the limit set in this schedule do not equal an 11.5-percent increase over the limits set for cost reporting periods beginning on or after October 1, 1977. The reason for this is that the inflation factor is applied not to the limits in the previous schedule, but to an adjusted figure based on inpatient routine service costs as of a particular date of data collection. Because there appears to be considerable misunderstanding on this point, we will briefly review the methodology used to reach the limits in this schedule.

The methodology for calculating the limits is set forth at section I below. The first step under this methodology is data collection from the intermediaries. For purposes of developing this schedule, the relevant date of data collection was August 1; 1977. We requested the intermediaries to provide certain data for all general acute short-term hospitals participating in medicare, from which we were able to tabulate two figures: First, the per diem inpatient routine service cost from the most recently filed cost report and second, the portion of each such hospital's gross interim rate (as of August 1, 1977) that was attributable to inpatient routine service costs.

The following example illustrates how we made the computations from the data supplied by the intermediaries. Data for the first four factors listed below were obtained from each hospital's most recently filed cost report.

ASSUMPTIONS FOR HOSPITAL A

1. Part A inpatient days—general routine services, 10,000.
2. Part A inpatient days—special care units, 2,000.
3. Total part A inpatient general routine service costs, $1,200,000.
4. Total part A inpatient service costs, $2,400,000.
5. Gross interim rate for part A inpatient costs as of August 1, 1977, $250.

COMPUTATIONS

A. Per diem inpatient routine service costs based on most recently filed cost report:

1,200,000/10,000=$120

B. Portion of gross interim rate (as of August 1, 1977) attributable to per diem in-

capita income as an indicator of economic environment. Specific comments about per capita income are dis-

requested that the per capita income data used in the classification criterion be published in the FEDERAL REGISTER

from the cost limits applicable to its classification grouping because of the provision of atypical costs and its bud-

group in which it was classified in the second preceding cost reporting period.

example A under section II in determining the applicable limit.

Hospitals that are not located in

V 43/187 SEP 26 78 V 4

1,200,000/10,000=$120

B. Portion of gross interim rate (as of August 1, 1977) attributable to per diem inpatient routine service costs:

1. Per diem total inpatient hospital cost:

2,400,00/12,000=$200

2. Ratio of per diem inpatient routine service costs to per diem total inpatient hospital costs:

$120/$200=60 percent

3. 60 percent × $250=$150.

The second step in calculating the limits is to array the per diem inpatient routine services costs for all hospitals in a particular classification in descending order. In arraying the inpatient routine service cost for a particular hospital, we chose the higher of the inpatient routine service cost calculated from the August 1, 1977, gross interim rate or of the inpatient routine service cost obtained from the most recently filed cost report. Thus, in arraying the inpatient routine service cost for hospital A in the example above, we would have used the $150 interim rate figure, rather than the $120 cost report figure.

Steps 3 and 4 of the methodology (the selection of the 80th percentile and the addition of 10 percent of the median) are followed to arrive at the base limit for a particular classification of hospitals. The inflation factor is then applied to this base figure (step 5). The updating for the present schedule was done for a 20-month period—August 1, 1977 (the date of data collection) to April 1, 1979 (the midpoint of a cost accounting year beginning October 1, 1978). Accordingly, a 19.9-percent inflation factor was applied, which is the equivalent on a 20-month basis to 11.5 percent on a 12-month basis. As discussed in section V below, additional updating for inflation is done for hospitals whose cost reporting periods begin after October 1, 1978.

Several commenters recommended that we base the cost limits solely on cost report data, without taking into consideration interim rates. The problem with this suggestion is the necessary lag in obtaining cost report information. For instance, as of the date of our data collection (August 1, 1977), many of the most recently filed cost reports were for cost reporting periods that ended in calender year 1976 and thus did not reflect increases in cost that had occurred after that time. We believe that the use of the higher routine per diem interim rate in formulating the arrays makes allowance for these cost increases and, therefore, is more equitable to the providers.

2. Adequacy of the classification system—As in previous years some comments were critical of the classification system. A number of respondents questioned the validity of per capita income as an indicator of economic environment. Specific comments about per capita income are discussed below but, as a general thought, it is important to state that per capita income was used in the classification system because it is uniformly available for all parts of the country and is heavily influenced by area wage levels. However, we do believe the per capita income classifier is a matter of legitimate concern. We have examined alternative variables in the past and have found the potential alternatives to be extremely limited and not acceptable for use in the system. Nevertheless, we continue to be concerned about the matter and have placed a very high priority on examining alternative indicators of economic environment. However, given the data that are presently available, we continue to believe that per capita income remains the most reliable basis for classification.

Many comments indicated that the use of per capita income does not recognize the higher salary cost incurred in certain parts of the country. The Health Care Financing Administration's regulations (42 CFR § 405.460(f)) provide for exceptions to the limits under certain criteria; pursuant to that regulation, we will consider exceptions based on reasonable and necessary wage costs. However, for such an exception to be granted, it will be necessary for a hospital to show that its wages are higher than the wages paid by other hospitals in its group and that such a higher wage level is necessary because of extraordinary circumstances it cannot control and not, for example, because of staffing levels which exceed reasonable norms.

The comments frequently expressed the opinion that the classification system does not use a sufficient number of variables to achieve comparability among the hospitals in each group. Those commenting faulted the classification system for failing to include such variables as length of stay, case mix and scope of service. The Department has analyzed these variables in the past and concluded that their inclusion in a classification system is not feasible at this time. The commenters did not provide any evidence that would change this conclusion.

3. Source of per capita income data—Comments were received concerning the source of per capita income data used to group SMSA/SCSA's and non-SMSA/SCSA's and the use of 1975 data. The data utilized are from Local Area Personnel Income 1970-75, August 1977, Volume 1, Summary, published by the U.S. Department of Commerce, Bureau of Economic Analysis. These were the latest per capita income data available at the time of our data collection. Many comments requested that the per capita income data used in the classification criterion be published in the FEDERAL REGISTER so that providers would have access to this information. The ranges of per capita income used in the classification system are published in the final notice of the schedule of limits.

4. Teaching activity—A major comment concerned the classification of medium-sized major teaching hospitals. The commenter stated that the 101-404 bed-size category would be made up of predominantly community hospitals with limited teaching programs and the limits for this bed-size category would not adequately reflect the costs of extensive teaching programs. Although the classification system does not contain a variable for educational activities, an exception to the cost limits is available for hospitals whose costs of educational activities exceed the norm for the group in which they are classified.

5. Depreciation and interest cost of new construction—Many comments criticized the current classification system because it does not recognize the higher depreciation and interest cost associated with the construction of new facilities. Although the classification system does not separately take account of costs associated with new construction, exceptions to the limits may be granted for extraordinary depreciation, interest, insurance, or taxes incurred on newly constructed (or remodeled) facilities under certain circumstances. If the provider believes an exception to the limits is warranted for these reasons, it should file such a request with its fiscal intermediary.

6. Exceptions process—Some comments criticized the lack of general instructions disclosing the methodology to be used to determine whether an exception will be granted.

We agree that more general instructions concerning the filing of exception requests should be issued. We are presently in the process of updating the provider reimbursement manual to provide instructions to all providers concerning the filing of exception requests and the methodologies used in the exception procedures. However, intermediaries have available extensive material on methodologies and, until the revision to the provider reimbursement manual is issued, we suggest that any hospital requiring assistance in the filing of an exception should contact its servicing intermediary for guidance.

Another comment requested that procedures be adopted that would allow hospitals to determine prospectively whether budgeted costs in excess of published limits would qualify for an exception. Those procedures are available now. If a provider believes it is entitled to an exception

from the cost limits applicable to its classification grouping because of the provision of atypical costs and its budgeted costs are in excess of the established cost limit, then the provider should request an exception through its intermediary.

7. Further background—For further discussion of the schedule, and a discussion of prior comments received on it, see: FEDERAL REGISTER (42 FR 53675) published October 3, 1977, the FEDERAL REGISTER (41 FR 26992) published June 30, 1976, the FEDERAL REGISTER (40 FR 23622) published May 30, 1975, and the FEDERAL REGISTER (39 FR 20168) published June 6, 1974.

EFFECTIVE DATE

We find that there is good cause for making this schedule effective October 1, 1978. Many hospitals have cost reporting periods beginning on that date. It is in the public interest that these hospitals should be subject to the limits in this schedule since these limits are based on more current data than the limits published in the previous schedule.

SCHEDULE AND METHODOLOGY

I. *Methodology for calculating limits.* The limits were developed in the following manner:

1. Inpatient general routine service cost data for each participating hospital were obtained from the fiscal intermediaries.

2. The data for hospitals in each class were arrayed in descending order of inpatient general routine service cost.

3. The 80th percentile and the median were computed for each class.

4. For each class, an amount equal to 10 percent of the median was added to the 80th percentile amount.

5. This sum was adjusted to reflect that 11.5-percent annual rate of estimated cost increases in per diem inpatient general routine service costs following the date of data collection.

6. The amounts calculated in step 5 are rounded to the next highest dollar which establishes the limit for each class, subject to adjustment for hospitals whose reporting period begins after October 1, 1978.

II. *Extension of grace period for reclassified hospitals.* We have extended the grace period for an additional year for those hospitals that received the grace period for cost reporting years beginning on or after July 1, 1977 but before July 1, 1978. We reflect this extension in this schedule of limits by making a hospital subject to the highest of (a) the current limit of the group in which it is currently classified; or (b) the current limit of the group in which it was classified in the immediately preceding cost reporting period; or (c) the current limit of the group in which it was classified in the second preceding cost reporting period.

The following examples illustrate how this would work.

Example A. Hospital A's cost reporting period begins on October 1. On October 1, 1976 and again on October 1, 1977, it was classified in Group II. On October 1, 1978, it was classified in Group III. For its cost reporting year beginning October 1, 1978, it will be subject to the higher of the current Group II or the current Group III limit.

Example B. Hospital B's cost reporting period begins on October 1. On October 1, 1976, it was classified in Group I; on October 1, 1977, it was classified in Group II; and on October 1, 1978, it was classified in Group III. For its cost reporting period beginning October 1, 1978, it will be subject to the highest of the current Group I or the current Group II or the current Group III limits.

This does not constitute a permanent 2 year grace period for reclassified hospitals. We are providing this 1 year extension on an interim basis pending further review of the problem and consideration of other alternatives.

III. *Classification of geographical areas.* The Standard Metropolitan Statistical Area/Standard Consolidated Statistical Area (SMSA/SCSA) groupings were developed by:

1. Arraying the SMSA/SCSAs by size of per capita income; and

2. Combining those with similar economic environment as reflected in per capita income.

The same procedure was followed for grouping the non-SMSA/SCSA areas to arrive at State groups. There are five groups for each of these two categories. Counties, rather than SMSA/SCSA areas, are listed for New England States in the first category.

Hospitals located within SMSA/SCSA areas identified by figure (1) are reclassified in this schedule and will receive the 1-year grace period for reclassified hospitals. They will follow example A under section II in determining the applicable limit.

Hospitals located within SMSA/SCSA areas identified by figure (2) have a classification in this schedule different from their classification for the schedule of limits for cost reporting periods beginning on or after July 1, 1976 (published on June 30, 1976 at 41 FR 26992). They will follow example B under section II in determining the applicable limit.

Hospitals that are not located in SMSA/SCSA areas but that are located in States identified by a figure (3) are reclassified in this schedule and will receive the 1-year grace period for reclassified hospitals. They will follow example A under section II in determining the applicable limit.

Hospitals that are not located in SMSA/SCSA areas but that are located in States identified by a figure (4) have a classification in this schedule different from their classification for the schedule of limits for cost reporting periods beginning on or after July 1, 1976. They will follow example B under section II in determining the applicable limit.

LOCATIONS WITHIN SMSAS

SMSA/SCSA GROUP I

Alaska

Anchorage.

California

Los Angeles-Long Beach-Anaheim (SCSA)
Los Angeles-Long Beach; Anaheim-Santa Ana-Garden Grove; Oxnard-Simi Valley-Ventura; and Riverside-San Bernardino-Ontario.
Salinas-Seaside-Monterey
San Francisco-Oakland-San Jose (SCSA)
San Francisco-Oakland; San Jose; and Vallejo-Fairfield-Napa.

Colorado

Denver-Boulder.

Connecticut

Fairfield; Hartford; Litchfield; Middlesex; and Tolland Counties.

District of Columbia

Washington, D.C., District of Columbia, Maryland, and Virginia.

Florida

Sarasota; West Palm Beach-Boca Raton.

Hawaii

Honolulu.

Illinois

Chicago-Gary, IL-IN (SCSA)
Chicago, Ill., Gary-Hammond-East Chicago, Ind.
Peoria; Springfield.

Iowa

Davenport-Rock Island-Moline, Iowa-Illinois; Des Moines.

Michigan

Detroit-Ann Arbor (SCSA)
Detroit; Ann Arbor.

Nevada

Las Vegas; Reno.

New Jersey

See New York SCSA.

New York

New York-Newark-Jersey City, N.Y., N.J., and Conn. (SCSA)
New York, N.Y.-N.J.; Newark, N.J.; Jersey City, N.J.; Paterson-Clifton-Passaic, N.J.; Nassau-Suffolk, N.Y.; Long Branch-Asbury Park, N.J.; New Brunswick-Perth Amboy-Sayreville, N.J.
Poughkeepsie, Rochester.

Texas

Houston-Galveston (SCSA)
Houston; Galveston-Texas City.
Midland.

Virginia

Richmond.

North Dakota

Grand Forks, N. Dak.-Minn.

Ohio

Michigan

2 Battle Creek, Bay City; 1 Grand Rapids; 1 Kalamazoo-Portage; 2 Lansing-East Lan-

Florida

Bradenton; Daytona Beach; Fort Myers; Lakeland-Winter Haven; Melbourne-Titus-

Florida

1 Gainesville, Panama City, Pensacola, 1 Tallahassee.

Mexico, Puerto Rico, South Carolina, Tennessee, Utah, 4 Virginia, Virgin Islands, West Virginia.

Virginia

Richmond.

Washington

Richland-Kennewick.
Seattle-Tacoma (SCSA)
Seattle-Everett; Tacoma.

Wisconsin

Kenosha

SCSA/SMSA GROUP II

California

Fresno; Sacramento; San Diego; Santa Barbara-Santa Maria-Lompoc; Santa Cruz; Santa Rosa; and Stockton.

Connecticut

New Haven and New London Counties.

Delaware

See Philadelphia SCSA.

Florida

1 Miami Ft. Lauderdale (SCSA)
Fort Lauderdale-Hollywood; Miami.

Georgia

Atlanta.

Idaho

Boise City.

Illinois

Bloomington-Normal; Decatur; Kankakee; and 2 Rockford.

Indiana

Fort Wayne; Indianapolis; and Kokomo.

Iowa

Cedar Rapids; Sioux City, Iowa-Nebr.; and Waterloo-Cedar Falls.

Kansas

Topeka and Wichita.

Kentucky

Louisville, Ky.-Ind.

Maryland

Baltimore.

Massachusetts

2 Essex; 2 Middlesex; 2 Norfolk; 2 Plymouth; and 2 Suffolk Counties.

Michigan

2 Flint; Jackson; and Saginaw.

Minnesota

1 Minneapolis-St. Paul, Minn.-Wis.; Rochester.

Missouri

Kansas City, Mo.-Kans.; St. Louis, Mo.-Ill.

Montana

Billings.

Nebraska

Lincoln; Omaha, Nebr.-Iowa.

New Hampshire

Rockingham County.

New Jersey

See Philadelphia SCSA.

New York

Albany-Schenectady-Troy; Buffalo.

North Dakota

Grand Forks, N. Dak.-Minn.

Ohio

1 Cleveland; Akron-Lorain (SCSA)
Cleveland; Akron; and Lorain-Elyria.
Dayton; Toledo, Ohio-Mich.

Oklahoma

Tulsa.

Oregon

Portland, Oreg.-Wash.

Pennsylvania

Philadelphia-Wilmington-Trenton, Pa.-Del.-Md.-N.J. (SCSA)
Philadelphia, Pa.-N.J.; Trenton, N.J.; Wilmington, Del.-N.J.-Md.
Allentown-Bethlehem-Easton, Pa.-N.J.; Harrisburg; Lancaster; Pittsburgh; and Reading.

Rhode Island

Bristol; Kent; Newport; Providence; and Washington Counties.

Texas

Amarillo; Beaumont-Port Arthur-Orange; Dallas-Fort Worth.

West Virginia

Charleston.

Wisconsin

1 *Milwaukee-Racine (SCSA)*
Milwaukee and Racine.
Madison.

SCSA/SMSA GROUP III

Alabama

Birmingham.

Arizona

1 Phoenix.

Arkansas

Little Rock-North Little Rock.

California

1 Bakersfield and Modesto.

Colorado

Greeley and Pueblo.

Florida

Jacksonville; Orlando; and Tampa-St. Petersburg.

Illinois

Champaign-Urbana-Rantoul.

Indiana

2 Anderson; Evansville, Ind.-Ky.; and 2 South Bend.

Iowa

Dubuque.

Kentucky

Lexington-Fayette.

Louisiana

Baton Rouge and New Orleans.

Maine

Cumberland and York Counties.

Massachusetts

1 Berkshire, Hamden, Hampshire; 1 Worcester Counties.

Michigan

2 Battle Creek, Bay City; 1 Grand Rapids; 1 Kalamazoo-Portage; 2 Lansing-East Lansing.

Minnesota

Duluth-Superior, Minn.-Wis.

Montana

Great Falls.

New Hampshire

Hillsborough; Merrimack Counties.

New Jersey

Atlantic City.

New York

Binghamton, N.Y.-Pa; Elmira; Syracuse.

North Carolina

Charlotte-Gastonia; 1 Greensboro-Winston Salem-High Point; Raleigh-Durham.

North Dakota

2 Fargo-Moorehead, N.D.-Minn.

Ohio

1 *Cincinnati-Hamilton, Ohio-Ky.-Ind. (SCSA).* Cincinnati, Ohio-Ky.-Ind.; Hamilton-Middletown, Ohio; Canton; Columbus; 1 Lima, Mansfield; Springfield; Steubenville-Weirton, Ohio-W. Va.; 1 Youngstown-Warren.

Oklahoma

Oklahoma City.

Oregon

Salem.

Pennsylvania

Erie; York.

South Dakota

Sioux Falls.

Tennessee

Memphis, Tenn.-Ark.-Miss.; Nashville-Davidson.

Texas

Abilene; Killen-Temple; Longview; Odessa; San Angelo; Tyler; Wichita Falls.

Utah

Salt Lake City-Ogden.

Virginia

Newport News-Hampton; Petersburg-Colonial Heights-Hopewell; Roanoke.

Washington

Spokane; Yakima.

West Virginia

Wheeling, W. Va.-Ohio.

Wisconsin

Appleton-Oshkosh.

SCSA/SMSA GROUP IV

Alabama

Anniston; Huntsville; Montgomery.

Arizona

1 Tucson.

Colorado

Colorado Springs; Fort Collins.

Florida

Bradenton; Daytona Beach; Fort Myers; Lakeland-Winter Haven; Melbourne-Titusville-Cocoa.

Georgia

Augusta, Ga.-S.C.; Columbus, Ga.-Ala.; Macon; Savannah.

Indiana

2 Lafayette-West Lafayette; Muncie; Terra Haute.

Kentucky

Owensboro.

Louisiana

Lafayette; Lake Charles; Shreveport.

Massachusetts

Bristol County.

Michigan

Muskegon-Norton Shores-Muskegon Heights.

Mississippi

1 Jackson; Pascagoula-Moss Point.

Missouri

Columbia; 2 St. Joseph; Springfield.

New Jersey

1 Vineland-Millville-Bridgeton.

New Mexico

Albuquerque.

New York

Utica-Rome.

North Carolina

Burlington.

Oregon

Eugene-Springfield

Pennsylvania

Johnstown; Wilkes-Barre-Scranton-Hazleton (Northeast Pa.); Williamsport.

South Carolina

Columbia; Greenville-Spartanburg.

Tennessee

Chattanooga, Tenn.-Ga.; Knoxville.

Texas

Austin; Corpus Christi; Lubbock; San Antonio; Sherman-Denison; Waco.

Virginia

Lynchburg; 1 Norfolk-Virginia Beach-Portsmouth, Va.-N.C.

West Virginia

Huntington-Ashland, W. Va.-Ky.-Ohio; Parkersburg-Marrietta, W. Va.-Ohio.

Wisconsin

Green Gay; Eau Claire, La Crosse.

SCSA/SMSA GROUP V

Alabama

Florence, Gadsden, Mobile, Tuscaloosa.

Arkansas

Fayetteville-Springdale; Fort Smith, Ark.-Okla.; Pine Bluff.

Florida

1 Gainesville, Panama City, Pensacola, 1 Tallahassee.

Georgia

Albany.

Indiana

Bloomington.

Kansas

Lawrence.

Louisiana

Alexandria, Monroe.

Maine

Androscoggin County.

Minnesota

St. Cloud.

Mississippi

Biloxi-Gulfport.

North Carolina

1. Asheville, Fayetteville, Wilmington.

Oklahoma

Lawton.

Pennsylvania

Altoona.

Puerto Rico

Caguas, Mayaguez, Ponce, San Juan.

South Carolina

Charleston-North Charleston.

Tennessee

1 Clarksville-Hopkinsville, Tenn.-Ky.; Johnson City-Kingsport-Bristol, Tenn.-Va.

Texas

Brownsville-Harlingen-San Benito, Bryan-College Station; El Paso, Laredo, McAllen-Pharr-Edinburg, Texarkana, Tex.-Ark.

Utah

Provo-Orem.

LOCATIONS NOT WITHIN SMSA'S

GROUP I

Alaska, Iowa, Kansas, Massachusetts, Nebraska, Nevada, New Jersey, North Dakota, Washington, Wyoming.

GROUP II

California, Delaware, Hawaii, 4 Illinois, Indiana.

GROUP III

Colorado, 3 Connecticut, Idaho, 3 Maryland, Michigan, 4 Minnesota, Montana, New Hampshire, New York, Ohio, Oregon, Pennsylvania, 4 South Dakota, Vermont, Wisconsin.

GROUP IV

Arizona, 3 Florida, Maine, North Carolina, 4 Oklahoma, Texas.

GROUP IV

Arizona, 3 Florida, Maine, North Carolina, 4 Oklahoma, Texas.

GROUP V

Alabama, 4 Arkansas, Georgia, Kentucky, Louisiana, Mississippi, 4 Missouri, New Mexico, Puerto Rico, South Carolina, Tennessee, Utah, 4 Virginia, Virgin Islands, West Virginia.

IV. *Classification by bed size.* The following bed-size categories are used to classify hospitals:

STANDARD METROPOLITAN STATISTICAL AREAS

GROUPS I AND II

Less than 100, 100-404, 405-684, 685 and above.

GROUPS III, IV, AND V

Less than 100, 100-404, 405 and above.

NONSTANDARD METROPOLITAN STATISTICAL AREAS

Less than 100, 100-169, 170 and above.

V. *Schedule of limits.* The schedule of limits set forth below is applicable to 12-month cost reporting periods. Intermediaries for providers with shorter (or longer) cost-reporting periods must contact the Health Care Financing Administration for adjustement factors.

The limits are applicable to any hospital with a cost reporting period beginning on or after October 1, 1978. For a hospital that has a cost reporting period beginning after October 1, 1978, the published limit will be adjusted upward by a factor of 0.96 percent for each elapsed month between October 1, 1978, and the month in which the hospital's reporting period begins. The result of this calculation is not rounded and is to be given in dollars and cents.

Example. Hospital A's cost reporting period begins January 1, 1979, and ends December 31, 1979. Assume that the published cost limit for hospital A's group is $100.

Computation of adjusted cost limit

Published cost limit	$100.00
Plus: Adjustment for 3-mo period (Oct. 1, 1978, to Dec. 31, 1978), 3 mo×0.96=2.88 pct; 2.88 pct×cost limit.	2.88
Adjusted cost limit applicable to hospital A for the Jan. 1, 1979, to Dec. 31, 1979, reporting period	102.88

Limits for hospitals located within SMSA's by bed capacity

SMSA group	Less than 100	100 to 404	405 to 684	685 and above
I [1]	$157	$154	$172	$214
II	128	137	148	161
III	121	119	120	120
IV	113	113	111	111
V	101	101	126	126

[1] Limits apply to all SMSA's except Anchorage, Alaska, and Honolulu, Hawaii, where cost-of-living adjustment (25 percent Anchorage, Alaska; 17.5 percent Honolulu, Hawaii) was made. The limits for these areas are as follows:

	Less than 100	100 to 404	405 to 684	685 and above

Summary. A bioassay of technical-grade 1,2-dichloroethane for possible

[4110-92]

delivery capabilities in the applicant State.

APPLICATION SUBMISSION

One signed original and two copies of the grant application, including all

3. The project is designed to demonstrate innovative techniques which result in measurable progress toward

	Less than 100	100 to 404	405 to 684	685 and above
Anchorage	$196	$192	$214	$268
Honolulu...	184	180	201	252

Limits for hospitals located outside SMSA's by bed capacity

State group	Less than 100	100–169	170 and above
I [2]	$113	$124	$124
II [2]	143	128	113
III	111	116	112
IV	110	107	109
V	90	90	91

[2] Limits apply to all group I States except Alaska where cost-of-living adjustment (25 pct) was made; limits for Alaska are:

Less than 100	$141
100 to 169	155
170 and above	155

[3] Limits apply to all group II States except Hawaii where cost-of-living adjustment (12.5 pct) was made; limits for Hawaii are:

Less than 100	$161
100 to 169	144
170 and above	127

VI. *Per capita income data—1975.*

Ranges by group

Group	SCSA/SMSA	Non-SMSA
I	Above $6,537	Above $4,776
II	5,879–6,537	4,583–4,776
III	5,387–5,878	4,075–4,582
IV	4,908–5,386	3,764–4,074
V	Below $4,908	Below $3,764

(Secs. 1102, 1861(v)(1), 1866(a), and 1871 of the Social Security Act; 49 Stat. 647; 79 Stat. 322; 79 Stat. 327; 79 Stat. 331; 86 Stat. 1393; 42 U.S.C. 1302, 1395x(v)(1), 1395cc(a) and 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance.)

Dated: August 31, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: September 19, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-26073 Filed 9-25-78; 8:45 pm]

[4110-08]

REPORT ON BIOASSAY OF 1,2-DICHLOROETHANE FOR POSSIBLE CARCINOGENICITY

Availability

1,2-Dichloroethane (CAS 107-06-2) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay of technical-grade 1,2-dichloroethane for possible carcinogenicity was conducted using Osborne-Mendel rats and B6C3F1 mice. 1,2-Dichloroethane in corn oil was administered by gavage, at either of two dosages, to groups of 50 male and 50 female animals of each species. The 78-week period of chemical administration was followed by an observation period of 32 weeks for the low dose rats of both sexes. The last high dose male rat died after 23 weeks of observation, and the last high dose female rat died after 15 weeks of observation. All treated groups of mice were observed for an additional 12 or 13 weeks following chemical administration.

Initial dosage levels for the chronic bioassay were selected on the basis of a preliminary subchronic toxicity test. Subsequent dosage adjustments were made during the course of the chronic bioassay. The time-weighted average high and low doses of 1,2-dichloroethane in the chronic study were 95 and 47 mg/kg/day, respectively, for rats of both sexes. The high and low time-weighted average doses for the male mice were 195 and 97 mg/kg/day, respectively, and 299 and 149 mg/kg/day, respectively, for the female mice.

For each species, 20 animals of each sex were placed on test as vehicle controls. These animals were gavaged with corn oil at the same times that dosed animals were gavaged with the 1,2-dichloroethane mixtures. Twenty animals of each sex were placed on test as untreated controls for each species. These animals were not intubated.

Under the conditions of this study, 1,2-dichloroethane was carcinogenic to Osborne-Mendel rats, causing squamous-cell carcinomas of the forestomach, hemangiosarcomas, and subcutaneous fibromas in male rats and causing mammary adenocarcinomas in female rats. This compound was also found to be carcinogenic to B6C3F1 mice, causing mammary adenocarcinomas and endometrial tumors in female mice, and causing alveolar/bronchiolar adenomas in mice of both sexes.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: August 18, 1978.

THOMAS E. MALONE,
Acting Director, National Institutes of Health.

[FR Doc. 78-26538 Filed 9-25-78; 8:45 am]

[4110-92]

Office of Human Development Services

[Program Announcement No. 13608-791]

STATE CAPACITY BUILDING DEMONSTRATION PROGRAM

Availability of Grant Funds

AGENCY: Office of Human Development Services, HEW.

SUBJECT: Announcement of Availability of Grant Funds for the State Capacity Building Demonstration Program.

SUMMARY: The Administration for Children, Youth, and Families (ACYF) announces that applications are being accepted for grants under section 426 of the Social Security Act for Research and Demonstration Projects. Regulations governing this program published in the Code of Federal Regulations in 42 CFR Part 205.

DATES: The closing date for receipt of applications is November 15, 1978.

PROGRAM PURPOSE

The purpose of the State Capacity Building Demonstration Program is to demonstrate innovative methods and techniques for coordinating the delivery of services to children and their families at the State and local levels.

PROGRAM GOAL AND OBJECTIVES

The goal of the State Capacity Building Demonstration Program is to assist States in their efforts to plan, manage, and deliver services to children and their families in a coordinated manner. The grants are aimed at developing capabilities at the State and local levels to assess children's needs, plan programs, coordinate and allocate resources, monitor and evaluate programs, regulate and enforce requirements related to children's programs, develop outreach to consumers and consumer groups, and provide technical assistance to personnel and organizations involved in administering programs for children and their families. They are primarily designed to help States which have demonstrated their ability and interest in improving the overall quality of their management planning and service delivery systems for children and their families. The grants to be awarded generally will build upon existing statewide efforts rather than initiate new capacity building efforts. The grants, which are to be used to complement and supplement existing efforts, will stress the need for continuity of development efforts in applicant States and for engaging in activities demonstrating innovative techniques which result in measurable progess toward improving management planning and service delivery capabilities in the applicant State.

ELIGIBLE APPLICANTS

State Capacity Building Demonstration grants are made available to one State in each Federal Region per year. Eligibility for this program is limited to public or other nonprofit institutions of higher learning and to public or other nonprofit agencies and organizations engaged in research or child welfare activities. Only one organization in each State may apply and the application should be coordinated through the Governor's office. Continuation funding will be provided to projects in five of the Federal Regions and States which received funding through this program in fiscal year 1976 or before may not reapply; therefore, only the following States shown by Federal Region will be eligible to compete for fiscal year 1979 funding under this program announcement.

Region I—Maine, New Hampshire, Vermont and Massachusetts.
Region III—Maryland, Pennsylvania, West Virginia and District of Columbia.
Region IV—South Carolina, Georgia, Florids, Tennessee, Kentucky, Mississippi and Alabama.
Region IX—Hawaii, Nevada and Trust Territories.
Region X—Washington, Idaho and Alaska.

AVAILABLE FUNDS

The Administration for Children, Youth, and Families expects to award one new grant of up to $70,000 in each of the five Federal Regions shown above for a total funding level during fiscal year 1979 of up to $350,000. The total grant period shall not exceed 3 years and subsequent year funding after the initial grant will be based on satisfactory completion of prior year grant goals and objectives.

GRANTEE SHARE OF THE PROJECT

Grantees are expected to provide a matching share of the cost of the proposed demonstration project. Each State project must supply a letter from the Governor indicating a commitment to support the effort after Federal funds are no longer available to support it.

THE APPLICATION PROCESS

AVAILABILITY OF FORMS

Application for a grant under the State capacity building program must be submitted on standard forms provided for this purpose. Application kits which include the forms and other information may be obtained from appropriate HEW Regional Offices listed in appendix A to this program announcement. Please request Program Announcement No. 13608-791.

APPLICATION SUBMISSION

One signed original and two copies of the grant application, including all attachments, must be submitted to the address indicated in the application instructions.

A-95 NOTIFICATION PROCESS

The State capacity building program is covered under the provisions of OMB Circular A-95. Applicants for grants must, prior to the submission of an application, notify the State A-95 clearinghouse of their intent to apply for Federal assistance for this program. Applicants should contact the appropriate State clearinghouse (listed in 42 FR 2210, January 10, 1977) for information on how they can meet the A-95 requirements.

APPLICATION CONSIDERATION

The acting heads of the children, youth, and family units in each of the five HEW regional offices listed above shall determine final action to be taken with respect to each grant application for this program. Applications which are complete and conform to the requirements of this program announcement are subject to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth, and Families.

The results of the review assist the acting heads in considering competing applications. The acting heads also take into account comments of the A-95 clearinghouses and regional office and headquarters staffs. Comments may also be requested from appropriate specialists and consultants both inside and outside of the Federal Government.

The successful applicant in each region is notifed through the issuance of a notice of grant awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given and the total period for which project support is contemplated. Unsuccessful applicants are notified in writing of this decision.

CRITERIA FOR REVIEW AND EVALUATION OF APPLICATIONS

Competing grant applications will be reviewed and evaluated against the following criteria:

1. The project objectives are specifically designed to assist the applicant State in its efforts to plan, manage, and deliver services to children and their families in a coordinated manner—(15 points).

2. The project is clearly designed to complement and supplement existing State efforts and stresses the need for continuity of development efforts—(10 points).

3. The project is designed to demonstrate innovative techniques which result in measurable progress toward improving management planning and service delivery capabilities in the applicant State—(10 points).

4. The activities to be undertaken, if well executed, will achieve the project objectives and information developed will be disseminated as appropriate—(10 points).

5. The proposed project personnel are or will be well qualified and the applicant organization has or will have adequate facilities and resources—(20 points).

6. The estimated cost to the Government is reasonable considering the anticipated results—(10 points).

7. The applicant has obtained the commitment and support from the agencies, groups, organizations, and individuals within the State whose cooperation would be necessary to accomplish proposed project goals and objectives—(25 points).

CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing date for receipt of applications under this program announcement is November 15, 1978. Applications may be mailed or hand delivered. Hand delivered applications will be accepted during the regular working hours of the appropriate Regional Office. Mailed applications must be postmarked on or before November 15, 1978. Applications received after November 15, 1978, will not be accepted and such applicants will be notified accordingly.

(Catalog of Federal Domestic Assistance Program Number: 13.608, Child Welfare Research and Demonstration Projects.)

Dated: September 11, 1978.

BLANDINA CARDENAS,
Commissioner, Administration for Children, Youth, and Families.

Approved: September 21, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

APPENDIX A

ACTING HEADS OF THE CHILDREN, YOUTH, AND FAMILY UNIT OFFICE OF HUMAN DEVELOPMENT SERVICES, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, REGIONS I–X

Region I: Mr. Roy Fleischer, Acting Head, Room 2000, JFK Federal Building, Government Center, Boston, Mass. 02203, 617-223-6450.
Region II: Mrs. Elaine Danavall, Acting Head, Federal Building, 26 Federal Plaza, Room 3900, New York, N.Y. 10007, 212-264-2974.
Region III: Mr. Fred Digby, Acting Head, Post Office Box 13716, 3535 Market Street, Philadelphia, Pa. 19101, 215-596-6763.

Region IV: Mr. John Jordan, Acting Head, Peachtree-Seventh Building, 50 7th Street

vations by writing, no later than October 13, 1978, to:

FOR FURTHER INFORMATION CONTACT:

business hours in the Office of the Rules Docket Clerk.

A finding of inapplicability respecting the National Environmental Policy

Sec. 3, Lots 1 and 2;
Sec. 4, Lots 3 and 4, N½, and N½SW¼;
Sec. 5, Lots 1, 2, 3, and 4, NE¼, NE¼NW¼, S½NW¼, and NE¼SE¼;

Sec. 11, Lots 1 and 2, NE¼, N½SW¼, SW¼SW¼, N½SE¼, and SE¼SE¼;
Secs. 12, 13, and 14; and
Sec. 15, Lot 1.

Region IV: Mr. John Jordan, Acting Head, Peachtree-Seventh Building, 50 7th Street NE, Room 358, Atlanta, Ga. 30323, 404-221-2134.
Region V: Mr. Hilton Baines, Acting Head, 300 South Wacker Drive, 15th floor, Chicago, Ill. 60606, 312-353-1781.
Region VI: Mr. Gerald Hastings, Acting Head, 1200 Main Tower, 20th floor, Dallas, Tex. 75202, 214-767-4604.
Region VII: Mrs. Linda Carson, Acting Head, Federal Building, 601 East 12th Street, 3d floor, Kansas City, Mo. 64106, 816-374-5401.
Region VIII: Mr. John Garcia, Acting Head, 1961 Stout Street, Room 7417, Denver, Colo. 80202, 303-837-3106.
Region IX: Mr. Samuel Miller, Acting Head, Federal Office Building, 50 United Nations Plaza, Room 143, San Francisco, Calif. 94102, 415-556-6153.
Region X: Mr. Patrick Davis, Acting Head, Mail Stop 622, Arcade Plaza Building, 1321 2d Avenue, Seattle, Wash. 98101, 206-442-0838.

[FR Doc. 78-27047 Filed 9-25-78; 8:45 am]

[4110-89]

Office of the Secretary

ADVISORY COUNCIL ON EDUCATION STATISTICS

Meeting

Notice is hereby given, pursuant to section 10, Pub. L. 92-463, that a meeting of the Advisory Council on Education Statistics will be held on October 26, 1978, from 9 a.m. to 4:30 p.m., in Room 3000, FOB No. 6, 400 Maryland Avenue SW., Washington, D.C. 20202. The meeting will be continued on October 27, 1978, from 9 a.m. to 4:30 p.m., at the same location.

The Advisory Council on Education Statistics is mandated by section 406(c) of the General Education Provisions Act as added by section 501(a) of the Education Amendments of 1974, Pub. L. 93-380 (20 U.S.C. 1221a-1(c)), to advise the Secretary of the Department of Health, Education, and Welfare and the Assistant Secretary for Education, and the National Center for Education Statistics (NCES); and "shall review general policies for the operation of the Center and shall be responsible for establishing standards to ensure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence."

The meeting agenda will include an Administrator's report summarizing recent developments regarding budget, staff, and major projects of the National Center for Education Statistics. Other major topics will include a discussion of the Center's program on statistical standards, the content of future agendas, and the Council's next annual report.

The meeting is open to the public; however, because of limited accommodations, those members of the public wishing to attend should make reservations by writing, no later than October 13, 1978, to:

Executive Director, Advisory Council on Education Statistics, Room 3153-E, FOB-6, 400 Maryland Avenue SW., Washington, D.C. 20202.

Records shall be kept of all Council proceedings and shall be available for public inspection in the Office of the Administrator, National Center for Education Statistics, located at 400 Maryland Avenue SW., Washington, D.C. 20202.

Signed at Washington, D.C., on September 20, 1978.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DAVIE B. ORR,
Executive Director, Advisory Council on Education Statistics.

[FR Doc. 78-26952 Filed 9-25-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-78-894]

SPRAY APPLIED CELLULOSIC THERMAL INSULATION

Proposed Use of Materials Bulletin No. 80

AGENCY: Department of Housing and Urban Development, Office of Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Notice.

SUMMARY: This notice makes available for public comment a proposed new HUD Use of Materials Bulletin No. 80 for the subject product under the technical suitability of products program, section 521 of the National Housing Act. Under this section the Secretary of HUD shall determine the technical suitability of materials and products to be used in structures approved for mortgages or loans insured under this Act. Since no Federal specification or other nationally recognized standard has to date been published for spray applied cellulosic thermal insulation, this proposed bulletin responds to that need.

DATE: Comments must be received by October 26, 1978.

ADDRESS: Comments should be addressed to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Copies of any comments received will be available for examination during business hours at this address.

FOR FURTHER INFORMATION CONTACT:

Donald K. Baxter, Chief, Architecture and Engineering Division, Office of Technical Support, Department of Housing and Urban Development, Washington, D.C. 20410, telephone 202-755-5929.

SUPPLEMENTARY INFORMATION: This proposed bulletin outlines the physical properties, test methods, limitations of use, guidelines for application and onsite quality control and labeling requirements for sprayed cellulosic insulations.

The current shortage of conventional insulating materials and the national need for conserving energy has placed a strain on production of conventional materials. Dry loose cellulosic insulation made of newsprint and other paper or paperboard scrap and waste has long been accepted by HUD. However, only recently have manufacturers developed a method for wet spray application with adhesives, using conventional cellulosic insulation. Since no Federal specification or other nationally recognized standard has to date been published, HUD has developed Use of Materials Bulletin No. 80 as a temporary acceptance standard. This standard is based on criteria now in process of development under the American Society for Testing and Materials (ASTM), but will not be available for publication for another 2 years. When a suitable national standard has been published, HUD's standard will be withdrawn.

The amount of pressure from the industry for the standard plus public sentiment for more protection in this area has created a need to publish this acceptance standard immediately. There is no conflict with the ASTM organization, since HUD's normal procedure is to adopt ASTM standards when they become available. In the meantime, this proposed HUD bulletin will help relieve a critical insulation resource problem as well as to protect consumer and other HUD interests.

The public is invited to comment on the proposed HUD use of materials bulletin. Copies of the bulletin are available for public inspection in the Architecture and Engineering Division (Room 6178), and Office of General Counsel, Rules Docket Clerk (Room 5218), Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Copies are also available in each HUD Field Office. Comments should be filed (using the above docket number and title) with the Rules Docket Clerk at the address stated above. All relevant written comments received will be considered. Copies of comments submitted will be available for examination by interested persons during

business hours in the Office of the Rules Docket Clerk.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, at the above address.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d); sec. 6(b) of U.S. Housing Act of 1937, 42 U.S.C. 1437(d).)

Issued at Washington, D.C., on September 19, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 78-26992 Filed 9-25-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

CLOSURE OF CENTENNIAL MOUNTAINS TO MOTORIZED VEHICLE USE

SEPTEMBER 15, 1978.

Notice is hereby given that pursuant to an agreement between the Science and Education Administration (SEA) and the Bureau of Land Management and in accordance with the provisions of 43 CFR 6010.4 and 6290 and Executive Order No. 11644 the below described lands are closed to motorized vehicle use, excepting emergency and law enforcement vehicles and Federal or other government vehicles while being used for emergency purposes, and as otherwise listed in this notice.

UNITED STATES DUBOIS SHEEP EXPERIMENT STATION

Motorized vehicle use in the following described areas is limited to SEA for administrative purposes:

PRINCIPAL MERIDIAN, MONTANA.

BLAIR LAKE TRAIL

T. 15 S., R. 1 E.,
Sec. 3, Lots 3, 4, and 5; and
Sec. 4, Lots 1 and 2.

ODELL CREEK ACCESS

T. 15 S., R. 1 W.,
Sec. 18, Lots 2, 3, 4, 5, and 8.
T. 15 S., R. 2 W.,
Sec. 13, Lot 4 and E½NE¼.

All motorized vehicle use is prohibited in the following described lands:

T. 14 S., R. 1 E.,
Sec. 25, SW¼SW¼;
Sec. 26, S½S½;
Sec. 27, S½S½;
Sec. 28, SE¼SE¼;
Sec. 32, Lots 3 and 4;
Sec. 33, Lots 1, 2, 3, and 4, NE¼, SE¼NW¼, and N½S½; and
Secs. 34 and 35.
T. 15 S., R. 1 E.,
Secs. 1 and 2;
Sec. 3, Lots 1 and 2;
Sec. 4, Lots 3 and 4, N½, and N½SW¼;
Sec. 5, Lots 1, 2, 3, and 4, NE¼, NE¼NW¼, S½NW¼, and NE¼SE¼; and
Sec. 6, Lot 3.
T. 14 S., R. 1 W.,
Sec. 31, NE¼SE¼ and S½SE¼;
Sec. 32, S½NE¼ and S½; and
Sec. 33, S½SW¼ and SW¼SE¼.
T. 15 S., R. 1 W.,
Sec. 3, Lots 6 and 7, N½SW¼, and SW¼SW¼;
Sec. 4, Lots 2, 3, and 4, SW¼NE¼, S½NW¼, and S½S½;
Sec. 5, Lots 1, 2, 3, and 4, S½N½, NW¼SW¼, and S½S½;
Secs. 6 to 10 inclusive;
Sec. 17; and
Sec. 18, Lots 1, 6, and 7, and NW¼NE¼.
T. 15 S., R. 2 W.,
Secs. 1 to 4, inclusive;
Sec. 5, Lots 1, 4, and 5;
Secs. 9 to 12, inclusive;
Sec. 13, Lots 1, 2, and 3, W½NE¼, and N½NW¼; and
Sec. 14, 15, 22, and 23.

CENTENNIAL PRIMITIVE AREA

The following lands designated July 28, 1975, remain closed to motorized vehicle use:

T. 14 S., R. 1 E.,
Sec. 25, N½, N½SW¼, SE¼SW¼, and SE¼;
Sec. 26, N½ and N½S½;
Sec. 27, N½ andN½S½;
Sec. 28, N½, SW¼, N½SE¼, and SW¼SE¼;
Sec. 29, SE¼SW¼ and SE¼;
Sec. 31 Lots 1 to 7 inclusive, S½NE¼, E½NW¼, NE¼SW¼, and N½SE¼;
Sec. 32, Lots 1 and 2, N½, and N½S½; and
Sec. 33, N½NW¼ and SW¼NW¼.
T. 15 S., R. 1 E.,
Sec. 5, NW¼NW¼; and
Sec. 6, Lots 1, 2, 4, 5, and 6, NE¼ and E½NW¼.
T. 14 S., R. 1 W.,
Sec. 31, Lot 1, S½NE¼, SE¼NW¼, E½SW¼, and NW¼SE¼;
Sec. 32, N½NE¼ and NW¼;
Sec. 33, N½NE¼;
Sec. 34, N½, and SE¼;
Sec. 35; and
Sec. 36, SW¼SW¼.
T. 15 S., R. 1 W.,
Secs. 1 and 2; and
Sec. 3; Lots 1 and 2.
T. 14 S., R. 2 W.,
Sec. 19, Lots 13 and 14, E½SW¼, and SE¼;
Sec. 26, Lots 4 and 7, SW¼NW¼, W½SW¼, SE¼SW¼, and SW¼SE¼;
Secs. 27 to 35, inclusive; and
Sec. 36, S½SE¼.
T. 15 S., R. 2 W.,
Sec. 5, Lots 2 and 3; and
Sec. 6, Lots 1 to 4, inclusive.
T. 14 S., R. 3 W.,
Sec. 25;
Sec. 28, Lots 3 and 4, and NW¼SW¼;
Sec. 29, Lots 1 to 4, inclusive, and N½S½;
Secs. 32 and 33;
Sec. 34, S½NE¼, NW¼NW¼, and S½; and
Sec. 35, S½NW¼ and S½.
T. 15 S., R. 3 W.,
Secs. 1 to 5, inclusive; and
Secs. 7, 8, 9, 10, and 17.
T. 15 S., R. 4 W.,
Sec. 10, Lot 2, and NE¼SE¼;
Sec. 11, Lots 1 and 2, NE¼, N½SW¼, SW¼SW¼, N½SE¼, and SE¼SE¼;
Secs. 12, 13, and 14; and
Sec. 15, Lot 1.

Motorized vehicle use for the following described lands is restricted to the authorized licensee and permittee in accordance with the terms of a lease and permit previously issued.

UNITED STATES DUBOIS SHEEP EXPERIMENT STATION

T. 14 S., R. 1 W.,
Sec. 31, Lots 6 and 7;
Sec. 33, SW¼NE¼, S½NW¼, N½SW¼, N½SE¼, and SE¼SE¼; and
Sec. 34, W½SW¼.
T. 15 S., R. 1 W.,
Sec. 3, Lots 3, 4, and 5, and S½NW¼;
Sec. 4, Lot 1, SE¼NE¼, and N½S½; and
Sec. 5, NE¼SW¼ and N½SE¼.

CENTENNIAL PRIMITIVE AREA

T. 14 S., R. 1 W.,
Sec. 33, SE¼NE¼ and N½NW¼; and
Sec. 34, E½SW¼.

The area affected by this closure is located in Beaverhead County in southwestern Montana, north of the Continental Divide, which is the boundary between Montana and Idaho. The closure to vehicular use will better protect and preserve the unique natural values of the area. The area is presently being studied for its wilderness characteristics. Upon completion of the study, public comment will be solicited.

This closure will be effective October 1, 1978, and will remain in effect until further notice. The area will be patrolled to assure compliance. Any person who knowingly and willfully violates this closure shall be fined not more than $1,000 or imprisoned not more than 12 months, or both.

BILL D. NOBLE,
Acting State Director.

[FR Doc. 78-26989 Filed 9-25-78; 8:45 am]

[4310-03]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before September 15, 1978. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments

should be submitted by October 6, 1978.

RONALD M. GREENBERG,
Acting Director, Office of Archeology and Historic Preservation.

[FR Doc. 78-26990 Filed 9-25-78; 8:45 am]

NEW YORK

Saratoga County

Saratoga Springs, Saratoga Springs Historic District, Roughly bounded by Lincoln Ave., Spring St., Broadway, Circular St., Phila St., Nelson Ave., Union Ave., Caroline St., Lake Ave., Franklin St., Regent St., Division St., Woodlawn Ave., Walworth Ave., Church St., Putnam St., Henry St., Clinton St., Lincoln Ave., Saratoga Springs, 78002660

WEST VIRGINIA

Brooke County

Wellsburg, Wellsburg Historic District, Roughly bounded by Main St., Commerce St., Charles St., Jefferson St., Wellsburg, 78002661

Cabell County

Huntington, Ritter Park Historic District, Roughly bounded by 16th St., 5th Ave., 20th St., Ritter Park, Huntington, 78002662

Hancock County

Weirton, Weirton Steel Company Historic District, Roughly bounded by Main St., Commerce St., Charles St., Jefferson St., Weirton, 78002663

Jefferson County

Harpers Ferry, Harpers Ferry Historic District, Roughly bounded by Potomac River, Shenandoah River, Harpers Ferry, 78002664

Kanawha County

Charleston, Kanawha Boulevard Historic District, Roughly bounded by Kanawha River, Kanawha Blvd., Charleston, 78002665

Marion County

Fairmont, Fairmont Historic District, Roughly bounded by Monroe St., Fairmont Ave., Fairmont, 78002666

Monongalia County

Morgantown, Morgantown Historic District, Roughly bounded by Spruce St., Willey St., Walnut St., Morgantown, 78002667

Ohio County

Wheeling, Wheeling Historic District, Roughly bounded by Main St., Commerce St., Charles St., Jefferson St., Wheeling, 78002668

Pocahontas County

Marlinton, Marlinton Historic District, Roughly bounded by Main St., Commerce St., Charles St., Jefferson St., Marlinton, 78002669

Preston County

Kingwood, Kingwood Historic District, Roughly bounded by Main St., Commerce St., Charles St., Jefferson St., Kingwood, 78002670

Wood County

Parkersburg, Parkersburg Historic District, Roughly bounded by Main St., Commerce St., Charles St., Jefferson St., Parkersburg, 78002671

[4310-03]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before September 22, 1978. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments

Mr. Rockwood H. Foster, Washington, D.C.
Mr. R. Lee Downey, Williamsport, Md.

Nov. 1, 1978, Lake Havasu City, Ariz., 7:30 p.m., Lake Havasu City High School, 2675 Palo Verde.

ommended wilderness plan are also proposed.

Written comments on the environ-

should be submitted by October 6, 1978.

RONALD M. GREENBERG,
Acting Keeper of the National Register.

CALIFORNIA

Los Angeles County

Los Angeles, *Broadway Theater and Commercial District*, 300-849 S. Broadway.

Santa Clara County

San Jose, *Fallon, Thomas, House*, 175 W. St. John.

Siskiyou County

Tulelake vicinity, *Thomas-Wright Battle Site*, S. of Tulelake in Lava Beds National Monument.

FLORIDA

Jefferson County

Monticello, *Palmer-Perkins House*, 625 W. Palmer Mill Rd.

INDIANA

Elkhart County

Elkhart, *Beardsley, Albert R., House*, 302 E. Beardsley Ave.

Marion County

Indianapolis, *Reuben Wells (locomotive)* 3000 N. Meridian St.

Parke County

Parke County Covered Bridges, various locations in county.

Putnam County

Greencastle, *McKim Observatory, DePauw University*, DePauw and Highridge Aves.

Vanderburgh County

Evansville, *Bedford, William, Sr., House*, 838 Washington Ave.

Wayne County

Richmond, *Wayne County Courthouse*, bounded by Main, A, 3d and 4th Sts.

IOWA

Greene County

Jefferson, *Greene County Courthouse*, E. Lincoln Way and Chestnut St.

Poweshiek County

Grinnell, *Spaulding Manufacturing Company*, 500-610 4th Ave. and 827-829 Spring St.

Story County

Ames, *Alumni Hall*, Iowa State University campus.

MISSISSIPPI

Jefferson Davis County

Prentiss vicinity, *Magee Plantation*, E of Prentiss on Fort Stephens Rd.

NEW JERSEY

Burlington County

Bordentown, *Bordentown Historic District*, off U.S. 130/206.

NEW YORK

Saratoga County

Saratoga Springs, *Pure Oil Gas Station*, 65 Spring St.

OKLAHOMA

Caddo County

Stecker vicinity, *Domebo Archeological District*, E of Stecker.

Johnston County

Tishomingo, *Swinging Bridge*, Capitol Ave. and 12th St.

McIntosh County

Eufaula vicinity, *Creek Archeological District*, W of Eufaula.

Oklahoma County

Oklahoma City, *Kaiser's Ice Cream Parlour*, 1039 N. Walker Ave.
Oklahoma City, *Oklahoma City University*, 2501 N. Blackwelder.
Oklahoma City, *Stockyards City Historic District*, Exchange Ave. and Agnew St.

Tulsa County

Tulsa, *Mincks-Adams Hotel*, 403 S. Cheyenne.
Tulsa, *Skelly, William G., House*, 2101 S. Madison.

PENNSYLVANIA

Allegheny County

Pittsburgh, *Allegheny Observatory*, 159 Riverview Ave.

Philadelphia County

Philadelphia, *Compton and Bloomfield (Morris Arboretum)* 9414 Meadowbrook Ave. (also in Montgomery County).

Sullivan County

Laporte, *Sullivan County Courthouse*, Main and Muncy Sts.

York County

York, *York Historic District*, roughly bounded by Penn Central RR tracks, Hartley St., Lilac Lane, and Codorus Creek.

VERMONT

Addison County

New Haven, *New Haven Junction Depot*, jct. U.S. 7 and VT 17.

Caledonia County

Hardwick vicinity, *Hardwick Street Historic District*, NE of Hardwick.

Essex County

Island Pond, *Island Pond Historic District*, jct. of VT 105 and VT 114.

VIRGINIA

Tazewell County

Tazewell vicinity, *Big Crab Orchard Site*, W of Tazewell.

WEST VIRGINIA

Brooke County

Wellsburg, *Miller's Tavern*, 6th and Main Sts.
Wellsburg, *Wellsburg Wharf*, 6th and Main Sts.

Fayette County

Ansted, *Halfway House (Tyree Tavern) off U.S. 60.*

Greenbrier County

Alderson, *Miller, Alexander McVeigh, House (Miller, Mittie Clark, House) Hemlock Ave.*

Kanawha County

Charleston, *Laidley-Summers-Quarrier House*, 800 Orchard St.
East Bank, *Harriman, John, House*, 2233 3rd Ave.

Monongalia County

Morgantown, *Easton Roller Mill, E of Morgantown.*

Pocahontas County

Cass, *Cass Historic District*, SR 1 and SR 7.

Wood County

Parkersburg, *St. Francis Xavier Church*, 532 Market St.

[FR Doc. 78-26573 Filed 9-25-78; 8:45 am]

[4310-70]

National Park Service

CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK COMMISSION

Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, October 21, 1978, at 1 p.m., at the Algonquin Regional Park, Loudoun County, Va.

The Commission was established by Pub. L. 91-664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mr. Donald R. Frush (chairman), Hagerstown, Md.
Mrs. Bonnie Troxell, Cumberland, Md.
Miss Nancy Long, Glen Echo, Md.
Mrs. Constance Morella, Bethesda, Md.
Mr. Kenneth S. Rollins, Brookmont, Md.
Mr. Vladimir A. Whabe, Baltimore, Md.
Mr. Edwin F. Wesely, Jr., Brookmont, Md.
Mr. John D. Millar, Cumberland, Md.
Mr. James B. Coulter, Annapolis, Md.
Mrs. Dorothy Grotos, Arlington, Va.
Miss Margaret Dietz, Lovettsville, Va.
Dr. James H. Gilford, Frederick, Md.
Mr. Lorenzo W. Jacobs, Jr., Washington, D.C.
Mr. Silas F. Starry, Shepherdstown, W. Va.
Mr. Rockwood H. Foster, Washington, D.C.
Mr. R. Lee Downey, Williamsport, Md.
Mr. John C. Frye, Gapland, Md.

Matters to be discussed at this meeting include:

1. Access to the town of Brunswick campground.
2. Harpers Ferry road improvements.
3. Georgetown planning activities.
4. Naming of special areas of the park.
5. Cumberland terminus.
6. Williamsport basin status.
7. Reorganization of the Heritage Conservation and Recreation Service.
8. Palisades wayside interpretive exhibit plan.
9. Great Falls development concept plan status.
10. Washington County Sanitary Commission request.
11. Notice of final action, WSSC and Fairfax County Water Authority, COE notice July 21, 1978.
12. Proposed deck replacement and median closure, I-495, Potomac River and C. & O. Canal.
13. Joint report: Pennyfield Level No. 22 project.
14. Future status of Commission (terms).

The meeting will be open to the public. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact William R. Failor, Superintendent, C. & O. Canal National Historical Park, P.O. Box 4, Sharpsburg, Md. 21782, telephone 301-948-5641 or 301-432-2231. Minutes of the meeting will be available for public inspection 4 weeks after the meeting at Park Headquarters, Sharpsburg, Md.

Dated: September 15, 1978.

MANUS J. FISH, JR.,
Regional Director, National Capital Region.

[FR Doc. 78-26958 Filed 9-25-78; 8:45 am]

[4310-70]

DESERT NATIONAL SCENIC TRAIL FEASIBILITY STUDY

Notice of Intent

Notice is hereby given that the National Park Service will hold a series of 11 public meetings in 5 western States in late October and November to brief interested individuals, organizations, and other government agencies on the progress of the Desert National Scenic Trail feasibility study and to receive public comments. The meeting dates, locations, and times are as follows:

Oct. 31, 1978, Phoenix, Ariz., 7:30 p.m., State Capitol, Room 800, 1700 West Washington.
Nov. 1, 1978, Lake Havasu City, Ariz., 7:30 p.m., Lake Havasu City High School, 2675 Palo Verde.
Nov. 2, 1978, Yuma, Ariz., 7:30 p.m., Yuma Civic and Convention Center, 1440 Desert Hills Drive.
Nov. 7, 1978, Reno, Nev., 7:30 p.m., Holiday Inn Downtown, 1000 East 6th Street.
Nov. 9, 1978, Las Vegas, Nev., 7:30 p.m., Environmental Protection Agency Building, 944 East Harmon.
Nov. 13, 1978, Idaho Falls, Idaho, 7:30 p.m., Intermountain Science Experience Center, 1776 Science Center Drive.
Nov. 14, 1978, Twin Falls, Idaho, 7:30 p.m., Blue Lakes Inn, 1357 Blue Lakes Boulevard.
Nov. 15, 1978, Boise, Idaho, 7:30 p.m., Boise State University, Student Union Building, University Drive.
Nov. 17, 1978, Burns, Oreg., 7:30 p.m., Harney County Historical Society, 18 West D Street.
Nov. 21, 1978, Riverside, Calif., 7:30 p.m., Raincross Square, 3443 Orange Street.
Nov. 28, 1978, Portland, Oreg., 7:30 p.m., Travelodge at the Coliseum, 1441 North East 20th Avenue.

Persons attending the meetings will be provided with an information booklet containing a response section in which they may summarize their views on the Desert Trail.

Those unable to attend one of the public meetings may participate in the planning process by obtaining a copy of the information booklet from the Regional Director, Western Regional Office, Attention: Desert Trail Study, National Park Service, P.O. Box 36063, San Francisco, Calif. 94102. Response sections should be returned to the above address by December 30, 1978.

Dated: September 14, 1978.

JOHN H. DAVIS,
Acting Regional Director, Western Region, National Park Service.

[FR Doc. 78-26960 Filed 9-25-78; 8:45 am]

[4310-70]

National Park Service

[INT DES 78-38]

PROPOSED GENERAL MANAGEMENT PLAN YOSEMITE NATIONAL PARK, CALIF.

Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmetal statement for the proposed general management plan, Yosemite National Park, Calif.

The statement considers a proposed general management plan for Yosemite National Park that will guide overall park management and development for approximately 15 years, including specific plans for all developed areas within the park. Additions to the recommended wilderness plan are also proposed.

Written comments on the environmental statement are invited and will be accepted for a period of ninety (90) days following publication of this notice. Comments should be addressed to the Superintendent, Yosemite National Park.

Copies of the draft environmental statement are available from or for inspection at the following locations:

Western Regional Office, National Park Service, 450 Golden Gate Ave., San Francisco, Calif. 94102.
Los Angeles Field Office, National Park Service, Room 1013, New Federal Bldg., Los Angeles, Calif. 90012.
Yosemite National Park, P.O. Box 577, Yosemite, Calif. 95389.

Dated: September 21, 1978.

LARRY E. MERRIOTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-26980 Filed 9-25-78; 8:45 am]

[4310-70]

INDIANA DUNES NATIONAL LAKESHORE ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Indiana Dunes National Lakeshore Advisory Commission will be held at 10 a.m., c.d.t., on Friday, October 20, 1978, at the Indiana Dunes National Lakeshore Tremont/Furnessville Visitor Center, Intersection of State Park Road and U.S. Highway 12, Chesterton, Ind.

The Commission was established by Pub. L. 89-761 to meet and consult with the Secretary of the Interior on matters related to the administration and development of the Indiana Dunes National Lakeshore.

The members of the Commission are as follows:

Mr. Harry W. Frey (Chairman)
Dr. Lynton K. Caldwell
Mrs. Anna P. Carlson
Mr. Neil P. Frankel
Mr. John A. Hillenbrand II
Mrs. Barbara R. Johnson
Mr. William L. Lieber
Mr. Lawrence Miller
Mr. John R. Schnurlein
Mr. Norman E. Tufford
Mr. George H. Williams

Matters to be discussed at this meeting include:

1. Report on 1978 legislation.
2. Status of land acquisition.
3. General management plan progress report.
4. Overview of 1978 operations and projection of 1979 programs.
5. Report of poll on expansion legislation.
6. Periphery zoning for the Lakeshore.

The meeting will be open to the public. Any member of the public may

and with respect to all respondents (see motion to terminate filed June 26, 1978). The Presiding Officer, acting in

this investigation, Shilba-Shoji Trading Co. (hereinafter "Shilba-Shoji"). However, inasmuch as Tomy is be-

Circuit Court of Appeals. The Panel's schedule of meetings is as follows:

Drug Enforcement Administration.

[FR Doc. 78-27005 Filed 9-25-78; 8:45 am]

ing and intent of 21 U.S.C. 824(a)(2). Simultaneously, pursuant to 21 U.S.C. 824(d), the Administrator ordered that

The meeting will be open to the public. Any member of the public may file with the Commission prior to the meeting a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting or who wish to submit written statements, may contact James R. Whitehouse, Superintendent, Indiana Dunes National Lakeshore, Route 2, Box 139-A, Chesterton, Ind. 46304, telephone 219-926-7561.

Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the office of the Indiana Dunes National Lakeshore located at the intersection of State Park Road and U.S. Highway 12, Chesterton, Ind.

Dated: September 13, 1978.

RANDALL R. POPE,
Acting Regional Director,
Midwest Region.

[FR Doc. 78-26959 Filed 9-25-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-55]

CERTAIN NOVELTY GLASSES

Change of Commission Investigative Attorney

Mr. David J. Dir is designated Commission investigative attorney for Investigation No. 337-TA-55, Certain Novelty Glasses, replacing Mr. Steven David Moskowitz. The service of all papers on the Commission investigative attorney should henceforth be served upon Mr. Dir, effective Monday, September 25, 1978.

The Secretary is requested to publish this notice in the FEDERAL REGISTER.

EARL LEVY,
Deputy Director,
Office of Legal Services.

SEPTEMBER 21, 1978.

[FR Doc. 78-27057 Filed 9-25-78; 8:45 am]

[7020-02]

[Investigation 337-TA-46]

CERTAIN TELESCOPIC SIGHT MOUNTS

Commission Determination, Order and Memorandum Opinion

Procedural history. On June 26, 1978, Complainant Clear View Manufacturing Co. and the Commission investigative attorney jointly filed, pursuant to § 210.51 of the Commission's rules of practice and procedure [1] (hereinafter "Rules"), a motion to terminate this investigation as to all issues and with respect to all respondents (see motion to terminate filed June 26, 1978). The Presiding Officer, acting in conformity with §§ 210.51(c) and 210.53 of the rules,[2] concluded that no present violation of section 337 of the Tariff Act of 1930 [3] (hereinafter "section 337") exists with respect to the importation of the telescopic sight mounts which are the subject of the Commission's investigation, and recommended, by Order of August 21, 1978 (see Order Recommending Termination of Investigation, filed Aug. 21, 1978), that the Commission (1) determine that there is no violation of section 337 in the importation or sale in the United States of certain telescopic sight mounts, and (2) grant the joint motion to terminate the investigation. It is the purpose of this Determination, Order and Memorandum Opinion to consider the Presiding Officer's Recommendation and to rule on the joint motion to terminate.

Determination and Order. Having considered (1) the joint motion to terminate (motion docket No. 46-2), and (2) the Presiding Officer's recommendation of August 21, 1978, in the context of the record in the instant investigation, the Commission determines that no violation of section 337 presently exists by reason of the importation or sale in the United States of the telescopic sight mounts which are the subject of the Commission's investigation.

Therefore, the Commission grants the joint motion to terminate and orders that the instant investigation be and hereby is terminated with respect to all issues and all respondents.

Opinion. This is a patent-based case. The amended complaint filed with the Commission alleged that unfair methods of competition and unfair acts existed in the importation of certain telescopic sight mounts into the United States by reason of the alleged coverage of such articles by claims of two United States patents licensed to complainant. [4]

The joint motion to terminate the investigation was accompanied by affidavits executed by officers of respondents Tomy Enterprises Co., Ltd. (hereinafter "Tomy"), and Ednar, Inc. These affidavits, which are identical in form, state that the respondents in question (1) have discontinued exporting telescopic sight mounts to the United States covered by claims of the '565 and '633 patents, and (2) intend to export no more such sight mounts to the United States without the written permission of the complainant.

No similar affidavit has been received from the third respondent in this investigation, Shilba-Shoji Trading Co. (hereinafter "Shilba-Shoji"). However, inasmuch as Tomy is believed to be Shilba-Shoji's only source of supply for sight mounts of the type produced by complainant, and in view of the fact that Shilba-Shoji's United States importer, former respondent L.E.S., has given assurances that it will no longer import allegedly infringing sight mounts into the United States (see Commission Order and Opinion issued May 25, 1978, terminating L.E.S. as a respondent in this investigation), the Commission is of the view that this investigation should be terminated. The Commission therefore has determined to order the termination of the instant investigation as to all issues and all respondents.

Issued: September 21, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-27059 Filed 9-25-78; 8:45 am]

[1] 19 CFR 210.51.

[2] 19 CFR 210.51(c) and 210.53.

[3] 19 U.S.C. 1337.

[4] U.S. Letters Patents 3,835,565 (hereinafter "the '565 patent") and Des. 232,633 (hereinafter "the '633 patent").

[4410-01]

DEPARTMENT OF JUSTICE

U.S. CIRCUIT JUDGE NOMINATING COMMISSION, DISTRICT OF COLUMBIA PANEL

Meeting

Chairman: Joseph Tydings.

The District of Columbia Panel of the U.S. Nominating Commission will meet on Saturday, November 4, 1978, at 9 a.m., to review applications and to make up an interview schedule.

(1) A second meeting will be held on November 12, 1978, at 10 a.m., to conduct interviews and to make final selections.

(2) Both meetings will be held in the offices of Danzansky, Dickey, Tydings, Quint and Gordon, 1120 Connecticut Avenue NW., Washington, D.C. These meetings will be closed to the public pursuant to Pub. L. 92-463, section 10(D) as amended. (Cf. 5 U.S.C. 552b (c)(6).)

JOSEPH A. SANCHES,
Advisory Committee,
Management Officer.

SEPTEMBER 19, 1978.

[FR Doc. 78-26986 Filed 9-25-78; 8:45 am]

[4410-01]

U.S. CIRCUIT JUDGE NOMINATING COMMISSION, SIXTH CIRCUIT PANEL

Meeting

Chairman: Wilson W. Wyatt.

The Sixth Circuit Panel of the U.S. Circuit Judge Nominating Commission has been activated to nominate candidates to fill one vacancy on the Sixth Circuit Court of Appeals. The Panel's schedule of meetings is as follows:

(1) The first meeting will be held on October 17, 1978, at 11 a.m., on the 28th floor of Citizens Plaza, Fifth and Jefferson Streets, Louisville, Ky. The morning session will be open to the public. The afternoon session will be devoted to discussion of candidates and will be closed to the public pursuant to Pub. L. 92-463, section 10(D) as amended. (Cf. 5 U.S.C. 552b (c)(6).)

(2) The second meeting will be held on November 1, 1978, at 9 a.m., in room 501 of the U.S. Post Office and Federal Building, Cincinnati, Ohio. The purpose of this meeting is to consider nominations and the meeting will be closed to the public pursuant to Pub. L. 92-463, section 10(D) as amended. (Cf. 5 U.S.C. 552b (c)(6).) If necessary, the meeting will be continued through November 2, 1978.

JOSEPH A. SANCHES,
Advisory Committee,
Management Officer.

SEPTEMBER 19, 1978

[FR Doc. 78-26987 Filed 9-25-78; 8:45 am]

[4410-09]

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Pursuant to 21 U.S.C. 823(a)(1), and § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 7, 1978, Pharmaceuticals Division, Ciba-Geigy Corp., 556 Morris Avenue, Summit, N.J. 07901, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the schedule II controlled substance methylphenidate (1724).

Any other such applicant, and any person who is presently registered with DEA to manufacture such substance, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA FEDERAL REGISTER Representative (Room 1203), and must be filed no later than October 26, 1978.

Dated: September 19, 1978.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc. 78-27005 Filed 9-25-78; 8:45 am]

[4410-09]

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Pursuant to 21 U.S.C. 823(a)(1), and § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 21, 1978, Eli Lilly and Co., Tippecanoe Lab., Box 685 Lilly Road, Lafayette, Ind. 47902, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the schedule II controlled substances methadone (9250) and methadone-intermediate (9254).

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA FEDERAL REGISTER Representative (Room 1203), and must be filed no later than October 26, 1978.

Dated: September 19, 1978.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc. 78-27006 Filed 9-25-78; 8:45 am]

[4410-09]

[Docket No. 78-10]

THOMAS EDWARD BENNETT, D.O.

Revocation of Registration

On May 25, 1978, the Administrator of the Drug Enforcement Administration (DEA) issued an Order to Show Cause to Thomas Edward Bennett, D.O. (Respondent), of Houston, Tex. The Order to Show Cause proposed to revoke the Respondent's DEA Certificate of Registration, AB7288283, and to deny his then pending application for registration, for reason that on May 25, 1978, following his plea of nolo contendere in the U.S. District Court for the Southern District of Texas, the Respondent was convicted of unlawfully distributing and dispensing Schedule II controlled substances and of a related conspiracy charge in violation of 21 U.S.C. 841(a)(1) and 846, felony offenses within the meaning and intent of 21 U.S.C. 824(a)(2). Simultaneously, pursuant to 21 U.S.C. 824(d), the Administrator ordered that the Respondent's registration be suspended pending the final outcome of these proceedings.

The Respondent requested a hearing on the issues raised by the Order to Show Cause and this matter was placed on the docket of Administrative Law Judge Francis L. Young. Subsequent to the filing of written prehearing statements, but before an evidentiary hearing in this matter could be held, counsel for the Respondent and for DEA entered into a stipulation pursuant to which this matter might be disposed of without necessitating further proceedings. On August 24, 1978, the Administrative Law Judge accepted the stipulation and recommended that the Administrator issue a final order not inconsistent with the terms agreed upon by counsel.

The Administrator has reviewed the record of these proceedings and, pursuant to the provisions of 21 CFR 1316.66, hereby publishes his final order in this matter.

The Respondent has stipulated to the fact of his conviction of felony offenses relating to controlled substances and has consented to the revocation of his DEA registration as well as to the denial of his pending application for registration. The Administrator concludes that there is a lawful or statutory basis for such revocation and denial. Therefore, pursuant to the authority granted to the Attorney General by sections 303 and 304 of the Controlled Substances Act (21 U.S.C. 823 and 824), and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that the Respondent's pending application for registration be denied and that DEA Certificate of Registration AB7288283 be revoked, effective immediately.

The U.S. District Court for the Southern District of Texas has placed the Respondent on supervised probation for a period of 5 years. The successful completion of this term of probation may indicate that the Respondent can once more be entrusted with the handling and prescribing of controlled substances. Therefore, on May 25, 1983, or as soon thereafter as the Respondent may make application for such registration, provided that he has successfully completed his period of probation, and further provided that he is appropriately licensed and authorized to handle controlled substances under the laws of the State in which he is then practicing, the Drug Enforcement Administration will give favorable consideration to the Respondent's application for registration in Schedules IV and V of the Controlled Substances Act.

On May 25, 1984, or as soon thereafter as the Respondent may make ap-

all requests for preaward clearances under E.O. 11246 must be directed to

compliance agency responsibilities under Executive Order 11246, as amended, into the Office of Federal Contract Compliance Pro-

[4510-28]

Office of the Secretary

sideration of the Department of Labor's prior decision. The application is, therefore, denied.

increased from 8.6 percent in 1975 to 21.0 percent in 1976 and then to 22.2 percent in 1977. The imports to domes-

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On May 25, 1984, or as soon thereafter as the Respondent may make application for such registration, again predicated upon his being appropriately licensed and authorized to handle such controlled substances under State law, DEA will give favorable consideration to the Respondent's application for registration in Schedule III as well as Schedules IV and V.

On May 25, 1985, again provided that the Respondent is properly licensed and authorized to apply therefor, the Drug Enforcement Administration will consider Respondent's application for registration in Schedule II. In determining whether or not such registration would be in the public interest, the Respondent has stipulated that DEA may consider such factors as the Respondent's experience in handling controlled substances in Schedules III through V; his success, or lack thereof, in rehabilitation; the nature of his practice; and his ability to cope with the pressures which a registration to prescribe Schedule II controlled substances may bring.

Dated: September 19, 1978.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc. 78-27007 Filed 9-25-78; 8:45 am]

[4510-27]

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

EQUAL EMPLOYMENT OPPORTUNITY

Changes in Preaward Clearance Requests under Executive Order 11246

Pursuant to President Carter's decision to consolidate programs implementing Executive Order 1246, as amended, in the Office of Federal Contract Compliance Programs (OFCCP), Order No. 1 (Revised), October 1, 1977, which assigned compliance responsibilities to compliance agencies based on standard Industrial Classifications, is being rescinded effective October 1, 1978. The Heads of Agencies Memorandum which follows authorizes compliance agencies to continue exercising authority over reviews and investigations already under way until October 8, 1978. Effective October 2, 1978, however, requests by procurement officials for preaward clearances shall be made to OFCCP. The Memorandum also informs procuring agencies of the Federal Government regarding proper contact points for preaward clearances beginning October 2, 1978. The Memorandum provides that beginning October 2, 1978, all requests for preaward clearances under E.O. 11246 must be directed to the OFCCP Regional Office for the region in which the contractor facility is located, and lists the addresses of the various OFCCP Regional Offices.

Dated: September 20, 1978.

RICHARD DEVINE,
Deputy Director, Office of Federal Contract Compliance Programs.

To: Heads of all agencies.
From: Richard Devine, Deputy Director, Office of Federal Contract Compliance Programs.
Subject: Fiscal year 1979 preaward clearance requests.

SEPTEMBER 20, 1978.

President Carter has announced his intent to issue an Executive Order consolidating compliance agency responsibilities under Executive Order 11246, as amended, into the Office of Federal Contract Compliance Programs (OFCCP), Employment Standards Administration (ESA), Department of Labor. The effective date for the new issuance will be October 8, 1978, a change from the originally announced date of October 1, 1978, designed to match the full consolidation with the payroll periods of most compliance agencies.

Effective October 1, 1978, Order No. 1 (revised) of October 1, 1977 is rescinded. Compliance agencies are authorized to continue exercising authority over reviews or investigations already underway until October 8, 1978.

Beginning October 2, 1978, the first business day of the new fiscal year, all requests for preaward clearances under Executive Order 11246 must be directed to the OFCCP Regional Office for the region in which the contractor facility is located, as indicated below.

REGIONAL OFFICE

Region	States	Address and Telephone
I	Maine New Hampshire Vermont Massachusetts Rhode Island Connecticut	Associate Regional Administrator for OFCCP/ESA-O, U.S. Department of Labor, JFK Federal Office Bldg., Room 1612-C, Boston, Mass. 02203, 617-223-4517.
II	New York New Jersey Puerto Rico Virgin Islands	Associate Regional Administrator for OFCCP/ESA-O, U.S. Department of Labor, 60 Hudson St., New York, N.Y. 10013, Attn: DCRN-V, 212-374-9231.
III	Pennsylvania Maryland Delaware Virginia West Virginia District of Columbia	Associate Regional Administrator for OFCCP/ESA-O, U.S. Department of Labor, Gateway Bldg., Room 15434, 3535 Market St., Philadelphia, Pa. 19104, 215-596-1213.
IV	North Carolina South Carolina Kentucky Tennessee Mississippi Alabama Georgia Florida	Associate Regional Administrator for OFCCP/ESA-O, U.S. Department of Labor, 1371 Peachtree St., Room 729, Atlanta, Ga. 30309, 404-881-4211.
V	Ohio Indiana Michigan Illinois Wisconsin Minnesota	Associate Regional Administrator for OFCCP/ESA-O, U.S. Department of Labor, 230 South Dearborn St., Room 1614, Chicago, Ill. 60604, 312-353-7119.
VI	Louisiana Arkansas Oklahoma Texas New Mexico	Associate Regional Administrator for OFCCP/ESA-O, U.S. Department of Labor, 555 Griffin Square Bldg., Room 506, Dallas, Tex. 75202, 214-767-4775 or 1.
VII	Missouri Iowa Nebraska Kansas	Associate Regional Administrator for OFCCP/ESA-O, U.S. Department of Labor, Federal Office Bldg., Room 2000, 911 Walnut St., Kansas City, Mo. 64106, 816-374-5384.
VIII	North Dakota South Dakota Montana Wyoming Colorado Utah	Associate Regional Administrator for OFCCP/ESA-O, U.S. Department of Labor, Federal Office Bldg., Room 14431, 1961 Stout St., Denver, Colo. 80202, 303-837-5011.
IX	California Nevada Arizona Hawaii Guam	Associate Regional Administrator for OFCCP/ESA-O, U.S. Department of Labor, Federal Office Bldg., Room 10431, 450 Golden Gate Ave., San Francisco, Calif. 94102, 415-556-3597.
X	Washington Oregon Idaho	Associate Regional Administrator for OFCCP/ESA-O, U.S. Department of Labor, Federal Office Bldg., Room 4095, 909 First Ave., Seattle, Wash. 98174, 206-442-4508.

Heads of agencies are asked to transmit this information to all procuring activities for implementation on October 2, 1978. To further facilitate general awareness of change in the preaward clearance system, this Heads of Agencies Memorandum is being published in the FEDERAL REGISTER.

[FR Doc. 27017 Filed 9-25-78; 8:45 am]

[4510-28]

Office of the Secretary

[TA-W-2397]

AMERICAN BILTRITE, INC., BOSTON INDUSTRIAL PRODUCTS DIVISION

Negative Determination Regarding Application for Reconsideration

On August 16, 1978, the president of the local union of United Rubber, Cork, Linoleum & Plastic Workers of America requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance. This determination was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30922).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered, that the determination complained of was erroneous;

(2) If it appears that the determination complained was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the certifying officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

In his application, the president of the local union states his belief that workers at the Cambridge plant have been effected by imports. He specifically mentions the product, steel belts, as having been all but completely eliminated at American Biltrite due to import competition. This statement by the President provides no new information, which would suggest that the Department's original determination was in error. Production of steel belts was taken into consideration in the investigation of the Cambridge plant. It was found that steel belts accounted for only 1.1 percent of company sales in 1976 and 1.2 percent of company sales in 1977. If, as it is claimed in the application, this product accounted for a higher percentage of sales prior to 1976, it would have been of no relevance to a certification of this case given the fact that the petition was dated September 19, 1977, and that the law would have allowed us to, in case of a certification, set an impact date of no more than 1 year prior to that date.

CONCLUSION

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 11th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26871 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3484]

ASARCO, INC.

Certification Regarding Eligibility To Apply for Worker Ajustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3484: Investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 11, 1978, in response to a worker petition received on March 31, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing copper, lead, zinc, antimony, and cadmium at the El Paso Smelting Works of ASARCO, Inc., El Paso, Tex. During the course of the investigation it was established that antimony is not produced and that the cadmium produced is insignificant.

The notice of investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18790). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of ASARCO, Inc., the Department of Commerce, the United States International Trade Commission, the U.S. Department of the Interior, the American Metals Market, Metal Bulletin, Metals Week, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of refined copper increased from 147 thousand short tons in 1975 to 384 thousand short tons in 1976 and then to 391 thousand short tons in 1977. Imports increased from 66 thousand short tons in the first quarter of 1977 to 150 thousand short tons in the first quarter of 1978. The imports to domestic production ratio increased from 8.6 percent in 1975 to 21.0 percent in 1976 and then to 22.2 percent in 1977. The imports to domestic production ratio increased from 13.1 percent in the first quarter of 1977 to 34.1 percent for the same period in 1978.

Imports of copper are affected by the differential between the domestic producers price of copper and the price established by the LME (London Metal Exchange). When the LME price drops more than the estimated transportation cost of 5-8 cents per pound below the domestic producers price, the demand for imported copper increases. During May and June 1977, the price was almost 11 cents per pound below the domestic producers price and in July and August 1977, the LME price was almost 12 cents per pound below the domestic producers price. At the same time, the abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, imports of refined copper increased in 1977 when compared to 1976 and increased 127.3 percent in the first quarter of 1978 when compared to the same period in 1977, when many domestic copper producers curtailed production because of the depressed market price of copper.

Price pressure from imported copper has reduced the ability to profitably mine domestic ore and convert it to copper concentrates and then to refined copper. The current domestic market price of copper is 64 cents per pound. Industry sources indicate that the production costs of domestic copper mines are equal to or higher than the market price. Consequently, domestic producers have been either breaking even or operating at a loss.

U.S. imports of refined and recovered lead increased from 101 thousand short tons in 1975 to 147 thousand short tons in 1976 and then increased to 264 thousand short tons in 1977. Imports increased from 47 thousand short tons in the first quarter of 1977 to 66 thousand short tons for the same period in 1978. The imports to domestic production ratio increased from 7.8 percent in 1975 to 10.7 percent in 1976 and then to 19.7 percent in 1977. The imports to domestic production ratio increased from 14.1 percent in the first quarter of 1977 to 19.5 percent for the same period in 1978.

Imports of lead are affected by the differential between the domestic producers price and the price of lead on the London Metal Exchange (LME). Generally prices charged by domestic

producers range from 2 to 4 cents above LME prices. When the LME price drops more than 2 to 4 cents per

tantly to the decline in sales and production and to the total or partial separation of workers at the facility.

thousand dozen in the first quarter of 1977 to 878 thousand dozen in the first quarter of 1978. The ratio of imports

customers in the same period increased their contracts with foreign sources and increased their purchases of imported women's sportswear.

vices are not "articles" within the meaning of section 222 of the Act and that independent firms for which the subject firm provides services cannot

The petitioner, an official of the Amalgamated Clothing and Textile Workers Union requested withdrawal of petition TA-W-3349 in a letter

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producers range from 2 to 4 cents above LME prices. When the LME price drops more than 2 to 4 cents per pound below the domestic producers' price, there is increased demand for imported lead. In August 1977 there was a 6-cent difference in lead prices (31 cents U.S. versus 25 cents LME), which may have prompted some U.S. customers to purchase abroad. Also from February–April 1978 lead prices on the LME have ranged from 6.5–7.0 cents per pound lower than those charged by U.S. producers. Consequently while domestic production of lead has remained fairly constant in 1977 and in the first quarter of 1978, imports of refined and recovered lead increased 79.6 percent from 1976 to 1977 and 40.4 percent in the first quarter of 1978 when compared to the same period in 1977.

U.S. imports of slab zinc increased from 380,437 short tons in 1976 to 714,489 short tons in 1977 before declining to 555,147 short tons in 1977. Imports increased from 121,120 short tons in the first quarter of 1977 to 155,998 short tons for the same period in 1978. The imports to domestic production ratio increased from 76.7 percent in 1975 to 127.0 percent in 1976 and to 127.9 percent in 1977. The imports to domestic production ratio increased from 94.0 percent in the first quarter of 1977 to 152.1 percent for the same period in 1978.

Imports of zinc are affected by the differential between the domestic price of zinc established by U.S. producers and the price established by the LME (London Metal Exchange). When the LME price drops more than the estimated transportation cost of 5 cents per pound below the producers' price, the demand for imported zinc increases. Except for brief periods in the spring of 1976 and March 1977, the price differential between U.S. producers and the LME has exceeded 5 cents per pound. The average U.S. producer price for zinc was 7.6 cents higher than the average LME zinc price in 1977 and 7.1 cents higher in the first quarter of 1978. This is well above the 5-cent limit at which domestic suppliers can remain competitive. Consequently, in the first quarter of 1978 when many domestic zinc producers curtailed production because of the depressed market price of zinc, imports of slab zinc increased 28.8 percent when compared to the same period in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the copper, lead, and zinc produced at the El Paso Smelting Works of ASARCO, Inc., El Paso, Tex., contributed importantly to the decline in sales and production and to the total or partial separation of workers at the facility.

In accordance with the provisions of the Act, I make the following certification:

All workers at the El Paso Smelting Works of ASARCO, Inc., El Paso, Tex., who became totally or partially separated from employment on or after January 1, 1978, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Adminstration and Planning.

[FR Doc. 78-26872 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3505]

BENTLEY KNITWEAR CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3505: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 13, 1978, in response to a worker petition received on March 27, 1978, which was filed by International Ladies Garment Workers Union on behalf of workers and former workers producing women's sportswear at Bentley Knitwear Corp., Brooklyn, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17552). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bentley Knitwear Corp., its customers, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that U.S. imports of women's, misses', and children's sweaters increased from 8,965 thousand dozen in 1975 to 9,613 thousand dozen in 1976 and decreased to 9,520 thousand dozen in 1977. Imports increased from 816 thousand dozen in the first quarter of 1977 to 878 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 115.1 percent in 1975 to 141.9 percent in 1976 and decreased to 140.8 percent in 1977.

U.S. imports of women's, misses' and children's slacks and shorts increased from 10,067 thousand dozen in 1975 to 11,040 thousand dozen in 1976 to 11,662 thousand dozen in 1977. Imports increased to 4,545 thousand dozen in the first quarter of 1978 compared to 3,374 thousand dozen in the first quarter of 1977. The ratio of imports to domestic production increased from 35.2 percent in 1975 to 36.8 percent in 1976 to 38.0 percent in 1977.

U.S. imports of women's, misses' and children's blouses and shirts increased from 26,113 thousand dozen in 1975 to 30,273 thousand dozen in 1976 to 30,849 thousand dozen in 1977. Imports increased to 10,186 thousand dozen in the first quarter of 1978 compared to 8,280 thousand dozen in the first quarter of 1977. The ratio of imports to domestic production decreased from 70.4 percent in 1975 to 70.3 percent in 1976 to 69.7 percent in 1977.

U.S. imports of women's, misses' and children's skirts increased from 517 thousand dozen in 1975 to 791 thousand dozen in 1976 and decreased to 654 thousand dozen in 1977. Imports increased to 296 thousand dozen in the first quarter of 1978 compared to 103 thousand dozen in the first quarter of 1977. The ratio of imports to domestic production increased from 10.8 percent in 1975 to 14.2 percent in 1976 and decreased to 10.5 percent in 1977.

U.S. imports of women's, misses' and children's suits decreased from 412 thousand dozen in 1975 to 408 thousand dozen in 1976 to 384 thousand dozen in 1977. Imports increased to 104 thousand dozen in the first quarter of 1978 compared to 62 thousand dozen in the first quarter of 1977. The ratio of imports to domestic production decreased from 12.2 percent in 1975 to 11.4 percent in 1976 to 10.5 percent in 1977.

U.S. imports of women's, misses' and children's dresses decreased from 1,655 thousand dozen in 1975 to 1,614 thousand dozen in 1976 to 1,420 thousand dozen in 1977. Imports increased to 403 thousand dozen in the first quarter of 1978 compared to 371 thousand dozen in the first quarter of 1977. The ratio of imports to domestic production remained at 8.0 percent from 1975 to 1976 and deceased to 6.7 percent in 1977.

Customers surveyed representing a significant proportion of the subject firm's sales in 1976 decreased their purchases from Bentley Knitwear Corp. in 1977 compared to 1976. These customers in the same period increased their contracts with foreign sources and increased their purchases of imported women's sportswear.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the women's sportswear produced at Bentley Knitwear Corp., Brooklyn, N.Y., contributed importantly to the decline in sales or production and to the total or partial separations or workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Bentley Knitwear Corp., Brooklyn, N.Y., who became totally or partially separated from employment on or after March 17, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26873 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3886]

BIRK TRANSFER, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3886: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 22, 1978, in response to a worker petition received on April 25, 1978, which was filed on behalf of workers and former workers of Birk Transfer, Inc., Conomaugh, Pa., engaged in transporting materials at the Johnstown, Pa., plant of Bethlehem Steel Corp.

The notice of investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29365). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Birk Transfer, Inc., and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The Department has determined that services are not "articles" within the meaning of section 222 of the Act and that independent firms for which the subject firm provides services cannot be considered to be the "workers firm."

Birk Transfer Co., Inc., was founded in 1966 and incorporated in Pennsylvania. The company has no parent firm. Birk Transfer provides transportation services within the Johnstown, Pa., plant of Bethlehem Steel Corp. The subject firm transports materials from point to point within the steel plant.

Workers at Birk Transfer are engaged in providing transportation services and do not produce an article within the meaning of section 222 (3) of the Act.

Birk Transfer and Bethlehem Steel Corp. have no controlling interest in each other.

All workers engaged in providing transportation services at Birk Transfer, Inc., are employed by that firm. All personnel actions and payroll transactions are controlled by Birk Transfer Co., Inc. All employment benefits are provided and maintained by Birk Transfer. Workers are not at any time under employment or supervision by Bethlehem Steel Corp. Thus, Birk Transfer must be considered the "workers firm."

CONCLUSION

After careful review, I determine that all workers of Birk Transfer Co., Inc., Conomaugh, Pa., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26874 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3349]

BOTANY 500

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 15, 1978, in response to a worker petition received on February 21, 1978, in response to a worker petition received on February 21, 1978, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's tailored clothing at Botany 500, Philadelphia, Pa.

Notice of Investigation was published in the FEDERAL REGISTER on April 7, 1978 (43 FR 14775). No public hearing was requested and none was held.

The petitioner, an official of the Amalgamated Clothing and Textile Workers Union requested withdrawal of petition TA-W-3349 in a letter dated July 20, 1978.

Signed at Washington, D.C. this 6th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-26875 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3855]

BRIDON AMERICAN CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3855: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 19, 1978 in response to a worker petition received on June 12, 1978 which was filed by the Bridon American Corp. on behalf of all workers of the Folcroft, Pa. service center of the Bridon American Corp.

The notice of investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28581). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bridon American Corp., its customers, the U.S. Department of Commerce, the United States International Trade Commission, Industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the group eligibility criteria have been met.

Average facility employment declined in the first half of 1978 compared to the like 1977 period. The facility was permanently closed on June 2, 1978. There weren't any layoffs at the facility in 1977 or in the first quarter of 1978. Layoffs began at the Folcroft facility in April, 1978.

The Folcroft facility is a service and distribution center for wire rope which is produced by the Bridon American Corp. All of the wire rope produced by the company is shipped to the distribution centers where the wire rope is cut to the individual customers' requirements. The wire rope is then

shipped from the center to the customers. The functions performed at the centers are integral to the company's production of wire rope. Workers

hearing was requested and none was held.

The information upon which the determination was made was obtained

powdered metals and process equipment at the Lakehurst, N.J. plant, Chemical Metallurgical Division of

Signed at Washington, D.C., this 15th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of

worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 4, 1978, in response to a

CONCLUSION

After careful review I determine that all workers of Chloride Pyrotector, Inc., Hingham, Mass., are denied

shipped from the center to the customers. The functions performed at the centers are integral to the company's production of wire rope. Workers engaged in employment related to the production of a significant percentage of the company's total 1977 production of wire rope who became totally or partially separated from employment on or after October 31, 1976, were certified eligible to apply for adjustment assistance benefits on April 14, 1978. This determination will expire Aprl 14, 1980 unless terminated earlier by the Secretary of Labor. See Department determination TA-W-2609.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the wire rope produced by the Bridon American Corp. have contributed importantly to the total or partial separation of workers at the Folcroft, Pa. service center of the Bridon American Corp. as required for certification under section 222 of the Trade Act of 1974. In accordance with the provisions of the Act, I make the following certification:

All employees of the Folcroft, Pa. service center of the Bridon, American Corp. who became totally or partially separated from employment on or after April 1, 1978 are eligible to apply for adjustment assistance benefits under title, II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26876 Filed 9-26-78; 8:45 am]

[4510-28]

[TA-W-3506]

CATH-GAR TEXTILE CO., INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3506: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 13, 1978 in response to a worker petition received on April 6, 1978 which was filed on behalf of workers and former workers producing fabrics for the home sewing trade and the apparel industry at Cath-Gar Textile Co., Inc., Clifton, N.J.

The notice of investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17552). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Cath-Gar Textile Co., Inc., its customers, the American Textile Manufacturers Institute, the U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of finished fabric (bleached, dyed, and printed) decreased from 464 million square yards in 1976 to 453 million square yards in 1977. The ratio of imports to domestic production has been below 2.0 percent each year from 1974 through 1976.

Customers who were surveyed did not increase purchases of imported finished fabric while decreasing purchases from Cath-Gar Textile Co.

CONCLUSION

After careful review I determine that all workers of Cath-Gar Textile Co., Inc., Clifton, N.J. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26877 Filed 9-26-78; 8:45 am]

[4510-28]

[TA-W-3706]

CHEMICAL METALLURGICAL DIVISION SCM CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3706: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 15, 1978 in response to a worker petition received on May 2, 1978 which was filed on behalf of workers and former workers producing chemicals, powdered metals and process equipment at the Lakehurst, N.J. plant, Chemical Metallurgical Division of SCM Corp. The investigation revealed that ilmenite ore (used in the production of titanium dioxide) was mined at the Lakehurst, N.J. facility.

The notice of investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27923). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of SCM Corp., the U.S. Department of Commerce, the United States International Trade Commission, the U.S. Bureau of Mines, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations or threat thereof, and to the absolute decline in sales or production.

The Lakehurst, N.J. facility of SCM Corp. was a mine for ilmenite ore. Ilmenite ore is used by SCM in the manufacture of titanium dioxide, which is a pigment used by the paint, paper, plastic and rubber industries.

The mine was acquired in 1960. At that time, its life expectancy was 15 years—i.e., the ore supply of the mine was expected to be exhausted by 1975. In 1978, 18 years after SCM began mining ilmenite ore at the Lakehurst site, the mine was effectively exhausted of its supply of ore. All ore that was economically justified to mine ha' been taken from this site. The mine was closed at the end of March 1978.

The closure of the Lakehurst mine is attibuted to the depeletion of ore reserves. Changing technology has resulted in a move toward a newer, more modern and efficient process by which titanium dioxide is produced. This newer process utilizes rutile ore either natural or synthesized from ilmenite ore.

CONCLUSION

After careful review, I determine that all workers of the Lakehurst, N.J., mine in the Chemical Metallurgical Division of SCM Corp. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26878 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3401]

CHINO MINES DIVISION OF KENNECOTT COPPER CORP.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a certification of eligibility to apply for adjustment assistance on August 18, 1978, applicable to all workers of the Chino Mines Division of Kennecott Copper Corp., Hurley, N. Mex., including the Silver City, N. Mex., mine who became totally or partially separated from employment on or after March 1, 1978. The notice of certification was published in the FEDERAL REGISTER on August 25, 1978 (43 FR 38125).

A review of the case revealed that a significant number of the workers were separated from employment in September 1977. These workers were not covered by the original impact date of March 1, 1978.

The intent of the certification is to cover those workers separated in September 1977 importantly because of import competition. The certification, therefore, is revised providing a new impact date of September 1, 1977.

The revised certificated applicable to TA-W-3401 is hereby issued as follows:

All workers at the Chino Mines Division of Kennecott Copper Corp., Hurley, N. Mex., including the Silver City, N. Mex., mine who became totally or partially separated from employment on or after September 1, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-26879 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-2841]

CHLORIDE PYROTECTOR, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2841: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 4, 1978, in response to a worker petition received on December 16, 1977, which was filed on behalf of workers and former workers producing smoke and heat detectors at the Pyrotector Division of Chloride, Inc., Hingham, Mass.

The investigation revealed that, in addition to smoke and heat detectors, a small quantity of flame detectors for specialized uses are produced. The correct company name is Chloride Pyrotector, Inc.

The notice of investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3777). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Chloride Pyrotector, Inc., its customers, the Center for Fire Research of the National Bureau of Standards, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of smoke detectors (residential units) increased absolutely in 1976 compared to 1975, and increased both absolutely and relative to domestic production in 1977 compared to 1976.

Imports of commercial smoke detectors decreased absolutely and relatively both in 1976 and in 1977 compared to the previous year.

A sample of customers of Chloride Pyrotector was selected and surveyed. Of those customers who responded, who purchase residential smoke detectors from Pyrotector, all but one purchased no imports. The import purchases of that one customer decreased in value in 1977 compared to 1976.

Of those customers responding to the survey who purchase commercial units from Pyrotector, one reported purchasing imports. These import purchases were made in 1977, and amounted to less that 1 percent of total purchases from all sources by that customer in that year. At the same time, that customer's purchases from Pyrotector increased in 1977 compared to 1976.

CONCLUSION

After careful review I determine that all workers of Chloride Pyrotector, Inc., Hingham, Mass., are denied eligibility to apply for adustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26880 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3556]

EVA FISHER DRESS CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3556: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 27, 1978 in response to a worker petition received on April 10, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of former workers producing ladies' designer or couture ready-to-wear clothing at Eva Fisher Dress Co., Los Angeles, Calif.

The notice of investigation was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21769). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Eva Fisher Dress Co., its customers, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's, misses', and children's dresses decreased from 1,655 thousand dozen in 1975 to 1,614 thousand dozen in 1976 to 1,420 thou-

sand dozen in 1977. The import to domestic production ratio decreased from 8.0 percent in 1976 to 6.7 percent

hearing was requested and none was held.

The information upon which the de-

[4510-28]

[TA-W-3027]

The drop in production and employment at Fort Pitt Steel Casting can therefore be attributed to cutbacks in

U.S. imports of women's misses and children's slacks and shorts increased in 1975 to 10,067 thousand dozen, in-

hearing was requested and none was held.

The information upon which the de-

sand dozen in 1977. The import to domestic production ratio decreased from 8.0 percent in 1976 to 6.7 percent in 1977. Domestic production information was not available for 1978.

U.S. imports of women's, misses', and children's suits decreased from 412 thousand dozen in 1975 to 408 thousand dozen in 1976 to 384 thousand dozen in 1977. The import to domestic production ratio decreased from 11.4 percent in 1976 to 10.5 percent in 1977.

Eva Fisher Dress Co. contracted almost exclusively for one manufacturer. Industry sources and customers of the manufacturer who were surveyed indicated that price competition is not an important factor in the market of ladies' designer apparel. Relatively few stores carry European designer clothing, particularly on a large scale, which adds to its exclusivity, and makes it less of a substitute for mainstream American designer clothing. Customers base a decision to buy from a particular domestic manufacturer almost entirely upon exclusivity and style.

CONCLUSION

After careful review, I determine that workers of Eva Fisher Dress Co., Los Angeles, Calif., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26881 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3174]

F. E. OLDS & SON, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3174: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 21, 1978, in response to a worker petition received on February 2, 1970, which was filed by the United Steelworkers of America on behalf of workers and former workers producing brass wind instruments at F. E. Olds & Son, Inc. (a division of Norlin Music Corp.), Fullerton, Calif.

The notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from F. E. & Son, Inc., Norlin Music Corp., its customers, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of brass wind musical instruments increased from 38,781 units in 1976 to 46,710 units in 1977.

The import to domestic production ratio for brass wind musical instruments increased from 18.2 percent in 1976 to 25.7 percent in 1977.

Over 95 percent of F. E. Old's production is sold by its parent firm, Norlin Music Corp. A Department survey was conducted with customers of Norlin Music Corp. Some of the surveyed customers indicated that they had increased their purchases of imported brass wind musical instruments, while decreasing purchases from Norlin from 1976 to 1977 and during the first quarter of 1978 as compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with brass wind musical instruments produced by F. E. Olds & Son, Inc., Fullerton, Calif. (a division of Norlin Music Corp.) contributed importantly to the decline in sales and production and to the total or partial separation of workers at the plant.

In accordance with the provisions of the Act, I make the following certification:

All workers at F. E. Olds & Son, Inc., Fullerton, Calif., who became totally or partially separated from employment on or after April 29, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 8th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26882 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3027]

FORT PITT STEEL CASTING DIVISION—CONVAL PENN, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3027: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 6, 1978, in response to a worker petition received on January 30, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel castings at Fort Pitt Steel Casting Division—Conval Penn, Inc., McKeesport, Pa.

The notice of investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7064). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Fort Pitt Steel Casting Division—Conval Penn, Inc., its customers, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of steel castings increased from $27.1 million in 1976 to $33.9 million in 1977. The imports to domestic production ratio increased from 1.1 percent in 1976 to 1.3 percent in 1977. This ratio has not exceeded 1.3 percent for the past 4 years.

Fort Pitt Steel Casting Division—Conval Penn, Inc., specializes in the casting of industrial valve parts, and is a wholly-owned subsidiary of Conval Corp. Over 50 percent of Fort Pitt's production is sold to two other Conval Corp. divisions for assembly and finishing into valves. Fort Pitt's sales of cast steel valve parts to the two Conval Corp. divisions, which are captive customers of the Fort Pitt Division, increased in 1977 compared to 1976.

The drop in production and employment at Fort Pitt Steel Casting can therefore be attributed to cutbacks in purchases by outside customers. A survey of outside customers revealed that none of these customers decreased purchases from Fort Pitt and increased purchases from foreign sources in 1977 as compared to 1976.

CONCLUSION

After careful review, I determine that all workers of Fort Pitt Steel Casting Division—Conval Penn, Inc., McKeesport, Pa., are denied eligibility to apply for trade adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26883 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-2689]

GAMS

Certification Regarding Eligibility To Apply For Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2689: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 1, 1977, in response to a worker petition received on November 14, 1977, which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing ladies' slacks and jackets at GAMS, Elizabeth, N.J. The investigation revealed that ladies' slacks accounted for over 90 percent of production at GAMS.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63484). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of GAMS, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's misses and children's slacks and shorts increased in 1975 to 10,067 thousand dozen, increased in 1976 to 11,040 thousand dozen, and increased in 1977 to 11,622 thousand dozen.

The imports to domestic production ratio for women's misses' and children's slacks and shorts increased to 35.2 percent in 1975 and further increased to 36.4 percent in 1976.

A survey of the manufacturers for whom GAMS performed contract work and one of the customers of one of those manufacturers indicated significant import penetration. One manufacturer reduced purchases from GAMS and increased purchases of imported ladies' slacks. The customers of another manufacturer indicated increases in purchases of imported ladies' slacks of 185 percent in 1976 and 158 percent in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' slacks produced by GAMS, Elizabeth, N.J. contributed importantly to the declines in production and to the total or partial separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at GAMS, Elizabeth, N.J. who became totally or partially separated from employment on or after June 18, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and PLanning.

[FR Doc. 78-26884 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3827]

GENERAL CABLE CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3827: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 12, 1978, in response to a worker petition received on June 9, 1978, which was filed on behalf of all workers at the Warrenton, Mo. plant of General Cable Corp.

The notice of investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27925). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of General Cable Corp., the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility, each of the group eligibility requirements of section 222 of the Act must be met. Regardless of whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both of such firm or subdivision have decreased absolutely.

Annual sales and production of copper wire bar increased in quantity from 1976 to 1977 and increased in the first half of 1978 compared to the same 1977 period.

CONCLUSION

After careful review, I determine that all workers of the Warrenton, Mo. plant of General Cable Corp. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26885 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3619]

GRACE COAT CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3619: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Grace Coat Co., Hoboken, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Grace

Coat Co., its customers (manufacturers), the U.S. Department of Commerce, the United States International

adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on

All workers at Handi-Bag Co., Inc., Bags by Trudy, Bags by Scobe, Nancy Bag Corp and Bags by Gail, Inc., New York, N.Y. who

from 8 percent in 1976 to 6.7 percent in 1977.

U.S. imports of women's, misses' and

principally from officials of International Telephone & Telegraph Co., the U.S. Department of Commerce, the

which was filed on the International Ladies' Garment Workers' Union on behalf of workers and former workers

Coat Co., its customers (manufacturers), the U.S. Department of Commerce, the United States International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturer for which Grace Coat Co. worked in 1976 and 1977. This manufacturer reported that it reduced purchases from Grace Coat Co. and increased purchases of imported ladies' coats in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at Grace Coat Co., Hoboken, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Grace Coat Co., Hoboken, N.J., who become totally or partially separated from employment on or after March 23, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26886 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3538, 3538A, 3538B, 3538C, 3538D]

HANDI-BAG CO., INC. ET AL.

Certifications Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3538, 3538A, 3538B, 3538C, 3538D: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 25, 1978, in response to a worker petition received on April 4, 1978, which was filed on behalf of workers and former workers producing ladies' vinyl handbags, at Handi-Bag Co., Inc. and Bags by Trudy, Inc., The investigation was expanded to include Bags by Scobe, Inc., Nancy Bag Corp. and Bags by Gail, Inc., all affiliates of Handi-Bag Co., Inc.

The notice of investigation was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19478-79). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Handi-Bag Co., Inc., its customers, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of handbags increased from 57.9 million units in 1975 to 90.2 million units in 1976 to 92.8 million units in 1977. U.S. imports increased 53.8 percent from 22.1 million units in the first quarter of 1977 to 34.0 million units in the first quarter of 1978.

The ratio of imports to domestic production increased from 73.5 percent in 1975 to 111.1 percent in 1976 to 116.6 percent in 1977.

U.S. imports of plastic handbags increased from 31.9 million units in 1975 to 53.9 million units in 1976 and decreased to 48.5 million units in 1977. Imports increased 11.0 percent from 11.8 million units in the first quarter of 1977 to 13.1 million units in the first quarter of 1978.

Customers representing a significant proportion of Handi-Bag Co., Inc.'s sales in 1976 and 1977 decreased their purchases from the subject firm and increased their import purchases in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' vinyl handbags produced by Handi-Bag Co., Inc., Bags by Trudy, Bags by Scobe, Inc., Nancy Bag Corp., and Bags by Gail Inc., New York, N.Y., contributed importantly to the total or partial separation of workers at these plants. In accordance with the provisions of the Act, I make the following certification:

All workers at Handi-Bag Co., Inc., Bags by Trudy, Bags by Scobe, Nancy Bag Corp and Bags by Gail, Inc., New York, N.Y. who became totally or partially separated from employment on or after March 28, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26887 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3523]

HELGA, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3523: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 18, 1978, in response to a worker petition received on April 10, 1978, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' designer or couture ready-to-wear clothing at Helga, Inc., Los Angeles, Calif.

The notice of investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18789). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Helga, Inc., its customers, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

U.S. imports of women's, misses' and children's dresses decreased from 1,655 thousand dozen in 1975 to 1,614 thousand dozen in 1977. The import to domestic production ratio decreased

from 8 percent in 1976 to 6.7 percent in 1977.

U.S. imports of women's, misses' and children's suits decreased from 412 thousand dozen in 1975 to 408 thousand dozen in 1976 and to 384 thousand dozen in 1977. The import to domestic production ratio decreased from 11.4 percent in 1976 to 10.5 percent in 1977.

Helga, Inc., is a manufacturer of ladies' designer of couture ready-to-wear clothing. Sales and production increased in value in the first quarter of 1978 compared to the same period of 1977.

Industry sources and customers of Helga who were surveyed indicated that price competition is not an important factor in the market of ladies' designer apparel. Customers base a decision to buy from a particular manufacturer—domestic or foreign—almost entirely upon exclusivity and style.

CONCLUSION

After careful review, I determine that workers of Helga, Inc., Los Angeles, Calif., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26888 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3697]

INTERNATIONAL TELEPHONE & TELEGRAPH CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3697: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 11, 1978, in response to a worker petition received on April 27, 1978, on behalf of all workers producing undersea telecommunications cable at the Cable-Hydrospace Division of International Telephone & Telegraph Co., National City, Calif.

The notice of investigation was published in the FEDERAL REGISTER on May 30, 1978 (43 FR 23036). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of International Telephone & Telegraph Co., the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with the articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

The cable produced at the Cable-Hydrospace Division of ITT is primarily used as linkage between communications systems in the United States and those in the rest of the world. A Federal Communications Commission decision of November 1977 not to build a seventh transatlantic cable was a major factor in ITT's decision to close the National City, Calif., plant.

The Department's investigation revealed that U.S. imports of undersea telecommunications cable have been negligible from 1975 through the first half of 1978.

CONCLUSION

After careful review I determine that all workers of the Cable-Hydrospace Division of International Telephone & Telegraph Co., National City, Calif., are denied eligibility to apply for trade adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26889 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3649]

JZ COAT CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3649: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed on the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at JZ Coat Co., Jersey City, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of JZ Coat Co., its manufacturers, the U.S. Department of Commerce, the United States International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The Department's investigation indicated that employment declines at JZ Coat Co. in the first half of 1977 and again in the first half of 1978 were the result of normal seasonal fluctuations in production. Employment and production at JZ Coat increased in the first 5 months of 1978 compared to the same period in 1977. The layoffs in the first half of 1978 ended earlier in 1978 than in 1977.

CONCLUSION

After careful review, I determine that all workers of JZ Coat Co., Jersey City, N.J. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26890 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-2691, 2692]

KADIMAH KNITS PLANT NO. 1 AND PLANT NO. 2

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of

TA-W-2691, 2692: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 25, 1978, in response to a worker petition received on April 4, 1978, which was filed on behalf of workers and former workers producing ladies' vinyl handbags, at Handi-Bag Co., Inc. and Bags by Trudy, Inc., The investigation was expanded to include Bags by Scobe, Inc., Nancy Bag Corp. and Bags by Gail, Inc., all affiliates of Handi-Bag Co., Inc.

The notice of investigation was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19478-79). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Handi-Bag Co., Inc., its customers, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of handbags increased from 57.9 million units in 1975 to 90.2 million units in 1976 to 92.8 million units in 1977. U.S. imports increased 53.8 percent from 22.1 million units in the first quarter of 1977 to 34.0 million units in the first quarter of 1978.

The ratio of imports to domestic production increased from 73.5 percent in 1975 to 111.1 percent in 1976 to 116.6 percent in 1977.

U.S. imports of plastic handbags increased from 31.9 million units in 1975 to 53.9 million units in 1976 and decreased to 48.5 million units in 1977. Imports increased 11.0 percent from 11.8 million units in the first quarter of 1977 to 13.1 million units in the first quarter of 1978.

Customers representing a significant proportion of Handi-Bag Co., Inc.'s sales in 1976 and 1977 decreased their purchases from the subject firm and increased their import purchases in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' vinyl handbags produced by Handi-Bag Co., Inc., Bags by Trudy, Bags by Scobe, Inc., Nancy Bag Corp., and Bags by Gail Inc., New York, N.Y., contributed importantly to the total or partial separation of workers at these plants. In accordance with the provisions of the Act, I make the following certification:

All workers at Handi-Bag Co., Inc., Bags by Trudy, Bags by Scobe, Nancy Bag Corp and Bags by Gail, Inc., New York, N.Y. who became totally or partially separated from employment on or after March 28, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26887 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3523]

HELGA, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3523: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 18, 1978, in response to a worker petition received on April 10, 1978, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' designer or couture ready-to-wear clothing at Helga, Inc., Los Angeles, Calif.

The notice of investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18789). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Helga, Inc., its customers, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

U.S. imports of women's, misses' and children's dresses decreased from 1,655 thousand dozen in 1975 to 1,614 thousand dozen in 1977. The import to domestic production ratio decreased

on the pipes produced at Napa. The Department had not received a petition for the Napa plant at that time, and the investigation dealt with en-

Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Lido Fash-

Signed at Washington, D.C., this 15th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of

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TA-W-2691, 2692: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 1, 1977 in response to a worker petition received on November 14, 1977, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' slacks and jackets at plant No. 1 and plant No. 2 of Kadimah Knits, Inc., Elizabeth, N.J. The investigation revealed that ladies' slacks accounted for over 90 percent of production of both plants.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63484). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Kadimah Knits, its manufacturers and, their customers, the National Cotton Council of America, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustments assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

United States imports of women's, misses' and children's slacks and shorts increased in 1975 to 10,067 thousand dozen, increased in 1976 to 11,040 thousand dozen, and increased in 1977 to 11,622 thousand dozen.

The imports to domestic production ratio for women's misses' and children's slacks and shorts increased to 35.2 percent in 1975 and further increased to 36.4 percent in 1976.

A survey of the manufacturers for whom Kadimah Knits performed contract work and of the customers of one of those manufacturers indicated significant import penetration. One manufacturer reduced purchases from Kadimah Knits and increased purchases of imported ladies' slacks. The customers of another manufacturer indicated increases in purchases of imported ladies' slacks of 185 percent in 1976 and 158 percent in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' slacks produced by plants No. 1 and No. 2 of Kadimah Knits, both of Elizabeth, N.J., contributed importantly to the decline in production and to the total or partial separations of workers of those plants. In accordance with the provisions of the Act, I make the following certification:

All workers of Kadimah Knits, Inc., plant No. 1 at 1144 Elizabeth Avenue, Elizabeth, N.J.; and all workers of Kadimah Knits, Inc., plant No. 2 at 107 Trumbull Street, Elizabeth, N.J. who became totally or partially separated from employment on or after November 11, 1976, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26891 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-2955]

KAISER STEEL CORP.

Negative Determination Regarding Application for Reconsideration

By application dated August 14, 1978, counsel for workers at the Napa, Calif., plant of Kaiser Steel Corp. requested administrative reconsideration of the Department of Labor's impact date in its certification regarding eligibility to apply for worker adjustment assistance. This determination was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30930).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears, on the basis of facts not previously considered, that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the certifying officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

In his application, counsel makes a basic claim that based upon a certification covering workers at the Fontana, Calif., mill of Kaiser Steel Corp. (TA-W-1266), the impact date established for TA-W-2955, Napa, Calif. plant of Kaiser Steel Corp., should be changed from January 5, 1977, to October 10, 1975.

In defense of his claim, counsel raises two basic issues:

(1) That workers engaged in the production of steelplate at the Fontana plant were, and could only have been, certified as eligible for trade adjustment assistance because of the reduction of shipments of steelplate to the Napa plant where it was further processed into pipe. Counsel refers to data in the notice of determination for TA-W-1266 showing that employment of steelplate workers decreased 10 percent in the fourth quarter of 1975 compared to the same quarter in 1974. He further points out that production of plate at Fontana, to be shipped to the Napa plant, decreased 20 percent in 1975 compared to 1974 whereas production of plate for sale to all other customers declined only 11 percent during the same period. Thus, counsel concludes that over half of the above-mentioned decrease in employment was due to the decrease in shipments to Napa. Since counsel interprets the regulations as to what constitutes a significant proportion of the workforce as being a total of 5-percent unemployment, where more than 50 workers are involved, he concludes that Fontana workers engaged in the production of plate could only have been certified due to the decreased shipments to the Napa plant, and assumes that this was due to import influence upon Napa's production of pipe.

Although it may be true that decreases of shipments to the Napa plant contributed to the layoffs at the Fontana mill, the Department's decision was not based on shipments to the Napa plant. The notice of determination shows that production of plate at the Fontana mill for sale to customers (excluding Napa), declined 30 percent in 1976 compared to 1975. Shipments of plate to those customers decreased 26 percent in 1976 compared to 1975. Employment of workers engaged in the production of steelplate not only declined 10 percent in the fourth quarter of 1975 compared to the same quarter in 1974, but also decreased 24 percent in 1976 compared to 1975. The important element is that increased imports of like or directly competitive articles were found to have contributed importantly to such declines in production, shipments, and employment at Fontana, not through shipments to Napa—because Napa switched to buying foreign plate or because Napa's customers switched to imported pipe—but because other customers of Fontana decreased purchases of Fontana's plate while increasing purchases of imported plate.

(2) The second basic issue raised by counsel is that just as in TA-W-2955 where the investigation was expanded to cover not only the Napa plant, but also the Vallejo and Oakland assembly yards, so in TA-W-1266 the investigation should have covered the Napa plant without a need for a new petition. According to counsel, this is so because production of plate as the Fontana mill was integrated into Napa's production of pipe (between 35 to 40 percent of Fontana's production of plate was shipped to Napa to be transformed into pipe). Furthermore, counsel claims that: "But for the adverse impact of imports upon Napa's Kaiser Steel workers, Kaiser Steel workers at Fontana an integrated part of the production of steel pipe at Napa would never have been certified under TA-W-1266."

It was not because of the adverse impact of imports upon Napa's pipe, however, that the Department certified plateworkers at Fontana. The certification was based on the impact of imports of competitive plate upon the production and sale of plate at Fontana, and upon the workers engaged in such production. TA-W-1266 did not deal with the impact of pipe imports on the pipes produced at Napa. The Department had not received a petition for the Napa plant at that time, and the investigation dealt with entirely different products produced at the Fontana mill. The Department knew that 35 to 40 percent of Fontana's plate production was shipped to Napa to be transformed into, and sold as, pipe. It would not have been appropriate for the Department to have gone into the issue of import influence upon Napa's pipe, in order to determine import influence upon Fontana's plate. The Trade Act of 1974 requires that increased imports of like or directly competitive articles have contributed importantly to worker separations in order to issue a certification. Pipe is not like or directly competitive with plate within the meaning of the Act.

Secondly: The comparison of the relationship that exists between the Vallejo and Oakland, Calif., assembly yards and the Napa plant on one hand, and the Napa plant and Fontana mill on the other, is not relevant. While Napa used Fontana's plate to produce pipe, a different product, the Vallejo and Oakland yards were an integral part of Napa's production of fabricated steel structures, since their function was to assemble large steel subassemblies fabricated at Napa.

CONCLUSION

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 15th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26892 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3597]

LIDO FASHIONS, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3597: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Lido Fashions, Inc., Paterson, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lido Fashions, Inc., its customers (manufacturers), the U.S. Department of Commerce, the United States International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Lido Fashions, Inc., worked in 1976 and 1977. Manufacturers that accounted for a majority of sales in 1976 reduced purchases from Lido Fashions, Inc., and increased purchases of imported ladies' coats in 1977 compared to 1976. Manufacturers that accounted for a majority of sales in 1977 reduced purchases from Lido Fashions, Inc., and increased purchases of imports in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at Lido Fashions, Inc., Paterson, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Lido Fashions, Inc., Paterson, N.J., who became totally or partially separated from employment on or after November 1, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26893 Filed 9-26-78; 8:45 am]

[4510-28]

[TA-W-3598]

N & R FASHIONS, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3598: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and raincoats at N & R Fashions, Inc., Paterson, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of N & R Fashions, Inc., its customers (manufacturers), the U.S. Department of Commerce, the United States International Trade Commission, the National Cotton Coucil of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which N & R Fashion, Inc., worked in 1976 and 1977. Manufacturers that accounted for 100 percent of sales in 1976 reduced purchases from N & R Fashion, Inc., and increased purchases of imported ladies' coats in 1977 compared to 1976. Manufacturers that accounted for 100 percent of sales in

1977 increased purchases of imports in the first quarter of 1978 compared to the first quarter of 1977. N & R Fash-

requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have

Manufacturing Co. also produces ladies' raincoats.

The notice of investigation was pub-

garding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

V 43 / 187 SE 26 78

1977 increased purchases of imports in the first quarter of 1978 compared to the first quarter of 1977. N & R Fashion, Inc., closed temporarily in March 1978, and remained closed through May 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at N & R Fashions, Inc., Paterson, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of N & R Fashions, Inc., Paterson, N.J., who became totally or partially separated from employment on or after October 1, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26894 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3511]

PHELPS DODGE REFINING CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3511: Investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 13, 1978, in response to a worker petition received on April 3, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing electrolitically refined copper at the El Paso, Tex., refinery of the Phelps Dodge Refining Corp.

The notice of investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17552). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Phelps Dodge Refining Corp., the Department of Commerce, the United States International Trade Commission, U.S. Department of the Interior, the American Metals Market, Metal Bulletin, Metals Week, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

United States imports of refined copper increased from 147 thousand short tons in 1975 to 384 thousand short tons in 1976. Imports then increased to 391 thousand short tons in 1977. Imports increased from 66 thousand short tons in the first quarter of 1977 to 150 thousand short tons for the same period in 1978.

The imports to domestic production ratio increased from 8.6 percent in 1975 to 21.0 percent in 1976 and then increased to 22.2 percent in 1977. The imports to domestic production ratio increased from 13.1 percent in the first quarter of 1977 to 34.1 percent for the same period in 1978.

Company imports of refined, blister, and concentrated copper increased 134.6 percent from 1976 to 1977. Imports increased 1,099.3 percent in the first quarter of 1978 compared to the same period in 1977. Imports as a percentage of sales increased from 0.7 percent in 1976 to 1.6 percent in 1977 and to 6.6 percent in the first quarter of 1978.

Imports of copper are affected by the differential between the domestic producers price for copper and the price established by the LME (London Metal Exchange). When the LME price drops more than the estimated transportation cost of 5-8 cents per pound below the domestic producers price, the demand of imported copper increases. During May and June 1977, the LME price was almost 11 cents per pound below the domestic producers price and in July and August 1977 the LME price was almost 12 cents per pound below the domestic producers price. At the same time, the abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in 1977 and in the first quarter of 1978, when many domestic producers curtailed production because of the depressed market price of copper, imports of refined copper increased in 1977 compared to 1976 and increased 127.3 percent in the first quarter of 1978 compared to the same period in 1977.

Price pressure from imported copper has reduced the ability to profitably mine domestic ore and convert it to copper concentrate and refined copper. The current domestic market price of copper is 64 cents per pound. Industry sources indicate that the production costs of domestic copper mines per pound is equal to or higher than the market price. Consequently, domestic producers have been breaking even or operating at a loss.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the electrolitically refined copper produced by the El Paso, Tex., refinery of the Phelps Dodge Refining Corp. contributed importantly to the decline in sales and production and to the total or partial separation of workers at the facility. In accordance with the provisions of the Act, I make the following certification:

All workers at the Phelps Dodge Refining Corp., El Paso, Tex., who became totally or partially separated from employment on or after August 10, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26895 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-2982]

PRATT MANUFACTURING CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2982: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 30, 1978 in response to a worker petition received on January 11, 1978, which was filed on behalf of workers and former workers producing large diameter turntable bearings at Pratt Manufacturing Co., Salineville, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7069). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Pratt Manufacturing Co., its customers, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

U.S. imports of lightweight turntable bearings 12 to 60 inches in diameter declined in value terms in 1976 compared to 1975 then increased in 1977 compared to 1976. The ratio of imports to domestic production declined from 24.8 percent in 1977 to 22.0 percent in 1977.

None of the customers of Pratt Manufacturing Co. that were surveyed reported any direct purchases of imports. One customer reported indirect imports. A survey of firms with which Pratt had lost bids for contract work revealed that all firms had awarded their contracts to the competition of Pratt Manufacturing Co. While this competition does import bearings, imports have declined in recent years while the value of domestic production has increased.

CONCLUSION

After careful review I determine that all workers of Pratt Manufacturing Co., Salineville, Ohio, are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 8th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26896 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3605]

RIVERPARK MANUFACTURING CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3605: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Riverpark Manufacturing Co., Paterson, N.J. The investigation revealed that Riverpark Manufacturing Co. also produces ladies' raincoats.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Riverpark Manufacturing Co., its customers (manufacturers), the U.S. Department of Commerce, the United States International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of the principal manufacturer for which Riverpark Manufacturing Co. worked in 1976 to 1977. The manufacturer surveyed, representing 100 percent of sales in 1976 and 1977, reduced purchases from Riverpark Manufacturing Co. and reduced imports in 1977 compared with 1976. Total sales by Riverpark increased in the first quarter of 1978 compared with the first quarter of 1977.

CONCLUSION

After careful review, I determine that all workers of the Paterson, N.J. plant of Riverpark Manufacturing Co. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26897 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3905]

S.J. KNITS, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the result of TA-W-3905: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 22, 1978, in response to a worker petition received on June 22, 1978, which was filed by Distributive Workers of America, on behalf of workers and former workers producing women's knit apparel at S.J Knits, Inc., Ridgefield, N.J.

The notice of investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29365-66). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of S.J. Knits, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's dresses have increased absolutely in the first quarter of 1978 as compared to the first quarter of 1977 going from 371,000 dozen to 403,000 dozen, respectively. Imports of women's, misses', and children's suits, including skirt suits, pantsuits, and jumpsuits have increased absolutely in the first quarter of 1978 compared to the same period of 1977 going from 62,000 dozen to 104,000 dozen, respectively.

All workers of S.J. Knits, Inc. were permanently laid off in May 1978. S.J. Knits went out of business in June 1978.

In April 1978, the manufacturer that represented a major portion of S.J. Knits contract work in 1978, ceased contract work with S.J. Knits. A departmental survey of this manufacturer indicated it had begun importing women's knit apparel in 1976, and increased its import purchases in 1977 and 1978 coinciding with decreases in contract work with S.J. Knits, Inc.

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's knit apparel produced at S.J. Knits, Inc. contributed importantly to the decline in sales or production and to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at S.J. Knits, Inc., Ridgefield, N.J., who became totally or partially separated from employment on or after November 12, 1977, are eligible to apply for adjust-

ment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this

which was filed on behalf of workers and former workers employed by Warren Young, Johnstown, Pa., who

town, Pa. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of

[4510-28]

WORKER ADJUSTMENT ASSISTANCE

ment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26898 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3910]

VERNITRON, INC. (VRN)

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3910: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 26, 1978, in response to a worker petition received on June 23, 1978, which was filed on behalf of all workers producing electric components and potentiometers at the St. Petersburg, Fla., plant of Vernitron, Inc.

The notice of investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29364). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of VRN, Inc., the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

U.S. imports of variable nonwire wound resistors, a category that includes the nonwire wound potentiometers produced at the St. Petersburg plant, increased in quantity in the first 3 months of 1978 to 64.4 million units from 55.8 million units in the first 3 months of 1977. The ratio of imports of variable nonwire wound resistors to U.S. production increased to 37.4 percent in the first 3 months of 1978 from 30.3 million units in the first 3 months of 1977.

Company imports of potentiometers, both wire and nonwire wound, increased in the first 6 months of 1978 compared to the first 6 months of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with potentiometers produced by Vernitron, Inc., St. Petersburg, Fla., contributed importantly to the total or partial separation of workers at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Vernitron, Inc., St. Petersburg, Fla., who became totally or partially separated from employment on or after March 31, 1978, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26899 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3265]

VICTOR GLOVES MANUFACTURING CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3265: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 27, 1978, in response to a worker petition received on February 15, 1978, which was filed by the Amalgamated Clothing & Textile Workers Union on behalf of former workers producing foot protectors, toys, dolls, and other sundry item at Victor Gloves Manufacturing Corp., New York, N.Y. During the course of the investigation, it was established that Victor Gloves Manufacturing Corp. produced work gloves, foot protectors, and laboratory garments.

The notice of investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10648). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Victor Gloves Manufacturing Corp., its customers, the U.S. Department of Commerce, the United States International Trade Commission, the National Association of Hosiery Manufacturers, the National Association of Uniform Manufacturers, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation revealed that, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations or threat thereof, and to the absolute decline in sales or production.

Approximately 50 to 60 percent of 1976 and 1977 sales by Victor Gloves Manufacturing Corp. consisted of lightweight work gloves for men and women, 30 to 35 percent of sales consisted of foot protectors, while the remainder of sales consisted of laboratory garments and various protective fabric coverings.

Evidence developed during the course of the investigation revealed that imports of laboratory garments are negligible. Imports of all hosiery, except pantyhose, declined from 1,552 thousand dozen in 1975 to 573 thousand dozen in 1976 and to 505 thousand dozen in 1977. The ratio of imports to domestic hosiery production declined from 0.31 percent in 1976 to 0.26 percent in 1977.

Customers surveyed who decreased purchases from Victor Gloves in 1977 from 1976 did not purchase imported work gloves or foot protectors.

CONCLUSION

After careful review, I determine that workers of Victor Gloves Manufacturing Corp., New York, N.Y., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26900 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3906]

WARREN YOUNG

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3906: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 22, 1978, in response to a worker petition received on April 25, 1978, which was filed on behalf of workers and former workers employed by Warren Young, Johnstown, Pa., who leased trucks to Birk Transfer, Inc., for the provision of transportation services to the Johnstown, Pa. plant of Bethlehem Steel Corp.

The notice of investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29365). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Warren Young and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. The Department has determined that services are not "articles" within the meaning of section 222 of the Act and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm."

Warren Young was an independent broker who provided trucks and drivers to Birk Transfer Co., Inc. on a need basis. Mr. Young ran his business as an individual and did not incorporate.

Warren Young was a subcontractor who owned the trucks used by his drivers. Mr. Young died in June 1977. The assets of the business were sold in August 1977.

Birk Transfer Co. contracted with Bethlehem Steel Corp.'s Johnstown, Pa. plant to provide intraplant transport services. Birk Transfer Co. contracted with Warren Young to provide trucks and drivers.

Employees of Warren Young were engaged in providing transportation services and did not produce an article within the meaning of section 222(3) of the Act.

Warren Young and his customers had no controlling interest in each other. All workers engaged in providing transportation services for Warren Young were employed by him. All personnel actions and payroll transactions were controlled by Warren Young. All employment benefits were provided and maintained by Warren Young. Workers were not at any time under supervision or employment by Birk Transfer Co., or Bethlehem Steel Corp. Thus, Warren Young must be considered the "workers' firm."

CONCLUSION

After careful review, I conclude that all workers at Warren Young, Johnstown, Pa. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26901 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-1840]

WHITINSVILLE SPINNING RING CO.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a certification of eligibility to apply for adjustment assistance on August 23, 1977, applicable to workers and former workers producing spinning rings and twister rings at the Whitinsville, Mass., plant of Whitinsville Spinning Ring Co. The notice of certification was published in the FEDERAL REGISTER on September 2, 1977 (42 FR 44312).

At the request of the petitioners' attorney, a further investigation was instituted by the Director of the Office of Trade Adjustment Assistance. A review of the case revealed that some layoffs of nonseasonal workers occurred in the early part of February 1977. These layoffs were not covered by the original impact date of February 21, 1977.

The intent of the certification is to cover all workers at the Whitinsville, Mass., plant of Whitinsville Spinning Ring Co. who were affected by the decline in production of spinning and twister rings related to import competition. The certification, therefore, is revised, providing a new impact date of January 9, 1977.

The revised certification applicable to TA-W-1840 is hereby issued as follows:

All workers at the Whitinsville, Mass., plant of Whitinsville Spinning Ring Co. who became totally or partially separated from employment on or after January 9, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26902 Filed 9-25-78; 8:45 am]

[4510-28]

WORKER ADJUSTMENT ASSISTANCE

Investigations Regarding Certifications of Eligibility To Apply

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under title II, chapter 2, of the Act in accordance with the provisions of subpart B of 29 CFR part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 6, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 6, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 14th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or	Location	Date	Date of	Petition	Articles produced

[4510-28]

WORKER ADJUSTMENT ASSISTANCE

thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened

rector, Office of Trade Adjustment Assistance, at the address shown below, not later than October 6, 1978.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Boat Gertrude "D" (company)	New Bedford, Mass	Sept. 13, 1978	Sept. 8, 1978	TA-W-4,157	The catching and selling of fish.
Cardot Manufacturing Co. (company).	West Warwick, R.I	do	Aug. 29, 1978	TA-W-4,158	Contractor of ladies' sportswear and dresses.
Claire's Sportswear (workers)	Boston, Mass	do	Sept. 11, 1978	TA-W-4,159	Ladies' sportswear garments.
Clinton Shirt Corp. (workers)	Clinton, Ky	do	Aug. 25, 1978	TA-W-4,160	Shirts, skirts, and sundresses for little girls.
Reider Shoe Manufacturing Co., Inc. (workers).	Schuylkill Haven, Pa	Sept. 8, 1978	Sept. 1, 1978	TA-W-4,161	Men's, women's, and young girls' shoes.
J. P. Stevens Co., Rock Hill Industrial Plant (ACTWU).	Rock Hill, S.C	Sept. 13, 1978	Sept. 13, 1978	TA-W-4,162	Denim fabric.

[FR Doc. 78-26867 Filed 9-25-78; 8:45 am]

[4510-28]

WORKER ADJUSTMENT ASSISTANCE

Investigations Regarding Certifications of Eligibility To Apply

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under title II, chapter 2, of the Act in accordance with the provisions of subpart B of 29 CFR part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 6, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment assistance, at the address shown below, not later than October 6, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 13th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Casa La Gata, Inc. (company)	New York, N.Y	Sept. 8, 1978	Sept. 1, 1978	TA-W-4,142	Junior knit tops.
Cricket Sportswear, Inc. (workers)	Boston, Mass	Sept. 11, 1978	Sept. 7, 1978	TA-W-4,143	Contractors of ladies' pants, skirts, and sportswear articles.
Forbes Steel & Wire Corp. (USWA)	Wilmington, Del	do	Aug. 20, 1978	TA-W-4,144	Fabricate wire products.
Formaker Foundations, Inc. (workers)	West Paterson, N.J	do	Sept. 1, 1978	TA-W-4,145	Brassieres.
GAF Corp. Photo & Reproduction Division (workers).	Atlanta, Ga	do	Sept. 6, 1978	TA-W-4,146	Photo sensitized color and black and white films, color sensitized photo paper, amateur cameras and other cameras and accessories. Medical and industrial X-ray films.
Nipak, Inc. (Oil, Chemical & Atomic Workers International Union).	Pryor, Okla	Sept 7, 1978	Aug. 21, 1978	TA-W-4,147	Nitrogen based fertilizer products.
St. Joe Zinc. Co. (USWA)	Edwards, N.Y	Sept 11, 1978	Aug 15, 1978	TA-W-4,148	Mine and concentrate zinc ore.
Do	Balmat, N.Y	do	do	TA-W-4,149	Do.
The Pond Lily Co. (company)	New Haven, Conn	do	Sept. 7, 1978	TA-W-4,150	Dyeing and finishing of cotton synthetics for the footwear industry, luggage, handbag, and women's apparel.
Wiman Corp. (ACTWU)	Bird Island, Minn	do	do	TA-W-4,151	Women's sportswear.
Do	Windom, Minn	do	do	TA-W-4,152	Do
Do	Gaylord, Minn	do	do	TA-W-4,153	Do.
Do	Sauk Centre, Minn	do	do	TA-W-4,154	Women's sportswear and men's and womens' outerwear.
Do	Princeton, Minn	do	do	TA-W-4,155	Women's sportswear.
Do	Benson, Minn	do	do	TA-W-4,156	Luggage and coats.

[FR Doc. 78-26868 Filed 9-25-78; 8:45 am]

[4510-28]

WORKER ADJUSTMENT ASSISTANCE

Investigations Regarding Certifications of Eligibility to Apply

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under title II, chapter 2, of the Act in accordance with the provisions of subpart B of 29 CFR part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 6, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than. October 6, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 5th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Erie Scientific Co. (workers)	Buffalo, N.Y	Sept. 5, 1978	Aug. 7, 1978	TA-W-4,132	Microslides and cover glass.
Mansfield Tire & Rubber Co. (United Rubber, Cork, Linoleum & Plastic Workers of America).	Mansfield, Ohio	do	Aug. 30, 1978	TA-W-4,133	Tires and tubes.
Rochester Enterprises (workers)	Sheridan, Mont	do	Aug. 21, 1978	TA-W-4,134	Copper concentrates.
Welfab Steel Products, Inc. (workers).	Carteret, N.J	do	Aug. 28, 1978	TA-W-4,135	Large pollution control equipment.

[FR Doc. 78-26869 Filed 9-25-78; 8:45 am]

[4510-28]

UNALLOYED UNWROUGHT COPPER

Increased Imports

On August 23, 1978, the International Trade Commission (ITC) determined that increased imports of "Unalloyed Unwrought Coppper" are a substantial cause of serious injury, or the threat thereof, to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (43 FR 38948).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever the ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The Department of Labor has concluded its report on "Unalloyed Unwrought Copper." The report found as follows:

1. Since April 3, 1975, the effective date of the adjustment assistance program, the U.S. Department of Labor has received 66 petitions involving workers in the three stages of refined copper production: copper mining and associated operations, copper smelting, and copper refining. Thirty-six of the petitions have been certified, eight denied, and twenty-two are still under investigation by the Department as of August 31, 1978. As of May 31, 1978 the Department paid out $24,875,896 in trade readjustment allowances to 11,970 workers involved in the three stages of refined copper production. It is not possible to break out payments by the various stages of production due to the integrated nature of the production facilities of some of the firms with certified workers.

In addition to the readjustment allowances the Department has paid out $87,205 in relocation allowances and $31,803 in job search allowances to certified workers in the industry. Also, the total number of workers entering training through May 31, 1978 was 868.

2. Employment in all three stages of refined copper production declined in 1977. Employment in copper mining and associated operations continued to decline in the first quarter of 1978 while copper smelter and refinery employment increased slightly. However, employment in all three stages of refined copper production is unlikely to improve substantially in the near future. Also, as the industry experiences increasing production costs due to pollution, and health and safety regulations there will be greater difficulty in competing with low priced imports. This may result in further reductions in employment. The majority of the displaced workers should be eligible for trade adjustment assistance.

3. An examination of local unemployment rates, available job vacancy data, and recent turnover data indicate reemployment prospects for separated workers in the three stages of refined copper production are generally poor for most separated workers. For areas with copper mine and associated operations, eight of the 18 areas had unemployment rates above the national average of 5.8 percent, unadjusted for April. In addition, some areas with relatively low April unemployment rates have since experienced deteriorating job market conditions due to mine closings.

For areas with copper smelters conditions appear to be less severe than for mining and associated operations but reemployment prospects remain unfavorable; 9 of the 16 areas had unemployment rates above the national average for April. For areas with copper refineries 11 of the 17 areas had unemployment rates above the national average and some recent operating cutbacks and closings by refineries have made job prospects poor for many separated workers. Also an examination of Employment Service vacancy data indicate that many areas with high unemployment rates also have a high ratio of workers registered seeking employment to the number of vacancies in common occupations found in the three stages of refined copper production.

4. An examination of the level of enrollment and the level of accrued expenditures relative to the planned level for CETA spon-

sors indicates that while adequate funding and client openings exist for many of the

findings and recommendations with respect to the Nation's employment

[7536-01]

NATIONAL FOUNDATION ON THE

meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close these meetings

[7590-01]

NUCLEAR REGULATORY

trust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his

V 43/187 SEP 26 78 V4

sors indicates that while adequate funding and client openings exist for many of the CETA programs, some programs may have difficulty, from a funding and slot availability viewpoint, in meeting the training needs of eligible workers. This problem appears most common in areas with copper refineries and copper mining and associated operations.

A comparison of the worker characteristics for the three stages of refined copper production, and CETA client characteristics indicates there are some differences in age and sex distribution and probable economic position. The differences between worker characterstics and CETA client characteristics are most pronounced for refinery workers, who tend to be older and more predominately male than workers in the other two stages of production. Workers in mining and associated operations are closer to CETA client characteristics, and are more likely to be eligible for CETA programs.

For displaced workers not covered by CETA programs the Department has the authority to purchase specific training for trade impacted workers.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting the Office of Trade Adjustment Assistance, U.S. Department of Labor, 200 Constitutiton Avenue NW., Washington, D.C. 20210, phone 202-523-7665.

Signed at Washington, D.C., this 15th day of September 1978.

HOWARD D. SAMUEL,
Deputy Under Secretary, International Affairs.

[FR Doc. 78-26870 Filed 9-25-78; 8:45 am]

[4510-30]

NATIONAL COMMISSION FOR MANPOWER POLICY

MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) notice is hereby given that the National Commission for Manpower Policy will sponsor a conference on November 3, 1978, in the Mount Vernon Room of the Sheraton Carlton Hotel, located at the corners of 16th and K Streets NW., Washington, D.C. The meeting will begin at 9 a.m. and adjourn at 5 p.m.

The National Commission for Manpower Policy was established pursuant to Title V of the Comprehensive Employment and Training Act of 1973 (Pub. L. 92-203). The Act charges the Commission with the broad responsibility of advising the President, the Congress, the Secretary of Labor, and other Federal agency administrators on national employment and training issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's employment and training policies and programs.

The agenda will be concerned with identifying and exploring how to obtain the advice and guidance of private sector employers on national employment issues. Specifically, the discussions will focus on current and future national employment issues and potential public/private approaches to them; initiatives to increase the employability and employment of the structurally unemployed; and alternative measures to increase private sector employment of the structurally unemployed.

Members of the general public or other interested individuals may attend the conference. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so: *Provided*, That such statements are in reproducible form and are submitted to the Director no later than 2 days before and 7 days after the conference.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that the time available for the conference permits. Such oral statements must be directly germane to the announced agenda and written applications must be submitted to the director of the Commission 3 days before the conference. This application shall identify the following: The name and address of the applicant; the subject of his or her presentation and its relationship to the agenda; the amount of time requested; the individual's qualifications to speak on the subject matter. The application shall also include a statement justifying why a written presentation would not suffice. The Chairman reserves the right to decide to what extent public oral presentation will be permitted at the conference. Oral presentations shall be limited to statements of fact and views and shall not include any questions of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting, working papers, and other documents prepared for the conference will be available for public inspection 5 working days after the meeting at the Commission's headquarters located at 1522 K Street NW., Suite 300, Washington, D.C.

Signed at Washington, D.C., this 19th day of September 1978.

ISABEL V. SAWHILL,
Director, National Commission for Manpower Policy.

[FR Doc. 78-27016 Filed 9-25-78; 8:45 am]

[7536-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

ADVISORY COMMITTEE; HUMANITIES PANEL

Meeting

SEPTEMBER 18, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506:

1. Date: October 12 and 13, 1978. Time: 9 a.m. to 5:30 p.m. Room: 807. Purpose: To review applications for the development of humanities public program formats submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
2. Date: October 13, 1978. Time: 9 a.m. to 5:30 p.m. Room: 500. Purpose: To review conference proposals submitted to the National Endowment for the Humanities for projects beginning after December 1, 1978.
3. Date: October 16, 1978. Time: 9 a.m. to 5:30 p.m. Room: 11th floor conference room. Purpose: To review Germanic language applications submitted to the Translations Program of the National Endowment for the Humanities, for projects beginning April 1, 1979.
4. Date: October 19 and 20, 1978. Time: 9 a.m. to 5:30 p.m. Room: 807. Purpose: To review NEH institutional development grant applications submitted to the National Endowment for the Humanities for projects beginning after April 1, 1979.
5. Date: October 13, 1978. Time: 9 a.m. to 5:30 p.m. Room: 1130. Purpose: To review NEH summer seminar applications in science, technology, and human value submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
6. Date: October 13 and 14, 1978. Time: 9 a.m. to 5:30 p.m. Room: 314. Purpose: To review NEH independent fellowship applications in all fields submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
7. Date: October 16, 1978. Time: 9 a.m. to 5:30 p.m. Room: 314. Purpose: To review NEH summer seminar applications in classics submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
8. Date: October 23, 1978. Time: 9 a.m. to 5:30 p.m. Room: 11th floor conference room. Purpose: To review Slavic language applications submitted to the translations program of the National Endowment for the Humanities, for projects beginning April 1, 1979.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 805 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee, Management Officer.

[FR Doc. 78-26961 Filed 9-25-78; 8:45 pm]

[7536-01]

ADVISORY COMMITTEE; HUMANITIES PANEL

Meeting

SEPTEMBER 6, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at the Tulsa Public Library, 400 Civic Center, Tulsa, Okla., in the Third Floor Conference Room, from 9 a.m. to 5:30 p.m. on October 16, 1978.

The purpose of the meeting is to review applications for the development of humanities Public Library Program formats submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

Because the proposed meeting will consider financial information and disclose information of a personal nature and disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee, Management Officer.

[FR Doc. 78-26962 Filed 9-25-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-443-A and 50-444-A]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE, ET AL., SEABROOK STATION, UNITS 1 AND 2

Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Public Service Co. of New Hampshire, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed on May 15, 1978, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information adds Massachusetts Municipal Wholesale Electric Co., Vermont Electric Cooperative, Inc., Maine Public Service Co., Taunton Municipal Lighting Plant Commission, and Bangor Hydro-Electric Co. as possible co-owners of the Seabrook station, units 1 and 2.

The information was filed by Public Service Co. of New Hampshire, the United Illuminating Co., Central Maine Power Co., Central Vermont Public Service Corp., the Connecticut Light & Power Co., Fitchburg Gas & Electric Light Co., Montaup Electric Co., New Bedford Gas & Edison Light Co., New England Power Co., Vermont Electric Power Co., Inc., Massachusetts Municipal Wholesale Electric Co., Vermont Electric Cooperative, Inc., Maine Public Service Co., Taunton Municipal Lighting Plant Commission, Bangor Hydro-Electric Co., and Town of Hudson, Mass., Light and Power Department in connection with their application for construction permits and operating licenses for the Seabrook station, units 1 and 2. The site for this plant is located in Rockingham County, N.H.

The original antitrust portion of the application was submitted on July 9, 1973, and Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters, was published in the FEDERAL REGISTER on August 9, 1973 (38 FR 21522). The notice of hearing was published in the FEDERAL REGISTER on August 9, 1973 (38 FR 21519).

Copies of the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Exeter Public Library, Front Street, Exeter, N.H.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the Massachusetts Municipal Wholesale Electric Co., Vermont Electric Cooperative, Inc., Maine Public Service Co., Taunton Municipal Lighting Plant Commission, and Bangor Hydro-Electric Co., presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before November 6, 1978.

Dated at Bethesda, Md., this 21st day of August 1978.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch No. 4, Division of Project Management.

[FR Doc. 78-24769 Filed 9-18-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS; SUBCOMMITTEE ON WASTE MANAGEMENT

Meeting

The ACRS Subcommittee on Waste Management will hold an open meeting on October 11-12, 1978 in Room 1046, 1717 H Street NW., Washington, D.C. 20555, to review NRC research regarding waste management for inclusion in the annual ACRS report to Congress on safety research. Notice of this meeting was published August 15 and September 21, 1978 (43 FR 36151 and 42826, respectively).

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977 (42 FR 56972), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: Wednesday, October 11, and Thursday, October 12, 1978, 8:30 a.m. until the conclusion of business each day.

The subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full committee.

At the conclusion of the executive session, the subcommittee will hear

for Trade Negotiations, 1800 G Street, Room 725, Washington, D.C. 20506.

[8025-01]

REGION V ADVISORY COUNCIL

Small Business Administration, or others attending.

For further information, write or

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Declaration of Disaster Loan Area

Racine County and adjacent counties within the State of Wisconsin con-

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At the conclusion of the executive session, the subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, the Department of Energy, and their consultants, pertinent to the agenda items. The subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full committee.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Mr. Raghwald Muller, telephone 202-634-1414, between 8:15 a.m. and 5 p.m., e.d.t.

Dated: September 25, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-27235 Filed 9-25-78; 10:21 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

ADVISORY COMMITTEE FOR TRADE NEGOTIATIONS

Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. (the Act), notice is hereby given that a meeting of the Advisory Committee for Trade Negotiations will be held Wednesday, October 25, 1978, from 1 p.m. to 5 p.m. at the Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C.

The purpose of this meeting will be to review and discuss the status of, and the United States strategy and objectives for, the multilateral trade negotiations currently underway in Geneva.

In accordance with section 10(d) of the Act, the meeting will not be open to the public because information falling within the purview of 5 U.S.C. 552b(c)(1) (the exception to the Government in the Sunshine Act for matters specifically required by Executive order to be kept secret in the interest of foreign policy) will be reviewed and discussed.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Executive Director, Advisory Committee for Trade Negotiations, Office of the Special Representative for Trade Negotiations, 1800 G Street, Room 725, Washington, D.C. 20506.

PHYLLIS O. BONANNO,
Executive Director, Advisory Committee for Trade Negotiations.

ADVISORY COMMITTEE FOR TRADE NEGOTIATIONS

DETERMINATION OF CLOSING OF MEETING

The meeting of the Advisory Committee for Trade Negotiations (the Advisory Committee) to be held Wednesday, October 25, 1978, from 1 p.m. to 5 p.m. at the Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C., will involve a review and discussion of the status of, and United States strategy and objectives for, the multilateral trade negotiations currently underway in Geneva. Such review and discussion will deal with information properly classified pursuant to Executive Order 11652 and specifically required by such order to be kept secret in the interests of national security (i.e., the conduct of foreign relations) of the United States. All members of the Advisory Committee have appropriate security clearances. Accordingly, I hereby determine that this meeting of the Advisory Committee will be concerned with matters listed in section 552b(c)(1) of Title 5 of the United States Code.

ROBERT S. STRAUSS,
Special Representative for Trade Negotiations.

[FR Doc. 78-26966 Filed 9-25-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

REGION II ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region II Advisory Council, located in the geographical area of Newark, N.J., will hold a public meeting at 9:30 a.m., on Thursday, October 19, 1978, at the Ramada Inn, 36 Valley Road, Clark, N.J. 07066, to discuss such business as may be presented by members and the staff of the Small Business Administration or others attending.

For further information, write or call Andrew P. Lynch, District Director, U.S. Small Business Administration, 970 Broad Street, Newark, N.J. 07102, 201-645-3580.

Dated: September 18, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-27053 Filed 9-25-78; 8:45 am]

[8025-01]

REGION V ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region V Advisory Council, located in the geographical area of Chicago, Ill., will hold a public meeting from 10 a.m. to 12:30 p.m., on Thursday, October 12, 1978, in Room 1220, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Ill., to discuss such business as may be presented by members and the staff of the Small Business Administration or others attending.

For further information, write or call Mr. John L. Smith, District Director, U.S. Small Business Administration, 219 South Dearborn Street, Chicago, Ill. 60604, 312-353-4508.

Dated: September 20, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-27050 Filed 9-25-78; 8:45 am]

[8025-01]

REGION V ADVISORY COUNCIL EXECUTIVE BOARD

Public Meeting

The Small Business Administration Region V Advisory Council Executive Board will hold a public meeting from 1 p.m. to 4:30 p.m. on Friday, November 17, 1978, in Room 1220, Dirksen Federal Building, 219 South Dearborn Street, Chicago, Ill., to discuss such business as may be presented by members and the staff of the Small Business Administration or others attending.

For further information, write or call Ms. Donna Harrigan, Regional Director, U.S. Small Business Administration, 219 South Dearborn Street, Chicago, Ill. 60604, 312-353-0357.

Dated: September 19, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-27055 Filed 9-25-78; 8:45 am]

[8025-01]

REGION V ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region V Advisory Council, located in the geographical area of Detroit, Mich., will hold a public meeting at 9 a.m. on Thursday, October 19. 1978, at the Hilton Inn, Lansing, Mich., to discuss such business as may be presented by members, and the staff of the Small Business Administration, or others attending.

For further information, write or call Raymond L. Harshman, District Director, U.S. Small Business Administration, 515 Patrick V. McNamara Building, 477 Michigan Avenue, Detroit, Mich. 48226, 313-226-7240.

Dated: September 18, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-27054 Filed 9-25-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1527]

MICHIGAN

Declaration of Disaster Loan Area

Ottawa County and adjacent counties within the State of Michigan constitute a disaster area as a result of natural disaster as indicated:

County: Ottawa.
Natural disaster(s): Frost.
Date(s): June 14, 1978.

Eligible persons, firm and organizations may file applications for loans for physical damage until the close of business on November 20, 1978, and for economic injury until the close of business on June 18, 1979, at:

Small Business Administration, District Office, 477 Michigan Avenue—McNamara Building, Detroit, Mich. 48226.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos., 59002 and 59008)

Dated: September 19, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-27049 Filed 9-25-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1522]

MICHIGAN

Declaration of Disater Loan Area

Alger and Houghton Counties and adjacent counties within the State of Michigan constitute a disaster area as a result of damage caused by hail, wind, and rainstorm which occurred on July 19, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on March 15, 1979, and for economic injury until the close of business on June 15, 1979, at:

Small Business Administration, District Office, 477 Michigan Avenue—McNamara Building, Room 515, Detroit, Mich. 48226.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 15, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-27051 Filed 9-25-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1521; Amdt. No. 1]

TEXAS

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 40583), is amended by adding the following counties:

County	Natural disaster(s)	Date(s)
Clay	Drought	2/25/78-7/20/78
Coleman	Drought	1/01/78-7/26/78
Garza	Drought	1/01/78-8/01/78
Gillespie	Flood	8/02/78-8/03/78
Harrison	Drought	5/01/78-8/04/78
Hunt	Drought	6/01/78-8/08/78
King	Drought	1/01/78-8/09/78
Do	Hailstorm	7/16/78
Knox	Drought	7/01/77-8/02/78
Do	Flood	8/03/78-8/04/78
Lamar	Drought	6/01/78-7/24/78
Live Oak	Drought	7/20/78-8/11/78
Marion	Drought	5/01/78-8/08/78
Runnels	Drought	1/21/78-8/02/78
Sabine	Drought	4/05/78-8/04/78
Walker	Drought	4/01/78-7/27/78
Wilson	Drought	5/15/78-7/19/78

And adjacent counties within the State of Texas as a result of natural disasters as indicated. All other information remains the same; i.e., the termination dates for filing applications for physical damage is close of business on March 6, 1979, and for economic injury until the close of business on June 6, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 15, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-27052 Filed 9-25-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1528]

WISCONSIN

Declaration of Disaster Loan Area

Racine County and adjacent counties within the State of Wisconsin constitute a disaster area as a result of damage caused by flash flooding which occurred on August 18-19, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 20, 1978, and for economic injury until the close of business on June 18, 1979, at:

Small Business Administration, District Office, 122 West Washington Avenue, Room 700, Madison, Wis. 53703.

Or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 19, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 27048 Filed 9-25-78; 8:45 am]

[4510-29]
[4830-01]

Internal Revenue Service

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 78-13; Application No. D-175]

RAGNAR BENSON PROFIT SHARING PLAN AND TRUST

Exemption From Prohibitions

AGENCIES: Department of Labor; Department of the Treasury/Internal Revenue Service.

ACTION: Grant of individual exemption.

SUMMARY: This exemption enables the Ragnar Benson Profit Sharing Plan and Trust (the Trust) to acquire, from a group of independent banks, a $1 million participation interest in a long-term mortgage loan to Woodlane Corp. (Woodlane), a company 50 percent of whose stock is owned by Ragnar Benson, Inc. (Ragnar Benson), the employer of employees covered by the Trust. Certain related transactions are also exempted by this action.

FOR FURTHER INFORMATION CONTACT:

Frederic G. Burke, Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, 202-523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On January 4, 1977, notice was published in the FEDERAL REGISTER (42 FR

V 43 / 187 SE 26 78 V 4

956) of the pendency before the Department of Labor (the Department) [illegible] Revenue Service (the

it—instead of the sum of $1 million which was proposed in the notice of pendency. A loan participation of $1

interest in the security in proportion to its share of the total indebtedness.

(f) The participation agreement pro-

or disqualifed person from certain other provisions of the Act and the Code, including any prohibited trans-

The availability of this exemption is subject to the express conditions that the materials facts and representa-

stitute a clearly unwarranted invasion of personal privacy. Accordingly, closure of this portion of the meeting is

956) of the pendency before the Department of Labor (the Department) and the Internal Revenue Service (the Service) (collectively referred to as "the Agencies"), of an exemption from the restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) of the Code, for transactions described in an application submitted by Ragnar Benson and the trustee and plan committee under the Trust (collectively referred to as "Applicants"). The notice, which was supplemented by a correction published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2389), set forth a summary of the facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The applications and all documents and letters containing facts, representations, and comments that were submitted to the Agencies after the publication of the notice, as well as the record of the public hearing referred to below, have been available for public inspection at the Agencies in Washington, D.C.

The exemption was proposed in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). All interested persons were invited by the notice to submit written comments on the proposed exemption and to submit a written request that a hearing be held relating to the exemption.

Following the receipt of requests for a hearing from a majority of participants in the Trust, and pursuant to a notice published in the FEDERAL REGISTER on May 6, 1977 (42 FR 23220), a public hearing was held on May 27, 1977, at which interested persons were afforded the opportunity to present their views on the proposed exemption.

COMMENTS RECEIVED

None of the comments raised objections to the grant of an exemption with respect to the Trust's proposed investment in a long-term mortgage loan to Woodlane for the financing of the third addition to the Bell System Center for Technical Education (the third addition). Nor were any objections raised regarding the other related transactions covered by the proposed exemption. Rather, the comments urged the Agencies to expand the proposed exemption so as to permit the Trust to invest $4 million of its assets in the mortgage loan—which assets are currently held in cash and short-term certificates of deposit—instead of the sum of $1 million which was proposed in the notice of pendency. A loan participation of $1 million, together with the $450,000 which remains outstanding on a previous loan by the Trust to Woodlane, would represent approximately 25 percent of Trust assets. A loan participation of $4 million, in addition to the $450,000 outstanding loan, would represent approximately 65 percent of Trust assets.

In testimony at the public hearing, and by written submissions to the Agencies subsequent to the hearing, the Applicants, including members of the plan committee, officers of Ragnar Benson, Inc., and Raymond Benson, the trustee under the Trust and principal officer of Ragnar Benson, Inc. as well as an officer of Woodlane, offered evidence and argument designed to demonstrate that adequate safeguards would be present to protect plan participants despite an investment of substantially more than half of the Trust's assets in the single employer-related real estate venture in question.

The following summary of the facts and representations submitted to the Agencies by written comments and testimony at the public hearing amend or supplement those facts and representations which were summarized in the notice of pendency.

(a) The financing of the third addition to the Bell Training Center was completed by September 1976. The National Security Bank of Chicago (National Security Bank), as mortgagee and noteholder under a March 26, 1976, mortgage indenture with Woodlane, together with 13 banks in the Chicago area who signed an agreement with National Security Bank to participate in the financing, provided $6,375,000 in a combined construction and 15-year permanent mortgage loan to Woodlane.

(b) On October 1, 1976, Western Electric occupied the third addition and began paying rent in accordance with the terms of the 15-year lease with Woodlane.

(c) By an assignment instrument made on March 26, 1976, and filed with the Du Page, Ill., county clerk on October 5, 1976, Woodlane assigned the lease and all rents payable thereunder to National Security Bank.

(d) Under the terms of the participation agreement, National Security Bank, as the "lead" bank, holds the note evidencing the mortgage loan and the collateral therefor, receives all payments representing principal and interest on the loan, and remits to the participating banks their pro rata shares of the proceeds with interest computed at the rate of 9½ percent annually.

(e) Each of the participating banks has an equal and coordinate first lien interest in the security in proportion to its share of the total indebtedness.

(f) The participation agreement provides that in the event that the Trust decides at any time to participate in the mortgage loan in an amount not to exceed $4 million, each then existing participant will, at the request of National Security Bank, reduce its participation on a pro rata basis.

(g) The Applicants submitted letters from two institutional mortgage lenders, each of whom expressed interest in providing all of the financing required for the third addition. However, none of the banks which actually participate in the financing furnished more than $1 million of the $6.375 million provided to Woodlane.

(h) The Applicants represent that two finanicial institutions have expressed interst in purchasing either the third addition and the 1 acre of land thereunder or the entire Bell System Center for Technical Education at a price in excess of 10 times the annual rentals attributable to those parcels.

The Agencies have reviewed the complete record of this proceeding in light of the statutory criterial in § 408(a) of the Act and section 4975(c)(2) of the Code. Before an administrative exemption can be granted under those sections, the Department and the Service, respectively, must find that the requested exemption is administratively feasible, in the interests of the plan and its participants and beneficiaries and protective of the rights of plan participants and beneficiaries. In this connection, the Department reviewed the record in light of the congressional concern expressed in section 404(a)(1)(C) of the Act, which is solely within the jurisdiction of the Department, that plan fiduciaries diversify plan investments so as to minimize the risk of large losses unless under the circumstances it is clearly pruduent not to do so. Based on their respective reviews of the record, the Agencies cannot jointly agree that the statutory findings required for an administrative exemption can be made for a loan participation by the Trust of $4 million. The Agencies do agree, however, that the statutory findings can be made with respect to a loan participation for $1 million. Accordingly, the Agencies have decided to grant the exemption set forth below for a loan participation of $1 million, as originally proposed.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualifed person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) The exemption set forth herein is supplemental to, and not in derogation of, any other provisions of the Code and the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasure directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978 (43 FR 22319).

EXEMPTION

Pursuant to section 4975(c)(2) of the Code and section 408(a) of the Act and the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722 and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the facts and respresentations contained in the application for exemption submittee by the Applicants, the public comments received and the record of hearing, the Agencies find that it is administratively feasible, in the interests of the Trust and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the Trust to grant, and hereby grant, and exemption effective this date so that the restrictions of section 406 of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) of the code, shall not apply to: The proposed aquisition by the Trust of a $1 million participation interest in the long-term mortgage loan to Woodlane and the release by the Trust of its prior rights in the security for such loan; and the furnishing of guaranties by Ragnar Benson to the Trust as additional security for its proposed investment in the mortgage loan to Woodlane, pursuant to the terms, conditions, and representations set forth in the application.

The availability of this exemption is subject to the express conditions that the materials facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction consummated or to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 20th day of September 1978.

IAN LANOFF,
Administrator, Pension and Welfare Benefits Programs, Labor-Management Services Administration, Department of Labor.

FRED J. OCHS,
Director, Employee Plans Division, Internal Revenue Service.

[FR Doc. 78-26970 Filed 9-25-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

CAREER DEVELOPMENT COMMITTEE

Meeting

The Veterans Administration gives notice, pursuant to Pub. L. 92-463, that a meeting of the Career Development Committee, authorized by 38 U.S.C. 4101, will be held in room A-35 of the Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, October 30-31, 1978, at 8:30 a.m. The meeting will be for the purpose of scientific review of applications for appointment to the Career Development Program in the Veterans Administration system. The Committee advises the Director, Medical Research Service, on selection and appointment of Associate Investigators, Research Associates, Clinical Investigators, Medical Investigators, Senior Medical Investigators, and William S. Middleton Award Nominees.

The meeting will be open to the public up to the seating capacity of the room from 8:30 a.m. to 9 a.m. to discuss the general status of the program. Because of the limited seating capacity of the room, those who plan to attend should contact Mr. David D. Thomas, Executive Secretary of the Committee, VA Central Office, Washington, D.C., 202-389-2317, prior to October 20, 1978.

The meeting will be closed from 9 a.m. to 5 p.m. on October 30-31 for consideration of individual applications for positions in the Career Development Program. This necessarily requires examination of personnel files and discussion and evaluation of the qualifications, competence, and potential of the several candidates, disclosure of which information would constitute a clearly unwarranted invasion of personal privacy. Accordingly, closure of this portion of the meeting is permitted by section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended, in accordance with section (c)(6) of the Government in the Sunshine Act, 5 U.S.C. 552b.

Minutes of the meeting and rosters of the committee members may be obtained from Mr. David D. Thomas, Chief, Career Development Program, Medical Research Service, Veterans Administration, Washington, D.C. Phone 202-389-2317.

Dated: September 20, 1978.

By direction of the Administrator:

JOHN J. LEFFLER,
Associate Deputy Administrator.

[FR Doc. 78-27001 Filed 9-25-78; 8:45 am]

[8320-01]

COOPERATIVE STUDIES EVALUATION COMMITTEE

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 38 U.S.C. 4101, will be held at the Burlington Hotel, Vermont Avenue, at Thomas Circle NW., Washington, D.C., on October 23 and 24, 1978. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans Administration on the relevance and feasibility of the studies, the adequacy of the protocols, the scientific validity and the technical details, including involvement of human subjects. The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on its findings.

The meeting will be open to the public up to the seating capacity of the room from 8 to 8:30 a.m., October 23 and 24, to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. James A. Hagans, Coordinator of the Committee, Veterans Administration Central Office, Washington, D.C., 202-389-3702, prior to October 13.

The meeting will be closed from 8:30 a.m. to 4:30 p.m., October 23, and 8:30 a.m. to 1 p.m., October 24, for consideration of specific proposals in accordance with provisions set forth in subsection 10(d) of Pub. L. 92-463, as amended by Pub. L. 94-409, and subsection 552b(c)(6) of title 5, United States Code. During this portion of the meeting, discussion and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are

study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Questions and requests for single copies of the Environmental Assessment should be addressed to: Mr. Jack

1978 (2 weeks), at Denver, CO, in a hearing room to be later designated.

MC 105006 (Sub-7F), L. L. Smith Trucking, a corporation, MC 143443 (Sub-1F), Gary

MC 116915 (Sub-45), Eck Miller Transportation Corp., now being assigned for hearing on November 15, 1978 (1 day), at Louis-

MC 142059 (Sub-24F), Cardinal Transport, Inc., now assigned for hearing on October 11, 1978, at Chicago, IL, is canceled and application dismissed.

vember 7, 1978, at Birmingham, AL, and will be held at Room 430, Federal Building, Fifth Avenue and 19th Street North.

MC 138882 (Sub-20), Wiley Sanders, Inc., is

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study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: September 20, 1978.

By direction of the Administrator:

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc. 78-27000 Filed 9-25-78; 8:45 am]

[8320-01]

PROPOSED NATIONAL CEMETERY, BOURNE, MASS.

Finding of No Significant Impact

The proposed project converts a 749-acre area of excessed Otis Air Force Base land used occasionally as a military training facility and camping/hunting area to a restricted park-like environment of a National Cemetery. Publicity given the project has created no adverse public comment. The project appears compatible with existing and proposed uses of adjacent lands. A Master Plan has been developed for the project which gives full consideration to existing constraints and leaves the most environmentally sensitive areas undisturbed.

It was originally determined that this project would require an Environmental Impact Statement. However, in the development of the statement, an analysis of the nature and degree of significance of the impacts indicated that these could be adequately addressed in an assessment.

A brief summary of the impacts follows as a result of this change in land use:

There will be a withdrawal of 750 acres from the existing 3,000 acres of hunting area existing at the Otis Air Force Base.

Vegetation and wildlife will be affected by the clearing of approximately one-half of the existing vegetation on the site but will be ameliorated to some extent by substantial landscape plantings of indigenous or adaptable plant materials. However, the site transects the north to south movement of the only remaining deer herd on the Cape and the fencing of the site will impede, though not completely prevent, this deer migration. Existing birds and small mammals will generally adapt to the "edge" habitat created.

Cemetery-generated traffic will increase overall traffic on an averge day by about 3 percent, but would have significance only as it contributes to the seasonally heavy tourist traffic to the Cape.

An analysis of all environmental factors related to the development of a National Cemetery on the site indicates a Finding of No Significant Impact.

Questions and requests for single copies of the Environmental Assessment should be addressed to: Mr. Jack S. Westall, Assistant Chief Medical Director for Administration (13), 810 Vermont Avenue NW., Washington, D.C. 20420, 202-389-2706.

By direction of the Administrator:

Dated: September 20, 1978.

MAURY S. CRALLE, Jr.,
Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 78-26999 Filed 9-25-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 717]

ASSIGNMENT OF HEARINGS

SEPTEMBER 21, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interestes.

MC 116254 (Sub-188), Chem-Haulers, Inc., now being assigned for hearing on November 13, 1978 (1 day), at Louisville, KY, in a hearing room to be later designated.

MC 115841 (Sub-575), Colonial Refrigerated Transportation, now being assigned for hearing on November 14, 1978 (1 day), at Louisville, KY, in a hearing room to be later designated.

MC 134402 (Sub-5F), Williams Truck Line, Inc., now being assigned October 18, 1978 (2 days), at Des Moines, IA, in Room 453 Federal Building, 210 Walnut Street.

MC-C-7287, AAAcon Auto Transport, Inc., investigation and revocation of certificates, now being assigned prehearing conference, October 4, 1978, at the offices of the Interstate Commerce Commission, Washington, DC.

MC 128279 (Sub-30), Arrow Freightways, Inc., is assigned for hearing October 2, 1978, at Albuquerque, NM., and will be held at Sheraton Old Town Inn, 800 Rio Grande Boulevard NW.

MC 116254 (Sub-188), Chem-Haulers, Inc., now being assigned for hearing on November 13, 1978 (1 day), at Lousiville, KY, in a hearing room to be later designated.

MC 115841 (Sub-575), Colonial Refrigerated Transportation, Inc., now being assigned for hearing on November 14, 1978 (1 day), at Louisville, KY, in a hearing room to be later designated.

MC 116915 (Sub-45), Eck Miller Transportation Corp., now being assigned for hearing on November 15, 1978 (1 day), at Louisville, KY, in a hearing room to be later designated.

MC 112617 (Sub-382F), Liquid Transporters, Inc., now being assigned for hearing on November 16, 1978 (1 day), at Louisville, KY, in a hearing room to be later designated.

MC 112304 (Sub-139F), Ace Doran Hauling & Rigging Co., now being assigned for hearing on November 17, 1978 (1 day), at Louisville, KY, in a hearing room to be later designated.

MC 134286 (Sub-53F), Illini Express, Inc., and MC 144364 (Sub-2F), Art Betz, now being assigned October 20, 1978 (1 day), at Des Moines, IA, in Room 453 Federal Building, 210 Walnut Street.

MC 28536 (Sub-16), Fox & Ginn, and MC 108473 (Sub-39), is assigned for continued hearing on October 16, 1978 (5 days), in Portland, ME, and will be held in Room 232 Bankruptcy Court, 156 Federal Street.

MC 111231 (Sub-222), Jones Truck Line, Inc., is assigned for hearing October 11, 1978, at Atlanta, GA, and will be held at Marriott Hotel, Stone Mountain Room, Courtland International Boulevard.

MC-F-13588, M B Transport Services, Inc.—Control—Con-AG Transport, Inc., now being assigned for hearing on January 9, 1979 (4 days), at Portland, OR, in a hearing room to be later designated.

MC 115931 (Sub-56F), Bee Line Transportation, Inc., now being assigned for hearing on January 15, 1978 (5 days), at Portland, OR, in a hearing room to be later designated.

MC 133796 (Sub-46), George Appel, now assigned for hearing on October 4, 1978, at Washington, DC, is canceled and transferred to modified procedure.

MC 133796 (Sub-47), George Appel, now assigned for hearing on October 5, 1978, at Washington, DC, is canceled and transferred to modified procedure.

MC 47583 (Sub-69F), Tollie Freightways, Inc., now assigned for hearing on October 17, 1978, at Chicago, IL, is canceled and transferred to modified procedure.

MC 35638 (Sub-398F), Interstate Motor Freight System, transferred to modified procedure.

MC 2253 (Sub-79F), Carolina Freight Carriers Corp., transferred to modified procedure.

W-1323F, Sause Bros. Ocean Towing Co., Inc., transferred to modified procedure.

MC 143691 (Sub-6), Pony Express Courier Corp., transferred to modified procedure.

MC 144140 (Sub-6F), Southern Freightways, Inc., now being assigned for hearing on December 6, 1978 (3 days), at Orlando, FL, in a hearing room to be later designated.

MC 119670 (Sub-33F), the Victor Transit Corp., now assigned for prehearing conference on October 16, 1978, at Washington, DC, is canceled and transferred to modified procedure.

MC-F-13467, Bhy Trucking, Inc.—Purchase (portion)—Western Gillette, Inc., now assigned October 3, 1978, at Washington, DC, is postponed indefinitely.

MC 110817 (Sub-25F), E. L. Farmer & Co., now assigned December 11, 1978, at Denver, CO, is advanced to October 16, 1978, at Denver, CO (2 weeks), in a hearing room to be later designated.

MC 113822 (Sub-6F), Dalgarno Transportation, Inc., now being assigned October 16, 1978 (2 weeks), at Denver, CO, in a hearing room to be later designated.

MC 105006 (Sub-7F), L. L. Smith Trucking, a corporation, MC 143443 (Sub-1F), Gary L. McCallister and Monte A. McCallister, d.b.a. McCallister Bros., and MC 143993 (Sub-4F), Black Hills Trucking, Inc., now being assigned October 16, 1978 (2 weeks), at Denver, CO, in a hearing room to be later designated.

MC 119789 (Sub-424F), Caravan Refrigerated Cargo, Inc., is assigned for hearing October 11, 1978, at Chicago, IL, and will be held at Room 572, 219 South Dearborn Street.

MC 51146 (Sub-577F), Schneider Transport, Inc., is assigned for hearing October 16, 1978, at Chicago, IL, and will be held at Room 350, 230 South Dearborn Street.

MC 142706 (Sub-2F), Early Bird Transfer, Inc., is assigned for hearing October 16, 1978, at Chicago, IL, and will be held at Room 209, 536 South Clark Street.

MC 136315 (Sub-21), Olen Burrage Trucking, Inc., is assigned for hearing October 16, 1978, at New Orleans, LA, and will be held at Downtowner Motor Inn, 541 Bourbon Street.

MC 116915 (Sub-38), Eck Miller Transportation Corp., is assigned for hearing October 11, 1978, at Birmingham, AL, and will be held at Room 430, Federal Building, Fifth Avenue and 19th Street North.

MC 140829 (Sub-94F), Cargo Contract Carrier Corp., is assigned for hearing October 16, 1978, at Chicago, IL, and will be held at Room 1669, 219 South Dearborn Street.

MC 144512F, Bud's Service, Inc., is assigned for hearing October 12, 1978, at Chicago, IL, and will be held at Room 3855A, Federal Building, 230 South Dearborn Street.

MC 19157 (Sub-46), McCormack's Highway Transportation, Inc., and MC 83539 (Sub-470), C & H Transportation Co., Inc., and MC 95876 (Sub-215), Anderson Trucking Service, Inc., and MC 100666 (Sub-390F), Melton Truck Lines, Inc., and MC 106644 (Sub-244), Superior Trucking Co., Inc., and MC 134922 (Sub-240), B. J. McAdams, Inc., is assigned for hearing October 12, 1978, at Birmingham, AL, and will be held at Room 430, Federal Building, Fifth Avenue and 19th Street North.

MC-F-13100, the Cleveland, Columbus & Cincinnati Highway, Inc.—Purchase (portion)—Great Lakes Express Co., and MC 3419 (Sub-11), the Cleveland, Columbus & Cincinnati Highway, Inc., and MC-F-13102, Maiers Motor Freight Co.—Purchase (portion)—Great Lakes Express Co., and MC-F-13103, United Trucking Service, Inc.—Purchase (portion)—Great Lakes Express Co., and MC-F-13106, Branch Motor Express Co.—Control—Great Lakes Express Co., and MC-F-13233, Arkansas Best Freight—Purchase (portion)—Great Lakes Express Co., and MC-F-13568, Tucker Freight Lines, Inc.—Purchase (portion)—Great Lakes Express Co., is assigned for hearing October 17, 1978, at Chicago, IL, and will be held at Room 1669, 219 South Dearborn Street.

MC 109324 (Sub-30) (M1), Garrison Motor Freight, Inc., is assigned for hearing October 16, 1978, at Joplin, MO, and will be held at Howard Johnson's Motor Lodge, 3500 Rangeline.

MC 19311 (Sub-40), Central Transport, Inc., is assigned for hearing on October 16, 1978, in Lansing, MI, and will be held at Corporation & Security Commission, 6546 Mercantile Way.

MC 142059 (Sub-24F), Cardinal Transport, Inc., now assigned for hearing on October 11, 1978, at Chicago, IL, is canceled and application dismissed.

MC 139495 (Sub-322F), National Carriers, Inc., now assigned for hearing on October 23, 1978, at Liberal, KS, is canceled and application dismissed.

MC 113678 (Sub-741), Curtis, Inc., now assigned for hearing on October 2, 1978, at New York, NY, is canceled and application dismissed.

MC 119789 (Sub-416), Caravan Refrigerated Cargo, Inc., now assigned for hearing on October 17, 1978, at Des Moines, IA, is canceled and application dismissed.

MC 93674 (Sub-3), Boyer Truck Line, Inc., now assigned for hearing on October 30, 1978, at Denver, CO, is canceled and application dismissed.

MC 103051 (Sub-437F), Fleet Transport Co., Inc., now assigned for hearing on November 1, 1978, at Washington, DC, is canceled and transferred to modified procedure.

MC-C-9860, *Carolina Coach Co. et al.* v. *Williams Bus Rental*, is assigned for hearing October 18, 1978, at Rocky Mount, NC, and will be held at City Council Chamber, City Hall, Northeast Main Street.

MC-C-9997, *Telfer Tank Lines Inc. et al.* v. *Western Asphalt Service*, is assigned for hearing October 16, 1978, at Carson City, NV, and will be held at Room 302, Federal Building, 705 North Plaza Street.

MC 143961 (Sub-7F), Pony Express Courier Corp., is assigned for hearing October 16, 1978, at Memphis, TN, and will be held at Room 396, Federal Building, 167 North Main Street.

MC 128273 (Sub-289F), Midwestern Distribution, Inc., is assigned for hearing October 11, 1978, at Chicago, IL, and will be held at room 1944C, E. M. Dirksen Building, 219 South Dearborn Street.

MC 102817 (Sub-28), Perkins Furniture Transport, Inc., is assigned for hearing October 16, 1978, at Chicago, IL, and will be held at Room 1944C, E. M. Dirksen Building, 219 South Dearborn Street.

MC-C-9986, *Clark Transfer, Inc.* v. *Higgins Transportation, Ltd.*, is assigned for hearing October 30, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 113434 (Sub-96F), Gra-Bell Truck Line, Inc., is assigned for hearing November 6, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 95540 (Sub-1009F), Watkins Motor Lines, Inc., is assigned for hearing October 31, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 114632 (Sub-144), Apple Lines, Inc., is assigned for hearing November 8, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 96328 (Sub-5F), Illinois Short Line, Inc., is assigned for hearing November 2, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 115162 (Sub-389), Poole Truck Life, Inc., is assigned for hearing November 1, 1978, at Birmingham, AL, and will be held at Room 430, Federal Building, Fifth Avenue and 19th Street North.

MC 126305 (Sub-85), Boyd Bros. Transportation Co., Inc., is assigned for hearing November 7, 1978, at Birmingham, AL, and will be held at Room 430, Federal Building, Fifth Avenue and 19th Street North.

MC 138882 (Sub-20), Wiley Sanders, Inc., is assigned for hearing October 31, 1978, at Birmingham, AL, and will be held at Room 430, Federal Building, Fifth Avenue and 19th Street North.

MC 143423 (Sub-3), William T. Austin, d.b.a. Austin Trucking Co., is assigned for hearing November 6, 1978, at Birmingham, AL, and will be held at Room 430, Federal Building, Fifth Avenue and 19th Street North.

MC 112520 (Sub-346), McKenzie Tank Lines, Inc., is assigned for hearing October 30, 1978, at Birmingham, AL, and will be held at Room 430, Federal Building, Fifth Avenue and 19th Street North.

MC 116004 (Sub-45), Texas Oklahoma Express, Inc., is assigned for hearing October 10, 1978, at Dallas, TX, and will be held at Room 5A15-17, Federal Building, 1100 Commerce Street, and is assigned for continued hearing October 16, 1978, at Tulsa, OK; will be held at Room 3469, Page Belcher Building, 333 West Fourth Street.

MC 128308 (Sub-3), T.R.Y., Inc., d.b.a. Young's Transportation, is assigned for hearing October 11, 1978, at Asheville, NC, and will be held at the County Courthouse Hearing Room, Ninth Floor.

MC 138176 (Sub-6), Marvin Rentz, d.b.a. Rentz Farm Supply, is assigned for hearing October 18, 1978, at Atlanta, GA, and will be held at Room 305, 1252 West Peachtree Street NW.

MC 136384 (Sub-10), Palmer Motor Express, Inc., is assigned for hearing October 16, 1978, at Atlanta, GA, and will be held at Room 305, 1252 West Peachtree Street NW.

MC 58923 (Sub-45), Georgia Highway Express, Inc., now being assigned for continued hearing on November 13, 1978 (8 days), at Nashville, TN, in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27038 Filed 9-25-78; 8:45 am]

[7035-01]

[Decisions Volume No. 32]

DECISION-NOTICE

Decided: September 13, 1978

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, with 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall

specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations

cation of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to

gus Counties, NY, to points in GA. (Hearing site: Washington, DC.)

NOTE.—The person or persons who appear

AR, LA, TX, ND, SD, and MN. (Hearing site: St. Louis, MO.)

MC 50307 (Sub-97F), filed July 17,

68106. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Communica-*

with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commis-

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specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an applicaton under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find:

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is not a major Federal action significantly affecting the quality of the human environment.

It is ordered:

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall be construed as conferring more than a single operating right.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

H. G. Homme, Jr.,
Acting Secretary.

MC 297 (Sub-9F), filed July 18, 1978. Applicant: WOODLAND TRUCK LINE, INC., 635 Park Street, P.O. Box 70, Woodland, WA 98674. Representative: Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, OR 97210. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Doors and door components,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of doors, between points in WA, OR, ID, and UT. (Hearing site: Portland, OR.)

MC 7555 (Sub-70F), filed August 9, 1978. Applicant: TEXTILE MOTOR FREIGHT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Terrence D. Jones, 2033 K Street NW., Washington, DC 20006. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of M&M/Mars, Division of Mars, Inc., at or near Cleveland, TN, to points in CT, DE, MD, NJ, NY, PA, MA, RI, ME, NH, VT, FL, AL, GA, NC, SC, and DC, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—(1) The person or persons who appear to be engaged in common control must either file an application under Section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary; (2) dual operations may be at issue in this proceeding.

MC 7555 (Sub-71F), filed August 9, 1978. Applicant: TEXTILE MOTOR FREIGHT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Terrence D. Jones, 2033 K Street NW., Washington, DC 20006. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from the facilities of C. B. Foods, Division of Curtice-Burns, Inc., in Genesee, Livingston, and Cattaraugus Counties, NY, to points in GA. (Hearing site: Washington, DC.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary; (2) dual operations may be at issue in this proceeding.

MC 14552 (Sub-64F), filed July 10, 1978. Applicant: McNICHOLAS TRANSPORTATION CO., a corporation, 555 West Federal Street, Youngstown, OH 44501. Representative: Paul F. Beery, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles* and (2) *equipment, materials, and supplies* used in the manufacture of iron and steel articles, between Weirton, WV, on the one hand, and, on the other, points in VA, NC, SC, GA, FL, AL, MS, LA, TN, AR, MO, and KY. (Hearing site: Columbus, OH.)

MC 14702 (Sub-76F), filed July 24, 1978. Applicant: OHIO FAST FREIGHT, INC., 3893 Market Street NW., Warren, OH 44484. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Aluminum and zinc ingots, aluminum shot, aluminum scrap, and silicon metal,* (1) from the facilities of U.S. Reduction Co., at (a) Alton, IL, (b) East Chicago, IN, and (c) Toledo, OH, to points in OH, MI, IN, IL, PA, NY, KY, TN, and WV, and (2) from the facilities used by U.S. Reduction Co., at (a) Hammond and Gary, IN, (b) Toledo, OH, and (c) Madison, IL, to points in OH, MI, PA, NY, KY, TN, and WV. (Hearing site: Columbus, OH.)

MC 41404 (Sub-147F), filed July 17, 1978. Applicant: ARGO-COLLIER TRUCK LINES CORP., Martin, TN 38237, Box 440. Representative: Mark L. Horne (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Citrus products,* (except frozen, and except commodities in bulk, in tank vehicles), equipped with mechanial refrigeration, from Winston-Salem, NC, to points in GA and LA. (Hearing site: Winston-Salem or Raleigh, NC.)

MC 44735 (Sub-35F), filed July 31, 1978. Applicant: KISSICK TRUCK LINES, INC., 7101 East 12th, Kansas City, MO 64126. Representative: John E. Jandera, 641 Harrison Street, Topeka, KS, 66603. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles,* from the plantsite of Northwestern Steel and Wire Co., at Sterling, IL, to points in MO,

AR, LA, TX, ND, SD, and MN. (Hearing site: St. Louis, MO.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary; (2) dual operations may be at issue in this proceeding.

MC 50307 (Sub-97F), filed July 17, 1978. Applicant: INTERSTATE DRESS CARRIERS, INC., 247 West 35th Street, New York, NY 10001. Representative: Arthur Liberstein, P.O. Box 1409, Fairfield, NJ 07006. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Wearing apparel,* and *materials, supplies and equipment* used in the manufacture of wearing apparel (except commodities in bulk), between Columbia, SC, Martinsburg, WV, Front Royal and Woodstock, VA, Carlisle and York, PA, and New York, NY. Tacking is authorized at New York, NY, (A) with carrier's authority in MC 50307 (Sub-6), issued February 14, 1950, to provide a through service transporting (1) *Wearing apparel,* and *materials and supplies* used in the manufacture thereof, (except commodities in bulk), (a) between the points authorized above, on the one hand, and, on the other, points in PA on and east of U.S. Hwy 11, and (B) from the points authorized above to points in PA west of U.S. Hwy 11; and (2) *wearing apparel,* on hangers, and in individual boxes, from points in PA west of U.S. Hwy 11, to the points authorized above; (B) with carrier's authority in MC 50307 (Sub-No. 54), issued November 19, 1973, to provide a through service transporting: *Wearing apparel,* and *materials, supplies, and equipment* used in the manufacture of wearing apparel (except commodities in bulk), between points above, on the one hand, and, on the other, points in Bergen Essex, Hudson, Middlesex, Morris, Passaic, and Union Counties, NJ; and (c) with carrier's authority in MC 50307 (Sub-No. 73), issued November 4, 1975, to provide a through service transporting: *Wearing apparel,* and *materials, supplies, and equipment* used in the manufacture of wearing apparel, (except commodities in bulk), between the points authorized above, on the one hand, and, on the other, Oneota, Hudson Falls, Little Falls, St. Johnsville, Amsterdam, Cobelskill, Glens Falls, Frankfort, Johnstown, Herkimer Hoosick Falls, Salem, Fort Edward, Utica, Copperstown, Rome, Ballaston Spa, Whitehall, Mechanisville, Richfield Springs, Oswego, Granvill, Greenwich, Syracuse, and Watertown, NY, and points in Schenectady, Franklin, and Rensselaer Counties, NY. (Hearing site: New York, NY.)

MC 62601 (Sub-4F), filed July 24, 1978. Applicant: ALBERT L. RING, ANDREW C. RING, BERNARD J. RING, and RONALD J. RING, a partnership, d.b.a. FRANK RICHARD RING, P.O. Box 96, Neola, IA 51559. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Communication equipment,* and (2) *materials, equipments, and supplies* used in the manufacture and installation of commodities equipment, between Omaha, NE, and Underwood, IA, on the one hand, and, on the other, St. Paul and Minneapolis, MN. (Hearing site: Omaha, NE, or Minneapolis, MN.)

NOTE—Dual operations may be involved in this proceeding.

MC 76065 (Sub-34F), filed August 10, 1978. Applicant: EHRLICH-NEWMARK TRUCKING CO., INC., 505 West 37th Street, New York, NY 10018. Representative: Michael R. Werner, P.O. BOX 1409, 167 Fairfield Road, Fairfield, NJ 07006. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Wearing apparel, and materials, supplies, and equipment* used in the manufacture of wearing apparel (except commodities in bulk), between New York NY, Philadelphia and Mechanicsburg, PA, Baltimore, MD, and points in NJ, on the one hand, and, on the other, points in NC. (Hearing site: Philadelphia, PA.)

MC 102616 (Sub-953F), filed July 18, 1978. Applicant: COASTAL TANK LINES, INC., a Delaware corporation, 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid fertilizer and fertilizer materials,* in bulk, (1) from Aurora, IN, to points in IL, IN, KY, MI, PA, VA, WV, and (2) from points in IL, IN, KY, OH, and WV, to Aurora, IN. (Hearing site: Columbus, OH, or Washington, DC.)

MC 106398 (Sub-827F), filed August 22, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plywood, paneling, and composition board,* from the facilities of the Van-Ply Corp., at Charlotte, NC, to points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MS, MO, NE, NC, OH, PA, SC, TN, VA, VT, WV, and WI. (Hearing site: Charlotte, NC.)

NOTE.—In view of the findings in MC 106398 (Sub-741), of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 107515 (Sub-1167F), filed August 11, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, 5th floor, Lenox Towers South, Atlanta, GA 30326. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs,* from the facilities of Hudson Industries, Inc., in Pike County, AL, to points in the United States in and east of MN, IA, KS, OK, and TX. (Hearing site: Montgomery, AL, or Atlanta, GA.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 107515 (Sub-1168F), filed August 14, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, 5th floor, Lenox Towers South, Atlanta, GA 30326. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by drugstores and grocery and food business houses (except commodities in bulk), (1) from Morrow, GA, to Grand Prairie, TX, Boston, MA, Rockford and Elk Grove Village, IL, Milford and Orange, CT, South Brunswick, NJ, Anaheim, CA, Philadelphia and Lititz, PA, New York, NY, and points in FL, and (2) from Boston, MA, Milford and Orange, CT, Rockford and Elk Grove Village, IL, South Brunswick, NJ, New York, NY, Lititz, and Philadelphia, PA, Charleston, SC, and Savannah, GA, to points in AR, LA, TN, MS, AL, GA, NC, SC, FL, and KY, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the named points. (Hearing site: New York, NY, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 107515 (Sub-1169F), filed August 14, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers I, 3390 Peachtree Rd., NE., Atlanta, GA 30326. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities, in bulk), from the facilties of John Morrell & Co., at or near East St. Louis, IL, to points in IN and OH, restricted to the transportation of traffic origi-

nating at the named origin facilities. (Hearing site: Chicago, IL.)

cles, from Cooperhill, TN, to points in OK and WI, and (2) *liquid washing*

dro, CA, to Lakewood, NJ, and points in IN, GA, and PA, restricted in (1),

MC 115826 (Sub-322F), filed June 13, 1978, and previously noticed in the FEDERAL REGISTER issue of July 13, Wilburn L. Williamson, 280 National Foundation Life Center, 3535 Northwest 58th Street, Oklahoma City, OK Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To oper-

nating at the named origin facilities. (Hearing site: Chicago, IL.)

NOTE. Dual operations may be at issue in this proceeding.

MC 108119 (Sub-93F), filed August 17, 1978. Applicant: E. L. MURPHY TRUCKING CO., a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *pre-cut log buildings*, knocked down, and (2) *materials and supplies* used in the contruction of pre-cut log buildings, from the facilities of American Log Homes, at or near McNary, AZ, to points in the United States (except AK and HI). (Hearing site: Phoenix or Tucson, AZ.)

MC 108341 (Sub-109F), filed July 31, 1978. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Pollution control equipment, steel tanks, concrete tanks, materials and supplies used in the construction of sewage treatment plants, and pumping stations*, from the facilities of Davco, Division of Davis Water and Waste Industries, Inc., at or near Thomasville, GA, to points in the United States in and east of MN, IA, MO, AR, and LA; and (2) *Materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, from points in the United States in and east of MN, IA, MO, AR, and LA, to the facilities of Davco, Division of Davis Water and Waste Industries, Inc., at or near Thomasville, GA. (Hearing site: Washington, DC.)

MC 110525 (Sub-1256F), filed August 7, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., a Delaware corporation, 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, from Bay City and Midland, MI, to points in IL, IN, IA, MN, OH, WI, and PA (except Allegheny and Beaver Counties). (Hearing site: Detroit, MI.)

MC 110525 (Sub-1257F), filed August 10, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., a Delaware corporation, 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *sulphur dioxide*, in bulk, in tank vehicles, from Cooperhill, TN, to points in OK and WI, and (2) *liquid washing compound*, in bulk, in tank vehicles, from Cooperhill, TN, to points in OK. (Hearing site: Atlanta, GA.)

MC 110878 (Sub-39F), filed August 23, 1978. Applicant: ARGO TRUCKING COMPANY, INC., Lower Heard Street, Elberton, GA 30635. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., NE, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *granite and marble*, between Elberton, GA, and points within 15 miles thereof, and Tate, GA, and points within 20 miles thereof, on the one hand, and, on the other, Savannah, GA, restricted to the transportation of traffic having a prior or subsequent movement by water. (Hearing site: Atlanta, GA.)

MC 111302 (Sub-134F), filed August 25, 1978. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, Knoxville, TN 37919. Representative: David A. Petersen (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, from Knoxville, TN, to points in CO, RI, MA, VT, NH, and ME. (Hearing site: Knoxville, TN.)

MC 111375 (Sub-99F), filed August 11, 1978. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Representative: Charles E. Dye (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *pizza, and materials, equipment, and supplies* used in the manufacture and disribution of pizza, from Santa Ana and Los Angeles, CA, to points in IL, IA, MI, MN, OH, and WI. (Hearing site: Los Angeles or San Francisco, CA.)

MC 111812 (Sub-581F), filed July 5, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Ralph H. Jinks, (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Drugs, toilet preparations, soaps, dental plate cleaning compounds, cough drops, magnesium hydroxide, alumina calcined, and health care products*, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, (1) From Lakewood, NJ, Lewes, DE, and Philaelphia, PA, to points in the United States (except AK, ME, NH, VT, NY, PA, VA, NJ, MD, MA, RI, CT, DE, HI, WV, and DC), (2) From Friendship, NC, to points in the United States (except AK, HI, VA, SC, and NC), (3) From Reno, NV, to points in PA and NJ, and (4) From San Leandro, CA, to Lakewood, NJ, and points in IN, GA, and PA, restricted in (1), (2), (3), and (4) to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Philadelphia, PA.)

MC 112822 (Sub-459F), filed July 24, 1978. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, 1401 N. Little Street, Cushing, OK 74023. Representative: Charles D. Midkiff (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Fruit juices* and *fruit and flavored drinks*, in containers, from Anaheim, CA, to points in OR and WA. (Hearing site: Los Angeles, CA.)

MC 114241 (Sub-9F), filed July 27, 1978. Applicant: C. T. HERTZSCH, INC., 282 U.S. Highway 31, Speed, IN 47172. Representative: Louis B. Hartlage, 501 South Second Street, Louisville, KY 40202. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Speed, IN, to points in TN, under continuing contract(s) with Louisville Cement Company, of Louisville, KY. (Hearing site: Louisville, KY, or Indianapolis, IN.)

MC 114632 (Sub-173F), filed July 13, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: Michael L. Carter (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods*, and (2) *commodities* otherwise exempt from economic regulation under the provisions of section 203(b)(6) of the Interstate Commerce Act, when moving in the same vehicle with frozen foods, from Syracuse, NY, to points in CT, DE, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC. (Hearing site: Chicago, IL, or Minneapolis, MN.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 115826 (Sub-321F), filed June 13, 1978, and previously noticed in the FEDERAL REGISTER issue of July 13, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, CO 80217. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery, dessert preparations, gumball machines and stands, and advertising and display materials*, in vehicles equipped with mechanical refrigeration, from the facilities of Leaf Confectionery, Inc., at or near Chicago, IL, to points in IA, KS, MO, and NE. (Hearing site: Denver, CO, or Chicago, IL.)

NOTE.—This republication corrects the commodity description.

MC 115826 (Sub-322F), filed June 13, 1978, and previously noticed in the FEDERAL REGISTER issue of July 13, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, CO 80217. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by products, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), (4) from the facilities of Armour Foods Co., in MN, IA, NE, and SD, to points in AZ, CA, CO, ID, MT, NM, OR, UT, WA, and WY, restricted in (1), (2), (3), and (4) above, to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Omaha, NE, or Des Moines, IA.)

NOTE.—The purpose of this republication of part (4) of the application is to indicate "MT" as a destination state in lieu of "MI" as previously published and to indicate the correct origin. The rest of the publication remains the same.

MC 117730 (Sub-24F), filed August 14, 1978. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pickles, pickled tomatoes, sauerkraut, and pickle relish* (except commodities in bulk), from the facilities used by Claussen Pickle Co., a subsidiary of Oscar Mayer & Co., at Woodstock and Chicago, IL, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VA, VT, WV, and DC. (Hearing site: Chicago, IL.)

MC 118089 (Sub-27F), filed August 17, 1978. Applicant: ROBERT HEATH TRUCKING, INC., P.O. Box 2501, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by convenience stores and supermarkets, in vehicles equipped with mechanical refrigeration, from points in CA and AZ, to points in AZ, NM, and those in TX on and west of U.S. Hwy 281, restricted to the transportation of traffic destined to the indicated destination. (Hearing site: Lubbock, TX.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 118535 (Sub-127F), filed August 10, 1978. Applicant: TIONA TRUCK LINE, INC., 111 South Prospect, Butler, MO 64730. Representative: Wilburn L. Williamson, 280 National Foundation Life Center, 3535 Northwest 58th Street, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lead oxide*, from Hammond, IN, to Kansas City, MO. (Hearing site: Kansas City, MO.)

MC 118959 (Sub-176F), filed August 22, 1978. Applicant: JERRY LIPPS, INC., a Florida corporation, 130 South Frederick Street, Cape Girardeau, MO 63706. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt* (except in bulk), (1) from Weeks Island, LA, to points in AR, FL, and GA, (2) from Grand Saline, TX, to points in AL, AR, FL, GA, LA, and MS, and (3) from Rittman, OH, to points in AL, FL, GA, KY, IL, IN, MS, NC, SC, TN, VA, and WV. (Hearing site: Chicago, IL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 119634 (Sub-27F), filed July 17, 1978. Applicant: DICK IRVIN, INC., 218 12th Avenue North, P.O. Box F, Shelby, MT 59474. Representative: Joe Gerbase, 100 Transwestern Building, 404 North 31st Street, Billings, MT 59101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Baler twine* and *binder twine*, from Duluth, MN, and Superior, WI, to the ports of entry on the international boundary line between the United States and Canada located in MN, ND, MT, ID, and WA, restricted to the transportation of traffic destined to points in the Provinces of MB, SK, AB, and BC, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Great Falls or Billings, MT.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of Canada regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no further force or effect.

MC 119789 (Sub-504F), filed August 7, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery*, (1) from York, PA, to points in LA, KY, LA, NC, and OH, and (2) from Thibodaux, LA, to points in AL, KY, NC, OH, and PA. (Hearing site: New Orleans, LA.)

MC 119789 (Sub-513F), filed August 22, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic film*, in vehicles equipped with mechanical refrigeration, from Los Angeles and San Francisco, CA, and Seattle and Tacoma, WA, to points in the United States in and east of WI, IL, KY, TN, and MS, restricted to the transportation, in foreign commerce only, of traffic having an immediately prior movement by water. (Hearing site: Boston, MA.)

MC 119988 (Sub-156F), filed August 24, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Clayte Binion, 1108 Continental Life Building, Forth Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Filters and pipe insulation*, from Dallas, TX, Kenner, LA, St. Petersburg, FL, Charlotte, NC, and Atlanta, GA, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, from points in the United States (except AK and HI), to the origins named in (1) above. (Hearing site: Tampa, FL, or Washington, DC.)

MC 123255 (Sub-173F), filed August 11, 1978. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, OH 43055. Representative: C. F. Schnee, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* (except frozen), from the facilities of Joan of Arc Co., Inc., at or near Turkey, NC, to points in IN, MI, and WI. (Hearing site: Columbus, OH.)

MC 124489 (Sub-10F) filed August 21, 1978. Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 West Homer Street, Chicago, IL 60639. Representative: Edward G Bazelon, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by manufacturers of snack foods (except commodities in bulk), (1) between points

in IA and OH, and (2) between points in IA and OH, on the one hand, and, on the other, points in IL, IN, MI, and WI, to points in AL, AK, CO, CT, DE, GA, IA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, OR, SD, WA, and WY (except Fremont, Lincoln, Park, Sublette, Sweetwater, Teton, and Uinta Counties, WY), restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 119988 (Sub-157F), filed August 24, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Clayte Binion, 1108 Continental Life Building, Forth Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the facilities of Dart Industries, at Streator, IL, to St. Louis, MO, and points in OH and KY.

MC 135444 (Sub-4F), filed June 16, 1978. Applicant: SOUTHERN OHIO TRUCK LINES, INC., 3585 Hamilton-Trenton Road, Hamilton, OH 45011. Representative: Paul F. Beery, 88 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drying machinery, and grain handling equipment*, and (2) *materials and equipment* used in the manufacture of the commod-

in IA and OH, and (2) between points in IA and OH, on the one hand, and, on the other, points in IL, IN, MI, and WI, under continuing contract(s) in (1) and (2) above, with Jays Foods, Inc., of Chicago, IL.

NOTE.—Dual operations are involved in this proceeding.

MC 124839 (Sub-33F), filed August 11, 1978. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 7057, Savannah, GA 31408. Representative: William P. Sullivan, 1320 Fenwick Lane, Suite 500 Silver Spring, MD 20910. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except those of unusual value, classed A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between those points in the United States in and east of MN, IA, NE, KS, OK, and TX under continuing contract(s) with Georgia-Pacific Corp., of Augusta, GA. Condition: The prior or coincidental cancellation, at carrier's written request, of all existing contract carrier authority under MC 124839 to serve Georgia-Pacific Corp. (Hearing site: Washington, D.C.)

MC 124979 (Sub-8F), filed August 21, 1978. Applicant: CONRAD BERG, doing business as C. BERG CO., Route 1, Box 185A, Saginaw, MN 55759. Representative: VAL M. HIGGINS, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Scrap metal*, from Duluth, MN, to points in WI. (Hearing site: Minneapolis, MN.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 126539 (Sub-40F) filed August 21, 1978. Applicant: KATUIN BROS., INC., P.O. Box 311, Fort Madison, IA 52627. Representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, IA 52001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *fertilizer and fertilizer materials*, in bulk, from the facilities of Land O'Lakes Agricultural Services Division, at or near Mason City, IA, to points in MN, NE, ND, SD, and WI. (Hearing site: Des Moines, IA.)

NOTE.—Dual operations are involved in this proceeding.

MC 127705 (Sub-61F), filed August 14, 1978. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, IN 46933. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *glass containers*, from the facilities of Thatcher Glass Manufacturing Co., a division of Dart Industries, at Streator, IL, to St. Louis, MO, and points in OH and KY. (Hearing site: Washington, DC.)

MC 127840 (Sub-72F), filed June 2, 1978, previously noticed in the FR issue of July 13, 1978. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *synthetic plastic liquid resins*, in bulk, in tank vehicles, from Fort Worth, TX, to points in AR, LA, TX, and OK. (Hearing site: Chicago, IL, or Dallas, TX.)

NOTE.—The purpose of this republication is to add TX to the destination territory.

MC 128095 (Sub-20F), filed August 10, 1978. Applicant: PARKER TRUCK LINE, INC., P.O. Box 1402, Tupelo, MS 38801. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *new furniture*, from the facilities of C. J. Marketing Corp., at or near Idaville, IN, to points in AL, CO, FL, GA, IL, IA, KY, MI, MN, NE, NC, OH, PA, SC, SD, TN, and WI. (Hearing site: Jackson, MS, or Indianapolis, IN.)

MC 128527 (Sub-113F), filed July 17, 1978. Applicant: MAY TRUCKING CO., a corporation, P.O. Box 400, Payette, ID 83661. Representative: J. Michael Alexander, 136 Wynnewood Professional Bldg., Dallas, TX 75224. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *animal feed, feed ingredients, additives*, and *materials and supplies* used in the manufacture and distribution of animal feeds (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near Mattoon, IL, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Kal Kan Foods, at or near Mattoon, IL. (Hearing site: Boise, ID.)

MC 133545 (Sub-7F), filed August 10, 1978. Applicant: DAVID LEMONS, d.b.a. LEMONS HOUSE MOVING, 1205 Houston Road, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *prefabricated buildings*, in sections, (1) from the facilities of Boise Cascade Corp., at or near (a) Laurel, MT, and (b) West Jordan, UT, to points in CO, MT, NV, OR, SD, UT, WA, and WY, and (2) from the facilities of Boise Cascade Corp., at or near Pocatello, ID, to points in CO, NV, OR, SD, WA, and WY (except Fremont, Lincoln, Park, Sublette, Sweetwater, Teton, and Uinta Counties). (Hearing site: Boise, ID.)

MC 133689 (Sub-202F), filed May 19, 1978, previously published in the FEDERAL REGISTER issue of June 27, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs*, from points in MN and WI, to Columbus, OH, restricted to the transportation of traffic originating at points in MN and WI, and destined to the named destination. (Hearing site: St. Paul, MN.)

NOTE.—The purpose of this republication is to show the correct origins in the restriction as MN and WI, and to delete the vague reference to "facilities" in the restriction. Fox-Smythe Transportation Company Extension—Oklahoma, 106 MCC 1, 52 (1967).

MC 133689 (Sub-215F), filed August 21, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN. 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses, and by discount and department stores, and *equipment, materials and supplies* used in the conduct of such businesses (except commodities in bulk), from those points in IL on and north of U.S. Hwy 24, to points in MN, ND, and SD. (Hearing site: St. Paul, MN.)

MC 133689 (Sub-216F), filed August 21, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, and *materials and supplies* used in the manufacture and distribution of foodstuffs (except commodities in bulk), from points in IL, IN, MI, NY, and OH, to points in MN, restricted to the transportation of traffic originating at the named origins and destined to the facilities of Associated Milk Producers, Inc. in MN. (Hearing site: St. Paul, MN.)

MC 134477 (Sub-262F), filed July 24, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN. 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk), from the facilities of Termicold Corp., at or near Plover, WI, to points in AL, AK, CO, CT, DE, GA, IA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing site: St. Paul, MN.)

MC 134599 (Sub-163F), filed August 21, 1978. Applicant: INTERSTATE CONTRACT CARRIER CORP., a Delaware corporation, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Compton, CA, Herrin and Rock Island, IL, Eldora, IA, Springfield, MO, Alliance and McCook, NE, Dover, NJ, Kingstree, Walterboro, and Williston, SC, Dyersburg, TN, Olney, TX, Richmond, VA, and points in Haywood County, NC, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Dayco Corp., of Dayton, OH. (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

NOTE.—Dual operations are at issue in this proceeding.

MC 135009 (Sub-3F), filed August 14, 1978. Applicant: PEAK TRANSFER CO., INC., 57 Hathaway Street, Wallington, NJ 07866. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10001. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and printed matter*, between Salem and Effingham, IL, and Dresden and Nashville, TN, on the one hand, and, on the other, points in AL, AR, CA, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC, under continuing contracts with CBS Publications, a division of CBS, Inc., of New York, NY. (Hearing site: New York, NY.)

MC 135399 (Sub-7F), filed August 21, 1978. Applicant: HASKINS TRUCKING, INC., P.O. Drawer 7729, Longview, TX 75602. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal and used batteries*, between points in TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 135444 (Sub-4F), filed June 16, 1978. Applicant: SOUTHERN OHIO TRUCK LINES, INC., 3585 Hamilton-Trenton Road, Hamilton, OH 45011. Representative: Earl N. Merwin, 85 East Gay Street, Columbus, OH 43215.To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from the facilities of (a) Champion International Corp., at or near Cincinnati and Hamilton, OH, and (b) St. Regis Paper Co., at or near Troy, OH, to points in NY and PA; and (2) *such commodities as are used in the manufacture and distribution of paper and paper products* (except commodities in bulk), from the destination points named in (1) above to the origins named in (1) above. (Hearing site: Columbus, OH.)

MC 135861 (Sub-32F), filed July 27, 1978. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, P.O. Box 9093, Fort Worth, TX 76107. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the facilities of Armour Food Co., at or near Hereford, TX, to points in CT, DE, ME MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, under continuing contract(s) with Armour Food Co., of Phoenix, AZ. (Hearing site: Dallas or Ft. Worth, TX.)

MC 136315 (Sub-33F), filed August 11, 1978. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cast iron pipe, fittings, valves, hydrants, and castings*, and (2) *materials and supplies* used in the installation of the commodities in (1) above, from the facilities of U.S. Pipe & Foundary Co., at or near (a) Bessemer and Birmingham, AL, and (b) Chattanooga, TN, to points in AR, IA, KS, LA, MO, MS, NE, OK, and TX. (Hearing site: Jackson, MS, or Birmingham, AL.)

NOTE.—Dual operations are at issue in this proceeding.

MC 136605 (Sub-68F), filed August 10, 1978. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8085, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Grain storage, grain drying, and grain handling equipment*, and (2) *materials and equipment* used in the manufacture of the commodities in (1) above, from the facilities of Grain Systems, Inc., at or near Assumption, IL, to points in the United States in and west of MN, IA, MO, OK, and TX (except AK and HI). (Hearing site: Billings, MT, or Chicago, IL.)

MC 136818 (Sub-35F), filed August 24, 1978. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, Suite 320, 4040 East McDowell Road, Phoenix, AZ 85008. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* (except commodities in bulk), from Houston, TX, to points in AZ, CA, CO, MT, NM, OR, UT, and WA. (Hearing site: Houston, TX.)

NOTE.—Dual operations are at issue in this proceeding.

MC 138255 (Sub-6F), filed August 8, 1978. Applicant: DAYTON AIR FREIGHT, INC., Dayton International Airport, P.O. Box 78, Vandalia, OH 45377. Representative: Linda A. McCorkle, 1015 18th Street NW., Suite 408, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Dayton International Airport, at Vandalia, OH, Greater Cincinnati Airport at Erlanger, KY, and Weir Cook International Airport at Indianapolis, IN, and (2) between the points named in (1) above, on the one hand, and, on the other, O'Hare International Airport at or near Chicago, IL, JFK International Airport, at New York, NY, Detroit Metropolitan Airport to Romulus, MI, and Willow Run Airport at or near Detroit, MI, restricted in both (1) and (2) above to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Washington, DC, or Columbus, OH.)

MC 138635 (Sub-59F), filed August 10, 1978. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of M&M/Mars, at or near Cleveland, TN, to points in CT, MA, RI, ME, NH, VT,

NY, PA, MD, DE, NJ, NC, SC, VA, CA, AZ, WA, OR, ID, WY, UT, NV, MT, and DC, restricted to the transporta-

MC 139112 (Sub-16F), filed July 24, 1978. Applicant: CALEX EXPRESS, INC., 149 Warden Avenue, Trucksville,

er, by motor vehicle, over irregular routes, transporting: *Chemicals and cleaning and janitorial products and*

ING CO., a corporation, 11831 Vose Street, North Hollywood, CA 91605. Representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles,

DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine, vetetable oils, and vegetable oil*

Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carri-*

NY, PA, MD, DE, NJ, NC, SC, VA, CA, AZ, WA, OR, ID, WY, UT, NV, MT, and DC, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 138824 (Sub-14F), filed July 19, 1978. Applicant: REDWAY CARRIERS, INC., 5910 49th Street, Kenosha, WI 53140. Representative: Paul J. Maton, 10 South LaSalle Street, Room 1620, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glassware and closures* for glassware, between the facilities of Metro Pak Containers, at or near Washington, PA, and the facilities of Ocean Spray Cranberries, Inc., in Kenosha County, WI, under contracts(s) with Ocean Spray Cranberries, Inc (Hearing site: Chicago, IL.)

MC 138875 (Sub-102F), filed August 11, 1978. Applicant: SHOEMAKER TRUCKING CO., a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), between points in Malheur County, OR, and points in ID, on the one hand, and, on the other, points in CA. (Hearing site: Boise, ID, or Washington, DC.)

MC 138882 (Sub-118F), filed July 25, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, from the facilities of (1) Delta-Macon Brick and Tile Co., at or near Macon, MS, and (2) Delta-Shuqulak Brick and Tile Co., Inc., at or near Shuqulak, MS, to Mobile, Birmingham, and Montgomery, AL, Atlanta, GA, and Pensacola, FL. (Hearing site: Birmingham or Montgomery, AL.)

MC 139089 (Sub-7F), filed August 23, 1978. Applicant: FREEPORT TRANSPORT, INC., a Nevada corporation, P.O. Box 1275, Freeport Center, Clearfield, UT 84016. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel pipe and fittings*, and *aluminum pipe and fittings*, between points in the United States (except AK and HI), under continuing contract(s) with Keystone Tubular Service Corp., of Chicago, IL. (Hearing site: Chicago, IL, or Salt Lake City, UT.)

MC 139112 (Sub-16F), filed July 24, 1978. Applicant: CALEX EXPRESS, INC., 149 Warden Avenue, Trucksville, PA 18708. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New lawn furniture and new garden furniture*, from Wilkes Barre, PA, to Calhoun, GA, Longhorn, TX, Riverside and Colton, CA, Alexandria, IN, and Leominster, MA. (Hearing site: Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 139457 (Sub-6F), filed July 24, 1978. Applicant: G. L. SKIDMORE, d.b.a. JELLY SKIDMORE TRUCKING CO., P.O. Box 38, Paris, TX 75460. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned and preserved foodstuffs*, and (2) *ingredients and supplies* used in the manufacture of the commodities named in (1) above, from the facilities of Campbell Soup Co., at or near Worthington, MN, to the facilities of Campbell Soup (Texas) Inc., at or near Paris, TX, under continuing contract(s) with Campbell Soup (Texas) Inc., of Camden, NJ. (Hearing site: Dallas, TX, or Washington, DC.)

MC 139482 (Sub-62F), filed July 17, 1978. Applicant: NEW ULM FREIGHT LINES, INC., County Road 29 West, New Ulm, MN 56073. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery products*, (except commodities in bulk), (1) from the facilities of Nabisco Confections, Inc., at or near (a) Cambridge and Mansfield, MA, and (b) Ashton, RI, to points in IL, MI, MN, and OH, (2) from the facilities of New England Confectionery Co., at or near Cambridge, MA, to Pittsburgh, PA and points in IN, IL, MI, MN, OH, TN, and WI, (3) from the facilities of the Schrafft Candy Co., at or near (a) Boston and Woburn, MA, and (b) West Reading, PA, to points in IL, IN, KY, MI, MN, MO, OH, and WI, and (4) from the facilities of Deran Confectionery, at or near (a) Boston and Cambridge, MA, and (b) North Grosvenordale, CT, to Pittsburgh, PA, and points in IN, IL, IA, MI, MN, MO, OH, and WI. (Hearing site: Minneapolis or St. Paul, MN.)

MC 139495 (Sub-364F), filed July 13, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, LIberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and cleaning and janitorial products and supplies* (except commodities bulk, in tank vehicles), from the facilities of Purex Corp., at Dallas and Houston, TX, to points in KS and OK. (Hearing site: Washington, DC.)

MC 139495 (Sub-375F), filed August 8, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dublin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from Downers Grove, IL, to points in DE, GA, KS, MD, NJ, NY, PA, SC, and DC. (Hearing site: Washington, DC.)

MC 139495 (Sub-379F), filed August 10, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, over irregular routes, transportating: *Trays and foodstuffs*, in vehicles equipped with mechanical refrigeration, from Downingtown, Philadelphia, and Fogelsville, PA and Milford, DE, to points in AR, CA, IL, NE, TX, and UT. (Hearing site: Washington, DC.)

MC 140429 (Sub-2F), filed August 18, 1978. Applicant: WILLIAM F. HOOPS, INC., 440 North Keyser Avenue, Deshler, OH 43516. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. To operate as a *contract carrier*, by, motor vehicle, over irregular routes, transporting: Unfinished automobile parts, between the facilities of Metal Forge Co., at Deshler, OH, and the facilities of Metal Forge Co., at Detroit, MI, under continuing contract(s) with Metal Forge Co., of Columbus, OH. (Hearing site: Columbus, OH.)

MC 141088 (Sub-5F) filed August 28, 1978. Applicant: KEYSTONE DELIVERY SERVICE., P.O. Box 335, North Miami, Fl 33161. Representative: John P. Bond, P.O. Box 340370, Coral Gables, FL 33134. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporation: *Such commodities* as are used or dealt in by a manufacturer of cosmetics and toilet preparations, between points in Charlotte, Collier, DeSoto, Hardee, Lee, Manatee, Pasco, Polk, and Sarasota Counties, FL, under continuing contract(s) with Avon Products, Inc., of Atlanta, GA. (Hearing site: Miami, FL.)

MC 141356 (Sub-8F), filed July 17, 1978. Applicant: LONE PINE TRUCKING CO., a corporation, 11831 Vose Street, North Hollywood, CA 91605. Representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Perlite, in bulk*, from the facilities of American Perilite Co., at or near Fish Springs, CA, to points in UT. (Hearing site: Los Angeles, CA.)

MC 141675 (Sub-4F), filed August 9, 1978. Applicant: ECONOMY TRUCKING SERVICE, INC., 1079 West Side Avenue, Jersey City, NJ 07306. Representative: Arthur Liberstein, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in or used by retail department stores, between New York, NY, and points in CT, MA, and NJ, on the one hand, and, on the other, points in OH, under continuing contract(s) with Carlisle-Allen Co., of Ashtabula, OH, and Strouss, of Youngstown, OH. Condition: Pursuant to the findings in MC 141675 (Sub-3) of which we take official notice, the permit to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the permit showing that it has been in full compliance with applicable regulations. (Hearing site: New York, N.Y.)

MC 141721 (Sub-1F), filed July 31, 1978. Applicant: DFC TRANSPORTATION CO., a Delaware corporation, 3600 North River Road, Franklin Park, IL 60131. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in or used by manufacturers and distributors of foodstuffs and animal feeds between Ashton, IL, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contracts with Dean Foods Co., of Franklin Park, IL, Green Bay Foods Co., of Green Bay, WI, Hoffman House Food Products, of Green Bay, WI, Dean Foods Products Co, of Memphis, TN, Dean Milk Co., Inc., of Louisville, KY, Liberty Diary, of Evart, MI, McCadam Cheese Co., Inc., of Heuvelton, NY, and Bowman Dairy Co., of Franklin Park, IL. (Hearing site: Chicago, IL.)

MC 141776 (Sub-30F), filed July 13, 1978. Applicant: FOODTRAIN, INC., Spring and South Center Streets, Ringtown, PA 17967. Representative: Pauline E. Myers, 407 Walker Building, 734 15th Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine, vetetable oils, and vegetable oil shortening*, from Columbus, OH, to points in CT, DE, MA, ME, MD, NH, NJ, and NY, points in PA on and east of Interstate Hwy 81, and points in RI, VT, and DC, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing site: Columbus, OH, or Washington, DC.)

MC 141776 (Sub-31F), filed July 18, 1978. Applicant: FOODTRAIN, INC., Spring and South Center Streets, Ringtown, PA 17967. Representative: Pauline E. Myers, 406 Walker Building, 734 15th Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Preserved foodstuffs*, in containers, in vehicles equipped with mechanical refrigeration, from points in Franklin and Adams Counties, PA, to points in AR, LA, MS, OK, TN, and TX, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 141804 (Sub-119F), filed July 17, 1978. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sink tops, cabinets, and parts for sink tops and cabinets*, from points in San Bernardino County, CA, to Kansas City, KS, Dallas, TX, and those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Los Angeles or San Francisco, CA.)

MC 142559 (Sub-35F), filed August 18, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Flavoring syrup* (except in bulk) and (2) *materials and supplies* used in the manufacture of flavoring syrup, (except commodities in bulk), between Cleveland, OH, on the one hand, and, on the other, points in the United States in and east of MN, IA, MO, KS, OK, and TX. (Hearing site: Columbus, OH, or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 142559 (Sub-37F), filed August 23, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automotive fuel additives and conditioners, lubricant additives and conditioners, and automotive glass cleaner*, (except commodities in bulk, in tank vehicles), (1) from Akron, OH, to points in DE, IL, IN, KY, MI, NJ, NY, PA, VA, WV, WI, and DC, (2) from Worcester, MA, to points in DE, KY, MD, MI, NJ, NY, OH, PA, VA, WV, and DC, and (3) from Paulsboro and Pennsauken, NJ, to points in MD, NY, OH, PA, VA, and WV. (Hearing site: Columbus, OH, or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 142954 (Sub-5F), filed July 14, 1978. Applicant: GLENN BROS. MEAT CO., INC., P.O. Box 9343, Little Rock, AR 72209. Representative: Phillip Glenn (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Oak dimension lumber*, and (2) *fiberboard*, from Little Rock, AR, to Richmond, Jasper, and Celestine, IN, Dallas, TX, Colorado Springs, CO, Fergus Falls, MN, Adrian, MI, and Columbia MS, under continuing contract(s) with Wrape Forest Industries, of Little Rock, AR. (Hearing site: Little Rock, AR, or Washington, DC.)

MC 143059 (Sub-23F), filed August 22, 1978. Applicant: MERCER TRANSPORTATION CO., a Texas Corporation, P.O. Box 35610, Louisville, KY 40232. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium bicarbonate, sodium carbonate, and cleaning, scouring and washing compounts*, (except commodities in bulk, in tank vehicles), from the facilities of Church & Dwight Co., Inc., in Sweetwater County, WY, to points in the United States (except AK and HI). (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 143127 (Sub-8F), filed July 26, 1978. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from the facilities of (a) Curtice-Burns, Inc., at Alton, Egypt, Leicester, LeRoy, Phelps, Oakfield, Red Creek, Rushville, Shortsville, South Dayton, and Waterloo, NY, (b) Duffy-Mott Co., Inc., at Hamlin and Williamson, NY, and (c) Marion Foods Corp., Division of

Seneca Foods Corp., at Dundee, Marion, Newark, Oaks Corners, Williamson, and East Williamson, NY, to

continuing contract(s) with Union Camp Corp., of Wayne, NJ. (Hearing site: Norfolk, VA, or Washington, DC.)

ing contract(s) with Sauder Manufacturing, Ltd., Elswood Distributors, Ltd., Wonnock Industries, Ltd., Gener-

Iron and steel articles, from the facilities of Georgetown Texas Corp., at or near Beaumont, TX, to points in AL, LA, and MS. (Hearing site: Washing-

nication with appropriate officials of the Provinces of AB, SK, and MB, regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission

routes, transporting: *Marine fenders*, between points in AL, CA, CT, DE, FL, GA, IL, LA, ME, MD, MA, MI, MN, MS, MT, NH, NJ, NY, NC, ND, OH,

Seneca Foods Corp., at Dundee, Marion, Newark, Oaks Corners, Williamson, and East Williamson, NY, to points in AL, GA, GL, NC, and SC, restricted in (1), (2), and (3) above to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Buffalo or Syracuse, NY.)

NOTE: Dual operations are at issue in this proceeding.

MC 143344 (Sub-2F), filed July 17, 1978. Applicant: T & T CORPORATION, 6169 Verona & McKee Roads, P.O. Box 4326, Madison, WI 53711. Representative: Michael S. Jacobs, 222 South Hamilton Street, Madison. WI 53703. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and dispensing equipment for malt beverages* (1) from Peoria, IL, to the facilities of General Beer Distributors, at or near Madison, WI, under continuing contract(s) with General Beer Distributors, of Madison, WI, and (2) from Peoria, IL, to the facilities of General Beer Distributors, Inc.-Eau Claire, of Eau Claire, WI, under continuing contract(s) with General Beer Distributors, Inc.-Eau Claire of Eau Clair, WI. (Hearing site: Madison, WI, or Chicago, IL.)

MC 143499 (Sub-2F), filed July 24, 1978. Applicant: DOUBLE NICKEL TRANSPORT LTD., 32 North Lexow Ave., Nanuet, NY 10954. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural pesticides* (except commodities in bulk, in tank vehicles), from the facilities of Ciba-Geigy Corp., (a) Birmingham, McIntosh, and Mobile, AL, (b) Baton Rouge, Port Allen, and St. Gabrial, LA, (c) Jackson, MS, and (d) Memphis, TN, to points in AR, DE, FL, GA, IL, IN, IA, KS, MD, MN, MO, NE, NJ, NY, NC, OH, OK, PA, TX, VA, and WI, and (2) *materials and supplies* (except commodities in bulk), from the destinations named in (1) above, to the facilities named in (1) above all of the operations in (1) and (2) above to be performed under continuing contract(s) with Ciba-Geigy Corp., of Ardsley, NY. (Hearing site: White Plains, NY.)

NOTE.—Dual operations are at issue in this proceeding.

MC 143676 (Sub-4F), filed July 17, 1978. Applicant: DAS, INC., P.O. Box 6134, Suffolk, VA 23433. Representative: Blair P. Wakefield, Suite 1001, First and Merchants Bank Building, Norfolk, VA 23510. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood residuals and sawdust*, in bulk, between points in NC and VA, under continuing contract(s) with Union Camp Corp., of Wayne, NJ. (Hearing site: Norfolk, VA, or Washington, DC.)

MC 144246 (Sub-5F), filed July 17, 1978. Applicant: LARSEN TRUCKING, INC., 7703 Sunset Street, Ralston, NE 68127. Representative: Kenneth P. Weiner, 608 Executive Building, Omaha, NE 68102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Union Packing Co., at Omaha, NE, to Webster City, IA. (Hearing site: Omaha, NE.)

MC 144711 (Sub-2F), filed July 25, 1978. Applicant: FARISH R. THOMPSON, d.b.a. THOMPSON TRUCKING, R.R. No. 1, Afton, WY 83110. Represenative: Farish R. Thompson (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Afton, WY, to points in ID and UT, under continuing contract(s) with Star Studs Co., of Afton, WY.

NOTE.—Dual operations are at issue in this proceeding. (Hearing site: Salt Lake City, UT, or Casper, WY.)

MC 144739F, filed August 21, 1978. Applicant: BOB'S TRUCK SERVICE, INC., Box 528, Middletown, OH 45042. Representative: Paul F. Beery, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* and *aluminum articles*, between points in Butler County, OH, on the one hand, and, on the other, points in AL, GA, MS, NC, SC, and WV. (Hearing site: Columbus, OH.)

MC 144987 (Sub-1F), filed July 14, 1978. Applicant: BILL BREWER'S TRUCKING CO., LTD., 4724 Royal Oak Avenue, South Burnaby, B. C., Canada V5F3N5. Representative: George R. LaBissoniere, 110 Norton Building, Seattle, WA 98104. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber products, wood products, and plastic mouldings*, from ports of entry on the international boundary line between the United States and Canada at or near Blaine, Lynden, and Oroville, WA, to points in OR and WA, restricted (a) to the transportation of traffic having a prior movement in foreign commerce originating at points in the Province of British Columbia, Canada, and (b) to a transportation service to be performed under continuing contract(s) with Sauder Manufacturing, Ltd., Elswood Distributors, Ltd., Wonnock Industries, Ltd., General Hardwood Co., and Hardwoods, Inc., all of Vancouver, B. C., Canada. (Hearing site: Seattle, WA.)

NOTE.—The restriction contained in the grant of authority in this proceeding is phrased in accordance with the policy statement entitled "Notice to Interested Parties of New Requirements Concerning Application for Operating Authority To Handle Traffic to and From Points in Canada," published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the Provinces of Alberta, Saskatchewan, and Manitoba regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 145051F, filed July 13, 1978. Applicant: PYRAMID TRANSPORTATION CO., a corporation, 3103 East 79th Street, Chicago, IL 60649. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used or dealt in by manufacturers and distributors of inks, varnishes, and printed matter, between points in the United States (except AK and HI), under continuing contract(s) and Handschy Industries, Inc., of Chicago, IL. (Hearing site: Chicago, IL.)

MC 145084F, filed July 17, 1978. Applicant: THOMASSON TRANSPORTATION, INC., Box 264, Noxapater, MS 39346. Representative: Ronald L. Stichweh, 727 Frank Nelson Building, Birmingham, AL 35203. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Forest products and lumber mill products*, (1) from points in AL, AR, IL, LA, and MS, to points in AL, AR, CT, GA, IL, IN IA, KS, KY, LA, ME, MA, MI, MN, MS, MO, NE, NH, NY, ND, OH, PA, RI, SD, TN, VT, and WI, and (2) from Detroit, MI, to points in IL, IN, IA, OH, MI, MS, and WI, all of the service in (1) and (2) above to be performed under continuing contract(s) with Thomasson Lumber Co., of Philadelphia, MS. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 145219F, filed August 7, 1978. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 7057, Savannah, GA 31408. Representative: William P. Sullivan, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Georgetown Texas Corp., at or near Beaumont, TX, to points in AL, LA, and MS. (Hearing site: Washington, DC, or Houston, TX.)

NOTE.—Dual operations are at issue in this proceeding.

MC 145235F), filed August 14, 1978. Applicant: DUTCH MAID PRODUCE, INC., Route 2, Willard, OH 44890. Representative: David A. Turano, Suite 1800, 100 East Broad, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paint and paint products* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodites in bulk), between the facilities of Glidden Coatings & Resins Division of S.C.M. Corp., at or near Huron, OH, on the one hand, and, on the the other, points in GA, IL, IN, IA, KY, MD, MI, MN, MO, NE, NY, PA, TX, VA, and WI, under continuing contract(s) with Glidden Coatings & Resins Division of S.C.M. Corp., of Huron, OH. (Hearing site: Columbus, OH.)

PASSENGER AUTHORITY

MC 145077F, filed July 24, 1978. Applicant: GODERICH COACH LINES Ltd., 257 Cambridge, Goderich, ON, Canada N7A 2Y7. Representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, in round-trip sightseeing and pleasure tours, beginning and ending at the ports of entry on the international boundary line between the United States and Canada, located in ME, VT, NY, MI, WI, MN, ND, MT, ID, WA, and AK and extending to points in the United States (including AK, but excluding HI), restricted to the transportation of traffic moving in foreign or to points in Canada.

Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian Authority or explaining why no such Canadian authority is necessary. (Hearing site: Detroit, MI.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the Provinces of AB, SK, and MB, regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statements, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

[FR Doc. 78-26857 Filed 9-25-78; 8:45 am]

[7035-01]

[Notice No. 170]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 26, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day afer the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 30837 (Sub-486TA), filed July 17, 1978. Applicant: KENOSHA AUTO TRANSPORT CORP., 4314 39th Avenue, Kenosha, WI 53142. Representative: Fred C. Milloy, 4314 39th Avenue, Kenosha, WI 53142. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Marine fenders*, between points in AL, CA, CT, DE, FL, GA, IL, LA, ME, MD, MA, MI, MN, MS, MT, NH, NJ, NY, NC, ND, OH, OR, RI, SC, TX, VT, VA, WA, WI, and ID, for 180 days. Supporting shipper(s): Seaward International, Inc., 6269 Leesburg Pike, Falls Church, Va. 22044. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI. 53202.

MC 30844 (Sub-616TA), filed July 17, 1978. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50702. Representative: John P. Rhodes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and skins and commodities in bulk), from the facilities utilized by John Morrell & Co., at or near Ft. Smith, AR, to Chicago, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers(s): John Morrell & Co., 208 South LaSalle Street, Chicago, IL 60604. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 40978 (Sub-40TA), filed July 18, 1978. Applicant: CHAIR CITY MOTOR EXPRESS CO., 3321 Highway 141 South, P.O. Box 686, Sheboygan, WI 53081. Representative: Wm. C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used in the manufacture and distribution of furniture (except in bulk), from Aurora and Montgomery, IL, to the facilities of All-Steel Inc., at West Hazelton, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): All-Steel, Inc., P.O. Box 871, Aurora, IL 60507. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commerce, Bureau of Operations, U.S. Federal Buildig and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 83539 (Sub-504TA), filed July 18, 1978. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military

Parkway, P.O. Box 270535, Dallas, TX 75227. Representative: Thomas E. Jones (same address as applicant). Au-

NOTE.—Applicant can already perform the service sought by tacking through Kansas City, MO. The mileage savings over the direct routes sought is approximately six (6)

RITY, INC., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Elizabeth L. Henoch, Pur-

used in the installation thereof, from the plantsite of U.S. Gypsum Co., at Heath, MT, to CO, for 180 days. Appli-

Commerce Street, Room 13C12, Dallas, TX 75242.

MC 128791 (Sub-12TA), filed July 18,

lores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal

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Parkway, P.O. Box 270535, Dallas, TX 75227. Representative: Thomas E. Jones (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferroboard liners and hot top products*, from points in Travis County, TX, to points in the United States (except AK, HI, and TX), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Oglebay Norton Co., The Hanna Building, Cleveland, OH 44115. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tx 75242.

MC 111231 (Sub-241TA), filed July 17, 1978. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which require the use of special equipment), between Joplin, MO, and Denver, CO, serving the commercial zones of Joplin and Denver with interlining and tacking at both termini: (1) From Joplin over MO Hwy 43 to junction MO Hwy 171, then over MO Hwy 171 to junction MO Hwy 96, then over MO Hwy 96 to the MO KS State line, then over KS Hwy 96 to junction U.S. HIghway 77, then over U.S. Hwy 77 to junction KS Hwy 196, then over KS Hwy 196 to junction Interstate Hwy 35W, then over Interstate Hwy 35W to Salina, KS, then over Interstate Hwy 70 to Denver (traversing U.S. Hwy 24 where Interstate Hwy 70 is not completed), and return over the same routes, serving no intermediate points; and (2) From Joplin to MO-KS State line as in (1) above, then over KS Hwy 57 to junction U.S. Hwy 160, then over U.S. Hwy 160 to junction KS Hwy 96, then over U.S. Hwy 96 to junction Interstate Hwy 35W, then to Denver as in (1) above, and return over the same routes, serving no intermediate points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (40) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

NOTE.—Applicant can already perform the service sought by tacking through Kansas City, MO. The mileage savings over the direct routes sought is approximately six (6) percent. Tack and interlining is requested at the termini.

MC 112617 (Sub-400TA), filed July 17, 1978. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, 1292 Fern Valley Road, Louisville, KY 40219. Representative: Charles R. Dunford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid latex* (in bulk, in tank trucks), from Ringwood, IL, to Nicholasville, KY, for 180 days. Supporting shipper(s): Mr. J. L. Callaghan, Traffic Manager, Morton Chemical Co., Inc., 110 North Wacker Drive, Chicago, IL 60606. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 112801 (Sub-204TA), filed July 18, 1978. Applicant: TRANSPORT SERVICE CO., 2 Salt Creek Lane, Hinsdale, IL 60521. Representative: Gene Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additive, dry*, (in bulk, in tank vehicles), from the facilities of the Hill and Griffith Co., at Cicero, IL, to points in IN, IA, MI, and WI, for 180 days. Supporting shipper(s): The Hill & Griffith Co., Harlan Dye, vice president, 4606 West 16th Street, Cicero, IL 60650. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 114552 (Sub-170TA), filed July 17, 1978. Applicant: SENN TRUCKING CO., P.O. Drawer 220, Newberry, SC 29108. Representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, SC 29201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boards, building, wall or insulating, and materials and supplies* used in the installation thereof, (except commodities in bulk), from the plantsites of Armstrong Cork Co. at Macon, GA, to points in DE, KY, MD, NJ, NY, NC, PA, SC, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Armstrong Cork Co., Liberty and Charlotte Streets, Lancaster, SC 17604. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 114896 (Sub-68TA), filed July 17, 1978. Applicant: PUROLATOR SECURITY, INC., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Elizabeth L. Henoch, Purolator Security, Inc., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin*, from Denver, CO, to Phoenix, AZ, and its commercial zone; Las Vegas, NV, and its commercial zone; Reno, NV, and its commercial zone; and Stateline, NV, and its commercial zone, for 180 days. Supporting shipper(s): General Services Administration, Chief, Contracts and Negotiations Branch, Washington, DC 20406. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 115213 (Sub-1TA), filed July 18, 1978. Applicant: ELLIOTT & FIKES TRUCK LINE, INC., 414 National Building, Pine Bluff, AR 71611. Representative: Horace Fikes, Jr., 414 National Building, Pine Bluff, AR 71601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Barrel staves*, from Dallas and Searcy Counties, AR, to Shelby County, TN, limited to shipments originating at facilities of L. W. Clark Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): L. W. Clark Co., P.O. Box 728, Fordyce, AR 71742. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 115654 (Sub-98TA), filed July 17, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Peanut products* (except in bulk, in vehicles equipped with mechanical refrigeration), from the facilities of the Kroger Co., d.b.a. Tara Foods at Albany, GA, to points in TN, KY, OH, IN, IL, AR, and MO, for 180 days. Supporting shipper(s): The Kroger Co., Cincinnati, OH. Send protests to: Joe J. Tate, District Supervisor, Room A422, Federal Building, 801 Broadway, Nashville, TN 37203

MC 115904 (Sub-114TA), filed July 17, 1978. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, ID 83401. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products and materials and supplies*

used in the installation thereof, from the plantsite of U.S. Gypsum Co., at Heath, MT, to CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): U.S. Gypsum Co., 525 South Virgil Avenue, Los Angeles, CA 90020. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

MC 116947 (Sub-57TA), filed July 18, 1978. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby Street SW., Atlanta, GA 30310. Representative: William Addams, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fibreboard cans, with metal ends, set up*, from Henderson, TN, to Sodus, MI, under a continuing contract, or contracts, with Sonoco Products Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sonoco Products Co., P.O. Box 160, Hartsville, SC 29550. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309

MC 119789 (Sub-494TA), filed July 18, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, Transporting: *Malt beverages*, from Galveston, TX, to LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Falstaff Brewing Corp., 3301 Church Street, Galveston, Tex. 77550. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 119789 (Sub-495TA), filed July 18, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., PO Box 226188, Dallas, TX 75266. Representative: Ralph W. Pulley, Jr., 4555 First National Bank Building, Dallas, TX 75202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from Woodburn, OR, and WA, to points in FL, GA, IA, MD, MA, NY, OH, PA, TN, and TX, for 180 days. Supporting shipper(s): General Foods Corp., 250 North Street, White Plains, N.Y. 10625. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 128791 (Sub-12TA), filed July 18, 1978. Applicant: JOULE YACHT TRANSPORT, INC., 12290 Automobile Boulevard, Clearwater, FL 33520. Representative: M. Craig Massey, 202 East Walnut Street, P.O. Drawer J Lakeland, FL 33802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats, boat parts, and supplies and equipment* moving in connection therewith, from Hamlet, NC, and/or Grand River, OH, to all points in the United States (except AK and HI), for 180 days. There is no environmental impact involved in this application. Supporting shipper(s): Tartan Marine Co., 320 River Street, Grand River, OH 44045. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 Northwest 53d Terrace, Miami, FL 33166.

MC 133168 (Sub-6TA), filed July 17, 1978. Applicant: DELTA EXPRESS, INC., P.O. Box 776, Old River Road, Natchitoches, LA 71457. Representative: D. E. Lester (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furfural residue, wheat flour, grated pecan shells and adhesive extenders, and additionally products* essential to the manufacture of these commodities, to, from or between points in TX, LA, MS, MO, IL, AL, GA, SC, TN, AR, and OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Bates Market Service, 2850 Huyt Drive, Shreveport, LA 71118. (2) Dehyco Co., 1000 Kansas Street, Memphis, TN. (3) Crown Zellerbach, P.O. Box 1060, Bogalusa, LA 70427. (4) O'conee Roller Mills, Inc., P.O. Box 1193, Seneca, SC 29678. Send protests to: Interstate Commerce Commission, Bureau of Operations, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 134477 (Sub-258TA), filed July 18, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies* used in the manufacture of wearing apparel (except in bulk), from Perry, NY, to Burlington, IA, and Grants Pass, OR, for 180 days. Supporting shipper(s): Champion Products, Inc., 3141 Monroe Avenue, Rochester, NY 14618. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, 110 South Fourth Street, Minneapolis, MN 55401.

MC 136888 (Sub-13TA), filed July 17, 1978. Applicant: NORMAN & SON, INC., 2520 North 69th Street, Houston, TX 77020. Representative: Phillip Robinson, P.O. Box 2207, Austin, TX 78768. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, having a prior movement in foreign commerce from the ports of entry located on the international boundary between the United States and the Republic of Mexico at Brownsville and Hidalgo, TX, to Houston, TX, restricted to traffic moving to residential jobsites or construction contractors temporary storage points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Amigo Brick, Jersey Village, TX. (2) Los Fresnos Development Corp., Los Fresnos, TX. 78566. Send protests to: John F. Mensing, District Supervisor, Interstate Commerce Commission, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002.

MC 138875 (Sub-99TA), filed July 17, 1978. Applicant: SHOEMAKER TRUCKING CO., 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh, Shoemaker Trucking Co., 11900 Franklin Road, Boise, ID 83705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen cookie dough*, from Lake City, PA, to the facilities utilized by Ore-Ida Foods, Inc., located at Boise and Burley, ID, and Ontario, OR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Donald C. Fowle, Senior Manager Traffic, Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

MC 141356 (Sub-9TA), filed July 17, 1978. Applicant: LONE PINE TRUCKING CO., 11831 Vose Street, North Hollywood, CA 91605. Representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Perilite* (in bulk), from the facilities of American Perilite Co., at or near Fish Springs, CA, to Salt Lake City, UT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Perilite Co., 11831 Vose Street, North Hollywood, CA 91605.

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Send protests to: Irene Carlos, Transportation Assistant, Interstate Com-

thereof, between Spirit Lake, IA; Louisville, KY; and Grenada, MS; (3)

number and quoting the particular portion of authority upon which it relies. Also, the protestant shall speci-

Green Bay Street, Shawano, WI (John Gallagher). Send protests to: Gail Daugherty, Transportation Assistant,

to operate as a *common carrier*, by motor vehicle, over irregular routes,

of operating authority. Supporting shipper(s): Stanley Home Products, Inc., 3110 Washington Street, Du-

V 43 / 187 SEP 26 78

Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 143787 (Sub-3TA), filed July 18, 1978. Applicant: ADMIRAL TRANSPORT CORP., 821 Pulliam Avenue, Worland, WY 82401. Representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, CO 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Non-alcoholic beverages*, from Worland, WY, to Bismarck, ND, under a continuing contract, or contracts, with Admiral Beverage Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Admiral Beverage Corp., 821 Pulliam Avenue, Worland, WY 82401. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 105 Federal Building and Court House, 111 South Wolcott, Casper, WY 82601.

MC 144921 (Sub-1TA), filed July 17, 1978. Applicant: JERRY'S MOBILE HOME TRANSPORTING, INC., 5794 High Banks Road, Springfield, OR 97477. Representative: Lawrence V. Smart, Jr., 419 NW., 23d Avenue, Portland, OR 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mobile homes and sectionalized buildings*, from Caldwell, ID, to Eugene, OR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hyland Mobile Homes, Inc., 1700 Highway 99 North Eugene, OR 97401. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 SW., Yamhill Street, Portland, OR 97204.

MC 145072TA, filed July 17, 1978. Applicant: M. S. CARRIERS, INC., 7372 Eastern Avenue, Germantown, TN 38138. Representative: Mr. A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heating and refrigeration equipment and incidental parts, materials, and supplies* utilized in the distribution thereof, from Grenada, MS, to points in NY, NJ, PA, MD, DC, CT, VA, WV, GA, IL, TN, TX, OH, MI, IA, and WI; and *steel and aluminum, and parts, materials, and supplies* utilized in the manufacture of heating and refrigeration equipment on return to Grenada, MS; and (2) *heating and refrigeration equipment and parts, materials and supplies* utilized in the manufacture thereof, between Spirit Lake, IA; Louisville, KY; and Grenada, MS; (3) *Tires*, from Warren, OH, to points in AR, TN, AL and MS, for 180 days. Supporting shipper(s): McQual-Perfex, Inc., 13600 Industrial Park Boulevard, Minneapolis, MN 55440. (2) Denman Rubber Manufacturing Co., P.O. Box 951, Warren, OH 44482. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 145217TA, filed July 17, 1978. Applicant: RICHARD MCNAY, INC., Rural Route No. 8, Quincy, IL 62301. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone, limestone products, mineral mixtures for animal and poultry feeding, trace mineral ingredients*, from the facilities of Calcium Carbonate Co., at Quincy, IL, to points in IN, on and west of U.S. Hwy 31, points in IA on and south of U.S. Hwy 20, and on and east of U.S. Hwy 69, to all points in MO, and to points in WI, on and south of U.S. Hwy 10 (restricted to traffic originating at the facilities of Calcium Carbonate Co. at Quincy, IL), for 180 days. Supporting shipper(s): Russell E. Kanauss, Traffic Manager, Calcium Carbonate Co., P.O. BOX 4005, Quincy, IL 62301. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-27036 Filed 9-25-78; 8:45 am]

[Notice No. 171]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 26, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 35807 (Sub-83TA), filed July 18, 1978. Applicant: WELLS FARGO ARMORED SERVICE CORP., P.O. Box 4313, 7210 Baker Street NW., Atlanta, GA 30302. Representative: Steven J. Thatcher, P.O. Box 4313, Atlanta, GA 30202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Platinum-rhodium screens and platinum scraps* (a) between Carteret, NJ, on the one hand, and, on the other, Newark Airport, NJ, and (b) between New Orleans, LA, on the one hand, and, on the other, Donaldsonville, LA. Restricted to the transportation of shipments having an immediately prior or subsequent movement by air, for 180 days, under a continuing contract or contracts with Engelhard Industries, 700 Blair Road, Carteret, NJ 07008. Send protests to: Sara K. Davis, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 51146 (Sub-613TA), filed July 11, 1978. Applicant: SCHEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by drugstores from the Eagandale General Merchandise Center at on near St. Paul, MN, to Shawano, Two Rivers, and Manitowoc, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wolf-Snyder Pharmacy, Riverview Shopping Center, Two Rivers, WI 54241 (Leo M. Pecore); North End Snyder, 2 North Eighth Street, Manitowoc, WI 54220 (Robert Schmidt); and Gallagher Drug, Inc., 822 East Green Bay Street, Shawano, WI (John Gallagher). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 82492 (Sub-201TA), filed July 18, 1978. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., P.O. Box 2853, 2109 Olmstead Road, Kalamazoo, MI 49003. Representative: William C. Harris (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Richmond and Kansas City, MO, and points in their commercial zones, to points in IN, KY, MI, OH, those points in NY in and west of Allegany, Livingston, and Monroe Counties and those points in PA on and west of U.S. Hwy 219, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately six statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the filed office named below. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Room 225, Federal Building, Lansing, MI 48933.

MC 107515 (Sub-1163TA), filed July 18, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., 3701 Jonsborn Road, P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Serby & Mitchell, P.C., 3390 Peachtree Road, Fifth Floor, Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in or used by retail, wholesale, or chain grocery, drug and food business houses (except frozen and in bulk) from the facilities of Gulf Atlantic Distribution Services at Forest Park, GA, to points in FL on or south of FL Hwy 40, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gulf Atlantic Distribution Services, P.O. Box 2588, Houston, TX 77001. Send protests to: Sara K. Davis, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 119118 (Sub-59TA), filed July 14, 1978. Applicant: McCURDY TRUCKING, INC., P.O. Box 388, Rural Delivery No. 4, Latrobe, PA 15650. Representative: Robert James, P.O. Box 388, Latrobe, PA 15650. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials*, from Eden, NC, to points in the States of DC, MD, NJ, PA, VA, and WV; (2) *materials, supplies, and equipment* used in the manufacture, sale, and distribution of malt beverages, and returned empty malt beverage containers (except commodities in bulk), from points in the States of DC, MD, NJ, PA, VA, and WV, to Eden, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Miller Brewing Co., Asst. Corp. Traffic Manager-Operations, 3939 West Highland Boulevard, Milwaukee, WI 53208. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 123048 (Sub-409TA), filed July 18, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, WI 53406. Representative: Carl S. Pope (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from the facilities of United States Steel Corp. located at or near Gary, IN, and Joliet and South Chicago, IL, to points in the States of IA and NE, restricted to shipments originating at the above-named facilities, for 180 days. Supporting shipper(s): United States Steel Corp., 1000 East 80th Place, Merrillville, IN 46410. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124554 (Sub-27TA), filed July 18, 1978. Applicant: LANG CARTAGE CORP., P.O. Box 513, Milwaukee, WI 53201. Representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail mail order houses, from the facilities of Stanley Home Products, Inc., at Dubuque, IA, to dealers of the shipper at points in Fairbault, Martin, Jackson, Cottonwood, Watonwan, Blue Earth, Redwood, Brown, Nicollet, LeSueur, Rice, Renville, Sibley, Scott, Carver, McLeod, Kandiyohi, Meeker, Wright, Pope, and Stearns Counties, MN, for 180 days, under a continuing contract or contracts with Stanley Home Products, Inc. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Stanley Home Products, Inc., 3110 Washington Street, Dubuque, IA 52001. Send protests to: Gail Dougherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 133405 (Sub-6TA), filed August 3, 1978. Applicant: BOWIE HALL TRUCKING, INC., P.O. Box 353, Waldorf, MD 20601. Representative: Daniel B. Johnson, 4304 East-West Hwy, Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Eden, NC, to Gaithersburg and Upper Marlboro, MD, for 180 days. Applicant has filed an underlying ETA application seeking 90 days of operating authority [R-6]. Supporting shippers: Buck Distributing Co., Inc., P.O. Box 41, Upper Marlboro, MD; Montgomery County (MD) Department of Liquor Control, 16650 Crabbs Branchway, Rockville, MD 20853. Send protests to: T. M. Esposito, Transportation Assistant, Room 3238, 600 Arch Street, Philadelphia, PA 19106.

MC 134644 (Sub-3TA), filed July 14, 1978. Applicant: CLARA L. MARTIN, d.b.a. MARTIN, TRUCKING, Route 1, Box 219B, Sullivan, WI 53178. Representative: David V. Purceli, 111 East Wisconsin Avenue, Milwaukee, WI 53202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by warehousers of obsolete and slow moving agricultural, construction, industrial, internal combustion engine, medical, mining, self-propelled vehicular, and vending equipment, parts and subassemblies (except commodities in bulk and those requiring special equipment), (1) from Columbus, IN and Milwaukee and Waukesha, WI to Rochelle, IL; (2) from Battle Creek, Benton Harbor, Buchanan, Jackson, and Kalamazoo, MI, Aurora and Chicago, IL and LaPorte, IN to Beaver Dam, WI, for 180 days, under a continuing contract or contracts with Sajac Co., Inc. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sajac Co., Inc., 1100 Green Valley Road, Beaver Dam, WI 53916. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53201.

MC 136220 (Sub-59TA), filed July 18, 1978. Applicant: SULLIVAN TRUCKING CO., INC., P.O. Box 2164, Ponca

City, OK 74601. Representative: G. Timothy Armstrong, 6161 North May Avenue, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcined petroleum coke* (in bulk, in dump vehicles) from the facilities of Conalco, Inc. at Lake Charles, LA to the facilities of Revere Copper & Brass Co. at Scottsboro, AL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Conalco, Inc., P.O. Box LL, Lake Charles, LA 70601. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 Northwest Third, Oklahoma City, OK 73102.

MC 136650 (Sub-4TA), filed July 18, 1978. Applicant: FOOTE & DAVIES TRANSPORT CO., 3101 McCall Drive, Doraville, GA 30340. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dated printed matter and waste paper*, from the plantsite and storage facilities of Mid-America Webpress, Inc., located at or near Lincoln, NE, to points in the United States (except AK and HI); and, materials, equipment and supplies used, sold or dealt in by printing plants (except commodities in bulk and those requiring special equipment), from all points in the United States (except AK and HI), to the plantsite and storage facilities of Mid-America Webpress, Inc., located at or near Lincoln, NE, under a continuing contract or contracts with Mid-America Webpress, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mid-America Webpress, Inc., 3700 12th Street NW., Lincoln, NE 68501. Send protests to: Sara K. Davis, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 141124 (Sub-24TA), filed July 18, 1978. Applicant: EVANGELIST COMMERCIAL CORP., P.O. Box 1709, Greater Wilmington Airport—Hangar 5, Wilmington, DE 19899. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by manufacturers and/or distributors of laboratory equipment, supplies, materials, and chemicals, except in bulk, between Norwood, OH and Elmsford, NY, on the one hand, and, on the other, points in the United States except AK and HI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): MC/B Manufacturing Chemists, 1909 Highland Avenue, Norwood, OH 45121. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 141150 (Sub-7TA), filed July 18, 1978. Applicant: ATLAS WAREHOUSING CO., 510 West Kearsley Street, P.O. Box 3551, Flint, MI 48506. Representative: Karl L. Gotting, Loomis, Ewert, Ederer, Parsley, Davis & Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned pickles, peppers, and relish*, from the facilities of Safie Bros. Farm Pickle Co., Inc., near Mount Clemens, MI, to points in OH, IL, IN, TN, GA, KY, and Buffalo and Rochester, NY, and their respective commercial zones, for 180 days. Supporting shipper(s): Safie Bros. Farm Pickle Co., Inc., 52365 North Gratiot, New Baltimore, MI 48047, George Safie, Chairman of Board. Send protests to: Timothy S. Quinn, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

MC 142413 (Sub-5TA), filed July 18, 1978. Applicant: ROBERT STEVEN IRWIN, Route 1, Box 86-A, Jennings, FL 32053. Representative: John H. Wilbur and Christine Reiger Milton, P.O. Box 58, Jacksonville, FL 32202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Roof and floor joists and materials; accessories and equipment and completed products* thereof, from the Trus Joist plant in Valdosta, GA, to DE, NJ, PA, NY, OK, CT, RI, MI, WI, IA, IL, IN, and MO, for 180 days, under a continuing contract or contracts with Trus Joist Corp. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Trus Joist Corp., P.O. Box 986, Valdosta, GA 31601. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 143775 (Sub-13TA), filed July 21, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal wire*, from Willimantic, CT; Siloam Springs, AR; and Enka, NC; and their respective commercial zones; to points in CA, OR, WA, AZ, AR, NV, NM, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Brand-Rex Co., a part of Akzona Inc., P.O. Box 495, Willimantic, CT 06226. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020, Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

MC 144688 (Sub-6TA), filed July 18, 1978. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, d.b.a. Peterson, Bowman, Larsen & Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale and retail chain, grocery and food business houses (except frozen commodities and commodities in bulk), from Jeffersonville, IN, to Jacksonville, FL and Atlanta, GA, and points in their respective commercial zones; restricted to the transportation of shipments originating at the facilities of Colgate-Palmolive Co., Inc., at or near Jeffersonville, IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Colgate-Palmolive Co., Inc., State and Woerner Streets, Jeffersonville, IN 47130. Send protests to: Sara K. Davis, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 144688 (Sub-7TA), filed July 18, 1978. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman of Peterson, Bowman, Larsen & Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale, retail, and chain grocery and food business houses (except frozen commodities and commodities in bulk, between Atlanta, GA, and Houston, TX, and points in their respective commercial zones; restricted to the transportation of shipments originating at or destined to the facilities of The Clorox Co., at or near Atlanta, GA, and Houston, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Clorox Co., 1221 Broadway, Oakland, CA 94612. Send protests to: Sara K. Davis, District Supervisor, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 145016 (Sub-1TA), filed July 16, 1978. Applicant: DAVIS & DAVIS DISPOSAL CO., INC., P.O. Box 550, Darlington, SC 29532. Representative: John H. Lumpkin, Jr., 1250 SCN Center, Columbia, SC 29201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel mill bag house dust* from plantsite of Nucor Steel Co. in Darlington County, SC, to the plantsite of Royster Co. in Chesapeake, VA, under a continuing contract or contracts with Royster Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Royster Co., P.O. Box 1940, Norfolk, VA 23501. Send protests to: E. E. Strotheid, District Supervisor, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 145182TA, filed July 24, 1978. Applicant: M & M DELIVERY SERVICE, INC., 116 Chestnut Street, Mount Sterling, OH 43143. Representative: David A. Turano, Esq., 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise* dealt in by retail department stores, between Washington Courthouse, OH, on the one hand, and, on the other, points in OH. Restricted to (1) service performed under contract, or contracts, with Aldens, Inc., of Chicago, IL, and (2) the transportation of traffic having a prior or subsequent movement in interstate commerce by motor vehicle, for 180 days. Supporting shipper(s): Aldens, Inc., 5000 West Roosevelt Road, Chicago, IL 60607. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

MC 145188TA, filed July 26, 1978. Applicant: CECIL W. HARRELL & MARION SMITH, d.b.a. H & S TRANSPORTATION SERVICE, 1224 East Crawford Street, Tampa, FL 33604. Representative: Marie T. Loepp, 927 15th Street NW., Suite 306, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings, complete or in sections*, traveling on their own or removable undercarriages, *bank vaults, and modular bank buildings*, from points in Pinellas County, FL, to points in AL, AR, CT, DE, DC, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and WI, for 180 days. There is no environmental impact involved in this application. Supporting shipper(s): Diebold Contract Services, Inc., 12690 60th Street North, Clearwater, FL 33520. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Montery Building, Suite 101, 8410 NW. 53d Terrace, Miami, FL 33166.

MC 145190TA, filed July 26, 1978. Applicant: D. A. D. TRANSPORT CORP., 3832 New Cummings Road, Chattanooga, TN 37409. Representative: Daniel O. Hands, Attorney at Law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery* (except in bulk), in mechanically refrigerated equipment, (1) from the facilities of Brock Candy Co. at or near Chattanooga, TN, to points in the States of AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TX, VT, VA, WV, WI, and DC; and (2) *equipment, materials, and supplies used or useful in the manufacture of confectionery* (except in bulk), in mechanically refrigerated equipment, from points in the States of GA, IL, LA, NY, and NC and from the points of Dover, DE; Jacksonville, FL; Covington, KY; Natick, MA; Union, NJ; Cleveland, OH; York, PA; Fork Union, VA; and Stanley, WI, to the facilities of Brock Candy Co. at or near Chattanooga, TN; restricted in parts (1) and (2) to the transportation of traffic originating at the named origins and destined to the named destinations, for 180 days. Supporting shipper: Brock Candy Co., P.O. Box 1407, Chattanooga, TN 37401. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 145209TA, filed July 18, 1978. Applicant: WALTER MARTIN BRINKERHOFF, d.b.a. W. M. BRINKERHOFF TRUCKING, 1205 Loma Avenue, Monrovia, CA 91016. Representative: Milton W. Flack, 4311 Wilshire Boulevard, Suite 300, Los Angeles, CA 90010. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chinaware, earthenware and clay products*, (a) from the facilities of GMMC Sales Corp., located at El Monte, CA, to points in AZ, NE, TX, and NM, (b) from the facilities of Marshall Pottery, located at Marshall, TX, to the facilities of GMMC Sales Corp., located at El Monte, CA, under a continuing contract or contracts with GMMC Sales Corp., for 180 days. Supporting shipper(s): GMMC Sales Corp., 10675 Hickson Street, El Monte, CA 91731. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Steet, Los Angeles, CA 90012.

MC 145210TA, filed July 25, 1978. Applicant: B & R TRANSPORT, INC., R.F.D. 2, Fairfield, ME 04937. Representative: Ralph W. Farris, Jr., 88 Winthrop Street, Augusta, ME 04330. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sawdust, wood shavings, and wood chips* between points in ME and ports of entry on the international boundary line between the United States and Canada at or near Fort Kent, Madawaska, Houlton, Vanceboro, and Calais, ME, under a continuing contract or contracts with A. W. Chaffee, for 180 days. Supporting shipper(s): A. W. Chaffee, Box 231, Oakland, ME 04763. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 305, 76 Pearl Street, Portland, ME 04111.

MC 145211TA, filed July 26, 1978. Applicant: IDA M. SHERMAN, d.b.a. J-B MOTOR CO., 2422 Custer Avenue, Billings, MT 59102. Representative: William R. Sherman (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used cars and pickup trucks* between Billings, MT, on the one hand, and, on the other, all points in ND, SD, WY, CO, TX, ID, UT, NE, and NM, for 180 days. Supporting shipper(s): Lee A. Judson, president, Auto Auction of Billings, One Cerise Road, Billings, MT 59103. Send protests to: Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 145213TA, filed July 21, 1978. Applicant: DEEP SOUTH TRUCKING, INC., P.O. Box 304, Hwy 11 North, Purvis, MS 39475. Representative: Kent F. Hudson, 202 Main Street, Purvis, MS 39475. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, sawdust, and wood chips* between the plantsite of Purvis Hardwood Lumber Co., Purvis, MS, on the one hand, and, on the other, points in MS, LA, TX, OK, KS, NE, IA, MN, WI, IL, MO, AR, TN, KY, IN, MI, OH, VA, WV, GA, PA, FL, AL, NC, and SC, under a continuing contract or contracts with Purvis Hardwood Lumber Co., Inc., for 180 days. Supporting shipper(s): Purvis Hardwood Lumber Co., Inc., P.O. Box 266, Purvis, MS 39475. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

sentative, if any, and the protestant must certify that such service has been made. The protest must identify

Motor Carriers of Property

No. W-1152 (Sub-4TA). By order of September 12, 1978, the Motor Carrier

sunshine act meetings

V 43 / 187 SEP 26 78

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27037 Filed 9-25-78; 8:45 am]

[7035-01]

[Notice No. 175]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. W-1152 (Sub-4TA). By order of September 12, 1978, the Motor Carrier Board granted United Transportation, Inc., Bethel, Alaska, 90-day temporary authority to engage in the business of transportation by water vessel, in interstate commerce, in the transportation of general commodities, between Tuluksak, AK and points on the Kukokwim River at and north of Tuluksak, AK. Applicant is authorized to tack this authority with its existing authority under W-1152 at Tuluksak, AK. Andrew E. Hoge, Esq. 3201 "C" Street, Anchorage, AK 99502, applicant's representative.

Any interested person may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-27039 Filed 9-25-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3)

CONTENTS

	Items
Civil Aeronautics Board	1
Commodity Futures Trading Commission	2
Federal Communications Commission	3, 4, 5
Federal Deposit Insurance Corporation	6, 7
Federal Energy Regulatory Commission	8
Federal Trade Commission	9
Nuclear Regulatory Commission	10
Occupational Safety and Review Commission	11
Renegotiation Board	12, 13

[6320-01]

1

[M-165; Sept. 20, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9 a.m., September 27, 1978.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Docket 30332, IATA agreement proposing increase in North Atlantic cargo rates.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Discussion of this item will involve issues of foreign policy relating to Order 78-6-78 and discussion of the Board's litigation strategy in the pending court review of Order 78-7-115. Premature disclosure of the options, plans, and opinions of the Board could seriously compromise the U.S. ability to resolve this matter in the best interest of the United States and seriously interfere with the Board's successful participation in pending civil proceedings. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action and specifically concern the agency's participation in a civil action within the meaning of the exemptions provided under 5 U.S.C. 552b(c) (9)(B) and (10) and 14 CFR section 410b.5 (9)(B) and (10):

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

PERSON EXPECTED TO ATTEND

Board Members.—Chairman, Alfred E. Kahn; Member, Richard J. O'Melia; and Member, Elizabeth E. Bailey.

Assistants to Board Members.—Mr. Mike Roach, Mr. Elias Rodriguez, Mr. David M. Kirstein, and Mr. James Casey.

Office of the Managing Director.—Mr. Dennis Rapp and Mr. John Hancock.

Office of the General Counsel.—Mr. Phil Bakes, Mr. Larry Myers, and Mr. Mark Kahan.

Bureau of Consumer Protection.—Mr. Rueben Robertson and Mr. John Golden.

Bureau of Pricing and Domestic Aviation.—Mr. Michael E. Levine, Mr. Jim McMann, Mr. James Deegan, Mr. Herbert Aswall, and Mr. Don C. Sauers.

Bureau of International Affairs.—Mr. Donald Farmer.

Office of Economic Analysis.—Mr. Bob Frank and Mr. Richard Klem.

Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c) (9)(B) and (10) and 14 CFR 410b.5 (9)(B) and (10) and that the meeting may be closed to public observation.

GARY J. EDLES,
Acting General Counsel.

[S-1955-78 Filed 9-22-78; 3:59 pm]

[6351-01]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 3 p.m., September 26, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Commission discussion of fiscal year 1979 baseline calendar.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1949-78 Filed 9-22-78; 3:12 pm]

[6712-01]

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Friday, September 22, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

CHANGES IN THE MEETING: The following agenda item has been deleted:

Agenda, Item No., and Subject

Cable Television—1—Petition for reconsideration filed by People's Cable Co., Henrietta, N.Y.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-6427.

Issued: September 22, 1978.

[S-1950-78 Filed 9-22-78; 3:12 pm]

[6712-01]

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, September 26, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special closed Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Petitions for reconsideration and related interlocutory pleadings in the George T. Hernreich (KAIT-TV), Jonesboro, Ark., television renewal proceeding (Docket No. 19292).

Hearing—2—An application for review and a contingent application for review of a final Review Board decision in the *Strough* v. *The Western Union Telegraph Company* common carrier proceeding, involving a complaint of unlawful disclosure of a wire communication (Docket No. 20831).

Hearing—3—Application of review of a Review Board order denying an extension of construction permit for an FM station in Hampton, Iowa (Docket No. 21420).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office,

[6714-01]

6

the reporting requirements for Reports of Condition and Reports of Income for mutual savings banks.

Memorandum and resolution proposing the

as the sole office of First State Bank of Encino.

Recommendations regarding the liquidation of a bank's assets acquired by the Corpo-

[6750-01]

9

FEDERAL TRADE COMMISSION

[7600-01]

11

OCCUPATIONAL SAFETY AND

V 43 / 187 SE 26 78

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: September 19, 1978.

[S-1951-78 Filed 9-22-78; 3:12 p.m.]

[6712-01]

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, September 27, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Cable Television—1—Amendment of part 76 of the Commission's rules relating to the cable television certificate of compliance process.

Cable Television—2—Nondiscrimination in the employment policies and practices of cable television applicants and certificate holders and licensees of cable television relay stations (Docket No. 20829).

Cable Television—3—"Joint Petition for Reconsideration" of Arlington Telecommunications Corp., d.b.a. ARTEC (Arlington County, Va.), FCC 77-561, 65 FCC 2d 469 (1977), filed by National Broadcasting Co., Inc., licensee of Station WRC-TV (NBC, Channel 4); Metromedia, Inc., licensee of Television Broadcast Station WTTG (Ind., Channel 5); the Evening Star Broadcasting Co., formerly licensee of Station WJLA-TV (ABC, Channel 7); Post-Newsweek Stations, Capital Area, Inc., licensee of Station WTOP (now WDVM-TV) (CBS, Channel 9); and Channel 20, Inc., formerly licensee of Station WDCA-TV (Ind., Channel 20), all of Washington, D.C.

Common Carrier—1—Revisions to tariffs FCC Nos. 229, 240, 254, 255, 258, 260, 263, 269, rate increases related to the expiration of A.T. & T.-WU facility contracts and lease agreements.

Common Carrier—2—Revisions to the A.T. & T. Long Lines Department and Bell System Operating Cos. interim OCC tariffs to reflect a new expanded offering of telegraph grade facilities.

Common Carrier—3—Integration of rates and services, between the mainland and the offshore points of Alaska, Hawaii, and Puerto Rico/Virgin Islands.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: September 22, 1978.

[S-1952-78 Filed 9-22-78; 3:12 pm]

[6714-01]

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10 a.m., September 28, 1978.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Applications for Federal deposit insurance.

Greater Pacific Bank, a proposed new bank to be located at 231 Southwest Washington Street, Albany, Oreg., for Federal deposit insurance.

First City Bank—Bear Creek, a proposed new bank to be located on State Highway 6, about 4 miles north of Interstate Highway 10, Bear Creek (Unincorporated), Tex., for Federal deposit insurance.

Rose Capital Bank, a proposed new bank to be located at 1000 West Southwest Loop 323, Tyler, Tex., for Federal deposit insurance.

Requests for reports on the competitive factors involved in proposed mergers, purchase and assumption transactions, or consolidations:

Request by the Comptroller of the Currency for a report on the competitive factors involved in the proposed merger of the Chester National Bank, Chester, N.Y., with the National Union Bank of Monticello, Monticello, N.Y.

Request by the Comptroller of the Current for a report on the competitive factors involved in the proposed merger of the National Bank & Trust Co. of Norwich, Norwich, N.Y., with First National Bank in Sidney, Sidney, N.Y.

Memorandum and resolution proposing changes in the membership of the four standing committees of the Corporation.

Recommendations with respect to the amendment of Corporation rules and regulations:

Memorandum and resolution proposing the final adoption of a new part 345 of the Corporation's rules and regulations, to be entitled "Community Reinvestment."

Memorandum and resolution proposing the publication for comment of amendments to part 303 of the Corporation's rules and regulations to delegate the Board's authority to approve requests, pursuant to section 19 of the Federal Deposit Insurance Act, for the Corporation's consent to service of persons convicted of offenses involving dishonesty or a breach of trust as directors, officers, or employees of insured banks.

Memorandum and resolution proposing the publication for comment of amendments to parts 303, 304, and 328 of the Corporation's rules and regulations to revise the Corporation's procedures relating to remote service facilities.

Memorandum and order extending Federal deposit insurance on domestic branches of Puerto Rican banks.

Memorandum and resolution proposing the final adoption of "Truth in Lending Enforcement Guidelines."

Memorandum and resolution proposing the publication for comment of revisions in the reporting requirements for Reports of Condition and Reports of Income for mutual savings banks.

Memorandum and resolution proposing the publication for comment of revisions in the reporting requirements for Reports of Condition and Reports of Income for small banks.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of security transactions authorized by the Acting Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-1946-78 Filed 9-22-78; 3:12 pm]

[6714-01]

7

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10:30 a.m., September 28, 1978.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Application for Federal deposit insurance:

Bank of St. Francisville, a proposed new bank to be located at 108 East Commerce Street, St. Francisville, La., for Federal deposit insurance.

Application for consent to establish a branch and a drive-in facility:

ComBank/Fairvilla, Fairvilla, Fla., for consent to establish a branch at 2420 East Colonial Drive and a drive-in facility at the northeast corner of Livingston Street and Bumby Avenue, both locations in Orlando, Fla.

Application for consent to merge and establish branches:

The Bank of Le Roy, Le Roy, N.Y., an insured State nonmember bank, for consent to merge under its charter, and with the title of "Genesee Country Bank," with the Citizens Bank, Attica, N.Y., also an insured State nonmember bank, and for consent to establish the two offices of the Citizens Bank as branches of the resultant bank.

Application for Federal deposit insurance, for consent to a purchase and assumption transaction, and for consent to establish a branch:

First State Bank of Encino, Encino (Los Angeles), Calif., for Federal deposit insurance and for consent to purchase the assets of and assume the liability to pay deposits made in the Encino Branch of the Hongkong Bank of California, San Francisco, Calif., which would be operated as the sole office of First State Bank of Encino.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,634-SR—Surety Bank and Trust Co., Wakefield, Mass.

Case No. 43,649-L—International City Bank & Trust Co., New Orleans, La.

Case No. 43,655-L—Franklin National Bank, New York, N.Y.

Case No. 43,657-L—The Drovers' National Bank of Chicago, Chicago, Ill.

Case No. 43,659-L—The Drovers' National Bank of Chicago, Chicago, Ill.

Case No. 43,660-L—Franklin National Bank, New York, N.Y.

Case No. 43,665-L—Banco Credito y Ahorro Ponceno, Ponce, P.R.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-1947-78 Filed 9-22-78; 3:12 pm]

[6740-02]

8

SEPTEMBER 22, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 9 a.m. to 12 noon, September 29, 1978.

PLACE: Room 9306, 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Staff briefing of the Commission in public session on price-squeeze related matters. This session will discuss the experience of the staff and Commission since the issuance of Order No. 563.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

[S-1948-78 Filed 9-22-78; 3:12 pm]

[6750-01]

9

FEDERAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR 43, September 21, 1978, page No. 47852.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., Wednesday, September 27, 1978.

CHANGES IN THE AGENDA: The Federal Trade Commission has changed the order of its previously announced open meeting of September 27, 1978.

MATTERS TO BE CONSIDERED:

1. Consideration of Seattle regional office requests for proposed TRR regarding disclosure of toxicity and identity of commercially sold plants, File No. 752 3109.

2. Consideration of proposed revision of Discovery Rules.

3. Review and proposed revision of Commission rules 2.34 and 3.25 (f) concerning placement on the public record of material relating to consent agreements.

4. Consideration of proposed modification to Interpretation 600.8 of the Fair Credit Reporting Act.

[S-1945-78 Filed 9-22-78; 3:12 pm]

[7590-01]

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Wednesday, September 27.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

WEDNESDAY, SEPTEMBER 27; 1:30 P.M.

1. Discussion of employee allegations (approximately 1 hour, closed—exemption 6), postponed from September 15, 1978.

2. Discussion of personnel matter (approximately 1 hour, closed—exemption 6).

3. Affirmation items (approximately 10 minutes, public meeting):

a. Kranish FOIA Appeal 78-A-22 (tentative), and

b. Inerting of containment atmospheres (tentative).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

SEPTEMBER 20, 1978.

[S-1944-78 Filed 9-22-78; 11:28 am]

[7600-01]

11

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 9:30 a.m., October 4, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Lottie Richardson, 202-634-4015.

Date: September 21, 1978.

[S-1943-78 Filed 9-22-78; 11:28 am]

[7910-01]

12

RENEGOTIATION BOARD.

DATE AND TIME: Friday, September 29, 1978; 9 a.m.

PLACE: Auditorium, 2d floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Open to public observation.

MATTER TO BE CONSIDERED: Chairman's annual report to the staff of the Renegotiation Board.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: September 22, 1978.

GOODWIN CHASE,
Chairman.

[S-1953-78 Filed 9-22-78; 3:12 pm]

[7910-01]

13

RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, October 3, 1978; 2 p.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Personnel matter.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M

Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: September 22, 1978.

(approximately) Briefing by executive branch on export and nonproliferation matters (approximately 1 hr) (closed-exemption 1). Friday, September 29,

V 43 / 187 SE 26 78 V 4

TUESDAY, SEPTEMBER 26, 1978
PART II

V 43 / 187 SE 26 78 V 4

Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: September 22, 1978.

GOODWIN CHASE,
Chairman.

[S-1954-78 Filed 9-22-78; 3:12 pm]

14

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of September 25, 1978 (changes).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED: Wednesday, September 27, 3:30 p.m. (approximately) Briefing by executive branch on export and nonproliferation matters (approximately 1 hr) (closed-exemption 1). Friday, September 29, 10 a.m. 1. Discussion of 10 CFR Part 21 Applicability to Nonlicensee Suppliers of Commercial Grade Items (approximately 1 hr) (public meeting). 2. Affirmation session (approximately 10 min) (public meeting). a. Inerting of containment atmospheres. b. Kranish FOIA appeal 78-A-22. (Note: Postponed from September 27, 1978).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

SEPTEMBER 22, 1978.

[S-1959-78 Filed 9-25-78; 10:01 am]

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federal register

TUESDAY, SEPTEMBER 26, 1978
PART II

AGENCY FOR INTERNATIONAL DEVELOPMENT
COMMODITY FUTURES TRADING COMMISSION
COMMITTEE FOR THE PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED
NATIONAL LABOR RELATIONS BOARD
PANAMA CANAL COMPANY—CANAL ZONE GOVERNMENT
RAILROAD RETIREMENT BOARD

■

PRIVACY ACT OF 1974

Annual Publication

[4710-02]

DEPARTMENT OF STATE

1977 Compilation Up-to-Date

Information about this agency's systems of records that appears in "Privacy Act Issuances—1977 Compilation" is complete and up-to-

[6351-01]

COMMODITY FUTURES TRADING COMMISSION

510 Grain Exchange Building
Minneapolis, Minnesota 55415

Where multiple locations are involved in a system notice, rather than listing each address the notice merely identifies the offices and

[4710-02]

DEPARTMENT OF STATE

Agency for International Development

PRIVACY ACT ISSUANCES

Notice of Incorporation by Reference

Agency: Agency for International Development.

Action: Incorporation by reference of Privacy Act issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation".

Dates: This document fulfills the annual notice requirements of the Privacy Act for 1978.

For further information contact:

Mr. James L. Harper
Agency for International Development
Washington, D.C. 20523

Approval of the Director

The notices of systems of records of this agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on July 13, 1978.

1977 Compilation Up-to-Date

Information about this agency's systems of records that appears in "Privacy Act Issuances—1977 Compilation" is complete and up-to-date. Since publication of the 1977 Compilation, this agency has made no changes to its systems of records.

Availability of 1977 Compilation

"Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be examined at the central headquarters and all field offices of this agency. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Location of Notices in 1977 Compilation

Notices of this agency's systems of records appear in Volume I of the 1977 Compilation at 47371 thru 47387 (42 FR 47341). The price of this Volume is six dollars and fifty cents.

James W. McCulla,
Director, Office of Public Affairs.

[FR Doc. 78-26404 Filed 9-25-78; 8:45 am]

[6351-01]

COMMODITY FUTURES TRADING COMMISSION

PRIVACY ACT ISSUANCES

Notice of Incorporation by References

Agency: Commodity Futures Trading Commission.

Action: Incorporation by reference of Privacy Act issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purposes of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation" and to publish in full the systems that this agency has amended since publication of the 1977 Compilation.

Dates: This document fulfills the annual notice requirements of the Privacy Act for 1978.

For Further Information Contact:

Ralph Marceron
(202) 254-6599

Approval of the Director

The notices of systems of records of this agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on August 8, 1978. Published below is the full text of systems of records that this agency has amended since publication of the 1977 Compilation.

Availability of 1977 Compilation

"Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be examined at the central headquarters office of the Commission. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Location of Notices in 1977 Compilation

Notices of the Commission's systems of records appear in Volume VI of the 1977 Compilation at pages 54742-54755 (42 FR 54742-54755, October 7, 1977). The price of this Volume is five dollars and seventy-five cents.

Donald L. Tendick,
Executive Director.

The Location of Systems of Records

The first and sixth items described above call for the address of the Commission Office involved. The Commission maintains offices in the following locations:

2033 K Street, NW.
Washington, D.C. 20581
Telephone: (202) 254-8630

233 South Wacker Drive
46th Floor
Chicago, Illinois 60606

4901 Main Street
Room 208
Kansas City, Missouri 64112

One World Trade Center
Suite 4747
New York, New York 10004

Two Embarcadero Center
Suite 1600
San Francisco, California 94111

510 Grain Exchange Building
Minneapolis, Minnesota 55415

Where multiple locations are involved in a system notice, rather than listing each address the notice merely identifies the offices and refers to this introductory section for each address. In the system notice, the Washington office is referred to as the "principal office," the Chicago, Kansas City, New York, and San Francisco offices as the "regional offices," and all offices collectively are described as "all CFTC officers."

In many cases records within a system will not all be available at each of the offices listed in the system notice. For example, investigation files are basically maintained in the office where the investigation is being conducted, but certain information may be maintained in other offices as well. Similarly, many but not necessarily all employee records are maintained in the particular office where the employee works. In addition, the Commission's computer is physically located in Chicago, although information in computer printout form may be available in any office.

Of course, it will be the Commission's responsibility, unless otherwise specified in the system notice, to determine where the particular records being sought are located. However, if the individual seeking the records in fact knows the location, it would be helpful to the Commission if he would indicate that location.

System Notices

The Commission's system of records are set forth below. For further information contact:

Privacy Unit
Commodity Futures Trading Commission
2033 K Street NW.
Washington, D.C. 20581

CFTC—1

System name: Matter Register and Matter Indices—CFTC

System location: Records in this system are maintained in the Commission's principal office and in each of the regional offices. Addresses and telephone numbers of these offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Categories of individuals covered by the system: a. Persons alleged to have violated or suspected of having violated the Commodity Exchange Act or the rules and regulations adopted thereunder.

b. Persons lodging complaints with the Commission.

c. Agency referrals.

Categories of records in the system: The records in this system include:

a. The matter register, a summary of complaints received from the public concerning an individual (or business entity) as well as a summary of leads as to possible areas of violation which were developed from other sources. A complaint number is assigned to each case and the record is filed according to that number. The register also, among other matters, names the individual complained about, his employer, the name of the complainant, the type of complaint, the date received, the disposition, the date closed and the investigator assigned.

b. The matter index, which contains a summary of the same information as the complaint register, but is maintained alphabetically by the name of the person who is the subject of the complaint.

c. The matter index, which contains a summary of the same information as the complaint register but is maintained alphabetically by the name of the complainant.

Authority for maintenance of the system: Section 8 of the Commodity Exchange Act, 7 U.S.C. 12.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Storage: Paper records in file folders, in looseleaf binders, or on index cards.

Retrievability: Information in the register is retrievable by assigned matter number. This is cross-indexed to the individual's name through the matter index.

Safeguards: Records are located in secured rooms or on secured premises with access limited to those whose official duties require access. In appropriate cases the records are maintained in lockable file cabinets.

Retention and disposal: The index is maintained indefinitely. The register is maintained on the premises for 5 years, then in the Federal Records Center for 5 years before being destroyed.

System manager(s) and address: The Director of the Division of

phone: (202) 254-8630. The request should specify the system manager under whose jurisdiction the records are maintained, if known.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their in-

Categories of individuals covered by the system: All CFTC employees.

Categories of records in the system: This system includes various records reflecting a breakdown of time and attendance of CFTC employees, and a record of leave status.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information from these records is transmitted to the U.S. Treasury to effect reimbursement of travel expenses and issuance of paychecks, as well as distribution of pay to other sources according to employee instructions. Appro-

Retention and disposal: The index is maintained indefinitely. The register is maintained on the premises for 5 years, then in the Federal Records Center for 5 years before being destroyed.

System manager(s) and address: The Director of the Division of Enforcement in the Commission's principal office and the Regional Counsel of each regional office. Addresses of these offices are set forth in the introduction of these system notices under the caption "location of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: Persons submitting complaints to the Commission; other miscellaneous sources including customers, other law enforcement and regulatory agencies, commodity exchanges, various trade sources, and items generated internally by the Commission staff.

CFTC—2

System name: Correspondence Files—CFTC

System location: These records are maintained in the Commission's principal offices at 2033 K Street, NW., Washington, D.C. 20581.

Categories of individuals: Persons corresponding with the Commission, directly or through attorneys or other representatives. Persons discussed in correspondence to or from the Commission.

Categories of records in the system: This system contains incoming and outgoing correspondence and indices of correspondence, and certain internal reports and memoranda related to the correspondence.

This system does not include all Commission correspondence, but only those records which are part of a general correspondence file maintained by the office involved. It includes correspondence indexed by subject matter, by date or by assigned number. It includes correspondence files maintained by the Office of Public Information relating to requests by individuals under the Freedom of Information Act and the Privacy Act.

Authority for maintenance of the system: 44 U.S.C 3101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders, in looseleaf binders, or on index cards.

Retrievability: By name. This may be the name of the person who sent the letter, the person who received the letter, or the person on whose behalf the letter was sent or received. On occasion it may also be another person who was the principal subject of the letter, where circumstances appear to justify this treatment. See previous discussion concerning the category of records maintained in this system.

Safeguards: Records are located in secured rooms or on secured premises with access limited to those whose official duties require access.

Retention and disposal: These records are maintained indefinitely or for varying periods of time depending on the policies and practices of the offices involved.

System manager(s) and address: The system managers include: a. The General Counsel; b. the Director of the Office of Public Information; c. the Director of the Division of Enforcement; d. the Office of the Secretariat. All are located at 2033 K Street, N.W., Washington, D.C. 20581.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581 Telephone: (202) 254-8630. The request should specify the system manager under whose jurisdiction the records are maintained, if known.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: Persons corresponding with the Commission and correspondence and memoranda prepared by the Commission.

CFTC—3

System name: Docket Files—CFTC

System location: The records are maintained in the Office of Hearings and Appeals in the Commission's principal offices at 2033 K Street, NW., Washington, D.C. 20581.

Categories of individuals covered by the system: Parties and other persons involved in any CFTC proceeding.

Categories of records in the system: The records in this system include all pleadings, motions, applications, stipulations, affidavits, transcripts and documents introduced as evidence, briefs, orders, findings, opinions, and other matters which are part of the record of an administrative proceeding. They also contain related correspondence and indices.

Authority for maintenance of the system: The Commission is authorized or required to conduct hearings under several provisions of the Commodity Exchange Act. The maintainenance of these files is a necessary concomitant for the conduct of orderly hearings. See also 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These are public records, except to the extent the Commission or the assigned hearing officer determines they may be treated as non-public consistent with the provisions of the Freedom of Information Act and that for good cause they should be treated as non-public. Non-public portions may be used for any purpose specifically authorized by the hearing officer who ordered non-public treatment or by the Commission.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: These records are filed by the docket number and cross-indexed by the respondent's name, and his attorney's name.

Safeguards: The information in these files is in most cases a matter of public record. Those items which the Commission or the hearing officer has directed be kept non-public are segregated and precautions are taken to assure that access is restricted only to authorized personnel.

Retention and disposal: These records are maintained in the files of the Commission indefinitely.

System manager(s) and address: Chief Administrative Law Judge, Office of Hearing and Appeals, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: Commission staff members; opposing parties and their attorneys; witnesses in the proceeding; and other miscellaneous sources.

CFTC—4

System name: Employee Leave, Time and Attendance—CFTC.

System location: These records are maintained by all CFTC offices at the addresses set forth in the introduction to these system notices under the caption "location of systems of records."

Categories of individuals covered by the system: All CFTC employees.

Categories of records in the system: This system includes various records reflecting a breakdown of time and attendance of CFTC employees, and a record of leave status.

Authority for maintenance of the system: 5 U.S.C. 6301-6323; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. In response to legitimate requests, this information may be provided to other federal agencies for the purpose of hiring or retaining employees, and may be provided to other prospective employers, to the extent that the information is relevant to the prospective employer's decision in the matter.

b. The information may be provided to the Justice Department or other federal agencies or used by the Commission in connection with any investigation, or administrative or legal proceeding involving any violation of any federal law or regulation thereunder.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders or on index cards.

Retrievability: By the name of the employee or by the employee number, cross-indexed by name.

Safeguards: The records are maintained in locked cabinets.

Retention and disposal: Records for current employees are maintained for three years; the final record of former employees is maintained for ten years, then destroyed.

System manager(s) and address: For employees of the Commission's principal office records are maintained by the Budget Officer. For regional office employees, records are maintained by the administrative officer in each of the regional offices. Addresses of these offices are set forth in the introduction to these system notices under the caption location of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The individual on whom the record is maintained.

CFTC—7

System name: Employee Records maintained by the National Finance Center/USDA—CFTC.

System location: National Finance Center, U.S. Department of Agriculture, New Orleans, Louisiana 70160.

Categories of individuals covered by the system: All CFTC employees.

Categories of records in the system: The National Finance Center is used by the Commission to provide data processing capability for various personnel, payroll and accounting related matters. The records in the system include:

a. General records relating to the employee including information from the notification of personnel action (Form 350 and 350A) prepared and submitted by the CFTC, and other related sources. The information includes the name, social security or other employee number, birth date, veteran's preference, tenure, leave group, insurance coverage, retirement coverage, type of employment, date service commenced and ended, grade and step, base salary, duty station, various computation dates, leave codes and status, employing office and other miscellaneous information.

b. Various payroll related information for CFTC employees, including payroll and leave data for each employee relating to rate and amount of pay, leave, and hours worked, and leave balances, tax and retirement deductions, life insurance and health insurance deductions, savings allotments, savings bond and charity deductions, mailing addresses and home addresses. This includes copies of the CFTC time and attendance reports as well as authorizations relating to deductions.

Authority for maintenance of the system: 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information from these records is transmitted to the U.S. Treasury to effect reimbursement of travel expenses and issuance of paychecks, as well as distribution of pay to other sources according to employee instructions. Appropriate information from these records is also forwarded to taxing authorities and others receiving proceeds from the employee's pay.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders; magnetic tape.

Retrievability: Indexed by social security number or equivalent employee number and by name of employee.

Safeguards: Protection is afforded by limiting access to the offices where the records are maintained. Certain records are kept in lockable file cabinets.

Retention and disposal: Records are maintained indefinitely on tape; paper records are sent to the Federal Records Center after an appropriate period.

System manager(s) and address: Director, National Finance Center, U.S. Department of Agriculture, Office of Management and Finance, New Orleans, Louisiana 70160.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: Records furnished by the CFTC.

CFTC—8

System name: Employment Applications—CFTC

System location: These records are maintained in the Commission's principal offices and in each of the regional offices. The address and telephone number of each of these offices is set forth in the introduction to these systems notices under the caption "location of systems of records".

Categories of individuals covered by the system: Applicant for positions with the CFTC.

Categories of records in the system: Contains the application form (SF-171) and/or the resume of the person applying.

Authority for maintenance of the system: 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information about these records is used in making inquires concerning the qualifications of the applicant.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Indexed by the name of the applicant; cross-indexed by interest.

Safeguards: These records are maintained in a locked file cabinet.

Retention and disposal: Applications are maintained two years, then destroyed.

System manager(s) and address: The Personnel officer of the Commission is the system manager for all records maintained in the Commission's principal office. The system manager for records maintained in the regional offices is the Administrative Officer in each regional office. Addresses of these offices are set forth in the introduction of these systems notices under the caption "location of systems of records".

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Categories of individuals covered by the system: a. Individuals whom the staff of the Commission has reason to believe have violated, are violating, or are about to violate the Commodity Exchange Act and the rules, regulations, and orders promulgated thereunder, or

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The information is generally obtained from the parties or their attorneys or from the Commission's Office

address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The individual of whom the record is maintained.

CFTC—10 (Reserved)

CFTC—11 (Reserved)

CFTC—12

System name: Fitness Investigations—CFTC

System location: These records are located in the Division of Trading and Markets in the Commission's principal offices at 2033 K Street, NW., Washington, D.C. 20581. Limited records are located at the Chicago regional office, 233 South Wacker Drive, 46th floor, Chicago, Illinois, 60606.

Categories of individuals covered by the system: Persons who have applied to the Commission for registration as an associated person or as a floor broker; including partners, sole proprietors, officers, directors, branch office managers, agents, more than 10 percent stockholders and persons performing similar functions for futures commission merchants, commodity trading advisers and commodity pool operators.

Categories of records in the system: Contains various information pertaining to the fitness of the above described persons to engage in business subject to the Commission's jurisdiction. The file includes the application for registration and supplements. It also includes correspondence, reports and memoranda reflecting information developed from various sources outside the agency. The system contains records of the CFTC investigation.

Authority for maintenance of the system: Section 8a(2)(B) of the Commodity Exchange Act, 7 U.S.C. 12a(2)(B).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By the name of the firm or individual.

Safeguards: Records are maintained in locked cabinets. Further protection is afforded by limiting access to the office where the record is maintained to those whose official duties require access.

Retention and disposal: The records are maintained on the premises for 5 years, then held in the Federal Records Center for 5 years before being destroyed.

System manager(s) and address: Regional Director, Commodity Futures Trading Commission, 233 South Wacker Drive, 46th Floor, Chicago, Illinois 60606.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The individual on whom the record is maintained, his employer, federal, state, and local regulatory and law enforcement agencies, commodity and stock exchanges, National Association of Security Dealers, and other miscellaneous sources.

CFTC—14

System name: Matter Files—CFTC

System location: These records are maintained in the Commission's principal office and in the regional offices. Files concerning pending investigations may be located in other Commission offices when the investigation is being conducted by those offices. Addresses of Commission offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Categories of individuals covered by the system: a. Individuals whom the staff of the Commission has reason to believe have violated, are violating, or are about to violate the Commodity Exchange Act and the rules, regulations, and orders promulgated thereunder, or the rules and regulations of any board of trade designated as a contract market.

b. Individuals whom the staff of the Commission has reason to believe may have information concerning violations of the Commodity Exchange Act and the rules, regulations, and orders promulgated thereunder, or the rules and regulations of any board of trade designated as a contract market.

c. Individuals involved in investigations authorized by the Commission concerning the activities of members of the Commission or its employees based upon formal complaint or otherwise.

d. Individuals filing Form 4-R (registration as an associated person) or Form 94 (biographical information questionnaire) in connection with an application for registration with the Commission.

Categories of records in the system: Contains anything obtained during the course of an investigation including data from Commission reporting forms, account statements, and other trading records, exchange records, bank records, and credit information, business records, reports of interviews, transcripts of testimony, exhibits to transcripts, affadavits, statements by witnesses, contracts and agreements. Also contains internal memoranda, reports of investigation, subpoenas, warning letters stipulations of compliance, correspondence and other miscellaneous matters. The nature of the personal information contained in these files varies according to what is considered relevant to the attorney assigned to the case based on the circumstances of the particular case under investigation. For example, the file may contain personal background information about the individual involved, his education and employment history, information on prior violations, and a wide variety of financial information, as well as detailed examination of the individual's activities during the period in question.

Authority for maintenance of the system: Section 8 of the Commodity Exchange Act, 7 U.S.C. 12; 44 U.S.C. 3101; 5 U.S.C. 552a(K)(2).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction of these system notices under the caption "general statement of routine uses." In addition, information concerning traders and their activities may be disclosed and made public by the Commission to the extent permitted by law when deemed appropriate to further the practices and policies of the Commodity Exchange Act. Furthermore, information collected during the investigation may be included in public report to be issued by the Commission following an investigation, to the extent that this is authorized under Section 8 of the Commodity Exchange Act, 7 U.S.C. 12.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: The records are maintained by assigned case number or by the title of the case. Matter cases are filed by number and cross-indexed by matter title.

Safeguards: In addition to normal office and building security, certain of these records are maintained in locked file cabinets. All employees are aware of the sensitive nature of the information gathered during investigations.

Retention and disposal: Regional office records are maintained on the premises for 5 years, then sent to the Federal Records Center for 5 years, before being destroyed. The records in the Office of the General Counsel are generally maintained until the investigation is closed and any action arising therefrom has been completed, including all review at the appellate level. Thereafter, certain basic information may be retained and sent to the Federal Records Center, while the remaining information is either returned to the person from whom it was obtained or destroyed.

System manager(s) and address: Director of the Division of Enforcement in the Commission's principal office. The Regional Counsel of the Region where the investigation is being conducted. Addresses of CFTC offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: a. Reporting forms and other information filed with the Commission; b. boards of trade; c. futures commission merchants, commodity trading advisors, commodity pool operators, floor brokers, d. Federal, State and local regulatory and law enforcement agencies; e. banks, credit organizations and other institutions, pursuant to subpoena or otherwise; f. corporations, pursuant to subpoena or otherwise; g. individuals having knowledge of the facts, pursuant to subpoena or otherwise; h. attorneys; i. publications; j. courts; and k. other miscellaneous sources.

CFTC—16

System name: Case Files—CFTC

System location: Files in this system of records are maintained in the Commission's principal office and in the regional offices. For pending litigation, files may also be located in other offices participating in the litigation. Addresses and telephone numbers of CFTC offices are set forth in the introduction to the system notices under the caption "location of systems of records."

Categories of individuals covered by the system: Persons or firms against whom the Commission has issued a complaint based on violations of the Commodity Exchange Act or the rules and regulations promulgated thereunder.

Categories of records in the system: The file contains copies of various papers filed by or with the Commission or the courts in connection with administrative proceedings or injunctive actions brought by the Commission. It includes, as a minimum, a copy of the complaint and the final decision and order, and may contain other documents as well.

Authority for maintenance of the system: The maintenance of these files is necessary to the orderly and effective conduct of various litigation authorized under the Commodity Exchange Act and other Federal statutes. See e.g., Section 6c of the Commodity Exchange Act, 7 U.S.C. 13a-1, authorizing injunctive actions, and various provisions in that Act authorizing administrative actions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information in these files is generally a matter of public record and may be disclosed without restriction. In other cases the routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in folders or binders.

Retrievability: Cases are maintained in alphabetical order and cross-indexed to the original matter number.

Safeguards: Protection of non-public records is afforded by general office security measures. Records are located in secured rooms or on secured premises with access limited to those whose official duties require access.

Retention and Disposal: These files are maintained indefinitely, although when the action is completed they are usually reduced to only the complaint and the final decision and order.

System manager(s) and address: These records are maintained by the Director of the Division of Enforcement at the Commission's principal office and by the Regional Counsel for the region where the records are located. Addresses and telephone numbers of CFTC offices are set forth in the introduction to these system notices under the caption "locations of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The information is generally obtained from the parties or their attorneys or from the Commission's Office of Hearings and Appeals or the relevant court.

CFTC—20

System name: Registration of Futures Commission Merchants, Commodity Trading Advisors and Commodity Pool Operators—CFTC.

System location: The primary files are maintained in the Chicago office. All CFTC offices have summary information in the form of microfiche records. Addresses and telephone numbers of these offices are set forth in the introduction of these systems notices under the caption "location of systems of records."

Categories of individuals covered by the system: Partners, sole proprietors, officers, directors, branch office managers, agents or more than 10 percent stockholders and persons performing similar functions for futures commission merchants, commodity trading advisors and commodity pool operators.

Categories of records in the system: Contains various information pertaining to the fitness of and registration as futures commission merchants, commodity trading advisors and commodity pool operators. The Chicago office maintains the applications for registration (Form 7-R and related schedules) and supplements, as well as correspondence between the firm and/or individuals and the agency relating to registration. A computer system is also maintained by the Chicago office. A computerized record is maintained for each individual engaged as an officer, partner, sole proprietor, branch office manager, agent, more than 10 percent stockholder of a futures commission merchant as listed in the application as such. The computer memory consists of the name, firm affiliation, title, date and place (optional) of birth, social security number (optional), fitness and business address of each individual engaged as a partner, sole proprietor, officer, director and persons performing similar functions for futures commission merchants, commodity trading advisors and commodity pool operators.

Authority for maintenance of the system: Section 4f(1) and 4n(1) of the commodity Exchange Act, 7 U.S.C. 6f(1) and 6n(1).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine use."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in manual form in file folders, in computer memory, in computer printouts and microfiche records.

Retrievability: The application, correspondence and other primary records are filed by the name of the firm. The computer records are maintained by the name of the individual officer, director, partner, etc. and serves as a cross-index to the primary registration file.

Safeguards: Protection of non-public records is afforded by general office security measures. Records are located in secured rooms or on secured premises with access limited to those whose official duties requires access. In appropriate cases the records are maintained in lockable file cabinets.

Retention and disposal: Applications for registration and related documents and correspondence are maintained on the premises for three years. Records are then held in the Federal Record Center for seven years and destroyed. The computer memory is maintained permanently on the premises and updated periodically as long as the individual remains associated as a principal with a registrant. Printouts are maintained on the premises for six months and destroyed. Microfiche records are maintained on the premises for two months and destroyed.

System manager(s) and address: Regional Director, Commodity Futures Trading Commission, 233 South Wacker Drive, 46th Floor, Chicago, Illinois 60606.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The individual of whom the record is maintained.

CFTC—10 (Reserved)

CFTC—11 (Reserved)

CFTC—12

System name: Fitness Investigations—CFTC

System location: These records are located in the Division of Trading and Markets in the Commission's principal offices at 2033 K Street, NW., Washington, D.C. 20581. Limited records are located at the Chicago regional office, 233 South Wacker Drive, 46th floor, Chicago, Illinois, 60606.

Categories of individuals covered by the system: Persons who have applied to the Commission for registration as an associated person or as a floor broker; including partners, sole proprietors, officers, directors, branch office managers, agents, more than 10 percent stockholders and persons performing similar functions for futures commission merchants, commodity trading advisers and commodity pool operators.

Categories of records in the system: Contains various information pertaining to the fitness of the above described persons to engage in business subject to the Commission's jurisdiction. The file includes the application for registration and supplements. It also includes correspondence, reports and memoranda reflecting information developed from various sources outside the agency. The system contains records of the CFTC investigation.

Authority for maintenance of the system: Section 8a(2)(B) of the Commodity Exchange Act, 7 U.S.C. 12a(2)(B).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By the name of the firm or individual.

Safeguards: Records are maintained in locked cabinets. Further protection is afforded by limiting access to the office where the record is maintained to those whose official duties require access.

Retention and disposal: The records are maintained on the premises for 5 years, then held in the Federal Records Center for 5 years before being destroyed.

System manager(s) and address: Regional Director, Commodity Futures Trading Commission, 233 South Wacker Drive, 46th Floor, Chicago, Illinois 60606.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The individual on whom the record is maintained, his employer, federal, state, and local regulatory and law enforcement agencies, commodity and stock exchanges, National Association of Security Dealers, and other miscellaneous sources.

CFTC—14

System name: Matter Files—CFTC

System location: These records are maintained in the Commission's principal office and in the regional offices. Files concerning pending investigations may be located in other Commission offices when the investigation is being conducted by those offices. Addresses of Commission offices are set forth in the introduction to these system notices under the caption "location of systems of records."

[6820—33]

COMMITTEE FOR PURCHASE FROM

erence. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on July 13, 1978.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The application is submitted by the applicant. The computerized record is prepared from the application, including supplements, information developed during the fitness inquiry and from correspondence prepared by the Commission, the registrant or applicant, commodity and stock exchanges, other government agencies and other persons with relevant information concerning an individual and firm's fitness.

CFTC—21 [Reserved]

CFTC—22

System name: Registration of Associated Persons and Floor Brokers—CFTC.

System location: The primary files are maintained in the Chicago office. All CFTC offices have summary information in the form of microfiche records. Addresses and telephone numbers of these offices are set forth in the introduction of these systems notices under the caption "location of systems of records."

Categories of individuals covered by the system: Persons who have applied to the Commission for registration as an associated person or as a floor broker including partners, sole proprietors, officers, directors, branch office managers, agents, more than 10 percent stockholders and persons performing similar functions for futures commission merchants, commodity trading advisors and commodity pool operators.

Categories of records in the system: Contains various information pertaining to the fitness for registration as an associated person or floor broker. The system includes the application for registration (Form 8-R and related schedules) plus supplements and correspondence between the applicant/registrant and the Commission relating to registration. It also includes reports reflecting information developed from various sources outside the agency. A computerized system consisting primarily of information taken from the application is maintained by the Chicago office. The computer memory includes the name, date and place (optional) birth, social security number (optional), fitness, membership and firm affiliation, business address and residence (optional) of each registered floor broker. In addition to the above, computer memory also includes education and experience for each registered associated person. Monthly microfiche records list the names, business address, and membership affiliation of all registered floor brokers and the name and firm affiliation of all individuals engaged as associated persons. These microfiche records, as well as non-confidential portions of the application for registration are considered public records and available to any person for inspection and copying. In addition certain auxiliary records, such as card indexes, are maintained, summarizing information contained in the system regarding each floor broker and associated person.

Authority for maintenance of the system: Section 4(1) and 4k(2) of the Commodity Exchange Act. 7 U.S.C. 6(1) and 6k(2).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine use."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in manual form in file folders and on index cards, computer memory, and in computer printout form.

Retrievability: By the name of the individual. The computer cross-indexes the record to the name of the futures commission merchant, commodity trading advisor or commodity pool operator with whom the individual is associated.

Safeguards: Protection of non-public records is afforded by general office security measures. Records are located in secured rooms or on secured premises with access limited to those whose official duties require access. In appropriate cases the records are maintained in lockable file cabinets.

Retention and disposal: Applications for registration and related documents and correspondence are maintained on the premises for three years. Records are then held in the Federal Record Center for seven years and destroyed. The computer memory maintained permanently on the premises and updated periodically as long as the individual remains registered or associated with a registrant. Printouts are maintained on the premises for six months and destroyed. Microfiche records are maintained on the premises for two months and destroyed.

System manager(s) and address: Regional Director, Commodity Futures Trading Commission, 233 South Wacker Drive, 46th Floor, Chicago, Illinois 60606.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 Telephone (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The individual on whom the file is maintained, his employer, the commodity and stock exchanges, other government agencies and other persons with relevant knowledge about the individual. Correspondence may be prepared by the Commission or the applicant/registrant. The computer record is prepared from the application and supplement and from information developed during the fitness inquiry.

CFTC-23 (Reserved)
CFTC-24 (Reserved)
CFTC-26 (Reserved)
CFTC-27 (Reserved)

CFTC-29

System name: Reparations Complaints—CFTC

System location: these records are located in the Reparations Unit, Division of Enforcement, in the Commission's principal offices at 2033 K Street, NW., Washington, D.C. 20581.

Categories of individuals covered by the system: Individuals filing customer reparations complaints, as well as the firms and individuals named in the complaints.

Categories of records in the system: These files consist of reparations complaints, answers, correspondence, and miscellaneous motions filed with the Reparations Unit.

Authority for maintenance of the system: Section 14 of the Commodity Exchange Act, 7 U.S.C. A18.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used in the conduct of the Commission's reparations program. In addition, these records can be used as set forth in the introduction to these system notices under the caption "General Statement of Routine Uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Reparations files are maintained by number and are cross-indexed by the name of the complainant and respondent.

Safeguards: The information in these files is a matter of public record. The records are maintained in file boxes or cabinets.

Retention and disposal: At the present time records are maintained for an indefinite time period. After a case is forwarded to the Office of Hearings and Appeals, however, the records are included in the Commission's docket files and the Reparations Unit only maintains certain case records such as complaints, answers, and decisions and orders.

System manager(s) and address: Director, Division of Enforcement, Attention: Reparations Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privay Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: Persons filing reparation complaints or answers.

[FR Doc. 78-26405 Filed 9-25-78; 8:45 am]

[6820—33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PRIVACY ACT ISSUANCES

Notice of Incorporation by Reference

Agency: Committee for Purchase from the Blind and Other Severely Handicapped.

Action: Incorporation by reference of Privacy Act issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation" and to publish in full the systems that this agency has amended since publication of the 1977 Compilation.

Dates: This document fulfills the annual notice requirements of the Privacy Act of 1978.

For further information contact:

C. W. Fletcher

(703) 557-1145

Approval of the Director

The notices of systems of records of this agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on July 13, 1978.

1977 Compilation Up-To-date

Information about this agency's systems of records that appears in "Privacy Act Issuances—1977 Compilation" is complete and up-to-date. Since publication of the 1977 Compilation, this agency has made no changes to its systems of records.

Availability of 1977 Compilation

"Privacy Act Issuances—1977 Compilation" is available from regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal information Centers, which are located at 38 central points around the country and may be examined at the central headquarters and all field offices of this agency. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular record system published in the 1977 Compilation for a nominal fee.

Location of Notices in 1977 Compilation

Notices of this agency's systems of records appear in Volume 1 of the 1977 Compilation of page 48075 (42 FR 48075, Sept. 22, 1977). The price of this Volume is six dollars and fifty cents.

Dated: September 1978.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-26406 Filed 9-25-78; 8:45 am]

[7545-01]

3. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

[3640-01]

Approval of the Director

The Director of the Office of the Federal Register granted approval to incorporate these Privacy Act issuances by reference on July

[7545-01]

NATIONAL LABOR RELATIONS BOARD
PRIVACY ACT ISSUANCES
Notice of Incorporation by Reference

Agency: National Labor Relations Board.

Action: Incorporation by reference of Privacy Act issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation."

Dates: This document fulfills the annual notice requirements of the Privacy Act for 1978.

For further information contact:

Maurice O. Brice

202-254-9200

Approval of the Director

The notices of systems of records of this agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on August 2, 1978.

1977 Compilation Up-To-Date

Information about this agency's systems of records that appears in "Privacy Act Issuances—1977 Compilation" is complete and up-to-date with respect to current systems. Since publication of the 1977 Compilation, this agency has published notification of a proposed system of records, Equal Employment Opportunity Program Management System, in the Federal Register Volume 43, No. 168, dated August 29, 1978 (43 FR 38646).

This system will become effective without further notice on October 28, 1978, unless the Board feels that a change is necessary due to comments received on or before that date:

System name: Equal Employment Opportunity Program Management System.

System location: Data Systems Branch, NLRB, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

Categories of individuals covered by the system: Current and former NLRB employees.

Categories of records in the system: This system of records contains information such as employee name, social security number, Minority Group Designator (MGD) Code, employment status, sex, date of birth, payroll block and unit number, pay plan, grade and step, entrance on duty date, date of last promotion, date of last quality step increase, employment class and date of separation.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records or information therefrom, are disclosed:

1. To Agency officials and employees who have a need for the record or information:
   a. In monitoring and evaluating the status and progress of minority/female employment.
   b. To respond to general requests for statistical information (without personal identification of individuals).
   c. As a data source for production of summary descriptive statistics and analytical studies in support of the Agency's EEO program.
   d. In connection with the investigation, processing, adjudication and/or settlement of an EEO complaint or civil action.
2. To the Civil Service Commission or other Federal agencies responsible for oversight and/or enforcement of Federal EEO regulations.
3. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
4. To the appropriate agency, whether Federal, State or local, where there is an indication of a violation, or potential violation of law, whether civil, criminal or regulatory in nature, charged with the responsibility of investigating or prosecuting such violation or enforcing or implementing the statute, rule, regulation, or, order issued pursuant thereto.
5. To officials of labor organizations recognized under Executive Order 11491, as amended, when relevant and necessary to their duties of exclusive representation of NLRB employees under the Order. Whenever feasible and consistent with responsibilities under the Order, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on computer disk file and magnetic tape backup.

Safeguards: All doors to the computer room have combination locks and during duty hours the computer and magnetic tape backup are under surveillance of Agency personnel charged with custody of the records. After duty hours the computer disk file and magnetic tape backup are stored in a fireproof safe behind locked doors. Access is limited to authorized personnel only. All format programs are password protected and use of the machines for information printouts restricted to designated personnel.

Retention and disposal: The information in these records is updated as necessary as changes in the data elements occur. Information on former employees is retained for 3 years following their separation from the Agency.

System manager(s) and address: Director, Equal Employment Opportunity, NLRB, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

Notification procedure: An individual inquiring whether this system contains a record on such individual should direct such inquiry to the System Manager specified above.

Access and contest: An individual seeking to gain access to, or to contest, records in the system pertaining to such individual should contact the System Manager specified above.

Record sources categories: Information in this syustem is obtained from the individual to whom the record pertains, Agency officials and from personnel records.

Retrievability: By social security account number or alphabetically by name.

Availability of 1977 Compilation

"Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be examined at the central headquarters and all field offices of this agency. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Location of Notices in 1977 Compilation

Notices of this agency's systems of records appear in Volume I of the 1977 Compilation at Page 47786 (42 FR 47786). The price of this Volume is six dollars and fifty cents.

Dated, Washington, D.C., September 8, 1978.

By direction of the Board.

George A. Leet,
Associate Executive Secretary.

[FR Doc. 78-26407 Filed 9-25-78; 8:45 am]

[3640-01]

PANAMA CANAL COMPANY—CANAL ZONE GOVERNMENT
PRIVACY ACT ISSUANCES
Notice of Incorporation by Reference

Agencies: Panama Canal Company and Canal Zone Government.

Action: Incorporation of Privacy Act issuances by reference.

Summary: The Privacy Act of 1974, 5 U.S.C. sec. 552a(e)(4), requires Federal agencies to give annual notice in the Federal Register of the character and existence of the systems of records that they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the descriptions of Panama Canal Company/Canal Zone Government systems of records as they appear in that Compilation. This document fulfills the annual notice requirements of the Privacy Act for 1978.

For further information contact:

Mrs. Hazel M. Murdock

Assistant to the Secretary

Panama Canal Company

Room 312, Pennsylvania Building

425 13th Street N.W.

Washington, D.C. 20004

(Telephone: 202 724-0104)

Incorporation by Reference

By the publication of this notice, the Panama Canal Company and the Canal Zone Government are incorporating by reference the descriptions of their systems of records which appear in "Privacy Act Issuances—1977 Compilation."

Approval of the Director

The Director of the Office of the Federal Register granted approval to incorporate these Privacy Act issuances by reference on July 13, 1978.

Location of Notices in 1977 Compilation

The Panama Canal Company and the Canal Zone Government last published the full text of the descriptions of their systems of records in the Federal Register of September 22, 1977 (42 FR 48182-48227). Those descriptions appear in Volume I of "Privacy Act Issuances—1977 Compilation six dollars and fifty cents" at pp. 48182-48227.

1977 Compilation up to Date

The descriptions of these agencies' systems of records that appear in the 1977 Compilation are complete and up to date. Since publication of that Compilation, these agencies have made no changes to their systems of records.

Availability of 1977 Compilation

"Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country, and may be examined at the central headquarters and all field offices of this agency. In addition, Volume I of the Compilation may be examined at the Records Management Branch, Panama Canal Company (Room 14, Administration Building, Balboa Heights, Canal Zone). Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Clarence C. Payne,
Acting Administrative Assistant to the Governor-President.

[FR Doc. 78-26408 Filed 9-25-78; 8:45 am]

[7905-01]

RAILROAD RETIREMENT BOARD
PRIVACY ACT ISSUANCES

of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

1. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular

number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

[7905-01]

RAILROAD RETIREMENT BOARD

PRIVACY ACT ISSUANCES

Notice of Incorporation by Reference

Agency: Railroad Retirement Board.

Action: Incorporation by reference of Privacy Act issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purposes of this document are to: incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation," publish in full three systems of records that this agency has amended since publication of the 1977 Compilation, give notice of a proposed change to one of these three systems and give notice of proposed changes to 10 other systems of records. These systems are also published in full below with proposed changes italicized.

The three systems of records amended since publication of the 1977 Compilation are: Master File of Railroad Employees' Creditable Compensation, Social Security Administration Summary Earnings File and Railroad Retirement, Survivor, and Pensioner Benefit System. The notice of these changes was published in the Federal Register on June 23, 1978 (43 FR 27267-27270). The proposed change to the Railroad Retirement, Survivor, and Pensioner Benefit System is the addition of a routine use which would authorize disclosure of medical records to vocational consultants in administrative proceedings.

An explanation of the proposed changes to the other 10 systems of records follows.

A routine use which authorizes release of records to attorneys is proposed for four systems of records: Unemployment Insurance Record File, Applications for Unemployment Benefits and Placement Service under the Railroad Unemployment Insurance Act, Protest and Appeals under the Railroad Unemployment Insurance Act and Railroad Unemployment and Sickness Insurance Benefit System.

The retention and disposal of certain records in both the Payroll Record System and Health Insurance Supplementary Medical Insurance Enrollment and Premium Payment System are being changed to reflect current procedures.

The period of retention of certain records in the Federal Employee Incentive Awards System is being revised due to a recent procedural change.

The safeguards of records in the Social Security Benefit Vouchering System have been updated to reflect recent changes.

The record system Medicare, Part B (Supplementary Medical Insurance) Payment System—Contracted to The Travelers Insurance Company and Appendix II have been changed to reflect changes due to location and organizational changes in The Travelers' offices.

In addition a number of minor editorial changes were made which do not affect the substance of any system.

Members of the public are invited to send their comments on the proposed changes to the Secretary of the Board, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, no later than October 26, 1978.

Dates: This document fulfills the annual notice requirements of the Privacy Act for 1978.

For further information contact:

Mr. W. V. Radesk
Director of Management Control
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611
Telephone 312-751-4690

Approval of the Director

The notices of systems of records of this agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on July 24, 1978.

Availability of 1977 Compilation

"Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Location of Notices in 1977 Compilation

Notice of this agency's systems of records appear in volume I of the 1977 Compilation, pages 47469-47491. The price of this volume is six dollars and fifty cents.

Dated: September 12, 1978.

R. F. Butler,
Secretary.

System name: Master File of Railroad Employees' Creditable Compensation—RRB.

System location: U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Categories of individuals covered by the system: All individuals with compensation creditable under the Railroad Retirement Act and Railroad Unemployment Insurance Act.

Categories of records in the system: Individual name, social security account number, claim number, date of birth, sex, race, last employer identification number, master file of service, and compensation 1937-current.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)) and Section 12(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(1).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Records may be transferred to the Social Security Administration to correlate disability freeze actions and in cases where the railroad employees do not acquire 120 creditable service months before retirement or death or have no current connection with the railroad industry, to enable SSA to credit the employee with the compensation and to pay or deny benefits.

b. Yearly service months, cumulative service months, yearly creditable compensation and cumulative creditable compensation may be released to the employees directly or through their respective employers.

c. Service months and earnings may be released to employers or former employers for correcting or reconstructing earnings records for railroad employees.

d. Information may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act and/or the Railroad Unemployment Insurance Act.

e. Employee identification and potential entitlement may be furnished to the Social Security Administration, Bureau of Supplemental Security Income, to Federal, State, and local welfare or public aid agencies to assist them in processing application for benefits under their respective programs.

f. Employee identification and other pertinent information may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

g. The last employer information may be disclosed to the Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

h. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

i. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the employee's potential eligibility for unemployment, sickness or retirement benefits may be released to the requesting employer for the purpose of determining entitlement to and the rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due from the employer.

j. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his anticipated benefit may be disclosed to the labor organization official.

k. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act or the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

l. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

m. Information in this system of records may be released to the attorney representing an individual in connection with that individual's claim for benefits under the Railroad Retirement Act or the Railroad Unemployment Insurance Act, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

n. All records may be disclosed to the Social Security Administration for purposes of administration of the Social Security Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape, magnetic disk and paper.

Retrievability: Social security number, claim number and name.

Safeguards: Magnetic tape and magnetic disk: computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix and an audit trail. Paper: bound in hard covers and stored on steel shelving accessible to only authorized personnel.

Retention and disposal: Magnetic tape and magnetic disk: permanent retention; updated annually. Paper: retained five years and destroyed last year ledger put in storage when current year ledger complete.

System manager(s) and address: Director of Data Processing and Accounts, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Railroad employer.

System name: Social Security Administration Summary Earnings File—RRB.

System location: U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Categories of individuals covered by the system: Railroad employees and their auxiliary beneficiaries.

Categories of records in the system: Social security account number, name, date of birth, sex, social security claim status, creditable earnings from 1937 to date.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231(b)(6)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Internal use only.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape and magnetic disk.

Retrievability: Social security account number and name.

Safeguards: Magnetic tape and magnetic disk: computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system; a terminal oriented transaction matrix; and an audit trail.

Retention and disposal: Magnetic tape and magnetic disk: permanent retention; updated annually.

System manager(s) and address: Director of Data Processing and Accounts, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name, social security account number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Social Security Administration.

System name: Railroad Retirement, Survivor, and Pensioner Benefit System—R.R.B.

System location: U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611. Regional and District Offices: See Appendix I for address.

Categories of individuals covered by the system: Applicants for retirement and survivor benefits, their dependents (spouses, children, parents, grandchildren), individuals who filed for lump sum death benefits and/or residual payments.

Categories of records in the system: Information pertaining to the payment or denial of an individual's claim for benefits under the Railroad Retirement Act: name, address, social security number, claim number, proofs of age, marriage, relationship, and military service, creditable earnings and service months (including military service), entitlement to benefits under the Social Security Act. Veterans Administration or other benefit systems, rates, effective dates, medical reports, correspondence and telephone inquiries to and about the beneficiary, record of determination and appeal by beneficiary, suspension and termination dates, health insurance effective date, option, premium rate and deduction, direct deposit data and employer pension information.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Beneficiary identifying information may be disclosed to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

b. In the event the Board has determined to designate a person to be the represenative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Entitlement and benefit rates may be released to primary beneficiaries regarding secondary beneficiaries (or vice versa) when the addition of such beneficiary affects either the entitlement or benefit payment.

d. Identifying information such as full name, address, date of birth, social security number, employee identification number, and date last worked, may be released to any last employer to verify entitlement for benefits under the Railroad Retirement Act.

e. Beneficiary identifying information, address, check rate, number and date may be released to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, to reconcile reports of non-delivery, and to insure delivery of check to the correct address of the beneficiary or representative payee.

f. Beneficiary identifying information, address, check rate, date, number and other supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad retirement or social security benefit checks.

g. Beneficiary identifying information, entitlement data, medical evidence and related evaluatory data, and benefit rate may be released to the Social Security Administration and the Health Care Financing Administration to correlate actions with the administration of Title II and Title XVIII of the Social Security Act, as amended.

h. Beneficiary identifying information, including social security account number, and supplemental annuity amounts may be released to the Internal Revenue Service, State and local taxing authorities for tax purposes (Form G-1099, for those annuitants receiving supplemental annuities).

i. Beneficiary identifying information, entitlement, benefit rates, medical evidence and related evaluatory data and months paid may be released to the Veterans Administration to verify continued entitlement to benefits.

j. Beneficiary identifying information, entitlement data and benefit rates may be released to the Department of State and embassy officials to aid in the development of applications, supporting evidence

and the continued eligibility of beneficiaries and potential beneficiaries living abroad.

k. Beneficiary identifying information, entitlement, benefit rates and months paid may be released to the Social Security Administra-

bb. Beneficiary identifying information, including but not limited to name, address, social security account number, payroll number and occupation, the fact of entitlement and benefit rate may be released to the Pension Benefit Guaranty Corporation to enable that agency

mation regarding the Board's payment of unemployment or sickness benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and rates of

Record source categories: Individual claimant or his authorized representative, employers, State employment and unemployment claims records, Federal, and Social Security Administration employer compensation reports.

V 43/187
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and the continued eligibility of beneficiaries and potential beneficiaries living abroad.

k. Beneficiary identifying information, entitlement, benefit rates and months paid may be released to the Social Security Administration. Bureau of Supplemental Security Income, Health Care Financing Administration, to Federal, State and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

l. The last addresses and employer information may be released to the Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

m. Beneficiary identifying information, entitlement, rate and other pertinent data may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

n. Beneficiary identifying information and medical evidence may be released to State or local agencies required by State or local law to be informed of the existence of a legally reportable medical condition, when discovered in connection with an application for a disability annuity.

o. Medical evidence may be released to Board-appointed medical examiners to carry out their functions.

p. Information obtained in the administration of Title XVIII (Medicare) which may indicate unethical or unprofessional conduct of a physician or practitioner providing services to beneficiaries may be released to Professional Standards Review Organizations and State Licensing Boards.

q. Information necessary to study the relationship between benefits paid by the Railroad Retirement Board and civil service annuities may be released to the Civil Service Commission.

r. Records may be disclosed to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under Title II and Title XVIII of the Social Security Act, as amended, or the Railroad Retirement Act.

s. Records may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act.

t. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

u. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's payment of retirement benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

v. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

w. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act, and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

x. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

y. Information in this system of records may be released to the attorney representing such individual in connection with the individual's claim for benefits under the Railroad Retirement Act, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

z. The amount of a residual lump sum payment and the identity of the payee may be released to the Internal Revenue Service for tax audit purposes.

aa. The amount of any death benefit or annuities accrued but unpaid at death and the identity of such payee may be released to the appropriate state taxing authorities for tax assessment and auditing purposes.

bb. Beneficiary identifying information, including but not limited to name, address, social security account number, payroll number and occupation, the fact of entitlement and benefit rate may be released to the Pension Benefit Guaranty Corporation to enable that agency to determine and pay supplemental pensions to qualified railroad retirees.

cc. Medical records may be disclosed to vocational consultants in administrative proceedings.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, microforms, magnetic tape and magnetic disk.

Retrievability: Claim number, social security number and full name.

Safeguards: Paper and microforms: maintained in areas not accessible to the public, offices are locked during non-business hours. Magnetic tape and magnetic disk: computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix and an audit trail.

Retention and disposal: Paper, individual claim folders with records of all actions pertaining to the payment or denial of claims are shredded 25 years after the date of last payment or denial activity, other paper listings are destroyed one year after date of issue, except for accounts receivable listings which are destroyed only after General Accounting Office audit. Microforms: originals are kept for five years, duplicates are kept for one year and then destroyed by shredding. Magnetic tape: magnetic tape records are used to daily update the disk files and then are retained for 90 days and then written over. Magnetic disk: continually updated and permanently retained.

System manager(s) and address: Director of Retirement Claims, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Notification procedure: Requests for information regarding an individual's records should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any records will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish and authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Individual applicants or their representatives, railroad employers, other employers, physicians, labor organizations, federal, state and local government agencies, attorneys, funeral homes, congressmen, schools, foreign governments.

System name: Unemployment Insurance Record File—RRB

System location: District Offices: See Appendix I for addresses.

Categories of individuals covered by the system: Claimants for unemployment benefits under the Railroad Unemployment Insurance Act and their respective employers.

Categories of records in the system: Developent file containing letters from claimants, report of Railroad Unemployment Insurance Act fraud investigations and supporting evidence, erroneous payment investigations, protest and appeal requests and responses.

Authority for maintenance of the system: Section 12(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(1))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Beneficiary identifying information may be released to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

b. Benefit rate, name and address may be referred to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, reconcile reports of nondelivery, and to insure delivery of check to the correct address of the beneficiary or representative payee.

c. Beneficiary's name, address, check rate, date and number, plus supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad unemployment or sickness benefit checks.

d. Identifying information such as full name, address, date of birth, social security number, employee identification number, and date last worked, may be released to any last employer to verify entitlement for benefits under the Railroad Unemployment Insurance Act.

e. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's payment of unemployment or sickness benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

f. Benefit rates and effective dates may be released to the Social Security Administration, Bureau of Supplemental Security Income, to Federal, State and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

g. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

h. Records may be disclosed to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under the Railroad Unemployment Insurance Act, as amended.

i. The last addresses and employer information may be disclosed to the Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

j. Disclosure may be made to a congressional office from the record of the individual in response to an inquiry from the congressional office made at the request of that individual.

k. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning this benefit or anticipated benefit may be disclosed to the labor organization official.

l. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal bearing in which such records are relevant to the issue.

m. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

n. Non-medical information in this system of records may be released to the attorney representing such individual upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual. Medical information may be released to an attorney when such records are requested for the purpose of contesting a determination either administratively or judicially.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Name, social security number.

Safeguards: Kept in steel file cabinets away from the general public and are available only to district office and regional office personnel.

Retention and disposal: Shredded five years after end of benefit year in which originated.

System manager(s) and address:

Director of Unemployment and Sickness Insurance
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Individual claimant or his authorized representative, employers, State employment and unemployment claims records, Federal, and Social Security Administration employer compensation reports.

System name: Applications for Unemployment Benefits and Placement Service under the Railroad Unemployment Insurance Act—RRB.

System location: District Offices: See Appendix I for addresses.

Categories of individuals covered by the system: Individuals who have made application for unemployment benefits and employment service.

Categories of records in the system: Name, address, account number, age, sex, education, height, weight, veteran status, employer, occupation, rate of pay, reason not working and last date worked, personal interview record, results of investigations.

Authority for maintenance of the system: Section 12(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(1)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Selected information may be disclosed to prospective employers for potential job placement.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Beneficiary identification and entitlement information may be released to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

d. A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring, or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

e. Beneficiary identification, entitlement, and benefit rate information may be released to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, reconcile reports of nondelivery and to insure delivery of check to the correct address of the beneficiary or representative payee.

f. Information may be referred to the U.S. Postal Service for investigation of alleged forgery or theft of railroad unemployment or sickness benefit checks.

g. Beneficiary identification, entitlement, and benefit rate information may be released to the Social Security Administration, Bureau of Supplemental Security Income, to Federal, State, and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

h. The last addresses and employer information may be disclosed to Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

i. Information may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Unemployment Insurance Act.

j. Records may be disclosed to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under the Railroad Unemployment Insurance Act, as amended.

k. Identifying information such as full name, address, date of birth, social security number, employee identification number, and date last worked, may be released to any last employer to verify entitlement for benefits under the Railroad Unemployment Insurance Act.

l. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

m. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's payment of unemployment or sickness benefits, the methods by which such benefits are calculated, entitlement data and present address will be released to the requesting employer for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

n. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his benefit or

anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

o. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

p. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

q. Non-medical information in this system of records may be released to the attorney representing such individual upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual. Medical information may be released to an attorney when such records are requested for the purpose of contesting a determination either administratively or judicially.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Social security number.

Safeguards: Only authorized personnel have access to the records; offices locked during nonbusiness hours.

Retention and disposal: In routine cases, held for three years after end of benefit year in which orginated. In those with adverse activities (claims denied), held for five years after end of benefit year in which originated. At end of both periods, files are shredded.

System manager(s) and address:

Director of Unemployment and Sickness Insurance
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Individual applicant or his authorized representative, present and former employers, State and Federal departments of employment security, Social Security Administration and labor organizations.

System name: Protest and Appeals under the Railroad Unemployment Insurance Act—RRB.

System location: Regional Offices: See Appendix I for addresses.

Categories of individuals covered by the system: Railroad Employees.

Categories of records in the system: Name, address, social security number, employment data, record of investigation on adverse action.

Authority for maintenance of the system: Section 12(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(1))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

b. Identifying information such as full name, address, date of birth, social security number, employee identification number, and date last worked, may be released to any last employer to verify entitlement for benefits under the Railroad Unemployment Insurance Act.

c. Beneficiary identification, entitlement and benefit rates may be released to the Social Security Administration, Bureau of Supplemental Security Income, to Federal, State and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

d. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

e. Pursuant to a request from an employer covered by the Railroad Unemployment Insurance Act, information regarding the Board's payment of unemployment or sickness benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

f. If a request for information pertaining to an individual is made by an official of a labor organization of the individual concerning his benefit or anticipated benefit may be disclosed to the labor organization official.

g. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

h. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

i. Non-medical information in this system of records may be released to the attorney representing such individual upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual. Medical information may be released to an attorney when such records are requested for the purpose of contesting a determination either administratively or judicially.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Name, social security number.

Safeguards: Only authorized personnel have access to these records which are kept in an office that is locked at the close of business each day and remains so until start of business the next day.

Retention and disposal: Destroyed by shredding no later than five years after the end of the fiscal year in which originated.

System manager(s) and address:

Director of Unemployment and Sickness Insurance
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611.

Notification procedure: Requests for information regarding an individual's record should be in writing, addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Employee, employer and district office records.

System name: Railroad Unemployment and Sickness Insurance Benefit System—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611 Regional and District Offices: See Appendix I for addresses.

Categories of individuals covered by the system: Applicants and claimants for unemployment and sickness (including maternity) benefits under the Railroad Unemployment Insurance Act: some railroad employees injured at work who did not apply for Railroad Unemployment Insurance Act benefits; all railroad employees paid separation allowances.

Categories of records in the system: Information pertaining to payment or denial of an individual's claim for benefits under the Railroad Unemployment Insurance Act: name, address, sex, social security number, date of birth, total months of railroad service (including creditable military service), total creditable compensation for base year, last employer and date last worked before applying for benefits, last rate of pay in base year, reason not working, applications and claims filed, benefit payment information for each claim filed, disqualification periods and reasons for disqualification, entitlement to benefits under other laws, benefit recovery information about personal injury claims and pay for time not worked, medical reports, placement data, correspondence and telephone inquiries to and about the claimant, record of protest or appeal by claimant of adverse determinations made on his claims.

Authority for maintenance of the system: Section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 351, et. seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Beneficiary identifying information may be disclosed to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Beneficiary identifying information, address, check rate, date and number may be released to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, respond to reports of non-delivery and to insure delivery of check to the correct address of the beneficiary or representative payee.

d. Beneficiary identifying information, address, check rate, date and number, plus other necessary supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad unemployment/sickness benefit checks.

e. A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

f. Under Section 2(f), the Railroad Retirement Board has the right to recover benefits paid to an employee who later receives remuneration for the same period, therefore, the Railroad Retirement Board may notify the person or company paying the remuneration of the Board's right to recovery and the amount of benefits to be refunded.

g. Under Section 12(o), the Railroad Retirement Board is entitled to reimbursement of sickness benefits paid on account of the infirmity for which damages are paid, consequently, the Railroad Retirement Board may send a notice of lien to the liable party, and, upon request by the liable party, advise the amount of benefits subject to reimbursement.

h. Records may be disclosed to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Unemployment Insurance Act.

i. Beneficiary identifying information, rate and entitlement data may be released to the Social Security Administration to correlate actions with the administration of the Social Security Act.

j. The last addresses and employer information may be released to Department of Health, Education, and Welfare in conjuction with the Parent Locator Service.

k. Benefit rate, entitlement and periods paid may be disclosed to the Social Security Administration, Bureau of Supplemental Security Income to federal, state and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

l. Beneficiary identifying information, entitlement, rate and other pertinent data may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

m. Beneficiary identifying information and medical evidence may be released to State or local agencies required by State or local law to be informed of the existence of a legally reportable medical condition, when discovered in conntection with an application for disability or sickness benefits.

n. Records may be referred to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under the Railroad Unemployment Insurance Act.

o. If a request for information pertaining to an individual is made by an official of a labor organization, of which the individual is a member, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

p. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's payment of unemployment or sickness benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

q. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

r. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

s. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its function, indicates a violation, or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

t. Non-medical information in this system of records may be released to the attorney representing such individual upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual. Medical information may be released to an attorney when such records are requested for the purpose of contesting a determination either administratively or judicially.

u. Beneficiary identifying information, entitlement data, benefit rates and periods paid may be released to the Veterans Administration to verify continued entitlement to benefits.

v. Identifying information such as full name, social security number, employee identification number, date last worked, occupation, and location last worked may be released to any last employer to verify entitlement for benefits under the railroad Unemployment Insurance Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, magnetic tape and microforms.

Retrievability: Social Security number (claim number) and name.

Safeguards: Records are maintained in areas not accessible to the public and are not permitted to be removed from headquarters without authorization.

Retention and disposal: Paper-transferred to the Chicago Federal Records Center one year after the end of the benefit year during which the case was closed. Destroyed by the General Services Administration five years after the end of the benefit year. In appeal cases, retention is permanent. In benefit recovery cases, the file is transfered to the Federal Records Center if there has been no recent activity; the file is not destroyed until five years after recovery has been completed. Magnetic tape-destroyed ten years after the end of the benefit year. Microforms-destroyed ten years after the end of the benefit year.

System manager(s) and address:

Director of Unemployment and Sickness Insurance
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to

furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Employee, employer and district office records.

System name: Railroad Unemployment and Sickness Insurance Benefit System—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611
Chicago, Illinois 60611 Regional and District Offices: See Appendix I for addresses.

Categories of individuals covered by the system: Applicants and claimants for unemployment and sickness (including maternity) benefits under the Railroad Unemployment Insurance Act: some railroad employees injured at work who did not apply for Railroad Unemployment Insurance Act benefits; all railroad employees paid separation allowances.

Categories of records in the system: Information pertaining to payment or denial of an individual's claim for benefits under the Railroad Unemployment Insurance Act: name, address, sex, social security number, date of birth, total months of railroad service (including creditable military service), total creditable compensation for base year, last employer and date last worked before applying for benefits, last rate of pay in base year, reason not working, applications and claims filed, benefit payment information for each claim filed, disqualification periods and reasons for disqualification, entitlement to benefits under other laws, benefit recovery information about personal injury claims and pay for time not worked, medical reports, placement data, correspondence and telephone inquiries to and about the claimant, record of protest or appeal by claimant of adverse determinations made on his claims.

Authority for maintenance of the system: Section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 351, et. seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Beneficiary identifying information may be disclosed to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Beneficiary identifying information, address, check rate, date and number may be released to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, respond to reports of non-delivery and to insure delivery of check to the correct address of the beneficiary or representative payee.

d. Beneficiary identifying information, address, check rate, date and number, plus other necessary supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad unemployment/sickness benefit checks.

e. A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

f. Under Section 2(f), the Railroad Retirement Board has the right to recover benefits paid to an employee who later receives remuneration for the same period, therefore, the Railroad Retirement Board may notify the person or company paying the remuneration of the Board's right to recovery and the amount of benefits to be refunded.

g. Under Section 12(o), the Railroad Retirement Board is entitled to reimbursement of sickness benefits paid on account of the infirmity for which damages are paid, consequently, the Railroad Retirement Board may send a notice of lien to the liable party, and, upon request by the liable party, advise the amount of benefits subject to reimbursement.

h. Records may be disclosed to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Unemployment Insurance Act.

i. Beneficiary identifying information, rate and entitlement data may be released to the Social Security Administration to correlate actions with the administration of the Social Security Act.

j. The last addresses and employer information may be released to Department of Health, Education, and Welfare in conjuction with the Parent Locator Service.

k. Benefit rate, entitlement and periods paid may be disclosed to the Social Security Administration, Bureau of Supplemental Security Income to federal, state and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

l. Beneficiary identifying information, entitlement, rate and other pertinent data may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

m. Beneficiary identifying information and medical evidence may be released to State or local agencies required by State or local law to be informed of the existence of a legally reportable medical condition, when discovered in conntection with an application for disability or sickness benefits.

l. Records may be released to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under Title XVIII of the Social Security Act, as amended.

m. Disclosure may be made to a congressional office from the

844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Railroad Retire-

furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Applicant, claimant or his representative, physicians, employers, unemployment claims agents, labor organizations, Federal, State, and local government agencies, all Railroad Retirement Board files, insurance companies, attorneys, congressmen, liable parties (in personal injury cases), funeral homes and survivors (for payment of death benefits).

System name: Payroll Record System—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Railroad Retirement Board employees.

Categories of records in the system: Time, leave, and payroll information.

Authority for maintenance of the system: Pay Acts as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Salary and tax information may be disclosed to Internal Revenue Service. State and city taxing authorities for tax purposes.

b. Service history including pay, benefits, salary deductions for retirement, and other information necessary may be disclosed to Civil Service Commission for use in computation of civil service annuities and to carry out its Government-wide personnel management functions.

c. Computer check issue tapes may be released to the Department of Treasury for issuance of salary checks.

d. Identification information, check number, data and amount, plus other supporting evidence may be forwarded to the U.S. Postal Service for investigation of alleged forgery or theft of salary checks.

e. The last addresses and employer information may be released to Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

f. Records may be disclosed to the General Accounting Office for auditing purposes.

g. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

h. A copy of the employee's Form W-2, Wage and Tax Statement, or other similar form containing the name, social security number taxable earnings and amounts withheld, may be released to the State, city or other local jurisdiction which is authorized to tax the employee's compensation in accordance with a withholding agreement between the State, city or other local jurisdiction and the Department of the Treasury, or in absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Director of Budget and Fiscal Operations, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, tape and microfilm.

Retrievability: Social security number and name.

Safeguards: Housed in secured building and maintained in areas not accessible to the public; information released only at employee's request or to approved Federal and local authorities.

Retention and disposal: Consolidated pay tapes, first two master tapes, and last two master tapes for each year: Destroy record three years after close of calendar year in which prepared by erasing tape. Security record—current check issue tape. Dispose when National Personnel Records Center receives second subsequent document covering same type of payment. Paper: destroyed after four years. Microfilm: retained until replaced by a new record, usually within one year.

System manager(s) and address:

Director of Budget and Fiscal Operations
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Railroad Retirement Board employees personnel action, time and attendance reports, deduction authorizations.

System name: Health Insurance and Supplementary Medical Insurance Enrollment and Premium Payment System (MEDICARE)—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611 District and Regional Offices—See Appendix I for addresses.

Categories of individuals covered by the system: Qualified Railroad Retirement beneficiaries who are eligible for medicare coverage, attending physicians, chiropractors and physicial therapists.

Categories of records in the system: Claim number, social security number, name, address, type of beneficiary under the Railroad Retirement Act, date of birth, method of Supplementary Medical Insurance premium payment, enrollment status, amount of premium, paid-thru date, third party premium payment information, coverage jurisdiction determination, direct premium billing and premium refund accounting, correspondence from beneficiaries, physicians suspected of overutilization and those suspended from payment by Medicare.

Authority for maintenance of the system: Section 7(d) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(d)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Beneficiary identification, enrollment status and premium deductions information may be released to the Social Security Administration and the Health Care Financing Administration to correlate actions with the administration of Title II and Title XVIII (MEDICARE) of the Social Security Act.

b. Beneficiary identification may be disclosed to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

c. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made from the record of the individual to the representative payee.

d. Data may be disclosed to Department of Health, Education, and Welfare for reimbursement for work done under reimbursement provisions of Title XVIII of the Social Security Act, as amended.

e. Jurisdictional clearance, premium rate, coverage election, paid-thru date, and amounts of payments in arrears may be released to the Social Security Administration and the Health Care Financing Administration to assist that agency in administering Title XVIII of the Social Security Act.

f. Beneficiary identification, premium rate and paid-thru date may be released to effect state buy-in and third party premium payments.

g. Payment data may be disclosed to consultants to determine reasonable charges for hospital insurance payments in Canada.

h. Entitlement data may be disclosed to primary beneficiaries regarding secondary beneficiaries (or vice versa) when the addition of such beneficiary affects entitlement.

i. Records may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act and Social Security Act, as amended.

j. The last addresses information may be disclosed to Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

k. Beneficiary identification, entitlement data and rate information may be referred to the Department of State and embassy officials to aid in the development of applications, supporting evidence and the continued eligibility of beneficiaries and potential beneficiaries living abroad.

l. Records may be released to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under Title XVIII of the Social Security Act, as amended.

m. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

n. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's determination of medicare entitlement, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and rates of supplemental benefits payable under private employer welfare benefit plans.

o. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his entitlement to medicare may be disclosed to the labor organization official.

p. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act, or Social Security Act and may be disclosed during the course of an administrative appeal hearing which such records are relevant to the issue.

q. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arsing by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

r. Information in this system of records may be released to the attorney representing such individual in connection with the individual's claim for benefits under the Railroad Retirement Act and Title XVIII of the Social Security Act, as amended, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, magnetic tape and microfilm.

Retrievability: Claim number, social security number, full name.

Safeguards: Records are maintained in areas not accessible by the public and are not permitted to be removed from headquarters without authorization.

Retention and disposal: Paper: Computer printouts are retained for three months, then shredded; applications materials in individual claim folders with records of all actions pertaining to the payment or denial of claims are shredded 25 years after the date of last payment or denial activity. Magnetic tape: Updated weekly; obsolete tape written over. Microfilm: Retained for 18 months then shredded.

System manager(s) and address:

Director of Retirement Claims
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's records should be in writing addressed to the system Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Applicant (the qualified railroad beneficiary), his/her representative, Social Security Administration. Health care financing Administration, The Travelers Insurance Company, federal, state or local agencies, third party premium payers, all other Railroad Retirement Board files, physicians.

System name: Federal Employee Incentive Awards System—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Railroad Retirement Board employees who have submitted suggestions or have been nominated for awards.

Categories of records in the system: Employee suggestions, special achievement awards, quality increase awards, public service awards, government-sponsored awards.

Authority for maintenance of the system: Chapter 45, Title 5, U.S. Code.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Information may be released to the public media for public relations purposes.

b. Records may be disclosed to the General Accounting Office for auditing purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: System indexed by number assigned when suggestion or nomination is received. Suggestions are cross-referenced by name of suggester and subject of suggestion.

Safeguards: Only authorized staff has access to the files.

Retention and disposal: Denied suggestions are purged and destroyed 5 years after denial date. Adopted suggestions are retained permanently as are all special achievement and quality increase recommendations.

System manager(s) and address:

Chairman, Incentive Awards Committee
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Suggestion or award submitted by suggester or nominator. Suggestions submitted by employees; recommendations for award submitted by supervisory personnel.

System name: Social Security Benefit Vouchering System—RRB.

System location: U.S. Railroad Retirement Board.
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Applicants after December 31, 1974, for benefits under Title II of the Social Security Act who have completed ten years of creditable service in the railroad industry, the spouse or survivor of such an individual.

Categories of records in the system: Name, address, social security number, type and amount of benefit, suspension and termination information.

Authority for maintenance of the system: Section 7(b)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(2))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Benefit rate information may be disclosed to primary beneficiaries regarding secondary beneficiaries (or vice versa) when the addition of such beneficiary affects either the entitlement or benefit payment.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Benefit rates, names and addresses may be released to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, act on reports of non-delivery, and to insure delivery of check to the correct address of the beneficiary or representative payee.

d. Beneficiary's name, address, check rate and date plus supporting evidence may be released to the U.S. Postal Service for investigation

of alleged forgery or theft of railroad retirement or social security benefit checks.

e. Beneficiary's name, effective date, benefit rate and months paid

i. Information in this system of records may be released to the attorney representing an individual in connection with that individ-

South Central
P.O. Box 5493

of alleged forgery or theft of railroad retirement or social security benefit checks.

e. Beneficiary's name, effective date, benefit rate and months paid may be disclosed to the Veterans Administration to verify continued entitlement to benefits.

f. Benefit rates and effective dates may be disclosed to the Social Security Administration, Bureau of Supplemental Security Income, to Federal, State and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

g. Last addresses information may be disclosed to the Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

h. Benefit rates, entitlement and other necessary information may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

i. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's payment of benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and the rates of private, supplemental pension benefits and to calculate estimated benefits due.

j. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

k. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

l. Information may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act.

m. Records may be disclosed to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under Title II of the Social Security Act, as amended.

n. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

o. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

p. Information in this system of records may be released to the attorney representing an individual in connection with that individual's claim for benefits under the Railroad Retirement Act or Title II of the Social Security Act, as amended, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, magnetic tape and microforms.

Retrievability: Social security account number, full name.

Safeguards: Paper and microforms: maintained in areas not accessible to the public, offices are locked during non-business hours. Magnetic tape: computer and computer storage rooms are restricted to authorized personnel.

Retention and disposal: Paper: Individual claim folders with records of all actions pertaining to the payment of claims are shredded 25 years after the date of last payment or denial activity. Other paper listings are destroyed one year after date of issue, except for accounts receivable listings which are destroyed only after General Accounting Office audit. Magnetic tape: Tapes are updated at least monthly, writing over obsolete data. Microforms: Originals are kept for five years; duplicates for one year: destroyed by shredding.

System manager(s) and address:

Director of Retirement Claims
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's records should be in writing addressed to the System Manager identified above, including full name and social security number of the individual. Before any information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notidication section above.

Contesting record procedures: See Notification section above.

Record source categories: Individual applicant or his or her authorized representative, the Social Security Administration, other record systems maintained by the Railroad Retirement Board.s

System name: MEDICARE: Part B (Supplementary Medical Insurance) Payment System—Contracted to The Travelers Insurance Company—RRB.

System location:

Main Office: The Travelers Insurance Company
One Tower Square
Hartford, Connecticut 06115
Regional Offices: See Appendix II for addresses.

Categories of individuals covered by the system: Qualified railroad retirement beneficiaries covered by MEDICARE, Part B, who file claims under the medical insurance program.

Categories of records in the system: Name, health insurance claim number, address, telephone number, description of illness and treatment pertaining to claim, indication of other health insurance or medical assistance pertinent to claim, date(s) and place(s) of physician service, description of medical procedures, services, or supplies furnished, nature of illness(es), medical charges name, address and telephone of physician, Part B entitlement date, Part B deductible status.

Authority for maintenance of the system: Section 7(d) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(d)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

b. Information regarding payments and deductibles may be released to the Social Security Administration for use in administering title XVIII of the Social Security Act, as amended, and to establish, audit, and maintain account and vouchering records.

c. Records may be disclosed in a court proceeding relating to any claims for benefits under Title XVIII of the Social Security Act, as amended and may be disclosed during the course of an appeal hearing.

d. Records may be disclosed to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under Title XVIII of the Social Security Act.

e. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

f. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the status of a qualified railroad retirement beneficiary's enrollment in Medicare and premium payment status may be released to the requesting employer for the purposes of coordinating employee supplemental welfare benefits.

g. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his entitlement and premium status may be disclosed to the labor organization official.

h. In the event that this system of records maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

i. Information in this system of records may be released to the attorney representing an individual in connection with that individual's claim for benefits under the Railroad Retirement Act or Title XVIII of the Social Security Act, as amended, under receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, magnetic tape and microforms.

Retrievability: Health insurance claim number, name.

Safeguards: The Travelers Insurance Company is bound by the contract set forth by the Railroad Retirement Board which contains specific instruction regarding its responsibility in claim information handled and released. It is also bound by the same regulations regarding disclosure and security of information as the Board itself.

Retention and disposal: Each Travelers' office retains material for 27 months. At the end of 27 months the material is sent to the Federal Records Center. After 2 years the Federal Records Center destroys the material.

System manager(s) and address:

Director of Retirement Claims
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Claimant, his authorized representative or his/her survivors, the Social Security Administration, physicians, hospitals.

Appendix II: Railroad Part B Regional Offices
Regions, and States and Territories in Region
Southeastern
P.O. Box 10066
Augusta, GA 30903
Phone (404) 736-4451
Alabama, District of Columbia, Florida, Georgia, Kentucky, Maryland, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virgin Islands, Virginia, and West Virginia

Northeastern
P.O. Box 395
Albany, NY 12201
Phone (518) 459-8900
Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

North Central
2200 East 170th Street
Lansing, IL 60438
Phone (312) 895-0700
Illinois, Indiana, Iowa, Michigan, Minnesota, North Dakota, Ohio, South Dakota, and Wisconsin.

South Central
P.O. Box 5493
Dallas, TX 75222
Phone (214) 272-6560
Arkansas, Colorado, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Texas

Western
P.O. Box 30050
Salt Lake City, UT 84125
Phone (801) 486-3161
Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

System name: Medical Examiner's Index—RRB.

System location: District Offices: See Appendix I for addresses.

Categories of individuals covered by the system: Physicians who have agreed to examine applicants.

Categories of records in the system: Physician's name, address, telephone number, medical field and specialties, special equipment available, fees, names of those examined and dates of examinations.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)) Section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(l)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Name of physician.

Safeguards: Kept in a special, separate file in an area of the office accessible only to district office employees. The office is locked during non-business hours.

Retention and disposal: Maintained indefinitely; cards will be removed and destroyed upon request of the doctor. If the physician's service has proved to be too slow or otherwise unsatisfactory, the record is destroyed by shredding.

System manager(s) and address:

Director of Retirement Clains
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security account number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Physician.

[FR Doc. 78-26409 Filed 9-25-78; 8:45 am]

V 4 3 / 1 8 7 SEP 26 78

V 43/187
SE 26 78
V 4

federal register

TUESDAY, SEPTEMBER 26, 1978
PART III

DEPARTMENT OF LABOR

Office of the Secretary

YOUTH PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Final Rules

[4510-30]

effect of a year round structured work

appropriate labor organizations must

ever, it is intended that prime spon-

can justify a lower amount, and no

viduals who are in families whose

[4510-30]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Youth Programs Under the Comprehensive Employment and Training Act

AGENCY: Department of Labor.

ACTION: Final rules.

SUMMARY: The purpose of this publication is to publish final regulations to implement the Youth Community Conservation and Improvement Projects and the Youth Employment and Training Programs under the Youth Employment and Demonstration Projects Act of 1977 (YEDPA). Although these regulations are not effective until 30 days after publication, prime sponsors should utilize these regulations for planning and implementing the fiscal year 1979 program.

DATE: Effective date: October 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert Taggart, Administrator, Office of Youth Programs, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, 202-376-2646.

SUPPLEMENTARY INFORMATION: The Youth Employment and Demonstration Projects Act (YEDPA) of 1977, Pub. L. 95-93, became effective on August 5, 1977. It amended the Comprehensive Employment and Training Act (CETA) of 1973 by adding several new programs for youth. The purpose of these new programs is to employ and increase the future employability of young persons, to help coordinate and improve existing career development, employment and training programs, and to test different approaches in solving the employment problems of youth. YEDPA contains four distinct programs: (1) The Young Adult Conservation Corps (YACC) which emphasizes the participation of youth in needed conservation work on our Nation's public lands; (2) Youth Incentive Entitlement Pilot Projects (YIEPP), designed to test the effect of a year round structured work experience as an entitlement to encourage school completion; (3) Youth Community Conservation and Improvement Projects (YCCIP) designed to provide jobs and employment experience for youth in community betterment projects; and (4) Youth Employment and Training Programs (YETP) structured to make available to youth a broad range of employment and training services designed locally and adapted to local needs.

Section 702(a) of the Comprehensive Employment and Training Act (CETA) states that the Secretary may prescribe rules and regulations as he deems necessary to carry out the purposes of CETA. Pursuant to this authority, the Department of Labor is setting forth in this document the Federal regulations governing two of the new youth programs, YETP and YCCIP.

Both programs are to be operated by CETA Title I prime sponsors, sponsors of CETA Native American programs, sponsors of CETA migrant and seasonal farmworker programs and such other agencies and/or organizations as designated by the Secretary under his discretionary authority. The regulations in this document do not apply to Native American and migrant YETP and YCCIP programs. These regulations also do not apply to the Secretary's YETP and YCCIP discretionary funds.

For informational purposes, the following summary of requirements emphasizes several major provisions applicable to the implementation and operation of the YETP/YCCIP programs. These statements are in a narrative format to assist the reader in formulating an understanding of these programs.

Requirements Common to YCCIP and YETP Labor Union Participation

Section 353(d) of CETA requires that where an appropriate local labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under the program, that organization shall be afforded a reasonable period of time prior to the submission of the application in which to make comments.

The regulations provide for a 30-day comment period prior to the submission of YETP and YCCIP plans to the regional administrators. During that period, appropriate local labor organizations may make written comments to the eligible applicant. The eligible applicant must consider any such comment before submitting its plan to the Regional Administrator (RA). Additionally, if there are any changes in wage rates or job classifications to jobs in youth plans approved by the RA, appropriate labor organizations must be notified in writing at least 15 days prior to implementing such changes. If the appropriate labor organization disagrees with the proposed changes, the dispute must be resolved in writing prior to implementing such changes.

Requirements Common to YCCIP and YETP Annual Narrative Report

YEDPA as a Youth Employment and Demonstration Act, established a number of new procedures for youth programs as well as numerous demonstration programs to generate information for national as well as local decisionmakers. In March 1978, the Comprehensive Youth Initiatives Report was submitted to Congress reporting on the efficacy of different procedures to deal with the substantial unemployment problems of the Nation's youth.

One source of information about local operations is the prime sponsor's Annual Narrative Report. In the grant application process, prime sponsors shall describe qualitative and quantitative program goals which reflect local community and participant needs.

At the end of the fiscal year and on a date established by the Department of Labor, each prime sponsor shall submit an Annual Narrative Report. This report will include an assessment of the sponsor's performance and accomplishment of YETP and YCCIP.

Requirements for YCCIP Participation of Neighborhood and Community Based Organizations

Legislative history indicates the clear intent of Congress that YCCIP projects be carred out by neighborhood and community based organizations insofar as feasible. The regulations require that eligible applicants establish procedures which assure that potential project applicants, particularly neighborhood and community based organizations, are notified of the application process. Each eligible applicant is further required to establish objective project selection criteria which will be applied first to applications of neighborhood and community based organizations; only after these have been given such primary consideration may applications of other project applicants be considered. Furthermore, if eligible applicants elect to limit the types of activities for which the project applicants will compete, the regulations require that they secure the approval of the youth and planning councils in the selection of these activities.

Eligibility for Participation

Section 332 of CETA requires that any unemployed youth aged 16 to 19, inclusive, is eligible for YCCIP. However, it is intended that prime sponsors target the large majority of resources available to them for projects employing out-of-school youths. In section 354, CETA further requires that appropriate efforts be made to insure that participating youths shall be those who are experiencing severe difficulties in obtaining employment, including those who have demonstrated special needs, as determined by the Secretary. Because statistics show that youth in low-income families, particularly minority youth, have the highest unemployment rates, highest school dropout rates, and the greatest difficulties in entering the labor market, the regulations require that eligible applicants give preference to economically disadvantaged youth, and that they describe in their proposed plans the procedures they will use to assure this preference is given.

Program Funding Estimates

Section 333 of CETA provides for allocation of YCCIP funds among the States based on the relative number of unemployed persons within each State as compared to all States. No provision is made for allocations within States. Program funding estimates rather than allocations are provided to each title I eligible applicant based on the relative share of the unemployed in that eligible applicant's area compared to all unemployed within the State. If an eligible applicant declines to participate in YCCIP or submits insufficient approval project applications, the RA may award its funds to other eligible applicants in the State within 30 days after a notification from the RA.

Supervision at Work Sites

Section 335 of CETA requires that project applicants assure that there are adequate numbers of supervisory personnel on the project. Because well supervised activities are essential both for enhancing work habits and the development of skills, the regulations require that there should be at least the equivalent of 1 full-time supervisor to every 12 youths, unless adequate justification can be provided to support another ratio.

Limitation on Use of Funds

Because section 335 of CETA requires that this program be labor intensive, to the maximum extent feasible, the regulations have established percentage limitations on the use of the funds available. No more than 5 percent of the total funds available to an eligible applicant and program agents, if any, may be used for administrative costs. Of the remaining funds, at least 65 percent must be spent on participant wages and fringe benefits, unless the eligible applicant can justify a lower amount, and no more than 10 percent can be used by project applicants for administrative costs. Project applicants and eligible applicants are further encouraged to secure worksite supervisors, materials, and supplies from other sources, wherever feasible.

Role of Program Agents

Section 336 of CETA permits program agents under title II of CETA to act as program agents under YCCIP. A jurisdiction eligible to be a program agent and electing to assume those functions under YCCIP will be responsible for the approval and disapproval of project applications submitted in its area and for the administration of the projects pursuant to section 204(d) of CETA; however, program agents must share with eligible applicants the funds available for administrative costs.

Requirements for YETP Special Consideration for Community Based Organizations

Section 343(e) of CETA requires that special consideration be given to community based organizations (CBO's) of demonstrated local effectiveness in the delivery of employment and training services to youth. To assure special consideration, the regulations require that eligible applicants (1) actively involve local CBO's in the planning process and describe that role in the grant narrative; (2) provide public notification of the proposed youth plan through appropriate media to all CBO's and through written notification to CBO's of demonstrated local effectiveness in serving youth; (3) maintain documentation relating to the selection of service deliverers; and (4) consult with CBO's prior to directly performing classroom training, on-the-job training or work experience and document the administrative and programmatic benefits of such direct operation.

To further provide special consideration for CBO's the regulations require that, 30 days prior to the submission of youth plans to the RA, eligible applicants must provide to CBO's of demonstrated local effectiveness the full youth plan or a summary of the youth plan which at a miminum identifies the deliverers selected, the services each is to offer and the target group(s) to be served. Eligible applicants are to respond in writing to any substantive comments from CBO's regarding the selection of service deliverers and must include those responses in the plan submitted to the RA.

Eligibility for Participation

Section 345(a) of CETA generally limits participation in YETP to individuals who are in families whose income does not exceed 85 percent of the lower living standard income level determined by the Bureau of Labor Statistics. Although the legislation also permits in some cases the provision of services to youth from families above that income level, the legislation and legislative history clearly indicate that YETP funds should be concentrated on those having severest difficulties in obtaining employment. The regulations, therefore, limit services to youth from families with incomes above the lower living standard income level to: counseling; placement services, occupational, educational, and training information; job referral information through coordinated intake; and programs to overcome employment-related sex stereotyping. In order to further target these programs to those having greatest need, the regulations also require that eligible applicants give preference to economically disadvantaged youth and that they describe in their proposed plans, the procedures they will use to assure that this preference is given.

Section 345(a) of CETA also allows that 10 percent of the funds available for this program may be used for programs which include youth of all economic backgrounds in order to adequately test whether the disadvantaged benefit from participation in nontargeted programs. Programs mixing youths in different economic backgrounds must be an identifiable program component which follows a structured experimental design in which comparison groups and follow-up are used to determine the benefits to the disadvantaged. A report on the results must be submitted at the end of the fiscal year.

Agreements with Local Educational Agencies (LEA's)

Section 343(d) of CETA requires that not less than 22 percent of the funds allocated to each eligible applicant must be used for programs for in-school youth carried out pursuant to agreements between eligible applicants and local educational agencies.

Since it is the purpose of LEA agreements to link eligible applicants and local educational agencies, only those two public entities may be signatories to the agreement. The particular form of the agreement itself has, however, been left flexible. The agreement may be financial or nonfinancial, and local educational agencies are encouraged to use other service deliverers in the area that can effectively provide the types of activities needed to serve the YETP in-school target population.

The regulations further provide for in-school career employment experience which combines ancillary transition services with any in-school work

experience or on-the-job training sup-

contained in this section and the plan-

This term has been retained to empha-

be determined to have left the family unit. This provision has been accepted

§ 94.3 [Amended]

97.710 Special assurances and certifications.

V 43/187 SE 26 78

experience or on-the-job training supported under YETP.

SUMMARY OF CHANGES FROM PROPOSED REGULATIONS

On July 5, 1978, the Department of Labor published in the FEDERAL REGISTER proposed changes to the YETP and YCCIP regulations for the fiscal year 1979. The comment period ended on July 31, 1978; during this period few comments were received, most of which supported the proposed changes. For those proposed changes on which no comments were received, the changes have been incorporated without explanation. For those regulations on which substantive comments were received each comment was reviewed with respect to the feasibility of implementing the change without disrupting the planning efforts currently underway and the particular merits of the suggestion. The changes made in these final regulations reflect the reactions to the comments received. For each of these changes, a short explanatory statement is provided to describe the substantive amendments. A description of these amendments to the July 5 proposed changes follows:

SECTION 97.602 AND 97.702—DEFINITIONS

The definition for the term "appropriate labor organization" found in these sections of the proposed regulations used the phrase "jurisdiction to represent employees." A comment was received from a national labor organization indicating that this phrase is too general. Therefore, the word local has been inserted to limit the term, "appropriate labor organizations" to mean local labor organizations that have jurisdiction to represent employees.

SECTION 97.616—APPLICATION FOR FEDERAL ASSISTANCE

The proposed regulations proposed and extension of the comment period for appropriate labor organizations from 15 to 30 calendar days in which they may submit written comments to the eligible applicant. Several comments were received, some in favor of the extended time period but most disagreeing with the change. However, the 30 day proposed provision is consistent with the time frame allowed for the State A-95 clearance process and does not disrupt the current plan comment period. Therefore, the final regulations contain the provision for a 30 day comment period for appropriate labor organizations.

Several commentors expressed their concern for the late publication of the proposed regulation changes, stressing that much of the fiscal year 1979 planning has occurred. To alleviate the difficulty in complying with the changes contained in this section and the planning provisions of other sections, § 97.616(b)(2) has been amended to include a statement that each RA shall establish a schedule for submission of the grant application which may include a request that a preliminary copy of the grant application be submitted to the regional office for review during the regular public comment period. However, the grant application cannot be approved until 30 days after submission of the plan to the appropriate organizations for comment and review. (This same provision has been included under § 97.711(a) of the YETP regulations.)

SECTION 97.623—ELIGIBILITY FOR PARTICIPATION

In the proposed regulations, a new paragraph (f) was added to this section to limit the enrollment of an individual to a maximum of 12 months in YCCIP. Many comments were received objecting to the limitation. This limitation is mandated by section 331 of CETA. The provision in the proposed regulations is not a new provision, but rather a reemphasis of § 97.611(c)(1) which requires all project applications to describe the expected duration of employment under each project and limits this duration to not more than 12 months.

SECTION 97.628—SUPERVISORY PERSONNEL

Although not a proposed change in the July 5, 1978, regulations, the provision of paragraph (b) of this section regarding the promotional rights of existing employees has been deleted. The provision is incorporated by reference in a new § 97.632, Maintenance of Effort which clarifies that the maintenance of effort provisions common to YETP apply to YCCIP.

SECTION 97.632—MAINTENANCE OF EFFORT

A new section addressing the maintenance of effort provisions applicable to the YCCIP has been added. This section clarifies that the maintenance of effort provisions under § 97.719 for YETP apply to YCCIP.

SECTION 97.705—ELIGIBLE APPLICANT PLANNING PROCESS

The proposed regulations added a new paragraph (e) to this section to provide a fair and open selection process of subgrantees/contractors and to bring the selection process to the attention of community-based organizations. In the proposed regulations, the word "competition" was used in discussing this process. Several commentors requested an explanation of this term, indicating that the language is subject to varying interpretations. This term has been retained to emphasize that prospective applicants should have an adequate opportunity to submit proposals and that prime sponsors should conduct a thorough and meaningful evaluation of such proposals. Paragraph (e)(2) sets forth specific procedures under which the competitive selection process is to be conducted; thus, there is little cause for confusion as to the meaning of "competition" in this context. This language is not intended to impose a requirement that selection of service delivers must be conducted by formal advertising or bidding; instead, it is designed to ensure that the selection process be a fair and open one.

Some commentors expressed concern that a competitive selection process would contravene the requirement at section 343(e) of CETA that special consideration be given to community-based organizations which have demonstrated effectiveness in the delivery of employment and training services. In response to these comments paragraph (e) has been revised to require that special consideration to such organizations shall constitute an element of the selection process.

This change is to ensure that even if the eligible applicant uses highly competitive and formalized selection methods; such as bidding, community-based organizations of demonstrated effectiveness will nontheless receive the special consideration to which they are statutorily entitled. It should also be noted that the YETP regulations contain numerous other provisions affording such organizations an opportunity to participate in the planning and development of YETP programs (see above discussion of "Special Consideration for Community Based Organizations").

Additionally, a clarification has been added to indicate that the provisions of paragraph (e) apply only when the eligible applicant does not administer the program itself and subgrants or contracts with other agencies to deliver services.

SECTION 97.709—NARRATIVE DESCRIPTION: PROGRAM AND PLANNING FORMS: ADDITIONAL DOCUMENTATION

The proposed regulations included a requirement that an occupational summary be included as a part of the sponsor's plan. Although no comments were received on this provision, the provision has been deleted since it is not a required planning form under YETP.

SECTION 97.714—ELIGIBILITY FOR PARTICIPATION

A new paragraph (g) has been added to this section which provides that wards of the court and offenders may be eligible for the program if they can

be determined to have left the family unit. This provision has been accepted as a provision under the SPEDY program and has been included to provide consistent eligibility criteria for wards of the court and youth offenders throughout the youth programs.

SECTION 97.716—ALLOWABLE ACTIVITIES AND SERVICES

Although not a proposed change in the July 5, 1978, regulations, a new paragraph (e) has been added to incorporate the vocational exploration program (VEP) as an allowable program activity under YETP. This paragraph clarifies the existing provision of § 97.717(a)(1)(H) and specifies the conditions governing the operation of VEP activities.

SECTION 97.717—IN-SCHOOL PROGRAM

In the proposed regulations, the time frame for the signing of LEA agreements had been reduced to 45 days. Comments were received stressing that the reduced time frame would make if difficult for eligible applicants and local educational agencies to reach agreement since the proposal was published so late in the planning phase of the program. Therefore, to alleviate this difficulty, the regulations have been finalized with the original 60 day period. Appropriate reference to the 45 day period for LEA agreements throughout the regulations has been changed to 60 days.

SECTION 97.718—PARTICIPANT BENEFITS

A new paragraph (c)(2) has been added to clarify that participants in vocational exploration programs (VEP) shall be paid allowances and to provide consistency with VEP programs under the summer youth program (SPEDY).

Paragraph (e) has been revised to indicate that "earnings" received under YETP shall be disregarded in determining eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted programs. This change has been made so that the language of the regulation will parallel exactly the income disregard language of section 356 of CETA which uses the term "earnings".

SECTION 97.719—MAINTENANCE OF REPORT

Previously, paragraph (b) of this section made reference to § 97.334 of this Part 97. Some commentors indicated that the specific provisions of § 97.334 should be written out in these regulations rather than incorporated by reference. Therefore, this has been done.

Accordingly, Title 29 of the Code of Federal regulations is amended as follows:

§ 94.3 [Amended]

1. In § 94.3, Consolidated table of contents for Parts 94-99; the tables of contents for Part 97, Subparts G and H, are revised to read as follows:

* * * * *

SUBPART G—YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROJECTS

GENERAL

Sec.
97.601 Scope and purpose.
97.602 Definitions.
97.603 Eligible applicants.
97.604 Allocation of funds; program funding estimates.
97.605 Award of funds.
97.606 Reallocation of funds.
97.607 Redistribution of funds.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

97.608 Eligible applicant planning process.
97.609 Pre-application for Federal assistance (Standard Form 424).
97.610 Project planning process.
97.611 Project application content.
97.612 Project application submission.
97.613 Project approval.
97.614 Project prioritization.
97.615 Submission of the proposed plan.
97.616 Application for Federal assistance.
97.617 Narrative description.
97.618 Budget information summary and program planning summary.
97.619 Special assurances and certifications.
97.620 Plan review and approval.
97.621 Modifications.

ADMINISTRATIVE PROVISIONS

97.622 Administrative provisons.

PROGRAM OPERATIONS

97.623 Eligibility for participation.
97.624 Acceptable project activities
97.625 Participant benefits.
97.626 Academic credit.
97.627 Substitution for Title I programs.
97.628 Supervisory personnel.
97.629 Materials, equipment, and supplies.
97.630 Earnings disregard.
97.631 Limitation on use of funds.
97.632 Maintenance of effort.

SUBPART H-YOUTH EMPLOYMENT AND TRAINING PROGRAMS

GENERAL

Sec.
97.701 Scope and purpose
97.702 Definitions.
97.703 Allocation of funds.
97.704 Reallocation procedures.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

97.705 Eligible applicant planning process.
97.706 Content and description of the grant application.
97.707 Approval request letter.
97.708 Application for Federal assistance (Standard Form 424).
97.709 Narrative description; program and planning forms; additional documentation.
97.710 Special assurances and certifications.
97.711 Youth plan, review, and approval.
97.712 Modifying the grant.

ADMINISTRATIVE PROVISIONS

97.713 Administrative provisions.

PROGRAM OPERATIONS

97.714 Eligibility for participation.
97.715 Eligibility for participation (extraordinary).
97.716 Allowable activities and services.
97.717 In-school programs.
97.718 Participant benefits.
97.719 Maintenance of effort.
97.720 Substitution for Title I programs.
97.721 Academic credit.

GOVERNORS YOUTH PROGRAMS

97.722 Governors youth programs.

2. Part 97 is amended by revising the following two subparts.

SUBPART G—YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROJECTS

GENERAL

Sec.
97.601 Scope and purpose.
97.602 Definitions.
97.603 Eligible applicants.
97.604 Allocation of funds; program funding estimates.
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97.607 Redistribution of funds.

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97.619 Special assurance and certifications.
97.620 Plan review and approval.
97.621 Modifications.

ADMINISTRATIVE PROVISIONS

97.622 Administrative provisions.

PROGRAM OPERATIONS

97.623 Eligibility for participation.
97.624 Acceptable project activities.
97.625 Participant benefits.
97.626 Academic credit.
97.627 Substitution for Title I programs.
97.628 Supervisory personnel.
97.629 Materials, equipment, and supplies.
97.630 Earnings disregard.
97.631 Limitation on use of funds.
97.632 Maintenance of effort.

SUBPART H-YOUTH EMPLOYMENT AND TRAINING PROGRAMS

GENERAL

Sec.
97.701 Scope and purpose
97.702 Definitions.
97.703 Allocations of funds.

V 43/187 SE 26 78

97.704 Reallocation procedures.

program places predominant emphasis on the development and provision of

the poverty level which are privately owned and owner occupied, privately

(b) The RA may award to an eligible applicant an amount of funds greater

Preapplication for Federal Assistance. Where the option to require additional

§ 97.611 Project application content.

All project applications must contain

V 43/187 SEP 26 78

97.704 Reallocation procedures.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

97.705 Eligible applicant planning process.
97.706 Content and description of the grant application.
97.707 Approval request letter.
97.708 Application for Federal assistance (Standard Form 424).
97.709 Narrative description; program and planning forms; additional documentation.
97.710 Special assurances and certifications.
97.711 Youth plan, review, and approval.
97.712 Modifying the grant.

ADMINISTRATIVE PROVISIONS

97.713 Administrative provisions.

PROGRAM OPERATIONS

97.714 Eligibility for participation.
97.715 Eligibility for participation (extraordinary).
97.716 Allowable activities and services.
97.717 In-school programs.
97.718 Participant benefits.
97.719 Maintenance of effort.
97.720 Substitution for Title I programs.
97.721 Academic credit.

GOVERNORS YOUTH PROGRAMS

97.722 Governors youth programs.

AUTHORITY: Sec. 702(a), Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93-203, 87 Stat. 839 (29 U.S.C. 801 et seq.); Pub. L. 93-567, 88 Stat. 1845 and Pub. L 94-444, 90 Stat. 1476), unless otherwise noted.

Subpart G—Youth Community Conservation and Improvement Projects

GENERAL

§ 97.601 Scope and purpose.

(a) This subpart contains the Department of Labor's regulations governing the establishment and operation of Youth Community Conservation and Improvement Projects (YCCIP) under Title III, Part C, Subpart 2, of the act. The regulations at Part 98 of this title also apply to the YCCIP program, except to the extent noted in this subpart. The provisions at §§ 97.603 through 97.631 apply to the grants to eligible applicants which are title I prime sponsors.

(b) To the extent the regulations set forth in this subpart conflict with other regulations promulgated under the act in 29 CFR Parts 94 through 99, the requirements contained in this subpart shall apply.

(c) This program seeks to provide youth experiencing severe difficulties in obtaining employment with well supervised work in projects that produce tangible benefits to the community. In order to adequately meet community needs, the participation of neighborhood and community based organizations in the program is stressed. This program places predominant emphasis on the development and provision of jobs. Any training must be directly related to the development of specific skills needed for the job. Participation should result wherever possible in the attainment of academic credit for competencies gained from employment. The Department expects that supervisors will play a strong role in introducing and reinforcing desirable work habits. Program operators shall target activities primarily on economically disadvantaged youth, because these individuals, particularly minorities, have the highest unemployment rates, highest dropout rates and greatest difficulties in obtaining employment. Since it is expected that most participants will be school dropouts or have high dropout potential, projects should be structured so that academic credit may be granted for work experience. Youth are to be encouraged to remain in school or return to school if they are out of school. Any programs developed for in-school youth must be flexible enough to accommodate the scheduling needs of such youth.

(d) The Department of Labor will provide allocations of funds for States rather than to eligible applicants, but will provide eligible applicants with program funding estimates to be used by them for planning purposes. Eligible applicants are expected to submit quality project applications selected through an objective process at the local level. The Department will review these project applications, and will fund only those projects which fulfill the requirements of the program. Under certain conditions, an eligible applicant may be awarded less than its program funding estimate, with the remaining funds awarded for acceptable projects to eligible applicants elsewhere in the State.

§ 97.602 Definitions.

Definitions for abbreviations and major terms used in this subpart are contained in § 94.4 of this title. The following definitions are specific to this subpart:

(a) "Appropriate labor organization" shall mean a local labor organization that has jurisdiction to represent employees in the eligible applicant's area in the same or substantially equivalent jobs as those proposed to be filled or already filled by YCCIP participants.

(b) "Eligible applicant" shall mean any prime sponsor qualified under section 102 of CETA, sponsors of Native American programs qualified under section 302(c)(1) of CETA and sponsors of migrant and seasonal farmworkers programs qualified under section 303 of CETA.

(c) "Low-income housing" shall mean dwellings of individuals whose incomes are at or below 125 percent of the poverty level which are privately owned and owner occupied, privately owned by a nonprofit organization, or units of public housing. For weatherization or winterization projects funded and approved by the Federal Energy Administration or the Community Services Administration, "low-income housing" shall include privately owned rental housing.

(d) "Neighborhood and community-based organizations" shall mean (1) neighborhood groups organized at the local level to operate employment and training programs, and which have demonstrated local effectiveness. Such organizations can be private nonprofit organizations or associations; and (2) community-based organizations as defined in § 97.702(c).

(e) "Program funding estimate" shall mean the level of funds announced by the Department for each eligible applicant which is a prime sponsor qualified under section 102 of CETA for its planning purposes. The estimate is determined by apportioning the State allocation among such eligible applicants for YCCIP, using the unemployment data available for each such eligible applicant area in proportion to the unemployment data for the State.

(f) "Project" shall mean "Community Conservation and Improvement Project" which provides constructive work, which would not otherwise be carried out, conducted by youths, under the guidance of skilled supervisors, which (1) results in tangible outputs or a specific product; (2) benefits participants in terms of work habits, skills, and attainment of academic credit where applicable; and (3) will be completed within a definable period of time not to exceed 12 months.

(g) "YCCIP" shall mean the Youth Community Conservation and Improvements Projects.

§ 97.603 Eligible applicants.

Any eligible applicant may apply for funds for projects in its area.

§ 97.604 Allocation of funds; program funding estimates.

(a) *Allocations.* Allocations shall be provided to the States on the basis of the formula and distribution requirements in section 333 of the Act.

(b) *Program funding estimates.* The Secretary will provide eligible applicants with program funding estimates based on their relative share of the State's unemployed.

§ 97.605 Award of funds.

(a) The RA may award to an eligible applicant an amount of funds equal to the program funding estimate when sufficient approvable project applications are submitted by the eligible applicant.

(b) The RA may award to an eligible applicant an amount of funds greater than the program funding estimate when another eligible applicant within the same State has not submitted to the RA a Preapplication for Federal Assistance or sufficient approvable project applications within the time required.

§ 97.606 Reallocation of funds.

The RA shall reallocate funds from one State to another when the RA determines that an eligible applicant will not be able to use the funds within a reasonable period of time and that no other eligible applicant within the same State will be able to effectively use the funds within a reasonabale period of time. The notice and comment procedure described in § 98.11(d) of this title shall apply to such reallocations, except that the reference in § 98.11(d) to paragraph (c) (concerning reallocation based on need) does not apply.

§ 97.607 Redistribution of funds.

The RA shall redistribute funds, after a grant has been signed, from one eligible applicant to another within the State when:

(a) The RA determines that the eligible applicant will not be able to use the funds within a reasonable period of time. The actions described in § 98.11(d) of this title shall apply, except that the reference in § 98.11(d) to paragraph (c) (concerning reallocation based on need) does not apply; or

(b) The RA determines that the eligible applicant's performance is inadequate or that it has failed to comply with the act or the regulations. The procedures set forth in § 98.11(b) of this title shall apply to such cases.

GRANT PLANNING APPLICATION, AND MODIFICATIONS PROCEDURES

§ 97.608 Eligible applicant planning process.

Every eligible applicant which desires funds shall submit a preapplication pursuant to § 97.609 and a plan pursuant to §§ 97.615 through 97.619. The eligible applicant shall utilize the planning process and planning council as described in § 95.13(b) and (c) of this title and the youth council described in § 97.705(b) of this part in developing its plan.

§ 97.609 Preapplication for Federal Assistance (Standard Form 424).

(a) An eligible applicant interested in applying for funds shall submit a Standard Form 424 to the RA, governor and areawide A-95 clearinghouse by a date set by the RA.

(b) The RA may require that the additional information specified below be submitted at the same time as the Preapplication for Federal Assistance. Where the option to require additional information is exercised, an approval or disapproval decision concerning the adequacy of that information must be provided to the eligible applicant by five (5) working days after the submission date of the Standard 424. Further, the additional information submitted by the eligible applicant will not be required for resubmission in the formal proposed plan. The information that may be required in the preapplication includes a description of methods to be used to:

(1) Solicit applications, in particular, from neighborhood and community-based organizations, and for soliciting comments on the project applications from the planning and youth councils § 97.613(g);

(2) Objectively select and rank project applications § 97.614; and

(3) Insure involvement of appropriate labor organizations.

§ 97.610 Project planning process.

(a) In developing the program specifications, eligible applicants may consider proposals for any allowable activities under YCCIP or may elect to limit the types of activities for which project applicants will compete. In the latter case, the eligible applicant must secure the approval of the planning and youth councils in the selection of these activities. The eligible applicant may limit the types and number of project applications by:

(1) Establishing parameters regarding the size and duration of all projects;

(2) Identifying priority community needs, e.g., environmental, weatherization, and housing rehabilitation projects; and

(3) Identifying specific neighborhoods or geographic areas in which projects may be conducted.

(b) A program agent under title II may elect to be a program agent under this subpart. Program agents under YCCIP shall approve or disapprove projects, administer the program in their areas, and be subject to the limitation of funds provided in § 97.631.

(c) Each eligible applicant shall establish procedures for its own use and the use of any program agent(s) which will assure that potential project applicants (as defined in § 94.4 (ppp) of this title), particularly neighborhood and community-based organizations are notified of the project application process and the cut-off date for acceptance of project applications. The method of notification may be public hearings or public notice in the newspapers, bulletins, or other appropriate media.

§ 97.611 Project application content.

All project applications must contain the following information:

(a) Name of agency or organization applying for project funds, type of agency (community-based organization, local educational agency as defined in § 97.702, etc.) and, if applicable, the program agent to which it was submitted;

(b) *Description of Project.* (1) The need for the project in the area in which it will be conducted and how the project will meet the need;

(2) The types of jobs youth are to perform;

(3) The full-time supervisor to youth ratio, or its equivalent and the reason for selecting the ratio;

(4) The qualifications of the supervisors in terms of necessary skills and experiences, or where these are not yet specifically identified, assurances that supervisors will be adequately trained in the skills needed to carry out the projects and in instructing participating youth and a description of the method for selecting supervisors; and

(5) The beginning and ending dates of the project;

(c) *Participants.* (1) Identification of the number of participants to be enrolled and their expected duration of employment, not to exceed 12 months;

(2) List of target groups to be served; and

(3) Description of the expected benefits to participants, e.g., skills to be obtained, other positive terminations anticipated, academic credits to be earned, etc.;

(d) *Job titles, descriptions and wages.* (1) The principal job titles, job descriptions, and hourly wages to be paid for each. If job restructuring as defined in § 97.702(g) is to occur, a description of the methods of analysis to be used, the expected results, the methods for soliciting consultation of appropriate labor organizations, and the relevant expertise of personnel who performed the restructuring; and

(2) The participation of appropriate labor organizations and other affected organizations with regard to job classifications and wage rates;

(e) *Administration.* A description of the project applicant's organization (including type of organization, purpose of organization), experience in operating employment and training programs and/or providing public services, and a description of the accounting and financial management procedures and/or arrangements; and

(f) *Budget.* Totals for the following line items:

(1) Direct program costs as defined in § 98.12(f)(6)(iii) of this title;

(2) Costs of participant wages and fringe benefits;

(3) Costs of wages and fringe bene-

(7) Where job restructuring will

amount available for projects (see

application cannot be executed until the Fair Labor Standards Act and set

§ 97.621 Modifications.

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(3) Costs of wages and fringe benefits of work-site supervisors;
(4) Costs of job-related training;
(5) Costs of materials, supplies and equipment used by participants on the job; and
(6) Cost of supportive services for participants.

§ 97.612 Project application submission.

The project applicant shall submit applications to the program agent for its area, or to the eligible applicant if there is no program agent for its area.

§ 97.613 Project approval.

(a) Criteria shall be established by the eligible applicant to be used consistently by itself and any program agents for evaluating and approving project applications. These criteria are subject to review and comment by the Youth and Planning Councils.
(b) Each project, in order to be approved, must:
(1) Provide tangible output and measurable benefits which will accrue to the community;
(2) Provide benefits to participants in terms of work habits, skills, and attainment of academic credit where applicable;
(3) Be labor intensive;
(4) Assure an adequate level of supervision, taking into account the complexity of the jobs to be created; and
(5) Describe or assure adequate qualifications for supervisors in terms of necessary skills and experience.
(c) Project applicants must assure that the project will result in an increase in employment opportunities over those which would otherwise be available, and that:
(1) It will not result in the displacement of currently employed workers;
(2) It will not substitute jobs assisted under this subpart for existing federally assisted jobs;
(3) It will not employ any youth when any other person is on layoff by the employer from the same or any substantially equivalent job in the same area;
(4) It will not employ any person to fill a job opening created by laying off or terminating the employment of any regular employee, or otherwise reducing the regular work force, in anticipation of filling vacancies by hiring youth to be supported under YCCIP;
(5) It will not infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service not subsidized under the Act;
(6) It will not permit a job to be filled in other than an entry-level position in each promotional line until applicable personnel procedures and collective bargaining agreements have been complied with; and
(7) Where job restructuring will occur or where new job classifications will be developed, these will not be done in order to negate established personnel procedures, or to displace currently employed workers.
(d) The project approval process shall assure that project applications from neighborhood and community-based organizations of demonstrated local effectiveness in providing employment and training services to youth will be considered before applications from other project applicants are considered. Where it can be documented that the neighborhood or community-based organization does not have the administrative capability to run the project, or its project application does not meet the criteria established by the prime sponsor, then project applications from other than neighborhood and community-based organizations may be considered: *Provided,* The same criteria are used.
(e) Program agents shall review the project applications submitted to them, approve or disapprove them, and submit all project applications to the eligible applicant, indicating their approval of disapproval.
(f) The eligible applicant shall review those project applications received, including those submitted by any program agent(s). When reviewing those submitted by a program agent, the eligible applicant shall give due consideration to project applications approved by the program agent.
(g) After review, the eligible applicant shall submit all project applications to the youth and planning councils for comment and recommendations.
(h) After review of any comments and/or recommendations of the planning and youth councils, the eligible applicant shall approve or disapprove the project applications. The eligible applicant, however, shall not disapprove a project application recommended for approval by the planning council unless it has first considered any comments and recommendations made by the planning and youth councils and unless it has provided the councils with a written statement of its reasons for disapproval (sec. 336(c)(2)).
(i) In cases of disapproval, the eligible applicant shall inform the project application in writing of its disapproval. It must also indicate the reasons for the disapproval.

§ 97.614 Project prioritization.

(a) Each eligible applicant shall rank, in terms of their relative priority, approved project applications.
(1) It shall first rank those projects having highest priority whose total proposed cost does not exceed the amount available for projects (see § 97.631).
(2) It shall then rank those additional approved project applications, if any, for future funding consideration as described in § 97.615 (b)(2).
(b) Eligible applicants shall document the rationale used for ranking the approved project applications.

§ 97.615 Submission of the proposed plan.

(a) Each eligible applicant must submit a proposed plan to the RA by a date established by the RA. The proposed plan shall consist of prioritized project applications as well as the items described in §§ 97.616 through 97.619. The eligible applicant shall also submit any project applications approved by any program agents, but disapproved by the eligible applicant, together with a description of the due consideration which was accorded to them.
(b) Each eligible applicant shall submit two separate lists of project applications prioritized in accordance with the provisions fo § 97.614:
(1) A primary listing of prioritized proposed projects not to exceed 100 percent of the program funding estimate; and
(2) A secondary listing of prioritized proposed projects without dollar or number limitations. This second listing will be considered for future funding in instances where:
(i) Projects submitted within the 100 percent are not acceptable to the RA;
(ii) A project is subsequently found to be non-productive or is withdrawn; or
(iii) Additional funds become available.
(3) Prime sponsors submitting a secondary listing will be given primary consideration for receipt of additional funding.

§ 97.616 Application for Federal Assistance.

(a) Standard Form 424, Application for Federal Assistance, shall be submitted.
(b)(1) Where there is an appropriate labor organization, it shall be given either the complete proposed plan or a summary of the proposed plan which includes a list of all job classifications and wage rates and afforded 30 calendar days to make written comments to the eligible applicant prior to the submission of the proposed plan to the RA.
(2) The comment and publication procedures provided in § 95.15 of this title shall apply to YCCIP; except that, the RA shall establish a schedule for submission of the grant application which may include a request that a preliminary copy of the grant application be submitted to the regional office for review. However, the grant application cannot be executed until 30 days after submission of the plan to appropriate organizations during which time comments can be submitted to the RA and prime sponsor.
(3) Project applicants and other interested parties must be notified through appropriate media that they may review the proposed plan at a designated location.

§ 97.617 Narrative description.

The narrative description shall contain the eligible applicant's overall strategy and design and shall describe the procedures to be used to implement and administer the program including:
(a) Methods used to solicit project applications, in particular those from neighborhood and community-based organizations;
(b) Methods used to approve and prioritize project applications;
(c) The criteria used for approving and prioritizing project applications;
(d) The participation of appropriate labor organizations;
(e) Recruiting methods to be used if different from those described in the Prime Sponsor Agreement (PSA). This description should include coordination with other programs under the Act;
(f) The target groups to be served and procedures used to assure that economically disadvantaged youths receive preference;
(g) Plans for assessing the results of the projects to both the participants and the community; and
(h) A description of the administrative structure including subgrant and contract administration, which will be used if different from that described in the PSA.

§ 97.618 Budget Information Summary and Program Planning Summary.

A Budget Information Summary and Program Planning Summary shall be completed by the eligible applicant and submitted as part of the plan. Eligible applicants shall use the classifications of costs by category which are provided in the grant package instructions.

§ 97.619 Special assurances and certifications.

(a) The proposed plan shall contain the following special assurances:
(1) Compliance with Prime Sponsor Agreement (PSA), including the assurances and certifications in the PSA;
(2) Compliance with the Youth Employment and Demonstration Projects Act of 1977 and the regulations of 29 CFR 97.601-97.631 and will be administered consistent with the Act and 29 CFR Subparts G and H;
(3) Compliance with the Hazardous Occupations Orders issued pursuant to the Fair Labor Standards Act and set forth at 29 CFR 570.50 *et seq.* with respect to the employment of youths under 18 years of age;
(4) Assurance that any person hired to supervise youth, under this subpart, will not impede the promotional rights of existing employees; and
(5) Assurance that local labor organizations who represent employees engaged in work similar to that proposed to be performed under this subpart are notified in writing of all wage rate and job classification changes.

§ 97.620 Plan review and approval.

(a) The RA shall first review the project applications to determine if they meet the requirements of the Act, the regulations of this subpart and other applicable law.
(b)(1) Using the factors and assurances set forth in § 97.613 (b) and (c), the RA shall consider ranked projects and may approve projects up to 100 percent of the amount of the eligible applicant's program funding estimate which is available for projects.
(2) The RA shall disapprove any project application which does not meet the factors and assurances of § 97.613 (b) and (c) and other requirements of the Act, the regulations and other applicable law. RA's will review individual applications for outstanding disagreements between appropriate labor organizations, employers and eligible applicants with respect to jobs that have been restructured. RA's will provide in writing to the eligible applicant an explanation for any prioritized project applications that are rejected.
(c) If there are not sufficient approvable prioritized project applications in the plan to equal the amount of the eligible applicant's program funding estimate which is available for projects, the RA shall allow the eligible applicant 30 days in which to modify the prioritized project applications which were submitted to the RA. If the eligible applicant fails to submit revised project applications or submits revised project applications which are not approvable, the RA shall award the unused funds to another eligible applicant within the State. In States with only one eligible applicant or in States where no other eligible applicant will be able to spend these funds within a reasonable period of time, the RA shall initiate the reallocation procedures set forth in § 97.606.
(d) The approval of the proposed plan will be in accordance with § 95.18 of this title.
(e) The RA shall determine whether or not the eligible applicant gave due consideration to project applications approved by any program agent, but disapproved by the eligible applicant.

§ 97.621 Modifications.

(a) Any modification to the plan will be in accordance with the provisions of § 95.21 of this title, except that in § 95.21(a) the term "project(s)" shall be read for the term "program activities," and references to public service employment shall be disregarded.
(b) Appropriate labor organizations and the RA must be notified in writing of all wage rate and job classification changes under the youth plan at least 15 calendar days prior to implementing such changes. If the appropriate labor organization disagrees with the proposed changes in job classification or wage rates, the dispute must be resolved in writing prior to implementing such changes.

ADMINISTRATIVE PROVISIONS

§ 97.622 Administrative provisions.

(a) Eligible applicants shall comply with the administrative provisions of Part 98 of this title in operating programs pursuant to this subpart, except as stated in §§ 97.629 and 97.631.
(b) Eligible applicants or program agents shall enter into financial agreements with project applicants except as provided in paragraph (d) of this section. With respect to such agreements, program agents are governed by the fund restrictions set forth in § 97.631.
(c) Eligible applicants must share administrative costs as provided under § 97.631(a) with the program agent(s).
(d) The eligible applicant or program agent may enter into a nonfinancial agreement with a project applicant if there is a written agreement between the project applicant and the eligible applicant that clearly identifies the adminstrative and programmatic benefits of such a non-financial agreement.

PROGRAM OPERATIONS

§ 97.623 Eligibility for participation.

(a) In order to participate, an individual must at the time of application and enrollment:
(1) Be 16 through 19 years of age, inclusive; and
(2) Be unemployed, as defined in § 94.4(ggg) of this title.
(3) If at the time of enrollment in any other program under the Act, a 16 through 19 year old youth was unemployed, that individual may be transferred into this program: *Provided:* The individual meets the age eligibility at the time of transfer.
(b) Eligible applicants shall give preference to the economically disadvantaged, as defined in § 94.4(s) of this title.
(c) Appropriate efforts shall be made to serve those youths who have severe

difficulties in obtaining employment,

§ 97.628 Supervisory personnel.

become a part of the construction

the Department in developing future

(ii) Developing new position descrip-

§ 97.704 Reallocation procedures.

(a) Reallocation procedures under

difficulties in obtaining employment, as described in § 97.714(e).

(d) The citizenship and veterans provisions of § 95.32 (d) and (e)(1) of this title shall apply to YCCIP programs.

(e) No youth may enroll in full-time employment opportunities if the eligible applicant determines that there is evidence the youth dropped out of high school in order to participate (sec. 353(f)(2)).

(f) Each participant shall be limited to a maximum enrollment of 12 months with no more than two terminations and reenrollments provided age eligibility is met at the time of each reenrollment. However every effort should be made to transition participants into unsubsidized jobs or other CETA opportunities upon completion of the 12 months enrollment (sec. 331).

§ 97.624 Acceptable project activities.

(a) Each project shall insure that each participant does constructive work in terms of individual and community benefits during the participation in the program. Such employment shall be in projects that may include the rehabilitation or improvement of public facilities (including accessing them for the handicapped by removing architectural barriers); neighborhood improvements; weatherization and basic repairs to low-income housing as defined in § 97.602(c); energy conservation including solar energy projects, especially those utilizing materials and supplies available without cost; and conservation, maintenance, or restoration of natural resources of non-Federal publicly held lands.

(b) Training provided must be directly related to a participant's job.

(c) Where in-school youth are served, they must be in a structured combination work and education program.

§ 97.625 Participant benefits.

(a) Participants shall be paid wages as described in § 97.718(d).

(b) Each participant shall be provided the benefits and working conditions as provided in § 98.24 of this title.

§ 97.626 Academic credit.

Eligible applicants shall make appropriate efforts to encourage educational agencies and postsecondary institutions to award academic credit for the competencies participants gain from their employment.

§ 97.627 Substitution for Title I programs.

Programs funded under YCCIP shall be supplementary to, and shall not replace programs and activities for youth available under title I of the Act (see §§ 95.13(b)(3) and 95.14(b)(3)(ii)(G) of this title).

§ 97.628 Supervisory personnel.

Each project must have an adequate number of skilled supervisors. There must be at least the equivalent of 1 full time supervisor to every 12 youths, unless satisfactory justification for another ratio is provided in the eligible applicant's plan. Supervisors must have the skill needed to carry out the project and must be able to instruct participants in those skills.

§ 97.629 Materials, equipment and supplies.

(a) Funds may be expended subject to the limitation of § 97.631 for the acquisition, lease or rental of supplies, equipment, and materials. The provisions of § 98.12(c) of this title which prohibits the use of funds for the costs of materials which become a part of the construction do not apply.

(b) Eligible applicants are encouraged to make use of resources from Community Services Administration and Federal Energy Administration to supplement YCCIP funds. Eligible applicants should be aware that Federal statutes which provide funds for materials, supplies, etc., often have Davis-Bacon related provisions which may affect wage rate levels in projects involving construction.

§ 97.630 Earnings disregarded.

Earnings received by any youth under this subpart shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted programs.

§ 97.631 Limitation on use of funds.

(a) No more than 5 percent of the total funds may be used by the eligible applicant and program agent(s) for administrative costs including those supportive costs as defined in § 98.12 (f)(6)(ii) of this title and those costs incurred in the establishment and maintenance of the prime sponsor's Planning Councils, in publishing a Comprehensive Manpower Plan, and in monitoring and providing technical assistance to contractors and subgrantees. The remaining funds must be made available for projects.

(b) Of the project funds:

(1) At least 65 percent of the funds must be used for participant wages and fringe benefits, unless adequate justification is provided in the eligible applicant's plan.

(2) No more than 10 percent may be used by project applicants for administrative costs including those direct program costs defined in § 98.12 (f)(6)(iii).

(3) Any remaining funds may be used for training of participants, materials, equipment, supplies, on-site supervisors, and supportive services, etc. Such materials and supplies which become a part of the construction project may be chargeable to a training cost category provided these costs are incurred for participants in either a work environment or classroom training.

§ 97.632 Maintenance of effort.

The provisions of § 97.719 shall apply to YCCIP programs

Subpart H—Youth Employment and Training Programs

General

§ 97.701 Scope and purpose.

(a) This subpart contains the regulations for the Youth Employment and Training Programs (YETP) which are authorized by Title III, Part C, Subpart 3 of the Act. These regulations also implement, with respect to YETP, the administrative provisions found in sections 341 through 347 of the Act. The regulations at part 98 of this title also apply to YETP programs except as indicated in this subpart. The regulations at sections 703 through 721 of this subpart apply only to eligible applicants which are title I prime sponsors. To the extent the regulations set forth in this subpart conflict with other regulations issued under the Act in 29 CFR, Parts 94 through 99, the regulations contained in this subpart shall prevail (sec. 357).

(b) It is the purpose of this program to enhance the job prospects and career opportunities of young persons to enable them to secure unsubsidized employment in the public and private sectors of the economy. It is not the purpose of this program to provide make-work activities but rather to provide youth, especially economically disadvantaged youth with opportunities to learn and earn, which will lead to meaningful employment opportunities after they have completed the program. In addition, this program explores methods of dealing with the structural unemployment problems of youth and the immediate difficulties of youth in need of and unable to find jobs (sec. 341).

(c) In order to achieve the highest quality of program services, coordination with existing services for youth is essential. These services include: Activities funded under the other parts of CETA; employment and educational services provided by local educational agencies, and post-secondary institutions; services offered by State Employment Security Agencies; programs funded through other sources such as community-based organizations; and employment and educational activities of business, labor, and nonprofit institutions in the community.

(d) Information gained from the operation of YETP will be considered by

the Department in developing future legislative and program designs.

§ 97.702 Definitions.

Definitions of abbreviations and major terms used in this subpart are contained in § 94.4 of this title. Special definitions applicable to terms found in this subpart are as follows:

(a) "Appropriate labor organization" shall mean a local labor organization that has jurisdiction to represent employees in the eligible applicant's area in the same or substantially equivalent jobs as those proposed to be filled or already filled by YETP participants.

(b) "Career employment experinece" shall mean a program activity for in-school youth which is a combination of both well supervised employment (work experience or on-the-job training) supported under YETP and certain transition services including, at a minimum, career information, counseling and guidance.

(c) "Community based organization (CBO)" shall mean a private nonprofit organization which is representative of a community or of particular segments of a community and which can provide employment and training services. Such organizations may include but are not limited to Opportunities Industrialization Centers, the National Urban League, SER-jobs for Progress, Mainstream, Community Action Agencies, union-related organizations, employer-related nonprofit organizations, neighborhood organizations, private nonprofit youth serving agencies concerned with youth employment and other similar organizations.

(d) "Eligible applicant"shall mean any prime sponsor qualified under section 102 of CETA, sponsors of Native American programs qualified under section 302(c)(1) of CETA and sponsors of migrants and seasonal farmworkers programs qualified under section 303 of CETA.

(e) "In-school program" shall mean a program which provides either or both career employment experience and transition services to in-school youth.

(f) "In-school youth" shall mean a youth who: (1) Is currently enrolled full-time in and attending a secondary, trade, technical, vocational school or community college, or is scheduled to attend full time the next regularly scheduled quarter or semester of any of these schools; or (2) has not completed high school and is scheduled to attend in a school program leading into a secondary school diploma or its equivalent (sec. 343(d)).

(g)(1) "Job restructuring" shall mean the procedure which includes:

(i) Identifying the separate tasks that comprise a job or group of jobs;

(ii) Developing new position descriptions which retain some of the tasks of the original job; and

(iii) Developing a career ladder which builds upward from the new positions containing the lesser skilled tasks to regular jobs.

(2) A restructured job shall be clearly different from the original one in terms of skills, knowledges, abilities, and experience needed to perform the work (sec. 342(a)(3)(L)).

(h) "Local education agency (LEA)" shall mean a public board of education or other public authority legally constituted within a State for either administrative control over, direction of, or service to public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or a combination of such school districts or counties which are recognized in a State as an administrative agency for their public elementary or secondary schools (sec. 343 (d)).

(i) "Of this title" shall mean "of Title 29 of the Code of Federal Regulations."

(j) "Transition services" shall mean services and activities which are designed to assist youth to make the transition from school to unsubsidized jobs. These services are set forth in § 97.717(a)(1).

(k) "YETP" shall mean the Youth Employment and Training Programs.

§ 97.703 Allocation of funds.

(a) *General.* The Secretary shall publish formula allocations to eligible applicants in the FEDERAL REGISTER.

(b) *Formula allocated funds (sec. 343).* (1) The Secretary shall allocate 75 percent of the funds available to YETP to eligible applicants which are prime sponsors under section 102 of CETA.

(2) Of the funds available to YETP, the Secretary shall allocate an amount equal to 5 percent of the funds available under Title III, Part C of the Act, to Governors for programs as specified in § 97.722.

(3) The Secretary shall allocate funds to eligible applicants and Governors using the formula set out in section 343(b) of the Act.

(c) *Additional allocations.* The Secretary shall allocate funds to Indian, Native American, and migrant and seasonal farmworker eligible applicants as provided in section 343 of the Act.

(d) *Secretary's discretionary funds.* The Secretary shall use all remaining funds for programs designed to identify and test approaches for dealing with the unemployment problems of youth (secs. 343, 348).

§ 97.704 Reallocation procedures.

(a) Reallocation procedures under YETP will apply only after a grant is signed.

(b) The RA shall reallocate funds awarded to an eligible applicant if the RA determines that the eligible applicant will not be able to use the funds within a reasonable period of time as determined by the RA (sec. 354(b)).

(c) The procedures described in § 98.11(d) of this title shall apply to reallocations except that the reference in § 98.11(d) to paragraph (c) (concerning reallocation based on need) does not apply.

(d) The RA may also reallocate funds based on nonperformance. The procedures set forth in § 98.11(b) of this title shall apply to the reallocation of funds based on nonperformance.

(e) If all proposed LEA agreements or certifications to existing agreements under a grant are not signed by the eligible applicant and the LEA(s) within 60 days after the initial submission of the YETP plan to the RA for review and approval, the RA shall initiate reallocation procedures for that portion of the 22 percent of the eligible applicant's funds which were required to be covered under LEA agreements. The procedures set forth in § 98.11(d) apply to such reallocations, except that, the reference in § 98.11(d) to paragraph (c) (concerning reallocation based on need) does not apply.

Grant Planning, Application, and Modification Procedures

§ 97.705 Eligible applicant planning process.

(a) *Youth plan.* Every eligible applicant which desires funds shall submit a youth plan containing the items listed in §§ 97.706 through 97.710. In developing its youth plan, the eligible applicant shall:

(1) Take into account the eligible applicant's Title I and summer program plans;

(2) Utilize the planning process and planning council, as described in § 95.13 (b) and (c) of this title, and the youth council described in paragraph (b) of this section;

(3) Afford an opportunity to community based organizations of demonstrated local effectiveness in providing employment and training activities for youth to participate in the development of the youth plan as required by paragraph (c) of this section; and

(4) Afford an opportunity to appropriate labor organizations to participate in the development of the youth plan as required by paragraph (d) of this section.

(b) *Youth council.* Each eligible applicant shall establish a youth council, (sec. 346).

(1) In consultation with the plan-

youth. Special consideration shall con-

(4) Written notification to all appli-

have participated in the planning and have been given special consideration

ments of this subpart and that its documentation is adequate and sufficient.

(e) Programs funded under this subpart shall give preference to economi-

(1) In consultation with the planning council, the eligible applicant shall make appointments to a youth council which include individuals who are representative of the local educational agencies, the local vocational advisory council, post-secondary education institutions, business, unions, the State employment security agency, local government and nongovernment agencies which are involved in serving youth, the local community, and the eligible applicant. In addition, youth council members shall include youths who are participants in, or eligible for YETP.

(2) The youth council may be either an entirely separate council or a subcommittee or subcouncil to the planning council, or eligible applicants may use existing youth councils created with respect to other programs under this Act if these councils meet the requirements set forth in this section. In all cases, the youth council must report to the planning council.

(3) The youth council shall advise the sponsor in setting basic goals, policies and procedures for its YEDPA subpart 3 program, make recommendations regarding program plans, and provide for continuing analyses of needs for employment, training and related services. The youth council will also monitor all YETP programs and evaluate youth programs in the prime sponsor area for the purpose of improving the utilization and coordination of the delivery of such services. The council shall make recommendations based upon its analyses to the planning council.

(4) The youth council shall at a minimum make recommendations to the planning council with respect to the planning and review of all program activities under Title III, Part C, of the Act, and shall review the proposed agreements with local educational agencies under YETP.

(5) No member of the youth council shall cast a vote on any matter under deliberation by the youth council which has a direct bearing on services to be provided by that member (or any organization with which that member is associated).

(c) *Community-based organizations (CBO's).* (1) Each eligible applicant shall involve CBO's in the planning process as follows:

(i) CBO's of demonstrated local effectiveness in the delivery of employment and training services to youth shall actively participate in the planning process; and

(ii) Public notification of the proposed youth plan will be provided to CBO's through appropriate media.

(2) Special consideration shall be given to CBO's of local demonstrated effectiveness in the delivery of employment and training services to youth. Special consideration shall consist of the following:

(i) Thirty (30) days prior to submission of the proposed youth plan to the RA either the complete youth plan or a summary of the proposed youth plan will be submitted to such CBO's. If a summary is submitted, it shall include at a minimum:

(A) Information on the emphases of the program; and

(B) Proposed service deliverers and the services to be provided by each; and

(ii) Any comments received must be considered prior to the submission of the youth plan to the RA and written responses will be made to any substantive comments from such CBO's regarding selection of service deliverers and these comments and responses will be included when the youth plan is transmitted to the RA.

(3) Each eligible applicant shall maintain documentation relating to selection of service deliverers for a minimum of 1 year.

(4) An eligible applicant may directly perform classroom training, on-the-job training or work experience as described in § 95.33(d)(1), (2), or (4) of this title, only if, after consultation with CBO's, the eligible applicant determines that direct operation of the program will promote the purposes of this subpart (sec. 342(b)). The eligible applicant shall document the administrative and programmatic benefits of such direct operation.

(d) *Appropriate labor organizations.* Each eligible applicant shall afford appropriate labor organizations an opportunity to participate in the development of its youth plan by giving them an opportunity to comment on either the full youth plan or a summary of the youth plan which includes at least any proposed job classifications and wage rates. The plan or summary shall be sent to the appropriate labor organizations at least 30 days prior to the submission of the youth plan to the RA, and any comments received must be considered prior to the submission of the youth plan to the RA.

(e) *Selection of service deliveries.* Except for in-school programs funded under the 22 percent LEA agreements and when the eligible applicant chooses not to deliver program activities, the selection of service deliverers for program activities shall consist of the following elements:

(1) A fair and open selection process;

(2) Announcement using appropriate media methods to bring the competition to the attention of community based and other eligible profit and nonprofit organizations;

(3) Use of published criteria to evaluate applications;

(4) Written notification to all applicants of subsequent funding or written explanation of the reasons for disapproval of funding; and

(5) Special consideration to community-based organizations of demonstrated effectiveness in the delivery of employment and training services.

§ 97.706 Content and description of the grant application.

In order to receive funds, each eligible applicant shall submit a youth plan which, when approved, together with the Prime Sponsor Agreement (PSA), shall become the grant. Additions to, or variations from the PSA, if any, shall be included in the youth plan. The youth plan shall also include the documents described in §§ 97.707 through 97.710

§ 97.707 Approval request letter.

Each eligible applicant shall submit an Approval Request Letter to the RA, by a date set by the RA.

§ 97.708 Application for Federal Assistance (Standard Form 424).

The Application for Federal Assistance shall identify the amount of funds requested and provide information on the number of people expected to be served.

§ 97.709 Narrative Description; program and planning forms; additional documentation.

(a) The narrative shall contain descriptions of:

(1) Objectives of the program;

(2) Local priorities;

(3) Implementation planning;

(4) Program activities and services;

(5) Management and administration;

(6) Results and benefits expected from the program;

(7) Program Planning Summary; and

(8) Budget Information Summary.

(b) The youth plan shall also include documentation which shows that:

(1) The planned expenditures for program activities will further the purpose of the program by:

(i) Developing long-term and coordinated solutions to the employment problems of youth, especially the economically disadvantaged;

(ii) Enhancing job prospects and career opportunities for youth; and

(iii) Enabling participants to secure appropriate unsubsidized employment (sec. 341);

(2) The identified performance goals in the youth plan are reasonable and can be achieved;

(3) A youth council has been established and the youth council has participated in the planning and review process for the youth plan;

(4) CBO's of demonstrated local effectiveness in the delivery of employment and training services to youth have participated in the planning and have been given special consideration as set forth in § 97.705(c);

(5) Appropriate labor organizations have participated in the development of the youth plan as required by § 97.705(d);

(6) There is a description of the procedures to be used to notify the appropriate labor organizations and the RA of any changes to job classifications of wage rates;

(7) The eligible applicant has a proposed in-school program to be operated pursuant to § 97.717;

(8) With respect to youth plans from Governors, there is adequate justification for each proposed activity as defined in § 97.722; and

(9) The eligible applicant has coordinated with local SESA offices to the maximum extent feasible.

§ 97.710 Special assurances and certifications

(a) The youth plan shall contain the following special assurances:

(1) Compliance with the Prime Sponsor Agreement;

(2) Compliance with the Youth Employment and Demonstration Projects Act of 1977 (YEDPA), other applicable CETA provisions, and the regulations in this subpart;

(3) Compliance with the Hazardous Occupations Orders issued pursuant to the Fair Labor Standards Act and set forth at 29 CFR 570.50 et seq. with respect to the employment of youths under 18 years of age and the Child Labor Standards of 29 CFR 570.31 et seq. with respect to the employment of youths aged 14 and 15; and

(4) Assurance that local labor organizations who represent employees engaged in work similar to that proposed to be performed under this subpart are notified in writing of all wage rate and job classification changes.

§ 97.711 Youth Plan, review and approval.

(a) *Comments and publication procedures.* The procedures of § 95.15 of this title shall apply to YETP, except that, the RA shall establish a schedule for submission of the grant application which may include a request that a preliminary copy of the grant application be submitted to the regional office for review. However, the grant application cannot be executed until 30 days after submission of the plan to the appropriate organizations during which time comments can be submitted to the RA and prime sponsor.

(b) *Standards for reviewing the youth plan.* The provisions of § 95.17(a), (b)(1), (2), (3), (4), (6), (8), (9), (10), and (11) shall be followed by the RA in reviewing the youth plan. The RA shall also determine whether the youth plan meets the requirements of this subpart and that its documentation is adequate and sufficient.

(c) *Awarding the grant.* The procedures specified in §§ 95.18, 95.19, and 95.20 of this title shall apply to the awarding of grants under YETP.

§ 97.712 Modifications.

(a) The procedures specified in § 95.21 of this title shall apply to the modifying of a YETP youth plan.

(b)(1) Appropriate labor organizations and the RA must be notified in writing of all wage rate and job classification changes under the youth plan at least 15 calendar days prior to implementing such changes.

(2) If the appropriate labor organization disagrees with the proposed changes in job classifications or wage rates, the dispute must be resolved in writing prior to implementing such changes.

ADMINISTRATIVE PROVISIONS

§ 97.713 Adminstrative provisions.

The administrative provisions of Part 98 (Grant Administration) of this title shall be applicable to the operation of programs under this subpart, except as otherwise indicated in this subpart.

PROGRAM OPERATIONS

§ 97.714 Eligibility for participation.

(a) an eligible applicant shall assure that every individual participating in the program meets the following criteria at the time of application and enrollment, except as provided in § 97.715 (sec. 345):

(1) Unemployed as defined in § 94.4 (ggg) or underemployed as defined in § 94.4 (fff) of this title, or in-school as defined in § 97,702(f);

(2) 16 through 21 years of age; and

(3) A member of a family with a total family income at or below 85 percent of the lower living standard income level, as defined in § 94.4 (nnn) of this title.

(b) An eligible applicant shall assure that for the purpose of participating in in-school career employment experience, the youth needs such participation in order to continue his or her education (sec. 346(c)).

(c) An eligible applicant shall assure that if, at the time of enrollment into any other program under the Act, an individual met the eligibility requirements of paragraph (a) of this section, and is still age eligible, that individual is eligible to transfer from that other program into YETP, and into YETP career employment experience if the individual also meets the requirements of paragraph (b) of this section.

(d) An eligible applicant shall assure that the citizenship and veterans provisions of § 95.32(d) and (e)(1) of this title also apply to YETP.

(e) Programs funded under this subpart shall give preference to economically disadvantaged youth. Appropriate efforts shall be made to give service to those youth who have severe handicaps in obtaining employment, including but not limited to those who lack credentials, those who require substantial basic and remedial skill development, those who are women and minorities, those who are veterans of military service, those who are offenders, those who are handicapped, those with dependents, or those who have otherwise demonstrated special needs as determined by the Secretary (sec. 354(a)).

(f) No youth may enroll in full-time employment opportunities if the eligible applicant determines that there is evidence the youth dropped out of high school in order to participate (sec. 353(f)(2)).

(g) Wards of the court and offenders 14 through 21 years of age determined to have left the family unit or who otherwise do not have access to the benefits that family income would normally be expected to provide shall be treated as a family of one and only income generated by themselves shall be used in determining income status; such a determination shall be based on the certification by an assigned probation officer, or other responsible court official that the youth has lived at home 50 percent or less of the time in the last 6 months.

§ 97.715 Eligibility for participation (extraordinary).

(a) Individuals otherwise eligible under § 97.714, who are in school, and who are 14 or 15 years old may participate in programs under YETP when the youth plan specifies a youth development strategy which provides broad career exposure for these youths (sec. 345(a)(1)(B)).

(b) Youths need not meet the income criteria described in § 97.714(a)(3), if they participate in a special component, as described in § 97.716(d) (sec. 345(a)(2)).

(c) Youths, who do not meet the income criteria defined in § 97.714(a)(3), and who are not in a special component described in § 97.716(d), may be offered services but these services are limited to:

(1) Counseling, including occupational information;

(2) Occupational, education, and training information;

(3) Placement services;

(4) Job referral information through coordinated intake systems; and/or

(5) Assistance in overcoming employment related sex-stereotyping in job development, placement, counseling and guidance.

§ 97.716 Allowable activities and services.

which are the subject of a labor dispute involving a work stoppage.

(K) Child care and other necessary supportive services;

supplant State and local funds expended for the same purpose; and

an agreement is not reached within 60 days, the RA shall initiate the reallo-

the restructuring. If, after agreeing to the restructured job, the labor organi-

§ 97.716 Allowable activities and services.

(a) Programs may include any type of employment and training activity authorized under Title I of the Act, except public service employment.

(b) *Job description.* A written job description shall be developed and maintained for all work experience and on the job training positions funded under this subpart to provide a basis for determining their comparability to existing jobs of other individuals similarly employed.

(c) *Child labor.* The child labor standards specified in 29 CFR 570.31 et seq. or appropriate State standards, whichever are stricter, shall apply to the employment of 14 or 15 year olds under YETP. The Hazardous Occupations Orders issued pursuant to the Fair Labor Standards Act and set forth at 29 CFR 570.50 et seq. shall apply to the employment of 16 and 17 year olds under YETP.

(d) *Special component.* An eligible applicant may design a special component using up to 10 percent of its YETP funds to serve a mixture of youth from families above and below the income level specified in § 97.714(a)(3) in order to test the desirability of serving such a mix of youth. This special component shall:

(1) Have and follow a structured experimental design;

(2) Establish and use comparison groups;

(3) Provide for followup on participants; and

(4) Provide for an end of the year report on the experimental outcomes.

(e) *Vocational exploration.* An eligible applicant may conduct a vocational exploration program for the purpose of exposing youth to the operation and types of jobs available in the private sector through observation of such jobs and instruction including, where appropriate, limited practical experience.

(1) The following provisions shall apply to all locally funded vocational exploration programs.

(i) All contracts, subgrants, or written agreements between sponsors and other parties for the operation of such programs shall at a minimum assure that:

(A) Participants in a vocational exploration program using YETP funds shall receive allowances in accordance with the provisions of § 97.718(c)(2). Wages shall not be paid to participants;

(B) Other benefits shall be paid in accordance with § 98.24(a)(2) of this title;

(C) The program has received the approval of any labor organization representing employees in the affected collective bargaining units;

(D) Youth will not be assigned to vocational exploration opportunities which are the subject of a labor dispute involving a work stoppage.

(E) A detailed curriculum has been developed; and

(F) The program shall not displace currently employed workers or prevent the hiring of new workers.

(ii) Organizations which have a contract, subgrant or written agreement with a prime sponsor may be reimbursed only for the costs incurred in the conduct of the program, provided that payments to employers organized for profit are only made for the costs of training which are over and above those normally provided by the employer.

(2) Whenever opportunities are located with a private-for-profit organization, the prime sponsor shall assure, in addition to items listed in paragraph (e)(1)(i) of this section, that youth will not be involved in work experience or any other activity that contributes, or could be expected to contribute, to additional sales or profit for the private-for-profit organization or otherwise result in the subsidization of wages for the organization.

(3) Where a nationally funded vocational exploration program operates in a prime sponsor's area, the prime sponsor shall enter into an agreement with the local representative of the program which shall include provisions dealing with arrangements for recruitment, selection, referral and certification of the youth entering the nationally funded program.

§ 97.717 In-school programs.

(a) *Activities and services.* The in-school programs shall be designed to provide for either or both of the following two classifications of services (sec. 342):

(1) *Transition services.* (i) These transition services shall be designed to prepared and assist youth to move from school to unsubsidized jobs in the labor market.

(ii) These services may include, but are not limited to:

(A) Outreach, assessment, and orientation;

(B) Counseling, including occupational information and career counseling;

(C) Activities promoting education to work transition;

(D) Provision of labor market information;

(E) Services to youth to help them obtain and retain employment;

(F) Literacy training and bilingual training;

(G) Attainment of certificates of high school equivalency;

(H) Job sampling, including vocational exploration in the public and private sector;

(I) Institutional skills training;

(J) Transportation assistance;

(K) Child care and other necessary supportive services;

(L) Job restructuring to make jobs more responsive to the objectives of this subpart, including assistance to employers in developing job ladders of new job opportunities for youth, in order to improve work relationships between employers and youth;

(M) Provision of information regarding employment and training related opportunities;

(N) Job development, direct placement, and placement assistance to secure unsubsidized employment opportunities for youth to the maximum extent feasible, and referral to employability development programs;

(O) Assistance in overcoming sexsterotyping in job development, placement, and counseling; and

(P) Outreach and other services to increase the labor force participation rate among minorities and women.

(2) *Career employment experience.* This activity is a combination of both well supervised employment (work experience or on-the-job training) and certain transition services including, at a minimum, career information, counseling, and guidance. Any work experience or on-the-job training must include those minimum ancillary transition services. Where work experience or on-the-job training is supported under the 22 percent or more of funds serving in-school youth under agreements with local educational agencies, the ancillary transition services must also include placement services.

(b) *Agreements with local educational agencies.* (1) Eligible applicants shall use at least 22 percent of their total funds to serve in-school youth in programs designed to enhance their career opportunities and job prospects (sec. 343 (d)(1)) pursuant to written agreements between them and local educational agencies (LEA's). The programs shall be operated in accordance with the provisions of sections 343 (d)(2) and 346(c) of the Act.

(2) Agreements may be between the eligible applicant and one or more local educational agencies or a combination of LEA's represented by one LEA, (sec. 702(a)).

(3) Each agreement may be either a financial or nonfinancial agreement and, whichever is determined most appropriate by the eligible applicant and the LEA(s), shall:

(i) Provide a description of the activities and services to be provided to eligible participants;

(ii) Detail the responsibility of each party to the agreement for providing the activities and services which have been selected;

(iii) Contain provisions to assure that services and/or funds received pursuant to the agreement will not

supplant State and local funds expended for the same purpose; and

(iv) Provide an assurance that the agreement has been reviewed by the youth council.

(4) Additional provisions are required in those agreements which specifically provide for career employment experience opportunities. These include:

(i) Assurances that participating youth will be provided constructive work experience, which will improve their ability to make career decisions and which will provide them with basic work skills needed for regular employment;

(ii) Assurances that job information, counseling, guidance, and placement services will be made available to participating youth and that funds provided under the agreement will be available to, and will be utilized by, the local educational agency or agencies to the extent necessary to pay the cost of school-based counselors to carry out the provisions of this in-school program;

(iii) Assurances that jobs provided under this program will be certified by the participating educational agency or institution as relevant to the educational and career goals of the participating youth;

(iv) Assurances that the eligible applicant will advise participating youth of the availability of other employment and training resources available in the local community to assist such youth in obtaining employment; and

(v) An assurance that career employment experience opportunities provided will be certified by a school-based counselor as being relevant to the career and educational program for the youth being provided those opportunities.

(5) In order to carry out the purposes of the LEA agreement, LEA's and prime sponsors, where appropriate, are encouraged to enter into subagreements, grants or contracts with post-secondary schools, with State accredited nonprofit educational institutions, State accredited profit institutions, SESA's and CBO's which have demonstrated effectiveness locally in serving youth, particularly those who are economically disadvantaged.

(6) Agreements for the use of the in-school funds under this section must be signed by the eligible applicant and local educational agencies no later than 60 days after initial submission of the YETP plan to the regional office for review and approval. This may be a new agreement or a certification that the existing agreement remains the same or that it is revised as described in attachments to the certification. All certification and revision information shall be included as part of the YETP grant documentation. If an agreement is not reached within 60 days, the RA shall initiate the reallocation process as required by § 97.704.

§ 97.718 Participant benefits.

(a) Each participant shall be provided the benefits and working conditions as provided in § 98.24 of this title.

(b) Participants in training activities shall be paid allowances. Participants in employment shall be paid wages. Participants in activities which are a combination of employment and training shall be paid in accordance with § 95.33(d)(7) of this title.

(c) *Allowances.* (1) Participants shall be paid allowances in accordance with § 95.34 of this title.

(2) Participants in a vocational exploration program using YETP funds shall receive allowances in accordance with § 95.34 of this title except, (i) only allowances may be paid for the vocational exploration portion of combined activities and (ii) participants receiving public assistance as defined in § 94.4(ss), or whose needs or income are taken into account in determining such public assistance payments to others, may receive a stipend as an additional allowance for participation in vocational exploration in the private sector (VEP) activities: *Provided,* That the participant's total allowances (the incentive allowance plus any stipend) does not exceed the basic allowances paid to other participants. This stipend is available to participants eligible for receipt of incentive allowances to provide for the exceptional expenses incurred by these participants which might otherwise prevent the individuals from participating in a VEP activity. Wages shall not be paid to participants.

(d) *Wages.* Participants receiving wages shall be paid no less than the highest of:

(1) The wage rate set forth in section 6(a)(1) of the Fair Labor Standards Act. Fourteen- and fifteen-year olds, however, may be paid the rate set forth in section 14(b) of the Fair Labor Standards Act; or

(2) The applicable State or local minumum wage, including exceptions for the wage rates of 14- and 15-year olds.

(3) The prevailing wage for a job which is substantially the same as existing jobs of the same employer, except that, the employer may pay less than its prevailing wage, but not less than the minimum wage, if:

(i) The employer, the eligible applicant and the appropriate labor organization agree in writing to a lesser wage; or

(ii) There is job restructuring. In order to accomplish job restructuring, the eligible applicant, employer, and appropriate labor organization, shall enter into an agreement concerning the restructuring. If, after agreeing to the restructured job, the labor organization, employer, or eligible applicant disagree over the wages to be paid for the restructured job and an agreement is not reached, the eligible applicant, employer, and appropriate labor organization should resolve such dispute at the local level within 30 days. If, after these 30 days, an agreement has not been reached, they shall either agree to negotiate in good faith with the RA to resolve the disagreement or select other jobs. If negotiations with the RA do not result in resolution within 30 days, the RA shall set the wage rate; or

(iii) The employer creates new job classifications or occupations. If disputes arise regarding whether the jobs are new to the employer, the eligible applicant, appropriate labor organization, and employer should attempt to resolve the issue within 30 days after the appropriate labor organization is informed of the "new" jobs. If no agreement can be reached within that time frame, they shall either agree to negotiate in good faith with the RA to resolve the disagreement, or select other jobs. If negotiations with the RA do not result in a resolution within 30 days, the RA shall make a determination as to whether or not the job is new to the employer; or

(4) The prevailing wage determined by the Secretary under the Davis-Bacon Act (See 29 CFR parts 1, 3, 5, and 7) in the case of jobs in projects to which the provisions of the Davis-Bacon Act, or any Federal law containing labor standards in accordance with the Davis-Bacon Act, apply. However, in the case of such projects financed under YETP and YCCIP under $5,000, the employer, eligible applicant, and appropriate labor organization may agree to pay youth participants not less than the applicable minimum wage and not more than the wage rate of the entering apprentice in the most nearly comparable apprenticeable trade, and to prescribe an appropriate ratio of journeymen to such participating youth to work on the project. If they cannot agree in 30 days, they may request a decision from the RA, or develop other jobs.

(e) Earnings received by any youth under YETP shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted programs (sec. 356).

(f) Because most jobs will be short-term and/or part-time work assignments, and are designed to enhance the employability of individuals who are new entrants who have never worked, or individuals who are new entrants who have not been working in the competitive labor market, most

jobs will be at entry level. Eligible applicants, therefore, are expected to

competencies participants gain from their participation in the program.

stitutions and those of the eligible applicant(s):

(3) Approval procedures to be followed for the Governor's youth plan

jobs will be at entry level. Eligible applicants, therefore, are expected to pay the minimum wage whenever feasible.

§ 97.719 Maintenance of effort (sec. 353(b)).

(a) Youth plans shall reflect the purpose of this program to provide additional resources, activities, and services over and above the current level which will have a positive impact on the employment problems of youth.

(b) Funds provided under this subpart shall be used to supplement, rather than supplant, the level of funds that would otherwise be made available from non-Federal sources for the purpose of planning and administering programs and activities within the scope of this subpart.

(c) The following provisions also apply to activities funded under this program:

(1) They will not result in the displacement of currently employed workers;

(2) They will not substitute jobs assisted under this part for existing federally assisted jobs;

(3) They will not employ any youth when any person is on layoff by the employer from the same or any substantially equivalent job in the same area;

(4) They will not be used to employ any person to fill a job opening created by laying off or terminating the employment of any regular employee, or otherwise reducing the regular work force, in anticipation of filling vacancies by hiring youth to be supported under YETP;

(5) They will not infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service not subsidized under the Act;

(6) They will not permit a job to be filled in other than an entry-level position in each promotional line until applicable personnel procedures and collective-bargaining agreements have been complied with;

(7) Where job restructuring will occur or where new classifications will be developed, they will not be done in order to negate established personnel procedures or to displace currently employed workers.

§ 97.720 Substitution for title I programs.

Programs funded under YETP shall be supplementary to but not replace programs and activities for youth available under title I of the Act (§§ 95.13(b) (3) and 95.14(b)(3)(ii)(G)).

§ 97.721 Academic credit.

Eligible applicants shall make appropriate efforts to encourage educational agencies and postsecondary institutions to award academic credit for competencies participants gain from their participation in the program.

§ 97.722 Governors youth programs.

(a) *Activities and services.* The Governor shall use the funds allocated pursuant to § 97.703(b)(2) to provide statewide youth services such as the following (sec. 343(c)):

(1) To give special emphasis to funding expanded and experimental programs in apprenticeship trades, or development of new apprenticeship arrangements, in conjunction with business, labor unions, and State apprenticeship councils;

(2) To provide funds to carry out special model employment and training programs and related services between appropriate State agencies and an eligible applicant or eligible applicants, including contractors selected by eligible applicants, with particular emphasis on experimental job training in the private sector;

(3) To provide labor market and occupational information to eligible applicants and local educational agencies without reimbursement;

(4) To foster cooperative efforts between State and local institutions which provide occupational and career guidance and counseling, as well as placement services for in-school and out-of-school youth; and

(5) To fund employment and training programs as defined in § 97.716 for eligible youth who are under the supervision of the State.

(b) *Eligibility for participation.* Individuals participating in programs using funds allocated pursuant to § 97.703(b)(2) must meet the eligibility criteria provided in § 97.714 or § 97.715 (sec. 345).

(c) *Limitation of funds.* The overall 20 percent limitation of funds used for administration as set out in § 98.12(f)(6) shall not apply to the Governor's youth plan.

(d) *Governor's youth plan.* The Governor's youth plans shall include the following information:

(1) A request for approval letter; and

(2) Application for Federal assistance (standard form 424);

(3) The narrative, which shall include the following;

(i) A discussion of any support to be given for expanded and experimental programs in apprenticeable trades;

(ii) A description of efforts to provide employment and training opportunities for youth under the supervision of the State;

(iii) A description of the efforts the State will undertake in the development, analysis and dissemination of appropriate labor market information as it relates to youth;

(iv) A description of efforts to coordinate existing State services or institutions and those of the eligible applicant(s);

(v) A description of any experimental, model or demonstration programs to be operated by the State and, any plans to assist eligible applicants in the development or operation of such programs;

(vi) A description of expected results and benefits to be derived from specific program activities under the grant; and

(4) Youth planning summary and youth budget information summary:

(i) The youth planning summary requires a quantitative statement of planned enrollment levels, the participants to be served by each program activity, and planned outcomes for program participants. It shall also include an identification of the target groups within the youth population and the number of individuals in each to be served.

(ii) The youth budget information summary shall include a quantitative statement of yearly planned expenditures by cost category, planned quarterly obligations, and planned quarterly expenditures by program activity.

(e) *Special assurance and certifications.* The Governor's youth plan shall assure:

(1) Compliance with the Governor's agreement;

(2) Compliance with the Youth Employment and Demonstration Project Act of 1977 (YEDPA), other applicable CETA provisions, and the regulations in this subpart;

(3) Compliance with the provisions of section 343(c) of the Act; and

(4) Compliance with the hazardous occupations orders issued pursuant to 29 CFR 570.50 et seq. with respect to the employment of youths under 18 years of age and the child labor standards of 29 CFR 570.13 et seq. with respect to the employment of youth aged 14 to 15.

(f) *Procedures for comment, modification and approval of Governor's youth plan.* (1) In developing the Governor's youth plan, the Governor shall establish a youth council as described in § 97.705(b) which shall report to the State Manpower Services Council (SMSC) described in § 95.13(d) of this title. The responsibilities of these councils shall be those described in § 95.13(d)(4) of this title. The references to local agencies in § 97.705(b)(1) shall mean representatives of State agencies who represent statewide concerns.

(2) In submitting the Governor's youth plan, the procedures specified in § 95.52(a) (c) and (d) of this title shall be followed except the preapplication procedures in § 95.52(a)(2) and the preapplication provisions in §§ 95.11 and 95.15(d), which are referenced in § 95.52 do not apply.

(3) Approval procedures to be followed for the Governor's youth plan are as specified in § 95.53 of this title, except that the provision in § 95.17(b)(7), referenced in § 95.53, does not apply.

(4) The modification procedures specified in § 95.54 of this title shall be used to modify Governor's grants under YETP.

Signed at Washington, D.C., this 19th day of September 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc. 78-26979 Filed 9-25-78; 8:45 am]

TUESDAY, SEPTEMBER 26, 1978
PART IV

V 43 / 187

SE 26 78 V 4

federal register

TUESDAY, SEPTEMBER 26, 1978
PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education

■

EDUCATIONAL EQUITY RESEARCH GRANTS PROGRAM

Final Rule for Awarding Federal Funds

[4110-39]

submitted comments. Listed below are the comments received and the re-

interests described by this commenter, so that the addition of a fifth category

cation (NIE) grants relating to fiscal,

(ii) How all children may improve

§ 1490.7 Application requirements.

V 43 / 187 SE 26 78 V 4

[4110-39]

Title 45—Public Welfare

CHAPTER XIV—NATIONAL INSTITUTE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 1490—EDUCATIONAL EQUITY RESEARCH GRANTS PROGRAM

Final Rule for Awarding Federal Funds

AGENCY: National Institute of Education (NIE), Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: This rule governs a discretionary program of field-initiated research in several areas of educational equity inquiry. These areas focus on individuals who: (1) Are participating in the process of school desegregation; (2) have limited or no knowledge of English; (3) have not received equal educational opportunities due to ethnic or racial minority membership; or (4) are restricted by sex-role stereotypes. This rule states eligibility requirements, funding criteria, and other rules for the administration of the program; it defines categories of projects to be funded and the competitive procedures and standards for funding the best proposals.

EFFECTIVE DATE: This regulation becomes effective 45 days after it is transmitted to Congress unless Congress disapproves the regulation or takes certain adjournments. If you want to know the effective date of this regulation, call or write the National Institute of Education contact person.

FOR FURTHER INFORMATION CONTACT:

Richard Werksman, Regulations Officer, Office of Administration, Management and Budget, National Institute of Education, Room 639—Mail Stop 33, 1200 19th Street, NW., Washington, D.C. 20208, 202-254-7924.

SUPPLEMENTAL INFORMATION: Under the authority of section 405 of the General Education Provisions Act, as amended (20 U.S.C. 1221e), a notice of proposed rulemaking which set forth proposed procedural and substantive requirements and criteria governing the submission and review of applications for funds under the educational equity research grants program was published in the FEDERAL REGISTER on April 6, 1978 (43 FR 14634). Interested persons were invited to submit written comments concerning the proposed rule. Seven persons submitted comments. Listed below are the comments received and the responses made.

A. BACKGROUND

The substantive research areas covered by this regulation will further the goal of educational equity and will focus on those individuals who are not well served by the Nation's educational systems and schools. It is intended that each award will produce knowledge to help determine how every person can best achieve an education of high quality regardless of race, color, religion, sex, national origin, or social class.

B. DISCUSSION OF COMMENTS

1. Two commenters suggested that the use of the expression, "exemplary methods" in one of the eligible project areas (§ 1490.5(a)(2) Desegregation) but not in the other three substantive areas, may create an impression that the Institute is not interested in funding research on exemplary methods for achieving equity in those other areas.

The Institute is interested in supporting exemplary research in all four substantive areas (so long as the project does not have as its primary purpose the kind of activities deemed ineligible under § 1490.6). The use of the expression "exemplary methods" was used as an example and was intended only to be illustrative and not restrictive. No change in the regulation is required.

2. Two commenters asked whether social class is an area of possible research under this program since the item is used only in § 1490.2, Purpose.

The Institute considers social class to be an eligible element for research within all the substantive areas described in § 1490.5. This intention is set forth clearly in the second paragraph of § 1490.2. For exemple, research focusing on bilingual education may study the relationship between social class and the need for bilingual education. No further clarification is deemed necessary.

3. One commenter suggested the addition of a fifth area of competition which would address barriers to educational equity. This area would include any aspect of educational research concerning barriers to educational equity for minorities, such as problems related to labelling or stereotyping educational environments that are populated by minorities; discrimination; or the function of standardized tests in excluding minorities from educational opportunities in speciality high schools, in colleges, and in professional schools.

Section 1490.5 identifies four eligible substantive areas. We believe that these four areas adequately cover the interests described by this commenter, so that the addition of a fifth category is unnecessary.

C. DRAFTING INFORMATION

The principal author of this regulation is Martin O. Milrod, of the former Educational Equity Group. Individuals from educational and research communities also participated extensively in developing this regulation. Copies of the proposed rulemaking were mailed to almost 3,000 institutions, organizations, and individuals.

APPLICATION INFORMATION: The publication of this final rule is not an invitation to submit applications. A notice of closing date of May 31, 1978, for fiscal year 1978 applications was published in the FEDERAL REGISTER on April 6, 1978 (43 FR 14634). Applications, instructions, and program information were provided by the program staff, of the educational equity research grants program, National Institute of Education, 1200 19th Street NW., Washington, D.C. 20208. Telephone, 202-254-5170.

(Catalog of Federal Domestic Assistance No. 13.950, Educational Research and Development.)

Dated: August 11, 1978.

PATRICIA ALBJERG GRAHAM,
Director,
National Institute of Education.

Approved: September 19, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary of Health,
Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended by adding to subchapter B of chapter XIV, a new part 1490 reading as follows:

Sec.
1490.1 Scope.
1490.2 Purpose.
1490.3 [Reserved]
1490.4 Applicant eligibility.
1490.5 Eligibility projects.
1490.6 Ineligible projects.
1490.7 Application requirements.
1490.8. Review of applications.
1490.9. Project duration.

AUTHORITY: Sec. 405, General Education Provisions Act, as amended (20 U.S.C. 1221e).

§ 1490.1 Scope.

(a) This part establishes procedures, substantive requirements, and criteria governing the submission and review of applications for funds under the educational equity research grants program.

(b) Each grant under this program is subject to applicable provisions of subchapter A of this chapter (general provisions for National Institute of Education (NIE) grants relating to fiscal, administrative, and other matters) (45 CFR Parts 1400-1424), except to the extent that such provisions are inconsistent with, or expressly made inapplicable by, the provisions of this part.

§ 1490.2 Purpose.

The purpose of the educational equity research grants program is to further the goal of educational equity by supporting research and development studies in the substantive areas described in § 1490.5.

It is intended that each award will produce knowledge to help determine how every person can best achieve an education of high quality regardless of race, color, religion, sex, national origin, or social class.

§ 1490.3 [Reserved]

§ 1490.4 Applicant eligibility.

(a) Colleges, universities, State and local educational agencies, other public or private agencies, organizations and groups, and individuals are eligible to apply.

(b) Applications from for-profit organizations must be submitted in accordance with criteria specified in this part and in Department of Health, Education, and Welfare (HEW) procurement regulations, subpart 3-4.52 (41 CFR Parts 3-4), and, if successful, are awarded contracts rather than grants.

§ 1490.5 Eligible projects.

(a) *Eligible research and development areas.* An application under this part must propose research or development in no more than one of the following substantives areas:

(1) *Educational equity theories.* This area includes research to develop better educational opportunity theories (including different definitions of equity and ways in which they are applied and with what results). These theories foster the kinds of analyses leading to public policies aimed at reducing the barriers faced by women and minorities in achieving equality of educational opportunity.

(2) *Desegregation.* This area includes any aspect of desegregation efforts, such as exemplary methods of educating students in desegregated settings and barriers to successful desegregation of institutions and systems of higher education.

(3) *Multicultural/bilingual education.* This area includes:

(i) Educational problems of students (A) who do not speak English, or have limited English speaking ability; (B) who speak nonstandard English; or (C) whose culture differs significantly from the majority of students in the United States, or

(ii) How all children may improve their educational opportunities through multicultural/bilingual education.

(4) *Barriers to women's educational equity.* This area includes any aspect of educational research concerning barriers to educational equity for women, such as, the problems related to sex-role stereotyping and discrimination, the special problems minority women face in obtaining equal educational opportunities and leadership positions, and the particular social and educational processes contributing to inequities and ways to eliminate such problems.

(b) *Eligible research processes.* Projects that involve research or development in one of the selected areas described in paragraph (a) of this section may be carried out using any research or development process other than those specified in § 1490.6.

(c) *Selection of areas to be funded.* In the announcement of a closing date for each research grants competition conducted under this program, the director shall indicate which of the areas described in paragraph (a) of this section will be included in that competition.

§ 1490.6 Ineligible projects.

A project whose primary purpose is the operation, development or demonstration of specific programs or materials is not eligible for support under this part. Examples of ineligible projects include:

(a) Operation of an educational program;

(b) Improvement of an educational program through the implementation of a new or improved instructional, administrative, or managerial procedure, technique, material, training, or piece of equipment;

(c) Course development through the production of a new curriculum, or the improvement of an existing curriculum, including the preparation of new instructional material or the modification of instructional material already in existence;

(d) Development or adaptation in an operational setting of any new or improved instructional, administrative, or managerial procedure, technique, material, training, or piece of equipment;

(e) A demonstration project which shows, exhibits, describes, or explains to others, either in person or through various other communication media, the procedure, technique, and/or material which must be employed in the execution of a new or modified instructional task, educational program, or administrative or management process.

§ 1490.7 Application requirements.

An applicant shall submit an application in the form and in such detail as the Director shall require.

§ 1490.8 Review of applications.

(a) *Substantive areas.* In each research grants competition announced under this program, each application will be evaluated in competition with other applications submitted in the same substantive area. The Director will seek to distribute awards equitably among the substantive areas selected in accordance with § 1490.5(c).

(b) *Criteria for evaluation.* Evaluation of applications will be based upon the following criteria:

(1) Evidence of sensitivity to and awareness of minority and women's concerns as shown by efforts to provide equal employment opportunities, or other exemplary projects.

(2) Significance of the proposal to educational equity and the likelihood of significantly increasing the knowledge base if the project is successful.

(3) Technical quality of the proposal, based upon:

(i) The quality of the research design, methodology, and where appropriate, instrumentation;

(ii) The extent to which the proposal exhibits thorough knowledge of pertinent previous work; and

(iii) The quality of the research evaluation design and the dissemination plan;

(4) Organizational and staff qualifications, based upon:

(i) The experience, previous research, and background of the principal investigator(s);

(ii) The adequacy of facilities and arrangements available for the project, including evidence of access to necessary organizations, groups, and individuals for study or research purposes; and

(iii) The willingness of study populations to participate in the research proposal, as appropriate.

(5) Probability of successful completion of the project, based upon:

(i) The overall balance of tasks to be performed and the adequacy of resources to perform these tasks, including budgetary, personnel, and design considerations;

(ii) The estimated cost of the project in relationship to the anticipated results.

(c) *Inapplicable criteria.* Evaluation criteria set forth in § 1403.10 of this chapter shall not apply to applications submitted under this part.

§ 1490.9 Project duration.

Funded projects normally will not exceed 12 months in duration.

[FR Doc. 78-26977 Filed 9-25-78; 8:45 am]

V 4 3 / 1 8 7 S E 2 6 7 8 V 4

TUESDAY, SEPTEMBER 26, 1978
PART V

V 43 / 187 SEP 26 78 V 4

federal register

TUESDAY, SEPTEMBER 26, 1978
PART V

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

COINSURANCE FOR PRIVATE MORTGAGE LENDERS

Proposed Eligibility Requirements, Contract Rights and Obligations

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 255]

[Docket No. R-78-687]

COINSURANCE FOR PRIVATE MORTGAGE LENDERS

Proposed Eligibility Requirements, Contract Rights and Obligations

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish eligibility requirements for private mortgage lenders who wish to participate in the coinsurance program authorized by section 244 of the National Housing Act. The rule would also establish the contract rights and obligations of the parties to coinsurance agreements. The rule is proposed in order to implement the coinsurance program.

DATES: Comments must be received on or before October 26, 1978.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert Kolodny, Director, Multifamily Housing Development Division, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6310.

SUPPLEMENTARY INFORMATION: Section 244 of the National Housing Act, as added by section 224 of the Housing and Community Development Act of 1977, authorizes the Secretary of Housing and Urban Development to insure and make a commitment to insure, under any provision of title II of the National Housing Act, a mortgage executed by a mortgagor eligible for insurance under such provision and held by a mortgagee approved by the Secretary for coinsurance, if the mortgagee bears a percentage of any loss resulting from default. The Secretary is authorized to prescribe the percentage of coinsurance, which may not be less than 10 percent nor more than 90 percent. The Secretary is also authorized to prescribe the eligibility requirements for mortgagees and the terms and conditions of coinsurance agreements.

A finding of inapplicability of section 102(2)(C) of the National Environmental Policy Act of 1969 has been made in accordance with HUD Hand-

made by the coinsurer while it was approved.
255.106 Mortgage servicing and obligations during coinsurance period.
255.411 Date of default.
255.412 Notice of default.
255.413 Reinstatement of defaulted mortgage.

tial evaluation of existing projects by lenders who are willing to accept some, but are unwilling to accept all, of the risk of mortgage lending for

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 255]

[Docket No. R-78-574]

COINSURANCE FOR PRIVATE MORTGAGE LENDERS

Proposed Eligibility Requirements, Contract Rights and Obligations

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, (HUD).

ACTION: Proposed rule.

SUMMARY: The Department hereby proposes to amend 24 CFR by adding a new part 255 entitled, "Coinsurance for Private Mortgage Lenders." This part would implement a coinsurance program limited solely to mortgage loans covering existing multifamily projects made by private mortgage lenders utilizing the authority contained in section 223(f) of the National Housing Act, as amended, and would impose requirements for that program. The demonstration program authorized by section 244 is intended to assure more careful initial evaluation of existing projects by lenders who are willing to accept some, but are unwilling to accept all, of the risk of mortgage lending for rental housing projects.

DATES: Comments due: (November 13, 1978).

ADDRESSES: Communications should be identified by the above docket number and title and should be filed with the rules docket clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410. All relevant material received in the foregoing office will be considered before a final rule is adopted. Copies of written views or comments will be available during regular business hours at the foregoing office.

FOR FURTHER INFORMATION CONTACT:

Shelly Friedman, Office of the Deputy Assistant Secretary for Insured and Direct Loan Programs, HUD, Washington, D.C., 202-755-6495. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Section 307 of the Housing and Community Development Act of 1974 (Pub. L. 93-383) amended the National Housing Act by adding a new section 244 entitled Coinsurance. Section 244 of the National Housing Act (12 U.S.C. 1715z(9)) established a program which authorizes the Secretary of Housing and Urban Development to insure and make a commitment to insure, under any provision of title II of the National Housing Act, any mortgage otherwise eligible for insurance under such provisions pursuant to a coinsurance contract providing that the lender will (1) assume a percentage of any loss and (2) carry out (subject to audit, exception of review requirements) such credit approval, appraisal, inspection, commitment, property disposition or other functions as the Secretary approves.

Regulations issued on February 12, 1976, and contained in 24 CFR 204 implemented the demonstration program of coinsurance authorized by section 244 for mortgages covering one-to-four family dwellings.

On September 29, 1976, the Department amended 24 CFR by adding a new Part 250 entitled "Coinsurance for State Housing Finance Agencies." This part implements a demonstration program of coinsurance for mortgages covering multifamily projects financed by State Housing Finance Agencies.

The Department hereby proposes to amend 24 CFR by adding a new part 255 entitled "Coinsurance for Private Mortgage Lenders." This part would implement a coinsurance program limited solely to mortgage loans covering existing multifamily projects made by private mortgage lenders utilizing the authority contained in Section 223(f) of the National Housing Act, as amended, and would impose requirements for that program.

The Department remains concerned about permitting participating depository institutions to coinsure refinanced mortgages which they presently hold in portfolio. The basis for this concern is that the program design contained herein provides no mechanism to deter a depository institution from refinancing and coinsuring the existing indebtedness on its own lesser-quality mortgages it presently holds. The Department does not believe that the Congress intended section 244 of the National Housing Act to be so used. Therefore, the Department will continue to consider incorporating deterrents against such a practice into these regulations, and specifically requests comments on the issue. Such deterrents under consideration include: (1) An outright ban on coinsuring refinancing transactions on mortgages already held by the coinsurer; (2) a percentage ceiling for such mortgages within the coinsurance portfolio of the depository institution; or (3) Pre-commitment review of such mortgage transactions by the field office, with necessary standards developed to guage appraisal values and risk determination.

A finding of inapplicability of section 102(2)(C) of the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1 with respect to these proposed regulations. A copy of this finding of inapplicability will be available during regular business hours at the Office of the Rules Docket Clerk, at the address set forth above.

Comments are requested from interested persons on the impact the program authorized by this part might have on the mortgage market, the availability of mortgage credit to borrowers dependent on mortgage insurance provided under sections of the National Housing Act other than section 244, and the flow of credit to older declining areas and purchasers of older and low-cost housing. This comment period will provide the mortgage lending industry an adequate opportunity to make its views known and those comments shall be considered as due consultation with the industry as required by section 244 of the National Housing Act. Section 255.2 provides notice that the Department has met its statutory obligations concerning such consultations, and will be adopted as stated upon final publication. All comments from the industry and any other interested persons on these areas as well as others will be carefully considered before final regulations are adopted.

It is hereby certified that the economic and inflationary impacts of these proposed regulations have been carefully evaluated in accordance with Executive Order 11821.

It is proposed to amend chapter II, subchapter B, of Title 24 CFR by adding a new part 255 as set forth below:

PART 255—COINSURANCE FOR PRIVATE MORTGAGE LENDERS

Subpart A—General Provisions

Sec.
255.1 Purpose.
255.2 Effect of implementation of program on mortgage market.
255.3 Utilization of existing multifamily insurance authorities.
255.4 Effect of availability of coinsurance on insurance otherwise authorized.
255.5 Effect of availability of coinsurance on flow of mortgage credit to older, declining areas.
255.6 Safeguards for consumers.
255.7 Definition of private mortgage lender.

Subpart B—Approval of Private Lender as Coinsurer

255.101 Review of operation prior to approval as coinsurer.
255.102 Technical review prior to approval as a coinsurer.
255.103 Duration of approval.
255.104 Withdrawal of approval.
255.105 Effect of withdrawal of approval as a coinsurer on insurance commitments made by the coinsurer while it was approved.
255.106 Mortgage servicing and obligations during coinsurance period.
255.107 Required regulatory agreement with mortgagors.

Subpart C—Eligibility Requirements Applicable to Mortgages Insured Under Section 207 Pursuant to Section 223(f)

255.201 Application.
255.202 Application fees, inspection fees, and service charges.
255.203 Processing and commitment.

ELIGIBLE MORTGAGES

255.209 Mortgage provisions.
255.210 Mortgage lien and other obligations.
255.211 Maximum mortgage amounts.
255.212 Maturity.
255.213 Payment requirements.
255.214 Maximum mortgage interest rate.
255.215 Mortgage to cover entire property.
255.216 Covenant for hazard insurance.
255.217 Soundness of project.
255.218 Accumulation of accruals.
255.219 Application of mortgage payments.
255.220 Prepayment privileges.
255.221 Late charges.

SUPERVISION OF MORTGAGORS

255.222 In general.
255.223 Required supervision of private mortgagors.
255.224 Non-discrimination in housing.
255.225 Discrimination in employment.
255.226 Covenant regarding use of property.

PROPERTY REQUIREMENTS

255.227 Eligibility of property.
255.228 Development of property.
255.229 Commercial facilities.

TITLE

255.230 Eligibility of title.
255.231 Title evidence.

COST CERTIFICATION REQUIREMENTS

255.232 Agreement to certify cost requirements.
255.233 Reserved.
255.234 Reserved.
255.235 Certificate of actual cost—contents in general.
255.236 Reserved.
255.237 Reserved.
255.238 Reserved.
255.239 Reduction in mortgage amount.
255.240 Requisites of certification of actual costs.
255.241 Cost certification incontestable.

Subpart D—Contract Rights and Obligations

255.401 Definition.
255.402 Insurance of mortgage.

MORTGAGE INSURANCE PREMIUMS

255.403 Amount of MIP to be collected from the mortgagor.
255.404 Method of payment of MIP.
255.405 Annual payment of MIP on a level percentage of the declining principal balance.
255.406 Duration of MIP.
255.407 Pro rata payment of annual MIP.

DEFAULT UNDER THE MORTGAGE

255.410 Definition of default.
255.411 Date of default.
255.412 Notice of default.
255.413 Reinstatement of defaulted mortgage.
255.414 Forbearance relief.

TERMINATION

255.415 Termination of coinsurance contract.
255.416 Notice and date of termination by Commissioner.
255.417 Effect of termination.

CLAIM PROCEDURE

255.420 Acquisition of property.
255.421 Deed in lieu of foreclosure.
255.422 Notice to Commissioner.
255.423 Application for insurance benefits.

PAYMENT OF INSURANCE BENEFITS

255.424 Method of payment.
255.425 Disposition of property.
255.426 Amount of payment.
255.427 Items included in payment.
255.428 Items deducted from payment.
255.429 Cash—Debentures.

AMENDMENTS

255.430 Effect of amendments.

AUTHORITY: Section 244 of the National Housing Act, 12 U.S.C. 1715z(9).

Subpart A—General Provisions

§ 255.1 Purpose.

(a) Section 307 of the Housing and Community Development Act of 1974 amended the National Housing Act by adding a new section 24 entitled, "Coinsurance." Section 244 authorizes the Secretary of Housing and Urban Development to insure and make a commitment to insure, under any provision of title II of the National Housing Act, any mortgage otherwise eligible for insurance under such provisions, pursuant to a coinsurance contract providing that the lender will (1) assume a percentage of any loss and (2) carry out (subject to audit, exception, or review requirements) such credit approval, appraisal, inspection, commitment, property disposition or other functions as the Secretary approves.

(b) Section 311 of the Housing and Community Development Act of 1974 also added a new section 223(f) to the National Housing Act. Section 223(f) authorizes the Secretary to insure a mortgage executed in connection with the purchase or refinancing of an existing multifamily project.

(c) It is intended that a demonstration coinsurance program under section 244 to provide insured financing or refinancing for existing housing will assist in the conservation of neighborhoods and existing housing resources. By placing some of the risks, which HUD now assumes when insuring mortgages on approved private mortgage lenders, the demonstration program authorized by section 244 could help to assure more careful initial evaluation of existing projects by lenders who are willing to accept some, but are unwilling to accept all, of the risk of mortgage lending for rental housing projects. It could also make feasible assumption by lenders of the processing responsibilities incidental to a mortgage insurance program and perhaps reduce the present length of time required to approve applications for mortgage insurance.

(d) Congress, in enacting section 307 of the Housing and Community Development Act of 1974, which authorized the program which would be implemented by this part, made clear that it was concerned that implementation of this program not disrupt the mortgage market or reduce the availability of mortgage credit to borrowers who depend on mortgage insurance authorized under provisions of the National Housing Act other than section 244. The Congress also indicated its concern that in delegating mortgage insurance processing duties to lenders, physical inspections of dwelling units be continued in accordance with the same standards used under the regular FHA program. To accord with these concepts, this part sets forth the Department's regulations describing a coinsurance program for mortgages on existing multifamily projects underwritten by private mortgage lenders.

(e) In recognition of the capabilities of private lenders, these regulations vest the maximum amount of processing responsibilities with these lenders and to the maximum extent permissible under the statutes authorizing this program, permit these lenders to retain autonomy in their underwriting practices.

(f) The authority for the program to be implemented by this part expires on September 30, 1978. No mortgage shall be insured pursuant to this part after the Secretary's authority to insure pursuant to this part shall have expired, except pursuant to a commitment to insure made before that date.

§ 255.2 Effect of implementation of program on mortgage market.

Section 244 of the National Housing Act requires that no contract of coinsurance will be entered into under this part until the Secretary has, after due consultation with the mortgage lending industry, determined that the program described in this part will not disrupt the mortgage market or reduce the availability of mortgage credit to borrowers who depend upon mortgage insurance provided under provisions of the National Housing Act other than section 244. The mortgage lending industry has received adequate opportunity through the public comment period which was devoted to these regulations when proposed to make its views known and the issuance of these

regulations shall be considered a determination that no adverse effects on the mortgage market are reasonably predictable from such an issuance.

§ 255.7 Definition of private lender.

To be an eligible mortgagee under this part, the institution must be a savings bank, a savings and loan asso-

has been suspended or withdrawn. Certification as an approved lender under this part may be suspended or

§ 255.106 Mortgage servicing and obligations during coinsurance period.

Servicing functions during the

§ 255.203 Processing and commitment.

The lender shall, as agent for the Secretary, perform all of the process-

regulations shall be considered a determination that no adverse effects on the mortgage market are reasonably predictable from such an issuance. The Department intends, however, to continuously monitor the impact of this program and to consider evidence submitted at any time which would tend to suggest that disruptions in the mortgage market or reduced availability of mortgage credit to borrowers are causally related to the availability of coinsurance under this part.

§ 255.3 Utilization of existing multifamily insurance authorities.

Mortgages for multifamily projects which meet the requirements for eligibility of this part shall be insured under section 207 pursuant to section 223(f) and pursuant to section 244 of the National Housing Act and the regulations implementing those sections as set forth in this part.

§ 255.4 Effect of availability of coinsurance or insurance otherwise authorized.

No insurance authorized under any provision of the National Housing Act other than section 244 of that Act shall be withdrawn, denied, or delayed by reason of the availability of insurance under the program authorized by this part.

§ 255.5 Effect of availability of coinsurance on flow of mortgage credit to older, declining areas.

Insurance will continue to be available under this part only to the extent the Secretary has determined that the availability of insurance authorized by this part does not adversely affect the flow of mortgage credit to older, and lower-cost housing. Insurance authorized by this part will not be available for mortgages on properties which are eligible to be insured solely pursuant to the authority of section 223(e) of the National Housing Act.

§ 255.6 Safeguards for consumers.

(a) The inspection of repairs and improvements on projects covered by mortgages approved for coinsurance prior to the beginning of repairs under this part shall be conducted in accordance with the intent of the standards and criteria set forth in subpart S of part 200 of this chapter and used with respect to dwellings or projects approved for mortgage insurance under provisions of title II of the National Housing Act other than section 244.

(b) The National Environmental Policy Act of 1969, as amended, is applicable to major Federal actions proposed pursuant to this part.

(c) Part 403 of this chapter, providing for Federal preemption of local rent control, is not applicable to a project coinsured under this part.

§ 255.7 Definition of private lender.

To be an eligible mortgagee under this part, the institution must be a savings bank, a savings and loan association, a commercial bank, or other such depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, by the Federal Savings and Loan Insurance Corporation, or by an agency or instrumentality of a State.

Subpart B—Approval of Private Lender as Coinsurer

§ 255.101 Review of operation prior to approval as coinsurer.

Approval of a private lender as defined in § 255.7, as a coinsurer of mortgage loans, eligible to underwrite and service mortgages on multifamily projects for coinsurance, will be made for lenders who have requested approval and who are currently approved as mortgagees under the provisions of §§ 203.2 and 203.4 of this chapter, after a review of the lender's operations by HUD as prescribed in § 255.102 of this part.

§ 255.102 Technical review prior to approval as a coinsurer.

A lender's technical staff and procedures must undergo a review prior to being approved as a coinsurer. As part of this review, the following special requirements are necessary for certification as an approved coinsurer eligible to underwrite mortgages for multifamily projects under this part:

(a) It shall provide a written opinion of its Counsel that it has the necessary powers to participate in the program authorized under this part;

(b) It shall submit such evidence as the Commissioner may require regarding a net worth, surplus accounts, equity capital or other similar category satisfactory to the Commissioner of at least $1,000,000, and evidence that its assets, which must be acceptable to the Commissioner, are properly proportioned to its liabilities and are adequate for the character and extent of its intended operations;

(c) It shall submit evidence to the Commissioner that it has the ability, either through technical staff employed by it, or through contracts with persons not on the lender's staff, for discharging full mortgage underwriting, servicing and property disposition functions in a manner which is consistent with the requirements of this part.

(d) It shall submit to periodic auditing and review by the Commissioner, the Inspector General or the Comptroller General of the United States with respect to its participation in the program authorized by this part.

(e) It shall submit its most recent detailed audit report of its books made by an independent certified public accountant selected in accordance with applicable State law or procedures supplemented by such additional information as the Commissioner shall request;

(f) It shall file with the Commissioner similar annual audits (1) within such period of time required pursuant to applicable State law and procedures or (2) within 75 days of the closing of its fiscal year so long as it continues as an approved lender;

(g) It shall promptly notify the Commissioner of any adjustments in its processing procedures which take place after its certification as an approved lender and shall make no adjustments in its processing procedures that are inconsistent with the requirements of this part;

(h) It shall have in its immediate employ a technical staff consisting of at least one individual who is knowledgeable in the area of construction, one in underwriting skills and one who is skilled in the management and disposition of multifamily projects;

(i) It shall have in its immediate employ staff with sufficient professional and technical competence to monitor the performance of any work it contracts to have done by persons not in the lender's employ such as appraisals, cost, credit analysis, architectural, engineering and management services;

(j) All appraisers assigned by the lender to determine the value of properties intended to serve as security for coinsured mortgages must adhere to minimum standards of education and experience established by the Commissioner;

(k) It shall file with the Commissioner satisfactory proof that it has the capacity to service mortgages coinsured pursuant to this part.

(l) It shall abide by all applicable requirements issued by the Commissioner for discharging its mortgage underwriting, servicing and property disposition functions pursuant to this part.

§ 255.103 Duration of approval.

Initial certification of a private lender as an approved coinsurer under § 255.102 of this part will be valid until the Secretary's authority to coinsure pursuant to this part shall have expired, unless such approval is withdrawn pursuant to the provisions of § 255.104 of this part.

§ 255.104 Withdrawal of approval.

The Commissioner may refrain from endorsing a credit instrument for mortgage insurance authorized by this part with respect to any project proposed for coinsurance by a private lender which has been given written notice by the Commissioner that its approval as a coinsurer under this part has been suspended or withdrawn. Certification as an approved lender under this part may be suspended or withdrawn pursuant to the provisions of part 24 of this title for any of the following causes:

(a) Failure to maintain satisfactory capital funds or sturcture;

(b) Failure to perform underwriting, servicing, or property disposition functions consistent with the requirements of this part; as evidenced by, among other things, a coinsurer's ratio of coinsured loans in default or in forebearance in relation to its entire coinsured portfolio;

(c) Failure to discharge its responsibilities under a coinsurance contract;

(d) Transfer of a coinsured mortgage to a lender not approved under this part;

(e) Failure to segregate all escrow funds received from mortgagors on account of ground rents, taxes, assessments and insurance premiums, and to deposit such funds to a special account or accounts;

(f) Use of escrow funds for any purpose other than that for which they were received;

(g) Payment by the lender of any fee, kickback, or other consideration, directly or indirectly, in connection with any insured mortgage transaction or transactions to any person including an attorney, escrow agent, title company, consultant, mortgage broker, seller, builder, or real estate agent if such person has received any other payment or other consideration from the mortgagor, the seller, the builder, or any other person for services related to such transaction or transactions or from or related to the purchase or sale of the mortgaged property, except that compensation may be paid for the actual performance of such services as may be approved by the Commissioner.

(h) Such other reasons as the Commissioner determines to be justified in accordance with part 24 of this title, by action of the agency review board established by part 25 of this title or § 203.7 of this chapter.

(i) A principal whose participation in a proposed project has been disapproved and whose request for reconsideation has resulted in confirmation of the disapproval may appeal under section 24.10 of this title.

§ 255.105 Effects of withdrawal of approval as a coinsurer on insurance commitments made by the coinsurer while it was approved.

Withdrawal or termination of a private lender as an approved coinsurer under this part will not affect any mortgage or the insurance of any mortgages accepted for insurance while the lender was an approved coinsurer.

§ 255.106 Mortgage servicing and obligations during coinsurance period.

Servicing functions during the period when the Commissioner is a coinsurer of the mortgage shall be performed only by the lender, except that the lender may elect to delegate servicing to another entity if the lender retains its obligations under this part. However, the lender may not transfer its risk of loss which would result from default of a coinsured mortgage through reinsurance or otherwise.

§ 225.107 Required regulatory agreement with mortgagors.

(a) The lender and the mortgagor shall effect an agreement whereby the mortgagor, as further consideration for the making of the mortgage loan, contracts with the lender that it will fulfill the provisions of subpart C, §§ 255.222 through 255.226. Such regulation or restriction will be in the form of a regulatory contract between the mortgagor and the lender which shall be responsible for enforcing the provisions of the regulatory contract.

(b) The lender may regulate and restrict the mortgagor, as long as the commissioner and the lender are coinsurers of the mortgage, on such other matters as may be required by the lender as conditions for lending which do not conflict with the requirements of the Commissioner under this part.

Subpart C—Eligibility Requirements Applicable to Mortgages Insured Under Section 207 Pursuant to Section 223(f)

§ 255.201. Application.

The application for a commitment to make a coinsured mortgage loan on a project shall be submitted to the lender, as agent for the Secretary, by the sponsor of such project accompanied by such exhibits as may be required by the lender to enable the lender to comply with requirements for coinsurance of the mortgage established under this part. An application for a commitment to make a mortgage loan may be required by the lender prior to the submission of the application contemplating mortgage insurance.

§ 255.202 Application fees, inspection fees, and service charges.

The lender may collect from the mortgagor such application fees, inspection fees, and initial service charges as it may require to reimburse itself for the cost of processing an application, conducting inspections, and closing a mortgage transaction. In no event will the total fees be permitted to exceed those allowed in the fully-insured section 223(f) program.

§ 255.203 Processing and commitment.

The lender shall, as agent for the Secretary, perform all of the processing, including the issuance of both conditional and firm commitments, and make all of the determinations of the eligibility of a mortgage for coinsurance under this part except for environmental clearances under HUD handbook 1390.1 done by HUD field offices prior to issuance of a conditional commitment. Upon completion of all required repairs and improvements and receipt by the Commissioner of the lender's certification that the terms and conditions of the commitment for coinsurance have been satisfied, the Commissioner shall promptly endorse the credit instrument for insurance. The commitment to insure upon completion shall be effective for 18 months. The term of the commitment may be extended or may be amended in such a manner as the lender may prescribe from time to time pursuant to an application to the Commissioner for such extension or amendment of said commitment, which application shall be acted upon by the Commissioner and returned to the lender promptly after receipt thereof. An expired commitment may be reopened if a request for reopening is received by the lender from the mortgagor within 90 days of the expiration of the commitment and the Commissioner shall act upon the application for reopening of such expired commitment in the manner prescribed for amendment or extension of commitments herein above set forth.

Eligible Mortgages

§ 255.209 Mortgage provisions.

(a) The mortgage shall be:

(1) Executed on a form approved by the Commissioner for use in the jurisdiction in which the property covered by the mortgage is situated, which form shall not be changed without the prior written approval of the Commissioner.

(2) Executed by a mortgagor with the qualifications as provided by this subpart.

(3) A first lien on property that conforms with the intent of the property standards prescribed by the Commissioner.

(b) In the case of cooperative mortgagors, the mortgage shall provide that the mortgagor will not arrange for management of the property except in the manner and under an agreement approved by the lender and the Commissioner in writing.

§ 255.210 Mortgage lien and other obligations.

A mortgagor shall certify at endorsement of the loan for insurance and the lender shall determine that:

(a) The property covered by the mortgage is free and clear of all liens other than the insured mortgage and

pal obligation in excess of the lessor of the following:

(a) *Dollar limitations on units.*

tions of comparable properties. Market value by direct sales comparison will be estimated by comparison of

nents, as defined by the Commissioner, in the project;

adversely affecting the economic soundness of the project.

the actual amount thereof so paid by the mortgagor.

V 43 / 187 SE 26 78

(a) The property covered by the mortgage is free and clear of all liens other than the insured mortgage and such other liens as may be approved by the lender, in accordance with standards established by the Commissioner. Liens other that the insured mortgage which may be approved (other than liens of taxes and assessments of the State or subdivisions of the State not yet due and payable, or ground rents) may not have under applicable law a priority equal or superior to the insured mortgage.

(b) There will not be outstanding unpaid obligations contracted for in connection with the mortgage transaction, the purchase of the mortgage property, or the repairs and improvements to the project, except obligations approved by the lender, in accordance with standards established by the Commissioner. Obligations of the mortgagor shall be approved by the lender under this section only if such obligations are determined by the lender to be of a lesser priority for payment than the obligation of the insured mortgage.

(c) When a loan is made to finance the purchase of an existing multifamily housing project, the mortgagor may not have any additional obligations in connection with the transaction which exceed the lesser of:

(1) Seven and one-half percent of the lender's estimate of value as defined in § 225.211(b), or

(2) seven and one-half percent of the cost of acquisition as defined in § 255.211(d).

(d) When a loan is made to refinance an existing multifamily housing project, the mortgagor may not have any additional obligations in connection with the transaction which exceed the lesser of:

(1) Seven and one-half percent of the lender's estimate of value, or

(2) Fifty percent of the difference between the cost to refinance as defined in § 255.211(c)(2) and the maximum mortgage amount as determined by the lender.

(e) The additional obligations, if any, provided for in paragraphs (c) and (d) of this section shall be represented by promissory notes on forms approved by the Commissioner. Such notes shall not be due and payable until the maturity date of the mortgage to be insured pursuant to this part, but may be prepaid from surplus cash and in accordance with the conditions prescribed in the regulatory agreement between the lender and the mortgagor.

§ 255.211 Maximum mortgage amounts.

In addition to the limitations in paragraphs (c) and (d) of this section, a mortgage may not involve a principal obligation in excess of the lessor of the following:

(a) *Dollar limitations on units.*

(1) The total of the amounts per family dwelling unit for other than elevator type structures (excluding exterior land improvements as defined by the Commissioner) depending upon the number of bedrooms, which may be: $19,500 per family unit without a bedroom. $21,600 per family unit with one bedroom. $25,800 per family unit with two bedrooms. $31,800 per family unit with three bedrooms. $36,000 per family unit with four or more bedrooms.

(2) *Increased mortgage amount—elevator type structures.* In order to compensate for the higher costs incident to construction of elevator type structures of sound standards of construction and design, the lender may, pursuant to guidelines issued by the Commissioner, increase the dollar amount limitations per family unit for these type structures to not in excess of: $22,500 per family unit without a bedroom. $25,200 per family unit with one bedroom. $30,900 per family unit with two bedrooms. $38,700 per family unit with three bedrooms. $43,758 per family unit with four or more bedrooms.

(3) *Increased mortgage amount—high cost areas.* (i) In any geographical area where the Commissioner finds cost levels so require, the Commissioner may increase, by not to exceed 50 percent, the dollar amount limitations set forth in paragraphs (a) (1) and (2) of this section.

(ii) If the Commissioner finds that because of high costs in Alaska, Guam, or Hawaii, it is not feasible to construct dwellings without the sacrifice of sound standards of construction, design, and livability within the limitations of maximum mortgage amounts provided in this section, the principal obligation of mortgages may be increased in such amounts as may be necessary to compensate for such costs but not to exceed in any event the maximum, including high cost area increases, if any, otherwise applicable by more than one-half thereof.

(b) *Value:* An amount not exceeding 85 percent of the lender's estimate of market value. The final estimate of value for the purpose of this section shall result from consideration of three indicators of market value:

(1) The estimated market value of the project by capitalization;

(2) The estimated market value by direct sales comparison;

(3) The total estimated replacement cost of the project (without deducting depreciation). Capitalization will use net income which results from market rents estimated by comparison with unsubsidized projects, capitalized at rates extracted from market transactions of comparable properties. Market value by direct sales comparison will be estimated by comparison of the subject property with competing properties recently sold, using at least two units of comparison. The total estimated replacement cost of the project (before depreciation) provides only an upper limit. The final estimate of value must lie between that indicated by capitalization and that indicated by direct sales comparison, but in no event shall the final estimate of value exceed the total estimated replacement cost of the project.

(c) *Property to be refinanced.* If the property is to be refinanced by the insured mortgage without a change of ownership, or, if property is sold to a purchaser who has an identity of interest with the seller and the purchase is to be financed with the insured mortgage, then the maximum mortgage amount shall not exceed the greater of:

(1) 70 percent of the lender's estimate of value of the project, or,

(2) The cost to refinance the existing indebtedness which will consist of the following items, the eligibility and amounts of which must be determined by the lender:

(i) The amount required to pay off the existing indebtedness;

(ii) An amount for the initial deposit for the reserve fund for replacements;

(iii) Reasonable and customary legal, organizational, title, and recording expenses, including discounts charged by the lender, as permitted by the Commissioner;

(iv) The estimated repair costs, if any, including the estimated cost of installing safety and fire prevention components, as defined by the Commissioner, in the project;

(v) Architect's municipal inspection and/or engineering fees.

(d) *Property to be acquired.* If the project is to be acquired by the mortgagor and the purchase price is to be financed with the insured mortgage, the maximum amount shall not exceed 85 percent of the cost of acquisition as determined by the lender. The cost of acquisition shall consist of the following items (to the extent that each item is paid by the purchaser separately from the purchase price), the eligibility and amounts of which must be determined by the lender:

(1) Purchase price as indicated in the purchase agreement;

(2) An amount for the initial deposit to the reserve fund for replacements;

(3) Reasonable and customary legal, organizational, title, and recording expenses, including discounts charged by the lender, as permitted by the Commissioner;

(4) The estimated repair cost, if any, including the estimated cost of installing fire prevention and safety compo-

nents, as defined by the Commissioner, in the project;

(5) Architects's municipal inspection and/or engineering fees.

(e) *Debt service.* An amount that can be amortized by 85 percent of the projected net income of the project after payment of operating expenses and taxes.

(f) *Reduced mortgage amount—leaseholds.* In the event the mortgage is secured by a leasehold estate rather than a fee simple estate, the value of the property described in the mortgage shall be the value of the leasehold estate (as determined by the lender) which shall in all cases be less than the value of the property in fee simple.

§ 255.212 Maturity.

The mortgage shall have a maturity satisfactory to the lender, not less than 10 years, nor shall it exceed the lesser of 35 years or 75 percent of the estimated remaining economic life of the physical improvements. The term of the mortgage shall begin on the first day of the second month following the date of initial-final endorsement of the mortgage for insurance.

§ 255.213 Payment requirements.

Method of payment. The mortgage shall provide for monthly payments on the first day of each month on account of interest and principal and shall provide for payments in accordance with an amortization plan as agreed upon by the mortgagor, and the lender.

§ 255.214 Maximum mortgage interest rate.

(a) On and after September 2, 1975, the maximum interest rate on which commitments to insure shall be issued shall not exceed 9 percent per annum.

(b) The insured mortgage shall bear interest at such rate as may be agreed upon by the mortgagor and the lender but such rate shall not exceed the rate specified in the commitment to insure. At the option of the lender, it may issue an amended commitment to insure at a higher or lower interest rate. If the amended commitment is to insure at a higher rate, such higher rate shall not exceed the maximum rate in effect at the time of the issuance of the amended commitment which shall be no later than the date that the mortgage is endorsed for insurance. The lender shall only request a commitment to insure a mortgage at a higher rate than that specified in the original commitment to insure if it is determined by the lender that the project which is the security for the mortgage will be able to charge the increased rentals required to amortize a mortgage at the higher rate without adversely affecting the economic soundness of the project.

§ 225.215 Mortgage to cover the entire property.

The mortgage shall cover the entire property included in the housing project.

§ 225.216 Covenant for hazard insurance.

The mortgage shall contain a covenant acceptable to the Commissioner binding the mortgagor to keep the property insured by a standard policy or policies against loss from fire and such other hazards as the lender, upon the insurance of the mortgage, may stipulate, in an amount which will comply with the coinsurance clause applicable to the location and character of the property, but not less than 80 percent of the actual cash value of the insurable improvements and equipment of the project. The policies evidencing such insurance shall have attached thereto a standard mortgagee clause making loss payable to the lender and the Commissioner as their interests may appear.

§ 225.217 Soundness of project.

No mortgage shall be accepted for insurance unless the lender finds that the property or project with respect to which the mortgage is executed is economically sound, except that as to mortgages covering property located in Alaska, or in Guam, or in Hawaii, no mortgage shall be accepted for insurance unless the lender, with prior notice to the Commissioner finds that the property or project is an acceptable risk giving consideration to the acute housing shortage in Alaska, or in Guam, or in Hawaii.

§ 225.218 Accumulation of accruals.

(a) The mortgage shall provide for payments by the mortgagor to the lender on each interest payment date of an amount sufficient to accumulate in the hands of the lender one payment period prior to its due date, the next annual mortgage insurance premium. Such payments shall continue only so long as the contract of coinsurance shall remain in effect.

(b) The mortgage shall provide for such equal monthly payments by the mortgagor to the lender as will amortize the ground rents, if any, and the estimated amount of all taxes, water rates and special assessments, if any, and fire and other hazard insurance premiums, within a period ending one month prior to the date on which the same become delinquent. the mortgage must also make provisions for adjustments, in case the estimated amount of such taxes, water rates and assessments, and insurance premiums shall prove to be more, or less, than the actual amount thereof so paid by the mortgagor.

§ 255.219 Application of mortgage payments

The mortgage shall provide that all monthly payments being made by the mortgagor to the lender shall be added together and the aggregate thereof shall be paid by the mortgagor upon each monthly payment date in a single payment. The lender shall apply all payments received from the mortgagor or for the account of the mortgagor to the following items in the order set forth:

(1) Premium charges under the contract of insurance, where applicable.

(2) Ground rents, taxes, special assessments and fire and other hazard insurance premiums.

(3) Interest on the mortgage.

(4) Amortization of the principal of the mortgage.

§ 225.220 Prepayment privileges.

The mortgage may establish such conditions or penalties for prepayment as may be agreed upon by the lender and mortgagor.

§ 255.221 Late charges.

The mortgage may provide for the collection by the lender of a late charge, not to exceed two cents for each dollar, of each payment to interest and principal more than 15 days in arrears, or such other charges as may be agreed to by the lender and the Commissioner, to cover the extra expense involved in handling delinquent payments. Late charges shall be separately charged to and collected from the mortgagor and shall not be deducted from any aggregate monthly payment.

SUPERVISION OF MORTGAGORS

§ 255.222 In general.

In order to be eligible for the benefit of insured financing under this part, a mortgagor must agree to be regulated and restricted by the lender as to rents, sales, charges, capital structure, rate of return, and methods of operation.

§ 255.223 Required supervision of private mortgagors.

The regulatory agreement required by § 255.107 shall provide that the following items are regulated or restricted:

(a) *Capital structure.* (1) The number of shares of capital stock, in the case of a corporation, may be issued in such amounts and form as may be agreed upon by the sponsors and the lender prior to the endorsement of the mortgage for insurance; and

(2) In the case of a trust entity beneficial certificates of interest may be issued in such amounts and form as

amination by the commissioner and the lender, or their authorized agents at all reasonable times.

(b) Comply with the provisions of title VIII of the Civil Rights Act of 1968, as amended, which prohibits dis-

(3) Under a lease having a period of not less than 75 years to run from the date the mortgage is executed; or

(d) *Critical defect.* As used herein, the term "critical defect" shall include, but is not limited to: Holes, open cracks, or loose or missing mate-

dence of title in accordance with subparagraph (2), (3), or (4) of this paragraph, as the lender may require. Any policy of title insurance, or evidence of

(2) In the case of a trust entity beneficial certificates of interest may be issued in such amounts and form as may be agreed upon by the mortgagor and the lender.

(b) *Rate of return.* Dividends of other distributions, as defined in the charter, trust agreement, or regulatory agreement, may be declared or made only as of or after the end of a semiannual or annual fiscal period. No dividends or other distributions shall be declared or made except out of surplus cash legally available and remaining after:

(1) The payment of: (i) All sums due or currently required to be paid under the terms of any mortgage or note insured under this part;

(ii) All amounts required to be deposited in the reserve fund for Replacements;

(iii) All obligations of the project other than the mortgage insured under this part unless funds for payment are set aside or deferment of payment has been approved by the lender.

(2) The segregation of: (i) An amount equal; to the aggregate of all special funds required to be maintained by the project;

(ii) All tenant security deposits held. No distributions of any kind may be made from borrowed funds.

(c) *Rents and charges.* No charge shall be made by the mortgagor for the accommodations, facilities, or services offered by the project in excess of those approved by the lender, and subject to further review by the Commissioner, in writing prior to the opening of the project for rental. In approving such charges and in passing upon applications for changes, consideration will be given to the following and similar factors:

(1) Rental income necessary to maintain the economic soundness of the project.

(2) Rental income necessary to provide reasonable return on the investment consistent with providing reasonable rentals to tenants.

(d) *Methods of operation.* (1) The mortgagor shall maintain its project, the grounds, buildings, and equipment appurtenant thereto, in good repair and will promptly complete necessary repairs and maintenance as required by the lender.

(2) In all projects, a fund for replacement shall be established and maintained with the lender. The amount and type of such fund and the conditions under which it shall be accumulated, replenished, and used, shall be specified in the regulatory agreement.

(3) The mortgagor, its property, equipment, buildings, plans, offices, apparatus, and devices, books, contracts, records, documents, and papers shall be subject to inspection and examination by the commissioner and the lender, or their authorized agents at all reasonable times.

(4) The mortgagor shall execute and deliver to the Commissioner or the lender a certificate that the books and accounts of the mortgagor will be established and maintained in a manner satisfactory to the lender on the date the certificate is executed. Such certificate shall be to the effect that so long as the mortgage is coinsured the mortgagor's books and accounts will be kept in accordance with the requirements of the lender; will be in such form as to permit a speedy and effective audit and as may otherwise be prescribed by the lender; will be maintained for such periods of time as may be prescribed by the lender, and will be available to the Commissioner, the lender and to the Comptroller General of the United States for such examination and audits as they may desire to make. The mortgagor shall file with the Commissioner and the lender the following reports verified by the signature of such officers of the mortgagor as the lender may designate and in such form as prescribed by the lender:

(i) Monthly occupancy reports, when required by the lender;

(ii) Complete annual financial reports based upon examinations of the books and records of the mortgagor, prepared in accordance with the requirements of the lender, certified to by an officer of the mortgagor and, when required by the lender, prepared and certified by a Certified Public Accountant (or other person acceptable to the lender), such reports to be submitted within sixty (60) days after the end of each fiscal year.

(iii) Specific answers to questions upon which information is desired from time to time relative to the actual cost of repairs and improvements, the disposition of mortgage funds, the operation and condition of the property and the status of the insured mortgage;

(iv) Properly certified copies of minutes of meetings of the directors, officers, stockholders, shareholders, or beneficiaries.

§ 255.224 Nondiscrimination in housing.

The mortgagor shall certify in the regulatory agreement required by § 255.107 that so long as the mortgage is coinsured under this part the mortgagor will do the following:

(a) Agree to refrain from utilizing criteria or methods of selecting tenants which discriminate against any family by reason of the fact that there are children in the family, unless the project was designed specifically for occupancy by elderly people; or discriminate against any family by reason of the sex of household head.

(b) Comply with the provisions of title VIII of the Civil Rights Act of 1968, as amended, which prohibits discrimination because of race, color, creed, sex, or national origin, and administer the program and related activities in a manner to affirmatively further fair housing. The applicant shall also comply with similar State and local fair housing laws and ordinances.

(c) Comply with the provisions of Executive Order 11063 on Equal Opportunity in Housing which deals with preventing discrimination on the basis of race, color, creed or national origin in housing and related facilities provided through Federal financial assistance.

(d) Rent, permit the rental or permit the offering for rental of the housing, or any part thereof, covered by such mortgage, for transient or hotel purposes. For the duration of the regulatory agreement, the term rental for transient or hotel purposes shall mean (1) rental for any period less than 30 days, or (2) any rental, if the occupants of the housing accommodations are provided customary hotel services, such as room service for food and beverages, maid service, furnishing and laundering of linens, and bellboy service;

(e) Sell the project as long as the mortgage is coinsured under this part, unless the purchaser also certifies under oath as is required by this section.

§ 255.225 Discrimination in employment.

The mortgagor shall certify (on a form approved by the Department) that he (it) will not discriminate on the basis of race, color, creed, sex or national origin against any employee or applicant for employment. Any contract or subcontract executed for project repairs and improvements shall contain a provision to this effect. In addition, the provisions of Executive Order 11246 and title 24 CFR part 130 shall apply, when appropriate, to such contracts.

§ 255.226 Covenant regarding use of property.

The mortgagor shall contain a covenant prohibiting the use of the property covered thereby for any purpose other than that for which it was intended at date the mortgage was executed.

PROPERTY REQUIREMENTS

§ 255.227 Eligibility of property.

(a) A mortgage to be eligible for insurance shall be on real estate held:

(1) In fee simple; or

(2) On the interest of the lessee under a lease for not less than 99 years, which is renewable; or

(3) Under a lease having a period of not less than 75 years to run from the date the mortgage is executed; or

(4) Under a lease executed by a governmental agency, or such other lessor as the Commissioner may approve for the maximum term consistent with the legal authority for the execution of such lease, provided that the term of any such lease shall run for a period of not less than 50 years from the date the mortgage is executed.

(b) The property coinstituting security for the mortgage must be held by an eligible mortgagor as herein defined and must at the time the mortgage is insured be free and clear of other liens except those approved by the lender.

§ 255.228 Development of property.

(a) *Obligation of the mortgagor.* The mortgagor shall be obligated to either purchase or refinance existing housing and make such repairs and improvements as are deemed necessary by the lender. The property must not require substantial rehabilitation as hereinafter defined. The property, including improvements, shall comply with any material zoning or deed restrictions applicable to the project site and with all applicable building and other governmental regulations.

(b) *Properties requiring substantial rehabilitation.* Properties requiring substantial rehabilitation are those properties which do not provide safe and adequate shelter; and in their present condition endanger the health and well-being of the occupants. Such housing has: A critical defect or combination of criticial defects the cost of which would exceed the greater of:

(1) 15 percent of the property's value after repairs; or

(2) $3,000 per dwelling unit, or such higher amount that the Commissioner determines is justified when compared with amounts expended in the area for the majority of other rehabilitation projects assisted by the Department.

(c) *Costs of replacement items and fire safety equipment.* In determining whether a property exceeds the substantial rehabilitation threshold described in paragraph (b) (1) and (2) of this section, the Commissioner may exempt from the total which must not exceed the threshold, the purchase price but not the installation cost of the following specific items of replacement or fire safety equipment:

(1) Replacement of:
(i) Ranges/hoods,
(ii) Ovens,
(iii) Refrigerators,
(iv) Garbage disposals,
(v) Dishwashers, and
(vi) Carpets; and

(2) Fire safety equipment required by Federal, State or local law.

(d) *Critical defect.* As used herein, the term "critical defect" shall include, but is not limited to: Holes, open cracks, or loose or missing material over a large area of outside walls, roof, chimney, inside walls, floors or ceilings; insubstantial or sagging floors, walls or roof; extensive damage by storm, fire or flood; inadequate or potentially hazardous utility systems and equipment; a lack of hot running water, a usable flush toilet, a tub or shower.

(e) *Minimum number of units.* A project shall consist of not less than eight dwelling units.

(f) *Date of application.* In order to be eligible for mortgage insurance under this part, 3 years must have elapsed from the date of completion of the project or beginning of occupancy (whichever is later) to the date of application for mortgage insurance.

(g) *Financial viability.* The project shall have attained sustaining occupancy (occupancy that would produce rental income sufficient to pay operating expenses, annual debt service and reserve fund for replacement requirements) as determined by the lender, prior to endorsement of the project for insurance; or else the mortgagor shall provide an operating deficit fund at the time of endorsement for insurance, in an amount, and under an agreement, approved by the lender.

§ 255.229 Commercial facilities.

The project may include only such commercial and community facilities as the lender determines will be adequate and appropriate to serve the occupants. In no event shall net rentable commercial area exceed 10 percent of the total net rentable area, both commercial and residential. Notwithstanding the above, this limitation may be waived, for good cause, by the Commissioner.

TITLE

§ 255.230 Eligibility of title.

In order for the mortgaged property to be eligible for insurance, the lender must determine that marketable title thereto is vested in the mortgagor as of the date the mortgage is filed for record. The title evidence will be examined by the lender and the original endorsement of the credit instrument for insurance will be evidence of its acceptability.

§ 255.231 Title evidence.

Upon insurance of the mortgage, the mortgagor shall furnish to the lender a policy of title insurance covering such property, as provided in paragraph (a) of this section. If, for reasons the lender deems satisfactory, title insurance cannot be furnished, the mortgagor shall furnish such evidence of title in accordance with subparagraph (2), (3), or (4) of this paragraph, as the lender may require. Any policy of title insurance, or evidence of title required under this section shall be furnished without expense to the lender. The types of title evidence are:

(a) A policy of title insurance issued by a company and in a form satisfactory to the lender. The policy shall name as the insured the lender and the mortgagor as their interests may appear. The policy shall provide that upon acquisition of title by the lender, it will become an owner's policy running to the lender.

(b) An abstract of title satisfactory to the lender, prepared by an abstract company or individual engaged in the business of preparing abstracts of title, accompanied by the legal opinion satisfactory to the lender as to the quality of such title, signed by an attorney at law experienced in the examination of titles.

(c) A Torrens or similar title certificate.

(d) Evidence of title conforming to the standards of a supervising branch of the Government of the United States of America, or of any State or territory thereof.

COST CERTIFICATION REQUIREMENTS

§ 255.232 Agreement to certify cost requirements.

Prior to disbursement of any part of the loan, the lender shall enter into an agreement with the mortgagor in form and content satisfactory to the Commissioner for the purpose of precluding any excess of mortgage proceeds over statutory and regulatory limitations. Under this agreement, the mortgagor shall agree:

(a) To execute a certificate of actual costs, upon completion of all physical improvements on the mortgaged property, in accordance with § 225.235 of this part.

(b) To apply in reduction of the outstanding balance of the principal amount of the mortgage, mortgage proceeds which exceed the amounts set forth in § 255.239 of this report.

§ 225.235 Certificate of actual cost—contents in general.

(a) Submission of certificate. The mortgagor's certificate of actual cost, in a form approved by the Commissioner, shall be submitted prior to initial-final endorsement and upon completion of the improvements to the satisfaction of the lender, except those refinancing transactions where 70 percent of value is the controlling criterion.

(b) The certificate shall show the actual cost to the mortgagor of acquiring the property or refinancing property which secures an existing indebt-

edness. Items which shall be included if paid by the mortgagor in acquiring property are listed in § 255.211(d).

successors and such of its assigns as are approved by the Commissioner.

(g) "Mortgage insurance premium"

advance and no refund can be made of any portion thereof except as hereinafter provided in this subpart.

§ 255.413 Reinstatement of a defaulted mortgage.

If after default and prior to the completion of foreclosure proceedings the

lender notifies the Commissioner that no claim for insurance benefits will be made;

(b) The date the mortgage was pre-

any property acquired through a defaulted mortgage, the lender must establish that it has incurred a loss on the mortgage equal to at least 8 per-

V 43 / 187
SE 26 78

edness. Items which shall be included if paid by the mortgagor in acquiring property are listed in § 255.211(d). Items which shall be included if paid by the mortgagor in refinancing property are listed in § 255.211(c)(2) of this chapter.

§ 255.239 Reduction in mortgage amount.

If the principal obligation of the mortgage exceeds the applicable statutory percentage of the approved actual cost, as reflected in this part, the mortgage shall be reduced by the amount of such excess prior to initial-final endorsement for insurance.

§ 225.240 Requisites of certification of actual costs.

Any statement of certification required by § 255.232 shall specifically state that it has been made, presented, and delivered for the purpose of influencing an official action of the Commissioner and may be relied upon by the Commissioner and the lender as a true statement of the facts contained therein.

§ 255.241 Cost certification incontestable.

Upon the lender's approval of the mortgagor's certification, such certification shall be final and incontestable except for fraud or material misrepresentation on the part of the mortgagor.

Subpart D—Contract Rights and Obligations.

§ 255.401 Definitions.

As used in this subpart the following terms shall have the meaning indicated:

(a) "Commissioner" means the Federal Housing Commissioner.

(b) "Act" means the National Housing Act, as amended.

(c) "Mortgage" means such a first lien upon real estate and other property as is commonly given to secure advances on, or the unpaid purchase price of, real estate under the laws of the State, district, or territory in which the real estate is located, together with the credit instruments, if any, secured thereby.

(d) "Insured mortgage" means a mortgage which has been insured by the endorsement of the mortgage note pursuant to this part by the Commissioner, or his duly authorized representative.

(e) "Contract of coinsurance" means the agreement between the private lender and the Commissioner for the coinsurance of a mortgage evidenced by the endorsement of a mortgage note by the Commissioner and includes the terms, conditions and provisions of this part and of the National Housing Act.

(f) "Mortgagor" means the original borrower under a mortgage and its successors and such of its assigns as are approved by the Commissioner.

(g) "Mortgage insurance premium" means the mortgage insurance premium paid by the lender to the Commissioner in consideration of the contract of insurance.

§ 255.402 Insurance of mortgage.

Upon compliance with a commitment the Commissioner and the lender will insure the loan against losses resulting from nonpayment of the debt, evidencing the insurance by an appropriate endorsement by the Commissioner placed on the original credit instrument which will identify the regulations under which the loan is insured and the date of insurance. The mortgage shall be insured from the date of the endorsement of the credit instrument by the Commissioner. The Commissioner and the lender shall thereafter be bound by the regulations in this part with the same force and to the same extent as if a separate contract had been executed relating to the insured mortgage, including the provisions of the regulations in this subpart and of the Act.

MORTGAGE INSURANCE PREMIUMS

§ 255.403 Amount of MIP to be collected from the mortgagor.

The lender may collect from the mortgagor an MIP from the date of the contract of coinsurance which shall not exceed an initial MIP of 1 percent of the principal obligations for the first year of the mortgage and 0.5 percent per annum of the amount of the principal obligation of the mortgage outstanding at any time thereafter, without taking into account delinquent payments or prepayments.

§ 255.404 Method of payment of MIP.

The payment of any MIP under this subpart shall be made to the Commissioner by the lender in cash or debentures. The MIP will be paid annually on a level percentage of the declining principal balance.

§ 255.405 Annual payment of MIP on a level percentage of the declining principal balance.

The lender shall pay to the Commissioner on the effective date of the contract of coinsurance, a first year mortgage insurance premium, covering a period of 1 year, equal to 0.75 percent of the outstanding principal balance of the mortgage. Each year thereafter, the lender, on the anniversary date of the contract of coinsurance shall pay a premium for the following year, equal to 0.38 percent per annum of the average outstanding principal obligation of the mortgage, without taking into account delinquent payments or prepayments. All premiums are payable in advance and no refund can be made of any portion thereof except as hereinafter provided in this subpart.

§ 255.406 Duration of MIP.

The MIP under § 255.405 shall continue annually until the earliest date on which one of the following occurs:

(a) The mortgage is paid in full.

(b) A deed to the lender is filed for record, or

(c) The contract of coinsurance is otherwise terminated with the consent of the Commissioner.

§ 255.407 Pro rata payment of annual MIP.

(a) If the contract of coinsurance is terminated after the due date of the initial first year MIP due in accordance with § 255.405, the lender shall pay to the Commissioner that portion of the current annual MIP prorated from the due date of the last annual MIP through the end of the month in which the contract of coinsurance is terminated.

(b) For the purpose of computing the pro rata portion of the annual MIP, the date of termination of coinsurance shall be the last day of the month in which the mortgage was prepaid or a voluntary termination request is received by the Commissioner.

DEFAULT UNDER THE MORTGAGE

§ 255.410 Definition of default.

The following shall be considered a default under this subpart:

(a) Failure of the mortgagor to make any payment due under the mortgage;

(b) Failure of the mortgagor to perform any other covenant under the provisions of the mortgage, if the lender because of such failure has accelerated the debt.

§ 255.411 Date of default.

For the purposes of this subpart, the date of default shall be considered as 30 days after:

(a) The first uncorrected failure to perform any obligation under the mortgage; or

(b) The first failure to make a monthly payment which is not covered by subsequent payments made by the mortgagor when such subsequent payments are applied to the overdue monthly payments in the order in which they became due.

§ 255.412 Notice of default.

The lender shall, within 60 days after the date of default as defined in this part, give written notice thereof to the Commissioner on a form prescribed by him, unless such default has been cured or unless the Commissioner has been notifed of a previous default which remains uncured.

§ 255.413 Reinstatement of a defaulted mortgage.

If after default and prior to the completion of foreclosure proceedings the mortgagor shall cure the default, the insurance shall continue as if a default had not occurred. The mortgagor shall pay to the lender such expenses as the lender has incurred in connection with the foreclosure proceedings and the lender shall give written notice of reinstatement to the Commissioner.

§ 255.414 Forbearance relief.

A mortgagor and a lender may enter into an agreement for the reduction or suspension of regular mortgage payments according to standards set forth by the Commissioner: *Provided*, That during such periods of modification of terms or forbearance, all moneys received from rents or other sources must be applied toward the payment of operating costs, with any receipts in excess of operating costs applied during such period to payments required under the mortgage. During periods of modification in mortgage terms or forbearance in requiring payment-in-full of all payments when due under the mortgage, the mortgagor shall agree that no distribution or dividends shall be payable by the mortgagor to any shareholder, partner, or other investor in the mortgagor entity.

TERMINATION

§ 255.415 Termination of coinsurance contract.

The contract of coinsurance for each individual mortgage shall be terminated if:

(a) The mortgage is paid in full prior to its maturity;

(b) The lender acquires the mortgaged property and notifies the Commissioner that no claim for insurance benefits will be made;

(c) After foreclosure the property is redeemed;

(d) The property is acquired at a foreclosure sale by a party other than the lender;

(e) The mortgagor and lender jointly request termination; or

(f) The lender sells or otherwise conveys the mortgage to other than a lender approved to coinsure under this part by the Commissioner.

§ 255.416 Notice and date of termination by Commissioner.

The Commissioner shall notify the lender that the contract of coinsurance on a mortgage has been terminated and establish the effective termination date. The termination date shall be the last day of the month in which any one of the following events occur:

(a) The date foreclosure proceedings were instituted, or the property otherwise acquired by the lender, if the lender notifies the Commissioner that no claim for insurance benefits will be made;

(b) The date the mortgage was prepaid in full;

(c) The date a voluntary termination request was received by the Commissioner;

(d) The date the mortgage was sold or otherwise conveyed to other than a lender approved to coinsure under this part.

§ 225.417 Effect of termination.

Upon termination of the contract of insurance, the obligations to pay any subsequent MIP shall cease and all rights of the mortgagor and lender shall be terminated.

CLAIM PROCEDURE

§ 255.420 Acquisition of property.

At any time after the default of the mortgage and the determination by the lender to accelerate the total principal amount of the mortgage, the lender, at its election, shall (if no other eligible entity has assumed the obligations of the mortgagor) either (a) commence foreclosure of the mortgage; or (b) acquire possession of, and title to, the mortgage property by means other than foreclosure. The lender shall notify the Commissioner of its action at the time it makes its election either to commence foreclosure of the mortgage or acquire possession and title by other means.

§ 255.421 Deed in lieu of foreclosure.

In lieu of instituting or completing a foreclosure, the lender may acquire property by voluntary conveyance from the mortgagor. Conveyance of the property by deed in lieu of foreclosure is approved subject to the following requirements:

(a) The mortgage is in default at the time the deed is executed and delivered;

(b) The credit instrument is canceled and surrendered to the mortgagor;

(c) The mortgage is satisfied of record as a part of the consideration for such conveyance; and

(d) The deed from the mortgagor conveys marketable title and contains a covenant which warrants against the acts of the grantor and all claiming by, through, or under him and conveys good marketable title.

§ 255.422 Notice to Commissioner.

At the time the lender elects to acquire title, it shall give written notice to the Commissioner of its intention to file a claim for insurance benefits.

§ 255.423 Application for insurance benefits.

(a) *Deductible.* Before a lender can file a claim for insurance benefits on any property acquired through a defaulted mortgage, the lender must establish that it has incurred a loss on the mortgage equal to at least 8 percent of the outstanding principal balance of the mortgage. In order to satisfy the deductible, the lender must acquire the property securing the mortgage. The loss is determined by deducting the market value of the property acquired for use for the market originally intended, as determined by an independent appraiser, from the unpaid principal balance due on themortgage secured by the property plus the expenses of such acquisition as approved by the Commissioner.

(b) After the lender has acquired the property as provided in § 255.420, the lender may make a claim for insurance benefits. At the time that the claim is made, the Commissioner shall estimate the total amount of the insurance benefits which will be due the lender upon disposition of the property, and a partial payment will be made to the lender on its claim in accordance with § 255.426(a).

PAYMENT OF INSURANCE BENEFITS

§ 255.424 Method of payment.

Payment of the insurance claim shall be made in cash unless the lender files a written request for payment indebentures.

§ 255.425 Disposition of property.

(a) Upon the acquisition of marketable title to the property securing a defaulted mortgage in accordance with § 255.420, the lender shall obtain an appraisal of the property by an independent appraiser. The appraisal shall be based upon the market value of the property for use for the market originally intended.

(b) After the lender sells the property, or after the expiration of 12 months, whichever occurs first, the lender may make a claim for the balance of the insurance benefits to which it is entitled in accordance with § 255.426(b).

(c) Upon making a claim to the Commissioner for the balance of the insurance benefits, the lender shall notify the Commissioner, on an approved form, of the sale of the property, the purchase price, and income and expenses incurred in connection with the acquisition, repair, operation, and sale of the property, and shall assign to the Commissioner, without recourse of warranty, any and all claims (other than the mortgage financing such sale) which the lender has acquired in connection with the transaction.

(d) If the property has not been disposed of at the time of the lender's request for final payment, the lender shall utilize the appraised value of the property secured in accordance with

V 43 / 187 SEP 26 78 V4

paragraph (a) of this section in its notification to the Commissioner, in lieu of the sales price.

§ 255.426 Amount of payment.

(a) Upon the acquisition of marketable title to the property securing a defaulted mortgage in accordance with section 255.420, the lender shall be entitled to receive 60 percent of the difference between the unpaid principal balance on the date of the institution of foreclosure proceedings or on the date of acquisition of the property otherwise after default and the appraised value of the property secured in accordance with § 255.425(a).

(b) Upon disposition of the property or the expiration of 12 months from the date of acquisition of the property, whichever occurs earlier, the lender shall be entitled to the balance of the insurance benefits.

(c) The basis for the computation of insurance benefits shall be the sum of the unpaid principal balance on the date of the institution of foreclosure proceedings or on the date of acquisition of the property otherwise after default, plus the amount of all payments made by the lender and allowances for items as set forth in § 255.427 less all items as set forth in § 255.428.

(d) The amount of the total insurance benefits shall be 85 percent of the amount computed pursuant to paragraph (c) of this section.

(e) If the sum paid out in paragraph (a) of this section exceeds the amount of total insurance benefits determined pursuant to paragraph (d) of this section, the lender shall return such excess to the Commissioner.

§ 255.427 Items included in payment.

The insurance benefits paid shall include the following items:

(a) The amount of all payments made by the lender for taxes, special assessments, and water rates which are liens prior to the mortgage; for fire and hazard insurance on the property; and for any mortgage insurance premiums paid after default;

(b) An amount equivalent to debenture interest at the rate established pursuant to § 255.429 on the principal of the mortgage unpaid on the date of the institution of foreclosure proceedings or on the date of the acquisition of the property otherwise after default, from the date of default to the date of acquisition of title;

(c) An amount equivalent to mortgage interest on the principal of the mortgage unpaid on the date of institution of foreclosure proceedings or on the date of acquisition of the property after default, from the date of acquisition to the date of payment of the insurance benefits, as adjusted to reflect any partial or preliminary benefits payments;

(d) Costs, actually paid by the lender and approved by the Commissioner, of acquiring the property through foreclosure or otherwise, in an amount not in excess of two-thirds of such costs, such costs shall not include loss or damage resulting from the invalidity or unenforceability of the lien of the mortgage or the unmarketability of the title of the mortgagor;

(e) Reasonable payments made by the lender for:

(1) Preservation, operation, and maintenance of the property;

(2) Repairs necessary to meet the objectives of the HUD minimum property standards, those required by local law, and such additional repairs as may be specifically approved in advance by the Commissioner;

(3) Expenses in connection with the sale of property.

§ 255.428 Items deducted from payment.

There shall be deducted from the total of the added items in § 255.426(c) and 255.427 the following items:

(a) An amount equal to 8 percent of the outstanding principal balance of the mortgage on the date of institution of foreclosure proceedings or on the date of acquisition of the property otherwise after default.

(b) All amounts received by the lender on account of the mortgage after the institution of foreclosure proceedings or the acquisition of the property by direct conveyance or otherwise after default.

(c) All cash held by the lender or its agents or to which it is entitled, including deposits made for the account of the mortgagor.

(d) All funds held by the lender for the account of the mortgagor received pursuant to any other agreement.

(e) The amount of any undrawn balance under a letter of credit accepted by the lender in lieu of a cash deposit for an escrow agreement.

(f) Any net income received by the lender from the property securing the mortgage after the date of default.

(g) The net proceeds from the sale of the project, except that if the lender sells the project for an amount less than the appraised value of a negotiated sale the amount to be deducted will be the appraised value. If the property is sold on the basis of a competitive bidding procedure approved by the Commissioner, the sales price will be deducted notwithstanding that it is lower than the appraised value. If the property has not been disposed of within 12 months from the date of acquisition, the lender shall use the appraised value of the property as a substitute for the sales price.

(h) All amounts previously received by the lender as partial payment of insurance benefits made in accordance with § 255.426(a).

§ 255.429 Cash—Debentures.

All of the provisions of § 207.259(e) of this chapter shall apply to mortgages coinsured under this part.

AMENDMENTS

§ 255.430 Effect of amendments.

The regulations in this subpart may be amended by the Commissioner at any time and from time to time, in whole or in part, but such amendment shall not adversely affect the interests of a lender under the contract of coinsurance on any mortgage already coinsured and shall not adversely affect the interest of a lender on any mortgage to be coinsured on which the Commissioner has made a commitment to insure.

Issued at Washington, D.C., on September 19, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 78-26991 Filed 9-25-78; 8:45 am]

federal register

TUESDAY, SEPTEMBER 26, 1978
PART VI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DETERMINATION OF CRITICAL HABITAT FOR THE LEATHERBACK SEA TURTLE

[4310-55]

Title 50—Wildlife and Fisheries

All public comments received during the period March 23, 1978, to July 20, 1978, were considered.

cordingly, the Director hereby determines final critical habitat for the leatherback sea turtle to be as follows

(1) Space for individual and population growth and for normal behavior:

(2) Food, water, air, light, minerals, or other nutritional or physiological

ant to section 7 of the Act are applicable in a certain area.

A critical habitat designation must

20240, and may be examined during regular business hours or obtained by mail. The assessment is the basis for a

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[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Determination of Critical Habitat for the Leatherback Sea Turtle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines critical habitat for the leatherback sea turtle (*dermochelys coriacea*) in a portion of its range. This action is being taken to insure the integrity of the only major nesting beach used by leatherbacks in the United States or its territories and makes all provisions of section 7 of the Endangered Species Act of 1973 available to this species. In accordance with section 7, all Federal agencies will be required to insure that actions authorized, funded, or carried out by them do not adversely affect this critical habitat. The areas determined as critical habitat are located on Sandy Point at the western edge of St. Croix, U.S. Virgin Islands.

DATE: This rule becomes effective on October 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

Background

In the FEDERAL REGISTER of March 23, 1978 (43 FR 12050-12051), the Fish and Wildlife Service published a proposed determination of critical habitat for the leatherback sea turtle (*Dermochelys coriacea*). This critical habitat was described as:

U.S. Virgin Islands—A strip of land 0.1 mile wide (from mean high tide inland) at Sandy Point Beach on the western end of the island of St. Croix beginning at the southwest cape to the south and running 0.8 mile northwest and then northeast along the shoreline.

In the March 23, 1978, FEDERAL REGISTER proposed rulemaking (43 FR 12050-12051) and associated March 28, 1978, press release, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

All public comments received during the period March 23, 1978, to July 20, 1978, were considered.

Summary of Comments and Recommendations

A total of 14 comments were received in response to the proposal for critical habitat for this species; no comments were received which opposed designating Sandy Point Beach as critical habitat for the endangered leatherback. Comments were received from Gov. Juan Luis of the U.S. Virgin Islands, John Yntema and Otto Tranberg (Virgin Islands Department of Conservation and Cultural Affairs), Capt. F. P. Schubert (U.S. Coast Guard), Christina Palacio (New York Zoological Society), Craig Van Note (monitor), Omar Munoz-Roure (Caribbean Fishery Management Council), and seven private individuals. Only Governor Luis, Mr. Yntema, and Mr. Tranberg added information to that contained in the original proposal.

Both Governor Luis and John Yntema expressed concern that the width of the proposed critical habitat, 0.1 mile, might be too narrow to include all areas of suitable nesting habitat for the leatherback. Both recommended widening the area to 0.2 mile. In addition, Governor Luis noted past cooperation between Federal agencies and Virgin Islands personnel and expressed support for continued cooperation. Governor Luis also noted that it is the desire of the Virgin Islands to eventually acquire a major portion of the holdings.

Mr. Tranberg noted that records of the Virgin Islands Department of Conservation and Cultural Affairs indicate that a total of 86 leatherbacks actually nested on Sandy Point in 1977 and that as of the date of his letter May 18, 1978), 17 leatherbacks had nested. He noted that as much as 10 percent of nesting activity is actually occurring adjacent to the area proposed as critical habitat. Mr. Tranberg therefore recommended that the area be enlarged 0.7 mile on the south shore and 0.4 mile on the north shore. He also stated that 15 leatherback nests have been found to date in 1978 in the Shoys Beach area near Christiansted, St. Croix.

Conclusion

All information received by the Service indicates that the area proposed as critical habitat on Sandy Point for the leatherback does indeed qualify as critical habitat under that definition (see the FEDERAL REGISTER of January 4, 1978 (43 FR 870-876)). In addition, information received during the comment period suggests that the critical habitat should be expanded somewhat to include areas of additional nesting activity on Sandy Point Beach. Accordingly, the Director hereby determines final critical habitat for the leatherback sea turtle to be as follows (exclusive of those existing manmade structures or settlements which are not necessary to the normal needs or survival of the species):

U.S. Virgin Islands—A strip of land 0.2 mile wide (from mean high tide inland) at Sandy Point Beach on the western end of the island of St. Croix beginning at the southwest cape to the south and running 1.2 miles northwest and then northeast along the western and northern shoreline, and from the southwest cape 0.7 mile east along the southern shoreline.

Effect of the Rulemaking

The effects of this determination are involved primarily with section 7 of the Act, which states:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

A definition of the term "critical habitat" was published jointly by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of January 4, 1978 (43 FR 870-876) and is reprinted below:

"Critical habitat" means any air, land, or water area (exclusive of those existing manmade structures or settlements which are not necessary to the survival and recovery of a listed species) and constituent elements thereof, the loss of which would appreciably decrease the likelihood of the survival and recovery of a listed species or a distinct segment of its population. The constituent elements of critical habitat include, but are not limited to: Physical structures and topography, biota, climate, human activity, and the quality and chemical content of land, water, and air. Critical habitat may represent any portion of the present habitat of a listed species and may include additional areas for reasonable population expansion.

As specified in the regulations for interagency cooperation as published in the January 4, 1978, FEDERAL REGISTER (43 FR 870-876), the Director will consider the physiological, behavioral, ecological, and evolutionary requirements for survival and recovery of listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior:

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing of offspring; and generally,

(5) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

In accordance with the July 18, 1977, memorandum of understanding between the Fish and Wildlife Service and National Marine Fisheries Service, the Fish and Wildlife Service was given the responsibility for sea turtles while on land. Such responsibility includes the determination of critical habitat. Since the only time leatherback sea turtles leave the water to come onto beaches in the U.S. Virgin Islands is to lay eggs, the areas included in this determination are areas where leatherback sea turtles nest. All the beaches in this rulemaking provide sites for the incubation of eggs and are known to provide proper sand size, moisture, and temperature conditions for successful development and hatching. There may be many kinds of actions which can be carried out within the critical habitat of a species which would not be expected to adversely affect that species. This point has not been well understood by some persons. There has been widespread and erroneous belief that a critical habitat designation is something akin to establishment of a wilderness area of wildlife refuge, and automatically closes an area to most human uses. Actually, a critical habitat designation applies to Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to section 7 of the Act are applicable in a certain area.

A critical habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a critical habitat delineation so as to cover additional habitat under section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of critical habitat delineations. Such questions should, and can more conveniently, be dealt with after critical habitat has been designated. In this respect, the Service in cooperation with other Federal agencies had drawn up a set of regulations which, in part, establish a consultation process for helping to evaluate the possible effects of actions on critical habitat. Regulations for interagency cooperation were published on January 4, 1978, in the FEDERAL REGISTER (43 FR 870-876) to assist Federal agencies in complying with section 7 of the Endangered Species Act of 1973.

National Environmental Policy Act

An environmental assessment has been prepared in conjunction with this rulemaking. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240, and may be examined during regular business hours or obtained by mail. The assessment is the basis for a decision that the determinations of this rulemaking are not major Federal actions which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rulemaking is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, U.S. Fish and Wildlife Service, 202-343-7814.

Regulation Promulgation

§ 17.95 [Amended]

Accordingly, 50 CFR 17.95(c) is amended by adding critical habitat of the leatherback sea turtle after that of the giant anole as follows:

* * * * *

(c) *Reptiles.* * * *

LEATHERBACK SEA TURTLE

(*Dermochelys coriacea*)

U.S. Virgin Islands—A strip of land 0.2 mile wide (from mean high tide inland) at Sandy Point Beach on the western end of the island of St. Croix beginning at the southwest cape to the south and running 1.2 miles northwest and then northeast along the western and northern shoreline, and from the southwest cape 0.7 mile east along the southern shoreline.

NOTE.—The Service has determined that this document does not contain a major action requiring preparation of an economic impact statement under Executive Order 11949 and OMD Circular A-107.

Dated: September 18, 1978.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc. 78-26993 Filed 9-25-78 8:45 a.m.]

TUESDAY, SEPTEMBER 26, 1978
PART VII

V 43 / 187

SE 26 78

V 4

federal register

TUESDAY, SEPTEMBER 26, 1978
PART VII

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

BOLSON TORTOISE

Proposed Endangered Status

[4310-55]

DEPARTMENT OF THE INTERIOR

notified Dr. Morafka that he had supplied sufficient information to warrant

cinity of such practices is highly unlikely.

gered species. The regulations referred to above, which pertain to endangered species, are found at § 17.21 of title 50, and are summarized below.

time to relieve undue economic hardship which would be suffered if such relief were not available.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K

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[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Endangered Status for the Bolson Tortoise

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the Bolson tortoise (*Gopherus flavomarginatus*) to be an endangered species. This action is being taken because the tortoise is under heavy pressure from human predation, habitat modification, competition from grazing stock, and collection of individuals. The proposed action, if completed, would provide additional protection to this species, listed now as an appendix II species on the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The Bolson tortoise is known from the States of Chihuahua, Coahuila, and Durango in Mexico.

DATES: Comments from the public and the Government of Mexico must be received by December 25, 1978.

ADDRESSES: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

Background

On June 15, 1978, the Fish and Wildlife Service was petitioned by Dr. David Morafka of California State University—Dominguez Hills to list the Bolson tortoise, *Gopherus flavomarginatus*, as an endangered species under provisions of the Endangered Species Act of 1973. Included with the petition was a report entitled "The Ecology and Conservation of the Bolson Tortoise, *Gopherus flavomarginatus*" in which Dr. Morafka reviewed the biology and status of the species throughout its range. On June 29, 1978, the Director of the Service notified Dr. Morafka that he had supplied sufficient information to warrant serious consideration for listing under provisions of the Act.

The Bolson tortoise is the largest terrestrial ectothermic vertebrate in North America and one of four species of the genus *Gopherus*, a genus confined to North America. This species was only described in 1959 and remains one of the least known reptiles in the northern hemisphere in spite of its size. Adults may measure in excess of 1 meter shell length, with a flat-topped, posteriorly flared carapace with laminae that are pale in contrast to dark centers. The plastron is horn yellow. In addition, there are various bone features (osteological characters) which distinguish this species from its close relatives. The Bolson tortoise is associated with grasslands and may have at one time been much more wide-ranging than at present. It is now confined to southeast Chihuahua, southwest Coahuila, and northeast Durango in northern Mexico. At present there are still a few remaining viable populations, although nearly all populations have been impacted directly by man.

Section 4(a) of the Act (16 U.S.C. 1531 et seq.) states:

> General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:
> (1) The present or threatened destruction, modification, or curtailment of its habitat or range;
> (2) Overutilization for commercial, sporting, scientific, or educational purposes;
> (3) Disease or predation;
> (4) The inadequacy of existing regulatory mechanisms; or
> (5) Other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

Summary of Factors Affecting the Species

These findings are summarized herein under each of the five criteria of section 4(a) of the Act. These factors, and their application to the Bolson tortoise are as follows:

1. *The present or threatened destruction, modification, of curtailment of its habitat or range.*—Habitat destruction is accelerating throughout the range of the Bolson tortoise. Plowing and irrigation of fields for cotton, beans, corn, and melons have apparently contributed to the extirpation of the species in certain areas, such as the region west of Mexican Highway 49 and around Tlahualilo in Durango. As Mexico's resettlement program continues, more and more of the tortoise's habitat will likely be converted to agricultural and grazing uses. The continued existence of the tortoise in the vicinity of such practices is highly unlikely.

Habitat destruction also occurs through overgrazing by cattle and goats. Goat herds have long grazed the foothills of the tortoise country. Water supplies have been increased by underground drilling and as a result cattle are rapidly increasing in density in these arid grasslands. Some areas are now beginning to show the marked effects of overgrazing, usually indicated in this type of habitat by the erosion of topsoil and invasion of mesquite and creosote scrub. Cattle and goats destroy browse needed by the tortoises as well as burrows and cover sites by trampling.

2. *Overutilization for commercial, sporting, or educational purposes.*—In the pest, Bolson tortoises have been in demand for private collections, zoos, and museums in the United States and elsewhere; occasional shipments have reached dealers in El Paso. The extent of this collection is presently unknown in light of the tortoise's status as an appendix II species on the Convention on International Trade in Endangered Species of Wild Fauna and Flora. However, Mexico is not a party to the convention and it is likely that some trade is continuing. As recently as January 1978, Americans have been reported in Ceballos, Durango buying specimens.

3. *Disease or predation.*—Natural predation is probably only a minor factor contributing to the status of the Bolson tortoise. However, human predation may be the main cause for the extirpation or reduction in numbers of this tortoise over large areas of its range. This species is used extensively for food by the local population and although much of the area inhabited by tortoises is only sparsely settled, the tortoise populations are often eliminated as far away as 10 kilometers from the nearest habitation. As settlement increases, predation on the tortoises will accelerate.

4. *The inadequacy of existing regulatory mechanisms.*—Although permits are required by Mexico for the scientific collection of this species, no active resident personnel are present to enforce whatever legal protection may exist. There is no legal protection for the tortoise from local consumption. According Dr. Morafka's report, the enforcement of existing trade restrictions is also lacking.

5. *Other natural or manmade factors affecting its continues existence.*—Not applicable.

Effects of the Rulemaking

Endangered species regulations already published in title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all endangered species. The regulations referred to above, which pertain to endangered species, are found at § 17.21 of title 50, and are summarized below.

With respect to the Bolson tortoise, all prohibitions of section 9(a)(1) of the Act, as implemented by 50 CFR 17.21, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in 50 CFR Part 17 (1977) provide for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened species under certain circumstances. Such permits involving endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the Bolson tortoise;

(2) Additional information concerning the range and distribution of this species.

Final promulgation of the regulations on the Bolson tortoise will take into consideration the comments and any additional information received by the Director, and such communications may lead him to adopt final regulations that differ from this porposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C., and may be examined during regular business hours or obtained by mail. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environment Policy Act of 1969.

The primary author of this proposed rulemaking is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, 202-343-7814.

Regulations Promulgation

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. It is proposed to amend § 17.11(i) by adding, in alphabetical order under "Reptiles," the following to the list of animals:

§ 17.11 Endangered and threatened wildlife.

SPECIES			RANGE				
Common name	Scientific name	Population	Known distribution	Portion of range where endangered or threatened	Status	When listed	Special rules
REPTILES							
Tortoise, Bolson	*Gopherus flavomarginatus*	NA	Mexico	Entire	E		N/A

NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 18, 1978.

ROBERT S. COOK,
Acting Director,
Fish and Wildlife Service.

[FR Doc. 78-26994 Filed 9-25-78; 8:45 am]

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TUESDAY, SEPTEMBER 26, 1978
PART VIII

V 43 / 187

SE 26 78

V 4

federal register

TUESDAY, SEPTEMBER 26, 1978
PART VIII

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

EMPLOYEE BENEFIT PLANS

Proposed Revision of Schedule B (Actuarial Information)

[4510-29]

DEPARTMENT OF LABOR

to the annual return/report. The schedule requires the disclosure of, among other things, accumulated value of plan assets, are reported current to the end of the plan year.

Because of the lack of a uniform

SCHEDULE B
(Form 5500)
Department of the Treasury
Internal Revenue Service

Actuarial Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974, referred to as ERISA, and sec-

1978
This Form is

[4510-29]

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

EMPLOYEE BENEFIT PLANS

Proposed Revision of Schedule B (Actuarial Information)

AGENCY: Department of Labor.

ACTION: Notice of proposed revision of form.

SUMMARY: This document contains a proposed revision of schedule B (actuarial information) which is attached by certain employee benefit plans to the annual return/report filed on forms of the 5500 series. All employee benefit pension plans which are subject to the minimum funding standards of the Employee Retirement Income Security Act of 1974 (ERISA) must file a completed schedule B as an attachment to their annual return/report.

DATE: Written comments must be received by the Department of Labor (the Department) on or before November 6, 1978.

ADDRESSES: Written comments (preferably six copies) should be addressed to: "Schedule B Comments," Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Labor Management Services Administration, U.S. Department of Labor, Room C4526, Washington, D.C. 20216.

All written comments will be available for public inspection at the Public Documents Room, Pension and Welfare Benefit Programs, Department of Labor, Room N4077, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Lottie Lisle, Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4461, Washington, D.C. 20216, 202-523-9211. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department has under consideration proposed revisions to schedule B (actuarial information) which must be filed as an attachment to the annual return/report (5500 series) by all defined benefit pension plans that are subject to the minimum funding standards of part 3 of title I of ERISA and section 412 of the Internal Revenue Code of 1954, as amended.

Section 103(d) of ERISA generally requires that the annual report filed by a plan subject to the minimum funding standards of ERISA shall include an actuarial statement. The Department has implemented this statutory provision by adopting Schedule B to the annual return/report. The schedule requires the disclosure of, among other things, accumulated funding deficiency, value of plan assets, accrued liabilities, unfunded accrued liabilities, vested benefits (if calculated), and charges and credits to the funding standard account.

Section 103 (d)(6) of ERISA requires that the actuarial statement include the present value of the plan's liabilities for nonforfeitable pension benefits allocated by the termination priority categories set forth in section 4044. Under the authority of section 104(a)(2)(A) of ERISA the Department has waived the requirements of section 103(d)(6) for plan years beginning in 1975, 1976, and 1977. In order to waive this requirement the Secretary must find that the interests of plan participants are not harmed thereby and the expense of compliance with the requirements of section 103(d)(6) is not justified by the needs of the participants, the Pension Benefit Guaranty Corporation and the Department. The Department has tentatively determined that the information which would be submitted in response to questions 5 (d), (e), and (f) of the proposed schedule B would provide sufficient information with respect to plan liabilities. Therefore, if questions 5 (d), (e), and (f) are adopted, the Department contemplates issuing a permanent waiver from the requirements of section 103(d)(6).

Part 3 of ERISA and section 412 of the Code contain minimum funding standards for certain pension plans. In order to satisfy these standards, contributions must generally be made to such plans for each plan year. The amount of these contributions must be determined by using an "actuarial cost method," defined in section 3(31) of ERISA to mean a recognized actuarial technique utilized for establishing the amount and incidence of the annual actuarial cost of pension plan benefits and expenses. Section 3(31) lists several acceptable actuarial costs methods that may be used in determining the annual contributions to be made to a plan, but does not require the plan to use any particular one of these actuarial cost methods in determining annual contributions.

Under the present schedule B, the "accrued liabilities" disclosed on the form generally are calculated using the same actuarial cost method that is used in determining the annual contributions that must be made to the plan under the minimum funding standards. The "value of vested benefits" that is currently disclosed may also be calculated using this same method, or it may be calculated using one of the other acceptable actuarial methods. Both of these figures are usually current to the last actuarial valuation date. Other financial data on the form 5500, however, including the current value of plan assets, are reported current to the end of the plan year.

Because of the lack of a uniform basis for calculations and the difference in timing of certain actuarial and plan financial data, the information provided in schedule B is less useful to interested persons as a measure of the adequacy of the assets of any particular pension plan to meet its benefit obligations. In addition, certain methods have been used to calculate the present value of accrued benefits which are appropriate for funding calculations but may be less appropriate for determining the present value of accrued benefits. Accordingly, in order to achieve uniformity and to provide what the Department tentatively believes is the most appropriate method for calculating the present value of accrued benefits, the revised instructions to the schedule B, if adopted as herein proposed, would require plan actuaries, in calculating the present value of accrued benefits, to use a single method and to have the calculations reflect the condition of the plan as of the end of the plan year.

Other changes are also designed to aid interested persons in determining the benefit obligation of an ongoing pension plan. For example, the revised schedule would require that information with respect to the present value of vested benefits be provided separately for (1) retired participants and beneficiaries receiving payments, and (2) other participants. A further revision would require that the present value of nonvested accrued benefits be disclosed on a historical basis (i.e., based on service performed by, and compensation earned by, employees prior to the end of plan year). The present value of additional accrued benefits due to certain projections would also be disclosed.

It should be noted that under the proposal, the figures that would be required by questions 5 (d), (e), and (f) would be provided for plan years beginning in 1978 only if calculated by the plan actuary. For plan years beginning in 1979, it is proposed that responses to questions 5 (d), (e), and (f) be mandatory for all plans with 100 or more participants. The schedule would be further revised to require the disclosure of actuarial methods and assumptions on the schedule itself. Presently that information is provided as an attachment to the schedule. This revision should not impose any additional cost to plans but should aid the Department in computerizing and analyzing schedule B data.

Proposed Form

Accordingly, it is proposed that pursuant to the authority in sections 103(d) and 109(a), of the Act, schedule B to the annual return/report (5500 series) and the instructions thereto be amended as follows:

SCHEDULE B (Form 5500)
Department of the Treasury
Internal Revenue Service
Department of Labor
Pension and Welfare Benefit Programs
Pension Benefit Guaranty Corporation

Actuarial Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974, referred to as ERISA, and section 6059(a) of the Internal Revenue Code, referred to as the Code.

▶ Attach to Forms 5500, 5500-C and 5500-K if applicable.

1978
This Form is Open to Public Inspection

For plan year beginning , 1978 and ending , 19

▶ Please complete every applicable item on this form: If an item does not apply, enter "N/A."
▶ Round off amounts to nearest dollar.

Name of plan sponsor as shown on line 1(a) of Form 5500, 5500-C or 5500-K | Employer identification number

Name of plan | Enter three digit plan number ▶ | Yes | No

1 Has a waiver of a funding deficiency for the current plan year been approved by the IRS? . . . . . | | |
If "Yes," attach a copy of the IRS approval letter.
2 Is a waived funding deficiency of a prior plan year being amortized in the current year? . . . . . | | |
3 Have any of the periods of amortization for charges described in section 412(b)(2)(B) of the Code been extended by DOL? . . . . . | | |
If "Yes," attach a copy of the DOL approval of extension letter.
4 (a) Has the shortfall funding method been used? . . . . . | | |
(b) (i) If (a) is "Yes," has the deferral of the amortization of the shortfall gain (loss), beyond the plan year following the year in which the shortfall gain (loss) arose, been elected? . . . . . | | |
(ii) If (a) is "Yes," has the deferral of the amortization of the actuarial gain (loss), beyond the first plan year after valuation, been elected? . . . . . | | |

5 Operational information: (a) Enter most recent actuarial valuation date ▶
(b) Enter date(s) and amount of contributions received this plan year for prior plan years and not previously reported:
Date(s) ▶ , Amount ▶
(c) Current value of the assets accumulated in the plan as of the end of the plan year . . . . . |
(d) Present value of vested benefits as of the end of plan year: [1]
(i) For retired participants and beneficiaries receiving payments . . . . . |
(ii) For other participants . . . . . |
(iii) Total . . . . . |
(e) Present value of nonvested accrued benefits (historical) as of end of plan year [1] . . . . . |
(f) Present value of additional accrued benefits (projected) as of end of plan year [1] . . . . . |
(g) Number of persons covered (included in the most recent actuarial valuation): (i) Active participants |
(ii) Terminated participants with vested benefits . . . . . |
(iii) Retired participants and beneficiaries of deceased participants . . . . . |

6 Contributions made to the plan for the plan year by employer(s) and employees:

(a) Month	Year	(b) Amount paid by employer	(c) Amount paid by employees	(a) Month	Year	(b) Amount paid by employer	(c) Amount paid by employees
				Total			

7 Funding standard account and other information:
(a) Accrued liabilities as determined for funding standard account as of (enter date) ▶ |
(b) Value of assets as determined for funding standard account as of (enter date) ▶ |
(c) (i) Actuarial gains or (losses) for period ending ▶ |
(ii) Shortfall gains or (losses) for period ending ▶ |
(d) Accumulated funding deficiency at end of plan year (amount of contribution certified by the actuary as necessary to reduce the funding deficiency to zero), from 8(m) or 9(g) . . . . . |

Statement by Enrolled Actuary (see instructions before signing):

To the best of my knowledge, the information supplied in this schedule and on the accompanying statement, if any, is complete and accurate, and in my opinion the assumptions used in the aggregate (a) are reasonably related to the experience of the plan and to reasonable expectations, and (b) represent my best estimate of anticipated experience under the plan.

Signature of actuary | Date

Print or type name of actuary | Enrollment number

Address | Telephone number (including area code)

Schedule B (Form 5500) 1978 Page 2

8 Funding standard account statement for plan year ending ▶

Department of the Treasury
Internal

Department of Labor
Pension and Welfare

Pension Benefit Guaranty

jection is used, no withdrawals and no new entrants to the workforce should be assumed without supporting data for the

Schedule B (Form 5500) 1978 Page 2

8 Funding standard account statement for plan year ending ▶	
Charges to funding standard account:	
(a) Prior year funding deficiency, if any	
(b) Employer's normal cost for plan year	
(c) Amortization charges (outstanding balance at beginning of plan year ▶ $.....)	
(d) Interest on (a), (b) and (c)	
(e) Total charge, sum of (a) through (d)	
Credits to funding standard account:	
(f) Prior year credit balance, if any	
(g) *(i)* Employer contributions (total from column (b) of item 6)	
(ii) Employer contributions received this plan year for prior plan years and not previously reported	
(h) Amortization credits (outstanding balance at beginning of plan year ▶ $.....)	
(i) Interest on (f), (g) and (h)	
(j) Other (specify) ▶	
(k) Total credits, sum of (f) through (j)	
Balance:	
(l) Credit balance, excess, if any, of (k) over (e)	
(m) Funding deficiency, excess, if any, of (e) over (k)	

9 Alternative minimum funding standard account (omit if not used):

(a) Was the entry age normal cost method used to determine entries in item 8 above? ☐ Yes ☐ No	
If "No," omit (b) through (g) below.	
(b) Normal cost	
(c) Excess, if any, of value of accrued benefits over market value of assets	
(d) Interest on (b) and (c)	
(e) Employer contributions (total from column (b) of item 6)	
(f) Interest on (e)	
(g) Funding deficiency, excess, if any, of the sum of (b) through (d) over the sum of (e) and (f)	

10 Checklist of actuarial methods:

(a) ☐ Attained age normal cost (b) ☐ Entry age normal (c) ☐ Accrued benefit cost (unit credit)
(d) ☐ Aggregate cost (e) ☐ Frozen initial liability (f) ☐ Individual level premium cost
(g) ☐ Other (specify) ▶

11 Checklist of certain actuarial assumptions:

	Used for item 5(d) through (f) value of accrued benefits		Used for item 7, 8 or 9 funding standard account	
	Pre-retirement	Post-retirement	Pre-retirement	Post-retirement
(a) Rates specified in insurance or annuity contracts	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No
(b) Mortality table code:				
(i) Males				
(ii) Females				
(c) Interest rate	%	%	%	%
(d) Retirement age				
(e) Expense loading	%	%	%	%
(f) Annual withdrawal rate: [3]	Male / Female		Male / Female	
(i) Age 25	% / %		% / %	
(ii) Age 40	% / %		% / %	
(iii) Age 55	% / %		% / %	
(g) Ratio of salary at normal retirement to salary at age: [3]				
(i) Age 25	% / %		% / %	
(ii) Age 40	% / %		% / %	
(iii) Age 55	% / %		% / %	

(h) Was a social security benefit increase assumption used if the plan has a social security offset provision? [3] ☐ Yes ☐ No ☐ N/A

(i) Is a schedule of actuarial assumptions attached? ☐ Yes ☐ No ☐ N/A

[1] Provide these figures for 1978 plan year, if calculated. Beginning with the 1979 plan year disclosure of these figures is mandatory for all plans filing a Schedule B with 100 or more participants.
[2] This assumption is not to be used in item 5(d).
[3] These assumptions are not to be used in items 5(d) and (e).

☆ U.S. GOVERNMENT PRINTING OFFICE : 1978—O-263-198

Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefit Programs

Pension Benefit Guaranty Corporation

1978 Instructions for Schedule B (Form 5500)

Actuarial Information

(Code references are to the Internal Revenue Code. ERISA refers to the Employee Retirement Income Security Act of 1974.)

General Intructions

Who Must File.—The employer or plan administrator of a defined benefit plan that is subject to the minimum funding standards (see section 412 of the Code and Part 3 of Title I of ERISA) must file this schedule as an attachment to the annual return/report filed for plan years beginning on or after January 1, 1976. Plans maintained on January 1, 1974, pursuant to one or more collective bargaining agreements entered into before September 2, 1974, are not subject to the minimum funding standards for plan years beginning before the earlier of the termination of the collective bargaining agreement(s) or January 1, 1981.

For split-funded plans, the costs and contributions reported on Schedule B should include those relating to both trust funds and insurance carriers.

Specific Instructions

(References are to line items on the form.)

4(a). A collectively bargained plan only may elect the shortfall funding method (see regulations under section 412 of the Code). Advance approval from the IRS of the election of the shortfall method of funding is NOT required if it is first adopted on or before the later of (i) the first plan year to which section 412 of the Code applies or (ii) the last plan year commencing before December 31, 1980. However, advance approval from IRS is required, if adopted at a later time or if discontinued.

4(b). Advance approval from IRS of the election to defer the amortization of the shortfall gain (loss) and/or the amortization of the actuarial gain (loss) is required for a plan year, subsequent to the first plan year to which the shortfall method applies. Advance approval from IRS is required for discontinuance.

5(a). The valuation for a plan year may be as of any date in the year, including the first and last. Valuations must be performed within the period specified by section 103(d) of ERISA and section 6059(a) of the Code.

5(b). Not applicable to the first plan year to which the minimum funding standards apply.

5(c). Enter current value of total assets as of the end of the plan year, as shown in item 13 on Form 5500, 5500–C or 5500–K.

5(d) through (f). Schedule B for plan years beginning in 1979 will require that the information indicated in 5(d), (e) and (f) be completed for all plans with 100 or more participants, in accordance with these instructions. Plans with fewer than 100 participants are to supply these figures if calculated. For plan years beginning in 1978, the information is required only to the extent it has been calculated. If the value indicated in item (d) has been calculated as of the end of the plan year beginning in 1978, it should be entered regardless of whether it has been determined according to these instructions.

Each separate actuarial assumption used in calculating the value of accrued benefits should explicitly reflect the expectations applicable to the organization or industry involved, on the basis of an ongoing—rather than terminating—plan. For example, the interest rate assumption should reflect the expected investment return on plan assets over the expected benefit payout period. The actuary shall take into account rates of early retirement and the plan's early retirement provisions as they relate to the accrued benefits, where these would significantly affect the results. See instructions for item 11 for further requirements concerning actuarial assumptions.

Where significant, the value of accrued benefits shall be increased by the value of any subsidized early retirement benefits, disability benefits, and death benefits which are related to the accrued benefit. The value of accrued benefits should also be increased by the value of a cost-of-living clause if such a clause is currently part of the benefit formula.

The values should be determined as of the end of the plan year; projected estimates as of the end of the plan year based upon the most recent actuarial valuation may be used, if the actuary believes this provides a reasonable estimate of values as of the end of the plan year. If a projection is used, no withdrawals and no new entrants to the workforce should be assumed without supporting data for the projection period. Values should reflect all amendments adopted or finally agreed to during the plan year.

In determining whether estimates from the last valuation date to the end of the plan year are reasonable the actuary should consider:

(i) any indication of a need to make significant changes in the actuarial assumptions (e.g. change in the demographic composition of the group);
(ii) any plan amendment since the last valuation;
(iii) a full or partial termination of the plan;
(iv) a merger with another plan;
(v) a spin-off.

Omit from items 5(d), 5(e) and 5(f) liabilities fully funded by annuity and insurance contracts other than any contract funds not allocated to individuals.

5(d). Include the value of all vested accrued benefits. 5(d)(i) should include the value of vested benefits for all retired participants. 5(d)(ii) should include all value of vested benefits for other participants. 5(d)(iii) is the sum of 5(d)(i) and (ii). Withdrawal rates should not be incorporated in these calculations.

5(e). Include the value of the excess, for all participants, of the value of all accrued benefits over the value of their vested benefits included in (d). The term "accrued benefit" means the individual's accrued benefit determined under the plan as required by section 204 of ERISA. Withdrawal rates should normally be incorporated in these calculations.

5(f). This line may be omitted if benefits attributable to service accrued to date will not vary if pay or service changes, and if the plan does not provide (i) uninsured benefits related to death or disability, or (ii) early retirement benefits substantially greater than actuarially equivalent benefits.

Include the value of the excess, for all active participants, of the increased value of all accrued benefits as defined in (d) and (e) due to certain projections. The calculation is identical to that shown in items 5(d) and (e), modified to incorporate a projection of salary increases and increases in Social Security covered earnings or benefits (but not future amendments to Social Security law) where the accrued normal retirement benefit is contingent upon an unknown level of (i) future compensation and/or (ii) Social Security covered earnings or benefits, and further modified to reflect any increased value of subsidized early retirement, death and disability benefits over the figures included in 5(d) and (e) calculations.

6. Show all employer and employee contributions for the plan year, and em-

9(a). If the entry age normal cost method was not used to determine the entries in item 8, the alternative mini-

11(c). Enter assumption as to expected interest rate (investment return). If the assumed rate varies with the year,

Signed at Washington, D.C., this 20th day of September 1978.

J. VERNON BALLARD,

6. Show all employer and employee contributions for the plan year, and employer contributions made not later than 2½ months (or such later date allowed under section 412(c)(10) of the Code and section 302(c)(10) of ERISA) after the end of the plan year.

7(a). If the aggregate cost or frozen initial liability method is used, enter "N/A".

7(b). Enter the value of assets determined in accordance with section 412(c)(2) of the Code or 302(c)(2) of ERISA.

7(c)(i). If the aggregate cost or frozen initial liability method is used, enter "N/A".

7(c)(ii). For the methods to be used to determine the shortfall gain (loss) see the regulations under section 412 of the Code.

7(d). Insert amount from item 8(m). However, if the alternative method is elected, and item 9(g) is smaller than item 8(m), enter the amount from item 9(g). File Form 5330 with the Internal Revenue Service to pay the 5% excise tax on the funding deficiency.

Statement by Enrolled Actuary

In lieu of signing the statement, an enrolled actuary may attach a signed statement containing the name, address, enrollment number, telephone number and the actuary's opinion that the assumptions used in preparing Schedule B are in the aggregate reasonably related to the experience of the plan and to reasonable expectations, and represent his or her best estimate of anticipated experience under the plan and to the best of his or her knowledge the report is complete and accurate. In addition, the actuary may offer any other comments related to the information contained in Schedule B.

8. Under the shortfall method of funding, the Normal Cost in the funding standard account, is the charge per unit of production (or per unit of service) multiplied by the actual number of units of production (or units of service) which occurred during the plan year. Each amortization installment in the funding standard account is similarly calculated. For a plan maintained by more than one employer, the amortization of the shortfall gain (loss) and the actuarial gain (loss) may be deferred. See regulations under section 412 of the Code.

8(b). If no valuation was made for the current year, enter the normal cost calculated in the most recent actuarial valuation, or the estimated cost for the current year based on such valuation. If amounts are not as of the date of the most recent actuarial valuation, indicate in the Statement of Actuarial Assumptions and Methods how the amounts shown were determined.

9(a). If the entry age normal cost method was not used to determine the entries in item 8, the alternative minimum funding standard account may not be used.

9(c). The value of accrued benefits should exclude benefits accrued for the current plan year. The market value of assets should be reduced by the amount of any contributions for the current plan year.

10. Enter only the primary method used. If the plan uses one actuarial cost method in one year as the basis of establishing an accrued liability for use under the frozen initial liability method in subsequent years, answer as if the frozen initial liability method were used in all years.

11. Complete all blanks. Enter N/A if not applicable. For the assumptions used for calculating the figures in 5(d) through (f), each assumption must be individually reasonable. If the assumptions for the calculation of these figures differ from those used for calculating the figures in questions 7, 8, and 9, explain, in the attached Statement of Actuarial Assumptions, the reasons for the differences and an estimate of the approximate effect.

11(a). Check "Yes" if rates in contract were used (e.g. purchase rates at retirement).

11(b). Enter Code as follows:

Table	Code
1937 Standard Annuity	1
a–1949 Table	2
Progressive Annuity Table	3
1951 Group Annuity	4
1971 Group Annuity Mortality	5
1971 Individual Annuity Mortality	6
UP–1984	7
Other	8
None	9

Where an indicated table consists of separate tables for males and females, add F to the female table (e.g. 4F). When a projection is used with a table, follow the code with "P" and the year of projection (omit year if projection unrelated to a single calendar year); the identity of the projection scale should be omitted. When an age set-back or set-forward is used, indicate with "–" or "+" and the years. For example, if for females the 1951 Group Annuity Table with Projection C to 1971 is used with a 5-year set-back, enter "4P71–5." If the table is not one of those listed, enter "8" with no further notation. If the valuation assumes a maturity value to provide the post-retirement income without separately identifying the mortality, interest and expense elements, under "post-retirement" enter on 11(b) the value of $1.00 of monthly pension beginning at the age shown on 11(d) assuming the normal form of annuity for an unmarried person; in this case enter "N/A" on 11(c) and 11(e).

11(c). Enter assumption as to expected interest rate (investment return). If the assumed rate varies with the year, enter the weighted average of the assumed rate for 20 years following the valuation date.

11(d). If each participant is assumed to retire at his normal retirement age, enter "NRA"; otherwise enter the assumed retirement age. If the valuation uses rates of retirement at various ages, enter the estimated average whole age at which participants are assumed to retire.

11(e). If there is no expense loading, enter 0. If there is a single expense loading not separately identified as pre-retirement or post-retirement, enter it under pre-retirement and enter "N/A" under post-retirement. Where expenses are assumed other than as a percent of plan costs or liabilities, enter the assumed expense as a percent of the calculated normal cost.

11(f). Enter rates to nearest 0.1%. For value of accrued benefits, withdrawal rates should not be used for vested benefits and nonvested benefits (historical); rate shown will be that used for nonvested benefits (projected). If select and ultimate rates which vary with both age and years of service are used, enter rates for a new participant at the age shown and enter "S" before the rate.

11(g). Enter salary increase rate for the age indicated to the nearest 0.1%. For value of accrued benefits, salary increase assumption is only to be used for projected total accrued benefits, and the assumption used for that purpose should be indicated.

11(h). For plans with social security offset provisions, indicate whether an assumption has been made concerning projected increases in social security benefits related to increases in the taxable wage base and/or the Consumer Price Index.

Statement of Actuarial Assumptions and Methods

Attach a statement of actuarial assumptions used (if not fully described by item 11), actuarial methods used to determine (i) the normal cost and liabilities shown in items 5, 7, 8 and 9 (if not fully described by item 10) and (ii) the value of assets shown on line 7(b). The statement is to include a summary of the principal eligibility and benefit provisions upon which the valuation was based, an identification of benefits not included in the calculation, and other facts, such as any change in actuarial assumptions or cost methods and justifications for any such change. Include also such other information, if any, needed to fully and fairly disclose the actuarial position of the plan.

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Signed at Washington, D.C., this 20th day of September 1978.

J. VERNON BALLARD,
Deputy Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration.

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